



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

August 24, 2007

The Honorable John Peyton, Mayor
City of Jacksonville
4th Floor, City Hall at St. James
117 West Duval Street
Jacksonville, Florida 32202-3495

Dear Mayor Peyton:

The Department has completed its review of the City of Jacksonville adopted comprehensive plan amendment adopted by Ordinance 2007-488-E on June 29, 2007 and has determined the amendment does not meet the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance. The Department's Notice of Intent and Statement of Intent are enclosed with this letter. The Notice of Intent has been sent to the *Florida Times Union* for publication on August 27, 2007. The reference number for the amendment is Duval County/Jacksonville 07-D2.

In addition, the Notice of Intent and the Statement of Intent will be forwarded to the Division of Administrative Hearings of the Department of Management Services for the scheduling of an administrative hearing pursuant to Section 120.57, F.S. Please note that a copy of the City of Jacksonville adopted comprehensive plan amendment, the Department's Objections, Recommendations and Comments Report dated April 9, 2007, the Notice of Intent and the Statement of Intent must be available for public inspection, Monday through Friday, except for legal holidays, during normal business hours, at Jacksonville Planning Department, 128 East Forsyth Street, Jacksonville, Florida 32202-3325.

If the Department's compliance determination is challenged by an affected person, you will have the option of mediation pursuant to Subsection 163.3189(3)(a), F.S. If you choose to attempt to resolve the 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. Please be advised that 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.

2555 SHUMARD OAK BOULEVARD TALLAHASSEE, FL 32399-2100
Phone: 850-488-8466/SUNCOM 278-8466 Fax: 850-921-0781/SUNCOM 291-0781
Website: www.dca.state.fl.us

COMMUNITY PLANNING
Phone: 850-488-2356/SUNCOM 278-2356
Fax: 850-488-3309/SUNCOM 278-3309

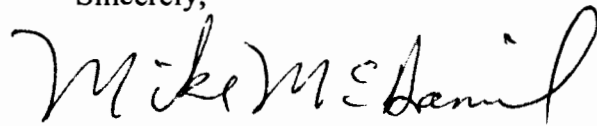
AREAS OF CRITICAL STATE CONCERN FIELD OFFICE
Phone: 305-289-2402
Fax: 305-289-2442

HOUSING AND COMMUNITY DEVELOPMENT
Phone: 850-488-7956/SUNCOM 278-7956
Fax: 850-922-5623/SUNCOM 292-5623

The Honorable John Peyton
August 24, 2007
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The Department recognizes that this amendment is a reflection of the City's efforts to implement its vision for growth in the northern part of the City. Therefore, the Department will continue to provide technical assistance to the City in these efforts. We are interested in meeting with you or your designee, at your convenience, for the purpose of negotiating an agreement that will bring your comprehensive plan amendment into compliance. If you have any questions concerning this matter, please contact Bill Pable, Regional Planning Administrator, at (850) 922-1781, or Joseph Addae-Mensa, Principal Planner, at (850) 922-1783.

Sincerely,

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

Mike McDaniel, Chief
Office of Comprehensive Planning

MDM/jam

Enclosures: Notice of Intent
Statement of Intent

cc: Margo Moehring, AICP, Chief, Strategic Planning, Jacksonville
Ed Lehman, Director of Growth Management, NEFRC

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS NOTICE OF INTENT TO FIND THE
DUVAL COUNTY/CITY OF JACKSONVILLE
COMPREHENSIVE PLAN NOT IN COMPLIANCE
DOCKET NO.07-D2-NOI-1601-(A)-(N)

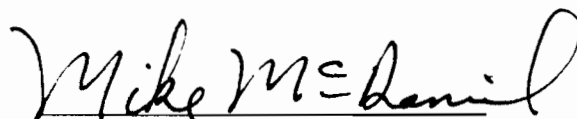
The Department gives notice of its intent to find the Amendment(s) to the Comprehensive Plan for Duval County/City of Jacksonville, adopted by Ordinance No. 2007-488-E on June 29, 2007, NOT IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Duval County/City of Jacksonville Comprehensive Plan, the Department's Objections, Recommendations, and Comments Report, (if any), and the Department's Statement of Intent to Find the Comprehensive Plan Not In Compliance will be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Jacksonville Planning Department, 128 East Forsyth Street, Jacksonville, Florida 32202-3325.

This Notice of Intent and the Statement of Intent for the Comprehensive Plan 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: DUVAL COUNTY/JACKSONVILLE
COMPREHENSIVE PLAN AMENDMENT

Docket No. 07-D2-NOI-1601-(A)-(N)

ADOPTED BY ORDINANCE No.: 2007-488-E
ON JUNE 29, 2007

**STATEMENT OF INTENT TO FIND
COMPREHENSIVE PLAN AMENDMENT
NOT IN COMPLIANCE**

The Florida Department of Community Affairs hereby issues its Statement of Intent to find the Comprehensive Plan Amendment of the City of Jacksonville, adopted by Ordinance No. 2007-488-E on June 29, 2007, Not In Compliance based upon the Objections, Recommendations and Comments Report (ORC Report) issued by the Department on April 9, 2007, which is hereby incorporated by reference. The Department finds that the plan amendment is not "in compliance", because it is not consistent with Chapter 163, Part II, Florida Statutes (F.S.), the State Comprehensive Plan (Chapter 187, F.S.), and Rule 9J-5, Florida Administrative Code (F.A.C.), for the reasons stated below.

**FUTURE LAND USE MAP CHANGE ADOPTED BY ORDINANCE 2007-488-E
(RELATED TO THE TIMUCUAN DEVELOPMENT OF REGIONAL IMPACT)**

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

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

1. Methodology for Calculation of Developer's Proportionate Share Payment

The City of Jacksonville adopted a Future Land Use Map (FLUM) amendment involving 5,985 acres of land located north of the Jacksonville International Airport, between US 1 and I-95. The amendment changed the FLUM designation for 5,985 acres of land from Agriculture II, Agriculture III, Agriculture IV, Residential Rural, Recreation and Open Space, Conservation, Multi-Use, and Public Building and Facilities land use categories to Multi-Use land use category. The City of Jacksonville adopted the FLUM amendment for the purpose of authorizing the Timucuan Development of Regional Impact (DRI) to be developed as proposed in its Application of Development Approval. A traffic impact study is included in the amendment package which shows that segments of several roadways within the study area will fail due to the new external trips generated from the proposed development. The City of Jacksonville has authorized the applicant to utilize the standards and guidelines under the Section 163.3180(12), F.S., to satisfy the City's transportation concurrency requirements, by payment of a proportionate share contribution for local and regionally significant traffic impacts. The methodology for calculation of the proportionate share contribution is provided under Section 163.3180(12)(d), F.S., which states partly as follows:

The proportionate-share contribution may be applied to any transportation facility to satisfy the provisions of this subsection and the local comprehensive plan, but, for the purposes of this subsection, the amount of the proportionate-share contribution shall be calculated based upon the cumulative number of trips from the proposed development expected to reach roadways during the peak hour from the complete builtout of a stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain the adopted level of service, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted level of service.

Based on the above provision and the methodological requirements of Florida Department of Transportation (FDOT), the applicant's proportionate share payment is estimated at

\$151,759,061 in the traffic impact study. However, the City of Jacksonville calculated the proportionate share contribution using a methodology titled “Timucuan DRI Benefits Due to Early Construction of Braddock Parkway, Duval County, Florida” and dated May 1, 2007. The early construction methodology is based on perceived benefits to the motoring public, in terms of cost savings from travel time and gas costs due to early construction of Braddock Parkway, thereby reducing the developer’s proportionate share payment from \$151,756,061 to \$97,655,919. The use of this methodology to reduce the proportionate share payment for the applicant does not comply with the methodology provided for under Section 163.3180(12), F.S. Additionally, the amendment does not include relevant and appropriate data and analysis to demonstrate that the reduced proportionate share payment of \$97,655,919 is sufficient to mitigate the traffic impacts from the proposed development. Therefore, the amendment is inconsistent with Section 163.3177(3)(a) & (b), 163.3177(6)(a), 163.3177(10)(e), 163.3180(12), F.S., and Rule 9J-5.005(2)(a) & (c), 9J-5.006(2)(a), 9J-5.006(3)(b)1, 9J-5.006(3)(c)3, 9J-5.016(2)(c), 9J-5.019(3)(a) – (h), 9J-5.019(4)(b)2, F.A.C.

2. Utilization of a Proportionate Share Payment

As permitted by Section 163.3180(12), F.S., a multiuse DRI may satisfy the transportation concurrency requirements of the local government comprehensive plan, the local government’s concurrency management system, and Section 380.06, F.S., by payment of a proportionate share contribution for local and regionally significant traffic impacts. Pursuant to Subsection 163.3180(12)(b), F.S., the authorization of the proportionate share contribution approach for mitigation of a DRI’s traffic impacts must be conditioned on a demonstration that the proportionate share contribution is sufficient to pay for one or more required mobility

improvements that will benefit a regionally significant transportation facility. The City of Jacksonville has authorized the applicant of the FLUM amendment to satisfy traffic impacts associated with the amendment by payment of a proportionate share contribution through the Timucuan DRI process pursuant to the requirements of Section 380.06, F.S., and Section 163.3180(12), F.S. The City of Jacksonville staff report states that the Braddock Parkway improvement is deemed to offset \$94,937,921 of the \$97,655,919 proportionate share amount and the remaining \$2,717,998 is to be paid to the City of Jacksonville prior to the commencement of Phase II of the proposed Timucuan DRI. The withholding of a portion of the proportionate share contribution for a later allocation does not comply with Section 163.3180(12), F.S., and 380.06, F.S. Specifically, Section 380(15)(d)(3), F.S., requires that any funds or lands contributed by the developer must be expressly designated and used to mitigate impacts reasonably attributable to the proposed development. Therefore, the amendment is inconsistent with Section 163.3177(3)(a) & (b), 163.3177(6)(a), 163.3177(10)(e), 163.3180(12), F.S., and Rule 9J-5.005(2)(a) & (c), 9J-5.006(2)(a), 9J-5.006(3)(b)1, 9J-5.006(3)(c)3, 9J-5.016(2)(c), 9J-5.019(3)(a) – (h), 9J-5.019(4)(b)2, F.A.C.

3. Five-Year Schedule of Capital Improvements and Financial Feasibility

The FLUM amendment does not demonstrate financial feasibility, because the proposed transportation improvements for mitigation of the traffic impacts of the amendment are not reflected in the 5-year schedule of capital improvements of the Capital Improvements Element of the City of Jacksonville comprehensive plan. As set forth under Section 163.3177(2), F.S., financial feasibility shall be determined by using professionally accepted methodologies and applies to the 5-year planning period. Pursuant to Section 163.3177(3)(a)5, F.S., capital

improvements necessary to serve the development within the 5-year schedule shall be reflected in the schedule of capital improvements. Therefore, the amendment is not consistent with Section 163.3177(2), 163.3177(3)(a)5, 163.3177(6)(a), 163.3177(8), F.S., and Rule 9J-5.0055(1)(a) & (b), 9J-5.016(4)1, & 2, F.A.C.

B. Recommended Remedial Action

The above inconsistencies may be remedied by taking the following actions:

1. Recalculate the proportionate share contribution by basing the calculation on the methodology provided under Section 163.3180(12)(d), F.S. The portion of the traffic study, titled “Timucuan DRI – Revised FDOT Proportionate Share Cost Estimates”, which estimated the proportionate share contribution at \$151,759,061, is consistent with the methodology provided under Section 163.3180(12)(d), F.S.
2. Revise the transportation mitigation plan to allocate all of the proportionate share contribution for one or more required mobility improvements that will benefit a regionally significant transportation facility.
3. Demonstrate that the amendment is financially feasible by supporting it with an amended 5-year schedule of capital improvements which reflects the transportation improvements to be paid for by the proportionate share contribution. The 5-year schedule should identify the projects’ description and

their general locations, the estimated costs, the start year and end year of construction, and the revenue sources.

II. CONSISTENCY WITH STATE COMPREHENSIVE PLAN

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

The adopted comprehensive plan amendment is inconsistent with the State Comprehensive Plan goals and policies set forth in Section 187.201, F.S., including the following provisions:

(15) Land Use

Policies 5 & 6: Establish comprehensive impact review procedures to evaluate the effects of significant development activities within local government jurisdictions.

(17) Public Facilities

Policy 6: Identify and implement innovative but fiscally sound and cost-effective techniques for financing public facilities.

(19) Transportation

Policy 15: Coordinate land use planning and transportation planning.

B. Recommended Remedial Actions.

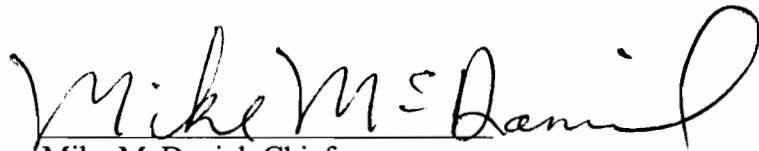
These inconsistencies may be remedied by taking the actions described above in Section

I.B.

CONCLUSIONS

1. The plan amendment is not consistent with the State Comprehensive Plan, Chapter 187, F.S.
2. The plan amendment is not consistent with Chapter 163, Part II, F.S.
3. The plan amendment is not consistent with Chapter 9J-5, F.A.C.
4. The plan amendment is not "in compliance," as defined in Section 163.3184(1)(b), F.S.
5. In order to bring the plan amendment into compliance, the City of Jacksonville may complete the recommended remedial actions described above or adopt other remedial actions that eliminate the inconsistencies.

Executed this 24th day of August, 2007 at Tallahassee, Florida.



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