

Agenda Item #:

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: July 15, 2008 [ ] Consent [ ] Regular [X] Workshop [ ] Public Hearing

Department: Planning, Zoning and Building Department

Submitted By: Planning Division

Submitted For: Planning Division

I. EXECUTIVE BRIEF

Title: Comprehensive Plan Restrictive Policies

Summary: This workshop will examine the process for the acceptance and review of proposed amendments to the Future Land Use Atlas (FLUA) of the Comprehensive Plan. Specifically, staff will discuss how various types of Comprehensive Plan policies, including prohibitive or "shall not" policies, are applied in the evaluation of proposed amendments. Unincorporated (RB)

Background and Policy Issues: At the February 28, 2008 Zoning Meeting, during discussion of a proposed small-scale amendment to increase density on the Fitzgerald property within the Coastal High Hazard Area in northern Palm Beach County, the Board of County Commissioners discussed the application of "shall not" or prohibitive policies of the Comprehensive Plan during the processing and review of proposed Future Land Use Map amendments. To date, the Planning Division has generally processed any proposed FLUA amendment application that is sufficiently completed irrespective of policy conflicts. However, based on Board discussion, staff is proposing to revise the amendment process based on the two key types of policy review:

- 1) Prohibitive ("shall not") policies that cannot be violated and will prevent a proposed amendment from being processed. The Future Land Use Element policy prohibiting Institutional uses west of SR7 in the Ag Reserve is an example of a prohibitive policy. Previously, an amendment that was in conflict with one of these policies would be processed, but Staff would recommend denial. The Planning Division is recommending that proposed FLUA amendments must be found consistent with these policies in order to be found sufficient for processing. Amendments that violate these policies would not be processed.
2) Policies that are applicable to the review of future land use amendments but which are subjective and open to review. These policies are applied during Planning staff's evaluation and assessment of proposed amendments, in developing the staff recommendation. The Board may agree with staff's findings, or may arrive at a different conclusion at the time of its review of the proposed amendment, based on its evaluation and on public comment. Comprehensive Plan policies prohibiting urban sprawl and encouraging urban infill and redevelopment are examples of this type of policy, many of which are based upon the requirements of Chapter 163, F.S., and Florida Administrative Rule 9J-5 requirements for local government comprehensive plans.

Attachments:

- 1. Comprehensive Plan Prohibitive Policies (under separate cover)

Recommended by: [Signature] Executive Director Date 7/2/08

Approved By: [Signature] Deputy County Administrator Date 7/10/08



## Comprehensive Plan Prohibitive Policy Examples

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*The following policies are examples of those that are considered prohibitive ("shall not") policies that cannot be violated and will prevent a proposed amendment from being processed. Previously, an amendment that was in conflict with prohibitive policies would be processed, but Staff would recommend denial. The Planning Division is recommending that proposed FLUA amendments must be found consistent with prohibitive policies, including those below, in order to be found sufficient for processing.*

### COASTAL MANAGEMENT ELEMENT

#### OBJECTIVE 2.3 Development in High Hazard Area

Palm Beach County shall direct population concentrations away from known or predicted coastal high-hazard areas, and shall not approve increases in population densities in the coastal high hazard area. [9J-5.012(3)(b)6,7]

**Policy 2.3-a:** The County shall not increase densities in the coastal high hazard area. [9J-5.012(3)(c)3,4,7]

### FUTURE LAND USE ELEMENT

#### OBJECTIVE 1.1 Tier Designation and Tier Re-designation

**Policy 1.1-b:** In addition to the criteria for amending a future land use designation, the County shall apply the following standards to allow for the redesignation of a Tier to respond to changing conditions.

1. The County shall not approve a change in tier boundaries unless each of the following conditions are met:
  - a) The area to be reassigned to another tier must be contiguous to the tier to which it would be assigned; and,

*remainder of policy omitted for brevity*

#### OBJECTIVE 1.2 Urban/Suburban Tier

**Policy 1.2-c:** The County shall coordinate with coastal municipalities to control population densities in coastal high-hazard areas, in accordance with Coastal Management Objective 2.3. The County shall not increase the density in unincorporated areas located within the coastal high-hazard areas.

**Policy 1.2-k:** The County shall prohibit new isolated mid-block commercial future land use designations along all arterials and collectors, unless such development is planned as a Traditional Neighborhood Development, Traditional Marketplace Development or Mixed-Use Planned Development.

**OBJECTIVE 1.3 Exurban Tier**

**Policy 1.3-f:** The County shall prohibit new commercial future land use designations that do not have frontage on either: 1) one collector and one arterial roadway; or 2) two arterial roadways (as listed in the Florida Department of Transportation Palm Beach County Federal Functional Classification Table), unless it is shown that a vehicular cross connection can be established to an adjacent site with a non-residential future land use designation, such development is planned as a Traditional Marketplace Development (TMD) or such designation is allowed by an adopted Sector Plan.

**OBJECTIVE 1.4 Rural Tier**

**Policy 1.4-f:** The County shall prohibit new commercial future land use designations that do not have frontage on either: 1) one collector and one arterial roadway; or 2) two arterial roadways (as listed in the Florida Department of Transportation Palm Beach County Federal Functional Classification Table), unless it is shown that a vehicular cross connection can be established to an adjacent site with a non-residential future land use designation, such development is planned as a Traditional Marketplace Development (TMD) or such designation is allowed by an adopted Sector Plan.

**OBJECTIVE 1.5 The Agricultural Reserve Tier**

**Policy 1.5-k:** The County shall not approve any land within the Agricultural Reserve Tier for the Commercial Low designation unless the property is within 1/4 mile of the intersections of Lyons Road with either Boynton Beach Boulevard or Atlantic Avenue. The County shall not approve any land within the Agricultural Reserve Tier for the Commercial Low-Office designation unless development area of the property is within 1/4 mile of the northeast quadrant of the intersection of State Road 7 and Clint Moore Road.

**Policy 1.5-l:** The County may approve a maximum of 80 acres within the Agricultural Reserve Tier with a Commercial Low designation. This maximum acreage shall not include the acreage required as the preserve area of an Agricultural Reserve Traditional Marketplace Development (AgR-TMD) pursuant to Future Land Use Policy 1.5.1-n.

**Policy 1.5-m:** All new Commercial Low development in the Agricultural Reserve Tier shall be in the form of an AgR-TMD, as described in the Traditional Marketplace Development provisions in the Implementation Section of the FLUE and shall not exceed a total of 750,000 square feet of Commercial Low uses for the entire tier.

**Policy 1.5-r:** Institutional and Public Facilities uses shall be allowed in the Agricultural Reserve Tier. Such uses shall not be permitted west of State Road 7.

**Objective 3.5            Levels of Service Required for Development**

**Policy 3.5-d:** The County shall not approve a change to the Future Land Use Atlas which:

- 1) results in an increase in density or intensity of development generating additional traffic that significantly impacts any roadway segment projected to fail to operate at adopted level of service standard "D" based upon the MPO's 2025 Long Range Transportation Plan dated March 18, 2002. Significant impact shall be as defined in Table 3.5 -1.

**TABLE 3.5-1  
Significant Impact**

Net Trip Generation**	Distance
1 - 50	No significant impact
51 - 1,000	Only address directly accessed link on first accessed major thoroughfare*
1,001 - 4,000	One (1) mile*
4,001 - 8,000	Two (2) miles*
8,001 - 12,000	Three (3) miles*
12,001 - 20,000	Four (4) miles*
20,001 - up	Five (5) miles*

\* A project has significant traffic: (1) when net trips increase will cause the adopted LOS for FIHS or SIS facilities to be exceeded; and/or (2) where net trip increase impacting roads not on the FIHS or SIS is greater than one percent (1%) for volume to capacity ratio (v/c) of 1.4 or more, two percent (2%) for v/c of 1.2 or more and three percent (3%) for v/c of less than 1.2 of the level of service "D" capacity on an AADT basis of the link affected up to the limits set forth in this table. The laneage shall be as shown on the MPO's 2025 Long Range Transportation Plan dated March 18, 2002.

\*\* When calculating net trip increase, consideration will be given to alternative modes of transportation (i.e. bicycle lanes, bicycle paths, bus lanes, fixed rail, and light rail facilities) in reducing the number of net trips. These alternative modes must either be operating at the time of the change to the Future Land Use Atlas or be included in both the Transportation Element (Mass Transit) and the Capital Improvement Element of the Comprehensive Plan.

Or, results in a project that fails Test 2 regulations adopted to implement TE Policy 1.1-b.



**GOLD COAST BUILDERS ASSOCIATION**

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July 9, 2008

The Honorable Addie Greene, Chair  
Board of County Commission  
Palm Beach County  
301 North Olive Avenue  
West Palm Beach, FL 33401

**Re: Tuesday, July 15<sup>th</sup>, Workshop Item – Comprehensive Plan Restrictive Policies**

Dear Chairperson Greene:

Gold Coast Builders Association has reviewed the backup information for the Comprehensive Plan Restriction Policies scheduled for workshop consideration by the BCC next Tuesday.

GCBA supports the Board of County Commissioners (BCC) giving direction to staff to remove all "shall not" policies from the Comprehensive Plan. This direction will allow the BCC to review all applications based on their individual merits. GCBA does not support giving direction to staff that presumptive applications be denied acceptance for processing because of a violation of a "shall not" policy.

By way of example, the Scripps Research Center needed a waiver from Policy 3.5-d of the Comprehensive Plan (a "shall not" policy in the Land Use Element). While it is acknowledged that DRIs may request text changes to the Comprehensive Plan as part of the approval process, any public or private initiated amendment that is of sub-DRI level (which represent the vast majority of applications processed) would be precluded from even applying due to its violation of the very same policy waived for Scripps, even if the project provided a needed and desired economic stimulus to the County. In short, we believe that all applications, public or private, should be afforded the opportunity for review and consideration by the BCC. The adopted regulations of the Comprehensive Plan and Unified Land Development Code exist to provide oversight and direction to the BCC which effectively filter inappropriately planned projects.

Gold Coast Builders Association offers its resources on this matter to assist in addressing policies in the Comprehensive Plan. We respectfully request that we be included in any discussions on this issue. Thank you for your consideration on this matter, if there are any questions please contact Christopher Roog, at 561-732-5959 x105 or [chris@gcbaonline.com](mailto:chris@gcbaonline.com).

Sincerely,

Scott Worley, President  
Gold Coast Builders Association

Xc: Commissioner Karen Marcus  
Commissioner Robert Kanjian  
Commissioner Burt Aaronson  
Deputy Administrator, Verdenia Baker  
Executive Director Planning Zoning and Building – Barbara Alterman  
Commissioner Jeff Koons  
Commissioner Mary McCarty