



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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CHARLIE CRIST
 Governor

THOMAS G. PELHAM
 Secretary

October 26, 2007

The Honorable Addie Greene, Chair
 Palm Beach County Board of County Commissioners
 301 North Olive Avenue
 West Palm Beach, Florida 32402

Dear Commissioner Greene:

The Department of Community Affairs has completed its review of Palm Beach County Comprehensive Plan Amendment 07-01 adopted by Ordinance Numbers 2007-008 through 2007-012 on August 27, 2007. The Department has determined that the amendments adopted by Ordinances 2007-009 through 2007-012 meet the requirements of Chapter 163, Part II, Florida Statutes, and are in compliance. The Department has determined that the amendment adopted by Ordinance 2007-008, the "University Drive & Riverside Drive TIM & 2020 Map Amendment," does not meet these requirements and is not in compliance.

I am aware that the County adopted Ordinance 2007-008 pursuant to CS/HB 1315, which was passed by the 2007 Legislature. This legislation contemplates the adjustment of county and municipal boundaries upon the deletion of certain road corridors from the County comprehensive plan. Importantly, the Legislature made the roadway deletions subject to review by this Department under the State's growth management laws, and the boundary adjustments contingent upon the deletions being found consistent with these laws.

The Department, in its Objections, Recommendations, and Comments Report of June 29, 2007, informed the County of its objections to Ordinance 2007-008 and recommended, among other things, that the County should provide acceptable transportation alternatives or mitigation strategies if it decided to delete the University and Riverside Drive extensions. Historically, the Department has objected to the deletion of planned roadways in the absence of a demonstration that an adequate transportation system will be maintained without them. If these two road extensions are to be eliminated, the County has the responsibility to provide adequate transportation alternatives or mitigation strategies. Based on the information provided by the County, the Department is unable to conclude that the County has provided adequate transportation alternatives or mitigation strategies.

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STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
NOTICE OF INTENT TO FIND PALM BEACH COUNTY
COMPREHENSIVE PLAN AMENDMENT ADOPTED
BY ORDINANCE NO. 2007-008 NOT IN COMPLIANCE
AND THE COMPREHENSIVE PLAN AMENDMENTS ADOPTED
BY ORDINANCE NOS. 2007-009 THRU 2007-012
IN COMPLIANCE
DOCKET NO. 07-1-NOI-5001-(A)-(N)

The Department gives notice of its intent to find the Amendment to the Comprehensive Plan for Palm Beach County, adopted by Ordinance No. 2007-008, on August 27, 2007, NOT IN COMPLIANCE, and the Amendments adopted by Ordinance Nos. 2007-009 thru 2007-012, on August 27, 2007, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.


The adopted Palm Beach County Comprehensive Plan Amendment, 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 Palm Beach County Planning, Zoning and Building Department, 2300 North Jog Road, West Palm Beach, Florida 33411.

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 Amendments to the Palm Beach 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 the 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 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 32399-1550, and a copy mailed or delivered to the local government and the Department. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing pursuant to Sections 120.569 and 120.57, F.S., or to participate in the administrative hearing.

After an administrative hearing petition is timely filed, mediation is available pursuant to Subsection 163.3189(3)(a), F.S., to any affected person who is made a party to the proceeding by filing that request with the administrative law judge assigned by the Division of Administrative Hearings. The choice of mediation shall not affect a party's right to an administrative hearing.


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PALM BEACH COUNTY AMENDMENT 07-01

The Department is issuing a Statement of Intent to find the Comprehensive Plan Amendment Not in Compliance for the portion of the amendment adopted by Ordinance Number 2007-008, and In Compliance for portions of the amendment adopted by Ordinance Numbers. 2007-009 through 2007-012. This Notice of Intent has been sent to the *Palm Beach Post* for publication on October 29, 2007.

Please note that a copy of the adopted County Comprehensive Plan Amendment, the Department's Objections, Recommendations, and Comments Report dated June 29, 2007, the Notice of Intent and the Department's Statement of Intent to find that portion of the Comprehensive Plan Amendment Not in Compliance must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Palm Beach County Administration Building, Planning, Zoning, and Building Department, 2300 North Jog Road, West Palm Beach, Florida, 33411-2741.

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 210.57, Florida Statutes.

The Department's Notice of Intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication date of the Notice of Intent pursuant to Section 163.3184(9), F.S. No development orders, or permits for a development, dependent upon the amendment may be issued or commence before the plan amendment takes effect. 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 five days after receipt of the mailed copy of the agency's Notice of Intent.

If the in 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 this 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.

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE: PALM BEACH COUNTY COMPREHENSIVE PLAN AMENDMENT 07-1; AMENDING TRANSPORTATION ELEMENT AND MAPS	Docket No. 07-1-NOI-5001-(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 Rule 9J-11.012(6), Florida Administrative Code, hereby issues this Statement of Intent regarding the Comprehensive Plan amendment adopted by Palm Beach County in Ordinance Number 2007-008 on August 27, 2007, during the 07-1 amendment cycle. The Department finds this Comprehensive Plan amendment not "in compliance," as defined in Section 163.3184(1)(b), Florida Statutes. The Department finds that this Comprehensive Plan amendment is not in compliance because it is not consistent with Section 163.3177, Florida Statutes, the State Comprehensive Plan, and Rule 9J-5, Florida Administrative Code, for the following reasons:

I. TEXT AND MAP SERIES AMENDMENTS:

A. Inconsistent provisions. The inconsistent provisions of the Comprehensive Plan amendment under this subject heading follow:

1. Palm Beach County has deleted two proposed road segments from its Comprehensive Plan: University Drive from Lox Road to Palmetto Park Road and Riverside Drive from Palmetto Park Road to Glades Road. These amendments to the Transportation Element (TE) and *Map Series Map TE-1.1*, the Future 2020 Roadway System by Number of Lanes Map, and *Map Series Map TE-1.14*, the Thoroughfare Right-of-Way Identification Map (TIM) of the County's Comprehensive Plan, were adopted by Ordinance Number 2007-008. The removal of these segments of University and Riverside Drives is

inconsistent with *Palm Beach County Comprehensive Plan Transportation Element Policy 1.13-b* :

- *TE Policy 1.13-b*. This policy requires the County to “continue to use the Metropolitan Planning Organization’s transportation planning process as the County’s main mechanism for long range transportation planning and coordination with the MPO’s TIP and the FDOT District IV Adopted Work Program” (emphasis added).

The amendment is not consistent with Rule 9J-5.019(4)(b)3, which requires a transportation system that is coordinated with the plans and programs of any applicable metropolitan planning organization, transportation authority, Florida Transportation Plan, and Florida Department of Transportation’s Adopted Work Plan. The University Drive and Riverside Drive projects are in the Florida Department of Transportation’s Five-Year Adopted Work Plan. Deleting these road projects from the County’s Comprehensive Plan is inconsistent with this policy because the County’s long range transportation plan is not coordinated with the FDOT District IV Adopted Work Plan.

In addition, the amendment is not consistent with Rule 9J-5.019(4)(b)2, which requires coordination of the transportation system with the future land use map or map series to ensure land uses are consistent with the transportation modes and services proposed to serve the existing and proposed population densities, housing and employment patterns, and land uses. The County has not provided data and analysis to demonstrate that the County’s Future Land Use Map and transportation system is coordinated in a manner that will achieve and maintain roadway level of service standards.

The adopted amendment is also not supported by adequate data and analysis, based upon a professionally acceptable and applied methodology, to properly evaluate the traffic impacts that removing the University and Riverside Drive extensions will have on area roads. Palm Beach County has not coordinated with FDOT to replace the University Drive and Riverside Drive extensions with viable traffic mitigation strategies that will achieve and maintain adopted roadway level of service standards.

2. The Department specifically finds that the Comprehensive Plan amendment is inconsistent with the following rule and statutory provisions: Rules 9J-5.005(2) and (5), 9J-5.015(1) and (3)(b)1 and 2, and 9J-5.019(2), (3), (4)(b)2, 3, and (4)(c)11, *Florida Administrative Code*, and Sections 163.3177(2), (4)(a), (6)(a) (6)(h), and (6)(j), *Florida Statutes*.

B. Recommended remedial actions. The above inconsistencies may be remedied by taking the following actions:

1. Palm Beach County and the Palm Beach County Metropolitan Planning Organization should coordinate with the Florida Department of Transportation, Broward County, and the Broward County Metropolitan Planning Organization to undertake a professionally accepted and applied methodology to study roadway impacts that will result from the removal of University and Riverside Drives in the south Palm Beach and north Broward County area. Based upon the results of this study, the two Counties, the two Metropolitan Planning Organizations, and

the Florida Department of Transportation must develop viable traffic mitigation strategies to offset these impacts to achieve and maintain adopted levels of service standards on the impacted roadways.

2. A resolution to issue 1 in Section A, above, will resolve the inconsistencies with Chapter 9J-5, *Florida Administrative Code*, and Chapter 163, Part II, *Florida Statutes*.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

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

The Comprehensive Plan amendment (Ordinance No. 2007-008) is inconsistent with the State Comprehensive Plan goals and policies set forth in Section 187.201, Florida Statutes, including the following provisions:

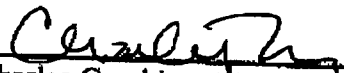
1. Energy. The amendment is inconsistent with the Goal set forth in Section 187.201(11)(a), Florida Statutes, and the Policies set forth in the Subparagraph contained in Section 187.201(11)(b)3, Florida Statutes; and
2. Transportation. The amendment is inconsistent with the Goal set forth in Section 187.201(19)(a), Florida Statutes, and the Policies set forth in Subparagraphs of Section 187.201(19)(b)2, (b)3, (b)9, (b)13, and (b)14, Florida Statutes.

B. Recommended remedial action. These inconsistencies may be remedied by revising the Comprehensive Plan amendment as described above in Section I.B.

CONCLUSIONS

- a. The Comprehensive Plan amendment is not consistent with the State Comprehensive Plan.
- 2. The Comprehensive Plan amendment is not consistent with Chapter 9J-5, Florida Administrative Code.
- 3. The Comprehensive Plan amendment is not consistent with the requirements of Section 163.3177, Florida Statutes.
- 4. The Comprehensive Plan amendment is not "in compliance," as defined in Section 163.3184(1)(b), Florida Statutes.
- 5. In order to bring the Comprehensive Plan amendment into compliance, the County may complete the recommended remedial actions described above or adopt other remedial actions that eliminate the inconsistencies.

Executed this 26 day of October 2007, at Tallahassee, Florida.


 Charles Gauthier, AICP, Director
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