

2008



Compatible Use & Growth Management

FLORIDA
DEFENSE
ALLIANCE

Tiger Team

Enterprise Florida

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Table of Contents

Florida Defense Alliance Mission	3
Introduction	3
Value of Military/Defense presence to Florida	3
Florida’s Value to National Security	3
Challenge: Most Military Friendly State	4
1. Compatible Use	5
Statement of the Issue.....	5
Recommendation	5
Resource Document or Examples.....	6
2. Enforcement and Compliance	7
Statement of the Issue.....	7
Resource Document or Examples.....	8
3. Real Estate Disclosure	10
Statement of the Issue.....	10
Recommendation	10
Resource Document or Examples.....	10

Florida Defense Alliance Mission

- Foster the military presence in the State of Florida in support of National Defense.
- Preservation of test, training, and staging area suitable for maneuver by ground, naval or air forces to guarantee future availability of such areas to ensure the readiness of the Armed Forces conducting operations in Florida.
- To expand the defense industries.
- To ensure that both active and retired soldiers, marines, sailors, airman, guard and reserves receive continual improvement to their quality of life.
- Support local reuse efforts brought on by base closure or mission realignment.

Introduction

“Since the establishment of Spanish settlements at St. Augustine and Pensacola over 400 years ago, Florida has played an active role in defense.” (HAAS, VI, pg8).

Value of Military/Defense presence to Florida

“Military activity in Florida has long been a major source of employment for state residents, sales revenue for companies, and tax revenues for state and local government. Aggregate Department of Defense spending flowing directly into the State of Florida during fiscal year 2005 accounted to \$27.1 billion in wages, pensions and other transfers, and goods and services. This includes direct payrolls to servicemen and women, civilians, retirement and veterans’ benefits, and contracts with companies doing business in Florida. Fiscal year 2005 defense relation spending was responsible for **\$52 billion** in output, or gross state product, in Florida” (Florida Defense Factbook, 4).

Florida’s Value to National Security

With decades of critical, robust, and illustrious defense history, Florida today is arguably unmatched in true *value* to our Nation’s security. In fact, “over 58,000 active duty sailors, marines, soldiers, and airmen along with 26,500 civilians continue a tradition of service at 20 military installations located around the state” (HAAS, VI, pg 8). Most importantly, as a state, Florida continues to lead from the front by fostering a military presence to strategically support national defense enabling national security.

Through organizations such as the Florida Defense Alliance (FDA) and their efforts the State is undoubtedly committed to America’s national security objectives. Specifically, the FDA

champions and continues to support a large and increasing military presence in Florida, promotes Florida's reputation as the most military friendly state in the nation, tirelessly works to preserve test, training and staging areas, focuses on the expansion of defense industries, and provides unmatched quality of life assurances to both active duty and retirees. As a result, the value of Florida to America's national security is not in question, however, the state is at a critical juncture that if not handled in a proactive, deliberate, and forward looking manner, may threaten Florida's value to national security.

Challenge: Most Military Friendly State

In the years leading up to BRAC 2005, Florida's local military installation host communities and the State took very seriously the threats of possible installation and mission loss by what was accurately predicted to be " the mother of all BRACs". These communities and the state administration and legislature aggressively reviewed and amended significant legislative and regulatory matters that could have been seen by the BRAC Commission as reasons for moving out assets or reasons to avoid bringing assets to Florida. During that multi-year build up, Florida deservedly earned a national reputation as the most military-friendly state in the country. And, while there were certainly some unavoidable setbacks in BRAC 2005, the efforts clearly paid off with Florida coming through the process as a net gain state.

A by-product of Florida's efforts was the realization by other states that they, too, needed to address policy issues and make changes that would protect their military assets and make their states more attractive for future BRACs and the ongoing Department of Defense Transformation that will continue into the foreseeable future.

Several states around the country came out firing and the result was that Florida is now being seriously challenged for its place at the top. Creative state and local policy makers and planners across the nation reverse-engineered the BRAC 2005 decisions and quickly put in place the laws and regulations that would strengthen their positions as possible sites for future DoD realignments.

Whether the process goes forward carrying the BRAC title or not, it is clear the DoD and Congress are not yet finished with major base and mission realignment. Florida must understand this and move forward aggressively to make those changes that will ensure our state's third largest economic engine stays healthy.

Beyond, we owe it to our nation's defense and the men and women who serve our country.

For reports on other states' activities, please see Appendix X.

Priority Issues of Concern

1. Compatible Use

Statement of the Issue

National population shifts to the Southeast and more specifically the state of Florida along with a continued emphasis on a stable, strong and an ever-expanding military presence in Florida has necessitated a review of the competing land use issues and development dilemmas in and around military installations, training areas, and ranges.

Specifically, two major issues exist: the first issue is due to the confusing and non-uniform verbiage commonly used to outline and describe competing needs, while the second, and most compelling, issue is created by the vagueness of the most acceptable term/verbiage “compatible use.”

The antiquated term “encroachment” when used by military installations and communities during compatible use discussions presupposes one stakeholder’s interests inherently trump another; *naturally pitting the military versus civilian society*. A second, and less controversial term, “military enhancement” also suffers from a one sided categorization of growth issues. Lastly, the seemingly more acceptable verbiage “compatible land use” fails to capture, detail, and recognize many other established and emerging areas of compatible use. The state needs to outline an all encompassing, more acceptable, and uniform term (i.e. compatible use), which provides the proper level of depth, guidance and documentation to frame all military/civilian growth debates.

Recommendation

- 1) Embark on a statewide effort to strike antiquated, vague, and ineffective verbiage replacing it with “compatible use” (i.e. military compatible use committee vs. military enhancement committee; base compatible use issues vs. base encroachment issues; compatible use amendments vs. compatible land use amendments).
- 2) Strengthen compatible use laws by making the appropriate amendments to state statutes allowing the inclusion of the following (or similar) areas of compatible use:
 - a. Frequency Spectrum
 - b. Urban Growth

- c. Air Pollution/Quality Concerns
- d. Noise Pollution
- e. Maritime Competition
- f. Competition for Airspace
- g. Endangered Species/Critical Habitat
- h. Wetlands
- i. Water Quality/Supply
- j. Cultural Resources

Resource Document or Examples

N/A

2. Enforcement and Compliance

Statement of the Issue

Current military compatible use statutes are ill-equipped to provide the proper direction, guidance, and regulatory authority to ensure a robust, sustainable and ever emerging military presence in the State of Florida. As a result, the following analysis and conclusions are drawn from an in-depth review of Florida statutes 163.3175 & 163.3177 in light of:

1. The State's rapid growth and current compatible use challenges
2. The ever expanding military presence/mission
3. Other compatible use statutes currently in effect throughout the nation
4. Key stakeholder and businesses needs throughout the state

Analysis

- A. NOTIFICATION – Currently Florida statutes include notice and ex-officio language (similar to other states), but lack enforcement mechanisms for communities or jurisdictions that choose to ignore/circumvent the statute. In order to provide notification **and** enforcement changes are needed:

- i. First a finite trigger - a tripwire that will pass judicial scrutiny (i.e. Texas draft bill uses tree cutting, Arizona uses notice to state the Attorney General (about to be litigated it would appear), Washington has a "100 person base rule") must be clearly understood and adhered to within Florida statutes. Current legislation clearly states:

163.3175 (2)"Each county in which a military installation is either wholly or partially located and each affected local government must transmit to the commanding officer of that installation information relating to proposed changes to comprehensive plans, plan amendments, and proposed changes to land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation." This statute clearly outlines notification.

- ii. Second, an enforcement clause for failure to provide notification is needed.

CONCLUSION: Florida currently has adequate language for notification on the books; the statute critically lacks proper enforcement mechanisms for non-compliance.

- B. OUTREACH – Florida must implement a comprehensive outreach program to educate citizens, government, and the development community on the requirements and benefits

of our military bases. For example, California has a great product:

http://www.opr.ca.gov/military/handbook/Advisory_Handbook_Sec_4_Planning%20Tools.pdf

CONCLUSION: Recommend coordination with the SOF/USG for grants to develop similar products for dissemination throughout Florida.

C. INCENTIVES – Florida must provide proper mechanisms to identify and award incentives for developer compliance. Possible incentive programs are as follows:

- Defense Grant Eligibility Prioritization
- Impact Fees Waivers
- Other Potential State Program Eligibility Prioritization
- Prioritization of REPI (FLA Forever) funding
- Density Transfers/Bonuses
- Tax Credits

CONCLUSION: Coordinate the incentive discussion w/ the Florida legislative drafting group to ensure all options have been exhausted and practicability has been assessed.

D. ENFORCEMENT—The following is recommended as an option for enforcement of compliance statutes:

Failure to timely adopt and transmit Comprehensive Plan Amendments to address military installation compatible use as required by 163.3175 (2) shall result in local government being prohibited from adopting amendments to the Comprehensive Plan until the required military installation compatible use amendments have been adopted and transmitted to Department of Community Affairs (DCA).

Recommendation

1. Amend current statutes to provide proper enforcement mechanisms.
2. Implement a comprehensive outreach program.
3. Provide incentives for compliance.
4. Provide/enforce penalty for non-compliance.

Resource Document or Examples

(See Appendix I)

3. Real Estate Disclosure

Statement of the Issue

An emerging trend in recent Joint Land Use Studies for various Florida communities attempting to mitigate impacts from nearby military missions is to enact a local real estate disclosure ordinance (i.e. NAS Oceania). Such action normally requires local realtors to notify prospective buyers that the parcel is in an area impacted by the military mission, normally but not limited to noise from aircraft operations. Notification can be required at the time of listing or at the time of sale. However, investigation into current Florida Statutes does not have any provision that allows for this local ordinance to be codified. There needs to be something codified in Florida Statutes that allows for local governments to enact ordinances requiring real estate disclosure for parcels in an identified military mission impact area.

Recommendation

§ 475.278 F.S. currently governs required disclosures for real estate licensees in the State under a specified “Transaction Broker Notice” [paragraph (2)(b) and (2)(c)] and a “Single Agent Notice” [paragraph (3)(c)]. Both notices provide the requirement of the realtor to disclose “...all known facts that materially affect the value of residential real property and are not readily observable to the buyer.”

Therefore, it is recommended that § 475.278 F.S. be amended to require real estate licensees to abide by any local ordinances enacted to stipulate real estate disclosures to prospective buyers on parcels that have been identified as impacted by the military mission. This would then codify the local ordinance as binding and required of all real estate licensees in that area.

Resource Document or Examples

Santa Rosa County Disclosure Requirements

A disclosure notifying potential owners or lessees of the possible effects due to the operations of a public airport or military airfield or installation is required for any residential property that is sold or leased (for more than seven months) which is located, in whole or in part, within a Public Airport Notification Zone or a Military Airport Notification Zone.

This disclosure must be executed by both parties (and signed by any Realtors who represented the buyers or the sellers) and must be attached to the contract of sale or lease

agreement. Further, a fully executed copy must be sent to the Naval Air Station Whiting Field Aviation Planning Office, 7077 Lexington Court, Milton, Florida 32570-6016.

- [Disclosure Form and Instructions](#)
- [How to determine if a property is located in a Notification Zone](#)

Maps

- [Interactive GIS Mapping System](#)
- [Static maps of Airport Zones](#)
- [Static maps of Airport Influence Areas](#)
- [Static maps of Airport Notification Zones](#)

APPENDIX

