STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

LESEMAN FAMILY LAND PARTNERSHIP; WALTER E. MURPHREE, JR.; and DEBRA C. TREECE,,	)	
Petitioners,	)	
vs.	)	Case No. 07-5755GM
CLAY COUNTY and DEPARTMENT OF COMMUNITY AFFAIRS,	)	
Respondents.	)	

RECOMMENDED ORDER

The final hearing in this case was held on March 13 and 14, 2008, in Green Cove Springs, Florida, before Bram D.E. Canter, an Administrative Law Judge of the Division of Administrative Hearings (DOAH).

APPEARANCES

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STATEMENT OF THE ISSUE

The issue in this case is whether the amendment to the Future Land Use Map of the Clay County Comprehensive Plan, adopted by Ordinance No. 2007-53, is "in compliance" as that term is defined in Section 163.3184(1)(b), Florida Statutes (2007).[1]

PRELIMINARY STATEMENT

On September 25, 2007, Clay County amended its comprehensive plan through the adoption of Ordinance No. 2007-

53, which made changes to the Future Land Use Map (FLUM). After reviewing the amendment, the Department of Community Affairs (Department) determined that the amendment was "in compliance" and issued its "Notice of Intent to Find the Clay County Comprehensive Plan Amendment(s) In Compliance" on November 19, 2007. This proceeding was initiated on December 10, 2007, when Petitioners Leseman Family Land Partnership, Walter E. Murphree, Jr., Debbra C. Treece, Thomas D. Treece, and Merrill K. Garlington Trust filed a Petition for Formal Administrative Hearing with the Department, which the Department then referred to DOAH. Subsequently, Thomas D. Reece and Merrill K. Garlington Trust voluntarily dismissed their petitions. Thereafter, Kingsley Beach, LLC, Kingsley Ventures Development Company, LLC, and Avery C. Roberts were granted leave to intervene in support of the amendment.

At the final hearing, the parties' Joint Exhibits 1 through 7 were admitted into evidence. Petitioners presented the testimony of Wendy Grey, an expert in comprehensive planning and land use planning; Dr. Sung-Man Kim, the County's chief planner; Holly Parrish, the County's former chief planner; Walter E. Murphree, Jr., William Leseman, and Debra Treece. Petitioners' Exhibits 1, 12, 21, 24 and 29 were admitted into evidence. The County presented the testimony of Dr. Sung-Man Kim. Intervenors presented the testimony of Raymond Spofford, an expert in

comprehensive planning and land use planning; and Douglas C. Miller, P.E., an expert in stormwater management and civil engineering. County and Intervenor Exhibits 1 through 3, 4A, 4B, 5, 8, 11, 12A through 12F, 16, and 20 through 22 were admitted into evidence. The Department presented the testimony of Dr. Joseph Addae-Mensa, an expert in urban and regional planning. Department Exhibits 1 through 3 were admitted into evidence.

The two-volume Transcript of the final hearing was prepared and filed with DOAH. The parties timely filed Proposed Recommended Orders which were carefully considered in the preparation of this Recommended Order.

FINDINGS OF FACT

The Parties

1. The Department is the state land planning agency and is statutorily charged with the duty of reviewing comprehensive plans and amendments thereto, and determining whether a plan or amendment is "in compliance."

2. Clay County is a political subdivision of the State of Florida and has adopted a comprehensive plan that it amends from time to time pursuant to Section 163.3167(1)(b), Florida Statutes.

3. The parties stipulated that each Petitioner is an "affected person" as that term is defined in Section

163.3184(1)(a), Florida Statutes. Each Petitioner owns property in Clay County and timely submitted comments and objections regarding the amendment to the Clay County Board of County Commissioners.

4. The parties stipulated that Intervenors are "affected persons." Intervenors Kingsley Beach, LLC, and Kingsley Ventures Development Co., LLC, are the owners of the subject property. Avery C. Roberts is the managing member of each.

The Amendment

5. The amendment changes the FLUM land use designation for two parcels of land totaling 47.06 acres, located between County Road 16A and Kingsley Lake ("the property") from Rural Residential to Rural Fringe.

6. The Rural Residential category has a base density of 1 dwelling unit per 5 acres, but provides for up to 1 unit per acre through application of a points system established in the Future Land Use Element (FLUE) of the comprehensive plan. The Rural Fringe category has a base density of 1 unit per acre, but points can be used to increase the density to 2 units per acre. With clustering, the density can be further increased to 3 units per acre.

7. The County adopted the amendment designating the property as Rural Fringe and added a notation on the FLUM that the maximum permitted residential units on the property is 70,

corresponding to a maximum density of 1.5 units per acre. The result is an amendment that creates a hybrid land use category for the property, with development rights different than those normally applicable to Rural Fringe.[2]

Existing Uses and Conditions of the Property

8. The property is located on the north side of Kingsley Lake, an Outstanding Florida Water. The eastern parcel is known as the Kingsley Lake Campground and RV Resort, which contains 253 recreational vehicle camping spaces, 13 cabins, a gatehouse, a boat ramp, a restaurant, an office, and a number of other ancillary buildings. The western parcel has been used since the 1950's as a recreational area for swimming, picnicking, and boating. It contains a boat ramp, a three-story frame building and other scattered buildings. The property is not longer in active use.

9. The property is located on a paved road with access to nearby county and state roads which meet or exceed adopted level of service standards.

10. Public water and sewer services are not available to the property.

11. The property is within one mile of fire and emergency medical services.

12. The property is within school bus service.

13. The property is suitable for construction of a stormwater management system which can meet the design criteria for discharging into Kingsley Lake. There are no wetlands on the property.

14. Although only relevant as an example of what development is possible under the amendment, the Intervenors propose to develop a 70-unit, private, gated, residential subdivision to be called Kingsley Cove, which would be served by a community-scale potable water system and septic tanks.

The Kingsley Lake Community

15. The property is located in the 560-acre Kingsley Lake "community" or "enclave," which is unusual in that it is completely surrounded by the 72,000-acre Camp Blanding Military Installation. In addition to the development on the subject property, the Kingsley Lake community includes a convenience store, a church, a cemetery, a county-owned parcel, a community club, and residential properties. Most of the residential properties are located on the lakefront and have docks and private boathouses.

16. Excluding the subject property, the Kingsley Lake community contains about 249 homes. The average density of the residential parcels in the community is two dwelling units per acre (du/a). Approximately 30 percent of the lots in the

Kingsley Lake enclave are smaller than half an acre and approximately 60 percent are smaller than one acre. More than half of the residential parcels in the community exceed 1.5 du/a.

17. Petitioners each own property within the Kingsley Lake community. Petitioner Treece's lot is 0.6 acres. Petitioner Murphree's lot is a half acre. Petitioner Leseman's lot is 8.0 acres.

18. The Kingsley Lake community is located 8.75 miles at its closest point from another urban service area.

Rural Character

19. Petitioners claim that the amendment would destroy the rural character of the Kingsley Lake community. However, it was disputed at the hearing whether the Kingsley Lake community has much rural character.

20. When Petitioners' witnesses testified about the rural character of the community, they used the term "rural" as synonymous with "rustic," "quaint," "historical," or "old-Florida." The County's 2007 Evaluation and Appraisal Report (EAR) refers to rural character in the County, generally, as a "country lifestyle."

21. One distraction from the rural character of the Kingsley Lake community is its surrounding by Camp Blanding, an

active military installation which creates “uncommon disturbances,” primarily noises that occur at all hours.

22. The County has legislatively determined through its comprehensive plan that there are degrees of rural character, and those degrees are reflected in three rural residential land use categories: Rural Residential, Rural Reserve, and Rural Fringe. The average residential density in the Kingsley Lake community is greater than is allowed under its current Rural Residential land use category. The community has densities associated with the Rural Reserve and Rural Fringe categories.

23. The comprehensive plan does not contain a description of the Rural Fringe land use category or a statement of the County’s specific intent with regard to this category, other than its cap on residential density. The lack of detail in the plan makes the task of determining whether the amendment is in compliance more difficult.

24. Beyond the restriction of land uses and establishment of density limits, the protection of rural character is difficult, because new dwellings generally cannot be required to look the same (e.g., rustic) as older, existing dwellings. With regard to rural vistas, Petitioners presented no evidence to show, for example, that existing lake views would be adversely affected or that incompatible building heights would be allowed as a result of the change to Rural Fringe.

Urban Service Areas

25. Under the comprehensive plan, certain land use categories define the County's urban service areas. These categories are Urban Core, Urban Fringe, Rural Fringe, Rural Reserve, Mixed Use, and Planned Community. By changing the land use designation to Rural Fringe, the amendment automatically places the subject property in an urban service area.

26. The discussion of the issue in this case involved semantic inconsistency between rural land use and urban services. However, that the comprehensive plan clearly contemplates that the Rural Reserve and Rural Fringe land use categories would have both rural characteristics and urban services.

27. The County's chief planner, Dr. Sun-Man Kim, testified that the provision of urban services is not intended to transform the Rural Fringe land use category into an urban area, but to provide better services. He believes the urban service area designation is appropriate for a compact rural development area like the Kingsley Lake community.

28. There are three other urban service areas in the County. FLUE Policy 2.3 provides the means by which an urban service area may expand:

> Urban service areas may be expanded to include undeveloped land in or near existing urban areas provided that the Clay County

> Health Department has determined that connection to a central system is required in the public interest due to public health consideration. Services and facilities must be guaranteed through "agreements to serve" by the Clay County Utility Authority. Expansion of the urban service area shall require a plan amendment.

This policy appears to apply only to the expansion of an existing urban service area into adjacent undeveloped areas, and not to the creation of new urban service areas. There are no policies in the comprehensive plan that expressly address the creation of new urban service areas.

29. It is only logical that a newly-designated urban service area would have urban services currently available or planned. The County's density point system uses several urban services as a basis for assigning density bonus points: fire protection, emergency medical services, paved access to arterial or collector roads, central water and sewer facilities, and proximity to schools. All of these urban services are available to the property except central sewer.

30. Petitioners object to the amendment, in part, because they believe the Rural fringe designation is only permitted in areas where central water and sewer facilities are available. The County granted density bonus points to the proposed Kingsley Cove development for having central water service, based on its proposed community-scale potable water system. Therefore, it is

presumed that Petitioners disagree that a community-scale water system qualifies as “central” water service, and/or they believe the Rural fringe designation requires both central water and central sewer services.

31. FLUE Policy 2.4 states that all development within the urban service areas shall be served by central water and wastewater services, “if available.” In addition, FLUE Policy 3.1 grants density points for proposed developments in land use categories (that are also urban service areas) when central water and sewer facilities are available. These policies are acknowledgments that sometimes central water and sewer facilities are not available in urban service areas.

32. Petitioners argued that, in 2003, the County and Department interpreted the urban service area policies of the comprehensive plan differently than they are interpreting them in this case. In 2003, the County and Department were reviewing an application to designate 21 acres of the subject property to Rural Reserve, which, as stated above, also results in an automatic urban service area designation. Following its review of the 2003 amendment, the Department prepared an Objections, Recommendations, and Comments (ORC) Report which opposed the change to Rural Reserve based on insufficient data and analysis. The County staff report regarding the 2003 amendment also recommended denial. Petitioners contend that these prior

actions were based on determinations by the Department and the County that, to be placed in an urban service area, lands must be served by central water and sewer facilities.

33. Holly Parrish, the County planner who prepared the 2003 County staff report, testified that central water and sewer services are not mandatory for an urban service area, and that any statement to the contrary in the 2003 staff report was an error.

34. Neither Chapter 163, Florida Statutes, nor Florida Administrative Code Chapter 9J-5 defines urban service areas, nor do they establish guidelines or standards on what or how many urban services are necessary to qualify an area as an urban service area.

35. The comprehensive plan contains some ambiguity with respect to urban service areas. The County might be to able to interpret the comprehensive plan as Petitioners urge, to prohibit the creation of a new urban service area where central water and sewer facilities are unavailable. However, the County's interpretation and application of its urban service area policies to allow an urban service area to be created in the unique circumstances of a rural compact development area surrounded by a military installation, where central sewer facilities are not available, but several other urban services are available, is not unreasonable.

36. Petitioners assert that the County's rationale for the amendment would allow urban service areas to be placed anywhere on the FLUM, but there are no other areas on the Clay County FLUM like the Kingsley Lake community.

Urban Sprawl

37. Petitioners also contend that the amendment is inconsistent with FLUE Objective 2 which discourages urban sprawl. Florida Administrative Code Rule 9J-5.006(5) contains guidelines for use in determining whether a plan or plan amendment discourages the proliferation of sprawl. Petitioners focused on five of the listed indicators:

> (5)(g) Primary indicators. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:
>
> * * *
>
> 4. As a result of premature or poorly planned conversion of rural land to other uses, fails adequately to protect and conserve natural resources . . .
>
> * * *
>
> 6. Fails to maximize use of existing public facilities and services.

> 7. Fails to maximize use of future public facilities and services.
>
> 8. Allows for land use patterns or timing which disproportionately increase the cost in time, money and energy, of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.
>
> 9. Fails to provide clear separation between rural and urban areas.

38. However, Petitioners did not prove that the amendment will create an increased threat to natural resources. Nor did they show that the County's use of existing or future public facilities and services is somehow impaired or made inefficient, or that the cost in time, money and energy, of providing and maintaining facilities and services would be increased as a result of the amendment. The amendment does not prevent a clear separation between rural and urban areas because the property remains rural.

39. Dr. Joseph Addae-Mensa, the Department's planning expert, does not believe the amendment encourages urban sprawl in violation of Florida Administrative Code Rule 9J-5.006(5).

40. When evaluated in the context of the entire comprehensive plan and the features and characteristics unique to the locality, as required by Florida Administrative Code Rule

9J-5.006(5), Petitioners' evidence was insufficient to prove that the amendment fails to discourage urban sprawl.

Data and Analysis

41. Petitioners contend that the application and staff report for the subject amendment did not contain sufficient data and analysis to demonstrate that the property could be provided with central water and sewer facilities within the planning horizon. However, for the reasons stated above, such data and analysis are unnecessary because central water and sewer facilities are not mandated.

42. Petitioners also claim there is insufficient data and analysis to demonstrate what effect the designation of the urban service area would have on surrounding properties, which they believe could be a significant increase in the density of Kingsley Lake community because lots might now qualify for density bonus points. However, Dr. Kim analyzed this issue and concluded that only one lot would gain additional density points as a result of the urban service area designation, resulting in potentially two additional residential units. His analysis was not rebutted.

43. Petitioners' contention that there is insufficient data and analysis to show that the Rural Fringe land use category is consistent with the conditions of the property is

contrary to the record which contains ample data and analysis on this point.

CONCLUSIONS OF LAW

44. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties pursuant to Sections 120.569, 120.57(1), and 163.3184(9), Florida Statutes.

45. Under the comprehensive planning scheme established in Chapter 163, Part II, Florida Statutes, the Department has the duty to review proposed and adopted local government comprehensive plan amendments. The Department's role is not to opine as to whether a local government's amendment is the best alternative approach available to the local government for addressing a subject, but to determine whether the amendment is "in compliance," as defined in Section 163.3184(1)(b), Florida Statutes.

46. The term "in compliance" is defined in Section 163.3184(1)(b), Florida Statutes:

> In compliance" means "consistent with the requirements of ss. 163.3177, 163.31776, when a local government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern

and with part III of chapter 369, where applicable.

47. Petitioners did not claim that the amendment is inconsistent with Sections 163.3178, 163.3180, 163.3191, and 163.3245, Florida Statutes, nor did they go forward with their claim that the amendment is inconsistent with certain provisions of the State Comprehensive Plan. Petitioners' challenge focused on alleged inconsistency with Sections 163.3177(2), (6), and (8), Florida Statutes, and portions of Florida Administrative Code Chapter 9J-5.

Standing

48. In order to have standing to challenge a plan amendment, a challenger must be an "affected person," which is defined as a person who resides, owns property, or owns or operates a business within the local government whose comprehensive plan amendment is challenged. § 163.3184(1)(a), Fla. Stat. Petitioners and Intervenors have standing as affected persons.

Burden of Proof

49. The County determined that the amendment is in compliance. Because the Department also determined that the amendment is in compliance, Section 163.3184(9)(a), Florida Statutes, provides that the amendment "shall be determined to be

in compliance if the local government's determination of compliance is fairly debatable."

50. The term "fairly debatable" is not defined in Chapter 163, Florida Statutes, or Florida Administrative Code Chapter 9J-5. However, the Supreme Court of Florida has suggested that the fairly debatable standard under Chapter 163, Florida Statutes, is the same as the common law "fairly debatable" standard applicable to decisions of local governments acting in a legislative capacity. In Martin County v. Yusem, 690 So. 2d 1288 (Fla. 1997), the Court said, "The fairly debatable standard of review is a highly deferential standard requiring approval of a planning action if reasonable persons could differ as to its propriety." Id. at 1295. Quoting from City of Miami Beach v. Lachman, 71 So. 2d 148, 152 (Fla. 1953), the Court stated further that "[A]n ordinance may be said to be fairly debatable when for any reason it is open to dispute or controversy on grounds that make sense or point to a logical deduction that in no way involves its constitutional validity." Put more simply in the context of a challenge to a comprehensive plan amendment, the amendment is fairly debatable if its validity can be defended with a sensible argument.

51. Subsection 163.3177(2), Florida Statutes, and Florida Administrative Code Rule 9J-5.005(5)(a), require the elements of a comprehensive plan to be internally consistent. A plan

amendment creates an internal inconsistency when it has the effect of conflicting with an existing provision of the comprehensive plan.

52. Petitioners contend that the amendment is inconsistent with FLUE Objective 2, which discourages urban sprawl, and Policy 2.3, related to the expansion of urban service areas because central water and sewer facilities are unavailable to the property. However, Policy 2.3, on its face, applies to the expansion of an existing urban service area and not to the creation of a new urban service area. The County presented a sensible interpretation of its plan that central water and sewer services are not always required for urban service areas. Therefore, Petitioners' failed to prove that the amendment is inconsistent with FLUE Objective 2 and Policy 2.3.

Consistency with Section 163.3177, Florida Statutes

53. Petitioners assert that the amendment is inconsistent with several requirements of Section 163.3177(2), (6), and (8), Florida Statutes. Section 163.3177(2), Florida Statutes, requires that the FLUM and the FLUE be implemented in a consistent manner. Petitioners rely primarily on the County's action on the proposed 2003 amendment to assert that approval of the new amendment is inconsistent.

54. However, the statements contained in the County and Department reports of 2003 are ambiguous on the issue of whether

central water and sewer services are required for the Rural Fringe land use category because the context was a development that proposed central water and sewer services, but was deficient in its data and analysis. Petitioners failed to prove that there is no rational explanation for the different treatment of these amendments by the County and the Department.

55. Petitioners contend that the amendment is not based upon appropriate data and analysis as required by Subsections 163.3177(6) and (8), Florida Statutes, and Florida Administrative Code Rule 9J-5.005(2)(a). Florida Administrative Code Rule 9J-5.005(2)(a) requires that, in order for a plan provision to be "based" upon relevant and appropriate data, the local government must "react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan Amendment at issue." The data must also be the "best available existing data" and "collected and applied in a professionally acceptable manner." Fla. Admin. Code R. 9J-5.005(2)(a)–(c); see also § 163.3177(10)(e), Fla. Stat. (2004).

56. The data and analysis that can support a plan amendment are not limited to those identified or actually relied upon by a local government. All data in existence and available to a local government at the time of the adoption of the plan amendment may be relied upon to support an amendment in a de

novo proceeding. Zemel v. Lee County et al., 15 F.A.L.R. 2735 (Dept. of Community Affairs Final Order, June 22, 1993), aff'd, 642 So. 2d 1367 (Fla. 1st DCA 1994).

57. Analysis, on the other hand, does not have to exist at the time of the adoption of a plan amendment. See Zemel, supra. Data that existed at the time of the adoption of a plan amendment can be analyzed for the first time in preparation for the administrative hearing held to hear a challenge to a plan amendment. Id.

58. Petitioners did not prove that the amendment is unsupported by appropriate data and analysis, that the data used was not the best available data, or that the County did not use the data appropriately.

Consistency with Chapter 9J-5

59. Petitioners contend that the amendment is not in compliance with Florida Administrative Code Rule 9J-5.005(2)(a), which describes the data and analysis that is necessary to support a plan amendment. For the reasons just stated, Petitioners failed to prove that the amendment is inconsistent with this particular rule.

60. Petitioners contend that the amendment is inconsistent with Florida Administrative Code Rule 9J-5.005(5), which requires a comprehensive plan to be internally consistent. For the reasons set forth in the Findings of Fact, Petitioners

failed to prove that the amendment is inconsistent with this particular rule.

61. Petitioners contend that the amendment is inconsistent with Florida Administrative Code Rule 9J-5.005(6) because it fails to implement comprehensive plan goals, objectives, and policies in a consistent manner. For the reasons set forth in the Findings of Fact, Petitioners failed to prove that the amendment is inconsistent with this particular rule.

62. Petitioners contend that the County's comprehensive plan as amended results in a failure to implement FLUE goals, objectives, and policies in a consistent manner, in violation of Florida Administrative Code Rule 9J-5.005(6). For the reasons set forth in the Findings of Fact, Petitioners failed to prove that the amendment is inconsistent with this particular rule.

63. Petitioners contend that the amendment exhibits several of the indicators listed in Florida Administrative Code Rule 9J-5.006(5)(g) that an amendment fails to discourage urban sprawl. For the reasons set forth in the Findings of Fact, Petitioners failed to prove that an indicator listed in Florida Administrative Code Rule 9J-5.006(5)(g) is present in this case.

64. Petitioners contend that the amendment is incompatible with adjacent land uses in violation of Florida Administrative Code Rules 9J-5.006(3)(b)3, 8, and (c)2. Florida Administrative Code Rule 9J-5.006(3) sets forth the objectives and policies

that must be in a FLUE. However, the Department regularly applies the rule to FLUM amendments as well. Even if a FLUE contains all of the objectives and policies required by the rule, the Department believes it can determine that the rule is violated by a FLUM amendment.[3]

65. "Compatibility" is defined in Florida Administrative Code Rule 9J-5-003(23) as:

> A condition in which land uses or conditions can co-exist in relative proximity to each other in a stable fashion over time so that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

66. The land uses adjacent to, and in the vicinity of, the property are single-family residential. The special notation on the amendment that limits density on the property to 70 units (1.5 du/a), makes the amendment compatible with existing densities in the Kingsley Lake community. Petitioners failed to prove that the amendment is incompatible with surrounding land uses.

67. Petitioners contend that the amendment is not based upon relevant, appropriate and professionally accepted data as required by Florida Administrative Code Rule 9J-5.005(2)(a). For the reasons set forth in the Findings of Fact, Petitioners failed to prove that the amendment is inconsistent with this particular rule.

68. In summary, Petitioners failed to prove beyond fair debate that the amendment is not "in compliance," as the term is defined in Section 163.3184(1)(b), Florida Statutes.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Department of Community Affairs enter a final order determining that the amendment is "in compliance" as defined in Chapter 163, Part II, Florida Statutes.

DONE AND ENTERED this 30th day of May, 2008, in Tallahassee, Leon County, Florida.

BRAM D. E. CANTER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 30th day of May, 2008.

ENDNOTES

[1]/ Unless otherwise indicated, all references to the Florida Statutes are to the 2007 codification.

[2]/ The validity of such action is not at issue in this case. Evidence was presented that this is the first such "notated" FLUM amendment for Clay County, but that similar notated amendments have been adopted by other local governments and approved by the Department.

[3]/ A FLUM amendment can be inconsistent with a FLUE objective or policy, but the Administrative Law Judge does not agree that a FLUM amendment can be inconsistent with this rule.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.