

Submitted by Everett
12/10/01 Wilcox
#000882

LETTER OF OBJECTION

TO: Honorable Mayor, City of Gainesville
City Commissioners
City Attorney

FROM: Everett Wilcox, 2911 NW 30th Terrace, Gainesville, FL 32605

SUBJECT: Lack of Compliance with F.S. §163.3181

DATE: December 10, 2001

Florida Statute §163.3181, "Public Participation in the Comprehensive Planning Process; Intent; ..." states that "It is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible. Towards this end..., local governmental units are directed to adapt procedures designed to provide effective public participation in the public planning process [emphasis added].

I, and other members of the general public, have watched and participated in the city's proceedings regarding the wording and eventual transmittal of the 2001-2010 conservation element of the City of Gainesville's comprehensive plan, with great disbelief and to no effect. Numerous important wording changes proposed by myself and others have been ignored; the only changes which have been incorporated into the proposed final wording have been those sought by developers and others with a vested interest in destroying our natural wetlands, quality of life, water quality, and scenic beauty of Gainesville. I do not represent any special interest. I am merely a lifelong Gainesville resident who will suffer the effects of the actions being taken by a majority of our commission.

I am including examples of several events over the last few months in order to substantiate this Objection.


- 1) During the July 26, 2001 workshop held at Westside Park, several workshop participants requested that the language allowing mitigation be stricken. Planning staff requested a standing vote of those who supported this wording deletion; 28 of 31 workshop participants (over 90%) stood in favor of disallowing mitigation in the conservation element of the City of Gainesville's 2001-2010 Comprehensive Plan. This dramatic expression of the will of the people has been given absolutely no effect and has been completely dropped.
- 2) Moreover, at a November 13, 2001 city commission meeting, the city commission approved by a 4-1 vote (Mayor Bussing dissenting) the insertion of substituted language drafted by Commissioner Nielsen the preceding Sunday and not promulgated to the public until the beginning of discussion of the item at this same meeting. Members of the public expressed concerns, asking them to slow down, pointing out that the public had not even had time to review beyond the

proposed wetlands language, etc. I objected to this protocol and lack of public participation when a commissioner drafts final language at home, then expecting the public to review wording changes during the course of the meeting itself. Not only did commissioner Nielsen's language continue to include the mitigation language previously objected to, it went even further to allow off-site and even outside-the-city mitigation. This is weakening, even sabotaging, our current level of wetlands protection. When the Mayor was addressing my complaints, three of the commissioners (Hanrahan, Nielsen, & Barrow) disrupted the meeting by walking out. **THEREFORE, I HEREBY DEMAND THAT THE MOTION APPROVING COMMISSIONER NIELSEN'S SUBSTITUTED WORDING BE RESCINDED.**

- 3) In a further display of contempt for public participation, at the November 27th continuation of the November 26th city commission meeting, commissioner Hanrahan called the question to transmit this element to the DCA in Tallahassee, even though the staff report from the previous day had not been finished and no final public comment had been taken in spite of the fact that members of the audience had been sitting for over nine (9) hours over two days awaiting public comment. Fortunately, our Mayor objected. Note that this was the first time that the final unified proposal had been received, including Planning Board Recommendations, staff recommendations, and final wetlands (and other) policy. The majority of our commission has become a handmaiden to developers and others who stand to profit while ignoring the majority of its electorate, in clear violation of the statutory intent of Florida law.

The majority of our commission has been oblivious to the repeated concerns expressed unequivocally by independent citizens. I would appreciate a responsive and complete acknowledgement of these concerns as well as the deletion of the mitigation language as overwhelmingly requested by the public.

Sincerely,



Everett Wilcox

plan shall not contain any provision for contraction of municipal boundaries or elimination of any municipality.

(h) Provide specific procedures for modification or termination of the plan.

(i) Specify any special act modifications which must be made to effectuate the plan.

(j) Specify the effective date of the plan.

(4)(a) A plan developed pursuant to this section must conform to all comprehensive plans that have been found to be in compliance under part II of this chapter, for the local governments participating in the plan.

(b) No provision of a plan developed pursuant to this section shall restrict the authority of any state or regional governmental agency to perform any duty required to be performed by that agency by law.

(5)(a) A plan developed pursuant to this section must be approved by a majority vote of the governing body of each county involved in the plan, and by a majority vote of the governing bodies of a majority of municipalities in each county, and by a majority vote of the governing bodies of the municipality or municipalities that represent a majority of the municipal population of each county.

(b) After approval by the county and municipal governing bodies as required by paragraph (a), the plan shall be submitted for referendum approval in a countywide election in each county involved. The plan shall not take effect unless approved by a majority of the electors of each county who vote in the referendum, and also by a majority of the electors of the municipalities that represent a majority of the municipal population of each county who vote in the referendum. If approved by the electors as required by this paragraph, the plan shall take effect on the date specified in the plan.

(6) If the plan calls for merger or dissolution of special districts, such merger or dissolution shall comply with the provisions of chapter 189.

(7) If a plan developed pursuant to this section includes areas proposed for municipal annexation which meet the standards for annexation provided in chapter 171, such annexation shall take effect upon approval of the plan as provided in this section, notwithstanding the procedures for approval of municipal annexation specified in chapter 171.

History.—s. 13, ch. 99-376.

PART II

GROWTH POLICY; COUNTY AND MUNICIPAL PLANNING; LAND DEVELOPMENT REGULATION

- 163.2511 Urban infill and redevelopment.
- 163.2514 Growth Policy Act; definitions.
- 163.2517 Designation of urban infill and redevelopment area.
- 163.2520 Economic incentives.
- 163.2523 Grant program.
- 163.2526 Review and evaluation.
- 163.3161 Short title; intent and purpose.
- 163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions.

- 163.3167 Scope of act.
- 163.3171 Areas of authority under this act.
- 163.3174 Local planning agency.
- 163.3177 Required and optional elements of comprehensive plan; studies and surveys.
- 163.31775 Intergovernmental coordination element criteria and rule.
- 163.3178 Coastal management.
- 163.3179 Family homestead.
- 163.3180 Concurrency.
- 163.3181 Public participation in the comprehensive planning process; intent; alternative dispute resolution.
- 163.3184 Process for adoption of comprehensive plan or plan amendment.
- 163.3187 Amendment of adopted comprehensive plan.
- 163.3189 Process for amendment of adopted comprehensive plan.
- 163.3191 Evaluation and appraisal of comprehensive plan.
- 163.3194 Legal status of comprehensive plan.
- 163.3197 Legal status of prior comprehensive plan.
- 163.3201 Relationship of comprehensive plan to exercise of land development regulatory authority.
- 163.3202 Land development regulations.
- 163.3204 Cooperation by state and regional agencies.
- 163.3211 Conflict with other statutes.
- 163.3213 Administrative review of land development regulations.
- 163.3215 Standing to enforce local comprehensive plans through development orders.
- 163.3217 Municipal overlay for municipal incorporation.
- 163.3220 Short title; legislative intent.
- 163.3221 Florida Local Government Development Agreement Act; definitions.
- 163.3223 Applicability.
- 163.3225 Public hearings.
- 163.3227 Requirements of a development agreement.
- 163.3229 Duration of a development agreement and relationship to local comprehensive plan.
- 163.3231 Consistency with the comprehensive plan and land development regulations.
- 163.3233 Local laws and policies governing a development agreement.
- 163.3235 Periodic review of a development agreement.
- 163.3237 Amendment or cancellation of a development agreement.
- 163.3239 Recording and effectiveness of a development agreement.
- 163.3241 Modification or revocation of a development agreement to comply with subsequently enacted state and federal law.
- 163.3243 Enforcement.
- 163.3244 Sustainable communities demonstration project.
- 163.3245 Optional sector plans.

extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

4. Specify uniform, districtwide level-of-service standards for public schools of the same type and the process for modifying the adopted levels-of-service standards.

5. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

6. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. The agreement shall also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans. The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

7. Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

8. Include provisions relating to termination, suspension, and amendment of the agreement. The agreement shall provide that if the agreement is terminated or suspended, the application of school concurrency shall be terminated or suspended.

(14) The state land planning agency shall, by October 1, 1998, adopt by rule minimum criteria for the review and determination of compliance of a public school facilities element adopted by a local government for purposes of imposition of school concurrency.

(15)(a) Multimodal transportation districts may be established under a local government comprehensive plan in areas delineated on the future land use map for which the local comprehensive plan assigns secondary priority to vehicle mobility and primary priority to assuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit. Such districts must incorporate community design features that will reduce the number of automobile trips or

vehicle miles of travel and will support an integrated multimodal transportation system.

(b) Community design elements of such a district include: a complementary mix and range of land uses, including educational, recreational, and cultural uses; interconnected networks of streets designed to encourage walking and bicycling, with traffic-calming where desirable; appropriate densities and intensities of uses within walking distance of transit stops; daily activities within walking distance of residences, allowing independence to persons who do not drive; public uses, streets, and squares that are safe, comfortable, and attractive for the pedestrian, with adjoining buildings open to the street and with parking not interfering with pedestrian, transit, automobile, and truck travel modes.

(c) Local governments may establish multimodal level-of-service standards that rely primarily on nonvehicular modes of transportation within the district, when justified by an analysis demonstrating that the existing and planned community design will provide an adequate level of mobility within the district based upon professionally accepted multimodal level-of-service methodologies. The analysis must take into consideration the impact on the Florida Intrastate Highway System. The analysis must also demonstrate that the capital improvements required to promote community design are financially feasible over the development or redevelopment timeframe for the district and that community design features within the district provide convenient interconnection for a multimodal transportation system. Local governments may issue development permits in reliance upon all planned community design capital improvements that are financially feasible over the development or redevelopment timeframe for the district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements. A determination of financial feasibility shall be based upon currently available funding or funding sources that could reasonably be expected to become available over the planning period.

(d) Local governments may reduce impact fees or local access fees for development within multimodal transportation districts based on the reduction of vehicle trips per household or vehicle miles of travel expected from the development pattern planned for the district.

History.—s. 8, ch. 93-206; s. 12, ch. 95-341; s. 3, ch. 96-418; s. 1, ch. 97-253, s. 5, ch. 98-178; s. 4, ch. 99-378.

163.3181 Public participation in the comprehensive planning process; intent; alternative dispute resolution.—

(1) It is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible. Towards this end, local planning agencies and local governmental units are directed to adopt procedures designed to provide effective public participation in the comprehensive planning process and to provide real property owners with notice of all official actions which will regulate the use of their property. The provisions and procedures required in this act are set out as the minimum requirements towards this end.