

Department of Planning and Zoning (DP&Z)
Revised Response to the Florida Department of Community Affairs (DCA)
Objections, Recommendations and Comments (ORC) Report
DCA No. 10-2 Addressing the October 2009 Cycle
Applications to Amend the Comprehensive Development Master Plan (CDMP)

October 22, 2010

This report contains the response of the Department of Planning and Zoning (DP&Z) to the objection contained in the referenced Objections, Recommendations and Comments (ORC) Report issued by the Florida Department of Community Affairs (DCA) dated August 9, 2010 and also to the revised recommendations included in the letter dated September 30, 2010 from the South Florida Water Management District (SFWMD). Of the October 2009 Cycle applications transmitted for review and comment by the Miami-Dade County Board of County Commissioners (BCC), the DCA objected to Application No. 9. The DCA objection reflected comments from SFWMD in a letter dated July 9, 2010. SFWMD in its letter dated September 30, 2010 revised its comments on Application No. 9. Objections can form the basis for a determination by DCA that an Amendment is not in compliance with state law and should be responded to.

The following presents the DCA's objection and recommendation on Application No. 9 followed by the SFWMD's revised comments and the DP&Z's response to DCA's objection. The issuance of the response contained herein does not preclude the issuance of other future responses by the DP&Z. Moreover, the response issued by the DP&Z is not necessarily that of the applicant, the Local Planning Agency (Planning Advisory Board) or the BCC, which may offer their own responses to points raised in the ORC report.

DCA OBJECTION (APPLICATION NO. 9): Application #9 has the potential to result in adverse impacts to natural resources. The amendment could adversely impact groundwater quality due to the addition of nurseries, tree farms, and the raising of livestock as permitted uses within Open Land Sub-Area 1. Activities of concern related to nurseries include stock piling material (mulch, raw manure, soil, etc.), extensive use of impervious plastic covering, soil disturbance, increased vehicle traffic, and increased irrigation. Activities of concern related to raising livestock include manure management, pasture management, concentrated feed areas, and erosion control.

DCA Recommendation: The County should do the following: a.) Revise the amendment to require total on-site retention of stormwater runoff; b.) Require implementation of best management practices, pursuant to the criteria of the Florida Department of Agricultural and Consumer Services; c.) Address and ensure the compatibility and consistency of the proposed development's surface water management plan and resulting water quality with Total Maximum Daily Load (TMDL) criteria for the C-9 Canal and Biscayne Bay; d.) Prohibit any use and/or occupancy of District rights-of-way, especially along the C-9 Canal, unless the District has issued a right-of-way occupancy permit authorizing the proposed activities.

SFWMD Comments (letter dated September 30, 2010): The amendment does not address the potential for the activities to impact water quality, district canals and right-of-ways, and downstream water bodies including the C-9 canal and Biscayne Bay. Activities of concern to the district are related to both nurseries and the raising of livestock.

SFWMD Revised Recommendations:

- *Revise the amendment to require on-site retention of the 100-year stormwater event as required by Miami-Dade County Department of Environmental Resources management rules.*
- *Encourage working with the Florida Department of Agricultural and Consumer Services in the implementation of best management practices in accordance with Chapter 403.067, F.S.*
- *Address and ensure the consistency of the proposed development's surface water management plan and implementation of TMDL criteria for the C-9 Canal and Biscayne Bay in accordance with Chapter 403.067, F.S.*

DP&Z Response:

County staff acknowledges that water quality is an important issue in the hydrologic basin (Open Land Subarea 1) and certain land uses could have adverse impacts on natural resources if not carefully managed. The recommendations of DCA and SFWMD are addressed below in the order given by DCA:

- a) The County Code, Section 24-48.3, already requires on-site retention of 100-year stormwater event for properties in Open Land Subarea 1, and these standards will continue to apply to the Subarea.
- b) Policy CON-2F in the CDMP already requires the County to utilize Best Management Practices established for potential sources of water pollution. In addition, the policy provides the following: "Established management practices may be reviewed and modified as new science becomes available. New management practices shall be developed for new potential sources of water pollution as they are identified." Thus, there is no need to include language in the Open Land text to address Best Management Practices for agricultural activities, especially since the program of the Florida Department of Agricultural and Consumer Services is a voluntary one. This approach is consistent with the revised recommendation of SFWMD.
- c) The ORC states that the County should address and ensure the compatibility and consistency of the proposed development's surface water management plan and resulting water quality with Total Maximum Daily Load (TMDL) criteria for the C-9 Canal and Biscayne Bay. There is no proposed development that a surface water management plan could be prepared for. The change being proposed to the CDMP is to policy, which could effect numerous parcels of land that are located in Open land Subarea 1.

Policy documents such as the CDMP do not function as regulatory programs. Section 9J-5.001(5) of the Florida Administrative Code states the following: "When a federal, state or regional agency has implemented a permitting program, the state land planning agency shall not require a local government to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations." The TMDL Program for impacted surface water bodies is a function of the Florida Department of Environmental Protection (FDEP) and should be regulated by that agency and its partners. The C-9 basin has not been identified as an impacted waterway. Thus, the TMDL Program does not need to be addressed in the Open Land section of the CDMP.

- d) The SFWMD has the authority to enforce its Right-of-Way Occupancy Permitting process and to regulate any activities that could affect SFWMD owned rights-of-way

within Miami-Dade County. This proposed text amendment is not intended to infringe on the SFWMD Right-of-Way Occupancy Permitting process in any way.