

## How We Protect Property Rights

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**GOAL 3A:** HOLMES COUNTY AND THE TOWNS OF ESTO, NOMA, PONCE DE LEON, AND WESTVILLE SHALL MAKE DECISIONS WITH RESPECT FOR PROPERTY RIGHTS AND WITH RESPECT FOR PEOPLE'S RIGHTS TO PARTICIPATE IN DECISIONS THAT AFFECT THEIR LIVES AND PROPERTY.

**Objective 3.1:** Respect judicially acknowledged and constitutionally protected private property rights.

**Policy 3.1.1:** The County and the Towns of Esto, Noma, Ponce De Leon, and Westville will consider during decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

**Policy 3.1.2:** The County and the Towns of Esto, Noma, Ponce De Leon, and Westville will consider during decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

**Policy 3.1.3:** The County and the Towns of Esto, Noma, Ponce De Leon, and Westville will consider during decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

**Policy 3.1.4:** The County and the Towns of Esto, Noma, Ponce De Leon, and Westville will consider during decision-making the right of a property owner to dispose of his or her property through sale or gift.

**Objective 3.2:** Protect the Vested Rights of Property Owners

**Policy 3.2.1:** Property owners' rights of development shall be vested when a final development order is issued by the County, or the Towns of Esto, Noma, Ponce De Leon, or Westville respectively, and the development order has not expired, or development has commenced and is continuing in good faith prior to the adoption of this Plan.

**Policy 3.2.2:** Land uses which were lawful prior to the adoption of this Plan or a subsequent amendment, but which are no longer lawful as a result of the adoption of the Plan or a subsequent amendment, shall be considered non-conforming. Such uses shall be allowed to remain in a non-conforming condition, until:

- a) The use is discontinued or abandoned for a period as determined in the Land Development Regulations.
- b) The use is substantially changed, intensified, or expanded from the current use. A use shall be considered substantially changed, intensified, or expanded if it results in an increase in the number of trips generated as deemed so by a comparative analysis utilizing the Institute of Traffic Engineers Trip Generation Manual, most recent edition.

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**Policy 3.2.3:** Structures which were lawful prior to the adoption of this Plan or a subsequent amendment, but which are no longer lawful as a result of the adoption of the Plan or a subsequent amendment, shall be considered non-conforming structures. Other than those structures which are officially designated as historic, such structures shall be allowed to remain in a non-conforming condition in perpetuity unless:

- a) The structure is damaged or destroyed to the extent of fifty (50) percent or more of the fair market value of the structure at the time of the damage or destruction. Structures rebuilt must follow the requirements of this Plan and the Land Development Regulations.
- b) Structures officially designated as historic may rebuild to the historic nature of the structure or development.

**Policy 3.2.4:** Parcels of record or recorded platted lots within a land use category that allows for residential development that existed on or prior to February 5, 1992 shall be permitted at least one residential dwelling per parcel or recorded lot, unless the Future Land Use category allows for greater density on that parcel of record.