



STATE OF FLORIDA

# DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

July 18, 2008

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 has completed its review of the Miami-Dade County comprehensive plan amendments adopted on April 24, 2008 by Ordinance Numbers 08-44, 08-45, and 08-47 (DCA Number 08-1) and determined that the amendments adopted by Ordinance Numbers 08-47 meet the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance, as defined in Subsection 163.3184(1)(b), F.S.

The Department is issuing a Statement of Intent and a Notice of Intent to find the comprehensive plan amendments adopted by Ordinance Numbers 08-44 and 08-45 Not In Compliance and the amendments adopted by Ordinance Numbers 08-47 In Compliance. The Notice of Intent has been sent to the *Miami Herald* for publication on July 21, 2008.

Ordinance Numbers 08-44 and 08-45 resulted in the adoption of two Future Land Use Map changes for applications #5 and #8, respectively. Application #5 includes an "A" and "B" parcel. For parcel A, the amendment proposes to convert 21.6 acres from the current Future Land Use Map designation of Open Land to a proposed designation of Business and Office. For parcel B, the amendment proposes to convert 30.1 acres from the current Future Land Use Map designation of Open Land to a proposed designation of Institution, Utilities, and Communications. Application #8 proposes to convert 42.0 acres from the current Future Land Use Map designation of Agriculture to a proposed designation of Business and Office. The Department's conclusions regarding applications #5 and #8 are as follows: 1.) they do not demonstrate a need for an expansion to the Urban Development Boundary pursuant to Policies LU-8F and LU-8G; 2.) they result in internal inconsistencies within the Comprehensive Plan; 3.) application #5 does not protect natural resources; and 4.) application #8 does not preserve agricultural uses. Based on this information, the Department is issuing a Notice of Intent and a Statement of Intent to find the amendments associated with Ordinance Numbers 08-44 and 08-45 "not in compliance".

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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) ♦

Mayor Carlos Alvarez  
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With respect to the amendments adopted by Ordinance Numbers 08-47, the Department's Notice of Intent to find these plan amendments in compliance shall be deemed to be a final order if no timely petition challenging the amendments is filed. Any affected person may file a petition with the agency within 21 days after the publication of the Notice of Intent pursuant to Section 163.3184(9), F.S. No development orders, or permits for a development, dependent on the amendment may be issued or commence before the plan amendment takes effect. In addition, the Notice of Intent and the Statement of Intent will be forwarded to the Division of Administrative Hearings for the scheduling of an administrative hearing pursuant to Section 120.57, Florida Statutes.

Please note that a copy of the adopted Miami-Dade County comprehensive plan amendments, the Statement of Intent, and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Stephen P. Clark Center, 111 N.W. 1st Street, Miami, Florida 33128. In addition, Section 163.3184(8)(c)2, Florida Statutes, 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 agency's Notice of Intent.

If an affected person challenges the in compliance portion of the Notice of Intent, you will have the option of mediation pursuant to Subsection 163.3189(3)(a), F.S. If you choose to attempt to resolve this 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.

If you have any questions, please contact Bill Pable, AICP, or me at (850) 922-1781 for assistance.

Sincerely,



Mike McDaniel, Chief  
Office of Comprehensive Planning

MDM/bp

Enclosures: Notice of Intent  
Statement of Intent

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

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE: MIAMI-DADE COUNTY COMPREHENSIVE PLAN AMENDMENT 08-1; ORDINANCE NUMBERS 08-44 AND 08-45 AMENDING THE FUTURE LAND USE ELEMENT	Docket No. 08-1-NOI-1301-(A)-(I)-(N)
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STATEMENT OF INTENT TO FIND  
COMPREHENSIVE PLAN AMENDMENTS  
NOT IN COMPLIANCE

The Florida Department of Community Affairs, pursuant to Rule 9J-11.012(6), *Florida Administrative Code*, hereby issues this Statement of Intent regarding the Comprehensive Plan amendments adopted by Miami-Dade County in Ordinance Numbers 08-44 and 08-45 on April 24, 2008. The Department finds these Comprehensive Plan amendments not "in compliance," as defined in Section 163.3184(1)(b), *Florida Statutes*. The Department finds that these Comprehensive Plan amendments are not in compliance because they are not consistent with Chapter 163, Part II, *Florida Statutes*, the State Comprehensive Plan, Rule 9J-5, *Florida Administrative Code*, and the *Strategic Regional Policy Plan for South Florida* for the following reasons:

I. FUTURE LAND USE ELEMENT

A. Inconsistent provisions. The inconsistent provisions of the Comprehensive Plan amendment under this subject heading follow:

1. Ordinance #08-44 pertains to Application #5 in the Miami-Dade 08-1 adopted amendment. Application #5 includes an "A" and "B" parcel. For parcel A, the amendment proposes to convert 21.6 acres from the current Future Land Use Map designation of Open Land to a proposed designation of Business and Office. The anticipated use of parcel A is for a home improvement store. For

parcel B, the amendment proposes to convert 30.1 acres from the current Future Land Use Map designation of Open Land to a proposed designation of Institution, Utilities, and Communications (IUC). The anticipated use of parcel B is as a charter school, although the restrictive covenant for the site provides that if it is not purchased for a school site, it could be used for any non-residential activity allowed by the IUC land use category. Wetlands are present on the sites.

Approval of the requested Future Land Use Map amendment would require an expansion of the County's Urban Development Boundary (UDB). The process for expanding the UDB is defined by Policies LU-8F and LU-8G of the County's Future Land Use Element. Policy LU-8F notes that "...The adequacy of non-residential land supplies shall be determined on the basis of land supplies in subareas of the County appropriate to the type of use, as well as the Countywide supply within the UDB..." Policy LU-8F then notes that the adequacy of land supplies for "...neighborhood- and community-oriented business and office uses shall be determined on the basis of localized subarea geography such as Census Tracts, Minor Statistical Areas (MSAs) and combinations thereof." Policy LU-8G notes that, after demonstrating that a need exists, future wetlands delineated in the Conservation and Land Use Element "shall be avoided".

The County staff prepared a needs analysis based on Minor Statistical Areas which concludes that a need does not exist to expand the UDB for additional commercial development in this portion of the County. In contrast to the

applicant's need analysis for application #5 which is based on a radius centered on a specific geographic point (i.e. land presently owned by the applicant), the Department agrees with the County's analysis demonstrating that there is no need for additional commercial land.

There are three issues closely related to the need for the land use change.

First, due to the absence of a demonstrated need, application #5 is internally inconsistent with Policies LU-8F and LU-8G. Second, Policy LU-8G mandates that wetlands "shall be avoided". Wetlands are present on these sites. Therefore, expanding the UDB and re-designating these properties from Open Lands to intensive urban land use categories is inconsistent with the policy to avoid wetlands and therefore fails to protect natural resources.

Third, the restriction adopted into the Comprehensive Plan at page I-74.6 for application #5 prohibits residential development. However, it also notes that "if Parcel B is not purchased for a school site and is redesignated 'Institutions, Utilities, and Communications,' it could be used for any non-residential activity allowed by this land use category." The exception in this restriction was added after the Department issued its Objections, Recommendation, and Comments Report and introduces the potential for new uses on the site with impacts that have not been analyzed.

2. Ordinance #08-45 pertains to application #8 in the Miami-Dade 08-1 adopted amendment. The amendment proposes to convert 42.0 acres from the current Future Land Use Map designation of Agriculture to a proposed designation of

Business and Office. The anticipated use of the site is as a commercial retail center.

Approval of the requested Future Land Use Map amendment would require an expansion of the County's Urban Development Boundary (UDB). The process for expanding the UDB is defined by Policies LU-8F and LU-8G of the County's Future Land Use Element. Policy LU-8F notes that "...The adequacy of non-residential land supplies shall be determined on the basis of land supplies in subareas of the County appropriate to the type of use, as well as the Countywide supply within the UDB..." Policy LU-8F then notes that the adequacy of land supplies for "...neighborhood- and community-oriented business and office uses shall be determined on the basis of localized subarea geography such as Census Tracts, Minor Statistical Areas (MSAs) and combinations thereof." Policy LU-8G notes that, after demonstrating that a need exists, land designated agriculture on the Land Use Plan Map "shall be avoided".

The County staff prepared a needs analysis based on Minor Statistical Areas which concludes that a need does not exist to expand the UDB for additional commercial development in this portion of the County. The applicant offered a critique of the County's analysis but did not provide an independent analysis of need. The Department agrees with the County's analysis demonstrating that there is no need for the additional commercial land.

There are two issues closely related to the need for the land use change. First, because there is no need, application #8 is internally inconsistent with Policies LU-8F and LU-8G. Second, Policy LU-8G mandates that lands designated as agriculture “shall be avoided”. This amendment, including parcels A and B, does not avoid lands designated agriculture.

3. The Department specifically finds these Comprehensive Plan amendments are inconsistent with the following rule and statutory provisions: Rules 9J-5.005(5), 9J-5.006(2)(c), 9J-5.006(3)(b)4, 9J-5.013(2)(b)3 and 4, and 9J-5.013(2)(c)3, 5, 6, 9, and 13, *Florida Administrative Code*, and Sections 163.3177(2), 163.3177(6)(c), and 163.3187(2), *Florida Statutes*.

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

The Department recommends the County rescind the Future Land Use Map amendments associated with Ordinance Numbers 08-44 and 08-45.

## II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

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

The Comprehensive Plan amendment is inconsistent with the State Comprehensive Plan goals and policies set forth in Section 187.201, *Florida Statutes*, including the following provisions:

1. **Natural Systems and Recreational Lands.** For application #5, the amendment is inconsistent with the Goal set forth in Paragraph 187.201(9)(a), *Florida Statutes*, and the Policies set forth in Subparagraphs 187.201(9)(b)1, 3, 5, 7, 8, 9, 10, and 11, *Florida Statutes*; and
  2. **Land Use.** For applications #5 and #8, the amendment is inconsistent with the Goal set forth in Paragraph 187.201(15)(a), *Florida Statutes*, and the Policies set forth in Subparagraphs 187.201(15)(b)1, 2, and 6, *Florida Statutes*; and
  3. **Urban and Downtown Revitalization.** For applications #5 and #8, the amendment is inconsistent with the Goal set forth in Paragraph 187.201(16)(a), *Florida Statutes*, and the Policies set forth in Subparagraphs 187.201(16)(b)6, 8, 9, and 12, *Florida Statutes*; and
  4. **Public Facilities.** For applications #5 and #8, the amendment is inconsistent with the Goal set forth in Paragraph 187.201(17)(a), *Florida Statutes*, and the Policies set forth in Subparagraphs 187.201(17)(b)1, 2, 7, and 10, *Florida Statutes*; and
  5. **Agriculture.** For application #8, the amendment is inconsistent with the Goal set forth in Paragraph 187.201(22)(a), *Florida Statutes*, and the Policy set forth in Subparagraphs 187.201(22)(b)2 and 11, *Florida Statutes*; and
  6. **Plan Implementation.** For applications #5 and #8, the amendments are inconsistent with the Goal set forth in Paragraph 187.201(25)(a), *Florida Statutes*, and the Policies set forth in Subparagraphs 187.201(25)(b)7 and 8, *Florida Statutes*.
- B. Recommended remedial action. These inconsistencies may be remedied by revising the Comprehensive Plan amendment as described above in Section I.B.

### III. CONSISTENCY WITH THE SOUTH FLORIDA STRATEGIC REGIONAL POLICY

#### PLAN

A. Inconsistent provisions. The inconsistent provisions of application #5 under this subject heading are as follows:

Goal 11, and Policy 11.10, related to preservation of open lands, agriculture, and natural resource protection, of the Strategic Regional Policy Plan.

Goal 12, and Policies 12.1, 12.3, 12.4, related to preservation of agriculture, of the Strategic Regional Policy Plan.

Goal 20 and Policies 20.1, 20.2, and 20.3, related to natural resource protection, of the Strategic Regional Policy Plan.

B. Recommended remedial action. These inconsistencies may be remedied by revising the Comprehensive Plan amendment as described above in Section I.B.

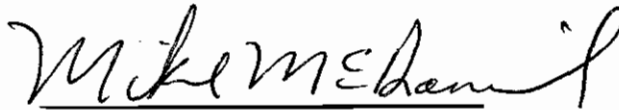
#### CONCLUSIONS

1. The Comprehensive Plan amendments are not consistent with the State Comprehensive Plan.
2. The Comprehensive Plan amendments are not consistent with Chapter 9J-5, *Florida Administrative Code*.
3. The Comprehensive Plan amendments are not consistent with the requirements of Chapter 163, Part II, *Florida Statutes*.
4. The Comprehensive Plan amendments are not consistent with the South Florida *Strategic Regional Policy Plan*.

5. The Comprehensive Plan amendments are not "in compliance," as defined in Section 163.3184(1)(b) *Florida Statutes*.

6. In order to bring the Comprehensive Plan amendments into compliance, the County may complete the recommended remedial actions described above or adopt other remedial actions that eliminate the inconsistencies.

Executed this 18<sup>th</sup> day of July 2008, at Tallahassee, Florida.



Mike McDaniel, Chief  
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Division of Community Planning  
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