

## MEMORANDUM



**To:** Chairman and Members  
Planning and Land Development Regulation Committee

**From:** Becky Mendez, Senior Planning Manager

**Date:** September 8, 2009

**Subject:** **Agriculture Family Subdivision - Text Amendment to Future Land Use Element**  
CPA- 09-2-9  
Ordinance No. 2009-XX

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### I. Overview

Comprehensive Plan policy 1.4.1.8 allows farmers to subdivide their property for family members through the special exception process stipulated in the zoning ordinance. The Volusia Council of Governments (VCOG) Smart Growth Committee recommends that this policy be revised to discourage unintended sprawl and more easily allow actual family lot splits.

### II. Discussion of Amendment

In an effort to protect agricultural lands from being sold for non-agricultural development, the VCOG Smart Growth Committee suggests making the family lot split a matter of right rather than requiring a cumbersome approval process as is now the case. Currently, the concern is that the special exception process acts as a disincentive to maintaining family agricultural operations. Owners often look toward selling their farms to development interests rather than passing it on to family members. This, in turn, encourages higher densities of development in undesirable areas; supporting sprawl rather than deterring it. The premise for the amendment to the agriculture family subdivision policy is to provide some incentive for farm families to stay in agriculture and enhance protection of agricultural activities and lands.

The suggested amendment to policy 1.4.1.8 is presented below in strike-through/underline format. The current policy allows for up to a maximum of 10 lots on a minimum of 20 acres. This has the unintended consequence of providing a mechanism for the creation of large lot subdivisions and

residential sprawl in agricultural areas. In order to redirect the aim of this policy to being a true family subdivision policy, the maximum number of lots is proposed at 3 on a minimum of 25 acres. This reduces the potential for 10 lot subdivisions scattered throughout agricultural lands. Also, the policy is amended to allow the subdivision as a matter of right, rather than requiring the special exception process. This will reduce the time and expense of obtaining the subdivision, and hopefully encourage farm families to maintain their agricultural operations.

1.4.1.8 In order to allow farmers' the ability to provide additional home sites for family members or to provide additional financing options, lot sizes less than the minimum permitted under the Agriculture Resource or Forestry Resource designations may be considered consistent under the following circumstances:

- a. The subject site is greater than ~~20-25~~ acres;
- b. Maximum number of new lots cannot exceed ~~403~~;
- c. The property is an active agricultural operation;
- d. The overall density is not exceeded for the site;
- e. The intent is for the remaining land area to continue in agricultural use;
- f. The proposed lot size ~~would need to be processed through the Special Exception process of the Volusia County Zoning Ordinance prior to~~ will be determined during subdivision approval; and
- g. Once a specific property has been approved for the lot reduction, the remaining portion is no longer eligible for such a request ~~due to the fact that the available density has been utilized.~~

### III. Findings

Staff finds the adopted Comprehensive Plan supports this proposed amendment as follows:

- Goal 1.4 Ensure that agricultural and silvicultural lands are protected from encroachment by incompatible land uses and remain a vital element of the County's economy.
- Objective 1.4.1 Consistent with Section 163.3202(1) F.S., the County will review its Land Development Regulations and determine if it is necessary to adopt standards that protect agricultural and silvicultural resource areas.
- Policy 1.4.1.1 Urban growth shall be directed away from designated agricultural areas.

Policy 1.4.1.2 Volusia County shall protect Agricultural and Forestry Resource areas from encroachment of non-agricultural activities.

Policy 1.4.1.3 In agricultural areas, Volusia County shall prevent the intrusion of incompatible land uses such as urban density residential and non-agricultural oriented commercial and preclude the provision of urban services while encouraging and supporting programs which enhance the agricultural environment.

#### **IV. Staff Recommendation**

Staff recommends that the PLDRC forward the amendment to County Council with the recommendation of approval to transmit to the Department of Community Affairs and the Volusia County Growth Management Commission.

#### **IV. ATTACHMENTS**

Ordinance 2009-XX



ORDINANCE 2009-

1  
2  
3 AN ORDINANCE OF THE COUNTY COUNCIL OF  
4 VOLUSIA COUNTY, FLORIDA, AMENDING THE  
5 VOLUSIA COUNTY COMPREHENSIVE PLAN  
6 ORDINANCE NO. 90-10 AS PREVIOUSLY  
7 AMENDED, BY AMENDING CHAPTER 1, FUTURE  
8 LAND USE ELEMENT, POLICY 1.4.1.8 TO  
9 PROVIDE FOR AGRICULTURAL FAMILY  
10 SUBDIVISIONS; BY AUTHORIZING INCLUSION IN  
11 THE VOLUSIA COUNTY COMPREHENSIVE PLAN;  
12 BY PROVIDING FOR SEVERABILITY; BY  
13 PROVIDING FOR AN EFFECTIVE DATE.  
14

15 WHEREAS, Section 163.3161, et seq., Florida Statutes, creates the Local  
16 Government Comprehensive Planning and Land Development Regulation Act,  
17 hereinafter referred to as the “Act”;

18 WHEREAS, Section 163.3167, Florida Statutes, requires each county in  
19 the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by  
20 the Florida Department of Community Affairs; and

21 WHEREAS, the Volusia County Council has adopted the Volusia County  
22 Comprehensive Plan Ordinance No. 90-10, pursuant to the Act; and

23 WHEREAS, Section 163.3187, Florida Statutes, provides for amendments  
24 to the adopted Comprehensive Plan by the local government not more than twice  
25 during each calendar year; and

26 WHEREAS, the County Council of Volusia County, Florida desires to take  
27 advantage of this statute and amend the Volusia County Comprehensive Plan;  
28 and

1           **WHEREAS**, the County Council of Volusia County, Florida has provided  
2 for broad dissemination of these proposed amendments to this Plan in  
3 compliance with Florida Statutes Sections 163.3181 and 163.3184(15); and

4           **WHEREAS**, pursuant to Section 163.3174, Florida Statutes, Volusia  
5 County Zoning Ordinance No. 80-8, as amended, has designated the Volusia  
6 County Planning and Land Development Regulation Commission as the local  
7 planning agency for the unincorporated area of Volusia County, Florida;

8           **NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF**  
9 **VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:**

10 The Volusia County Comprehensive Plan, Ordinance No. 90-10, as previously  
11 amended, is further amended as follows:

12           **SECTION I:** Chapter 1, Future Land Use Element is hereby amended to  
13 provide for Agricultural family subdivisions as follows (words in underline format  
14 are additions, words in ~~strike-through~~ format are deletions):

15           1.4.1.8       In order to allow farmers' the ability to provide additional  
16 home sites for family members or to provide additional  
17 financing options, lot sizes less than the minimum permitted  
18 under the Agriculture Resource or Forestry Resource  
19 designations may be considered consistent under the  
20 following circumstances:

- 21
- 22           a.       The subject site is greater than ~~20~~ 25 acres;
- 23
- 24           b.       Maximum number of new lots cannot exceed ~~40~~ 3;
- 25
- 26           c.       The property is an active agricultural operation;
- 27

- 1 d. The overall density is not exceeded for the site;
- 2
- 3 e. The intent is for the remaining land area to continue in
- 4 agricultural use;
- 5
- 6 f. The proposed lot size ~~would need to be processed~~
- 7 ~~through the Special Exception process of the Volusia~~
- 8 ~~County Zoning Ordinance prior to~~ will be determined
- 9 during subdivision approval; and
- 10
- 11 g. Once a specific property has been approved for the
- 12 lot reduction, the remaining portion is no longer
- 13 eligible for such a request ~~due to the fact that the~~
- 14 ~~available density has been utilized.~~
- 15

16 **SECTION II: SEVERABILITY.** Should any section or provision of this  
17 Ordinance, or application of any provision of this Ordinance, be declared to be  
18 unconstitutional, invalid, or inconsistent with the Volusia County Comprehensive  
19 Plan, such declaration shall not affect the validity of the remainder of this  
20 Ordinance.

21 **SECTION III: EFFECTIVE DATE.** A certified copy of this Ordinance shall  
22 be filed in the Office of the Secretary of State by the Clerk of the County Council  
23 within ten (10) days after enactment. This ordinance shall take effect upon the  
24 later of the following dates: a) issuance of a certificate of consistency or  
25 conditional certificate of consistency by the Volusia Growth Management  
26 Commission, and issuance of a final order by the State of Florida Department of  
27 Community Affairs determining this Ordinance to be in compliance with Florida  
28 Statutes Section 163.3184(9), or b) issuance of a final order by the State of

1 Florida Administration Commission determining this Ordinance to be in  
2 compliance with Florida Statutes Section 163.3184(10).

3 **ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,**  
4 **FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY**  
5 **COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION**  
6 **CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS \_\_ DAY**  
7 **OF \_\_\_\_\_ A.D. 2009.**

9 ATTEST:  
10 FLORIDA

COUNTY COUNCIL  
COUNTY OF VOLUSIA

11  
12

13 \_\_\_\_\_  
14 James T. Dinneen, County Manager

\_\_\_\_\_  
Frank T. Bruno Jr., County Chair