



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

2740 CENTERVIEW DRIVE • TALLAHASSEE, FLORIDA 32399-2100

LAWTON CHILES
Governor

LINDA LOOMIS SHELLEY
Secretary

Mr. Michael S. Mullin, Esquire
County Attorney
Post Office Box 1010
Fernandina Beach, FL 32034

RE: DCA v. Nassau County,
DOAH Case No. 91-2007GM

Dear Mike:

Enclosed please find five (5) originals of the Stipulated Settlement Agreement addressing the compliance issues in the above-referenced case. Please note, however, that one of the agreements does not include the parcelization map; please make sure that each agreement has all maps attached prior to returning the agreements to the Department.

In an act of good faith in order to secure compliance agreement funding for the County, the Department has signed each original and forwards them to the County for review and approval, as soon as possible, at a duly noticed public hearing. I understand that you intend to hold the public hearing to sign the agreement on June 29, 1993. All five (5) originals must be executed by the County and returned to the Department no later than June 30, 1993.

Upon receipt, the Department will review the agreement to ensure that it is exactly the same as that approved and signed by the Department. Specifically, the Department is signing this agreement with the express understanding that the Exhibit B, FLUM series Map 4 of 4, reflects the County's agreement to designate Crane Island as Conservation and is consistent with the plan's supporting data and analysis and the Department's position, as reflected in the June 2, 1993, letter from Robert Pennock. The County may submit a future plan amendment to include appropriate data and analysis to support an alternative FLUM designation for Crane Island, at its discretion. Any other revisions to the document not previously approved by the Department will be grounds

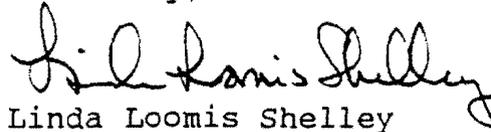
Mr. Michael S. Mullin, Esquire

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for either party to rescind and void the compliance agreement and immediately request that the matter be set for administrative hearing.

The Department specifically incorporates this letter by reference as part of the settlement agreement between the parties, and looks forward to finalizing this matter prior to June 30, 1993. Please direct any questions or inquiries to Stephanie Callahan, Assistant General Counsel, at (904) 488-0410.

Sincerely,



Linda Loomis Shelley
Secretary

cc: Jim Swan, Chairman, Osceola County
Board of Commissioners
Charles Pattison, Director, RPM
Stephanie M. Callahan, Assistant General Counsel
Maria Abadal, Plan Review Administrator

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF COMMUNITY AFFAIRS,)	
)	
Petitioner,)	
)	
vs.)	DOAH CASE NO. 91-2007GM
)	
NASSAU COUNTY,)	
)	
Respondent.)	
)	

STIPULATED SETTLEMENT AGREEMENT

Petitioner, Florida Department of Community Affairs (department), and Respondent, Nassau County (county), hereby stipulate and agree as follows:

GENERAL PROVISIONS

1. Definitions. As used in this agreement, the following words and phrases shall have the following meanings:

a. Act: The Local Government Comprehensive Planning and Land Development Regulation Act, as codified in Part II, Chapter 163, Florida Statutes (1991) and Chapter 92-129, Laws of Florida.

b. Agreement: This stipulated settlement agreement.

c. Comprehensive Plan or Plan: Nassau County Comprehensive Plan, as adopted by Ordinance No. 91-4 on January 28, 1991.

d. DOAH: The Florida Division of Administrative Hearings.

e. In compliance or into compliance: Consistent with Sections 163.3177, 163.3178 and 163.3191, Florida Statutes, Section 187.201, Florida Statutes, the applicable regional policy plan, and Chapter 9J-5, Florida Administrative Code.

f. Notice: The notice of intent issued by the department to which was attached its statement of intent to find the plan not in compliance.

g. Petition: The petition for administrative hearing and relief filed by the department in this case.

h. Remedial Action: A remedial plan amendment, submission of support document or other action described in the statement of intent or this agreement as an action which must be completed to bring the plan into compliance.

i. Remedial Plan Amendment: An amendment to the plan or support document, the need for which is identified in this agreement, including its exhibits, and which the local government must adopt to complete all remedial actions. Remedial plan amendments adopted pursuant to this agreement must, in the opinion of the department, be consistent with and substantially similar in concept and content to the ones identified in this agreement or be otherwise acceptable to the department.

j. Statement of Intent: The statement of intent to find the plan not in compliance issued by the department in this case.

k. Support Document: The studies, inventory maps, surveys, data, inventories, listings or analyses used to develop and support the plan.

2. Entire Agreement. This is the entire agreement between the parties and no verbal or written assurance or promise is effective or binding unless included in this document.

3. Approval by Governing Body. This agreement has been approved by the local government's governing body at a public hearing advertised in an advertisement published at least 10 days prior to the hearing in the manner prescribed for advertisements in Section 163.3184(15)(c), Florida Statutes. This agreement has been executed by the appropriate officer as provided in the local government's charter or other regulations.

4. Changes in Law. Nothing in this agreement shall be construed to relieve either party from adhering to the law, and in the event of a change in any statute or administrative regulation inconsistent with this agreement, the statute or regulation shall take precedence.

5. Other Persons Unaffected. Nothing in this agreement shall be deemed to affect the rights of any other person under the law.

6. Attorney Fees and Costs. Each party shall bear its own costs, including attorney fees.

7. Effective Date. This agreement shall become effective upon the last date of signing by the parties.

PART I

8. Purpose of Part I; Not Establishing Precedent. The parties enter into Part I of this agreement in a spirit of cooperation for the purpose of avoiding costly, lengthy and unnecessary litigation and in recognition of the desire for the speedy and reasonable resolution of disputes arising out of or related to the plan. The acceptance of proposals for purposes of this agreement is part of a negotiated agreement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other circumstances or by any other local government.

9. Department Powers. The department is the state land planning agency and has the power and duty to administer and enforce the Act and to determine whether the plan is in compliance.

10. Exhibits. Exhibits A and B are hereby incorporated by reference.

11. Negotiation of Agreement. The department issued its notice and statement of intent to find the plan not in compliance, and filed the petition in this case to that effect. Subsequent to the filing of the petition the parties conferred and agreed to resolve the issues in the petition, notice and statement of intent through this agreement. It is the intent of this agreement to resolve fully all issues between the parties in this proceeding.

12. Dismissal. If the local government completes the remedial actions required by this agreement, including the adoption of required plan amendments as set forth herein, the department shall issue a cumulative notice of intent addressing both the compliance agreement amendment and the initial plan subject to these proceedings. The department shall file the cumulative notice of intent with the DOAH along with a request to dismiss this proceeding.

13. Filing and Continuance. This agreement shall be filed with DOAH by the department after execution by the parties. Upon the filing of this agreement, the administrative proceeding in this matter shall be stayed by the hearing officer in accordance with Section 163.3184(16), Florida Statutes.

14. Retention of Right to Final Hearing. Both parties hereby retain the right to have a final hearing in this proceeding in the event of a breach of this agreement, and nothing in this agreement shall be deemed a waiver of such right. The department or any other party to this agreement may move to have this matter set for hearing if it becomes apparent that any other party whose action is required by this agreement is not proceeding in good faith to take that action.

15. Description of Provisions not in Compliance and Remedial Actions; Legal Effect of Agreement. Exhibit A to this agreement is a copy of the statement of intent, which identifies the provisions not in compliance. Exhibit B contains remedial

actions needed for compliance. This agreement constitutes a stipulation that if the remedial actions are accomplished, the plan will be in compliance.

16. Remedial Actions to be Considered for Adoption. The local government agrees to consider for adoption by formal action of its governing body all remedial actions described in Exhibit B no later than the time period provided for in this agreement.

17. Adoption or Approval of Remedial Plan Amendments. Within 60 days after execution of this agreement by both parties, the local government shall consider for adoption all remedial plan amendments and amendments to the support document. This may be done at a single adoption hearing. Within 10 working days after adoption of the plan amendment, the local government shall transmit 10 copies of the amendment to the department as provided in Rule 9J-11.011, Florida Administrative Code. The local government also shall submit one copy to the regional planning agency and to any other unit of local or state government that has filed a written request with the governing body for a copy of the plan amendment and a copy to any party granted intervenor status in this proceeding. The amendment shall be transmitted to the department along with a letter which describes the remedial action adopted for each part of the plan amended, including references to specific portions and pages.

18. Acknowledgement. All parties to this agreement acknowledge that neither the participation nor the "based upon" provisions in Section 163.3184(8), Florida Statutes, apply to the remedial amendment.

19. Review of Remedial Amendments and Notice of Intent. Within 45 days after receipt of the adopted remedial plan amendments and support documents, the department shall issue a notice of intent pursuant to Section 163.3184, Florida Statutes, for the adopted amendments in accordance with this agreement.

a. In Compliance: If the adopted remedial actions satisfy this agreement, the department shall issue a cumulative notice of intent addressing both the plan and the compliance agreement amendment as being in compliance. The department shall file this cumulative notice with DOAH and shall move to have this proceeding dismissed.

b. Not in Compliance: If the remedial actions are not adopted, or if they do not satisfy this agreement, the department shall issue a notice of intent to find the plan amendments not in compliance and shall forward the notice to DOAH for a hearing as provided in Subsection 163.3184(10), Florida Statutes, and may request that the matter be consolidated with the pending proceeding for a single, final hearing. The parties hereby stipulate to that consolidation and to the setting of a single final hearing if the department so requests.

20. Effect of Amendment. Adoption of any compliance agreement amendment shall not be counted toward the frequency restrictions imposed upon plan amendments pursuant to Section 163.3187(1), Florida Statutes.

21. Agreement regarding further amendments. The local government agrees not to transmit or adopt any additional amendments to its plan, except other remedial actions pursuant to an executed stipulated settlement agreement, until the remedial amendments described in this agreement have been adopted and a notice of intent to find them in compliance has been issued by the department.

Part II

22. Purpose of Part II. The parties enter into Part II of this agreement to provide grant funding, pursuant to Chapter 91-193, Laws of Florida, to assist the local government to undertake the remedial actions necessary to bring the adopted plan submitted pursuant to Subsection 163.3167(2), Florida Statutes and Chapter 9J-12, Florida Administrative Code into compliance.

23. Liability. To the extent of funds received under this agreement, the local government hereby agrees to hold harmless the department, to the extent allowed by law, from all claims, demands, liabilities and suits of third persons or entities not a party to this agreement arising out of, or due to any act, occurrence, or omission of the local government, its subcontractors or agents, if any, that is related to the local government's performance under this agreement.

24. Public Records. The local government shall allow public access to all documents, reports, papers, letters or other material, subject to the provision of Chapter 119, Florida Statutes, prepared or received by the local government in conjunction with this agreement. The department may unilaterally cancel this agreement if the local government refuses to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., and made or received by the local government in conjunction with the agreement.

25. Availability of Funds. Payment of state funds pursuant to this agreement is subject to and conditioned upon the total release of authorized appropriations from the Local Government Comprehensive Planning Assistance Program provided by law. The State of Florida's performance and obligation to pay under this agreement is contingent upon an annual appropriation by the Legislature as noted in Section 287.0582, Florida Statutes.

26. Consideration.

a. As consideration for work performed under this agreement, the department agrees to pay a fixed fee of up to \$9,000.00. Payment will be based on the payment schedule and other conditions contained below.

b. Funds may not be used for the purchase of equipment, fixtures, or other tangible property of a nonconsumable and nonexpendable nature with an expected useful life which exceeds the duration of this contract. Funds may also

not be used for attorney fees unrelated to this agreement. No funds or other resources received in connection with this agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

27. Method of Payment. The payment shall be made by the department after timely receipt of the remedial amendment, which will be verified by the department to include all required proposed remedial action, and receipt of an invoice from the local government. If the remedial actions are not received in accordance with the schedule in this agreement, or if the department in its discretion determines that the remedial actions are inconsistent with this agreement, the payment shall not be made.

28. Audit Requirements.

a. The local government agrees to maintain adequate financial procedures and adequate support documents to account for the expenditures of funds under Part II of this agreement.

b. These records shall be available at all reasonable times for inspection, review, or audit by state personnel and their personnel duly authorized by the department. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

c. The local government shall also provide the department with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under Part II of this agreement. Bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

d. The local government shall include an accounting of these funds under Part II of this agreement in the local audit prepared by the local government of the 1991-92 and 1992-93 fiscal years.

e. In the event the audit shows that all or a portion of the funds provided under Part II, were not spent in accordance with Chapter 9J-26, Florida Administrative Code, and the conditions of this agreement, the local government shall be held liable for repayment to the department of all funds not spent in accordance with these applicable regulations and agreement provisions within thirty (30) days after the department has notified the local government of such noncompliance.

f. The local government shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to Part II of this agreement for a period of three years after the date of submission of the final expenditures report or, if an audit has been initiated and audit findings have not been resolved at the end of three years, the records shall be retained until resolution of the audit findings.

g. Bills for any travel expenses shall be submitted in accordance with Section 112.061, Florida Statutes.

h. The Local government shall, by January 30, 1993, render an accounting of the receipt and disbursement of all funds it received during FY 1991-92 to the secretary of the department, pursuant to Section 186.505(8), Florida Statutes. The local government shall fulfill this requirement by providing the department with a copy of an annual financial audit report which meets the requirements of Sections 11.45 and 216.349, Florida Statutes, and Section 10.550, Rules of the Auditor General. The audit report shall include a schedule of financial assistance specifically identifying all contract and grant revenue by sponsoring agency and contract number. The local government shall also provide the department with copies of all related management letters and the local government's response to all findings. When applicable, the scope of the financial audit shall encompass the additional activities necessary to establish compliance with the Single Audit Act of 1984, P.L. 98-502, 31 U.S.C.A. s.7501 to 7507, and OMB Circular A-128 and other applicable federal law. If applicable, the auditor's opinion must cite that the audit complied with the provisions of OMB Circular A-128.

29. Modification of Part II. Either party may request modification of the provisions of Part II of this agreement. Changes which are mutually agreed upon shall be made by written correspondence signed by the parties and incorporated as part of this agreement.

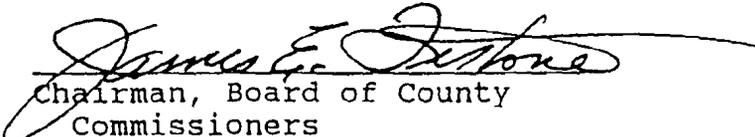
This agreement contains all the terms and conditions agreed to by the parties.

In witness whereof, the parties hereto have caused this agreement to be executed by their undersigned officials as duly authorized.

DEPARTMENT OF COMMUNITY AFFAIRS

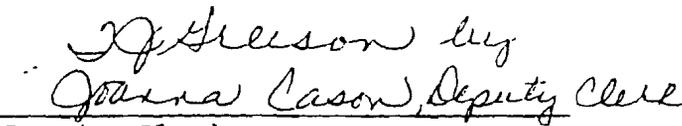
NASSAU COUNTY

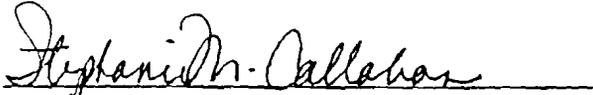

Linda Loomis Shelley
Secretary

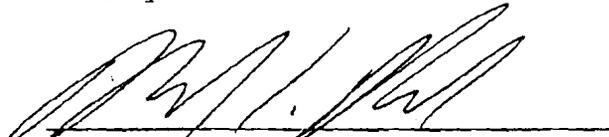

Chairman, Board of County
Commissioners

June 25, 1993
Date

June 29, 1993
Date
Attest:


Joanna Cason, Deputy Clerk
County Clerk


Stephanie M. Callahan
Assistant General Counsel


County Attorney

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: NASSAU COUNTY)
COMPREHENSIVE PLAN)
ADOPTED BY) DOCKET NO.90-NOI-4501-(N)
ORDINANCE NO.91-4)
ON JANUARY 28, 1991)
_____)

STATEMENT OF INTENT TO FIND
COMPREHENSIVE PLAN
NOT IN COMPLIANCE

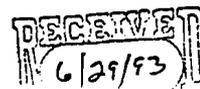
The Florida Department of Community Affairs hereby issues its Statement of Intent to find the Comprehensive Plan of Nassau County, adopted by Ordinance No. 91-4 on January 28, 1991, Not in Compliance based upon the Objections, Recommendations and Comments Report (ORC report) issued by the Department on November 9, 1990, which is hereby incorporated by reference, and changes made to the Plan, as adopted, which were not previously reviewed by the Department. The Department finds that the Plan is not "in compliance," as defined in Section 163.3184(1)(b), Florida Statutes (F.S.), because it is not consistent with Sections 163.3177 and 163.3178, F.S., the State Comprehensive Plan, the Northeast Florida Regional Policy Plan, or Chapter 9J-5, Florida Administrative Code (F.A.C.), for the following reasons:

I. CONCURRENCY MANAGEMENT

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. The Procedures and Guidelines for a Concurrency Management System fail to include solid waste as a component of the concurrency management system; fail to include solid waste in the definition for infrastructure; and fail to provide

EXHIBIT "A"



infrastructure criteria for concurrency evaluations as they relate to solid waste. Rule 9J-5.0055(1), F.A.C.

2. In determining the impact on traffic level of service (LOS), the Plan addresses only the impact of development on the nearest point of ingress or egress onto the roadway system, rather than all impacted roadways. Rules 9J-5.005(3), and 9J-5.007(2)(b), F.A.C.

3. Section B, Criteria for Concurrency Evaluation, does not consider demand from previously committed developments which have been approved prior to the requirement to meet concurrency, but which have not yet impacted facilities although projected to do so. Rule 9J-5.0055(2), F.A.C.

4. The Concurrency Management System states, on page 8, that rather than denying a development proposal which would cause a deficiency in the adopted LOS standard, the County may defer the proposal, or process the application as a conditional development permit subject to later review and modification, but does not clarify that a deferred proposal or conditional development permit subject to later review and modification must meet the concurrency provisions of the Plan before a final development order is issued. Rule 9J-5.0055(2), F.A.C.

5. The Concurrency Management System includes the following exceptions to concurrency:

- (a) Construction of public transportation, potable water, sanitary sewer, solid waste, drainage, roads, and/or recreational facilities which serve the general public or any development determined by the Board of County Commissioners as providing for public health, safety or welfare;

(b) Accessory structures to established principal land uses, provided the principal land use is in place and functional.

(c) Any vested development as determined by the Board of County Commissioners on advice of legal counsel.

These exceptions are not consistent with the requirements of Rules 9J-5.005 and 9J-5.0055, F.A.C.

6. The Nassau County Capacity Determination Form which is included as part of the Concurrency Management System does not address drainage and recreation services. Rule 9J-5.0055(5), F.A.C.

7. Policy 1.05.03 of the Future Land Use Element concerning hurricane evacuation as a requirement for concurrency has not been included in the County's Concurrency Management System. Rules 9J-5.0055(1) and 9J-5.005(5)(a), F.A.C.

B. Recommended remedial actions. These inconsistencies may be remedied by taking the following actions:

1. Revise the Concurrency Management System to include solid waste as a component of infrastructure requirements.

2. Revise the method of determining the development impacts on the traffic system to address deficiencies on all affected roadways.

3. Revise the Criteria for Concurrency Evaluation to consider demand from previously committed developments which have been approved prior to the requirement to meet concurrency but which have not yet impacted facilities although projected to do so.

4. Revise the section titled "Finding of Deficiency" to clarify that all deferred development proposals and conditional permits subject to later review and modification must meet the

concurrency provisions of the Plan prior to the issuance of a final development order.

5. Revise the Concurrency Management System to eliminate the concurrency exceptions. All vesting provisions must be consistent with the provisions stated in Section 163.3167(8), F.S., or with principles of common law equitable estoppel.

6. Revise the Nassau County Capacity Determination Form to consider drainage and recreation services.

7. Revise the Concurrency Management System to include "Evacuation Clearance Times" as a component in the determination of concurrency for the purpose of issuing a "Certificate of Concurrency" prior to any permitting action for Building Permits or Development Orders.

II. FUTURE LAND USE ELEMENT

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. For those areas designated as "Agriculture" on the Future Land Use Map, the Plan allows densities at 1 dwelling unit per 20 acres for parcels 320 acres or more. For parcels of 320 acres or less, the Plan allows the following, so long as total development in these areas does not exceed 4471 units by the year 2005:

(a) Parcels 320 acres or less may developed at one unit per acre.

(b) Single lots of record 20 acres or less may be developed at the density provided for on current zoning maps.

(c) Lots under individual ownership that have been held by the current owner for a minimum of five years and upon which the Homestead exemption is current may be sold at a maximum of two 1-acre parcels per year subject to subdivision regulations.

(d) Other subdivisions which "enhance the potential for central/regional water sewer systems, contribute to mixed use communities, and cluster development to minimize the impact on agriculture."

The above provisions (a through d) fail to protect agricultural lands and operations, encourage low-density, single use urban sprawl, and are not consistent with the densities used in the data and analysis to determine acreage needs or to project future land use needs. Rules 9J-5.005(5)(a), 9J-5.006(3)(b)7., 9J-5.006(3)(c)2., 5., 7., F.A.C.

2. Policy 1.04A.01 establishes agricultural land as "sending" areas for transfer of development rights (TDR). Policy 1.04A.10 states that the zoning code will specify the locations for TDR "sending" and "receiving" districts. The Plan does not identify the guidelines and criteria that will be used for transfer of development rights. Rules 9J-5.005(2)(a) and 9J-5.005(6), F.A.C.

3. A density or intensity of use standard has not been included for the recreation, public buildings and grounds, and public facilities land use categories. In addition, although lot coverage has been specified for commercial and industrial categories, it is inadequate as a measure of intensity. Rules 9J-5.005(2)(a) and 9J-5.006(3)(c)7., F.A.C.

4. Policies 1.02.05H and 1.02.05I do not specify the types of uses that will be permitted within the Conservation areas. In addition, the policy is conditional because it states that

conservation areas "may" be placed in a limited development overlay or preservation overlay. These overlays have not been depicted on the Future Land Use Map. For those areas that will not be placed within a limited development or preservation overlay, the density or intensity standards have not been identified. Rules 9J-5.006(3)(c)7. and 9J-5.006(4)(a)6., F.A.C.

5. The Planned Unit Development and Mixed Use Overlay categories identified under Policy 1.02.05I do not include the types of uses and percentages of each use allowed within the overlays, or the densities for all land use categories in the mix and specific density bonuses. In addition, guidelines have not been included to protect agricultural uses from the impacts of these developments. Rules 9J-5.005(2)(a), 9J-5.005(6), 9J-5.006(3)(c)2., 9J-5.006(3)(c)5., and 9J-5.006(3)(c)7., F.A.C.

B. Recommended remedial actions. These inconsistencies may be remedied by taking the following actions:

1. Revise the policy to include density and development controls appropriate to the protection of agriculture activities, the separation of rural and urban lands and the limitation of urban sprawl. Revise the densities to be consistent with those recommended in the data and analysis. Development controls may include measures such as limiting the extent of the higher density lands, guidelines for location, and requirements for clustering, open space, buffering, stormwater run-off controls and the primacy of agriculture and silviculture uses in the event of conflicts.

2. Amend the Plan to identify the guidelines and criteria to be used for transfer of development rights.

3. Include standards for density or intensity of use for all land use categories.

4. Specify the types of use permitted in conservation areas compatible with the protection of natural resources. Revise the policy to eliminate or define the conditional phrase "may" concerning the designation of overlay districts. For those conservation areas that will not be included in the limited development or preservation overlay, specify densities or intensities of use.

5. Expand the Planned Unit Development and Mixed Use Overlay categories to include specific criteria, identifying the types of use and percentage of each use allowed within the overlay, the allowable densities for all permitted uses, specific density bonuses, and standards to protect agricultural uses from incompatible development.

III. PROTECTION OF NATURAL RESOURCES

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. Policies 1.02.05, 1.04A.02, 1.04A.03 and 1.09.03 of the Future Land Use Element, 5.11.01 of the Coastal Element, 6.02.06 of the Conservation Element, and 7.03.01 of the Recreation and Open Space Element, are not adequate to protect wetlands. The policies and Future Land Use Map do not include adequate and consistent guidelines for the development and use of wetland areas, and fail to protect all wetland resources. Rules 9J-

5.006(3)(b)4., 9J-5.006(3)(c)6., 9J-5.006(4)(a), 9J-5.012(3)(b)1., 9J-012(3)(c)1., 9J-5.013(2)(b)2., 3., and 4., and 9J-5.013(2)(c)3., 6., and 7., F.A.C.

2. Policy 1.04A.06 of the Future Land Use Element does not adequately protect groundwater and wellfields. The Policy does not indicate what "non-polluting land uses shall be permitted" within the 200 foot radius around well heads. Rules 9J-5.006(3)(b)1, 4, and 9J-5.006(3)(c)1., 4., and 6., 9J-5.012(3)(b)1., and 9J-5.013(2)(c)1., 2., and 6., F.A.C.

3. Policy 1.04A.09 of the Future Land Use Element and Policies 6.09.01, 6.09.02 and 6.09.03 of the Conservation Element concerning mining activities, are not supported by data and analysis, the Future Land Use Map, or the land use categories specified in Policy 1.02.05. The Plan does not indicate where mining activities would be allowed, and how these activities would be compatible with natural resources. Rules 9J-5.005(2)(a), 9J-5.006(3)(b)1, 4, and 9J-5.006(3)(c)1., 4., and 6., 9J-5.012(3)(b)1., and 9J-5.013(2)(c)1., 2., and 6., F.A.C.

4. The Plan does not provide specific protection for floodplains. Although the Plan includes Policy 1.01.06 (page AA-1) for post-development run-off conditions and Policy 1.01.07 (page AA-2) concerning floor elevations, the Plan does not include policies to protect the function of floodplains. Rules 9J-5.006(3)(b)1, 4, and 9J-5.006(3)(c)1., 4., and 6., 9J-5.012(3)(b)1., and 9J-5.013(2)(c)1., 2., and 6., F.A.C.

5. The Plan does not include adequate policies to protect and conserve the natural functions of fisheries, rivers, bays, lakes, harbors, wetlands and wildlife habitat. For example,

although the data and analysis on page F-22 indicates the need to protect the longleaf flatwoods and coastal maritime forests, especially in the St. Mary's River Basin, specific provisions have not been included to protect these areas of native vegetative communities and endangered wildlife habitat. Rules 9J-5.005(5), 9J-5.006(3)(b)1, 4, and 9J-5.006(3)(c)1., 4., and 6., 9J-5.012(3)(b)1., and 9J-5.013(2)(c)1., 2., 5., 6., and 9., F.A.C.

6. The Future Land Use Map does not adequately protect environmentally sensitive areas. For example, major marshes and swamps indicated in Figure F-4 of the Conservation Element are designated for agriculture and silviculture use without measures to protect their natural function. The Future Land Use Map does not protect the longleaf flatwoods and coastal maritime forests identified on page F-22 of the data and analysis. Further, the Future Land Use Map designates medium density residential use in the Aquatic Preserve below the Town of Yulee, and commercial use in the Aquatic Preserve along SR A1A west of Amelia Island. Rules 9J-5.006(3)(b)1, 4, and 9J-5.006(3)(c)1., 4., 9J-5.006(4)(a), and 6., 9J-5.012(3)(b)1., and 9J-5.013(2)(c)1., 2., and 6., F.A.C.

B. Recommended remedial actions. These inconsistencies may be remedied by taking the following actions:

1. Include additional policies to protect wetlands. Densities of 1 unit per 5 acres in wetlands should be permitted only in conjunction with adequate clustering requirements. Revise Policy 5.11.01 of the Coastal Element to be consistent

with the densities in wetlands established in the Future Land Use Element. Specify the size of natural vegetative buffers for wetlands. Revise Policy 1.04A.03 of the Future Land Use Element and Policy 6.02.06 of the Conservation Element to regulate agriculture and silviculture in wetlands and conservation areas, as well as in established buffer areas along all rivers and streams. Revise Policy 1.09.03 and the Future Land Use Map to protect all wetland areas, not simply jurisdictional wetlands. Revise Policy 7.03.01 to allow uses such as passive recreation or other compatible uses in environmentally sensitive wetlands and conservation areas.

2. Revise Policy 1.04A.06 to protect groundwater and wellfields and to indicate what "non-polluting land uses" would be permitted around well heads.

3. Revise Policies 1.04A.09, 6.09.01, 6.09.02, and 6.09.03, the data and analysis, Future Land Use Map and Policy 1.02.05 to indicate appropriate areas where mining activities may be permitted. Also, include policies to protect natural resources from the impacts of mining activities where they are permitted.

4. Include policies to protect the natural functions of floodplains, including clustering development out of floodplains where possible, limiting the densities and intensities in floodplain areas, and limiting the alteration of hydrology patterns in floodplain areas.

5. Include policies to protect environmentally sensitive lands. Include policies to protect the natural functions of fisheries, rivers, bays, lakes, harbors, wetlands and wildlife

habitat. These policies should specifically reference the major marshes and swamps identified in the Conservation Element, as well as the longleaf flatwoods and coastal maritime forests which support endangered and threatened species. Specific buffer requirements should be established to separate development, agriculture and silviculture activities and the use of septic tanks from adjacent waterways.

6. Revise the Future Land Use Map to protect environmentally sensitive areas such as the Aquatic Preserves, major marshes and swamps, longleaf flatwoods and coastal maritime forests.

IV. EFFICIENCY OF LAND USES

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. Objectives and policies have not been included in the Plan to ensure a separation of urban and rural land uses, a functional relationship among compatible land uses and between land uses and infrastructure, the protection and promotion of agricultural uses, and a restriction of urban densities to areas with adequate infrastructure. Further, the Future Land Use Map (FLUM) does not reflect such objectives and policies. Rules 9J-5.005, 9J-5.006(3)(b)7., 9J-5.006(2)(c), 9J-5.006(4)(a), 9J-5.010(2)(c), 9J-5.011(2)(b)3., 9J-5.011(2)(c) and 9J-5.021, F.A.C.

2. Policy 4.01.05 of the Infrastructure Element, concerning the expansion of infrastructure services to the development areas, is not reflected in the FLUM because the

revised development areas have not been identified on the FLUM.
Rule 9J-5.006(4)(a), F.A.C.

B. Recommended remedial actions. These inconsistencies may be remedied by taking the following actions:

1. Include objectives and policies to ensure a separation of urban and rural land uses, the functional relationship among compatible land uses, the promotion of agriculture uses, and the serving of urban densities with infrastructure. Revise the FLUM to reflect these objectives and policies accordingly.

2. Identify the revised development areas on the FLUM.

V. PUBLIC FACILITIES AND LEVEL OF SERVICE STANDARDS

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. The Traffic level of service (LOS) standard adopted in Policy 2.01.01 of the Traffic Circulation Element is not consistent with that adopted in Policy 9.02.01 of the Capital Improvements Element. Rules 9J-5.005(5)(a) and 9J-5.007(3)(c)1., F.A.C.

2. The Drainage LOS standard adopted in Policy 4.01.01 of the Infrastructure Element is not consistent with that adopted in Policy 9.02.01 of the Capital Improvements Element. Rule 9J-5.005(5)(a), F.A.C.

3. Policies have not been included to address solid waste needs identified in the data and analysis. Rules 9J-5.011(1)(f)3., 9J-5.011(2)(b)1., 3., and 5., and 9J-5.011(2)(c)1., F.A.C.

4. Policies 4.02.03 and 4.05B.01 of the Infrastructure Element concerning drainage improvements are not adequate to address the needs identified in the data and analysis. Rules 9J-5.005(2)(a), 9J-5.011(1) and (2), F.A.C.

5. Objective 4.04 of the Infrastructure Element does not provide a measurable standard for water conservation. Rules 9J-5.003(61) and 9J-5.011(2)(b)4., F.A.C.

6. Policy 4.05A.03 of the Infrastructure Element and Policy 6.01.06 of the Conservation Element provide wellfield protection only for wells using the surficial aquifer. According to the data and analysis, most potable water wells in the County use the Floridan Aquifer. Rules 9J-5.006(3)(c)6., and 9J-5.013(2)(c)1., F.A.C.

B. Recommended remedial actions. These inconsistencies may be remedied by taking the following actions.

1. Revise the Traffic LOS standards to be consistent throughout the Plan.

2. Revise the Drainage LOS standards to be consistent throughout the Plan. All drainage facilities (ditches, pipes, detention/retention areas, etc.), should adequately provide for the quality and quantity of stormwater.

3. Include policies to address the solid waste needs identified in the data and analysis, such as the covering of all filled areas not being worked, developing groundwater monitoring systems, implementing a quality assurance program, and regulating illegal dumping and burning of hazardous and nonhazardous waste materials.

4. Include policies to address the drainage needs identified in the data and analysis. For example, revise the policies to include dates for the completion of a master drainage study and the maintenance of drainage facilities, to eliminate vague and conditional phrasing, and to identify funding sources for improvements.

5. Revise the Objective to include a measurable standard for water conservation, consistent with the goals and policies of the Regional Policy Plan.

6. Revise the Policies to include a wellfield protection zone for all public wells.

VI. COASTAL MANAGEMENT

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. The objectives and policies of the Coastal Management Element are not supported because data and analysis have not been included to address the effect of future land uses on inventoried natural resources; to address actions to remedy existing pollution problems; to inventory and analyze natural disaster planning concerns (including the identification of the Coastal High Hazard Area); to inventory beach and dune systems; and to address the need for public access. Rules 9J-5.005(2)(a) and 9J-5.012(2)(b-h), F.A.C.

2. Objective 5.04 of the Coastal Element does not include supporting policies which address post-disaster redevelopment. Rules 9J-5.003(68), 9J-5.005(1)1., and 9J-5.012(3)(b)8 and (3)(c)5., F.A.C.

3. Policy 5.02A.04 of the Coastal Element is vague because it does not indicate what "sufficient" amount of the vegetated oak hammock and dune interface area will be preserved. Rules 9J-5.005(6) and 9J-5.012(3)(c)1., F.A.C.

4. The Plan does not include specific policies to limit development in the Coastal High Hazard Area (CHHA) and relocate or replace infrastructure out of this area. Moreover, the Future Land Use Map has designated areas along the coast that would likely be included in the CHHA for medium and high density residential and commercial use. Rules 9J-5.003(68), 9J-5.005(1)1., 9J-5.012(3)(c)7., and 9J-5.006(4)(a), F.A.C.

B. Recommended remedial actions. These inconsistencies may be remedied by taking the following actions:

1. Expand the Coastal Element to include the required data and analysis to support the objectives and policies.

2. Include policies concerning post-disaster redevelopment to support Objective 5.04.

3. Revise Policy 5.02A.04 to specify the amount of vegetated oak hammock and dune interface that will be preserved.

4. Include policies to limit development in the CHHA and relocate or replace infrastructure away from this area. Revise the Future Land Use Map to limit densities and intensities of use in the CHHA.

VII. FINANCIAL FEASIBILITY

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. The Five-Year Schedule identifies impact fees as the revenue source to fund a majority of the transportation improvements. However, the Plan does not indicate that the County will have sufficient revenues accumulated from this source to fund the improvements in fiscal year 1990-91. In addition, the Plan does not include a projection of subdivision exactions and enterprise funds to show that adequate revenues will be available for solid waste and recreation improvements. Rules 9J-5.005(2)(a) and 9J-5.016(2)(f)1., F.A.C.

2. A table has not been included to compare projected revenues with total projected expenditures. Rule 9J-5.016(2)(f), F.A.C.

B. Recommended remedial actions. These inconsistencies may be remedied by taking the following actions:

1. Expand the analysis to indicate clearly that the traffic impact fees collected will be sufficient to fund the needed transportation improvements. If sufficient revenues will not be available when needed, other funding sources should be identified. A projection of pledged county subdivision exactions and enterprise funds should also be included.

2. Include a table to compare total projected revenues with total projected expenditures (including the expenditures for capital improvements projects identified in the 5-year schedule). Alternatively, Table J-6 may be revised to include the capital improvements projects in the total projected expenditures.

VIII. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Inconsistent provision. The inconsistent provision of the plan grouped under this subject heading is as follows:

1. The adopted Plan is not consistent with the State Comprehensive Plan, including the following goals and policies (Rule 9J-5.021, F.A.C.):

- (a) Goal 7 (Public Safety), Policies 24 and 25;
- (b) Goal 8 (Water Resources), Policies 8-13;
- (c) Goal 9 (Coastal and Marine Resources), Policies 1-9;
- (d) Goal 10 (Natural Systems and Recreational Lands), Policies 1, 3-5, 7, and 9;
- (e) Goal 14 (Mining), Policies 1-9;
- (f) Goal 16 (Land Use), Policies 2, 3, and 6;
- (g) Goal 18 (Public Facilities), Policy 1;
- (h) Goal 20 (Transportation), Policy 12; and
- (i) Goal 23 (Agriculture), Policies 5, 9, and 13

B. Recommended remedial action. This inconsistency may be remedied by taking the following action:

1. Revise the adopted comprehensive plan to include specific, measurable objectives and policies, supported by adequate data and analysis, that are consistent with the above-referenced goals, objectives and policies of the State Comprehensive Plan.

IX. REGIONAL PLAN CONSISTENCY

A. Inconsistent provision. The inconsistent provision of the plan grouped under this subject heading is as follows:

1. The adopted plan is not consistent with the Northeast Regional Policy Plan, including the following regional goals and policies (Rule 9J-5.021(1), F.A.C.):

- (a) Goal 7.2.2 (Public Safety), Policies 7.2.2.2 and 7.2.2.7;

- (b) Goal 8.1.2, 8.1.3 and 8.2.2 (Aquifer Protection, Water Conservation and Wastewater Reuse), Policies 8.1.3.10 and 8.2.2.4;
- (c) Goal 9.2.2 (Estuarine Water Quality), Policies 9.2.2.2, and 9.2.2.3;
- (d) Goal 10.3.2 (Regional Resources), Policy 10.3.2.1;
- (e) Goals 14.1.1 and 14.3.1 (Mining), Policies 14.1.1.2, 14.1.1.5, 14.3.1.1, and 14.3.1.2;
- (f) Goal 17.2.1 (Public Facilities), Policies 17.2.1.2 and 17.2.1.4.
- (g) Goal 8.2.1 (Water Resources)
- (h) Goal 9.3.1 (Beach Access)
- (i) Goal 17.1.1 (Infilling)

B. Recommended remedial action. This inconsistency may be remedied by taking the following action:

1. Revise the adopted plan to include specific, measurable objectives and policies, supported by adequate data and analysis, that are consistent with the above-referenced goals and policies of the Northeast Florida Regional Planning Council.

CONCLUSIONS

1. The plan is not consistent with the Northeast Florida Comprehensive Regional Policy Plan.
2. The plan is not consistent with the State Comprehensive Plan.
3. The plan is not consistent with Chapter 9J-5, F.A.C.
4. The plan is not consistent with the requirements of Section 163.3177 and 163.3178, Florida Statutes.
5. The plan is not "in compliance," as defined in Section 163.3184(1)(b), Florida Statutes.
6. In order to bring the plan into compliance, the County may complete the recommended remedial actions described above or adopted other remedial actions that eliminate the inconsistencies.

Executed this 21 day of March, 1991, at Tallahassee, Florida.

Robert G. Nave

Robert G. Nave
Division Director
Division of Resource Planning
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Northeast Florida Regional Planning Council

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June 9, 1993

Mr. L. Douglas Jones, Director
Nassau County Planning Department
2290 South 8th Street
Fernandina Beach, FL 32034

Re: Nassau County Stipulated Settlement Agreement

Dear Mr. Jones:

I received a call today from Kathy O. Kendall requesting five copies of the Nassau County Stipulated Settlement Agreement, Exhibit B. To ensure that Exhibit B correctly reflects the wishes of the Board of County Commissioners, I am forwarding six copies of the plan herewith for your review and approval. Upon satisfying yourself that the Exhibit B includes all the wording as approved by the BCC, please forward five copies on to Ms. Kendall at DCA.

Sincerely,

Rudy Marchese
Chief, Local Planning
and Technical Assistance

Attachments

RM/bb



NASSAU COUNTY

EXHIBIT B

These are the remedial actions necessary to bring the Nassau County comprehensive plan into compliance with the requirements of Chapter 163, Part II, F.S. and Chapter 9J-5, F.A.C. The text presented below states the DCA objection for each issue followed by the County's proposed response to resolve the stated objection.

Words stricken through are deletions from the existing text. Words underlined are additions to the existing text. The Roman numerals match the issues identified in the Statement of Intent for Nassau County.

I. CONCURRENCY MANAGEMENT

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. The Procedures and Guidelines for a Concurrency Management System fail to include solid waste as a component of the concurrency management system; fail to include solid waste in the definition for infrastructure; and fail to provide infrastructure criteria for concurrency evaluations as they relate to solid waste. Rule 9J-5.0055(1), F.A.C.

Response

The third paragraph, under Introduction, page 1, shall be revised to read:

The Concurrency Management System is designed to measure the potential impact of any development permit application upon the established minimum acceptable levels of service (LOS) and shall control the issuance of development orders/permits dependent upon the ability of the infrastructure (potable water, sanitary sewer, drainage, solid waste disposal, roads and recreational facilities) to support the proposed development.

Definition "(h) Infrastructure" on page 3 shall be revised to read:

- (h) "Infrastructure" includes potable water, sanitary sewer, drainage, solid waste disposal, roads and recreational facilities.

Section "B. Criteria for Concurrency Evaluation" shall be expanded to include a new paragraph 5, page 6 to read:

5. Solid Waste Disposal:

The adequacy of landfill facilities to support concurrency for solid waste generated by the proposed development shall be calculated by determining the demand to be generated by the development based upon adopted LOS, adding this demand to current in-place and already permitted development and finally subtracting this total demand from "space available" at the landfill.

"Recreation Facilities and Open Space:" originally numbered paragraph 5 is renumbered to paragraph 6.

2. In determining the impact on traffic level of service (LOS), the Plan addresses only the impact of development on the nearest point of ingress or egress onto the roadway system, rather than all impacted roadways. (Rules 9J-5.005(3), and 9J-5.007 (2)(b), F.A.C.

Response

Paragraph 1.c., page 5 shall be revised to read:

- c. The impact of traffic generated by a development on local roads shall be evaluated for its impact on the nearest point of ingress/egress to a road all roadways designated as "the system" in the Nassau County Comprehensive Plan.
3. Section B, Criteria for Concurrency Evaluation, does not consider demand from previously committed developments which have been approved prior to the requirement to meet concurrency, but which have not yet impacted facilities although projected to do so. Rule 9J-5.0055(2), F.A.C.

Response

Each infrastructure item under "Section B Criteria for Concurrency Evaluation" shall be expanded as follows to include approved but not yet impacting facilities:

Page 5.

(1.) Traffic Circulation (Roads):

Subparagraph e. shall be added as follows:

- e. The impact of traffic generated by a proposed development on the LOS of the road network shall be calculated by first establishing the existing facility LOS based upon current demand and projected demand imposed by all already approved and issued "Certificates of

Concurrency", and second, adding to this existing and projected demand the additional demand on road facilities that will be generated by the proposed development under review.

(2.) Sanitary Sewer:

Already adopted Subparagraph 2.a. addresses previously committed infrastructure demand. Page 6.

(3.) Potable Water:

The reference providing for consideration of in-place or already approved demand is in error and will be corrected as follows:

- a. The impact of the proposed development on available public/private centralized potable water facilities shall be calculated in a manner as described in 2-1- 2.a. for sanitary sewer concurrency determination.

(4.) Drainage Facilities:

Subparagraph 4.b. shall be added to read:

- b. The impact of a proposed development on area drainage shall be evaluated based upon both in-place development and those developments already approved but not yet fully in-place and contributing to the drainage pattern.

(5.) Solid Waste Disposal:

The added paragraph 5 shown below addresses consideration of impact of earlier development approvals.

The adequacy of landfill facilities to support concurrency for solid waste generated by the proposed development shall be calculated by determining the demand to be generated by the development based upon adopted LOS, adding this demand to current in-place and already permitted development and finally subtracting this total demand from "space available" at the landfill.

(6.) Recreation Facilities and Open Space:

The already adopted Subparagraph b. addresses the impact of in-place and not-yet-impacting facilities on Recreation and Open Space concurrency.

4. The Concurrency Management System states, on page 8, that rather than denying a development proposal which would cause a deficiency in the adopted LOS standard, the County may defer the proposal, or process the application as a conditional development permit subject to later review and modification, but does not clarify that a deferred proposal or conditional development permit subject to later review and modification must meet the concurrency provisions of the Plan before a final development order is issued. Rule 9J-5.0055(2), F.A.C.

Response

The following statement shall be added to paragraph "B. Finding of Deficiency":

B. Finding of Deficiency

If the concurrency evaluation test finds that a proposed development will cause a deficiency on any public facility or service for which a LOS has been established, the County reserves the authority to take any of the following actions:

- deny or defer the development proposal;
- cause the development request to be modified to achieve consistency with the County's minimum LOS;
or
- process the application as a conditional development permit subject to later review and modification.

A deferred proposal or conditional permit must meet the concurrency provisions of the Plan before a final development order will be issued.

5. The Concurrency Management System includes the following exceptions to concurrency:
- (a) Construction of public transportation, potable water, sanitary sewer, solid waste, drainage, roads, and/or recreational facilities which serve the general public or any development determined by the Board of County Commissioners as providing for public health, safety or welfare;
 - (b) Accessory structures to established principal land uses, provided the principal land use is in place and functional.
 - (c) Any vested development as determined by the Board of County Commissioners on advice of legal counsel.

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These exceptions are not consistent with the requirements of Rules 9J-5.005 and 9J-5.0055, F.A.C.

Response

Paragraph "C. Exceptions" is revised to read as follows:

C. Exceptions

The following development activities are exempt from the provisions of this Ordinance:

- 1.---Construction of public transportation; potable water; sanitary sewer; solid waste; drainage; roads; and/or recreational facilities which serve the general public or any development determined by the Board of County Commissioners as providing for public health; safety or welfare;
 - 2.---Accessory structures to established principal land uses provided the principal land use in place and functional; and
 3. Any on-going Development of Regional Impact or other vested development as determined by the Board of County Commissioners on advice of legal counsel to be consistent with the provisions stated in Section 163.3167(8), F.S., or with the principles of common law equitable estoppel. Such on-going development must be subject to challenge pursuant to Section 163.3215, F.S.
6. The Nassau County Capacity Determination Form which is included as part of the Concurrency Management System does not address drainage and recreation services. Rule 9J-5.0055(5), F.A.C.

Response

The Capacity Determination form will be expanded to include an assessment of Drainage and of Recreation and Open Space as follows:

Drainage	Acceptable _____	Service Provider _____
	Unacceptable _____	Area _____
	Not Applicable _____	
Recreation & Open Space	Acceptable _____	Service Provider _____
	Unacceptable _____	Area _____
	Not Applicable _____	

7. Policy 1.05.03 of the Future Land Use Element concerning hurricane evacuation as a requirement for concurrency has

not been included in the County's Concurrency Management System. Rules 9J-5.0055(1) and 9J-5.005(5)(a), F.A.C.

Response

Evacuation Clearance Time is not a concurrency requirement of Rule 9J-5.0055, F.A.C. Policy 1.05.03 has been deleted from the Future Land Use Policies.

II. FUTURE LAND USE ELEMENT

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. For those areas designated as Agriculture/Rural Residential on the Future Land Use Map, the Plan allows densities at 1 dwelling unit per 20 acres for parcels 320 acres or more. For parcels of 320 acres or less, the Plan allows the following, so long as total development in both "Agriculture" and "Rural Residential" these areas does not in total exceed 4,471 units, by the year 2005. (Table A-12)

TABLE A-12

Total Projected Number of Dwelling Units and Number of Acres Required: Year 2005

Land Use Designation	Maximum Density	Projected Number of Dwelling Units	Number Acres Required
<u>Agriculture:</u>			
I <u>320 acres or more</u>	1 unit/20 acres	610	12,240 2,200
II <u>Less than 320 acres</u>	1 unit/acre	1,837	18,370 1,837
III	1 unit/5 acres	2,022	10,110
<u>Residential:</u>			
Rural	1 unit/acre	2,022	10,110 ?
Low	up to 2 ^{units} acres /acre	15,643	7,822
Medium	1-5 units/acre	4,118	1,373
High	above 5 <u>up to 12</u> units/acre	1,824	364
TOTAL:		26,056	50,279 43,181

(a) Parcels 320 acres or less may be developed at one unit per acre.

- (b) Single lots of record 20 acres or less may be developed at the density provided for on current zoning maps.
- (c) Lots under individual ownership that have been held by the current owner for a minimum of five years and upon which the Homestead Exemption is current may be sold at a maximum of two 1-acre parcels per year subject to subdivision regulations.
- (d) Other subdivisions which "enhance the potential for central/regional water sewer systems, contribute to mixed use communities, and cluster development to minimize the impact on agriculture."
- * (e) The allocation of densities throughout the County has been based upon the Parcelization Map which is adopted as part of the Future Land Use Map Series.

The above provisions (a through d) fail to protect agricultural lands and operations, encourage low-density, single use urban sprawl, and are not consistent with the densities used in the data and analysis to determine acreage needs or to project future land use needs. Rules 9J-5.005(5)(a), 9J-5.006(3)(b)7., 9J-5.006(3)(c)2., 5., 7., F.A.C.

Response

Following a negotiation session with DCA staff, the County agrees to modify part 1. of the policy as shown above to combine Rural Residential with Agriculture land use when determining the total of units permitted to be developed by the year 2005. This agreement will revise the wording in 1. above and will include (e) with (a) through (d) remaining unchanged.

- 2. Policy 1.04A.01 establishes agricultural land as "sending" areas for transfer of development rights (TDR). Policy 104A.10 states that the zoning code will specify the locations for TDR "sending" and "receiving" districts. The Plan does not identify the guidelines and criteria that will be used for transfer of development rights. Rules 9J-5.005(2)(a) and 9J-5.005(6), F.A.C.

* Response
No TDRs

The County shall delete the reference of TDR sending areas from Policy 1.04A.01 and 10.04A.10.

- 3. A density or intensity of use standard has not been included for the recreation, public buildings and grounds, and public facilities land use categories. In addition, although lot coverage has been specified for commercial and industrial categories, it is inadequate as a measure of intensity. Rules 9J-5.005(2)(a) and 9J-5.006(3)(c)7., F.A.C.

Response

A density/intensity of use standard shall be provided for land uses as follows:

(For Agricultural and Residential land use controls, see proposed amendments to Policy 1.02.05 presented on pages 25 through 27.)

C. Commercial

The intensity of commercial land use is controlled by the Zoning Code (Land Development Regulation) which specifies Floor Area Ratios, parking area requirements for various types of commercial activity, height restrictions, signage, etc. Commercial land use shall be developed at an intensity of use that permits no more than 80 percent of the commercial site be covered by construction (including parking surfaces):

Commercial land use includes offices, retail, lodging, restaurants, services, commercial parks, shopping centers, or other similar business activities. Construction and demolition debris disposal facilities as well as Public/Quasi Public uses related to "Public Facilities and Grounds" land uses and recreational uses are allowed within the commercial land use category by "Special Exception" so long as factors such as buffering, traffic access and circulation are considered when granting the Special Exception. The intensity of commercial use, as measured by land coverage, shall not exceed 70 percent of the parcel. The maximum height should not exceed 40 feet.

D. Industrial

Industrial land use shall be developed at an intensity of use that permits no more than 85 percent of the industrial site be covered by construction (including parking surfaces):

The intensity of industrial use, as measured by land coverage shall not exceed 80 percent of the parcel. The maximum height of development may not exceed 45 feet.

Commercial mining operations that impact an area of 5 acres or more shall be permitted only under Industrial land use. These operations, including oil, gas, mineral, rock and sand extraction, shall be regulated by Policies 1.04A.09, a.04A.09A and 1.04A.09B.

E. Recreational

Impervious surface land coverage of recreation land use shall not exceed 50 percent for active recreational development; 10 percent for passive recreational development.

F. Public Building and Grounds

Lands designated in this category of use are intended for the construction of include a broad variety of public and quasi-public activities such as hospitals, schools, churches, governmental buildings, etc.

The intensity of development in this land use category, as measured by land coverage, shall not exceed 65 percent. The maximum height shall not exceed 60 feet.

G. Other Public Facilities

Land designated as Other Public Facilities are intended for use as potable water, sanitary sewer treatment facilities, landfill, stormwater/drainage control structures, etc.

The siting of public facilities shall be controlled by Zoning Regulations which include public participation in the permitting process. Public facilities construction, as measured by land coverage, shall not exceed 90 percent of impervious surface with height restrictions specified in implementing LDRs.

4. Policies 1.02.05H and 1.02.05I do not specify the types of uses that will be permitted within the Conservation areas. In addition, the policy is conditional because it states that conservation areas "may" be placed in a limited development overlay or preservation overlay. These overlays have not been depicted on the Future Land Use Map. For those areas that will not be placed within a limited development or preservation overlay, the density or intensity standards have not been identified. Rules 9J-5.006(3)(c)7. and 9J-5.006(4)(a)6., F.A.C.

Response

Policy 1.02.05, H and I, 4 and 4 shall be expanded as follows:

H. Conservation

The Conservation Land Use shall designate land areas of ecological or historical value within the County on which development must proceed with restrictions. These are areas which may be altered by development and

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so must be protected. Conservation lands under private ownership may shall be placed under a Limited Development Overlay. Conservation lands under public ownership may shall be placed under a Preservation Overlay.

I. Overlays

3. Limited Development

The Limited Development overlay may shall be placed on conservation lands in public or private ownership. Development of these lands must take place only in such a manner that will ensure the long term function of natural hydrologic or ecological systems.

Conservation lands placed under the Limited Development Overlay may not be developed at a density greater than 1 residential dwelling unit per five acres with all permitted development clustered on the upland portion of the site or on that portion of the site which will be least environmentally impacted by construction/development. Where unless underlying land use as shown on the Future Land Use Map designates a lesser density, in which case the density of the underlying land use shall prevail. Passive recreation and silviculture, also, are permitted uses in the Limited Development Overlay area.

If there is indication that wetland is present on a proposed development site, the developer shall be required to request a wetland determination from the St. Johns River Water Management District.

Areas of Nassau County designated as "Conservation" land use to be included under a Limited Development Overlay, include all areas shown as wetlands on the Future Land Use Map series except for Fort Clinch State Park and Aquatic Preserve, Nassau River-St. Johns River Marshes Aquatic Preserve and Cary State Forest. Historic properties may also be included in the category of Limited Development.

4. Preservation

This overlay will be placed on all publicly owned lands that are of significant ecological or historical value. Preservation lands include wildlife and/or vegetative habitats that are desig-

nated as endangered or threatened. No new development or expansion of existing development shall be permitted within areas designated as preservation. The Preservation Overlay may be placed only on lands that are publicly owned:

Lands designated as "Preservation" include Fort Clinch State Park and Aquatic Preserve, Nassau River-St. Johns River Marshes Aquatic Preserve, Cary State Forest and all islands that consist of at least 85 percent wetlands/marsh that are adjacent to the Intracoastal Waterway, Amelia River, Bells River, Jolly River, and Lanceford Creek.

5. The Planned Unit Development and Mixed Use Overlay categories identified under Policy 1.02.05I do not include the types of uses and percentages of each use allowed within the overlays, or the densities for all land use categories in the mix and specific density bonuses. In addition, guidelines have not been included to protect agricultural uses from the impacts of these developments. Rules 9J-5.005(2)(a), 9J-5.005(6), 9J-5.006(3)(c)2., 9J-5.006(3)(c)5., and 9J-5.006(3)(c)7., F.A.C.

Response

Policy 1.02.05I shall be expanded as follows:

I. Overlays

1. Planned Unit Development

Planned Development may be applied as an optional overlay district over any underlying land use when application is made by the developer under the Zoning Code (Land Development Regulations) and when the County Planning Board approves such application as being an improvement in land use utilization over that permitted by Zoning Code categories. Development under the PUD overlay shall not increase the total projected number of dwelling units shown on Table A-12 as being built in Nassau County through the year 2005.

The PUD land use overlay will not require a Future Land Use Element amendment so long as the proposed use does not increase the intensity * and density of use or and change the category of land uses specified on the Future Land Use Map for the underlying land use. or qualifies for additional density bonuses to the underlying land use.

* Intensity of use is based upon the mix of land use activities requiring no greater

*Correction
2/2/04*

demand for traffic, water, sewer and solid waste than the designated underlying land use.

The PUD overlay can allow mixed uses and can disregard traditional zoning requirements, such as set back line and lot coverage requirements in order to achieve better site design. The PUD designation allows the developer and County to negotiate elements of site designated density in order to achieve individual goals. The PUD overlay may not increase the density and intensity of use specified for the Limited Development Overlay.

The PUD primarily is residential in nature with the following acceptable mix of uses:

Residential -- no less than 65 percent
Commercial -- no greater than 20 percent
Recreational -- no greater than 50 percent

Residential, commercial and recreational land uses within the PUD shall carry the same intensity/density of use as defined in Policy 1.02.05, B. (Residential), C. (Commercial), and E. (Recreational).

The PUD overlay is granted upon application of the developer; hence, it is not a designation that can be shown in advance on the Future Land Use Map.

2. Mixed Use Development (Floating District

Sections within the County, upon application, may be designated for Mixed-Use Development. This type of development differs from the PUD in that components to the Mixed-Use development may be sponsored at various items by owners of individual properties within the designated mixed-use district. Unlike the PUD, Mixed-Use Development must meet the requirements of the County Zoning Code and Subdivision Regulations. Development within the mixed-use district is controlled further by performance standards which ensure compatibility among land uses and a numerical cap which limits the intensity/density of land use within the district (Table A-12).

Mixed Use Districts shall cover no more than eighty (80) acres, are primarily commercial or industrial in nature with the following acceptable mix of uses:

Commercial Mixed Use

Residential 35 to 45 percent
Commercial 55 to 65 percent
Industrial Mixed Use

Commercial 36 to 45 percent
Industrial 55 to 65 percent

Residential, commercial, and industrial land uses within the Mixed Use Overlay shall carry the same intensity/density of use as defined in Policy 1.02.05 B, C and D.

Mixed use districts shall require a minimum of sixty (60) percent residential land use. Commercial and industrial land uses as well as recreational land use shall be regulated by performance standards that ensure compatibility.

Like the PUD, Mixed-Use Districts are granted upon application by land owners within the proposed district and so cannot be shown in advance on the Future Land Use Map. Also like the PUD, the Mixed-Use District will not require a land use amendment so long as the proposed uses do not increase the overall density or and intensity* of use or change the category of land uses shown for the aggregate property underlying land uses on the Future Land Use Map proposed for mixed use or encroach upon "Agricultural" land use or the Limited Development Overlay.

* See definition of intensity of use under PUD.

III. PROTECTION OF NATURAL RESOURCES

- A. Inconsistent Provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:
1. Policies 1.02.05, 1.04A.02, 1.04A.03 and 1.09.03 of the Future Land Use Element, 5.11.01 of the Coastal Element, 6.02.06 of the Conservation Element, and 7.03.01 of the Recreation and Open Space Element, are not adequate to protect wetlands. The policies and Future Land Use Map do not include adequate and consistent guidelines for the development and use of wetland areas, and fail to protect all wetland resources.

Response

1. Policy 1.02.05 only addresses wetlands as they are identified as conservation. Policies 1.02.05, 1.04A.02, 1.04A.03, and 1.09.03 of the Future Land Use Element shall be expanded as follows:

1.02.05 Where land uses on the Future Land Use Map (Figure A-8) overlay "Conservation" "Wetlands" or "Floodplains" areas shown on Figures F-1, F-2, and F-3, the limitations and controlling factors for development in these areas as described in Policies 1.01.07, 1.04A.02, 6.02.02, and 6.03.02 prevail.

1.04A.02 The County shall restrict development in conservation areas to the maximum extent possible short of a "taking". Development in conservation (Limited Development) will be permitted that must be permitted with proceed at a density no greater than 1 unit per 5 acres with permitted density clustered on the upland portion of the parcel or on that part of the parcel that will least environmentally be affected by construction/development. Where the Future Land Use Map identifies an unless underlying land use requires of less density, in such cases; density of conservation areas will satisfy underlying land use density the density of the underlying land use will prevail. Development will be prohibited in areas designated as Conservation - Preservation. (Policy 1.02.05.H, I.4).

A 50-foot buffer of natural vegetation native to the site as required under Chapter 373 and 403; F-5; implementing regulations and permits granted thereunder; shall be provided where wetlands, named rivers or lakes occur. (Does not include accessory uses.)

Policy 1.04A.03A shall be revised to read as follows:

1.04A.03A Silviculture activities shall follow the best management practices outlined in the publications titled Silviculture Best Management Practices Manual (Revised May 1990, Florida Department of Agriculture and Consumer Services, Division of Forestry) and Management Guidelines for Forested Wetlands in Florida (December 1988, Florida Department of Agriculture and Consumer Services, Division of Forestry and Florida Forestry Association except that the Primary Streamside Management Zone criteria shall be applied with 75 feet of perennial streams greater than 30 feet in width.

1.04A.03B In order to maintain the overall ecological integrity of the wetlands community, select cuts, small clear cuts or other irregularly shaped harvesting techniques will be allowed provided:

- a. viable populations of the endangered, threatened and species of special concern found onsite can be maintained onsite;

- b. harvests are planned to provide for varying age and height diversity, supporting a variety of vegetative successional stages within the overall wetland ecosystem;
- c. the natural hydrology and hydroperiod of wetlands are maintained and state water quality standards are not violated;
- d. there is no conversion of wetland system to upland systems; and
- e. there is no conversion to other wetland systems except for the beneficial alteration of degraded wetlands to wetlands compatible with the type, form and function of adjacent wetlands.

1.04A.03C The silviculture policies of this plan will be re-evaluated when the Florida Department of Agriculture and Consumer Services prepare new guidelines and best management practices and this plan will be amended consistent with these new provisions.

1.09.03 Areas identified on the FLUM map series as wetlands are generally defined. A landowner may provide more detailed data to the County to clarify jurisdictional wetland areas. Those land areas determined by the Board of County Commissioners with the advice of the St. Johns River Water Management District that are determined not to be jurisdictional wetlands will be allowed to be developed at the adjacent land use densities and intensities, as determined by the County:

Policy 5.11.01 of the Coastal Element, 6.02.06 of the Conservation Element and 7.03.01 of the Recreation and Open Space Element shall be revised as follows:

5.11.01 The County shall adopt land development regulations which limit specific and cumulative impacts of development or redevelopment on coastal resources. Specifically these LDRs shall:

- Limit density in designated wetlands to 1 unit per 2 5 acres with permitted density clustered on that portion of the site least impacted by construction activities.
- Where development in environmentally sensitive lands must be permitted to avoid the "taking" issue, development must proceed under the PUD district concept with development clustered in the least ecologically sensitive portion of the parcel.

- ✓
- A 50-foot buffer of vegetation native to the area will be required between the developed area and wetlands.

6.02.06A Silviculture activities shall follow the best management practices outlined in the publications titled Silviculture Best Management Practices Manual (Revised May 1990, Florida Department of Agriculture and Consumer Services, Division of Forestry) and Management Guidelines for Forested Wetlands in Florida (December 1988, Florida Department of Agriculture and Consumer Services, Division of Forestry and Florida Forestry Association except that the Primary Streamside Management Zone criteria shall be applied within 75 feet of perennial streams greater than 30 feet in width.

6.02.06B In order to maintain the overall ecological integrity of the wetlands community, select cuts, small clear cuts or other irregularly shaped harvesting techniques will be allowed provided:

- a. viable populations of the endangered, threatened and species of special concern found onsite can be maintained onsite;
- b. harvests are planned to provide for varying age and height diversity, supporting a variety of vegetative successional stages within the overall wetland ecosystem;
- c. the natural hydrology and hydroperiod of wetlands are maintained and state water quality standards are not violated;
- d. there is no conversion to other wetland systems except for the beneficial alteration of degraded wetlands to wetlands compatible with the type, form and function of adjacent wetlands.

6.02.06C The silviculture policies of this plan will be re-evaluated when the Florida Department of Agriculture and Consumer Services prepare new guidelines and best management practices and this plan will be amended consistent with these new provisions.

7.03.01 The County shall adopt concurrency management and Land Development Regulations that include specific open space definitions and limited development standards for the provision and protection of open space. Conservation areas and including wetlands on the FLUM that are under public ownership shall be designated as preservation open space, with development permitted only to enhance the recreational capacity of the area. Conversion of open space

to other "active" recreational uses shall be subject to DER and other responsible agencies' approvals for dredge and fill.

Spatial buffering between incompatible land uses is also considered open space.

Response to additional DCA comments regarding proposed Exhibit B.

- (1.) Policy 1.09.03 provides for Commission determination of wetlands upon advise of the St. Johns River Water Management District. Figure F-2, Wetlands, will contain a disclaimer stating that the map does not include all isolated jurisdictional wetlands and state further that all areas suspected of being wetlands will be subject to verification before a building permit or other development order may be issued.
 - (2.) The map series in the Conservation Element now includes a "Wetlands Map" identified as F-2. The maps F-2, F-3 and F-4 in the original series are now renumbered F-3, F-4 and F-5.
 - (3.) Revised Policy 1.02.05 has been corrected to reference Figures F-1, F-2 and F-3 (Conservation, Wetlands and Floodplains.)
 - ✓ (4.) All maps and tables in each element of the Comprehensive Plan are adopted through the adoption ordinance -- a copy of which is provided DCA upon adoption of the amendment.
 - (5.) All areas in Nassau County covered by Limited Development or Preservation Overlays are fully described in the adopted text.
 - (6.) See "inconsistent provisions" #4 regarding changes to Policy 1.01.07.
2. Policy 1.04A.06 of the Future Land Use Element does not adequately protect groundwater and wellfields. The Policy does not indicate what "non-polluting land uses shall be permitted" within the 200 foot radius around well heads.

*Not shown
conservation &
wetland maps not
included*

Response

Policy 1.04A.06 of the Future Land use Element, Policy 4.05A.03 of the Public Facilities Element, and Policy 6.01.06 of the Conservation Element shall be revised to read as follows:

The County shall establish wellhead protection zones to prevent aquifer contamination within the wellhead cone of influence. Upon plan adoption, the County shall designate an interim protection area of 400 feet in radius as the well field protection zone for each water well that serves a community water system which has at least fifteen (15) service connections or regularly serves at least twenty-five (25) of the same persons over six (6) months per year, until cones of influence can be determined. The County will revise this policy within six months of the St. Johns Water Management District mapping the cones of influence. Within the zone of protection, the following activities shall be prohibited:

- 1) landfills;
- 2) facilities for bulk storage, handling or processing of materials on the Florida Substance List;
- 3) activities that acquire the storage, use or transportation of restricted substances, agricultural chemicals, petroleum products, hazardous toxic waste, medical waste, etc. Gasoline storage tanks associated with retail use which meet the standards of Rules 16-761, 17-762, and 17-767, F.A.C., and Chapter 376, F.S., concerning petroleum storage tanks may be permitted in this zone;
- 4) feedlots or other commercial animal facilities;
- 5) wastewater treatment plants, percolation ponds, and similar facilities;
- 6) mines; and
- 7) excavation of waterways or drainage facilities which intersect the water table.

For community water system wells, as defined above, the first 200 feet within the zone of protection will serve as a zone of exclusion. Within the 200-foot zone of exclusion, no activities may occur except existing residential uses, uses functionally related to the water supply system, open space, parks and playgrounds. No parking area; structures, or other impervious surfaces, other than those surfaces that are accessory to residential uses, will be allowed within this zone except for playing court, open-air shelters, and other similar recreation facilities. An exemption shall be allowed for one single family dwelling unit per parcel or lot was that created on or before June 1, 1993.

(9J-5.006(3)(c)6.).

3. Policy 1.04A.09 of the Future Land use Element and Policies 6.09.01, 6.09.02 and 6.09.03 of the Conservation element concerning mining activities, are not supported by data and analysis, the Future Land Use Map, or the land use categories specified in Policy 1.02.05. The Plan does not indicate where mining activities would be allowed, and how these activities would be compatible with natural resources.

Response

Policy 1.04A.09 of the Future Land Use Element shall be expanded to read as follows with added policies 1.04A.09A, 1.04A.09B and 1.04A.09C:

1.04A.09 The County shall regulate mining operations as follows. Mining shall be permitted only in Agricultural (up to 5 acres) and Industrial Land Use (5 acres or more). No mining operations including petroleum, natural gas, and liquid natural gas drilling shall be permitted within 100 feet of a residential dwelling. No Mining operations greater than impact- ing 10 5 or more acres of surface area will be regulated through LDRs to restrict the extent of borrow pits and dredge and fill activities to within 200 feet of property lines or wetland boundaries and to a depth not to exceed the top layer of overlying strata protecting potable water aquifers.

1.04A.09A Impacts from mining operations within the County's forested wetlands shall be minimized, through avoidance of disruption of occupied endangered or threatened species habitat or through requiring restoration of similar habitat when mining is approved in forested wetland.

Mining operations and restoration of mined areas must meet the standards of Rule 16C-16.0051 FAC. For mining in wetlands these standards include 16C-16.0051 (5), (6), (7), (9) and (10).

1.04A.09B The County, within its ability to do under state law, shall prohibit any mining operations which would negatively impact quality and quantity of groundwater supplies of existing users.

1.04A.09C Nassau County shall adopt LDRs that 1) define buffer zones around mining areas and resources which cannot be restored and restrict mining activities to land outside those buffers; 2) require identification and protection of archaeological properties on sites proposed for mining; 3) restrict the use of land that contains economically recoverable mineral deposits and lies outside environmentally sensitive areas to activi-

ties that will not preclude later extraction of those minerals.

Policy 6.09.1 of the Conservation Element shall be revised as follows. Policies 6.09.4, 4A, 4B and 6.09.5 shall be added to clarify further the issue of protecting mining resources and adjacent properties.

6.09.1 Mining operations within the County's forested wetlands shall be minimized and subject to approval from environmental permitting agencies and local government:

Impacts from mining operations within the County's forested wetlands shall be minimized, through avoidance of disruption of occupied endangered or threatened species habitat or through requiring restoration of similar habitat when mining is approved in forested wetland. Mining operations and restoration of mined areas must meet the standards of Rule 16C-16.0051 FAC. For mining in wetlands, these standards include 16C-16.0051 (5), (6), (7), (9) and (10). Any mining approval by the County will be subject to approval from environmental permitting agencies and local government.

6.09.4 The County shall regulate mining operations as follows. Mining shall be permitted only in Agricultural (up to 5 acres) and Industrial Land Use. No mining operations including petroleum, natural gas, and liquid natural gas drilling shall be permitted within 100 feet of a residential dwelling. Mining operations impacting 5 or more acres of surface area will be regulated through LDRs to restrict the extent of borrow pits and dredge and fill activities to within 200 feet of property lines or wetland boundaries and to a depth not to exceed the top layer of overlying strata protecting potable water aquifers.

6.09.4A Impacts from mining operations within the County's forested wetlands shall be minimized, through avoidance of disruption of occupied endangered or threatened species habitat or through requiring restoration of similar habitat when mining is approved in forested wetland.

Mining operations and restoration of mined areas must meet the standards of Rule 16C-16.0051 FAC. For mining in wetlands, these standards include 16C-16.0051 (5), (6), (7), (9) and (10).

6.09.4B The County, within its ability to do under state law, shall prohibit any mining operations which would negatively impact the quality and quantity of groundwater supplies of existing users.

6.09.5 Nassau County shall adopt LDRs that 1) define buffer zones around mining areas and resources which cannot be restored and restrict mining activities to land outside those buffers; 2) require identification and protection of archaeological properties on sites proposed for mining; 3) restrict the use of land that contains economically recoverable mineral deposits and lies outside environmentally sensitive areas to activities that will not preclude later extraction of those minerals.

Future Land Use Policy 1.02.05D shall be expanded to read as follows:

Commercial mining operations that impact an area of 5 acres or more shall be permitted only under Industrial land use. These operations, including oil, gas, mineral, rock and sand extraction shall be regulated by Policies 1.04A.09, 1.04A.09A and 1.04A.09B.

4. The Plan does not provide specific protection for floodplains. Although the Plan includes Policy 1.01.06 (page AA-1) for post-development run-off conditions and Policy 1.01.07 (page AA-2) concerning floor elevations, the Plan does not include policies to protect the function of floodplains.

Future Land Use Policy 1.01.07 shall be expanded to read as follows:

- 1.01.07 Nassau County shall include controls in its Land Development Regulations based upon the latest version of the Flood Insurance Rate Maps and model "Flood Damage Prevention Ordinance" promulgated by FEMA to establish the location of the 100-year floodplain and floodprone areas in Nassau County. The LDRs; then; shall require new construction in these areas to meet FEMA regulations regarding the height of floor level above flood level and County regulations of density based upon the Comprehensive Plan and Future Land Use Map:

The County will continue to enforce its Ordinance No. 84-13 controlling development in flood prone areas. These regulations shall require development in the FEMA 100-year flood hazard zone to be constructed so that the lowest floor elevation is at least one foot above the base flood elevation as established by the FEMA Flood Insurance Rate Maps.

Dredging and filling of lands within floodplains shall be controlled so as to preserve the natural functions of the 100-year floodplain. All proposed development shall be located on the non-floodplain portions of the site, or, for proposed development areas that lie entirely within the

100-year floodplain, all structures shall be required to be elevated on pilings.

In addition, the following criteria will apply to development in the 100-year floodplain:

- (a) no hazardous materials or waste shall be stored within the 100-year floodplain;
- (b) clearing of native vegetation will be minimized in the 100-year floodplain by establishing the following open space ratios for the land uses and open-space ratios permitted below:

<u>Conservation Land use</u>	
<u>Limited Development</u>	<u>80% open space</u>
<u>Preservation</u>	<u>100% open space</u>
<u>Residential Land Use</u>	<u>60% open space</u>
<u>Commercial Land Use</u>	<u>60% open space</u>

- (c) Use of septic tanks in flood prone areas will be restricted as specified by the County Department of Health and all such sewage disposal systems shall be required to connect to central sewage systems when system collection lines are within 250 feet of subject property.
- (d) Any development within a flood prone area will maintain the natural topography and hydrology of the development site.

5. The Plan does not include adequate policies to protect and conserve the natural functions of fisheries, rivers, bays, lakes, harbors, wetlands and wildlife habitat. For example, although the data and analysis on page F-22 indicates the need to protect the longleaf flatwoods and coastal maritime forests, especially in the St. Mary's River Basin, specific provisions have not been included to protect these areas of native vegetative communities and endangered wildlife habitat.

Response

New Future Land Use Element Policy 1.04A.09A and Conservation Element Policies 6.05.02A and 6.09.01 as well as adopted Coastal Management Element Policies 5.09.07, 5.09.08, 5.13.01, 5.13.05, 5.13.06 and 5.13.07, shall protect marine and wildlife habitat.

6.09.01 Impacts from mining operations within the County's forested wetlands shall be minimized, through avoidance of disruption of occupied endangered or threatened species habitat or through requiring restoration of similar habitat when mining is approved in forested wet-

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land. Mining operations and restoration of mined areas must meet the standards of Rule 16C-16.0051, FAC. For mining in wetlands, these standards include 16C-16.0051 (5), (6), (7), (9) and (10). Any mining approval by the County will be subject to approval from environmental permitting agencies and local government.

1.04A.09A Impacts from mining operations within the County's forested wetlands shall be minimized, through avoidance of disruption of occupied endangered or threatened species habitat or through requiring restoration of similar habitat when mining is approved in forested wetland.

Mining operations and restoration of mined areas must meet the standards of Rule 16C-16.0051, FAC. For mining in wetlands, these standards include 16C-16.0051 (5), (6), (7), (9) and (10).

6.05.02A The County shall strive to acquire management agreements for flatwoods and forests of the St. Marys River Basin that would favor the continued management of the timber resources on a sustainable, long term basis applying Best Management Practices as described in the Florida Division of Forestry publications: Silviculture Best Management Practices Manual, revised May 1990 and Management Guidelines for Forested Wetlands in Florida, August, 1987 and Policies 6.02.06A, 6.02.06B and 6.02.06C.

6. The Future Land Use Map does not adequately protect environmentally sensitive areas. For example, major marshes and swamps indicated in Figure F-4 of the Conservation element are designated for agriculture and silviculture use without measures to protect their natural function. The Future Land Use Map does not protect the longleaf flatwoods and coastal maritime forests identified on page F-22 of the data and analysis. Further, the Future Land Use Map designates medium density residential use in the Aquatic Preserve below the Town of Yulee, and commercial use in the Aquatic Preserve along SR A1A west of Amelia Island.

Response

Policies 1.04A.06, 4.05A.03, and 6.01.06 protect the environment from silviculture activities. Policies 6.09.01 and 1.04A.09A protect the environment from mining activities. In addition, the following statement shall be added to Future Land Use Element Policy 1.02.05:

Where land uses on the Future Land Use Map (Figure A-8) overlay "Conservation", "Wetland", or "Floodplains" areas shown on Figures F-1, F-2, and F-3, the limitations and controlling factors for development

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in these areas as described in Policies 1.01.07, 1.04A.02, 1.04A.03A, 6.02.02 and 6.03.02 prevail.

Policies 1.04A.02 and 1.04A.03A shall be added to further control activity in environmentally sensitive areas.

1.04A.02 The County shall restrict development in conservation areas to the maximum extent possible short of a "taking". Development in conservation (Limited Development) will be permitted that must be permitted with proceed at a density no greater than 1 unit per 5 acres with permitted density clustered on the upland portion of the parcel or on that part of the parcel that will least environmentally be affected by construction/development. Where the Future Land Use Map identifies an unless underlying land use requires of less density, in such cases; density of conservation areas will satisfy underlying land use density the density of the underlying land use will prevail. Development will be prohibited in areas designated as Conservation-Preservation. (Policy 1.02.05.H, I.4).

A 50-foot buffer of natural vegetation native to the site as required under Chapter 373 and 403, F.S.; implementing regulations and permits granted thereunder; shall be provided where wetlands occur.

Aquatic Preserve areas shall be designated as Preservation Overlay areas in Policy 1.02.05,I,4. Any development proposed in these areas will be deleted from the Future Land Use Map.

4. Preservation

This overlay will be placed on all publicly owned lands that are of significant ecological or historical value. Preservation lands include wildlife and/or vegetative habitats that are designated as endangered or threatened. No new development or expansion of existing development shall be permitted within areas designated as preservation. The Preservation Overlay may be placed only on lands that are publicly owned.

Lands designated as "Preservation" include Fort Clinch State Park and Aquatic Preserve, Nassau River-St. Johns River Marshes Aquatic Preserve, Cary State Forest and all islands that consist of at least 85 percent wetlands/marsh that are adjacent to the Intracoastal Waterway, Amelia River, Bells River, Jolly River, and Lanceford Creek.

IV. EFFICIENCY OF LAND USES

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. Objectives and policies have not been included in the Plan to ensure a separation of urban and rural land uses, a functional relationship among compatible land uses and between land uses and infrastructure, the protection and promotion of agricultural uses, and a restriction of urban densities to areas with adequate infrastructure. Further, the Future Land Use Map (FLUM) does not reflect such objectives and policies.

Response

1. The separation of urban and rural land uses are maintained in Future Land Use Element Policies. Policy 1.02.03 and Policy 1.02.05 revised as follows contain provisions for separation of urban and rural areas:

1.02.03 Permit future development to proceed only in accordance with land uses designated on the Future Land Use Map.

1.02.05 Establish the following criteria for land use development:
Land Development Regulations adopted to implement this Plan shall be based upon the land use standards described below and spatially displayed on the Future Land Use Map.

Designated land uses have the following ascending relationship in terms of density/intensity of land use:

Conservation
Agriculture
Recreational
Low Density Residential
Medium Density Residential
High Density Residential
Public Buildings and Grounds
Commercial
Other Public Facilities
Industrial

A. Agriculture

1. Agriculture
(AgricultureCrops/Pasture/Silviculture)

Agriculture land, in a parcel 320 acres or more, used primarily for the cultivation of silviculture, crops and or other

active agricultural uses. Agriculture designated land may be developed at a density not to exceed 1 unit per 20 acres. Agriculture land, in a parcel of 320 acres or less, may be developed as "Rural Residential" at a density not to exceed one unit per acre. (For the remainder of Policy 1.02.05, see page 6. Section 1.02.05A.2 and accompanying "Notes" remain unchanged.)

B. Residential

Residential land use category provides for a variety of land use densities and housing types. Residential land use permits single family detached (including mobile homes), single family attached, duplex, and multi-family housing. Parcels of land designated for residential land use are intended to be used predominately for housing and shall require buffering should be protected from intrusion of land uses that are incompatible with residential density of from 1 unit per acre to 12 units per acre.

Uses permitted in areas designated residential (low, medium or high) shall include residential uses at the applicable density; neighborhood and community commercial uses on a scale suited to the residential developments to be served; and community/public facilities approved pursuant to an exception or conditional use permit, such as water and wastewater facilities, electric power substation and transmission facilities, emergency medical, fire protection and police facilities, parks and schools.

Residential land use is divided into four three categories of density:

<u>Land Use Category</u>	<u>Mainland</u> _____
Rural Residential	Up to 1 BU per acre
Low Density	Up to 2 DUs per acre
Medium Density	Up to 5 DUs per acre
High Density	Up to 12 DUs per acre

Homogeneous residential developments of more than forty (40) acres with a density of less than 3 dwelling units per acre will not be permitted, except upon application approval as a PUD.

Residential development within a permitted DRI, PUD or otherwise established by an issued development order shall be limited to the number of dwelling units approved in the DRI or development order.

While there is a limit to the number of housing units that may be located in agricultural land uses, there is no limit placed upon development permitted in residential land use. This is to facilitate the maximum in-fill development that can be accomplished within residential land use. A density greater than two (2) dwelling units per acre must provide, at a minimum, a central water system. A density of five (5) dwelling units or more per acre requires central water and sanitary sewer.

Residential development within the 100-year floodplain shall be required to meet FEMA regulations, the requirements of Policy 1.01.07 regarding height of ~~floor level above flood plain level~~ and County Department of Health regulations regarding the installation of septic tanks.

Mobile homes will be permitted in accordance with F.S. 320.8285(5); manufactured homes will be permitted in accordance with F.S. 553.38(2) and Community Residential homes shall be permitted in accordance with F.S. 419.001(2) and (3).

2. Policy 4.01.05 of the Infrastructure Element, concerning the expansion of infrastructure services to the development areas, is not reflected in the FLUM because the revised development areas have not been identified on the FLUM.

Response

First of all, the Nassau Plan does not designate areas as "Development Areas." The term development area simply means those areas in the County which show greater development on the Future Land Use Map than was shown on the Existing Land Use Maps.

The restriction of development to areas of sufficient infrastructure is addressed in the Policies of Objective 1.06:

- 1.06.01 Ensure that development orders are conditioned on the concurrency with the provision of public facilities as identified in the Plan.

1.06.03 Promote compact growth within urban development areas by encouraging the use of facility extension policies, whereby the cost of providing public facilities and services that benefit new development is borne by those individuals that receive direct benefit.

1.06.04 Establish priority areas for development wherein a proposed development may receive special incentives such as density bonuses or up to 12 months' extensions in meeting the concurrency rule for recreation.

V. PUBLIC FACILITIES AND LEVEL OF SERVICE STANDARDS

A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:

1. The Traffic level of service (LOS) standard adopted in Policy 2.01.01 of the Traffic Circulation Element is not consistent with that adopted in Policy 9.02.01 of the Capital Improvements Element.

Response

The Traffic Level of Service (LOS) standard adopted in CIA Policy 9.02.01 shall be revised to read:

<u>PUBLIC FACILITY CATEGORY</u>	<u>COUNTY STANDARD</u>
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Roadways Peak Hour (PKHR)

Principal Arterials - State	LOS "B" AABF	<u>LOS C</u>
	LOS "E" PKHR	

Minor Arterials - State	LOS "B" AABF	<u>LOS D</u>
	LOS "E" PKHR	

Collectors - County	LOS "C" AABF	<u>LOS D</u>
	LOS "B" PKHR	

Roadway Width (ROW)

<u>Arterial</u>	<u>125 feet</u>
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<u>Collector</u>	<u>90 feet</u>
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<u>Local</u>	<u>60 feet</u>
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2. The Drainage LOS standard adopted in Policy 4.01.01 of the Infrastructure Element is not consistent with that adopted in Policy 9.02.01 of the Capital Improvements Element.

Response

The Drainage LOS policy adopted in the CIE Policy 9.02.01 shall be revised to include the following statement:

- * Retention Shall meet DER Stormwater Drainage Rule 17-25 (retain the first inch of stormwater for drainage basins over 100 acres; the first one-half inch of stormwater for drainage basins under 100 acres).

The standards stated above shall pertain to all new development and redevelopment without exception for the planning period 1990-2005.

3. Policies have not been included to address solid waste needs identified in the data and analysis.

Response

The following statement shall be added to Policy 4.02.02b. of the Public Facilities Element to address solid waste needs:

The Solid Waste Director or designee shall take steps immediately to accomplish the following tasks at functioning landfills:

- 1.) ensure that all areas of the landfill not actually being worked are covered;
- 2.) develop a groundwater monitoring system; and
- 3.) implement a quality assurance program to provide protection from water pollution, noise pollution, and odor pollution.

The County shall adopt LDRs that include adequate enforcement procedures and penalties for illegal dumping and burning of hazardous and non-hazardous waste.

- 4.02.02.b. Sanitary Land Fill -- The Lofton and Bryceville landfills must be "closed" per DER regulations. In addition, the County has applied for and awaits required permits for continued interim use of the West Nassau Land Fill. Funding is shown in the Capital Improvement 5-year plan to support both actions.

"Closing" the Lofton and Bryceville landfills and "opening" the new section of the West Nassau landfill are "Level One" priority projects and are shown on Table J-7 of the Capital Improvement Element to be completed during the current 5-year Capital Improvement Plan.

4. Policies 4.02.03 and 4.05B.01 of the Infrastructure Element concerning drainage improvements are not adequate to address the needs identified in the data and analysis.

Response

The drainage deficiencies cited on pages D-15 and D-16 of the Public Facilities Element refer to past conditions that existed in the Callahan area and on Amelia Island at Amelia City. Both of these conditions have been corrected between the time of plan preparation and this date. The County continues to appreciate the need for a Countywide Master Drainage Plan but has no urgent requirement to produce such a plan in the immediate future. The obsolete references to drainage problems within the County now presented in the data and analysis will be lined-through and the conditional language presented in Policies 4.02.03 and 4.05B.01 shall be revised as follows:

Policies 4.02.03 and 4.05B.01 of the Public Facilities Element shall be revised as follows to eliminate conditional phrasing and ensure a commencement date.

4.02.04³ Upon completion of the Master Drainage Study (Policy 4.05B.03) the County Engineer shall prepare a priority listing of drainage projects to be completed by the County to correct existing deficiencies. This listing, with associated costs, shall be presented to the Board of County Commissioners for consideration implementation in the FY 1998-1999 budget.

4.05B.01 In order to maximize the use/functions of existing facilities, the County shall establish a maintenance monitoring program of County-controlled drainage ditches throughout the County requiring annual inspection and where necessary maintenance, the cost of which shall be incorporated into the County's annual operating budget.

In addition, Policy 4.05.03 has been revised to ensure a completion and approval date.

4.05B.03 The County shall, by 1995, initiate a master drainage study of the County to identify (1) the volume, rate, timing and pollutant load of stormwater run off in each planning district, (2) areas of recurring drainage problems, and (3) establish a priority for improving drainage throughout the County.

Upon completion and approval of the study by the year 1997 the Nassau County Board of County Commissioners, shall resolve that the findings of the study shall be incorporated into a Stormwater Management Ordinance and made part of the County's Comprehensive Plan through

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the Comprehensive Plan amendment process as required by
s.163.3184, 163.3187, F.S.

5. Object 4.04 of the Infrastructure Element does not provide a measurable standard for water conservation.

Objective 4.04, Conservation of Potable Water Resources shall be strengthened by the addition of Policy 4.04.06 which provides a measurable goal and means to achieve the goal.

4.04.06 It shall be a goal of Nassau County to reduce potable water consumption/use/waste by 6 percent through (1) requiring the capping of unused artesian wells, (2) providing public information regarding water conservation, (3) requiring water-source heat pumps to utilize a return well, and (4) requiring wastewater reuse where practical.

6. Policy 4.05A.03 of the Infrastructure Element and Policy 6.01.06 of the Conservation element provide wellfield protection only for wells using the surficial aquifer. According to the data and analysis, most potable water wells in the County use the Floridan Aquifer.

Policy 4.05A.03 shall be revised. See response to Objection #2 of "PROTECTION OF NATURAL RESOURCES."

→VI. COASTAL MANAGEMENT

- A. Inconsistent provisions. The inconsistent revisions of the plan grouped under this subject heading are as follows:
1. The objectives and policies of the Coastal Management Element are not supported because data and analysis have not been included to address the effect of future land uses on inventoried natural resources; to address actions to remedy existing pollution problems; to inventory and analyze natural disaster planning concerns (including the Identification of the Coastal High Hazard Area); to inventory beach and dunesystems; and to address the need for public access.

Response

The data and analysis sections of the Coastal Management Element have been completely rewritten as submitted herewith. An inventory of resources is included on pages E-1 and E-2, the effect of future land uses on natural resources are discussed on page E-3 through E-19, the Coastal High Hazard Area is defined on page E-14, and an inventory and the need for beach access is addressed on page E-18.

2. Objective 5.04 of the Coastal Element does not include supporting policies which address post-disaster redevelopment.

Response

Objective 5.04A and associated policies 5.04A.01 through 5.04A.07 shall be added to the Coastal Management Element GOPs to address Post Disaster Redevelopment.

OBJECTIVE 5.04A
POST DISASTER EXPENDITURES

Upon Plan adoption, the County shall manage post disaster expenditures to improve the survival of required infrastructure.

5.04A.01 The Coastal High Hazard Area in Nassau County shall include all land and water areas depicted as inundated by a Category 1 through ~~3~~ Hurricane Storm Surge (Figure E-5). *Example Zone,*

*HB 2315
changed statute to
define CHHA from
Coastal Storm Surge
CATEGORY 1
EXEMPT ZONE*

5.04A.02 The County Engineer, with required support, shall survey disaster sites immediately following the emergency occurrence to identify immediate repair and clean-up actions required to protect public health and safety and shall coordinate with the Director of Emergency Services to accomplish priority tasks.

5.04A.03 Roadway segments located within low lying areas, that are used as hurricane evacuation routes, shall be elevated or rerouted during post-hazard construction.

5.04A.04 Sanitary sewer and potable water facilities located within areas that flood consistently during hurricane activity shall be programmed to be reconstructed at an elevated height or relocated as a priority funding item in the County Capital Improvement Plan.

5.04A.05 F.E.M.A., National Weather Service and Regional Planning Council data, which are pertinent to Nassau County hurricane damage mitigation, shall be incorporated into this element of the Plan through the amendment process specified in s 163.3187, F.S.

5.04A.06 The County shall require, through land development regulations, that redevelopment plans within the CHHA include reduced densities and the minimization of public facilities and expenditures to a level no greater than that necessary to support land uses in the effected areas as shown on the Future Land Use Map.

5.04A.07 The County shall develop plans and criteria for immediate repair and clean up in addition to long term repair and redevelopment. These plans shall also address removal, modification or relocation of damaged infrastructure and unsafe structures. The level of reconstruction that will be permitted in an area of damage in terms of intensity and density of use shall be consistent with the Goals, Objectives and Policies expressed in this Plan.

3. Policy 5.02A.04 of the Coastal Element is vague because it does not indicate what "sufficient" amount of the vegetated oak hammock and dune interface area will be preserved.

Response

Policy 5.02A.04 shall be revised as follows:

5.02A.04 In order to help protect the primary and secondary dune system and mitigate the effects of a storm surge, criteria shall be incorporated in the Land Development Regulations requiring the following:

- Site plan review shall be required for all new beachfront construction.
- Sufficient Vegetated oak hammock and dune interface areas, where they exist, shall be preserved to ensure protection of primary and secondary dune systems. Site plan review and on-site inspections during construction shall require that vegetated areas shall not be destroyed beyond 30 feet outside of the immediate building area.
- Excavation shall be confined to construction zones containing building pads, drainage structures, parking and drives and recreational uses with maximum efforts made to minimize damage in all areas of the dune system.
- Any excavation in the primary or secondary dune system shall not reduce existing crest elevations below twenty-six feet (26') mean sea level.
- Any breaches or blowouts in the primary dune system shall be indicated on the site plan and shall be filled and revegetated per permits obtained through DNR.

4. The Plan does not include specific policies to limit development in the Coastal High Hazard Area (CHHA) and relocate or replace infrastructure out of this area. Moreover, the Future Land Use Map has designated areas along the coast

that would likely be included in the CHHA for medium and high density residential and commercial use.

Response

The CHHA, as defined by areas subject to category level 1-3 hurricane flooding, covers most of Amelia Island. Development shown in this area on the Future Land Use Map either is already in-place or is planned for development under an approved DRI. Any new construction proposed for the CHA will be subject to the Policies of this Plan.

Policies 5.04A.03 (roads), 5.04A.04 (sanitary sewer and potable water) and Policy 5.04A.07 shall be added to the Coastal Management Element to address the relocation and or replacement of infrastructure in the CHHA. Policy 5.04A.06 limits development in the CHHA.

(See #2, this section, for presentation of the proposed policies 5.04A.03, 5.04A.04, 5.04A.06 and 5.04A.07.)

Policies 5.07.01B and 5.07.01C also shall be added to restrict development in the CHHA.

5.07.01B Development within the F.E.M.A. FIRM V Zone shall be limited through County restrictions regarding the provision of water/sewer/road facilities to service V Zone areas where infrastructure facilities have been damaged/destroyed by storm forces.

5.07.01C New development within the designated Coastal High Hazard Area will be limited to (1) in-fill (following the policies set forth in this plan for development in flood prone areas), (2) PUDs with construction clustered on the upland portion of the site or (3) development under a DRI in which site planning addresses the issue of flooding.

VII. FINANCIAL FEASIBILITY

- A. Inconsistent provisions. The inconsistent provisions of the plan grouped under this subject heading are as follows:
1. The Five-Year Schedule identifies impact fees as the revenue source to fund a majority of the transportation improvements. However, the Plan does not indicate that the County will have sufficient revenues accumulated from this source to fund the improvements in fiscal year 1990-91. In addition, the Plan does not include a projection of subdivision exactions and enterprise funds to show that adequate revenues will be available for solid waste and recreation improvements.

Response

- 1a. Page J-17 shall be revised to add to paragraph four as follows and is underlined:

Impact fees for transportation on Amelia Island have been levied since February 16, 1987. As of December 31, 1990, there is \$1.3 million in this fund. Of this sum, \$1,079,486 has been earmarked to be used to fund county Traffic Circulation Facilities 1a. and b. as shown on Table J-7. The impact fees for the rest of the county, excluding incorporated areas, have been levied since January 30, 1989, with collections beginning February 14, 1989.

- 1b. Page J-18 shall be revised to add to paragraph one as follows and is underlined:

Using this basis for impact fee generation and the growth estimated in the comprehensive plan, a total of \$2,353,366 in transportation impact fees could be reasonably expected to be paid to the county over the next five years, or about \$470,673 per year for capital improvements to the road system. This sum will partially defray the \$581,000 FY 1991-1992 funding required for road improvements detailed in the Capital Improvements Schedule, Table J-7.

The deficit in needed funding of \$110,327 for the 1991-1992 fiscal year in the "County Transportation Fund Revenue" is expected to be made up by "in kind" labor and equipment use in construction work on some of the road improvements by the County Department of Public Works. Alternatively, the total funds available to spend from the Local Option Gas Tax Bonds is \$8,219,365; these funds must be obligated by March 31, 1992 or the bonds will lose their tax-free status. As reported above, and on Table J-7, some \$7,464,000 is obligated for road improvements in the Capital Improvements Schedule. This leaves the sum of \$755,365 presently unencumbered and available to make up any shortfalls in the County's Traffic Circulation Facilities and Road Paving Programs after obtaining more precise cost estimates.

- 1c. Page J-18 paragraph two shall be revised to read as follows:

Subdivision Exactions Lands are dedicated and improved as required by county subdivision specifications for roads into and in subdivisions. For recreation purposes, in addition; 2.5 acres of land or its equivalent in money is required to be donated to the county for every one hundred homes developed. Since it is estimated that another 2,608 homes will be built between 1990 and 1995, this should result in 65.2 acres of land donated to the county for park purposes. This amount should be adequate to serve the park land and facility needs as outlined in the Capital Improvements Schedule, Table J-7.

A total of 46 acres are required to be purchased or otherwise acquired by the county under the Capital Improvements Schedule. This land was valued at \$10,000 per acre. Given the same estimate of value for the land or equivalent monetary value to be donated to the county, the funding available to the county will be \$650,000 for the five year period. In addition, there was \$200,867 in the Parks and Recreation Fund as of December 31, 1990. The total of these sums, \$850,867, at 156 percent of proposed capital expenditures, is more than sufficient to cover the amount of \$544,800 which is projected to be spent for capital improvements during this period.

- 1d. A new paragraph shall be added on page J-18 after the discussion of Subdivision Exactions to read as follows:

Enterprise Fund Revenues Solid waste capital needs will be a large expenditure during this next five years. The projected funding need is for the sum of \$17,000,000 to close three landfills and open a fourth (see Table J-7). The only way this can be funded is through a new revenue bond issue or other long term loan instrument based on a pledge of tipping fees as the primary refunding source with other secondary refunding sources to be identified through loan negotiations.

New tipping fees covering all solid waste were established with an effective date of November 1, 1990. Revenue recorded during the 89/90 fiscal year previous to this enactment was \$2.6 million. There is not yet enough of a track record to project the amount the new fees will bring in. However, even with recycling, the total annual revenue should be, at a minimum, the equal of present levels. This amount is projected to be enough to fund the required borrowings to fund solid waste needs.

2. A table has not been included to compare projected revenues with total projected expenditures.

Response

Note (2) on Table J-6 was not clear in its intent. It has been revised to read:

"Annual expenditure includes enterprise fund operating costs as well as all debt service."

VIII. CONSISTENCY WITH STATE COMPREHENSIVE PLAN

All of the revisions addressed above will make the County's Plan consistent with the State Comprehensive Plan.

IX. CONSISTENCY WITH REGIONAL POLICY PLAN

All of the revisions addressed above will make the County's Plan consistent with the Regional Policy Plan.