

Excerpt from the minutes of the County Council meeting of December 4, 2008. *These minutes have not been approved by the County Council, and are therefore subject to change.*

Item 7

Order of Business:

Open Public Hearing

Staff Report

Public Participation

Close Public Hearing

Council Discussion/Action

Ordinance Nos. 2008-27 and 2008-28 - Comprehensive Plan Amendments Large Scale Cycle 08-2 Adoption Hearing

Staff Contact: Gregory Stubbs, 386-736-5959 2000

VC-1227023463014

Kelli McGee, 386-736-5959, ext. 2845

Planning and Development Services Director Kelli McGee delivered the staff report. Along with it she included an overhead PowerPoint slide presentation.

Public participation followed. **Ken Hoblick** stated his concerns that commercial properties within the Environmental Core Overlay (ECO) Map might be encumbered with additional and insurmountable requirements aside from those already in place. **Clay Henderson** felt staff's proposal combined the best points of promoting Smart Growth and environmental protection while sheltering the underlying property rights of the participants. He also gave a PowerPoint slide presentation on Smart Growth principles. **Winston Borkowski** spoke on behalf of the Lunsford family, expressing concerns over the family's 690-acre parcel being kept in the ECO Map and the impact of the heightened environmental standards proposed for implementation in 2010 on the property. **Sue Burns**, Wilbur-by-the-Sea resident, did not want the single family nature of Wilbur-by-the-Sea to change. She urged the Council to provide more protection to preclude that from happening. **Glenn Storch** spoke on behalf of Wilbur resident Melanie Eddington, stating she had worked hard to keep Wilbur the way it was. He urged the Council to continue to abide by the public use restrictions in the Wilbur-by-the-Sea Local Plan Amendment. **Wanda Van Dam** was concerned with how the base yield for conservation subdivisions would be calculated. She also displayed overhead slides of data analysis results and quotations from land development consultant Randall Ahrendt regarding the viability of basing density on gross acreage. She felt a more reasonable method of calculation should be used.

Council discussion followed. There was debate over the Lunsford property remaining in the ECO Map vs. the possible loss to the owner of vested property rights. Discussion then turned in general to building on gross acreage vs. net acreage by subtracting wetlands when calculating density. Deputy County Attorney Jamie Seaman said the purpose of the County's wetlands ordinance was to move as much development as possible out of sensitive wetland areas while recognizing a person's right to build on his own property. She also explained how the County calculated the acreage that could be developed

Council Member Kelly felt the acreage calculation for development should be by net and not gross. He also was concerned about density bonuses. Council Member Hayman felt the Council was dealing with the uncertainty of the future, which could negatively impact owners' property rights.

Ms. Seaman asked the Council to remember the Comprehensive Plan was a legislative document and a planning tool, not a regulatory document. There were always changes to be made to the County's regulatory code, and as the County moved through that process it evaluated the impact on individual property rights. What was before the Council was putting the public on notice the County would be addressing such issues in the future, and vested property rights would be recognized during this procedure. She added the Department of Community Affairs (DCA) had not objected to the ECO Map. It had stated the County did not have specific criteria, so additional information was provided.

Regarding Mr. Hoblick's concerns, Ms. McGee explained the County would be recognizing existing commercial densities, intensities and commercial landowners' use expectations. The County also would be adding incentives for other types of commercial zoning uses, such as neighborhood scale commercial, ecotourism and agri-business uses. She added the basis for the original ECO discussion had been limiting residential, not commercial, density.

Regarding the Lunsford property, Ms. McGee displayed a map from 2005 showing the property in the ECO Map. A Geographical Information Systems (GIS) timeline issue had taken place, in that while the property was shown in the County conservation corridor, it had later been removed from the State conservation corridor. However, the ECO Map had never been amended to reflect that.

As to the language for the Wilbur Plan, Ms. McGee noted the main concern was respecting Wilbur's neighborhood character. That language was in the Comprehensive Plan and staff intended to show that neighborhood character in the overlay for clarification purposes for DCA. Addressing Mr. Storch's comments, Ms. Seaman said staff could revise the language in WIL 1.10.1.3 to read, "...except for a valid public purpose and any future zoning overlay zone, pursuant to Section 125.01, Florida Statutes on publicly owned property." Both she and Ms. McGee felt the restatement would alleviate some citizens' concerns.

Council Member Kelly said he did not favor giving density bonuses but would support them if the language in SG Policy 1.2.2(c)(1) was revised to read, according to Ms. Seaman, "...gross acreage of a tract minus wetlands and infrastructure to be divided by the underlying land use category." He also asked that an e-mail received from Edgewater Citizen's Alliance for Responsible Development (ECARD) be entered into the record. Ms. Seaman said the e-mail referred to the Restoration DRI in Edgewater, not the Comprehensive Plan Amendments before Council. It could be put into the public record, but was not relevant to the discussion at hand. Council Member Kelly also expressed strong concerns over as many as 600 units being allowed in a subdivision. Ms. Seaman noted Council could change that number.

As clarification, Council Member Alexander summarized that the Council was addressing the ECO Map only and other issues stated would be addressed during the land development regulation process. She also said a statement on the consistency of the Wilbur-by-the-Sea language needed to be added. Ms. Seaman said a statement by the City of Daytona Beach regarding the zoning restrictions at the Airport also needed to be added.

December 4, 2008 being the date for public hearing and there being no objection, Council Member Alexander moved to ADOPT Ordinance Nos. 2008-27 and 2008-28, with the MODIFICATION of including the language for Wilbur-by-the-Sea and the Airport. Council Member Giles seconded the motion.

Discussion on the motion followed. Council Member Hayman said he could support the motion if the theoretical nature of density determination could be acknowledged and accepted as a starting

point for subsequent changes to the Comprehensive Plan. He also wanted to emphasize the concerns expressed by citizens over possible loss of vested rights and hoped they would continue to have faith that the Council would recognize their interests and answer their concerns.

Council Member Northey said she would have supported Council Member Kelly's proposed language change to the gross acreage calculation; however, it had not been part of the motion. She felt enough time had been spent on the issue of protecting the conservation corridor and the motion needed to have unanimous support. Although the scenario was not perfect and the motion did not reflect everything she would have liked, she wanted to move the matter along and would support the motion on the floor.

Council Member Kelly stated he approved of both Map A and the ECO Map, was not trying to restrict property rights but did want to protect the environment and would support the motion. Council Members Giles, Persis, Alexander and Chair Bruno said they also supported the motion. Ordinance Nos. 2008-27 and 2008-28, entitled as follows and on file in their entirety with the records of the County Council, were duly ADOPTED 7-0.

ORDINANCE NO. 2008-27

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE VOLUSIA COUNTY COMPREHENSIVE PLAN ORDINANCE NO. 90-10 AS PREVIOUSLY AMENDED; AMENDING CHAPTERS AND ELEMENTS OF SAID PLAN AS NECESSARY FOR CONSISTENCY WITH REGIONAL, STATE OR FEDERAL PROGRAMS; CHANGING DATES ASSOCIATED WITH CHAPTERS AND ELEMENTS OF SAID PLAN; PROVIDING CONFORMING LANGUAGE TO CREATE INTERNAL CONSISTENCY AMONG CHAPTERS AND ELEMENTS OF THE PLAN; AMENDING GOALS, OBJECTIVES AND POLICIES TO REFLECT ACCOMPLISHMENT OR IMPLEMENTATION; AMENDING CHAPTER 1, BY ADDING SECTION G, "SMART GROWTH INITIATIVE" BY ADDING GOALS, OBJECTIVES AND POLICIES; AMENDING CHAPTER 20, "DEFINITIONS;" AMENDING APPENDIX 1, "MAPS AND FIGURES" BY ADDING THE "ENVIRONMENTAL CORE OVERLAY MAP;" AMENDING APPENDIX 1, MAPS AND FIGURES, BY AMENDING FIGURE 2-8 TO INCLUDE ORMOND BEACH SCENIC LOOP AND TRAIL; AMENDING CHAPTER 2, "TRANSPORATION ELEMENT," GOAL 2.3 AS TO SCENIC CORRIDORS AND RELATED OBJECTIVES AND POLICIES; REVISING CHAPTER 1, POLICY WIL. 1.10.1.3 OF THE WILBUR BY THE SEA LOCAL AREA PLAN RELATING TO PUBLICLY OWNED PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

ORDINANCE NO. 2008-28

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE VOLUSIA COUNTY COMPREHENSIVE PLAN ORDINANCE NO. 90-10, AS PREVIOUSLY AMENDED; AMENDING CHAPTER 1, "FUTURE LAND USE ELEMENT," SECTION F, SPECIFICALLY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE FUTURE LAND USE CATEGORIES OF APPROXIMATELY 1,643 ACRES LOCATED ON THE NORTH SIDE OF PIONEER TRAIL, ADJACENT TO THE WESTERN INTERSECTION WITH STATE ROAD 44 FROM ENVIRONMENTAL SYSTEMS CORRIDOR, FORESTRY RESOURCE AND AGRICULTURAL RESOURCE TO

CONSERVATION; AMENDING CHAPTER 1, "FUTURE LAND USE ELEMENT," SECTION F, SPECIFICALLY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE FUTURE LAND USE CATEGORIES OF APPROXIMATELY 2,272 ACRES LOCATED ON THE NORTH SIDE OF STATE ROAD 44, WEST OF THE INTERSECTION WITH PIONEER TRAIL FROM ENVIRONMENTAL SYSTEMS CORRIDOR AND FORESTRY RESOURCE TO CONSERVATION; AMENDING CHAPTER 1, "FUTURE LAND USE ELEMENT," SECTION F, AMENDING THE FUTURE LAND USE MAP TO CHANGE THE FUTURE LAND USE CATEGORIES OF APPROXIMATELY 673 ACRES LOCATED ON THE WEST SIDE OF TOMOKA FARMS ROAD, ADJACENT TO THE INTERSECTION WITH H.L. AINSLEY DRIVE APPROXIMATELY ONE AND ONE-HALF MILES TO THE WEST OF THE CITY OF PORT ORANGE FROM ENVIRONMENTAL SYSTEMS CORRIDOR, FORESTRY RESOURCE, RURAL AND AGRICULTURAL RESOURCE TO CONSERVATION; AMENDING CHAPTER 1, "FUTURE LAND USE ELEMENT," SECTION F, AMENDING THE FUTURE LAND USE MAP TO CHANGE THE FUTURE LAND USE CATEGORIES OF APPROXIMATELY 10 ACRES LOCATED SOUTH OF RUDMAN ROAD AND ADJACENT TO THE EASTERN END OF PRIDEAUX ROAD, SOUTHEAST OF LAKE ASHBY APPROXIMATELY SIX MILES TO THE WEST OF THE CITY OF DELTONA FROM ENVIRONMENTAL SYSTEMS CORRIDOR AND AGRICULTURAL RESOURCE TO CONSERVATION; AMENDING CHAPTER 1, "FUTURE LAND USE ELEMENT," SECTION F, SPECIFICALLY AMENDING THE FUTURE LAND USE MAP TO CHANGE THE FUTURE LAND USE CATEGORIES OF APPROXIMATELY 20 ACRES LOCATED NORTHWEST OF LONESOME DOVE TRAIL, BETWEEN RUDMAN ROAD AND LOPEZ ROAD, SOUTHEAST OF LAKE ASHBY APPROXIMATELY SIX MILES TO THE WEST OF THE CITY OF DELTONA; AMENDING THE FLUM FROM ENVIRONMENTAL SYSTEMS CORRIDOR AND FORESTRY RESOURCE TO CONSERVATION; AMENDING CHAPTER 1, "FUTURE LAND USE ELEMENT," SECTION F, SPECIFICALLY AMENDING THE FUTURE LAND USE MAP ON APPROXIMATELY 226 ACRES WITHIN THE DAYTONA BEACH INTERNATIONAL AIRPORT LOCATED TO THE SOUTH AND EAST OF BELLEVUE AVENUE APPROXIMATELY 3,600 FEET EAST OF WILLIAMSON BOULEVARD ON THE NORTH SIDE OF BEVILLE ROAD WITHIN THE MUNICIPAL LIMITS OF THE CITY OF DAYTONA BEACH FROM CITY OF DAYTONA BEACH LEVEL TWO RESIDENTIAL, GENERAL INDUSTRY, RETAIL COMMERCIAL, OFFICE TRANSITIONAL, AIRPORT, AND EXISTING/POTENTIAL PARKS TO COUNTY PUBLIC/SEMI-PUBLIC; AMENDING CHAPTER 14, "INTERGOVERNMENTAL COORDINATION ELEMENT," SECTION B, RELATING TO COORDINATION WITH CITY OF DAYTONA BEACH AS TO DAYTONA BEACH INTERNATIONAL AIRPORT; BY AUTHORIZING INCLUSION IN THE VOLUSIA COUNTY COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; BY PROVIDING AN EFFECTIVE DATE.