

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 FARMTON WATER RESOURCES, LLC

3 DOCKET NO. 021256-WU

4 APPLICATION FOR ORIGINAL WATER CERTIFICATE

5 IN VOLUSIA AND BREVARD COUNTIES

6 REBUTTAL TESTIMONY OF HOWARD M. LANDERS

7 Q. Please state your name, business affiliation and address.

8 A. I am Howard M. Landers. I practice as an individual consultant as Howard M.
9 Landers, AICP, Urban Planning Consultant. My address is 326 Settlers Lane,
10 Charlotte, NC 28202.

11 Q. What is the purpose of your testimony in this proceeding?

12 A. I have been asked by Farmton Water Resources, LLC, to provide rebuttal testimony
13 in relation to their request for a Certification of a Water Utility and specifically to
14 respond to the testimony filed by various witnesses representing the interveners
15 related to the subject of consistency with comprehensive plans.

16 Q. Would you please review your educational background?

17 A. I hold a Bachelor of Architecture degree from Virginia Polytechnic Institute, granted
18 in 1965, and a Master of Science in Urban and Regional Planning from Florida State
19 University, granted in 1966. In addition, I completed the course work and had an
20 accepted dissertation prospectus for the PhD in Urban and Regional Planning from
21 Florida State University from 1969 through 1971. I did not complete the degree.

22 Q. How many years and where have you practiced as an urban planner?

23 A. I have 38 years of professional experience, 31 of which were accrued in Florida, three
24 in Denver, Colorado, and for the past four in Charlotte, North Carolina. However,
25 throughout these last four years, I have continuously served clients in Florida.

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FLORIDA PUBLIC SERVICE COMMISSION

1 Q. Would you please review your employment experience as a professional urban
2 planner?

3 A. Between 1966 and 1969, I held three one year positions in Denver, Colorado: First,
4 I was an entry level planner with the consulting firm of Harmon, O'Donnell &
5 Henninger where I worked on a variety of assignments including drafting the first
6 Planned Unit Development Zoning Code in the State. Second, I was a Planner II
7 with the Planning Department of the City of Denver and performed planning
8 activities related to recreational facilities planning, capital improvements
9 programming and the Model Cities Program. Third, I was Director of Planning and
10 Research for the Metro-Denver Fair Housing Center.

11 From 1969 to 1971, I held a Research Associate position with full time graduate
12 teaching responsibilities at Florida State University's Department of Urban and
13 Regional Planning. While there, I prepared and taught a three course sequence in
14 urban housing and urban redevelopment.

15 From 1971 to 1973, I served as Director of the Community Renewal Program for the
16 City of Jacksonville, Florida, a position that reported to both the Mayor's Office and
17 the Department of Housing and Urban Development. Managing a staff of twelve, I
18 directed a complete analysis of all neighborhoods in the City, and prepared a City-
19 wide strategy for neighborhood improvement and redevelopment. The strategy
20 positioned the City for its initial Community Development Block Grant Program and
21 guided the program for several years.

22 From 1973 to 1983, I was employed by Reynolds, Smith & Hills Architects,
23 Engineers, Planners, Inc., in Jacksonville. During the first five years I was a Project
24 Manager responsible for managing and serving as principal planning professional on
25 a wide variety of consulting projects. Over the second five year period I was

1 corporate Vice President for Planning and was responsible for all planning activities
2 company-wide. In both positions I maintained an active role in a variety of major
3 projects. With the State of Florida's broad planning legislation having commenced
4 in 1973, I was involved in activities related to the State's program from its inception.
5 The Comprehensive Plan that I prepared for the City of Panama City was the City's
6 first and the seventh plan to be approved by the Department of Community Affairs
7 (DCA) under the Local Government Comprehensive Planning Act. Similarly, the
8 Development of Regional Impact (DRI) Application that I directed for Leadership
9 Housing on their 4,000+ acre community in north Broward County was the third DRI
10 approved after the passage of Chapter 380.06 FS. Other local government planning
11 activities included: The Community Development Block Grant (CDBG) program, a
12 recreation master plan and development plans for two parks for the City of Panama
13 City; CDBG and Housing Strategy Plans for Leon County and the City of
14 Tallahassee; CDBG plans and urban design studies for the City of Dunedin; CDBG
15 and Housing Strategy Plans the City of Ocala; a special area plan for the Palm Harbor
16 district of Martin County; and a Master Plan for St. Simon Island and Sea Island for
17 the Brunswick-Glynn County Planning Department. Throughout nine of the ten
18 years with RS&H, I managed the planning, environmental permitting and design
19 services for five components of Gulf Islands National Seashore for the U.S. National
20 Park Service. During the last year with RS&H, I directed the establishment of a
21 complete planning department with a staff of twenty-seven for the City and Region
22 of Tabuk, Saudi Arabia.

23 In 1983 I had an opportunity to form a new company and, with Tom Atkins, formed
24 Landers-Atkins Planners, Inc., in Jacksonville, for which I served as president until
25 2000. We maintained Landers-Atkins as a relatively small – ranging between 6 and

1 17 persons – planning and landscape architecture firm that maintained a diverse work
2 program. We provided planning services to the cities of Panama City, Destin, Port
3 St. Joe, Chattahoochee, and Jacksonville as well as Monroe County. We provide
4 urban redevelopment planning services for Palm Beach County and Collier County,
5 and the Cities of Jacksonville, Key West, and Keystone Heights. We also served
6 numerous private development clients in the preparation of master plans, sites plans
7 and the pursuit of approvals for a variety of mixed-use and single use projects. This
8 work included preparation of a large number of DRI applications and the
9 management of the local governmental review and approval process. Many of the
10 projects included amendments to local government comprehensive plans. Major
11 clients included: St. Joe Company; Summer Beach, Ltd.; Florida East Coast Railway
12 Company; Rayland Company/Rayonier; Truman Annex Company; Collins Company;
13 Union Camp Corporation; Gilman Paper Company; Deal Properties; among others.

14 In working for the private property and development sector, I have had the
15 opportunity of working on projects involving rather large land parcels. For the St.
16 Joe Company, I assisted in the preparation of a strategic plan for the entire land
17 ownership – in excess of 1,000,000 acres – in the Panhandle of Florida. I also
18 assisted St. Joe in the planning of an 8,000 acre property in Leon County and a 3,500
19 acre property in St. Johns County. I assisted Rayland Company/Rayonier with
20 planning studies on a property of over 8,000 acres in Nassau County and a property
21 of over 20,000 acres in St. Johns County. Both involved advice on comprehensive
22 plan amendments. I prepared a Comprehensive Plan amendment for the Gilman
23 Company on their 7,500 acre White Oak Plantation in Nassau County as well as
24 managed a variety of environmental planning efforts on the property. I provided
25 Expert Testimony services on the East Central Florida Services, Inc., Application for

1 Certification to the PSC involved a property of some 300,000 acres situated in three
2 counties.

3 We also provided DRI-related planning services for the Florida Department of
4 General Services on Service Centers in Tallahassee and Jacksonville. Landers-
5 Atkins provided military facilities planning services to the Navy in Florida, Virginia,
6 Bermuda, Antigua and Sicily; the Air Force in Florida, Mississippi, and Texas; and
7 the Army in Florida, Georgia, and Germany.

8 From May 2000 to March 2003, I was Regional Planning Manager and Senior
9 Planning Consultant with HDR Engineering, Inc. of North Carolina, based in
10 Charlotte. In that capacity I continued to serve some of my established clients in
11 Florida as well as established HDR's Planning program in the Carolinas. I directed
12 land use planning on two mass transit corridors for the City of Charlotte, a
13 Downtown Redevelopment Plan for the City of Florence, SC, the Cape Fear River
14 Corridor Plan and two Neighborhood Redevelopment Plans for the City of
15 Fayetteville, NC, a twelve-mile long US-52 Corridor Redevelopment plan for the
16 City of Winston-Salem, a Small Area Plan on an 8,000 acre study area for the City
17 of Charlotte, the Vance Road Thoroughfare Location Study for the Town of
18 Huntersville, the historic Beatties Ford Road Improvement Study for the Town of
19 Huntersville, Connectivity studies in four neighborhoods for the City of Charlotte,
20 and a Transportation Enhancement Plan for Spartanburg County, South Carolina. As
21 part of my continued involvement with Florida clients, I assisted Rayland
22 Company/Rayonier with planning studies on a property of over 30,000 acres in
23 Nassau County, and WACO Properties on a DRI Master Plan for 1,700 acres in
24 Alachua County.

25 In March of 2003, I commenced practice as an individual planning consultant. In that

1 capacity I assisted the City of Charlotte Department of Transportation in the
2 development of a transportation and land use planning program for the Center City,
3 or downtown area. I also continue to serve established Florida clients including
4 Summer Beach Development Group, Ltd., Bank of America, and Land-Mar
5 Company. I have also continued to assist Rayland Company/Rayonier with planning
6 studies on the 30,000 acre property in Nassau County.

7 Q. Do you hold any professional registrations or certifications?

8 A. I am Certified as an Urban Planner by the American Institute of Certified Planners
9 and am actually a Charter Member of AICP.

10 Q. Are you a member of any other professional organizations?

11 A. Yes. I am a Charter Member of the American Planning Association, an Associate
12 Member of the Urban Land Institute, and an International Associate of the Royal
13 Town Planning Institute of Great Britain.

14 Q. Have you ever testified as an expert before courts, administrative tribunals, or in
15 quasi-judicial venues?

16 A. Yes. I have testified before the Florida Public Service Commission related to a water
17 certification application by East Central Florida Services, Inc. I have served as an
18 expert witness both for and against the Florida Department of Transportation on
19 several eminent domain judicial proceedings. I have served as an expert witness on
20 several Development of Regional Impact (DRI) and comprehensive planning issues
21 in the State of Florida's administrative hearing process. I have testified in quasi-
22 judicial venues before planning commissions, and county and city commissions and
23 councils on numerous rezoning, DRI and comprehensive plan amendment cases

24 Q. Are you familiar with Chapter 163.3161, Florida Statutes, known as the "Local
25 Government Comprehensive Planning and Land Development Regulation Act"?

1 A. Yes, I am.

2 Q. Are you familiar with Chapter 9J-5, Florida Administrative Code, Rules of the
3 Department of Community Affairs, known as “Minimum Criteria for Review of
4 Local Government Comprehensive Plans and Determination of Compliance”?

5 A. Yes, I am.

6 Q. Have you reviewed the direct testimony which has been submitted in this case by Mr.
7 Mel Scott, Director of Planning and Zoning of the Brevard County Community
8 Development Group?

9 Q. Have you reviewed the direct testimony which has been submitted in this case by Mr.
10 Mel Scott, Director of Planning and Zoning of the Brevard County Community
11 Development Group?

12 A. Yes, I have.

13 Q. Have you also reviewed the elements, goals and policies of the Comprehensive Plan
14 for Brevard County as referred to by Mr. Scott?

15 A. Yes, I have reviewed all of Chapter 11 – Future Land Use Element of which Mr.
16 Scott provided portions in his exhibits, and the Glossary as provided in Mr. Scott’s
17 exhibits.

18 Q. Have you reviewed any other planning related policies of the Brevard County that
19 may affect your opinions on Mr. Scott’s testimony?

20 A. Yes, I have also reviewed additional chapters of the Comprehensive Plan including:
21 1 – Conservation Element, 2 – Surface Water Management Element, 3 – Recreation
22 and Open Space Element, 6 – Potable Water Element, 7 – Sanitary Sewer Element,
23 8 – Solid Waste Management Element, and 13 Capital Improvements Element.
24 Additionally, I have reviewed Brevard County’s Land Development Regulations
25 (Chapter 62 of the Code of Ordinances), as well as the County’s recent ordinance

1 “Creating a Special Water and Sewer district within the Unincorporated Area of
2 Brevard County”, as discussed earlier.

3 Q. What is your opinion concerning Mr. Scott’s testimony that the application filed by
4 Farmton for a water service territory and certificate is in conflict with the
5 comprehensive plan of Brevard County?

6 A. Mr. Scott expresses his opinion based on several aspects of the comprehensive plan.

7 Q. And what would those aspects be?

8 A. They are listed beginning at the bottom of page 4 of his testimony as: 1. Farmton has
9 not applied for approval by the County Commission of a water “district” with
10 specific reference to Policy 3.4 of the Potable Water Element of the Plan; 2.
11 Farmton’s lands are all designated for “Agricultural” use on the Future Land Use
12 Map component of the Plan; and 3. with specific reference to Objective 4 of the
13 Future Land Use Element of the Plan, the County seeks to preserve Agricultural uses
14 that work to reduce the extent of urban sprawl. In my opinion, Mr. Scott’s assertions
15 are based on a rather simplistic interpretation of the plan or by references to very
16 specific plan policies without considering the plan as a whole.

17 Q. Before we address the three specific items, what do you mean by your last statement
18 concerning consideration of the plan as a whole?

19 A. Mr. Scott bases his opinion on three very specific policies and upon limited
20 application of those policies. The Brevard County comprehensive Plan, as with all
21 plans prepared pursuant to Chapter 163, F.S., is very complex and must be
22 considered in its entirety. Mr. Scott’s testimony approaches the planning process as
23 though the purpose of planning is to tell a land owner or developer what they should
24 or should not do. In my opinion, the Plan and planning process sets forth a
25 framework within which a property owner or developer can use a property following

1 established guidelines and by showing that their land use and development proposals
2 meet reasonable requirements. I believe that I can demonstrate this point clearly by
3 my response to Mr. Scott's assertion that the "Agricultural" land use designation on
4 Farmton's property restrains development that could be supported by a central water
5 service. So I would like to elaborate on my statement about the general nature of
6 Mr. Scott's testimony in that context.

7 Q. O.K., you indicated that Mr. Scott listed three specific issues on page 4 of his
8 testimony. If we can go through those sequentially, what is your opinion concerning
9 Mr. Scott's reference to Policy 3.4 of the Potable Water Element of the Plan?

10 A. There are multiple points to support my opinion:

11 First, Florida's Planning Statute, Chapter 163 Part II, does not enable local
12 governments to regulate private utility certificated service areas through the
13 comprehensive planning process. In fact, Chapter 163, at 163.3211, Conflict with
14 other Statutes, specifically provides that: "Nothing in this act is intended to withdraw
15 or diminish any legal powers or responsibilities of state agencies or change any
16 requirement of existing law that local regulations comply with state standards or
17 rules." In other words, the Comprehensive Planning process does not and cannot
18 supercede the authority of the PSC to regulate private utility certificated territories.
19 Upon approval by the PSC, Farmton will follow other steps as may be required by
20 Brevard County through its Comprehensive Plan and other regulations.

21 Second, and directly related to the first point, Farmton is proceeding in proper order
22 as required by Florida Statutes. An "Application for Original Water Certificate" with
23 the PSC has been filed and all affected jurisdictions have been notified of the
24 Application. This is the first step in a process that is established by Florida law.
25 Policy 3.4 actually states:

1 “Newly proposed service areas, expanding restricted
2 service areas, or Public Service Commission (PSC)
3 regulated service areas shall be reviewed and approved by
4 Brevard County and applicable agencies.”

5 Farnton has actually given Brevard County (and other affected jurisdictions) notice
6 of its application to the PSC and Brevard County is at the table in proper order in this
7 proceeding.

8 Third, the creation of a regulated water utility and designation of its certificated
9 territory by the PSC is not a land use or development subject to comprehensive plan
10 regulation under Chapter 163, F.S., and does not in and of itself stimulate
11 development. This point will be expanded further in my discussion of the “urban
12 sprawl” issue. In addition, the East Central Florida Services, Inc., PSC certification
13 that I referred to earlier in the review of my experience is an example of this last
14 point, which I shall also expand upon in my discussion in response to Mr. Scott’s
15 “urban sprawl” item.

16 Fourth, the policy that follows 3.4 in the Potable Water Element upon which Mr.
17 Scott bases his opinion, Policy 3.5, appears to provide and support the ability for land
18 owners or other entities to establish “private” water service areas outside of
19 established service areas. It reads in part:

20 “Potable water facilities and services intended to serve
21 future development needs that are not located in the 0-20
22 year future potable water service area (see Map1) shall not
23 be permitted or provided **unless** the potable water service
24 area is amended to the Potable Water Element of the
25 Comprehensive Plan **or a non-governmental entity is**

1 **the provider** of the potable water facilities, so long as the
2 private potable water service is consistent with the
3 Brevard County Comprehensive Plan.” (emphases added)

4 In my opinion, this clearly anticipates the need for water service territories outside
5 of established service areas and provides a policy basis for the creation of territories
6 such as Farmton is requesting. The County’s policy on water service areas is further
7 complicated by Criteria B of Policy 4.1 of the Future Land Use Element that defines
8 the “agricultural” land use designation. 4.1 does not permit the County to extend
9 services into agricultural areas, but provides that:

10 “the County will accept facilities through dedication, and provide
11 services and utilities through MSBU’s, MSTU’s and **other means**
12 through which the recipients pay for the service or facility.”
13 (emphasis added)

14 This policy does not prohibit others from establishing districts; in fact, it actually
15 establishes a mechanism through which they can do so. Also, “other means” is a
16 very broad and inclusive term that could encompass a private water service territory
17 such as that sought by Farmton. It is my opinion that there may be some
18 inconsistency among these various policies found in various sections of the Plan.
19 However, they appear to provide support for establishment of water service territories
20 rather than absolutely prohibiting them.

21 Q. As a related item, you indicated that you have reviewed Brevard County’s recent
22 ordinance “Creating a Special Water and Sewer district within the Unincorporated
23 Area of Brevard County”.

24 A. Yes I have.

25 Q. Does that ordinance have any potential bearing on Mr. Scott’s opinion reliance on or

1 reference to Policy 3.4 of the Potable Water Element of the Plan on the application
2 filed by Farmton for a water certificate, as it relates to the question of the
3 Commission’s obligation to consider whether a proposed territory is consistent with
4 the Comprehensive Plan of Brevard County?

5 A. I believe that it very well may. First, Section 7 of the Ordinance “declares that the
6 creation of the District . . . (is) . . . consistent with the County’s approved
7 comprehensive plan and all elements thereof.” In my opinion, IF the County has
8 affirmed or affirms that the creation of a District that encompasses all of the
9 unincorporated portions of the county, including Farmton’s lands, is consistent with
10 the comprehensive plan, how can the County in turn argue that the creation of an
11 analogous territory by Farmton is inconsistent with the plan? The lands within the
12 County’s newly created district are subject to all the same restraints of future land use
13 map designation, other comprehensive plan elements, wetlands, floodplains, aquifer
14 recharge areas, etc. on which the objectors based their original arguments, and on
15 which Mr. Scott bases his current arguments, against Farmton.

16 Second, Section 4, Paragraph 10, of the Ordinance states that: “the District may grant
17 consent to the construction or expansion of any water or sewer system which is to
18 provide domestic or industrial service to customers.” While Farmton maintains that
19 the PSC has ultimate jurisdiction over the granting of a water service territory, it is
20 very interesting to me that the County has acknowledged that other “systems” can be
21 approved to operate in the unincorporated portions of the County. That language
22 would appear to establish basic grounds for Farmton (as well as anyone else) to
23 establish a water service territory.

24 Q. The next item in Mr. Scott’s opinion that you mentioned was the designation of
25 Farmton’s land for “Agricultural” use on the Future Land Use Map component of the

1 Comprehensive Plan. What is your opinion on the relationship of Farmton’s request
2 for certification of a territory and the designation of Farmton’s land as
3 “Agricultural”?

4 A. In my opinion, the “Agricultural” designation and related policies are not as simple
5 as Mr. Scott implies and there are opportunities within the “Agricultural” designation
6 for a property owner or developer to engage in development that would be
7 appropriately supported by, if not actually require, a central potable water system.
8 Therefore, it is my opinion that Farmton’s request is consistent with those provisions
9 of the Brevard County Comprehensive Plan. As I stated earlier, this point is also
10 directly related to my opinion that the Plan and planning process sets forth a
11 framework within which a property owner or developer can use their property
12 following established guidelines and by showing that their land use and development
13 proposals meet reasonable requirements.

14 Again, I believe that there are multiple points to support my opinion:

15 First, as I also stated on the item related to the Potable Water Element, the
16 establishment of a water service territory, in and of itself, is neither a land use nor
17 development as defined by Florida’s planning statutes and rules. Nor is such a water
18 service territory a “land use” that is covered by the “agricultural” land use category
19 of Brevard’s Plan.

20 Second, there are provisions in Brevard County’s land use policies related to land
21 designated as “agricultural” through which development that would require or greatly
22 benefit from central water service can be pursued and potentially implemented.
23 While the Comprehensive Plan, at Policy 4.1 (p.XI-32), simply states as the primary
24 land use criteria that, “Residential densities shall not exceed one dwelling unit per
25 five (5) acres”, the uses that are permitted on land designated as “Agricultural” are

1 not nearly as restricted as Mr. Scott appears to portray. The use of the County's Land
2 Development Regulations (LDR's) as the primary land use implementation tool in
3 the Comprehensive Plan and the provision in the Plan of a linkage to the LDR's, as
4 required by State Statute, provides far greater potential for development on
5 "Agricultural" lands than one residential unit per five acres. In fact, as I will
6 demonstrate, the possibilities for undertaking development that would benefit from,
7 even require, a potable water system are extensive, and, as a result, the provision of
8 information to support this opinion is rather lengthy. The linkage begins in the
9 Objective 13 - Future Land Use Element with Land Development Regulations, Policy
10 13.3 - Regulations for Zoning Classifications to be Consistent with the Future Land
11 Use Map (p, XI-57). Policy 13.3 reads:

12 "The LDR's shall designate adequate zoning classifications
13 for the location of residential and non-residential development
14 activities which implement the Future Land Use Element,
15 Housing Element, and Future Land Use Map."

16 The linkage is appropriately reflected in the Land Development Regulations:
17 Chapter 62 Code of Ordinances, Nov. 12, 2002, with Article VI: Zoning Regulations;
18 Sec 62-1255 - Establishment of zoning classifications and consistency with
19 comprehensive plan. In that Article, Paragraph (b), "Consistency of zoning
20 classifications with comprehensive plan" states that zoning classifications depicted
21 on the zoning map shall be consistent with 1988 future land use designations on the
22 FLUM. Sections or sub-paragraphs (b)(2) "Consistency with future land use map"
23 and (b)(3) "Consistency with future land use and residential density guideline maps"
24 both contain the following reference:

25 "The following table depicts where the various zoning

1 classifications can be considered based upon the geographic
2 delineation of future land use on the future land use map and
3 locational criteria defined in the policies of the future land use
4 element of the 1988 county comprehensive plan.”

5 The Table is titled “Exhibit A. Consistency of Zoning Classifications With Future
6 Land Use Map Series” Exhibit A (which is provided as Exhibit HML - 2) is a table
7 that lists Land Use Designations across the top and Zoning Classifications down the
8 left side. The cells of the table are arrayed to use a “Y” for “Yes” or “N” for “No”
9 to indicate the relationship between the two documents. In the table the following
10 zoning classifications are consistent with the Agricultural Land Use Designation:

11 GU = General Use. Permitted uses: Single-family detached residential dwellings,
12 Parks and public recreation facilities, Private golf courses, Private recreational
13 facilities, Foster homes. Conditional uses that are provided include Adult congregate
14 living facility and Private heliports, among others. Minimum lot size is specified as
15 5 acres, with a minimum width of 300’ and depth of 300’.

16 PA = Productive Agriculture; Permitted uses: Mobile home residential unit, one
17 single-family dwelling unit, Tenant dwellings (for 40+acre ownership, one tenant
18 dwelling per 5 acres, not to exceed 10 total), All agricultural pursuits including
19 roadside stands, Raising animals, etc, Churches, Group homes (subject to 62.1835.9),
20 Nurseries and horticultural pursuits, Parks and public recreational facilities, Pet
21 kennels. Conditional uses that are provided include Citrus packing, Dude ranches,
22 Farmer’s markets, Guest houses or servants’ quarters without kitchens, Private
23 heliports, Tenant dwellings exceeding 10 in number, Transfer of development rights,
24 Vet hospital, clinic and related offices, among others. Minimum lot size is
25 specified as 5 acres, with a minimum width of 300’ and depth of 300’.

1 AGR = Agriculture; Permitted uses: Single-family detached residential dwellings,
2 Mobile home residential dwelling, Tenant dwellings (for 20+acre ownership, one
3 tenant dwelling per 5 acres, not to exceed 10 total), Agricultural pursuits including
4 packing and process of commodities raised on the premises and roadside stands,
5 Raising and grazing of animals, Bed and Breakfast inns, Churches, Dude ranches
6 (minimum 40 acres), Landscaping businesses, Parks and public recreation facilities,
7 Pet kennels, Plant nurseries and sale on premises, Group homes (subject to
8 62.1835.9), Private golf courses, Fish camps, Foster homes. Permitted uses with
9 conditions - Crematoriums, Power substations-telephone exchanges-transmission
10 facilities, Private clubs, Private playgrounds. Tenant Dwellings-Mobile homes;
11 Conditional uses that are provided include Adult congregate living facilities, Athletic
12 fields and stadiums (private), Drive-in theaters, Guest houses or servants' quarters
13 without kitchens, Parking of recreational vehicles accessory to fish camps Private and
14 public clubs, Private heliport, Skateboard ramps, Transfer of development rights,
15 Veterinarian hospital, office or clinic, Zoological parks. Minimum lot size is
16 specified as 5 acres, with a minimum width of 200' and depth of 300'.

17 RRMH-5 = Rural Residential Mobile Home; "encompass land devoted to single-
18 family mobile home development of spacious character, together with accessory uses
19 as may be necessary or are normally compatible with residential surroundings and at
20 the same time permit agricultural uses which are conducted in such a way as to
21 minimize possible incompatibility to residential development" Permitted uses: One
22 single-family mobile home or detached dwelling unit, Parks and public recreational
23 facilities, Private golf courses, **Sewer lift stations** (emphasis added), Foster homes,
24 Group homes (subject to 62.1835.9). Permitted uses with conditions (not all): Power
25 and telephone exchanges and transmission facilities, Private parks, Private

1 playgrounds. Conditional uses that are provided include Churches, Guesthouses or
2 servants' quarters without kitchens, Residential/recreational marina, Minimum lot
3 size is specified as 5 acres, with a minimum width of 300' and depth of 300'.

4 RVP = Recreational Vehicle Park. Permitted uses: Spaces or lots in RVP used of
5 RV, automotive vehicles, tents or other shortterm housing devices, or park trailers,
6 or cabins. Cabins or park trailers shall not be > 20% of spaces or > 1000sf; Non-
7 recreational services and admin buildings, Parks and public recreational facilities.

8 Permitted uses with conditions (not all): Convenience store as accessory to RVP,
9 Recreational vehicle destination park (per 62-1841.5 = Recreational vehicle park

10 destination resort = large scale, low density RV park oriented to the longterm
11 permanent or parttime seasonal resident...resort home may comprise up to 50%..may

12 be considered as permanent residence i.e. greater than 180 days. Site planning criteria
13 include a minimum lot of 100 acres, a maximum density of 5 sites per acre, and a
14 minimum lot size of 4,000sf. Conditional uses that are provided include

15 Residential/recreational marina

16 EA = Environmental Areas. "Purpose is to conserve natural resource functions and
17 features by retaining lands and waters in their pristine character and condition, but

18 permit uses which are compatible with or which shall restore the functions and
19 features of such natural resources. Permitted uses: Group homes, Single family

20 detached residential unit, Passive recreation. Conditional uses that are provided
21 include Development rights transfer... Minimum lot size is specified as 10 acres,

22 with a minimum width of 125' and depth of 125'.

23 Clearly, there are several uses allowed in these specific zoning Classifications that
24 present significant opportunities to pursue development that would benefit from or

25 require a central potable water system. To summarize uses that I see that could easily

1 merit central water service: Parks and public recreation facilities; Private golf
2 courses; Private recreational facilities (such as hunt clubs which already exist on
3 Farmton's property); Adult congregate living facility; Private heliports; Churches;
4 Group homes; Nurseries and horticultural pursuits; Citrus packing; Dude ranches;
5 Farmer's markets; Veterinarian hospital, clinic and related offices; Agricultural
6 pursuits including packing and processing of commodities raised on premises; Bed
7 and breakfast inns; Pet kennels; Crematoriums; Private clubs; Private playgrounds;
8 Athletic fields and stadiums; Drive-in theaters; Sewer lift stations (why would sewer
9 lift stations be allowed if water systems were not contemplated?); Recreational
10 vehicle destination parks; and Recreational vehicle park destination resort. I hope
11 that I neither missed or repeated any contained in these several classifications.

12 In addition to these Zoning classifications that are more specific in nature, the Table
13 also indicates that the Planned Unit Development (PUD) and Residential Planned
14 Unit Development (RPUD) classifications which are much more flexible in nature
15 and are intended to support creative mixed-use developments are also permissible in
16 areas designated as "Agricultural" on the Future Land Use Map. These
17 Classifications present significant opportunities to pursue development that would
18 benefit from or require a central potable water system. In summary, the PUD and
19 RPUD classifications are structured as follows:

20 PUD = Planned Unit Development. At the beginning of this provision, a reference
21 is made to the fact that PUD's are encouraged by State law; I will come back to this
22 reference in the discussion on Mr. Scott's opinion on sprawl. The LDR provisions
23 are lengthy but contain the following Definitional elements. While the focus of the
24 PUD provisions is on residential uses, additional uses are allowed as provided in Sec.
25 62-1441.PUD:

1 “PUD means an area of land developed as a single entity or
2 in approved stages in conformity with a final development
3 plan by a developer or group of developers acting jointly,
4 which is totally planned to provide a variety of residential
5 and compatible uses and common open space.”

6 And, as also provided in Sec. 62-1442 – Purpose and intent, as follows:

7 “the PUD is a concept that encourages and permits variation
8 in development by allowing deviation in the lot size ... etc
9 ... from that required in any one residential zoning
10 classification... The purpose of the PUD is to encourage the
11 development of planned residential neighborhoods and
12 communities that provide a full range of residence types as
13 well as industrial, commercial, and institutional land uses.
14 It is recognized that only through ingenuity, imagination and
15 flexibility can residential developments be produced which
16 are in keeping with the intent of this subdivision while
17 departing from the strict application of conventional use and
18 dimension....”

19 And, as further provided under Permitted uses: 62-1443

20 “...designed to allow an applicant to submit a proposal for
21 consideration, for **any use or mixture of uses**. ...
22 However, no nonresidential land uses shall be permitted
23 within the PUD unless .. criteria are met. .. internal...
24 accessory .. etc. It appears that BU-1 (General Retail
25 Commercial – pretty broad) uses are permitted – others need

1 to be specifically listed ... Parks and recreational facilities,
2 Group Homes (subject to 62-1835.9) (Emphasis added)

3 Furthermore Conditional uses can include essentially any use approved as part of
4 plan. A minimum lot size is established at 10 acres, with the maximum density
5 permitted, "As approved by Board of County Commissioners". Minimum
6 recreation and open space is established at 1.5 acres per 100 dwelling units. The
7 PUD provisions contain extensive planning and review procedures that are not
8 uncommon for the several PUD regulations that I have worked within in other
9 jurisdictions. I see nothing in these provisions that is contrary to the listing in Exhibit
10 A that it can be used in the "Agricultural" Future Land Use designation

11 RPUD = Residential Planned Unit Development. Purpose and intent:

12 "the RPUD is a concept that encourages and permits
13 variation in development by allowing deviation in the lot
14 size ... etc ... from that required in any one residential
15 zoning classification... The purpose of the PUD is to
16 encourage the development of planned residential
17 neighborhoods and communities that are below the state and
18 local level DRI (F.S. Chapter 380) threshold requirements
19 and provide a full range of residence types as well as
20 industrial, commercial, and institutional land uses. It is
21 recognized that only through ingenuity, imagination and
22 flexibility can residential developments be produced which
23 are in keeping with the intent of this subdivision while
24 departing from the strict application of conventional use and
25 dimension..."

1 Furthermore, the PUD provisions provide for the use of Transfer of Development
2 Rights: 62-1453 “Where a developer owns more than one tract or parcel of land
3 within the unincorporated area of the county, and each such tract or parcel meets the
4 minimum size require of 10 acres, the uses permitted in a PUD may be transferred
5 from one tract or parcel of land to the other tract or tracts provided the following
6 conditions are met:

- 7 1. justifiable in enhancing use or nonuse of land in the public interest
- 8 2. close proximity between the tracts
- 9 3. uses of each tract must complement and be an integral part of the
10 development of the other tracts of land
- 11 4. shall not increase overall permitted density for the total acreage transfers are
12 binding conditions on land
- 13 5. transfer of motel only to tract of min of 20 acres

14 I believe that it is also important to recognize that the transfer of density and
15 clustering of uses from one portion of a property to another results in the preservation
16 of agricultural and forestry lands and environmentally sensitive lands, a clear
17 objective of such land use regulations. If Farnton were to develop concentrated
18 community areas under these provisions, the company could still have a majority of
19 it lands under various agricultural, silvicultural and natural area uses. As is currently
20 the case, fire protection would continue to be an essential need in these areas. A
21 water service territory would enhance the ability of the company to protect its lands.
22 Again, I recognize that this is rather lengthy. However, it is very important to
23 understand that the “Agricultural” designation of the Brevard County Comprehensive
24 Plan is not as restrictive as Mr. Scott suggests through the use of limited quotations
25 of the land use policy containing references to agricultural uses and single-family

1 residential uses on five-acre lots.

2 Third, as Mr. Scott suggests in his testimony, the land use plan can be amended to
3 allow other uses than those currently allowed on any property. This reference
4 identifies a right that all land owners have under Florida's Growth Management
5 statutes and rules, the right to seek an amendment to the Comprehensive Plan. There
6 are at least three separate vehicles through which Farmton could seek an amendment
7 to the Brevard County Comprehensive Plan: 1. The County is required to establish
8 two comprehensive plan amendment cycles per year in which it will receive and
9 consider requests for property owners for amendments to the plan as it applies to
10 their lands; 2. The Development of Regional Impact (DRI) provisions of Chapter
11 380.06 Florida Statutes provide that an owner or developer can apply for approval
12 of a DRI-scaled project and a simultaneous amendment to the comprehensive plan
13 that makes the uses proposed in the DRI consistent with the plan at any time during
14 the year; 3. The County is required by Chapter 163 F.S. to amend its comprehensive
15 plan at least every five years and that process provides an opportunity for property
16 owners to seek changes in the land use designations applicable to their property.
17 Thus, recognizing that the Comprehensive Plan is not a static regulation but rather
18 a dynamic one and that clear opportunities are provided for Farmton to seek
19 amendments to the Comprehensive Plan's Future Land Use Map, the establishment
20 of a certificated territory is a prudent property management strategy to maintain long-
21 term flexibility for the owner of such a large tract of land.

22 Q. The third item you mentioned in relation to Mr. Scott's opinion was the issue of
23 urban sprawl. What is your opinion on this position or the role of the County's
24 Comprehensive Plan in this area?

25 A. It is my opinion that designation of a water services territory will not in and of itself

1 generate sprawl and that the Brevard Plan contains numerous anti-sprawl policies,
2 as required by Chapter 163, F.S. Once again, I believe that there are multiple points
3 to support my opinion:

4 First, the provisions that I cited earlier concerning the uses permitted under the
5 “Agricultural” land use designation of the Brevard Comprehensive Plan are
6 specifically responsive to state rules related to the prevention of urban sprawl and,
7 as stated earlier, indicate that development can occur on Farmton’s land under the
8 “Agricultural” land use designation consistent with the Comprehensive Plan and that
9 such development would not constitute or generate sprawl. As Mr. Scott even stated,
10 the provisions of the “Agricultural” land use category contain language specifically
11 addressing sprawl. The provisions that I referred to on the linkage between the
12 Future Land Use Element and the zoning provisions of the LDR’s are deeper than the
13 simple policy statement on “maintaining agricultural lands as a means of managing
14 sprawl.” As an example, the planned unit development (PUD) and transfer of
15 development rights (TDR) provisions that I referred to are specifically encouraged
16 by state statute and rules. In fact, Subdivision (Sub-section) V, Planned Unit
17 Developments of the County’s LDR’s commences with this statement: “State Law
18 Reference: Planned unit developments encouraged, F.S. 163.3202(3)”. That section
19 of Chapter 163 “encourages the use of innovative land use regulations” and lists both
20 PUD’s and TDR’s as examples of such innovative regulations. Rule 9J-5 goes
21 further in relation to the sprawl question at 9J-5.006(5)(e) which refers on to (5)(j)
22 as describing development controls which may be used by local governments to
23 mitigate the presence of urban sprawl. Paragraph (5)(j) states that: “The following
24 development controls to the extent they are included in the comp plan will be
25 evaluated to determine how they discourage urban sprawl”. It goes on to list at

1 (5)(j)9. Transfer of development rights, and at (5)(j)11. Planned unit development
2 requirements. The State encourages TDR and PUD. The Brevard plan is in
3 compliance with 163 and 9J-5 implying that PUD's and TDR's have been accepted
4 by DCA as anti-sprawl tools. As I stated earlier, PUD and TDR are zoning
5 categories or tools that are consistent with Brevard's "Agricultural" future land use
6 designation. Therefore, development on Farmton's land through the use of the PUD,
7 RPUD and TDR provisions would not cause sprawl and would, in fact, be consistent
8 with the Comprehensive Plan.

9 Second, as I stated before on the "Agricultural" land use designation item, a
10 certificated territory is not development and can hardly in and of itself stimulate or
11 support development. It does provide one tool through which Farmton can assure its
12 long-term alternatives for the use of this significant, very large land ownership. Even
13 the installation of wells and transmission pipes are not adequate to support urban
14 development and, therefore, to generate urban sprawl. The City of Titusville is
15 proposing to do this very thing on Farmton's property and the County has not
16 attacked that development as being inconsistent with its Comprehensive Plan or as
17 generating urban sprawl. Also, to cite a very direct analogy, electricity is readily
18 available everywhere with no regulation by the County on where the electrical utility
19 can run its lines. In fact electricity has far greater potential to stimulate development
20 (and urban sprawl) by virtue of the fact that electricity will operate any size of small
21 water system to support development of other uses. Development has not and does
22 not occur everywhere electricity is available in large part because the County's other
23 growth management tools are in place and are working.

24 Third, the fact that the "Agricultural" land use designation permits the development
25 of one residential unit per five acres is, in my opinion, a policy under which the very

1 worst type of sprawl can occur and is occurring throughout Florida. The ability of
2 land owners to sell lots of five, ten, twenty or more acres for the development of
3 single-family houses opens the door for development to sprawl out over very large
4 areas that are extremely difficult and expensive for the public to serve with fire,
5 emergency medical, garbage, school transportation, and other essential services.
6 Take the Farmton tract itself: with approximately 10,100 acres designated for
7 “Agricultural” use, it is theoretically possible for the development of single-family
8 houses to occur on 2,020 five-acre lots. That is a lot of sprawl. And, as stated
9 earlier, the ease with which electricity can be obtained will enable such single-family
10 units to be constructed with small wells and septic disposal systems. While
11 Objective 4 of the Future Land Use Element says that the “County recognizes the
12 importance of agricultural lands ... as the industry (use) ... reduces ... the costs of
13 providing public facilities and services...” (Page XI-32), development of this type at
14 any significant magnitude is very inefficient for the public to serve. All too
15 commonly, this type of large-lot development is developed with mobile homes which
16 produce further tax revenue problems for the public.

17 Fourth, as discussed above, Mr. Scott suggests in his testimony the future land use
18 plan can be amended to allow other uses than those currently allowed on any
19 property. A properly pursued and approved amendment to the future land use map
20 would not constitute sprawl.

21 Q. In your recitation of your qualifications and professional experience, you mentioned
22 that you served as an expert witness on comprehensive planning for the East Central
23 Florida Services, Inc., application to the PSC and that that service area encompassed
24 some 300,000 acres. Was the potential for the issuance of that Certificate to create
25 urban sprawl raised in that Proceeding?

1 A. Yes it was. Quite prominently.

2 Q. Since the PSC approved that Certificate are you aware of any sprawling development
3 occurring on the property within ECFS's service territory?

4 A. While I have not had any subsequent involvement with ECFS, Gerald Hartman, who
5 has served as a consulting hydrologist to ECFS since the late 1980's, has written a
6 paper entitled "FPSC Certification Public Interest Example : East Central Florida
7 services, Inc." , January 30, 2004 (Exhibit HML - 3). On page 5 of that paper, Mr.
8 Hartman states "There have been no developments or other activities that have
9 conflicted with either the Brevard County or City of Cocoa comprehensive plans after
10 over a decade of operations." On pages 3 and 4, he refers to additional new
11 customers that include: hunt clubs, single-family houses, church facilities,
12 telecommunications customers, Osceola County Fire Station, and a power plant.
13 Neither those uses nor the quantity of new customers appear to indicate that
14 sprawling development has resulted from the grant of the Certification by FPSC. In
15 noting that one of the uses that has been developed is a fire station, I refer back to my
16 earlier statement on the ability of the proposed utility to support fire protection. We
17 only need to recall some of the fires that have raged through rural areas of Florida in
18 recent years to be aware of this important function of water service.

19 Q. Have you reviewed the direct testimony which has been submitted in this case by Mr.
20 Richard H. Martens, Director of Water resources for Brevard County?

21 A. Yes, I have to the extent it relates to the question of consistency with the
22 Comprehensive Plan and the elements of the Plan that I reviewed in relation to Mr.
23 Marten's testimony.

24 Q. What reference to the Comprehensive plan does Mr. Martens make in his testimony?

25 A. He refers to Policy 3.4 of the Potable Water Element, with the same claim that Mr.

1 Scott makes in his testimony. My response to Mr. Marten's position is the same as
2 made in my rebuttal of Mr. Scott's position on Policy 3.4. He also references Policy
3 3.5 as defining actions that the County would have to undertake in order to expand
4 its North Brevard County Water System. Again, as I stated in my rebuttal of Mr.
5 Scott's testimony, that policy contains a second part that enables a non-governmental
6 entity to be a provider. Therefore, Mr. Marten's implied position that the only way
7 to provide service is through the expansion of the North Brevard County Water
8 System seems to ignore this second part of Policy 3.5.

9 Q. Have you reviewed the direct testimony which has been submitted in this case by Mr.
10 John Thomson, Planner III, County of Volusia Growth Management Department?

11 A. Yes, I have.

12 Q. Have you also reviewed the elements, goals and policies of the Comprehensive Plan
13 for Volusia County as referred to by Mr. Thomson?

14 A. Yes, I have reviewed the Chapter 1 – Future Land Use Element, Chapter 7 – Potable
15 Water Sub-Element, and Chapter 10 – Natural Groundwater and Aquifer Recharge
16 Element in their entirety, and the portions of Chapter 14 – Intergovernmental
17 Coordination Element and Chapter 15 – Capital Improvements Element as provided
18 in Mr. Thomson's exhibits.

19 Q. Have you reviewed any other planning related policies of the Volusia County that
20 may have a bearing on Mr. Thomson's testimony?

21 A. Yes, I have also reviewed the Introduction to the Comprehensive Plan, Chapter 6
22 –Sanitary Sewer Sub-Element, Chapter 8 – Drainage Sub-Element, Chapter 11 –
23 Coastal Management Element, Chapter 12 – Conservation Element, Chapter 20 –
24 Definitions, Chapter 21 – Administration and Interpretation. I also reviewed the
25 Volusia County Land Development Code.

1 Q. What is your opinion concerning Mr. Thomson's opinion that the application filed
2 by Farmton is in conflict with the land use provisions of the comprehensive plan of
3 Volusia County?

4 A. Mr. Thomson states that the Future Land Use Categories covering the Farmton
5 properties do not include any urban uses, and focuses his references in the Future
6 Land Use element and his conclusions on a limited portion of the element. It is my
7 opinion that the future land use element is not as restrictive as Mr. Thomason claims
8 and that significant uses that would benefit from central water services are permitted
9 under the plan. His testimony is very general and basically relies on 1. an assertion
10 that the Future Land Use Map provides appropriate levels of land for urban
11 development and 2. attachment of the Land Use Element Policies 12.2.1.1 and
12 12.2.1.2 which define land use designations {the three are contained under a section
13 heading of Natural Resource Management Areas (NMRA) and include the
14 designations of Environmental System Corridor (ECS), Forestry Resource (FR), and
15 Agricultural Resource (AR)} that cover the Farmton territory in Volusia County. He
16 also links these designations to a limitation on the extension of urban services and
17 the prevention of sprawl. This focus on the basic policy statements related to the
18 ECS, FR and AR designations stops far short of describing what the full provisions
19 of the Future Land Use Element are as they apply to such a large property as
20 Farmton.

21 First, the provisions of the Environmental System Corridor (ESC), Forestry Resource
22 (FR) and Agricultural Resource (AR) categories of the land use element do not
23 prohibit the establishment of a water service territory as regulated by the Public
24 Service Commission.

25 Second, as I stated in my response to Mr. Scott's testimony, the establishment of a

1 water service territory is not, in and of itself, a “land use” or “development” as
2 defined by the Volusia County Comprehensive Plan or State Statute.

3 Third, the provisions related to the Future Land Use Categories cited by Mr.
4 Thomson are not as simplistic as limiting use to a residential density not to exceed
5 1 dwelling unit per 25 acres in the Environmental System Corridor (ESC) category,
6 a density not to exceed 1 per 20 acres in the Forestry Resource (FR) category, and a
7 density not to exceed 1 per 10 acres in the Agricultural Resource (AR) category.
8 When applied to the proposed Farmton territory, these low-density designations alone
9 permit the development of a very significant number of residential units, as follows:

	Farmton	Allowable	Allowable
<u>Designation</u>	<u>Land Area</u>	<u>Density</u>	<u>Units</u>
ESC	19,325 ac	1 du / 25ac	773
FR	21,148 ac	1 du / 20ac	1,057
<u>AR</u>	<u>2,342 ac</u>	<u>1 du / 10ac</u>	<u>234</u>

15 Total residential units allowed on Farmton = 2,064

16 In the same section of the of the Future Land Use Element, B. Future Land Use
17 Categories, sub-section 17 Planned Unit Developments, provides for the use of
18 Planned Unit Developments (PUD) within all land use designations in the Plan. The
19 second paragraph of sub-section 17 states: “New PUD’s, from the time of the
20 effective date of the Comprehensive Plan, must be consistent with the Future Land
21 Use Designations.” The third paragraph of sub-section 17 states: “The overall density
22 of a PUD s determined by totaling the acreage under each land us designation. This
23 overall density may not be exceeded.” Thus, Farmton could develop a PUD totaling
24 2,064 residential units at some location on its property, or multiple PUD’s totaling
25 2,064 units.

1 The next sub- section, 18 Future Land Use/Zoning Matrix (provided as Exhibit HML
2 – 4), “shows each Future Land Use Category with corresponding zoning
3 classifications.” The matrix clearly shows that RPUD (Residential PUD) is
4 consistent with the ESC, FR and AR land use categories.

5 In referring to the Zoning Code (County of Volusia Code, 1996), Article VII,
6 Establishment of Classifications, establishes the conditions of PUD Planned Unit
7 Development beginning on page CDB:94. The opening Purpose and Intent statement
8 reads, in part:

9 “The purpose and intent of the PUD Planned Unit
10 Development Classification is to provide for integrated
11 developments, which are consistent with the comprehensive
12 plan, so as to promote a mixture of housing types and
13 economical and orderly development consisting of a single
14 or a mixture of compatible land uses. Further, it is intended
15 that a proposed development be sensitive to existing and
16 adjacent and future land uses as depicted on the future land
17 use map of the comprehensive plan, the natural environment
18 and the impact upon supporting public infrastructure through
19 such mechanisms as, but not limited to, the appropriate
20 establishment of buffer areas between land uses, limitations
21 upon the types of permissible uses and structures which are
22 permitted in the development.”

23 On page CDB:95 the code further states:

24 “The permitted principal uses and structures shall be those
25 agreed upon by the county council and are dependent upon

1 which sub-classification is requested.”

2 The Residential PUD (RPUD) is appropriate according to the Matrix cited above, and
3 is defined on page CDB:95 as permitting:

4 “The permitted uses within a RPUD may be those found in
5 any of the residential classifications of this ordinance,
6 provided that said uses are listed in the development
7 agreement and have been approved by the county council.”

8 The zoning code defines several residential classifications between pages CDB:43
9 and CDB:58. A review of these classifications reveals that several uses in addition
10 to single family residential units are permitted, including: Cluster and zero lot line
11 subdivisions; Communications towers; Essential utility services; fire stations; Home
12 occupations, Parks and recreation areas accessory to residential areas; Public schools,
13 Publicly owned parks and recreational areas; Two-family dwellings, and Single
14 family dwellings. The residential classification also contains “Permitted Special
15 Exceptions” which can potentially be included in a PUD and which encompass a
16 variety of uses including: Bed and breakfast homestay; Day care center; Garage
17 apartments; Group homes; Houses of worship and cemeteries; Multi-family standard
18 or manufactured dwellings (with standards); Nursing homes, boarding houses
19 approved and licensed by the appropriate state agency; Public uses not listed as a
20 permitted use; and Schools, parochial and private.

21 In addition to the RPUD zoning classification, the Consistency Matrix also identifies
22 the following zoning classifications as being consistent with the three land use
23 designations:

24 ESC – Conservation, Resource Corridor, Public Use

25 FR – Forestry Resource, Public Use, Conservation, Resource Corridor

1 AR – A-1 (Prime Agriculture), Public Use, Conservation, Resource Corridor

2 These zoning classifications permit a variety of uses including the following which
3 are urban in character and for which potable water service would be important:

4 Conservation: Essential utility services; Fire stations, Public uses, Publicly and
5 privately owned parks and recreational areas; Publicly owned or regulated water
6 supply wells.

7 Resource Corridor: Essential utility services; Fire stations; Home occupations;
8 Publicly owned park and recreational areas, Single family standard or manufactured
9 dwellings.

10 Public Use: Agricultural centers and associated fairgrounds; Airports and landing
11 fields; Materials recovery facility; Contractors shop, storage and equipment yard; Fire
12 stations; General offices; Group homes; Heliports and helipads; Laboratories; Law
13 enforcement facilities; Libraries; Medical and dental clinics; Medical examiner
14 facilities; Museums; Plant facilities for essential utility services; Potable water
15 treatment plant; Public parks and recreational areas; Public schools; Publicly owned
16 or regulated water supply wells; Recycling collection centers, transfer stations and
17 processing stations; Solid waste transfer stations; Treatment centers; Wastewater
18 treatment plant.

19 Forestry Resource: Essential utility services; Fire stations; Fish, hunting or nonprofit
20 organization camps; Home occupations.

21 AR – A-1 (Prime Agriculture): essential utility services, fire stations, home
22 occupations, public schools, publicly owned park and recreational areas, single
23 family standard, manufactured or mobile home dwelling.

24 Furthermore, the Forestry Resources category, in the language provided in Mr.
25 Thomson's Exhibit JT-3, provides an opportunity for, and actually encourages, the

1 “clustering” of development. To quote the language that is found on page 1-4 of the
2 Plan immediately following the sentence stating the limitation of “a density not to
3 exceed 1 per 20 acres”:

4 “In order to protect residential development from normal
5 silviculture activities, clustering of residential units may be
6 appropriate (refer to Policy 1.2.3.3). The clustering of units
7 will provide opportunities to:

- 8 • retain open space
- 9 • provide buffers to the ESC or as a secondary corridor connection
- 10 • preserve the rural character; and
- 11 • maintain significant areas for silviculture and agriculture production”

12 “The manner in which the site is developed shall be
13 consistent with the policies .. Conservation and FLU
14 elements and with the LDR’s. Increased density in the range
15 of 1du/20ac to 1du/5 ac may be allowed if part of an existing
16 development or project is developed as a cluster subdivision
17 under Policy 1.2.3.3. ...”

18 Proceeding to Policy 1.2.3.3, which is found on pages 1-30 and 1-31, it reads: “this
19 policy allows for development options for large tracts of agricultural lands, as
20 opposed to traditional large lot subdivision (over 10 acres per lot) wherein the
21 agricultural value of the property is lost. Land owners may utilize the Planned
22 Development Cluster concept to allow significant agricultural operation to continue
23 while still allowing development.” On page 1-31, Planned Development Cluster
24 Guidelines are defined with several provisions including:

25 “ A Planned Development Cluster occurring on lands inside Natural Resource

1 Management Area, Rural Areas and Agricultural Resource Areas may not exceed a
2 net density equal to the density assigned to the applicable land use designation unless
3 the development is consistent with the goals, objectives and policies of the Volusia
4 County Comprehensive Plan and such planned development meets the following
5 criteria:

- 6 1. ... involves at least 500 acres
- 7 2. ... has no more than 400 residential units
- 8 3. ... gross density does not exceed .. applicable .. [such as the 1du/5acre
9 exception that may be provided in Forestry Resources ..]
- 10 4. ... residential lots no smaller than one acre, **unless central utilities are**
11 **provided**
- 12 5. ... may provide for central water and wastewater utilities to supply resident's
13 potable water and sewerage needs.
- 14 6. ... provides for protection of all wetlands..
- 15 7. ... provides for clustering or residential units so as to retain 75% or more of
16 parcel as open space or in a land use compatible with or permissible under the
17 parcels preexisting land use designation(s) (provided that the residential
18 dwelling unit development rights assigned to the area of the parcel external
19 to the cluster area shall be permanently severed, and all residential .. rights
20 shall be transferred to the cluster area of the parcel; dev of residential units
21 ... prohibited outside the cluster area.)
- 22 8. ... provides for protection of identified endangered species
- 23 9. ... the planned development is developed through the Planned Unit
24 Development (PUD) process"

25 To summarize, it is my opinion that, contrary to strongly limiting uses that would not

1 require a central potable water service, the Future Land Use Element designations –
2 ESC, FR and AR – provide the ability for Farmton to develop a planned residential
3 development residential community of approximately 2,064 units and a wide variety
4 of other supporting and related uses. Given these provisions, I can foresee Farmton
5 using the PUD and other provisions of the Plan to develop a sizeable community on
6 Maytown Road – perhaps recapturing the historic Maytown name that was once a
7 thriving railroad community – that would very definitely require a central potable
8 water system.

9 Furthermore, in my opinion, Policy 1.2.3.3 not only provides for residential
10 developments that would need or benefit from central water services, the Policy
11 actually permits lots smaller than one acre if **central utilities are provided**. Even
12 with the provision limiting size to a maximum of 400 residential units, two or more
13 such cluster developments could be developed on Farmton’s lands under the current
14 provisions of the Comprehensive Plan, including a provision that would allow a
15 water utility such as that being sought by Farmton. Additionally, as in the case of
16 Brevard’s Plan, the inclusion of these clustering and planned unit development
17 provisions is consistent with the tools the Chapter 163 F.S. and Rule 9J-5 encourage
18 jurisdictions to use in their plans to combat sprawl.

19 Thus, it is my opinion, that development that would require and could be supported
20 by central water service is permitted in the Volusia County Comprehensive Plan
21 upon Farmton’s lands.

22 Fourth, in response to Mr. Thomson’s assertions about sprawl, as the exhibit
23 provided by Mr. Thomson states that the Environmental System Corridor (ESC)
24 category provides a residential density not to exceed 1 dwelling unit per 25 acres, the
25 Forestry Resource (FR) category a density not to exceed 1 per 20 acres, and the

1 Agricultural Resource (AR) category a density not to exceed 1 per 10 acres. With
2 Farmton having 19,353 acres in its proposed certificated territory classified as ESC,
3 21,149 in FR and 2,342 in AR, it is theoretically possible to develop 2,064 single-
4 family residential units on this land. As I stated in my opinion concerning the
5 Brevard County Plan, such large lots are often the worst type of urban sprawl and
6 actually destroy the rural character that such provisions claim to protect. In fact, the
7 Florida Department of Community Affairs, in its Technical Memo, (Volume 5,
8 Number 6, Special Issue, July 1990) titled “Planning for Rural Areas; Issues,
9 Strategies and Techniques”, (which I will refer to later in greater detail)(Exhibit
10 HML - 6) acknowledged this point is stating:

11 “It (fixed density controls) can also result in the conversion
12 of rural landscapes into large-lot development patterns,
13 which fail to halt urbanization and needlessly consumes
14 agricultural lands. Widespread patterns of large lot
15 development – whether one-, two-, five-, or ten-acre tracts –
16 place at risk the very character of the rural areas that is so
17 important to retain.” (page 1)

18 Fifth, Mr. Thomson’s opinion includes a statement that “the County has not
19 considered any changes to its Plan to establish urban land uses in this area to
20 justify the creation of a utility.” Again, as I expanded upon in my response
21 to Mr. Scott’s testimony, this reference identifies a right that all land owners
22 have under Florida’s Growth Management statues and rules, the right to seek
23 an amendment to the Comprehensive Plan.

24 Sixth, the fact that Farmton is the owner of a very large tract of currently rural land
25 provides a very special land management opportunity that has been recognized by the

1 State of Florida. During the process through which the Florida Department of
2 Community Affairs (DCA) established the current 9J-5 rules related to Urban
3 Sprawl, the Department published what amounted to policy statements in Technical
4 Memoranda related to planning in rural areas. In the first, Technical Memo, Volume
5 5, Number 2, March 1990, (Exhibit HML - 5) then Secretary Tom Pelham, under the
6 heading of “The Truth about Growth Management in Rural Areas”, used his regular
7 newsletter column to explain that DCA looks at more than very low densities in rural
8 areas as the Department’s means of evaluating a plan’s ability to control sprawl.
9 That issue also contains two other items related to rural area planning: 1. A request
10 for input on a future Technical Memo on Rural Planning Techniques; and 2. An
11 article on page 3 entitled “The Growth Management Act Gives Communities Much
12 Flexibility for Planning their Rural Areas”. This second article and the subsequent
13 Technical Memo (Volume 5, Number 6, Special Issue, July 1990) (Exhibit HML -
14 6) titled “Planning for Rural Areas; Issues, Strategies and Techniques”, discusses the
15 need for innovation and creativity in responding to rural planning and development.
16 The Memo identifies the existence of the ownership of large tracts as a growth
17 management advantage:

18 “In some parts of rural Florida, a few landowners control
19 substantial quantities of land. Local governments typically
20 have greater flexibility in planning for rural lands owned by
21 very few owners since these owners have a greater ability to
22 undertake innovative approaches within the boundaries of
23 their lands.” (Page 2)

24 Farmton’s ownership, and proposed water utility involves just such a large tract and
25 represents an opportunity to manage a land and water resource in order to preserve

1 the rural, environmental and agricultural resources as desired by Volusia County (and
2 Brevard County) while providing a sound basis for such innovative development as
3 “rural villages or new towns” (page 4, DCA Technical Memo).

4 The strategic location of Farmton’s lands between the growth centers of Daytona
5 Beach and Orlando and the existence of Maytown Road (and other established farm
6 roads and an abandoned railroad right-of-way) provide longer-term potential for just
7 such development to be pursued. In fact, there is historic precedent for such a
8 community at the site of Maytown, which was once a thriving rural community built
9 around a railway station. The Cluster Development and PUD provisions of the
10 Volusia Plan (and the PUD provisions of the Brevard LDR’s as discussed earlier)
11 provide some recognition that opportunities as defined in DCA’s Technical Memos
12 exist here.

13 Farmton’s request for the creation of a utility is not the Company’s first effort at
14 positioning its lands for long-term management. The Company has established the
15 “Farmton Mitigation Bank” which is approved by the St. Johns River Water
16 Management District and U.S. Army Corps of Engineers for the selling of wetland
17 “mitigation credits” to land developers in a broad geographical area. The resulting
18 preservation of environmentally sensitive areas is consistent with the Goals of
19 Volusia’s (and Brevard’s) Comprehensive Plan as well as consistent with the rural
20 land planning strategy that DCA lays out in its Technical Memos and later actions.
21 Thus, in my opinion, Farmton’s request is not only consistent with the
22 Comprehensive Plans but also consistent with the State’s policies that recognize the
23 significance of prudent management of large rural land (and water) resources.

24 Q. Mr. Thomson’s Testimony also expresses the opinion that the application filed by
25 Farmton for a water service territory and certificate is in conflict with the water and

1 sewer provisions of the comprehensive plan of Volusia County? What is your
2 opinion concerning Mr. Thomson's opinion on the water and sewer extension
3 provision of the Plan?

4 A. First, I want to refer back to my opinion on a similar position taken by Mr. Scott
5 of Brevard County. Therein, I cited the fact that Florida's Planning Statute, Chapter
6 163 Part II, does not enable local governments to regulate private utility certificated
7 service areas through the comprehensive planning process. As I stated before,
8 Chapter 163 at 163.3211, Conflict with other Statutes, specifically provides that:
9 "Nothing in this act is intended to withdraw or diminish any legal powers or
10 responsibilities of state agencies or change any requirement of existing law that local
11 regulations comply with state standards or rules." The same provision is applicable
12 in Volusia County.

13 Second, referring back to my identification of the Planned Development Cluster
14 provision for lands inside Natural Resource Management Area, Rural Areas and
15 Agricultural Resource Areas allowing residential developments of up to 400 units on
16 residential lots no smaller than one acre, **unless central utilities are provided**, that
17 provision would also appear to be contrary to Mr. Thomson's assertions on this topic.
18 Since Comprehensive Plans are very complex documents, it is not surprising to find
19 a sweeping condition in one element that does not encompass all of the minor
20 provisions in the several other elements.

21 Third, Mr. Thomson's opinion includes reference to the limitations on the extension
22 of potable water facilities within rural areas to limit the "negative impacts associated
23 with sprawl". I addressed the issue of sprawl earlier and stated the opinion that the
24 Planned Development Cluster is clearly a policy that is consistent with the State of
25 Florida's rules on combating sprawl.

1 Q. Have you reviewed the direct testimony which has been submitted in this case by Ms.
2 Gloria Marwick, Director of the County of Volusia's Water Resources and Utilities
3 Department?

4 A. Yes, I have as it relates to the question of consistency with the Comprehensive Plan
5 and the elements of the Plan that I reviewed in relation to Ms. Marwick's testimony.

6 Q. What is your opinion concerning Ms. Marwick's opinion that the application filed
7 by Farmton for a water service territory and certificate is in conflict with the
8 comprehensive plan of Volusia County?

9 A. Ms. Marwick's testimony makes very general references to the Comprehensive
10 Plan's Water Sub Element restraints on water system extensions related to public
11 health or safety, existing agreements or land use plan amendments. As I have stated
12 elsewhere in this testimony, Farmton believes that it is proceeding in proper order
13 with the initial authority for certifying a water Service Territory being the Florida
14 Public Service Commission.

15 Q. Do you have any further testimony in this regard at this time?

16 A. No, I do not.

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EXHIBIT HML- 2: "Exhibit A. Consistency of Zoning Classifications With Future Land Use Map Series", Brevard County Land Development Regulations: Chapter 62 Code of Ordinances, Nov. 12, 2002

Zoning Classifications	Land Use Designations																							
	Ag	Res 1:2.5	Res 1	Res 2	Res 4	Res 6	Res 10	Res 15	Res 30	NC	CC	PI	H/L	PUB	REC	PR CON	PUB CON							
GU, PA, AGR, RRMH-5, PUD, RPUD, RVP	Y									Y*		N		N										
AU, REU, RRMH-2.5	N	Y									Y*		N		N									
ARR, RR-1, SEU, RRMH-1	N		Y									Y*		N		N								
SR, TR-2	N			Y									Y*		N		N							
EU, EU-1, EU-2, RU-1-13, RU-1-11, TR-1, RA-2-4, RU-2-4	N				Y									Y*		N		N						
RU-1-7, RU-1-9, TR-1-A, TR-3, TRC-1, RU-2-6, RA-2-6	N					Y									Y*		N		N					
RU-2-8, RA-2-8, RA-2-10, RU-2-10	N						Y									Y*		N		N				
RU-2-12, RU-2-15	N							Y									Y*		N		N			

RU-2-30	N		Y		Y*		N		N
BU-1-A	Y**				Y		N		N
RP	N		Y**		Y		N		N
BU-1, TU-1, TU-2	N			Y	N		N		N
BU-2	N			Y	N	Y**	N		N
PBP	N			Y	N	Y	N		N
PIP	N				N	Y	N		N
IU, IU-1	N				N		N	Y	N
EA, GML	Y				Y		Y		Y

**FPSC CERTIFICATION PUBLIC INTEREST
EXAMPLE**

East Central Florida Services, Inc.

BACKGROUND

In the early 1990s, a large landowner (Corporation of the President of the Church of Jesus Christ of Latter-Day Saints) certificated the largest land area FPSC regulated water and wastewater utility in the State of Florida. This large piece of property had singularity of land ownership. The owner was constantly impacted by governmental entities wishing to utilize this property for waste solids, solid waste, water resource development, and effluent disposal as well as other matters. The area had experienced forest fires and there was a need for fire protection in eastern Osceola, southeastern Orange and western Brevard Counties. No fire station was located in this region. Though sparse and spread out, there were many hunting camps on the property desirous of potable water service and had requested the same from the landowner. In addition, there are several home sites on the property for workers, managers and administrators of the property. These individuals and their families also wished to have adequate utility services. There was a future 50-year potential for certain types of development on the property. There were major corporations, which were desirous of utility service and access to the I-95 Power Transmission Corridor.

Land stewardship is very important to the owner. The use of water for land management was needed. The water resources underneath the property were being contaminated by saltwater intrusion at an alarming rate. The saltwater wedge was moving from the east to the west at an average rate of approximately 1,500 linear feet per year. The City of Cocoa's easternmost wells were being pumped so hard that saltwater upconing was also occurring and both were polluting the freshwater Floridan aquifer water resources to the extent of several square miles of the property each year. Prior to the FPSC certification, the landowner intervened on the City of Cocoa's water use permit (1988 through 1991) and the condemnations of well sites (1990 through 1991). The facts were that the City of Cocoa's more eastern Tram Road wells were increasing in salinity and that the monitor wells to the east were showing the saltwater pollution moving across the property. The St. Johns River Water Management District (SJRWMD) granted the complete request by the City of Cocoa for additional Floridan aquifer freshwater supplies and found such utilization to be in the general public interest that the environmental harm being caused was solely to one landowner and thereby insignificant, that the environmental damage to wetlands, etc. was also acceptable in nature, and that the use of fresh groundwater from the Floridan aquifer was reasonable and beneficial use to serve the customers of the City of Cocoa regional water system.

The City of Cocoa derives 90-percent (90%) of its water revenues from customers outside of the city limits. Only 10-percent (10%) of the revenues are within the city limits. The City of Cocoa historically applied a 35-percent (35%) "outside the city" surcharge to those customers outside the city limits and was transferring significant sums of money to the general fund of the City of Cocoa. Customers of the City of Cocoa included the Federal Government (military and aerospace installations), Titusville, the beach communities and cities, the City of Melbourne, and

the inland cities generally north of Melbourne and south of Titusville. During this same time period, the beach communities and other communities, other than the City of Melbourne, surrounding the City of Cocoa obtained the Volusia County surcharge limitation legislation. This was accomplished through the legislative delegation in Brevard County, which passed the Florida legislature limiting specifically as an exception to the 180.02 F. S. a Brevard County Outside City Limit of 110%. In addition, the court system found that the wells on the landowner's property had necessity for condemnation and very small wellhead properties were condemned by the City of Cocoa for integration into its regional raw water system. Shortly thereafter, the lower court found that the southern properties adjacent to the landowner (the Holland properties), would be considered "water banking" and there was not enough necessity for the condemnation of those parcels due to the City of Cocoa's demand projections and testimony at trial. Interestingly, the lower court opinion was appealed by the City of Cocoa and the Circuit Court of Appeals reversed the lower court ruling and provided again small well sites on the Holland property and provided for the condemnation of these small wells sites basically usurping all of the Fresh Floridan aquifer water resources in this area of Orange County to the City of Cocoa.

In contrast, to the north, within Orange County's utility service area and the International Corporate Park located just north of the owner's property, the well sites were not accomplished. In that situation, Orange County offered to provide raw water service to Cocoa if it so desired and stated that the County would develop its water resources within the County's Urban Service Area boundary. A major fact that the landowner, Holland Properties, ICP, Orange County, etc. pointed out was that the City of Cocoa virtually had no reuse, no alternative water supply development, no conservation, or other demand mitigating or resource protecting activities of substance.

Since the fresh water resources of Deseret from the main Floridan aquifer were being polluted at an alarming rate and no help was in sight, and due to the fact that there was a need for service on the property and that Deseret had hired professional hydrogeologists and water resource engineers to demonstrate environmentally acceptable water resource development alternatives; Deseret searched for an avenue which met all the needs of proper stewardship of the land, the community, and satisfied the ever-increasing potable water needs of the Space Coast via Cocoa's regional system.

In addition, the South Brevard Water Authority (a special act legislatively created entity) was searching for additional water supplies on Deseret and the Bull Creek Wildlife Area for an additional 50 million gallons per day. Osceola County, the State of Florida Department of Natural Resources, and Parks and Recreation personnel as well as the landowner and other landowners and their representatives within the Eastern Osceola area, all banded together and objected to both on a permitting, environmental, and legislative basis to this additional withdrawal of Floridan aquifer freshwater in Eastern Osceola County. The SJRWMD supported the South Brevard Water Authority and was willing to issue the water use permit for the area on the landowner's property, on Bull Creek property, and on other properties. Due to negotiations with the SJRWMD, the Bull Creek property was to be utilized at no cost to the Authority for land and easements, etc. The impacts of a regional well field at that location would be similar to the Cocoa wellfield and would lower or stop the flow in the agricultural wells in the area as well

as have significant environmental harm. The hearing officer, after a lengthy case, found that the environmental harm was unacceptable, that the alternatives for water supply existed, that the alternative water supply development had not occurred and should be allowed to occur and that though the use would be considered reasonable and beneficial use and the highest priority use (for potable water service) and that the engineering and hydrogeology conducted for its development were appropriate, that the permits should not be issued. This plus the legislative activities of the community finally led to the unique situation by the Florida Legislature to dissolve a regional water supply authority which has only occurred once in the State's history.

With this historical background, the major landowner in the area submitted for certification to Florida's Public Service Commission its holdings under to corporate name of East Central Florida Services, Inc. (ECFS). Osceola County, Special Water Districts 1, 2, 3, and 4, the City of Palm Bay and others supported the ECFS application. The Cities of Kissimmee, St. Cloud, OUC, Titusville, Rockledge and Melbourne did not intervene in the matter. Initially, Orange County intervened, but with a slight modification to the service area requested (a deletion of properties within the Orange County USA), settled out of the case. Both Brevard County and the City of Cocoa intervened and alleged conflicts with comprehensive plans, overlapping facilities and service areas. The Florida Public Service Commission (FPSC) conducted the hearing and weighed the testimony in the matter. The FPSC granted ECFS, Inc. the water and wastewater service area as amended.

TRACK RECORD OF ECFS, INC.

1. Financial

For over the past decade, ECFS, Inc. has only had to apply for a few of the many annual FPSC inflation derived deflator indexing provision. Although, a) millions of dollars have been invested by or contributed, transferred or loaned to ECFS, Inc.; b) the SJRWMD, SFWMD, FDEP and Orange, Osceola and Brevard Counties have required or requested many things of ECFS, Inc.; and, c) ECFS, Inc. has cumulatively operated approximating a not-for-profit entity – ECFS, Inc. has had little in rate relief.

2. Service

There have been no service complaints in over a decade of service. In fact, the hunting camps, residences, development, governments, fire districts, and major corporations have had their need for service met promptly. The quality of service and facilities has improved greatly and continuously ever since FPSC certification. ECFS, Inc. has improved water treatment and service for its potable customers. ECFS, Inc. has made more efficient use of existing facilities through its raw water service to its customers. Examples of new customers include:

- Additional hunting camps
- Additional single-family homes
- The new church facilities
- Major telecommunication customers

- Osceola County Fire Station (a sorely needed service could be provided with ECFS, Inc. water supply)
- Reliant Energy Corporation merchant power plant cooling water, fresh water for potable, boiler water make-up, and other uses.

3. Intergovernmental

ECFS, Inc. has an exemplary track record in assisting various levels of government in accomplishing worthwhile projects, programs and/or activities. A few of the examples include:

- a. ECFS, Inc. providing information to Osceola, Orange and Brevard Counties for comprehensive planning and other purposes.
- b. ECFS, Inc. and Deseret have consolidated their water use permits for easier regulation and have provided water facility, use, and resource information for improved regulation to both the SFWMD and SJRWMD.
- c. ECFS, Inc. has agreed with the City of Palm Bay to provide alternative water supply and/or fresh raw water supply when the City elects to avail itself of the supply. This combined with the City of Palm Bay's new membrane treatment facilities assures that the City's potable supply needs will be met.
- d. ECFS, Inc./City of Orlando/Orange county reclaimed water program cooperative activities developed environmental wetland renourishment, silvaculture, sod, agriculture and saltwater encroachment barrier opportunities. This program is one of the priority listing reclaimed water uses following CHSEC cooling water use and residential/golf course uses on the eastside of Orange County.
- e. Alternative Water Supply Programs:
 - 1) City of Cocoa/ECFS, Inc./Deseret:
 - Taylor Creek Reservoir:
This lease created the largest new surface water source use in Florida over the past 20 years
 - Pipeline Road Secondary Aquifer Shallow Wells:
ECFS, Inc. developed the concept and City of Cocoa implemented 11 such wells providing wellfield stress rotation and management benefits.
 - 2) Cities of Melbourne and Palm Bay:
With Florida Legislature's dissolving of the SBWA, both cities have developed major reclaimed water reuse and alternative water supply – membrane treatment – sources to meet their potable needs versus the previous SBWA program of inland fresh Floridan aquifer groundwater sources.

f. Managed Land Stewardship Programs:

1) Brevard County Landfill Site:

This site is accommodated in the northeast corner of the unit north of 192 and downstream of the Class I Lake Washington Reservoir and with the additional protection of the Deseret Berm.

2) City of Cocoa Lime Sludge:

The City of Cocoa's lime sludge from the Claude Dyal lime softening units is stockpiled on their site in Orange County. This waste product is beneficially reused upon the property as a soil sweetener.

3) City of Orlando and Others Domestic Biosolids:

This material is either directly applied or composed and applied to add organics to the sandy soil matrix.

There are several other land stewardship programs occurring on Deseret Ranches which do not include intergovernmental cooperation/facilitation/assistance.

INTERVENOR OBJECTIONS – A DECADE LATER

1. Comprehensive Plan Compliance -

There have been no developments on other activities that have conflicted with either the Brevard County or City of Cocoa comprehensive plans after over a decade of operations.

2. Competition with Existing Utilities

Neither the City of Cocoa nor Brevard County serve on the west side of the St. Johns River or anywhere close to ECFS, Inc. after over a decade of operations.

3. Competition for Water Use Permits

- a. ECFS, Inc. has facilitated the City of Cocoa getting the WUP's for the Pipeline Road Wells and the Taylor Creek Surface Water Reservoir. Now the City of Cocoa has more raw water resources than ever and their Tram Road wellfield that was previously becoming more saline is recovering and improving in water quality.
- b. ECFS, Inc. has never commented, competed or intervened on any Brevard County WUP and Brevard County has not commented, competed or intervened on any ECFS, Inc. WUP.

4. Public Interest

None of the objections or theories of negative public interest by either City of Cocoa or Brevard County have occurred in over a decade of operations.

All of the positive public interest statements by the applicant ECFS, Inc. have occurred and are documented.

5. Water Resources

The devastation and pollution at an alarming rate of the fresh Floridan aquifer water quality due to overpumping in concentrated areas by the City of Cocoa have been stemmed to approximately that level of pollution present in 1992 and in some areas some limited water quality recovery has occurred. The westward migration of salinity has been slowed to a small fraction of the previous pace.

ECFS, Inc. has facilitated the largest percent growth of Alternative Water Supplies in any major/regional (Space Coast) water supply area in the State of Florida. ECFS, Inc. has provided the GIS mapping and information to both the SJRWMD and SFWMD to better regulate and manage the water resources of the region.

EXHIBIT HML - 4: Matrix for Consistent Zoning Classification with Future Land Use Categories, pages 1-19 – 1-21 of the Future Land Use Element of the Volusia County Comprehensive Plan.

MATRIX FOR CONSISTENT ZONING CLASSIFICATION WITH FUTURE LAND USE CATEGORIES

FLU CATEGORY	A (EXPLANATION BELOW)	B (EXPLANATION)
Conservation (C)	C	All Zoning Classifications
Environmental Systems Corridor (ESC)	C, RC	RPUD, MPUD**1, P, C
Forestry Resource (FR)	FR	FR, RPUD, MPUD**1, BPUD, P, C, RC
Low Impact Urban (LIU)	All PUD's	P, C, existing zoning, provided however, that any development is consistent with applicable provisions of the Comprehensive Plan, RC
Agriculture Resource (AR)	A-1	RPUD, MPUD**1, <u>BPUD</u> , P, C, RC
Rural (R)	A-1, A-2, MH-3	A-3, A-4, MH-4, MH-8, RA, RE, RR, RPUD, MPUD**, BPUD, P, C, RC
Rural Community	Refer to underlying Future Land Use categories for zoning classifications assumed to be compatible	Refer to underlying Future Land Use categories for zoning classifications that may be compatible under certain circumstances and in addition the following classifications: B-2, R-1*, R-3*, R-4*, R-6*, R-7*, MH-1*, MH-5*, B-4*, B-5*, B-7*, B-8*, I-1*
Rural Recreational	Refer to underlying Future Land Use categories for zoning classifications assumed to be compatible	Refer to underlying Future Land Use categories for zoning classifications that may be compatible under certain circumstances and in addition the following classifications: B-2, B-7, R-3*, R-4*, R-7*, MH-1*, MH-5*, B-4*
Rural Village	A-2, MH-3	Zoning classifications existing prior to April 3, 1990. P, C
Urban Low Intensity (ULI)	R-1, R-2, R-3, RPUD, MH-6, MH-7	B-2, B-9, BPUD, MPUD**, RR, RA, RE, R-4, R-9, RE, MH-3, MH-4, MH-8, A-2, A-3, A-4, P, C, RC
Urban Medium Intensity (UMI)	R-4, R-5, R-6, R-9, MH-1, MH-5, RPUD	MH-2, B-2, B-9, BPUD, MPUD**, P, C, RC

Urban High Intensity (UHI)	R-6, R-7, R-8, MH-2, B-8, RPUD	B-1, B-2, B-9, BPUD, MPUD**, P, C, RC
Commercial (COM)	B-1, B-2, B-3, B-4, B-9, BPUD	B-5, B-6, B-7, B-8, MPUD**, P, C
Industrial (I)	I-1, I-3, I-4, IPUD	I-2, MPUD**, P, C
Mixed Use Zone (MXZ)	IPUD, BPUD, MPUD, RPUD	P, C, Existing zoning, provided however, that any new development is consistent with applicable provisions of the Comprehensive Plan ***
Planned Community (PC)	Development of Regional Impact only All PUD's	All development shall require review as a Development of Regional Impact as per Ch. 380, Florida Statutes
Activity Center (AC)	All PUD's	CDD, P, C, Existing zoning, provided however, that any development is consistent with applicable provisions of the Comprehensive Plan
Recreation (REC)	All Zoning Classifications	P, C, RC
Public/Semi-Public (P)	P, C	All Zoning Classifications

* Only applies to existing zoning at time of approval, April 3, 1990.

** MPUD, development must be consistent with the Future Land Use Map.

*** As provided by Policy 1.3.1.19, rezoning to PUD is not required under certain circumstances.

1 The RPUD or MPUD classification may only be applied to lands designated ESC, FR and AR on the Future Land Use Map when the RPUD or MPUD meets the requirements outlined in Policy 1.2.3.3 of the Volusia County Comprehensive Plan, Ordinance 90-10, as amended; or when the lands designated as ESC, FR, and AR included within the RPUD or MPUD comprise 25% or less of the land area of the RPUD or MPUD, providing development of areas designated as ESC, FR and AR is consistent with the Comprehensive Plan Future Land Use category descriptions.

A Group

This column indicates which zoning categories are assumed compatible. They provide the closest approximation to the Future Land Use Category. The existing character of the area is one determinant of the appropriate classification to be accorded on an individual premise

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B Group

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This column indicates which zoning categories may be considered compatible under certain circumstances. Stricter consistency requirements may be applied or special criteria may have to be complied with prior to receiving a rezoning. Site conditions in conjunction with the existing character of the surrounding area are the determining factors for rezoning requests.

TECHNICAL MEMO

VOLUME 5 · NUMBER 2

MARCH · 1990

The Truth About Growth Management in Rural Areas

A great deal of misinformation has been circulating concerning the impact of growth management in rural areas. Some of the misinformation is due to honest misunderstandings and poor communication. However, much of it is due to a well-orchestrated campaign



SECRETARY'S COLUMN
THOMAS G. PELHAM

of disinformation waged by critics of Florida's Growth Management Act. I am very concerned about this campaign and its potential for eroding the strong base of support that currently exists for effective growth management in Florida. I am using this column as a forum to clarify some of the inaccurate representations and to reaffirm the Department's support for fair and reasonable but firm implementation of Florida's planning laws in all areas of the state.

Quite a bit of attention has focused on the need to plan for desirable growth patterns in our urban areas because the local plan review process commenced in our large urban areas in South Florida. Equally important, however, is the need to conduct effective planning in Florida's rural areas to ensure that they can accommodate growth and development without sacrificing the rural qualities

continued on page 2

DCA Seeks Public Input for *Technical Memo* on Rural Planning Strategies and Techniques

The Department of Community Affairs is currently preparing a special issue of the *Technical Memo* on planning in rural and agricultural areas which will be issued in June 1990. The DCA's 1987 *Model Future Land Use Element* and its November 1989, special issue of the *Technical Memo* on urban sprawl set forth a variety of planning approaches for rural areas.

The upcoming special issue on rural planning will provide more detailed information about acceptable local comprehensive planning strategies and techniques that may be used in rural and agricultural areas to meet the requirements of Florida's growth management laws. A selected list of the kinds of planning techniques to be discussed in the special issue is included in this month's feature article, which begins on page three.

A great deal of misinformation about the DCA's approach to planning in rural areas has been circulating in recent months. Hopefully, the special *Technical Memo*, will help dispel many misconceptions generated by the misinformation.

The DCA invites public input for the special issue on rural planning. Do you have comments on any of the techniques

listed in the feature article? Do you have other proposals, techniques, or strategies for planning and managing growth in Florida's rural and agricultural areas that the DCA could consider in preparing the special issue? If so, write them up and send them in. Your ideas need to be consistent with the State Comprehensive Plan and the minimum requirements of Chapter 163, Part II, Florida Statutes, and Rule Chapter 9J-5, Florida Administrative Code.

If you would like to contribute to the DCA's special issue on rural planning, send your written suggestions by May 1, 1990, to Ben Starrett, Strategic Planning Administrator, Florida Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399-2100.

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valued by Florida's residents and visitors. As indicated in its 1987 *Model Future Land Use Element*, the Department encourages well-planned development that is compatible with the rural character of an area.

The public and the Florida Legislature have made it clear that unbridled and undirected growth will no longer be tolerated in Florida, in either our urban or our rural areas. The Department's policies for carrying out this directive are found in: the State Comprehensive Plan; the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Florida Statutes); and Rule Chapter 9J-5, Florida Administrative Code. Unfortunately, the application and effect of these policies are being exaggerated and distorted through a well-orchestrated campaign of disinformation.

Orchestrators of this campaign have utilized two rumors to frighten rural landowners: (1) the Department is requiring local governments to set densities of one unit per 40 acres or lower in rural areas; and (2) the Department is forcing local governments to undertake massive downzonings in their new local comprehensive plans. Neither of these rumors are true.

As of April 1, 1990, the DCA has approved (either through original notices of compliance or through negotiated compliance agreements) 143 local plans. In all of these approved plans, there are only *two* instances of densities as low as one unit per 40 acres. These densities were set for swamps or large wetland areas in Lee and Charlotte counties. While these approved plans contain a few instances of rural or agricultural densities as low as one unit per 20 acres, they also contain a variety of rural densities, ranging from one unit per acre to one unit per two and one-half acres to one unit per five acres to one unit per 10 acres. There is simply no evidence to support the rumor that the Department is requiring densities as low as one unit per 40 acres on developable lands.

continued on page 6

Hearing Officer Finds that DCA's Approach to Urban Containment is Balanced

In December 1989, a Division of Administrative Hearings' hearings officer ruled in favor of the Department of Community Affairs in consolidated cases brought by Charlotte County, the Homebuilders and Contractors Association of Brevard, Inc., and the Florida Home Builders Association, Inc. The Florida League of Cities intervened on behalf of the DCA.

The common issues in the cases were whether the DCA had adopted nonrule policies concerning urban sprawl and applied them in its review of local comprehensive plans; and, if so, whether the nonrule policies are invalid because they were adopted without rulemaking. The hearing officer, in his final order, dismissed both challenges. He found that the DCA correctly interprets and applies existing rules and statutes when it reviews local comprehensive plans for urban sprawl.

The hearing officer discussed and commented on the guidance which DCA has provided local governments about how to discourage urban sprawl in their comprehensive plans. He noted that practical guidance is offered in several DCA publications, particularly the *Model Future Land Use Element* published in 1987. The hearing officer said that DCA's *Model Future Land Use Element* refutes the assertions of the petitioners that the DCA had exceeded its statutory powers by interpreting and applying the urban sprawl rules to prefer unlawfully one planning theory (e.g., urban containment) over another (e.g., metropolitan decentralization). In the words of the hearing officer:

The model element takes a balanced approach to urban containment by encouraging urban in-fill in tandem with allowing planned development of areas that are sparsely developed or entirely undeveloped. While discouraging urban sprawl, the model element nonetheless establishes urban service areas beyond the boundaries of present urban areas, designates large tracts of low density residential in other areas designated for agricultural or other nonresidential uses, and establishes a new town center in a largely undeveloped area. By doing so, the model element simultaneously accommodates current market preferences and focuses development activity that, if unplanned, would perpetuate patterns of sprawling development in contravention of the Act (Chapter 163, Part II, F.S.), [Rule] Chapter 9J-5 [F.A.C.], and the State [Comprehensive] Plan.

The *Model Future Land Use Element*, along with other DCA publications demonstrate the flexibility local governments have in preparing a plan that will discourage urban sprawl. Further, they make clear that local governments may permit well-planned development to occur outside areas where they plan to provide public facilities and services. The DCA will continue to offer guidance on discouraging urban sprawl in ways that are balanced and flexible through its future technical assistance publications.

For a copy of the hearing officer's final order in the Charlotte County case and copies of the *Model Future Land Use Element*, contact the Grants and Publications Section (904)488-4545, SC 278-4545. For further assistance in developing local plans to discourage urban sprawl, local governments may contact the Field Technical Assistance Section, (904)922-5438, SC 292-5438.

The Growth Management Act Gives Communities Much Flexibility for Planning Their Rural Areas

The traditional technique for regulating development in rural areas is density controls. Before enactment of the Growth Management Act in 1985, many Florida counties adopted zoning ordinances that set much lower densities for rural and agricultural areas than are allowed in urban or suburban areas. But, there are many other planning techniques available to local governments for planning and regulating development in rural areas.

The 1985 Growth Management Act encourages innovative approaches to land use planning and regulation. The following is a list of some techniques which can be used with or in lieu of pure density controls to manage growth in rural areas. In June 1990, the Department of Community Affairs will publish a special *Technical Memo* to detail these and other rural planning techniques.

Readers are cautioned to remember that these options need to be applied in a manner consistent with the State Comprehensive Plan, the applicable comprehensive regional policy plan, Chapter 163, Part II, Florida Statutes, and Rule Chapter 9J-5, Florida Administrative Code. In addition, options should not be used without first adapting them to local conditions and circumstances.

Preserve Working Landscapes. A key to this technique is planning for rural areas to determine where development can occur without destroying an area's rural character. Use of area based allocations can preserve a low overall intensity of use and density in a rural area while at the same time allow flexibility concerning what occurs in specific locations. Consideration needs to be given to an area's topography, soil conditions, unique natural features, scenic vistas, waterbodies, and productive agricultural lands when establishing this type of program. Strong policies are also needed to ensure that this approach does not permit strip commercial sprawl to occur.

Locational Requirements. Locational requirements can be established in plans and implemented through land development regulations. This technique can involve permitting, modifying, or prohibiting development based on their distance from urban areas, other uses such as employment and commercial centers, important natural resources, and spe-

"There are many . . . planning techniques available to local governments for planning and regulating development in rural areas."

cific facilities, e.g., central sewer systems. Locational systems can also adjust densities that are allowed using a point system based on the proximity of specified facilities, natural resources, and other essential land uses.

Planned Unit Developments. This regulatory tool can be used to implement many of the strategies and techniques identified in this article. Developments in rural areas over a certain size can be required to be built as planned unit developments to ensure that they meet the criteria established for developments in rural areas.

Clustering Requirements. This technique involves permitting an amount of development to occur based on the gross acreage of a parcel but requiring all of the development to be placed on only part of the parcel. The remainder of the parcel can be required to be left as permanent open space or used for recreational or agricultural purposes.

Open Space Requirements. Similar to the clustering technique, open space requirements can involve allowing a certain quantity of development based upon gross acreage but requiring the development to be designed to leave a certain percentage of the land in public open space. This differs from clustering as the development itself may not have to be clustered as long as the required open space ratio is achieved.

Two-tier Density Programs. This technique can involve having two densities apply to the same rural lands. The lower density, for example ten acres per dwelling unit, could be made available to any landowner. Landowners could build at a higher density, however, for example two units per gross acre, if they were willing to meet certain criteria. These criteria should include clustering and open space, a complimentary mix of uses that allows people to shop and work close to their homes, ensuring that a percentage of traffic generated by the development would be "captured" by other uses in the development, and other factors.

Mixed Use Districts and Performance Zoning. Establishing mixed use districts in the local comprehensive plan can permit a wide diversity of land uses in rural areas, retaining the permissive approach to the types of land uses allowed that currently exists in many rural areas. Performance zoning regulations can be used to implement these districts by ensuring that different land uses are adequately buffered from one another. The local government considering this approach should make sure it has the staff and resources to administer a performance zoning system.

Density Controls. This technique involves limiting the amount of residen-

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tial, commercial and other types of development that can occur in an area to the quantity per acre of gross or net land that can be accommodated in an area without overloading public facilities or sacrificing the rural character of an area. This technique may be the simplest to administer of the many options available to local governments for maintaining a separation between urban and rural areas. It is especially appropriate for large tracts of timber lands and must be used if other rural planning controls are not established in the local comprehensive plan.

Restrict the Subdivision of Land. This technique can allow property owners considerable flexibility in using their land while at the same time ensuring that land is not prematurely characterized in suburban-type development patterns. The ability to subdivide and plat land can be adjusted based on the proximity of the land to urban areas and public facilities. Users of this technique may also want to consider incorporating a provision to allow property owners to subdivide land to give parcels of land to their immediate family members. Many variations of this option can be used to maintain the rural character of an area but still allow rural property owners the ability to sell portions of their properties.

Promote Urban or Rural Villages and Activity Centers. This concept is based on permitting development at varying intensities to promote the location of rural development in nodes, which can consist of small rural communities, urban villages, activity centers, and other types of development. These areas should be clustered and contain a mix of residential and nonresidential uses that will support surrounding agricultural and silvicultural activities, large-lot rural residential areas, recreation activities, and conservation areas.

Direct Public Investments to Existing Communities. This basic technique involves targeting rural communities and development nodes to receive capital

expenditures for facility renovations and expansions. Integrating land use planning that promotes rural activity centers with capital improvements programming can make these rural communities more desirable and attractive places to live and work.

Mandate Large-Scale Developments Be Mixed Use and Self-Sufficient. One of the most effective techniques for minimizing the impacts of large-scale devel-

"While agricultural lands should not be permanently restricted from conversion to other uses, their conversion should be managed to ensure it is timely and appropriate."

opments in rural areas is to adopt strong mixed use policies which require residential and nonresidential uses to be located in reasonably close proximity to each other. Such policies should promote an integrated and complimentary mix of office, retail, housing - including affordable housing, and recreational opportunities.

Require Large-Scale Developments in Rural Areas to be Florida Quality Developments. This strategy involves using the development review process established in Section 380.061, Florida Statutes, to ensure that large rural developments are thoughtfully planned and compatible with the surrounding rural or agricultural area, take into consideration the protection of Florida's natural amenities, address the cost to local government of providing services, and maintain a high quality of life.

Control Access to Arterial Roadways. This technique to manage strip or ribbon sprawl development also assists in maintaining the through-carrying capacity of

arterial roadways. Curb cuts and access points can be minimized by requiring development to utilize parallel access roads, share existing or new access points, and to construct local road networks that provide alternatives to the use of arterial roads. It is essential when employing this technique that the plan and LDRs require new subdivisions, PUDs, and like development to connect their internal roadways to existing local networks so that a grid of alternative travel routes eventually results.

Protect Agricultural Areas. Florida's prime and unique farmlands, combined with its climate and industrious agricultural community, has resulted in its being one of the top agricultural production states in the nation. While agricultural lands should not be permanently restricted from conversion to other uses, their conversion should be managed to ensure it is timely and appropriate. Many techniques are available to local governments that wish to protect agricultural lands, several of which also provide farmers needing capital but interested in staying in farming the opportunity to obtain financial relief. Under any of these programs, provisions also can be included to ensure that property owners have the ability to subdivide land among immediate family members to be used to accommodate primary residences. In addition, provisions should be incorporated to ensure adequate farmworker housing is provided. Some of these techniques include:

Exclusive agricultural zoning: Plans can include policies to guide development in lands placed within the agricultural land use category that authorizes the use of exclusive agricultural zoning. This type of zoning can restrict uses that are not related to agricultural purposes. Policies need to be included that establish a minimum lot size that can be created, direct the subdivision of land to the most unproductive areas, and ensure adequate facilities and services can be pro-

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DCA's Plan Review Approach Considers Local Conditions

Florida's Growth Management Act establishes certain minimum planning requirements for all local governments. However, each local government should satisfy those requirements in a way that adequately addresses its own needs. A good plan for Dade County will not work in a small north Florida county and vice versa. The Department of Community Affairs recognizes the differences between south Florida and north Florida and urban areas and rural areas.

Thus, while the minimum planning requirements must be met by all local governments, a sound comprehensive plan will be based on and respond to local conditions. When the DCA reviews local government comprehensive plans for compliance, it must determine whether a plan is consistent with the State Comprehensive Plan and the appropriate regional policy plan. It also must evaluate whether a plan complies with Section 163.3177, Florida Statutes; Sections 163.3178 and 163.3191, F.S., as applicable; and Rule Chapter 9J-5, Florida Administrative Code. *These plans, laws, and rules give local governments broad discretion in tailoring their plans to meet local needs and conditions.*

The rule chapter specifies the minimum criteria for reviewing local comprehensive plans and determining compliance. Thus it forms the basis for the DCA's compliance review of each local government's comprehensive plan.

Just as local governments have considerable flexibility in developing plans that respond to their unique circumstances. Rule Chapter 9J-5, F.A.C., permits the DCA to modify the application of its requirements to consider local conditions. The DCA, however, must closely follow statutory intent in determining whether plans comply with law.

Rule 9J-5.002(2), F.A.C., sets out guidelines for applying the rule chapter. *Generally, it provides that the DCA shall consider the complexity, size, growth rate, and other factors associated with local government in Florida.* The DCA must

"The DCA shall consider the complexity, size, growth rate, and other factors associated with local government in Florida."

consider these community characteristics when providing technical assistance and when applying Rule Chapter 9J-5, F.A.C., to its review of the detail of the data and analysis required of a jurisdiction. These factors include the following:

1. the existing and projected population and the rate of population growth;
2. the geography, size, and the extent of the existence of large amounts of undeveloped land and the existence of features requiring special data and analysis (i.e., environmentally sensitive lands and natural resources);
3. the scale of public services provided or projected to be provided related to the levels of capital improvements planning required;
4. the extent of county charter provisions, special or local acts, or inter-governmental agreements that affect planning activities (i.e., countywide planning councils, designation of an area as an area of critical state concern, and city-county joint planning agreements); and
5. whether the local government is complying with evaluation and appraisal report requirements simultaneously with the new plan.

Complexity

The "complexity" of a local government refers to its degree of urbanization, history of land use regulation, and its development and application of specialized planning techniques and procedures. For example, a highly urbanized, fast-growing community that provides a full

range of public facilities and services is a more complex jurisdiction than a rural, slow-growing community that provides only solid waste transfer facilities. The urban community is more likely to have a long history of land use regulation with many land use categories and higher densities and intensities of use. It very likely has an established planning and development review program with trained, professional staff.

The rural community, however, not having experienced rapid population growth or significant pressures, may have no zoning or only a simple zoning ordinance with basic land use categories and relatively low densities and intensities. It likely hires consulting firms to handle planning and development review functions as needed and has only one or two staff professionals to handle permitting functions.

The approaches used by the urban community and by the rural community to meet planning requirements would, therefore, probably be very different. The urban community may use innovative planning techniques like transfer of development rights programs to protect environmentally sensitive lands. Such a sophisticated approach may be a desirable, appropriate, and expected technique for an urbanized, rapidly growing community. The rural community, however, may choose a more basic approach, such as designating environmentally sensitive areas for conservation on its future land use map. The DCA would evaluate both approaches by the DCA based on local conditions to determine whether they meet planning requirements.

Size

The "size" of a local government refers to its land area and its current and projected populations. A local government with large areas of forested land; a relatively small, dispersed population;

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COMMENTARY

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The second rumor is also without a factual foundation. There have been a few instances in which local governments have lowered densities on some rural lands. However, the amount of upzoning of rural lands far exceeds any downzoning. The predominant pattern in approved county plans thus far is that the local government, to meet its projected growth for the next 10 or 20 years, upzones substantial amounts of rural lands and maintains existing densities on lands that will continue to be designated as agricultural. For example, this pattern was followed in the Broward, Charlotte, Collier, Dade, Manatee, Pasco, and Sarasota plans.

Florida's planning system does not require the taking of land use rights from Florida's small rural landowners. It does direct, however, that land development rights be used in such a way as not to encourage or promote urban sprawl, cause detriments to others, or destroy important environmental and natural resources.

Because one of the easiest ways to discourage urban sprawl is by limiting densities, critics of Florida's growth management process have seized upon this single option for discouraging sprawl in their campaigns to mislead and frighten many landowners concerning the effects of the law on their property rights. The critics are using these fears as the pretext for legislation which would restrict application of the Growth Management Act to rural areas. These critics are ignoring the important fact that the Growth Management Act already gives local governments considerable flexibility in how they address rural planning and density issues. The list of rural planning techniques on page three are only some of the techniques currently available to local governments.

Moreover, as I have emphasized many times in hundreds of speeches around the state and as stated in the DCA's frequent technical publications, *the Department does not evaluate a plan based on densities alone when determining if a plan successfully discourages urban sprawl, but instead considers many factors.* Among these factors are the current and antici-

pated growth characteristics of a community, the development guidelines contained in a plan for projects in rural areas, and the manner in which environmentally sensitive and coastal high hazard areas are treated in the plan.

The issue is not density alone but the way in which density will be used. If adequate planning controls for rural areas are established in the comprehensive plan, then higher densities can be accommodated. On the other hand, lower densities should be set for rural areas if planning controls are not included in the plan.

The DCA also does not apply an arbitrary density figure or multiplier to determine whether a local plan is in compli-

"The Department does not evaluate a plan based on densities alone when determining if a plan successfully discourages urban sprawl, but instead considers many factors."

ance with Florida's planning laws and rules. Generally, plans should ensure that anticipated future needs are reasonably accommodated with some extra land allocated to allow for market irregularities. When plans vastly overallocate land for certain land uses in relation to the anticipated need, the DCA looks for the guidelines and criteria that will ensure that future development will not result in sprawling, environmentally damaging, unattractive, and unaffordable land use patterns.

Thus it becomes increasingly important, as allowable densities increase, that a plan contain effective policies for guiding growth in rural areas. Plans that do not reduce densities in their rural areas and also fail to include effective policies to guide rural development will frequently fail to comply with Florida's growth management requirements. Such policies include promoting clustering, mixed use, alternatives to strip commercial development, and policies to protect im-

portant natural environmental resources such as wetlands, upland habitat areas, timber lands, and agricultural lands.

Communities with rapid growth rates, where development pressures on rural lands are high, have an even greater need to incorporate effective rural planning and development guidelines in their local plans. As permitted by Rule Chapter 9J-5, Florida Administrative Code, the DCA carefully considers a community's growth characteristics when evaluating its approach to guiding development in rural areas. Slow growth communities, for example, may have conditions and circumstances that could allow them to successfully justify lesser development criteria than would be necessary in a community that faces rapid growth.

Florida's growth management process is under assault. Misinformed and irresponsible critics are conducting disinformation campaigns to confuse property owners and local officials concerning the requirements of the law and the policies of the Department of Community Affairs. The Department is acting to counteract these rumors and incorrect accusations by increasing our visits to local communities and meetings with concerned citizens and elected officials.

The Department also is preparing a special *Technical Memo* focusing on rural planning and density issues to help concerned citizens and local officials to understand accurately the issues involved and the requirements they must meet. The special issue will offer numerous suggestions for measures that can be taken in rural areas, other than simply limiting densities, to prepare a plan that allows reasonable development in rural areas and that complies with Florida's planning requirements.

If Florida's growth management requirements are weakened in rural areas, effective growth management in this state will be compromised. It is important that we do not let distortions and misunderstandings combine to prompt unnecessary changes that will weaken this landmark planning law. We ask that you join us in our efforts to spread the truth about the impact of growth management on rural lands.

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and few anticipated growth pressures may use a very different approach to meeting planning requirements than a rapidly growing community with many competing land uses would use.

Again, by rule, the DCA must consider size characteristics in its determination of whether a local government's approach meets legal requirements.

Growth Rate

A local government's "growth rate" includes its projected population increase during the planning time frame and its expected development pressures. The community's location in relationship to growth centers is also considered in determining development pressures. This is an important consideration because growth in one community may impact neighboring communities. Developments may also "jump the border" to avoid complying with a neighboring community's local comprehensive plan, bringing with them significant development pressures.

Fast-growing communities and those communities expecting significant development pressures have a greater need to include adequate planning controls in their plans. Slower growing communities with large areas dedicated to timbering and other land-intensive agricultural uses are less likely to face heavy development pressures. In these communities basic and simple, but fundamentally sound planning approaches will usually meet planning requirements.

Other Factors

The DCA's review approach must consider local conditions and allow for differing methods used to meet planning requirements. It cannot, however, waive the minimum planning requirements of law. As it reviews the plans of rural communities, the DCA will apply the flexibilities of Rule 9J-5.002(2), F.A.C., and will continue to review plans for sound planning practices.

The DCA will review the plans of rural communities to determine if the plan provides for maintaining the rural

character of designated rural areas and the separation of urban and rural uses. In the absence of rapid population growth, however, urban sprawl will be less of a problem and reviews will focus on measures for protecting environmentally sensitive lands and water resources. Specifically, measures to protect significant resources, e.g., the Suwannee River, other major water bodies, and coastal areas will be scrutinized.

At the same time; the requirements are flexible and sensitive to the needs of individual citizens. For example, if a rural government can demonstrate minimal impacts on overall land development patterns, its plan may permit some or all of the follow to occur: reconstructing nonconforming residential uses; conveying land to immediate family members in nonconforming lot sizes; and building on lots of record smaller than minimum size if the lot owner has paid property taxes on it.

Local comprehensive plans, however, should guard against the excessive premature platting of lands to circumvent future growth controls and relate the amount of land permitted to be platted to expected needs. Premature designation of land uses at established densities and intensities long before needed is contrary to sound planning.

Historically, this activity has failed to consider infrastructure needs, environmental impacts, and has resulted in uncontrolled urban sprawl. Restricting the premature subdivision and platting of land controls the activities of land developers while permitting owners of small tracts of land reasonable use of their properties.

Sound Planning

Local government comprehensive planning requirements were established to ensure that Florida's cities and counties conduct minimal, sound planning programs to manage the state's rapid growth. The legal requirements give local governments broad discretion in tailoring their plans to meet minimum requirements and allow the DCA to consider local characteristics when applying the minimum criteria rule.

Communities with rural characteristics are held to the same minimum requirements as urban communities so that they can establish acceptable growth patterns now. Although they do not need to use the complex planning techniques that may be used by their urban counterparts, rural communities must develop sound plans that meet legal requirements.

Because planners in many communities do not have to plan around land use decisions made decades ago, they are in the fortunate position of being able to plan now for efficient growth into the next century. In 20 years, today's rural communities may be models in our state, largely due to their opportunity to plan today for future growth.

For more information on the DCA's approach to reviewing local plans, contact Robert Pennock, Plan Review Administrator, (904)488-9210, SC 278-9210.



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vided. Local governments should carefully consider the types of active agriculture in their jurisdictions and the amount of land and buffers needed to maintain those activities when setting minimum lot sizes in exclusive agricultural areas. This approach can be used in combination with the promotion of clustered development nodes to plan for a pattern of development that is consistent with a rural character.

• **Large lot residential zoning:** Used judiciously, large lot zoning can be an effective means for allowing rural residential development on the fringe of agricultural areas while avoiding sprawling subdivision development. It should be used selectively, however, and only in conjunction with the promotion of more dense development in nodes and clusters. This helps to prevent spreading large lot residential development across entire areas, which can frequently encourage leapfrog development, lead to inefficient use of public facilities and land, and hin-

der ongoing agriculture activities.

• **Transferable development rights programs:** This technique involves creating specific sending and receiving zones for development rights. Typically, TDR systems require sophisticated administration to ensure that they are both fair and economically viable. A variation of this technique is a PDR program, which involves purchasing development rights from land. These programs can also be used to protect environmentally sensitive lands.

PLANNING NOTES

■ New Publications

• The Division of Resource Planning and Management has prepared an *Overview of Programs* booklet to help local officials, private business leaders, and the general public understand the division's role in land planning activities statewide. The free booklet lists the specific statutory authority, the types of assistance available, and the contact person for each program. **Contact: Grants and Publications Section, (904)487-4545, SC 277-4545.**

• The DCA has published its revised *Agency Functional Plan* for fiscal years 1989-90 through 1993-94. **Contact: Debbie Skelton, Office of the Secretary (904)488-8466, SC 278-8466.**

• The DCA has published the *Model Intergovernmental Coordination Element*. The model element is a revised version of the draft made available last year. **Contact: Grants and Publications Section, (904)487-4545, SC 277-4545.**

• A limited number of copies of the proceedings of the May 1988, conference "Livable Cities For Florida's Future" are available. The conference focused on energy efficient growth and transportation issues in Florida. **Contact: Pat Pieratte, Florida Department of Transportation, (904)488-4640, SC 278-4640.**

■ **Requesting Technical Assistance.** Local governments requesting technical assistance visits from the DCA's Field Technical Assistance Section should do so in writing. Letters should be sent to Robert G. Nave, Chief, Bureau of Local Planning, Division of Resource Planning and Management, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399-2100, and should specify the topics, issues, and comprehensive plan elements to be covered by FTA staff. **Contact: Mike Cavanaugh, (904)922-5438, SC 292-5438.**

Adopt Design Guidelines for Rural Development. An effective technique for allowing development in rural areas is to adopt rural design guidelines. An excellent source manual on this subject is a recent publication entitled *Dealing with Change in the Connecticut River Valley: A Design Manual for Conservation and Development*. This manual, developed by the Center for Rural Massachusetts and published by the Lincoln Institute of Land Policy, contains many techniques for accommodating development in rural areas without sacrificing the visual and natural characteristics of rural areas.

The above options represent some of the many techniques and strategies available to local governments for accommodating growth in rural areas while maintaining a separation of rural and urban lands. These options and additional ideas will be reviewed in more detail in a special issue of the *Technical Memo* being developed by the Department.

For more information about rural planning strategies and techniques contact the Field Technical Assistance Section, (904)922-5438, SC 272-5438.

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TECHNICAL MEMO

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Managing Rural Growth Preserves and Enhances Florida's Quality of Life

As the local comprehensive planning process has moved from the urban coastal areas of the south into the rural areas of the northern and interior sections of Florida, the Department of Community Affairs has given in-



SECRETARY'S COLUMN
THOMAS G. PELHAM

creased attention to rural planning issues. Our March issue of the *Technical Memo* emphasized the planning flexibility which the Growth Management Act allows in both urban and rural areas and identified a variety of planning approaches and techniques that can be used in rural areas. This issue presents a more detailed list and discussion of planning techniques and approaches for rural areas.

The Department solicited public input from a wide array of people and interest groups in preparing this issue of the *Technical Memo*. Among other things, we sent personalized requests for comments, suggestions, and proposals to more than 250 persons and groups and solicited comments through an announcement in our March 1990 *Technical Memo*, which has a circulation of 2800.

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FEATURE

Planning for Rural Areas: Issues, Strategies and Techniques

Florida's growth management laws and rules require local governments to manage growth and development in rural areas as well as in urban areas. One requirement that must be met in this planning effort is discouraging the proliferation of urban sprawl. Additional policy directives found in the State Comprehensive Plan that should be satisfied through rural planning include promoting agricultural diversification; maintaining the rural character of rural areas by encouraging a separation of urban and rural land uses; protecting natural systems and environmentally sensitive areas; permitting the conversion of agricultural land to other uses when and where appropriate; and maximizing the efficient provision and use of public facilities and services.

Planning and land development regulation in rural areas have traditionally been based on fixed density controls. This approach, while typically the least complex to administer, may be limited in its ability to meet all of the above policy directives. It can also result in the conversion of rural landscapes into large-lot development patterns, which fails to halt urbanization and needlessly consumes agricultural lands. Widespread patterns of large lot development—whether on one-, two-, five-, or 10-acre tracts—place at risk the very character of rural areas that is so important to retain.

Strategies and techniques are available for managing growth in rural areas

that can avoid this result. These approaches focus on controlling and directing growth into appropriate and desirable patterns, as opposed to relying solely on regulating allowable densities. Many of these approaches are also more sensitive to market forces and the maintenance of rural land values than approaches based solely on density limitations.

If properly implemented, Florida's growth management laws and rules provide sufficient flexibility to permit these types of approaches to be used. In fact, the Florida Legislature explicitly encouraged local governments to adopt innovative land development regulations in planning for and regulating the use of land when it enacted the Local Government Comprehensive Planning and Land Development Regulation Act.

The Department of Community Affairs has prepared this article to assist

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Candidly, the response was very disappointing. We received only 21 responses to our requests and most of these were very general and philosophical comments about growth management in rural and agricultural areas. We have endeavored to include the few concrete proposals and suggestions we received in preparing this issue. I want to thank each person and organization who responded to our requests for their contributions to this technical assistance effort.

Effective growth management in rural areas is critical to the preservation and enhancement of the quality of life in Florida. As Florida continues to urbanize, more innovative planning approaches will be needed to protect the character and values of our rural areas from urban sprawl while at the same time allowing and encouraging appropriate development in rural areas.

The Growth Management Act encourages local governments to adopt innovative planning approaches. We hope that this *Technical Memo* will assist local governments in achieving this goal. TM

Comprehensive Planning in Rural and Agricultural Areas: Tools, Techniques, and Options

Wednesday - July 25, 1990
9:00 a.m. to 4:00 p.m.
Sheraton Orlando Airport Hotel
Orlando, Florida

Topics

- Planning for Rural and Agricultural Areas Under Florida's Growth Management Laws
- Overview of Rural Planning and Development Techniques
- Creating New Communities in Rural Areas
- Strategies for Promoting Rural Economic Development
- Preserving Community Character through Creative Development Techniques

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officials and citizens interested in some of the innovative and flexible planning approaches that can be used to accommodate growth and change in rural areas while preserving important rural attributes and discouraging urban sprawl. This article first discusses five important factors that a local government must consider in crafting its planning and regulatory approach for its rural areas. It then reviews strategies and techniques available to local governments in four general categories: preserving rural character, new communities, conserving agricultural lands, and addressing special circumstances.

Many factors should be considered by a local government before any of these

planning approaches are used. Foremost, planning for rural areas must be based on sound data and analyses and fit in with a community's comprehensive plan as a whole. Full public participation in this planning process must be ensured.

Experience has shown that planning for rural areas must be undertaken within the context of a community's entire comprehensive plan to comply with the provisions of Chapter 163, Part II, Florida Statutes, and Rule Chapter 9J-5, Florida Administrative Code, and to be consistent with the State Comprehensive Plan and the applicable comprehensive regional policy plan. Many planning techniques, for example, may be appropriate under one set of circumstances but fail to comply with state planning requirements under different circumstances.

Considerations in Developing a Planning and Regulatory Program

Consideration of five factors, among others, can assist local governments to meet these requirements. These include (1) the demographic and economic characteristics of an area, (2) the extent to which an area is physically appropriate for development, (3) the extent to which adequate public facilities and services can be provided, (4) the ability to implement adopted regulatory approaches, and (5) the guidelines and standards necessary to ensure that rural development is well-planned and does not result in sprawling development patterns.

Evaluate Demographic and Economic Characteristics

First, the demographic and economic characteristics of rural areas need to be assessed. Rural issues in rural counties, those counties not part of metropolitan statistical areas, are clearly different from rural issues in fast-growing urban counties. These areas should be treated differently in the planning process. Planning efforts must be based on local conditions and circumstances. For example, some

agricultural industries, like raising cattle on unimproved pasture or producing paper products, require very large parcels to remain economically viable, but growers of ornamental plants can produce profits on very small tracts. These different needs should be considered in any planning effort.

Likewise, planners should consider ownership patterns. That is, whether a rural area is highly parceled into numerous small tracts with many landowners or whether an area is owned by a limited number of large landowners. In some parts of rural Florida a few landowners control substantial quantities of land. Local governments typically have greater flexibility in planning for rural lands owned by very few owners since these owners have a greater ability to undertake innovative development approaches within the boundaries of their lands.

The characteristics of Florida's agricultural industry, which contributes more than \$16 billion annually to Florida's economy, emphasizes the need to distinguish between rural counties and the remaining rural areas of fast growing

urban counties. Five of Florida's 10 most populous counties are also in the top 10 counties in terms of market sales of agricultural products.

Given the problems that urban encroachment can present for viable agriculture, these fast-growing urban counties should give more emphasis to protecting the character and natural resources of their rural areas by putting in place a set of land use policies that will sustain an agricultural economy; ensuring that exurban and suburban development does not undermine the ability of the agricultural industry to produce and market its products; and establishing strong policies to guide the efficient conversion of land from rural to urban uses where and when needed.

On the other hand, many slow-growing rural counties may have conditions and circumstances that enable them to justify greater reliance on flexible, area-based planning tools, which can provide greater leeway in the use of individual parcels of land, than can be justified within and adjacent to fast-growing areas. In addition, many of these counties located in the northern part of the state have more than one-half of their total land area in forests, an industry typically characterized by a small number of owners of very large parcels of land. These features may permit different planning approaches than may be needed in rural areas facing rapid growth.

Nevertheless, these counties' comprehensive plans must also contain adequate guidelines and standards to ensure that development occurs in a manner compatible with surrounding rural areas, the concurrency requirement, the protection of natural resources, and the discouragement of urban sprawl.

Assess the Appropriateness of Rural Areas for Development

Second, the extent to which land is appropriate for development should be evaluated. Rural areas inappropriate for development, such as areas with physical, safety, environmental, or historical constraints, should be treated differently from rural lands which are suitable for development. These constrained areas

typically should be assigned more restrictive development rights than developable rural lands for a plan's future land use map to be consistent with the land suitability analysis conducted pursuant to the requirements of Rule 9J-5.006, F.A.C.

For example, many of the flexible techniques discussed below involve using floating regulatory categories that apply to broad areas. Constrained areas typically should not be eligible for the higher densities common under many such programs because of their fragility or increased susceptibility to the harmful

side-effects of development. Distinguishing between developable rural lands appropriate for flexible management techniques and lands needing special protection and management is an essential part of any successful comprehensive planning effort. The recommendations of the Governor's Suwannee River Task Force for protecting the Suwannee River basin are summarized in the accompanying article. The recommendations together comprise the type of special planning approach merited by a natural resource of state and regional significance.

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Regionally Significant Resources Must Receive Special Protection: the Suwannee River Case

Local governments in predominantly rural or slow-growing areas of the state have an important role to play in protecting regionally significant resources. When an important resource is located within or is impacted by activities within a jurisdiction, the local government must include measures to protect the resource in its comprehensive plan and in its land development regulations.

While the Local Government Comprehensive Planning and Land Development Regulation Act encourages flexible, innovative approaches to planning, local governments developing plans for the protection of significant resources may wish to use more traditional planning controls, such as restricting the density and intensity of development or transfer of development rights programs. In other words, planning approaches should be developed specifically for protecting significant resources.

Regionally significant resources and measures necessary to protect them may vary from region to region. A review of recommendations for provisions to be included in the comprehensive plans and land development regulations of local governments in a region may provide guidance in developing plans for preserving regionally significant resources. The recommendations for preserving the special resources of the Suwannee River basin represent a comprehensive approach that rural local governments can consider in developing plans to protect riverine resources within their jurisdictions.

In November 1988, Governor Bob Martinez created the Suwannee River Task Force to evaluate and report on the effectiveness of current planning, regulatory, and land acquisition programs, and to develop a plan for protecting and managing the resources in the Suwannee River basin. The task force presented its final report to the governor in November 1989.

The report identified 12 issues important for the protection and effective management of the river. Of the report's 44 recommendations, 13 recommendations from five issue areas—floodplain development, buffering, water quality, recreational use, and intergovernmental coordination—call for action by local governments in the region through their comprehensive planning and land development regulation processes. These recommendations for local government actions are described below.

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Ensure Availability of Public Facilities and Services

Third, the extent to which adequate facilities and services can be provided should be evaluated. The facilities and services that must be provided concurrent with the impacts of development according to Chapter 163, Part II, F.S., and Rule Chapter 9J-5, F.A.C., include potable water, sanitary sewer, solid waste, drainage, transportation, parks and recreation, and, where applicable, mass transit. Additional factors that may be con-

"The importance of this issue ... should not be underestimated because the provision of public facilities and services frequently stimulates growth and development."

sidered by a local government in determining what residential densities are appropriate in its rural areas include but are not limited to the ability to provide such services as law enforcement, fire and rescue, health care, schools, and libraries, as well as an area's proximity to working, shopping, and cultural opportunities.

The importance of this issue from both a financial and planning perspective should not be underestimated because the provision of public facilities and services frequently stimulates growth and development. If that growth and development occurs in sprawling, inefficient land development patterns, the cost of providing an adequate level of many services and facilities, such as central water and sewer, roads, public transportation, and law enforcement, can be greatly increased.

For this reason, many local governments may find it advantageous to permit development at an intensity that requires the provision of facilities and services at an "urban" level of service only if the development is located in rural villages or new towns, or is prox-

imate to existing urban areas that are adequately served. If this approach is consistent with their comprehensive plans, local governments can use this strategy to permit urban levels of development in rural areas consistent with the directives in the State Comprehensive Plan to maximize the use of existing public facilities and plan for and finance new facilities in a timely, orderly, and efficient manner.

Evaluate Resources for Plan Implementation

Fourth, local governments must realistically assess the resources they have available to administer the planning programs they adopt. Performance-based planning and regulatory programs require trained professional staff with appropriate capital support (computers, etc.) to interpret, implement, monitor and enforce the programs. Adopting planning approaches that cannot reasonably be administered represents bad policy. A basic planning program implemented effectively will provide greater long term benefits to the residents of a community than a more innovative approach that cannot be administered adequately.

Rural Planning Strategies and Techniques

Regardless of the regulatory techniques to be utilized, local governments must include goals, objectives, and policies in their comprehensive plans and adopt consistent land development regulations to guide future growth and development in their rural areas. Many effective techniques and strategies, in addition to density limitations, are available to local governments for this purpose.

Most desirable planning and regulatory approaches accomplish multiple goals related to managing growth in rural areas. For example, cluster zoning can both preserve agricultural lands and help to accommodate growth without harming scenic rural values. The strategies and techniques presented here are organized into four general categories: preserving rural character, new commu-

Adopt Standards to Ensure Well-Planned Rural Development

Finally, the guidelines and criteria needed to ensure that rural development does not result in sprawling development patterns must be adopted. The most important issue for maintaining the rural character of an area is not the densities that are allowed, but the pattern of development that is permitted. This is not to say that densities are irrelevant, but the real issue is how densities will be used.

If adequate planning controls are incorporated into a local plan and land development regulations, higher densities can be permitted in rural and agricultural areas. Well-planned development can occur in a manner that is compatible with rural and agricultural uses. On the other hand, communities that are not willing to administer or are financially constrained from administering adequate planning controls, should more strongly restrict densities until such time as they are ready to incorporate and enforce better planning guidelines and standards. Readers should review this *Technical Memo* in conjunction with the Department's special *Technical Memo* (Volume 4, Number 4), which comprehensively addressed the urban sprawl issue.

nities, conserving agricultural lands, and addressing special circumstances. Many of these approaches are complementary. Some also must be used in combination with other approaches in order to be effective and to satisfy state planning requirements. All of these options must be implemented through consistent land development regulations.

Further, these options must be adapted to local conditions and circumstances before they are used. Just as every local community is unique, every textbook approach must be adapted to local needs. Finally, all strategies and techniques must be utilized consistent with the State Comprehensive Plan, the applicable comprehensive regional policy plan, Chapter 163, Part II, F.S., and Rule Chapter 9J-5, F.A.C.

Preserving Rural Character

Rural areas represent a combination of working landscapes and natural landscapes with an overall low intensity of use. Working landscapes—fields of row crops, managed forests, pastures, vineyards and orchards—provide the scenic vistas associated with rural areas. These open space land uses can be intermingled with structures, from farmhouses to feedstores, without threatening the quality of the overall working landscape.

This holds true as long as strip sprawl

is avoided, the overall intensity of development remains low, and development design guidelines and standards that ensure that the development is well-planned and compatible with the rural nature of surrounding lands are met. The key to preserving rural character is managing the overall pattern of development, not the density of development or type of land use on any particular parcel.

The 12 strategies and techniques described in this section follow several common themes involved in preserving rural character. These include using area-

based allocations, establishing performance standards, avoiding strip sprawl, and preserving open space.

However, all of these options must be used in conjunction with development design guidelines to ensure that development is compatible with rural and agricultural areas. The article below outlines some of the key development design guidelines and standards that local governments should consider incorporating into their comprehensive plans and land development regulations for this purpose.

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Preserving Community Character with Development Guidelines

A critical component of any program to accommodate or allow development in rural areas is the adoption of rural design guidelines. *Dealing with Change in the Connecticut River Valley: A Design Manual for Conservation and Development*, developed by the Center for Rural Massachusetts and published by the Lincoln Institute of Land Policy, contains many techniques for accommodating development in rural areas without sacrificing the visual and natural characteristics of rural areas. Some of the manual's design guidelines for maintaining visual compatibility, sensitive use of rural highways, and protecting open space and sensitive natural resources are summarized below.

Maintaining Visual Compatibility

- * Adopt a Planned Unit Commercial Development Ordinance that requires commercial development to be clustered in wooded areas or at major intersections. Such an ordinance could allow, for example, a tourist-oriented commercial node to be located adjacent to the highway, while a second commercial node would be set back from the highway, screened by a wooded area or other natural feature, and located around a central open space.

- * Incorporate policies in the plan and development standards to ensure that new development reflects existing rural settlement patterns and architecture.

- * Enact a mandatory open space provision for building in rural areas or on farmland, including requirements for clustering development and severing development rights from the remaining open space, which in turn can be leased for agricultural use.

- * Adopt performance zoning ordinances or traditional zoning ordinances that provide for variations in lot size and that require wooded buffers be used to separate housing from farmland.

- * Require buildings located along main roads to use architectural techniques that enhance their relationship to the road. Ensure parking lots and storage are screened from direct view from the road.

- * Use lighting controls to prevent over-illumination and glare.

- * Use signage controls to reduce the size and visual impacts of proposed signs. Clear signage can also improve safety.

- * Require underground utilities.

- * Encourage multifamily attached units to be built to resemble traditional rural homes rather than modern, "boxed" units.

- * Establish guidelines to ensure new residences and nonresidential structures reflect an architectural style that fits in with typical local architecture.

Sensitive Use of Rural Highways

- * Require common driveways be used to reduce construction impacts on farm and forest lands and visual quality. This also increases safety and efficiency by re-

ducing the number of curb cuts.

- * Designate specific roadways or roadway sections as scenic highways. Only moderate improvements should be allowed within the existing right-of-way of the scenic highways, since these highways would not be expanded. This technique is also useful in separating commercial roadsides from scenic roadsides and providing alternatives to strip commercial development.

- * Require moderate road widths, for example by adopting subdivision regulations requiring only 20-foot-wide collector roads, and require roads and driveways be placed to avoid farm and forest lands and sensitive natural areas. Roads should also be required to fit the topography of the land.

Protecting Open Space and Sensitive Natural Resources

- * Adopt requirements for setbacks from and buffers adjacent to rivers, lakes, and wetlands.

- * Adopt ordinances to ensure that farmland, forests, and open spaces are preserved by clustering development at the edges of open areas and working landscapes.

- * Adopt a Planned Unit Development Ordinance that requires multifamily housing to be clustered away from sensitive natural areas and ridgelines and provide common open space accessible to all residents.

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Area-Based Allocations. An alternative to the use of traditional Euclidean zoning, which relies on rigidly defined single use districts, area-based allocation programs permit an amount of development to occur within an area without stating exactly what must happen on any parcel. This approach can preserve a low overall intensity and density of use in a rural area while allowing flexibility in determining use of specific locations.

Area-based allocation programs are typically established by the incorporation of floating zones (see below) in comprehensive plans and land development ordinances that apply to certain land use categories or areas. Performance zoning can also be used in conjunction with intensity standards to implement area based allocations. Area-based allocation programs should be implemented through performance standards that ensure consideration of a specific site's topography, soil conditions, infrastructure availability and capacity, unique natural features, scenic vistas, water bodies, and productive agricultural lands, including forest lands, in determining where development can occur and what densities are appropriate. Many of the following approaches represent types of area-based allocation programs.

Overlay Districts. Overlay districts are special planning and zoning regulations that, if permitted to be used, impose additional or different development guidelines and standards in a zoning district without disturbing the district's underlying standards. Many local governments treat planned unit developments (see below) as a type of overlay district. Similar to floating zones, overlay districts provide additional flexibility and greater responsiveness to market conditions, while providing the necessary standards for a category of uses.

In contrast with floating zones, overlay zones typically only supplement the development standards that already apply in a district. While these programs allow for greater flexibility in the use of individual parcels and can provide for en-

hanced protection of sensitive environmental resources, the administration of overlay districts can be complicated and increase the amount of time needed to review development applications.

Floating Zones. Floating zones can be used to establish land use categories and related development criteria without actually identifying the categories on the future land use map. For example, traditional neighborhood development districts (see below), which require special subdivision regulations and codes, frequently will be adopted as floating zones. Unlike overlay zones, floating zones can be used to provide a developer with access to a completely different set of development guidelines than would otherwise apply in the applicable land use category. When a local government approves a development on a particular site pursuant to the criteria set forth in a floating zone, the development and appropriate land use category is then designated on the comprehensive plan's land use map by amendment.

"Area-based allocation programs can preserve a low overall intensity and density of use in a rural area while allowing flexibility in determining use of specific locations."

Clustering Requirements. Although several techniques and strategies exist for permitting development in rural areas without detracting from rural aesthetic values and encouraging sprawling development patterns, one of the most effective is clustering. The physical form of clustered development can be adjusted to fit the characteristics of any particular area, be it in a rural village or in open countryside. Clustering requirements minimize the amount of rural land needed to be converted to urban uses to accommodate a development. Not only are

clustered developments substantially less costly to build due to lower site preparation costs, they result in a more efficient use of facilities and services, and afford greater protection of environmentally sensitive areas. Moreover, clustered units, which frequently overlook preserved open spaces, have increased value and marketability.

Clustering techniques involve permitting an amount of development to occur based on the gross or net acreage of a parcel but requiring all of the development to be placed on only part of the parcel. The remainder of the parcel is usually required to be left as permanent open space or dedicated for use for recreational or agricultural purposes. Clustering programs also typically permit developers to build diverse housing types, such as a combination of detached homes, townhomes, and garden apartments within the same development.

Open Space Requirements. Open space zoning achieves a balance between open space and farmland protection and necessary growth through land use planning. Under this technique, residential and commercial buildings are clustered to preserve agricultural and forest lands and open space. Like the clustering technique, open space programs permit a certain amount of development based upon a parcel's net or gross acreage but require the development to be designed to leave 80 percent or more of the land in contiguous and workable public open space. Open space zoning differs from clustering by establishing greater requirements on the size and quality of the open space that is protected.

Two-Tier Density Programs. Many local governments with substantial amounts of rural lands will desire to discourage sprawling development patterns while being sensitive to land values in rural areas. One of the best techniques for accomplishing this objective is to set an underlying maximum density for an area but to allow that density to be exceeded if certain guidelines are met.

Generally, two-tier density strategies involve having two densities apply to the

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same rural lands through the use of an overlay district or floating zone that is adopted as part of the comprehensive plan. A lower density, perhaps 10 or 20 acres per dwelling unit, could be made available to any landowner. Landowners could build at a higher density, however, if they meet certain criteria for the overlay zone. These criteria should include clustering and open space ratios, a complementary mix of land uses that allows people to shop, work, and recreate close to their homes; minimum thresholds for the amount of traffic generated by the development that has to be "captured" by other developments internal to the development; and other factors.

Mixed-Use Districts. Establishing mixed-use districts in the local comprehensive plan can permit a wide diversity of land uses in rural areas, retaining the permissive approach to the types of land uses allowed that currently exists in many rural areas. Mixed-use districts are frequently most appropriate in areas on the rural-urban fringe. Performance zoning regulations should be used to implement these districts to ensure that different land uses are adequately buffered from one another. In addition, standards and guidelines to control the maximum allowable amounts of each use and the ratio of uses to each other should be included. Local governments considering this approach should ensure they have the staff and resources to administer a performance zoning system, which is more complicated than traditional Euclidean zoning systems and frequently requires additional monitoring and enforcement efforts.

Generally, mixed-use district requirements should result in residential and nonresidential uses locating in reasonably close proximity to each other. Depending on the size of the development and the neighboring land uses, mixed-use district programs should encourage an attractive and functional mix of commercial, office, retail, housing—including affordable housing, and recreational opportunities.

Well-planned developments designed according to sound mixed-use and clustering requirements can occur away from

existing urban areas and avoid the problems of sprawling development patterns. These developments can also capture some trips internally, thus reducing the traffic demand on rural arterials, by linking all properties to an internal street system and providing a complementary mix of residential and nonresidential land uses.

An example of how this mix can occur is the inclusion of sites for neighborhood commercial opportunities, such as grocery and drug stores, dry cleaners, restaurants, and banks, within a residential project. Local governments adopting mixed-use districts should also incorporate development design standards to ensure compatibility among uses and aesthetic acceptability.

"Mixed-use districts are frequently most appropriate in areas on the rural-urban fringe."

Access Management. Effective access management programs help to limit strip sprawl development patterns, maintain the through-carrying capacity of arterial roadways, and enhance the preservation of rural scenic values as development occurs. Curb cuts and access points can be minimized by requiring development to utilize parallel access roads, share existing or new access points, and construct local road networks that provide alternatives to the use of arterial roads. It is essential when employing this technique that the plan and implementing land development regulations require new subdivisions, planned unit developments, and like development to cluster commercial development sites in nodes and to connect their internal roadways to existing local networks so that a grid of alternative travel routes eventually results.

Not only can access management programs enhance the operation of rural arterials, freeways, and other roads, effective access management efforts can help to preserve rural scenic character. Due to the heavy reliance of today's population on the automobile for trans-

portation, many people's perception of rural areas is based upon what they can see from their cars as they drive on rural highways.

Locating nontraveler-dependent land uses in development nodes that are set away from the roadside and buffered by stands of trees and other natural screening features can help to preserve rural scenic character even while accommodating significant quantities of development. The projects located in the development nodes also benefit by having one or two access points, each marked by clear signs, which help drivers to easily identify the entrances to the sites and recognize which establishments and other projects are located there.

Locational Systems. Also known as permit or point systems, locational requirements can be established in plans and implemented through land development regulations. This technique can involve permitting, modifying, or prohibiting development based on its distance from schools, employment and commercial centers, natural resources, and public facilities. Locational systems are usually designed to maximize the benefits of growth while minimizing negative impacts. They can include absolute requirements that all developments must meet as well as criteria to determine the densities that a development is allowed. The criteria may depend on the proximity of specified facilities, natural resources, and other essential land uses. As locational systems typically prohibit very few uses, use of this technique frequently minimizes problems caused by nonconforming structures. Local governments adopting locational systems must ensure that their point allocation process has adequate safeguards against sprawling development patterns.

Planned Unit Developments. This regulatory tool, which can be used as an overlay district or floating zone to implement many of the strategies and techniques identified in this article, also provides enhanced flexibility in planning and land development regulations. Planned unit development ordinances can be used in

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conjunction with traditional zoning to provide for a mix of land uses within an individual zoning district, which frequently results in more desirable development patterns. Developments in rural areas over a certain size can be required to be built as a PUD to ensure that they meet the criteria established for developments in rural areas. It is essential, however, that adequate criteria be included in the PUD system. Currently, there is great diversity in local PUD systems and many of them probably are not adequate to accomplish the objectives of sound growth management in rural areas.

Fixed Density Controls. This technique involves limiting the amount of residential, commercial, and other types of development that can occur in an area rela-

“Currently, there is great diversity in local PUD systems and many of them probably are not adequate to accomplish the objectives of sound growth management in rural areas.”

tive to the amount per acre of land that can be accommodated without overloading public facilities or sacrificing rural character. This option uses a fixed ratio for determining the number of residences that are permitted on a specified number of acres. A fixed ratio, unlike a sliding-scale ratio (see below), does not change in response to the size of the parcel.

For example, if the fixed ratio is one unit per 10 acres, a parcel of 50 acres would be allowed five units, while a 200-acre parcel would be allowed 20 units. Of the many options available to local governments for planning in rural areas, this technique may be the simplest to administer and is especially appropriate for large tracts of timber lands. The technique may be one of the weakest, however, for sustaining a healthy agricultural economy, especially if the area is subject to urban development pressures and to escalating land values. For a plan to comply

with Rule Chapter 9J-5, F.A.C., this technique must be used if adequate alternative rural planning controls are not established in the local comprehensive plan.

Sliding-Scale Zoning. Sliding-scale zoning can be useful in agricultural areas affected by development and price speculation. It differs from traditional or fixed-scale zoning in that a sliding-scale ratio is used to allocate the number of units permitted on a given number of acres. As the parcel size increases, fewer lots or residences per acre are allowed.

Sliding-scale zoning permits smaller parcels of land to be split into more lots and directs growth onto these already fragmented smaller parcels, thus leaving the larger, undivided land parcels in agricultural use. This approach also encourages clustered development, a benefit that can be enhanced by limiting the maximum allowable lot size, for example to two acres.

Sliding-scale zoning can be used to encourage nonfarm development to occur on less productive land. This provides an effective technique for accommodating development pressures while sustaining an agricultural economy. This approach also helps address the needs of large and small landowners, as it permits large landowners some development while allowing small landowners to develop a higher percentage of their property. A key to using this strategy, however, is ensuring the establishment of adequate buffers between agricultural lands and residential developments.

New Communities

With Florida's tremendous rate of population growth, well-planned new urban communities in rural areas can assist in accommodating some of the demands of future growth. Local governments which can produce data and analyses to justify new communities and which desire to provide for such communities should designate appropriate locations on their future land use map of their local comprehensive plans.

Goals, objectives, and policies must also be included in the future land use

and related plan elements to guide the conversion of land from rural and agricultural uses to new urban community sites when and where they are needed. These goals, objectives, and policies should ensure that new urban communities are compact, distinct, and self-contained. Policies should also establish standards for internal traffic capture, complementary mix of land uses, timing of construction, balance between jobs and housing, clustering, provision of and efficient use of adequate infrastructure, and open space.

When planning for new communities, local governments should also incorporate performance standards to ensure that development associated with new urban communities will be compatible with surrounding rural and agricultural uses and the protection of natural resources and environmentally sensitive areas.

New communities may represent leapfrog sprawl unless adequate provisions are incorporated into local plans to ensure that new urban communities remain distinct, separate urban areas and that the land area between existing urban areas and the new urban community does not become characterized by sprawling development patterns, including strip commercial sprawl and one-dimensional residential districts. Several of the following strategies and techniques can be used to provide for new communities and related development patterns.

Promote Rural Villages. This concept is based on permitting development at varying intensities to promote the location of rural development in nodes, which can consist of small rural communities, local activity centers, and other types of development. These areas should be clustered and contain a mix of residential and nonresidential uses that will support surrounding agricultural and forestry activities, large-lot rural residential areas, recreation activities, and conservation areas (see page 12).

Direct Public Investments to Existing Communities. This fundamental technique involves targeting existing rural communities and development nodes to

receive public funds for infrastructure renovations and expansions and working to assist them to become cultural and economic centers. Integrating land use planning and economic development strategies that promote rural activity centers with capital improvements programming can make these rural communities more desirable and attractive places to live and work and help alleviate pressures for additional urban encroachment into rural areas.

Require Large-Scale Developments in Rural Areas to be Florida Quality Developments. This strategy involves using the development review process established in Section 380.061, F.S., to ensure that large developments in rural areas are thoughtfully planned and compatible with the surrounding rural or agricultural area, take into consideration the protection of Florida's natural amenities, address the cost to local government of providing services, and maintain a high quality of life. The FQD program is described on page nine.

Traditional Neighborhood Development Districts. Traditional neighborhood developments are mixed-use developments that let people live, work, and shop in the same neighborhood. In a large-scale proposal, several such traditionally-designed neighborhoods are linked to form a functionally integrated new town center. A greater percentage of trips are thus captured internally and the need to drive on arterial roads outside of the development is reduced.

Local governments may wish to establish a traditional neighborhood district code to address specific needs of a geographic area or to preserve the character of the area. Traditional neighborhood development districts can be provided for by establishing floating zones that apply to certain land use categories or areas in comprehensive plans and land development ordinances. General guidelines for establishing a traditional neighborhood development district code are provided in Article III of the *Model Land Development Code for Florida Cities and Counties*.

Pedestrian Pockets. Frequently associated with traditional neighborhood development districts, pedestrian pockets represent an innovative concept for accommodating new growth in rural areas at urban intensities. Smaller than new towns, the pedestrian pocket is defined as a balanced, mixed-use area within a one-quarter-mile radius (walking distance) of a light rail station. The uses within this zone of approximately 50 to 120 acres include housing, commercial (especially telecommunications and computer-oriented industries), retail, daycare, recreation, and open space.

The pedestrian pocket concept provides a strategy for the long-range growth of an entire region in a manner that is more pedestrian friendly, public transportation-oriented, and environmentally sensitive than current development patterns. Development of the Florida High Speed Rail System may provide communities with greater opportunities to develop pedestrian pockets.

Conserving Agricultural Lands

Many of the strategies and techniques discussed above relate to converting rural and agricultural lands to other uses. But agriculture—including fruits and vegetables, nurseries, livestock, livestock products, sugar, and forestry—is an important component of Florida's economy. Due to its prime and unique farmlands, climate, and industrious agricultural community, Florida is one of the top states in the nation in agricultural production.

While the State Comprehensive Plan prohibits permanent restrictions on converting agricultural lands to other uses, it also encourages agricultural diversity and maintaining a healthy and competitive agricultural economy. To comply with these planning requirements, Florida's communities must ensure that they adopt land use policies for areas designated as agricultural in their plans that will sustain a strong agricultural economy on these lands until their conversion to other uses is timely and appropriate.

Many techniques are available to local governments that wish to conserve

agricultural lands and promote a viable agricultural economy. These techniques also can be combined with many of the programs described above to give farmers that want to stay in farming but are in need of capital the opportunity to obtain financial relief during difficult economic periods. Provisions also can be included to ensure that property owners have the ability to subdivide land among immediate family members to be used to accommodate primary residences (see the next subsection). In addition, provisions should be incorporated to ensure adequate farm-worker housing is provided.

Three factors must be considered in any effort to implement zoning to conserve agricultural lands. These include precisely defining the permitted uses within an agricultural zoning district, assessing the characteristics of the area to be protected, and determining the suitability of a particular parcel for inclusion into an agricultural district.

Even after successfully resolving these issues, however, zoning alone cannot be expected to protect agricultural lands effectively when the development value of farm or forest lands is much higher than their value in agricultural production. In these cases, zoning must be used not only in conjunction with other planning programs, such as an overlay district, but also in conjunction with voluntary programs at the local level that offer financial incentives to owners of agricultural lands and call upon the landowner's management judgment and discretion. In the face of market pressures, a local government's efforts to preserve agricultural lands and maintain a viable agriculture will be enhanced by a collaborative arrangement with the local agricultural community in designing appropriate planning and regulatory programs. With these caveats in mind, some options available to local governments for conserving agricultural land follow below.

Exclusive Agricultural Zoning. Exclusive agricultural zoning is the most restrictive category of agricultural zoning. It typically includes very large parcel sizes, exclusion of nonfarm land uses, and other restrictions on the type and

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amount of development that may occur within the agricultural district. This zoning approach can be a very effective tool for controlling conversion of agricultural lands but may be most appropriate only for prime agricultural lands and highly productive unique agricultural lands that must be managed intensively.

Communities should carefully consider the types of active agriculture in their jurisdictions and the amount of land and buffers needed to maintain those activities when setting minimum lot sizes in exclusive agricultural areas. Use of exclusive agricultural zoning can minimize the chance that nuisances created by exurban development will hinder efficient agricultural production.

Nonexclusive Agricultural Zoning. Nonexclusive agricultural zoning can preserve an area's overall agricultural character but permit areas to be converted to nonagriculturally dependent development. This zoning may restrict some uses that are not related to agricultural purposes if their nuisance impact on farming activities is high. Policies should direct the subdivision of land in these areas to the most unproductive areas and ensure that adequate facilities and services can be provided.

This approach can be used in combination with sliding-scale zoning, clustering requirements, and buffer requirements to maintain viable agriculture while an area slowly moves toward dependence on nonfarm related development. Local governments should strongly consider adopting "right-to-farm" ordinances as part of any nonexclusive agricultural zoning program to ensure that exurban development does not prematurely drive out productive agricultural industries.

Large-Lot Residential Zoning. Used judiciously, large-lot zoning can be used to accommodate some of the demand for rural residential development. Such zoning should be limited to less productive farm and forest lands, as well as rural lands inappropriate for agricultural uses. Large-lot zoning should not be relied upon to sustain viable agriculture because parceling up farm and forest lands

for rural residential subdivisions frequently encourages leapfrog development, leads to the inefficient use of public facilities and land, and unnecessarily consumes large quantities of agricultural lands. Used selectively and in conjunction with promoting denser nodal or cluster development to avoid spreading large-lot residential development across wide areas, large-lot zoning can be an appropriate tool for meeting some market demands for rural residential lifestyles.

Transfer of Development Rights Programs. This technique is used to sever development rights from parcels of land and transfer those development rights to other parcels. Development rights can be transferred without affecting remaining property rights, such as the right of access or the ability to camp, farm, or fish.

To set up a TDR program, a local government must designate specific areas within which development rights can be purchased (sending areas) and areas within which development rights can be used (receiving areas). Sending areas may consist of important farmlands and open space, environmentally sensitive lands, or lands containing historical resources. Receiving areas should be served by public facilities and be appropriate for higher density development.

These programs can also be used to address problems created by lands previously divided into antiquated and undesirable subdivision plats. To accomplish this, TDR sending areas can be limited to properties that already have vested rights, but that are no longer desired to be developed. This approach may represent a viable option for dealing with the problems caused by antiquated subdivisions.

While TDR programs present enormous potential for preserving the underlying asset value of lands not appropriate for urban development and for directing development into appropriate patterns without incurring "taking" challenges, these programs can be difficult to design and administer. The more complicated a program is, the less likely it will be understood and used. Local governments also must ensure that they do not

increase densities in receiving areas through variances and parcel rezonings, thus eliminating the incentive developers have to purchase development rights.

Purchase of Development Rights Programs. A variation of the TDR concept is a PDR program, which involves purchasing development rights from land. Such programs can also be used to protect environmentally sensitive lands, farmlands, open space, and historical resources. These programs traditionally have proven more effective than TDR programs because they are simpler to understand and administer. Nonprofit land trusts with knowledge of the real estate market and access to private capital often play a lead role in assisting communities in implementing PDR programs.

Addressing Special Circumstances

When establishing minimum densities for rural areas, local governments may wish to consider the situations of property owners with special circumstances. Two of the most likely special circumstances are property owners wishing to divide their land among immediate family members and property owners wishing to rebuild or improve structures that do not conform to the new plan. Some of the issues involved and sample plan language to address these situations are discussed below.

Dividing Land Among Immediate Family Members. When densities are set in rural areas, the selected standard may restrict the ability of property owners to divide up land among members of their immediate families. Local governments concerned with this issue may include a variation of the following family lot provision, modified as appropriate for their conditions and circumstances, in their comprehensive plans. This provision is worded to apply to a local plan which includes a two-tier density program such as the one described above.

Family Lot Provision

It is the intent of the Agricultural

and Mixed Use-Conservation Land Use categories to permit the development of tracts of land for the use of family members for their primary residences. For the purpose of the Agricultural and Mixed-use-Conservation categories, property developed and/or subdivided for the use of immediate family members for their primary residence shall not be limited in density to one dwelling unit per 10 acres, but may be developed for family residences up to the maximum gross density permitted in each district, respectively, pursuant to the clustering provisions established in this plan. Immediate family is defined as persons related by blood, marriage, or adoption, such as parents, spouses, siblings and children. This provision shall not be construed to permit land to be subdivided in a lot size smaller than that which would be otherwise permissible in these districts more than one time for each family member.

Rebuilding Nonconforming Structures.

Property owners with lots or uses that become non-conforming under a new local comprehensive plan due to density restrictions could be prohibited from rebuilding following a total or partial destruction of a structure unless this issue is specifically addressed in the plan. Local governments concerned with this issue may include a variation of the following existing uses provision, modified as appropriate for their conditions and circumstances, in their comprehensive plans.

Existing Uses Provision

It is the intent of the Agricultural and Mixed-use-Conservation Land Use categories to guide the future development and use of these areas. For the purpose of the Agricultural and Mixed-use-Conservation categories, structures existing as of (insert the appropriate date) shall be permitted to be rebuilt in the event of an accident or otherwise improved as long as the gross density or intensity of the property is not increased and the land use remains consistent with that in effect as of (insert the appropriate date).

Creativity Important in Rural Planning

As the foregoing description of planning techniques demonstrates, local governments have tremendous flexibility in addressing rural density and planning issues. The concerns of property owners with special circumstances, such as a landowner wishing to divide land among family members, should be addressed and accommodated. What must be avoided is the inappropriate and premature conversion of large amounts of rural land into urban uses without adequate considerations given to the need for balanced, well-planned development.

The preparation and adoption of local government comprehensive plans and land development regulations offers an excellent opportunity for local governments to design and implement innovative planning and development guidelines for their rural areas, as well as for the remainder of their community. Land development regulations must contain the specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan. Thus, the rural planning policies of a local government should be clearly outlined in its comprehensive plan, although more detailed regulations can be provided in the land development regulations required to be adopted to implement the local plan. Performance zoning and planned unit development ordinances, for example, can include many of the needed details if authorized by the local plan.

The key to allowing development in a rural area is proper planning which will preserve the area's rural character. The issue is not densities alone. In fact, relying solely on limiting densities is not the most desirable approach. Strong consideration should be given to an area's topography, soil conditions, unique natural features (including flora, fauna, and water bodies), and productive agricultural and forest lands when determining how and where an area can grow. As permitted densities increase, so should the guidelines and safeguards applied by local governments to ensure that rural devel-

opment does not result in unaffordable, nonfunctional, and unattractive sprawling development patterns.

As noted in *Dealing with Change in the Connecticut River Valley: A Design Manual for Conservation and Development*:

Essentially, the broad choice in future residential development patterns is between a creative extension of the traditional rural village concept, and repetition of conventional suburban subdivision practices, wherein 100 percent of the tract is covered by streets, houses, front yards, back yards, and side yards. The former enables a large proportion of new homes to be sited so as to command uninterrupted views across long, open fields or pastures, permanently protected from future development. The latter option almost guarantees that the view from one's picture window will ultimately be, as Christopher Alexander has observed, "of the other man's picture window."

There are a variety of planning strategies and techniques available to local governments to allow developments in rural areas while preserving an area's rural character. Local governments should evaluate the many strategies and techniques available to them, some of which have been presented in this article, in addition to density limitations. The discussion of available options in this article is not intended to reflect that there are no other strategies that might be utilized.

One purpose of the Local Government Comprehensive Planning and Land Development Regulation Act is to stimulate creativity in planning for the impact of growth in Florida. With the participation of its citizens, a local government should evaluate the strategies and techniques presented in this article, and others, and select those that will enable it to address rural planning issues effectively in its local plan and achieve its desired community character. TM

Allowing Higher Densities in Rural Areas

Hillsborough County's Planned Villages

Designating low residential densities in rural and agricultural areas does not necessarily mean precluding carefully, properly planned developments of higher densities. A fast-growing local government may include provisions in its comprehensive plans that promote the planned village concept as a means of discouraging urban sprawl while permitting flexibility in developing the urban fringe. Hillsborough County's development of proposed plan amendments to implement a planned village concept illustrates this approach.

The county's intent in using the planned village concept is to discourage urban sprawl by promoting mixed-use, clustered, and planned developments on rural tracts of at least 160 acres located in the urban fringe. This size tract is needed to achieve

a minimum level of community self-sufficiency. Uses within a planned village must be appropriately scaled to maximize internal trip capture, shopping, and job creation on-site. Projects must be designed to achieve compact, pedestrian-oriented nodes that mix shopping, office, and residential uses and provide for the efficient use of infrastructure.

To implement this concept, the county is proposing to amend its plan by designating two new land use categories for areas located in the urban fringe in the southern part of the county of this rapidly developing metropolitan area: Low Suburban Density Residential-Planned (LSDR-P) and Rural Residential Planned (RR-P). With the exception of lots for immediate family members and planned villages, development within these categories must occur at a density of no greater than one unit per five acres.

Projects that are 160 acres or more, however, may qualify as planned villages,

within which residential densities may be increased to a maximum of two dwelling units per gross acre in LSDR-P areas and a maximum of one dwelling unit per gross acre in RR-P areas. To achieve these higher densities, a planned village must use a clustering ratio of two and demonstrate that it satisfies minimum requirements for meeting neighborhood retail and shopping commercial office needs, providing job opportunities on-site, and capturing trips internally. As the size of a planned village increases from the 160-acre minimum, the minimum requirements for mixed uses, internal trip capture, and job opportunities increase proportionally.

For example, a project of between 640 and 2559 acres will qualify as a planned village, and be eligible for higher densities, if it meets the following minimum requirements:

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New FQD Rule Provides One Approach for Creating New Urban Communities

New urban communities—or new towns—have been described as a planning tool that can be used to accommodate development in rural areas while discouraging sprawling development patterns. Because a new town is typically planned to maximize internal capture of the impacts of its development, the approach may be appropriate for permitting development in rural areas *if it is otherwise consistent with an overall comprehensive plan that complies with state law.*

Nationally, one of the trends in designing new towns is by using the traditional neighborhood district approach. Its use is also increasing in Florida. Traditional neighborhood districts are a return to 19th and early 20th century development design patterns. Generally, they create a better quality of life than the

automobile-driven suburban design patterns created after World War II.

The Florida Quality Development Program, an alternative development of regional impact review process, gives developers, both private and local government, effective means for implementing a traditional neighborhood district design plan.

The DCA's Rules of Procedure and Practice Pertaining to Florida Quality Developments became effective in January 1990. Applicants pursuing designation of their developments of regional impact as an FQD can receive expedited DRI review by meeting the requirements of Section 380.061, F.S., and Rule Chapter 9J-28, Florida Administrative Code.

The rule establishes a point system for evaluating FQD applications. Applicants earn points for incorporating planning and design features specified by the rule in development plans. Applications must earn a minimum of 15 points to receive FQD designation.

Planning and Design Features

The planning and design features fall into two categories: primary and secondary. All developers seeking FQD designation for their plans must incorporate one primary feature (worth five points) and any combination of secondary features (each worth between one and three points) to achieve the needed points. There are two options for meeting the primary feature requirement; both require the developer to address the need for affordable housing.

The first primary feature option is for the development to be located in an urban area or regional activity center and characterized by urban renewal, downtown redevelopment, or urban infill. The second primary feature option is for the development to promote compact urban growth. This approach requires providing a complementary mix of residential and nonresidential uses of parcels lo-

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Development in the Floodplain

The task force concluded that the greatest threat to the Suwannee River, its tributaries, and associated natural areas is future development in the rivers' floodplains. Land uses along the Suwannee River are primarily low-density residential development and forestry. There are an estimated 20,000 to 25,000 small-tract platted lots in the Suwannee basin, most of which are currently undeveloped. If these lots were built out, undesirable development intensities along the river system would result.

The task force indicated that redesignating densities in undeveloped residential areas, reducing thresholds for developments of regional impact, and perpetuating forestry interests in the basin will serve to maintain low development intensities, protect groundwater and surface water quality, and maintain wildlife habitat. Recommendations for local government action included the following:

1. Designate the floodplains of the Suwannee, Santa Fe, Alapaha, and Withlacoochee rivers as special planning areas.
2. Limit development in special planning areas to low-density residential, forestry, low-intensity agricultural, public recreational, and limited resource-based or water-dependent commercial uses.
3. Replat unimproved subdivisions with undersized lots to acceptable lot sizes, where ownership patterns allow. Create a land authority to purchase undersized lots and replat them for resale.
4. Encourage incentives to prevent conversion of forestry lands to more intensive land uses.
5. Direct development to outside the 100-year floodplain and concentrate it as far from water bodies as practicable.
6. Reduce by 50 percent the thresholds for development of regional impact projects wholly or partially within the 100-year floodplain.

Provisions for Setbacks/Buffers

The Suwannee River Water Management District has required a minimum 75-foot setback from major surface wa-

ter bodies since 1982 and amended its rules in 1989 to include provisions for greater setbacks when development is more intense than low-density, single-family residential. The North Central Florida Comprehensive Regional Policy Plan also calls for the same buffer along the Suwannee River and its tributaries.

Because these setbacks do not address preservation of riparian wildlife habitat, the water management district and regional planning council may recommend that buffers substantially greater than 75 feet be adopted by local governments to preserve and protect wetland-dependent wildlife. The Suwannee River Task Force recommended the following local actions:

1. Amend local floodplain ordinances to be consistent with Suwannee River Water Management District buffer requirements.
2. Identify areas where additional setbacks are necessary to ensure adequate habitat for wildlife dependent on the river system and to maintain the aesthetic qualities of the river.
3. Ensure that all development in the floodplain complies with buffer requirements and with minimum standards and requirements of the Federal Emergency Management Agency model ordinance.

Water Quality

The task force also determined that point and nonpoint sources of pollution were reducing the river's water quality. Point sources include specific operations, such as sewage treatment plants, electrical generation units, and industrial plants, where pollutants are directly discharged into the river or its tributaries. Nonpoint sources of water quality degradation in the Suwannee River basin include stormwater from urbanized areas, cattle and dairy ranches, and residential development in the floodplains. Septic tanks in use along the river have been shown to contribute to the high levels of fecal coliform bacteria in the river, which resulted in closing portions of the Suwannee Sound to shellfishing. The task force's recommendations for local government action to protect water quality are summarized below.

1. Build stormwater management systems for high-density residential areas.

2. Conduct a feasibility study to abandon septic tanks and establish central wastewater treatment facilities in areas of higher intensity development.

3. Prohibit all septic tanks, private wells, and central wastewater facilities in the 10-year floodplain.

Recreational Use of the River

The Suwannee River, its tributaries, springs, and associated floodplains are a significant recreation resource. Recreational opportunities include fishing, camping, canoeing, snorkeling, scuba diving, swimming, boating, skiing, hiking, hunting, and visiting historical and archaeological sites. The Florida portion of the Suwannee River basin contains at least 50 springs, more than one-quarter of the state's total, and nine of the 78 known first magnitude springs in the United States. Many of the springs are threatened by overuse. Problems include spring bank erosion, habitat destruction, trash dumping, and boating traffic conflicts. The task force recommended the following local action for further management and protection of the river as a recreational resource:

Assess the spring resources of the area and determine what measures are needed to protect the spring runs, springs, and their associated uplands.

Intergovernmental Coordination

The task force also determined that intergovernmental coordination efforts will play an important role in ensuring the protection of the river. The protection of regionally significant resources involves action at each level of government. The task force's 31 recommendations for action by federal, state, and regional agencies makes this point clear.

Local governments, therefore, must cooperate with other local governments in the region and with regional, state, and federal agencies that are responsible for preparing regulatory programs to protect the resources. Not only should goals, objectives, and policies to protect re-

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Comprehensive Planning is Key to Rural Economic Development

Growth management does not mean no growth. In fact, successful growth management will mean planning ways to stimulate appropriate

tend to have economies that are heavily influenced by natural-resource-based industries, although trade, services, and manufacturing are more prominent

politan counties tend somewhat to take on the characteristics of their metropolitan neighbors and to outperform non-adjacent rural counties economically. At the same time, these counties face significant growth management challenges in retaining their quality of life, as the rural character of these counties prized by many residents can easily be changed or lost in the absence of careful planning

future growth and economic development in most rural communities. Studies show that five factors are the most important in business location and expansion decisions: access to knowledge and training, access to capital, access to telecommunications, access to transportation, and access to a high-quality living environment. Effective planning

for a community's future can help to ensure that businesses within a rural or small community have access to these essential features.

Effective implementation of Florida's growth management laws means more than directing development away from areas where it should not occur, like environmentally sensitive riverine corridors and wetlands. It also means reducing regulatory barriers to new development and redevelopment in areas where it should take place and accommodating additional growth and development in a manner that is sensitive to existing residents' rights, maintenance of a high quality of life, and protection of natural resources.

Florida's Rural Economy

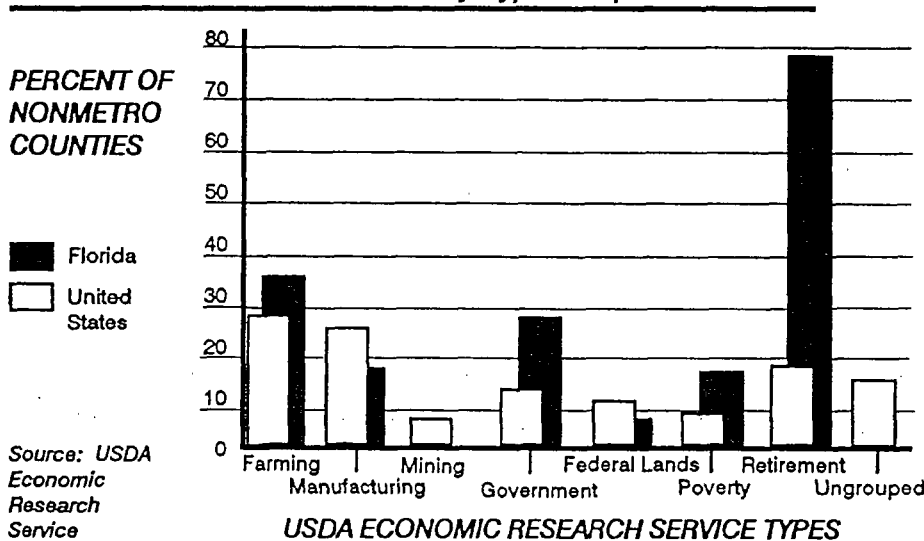
Rural counties—the 36 Florida counties not part of a metropolitan statistical area—are individually becoming more economically diverse. A common denominator among them, however, is that they

employment sectors than ever before. The growing dissimilarities among rural counties, however, make it more important than ever to tailor economic development strategies to specific local needs and circumstances. Florida's rural counties are also quite different overall from their national counterparts, as demonstrated by the above chart. This reinforces the need for Florida's communities to create economic development programs that are closely based on their conditions and circumstances.

Since Florida's metropolitan areas are spread across the state, 75 percent of Florida's rural counties are adjacent to metropolitan areas. The large number of rural counties adjacent to metropolitan areas—Florida ranks fourth nationally in the percent of rural residents living in rural counties that are adjacent to metropolitan areas—enhances economic development opportunities in these counties. Rural counties adjacent to metro-

for future growth and development.

Nonmetro Counties in Florida by Type of Specialization



Key Challenges in Rural Florida: Agriculture and Retirement

While rural counties adjacent to metropolitan counties benefit from their proximity to urban areas, this closeness also poses a challenge to maintaining a strong agricultural industry. Residential encroachment in agricultural areas significantly decreases the

ability of the agricultural industry to employ necessary management practices, produce its products, and operate efficiently. Local comprehensive planning provides the opportunity to address these conflicting interests and to balance the needs of natural resource-based industries with the pressures for additional growth. An example of this occurring is planning to avoid scattered rural housing and ensuring that residential development in rural areas is appropriately clustered and buffered to minimize its impact on agricultural activities.

Studies have characterized the nation's rural counties into eight groups: farming-dependent, manufacturing-dependent, mining-dependent, specialized government, persistent poverty, federal lands, retirement, and counties that do not fall into any of the seven specific categories. Florida's rural counties fall into every category except for mining-dependent (which requires 20 percent or more of

total labor and proprietor income in the county to come from mining) and ungrouped. Several counties qualify in more than one category, although few have economies diverse enough to meet the criteria for three or more categories. The greatest number of Florida's rural counties by far fall into the retirement county category. These are defined as counties having 15 percent or more net immigration of persons aged 60 or older.

This predominant characteristic of Florida's rural counties has considerable significance for these local governments, and reinforces the need to use effective growth management techniques to assist rural economic development efforts. Typically, retirement counties have relatively high growth rates, offer more opportunities for the development of service industries, and have strong development potential. At the same time, high numbers of older residents may generate greater demands on county health services and strain government's ability to ensure transportation mobility for all residents.

Effective planning programs can help local governments to address these demands. For example, comprehensive planning can ensure patterns of land development that assist local governments and other service providers in the efficient provision of important services such as health care, recreation, and transportation. Without effective planning, land development patterns can inhibit efficient service delivery, generating higher costs and taxes for all residents.

Looking Ahead

Economic sectors with the highest potential for growth in rural communities over the coming decade include maintaining strong agricultural and silvicultural (forestry) industries, including promoting related value-added industries and agricultural diversification, supporting entrepreneurs in creating and expanding small businesses, encouraging business relocations, taking advantage of telecommunications advances to attract new service industries, stimulat-

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7 Strategies for Rural Economic Development

- 1 **Create Access to Capital for Small Business Development.** Often small businesses lack enough start-up money to assure success; others struggle to keep afloat because they are undercapitalized. Banks are understandably cautious, particularly when non-traditional enterprises are proposed. Rural communities and the state need to work with lenders to create rural revolving loan funds, venture capital networks of private investors and innovative other programs.
- 2 **Create Access to Training & Advice for Business Owners.** Many feel business management savvy is more important than money when it comes to business success. Because of their relative isolation, special approaches are needed to get training and counseling offered in rural areas and small towns.
- 3 **Create a Well-Prepared Workforce.** Attention must be paid to improving the high school graduation rate in rural Florida, and all graduates should possess the basic reading and writing skills needed to succeed in the workforce. Entrepreneurship training should be included as an option in job training programs, vocational schools, and community colleges.
- 4 **Provide Adequate Infrastructure to Support Enterprise & Development.** Transportation, water, and wastewater treatment facilities are basic necessities of rural economic development. Adequate schools and modern health facilities are also necessary to assure the quality of life desired by most business leaders today. Special efforts must often be made to develop partnerships among local governments, between local government and the state, and between the public and private sectors in order to pool resources and encourage creativity.
- 5 **Assure Access to Technology that Competes Globally.** Agriculture has participated in the global marketplace for many years; farmers know they need the latest techniques and technology in order to stay competitive. Other rural businesses must face the same challenge; their competitors are in Korea or South America, not the next small community or urban area. University linkages to rural areas are crucial, and existing programs such as the Extension Service and Small Business Development Centers should be used regularly. Local Chambers of Commerce, service clubs, and special committees should sponsor programs about new technologies appropriate for local businesses.
- 6 **Create Marketing Plans & Strategies for Growth.** Communities can help local businesses expand their markets and develop strategies for growth by encouraging international trade and tourism, holding regional business trade fairs, organizing cooperative advertising, preparing a countywide business guide, creating cooperative marketing organizations, or offering procurement assistance.
- 7 **Develop Leaders.** Local rural development has traditionally focused on branch plant recruitment. Entrepreneurship and home-grown development is more effective over the long term, but requires community leaders to assume new roles. Regional seminars, how-to publications and directories, and data responsive to local needs can help build effective leadership. Local educational institutions, chambers, and service clubs must become interested in devising local strategies in cooperation with government.

Source: *Rural Visions, Inc.*

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FEATURE

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ing additional natural-resource-based industries, such as viticulture (wineries) and aquaculture, and continuing to attract retirees and other immigrants interested in enjoying Florida's climate and natural beauty. Effective planning for future growth and for community revitalization is essential for realizing the potential of each of these areas. Innovative and forward-thinking planning represents a key to maintaining a high-quality living environment and ensuring that currently rural areas do not succumb to the same transportation problems afflicting many urban areas because of poorly planned growth patterns and ineffective access management programs.

It must be recognized that rural economic development will not occur solely as a result of planning efforts, however, despite their critical importance. While not the subject of this article, additional strategies in a successful rural economic development program may include: working with local financial institutions and pension fund managers to create capital pools that can be accessed by entrepreneurs; working with private and public interests to provide educational opportunities and increased access to training and business management advice; and working with utility companies and telecommunications industries to become integrated into the fiber optic telecommunications network spreading across the country. [See the box on page 15 for more strategies for promoting rural economic development.]

Programs and Policies

The Local Government Comprehensive Planning and Land Development Regulation Act recognizes the need for economic development in all of Florida's communities. For this reason, an optional economic element is provided for in Section 163.3177(7)(j), Florida Statutes. This element, which must be consistent with the other comprehensive plan elements and the appropriate objectives and policies in the State Comprehensive Plan and the applicable comprehensive regional policy plan, calls for local gov-

ernments to set forth their principles and guidelines for commercial and industrial development and for the utilization of the local workforce.

Many of Florida's rural industries now compete in an international economy. This reinforces the need for local governments to consider economic development issues during its comprehensive planning efforts to ensure that comprehensive planning efforts accomplish what is needed without enacting unnecessary regulations that hinder economic competitiveness. Undertaking regulatory reform is an important facet of Florida's planning requirements; preparing the optional economic element can assist local governments to more effectively integrate economic development and regulatory reform considerations with their local planning efforts. [The Florida Department of Commerce has prepared a guide *Preparing the Economic Element of the Comprehensive Plan*, which can be obtained from its Bureau of Economic Assistance by calling the telephone number provided at the end of this article.]

While the majority of new jobs in rural areas come from small business creation or expansion, encouraging business relocations can also perform a role in a rural economic development strategy. Planning tools exist today that local governments can avail themselves of to make Florida's rural counties more competitive in this arena. Linking capital improvements programming with land use planning, for example by equipping an office or industrial park with adequate infrastructure up front so that the concurrency requirement is not an obstacle to economic development, can be a powerful marketing tool for attracting business relocations.

Technical Assistance Available

All of Florida's rural counties face unique challenges that can be met in part through careful comprehensive planning. Part of this challenge is to ensure that sprawling development patterns are not encouraged under the guise of economic development. Permitting the proliferation of urban sprawl works directly counter to promoting a high-quality living envi-

ronment and ensuring access to an efficient transportation system, two community attributes fundamental to the success of any economic development program.

Many resources are available to assist local governments in this area. In addition to working with the Department of Community Affairs, communities interested in economic development should contact their regional planning council, local chambers of commerce, the Florida Chamber of Commerce, the Department of Commerce, the Department of Agriculture and Consumer Services, the State University System, the U.S. Department of Agriculture, and other federal agencies for assistance in crafting economic development programs tailored to their special needs. TM

Economic development technical assistance contacts:

Department of Community Affairs
Linda Frohock
Bureau of Economic
and Community Assistance
(904) 488-3581

Department of Commerce
Dennis Harmon
Bureau of Economic Analysis
(904) 487-2155

Mary Helen Blakeslee
Bureau of Business Assistance
(904) 488-9357

Department of Agriculture
and Consumer Services
Clifton Savoy
Office of the Commissioner
(904) 487-3028

Lance Rodan
Division of Marketing
(904) 488-4032

University of Florida
Glenn Israel
Institute of Food & Agricultural Services
(904) 392-0386

Nonne Audirac
Bureau of Economic
and Business Research
(904) 392-0171

Rural Planning Resource References

- Calthorpe, Peter, and Mark Mack. "Pedestrian Pockets New Strategies for Suburban Growth." In *The Pedestrian Pocketbook: A New Suburban Design Strategy*, edited by Doug Kelbaugh. New York: Princeton Architectural Press, 1989.
- Deavers, Ken. "The Reversal of the Rural Renaissance: A Recent Historical Perspective." *The Entrepreneurial Economy Review* 8(2): 3-5(1989).
- Florida. Department of Community Affairs. *Model Land Development Code for Florida Cities and Counties*. By the Center for Governmental Responsibility. Tallahassee, Fl., 1989.
- _____. *Land Development Regulations Technical Assistance Manual for Florida Cities and Counties*. By the Center for Governmental Responsibility. Tallahassee, Fl., 1989.
- _____. *Model Future Land Use Element*. Tallahassee, Fl., 1987.
- _____. *Model Conservation Element*. Tallahassee, Fl., 1987.
- _____. *Model Recreation and Open Space Element*. Tallahassee, Fl., 1987.
- Florida. Joint Select Committee on Growth Management Implementation. Staff Issue Analysis. *Planning for Rural Development*. Tallahassee, Fl., 1990.
- Florida. Polk County Planning Division. *Citizens' Advisory Committee - Recommended Draft Goal, Objectives and Policies for the Future Land Use Element, May 1, 1990*. Bartow, Fl., 1990.
- Hacket, Judith C. "Agriculture and Rural Development." In *The Book of the States 1988-89*, edited by Joan Minton, 424-35. Lexington, Ky.: Council of State Governments, 1988.
- _____, and Lisa Ann McLemore, eds. *States' Agenda for Rural Economic Development Conference Proceedings Lexington, Kentucky, 1987*. Lexington: Cooperative Extension Service of the University of Kentucky, 1988.
- _____. Letter to Thomas G. Pelham, April 25, 1990.
- Horowitz, Mitchell, and Jonathan Dunn. "The 1989 Rural Economic Climate Report." *The Entrepreneurial Economy Review* 8(2): 6-22(1989).
- Long, Richard W. "The Rural Paradox." *The Council of State Governments State Government News* 32(September 1989): 20-23.
- Mantell, Michael A., Stephen F. Harper, and Luther Propst. *Creating Successful Communities A Guidebook to Growth Management Strategies*. Washington, D.C.: Island Press, 1990.
- _____. *Resource Guide for Creating Successful Communities*. Washington, D.C.: Island Press, 1990.
- Narus, Bob. "Evolutionary Growth Management in Lincoln, Massachusetts." *Urban Land*, 49(January 1990): 16-19.
- Nisbet, Briggs, and Will Shafroth. *Saving the Farm: A Handbook for Conserving Agricultural Land*. San Francisco: American Farmland Trust, Western Office, 1990.
- Porter, Douglas R., and J. C. Doherty. *The Urbanizing Countryside: Which Way to a Workable Future?* Washington, D.C.: Urban Land Institute, 1981.
- Roberts, Brandon, and John Sidor. *States: Catalysts for Development in Rural America*. Washington, D.C.: Council for State Community Affairs Agency, 1990.
- Stokes, Samuel N., A. Elizabeth Watson, Genevieve P. Keller, and J. Timothy Keller. *Saving America's Countryside: A Guide to Rural Conservation*. Baltimore: John Hopkins University Press, 1989.
- _____. *Traditional Neighborhood Development Code for Palm Beach County, Florida*. Ossipee, N.H.: Foundation for Traditional Neighborhoods.
- U.S.D.A. Economic Research Service. *The Diverse Social and Economic Structure of Nonmetropolitan America*. Rural Development Research Report Number 49.
- _____. *Land Use Transition in Urbanizing Areas Research and Information Needs*. Washington, D.C.: Government Printing Office, 1989.
- Viera, Robin K. "A Checklist for Designing Sustainable Developments" from the Visions of Quality Developments Seminar sponsored by the Florida Solar Energy Center, June 1989.
- Yaro, Robert D., Randall G. Arendt, Harry L. Dodson, and Elizabeth A. Brabec. *Dealing With Change in the Connecticut River Valley: A Design Manual for Conservation and Development*. N.p.: Lincoln Institute of Land Policy and Environmental Law Foundation. n.d.

Rural Planning Data Sources

Data Source: LANDSAT

Description: Ongoing satellite imagery to map and monitor agricultural lands, includes description of land cover.

Form Available: computer tapes, 8" x 10" negatives

Date: 1987

Contact: U.S. Soil Conservation Service (c/o Department of Community Affairs)
(904)488-2356

Data Source: Land Use/Cover Maps

Description: Maps for metropolitan areas statewide.

Form Available: blueline prints or mylars; quad sheets

Date: continually updated

Contact: State Topographic Bureau, Department of Transportation
(904)488-2168

Data Source: Florida Natural Areas Inventory

Description: Identifies attributes and geographic location of specific species and natural communities.

Form Available: computer printout

Date: continually updated

Contact: Florida Natural Areas Inventory
(904)224-8207

Data Source: Aerial Photographs

Description: Aerial photographs of entire state, available by county at a scale of 1:24,000.

Form Available: 9"x9" black and white prints

Date: updated every three to five years

Contact: State Topographic Bureau, Department of Transportation
(904)488-2332

Data Source: Cultural Resource Surveys

Description: Inventory of specific topical resources to provide comparative data for use in determining site significance.

Form Available: printed reports

Date: varies with area

Contact: Local Historic Preservation Board, or Division of Historic Resources, Department of State
(904)487-2333

Data Source: Florida Master Site File

Description: Maps and detailed site descriptions of historic resources.

Form Available: paper files and site maps on county highway maps or quadrangle sheets

Date: updated annually

Contact: Division of Historic Resources, Department of State
(904)487-2333

Data Source: National Register of Historic Places

Description: Inventory of existing and pending National Register sites.

Form Available: printed reports

Date: continually updated

Contact: Division of Historic Resources, Department of State
(904)487-2333

Data Source: Groundwater Management System

Description: A computerized data base and reporting system of all Department of Environmental Regulation permitted facilities that are potential point-source polluters.

Form Available: printed reports

Date: continually updated

Contact: Bureau of Information Systems, Department of Environmental Regulation
(904)488-0890

Data Source: U.S. Geological Survey Quadrangle Maps

Description: Maps of surface features at varying scales.

Form Available: prints and mylar film; some digitized maps are available

Date: varies with area

Contact: local map merchant, or U.S. Geological Survey, Mid-Continent Mapping Center
(314)341-0851

Data Source: Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Hazard Boundary Maps

Description: Maps of identified flood areas for communities within the Federal Flood Insurance Program.

Form Available: paper maps

Date: varies with area

Contact: Federal Emergency Management Agency, Flood Map District Center
(800)638-6620

Data Source: National Wetlands Inventory

Description: Maps of wetlands at various scales.

Form Available: paper or mylar maps

Date: within last seven years

Contact: U.S. Geological Survey, National Wetlands Inventory Florida Office
(813)893-3864
National Information Center
(800)872-6277

Data Source: Soil Surveys

Description: Publication containing maps, tabular data, and text about soils. Compiled at the county level.

Form Available: document

Date: varies by county; updated as needed

Contact: local soil and water conservation district

Data Source: List of Publications

Description: A booklet that describes various hydrologic, geologic, and mineral resource publications. Includes index by county.

Form Available: document

Date: updated annually

Contact: local depository library, or Bureau of Geology, Department of Natural Resources
(904)488-9380

Villages, from page 12

1. The ratio of the gross density of the clustered area to the project's gross density (permitted by the LSDR-P or RR-P category) is two.

2. The project will provide job opportunities on-site for 40 percent of its residents.

3. The project will meet 100 percent of the need for neighborhood retail and shopping on-site.

4. The project will meet 25 percent of the need for community commercial space.

5. The project will internally capture 20 percent of residentially generated trips for employment, shopping, recreation, and other amenities.

The effect of the clustering ratio and mixed use requirements for planned villages is to concentrate development at higher densities than permitted under the LSDR-P and the RR-P designations. This clustering is intended to avoid low-density, single-dimensional development patterns. The densities and other criteria proposed for Hillsborough County's planned village concept are appropriate for permitting urban development in the urban/rural fringe of this fast-growing metropolitan area.

The county's proposed plan amendments also include a provision that allows developers to aggregate property in the LSDR-P and RR-P land use categories to meet the 160-acre minimum requirement. To get the maximum densities allowed in these categories, developers must show that aggregated property will function as an integral and planned part of existing adjacent development. They also must show that the shopping and job needs of the aggregated development will be met by the combined development.

When planning for rural areas in their jurisdictions, local governments may consider Hillsborough County's example of using planned villages. If approached in a sound manner that does not promote scattered, leap frog urban sprawl, this approach has the potential to allow development to occur in rural areas at higher than usual rural densities while making efficient use of infrastructure, preserving open space, protecting the environment, and discouraging low-density sprawl. Special care must be taken, however, to ensure that the planned village concept is only undertaken in a manner that is consistent with a community's overall plan for its future.

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gionally significant resources be included in future land use, conservation, and general infrastructure elements of a local plan, but they should also be included in the intergovernmental coordination element.

Local governments have an important role to play in protecting Florida's natural resources. By including special planning provisions to protect environmentally sensitive areas and successfully implementing their comprehensive plans, local governments will go far in addressing many of the significant issues facing Florida's regionally significant resources.

For information about the Suwannee River Task Force's final report, contact Jim Farr, (904)488-4925, SC 278-4925. For a copy of the FEMA model floodplain ordinance, contact Charles Speights, (904)487-4915, SC 277-4915.

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cated on-site or located adjacent to or proximate to the project. This feature also includes the option for the developer to propose a new town or new community, incorporating, where appropriate, traditional neighborhood development features.

Secondary features incorporated in design plans earn between one and three points toward FQD designations. These secondary features include comprehensive transportation system management, preserving environmentally sensitive lands, establishing water-conservation measures, providing on-site care for the elderly and children, undertaking urban renewal or redevelopment, establishing recycling and hazardous waste collection programs, enhancing emergency management capabilities, and furthering community economic development.

Consistency with Plan Required

The rule's provisions enabling the development of new towns and, where appropriate, features from the traditional neighborhood development code are interesting provisions in that local governments may use these approaches to site large-scale projects outside of higher density urban areas. This provision is especially useful for county governments working to discourage urban sprawl through the establishment of separate and distinct new towns and regional activity centers.

However, an important caveat should be noted. Simply attaching the traditional neighborhood district label to a project does not necessarily mean it is a desirable development. It must make sense within the context of an overall plan.

Contact: Marcus Hepburn, (904)488-4925, SC 278-4925.



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