

Zoning

I. Nature of the Tool

Zoning is a planning tool that divides land into “use districts” according to the character of the land and buildings, the suitability of land and buildings for particular uses, and the uniformity of use. Historically zoning regulations sought to separate different land uses to avoid conflicts between incompatible uses. Zoning regulations are drafted and enacted by the local government legislative authority, and they may be enforced by local government action. Zoning allows a local government to impose restrictions upon land owners that are consistent with the local government’s comprehensive plan and the public interest.

II. Relationship to Waterfronts

Waterfront zoning can mean many things because of the inherent flexibility in zoning regulations. One option is to create a new zone to encompass the entire waterfront area, a Recreational and Commercial Working Waterfront zone. By amending the comprehensive plan, the future land use map and the land development regulations, a local government can create regulations that will protect and promote recreational and commercial working waterfronts. The zoning can include mandatory public access requirements, incentives to encourage water-dependent and water-related uses, and design guidelines and standards to ensure that development is appropriate for the waterfront. Through zoning the entire waterfront as Recreational and Commercial Working Waterfront, the local government can delineate exactly what uses will be permitted within the zone. Again, because of the flexibility of zoning, the local government can also provide for special exceptions and conditional uses. By creating a discretionary review process for these exceptions and conditional uses, a local government can ensure that development options remain available for the future.¹ This technique also allows a local government to employ exactions and other regulatory tools and incentives to allow development while protecting recreational and working waterfronts and other values supporting the overall zoning classification.

III. Legal Issues

Initial court decisions upholding zoning recognized and relied, in part, on the overall "general welfare" purposes thought to be furthered by the stabilization and systematic ordering of land use and development. Courts noted the benefits of promoting and maintaining desirable residential areas, maintaining property values, providing public services, improving traffic flow, and the overall comfort

¹ For instance, while a community may not want hotels or motels in the Recreational and Commercial Working Waterfront zone initially, by creating a permit review process it does not foreclose the possibility of hotel in the future.

and happiness of citizens, resulting from zoning.² By 1926, when the U.S. Supreme Court upheld the constitutionality of zoning in the landmark case *Village of Euclid v. Ambler Realty Co.*,³ a majority of states had enacted zoning enabling statutes and many local communities had adopted zoning codes. State courts followed the Supreme Court precedent in *Euclid* and upheld the validity of zoning. Thus, by the end of the 1930s, the concept of zoning and the basic framework for its implementation and administration were firmly established in the states.

V. Best Policy Practices

Martin County Florida employs a Marine Waterfront Commercial zone to accommodate marine resort, marina and water related services. The waterfront commercial uses are either water-dependent or water-related as defined in the Land Development Regulations. Areas within the waterfront commercial area zoned as Marine Service Areas may not be developed or converted to residential uses other than accessory dwelling units.⁴ The zoning also prohibits a net loss of marine service areas and waterfront commercial lands.

² See e.g. *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365, 387-89 (1926).

³ 272 U.S. 365.

⁴ See Martin County Florida Comprehensive Plan, Chapter 4; Martin County ordinance, no. 687.