

Florida League of Cities Webinar

The Future of City Planning in Florida

Tuesday, October 25, 2011 3:00 PM - 4:00 PM EDT

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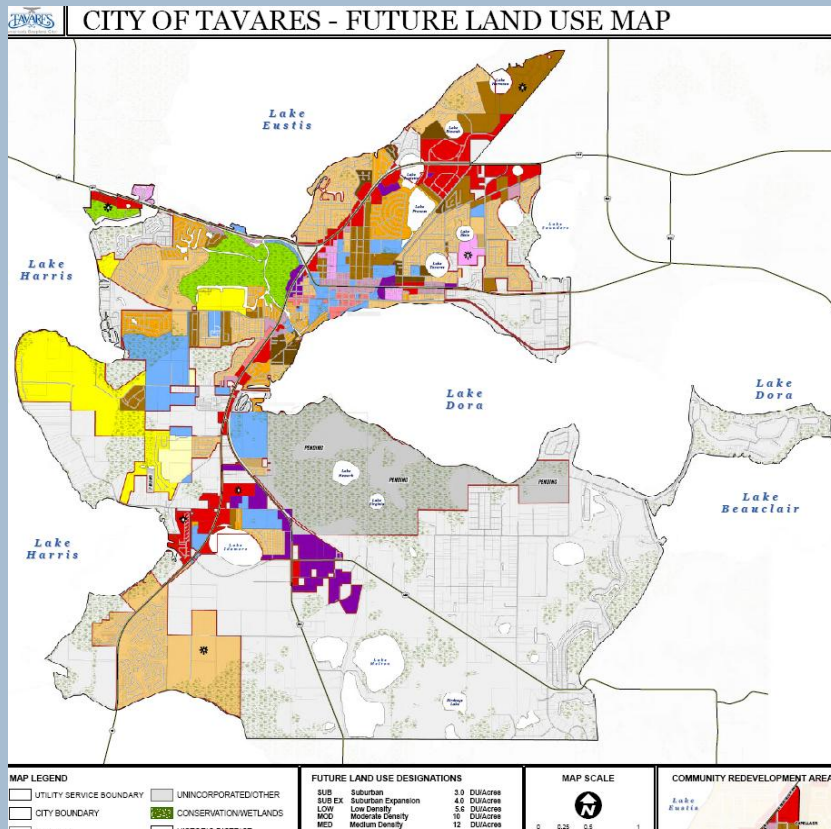
Agenda

1. An overview of the Community Planning Act – what has changed...
2. And what has not
3. Legal challenges to the new law
4. Implementing provisions of the new law
5. The future of city planning in Florida – one perspective
6. What might we expect in the upcoming legislative session?

What has changed: Minimum requirements for comprehensive plans

- State rule that established minimum standards for goals, objectives, and policies for each plan element and supporting data and analysis was abolished
- Requirement to address greenhouse gases and energy efficiency eliminated
- Financial feasibility requirements eliminated
- Only evaluation and appraisal report requirement is compliance with new state legislation

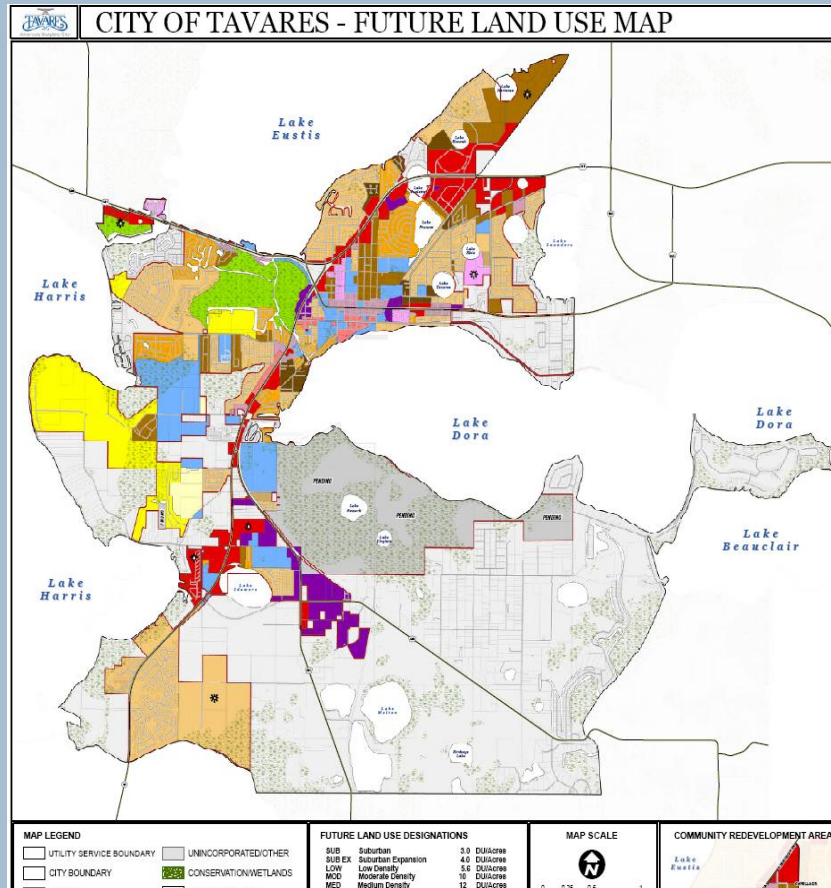
What has changed: Minimum requirements for comprehensive plans



Future Land Use Element

- Consider outdated patterns of development, such as antiquated subdivisions
- Allow operation of the real estate market to provide consumer choices

What has changed: Minimum requirements for comprehensive plans



- Supply not to rely on population projections (“need”) alone
- Use BEBR medium projections for population growth
- Adds definition of urban sprawl. Provides way to overcome for finding that an amendment does not discourage the proliferation of urban sprawl

What has changed:

Minimum requirements for comprehensive plans



Coastal Management Element

- Option to allow designation of adaptation action areas to address areas of extreme high tide, storm surge, and rising sea levels

What has changed: Minimum requirements for comprehensive plans

Transportation and Utilities Elements



- State mandates concurrency only for the following facilities: potable water, sanitary sewer, drainage (stormwater), and solid waste

What has changed: Transportation concurrency



- Repeals 1985 mandate for local governments to make development approvals dependent upon adequate road capacity to accommodate traffic impacts
- Requires local governments to adopt plan amendments in order to rescind transportation concurrency, the bill also prohibits state review of such changes

What has changed: Transportation concurrency



- Allows local governments to retain transportation concurrency, but imposes minimum requirements should they choose to do so
- Local governments must prove “levels of service adopted can be reasonably met”, and plan must include facilities “needed to ensure that adopted level-of-service standards are achieved and maintained for at least 5 years

What has changed:

“Pay and Go” mitigation for transportation

- For local governments which continue transportation concurrency, mitigation is not required for impacts to the Strategic Intermodal System (SIS). However, the changes in law do require a consultation with FDOT before those impacts are made
- Proportionate –share mitigation is now based on a new formula

What has changed:

“Pay and Go” mitigation for transportation

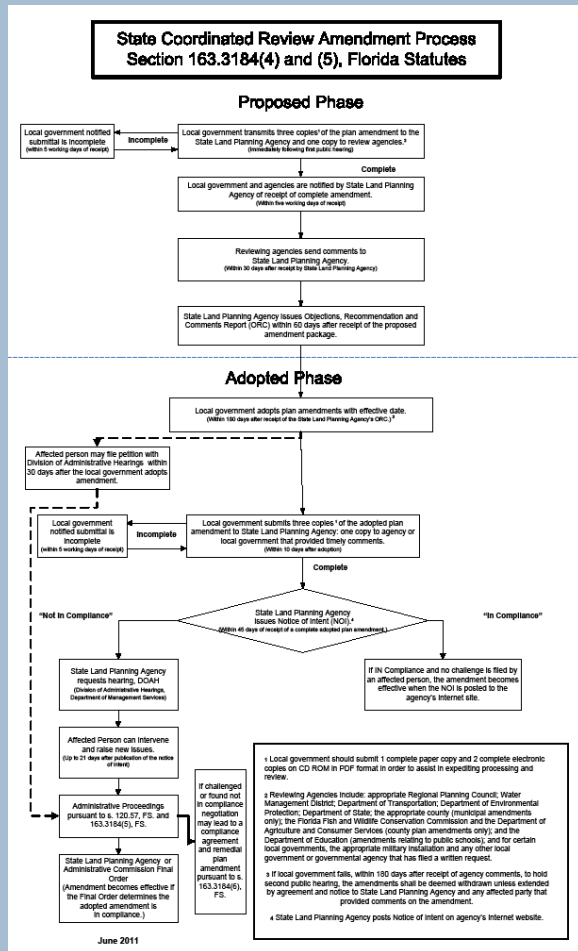
- New formula limits cumulative impact analyses, therefore impacts are only mitigated once in a phased project
- FDOT required to submit a report to Governor, Speaker of the House, and Senate President by December 15, 2011 to discuss adequacy of proportionate share formula. FDOT now has draft recommendation on their website

What has changed: Process for review and adoption of plan amendments

Small Scale

- What has changed
 - No restriction on density
 - Allows text footnotes to clarify map amendment
- What remains the same
 - Process remains the same
 - Each amendment limited to 10 acres or less and 120 acres per
 - No text amendments allowed

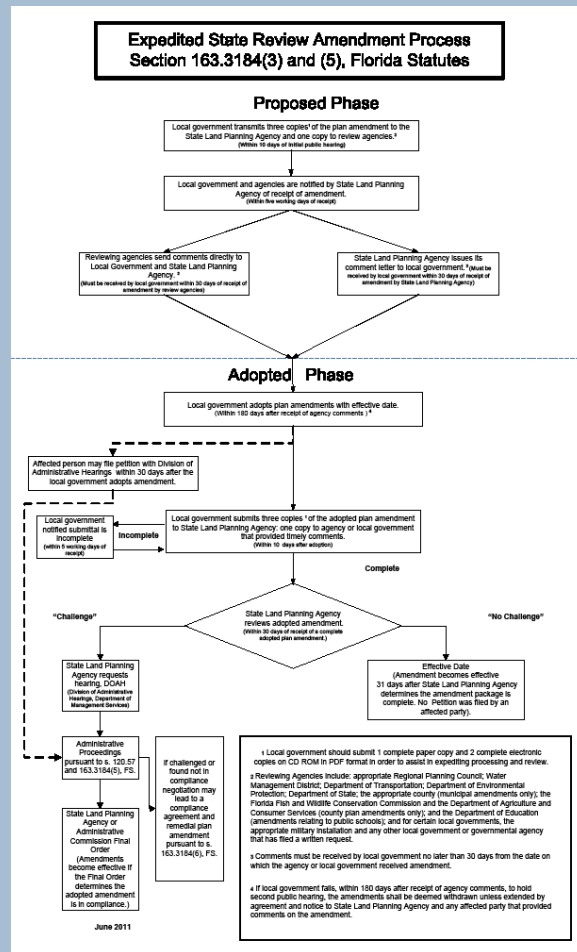
What has changed: Process for review and adoption of plan amendments



Coordinated State Review

- Similar to the large scale amendment process used before the law change
- Applies only to
 - EAR based amendments
 - Sector Plans
 - Areas of Critical State Concern
 - New Plans for new local governments
 - Rural Stewardship amendments

What has changed: Process for review and adoption of plan amendments



Expedited Review -

- Applies to virtually all amendments previously considered "large scale"
- After transmittal hearing, proposed amendments and data and analysis submitted to all reviewing state agencies.
- Agencies may comment **only on impacts to important state resources and facilities** (not defined).
- Agencies **send comments directly back to local government**, not through State Land Planning Agency.

What has changed:

Process for review and adoption of plan amendments

- No limits on number of times a plan may be amended
- Amendments must be adopted within 180 days of receiving reviewing agency comments (expedited and coordinated reviews) or the amendments are deemed withdrawn

What has changed:

Administrative challenges

- Formal Proceedings initiated by “affected persons”
- An “affected person” must file a petition for a formal administrative hearing within 30 days after adoption of the plan amendment
- The Department of Economic Opportunity (DEO) may not intervene in a proceeding initiated by an affected person
- In a compliance proceeding brought by an affected person, the comprehensive plan amendment is subject to lenient “fairly debatable” standard of review

What has changed:

Administrative challenges

- Formal Proceedings initiated by the State
 - For amendments subject to expedited review, the state land planning agency may file a petition for a formal administrative hearing within 30 days subsequent to receipt of a complete amendment
 - The challenge by the state shall be limited to comments earlier submitted by reviewing agencies. In a compliance proceeding brought by DEO, the amendment shall be presumed to be “in compliance” and is subject to a preponderance of the evidence standard
 - For amendments subject to coordinated review, DEO shall forward to DOAH a notice of intent finding a comprehensive plan amendment not in compliance within 45 days after receipt
 - No new issues shall be heard more than 21 days after publication of the NOI

What has changed:

Other notable provisions

- Prohibition of initiatives or referenda on development orders, plan amendments, or map amendments
- DRIs
 - Mineral Mines, Movie-theatres, industrial and hotel land uses are exempt from DRI review unless they are included in a multi-use project otherwise subject to review
 - Substantial Deviation changed, relaxes criteria for determining whether a change to an approved DRI is a substantial deviation requiring further DRI review
- Development agreements
 - Extended from maximum of 20 years to 30 years
 - No longer reviewed by State Land Planning Agency

What has not changed:

Basic planning principles

- Same required elements (statute is silent on optional elements)
- Plan must contain principles and guidelines (Goals, objectives and policies)
- Plan must be based on relevant and appropriate data

What has not changed: Basic planning principles

- Elements are to be coordinated and consistent
- Plan must provide guidelines for implementation

What has not changed:

Basic planning principles

- Plan must contain procedures for monitoring, evaluation and appraisal
- Plan must contain a 5 year Capital Improvement Element needed to achieve established Level of Service Standards, funded or unfunded.

Legal challenges to the new law

- In July of 2011, a lawsuit was filed by the City of Yankeetown alleging that HB 7207:
 - (1) Is unconstitutional due to the violation of the single-subject rule
 - (2) The bill was read by a misleading title, “An act related to trust funds.”
 - (3) Contains an unconstitutional delegation of authority to the agency (DEO) to determine the undefined and vague term, “important state resources and facilities.”

Implementing provisions of the new law

- If plan is currently in compliance local governments do not need to comply with new requirements until next scheduled evaluation and appraisal
- Department of Economic Opportunity Organization of new agency
 - Role of State Land Planning Agency , including technical assistance

The future of city planning in Florida



- Make sure the Plan is up to date. Policies need to be based on “relevant and appropriate data” and local conditions have changed dramatically for most local governments since last EAR

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- Make sure the Goals, Objectives, and Policies are clear and say what you mean them to say
- Establish meaningful benchmarks to evaluate the successful implementation of your Plan

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- Streamline the plan
 - Eliminate policies that satisfied state rules but are not relevant to your city
 - Avoid being overly restrictive

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- When looking at major policy changes, like concurrency
 - Consider any mandates in the new legislation
 - Fully evaluate the implications of such changes
 - Conduct an appropriate public involvement/public information effort

The future of city planning in Florida

- Use the Plan to coordinate the city's planning tools: land use, transportation, public works, and community redevelopment agencies

The screenshot displays the Clearwater Florida website's content for the Cleveland Street District. At the top, a banner image of a street scene is overlaid with the text "Discover Clearwater" and a link to download a PDF. Below this, a heading reads "Welcome to Clearwater Florida's NEW Downtown - the Cleveland Street District!". A paragraph describes the district's location and amenities. A "WELCOME" section titled "New to Cleveland Street" lists recent business arrivals, including Bob & Daughter Produce, Casanova Restaurant & Lounge, Blue Dahlia, and Peter Gillham's. To the right, there is a "Featured District Deals Here!" section with a map, an "INTERACTIVE MAP" link, and a "GET THE FREE E-NEWSLETTER" sign-up form. At the bottom right, a Facebook link is provided.

Discover Clearwater
Download our PDF to learn more of what the area has to offer! Read on...

Welcome to Clearwater Florida's NEW Downtown - the Cleveland Street District!

The Cleveland Street District proves there's much more to Clearwater than the beautiful white sand beaches. Sitting atop a 30-foot bluff overlooking Clearwater Harbor, the Cleveland Street Retail and Entertainment District combines beautiful waterfront living with a walkable urban setting. You'll never run out of exciting things to do, see, eat, hear, and enjoy in the Cleveland Street District and the Clearwater area!

WELCOME
New to Cleveland Street
New businesses arrive on Cleveland Street

- ▶ Bob & Daughter Produce Moves to Fresh, New Storefront in Clearwater
- ▶ Casanova Restaurant & Lounge Comes to Cleveland Street
- ▶ Visit Blue Dahlia - The District's Hidden Treasure
- ▶ Peter Gillham's Expands from One Business to Two

Featured District Deals Here!

UPCOMING EVENTS
Shop 'til you Drop' Designer Outlet Sale
Sat, Oct 22, 12am
Craig Taylor Design Studio
FREE
Free Chair Massage at Intuition Salon and Day Spa

GET THE FREE E-NEWSLETTER
SIGN UP

CONNECT WITH US ON FACEBOOK

The future of city planning in Florida

- Maintain the legitimacy of long range plan. Don't treat the Future Land Use map like a zoning map
 - If Plan seems to need frequent amending, see what the problem is and correct it

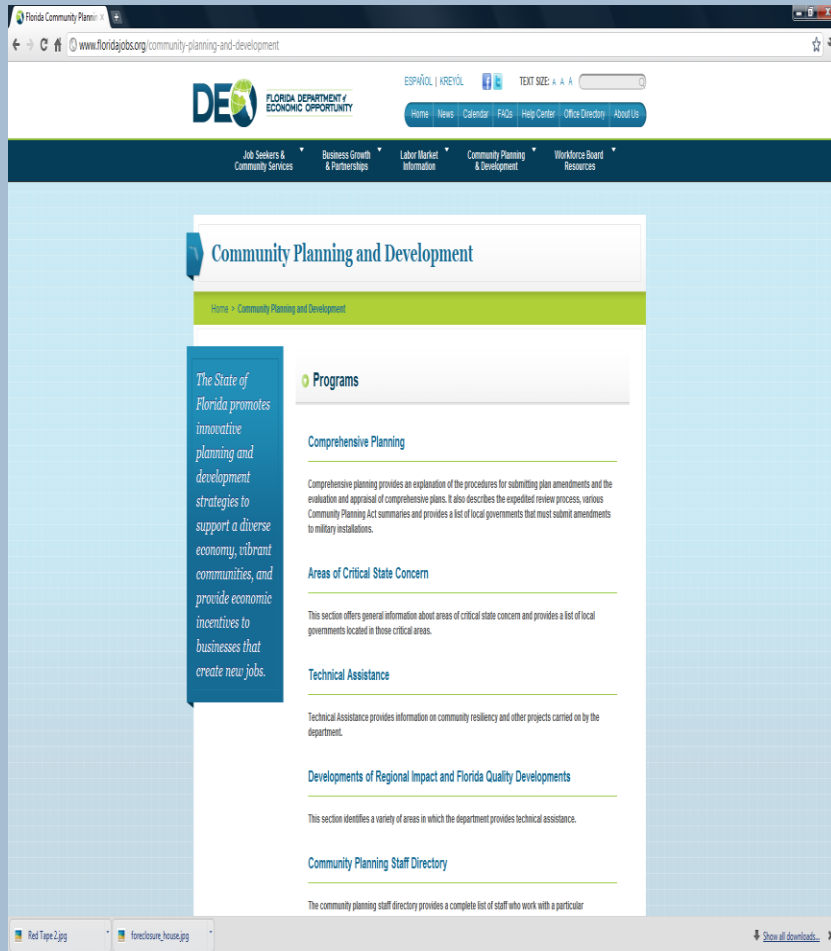
Session 2012

- What should we expect in the upcoming legislative session?
 - Glitch bill is certain to address technical errors, statutory citations, etc.
 - House and Senate may disagree as to substantive changes in the bill
 - Possible grandfather clause for municipalities who have referendum for comprehensive plan amendments in Charter
 - Generally there exists an appetite to allow the bill to be digested by large and small municipalities alike before substantive changes take place
 - However, anything and everything is possible. Beware!

Resources

Florida Department of
Economic Opportunity
(DEO)

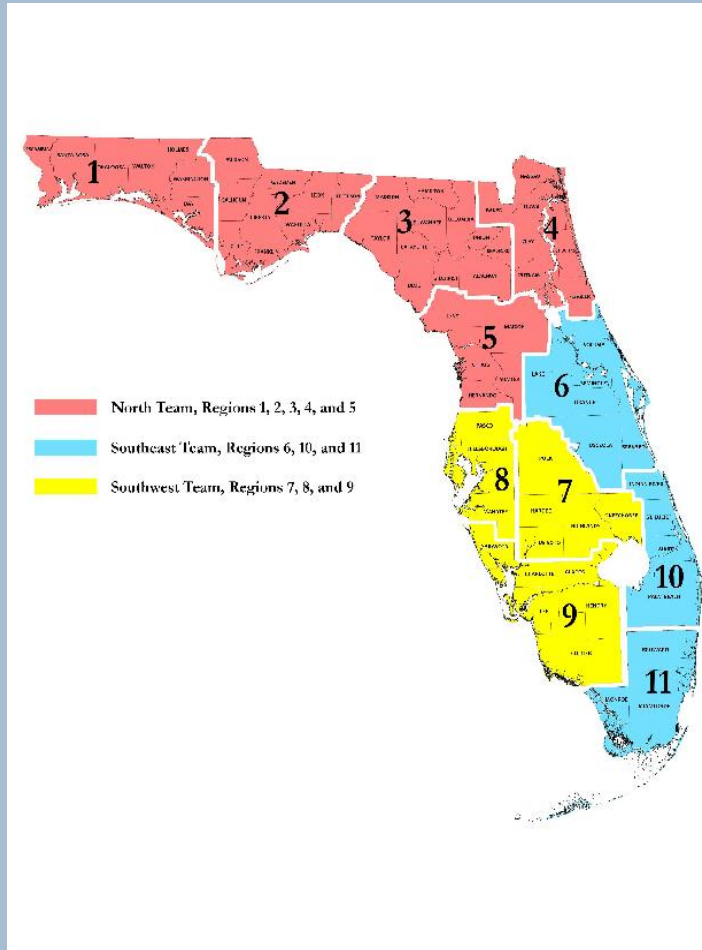
[http://www.floridajobs.org/
community-planning-
and-development](http://www.floridajobs.org/community-planning-and-development)



Resources

DEO staff contacts

<http://www.floridajobs.org/community-planning-and-development/programs/community-planning-staff-directory/staff-directory>





Florida Department of Transportation

[http://www.dot.state.fl.us/
planning/propshare/](http://www.dot.state.fl.us/planning/propshare/)

Q & A

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