

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

Agenda Item #:

10:30A.M.

AGENDA ITEM SUMMARY

Meeting Date: 02/26/08 Consent Regular
 Workshop Public Hearing

Department: Planning, Zoning & Building

Submitted By: Planning Division

Submitted For: Planning Division

I. EXECUTIVE BRIEF

Motion and Title: Comprehensive Plan Round Reduction

Summary: At the September 2007 BCC Zoning meeting, the BCC directed staff to review an article written by Tom Pelham, Secretary of DCA, suggesting reducing the number of Comprehensive Plan Amendment Rounds. Secretary Pelham's article suggests that Hometown Democracy has called attention to the citizen dissatisfaction with the local planning process. Secretary Pelham believes that in order to counter this dissatisfaction, and to provide more meaning and stability to the Comprehensive Plan, changes to the process might be necessary. Included in this packet is a copy of proposed draft legislation that the Department of Community Affairs is circulating for comment, which includes a proposal to reduce the number of amendment rounds to one per year among other suggested process modifications. In November 2007, the BCC directed staff to hold a workshop with industry, neighborhood groups, and interested parties and to discuss round reduction with the Planning Commission (formerly the Land Use Advisory Board) prior to a BCC workshop on this issue. The interested party "brown bag" was held on February 1, 2008. Staff also discussed this proposal with the Planning Commission on February 8, 2008. Included in this packet are summaries of the recommendations from both of these meetings as well as staff recommendations on process modifications.

Background and Policy Issues

The purpose of these changes would be to protect the integrity of the Comprehensive Plan by reducing the frequency of when amendments can be considered; consolidating the amendments into fewer rounds to better understand the impacts of proposed multiple amendments; and reducing County costs associated with the administration and implementation of an amendment round. Therefore, staff recommends the following changes to the Comprehensive Plan amendment process to the BCC for consideration:

- A. To reduce the number of amendments rounds from two (2) to one (1) round of amendments per year for large-scale, including text and map changes; and to one (1) round of small-scale amendments per year, except for small scale amendments within the boundaries of the Urban Redevelopment Area (URA). In addition, staff recommends that small-scale amendments not be processed with concurrent rezoning applications.
- B. To consider requiring a super majority vote for the following amendments:
 - 1. Conversion of "Industrial" land use designation to another land use designation.
 - 2. Change to Tier boundaries
 - 3. CRALLS
 - 4. Limited Urban Service Area designation
 - 5. Any changes to the boundaries of the Urban Service Area

Attachments: 1. Summary of Interested Parties Meeting - 2/1/08, 2. Planning Commission Discussion - 2/8/08, 3. BCC Memo - 11/16/07, 4. Draft Legislation - Citizen's Planning Bill of Rights, 5. FAPA Correspondence to Secretary Pelham Regarding Citizen's Planning Bill of Rights.

Recommended by:  2/19/08
 Executive Director Date

Approved By:  2/21/08
 Deputy County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	20 <u>08</u>	20 <u>09</u>	20 <u>10</u>	20 <u>11</u>	20 <u>12</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included In Current Budget?	Yes _____	No _____			
Budget Account No.:	Fund _____	Department _____	Unit _____	Object _____	
		Program _____			

B. Recommended Sources of Funds/Summary of Fiscal Impact:

As this is a preliminary workshop, there is no fiscal impact associated with this workshop item. Fiscal impacts and funding sources for any specific Board direction would be analyzed at the time those action items are brought to the Board for action.

C. Departmental Fiscal Review: Pat D'Agostino

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

J. D. ... 2-19-08
 OFMB ON 2/19/08 Contract Dev. and Control

B. Legal Sufficiency:

... ..
 Assistant County Attorney

C. Other Department Review:

 Department Director

February 26, 2008 BCC Workshop Attachments:

1. Summary of the February 1, 2008 Workshop with Industry & Interested Parties
2. February 1, 2008 Workshop with Industry & Interested Parties Sign-In Sheet
3. Summary of the February 8, 2008 Discussion with the Planning Commission
4. November 16, 2007 BCC Memo
5. Draft Citizen's Planning Bill of Right
(Source: <http://www.dca.state.fl.us/LegislativeProposals/PlanningBillOfRights.pdf>)

Attachment 1

Meeting with Industry & Interested Parties

February 1, 2008

Amendment Round Reductions

The meeting was attended by twenty (20) participants. Discussion centered around several topics. One theme was the idea that the State's Hometown Democracy policy may dictate the direction that Palm Beach County will go in the future. Most speakers agreed that public participation in the future amendment process is vital but there was no consensus as to how intense this participation should be. Another difference among the participants was the concepts of how often amendments should be allowed to be processed through the system and whether small scale amendments (less than 10 acres) should be treated in a different way from large scale amendments.

The participants tended to agree that there are special exceptions to be considered such as infill and redevelopment, affordable and workforce housing and the URA. Other issues discussed were: the desire of some industry participants to have concurrent rezoning for both large and small scale amendments, that exemption to the one round per year should have geographic component (maybe even to restrict items to once every two years for amendments to the Tier Boundary or Urban Service Area Boundary amendments as in Miami-Dade County or to land uses outside of the Urban/Suburban Tier). A few participants wanted to recommend that PBC wait until DCA has made it final decision regarding amendment round reduction before local action was taken.

Barbara Alterman informed the group of an upcoming workshop before the BCC on Tuesday February 26, 2008 at 10:30 AM.

Sign-in Sheet
February 1, 2008

ROUND REDUCTION OPTIONS MEETING		
		SIGN-IN SHEET
Date: 2-1-08 Time: 10AM		
NAME (Please Print)	AGENCY	PHONE #
Roberta Levitt-Morris	Coburn	561-369-8595
Barbara Katz	COBURN	439-2293
DENNIS P. Koshlev, Esq.	LUAB	561-684-2844
Dennis Lipp	LUAB	793-8017
Bonnie Harper	Milled Land Planning	541-736-8838
Ken Turner	Urban Design Studio	366-1101
Lynn Fiket Zolacz	Land Design South	978-8501
Kirk Murrell		"
Christopher Rumpf	Gold Coast Builders Assoc.	561-732-5959
Collene Walter	Kilday Assoc.	561-689-5522
Joni Brinkman	Kilday Assoc.	561-689-5522
Sandra Munday	LUAB	561-764-7113
Lauren Leasing	Siegel, Lytram, Duvany, Shepard-Miskel	561-506-9008
Steve Erickson	LUAB	561-778501
BOB BASEHART	PUSSIEGG CO.	561-778501
JUDY DAVENST	LUAB	561-262-7016
(Madison C. Baker)	Co. Admin	561-355-6726
Kevin Rattice	G.L. Homes	954-753-1730
Alma Shannon	LUAB	
Sheet Services	Energy Development	
Lisa Interlandi	Everglades Nat Center	

Attachment 2

Planning Commission Discussion

February 8, 2008

Amendment Round Reductions

Lorenzo Aghemo, Director of the Palm Beach County Planning Division stated to the Planning Commission that back in November Planning Staff received direction by the Board of County Commissioners to review the article written by Secretary Pelham, which suggested that the Comprehensive Plan gets amended too often, and bring back recommendations back to the Board of County Commissioners. Planning Staff prepared a memo to the BCC, upon receipt, the BCC then asked Planning to hold a "Brown Bag" meeting with the Industry, which occurred on February 1, 2008 with general discussion concerning the reduction of round of amendments. Staff's recommendation to the BCC did not change after meeting with the Industry. Staff will recommend reducing the round of amendments to one per year. Staff will request a Super Majority vote on the number of items and also to reduce the small-scale amendments from four to one per year, along with exceptions involving the URA and Infill.

Mr. Aghemo also brought up the fact that Secretary Pelham is proposing a Citizen's Bill of Rights that is proposing some similar recommendations to what staff has suggested in the November 2007. Mr. Aghemo also stated that there were several comments at the 2/1/08 workshop with interested parties and industry that they would like the BCC to refrain from taking action on this issue until a decision had been made at the State level. Also discussed at the 2/1/08 interested party/industry workshop was the concept of multiple intakes to spread work throughout the year, but limit the number of transmittal and adoption hearings. The intent of the one transmittal and one adoption hearing is to be able to look more comprehensively at the impacts of all of the amendment and to not have to respond to DCA comments as we are processing another amendment round.

Mr. Aghemo also stated that the BCC had invited the Planning Commission to the BCC workshop to speak on these issues.

Mrs. Sandra Greenberg stated that she had some concerns related to small scales that would limit industry's time to react to large shift in demand in the market. Ms. Greenberg was also concerned about reviewing a large number of amendments at once.

Staff assured the board that the intent was to spread out the amendments for the Planning Commission throughout several months. However, It would simplify the round as all the amendments are processed at the same time for the BCC and DCA review, so we are not reacting to DCA ORC comments from one round and processing a new round at the same time. Also, that their would be a comprehensive understanding by the BCC of the impacts of all of the land use amendment because the would go to one amendment round per year.

Mr. Larry Zalkin wanted to know how many amendment rounds would be available for small-scale amendments in the URA.

Mr. Sam Shannon brought up the fact that the Comprehensive Plan is like a contract with its citizen's and that to change the land use plan is serious act and that he would support the reduction of the round of amendments, especially if this reduction was tied to geographic areas.

Mr. Dennis Koehler felt that the Comprehensive Plan was not like the constitution, but is a political document that should be flexible. He disagrees with an inflexible approach to land use amendments.

Attachment 3



**Department of Planning,
Zoning & Building**

2300 North Jog Road
West Palm Beach, FL 33411-2741
(561) 233-5000

Planning Division 233-5300
Zoning Division 233-5200
Building Division 233-5100
Code Enforcement 233-5500
Contractor Certification 233-5525
Administration Office 233-5005
Executive Office 233-5228

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**INTER-OFFICE COMMUNICATION
DEPARTMENT OF PLANNING, ZONING AND BUILDING
PLANNING DIVISION**

TO: The Honorable Addie Greene, Chairperson, and Members of the Palm Beach County Board of County Commissioners

FROM: Lorenzo Aghemo *L. Aghemo*
Planning Director

DATE: November 16, 2007

RE: Reduction of the Number of Comprehensive Plan Amendment Rounds

ITEM: At the September BCC Zoning meeting, the BCC directed staff to review an article written by Tom Pelham, Secretary of DCA, suggesting reducing the number of Comprehensive Plan Amendment Rounds.

BACKGROUND: The purpose of these changes would be to protect the integrity of the Comprehensive Plan by:

1. Reducing the frequency of when amendments can be considered;
2. Consolidating the amendments into fewer rounds to better understand the impacts of proposed multiple amendments; and
3. Reducing the costs involved in processing plan amendments while freeing time for staff to devote more time to other important planning functions of the County.

At this time there are two large-scale amendment rounds (the maximum permitted by Florida Statutes) and four small-scale rounds. Large-scale rounds include text, transportation, County-initiated site-specific amendments and privately initiated amendments that are greater than 10 acres, or are located outside the Urban/Suburban Tier. Small-scale rounds include privately initiated amendments that are less than 10 acres and are located inside the Urban/Suburban Tier.

Secretary Pelham's article suggests that Hometown Democracy has called attention to the citizen dissatisfaction with the local planning process. In order to counter this, and to provide more meaning and stability to the Comprehensive Plan, changes to the process may be necessary.

These reviewed changes include reducing the number of large-scale amendment rounds to once a year or once every two years and to reduce the number of small-scale amendment rounds to once a year or twice a year. Staff recommends that concurrent re-zoning for small-scale amendments be eliminated so that County boards, the public and staff can concentrate more on the merits of the proposed amendment rather than rezoning and site design issues.



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Options for Round Reductions:

Large Scale Amendment Round Reduction Options:

1. One Round Every Two Years
2. One Round Every Year

Small Scale Amendment Round Reduction Options:

1. One Round per Year with no concurrent re-zoning
2. Two Rounds per Year with no concurrent re-zoning

Attached are the following documents: 1. a list of examples of possible combinations for modifying large and small scale amendment rounds; 2. a list of the pros and cons of the proposed changes; 3. a list of other local government plan amendment round processes; and 4. the article from Secretary Pelham regarding the home town democracy movement.

Based on the results of our evaluation and if the Board decides to reduce the frequency of Comprehensive Plan amendments, staff recommends that it be reduced to one (1) round of amendments per year for large-scale, including text and map changes; and to one (1) round of small-scale amendments per year, except for small scale amendments within the boundaries of the Urban Redevelopment Area (URA). In addition, staff recommends that small-scale amendments not be processed with concurrent rezoning applications.

Staff also recommends the BCC to consider requiring a super majority vote for the following amendments:

1. Conversion of "Industrial" designation" to another land use designation.
2. Change to Tier boundaries
3. CRALLS
4. Limited Urban Service Area designation
5. Any changes to the boundaries of the Urban Service Area

Distribution:

Commissioner Marcus, District I

Commissioner Koons, District II

Commissioner Kanjian, District III

Commissioner McCarty, District IV

Commissioner Aaronson, District V

Commissioner Santamaria, District VI

Commissioner Greene, District VII

cc:

Bob Weisman, County Administrator
Verdenia Baker, Deputy County Administrator
Bob Banks, Assistant County Attorney
Lenny Berger, Assistant County Attorney
George Webb, County Engineer

Internal Distribution:

Barbara Alterman, Esq., Executive Director, PZ&B
Lorenzo Aghemo, Planning Director
Jon Macgillis, Zoning Administrator
Maryann Kwok, Chief Planner
Isaac Hoyos, Principal Planner
Erin Fitzhugh, Senior Planner

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Options for Round Reductions:

Large Scale Amendment Round Reduction Options:

- A. One Round Every Two Years
- B. One Round Every Year

Small Scale Amendment Round Reduction Options:

1. Eliminate All Small Scale Rounds
2. One Round per Year with no concurrent re-zoning
3. Two Rounds per Year with no concurrent re-zoning

Example Option Combinations for Round Reductions:

A. One Large Scale Round Every Two Years with:

1. No Small Scale Rounds, or
2. One Small Scale Round per Year with no concurrent re-zoning, or
3. Two Small Scale Rounds per Year with no concurrent re-zoning

B. One Large Scale Round Per Year with:

1. No Small Scale Rounds, or
2. One Small Scale Round per Year with no concurrent re-zoning, or
3. Two Small Scale Rounds per Year with no concurrent re-zoning

C. One Large Scale Round Per Year - with Privately Initiated Site Specific Amendments Processed Only Once Every Two Years and All County Text & Map Amendment Processed Every Year with:

1. No Small Scale Rounds, or
2. One Small Scale Round per Year with no concurrent re-zoning, or
3. Two Small Scale Rounds per Year with no concurrent re-zoning

Listed below are the Pro's and Con's of the Large Scale amendment round occurring once per year and once every two years. Another option could be to have only the privately initiated requests once per two years and the County initiated once per year to allow for staff initiated programs/changes and corrective actions.

One Round Each Year:

Pro's	Con's
Protect Comprehensive Plan Integrity by Reducing the frequency of when amendments can be considered, Consolidating the amendments in fewer rounds to better understand the impacts of proposed multiple amendments, and allowing for more time to focus on planning issues not related to plan amendment processing.	There would be less flexibility in timing in the development process projects that require land use amendments.
May reduce overall amount of requests	
Increases predictability of requests for County and agents.	Unpredictable requests that affect multiple areas.
Would allow the BCC more time to prioritize their land use goals and rank applications according to specific criteria as related to text amendments.	Corrective actions for each round would take longer.
Would free up staff time for a portion of the year to work on other items not related to processing amendment.	Staff may be over stretched during times of higher requests without the ability to request additional staffing to maintain work on other projects. Same quantity requested at one time without change in staffing.
Would lead to an overall reduction in costs related to staff time for amendment processing relating to review and organization of the round. This would include staff time for all participating departments.	
Would reduce timeframe agents can resubmit duplicate requests that were previously denied.	The same request comes in anyway.
May force agents to produce a higher quality request to prevent postponements.	There would be less flexibility for agents in the application process because postponements would have to wait until the following year.

One Round every Two Years:

Pro's	Con's
Protect Comprehensive Plan Integrity by Reducing the frequency of when amendments can be considered, Consolidating the amendments in fewer rounds to better understand the impacts of proposed multiple amendments, and allowing for more time to focus on planning issues not related to plan amendment processing.	May encourage applicants to apply for a land use amendment to meet the two year application deadline, even if they are not sure they require an amendment "just in case."
Reduce overall requests.	Same quantity requested all at once without change to staffing.
Would allow the BCC more time to prioritize their land use goals and rank applications according to specific criteria as related to text amendments.	Corrective actions for each round would take longer.
Would free up staff time to plan for future situations without having to always react to development pressures.	May be too long between rounds for staff to make necessary changes or corrective actions to affect positive scenarios.
Reduce repeat requests.	
Will allow for a more thorough vetting of requests.	
May slow inappropriate development.	May not allow appropriate growth to move forward as quickly as the private sector would like.
Would reduce annual cost to process amendments based on cost of materials, printing, binders and mail-outs.	Costs may actually be the same as the one Round per year scenario, with these costs being defrayed to alternate years thereby creating a fluctuating budget

Examples of Other Local Government Amendment Round Processes

Local Government	Large Scale	Small Scale
Fort Lauderdale	1 Round per year and can adjust depending on demand at staff discretion. Most everything is covered by RAC (most of the development is permitted in these areas)	1 small scale amendment round per year
Boca Raton	up to Two large scale rounds per year with concurrent rezoning. Schedule the	Every Friday, like DRO until all issues are resolved. They get 1-2 SCA per year
Wellington	Two large scale rounds per year	
Miami Dade County	Odd Numbered years 2 amendment cycles, even numbered years one amendment cycle. Once every two years (odd numbered years) in the April it is permitted to modify land use outside the USA boundary and the boundary itself.	Do not use process, everything is a large scale.
Duval County	Two cycles	Accept small scales throughout year and process them when they have a critical mass.
Martin County	Once a year for private amendment and two for text amendments. Private amendment that are taken in Sept they can postponed to the second round pending LPA or BCC	Do not use process, everything is a large scale.
Hillborough County	Separate planning agency mandated by the State. Only county with these restrictions.	
Volusia County	2 rounds	sca run concurrently with LGA
Orange County	2 rounds	2 rounds run concurrently with LGA
Brevard County	2 rounds	2 rounds run concurrently with LGA
Pasco County	2 rounds	run throughout year concurrent with LGA.
Hillsborough County		
Manatee County	2 rounds- wont even accept applications for ag/rural designation	2 rounds run concurrently with LGA
Sarasota County		
Charlotte County		
Lee County	2 rounds but take in ~40 requests.	SCA throughout the year without set rounds
Collier County	2 rounds	2 rounds run concurrently with LGA

ONE ISSUE, TWO TAKES

Post

9/20/07

Florida Hometown Democracy

Citizen initiative is extreme solution to big problem

Hometown democracy or hometown chaos? Corrupt developer-controlled local officials vs. anti-growth zealots? The rhetoric and name-calling is escalating from both sides in the debate over Florida Hometown Democracy's proposal to amend the state Constitution to require voter approval of every local comprehensive plan amendment.



Pelham

THOMAS PELHAM
GUEST COLUMNIST

ments every six months. In 2005, local entities adopted more than 8,000 plan amendments.

Local plans that are constantly changing offer little stability or predictability, and have diminished credibility with the public. Instead of the 10- or 20-year visions they were supposed to represent, local comprehensive plans are in danger of becoming little more than six-month suggestions.

Unfortunately, the Draconian nature of the proposal and the extreme reaction from some opponents is obscuring a real problem. State-mandated local comprehensive plans are the "constitution" for land use; they govern local decisions about when, where and how development may occur.

These plans are required to span at least 10 years, but they may be amended as provided in the state's Growth Management Act. According to the sponsors of Hometown Democracy, local plans are being amended much too frequently, and usually at the behest of developers. Thus, they argue that local plans are not controlling growth and that citizens cannot effectively participate in the amendment process.

The Hometown Democracy campaign has called attention to a serious problem: growing citizen dissatisfaction with the local planning process and especially the frequency of plan amendments.

Originally, the Growth Management Act allowed local plans to be amended only two times each year. Subsequently, however, the Legislature has enacted 32 exceptions to this limit. Meantime, local governments are adopting dozens of plan amend-

ed officials at the state and local level, as well as landowners, developers and other citizens, should acknowledge and seek workable solutions to the problem.

There are more measured and practical solutions.

First, state and local officials could limit the frequency of plan amendments. The Legislature could begin by repealing some or all of the 32 exceptions to the current twice-a-year limitation. Limitations could also be placed on the frequency of certain types of amendments, especially those that alter the fundamental policies of the local plan.

Another way to discourage the frequency of plan amendments would be to require an extra-majority vote for some types of plan amendments. After all, Florida voters recently decided that a 60 percent majority vote should be required to amend the Florida Constitution. Perhaps a similar requirement would restore some dignity to the local comprehensive plan.

Regarding referenda, state and local bodies could limit their use to certain kinds of amendments. For example, only amendments that change an urban growth boundary or that are necessary for the approval of large publicly financed projects such as airports would be subject to referendum approval.

These approaches are not without controversy, but they are more practical than requiring voter approval of all plan amendments. More importantly, the adoption of such measures may persuade voters that Hometown Democracy is no longer needed because state and local officials have solved the problem in a more responsible manner.

The citizens of Florida have the power to give themselves the right to vote on every proposed local comprehensive plan amendment. But do we really want or need this right? Do we want to subject ourselves and our local governments to the considerable expense of frequent special or general elections on plan amendments? Do we want to delay the adoption of plan amendments that are necessary for important public projects? Do we want a system where only the wealthy can afford to apply for and wage an election campaign in favor of a proposed plan amendment?

These questions suggest just how disruptive the Hometown Democracy proposal would be. But rather than denying the problem and demonizing the proponents of the proposal, elect-

Pelham is secretary of the Florida Department of Community Affairs.

Attachment 4

CITIZEN'S PLANNING BILL OF RIGHTS
Prepared for Discussion Purposes
Does Not Represent an Agency Position or Recommendation
DRAFT 01-18-08

Amending 163.3174(1); providing that the membership of the local planning agency is separate from the governing body.

Amending 163.3174(4); providing that the local planning agency and governing body certify that a comprehensive plan amendment is supported by data and analysis and consistent with the local government's comprehensive plan, the applicable strategic regional policy plan, the state comprehensive plan, and Chapter 163, Part II.

Amending 163.3181(1); providing for a local ordinance requiring a neighborhood meeting prior to the filing of a future land use map amendment.

Adding 163.3181(5); providing that local governments must adopt a process for citizens to obtain a written certification of the allowable uses on a vacant parcel of land.

Amending 163.3184(3); providing standards for neighborhood or community meetings prior to the filing and transmittal of a future land use map amendment.

Amending 163.3184(3); providing that local governing bodies may conduct only one transmittal and one adoption hearing per calendar year for all plan amendments, with one additional transmittal and adoption available solely for future land use map amendments within adopted urban service, urban infill, urban redevelopment, and downtown revitalization areas.

Amending 163.3184(3); providing that future land use map and associated special area amendments for urban infill, urban redevelopment, downtown revitalization, and urban service areas are subject to expedited review under ss. 163.32465(3)-(6);

Amending 163.3184(7); providing that local governments have 90 days (or 120 days for an evaluation and appraisal report based amendment) to adopt a proposed plan amendment, not adopt an amendment, or adopt an amendment with revisions, and that should that timeframe lapse then the amendment is deemed abandoned and may not be adopted during the amendment cycle.

Amending 163.3184(15); providing that a local government shall make the plan or plan amendment under consideration available to the public 7 days prior to transmittal and 5 days prior to adoption and disallowing changes to the plan or plan amendment after these times.

CITIZEN'S PLANNING BILL OF RIGHTS
Prepared for Discussion Purposes
Does Not Represent an Agency Position or Recommendation
DRAFT 01-18-08

28 Amending 163.3187(1); providing that the transmittal and adoption of comprehensive plan
29 amendments that revise the text of goals, objectives and policies require a supermajority vote with
30 the exception of text amendments that implement an evaluation and appraisal report, amend the
31 schedule or capital improvements, or implement new statutory requirements.

32 Amending 163.3187(1); providing that the adoption of future land use map amendments requires a
33 supermajority vote when the local planning agency has recommended against approval.

34 Amending 163.3187(2); providing a reduction of the number of exceptions from the twice per
35 calendar year plan amendment limitation.

36 Amending 163.3187(3); providing that a small scale development amendment will not go into effect
37 if a copy is not rendered to the state land planning agency as required by s. 163.3187(1)(c)2.b.

38 *****

39 **163.3174 Local planning agency.--**

40 (1) The governing body of each local government, individually or in combination as provided in s.
41 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is
42 otherwise established by law. Notwithstanding any special act to the contrary, all local planning
43 agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in
44 each municipality and county shall include a representative of the school district appointed by the
45 school board as a nonvoting member of the local planning agency or equivalent agency to attend
46 those meetings at which the agency considers comprehensive plan amendments and rezonings that
47 would, if approved, increase residential density on the property that is the subject of the application.
48 However, this subsection does not prevent the governing body of the local government from
49 granting voting status to the school board member. The governing body may not designate itself as
50 the local planning agency pursuant to this subsection and shall include ~~with the addition of~~ a
51 nonvoting school board representative. The governing body shall notify the state land planning
52 agency of the establishment of its local planning agency. All local planning agencies shall provide
53 opportunities for involvement by applicable community college boards, which may be accomplished
54 by formal representation, membership on technical advisory committees, or other appropriate means.
55 The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to
56 be held after public notice and shall make recommendations to the governing body regarding the

CITIZEN'S PLANNING BILL OF RIGHTS
Prepared for Discussion Purposes
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DRAFT 01-18-08

57 adoption or amendment of the plan. The agency may be a local planning commission, the planning
58 department of the local government, or other instrumentality, including a countywide planning entity
59 established by special act or a council of local government officials created pursuant to s. 163.02,
60 provided the composition of the council is fairly representative of all the governing bodies in the
61 county or planning area; however:

62 (4) The local planning agency shall have the general responsibility for the conduct of the
63 comprehensive planning program. Specifically, the local planning agency shall:

64 (a) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and
65 shall make recommendations to the governing body regarding the adoption or amendment of such
66 plan. During the preparation of the plan or plan amendment and prior to any recommendation to the
67 governing body, the local planning agency shall hold at least one public hearing, with public notice,
68 on the proposed plan or plan amendment. The governing body in cooperation with the local planning
69 agency may designate any agency, committee, department, or person to prepare the comprehensive
70 plan or plan amendment, but final recommendation of the adoption of such plan or plan amendment
71 to the governing body shall be the responsibility of the local planning agency. The local planning
72 agency must certify to the governing body and the governing body must affirm that a proposed
73 comprehensive plan or plan amendment is supported by relevant data and analysis and that the plan
74 or plan amendment is consistent with the local government's comprehensive plan, the applicable
75 strategic regional policy plan, the state comprehensive plan, and this part.

76
77 **163.3181 Public participation in the comprehensive planning process; intent; alternative**
78 **dispute resolution.—**

79 (1) It is the intent of the Legislature that the public participate in the comprehensive planning
80 process to the fullest extent possible. Towards this end, local planning agencies and local
81 governmental units are directed to adopt procedures designed to provide effective public
82 participation in the comprehensive planning process and to provide real property owners with
83 notice of all official actions which will regulate the use of their property. Each local government
84 shall adopt by ordinance requirements for the holding of a community or neighborhood meeting
85 prior to the filing of applications for future land use map amendments consistent with the

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86 provisions of s. 163.3184(3). The provisions and procedures required in this act are set out as
87 the minimum requirements towards this end.

88 (5) Every local government shall, by December 31, 2008, establish by ordinance a process by
89 which any person can obtain a written certification of the uses that are allowable under the local
90 comprehensive plan on any vacant parcel within the government's jurisdiction.

91 **163.3184 Process for adoption of comprehensive plan or plan amendment.--**

92 (3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR AMENDMENT.--

93 (a) Prior to the filing of an application for an amendment to the future land use map, the applicant
94 shall conduct a noticed community or neighborhood meeting to present, discuss, and solicit public
95 comment on the proposed map amendment. The meeting shall be noticed and conducted in
96 accordance with the local government's adopted regulations for such meetings and shall be held at
97 least 30 days before the filing of the application for the amendment. The application shall contain a
98 written certification or verification that the meeting has been held and that the required notice was
99 given. At least 15 days before the local governing body holds a transmittal hearing on a proposed
100 map amendment, the applicant shall conduct a second noticed community or neighborhood meeting
101 to present and discuss the map amendment application as filed, including any changes made to the
102 proposed amendment following the first community or neighborhood meeting. Prior to the
103 transmittal hearing, the applicant shall file with the local government a written certification or
104 verification that the second meeting has been held and noticed in accordance with the local
105 government's adopted regulations for such meetings. This section shall be applicable to every
106 application for a map amendment filed after the effective date of this law.

107 ~~(b)~~ (c) A local governing body shall not transmit portions of a plan or plan amendment unless it has
108 previously provided to all state agencies designated by the state land planning agency a complete
109 copy of its adopted comprehensive plan pursuant to subsection (7) and as specified in the agency's
110 procedural rules. In the case of comprehensive plan amendments, the local governing body shall
111 transmit to the state land planning agency, the appropriate regional planning council and water
112 management district, the Department of Environmental Protection, the Department of State, and the
113 Department of Transportation, and, in the case of municipal plans, to the appropriate county and, in
114 the case of county plans, to the Fish and Wildlife Conservation Commission and the Department of
115 Agriculture and Consumer Services the materials specified in the state land planning agency's

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116 procedural rules and, in cases in which the plan amendment is a result of an evaluation and appraisal
117 report adopted pursuant to s. 163.3191, a copy of the evaluation and appraisal report. Local
118 governing bodies shall conduct only one transmittal hearing and one adoption hearing for plan
119 amendments during each calendar year and shall consolidate all proposed plan amendments into a
120 single submission for ~~each of the two~~ plan amendment adoption dates during the calendar year
121 pursuant to s. 163.3187. Local governing bodies may conduct one additional transmittal hearing and
122 one additional adoption hearing during each calendar year solely for future land use map
123 amendments and special area policies associated with those amendments for land within adopted
124 urban infill development areas, urban redevelopment areas, downtown revitalization areas, and
125 urban service areas. All future land use map amendments and special area policies associated with
126 those amendments for land within adopted urban infill development areas, urban redevelopment
127 areas, downtown revitalization areas, and urban service areas shall be subject to the expedited
128 review process in ss. 163.32465(3)-(6).

129 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF PLAN OR
130 AMENDMENTS AND TRANSMITTAL.--

131 (a) The local government shall review the written comments submitted to it by the state land
132 planning agency, and any other person, agency, or government. Any comments, recommendations,
133 or objections and any reply to them shall be public documents, a part of the permanent record in the
134 matter, and admissible in any proceeding in which the comprehensive plan or plan amendment may
135 be at issue. The local government, upon receipt of written comments from the state land planning
136 agency, shall have 120 days to adopt or adopt with changes the proposed comprehensive plan or plan
137 update based on its evaluation and appraisal report adopted pursuant to s. 163.3191 plan
138 amendments. In the case of comprehensive plan amendments other than those proposed pursuant to
139 s. 163.3191, the local government shall have 90 ~~60~~ days to adopt the amendment, adopt the
140 amendment with changes, or determine that it will not adopt the amendment. The adoption of the
141 proposed plan or plan amendment or the determination not to adopt a plan amendment, other than a
142 plan amendment proposed pursuant to s. 163.3191, shall be made in the course of a public hearing
143 pursuant to subsection (15). If a local government fails to adopt the comprehensive plan or plan
144 amendment within the applicable timeframe set forth in this subsection, the plan or plan amendment
145 shall be deemed abandoned and the plan or plan amendment may not be considered until the next
146 available amendment cycle pursuant to ss. 163.3184 and 163.3187. The local government shall
147 transmit the complete adopted comprehensive plan or plan amendment, including the names and

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148 addresses of persons compiled pursuant to paragraph (15)(c), to the state land planning agency as
149 specified in the agency's procedural rules within 10 working days after adoption. The local
150 governing body shall also transmit a copy of the adopted comprehensive plan or plan amendment to
151 the regional planning agency and to any other unit of local government or governmental agency in
152 the state that has filed a written request with the governing body for a copy of the plan or plan
153 amendment.

154 (15) PUBLIC HEARINGS. --

155 (b) The local governing body shall hold at least two advertised public hearings on the proposed
156 comprehensive plan or plan amendments as follows:

157 1. The first public hearing shall be held at the transmittal stage pursuant to subsection
158 (3). It shall be held on a weekday at least 7 days after the day that the first advertisement was
159 published. The proposed comprehensive plan or plan amendment to be considered at the hearing
160 must be available to the public at least 7 days before the hearing, including through the local
161 government's website if one is maintained. The proposed comprehensive plan amendment may not
162 be altered during the 7 days prior to the hearing. If the amendment is altered during this time period
163 or at the public hearing, the public hearing shall be continued and reset to comply with the 7-day
164 requirement.

165 2. The second public hearing shall be held at the adoption stage pursuant to subsection
166 (7). It shall be held on a weekday at least 5 days after the day that the second advertisement is
167 published. The comprehensive plan or plan amendment to be considered for adoption must be
168 available to the public at least 5 days before the hearing, including through the local government's
169 website if one is maintained. The proposed comprehensive plan amendment may not be altered
170 during the 5 days prior to the hearing. If the amendment is altered during this time period or at the
171 public hearing, the public hearing shall be continued and reset to comply with the 5-day requirement.

172 **163.3187 Amendment of adopted comprehensive plan.--**

173 (1) Comprehensive plan amendments may be adopted by simple majority vote of the governing
174 body of the local government except as follows:

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175 (a) A supermajority vote of the governing body of the local government is required to adopt a
176 future land use map amendment if the local planning agency recommends to the governing body
177 that the amendment not be adopted; and

178 (b) A supermajority vote of the governing body is required to adopt any text amendment, except for
179 special area policies associated with a future land use map amendment, those text amendments that
180 amend the schedule of capital improvements, implement recommendations in an evaluation and
181 appraisal report, or are required to implement a new statutory requirement.

182 (2) (1) Amendments to comprehensive plans adopted pursuant to this part may be made not more
183 than two times during any calendar year, except: Notwithstanding the frequency limitations in s.
184 163.3184(3)(c), the following types of amendments may be adopted at any time during the calendar
185 year:

186 (a) In the case of an emergency, comprehensive plan amendments may be made more often than
187 once twice during the calendar year if the additional plan amendment receives the approval of all of
188 the members of the governing body. "Emergency" means any occurrence or threat thereof whether
189 accidental or natural, caused by humankind, in war or peace, which results or may result in
190 substantial injury or harm to the population or substantial damage to or loss of property or public
191 funds.

192 (b) Any local government comprehensive plan amendments directly related to a proposed
193 development of regional impact, including changes which have been determined to be substantial
194 deviations and including Florida Quality Developments pursuant to s. 380.061, may be initiated by a
195 local planning agency and considered by the local governing body at the same time as the
196 application for development approval using the procedures provided for local plan amendment in
197 this section and applicable local ordinances, without regard to statutory or local ordinance limits on
198 the frequency of consideration of amendments to the local comprehensive plan. Nothing in this
199 subsection shall be deemed to require favorable consideration of a plan amendment solely because it
200 is related to a development of regional impact.

201 (c) Any local government comprehensive plan amendments directly related to proposed small scale
202 development activities may be approved without regard to statutory limits on the frequency of
203 consideration of amendments to the local comprehensive plan. A small scale development
204 amendment may be adopted only under the following conditions:

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- 205 | 1. The proposed amendment involves a use of 10 acres or fewer and:
- 206 | a. The cumulative annual effect of the acreage for all small scale development amendments adopted
- 207 | by the local government shall not exceed:
- 208 | (I) A maximum of 120 acres in a local government that contains areas specifically designated in the
- 209 | local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as
- 210 | defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517,
- 211 | transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity
- 212 | centers and urban central business districts approved pursuant to s. 380.06(2)(e); however,
- 213 | amendments under this paragraph may be applied to no more than 60 acres annually of property
- 214 | outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to
- 215 | paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under
- 216 | this paragraph.
- 217 | (II) A maximum of 80 acres in a local government that does not contain any of the designated areas
- 218 | set forth in sub-sub-subparagraph (I).
- 219 | (III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State
- 220 | Constitution.
- 221 | b. The proposed amendment does not involve the same property granted a change within the prior 12
- 222 | months.
- 223 | c. The proposed amendment does not involve the same owner's property within 200 feet of property
- 224 | granted a change within the prior 12 months.
- 225 | d. The proposed amendment does not involve a text change to the goals, policies, and objectives of
- 226 | the local government's comprehensive plan, but only proposes a land use change to the future land
- 227 | use map for a site-specific small scale development activity.
- 228 | e. The property that is the subject of the proposed amendment is not located within an area of critical
- 229 | state concern, unless the project subject to the proposed amendment involves the construction of
- 230 | affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of
- 231 | critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s.
- 232 | 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall

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- 233 be reviewed by the state land planning agency for consistency with the principles for guiding
234 development applicable to the area of critical state concern where the amendment is located and
235 shall not become effective until a final order is issued under s. 380.05(6).
- 236 f. If the proposed amendment involves a residential land use, the residential land use has a density
237 of 10 units or less per acre or the proposed future land use category allows a maximum residential
238 density of the same or less than the maximum residential density allowable under the existing future
239 land use category, except that this limitation does not apply to small scale amendments involving the
240 construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which
241 will be the subject of a land use restriction agreement, or small scale amendments described in sub-
242 sub-subparagraph a.(1) that are designated in the local comprehensive plan for urban infill, urban
243 redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment
244 areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to
245 s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to
246 s. 380.06(2)(e).
- 247 2.a. A local government that proposes to consider a plan amendment pursuant to this paragraph is
248 not required to comply with the procedures and public notice requirements of s. 163.3184(15)(c) for
249 such plan amendments if the local government complies with the provisions in s. 125.66(4)(a) for a
250 county or in s. 166.041(3)(c) for a municipality. If a request for a plan amendment under this
251 paragraph is initiated by other than the local government, public notice is required.
- 252 b. The local government shall send copies of the notice and amendment to the state land planning
253 agency, the regional planning council, and any other person or entity requesting a copy. This
254 information shall also include a statement identifying any property subject to the amendment that is
255 located within a coastal high-hazard area as identified in the local comprehensive plan.
- 256 3. Small scale development amendments adopted pursuant to this paragraph require only one public
257 hearing before the governing board, which shall be an adoption hearing as described in s.
258 163.3184(7), and are not subject to the requirements of s. 163.3184(3)-(6) unless the local
259 government elects to have them subject to those requirements.
- 260 4. If the small scale development amendment involves a site within an area that is designated by the
261 Governor as a rural area of critical economic concern under s. 288.0656(7) for the duration of such
262 designation, the 10-acre limit listed in subparagraph 1. shall be increased by 100 percent to 20 acres.

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263 The local government approving the small scale plan amendment shall certify to the Office of
264 Tourism, Trade, and Economic Development that the plan amendment furthers the economic
265 objectives set forth in the executive order issued under s. 288.0656(7), and the property subject to
266 the plan amendment shall undergo public review to ensure that all concurrency requirements and
267 federal, state, and local environmental permit requirements are met.

268 (d) Any comprehensive plan amendment required by a compliance agreement pursuant to s.
269 163.3184(16) may be approved without regard to statutory limits on the frequency of adoption of
270 amendments to the comprehensive plan.

271 ~~(e) A comprehensive plan amendment for location of a state correctional facility. Such an~~
272 ~~amendment may be made at any time and does not count toward the limitation on the frequency of~~
273 ~~plan amendments.~~

274 (e) (f) Any comprehensive plan amendment that changes the schedule in the capital improvements
275 element, and any amendments directly related to the schedule, may be made once in a calendar year
276 on a date different from the one ~~two~~ times provided in this subsection when necessary to coincide
277 with the adoption of the local government's budget and capital improvements program.

278 ~~(g) Any local government comprehensive plan amendments directly related to proposed~~
279 ~~redevelopment of brownfield areas designated under s. 376.80 may be approved without regard to~~
280 ~~statutory limits on the frequency of consideration of amendments to the local comprehensive plan.~~

281 ~~(h) (f)~~ Any comprehensive plan amendments for port transportation facilities and projects that are
282 eligible for funding by the Florida Seaport Transportation and Economic Development Council
283 pursuant to s. 311.07.

284 ~~(i) A comprehensive plan amendment for the purpose of designating an urban infill and~~
285 ~~redevelopment area under s. 163.2517 may be approved without regard to the statutory limits on the~~
286 ~~frequency of amendments to the comprehensive plan.~~

287 ~~(j) Any comprehensive plan amendment to establish public school concurrency pursuant to s.~~
288 ~~163.3180(13), including, but not limited to, adoption of a public school facilities element and~~
289 ~~adoption of amendments to the capital improvements element and intergovernmental coordination~~
290 ~~element. In order to ensure the consistency of local government public school facilities elements~~
291 ~~within a county, such elements shall be prepared and adopted on a similar time schedule.~~

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- 292 ~~(k) A local comprehensive plan amendment directly related to providing transportation~~
293 ~~improvements to enhance life safety on Controlled Access Major Arterial Highways identified in the~~
294 ~~Florida Intrastate Highway System, in counties as defined in s. 125.011, where such roadways have~~
295 ~~a high incidence of traffic accidents resulting in serious injury or death. Any such amendment shall~~
296 ~~not include any amendment modifying the designation on a comprehensive development plan land~~
297 ~~use map nor any amendment modifying the allowable densities or intensities of any land.~~
- 298 ~~(l) A comprehensive plan amendment to adopt a public educational facilities element pursuant to s.~~
299 ~~163.3177(12) and future land use map amendments for school siting may be approved~~
300 ~~notwithstanding statutory limits on the frequency of adopting plan amendments.~~
- 301 ~~(m) A comprehensive plan amendment that addresses criteria or compatibility of land uses adjacent~~
302 ~~to or in close proximity to military installations in a local government's future land use element does~~
303 ~~not count toward the limitation on the frequency of the plan amendments.~~
- 304 ~~(g) (n) Any local government comprehensive plan amendment establishing or implementing a rural~~
305 ~~land stewardship area pursuant to the provisions of s. 163.3177(11)(d) or a sector plan pursuant to~~
306 ~~the provisions of s. 163.3245.~~
- 307 ~~(o) A comprehensive plan amendment that is submitted by an area designated by the Governor as a~~
308 ~~rural area of critical economic concern under s. 288.0656(7) and that meets the economic~~
309 ~~development objectives may be approved without regard to the statutory limits on the frequency of~~
310 ~~adoption of amendments to the comprehensive plan.~~
- 311 ~~(p) Any local government comprehensive plan amendment that is consistent with the local housing~~
312 ~~incentive strategies identified in s. 420.9076 and authorized by the local government.~~
- 313 ~~(h) Any local government comprehensive plan amendment adopted pursuant to a Final Order~~
314 ~~issued by the Administration Commission or Florida Land and Water Adjudicatory Commission.~~
- 315 ~~(i) A future land use map amendment including not more than 20 acres within an area~~
316 ~~designated by the Governor as a rural area of critical economic concern under s. 288.0656(7) for the~~
317 ~~duration of such designation. Prior to the adoption of such an amendment, the local government shall~~
318 ~~obtain from the Office of Tourism, Trade, and Economic Development written certification that the~~
319 ~~plan amendment furthers the economic objectives set forth in the executive order issued under s.~~

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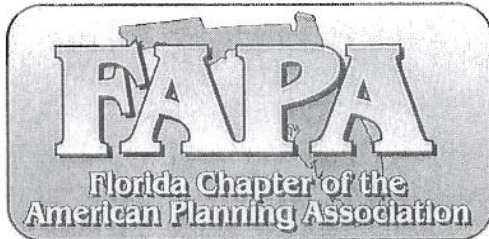
320 288.0656(7). The property subject to the plan amendment is subject to all concurrency requirements
321 and federal, state, and local environmental permit requirements.

322 (j) Future land use map amendments and any associated special area policies that are for
323 affordable housing and qualify for expedited review under s. 163.3183.

324 (3)(c) Small scale development amendments shall not become effective until 31 days after
325 adoption. If challenged within 30 days after adoption, small scale development amendments
326 shall not become effective until the state land planning agency or the Administration
327 Commission, respectively, issues a final order determining the adopted small scale development
328 amendment is in compliance. However, a small scale amendment shall not become effective if
329 the local government has failed to provide the amendment to the state land planning agency as
330 required by s. 163.3187(1)(c)2.b.

331

Attachment 5



American Planning Association Florida Chapter

2040 Delta Way, Tallahassee, FL 32303
Phone: 850-201-FAPA Fax: 850-386-4396
Email: fapa@floridaplanning.org

February 15, 2008

UNITED STATES POSTAL SERVICE

Secretary Tom Pelham, AICP
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Subject: Citizens' Planning Bill of Rights

Dear Secretary Pelham:

On behalf of APA Florida, I would like to thank you for soliciting review and comment on the Department's draft legislation. We particularly appreciate the opportunity to participate at the drafting stage while the Department is developing its ideas and proposals.

We previously forwarded you a variety of comments on the draft legislative package from our members and, under separate cover, you will receive focused comments from our Legislative Policy Committee. However, given the current political climate, we believe that the proposed Citizens' Planning Bill of Rights is perhaps the most important piece of the draft package and deserves additional separate attention on our part.

APA Florida supports the Department's concept of creating a Citizens' Planning Bill of Rights. It is apparent that citizens across the state feel their local officials are not adequately considering the public's concerns in development decisions. APA Florida promoted the concept of creating a model "neighborhood or citizens bill of rights" in its position paper on Hometown Democracy. We also recommended that public involvement processes should be strengthened through legislation and practice at the state and local levels.

Developing a system that recognizes these rights requires actions on two levels. First, a process needs to be adopted which creates a regulatory system allowing opportunities for citizens to become involved. In concert with that procedural system, we need to ensure that best practices are implemented at local levels so that citizens leave public meetings believing that their comments and concerns have been heard and duly considered.

The proposed changes embodied in the draft Bill of Rights focus on procedural changes which facilitate opportunities for better citizen involvement. At the legislative level, this is an appropriate focus and we support the Department's efforts. As the state's professional planning organization, APA Florida will take a proactive role in fostering a meaningful public involvement framework for

Richard Unger, AICP <i>President</i>	Valerie Hubbard, AICP <i>Past President</i>	Kim Glas-Castro, AICP <i>President Elect</i>	Marcie Stenmark, AICP <i>VP, Membership Services</i>	Carol Stricklin, AICP <i>VP, Professional Development</i>
Merle Bishop, FAICP <i>VP, Section Affairs</i>	Debrah Forester, AICP <i>VP, Conference Services</i>	Brian D. Teeple, AICP <i>Treasurer</i>	Michael Kloehu, AICP <i>Secretary</i>	Julia "Alex" Magee <i>Executive Director</i>

our local communities. To build upon legislative procedural changes, APA Florida plans to work over the next few months developing best management practices that can be shared with local governments. Together, these two efforts should promote a stronger planning process at the local level which truly considers the voice of its citizens.

Thank you again for this opportunity. I am happy to provide any additional information or clarification that you may require.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard W. Unger". The signature is fluid and cursive, with a large initial "R" and "U".

Richard W. Unger, AICP
President

cc: Kim Glas-Castro
Lester Abberger
Alex Magee