



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

COLLEEN CASTILLE
Secretary

December 8, 2003

The Honorable Karen R. Stern
Chairwoman, St. Johns County Board of County Commissioners
P. O. Box 349
St. Augustine, Florida 32085-0349



Dear Chairwoman Stern:

The Department has completed its review of the Comprehensive Plan Amendments adopted by St. Johns County on October 14, 2003 (DCA No.03-2), and has determined that the amendment adopted by Ordinance No. 2003-88, a Future Land Use Map redesignation from Rural Silviculture to Intensive Commercial and Conservation for property located north of International Golf Parkway and east of I-95, is not in compliance with Chapter 163, Part II, Florida Statutes (F.S.). The remaining amendments adopted by Ordinance Nos.2003-84 through 2003-87 have been determined to be in compliance with Chapter 163, Part II, F.S. The Department is issuing a Notice of Intent to find Ordinance No. 2003-88 not in compliance and Ordinance Nos. 2003-84 through 2003-87 in compliance. The Notice of Intent for all these amendments has been sent to the St. Augustine Record for publication on December 9, 2003.

The amendment adopted by Ordinance No. 2003-88 has been determined to be not in compliance for the following reasons: (1) the amendment exhibits indicators of urban sprawl, including a lack of demonstrated need for additional commercial land use for the subject property, premature conversion of rural land to urban uses, and inadequate separation of rural and urban land uses; (2) the amendment is not based on sufficient data and analysis regarding transportation impacts or scheduled capital improvements to ensure that adopted level of service standards on affected roadways will be achieved and maintained; and (3) the amendment is not supported with data and analysis demonstrating that an adequate potable water facility exists or is planned within the County's five-year short-term and long-term planning horizons.

Please note that a copy of the adopted St. Johns County Comprehensive Plan Amendment, the Department's Objections, Recommendations and Comments Report dated July 11, 2003, the Notice of Intent and the Department's Statement of Intent to find the Comprehensive Plan Amendment Not in Compliance must be available for public inspection

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The Honorable Karen R. Stern
December 8, 2003
Page Two

Monday through Friday, except for legal holidays, during normal business hours, at the County Clerk's Office, County Administration Building, 4020 Lewis Speedway, St. Augustine, Florida 32084.

In addition, the Notice of Intent and the Statement of Intent will be forwarded to the Division of Administrative Hearings of the Department of Management Services for the scheduling of an administrative hearing pursuant to Section 120.57, Florida Statutes.

If the Department's compliance determination is challenged by an affected person, you will have the option of mediation pursuant to Subsection 163.3189(3)(a), F.S. If you choose to attempt to resolve the matter through mediation, you must file the request for mediation with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation will not affect the right of any party to an administrative hearing.

I am interested in meeting with you or your designee at your convenience for the purpose of negotiating an agreement that will bring your plan amendment into compliance. My staff and I are available to discuss your plan amendment with you. Another letter will be sent to you that includes additional information about the administrative hearing process and compliance agreements.

If you have any questions, or are interested in discussing a compliance agreement, please contact Mike McDaniel, State Planning Initiatives Administrator, at (850) 922-1806 or Joseph Addae-Mensa, Senior Planner, at (850) 922-1783.

Sincerely,

A handwritten signature in cursive script, appearing to read "Valerie J. Hubbard", with the word "FOR" written in small capital letters to the right of the signature.

Valerie J. Hubbard, AICP
Director, Division of Community Planning

VJH/jam

Enclosures: Notice of Intent
Statement of Intent

cc: Teresa Bishop, AICP, Planning Director, St. Johns County
Ed Lehman, Growth Management Director, Northeast Florida Regional Planning Council

**STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS**

IN RE: ST. JOHNS COUNTY
COMPREHENSIVE PLAN)
AMENDMENT ADOPTED BY) DOCKET NO. 03-2-NOI-5501-(A)-(I)(N)
ORDINANCE NO. 2003-88 ON)
OCTOBER 14, 2003)
_____)

**STATEMENT OF INTENT TO FIND THE
COMPREHENSIVE PLAN AMENDMENT
NOT IN COMPLIANCE**

The Florida Department of Community Affairs, pursuant to Section 163.3184(10), Florida Statutes, (F.S.), and Rule 9J-11.012(6), Florida Administrative Code (F.A.C.), hereby issues this Statement of Intent to find the St. Johns County Comprehensive Plan Amendment, adopted by Ordinance No. 2003-88, on October 14, 2003, which would change the Future Land Use Map designation from Rural Silviculture to Intensive Commercial and Conservation for property located north of International Golf Parkway and east of I-95, not in compliance based upon the Objections, Recommendations and Comments (ORC) Report issued by the Department on July 11, 2003, which is hereby incorporated by reference. The plan amendment is not in compliance because it is inconsistent with Chapter 163, Part II, F.S., the State Comprehensive Plan and Rule 9J-5, F.A.C., for the following reasons:

I. CONSISTENCY WITH CHAPTER 163, PART II, F.S., AND RULE 9J-5, F.A.C.

A. Inconsistent provisions: The inconsistent provisions of the plan amendment under this subject heading are as follows:

1. The Amendment Does Not Discourage the Proliferation of Urban Sprawl. The amendment exhibits indicators of urban sprawl, including a lack of demonstrated need for additional commercial land use in the location of the subject property; premature conversion of rural land to urban uses; inadequate separation of rural and urban land uses; and lack of maximization of existing and future public facilities. Within the amendment area, there is a significant amount of commercial development approved and yet to be built, including the St. Johns Development of Regional Impact (DRI), the World Commerce Center DRI and the Golf Centre PUD. The adopted amendment would result in additional estimated 2.5 million square feet of non-residential space in the area. In response to the Department's ORC report, the County adopted a new Policy A.1.3.13 in the Future Land Use Element to limit commercial/retail land uses on the subject property to 20 percent, unless market and economic impact studies demonstrate the need for additional commercial retail land uses. This policy still allows approximately 65 acres and 782,400 square feet of commercial space to be available immediately. Data and analysis have not been included to support this amount of additional retail commercial development. The data and analysis also do not demonstrate that the amendment is internally consistent with the County Comprehensive Plan, including the following policies: Future Land Use Element Policies A.1.2.5 and A.1.3.6, Objectives A.1.6, A.1.9, and A.1.11, and Policies A.1.13.1 and A.1.15.2; Transportation Element Policies B.1.1.1, and B.1.1.4; and Infrastructure Policies D.4.1.4, and D.1.1.7. [Sections 163.3177(2), 163.3177(3)(a), 163.3177(6)(a), 163.3177(6)(c), 163.3177(6)(j), 5., 163.3177(10)(h), F.S.; Rules 9J-5.005(2), 9J-5.005(5), 9J-5.006(3)(b)1, and 8., 9J-5.006(3)(c), 3., 9J-5.006(5), 9J-5.011(2)(b)2., and 3., 9J-5.011(2)(c)1., 2., (2)(c)6., 9J-5.013(3), 9J-5.016(3)(b)3., 5., 9J-5.016(3)(c)1., d., e., f., and 6., 9J-5.016(4)(a), and 9J-5.019(4)(b),2., F.A.C.]

2. Inadequate Transportation Facilities. The amendment is not based on sufficient transportation data and analysis demonstrating that adequate transportation facility capacity exists or improvements are programmed to ensure that the County's adopted level of service (LOS) standards on the area's roadway network are achieved and maintained. Instead, new Policy A.1.3.13 in the Future Land Use Element requires that (1) development projects within the Intensive Commercial designation address transportation management techniques, which discourage peak hour traffic on International Golf Parkway and I-95, and (2) development projects create or become part of an existing Transportation Management Organization and participate in transportation management strategies. While the Department and the Florida Department of Transportation encourage these transportation strategies, it has not been demonstrated that they are sufficient to ensure that the adopted LOS standards on impacted roadways will be achieved and maintained. The applicant's traffic analysis discusses a number of road improvements that are in various stages of planning, but it has not been demonstrated that these improvements are included in the County's Five-Year Schedule of Capital Improvements and no analysis has been provided indicating that these improvements will be sufficient to achieve and maintain the adopted LOS standards. In particular, there is concern regarding the impact of this amendment on I-95, SR 16, and International Golf Parkway. The data and analysis also do not demonstrate that the amendment is internally consistent with the County Comprehensive Plan, including the following policies: Future Land Use Element Policy A.1.2.1; Transportation Element Policies B.1.1.1, B.1.1.4 and B.1.3.4, Objectives B.1.4 and B.1.6, Policies B.1.6.3 and B.1.6.4., Objective B.1.7 and Policy

B.1.7.1; and Capital Improvements Element Policies H.1.2.1, H.1.2.3, H.1.3.1 and H.1.3.2. [Sections 163.3177(2), 163.3177(3)(a), 163.3177(6)(a), 163.3177(6)(j)5., 163.3177(10)(h), and 163.3187(2), F.S.; Rules 9J-5.005(2), 9J-5.005(5), 9J-5.006(3)(c)3., 9J-5.016(3)(b)3., 9J-5.016(3)(c)1., d., e., f., and 6., 9J-5.016(4)(a), and 9J-5.019(4)(b)2., and 3., F.A.C.]

3. Inadequate Potable Water Availability. The amendment is not supported with data and analysis demonstrating that adequate potable water capacity exists or is planned to meet the need generated by the amendment within the County's short-term and long-term planning horizons. The Northwest Potable Water Service District is responsible for providing potable water to this area. St. Johns County's consumptive use permit (CUP) issued by the St. Johns River Water Management expired in 1996 and application for its renewal is pending, according to a letter in the amendment package provided by St. Johns County Utility Department Engineering Manager. At this point, neither the renewal of the CUP nor the capacity of potable water applied for is guaranteed. The data and analysis also do not demonstrate that the amendment is internally consistent with the County Comprehensive Plan, including the following policies: Future Land Use Element Policies A.1.2.1 and A.1.3.6; Infrastructure Element Objective D.4.1 and Policies D.4.1, D.4.1.1, D.4.1.2, D.4.1.3, D.4.1.4, D.4.1.6, D.4.1.7, D.4.1.8, D.4.1.13, Objective D.4.2 and Policies D.4.2.1, D.4.2.2, D.4.2.3, D.4.6.6, and Capital Improvements Element Policies H.1.2.1, H.1.3.1, and H.1.3.2. [Sections 163.3177(2), 163.3177(3)(a), 163.3177(6)(a), 163.3177(6)(c), 163.3177(10)(h), 163.3187(2), F.S.; Rules 9J-5.005(2),

9J-5.005(5), 9J-5.006(3), (c)3., 9J-5.011(2)(b)2., 3., and (2)(c)1., 2., 9J-5.016(3)(b)3., 5., 9J-5.016(3)(c)1., d., e., f., and 6., and 9J-5.016(4)(a), F.A.C.]

B. Recommended Remedial Actions: The inconsistencies may be remedied by taking the following actions:

1. Either provide appropriate data and analysis to support the need for the additional retail commercial in the amendment area, considering the amount of commercial development already approved, or limit the types of land uses allowed by the amendment to office, research, business and other employment generating land uses.
2. Provide data and analysis of the availability of transportation facilities to support the amendment. The analysis should be based upon the maximum intensity and density standards for the proposed future land category, considering the short-term and long-term planning horizons, as adopted in the County's Comprehensive Plan. Based on the transportation impact analysis, appropriate improvements should be adopted and programmed to ensure that LOS standards of impacted roadways are achieved and maintained.
3. Demonstrate, by obtaining a consumptive use permit from the St. Johns River Water Management District, that sufficient supplies of potable water are

available for this as well as other approved development within the Northwest Potable Water Service District.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Inconsistent provisions: The inconsistent provisions of the plan amendment under this subject heading are as follows:

1. The comprehensive plan amendment is inconsistent with the State Comprehensive Plan goals and policies set forth in Section 187.201, F.S., including the following provisions:

- a. Water Resources (8) - Policies (b) 5 and 10
- b. Land Use (16) - Policies (b) 1, 2 and 6
- c. Public Facilities (18) - Policies (b) 1 and 7
- d. Transportation (20) - Policies (b) 3, 9, 11, 13
- e. Plan Implementation (26) - Policy (b) 7

B. Recommended Remedial Actions: These inconsistencies may be remedied revising the comprehensive plan amendment, as described in Section I.B above.

CONCLUSIONS

1. The plan amendment is not consistent with the State Comprehensive Plan.
2. The plan is not consistent with Chapter 9J-5, Florida Administrative Code.
3. The plan amendment is not consistent with the requirements of Chapter 163, Part II, Florida Statutes.
4. The plan amendment is not “in compliance,” as defined in Section 163.3184(1)(b) Florida Statutes.

5. In order to bring the plan amendment into compliance, the County may complete the recommended remedial actions described above or adopt other remedial actions that eliminate the inconsistencies.

Executed this 8 day of December 2003, at Tallahassee, Florida.



Valerie J. Hubbard, AICP
Director, Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS NOTICE OF INTENT TO FIND THE
ST. JOHNS COUNTY COMPREHENSIVE PLAN AMENDMENTS
ADOPTED BY ORDINANCE NO. 2003-84, 2003-85, 2003-86 AND 2003-87 ON OCTOBER 14, 2003
IN COMPLIANCE
EXCEPT FOR THE NINE MILE GANG AMENDMENT OF THE FUTURE LAND USE FROM
RURAL SILVICULTURE TO INTENSIVE COMMERCIAL AND CONSERVATION OF “
ORDINANCE NO. 2003-88 ON OCTOBER 14, 2003 WHICH ARE NOT IN COMPLIANCE
DOCKET NO. 03-2-NOI-5501-(A)-(I)(N)

The Department gives notice of its intent to find the St. Johns County Comprehensive Plan Amendments adopted by Ordinance Nos. 2003-84, 2003-85, 2003-86 and 2003-87 on October 14, 2003 IN COMPLIANCE, and for the Nine Mile Gang Amendment adopted by Ordinance No. 2003-88 adopted on October 14, 2003, changing the Future Land Use designation from Rural Silviculture to Intensive Commercial and Conservation which is NOT IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

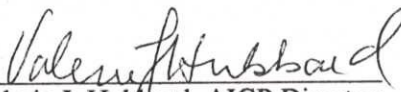
The adopted St. Johns County Comprehensive Plan Amendments, the Department's Objections, Recommendations, and Comments Report (if any), and the Department's Statement of Intent to find the Comprehensive Plan Amendments Not In Compliance will be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the County Clerk's Office, County Administration Building, 4020 Lewis Speedway, St. Augustine, Florida 32084

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the above referenced amendments to the St. Johns County Comprehensive Plan are In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice; a copy must be mailed or delivered to the local government and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

This Notice of Intent and the Statement of Intent for those amendment(s) found Not In Compliance will be forwarded by petition to the Division of Administrative Hearings (DOAH) of the Department of Management Services for the scheduling of an Administrative Hearing pursuant to Sections 120.569 and 120.57, F.S. The purpose of the administrative hearing will be to present evidence and testimony on the noncompliance issues alleged by the Department in its Objections, Recommendations, and Comments Report and Statement of Intent in order to secure a recommended order for forwarding to the Administration Commission.

Affected persons may petition to intervene in either proceeding referenced above. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. Pursuant to Section 163.3184(10), F.S., no new issues may be alleged as a reason to find a plan amendment not in compliance in a petition to intervene filed more than twenty one (21) days after publication of this notice unless the petitioner establishes good cause for not alleging such new issues within the twenty one (21) day time period. The petition for intervention shall be filed at DOAH, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, and a copy mailed or delivered to the local government and the Department. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing pursuant to Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Subsection 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.


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