

Ordinance

No. 5711

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF OCALA, FLORIDA CONCERNING LAND USE; AMENDING THE FUTURE LAND USE ELEMENT BY ADDING A POLICY ADDRESSING DEVELOPMENT CONDITIONS RELATED TO FUTURE LAND USE MAP AMENDMENT LUC05-0030 AND ORDINANCE NO. 5466; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the legislature of the State of Florida adopted the Local Government Comprehensive Planning and Land Development Regulation Act of 1985, as contained in Section 163.3161 through and including Section 163.3245, Florida Statutes, which required the City of Ocala, Florida to prepare and adopt a comprehensive plan in accordance with the requirements of the said act; and

WHEREAS, the City of Ocala has prepared a comprehensive plan which meets the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; and

WHEREAS, the City of Ocala on October 22, 1991, adopted this plan including a Future Land Use Map as part of the Future Land Use Map Series;

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act of 1985 provides for the amendment of an adopted plan or element or portion thereof;

WHEREAS, the City of Ocala adopted a Future Land Use Map Amendment LUC05-0030 (Ordinance No. 5466) on December 21, 2005 and the amendment was found not in compliance by the Department of Community Affairs (DCA);

WHEREAS, the City of Ocala and DCA have entered into a Stipulated Settlement Agreement for Ordinance No. 5466; and

WHEREAS, the City of Ocala has agreed to consider for adoption a policy (remedial action required by DCA) addressing development conditions related to Ordinance No. 5466 into the Future Land Use Element of the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF OCALA, FLORIDA, in regular sessions as follows:

Section 1. As required by the Florida Local Government Comprehensive Planning and Land Development Regulation Act of 1985, contained in Section 163.3161 through and including Section 163.3245, Florida Statutes and pursuant to Section 106-38 of the Code of Ordinances, City of Ocala, Florida, the City of Ocala Comprehensive Future Land Use Element is hereby amended by adding Policy 12.13.

POLICY 12.13: Future Land Use Map (FLUM) Amendment LUC05-0030 adopted by Ordinance No. 5466 on December 21, 2005 changes the future land uses on the Amendment area from Professional Services to Retail Services. Development shall meet the requirements of all applicable Goals, Objectives and Policies of the Comprehensive Plan; however, the land use and development potential made available by FLUM Amendment LUC05-0030 is hereby limited by the following conditions:

1. The Amendment changes the approved future land uses on the Amendment Parcel from Professional Services to Retail Services. Development intensities on the Amendment Parcel will be limited so that the projected number of peak hour trips generated from the developed Amendment Parcel must be less than the projected number of peak hour trips that would have been generated by development of the Amendment Parcel under the Professional Services.
2. Total development of the Amendment Parcel shall not exceed development threshold limitations which would require approval of the development as a Development of Regional Impact unless a Development of Regional Impact Development Order is applied for and approved.
3. At the time of development the property owner/developer must submit a development plan consistent with the City's Land Development Regulations regarding buffers, landscaping, site design, land uses, architectural characteristics and other requirements specified in the land development regulations.
4. All new signage to be located on the Amendment Parcel or any portion thereof at the time of development shall be limited to ground mounted signage structures and wall signs.
5. Prior to final development approval, the property owner/developer will be required to submit a traffic analysis that is consistent with the City's Traffic Study Guidelines and Concurrency Management System requirements; and
6. The property owner/developer will be required to provide all necessary traffic improvements as determined by the traffic analysis, or provide (as to required improvements for which proportionate share payments would be applicable by the City's Code of Ordinances) required proportionate share contribution payments.

Section 2. Severability Clause. Should any provision or section of this ordinance be held by a Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance in accordance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team. This ordinance shall take effect on the 6th day of NOVEMBER, 2007.

ATTEST:

Valerie J. Forster
Valerie J. Forster
City Clerk

CITY OF OCALA

By: Mary S. Rich
Mary S. Rich
President, Ocala City Council

Approved / Denied by me as Mayor of the City of Ocala, Florida, on September 5th, 2007.

By: Randall Ewers
Randall Ewers
Mayor

Approved as to form and legality:

Patrick G. Gilligan
Patrick G. Gilligan
City Attorney

Ordinance No. 5711
Introduced: August 21, 2007
Adopted: September 4, 2007
Legal Ad No. A000356621



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

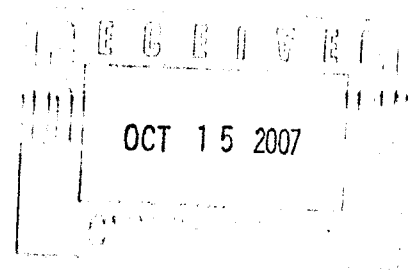
"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

October 12, 2007

The Honorable Randy Ewers, Mayor
City of Ocala
Post Office Box 1270
Ocala, Florida 34478-1270



Dear Mayor Ewers:

The Department of Community Affairs (Department) has completed its review of the adopted comprehensive plan amendments for the City of Ocala, Department Number 07-R1, as adopted on September 4, 2007, by Ordinance Numbers 5710, 5711, and 5712 and has determined that the amendments meet the requirements of Chapter 163, Part II, Florida Statutes (F.S.), for compliance. The Department is issuing a Notice of Intent to find the Comprehensive Plan amendments "In Compliance". The Notice of Intent has been sent to the Ocala Star Banner for publication on October 15, 2007.

Please note that a copy of the adopted City of Ocala Comprehensive Plan amendment, the Department's Objections, Recommendations, and Comments Report dated December 2, 2005, and the Notice of Intent must be available for public inspection Monday through Friday, except for legal holidays, during normal business hours, at the City of Ocala Clerk's Office, 151 Southeast Osceola Avenue, Ocala, Florida. 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.

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

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>

CRITICAL STATE CONCERN FIELD OFFICE
2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-2402

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-2356

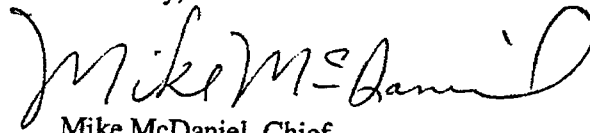
EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7556

The Honorable Randy Ewers
October 12, 2007
Page Two

If you have any questions regarding this matter, please contact Barbara Powell, Planner, at (850) 921-4818.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is fluid and cursive, with the first name "Mike" and last name "McDaniel" clearly legible.

Mike McDaniel, Chief
Office of Comprehensive Planning

MM/bp

Enclosures: Notice of Intent

cc: Mr. Michael R. Moehlman, Executive Director, Withlacoochee Regional Planning Council
Mr. Tye Chighizola, Planning Directory, City of Ocala

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS CUMULATIVE NOTICE OF INTENT TO FIND THE
CITY OF OCALA COMPREHENSIVE PLAN AMENDMENT
AND REMEDIAL COMPREHENSIVE PLAN AMENDMENT(S) IN COMPLIANCE
DOCKET NO. 07-R1-NOI-4205-(A)-(I)

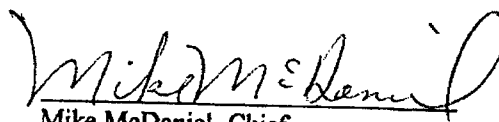
The Department issues this cumulative notice of intent to find the City of Ocala Comprehensive Plan Amendment adopted by Ordinance No(s). 5462, 5466 and 5467 on December 21, 2005, and the remedial amendment(s) adopted by Ordinance 5710, 5711 and 5712 on September 4, 2007 IN COMPLIANCE, pursuant to Sections 163.3184, 163.3187 and 163.3189, F.S.

The adopted City of Ocala Comprehensive Plan Amendment 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 Ocala City Hall, Clerks Office, 151 Southeast Osceola Avenue, Ocala, Florida 34471.

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 Remedial Amendments 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 Administration, 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
Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100