

REZONING OF LAND IN FLORIDA

As word gets around about the quality of life in Florida, more people keep moving into the state. Developers build houses to accommodate the newcomers, who also need stores, restaurants and other services. Land that used to be vacant or agricultural is increasingly devoted to residential and commercial uses. If you bought property on a small country lane that has become a major thoroughfare, you may be thinking about rezoning. If you're considering selling, the buyer may want to make the closing contingent on a successful rezoning. What does rezoning involve?

In order to promote orderly growth management, the Florida legislature enacted a law requiring that land be used only for purposes which are consistent with a comprehensive plan adopted by each local government and approved by the Florida Department of Community Affairs (DCA). The plan establishes "standards for the orderly and balanced future economic, social, physical, environmental and fiscal development of the area," taking into account the need for public facilities, utilities, traffic control, conservation, recreation and housing (to name a few). The plan also designates how the locality will accommodate future development, and includes a map showing where future residential, commercial and industrial uses will be permitted.

If you want to change the use of your land to one that is not currently permitted by the comprehensive plan, you'll need to petition the city or county for a plan amendment, which will also require approval of the DCA in Tallahassee. This is generally permitted only twice per year (subject to a few exceptions), and can be a lengthy and costly process, particularly if nearby landowners object. Before taking any formal steps you should discuss your proposal with the local planning or development review department to determine if a comprehensive plan amendment is required, and the likelihood of success. If your proposed use is consistent with recent development in the same area, then it's likely that the plan already permits the use, in which case you may only need a rezoning under the city or county zoning ordinance.

A rezoning will require the submission of an application and processing fee to your local government, followed by a staff meeting at which your proposal will be reviewed and questions may be asked by planning and zoning officials (who may also want engineering, utilities and other officials to attend). If the proposed rezoning doesn't raise any significant issues, the staff will submit a report containing its recommendations to the Planning and Zoning (P&Z) Commission for review. If the application is more complicated, the staff may require that it first be reviewed by the Development Review Committee (or equivalent), which is an interim board established to make more formal investigations and recommendations.

The P&Z Commission will consider the application at a public hearing, notice of which must be advertised in the newspaper (and by posting a notice at the property and mailing notices to nearby landowners). The P&Z Commission will then make its recommendation to the City or County Commission for final approval or disapproval at another public hearing (which is subject to the same notice requirements). Following that decision there is an appeal period during which an affected party may appeal the decision to the local Circuit Court.

Many rezonings are initiated in connection with the sale of property to a buyer who wants to develop the site, so the rezoning may be coupled with a request for site plan and development approvals for a specific project. These are normally handled by the developer's professional consultants, including planners, engineers, architects and attorneys. Even the simplest rezoning can turn complicated, so if you are considering rezoning your land it's worthwhile to consult first with a land use or zoning attorney, whose knowledge of local customs and procedures can help smooth the way.