



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

MEMORANDUM

TO: Jim Quinn, DEP
Susan Harp, DOS
Susan Sadighi, FDOT 5
Phil Laurien, East Central Florida RPC
Jeff Cole, St Johns River WMD
Richard S Owen, Southwest Florida WMD

Date: June 8, 2007

Subject: Proposed Comprehensive Plan Amendment Review Objections,
Recommendations and Comments Reports

Enclosed are the Departments Objection, Recommendations and Comments Reports on the proposed amendments to the comprehensive plan(s) from the following local government(s):

Lake County 07WSA1

These reports are provided for your information and agency files. Following the adoption of the amendments by the local governments and subsequent compliance review to be conducted by this agency, we will forward copies of the Notices of Intent published by each local government plan.

If you have any questions, please contact Mr. Ray Eubanks at Suncom 278-4925 or (850) 488-4925.

RE/lp

Enclosure

2555 SHUMARD OAK BOULEVARD TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

June 8, 2007

The Honorable Catherine Hanson, Chairman
Lake County Board of County Commissioners
Post Office Box 7800
Tavares, Florida 32778

Dear Chairman Hanson:

The Department of Community Affairs has completed its review of the proposed Comprehensive Plan Amendment for Lake County (DCA No. 07-WSA1), which was received on April 10, 2007. Based on Chapter 163, Florida Statutes, we have prepared the attached report outlining our findings concerning the amendment. It is particularly important that the County address the objections set forth in our report so that these issues can be resolved prior to adoption. We have also included a copy of the regional and state agency comments for your consideration. Within the next 60 days, the County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, our report outlines procedures for final adoption and transmittal.

The amendment package contains text amendments to the Future Land Use Element, Conservation Element and the Public Facilities Element. With this amendment, Lake County is addressing the comprehensive plan requirements of the Wekiva Parkway and Protection Act for open space and land use strategies, stormwater and wastewater facility plan amendments. In order to assist the County as it moves toward adoption of these amendments, the Department has identified specific issues that should be addressed.

The Department is concerned that the County has not adopted plan policies based on sufficient data and analysis to adequately address the requirements of the Wekiva Act for the optimization of open space and promotion of a pattern of development to provide protection for the most effective recharge areas, karst features and sensitive natural habitats.

2555 SHUMARD OAK BOULEVARD TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8465/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2795 Overseas Highway, Suite 212
Marathon, FL 33060-2227

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
Phone: 850-488-8466

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
Phone: 850-488-7956

The Honorable Catherine Hanson
June 8, 2007
Page Two

I believe that these issues can be addressed satisfactorily in the adoption amendment. We are available to work with your staff to assist the County in responding to our report. If you or your staff should have any questions, please call Caroline Knight, Principal Planner, at (850) 487-4545.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive, flowing style.

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/ck

Enclosures: Review Agency Comments
Transmittal Procedures

cc: Ms. Carol Stricklin, Director, Lake County Department of Growth Management
Mr. Phil Laurien, Executive Director, East Central Florida Regional Council

DEPARTMENT OF COMMUNITY AFFAIRS
OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT
FOR
LAKE COUNTY
AMENDMENT 07 – WSA1

June 8, 2007
Division of Community Planning
Office of Comprehensive Planning

This report is prepared pursuant to Rule 9J-11.010, F.A.C.

INTRODUCTION

The following objections, recommendations and comments are based upon the Department's review of Lake County's proposed Comprehensive Plan Amendment (DCA 07 - WSA1) pursuant to Section 163.3184, Florida Statutes (F.S.).

Objections relate to specific requirements of relevant portions of Chapter 9J-5, Florida Administrative Code (F.A.C.), and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some of these objections may have been raised initially by one of the other external review agencies. If there is a difference between the Department's objection and an external agency's advisory objection or comment, the Department's objection will take precedence.

The County should address each of these objections when the amendment is resubmitted for our compliance review. Objections which are not addressed may result in a determination that the amendment is "not in compliance." The Department may have raised an objection regarding missing data and analysis, or other items which the County might consider not to be applicable to its amendment. If that is the case, a statement justifying its non-applicability pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination as to the non-applicability of the requirement. If the justification is sufficient, the objection will be considered to have been addressed.

The comments which follow the objections and recommendations are advisory in nature. Comments will not form a basis for determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping and reader comprehension.

Appended to the back of the Department's report are the comment letters from the other state review agencies. These comments are advisory to the Department and may not form a basis for Departmental objections unless they appear under the "Objections" heading in this report.

OBJECTIONS, RECOMMENDATIONS AND COMMENTS

LAKE COUNTY (DCA No. 07-WSA1)

PROPOSED COMPREHENSIVE PLAN AMENDMENT

I. **Consistency With Chapter 163, Part II, Florida Statutes, (F.S.), and Rule 9J-5, Florida Administrative Code, (F.A.C.), and Section 369.321, F.S.**

The Department has completed its review of the proposed amendment to Lake County's Comprehensive Plan (DCA No. 07-WSA1). The proposed Amendment 07-WSA1 contains text amendments to the Future Land Use Element, Conservation Element and the Public Facilities Element. With this amendment, Lake County is addressing the comprehensive plan requirements of the Wekiva Parkway and Protection Act (Wekiva Act) for open space and land use strategies, stormwater and wastewater facility planning.

The Department has the following objections:

1. Objection: Failure to Prepare Master Stormwater Management Plan. The proposed amendment to Public Facilities Element Policy 6C-5.1 does not address the requirements of the Wekiva Parkway and Protection Act for preparation of a master stormwater management plan sufficiently:

- The amendment does not amend the Comprehensive Plan, supported by appropriate data and analysis, to include an adequate master stormwater management plan, consistent with the requirements of the Wekiva Parkway and Protection Act;
- The amendment does not coordinate identified needed stormwater facility capital improvements with the Infrastructure Element and Capital Improvements Element;
- The proposed amendment is not supported by data and analysis demonstrating that the amendment is appropriately coordinated with the regional master stormwater management plan regarding stormwater management facilities projects and recommended stormwater management practices applicable to the County.

[Section 163.3184(1)(b), 369.321(2), F.S.; Rule 9J-5.006(3)(c)4, 9J- 5.011(2)(b)1. and 2, 9J- 5.011(2)(c)1 and 2, Rule 9J-5.015(3)(b)3, Rule 9J-5.016(4)(a)1, F.A.C.]

Recommendation: Revise Infrastructure Element Policy 6-4.1.1.. to address the master stormwater management plan requirements of the Wekiva Act. The revision should contain provision for an amendment to the Capital Improvements Element to identify a

source of funding for the implementation of the master stormwater plan and a program for continued maintenance of facilities as required by Section 369.319, F.S. The revision, as supported by data and analysis, should demonstrate coordination of the identified stormwater facility capital improvements with the Infrastructure Element and a financially feasible Capital Improvements Schedule. The master stormwater management plan should include provisions for:

- Identification of projects to meet long-range needs;
- Assessment of existing deficiencies;
- Priorities to address existing deficiencies
- Measures to address redevelopment;
- Schedule to complete needed improvements;
- Evaluation of the feasibility of stormwater reuse;
- Requirements for inspection and maintenance of facilities;
- Funding implementation of master stormwater plans and maintenance.

- 2. Objection: Failure to Amend Future Land Use Map.** Amendments to Future Land Use Element (FLUE) Objective 1-20 (Designation of Wekiva River Protection Area and Wekiva Study Area), Policies 1-21.43.2, (Transfer of Development rights Within the Wekiva River Protection Area), and 1-25.2, (Wekiva Overlay Districts), are not supported by a companion amendment to the Future Land Use Map or map series. Figure 2, Land Use Strategy within the WSA and outside of WRPA, in FLUE Policy 1-25.2 identifies the “Wekiva Traditional Rural District, Wekiva Transitional District, and Municipal Joint Planning Areas and Mount Plymouth-Sorrento.” These areas are not proposed as an amendment, based upon data and analysis, to be incorporated into the map series. There are no data and analysis providing environmental sensitivity criteria which would direct the establishment of these areas. Further, FLUE Policy 1-21.43, directing the sending and receiving areas, is not supported by an amendment to the map series that is based upon any data and analysis addressing environmental sensitivity criteria correlated with implementation policies for protection.

[Section 163.3177(6)(a), and (8), 163.3184(1)(b), 369.321(3), F.S.; Rule 9J-5.006(1)(e), 9J-5.006(3)(c)1, 9J-5.006(4)(e), F.A.C.]

Recommendation: Amend the Future Land Use Map or map series to depict the amendment to FLUE Objective 1-20 (Designation of Wekiva River Protection Area and Wekiva Study Area), Policies 1-21.43.2, (Transfer of Development Rights Within the Wekiva River Protection Area), and Policy 1-25.2 (Wekiva Overlay Districts). Amend the Future Land Use Map series, as supported by and consistent with the data and analysis demonstrating protection for sensitive natural features consistent with the intent of the Wekiva Act.

- 3. Objection: Inappropriate Default to Land Development Regulations (LDRs).** Amendments to plan policies do not establish criteria for development standards to be implemented through land development regulations: FLUE Policies 1-21-9E (require

setbacks in conformance with the LDRs), 1-25.1 (criteria for biology survey requirements to be established in the LDRs), 1-25.2, (...additional conditions may be developed in the LDRs); Conservation Element (CE) Policies 7-4A.15, (implement LDRs to govern golf course development), 7-6.2 (regulate conservation and require conservation through ...LDRs), 7-6.10.3, (LDRs to establish criteria for determination...), 7-7.11, (pursuant to LDRs, ...determine extent of preservation ...), 7-17.4, (adopt LDRs ...to establish criteria to create functional networks), 7-2.2B (through LDRs...the County shall protect areas where the aquifer is vulnerable to contamination), 7-17.11 (LDRs shall include provisions to require that development preserve wetlands), all inappropriately defer implementation of plan policy to the land development regulations. Thus, these policies do not establish criteria for development or guidelines which will be used to enforce the plan, consistent with the intent of the Wekiva Act.

[Section 163.3184(1)(b), 369.321(2) 163.3177(6)(a) and (d), 163.3202(2), F.S.; Rule 9J-5.003(90), 9J-5.006(3)(b)4, Rule 9J-5.022(1)(b), Rule 9J-5.023(2), F.A.C.]

Recommendation: Revise amendments to FLUE Policies 1-21-9E, 1-25.1, and 1-25.2; CE Policies 7-6.2, 7-6.10.3, 7-7.11, 7-17.4, and 7-2.2B to establish meaningful and predictable standards in the plan policy that will provide protection for the sensitive natural resources consistent with the intent of the Wekiva Act. Revise the amendment to establish criteria for development standards and guidelines to be implemented through land development regulations.

- 4. Objection: “Wildlife Corridors” Not Defined.** There are numerous references to the purpose, function and use of “wildlife corridors” throughout the amendment (for example, FLUE Policies 1-21.1, 1-21.54, and 1-25.6, and CE Policy 7-6.7). However FLUE Policy 1-20.1 does not provide a definition of “wildlife corridor” in application to the Wekiva River Protection Area and the Wekiva Study Area. Consequently, there are no guidelines or standards established for designation of “wildlife corridors”. Therefore, policies containing this term are rendered vague and unpredictable.

[Section 163.3184(1)(b),163.3177(6)(d), 369.321(2), F.S.; Rule 9J-5.003(90), 9J-5.013(2)(b)4, F.A.C.]

Recommendation: Revise FLUE Policy 1-20.1 to provide a definition, supported by data and analysis, of the purpose, function and use of the term, “wildlife corridor” as within the context and intent of the Wekiva River Protection Area and the Wekiva Study Area. Establish development standards and criteria for the designation of “wildlife corridors.”

- 5. Objection: Internal Inconsistency.** The amendment contains internal inconsistencies pertaining to the size of areas that are to be subject to required environmental analysis and surveys. CE Policy 7-6.8 requires sites greater than 2 acres to be subject to an upland vegetative community survey and CE Policy 7-6.7 limits biological surveys for development proposals to a size of 40 acres or more. However, most of the policies require environmental surveys for all sites, regardless of size. FLUE Policy 1-25.1 requires a flora and fauna survey of all sites submitted for development. FLUE Policy 1-

26.6 establishes design standards that would require site analysis of all sites. FLUE Policy 1-21.9 requires environmental surveys for all waterfront development. CE Policy 7-6.10 requires a site analysis for all sites to identify sensitive natural habitats. It would appear that the intention of the plan is that all proposed development sites should be subject to environmental analysis.

[Section 163.3177(2), 163.3184(1)(b), 369.321(2), F.S.; Rule 9J-5.005(5), Rule 9J-5.013(2)(c), F.A.C.]

Recommendation: Revise the amendment to CE Policies 7-6.8 and 7-6.7 to provide consistent policy, based upon appropriate data and analysis, to establish the size requirement for the environmental survey and analysis.

6. **Objection: Inadequate Wetland Protection Policy.** FLUE Policy 1-21.19 revises wetland protection policy. FLUE Policy 1-21.19 states that it is the intent of Lake County to protect and conserve wetlands. However, it also defers to LDRs for the development of criteria for wetland protections. It states that wetland protection “shall be accomplished through policies and provisions of this comprehensive plan and land development regulations,” without specifying the standards or guidelines, based upon data and analysis, for wetland protection to be accomplished. CE Policy 7-17.11 inappropriately requires that LDRs be developed to include guidelines to require development to preserve wetlands.

[Section 163.3177(6)(d), and (8), 163.3184(1)(b), 369.321(2), F.S.; Rule 9J-5.013(3), F.A.C.]

Recommendation: Revise the amendment, based upon appropriate data and analysis, to establish meaningful and predictable plan policy for the protection and conservation of wetlands. Revise the amendment to direct incompatible uses away from wetlands. Establish plan policy to minimize impacts on wetlands and to specify conditions under which mitigation may occur to compensate for loss of wetland function.

7. **Objection: Inadequate Mapping.** The Wekiva Act requires local governments “to map, using best available data, from the St. Johns River Water Management District and the Fish and Wildlife Commission, recharge areas and sensitive upland habitats” so that these areas may be identified and protected. Lake County’s amendment did not include the required maps. FLUE Policy 1-25.1.4 and CE Policy 7-6.7 state that the County shall maintain maps identifying natural resources within the WSA. However, the policy continues with the statement that, “These maps are for reference purposes, and not intended to substitute for professional site surveys....” The amendment was not supported by appropriate data and analysis identifying and mapping the natural features of the most effective recharge areas and sensitive upland habitats.

[Section 163.3177(6)(d), 163.3184(1)(b), 369.321(3), F.S.; Rule 9J-5.006(4)(a)6, 9J-5.013(2)(c), F.A.C.]

Recommendation: Revise the amendment to adopt appropriate maps to identify the most effective recharge areas, karst features and sensitive upland habitats including Longleaf Pine, Sand Hill, Sand Pine and Xeric Oak Scrub. located in Lake County, that need to be protected pursuant to the Wekiva Act. These maps should be developed, based upon best available data, from the St. Johns River Water Management District and the Florida Fish and Wildlife Conservation Commission. Revise plan polices to include reference to the appropriate map identifying the resource(s) relevant to the policy.

8. **Objection: Wekiva Study Area Policies Not Implemented**

A. The following policies do not establish meaningful and predictable standards: CE Policies 7-2.2B, 7-3.2A, 7-4A.1, 7-4A4, 7-4A.17, 7-5.1A; and Public Facilities Policies 6A-5.6, and 6C-5.1. These policies do not state a date when the County will require implementation of the policies addressing the requirements of the Wekiva Act for the optimization of open space and promotion of a pattern of development to provide protection for the most effective recharge areas, karst features and sensitive natural habitats including Longleaf Pine, Sand Hill, Sand Pine and Xeric Oak Scrub. The Wekiva Act required local governments to have adopted amendments addressing these requirements by January 1, 2006.

B. The following policies lack specificity because they do not establish meaningful and predictable guidelines and standards for the protection of the natural functions of the most effective recharge areas. FLUE Policy 1-25.2 establishes overlay districts but does not define allowable uses and establish criteria to guide land development. FLUE Policy 1-26.6 addresses clustering on “smaller lots” without specifying the size. CE Policy 7-2.2B requires protection where the aquifer is “more vulnerable” but does not define or map areas of “vulnerability.” CE Policy 7-6.10.2 refers to a determination of “minimal value,” but does not establish a standard to determine value; also, this policy describes protection of “equal or greater value,” but does not establish adequate criteria to evaluate that protection.

[Section 163.3177(6)(d), 163.3184(1)(b), 369.321(3), F.S.; Rule 9J-5.003(90), 9J-5.005(6) and (7), F.A.C.]

Recommendation:

A. Revise CE Policies 7-2.2B, 7-3.2A, 7-4A.1, 7-4A4, 7-4A.17, 7-5.1A, and Public Facilities Policies 6A-5.6, and 6C-5.1, to require immediate implementation of those plan policies addressing the requirements of the Wekiva Act for the optimization of open space and promotion of a pattern of development to provide protection for the most effective recharge areas, karst features and sensitive natural habitats consistent with the intent of the Wekiva Act.

B. Revise the amendment to establish meaningful and predictable guidelines and standards to guide development. Revise FLUE Policy 1-25.2 to establish and define allowable uses and establish criteria to guide land development in the overlay districts.

Revise FLUE Policy 1-26.6 to address clustering on “smaller lots” by specifying the size of “smaller lots.” Revise CE Policy 7-2.2B to define and map areas of “vulnerability.” Revise CE Policy 7-6.10.2 to establish a standard to determine value and to establish adequate criteria to evaluate protection of sensitive natural habitat.

9. Objection: Analysis of Open Space Requiring Protection. The amendment does not include an analysis of the open space within the Wekiva Study Area requiring protection and does not evaluate strategies for protection. The amendment does not evaluate the land use strategies established in the County’s existing regulations and programs, and existing and proposed Goals Objectives and Policies relative to the land use strategies listed in the Wekiva Act to determine whether or not the land use strategies optimize open space and promote a pattern of development to protect the mapped resources. The amendment does not include an analysis of the effect of the open space land use strategies on property rights protection.

[Section 163.3177(6)(a), (d) and e); 163.3177(2), (8), and 10), 163.3184(1)(b), 369.321(3), 187.201(b)1, 7 and 10, F.S.; Rule 9J-5.005(2), 9J-5.006(2), F.A.C.]

Recommendation: Evaluate strategies for the protection of open space. Revise the amendment to include the data and analysis and based on this data and analysis, adopt effective plan policies for open space protection and for the protection of property rights.

Comments:

1. Incomplete Reference. CE Policy 7-4A.6, and several other policies, provide an incomplete reference the document “Protecting Florida’s Springs,” a manual prepared by DCA/DEP. The date of the publication, 2002. is omitted. Therefore, the document is not sufficiently identified.

2. Outdated Policy. Public Facilities Element Objectives 6C-1, 6C-2, 6C-3, 6C-4 and their policies contain numerous references that are out of date. These objectives and policies should be revised to be made current.

3. Implementation of LDRs. The Wekiva Act required local governments to have adopted implementing land development regulations no later than January 1, 2007. Please specify when the LDRs for the following policies will be adopted and adopt them in an expeditious manner: FLUE Policies 1-25.1.2, 1-25.1.3, and 1-25.2; CE Policies 7-4A.15, 7-4A.16, 7-6.2, 7-6.10, and 7-17.4; Public Facilities Policies 6A-5.2, 6A-5.5, 6C-5.1, 6C-5.3, 6C-5.4, and 6C-5.5.

TRANSMITTAL PROCEDURES

The process for adoption of local government comprehensive plan amendments is outlined in s. 163.3184, F. S., and Rule 9J-11.011, F.A.C.

Within ten working days of the date of adoption, Lake County must submit the following to the Department:

- Three copies of the adopted comprehensive plan amendments;
- A copy of the adoption ordinance;
- A listing of additional changes not previously reviewed;
- A listing of findings by the local governing body, if any, which were not included in the ordinance; and
- A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the amendment, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to Mr. Phil Laurien, Executive Director of the East Central Florida Regional Planning Council.

Please be advised that Section 163.3184(8)(c), F.S., requires the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings.

In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. Please provide these required names and addresses to the Department when you transmit your adopted amendment package for compliance review. In the event there are no citizens requesting this information, please inform us of this as well. For efficiency, we encourage that the information sheet be provided in electronic format.

Department of Community Aff.

Division of Community Planning

PREPARED BY: C. Knight DATE: 6/6/07

SUBJECT: LAKE COUNTY MAILOUT DATE 6/8/07
07 WSA 1

	* REFERRAL	INIT.	DATE		* REFERRAL	INIT.	DATE
	SECRETARY				DIVISION DIRECTOR-DCP		
	CHIEF OF STAFF				CHIEF COMP. PLAN	MAN	6/8/07
	LEGAL			MAN	ADMINISTRATOR	MAN	6/8/07
	PERSONNEL				PLANNER		
						dk	6/7/07

COMMENTS: ORC LETTER
with objections

PLEASE INDICATE SEQUENCE OF ROUTING