


TRAINING

LAND USE & ZONING

Presented by Tara Salmieri and Cliff Shepard

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Resources for Planning in Eatonville



- Comprehensive Plan Data, Inventory, Analysis (DIA) [link](#)
- Comprehensive Plan Goals, Objectives and Policies (GOPs) [link](#) (the GOP's start on page 14)
- Town's Land Development Code can be accessed [link](#).

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Topics for Training



TOPIC 1 – THE COMPREHENSIVE PLAN – What is it? How Does it Work? Why is it important?


TOPIC 2 - ZONING, SPECIAL EXCEPTIONS & VARIANCES – What are these things? How do they work? What matters, and what doesn't when you are making a decision?

TOPIC 3 - LEGISLATIVE DECISIONS AND QUASI-JUDICIAL DECISIONS – How are they different and why does it matter?

TOPIC 4 – WHO'S ON FIRST? THE PLAYERS AND THEIR ROLES IN THE DEVELOPMENT PROCESS:

- STAFF (Planning, Public Works, Clerk)
- LEGAL (Town Attorney, Opposing Counsel)
- BOARDS (Historic, Planning Board, BZA)
- TOWN COUNCIL (Decisions and Appeals)
- THE DEVELOPMENT PROCESS (consistency, site plan review, plat, impacts, capacity, etc.)


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TRAINING - TOPIC 1
THE COMPREHENSIVE PLAN

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Comprehensive Plan Requirements

- All local governments are required by State law to adopt a comprehensive plan (FS 163.3177 [here](#)).
- The planning process is universal.
- The Comprehensive Plan is the only public document that views the community as a whole. Public participation is vital and legally required.
- The Comprehensive Plan forms a basis for how a community regulates development and how it invests in infrastructure and services.

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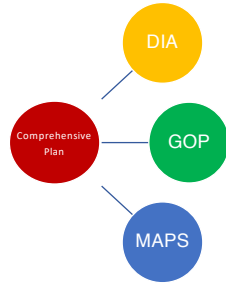
Comprehensive Plan Role

- "The constitution for all future development . . ." - *Citrus County v. Halls River Development*, 8 So. 3d 413, 420 (Fla. 5th DCA 2009); *Machado v. Musgrove*, 519 So.2d 629, 631-32 (Fla. 3d DCA 1987).
- Importance of Public Participation
 - Required by Statute "to the fullest extent possible."
 - Adopt procedures to provide effective and meaningful participation.
 - Provide property owners with notice of all official actions that regulate the use of their property.
- Development that is inconsistent with the Comprehensive Plan (consequences) – *Pine Crest v. Shidel* case (bull dozer)
- Vested Rights – What they are? What they aren't?

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Overall Components of a Comprehensive Plan (FS 163.3177)

- Physical Plan (reflects social and economic values)
- Data, Inventory and Analysis (census, transportation LOS, Water quality, infrastructure assessment)
- Mapping (land use, transportation, environment, historic areas, etc.)
- Goals, Objectives, and Policies Mid and Long Range (5/10/20 years)
- Consistency with the Elements

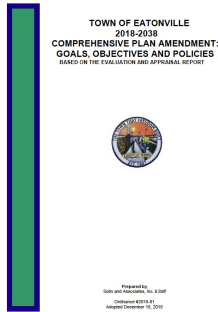


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Comprehensive Plan [link](#)

Each local government in Florida is required to adopt a comprehensive plan. Once this plan is adopted and found to be "in compliance" by the State planning agency, the Department of Community Affairs, all actions related to planning and growth management, including the regulation of land use and development, must be consistent with the comprehensive plan.

- Chapter 1: Future Land Use
- Chapter 2: Traffic Circulation
- Chapter 3: Housing Element
- Chapter 4: Sanitary Sewer
- Chapter 5: Solid Waste
- Chapter 6: Stormwater
- Chapter 7: Potable Water
- Chapter 8: Groundwater & Aquifer Recharge
- Chapter 9: Conservation Element
- Chapter 10: Recreation and Open Space
- Chapter 11: Intergovernmental Coordination
- Chapter 12: Capital Improvement
- Chapter 13: Property Rights Element



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Data, Inventory & Analysis [link](#)

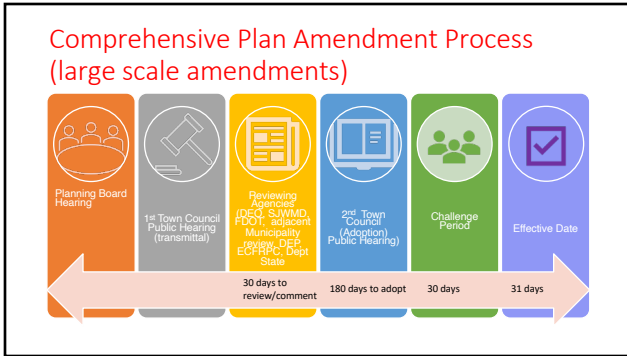
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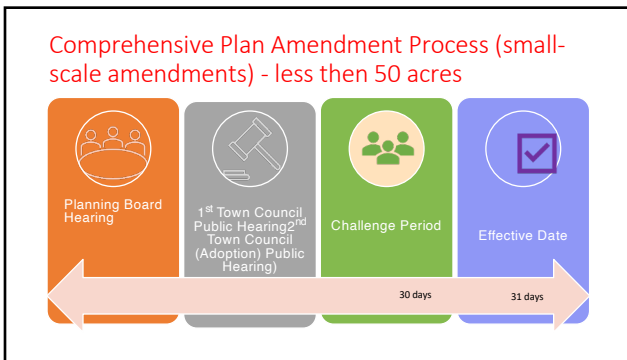
Table 3-16: FUTURE PROJECTED POTABLE WATER DEMAND TO BE GENERATED BASED ON FUTURE LAND USE
WATER DEMAND FROM RESIDENTIAL TO COMMERCIAL AND INDUSTRIAL
 (Includes Proposed Redevelopment of Orange County School District Property - see Map 1-12)

Category	Future Land Use Map Designation	Approved Acquisitions	Permitted Developments	Water Demand (MGD)
Future Land Use	Residential (R-1)	20.0 ac	10.0 ac	0.00
	Commercial (C-1)	0.0 ac	0.0 ac	0.00
Proposed Redevelopment	Residential (R-1)	0.0 ac	0.0 ac	0.00
	Commercial (C-1)	0.0 ac	0.0 ac	0.00
Total Future Land Use	Residential (R-1)	20.0 ac	10.0 ac	0.00
	Commercial (C-1)	0.0 ac	0.0 ac	0.00
Total Future Land Use				0.00

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Questions?

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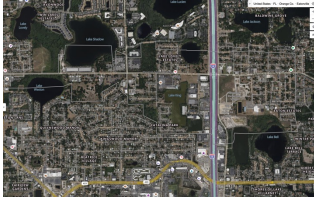
TRAINING- TOPIC 2 ZONING, SPECIAL EXCEPTIONS & VARIANCES

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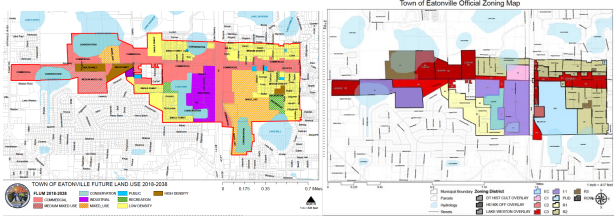
ZONING STANDARDS

- COMPREHENSIVE PLAN
- LAND DEVELOPMENT CODE
- REZONING
- SPECIAL EXCEPTIONS
- VARIANCES



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Land Use Map and the Zoning Map



TOWN OF EATONVILLE FUTURE LAND USE 2010-2035
 PLAN 2013.0204
 CONSERVATION, OPEN SPACE, AND RECREATION
 COMMERCIAL
 INDUSTRIAL
 RESIDENTIAL
 OFFICE/PROFESSIONAL
 PUBLIC
 MEDIUM-DENSITY RESIDENTIAL
 SINGLE-FAMILY RESIDENTIAL
 HIGH-DENSITY RESIDENTIAL
 LAND DEVELOPMENT CODE

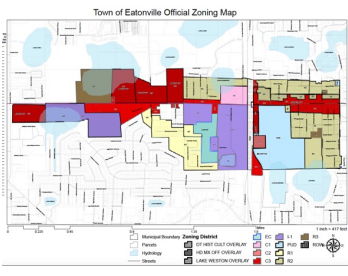
TOWN OF EATONVILLE OFFICIAL ZONING MAP
 ZONING MAP (LAND DEVELOPMENT CODE)

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Zoning Standards

Zoning is the division of the town into districts for the purpose of regulating the use of private land.

- 1- Town has authority
- 2- Required to be consistent with the Comprehensive Plan
- Police Power, based on protection of the public health, safety or welfare.
- Rational Nexus to promote a public purpose (link to the comprehensive plan)

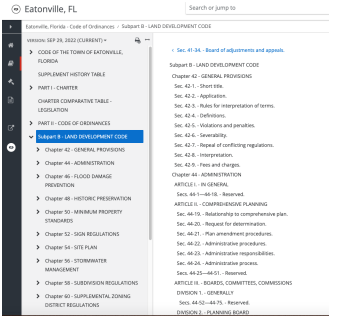


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Zoning Code Standards

[Town of Eatonville Municode](#)
Zoning provides requirements (examples):

- Establishes Districts
- Use
- Landscape/Fence
- Signage
- Parking
- Site Plan requirements
- Subdivision/Plat



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What is a Rezoning?

- Who can apply for rezoning?
 - Property Owner/Representative
 - Local Government
- Burden of Proof:
 - The local government can initiate rezoning of an area, but cannot target the rezoning of an individual property.
 - The property owner must prove with **competent substantial evidence** that the proposed rezoning is consistent with the comp plan and that the application complies with all code requirements.
 - The burden then shifts to the local government (if it disagrees) to demonstrate that maintaining the existing zoning accomplishes a legitimate public purpose and is not arbitrary, discriminatory or unreasonable.

Zoning district	Land Use Category							
	R-1	R-2	R-3	C-1	C-2	C-3	I-1	PUD
Single-family (existing)	X	X						
Low density single-family	X							X
Multi-family			X					X
Planned commercial				X				X
Planned office				X				X
Controlled commercial/office				X	X	X	X	X
Retail/office						X		
Planned industrial							X	X
Institutional	X	X	X	X	X	X	X	X
Park/community center	X	X	X	X				X

LDC, Chapter 44, Article II. Comprehensive Plan

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Special Exceptions

- Specific criteria is outlined, by Zoning District AND Chapter 44 Administration, Article IV Special Exception uses, [link](#) here.
- **Planning Director** – Reviews the request against the **specific criteria** as outlined in the LDC for that zoning district.
- **Town Attorney** - Prior to the planning board considering an application for a special exception, the town attorney shall render an opinion as to whether the special exception application is in fact a special exception, under the provisions of this chapter and is within the province of the planning board. Consideration of an application for a special exception by the planning board after a receipt of an opinion from the town attorney that the application is not within the province of the planning board, as herein defined, shall constitute a grievance as provided for in section 44-116. Repeated considerations of the planning board under these circumstances shall constitute cause for removal as provided for in section 44-110.

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Special Exception Review

1. Planning Board (Review/Recommendation)
2. Town Council (Renders the Decision)

RECOMMENDATION

The _____ will provide one of the following for _____:

(A) Recommendation of denial
 (B) Recommendation of approval
 (C) Recommendation of approval with conditions
 (D) Recommendation of approval in part, with or without conditions, and denial in part.

TOPIC 3 & 4, will provide a more detailed assessment of the process from a legal framework and the role (staff, boards, council)

1) AUTOMOBILE REPAIR	CONDITIONS (YES, MEET CONDITIONS, N/A, AND NO DOES NOT MEET)	YES
a. All repair work and permanent storage of motorist, maintenance and maintenance repair and servicing equipment shall be conducted within the principal building.		
b. No operator shall permit the storage of motor vehicles for a period in excess of 24 hours unless the vehicles are enclosed in the principal building.		
c. Service or customer vehicles shall be parked on the premises in a manner that will not create safety hazards or interfere with vehicles maneuvering area necessary to enter or exit the site.		
d. No outdoor work shall be performed except in areas designated for such activity on an approved site plan. Such areas shall be fenced, walled and screened to minimize on and off-site noise, glare, odors, or other impacts.		
e. Additional buffering and screening may be required where such uses are located in close proximity to residential or retail commercial uses.		
f. Additional uses, such as RV/boat storage and vehicle sales, are permitted in conjunction with this use provided that they are permitted in the zoning district and do not constitute an overuse.		
g. No out have a publicly advertised community meeting prior presenting and zoning board.		

EXAMPLE ONLY

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Variance

A variance is an exemption granted from certain land development regulations where literal enforcement of such regulations would result in an unnecessary hardship. In reviewing a variance decision, a court will review whether there is competent substantial evidence in the record to support whether the **ALL** variance review criteria in the applicable code have been met. Chapter 44, Article V, Variances [here](#).

1. Describe the special conditions and circumstances that exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district.
2. Describe how special conditions and circumstances that currently exist are not the result of the actions of the applicant or petitioner.
3. Explain how the granting of the variance request would not confer on the applicant, or petitioner, any special privilege that is denied by this Article of the LDC to other lands, buildings, or structures in the same zoning district.
4. Describe how the literal interpretation of the provisions of the zoning regulations would deprive the applicant, or petitioner, of rights commonly enjoyed by other properties in the same zoning district and would work unnecessary and undue hardship on the applicant or petitioner.
5. Describe how the requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
6. Describe how the granting of the variance will be in harmony with the general intent and purpose of the zoning regulations and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

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Variations are Supposed to be Hard to Get

- Variations are not about whether your neighbors object.
- “Hardship” cannot be self-created.
- Variation must be in harmony with the general plan of zoning for the area.
- No reasonable legal use of property can be made without the variation.

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Questions?

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