

Tab 4

PALMETTO WAREHOUSE COMPANY, LLC.  
VAR-2010-03

**Staff Report**  
**Palmetto Warehouse Company, LLC.**  
**600 7<sup>th</sup> Avenue West – VAR -2010-03**

**BACKGROUND**

The property located at 600 7<sup>th</sup> Avenue West is currently zoned General Commercial by the City and is being occupied by a Daycare Center. The daycare center currently has 32 children and 5 employees.

The applicant is proposing to expand the daycare center by approximately 475 square feet to accommodate an additional 15 children. The applicant is requesting a front set-back variance from the required 20 foot setback from 6<sup>th</sup> Street West. The existing building is setback 9 feet from 6<sup>th</sup> Street West. This lot is a corner lot with two front yards facing 7<sup>th</sup> Avenue West and 6<sup>th</sup> Street West. The building has an address on 7<sup>th</sup> Avenue West but access off 6<sup>th</sup> Street West.

**ACTION REQUESTED**

The applicant is requesting a variance of the 20 foot setback for the front yard facing 6<sup>th</sup> Street West to construct an addition that lines up with the existing building that is 9 feet from the lot line.

Justification for this request is attached to this Staff Report.

**VARIANCE PROCEDURES**

In accordance with Section 13.6, Appendix B: the Zoning Code, the following procedures must be met for approval:

- (a) *A written application for a variance is submitted to the zoning administrator demonstrating:*
- (1) *That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings, or structures in the same district;*

**The existing structure is non-conforming as it is set back 9 feet from the property line along 6<sup>th</sup> Street West and the current zoning code requires a 20 foot setback. This non-conformity appears to be legal as the structure was built in 1926 and predates the City's zoning code. A variance is being requested for an addition to the west side of the building which would continue along the existing building line that is 9 feet from the property line.**

- (2) *That literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code;*

**The applicant is not being denied the right to expand the daycare center on the property under the current area, height, and placement requirements of the CG zoning district.**

*(3) That the special conditions and circumstances do not result from the actions of the applicant; and*

**The subject property is zoned CG and is surrounded by commercial zoning districts on all sides requiring no rear yard setbacks. An addition to the rear or side yards would not require the need for a variance.**

**The applicant indicated that expansion in the rear was considered, however an addition to the front and west side of the building would keep the children and the playground in the rear of the building for safety purposes.**

*(b) No petition for a variance may be considered by the Planning and Zoning Board until public notice has been given of a public hearing.*

**Public notice has given.**

*(c) The Planning and Zoning Board shall make findings that the above notice requirements have been met.*

**Proof that the public noticing requirements have been met.**

*(d) The Planning and Zoning Board shall make findings that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.*

**The variance request is for an addition to the existing day care center along the building line that is 9 feet from 6<sup>th</sup> Street West. The existing day care center has 32 children and 5 employees requiring a total of 7 parking spaces today. There are currently 5 parking spaces which makes parking a nonconforming characteristic of use in addition to the requested setback variance which is a nonconforming structure.**

#### **ACTION REQUESTED**

*The Planning and Zoning Board shall make findings that the granting of the variance will be in harmony with the general purpose and intent of this code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

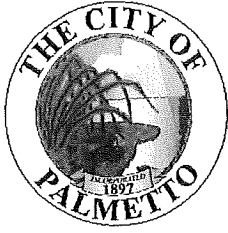
**The applicant's justification for the variance notes that the existing structure on the site is 9 feet from the south property line and that the addition would be aesthetically pleasing as it would follow the existing building line.**

**In its review of this variance request, staff finds that there are other existing nonconformities which would be compounded with an addition to the daycare center. As currently submitted, this variance request is more than a setback variance; a variance to the required parking spaces would also be required.**

**Staff recommends denial for the following reasons:**

- (1) There is no undue hardship involved as it is not the intent of the Zoning Code to encourage nonconformities and their expansions.**
- (2) There are conditions peculiar to the land. While the setback variance in itself may have warranted consideration of a variance, nonconformities cannot be used as grounds for additions or enlargement of structures.**
- (3) The required 20-foot front yard setback can be met on 7<sup>th</sup> Avenue West but a 9 foot setback along 6<sup>th</sup> Street West, the access point of this daycare center is inadequate for a safe and orderly drop off and pick up point for children attending this facility.**
- (4) The applicant has not sufficiently shown that there is some unique economic hardship that necessitates this variance. It is recommended that any future requests for additions to this daycare center include a site plan showing the required parking and landscaping which brings this site up to code.**

Attachments: Application  
Pictures  
Survey



# City of Palmetto Florida Variance Requests

ID	Variance ID
#383	2010-03

## Owner Information

Prefix	First Name	Last Name		
Suffix	Title	Organizational Name		
		PALMETTO WAREHOUSE COMPANY		
Address				
651 17TH STREET, WEST, SUITE I				
City	State	County	Postal Code	
PALMETTO	FL	MANATEE	34221	
Home Phone	Work Phone	Fax Number	E-mail Address	
	(941) 722-8866		CURTISROOT@COMCAST.NET	

## Property Information

Property Address			
600 9TH AVENUE, WEST, PALMETTO, FL 34224			
Property Size			
132.0' X 78.0' OR 10,401.6 SQ. FT.			
DPID	Property Section	Property Township	Property Range
2776800001	14	34	17
Property Blocks	Property Lots	Existing Use	

**Legal  
Description:**

Attach if Necessary

SEE ATTACHED SURVEY

Current Future Land Use Classification	Proposed City Future Land Use Classification	Current Zoning Classification	Proposed City Zoning Classification
Site: GCOM	Site: GCOM	Site: CG	Site: CG
North: GCOM	North: GCOM	North: CG	North: CG
South: GCOM	South: GCOM	South: CG	South: CG
East: GCOM	East: GCOM	East: CG	East: CG
West: COMC	West: COMC	West: CC	West: CC

Variance from what? <i>SEE STATEMENT 1 ATTACHED</i>
Project description <i>SEE STATEMENT 2 ATTACHED</i>

**Please include the following with the application:**

Written Statement Demonstrating:

Special conditions or circumstances, which are peculiar to the land, structure or building, which are not applicable to others in the same district.

<i>SEE STATEMENT 3 ATTACHED</i>
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That interpretation of the provisions of this code would deprive the applicant rights commonly enjoyed by other properties in the same district.

<i>SEE STATEMENT 4 ATTACHED</i>
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That the special conditions and circumstances do not result from the action of the applicant.

<i>SEE STATEMENT 5 ATTACHED</i>
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That granting the variance will not confer on the applicant any special privilege that is denied by this ordinance to others in the same district.

<i>SEE STATEMENT 6 ATTACHED</i>
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Survey Map Showing Property and Vicinity (to scale)/Site Plan

Copy of Deed

Owner Authorization

Fee (\$200)

Shall pay advertising costs

The names and addresses can be obtained by providing the Property Appraiser's Office, 915 4<sup>th</sup> Ave. W. in Bradenton, FL 34205. Ph: 941-748-8208 and FAX 941-742-5664, with the Data Processing Number (Parcel ID) of your property.

**The owner of this property and the undersigned agree to conform to all applicable laws of the City of Palmetto and to all applicable Federal, State, and County laws.**

*Scott S. Lee*

7/28/10

Signature of Applicant or Agent

Date

Date public notified

Date of hearing

## City of Palmetto Florida Variance Requests

Statement 1: A variance is requested for the 20-foot setback requirement for construction along 6<sup>th</sup> Street, West.

Statement 2: The owner wishes to construct an addition to the building. The addition has been designed to be ecstasically pleasing by tying into the existing building, which lies 9.0 feet from 6<sup>th</sup> Street, West. This addition extends the existing wall a mere 12.0 feet.

Statement 3: The existing structure, located at the corner of 6<sup>th</sup> Street and 7<sup>th</sup> Avenue West, was constructed in 1926. The westernmost part of the structure lies 9.0 feet from the property line along 6<sup>th</sup> Street West. Other nearby properties do not lie as close to the street.

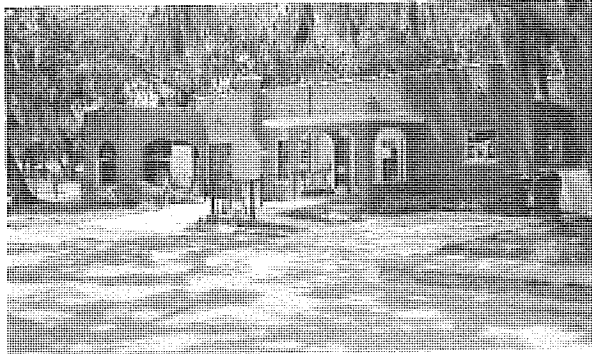
Statement 4: None

Statement 5: The structure was constructed before the existing setback requirements of 20.0 feet.

Statement 6: Since no other property lies 9.0 feet from its property line along 6<sup>th</sup> Street, the granting of this variance will not confer any special privilege to other property owners in the same district.



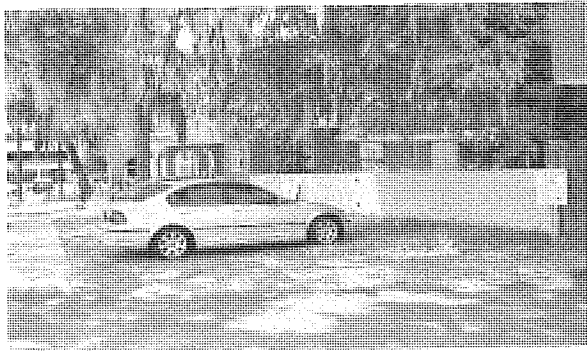
## 600 7<sup>th</sup> Avenue West (Minnie Miracles Daycare)



6<sup>th</sup> St. W. (entrance)



Corner of 7<sup>th</sup> Ave & 6<sup>th</sup> St. W.



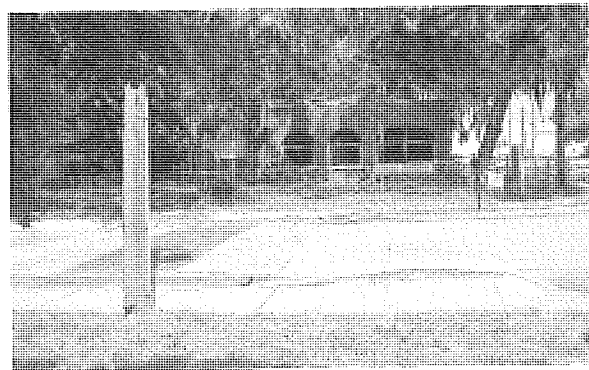
6<sup>th</sup> St looking west toward 7th Ave. W



6<sup>th</sup> St. looking southwest toward City Hall

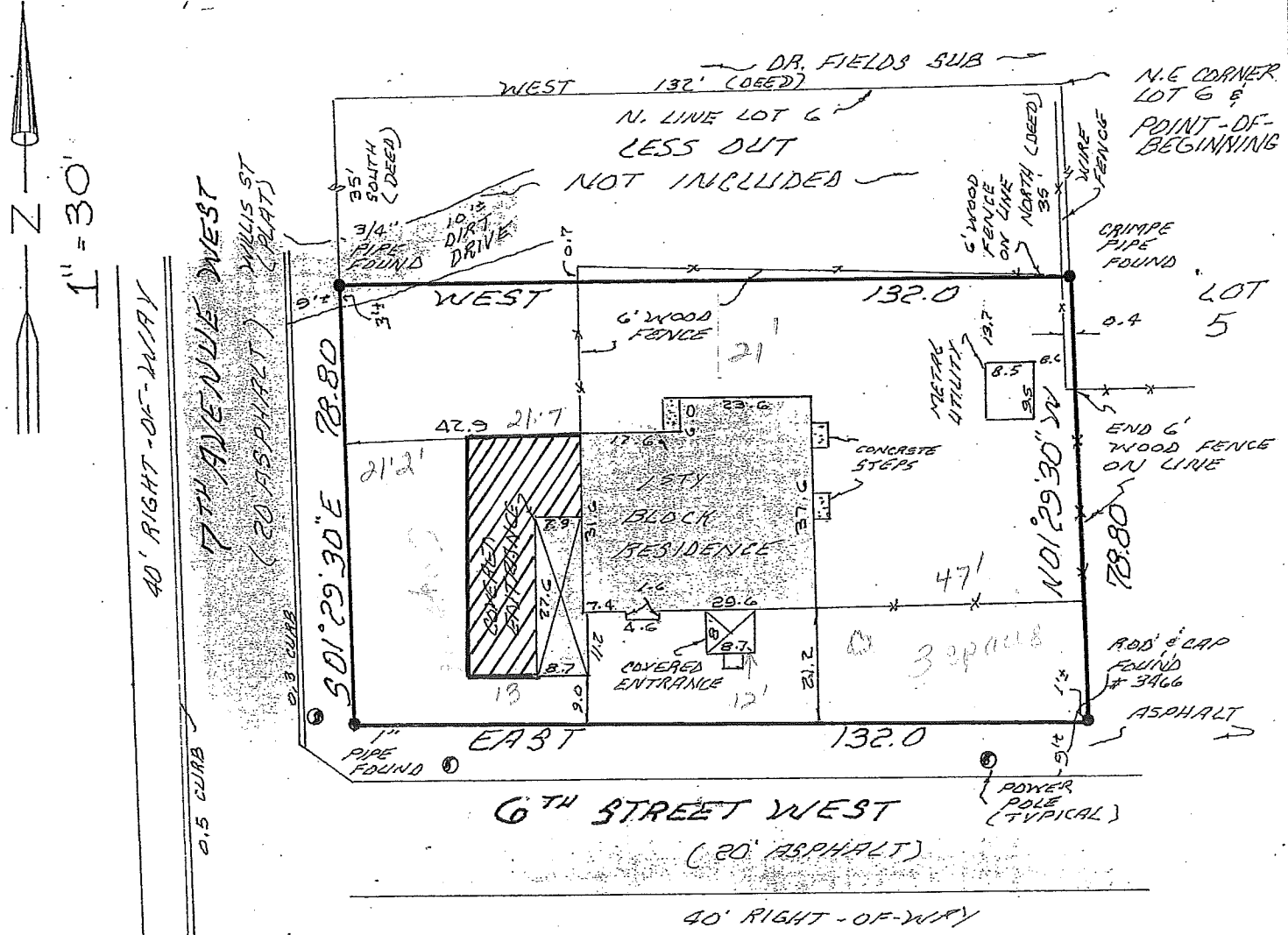


6<sup>th</sup> St looking south/southeast



Front of building on 7<sup>th</sup> Ave W.

(FURNISHED) O.R. BOOK 1277 PAGE 2160  
 LOT 6, BLOCK "1", WILLIS ADDITION TO PALMETTO, FLORIDA, AS PER  
 PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 133, OF THE PUBLIC  
 RECORDS OF MANATEE COUNTY, FLORIDA, LESS BEGINNING AT THE NE  
 CORNER OF LOT 6 OF BLOCK 1, OF WILLIS ADDITION TO PALMETTO,  
 FLORIDA AND RUNNING THENCE WEST 132 FEET TO WILLIS STREET (NOW  
 7TH AVE.); THENCE SOUTH 35 FEET; THENCE EAST 132 FEET TO THE  
 EAST SIDE OF SAID LOT, THENCE NORTH 35 FEET TO POINT OF BEGINNING  
 SAME BEING THE NORTH 35 FEET OF SAID LOT 6 OF BLOCK 1 OF WILLIS  
 ADDITION TO PALMETTO, FLORIDA, AS PER PLAT THEREOF FILED AND  
 RECORDED IN THE PUBLIC RECORDS OF A MANATEE COUNTY, FLORIDA.



- NOTES
- 1) BEARINGS ARE ASSUMED AND BASED ON 6TH STREET BEING EAST
  - 2) PROPERTY LIES IN FLOOD ZONE "C" PANEL NO. 120559 0003 C 11-16-83

CERTIFIED TO:  
 P. J. HENDERSON  
 PREFERRED BANK  
 FIRST AMERICAN TITLE  
 COMPANY OF FLORIDA, INC.

## OLD BUSINESS

- a. Department of Community Affairs Objections,  
Recommendations and Comments Report



STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**  
*"Dedicated to making Florida a better place to call home"*

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

August 6, 2010

The Honorable Shirley Bryant  
Mayor, City of Palmetto  
600 17<sup>th</sup> Street West  
Palmetto, Florida 34221

Dear Mayor Bryant:

The Department of Community Affairs has completed its review of the proposed Comprehensive Plan Amendment for the City of Palmetto DCA Number 10-1ER, which was received on June 9, 2010. Copies of the proposed amendment were distributed to appropriate state, regional and local agencies for their review, and their comments are enclosed.

The Department has reviewed the comprehensive plan amendment for consistency with Rule 9J-5, Florida Administrative Code and Chapter 163, Part II, Florida Statutes and the City of Palmetto's Comprehensive Plan. The Department identified issues within the report pertaining to revisions made to the various elements of the Comprehensive Plan and the proposed Future Land Use Map amendments.

We comment the City for proposing its EAR-Based Amendments. For your assistance, we have attached procedures for final adoption and transmittal of the comprehensive plan amendments. If you have any questions, please contact Emily Howard, Planning Analyst, at (850) 922-1811 or via e-mail at [emily.howard@dca.state.fl.us](mailto:emily.howard@dca.state.fl.us).

Sincerely,

Mike McDaniel, Chief  
Office of Comprehensive Planning

MM/eh

Enclosure: Objections, Recommendations and Comments Report  
Review Agency Comments

cc: Ms. Jessica White, Tampa Bay Regional Planning Council  
Ms. Lorraine Lyn, City of Palmetto

## TRANSMITTAL PROCEDURES

Upon receipt of this letter, the City of Palmetto has 120 days in which to adopt, adopt with changes, or determine that the City will not adopt the proposed amendment. The process for adoption of local government comprehensive plan amendments is outlined in s. 163.3184, F.S., and Rule 9J-11.011, F.A.C. The City must ensure that all ordinances adopting comprehensive plan amendments are consistent with the provisions of Chapter 163.3189(2)(a), F.S.

Within ten working days of the date of adoption, the City must submit the following to the Department:

- Three copies of the adopted comprehensive plan amendments;
- A listing of additional changes not previously reviewed;
- A listing of findings by the local governing body, if any, which were not included in the ordinance; and
- A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the amendments, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to the Executive Director of the Tampa Bay Regional Planning Council.

Please be advised that Section 163.3184(8)(c), F.S., requires the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. **Please provide these required names and addresses to the Department when you transmit your adopted amendment package for compliance review. In the event there are no citizens requesting this information, please inform us of this as well.** For efficiency, we encourage that the information sheet be provided in electronic format.

**DEPARTMENT OF COMMUNITY AFFAIRS**  
**OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT**  
**THE CITY OF PALMETTO**  
**COMPREHENSIVE PLAN AMENDMENT 10-1ER**

August 6, 2010  
Division of Community Planning  
Office of Comprehensive Planning

This report is prepared pursuant to Rule 9J-11.010,  
F.A.C.

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## ***INTRODUCTION***

The following objections, recommendations and comments are based upon the Department's review of the City of Palmetto's proposed amendments to their comprehensive plan (DCA number 10-1ER) pursuant to Chapter 163.3184, Florida Statutes (F.S.).

The objections relate to specific requirements of relevant portions of Chapter 9J-5, Florida Administrative Code (F.A.C.), and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some objections may have initially been raised by one of the other external review agencies. If there is a difference between the Department's objection and the external agency advisory objection or comment, the Department's objection would take precedence.

Each of these objections must be addressed by the local government and corrected when the amendment is resubmitted for our compliance review. Objections, which are not addressed, may result in a determination that the amendment is not in compliance. The Department may have raised an objection regarding missing data and analysis items, which the local government considers not applicable to its amendment. If that is the case, a statement justifying its non-applicability pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination on the non-applicability of the requirement, and if the justification is sufficient, the objection will be considered addressed.

The comments, which follow the objections and recommendations section, are advisory in nature. Comments will not form bases of a determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping, and reader comprehension.

Appended to the back of the Department's report are the comment letters from the other state review agencies and other agencies, organizations and individuals. These comments are advisory to the Department and may not form bases of Departmental objections unless they appear under the "Objections" heading in this report.

OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT

FOR THE CITY OF PALMETTO

PROPOSED COMPREHENSIVE PLAN AMENDMENT 10-1ER

**I. CONSISTENCY WITH RULE 9J-5, F.A.C., AND CHAPTER 163, F.S.**

The City is proposing to revise its Comprehensive Plan pursuant to the completion of the Evaluation and Appraisal Report as required by law. The amendment involves changes to the text of various elements of the Comprehensive Plan, as well as changes to the Future Land Use Map. The Department raises the following objections to the proposed Amendment 10-1ER plan amendments.

**A. EAR-Based Amendment:**

1. **Coastal High Hazard Area Definition (CHHA):** In the proposed definition section of the plan and also in Objective 8.5 of the Coastal Management Element the City defines the CHHA as the evacuation zone for a Category 1 hurricane as established by the Tampa Bay Regional Planning Council. This is inconsistent with the changes made to the definition by the Florida Legislature in 2006, which defines the CHHA as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

Authority: Sections 163.3177(6)(a), (g), (8), (9), (10); 163.3178(2)(h), (9)(c), F.S.; and Rules 9J-5.006(4)(b)6; 9J-5.012(2)(e)3, F.A.C.

**Recommendation:** Revise the definition to state that the CHHA is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

2. **Existing Land Use Data:** The City did not include a complete Existing Land Use Map or map series to support the Future Land Use Element Goals, Objectives, and Policies of the comprehensive plan. The City should include an Existing Land Use Map or map series for 2010 showing all land uses and natural resources within the City.

Authority: Sections 163.3177(1), (6)(a) and (d), and (8), F.S.; and Rule 9J-5.006(1), F.A.C.

**Recommendation:** Include with the amendment an updated existing map series. The map or map series should include the following: public buildings and grounds; other public facilities; vacant or undeveloped land; historic resources; existing and planned public potable waterwells and wellhead protection areas; beaches and shores including estuarine systems; rivers, lakes, bays, floodplains and harbors; wetlands; minerals and soils; indicate the generalized uses of land adjacent to its boundaries; and any existing dredge spoil sites as outlined in Rule 9J-5.006(1), F.A.C.



3. **Population Projections:** The proposed EAR based amendments do not include new population projections upon which the revisions to the FLUM and Comprehensive Plan are based. The 2007 EAR projects population to the year 2030 at which it was stated the City will have a population of 24,355 people. The population projection is based on more than three year old data and does not represent the best available information. Pursuant to state law amendments to the Comprehensive Plan are to be based on the best available data and analysis.

Authority: Sections 163.3177(2)(4)(a) and 163.3177(6)(a),(c) and (d),(8), and (10(e), and Rules 9J-5.005(2), F.A.C.

**Recommendation:** Revise the amendment to include an updated population projection that is supported by the best available data and analysis and coordinated with the Water Management District, School Board, MPO, and Manatee County.

4. **Proposed Future Land Use Categories:** The City proposes to revise a number of Future Land Use Categories. The Department has raised the following objections to those revisions:
- a. The City does not explain the changes made to the Future Land Use Categories and to the Future Land Use Map in a way that quantifies the proposed impacts to public facilities and the overall increase or decrease in development potential. For example, the City is increasing the development potential within the Commercial Core future land use category. The current plan Commercial Core category allows 14 dwelling units per acre and a .75 FAR. The proposed changes to the FLU category will allow 35 dwelling units per acre and up to a 7.0 FAR. Similarly, the General Commercial Category is increasing development potential from a 3.00 FAR to a 10.00 FAR.
  - b. The following proposed Future Land Use Categories do not incorporate development standards in terms of a density or intensity standard into the Future Land Use Element policies: Public Service Facility, Public Use, and Conservation.
  - c. The proposed new Conservation land use category is written so it will allow uses related to storm water attenuation and water quality treatment, floodplain compensation, and surface water storage withdrawals. These uses are inconsistent with the definition in 9J-5.003(28) for Conservation. These uses are more appropriate for a land use designation of Open Space of Upland Buffer Areas. Conservation uses should only include passive uses that minimally disrupt natural systems.
  - d. The proposed Urban Planning category establishes a maximum FAR of 10.00 and 45 dwelling units per acre. The purpose of the Urban Planning category is to require large-scale, integrated planned development areas that are under single ownership and shall require planned development zoning for significant developments. However, the proposed category states, "limited agriculture operations may receive this FLUM category". This is inconsistent with the definition of the Urban Planning Category and is not suitable for an Urban Center.

- e. No data and analysis has been provided justifying the high density and intensity standards established in these land use categories in a small town like Palmetto. Also, the impact of these high density and intensity standards on public facilities has not been addressed.

Authority: Section 163.3177(6)(a), (8), F.S.; Rules 9J-5.003(28); 9J-5.005(6); and 9J-5.006(3)(c)1 and 7., F.A.C.

**Recommendation:** The City should revise proposed policies as follows:

- a. Include with the amendment information documenting the changes made to the Future Land Use Element categories and the increased development potential that results from the change, based on the maximum development potential allowed by the category. The City should also revise public facilities impact data and analysis based on the newly proposed density and intensity standards for both the short term planning period and the long term planning period (2015 and 2030). The submittal should be revised to include tables that clearly depict the changes to land use allocation as a result of the proposed EAR update.
  - b. Revise the following future land use categories to include development standards; Public Service Facility, Public Use, and Conservation.
  - c. Revise the future land use category description for Conservation because it is inconsistent with the definition in 9J-5.003(28), F.A.C.
  - d. Revise the future land use category description for Urban Planning and the uses allowed and should exclude agriculture lands. It is inappropriate for agriculture lands to receive a 45 dwelling unit per acre density and a 10.0 FAR.
  - e. Provide data and analysis justifying the suitability of these high density and intensity standards for the City of Palmetto and demonstrate that adequate public facilities are available or planned to be available to address the impact of the changes.
5. **Deferral to Zoning for Commercial Core:** Proposed policy 1.4.2 of the Future Land Use Element defers to the City's zoning regulations to identify and determine the types and scales of appropriate uses for the Commercial Core and other districts instead of establishing them in the Comprehensive Plan as required.

Authority: Sections 163.3177(6)(a), (8), (9)(f), F.S.; Rules 9J-5.003(90); 9J-5.005(2)(a) and (c), (5) and (6); 9J-5.006(3)(c)7, F.A.C.

**Recommendation:** Revise policy 1.4.2 to clearly identify the type of uses and the scale of development to be allowed in the Commercial Core district and not defer it to the Land Development Regulations.

**6. Energy-Efficient Land Use Patterns and the Reduction of Green House Gas Emissions:** The revisions to the plan do not address energy-efficient land use patterns and the reduction of green house gas emissions. Specifically the inclusion of meaningful and predictable guidelines and standards addressing the following:

- (1) Future Land Use Element policies addressing greenhouse gas reduction strategies pursuant to Section 163.3177(6)(a), F.S.;
- (2) Transportation Element policies addressing transportation strategies to reduce greenhouse gas emissions from the transportation sector pursuant to Section 163.3177(6)(b and j), F.S. The Transportation Element does not include Goals, Objectives, or Policies which establish transportation strategies to achieve reductions in greenhouse gas emissions from the transportation sector.;
- (3) Housing Element policies addressing principles to be followed in: (a) energy efficiency in the design and construction of new housing; and (b) use of renewable energy sources; pursuant to Section 163.3177(6)(f), F.S. The proposed Housing Element does not include Goals, Objectives or Policies which establish energy efficiency in construction of new housing or use of renewable energy sources; and
- (4) Conservation Element policies addressing energy conservation and map of energy conservation areas pursuant to Section 163.3177(6)(d), F.S. The proposed Conservation Element does not include Goals, Objectives or Policies which address energy conservation and does not include a map of energy conservation areas.

Authority: Sections 163.3177(6)(a), (d), (f)(1)h, and (j), (8), and (10)e, F.S.; and Rules 9J-5.003(82) and (90); 9J-5.005(6); 9J-5.006(3)(c)1; and 9J-5.019(4)(b), F.A.C.

**Recommendation:** Revise the Comprehensive Plan to include objectives and policies that provide meaningful and predictable guidelines and standards that will provide for a compact mixed use community that contains a variety of housing types that will reduce greenhouse gas emissions. The objectives and policies should be supported by relevant data and analysis and should address the provisions of law cited above. For additional information, visit the Department's webpage at [www.dca.state.fl.us/fdcp/Legislation/2008/HB697Resources.cfm](http://www.dca.state.fl.us/fdcp/Legislation/2008/HB697Resources.cfm).

**7. Existing and Future Transportation Map Series:** The Transportation Element does not include updated existing and future transportation map series indentifying the major thoroughfares in the City as required by law. The map included as the Future Transportation Map does not include all relevant features as required by law.

Authority: Section 163.3177(5)(a), (6)(a) and (j), F.S.; and Rule 9J-5.005(1)(e) and (4); 9J-5.019(2)(a) and (b), (5), F.A.C.

**Recommendation:** Include with the amendment updated Existing and Future Transportation Map or map series. The map should show all the required features listed in Rule 9J-5.019(2)(a) and (5)(a), F.A.C. For the Future Transportation map the long range planning horizon must be shown on the map.

8. **Housing Data and Analysis:** The data and analysis does not include updated housing data and does not evaluate the housing needs for moderate income, low income, and very-low income households, group homes, foster care facilities, and households with special housing needs for the planning time frames established in the comprehensive plan.

Authority: Sections 163.3177(6)(a) and (f), (8), and (10), F.S.; and 9J-5.005(2), (5), and (6); 9J-5.010(1), (2), (3)(b)1, 3, 4, and 7, (3)(c)2, 5, 6, 7, 8, and 11, F.A.C.

**Recommendation:** Revise the Housing Element to include updated housing data and analysis and evaluate the housing need for moderate income, low income, and very-low income households, group homes, foster care facilities, and households with special housing needs for the 2015 and 2030 planning time periods. The data and analysis should address how well current housing needs of the City are being met, projected affordable housing surpluses and shortfalls for the City's planning time frames. The City should utilize information prepared by the Shimberg Center when updating the data and analysis. The objectives and policies must ensure the provision of adequate sites and distribution of housing types including mobile homes and manufactured housing, for moderate income, low income, and very-low income households. Provisions must also be made for group homes, foster care facilities, and households with special housing needs.

9. **Affordable Housing Density Bonuses:** Proposed policy 3.6.4 of the Housing Element states the City will continue to consider density bonuses for the inclusion of affordable units within each residential project and establish intensity bonuses for the inclusion of affordable units within mixed use development. However, the plan does not specify the amount and how these bonuses may be applied.

Authority: Sections 163.3177(6)(a) and (f), (8), and (10), F.S.; and 9J-5.005(6); 9J-5.006(3)(c)7, F.A.C.

**Recommendation:** Revise policy 3.6.4 to specify the future land use map categories that will receive the density bonuses. The policy must state the amount of the density bonus and meaningful criteria under which the bonuses may be obtained.

10. **10-Year Water Supply Plan:** The City of Palmetto created a Potable Water Element in 2004. However, the element has not been updated to reflect the water supply planning requirements of Chapter 163.3177(6)(c), F.S., since the City's Water Supply Plan that was due in May 2008 has not been adopted.

Authority: Section 163.3177(6)(a) and (c) and 163.3180(2)(a), F.S.

**Recommendation:** Transmit a Water Supply Plan consistent with the County's and the Regional Water Supply Plan for review by the department before adopting the proposed FLUM amendments.

11. **Water Supply Concurrency:** The concurrency management system has not been revised to address the availability of water supplies.

Authority: Section 163.3177(6)(a) and (c), 163.3180(2)(a), F.S.; and Rule 9J-5.0055(3)(a) 2, F.A.C.

**Recommendation:** Revise the concurrency management system to include a provision that prior to the issuance of a building permit or its functional equivalent, the applicable water supplier shall be consulted to determine that water supply will be available no later than the date of issuance of a certificate of occupancy.

12. **Coastal Element Data & Analysis:** The Coastal Management Element includes a map depicting the Coastal High Hazard Area. However it is not clear if this map is based on the most recently definition of the CHHA as stated in Section 163.3178(2)(h), F.S. Additionally, the map series does not include; existing and planned public potable waterwells and wellhead protection areas; beaches and shores including estuarine systems; rivers, lakes, bays, floodplains and harbors; wetlands; minerals and soils.

Authority: Sections 163.3177(6)(a) and (g), (8), (10); 163.3178, F.S.; and Rules 9J-5.005(2); 9J-5.006(4)(b); and 9J-5.012(2), F.A.C.

**Recommendation:** Include with the amendment an updated CHHA map that depicts the area based on the most recent definition of the CHHA. Additionally, all maps included in the comprehensive plan shall include major natural and man-made geographic features, city, county, and state lines, when applicable; and shall contain a legend indicating a north arrow, map scale, and date.

13. **Manatee Habitat Areas:** Proposed policy 8.1.7 states the City shall adopt rules and policies regarding manatee habitat areas in native coastal areas. This policy is not meaningful and predictable for two reasons. First, no timeframe is offered by which these adopted rules and policies will be put into place. Secondly, the plan does not define or map native coastal areas.

Authority: 163.3177(1), (6)(a) and (g), F.S., and Rules 9J-5.005(6), 9J-5.006(3)(c)7 & (4)(a), F.A.C

**Recommendation:** Revise policy 8.1.7 to include a timeframe by which rules and policies must be adopted regarding manatee habitat areas in native coastal areas. Additionally, the City should map native coastal areas.

**14. Densities in CHHA:** Proposed policy 8.5.7 of the Coastal Management Element states;

“Density in the CHHA shall be limited to 4 dwelling units per gross acre, unless the Urban Planning land use classification is approved. If UP land use category and planned development zoning is considered for approval, appropriate density shall take into consideration visual compatibility and include infrastructure that enables timely evacuation in the event of a hurricane. A determination of compatibility between the existing and proposed development shall be based on design standards, established in the City’s zoning regulations.”

Department has identified the following objections associated with the above proposed policy:

- a. It is unclear if properties within the CHHA are currently designated for a maximum density of 4 dwelling units per acre. Otherwise, this represents an increase in density in the CHHA and therefore is inconsistent with the requirements of the law.
- b. The proposed policy states, “unless the Urban Planning land use classification is approved.” It is unclear if this means approval through the Comprehensive Plan Amendment process or locally. Also, the Urban Planning category allows up to 45 dwelling units per acre which will result in increased density in the CHHA.

Authority: Sections 163.3177 (6)(a), and (8), 163.3178(2)(d) and (h), F.S., and Rules 9J-5.005(2)(a) and (5); 9J-5.006(3)(b)5; 9J-5.012(3)(a), and (b)6, F.A.C.

**Recommendation:** Provide data and analysis to show there is no increase in residential densities within the CHHA as a result of this new policy. Additionally, the City should clarify the proposed policy to state the approval process for applying the Urban Planning land use classification (or any other classification) is the plan amendment process.

**15. Conservation Element Data & Analysis:** The proposed Conservation Element includes no analysis or maps depicting the following information; Wellheads, Wetlands, Special Flood Hazard Areas, and Hydric Soils. The Conservation Element does not provide adequate data and analysis to satisfy the requirements of Rule 9J-5.013(1), F.A.C. Therefore the Goals, Objectives, and Policies are not supported by appropriate data and analysis as required.

Authority: Sections 163.3177(6)(a), (d), and (g), (8), (10); 163.3178, F.S.; and Rules 9J-5.005(2)(a), (b), and (g); 9J-5.012(2); 9J-5.013(1), and F.A.C.

**Recommendation:** Revise the amendment to include maps and data and analysis of all the natural resources, where present within the City’s boundaries based on the list in 9J-5.013(1), F.A.C. These include; rivers, lakes, bays, wetlands including estuarine marshes, groundwater and air, including information on quality of the resource available from and classified by the Florida Department of Environmental Regulation. Also including; floodplains, known sources of commercially valuable minerals, areas known by the local soil and water conservation district to have experienced soil erosion problems, areas of recreationally and commercially important

fish or shellfish, wildlife, marine habitats, and vegetative communities including forests, indicating known dominant species present and species listed by federal, state, or local government agencies as endangered threatened or species of special concern. The City should revise the goals, objectives and policies for natural resource protection, as necessary, to be consistent with and supported by the data and analysis.

**Comments:**

Dense Urban Land Area (DULA): In proposed policy 2.1.3 the City has declared its self a DULA pursuant to Section 163.3180(5), F.S., and therefore development is exempt from maintaining transportation concurrency Level of Service standards. However, the City has not indicated how or when it will implement land use and transportation strategies to support and fund mobility. The City should adopt and implement land use and transportation strategies to support and fund mobility by July 7, 2011.

Coordination with FWC: The City proposes to revise policy 9.1.1 of the Conservation Element to state that "development applications shall demonstrate that their project will not result in a net reduction of fish or wildlife." This policy does not offer guidance regarding either the protection of fish or wildlife. The City should retain the existing policy which indicates that the City will coordinate with FWC.

**B. Future Land Use Map Amendments:** The City proposes to redesignate 58 acres on the Future Land Use Map. The proposed FLUM amendments will result in an increase of 1,173,942 square feet in non-residential space. The Department identifies the following objections to the proposed FLUM changes:

17. **Public Facilities, Water Supply, Potable Water, and Wastewater Facilities:** The proposed amendments will result in an increase of 1,173,942 square feet in non-residential space, and alter the current demand on public facilities. Section 163.3177(6)(a), F.S. requiring that future land use plans be based on the availability of public facilities including water supplies and waste water facilities. However, the amendments to the Future Land Use map are not supported by data and analysis demonstrating that adequate water and waste water facilities and supplies are available or planned to be available to meet the demand created by the maximum development potential created by the amendments for the short term (next five years) and the long term (2030 horizon year of the plan).

The City's 10-Year Water Supply Plan that was due on May 30, 2008 has not been submitted for review. The City should not adopt these amendments until the City's 10-Year Water Supply Plan has been submitted for review, found in compliance, and demonstrates adequate water supplies are available to meet the needs of the City for the next 10 years including the water supply demand to serve the proposed amendments.

Authority: Sections 163.3161(3); 163.3167(13); 163.3177(2), (3), (4)(a), (6)(a), (b), (c), (d) and (h)1, (8), (10); and 163.3180(1), (2)(a), F.S.; and Rule 9J-5.005(2), (2)(a), (4); 9J-5.0055(1) and (3)(d); 9J-5.006(2)(a) and (b), (3)(b)1 and 4, (3)(c)3; 9J-5.011(2)(b) and (c)1 and 2; 9J-5.016(1)(a), (2), (3)(b) 1, 3, 4, and 5, (3)(c)1.e, 1.f, 1.g, 6, 8, (4)(a) and (b), F.A.C.

**Recommendation:** Provide data and analysis demonstrating that adequate water supply, potable water, and wastewater facilities are available or planned to be available to meet the

demands of development on the subject sites at the maximum allowed density and intensity standards. The data and analysis should be coordinated with the Southwest Florida Water Management District, be consistent with the District's Regional Water Supply Plan and be consistent with the City's most recent CUP approved by the Southwest Florida Water Management District. The City should transmit the Ten-year Water Supply Plan to the Department and it should coordinate water supply with the proposed amendments before adopting the Future Land Use Map Amendments. If capital improvements are needed to address future needs, those improvements must be included in a financially feasible Five-Year Schedule of Capital Improvements.

- 18. Proposed Future Land Use Category:** The City is proposing new future land use categories and also revising existing categories and applying these to the 2030 Future Land Use Map. The changes in overall development potential are not explained or analyzed. For example, in the northern and southeastern areas of the City large portions of land currently designated as PUD (allowing 16 du/acre or 45 with density bonuses) are now shown as Urban Planning on the proposed 2030 FLUM. Urban Planning is a newly proposed FLU category which allows 45 du/acre and a 10.00 FAR. No analysis of this change has been provided and its possible impacts on public facilities.

Authority: Sections 163.3177(6)(a), (c) and (d), (8), and (9), F.S.; Rules 9J-5.005(2), (5), (6), 9J-5.006(2)(c)1,(3)(b), (c)1, 6, 7, and (4); 9J-.012(3)(b)1, and (c)1; 9J-5.013(2)(b)3 and 4 and (2)(c)3, 5, , 6, 7, 8, and (3)(a) and (b)., F.A.C.

**Recommendation:** Include data and analysis documenting the changes to the Future Land Use Map indicating the acreage of land involved and the maximum development potential based on the maximum densities and intensities allowed. The City should also revise public facilities impact data and analysis based on the newly proposed density and intensity standards for both the short term planning period and the long term planning period (2015 and 2030). The submittal should be revised to include tables that clearly depict the changes to land use allocation as a result of the proposed EAR update.

## II. CONSISTENCY WITH CHAPTER 187 F.S. STATE COMPREHENSIVE PLAN

The proposed amendment is inconsistent with the following provisions of Chapter 187, F.S., the State Comprehensive Plan:

Objections: 1 and 15

Section 187.201 (6), Public Safety Policies (b) 22 and 23

Objections: 5, 7, 10, 11, 12, 17, and 18

Section 187.201(7), Water Resources, Policies (b) 2, 8, 10, and 12

Objections: 1, 13, 14 and 15

Section 187.201(8), Coastal and Marine Resources, Policies 1 through 10



Objections: 1, 2, 3, 14, 15, and 16

Section 187.201(9), Natural Systems and Recreational Lands, Policies (b) 1 through 4, 7, and 9 through 13

Objections: 5, 7, 17, and 18

Section 187.201(11), Energy Policies (b) 1, 2, 3, 4, 5, 6, and 8

Objections: 3, 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, and 18

Section 187.201(15), Land Use Policies (b) 1, 2, 3, and 6

Objections: 5, 6, 8, 10, 11, 12, 15, 17 and 18

Section 187.201(17), Public Facilities, Policies (b) 3, 5, 6, 7 and 9

Objections: All of the Listed Objections

Section 187.201(25), Plan Implementation, Policies (b) 1

By addressing the concerns noted in Section III., these inconsistencies with Chapter 187, Florida Statutes, can be addressed.

**Recommendation:** Revise the amendment, as necessary, to be consistent with the above referenced goals objectives and polices of the State Comprehensive Plan. Specific recommendations can be found following the objections cited previously in this report.

## NEW BUSINESS

- a. Discussion on amendment to Zoning Code to allow a daycare center as a permitted or an accessory use in the Commercial Core (CC) zoning district.