

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Authorization to schedule public hearings to amend the Land Development Code of Seminole County to address legislative requirements from Senate Bill 1906 (2002) (now Laws of Florida 2002-296), and other significant changes

**DEPARTMENT:** Planning and Development **DIVISION:** Planning

**AUTHORIZED BY:** Donald S. Fisher **CONTACT:** Tony Matthews **EXT.** 7373

<b>Agenda Date</b> <u>05/27/03</u> <b>Regular</b> <input type="checkbox"/> <b>Consent</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/> <b>Briefing</b> <input type="checkbox"/> <b>Public Hearing – 1:30</b> <input type="checkbox"/> <b>Public Hearing – 7:00</b> <input type="checkbox"/>
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**MOTION/RECOMMENDATION:**

Authorize Planning and Development Director to schedule and advertise public hearings to consider amending the Land Development Code of Seminole County to address legislative requirements from Senate Bill 1906 (Laws of Florida 2002-296), and other significant changes.

(Countywide)

(Tony Matthews, Principal Planner)

**BACKGROUND:**

The attached ordinance is intended to address legislative changes from the 2002 Legislature, including appointment of a School Board representative to serve on the County's Land Planning Agency; clarification of the role of hearing officers; amendment of process for appeal of Board decisions; and elimination of certain required Board findings in rezoning decisions.

Public hearings will be set for the Planning and Zoning Commission and Board of County Commissioners subsequent to Board direction on this agenda item.

Reviewed by:
Co Atty: <u>REC</u>
DFS: _____
Other: <u>MMW</u>
DCM: <u>SM</u>
CM: <u>TS</u>
File No. <u>cpdp01</u>

**Attachments:** Proposed ordinance.

O R D I N A N C E

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY SECTIONS 1.12, 5.18, 7.3, 7.5, 15.2, 15.3, 15.6, 15.8, 20.4, 30.912; AMENDING RULES AND PROCEDURES FOR APPEALS OF LOCAL GOVERNMENT DECISIONS TO CIRCUIT COURT; CLARIFYING INTENT OF HEARING OFFICER PROVISION; ADDING APPOINTMENT OF A SCHOOL BOARD REPRESENTATIVE TO THE LAND PLANNING AGENCY; REMOVING REQUIREMENT TO DISTINGUISH BETWEEN LEGISLATIVE AND QUASI-JUDICIAL DETERMINATIONS; AMENDING THE SEMINOLE COUNTY CODE SECTION 55.126; AMENDING PROCESS FOR APPEALING LOCAL GOVERNMENT DECISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State Legislature passed legislation known as Chapter 2002-296, Laws of Florida which took effect on May 31, 2002; and

WHEREAS, this legislation amended Section 163.3215, Florida Statutes, in regard to the process for appeal of certain local government land use decisions to local courts; and

WHEREAS, this legislation also amended Section 163.3174, Florida Statutes, to require appointment of a Seminole County School Board representative to the Seminole County Land Planning Agency; and

WHEREAS, the Board of County Commissioners desires to bring the terms of the Land Development Code of Seminole County and the Seminole County Code into compliance with the requirements of the new law,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, AS FOLLOWS:

**Section 1.** Chapter 1, Section 1.12, Land Development Code of Seminole County is hereby amended to read as follows:

**Sec. 1.12. Appeals.**

(a) Unless specifically stated to the contrary in this Code all appeals to the Board of County Commissioners ~~as to a particular appeal process, all appeals to a higher authority shall be de novo, provided, however, that this provision shall not apply to appeals to the courts.~~

\* \* \* \* \*

(c) All appeals from decisions of the Board of County Commissioners regarding building permits, zoning permits, subdivision approval, rezoning, certification, special exceptions, variances, or any other official action effecting the permitting of land development and consistency with the Seminole County Comprehensive Plan shall be ~~by petition for writ of certiorari filed within thirty (30) days of the date of the board's decision notwithstanding the date that the decision is reduced to writing~~ subject to the terms of Section 163.3215, Florida Statutes, as amended.

**Section 2.** Chapter 5, Section 5.18, Land Development Code of Seminole County is hereby amended by adding subsection (f) to read as follows:

**Sec. 5.18. Hearing Officer.**

(f) Nothing contained in this Section shall be construed to create a special master review process pursuant to Section 163.3215, Florida Statutes.

**Section 3.** Chapter 7, Section 7.3, Land Development Code of Seminole County is hereby amended to read as follows:

**Sec. 7.3. Organizational Structure and financing.** The Seminole County Land Planning Agency shall be directly responsible to the Board of County Commissioners and shall be a recommendatory agency with respect to said Board. The agency shall be funded by the Board of County Commissioners in a manner consistent with the County's budgetary process and subject to the discretion of said Board. Employees, officers and agents of the agency shall be appointed or employed by the Board of County Commissioners in its discretion, and shall serve at the pleasure of said Board, except for the Seminole County School Board representative who shall be appointed by, and serve at the pleasure of, the School Board.

**Section 4.** Chapter 7, Section 7.5, Land Development Code of Seminole County is hereby amended to read as follows:

**Sec. 7.5. Organization; rules and procedures.** The initial and subsequent members of the Seminole County Land Planning Agency shall be the present members of the planning and zoning commission, whose terms shall expire at the end of the period

for which they were appointed. At the expiration of the term of each of the members of the Seminole County Planning and Zoning Commission, the next succeeding term of office for each member ~~appointed by the Board of County Commissioners~~ shall be for four (4) years. The Seminole County School Board shall appoint one (1) representative to the Seminole County Land Planning Agency. Said representative shall be an advisory member of the Agency and shall not be afforded voting rights on any matters brought before the Agency. Said member shall serve a term to be determined by the School Board. Any vacancy in the membership of the planning and zoning commission shall be filled for the unexpired portion of the term in the same manner as an appointment for a full term. At the first public meeting held by the Seminole County Land Planning Agency, the agency shall set rules and procedures and choose its officers. The Board of County Commissioners may establish policies and rules of procedure for the Seminole County Land Planning Agency by a subsequent resolution or ordinance. The Seminole County Land Planning Agency shall conduct its activities in accordance with the public participation provisions of the 1991 Seminole County Comprehensive Plan as it may be amended.

**Section 5.** Chapter 15, Section 15.2, Land Development Code of Seminole County is hereby amended to read as follows:

**Sec. 15.2. Statement of Intent.**

~~(a) This chapter establishes the sole and exclusive administrative procedures and standards by which real property owners may seek to demonstrate that private property rights relating to parcels of real property have vested against and under the provisions of the 1991 Seminole County Comprehensive Plan. Said administrative procedures shall result in determinations relating to the consistency of development with the 1991 Seminole County Comprehensive Plan as well as the application of the various policies and provisions set forth in said plan including, but not limited to, determinations relating to the concurrency management system and issuance of certificates of concurrency.~~

~~(b)~~(a) It is the purpose of this chapter to provide an administrative process for appealing decisions rendered by the Planning and Development Director, the County Engineer, hearing officers and administrative decision makers prior to any available recourse in a court of competent jurisdiction. In particular, it is intended that such administrative relief be provided in the most professional, objective and equitable manner possible through decisions of the Planning and Development Director, the County Engineer and other administrative decision makers and through the appointment of hearing officers to adjudicate matters as provided herein.

~~(c) The function of hearing officers shall be to serve as the second step of a two step administrative process relating to the determinations provided by in this chapter.~~

~~(d)~~(b) No party shall be deemed to have exhausted his, her or its administrative remedies for the purpose of seeking judicial review unless the party first obtains reviews of the Planning and Development Director's decision, the County Engineer's decision, and administrative decision maker's decision and a hearing officer's decision as provided herein.

**Section 6.** Chapter 15, Section 15.3(f), Land Development Code of Seminole County is hereby amended to read as follows:

**Sec. 15.3. Existing development orders, exemptions and general provisions.**

(f) The property owner may appeal the decision of the Planning and Development Director in accordance with the provisions of this chapter and applicable law.

**Section 7.** Chapter 15, Section 15.6(g)(6), Land Development Code of Seminole County is hereby amended to read as follows:

**Sec. 15.6. Appeal of Planning and Development Director's decisions to hearing officer.**

(6) Decisions of hearing officers shall be final, but subject to appeal to the Board of County Commissioners and judicial review as set forth in this chapter and applicable law.

**Section 8.** Chapter 15, Section 15.8, Land Development Code of Seminole County is hereby amended to read as follows:

**Sec. 15.8 Judicial review.** Decisions made by the Board of County Commissioner's pursuant to this chapter may be appealed ~~by the real property owner~~ to the Circuit Court in and for Seminole County Florida.

**Section 9.** Chapter 20, Section 20.4, Land Development Code of Seminole County is hereby amended to read as follows:

**Sec. 20.4 Exemptions.** Development activities that are eligible to receive a development permit are typically exempt from the requirements of this chapter; provided, however, that the provisions of this chapter may be used by the County Manager, a Deputy County Manager, or the Planning and Development Director, as appropriate, whenever he or she determines that the provisions of this Code will be appropriately implemented by utilizing the procedures set forth in this chapter. The denial of any application for development shall occur in a manner consistent with the provisions of this chapter. Approvals or denials of applications for amendments to the Seminole County Comprehensive Plan are not development orders as such decisions are legislative decisions of the Board Of County Commissioners. ~~Actions by the board of county commissioners providing for a comprehensive rezoning plan for a large area of the county are likewise legislative in nature. In making decisions whether to~~



~~rezone property the board of county commissioners shall, in its action, make a finding as to whether the rezoning proposal was analyzed and acted upon in legislative or quasi-judicial context.~~

**Section 10.** Chapter 30, Section 30.912, Land Development Code of Seminole County is hereby amended to read as follows:

**Sec. 30.192. Appeals.** Denials of development permits relating to the permitted uses set forth at section 30.902(s) and (t) in this zoning classification may be ~~immediately~~ appealed to the circuit court in and for Seminole County, Florida.

**Section 11.** Chapter 55, Section 55.126, Seminole County Code is hereby amended to read as follows:

**Sec. 55.126. Review of Orders and Decisions.** Any person, firm or corporation aggrieved by any non-legislative order or decision of the Board shall have the right to petition the Board for a rehearing and reconsideration of any order, regulation or decision. Such petition must be filed within ten (10) days following the date of the Board's decision, regardless of when such order, regulation or decision is actually reduced to writing and filed of record. The effect of the filing of a petition for a rehearing shall operate to stay the order or decision sought to be reviewed until the petition is disposed of. After a petition for rehearing has been denied, such aggrieved party may have such order or decision reviewed by

~~certiorari to the Circuit court of Seminole County, Florida pursuant to the terms of Section 163.3215, Florida Statutes, as amended. by such other proceedings as may be prescribed by Court rules, Such appeal must be filed within thirty (30) days after the disposition of the petition for rehearing. The proceedings before the Board shall be deemed quasi judicial in nature and such review shall be limited to the record made before the Board. The aggrieved party shall not be entitled to trial de novo, but shall only be entitled to a determination as to whether or not there is substantial competent evidence to support the findings and order of the Board.~~

**Section 12. Codification.** It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become, and be made a part of the Seminole County Code. The word "Ordinance" may be changed to section, article, or other appropriate word or phrase and the sections of this Ordinance may be assigned new numbering or lettering to accomplish such intention; providing, however, that Sections 12, 13, and 14 shall not be codified.

**Section 13. Severability.** If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

**Section 14. Effective Date.** This Ordinance shall take effective upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners.

**ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
MARYANNE MORSE,  
Clerk of the Board of  
County Commissioners of  
Seminole County, Florida

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman

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