



STATE OF FLORIDA

# DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

July 10, 2007

The Honorable John Peyton, Mayor  
City of Jacksonville  
4<sup>th</sup> 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 amendments adopted on May 14, 2007 and has determined that Ordinance Nos. 2007-351-E, 2007-353-E, 2007-355-E, 2007-357-E, 2007-358-E, 2007-360-E, 2007-362-E, 2007-364-E, 2007-366-E, 2007-368-E, 2007-370-E, 2007-374-E, 2007-376-E, 2007-378-E, 2007-381-E, 2007-383-E, and 2007-385-E do not meet the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance. The Department has determined that Ordinance Nos. 2007-372-E, 2007-380-E, 2007-387-E, 2007-389-E, 2007-390-E and 2007-391-E do meet the requirements of Chapter 163, Part II, 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 St. Augustine Record* for publication on July 11, 2007.

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 amendments, the Department's Objections, Recommendations and Comments Report dated March 5, 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.

**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](http://www.dca.state.fl.us)

COMMUNITY PLANNING  
Phone: 850-488-2356/SUNCOM 278-2356  
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AREAS OF CRITICAL STATE CONCERN FIELD OFFICE  
Phone: 305-289-2402  
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HOUSING AND COMMUNITY DEVELOPMENT  
Phone: 850-488-7956/SUNCOM 278-7956  
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The Honorable John Peyton  
July 10, 2007  
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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. 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 amendments 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,



Charles Gauthier, AICP  
Director, Division of Community Planning

CG/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**

IN RE: DUVAL COUNTY/JACKSONVILLE  
COMPREHENSIVE PLAN AMENDMENTS

**Docket No. 07-1-NOI-1601-(A)-(N)**

ADOPTED BY ORDINANCE NOS:           2007-351-E, 2007-353-E, 2007-355-E, 2007-357-E,  
2007-358-E, 2007-360-E, 2007-362-E, 2007-364-E,  
2007-366-E, 2007-368-E, 2007-370-E, 2007-374-E,  
2007-376-E, 2007-378-E, 2007-381-E, 2007-383-E,  
and 2007-385-E

ON MAY 14, 2007

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**STATEMENT OF INTENT TO FIND**  
**COMPREHENSIVE PLAN AMENDMENTS**  
**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. 2007-355-E on May 14, 2007, Not In Compliance based upon the Objections, Recommendations and Comments Report (ORC Report) issued by the Department on March 5, 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.), Rule 9J-5, Florida Administrative Code (F.A.C.), and the Northeast Florida Strategic Regional Policy Plan, for the reasons stated below.

Additionally, the Department finds that the amendments adopted by Ordinance Nos. 2007-351-E, 2007-353-E, 2007-357-E, 2007-358-E, 2007-360-E, 2007-362-E, 2007-364-E, 2007-366-E, 2007-368-E, 2007-370-E, 2007-374-E, 2007-376-E, 2007-378-E, 2007-381-E, 2007-383-E, and 2007-385-E are not "in compliance", because they are not consistent with Chapter 163, Part II,

F.S., the State Comprehensive Plan (Chapter 187, F.S.), and Rule 9J-5, F.A.C., for the reasons stated below:

**FUTURE LAND USE MAP CHANGE, ORDINANCE No. 2007-355-E (MOODY SHIPYARD REDEVELOPMENT SITE)**

**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. Increase in Density in the Coastal High Hazard Area (CHHA)

The amendment changed the future land use map (FLUM) designation for a 77.22-acre property from Water Dependent/Water Related land use and Agriculture IV land use categories to Community/General Commercial land use category. The Water Dependent/Water Related land use designation allows for water dependent industrial uses, such as shipyards, industrial docks and port facilities. The Agriculture IV designation allows various agricultural uses and single-family residential development at the maximum density of 2.5 units per gross acre. The adopted Community/General Commercial land use designation permits a wide variety of commercial development and residential development up to 20 units per gross acre. The amendment will potentially result in a net increase in development by 1,146 dwelling units and 200,245 square feet of nonresidential land use. Based on the Northeast Florida Hurricane Storm Atlas, 1998 (Volume 2, Plate 6), and in consultation with the Florida Division of Emergency Management and the Northeast Florida Regional Council, the Department has confirmed that the subject property is entirely located in the coastal high hazard area (CHHA). Section 163.3178(2)(h), F.S., defines a coastal high hazard area as “the area below the elevation of the category 1 storm surge line as established by a Sea, Lake and Overland Surges from Hurricanes

(SLOSH) computerized storm surge model”. Sections 163.3177(6)(g)1.h and 163.3178(2)(j), F.S., require coastal communities through their comprehensive planning process to restrict development activities in the CHHA to ensure the protection of human life against the effects of natural disasters. A hurricane evacuation study based on 750 dwelling units, submitted in support of the amendment, showed that evacuation clearance time in the event of a Category 3 storm will be exceeded by 0.1 hours on the critical evacuation link within the study area. The study identified I-10 from I-295 to the Nassau County Line as the critical link. Additionally, the study indicated that 300 people will require shelter space due to the amendment. Rule 9J-5.012(3)(b)6 and 9J-5.012(3)(b)7, F.A.C., require that local governments direct population concentrations away from known or predicted CHHA and to maintain or reduce hurricane evacuation times. The amendment did not comply with these requirements. A local government may elect to comply with the above-cited rule requirements through the mitigation criteria set forth under Section 163.3178(9), F.S. The amendment was not supported by appropriate and relevant data and analysis to demonstrate compliance with Section 163.3178(9)(a), F.S. Therefore, the amendment is inconsistent with Section 163.3177(6)(g)1g & 1h, 163.3177(6)(j)6, 163.3178(2)(h) & (9) , F.S.; Rule 9J-5.005(2)(a), 9J-5.005(5)(a) & (b), 9J-5.006(2)(a) & (b), 9J-5.006(3)(b)5, (c)7, 9J-5.012(2)(e), 9J-5.012(3)(b)6 & 7, 9J-5.012(3)(c)4, 9J-5.019(3)(c), F.A.C.

## 2. Impact on Environmentally Sensitive Land

The amendment did not comply with the wetlands protection and conservation requirements of Rule 9J-5.013(3), F.A.C., and is also inconsistent with the Conservation/Coastal Management Element Goal 4 and Objective 4.1 of the City of Jacksonville’s comprehensive plan, regarding “no net loss to existing wetlands”. Most of the 77.22-acre parcel is located

within the 100-year flood plain zone and about 36 acres of the site are wetlands, mainly saltwater marshes. The amendment was not supported by data and analysis to demonstrate that the site is suitable for the proposed development intensification. The City of Jacksonville has approved a Planned Unit Development (PUD) rezoning for the amendment site by Ordinance 2007-356-E, which the City adopted concurrent with the FLUM amendment. The PUD is authorized for a maximum development of 590 dwelling units (multi-family units) on the property, and limits intensive commercial and medium-density residential uses to areas of the site presently occupied by the existing shipyard. Outlying upland areas may be considered for low-density residential or less intense commercial uses. In addition, the applicant is required to provide conservation easements, and the City has the ability to amend the FLUM category to Conservation on all saltwater marshes and other environmentally sensitive areas within the PUD upon final wetlands determination. However, no guarantee was included in the comprehensive plan that the amount of development authorized for the PUD will not be exceeded without a comprehensive plan amendment. Therefore, the amendment is inconsistent with Section 163.3177(6)(a), 163.3177(6)(d), 163.3177(6)(g)1e, 163.3177(6)(g)1j, F.S.; Rule 9J-5.005(2)(a), 9J-5.006(2)(b); 9J-5.006(3)(b)1, 9J-5.006(3)(c)1, 9J-5.013(2)(c)6 & 9, 9J-5.013(3)(a) & (b), F.A.C.

### 3. Impact to Transportation Facilities

A traffic impact analysis, based on the limited amounts of development approved under the PUD rezoning rather than the maximum development allowed by the comprehensive plan for the adopted FLUM designation, was submitted in support of the amendment. The traffic study showed that the amendment will cause the adopted level of service (LOS) standards for two links on SR 10/Atlantic Boulevard to fail. The amendment did not include a site-specific policy in the

comprehensive plan that would cap development of the site to the amounts used for the traffic impact analysis. Additionally, the amendment did not include a financially feasible transportation improvement plan to mitigate the traffic impact. Therefore, the amendment is inconsistent with Section 163.3164(32), 163.3177(3)(b), 163.3177(6)(a), 163.3177(8), 163.3177(10)(e), F.S., 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(4)(a)1, & 2, 9J-5.019(3)(a) – (h), 9J-5.019(4)(b)2, F.A.C.

B. Recommended Remedial Action

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

1. Revise the amendment to include a site-specific policy to prohibit residential development on the site. Alternatively, support the increase in residential density on the site by appropriate and relevant data and analysis to demonstrate consistency with Section 163.3178(9), F.S.
2. Revise the amendment to include a site specific policy containing the Planned Unit Development limitations regarding impacts on environmentally sensitive lands.
3. Revise the traffic study using the maximum development allowed by the City of Jacksonville comprehensive plan for the land use designation change. Alternatively, revise the comprehensive plan to cap the amounts of development at the amounts approved for the PUD and base the traffic impact analysis on those amounts. Additionally, adopt a revision to the 5-year schedule of capital improvements to include the necessary transportation improvements to mitigate the traffic impact and demonstrate that the improvements are financially feasible.

## **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:

### (9) Natural Systems and Recreation Lands

Policies 1, 5 & 7: Protection and restoration of ecological functions of wetlands systems to ensure their long-term environmental, economic, and recreational value.

### (15) Land Use

Policies 5 & 6: Establish comprehensive impact review procedures to evaluate the effects of significant development activities within local government jurisdictions and the effect of land use planning on the potential for flooding.

### (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.

**III. CONSISTENCY WITH THE NORTHEAST FLORIDA REGIONAL STRATEGIC POLICY PLAN**

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

Regional Goal 3.2

Direct future development away from areas most vulnerable to storm surge and flooding.

Regional Policy 3.2.2

Development within hurricane evacuation areas should be responsible and permitted only when evacuation route capacity and shelter space capacity is available. Responsible development includes but is not limited to: structures elevated in storm surge and flooding areas, adequate drainage in flooding areas, and sufficient access for emergency response vehicles to all development.

B. Recommended Remedial Actions.

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

**FUTURE LAND USE MAP CHANGES: ORDINANCE Nos. 2007-351-E, 2007-353-E, 2007-357-E, 2007-358-E, 2007-360-E, 2007-362-E, 2007-364-E, 2007-366-E, 2007-368-E, 2007-370-E, 2007-374-E, 2007-376-E, 2007-378-E, 2007-381-E, 2007-383-E, and 2007-385-E**

**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 amendments under this subject heading are as follows:

Impact to Transportation Facilities

These amendments will result in lowering the adopted LOS standards for several state and local roadway links within the City of Jacksonville’s jurisdiction, according to the traffic impact studies supporting the amendments. The traffic studies were based on the limited development amounts approved for each site based on PUD rezoning and not on the maximum development allowed by the City’s comprehensive plan for the applicable land use designation. Moreover, the amendments were not supported by sufficient data and analysis to demonstrate that the City of Jacksonville will achieve and maintain the adopted LOS standards for the roadways within its jurisdiction. Therefore, the amendments are inconsistent with Section 163.3164(32), 163.3177(3)(b), 163.3177(6)(a), 163.3177(8), 163.3177(10)(e), F.S., 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(4)(a)1, & 2, 9J-5.019(3)(a) – (h), 9J-5.019(4)(b)2, F.A.C.

B. Recommended Remedial Action

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

For each amendment, revise the traffic impact study using the maximum development allowed by the City of Jacksonville comprehensive plan for the land use designation change. Alternatively, revise the comprehensive plan to cap the amounts of development at the amounts approved for the PUD and base the traffic impact analysis on those amounts. Additionally, adopt

a revision to the 5-year schedule of capital improvements to include the necessary transportation improvements to mitigate the traffic impact and demonstrate that the improvements are financially feasible.

## 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 amendments are inconsistent with the State Comprehensive Plan goals and policies set forth in Section 187.201, F.S., including the following provisions:

(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 amendments are not consistent with the State Comprehensive Plan, Chapter 187, F.S.
2. The plan amendments are not consistent with Chapter 9J-5, F.A.C.
3. The plan amendments not consistent with Chapter 163, Part II, F.S.
4. The plan amendments are not "in compliance," as defined in Section 163.3184(1)(b), F.S.
5. In order to bring the plan amendments 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 \_\_\_\_ day of July, 2007 at Tallahassee, Florida.

  
Charles Gauthier, AICP  
Director, Division of Community planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS  
NOTICE OF INTENT TO FIND THE DUVAL JACKSONVILLE  
COMPREHENSIVE PLAN AMENDMENTS ADOPTED BY ORDINANCE NO(s).  
2007-351-E, 2007-353-E, 2007-355-E, 2007-357-E, 2007-358-E, 2007-360-E, 2007-362-E, 2007-364-E,  
2007-366-E, 2007-368-E, 2007-370-E, 2007-374-E, 2007-376-E, 2007-378-E, 2007-381-E,  
2007-383-E, and 2007-385-E  
NOT IN COMPLIANCE  
AND THE COMPREHENSIVE PLAN AMENDMENTS ADOPTED BY  
ORDINANCE NO(s). 2007-372-E, 2007-380-E, 2007-387-E, 2007-389-E, 2007-390-E and 2007-391-E  
IN COMPLIANCE.  
DOCKET NO. 07-1-NOI-1601-(A)-(N)

The Department gives notice of its intent to find the Amendment(s) to the Comprehensive Plan for Duval Jacksonville, adopted by Ordinance No(s). 2007-351-E, 2007-353-E, 2007-355-E, 2007-357-E, 2007-358-E, 2007-360-E, 2007-362-E, 2007-364-E, 2007-366-E, 2007-368-E, 2007-370-E, 2007-374-E, 2007-376-E, 2007-378-E, 2007-381-E, 2007-383-E, and 2007-385-E on May 14, 2007 NOT IN COMPLIANCE and Ordinance No(s). 2007-372-E, 2007-380-E, 2007-387-E, 2007-389-E, 2007-390-E and 2007-391-E on May 14, 2007 IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

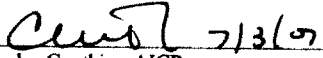
The adopted Duval Jacksonville Comprehensive Plan Amendment(s), the Department's Objections, Recommendations, and Comments Report (if any), and the Department's Statement of Intent to find the Comprehensive Plan Amendment(s) Not In Compliance will be available for public inspection Monday through Friday,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

Any affected person, as defined in Section 163.3184, F.S., has a right to petition for an administrative hearing to challenge the proposed agency determination that the Amendment(s) to the Highlands County Comprehensive Plan are In Compliance, as defined in Subsection 163.3184(1), F.S. The petition must be filed within twenty-one (21) days after publication of this notice, a copy must be mailed or delivered to the local government and must include all of the information and contents described in Uniform Rule 28-106.201, F.A.C. The petition must be filed with the Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. Failure to timely file a petition shall constitute a waiver of any right to request an administrative proceeding as a petitioner under Sections 120.569 and 120.57, F.S. If a petition is filed, the purpose of the administrative hearing will be to present evidence and testimony and forward a recommended order to the Department. If no petition is filed, this Notice of Intent shall become final agency action.

This Notice of Intent and the Statement of Intent for those amendment(s) 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 the Administration Commission.

Affected persons may petition to intervene in either proceeding referenced above. 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 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)(s), 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.

  
Charles Gauthier, AICP  
Director, Division of Community Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100