Task 3

Process for Clarifying Build-Back Standards

Analysis of Countywide Build-Back Standards

The Hillsborough County Board of County Commissioners (BOCC) at a June 2009 Workshop supported further development of implementation strategies for the draft Post-Disaster Redevelopment Plan (PDRP) with a specific emphasis on establishing rebuilding standards. The consensus during the PDRP planning process for addressing build-back standards was that actions should be undertaken as soon as possible to clarify exactly what policies and codes will be enforced during rebuilding because a sense of certainty of what will be allowed before a disaster will lead to a smoother rebuilding process. Slight variations between different codes related to rebuilding standards could slow down recovery by making it more confusing for property owners to determine what they are allowed to build back and for staff to ensure they are enforcing the correct standards.

Deciding which standards should be required after a disaster though will require consideration of what is truly necessary for the community. While some of the specific architectural standards chosen through recent community planning processes may not be necessary for post-disaster redevelopment, not rebuilding to these community-based standards will mean the community's vision will take even longer to realize. On the other hand, forcing new aesthetic requirements on property owners, such as yard setbacks and window placement rules, could produce financial hardships that may dissuade them from rebuilding when coupled with other essential but costly rebuilding requirements such as complying with new building codes. The county or cities may inadvertently push property owners to relocate to an area with fewer restrictions, possibly outside of the county altogether. Therefore, a thorough analysis of what is currently in place in Hillsborough County and its municipalities and what the impact of alternatives would be to the property owners and to the community is necessary to address the issue of build-back standards.

Goals of modifying build back standards:

1. Provide clear level of expectation for property owners
    - More confidence in rebuilding
    - Possibly more rapid start to rebuilding
2. Limit individual variances applied for after disaster
    - Could slow recovery as many could be waiting for variances before rebuilding
    - Could overwhelm staff and approval processes
3. Make enforcement easier and perhaps faster
    - Removing uncertainty or subjective standards will make inspections and permitting more streamlined
4. Ensure essential improvements in reconstructed structures
    - Increase resilience
5. Ensure burden on property owners does not preclude desired reconstruction
    - Limiting unnecessary requirements will make rebuilding less costly

This report reviews and analyzes local policies and codes that would regulate post-disaster redevelopment for the following jurisdictions: Hillsborough County, City of Tampa, City of Temple Terrace, and City of Plant City. It is organized by type of nonconformity: 1) use; 2) structure; 3) other aspects of property, such as setbacks, buffers, fences, walls, and landscaping; and 4) signs. An analysis of each policy or code is provided as well as comparisons of redevelopment regulations across the four jurisdictions. The report concludes with recommendations for modifications to the policies and codes to provide clarity and consistency.

1. NONCONFORMING USES

The following section includes policies and standards related to nonconforming uses and analyzes how these policies and standards may affect post-disaster redevelopment.

Hillsborough County

Comprehensive Plan for Unincorporated Hillsborough County, Florida, 2008.

Future Land Use Element

Objective 9: All existing and future land development regulations shall be made consistent with the Comprehensive Plan, and all development approvals shall be consistent with those development regulations as per the timeframe provided for within Chapter 163, Florida Statutes. Whenever feasible and consistent with Comprehensive Plan policies, land development regulations shall be designed to provide flexible, alternative solutions to problems.

Policy 9.3: In implementing this Comprehensive Plan, Hillsborough County shall continue to recognize legal nonconforming uses, and permit the rebuilding or expansion on adjacent properties. With the exception of principle residences, or uses or structures destroyed by an act of God, the expansion of nonconforming uses and rebuilding of non conforming uses, shall not occur more than once. The expansion or rebuilding shall not result in an increase of the intensity of use which exceeds fifty (50) percent of the existing intensity or the maximum building square footage within the plan category. However, the expansion may permit the construction of a use that is less intense than the existing nonconforming use. The new use may still be nonconforming with the plan. All expansions or rebuilding shall be consistent with other plan policies.

Analysis

Legal nonconforming uses that are destroyed by an act of God can be rebuilt and expanded up to 50% of their existing intensity or the maximum building square footage within the plan category and are not limited by past rebuilding or expansion that may have occurred. The rebuilding must be consistent with other plan policies though so while the use can be continued that does not automatically mean the structure can be rebuilt (see **Section 2, Nonconforming Structures**). Allowing expansion of the use is in conflict with County Ordinance 93-20 *if* the structure was damaged more than 50% of its replacement value (see below for details).

The terms “legal nonconforming use”, “destroyed”, and “act of God” are not defined in the Future Land Use Element.

Hillsborough County Redevelopment Ordinance 93-20.

Section 5: Determination of Damage, Build-Back Policy, Moratoria and Emergency Repairs

(C) County Build-back Policy: Structures which have been damaged by a storm event or emergency to the extent that the cost of their reconstruction or repair exceeds fifty percent (50%) of the replacement cost of the structure may be reconstructed at (but not to exceed) the legally documented actual use**,** density and intensity existing at the time of destruction, thereby allowing such structures to be rebuilt or replaced to the size, style, and type of their original construction, including their original square footage; provide, however, that applicable federal and state regulations, local building and life safety codes, and other local regulations do not preclude reconstruction otherwise intended by this policy.

In accordance with this policy, the Ordinance shall provide that:

(1) Structures damaged less than fifty percent (50%) of their replacement cost at the time of damage can be rebuilt to their original conditions, subject only to current building and life safety codes.

(2) Structures damaged more than fifty percent (50%) of their replacement cost at the time of damage can be rebuilt to their original square footage and use density or intensity, provided that they comply with:

(a) federal requirements for elevation above the 100-year flood level;
(b) building code requirements for flood-proofing;
(c) current building and life safety codes;
(d) state Coastal Construction Control Lines;
(e) any required land development regulations (other than density or intensity), unless compliance with such regulations would preclude reconstruction otherwise intended by the build-back policy.

(3) No provision is made to redevelop property containing damaged structures for a more intense use or at a density higher than the original lawful density. Redevelopment at a higher density or more intense use shall be permitted in accordance with the current land development regulations and no redevelopment at a higher density or more intense use shall commence until appropriate Zoning Development Review Building Permit and other applicable approvals are granted.

Relevant Definitions (Ordinance 93-20)

“Building Value" means the latest total assessment of all improvements on a parcel of land recorded on the Hillsborough County Property Appraiser's file before the structure was damaged. Building value for structures not yet on the rolls of the Property Appraiser or under construction shall be valued by an alternative method.

"Destroyed Structure" means a structure that is a total loss or damaged to such an extent that repairs are not technically or economically feasible. The indicator for this

category is if the cost of repairing the structure exceeds fifty (50%) percent of the replacement cost of the structure at the time of damage or destruction.

"Emergency" means any occurrence, or threat thereof, whether accidental, natural, or caused by man, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property (Chapter 252, Florida Statutes -1989).

"Replacement Cost" means the actual cost to repair, reconstruct, rebuild or replace a damaged structure. For purposes of this ordinance, the replacement cost shall be compared to the structure's building value contained in the Hillsborough County Property Appraiser's file to determine the percent of the structure damaged category.

"Storm Event" means any severe, natural weather event causing damage and destruction of property. A storm event shall include, but not be limited to, hurricanes, tropical storms, severe thunderstorms, tornadoes, and waterspouts.

"Structure" as defined in the Land Development Code, means anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to principal or accessory buildings, signs, fences, walls, ridges, monuments, flagpoles, antennas, transmission poles, towers and cables.

Analysis

Ordinance 93-20 allows for the continuation of documented uses that existed prior to the disaster, if there is no increase in intensity or density, and the structure (if damaged more than 50%) can be brought up to current codes and setbacks (discussed more in **Section 2, Nonconforming Structures**). Section 5.C(3) requires redevelopment at a higher density or more intense use to meet current land development and zoning requirements and to obtain all appropriate permits prior to commencing redevelopment. This is not consistent with the County Comprehensive Plan Policy 9.3 of the Future Land Use Element which allows expansion of nonconforming uses up to 50% over what was there or the maximum square footage allowed in the zone.

Hillsborough County Land Development Code, Interpretations, Exceptions, Equitable Relief and Enforcement, Article XI.

Part 11.03.00: Nonconformities

It is further the intent of the Land Development Code that the nonconformities shall not be enlarged upon, expanded, intensified or extended, nor be used as grounds for adding other structures or uses otherwise prohibited by the Code, except as provided herein (Part 11.03.00, Sec. 11.03.01).

> Section 11.03.06: Nonconforming Use
> The Administrator may certify uses not otherwise meeting the provisions of this Code and authorize utilization of such certified uses as provided in this section.

(C) Cessation of Use: If the use ceases for more than 90 consecutive calendar days or a total of 180 calendar days in a one year period, subsequent use of the premises shall conform to the district regulations.

(D) No such use shall be relocated or moved to any portion of the lot other than that occupied at the time that nonconforming status was created.

(G) Act of God: The rebuilding of principal residences or the rebuilding of nonconforming uses or structures damaged or destroyed by an Act of God, may occur at any time without a Nonconformity Special Use Permit.

(H) Repairs and Maintenance of Structures Containing Nonconforming Uses

(2) Repairs and maintenance on any building devoted in whole nonconforming use may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to an extent not exceeding ten percent of the current replacement value of the building. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

(J) Expansion, Change, or Rebuilding of Nonconformities

(1) Any property owner wishing to expand, change or rebuild an existing legal nonconforming use shall apply for a Nonconformity Special Use Permit in accordance with the provisions set forth in 10.03.00 of this Code. Expansion, change, or rebuilding shall only be permitted where the Board of County Commissioners finds no significant adverse effects of such nonconformity on adjacent properties. Any structural rebuilding shall be in accordance with the standards of the zoning district in which the property is located. Additions, modifications, or other physical changes to a legally non-conforming structure that adhere to the reduced setback line may be permitted, even if they increase the amount of building area within the required yard, provided other development standards are met.

(2) Expansion of nonconformities shall not occur more than once and shall not exceed 50 percent of the existing square footage or intensity of use.

(3) Notwithstanding the foregoing, principal residences and uses or structures damaged or destroyed by an Act of God may be rebuilt at any time without a Nonconformity Special Use Permit.

Section 11.03.07: Nonconforming Density
The administrator may certify densities not otherwise meeting the provisions of this Code and authorize utilization of such certified densities as provided in this section.

(D) Acts of God: The rebuilding of structures contributing to a nonconforming density that are damaged or destroyed by an Act of God

may occur at any time without a Nonconforming Density Special Use Permit.

Relevant Definitions (Hillsborough County Land Development Code)

"Act of God" is an overwhelming, unpreventable event caused exclusively by forces of nature, such as an earthquake, flood, or tornado, and including all natural phenomena that are exceptional, inevitable, and irresistible, the effects of which could not be prevented or avoided by the exercise of due care or foresight (Part 12.01.00).

"Nonconforming Use" as defined in the Land Development Code, Nonconforming use to include the nonconforming use of a structure, the nonconforming use of land or water, the nonconforming use of structure, land and water in any combination (Part 11.03.00, Sec. 11.03.02).

Analysis

The Code provides an exception for obtaining a Nonconformity Special Use Permit for principal residences and densities, uses, or structures damaged or destroyed by an Act of God, allowing for those uses to be rebuilt at any time. Repairs and maintenance in order to strengthen or restore a building for public safety are also allowed.

The Code is consistent with the County Comprehensive Plan (and inconsistent with Ordinance 93-20) in allowing for expansion of nonconforming uses up to 50% over the original square footage or intensity.

The Act of God definition does not include man-made disasters, i.e. terrorism or chemical contamination, and therefore there is no exception for allowing nonconforming uses to continue in these circumstances. This is inconsistent with Ordinance 93-20, since the build-back policy contained in the Ordinance refers to damage from storm event or emergency. The definition of emergency used in the Ordinance includes man-made occurrences which result in substantial injury or damage.

City of Tampa

Tampa Comprehensive Plan: Building Our Legacy a Livable City, 2009

Sustainable Environment Element

Goal 41: City of Tampa shall preserve, protect, restore, and appropriately manage the natural resources of the Coastal Planning Area to maintain or enhance environmental quality for present and future generations. To this end, City of Tampa shall restrict development that would damage or destroy the City's coastal resources and shall strive to protect human life and limit public expenditures in areas susceptible to destruction by natural disasters.

Objective 41.1: Direct future population concentrations away from Coastal High Hazard Areas (CHHA) so as to achieve a no net increase in overall residential density within the CHHA.

Policy 41.1.1: The Coastal High Hazard Area (CHHA) is hereby defined as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

Policy 41.1.4: For purposes of evaluating development proposals or site plans, if any portion of the proposed building footprint is in the Coastal High Hazard Area, then the entire parcel shall be considered within the Coastal High Hazard Area.

Analysis

The Tampa Comprehensive Plan directs development out of the CHHA and requires no net increase in residential development. It defines inclusion in the CHHA if any of the proposed building footprint is within the zone. This is consistent with other noncorforming and build-back regulations in the city that do not allow increases in density.

City of Tampa Code of Ordinances, Zoning, Chapter 27.

Article XII: Nonconformities

Sec. 27-296. - Nonconforming uses of land without structures or with minor structures.

(a) Nonconforming uses of land not involving any permanent structure with a replacement cost in excess of two thousand dollars ($2,000.00) or a combination of permanent structures with a replacement cost not exceeding five thousand dollars ($5,000.00), as determined by the zoning administrator, shall cease within two (2) years of the adoption of the ordinance from which this chapter was derived, or any amendment which shall cause such uses to assume nonconforming status.

Section 27-297: Nonconforming Uses of Major Structures or Structures and Premises in Combination

Nonconforming use(s) of structure(s) with a value higher than the respective values set forth in section 27-296 shall be considered a major structure, and may be continued exactly as such use(s) existed at the time its nonconforming status was established, provided:

(1) A nonconforming use may not be enlarged, extended, intensified, or changed, except for a change to a use permitted in district in which the property is located, except as provided in subsection a. below.

a. A nonconforming use may be extended through portions of a building manifestly arranged or intended for such use, but not otherwise, and shall not extend to occupy land outside such building or any additional building not used for such nonconforming use at the time that nonconforming status was established.

(2) If a nonconforming use ceases for any reason for more than one hundred eighty (180) consecutive days, or if a nonconforming use is changed to a conforming use, said use shall lose its legal nonconforming status. Thereafter, subsequent occupancy and use of the land, the building, and the structure shall conform to the regulations of the districts in which the property is located and any structural alterations necessary to conform the structure or building to the regulations of the district in which the property is located shall be required. Cessation of use includes, but is not limited to, vacancy of the building or structure in which the nonconforming use was conducted, or discontinuance of the activities consistent with or required for the operation of such nonconforming use. The determination of cessation of use or change to a conforming use will be determined irrespective of whether or not an intention to cease or abandon the nonconforming use may exist.

(3) When building(s) or structure(s) devoted to a nonconforming use are destroyed or damaged, by any cause, to the extent of sixty (60) percent or more of the current assessed taxable value of all the building(s) or structure(s) comprising the nonconforming use, such building(s) or structures, if restored, shall thereafter be devoted to conforming uses.

Relevant Definitions

"Nonconformities" are those characteristics of the property, structure or use which are not permitted in the schedule of permitted uses or do not conform to the schedule of area, height, bulk and placement regulations, or other provisions of this chapter, but were legal at the time they were established (Tampa Code of Ordinances, Article XXIV).

Analysis

City of Tampa Zoning Ordinance does not allow nonconforming uses to continue if the building or structure is damaged or destroyed to an extent of 60% or more of the current assessed taxable value. The 60% threshold is different than the National Flood Insurance Program and most communities' definitions of substantial damage. However, since it is 60% of the *taxable value* the result could be very comparable to the County's 50% of *replacement value* build-back policy found in County Ordinance 93-20.

The nonconforming use may not be enlarged, extended, intensified or changed unless permitted within the district where the structure is located. An additional policy establishes that a cessation of a nonconforming use for 180 days, for any reason, shall thereafter only be used to a conforming use and the building must meet the regulations of the district. After a disaster, a nonconforming use activity could have to temporarily cease or the building could remain vacant for an extended period of time depending on the level of disaster and this would most likely not be within the property owner's or lessee's control.

Hurricane Plan for Tampa Growth Management and Development Services, 2008

City of Tampa Hurricane Build-Back Policy

Build-back Policy: Structures which have been damaged may be reconstructed at, but not exceed, the legally documented actual use, density and intensity existing at the time

of destruction; thereby allowing such structures to be rebuilt or replaced to the size, style, and type of their original construction, including their original square footage. Providing, however, that applicable federal and state regulations, local building and life safety codes, other local regulations do not preclude reconstruction, they must also comply with:

a) Federal requirements for elevation above the 100-year flood level, and substantially damaged structures

b) Federal requirements for flood proofing

c) Current building and life safety codes

d) State coastal construction control lines where applicable

e) Any required land development regulations (other than density or intensity), unless compliance with such regulations would preclude reconstruction otherwise intended by the build-back policy.

No provision is made to redevelop property containing damaged structures for a more intense use or at a density higher than the original lawful density. Redevelopment as a higher density or more intense use shall be permitted in accordance with the current land development regulations and no redevelopment at a higher density or more intense use shall commence until appropriate Zoning, Development Review, Building Permit and other applicable approvals are granted.

Analysis

The Hurricane Plan is a departmental emergency plan not officially adopted by the City Council. It could be activated via an executive order by the Mayor in a time of emergency. The Tampa Build-Back Policy Section is based on the County's Ordinance 93-20. This plan allows for the reconstruction of non-conforming uses as they existed prior to the disaster with no increases. This contradicts the city's zoning code which does not allow the continuation of non-conforming uses if the damage exceeds 60% of taxable value.

City of Temple Terrace

Temple Terrace Land Code, Nonconforming Development and Variances, Article VIII.

Chapter 25: Land Development
Where at the effective date of adoption (July 19, 1966) or amendment of this Chapter, a lawful use of land exists as a permissible zoning use and is made no longer permissible under the terms of this Chapter as enacted or amended, such use may be continued as long as it remains otherwise lawful subject to the following provisions:

Section 25.810.2: Nonconforming Uses of Land or Lots

(b) No such nonconforming principal permitted use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such principal permitted use at the effective date of adoption or amendment of this Chapter.

(c) If any such nonconforming principal permitted use of land ceases for any reason for a period of more than ninety (90) days, any subsequent principal permitted use of land shall conform to the regulations specified by this Chapter for the district in which such land is located.

(h) Single family dwelling uses identified as nonconforming through a rezoning of the district to commercial uses are permitted to continue in the event that the single family dwelling is destroyed (unless destroyed intentionally by the owner) notwithstanding the provisions of this Section. Such nonconforming single family dwelling uses shall be subject to all other provisions of this Section *(Ord. No. 906, 12-19-95)*.

Section 25.810.4 (Nonconforming Use of Structures):

(a) No existing structure devoted to a use not permitted by this Chapter or an amendment thereto in the district in which it is located shall be enlarged, expanded, extended, constructed, reconstructed, moved, or structurally altered except to change the use of the structure to a use permitted in the district in which it is located.

(d) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months, or for eighteen (18) months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

(f) Where nonconforming use status applies to a structure and premises in combination, upon removal or destruction of the structure, the nonconforming use shall be discontinued.

Relevant Definitions (Temple Terrace Code, Section 25.810.4)

“Destroyed” defined in Article VIII of the Temple Terrace Code, is a structure being destroyed by any means to an extent of more than fifty (50) percent of its market valuation at the time of the damage, or at time of destruction.

“Nonconforming Use of Structure” defined in Article VIII of the Temple Terrace Code, Where at the effective date of adoption (July 19, 1966) or amendment of this Chapter, a lawful use of a structure, or of a structure and premises, or a combination thereof, exists that could not be allowed in the zoning district under the terms of the current provisions of this Chapter, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions of section 25.810.4.

Analysis

In the event a single family dwelling is unintentionally destroyed, the use can continue even if it is nonconforming to the district. Other principal uses of land, however, are not provided an exception for unintentional destruction and are to be discontinued on the premises if the structure that also has nonconforming use status is removed or destroyed (threshold for destruction is 50% of its market valuation prior to damage) (Section 25.810.4(f)).

If a nonconforming use of land (other than a single family dwelling) ceases for more than 90 days the use must thereafter conform. If the nonconforming use of a *structure* is discontinued or abandoned for six consecutive months or for 18 months during any three-year period the structure thereafter must be used in conformance with the regulations of the district. These cessation rules could come into affect after a disaster causing some nonconforming uses to be discontinued.

City of Plant City

Code of Ordinances City of Plant City, Zoning, Chapter 102.

Article 3: Nonconformities

Section 102-156 (Nonconforming uses of buildings): The lawful use of a building existing on the effective date of the ordinance from which this chapter derives may be continued, although such use does not conform to this chapter. Such use may be extended throughout the building, provided no structural alterations, except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building, are made therein. No such use shall be extended to occupy any land outside such building. If the nonconforming use of such building is discontinued for a continuous period of not less than 180 days, every future use of the premises shall be in conformity with this chapter. (Code 1977, § 111.22).

Section 102-157 (Nonconforming uses of land): The lawful use of land existing on the effective date of the ordinance from which this chapter derives, although such use does not conform to this chapter, may be continued. However, no such nonconforming use shall be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land than that occupied by such use on such effective date. If the nonconforming use is discontinued for a continuous period of not less than 180 days, any further use of the land shall be in conformity with this chapter. However, where land which is not used for a use excluded from the district in which such land is located and such use is not an accessory to the use of a main building located on the same lot or grounds, such nonconforming use of land shall be discontinued and all material completely removed by its owner not later than three years from the effective date of the ordinance from which this chapter derives.

Section 102-159 (Restoration of buildings): Nothing in this chapter shall be taken to prevent the restoration of a building destroyed to the extent of not more than 100 percent of its assessed value by fire, explosion or other casualty, or Act of

God or the public enemy, nor the continued occupancy of use of such building or part thereof which existed at the time of such partial destruction. (Code 1977, § 111.22)

Relevant Definitions (Code of Ordinances, Article 1, Section 102.3)

"Nonconforming use" means a building or the use of a building, or land that does not conform to the regulations of the use district in which it is located.

Analysis

Plant City makes an exception to its nonconforming use rules for any building partially or totally destroyed by most causes of accident or disaster – "fire, explosion or other casualty, or Act of God or the public enemy (Section 102-159)". It limits restoration to what was there before with no increase ("not more than 100 percent of its assessed value").

Comparison of Jurisdictions' Redevelopment Regulations for Nonconforming Use

Build-Back Policy Items	Hillsborough County	City of Tampa	City of Temple Terrace	City of Plant City
Continuation of use if damaged or destroyed	Yes	Zoning Code= No; Hurricane Plan = Yes	No, unless it's a single family dwelling	Yes
Cause of damage	Comp plan and LDC = Act of God (natural disaster); Ord. 93-20 = storm event or emergency	Any	Unintentionally destroyed	Fire, explosion or other casualty, or Act of God or the public enemy
Damage threshold requirements	Comp plan = not defined; LDC = 50% of building value; Ord. 93-20 = 50% of replacement cost	Zoning code = 60% of the current assessed taxable value of structure(s); Hurricane Plan= none	50% of its market valuation at time of damage	Not more than 100%
Expansion limitations	Comp plan and LDC = Not to exceed 50% increase; Ord. 93-20 = no increase	No increase	No increase	No increase
Cessation of use limitations	None if damaged by an Act of God; otherwise 90 consecutive days or a total of 180 days in a 1 year period	180 consecutive days	90 days for principle use of land (except single family dwelling unintentionally destroyed); 6 consecutive months or 18 months in a 3-year period for nonconforming use structure	Not applicable to destroyed building (by above causes). 180 days if not destroyed or by other causes

2. NONCONFORMING STRUCTURES

The following section includes policies and standards related to nonconforming structures; and analyzes how these policies and standards may affect post-disaster redevelopment.

Hillsborough County

Comprehensive Plan for Unincorporated Hillsborough County, Florida, 2008

Coastal Management Element

Objective 12: The County shall continue to implement a post-disaster redevelopment ordinance to reduce or eliminate the exposure of human life and public and private property to natural hazards.

> Policy 12.4: Any structure or infrastructure within the coastal planning area that is damaged in excess of 50 percent of its most recent assessed value, shall be rebuilt in conformance with all current standards and requirements, including those enacted since the construction of the structure or infrastructure, except as otherwise stated in the Hillsborough County Post Redevelopment Ordinance (Ordinance 93-20).
>
> Policy 12.5: If any public structure or infrastructure within the coastal area is damaged in excess of 50 percent of its most recent assessed value, and if the County's post disaster redevelopment ordinance permits development, then the structure or infrastructure must be rebuilt to meet or exceed all current standards and requirements, including those enacted since the construction of the structure or infrastructure.

Relevant Definitions

"Coastal Planning Areas" are those portions of Hillsborough County that lie within the Hurricane Vulnerability Area (all evacuation zones). This area shall also include water and submerged lands of oceanic water bodies or estuarine water bodies; shorelines adjacent to such water bodies; coastal barriers; living marine resources; marine wetlands; water-dependent or water-related facilities on oceanic or estuarine waters, public access facilities to oceanic beaches or estuarine shorelines; and all lands adjacent to such occurrences where development activities would impact the integrity of the above-mentioned land or water body.

Analysis

Any public or private structure or infrastructure located in the coastal planning area (Evacuation Levels A-E) and damaged in excess of 50% must be rebuilt in conformance with all current standards and requirements. For private structures and infrastructure, however, Ordinance 93-20 build back standards take precedence. This means that if the current standards for a substantially damaged structure would limit the square footage, Ordinance 93-20 would overrule Policy 12.4 since it allows rebuilding to the original square footage. It also introduces the exception included in Ordinance 93-20

that the regulations do not need to be followed if it would preclude reconstruction intended by the build-back policy.

For public structures and infrastructure, the comprehensive plan states that the Ordinance 93-20 may take precedence in determining whether the public facility *can* be rebuilt but that if it is rebuilt it must comply with this Coastal Management policy. There is nothing in Ordinance 93-20 that would preclude reconstruction of a public structure or infrastructure.

These policies are limited to the coastal planning area, however, the County's Flood Damage Control Regulations includes the NFIP 50% rule for any special flood hazard area which would include inland flood-prone areas outside of the coastal planning area.

Hillsborough County Redevelopment Ordinance 93-20.

Section 5: Determination of Damage, Build-Back Policy, Moratoria and Emergency Repairs

(C) County Build-back Policy: Structures which have been damaged by a storm event or emergency to the extent that the cost of their reconstruction or repair exceeds fifty percent (50%) of the replacement cost of the structure may be reconstructed at (but not to exceed) the legally documented actual use, density and intensity existing at the time of destruction, thereby allowing such structures to be rebuilt or replaced to the size, style, and type of their original construction, including their original square footage; provide, however, that applicable federal and state regulations, local building and life safety codes, and other local regulations do not preclude reconstruction otherwise intended by this policy.

In accordance with this policy, the Ordinance shall provide that:

(1) Structures damaged less than fifty percent (50%) of their replacement cost at the time of damage can be rebuilt to their original conditions, subject only to current building and life safety codes.

(2) Structures damaged more than fifty percent (50%) of their replacement cost at the time of damage can be rebuilt to their original square footage and use density or intensity, provided that they comply with:

(a) federal requirements for elevation above the 100-year flood level;
(b) building code requirements for flood-proofing;
(c) current building and life safety codes;
(d) state Coastal Construction Control Lines; and
(e) any required land development regulations (other than density or intensity), unless compliance with such regulations would preclude reconstruction otherwise intended by the build-back policy.

Relevant Definitions (Ordinance 93-20)

"Building Value" means the latest total assessment of all improvements on a parcel of land recorded on the Hillsborough County Property Appraiser's file before the structure

was damaged. Building value for structures not yet on the rolls of the Property Appraiser or under construction shall be valued by an alternative method.

"Emergency" means any occurrence, or threat thereof, whether accidental, natural, or caused by man, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property (Chapter 252, Florida Statutes -1989).

"Replacement Cost" means the actual cost to repair, reconstruct, rebuild or replace a damaged structure. For purposes of this ordinance, the replacement cost shall be compared to the structure's building value contained in the Hillsborough County Property Appraiser's file to determine the percent of the structure damaged category.

"Storm Event" means any severe, natural weather event causing damage and destruction of property. A storm event shall include, but not be limited to, hurricanes, tropical storms, severe thunderstorms, tornadoes, and waterspouts.

"Structure" as defined in the Land Development Code, means anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to principal or accessory buildings, signs, fences, walls, ridges, monuments, flagpoles, antennas, transmission poles, towers and cables.

Analysis

Ordinance 93-20 allows for nonconforming structures damaged more than 50% to be rebuilt to the original square footage, if the structure can meet floodplain regulations, current building and life safety codes, and the Coastal Construction Control Line (CCCL). The ordinance also requires that other County land development codes are met, but leaves a loophole by allowing noncompliance if the County land development code would preclude reconstruction as intended by the build-back policy. This policy is standard and clear except for the last requirement regarding meeting the land development regulations. No definition of what would “preclude reconstruction” leaves this requirement almost unenforceable. It is not recommended that deciding which land development regulations should be met be left to occur case-by-case during post-disaster redevelopment.

The policy for structures damaged less than 50% of their replacement costs is unusual in that it puts requirements on structures that are not considered substantially damaged. It also does not set a minimum threshold of damage for this requirement to become compliant with current building codes.

Hillsborough County Land Development Code, Nonconformities, Part 11.03.00.

It is further the intent of the Land Development Code that the nonconformities shall not be enlarged upon, expanded, intensified or extended, nor be used as grounds for adding other structures or uses otherwise prohibited by the Code, except as provided herein (Part 11.03.00, Sec. 11.03.01).

Section 11.03.04: Nonconforming Structures Other Than Signs

The Administrator may certify structures other than signs not otherwise meeting the provisions of this Code and authorize utilization of such certified structures as provided in this section.

(B) Structures Pre-Dating Adoption of Comprehensive Plan. Structures existing prior to July 26, 1989 shall be deemed pre-existing and may be certified by the Administrator subject to the following conditions:

(3) A nonconforming structure, or a portion thereof, if damaged, deteriorated or destroyed to the extent of more than 50 percent or more of its current assessed valuation, may only be reconstructed in accordance with the regulations of the district in which it is located, except as provided in paragraphs (4) and (5) below.

(4) Routine repairs and maintenance of a nonconforming structure, fixtures, wiring and plumbing or the repair or replacement of non-loadbearing walls shall be permitted.

(5) A nonconforming structure damaged or destroyed by an Act of God may be rebuilt in accordance with the nonconformities certified as pre-existing pursuant to this Part 11.03.00.

Relevant Definitions (Hillsborough County Land Development Code)

"Act of God" is an overwhelming, unpreventable event caused exclusively by forces of nature, such as an earthquake, flood, or tornado, and including all natural phenomena that are exceptional, inevitable, and irresistible, the effects of which could not be prevented or avoided by the exercise of due care or foresight.

"Nonconformity" are lots, uses of land, uses of structures, structures, or characteristics of uses, which were lawful before this Code was passed or amended, but which are prohibited, regulated or restricted under the terms of this Code. Nonconformity may also be created where lawful public takings have the same effect as violations of this Code, if undertaken privately.

"Structure" is anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to principal or accessory buildings, signs, fences, walls, ridges, monuments, flagpoles, antennas, transmission poles, towers, and cables.

Analysis

Hillsborough County Land Development Code allows certified pre-existing nonconformities to be rebuilt for structures damaged or destroyed by an Act of God. This is not consistent with the County Comprehensive Plan Policy 12.4 which does not provide an exception for structures damaged by an Act of God.

The Act of God definition is limited to natural disasters.

Part 3.04.00: Coastal High Hazard Area

Section 3.04.03: Redevelopment

(A) Non-public Structures: If any non-public structure or infrastructure within the coastal area is damaged in excess of 50 percent of its most recent assessed value, the structure or infrastructures if rebuilt, shall be rebuilt to meet or exceed all current requirements, including those enacted since the construction of the structure or infrastructure; unless otherwise excepted in the Future of Hillsborough Comprehensive Plan.

(B) Public Structures: If any public structure or infrastructure within the coastal area is damaged in excess of 50 percent of its most recent assessed value, and if the Public Infrastructure Decision Making Matrix (when adopted) permits development, then the structure or infrastructure shall be rebuilt to meet or exceed all current requirements, including those enacted since the construction of the structure or infrastructure.

Part 3.06.00: Flood Damage Control Regulations

Section 3.06.02: Standards and Criteria

(D) Specific Standards: In all areas of special flood hazards where base-flood and design-flood elevation data has been provided, all of the following provisions are required:

(1) New developments or substantially improved developments shall have the lowest floor of structures, including basement when within the Special Flood or Coastal High Hazard Areas elevated pursuant to Chapter 3 of the Hillsborough County Construction Code. Elevation of said lowest livable floor area shall be prepared, signed and sealed by a professional engineer or registered land surveyor, and such development shall comply with all other Hillsborough County Development regulations.

(6) All new development or substantially improved structures within a designated Coastal Barrier Resource System area will not be eligible for Federal flood insurance pursuant to the Coastal Barrier Improvement Act of 1990 (Public Law 101-591).

Part 3.14.00: State Road 60 (Brandon Boulevard) Overlay District

Sec. 3.14.05. - Urban Sector

The following requirements shall apply to all building activity within the Urban Sector of the Overlay District, subject to the applicability provisions in Section 3.14.02 above. All signs shall comply with the limitations and provisions of Article VII of this Code. Additionally, the following limitations and provisions shall apply to ground signs for all uses, excluding emergency public services/uses.

1. For projects where existing buildings are improved, expanded and/or replaced, and the value of such work, including interior renovations but excluding improvements to water and wastewater facilities and the repair or like-kind replacement of roofs, exceeds 25 percent but not more than 50 percent of the assessed value of all buildings on the parcel at the time, or the value of the improvements, expansions and/or replacement buildings in combination with the value of other such work performed within the previous 24 months, but not before the effective date of this Part, exceeds 25 percent but not more than 50 percent of the assessed value of all buildings on the parcel at the beginning of said time period, the following requirements shall apply to the entire parcel:

2. For projects where existing buildings are improved, expanded and/or replaced, and the value of such work, including interior renovations but excluding improvements to water and wastewater facilities and the repair or like-kind replacement of roofs, exceeds 50 percent but not more than 75 percent of the assessed value of all buildings on the parcel at the time, or the value of the improvements, expansions and/or replacement buildings in combination with the value of other such work performed within the previous 24 months, but not before the effective date of this Part, exceeds 50 percent but not more than 75 percent of the assessed value of all buildings on the parcel at the beginning of said time period, the requirements of Sections 3.14.05.1.a and 3.14.05.1.b above, together with the following requirement, shall apply to the entire parcel:

3. For projects where existing buildings are improved, expanded or replaced, and the value of such work, including interior renovations but excluding improvements to water and wastewater facilities and the repair or like-kind replacement of roofs, exceeds 75 percent of the assessed value of all buildings on the parcel at the time, or the value of the improvements, expansions and/or replacement buildings in combination with the value of other such work performed within the previous 24 months, but not before the effective date of this Part, exceeds 75 percent of the assessed value of all buildings on the parcel at the beginning of said time period, the requirements of Section 3.14.05.1.a above, together with the following requirements, shall apply to the entire parcel:

Part 3.15.00: Hillsborough Avenue Overlay District

Section 3.15.05: Specific Development Standards

The following requirements shall apply to all building activity, subject to the applicability provisions in Section 3.15.02 above. All signs shall conform to the provisions of Article VII of this Code. Additionally, the following limitations shall apply to signage for all uses, excluding emergency public services uses.

(A) The time periods in which renovations occur and the value of such work in relation to the assessed values of all buildings on the parcel at the time of improvements shall be as provided in Table 3.15-1. A renovation is any structural alteration, expansion, enlargement or remodeling conducted within any two-year period. Like-kind repair of building components shall not constitute a renovation. Renovations meeting the criteria of Column A in Table 3.15-1 shall be subject to the requirements of Section 3.15.05.A.1, 3.15.05.A.2 and 3.15.05.A.3. Renovations meeting the criteria of Column B in Table 3.15-1 shall be subject to the requirements of 3.15.05.A.1, 3.15.05.A.2, 3.15.05.A.3 and 3.15.05.A.4.

Repairs to or reconstruction of buildings damaged or destroyed by an Act of God shall be exempt from the requirements of this Part. Additionally, the value of improvements required by this Part shall not be included in the value of renovations. In the event renovations occur within more than one of the time periods specified, the more restrictive percentage of assessed value of all buildings on the parcel shall apply.

Part 3.19.00: Riverview Downtown District Development Regulations

Sec. 3.19.02: Applicability

(B) The following requirements shall apply to all building activity within the RDD zoning districts, subject to the applicability provisions in Section 3.19.02.A above. The applicant shall be responsible for providing the necessary information to determine the applicable sections of this Part, as listed below and in Table 1. All new signs shall comply with the limitations and provisions of Article VII of this Code and with Section 3.19.05 of this Part.

(3) For all projects where new structures are constructed on a vacant parcel or where existing buildings are replaced by new structures, the entire requirements of this Part shall apply to the entire project and parcel(s).

Relevant Definitions

“Act of God” is an overwhelming, unpreventable event caused exclusively by forces of nature, such as an earthquake, flood, or tornado, and including all natural phenomena that are exceptional, inevitable, and irresistible, the effects of which could not be prevented or avoided by the exercise of due care or foresight.

“Area of Special Flood Hazard” is land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

“Coastal Barrier Resource System (CBRS)” are areas identified by the United States Department of the Interior in which new development or substantially improved structures are not eligible for Federal flood insurance pursuant to the Coastal Barrier Improvement Act of 1990 (Public Law 101-591).

“Coastal High Hazard Area (CHHA)” areas defined as the FEMA Velocity Zone and the area identified in the most recent regional hurricane evacuation study as requiring evacuation during a Category One hurricane event. The area subject to high velocity waters, caused by and including but not limited to, hurricane wave wash, or tidal surge. The area is designated on a FIRM as Zone V 1-30, VE, and V.

“Substantial Improvement” is any combination of repair, reconstruction, alteration or improvement of a structure, taking place during a one year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall,

ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

Analysis

Part 3.04 is consistent with Policy 12.4 and 12.5 in the Coastal Management Element of the Comprehensive Plan except that it is for the Coastal High Hazard Area (CHHA) rather than the Coastal Planning Area. The CHHA is only a portion of the larger Coastal Planning Area. Part 3.04 requires that structures and infrastructure within the CHHA damaged greater than 50% of the assessed value by any means be brought up to all current standards except as otherwise stated in the comprehensive plan. Policy 12.4 in the comprehensive plan has a similar exception; however, it refers to Ordinance 93-20. So by relation this code also is trumped by the build back standard found in Ordinance 93-20 which does not require the structure to be brought into compliance with all regulations (see analysis under Ord. 93-20).

Part 3.06 ensures the County's compliance with current floodplain management standards required by NFIP. Substantial improvements to structures within the Special Flood or Coastal High Hazard Area (which would include post-disaster repair or rebuilding of a structure if the cost exceeds 50% of the market value) are required to be elevated. Part 3.06 also states that all substantially improved structures within a designated Coastal Barrier Resource System area will not be eligible for Federal flood insurance in addition to other build back requirements.

In addition to the CHHA and flood hazard special district regulations (Parts 3.04 and 3.06 above), The Hillsborough County Land Development Code, Article III, has also had numerous amendments over the past several years for new overlay district requirements as part of the County's Community-Based Planning Program. The rebuilding standards vary among these and each includes language that the overlay district regulations will prevail if there is a conflict between codes.

- A review of the community plan's adopted district regulations finds that only one specifically addresses exemption from the regulations due to an Act of God (Sec. 3.15.05 of the Hillsborough Avenue Overlay District regulations included above).
- The Riverview Downtown District (Part 3.19) has a requirement that any existing building replaced by new structures must meet all of the district regulations. A building destroyed by a disaster could trigger this requirement if the owner wishes to rebuild on the property.
- Part 3.14 State Road 60 (Brandon Boulevard) Overlay District has two sections (Sec. 3.14.05. - Urban Sector and Sec. 3.14.06. - Suburban Sector) that both have detailed definitions of thresholds for "projects where existing buildings are improved, expanded and/or replaced." Once the 25%, 50%, and 75% thresholds are crossed varying portions of the district regulations apply.
- Other overlay districts do not require existing lawful uses/structures to meet the requirements unless an expansion threshold is met (30% increase in floor square footage except for Riverview which has two thresholds, 25-50% and >50%) and then certain portions of the new district regulations are required (Part 3.10 Citrus Park Village, Part 3.12 Brandon Main Street, Part 3.13 University Community

Area, Part 3.18 Thonotosassa Main Street, and Part 3.19 Riverview Downtown District).

- The remainder of the overlay districts do not have any language related to what standards should be met in rebuilding (Part 3.02 Interstate-75 Planned Development, Part 3.08 Keystone-Odessa Rural Development, Part 3.09 Lutz Rural Area, Part 3.11 Restricted Business Professional Office, and Part 3.17 Ruskin Town Center).

City of Tampa

Tampa Comprehensive Plan: Building Our Legacy a Livable City, 2009

Sustainable Environment Element

Goal 41: City of Tampa shall preserve, protect, restore, and appropriately manage the natural resources of the Coastal Planning Area to maintain or enhance environmental quality for present and future generations. To this end, City of Tampa shall restrict development that would damage or destroy the City's coastal resources and shall strive to protect human life and limit public expenditures in areas susceptible to destruction by natural disasters.

Objective 41.3: Create a more disaster resistant community by mitigating the potential impacts associated with hurricanes and severe weather events.

Policy 41.3.4: Any structure within the 100-Year Floodplain that is damaged in excess of the limits established by FEMA's definition of substantial damage (50% rule) shall be rebuilt to meet or exceed all current building code requirements, including those enacted since the construction of the structure.

Relevant Definitions

"FEMA's definition of substantial damage (50% rule)" is when damage costs or improvements exceed 50% or more of the structure's market value.

Analysis

The Tampa Comprehensive Plan requires that all structures within the 100-year floodplain that have been substantially damaged (50% or more of market value) must rebuild to current floodplain regulations as required by NFIP and further detailed in city codes (Section 5-111: Flood Resistant Construction).

Hurricane Plan for Tampa Growth Management and Development Services, 2008

City of Tampa Hurricane Build-Back Policy

Build-back Policy: Structures which have been damaged may be reconstructed at, but not exceed, the legally documented actual use, density and intensity existing at the time of destruction; thereby allowing such structures to be rebuilt or replaced to the size, style, and type of their original construction, including their original square footage. Providing, however, that applicable federal and state regulations, local building and life

safety codes, other local regulations do not preclude reconstruction, they must also comply with:

a) Federal requirements for elevation above the 100-year flood level, and substantially damaged structures

b) Federal requirements for flood proofing

c) Current building and life safety codes

d) State coastal construction control lines where applicable

e) Any required land development regulations (other than density or intensity), unless compliance with such regulations would preclude reconstruction otherwise intended by the build-back policy.

No provision is made to redevelop property containing damaged structures for a more intense use or at a density higher than the original lawful density. Redevelopment as a higher density or more intense use shall be permitted in accordance with the current land development regulations and no redevelopment at a higher density or more intense use shall commence until appropriate Zoning, Development Review, Building Permit and other applicable approvals are granted.

Analysis

The Hurricane Plan is a departmental emergency plan not officially adopted by the City Council. It could be activated via an executive order by the Mayor in a time of emergency. The Tampa Build-Back Policy Section is based on the County's Ordinance 93-20. In the City's version there is no defined threshold for degree of damage to the structure which would trigger complying with current building codes (c) and land development regulations (e). The policy also includes the provision for ignoring regulations if they would preclude reconstruction otherwise intended by the build-back policy (see discussion under the County Ordinance 93-20). The policy allows replacement of structures to what was in place prior to the damage which is in conflict with the Tampa Zoning Code as discussed below.

City of Tampa Code of Ordinances, Zoning, Chapter 27.

Article X.X: Overlay Districts

Section 27-466 (West Tampa Overlay District Development Design Standards):

(c) Compliance. Each application for new construction or major renovation, as defined in Chapter 27, City of Tampa Code of Ordinances, and/or any development underground a change of use/increase of intensity review, shall comply with all applicable overlay district and underlying zoning district standards and, if applicable, those specific standards outlined in the city council approved site plan. In cases of conflict, the more restrictive standard(s) shall apply. These are the minimum requirements that must be met in order to obtain design approval.

Alternative design concepts may be considered and approved by the zoning administrator (and/or designee) if consistent with the above stated purpose and intent. Any person aggrieved by any order, requirement, decision, or determination of the zoning administrator with regard to these design standards may appeal that order, requirement, decision, or determination by filing a petition with the VRB for an administrative appeal in accordance with section 27-373(a). The VRB shall hold a public hearing to better understand the purpose and intent of the overlay district and the character of the surrounding neighborhood. The VRB shall make the final determination as to whether the alternative design concept is consistent with the development standards of this section and with the above stated purpose and intent.

Section 27-468 (Kennedy Boulevard Corridor District Development Design Standards):

(c) Compliance. Each application for new construction and/or major renovation as defined in Chapter 27, City of Tampa Code of Ordinances, shall comply with all applicable overlay district and underlying zoning district standards and, if applicable, those specific standards outlined in the City Council approved site plan. In cases of conflict, the more restrictive standard(s) shall apply. These are the minimum requirements that must be met in order to obtain design approval for non-residential or mixed-use projects. Please note that additional compliance standards may be stated within this document, which further restrict the permitting and/or construction process for various site elements.

Alternative design concepts may be considered and approved by the zoning administrator or designee, only if consistent with the stated purpose and intent. If denied, an applicant shall file an application for a site plan controlled zoning district with the land development coordination office, in accordance with the procedures set forth in this chapter. The city council shall then make the determination as to whether the alternative design concept is consistent with the development standards of this section and with the above stated purpose and intent.

Article XII: Nonconformities

Section 27-298 (Nonconforming structures, Other than Signs):
A structure that is nonconforming due to noncompliance with the dimensional requirements of the official schedule of district regulations of this chapter and that is used for a use permitted in the district in which it is located may remain, provided that:

(2) A nonconforming structure or a portion thereof, if destroyed to the extent of seventy-five (75) percent or more of its current assessed valuation, may only be reconstructed in accordance with the regulations of the district in which it is located.

Relevant Definitions

“Major Renovation” is any construction, reconstruction, structural alteration, expansion, enlargement or remodeling conducted within any two-year period, the total cost of which exceeds fifty-one (51) percent of the assessed value of the property (Tampa Code of Ordinances, Article XXIV).

"Nonconformities" are those characteristics of the property, structure or use which are not permitted in the schedule of permitted uses or do not conform to the schedule of area, height, bulk and placement regulations, or other provisions of this chapter, but were legal at the time they were established.

Analysis

Overlay districts require additional aesthetic standards for development and the code includes compliance with these standards for major renovations. The definition of major renovations includes reconstruction with a threshold of costs exceeding 51% of the assessed value of the property within a 2-year period which could trigger the compliance requirement in the overlay districts for a structure severely damaged by a disaster.

The nonconformity requirements of the zoning code require that a nonconforming structure (in any location) destroyed 75% or more of its assessed value to meet the regulations of it's district. While this is a lesser standard that the typical 50% rule, it does require that it meet all of the current standards with no exceptions as provided in the Hurricane Plan's Build-Back Policy.

Tampa Code of Ordinance, Building Code, Chapter 5.

Section 5-111: Flood Resistant Construction

5-111.6.2 (Specific Standards): In all areas of special flood hazard where base flood elevation data have been provided, as set forth in sections 5-111.4.2 or 5-111.5.2.11, City of Tampa Code, the following provisions are required:

> 5-111.6.2.1 (Residential construction): New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevation no lower than the design flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the equalization of flood hydrostatic forces on both sides of exterior walls and the unimpeded movements of floodwaters shall be provided in accordance with the standards of section 5-111.6.2.3, City of Tampa Code.
>
> 5-111.6.2.2 (Nonresidential construction): New construction or substantial improvement of any commercial, industrial, or nonresidential structure shall have the lowest floor, including basement, elevated no lower than the level of the design flood elevation. Structures located in all A Zones may be flood-proofed in lieu of being elevated provided that all of the following requirements are met:
>
> > 1. Areas of the structure below the required elevation are water tight with walls substantially impermeable to the passage of water.
> > 2. Structural components must have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
> > 3. A Florida registered professional engineer or architect shall certify that the standards of this subsection are satisfied.
> > 4. Such certification shall be provided to the official as set forth in section 5-111.5.3.2, City of Tampa Code.

Relevant Definitions

“Substantial improvements” is any reconstruction, rehabilitation, addition, or other improvement of a structure taking place within a one-year period for which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures that have incurred "substantial damage", regardless of the actual work performed, including repetitive loss. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or,
2. Any alteration of a "historic structure" provided that the alteration would not preclude the structure's continued designation as a "historic structure."

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means repetitive loss flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred (Ord. 2004-67, March, 2004).

Market value. For the purposes of this section, market value is defined as either (1) the appraised value of the structure before the start of the initial repair or improvement or (2) in any case involving damage, the appraised value of the structure before the occurrence of the damage.

Analysis

The requirements of this section meet the NFIP requirements for building in special flood hazard area. Structures in the special flood hazard zone for which reconstruction costs are 50% or more of the appraised value must meet elevation requirements. Non-residential structures in A flood zones have the option of using flood-proofing techniques instead of elevation. Repetitive loss structures are held to a higher standard of 25% of appraised value if more than one instance within 10 years.

City of Temple Terrace

Temple Terrace Code, Land Development, Article VIII, Chapter 25.

Section 25.810.3: Nonconforming Structures

Where at the effective date of adoption (July 19,1966) or amendment of this Chapter, a lawful structure exists that could not be built under the terms of the current provisions of this Chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(b) Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its market valuation at the time of the damage, or at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter.

Section 25.810.5: Other Nonconforming Repairs and Maintenance

(a) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repairs or replacement on nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding twenty-five (25) percent of the market value of the structure for that year, provided that the cubical content of the building as it existed at the time of passage or amendment of this Chapter shall not be increased.

(b) Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any City official charged with protecting the public safety, upon order of such official.

Analysis

Temple Terrace Land Development Code requires all nonconforming structures damaged more than 50% of its market valuation to conform to all district provisions. There are more strict limitations on repairs (cumulative annual cost over 25% of the market value of the structure), however there is an exception for restoring a building to safe conditions which would apply to some post-disaster repairs.

City of Plant City

Code of Ordinances City of Plant City, Buildings and Building Regulation, Chapter 78.

Section 78-29. Existing buildings

(a) If, within any period of 12 months, alterations or repairs costing in excess of 50 percent of the then-physical value of the building are made to an existing building, such building shall be made to conform to the requirements of the building code for new buildings. However, for buildings located in the fire district, the provisions of sections 302.1 and 302.2 of the building code shall apply.

(b) If an existing building is damaged by fire or otherwise in excess of 50 percent of its then-physical value before such damage is repaired, it shall be made to conform to the requirements of the building code for new buildings.

(c) If the cost of such alterations or repairs or the amount of such damage is more than 25 but no more than 50 percent of the then-physical value of the building, the portions to be altered or repaired shall be made to conform to the requirements of the building code for new buildings to such extent as the building official may determine.

(d) For the purpose of this section, physical value of the building shall be determined by the building official.

(e) If the occupancy of an existing building is entirely changed, the building shall be made to conform to the requirements of the building code for the new occupancy. If the occupancy of only a portion of an existing building is changed and that portion is separated from the remainder as specified in section 412 of the building code, only such portion needs to be made to conform.

(f) Repairs and alterations, not covered by the subsections (a) through (e) of this section, restoring a building to its condition prior to damage or deterioration or altering it in conformity with the provisions of the building code or in such manner as will not extend or increase an existing nonconformity or hazard may be made with the same kind of materials as those of which the building is constructed. However, not more than 25 percent of the roof covering of a building shall be replaced in any period of 12 months unless the entire roof covering is made to conform with the requirements of the building code for new buildings.

Analysis

Section 78-29 of Plant City's codes has several rules that require non-conforming structures to conform only to the current building code requirements for new buildings. If a building is damaged over 50% of "then-physical value" (to be determined by building official) it is required to meet current building code standards. If damage or repair costs are between 25% and 50% of physical value, then portions of the building being repaired have to meet the building code to an extent determined by the building official. These standards could be improved by clarifying the items for building official determination so property owners have more certainty of when they meet these standards.

Any roof that needs repair for more than 25% of its area in a one-year period, must have the whole roof replaced to current building codes. After a hurricane, it is very likely that a large portion of the city's structures would be impacted by this code, however, their resiliency for the next storm would be greatly increased.

If restoring a damaged building or bringing it up to code and the nonconformity is not increased, then the same kind of building materials must be used. Part f of the code is unusual in that it requires like materials for restoration even if the building is being brought up to code. This may be difficult to enforce with widespread damage after a disaster as well as difficult for property owners if similar materials aren't available or wouldn't meet the current building code requirements.

Plant City also requires nonconforming structures to be brought up to current building code standards when the occupancy of the structure changes. This could certainly be an issue after a disaster that would make selling a home or business structure more difficult, however, it may encourage property owners to stay in the area and repair their buildings.

Code of Ordinances City of Plant City, Floodplain Management, Chapter 82.

Article II: Flood Damage Prevention

Division 3: Standards for Flood Hazard Reduction

Section 82-93 (Specific standards): In all areas of special flood hazard where base flood elevation data have been provided, as set forth in section 82-30 or subsection 82-62(9), the following are required:

(1) (*Residential construction):* New construction or substantial improvement of any residential structure shall have the above the base flood elevation. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to facilitate automatic equalization of hydrostatic flood forces on both sides of the exterior walls shall be provided in accordance with standards of subsection (3) of this section.

(2) (*Nonresidential construction):* New construction or substantial improvement of any commercial, industrial, or nonresidential structure shall have the lowest floor, including basement, elevated no lower than 18 inches above the level of the base flood elevation. Structures located in all A zones may be floodproofed in lieu of being elevated, provided that all areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in section 82-64.

Section 82-97 (Areas of shallow flooding (AO zones) :
Located within the areas of special flood hazard established in section 82-30, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following apply:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the flood insurance rate map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.

(2) All new construction and substantial improvements of nonresidential structures shall:

a. Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the flood insurance rate map. If no flood depth number is specified, the

lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or

b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

c. Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

Relevant Definitions

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, as designated on a flood insurance rate map or by a drainage study conducted by the city and accepted by the city commission. This term is synonymous with the phrase "special flood hazard area."

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" and the "regulatory flood").

“Market value” means the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on-site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), actual cash value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred (Code of Ordinances, Article 1, Section 102.3).

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions (Code of Ordinances, Article 1, Section 102.3).

Analysis

The Plant City Floodplain Management Code requires that substantially improved (over 50% of market value of structure) residential and non-residential structures within a

special flood hazard area are required to be elevated or floodproofed as required by NFIP. Residential structures only need to have the lowest floor above the base flood elevation while nonresidential structures must have the lowest floor elevated no lower than 18 inches above base flood elevation. For substantial improvements in an AO zone (area of shallow flooding), the elevation requirements are also stated.

Comparison of Jurisdictions' Redevelopment Regulations for Nonconforming Structures

Build-Back Policy Items	Hillsborough County	City of Tampa	City of Temple Terrace	City of Plant City
Compliancy required if structure damaged or destroyed?	Comp plan, Ord. 93-20, and LDC 3.06= Yes with exceptions; LDC 11.03= No	Yes	Yes	Yes
Cause of damage	Comp plan and LDC 3.06= Any; Ord. 93-20 = storm event or emergency; LDC11.03= Act of God (natural disaster)	Any	Any	Any
Damage threshold requirements	Comp plan= >50% of recent assessed value ; Ord. 93-20= 1) >50% of replacement cost, 2) < 50%; LDC 3.06= 50% of market value	Comp plan and Code Ch. 5 = 50% of market value; Hurricane Plan = none provided; Code Ch. 27, Article X.X= >50% of assessed value; Code Ch. 27, Article XII= 75% of assessed value	> 50% of market value	Code Ch 78= 1) > 50% of then-physical value, 2) 25-50%, 3) 25% of roof area; Code Ch. 82= 50% of market value
Zones with requirements	Comp plan= Coastal Planning Area; LDC 3.06= Special Flood or Coastal High Hazard Areas	Comp plan and Code Ch. 5 = Special Flood Hazard (100-year floodplain); Code Ch. 27, Article X.X= Overlay Districts	All	Code Ch. 82= Special flood hazard
Types of compliance required	Comp plan= as stated in Ord. 93-20; Ord. 93-20= 1) All with exceptions, 2) current building codes; LDC 3.06= elevation or floodproofing	Comp plan= all current building code; Code Ch. 5= elevation and floodproofing; Code Ch 27= All district regs; Hurricane Plan= all with exceptions	Provisions of LDC Ch. 25	Code Ch. 78= current building codes; Code Ch. 82= elevation and floodproofing
Size limitations	Ord. 93-20 = original sq footage	Hurricane Plan= original sq footage	None	No increase

3. OTHER NONCONFORMING ASPECTS OF PROPERTY

The following section includes policies and standards for nonconforming aspects of property not covered in **Sections 1 and 2** (not including sign which are covered in **Section 4**), such as setbacks, buffers, walls, fences, landscaping, etc.; and analyzes how these policies and standards may affect post-disaster redevelopment.

Hillsborough County

Dimensional nonconformities such as setbacks, height, lot coverage, floor area ratio and other similar standards are addressed as nonconforming structures in the Hillsborough County Land Development Code (Article XI Part 11.03.00 - Nonconformities, Sec. 11.03.02 - Classification of Nonconformities). See **Section 2** of this report in relation to build back policy for those types of nonconformities.

Hillsborough County Land Development Code, Nonconformities, Article XI.

Section 11.03.05: Nonconforming Characteristics of Land

B. Characteristics of Land Established as Legally Permissible Under Provisions of Regulations in Effect at the Time of Development

1. Characteristics of Land established legally at the time of development shall be deemed pre-existing and may be certified by the Administrator subject to the following condition:

2. The nonconforming characteristics of land may continue to operate but shall not be expanded, altered, changed or relocated in such a manner as to increase the degree of nonconformity.

Hillsborough County Land Development Code, Special Districts, Article III.

Part 3.13.00: University Community Area Development Regulations

Sec. 3.13.04: Block Standards

(B) Street Design: New streets and reconstruction of existing streets, excluding regulated roadways as defined in the Hillsborough County Comprehensive Plan, shall conform to the design standards established in the Transportation Technical Manual cross sections for Traditional Neighborhood Developments (TND Typical Sections). Traffic calming measures shall be permitted in accordance with Section 5.08.09.E of this Code.

Part 3.17.00: Ruskin Town Center Development Regulations

Sec. 3.17.03: General Development Standards

(B) Street Design
New streets and reconstruction of existing streets, excluding regulated roadways as defined in the Hillsborough County Comprehensive Plan, shall conform to the

design standards established by this section for the cross section of Ruskin Town Center Streets as shown in Figure 2. Traffic calming measures shall be permitted in accordance with Section 5.08.09.E of this Code.

Relevant Definitions

"Nonconforming Characteristics of Land" include site development standards pertaining to paved off-street parking, access, stormwater management, landscaping, environmental standards and other similar standards. Unpaved areas, unless previously approved by Hillsborough County for parking, shall not be considered in the nonconforming characteristic of land determinations (Part 11.03.00, Sec 11.03.02).

"Nonconforming Structures" are to include dimensional nonconformities such as setbacks, height, lot coverage, floor area ratio and other similar standards.

Analysis

Nonconforming aspects of property can continue as long as an increase in the nonconformity does not occur. If damaged by a disaster the property owner would have the option to restore the property's site development to the way it existed prior to the disaster. (The County's definition of structures includes setbacks – see Section 2 of this report.)

The Ruskin Town Center and University Community Area Development Regulations specify that the reconstruction of existing streets, excluding regulated roadways, must meet the street design standards of that part (Parts 3.13.00, 3.17.00).

City of Tampa

City of Tampa Code of Ordinances, Zoning, Chapter 27, Article X.X (Overlay Districts)

Section 27-461 (South Howard Commercial Overlay District Development Design Standards):

(d) *Compliance.* Every building or site permit application for new construction or major renovation of an existing structure (as defined in section 27-523) within the South Howard Commercial Overlay District shall comply with all applicable Land Development Regulations and the standards set forth in subsections (e) through (m). These are the minimum requirements which must be met in order to obtain design approval. Specific design criteria will also be applied individually where appropriate (e.g. new signs, request for change of location or increase in amount of parking, new lighting, etc.). Alternative design concepts may be considered by the zoning administrator (and/or his or her designee) if consistent with the above mentioned purpose and intent.

(h) General building design standards.

(4) Buildings shall be set back no less than ten (10) feet and no more than eighteen (18) feet from the front property line at ground level. However, second floor area(s) and above may be built out to the front property line, creating an

arcade. Structural support for the arcade may be located within the front setback however, arcaded areas may not be enclosed or screened.

Section 27-463: Westshore Commercial Overlay District Development

(d) Compliance. Each application for new construction and/or major renovation as defined in Chapter 27, City of Tampa Code of Ordinances, shall comply with all applicable overlay district and underlying zoning district standards and, if applicable, those specific standards outlined in the city council approved site plan. Each application for change of use that affects at least of fifty (50) percent of the gross floor area on the subject site, shall be required to fully comply with the fence and sign standards set forth in this section (e.g. any fence materials or sign structure deemed nonconforming shall be removed). In cases of conflict, the more restrictive standard(s) shall apply. These are the minimum requirements that must be met in order to obtain design approval. Please note that additional compliance standards may be stated within this document, which further restrict the permitting and/or construction process for various site elements.

(1) *Streetscape standards for Roadway designations per Westshore Area Pedestrian Implementation Plan.*

(a) *Priority pedestrian streets.*

(1.) Building setback: Ten (10) feet minimum to twenty (20) feet maximum;

Section 27-465 (East Tampa Overlay District Design Standards):

(c) Compliance. Each application for new construction or major renovation, as defined in Chapter 27, City of Tampa Code of Ordinances, and/or any development undergoing a change of use/increase of intensity review, shall comply with all applicable overlay district and underlying zoning district standards and, if applicable, those specific standards outlined in the city council approved site plan. In cases of conflict, the more restrictive standard(s) shall apply. These are the minimum requirements that must be met in order to obtain design approval.

(c.) Front yard setbacks: Front yard setbacks shall be determined by block averaging. The underlying zoning district shall define all other setback requirements. Variances may be given by the zoning administrator when the precedent pattern of development on the subject and immediately adjacent blocks is less than the current setback requirement.

Section 27-466 West Tampa Overlay District Development Design Standards

(c) Compliance. Each application for new construction or major renovation, as defined in Chapter 27, City of Tampa Code of Ordinances, and/or any development underground a change of use/increase of intensity review, shall comply with all applicable overlay district and underlying zoning district standards and, if applicable, those specific standards outlined in the city council approved site plan. In cases of conflict, the more restrictive standard(s) shall apply. These are the minimum requirements that must be met in order to obtain design approval.

(f) *General building standards.*
(1) *Commercial properties.*

(2) Landscape plan. All sites within the boundaries of the West Tampa Overlay District shall comply with the tree, site clearing, and landscaping requirements set forth in Chapter 13, City of Tampa Code of Ordinances, and be consistent with the "West Tampa Overlay District Illustrated Design Standards." The landscape plan shall be incorporated as part of the overall site plan submittal, and shall comply with the following:

Section 27-468 (Kennedy Boulevard Corridor District Development Design Standards):

(c) Compliance. Each application for new construction and/or major renovation as defined in Chapter 27, City of Tampa Code of Ordinances, shall comply with all applicable overlay district and underlying zoning district standards and, if applicable, those specific standards outlined in the City Council approved site plan. In cases of conflict, the more restrictive standard(s) shall apply. These are the minimum requirements that must be met in order to obtain design approval for non-residential or mixed-use projects. Please note that additional compliance standards may be stated within this document, which further restrict the permitting and/or construction process for various site elements.

(3) *General site layout standards.* All site layouts shall adhere to section 27-240, Visibility at Intersections.

b. Build-to lines (setbacks) from all public street right(s)-of-way (at ground level): Five-foot minimum to ten-foot maximum.

Relevant Definitions

“Major Renovation” is any construction, reconstruction, structural alteration, expansion, enlargement or remodeling conducted within any two-year period, the total cost of which exceeds fifty-one (51) percent of the assessed value of the property (Tampa Code of Ordinances, Article XXIV).

Analysis

Several of the City’s overlay districts require major renovations (cost greater than 51% of assessed value) to meet the district standards which include setbacks, fencing, buffering, and landscaping standards. A standard for each district was included in this document as an example; however the full code should be referred to for details.

City of Temple Terrace

Temple Terrace Code, Land Development, Article VIII, Chapter 25.

Section 25.825.1 (Nonconforming Buffers):

> (f) If any nonconforming buffer is destroyed to an extent of more than fifty (50) percent of its value, it shall not be reconstructed except in conformity with the provisions of this Chapter.

Section 25.825.6: Nonconforming Fences and Walls on Residential Property

> (d) If any nonconforming fence or wall is destroyed to an extent of more than fifty (50) percent of its value, it shall not be reconstructed except in conformity with the provisions of this Chapter. *(Ord. No. 786, 9-3-91; Ord. No. 812, 5-5-92)*

Analysis

The City's build back standards for nonconforming buffers and fences/walls are consistent with the city's standard for rebuilding damaged structures. If any of these are damaged greater than 50% of market value then they must conform.

City of Plant City

No additional standards identified.

Comparison of Jurisdictions' Redevelopment Regulations for Nonconforming Aspects of Property

Build-Back Policy Items	Hillsborough County*	City of Tampa	City of Temple Terrace	City of Plant City
Compliancy required if structure damaged or destroyed?	No, if nonconformity isn't increased; Yes, if reconstruction of existing streets is necessary (University & Ruskin Overlay Zones only)	Yes	Yes	Not Applicable
Cause of damage	Any	Any	Any	Not Applicable
Damage threshold requirements	None	Structure renovation cost >50% of assessed value	>50% of value of buffer, wall, or fence	Not Applicable
Zones with requirements	University Community Area; Ruskin Town Center	Overlay districts with major renovation compliance requirement	All	Not Applicable
Types of compliance required	Street design standards of district	Setbacks, fencing, buffering, and landscaping	Buffer, Wall, and Fence standards	Not Applicable

* Setbacks are included as nonconforming structure (see Section 2)

4. NONCONFORMING SIGNS

The following section includes policies and standards for replacing nonconforming signs and analyzes how these policies and standards may affect business after a disaster.

Hillsborough County

Hillsborough County Land Development Code, Signs, Article XI.

Part 7.02.00 Prohibited Signs/Nonconforming Signs

Section 7.02.03: Nonconforming Signs

(E) Should a nonconforming sign be damaged or destroyed by any means to an extent of more than 50 percent of its value as assessed by the Hillsborough County Property Appraiser at the time of damage or destruction, it shall not be reconstructed except in compliance with these regulations.

(F) Should a nonconforming sign be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(G) A nonconforming sign shall be considered an abandoned sign and shall be removed if it has not been used, or if the property on which it is located has become vacant or unoccupied, for a period of 180 consecutive calendar days or more.

Analysis

Signs damaged greater than 50% of assessed value will have to comply with current regulations if rebuilt. They also will need to apply with current district regulations if moved to a new location. If abandoned for more than 180 days the sign will be removed. After a disaster, many businesses may have signs that are damaged, not used for an extended period of time due to temporary business closure during recovery, or need to be moved to a new or temporary location. The Part 7.02 standards would require the businesses to have new signs made to meet current regulations.

City of Tampa

City of Tampa Code of Ordinances, Signs, Chapter 20.5.

Section 20.5-8: Billboard Signs
Billboard signs prohibited. After the effective date of City of Tampa Ordinance No. 2000-206 (August 3, 2000), the erection of billboard signs is hereby prohibited for the purposes and reasons set forth in Section 1 of City of Tampa Ordinance No. 2000-206 which is incorporated herein by this reference.

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(4) Any legally existing, nonconforming billboard sign which is destroyed to the extent of seventy-five (75) percent of its current assessed value (based on the records of the Hillsborough County Property Appraiser) shall not be rebuilt or repaired, unless:

(a) Within thirty (30) calendar days after the destruction of the legally existing, nonconforming billboard sign, the owner of the sign files an application with the city clerk petitioning city council to allow the reconstruction and maintenance of the legally existing, nonconforming billboard sign for a period not to exceed seven (7) years; and

(b) The owner of the legally existing, nonconforming billboard signs provides substantial and competent evidence to city council that: (i) the billboard sign was originally erected less than seven (7) years prior to the date on which the sign was destroyed; and (ii) the sign owner has failed to recoup the sign owner's investment in the legally existing, nonconforming billboard sign as of the date of the sign's destruction. If such evidence is presented, the city council may allow the sign owner to rebuild or repair the legally existing, nonconforming billboard sign and to maintain said sign for an additional period of time as determined by the city council in order to allow the sign owner time to recoup his or her investment; provided, however, such a period of time shall not exceed seven (7) years. At the conclusion of said period, the billboard sign shall be removed.

(5) Any legally existing, nonconforming billboard sign which becomes an abandoned sign shall be removed.

Section 20.5-16: Nonconforming Signs

Any sign which did not conform to City of Tampa Sign Code on the day before November 8, 2007, and which should have been removed or modified under prior law shall be illegal nonconforming signs. Any sign which was legally permitted and constructed which do not conform to provision of City of Tampa Sign Code as of November 8, 2007, shall be considered legal nonconforming signs and shall be governed as provided for herein.

(4) A nonconforming sign shall not be structurally altered to prolong the life of the sign. Reasonable repair and maintenance of nonconforming signs, including change of copy, is permitted, as provided for herein. Reasonable repair and maintenance means the work necessary to keep the sign, including the sign structure, in a good state of repair, but does not include replacement of materials in the sign structure.

(5) Should a nonconforming sign become damaged, destroyed or deteriorated by any means to the extent that it requires more than reasonable repair and maintenance, as defined in subsection (4) above, then the sign shall not be reconstructed except in compliance with the sign code. In the event that a nonconforming sign was approved as part of a site plan zoning approval, then the nonconforming sign may be reconstructed in accordance with the site plan zoning approval.

(7) A nonconforming sign shall be considered an abandoned sign and shall be removed if either the sign or the sign structure has not been used, or if the parcel or parcels upon which the sign is located becomes vacant or unoccupied for a period of ninety (90) consecutive calendar days or more, unless the parcel or parcels upon which the sign is located undergo a major renovation, as provided for herein.

Section 27-462: New Tampa Commercial Overlay District Development Standards

(h) *General sign standards.* The following sign standards shall apply to new buildings or structures and major renovations, as defined in Chapter 27, and shall be in addition to the sign regulations set forth in Chapter 20.5, and 27. Where regulations are inconsistent, the provisions of this subsection shall apply and control in the district. The following provisions are intended to establish a coordinated graphic program that provides for occupant identification and directional communication, while allowing the creation of unique and informative signs. These guidelines, (1-10) are not intended to prohibit the design of unusual signs that may enhance the character of the building, or reflect the nature of the business.

Relevant Definitions

"Abandoned Sign" is any sign which:
(1) Through age and/or obsolesce no longer conforms to structural or maintenance specifications of this chapter; or
(2) Any pole, pylon or structure expressly installed for the purpose of affixing a sign which bears no sign or copy for a period of three (3) consecutive months; or
(3) Displays Information which incorrectly identifies the business, owner lesser or principal activity conducted on the site; or
(4) After February 1, 2003, and subject to any notice and curative provisions contained in this code, any billboard sign for which a current operating permit does not exist.

"Major Renovation" is any construction, reconstruction, structural alteration, expansion, enlargement or remodeling conducted within any two-year period, the total cost of which exceeds fifty-one (51) percent of the assessed value of the property (Tampa Code of Ordinances, Article XXIV).

Analysis

In Tampa, a nonconforming billboard cannot be rebuilt if damaged 75% of its value unless the owner uses one of the two provided methods for getting a stay. Abandoned billboards are required to be removed. Other non-conforming signs are required to be compliant if damaged to an extent greater than normal like-kind repairs. It also requires abandoned signs or signs for structures that have been vacant for 90 days to be removed.

The New Tampa Commercial Overlay's sign standards apply for signs related to structures that have had a major renovation (cost greater than 50% of assessed value).

City of Temple Terrace

Temple Terrace Code Land Development Code, Nonconforming Development and Variances, Article VIII.

Section 25.825.2: Nonconforming Signs
A nonconforming sign, defined as any sign within the City/County legally permitted before December 3, 1985, or any sign existing within any area annexed to the City after the effective date of this Chapter which does not conform to the requirements of this

Chapter, is declared to be a nonconforming sign. However, signs that are within ten (10) percent of the height and size limitations of this Chapter and in all other respects conform to the requirements of this Chapter, shall be deemed to be in conformity with this Chapter.

(a) Amortization of nonconforming signs.

(5) No additions, repairs and/or alterations to a nonconforming sign shall be permitted except as may be required and approved by the City Manager or his designee to meet safety requirements.

(6) A nonconforming sign may not be:

(d) Re-established after damage or destruction if the estimated cost of the reconstruction exceeds fifty (50) percent of the appraised replacement cost as determined by the City Manager.

(e) Continued in use when the structure housing the occupancy is demolished or requires renovations, the cost of which exceeds fifty (50) percent of the assessed value of the structure.

(f) Continued in use after the structure housing the occupancy has been vacant for six (6) months or longer.

Analysis

Temple Terrace does not allow the continuance of nonconforming signs if 1) damaged greater than 50% of replacement cost, 2) if the associated structure is damaged greater than 50% of assessed value, or 3) if the associated structure is vacant for 6 months. These circumstances could be present after a disaster and would preclude the replacement of some signs.

City of Plant City

Code of Ordinances City of Plant City, Zoning, Chapter 102.

Article VIII: Signs

Section 102-1600: Nonconforming signs
Except for existing billboards and I-4 corridor signs, which are subject to the provisions of section 102-1601, every sign which was legally permitted prior to the effective date of this subdivision which does not conform to this chapter, shall be controlled as follows:

(5) Nonconforming signs shall not be reestablished after damage or destruction if the estimated cost of reconstruction or repair exceeds 50 percent of the reproduction and installation cost of the sign.

Section 102-1629: Abandoned Signs

(a) *Nonconforming signs.* Any abandoned signs which are nonconforming shall be brought into conformance with this chapter or shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or property upon which the sign may be found after written notification from the city manager.

Relevant Definitions

"Abandoned sign" means a sign which is not being maintained and which has not been used for a period of 90 consecutive days.

"Nonconforming sign" means a sign which by its height, square foot area, location, use, or structural support does not conform to the requirements of this chapter.

Analysis

Plant City requires that signs damaged greater than 50% of sign replacement cost or signs abandoned for more than 90 days be brought into compliance or removed. This would most likely affect some signs after a disaster.

Comparison of Jurisdictions' Redevelopment Regulations for Nonconforming Signs

Build-Back Policy Items	Hillsborough County	City of Tampa	City of Temple Terrace	City of Plant City
Compliancy required if sign damaged or destroyed?	Yes	Yes, with exceptions for billboards	Yes	Yes
Cause of damage	Any means	Any	Any	Any
Damage threshold requirements	> 50% of sign value	Billboard = 75% of assessed value; Other signs = extent that requires more than reasonable repair	> 50% of replacement cost	> 50% of replacement cost
Abandoned sign time period	180 days (sign or structure not used)	Definition does not include time period; Or 90 days of parcel being vacant	Structure vacant for 6 months	90 days
Other requirements	Moved for any reason = compliancy	Billboards have 2 methods of relief; In New Tampa Overlay sign standards apply if structure undergoes >50% renovation	Structure damaged >50% triggers sign compliancy	None

5. RECOMMENDATIONS

The analysis of nonconforming rebuild standards within the four jurisdictions' policies and codes revealed some inconsistencies and complexities that could be confusing or costly for property owners trying to rebuild after a disaster. Recommendations of areas within the code that could be simplified and clarified are presented below. Some members of the PDRP Land Use Technical Advisory Committee met July 14, 2010 to discuss preliminary recommendations and those comments have been integrated into the recommendations below. County Planning and Zoning staff are scheduled to meet again to discuss the full report and recommendations in August. It is expected that staff work will continue through 2010 to reach a consensus on policy and/or code modification that should be recommended to the Board of County Commissioners in order to bring more consistency to build back standards within the County.

1. **Use the same damage threshold, method of calculating, and terms countywide.**

   Reasons:
   - Be consistent with the National Flood Insurance Program (NFIP) definition of substantial damage – 50% of market value.
   - Compliance for damage ranges below 50% will be more controversial and burdensome for property owners and enforcement
     - E.g. 25% damage may have only impacted one portion of a structure and would make compliance of the entire structure difficult
     - Increased Cost of Compliance insurance benefits would not apply
   - Methods of calculating damage threshold need to be replicable, objective, and data readily available during disaster situations.
   - Using the same terms throughout policies and codes will reduce confusion.

   Recommended Actions:
   - Amend Ordinance 93-20 to remove build back requirements for damage less than 50%.
   - Adopt a consistent (countywide if possible) damage threshold measurement of 50% of market value of structure. Define market value as the County Property Appraiser recorded structure value for implementation purposes.
     - Ideally, the threshold measurement would be market value or replacement cost, whichever is higher. However, the Property Appraiser doesn't record replacement value for structures and so this addition would add more complexity since there would not be one universal database of replacement values. Property owners could introduce estimates of replacement value from various sources to argue their substantial damage determination which would slow down the process and could lessen the effectiveness of the threshold requirement.
   - Voluntary programs and technical assistance to property owners on mitigation and building code improvements could be targeted for post-disaster repairs that do not meet the 50% threshold for compliance. This would further community betterment but as a voluntary effort would not burden property owners who cannot afford to make improvements. Programs could be prioritized for designated Priority Redevelopment Areas and incentives could be considered as a future implementation action.

2. **Define the cause of damage consistently or make the standards non-specific to the cause of damage.**

   Reasons:
   - Natural vs. human-caused disasters – should the property owner be held to different standards in these cases?
   - Are the same requirements going to be enforced if its one structure damaged compared to 30% of structures within a jurisdiction? For one structure, staff could have time to process applications for relief, whereas after a major disaster, there is less time for individual decisions.
   - If an event is unplanned (e.g. fire or natural disaster), the property owner didn't calculate the investment that would be needed to make improvements and the burden is greater than if it was a planned major renovation.

   Recommended Actions:
   - Make the distinction between major improvements/renovations and unintentional damage in nonconformity standards. Improvements/renovations can be held to a higher standard of compliancy without burdening disaster victims.
   - Use the terms "storm event or emergency" as defined in Ordinance 93-20 in place of the more narrowly defined "Act of God" for exceptions to standards when the purpose is to provide relief due to widespread destruction (versus an individual house fire when methods of individual relief would not overwhelm local government processes).

3. **Language that is vague and could be interpreted in numerous ways or requires building official or other government determination on a case by case basis could be detrimental to recovery processes when it applies to post-disaster circumstances.**

   Reasons:
   - Speed of permitting and inspection processes are important to the success of disaster recovery. Subjective decisions will slow the process and require more staffing. Inconsistent decision-making could jeopardize citizen confidence in government processes.
   - Straightforward standards provide predictability and consistency that makes enforcement more streamlined.

   Recommended Actions:
   - If exact requirements can't be written into the policy/code then provide for the ability to make emergency blanket variances after a major disaster and make the plan for emergency variances known pre-disaster for property owners' expectations.
   - Remove the exception in Ordinance 93-20 of "unless compliance with such regulations would preclude reconstruction otherwise intended by the build-back policy."

4. **Clarify the types and levels of compliancy with current regulations required after a disaster.**

   Reasons:
   - Property owners need to know whether they are going to need to meet current land development code requirements or just current building code requirements when rebuilding a structure that has been substantially damaged.
   - Making this a clear and consistent requirement and ensuring property owners are aware prior to a disaster occurring will result in clear expectations and a less complicated recovery process.
   - A disaster can be an opportunity to increase the resilience and quality of development. The decision should be made before a disaster to which standards rebuilding will be held.

   Recommended Actions:
   - Use the compliance requirements in Ordinance 93-20, Section 5(C)(2). These include basically all development requirements, specifically: elevation and flood-proofing where applicable, current building and life safety codes, Coastal Construction Control Line requirements, and land development regulations.

5. **Provide one standard per jurisdiction that applies to the extent of compliance required for all overlay district regulations after a disaster.**

   Reasons:
   - Removes complexity and ensures that property owners of a particular district are not unfairly burdened.
   - If new districts are added in future that require strict adherence to non-essential design standards then the one standard would supercede those requirements in the case of a disaster. This will require less vigilance in reviewing codes for consistency in future.
   - Some district design standards, such as setbacks, can be very costly to comply with and only serve aesthetic purposes that may not be as much of a concern as speedy rebuilding after a disaster.

   Recommended Actions:
   - Provide a disaster exception clause that applies to all overlay district design standards but still requires current building and flood code compliance if damaged 50% or more.
   - Voluntary compliance with district design standards could be encouraged so that property owners don't invest in repairs to a nonconforming structure, i.e. incentives such as grants or tax breaks could be given to businesses to assist in meeting design standards.

6. **Allowances for expansions should be limited and consistent where the nonconformity is allowed to be rebuilt.**

   Reasons:
   - Expansions in size or intensity for nonconformity do not further the intent of current development standards and are not necessary for disaster exceptions where the intent is to limit burdens to property owners.

Recommended Actions:

- The Hillsborough County Comprehensive Plan and Land Development Code should be made consistent with Ordinance 93-20 which allows only for the original square footage to be rebuilt with no expansions.

7. Make the zones that build back standards apply to clear and consistent.

Recommended Actions:

- Basic build back standards (i.e. if damaged 50% of value must meet current building and development standards) should be universal across all districts and zones.
- Special build back standards, such as for flood or storm surge, should use consistent zone definitions across plans and codes (i.e. coastal planning area in County Comprehensive Plan vs. coastal high hazard area in County Land Development Code).

8. Ensure that cessation of use limitations for nonconforming uses are not applicable after a disaster or provide special post-disaster time limitations.

Reasons:

- Depending on the disaster impact, delays in reoccupation of structures could last for months to a year or more in certain cases with the property owner having limited control in the timeframe.

Recommended Actions:

- Include an exception for cessation of use limitations in the case of a disaster like the County has included in their codes or be prepared to issue an emergency exception to the rules after a disaster.

Task 3: Build Back Standards
Addendum

Follow up from County staff meeting regarding Build Back Standards report

From: Henry, Eugene
To: Boyd, Allison; McCaw, Tara;
Subject: FW: PDRP / Act of God provision as it relates to non-conformities in community planning areas / LDC Round 1 2011
Date: Thursday, August 19, 2010 9:10:24 AM
Attachments: Ordinance 93-20 and the Definition for Disaster Declaration within the LDC.msg

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FYI

From: Moreda, Joe
Sent: Tuesday, August 17, 2010 2:12 PM
To: Harvey, Paula; Henry, Eugene; Gormly, Adam; Kline, Dennis; Fernandez, Jose
Cc: Heinrich, Michelle
Subject: FW: PDRP / Act of God provision as it relates to non-conformities in community planning areas / LDC Round 1 2011

...as a follow up to our discussion on Friday and as an fyi - Michelle will be the lead on this assignment (forwarded).

From: Moreda, Joe
Sent: Tuesday, August 17, 2010 10:39 AM
To: Heinrich, Michelle
Subject: PDRP / Act of God provision as it relates to non-conformities in community planning areas / LDC Round 1 2011

Michelle,

please prepare a timeline for deliverables using the following scope. The due date needs t be mid December.

- prepare text that provides for Act of God (AoG) NCU provision to prevail subject to a disaster declaration notwithstanding other text to the contrary in the LDC.

*[**Declared Natural Disaster:** Any natural catastrophe in which the Hillsborough County Emergency Policy Group has made a determination that the community has sustained an impact. Natural disasters include, but not limited to: hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, or drought, or, regardless of cause, any fire, flood, or explosion, in any part of the*

county, which in the determination of the Policy Group causes damage of sufficient severity and magnitude to warrant a Disaster Declaration.]

- review ord 93-20 [attached] and determine what needs to be adopted into LDC

- review LDC to identify all post disaster regulations

- review community planning overlay applicability text (Jose has started this) to identify where cross reference may be needed to AoG

- review area in NCU regs where we need to cross reference and alert reader that the community planning overlays may have a different standard for AoG event for individual lots (non disaster declaration) than other areas/districts County wide.

- review LDC to make recommendation for appropriate area to compile all post disaster regulations into one section

- prepare LDC amendment which achieves all above

Please prepare a draft timeline based on what you anticipate and let's meet to discuss.

Thanks

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