



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

September 11, 2009

The Honorable Glenn Ritchey, Mayor
City of Daytona Beach
301 South Ridgewood Avenue
Daytona Beach, Florida 32114

Dear Mayor Ritchey:

The Department has completed its review of the proposed Comprehensive Plan Amendment for the City of Daytona Beach (DCA No. 09-2), which was received on July 15, 2009. Based on Chapter 163, Florida Statutes, we have prepared the attached report, which outlines our findings concerning the amendment. It is particularly important that the City address the objections set forth in our review report so that these 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 60 days, the City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, our report outlines procedures for final adoption and transmittal. The issues identified in the report relate to transportation, public facility capacity, water supply, lack of demonstrated need, site suitability and school capacity.

The Department is committed to working with the City in addressing all concerns detailed in the report. If you have any questions, or if we may be of further assistance as you formulate your response to this report, please contact Ashley Porter, Planner, at (850) 921-4818.

Sincerely,

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/ap

Enclosures: Review Agency Comments
Objections, Recommendations and Comments Report

cc: Mr. Phil Laurien, Executive Director, East Central Florida Regional Planning Council
Mr. Rich Walton, Planning Director, City of Daytona Beach

TRANSMITTAL PROCEDURES

Upon receipt of this letter, the City of Daytona Beach has 60 days in which to adopt, adopt with changes, or determine that the City will not adopt the proposed amendment. The process for adoption of local government comprehensive plan amendments is outlined in s. 163.3184, Florida Statutes (F.S.), and Rule 9J-11.011, Florida Administrative Code (F.A.C.) The City must ensure that all ordinances adopting comprehensive plan amendments are consistent with the provisions of Chapter 163.3189(2) (a), F.S.

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

Three copies of the adopted comprehensive plan amendments;

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 amendments, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to the Executive Director of the East Central Florida Regional Planning Council.

Please be advised that Section 163.3184(8) (c), F.S., requires 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 plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. **Please provide these required names and addresses to the Department *when you transmit your adopted amendment package* for compliance review. In the event no names, addresses are provided, please provide this information as well.** For efficiency, we encourage that the information sheet be provided in electronic format.

DEPARTMENT OF COMMUNITY AFFAIRS
OBJECTIONS, RECOMMENDATIONS AND COMMENTS
CITY OF DAYTONA BEACH
COMPREHENSIVE PLAN AMENDMENT 09-2

September 11, 2009
Division of Community Planning
Bureau of Local 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 City of Daytona Beach proposed amendment to their comprehensive plan (DCA number 09-2) pursuant to Chapter 163.3184, Florida Statutes (F.S.).

The objections relate to specific requirements of relevant portions of Chapter 9J-5, Florida Administrative Code (F.A.C.), and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some 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.

Each of these objections must be addressed by the local government and corrected when the amendment is resubmitted for our compliance review. Objections, which 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, which the local government 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, which follow the objections and recommendations section, 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.

OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT

PROPOSED COMPREHENSIVE PLAN AMENDMENT

CITY OF DAYTONA BEACH (DCA No. 09-2)

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

The Department has identified the following objections to the proposed City of Daytona Beach Amendments (09-2):

1. Objection West ISB, Old Tomoka Road, SR 40 Amendments Transportation

The amendments increase development potential, and increase impacts to roadway segments within the City of Daytona Beach. No data and analysis was provided to demonstrate that the City has coordinated the transportation system with the Future Land Use Map, taking these amendments into consideration. While the City has been designated a dense urban land area by recent legislation, the City has not amended its Comprehensive Plan to implement a transportation concurrency exception area encompassing the entire City.

For the State Road 40 amendment, the City is proposing a site specific text policy to limit development on the site “without a failure in the transportation network.” Neither the policy nor the data and analysis define the limitation on development or “failure in the transportation network.” This is not adequate to demonstrate facility availability for the proposed increase in intensity and density, and not meaningful and predictable.

Authority: Section 163.3177(2),(3),(6)(a),(j), (8) & (10), F.S.
Rule 9J-5.005(5), (6), 9J-5.006(2)(a) & (3)(b)1, (c)3, 9J-5.016(4), 9J-5.019(4)(b)2 F.A.C.

Recommendation: Demonstrate internal consistency between the Future Land Use Element and the Transportation Element of the Comprehensive Plan, including how mobility will be accomplished with this increase in density and intensity. The increase in density and intensity must be consistent with the existing or planned transportation system within the City. Any necessary improvements needed in the five year planning period should be listed in the five year schedule of capital improvements.

For the SR 40 amendment, address the need for meaningful and predictable standards for the proposed policy to demonstrate facility availability.

2. Objection Cloar Anderson, West ISB, Old Tomoka Road, SR 40 Amendments Public Facilities

The proposed plan amendments for the Cloar Anderson, West ISB, Old Tomoka Road, SR 40 amendments have not demonstrated, based on maximum development potential, that adequate

potable water, reclaimed water and wastewater treatment facilities are, or will be, available to accommodate the proposed plan amendments.

Additionally, no potable water, reclaimed water or sanitary sewer facilities currently extend to the sites. The proposed amendments do not address the construction and costs of the needed extension of infrastructure, to serve the developments and are not supported by amendments to the five year capital improvements schedule or the water supply plan.

Authority Sections 163.3177(2), (3), (4), (6)(a), (c), (d), (h)1 and 2, (8) & (10); Rule 9J-5.005(2) and (5), Rule 9J-5.006(2)(a), (3)(b),(c)3, Rule 9J-5.011(1)(a) through (f), (2)(b)2, 3.,5., (2)(c)1; 9J-5.016(1)(a); (2)(a, b, c, and f); (3)(b); (3)(c)4., 6., (4)(a), F.A.C.

Recommendation: For the amendments served by the City of Daytona Beach, adopt an in compliance ten year water supply plan that includes the necessary potable water and non-potable water improvements to serve these amendments, prior to the adoption of these proposed amendments. Provide data and analysis that includes an appropriate public facilities analysis for potable water, reclaimed water and sanitary sewer, based on maximum development potential for each amendment listed above. The analysis should demonstrate that the adopted levels of service for potable water and sewer will be maintained. Include any improvements for these facilities necessary to achieve and maintain level of service in the short term five year planning horizon in the five year schedule of capital improvements.

For the amendments served by Ormond Beach, provide data and analysis, which may include correspondence with Ormond Beach, demonstrating that potable water and sewer capacity exists. If the analysis shows anticipated public facilities deficiencies within the next five year planning period, and that improvements will be needed to address such deficiencies, Ormond Beach's five year schedule of capital improvements must be amended to include these improvements. For potable water and alternative water supply projects, Ormond Beach's ten year schedule of capital improvements in the water supply plan must also be amended.

Additionally, include the extension of infrastructure to the sites in the five year capital improvements schedule. If occurring outside of the five year planning period, the projects must be listed in the Capital Improvements Element. For potable water and alternative water supply projects, including extension of reclaimed water infrastructure, adopt these projects in the water supply plan ten year schedule of improvements.

3. Objection Cloar Anderson, West ISB, Old Tomoka Road, SR 40 Amendments Water Supply

The City has not demonstrated that adequate potable water supply exists in the ten year planning period to serve the amendments listed above. Also, no data and analysis was provided regarding reclaimed water demand generated by the increases in development potential.

Additionally, it is unclear how or if the additional potable water supply needed to serve the increased development potential was addressed in the City's adopted water supply plan, and for the SR 40 and Old Tomoka Farms amendments, in the City of Ormond Beach's water supply

plan. The City's adopted water supply plan was found not in compliance by the Department in August 2009, because the adopted work plan and the amended Capital Improvements Element (CIE) did not list all the projects necessary to demonstrate adequate water supply to meet projected demand.

Authority: Sections 163.3177(2), (3), (4)(a), (6)(a), (c), (d) and (h); 163.3177(8), (10); F.S.; Rule 9J-5.005(2),(5); 9J-5.006(2)(a), (3)(b) 1, 9., (3)(c)3.and 6; 9J-5.011(1), (2)(b), (c); 9J-5.013(1)(c), 9J-5.016(4)(a), F.A.C

Recommendation: The City should adopt an in compliance ten year water supply plan that demonstrates the availability of water supply to serve these amendments and includes the necessary public facility improvements to serve the projected development from the proposed future land use map amendments. The improvements must be included in the City's adopted five year capital improvements schedule in the comprehensive plan if needed in the first five years. Any improvements needed in the 10-year planning period after the first five years should be included in the ten year water supply plan. After adoption of the in compliance ten year water supply plan revise the amendments to include data and analysis demonstrating the availability of reclaimed water to meet nonpotable water needs of the properties, and demonstrate that there is adequate supply to serve the increased densities and intensities.

For the SR 40 and Old Tomoka Farms amendments, demonstrate that the demand generated by the maximum development potential of these amendments has been addressed in the City of Ormond Beach's ten year water supply plan. Any needed capital improvements must be included in their ten year schedule of capital improvements in their adopted water supply plan.

4. Objection SR 40 Amendment Site Suitability/Compatibility

The amendment site is comprised of approximately 20 percent wetlands. The property is located within the Tomoka River drainage basin, and the majority of the site is within the Federal Emergency Management Agency (FEMA) 100 Year Flood Zone A. Additionally, the soils underlying the property are poorly draining soils with moderate to severe limitations for building site development, and is an aquifer recharge area.

The site is also located within the primary range of the Florida Black Bear. The site is adjacent to the Tiger Bay State Forest, which is a wildlife corridor for endangered species. The proximity to the State Forest raises concerns with compatibility, because of wildlife as well as prescribed burning. Smoke from the burns will impact the site. Urban development proximate to the forest also increases the likelihood of wildfires.

While the City proposes a site specific text policy stating that the City will review applications for development to ensure that project design has maximized the use of clustering, this is not adequate to demonstrate site suitability. The amendment has not demonstrated how, through the existing and proposed policies in the comprehensive plan, the valuable habitats and resources onsite and adjacent to the site will be protected. The data and analysis does not demonstrate how impacts to the floodplains and wetlands are being avoided and, if impacted, how they will be mitigated, besides vague references to clustering. Given the nature of the poorly drained soils

onsite, its location within the Tomoka River Drainage Basin and the presence of listed wildlife species, the site is not suitable for the development proposed, or is compatible with adjacent resources.

Authority: Sections 163.3161(3); 163.3177(2); 163.3177(6)(a), (d); 163.3177(8); 163.3177(10); F.S.

Rules 9J-5.005(2) and (5); 9J-5.006(2)(b)1; 9J-5.006(2)(e), (g); 9J-5.006(3)(b)1., 3 and 4 and (c)(2); Rule 9J-5.011(2)(b)4 and 5; Rule 9J-5.011(2)(c)3., and 4; Rule 9J-5.012(3)(b)1., and 4; Rule 9J-5.013(1)(a)1., and 5; Rule 9J-5.013(2)(b)3., and 4; Rule 9J-5.013(2)(c)3, 5, 6, 8 and 9; Rule 9J-5.013(3) F.A.C.

Recommendation: Revise the plan amendment to effectively reduce the proposed density and intensity of the development and relocate the reduced development away from on-site wetlands, poorly drained soils, 100-year floodplains, and wildlife habitats and adjacent resources.

Demonstrate through data and analysis that the site is suitable for the proposed development. Adopt policies similar to Volusia County that provide appropriate densities and intensities for the site and appropriate protection of the natural resources on and adjacent to the site, perhaps with like policies as those that implement the County's Natural Resource Management Area. Support these policies with data and analyses demonstrating they will protect the onsite and adjacent resources from the impacts of the adopted character and size of the development approved for the amendment site.

5. Objection Need

The amendments substantially increase overall development potential by 4,550 dwelling units. No needs analysis was submitted with the amendment package to demonstrate that the increased density is required to accommodate the projected population. The City's Evaluation and Appraisal Report, adopted in 2007, states that the City has adequate vacant land to meet the demands of growth through 2025 (page 1-12). The increase in residential density proposed by these amendments is not supported by data and analysis that demonstrates the amendments are needed to accommodate anticipated growth.

Authority: Section 163.3177(2),(5), (6)(a), (8) & (10), F.S.
Rule 9J-5.005(2), (5), 9J-5.006(1)(g) and (2)(c), F.A.C.

Recommendation: Provide an appropriate residential needs analysis based on a professionally acceptable methodology. The analysis should demonstrate that the increase in residential development potential is needed to accommodate the City's projected increase in population for the City's adopted long term planning horizon.

6. Objection SR 40 Amendment Urban Sprawl:

The proposed SR 40 amendment exhibits indicators of urban sprawl. The amendment does not prevent the proliferation of urban sprawl and does not address any multi-modal connections with the downtown area or any other greenhouse gas reduction strategies, including compact

development design and the preservation of functional open space, wetlands, habitat and floodplains. The proposed plan amendment exhibits the following indicators of sprawl:

- Promotes, allows or designates for development substantial areas to develop as low-intensity, low-density or single use development in excess of demonstrated need.
- Promotes, allows or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while leaping over undeveloped lands which are available and suitable for development.
- As a result of premature or poorly planned conversion of rural land to other uses, fails adequately to protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, estuarine systems, and other significant natural systems.
- Fails to maximize use of existing and future public facilities and services. The amendment will require the expansion of public facilities to serve the site (including potable water, reclaimed water and wastewater facilities), however, there is no planned or committed extension of these services to the site. Expansion of facilities will further exacerbate the proliferation of urban sprawl.
- Fails to provide a clear separation between rural and urban uses.
- Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.
- Fails to encourage an attractive and functional mix of uses.
- Results in poor accessibility among linked or related land uses.
- Results in the loss of significant amounts of functional open space.

Therefore, the proposed amendment is internally inconsistent with the comprehensive plan and inconsistent with the following provisions:

Authority: Sections 163.3177(2), (6)(a,^c~~b~~ d, and j), (8),(10),(11)(c), 163.3187(2), F.S. Rules 9J-5.005(2); 9J-5.005(5); 9J-5.006(2)(c), (3)(b)8.; 9J-5.006(5); 9J-5.011(2)(b)3., F.A.C.

Recommendation: Do not adopt an increase in development potential above what is currently allowed on the site. Should the city proceed in adopting any increase in intensity or density, the amendment must ensure (a) a balanced and integrated mix of uses designed to encourage pedestrian and other non-automotive modes of travel; (b) a land use pattern through reduction of land use density and intensity and meaningful and predictable development controls that protect natural resources (c) include a capital improvements plan which is financially feasible and which ensures the necessary public facilities and services will be available to accommodate the potential development of the site; and (d) include phased development programs designed to discourage leapfrog and inefficient patterns of development. While the proposed text amendment alludes to phasing concurrent with public facilities, including roadways, it is not specific.

The amendment should also address the reduction of greenhouse gases through compact and efficient land use design and connectivity with already approved and existing development pursuant to Section 163.3177(6)(a, b, d. and j), F.S.

In addition, demonstrate the orderly extension of public facilities to the site, the availability of the services to serve the site and plan for the public facilities in a capital improvement schedule

as needed in the first five years. Demonstrate that facilities are planned for in the appropriate facilities elements, with identified improvements and funding sources.

If the amendment is adopted as proposed, provide a professionally acceptable needs analysis that demonstrates that the existing developable property currently designated as allowing residential on the Future Land Use Map is not adequate to meet the projected population growth of the City in its long term planning period.

7. Objection School Capacity:

The proposed Clear Anderson, West ISB, Old Tomoka Road and SR 40 amendments are not supported by data and analysis to demonstrate adopted level of service standards for public school facilities will be maintained. Combined, the proposed amendments have the potential to generate up to 1,052 elementary students, 514 middle school students, 725 high school students, and 47 other students. It does not appear the city completed coordination of the applications with the school district pursuant to Section 4.B. of the adopted interlocal agreement for school facility planning. As a result, the city has not demonstrated coordination with the public school facilities element, the intergovernmental coordination element and the capital improvements element.

Authority: Sections 163.3177(2), (3), (4), (6)(a), (8), (10), and (12); F.S. Rules 9J-5.005(2) and (5); 9J-5.006(2)(a), (3)(b)1 and (3)(c)3, 9J-5.016(1)(b), (2)(d) and (4)(a), 9J-5.025, F.A.C.

Recommendation: Provide data and analysis that demonstrates coordination with the school district pursuant to Section 4.B of the adopted interlocal agreement. Provide supporting data and analysis to demonstrate adopted level of service standards for public school facilities will be maintained. The analysis must be based on the maximum development potential of the parcels, be specific to the affected school concurrency service areas, and consider the cumulative impacts on public school facilities. Should the analysis reveal a level of service deficiency, the city in collaboration with the school district, must adopt a strategies to correct the deficiency.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

The proposed amendment does not adequately address the State Comprehensive Plan with regard to the following goals and policies:

As to Objection 1:

- (15) Land Use, Goal (a) Policy (b)1
- (17) Public Facilities Goal (a) Policy (b)7
- (19) Transportation, Goal (a) Policy (b)3, 9 and 13

As to Objection 2:

- (7) Water Resources Goal (a) Policy (b)1, 5, 10, 11
- (15) Land Use Goal (a) Policy (b)1 and 6

(17) Public Facilities Goal (a) Policy (b)7 and 9

As to Objection 3:

(7) Water Resources Goal (a) Policy (b)5 and 11

(15) Land Use Goal (a) Policy (b)1 and 6

(17) Public Facilities, Goal (a) Policy (b)7, 9

As to Objection 4:

(7) Water Resources Goal (a) Policy (b)8

(9) Natural Systems and Recreational Lands, Goal (a) Policies(b)1, 3 and 7;

(15) Land Use, Goal (a) Policy (b)2, and 6

As to Objection 5:

(15) Land Use, Goal (a) Policy (b)1

As to Objection 6:

(15) Land Use, Goal (a) Policy (b)1, 2, 3, 6

As to Objection 7:

(17) Public Facilities Goal (a) Policy (b)1, 7, 9

As to all Objections:

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

Recommendation

Revise the amendment to address the objections raised in this report in order to be consistent with the above cited provision of the State Comprehensive Plan.