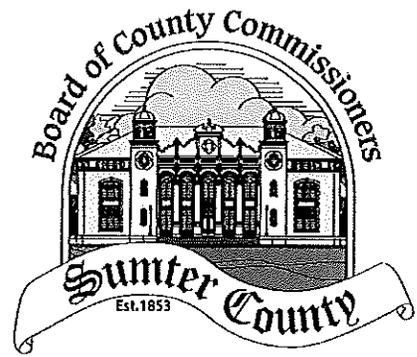


Board of County Commissioners

Sumter County, Florida

7375 Powell Road • Wildwood, FL 34785 • Phone (352) 689-4400 • FAX: (352) 689-4401
Website: <http://sumtercountyfl.gov>



January 4, 2011

David L. Jordan, Esq.
Assistant General Counsel
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

Re: DCA vs. Sumter County Docket No. 10-1-NOI-6001-(A)-(N) – Sumter County Amendment No. 10-1

Mr. Jordan,

We are in receipt of the Petition for Formal Administrative Hearing and Statement of Intent to Find Comprehensive Plan Amendment not in Compliance, filed with the Division of Administrative Hearings on December 30, 2010. The Petition and Notice concerned Sumter County's adopted Comprehensive Plan Amendment No. 10-1 (Ordinance 2010-17), related to the Monarch Industrial Park.

Consistent with Sections 163.3184(10)(c) and 163.3184(16), Florida Statutes, the County desires to begin discussions and negotiations with the Department of Community Affairs to reach an acceptable settlement agreement and appropriate remedial amendments to cure the findings of non-compliance.

We respectfully request a meeting with the Department this month to start the discussions and negotiations regarding the settlement agreement and remedial amendments.

You may contact me or Bradley Cornelius at (352)689-4460 or brad.cornelius@sumtercountyfl.gov with a copy to me at bradley.arnold@sumtercountyfl.gov to schedule the meeting.

Sincerely,

Bradley Arnold
County Administrator

Copy: Bradley Cornelius, Director of Planning and Development
Derrill McAteer (Hogan Law Firm), County Attorney
Cecilia Bonifay, Ackerman Senterfitt
Mike McDaniel, DCA

Richard "Dick" Hoffman, Dist 1
(352) 689-4400
7375 Powell Road
Wildwood, FL 34785

Doug Gilpin, Dist 2
2nd Vice Chairman
(352) 689-4400
7375 Powell Road
Wildwood, FL 34785

Don Burgess, Dist 3
Chairman
(352) 689-4400
7375 Powell Road
Wildwood, FL 34785

Garry Breen, Dist 4
Vice Chairman
(352) 689-4400
7375 Powell Road
Wildwood, FL 34785

Randy Mask, Dist 5
Office: (352) 689-4400
Home: (352) 793-3930
7375 Powell Road
Wildwood, FL 34785

Bradley S. Arnold,
County Administrator
(352) 689-4400
7375 Powell Road
Wildwood, FL 34785

Gloria R. Hayward, Clerk & Auditor
(352) 793-0215
209 North Florida Street
Bushnell, FL 33513

County Attorney
The Hogan Law Firm
Post Office Box 485
Brooksville, Florida 34605



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary



December 22, 2010

The Honorable Doug Gilpin
Chairman, Sumter County Board of County Commissioners
910 North Main Street, Suite 301
Bushnell, Florida 33513

Dear Chairman Gilpin:

The Department has completed its review of the Sumter County Comprehensive Plan Amendment DCA Number 10-1 adopted by Ordinance Number 2010-17, on October 26, 2010 and has determined it does not meet the requirements of Chapter 163, Part II, Florida Statutes (F.S.). The Department is therefore issuing a Notice of Intent to find the comprehensive plan amendment not "in compliance". The Notice of Intent has been sent to the **Daily Sun** for publication on December 23, 2010.

Please note that a copy of the adopted Amendment and the Department's Statement of Intent and Notice of Intent to find the Amendment not "in compliance" must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Sumter County, Planning Department, 910 North Main Street, Suite 301, Bushnell, Florida 33513. Also, Section 163.3184 (8)(c) 2, F.S., 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 Notice of Intent.

Although the Notice of Intent and the Statement of Intent must be forwarded to the Division of Administrative Hearing for the Department of Management Services for the scheduling of an administrative law judge pursuant to Section 120.57, F.S., we are interested in meeting with you and your staff at your convenience for the purpose of developing an acceptable solution to the not "in compliance" finding.

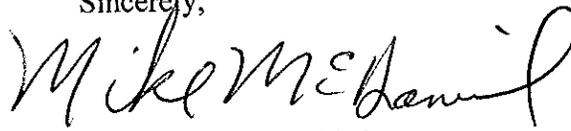
Copy To:		
Comms	_____	Pub Wks Div _____
Co Atty	_____	Bldg & Dev Div _____
Co Fin	_____	Admin Div _____
Other	_____	Com Svcs Div _____

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: 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) ♦

If the County has any questions, or are interested in discussing a compliance agreement, please contact Mr. David Jordan, Assistant General Counsel at 850-922-1720

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive style with a large, looping "M" and "D".

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/eh

Enclosure: Notice of Intent
Statement of Intent

cc. Mr. Michael Moehlman, Withlacoochee Regional Planning Council
Mr. Bradley T. Cornelius, AICP, Sumter County Planning Manager

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS NOTICE OF INTENT TO FIND THE
SUMTER COUNTY
COMPREHENSIVE PLAN AMENDMENT NOT IN COMPLIANCE
DOCKET NO. 10-1-NOI-6001-(A)-(N)

The Department gives notice of its intent to find the Amendment(s) to the Comprehensive Plan for Sumter County, adopted by Ordinance No(s) 2010-17 on October 26, 2010, NOT IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Sumter County Comprehensive Plan Amendment and the Department's Objections, Recommendations, and Comments Report, (if any), and the Department's Statement of Intent to Find the Comprehensive Plan Amendment Not In Compliance will be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Sumter County Planning and Development, 209 North Florida Street, Bushnell, Florida 32159.

This Notice of Intent and the Statement of Intent for the Comprehensive Plan Amendment found Not In Compliance will be forwarded by petition to the Division of Administrative Hearings (DOAH) of the Department of Management Services for the scheduling of an Administrative Hearing pursuant to Sections 120.569 and 120.57, F.S. The purpose of the administrative hearing will be to present evidence and testimony on the noncompliance issues alleged by the Department in its Objections, Recommendations, and Comments Report and Statement of Intent in order to secure a recommended order for forwarding to Administration Commission.

Affected persons may petition to intervene in this proceeding. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. Pursuant to 163.3184(10), F.S., no new issues may be alleged as a reason to find a plan not in compliance in a petition to intervene filed more than twenty one (21) days after publication of this notice unless the petitioner establishes good cause for not alleging such new issues within the twenty one (21) day time period. The petition for intervention shall be filed at DOAH, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, and a copy mailed or delivered to the local government and the Department. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing pursuant to Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.



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

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE: SUMTER COUNTY
COMPREHENSIVE PLAN AMENDMENT
10-1; AMENDING THE FUTURE LAND
USE MAP, THE FUTURE LAND USE
ELEMENT, AND THE
INTERGOVERNMENTAL COORDINATION
ELEMENT ADOPTED BY ORDINANCE
NO. 2010-17 ON OCTOBER 26, 2010

Docket No. 10-1-NOI-6001-(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 Administrative Code (F.A.C.), hereby issues this Statement of Intent to find the Sumter County Comprehensive Plan Amendments in DCA amendment package Number 10-1 (“Amendment”) consisting of Future Land Use Element Policies 7.1.2.20(a) through (h), and the Monarch Industrial Park Future Land Use Map amendment adopted by Ordinance Number 2010-17 on October 26, 2010 not “in compliance” based upon the Objections, Recommendations, and Comments report issued by the Department on September 24, 2010, which hereby is incorporated by reference, and based upon the changes made by the County to the Amendments at adoption. The Department finds that the Amendment is not “in compliance”, as defined in section 163.3184(1)(b), F.S., because it is not consistent with Chapter 163, Part II, F.S., Rule 9J-5, F.A.C., and the State Comprehensive Plan, Chapter 187, F.S., for the following reasons:

I. CONSISTENCY WITH CHAPTER 163, F.S., AND RULE 9J-5, F.A.C.:

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

1. Suitability: The adopted amendment re-designates 2,866 acres from the County's Agriculture designation (maximum density of one unit per ten acres) to Industrial. Site specific policies have been adopted establishing a maximum of 16,335,000 square feet of industrial development on the site.

A portion of the site is suitable for industrial development given its location at the confluence of major transportation modes. However, the entire site is not suitable for industrial use in light of the environmental constraints that exist. The site contains 54% or 1,572 acres of wetlands, some of which are connected to Lake Panasoffkee, an Outstanding Florida Waterway (OFW). Allowing 16,355,000 square feet of industrial uses to locate in these areas will increase runoff and introduce hazardous substances into the surface and underground waters of the area, including Lake Panasoffkee. Pursuant to 163.3177(6)(a), F.S., and Rule 9J-5.006(3)(b)1, F.A.C., the future land use plan must be coordinated with the environmental conditions of the site. The amendment has not been demonstrated to be consistent with this requirement of state law because allowing industrial use on a site like this will not ensure the protection of the wetlands and ground and surface waters. Policy 7.1.2.20(g) states that "once the extent of OFW wetlands on the site are determined those wetlands will be placed in a perpetual conservation easement". However, there are other wetlands on the site besides those directly connected to Lake Panasoffkee that also warrant protection.

Pursuant to Rule 9J-5.013(3)(b), F.A.C., “future land uses which are incompatible with the protection and conservation of wetlands and wetland functions shall be directed away from wetlands.” By choosing to place (at a date uncertain and through a process outside of the comprehensive plan) only the wetlands that are connected to the OFW in a conservation easement, the County does not direct incompatible land uses away from the wetlands on site as required. Furthermore, the amendment is inconsistent with the guidelines in the comprehensive plan for the selection of suitable sites for industrial use.

Future Land Use Element Policy 7.1.2.16 of the County’s comprehensive plan states that *industrial locations shall be provided along railroad corridors and the I-75 corridor (especially near interchanges) on sites that have no environmental constraints*. However, although the site is adjacent to a railroad corridor and I-75 it has significant environmental constraints which make portions unsuitable for industrial use.

Future Land Use Element Objective 7.1.10 states that *Sumter County shall preserve and conserve unique and environmentally sensitive lands and resources from development or development impacts*. By designating the entire site for industrial use the County is not conserving and protecting unique environmentally sensitive lands and resources from the impacts of development as contemplated by Objective 7.1.10 of the County’s comprehensive plan.

Sections 163.3161(3) and (5); 163.3177(2), (6)(a), (c), and (d), (8), and (10); 163.3187(2), F.S.; Rules 9J-5.005(2), (5), and (6); 9J-5.006(2)(b), (3)(b) 1 and 4, (3)(c)1 and 6; and 9J-5.013(1), (2)(c)6, and (3), F.A.C.

2. Transportation Facilities: The transportation analysis included with the amendment concludes that a number of roadways are currently failing. It also finds that because of the impacts associated with this amendment additional roads will fail in the five-year planning timeframe (2015) and the long term planning time frame (2020). The roadways which are currently failing include: I-75 from CR 48 to the Marion County line; the Florida Turnpike from I-75 to US 301; and US 301 from Jarrell Avenue to CR 472. With this amendment the roadways that are projected to fail by 2015 include: US 301 from SR 471 to CR 470 E; US 301 from CR 470 E to CR 514; and CR 470 from US 301 to CR 501. Also, with this amendment the roadways that are projected to fail by 2020 include: I-75 north of the Turnpike; US 301 from SR 471 to CR 470 E; the Turnpike from I-75 to US 301; US 301 from CR 470E to CR 44A and from CR 44A to SR 44. The Capital Improvements Schedule has not been updated to include the improvements needed to correct the roadway impacts of the amendment for the short term planning timeframe, the Future Transportation Map has not been updated to reflect the needed roadway improvements for the long term planning timeframe, and no strategies have been included in the plan to address the long term impacts.

To address transportation impacts, Policy 7.1.2.20(c) states that before any development can occur, the project must be approved as a Development of Regional Impact (DRI), "complying with all applicable financial feasibility and infrastructure requirements." As adopted, the plan includes no specific provisions for the transportation facilities that will be needed to achieve and maintain the adopted level of service standards. Section 163.3177(6)(a), F.S., states that the comprehensive plan shall be based on the availability of public facilities and services, which include

transportation facilities. It is inconsistent with that requirement to defer the determination of the need and planning for improvements to a later process outside of the comprehensive plan. Not only is it possible that the DRI program will cease to exist in the future, but the DRI program only addresses regional impacts on regional facilities and does not address the Chapter 163 requirement that levels of service standards for roadways included in the Sumter County Future Transportation Map be achieved and maintained.

Sections 163.3177(2) and (3), (6)(a), (b) and (j), (8) and (10); and 163.3180(10), F.S.; Rules 9J-5.005(2) and (5)(a); 9J-5.006(2)(a) and (3)(b)1 and (3)(c)3; 9J-5.016(1)(a); 9J-5.016(2)(b, c, and f); 9J-5.016(4)(a)1 and 2; 9J-5.019(3)(f, g, and h), and (4)(b)1 and 2 and (5), F.A.C.

B. Recommended Remedial Action: The above inconsistencies may be remedied by taking the following actions:

1. Suitability: As indicated earlier, portions of the site may be suitable for the industrial land use designation. However, given the environmental constraints that exist on other portions of the site, the Department recommends the following options:

1) Rescind the amendment.

2) Alternatively, the County may identify the most suitable portion of the site in the vicinity of existing infrastructure where development will have the least impact on natural resources and cluster industrial development to that portion of the site.

Designate the remainder of the site as Conservation.

3) As a third option, the County may identify the most suitable portion of the site in the vicinity of existing infrastructure where development will have the least impact on

natural resources and cluster industrial development to that portion of the site while retaining the Agriculture designation on the remainder of the site.

2. Transportation Facilities: The amendment must address the roadway deficiencies identified above so that transportation level of service standards will be achieved and maintained. Strategies and improvements needed to address roadway deficiencies in the short and long term should be coordinated with FDOT and the Lake-Sumter MPO. Improvements needed in the next five years must be included in the Sumter County Schedule of Capital Improvements. Strategies and improvements needed to address long term needs must be included in the Transportation Element and reflected on the Future Transportation Map.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Inconsistent provisions. The Amendment is inconsistent with the following State Comprehensive Plan goal and policies set forth in Section 187.201, Florida Statutes:

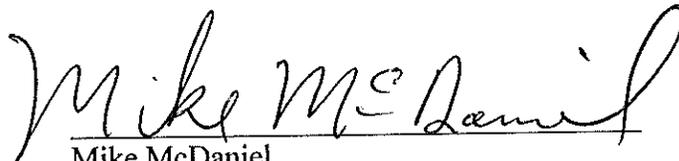
- a. Water Resources, Goal (7)(b) 2, 8, 9, and 10, because of compliance issue number 1 above;
- b. Natural Systems and Recreational Lands, Goal (9)(a), (b) 1, 7, and 10, because of compliance issue number 1 above;
- c. Land Use, Goal (15)(a) and Policy (b) 1, 2, 4, and 6, because of compliance issue number 1 and 2 above; and
- d. Plan Implementation Goal (25)(a) and Policies (b)5, and 8, because of compliance issue number 1 and 2 above.

B. Recommended Remedial Action. These inconsistencies may be remedied by revising the Amendment as described above in Section I above.

CONCLUSIONS

1. The Amendment is not consistent with the State Comprehensive Plan;
2. The Amendment is not consistent with Chapter 9J-5, F.A.C.;
3. The Amendment is not consistent with the requirements of Chapter 163, Part II, F.S.;
4. The Amendment is not "in compliance," as defined in section 163.3184(1)(b) F.S.; and
5. To bring the Amendment into compliance, the County may complete the recommended remedial actions described above or adopt other remedial actions that eliminate the inconsistencies.

Executed this 22 day of December 2010, in Tallahassee, Florida.



Mike McDaniel
Chief, Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS



DEPARTMENT OF COMMUNITY AFFAIRS,

Petitioner,

v.

Docket No. 10-1-NOI-6001-(A)-(N)

SUMTER COUNTY,

Respondent.

_____ /

DEPARTMENT OF COMMUNITY AFFAIRS' PETITION
FOR FORMAL ADMINISTRATIVE HEARING

Petitioner, Department of Community Affairs (Department or DCA), hereby files this Petition for Formal Administrative Hearing, and says:

1. The Department is the state land planning agency and has authority to administer and enforce the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes (Act).

2. Among the responsibilities of the Department under the Act is the duty to review plan amendments submitted by local governments and to determine if the plan amendments are in compliance with the Act. Fla. Stat. § 163.3184(8)(a).

3. "In compliance" means consistent with the requirements of §§ 163.3177, 163.3178, 163.3180, 163.3191, and 163.3245, Florida Statutes, the State Comprehensive Plan, the Strategic

Copy To:
Commrs _____ Pub Wks Div _____
Co Atty _____ Bldg & Dev Div _____
Co Fin _____ Admin Div _____
Other _____ Com Svcs Div _____

Regional Policy Plan, and Rule 9J-5, Florida Administrative Code. Fla. Stat. § 163.3184(1)(b).

4. Sumter County (County) is a local government which has the duty to adopt comprehensive plan amendments that comply with the Act pursuant to §§ 163.3167(2), 163.3177, and 163.3184, Florida Statutes.

5. On October 26, 2010, the County adopted an amendment to its comprehensive plan by Ordinance No. 2010-17 (Amendment).

6. The Department complied with and completed all general and specific statutory prerequisites and conditions required by § 163.3184, Florida Statutes, and found the Amendment to be not in compliance as set forth in its Statement of Intent dated October 27, 2010.

7. A copy of the Statement of Intent is attached as Exhibit A, and the Notice of Intent scheduled for publication on December 23, 2010 is attached as Exhibit B, both of which are hereby incorporated by this reference.

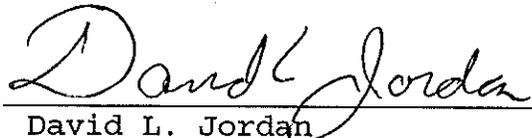
8. The Amendment is not in compliance because it contains the inconsistent provisions described in the Statement of Intent.

9. The Department has determined that the Amendment may be brought into compliance by accomplishing the "recommended remedial actions" described in the Statement of Intent or by completing other remedial actions that eliminate the inconsistencies.

WHEREFORE, the Department respectfully requests:

- (a) that an Administrative Law Judge be assigned to this matter and assume jurisdiction pursuant to § 163.3184(10), Florida Statutes;
- (b) that a formal hearing be conducted pursuant to §§ 120.569, 120.57, and 163.3184, Florida Statutes;
- (c) that the Administrative Law Judge issue a Recommended Order to the Administration Commission finding the Amendment to be not "in compliance";
- (d) that the Administration Commission enter a Final Order finding the Amendment to be not "in compliance" and specifying remedial actions that would bring the Amendment into compliance;
- (e) that the Administration Commission specify those sanctions which may be imposed as a result of the finding of not "in compliance" if the County fails to undertake appropriate remedial actions; and
- (f) that such other relief consistent with this Petition be granted as may be fair and just.

Respectfully submitted,



David L. Jordan
Assistant General Counsel
Florida Bar Number 291609
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
(850)488-0410 Phone
(850)922-2679 FAX
david.jordan@dca.state.fl.us

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to each of the persons listed below by U.S. Mail and electronic mail on this 30 day of December, 2010.


David L. Jordan

The Honorable Don Burgess
Chairman, Board of
County Commissioners
SUMTER COUNTY
7375 Powell Road
Wildwood, FL 34785

Bradley Arnold
County Administrator
SUMTER COUNTY
7375 Powell Road
Wildwood, FL 34785
bradley.arnold@sumtercountyfl.gov

Bradley Cornelius, Director of
Planning and Development
SUMTER COUNTY
7375 Powell Road
Wildwood, FL 34785
brad.cornelius@sumtercountyfl.gov

Derrill McAteer, Esq.
County Attorney
SUMTER COUNTY
Post Office Box 485
Brooksville, FL 34605-0485
derrill@hoganlawfirm.com

Cecelia Bonifay, Esq.
Akerman Senterfitt
420 South Orange Avenue
Suite 1200
Orlando, FL 32801
cecelia.bonifay@akerman.com

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS



IN RE: SUMTER COUNTY
COMPREHENSIVE PLAN AMENDMENT
10-1; AMENDING THE FUTURE LAND
USE MAP, THE FUTURE LAND USE
ELEMENT, AND THE
INTERGOVERNMENTAL COORDINATION
ELEMENT ADOPTED BY ORDINANCE
NO. 2010-17 ON OCTOBER 26, 2010

Docket No. 10-1-NOI-6001-(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 Administrative Code (F.A.C.), hereby issues this Statement of Intent to find the Sumter County Comprehensive Plan Amendments in DCA amendment package Number 10-1 ("Amendment") consisting of Future Land Use Element Policies 7.1.2.20(a) through (h), and the Monarch Industrial Park Future Land Use Map amendment adopted by Ordinance Number 2010-17 on October 26, 2010 not "in compliance" based upon the Objections, Recommendations, and Comments report issued by the Department on September 24, 2010, which hereby is incorporated by reference, and based upon the changes made by the County to the Amendments at adoption. The Department finds that the Amendment is not "in compliance", as defined in section 163.3184(1)(b), F.S., because it is not consistent with Chapter 163, Part II, F.S., Rule 9J-5, F.A.C., and the State Comprehensive Plan, Chapter 187, F.S., for the following reasons:

I. CONSISTENCY WITH CHAPTER 163, F.S., AND RULE 9J-5, F.A.C.:

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

1. Suitability: The adopted amendment re-designates 2,866 acres from the County's Agriculture designation (maximum density of one unit per ten acres) to Industrial. Site specific policies have been adopted establishing a maximum of 16,335,000 square feet of industrial development on the site.

A portion of the site is suitable for industrial development given its location at the confluence of major transportation modes. However, the entire site is not suitable for industrial use in light of the environmental constraints that exist. The site contains 54% or 1,572 acres of wetlands, some of which are connected to Lake Panasoffkee, an Outstanding Florida Waterway (OFW). Allowing 16,355,000 square feet of industrial uses to locate in these areas will increase runoff and introduce hazardous substances into the surface and underground waters of the area, including Lake Panasoffkee. Pursuant to 163.3177(6)(a), F.S., and Rule 9J-5.006(3)(b)1, F.A.C., the future land use plan must be coordinated with the environmental conditions of the site. The amendment has not been demonstrated to be consistent with this requirement of state law because allowing industrial use on a site like this will not ensure the protection of the wetlands and ground and surface waters. Policy 7.1.2.20(g) states that "once the extent of OFW wetlands on the site are determined those wetlands will be placed in a perpetual conservation easement". However, there are other wetlands on the site besides those directly connected to Lake Panasoffkee that also warrant protection.

Pursuant to Rule 9J-5.013(3)(b), F.A.C., “future land uses which are incompatible with the protection and conservation of wetlands and wetland functions shall be directed away from wetlands.” By choosing to place (at a date uncertain and through a process outside of the comprehensive plan) only the wetlands that are connected to the OFW in a conservation easement, the County does not direct incompatible land uses away from the wetlands on site as required. Furthermore, the amendment is inconsistent with the guidelines in the comprehensive plan for the selection of suitable sites for industrial use.

Future Land Use Element Policy 7.1.2.16 of the County’s comprehensive plan states that *industrial locations shall be provided along railroad corridors and the I-75 corridor (especially near interchanges) on sites that have no environmental constraints*. However, although the site is adjacent to a railroad corridor and I-75 it has significant environmental constraints which make portions unsuitable for industrial use.

Future Land Use Element Objective 7.1.10 states that *Sumter County shall preserve and conserve unique and environmentally sensitive lands and resources from development or development impacts*. By designating the entire site for industrial use the County is not conserving and protecting unique environmentally sensitive lands and resources from the impacts of development as contemplated by Objective 7.1.10 of the County’s comprehensive plan.

Sections 163.3161(3) and (5); 163.3177(2), (6)(a), (c), and (d), (8), and (10); 163.3187(2), F.S.; Rules 9J-5.005(2), (5), and (6); 9J-5.006(2)(b), (3)(b) 1 and 4, (3)(c)1 and 6; and 9J-5.013(1), (2)(c)6, and (3), F.A.C.

2. Transportation Facilities: The transportation analysis included with the amendment concludes that a number of roadways are currently failing. It also finds that because of the impacts associated with this amendment additional roads will fail in the five-year planning timeframe (2015) and the long term planning time frame (2020). The roadways which are currently failing include: I-75 from CR 48 to the Marion County line; the Florida Turnpike from I-75 to US 301; and US 301 from Jarrell Avenue to CR 472. With this amendment the roadways that are projected to fail by 2015 include: US 301 from SR 471 to CR 470 E; US 301 from CR 470 E to CR 514; and CR 470 from US 301 to CR 501. Also, with this amendment the roadways that are projected to fail by 2020 include: I-75 north of the Turnpike; US 301 from SR 471 to CR 470 E; the Turnpike from I-75 to US 301; US 301 from CR 470E to CR 44A and from CR 44A to SR 44. The Capital Improvements Schedule has not been updated to include the improvements needed to correct the roadway impacts of the amendment for the short term planning timeframe, the Future Transportation Map has not been updated to reflect the needed roadway improvements for the long term planning timeframe, and no strategies have been included in the plan to address the long term impacts.

To address transportation impacts, Policy 7.1.2.20(c) states that before any development can occur, the project must be approved as a Development of Regional Impact (DRI), "complying with all applicable financial feasibility and infrastructure requirements." As adopted, the plan includes no specific provisions for the transportation facilities that will be needed to achieve and maintain the adopted level of service standards. Section 163.3177(6)(a), F.S., states that the comprehensive plan shall be based on the availability of public facilities and services, which include

transportation facilities. It is inconsistent with that requirement to defer the determination of the need and planning for improvements to a later process outside of the comprehensive plan. Not only is it possible that the DRI program will cease to exist in the future, but the DRI program only addresses regional impacts on regional facilities and does not address the Chapter 163 requirement that levels of service standards for roadways included in the Sumter County Future Transportation Map be achieved and maintained.

Sections 163.3177(2) and (3), (6)(a), (b) and (j), (8) and (10); and 163.3180(10), F.S.; Rules 9J-5.005(2) and (5)(a); 9J-5.006(2)(a) and (3)(b)1 and (3)(c)3; 9J-5.016(1)(a); 9J-5.016(2)(b, c, and f); 9J-5.016(4)(a)1 and 2; 9J-5.019(3)(f, g, and h), and (4)(b)1 and 2 and (5), F.A.C.

B. Recommended Remedial Action: The above inconsistencies may be remedied by taking the following actions:

1. **Suitability:** As indicated earlier, portions of the site may be suitable for the industrial land use designation. However, given the environmental constraints that exist on other portions of the site, the Department recommends the following options:

1) Rescind the amendment.

2) Alternatively, the County may identify the most suitable portion of the site in the vicinity of existing infrastructure where development will have the least impact on natural resources and cluster industrial development to that portion of the site.

Designate the remainder of the site as Conservation.

3) As a third option, the County may identify the most suitable portion of the site in the vicinity of existing infrastructure where development will have the least impact on

natural resources and cluster industrial development to that portion of the site while retaining the Agriculture designation on the remainder of the site.

2. Transportation Facilities: The amendment must address the roadway deficiencies identified above so that transportation level of service standards will be achieved and maintained. Strategies and improvements needed to address roadway deficiencies in the short and long term should be coordinated with FDOT and the Lake-Sumter MPO. Improvements needed in the next five years must be included in the Sumter County Schedule of Capital Improvements. Strategies and improvements needed to address long term needs must be included in the Transportation Element and reflected on the Future Transportation Map.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Inconsistent provisions. The Amendment is inconsistent with the following State Comprehensive Plan goal and policies set forth in Section 187.201, Florida Statutes:

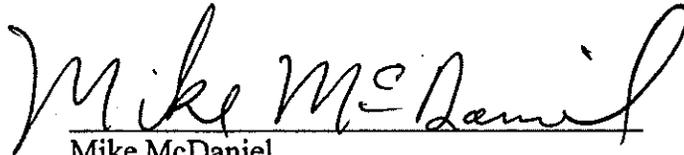
- a. Water Resources, Goal (7)(b) 2, 8, 9, and 10, because of compliance issue number 1 above;
- b. Natural Systems and Recreational Lands, Goal (9)(a), (b) 1, 7, and 10, because of compliance issue number 1 above;
- c. Land Use, Goal (15)(a) and Policy (b) 1, 2, 4, and 6, because of compliance issue number 1 and 2 above; and
- d. Plan Implementation Goal (25)(a) and Policies (b)5, and 8, because of compliance issue number 1 and 2 above.

B. Recommended Remedial Action. These inconsistencies may be remedied by revising the Amendment as described above in Section I above.

CONCLUSIONS

1. The Amendment is not consistent with the State Comprehensive Plan;
2. The Amendment is not consistent with Chapter 9J-5, F.A.C.;
3. The Amendment is not consistent with the requirements of Chapter 163, Part II, F.S.;
4. The Amendment is not "in compliance," as defined in section 163.3184(1)(b) F.S.; and
5. To bring the Amendment into compliance, the County may complete the recommended remedial actions described above or adopt other remedial actions that eliminate the inconsistencies.

Executed this 22 day of December 2010, in Tallahassee, Florida.



Mike McDaniel
Chief, Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS NOTICE OF INTENT TO FIND THE
SUMTER COUNTY
COMPREHENSIVE PLAN AMENDMENT NOT IN COMPLIANCE
DOCKET NO. 10-1-NOI-6001-(A)-(N)

The Department gives notice of its intent to find the Amendment(s) to the Comprehensive Plan for Sumter County, adopted by Ordinance No(s) 2010-17 on October 26, 2010, NOT IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Sumter County Comprehensive Plan Amendment and the Department's Objections, Recommendations, and Comments Report, (if any), and the Department's Statement of Intent to Find the Comprehensive Plan Amendment Not In Compliance will be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Sumter County Planning and Development, 209 North Florida Street, Bushnell, Florida 32159.

This Notice of Intent and the Statement of Intent for the Comprehensive Plan Amendment found Not In Compliance will be forwarded by petition to the Division of Administrative Hearings (DOAH) of the Department of Management Services for the scheduling of an Administrative Hearing pursuant to Sections 120.569 and 120.57, F.S. The purpose of the administrative hearing will be to present evidence and testimony on the noncompliance issues alleged by the Department in its Objections, Recommendations, and Comments Report and Statement of Intent in order to secure a recommended order for forwarding to Administration Commission.

Affected persons may petition to intervene in this proceeding. A petition for intervention must be filed at least twenty (20) days before the final hearing and must include all of the information and contents described in Uniform Rule 28-106.205, F.A.C. Pursuant to 163.3184(10), F.S., no new issues may be alleged as a reason to find a plan not in compliance in a petition to intervene filed more than twenty one (21) days after publication of this notice unless the petitioner establishes good cause for not alleging such new issues within the twenty one (21) day time period. The petition for intervention shall be filed at DOAH, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060, and a copy mailed or delivered to the local government and the Department. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing pursuant to Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.

A handwritten signature in black ink, appearing to read "Mike McDaniel". The signature is written in a cursive, flowing style.

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