The beginnings of Florida’s interest in coastal management planning predate the federal CZMA by two years. In 1970 the legislature created the Coastal Coordinating Council which from 1970 to 1975 worked toward development of a coordinated coastal resource management program. The Council was abolished in 1975, and its duties were transferred first to the Department of Natural Resources and, in 1977, to the Department of Environmental Regulation.

The legislative basis for developing a coastal zone management plan (CZMP) was also in place at an early stage. The 1970 coastal construction setback line program and the 1972 Environmental Land and Water Management Act, FLA. STAT. 380.12, the State Comprehensive Planning Act, FLA. STAT. 23.0111, the Land Conservation Act, FLA. STAT. 259.01, and the Florida Water Resources Act, FLA. STAT. 373.012, went far towards establishing the necessary authority for developing an approvable CZMP. The shift of emphasis from the "environmental crisis" after 1972, lack of political support, and other problems plagued development of Florida’s CZMP. The development of the current plan was authorized, however, by the Legislature in 1978 in what has been referred to as the "No New Nothing Act." In other words, although the Act did reflect a continuing commitment to coastal planning, the legislative consensus was that existing legislation provided an adequate basis for coastal planning and that the emphasis should be on coordination of state efforts.

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FLORIDA STATUTES - COASTAL PLANNING AND MANAGEMENT

380.19 Department of Environmental Regulation.
380.20 Short title.
380.21 Legislative intent.
380.22 Lead agency authority and duties.
380.23 Federal consistency.
380.24 Local government participation.
380.25 Previous coastal zone atlases rejected.

380.19 Department of Environmental Regulations.—
(1) It is the intent of the Legislature that the environmental aspects of the coastal areas of this state have attracted a high percentage of permanent population and visitors and that this concentration of people and their requirements has had a serious impact on the natural surroundings and has become a threat to the health, safety, and general welfare of the citizens of this state. It is further determined that a coordinated effort of interested federal, state, and local agencies of
government is imperative to plan for and effect a solution to this threat, and that the creation of an advisory council will aid in accomplishing this purpose and in the implementation of s. 7, Art. II of the State Constitution, and s. 20.03(9).

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(4) The duties of the [department] shall be:
(a) To employ a staff director and such other personnel as may be necessary to aid in carrying out the work of the [department];
(b) To conduct, direct, encourage, coordinate, and organize a continuous program of research into problems relating to the coastal zone;
(c) To review, upon request, all plans and activities pertinent to the coastal zone and to provide coordination in these activities among the various levels of government and areas of the state;
(d) To develop a comprehensive state plan for the protection, development, and zoning of the coastal zone, making maximum use of any federal funding for this purpose;
(e) To provide a clearing service for coastal zone matters by collecting, processing, and disseminating pertinent information relating thereto;
(f) To make use of pertinent data as may be secured from departments, boards, commissions, officials, agencies, and institutions, except such records or information as may be required by law to be confidential; and
(g) To provide such other services as any interested agency may request.

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380.20 Short title.—Sections 380.21-380.25 may be cited as the "Florida Coastal Management Act of 1978."

380.21 Legislative intent.—
(1) The Legislature finds that:
(a) The coast is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources, including, but not limited to, energy facilities, as that term is defined in s. 304(5) of the Federal Coastal Zone Management Act of 1972, of immediate potential value to the present and future well-being of the residents of this state.
(b) It is in the state and national interest to protect, maintain, and develop these resources through coordinated management.
(c) State land and water management policies should, to the maximum possible extent, be implemented by local governments through existing processes for the guidance of growth and development.
(2) The Legislature therefore grants authorization for the Department of Environmental Regulation to compile a program based on existing statutes and existing rules and submit an application to the appropriate federal agency as a basis for receiving administrative funds under the Federal Coastal Zone Management Act of 1972. It is the further intent of the Legislature that
enactment of this legislation shall not amend existing statutes or provide additional regulatory authority to any governmental body except as otherwise provided by s. 380.23. The enactment of this legislation shall not in any other way affect any existing statutory or regulatory authority.

380.22 Lead agency authority and duties.—
(1) The Department of Environmental Regulation shall be the lead agency pursuant to 16 U.S.C. ss. 1451 et seq., and shall compile and submit to the appropriate federal agency an application to receive funds pursuant to s. 306 of the Federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. ss. 1451-1464). The application for federal approval of the state's program shall include program policies that only reference existing statutes and existing implementing administrative rules. In the event the application or the program submitted pursuant to this subsection is rejected by the appropriate federal agency because of failure of this act, the existing statutes, or the existing implementing administrative rules to comply with the requirements of the Federal Coastal Zone Management Act of 1972, as amended, no state coastal management program shall become effective without prior legislative approval. The coastal management application or program may be amended from time to time to include changes in statutes and rules adopted pursuant to statutory authority other than this act.

(2) The Department of Environmental Regulation shall also have authority to:
(a) Establish advisory councils with sufficient geographic balance to insure statewide representation.
(b) Coordinate central files and clearinghouse procedures for coastal resource data information and encourage the use of compatible information and standards.
(c) Provide to the extent practicable financial, technical, research, and legal assistance to effectuate the purposes of this act.
(d) Review rules of other affected agencies to determine consistency with the program and to report any inconsistencies to the Legislature.
(3) The Secretary of Environmental Regulation shall adopt by rule a specific formula for allocation of federal funds for the administration of the program.

380.25 Previous coastal zone atlases rejected.—The legislative draft of the coastal management program submitted to the Legislature by the department dated March 1, 1978, and the prepared coastal zone atlases are expressly rejected as the state's coastal management program. The department shall not divide areas of the state into vital, conservation, and development areas.

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Although many states enacted special legislation to create a CZMP, Florida legislative authorization required a plan based on existing statutes. The process for developing such a plan is called "networking." The approach has advantages and disadvantages. Networking lacks the advantage of having specialized legislation dealing with the unique problems of the coastal zone. Since all of the state could reasonably be classified a coastal zone, this may not be as much of a problem in Florida as in other states using networking. A major advantage of networking may prove to be that networked plans have a better chance of survival after federal funding dwindles. Special coastal zone management agencies or departments may be institutionalized by law in a state, but may be extremely ineffective when loss of federal funding causes staff and budget cuts.

The following chart sets out the statutory authorities that have been networked to form Florida’s CZMP and the agencies involved:

<table>
<thead>
<tr>
<th>STATUTE</th>
<th>LEGAL AUTHORITY DESCRIPTION</th>
<th>ADMINISTERING AGENCY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Chapter 23, F.S.</td>
<td>State Comprehensive Planning, Power Plant Site Plans</td>
<td>OPB, DCA</td>
</tr>
<tr>
<td>2. Chapter 119, F.S.</td>
<td>Public Records</td>
<td>DOS</td>
</tr>
<tr>
<td>3. Chapter 120, F.S.</td>
<td>Administrative Procedures</td>
<td>APC, DOAH</td>
</tr>
<tr>
<td>4. Chapter 160, F.S.</td>
<td>Regional Planning Councils</td>
<td>RPC</td>
</tr>
<tr>
<td>5. Chapter 161, F.S.</td>
<td>Coastal Construction</td>
<td>DBR</td>
</tr>
<tr>
<td>6. Chapter 252, F.S.</td>
<td>Disaster Preparedness</td>
<td>DCA</td>
</tr>
<tr>
<td>7. Chapter 253, F.S.</td>
<td>Sale, Lease, or Other Conveyance and Dredging and Filling in Submerged Lands and Wetlands</td>
<td>FLDEP, DNR, DER</td>
</tr>
<tr>
<td>8. Chapter 258, F.S.</td>
<td>Outdoor Recreation and Conservation</td>
<td>DNR</td>
</tr>
<tr>
<td>9. Chapter 259, F.S.</td>
<td>Outdoor Recreation and Conservation</td>
<td>DNR</td>
</tr>
<tr>
<td>10. Chapter 260, F.S.</td>
<td>Outdoor Recreation and Conservation</td>
<td>DNR</td>
</tr>
<tr>
<td>11. Chapter 267, F.S.</td>
<td>Historic Preservation</td>
<td>DOS</td>
</tr>
<tr>
<td>13. Chapter 315, F.S.</td>
<td>Port Facilities Financing</td>
<td>Port Authorities</td>
</tr>
<tr>
<td>14. Chapter 334, F.S.</td>
<td>Public Transportation</td>
<td>DOT</td>
</tr>
<tr>
<td>15. Chapter 366, F.S.</td>
<td>Public Utilities</td>
<td>PSC</td>
</tr>
<tr>
<td>16. Chapter 370, F.S.</td>
<td>Living Resources (marine)</td>
<td>DNR</td>
</tr>
<tr>
<td>17. Chapter 372, F.S.</td>
<td>Living Resources (freshwater)</td>
<td>GPWFC</td>
</tr>
<tr>
<td>18. Chapter 373, F.S.</td>
<td>Withdrawal, Diversion, Storage, and Consumption of Water; Save Our Rivers</td>
<td>DER, WMD</td>
</tr>
</tbody>
</table>

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The CZMP is implemented primarily by three agencies— the Department of Environmental Regulation, the Department of Natural Resources and the Department of Community Affairs. The Department of Environmental Regulation (DER) is the lead agency for the CZMP and administers environmental permitting programs for air and water pollution sources, dredge and fill, drinking water, solid and hazardous wastes, and siting of power plants, transmission lines and industry. The Department of Natural Resources manages submerged lands and other state-owned lands, recreation and conservation lands, marine resources, mineral resources, and shoreline use and protection. The Department of Community Affairs has primary responsibility for the Coastal Energy Impact Program and a state disaster preparedness program and coordinates the state response to the Development of Regional Impact and Areas of Critical State Concern Programs.
The Interagency Management Committee (IMC), created by Joint Resolution of the Governor and Cabinet in 1980, is the mechanism for coordinating state legislation and agency regulation. The IMC is responsible for integration and coordination of coastal activities, identification and resolution of jurisdictional overlap or conflict, and preparation of recommendations for new legislation, memoranda of understanding, and rulemaking to the Governor and Cabinet. The IMC is composed of representatives of ten agencies.

The Secretaries of the Departments of:  
- Commerce  
- Environmental Regulation  
- Community Affairs  
- Transportation  
- Health & Rehabilitative Services  
- Governor’s Office of Planning and Budgeting

The Directors or Executive Directors of:  
- Department of Natural Resources  
- Game and Fresh Water Fish Commission  
- Division of Archives & History Department of State  
- Division of Forestry, Dept. of Agricultural & Consumer Ser.

The IMC receives staff support from DER’s Office of Coastal Management and additional input from the State Interagency Advisory Committee (IAC) on Coastal Zone Management and the Governor’s Coastal Resources Citizens Advisory Committee, the mechanism for public participation in the coastal management process. The IAC serves as the interagency liaison for implementation of the CZMP and prepares background and issue papers for the IMC.

Framework for Agency Coordination

Governor & Cabinet  
Interagency Management Committee  
DER Office of Coastal Management  
Interagency Advisory Committee  
Citizens Advisory Committee  
Other state Agencies and Committees

Florida’s CZMP received federal approval in 1981. The federal CZMA, however, calls for periodic review of the state program in order to maintain its status as an approved program.
Federal review of Florida's program has cited the need to improve interagency coordination.

For an interesting overview of Florida's program development and approval, see O'Connell, Florida's Struggle for Approval Under the Coastal Zone Management Act, 25 Nat. Resources J. 61 (1985).

Section 7. FLORIDA'S COASTAL ZONE BOUNDARIES

Because the Florida CZMP relies on statutory authority that is enforced statewide, the entire state is included within the program boundaries. However, only local governments within the 35 coastal counties are eligible to receive coastal management funds.
Section 8. COMPREHENSIVE PLANNING


I. Florida’s Planning Framework

A. State Comprehensive Planning

Since most of the state of Florida is, arguably, in the “coastal zone,” it is imperative that Florida integrate its coastal management process with its state comprehensive planning process. The numerous competing environmental, economic, and social values necessitate a comprehensive approach. The State Comprehensive approach. The State Comprehensive Planning Act of 1972, until it was extensively amended in 1978, gave Florida a better statutory foundation for state comprehensive planning than California had. The 1978 amendments weakened Florida’s excellent process for formulating and adopting coastal management policies of the California type, notwithstanding the legislature’s stated intention that the “state coastal zone management plan shall be a part of the state comprehensive plan.” In this section, I trace the evolution of the state comprehensive planning process during Governor Askew’s administration and conclude with a summary of current changes that are being implemented by the Executive Office of the Governor.

The weakening of the act was the result of a conflict between the governor and the legislature. Key legislators believed that the original wording of the act enabled the executive to legislate. The act, in both its original and its amended form, authorizes the state land-planning agency to “[p]repare and revise from time to time as necessary, the state comprehensive plan” and designates the governor as the “chief planning officer of the state.” The original act also provided that after any plan was approved by the governor and the state legislature, the provisions of the plan became “effective as state policy,” and thereafter “[a]ny state department or agency budgets shall be prepared and executed based upon and consistent with law and the state comprehensive plan.” The 1978 legislature, in response to then governor Askew’s attempts to implement the act, amended the act to make the state comprehensive plan “advisory only,” not to “have the force or effect of law or authorize the implementation of any programs not otherwise authorized pursuant to law.”

By mid-1977, although the state land-planning agency’s effectiveness was limited by the same conflict between the governor and the legislature that eventually led to the weakening of the act, it had produced nine comprehensive-plan elements—for agriculture, education, growth management, health, housing and
community development, land development, recreation and leisure, social services, and transportation. All were accepted by Governor Askew and submitted to the legislature in May 1977. The legislature directed that portions submitted in 1977 “not become effective as state policy until after the close of the 1978 regular session of the Legislature.” It also required that any coastal plan be part of the state comprehensive plan and directed that such a plan be submitted to the 1978 legislature.

The 1978 legislature was a completely different kind of legislature than the 1972 legislature that had mandated the plan. Anticipating the growing legislative hostility, the governor described the submitted plan as an “executive action document,” which was “not before the Legislature for passage, approval or revision.” He also recommended that the state planning act be amended “to eliminate the artificial distinction between state and executive policy.” The legislature’s response was more drastic, however, than the governor had wanted.

On August 28, 1978, Governor Askew, as chief planning officer of the state, adopted by executive order a state comprehensive plan to guide the preparation of more detailed planning documents and related planning activities undertaken by executive agencies. The 1978 amendments make the plan “advisory only,” without the “force or effect of law,” except as specifically authorized by law. The distinction between cases in which the plan will be “advisory only” and those in which it will have the “force or effect of law” is elusive. By the term “advisory only,” the legislature probably meant that, unless otherwise specifically provided by statute, the state comprehensive plan was not entitled to legal observance and acceptance by anyone (although, practically, it most likely will be followed by anyone answerable to the governor, assuming that the extant plan indeed reflects the current governor’s goals and objectives for the state). To illustrate the probable effect of a coastal management plan under the amended law, consider the following scenario.

Florida’s state comprehensive plan is to be a statement of “goals, objectives, and policies,” and the “policies” and “goals” of any state coastal zone management plan are required to be a part of the state comprehensive plan. If the governor, as chief planning officer, issued an executive order adopting coastal resources planning and management policies and goals similar to the public access, recreation, marine environment, land resources, development, and industrial development policies included in the California Coastal Act of 1976, would these policies and goals have the “force and effect of law” or be “advisory only”? It would depend on the circumstances. For example, the ELA requires a local government, when hearing an application for a permit to undertake a development of regional impact, to consider, among other things, whether the “development unreasonably interferes with the achievement of the objectives of an adopted state land development plan applicable to the area.” In these circumstances, the coastal policies would seem to have the force and effect of law.
There are several statutory provisions that apparently would give any comprehensive plan accepted by the governor the effect of law. Most notable for coastal land management purposes are the requirement in the Local Government Comprehensive Planning Act of 1975 that the state comprehensive plan be used as a basis for reviewing and commenting on local comprehensive plans; the Electrical Power Plant Siting Act’s requirement that ten-year site plans for electrical generating facilities and site certification requests for specific power plants be reviewed for consistency with the state plan; the ELA’s requirement that the state comprehensive plan be considered by local governments when they decide whether permission should be granted to undertake development of regional impact; and the Florida Water Resources Act’s requirement of interagency coordination and cooperation in the preparation of a Florida water use plan, which, when completed, is to be included in the state comprehensive plan.

The post-1978 state planning act also continues to require the state land-planning agency to coordinate certain other planning functions, including planning that occurs pursuant to several important federal planning programs. Except where, as here, some other Florida statute thus expressly requires observance and acceptance of the state comprehensive plan, however, the coastal policies would be “advisory only” and not legally enforceable.

In California, by way of analogy, the reports of the Office of Planning and Research are only advisory, but that agency has recently shown that with gubernatorial support its planning reports can affect decisions of other state agencies. Florida’s state comprehensive plan may affect decisions of agencies headed by the governor, such as the Department of Environmental Regulation, and of those regional agencies whose officials are appointed by the governor, such as the water management districts. Less certain is what the plan’s effect will be on agencies headed by the governor and cabinet, such as the Department of Natural Resources, or on local governments, private developers, or the Army Corps of Engineers.

The Florida Supreme Court’s 1978 decision in Askew v. Cross, Key Waterways also seems relevant to the question whether the post-1978 state planning act provides a suitable process for formulating and adopting state coastal policies and goals that govern decisions. In Cross, the court has rejected the liberal federal view of delegation of legislative power also

1. (64) ELA, section 380.06(11)(a). Notwithstanding the apparent legislative intention to provide a close connection between the state comprehensive plan and decision making under other acts such as the DRI process under ELA, section 380.06(11)(a), some knowledgeable Florida attorneys and agency officials are reluctant, for various reasons, to assume that these duties will be enforced by Florida courts.
followed in many states. It held that legislative standards in
the ELA (having the imprimatur of the American Law Institute)
were unconstitutional under the separation-of-powers section
of the Florida constitution. In so doing, the court called into
question the constitutionality of any coastal management process
in which any significant administrative decisions are not
governed by detailed legislative standards or at least subject to
a high degree of legislative oversight. In light of Cross Key,
proponents of coastal zone management for Florida should probably
rely on the state comprehensive plan as the principal vehicle for
preparing and adopting state coastal policies and goals only if
the State Comprehensive Planning Act is restored to its pre-1973
form, including a requirement of legislative review.

The state planning process is presently undergoing extensive
revisions partly because of Governor Graham's views on the
relationship of policy planning and the budget process and partly
because of organizational changes pursuant to the Reorganization
Act of 1979. Shortly after his election, Governor Graham
introduced a decision-making process that relates more closely
the state planning and budgeting functions. The Office of
Planning and Budgeting in the Executive Office of the Governor is
implementing an eight-step public management system that proceeds
as follows: (1) analyze public "needs" such as for
transportation, housing and community improvement, natural
resource protection, and economic opportunities; (2) determine
the governor's priorities and goals on the basis of the "needs
analysis"; (3) develop alternative approaches that will
realistically respond to the governor's goals and objectives; (4)
develop the governor's recommended budget (a financial document
that relates, among other things, to the state comprehensive
plan); (5) allocate financial resources (including the governor's
action on the legislature's appropriation bill); (6) send each
state agency an approved budget and secure final performance
agreements from each agency; (7) monitor the agency performance
agreements; and (8) evaluate agency performance as measured by
the performance agreements and other relevant objectives and
policies as set forth in such documents as the state
comprehensive plan. Steps (7) and (8) are carried out by the
Executive Office of the Governor.

B. Local Comprehensive Planning

Florida's Local Government Comprehensive Planning Act of
1975 (LGCPA) could make Florida the nation's leader in reform of
the anachronistic local land regulatory process that exists
throughout most of the country. The act resembles California's
local general planning law but is potentially stronger because of
the Florida act's closer connection between the planning and
regulatory functions. Both states require every local government
to prepare and adopt a comprehensive plan. Florida's act,
however, has a stronger "consistency" clause: after the plan is
adopted, all development--private and public--must be consistent
with the plan. Only in California's relatively narrow "coastal
zone" and other particular areas does California tie regulation
so closely to preadopted plans.

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Florida's 1975 local planning act is a product of the second phase of a land and water regulatory reform effort that began in 1972. When Governor Askew's Task Force on Resource Management made its 1972 recommendations, the governor and major legislative leaders decided that the 1972 legislature should make only minimal changes in the existing local role in land use control. An Environmental Land Management Study (ELMS) Committee was created to study whether more substantial reform of the local planning and regulatory role was needed.

The legislature directed the ELMS committee to consider, among other things, the progress of the American Law Institute's Model Land Development Code (ALI Code). The two most difficult issues considered by the ALI were (1) how to distribute land planning and regulatory authority between state and local governments and (2) whether to require a formal plan as a prerequisite to regulation. On the first issue, the code reflects compromise between localism and centralism by leaving most land use decision making at the local level but providing for state intervention when particular clearly defined regional and state interests outweigh the local values. Florida, in its Environmental Land and Water Management Act of 1972, essentially adopted this position of article 7 of the ALI code.

On the second issue--whether to mandate planning--the ALI code reflects an assumption that some kinds of land development decisions do not involve administrative discretion: development "as of right," or "general development" permission, is distinguished from development involving administrative discretion, or "special development" permission. Planning is a precondition to regulation only for specified discretionary decisions, such as planned unit developments. Florida's ELMS committee rejected the ALI distinction. The committee determined that, in Florida at least, most local land development decisions would probably involve discretion and that the best way to promote principled administrative decisions would be to require local governments to adopt standards and thereafter measure all their decisions regarding land development by those standards. Florida's LGCPA closely followed the committee recommendations.

The LGCPA required all local governments--incorporated municipalities, counties, and certain other units--to prepare and adopt local comprehensive plans by July 1, 1979, with extensions to be allowed on a showing of cause and good faith efforts. With some notable exceptions, such as the city of Sanibel Island, discussed below, Florida's cities and counties, as of late 1979, are not responding expeditiously and effectively to that requirement. Only 88 cities out of 390 and 13 counties out of 67 met the 1979 deadline. If a municipality refuses to adopt a plan, the act requires the county in which it is located to prepare one; if the county refuses, the state shall prepare and adopt one. An optimistic prediction is that local comprehensive plans are not likely to be fully completed until two or three years after the 1979 deadline.

There are several reasons why many of Florida's local governments are not effectively implementing the local planning act. One is that the Florida legislature has not funded the program adequately. The 1975 legislature declined to follow the
ELMS committee’s recommendation that a $50 million, three-year appropriation for local planning be included in the LGCPA and that the law not become effective unless properly funded. The Florida League of Cities, whose attitude toward Florida’s land regulatory reform has, from 1972 to 1979, oscillated between strong opposition and indifference, has complained about the legislature’s failure to fund local planning; but the Graham task force received some conflicting testimony concerning whether local governments have adequate funds for complying with the LGCPA. True, the act does not require local governments to do anything more than a well-functioning local government should do anyway. Nevertheless, the ELMS committee’s initial recommendation still seems sound: the LGCPA substantially changes Florida’s local land-planning and regulatory system, and better implementation and better relationships between state and local government could be promoted by improved funding of the process.

The major shock of an inadequately funded and administered LGCPA will be felt, of course, only after all deadlines for adopting plans have expired. Then, in some areas, courts will probably be asked to enjoin all further development until the requirements of the act have been compiled with. A cynical observer of Florida’s legislative process might conclude that the 1975 legislature, that passed the LGCPA without adequate funding, did so knowing that the repercussions would not be felt for seven or eight years and at that time the legislature could weaken the act to avoid the costs—political and economic—of compliance. That supposition may be contributing to the local sluggishness in preparation and adoption of comprehensive plans.

An equally plausible prediction, though, is that Florida’s state and local governments—especially many in the southern end of the peninsula—will, during the 1980s, continue to strengthen and improve the land and water regulatory processes that were put into effect during the 1970s. Although there is widespread concern among environmentalists that “their golden era is over,” it is possible that such concern, at least as it relates to Florida’s land and water regulatory systems, may be too pessimistic; in fact it is reasonably predictable that Florida’s land and water regulatory arrangements will become increasingly strict during the coming years. Three factors support this view: (1) the legislature has continued to improve and strengthen Florida’s state-local cooperative environmental laws notwithstanding recurring efforts to dismantle or seriously weaken them; (2) a growing number of Florida local governments are controlled by those who favor local growth controls; and (3) chances of local environmental and growth control ordinances meeting constitutional requirements are improved if they are supported by good comprehensive planning.

If the second prediction is borne out, national attention to the effects of exclusionary land policies may shift, during the 1980s, from such overcrowded areas as New Jersey to the increasingly affluent and overcrowded areas of Florida. To note that “Florida and development have always been synonymous” is not to overstate Florida’s development history. But the composition
of Florida's population is changing, and Florida communities such as Boca Raton and Sarasota County have political majorities increasingly desirous of strict environmental protection and growth control laws.

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[Although few local governments met the original July 1, 1979, deadline for adoption of local comprehensive plans, virtually all have now complied "in some manner."]

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The 1984 State and Regional Planning Act

The 1984 State and Regional Planning Act requires the
governor to prepare a state comprehensive plan which "provides
long-range guidance for the orderly social, economic, and
physical growth of the state." The proposed plan, which was to
be developed by December 1, 1984, was recommended to the
Administration Commission (Governor and Cabinet) and transmitted
to the legislature. The legislature gave statewide effect to the
state comprehensive plan by enacting it, with some modifications,
into law during the 1985 legislative session.

The following excerpt explains the state and regional
planning framework and how the plan will function. Does the 1984
legislation solve all the problems noted in the Finneil article?

Rhodes & Appgar, Charting Florida's Course: The State and
Regional Planning Act of 1984, 12 Fla. St. U.L. Rev. 583, 593-602
(1985).

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III. Overview of The Planning Framework

As finally passed, the Act features a decentralized planning
process that spreads responsibility for implementing state
policies to state and regional agencies, and an innovative
adoption process that highlights legislative involvement. The
Act stresses that planning is an ongoing process and establishes
mechanisms for continuing mediation and conflict resolution among
planning units.

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A. The State Comprehensive Plan

Under the Act, the state comprehensive plan "shall be
composed of goals and policies briefly stated in plain, easily
understood words that give specific policy direction to state and regional agencies. 1/ This one sentence description marks an important shift in emphasis in Florida's planning process. The Act makes it clear that the state plan is not to become a lengthy, detailed document to which every unit of government will look for specific direction in every situation. Rather, the goals and policies of the state plan must be developed further in functional plans by each unit of government.

B. State Agency Functional Plans

The distinction between the state plan and agency functional plans is clearly drawn through the Act's definitions of three plan components:

"Goal" means the long-term end toward which programs and activities are ultimately directed.

"Policy" means the ways in which programs and activities are conducted to achieve identified goals.

"Objective" means specific, measurable, intermediate ends that are achievable and mark progress toward a goal.

The Act combines these elements as follows: The state plan is composed of "goals" and "policies," while an agency functional plan contains "agency program policies and objectives and

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1. (47) Fla. Stat. 23.0114(1)(Supp. 1984). Although the ELMS Committee opted to support an intergovernmentally integrated "rational" planning system, this approach was not without significant debate. A rational planning system keys on goals that are effectuated by policies that are further implemented by objectives. The potential effectiveness of this approach was questioned particularly by legislative and business community members on the committee. These members preferred an incremental approach to problem solving that would focus attention to current problems and remedies which offer immediate resolution. This approach would mitigate problems as they arrive rather than create a system to achieve specified goals through reasonably articulated means. The alternative approach, referred to in the committee as "disjointed incrementalism," is supported and discussed in Lindblom, The Science of "Muddling Through," 19 Pub. Ad. Rev. 79 (1959). Lindblom's approach generally reflects legislative problem solving, which is usually characterized by amendments to existing policies that differ only incrementally from such policy, consideration of a relatively small number of means, simultaneous choice of ends and means, and successive and repeated attacks on problems as opposed to a final, comprehensive resolution. See M. Sandeliker & R. Cunningham, Planning and Control of Land Development 41-50 (1979); Hirschman & Lindblom, Economic Development, Research and Development, Policy Making: Some Converging Views, 7 Behavioral Sci. 211, 215-16 (1962).
administrative directions." State "goals," the long-term end of all state programs, are found only in the state plan; "policies," expressing the manner in which programs are to be conducted to achieve these goals, are a shared responsibility of the state plan and agency plans; and "objectives," specific measurable ends, are reserved for the agencies' functional plans.

The Act requires each state agency to develop a functional agency plan that is consistent with the state plan within one year of the adoption of the state comprehensive plan. Each agency's plan is required to contain a statement of the policies that guide the agency's programs, in addition to the objectives "against which the agency's achievement of its policies and the state comprehensive plan's goals and policies shall be evaluated."

C. Comprehensive Regional Policy Plans

Comprehensive regional policy plans comprise a second category of implementing functional plans. As with the functional agency plans, the regional plan must be consistent with the state comprehensive plan. Unlike an agency plan, however, the regional plan is an intermediate-level plan; it addresses "regional goals and policies" but not objectives. The Act further directs: "Regional plans shall address significant regional resources, infrastructure needs, or other issues of importance within the region."

Regional plans should form a vital link between state and local governments. Presently, this link is incomplete because there is no requirement in the Act for local government comprehensive plans to be consistent with the state's goals and policies. The Act lays the groundwork, however, for the region to become the coordinating body between state and local units of government. It emphasizes a strong local role in developing the regional plan and requires the regional planning council to "seek the full cooperation and assistance of local governments" in the planning process. Further, "[t]he draft regional plan shall be circulated to all local governments in the region. Local governments shall be afforded a reasonable opportunity to comment on the regional plan."

D. The Scope of Regional Agency Plans

One of the significant issues that emerged from the 1984 legislative debate concerned the proper scope of the regional plan. The question was whether the regional policy plan should go beyond the policies reflected in the state plan or statutes, or whether the state plan and statutes should constitute an absolute outer limit for the policies and programs that a region might adopt. The ELMS Committee struck a balance on this issue and recommended:

Regional plans shall minimize overlap or duplication between the regional plan and state regulatory and permitting programs.
Any proposed regional standard that is substantially different from a state agency regulatory or permitting standard covering the same subject shall be accompanied by an explanation and justification setting out the importance of the standard to the region, the impact on the affected state regulatory program, and the benefits and costs of the standard.

The ELMS Committee also recommended that "substantially different" regional standards be specifically reviewed and approved by the Administration Commission before taking effect. By the time the Senate Natural Resources Committee considered Senate Bill 550 some concern had arisen about the scope of regional authority. The ELMS Committee's recommendation was dropped from the bill and the following language was substituted and included in the bill passed by the legislature:

Regional plans shall specify regional issues that may be used in reviewing a development of regional impact. Such issues shall be consistent with any state statutes, rules, or policies that specifically relate to or govern a regional issue or criteria adopted for DRI reviews. All regional issues and criteria shall be included in the comprehensive regional policy plan adopted by rule pursuant to s. 160.072, 2.

Debate on the role of regional planning councils is a major unresolved issue that could seriously hamper the development of a statewide planning framework. The debate erupted early in 1984 in hearings before a subcommittee of the House Select Committee on Growth Management, chaired by Representative Sam Bell. After this early flurry, opposing interests seemed to reach an uneasy

2. (61) Fla. Stat. 160.07(1) (Supp. 1984). This statutory language may have interesting consequences for development of regional impact reviews. It could significantly limit the scope of DRI reviews through the requirements that regional plans specify regional issues that may be used in such reviews and that "all regional issues and criteria" shall be included in the plan. Note also that the term "criteria" inserted in the Act is the same term used in the Warren S. Henderson Wetlands Protection Act, ch. 94-79, 1984 Fla. Laws 202, to describe the standards to be used by the Department of Environmental Regulation (DER) in reviewing permit applications. This correlation raises the question of whether regional criteria for DRI reviews regarding wetlands must henceforth be consistent with DER criteria.
truce. Only late in the 1984 session did regional planning councils reemerge to secure a strong position for themselves in the planning process.

IV. The Roles of The Executive Office of the Governor and of The Cabinet

The Act establishes a strong central role for the Governor but provides a check against the Governor's authority through review by the Cabinet at various points in the process. The Governor has a vital role—to prevent the plan from becoming simply a collection of numerous agency desires. As the state's highest elected official, it is appropriate that this task fall to the Governor. The Governor's role begins with preparing the draft plan. During that process, the Governor is authorized to "[p]repare or direct appropriate state or regional agencies to prepare such studies, reports, data collections, or analyses as are necessary or useful in the preparation or revision of the state comprehensive plan, state agency functional plans, or regional comprehensive plans." The Governor's Office is given wide latitude in drafting the plan. The Act directs the Governor's office to prepare "statewide goals and policies" dealing with "growth and development in Florida," with initial emphasis on "the management of land use, water resources, and transportation system development."

Before the plan is submitted to the legislature, the Administration Commission will review the proposed state plan. The Act provides that the plan will be transmitted to the Administration Commission "on or before December 1, 1984," and at that time "copies shall also be provided to each state agency, to each regional planning agency, to any other unit of government that requests a copy, and to any member of the public who requests a copy." As an intermediate step, the Commission serves two important functions. First, it provides a public forum. Submission to the Administration Commission is the first date for formal publication of the proposed plan document. After receiving public comment, the Commission submits the plan to the legislature "together with any amendments approved by the Commission, and any dissenting reports." The Act thus provides an opportunity for formal public comment, for an expression of differences at the executive level, and for those comments to accompany the draft plan to the legislature. The Commission's second important function is to identify the parts of the draft plan that go beyond existing law and therefore could not survive if the legislature fails to adopt the plan. Review by the Administration Commission is an important threshold step in the innovative adoption process. It sets the stage both for legislative consideration and for adoption by rule if the legislature fails to act. However, it would be unfortunate if the Cabinet attempted to resolve all conflicts and concerns of various interests in this phase. This fine-tuning should take place in the legislative process. In recognition of this fact, the Act provides for both the draft plan "and any dissenting reports" to be forwarded to the legislature.
The Governor's plan implementation responsibilities are also significant. The Act states that the Governor "as chief planning officer of the state, shall oversee the implementation process." For that task, the Governor is empowered to prepare and adopt by rule "criteria, formats, and standards for the preparation and the content of state agency functional plans and comprehensive regional policy plans." The Governor designates and prepares specific data, forecasts, and projections, and, perhaps most significantly, "assumptions" to be used "by each state and regional agency in the preparation of plans." Finally, the Governor has general authority to "[d]irect state and regional agencies to prepare and implement, consistent with their authority and responsibilities under law, such plans as are necessary to further the purposes and intent of the state comprehensive plan."

The Executive Office of the Governor has a strong central role in coordinating the functional plans of agencies and regional policy plans. The Act provides that state agency functional plans shall be submitted to the Executive Office of the Governor "within 1 year of the adoption of the state comprehensive plan." The Governor's office is allowed [sixty] days to review a proposed agency functional plan for consistency with the state plan and then is to return the plan to the agency "together with any [proposed revisions]." The state agency must incorporate the Governor's recommended changes or petition the [Administration] Commission to resolve any disputes. Here the [Administration] Commission is a check on the power of the Governor's office.

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The Governor [also] has ... review authority for comprehensive regional policy plans. [Regional policy plans must be submitted to the Governor within 18 months of the adoption of the state comprehensive plan for review and recommended revisions. Regional planning councils will adopt the comprehensive regional policy plans by rules which will be subject to legislative review. The legislature may reject, modify, or take no action on rules. If the legislature takes no action, the rules become effective; otherwise, the regional councils must conform the rules to the legislative changes.]

V. Mediation of Conflicts

An innovative ELMS Committee contribution to the State and Regional Planning Act is the recognition and requirement of informal dispute resolution when agency plans conflict. The ELMS Committee concluded that intergovernmental and interagency coordination are vital to an effective statewide system. Successful planning only occurs when all levels of government regularly communicate and coordinate their comprehensive and functional plans. To effect this aim and to encourage a cooperative conflict resolution approach, the committee recommended mediation rather than an adversary proceeding, such
as a judicial or administrative hearing. If conflicts cannot be
settled by mediation, the ELMS Committee recommended that a formal
appeal should be available to allow the Florida Land and Water
Adjudicatory Commission to resolve the controversy.

The ELMS Committee’s mediation recommendations are
incorporated in several of the Act’s provisions. Once the state
comprehensive plan is adopted, each state agency must adopt a
functional plan that is consistent with the adopted state
comprehensive plan. Consistency is initially determined by the
Executive Office of the Governor. The Governor is also required
to mediate all consistency disputes between agencies. If
mediation is unsuccessful, the Adjudicatory Commission will take
final action. The language in the statute that mandates the
Governor to mediate all disputes provides an opportunity for
informal dispute resolution in all cases prior to formal
adjudication by the Adjudicatory Commission.

A similar process to resolve consistency disputes is
provided when conflicts arise between the Governor’s office and
regional planning councils, whose comprehensive regional policy
plans also must be consistent with the adopted state
comprehensive plan.

Although the Act places the responsibility for mediation on
the Governor, the spirit of the legislation would seem to enable
the Governor to designate an experienced and recognized mediator
to carry out the Governor’s duty. This may be desirable for
several reasons. Mediation is a voluntary process in which those
involved in a dispute jointly explore and hopefully reconcile
their differences with the assistance of a qualified and
impartial third party. To maintain necessary credibility, a
mediator must be impartial, and just as important, must not be
perceived as entertaining any possibility of bias. Since the
Governor’s own office must initially determine if a state agency
functional plan or regional comprehensive plan is inconsistent
with the state plan, it is possible the Governor might be
perceived as biased in favor of his office’s findings. To avoid
this perception, and thereby maximize the potential for effective
resolution through mediation, the Governor could appoint
recognized and experienced mediators as his designees in this
process.

Another option is to request the Division of Administrative
Hearings to assign a hearing officer to mediate, provided the
hearing officer is adequately trained in mediation techniques.
If this approach is followed, and mediation is unsuccessful, a
different hearing officer would have to be assigned to hear an
appeal if the Land and Water Adjudicatory Commission were to
assign the appeal to the Division of Administrative Hearings.

The ELMS Committee also recommended that regional planning
agencies establish a mediation process to resolve conflicts among
local government comprehensive plans. However, the resolution of
any issue through the mediation process should not alter any
person’s right to a judicial determination of any issue if
otherwise authorized by law. These recommendations were
incorporated in the Act.

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The ELMS Committee's several mediation recommendations were accepted by the legislature as promising alternatives to time-consuming, costly, and perhaps Improvident formal litigation between government agencies. If implemented by agencies with the proper orientation towards problem resolution, mediation will fulfill this promise.

VI. The Consistency Mandate

The key word used throughout the Act to describe the relationship between the state plan and lower tiers of implementing plans is "consistency." State agency functional plans and comprehensive regional policy plans are required to be consistent with the state plan and are subject to mandatory change if they are found to be inconsistent. In the ELMS Committee's discussion of the planning bill, and in the legislative debate, the question repeatedly arose: Can we define "consistency" so that we can better understand the nature and extent of the obligation it imposes? No satisfactory definition emerged, because in large part the definition depends on the specific language of the applicable state goal or policy.

Fundamentally, the consistency mandate requires that state agency and regional plans remain within the limits that the state plan places on lower tiers of implementing plans or regulations. Those limits will always be either express or implied within the different elements of the state plan. For example, suppose the state plan includes the following policy: "channelization or other alteration of natural rivers or streams shall be prohibited." Obviously, the range of options on this issue for state agency functional plans or regional plans would be very limited. On the other hand, if the state comprehensive plan states that "the state shall have a management system adequate to protect the state's water quality and quantity resources," a great many different state and regional agency policies and programs could be fashioned that would contribute significantly toward achieving this goal.

The state plan should include a general definition of "consistency" and additional specific definitions for particular program areas where they would prove useful. The general definition should be along the following lines: "A policy, objective, program, or regulation that contributes significantly to the attainment of a goal or goals stated in the state comprehensive plan, and which does not substantially detract from the attainment of any other state goal shall be found to be consistent with the state comprehensive plan."

VII. Conclusions and Recommendations

The State and Regional Planning Act of 1984 is law. Now comes the crucial challenge—implementation. Since Florida has not experienced a successful state planning process, there is no
helpful positive precedent. Nonetheless, lessons can be learned from the unsuccessful 1973 experience, the Act's legislative adoption history, and similar efforts in other states.

* * *

NOTES

1. The State Comprehensive Plan, as enacted, did not contain a definition of consistency; however, the following sections were included in the plan description:

* * *

(2) The State Comprehensive Plan is intended to be a direction-setting document. Its policies may be implemented only to the extent that financial resources are provided pursuant to legislative appropriation.... The plan does not create regulatory authority or authorize the adoption of agency rules, criteria, or standards not authorized by law.

[Note: The plan specifically states that agency functional plans "are not rules and therefore are not subject to the provisions of chapter 120."]

(3) The goals and policies contained in the State Comprehensive Plan shall be reasonably applied where they are economically and environmentally feasible, not contrary to the public interest, and consistent with the protection of private property rights. The plan shall be construed and applied as a whole, and no specific goal or policy in the plan shall be construed or applied in isolation from the other goals and policies in the plan.

* * *

3. The COASTAL AND MARINE RESOURCES goal and policies in the State Comprehensive Plan are set out below:

(9)(a) Goal -- Florida shall ensure that development and marine resource use and beach access improvements in the coastal areas do not endanger public safety or important natural resources. Florida shall, through acquisition and access improvements, make available to the state's population additional beaches and marine environment, consistent with sound environmental planning.

(b) Policies --

1. Accelerate public acquisition of coastal and beachfront land where necessary to protect coastal and marine resources or to meet projected public demand.
2. Ensure the public's right to reasonable access to beaches.

3. Avoid the expenditure of state funds that subsidize development in high-hazard coastal areas.

4. Protect coastal resources, marine resources and dune systems from the adverse effects of development.

5. Develop and implement a comprehensive system of coordinated planning, management, and land acquisition to ensure the integrity and continued attractive image of coastal areas.

6. Encourage land and water uses which are compatible with the protection of sensitive coastal resources.

7. Protect and restore long-term productivity of marine fisheries habitat and other aquatic resources.

8. Avoid exploration and development of mineral resources which threaten marine, aquatic, and estuarine resources.

9. Prohibit development and other activities which disturb coastal dunes, and ensure and promote the restoration of coastal dune systems that are damaged.

10. Give priority in marine development to water-dependent uses over other uses.

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Local Government Comprehensive Planning

The state comprehensive plan's PLAN IMPLEMENTATION goal provides that "[s]ystematic planning capabilities shall be integrated into all levels of government in Florida with particular emphasis on improving intergovernmental coordination and maximizing citizen involvement." The seventh policy statement under that goal directs the state to "[e]nsure the development of comprehensive ... local plans that implement and accurately reflect state goals and policies and that address problems, issues, and conditions that are of particular concern in a region." Although the state comprehensive plan does not apply directly to local governments, 1985 amendments to the Local Government Comprehensive Planning Act of 1975 (now the Local Government Comprehensive Planning and Land Development Regulation Act) require the state land planning agency, the Department of Community Affairs [DCA], to review local plans for consistency with the state plan and the regional policy plans.
finds that the local plan is inconsistent, the DCA can recommend, but not require, changes in the plan. If after the opportunity for revision, the local government does not bring the plan into compliance, the DCA will issue a notice of intent to determine the plan not in compliance and will request an administrative hearing. The hearing officer's recommended order submitted to the Administration Commission must sustain the local plan "unless it is shown by a preponderance of the evidence" that the plan is not in compliance. If the Administration Commission finds the local plan not in compliance, the commission must specify the remedial action required by the local government. The commission can also limit state funding, grants, and revenue sharing to local governments that are not in compliance.

If the DCA review of a local government plan finds the plan in compliance, the DCA will issue a notice of such intent, and the local government will adopt the plan. Within 21 days of adoption of the plan, an "affected person" who objects to the DCA finding and who has participated in local government proceedings can file a petition with the DCA for an administrative hearing. An affected person includes "the affected local government, persons owning property or residing or owning or operating a business within the boundaries of the local government . . . , and adjoining local governments" that would have substantial fiscal or environmental impact from the plan.

The hearing officer's standard of review is whether the "local government's determination of compliance is fairly debatable." After the hearing officer submits a recommended order to the DCA, the DCA will issue a final order if it finds the plan in compliance, or will submit the recommended order to the Administration Commission for final action if the plan is found not in compliance.

In addition to reviewing local plans for consistency with the state and regional comprehensive plans, the 1995 legislation requires the DCA to review the local plans for:

- compliance of plan elements with the legislative requirements of chapter 163.
- consistency of elements within the plan.
- coordination and consistency in management of bays, estuaries, and harbors falling in more than one jurisdiction.
- policies to guide future development.
- programs, procedures, mechanisms, and processes for implementing and evaluating effectiveness of the local plan.

The same review procedures apply as discussed above.

Yet another consistency requirement of chapter 163 mandates that local government actions be consistent with local government comprehensive plans. The following article explains the requirement and some of the legal issues that arise.

The concern that comprehensive planning guide and control the development of land is a fairly recent phenomenon. The Florida Legislature first addressed planning in 1969 by allowing it as an unfunded option of local governments. In 1973, two thirds of the state had no land use controls whatsoever and ad hoc decisionmaking regarding development was rampant. As a consequence of this conspicuous absence of land use control, the quality of life in Florida steadily deteriorated.

Realizing that a statewide approach to growth management was needed, the legislature created the Environmental Land Management Study (ELMS) Committee to study land development regulation and resource management, and to recommend new legislation. One proposal was the Local Government Comprehensive Planning Act (LGCPA).

Enacted in 1975, the LGCPA requires every local government in Florida to adopt and implement a comprehensive plan to guide and control future development. The substance of these plans is specified in broad terms. Eight elements must be included in all plans; three additional elements are required for larger units of local government and for those in the coastal zone; and 11 elements are encouraged as options. Procedures for review and a deadline for enactment of the plans are established. The deadlines have now passed and most local governments in Florida have comprehensive plans in effect. Many difficult legal issues are likely to arise in the implementation of these plans, but one of the most challenging will involve definition of the plans' legal effect.

The LGCPA gives the comprehensive plan a new legal status. It states:

After a comprehensive plan or element or portion thereof has been adopted in conformity with this act, and all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted. All land development regulations enacted or amended shall be consistent with the adopted comprehensive plan or element or portion thereof.

Consistency with the comprehensive plan, then, is required for development projects of government, for development orders issued by government, and for regulations controlling land development. In addition, the LGCPA requires consistency between the various elements of a comprehensive plan.

Various synonyms have been used to define consistency: "in accordance with," "compatible with," "conformance to" and "does not conflict." As a term of art, like the word "reasonable," "consistency" will be a challenge for the courts to define and apply. This article will briefly address the major issues raised by the consistency mandate. Because a few states, most notably
Oregon, California, and Hawaii, enacted planning laws requiring consistency a few years before Florida, a small body of case law has developed. These cases, and a few which have discussed consistency in Florida, will be analyzed. The scope of judicial review will also be mentioned.

The comprehensive plan

Understanding the nature of the comprehensive plan is an important prerequisite to an examination of the consistency mandate. On one level, the comprehensive plan is an educational document for local officials and citizens. It contains analyses of the various social, economic, and environmental factors affecting the community. Most plans are replete with maps, tables and charts which, among other things, delineate population growth, inventory natural resources, and plot housing starts. More importantly for attorneys, the plan embodies goals and objectives designed to guide local decision makers.

These policies, developed with public participation, are supposed to reflect the citizens’ desires for the future of their community. Because the comprehensive plan, in effect, defines the public interest, it is much like a constitution, which limits as well as directs the actions of local officials.

Plans vary in their degree of specificity. Some are very general, using vague and imprecise language which can support contrary actions and does little to bind local decision makers. Land use maps may be absent or broadly drawn and colored without detail. Plans such as these are designed to maintain a high degree of flexibility and avoid reducing the discretion of elected officials. In extreme cases they may be “nonplans,” which circumvent the spirit and intent of the LGCPA.

Other plans, however, are very specific, containing definite, clearly defined goals and objectives, and requiring the implementation of programs to solve recognized problems. Such plans often have very detailed maps which can replace the zoning map as a blueprint for future development in the community.

It must be recognized that where a particular plan lies along this continuum of specificity establishes its degree of control over the local decision maker. It affects the integrity of the planning process itself and is inextricably tied to the determination of consistency. A plan that is vague and general is not an effective guide to growth and is not susceptible to enforcement through the consistency mandate. Review by the Department of Veterans and Community Affairs and by the courts as to whether plans are sufficient to meet the requirements of the Act will be an important determinant of the LGCPA’s effectiveness.

For a comprehensive plan to be effective, it must have the force of law. No matter how well drawn or specific, if a comprehensive plan is relegated to collect dust on the shelves it is utterly useless as a document of land use control. It is the consistency mandate which gives teeth to the plan. It forms the vital link between the plan and actual development.
Defining consistency

The LCOPA requires several types of consistency. The first and most important involves consistency between the issuance of development orders and the comprehensive plan. Conforming the administration of development regulations to the goals and objectives, maps and policies of the plan has been the subject of several lawsuits.

The most notable consistency case is Pasano v. Board of County Commissioners of Washington County [507 P.2d 23 (Or. Sup.Ct. 1973)]. In Pasano, the comprehensive plan specifically designated the subject property as single family residential. It was rezoned by the commission to a higher density in order to accommodate the development of a 32-acre mobile home park. Pasano, who lived near the proposed mobile home park, complained that the decision to rezone and grant the permit was inconsistent with the plan. The Supreme Court of Oregon agreed, proceeding to define consistency by examining the interrelationship of planning and zoning. It said that zoning and planning "are intended to be parts of a single integrated procedure for land use control. The plan embodies policy determinations and guiding principles; the zoning ordinances provide a detailed means of giving effect to those principles."

To judge whether the rezoning action was consistent with the plan, the court said that the governmental action must be "in accord" with the various planning goals and objectives in the plan. In addition, the court said proving consistency with the plan involves showing: (1) there is a public need for the kind of change in question and (2) the need will best be served by changing the classification of the particular piece of property in question as compared with other available property.

A few cases in Florida address consistency in the administration of development regulations. In Dade County Association of Unincorporated Areas, Inc. v. Board of County Commissioners of Metropolitan Dade County [45 Fla. Supp. 193 (1975)], the plan made specific reference to the subject property, recommending low density, single family use. The landowner petitioned for a rezoning to increase the density in order to accommodate development of a low income housing project for the elderly. The rezoning was granted by the county commission, citing the need for such low income housing, but reversed by the circuit court because it was inconsistent with the plan.

Judge Jack Turner echoed Pasano and declared the comprehensive development master plan was "the basic instrument for land use planning and development in Dade County." With regard to the legal significance of the plan, the court said:

The recommendations and conclusions contained within the comprehensive development master plan . . . may not be indiscriminately ignored in the exercise of the zoning power. The enactment of the master plan . . . represents an affirmative commitment by the board of county commissioners.
to the public to implement the community goals and policies whenever applicable. Therefore, the official recommendations and conclusions of the master plan and the area restudy carry a presumption of correctness and they should be followed unless there are compelling reasons to depart therefrom. [emphasis added]

Because the plan was of such a specific nature as applied to the subject property, the court took a strict approach in requiring consistency. A recent case from the Fifth District Court of Appeal, however, has interpreted the consistency mandate as a minimal restriction.

In Hoffman v. Brevard County Board of County Commissioners [390 So.2d 445 (Fla. 5th D.C.A. 1980)], the petitioner owned 60 acres near the Sebastian Inlet which was zoned general use and designated on the plan as recreational and open space. The plan expressly stated that the property "should be retained for public recreational uses in conjunction with limited transient camping facilities." Hoffman asked the county to rezone the property for a travel trailer park. The commission refused, stating that such a commercial venture would be inconsistent with the public recreational designation in the plan.

The court upheld the county. It then proceeded to argue, in dicta, that the travel trailer park would have been consistent with the public recreational designation. The court reasoned that the plan should be read broadly to protect the rights of the landowner, and since the plan did not expressly distinguish between commercial and noncommercial recreational uses, in its opinion, a commercial travel trailer park was consistent with the plan.

The Fifth District Court of Appeal applied a very broad definition of consistency in this case, saying the comprehensive plan was only a "set of guidelines" that does not "rigidly bind" the commission in the administration of the zoning ordinance. This comes very close to denying the efficacy of the plan altogether.

A very recent circuit court case from Palm Beach County used the consistency mandate to hold invalid a rezoning by the county commission. The petitioners in Holiday City Civil Association and Boca Grande Property Owners Association v. Palm Beach County Commissioners owned home adjacent to property which had been rezoned from agricultural to general commercial use to accommodate the development of a large-scale shopping center. The plan designated the land as agricultural. The circuit court found that the proposed development would be disruptive to the character of the surrounding neighborhood and was inconsistent with the land use plan for Palm Beach County.

It might appear from these cases that a simple solution to the problem faced by local government officials of acting consistently with the plan when administering a zoning ordinance would be merely to amend the plan to make it consistent with the proposed rezoning. This raises an issue, which has been discussed in a few cases from other states, of whether the amendments are consistent with the plan.

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In Dalton v. City and County of Honolulu [462 P.2d 199 (Haw. Sup.Ct. 1969)], the Supreme Court of Hawaii held that Honolulu could not use the amendment procedure to circumvent the consistency mandate. At issue was a proposed development of multi-family housing in an area designated agricultural by the plan. To avoid acting inconsistently when accommodating this development, the city amended the plan to increase the density allowed on the property and rezoned it accordingly.

Although the court recognized the statutory authority to amend the plan, it held the amendment invalid in this case based on an analysis of the statutory purpose of the land use plan. The plan is intended to be "long-range and comprehensive," the court reasoned, because:

To allow the city to amend the General Plan and then adopt a zoning ordinance contrary to the unamended plan is to allow the city to accomplish by two ordinances exactly what the charter sought to prohibit.

Dalton is the first case to recognize and close a major loophole in the consistency requirement. If the local government can avoid acting inconsistently by simply amending the plan to accommodate a specific development proposal, then the comprehensive planning process is a worthless endeavor and consistency an impotent requirement. In that case, zoning would precede planning rather than vice versa as the LGCPA intends.

A case from Oregon which deals with this issue is South of Sunnyside Neighborhood League v. Board of County Commissioners of Clackamas County [569 P.2d 1063 (Or. Sup.Ct. 1977)], in which the plan was amended to raise the density on the subject property to allow the development of a hotel and shopping center complex. The Supreme Court of Oregon invalidated the amendment, arguing that because the legislature intended the plan to be "coordinated and interrelated," the amendment must be consistent with the unamended portions of the plan.

The comprehensive plan should never stand as a rigid barrier to change. As a live document, it ought to be periodically reviewed and amended. However, in applying the consistency mandate to the amendment process, Dalton and Sunnyside argue that an amendment should be coordinated with the rest of the plan to maintain its comprehensive, long-range nature. The LGCPA establishes procedures for the plan's amendment involving public hearings which tend to provide some degree of protection from ad hoc amendment. Unfortunately, the LGCPA is not otherwise helpful, stating merely that, "if any amendment to the land use element would be inconsistent with any other element of the plan previously adopted, the governing body shall also amend such other element..." This clause does not go as far as the cases to protect the long-range comprehensive nature of the plan. It is arguable, however, that the intent of the LGCPA, to establish the plan as a guide to future development, can only be fulfilled by protecting the plan's integrity from unwarranted amendment.

As the section quoted above indicates, internal consistency among the various elements of the plan is of importance. The
LGCPA also states: "Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent...." This third type of consistency has been at best only indirectly addressed by the courts.

In Green v. Hayward [552 P.2d 815 (Or.Sup.Ct. 1976)] the local government had rezoned two parcels of land adjacent to an existing veneer plant to allow the plant to construct facilities for the recovery of waste wood products. Opponents of the rezoning argued it was not in conformance with a land use map in the plan, which designated the parcels for agricultural use. In this case the map defined its own degree of specificity, stating, "In interpreting proposals shown on this plan diagram, it is necessary to refer to the findings, goals, objectives, recommendations, and descriptive analyses contained in the text...." The map was explicitly intended only to be illustrative and did not require the location of specific land uses. Therefore, the court reasoned it could not rely entirely on the map, and that to decide whether the rezoning was consistent required an examination of the rest of the plan.

The plan contained other policies such as preserving agricultural land, discouraging urban sprawl, and making the most efficient use of public services by encouraging the development of vacant land where services were available. Other objectives called for preserving the integrity of neighborhoods, protecting open space, and encouraging efficient transportation systems. In determining how consistency can be reached in a case of conflicting policies, the court said: "We are reluctant to hold that any of these general standards may be severed from the plan as a whole and used in isolation as justification for a rezoning decision." Since some of the policies contained in the plan supported the rezoning, and since the map was clearly of limited effect, the court held the rezoning to be consistent.

Although the court recognized the apparent inconsistencies among some of the policies of the plan, it did not say the plan was invalid. This is an important precedent, for the issue of internal consistency is bound to arise in Florida. It may be argued that a perfectly consistent plan is probably unattainable unless it is very specific. A general plan containing vague goals encouraging environmental protection as well as economic growth, for example, is capable of supporting contrary results. To purge one of these goals in keeping with a strict interpretation of internal consistency would deny reality and stifle the planning process.

The fourth and final type of consistency involves the plan's implementation. The LGCPA requires all land development regulations enacted or amended to be consistent with the plan. Hence, zoning, subdivision regulations, building and other codes must be consistent with the goals and objectives of the plan.

The Oregon Supreme Court was confronted with an inconsistent zoning ordinance in Baker v. City of Milwaukee [533 P.2d 772 (Or. Sup.Ct.)]. The city had adopted a zoning ordinance which established a density of 39 units per acre on the land in
question. The following year they adopted a comprehensive plan lowering this density to 17 units per acre. Several years later the city received an application to develop an apartment complex at 26 units per acre, within the limits of the zoning ordinance, yet higher than the requirements of the plan. The petitioner asked the city to conform the ordinance to the plan and to deny the application. Baker argued that the city had a duty to make the conflicting zoning ordinance consistent with the plan. The Supreme Court of Oregon agreed.

The court said that since the comprehensive plan was the controlling land use planning instrument for the City of Milwaukee, it must be given preference over conflicting zoning ordinances. Further, the court argued that because "zoning ordinances are subservient to the plan, the city has a responsibility to effectuate that plan and conform prior conflicting zoning ordinances to it." The court concluded, saying "... the zoning decisions of a city must be in accord with the plan and a zoning ordinance which allows a more intensive use than that prescribed in the plan must fail."

The problem of inconsistent zoning was not altogether solved by the court in Baker, for there remained the issue of zoning ordinances less intensive than the plan. This issue appeared two years later in Marracci v. City of Scappoose [552 P.2d 552 (Or. App. 1976)]. The city had denied Marracci a permit to construct an apartment complex because it exceeded the density authorized by the zoning ordinance. The plan, however, authorized a higher density and would have easily accommodated the development. Marracci sued to force the city to conform the zoning ordinance to the plan and grant a development permit.

The court interpreted Baker as holding that only "more intensive" zoning ordinances can be inconsistent. The court reasoned, "... a comprehensive plan only establishes a maximum limit on the possible intensity of land use...." Thus, the court concluded that there was no conflict between the plan and the zoning ordinance and upheld denial of the development permit.

This same issue was addressed by a Florida court in Dade City v. Inversiones Bafasar, S.A. [360 So.2d 1130 (Fla. 3rd D.C.A. 1978)], where the plan called for zoning the developer's land at five dwelling units per acre, but the existing zoning sets the density at one dwelling unit per acre. The developer petitioned the city to rezone the property to two and one-half dwelling units per acre, arguing it was compelled by the plan. The Third District Court of Appeal disagreed, saying:

... it must be recognized that the plan, by calling for a use from one to five homes per acre, leaves discretion to the County Commission as to whether development in the area substantiates one unit per acre or a greater density....

The zoning ordinance, which set a lower density than that shown in the plan, was upheld as consistent.
Judicial review

Whether the consistency mandate can be used successfully to encourage planned growth depends, in part, on the willingness of Florida courts to review local land use decisions. The courts of Florida have traditionally avoided these local disputes, however, by applying a very limited degree of review. The Oregon and California courts, on the other hand, expanded the scope of judicial review to address the consistency issue. This is an important precedent as Florida courts begin to hear cases involving the consistency mandate and deserves at least brief attention.

The Passano court found it needed a factual record to determine consistency adequately. Consequently, it was necessary to alter the standard of review applied to the past to local zoning matters. The court reasoned that because the rezoning at issue focused on specific piece of property and was not of general application, it was quasi-judicial, not a legislative action. This enabled the court to apply principles of administrative law and proceed past a determination of whether the action was merely arbitrary and capricious to examine the substance of the local government's action. Refusing to apply the traditional presumption of validity, the court shifted the initial burden to the board, as proponent of the rezoning, to prove its action was consistent. Moreover, it applied the competent substantial evidence rule, rather than the fairly debatable rule, to a review of the evidence. Because the board had failed to make findings of fact showing consistency with the plan, the court invalidated the rezoning.

The California courts take a somewhat similar approach in distinguishing legislative from quasi-judicial actions when reviewing local decisions for consistency with the plan. Findings of fact are necessary for quasi-judicial actions and the competent substantial evidence rule applies on review. Variances, subdivision plat approval and the granting of rezoning requests have been held to be quasi-judicial. Comprehensive plan and zoning amendments, however, are legislative, notwithstanding their specific application.

The law in Florida regarding the scope of judicial review of local land use matters is plagued with inconsistency and hopelessly confused. Principles of the separation of powers, administrative law, rules of evidence and appellate procedure cloud the development of a precise definition of the limits of judicial involvement. Although a thorough analysis of this law is beyond the scope of this article, a few general concepts regarding the scope of review of local land use matters do emerge from the case law.

Initially, a presumption of validity is applied by the courts to the actions of the local government. The attacker of a local land use decision has a burden of proving the action is not
even fairly debatable. This is a very heavy burden which the legislative/quasi-judicial distinction made in Fasano is not likely to ease.

The courts in Florida have traditionally applied the presumption of validity and the fairly debatable rule to both legislative and quasi-judicial actions. Two courts have applied the competent substantial evidence rule when reviewing variances and special exceptions. One court has applied both concepts at the same time and another has said that, whichever applies, they both mean the same thing.

With this confusion in the case law, it is unfortunate that the LCPA merely directs the courts to consider "the reasonableness of the comprehensive plan ... or the appropriateness and completeness of the comprehensive plan ... in relation to the governmental action."

The potential use of the consistency mandate to adequately police the implementation of the local comprehensive plan is severely reduced by the Florida courts' traditional abstention from local land use matters. This tradition may change as radically as the tradition of land use control was changed by the adoption of the LCPA. Never before have local governments in Florida been required to plan for their future development. Never before has the discretion of local decision-makers been limited by requiring consistency with the comprehensive plan.

Conclusion

Ralph Waldo Emerson said, "Consistency is the hobgoblin of little minds...." The Florida Legislature has declared it law. As such, the consistency mandate is intended to form the link between the comprehensive plan and the regulation of development. The term ensures that planning precede regulation, by controlling the plan's implementation as well as amendment.

The law regarding the consistency mandate is just beginning to develop. Currently unrecognized by lawmakers and jurists alike, this clause is perhaps the most important development in the area of land use control since the advent of Euclidian zoning. Whether it succeeds in improving the quality of planning and, therefore, the quality of life in Florida remains to be seen. At any rate, the consistency mandate will most surely generate an enormous amount of litigation in the years to come and may well change forever the degree of judicial involvement in local growth management issues.

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1. Section 163.3187 Fla. Stat. provides that the local comprehensive plans may be amended only twice per calendar year except in the case of an emergency.

2. The 1985 Local Government Comprehensive Planning and Land Development Regulation Act [LGCP&LDRA] provides that local land development orders and regulations be consistent with the local government plans. In order to implement the plans, the act requires that local governments adopt, at a minimum, land development regulations:

- for subdivisions.
- to implement the land use element of the plan, ensure compatible adjacent uses, and provide for open space.
- to protect potable water supplies.
- to regulate areas subject to flooding, and provide for drainage and stormwater management.
- to protect environmentally sensitive areas.
- to regulate signage.
- to provide for public services and facilities.
- to regulate traffic flow.

Although the local regulations are not generally reviewable, the DCA may require a local government to submit regulations, if “it has reasonable grounds to believe that a local government has totally failed to adopt any one or more of the ... regulations required by [the act].” If DCA finds that the local government has not adopted the necessary regulations, “it may institute an action in circuit court to require adoption of these regulations.” The court cannot review compliance of regulations with the act or consistency with the local plan.

3. The LGCP&LDRA also defines consistency for determining whether developments or local government actions are consistent with the local comprehensive plan.

Florida Statutes 163.3194

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the
land uses, densities or intensities, and other aspects of
development permitted by such order or regulation are compatible
with and further the objectives, policies, land uses, and
densities or intensities in the comprehensive plan and if it
meets all other criteria enumerated by the local government.

(b) A development approved or undertaken by a local
government shall be consistent with the comprehensive plan if the
land uses, densities or intensities, capacity or size, timing,
and other aspects of the development are compatible with and
further the objectives, policies, land uses, and densities or
intensities in the comprehensive plan and if it meets all other
criteria enumerated by the local government.

4. A 1984 Florida Supreme Court case, Citizen's Growth
Management Coalition of West Palm Beach v. City of West Palm
Beach, 450 So.2d 204 (Fla. 1984), involved the challenge of a
citizen's group to a rezoning decision which was alleged to be
inconsistent with the local government plan. The court found
that the citizen's group lacked standing to question the validity
of the ordinances: The following excerpt illustrates the court's
reasoning.

***

The question of standing to challenge zoning decisions was
comprehensively explained in Renard v. Dade County. In that case
a district court of appeal certified as a question of great
public interest:

The standing necessary for a plaintiff
to (1) enforce a valid zoning ordinance; (2)
attack a validly enacted zoning ordinance as
not being fairly debatable and therefore an
arbitrary and unreasonable exercise of
legislative power; and (3) attack a void
ordinance, i.e., one enacted without proper
notice required under the enabling statute or
authority creating the zoning power.

261 So.2d at 834. This Court held that under the first category
a plaintiff had to prove special damages different in kind from
that suffered by the community as a whole, that under the second
category a plaintiff needed to have a legally recognizable
interest that was adversely affected, and that under the third
category an affected resident, citizen, or property owner had
standing.

It therefore became important to determine
into which category a particular case fell,
for different rules of standing applied depending on whether the action sought to enforce a valid zoning ordinance, whether it attempted to attack a validly enacted zoning ordinance as being an unreasonable exercise of legislative power, or whether it involved an attack upon a zoning ordinance which was void because not properly enacted.

Skaggs-Albertson's v. ABC Liquors, Inc., 363 So.2d 1082, 1087 (Fla. 1978).

Appellant argues that none of these three categories are applicable to actions seeking to enforce compliance with the Local Government Comprehensive Planning Act. Appellant claims that although the legislature did not enact a separate statutory section on standing, it intended to grant standing to the fullest extent possible by using the phrase "justiciably raised" in section 163.3194(3)(a), which provides in part:

--A court, in reviewing local governmental action or development regulations under this act, may consider, among other things, the reasonableness of the comprehensive plan or element or elements thereof relating to the issue justiciably raised or the appropriateness and completeness of the comprehensive plan or element or elements thereof in relation to the governmental action or development regulation under consideration.

We do not find that the legislature, by adopting this section, intended to broaden the requirements for standing. Because the legislature did not specifically address the question of who has standing to enforce compliance with the Act, we find that it must not have intended to alter the standing requirements established in Renard v. Dade County.

In the alternative, appellant argues the Act creates for citizens and residents legally recognizable interests which are adversely affected if a rezoning ordinance fails to comply with the Act's requirements. We disagree with this contention. The legislature specifically delineated the intent and purpose of this act in section 153.3161, which provides:

163.3161 Short title; intent and purpose.--

(1) This act shall be known and may be cited as the "Local Government Comprehensive Planning Act of 1975."
(2) In conformity with, and in furtherance of, the purpose of the Florida Environmental Land and Water Management Act of 1972, chapter 380, it is the purpose of this act to utilize and strengthen the existing role, processes, and powers of local governments in the establishment and implementation of comprehensive planning programs to guide and control future development.

(3) It is the intent of this act that its adoption is necessary so that local governments can preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

(4) It is the intent of this act to encourage and assure cooperation between and among municipalities and counties and to encourage and assure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

(5) It is the intent of this act that adopted comprehensive plans shall have the
legal status set out in this act and that no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.

(6) It is the intent of this act that the activities of units of local government in the preparation and adoption of comprehensive plans, or elements or portions thereof, shall be conducted in conformity with the provisions of this act.

(7) The provisions of this act in their interpretation and application are declared to be the minimum requirements necessary to accomplish the stated intent, purposes, and objectives of this act; to protect human, environmental, social and economic resources; and to maintain, through orderly growth and development, the character and stability of present and future land use and development in this state.

Thus, the legislature has not indicated in this section that it intended to create additional legal rights in citizens who are only affected in common with the community as a whole. The expressed intent contained in subsection (5) that development shall not be permitted unless it is in conformity with the comprehensive plan imposes a legal duty upon the governing body but does not create a right of judicial redress in the citizens and residents of the community. The legal duty imposed on local governmental bodies is akin to their general obligation to pass ordinances that are reasonable. See 1 Rathkopf, The Law of Zoning and Planning sec. 3.05 (4th ed. 1979). We therefore hold that only those persons who already have a legally recognizable right which is adversely affected have standing to challenge a land use decision on the ground that it fails to conform with the comprehensive plan. Since the trial court found that the Coalition had failed to prove that it or any of its members had a legally recognizable interest which would be affected by the city’s ordinances, we affirm its holding that appellant lacked standing to question the validity of the ordinances.

It is so ordered.

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5. Largely in response to Citizen's Growth Management Coalition, the legislature created an administrative review process for development regulations to assure consistency with the local comprehensive plan. Within twelve months of the adoption of a regulation, substantially affected persons may challenge it as inconsistent with the local plan. (A regulation that is not challenged within twelve months is deemed consistent.) "Substantially affected" is defined in the same terms as in Chapter 120, the Administrative Procedures Act. As a condition precedent to the proceeding, the affected person must file a petition with the local government outlining the facts and the basis for considering the regulation inconsistent. Within thirty days of the local government's response, the person may petition the DCA for an informal hearing.

The DCA will issue a written opinion on whether the regulation is consistent with the local plan. If the DCA finds the regulation consistent, the person who filed the original petition may request an administrative hearing. The act provides that the "adoption of a land development regulation is legislative in nature and shall not be found to be inconsistent with the local plan if it is fairly debatable that it is consistent with the plan." The order of the hearing officer will constitute a final order, appealable pursuant to section 120.68.

If DCA finds the regulation inconsistent, the agency will request an administrative hearing. The standard of review is the same, and the hearing officer's order will be a final order.

In either proceeding, if the hearing officer finds the regulation inconsistent, the order will be submitted to the Administration Commission. The Administration Commission shall hold a hearing to consider sanctions against the local government, including restriction of funding, grants, and revenue sharing.

6. Even though coastal jurisdictions were originally required to include a "coastal element" in their local comprehensive plans, the LGCPA was not listed as part of Florida's networked coastal management plan. The federal government requires that elements of a state's coastal management plan have a state enforcement mechanism, and the state had only had the authority to review and comment upon local plans.

The 1985 amendments greatly expanded the requirements for the "coastal management" element of local comprehensive plans. The legislation included new policies, including limiting public expenditures that subsidize growth in high-hazard coastal areas, required extensive studies and inventories as a basis for the
coastal management elements, and listed components that the
elements must contain. Among the components are:

- a component outlining principles of hazard mitigation and
  protection of human life, including population evacuation in the
  event of impending natural disaster.

- a beach and dune protection component.

- a redevelopment component outlining principles for
  eliminating inappropriate and unsafe developments when
  opportunities arise; e.g., post-hurricane redevelopment.

- a shoreline use component identifying public beach access
  areas and assessing the need for water-dependent and water-
  related facilities.

- designation of high hazard coastal areas.

- a deep-water port component.

With the expanded coastal management element and the DCA review
procedures in place, can local comprehensive plans and the LCP26
LDRA be included in Florida's networked coastal plan?

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Regional Planning Councils

The role of Regional Planning Councils [RPCs] has been
discussed briefly in the context of developing comprehensive
regional policy plans, but the RPCs have other important duties
including review of Developments of Regional Impact. The nature
and function of RPCs is set out below:

SOUTH FLORIDA REGIONAL PLANNING COUNCIL

v.

BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY

372 So.2d 1142 (Fla. 4th DCA 1979):

***

The cause of action sued upon had its genesis in an
Interlocal Agreement entered into on July 1, 1974, between Dade,
Monroe, Broward and Palm Beach Counties. Said counties joined
together to form the SFRPC pursuant to Section 163.01, Florida
Statutes (1969) the purpose of which was:

a. To provide local governments with a means of
exercising the rights, duties and powers of a Regional
Planning Agency as defined in Chapters 23, 163, and 380 of the Florida Statutes, including those functions enumerated hereinabove by preambles, and other applicable Florida, Federal and Local law.

b. To provide a means for conducting the comprehensive regional planning process.

c. To provide regional coordination for the members of the Council.

d. To exchange, interchange, and review the various programs of the individual members which are of the regional concern.

e. To promote communication among members and the identification and resolution of common regional-scale problems.

f. To cooperate with Federal, State, Local and non-governmental agencies and citizens to insure the orderly and harmonious coordination of State, Federal, and Local planning and development programs in order to assure the orderly, economic, and balanced growth and development of the Region, consistent with the protection of the natural resources and environment of the Region and to protect the health, safety, welfare and quality of life of the residents of the Region.

Although the district contemplated to be affected by the Council’s planning activities also included Martin and St. Lucie counties, these counties never saw fit to join in the Interlocal Agreement.

Among the planning activities which the Council engaged in were the following: review of developments of regional impact, nominations for Areas of Critical State Concern, review of proposed federally funded projects, review of applications for Army Corp. of Engineer Dredge and Fill Permits and Subdivision Feasibility Studies. In addition, the SPRPC published a Coastal Zone Management Study and numerous other reports.

The operating budget of the SPRPC is derived from membership assessments, legislative appropriations, grants and matching funds from the state and federal governments, and charges for various services. The annual membership assessment, however, is the basic source of operating revenue, as legislative appropriations vary yearly, grants and matching funds span fiscal periods and fluctuate, and the various service charges are insubstantial.

* * *

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REGIONAL PLANNING COUNCILS

The state is divided into eleven regional planning councils. Each council is headed by a governing body which is made up of representatives appointed by local governments and the Governor. Each council has the authority to fix and collect membership dues to support its work. In addition, operating funds may be provided by the Legislature.

Based upon legislation passed in 1980, each council must develop and adopt comprehensive regional policy plans. These plans must be consistent with Chapters 373 and 403, F.S., and they shall be used to review developments of regional impact, local government comprehensive plans and federally assisted projects. Regional planning councils will be involved in the implementation of the coastal management program based upon Chapters 160 and 380, F.S.

Councils have had a formal role in reviewing developments of regional impact (DRI's) for a number of years. This role was augmented and strengthened with the passage of the Regional Planning Council Act of 1980. Thus, one role of the councils will be to develop and implement rules for reviewing DRI's. In addition to this formal role, the support and assistance of councils will be needed to address certain issues of special focus. In some cases, a council may have an informal role while in other cases, they may utilize coastal management funds to address a specific coastal issue. For example, the support and active participation of councils will be crucial to the development of effective hurricane evacuation plans...

All of the RPC's have specific program activities which have been recognized and incorporated into Florida's Coastal Management Program. Some of the activities that bear directly on coastal management include: DRI review and comment; local government planning assistance and review; and regional A-95 Clearinghouse coordination and review.

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