



STATE OF FLORIDA

# DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

September 27, 2007

The Honorable Sanna Henderson  
Mayor, City of Leesburg  
501 West Meadow Street  
Leesburg, Florida 34749

Dear Mayor Henderson:

The Department of Community Affairs has completed its review of the comprehensive plan amendments adopted by Ordinance Numbers 07-50, 07-51, 07-53 thru 07-56, 07-57, 07-59, 07-63 thru 07-65 (DCA reference No. 07-1) by the City of Leesburg, on July 9, 2007. The Department has determined that ordinance 07-57 meets the requirements of Chapter 163, Part II, Florida Statutes ( F.S), for compliance. However, the Department has determined that ordinances 07-50, 07-51, 07-53 thru 07-56, 07-59, and 07-63 thru 07-65 to the Future Land Use Map do not meet the requirements of Chapter 163, Part II, F.S., for compliance. The Department is therefore issuing a Notice of Intent to find those ordinances "not in compliance." The Notice of Intent has been sent to the Lake Sentinel for publication on September 28, 2007.

Please note that a copy of the adopted City of Leesburg comprehensive plan amendments and the Notice of Intent and Statement of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Leesburg City Hall, 501 West Meadow Street, Leesburg, Florida 34749. 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 5 days after receipt of the mailed copy of the agency's Notice of Intent.

The Notice of Intent and the Statement of Intent will be forwarded to the Division of Administrative Hearings for the scheduling of an administrative hearing pursuant to Section 120.57, Florida Statutes. The hearing will be scheduled to commence within the next ninety (90) days. The issues that will be the subject of the hearing are as set forth in the attached Statement of Intent, and include the lack of demonstrated water resource planning, transportation capacity, demonstrated need to support the future land use map amendments, as well as, the proliferation of urban sprawl and internal consistency with the City of Leesburg Comprehensive Plan. Department staff is available to meet with you and your staff at your convenience for the purpose of discussing the compliance finding and to discuss resolving this matter. It is imperative that settlement discussions occur promptly.

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Phone: 850.488.8466/Suncom 278 8466 FAX: 850.921.0781/Suncom 291.0781  
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CRITICAL STATE CONCERN FIELD OFFICE  
2776 Chiles Road, Suite 212  
Maitland, FL 32751-4117  
(407) 297-2122

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HOUSING & COMMUNITY DEVELOPMENT  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100  
(904) 954-1756

If you have any questions, please contact James Stansbury, Regional Planning Administrator, at (850) 922-1818, or Peter Kelegian, Assistant General Counsel, at (850) 488-0410.

Sincerely,



Charles Gauthier, AICP  
Director, Division of Community Planning

CG/cc

Enclosure: Notice of Intent  
Statement of Intent

cc: Ms. Laura McElhanon, Community Development Director, City of Leesburg  
Mr. Phil Laurien, Executive Director, East Central Florida Regional Planning Council

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS

IN RE: CITY OF LEESBURG )  
COMPREHENSIVE PLAN AMENDMENT )  
07-1; AMENDING THE FUTURE LAND ) Docket No. 07-1-NOI-3509-(A)-(N)  
USE MAP )

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STATEMENT OF INTENT TO FIND  
COMPREHENSIVE PLAN AMENDMENT  
NOT IN COMPLIANCE

The Florida Department of Community Affairs, pursuant to Section 163.3184(10), Florida Statutes, and Rule 9J-11.012(6), Florida Administrative Code, hereby issues this Statement of Intent to find the comprehensive plan amendment adopted by the City of Leesburg in Ordinance Numbers 07-50, 07-51, 07-53 thru 07-56, 07-59, and 07-63 thru 07-65 on July 9, 2007, not "in compliance" based upon the Objections, Recommendations, and Comments report issued by the Department on April 3, 2007, and based upon the changes made by the City to the amendment as adopted. The Department finds the Amendments not "in compliance," as defined in Section 163.3184(1)(b), Florida Statutes, for the following reasons:

I. CONSISENCY WITH CHAPTER 163, PART II, FLORIDA STATUTES, AND RULE 9J-5, FLORIDA ADMINISTRATIVE CODE.

Inconsistent Provisions. The future land use map amendments are inconsistent with the provisions cited above for the following reasons:

I. Water Resource Planning. The Future Land Use Map (FLUM) amendments for the Musso-Spence (07-50), Tally Box Rd (07-51), Lafayette Square (07-53), Lake Commander Park (07-54), Nobles (07-55), Tropical Investments (07-56), Hunt (07-59), Renaissance Trails (07-63) and Future Land Use Element policy 1.6.12, Merritt (07-64) and Janney (07-65) sites increase

development potential for the City of Leesburg without adequately demonstrating the availability of potable water resources to serve the proposed changes. The potable water data and analysis do not address the availability and adequacy of water sources to meet the demand of these amendments as well as existing and committed demands. State law requires each local government to address in their comprehensive plan the water supply sources necessary to meet and achieve the projected water use demand for the established planning period. The FLUM amendments are also internally inconsistent with the following provisions of the City's Comprehensive Plan: Future Land Use Element Policy J.1, Natural Resource Element Policies A.1 and A.2.

Therefore, for all of the reasons set forth above, the amendments are inconsistent with the following provisions: Section 163.3167(13), 163.3177 (2) and 163.3177(6)(a) and (c), Florida Statutes (F.S.); and Rules 9J-5.005(2), 9J-5.011(1)(e) and (f) and 9J-5.013(1)(c), Florida Administrative Code (F.A.C.)

*Recommended remedial actions:* These inconsistencies may be remedied by taking the following actions: (1) Demonstrate through data and in coordination with the Water Management District that the City has adequate potable water sources to accommodate the additional cumulative demand these amendments and the projected demand from existing approvals for a minimum 10 year planning period; and (2) Amend the potable water sub-element to include the required ten year water supply facility workplan, which was due August 7, 2007, 18 months after the adoption of the St. Johns River Water Management District's District Water Supply Work Plan on February 7, 2006; (3) If the data and analysis does not demonstrate the availability of adequate water sources or the City is not able to expeditiously adopt a potable 10 year water supply facilities workplan, the City should rescind the adopted amendments.

2. Demonstrated Need. The Future Land Use Map (FLUM) amendments for the Musso-Spence, Lafayette Square, Lake Commander Park, Hunt, Renaissance Trails and Future Land Use Element policy 1.6.12, Merritt, and Janney sites are not supported by data and analysis demonstrating the need to designate substantial portions of the City's recently annexed vacant land for residential use. The amendments taken cumulatively would increase the City's residential development potential by approximately 6,408 dwelling units. The adopted amendments provided no response to the Department's ORC objection and are accompanied by no data regarding population projections consistent with Rule 9J-5.005 (2)(e) that would demonstrate the need for the amendments. The amendments are also not supported by a professionally acceptable analysis of the amount of land needed to accommodate the City's projected population pursuant to Rule 9J-5.006(2)(c).

Therefore, for all of the reasons set forth above, the amendments are inconsistent with the following provisions: Sections 163.3177(6)(a), F.S.; Rules 9J-5.005(2), 9J-5.006(1)(g) and (2)(c), F.A.C.

Recommended remedial actions: These inconsistencies may be remedied by taking the following actions: (1) Provide data and analysis (including updated population projections and a vacant land use analysis) demonstrating the increase in residential development potential is needed to accommodate its projected population for the long term planning horizon; (2) If the data and analysis does not demonstrate a need, the City should rescind the adopted amendments.

3. Urban Sprawl. The Future Land Use Map (FLUM) amendments for the Renaissance Trails and Future Land Use Element policy 1.6.12, Merritt, and Janney exhibit the following indicators of urban sprawl: (1) Allows for substantial development areas to develop as single-use development or uses in excess of demonstrated need; (2) Designates urban development in rural

areas at substantial distances from existing urban areas while allowing for leap-frog development.; (3) Fails to protect adjacent agricultural activities; (4) Fails to maximize use of existing public facilities and services; (5) Fails to maximize use of future public facilities and services; (6) Allows for land use patterns which disproportionately increase the cost of providing and maintaining facilities and services; (7) Fails to provide a clear separation between rural and urban uses; (8) Discourages infill development or the redevelopment of existing neighborhoods and communities; (9) Fails to encourage an attractive and functional mix of uses; (10) Results in poor accessibility among linked or related land uses; (11) Results in the loss of significant amounts of functional open space. In light of local conditions, these land use amendments proliferate urban sprawl. The FLUM amendments are also internally inconsistent with the following provisions of the City's Comprehensive Plan: Future Land Use Element Policy B.2 and Objective I.

Therefore, for all of the reasons set forth above, the amendments are inconsistent with the following provisions: Sections 163.3177(2) and 163.3177(6)(a) and (11)(c), F.S., and Rules 9J-5.005(2), 9J-5.006(2)(c), (3)(b)8, and (5), 9J-5.011 (2)(b)3 F.A.C.

*Recommended remedial actions:* The City should re-evaluate whether this type and magnitude of development in this area is consistent with the City's Comprehensive Plan and State Law at this time, or whether it is inappropriate or premature. The Department's analysis using the indicators for urban sprawl outlined in Rule 9J-5.006(5), F.A.C., leads to the conclusion that these amendments contribute to the proliferation of urban sprawl. Unless there are new data and analysis or a different analysis not yet submitted, the City should rescind the amendment.

4. Coordination of Land Use, Transportation, Intergovernmental Coordination and Capital Improvements. The Future Land Use Map (FLUM) amendments for the Hunt, Renaissance Trails and Future Land Use Element policy 1.6.12, Merritt, and Janney sites are not supported by data and analysis demonstrating that adequate transportation capacity will exist on CR 48 in the short-term planning period (5 years). The data and analysis show that the FLUM amendments will cause traffic impacts to CR 48, and that the impacted segments of CR 48 will operate below the adopted level of service by 2012. The actual impacts will be greater, as the data and analysis submitted with the adopted amendment package did not analyze the commercial portion of the Renaissance Trails FLUM amendment which allows for the development of 1,306,800 sq. ft. on 40 acres of the subject site at 0.75 FAR. Because the relevant and appropriate data and analysis demonstrate that the adopted level of service standard will be maintained on CR 48 for the five year planning timeframes and the City has not identified necessary improvements, the amendments are not consistent with State Law. The FLUM amendments are internally inconsistent with the following provisions of the City's Comprehensive Plan: Future Land Use Element Policy K.2; Transportation Element Policies B.4, G.1.a and G.1.b.; Capital Improvements Element Policies B.3.

Therefore, for all of the reasons set forth above, the amendments are inconsistent with the following provisions: Sections 163.3177(2), 163.3177(3)(a), 163.3177(6)(a) and (b), and 163.3177(8) F.S. and Rules 9J-5.005(2) and (5), 9J-5.016(1), (2) and (4)(a) and 9J-5.019(3)(f) F.A.C.

Recommended remedial actions: These inconsistencies may be remedied by taking the following actions: (1) Amend the Capital Improvements Schedule to include the improvements necessary to maintain the adopted level of service standard on CR 48 in the City and support the

amendment with data and analysis demonstrating that the schedule as amended is financial feasible. If the level of service standard cannot be maintained by virtue of financially feasible improvements, the City should rescind the adopted amendments.

## II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Inconsistent provisions. The amendments are inconsistent with the State Comprehensive Plan goals and policies set forth in Section 187.201, Florida Statutes, including the following provisions:

1. **Land Use.** The amendments are inconsistent with the Goal set forth in Section 187.201(15)(a), Florida Statutes, and the Policies set forth in Section 187.201(15)(b)1 and 4, Florida Statutes.

2. **Water Resources.** The amendments are is inconsistent with the Goal set forth in Section 187.201(7)(a), Florida Statutes, and the Policies set forth in Section 187.201(7)(b)3 and 5, Florida Statutes.

3. **Transportation.** The amendments are inconsistent with the Goal set forth in Section 187.201(19)(a), Florida Statutes, and the Policies set forth in Sections 187.201(19)(b)3 and 13, Florida Statutes.

4. **Governmental Efficiency.** The amendments are inconsistent with the Goal set forth in Section 187.201(20)(a), Florida Statutes, and the Policies set forth in Sections 187.201(20)(b)1, Florida Statutes

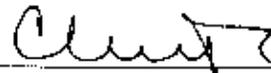
5. **Plan Implementation.** The amendments are inconsistent with the Goal set forth in Section 187.201(25)(a), Florida Statutes, and the Policies set forth in Section 187.201(25)(b)7, Florida Statutes.

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

#### CONCLUSIONS

1. The amendments are not consistent with the State Comprehensive Plan;
2. The amendments are not consistent with Chapter 9J-5, Florida Administrative Code;
3. The amendments are not consistent with the requirements of Chapter 163, Part II, Florida Statutes;
4. The amendments are not "in compliance," as defined in Section 163.3184(1)(b), Florida Statutes; and
5. In order to bring the amendments into compliance, the City may complete the recommended remedial actions described above or adopt other remedial actions that eliminate the inconsistencies.

Executed this 27 day of September, 2007, at Tallahassee, Florida.



Charles Gauthier, AICP  
Director, Division of Community Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399



STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS  
NOTICE OF INTENT TO FIND THE CITY OF LEESBURG  
COMPREHENSIVE PLAN AMENDMENTS ADOPTED BY ORDINANCE NOS.  
07-50, 07-51, 07-53 THROUGH 07-56, 07-59, 07-63, 07-64 AND 07-65  
NOT IN COMPLIANCE AND THE COMPREHENSIVE PLAN AMENDMENT  
ADOPTED BY ORDINANCE NO. 07-57  
IN COMPLIANCE  
DOCKET NO. 07-1-NOI-3509-(A)-(N)

The Department gives notice of its intent to find the Amendments to the Comprehensive Plan for the City of Leesburg, adopted by Ordinance Nos. 07-50, 07-51, 07-53 through 07-56, 07-59, 07-63, 07-64 and 07-65, on July 9, 2007, NOT IN COMPLIANCE, and Amendment adopted by Ordinance No. 07-57, on July 9, 2007, IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

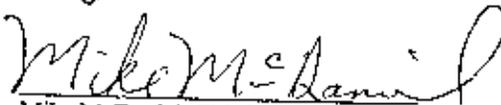
The adopted City of Leesburg Comprehensive Plan Amendments, the Department's Objections, Recommendations, and Comments Report (if any), and the Department's Statement of Intent to find the Comprehensive Plan Amendments Not In Compliance will be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Leesburg Planning and Zoning Department, Community Development Division, 214 North 5<sup>th</sup> Street, Leesburg, Florida 34748.

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 to the City of Leesburg Comprehensive Plan is 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 those amendments 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.



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