



March 6, 2026

VIA E-MAIL ONLY

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G. Matthew Brockway

Board Certified  
Real Estate Attorney



Re: Applicability of Comprehensive Plan FLUE Policy 3.3.1 and Comprehensive Plan Consistency Standards

Guy:

As you know, my firm has the pleasure of representing Horse Farms Forever, Inc., a Florida not-for-profit corporation (“Horse Farms Forever”). As is our customary practice, we monitored the Planning & Zoning portion of the Board of County Commissioners meeting February 17, 2026. Of particular interest was Agenda Item No. 15.3.4, Case No. 260207 ZP, an application for a Zoning Change to amend an existing Planned Unit Development (“PUD”) located within the Farmland Preservation Area (the “Application”). The discussion and debate raised significant and serious concerns regarding application of Comprehensive Plan FLUE Policy 3.3.1 and consistency with the Comprehensive Plan.

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First, multiple statements were made on behalf of the applicant, by Growth Services staff, and by you that FLUE Policy 3.3.1 was irrelevant and inapplicable to the Application. This is categorically incorrect.

For convenience of reference, FLUE Policy 3.3.1 states as follows, in relevant part:

The County shall preserve and protect rural and equestrian/agricultural character with the Rural Lands, specifically the Farmland Preservation Area, by requiring that...all Zoning Changes and Special Use Permits within the Farmland Preservation Area be consistent with and preserve, protect, support, and enhance the rural, equestrian, and farmland character of the Farmland Preservation Area. (emphasis added)

By its terms, FLUE Policy 3.3.1 is applicable to each and every Zoning Change and Special Use Permit within the Farmland Preservation Area. In the context of the above-referenced Application, while not applicable to the underlying PUD approval that predated the current policy, FLUE Policy 3.3.1, by its clear and unambiguous terms, is relevant and applicable to the changes requested by the Application. Any statements to the contrary were inaccurate and incorrect.

Horse Farms Forever expects FLUE Policy 3.3.1 to be correctly applied and observed in all applications for Zoning Changes and Special Use Permits within the Farmland Preservation Area, including Zoning Changes to modify previously approved PUDs.

Similarly, the County's obligation to ensure the Application's consistency with the Comprehensive Plan was mischaracterized during the public hearing. Determining consistency with the Comprehensive Plan is not a "weighing" or "balancing" exercise. Rather, the Application and all development orders must be consistent with each and every Goal, Objective, and Policy of the Comprehensive Plan.

All development on land covered by a local government's comprehensive plan, and all action taken by the government regarding that development, must comport with the plan. Section 163.3194(1)(a), *Fla. Stat.*; see *Dixon v. City of Jacksonville*, 774 So.2d 763, 764 (Fla. 1<sup>st</sup> DCA 2000) ("It is well established that a development order shall be consistent with the government body's objective, policies, land uses, etc., as provided in its comprehensive plan.").

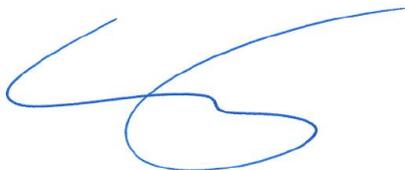
In *IMHOF v. Walton County*, 328 So.3d 32, 37 (Fla. 1<sup>st</sup> DCA 2021), the court acknowledged that "[t]he Legislature is clear in the [Florida Community Planning] Act about its expectation of complete consistency between a development order and the local comprehensive plan," and that "[t]he [Florida Community Planning] Act in several places makes clear that it has a purpose to ensure that local development is in *strict and complete compliance* with a duly adopted comprehensive plan." Complete consistency is the floor, not the ceiling. *Id.*; see *Dixon*, 774 So.2d at 764-65 (applying strict scrutiny to a zoning action subject to a consistency challenge, "a process which involves a detailed examination of the development order for *exact compliance with*, or adherence to, the comprehensive plan" (emphasis added)).

In this regard, the Florida Community Planning Act (the "Act"), codified in Chapter 163, *Fla. Stat.* sets a "high and comprehensive bar for consistency." *IMHOF* at 42. The Act nowhere mentions any carve-out from what is to be considered in a consistency review, and therefore, consistency in the context of a development order requires *complete consistency*. *Id.* That is, if a development order is inconsistent with a single policy, then the development order is inconsistent with the comprehensive plan. See *1000 Friends of Florida Inc. v. Palm Beach County*, 69 So.3d 1123, 1125 (Fla. 4<sup>th</sup> DCA 2011) (finding that a development order was inconsistent with a single comprehensive plan policy and remanding the case with instructions for the trial court to declare the development order inconsistent with the comprehensive plan).

This is the proper standard of comprehensive plan consistency for all Zoning Changes, Special Use Permits, and other development orders and development permits.

Sincerely,

ICARD MERRILL



G. Matthew Brockway

Copy to: The Honorable Carl Zalak, III  
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The Honorable Matt McClain (via e-mail only)  
The Honorable Kathy Bryant (via e-mail only)  
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