

**BOARD OF COUNTY COMMISSIONERS  
LEON COUNTY, FLORIDA  
WORKSHOP  
Workshop on Policies and  
Process for Land Use Changes  
and Land Development  
October 25, 2022**

The Leon County Board of County Commissioners met for a Workshop on Policies and Process for Land Use Changes and Land Development on Tuesday, October 25, 2022 at 2:36 p.m. in chambers with Chairman Bill Proctor presiding. Present were Vice-Chairman Nick Maddox, and Commissioners Rick Minor, Carolyn Cummings, Brian Welch, and Kristen Dozier. Also present were County Administrator Vincent Long, County Attorney Chasity O'Steen and Board Secretary Beryl H. Wood.

Facilitator(s): Alan Rosenzweig, Deputy County Administrator  
Mindy Mohrman, Administrator of Comprehensive Planning  
Ryan Culpepper, Development Support and Environmental Management  
Anastasia Richmond, Development Support and Environmental Management

County Administrator Long introduced this item. Artie White introduced Barry Wilcox, who shared this workshop item provides a comprehensive overview of policies that regulate land development, the different phases in the land development process, an overview of the extensive public engagement actions conducted throughout the land development process, and a recommendation to increase the public notification area for large-scale Comprehensive Plan map amendments in rural areas of Leon County from 1,000 feet to 1,500 feet with a minimum threshold of 30 property owners being notified.

Barry Wilcox shared the presentation. The two important documents in land use are the Tallahassee-Leon County Comprehensive Plan and the Land Development Code. The Comprehensive Plan is the overarching guiding document. The Leon County-Tallahassee plan goes above and beyond. It highlights community values.

The Land Development Code contains information like zoning districts. This is the more detailed restrictions, such as maximum height of buildings and how far property can be set back from the street. The Land Development Code helps ensure that once the Comprehensive Plan is processed occurs on the ground. Mr. Wilcox stated that the process starts with an idea. The Comprehensive Plan plays a role, even if there is not a proposed amendment. Mr. Wilcox noted that Leon County provides concept development for free which is a rare service to find. After the formal submittal, the next step in the process is applying the project to the features laid out in the Comprehensive Plan. If the proposal is not consistent, the proposal can be changed, or the Comprehensive Plan can be changed. The amendment process is pretty robust and typically takes nine months.

Chairman Proctor inquired on who is eligible to propose these changes. Mr. Wilcox stated that anyone can make a request regarding their own property and sometimes they will come from staff. Chairman Proctor asked for clarification regarding the Board of County Commissioners and how many Commissioners would be needed to propose an amendment. Mr. Wilcox noted that he believes that it is correct that four Board members are needed to propose an

amendment to the Comprehensive Plan. The vast majority of the amendments have come from property owners. Commissioner Cummings asked for clarification if this process was in conjunction with the City and Chairman Proctor confirmed that the City can initiate a Comp Plan amendment and that the County can do that same.

Chairman Proctor asked what triggers the Site Plan Review process. Mr. Wilcox stated that the submittal of an application, which was created to differentiate property owners looking to make small changes from large projects.

Commissioner Minor asked for further clarification on Type B, C, and D as quasi-judicial.

Mr. Wilcox stated that Type B is quasi-judicial but does not come before the County Commissioners.

### Notification and Public Engagement

Mr. White stated that Leon County has about 30-35 advisory boards. They hold workshops with the Planning Commission. The citizen boards provide meaningful input on the projects. They publish notices in the newspapers and have a page set up online for Comprehensive Plan amendments that includes the application to submit an amendment. The county policies greatly exceed the minimum requirements of the state.

Commissioner Cummings commented on the stage during which notifications are given to the adjacent property owners. Mr. White explained that the adjacent property owners are notified before they approve the proposal. They want to ensure that the public is informed that a proposal has been submitted that may affect their community. Commissioner Cummings then asked if the input from the adjacent property owners is taken into consideration for the proposal's approval at this stage and questioned if statements from adjacent property owners makes a difference. He stated that the Comprehensive Plan amendments are legislative, therefore the public can bring information to light that the county may have not known.

Mr. Wilcox mentioned that when changing the future land use map, the proposal is asking for an entitlement to build a project as long as they follow the Land Development Code.

Mr. White stated notice requirements have legal implications beyond garnering community input and outreach. He stated most notably when it comes to legal standing to challenge a Board's decision and procedural due process concerns.

Chairman Proctor inquired if the challenges would be handled through the County Commission or would they be challenged in court. County Attorney O'Steen stated the party would challenge in court.

Mr. White stated that the county significantly exceeds what is required by the state and what peer communities are doing. He noted that Alachua, Collier, and Polk counties have innovated policies. He is recommending that they expand the notification radius in rural unincorporated Leon County.

Commissioner Minor asked for clarification as to whether the recommendations would also apply to Type A requests. Mr. Wilcox confirmed that Type A requests are also quasi-judicial.

Commissioner Welch stated that he believed that all of the types are quasi-judicial, but Types B, C and D are required to come before the Board. Mr. White responded that they are not recommending expanding the notification radius for Type A because those projects are normally very small.

Commissioner Minor stated that he didn't believe that Type B is quasi-judicial. County Attorney O'Steen commented that there is no public hearing required for Type A and that Type B does require a hearing and therefore is quasi-judicial, which is the same with Type C or Type D and that the basis for approval of a Type A has to meet all requirements, but the process itself is much more streamlined. There is not a formal quasi-judicial proceeding context because of the expedited and more minimal approval process for a Type A.

Commissioner Welch asked for clarification as to whether they were addressing the 1,500 feet started from the periphery of the property. Mr. White explained that it did and that they notify the homeowners association along with the neighbors so that the HOA will notify the community. Chairman Proctor noted that on page 14, staff stated that Type B, C and D site plan approval process is a quasi-judicial decision, and that Type A is administrative. Commissioner Minor stated that Type A is quasi-judicial, but not under the same standards of having to record ex parte communications because there is no public hearing.

County Attorney O'Steen responded that there is an additional heightened process the board must comply with due to the possibility of due process violations if there is ex parte communications with one of the decision makers during the process.

Mr. White stated that staff recommendations were options #1 and #2.

Commissioner Proctor recognized Commissioner Dozier if she wanted to make the final motion and asked for comments prior to that motion being made.

Commissioner Minor asked if further into the process, someone finds an inconsistency with the Comprehensive Plan, what is their course of action. Mr. Wilcox stated there is not a method to amend because that situation has not happened yet.

Chairman Proctor commented that the private development rights of property owners are superior to the citizens. He asked if the opinions of neighbors who may not agree with the development are held to the same value as the property owner.

County Attorney O'Steen stated that once the process is quasi-judicial, then neighbors not liking what their neighbor does with the property do not meet the legal standard for the board to approve or deny a request in a quasi-judicial proceeding. She stated that the Board is limited in its ability to deny and application that meets all of the criteria and legal standards when in quasi-judicial proceedings.

Commissioner Cummings inquired about citizens who come before the Board in a quasi-judicial setting. If the board sides with citizens who are against development, even though they have met the criteria, are they open to a lawsuit. County Attorney O'Steen stated yes, if the developers have met the criteria, the Board cannot deny the project on solely community input. She recalled the Southwood Property and how the County was able to prevail due to having other competent substantial evidence.

Chairman Proctor noted that developers are allowed to correct any inconsistencies their project may have when the inconsistency is found.

Commissioner Dozier commented on quasi-judicial proceedings for the Southwood project. The citizens provided substantial evidence for the hearing. She noted that the citizens in Southwood were able to hire an attorney, however, not everyone in the county can do that. For these proceedings, the Board's rules are in place. She understands the recommendation for the notification expansion. She asked if there is a distinction between the legal notice and other forms of notice that may be appropriate for community outreach.

Mr. Wilcox stated that there are many ways to spread information. The County disseminates information using different outlets. Commissioner Dozier asked specifically if a notice of proceedings could be mailed making the differentiation that it is not a legal notice, but just informing of the upcoming amendments. County Attorney O'Steen noted that there is a different level of standing at the Comprehensive Plan level because it is legislative and not quasi-judicial. She noted that a letter sent out may be used for a standing issue.

Commissioner Dozier stated that she would like a meeting prior to the transmittal meeting to hear more from the public earlier on in the process. She would like to see the possibility for this to be explored along with a letter that can be sent out to the community that would not trigger standing.

Chairman Proctor commented on the application process. He stated the Board hears about the amendments when it's transmitted. He noted that the Board serves as adjudicators on the change. It is the right of what the property owner has the right to do with their property.

Commissioner Dozier stated that hearing more from the public can be impactful. She would only like to hear more on large changes, such as the Urban Services Area. Chairman Proctor stated that he would prefer taking care and addressing issues on a local level as opposed to a federal level.

Commissioner Minor acknowledged the great discussion and shared that Commissioner Dozier raised good points. He stated the general public is not truly aware until the joint workshops are held. He is in support of an additional meeting before transmittal. He acknowledged the importance of the property rights possessed by property owners. However, everyone should have a say when it comes to large-scale comprehensive plan changes.

Chairman Proctor asked County Attorney O'Steen how to add a step between the workshop and the transmittal meeting.

County Attorney O'Steen stated there is state statute that sets the minimum standards to follow. She stated that they would need to hear from Mr. White on how an additional meeting would affect the timeframe. It is legally permissible to add a meeting. Commissioner Dozier stated that it should be made clear that nothing changes the current scheduled comp plan cycle and suggested the possibility of moving to back an agenda item for the joint workshop to allow staff to examine the schedules and other issues involved in adding a meeting to the process. Mr. White stated the Board does have the flexibility to add meetings.

Commissioner Cummings stated that her questions had been answered.

Mr. White stated that the flexibility to change the process already exists and the opportunity exists for the Board to request additional meetings or measures be added.

Commissioner Dozier stated that all of the steps discussed would be to avoid conflict and controversy usually seen at the end of the process.

*Commissioner Dozier moved, seconded by Commissioner Minor, to approve Options #1 and #2:*

*Option #1: Conduct the workshop on policies and process for land use changes and land development and bring back an agenda item to look at the notification nuance and the schedule for large-scale Comprehensive Plan amendments.*

*Option #2: Continue the public engagement actions described in this workshop item and expand the notification radius for large-scale Comprehensive Plan map amendments in rural areas of unincorporated Leon County from 1,000 feet to 1,500 feet with a minimum threshold of 30 property owners being notified.*

*The motion carried 5-0. (Commissioner Welch was out of chambers).*

Chairman Proctor thanked staff and stated that a joint meeting with the City Commission is warranted.

**Adjourn:**

There being no further business to come before the Board, the workshop was adjourned at 4:05 p.m.

**LEON COUNTY, FLORIDA**

ATTEST:



A handwritten signature in black ink, appearing to read "Nick Maddox", is written over a horizontal line.

BY: Nick Maddox, Chairman  
Board of County Commissioners

A handwritten signature in black ink, appearing to read "Gwen Marshall Knight", is written over a horizontal line.

BY: Gwen Marshall Knight, Clerk of Court  
& Comptroller, Leon County, Florida