



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

September 11, 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. 09-2), which was received on July 13, 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 three objections and three 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

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DEPARTMENT OF COMMUNITY AFFAIRS

OBJECTIONS, RECOMMENDATIONS, AND COMMENTS

FOR

Miami-Dade County

Amendment 09-2

September 11, 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 County 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 09-2
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.

1. Objection 1 (Application 1) – Impacts to Natural Resources: Based on the attached comments from the Department of Environmental Protection and the South Florida Water Management District, the amendment has the potential to result in impacts to natural resources as summarized below.
 - a. The potable water supply would be adversely impacted by decreases in freshwater flow and increases in saltwater intrusion.
 - b. Natural systems such as Everglades and Biscayne Bay National Parks would be adversely impacted by decreases in freshwater flow and increases in saltwater intrusion.
 - c. Surrounding wetlands from road construction for moving materials from the site would be adversely impacted.
 - d. The scope of the impact is unknown due to an unclear eastern boundary, an unmeasured supply of and demand for fill, and ambiguous text which is open to interpretation.
 - e. There are insufficient controls in the proposed text amendment to ensure protection of natural resources because the amendment only requires that the County consult with the Army Corp of Engineers and the South Florida Water Management District.

In addition, one of the primary purposes to allow new excavation on agriculture lands is that it result in a water management project which "...demonstrably supports a County, state or federal ecosystem restoration project and is determined... to be strategically designed and located to achieve the enhancement of the environmental project." Data and analysis has not been provided to support that purpose because the Comprehensive Everglades Restoration Plan (CERP) does not include a water management project in the location of the designated property.

The amendment is not supported by data and analysis to demonstrate that adverse impacts to natural resources will not occur. Therefore, the amendment does not demonstrate that the site in question is suitable for the proposed quarrying activities.

Authority:

Sections 163.3177(6)(a), (c), (d), (g)1.e, (h), (8), (9)(h) and (10)(e), F.S.; and Rules 9J-5.003(127) and (128); 9J-5.005(1)(c), (2), and (5)(a); 9J-5.006(2), (3)(b)1 and 4, (3)(c)4 and 6; 9J-5.011(1), (2)(b)5, and (2)(c)4; 9J-5.013(1), (2)(b)2, 3, and 4, (2)(c)1, 3, 5, 6, 8, and 9, (3); and 9J-5.015(3)(b)2 and (c)1, F.A.C.

Recommendation: The applicant should coordinate with the Florida Department of Environmental Protection and the South Florida Water Management District to address the issues summarized above and stated in their attached letters of August 18, 2009, and August 13, 2009, respectively. The amendment should be revised to provide additional data and

analysis to demonstrate that the site can be excavated without causing the adverse environmental impacts discussed in the objection, and that the intended environmental benefit can be achieved for the site in question.

2. **Objection 2 (Application 1) – Loss of Agriculture Lands:** The amendment results in the loss of 881 acres of viable agriculture land, which the *Agricultural Land Retention Study* identifies as being utilized as vegetable crops and field nurseries and which the *Agriculture and Rural Area Study* rates primarily as either 4 or 5, indicating that the land is highly suited for agriculture.

Authority: Sections 163.3162(2), 163.3177(6)(a) and (15)(a), F.S.; and Rules 9J-5.003(2) and 9J-5.006(5)(a), (g)5, (j)19, F.A.C.

Recommendation: The amendment should be revised to either demonstrate why 881 acres of viable agriculture land is not needed to sustain the agricultural economy, or alternately, the amendment should document why the fill must be excavated (in whole or in part) from this specific site rather than from other potential sources elsewhere in the region.

3. **Objection 3 (Application 1) – Internal Inconsistencies:** The amendment results in the loss of 881 acres of viable agriculture land, has the potential to impact natural resources, and would result in a wildlife attractive water body, potentially increasing the risk of bird air strike hazards (BASH). It is therefore internally inconsistent with several goals, objectives, and policies of the Miami-Dade County Comprehensive Development Master Plan related to the protection of natural resources, the preservation of agricultural lands, and compatibility with military bases. The amendment is internally inconsistent with the goals, objectives, and policies identified in Table 1 below.

Citation	Summary
LU-1P	Agriculture as a viable economic activity must be protected. Other uses must be compatible with agriculture and promote ecotourism.
LU-1R	The amount of land necessary to maintain an economically viable agriculture industry must be reserved.
LU-1S	The County comprehensive plan must be consistent with the County Strategic Plan, which protects viable agriculture.
Objective LU-3	Development and redevelopment must ensure the protection of natural resources and systems.
LU-3B	Significant natural resources (including Biscayne Bay) must be protected from incompatible land use.
LU-8C	Agriculture as a viable economic use of land will be protected and promoted.
LU-4F	The County shall implement [applicable studies] to provide for land use compatibility in the vicinity of the Homestead Air Reserve Base.

Table 1 – Inconsistent Goals, Objectives, and Policies (LU=Land Use, CON=Conservation, WS=Water Supply, CM=Coastal Management)	
Citation	Summary
LU-9B	The County will maintain regulations which address protection of environmentally sensitive lands.
LU Text, p. 64	Open Land Subarea 5 lies immediately east of the site in question. The text notes that uses that could compromise groundwater quality shall not occur within three miles of Biscayne Bay.
LU Text, p. 69	Concepts 2, 3, and 14 note that the County will conserve land with valuable environmental characteristics, restrict development in particularly sensitive and unique natural areas, and encourage agriculture as a viable economic use of suitable lands.
Objective CON-2	Ground and surface water resources are protected from degradation.
Objective CON-7	The County will preserve the biological and hydrological functions of the Future Wetlands identified in the comprehensive plan.
CON-7C	The County shall promote the restoration and maintenance of the natural, surface water flow regimes through wetland systems.
CON-7J	If applications alter wetlands, they must be reviewed for consistency with the Comprehensive Everglades Restoration Program.
Objective CON-9	Fish and wildlife shall be conserved and used in an environmentally sound manner, and critical habitat shall be preserved.
CON-9A	Activities that adversely affect habitat that is critical to protected species shall be prohibited unless activity is a public necessity.
WS-6D	The County shall use methods which preserve the integrity of the Biscayne Aquifer when developing future potable water supply.
Objective CM-1	Coastal wetlands and living marine resources will be protected, conserved, and enhanced.
CM-1B	Natural surface water flow regimes through coastal wetland systems will be restored and maintained to the maximum extent possible.

Authority:

Sections 163.3175, 163.3177(2), (6)(a), (d), (h), (j)7, (8), (9), and (10), F.S.; and Rule 9J-5.002(5); 9J-5.003(2), (4), (5), and (23); 9J-5.005(2) and (5); 9J-5.006(3)(b)4, (3)(c)2, 6; 9J-5.013(2)(b)2, 3, and 4, and (2)(c)5; 9J-5.019(4)(b)6, 8, (4)(c)17, 18, and 21, F.A.C.

Recommendation: The amendment should resolve the internal inconsistencies as follows:

- a. Address the recommendations for objections 1 and 2 above; and
- b. Revise the amendment to demonstrate how the amendment is consistent with the County's Comprehensive Plan regarding the protection of agricultural lands, protection of natural systems, and military base compatibility. The amendment should also document why the fill must be excavated (in whole or in part) from this specific site rather than obtaining fill from other existing sources elsewhere in the region; and

- c. If it can be demonstrated that the proposed site is suitable, then the amendment should be revised to incorporate the following:
 - (1) Federal Aviation Administration circular 150/5200-33B, and to provide that a BASH program will be immediately implemented if it is determined to be necessary to maintain safety; and
 - (2) The Recommended Plan in the Project Implementation Report for the CERP Biscayne Bay Coastal Wetlands Project does not include a “water management project” (reservoir) in the location of the designated property. Any change to the Recommended Plan would cause extensive delays in the federal approval process. Therefore, the text should be modified to remove references linking the project to CERP and to ensure that the amendment does not conclude or imply that adding a water storage feature will enhance a CERP project; and
 - (3) The amendment should be modified to delete the specific reference regarding consultation with the South Florida Water Management District and the U.S. Army Corps of Engineers. Several other agencies also have regulatory and consultation roles with water resource projects. The amendment should be revised to reference consultation with all appropriate local, state, and federal agencies.

B. The Department identifies the following comments related to the proposed amendment.

1. The Division of Historical Resources recommended that cultural resource assessment surveys should occur prior to the initiation of Application #1, and that significant resources should be protected and preserved.
2. Application #2 redesignates an 8.2-acre parcel from aviation-related to non-aviation at the Kendall-Tamiami Executive Airport. The non-aviation category allows for a range of commercial uses that are not specifically related to the airport. The County staff confirmed that this 8.2-acre parcel is intended to be used only for parking and drainage. However, despite that intention, there is no requirement that ensures that the site will actually develop in that manner. The County should add a declaration of restrictions to the comprehensive plan amendment that ensures that the only permitted uses for the site are parking and drainage.
3. The County’s resolution for Application #1 approves the staff recommended changes to the amendment text, which is provided twice in the Initial Recommendations Report. There is a discrepancy in condition #3 between the first and second version of the amendment. The following sentence is included in the second but not the first version: “The conveyance of property may be used towards mitigation credits as deemed appropriate by the applicable agencies.” The adopted amendment should clarify the text to indicate the correct version.

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(7), Water Resources, and Policies (b)1, 2, 4, 5, 9, 10, and 12: Protect water recharge areas, natural water systems, and surface and groundwater quality and quantity.

- B. Section 187.201(8), Coastal and Marine Resources, and Policies (b)6, 7, and 8: Encourage land uses that are compatible with the protection of coastal resources, protect marine fisheries and other aquatic resources, and avoid the development of mineral resources which threaten marine, aquatic, and estuarine resources.
- C. Section 187.201(9), Natural Systems and Recreational Lands, and Policies (b)1, 3, 4, 5, 7, and 8: Conserve wetlands, protect the habitat of endangered species, promote agriculture practices compatible with the protection of natural systems, and promote Everglades restoration.
- D. Section 187.201(13), Mining, and Policies (b)5 and 6: Prohibit resource extraction which results in an adverse effect on environmentally sensitive areas which cannot be restored, and minimize the effect of resource extraction on ground and surface waters.
- E. Section 187.201(15), Land Use, and Policy (b)6: Consider the impact of land use on water quality and quantity.
- F. Section 187.201(21), The Economy, and Policy (b)3: Maintain, as an economic asset, the environment, including clean water, beaches, and natural resources.
- G. Section 187.201(22), Agriculture, and Policies (b)2 and 9: Encourage diversification within the agriculture industry.
- H. Section 187.201(25), Plan Implementation, and Policies (b)5 and 7: Ensure the development of local plans that 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.