

By the Council for Smarter Government and Representatives
Carassas and Cantens

1 A bill to be entitled
2 An act relating to growth management; amending
3 s. 163.3180, F.S.; providing for the waiver of
4 concurrency requirements; amending s. 163.3184,
5 F.S.; revising definitions; revising provisions
6 governing the process for adopting
7 comprehensive plans and plan amendments;
8 amending s. 380.04, F.S.; revising the
9 definition of "development" with regard to
10 operations that do not involve development to
11 include: interstate highways, increases in
12 utility capacity within an existing
13 right-of-way, redevelopment of the same uses
14 and intensity of use within the same parcel
15 footprint, and the transmission of electricity;
16 amending s. 380.06, F.S., relating to
17 developments of regional impact; removing a
18 rebuttable presumption with respect to
19 application of the statewide guidelines and
20 standards and revising the fixed thresholds;
21 providing for submission of biennial, rather
22 than annual, reports by the developer;
23 authorizing submission of a letter, rather than
24 a report, under certain circumstances;
25 providing for amendment of development orders
26 with respect to report frequency; providing
27 that an extension of the date of buildout of
28 less than 7 years is not a substantial
29 deviation; providing a statutory exemption from
30 the development-of-regional-impact process for
31 petroleum storage facilities, waterports, and

1 marinas under specified conditions; amending s.
2 380.0651, F.S.; revising the guidelines and
3 standards for industrial development, office
4 development, and retail and service
5 development; providing application with respect
6 to developments that have received a
7 development-of-regional-impact development
8 order or that have an application for
9 development approval or notification of
10 proposed change pending; providing an effective
11 date.

12

13 Be It Enacted by the Legislature of the State of Florida:

14

15 Section 1. Paragraph (c) is added to subsection (4) of
16 section 163.3180, Florida Statutes, to read:

17 163.3180 Concurrency.--

18 (4)

19 (c) The concurrency requirement, except as it relates
20 to transportation facilities, as implemented in local
21 government comprehensive plans may be waived by a local
22 government for urban infill and redevelopment areas designated
23 pursuant to s. 163.2517 if such a waiver does not endanger
24 public health or safety as defined by the local government in
25 its local government comprehensive plan. The waiver shall be
26 adopted as a plan amendment pursuant to the process set forth
27 in s. 163.3187(3)(a). A local government may grant a
28 concurrency exception pursuant to subsection (5) for
29 transportation facilities located within these urban infill
30 and redevelopment areas.

31

1 Section 2. Paragraph (a) of subsection (1),
2 subsections (3), (4), (6), (7), (8), and (15), and paragraph
3 (d) of subsection (16) of section 163.3184, Florida Statutes,
4 are amended to read:

5 163.3184 Process for adoption of comprehensive plan or
6 plan amendment.--

7 (1) DEFINITIONS.--As used in this section, the term:

8 (a) "Affected person" includes the affected local
9 government; persons owning property, residing, or owning or
10 operating a business within the boundaries of the local
11 government whose plan is the subject of the review; owners of
12 real property abutting real property that is the subject of a
13 proposed change to a future land use map;and adjoining local
14 governments that can demonstrate that the plan or plan
15 amendment will produce substantial impacts on the increased
16 need for publicly funded infrastructure or substantial impacts
17 on areas designated for protection or special treatment within
18 their jurisdiction. Each person, other than an adjoining local
19 government, in order to qualify under this definition, shall
20 also have submitted oral or written comments, recommendations,
21 or objections to the local government during the period of
22 time beginning with the transmittal hearing for the plan or
23 plan amendment and ending with the adoption of the plan or
24 plan amendment.

25 (3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR
26 AMENDMENT.--

27 (a) Each local governing body shall transmit the
28 complete proposed comprehensive plan or plan amendment to the
29 state land planning agency, the appropriate regional planning
30 council and water management district, the Department of
31 Environmental Protection, the Department of State,and the

1 Department of Transportation and, in the case of municipal
2 plans, to the appropriate county and, in the case of county
3 plans, to the Fish and Wildlife Conservation Commission and
4 the Department of Agriculture and Consumer Services
5 immediately following a public hearing pursuant to subsection
6 (15) as specified in the state land planning agency's
7 procedural rules. The local governing body shall also transmit
8 a copy of the complete proposed comprehensive plan or plan
9 amendment to any other unit of local government or government
10 agency in the state that has filed a written request with the
11 governing body for the plan or plan amendment. If the plan or
12 plan amendment includes or relates to a public school
13 facilities element, the local governing body shall submit a
14 copy to the Office of Educational Facilities within the Office
15 of the Commissioner of Education for review and comment. The
16 local government may request a review by the state land
17 planning agency pursuant to subsection (6) at the time of the
18 transmittal of an amendment.

19 (b) A local governing body shall not transmit portions
20 of a plan or plan amendment unless it has previously provided
21 to all state agencies designated by the state land planning
22 agency a complete copy of its adopted comprehensive plan
23 pursuant to subsection (7) and as specified in the agency's
24 procedural rules. In the case of comprehensive plan
25 amendments, the local governing body shall transmit to the
26 state land planning agency, the appropriate regional planning
27 council and water management district, the Department of
28 Environmental Protection, the Department of State, and the
29 Department of Transportation and, in the case of municipal
30 plans, to the appropriate county and, in the case of county
31 plans, to the Fish and Wildlife Conservation Commission and

1 the Department of Agriculture and Consumer Services the
2 materials specified in the state land planning agency's
3 procedural rules and, in cases in which the plan amendment is
4 a result of an evaluation and appraisal report adopted
5 pursuant to s. 163.3191, a copy of the evaluation and
6 appraisal report. Local governing bodies shall consolidate all
7 proposed plan amendments into a single submission for each of
8 the two plan amendment adoption dates during the calendar year
9 pursuant to s. 163.3187.

10 (c) A local government may adopt a proposed plan
11 amendment previously transmitted pursuant to this subsection,
12 unless review is requested or otherwise initiated pursuant to
13 subsection (6).

14 (d) In cases in which a local government transmits
15 multiple individual amendments that can be clearly and legally
16 separated and distinguished for the purpose of determining
17 whether to review the proposed amendment, and the state land
18 planning agency elects to review several or a portion of the
19 amendments and the local government chooses to immediately
20 adopt the remaining amendments not reviewed, the amendments
21 immediately adopted and any reviewed amendments that the local
22 government subsequently adopts together constitute one
23 amendment cycle in accordance with s. 163.3187(1).

24 (4) INTERGOVERNMENTAL REVIEW.--The ~~if review of a~~
25 ~~proposed comprehensive plan amendment is requested or~~
26 ~~otherwise initiated pursuant to subsection (6), the state land~~
27 ~~planning agency within 5 working days of determining that such~~
28 ~~a review will be conducted shall transmit a copy of the~~
29 ~~proposed plan amendment to various government agencies, as~~
30 ~~appropriate, for response or comment, including, but not~~
31 ~~limited to, the Department of Environmental Protection, the~~

1 ~~Department of Transportation, the water management district,~~
2 ~~and the regional planning council, and, in the case of~~
3 ~~municipal plans, to the county land planning agency. These~~
4 governmental agencies specified in paragraph (3)(a) shall
5 provide comments to the state land planning agency within 30
6 days after receipt by the state land planning agency of the
7 complete proposed plan amendment. The appropriate regional
8 planning council shall also provide its written comments to
9 the state land planning agency within 30 days after receipt by
10 the state land planning agency of the complete proposed plan
11 amendment and shall specify any objections, recommendations
12 for modifications, and comments of any other regional agencies
13 to which the regional planning council may have referred the
14 proposed plan amendment. Written comments submitted by the
15 public within 30 days after notice of transmittal by the local
16 government of the proposed plan amendment will be considered
17 as if submitted by governmental agencies. All written agency
18 and public comments must be made part of the file maintained
19 under subsection (2).

20 (6) STATE LAND PLANNING AGENCY REVIEW.--

21 (a) The state land planning agency shall review a
22 proposed plan amendment upon request of a regional planning
23 council, affected person, or local government transmitting the
24 plan amendment. The request from the regional planning council
25 or affected person must be if the request is received within
26 30 days after transmittal of the proposed plan amendment
27 pursuant to subsection (3). ~~The agency shall issue a report~~
28 ~~of its objections, recommendations, and comments regarding the~~
29 ~~proposed plan amendment.~~ A regional planning council or
30 affected person requesting a review shall do so by submitting
31 a written request to the agency with a notice of the request

1 to the local government and any other person who has requested
2 notice.

3 (b) The state land planning agency may review any
4 proposed plan amendment regardless of whether a request for
5 review has been made, if the agency gives notice to the local
6 government, and any other person who has requested notice, of
7 its intention to conduct such a review within 35 ~~30~~ days after
8 receipt of transmittal of the complete proposed plan amendment
9 ~~pursuant to subsection (3).~~

10 (c) The state land planning agency shall establish by
11 rule a schedule for receipt of comments from the various
12 government agencies, as well as written public comments,
13 pursuant to subsection (4). If the state land planning agency
14 elects to review the amendment or the agency is required to
15 review the amendment as specified in paragraph (a), the agency
16 shall issue a report giving its objections, recommendations,
17 and comments regarding the proposed amendment within 60 days
18 after receipt of the complete proposed amendment by the state
19 land planning agency.~~The state land planning agency shall~~
20 ~~have 30 days to review comments from the various government~~
21 ~~agencies along with a local government's comprehensive plan or~~
22 ~~plan amendment. During that period, the state land planning~~
23 ~~agency shall transmit in writing its comments to the local~~
24 ~~government along with any objections and any recommendations~~
25 ~~for modifications.~~ When a federal, state, or regional agency
26 has implemented a permitting program, the state land planning
27 agency shall not require a local government to duplicate or
28 exceed that permitting program in its comprehensive plan or to
29 implement such a permitting program in its land development
30 regulations. Nothing contained herein shall prohibit the
31 state land planning agency in conducting its review of local

1 plans or plan amendments from making objections,
2 recommendations, and comments or making compliance
3 determinations regarding densities and intensities consistent
4 with the provisions of this part. In preparing its comments,
5 the state land planning agency shall only base its
6 considerations on written, and not oral, comments, from any
7 source.

8 (d) The state land planning agency review shall
9 identify all written communications with the agency regarding
10 the proposed plan amendment. If the state land planning agency
11 does not issue such a review, it shall identify in writing to
12 the local government all written communications received 30
13 days after transmittal. The written identification must
14 include a list of all documents received or generated by the
15 agency, which list must be of sufficient specificity to enable
16 the documents to be identified and copies requested, if
17 desired, and the name of the person to be contacted to request
18 copies of any identified document. The list of documents must
19 be made a part of the public records of the state land
20 planning agency.

21 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF
22 PLAN OR AMENDMENTS AND TRANSMITTAL.--

23 (a) The local government shall review the written
24 comments submitted to it by the state land planning agency,
25 and any other person, agency, or government. Any comments,
26 recommendations, or objections and any reply to them shall be
27 public documents, a part of the permanent record in the
28 matter, and admissible in any proceeding in which the
29 comprehensive plan or plan amendment may be at issue. The
30 local government, upon receipt of written comments from the
31 state land planning agency, shall have 120 days to adopt or

1 adopt with changes the proposed comprehensive plan or s.
2 163.3191 plan amendments. In the case of comprehensive plan
3 amendments other than those proposed pursuant to s. 163.3191,
4 the local government shall have 60 days to adopt the
5 amendment, adopt the amendment with changes, or determine that
6 it will not adopt the amendment. The adoption of the proposed
7 plan or plan amendment or the determination not to adopt a
8 plan amendment, other than a plan amendment proposed pursuant
9 to s. 163.3191, shall be made in the course of a public
10 hearing pursuant to subsection (15). The local government
11 shall transmit the complete adopted comprehensive plan or
12 ~~adopted~~ plan amendment, including the names and addresses of
13 persons compiled pursuant to paragraph (15)(c), to the state
14 land planning agency as specified in the agency's procedural
15 rules within 10 working days after adoption. The local
16 governing body shall also transmit a copy of the adopted
17 comprehensive plan or plan amendment to the regional planning
18 agency and to any other unit of local government or
19 governmental agency in the state that has filed a written
20 request with the governing body for a copy of the plan or plan
21 amendment.

22 (b) If the adopted plan amendment is unchanged from
23 the proposed plan amendment transmitted pursuant to subsection
24 (3) and an affected person as defined in paragraph (1)(a) did
25 not raise any objection, the state land planning agency did
26 not review the proposed plan amendment, and the state land
27 planning agency did not raise any objections during its review
28 pursuant to subsection (6), the local government may state in
29 the transmittal letter that the plan amendment is unchanged
30 and was not the subject of objections.

31 (8) NOTICE OF INTENT.--

1 (a) If the transmittal letter correctly states that
2 the plan amendment is unchanged and was not the subject of
3 review or objections pursuant to paragraph (7)(b), the state
4 land planning agency has 20 days after receipt of the
5 transmittal letter within which to issue a notice of intent
6 that the plan amendment is in compliance.

7 (b)(a) Except as provided in paragraph (a) or in s.
8 163.3187(3), the state land planning agency, upon receipt of a
9 local government's complete adopted comprehensive plan or plan
10 amendment, shall have 45 days for review and to determine if
11 the plan or plan amendment is in compliance with this act,
12 unless the amendment is the result of a compliance agreement
13 entered into under subsection (16), in which case the time
14 period for review and determination shall be 30 days. If
15 review was not conducted under subsection (6), the agency's
16 determination must be based upon the plan amendment as
17 adopted. If review was conducted under subsection (6), the
18 agency's determination of compliance must be based only upon
19 one or both of the following:

20 1. The state land planning agency's written comments
21 to the local government pursuant to subsection (6); or

22 2. Any changes made by the local government to the
23 comprehensive plan or plan amendment as adopted.

24 ~~(c)(b)1. During the time period provided for in this~~
25 ~~subsection, the state land planning agency shall issue,~~
26 ~~through a senior administrator or the secretary, as specified~~
27 ~~in the agency's procedural rules, a notice of intent to find~~
28 ~~that the plan or plan amendment is in compliance or not in~~
29 ~~compliance. A notice of intent shall be issued by publication~~
30 ~~in the manner provided by this paragraph and by mailing a copy~~
31 ~~to the local government and to persons who request notice.~~

1 ~~The required advertisement shall be no less than 2 columns~~
2 ~~wide by 10 inches long, and the headline in the advertisement~~
3 ~~shall be in a type no smaller than 12 point. The advertisement~~
4 ~~shall not be placed in that portion of the newspaper where~~
5 ~~legal notices and classified advertisements appear. The~~
6 ~~advertisement shall be published in a newspaper which meets~~
7 ~~the size and circulation requirements set forth in paragraph~~
8 ~~(15)(c) and which has been designated in writing by the~~
9 ~~affected local government at the time of transmittal of the~~
10 ~~amendment. Publication by the state land planning agency of a~~
11 ~~notice of intent in the newspaper designated by the local~~
12 ~~government shall be prima facie evidence of compliance with~~
13 ~~the publication requirements of this section.~~

14 2. ~~For fiscal year 2001-2002 only, the provisions of~~
15 ~~this subparagraph shall supersede the provisions of~~
16 ~~subparagraph 1.~~ During the time period provided for in this
17 subsection, the state land planning agency shall issue,
18 through a senior administrator or the secretary, as specified
19 in the agency's procedural rules, a notice of intent to find
20 that the plan or plan amendment is in compliance or not in
21 compliance. A notice of intent shall be issued by publication
22 in the manner provided by this paragraph and by mailing a copy
23 to the local government. The advertisement shall be placed in
24 that portion of the newspaper where legal notices appear. The
25 advertisement shall be published in a newspaper that meets the
26 size and circulation requirements set forth in paragraph
27 (15)(e)~~(c)~~ and that has been designated in writing by the
28 affected local government at the time of transmittal of the
29 amendment. Publication by the state land planning agency of a
30 notice of intent in the newspaper designated by the local
31 government shall be prima facie evidence of compliance with

1 the publication requirements of this section. The state land
2 planning agency shall post a copy of the notice of intent on
3 the agency's Internet site. The agency shall, no later than
4 the date the notice of intent is transmitted to the newspaper,
5 send by regular mail a courtesy informational statement to
6 persons who provide their names and addresses to the local
7 government at the transmittal hearing or at the adoption
8 hearing where the local government has provided the names and
9 addresses of such persons to the department at the time of
10 transmittal of the adopted amendment. The informational
11 statements shall include the name of the newspaper in which
12 the notice of intent will appear, the approximate date of
13 publication, the ordinance number of the plan or plan
14 amendment, and a statement that affected persons have 21 days
15 after the actual date of publication of the notice to file a
16 petition. ~~This subparagraph expires July 1, 2002.~~

17 2. A local government that has an Internet site shall
18 post a copy of the state land planning agency's notice of
19 intent on the site within 5 days after receipt of the mailed
20 copy of the agency's notice of intent.

21 (15) PUBLIC HEARINGS.--

22 (a) The procedure for transmittal of a complete
23 proposed comprehensive plan or plan amendment pursuant to
24 subsection (3) and for adoption of a comprehensive plan or
25 plan amendment pursuant to subsection (7) shall be by
26 affirmative vote of not less than a majority of the members of
27 the governing body present at the hearing. The adoption of a
28 comprehensive plan or plan amendment shall be by ordinance.
29 For the purposes of transmitting or adopting a comprehensive
30 plan or plan amendment, the notice requirements in chapters
31

1 125 and 166 are superseded by this subsection, except as
2 provided in this part.

3 (b) The local governing body shall hold at least two
4 advertised public hearings on the proposed comprehensive plan
5 or plan amendment as follows:

6 1. The first public hearing shall be held at the
7 transmittal stage pursuant to subsection (3). It shall be
8 held on a weekday at least 7 days after the day that the first
9 advertisement is published.

10 2. The second public hearing shall be held at the
11 adoption stage pursuant to subsection (7). It shall be held
12 on a weekday at least 5 days after the day that the second
13 advertisement is published.

14 (c) The local government shall provide a sign-in form
15 at the transmittal hearing and at the adoption hearing for
16 persons to provide their names and mailing addresses. The
17 sign-in form shall advise that any person providing the
18 requested information will receive a courtesy informational
19 statement concerning publications of the state land planning
20 agency's notice of intent. The local government shall add to
21 the sign-in form the name and address of any person who
22 submits written comments concerning the proposed plan or plan
23 amendment during the time period between the commencement of
24 the transmittal hearing and the end of the adoption hearing.
25 It is the responsibility of the person completing the form or
26 providing written comments to accurately, completely, and
27 legibly provide all information needed in order to receive the
28 courtesy informational statement.

29 (d) The agency shall provide a model sign-in form for
30 providing the list to the agency that may be used by the local
31 government to satisfy the requirements of this subsection.

1 (e)~~(e)~~ If the proposed comprehensive plan or plan
2 amendment changes the actual list of permitted, conditional,
3 or prohibited uses within a future land use category or
4 changes the actual future land use map designation of a parcel
5 or parcels of land, the required advertisements shall be in
6 the format prescribed by s. 125.66(4)(b)2. for a county or by
7 s. 166.041(3)(c)2.b. for a municipality.

8 (16) COMPLIANCE AGREEMENTS.--

9 (d) A local government may adopt a plan amendment
10 pursuant to a compliance agreement in accordance with the
11 requirements of paragraph (15)(a). The plan amendment shall be
12 exempt from the requirements of subsections (2)-(7). The
13 local government shall hold a single adoption public hearing
14 pursuant to the requirements of subparagraph (15)(b)2. and
15 paragraph (15)(e)~~(e)~~. Within 10 working days after adoption of
16 a plan amendment, the local government shall transmit the
17 amendment to the state land planning agency as specified in
18 the agency's procedural rules, and shall submit one copy to
19 the regional planning agency and to any other unit of local
20 government or government agency in the state that has filed a
21 written request with the governing body for a copy of the plan
22 amendment, and one copy to any party to the proceeding under
23 ss. 120.569 and 120.57 granted intervenor status.

24 Section 3. Subsection (3) of section 380.04, Florida
25 Statutes, is amended to read:

26 380.04 Definition of development.--

27 (3) The following operations or uses shall not be
28 taken for the purpose of this chapter to involve "development"
29 as defined in this section:

30 (a) Work by a highway or road agency or railroad
31 company for the maintenance or improvement of a road or

1 railroad track, if the work is carried out on land within the
2 boundaries of the right-of-way or any work or construction on
3 the interstate highway system.

4 (b) Work by any utility and other persons engaged in
5 the distribution or transmission of electricity, gas, or
6 water, for the purpose of inspecting, repairing, renewing, or
7 constructing, or enlarging capacity on established
8 rights-of-way any sewers, mains, pipes, cables, utility
9 tunnels, power lines, towers, poles, tracks, or the like.

10 (c) Work for the maintenance, renewal, improvement, or
11 alteration of any structure, if the work affects only the
12 interior or the color of the structure or the decoration of
13 the exterior of the structure.

14 (d) Construction, renovation, or redevelopment within
15 the same land parcel that does not change land uses or
16 intensity of use.

17 (e)~~(d)~~ The use of any structure or land devoted to
18 dwelling uses for any purpose customarily incidental to
19 enjoyment of the dwelling.

20 (f)~~(e)~~ The use of any land for the purpose of growing
21 plants, crops, trees, and other agricultural or forestry
22 products; raising livestock; or for other agricultural
23 purposes.

24 (g)~~(f)~~ A change in use of land or structure from a use
25 within a class specified in an ordinance or rule to another
26 use in the same class.

27 (h)~~(g)~~ A change in the ownership or form of ownership
28 of any parcel or structure.

29 (i)~~(h)~~ The creation or termination of rights of
30 access, riparian rights, easements, covenants concerning
31 development of land, or other rights in land.

1 Section 4. Paragraph (d) of subsection (2), paragraph
2 (b) of subsection (4), paragraph (a) of subsection (8),
3 paragraph (c) of subsection (15), subsection (18), and
4 paragraphs (c) and (e) of subsection (19) of section 380.06,
5 Florida Statutes, are amended, and paragraphs (i) and (j) are
6 added to subsection (24) of said section, to read:
7 380.06 Developments of regional impact.--
8 (2) STATEWIDE GUIDELINES AND STANDARDS.--
9 (d) The guidelines and standards shall be applied as
10 follows:
11 1. Fixed thresholds.--
12 a. A development that is at or below 100 ~~80~~ percent of
13 all numerical thresholds in the guidelines and standards shall
14 not be required to undergo development-of-regional-impact
15 review.
16 b. A development that is at or above 120 percent of
17 any numerical threshold shall be required to undergo
18 development-of-regional-impact review.
19 c. Projects certified under s. 403.973 which create at
20 least 100 jobs and meet the criteria of the Office of Tourism,
21 Trade, and Economic Development as to their impact on an
22 area's economy, employment, and prevailing wage and skill
23 levels that are at or below 100 percent of the numerical
24 thresholds for industrial plants, industrial parks,
25 distribution, warehousing or wholesaling facilities, office
26 development or multiuse projects other than residential, as
27 described in s. 380.0651(3)(c), (d), and (i), are not required
28 to undergo development-of-regional-impact review.
29 2. Rebuttable presumption ~~presumptions~~.--
30
31

1 ~~a. It shall be presumed that a development that is~~
2 ~~between 80 and 100 percent of a numerical threshold shall not~~
3 ~~be required to undergo development-of-regional-impact review.~~

4 ~~b.~~ It shall be presumed that a development that is at
5 100 percent or between 100 and 120 percent of a numerical
6 threshold shall be required to undergo
7 development-of-regional-impact review.

8 (4) BINDING LETTER.--

9 (b) Unless a developer waives the requirements of this
10 paragraph by agreeing to undergo
11 development-of-regional-impact review pursuant to this
12 section, the state land planning agency or local government
13 with jurisdiction over the land on which a development is
14 proposed may require a developer to obtain a binding letter
15 if+

16 ~~1.~~ the development is at a presumptive numerical
17 threshold or up to 20 percent above a numerical threshold in
18 the guidelines and standards, 7 or

19 ~~2. The development is between a presumptive numerical~~
20 ~~threshold and 20 percent below the numerical threshold and the~~
21 ~~local government or the state land planning agency is in doubt~~
22 ~~as to whether the character or magnitude of the development at~~
23 ~~the proposed location creates a likelihood that the~~
24 ~~development will have a substantial effect on the health,~~
25 ~~safety, or welfare of citizens of more than one county.~~

26 (8) PRELIMINARY DEVELOPMENT AGREEMENTS.--

27 (a) A developer may enter into a written preliminary
28 development agreement with the state land planning agency to
29 allow a developer to proceed with a limited amount of the
30 total proposed development, subject to all other governmental
31 approvals and solely at the developer's own risk, prior to

1 issuance of a final development order. All owners of the land
2 in the total proposed development shall join the developer as
3 parties to the agreement. Each agreement shall include and be
4 subject to the following conditions:

5 1. The developer shall comply with the preapplication
6 conference requirements pursuant to subsection (7) within 45
7 days after the execution of the agreement.

8 2. The developer shall file an application for
9 development approval for the total proposed development within
10 3 months after execution of the agreement, unless the state
11 land planning agency agrees to a different time for good cause
12 shown. Failure to timely file an application and to otherwise
13 diligently proceed in good faith to obtain a final development
14 order shall constitute a breach of the preliminary development
15 agreement.

16 3. The agreement shall include maps and legal
17 descriptions of both the preliminary development area and the
18 total proposed development area and shall specifically
19 describe the preliminary development in terms of magnitude and
20 location. The area approved for preliminary development must
21 be included in the application for development approval and
22 shall be subject to the terms and conditions of the final
23 development order.

24 4. The preliminary development shall be limited to
25 lands that the state land planning agency agrees are suitable
26 for development and shall only be allowed in areas where
27 adequate public infrastructure exists to accommodate the
28 preliminary development, when such development will utilize
29 public infrastructure. The developer must also demonstrate
30 that the preliminary development will not result in material
31

1 adverse impacts to existing resources or existing or planned
2 facilities.

3 5. The preliminary development agreement may allow
4 development which is:

5 a. Less than or equal to 100 ~~80~~ percent of any
6 applicable threshold if the developer demonstrates that such
7 development is consistent with subparagraph 4.; or

8 b. Less than 120 percent of any applicable threshold
9 if the developer demonstrates that such development is part of
10 a proposed downtown development of regional impact specified
11 in subsection (22) or part of any areawide development of
12 regional impact specified in subsection (25) and that the
13 development is consistent with subparagraph 4.

14 6. The developer and owners of the land may not claim
15 vested rights, or assert equitable estoppel, arising from the
16 agreement or any expenditures or actions taken in reliance on
17 the agreement to continue with the total proposed development
18 beyond the preliminary development. The agreement shall not
19 entitle the developer to a final development order approving
20 the total proposed development or to particular conditions in
21 a final development order.

22 7. The agreement shall not prohibit the regional
23 planning agency from reviewing or commenting on any regional
24 issue that the regional agency determines should be included
25 in the regional agency's report on the application for
26 development approval.

27 8. The agreement shall include a disclosure by the
28 developer and all the owners of the land in the total proposed
29 development of all land or development within 5 miles of the
30 total proposed development in which they have an interest and
31 shall describe such interest.

1 9. In the event of a breach of the agreement or
2 failure to comply with any condition of the agreement, or if
3 the agreement was based on materially inaccurate information,
4 the state land planning agency may terminate the agreement or
5 file suit to enforce the agreement as provided in this section
6 and s. 380.11, including a suit to enjoin all development.

7 10. A notice of the preliminary development agreement
8 shall be recorded by the developer in accordance with s.
9 28.222 with the clerk of the circuit court for each county in
10 which land covered by the terms of the agreement is located.
11 The notice shall include a legal description of the land
12 covered by the agreement and shall state the parties to the
13 agreement, the date of adoption of the agreement and any
14 subsequent amendments, the location where the agreement may be
15 examined, and that the agreement constitutes a land
16 development regulation applicable to portions of the land
17 covered by the agreement. The provisions of the agreement
18 shall inure to the benefit of and be binding upon successors
19 and assigns of the parties in the agreement.

20 11. Except for those agreements which authorize
21 preliminary development for substantial deviations pursuant to
22 subsection (19), a developer who no longer wishes to pursue a
23 development of regional impact may propose to abandon any
24 preliminary development agreement executed after January 1,
25 1985, including those pursuant to s. 380.032(3), provided at
26 the time of abandonment:

27 a. A final development order under this section has
28 been rendered that approves all of the development actually
29 constructed; or

30 b. The amount of development is less than 100 ~~80~~
31 percent of all numerical thresholds of the guidelines and

1 standards, and the state land planning agency determines in
2 writing that the development to date is in compliance with all
3 applicable local regulations and the terms and conditions of
4 the preliminary development agreement and otherwise adequately
5 mitigates for the impacts of the development to date.

6
7 In either event, when a developer proposes to abandon said
8 agreement, the developer shall give written notice and state
9 that he or she is no longer proposing a development of
10 regional impact and provide adequate documentation that he or
11 she has met the criteria for abandonment of the agreement to
12 the state land planning agency. Within 30 days of receipt of
13 adequate documentation of such notice, the state land planning
14 agency shall make its determination as to whether or not the
15 developer meets the criteria for abandonment. Once the state
16 land planning agency determines that the developer meets the
17 criteria for abandonment, the state land planning agency shall
18 issue a notice of abandonment which shall be recorded by the
19 developer in accordance with s. 28.222 with the clerk of the
20 circuit court for each county in which land covered by the
21 terms of the agreement is located.

22 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

23 (c) The development order shall include findings of
24 fact and conclusions of law consistent with subsections (13)
25 and (14). The development order:

26 1. Shall specify the monitoring procedures and the
27 local official responsible for assuring compliance by the
28 developer with the development order.

29 2. Shall establish compliance dates for the
30 development order, including a deadline for commencing
31 physical development and for compliance with conditions of

1 approval or phasing requirements, and shall include a
2 termination date that reasonably reflects the time required to
3 complete the development.

4 3. Shall establish a date until which the local
5 government agrees that the approved development of regional
6 impact shall not be subject to downzoning, unit density
7 reduction, or intensity reduction, unless the local government
8 can demonstrate that substantial changes in the conditions
9 underlying the approval of the development order have occurred
10 or the development order was based on substantially inaccurate
11 information provided by the developer or that the change is
12 clearly established by local government to be essential to the
13 public health, safety, or welfare.

14 4. Shall specify the requirements for the biennial
15 ~~annual~~ report designated under subsection (18), including the
16 date of submission, parties to whom the report is submitted,
17 and contents of the report, based upon the rules adopted by
18 the state land planning agency. Such rules shall specify the
19 scope of any additional local requirements that may be
20 necessary for the report.

21 5. May specify the types of changes to the development
22 which shall require submission for a substantial deviation
23 determination under subsection (19).

24 6. Shall include a legal description of the property.

25 (18) BIENNIAL ~~ANNUAL~~ REPORTS.--The developer shall
26 submit a biennial ~~an annual~~ report on the development of
27 regional impact to the local government, the regional planning
28 agency, the state land planning agency, and all affected
29 permit agencies in alternate years on the date specified in
30 the development order, unless the development order by its
31 terms requires more frequent monitoring. If the ~~annual~~ report

1 is not received, the regional planning agency or the state
2 land planning agency shall notify the local government. If
3 the local government does not receive the ~~annual~~ report or
4 receives notification that the regional planning agency or the
5 state land planning agency has not received the report, the
6 local government shall request in writing that the developer
7 submit the report within 30 days. The failure to submit the
8 report after 30 days shall result in the temporary suspension
9 of the development order by the local government. If no
10 additional development pursuant to the development order has
11 occurred since the submission of the previous report, then a
12 letter from the developer stating that no development has
13 occurred shall satisfy the requirement for a report.
14 Development orders which require annual reports may be amended
15 to require biennial reports at the option of the local
16 government.

17 (19) SUBSTANTIAL DEVIATIONS.--

18 (c) An extension of the date of buildout of a
19 development, or any phase thereof, by 7 or more years shall be
20 presumed to create a substantial deviation subject to further
21 development-of-regional-impact review. An extension of the
22 date of buildout, or any phase thereof, of ~~5 years or more but~~
23 ~~less than 7 years shall be presumed not to create a~~
24 ~~substantial deviation. These presumptions may be rebutted by~~
25 ~~clear and convincing evidence at the public hearing held by~~
26 ~~the local government. An extension of less than 7~~ 5 years is
27 not a substantial deviation. For the purpose of calculating
28 when a buildout, phase, or termination date has been exceeded,
29 the time shall be tolled during the pendency of administrative
30 or judicial proceedings relating to development permits. Any
31 extension of the buildout date of a project or a phase thereof

1 shall automatically extend the commencement date of the
2 project, the termination date of the development order, the
3 expiration date of the development of regional impact, and the
4 phases thereof by a like period of time.

5 (e)1. A proposed change which, either individually or,
6 if there were previous changes, cumulatively with those
7 changes, is equal to or exceeds 40 percent of any numerical
8 criterion in subparagraphs (b)1.-15., but which does not
9 exceed such criterion, shall be presumed not to create a
10 substantial deviation subject to further
11 development-of-regional-impact review. The presumption may be
12 rebutted by clear and convincing evidence at the public
13 hearing held by the local government pursuant to subparagraph
14 (f)5.

15 2. Except for a development order rendered pursuant to
16 subsection (22) or subsection (25), a proposed change to a
17 development order that individually or cumulatively with any
18 previous change is less than 40 percent of any numerical
19 criterion contained in subparagraphs (b)1.-15. and does not
20 exceed any other criterion is not a substantial deviation, ~~or~~
21 ~~that involves an extension of the buildout date of a~~
22 ~~development, or any phase thereof, of less than 5 years is not~~
23 ~~subject to the public hearing requirements of subparagraph~~
24 ~~(f)3., and is not subject to a determination pursuant to~~
25 ~~subparagraph (f)5.~~ Notice of the proposed change shall be
26 made to the regional planning council and the state land
27 planning agency. Such notice shall include a description of
28 previous individual changes made to the development, including
29 changes previously approved by the local government, and shall
30 include appropriate amendments to the development order. The
31

1 following changes, individually or cumulatively with any
2 previous changes, are not substantial deviations:
3 a. Changes in the name of the project, developer,
4 owner, or monitoring official.
5 b. Changes to a setback that do not affect noise
6 buffers, environmental protection or mitigation areas, or
7 archaeological or historical resources.
8 c. Changes to minimum lot sizes.
9 d. Changes in the configuration of internal roads that
10 do not affect external access points.
11 e. Changes to the building design or orientation that
12 stay approximately within the approved area designated for
13 such building and parking lot, and which do not affect
14 historical buildings designated as significant by the Division
15 of Historical Resources of the Department of State.
16 f. Changes to increase the acreage in the development,
17 provided that no development is proposed on the acreage to be
18 added.
19 g. Changes to eliminate an approved land use, provided
20 that there are no additional regional impacts.
21 h. Changes required to conform to permits approved by
22 any federal, state, or regional permitting agency, provided
23 that these changes do not create additional regional impacts.
24 i. Any other change which the state land planning
25 agency agrees in writing is similar in nature, impact, or
26 character to the changes enumerated in sub-subparagraphs a.-h.
27 and which does not create the likelihood of any additional
28 regional impact.
29
30 This subsection does not require a development order amendment
31 for any change listed in sub-subparagraphs a.-i. unless such

1 issue is addressed either in the existing development order or
2 in the application for development approval, but, in the case
3 of the application, only if, and in the manner in which, the
4 application is incorporated in the development order.

5 3. Except for the change authorized by
6 sub-subparagraph 2.f., any addition of land not previously
7 reviewed or any change not specified in paragraph (b) or
8 paragraph (c) shall be presumed to create a substantial
9 deviation. This presumption may be rebutted by clear and
10 convincing evidence.

11 4. Any submittal of a proposed change to a previously
12 approved development shall include a description of individual
13 changes previously made to the development, including changes
14 previously approved by the local government. The local
15 government shall consider the previous and current proposed
16 changes in deciding whether such changes cumulatively
17 constitute a substantial deviation requiring further
18 development-of-regional-impact review.

19 5. The following changes to an approved development of
20 regional impact shall be presumed to create a substantial
21 deviation. Such presumption may be rebutted by clear and
22 convincing evidence.

23 a. A change proposed for 15 percent or more of the
24 acreage to a land use not previously approved in the
25 development order. Changes of less than 15 percent shall be
26 presumed not to create a substantial deviation.

27 b. Except for the types of uses listed in subparagraph
28 (b)16., any change which would result in the development of
29 any area which was specifically set aside in the application
30 for development approval or in the development order for
31 preservation, buffers, or special protection, including

1 habitat for plant and animal species, archaeological and
2 historical sites, dunes, and other special areas.

3 c. Notwithstanding any provision of paragraph (b) to
4 the contrary, a proposed change consisting of simultaneous
5 increases and decreases of at least two of the uses within an
6 authorized multiuse development of regional impact which was
7 originally approved with three or more uses specified in s.
8 380.0651(3)(c), (d), (f), and (g) and residential use.

9 (24) STATUTORY EXEMPTIONS.--

10 (i) Any proposed facility for the storage of any
11 petroleum product is exempt from the provisions of this
12 section if such facility is consistent with a local
13 comprehensive plan that is in compliance with s. 163.3177 or
14 is consistent with a comprehensive port master plan that is in
15 compliance with s. 163.3178.

16 (j)1. Any proposal to increase development at a
17 waterport or marina existing on the effective date of this act
18 or to develop a new waterport or marina is exempt from the
19 provisions of this section, unless it is located within a
20 county identified in s. 370.12(2)(f).

21 2. A waterport or marina located within a county
22 identified in s. 370.12(2)(f) shall be exempt from the
23 provisions of this section when such county has had its
24 manatee protection plan approved by the Florida Fish and
25 Wildlife Conservation Commission. The Florida Fish and
26 Wildlife Conservation Commission shall approve such manatee
27 protection plan by December 31, 2003, then any increase in
28 development or new development in such county shall be exempt
29 from the provisions of this section. In the counties
30 identified in s. 370.12(2)(f), prior to the approval of a
31 manatee protection plan on December 31, 2003, the current

1 standards and thresholds provided in subparagraph (b)8. and s.
2 380.0651(3)(e) are applicable.

3 Section 5. Paragraphs (c), (d), and (f) of subsection
4 (3) of section 380.0651, Florida Statutes, are amended to
5 read:

6 380.0651 Statewide guidelines and standards.--

7 (3) The following statewide guidelines and standards
8 shall be applied in the manner described in s. 380.06(2) to
9 determine whether the following developments shall be required
10 to undergo development-of-regional-impact review:

11 (c) Industrial plants, industrial parks, and
12 distribution, warehousing or wholesaling facilities.--Any
13 proposed industrial, manufacturing, or processing plant, or
14 distribution, warehousing, or wholesaling facility, excluding
15 wholesaling developments which deal primarily with the general
16 public onsite, under common ownership, or any proposed
17 industrial, manufacturing, or processing activity or
18 distribution, warehousing, or wholesaling activity, excluding
19 wholesaling activities which deal primarily with the general
20 public onsite, which:

21 1. Provides parking for more than 2,500 motor
22 vehicles; or

23 2. Occupies a site greater than 480 ~~320~~ acres.

24 (d) Office development.--Any proposed office building
25 or park operated under common ownership, development plan, or
26 management that:

27 1. Encompasses 300,000 or more square feet of gross
28 floor area; or

29 ~~2. Has a total site size of 30 or more acres; or~~

30 ~~3.~~ Encompasses more than 600,000 square feet of gross
31 floor area in a county with a population greater than 500,000

1 and only in a geographic area specifically designated as
2 highly suitable for increased threshold intensity in the
3 approved local comprehensive plan and in the strategic
4 regional policy plan.

5 (f) Retail and service development.--Any proposed
6 retail, service, or wholesale business establishment or group
7 of establishments which deals primarily with the general
8 public onsite, operated under one common property ownership,
9 development plan, or management that:

10 1. Encompasses more than 400,000 square feet of gross
11 area; or

12 2. ~~Occupies more than 40 acres of land; or~~

13 3. Provides parking spaces for more than 2,500 cars.

14 Section 6. (1) Nothing contained in this act abridges
15 or modifies any vested or other right or any duty or
16 obligation pursuant to any development order or agreement that
17 is applicable to a development of regional impact on the
18 effective date of this act. A development that has received a
19 development-of-regional-impact development order pursuant to
20 s. 380.06, Florida Statutes 2001, but is no longer required to
21 undergo development-of-regional-impact review by operation of
22 this act, shall be governed by the following procedures:

23 (a) The development shall continue to be governed by
24 the development-of-regional-impact development order and may
25 be completed in reliance upon and pursuant to the development
26 order. The development-of-regional-impact development order
27 may be enforced by the local government as provided by ss.
28 380.06(17) and 380.11, Florida Statutes 2001.

29 (b) If requested by the developer or landowner, the
30 development-of-regional-impact development order may be
31 amended or rescinded by the local government consistent with

1 the local comprehensive plan and land development regulations,
2 and pursuant to the local government procedures governing
3 local development orders.

4 (2) A development with an application for development
5 approval pending on the effective date of this act, or a
6 notification of proposed change pending on the effective date
7 of this act, may elect to continue such review pursuant to s.
8 380.06, Florida Statutes 2001. At the conclusion of the
9 pending review, including any appeals pursuant to s. 380.07,
10 Florida Statutes 2001, the resulting development order shall
11 be governed by the provisions of subsection (1).

12 Section 7. This act shall take effect upon becoming a
13 law.