



Future of Hillsborough

Comprehensive Plan for Unincorporated Hillsborough County Florida

LEGAL STATUS

As Amended by the Hillsborough County Board of County Commissioners June 5, 2008 (Ordinance 08-13)

Department of Community Affairs Notice of Intent to Find Comprehensive Plan Amendments in Compliance published August 4, 2008 {DCA PA No. 08-1ER-NOI-2901- (A)-(I)}

August 26, 2008 Effective Date

LEGAL STATUS OF THE PLAN

GENERAL

After this Comprehensive Plan has been adopted, no land development regulation nor land development code nor amendment thereto shall be adopted by the Board of County Commissioners of Hillsborough County until such regulation, code or amendment has been referred to the local planning agency for review and recommendation as to the relationship of such proposal to the adopted Comprehensive Plan. For purposes of this section, "land development regulations" or "regulations for the development of land" includes any county zoning, subdivision, building and construction or other regulations controlling the development of land. All land development regulations enacted or amended shall be consistent with the adopted Comprehensive Plan.

All land development regulations enacted or amended shall be consistent with, further, particularize and implement the intent of the County's growth and development policies as expressed in the adopted Comprehensive Plan or as interpreted by the local planning agency. Any land development regulations existing at the time of adoption of this Comprehensive Plan which are not consistent with the adopted comprehensive plan shall be amended so as to be consistent.

The staff of the local land planning agency may, at the direction of the Board of County Commissioners, review requests to be acted upon by the Board of County Commissioners of Hillsborough County or other regulatory bodies, for rezoning, and for conditional uses and similar approvals relating to land use, for the purpose of assessing their consistency with the adopted Comprehensive Plan as amended by this Future Land Use Element and reporting thereon to the appropriate regulatory body.

The goals, objectives, and policies contained in the Comprehensive Plan shall be reasonably applied where they are economically and environmentally feasible, not contrary to the public interest, and consistent with the protection of private property rights. The Plan shall be construed and applied as a whole, and no specific goal, objective, or policy in the Plan shall be construed or applied in isolation from the other goals, objectives and policies in the Plan.

RELATION TO ZONING

Any proposed zoning or rezoning action, in order to be approved by the Board of County Commissioners of Hillsborough County, must be consistent with the language and the intent of the adopted Comprehensive Plan as expressed in the adopted Comprehensive Plan, or as interpreted by the local planning agency. All rezonings in the Community Mixed Use, Urban Mixed Use, or Regional Mixed use categories, except those initiated by the Board of County Commissioners of Hillsborough County and except as provided for in applicable land development regulations, shall be planned development districts.

VESTED RIGHTS

In implementing this Comprehensive Plan, Hillsborough County shall develop and adopt an administrative process for the purpose of determining whether a person or legal entity's right to develop is vested under the previous comprehensive plan including a vesting policy which shall apply to developments other than developments of regional impact (DRI). The administrative process for non-DRI developments shall require any person claiming to have vested rights to demonstrate all of the following:

1. That the person or legal entity owned the parcel proposed for development at the date of adoption of this Comprehensive Plan, July 26, 1989, or the person had a contract or option to purchase the parcel on such date, or that it would be inequitable, unjust or fundamentally unfair to deny an application for vested rights where the person or legal entity acquired ownership prior to February 1, 1990.; and
2. That there was a valid, unexpired act of an agency or authority of Hillsborough County government upon which the person or legal entity reasonably relied in good faith; and
3. That the person or legal entity, in reliance upon this act of government, has made a substantial change in position or has incurred extensive obligations or expenses; and
4. That it would be inequitable, unjust or fundamentally unfair to destroy the rights acquired by the person or legal entity. In making this determination, the County may consider a number of factors, including but not limited to consideration of whether actual construction has commenced and whether the expense or obligation incurred is unique to the development previously approved and is not reasonably usable for a development permitted by the County's Comprehensive Plan and land development regulations.

The County may identify, for various categories of proposed development, specific development approvals or permits which, when issued, shall be presumed to vest an applicant under the above criteria. Vested rights which arise under a valid, unexpired development approval or permit shall vest developments for the purpose of the Plan, the land development regulations adopted to implement the Plan, and the requirements for the determination of capacity of public facilities and the availability of public facilities, subject to the limitations set forth below. Vested rights which arise under an expired approval or permit may vest development for the purposes of the Plan and the land development regulations; however, the development shall be subject to and shall not be vested for the purposes of the requirements for the determination of capacity and the availability of public facilities. The administrative process prescribed by this section shall require an application for a vested rights/special use permit to be filed in accordance with a schedule to be established by ordinance and shall provide that the failure to file an application within the required period will constitute an abandonment of any claim to vested rights. If an individual is absent from the state during the required period, and does not have an agent present in the state during such period, the individual may file an application after the required period. The administrative process prescribed by this section shall provide for the establishment of "a time certain" after which the rights of the person or legal entity to develop the parcel shall be subject to the availability of public facilities and the requirements for a determination of the capacity of public facilities prior to the issuance of development orders or permits. The administrative process may provide for an extension of vested rights under appropriate circumstances. The administrative process prescribed by this section shall provide for appeals to the Board of County Commissioners.

APPLICATION OF INTERPRETATIVE POWER

The goals, objectives, policies and related implementing provisions of the Plan are written from a broad perspective. It is unlikely that ALL policies and provisions will be applicable in any particular case. Generally, the goals, objectives, policies and related implementing provisions of the Plan should be reviewed as a whole to determine the overall intent of the Comprehensive Plan. No one policy or provision should be used in isolation of all others. In the course of the normal review of development proposals, amendments to the Plan and review of land development regulations, the staff of the Planning Commission may provide analyses which include broad interpretations of the overall intent of the Plan including the goals, objectives and policies.

In the event that a more specific interpretation of a particular policy or provision of the Plan is necessary or requested, it shall be directed, in writing to the Executive Director of the Planning Commission who shall make a written

decision within thirty (30) days of receipt. Any decision issued by the Executive Director shall be from an overall policy basis, rather than directed toward a particular development proposal.

An appeal from an interpretation of the text of the plan by the Executive Director of the Planning Commission shall be decided by the Planning Commission, based upon its findings of fact and to achieve the purposes of the Future of Hillsborough Plan. The Planning Commission shall decide to either uphold or not uphold the decision of the Executive Director by a simple majority vote.

The appeal shall be provided in writing to the Chairman of the Planning Commission within 20 days from the date of the Executive Director's decision having been rendered. The request shall generally describe the substantive issues which necessitate the appeal of the Executive Director's decision. The appeal shall be heard at a regular meeting of the Planning Commission. The appellant shall be provided adequate opportunity to present his/her position to the Planning Commission.

In exercising this power, The Planning Commission shall act in a prudent manner so that the purposes of this Plan shall be served. The effect of the decision shall not be to vary the provisions or requirements of the Plan or to permit densities or intensities above those permitted by any land use plan category.

ADOPTING AND AMENDING THE PLAN

- (a) The Board of County Commissioners shall have the power to adopt and amend the Future Land Use Element in accordance with the provisions of Chapter 75-390, Laws of Florida, as amended, Chapter 163, Florida Statutes, and the provisions of this section.
- (b) The local planning agency may submit to the Board of County Commissioners proposals for amending the Future Land Use Map or any other aspect of the Future Land Use Element.

Citizens owning or having a substantial interest in property in the affected area may submit to the local land planning agency proposals for amending the Future Land Use Map. The local land planning agency shall review any such proposal for the purpose of assessing its appropriateness in light of the Goals, Objectives, and Policies of the Future Land Use Element, and shall report thereon to the Board of County Commissioners.

- (c) All citizens, whether they are directly or indirectly affected, shall be given an opportunity to contribute to the planning and policy-making process through public meetings and hearings.

JUSTIFICATION FOR AMENDMENT OF THE FUTURE LAND USE ELEMENT

- (a) Amendment of any aspect of the Future Land Use Element represents a major policy decision by the Board of County Commissioners. An amendment of the Future Land Use Map, in particular, is a declaration that growth and development pattern initially sought by the County in a particular location, through thoughtful adoption of the Future Land Use Element, is no longer appropriate. A significant change in circumstances affecting the suitability of property in a particular area for the kind of development intended by the Future Land Use Map, which was not contemplated at the time the Future Land Use Element was adopted, may justify a reconsideration of the land use category into which that area has been placed on the map. However, Future Land Use Map changes not functionally related to the overall purposes expressed in the Map and policies contained herein could seriously undermine the integrity of the Map and other provisions of the Future Land Use Element itself. Amendments therefore should not occur with the same frequency as parcel rezoning amendments; and their effect upon the entire Comprehensive Plan, including the practical consequences of the policy shift signified by the amendment, shall be fully set forth as part of the amending ordinance.

- (b) In assessing the merits of a plan amendment, the local land planning agency and the Board of County Commissioners shall not be limited to consideration of the particular property affected by the proposal. Each shall consider implications the amendment would have on the Future Land Use Map in the general area of the affected property and the development pattern and growth policies currently being pursued there. In order that the Board of County Commissioners may be able to fully assess the consequences of approving the proposed change, the Local Land Planning Agency's report to the Board shall include:
 - (1) an assessment of the consistency of the proposed change with other portions and features of the Plan, and
 - (2) recommendations for whatever further amendment would be advisable in conjunction with the proposed amendment, and
 - (3) an analysis of the capital costs and other requirements for service necessitated and the benefits generated by the proposed amendment, and/or

- (4) a finding, if applicable, based on information currently available, that an error or mistake had been made in the original land use designation shown on the Future Land Use Map.

Requirements for Amending the Future Land Use Element

- (a) The Board of County Commissioners may amend the Future Land Use Element upon receiving the report and recommendations of the local land planning agency, and upon finding on that basis and from the evidence presented at the public hearing that the land use development policies reflected in the portion of the Future Land Use Map or in the Goals, Objectives, and Policies sought to be amended:
 - (1) are no longer in the best interest of the public, and
 - (2) should be changed in the manner signified by the amendment proposal.
- (b) Amendments of the Future Land Use Map shall be consistent with other portions and features of the Future Land Use Map, and with the Goals, Objectives and Policies of the Future Land Use Element.

Transition to Regulation Under the Comprehensive Plan

Purpose:

Within one year from the adoption of the Plan or Plan Amendment, the Board of County Commissioners of Hillsborough County shall adopt or amend and enforce land development regulations that are consistent with and implement the adopted Comprehensive Plan. It is the intent of the Board of County Commissioners of Hillsborough County that the adoption and enforcement of the referenced land development regulation shall be based on, related to, and a means of implementation of the adopted Comprehensive Plan.

Resolution of Conflicts Between the Future Land Use Element and Land Development Regulations.

Until such time as implementing regulations are adopted, all development of property within the unincorporated area of Hillsborough County shall take place in accordance with existing land development regulations. However, to the extent that the terms, conditions, covenants and restrictions contained in existing or future land development regulations conflict with the terms, conditions, covenants and restrictions contained in the adopted Comprehensive Plan as amended by this Future Land Use Element, the terms, conditions, covenants and restrictions contained in the adopted

Comprehensive Plan as amended by this Future Land Use Element shall control.

SEVERABILITY

If any provision of this ordinance or the application thereof to any person or legal entity or circumstances shall be held invalid, the invalidity shall not affect other provision or applications of this ordinance or the Future of Hillsborough - A Comprehensive Plan for Unincorporated Hillsborough County which will be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared severable.

EFFECTIVE DATE AND INTERIM REZONINGS

This ordinance shall take effect upon receipt of official acknowledgment from the Florida Department of State of its filing pursuant to the terms of Section 125.66, Florida Statutes. Applications for rezonings filed on or after the described effective date shall be reviewed in accordance with the provisions of the Comprehensive Plan. All actions taken in regard to development orders by the Board of County Commissioners shall be consistent with such plan or element as adopted, pursuant to Chapter 163.3194(1)(a), FS.