

# **DRAFT REPORT ON ITEMS RELATED TO THE MELBOURNE VILLAGE COMPREHENSIVE PLAN WHICH HAVE BEEN IDENTIFIED AS NEEDING REVISION DURING REVIEW PERIODS IN 2008 AND 2019**

## **INTRODUCTION**

Florida law requires each city to conduct periodic reviews of the city's Local Governmental Comprehensive Plan (LGCP) in the form of an Evaluation and Appraisal Report (EAR). The Town of Melbourne Village adopted an EAR in 2008 identifying appropriate updates, deletions, and amendments for the LGCP. In 2019 the Town reviewed and adopted further items to update. The issues addressed in the EAR have provided the framework for updating the LGCP. These updates will further assist in the implementation of updated Land Development Regulations.

The Planning and Zoning Board/Local Planning Agency (P&Z/LPA) has reviewed the items identified in both the 2008 process and the 2019 process and determined which items raised require an amendment to the LGCP and which should be addressed in subsequent amendments to the Town's Land Development Regulations and other appropriate documents.

The further review of the LGCP determined that, due to the generally expansive and inclusive language of the document, as opposed to a specific and targeted approach, there were few changes required to the "Goals, Objectives, and Policies" section of the Plan.

This report will enumerate the items identified for action, delineate the level of action required for each item, and provide the proposed amendment to the LGCP when that is the appropriate level of action.

## **SECTION I - 2008 EAR**

### **Items Identified by review of current LGCP and the history of the application thereof.**

1) Update data, dates, and references as needed throughout the LGCP

It was determined that updating the information in the 1988 “Data Inventory” section was not a part of this process and would, should it be desired, be a much more massive undertaking. The review did determine that, due to the nature of Melbourne Village as a planned community with no growth in land area and no substantive changes in density and land use since 1988, any changes in the Data Inventory elements were generally of an editorial nature ( detailing, for example, the names and locations of nearby County recreation facilities) and do not affect levels of service in a negative manner. Should the Town Commission determine in the future that a re-write of the Data Inventory elements is desirable or mandated, the notes from the EAR process will be available to them.

2) Update references to agencies and boards to reflect current responsibilities.

All references needing updating are in Melbourne Village codes, which codes will be updated following the adoption of the LGCP amendments.

3) Establish planning periods of 5 and 10 years.

The Town of Melbourne Village does not have a specified planning period for general land use issues as we are virtually at build-out, and because, due to our small size and well established zoning and land use designations, any future adjustments to land use will not be driven by trends which lend themselves to study and planning. It is recommended that the Commission include provision of financial planning periods of 5 and 10 years in the Town Financial Policy.

4) Update Recreation and Open Space element to reflect additional facilities.

This is a Data Inventory item, not a policy item. Should the Data elements be updated in the future these should be included. The facilities (a pre-school-age playground and a community house events facility) are not in conflict with stated policies and objectives and do not require

additional ones.

5) Incorporate Coverage Limits in Future Land Use element.

The structural and impermeable coverage limits adopted by the Town in the Responsible Residential Growth Management ordinance in 2007, and amended in 2012, apply to low density residential land in the Town. They appropriately belong in the zoning code along with the similar coverage limits for medium density residential land and commercial land. Current policies in the LGCP concerning density, preservation of open spaces, and stormwater management are supported by the adopted limits and no policies were determined to be in conflict with them. No amendment to the LGCP is needed.

6) Consider amending Concurrency requirements for SFR drainage.

(Note: Concurrency requirements are in the Land Development Regulations which were adopted by ordinance as Town Code 4.5 CONCURRENCY MANAGEMENT. Per item 1 in section 2 below, these regulations will be added to the text of the LGCP as part of the proposed amendments.)

At the time of the adoption of the Land Development Regulations consideration was given primarily to the development of the commercial properties, which were likely to be fully encompassed in development, rather than to single family homes on large lots, much of which would be left undeveloped. Additionally the capacity of the adjacent swale and ditch system, designed for retention and detention, was not taken into account in calculations. This resulted in unnecessary clearing of large areas of residential lots to provide for retention onsite in dry retention structures. Proposing that these facilities be provided by building the property up rather than clearing and digging down, in a much more environmentally productive manner, the Town engineer proposed an amendment to the process for single family homes.

The following paragraph is proposed to be added to these regulations in keeping with the advice of the Town Engineer, and in the interest of preserving trees and open space as possible while meeting the needs of the stormwater retention/detention system:

**PROPOSED AMENDMENT:**

- c) For single family residential building and/or remodeling on land connecting with the town system of swales the regulations shall allow for the substitution of a berm, height determined by the Town Engineer but not less than 6 inches high, around the property, broken only for drives and approved drainage elements, to satisfy the requirements of (a) above.

7,8) Update Objective 2-1.3 under Transportation element and Policy 2-1.3.1.

The Future Roadway Improvements objective and related policies need to be updated to reflect the current planning period, delete the need for a traffic signal which has since been installed, and provide for encouraging improvements to neighboring roadways to reduce area congestion.

**PROPOSED AMENDMENT:**

OBJECTIVE 2-1.3: FUTURE ROADWAY IMPROVEMENTS. ~~The Town shall coordinate with the FL DOT and with the Brevard County MPO to attain roadway improvements needed to accommodate future traffic circulation system improvements needed to accommodate system demands through the year 1995.~~ The Town shall coordinate with the FL-DOT and the Brevard County MPO and other local jurisdictions to seek remedies for area roadways which indicate an unacceptable level of service in the 2030 forecast.

Policy 2-1.3.1: Specific Planned Roadway Traffic Circulation Improvements. Although the 1987 Data Inventory and Analysis did not indicate the need for any traffic circulation system improvements ~~other than the signalization of the U.S. 192 and Dayton Boulevard intersection as noted below in Policy 2-1.3.2,~~ that have not been accomplished to date, the Town shall maintain a data base and monitoring program to effectively coordinate unanticipated roadway improvements with the FL-DOT and Brevard County MPO.

Policy 2-1.3.2: Projected Need for Traffic Signalization Improvement. ~~The fifteen (15) acre commercial development proposed at the northeast corner of the U.S. 192 and Dayton Boulevard intersection shall generate the need for automatic traffic signalization which shall be funded by the subject developer.~~

Policy 2-1.3.2: Specific Roadway Improvements

1. The city shall, through the MPO process, seek remedies and funding for improvements to the following roadway that has been determined to be deficient in the 2020 Long Range Transportation Plan- U.S. 192.
2. The city encourages the Brevard MPO and adjacent jurisdictions to seek improvements to parallel corridors to those roadways determined to be deficient in the 2020 Plan to alter traffic patterns and relieve congestion on the deficient roadways.

9) Update Infrastructure element to reflect completion of Stormwater Masterplan

The Stormwater Masterplan was completed in 2003. The Town has adopted a Stormwater Utility and proceeded with maintaining the stormwater system while addressing the problems raised in the Masterplan.

**PROPOSED AMENDMENT:**

OBJECTIVE 4-3.1: PROTECT NATURAL DRAINAGE FEATURES.

By ~~1991~~, the Town shall amend the stormwater drainage and flood prevention regulations as needed in order to protect natural drainage features and insure that future development utilizes stormwater management systems compatible with the Town's master stormwater drainage plan ~~which is scheduled for completion by 1991~~. Any A-amendments to the stormwater drainage regulations shall insure that:...

10) Adopt new Capital Improvements Schedule

**PROPOSAL**

The Town Commission shall adopt a new Capital Improvements Schedule and shall review it each year as a part of the Budget adoption process.  
Ref: chart 8-2.1 – update as determined.

## SECTION II - 2008 EAR

### Items Identified by review of changes to FS 163 and Rule 9.5 1988 to 2008

- 1) The Town's LGCP was adopted by Ordinance as Chapter 4.5 of the Town Code. It was codified as Article I of Section 4.5. The Concurrency Management System was adopted as Article II of section 4.5. State statute now requires that the Concurrency Management System be adopted in the LGCP. Include in Section 8.

(Note: the amendments proposed for Section 1, item 6 – drainage requirements, above, and this Section, item 8 – concurrency exceptions, below, are added to the Land Development Regulations as proposed here.)

#### **PROPOSED AMENDMENT:**

(Code section is transferred as a whole – only proposed changes to current code are shown by strike-through/red)

~~Policy 8-1.4.2: Adequate Facilities Ordinance. The Town shall include an adequate facilities requirement as part of the updated Land Development Code. The adequate facilities ordinance shall mandate that adequate facilities Be available prior to the issuance of a certificate of occupancy~~

The Following shall be the **CONCURRENCY MANAGEMENT SYSTEM** for the Town of Melbourne Village.

**SECTION 4.5-5- PURPOSE AND INTENT.** The Concurrency Management System shall implement established minimum acceptable level of service standards for roads, potable water, sanitary sewer, solid waste, drainage and parks. The system is designed to utilize the most current and available data regarding the above public facilities or services to measure the impact of any development permit proposal upon the facilities for which levels of service have been adopted. No final development permit can be issued unless adequate facilities or services are available as determined by the concurrency evaluation. This Concurrency Management System applies to all new construction in all areas of the Town of Melbourne Village (R-1A, R-1, R-2, and Commercial), as well as to any remodeling that significantly changes (more than 50%) the foot print of the structure on the property.

**SECTION 4.5-6- EVALUATION CRITERIA.** The Town of Melbourne Village shall utilize the following criteria to determine whether levels of service are adequate to support the specific impacts of a proposed development.

(1) Roadways.

(a) Capacity for transportation facilities shall be evaluated using the "Florida Highway System Plan Level of Service Standards and Guidelines Manual", Florida Department of Transportation, January 1, 1989.

(b) Projected impacts on the transportation system shall be determined by utilizing the trip generation standards set forth in the "Trip Generation Manual", 4th Edition, Institute of Transportation Engineers and evaluating their impact at points of ingress and egress to roadways in the Town.

(c) The calculation of total traffic generated by a proposed non-residential project will assume 100% buildout and occupancy of the project. Credit against the trip generation rates may be taken utilizing the percentages below:

**PERCENT OF CAPTURED TRIPS FROM PASSING TRAFFIC**

<u>USE</u>	<u>PERCENTAGE</u>
Shopping Center	
More than 400,000 sq. ft.	25%
100,000 - 400,000 sq. ft.	25%
less than 100,000 sq. ft.	25%
Supermarkets	25%
Hardware Stores	5%
Convenience Stores	40%
Fast Food Restaurants	35%
Restaurants	15%
Banks	46%
Day Care Centers	10%
Service Stations/Carwashes	58%
Offices	0%
Industrial Uses	0%

Any capture of trips from passing traffic for uses not specified above or in excess of those percentages must be justified by the applicant.

(d) Current operating level of services shall be based upon the most recent traffic counts available, plus projected traffic counts from previously committed developments.

(2) POTABLE WATER. The Town of Melbourne Village capacity shall be determined by capacity reservation for the project by the City of Melbourne Water Department.

(3) SANITARY SEWERS AND SEPTIC TANKS. The Brevard County Health and Consumers Services issuance of a septic tank permit and approval of potable water or sewer capacity reservation from Sanitary Sewer Operator.

(4) SOLID WASTE. Certificate from agency supplying permit stating capacity exists prior to development approval.

(5) PARKS.

(a) Adequacy of public parks shall be based on the Town of Melbourne Village level of service standards of 29 acres per 1000 population by planning area.

(b) The impact of a proposed development will be determined by utilizing the official household-size multiplier from the University of Florida, Bureau of Economic and Business Research for the Town of Melbourne Village, times the number of units projected for a project.

(6) DRAINAGE. The Town of Melbourne Village is currently handling stormwater runoff and does not plan to increase this capacity. The current drainage system and commercial zone retention requirements of the Town of Melbourne Village are sufficient to handle stormwater runoff and drainage for the projected needs at buildout. To meet concurrency in drainage and stormwater management, a local project shall maintain stormwater runoff at the present current level or lower and shall equal or exceed the current level of water runoff quality to avoid pollution of the Town of Melbourne Village and the Indian River Lagoon.

The following guidelines shall be used to demonstrate compliance with the concurrency drainage section. Minimum guidelines:

(a) Stormwater retention of the first one (1) inch of rainfall in a thirty-six (36) hour period: This retention includes both pervious and impervious areas of the property or project.

(b) Stormwater detention of the next one and one-half (1-1/2) inches of rainfall in the same thirty-six (36) hour period: This detention will allow slow release of stormwater through percolation or ground filtration in accordance with the current Department of Environmental Regulation Stormwater Management Practice Manual.



(c) For single family residential building and/or remodeling on land connecting with the town system of swales the regulations shall allow for the substitution of a berm, height determined by the Town Engineer but not less than 6 inches high, around the property, broken only for drives and approved drainage elements, to satisfy the requirements of (a) above.

(d) Attention must be given to direct or divert stormwater runoff including septic drainage and to use other sound water management techniques to avoid pollution of the Town of Melbourne Village and the Indian River Lagoon by all other contaminants.

(e) Reference, attention and accordence shall be given to the Florida Development Manual: A Guide to Sound Land and Water Management (DER, State of Florida), to Appendix B3, "Model Stormwater Management Ordinance for the Indian River Lagoon Basin" by the Marine Resources Council for the St. Johns River Water Management District and Brevard County Drainage System requirements.

Certification by the Town of Melbourne Village Planning and Zoning Board/Local Planning Agency is required that a proposed project meets the above Stormwater and Drainage Concurrency Management requirements prior to permit approval.

**SECTION 4.5-7. CONCURRENCY EVALUATION FINDINGS.** The Town of Melbourne Village Planning and Zoning Board/Local Planning Agency shall issue a concurrency evaluation during the building permit process and this evaluation shall certify either a non-deficiency finding or a deficiency finding.

(1) NON-DEFICIENCY FINDING. A finding of non-deficiency by the concurrency evaluation shall remain valid for sixty (60) days pending a building permit. Once a building permit has been issued, the findings shall remain valid until construction has been completed and a certificate of occupancy issued; or for the life of the permit until it is revoked or suspended for failure to proceed in a timely manner as prescribed.

(2) DEFICIENCY FINDING. A finding of deficiency by the concurrency evaluation shall negate approval of the building permit application or force deferral of this approval until a finding of non-deficiency is obtained.

**EXCEPTIONS TO THE REQUIREMENTS OF THIS CONCURRENCY MANAGEMENT SYSTEM.**

Exemptions: New construction or remodeling which replaces existing residential units at no more than one to one, or which does not affect the number of residential units, and which does not change the use of the property, shall be exempt from concurrency for transportation and parks.

Alternative Evidence of Concurrency: For remodeling and/or replacement of existing residential units, a water bill from the City of Melbourne showing service at the subject address, and a tax bill from Brevard County showing a non-ad valorem assessment for solid waste disposal may serve as alternatives to a reservation of capacity for Potable Water and Solid Waste Disposal, respectively.

**SECTION 4.5.8. CUMULATIVE RECORDS OF LEVEL OF SERVICE.** The Concurrency Management System shall maintain a cumulative record of the level of service allocations permitted by the approval of building permits relative to the operating levels of service for the referenced public facilities.

**SECTION 4.5.9. ADMINISTRATION.** The Town of Melbourne Village Planning and Zoning Board/Local Planning Agency shall administer the provisions of this code and may develop and propose to the Town Commission for adoption such administrative rules, forms, applications and fees as may be required to implement the Concurrency Management System. Should any applicant desire to appeal a finding, the appeal shall be addressed to the Town of Melbourne Village Commission.

2) LOS for US 192 - update 2-1.1.1 and 8-1 .4.1 to reflect FDOT LOS

The adoption of a LOS standard for State roadways must consider the standard adopted by FDOT. If the Town were to adopt a higher LOS standard on State roadways, the burden would rest on the Town to prove that such a LOS could be maintained.

In 2020 US 192/New Haven Ave is a 4-lane Major Arterial State road with an adopted LOS (Level of Service) Standard from the State of "E".

**PROPOSED AMENDMENT:**

**Policy 2-1.1.1:** Level of Service Standards. The Town hereby adopts the following peak hour LOS standards:

- a. Major Arterial: U.S. 192: LOS Standard ~~D~~ E (FL-DOT facility)
- b. Local Roadways: LOS Standard C
- c. Minor Collectors: None exist within the Town

**Policy 8-1.4.1:** Level of Service Standards:

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Transportation Linkages:

U.S. 192: LOS Standard ~~D~~ E (FL-DOT facility)

Wickham Road: LOS Standard C-D

Local Roadways: LOS Standard C

3) Add policies for streamlining permitting process for Residential building

Periodic review of the residential permitting process can result in streamlining the process without sacrificing necessary regulation of the building process, thus reducing unnecessary duplicate effort and delays in issuing development orders.

**PROPOSED AMENDMENT:**

Policy 3-1.7.5 Review and Adopt feasible change to streamline permitting process

Changes in regulations and in technologies employed in processing development orders can provide opportunities to streamline the permitting process for residential housing without sacrifice of public and resident safety, which can ease the financial investment required and facilitate the provision of affordable housing. Review of processes in light of these opportunities, and adoption of streamlining mechanisms within the context of budget and staffing restraints will serve as evidence of the effectiveness of continuing modernization of the permitting process.

4) Include School concurrency in Concurrency Mgmt. System.

Melbourne Village is currently exempt from the requirement of having a School Concurrency Element in the LGCP. Any requirement regarding school concurrency would, therefore, come under the Brevard County plan. Should Brevard County require Melbourne Village builders to obtain a proof of school capacity reservation this would be adopted as an interlocal agreement with the County/School Board, and included in the permitting process in Melbourne Village, as is the agreement to require proof of school impact fees.

5) Update data for Housing Element to include Substandard Housing description

This applies to the Data Inventory. This item will be reserved against a future review/revision of the Data Inventory.

6) Include Objective for adoption of Interlocal Agreements in Section 7

Because Melbourne Village has been declared exempt from the requirements to participate in the school concurrency process by Brevard County, the Town is not a party to the interlocal agreements or the interlocal committees regarding this. See number 4 above for discussion of possible school concurrency requirements on individual builders in the Town.

7) Add to Policy 2-1.6.3 the required use of professionally accepted techniques for measuring level of service for cars, trucks, transit, bikes and pedestrians.

Consistent application of concurrency regulations requires a reasonably standard method of determination of impacts to levels of service. Unlike other elements in the process the transportation element does not mandate specific standards for determining impact on level of service, leaving some latitude for application of differing methodologies. A minimum standard must be provided to allow for reasonable consideration of findings and as a base level for challenge if appropriate.

**PROPOSED AMENDMENT:**

**Policy 2-1.6.3: Traffic Circulation Site Plan Review Criteria.**

The Town shall incorporate traffic circulation site plan review criteria in the Land Development Code. The criteria shall address such factors as trip generation; design of efficient internal traffic circulation and parking facilities including minimizing pedestrian and vehicular conflict, off-street parking, as well as safe and convenient circulation and maneuverability; control of access points, potential need for acceleration/deceleration lanes; adequate surface water management and drainage; and landscaping; and shall require the use of professionally accepted techniques for measuring level of service for cars, trucks, transit, bikes, and pedestrians.

8) Include guidelines for granting concurrency exceptions

(Note: Concurrency requirements are in the Land Development Regulations which were adopted by ordinance as Town Code 4.5 CONCURRENCY MANAGEMENT. Per item 1 above, these regulations will be added to the text of the LGCP as part of the proposed amendments.)

**PROPOSED AMENDMENT:**

**EXCEPTIONS TO THE REQUIREMENTS OF THIS CONCURRENCY MANAGEMENT SYSTEM.**

Exemptions: New construction or remodeling which replaces existing residential units at no more than one to one, or which does not affect the number of residential units, and which does not change the use of the property, shall be exempt from concurrency for transportation and parks.

Alternative Evidence of Concurrency: For remodeling and/or replacement of existing residential units, a water bill from the City of Melbourne showing service at the subject address, and a tax bill from Brevard County showing a non-ad valorem assessment for solid waste disposal may serve as alternatives to a reservation of capacity for Potable Water and Solid Waste Disposal, respectively.

## SECTION III - 2019 Evaluation and Appraisal Notification Letter

### Items Identified by review of changes to FS 163 and Rule 9.5 2009 to 2018

- 1) The future land use plan element shall include criteria to be used to:
  - b. Achieve the compatibility of lands adjacent to an airport as defined in s. [330.35](#) and consistent with s. [333.02](#).

#### **PROPOSED AMENDMENT:**

Policy 1-1.1.2: Land Development Regulations. Existing regulations governing zoning, signage, landscaping, tree protection, flood plain management, surface water management, water and wastewater systems, and other land and water management regulations shall be revised and/or updated as needed in order to:

- 1) effectively regulate future land use activities and natural resources identified on the Future Land Use Map; and
- 2) implement the goals, objectives, and policies stipulated in the Comprehensive Plan.

These ordinances shall be incorporated into a land development code pursuant to Chapter 163, 3202, f.S. and shall contain specific and detailed provisions which at a minimum:

- a. Regulate the subdivision of land,
- b. Regulate the use of land and water consistent with this Element, ensure the compatibility of adjacent land uses, and provide for open space,
- c. Protect the environmentally sensitive lands designated on the Future Land Use Map and in the Conservation Element,
- d. Regulate areas subject to flooding and provide for drainage and stormwater management,
- e. Protect potable water wellfields and aquifer recharge areas,
- f. Regulate signage,
- g. Ensure safe and convenient onsite traffic flow and vehicle parking needs,
- h. Provide that new land use classifications shall not be approved which create a hazard to aviation on land in the vicinity of public airport land, especially as relates to height, use, or density. and
- hi. Provide that development orders and permits shall not be issued which result in a reduction of the level of services for the impacted public facilities below the level of service standards adopted in this Comprehensive Plan.

2) Include Airport Authority in Intergovernmental Co-operation Policies

**PROPOSED AMENDMENT:**

Policy 7-1.1.2: Coordination with Adjacent Jurisdictions. The Town shall file a written request with Brevard County and the Cities of Melbourne and West Melbourne, and the Melbourne Airport Authority to receive copies of proposed comprehensive plans for the Town's review for purposes of intergovernmental coordination and to promote consistency with the Town's adopted Plan.

Policy 7-1.1.3: Coordination of Growth Management Issues. The Town shall consider growth management issues with impacts transcending the Town's political jurisdiction, including but not limited to the following:

- Brevard County and Cities of Melbourne and West Melbourne land development activities adjacent to the Town's corporate limits.
- Orlando Melbourne International Airport development
- Potential annexation issues.
- Central water and wastewater systems feasibility studies as well as
- planned improvements impacting the Town and adjacent areas.
- Areawide drainage and stormwater management master plan, proposed improvements and implementing programs.
- Landfill improvements, and solid waste disposal.
- Transportation improvements impacting the Town and adjacent areas (especially designated arterials and major collector streets).
- Level of service standards for infrastructure system impacting the Town and adjacent areas.
- Natural resource conservation, including the Erna Nixon Hammock, Crane Creek, and tributaries thereof; water conservation and reuse. and
- solar energy applications.

3) Include mandatory dispute resolution process in policy on intergovernmental conflicts.

**PROPOSED AMENDMENT:**

Policy 7-1.2.3: Mandatory Coordination with the East Central Florida Regional Planning Council. Where the Town is unable to resolve intergovernmental conflicts through the Brevard County Intergovernmental Coordination Steering Committee, the Town Commission shall determine if it is appropriate for the respective issue to be mediated through the East Central Florida Regional Planning Council. proceed to mediate the issue through the process established by the East Central Florida Regional Planning Council, as directed by Florida Statute.