

CFA2009-04



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 15, 2010

**RECEIVED**  
JUN 17 2010

**COMMUNITY DEVELOPMENT**

The Honorable Tamarra Hall, Chairwoman  
Lee County Board of County Commissioners  
Post Office Box 398  
Fort Myers, Florida 33902-0398

Dear Chairwoman Hall:

The Department has completed its review of the Lee County comprehensive plan amendment adopted on December 15, 2009 by Ordinance No. 09-28 (DCA No. 09-CIE1). The Department has determined that the amendment meets the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance, as defined in Section 163.3184(1)(b), F.S. The Department is, therefore, issuing a Notice of Intent to find the plan amendment In Compliance.

The Notice of Intent has been sent to the Ft. Myers News Press newspaper for publication on June 16, 2010. 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. Please note that a copy of the adopted Lee County comprehensive plan amendment and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Lee County Planning Division, 1500 Monroe Street, Fort Myers, Florida 33901.

The Department's Notice of Intent to find a plan amendment in compliance shall be deemed to be 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 of the Notice of Intent pursuant to Section 163.3184(9), F.S. No development orders, or permits for development, dependent on the amendment, may be issued or construction commence before the plan amendment takes effect.

If this 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 Hearing. The choice of mediation will not affect the right of any party to an administrative hearing.

The Honorable Tamarra Hall  
June 15, 2010  
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If you have any questions, please contact Joseph Murphy, Community Planner, Division of Community Planning, at (850) 921-4767.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive style with a large, looping "M" at the beginning and a long, sweeping tail that extends to the right.

Mike McDaniel, Chief  
Office of Comprehensive Planning

MM/jm

Enclosure: Notice of Intent

cc: Mr. Paul O'Connor, Director, Lee County Division of Planning  
Mr. Ken Heatherington, Executive Director, Southwest Florida Regional Planning Council

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS  
NOTICE OF INTENT TO FIND  
LEE COUNTY  
COMPREHENSIVE PLAN AMENDMENT(S) IN COMPLIANCE  
DOCKET NO. 09-CIE1-NOI-3601-(A)-(I)

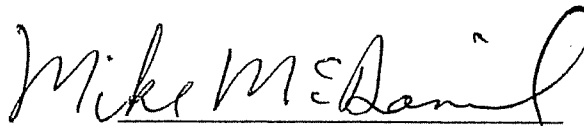
The Department gives notice of its intent to find the Amendment(s) to the Comprehensive Plan for Lee County, adopted by Ordinance No. 09-28 on December 15, 2009, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted Lee County Comprehensive Plan Amendment(s) and the Department's Objections, Recommendations and Comments Report, (if any), are available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the Lee County Planning Division, 1500 Monroe Street, 2<sup>nd</sup> Floor, Fort Myers, Florida 33901.

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 Lee 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, 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, and a copy mailed or delivered to the local government. 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.

If a petition is filed, other affected persons may petition for leave to intervene in the 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. A petition for leave to intervene shall be filed at the Division of Administrative Hearings, Department of Management Services, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060. Failure to petition to intervene within the allowed time frame constitutes a waiver of any right such a person has to request a hearing under 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.



Mike McDaniel, Chief  
Office of Comprehensive Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

## **NOTICE OF REVISIONS TO PROCESSING PROCEDURES**

### **Effective Date of Revisions to Rule 9J-11 Florida Administrative Code**

The Department has revised the procedures for submitting comprehensive plan amendments. These new procedures became effective May 12, 2010.

### **Reason for Revisions**

The revisions implement statutory changes to Chapter 163, Part II, Florida Statutes, related to allowable exemptions from the twice per calendar year limitations and prohibitions that may affect adoption of comprehensive plan amendments. In addition, changes were made to clarify plan amendment submittal requirements based on the Department's recent experience.

### **Highlight of Revisions**

The revised procedures relate to the submittal of proposed and adopted comprehensive plan amendments, including small scale amendments, and a revised RPM-BSP-EXEMPT REVIEW Form used when submitting exempt and small scale amendments. The major revisions to Rule 9J-11, include 1) the deletion of the requirements to submit replacement pages and a revised table of contents to the comprehensive plan; 2) an update to the allowable exemptions to the twice per calendar year limitation; 3) an update to the statutory prohibitions that may affect adoption of comprehensive plan amendments; 4) clarification on the submittal of the de minimis impact report associated with the capital improvement annual update amendment; 5) a requirement that all future land use map amendments be submitted in color format; and 6) the revised RPM-BSP-EXEMPT REVIEW Form to address affordable housing and Areas of Critical State Concern.

### **Effect of Revisions**

The revisions improve the overall comprehensive plan amendment process by helping local governments prepare and submit complete plan amendment packages. The rule provides the local government with a complete list of statutory exemptions and a complete list of possible prohibitions to the amendment process. In addition, the revised rule clarifies submittal requirements and this increases the likelihood that a submittal package will be initially determined complete.

### **Location of Revisions**

The revisions are located on the Division of Community Planning's website to assist local governments with the submittal of their comprehensive plan amendment packages and may be viewed at "**Submitting Comprehensive Plan Amendments and Developments of Regional Impact**" <http://www.dca.state.fl.us/fdcp/dcp/Procedures/index.cfm> .

### **Additional Information**

Ray Eubanks, Plan Processing Administrator

(850) 922-1767

[ray.eubanks@dca.state.fl.us](mailto:ray.eubanks@dca.state.fl.us)