

Board of County Commission Agenda Request

Date of Meeting: April 16, 2019

Date Submitted: April 2, 2019

To: Honorable Chairman and Members of the Board

From: Dee Jackson, County Administrator
Suzanne Lex, Growth Management Director

Subject: **PUBLIC HEARING:** (Legislative) Consideration of Adoption of Ordinance 2018-018 for the Amendment of Chapters 1 and 7 of the Land Development Code, specifically regarding the ‘Citizens Growth Management and Planning Bill of Rights’ (LDR 2018-01)

Statement of Issue:

Public hearing to adopt Ordinance 2018-018 for the amendment of Chapter 1, Administration and Enforcement and Chapter 7, Development Orders, Development Permits, and Development Agreements of the Land Development Code, to amend the ‘Citizens Growth Management and Planning Bill of Rights’ (CBOR) and move it from Chapter 7 to Chapter 1. A super-majority vote is required to amend or repeal the CBOR (Section 7001.1(D)) of the Land Development Code.

Background:

At the May 19, 2009 Gadsden County Board of County Commissioners (BOCC) meeting, the BOCC authorized the County Attorney to draft an ordinance reflecting the language proposed by the 1000 Friends of Florida draft model “Citizens’ Bill of Rights”. The item presented for discussion was a draft ordinance incorporating portions of the language of the 1000 Friends of Florida “Citizens’ Bill of Rights”, along with additional criteria.

The proposed CBOR essentially created an additional step in the county process for the consideration of large-scale comprehensive plan amendments. It created the seven day “cooling-off period”, and required the super majority-vote of the BOCC for large scale comprehensive plan amendments.

On February 11 and March 11, 2010, the Planning Commission considered the CBOR as drafted. The Planning Commission recommended adding small scale comprehensive plan amendments, variances and special exceptions to those items requiring a super majority vote to the draft. They also recommended the insertion of the requirement that in order to change the ordinance, a super-majority vote would be required.

On May 4, 2010, the Board of County Commissioners considered this item and adopted the version that is in place today as Ordinance 2010-005. Since 2010, the Board has requested to consider revisions to the CBOR in 2015 and 2018. In 2015, proposed amendments were discussed by the Board but not moved forward.

Proposed amendments to the CBOR were introduced to the Planning Commission on April 12, 2018 (Attachments #1 and #2). At that time, the Planning Commission recommended to the BOCC that the CBOR be amended and that the remaining requirements be moved from Chapter 7 to Chapter 1 of the Land Development Code (LDC).

The proposed amendments to the CBOR were discussed again by the Board at a workshop held on June 21, 2018. At this workshop the BOCC directed the CBOR amendments return with changes for a vote at the July 17, 2018 BOCC public hearing. The motion to approve failed (2-3) (Attachment #4).

At the October 2, 2018 BOCC meeting, it was indicated that this item be brought back to the BOCC for consideration. The CBOR amendments were agenda to be heard at the November 6, 2018 and March 19, 2019 BOCC hearings and were tabled because there were not five (5) Board members in attendance to meet the requirement of a super majority vote (Attachment #3).

Analysis:

The current version of the Citizen's Bill of Rights requires the following:

- A. A mandated citizen participation plan – this step requires public notice to property owners and neighborhood associations within one-half mile of the development site property boundaries.
- B. Neighborhood Participation – notification of neighborhood associations by county staff within 10 days of the filing of any application or proposal filed for comprehensive plan map amendment; requires a community meeting 30 calendar days prior filing the application; requires a second community meeting 15 days prior to amendment adoption hearing of a plan amendment after review “by DCA”. *(Note: the timing of the second requirement in this subsection is not clear. Although the staff is required to notify the neighborhood associations of the filing within 10 days after filing with the county, the community meeting requirement 30 days prior to “submittal to DCA” (now DEO) is confusing. This timing should be based upon the Planning Commission hearing, not the submittal or filing date to DCA (now DEO) as that timing is more fluid.)*
- C. Seven day “cooling-off” period – plan amendments cannot be changed in the seven business days prior to the advertised public hearing. If revised within this period, then the hearing must be rescheduled.
- D. Super-majority vote – required for all comprehensive plan amendments, major land development reviews, variances, special exceptions, major site plans and major subdivision(s). A super majority vote is also required for amendment of this section.
- E. Requires all comprehensive plan map amendments and “site development applications” to protect environmental resources.

- F. No Free Density – when the conversion of land from residential or agriculture occurs to create “urban density”, proof must be made to show “land for significant public benefit is offered in fair and equitable exchange”.
- G. Requires the establishment of urban service boundaries by 2014.

Observations:

This regulation requires a citizen’s meeting for variances, special exceptions, and other listed development applications such as “major site plans and major subdivision in Gadsden County”. The latter two requests are not applicable by definition in Gadsden County, making the subsection confusing. If the intent is to require a citizen’s meeting for minor and major subdivision review, then the language should be amended to reflect that. If the BOCC would like to retain this requirement, then it is recommended only requiring this for a final plat, and not for lot splits, preliminary or conceptual plats. However, this is not the recommendation of the consultant. The recommendation is to remove all references except for Comprehensive Plan Future Land Use Map amendments and special exceptions. Requiring a workshop at this phase will remove the extra burden of the applicant for such workshops at the stage where the proposed development is already allowable by policy and regulation.

This regulation assumes there will be an impact to neighborhood associations and citizens. Until an analysis has been completed to show an impact has occurred, if any, this implication in the regulation is arbitrary. (i.e. What is the definition of an “impacted citizen”? What criteria is used to determine the impacts in these instances?) The Planning Department has not been able to obtain or maintain a list of neighborhood associations with up to date contacts making this requirement impractical.

Citations:

Section 7001.1(A) – “The developer shall conduct workshops with citizens *impacted* to identify all issues of concern prior to any public hearing.” (Emphasis added)

Section 7001.1(B) – “Within 10 business days of the filing of any applications or proposals filed for comprehensive plan amendments or land development regulations, the Department shall notify potentially *impacted* neighborhood associations of such filings.” (Emphasis added)

The burden of proof to show that a request for a development is consistent with the Comprehensive Plan and Land Development Code (LDC) is upon the applicant. If the applicant demonstrates that the development is consistent with the Comprehensive Plan and the LDC, the burden of proof to deny a development order, special exception, or variance, which are all quasi-judicial hearings, is upon the local government. If the development meets the criteria of the Code, then the local government must show just cause to deny the request. The function of a quasi-judicial land use hearing is to only apply the existing adopted regulations or policies to the specific development application. This hearing is to make a determination on whether or not the request meets the existing regulations and policies.

A citizen participation meeting can be used to inform the public on the proposed development, but cannot be used to deny the request if it meets the Comprehensive Plan and Land

Development Code requirements. Therefore, the purpose of the meeting must only be informative.

The notice to neighborhood associations is challenging. Neighborhood associations are not required to notify the local government of organization. County staff does not know they exist unless a member of the association notifies staff. This is not enforceable.

The LDC language requires that county staff notify “potentially impacted neighborhood associations” of proposed “comprehensive plan amendments or land development regulations” within 10 days of filing. This seems to be a misprint, as “land development regulations” are not an item listed in paragraph one of Section 7001.1 and should be rewritten, if retained to refer to listed development applications. The first paragraph of the section cites additional requirements for “comprehensive plan amendments, major land development reviews,...variances, special exceptions, major site plans and major subdivision (sic) in Gadsden County.”

The “DCA” does not exist as of 2011, and if this language is retained, should be replaced with “DEO” for Department of Economic Opportunity. Also of note, consideration should be made as to the purpose of the second required meeting in paragraph (B).

Paragraph, D requires a super majority vote for all Comprehensive Plan amendments as well as Major Land Development Reviews including variances, special exceptions, major site plan and major subdivisions and to repeal the CBOR ordinance. It is proposed that this requirement be repealed. An alternative might be that this requirement applies only to Comprehensive Plan amendments as originally proposed.

In paragraph E, no definition of “environmental resources” is offered in the Land Development Code, and therefore this term is not definitive in meaning or intent. In addition, as the citation continues to state that the requests must be in compliance with the Comprehensive Plan and the Land Development Code, this subsection is unnecessary as this is a statement of law.

In paragraph F, there are no parameters for the “fair and equitable exchange” of “land for significant public benefit” for the conversion of land from rural and agricultural to urban density. If this requirement is retained, there needs to be a program to detail the exchange of residential and agriculture lands to urban density by, at minimum, defining what “urban density” is and what the “significant public benefit” is and what a “fair and equitable exchange” is. Other needed guidance is needed to describe the ratio of lands exchanged, what is an “appropriate location”. In addition, as written this paragraph is a deterrent to a developer who may seek to provide a compact, walkable, mixed use community. These types of communities provide better urban form, and should be encouraged opposed to conditioned by an exchange of lands.

County staff has not completed the task in part G of Section 7001.1 which requires the county to establish urban services boundaries with the municipalities by 2014. The Comprehensive Plan Policy requiring urban service boundaries has been removed from the Future Land Use Element.

The Comprehensive Plan is silent on the issue of public participation meetings and notice requirements. Therefore, this amendment is not inconsistent with the Plan.

It is proposed that the amended Chapter 7001.1 be relocated to the public hearing process is located in Chapter 1 of the Land Development Code. Changes to the Citizen's Bill of Rights will not become in conflict with those pertinent sections.

Planning Commission Recommendation:

The Planning Commission heard this agenda item on April 12th and May 15th of 2018. They voted 5-2 in favor amending the ordinance to only apply to Comprehensive Plan Future Land Use Map amendments, and to delete in full Parts D-G of the Subsection.

Proposed Ordinance 2018-018 is the Planning Commission's recommendation, except that it retains special exceptions as applications which are subject to the CBOR.

Options:

1. Adopt Ordinance 2018-018, amending Chapters 1 and 7 of the Land Development Code.
2. Do not adopt Ordinance 2018-018.
3. Board Direction.

County Administrator Recommendation:

Option 1.

Attachments:

1. Proposed Ordinance 2018-018 with Strike & Ad Copy of Amendments
2. Clean Copy of Amendments
3. November 6, 2018 Board Minutes
4. July 17, 2018 Board Minutes
5. Newspaper advertisement.

ORDINANCE 2018 - 018

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE, AMENDING CHAPTER 1, ADMINISTRATION AND ENFORCEMENT AND SECTION 7001.1, THE CITIZENS GROWTH MANAGEMENT AND PLANNING BILL OF RIGHTS IN CHAPTER 7, DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, AND DEVELOPMENT AGREEMENTS; PROVIDING FOR REPEAL, SEVERABILITY, INCLUSION IN THE GADSDEN COUNTY LAND DEVELOPMENT CODE, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, establishes the right and power of counties to provide for the health, welfare and safety of existing and future residents of the county by enacting and enforcing regulations concerning the use of property necessary for the protection for the public; and

WHEREAS, the Board of County Commissioners of Gadsden County has adopted the Gadsden County Land Development Code, as required pursuant to §163.3202, Florida Statutes; and

WHEREAS, The Gadsden County Planning Commission, acting as the local planning agency, reviewed this amendment and made a recommendation to the Board of County Commissioners; and

WHEREAS, duly noticed public hearings were conducted on such proposed amendment on April 12, 2018 by the Gadsden County Planning Commission and on May 15, 2018, July 17, 2018 and November 6, 2018 and April 16, 2019 by the Board of County Commissioners.

WHEREAS, words with underline type shall constitute addition and ~~striketrough~~ shall constitute deletions to the original text from the language existing prior to adoption of this Ordinance.

Now therefore, be it ordained by the Board of County Commissioners of Gadsden County, Florida, that:

SECTION I: Approval and Adoption of Amendment.

The amendment to the Gadsden County Land Development Code as attached hereto as Exhibit "A" is hereby adopted and approved.

SECTION II: Repeal

Those parts of Chapters 1 and 7 of the Gadsden County Land Development Code in conflict herewith are hereby repealed and superseded to the extent of such conflict and shall have no further effect whatsoever.

SECTION III: Severability

If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

SECTION IV: Inclusion in the Land Development Code

This Ordinance shall be codified in the Gadsden County Land Development Code as set forth in Exhibit "A."

SECTION V: Modification

It is the intent of the Board of County Commissioners that the provisions of this Ordinance, including the amendment attached hereto as Exhibit "A," may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the Ordinance adopted by the Board and filed by the Clerk.

Section VI: Scrivener's Errors

The County Attorney may correct any scrivener's errors found in this Ordinance by filing a corrected copy of the Ordinance with the Clerk.

Section VII: Effective Date

This Ordinance shall become effective as provided by law.

The above and foregoing Ordinance was read and approved at a duly convened public hearing at a regular meeting of the Board of County Commissioners of Gadsden County, Florida, this 16th day of April, 2019.

BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA

By: _____

Dr. Anthony Viegbesie, Chairperson

Nicholas Thomas
Clerk of the Circuit Court

SECTION 7001.1 SUBSECTION 1700. CITIZENS GROWTH MANAGEMENT AND PLANNING-BILL OF RIGHTS

This section established ~~s~~ additional requirements for Comprehensive Plan Future Land Use Map A amendments and ~~Major Land Development Reviews including but not limited to variances,~~ special E exceptions ~~major Site Plans and major Subdivision applied for~~ in Gadsden County. All applicants for small scale and large scale Comprehensive Plan Future Land Use Map A amendments ~~and Major Land Development Reviews and special exceptions~~ shall comply with the following requirements: For the purposes of this Subsection, the Board of County Commissioners shall not be classified as an applicant.

- A. Mandatory Workshop – The applicant shall conduct a workshop to present the request for the amendment(s) or the special exception to interested parties. This workshop shall occur at least seven (7) days prior to submittal of an application for a Future Land Use Map amendment or special exception to Gadsden County, but after the applicant has held a pre-application meeting with County staff. The applicant must present to the Planning Commission and Board of County Commissioners a list of any issues raised at the workshop, and indicate if and how they were resolved. Mandated Citizen Participation Plan Developers must prepare a citizen participation plan and notify by mail and newspaper impacted property owners and neighborhood associations within one half mile of the development site property boundaries. The Growth Management Department must verify that proper notification has occurred. The Developer shall conduct workshops with citizens impacted to identify all issues of concern prior to any public hearing. The developer must present to the Planning Commission and Board of County Commissioners a list of all issues raised, and indicate if and how they were resolved. Unresolved issues then become the focus of P & Z and BOCC discussion.

- B. Notice Requirements – No less than fourteen (14) days prior to any mandatory workshop held by the applicant, the applicant must notify by mail property owners within a one-half mile boundary of the parcel or parcels subject to the request. An additional notification shall be placed in at least one newspaper of general circulation in Gadsden County at least two weeks prior to the workshop date. The newspaper ad shall contain all information as specified by Gadsden County. Notices shall be mailed to the address of the property owner shown on the Property Appraiser’s website. Notices shall include the time, date and location of the workshop, and description with a location map of the subject parcel. The Planning Official, or designee, shall verify that proper notification has occurred. Neighborhood Participation—Gadsden County’s Department of Planning and Community Development Department (Department) must compile a list of all valid neighborhood associations (with contact person) operating within the unincorporated areas. Within 10 business days of the filing of any applications or proposals filed for comprehensive plan amendments or land development regulations, the

Exhibit A – Ordinance 2018-018

- ~~Department shall notify potentially impacted neighborhood associations of such filings. Prior to submittal to DCA of plan amendments that would change future land use map a Community or neighborhood meeting must be held 30 calendar days before the application is filed and the application must verify that the meeting was held. A second Community or Neighborhood meeting must be held 15 business days before the amendment adoption hearing after review by DCA.~~
- ~~C. Seven Day "Cooling Off" Period Amendments to the Application -- Comprehensive Plan Future Land Use Map amendments and special exception requests cannot be changed in the seven (7) business days prior to the advertised public hearing between submittal of the application to Gadsden County and prior to the public hearing before the Planning Commission. This will allow the citizens, commissioners, and others to fairly evaluate the document. If the plan amendment is revised within that period, the hearing will be postponed unless all affected parties agree otherwise. Any material changes to proposed plan amendments must be submitted and made available to the public at least five (5) business days prior to the hearing at the adoption stage. Any amendments to the application must be at the Planning Commission public meeting or at the Board of County Commission public meeting.~~
- ~~D. "Super Majority" -- Votes for ALL COMPREHENSIVE PLAN amendments, and Major Land Development Reviews including but not limited to variances, special exceptions, major site plans and major subdivision shall require a "super majority" vote of the BOCC. A super majority vote of the BOCC is required to amend or repeal this ordinance.~~
- ~~E. All comprehensive land use map changes and site development applications shall protect Gadsden County Environmental Resources as identified in and in compliance with the adopted Comprehensive Plan requirements and Land Development Code.~~
- ~~F. "No Free Density" -- The conversion of rural and agricultural land to urban density in the form of compact, walkable, mixed use communities in appropriate locations shall only be undertaken where land for significant public benefit is offered in fair and equitable exchange. This shall include the permanent preservation of natural and agricultural lands and open spaces;~~
- ~~G. "Establish Reasonable Urban Service Boundaries" -- County government will work with the municipalities and other appropriate parties to establish reasonable urban services boundaries within the DCA mandated timeframe of 2014.~~

Exhibit A – Ordinance 2018-018

SUBSECTION 1700. CITIZENS BILL OF RIGHTS

This section establishes additional requirements for Comprehensive Plan Future Land Use Map amendments and special exceptions applied for in Gadsden County. All applicants for small scale and large scale Comprehensive Plan Future Land Use Map amendments and special exceptions shall comply with the following requirements. For the purposes of this Subsection, the Board of County Commissioners shall not be classified as an applicant.

- A. Mandatory Workshop – The applicant shall conduct a workshop to present the request for the amendment(s) or the special exception to interested parties. This workshop shall occur at least seven (7) days prior to submittal of an application for a Future Land Use Map amendment or special exception to Gadsden County, but after the applicant has held a pre-application meeting with County staff. The applicant must present to the Planning Commission and Board of County Commissioners a list of any issues raised at the workshop, and indicate if and how they were resolved.
- B. Notice Requirements – No less than fourteen (14) days prior to any mandatory workshop held by the applicant, the applicant must notify by mail property owners within a one-half mile boundary of the parcel or parcels subject to the request. An additional notification shall be placed in at least one newspaper of general circulation in Gadsden County at least two weeks prior to the workshop date. The newspaper ad shall contain all information as specified by Gadsden County. Notices shall be mailed to the address of the property owner shown on the Property Appraiser's website. Notices shall include the time, date and location of the workshop, and description with a location map of the subject parcel. The Planning Official, or designee, shall verify that proper notification has occurred.
- C. Amendments to the Application - Comprehensive Plan Future Land Use Map amendments and special exception requests cannot be changed between submittal of the application to Gadsden County and prior to the public hearing before the Planning Commission. Any amendments to the application must be at the Planning Commission public meeting or at the Board of County Commission public meeting.

(Ord. #2010-005, 05-04-10)

Chair Holt asked if this would affect anything doing with the hurricane and the disaster and Mrs. Jackson said no. Chair Holt asked if they had to have four out of the five Commissioners and not a super majority of the ones present and he said that was correct. He said the way the Ordinance read, they need a super majority of the entire board. Chair Holt said they needed to have that language when it comes back.

Mr. Weiss pointed out since it was advertised as a public hearing, to ask if there were any comments from public. Chair Holt asked and there was no-one. She explained this item would not be voted on tonight since they did not have a super majority present.

Commissioner Morgan asked if there was a second on his motion and Chair Holt said she did not hear a second but did not think it was needed.

16. Public Hearing-Creation of a New Fund for Hurricane Michael Expenditures and Transfer of Funds from the General Fund

Mrs. Jackson introduced the above item and said it was a Public Hearing for approval to set up a new fund and department number to address all payables associated with Hurricane Michael. She said further, the Board needed to transfer \$850,000 from the General Fund to supplement Hurricane Michael related expenditures for FY 18/19.

Commissioner Morgan said he no problem approving option 1, and asked if this was a request from Clerk's office and Mrs. Jackson said yes

COMMISSIONER MORGAN MADE A MOTION TO APPROVE OPTION 1 AND FOR EXPENSES TO BE REIMBURSED TO THE COUNTY AND COMMISSIONER TAYLOR MADE THE SECOND. THE BOARD VOTED 3-0 BY VOICE VOTE TO APPROVE THIS ITEM.

Chair Holt asked for public input regarding this item and there was none.

17. Public Hearing-Approval to Increase the Summer Youth Program from \$50,000 to \$132,250 in the FY 18-19 Budget

Mrs. Jackson introduced the above item and said it was presented for approval to increase the FY 18/19 Summer Youth Program from \$50,000 to \$132,250.

COMMISSIONER TAYLOR MADE A MOTION TO APPROVE. MOTION DIED FOR LACK OF SECOND.

Chair Holt said she had no problem with these items coming back; she just wanted to clear up all the things they are moving money and she was fine with bringing it back.

Chair Holt announced this was a Public hearing and there were no comments.

COMMISSIONER MORGAN MADE A MOTION FOR OPTION 2 TO NOT APPROVE AND CHAIR HOLT MADE THE SECOND. THE BOARD VOTED 2-1 BY VOICE VOTE TO NOT APPROVE THIS ITEM. COMMISSIONER TAYLOR OPPOSED.

18. Public Hearing-Approval to Restore the Emergency Housing Repair Account to \$100,000 in the FY 18-19 Budget

Mrs. Jackson introduced the above item and said it was presented to the Board for approval to

to house and maintain ten generators.

Commissioner Morgan asked if there was any fiscal impact and was told no.

COMMISSIONER MORGAN MADE A MOTION TO APPROVE OPTION 1 AND COMMISSIONER TAYLOR MADE THE SECOND WITH A QUESTION.

Commissioner Taylor asked where they would be housed at and Mrs. Jackson said they would be housed somewhere where they could be plugged up and they would have State tags.

CHAIR HOLT CALLED FOR THE VOTE. THE BOARD VOTED 3-0 BY VOICE VOTE TO APPROVE THIS ITEM.

13. Approval of Library Strategic Long-Range Plan 2018-2023

Mrs. Jackson introduced the above item and said it was for Board approval of the Gadsden County Public Library System's Long Range Plan 2018-2023.

UPON MOTION BY COMMISSIONER TAYLOR AND SECOND BY COMMISSIONER MORGAN, THE BOARD VOTED 3-0 BY VOICE VOTE TO APPROVE THIS ITEM.

14. Approval of Library Annual Plan of Service 2018-2019

Mrs. Jackson introduced the above item and said this was the second part of the 2018-2019 State Aid to Public Libraries application that was due by December 1, 2018 and required submission of a Board approved Annual Plan of Service.

UPON MOTION BY COMMISSIONER TAYLOR AND SECOND BY COMMISSIONER MORGAN, THE BOARD VOTED 3-0 BY VOICE VOTE TO APPROVE THIS ITEM.

PUBLIC HEARINGS

15. Public Hearing-Legislative-Consideration of Adoption of Ordinance 2018-018 for the Amendment of Chapters 1 and 7 of the Land Development Code, specifically regarding the Citizen's Bill of Rights (LDR 2018-01)

Mrs. Jackson introduced the above item and said this was a Public Hearing to adopt Ordinance 2018-018 for the amendment of Chapter 1, Administration and Enforcement and Chapter 7, Development Orders, Development Permits, and Development Agreements of the Land Development Code, to amend the Citizen's Bill of Rights and move it from Chapter 7 to Chapter 1.

Commissioner Morgan asked the attorney if they had to have a super majority vote for this to pass and if there were not four present to qualify for a super majority, they could not go forward and Mr. Weiss said that was correct.

COMMISSIONER MORGAN MADE A MOTION TO MOVE TO TABLE THIS ISSUE. CHAIR HOLT ASKED IF THERE WAS A SECOND AND THERE WAS DISCUSSION.

Commissioner Morgan said they could not vote on this item and Chair Holt said since he put the motion out, she asked for a second.

Debra Chatham, 6277 Flat Creek Road, Quincy, FL – CBOR

Marian Lasley, 5 Dante Court, Quincy, FL

PUBLIC HEARINGS

4. Public Hearing-Legislative-Consideration of Adoption of Ordinance 2018-005 for the Amendment of Chapters 1 and 7 of the Land Development Code, specifically regarding the Citizen’s Bill of Rights (LDR 2018-01)

Mrs. Jackson introduced the above item and said this was a legislative public hearing to adopt Ordinance 2018-005 for the amendment of Chapter 1, Administration and Enforcement and Chapter 7, Development Orders, Development Permits, and Development Agreements of the Land Development Code, to amend the Citizen’s Bill of Rights and move it from Chapter 7 to Chapter 1.

Allara Gutcher, The Planning Collaborative, appeared before the Board and gave a brief synopsis of the item. She reminded the Board that this item required a 4-1 vote in order to pass.

Chair Holt announced this was a Public Hearing and asked if there were any comments from the public.

Marian Lasley, 5 Dante Court, Quincy, FL, appeared before the Board. She said she was looking at the Alternate Ordinance and the concept of the exemption and the overlay areas was not presented to the Planning Board and they had not heard this. She added as she understood the changes to the Land Development Code and the Comprehensive Plan should go through the Planning Board first. She said she would like for them to consider that the Board Variance be included in the criteria for the oversight for the CBOR.

Debra Chatham, 6277 Flat Creek Road, Quincy, FL, appeared before the Board. She said she had been reading and liked the Number 4 item, but wanted to make them mindful of something she saw on Facebook. She said this was about the family splitting and they needed to go back to their constituents because she had not heard one up there say they were not interested in the family rights when they went to split the parcels.

Chair Holt asked for Board discussion.

Ms. Gutcher reappeared before the Board. Chair Holt asked if the Alternate Ordinance needed to go back to the Planning Commission. Ms. Gutcher said they had the discussion after the workshop on June 21st and asked if Mr. Weiss wanted to discuss the procedure.

Mr. Weiss explained any amendment to the Comprehensive Plan had to go to the Planning Commission and then to the County Commission. He said the standard when an Ordinance had to go back through the entire process was if there was a change to the nature of the Ordinance. He said if something different was put into the Ordinance when it came to the County Commission than when it went to the Planning Commissioner was different; it needed to go through the whole process. For something like this, the whole Ordinance was considered by the Planning Commission and thought their recommendation was to remove the super majority vote all together. He said he did not think it was a legal impediment and was the discretion to this Board if the Board

thought it should have gone through them, they could make the decision to send it back. He said he did not think it changed the nature of the Ordinance that they would be required to go back through.

Chair Holt said a workshop was held and suggestions were made and put into the document and she further explained.

Commissioner Morgan asked Ms. Gutcher if the existing ordinance in place regarding Chapter 1 and 7 was impeding growth at the interchanges and she said she was not sure anyone could answer that question.

Chair Holt said she was for economic growth and businesses were not coming because water, sewer, electric, etc. was not at the interchanges.

Commissioner Morgan said he agreed if water and sewer was needed at the interchanges, the County needed to do whatever was necessary to make that happen.

Commissioner Viegbesie said a question that came to mind was an issue a citizen raised, the perception of what the CBOR was. He said as written, did it apply to individual family property owners who wanted to change their own property land use.

Ms. Gutcher said it applied to anyone who owned property who wanted to change the map; it did not discriminate between ownership.

Commissioner Taylor said if a business did not think it worthy to come to the County to talk to the citizens, The County may not be interested in inviting them. She said Mrs. Chatham had a great point. The CBOR was there to help with large scale development and Ms. Gutcher said the way it was written today, if a property owner owned one acre of land and wanted to go from Agriculture to Rural Residential, they would have to go through this process. Commissioner Taylor said that was for changing the land, but if they were giving land to a family member and not making changes to the land use, would it affect them. Ms. Gutcher said if they were not changing the land use they would not have to go through this. Commissioner Taylor said she wanted that out there for clarity. She further stated she agreed with the Board on some of the language changes that needed to be done for clarity but did not agree at this time to change the super majority vote.

Commissioner Viegbesie said although the changes that have been made were improvements to the document and the main item that has been controversial was still there, for now he was willing to make a motion.

COMMISSIONER VIEGBESIE MADE A MOTION FOR ADOPTION OF OPTION 1 AND CHAIR HOLT MADE THE SECOND WITH A QUESTION.

Ms. Gutcher said Attachment 4 had the map and would be Option 3.

COMMISSIONER VIEGBESIE AMENDED HIS MOTION TO OPTION THREE AND CHAIR HOLT AMENDED HER SECOND. COMMISSIONER MORGAN HAD A QUESTION.

Commissioner Morgan said in the example given by Commissioner Taylor's question and Ms.

Gutcher's response, they were supporting someone that wanted to make a land use change, they would not have to notify their neighbors. Ms. Gutcher said their motion was to include the option that had the exemptions with a map to if they were outside the economic opportunity zones, they would have to go through the process if they were applying for a map amendment. Commissioner Morgan asked if they were inside, they would not and she said correct.

Commissioner Viegbesie asked for a roll call vote.

Commissioner Taylor had questions for clarity. She said she was looking at option 1 and option 3 and the difference was the attachments, attachment 1 and attachment 4. She said she wanted to make sure that she was voting correctly. She said option 1 did not include the map and Ms. Gutcher said correct. Commissioner Taylor said if it did not include the map, which meant whatever area that wanted to fall under this, they had the right to and Ms. Gutcher said outside the city limits. Commissioner Taylor said option 4 included the map and Ms. Gutcher said yes and that had restrictions, Ms. Gutcher said it had exemptions for those parcels within a mile boundary of the city limits, I-10 interchanges, Highway 27 and Highway 90. Chair Holt said around the cities, they do not have this ordinance and they do not have the CBOR and if annexed, they did not have it. She said there was only 1 interchange left at the Chattahoochee exit.

Commissioner Viegbesie-yes

Commissioner Hinson-yes

Commissioner Taylor-no

Commissioner Morgan no

Chair Holt-yes

Chair Holt said item failed for lack of 4 votes.

COMMISSIONER TAYLOR MADE A MOTION TO APPROVE OPTION 1 AND COMMISSIONER HINSON HAD QUESTIONS AND MADE THE SECOND.

Commissioner Hinson asked for clarity on the changes and Ms. Gutcher explained.

Chair Holt said she was not voting for option 1 because she was against the super majority vote and no county out of 38 Counties this size uses anything that required four votes to change property to what someone wanted to do.

A roll call vote was taken.

Commissioner Viegbesie-no

Commissioner Hinson-no

Commissioner Taylor-yes

Commissioner Morgan-yes

Chair Holt-no

Motion failed for lack of majority.

5. Public Hearing-Legislative-Consideration of transmittal of LSPA 2018-02 to Amend the Traffic Circulation Element of the Comprehensive Plan

NOTICE OF INTENT: **PUBLIC HEARING**

NOTICE IS HEREBY GIVEN to all concerned that the Board of County Commissioners of Gadsden County, Florida, intends, at a regular meeting, at the Gadsden County Governmental Complex, 9-B East Jefferson Street, Quincy, Florida, at 6:00 p.m. on the 16th day of April, 2019, to consider adoption of an ordinance entitled:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE, AMENDING CHAPTER 1, ADMINISTRATION AND ENFORCEMENT AND SECTION 7001.1, THE CITIZENS GROWTH MANAGEMENT AND PLANNING BILL OF RIGHTS IN CHAPTER 7, DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, AND DEVELOPMENT AGREEMENTS; PROVIDING FOR REPEAL, SEVERABILITY, INCLUSION IN THE GADSDEN COUNTY LAND DEVELOPMENT CODE, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

INTERESTED PARTIES MAY APPEAR AT THE MEETING AND BE HEARD WITH RESPECT TO THE PROPOSED ORDINANCE. IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO THIS MATTER, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, HE OR SHE MUST ASSURE THAT A VERBATIM RECORDING OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

The proposed ordinance is available for public inspection at the Office of the Clerk, Gadsden County Courthouse, 10 E. Jefferson St., Quincy, Florida, and on the County website at www.gadsdencountyfl.gov.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Persons needing assistance in obtaining any information from the County on attending the public hearing must contact the Gadsden County Administrator's Office, 1B E. Jefferson Street, Quincy, Florida, (850) 875-8650, at least 48 hours prior to the hearing; if you are hearing or voice impaired, call 711.

Exhibit A – Ordinance 2018-018

SECTION 7001.1 CITIZENS GROWTH MANAGEMENT AND PLANNING BILL OF RIGHTS

This section established additional requirements for Comprehensive Plan Amendments and Major Land Development Reviews including but not limited to variances, special Exceptions major Site Plans and major Subdivision in Gadsden County. All small scale and large scale Comprehensive Plan Amendments and Major Land Development Reviews shall comply with the following requirements:

- A. Mandated Citizen Participation Plan--Developers must prepare a citizen participation plan and notify by mail and newspaper impacted property owners and neighborhood associations within one half mile of the development site property boundaries. The Growth Management Department must verify that proper notification has occurred. The Developer shall conduct workshops with citizens impacted to identify all issues of concern prior to any public hearing. The developer must present to the Planning Commission and Board of County Commissioners a list of all issues raised, and indicate if and how they were resolved. Unresolved issues then become the focus of P & Z and BOCC discussion.
- B. Neighborhood Participation—Gadsden County’s Department of Planning and Community Development Department (Department) must compile a list of all valid neighborhood associations (with contact person) operating within the unincorporated areas. Within 10 business days of the filing of any applications or proposals filed for comprehensive plan amendments or land development regulations, the Department shall notify potentially impacted neighborhood associations of such filings. Prior to submittal to DCA of plan amendments that would change future land use map a Community or neighborhood meeting must be held 30 calendar days before the application is filed and the application must verify that the meeting was held. A second Community or Neighborhood meeting must be held 15 business days before the amendment adoption hearing after review by DCA.
- C. Seven Day "Cooling Off" Period--Plan amendments cannot be changed in the seven (7) business days prior to the advertised public hearing. This will allow the citizens, commissioners, and others to fairly evaluate the document. If the plan amendment is revised within that period, the hearing will be postponed unless all affected parties agree otherwise. Any material changes to proposed plan amendments must be submitted and made available to the public at least five (5) business days prior to the hearing at the adoption stage.
- D. "Super Majority"--Votes for ALL COMPREHENSIVE PLAN amendments, and Major Land Development Reviews including but not limited to variances, special exceptions, major site plans and major subdivision shall require a "super majority" vote of the BOCC. A super majority vote of the BOCC is

Exhibit A – Ordinance 2018-018

required to amend or repeal this ordinance.

- E. All comprehensive land use map changes and site development applications shall protect Gadsden County Environmental Resources as identified in and in compliance with the adopted Comprehensive Plan requirements and Land Development Code.
- F. "No Free Density"--The conversion of rural and agricultural land to urban density--in the form of compact, walkable, mixed use communities in appropriate locations--shall only be undertaken where land for significant public benefit is offered in fair and equitable exchange. This shall include the permanent preservation of natural and agricultural lands and open spaces;
- G. "Establish Reasonable Urban Service Boundaries" --County government will work with the municipalities and other appropriate parties to establish reasonable urban services boundaries within the DCA mandated timeframe of 2014.

(Ord. #2010-005, 05-04-10)