

ORDINANCE NO. 226

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, AMENDING THE COMPREHENSIVE PLAN BY ELIMINATING TRANSPORTATION AND PUBLIC SCHOOL CONCURRENCY REQUIREMENTS FROM THE PLAN; PROVIDING FOR AUTHORITY; PROVIDING FOR PURPOSE; PROVIDING FOR LEGISLATIVE FINDINGS OF FACT; PROVIDING FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, FLORIDA AS FOLLOWS:

SECTION 1: AUTHORITY.

The authority for enactment of this Ordinance is Section 163, Part II and Section 166.021, Florida Statutes, and The Cinco Bayou Comprehensive Plan.

SECTION 2: PURPOSE.

The purpose of this Ordinance is to amend the adopted Comprehensive Plan so as to eliminate Transportation and Public Schools Concurrency requirements from the Plan pursuant to §163.3180, Florida Statutes.

SECTION 3: LEGISLATIVE FINDINGS OF FACT.

WHEREAS, the Town Council finds that eliminating Transportation and Public Schools Concurrency requirements is in the best interests of the Town, its economic growth and development, and;

WHEREAS, the Town Council finds that the amendments adopted herein will promote compact, orderly development and discourage urban sprawl, and;

WHEREAS, a public hearing precedent to final adoption of this Ordinance has been duly noticed and conducted by the Town Council, and;

WHEREAS, this Ordinance contains a set of amendments to the Comprehensive Plan which amendments are treated as a unit, and;

WHEREAS, This Ordinance amends Ordinance no. 135, as amended, and;

WHEREAS, the amendments adopted hereby are the minimum necessary to conform the Plan to changes in law, changes in the rules governing local government comprehensive plans and changed conditions, and;

WHEREAS, this Ordinance and the amendments adopted hereby are in the best interests of the Town and its citizens.

SECTION 4: ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS.

The Amendments shown and delineated in Attachment "A" to this Ordinance are hereby adopted and Attachment "A" is incorporated herein by reference.

SECTION 5: SEVERABILITY.

It is declared the intent of the Town Council of the Town of Cinco Bayou that if any subsection, clause, sentence, provision or phrase of this Ordinance or the Amendments adopted hereby is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed so as to render invalid or unconstitutional any remaining provisions of this Ordinance or Amendments.

SECTION 6: EFFECTIVE DATE.

This effective date of this Ordinance and the Comprehensive Plan Amendments adopted hereby shall be thirty-one (31) days after the State Land Planning Agency notifies the Town that the amendment package is complete. If timely challenged, this Ordinance and the Comprehensive Plan Amendments shall become effective on the date the State Land Planning Agency or the Administration Commission enters a final order determining the Plan Amendments to be in compliance.

PASSED AND ADOPTED ON SECOND READING BY THE TOWN COUNCIL OF CINCO BAYOU, FLORIDA ON THIS 14th DAY OF JUNE, 2012.

ATTEST:

THE TOWN OF CINCO BAYOU, FLORIDA

BY:

Nell Dykes
Nell Dykes
Town Manager/Clerk

BY:

Theresa Farley
Theresa Farley
Mayor

(SEAL)

The form and legal sufficiency of the foregoing has been reviewed and approved by the Town Attorney

C. Jeffrey Meinnis
C. Jeffrey Meinnis, Town Attorney



ATTACHMENT "A"

ORDINANCE No. 226

Adopted June 14, 2012

The following are the Comprehensive Plan amendments adopted by Ordinance #226. The amendments affect the following Elements (Chapters) of the Plan:

Chapter 5 - General Requirements

Chapter 6 - Concurrency Management System

Chapter 14 - Capital Improvements

Chapter 15 - Level of Service Summary

All changed provisions are shown, in sequence, in the underlined and ~~strike-through~~ format (words underlined are additions and words ~~stricken~~ are deletions).

Section 5.06 Data and Analysis: Copies or summaries of foundation and support data, analysis, and documents have been submitted to the Florida Department of Community Affairs together with the Comprehensive Plan when the Plan was submitted for compliance review. The Foundation Document, which contains the data and analysis, is available for review during normal business hours in the Town Hall.

Section 5.07 Population Projections: This Ordinance is based upon resident population projections only. There is no seasonal fluctuation in the population of Cinco Bayou. The population projections are included within the Foundation Documents supporting this Comprehensive Plan. The projections may be found at Table 3-1 of the Foundation Document and a description of the methodology employed to develop the projections accompanies Table 3-1. All projections have been prepared in accordance with Subsection 9J-5.005(2)(e), F.A.C. Population projections will be updated annually.

Section 5.08 Level of Service Standards: Level of service standards shall be as established in the elements contained within this Ordinance for roads, schools, sanitary sewer, solid waste, drainage, potable water and recreation. Chapter 15 of this Ordinance provides a summary of adopted levels of service for each of these facilities.

Section 5.09 Planning Time Frame: The time frames for planning used in this revised Plan are from the year 2009 through the year 2019.

Section 5.10 Internal Consistency: Each Chapter of this Ordinance represents an Element of the Town's Comprehensive Plan. Each Chapter (element) herein is consistent with the other Chapters (elements) and this Ordinance shall be construed in its entirety as the Town's Comprehensive Plan. The Future Land Use Map included as a part of this Ordinance reflects goals, objectives and policies contained within the Ordinance.

Section 5.11 Plan Implementation: This Comprehensive Plan shall be implemented by the adoption or amendment of Land Development Code or any other Land Development Regulations of the Town of Cinco Bayou. The Town will adopt a Land Development Code (Land Development Regulations) within the time frame specified by Rule in the F.A.C. In addition to the requirements in Chapter 163.3202, F.S., the Land Development Code shall address regulations of specific items contained with the goals, objectives and policies of this Ordinance. Further, the Land Development Code shall require adherence to the policies within the Land Development Code as well as this Ordinance.

Section 5.12 Monitoring and Evaluation: An Evaluation and Appraisal Report (EAR) shall be prepared at the end of each five-

CHAPTER 6 (9J-5.0055)

CONCURRENCY MANAGEMENT SYSTEM

Section 6.01 Concurrency Management: The Cinco Bayou Town Administration shall be responsible for ensuring compliance with the Concurrency Management System and shall report on such compliance to the LPA and Town Council on an annual basis concurrent with the reports required by Section 14.06 of this Ordinance. The Town Manager, or his designee, will be responsible for the four (4) primary tasks which are described below. The four tasks are:

- 1) Maintain an inventory of existing public facilities and capacities or deficiencies;
- 2) Determining concurrency of proposed development which does not require Town Council approval;
- 3) Providing advisory concurrency assessments and recommending conditions of approval to the Town Council for those applications for development orders which require Town Council approval; and
- 4) Reporting the status of all public facilities covered under this system to the Town Council and recommending a schedule of improvements for those public facilities found to have existing deficiencies.

The Town administration will collect and make available to the public information on various facilities. The information shall be updated on an annual basis consistent with the reports required by Section 14.06 of this ordinance. The information will contain data such as: ~~design capacity for roadways and roadway types; existing and adopted levels of service for all roadways; improvements to be made to the roadway system in the current year by the Town and improvements to be made to the roadway system by the private sector;~~ design capacity of waste water and potable water facilities and the identification of any deficiencies within such systems; the existing and adopted levels of service standards for water and sewer systems; any programmed improvements to the facilities either by the Town, the City of Fort Walton Beach or the private sector; the design capacity for solid waste facilities including transfer stations and landfills; existing and proposed level of service standards for storm water management systems; ~~existing and proposed capacity of schools serving the Town;~~ and existing and proposed provisions of recreation and open space facilities by the Town or the private sector. It should be noted that this is not an all inclusive list of guidelines for use in the concurrency management system; rather, it is indicative of the types of information to be contained within the LDC and the method and manner of administering the LDC.

Section 6.02 Coordination: The Town will coordinate establishing LOS standards for the above-named facilities with State, regional or local entities having operational and maintenance responsibility for such facilities in accordance with Chapter 9J-5.015(3) (b)3, F.A.C.

Section 6.03 Consistency with Comprehensive Plan: No development activity may be approved unless it is found that the development is consistent with the Comprehensive Plan and that the provision of the public facilities enumerated in Section 6.01 above, will be available at prescribed levels of service concurrent with the impact of the development on those facilities.

Section 6.04 Minimum Requirements: As a minimum, the concurrency management system will ensure that at least one (1) of the following standards will be met prior to issuance of a development order:

(1) The necessary facilities and services are in place at the time a development permit is issued; or

(2) A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of development occur; or

(3) The necessary facilities are under construction at the time a permit is issued; or

(4) The necessary facilities and services are the subject of a binding executed contract for the construction of the facilities or the provision of the services at the time that the development permit is issued. NOTE: This provision only relates to parks and recreation facilities and roads. The LDC will include a requirement that the provision or construction of the facility or service must commence within one (1) year of the issuance of the Development Order or Permit; or

(5) The necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220 F.S. or an agreement or development order issued pursuant to Chapter 380 F.S. Any such agreement shall include provisions pursuant to paragraphs 1, 2 or 3 above.

~~(6) -- Transportation -- projects -- that -- are -- planned -- for construction in the first three years of the FDOT 5 Year Work Plan or the City's 5 Year Schedule of Capital Improvements -- may -- be utilized for the purpose of determining concurrency, -- provided that the requirements of Rules 9J-5.0055(3)(c), F.A.C. -- are met.~~

Section 6.05 Levels of Service During Construction: The provisions of 6.04 above notwithstanding, the prescribed levels of

service for any system or systems may be degraded during construction of new facilities if, upon completion of the new facilities, the prescribed LOS will be met and maintained.

Section 6.06 Phased Construction: The construction of any development project may be phased or staged so as coincide with the phased or staged construction of infrastructure facilities so that the levels of service for such facilities are maintained upon completion of each phase or stage of the development project.

Section 6.07 Administration:

(1) The Land Development Code (LDC) shall designate the appropriate Town official(s) having responsibility for determining that levels of service are met and will be maintained prior to issuance of a development permit. The Town may place the burden of demonstrating compliance upon the developer or applicant. In order to be approved, applications for development approval shall provide sufficient information showing compliance with LOS standards.

(2) The LDC shall include quantitative methods for determining levels of service that exist and which may be impacted by any particular development application. In addition, the LDC will fully describe the process necessary for a finding of compliance with levels of service.

(3) The LDC shall include standardized quantitative data which is to be used in determining the impact of any proposed development upon the public facilities and services within the Town (roads, drainage, potable water, sanitary sewer, solid waste and recreation and open space). Applications for development approval shall include the projected impact upon public facilities and services upon occupancy or use of the proposed development. Any deviation from the standardized criteria within the LDC must have the prior approval of the Town Council before such data may be used for determining or projecting impacts of the proposed development.

Note: The Town's Concurrency Management System does not apply to roadways or schools.

Policy 14.A.3.5 - Provide for the availability of public facilities and services needed to support development concurrent with the impacts of such development subsequent to the adoption of this ordinance (reference Chapter 6 and Policy 7.A.1.2).

Policy 14.A.3.6 - There is hereby created a committee to review the development activities within the Town of Cinco Bayou and to review the level of service conditions for the town. The committee shall be comprised of the Mayor, Town Clerk and Public Works Superintendent. The committee shall maintain information on development activity, level of service conditions and other data necessary to accurately evaluate the implementation of the town's Comprehensive Plan. In addition, the committee will monitor and evaluate the CIE on an annual basis (reference Sections 5.12, 6.01 and 14.06 and Policies 8.A.3.3, 9.A.7.3, 11.A.8.4, 12.A.2.1, 13.A.1.1, 13.A.2.3 and 14.A.1.1 of this ordinance).

Objective 14.A.4 - Future development will bear a proportionate cost of facility improvements necessitated by the development in order to adequately maintain adopted LOS standards. Regulations will be included within the LDC (reference Policy 7.A.1.1) and the regulations will include methods of assessment. The methods will include a series of variables based upon the size, character, type and location of the development and the development's impact upon all Town systems as well as the benefits the development is anticipated to receive from such systems.

Policy 14.A.4.1 - Provide for assessing new developments a pro rata share of the costs necessary to finance public facility improvements necessitated by development in order to adequately maintain adopted level of service standards in the Land Development Code (LDC). The pro rata share of cost necessary to finance public facility improvements will be determined based upon the size of the proposed development, the land uses associated with the proposed development, the impact the land uses are projected to have on public facilities and services upon occupancy of the development, and the maintenance of LOS standards for all facilities impacted by the development.

Policy 14.A.4.2 - Include requirements within the LDC that exact physical improvements to impacted systems (~~roads, utilities, etc.~~) by new developments or the redevelopment of existing facilities. This policy will be implemented through the town's permitting and inspection process (Reference Section 14.06).

Objective 14.A.5 - The Town of Cinco Bayou will provide or require provision of needed improvements which may be identified in the future, and will manage the land development process so that public facility needs created by previously issued development orders or future development do not exceed the ability of the Town to fund and provide or require provision of the needed capital improvements upon adoption of the LDC (reference Chapter 6 and Section 14.06 and Policy 7.A.1.1 of this ordinance).

CHAPTER 15

LEVEL OF SERVICE SUMMARY

Section 15.01 Purpose: The purpose of this Chapter is to provide a ready reference, in summary form, for determining development compliance with the levels of service imposed by this Ordinance in compliance with Chapter 163, F.S. and Chapter 9J-5, F.A.C.

Section 15.02 Levels of Service: The following minimum levels of service shall guide the issuance of development permits pursuant to the Concurrency Management System (reference Chapter 6) and adoption of the Land Development Code:

Roadways

- Local: Minimum Operating LOS of C (reference Policy 8.A.1.1)
- State: S.R. 85 through the Town - Minimum Operating LOS standard is D (constrained) through 1994 and LOS E (constrained) 1995-2000 (reference Policy 8.A.2.1)
- County: All County maintained collectors and/or arterials within the City - Minimum Operating LOS of D (reference Policy 8.A.2.1)

Note: The Town's Concurrency Management System does not apply to roadways or schools.

- Sanitary Sewer 115 gallons/capita/day (reference Policy 10.A.1.3)
- Solid Waste 5.0 lbs./capita/day (reference Policy 10.B.1.5)
- Drainage
- a. Retain the first inch of run-off on-site; and
 - b. Post development run-off shall not exceed the pre-development run-off rate for a 25 year storm event, up to and including an event with a 24-hour duration.
- Potable Water 150 gallons/capita/day (reference Policy 10.D.1.2)
- Recreation
- Open Space 1 acre/1,000 population (reference Policy 12.A.3.2).