STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CHRISTINE DAVIS,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 12-3418GM
	)	
CITY OF VENICE,	)	
	)	
Respondent,	)	
	)	
and	)	
	)	
VENICE GOLF ASSOCIATION, INC., d/b/a LAKE VENICE GOLF COURSE,	)	
	)	
Intervenor.	)	
_____	)	

RECOMMENDED ORDER

Pursuant to notice, this matter was heard before the Division of Administrative Hearings (DOAH) by its assigned Administrative Law Judge, D. R. Alexander, on May 29, 2013, in Venice, Florida.

APPEARANCES

For Petitioner: Christine Davis, pro se
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STATEMENT OF THE ISSUE

The issue is whether certain revisions to the City of Venice's (City's) Comprehensive Plan (Plan) adopted by Ordinance No. 2012-15 on August 14, 2012, are in compliance.

PRELIMINARY STATEMENT

On September 13, 2012, Petitioner filed with DOAH a request for a hearing to challenge certain changes made by Plan Amendment 11-2CP. Among other changes, the amendments revise, delete, and renumber certain text provisions within the Transportation Infrastructure & Service Standards Element (Transportation Element). The amendments relate generally to the operation and facilities of Venice Municipal Airport (Airport), owned and operated by the City. The Venice Golf Association, Inc., d/b/a Lake Venice Golf Course (VGA), was authorized to intervene in support of the plan amendments. An Amended Petition was later filed by Petitioner.

Separate Pre-Hearing Stipulations (Statements) were filed by Petitioner and jointly by the City and VGA. At the final

hearing, Petitioner presented the testimony of Brian Lichterman, a planner and accepted as an expert; Christopher A. Rozansky, Airport Administrator; Charles W. Listowski, Executive Director of the West Coast Inland Navigational District; M. Marshall Happer, III, former member of the City Planning Commission; Chad L. Minor, City Planning Director; Ernie Coleman, former president of the Gulf Shores Association of Venice, Inc. (Golf Shores); and Richard M. Alexander, who resides near the Airport. Also, Petitioner's Exhibits 24, 25, 28, 29, and 34-36 were received in evidence. The City presented the testimony of Chad L. Minor, accepted as an expert; and Christopher A. Rozansky, accepted as an expert. City Exhibits 3, 5, 8-11, 14, 15, 17, and 19-22 were admitted into evidence.[1] VGA presented the testimony of James T. Collins, a land use planner and accepted as an expert. VGA Exhibits 1-3, 4A and 4B, 8, and 10 were admitted in evidence. Finally, Joint Exhibit 1 was admitted into evidence.

A transcript of the hearing was not prepared. Proposed findings of fact and conclusions of law were filed by Petitioner and the City, and they have been considered in the preparation of this Recommended Order. VGA joined in the City's filing.

FINDINGS OF FACT

A. The Parties

1. The City is a municipality located in Sarasota County. The City adopted the challenged amendments under the expedited state review process codified in section 163.3184(3), Florida Statutes.

2. Petitioner owns property and resides at 340 Shore Road, Venice. She submitted oral or written comments to the City at the transmittal hearing for the plan amendments.

3. VGA is a for-profit corporation which operates a 27-hole golf course adjacent to the Airport on land leased from the City. Through its counsel, VGA submitted comments in support of the amendments at the various public hearings.

B. The Airport

4. All of Petitioner's concerns center around the Airport. The property was previously owned by the federal government for use as an airfield during World War II. The City acquired the Airport property from the federal government in 1947 through a Quit Claim Deed. The Airport is located 1.7 miles south of the downtown area and is bounded on the southeast by the Intracoastal Waterway, on the west by the Gulf of Mexico, and on the north by residential development. There are two active runways: 13/31, the primary runway with a northwest/southeast

alignment, and 04/22, with a northeast/southwest alignment. Petitioner's property is located in the Gulf Shores subdivision, part of which lies in the path of aircraft landing on, and taking off from, runway 13/31.

5. The Airport property comprises 835 acres, most of which are used for aviation purposes. One of the non-aviation uses is the Lake Venice Golf Course, which is leased to VGA.

C. The Amendments

6. Ordinance No. 2012-15 adopts amendments to three elements of the City Plan: the Transportation Element; the Capital Improvements Element (CIE); and the Parks and Public Space Element (PPSE). Among other things, the Transportation Element contains the objectives and policies that govern the operations and facilities of the Airport. Petitioner disputes only the following changes to the Transportation Element: revisions to Objective 4, the deletion of former Policies 4.1, 4.4, and 4.7, and revisions to renumbered Policy 4.2.

7. Objective 4 has been revised to read as follows:

> Airport Operations and Facilities. Operate and ~~M~~maintain the Venice Municipal Airport as a general aviation facility in accordance with FAA and FDOT standards and requirements.

8. Former Policies 4.1, 4.4., and 4.7 were deleted by Plan Amendment 11-2CP as follows:

~~Policy 4.1 Airport Safety. Continually inspect airport infrastructure for operational safety. Review and update safety procedures for airport operations in order to address current and future needs and demands. As conditions change with the airport and surrounding community determine the needs for system improvements.~~

~~4.4 Involuntary Property Condemnation Related to Airport Activities. As a policy, the City will not condemn property adjacent or proximate to the airport for airport-related activities if such condemnation would force the property owner to surrender his/her property involuntarily. Such policy shall not be in conflict with the provisions of Chapter 333.03, F.S.~~

~~4.7 Airport Economic Sustainability. Promote the economic sustainability of the airport by identifying business opportunities which are compatible with surrounding neighborhoods. Such efforts should be coordinated with the City's planning efforts including:~~

~~A. Venice Municipal Airport Master Plan,~~

~~B. Envision Venice: Strategic Plan 2020.~~

9. Former Policy 4.5 was renumbered and revised as Policy 4.2 as follows:

Policy 4.~~5~~2 Airport Area Land Use Compatibility. Until compatibility criteria are adopted pursuant to Policy 4.1 of this element, ~~As part of the site and development review process,~~ the City shall consider the compatibility of the airport and surrounding land uses~~.~~ in accordance with Policy 8.2 of the Future Land Use & Design Element. ~~Issues to be considered when evaluating compatibility include health and safety, noise, natural habitat, wetlands, character~~

~~of the City and neighborhoods, natural environment, property values, views, traffic and odor.~~

10. Finally, although not challenged by Petitioner, the amendments deleted PPSE Policy 1.9, which affects the Lake Venice Golf Course.

D. Procedural Issues

11. The transmittal hearing for the proposed amendments was conducted by the City Council on April 24, 2012. The amendments were adopted by the City Council at a public hearing held on August 14, 2012. Petitioner contends the published notices for the transmittal and adoption hearings did not comply with state law.

12. The published notice for the first hearing states that the proposed amendments will "include New, Revised and/or Updated Goals, Objectives and Policies in the [Transportation Element], [PPSE], and [CIE]." Petitioner's Ex. 24. It further states that the text amendments "are intended to accomplish the following: 1) revise policies to reflect current/practices/ processes; 2) amend/remove policies that conflict with state and federal regulations and guidelines; 3) facilitate a comprehensive plan amendment as previously agreed upon in former General Manager of Development Services September 9, 2010 letter to VASI [Venice Aviation Society, Inc.] and VABA [Venice Airport

Business Association]." Id. The published notice for the second hearing simply stated that the proposed ordinance is "amending the City's Comprehensive Plan, Volume I to include new, revised and/or updated goals, objectives and policies in the [Transportation Element], [PPSE], & [CIE]; and providing an effective date." Petitioner's Ex. 35. Each notice also includes a citywide map.

13. The applicable notice requirements are contained in section 166.041, which are made applicable to notices regarding comprehensive plan amendments through section 163.3184(11)(a). The only statutory notice required is by publication; no direct notice is required to be given to anyone. See § 166.041(3), Fla. Stat. Therefore, Petitioner's objection that separate notice was not given to residents in the Airport area, the president of her subdivision, or the West Coast Inland Navigational District is not well taken.[2]

14. Under section 166.041(3), the notice must "contain a geographic location map which clearly indicates the area covered by the ordinance. Such notice shall include major street names as a means of identification of the general areas." There is no requirement for an airport to be depicted on a notice's map.

15. The notice statutes do not require the inclusion of the proposed text changes or their summaries. There is also no

statutory requirement that each discrete policy change receive separate treatment in the notice. A single notice can provide notice of multiple proposed text changes, provided that its breadth covers the range of changes.

16. Petitioner's expert, Brian Lichterman, addressed the notice issue but did not offer opinions on the substantive compliance issues. Mr. Lichterman opined that the published notices should have included information that specifically described the plan amendments or provided a more detailed map that depicted the Airport and surrounding lands. He also opined that the notices should have included a telephone number so that a reader could have called the City to inquire about the scope of the amendments.

17. Mr. Lichterman further opined that the published notice for the transmittal hearing should have spelled out the acronyms "VASI" and "VABA" because some readers may not be aware of which organizations they are. Had the notices included their full spellings, he believed that readers would be placed on notice that the amendments would address Airport issues. Finally, he was especially concerned with the deletion of Policy 4.4, which relates to the City's inverse condemnation authority of "property adjacent to or proximate to the airport."

18. Mr. Lichterman acknowledged that there is no requirement in chapter 163 to describe the amendments in the notices or to provide a telephone number. When asked how far from the Airport the notice maps should depict the affected properties, he admitted that the delineation would be subjective and suggested a radius of one mile from the Airport.

19. Testimony by the City established that the amendments could be of interest to persons outside the vicinity of the Airport. Persons who live throughout the City use the Airport's aviation facilities and golf course. Most of the amendments address Airport safety and operations. Aircraft owners, pilots, and passengers are interested in Airport safety and operations. Also, the deletion of PPSE Policy 1.9 could be of interest to golfers who live beyond the vicinity of the Airport. Given the range of Airport related issues in the amendments, as well as the golf course referenced in PPSE Policy 1.9, it is reasonable for the notice maps to depict the entire municipality.

20. Petitioner did not testify at the final hearing. Therefore, the record does not show whether she was confused about any aspects of the notices.

21. Regardless of whether there was an error in either of the notices, Petitioner did not demonstrate how they caused her prejudice. She attended the transmittal hearing and

participated, enabling her to gain standing as an affected person under section 163.3184(1)(a). She also timely filed her petition to initiate this proceeding within 30 days after the adoption hearing. During the final hearing, Petitioner submitted into evidence documents from City records related to the amendments, and she did not demonstrate that she was unable to obtain copies of any relevant documents.

22. In her Statement, Petitioner also raised a concern that the transmittal public hearing was not properly conducted. She took issue with the time of day that the City Council considered the amendments. Each of the two notices stated that the public hearing would begin "at 9:00 a.m. or shortly thereafter." Petitioner contended that the City should have started at or shortly after 9:00 a.m., not later in the day. She also contended that the City should have strictly followed the agenda, and not take items out of order.

23. Testimony by the City established that it is not uncommon for a City Council's agenda to include many items or for agenda items to be moved during the course of the hearing, resulting in a noticed item commencing later than the timeframe stated in the notice. There is no evidence that this practice is prohibited, or that DOAH or the Department of Economic

Opportunity (DEO) has jurisdiction over the local governing body's conduct of its public hearings.

E. Compatibility

24. Section 163.3177(6)(b)2.d. requires the Transportation Element to address "land use compatibility around airports." Revised and renumbered Policy 4.2 (formerly Policy 4.5) is intended to satisfy this requirement. Petitioner contends that unless former Policy 4.5 is retained in the Plan, her property will not be protected against incursions by Airport operations.

25. The revisions include the deletion of a list of compatibility criteria for consideration and a substituted reference to Future Land Use & Design Element Policy 8.2, which addresses land use compatibility throughout the City.

26. The former version of Policy 4.2 addressed compatibility of the Airport and surrounding uses but provided less detail for evaluating compatibility between the Airport and surrounding land uses than is provided in Policy 8.2.

27. The different compatibility criteria in the two policies also created confusion as to which set of criteria to apply to land use decisions in the vicinity of the Airport. Revised Policy 4.2 resolves this conflict by incorporating by reference the compatibility criteria in Policy 8.2. The

new compatibility criteria satisfy the statutory requirement that the City address "land use compatibility around airports."

F. Data and Analysis

28. Petitioner also alleges that the amendments are not supported by relevant and appropriate data and analysis. See § 163.3177(1)(f), Fla. Stat.

29. The Plan is not required to address airport operations, as they are regulated by the Federal Aviation Administration (FAA) and the Florida Department of Transportation (FDOT).

30. Although the City takes the position that the deletion of discretionary planning policies requires little, if any, supporting data and analysis, it compiled data and analysis regarding all of the plan amendments. Additional data and analysis were submitted at the final hearing.

31. The City submitted various documents to the DEO with the transmittal package. See City Ex. 15. They include an underline-strike-through format of the proposed changes, each of which is accompanied by an explanation for the revision or deletion; a memorandum from the City Planning Director to the City Council; a license issued by the FDOT; two memoranda from its outside counsel; a 1947 Quit Claim Deed from the federal government to the City which transfers rights to the Airport's

real property; Terms and Conditions of Accepting Airport Improvement Program Grants (Grant Assurances); a letter from the FDOT planner, Sergey Kireyev, dated September 29, 2009; the Department of Community Affairs (DCA's) Objections, Comments, and Recommendations (ORC) report; and a lease between the City and the VGA. The FDOT letter and the ORC report contain the agencies' reviews of Evaluation and Appraisal Report based amendments, including Airport issues, before their adoption in 2010.

32. At the hearing, an FDOT letter dated June 4, 2012, from Mr. Kireyev, which addressed the amendments, was received in evidence. See City Ex. 5. Throughout the amendment process, the Airport Administrator coordinated with Mr. Kireyev to ensure that FDOT's concerns were addressed. The letter confirms that these concerns were satisfied.

33. The revisions to Objective 4 are supported by the Airport's FDOT license and the Grant Assurances. The license and the Grant Assurances section entitled "Operations and Maintenance" demonstrate that the Airport must operate in accordance with FDOT, as well as the FAA.

34. The deletion of Policy 4.1, entitled "Airport Safety," is supported by data and analysis. Requirements for the Airport to operate safely are included in the FDOT license, the Quit

Claim Deed, and the Grant Assurances. The FDOT license and the Grant Assurances demonstrate that the Airport is subject to various requirements to operate safely, which are not mandated in chapter 163. The deletion of this policy will have no adverse impact on airport safety.

35. The deletion of Policy 4.4 was suggested by FDOT in order to preserve the City's ability to protect aerial approaches to the Airport through its eminent domain powers under chapter 333. Among its various authorizations, section 333.12 grants the City the power to acquire land through eminent domain for airport approach protection. The Grant Assurances require the Airport to operate safely and support deletion of the policy, which limited the City's ability to address safety issues. The two FDOT letters reiterate that the City should not surrender its eminent domain powers and also support a safety basis for the policy's deletion.

36. The deletion of Policy 4.4 will have no negative impact on airport safety and may enhance safety because it removes an obstruction to one of the City's methods of protecting airport approaches.

37. The deletion of Policy 4.7, titled "Airport Economic Sustainability," is supported by data and analysis. Its requirement to promote airport business opportunities with

surrounding neighborhoods is inconsistent with the Grant Assurances, which do not require airport businesses to be compatible with surrounding neighborhoods. Sections 22 and 24 of the Grant Assurances require the Airport to be accessible to all types of aeronautical opportunities and to be financially self-secure as possible. Retention of this policy could lead to results that conflict with the Grant Assurances, such as the example of a proposed helicopter training facility to which neighbors may raise objections under this policy on the basis of noise.

38. During the final hearing, Petitioner expressed concerns about the Airport Layout Plan (ALP) and the accuracy of its depictions of the Airport's Runway Protection Zones (RPZs).[3] The ALP was most recently updated and approved in 2011. The ALP approved in 2000 contained an error in its graphic depiction of the RPZ in the northwest corner of the Airport, but the current ALP accurately depicts all four of the RPZs. The ALP was not part of the data and analysis submitted by the City to DEO, and Petitioner failed to demonstrate its relevance to the plan amendments, especially in light of the expert testimony of the Airport Administrator that the RPZs are correctly shown.

G. Internal Consistency

39. In her unilateral Statement, Petitioner alleges that the amendments are inconsistent with the Housing and Neighborhood Development Element. That element is contained in the Plan's Land Use and Development Chapter, which includes the Future Land Use & Design Element. Neither her Statement nor her Amended Petition identifies any specific goal, objective, or policy with which she alleges an inconsistency.

40. During the hearing, Petitioner asked the City Planner, Mr. Minor, about Future Land Use & Design Policy 1.11, which is entitled "Neighborhood Character Preservation." Mr. Minor testified that there is no conflict. This was not refuted.

41. She also asked Mr. Minor about Future Land Use & Design Policy 8.2, which is entitled "Land Use Compatibility Review Procedures." Mr. Minor opined that the plan amendments do not conflict with that policy. This testimony was not refuted.

H. Other Issues

42. Throughout this proceeding, Petitioner has expressed concerns about a wide range of matters related to the Airport, such as the expansion of the RPZs into her neighborhood when the ALP was adopted in 2011, alleged errors in the ALP when it was approved by the FAA, inconsistencies between the Plan and the

ALP and Airport Master Plan, and her belief that at some point in the future the City intends to use its eminent domain powers to condemn her property and other homes in Gulf Shores for expansion of the Airport. No judgment one way or the other is made on the merits of these claims because none of these issues are within the scope of this proceeding.

I. Summary

43. Petitioner failed to establish beyond fair debate that the challenged plan amendments are not in compliance.

CONCLUSIONS OF LAW

44. To have standing to challenge or support a plan amendment, a person must be an affected person as defined in section 163.3184(1)(a). Both Petitioner and VGA are affected persons within the meaning of the statute.

45. Plan amendments adopted under the expedited state review process do not receive an ORC report or a notice of intent from the state land planning agency. See § 163.3184(3), Fla. Stat. Instead, proposed plan amendments are sent directly to reviewing agencies that have 30 days to send comments within their respective areas of expertise back to the local government. In this case, no adverse comments were made by the reviewing agencies. Within 30 days after the adoption process is concluded, an affected person may challenge the plan

amendment by filing a petition directly with DOAH. See § 163.3184(5)(a), Fla. Stat. A hearing is then conducted to determine "whether the plan or plan amendments are in compliance as defined in paragraph [163.3184](1)(b)." Id.

46. "In compliance" means "consistent with the requirements of ss. 163.3177, 163.3178, 163.3180, 163.3191, 163.3245, and 163.3248, with the appropriate strategic regional policy plan, and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable." § 163.3184(1)(b), Fla. Stat.

47. The "fairly debatable" standard, which provides deference to the local government's disputed decision, applies to any challenge filed by an affected person. Therefore, Petitioner bears the burden of proving beyond fair debate that the challenged plan amendments are not in compliance. This means that "if reasonable persons could differ as to its propriety," a plan amendment must be upheld. Martin Cnty. v. Yusem, 690 So. 2d 1288, 1295 (Fla. 1997). Or, where there is "evidence in support of both sides of a comprehensive plan amendment, it is difficult to determine that the County's decision was anything but 'fairly debatable.'" Martin Cnty. v. Section 28 P'ship, Ltd., 772 So. 2d 616, 621 (Fla. 4th DCA 2000).

48. The standard of proof to establish a finding of fact is preponderance of the evidence. See § 120.57(1)(j), Fla. Stat.

49. Section 163.3181(1) provides that "[i]t is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible." Section 163.3181(2) provides general public participation procedures. Section 163.3184(11) includes public hearing requirements applicable to local comprehensive plans. Whether the City has supplemental procedural requirements is not of record. In any event, neither statute is within the scope of the definition of "in compliance."

50. The extent or quality of public participation is not subject to compliance review. See, e.g., Brevard Cnty. v. City of Cocoa, Case Nos. 05-1220GM and 05-1221GM, 2006 Fla. Div. Adm. Hear. LEXIS 288 at *59 (Fla. DOAH July 3, 2006), adopted, DCA Case No. DCA06-GM-249 (Fla. DCA Sept. 29, 2006). However, a plan amendment may be set aside for a procedural defect if a challenger demonstrates that the error resulted in prejudice. See, e.g., Brevard Cnty. v. City of Palm Bay, Case Nos. 00-1956GM and 02-0391GM, 2002 Fla. ENV LEXIS 288 at *36 (Fla. DOAH Dec. 16, 2002), adopted, DCA Case No. DCA03-GM-013A (Fla. DCA Feb. 2003). Petitioner did not demonstrate any statutory

procedural error, including any notice error. Also, she did not demonstrate any prejudice. She appeared and participated at the transmittal hearing, timely filed her petition, and was given an opportunity to contest the amendments in this compliance proceeding.

51. The elements of a comprehensive plan must be internally consistent. See § 163.3177(2), Fla. Stat. Although Petitioner's unilateral Statement alleged that the amendments are inconsistent with the Housing and Neighborhood Development Element, no evidence to support his claim was presented.

52. Section 163.3177(6)(b)2.d. requires that the Transportation Element address "land use compatibility around the airport." The evidence supports a conclusion that the City satisfied this requirement by revising Policy 4.2 to incorporate by reference the compatibility criteria in Future Land Use & Design Policy 8.2.

53. Section 163.3177(1)(f) requires that all plan amendments be based on relevant and appropriate data and an analysis by the local government. In her unilateral Statement, Petitioner contended that the ALP was used as data to support the amendments, and that it is inconsistent with "the professional land survey boundaries." Statement, p. 6. The evidence shows, however, that the ALP was not part of the data

and analysis submitted by the City to the DEO. Further, the unrefuted testimony of the Airport Administrator established that the current ALP accurately depicts all four of the RPZs. At hearing, Petitioner also questioned whether other amendments were supported by data and analysis. For the reasons previously found, it is concluded that the plan amendments are supported by relevant and appropriate data and an analysis by the City.

54. In summary, Petitioner failed to prove beyond fair debate that the plan amendments adopted on August 14, 2012, by Ordinance No. 2012-15 are not in compliance.

55. Finally, the City contends that, except for Transportation Policy 4.2, which addresses statutorily required compatibility, all other revisions are non-mandatory in nature, they require even less supporting data and analysis than aspirational amendments, and the decision to revise or delete them is wholly within the discretion of the local government. However, it is unnecessary to decide the correctness of this broad proposition in order to reach the merits of the case.[4]

RECOMMENDATION

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

RECOMMENDED that the Department of Economic Opportunity enter a Final Order determining that Plan Amendment 11-2CP

adopted by Ordinance No. 2012-15 on August 14, 2012, is in compliance.

DONE AND ENTERED this 1st day of July, 2013, in Tallahassee, Leon County, Florida.

D. R. ALEXANDER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 1st day of July, 2013.

ENDNOTES

[1] A ruling was reserved on the admission of Exhibit 14; the objection is overruled and the exhibit is received.

[2] The West Coast Inland Navigational District is a multi-county special taxing district which assists in the planning and implementation of various waterway projects. See § 374.975, Fla. Stat. Its relevance to this proceeding was not shown.

[3] RPZs are designated areas at the end of the runways that serve to enhance and protect the people and property on the ground in the event an aircraft lands or crashes beyond the runway end. Their boundaries are designated in the ALP; however, the ALP is not a part of the City Plan.

[4] Section 163.3177(1)(f) provides in part that "[a]ll mandatory and optional elements of the comprehensive plan and plan amendments shall be based upon relevant and appropriate data and an analysis by the local government." (emphasis added). Thus, the statute requires data and analysis for all plan amendments,

including discretionary amendments, but the amount or type of data can vary, depending on the nature of the amendment. See Indian Trail Improvement Dist. v. Dep't of Cmty. Affairs, 946 So. 2d 640, 641 (Fla. 4th DCA 2007). A different question is presented if the City is suggesting that once it establishes that a "discretionary" amendment is at issue, the inquiry by an affected person ends. Obviously, a local government has the discretion to delete plan provisions, even if they are mandatory, if they duplicate or exceed statutory requirements and are "no longer necessary." See Ashley v. Dep't of Comm. Affairs, Case Nos. 05-2361GM and 05-2730GM, 2006 Fla. ENV LEXIS 178 at *65 (Fla. DOAH June 12, 2006), adopted, AC Case Nos. 06-008 and 06-022 (Fla. Admin. Comm. Dec. 8, 2006). But absent these circumstances, a revision or deletion of optional text might create an internal inconsistency with other plan provisions, lack even a modicum of data and analyses, or otherwise contravene a requirement in chapter 163. If these issues are alleged to be present, it seems likely that a local government would be forced to defend against these claims.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days of the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will render a final order in this matter.