

**STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS**

IN RE: HIGHLANDS COUNTY
COMPREHENSIVE PLAN AMENDMENT
ADOPTED BY ORDINANCE NO. 08-09-62
ON DECEMBER 23, 2008

Docket No. 08-2-NOI-2801-(a)-(n)

**STATEMENT OF INTENT TO FIND
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 Administrated Code (F.A.C.), hereby issues its Statement of Intent to find the Comprehensive Plan Amendment of Highlands County, adopted by Ordinance No.08-09-62 on December 23, 2008, Not In Compliance based upon the Objections, Recommendations and Comments Report (ORC Report) issued by the Department on November 14, 2008, which is hereby incorporated by reference, and based upon changes to the amendment as adopted. The Department finds the plan amendments not "in compliance," as defined in Section 163.3184(1)(b), F.S., because they are not consistent with Chapter 163, Part II, F.S., the State Comprehensive Plan (Chapter 187, F.S.) and Rule 9J-5, F.A.C., for the following reasons:

I. ORDINANCE NO. 08-09-62: The adopted Future Land Use Map Amendment (FLUM) redesignated 7,696 acres from Agriculture to Agriculture-Training Center on a parcel in the southwestern corner of the County. Based on the maximum amount of allowable development, 77 dwelling units and 23 million square feet of non-residential development could occur on the site.

A. Inconsistent Provisions: The FLUM has not been supported by adequate data and analysis demonstrating the availability of water supplies as required by Section 163.3177(6)(a), F.S., in addition to water delivery facilities to meet and maintain the adopted level of service standard for potable water.



The Department specifically finds that the plan amendment is inconsistent with the following rules and statutory provisions: Sections 163.3167(13); 163.3177(3), (4)(a), and (6)(a), (c), and (d), F.S.; Rules 9J-5.005(2), (3), (5), and (6); 9J-5.006(2)(a), (3)(b)1 and (c)3; 9J-5.011(1)(f), (2)(b)1, 2 and (2)(c)1 and 2; 9J-5.013(1)(c); 9J-5.016(2), (3)(b)1, 3, 4, and 5, and (c)1.f., 6, 7, 8; 9J-5.016(4)(a) and (b), F.A.C.

Recommended Remedial Action: Revise the amendment to demonstrate that sufficient potable water supply exists to serve the potential development allowed by the land use designation. This may include adopting a site-specific policy limiting the amount of potential development allowed on the site. The developer should coordinate closely with the South Florida Water Management District in the evaluation and identification of adequate source of water supplies. If capital improvements are needed to expand water supplies and the capital improvements will be the responsibility of Highlands County, an adopted capital improvements plan must be submitted demonstrating that these plans are in place and that there is a financially feasible plan to construct them. If the developer will be responsible for some or all of the costs of the Highlands County facilities, an executed development agreement must be submitted to demonstrate that the needed improvements listed in the Five-year Schedule of Capital Improvements are financially feasible. If the developer will build, own, and operate the facilities, a site-specific condition should be incorporated into the comprehensive plan making that a requirement. Data and analysis indicating the developer's plans and ability to provide the needed facilities should be provided.

B. Inconsistent Provisions: The site is located within the Fisheating Creek watershed that includes portions of Gannet Slough on the south and John Henry Slough on the east. These are major drainage ways providing inflow to Fisheating Creek, which is identified as one of three watersheds that contribute high phosphorus loads to Lake Okechobee. The future land use map amendment did not provide an assessment of the environmental resources on and adjacent to the site. The adopted land use amendment does not adequately protect the water quality of Fisheating

Creek and on-site wetlands. This is inconsistent with the requirements of Section 163.3177(6)(d), F. S. that requires water, wetlands, rivers, lakes, and flood plains be protected.

The Department specifically finds that the plan amendment is inconsistent with the following rules and statutory provisions: Sections 163.3177(2), (4)(a) & (6)(a), (c) and (d); 163.3177(8), F.S.; Rules 9J-5.005(2); 9J-5.006(1)(b)3 and 4; 9J-5.006(2)(b) and (c); (3)(b)1, and 4(c)1, and 6.; 9J-5.006(4)(b)3 and 4; 9J-5.013(1)(a)1 and 2, (2)(b)2 and 3, and (c)6, 8, and 9, and (3), F.A.C.

Recommended Remedial Action: Work closely with the South Florida Water Management District to revise the amendment to include policies to ensure water quality protection on the site and to ensure that the proposed development does not impact wetlands or reduce the natural functions of the Fisheating Creek watershed that includes portions of Gannet Slough on the south and John Henry Slough on the east, such as the collection, storage, filtering, and discharge of stormwater. The County should ensure that the environmental resources are protected by designating significant wetlands and floodplains associated with the Fisheating Creek as Conservation on the Future Land Use Map. In addition, policies should be adopted into the comprehensive plan that include strategies to be undertaken to protect the water quality of Fisheating Creek and that will result in the reduction in the amount of nutrient loading within the Fisheating Creek watershed.

II. CONSISTENCY WITH STATE COMPREHENSIVE PLAN

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

1. The amendment is inconsistent with the goal set forth in Section 187.201(7), F.S., and policies set forth in Sections 187.201(7)(b)5, 11, and 13., F.S.
2. The amendment is inconsistent with the goal set forth in Section 187.201(9), F.S., and policies set forth in Sections 187.201(9)(b)1, 5 and 7., F.S.

3. The amendment is inconsistent with the goal set forth in Section 187.201(15), F.S., and policies set forth in Sections 187.201(9)(b)7., F.S.
4. The amendment is inconsistent with the goal set forth in Section 187.201(17), F.S., and policies set forth in Sections 187.201(17)(b)1, 3, 4, 5, 6, 7, and 9., F.S.
5. The amendment is inconsistent with the goal set forth in Section 187.201(25), F.S., and policies set forth in Sections 187.201(25)(b)5, 7 and 8., F.S.

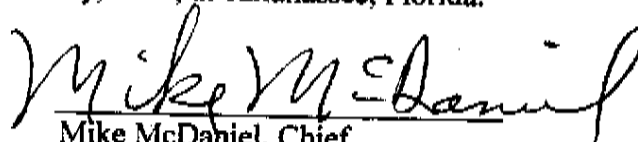
B. Recommended Remedial Actions. These inconsistencies may be remedied by taking the following actions:

1. Revise the plan amendment as described in the recommended remedial actions above.

CONCLUSIONS

1. The plan amendment is not consistent with the State Comprehensive Plan,
2. The plan amendment is not consistent with Chapter 9J-5, F.A.C.
3. The plan amendment is not consistent with the Chapter 163, Part II, F.S.
4. The plan amendment is not "in compliance," as defined in Section 163.3184(1)(b), F.S.
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 25th day of February, 2009, at Tallahassee, Florida.



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