



STATE OF FLORIDA

# DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

March 13, 2009

The Honorable Carlos Alvarez  
Mayor, Miami-Dade County  
Stephen P. Clark Center  
111 N.W. 1st Street, 29th Floor  
Miami, Florida 33128

Dear Mayor Alvarez:

The Department of Community Affairs completed its review of the Miami-Dade County proposed Comprehensive Plan Amendment (DCA No. 09-1), which was received on January 12, 2009. Copies of the proposed amendment have been distributed to appropriate state, regional, and local agencies for their review, and their comments are enclosed. The Department reviewed the comprehensive plan amendment for consistency with Rule 9J-5, Florida Administrative Code, and Chapter 163, Part II, Florida Statutes, and prepared the attached Objections, Recommendations, and Comments Report which outlines our findings concerning the comprehensive plan amendment. The Department identified four objections and no comments related to the amendment.

My staff and I are available to assist the County in addressing the issues identified in our report. If you have any questions, please contact Bill Pable, AICP, at (850) 922-1781.

Sincerely,

Mike McDaniel, Chief  
Office of Comprehensive Planning

MM/bp

Enclosures: Objections, Recommendations and Comments Report  
Review Agency Comments

cc: Mr. George Burgess, County Manager, Miami-Dade County  
Mr. Marc C. LaFerrier, Director, Miami-Dade County Planning and Zoning Department  
Ms. Carolyn A. Dekle, Executive Director, South Florida Regional Planning Council

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

**DEPARTMENT OF COMMUNITY AFFAIRS**

**OBJECTIONS, RECOMMENDATIONS, AND COMMENTS**

**FOR**

**Miami-Dade County**

**Amendment 09-1**

**March 13, 2009**  
**Division of Community Planning**

This report is prepared pursuant to Rule 9J-11.010

## INTRODUCTION

The following objections, recommendations and comments are based upon the Department's review of Miami-Dade County proposed Comprehensive Plan pursuant to Section 163.3184, F.S.

Objections relate to specific requirements of relevant portions of Chapter 9J-5, 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 of these objections may have been raised initially 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 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 County considers not to be 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 as to 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 are advisory in nature. Comments will not form a basis for 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, other agencies, organizations and individuals. These comments are advisory to the Department and may not form a basis for Departmental objections unless they appear under the "Objections" heading in this report.

## TRANSMITTAL PROCEDURES

Upon receipt of this letter, the County has 60 days in which to adopt, adopt with changes, or determine that the County will not adopt the proposed amendment. The process for adoption of local government comprehensive plan amendments is outlined in s. 163.3184, F.S., and Rule 9J-11.011, 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 County 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 South 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 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 there are no citizens requesting this information, please inform us of this as well. For efficiency, we encourage that the information sheet be provided in electronic format.

**OBJECTIONS, RECOMMENDATIONS, AND COMMENTS  
COMPREHENSIVE PLAN AMENDMENT 09-1  
Miami-Dade County**

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

A. The Department identifies the following objections and recommendations to the proposed amendment.

- Objection 1 (Applications 8 & 9) – Need: The amendment does not demonstrate that there is a need for the future land use changes proposed in applications 8 and 9. For both applications, the depletion year for single family and multi-family development is 2011 and 2019, respectively, while the supply depletion year for commercial development is anticipated to be beyond 2025. Therefore, the amendment would replace a land use with a constrained supply (i.e. residential) with a land use with ample supply (i.e. non-residential). The amendment is inconsistent with FLUE Policy LU-8F.

Authority: Sections 163.3177(2), (6)(a), (8), and 163.3187(2), F.S.; Rules 9J-5.005(2)(a), (c), (e), (5), 9J-5.006(2)(c), Florida Administrative Code.

Recommendation: The County should either retain the current land use designation or provide data and analysis which supports the need for the proposed FLUM amendments and demonstrates that the amendments are consistent with Land Use Element Policy LU-8F.

- Objection 2 (Application 9) – Road Capacity: The amendment causes roadways to operate below their adopted level of service standards. The application will add PM peak hour trips which will further degrade adjacent roadways which are projected to operate below the Miami-Dade County adopted level of service standard. An excerpt from page 9-3 of the County staff report is provided below. The Department of Transportation concurs with this assessment.

“The future traffic condition analysis indicates that in the year 2015, the following roadway segments in the vicinity of the Application site are projected to operate below their adopted LOS standards, with and without the Application’s impacts: the HEFT, NW 107 Avenue, NW 97 Avenue, NW 87 Avenue, the Palmetto Expressway (SR 826), the Dolphin Expressway (SR 836), West Flagler Street, Fontainebleau Boulevard, Park Boulevard, and NW 12 Street... The magnitude of the proposed commercial development would exacerbate traffic conditions that are projected to fail their adopted LOS at 2015.”

Authority: Sections 163.3161(3), 163.3177(3), (6)(a), and (6)(j)5, F.S.; and Rule 9J-5.005(2), 9J-5.006(2)(a), 9J-5.006(3)(b)1, (3)(c)3, 9J-5.016(2), (3)(b)1, 3, 4, (3)(c)6, 8, (4), 9J-5.019(2), (3)(a), (f), (h), and (4)(b)2, Florida Administrative Code.

Recommendation: The applicant should demonstrate how the County will achieve and maintain its adopted level of service standards through the 5-year planning time frame, including the incorporation into the 6-year capital improvement schedule in the Capital

Improvements Element of roadway improvements needed to achieve and maintain adopted level of service standards during the 5-year planning time frame. The schedule shall include estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities. The applicant should also depict on the Future Transportation Map and in the Transportation Element the roadway improvements needed to achieve and maintain adopted LOS standards because of the development allowed by Application 9, in order for this application to be consistent with the Comprehensive Development Master Plan.

- **Objection 3 (Application 11) – Charter Schools:** The objection to the Public School Facilities Element (PSFE) includes the 3 components noted below.
  - a. **Lack of Required Data and Analysis.** Section 163.3177(12)(c), F.S., notes that “A public school facilities element shall be based upon data and analyses that address, among other items, how level-of-service standards will be achieved and maintained. Such data and analyses must include, at a minimum, such items as: the interlocal agreement adopted pursuant to s. 163.3177...” The proposed amendment is not supported by an executed interlocal agreement, which is part of the required data and analysis.
  - b. **Inconsistent with the Statutory Definition of the Term “Amendment”.** Section 163.3189(1-2), F.S., states that “The procedure for amendment of an adopted comprehensive plan or plan element which has been found to be in compliance shall be solely as prescribed by this section. A local government which has a comprehensive plan that has been found to be in compliance may amend its comprehensive plan as set forth in s. 163.3184...” Furthermore, Rule 9J-5.003(6), F.A.C., defines the term “amendment” as follows: “...any action of a local government which has the effect of amending, adding to, deleting from or changing an adopted comprehensive plan element or map or map series, including an action affecting a prior plan or plan amendment adoption ordinance...” Amendment 11 does not meet the Rule’s definition of the term “amendment”. It proposes to amend something that is not in effect.
  - c. **Inconsistent with the PSFEs Adopted by Other Cities.** Even if it were appropriate to amend the PSFE at this time, doing so would create an inconsistency with other PSFEs already approved in the District, which is inconsistent with Section 163.3177(12), F.S.

**Authority:** Section 163.3177(12)(c), (j), 163.31777(1), (2), 163.3180(13)(g), 163.3189(1-2), F.S., Rule 9J-5.003(6), 9J-5.015(1)(a), Florida Administrative Code.

**Recommendation:** This amendment should be deferred until after the County’s PSFE is determined to be in compliance and until after the interlocal agreement is executed.

- **Objection 4 (Application 15) – Density Bonuses for Affordable Housing:** Section 163.3177(12)(j), F.S., states that “Failure to adopt the public school facilities element, to enter into an approved interlocal agreement... or to amend the comprehensive plan as necessary to implement school concurrency... shall result in a local government being prohibited from adopting amendments to the comprehensive plan which increase residential density until the necessary amendments have been adopted and transmitted to the state land

planning agency.” Text amendment 15 cannot be adopted pursuant to Section 163.3177(12)(j), F.S.

Authority: Section 163.3177(12)(c), (j), 163.31777(1), (2), F.S., Rule 9J-5.015(1)(a), Florida Administrative Code.

Recommendation: This amendment should be deferred until after the County’s PSFE is determined to be in compliance and until after the interlocal agreement is executed.

## **II. Consistency with Chapter 187, F.S., State Comprehensive Plan**

The proposed amendment is inconsistent with the following provision of Chapter 187, F.S.:

- A. Section 187.201(15), Land Use, Policy (b)1: Promote development in areas with the capacity to serve new population.
- B. Section 187.201(17), Public Facilities, Policies (b)3-6, 9: Allocate the costs of new public facilities on the basis of the benefits received by existing and future residents. Create a partnership which would identify and build needed public facilities. Encourage local government financial self-sufficiency in providing public facilities. Identify and implement innovative but fiscally sound and cost-effective techniques for financing public facilities. Identify and use stable revenue sources which are also responsive to growth for financing public facilities.
- C. Section 187.201(19), Transportation, Policies (b)3, 9, 13: Promote a comprehensive transportation planning process which coordinates state, regional, and local transportation plans. Ensure that the transportation system provides timely and efficient access to services, jobs, markets, and attractions. Coordinate transportation improvements with state, local, and regional plans.
- D. Section 187.201(25), Plan Implementation, Policy (b)7: Ensure that local plans implement and accurately reflect state goals and policies.

By addressing the concerns noted in Section I, this inconsistency with Chapter 187, Florida Statutes, can be addressed.