

ORDINANCE NO. 2024 - ____

AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING THE ADOPTION OF **LDCPAL-2023-12**, AN AMENDMENT TO THE POLK COUNTY COMPREHENSIVE PLAN, ORDINANCE 92-36, AS AMENDED, TO CHANGE SECTION 2.132-D RURAL SPECIAL PROTECTION AREA (RURAL-SPA) BY SPECIFYING THE MEASUREMENT OF DENSITY IN THE AGRICULTURAL/RESIDENTIAL RURAL (A/RRX) AND CONSERVATION CORE (COREX) FUTURE LAND USE MAP DESIGNATIONS IN THE GREEN SWAMP AREA OF CRITICAL STATE CONCERN THROUGH MODIFICATION OF POLICY 2.132-D4 AND POLICY 2.132-D5; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section I(g) of the Constitution of the State of Florida and the Community Planning Act, Chapter 163, Part II, Florida Statutes (FS), as amended, (the Act) Polk County is authorized and required to adopt a Comprehensive Plan (Plan); and

WHEREAS, Section 163.3184, FS, and Comprehensive Plan Section 4.305.B, provides for the approval of Large-Scale Comprehensive Plan Amendments; and

WHEREAS, Application LDCPAL-2023-12 is initiated by County staff for the calculation of density in Rural Special Protection Area (RURAL-SPA) of the Green Swamp Area of Critical State Concern to address the measurement of density on the Agricultural/Residential Rural (A/RRX) and Conservation-Core (COREX) Future Land Use Map designations (the “Amendment”); and

WHEREAS, pursuant to Section 163.3174, FS, the Local Planning Authority (Planning Commission) conducted a public hearing, with due public notice having been provided, Amendment on March 6, 2024; and

WHEREAS, pursuant to Section 163.3184, FS, the Board of County Commissioners on June 18, 2024, held an initial public hearing and authorized transmittal of the Amendment to the Florida Department of Commerce (Florida Commerce) for written comment, and

WHEREAS, Florida Commerce, by letter dated **????????, ##, 2024**, transmitted objections, recommendations, and comments on the Amendment; and

WHEREAS, pursuant to Section 163.3184, FS, the Board of County Commissioners conducted an adoption public hearing, with due public notice having been provided, on the Amendment on September 3, 2024; and

WHEREAS, the Board of County Commissioners, reviewed and considered all comments received during said public hearing, and provided for necessary revisions; if any; and

WHEREAS, the Board of County Commissioners has considered the data and analysis contained within the staff report; and

WHEREAS, the Amendment is consistent with Chapter 163, FS, and the Polk County Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED by the Polk County Board of County Commissioners:

SECTION 1: LEGISLATIVE FINDINGS OF FACT

The findings of fact set forth in the recitals to this Ordinance are true and correct and hereby adopted.

SECTION 2: COMPREHENSIVE PLAN AMENDMENT

The Comprehensive Plan of Ordinance No. 92-36, as amended, (the “Polk County Comprehensive Plan”) is hereby amended to reflect the changes listed in Attachment “A”.

SECTION 3: SEVERABILITY

If any provision of this Ordinance is held to be illegal, invalid, or unconstitutional by a court of competent jurisdiction the other provisions shall remain in full force and effect.

SECTION 4: EFFECTIVE DATE

The effective date of this plan amendment, if the amendment is not timely challenged, shall be the date Florida Commerce posts a notice of intent determining that this amendment is in compliance. If timely challenged, or if the state land planning agency issues a notice of intent determining that this amendment is not in compliance, this amendment shall become effective on the date the state land planning agency, or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective.

SECTION 5: FILING WITH THE DEPARTMENT OF STATE:

The Clerk and Auditor to the Board of County Commissioners of Polk County, Florida, shall file a certified copy of this ordinance with the Department of State, through the Secretary of State, upon adoption by the Board of County Commissioners of Polk County, Florida.

ADOPTED, in open session of the Polk County Board of County Commissioners with a quorum present and voting this 3rd day of September 2024.

SECTION 2.132-D RURAL SPECIAL PROTECTION AREA (RURAL-SPA).

POLICY 2.132-D1: DESCRIPTION AND MAPPING - The Future Land Use Map Series shall designate and map the Rural Special Protection Area as all the unincorporated areas within the Green Swamp Area of Critical State Concern located within Polk County which is not located within RIDGE-SPA or PC-SPA.

POLICY 2.132-D2: DEVELOPMENT AREAS - The RURAL-SPA shall incorporate the Rural-Development Area as depicted on the County's Development Area Map.

POLICY 2.132-D3: LAND-USE CATEGORIES - The following land-use categories shall be permitted within the RURAL-SPA:

- a. RESIDENTIAL: Agriculture/Residential-Rural X (A/RRX).
- b. OTHER:
 1. Institution (INST).
 2. Leisure/Recreation (L/R).
 3. Recreation and Open Space (ROS).
 4. Preservation (PRES).
 5. Commercial Enclave (CE).
 6. Conservation-Core (CORE).

X Modified - See Policy 2.132-D5.

POLICY 2.132-D4: CONSERVATION-CORE LAND USE - Within this Management Plan a land use category of "Conservation-Core" (CORE) is created. This land use district includes the most ecologically sensitive and intact natural resources in the Green Swamp Area of Critical State Concern as described in this first section of this CARMP, and it shall establish additional standards to protect water quantity and quality and wildlife habitat in this land use. Within the Conservation-Core land-use category, residential development may occur at up to one dwelling unit per twenty acres (1 DU/20 AC). Measurement of density shall include to the centerline of local and collector roads. Twenty acres is one 32nd (1/32) of the size of a section. Measurement of the 20 acres per unit density may also be relative to the size of the Section for which the property lies when the Section is less than 640 acres. Density may be transferred to the upland portion of the site from the wetlands at a ratio of one dwelling unit per twenty acres (1 DU/20 AC).

The Future Land Use Map series depicts the boundary of the CORE. The eastern boundary of the CORE was revised based on a 2015 study entitled "Defining the Eastern Boundary of the CORE Land Use Designation" which is incorporated into this Policy and Plan by reference. The study evaluated the science and purpose of the eastern boundary location.

POLICY 2.132-D5: MODIFIED LAND USES - Within this Management Plan the development criteria of Policy 2.121-A2 applies with the exception of Policy 2.121-A2:a and that Rural Mixed-Use Developments and Rural Residential Developments are prohibited.

POLICY 2.132-D6: SPECIAL USES - The following special uses are prohibited or limited within the Rural-SPA:

- a. Transitional Area is prohibited.
- b. Special Residential are prohibited.
- c. Non-Certified Electric-Power Generation Facilities are prohibited.
- d. Type E Community Facilities are limited, as specified in the Land Development Code; additionally:

1. Motorized recreation is prohibited except when providing access for disabled persons and boat access for non-competitive recreation.
 2. Golf courses are prohibited in the Rural SPA.
 3. Recreational uses shall be limited within the CORE and Preservation Future Land Use designation as listed in the CARMP, and per Section 2.118 as there are guiding standards within this land use.
- e. Solid Waste Management Facilities are prohibited.

POLICY 2.132-D7: OVERLAY DISTRICTS - All overlay districts shall be permitted within Rural-SPA in accordance with applicable criteria.

POLICY 2.132-D8: DEVELOPMENT CRITERIA - Development within the Rural-SPA shall conform to the following:

- a. The following residential densities shall apply within the A/RRX:
 1. ~~Uplands: one dwelling unit per ten acres (1 DU/10 AC).~~
 2. ~~Wetlands: one dwelling unit per twenty ten acres (1 DU/2010 AC).~~
 2. Wetland density shall may be transferred to the uplands.
 3. Measurement of density shall include to the centerline of local and collector roads. Ten acres is one 64th (1/64) of the size of a section. Measurement of 10 acres per unit density may also be relative to the size of the Section for which the property lies when the Section is less than 640 acres.
- b. The impact of golf courses in the Rural-SPA shall be studied. If it is determined golf courses can be operated without significant degradation of surface or groundwater, then the plan shall be amended to permit golf courses upon such conditions as are appropriate, including a limitation on the use of chemical pesticides and non-organic fertilizers.
- c. Golf Courses are expressly prohibited from the Conservation-Core.
- d. New roads (designed and built after the adoption of this Management Plan) within the RURAL-SPA shall be subject to the following:
 1. New roads, unless determined to be necessary for the health or safety of the general population, shall not be constructed by the public nor shall public funds be used for the construction of new roads.
 2. The County shall not utilize public dollars to maintain new private roads. A maintenance agreement and/or a taxing district may be established by the developer/landowners association and the County to maintain the roads at private expense.
 3. New subdivision roads shall be required to meet County construction standards.
 4. The County's Land Development Code shall address minimizing the crossing of new roads over rivers and major named tributaries. Construction of new roads over rivers and major tributaries shall be required to:
 - a. minimize adverse impacts to water quality,
 - b. prevent adverse impacts to the free flow of water through natural channels, and
 - c. prevent the creation of major obstacles to the movement of aquatic and wetland dependent species.
 - e. Unless determined to be a health and/or safety issue, the County shall place the paving of roads within the RURAL-SPA as the lowest paving priority for the County. This shall not be construed to include the maintenance of roads already paved in this area.
 - f. The vegetative communities and habitat found in the RURAL-SPA shall be protected by requiring:
 1. development which is started on or after the adoption of this Management Plan shall be required to conserve (no structures to be built in this area) at least 80% of the land within the A/RR land use

category and at least 90% of the land within the Core-Conservation land use category. This shall be accomplished by indicating on the plat:

- (a) that portion of the land which is to be conserved, and
 - (b) clearly stating on the plat that no clearing and no structures of any kind, except for family agricultural purposes, are to be placed in this area.
2. for land which is being subdivided, clustering is encouraged by:
 - (a) permitting lots as small as 40,000 sq. ft., as long as the overall gross density of is not exceeded, and
 - (b) permitting the reservation to occur outside of the individual lots. Privately owned lakes shall receive 100% credit toward meeting the open space requirement of this policy.
 3. lots which were created prior to the adoption of this Management Plan which are less than five acres in size and have direct access onto a County-approved road shall be permitted to construct one house.
- g. In the Rural Special Protection Area of the Green Swamp Area of Critical State Concern Recreation and Open Space may not include the following:
1. Motorized Recreation except when providing access for disabled persons and boat access for non-competitive recreation;
 2. Recreation activities that produce large crowds;
 3. Facilities with lighting that accommodates nighttime use.

POLICY 2.132-D9: PDR PROGRAM

POLICY 2.132-D10: E.R. Jahna Ranch Sand Mine Settlement Agreement - This Comprehensive Plan Settlement Agreement and related agreements are recognized by being recorded in O.R. Book 4137, Pages 1143 through 1171, inclusive; 1172 through 1183, inclusive; and 1184 through 1197, inclusive, are hereby made a part of and incorporated by reference in their entirety and part of the Public Records of Polk County, Florida.