

To: Matt

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LEE COUNTY
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STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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

JEB BUSH
Governor

THADDEUS L. COHEN, AIA
Secretary

October 12, 2004

Mr. Paul O'Connor, AICP
Director, Division of Planning
Lee County
P. O. Box 398
Ft. Myers, FL 33902-0398

Dear Mr. O'Connor:

Thank you for submitting a copy of the City's Small Scale Development Plan Amendment adopted by Ordinance No. 04-15 on September 22, 2004, for our records. The reference number for the amendment is 04S2.

The Department **will not** conduct a compliance review or issue a Notice of Intent regarding the adopted small scale development plan amendment in accordance with procedures contained in Section 163.3187(3)(a), Florida Statutes.

If you have any questions, please contact me for the DRI and Plan Processing Section at (850)922-1767.

Sincerely,

D. Ray Eubanks, Administrator
Plan Review and Processing

DRE/lw

cc: David Burr, Ex. Director
Southwest FL Regional Planning Council

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>

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2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-2402

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EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
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HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956

To: Matt



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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

JEB BUSH
Governor

April 1, 2004

HEIDI HUGHES
Interim Secretary

Mr. Paul O'Connor, Director
Lee County Division of Planning
Department of Community Development
P. O. Box 398
Ft. Myers, FL 33902-0398

Dear Mr. O'Connor:

Thank you for submitting the County's small scale development amendment adopted by Ordinance No. 04-02 adopted on March 9, 2004, for our records. The reference number for the amendment is 04S1.

The Department will not conduct a compliance review or issue a Notice of Intent regarding the adopted small scale development plan amendment in accordance with procedures contained in Section 163.3187(3)(a), Florida Statutes. Even though the Department is not required to review small scale amendments, this letter is to advise you that the above-referenced ordinance is invalid and has been adopted without authority pursuant to Subsection 163.3187(6)(a), F.S. (copy enclosed). It is the suggestion of the Department, that the County readvertise, readopt and resubmit this amendment once the County's Second Evaluation and Appraisal Report (EAR) has been submitted to our Department pursuant to Section 163.3187(6)(e), F.S. The County's Second adopted EAR due date is February 1, 2004.

If you have any questions, please contact Lavoise Whittington of my staff at (850) 922-1778 or me at (850) 922-1767. Thank you for your assistance in this matter.

Sincerely,

D. Ray Eubanks, Administrator
Plan Review and Processing

DRE:lw

Enclosure

cc: David Burr, Ex. Director

Southwest FL Regional Planning Council

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and the assignment of an administrative law judge. The parties to a hearing held pursuant to this subsection shall be the petitioner, the local government, and any intervenor. In the proceeding, the local government's determination that the small scale development amendment is in compliance is presumed to be correct. The local government's determination shall be sustained unless it is shown by a preponderance of the evidence that the amendment is not in compliance with the requirements of this act. In any proceeding initiated pursuant to this subsection, the state land planning agency may intervene.

(b)1. If the administrative law judge recommends that the small scale development amendment be found not in compliance, the administrative law judge shall submit the recommended order to the Administration Commission for final agency action. If the administrative law judge recommends that the small scale development amendment be found in compliance, the administrative law judge shall submit the recommended order to the state land planning agency.

2. If the state land planning agency determines that the plan amendment is not in compliance, the agency shall submit, within 30 days following its receipt, the recommended order to the Administration Commission for final agency action. If the state land planning agency determines that the plan amendment is in compliance, the agency shall enter a final order within 30 days following its receipt of the recommended order.

(c) Small scale development amendments shall not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments shall not become effective until the state land planning agency or the Administration Commission, respectively, issues a final order determining the adopted small scale development amendment is in compliance.

(4) Each governing body shall transmit to the state land planning agency a current copy of its comprehensive plan not later than December 1, 1985. Each governing body shall also transmit copies of any amendments it adopts to its comprehensive plan so as to continually update the plans on file with the state land planning agency.

(5) Nothing in this part is intended to prohibit or limit the authority of local governments to require that a person requesting an amendment pay some or all of the cost of public notice.

→ (6)(a) No local government may amend its comprehensive plan after the date established by the state land planning agency for adoption of its evaluation and appraisal report unless it has submitted its report or addendum to the state land planning agency as prescribed by s. 163.3191, except for plan amendments described in paragraph (1)(b) or paragraph (1)(h).

(b) A local government may amend its comprehensive plan after it has submitted its adopted evaluation and appraisal report and for a period of 1 year after the initial determination of sufficiency regardless of whether the report has been determined to be insufficient.

(c) A local government may not amend its comprehensive plan, except for plan amendments described in paragraph (1)(b), if the 1-year period after the initial sufficiency determination of the report has expired and the report has not been determined to be sufficient.

(d) When the state land planning agency has determined that the report has sufficiently addressed all pertinent provisions of s. 163.3191, the local government may amend its comprehensive plan without the limitations imposed by paragraph (a) or paragraph (c).

→ (e) Any plan amendment which a local government attempts to adopt in violation of paragraph (a) or paragraph (c) is invalid, but such invalidity may be overcome if the local government readopts the amendment and transmits the amendment to the state land planning agency pursuant to s. 163.3184(7) after the report is determined to be sufficient.



Florida Department of Community Affairs

2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
~~Steven M. Seibert, Secretary~~

Colleen Castille

Division of Community Planning

Division Director's Office: (850) 488-2356, Suncom: 278-2356
Bureau of State Planning: (850) 488-4925, Suncom: 278-4925
Bureau of Local Planning: (850) 487-4545, Suncom: 277-4545
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Website: [http:// www.dca.state.fl.us/fdcp/DCP/](http://www.dca.state.fl.us/fdcp/DCP/)

FACSIMILE

Date: 4/2/04

To: Paul O'Connor

Facsimile Telephone Number: ²³⁹~~941~~ 479-8319

From: Lavoise Whittington

Office Telephone Number: 850/922-1778

Cover Sheet: 1 + 2 = 3 Total Pages

Comments or Special Instructions: hard copy to

follow in mail. I haven't
been able to reach you by phone
Please call me if you have
questions.