

ORDINANCE NO. 06-17

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE FUTURE LAND USE ELEMENT, TRANSPORTATION ELEMENT, COASTAL MANAGEMENT ELEMENT, CONSERVATION ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, PUBLIC SCHOOL FACILITIES ELEMENT, AND CAPITAL IMPROVEMENTS ELEMENT OF THE ADOPTED COMPREHENSIVE PLAN IN ACCORDANCE WITH SECTION 163.3191, FLORIDA STATUTES ENTITLED, "EVALUATION AND APPRAISAL OF COMPREHENSIVE PLAN" TO INCORPORATE APPLICABLE CHANGES IN CHAPTER 163, PART II OF FLORIDA STATUTES; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, Section 163.3191 Florida Statutes requires that each local government evaluate its adopted comprehensive plan every seven years to determine whether plan amendments are necessary to reflect changes in Ch. 163, Part II, Florida Statutes since the last update of the comprehensive plan;

WHEREAS, Section 163.3191, Florida Statutes requires that every local government notify the state land planning agency as to its determination, and transmit the appropriate amendments to the State Land Planning Agency (the Department of Economic Opportunity, hereinafter referred to as "DEO") no later than the date established by administrative rule for each particular local government; and

WHEREAS, City staff has evaluated the comprehensive plan against legislation passed subsequent to the last plan update in 2008, and has determined that minor amendments to certain elements of the plan are required in order to reflect such legislation; and

WHEREAS, pursuant to Florida Statute 163.3174(4)(a), the Planning and Zoning Board, sitting as the Local Planning Agency (LPA), held a duly noticed public hearing on March 20, 2017 and recommended that the City Commission transmit the amendments to DEO; and

WHEREAS, the City Commission of the City of Delray Beach adopts the findings in the Planning and Zoning Staff Report; and

WHEREAS, the City Commission of the City of Delray Beach finds the Ordinance is internally consistent with the adopted City of Delray Beach Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the recitations set forth above are incorporated herein.

Section 2. That the Future Land Use Element of the Comprehensive Plan be and the same is hereby amended to read as follows:

Policy A-1.7 Amendments to the Future Land Use Map (FLUM) must be based upon the findings listed below, and must be supported by data and analysis that demonstrate compliance with these findings:

- ❑ Demonstrated Need -- That there is a need for the requested land use. The need must be based upon circumstances such as shifts in demographic trends, changes in the availability of land, including but not limited to the minimum amount of land required to accommodate the medium population projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period pursuant to F.S. 163.3177(1)(f)3., changes in the existing character and FLUM designations of the surrounding area, fulfillment of a comprehensive plan objective or policy, annexation into the municipal boundaries, or similar circumstances. The need must be supported by data and analysis verifying the changing demographics or other circumstances. This requirement shall not apply to requests for the FLUM designations of Conservation or Recreation and Open Space; nor shall it apply to FLUM changes associated with annexations when the City's advisory FLUM designation is being applied, or when the requested designation is of a similar intensity to the advisory designation. However, the findings described in the remainder of this policy must be addressed with all FLUM amendments.

Policy D-3.9 The City will work with and abide by the "Interlocal Agreement between the School Board of Palm Beach County, Palm Beach County and Municipalities of Palm Beach County for Coordinated Planning" and the Intergovernmental Agreement between the Board of County Commissioners and the School Board of Palm Beach.

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Section 3. That the Transportation Element of the Comprehensive Plan be and the same is hereby amended to read as follows:

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Policy A-2.4 For projects outside of the TCEA, concurrency for transportation facilities shall be deemed as being met if the improvement is guaranteed to be in place prior to the issuance of an occupancy permit on the basis of financial surety provided by the developer, or the inclusion of the funded improvement in the schedule of capital improvements; or if the developer enters into a binding agreement to pay for or construct its proportionate fair share of required improvements pursuant to F.S. 163.3180(5)(h)(1) and Article 8.6 of the Land Development Code.

Section 4. That the Coastal Management Element of the Comprehensive Plan be and the same is hereby amended to read as follows:

Objective A-1

The City shall continue its established and ongoing programs that meet the following objectives: 1) Maintain, restore, and enhances the overall quality of the coastal zone environment, including its amenities and aesthetic values, 1) Preserve the existence of viable populations of all species of wildlife and marine life, 3) Protect the utilization and preservation of all living and non-living coastal zone resources, 4) Avoid irreversible and irretrievable loss of coastal zone resources, 5) Limit public expenditures that subsidize development in coastal high-hazard areas, 7) protect human life against the effects of natural disasters, 8) Preserve historic and archeological resources, including sensitive adaptive use, and 9) Consider the development of an adaption action area for low-lying coastal areas that experience coastal flooding due to extreme high tides and storm surge, and are susceptible to sea level rise. A report of the status of those programs shall be prepared annually and made available to the public at the Town Hall Meeting, at City Hall, and on the City's website.

Comment: The above programs all exist within the City's Coastal Planning Area and are already institutionalized. These existing programs meet the intent of F.S. 163.3177(6)(g).

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Policy D-1.3 The Coastal High Hazard is defined as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake and Overland Surges for Hurricanes (SLOSH) computerized storm surge model, as described in F.S. 163.3178(2)(h).

Policy D-1.4. Based upon modeling of current and future sea level rise, using the NOAA Sea Level Rise Bathtub Inundation Methodology, the City of Delray Beach shall identify potential adverse impacts and identify and map areas vulnerable to these impacts. This shall include the identification of existing, pending, and proposed development and infrastructure that would be inappropriate or unsafe as a consequence of current and future flood hazard.

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Policy D-4.3. As part of the existing permitting and zoning approval procedures, the City shall review all plans for construction within the floodplain area to be consistent with, or more stringent than the minimal requirements addressed in the Florida Building Code.

Policy D-4.4. The City shall continue to participate in the Southeast Florida Regional Climate Change Compact, and evaluate the feasibility of involvement in the following:

- a) Participation with the South Florida Regional Council on future sea level rise vulnerability prediction modeling.
- b) Adoption of the Southeast Florida Regional Climate Change Compact *Regional Climate Action Plan* recommended adaptation strategies and engineering solutions to eliminate inappropriate and unsafe development as a consequence of current and future flood hazards.

Policy D-4.5. **The City shall consider policies within the coastal management element that improve resilience to coastal flooding to areas that may include: areas below, at, or near mean higher high water; areas which have a hydrological connection to coastal waters; or areas designated as evacuation zones for storm surge (F.S., 163.3164 and 163.3177(6)(g)).**

Policy D-4.6. The City shall continue to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for residents.

Section 5. That the Conservation Element of the Comprehensive Plan be and the same is hereby amended to read as follows:

Policy E-1.1 By February 1st of each year, the Green Implementation Advancement Board (GIAB), shall review City operations and policies toward achieving Delray Beach's green and sustainability goals and providing a report of recommendation to the City Commission regarding:
[Amended by Amendment 10-1]

1. Ways to improve the environmental Sustainability of City programs, services, and equipment facilities.
2. Strategies for improving environmental sustainability of the community
3. Incentives for residents, businesses, and organizations to practice environmental conservation including recycling.
4. Proposed means to enhance water and energy conservation.
5. Ideas for promotion of tree planting and xeriscaping.

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6. Best Practices for implementation in Delray Beach, including long-term strategies.
7. Proposed revisions to City Ordinances to address Green Technologies.
8. Strategies to address factors that affect energy conservation.

Section 6. That the Intergovernmental Coordination Element of the Comprehensive Plan be and the same is hereby amended to read as follows:

Policy A-2.3 Any conflicts emanating from Policy A-2.1 and which are not resolved prior to resubmission to Department of Economic Opportunity (DEO) shall be taken to the Interlocal Plan Amendment Review Committee (IPARC) and Multi-Jurisdictional Issues Coordination Forum as appropriate, for direction and/or mediation.

Section 7. That the Capital Improvements Element of the Comprehensive Plan be and the same is hereby amended to read as follows:

Policy A-3.4 The City will prepare a Five-Year Capital Improvement Plan (CIP) each year, in addition to a projection of the current year. The CIP shall address currently publicly funded federal, state, and local government projects and unfunded projects over a five-year period, including priority levels of funding for projects necessary to achieve level of service standards . The CIP shall include all projects contained on the five year schedule of this Element and shall contain those projects of greater than \$25,000 which are funded through the dedicated financial resources for renewal and replacement projects and all other projects of greater than \$25,000 which are proposed, except for repair and replacement items identified and funded via renewal and replacement programs. The first year of the CIP will be the Capital Improvement Budget (CIB) projected for the next year.

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Policy A-3.7 Wherever the term "concurrent" is used in this Element and other elements of the Plan it shall mean that the public facility capacity needed to satisfy the adopted level of service standards established in this Plan shall be in place and operational under any of the following conditions:

- a) Adequate capacity exists to accommodate the impact of the proposed development.
- b) The improvement is guaranteed to be in place prior to the issuance of an occupancy permit on the basis of financial surety provided by the developer, or the inclusion of the funded improvement in the schedule of capital improvements;

- c) In the case of public school facilities, a project may also satisfy concurrency if adequate capacity is available in a contiguous Planning Area or the School District of Palm Beach County Five Year Capital Improvement Schedule provides for commencement of construction within three years of the earlier of either a final plat or site plan approval, as reflected in Table SD-CIP of this element. Alternatively, the developer may execute a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by the development pursuant to the mitigation options established in the Public Schools Facilities Element and the Interlocal Agreement.
- d) In the case of roadways, a project may also satisfy concurrency if the developer enters into a binding agreement to pay for or construct its proportionate fair share of required improvements pursuant to F.S. 163.3180(5)(h)(1) and Article 8.6 of the Land Development Code.

Objective A-8

The School District of Palm Beach County shall maintain minimum level of service standards for public school facilities, as defined in the Public School Facilities Element and in accordance with the Interlocal Agreement with School Board of Palm Beach County, Palm Beach County, and Municipalities of Palm Beach County for Coordinated Planning. In the case of public school facilities, the issuance of Development Orders, Development Permits or development approvals shall be based upon the School District of Palm Beach County's ability to maintain the minimum level of service standards as established in Policy A-1.1, Public School Facilities Element

Policy A-8.2 In accordance with Public Schools Facilities Element Policy A-1.1, prior to issuance of a Development Order/Permit, the School District of Palm Beach County shall determine that the level of service for public school facilities can be achieved and maintained. The necessary public school facilities shall be considered to be in place when sufficient capacity exists in the planning area in which the proposed development is located, or an immediately adjacent planning area.

Table CI-CIP and Table SD-CIP are hereby replaced by the 2016 adopted budgets of the School district and the City.

Section 8. That the Public School Facilities Element of the Comprehensive Plan be and the same is hereby amended to read as follows:

All references to Concurrency Service Areas (CSA) are hereby removed due to the adoption of the new Interlocal Agreement.

Policy A-1.2 If, as a result of a School Capacity Study (SCS), a determination is made that a school will exceed 120% utilization or cannot operate in excess of 110% utilization, then the School District shall correct the failure of that school to be operating within the adopted LOS through 1) program adjustments 2) attendance boundary adjustments or 3) modifications to the Capital Facilities Program to add additional capacity. If, as a result of the SCS a determination is made that the school will exceed 110% and can operate within adopted guidelines, the identified school may operate at up to 120% utilization. Policy A-1.3 The School Capacity Study (SCS) shall determine if the growth rate within an area, causing the enrollment to exceed 110 percent of capacity, is temporary or reflects an ongoing trend affecting the LOS for the 5 year planning period. The study shall include data which shows the extent of the exceedance attributable to both existing and new development. Notification shall be provided to the local government within whose jurisdiction the study takes place. At a minimum, the study shall consider:

1. Demographics in the school's Planning Area;
2. Student population trends;
3. Real estate trends (e.g. development and redevelopment);
4. Teacher/student ratios; and
5. Core facility capacity.

A-1.4 is deleted

Policy A-1.5 is deleted

Policy A-1.9 is deleted

All other policies are renumbered appropriately

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Policy A-2.2 A development order shall be issued and mitigation measures shall not be exacted when the adopted level of service standard cannot be met in a particular planning area, as applied to an application for a development order, if the needed capacity for the particular planning area is available in one or more contiguous planning areas .

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Policy A-3.1 The City of Delray Beach, in coordination with the School District and other local governments, shall annually adopt the updated School District of Palm Beach County Five-Year

Capital Improvement Schedule, by reference or follow other procedures consistent with F.S. 163 Part II. This provision is intended to maintain consistency with the School Board's adopted Five-Year Plan and to maintain a financially feasible capital improvements program and ensure that level of service standards will continue to be achieved and maintained in each year of the five year planning period.

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Policy B-2.1 The City of Delray Beach shall abide by the "Palm Beach County Interlocal Agreement with Municipalities of Palm Beach County and the School District of Palm Beach County to establish Public School Concurrency", which was fully executed by the parties involved and recorded with the Clerk of the Circuit Court of Palm Beach County on January 25, 2001, consistent with F.S.163.3177(6)(h)1.and 2., 163.31777 and 163.3180(6).

Policy B-2.2 The Technical Advisory Group (TAG) shall be established by the County, participating local governments, and the School District. The five member TAG will be comprised of a Certified Public Accountant, a General Contractor, a Demographer, a Business Person, and a Planner, nominated by their respective associations as indicated in the Interlocal Agreement to establish Public School Concurrency mentioned in Policy B-2.1 above. The Technical Advisory Group shall review and make recommendations including but not limited to the following:

1. The Capital Facilities Plan;
2. The Ten and Twenty Year work programs;
3. Schools that trigger a School Capacity Study;
4. Planning Areas boundaries;
5. School District Management Reports; and
6. Operation and effectiveness of the Concurrency Program;
7. Program Evaluation Reports.

Policy B-2.3 The City of Delray Beach shall provide the School District with annual information needed to maintain school adequacy, including information required for the School District to establish:

1. School siting criteria;
2. Level of service update and maintenance;
3. Joint approval of the public school capital facilities program; and
4. School utilization.

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Policy C-3.1 The County shall convert the BEBR projections into both existing and new residential units and disaggregate these units throughout incorporated and unincorporated Palm Beach County into each planning area, using BEBR's annual estimates by municipality, persons-per-household

figures, historic growth rates and development potential considering the adopted Future Land Use maps of all local government Comprehensive Plans.

Maps PS 1.1, PS 2.1 & PS 3.2 are hereby replaced with new maps to remove the reference to CSA's and are replaced with maps showing the Planning Areas.

Section 9. That the Planning and Zoning Director is hereby authorized to transmit the amendments to DEO in accordance with F.S. 163.3184, Process for adoption of comprehensive plan or plan amendment.

Section 10. That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 11. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 12. That this Ordinance shall become effective upon the date that DEO posts a notice of intent determining that this amendment is in compliance. If timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to DEO.

PASSED AND ADOPTED in regular session on second and final reading on this _____ day of _____, 2016.

Cary D. Glickstein, Mayor

ATTEST:

City Clerk

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First Reading _____

Second Reading _____