



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

September 3, 2008

The Honorable Richard Crotty, Mayor
Orange County
201 South Rosalind Avenue
Orlando, Florida 32802-1393

Dear Mayor Crotty:

The Department has completed its review of the Orange County comprehensive plan amendment (DCA No. 08-CIE1) adopted by Ordinance Number 2008-12 on July 8, 2008, (Amendment) and determined that it is not "in compliance" with the requirements of Chapter 163, Part II, Florida Statutes (F.S.) and Rule 9J-5, Florida Administrative Code (F.A.C.). The Department is issuing a Statement of Intent and Notice of Intent to find the Amendment not "in compliance." The Notice of Intent has been sent to the *Orlando Sentinel* for publication on September 4, 2008.

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 Orange County Planning Division, 201 South Rosalind Avenue, Orlando, FL 32802. 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 Hearings of 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.

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CRITICAL STATE CONCERN FIELD OFFICE
2798 Overseas Highway, Suite 212
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(305) 289-2402

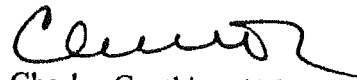
COMMUNITY PLANNING
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Mayor Richard Crotty
September 3, 2008
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If you have any questions, or are interested in discussing a compliance agreement, please contact Ms. Leslie Bryson, Assistant General Counsel, at 850-922-1720.

Sincerely yours,



Charles Gauthier, AICP
Director, Division of Community Planning

CG/js

Enclosures: Notice of Intent
Statement of Intent

cc: Catherine Howard, Chief Planner, Orange County
Phil Laurien, Executive Director, East Central Florida Regional Planning Council

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND
ORANGE COUNTY
COMPREHENSIVE PLAN AMENDMENT
NOT IN COMPLIANCE
DOCKET NO. 08CIE1-NOI-4301-(A)-(N)

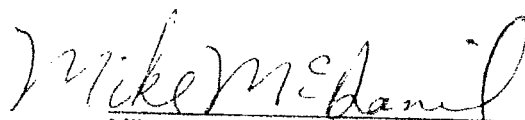
The Department gives notice of its intent to find the Amendment to the Comprehensive Plan for the Orange County, adopted by Ordinance No. 2008-12 on July 8, 2008, NOT IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Orange County Comprehensive Plan Amendment and the Department's Objections, Recommendations and Comments Report, (if any), are available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Orange County Planning Division, 201 South Rosalind Avenue, 2nd Floor, Orlando, Florida 32802 and the Orange County Public Library, Planning and Local Government Department, 2nd Floor, 101 East Central Boulevard, Downtown Orlando, Maitland Public Library, 501 South Maitland Avenue, and Winter Park Library, 460 East New England Avenue.

This Notice of Intent and the Statement of Intent 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 the 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 Section 163.3184(10), F.S., no new issues may be alleged as a reason to find a plan or plan amendment 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 Subsection 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 Comprehensive Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE: ORANGE COUNTY
COMPREHENSIVE PLAN AMENDMENT
ADOPTED BY ORDINANCE NO. 2008-12
July 8, 2008

Docket No. 08-CIE-1-NOI-4301-(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 Comprehensive Plan Amendment ("Amendment") adopted by Orange County in Ordinance Number 2008-12 on July 8, 2008, not in compliance. The Department finds the Amendment 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. CAPITAL IMPROVEMENTS SCHEDULE.

A. Lack of adoption of the Financially Feasible Capital Improvements Schedule. In the transmittal letter for the adopted amendment (Ordinance 2008-12) the County referenced the "annual update of the Capital Improvements Element." Therefore, based on this representation the Department reviewed the amendment pursuant to the requirements of Section 163.3177(3)(a)5&(10)h, F.S. and Rule 9J-5.016(3)(c)(1)f and (4)(a)1&2, F.A.C. During this review it was determined that while an updated Capital Improvements Schedule was included in the package along with data and analysis related to some public facilities demands and revenue source projections, Ordinance Number 2008-12 did not make any reference to the schedule or its approval. The ordinance only included modified policies within the County's

Capital Improvements Element that did not pertain to the Capital Improvements Schedule. The amendment did not adopt a financially feasible capital improvements schedule pursuant to Section 163.3177(3), F.S., and Rule 9J-5, F.A.C. Therefore, the Amendment is inconsistent with the requirement to adopt a financially feasible five-year Schedule of Capital Improvements within the Capital Improvements Element of the County's comprehensive plan.

Authority: Sections 163.3164(32), 163.3177(3)(a)5, 163.3177(8), and 163.3177(10)h, F.S.; Rule 9J-5.016(3)(c)(1)f, Rule 9J-5.016(4)(a)1 and 2, and Rule 9J-5.016(4)(b), F.A.C.

B. Recommended remedial actions: Adopt an ordinance that specifically approves a financially feasible Capital Improvements Schedule pursuant to Sections 163.3164(32), 163.3177(3), 163.3177(8), and 163.3177(10)h, F.S., Rule 9J-5.016(3)(c)(1)f, Rule 9J-5.016(4)(a)1 and 2, and Rule 9J-5.016(4)(b), F.A.C.

The schedule must be based upon relevant and appropriate data and analysis and must be financially feasible. The additional data and analysis must include revenue projections for stormwater facility-related projects, including each of the revenue sources, the projected income for each of the sources on an annual basis and the total of the revenues on annual basis compared to the expenditures for the projects. The amount of expenditures must not exceed the revenues on annual basis unless the shortage is being addressed by revenue carried forward from a previous year. Additional data and analysis is needed to demonstrate the financial feasibility of the schedule for water, wastewater, and transportation. This must include an annual projection for the demand for each facility, as well as identification of the needed improvements and the demonstration that the identified improvements will achieve and maintain the adopted level of service standards (LOSS) for the public facilities during the short

term planning period (five years) and the long term planning period. The analysis must project the operating level of service for the public facility on an annual basis for the first five years to determine specifically when an improvement is needed to maintain the adopted LOSS. For water and wastewater facilities, demonstrate that the adopted LOSS will be maintained and achieved on an annual basis. For roadways, demonstrate that the adopted LOSS will be maintained and achieved by the end of the five year period. The transportation analysis must also include an analysis with annual projections for the short term to demonstrate when any needed improvements should be scheduled. For all of the improvements included in the adopted schedule, relate the identified improvements and their cost back to maintaining and achieving the adopted LOSS and to each of the identified financially feasible revenue sources. All improvements that will be relied upon for purposes of concurrency, whether being constructed at the state, regional, local or developer scale must be included in the analysis and in the five year schedule, as long as the data and analysis can demonstrate that the improvement is financially feasible. The same type of data and analysis required for revenue sources and expenditures for wastewater are needed for water, wastewater and transportation facilities. The five year schedule for school improvements was adopted as part of the County's amendment approving the Public School Facilities Element and need not be a part of this amendment but should be in the next annual update of the Capital Improvements Schedule. If the parties agree to settle this finding of not in compliance the schedule should begin with the year in which the settlement is reached.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

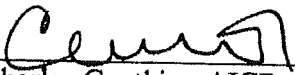
A. Inconsistent provisions. The Amendment is inconsistent with the State Comprehensive Plan goals and policies set forth in Section 187.201, F.S., including the following provisions:

- a. Water Resources (7)-Goal (a), Policy (b)5.
 - b. Public Facilities (17)-Goal (a), Policies (b)3, 6, & 9.
 - c. Transportation (19)-Goal (a), Policies (b)3 & 13.
 - d. Plan Implementation (25)-Goal (a), Policy (b)7.
- B. Recommended remedial action. These inconsistencies may be remedied by revising the Amendment as described above in Section I.

CONCLUSION

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. In order 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 3rd day of September 2008, in Tallahassee, Florida.

 9/3/08

Charles Gauthier, AICP
Director, Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399