Florida’s Community Planning Process and Meaningful Citizen Participation

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- We educate, advocate and negotiate to protect Florida’s high quality of life.

- Our bipartisan board of directors includes advocates and experts from across the state.

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Presenters
Charles Pattison, FAICP

- Policy Director and past President of 1000 Friends of Florida since 1998
- Director for the Division of Resource Planning and Management at the Department of Community Affairs from 1992 to 1998
- Field Representative for The Nature Conservancy’s Virginia Coast Reserve from 1989 to 1992
- Opened and ran the DCA Keys Field Office in Key West between 1983 and 1989, serving as Monroe County Planning, Building and Zoning Director and first Executive Director of the Monroe County Land Authority
Pegeen Hanrahan, P.E.

- A registered Professional Engineer and Principal of Community and Conservation Solutions, LLC
- Served as Gainesville Mayor (2004-2010) and City Commissioner (1996-2002) (term limited)
- Worked as a county environmental engineer, in consulting engineering and as an elected official
- Over twenty five years of experience in environmental remediation, public participation, renewable energy, land conservation, and more
- For over ten years with the Trust for Public Land has helped develop and pass ten successful bond or sales tax initiatives for land conservation
- Served as Campaign Manager and Deputy Campaign Manager for Amendment 1, Florida’s Water and Land Legacy which passed with 75% approval in 2014
- Served as President of Florida League of Mayors, and Chair of Alachua County Library District
- Currently serves on the boards of FSU’s LeRoy Collins Institute, UF’s Bob Graham Center, the Mayors’ Innovation Project, Alachua Conservation Trust, Local Governments for Sustainability.
Florida’s Community Planning Process

Charles Pattison, FAICP, Policy Director
1000 Friends of Florida
With passage of the 2011 Community Planning Act in Florida, there have been significant changes to our state’s system of managing growth. Early and active participation in the local planning process is more important than ever.
This Webinar

The focus is on Florida's growth management process under the 2011 Community Planning Act, including:

- Local comprehensive plans
- An overview of plan implementation
- Legal opportunities to participate and challenge plans and plan amendments
- Recommendations on how to be more effective participants in your local planning process
Community Planning Act (2011)

The local comprehensive plan is a community’s legally binding “blueprint” for how it will develop.
Under Florida law, each city and county must adopt a comprehensive plan to guide future development, deal with problems associated with the use and development of land, promote public health and safety, and protect human, environmental, social and economic resources.

- Any development approval must be legally consistent with the plan.
- Timeframes of at least 5 and 10 years
- Pinecrest Lakes Estates (2001)
Each comprehensive plan includes elements with goals, objectives and policies that identify how the local government will accomplish the intent of the element.

- There are required elements that each local government must include in its plan.
- Local governments may also choose to adopt optional elements.
- All must be based on data & analysis with meaningful and predictable measures.
- Capital Improvements, Future Land Use, Transportation, Sanitary Sewer/Water Solid Waste Drainage and Groundwater, Conservation, Housing, Intergovernmental, Coastal Management.
Each local government also must adopt a future land use map (FLUM) that shows the “proposed distribution, location, and extent of the various categories of land” included in the comprehensive plan.

- Overall goal to discourage the proliferation of Urban Sprawl
- 13 indicators
- Achievement if 4 of 8 strategies met
Concurrency – Ch. 163.3180, F.S.

- Infrastructure should be available at time of development impact
- Applies to water, sewer, solid waste, schools (optional) and roads (optional)
- Usually credited with impact fees
- Proportionate Share
- Mobility fees
- Tied to Capital Improvements Element and one year schedule
- Financial feasibility
NOW THEY TELL US!

THIS IS A FLOOD-PRONE AREA

PLANNING & ZONING

THAT'S WHAT THEY SHOULD HAVE TOLD FOLKS BUT DIDN'T.
The local comprehensive plan must be amended if the local government desires to change its patterns of future growth or to allow a proposed development that is inconsistent with the current plan. The local government now may amend the plan at any time over the course of the year.
Large-scale plan amendment review by the Department of Economic Opportunity (DEO) is limited to adverse impacts on “important state resources and facilities.”

The 2011 Community Planning Act fails to define this term, meaning that additional legislation and/or litigation will be necessary to determine the scope of state review.


DEO only allowed to comment on important state resources and facilities outside the jurisdiction of other commenting agencies.

DEO is interpreting this to mean that its comments shall be confined to such issues as Coastal High Hazard Areas, hurricane evacuation, the Everglades, and urban sprawl.

Concerned citizens may call, write or meet with DEO staff to identify concerns with a plan amendment, but DEO is not required to include those concerns in their review.
HOLY HASSLE!

BREVARD COMICS GROWTH MANAGEMENT

THE CAPED CRUSADER CONTENTS WITH THE CANTANKEROUS COMMISSIONERS

COMPLY!

DOBSON

COMPROMISE!

Tom Pelham

© 1969 Nate Owens Florida Today
Three levels of review

- Expedited review (163.3184(3), F.S.)
- State coordinated review (163.3184(4), F.S.)
- Small scale amendments (163.3187, F.S.)
Locals transmit to DEO and state agencies within 10 days
Comments made directly to local government within 30 days
Adoption hearing must be held within 180 days
DEO determines completeness within 5 days
Amendment goes into effect 31 days after completeness unless challenged
90% plus of all amendments use this process
State Coordinated Review – Ch. 163.3184(4), F.S.

- Applies to ACSC, RLSAs, Sector Plans, EAR based amendments, new comp plans and certain exempted DRI categories (hospitals, electric lines, sports facilities/seating, harbor expansions, petroleum storage, water ports/marinas and others)
- Locals transmit to DEO and state agencies
- DEO collects comments, prepares ORC report, and sends to local government
- Local government adopts within 180 days and sends to DEO, state agencies and any commenting local government
- DEO determines completeness within 5 days and issues NOI within 45 days on its website
- Amendment goes into effect unless challenged
Small Scale Amendments – Ch. 163.3187, F.S.

- Involves 10 acres or less and does not cumulatively exceed 120 acres
- Increased to 20 acres for rural areas of opportunity
- No text change allowed – limited to FLUM only unless directly related to amendment
- Only requires one public hearing
- Becomes effective 31 days after adoption unless challenged by DEO or affected party
Other Important Programs

- Developments of Region Impact (DRI in Ch. 380.06, F.S.)
- Areas of Critical State Concern (Ch. 380.05, F.S.)
- Sector Plans (Ch. 163.3245, F.S.)
- Rural Land Stewardship Areas (Ch. 163.3248, F.S.)
- Evaluation and Appraisal Report (EAR in Ch. 163.3191, F.S.)
FLUSH!

The Boondocks
Built on Former Lush Farmland

Future Headwaters of the Everglades
Other commenting agencies

- Other agencies may also (but are not required to) comment on large-scale plan amendments, but can only comment on issues directly related to their statutory mission.

- Citizens should contact the appropriate review agencies with any concerns about plan amendments immediately after the first governing body public hearing in the proposed phase and the adoption hearing in the adopted phase to ensure that there is sufficient time for them to comment.

- The DEO website has contact information for the DEO plan amendment reviewers (by name and by local government) as well as the various state agency contacts:
  
  
Other commenting agencies

- Typically, during the proposed phase agencies have approximately 30 days after the first public hearing to submit comments.
- During the adopted phase, those agencies that commented during the proposed phase have approximately 30-45 days after the adoption hearing to submit comments.
- DEO may challenge adopted amendments based on these comments.
State commenting agencies

- Department of Environmental Protection
- Department of Transportation (through its district offices)
- Department of State
- Department of Education
- Department of Agriculture and Consumer Services
- Florida Fish and Wildlife Commission
- Governor’s Office of Tourism, Trade and Economic Development
Regional commenting agencies

- The appropriate Regional Planning Council
- The appropriate Water Management District
- Other commenting agencies may include county(s), municipality(s), and military installation(s) impacted by the proposed amendment
COMING SOON!
THE PINES
SUBDIVISION,
GOING SOON,
THE PINES.
Local governments implement their comprehensive plans through land development regulations and development orders, which must be in compliance with the comprehensive plan. Successful challenges at this stage are particularly difficult.

- Land development regulations (LDRs)
- Development orders (DOs)
- Permitting
Land development regulations (LDRs) are the local ordinances that make the comprehensive plan work. These deal with:

- Subdivisions
- Zoning
- Compatibility
- Well fields, flooding, drainage and stormwater management
- Environmentally sensitive lands
- Signage
- Concurrency management of public facilities
- Can challenge within one year under 163.3213, F.S.
- Typically, the Local Planning Agency (LPA) conducts at least one public hearing.
- The governing body also must hold a public hearing prior to adoption.
- Most LDRs are not challenged.
- However, a process is in place should a “substantially affected person” believe that the LDR is inconsistent with the plan.
The final step is the local government’s approval or denial of a development order (DO) for a specific project.

- **DOs include zoning changes, variances, subdivision plat approvals, planned unit developments (PUDs), and building permits.**
- **DOs must be consistent with the comprehensive plan and land development regulations (LDRs).**
- **In most cases, there are no public hearings.**
- **Often local elected officials are prohibited from discussing DOs with anyone other than the applicant and their legal representative.**
Permitting

Permitting is not part of the state’s growth management process, but is often mistaken as part of it.

- Permitting decisions are based on the impacts of a specific development on a specific location and may be issued by local governments and state and federal agencies.
- For example, zoning may allow a manufacturing plant on a parcel of land, but the city may require an environmental permit showing that its anticipated pollution emissions are at a permissible level.
"FRANKLY, I'M SURPRISED TO SEE SO MUCH GRASSROOTS SUPPORT FOR A FAIR GREENSPACE PRESERVATION PLAN..."
“...to the fullest extent possible...”

- Florida law requires opportunities for public participation.
- First, a local government must give adequate public notice, such as publishing notices in the local newspaper or on its website regarding meetings and public hearings.
- Second, the public must be allowed to participate in a meaningful way at these meetings and hearings.
Citizen challenges to comprehensive plan amendments – Ch. 163.3184(5)

- It is difficult to mount a successful citizen challenge of a plan amendment.
- In order to have standing (the legal right) to challenge a plan amendment, the challenger must be an “affected person.”
- “Affected persons” include those who own property, reside, or own or operate a business within the boundaries of the local government that adopted the plan amendment or who own property which abuts the property affected by a future land use map amendment.

Two other options:

- Challenge Land Development Regulation (LDR) as inconsistent with comprehensive plan – Ch. 163.3213
- Challenge Development Order (DO) as inconsistent with comprehensive plan – Ch. 163.3215, F.S.
Additionally, the “affected person” must have submitted comments during the period of time beginning with the transmittal hearing and ending with the adoption of the plan amendment.

This may be satisfied by oral and/or written presentation(s) at local governing body public hearings, and/or letters sent to elected officials at or between the transmittal hearing and final adoption of the plan amendment.
In both small- and large-scale plan amendment review processes, “affected persons” have only 30 days from the adoption of the plan amendment to file a challenge with the Division of Administrative Hearings.

As this does not provide much time, the groundwork must be laid early in the process if a challenge is contemplated.

The “fairly debatable” issue
1000 Friends of Florida encourages local governments to adopt a “Planning Bill of Rights” to create a more equitable and participatory local planning process in Florida’s communities.

1. The developer of a new project prepares a citizen participation plan, notifies nearby property owners and neighborhood, and conducts citizen workshops to obtain public input.

2. Proposed plan amendments cannot be revised in the seven business days prior to the advertised public hearing, giving all parties ample opportunity to review the document to be discussed.

3. A supermajority vote is required for all comprehensive plan amendments and major land development reviews, or to amend or repeal the Planning Bill of Rights.

4. It includes a “no free density” provision, meaning that rural and agricultural lands shall only be converted to urban uses in exchange for significant public benefit.

5. The Planning Bill of Rights also can include other provisions that meet the specific needs of individual communities.
IS IT ME? OR DOES IT SEEM LIKE THE URBAN AREA IS CREEPING CLOSER AGAIN?
Meaningful Citizen Participation

Pegeen Hanrahan, PE
Principal of Community and Conservation Solutions, LLC.
There are many ways to engage effectively as a citizen

1. Participate knowledgeably in staff and elected officials’ decisions related to zoning and growth management

2. Volunteer to serve on citizen advisory committees such as:

   • Planning and zoning boards (great if you want to run!);
   • Community Redevelopment Area (CRA) advisory committees;
   • Citizen advisory committees to your Metropolitan Planning Organization (to prioritize transportation funding);
   • Committees related to capital expenditures for parks/land conservation, public works, or other infrastructure such as water/wastewater
There are many ways to engage effectively as a citizen

3. Help to identify ways to proactively ensure that your community protects community treasures such as historic resources, iconic places, important water features or natural lands and so on.

4. It’s important to know what your community wants to protect and then develop legal mechanism (like tree or historic preservation ordinances or wetlands protections), incentives (like Community Redevelopment Area programs or tax credit programs) and capital projects (like parks, trails, and infrastructure improvements) needed to reflect those priorities.
There are many ways to engage as a citizen.

5. The Trust for Public Land helps communities develop funding sources for parks, trails, natural lands, and other capital projects through public referenda for bonds, sales and property taxes.

It is just as important to be FOR the good things you want as a community as to be against the bad things.
Advice on Being an Effective Advocate in the Planning Process

- Understand the process and the application
  - Know what is already allowed, and what is likely to happen if the application is turned down
  - Know the limits of what can and cannot be approved; there is a big difference between a site plan approval (if they meet the rules, it must be approved), a zoning change (the applicant must demonstrate in a quasi-judicial hearing that the zoning is in compliance with the comprehensive plan, but it can be turned down), and a comprehensive plan change (they want to do something different than now allowed, officials are free to vote no).
It is important to know the underlying comp plan and zoning designations, and what is likely to happen with or without approval.
Advice on Being an Effective Advocate in the Planning Process

- Just like in any other area of life, you are most likely to succeed if you behave in a respectful manner.
- The more people you can get involved (particularly those who have good relationships with the decisionmakers), the better.
- It is smart to meet with the developer and ask for modifications with professionalism.
Advice on Being an Effective Advocate in the Planning Process

- Different cities and counties can have different “rules of procedure” regarding whether you can meet with officials regarding zoning matters, how long you can speak, and so on. Be prepared to follow the rules.

- Understand and use the open meetings and public records laws. If emails, texts, or other written materials have been sent to staff or officials (regardless of email or phone address or ownership) you have a right to see them. Calendars and phone messages are also public.

- Be sure you understand the calendar and who gets to weigh in. Typically a great deal of weight is given to the planning staff recommendation and the plan board conditions, so do not neglect those opportunities.
You should meet with the appropriate planning staff to discuss the project. They can:

- Help explain the technical data in the submittals
- Describe the review and approval process that the proposal will undergo
- Identify any concerns that the planning department might have

The planning staff is likely to be able to describe the entire decision-making process, the calendar, even the political dynamics (if they are willing), and so it serves you well to develop a good relationship with them. Trying to turn anyone you will deal with regularly into “the bad guy” is rarely useful.
Process Advice: The Media is Critically Important … And Often Sympathetic

- Much of the media in Florida is actually sympathetic to the idea that we must steward the resources of our state well.

- In the campaign for Amendment 1, Florida’s Water and Land Legacy, only about three major papers in the state did not endorse a “Yes” vote. Around fifteen endorsed protecting our natural resources and water supplies.

- The news side and the editorial side normally maintain barriers between them, so you need to approach each. Both will want facts and compelling stories.

- Social media is also critical (duh).
WHADAYA MEAN PERPETUAL GROWTH ISN'T A HEALTHY THING?
... And Often Sympathetic
Always cultivate a good relationship with the local media. They are more likely to engage in your issues if they know you and trust your credibility.

- Write letters to the editor
- Prepare op eds (opinion editorials) for your paper
- Meet with the editorial board and ask them to run an editorial that supports your position
- Participate on local radio or television talk shows
- Hold a press conference if you think it will generate coverage
Process Advice: Maintain a calendar

- Find the local government web page(s) that notice the dates and times of city, county and Local Planning Agency public hearings, workshops, and meetings.

- Develop and maintain a growth management calendar that identifies key junctures in the review process for plan amendments and developments of concern, including deadlines to file challenges, if appropriate.
Process Advice: Notify agencies early on

- Don’t wait until local government public hearings have occurred and the documents have been transmitted to the various review agencies.

- If you think that a regional or state agency will or should get involved in the review process, call and submit written comments.

- These agencies now have as little as 30 days from receipt of the amendment to comment, so it is important to contact them as soon as possible.
Process Advice: Meet with local elected officials (if allowed to do so)

- Meet with them as early in the process as possible. Sometimes a decision is “quasi-judicial” and all communications must take place during the hearing process, like in a courtroom.
- Keep the meeting brief and to the point, and be prepared to answer questions.
- Remember that local elected officials want to craft a “win-win” solution to the problem so work with them to achieve this, if at all possible.
- There should be a level playing field; if the applicant has access to staff and officials, citizens should have access as well.
Process Advice: Submit written comments

- To get your comments on the record, prepare a written statement that clearly and logically explains your position.
- Send it to each agency that will consider the matter, and keep a copy for your records.
- This may help you establish “standing” (i.e., the legal right) to challenge a local land use decision or strengthen your case if you chose to file an appeal later.
- You can also use this document to develop an outline for your oral presentations.
Process Advice: Speak at public hearings

- Attend the related public meetings, hearings and workshops
- Sign in, if possible
- Be brief and compelling in your comments
- Give a copy of your written statement to the presiding official for the official record -- this may help to establish “standing” for a later challenge, if that becomes necessary.
- Encourage other supporters to attend speak out as well, as a large and diverse turn-out at a hearing may sway some officials.
In most cases “affected parties” (citizens and nonprofits with the legal standing to challenge a proposal) now have only 30 days from the date the local government adopts comprehensive plan amendments to file a challenge with the Division of Administrative Hearing.

This puts greater pressure on citizens to organize early, especially as the Division of Community Planning is not required to have rendered its final decision by that time.
Make Change: Improve your local plan and ordinances

- In addition to amending comprehensive plans to allow for more development, plans can be amended for positive change – to better protect significant natural areas, encourage more walkable communities, increase transportation options, and many other reforms.

- The land development code and other ordinances are also important to how your city or county develops.

- Support efforts to improve your community’s local government comprehensive plan and other quality of life protections early in the process. Many such ordinances are adopted AFTER something bad happens.
As noted, some city and county boards are important to shaping quality of life, and are great places to start if you want to run for office some day.

Not all boards are created equal, some have final authority, some allocate funds, others are more like a club.

When candidates run for office, ask for their position on managing growth and protecting the environment, and vote accordingly.

Make campaign contributions to those who share your views and volunteer on their campaigns.

Consider running for office yourself.

When election time comes around, turn out and vote!

Encourage your friends to vote too.
Local ballot measures to fund land protection and parks are a key part of protecting Florida. TPL Conservation Finance works nationwide, but is led by Will Abberger from Tallahassee. National accomplishments:

**478** ballot measure wins

**81%** approval rate

**$48** billion generated
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2. Public Opinion Survey
3. Program Recommendations
4. Ballot Language
5. Campaign
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• PROTECTING LANDS THAT PRESERVE WATER QUALITY AND RIVERS, LAKES AND STREAMS,
• OPERATING, MAINTAINING AND IMPROVING NATURAL AREAS, PARKS AND TRAILS, AND
• PROTECTING WORKING FARMS AND RANCHES

SUBJECT TO RECOMMENDATIONS OF A CITIZENS’ ADVISORY COMMITTEE AND INDEPENDENT AUDIT, AND CONTINUING THESE FUNDS
Make Change: Protect What you Care About, TPL’s Process

Preserving Our Quality of Life

Strict Accountability, Zero Administrative Costs, and County Matching Funds

✓ Funds can only be used for creation of a new beachfront park.
✓ Zero money will be spent on administration.
✓ Volusia County has committed to provide $3.5 million in matching funds to Ormond Beach.

Vote YES for Ormond Beachfront Park Bonds to Preserve Our Quality of Life

Vote YES for Beachfront Park Bonds Tuesday, August 24

For more information visit www.ormondbeachfrontpark.com
Carl Hiaasen: A vote to save the future of our Florida

11/01/2014 3:00 PM | Updated: 11/01/2014 3:05 PM

Okay, we get it.

You're burned out, disillusioned and disgusted. The very thought of stepping into a voting booth causes the bile to rise in your throat.

But what if there was something on the ballot that made the ordeal worthwhile, something that made you actually feel good about Florida's future?

There is.

It's Amendment One, and a Yes vote will help you sleep better Tuesday night.
Thank you! Contact Pegeen for Help

Pegeen Hanrahan, P.E.
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Consultant to the Trust for Public Land’s Conservation Finance Program

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352-665-5939

The Trust for Public Land is available to help your city or county protect parks and land. Please call me!

Thank You!
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