

COUNTY OF HENDRY, STATE OF FLORIDA

ORDINANCE NO. 2016- 09

RECORDED IN ORDINANCE BOOK XVIII, PAGE 169

AN ORDINANCE OF HENDRY COUNTY, FLORIDA AMENDING THE HENDRY COUNTY COMPREHENSIVE PLAN, ORDINANCE 91-05, AS AMENDED, SPECIFICALLY BY AMENDING THE FUTURE LAND USE ELEMENT BY ADDING A NEW FUTURE LAND USE CATEGORY, ELECTRICAL GENERATING FACILITY AND AMENDING THE INDUSTRIAL FUTURE LAND USE CATEGORY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR CODIFICATION, INCLUSION IN CODE, AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Hendry County, pursuant to Section 163.3161, et. seq., Florida Statutes, the Florida Local Government Comprehensive Planning and Land Development Regulation Act, was required to prepare and adopt a comprehensive plan; and

WHEREAS, the Hendry County Board of County Commissioners adopted the Hendry County Comprehensive Plan on March 5, 1991; and

WHEREAS, State law provides authority for local governments to amend their respective comprehensive plans and outlines certain procedures to amend adopted comprehensive plans; and

WHEREAS, Florida Power & Light Company (FPL) applied for an amendment to the Future Land Use Element by adding a new Future Land Use category, Electrical Generating Facility, and amending the Industrial Future Land Use Category; and

WHEREAS, the Hendry County Local Planning Agency conducted a public hearing on July 1, 2015, and considered the proposed amendment to the Comprehensive Plan pursuant to the authority granted to it by Section 163.3174, Florida Statutes, and recommended transmittal of said amendment by the Board of County Commissioners; and

WHEREAS, the Hendry County Board of County Commissioners conducted a public hearing on July 14, 2015, and approved transmittal of the amendment to the state land planning agency; and

WHEREAS, upon receipt of Hendry County's proposed amendment, various State agencies and the state land planning agency transmitted in writing to Hendry County their comments, pursuant to Section 163.3184, Florida Statutes; and

WHEREAS, Hendry County, upon receipt of the written comments from the state land planning agency and various State agencies scheduled a required public hearing pursuant to Section 163.3184, Florida Statutes; to either adopt, adopt with changes or not adopt the proposed Plan amendment.

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

SECTION ONE. COMPREHENSIVE PLAN AMENDMENT

The Hendry County Comprehensive Plan is amended as detailed in Exhibit 1, specifically by amending the Future Land Use Element as follows:

- 1) Amending the Industrial Future Land Use Category Policy 1.1.10, limiting types of electrical generating facilities;
- 2). Adding Policy 1.1.14 Electrical Generating Facility (EGF).

SECTION TWO. SEVERABILITY

The provisions of this ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any court of competent jurisdiction shall hold any of the provisions of this ordinance unconstitutional or otherwise invalid, the

decision of such court shall not affect or impair any remaining provisions of this ordinance.

SECTION THREE. CONFLICTS OF LAW

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted Hendry County Ordinance or Florida Statutes, the more restrictive shall apply.

SECTION FOUR. CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made part of the Hendry County Code; and that the sections of this ordinance may be renumbered or re-lettered and that the word "Ordinance" may be changed to "section," "article" or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Administrator's designee, without need of a public hearing, by filing a corrected or re-codified copy of same with the Clerk of Circuit Court.

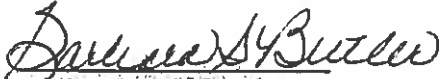
SECTION FIVE. EFFECTIVE DATE

The effective date of this Plan amendment shall be 31 days after the state land planning agency notifies the County that the Plan amendment package is complete, however, if the Plan amendment is timely challenged, it will not become effective until the state land planning agency or the Administration Commission enters a final order determining the amendment to be in compliance.

Duly passed and adopted in Regular Session of the Board of County Commissioners of
Hendry County, Florida this 12th day of April, 2016.

BOARD OF COUNTY COMMISSIONERS
OF HENDRY COUNTY, FLORIDA

ATTEST:


Barbara Butler, Clerk


Michael Swindle, Chairman

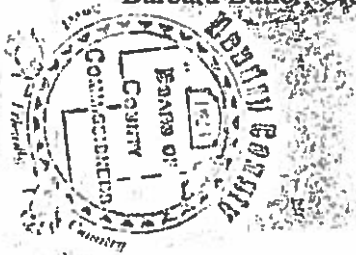


EXHIBIT 1**Policy 1.1.10 Industrial Future Land Use Category****Purpose**

The purpose of the Industrial Future Land Use Category is to identify those areas within Hendry County which currently are or should be classified for industrial development through the planning horizon of 2040.

Description/Uses

Lands classified as Industrial are primarily within the urban area of Hendry County with adequate infrastructure, including roads, water, sewer, and drainage systems. An exception to this location requirement would apply to mining and processing or to other industrial uses which can demonstrate that their use is not in direct support of and primarily intended to support the urban areas of Hendry County. Another example is AirGlades. Areas classified as Industrial should be of sufficient size and mass to permit long-term utilization of the industrial area to meet the needs of a growing urban community. Scattered locations should be discouraged. Uses permitted within the Industrial Future Land Use Category include: manufacturing, assembling, processing, storage (both inside and outside), distribution centers, batch plants, concrete plants, flex space for the service industry, mining and earth extraction and processing operations, electrical plants facilities that do not obtain approval through the Power Plant Siting Act (PPSA), ss. 403.501-518, Florida Statutes, recycling facilities, resource recovery facilities, similar uses, and ancillary uses specifically designed to service the industrial employment workforce. Ancillary uses shall be limited to restaurants, service stations, convenience stores, personal service uses and other similar uses designed to promote internal trip capture. Recreation uses are allowable in certain circumstances as defined by the provisions contained in the Land Development Code.

Location Standards

Areas classified as Industrial should be located within the urban area of Hendry County and have direct access to existing arterial roadway systems or be connected to those systems utilizing collector road systems built specifically for that purpose. These areas should also be conveniently located for the provision of central water and sewer. (Exceptions as shown above in Descriptions/Uses)

Residential/Density

- Residential – Not permitted. (Caretaker unit permitted)

Non Residential Intensity

- FAR – 0.75 for industrial uses.
- FAR – 0.25 for ancillary support facilities.
- Ancillary support facilities shall not constitute more than 20% of the total land area of an industrial park.

Minimum acreage: Industrial parks should be a minimum of 160 acres, while individual Industrial uses may be on less acreage if approved as a planned unit development.

Infrastructure/Roads

- Public arterial or collector system and private roads.
- Direct access onto existing arterial systems.
- Creation of collector roads specifically designed to connect to the arterial systems.

Water

- Central water systems, whether public or private

Wastewater/Septic Tanks

- Central systems, whether public or private

Open Space

Minimum open space – 15%.

Form of Development

Industrial development may occur in any of the following forms:

- Planned industrial park.
- Mixed-use planned development.

Policy 1.1.14 Electrical Generating Facility Land Use Category

Purpose

The purpose of the Electrical Generating Facility (EGF) Future Land Use Category is to provide guidelines for future designation of areas within Hendry County which can be utilized for electrical generating facilities and to establish guidelines and standards for the intensity and location of electrical generating facilities and associated ancillary uses.

Description/Uses

Lands in this category include properties which are designated or appropriate for either: 1) electrical generating facilities that obtain approval through the Florida Electrical Power Plant Siting Act (PPSA), ss. 403.501-518, Florida Statutes; or 2) electrical generating facilities not subject to approval through the PPSA. Uses may include all forms of electric generating facilities, including, but not limited to, electric power plants, combustion turbines, combined cycle units, thermal or photovoltaic solar fields and related facilities. Related facilities include uses directly related to the production of electricity, including but not limited to substations, collector yards, switchyards, fuel and by-product storage facilities, waste disposal areas, processing facilities, administrative offices, water storage, cooling towers, warehousing, educational and visitor centers, raw material storage and other ancillary uses related to the electrical generating facility. Agricultural uses including cropland, pastureland, orchards, groves and forestry are permitted uses within this category.

Location Standards

Lands classified as Electrical Generating Facility shall be located in rural areas of the County, where large amounts of undeveloped acreage exist. The adequacy/appropriateness of EGF project locations will be determined by the Hendry County Board of County Commissioners utilizing the following guidelines:

- **The site is near other existing or planned utility uses including transmission lines, or is accessible to/by existing or planned fuel transportation facilities;**
- **Adequate separation or buffering from power plant production units can be provided to adjacent properties;**
- **The site has direct access to existing or planned arterial or collector roads of sufficient capacity to ensure that, during plant operations, there will be no degradation to the level of service below the adopted standard; and**
- **No nuclear, coal or gas powered electrical generating plant shall be located within the following areas: Sections 25, 26, 35 and 36, Township South 47, Range East 32; Sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Township South 47, Range East 33; Sections 29, 30, 31, 32, 33, 34, 35 and 36, Township South 47, Range East 34; Sections 1, 2, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 27, 28, 33, and 34, Township South 48, Range East 32; Sections 5 and 9, Township South 48, Range East 33; and Sections 1, 2, 3, 4, 5, 6, 8, 9, 10 and 11, Township South 48, Range East 34.**

Residential/Density

- Residential – Not permitted. (Caretaker unit permitted)

Non-Residential Intensity

- The power plant units and directly related facilities shall occupy no more than seventy percent (70%) of the entire site and shall be subject to a maximum impervious surface ratio of 0.70.
- A minimum of thirty percent (30%) of the entire site shall be open space. Open space may include areas with native vegetation and/or landscaped areas. Crossings in open space areas by facilities and structures such as roads, rail, transmission lines, natural gas pipelines, water and sewer pipelines and communications lines, necessary for the operation of the power plant units and related uses, may be allowed, subject to applicable permitting. These facilities will be co-located wherever practicable to mitigate impacts to environmentally sensitive areas. Open space may also include wetlands, conservation and storm water areas.

Form of Development Approval

- Approval of a Future Land Use Map amendment designating the location of the EGF; and
- A comprehensive plan text amendment outlining a specific subarea policy applicable to the EGF, including, but not limited to, fuel source and estimated power generating capacity; and
- A Planned Unit Development (PUD) zoning district shall be required for any development proposed within the EGF future land use category.

Special Development Requirements for Electrical Generating Facilities

The following performance standards shall be applied to a site designated as Electrical Generating Facility (EGF). The electrical generating facilities, directly associated facilities and related uses:

- Shall be located where the effects of noise can be mitigated through a combination of maintaining existing vegetation, adequate setback from property boundaries, or through physical plant design. For the purpose of permitted levels of noise or sound emission, this land use category shall be subject to Hendry County's Noise Ordinance, in effect at the time of approval;
- Shall be located where visual impacts can be mitigated through existing topography, existing or planted vegetation, facility design and/or distance from property boundaries;
- Shall be set back and/or buffered from existing adjacent residential areas or designated residential future land use categories. Specific requirements shall be defined within the subarea policy;
- Shall utilize the best available control technology for protecting air quality consistent with State and Federal standards;

- Shall include liners and leachate controls consistent with State and Federal standards and guidelines for fuel and by-product storage facilities and waste disposal areas;
- Shall avoid, minimize or mitigate any impacts to environmentally sensitive areas, as determined by the appropriate State and Federal agencies;
- Shall provide compensatory storage for development in the 100-year floodplain consistent with local and state standards; and
- Shall connect to a central sanitary sewer system, if available, or provide onsite treatment for domestic wastewater. Septic tanks shall be permitted in accordance with applicable provisions of local and state codes, guidelines and ordinances, including the Hendry County Comprehensive Plan. No industrial wastewater will be treated in the sanitary sewer septic system. Potential discharges of wastewater will be through underground injection control wells. If any discharges to the groundwater or underground occur, the same will be identified, reviewed and permitted through the PPSA and/or federal processes.
- Shall connect to a central potable water system, if available, or provide potable onsite well(s). Onsite wells shall be permitted in accordance with applicable provisions of local and state codes, guidelines and ordinances, including the Hendry County Comprehensive Plan.

Compliance

- For facilities subject to the PPSA, compliance with federal, state and local regulations shall be addressed through both the Florida Electrical Power Plant Siting Act (PPSA) and other required federal permitting processes, notwithstanding any of the Goals, Objectives and Policies of the Hendry County Comprehensive Plan.
- For facilities that are not subject to the PPSA, compliance with federal, state and local regulations shall be required, including the Goals, Objectives and Policies of the Hendry County Comprehensive Plan.
- All facilities will be subject to the specific requirements of a PUD zoning.
- In the event of a conflict in the language of this land use category and other provisions within this or other elements of the Hendry County Comprehensive Plan, this land use category and its guidelines shall control.