

7/14/08 Objections, Recommendations and Comments (ORC) Response

Below are excerpts from the July 14, 2008 ORC Report from the Florida Department of Community Affairs (DCA) pertaining to the 2006 cycle of GMP amendments approved for transmittal in April 2008, followed by County staff response.

✓ **DCA ORC Report Objection:**

B. The Department has identified the following Objections to Amendments CP-2006-10 and CP-2006-13 (text amendments to the comprehensive plan):

Objection 4: The Collier County Comprehensive Plan does not have a consistent time frame. The Future Land Use Map includes the years 2006-2016, while the Rural Lands Stewardship Area (RLSA) Overlay Program has a planning time frame to 2025 (according to proposed FLUE, RLSA Policy 4.2) and the proposed text amendment will change the Transportation Element Map TR-3A’s, *Collier 2030 Functional Classification Map*, planning time frame to year 2030. Pursuant to Rule 9J-5.005(5)(a), F.A.C., the required elements and any optional elements shall be consistent with each other and where data are relevant to several elements, the same data shall be used, including population estimates and projections and public facility analysis.

[Section 163.3177(2) & (5)(a), F.S. and Rule 9J-5.005(4) and 9J-5.005(5)(a), F.A.C.]

Recommendation: Revise the comprehensive plan to have a consistent planning time frame.

Staff Response to Objection 4:

Below are the specific statutory and Rule references.

Florida Statutes

Chapter 163.3177 Required and optional elements of comprehensive plans; studies and surveys.

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(2) Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent, and the comprehensive plan shall be financially feasible. Financial feasibility shall be determined using professionally accepted methodologies.

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(5)(a) Each local government comprehensive plan must include at least two planning periods, one covering at least the first 5-year period occurring after the plan’s adoption and one covering at least a 10-year period.

Florida Administrative Code

Rule 9J-5.004(4) Planning Timeframe. Each local government comprehensive plan shall include at least two planning periods: one for at least the first five-year period subsequent to the plan’s adoption and one for at least an overall ten-year period.

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Rule 9J-5.005(5)(a) Internal Consistency. The required elements and any optional elements shall be consistent with each other. All elements of a particular comprehensive plan shall

follow the same general format (see “Format Requirements”). Where data are relevant to several elements, the same data shall be used, including population estimates and projections.

Discussions with DCA staff regarding the above Objection reveals their reading of the statutory and Rule requirement that comprehensive plan elements be consistent includes planning time frames - that all elements, plans, programs, etc. contained within the GMP must reflect the same time period. One way to resolve this Objection would be for the County to modify all such elements, plans, etc. to reflect the same time period – either by reducing all to the minimum required ten-year period, as reflected in the CIE (2007-2017), or by extending all to the same more distant period, such as out to 2025 or 2030. However, doing either has risks (of a non-compliance finding by DCA) if not adequately supported by appropriate data and analysis. County staff is of the opinion that there simply isn’t adequate time to compile and/or create such data and analysis at this time, nor is it a prudent use of limited resources to attempt to do so. Most particularly, if the time period was advanced to 2025 or 2030, more significant data and analysis would be necessary, and one or more new policies might be needed committing to conducting future studies to assess adequacy of land availability (especially non-residential) to support the necessary future population in the County to coincide with long term transportation maps, water and wastewater plans, the RLSA program, etc.

While County staff does not necessarily agree with DCA’s reading of the statute and Rule, and maintains that our elements, plans, etc. are consistent with one another in that they are all based upon the same population estimates and projections, the same 2005 build-out study, etc., we recommend not engaging this issue with DCA at this time. Instead, **staff recommends** an alternative approach to address the Objection: simply **not to adopt the proposed amendments at issue. Specifically, not adopt the changes to Transportation Element maps - and correlating text - to extend them from 2025 to 2030, and not adopt changes to the RLSA program (petition CP-2006-10).** There is no harm in taking this non-action; the Transportation Element year changes are mere housecleaning revisions so as to reflect the latest dates contained in MPO documents, and the petitioner for CP-2006-10 has already requested this amendment not be adopted at this time.

DCA has advised that should a future GMP amendment propose an increase in intensity or density, we should expect DCA to raise this inconsistent planning timeframe Objection again. The County will eventually need to address this issue directly - the staff recommended “not to adopt” option serves to postpone this issue to another time when it can be addressed more thoroughly.

✓ ***DCA ORC Report Objection:***

C. The Department has identified the following objections to Amendments CP-2006-7 (Italian American Plaza and Clubhouse) and CP-2006-8 (Airport/Orange Blossom Commercial):

Objection 5: The proposed amendments for the Italian American Plaza and Clubhouse and Airport/Orange Blossom Commercial will increase development intensities. The properties are proposed to change from the Urban Residential Subdistrict to the new Italian American Plaza and Clubhouse Subdistrict and the new Airport/Orange Blossom Commercial Subdistrict allowing commercial uses. The amendments are located within the Northwest Transportation Concurrency Management Area. However, data and

analysis have not been provided demonstrating that with these amendments the adopted level of service standard for the TCMA will be achieved and maintained.

[Section 163.3177(2), (9)(b), 163.3187(2), and 163.3180(7), F.S., and Rule 9J-5.005(5), 9J-5.0055(5), and 9J-5.019(3)(f), F.A.C]

Recommendation: Revise the data and analysis to demonstrate the level of service standard for the TCMA will [be] achieved and maintained during the planning timeframe.

Staff Response to Objection 5:

The Adoption FLUE language is not the same version of the subdistricts as approved for transmittal by the Collier County Board of County Commissioners (BCC) on April 29, 2008. They are combined into a consolidated subdistrict; the allowable building area (square feet) has been increased for each petition (CP-2006-7 from 26,000 s.f. to 34,000 s.f., and CP-2007-8 from 12,000 s.f. to 40,000 s.f.); and, development of the two parcels is linked to construction of Airport Road/Orange Blossom Drive intersection improvements.

Transmittal-related **data and analysis** is also different from the supplemental Market Analysis and Traffic Impact Statement referenced during review for Adoption. Studies analyzing the intensity of a wide array of commercial uses proposed in the initial applications, for instance, have been replaced by analyses of the impacts of limited professional, medical and general offices, personal and business services, and lower-intensity, property-specific uses. Commercial-retail uses were included in the original petitions and their data and analyses, as submitted to the County; however, all retail uses were eliminated in the subdistricts as approved for Transmittal - but not from the data and analyses. Now, retail uses are excluded from the data and analyses. These modifications suggest that a number of observations, comments or objections the DCA or other respondents had with respect to Transmittal materials may no longer be applicable. To an extent, the consideration of Adoption materials transpires independently from any findings or conclusions drawn during Transmittal reviews.

The Collier County Transportation Planning Department reviewed the updated Traffic Impact Statement and provided the following comments:

The Italian American Plaza & Clubhouse and Airport/Orange Blossom Commercial Subdistricts, GMPA petitions CP-2006-07 & 2006-08, can be considered consistent with Policy 5.1 of the Transportation Element of the Growth Management Plan (GMP) subject to participation in the BCC directed Intersection Improvement Project. Consistency with Policy 5.1 has been achieved in part, through the data and analysis demonstrating TCMA levels of service standards are met and maintained.

Collier County data shows that 99.48% of the 219 lane miles contained within the Northwest TCMA are currently operating at, or above, the adopted Level of Service (LOS). In addition to maintaining the TCMA's LOS, the uses are considered consistent with policy 5.1 of the Transportation Element of the GMP with consideration for the Intersection Improvement Project pending Board of County Commissioners' approval.

Transportation Planners recommended, and the BCC required, that an Orange Blossom Drive-Airport Road *Intersection Improvements Plan* must be approved prior to any development order approval, and that construction per the approved plan must be completed prior to the issuance of any certificate of occupancy.

Policy 5.1 consistency is ensured by the following stipulation being applied to the new Subdistrict:

Orange Blossom Drive – Airport Road intersection improvements shall be designed to be sufficient to accommodate project traffic and overall levels of service issues. The improvement plans must be approved prior to any development order approval. This approval process must involve the public through an advertised public meeting, and the approved plans shall be advertised for construction through the County's open bidding process. Construction per the approved Orange Blossom Drive – Airport Road intersection improvements plan must commence prior to the issuance of a building permit for improvements on a parcel and be completed prior to the issuance of any certificate of occupancy.

In their decision to transmit CP-2006-7 and CP-2006-8 to the DCA, the Board of County Commissioners further directed that “[p]rior to adoption hearings, [the petitioners] prepare and submit to staff a unified analysis, design, funding and construction plan for Orange Blossom Drive-Airport Road intersection improvements. Such plan must be approved prior to any development order approval and construction per the approved plan must be completed prior to any certificate of occupancy”. This *Intersection Improvements Plan* was prepared in accordance with the BCC directive, accepted by the Collier County Transportation Planning Director for consideration and approval before development commences, and is included as data and analysis supplemental to this ORC Response.

✓ **DCA ORC Report Comment:**

Comment 1: The County should include a definition regarding the Open designation on the RLSA Overlay Map in the Future Land Use Element policies.

Staff Response to Comment 1:

The proposed amendment affecting the RLSA, CP-2006-10, is not being considered for adoption at this time, as requested by the petitioner. Further, the County is presently in the process of conducting the 5-year review of the RLSA, as required by RLSA policy 1.22, which is expected to result in subsequent proposed amendments to the RLSA.

Collier County agrees the addition of a definition of the "Open" designation is appropriate and will consider such as part of the RLSA review.

✓ **DCA ORC Report Comment:**

Comment 2: The term Florida Intrastate Highway System (FIHS) should be replaced with the Strategic Intermodal System (SIS) in Transportation Element Policy 1.5 A. and 1.5 B. [Amendment CPSP-2006-13]

Staff Response to Comment:

Though the referenced policy (incorrectly stated as 1.5A. and B. – should be 5.4A. and B.) was not proposed for amendment as part of this petition, staff has no objection to DCA's recommended changes; **staff recommends the DCA-recommended text change be made to all three affected policies in the Transportation Element (1.3, 1.4, and 5.4)**, as depicted below.

TRANSPORTATION ELEMENT

Policy 1.3 **[page 13]**

County arterial and collector roads as well as State highways not on the Strategic Intermodal System (SIS) Florida Intrastate Highway System (FIHS) shall be maintained at Level of Service "D" or better as addressed in the Implementation Strategy of the Transportation Element except for the roadways listed below that have been widened to six (6) lanes and cannot be widened any further. The County will also adopt FDOT's LOS on roadway segments where the County has entered into a TRIP (a national transportation research group) agreement for funding. TRIP eligible facilities and SIS facilities are identified on Map TR-8 and Map TR-9.

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Policy 1.4 **[page 13]**

Collier County sets and adopts the LOS standards for State Roads with the exception of those on the Strategic Intermodal System (SIS) Florida Intrastate Highway System (FIHS). In Collier County FDOT sets the LOS standards for I-75. The standards for I-75 are as follows:

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Policy 5.4 **[page 16]**

Pursuant to Rule 9J-5.0055(6)(a)3., Florida Administrative Code and the Urban Infill and Urban Redevelopment Strategy contained in the Future Land Use Element of this Plan, the South U.S. 41 Transportation Concurrency Exception Area (TCEA) is hereby designated. Development located within the South U.S. 41 TCEA (MapTR-4) may be exempt from transportation concurrency requirements, so long as impacts to the transportation system are mitigated using the procedures below:

- A. Any proposed development within the concurrency exception area that would reduce the LOS on Strategic Intermodal System (SIS) Florida Intrastate Highway System (FIHS) roadways within the County by 5% or more of the capacity at the adopted LOS standard shall meet the transportation concurrency requirements specified in Capital Improvement Element, Policy 5.3.

- B. Any proposed development within the concurrency exception area that would reduce the LOS on (SIS) FHS roadways within the County by less than 5% of the capacity at the adopted LOS standard and meets the requirements identified below in Policy 5.6 are exempt from the transportation requirements of Capital Improvement Element, Policy 5.3.

Words underlined are added; words ~~struck through~~ are deleted.

✓ ***DCA ORC Report – Recommendation from FDOT:***

Recommendation: FDOT recommends that the traffic study be revised for CP-2006-7 [and CP-2006-8] to establish that adequate capacity will be available for project trips that will impact I-75 and US 41 in the horizon year 2030 and the interim year of 2013. Funding sources must be identified for improvements required to alleviate all short term failures. For long term failures, appropriate policies should be identified in the Capital Improvement Element or Transportation Element of the local comprehensive plan and the needed improvements should be added to the appropriate plans and programs.

Staff Response to FDOT Recommendation:

Due to the location of the proposed Subdistricts at the intersection of Airport Road and Orange Blossom Drive, the nearest interchange with I-75 would be either Immokalee Road to the northeast of the subject properties, or Pine Ridge Road to the southeast. These interchanges are located approximately 4.5 miles and 3.5 miles from the subject properties, respectively. The nearest intersections with US 41 would be either Vanderbilt Beach Road to the northwest of the subject properties, or Pine Ridge Road to the southwest. These intersections are located approximately 2.0 miles and 3.5 miles from the subject properties, respectively.

Based on the uses currently proposed for the Subdistricts, it is very unlikely that a significant amount of traffic, if any, would impact I-75 or US 41 from these developments. The intensity of general, medical and professional offices and other uses allowed will attract the majority of their patrons from the neighboring residential communities and not from I-75 or US 41.