

For Public Hearing April 5, 2011

Alachua County Response to Florida Department of Community Affairs Objections, Recommendations, and Comments Report on EAR-Based Comprehensive Plan Amendments (DCA #Alachua County 11-1ER) And Other Agency Comments

Section I provides excerpts from the Florida Department of Community Affairs (DCA) Objections and Recommendations and Comments (ORC) Report dated December 17, 2010 on the Amendments approved for transmittal by the County Commission on October 5th, 2010 followed by the County response.

Section II excerpts comments from other review agencies included with the letter from DCA transmitting the ORC Report, followed by the County staff response, and where necessary, revisions to the previously transmitted goals, objectives, and policies.

Section III identifies other changes to the previously transmitted amendments which are the result of further staff analysis of policies related to agency comments, recent legislative changes, or corrections of scrivener's errors.

Upon adoption of these Comprehensive Plan amendments by the Board of County Commissioners, the adopted amendments will be sent to the Florida Department of Community Affairs for final compliance review in accordance with Florida Statutes. Section 163.3184(8)(b), F.S., provides in part that:

“.....the state land planning agency, upon receipt of a local government's complete adopted comprehensive plan or plan amendment, shall have 45 days for review and to determine if the plan or plan amendment is in compliance with this act.....the agency's determination of compliance must be based only upon one or both of the following:

1. The state land planning agency's written comments to the local government pursuant to subsection (6); or
2. Any changes made by the local government to the comprehensive plan or plan amendment as adopted.”

I. COMMENTS FROM FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS

CONSISTENCY WITH CHAPTER 163, F.S. AND RULE 9J-5, F.A.C. & INTENSITY STANDARDS FOR INDUSTRIAL LAND USE

DCA Objection:

“The County has proposed new Objective 4.3 and Policy 4.3.1 to create a new Light Industrial future land use category and new Objective 4.4 and Policies 4.4.1 and 4.4.2 creating a Heavy Industrial future land use category. However, the County has not included intensity standards for the proposed future land use categories.”

DCA Recommendation:

*“The County should revise the policy to establish a standard for intensity in each land use for the proposed Light and Heavy Industrial future land use categories. Possible standards for non-residential standards include the use of floor area ratios (FARs) or **impervious surface***

ratios (ISRs) and/or lot coverage percentage, based on square feet per acre, in combination with building height limitation and types of uses allowed.” (Bold added)

Response to DCA Objection:

Policy 5.2.2 of the Conservation and Open Space Element in the adopted Comprehensive Plan includes one of the types of intensity standards identified in DCA’s Recommendations, i.e. “pervious open space shall be provided on at least 20% of the development site through a variety of features...” and is applicable to all new developments within the unincorporated area of Alachua County. This policy is reinforced by adopted policy 4.1.3 of the Future Land Use Element, which states that “industrial locations and proposed uses shall be consistent with the Conservation and Open Space Policies of Alachua County.”

The amendments to the Industrial Policies in the Future Land Use Element implement the adopted EAR Recommendation 4.6.1.b to “update policies related to Industrial and Office land uses to facilitate recruitment of targeted industries to the County, consistent with employer workforce needs and emerging Industrial and Office land use trends.” As noted in the supporting data and these targeted industrial uses consistent with emerging trends include uses such as research and development, biotechnology, communications and information technology, scientific and engineering activities which have flexible space needs and which often benefit from a mixed use setting with emphasis placed on sustainability as a design principle. Based on this, new Policy 4.3.1 provides for a performance based approach to such uses and the County would not want to establish “one size fits all” standards by adopting some of the other more traditional intensity standards in general Comprehensive Plan policies.

CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

DCA Objection:

“Objection related to the lack of intensity standards for the Light and Heavy Industrial future land use categories: The proposed plan amendment is not consistent with and does not further the following goal and policy of the State Comprehensive Plan, Section 187.201, F.S.:

Goal (25), Plan Implementation, and Policy (b)7.”

DCA Recommendation:

“Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objections cited previously in this report.”

Response to DCA Objection:

See County response to Objection above on Intensity Standards for Industrial Land Uses.

II. COMMENTS FROM OTHER REVIEW AGENCIES

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (letter dated November 19, 2010)

Comment (Preemption of water Management District Authority):

"Policies 4.5.10 and 4.5.11 (of the Conservation and Open Space Element) conflict with and encroach on the exclusive preemptive authority of the Florida Department of Environmental Protection (DEP) and the water management districts (WMDs) to regulate the consumptive use of water and transport thereof pursuant to section 373.217 and 373.223(2), Florida Statutes (F.S.). In addition, Policy 4.5.11 conflicts with and encroaches on the exclusive preemptive authority of DEP and the WMDs to regulate the interdistrict transfer and use of groundwater and surface water pursuant to Section 373.2295, F.S., and Rule 62-40.422, Florida Administrative Code."

Response (Preemption of Water Management District Authority):

The comment from the SJRWMD combines two separate policies intended to convey the County's interest in providing input on the consumptive use and transport of water. The comment is addressed with a two-part response.

The intent of Policy 4.5.10 of the Conservation and Open Space Element is to coordinate with the WMDs by providing input on water supply related issues and decisions when necessary.

Review of policy 4.5.10, with regard to the Water Management District comments on Policy 4.5.11 of the Conservation and Open Space Element (which was not proposed to be amended in the EAR-based amendments approved by the BoCC transmitted in October 5, 2010), determined that the revisions recommended in the Water Management District's comments on Policy 4.5.10 would help clarify this intent of the policy consistent with the provisions of Section 373.217 and 373.223(2), Florida Statutes, as follows (revised text per WMD shown in heavy underline and ~~double strike through~~):

Policy 4.5.10 ~~Large volume w~~Withdrawals of ground water have the potential to that could result in significant adverse impacts on potable water supply and natural ecosystems ~~due to cone of depression effects shall be evaluated for their effect on municipal wellfield supplies and natural ecosystems before being permitted.~~ Development shall occur only when adequate water supplies are concurrently available to serve such development without adversely affecting local or regional water sources or the natural ecosystem, as determined in accordance with local and state law.

... {Text of Policies 4.5.10.1 and 4.5.10.2 to be deleted per revisions approved by the Board of County Commissioners for transmittal to DCA on Oct 5, 2010 which was reproduced in the WMD comment letter but are not the subject of WMD comment are omitted}....

1.3—The County shall take an active role in providing input to the participating in water management districts review, permitting process for activities that use large volumes of groundwater and maintenance of operations such as bottled water plants and mining activities that use large volumes of ground water on an ongoing basis.

With regard to the Water Management District comments on Policy 4.5.11 of the Conservation and Open Space Element (which was not proposed to be amended in the EAR-based amendments approved by the BoCC transmitted in October 5, 2010), Florida Statutes, Section 373.223(2), F.S. (enacted in 1976), provides:

*“The governing board or the department may authorize the holder of a use permit to transport and use ground or surface water beyond overlying land, across county boundaries, or outside the watershed from which it is taken if the governing board or department determines that such transport and use is consistent with the public interest, and **no local government shall adopt or enforce any law, ordinance, rule, regulation, or order to the contrary.**” (bold added)*

And Section 373.2295(10), Florida Statutes (enacted in 1987), similarly provides:

*“**The state hereby preempts any regulation of the inter-district transfer and use of groundwater.** If any provision of this section is in conflict with any other provision or restriction under any law, administrative rule, or ordinance, this section shall govern and such law, rule, or ordinance shall be deemed superseded for the purposes of this section. A water management district or the department may not adopt special rules which prohibit or restrict inter-district transfer and use of groundwater in a manner inconsistent with this section.” (bold added)*

Based on these statutory provisions, revisions to Policy 4.5.11 recommended by the Water Management District are consistent with Section 373.223(2) and 373.2295(10), Florida Statutes, as follows (revised text per WMD shown in heavy underline and ~~double strike through~~):

Policy 4.5.11 ~~Large volume transfers of water out of Alachua County shall be allowed in emergencies only for private and municipal drinking water purposes and only in counties contiguous to Alachua County. Any emergency supply transfer to a public system of a contiguous county for an extended, indeterminate period of time shall be made only when Alachua County supplies will not be endangered by the transfer, and only when the receiving entity demonstrates that local government growth management policies have been reasonably implemented to ensure that future demand will be provided within that jurisdiction. The County shall encourage the development of local and regional water supplies within water management districts further seek to protect its water resources from being exported to other regions of the state through several~~ the following strategies, including:

1. Participating in the development of the water supply assessments, regional water supply plans, and five year work plans of the Suwannee River and St. John's ~~Johns~~ Johns River Water Management Districts;
2. Requesting to receive water management district notice of any consumptive use applications for that involve the transfer of water, where that transfer originates within the jurisdictional boundaries of the County's waters, and advocating for water conservation and reuse, and the development of alternate supply sources (such as desalinization) by such applicants;
3. Considering the establishment of a regional water supply authority ~~pursuant~~

~~to section 373.1962, F.S.~~; and

4. Amending existing legislation regarding consumptive use permitting and exercising vigilance through the County's legislative delegation.

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION (FFWCC) (letter dated November 16, 2010)

Comment (Cross Creek Bald Eagle Nesting Area Protection Policies):

"Proposed Policy 8.2.3.7.d appears to set the presumption that following the standards set by the State's plan would avoid a "take" of eagles. While this is consistent with the State's rule, following these standards may not guarantee that the activity would also avoid a "take" from the federal perspective. We recommend that the reference to a "take" either be deleted or the statement clarifies (sic) that this would be the case only from the State's perspective."

Response (Cross Creek Bald Eagle Nesting Areas, "take" issue):

Future Land Use Element Policy 8.2.3.7d. has been revised to delete the reference to a "take", per FFWCC recommendation as follows (revised text shown in heavy underline and ~~double strike-through~~):

Policy 8.2.3.7d For new development, expansion of existing development, and other development activities within 660 feet of active or alternate bald eagle nests: FWC Eagle Management Guidelines are standards identified in the Bald Eagle Management Plan that, when followed, are presumed not to result in adverse impacts, ~~subsequently resulting in a "take" or disturbance to bald eagles, and~~ Adherence to those guidelines shall satisfy County requirements for eagle protection. Alternatively, if FWC ~~m-~~Management Guidelines cannot be met, a FWC permit, or other authorization by FWC, shall be required as a condition to Development Review Committee (DRC), Building Permit, or administrative approval, as applicable, and shall also satisfy County requirements for eagle protection.

Comment (protection of listed species in Idylwild/Serenola):

"The current version of Policy 8.4.2.6 protects endangered and threatened species...within the Idylwild/Serenola Special Area Study, while the proposed amendment broadens that protection to all listed species. Like the amendment above, we agree that this change is warranted. To assist in this effort, we offer the ... information on [natural resources] gathered from our Geographic Information Systems (GIS) for this area." [A GIS analysis was provided on pages 2 and 3 of the FFWC letter.]

Response (protection of listed species in Idylwild/Serenola):

The County acknowledges and appreciates the Department's assistance in providing GIS information for this area. The County has similar and compatible GIS capability and monitors wetlands, core foraging areas for wading birds including wood stork, bald eagles, FNAI's listed community types, and all species listed by FNAI.

Comment (Plan East Gainesville and East Side Activity Center policies):

"This amendment would eliminate specific requirements as they currently relate to site and building design, parking, automobile access, community green space, and surface stormwater

management facilities for the Eastside Activity Center (composed of property in eastern Gainesville and county lands immediately east of the city limits). Instead, it would identify this area as a potential model for establishing a Community Redevelopment Area, and adds a commitment to continue 'to protect vital natural resources, such as wetlands, watersheds, significant habitat, strategic ecosystems, creeks, tree canopy, and scenic vistas that make East Gainesville unique.' We are pleased to see the emphasis on protection of natural resources that support not only listed species, but also wetland resources and interconnected uplands areas that support 'healthy and diverse populations of plants and wildlife'. ... "[A GIS analysis of the wildlife resources in this area was provided on pages 3 and 4 of the FFWCC letter for reference.]

Response (Plan East Gainesville and East Side Activity Center policies):

The amendment to Policy 8.5.2 approved by the BoCC for transmittal on October 5, 2010 deletes the existing language which directs the County to make certain updates to the Eastside Activity Center Plan because this update was completed in 2008; the adopted Eastside Activity Center policies are contained in Policy 2.5.10 of the Future Land Use Element and provide specific policies related to site design and other matters. The County acknowledges the Department's assistance in providing GIS information on wildlife habitat for the East Gainesville area. The County has similar and compatible GIS capability and monitors wetlands, core foraging areas for wading birds including wood stork, bald eagles, FNAI's listed community types, and all species listed by FNAI.

Comment (Critical Ecological Corridors Map):

"The amendment to Policy 6.3.2 of the Conservation and Open Space Element would clarify that the greenway concept in the existing policy focuses on maintenance of ecological functions and a priority for the area delineated by the Critical Ecological Corridors Map. Furthermore, unlike the existing policy it describes three specific approaches that may be used to implement this policy:"

- *"Development review, special area planning, land acquisition (with associated land management plans, and transfer of development rights;*
- *Intergovernmental coordination; and*
- *Outreach programs that promote the value of linked natural systems and tax incentives for the identified areas.*

FFWCC also noted..... "while this area is not within the footprint of the secondary range of Ocala and Osceola subpopulations of the Florida black bear, it is just to the west of secondary black bear range., and noted that one of the most effective ways to address negative human-bear interactions is to eliminate sources of food introduced by humans, whether intentionally or unintentionally; consequently, FFWCC recommended that the County consider adopting measures that the FWC recommends in its brochure "[Living in Bear County - Be Bear Aware](#)" for this area."

Response (Critical Ecological Corridors Map):

The Critical Ecological Corridors Map and Policy 6.3.2 are intended to highlight the need to conserve and maintain the connectivity of habitats within the eastern portion of the County that connects Ocala and Osceola populations of black bear and other threatened species by coordinating existing policies and programs.

The County is aware of the agency's outreach information regarding negative human interactions with respect to Florida Black Bear (http://myfwc.com/Conservation/ConservationYou_Living_w_Wildlife_bears.htm) and the bear's potential for using the areas identified in the Critical Ecological Corridor. The County identified the study of black bear interactions and brochure in its Data and Analysis during development of the EAR. The County intends to use appropriate means such as web-site postings to inform the public on the potential of negative interaction for black bear, as well as other listed species in the County.

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) (letter dated November 3, 2010)

Comment (springshed protection/nutrient loading):

Policy 4.5.22.d (Conservation and Open Space Element)

"The language in sub-policy d., regarding "Excess nitrogen and phosphorous" is not measurable or specific. The sub-policy should establish, through additional data and analysis and policy language, a specific nutrient loading that is acceptable relative to inflow into surface water bodies. No additional nutrient loading above a set measure or level should be allowed."[ed. note: Policy 4.5.22. which d. is a sub-policy of says: "The County shall establish a comprehensive springshed protection program to protect the resource from potential adverse effects from incompatible land uses and activities."

...

d. Fertilizer shall be regulated to ensure that excess nitrogen and phosphorus are not leached into the Floridan aquifer.]

Response (springshed protection/nutrient loading):

Alachua County adopted a Fertilizer Ordinance on September 22, 2009 that sets standards consistent with and in compliance with the Florida Model Fertilizer Ordinance as found in Section 403.9337, Florida Statutes. Establishing additional standards for nutrient loading would require the County to demonstrate compliance with subsections (a) and (b) of Sec. 403.9337, F.S., regarding statutory documentation of the need for more stringent standards for fertilizer use than provided by the model fertilizer ordinance. Policy 4.5.22.d. approved by the BoCC on October 5, 2010 for transmittal is not proposed to be modified in response to the comment by FDEP.

Comment (regulation of fertilizer in surface water buffers):

Policy 4.6.16.7 (Conservation and Open Space Element)

"The language in sub-policy 7, states (in part) that "[f]ertilizer shall be regulated in buffers to surface waters ..." the sub-policy is, however internally inconsistent with sub-policy 4.6.16.3, which states, [t]he use of fertilizers shall be prohibited in buffers to surface waters." Because fertilizer use within buffers to surface waters could increase the potential for enriched runoff, leading to accelerated trophic levels of surface waters, we recommend that the county retain

sub-policy 3., and delete sub-policy 7. Alternatively, the County should provide for more specific restrictions of fertilizer use within buffer zones.”

Response (regulation of fertilizer in surface water buffers):

In reviewing this comment from FDEP, staff noticed the internal inconsistency of sub-policies 3. and 7., and recommends maintaining sub-policy 3. as currently adopted in the Alachua County Comprehensive Plan (i.e., “The use of pesticides and fertilizers shall be discouraged in buffers.”), and maintaining sub-policy 7. as approved for transmittal by the BoCC on October 5, 2010. Staff also recommends adding the phrase “or surface water” to sub-policy 6., to reinforce the intent of the sub-policy regarding minimization of potential for nutrient loading.

Alachua County adopted a Fertilizer Ordinance on September 22, 2009 that sets standards consistent with and in compliance with the Florida Model Fertilizer Ordinance as found in Sec. 403.9337, F.S. Establishing additional standards for nutrient loading would require the County to demonstrate compliance with subsections (a) and (b) of Sec. 403.9337, F.S., regarding statutory requirements to document the need for more stringent standards for fertilizer use than provided by the model fertilizer ordinance. Because sub-policy (3) was adopted in 2002 and became effective in 2005, it predates the Model Fertilizer Ordinance statute. In combination, sub-policies 3. and 7., maintain consistency with the Model Fertilizer Ordinance and serve to reduce fertilizer use in buffers to surface waters, without contradicting the statute.

The revised policy language is as follows (new text shown in heavy underline):

Policy 4.6.16 Land uses that have the potential to pollute surface waters (are located adjacent to surface waters and that contribute significant nutrient loadings) shall be identified and regulated using the following measures to protect water quality and biological health.

. . . {Text of Policy 4.6.16.1. and 4.6.16.2., not recommended for revision by the FDEP, omitted}...

1. The use of pesticides and fertilizers shall be discouraged in buffers.

. . . {Text of Policy 4.6.16.4., 4.6.16.5. and 4.6.16.6., not recommended for revision by the FDEP, omitted}...

7. Fertilizer shall be regulated in buffers to surface waters to ensure that excess nitrogen and phosphorus are not leached into surface water bodies causing water quality degradation and/or lake eutrophication.

. . . {Text of Policy 4.6.16.8., not recommended for revision by the FDEP, omitted}...

Further, in the course of reviewing comments by the FDEP, staff noted the need for one other clarification to the sub-policy 6 under Conservation and Open Space Policy 4.6.16 concerning mitigating the potential for phosphorous leaching from excavation, to indicate that this applies to surface water as well as groundwater. The revised policy language is as follows (new text shown in heavy underline):

6. Any excavation that would lead to exposure of Hawthorn Group sediments or other phosphorus rich materials that could leach and adversely impact groundwater or surface water shall be mitigated by covering, backfilling or using other techniques to reduce phosphorus leaching.

Comment and Recommendation (Map 15: Cross Creek Special Area Study):

“The Cross Creek Special Area Study is located between two major surface water bodies — Lake Lochloosa and Orange Lake. Extensive wetlands associated with these water bodies occur within the Special Area Study. The Department is concerned that the land use categorized as “Village Center Development Area” within the Special Area Study contains a major portion of these wetlands.”

“Development in and adjacent to these wetlands and adjacent flood zone areas may hydrologically affect and likely reduce natural watershed functions such as collection, storage, filtering and discharge of runoff. As a result, nonpoint source runoff will be an issue of concern. The increased impervious area created by the proposed change in intensity of use would increase the potential for water quality impacts to the subject waters.”

“We, therefore, believe that the placement of the subject urban-scale land use category within palustrine and lacustrine wetlands is inconsistent with Rule 9J-5.013(3)(b), F.A.C., which states that “future land uses which are incompatible with protection and conservation of wetlands and wetland functions shall be directed away from wetlands. The type, intensity or density, extent, distribution and location of allowable uses... are land use factors which shall be considered when directing incompatible uses away from wetlands.”

“The Dept recommends that the County guide urban and dense suburban land uses away from wetlands, especially those connected to major water bodies. Moreover, the County should institute a full range of planning strategies to protect groundwater and surface water resources including limiting impervious surfaces, clustering buildings away from wetlands and implementing water conserving xeric landscaping techniques. The design of stormwater treatment systems should ensure that the pre-development volume and natural fluctuation of runoff into wetlands are maintained.”

Response (Map 15: Cross Creek Special Area Study):

The Evaluation and Appraisal Report Recommendation 6.4.1 stated “Make necessary updates to special area plan policies in Idylwild/Serenola and Cross Creek Special Areas to reflect changes in federal guidelines for bald eagles.” As part of the update of those policies, bald eagle nests locations were removed from the adopted Special Area Study maps since showing fixed nest locations on adopted maps is inappropriate because eagles occasionally relocate nests; the adopted manually produced map series was then converted to a digital map that combined all of the resource protection areas and land uses adopted in the original Cross Creek Special Area Study onto a single map.

The Cross Creek Special Area Study map adopted in 1985 included identification of resource protection areas and policies to protect the following: 1) wetlands, 2) canopy trees, 3) listed species (bald eagles), 4) habitats and hammocks and 5) wetlands as described in Future Land Use Element 8.2 SPECIAL AREA STUDY- CROSS CREEK VILLAGE. The County did not propose any changes to existing resource protection policies for the Cross Creek Special Area Study as part of the revisions to amendments approved by the BoCC for transmittal to the DCA on October 5, 2010. The Cross Creek Special Area Study map transmitted by the County

Commission on October 5, 2010 continues to show wetlands areas as one of the Resource Protection areas zones and generally identifies wetlands within and peripheral to the Village Development Center. Adopted Future Land Use Element Policy 8.2.3.1 (which was not proposed to be changed as part of the EAR-based amendments transmitted by the County Commission in October 2010 and therefore was not included in the package to be reviewed) states “Wetlands cover approximately 24 per-cent of the study area”, and wetlands protection “is represented by a specific zone and immediate shore-zone areas of Orange lake, Lochloosa Lake and Cross Creek essential to the maintenance of water quality and the exceptional wildlife of these Outstanding Florida Waters.” Policy 8.2.3.1 continues “Wetlands in the study area should be conserved and protected from structural and hydrologic alteration so that their natural function in the landscape is maintained and enhanced.” Adopted Future Land Use Element Policy 8.2.3.1.b established the “requirement that wetlands be left undisturbed ... with provisions for a gross density of one unit/ five acres” and provides for density transfers to contiguous property at a rate one DU/5A...” In addition, adopted Conservation and Open Space Element Policies 3.6.8, 4.7.1-4.7.5 (also not transmitted because not proposed to be changed) also provide for the protection of wetlands and surface waters through measures such as establishment of buffer requirements; this includes buffer requirements of 150 feet from Outstanding Florida Waters such as Orange and Lochloosa Lakes, and requirements to ensure that “natural hydroperiods and functions are maintained” anywhere in the unincorporated County.

FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) (letter dated November 18, 2010)

Comment (Previously adopted Land Use and Transportation Policies):

“Previously, in amendment cycle 09-1, the County adopted land use and transportation policies to promote development within the urban boundary, provide that capital improvements focus on the urban area, and coherence with the segment by segment approach of concurrency were relaxed and replaced with an areawide approach. The county has recently adopted amendment IOTECA1 which built on 09-1 in creating an Urban Service Area within the urban boundary that was designated under Florida Statute 163.3 180 as a Transportation Concurrency Exception Area. FDOT believes these EAR based amendments are an opportunity to review the effectiveness of these comprehensive plan amendments.”

Detailed comments were provided in the November 18, 2010 letter from FDOT, in addition to the general comment shown above.

Response (Previously adopted Land Use and Transportation Policies):

As noted by FDOT, its comments are related to policies which were previously adopted through amendments to the Comprehensive Plan in 2009 and 2010, which were found to be in compliance by DCA and are now in effect. There were no amendments proposed to the Transportation Mobility Element or the Multimodal Transportation Capital Improvements Program as part of the EAR-based Comprehensive Plan amendments approved for transmittal by the BoCC to DCA on October 5, 2010. Therefore, no changes have been included in the adoption package for these EAR-based Comp Plan amendments.

III. OTHER REVISIONS BASED ON FURTHER STAFF ANALYSIS OF TRANSMITTED POLICIES, RECENT LEGISLATIVE CHANGES, OR CORRECTIONS OF SCRIVENER'S ERRORS

COMMUNITY HEALTH ELEMENT- POLICY ON NOTIFICATION OF HEALTH CARE ADVISORY BOARD

Issue: Policy 1.1.4, as included in the Community Health Element approved for transmittal by BoCC on October 5, provides for notification of the Health Care Advisory Board (HCAB) of any development proposals. During November and December 2010, County staff tested this policy by notifying the Health Care Advisory Board (through the County's Community Support Services Dept.) of development proposals as part of the County's regular agency notification process. The HCAB indicated that the development proposals which were being forwarded to them for review and comment were of a technical nature, and did not necessarily have an impact on health issues. Based on this concern, at a meeting on January 19, 2011, the County Health Care Advisory Board voted to recommend to the Board of County Commissioners to delete the proposed Policy 1.1.4., referring to notification of the HCAB of any development proposals. As an alternative means of addressing interdepartmental coordination in accordance with the general coordination Policy 1.1.1., as transmitted by the BoCC on October 5, 2010, the HCAB recommended that the County Growth Management and Community Support Services Departments work out an administrative coordination process to allow for HCAB input on development proposals with appropriate staff, for discussion by the Health Care Advisory Board, when the project scope is anticipated to significantly impact health issues.

Therefore Policy 1.1.4 as transmitted by the BoCC on October 5, 2010 has been deleted from the Community Health Element with renumbering of subsequent policies as shown below (deleted text is shown in ~~double strike-through~~):

OBJECTIVE 1.1.

Promote coordination among local health systems and entities.

Policy1.1.1. Alachua County will promote and support community health through coordination with national, state and local health programs and the local provision of health services, including coordination with municipalities with the County Health Department, UF, School Board of Alachua County (SBAC), and other community based health care providers.

~~Policy1.1.4. The County Health Care Advisory Board will be notified of any development proposals.~~

Due to the deletion of Community Health Element Policy 1.1.4, the proposed Policies 1.1.5 through 1.1.9 have been renumbered, now 1.1.4 thru 1.1.8.

CONSERVATION AND OPEN SPACE ELEMENT

Issue: Water Supply Planning

During the course of reviewing related Water Management District comments and discussions with Water Management District staff it became apparent that due to changes to state statutes and

Water Management District terminology, the policies relating to Water Supply Planning as required by Section 163.3177(6)(d) and Section 373.0361, F.S., should be revised. The revisions delete the statutory references to Water Supply Planning, which may change over time, and eliminate the use of obsolete terminology. The effect of the proposed revisions is to maintain the County's statutory obligation to the Water Supply Planning process by revising existing Policy 4.5.9 while consolidating the Policies guidance by deleting draft Policies 4.5.10 and 4.5.11.

Revision (new text shown in heavy underline):

Policy 4.5.9 In accordance with Florida Statutes for Water Supply Planning, the County shall cooperate with the St. Johns River and Suwannee River Water Management Districts WMDs and adjacent local governments in the evaluation of current and projected water needs and sources in the evaluation of updates of applicable data and analysis of current and projected water needs for at least a 10-year period; initiate Comprehensive Plan amendments to incorporate appropriate water supply projects, including conservation and reuse projects, identified in regional water supply plans; and coordinate WMD updates of the water supply plans and County comprehensive plan amendments with Gainesville Regional Utilities.

~~Policy 4.5.9.1 The County shall update the applicable data and analysis, including assessment of current and projected water needs and sources for at least a 10-year period, as required by Section 163.3177(6)(d), F.S., in coordination with the updates of the water supply plans for the St. Johns River and Suwannee River Water Management Districts and Gainesville Regional Utilities.~~

~~Policy 4.5.9.2 Should Alachua County or any portion of it be identified as a Priority Water Resource Caution Area as part of the updates of the Water Management Districts Water Supply Plans scheduled to be finalized by Summer 2011, the County shall initiate Comprehensive Plan amendments within 18 months of adoption of a Regional Water Supply Plan pursuant to Section 373.0361, F.S. to incorporate appropriate water supply projects, including conservation and reuse projects, identified in the regional water supply plan into the Comprehensive Plan, as needed to meet the County's projected water supply needs in accordance 163.3177(6)(c) and (d), F.S. Such amendments will be coordinated with Gainesville Regional Utilities.~~

Issue: Groundwater/Floridan aquifer high recharge areas

Explanation of Revision:

The revisions to sub-policies 4.5.22.b. and f. clarify Policy 4.5.22 by deleting undefined terms and referring correctly to adopted policy language in COSE Groundwater, Policy 4.5.3, for relative recharge/vulnerability of the Floridan aquifer and high recharge areas with reference to the adopted Floridan Aquifer High Recharge Area Map.

Revision (deleted text from previously transmitted version is shown in ~~double strike through~~; new text shown in heavy underline):

Policy 4.5.22 The County shall establish a comprehensive springshed protection program to protect the resource from potential adverse effects from incompatible land uses and activities.

b. The latest scientific modeling shall be reviewed and, as necessary, updated to assist in the identification of springshed, springs, and ~~unconfined~~ Floridan aquifer ~~groundwater protection high recharge~~ areas.

f. The following new uses or expansions of existing uses shall be prohibited in designated springsheds, springs buffers, and ~~unconfined~~ Floridan aquifer ~~groundwater protection high recharge~~ areas:

- (1) Rapid infiltration basins (RIBs) for wastewater effluent disposal.
- (2) New or expanded surface water discharge of treated wastewater.
- (3) Large scale land application of Class A or B biosolids.
- (4) Land application of septage.

POTABLE WATER AND SANITARY SEWER ELEMENT AND RELATED CONSERVATION AND OPEN SPACE POLICY REGARDING ONSITE SEWAGE SYSTEM EVALUATION PROGRAM

Issue: Status of Legislation regarding evaluation of Septic System Operation and Maintenance & cross-referenced Policy

Potable Water and Sanitary Sewer Element Policy 7.4.2 was developed based on portions of Chapter 2010-205, Laws of Florida (“SB 550”) related to Public Health and directing the Florida Department of Health by January 1, 2011 to administer an onsite sewage treatment and disposal evaluation program including implementing rules, standards, procedures, and requirements. Policy 7.4.2 was approved for transmittal by the Board of County Commissioners on October 5, 2010. Subsequently, the Florida Legislature passed a bill in Special Session on November 16, 2010, which became law (Chapter 2010-283) on January 19, 2011, that delayed implementation of the law until July 1, 2011. Bills have been filed in Committee for the 2011 Legislative Session to eliminate the evaluation program. Because Policy 7.4.2 as transmitted references sections of state law that are not in effect, Policy 7.4.2. has been deleted from the Potable Water and Sanitary Sewer Element as shown below.

If the Board of County Commissioners wishes to establish a local program to evaluate septic system performance, the Board could direct County Staff to collect additional data and work with partner agencies (i.e., Florida Department of Health) and stakeholders to develop options for such a local program as a follow up to these amendments.

In addition, because Conservation and Open Space Element Policy 4.5.22.i. cross-references Potable Water and Sanitary Sewer Element Policy 7.4.2, the policy is also deleted as shown below.

Revision (shown in ~~double strike-through~~):

Potable Water and Sanitary Sewer Element

~~Policy 7.4.2 The following standards for new and existing septic systems shall apply:~~

- ~~(a) All septic systems requiring repair, modification or reapproval by the Alachua County Health Department shall meet new system standards as set forth in Chapter~~

~~64E-6 Florida Administrative Code (or current citation) in effect at the time an application is made and shall include but is not limited to; separation to estimated seasonal high water table and mean annual flood line of surface waters. If such standards cannot be achieved for a property, then applicant must apply for a variance as described in the Alachua County Code of Ordinances.~~

~~(b) All septic systems shall be inspected and have the septic tank pumped and certified by a licensed septage hauler and systems shall be evaluated under the established guidelines for "voluntary inspection and assessment of existing systems" per the procedure described by Chapter 64E-6.001(5), F.A.C., every 5 years. Documentation of inspection and maintenance activities shall be provided to the Alachua County Health Department. The Health Department will provide an annual report to Alachua County on these systems.~~

~~(c) All failing septic systems shall be connected to publicly owned or investor owned sewerage systems if service is available.~~

~~(d) At the time of a change in property ownership, all septic systems on the subject property shall be inspected and have the septic tank pumped and certified to the Health Department that the system meets all applicable environmental health standards; if the existing septic tank cannot be approved or if the system is failing, the system must be brought up to new system standards as described in paragraph (a) above. Alternatively, proof of recent (less than 2 years ago) inspection and certification may be provided to the Health Department.~~

~~(e) Approved and permitted performance based treatment systems or innovative systems may be used to mitigate the requirements of paragraph (a) above. Such systems must meet all Department of Health standards for performance based treatment systems.~~

~~(f) Alachua County, in coordination with the State Department of Health, should monitor and evaluate the implementation of a statewide septic tank evaluation program, as established by s.381.0065, F.S., for adequacy and effectiveness, and based on the results consider the establishment of a dedicated funding mechanism for the inspection and repair of failing systems and to provide an additional means of safeguarding and improving groundwater supplies by reducing the amount and source of potential contamination. Consideration should also be given to including a grant or loan program for low income families to assist in meeting compliance standards established by Chapter 64E-6 Florida Administrative Code.~~

Conservation and Open Space Element

Policy 4.5.22 The County shall establish a comprehensive springshed protection program to protect the resource from potential adverse effects from incompatible land uses and activities.

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~~i. The standards for new and existing septic systems set forth in PWSSE Policy 7.4.2 (a) through (e) shall apply.~~

Issue: Correction of reference to “urban service area”. Adopted Policy 3.4 of the Potable Water and Sanitary Sewer Element (PWSSE) provides that extension of potable water or sanitary sewer lines *within* areas designated on the Future Land Use Map as the “*urban service area*” shall be allowed, provided there are no adverse impacts on environmentally-sensitive lands. The related adopted Policy 3.5 then provides that extensions of potable water and sanitary sewer lines *outside the Urban Cluster* require special approval by the County Commission. The “urban service area” as used in adopted Policy 3.4 is a generalized term that has been interpreted to mean the “Urban Cluster”; however in October 2010 subsequent to transmittal of the EAR-Based amendments for review, the County adopted amendments to the Future Land Use Element and Transportation Mobility Element establishing an “Urban Service Area” as defined in the Florida Statutes, Section 163.3164(29) for transportation concurrency exception. In order to clarify the intent of adopted Policy 3.4 and to be consistent with other adopted Comprehensive Plan terminology, the term “urban service area”, as used in adopted Policy 3.4 PWSSE, is changed to “Urban Cluster” as shown below.

Revision (shown in ~~double strike-through~~ and heavy underline):

Policy 3.4 Extension of potable water or sanitary sewer lines within areas designated on the Future Land Use Map as the ~~urban service area~~ Urban Cluster shall be allowed by Alachua County provided there are no adverse impacts on environmentally-sensitive lands.

DEFINITIONS (MULTIPLE ELEMENTS)

Issue: The revision below corrects a scrivener’s error in the definitions sections of the Energy Element, Future Land Use Element, and Conservation and Open Space Element.

Revision (shown in ~~double strike-through~~):

Low Impact Development (LID): An approach to land development that preserves and protects natural-resource systems ~~—#~~ using various site planning and design approaches and technologies to simultaneously conserve and protect natural resource systems while managing stormwater runoff. The approach includes using engineered small-scale hydrologic controls to replicate the pre-development hydrologic regime through infiltrating, filtering, storing, evaporating, and detaining runoff close to its source (also see Energy Element Definitions).

APPENDIX
FLORIDA STATUTE AND ADMINISTRATIVE CODE CITATIONS IDENTIFIED IN DCA
OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT

Section 163.3177, F.S. - Required and optional elements of comprehensive plan; studies and surveys.

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public buildings and grounds, other public facilities, and other categories of the public and private uses of land. Counties are encouraged to designate rural land stewardship areas, pursuant to paragraph (11)(d), as overlays on the future land use map. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and **building and structure intensities** (emphasis added). The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and measurable objectives.

...

(8) All elements of the comprehensive plan, whether mandatory or optional, shall be based upon data appropriate to the element involved. Surveys and studies utilized in the preparation of the comprehensive plan shall not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys, and supporting documents shall be made available to public inspection, and copies of such plans shall be made available to the public upon payment of reasonable charges for reproduction.

(9) The state land planning agency shall, by February 15, 1986, adopt by rule minimum criteria for the review and determination of compliance of the local government comprehensive plan elements required by this act. Such rules shall not be subject to rule challenges under s. 120.56(2) or to draw out proceedings under s. 120.54(3)(c)2. Such rules shall become effective only after they have been submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature no later than 30 days prior to the next regular session of the Legislature. In its review the Legislature may reject, modify, or take no action relative to the rules. The agency shall conform the rules to the changes made by the Legislature, or, if no action was taken, the agency rules shall become effective. The rule shall include criteria for determining whether:

(e) Proposed elements identify the mechanisms and procedures for monitoring, evaluating, and appraising implementation of the plan. Specific measurable objectives are included to provide a basis for evaluating effectiveness as required by s. 163.3191.

(f) Proposed elements contain policies to guide future decisions in a consistent manner.

Section 187.201, F.S. - State Comprehensive Plan

The Legislature hereby adopts as the State Comprehensive Plan the following specific goals and policies:

(25) PLAN IMPLEMENTATION.

(a) Goal.—Systematic planning capabilities shall be integrated into all levels of government in Florida with particular emphasis on improving intergovernmental coordination and maximizing citizen involvement.

(b) Policies.

7. Ensure the development of strategic regional policy plans and local plans that implement and accurately reflect state goals and policies and that address problems, issues, and conditions that are of particular concern in a region.

Section 9J-5.005(6), F.A.C. - General Requirements.

(6) Plan Implementation Requirements. Recognizing that the intent of the Legislature is that local government comprehensive plans are to be implemented, pursuant to subsection 163.3161(5) and Sections 163.3194, 163.3201, and 163.3202, F.S., the sections of the comprehensive plan containing goals, objectives, and policies shall describe how the local government’s programs, activities, and land development regulations will be initiated, modified or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this chapter to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the goals, objectives, and policies that describe how the programs, activities, and land development regulations will be carried out consistent with Section 163.3201, F.S. Goals, objectives and policies shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations. This chapter does not mandate the creation, limitation, or elimination of regulatory authority for other agencies nor does it authorize the adoption or require the repeal of any rules, criteria, or standards of any local, regional, or state agency.

Section 9J-5.006(3)(c)7., F.A.C. - Future Land Use Element.

(3) Requirements for Future Land Use Goals, Objectives and Policies.

(c) The element shall contain one or more policies for each objective which address implementation activities for the:

7. Establishment of standards for densities or intensities of use for each future land use category.