

PUBLISHED IN THE ST. PETE TIMES ON OCTOBER 31, 2008
STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND THE
PASCO COUNTY AMENDMENTS ADOPTED BY
ORDINANCE NOS. 08-29, 08-30, 08-32, 08-33, 08-34, 08-35, 08-37 AND 08-38
IN COMPLIANCE
AND THE REMAINING AMENDMENTS ADOPTED PURSUANT TO
ORDINANCE NOS. 08-31, 08-36 AND 08-39
NOT IN COMPLIANCE
DOCKET NO. 08-2-NOI-5101-(A)-(I)-(N)

The Department gives notice of its intent to find the Amendment(s) to the Comprehensive Plan for the Pasco County amendments adopted by Ordinance Nos. 08-31, 08-36 and 08-39 on September 8, 2008 Not In Compliance, and the remaining amendments adopted pursuant to Ordinance Nos. 08-29, 08-30, 08-32, 08-33, 08-34, 08-35, 08-37 and 08-38 on September 8, 2008 In Compliance, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Pasco 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 Pasco County Growth Management 7530, Little Road, Suite 320, New Port Richey, Florida 34654-5598.

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 Pasco 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.

Mike McDaniel, Chief
Office of Comprehensive Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

October 30, 2008

The Honorable Ted Schrader, Chairman
Pasco County Board of Commissioners
7530 Little Road
New Port Richey, Florida 34654

Dear Chairman Schrader:

The Department of Community Affairs (Department) has completed its review of the comprehensive plan amendment for Pasco County adopted on September 8, 2008, by Ordinance Numbers 08-29 thru 08-39 (DCA No. 08-2). The Department finds Ordinance Numbers 08-31, 08-36, and 08-39 do not meet the requirements of Chapter 163, Part II, Florida Statutes (F.S.) and Chapter 9J-5, Florida Administrative Code (F.A.C.). The Department finds that Ordinance Numbers 08-29, 08-30, 08-32, 08-33, 08-34, 08-35, 08-37 and 08-38 are consistent with Chapter 163, Part II, F.S. and Chapter 9J-5, F.A.C. The Department's Notice of Intent and Statement of Intent are enclosed with this letter.

The Notice of Intent has been sent to the *St. Petersburg Times* for publication on October 31, 2008. In addition, 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 law judge pursuant to Section 120.57, F.S.

Please note that a copy of the Pasco County adopted Comprehensive Plan Amendment, the Department's Objections, Recommendations and Comments Report dated May 16, 2008, the Notice of Intent and the Statement of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Pasco County Growth Management Office, 7530 Little Road, Suite 320, New Port Richey, Florida 34654. Also, Section 163.3184(8)(c)2, F.S., requires a local government that has an Internet site to post a copy of the Department's Notice of Intent on the site within 5 days after receipt of the mailed copy of the Notice of Intent.

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.

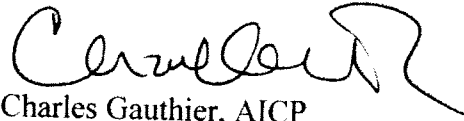
2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: www.dca.state.fl.us

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

The Honorable Ted Schrader, Chairman
October 30, 2008
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If you have any questions, or are interested in setting up a meeting to discuss a settlement, please contact Bernard Piawah, Regional Planning Administrator at (850) 922-1810, Jon Frederick, Senior Planner, at (850) 922-1807, or Leslie Bryson, Assistant General Counsel, at (850) 488-0410.

Sincerely yours,



Charles Gauthier, AICP
Director, Division of Community Planning

CG/jf

Enclosure: Notice of Intent
Statement of Intent

cc: Mr. Samuel P. Steffey, Growth Management Administrator, Pasco County
Mr. Manuel Pumariega, Executive Director, Tampa Bay Regional Planning Council

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE: PASCO COUNTY
COMPREHENSIVE PLAN AMENDMENTS
08-2; AMENDING THE FUTURE LAND
USE MAP, FUTURE LAND USE ELEMENT,
COASTAL MANAGEMENT ELEMENT,
AND THE TRANSPORTATION ELEMENT
ADOPTED BY ORDINANCE Nos. 08-29
THRU 08-39 ON SEPTEMBER 08, 2008

Docket No. 08-2-NOI-5101-(A)-(I)-(N)

STATEMENT OF INTENT TO FIND
COMPREHENSIVE PLAN AMENDMENTS
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 Ordinance Numbers 08-31, 08-36, and 08-39, adopted on September 8, 2008 as part of the 08-2 amendment package, Not In Compliance based upon the Objections, Recommendations and Comments Report (“ORC Report”) issued by the Department on May 16, 2008, which is hereby incorporated by reference. The Department finds that the ordinances are not “in compliance”, as defined in Section 163.3184(1)(b), *Florida Statutes*, and not consistent with Chapter 163, Part II, F.S., Chapter 9J-5, F.A.C. and the State Comprehensive Plan, Chapter 187, F.S., for the following reasons:

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

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

1. Hurricane Evacuation Times: This issue pertains to the County’s adopted Ordinance Number 08-36 which amends the County’s Coastal Management Element. The text amendments to Coastal Management Element Objective 3.1 and Policies 3.1.2, 3.1.4, and 3.1.8 through 3.1.13 are to address the Coastal High Hazard Area requirements of Section 163.3178(9), F.S.

Specifically Objective 3.1 and Policies 3.1.12 and 3.1.13 adopt an in-county evacuation time of 18 hours and an out-of-county evacuation time of 55 hours. The amendments are inconsistent with Section 163.3178(9)(a and b), F.S., which require an in-county to shelter evacuation time of 12 hours and an out-of-county evacuation time of 16 hours during a category 5 storm event as measured on the Saffir-Simpson scale. Therefore, Ordinance Number 08-36 is inconsistent with the following provisions:

Authority: Sections 163.3177(2), (6) (g)1. h., (8), and (10)(e); and 163.3178(1), (2)(d) and (9)(a and b), Florida Statutes; and Rules 9J-5.006(3)(b)5; 9J-5.012(3)(a); 9J-5.012(3)(b)7; 9J-5.012(3)(c)3, Florida Administrative Code.

2. Land Use Need: This issue pertains to Future Land Use Map amendments 08-2(3) and 08-2(11) adopted by ordinance numbers 08-31 and 08-39. The amendments are not supported by appropriate data and analysis demonstrating that the maximum residential development potential allowed by the amendments is needed to accommodate the County's projected population within the planning timeframe of the County's Comprehensive Plan. Each of the Future Land Use Map amendments are based on different population projections and FLUM amendment 08-2(11) uses population projections through the year 2050 which exceeds the County's planning timeframe by 25 years. The amendments do not analyze the amount of vacant, developable land that is currently available to support future population growth taking into account the increased development potential approved since the time of the EAR-based amendments in 2006. Due to the inconsistencies in baseline data and assumptions, the amendments lack a professionally acceptable analysis that demonstrates the need for additional residential development potential in unincorporated Pasco County through the planning timeframe.

Authority: Sections 163.3177(2), (6)(a), and (8), F.S.; and Rules 9J-5.005(2 and 5); 9J-5.006(2)(c), F.A.C.

3. School Planning: This issue relates to amendments 08-2(3 and 11) adopted by Ordinance Numbers 08-31 and 08-39 respectively. FLUM Amendments 08-2 (3 and 11) increase the potential number of school students, but the amendments are not supported by data and analysis addressing the availability of school facilities based on the level of service standards of the applicable school concurrency service areas. The Department's analysis of the FLUM amendments using the data submitted with the recently adopted Public School Facilities Element reveals the increased development potential will negatively impact High School Concurrency Service Area Two and Middle School Concurrency Service Area Two. Therefore, the Future Land Use Map amendments have not demonstrated the coordination of school facility improvements that are needed to achieve and maintain the level of service standards for schools with the Capital Improvements Element and the Public School Facilities Element.

Authority: Sections 163.3177(2), (3), (6)(a), (8), (10)(e), and (12); and 163.3180(13), F.S.; and Rules 9J-5.005(2); 9J-5.006(3)(b)1., (3)(c)3.; and 9J-5.016(4)(a)9J-5.025(3)(b) 2 and 3, F.A.C.

4. Transportation Facilities: This issue relates to map amendments 08-2(3 and 11) adopted by Ordinance Numbers 08-31 and 08-39. FLUM amendments 08-2(3 and 11) will increase the number of vehicle trips on SR 52 and I-75 which are currently failing or are projected to fail in the next five years. The County's analysis states that the impacts to SR 52 and I-75 will be addressed with a 15 year long term concurrency management system. The County has not

adopted a long term concurrency management system into the comprehensive plan pursuant to Section 163.3180(9)(a), F.S. which provides how existing deficiencies will be corrected over the next 15 years. Without an adopted strategy to address existing deficiencies, it is inappropriate to continue to make land use changes that will negatively impact segments of SR 52 and I-75. Furthermore, without an adopted long-term concurrency management system in place, it is inappropriate to depend on roadway improvements scheduled for construction in 2016/2017 to address deficiencies. Therefore, map amendments 08-2(3 and 11) do not coordinate transportation facilities with the Future Land Use Element and the Capital Improvements Element.

Authority: Sections 163.3164(32); 163.3177(2), (3) (6)(a and j), and (8); 163.3180(9)(a and b), F.S.; and Rules 9J-5.005(2) and (5); 9J-5.06(3)(b)1 and (3)(c)3; 9J-5.016(1)(a); 9J-5.016(2)(b, c, and f); 9J-5.016(4)(a); 9J-5.019(3)(f, g, h, and i); 9J-5.019(4)(b) 1-3F.A.C.

5. Environmental Suitability: This issue pertains to Future Land Use Map amendment 08-2(3) adopted by Ordinance Number 08-31. The County's Comprehensive Plan identifies certain areas as critical linkages between environmentally sensitive areas that must be protected. The critical linkages depicted on Map 3-4 of the Pasco County Comprehensive Plan resulted from scientific studies provided with the County's EAR-based amendments in 2006 that defined the areas between public lands that should be preserved for wildlife habitat and movement. Subarea Policy 6.1.10.3 and Subarea Map 2-9(10) associated with map amendment 08-2(3) define the area subject to critical linkage policies as only the wetlands and a 100 foot buffer, and made the area much smaller than the critical linkage area established by Map 3-4 of the County's Comprehensive Plan. The amendment does not provide data and analysis that justifies the

reduction in the critical linkage area or demonstrates the area is suitable for increased development potential in light of the environmentally sensitive nature of the site. In addition, map amendment 08-2(3) is internally inconsistent with Conservation Policy 1.2.2 which prohibits an increase in density within the established critical linkage unless it is transferred to uplands outside of the critical linkage area. The amendment is also inconsistent with state law which requires local governments to restrict activities that adversely affect the survival of endangered and threatened wildlife and to protect the natural function of wildlife habitats.

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

B. Recommended remedial actions: The above inconsistencies may be remedied by taking the following actions:

1. Hurricane Evacuation Times: Please rescind the ordinance. If the County elects to establish an optional out-of-county evacuation LOS standard, it shall be no greater than 16 hours. Since the County did not adopt an out-of-County evacuation time by July 1, 2008, the County's out-of-County evacuation time defaulted to 16 hours, pursuant to Chapter 163.3178(9)(b), F.S.
2. Land Use Need: Revise the amendments to include an analysis, based on professionally acceptable methodology and assumptions, demonstrating that the proposed additional acreage of residential land uses are needed in order to accommodate the County's projected population growth for the planning timeframe of the County's Comprehensive Plan (2025). The population projections for the County must be consistent for all amendments and be based on a

professionally acceptable methodology. The analysis must take into account vacant, developable land that currently exists in the County for residential development including the development potential added to the FLUM since the time of the EAR-based amendments in 2006. If the analysis concludes that the amendments are not needed, the County should rescind the amendments and propose them at such time in the future that they may be needed to accommodate the projected population of the County.

3. School Planning: Revise the amendments to include data and analysis addressing: (1) identification of the cumulative impact of the amendments on the projected number of students (elementary, middle, and high school students) for the applicable school concurrency service area; (2) the impact of additional students on the level of service standards for the school concurrency service area; (3) the need for any school facility capacity improvements (scope, cost, and timing) that are needed to achieve and maintain the adopted level of service standards; and (4) coordination of any needed school facility improvements with the Public School Facilities Element and Capital Improvements Element. It is not sufficient to state that school capacity issues will be addressed at the permitting stage of the development process.

4. Transportation Facilities: Since there is no roadway capacity available to accommodate the impacts of these amendments, the County should rescind the amendments until such time that a long term concurrency management is adopted that addresses the existing deficiencies on SR 52 and I-75. Alternatively, amend the five-year schedule of capital improvements to include transportation improvements that address the deficiencies on SR 52 and I-75. Improvements added to the five-year schedule of capital improvements must demonstrate that the level of

service standard will be achieved and maintained and must be financially feasible as defined in Section 163.3164(32), F.S.

5. Environmental Suitability: Revise Subarea Policy 6.1.10.3 and Subarea Map 2-9(10), to reflect the Critical Linkage area defined by Map 3-4 of the Pasco County Comprehensive Plan which was supported by the “Assessment of Measures to Protect Wildlife Habitat in Pasco County” study that was submitted with the County’s EAR-based Amendments. Alternatively, provide data and analysis demonstrating that the reduction in the critical linkage area will adequately protect wildlife habitat and corridors as is intended by Policy 1.2.2 of the County’s Conservation Element. The analysis must be based on best available data and a professionally acceptable methodology coordinated with the Fish and Wildlife Commission as well as other organizations with authority in that field.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Inconsistent Provisions: Adopted Ordinance Numbers 08-29, 08-31, 08-36, and 08-39 are not consistent with the State Comprehensive Plan including the following goals and policies set forth in Section 187.201, F.S.:

Goal (6)(a) Public Safety; Policies (6)(b)22 and (6)(b)23

Goal (9)(a) Natural Systems and Recreational Lands; Policies (9)(b)1, (9)(b)3

Goal (15)(a). Land Use; Policies (15)(b)1 and (15)(b)2

Goal (17)(a). Public Facilities Policy (17)(b)7

Goal (19)(a). Transportation; Policies (19)(b)3, (19)(b)9, and (19)(b)13

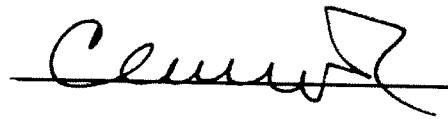
Goal (25)(a). Plan Implementation, Policy (25)(b)7

B. Recommended remedial action. These inconsistencies may be remedied by revising the Amendment as described earlier in this statement of intent.

CONCLUSIONS

1. The Amendment is not consistent with the State Comprehensive Plan.
2. The Amendment is not consistent with Chapter 9J-5, *Florida Administrative Code*.
3. The Amendment is not consistent with the requirements of Chapter 163, Part II, *Florida Statutes*.
4. The Amendment is not "in compliance," as defined in Section 163.3184(1)(b) *Florida Statutes*.
5. In order to bring the Comprehensive 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 29 day of October 2008, at Tallahassee, Florida.



Charles Gauthier, AICP
Director, Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100