



STATE OF FLORIDA

# DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

## MEMORANDUM

TO: **Jim Quinn, DEP**  
**Susan Harp, DOS**  
**Wendy Evans, AG**  
**Mary Ann Poole, FWC**  
**Susan Sadighi, FDOT 5**  
**Phil Laurien, East Central Florida RPC**  
**Jeff Cole, St Johns River WMD**

Date: September 23, 2008

Subject: Proposed Comprehensive Plan Amendment Review Objections,  
Recommendations and Comments Reports

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**Enclosed are the Departments Objection, Recommendations and Comments Reports on the proposed amendments to the comprehensive plan(s) from the following local government(s):**

Volusia Co 08-1ER

**These reports are provided for your information and agency files. Following the adoption of the amendments by the local governments and subsequent compliance review to be conducted by this agency, we will forward copies of the Notices of Intent published by each local government plan.**

**If you have any questions, please contact Mr. Ray Eubanks at Suncom 278-4925 or (850) 488-4925.**

RE/p

Enclosure

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100  
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: [www.dca.state.fl.us](http://www.dca.state.fl.us)

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦  
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦



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**THOMAS G. PELHAM**  
Secretary

September, 23 2008

The Honorable Frank Bruno, Jr  
County Chair, Volusia County  
123 West Indiana Ave.  
Deland, FL 32720

Dear Chairman Bruno:

The Department has completed its review of the proposed Comprehensive Plan Amendment for Volusia County (08-1ER), which was received on July 25, 2008. Based on Chapter 163, Florida Statutes, and Rule 9J-5, Florida Administrative Code, we have prepared the attached Objections, Recommendations, and Comments Report which outlines our findings concerning the comprehensive plan amendment. It is particularly important that the County address the objections set forth in the attached report so that the identified issues can be successfully resolved prior to adoption. We have also included a copy of local, regional, and state agency comments for your consideration. Within the next 120 days, the County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, our report also includes a summary of the procedures for final adoption and transmittal of the amendment.

The Volusia County 08-1ER proposed amendment includes the County's EAR-Based amendments that were a result of the Evaluation and Appraisal Report adopted by the County in 2006. The Department has identified concerns to the County's 08-1ER amendment relating to water supply planning, military encroachment planning, Coastal High Hazard Area, and the proposed changes to three of the Future Land Use Categories. The Department has also provided two comments to the amendment regarding the County's hurricane evacuation times and the annual update to the five-year schedule of capital improvements.

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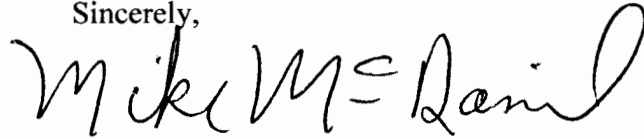
The Honorable Frank Bruno

September, 23 2008

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We are available to work with your staff to assist the County in responding to our report and developing an acceptable solution. If you have any questions regarding this matter, please call Jon Frederick, Planner, at (850) 922-1807.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive, flowing style.

Mike McDaniel, Chief  
Office of Comprehensive Planning

MM/jf

Enclosures: Objections, Recommendations, and Comments Report  
Review Agency Comments

cc: Mr. Gregory Stubbs, Growth and Resource Management Director, Volusia County  
Mr. Phil Laurien, Executive Director, East Central Florida Regional Planning Council

DEPARTMENT OF COMMUNITY AFFAIRS  
OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT  
VOLUSIA COUNTY COMPREHENSIVE PLAN  
AMENDMENT 08-1ER

September 23, 2008  
Division of Community Planning  
This report is prepared pursuant to  
Rule 9J-11.010, F.A.C.

## INTRODUCTION

The following objections, recommendations and comments are based upon the Department's review of the Volusia County proposed Comprehensive Plan amendment, pursuant to Section 163.3184, Florida Statutes (F.S.).

The objections relate to specific requirements of relevant portions of Chapter 9J-5, Florida Administrative Codes (F.A.C.), and Chapter 163, Part II, F.S. The objections include a recommendation of an approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some of these objections may have initially been raised by one of the other external review agencies. If there is a difference between the Department's objection and the external agency advisory objection or comment, the Department's objection would take precedence.

The County should address each of these objections when the plan is resubmitted for our compliance review. Objections that are not addressed may result in a determination that the amendment is not in compliance. The Department may have raised an objection regarding missing data and analysis items that the County considers not applicable to its amendment. If that is the case, a statement, justifying its non-applicability, pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination on the non-applicability of the requirement, and if the justification is sufficient, the objection will be considered addressed.

The comments that follow the objections and recommendations are advisory in nature. Comments will not form bases of a determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping, and reader comprehension.

Appended to the back of the Department's report are the comment letters from the other state review agencies and other agencies, organizations and individuals. These comments are advisory to the Department and may not form bases of Departmental objections unless they appear under the "Objections" heading in this report.

## TRANSMITTAL PROCEDURES

Upon receipt of this letter, the County has 120 days in which to adopt, adopt with changes, or determine not to adopt the proposed comprehensive plan amendment. The process for adoption of local comprehensive plan is outlined in Section 163.3184, F.S., and Rule 9J-11.011, F.A.C.

Within ten working days of the date of adoption, the County must submit the following to the Department:

Three copies of the adopted comprehensive plan amendment;

A copy of the adoption ordinance;

A listing of additional changes not previously reviewed;

A listing of findings by the local governing body, if any, which were not included in the ordinance; and,

A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the plan, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted plan directly to the Executive Director of the East Central Florida Regional Planning Council.

Please be advised that the Florida Legislature amended Section 163.3184(8)(b), F.S., requiring the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by the law to furnish to the Department the names and addresses of the citizens requesting this information. This list is to be submitted at the time of transmittal of the adopted amendment. As discussed in our letter sent to you on May 25, 2001, outlining the changes to Section 163.3184(8)(b), F.S., which were effective July 1, 2001, and providing a model sign-in information sheet, ***please provide these required names and addresses to the Department when you transmit your adopted plan for compliance review.*** For efficiency, we encourage that the information sheet be provided in electronic format.

**OBJECTIONS RECOMMENDATIONS AND COMMENTS REPORT  
VOLUSIA COUNTY 08-1ER  
PROPOSED COMPREHENSIVE PLAN AMENDMENT**

**I. Consistency with Rule 9J-5, F.A.C., and Chapter 163, Part II, F.S.**

**Introduction:** The Volusia County 08-1ER proposed amendment includes the County's EAR-Based amendments that pertain to the County's 2006 adopted EAR. The Department has completed its review of the proposed amendment and has identified the following objections.

**A. OBJECTIONS**

**1. Objection: 10-year Water Supply Work Plan**

The County's proposed amendments do not include a 10-year water supply plan (work plan) required by Section 163.3177(6)(c), F.S. The County's work plan was due to be adopted by August 7 2007, and the EAR recognized that a work plan needed to be completed. The data and analysis supporting the Potable Water Sub-Element states that the proposed amendment does not reflect the changes that will occur with the adoption of the County's Water Supply Facilities Work Plan because the water supply related amendments will occur subsequent to the adoption of the EAR-based amendments. The County's EAR recognized the need to adopt a work plan, and the work plan has been due for over a year. It is not adequate to further delay the adoption of a work plan past the due date of the EAR-based Amendments. Therefore, the County's proposed amendment is inconsistent with Section 163.3177(6)(c) and Section 163.3191(10), F.S.

**Authority:** [Sections 163.3167(13); 163.3177(2), (6) (a), (c), (d), and (h) F.S., (8); 163.3191(10), F.S; and Rules 9J-5.005(2)(a), (5), (6); 9J-5.006(2)(a), (3)(b) 1, (3)(c)(3); 9J-5.011(1)(a through f); 9J-5.013(1)(c), F.A.C]

**Recommendation:** Revise the EAR-based amendments to adopt the 10-year water supply work plan. In order to gain the benefit of an Objections, Recommendations, and Comments Report (ORC), the Department encourages the County to propose and adopt the work plan prior to the adoption of the EAR-based Amendments. Regardless, the EAR-based Amendments should not be adopted without a work plan in place.

**2. Objection: Coastal High Hazard Area**

The County's proposed amendment does not update the Coastal Management Element to include the most current definition of the Coastal High Hazard Area (CHHA). The proposed amendment does provide a map as part of Future Land Use Map Series that appears to be consistent with the category storm 1 surge area, but the CHHA is not clearly defined in the Coastal Management Element. Due to the County's failure to define the CHHA in the comprehensive plan, the amendment is inconsistent with Section 163.3178(2)(h), (9)(c), F.S. and Rule 9J-5.012(3)(c)7, F.A.C.

**Authority:** [Section 163.3178(2)(h), F.S. and Rule 9J-5.012(3)(c)7, F.A.C.]

**Recommendation:** Revise the amendment to include the updated definition of the Coastal High Hazard Area (CHHA) in the Coastal Management Element of the County's Comprehensive Plan. The CHHA must be 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 pursuant to Section 163.3178(2)(h), F.S.

### **3. Objection: Military Planning**

The County's adopted EAR recognized the need to address the provisions of Sections 163.3175 and 163.3177(6)(a), F.S. relating to military zone encroachment planning. The County's proposed EAR-Based Amendments includes a map of the areas within Volusia County that lie in the Jacksonville Bombing Range Complex Military Zone and provide several policies in the Future Land Use Element regarding this area. The policies sufficiently address the required coordination provisions of Section 163.3175, F.S., but they do not include criteria required for future development to demonstrate compatibility between development/land uses and the surrounding Military Installations. The proposed amendment does not discuss how land use activities can impact Military Installations and does not specify how the County will ensure compatibility. The amendment does not provide specific criteria pertaining to the type, size, and scale of development that will be used to determine if future land use changes and development activity is compatible with the surrounding Military Installations. Without the necessary measures or criteria the compatibility determination cannot be made; therefore this policy lacks meaningful and predictable standards as required by Rule 9J-5.005(6), F.A.C.

Sections 163.3177(6)(a), 163.3177(6)(j)7., F.S.; Rules 9J-5.003(23), 9J-5.005(6), 9J-5.006(3)(c)2, 9J-5.019(4)(c)18, F.A.C.

**Recommendation:** Revise the amendment to include criteria that will enable a determination of whether or not land uses are compatible with the Military Installations. The comprehensive plan must include specific criteria that will help to determine compatibility with the Jacksonville Bombing Range Complex Military Zone.

### **4. Objection: Rural Land Use Category**

The County has proposed changes to the Rural Future Land Use Category. This land use category describes two ways in which the allowable density can be determined: areas in the vicinity to existing subdivisions and areas not in the vicinity to existing subdivisions. Areas in the vicinity of existing subdivisions may be developed in a density similar as the adjacent subdivisions and areas not in the vicinity of an existing subdivision are allowed a density of one unit per five acres. The current policy defines "vicinity" as within 660 feet of the existing subdivision, but the proposed policy removes the description of vicinity. Without the definition of vicinity the Rural Future Land Use Category lacks meaningful density standards required by Section 163.3177(6)(a) and Rule 9J-5.005(6), F.A.C. Furthermore, it promotes increased development in a single-use low density residential development pattern which encourages urban sprawl and inefficient land use patterns which is inconsistent with Section 163.3177(6)(a), F.S. and Rule 9J-5.005(6)(3)b 7, F.A.C.

Authority: Section 163.3177(1) and (6)(a) and Rules 9J-5.005(6); 9J-5.006(3)(b)7., 9J-5.006(5), F.A.C.

**Recommendation:** Revise the amendment to clearly describe which areas within the Rural Land Use Category are considered to be in the vicinity of a vested subdivision. The policy must provide a clear definition of the density that can be developed in the Rural Land Use Category. Give consideration to an alternative density other than one unit per five acres that is more rural in land use, perhaps one unit per ten acres or less. The proposed land use density is an inefficient density that is neither urban nor rural in character.

#### **5. Objection: Low Impact Urban (LIU) Land Use Category**

The County has proposed changes to the LIU land use category. The LIU category is one of three sub-categories to the Natural Resource Management Area (NRMA) land use category. The existing LIU category requires 50 percent of the required open space to be upland habitat, while the proposed policy requires at least 20 percent of the total development site be set aside for the preservation of upland habitat. The NRMA land use category is described as “an area of relatively uninterrupted environmentally sensitive areas which need to be managed as part of a system.” The County has not provided data and analysis demonstrating that that this change will provide adequate wetland protection pursuant to Rule 9J-5.013(3), F.A.C.

Authority: Sections 163.3177(1, 2, and 8); 163.3177(6)(a and d), F.S.; and Rules 9J-5.005(2 and 5); 9J-5.006(2); 9J-5.013(1); 9J-5.013(2)(b)(3 and 4); 9J-5.013(2)(c)(3, 5, 6, 7, and 9); 9J-5.013(3), F.A.C.

**Recommendation:** Revise the amendment to provide data and analysis that demonstrates the revised policy will provide the same protection to upland habitat within the LIU land use category. Since the LIU land use category is within an identified environmentally sensitive area, the amendment must provide adequate data and analysis that demonstrates adequate uplands will be provided to protect and conserve the natural functions of wetlands pursuant to Rule 9J-5.013(3)(a), F.A.C.

#### **6. Objection: Conservation Land Use Category**

The County’s Conservation land use category fails to provide the allowable land uses and the intensities and densities of those land uses as required by Section 163.3177(6)(a), F.S and Rule 9J-5.006(3)c 7, F.A.C.

Authority: Section 163.3177(6)(a and d), F.S. and Rule 9J-5.006(3)c 7; 9J-.013(1), F.A.C.

**Recommendation:** Revise the amendment to identify the types of uses that will be allowed within the Conservation land use category and identify the density/intensity of those uses. Demonstrate that densities and intensities are compatible with the purpose of the land use category.

## **B. COMMENTS**

**1. Potential Comment:** The County has not included an updated five-year schedule of capital improvements with the 08-1ER. The Department and the County are in the process of working out a settlement agreement for the 07/08-11/12 five-year period. The County should be aware that the five year schedule of capital improvements must be updated to reflect the improvements that will be needed for the 2008/09-2012/13 period by December 1, 2008.

**2. Potential Comment:** Policy 11.5.1 of the County's Coastal Management Element establishes an evacuation time of 19 hours for the population located within the Hurricane Vulnerability Zone (HVZ). The County's plan defines the HVZ as the portion of the unincorporated region to be evacuated in Category 3 or greater intensity storm as identified in the County's Comprehensive Emergency Management Plan. The Department encourages the County's efforts to maintain hurricane evacuation times for the HVZ, but the County should be aware that any map amendment increasing residential development within the CHHA will be required to demonstrate that a 16 hour out of County evacuation time will be achieved for a Category 5 storm event as measured on the Saffir-Simpson scale.

## **II. CONSISTENCY WITH STATE COMPREHENSIVE PLAN**

The proposed amendment is not consistent with the State Comprehensive Plan including the following goals and policies:

Goal (7) Water Resources, Policies (b), 3, 5, 11, and 13: these issues pertain to objection 1

Goal (8) Coastal and Marine Resources, Policies (b), 3: this issues pertains to objection 2.

Goal (9) Natural Systems and Recreational Lands, Policies (b) 1, 3, and 7: these issues pertain to objections 4, 5, and 6.

Goal (15) Land Use, Policy (b) 1, 2, 5, and 6 pertaining to objections 1, 3, and 4.

Goal (25) Plan Implementation, Policies (b) 7: this issue pertains to all of the above objections.

**Recommendation:** Revise the proposed amendments, as indicated in the objections and recommendations of this report in order to further the above goals and policies of the State Comprehensive Plan.