

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS NOTICE OF INTENT TO FIND THE
ESCAMBIA COUNTY
COMPREHENSIVE PLAN AMENDMENT NOT IN COMPLIANCE
DOCKET NO. 10-1ER-NOI 1701 (A) (N)

The Department gives notice of its intent to find the Amendment(s) to the Comprehensive Plan for Escambia County, adopted by Ordinance No(s). 2010-16 on June 3, 2010, NOT IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Escambia 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 Escambia County Development Services Bureau, Projects and Comprehensive Planning Office, 1190 West Leonard Street, Pensacola, Florida 32501.

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 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 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

Legal No. 1475568 1T July 21, 2010

Published on 07/21/2010



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 20, 2010

The Honorable Grover C. Robinson, IV
Chairman Escambia County
Board of County Commissioners
P. O. Box 1591
Pensacola, FL 32591-1591

Dear Chairman Robinson:

The Department of Community Affairs has completed its review of Escambia County's adopted amendment (DCA Number 10-1ER), adopted by Ordinance No. 2010-16 on June 3, 2010. The Department has determined that Ordinance No. 2010-16 does not meet the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance, as defined in Subsection 163.3184(1)(b), Florida Statutes, and is issuing a Notice of Intent and Statement of Intent to find the amendment Not In Compliance. The Notice of Intent has been sent to the *Pensacola News Journal* for publication on July 21, 2010.

The adopted Evaluation and Appraisal Report (EAR) based amendments contain significant revisions to the local comprehensive plan. The Department is supportive of the County's efforts to update the local comprehensive plan and to establish a land use plan that directs growth to more urban areas while retaining rural areas. However, the Department has identified issues with the adopted Optional Sector Plan provisions specific to meeting the requirements of the growth management statute, Chapter 163, Florida Statutes. The Department has also identified issues with the approach for natural resource protection for wetlands and habitat in that the adopted objectives and policies are not consistent with the requirements in the statute and in the rule, 9J-5.013, Florida Administrative Code. Additionally, the Future Land Use Map, while revised to significantly simplify land use categories, has not sufficiently identified impacts from map changes. We believe the issues identified in the Department's Statement of Intent can be addressed with additional attention and revisions to the amendment and look forward to continuing to work with County staff as we identify potential solutions.

Any affected person may file a petition with the agency within 21 days after the publication of the Notice of Intent pursuant to Section 163.3184(9), Florida Statutes. No development orders, or permits for a development, dependent on the amendment may be issued or commence before the plan amendment takes effect. The Notice of Intent and the Statement of

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) ♦

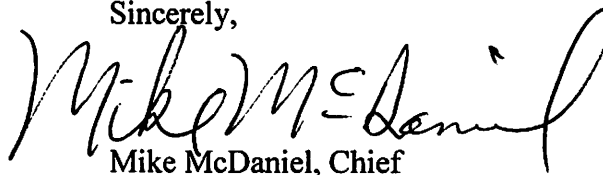
The Honorable Grover C. Robinson, IV
July 20, 2010
Page 2

Intent will be forwarded to the Division of Administrative Hearings for the scheduling of an administrative hearing pursuant to Section 120.57, Florida Statutes. Please be advised that Section 163.3184(8)(c)2, Florida Statutes, 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 agency's Notice of Intent.

Please note that a copy of the adopted Escambia County Plan Amendment and the Notice of Intent and Statement of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Escambia County Development Services Bureau, Projects and Comprehensive Planning Office, 1190 W. Leonard Street, Pensacola, FL 32501.

If you have any questions or concerns, please contact Susan Poplin, AICP, Regional Planning Administrator, or Suzanne Lex, Planning Analyst, at 850/922-0047 or via e-mail at suzanne.lex@dca.state.fl.us.

Sincerely,



Mike McDaniel, Chief
Office of Comprehensive Planning

MM/sps

Enclosures: Notice of Intent
Statement of Intent

cc: Lloyd Kerr, AICP, Escambia County Planning and Zoning Director
Terry Joseph, Executive Director, West Florida Regional Planning Council

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS NOTICE OF INTENT TO FIND THE
ESCAMBIA COUNTY
COMPREHENSIVE PLAN AMENDMENT NOT IN COMPLIANCE
DOCKET NO. 10-1ER-NOI-1701-(A)-(N)

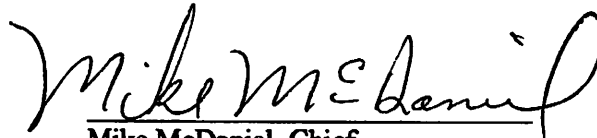
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The adopted Escambia County Comprehensive Plan Amendment and the Department's Objections, Recommendations, and Comments Report, (if any), and the Department's Statement of Intent to Find the Comprehensive Plan Amendment Not In Compliance will be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Escambia County Development Services Bureau, Projects and Comprehensive Planning Office, 1190 West Leonard Street, Pensacola, Florida 32501.

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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.

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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: ESCAMBIA COUNTY COMPREHENSIVE PLAN AMENDMENT 10-1ER; ADOPTING OPTIONAL SECTOR PLAN GOALS, OBJECTIVES AND POLICIES AND OVERLAY MAP, AND EAR-BASED AMENDMENTS	Docket No. 10-1ER-NOI-1701-(A)-(N)
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**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 Escambia County Comprehensive Plan Amendment 10-1ER (“Amendment”), consisting of Optional Sector Plan Goals, Objectives And Policies and Overlay Map, and Ear-Based amendments, adopted by Ordinance No. 2010-16 on June 3, 2010 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., Chapter 9J-5, F.A.C., and the State Comprehensive Plan, Chapter 187, F.S., for the following reasons:

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

F.A.C

A. Inconsistent Provisions

1. Optional Sector Plan Requirements for the Conceptual Long-Term Buildout

Overlay: Section 163.3245(1), (2) and (3), F.S., outlines certain requirements for Optional Sector Plan Conceptual Long-term Buildout Overlay. The adopted amendment does not meet the identified requirements in the statute for the Optional Sector Plan Conceptual Long-term Buildout Overlay.

a. Detail on Specific Issues for Sector Plan:

1) Anticipated Buildout Potential: Sections 163.3245(1) and (3)(a), F.S., indicates that a conceptual long-term buildout overlay is required for the Optional Sector Plan area. The overlay must also be consistent with the other requirements in Chapter 163, F.S., including those requiring the identification of the general distribution, location and extent of uses of land and standards to be followed in control and distribution of densities and intensities in Section 163.3177(6)(a), F.S. The adopted conceptual long-term overlay does not identify the maximum buildout figures and does not identify the extent of uses of land that would occur in the overlay area at buildout. Therefore, the amendment does not meet the requirements in Section 163.3245(1) and (3)(a), and 163.3177(6)(a), F.S.

Authority: Sections 163.3177(2), (6)(a and c) and (8); 163.3245(1) and (3)(a), F.S.; and Rules 9J-5.005(2, 5, and 6); 9J-5.006(3)(c)1 and (4), F.A.C.

2) Regionally Significant Public Facilities: The statute states the conceptual long-term buildout overlay shall identify regionally significant facilities necessary to support buildout of the anticipated future land uses consistent with Rule 9J-2, F.A.C. The policies submitted with the amendment indicate the intent to address public facilities at the time of a Detailed Specific Area Plan. With regard to facilities including water, sewer, solid waste, drainage, parks/recreation, and schools, the amendment did not identify buildout figures and thus did not analyze buildout to determine demand for these facilities including impacts on existing facilities or need for new facilities. Therefore, the amendment is not consistent with Section 163.3245(3)(a)2, F.S., to identify regionally significant facilities that support buildout of the anticipated future land uses.

Authority: Sections 163.3177(2), (3), (6)(a, b, c and j), (8), (10)and (12); 163.3245(3)(a)1 and 2. F.S.; Rules 9J-5.005(2 and 5); 9J-5.006(3)(b)1 and (3)(c); 9J-5.011(2) and (3); 9J-5.016(2) and (3); and 9J-5.019(3); and 9J-5.025(2)(c) and (d), F.A.C.

3) North-South Limited Access Roadway Facility: The adopted Overlay map includes an anticipated north-south limited access roadway facility to serve the anticipated development. Transportation data and analyses submitted with the amendment do not support the identified facility because a buildout analysis assessing impacts was not completed. Roadway data sources submitted with the Optional Sector Plan, including the Florida Alabama Transportation Planning Organization Transportation Improvement Plan, the Florida Department of Transportation Work Program, and the Escambia County Comprehensive Emergency Management Plan, did not address the need for, feasibility, or programming of

the identified limited access roadway facility. Based on county information, the facility was included based on recommendations from the Escambia County Board of County Commissioners and not from data on roadway impacts from the sector plan development. Given the lack of a buildout figure and the fact that the data submitted does not support the anticipated regional roadway, the amendment is not consistent with Section 163.3245(3)(a)2, F.S., which requires identification of regionally significant facilities that support buildout of the anticipated future land uses.

Additionally, the roadway facility is placed in an area that is not suitable and does not protect natural resources. The Optional Sector Plan area where the roadway is placed contains a number of environmentally sensitive areas such as floodplains, wetlands, and drainage basin connections to the Perdido River. The Perdido River is designated an Outstanding Florida Water under Chapter 62-302, F.A.C., and as such should be afforded a high level of protection. Based on the roadway depiction on the Overlay Map it appears the roadway will require a minimum of fourteen wetland crossings of tributaries to Perdido River. Therefore, the amendment has not demonstrated that it is suitable and will protect natural resources.

Furthermore, the roadway facility in its placement will facilitate movement from the northern portion of the County and outlying areas to areas around Pensacola. The amendment will contribute to urban sprawl by promoting longer commutes and by providing a means to facilitate development in the more rural areas of the County. Therefore, the amendment will contribute to the proliferation of urban sprawl and is not consistent with Section 163.3177(6)(a), F.S., and Rule 9J-5.006(5), F.A.C.

Authority: Sections 163.3177(2), (3), (6)(a, b, d and j), (8), and (10); 163.3245(3)(a)1 and 2. F.S.; Rules 9J-5.005(2 and 5); 9J-5.006(3)(b)1 , (3)(c), (4) and (5); 9J-5.013(2) and (3), 9J-5.016(2) and (3); and 9J-5.019(3) and (4)(c), F.A.C.

4) Conservation Areas: The statute states the conceptual buildout overlay must include a long-range conceptual framework map that at a minimum identifies the anticipated areas of urban, agricultural, rural and conservation land uses. The Optional Sector Plan area contains significant amounts of environmentally sensitive areas such as floodplains, wetlands, and drainage basin connections to the Perdido River. The Optional Sector Plan Area is within the Perdido River and Bay watershed, a Surface Water Improvement and Management priority of the Northwest Florida Water Management District. The Perdido River is also designated an Outstanding Florida Water under Chapter 62-302, F.A.C., and as such should be afforded a high level of protection. Furthermore, the data submitted with the amendment indicates the presence of habitat for wetland listed species. The Florida Department of Environmental Protection, the Northwest Florida Water Management District and the Florida Fish and Wildlife Conservation Commission identify the Perdido River and its associated tributaries as important natural resources and habitat for listed species. For upland species, the Florida Fish and Wildlife Conservation Commission indicate that the southern portion of the property in the regional employment district is experiencing forest regeneration and may contain habitat for gopher tortoise and other listed species. The adopted Exhibit D, entitled Long Range Conceptual Framework Map does not identify the anticipated conservation land uses; the adopted overlay map does not show any anticipated conservation areas including

those that would be associated with the identified regionally significant natural resources. Additionally, the associated sector plan policies do not make provisions for adoption of conservation easements at the time of effectiveness of the buildout overlay to recognize and protect natural resources. Furthermore, the County has designated Water Management District lands Conservation on the 2030 Future Land Use Map. Thus, there is an incongruity between the Future Land Use Map which assigns a conservation land use designation to the areas and the Conceptual Overlay Map which does not.

Therefore, the amendment is not consistent with Section 163.3245(3)(a)1, F.S., and does not protect natural resources consistent with Section 163.3177(6)(a) and (d), and Rules 9J-5.013(2) and (3), F.A.C.

Authority: Sections 163.3177(1), (2), (6)(a) and (d), (8) and (10)(a), (e) and (i); 163.3245(3)(a)1 and 3., F.S.; and Rules 9J-5.005(2), (5), and (6), 9J-5.006(2)(b)4, (3)(b)l., and (c)6., and (4); 9J-5.013(1)(a) and (b), (2)(b) and (c), and (3), F.A.C

5) Identification of Regionally Significant Natural Resources: The statute states that the conceptual long-term buildout shall including an identification of regionally significant natural resources consistent with Chapter 9J-2, F.A.C. The overlay map identifies significant natural resource areas associated with wetlands and wetland systems including the Perdido River. However, the data and overlay map do not address upland areas including whether or not upland areas contain regionally significant habitat for listed species. The Florida Fish and Wildlife Conservation Commission indicate that the southern portion of the property in the

regional employment district is experiencing forest regeneration and may contain habitat for gopher tortoise and other listed species. Therefore, the amendment is not consistent with Section 163.3245(3)(a)3, F.S., to identify regionally significant natural resources within the overlay area.

Authority: Sections 163.3177(6)(a) and (d); 163.3177(8); 163.3245(3)(a)1 and 3, F.S.; and Rules 9J-5.005(2), (5) and (6); 9J-5.006(3)(b)4 and (c)6, and (4); 9J-5.013(1)(a), (b), and (2); 9J-5.013(3), F.A.C.

6) Land Use Need: Sections 163.3245(1) and (3)(a), F.S., indicates that a conceptual long-term buildout overlay is required for the Optional Sector Plan area. The overlay must also be consistent with the other requirements in Chapter 163, F.S., including those requiring the plan be supported by a land use needs analysis that identifies the land needed to accommodate anticipated growth. The Conceptual Long Term Buildout Overlay for the Optional Sector Plan is not supported by a land use needs analysis based on the projected population and anticipated growth for the newly proposed short and long-term planning time frames (2015 and 2030). The proposed sector plan does not identify and analyze potential residential and non-residential development through the 2030 planning time frame. In the EAR-based amendments the data on land use need indicates the County will have a multiplier of four based on the Future Land Use Map, meaning that the County will have four times the amount of needed residential lands based on the projected population. In the absence of demonstrated numerical need, the County justifies the land use map (but does not mention the sector plan overlay) by indicating the intent to address land use priorities and

poor historical land use patterns. The County indicates the intent to distinguish between the south county area, which is the existing and anticipated urban area of the County, and the north portion of the County, which is the anticipated rural and agricultural area of the county. The mid-portion of the county has historically served as a suburban area and reflects sporadic sprawl-like development. Future uses in the area reflected on the 2030 Future Land Use Map do not substantially change the uses, though the County is maintaining several mixed use categories in the area. Nowhere in the analysis are the goals of the sector plan with regard to land use and employment, mixture, linkage and impacts on Vehicle Miles Traveled (VMT), discussed. Additionally, if the intent of the sector plan is to control urban sprawl and to protect rural areas in the northern portion of the County, the placement of the north-south limited access roadway facility would undermine that intended purpose. Therefore, the amendment is not supported by a land use needs analysis supporting the increases in residential and non-residential land anticipated in the sector plan.

Authority: Section 163.3177(1), (2), (6)(a), (8), and (10)(a), (e) and (i); and 163.3245(3)(a), F.S.; and Rules 9J-5.005(2 and 5); 9J-5.006(2), (3)(c)l, (4), and (5)(h), F.A.C.

7) Identification of Intergovernmental Coordination Procedures: The statute states that the conceptual long-term buildout shall include an identification of general procedures to ensure intergovernmental coordination to address extrajurisdictional impacts from the long-range conceptual framework map. The County adopted Objective 5.8 and Policy 5.8.1 of the Future Land Use Element that indicates the intent to adopt a procedure in the future that would provide for notice of applications of a Detailed Specific Area Plan to adjacent

municipalities, counties and other units of government providing services and including the school board. The future procedure might require workshops to address extrajurisdictional impacts. As written, the objective and policy do not meet the requirement of 163.3245(3)(a)5, F.S., because they do not establish as part of the provisions for the conceptual long-term buildout overlay the intergovernmental coordination procedures including what entities will be involved and their roles, how information will be shared and impacts assessed, how mitigation, if any, will be handled, and the types of coordination activities that may occur in the coordination process. Instead, the plan defers establishing intergovernmental procedures to a later time and includes only one requirement with little or no guidance as to how coordination would be achieved to address extrajurisdictional impacts.

Authority: Sections 163.3177(6)(a and h), F.S; and 163.3245(3)(a)5, F.S.; and Rules 9J-5.005(2); 9J-5.015(1, 2, and 3), F.A.C.

8) Analysis of Housing: The Sector Plan Agreement (“Agreement Authorizing an Optional Sector Plan in Escambia County”) identifies housing as a planning issue and opportunity to be addressed by the Sector Plan. For example, the Sector Plan Agreement states the following, “Providing for affordable housing through an analysis that demonstrates the need for the proposed amount of residential development including the affordability mix; analyze the jobs to housing-mobility balance; and address the effects on existing neighborhoods by the proposed development pattern and changes to the roadway network. Identify the effect to infill opportunities Countywide with this amount of development away from the existing urban areas.” The Conceptual Overlay does not include an analysis that identifies the housing

requirements of the Sector Plan and describes how the Sector Plan will address the housing requirements consistent with the Sector Plan Agreement. The Conceptual Overlay is not supported by an analysis that shows how the contemplated level of residential supports the proposed mixture, will provide affordability, will provide the balance of jobs to housing, and will result in shortened VMT by commuters in the area. Therefore, the requirements for a housing analysis at the time of the overlay, as set forth in the Agreement, have not been met and the amendment is not consistent with housing requirements in Rule 9J-5.010(2), F.A.C., to provide adequate sites and opportunities for housing.

Authority: Sections 163.3177(6)(a and f), (8) and (10); 163.3245(3)(a), F.S.; and Rules 9J-5.005(2,5, and 6); and 9J-5.010(1 and 2), F.A.C.

b. Recommended Remedial Actions: The County should revise the amendment to address the issues identified with the adopted Conceptual Long Term Buildout Overlay as prescribed in the sections below:

1) Revise the plan to identify the anticipated buildout amount of residential units and non-residential square footage of development. The amount of buildout development must be stated in the plan. The Department can provide examples of how this has been accomplished in other plans including the Clear Springs Optional Sector Plan and the Bay County Optional Sector Plan;

2) Based on the established anticipated buildout amounts for development, identify the anticipated impacts and any additional needs for facilities through the buildout period. Facilities that should be analyzed include roads, potable water, sanitary sewer, solid waste, parks and

recreation, and public schools. Those needed facilities must be identified in the data and in the plan by listing them in a policy within the Optional Sector Plan portion of the plan or in the Capital Improvements Element of the plan;

3) For the currently depicted north-south limited access roadway, the Department recommends that this facility be removed from the sector plan map as there is no study, data, or programming schedule that supports it, it has significant environmental impacts that indicate it is not suitable, it will encourage urban sprawl in the County and outlying areas, and given County staff has indicated a recent study indicates the road is not feasible at this time and that other alternative corridors are being pursued;

4) Review existing data for upland areas including but not limited to GIS layers on biodiversity hotspots, integrated habitat rankings, priority conservation areas, any secondary or primary habitat for listed species such as bears, and Florida Natural Areas Inventory listed species occurrences. Coordinate with the Florida Department of Environmental Protection and with the Florida Fish and Wildlife Conservation Commission in the review of the existing data to determine if there are regionally significant natural resources associated with uplands. Identify these regional resources as part of the data and identify these areas as recommended in number 5 below as anticipated Conservation Areas;

5) Revise the adopted overlay map, entitled “Exhibit D – Long Range Conceptual Framework Map” to identify the regionally significant natural resources as anticipated Conservation on the map to meet the requirements in Section 163.3245(3)(a)1, F.S. The plan should prescribe that areas subject to conservation should be placed in a conservation easement which prohibits development and allows only conservation and passive recreation uses. The conservation easement, ensuring the protection of the regionally significant natural resources in

perpetuity, must be recorded in the public records at the time the Overlay is adopted. The conservation easement shall be prepared in conjunction with the Overlay comprehensive plan remedial amendment and submitted to the Department for approval prior to the adoption of the remedial amendment. The conservation easement shall include all conservation lands identified in the Overlay. After approval by the Department, the easement shall be placed with an escrow agent with the direction that the conservation easement shall be recorded in the public records of the applicable local government and become effective at the time a Final Order is issued by the Department of Community Affairs approving the Conceptual Long Term Buildout Overlay plan. The Conservation Easement shall be enforceable by the local government of jurisdiction and either the Department of Environmental Protection, the Northwest Florida Water Management District or other appropriate entity(ies) as identified in the easement documents;

6) Revise the land use needs analysis to identify how the sector plan meets and furthers other identified planning objectives such as development pattern, housing, jobs, discouraging urban sprawl, reducing VMT, protection of rural areas and protection of natural resources. In discussion with the County there are intentions to improve the land use pattern by delineating urban areas and providing opportunities for jobs while improving transit and shortening commuter trips. The analysis should identify how the sector plan goals are furthering the County's efforts to achieve better urban development and form, to discourage urban sprawl, and to reduce the auto dependence and length of trips for commuters. If there are not sector plan objectives that support the planning efforts of the County, the County should respond by revising the objectives to establish sector plan goals and objectives in line with the intentions and stated objectives of the County's redesigned Future Land Use plan and map. These could include developing urban service area approaches, establishing transportation and mobility approaches

such as transit oriented design, specifying commitments to housing including affordable housing and incorporating a jobs-housing ratio and/or staging development to ensure the appropriate type of mix to ensure these things are achieved;

7) Revise the Intergovernmental Coordination policies to outline the process that will be used to ensure that intergovernmental coordination on extrajurisdictional impacts occurs. The process should identify who will be involved, how information will be shared and impacts assessed, how mitigation, if any, will be handled, and the types of coordination activities that may occur in the process; and

8) Revise the sector plan to include data about potential impacts and needs for housing based on the anticipated buildout development. Generally identify the level of anticipated affordable housing needs and identify desired jobs to housing objectives. As appropriate revise the sector plan framework to further and accommodate needs for affordable housing and to achieve an appropriate jobs/housing balance.

The Department is available to consult and conduct courtesy reviews as responses are crafted intending to address the identified compliance issues.

2. 2030 Future Land Use Map

a. Revisions to Land Use Map: The County has submitted Tables A1 and A2 to support the 2030 Future Land Use Map. The tables are intended to illustrate the reduction in residential dwelling units based on maximum densities in the category. However, the tables do not explain the changes made to the existing Future Land Use Map because the assessments are not based on correct maximum densities in the activity areas and in the mixed use areas as they do not use the

prescribed mixture of uses to assess residential development potential. Instead a higher 25 dwelling unit per acre assessment for mixed use categories is used which does not correspond to the category, many having required percentage distributions at lower densities. Similarly, for the activity areas the plan prescribes a portion of the areas to remain in agriculture which has a density of 1 dwelling unit per 20 acres and the remaining rural area is designated at 1 dwelling unit per 5 acres. The data presumes that all areas will build out at 1 dwelling unit per 5 acres. Therefore, the assessment of the residential uses on the old map is overinflated. Additionally, in looking at the assessment of residential units on the new adopted 2030 Future Land Use Map, the acreages in categories are significantly different than those identified on the previous map and the data provided including a “merged flow chart” does not identify how acreages are impacted from the old map to the new map. For instance, Agricultural lands are shown to also have the same designation on the new map and to include Rural Residential lands, yet the new map indicates there are 196,444.88 acres on the new 2030 Future Land use Map which is substantially less than what was on the old map. Also, Conservation appears to have significant increases in acreages but no explanation is offered as to where the land uses have been redesignated. A look at the new 2030 map hints that some Rural Residential and Agriculture in the southern portion of the County may have been converted to Conservation but no acreage information is provided. Other categories that should have straight conversions from the old to the new map have different acreages without explanation. Therefore, the 2030 Future Land Use Map is not supported by the information on allocation, land use need, and impacts on public facilities; and is not coordinated with the elements of the comprehensive plan including the Future Land Use Element, Infrastructure Element, Capital Improvements Element and Transportation Elements consistent with Section 163.3177(1) and (6)(a), F.S.

Authority: Sections 163.3177(1), (6)(a), (c) and (d), (8), (9) and (10)(e), F.S.; Rules 9J-5.005(1)(c)5, (2), (5), and (6), 9J-5.006(2)(c), (3)(b) 1 , (3)(c)1, 6, and 7, and (4); 9J-.012(3)(b)1, and (c)l; 9J-5.013(2)(b)3 and 4 and (2)(c)3, 5 , 6, 7, and 8, and (3), and 9J-5.019(4)(b)2, F.A.C.

b. Recommended Remedial Actions: The amendment should be revised to correctly identify the impacts associated with the changes to the Future Land Use Map. If there are increases in residential density, the County should either scale back the map allocations to match current ones or provide a land use needs analysis that demonstrates how the revised map is based on need and the availability of public facilities and services.

3. Conservation Policies for Natural Resource Protection

a. Conservation Policies: Conservation Element Policies 1.1.1 through 1.1.8, 1.3.7 and 1.6.6 do not define the programs and activities necessary to achieve natural resource protection for wetlands and habitat. Habitat policies 1.1.7 and 1.1.8 do not protect resources but calls for coordination by notifying certain review agencies of development applications, and specifying take permits for listed species. Policy 1.3.7 calls for wetland protection through the UMAM mitigation program. Policy 1.6.6 indicates the County will require buffers for Environmentally Sensitive Lands but does not specify how they will be determined and the extent of buffers given the natural resources, rendering the policy vague and unpredictable. The policies do not offer adequate protection and defer natural resource protection to permitting. Therefore, they do not comply with Rule 9J-5.013(3), F.A.C., requiring that wetlands and the natural functions of wetlands be protected and conserved as part of a comprehensive planning process, and that

incompatible uses be directed away from wetlands; adequate and appropriate protection and conservation of wetlands and direction of incompatible uses away from wetlands shall be accomplished through a comprehensive planning process which includes consideration of the types, values, functions, sizes, conditions and location of wetlands. The protection and conservation of wetlands by the direction of incompatible land uses away from wetlands shall occur in combination with other goals, objectives and policies in the comprehensive plan. Additionally, the policies do not adequately protect habitat for threatened and endangered species consistent with Rule 9J-5.013(2)(b) 3 and 4, and (c)3, 5 and 6, F.A.C, requiring the protection of native vegetative communities and wildlife and wildlife habitat, and restriction of activities known to adversely affect the survival of endangered and threatened wildlife.

Authority: Sections 163.3177(1), (6)(a) and (d), (8), (9)(f), and (10) (a) and (e), F.S.; Rules 9J5-003(90); 9J-5.005(2)(a) and (c), (5) and (6); 9J-5.006(3)(b)4, and (c)6, and (4); 9J-5.013(2)(b)3 and 4, (c)3, 5 and 6; and (3), F.A.C.

b. Recommended Remedial Actions: The amendment should be revised to include policies that establish meaningful and predictable guidelines and standards that will protect wetlands and habitat. The County should craft a wetland approach that considers the types, values, functions, sizes, conditions and location of wetlands. In some instances such as disturbed wetlands, it is appropriate for permitting to be allowed for impacts, including fill permits, and in other instances, wetlands are of high quality and should be acknowledged with an appropriate Conservation designation, list of allowed uses and buffering. The approach crafted for the treatment of wetlands should be reflected in the plan and/or on the Future Land Use Map. The

Department can provide examples of other local governments that have developed approaches to wetland protection. With regard to habitat protection, the County should revise the policies to require an appropriate Florida Fish and Wildlife Conservation Commission habitat management plan for listed species and delete portions referencing take permits and only endangered species. The Department is available to consult and conduct courtesy reviews as responses are crafted intending to address the identified compliance issues

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

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

Public Safety – Section 187.201(6)(a) and (b)7;

Water Resources - Section 187.201(7) (a) and (b) 2,8, 10, and 12;

Natural Systems and Recreational Lands - Section 187.201(9) (a) and (b) 1 through 4, 7, and 9 through 13;

Land Use - Section 187.201(15),(a) and (b) 1,2,3, and 6;

Public Facilities – Section 187.201(17)(a) and (b) 1, 3, 5, 6, 7 and 9, F.S.;

Transportation - Section 187.201(19)(a) and (b) 3, 8, 9,13,15; and

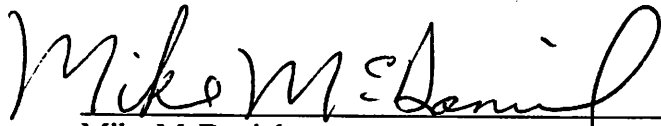
Plan Implementation - Section 187.201(25)(a), (b)1 and 7, F.S.

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

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. 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 20th day of July, 2010, at Tallahassee, Florida.



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