

Public Interest

The Voice of the People

Statute 163.3161(4) states “It is the intent of this act that local governments have the ability...encourage the most appropriate use of land, water, and resources, consistent with the public interest;”

Florida Statutes

163.3181 Public participation in the comprehensive planning process; intent; alternative dispute resolution.—

(1) It is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible. Towards this end, local planning agencies and local governmental units are directed to adopt procedures designed to provide effective public participation in the comprehensive planning process and to provide real property owners with notice of all official actions which will regulate the use of their property. The provisions and procedures required in this act are set out as the minimum requirements towards this end.

(2) During consideration of the proposed plan or amendments thereto by the local planning agency or by the local governing body, the procedures shall provide for broad dissemination of the proposals and alternatives, opportunity for written comments, public hearings as provided herein, provisions for open discussion, communications programs, information services, and consideration of and response to public comments.

163.3225 Public hearings.—

(1) Before entering into, amending, or revoking a development agreement, a local government shall conduct at least two public hearings. At the option of the governing body, one of the public hearings may be held by the local planning agency.

(2)(a) Notice of intent to consider a development agreement shall be advertised approximately 7 days before each public hearing in a newspaper of general circulation and readership in the county where the local government is located. Notice of intent to consider a development agreement shall also be mailed to all affected property owners before the first public hearing. The day, time, and place at which the second public hearing will be held shall be announced at the first public hearing.

(b) The notice shall specify the location of the land subject to the development agreement, the development uses proposed on the property, the proposed population densities, and the proposed building intensities and height and shall specify a place where a copy of the proposed agreement can be obtained.

History.—s. 22, ch. 86-191.

Statement from Pinellas County Attorneys on Public Hearing Testimony from the Public
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Richman complains its application for a land use amendment could not be resolved by a "popularity poll of the neighborhood." (AB31, citing *Conetta v. City of Sarasota*, 400 So. 2d 1051, 1053 (Fla. 2d DCA 1981)). But, as shown in the Initial Brief, that notion applies to state law cases addressing quasi-judicial decisions whether a discrete zoning variance or special permit is required. (IB22, 24, 30). Those decisions, including the one reviewed in *Conetta*, 400 So. 2d at 1053, are entirely different from this legislative, policy decision whether to alter the use of acres and acres of land under a comprehensive land use plan.

Richman has cited no Florida decision precluding a governmental entity from considering the will of its citizens on land use plan issues. Nor has it cited any federal decision saying doing so violates the U.S. Constitution. To the contrary, even in the zoning context, the Eleventh Circuit has expressly held the proposal can be properly evaluated by governmental entities "in light of their constituents' preferences" *Greenbriar, Ltd. v. City of Alabaster*, 881 F.2d 1570, 1579 (11th Cir. 1989). All the more in a comprehensive land use plan case.

Indeed, the Special Act requires a public hearing be held before the decision on amending the Countywide Land Use Plan is made. 1988 Act §10(5); 2012 Act §3(§11)(2). Richman's contention that, to satisfy the federal constitution, the CPA nevertheless was required to ignore the many people who expressed rational concerns at that hearing about the impact of the proposed development is wrong and would make that hearing a futile exercise.

Quote from PINELLAS COUNTY v. RICHMAN GROUP OF FLORIDA INC (2017) [Judge Final Order written by CRENSHAW, Judge.](#)

In May 2013, the CPA considered Richman's proposal at a public hearing where hundreds of residents from the area surrounding the subject property expressed opposition to the amendment. The residents articulated specific, rational concerns that amending the land use designation to allow Richman's planned development of the property would cause traffic, transportation, safety, and economic problems.

However, resident opposition, provided it is motivated by legitimate concerns, can provide a rational basis for a government's land use decision. See, e.g., *Griffin Indus., Inc. v. Irvin*, 496 F.3d 1189, 1208 (11th Cir. 2007) ("In sum, the suggestion that the defendants violated the Equal Protection Clause by responding to the concerns of local citizens is, under these circumstances, without merit."); *Corn v. City of Lauderdale Lakes*, 997 F.2d 1369, 1387 (11th Cir. 1993) ("Merely because citizen input may not be a sufficient basis for a rational government land use decision in every instance does not mean it can never be a sufficient basis for such a decision. In most cases it will be. Where, as here, citizens consistently come before their city council in public meetings on a number of occasions and present their individual, fact-based concerns that are rationally related to legitimate general welfare concerns, it is not arbitrary and capricious for a city council to decide without a more formal investigation that those concerns are valid and that the proposed development should not be permitted." (citation omitted)); *Greenbriar*, 881 F.2d at 1579 ("[A] planning commission or a City Council is not a judicial forum; it is a legislative body held democratically accountable through precisely the forms of political suasion to which *Greenbriar* objects. . Here, there is no indication that Council members' attention to citizens' concerns in assessing *Greenbriar's* zoning plan deprived their decision of a rational basis." (citations omitted)); *Estabrook*, 680 F.2d at 832 ("Here it is merely indicated that town officials are motivated by parochial views of local interests which work against plaintiffs' plan and which may contravene state subdivision laws."). In fact, the Special Act mandates notice to all affected residents and a public hearing before the adoption of any amendment to the land use plan. Ch. 90-396, § 10(5), at 41. As such, even the Special Act itself contemplates the CPA's consideration of concerns from local residents.

Tampa Bay Times July 3, 2023

"State Sen. Nick DiCeglie, an Indian Rocks Beach Republican who sponsored the bill...[SB 540, dubbed the "sprawl bill" by opponents]...DiCeglie said lawsuits over plan amendments are often "frivolous" because citizens are given the chance to object to these changes during public comment before amendments are passed. He said people need to be more involved in their local elections if they don't like the plan amendments that are being passed. "There's always an election around the corner where they can make those changes and, ultimately, attempt to elect someone who is more aligned with those principles in their view of what their community looks like in the future," he said.

Quotes from the 2016 Sustany hearing:

Commissioner Siplin

(49:10): "I can't negate the fact that being a commissioner who, you know, really listens or tries to listen to the voters."

(50:26): "I can't ignore the fact of what the residents are feeling, what they're expressing. I would have to be, you know, stone cold. And I'm not that type of person"

(52:38): "I just can't at this time, uh, support this."

(52:55): "I just can't, um, ignore the voices of the people. I just can't."

Mayor Jacobs

(35:01): "I do think there's very strong opposition, um, on the east side of town, notwithstanding that. And I don't think that that there's any debating that I agree with you that is not certainly the sole criteria. I will say that for me to vote against the will of such a large number of voters, it has to be a compelling and very, very clear overriding, um, public good. And, um, one of the things that I have, have struggled with on this is that the transportation network and the fact that we have a problem already and is this, will this solve more of the problem it will create by adding more homes. And there are two things that concern me and, and the reason I'm not willing to go forward"

Summary of Public Comments from 2024 Sustanee Case

Some of the main concerns expressed by public commenters at the meeting included:

- Increased traffic and lack of adequate road infrastructure to support the development
- Drainage issues and potential negative impacts to nearby lakes and properties from increased stormwater runoff
- Preserving the rural character and low density of the area
- Lack of affordable housing options in the proposed development, although the developer stated bungalows as attainable
- Potential negative environmental impacts and lack of solutions presented to address them
- Inadequate transportation planning and failure to address impacts to nearby roads like Lake Pickett Road
- Seminole County Commissioner expressed issues with storm water pre and post with water moving north towards their county, it should hold 100% of the water for a 100 year storm, there isn't enough fire station coverage of the area with Seminole stations being the closest and may need to respond to Orange County residents, all roads are not built for the traffic on 419/Chuluota capacity, traffic from these developments should go south