IN THE SUPREME COURT OF FLORIDA

VICKI MINNAUGH AND
ROBERT MINNAUGH,

Petitioners,

v.

COUNTY COMMISSION OF
BROWARD COUNTY, a political
subdivision of the State of Florida.

Respondent,
_____/

Case No.: SC00-875

Discretionary Proceedings to Review a Decision by the
Fourth District Court of Appeal, State of Florida
Case No.: 4D99-0751

# AMICUS CURIAE BRIEF OF THE DEPARTMENT OF COMMUNITY AFFAIRS


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## PREFACE

This is an amicus curiae brief filed by the State of Florida Department of Community Affairs in support of the Respondent. The filing of this brief was approved by Order dated June 13, 2000. The Department of Community of Affairs is referred to herein as "the Department," as well as the "Department of Community Affairs." In some of the statutes referenced and quoted herein, the Department is referred to as "the state land planning agency."

The terms "small scale amendment" and "small scale plan amendment" are used herein to refer to a comprehensive plan amendment that qualifies to use the expedited amendment process under Section 163.3187(1)(c), Florida Statutes. That procedure is limited to changes to the Future Land Use Map and generally applies to parcels of land ten acres or less in size. The small scale process is one of the exceptions to the twice a year limitation on plan amendments; requires only one public hearing, rather than two; and is exempt from mandatory Department review. Fla. Stat. §§163.3187(1)(c) and 163.3187(1)(c)3. The term "large scale amendment" refers to an amendment that is subject to the ordinary plan amendment procedure set forth in Sections 163.3184, Florida Statutes.

## SUMMARY OF ARGUMENT

The "small scale amendment" statute was created solely to expedite the comprehensive plan amendment procedure for small development projects. The Legislature accomplished this goal by giving local governments the option to shorten the ordinary amendment process for amendments that met certain criteria. This optional expedited process, if utilized, does not change the fundamental, legislative nature of the local government action.

It is well settled that comprehensive plans are policy documents. Any change to a plan, including the Future Land Use Map, reflects a change in policy. The Future Land Use Map is the visual depiction of a local government's growth plan and is interrelated with, and supplemented by, the textual provisions of the plan. Any amendment to the Future Land Use Map, including those processed as small scale development amendments under Section 163.3187(1)(c), Florida Statutes, necessarily involves a change in the local government's policy for the subject area.

This Court's rationale in Martin County v. Yusem, 690 So. 2d 1288 (Fla. 1997), that all plan amendments are legislative acts because of their policy-setting nature, is applicable to all Future Land Use Map amendments regardless of the size of the subject parcel. The Court is urged to follow the lead of the four district courts below and reject Appellants argument for different treatment and standard of

review for small scale comprehensive plan amendments. To do otherwise would afford applicants for such small property amendments more procedural rights than owners of larger tracts of land receive, and treat the local government's decision with less deference simply because of the size of the land involved. Such a result was clearly not intended by the Legislature when it enacted the optional method for local governments to expedite small scale amendments, and would add great and unwarranted confusion to this area of the law.

## PLAN AMENDMENTS FOR "SMALL SCALE DEVELOPMENT ACTIVITIES," AS DEFINED IN SECTION 163.3187(1)(C), FLORIDA STATUTES, ARE LEGISLATIVE

The Legislature created the requirements and procedures for the adoption of local comprehensive plans in 1985. Amendments to comprehensive plans were required to meet the same substantive and procedural requirements as the original plan adoption. Fla. § 163.3184. In 1986, small scale amendments made their statutory debut as an exception to the twice a year comprehensive plan amendment limitation. Ch. 86-191, § 10, Laws of Florida. As the statute evolved through the years, small scale amendments became a distinct procedural option afforded by the Legislature to local governments for streamlining and expediting the adoption of Future Land Use Map revisions to local comprehensive plans for small development projects. Fla. Stat. § 163.3187(1)(c). The original enactment and subsequent revisions of that process make it clear the Legislature never intended that small scale amendments were to be treated differently by the courts than other comprehensive plan amendments. Small scale amendments, like other comprehensive plan amendments, are legislative acts that do not trigger the due process requirements of a quasi-judicial hearing and are not subject to strict scrutiny judicial review.

Comprehensive plans often are likened to constitutions. *See, e.g.,* Martin

County v. Yusem, 664 So. 2d 976, 979 (Fla. 4th DCA 1995) (Pariente, J., dissenting), *citing* Machado v. Musgrove, 519 So. 2d 629, 632 (Fla. 3d DCA 1987); Gardens Country Club, Inc. v. Palm Beach County, 590 So. 2d 488, 490 (Fla. 4th DCA 1991). As in the case of constitutions, amendments to comprehensive plans result in policy changes, no matter how small the alteration. Subsequent actions such as land development ordinances, rezonings, site plans, and all development orders must be "consistent with" the local comprehensive plan. Fla. Stat. § 163.3194. Accordingly, development in the jurisdiction must follow the policy set by the comprehensive plan.

This Court has previously recognized that any change to a comprehensive plan has policy ramifications and should be considered to be a legislative act. Martin County v. Yusem, 690 So. 2d 1288 (Fla. 1997). When faced with the question of how to determine the character of plan amendments, this Court rejected a fact-intensive functional analysis, as was applied for rezonings, and instead broadly ruled:

> Accordingly, we hold that all comprehensive plan amendments are legislative decisions subject to the fairly debatable standard of review. We find that the amendments to a comprehensive plan, like the adoption of the plan itself, result in the formulation of policy.

*Id*. at 1293. This Court agreed with then Fourth District Judge Pariente's reasoning

that there needed to be a "bright line rule finding that all plan amendments were legislative acts" in order to "provide clarity to the procedures in this otherwise confusing area of law." *Id.* at 1291, *citing* Martin County v. Yusem, 664 So. 2d 976 (Fla. 4th DCA 1995) (Pariente, J., dissenting).

The current uncertainty regarding the nature of small scale amendments is based on footnote 6 of the Yusem opinion, in which this Court stated that it made no findings concerning the appropriate standard of review for small scale amendments. *Id.* at 1293. In rejecting an argument that quasi-judicial procedures should be applied to small scale amendments, the First District Court of Appeal noted that the language in the text of Yusem is "particularly strong" and "unequivocal," and that "it would be wrong to read too much into the footnote." City of Jacksonville Beach v. Coastal Dev. of North Florida, Inc., 730 So. 2d 792, 794 (Fla. 1st DCA 1999), *rev. granted* 744 So. 2d 453 (Fla. 1999). The Fifth District Court of Appeal similarly ruled that small scale amendments are legislative, policy decisions after finding as follows:

> We cannot discern any good reason for the courts to treat small-parcel amendments differently than any other amendments or adoption of comprehensive land use plans. To do so would invite uncertainty in this still unsettled area of law.

Fleeman v. City of St. Augustine, 728 So. 2d 1178,1180 (Fla. 3d DCA). The two

other state courts of appeal that have addressed this issue also have ruled that small scale amendments are legislative in nature. Minnaugh v. County Commissioners of Broward County, 752 So. 2d 1263 (Fla. 4th DCA 2000), review granted _So. 2d _ (Fla. 2000); Palm Springs General Hospital v. City of Hialeah Gardens, 740 So. 2d 596 (Fla. 3d DCA 1999).

### A. SMALL SCALE AMENDMENTS ARE IDENTICAL IN NATURE TO OTHER PLAN AMENDMENTS

While footnote 6 in Yusem recognized small scale amendments and declined to make any findings concerning them because they were not directly at issue, the Yusem finding that plan amendments result in policy formulations does apply to small scale amendments, nevertheless. In Yusem, the plan amendment at issue was a Future Land Use Map change that would allow an increase in density from .5 units per acre to two units per acre for a fifty-four acre parcel of land. Martin County v. Yusem, 690 So. 2d 1288, 1289-90 (Fla. 1997). Implicit in the Yusem ruling that plan amendments are legislative in nature is the finding that the Future Land Use Map is a policy component of the comprehensive plan. Any amendment to the Future Land Use Map, regardless of size, necessarily reflects a change in policy direction.

A local government's Future Land Use Map is at the heart of its

comprehensive plan. It is inextricably tied to the textual provisions of the plan and is the most readily accessible, visual representation of the entire comprehensive plan. As the term indicates, the Future Land Use Map establishes the distribution, location, and extent of the plan's various proposed land uses. That term does not accurately reflect the full scope of the Future Land Use Map, however. The map also graphically depicts other items, such as natural resources and public facilities, that need to be addressed in other portions of the plan. Fla. Stat. §§ 163.3177(6)(a)(d). Thus, the Future Land Use Map not only reflects textual provisions, such as land uses, but also identifies issues to be addressed elsewhere in the plan's goals, objectives and policies. *See* Fla. Stat. § 163. 3177(6)(a) (Future Land Use Maps must be "be supplemented by goals, policies and measurable objectives"). By establishing future growth patterns and identifying planning issues, the Future Land Use Map is an important policy-setting component of comprehensive plans.

The policy-setting nature of small scale amendments is pivotal to the issue at bar. This Court has previously announced the following guidelines on how to distinguish between a legislative and a quasi-judicial act:

> It is the character of the hearing that determines whether or not board action is legislative or quasi-judicial. *Coral Reef Nurseries, Inc. v. Babcock Co.*, 410 So. 2d 648 (Fla. 3d

> DCA 1982). Generally speaking, legislative action results in the *formulation* of a general rule of policy, whereas judicial action results in the *application* of a general rule of policy....

Board of County Commissioners of Brevard County v. Snyder, 627 So. 2d 469, 474 (Fla. 1993) (emphasis in original). In Snyder, the Court ruled that a comprehensive plan is a policy-setting document because it is "intended to provide for the *future* use of land, which contemplates a gradual and orderly growth." *Id*. at 475 (emphasis in original). Regardless of the size of a Future Land Use Map amendment, the purpose of that amendment remains the guiding of policy for the future use of land. The map designation is the standard against which to measure future development proposals for the remainder of the planning period.

Petitioners invite the Court to make an exception to the general rule that all comprehensive plan amendments are legislative acts, and point to the streamlined small scale process itself as a basis for treating small scale amendments differently.[1]

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[1] Petitioners' argument focuses on examining the procedural character of the small scale amendment in determining whether it is legislative or quasi-judicial. The true of focus of inquiry, however, should be the nature of the small scale amendment, not its procedure. In Jennings v. Dade County, Judge Ferguson clarified the quotation from Coral Reef Nurseries that "it is the character of the administrative hearing...that determines the label.... " and found that it is the nature of the act performed that determines its character, not the hearing. 589 So. 2d 1337, 1342-43 (Fla. 3d DCA 1991) (Ferguson, J. dissenting), *citing* Coral Reef Nurseries v. Babcock, 410 So. 2d 648 (Fla. 3d DCA 1982). As Judge Ferguson noted, that quotation should not be taken out of the context of the Coral Reef Nurseries case

In fact, in all material respects, all comprehensive plan amendments are treated similarly. The statutory and rule standards for the amendment are the same, the multi-level administrative process for challenging an amendment is substantially the same, and the expanded standing for third parties to challenge the amendment is the same as those for large-scale comprehensive plan amendments.

Although small scale amendments no longer must be submitted to the Department for compliance review, they still must meet the same minimum standards established in the Department's rules and applicable provisions in Chapter 163, Part II, Florida Statutes. *See* Fla. Stat. § 163.3184(1)(b) (defining "in compliance"). The small scale amendment process relaxes only the procedural requirements-- the substantive standards still apply. Accordingly, any change to the Future Land Use Map must be consistent with future growth projections and projected needs for services and facilities, among many other considerations. *See* Fla. Admin Code rr. 9J-5.005(2) and (3) (plan amendments must be based on adequate data and analysis, and must ensure that facility levels of service be met.)

Petitioners argue that the small scale amendment procedures are more akin to rezoning proceedings than they are to typical amendment proceedings because they "may be determined at the local level without any provision for strict oversight at

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because the statement is not accurate as an abstract proposition. *Id.*

higher levels of government." (Initial Brief at 15.) Although the small scale amendment adoption process is more abbreviated than the "large scale amendment" procedure evaluated in Yusem, a formal administrative hearing at the state level may be requested by any affected person. The Department has the right to intervene in any small scale proceeding, regardless of whether the local government elects to submit the amendment to the Department for review. Fla. Stat. § 163.3187(3)(a). This procedure affords the parties a full *de novo* hearing to review the local decision and is substantially identical to the hearing procedure for large scale amendments under Sections 163.3184(9) and (10), Florida Statutes. No such administrative review is afforded complaints regarding rezonings and other development orders.

Small scale comprehensive plan amendments are no different from other comprehensive plan amendments in another critical aspect--standing to challenge those local government decisions. The Legislature established a much broader ability to challenge a local government's adoption of a comprehensive plan or amendment than the standing afforded a citizen to challenge a rezoning or other development order under Section 163.3215, Florida Statutes. Under Section 163.3184(1)(a), Florida Statutes, any "affected person" may challenge a comprehensive plan or amendment. An "affected person" is broadly defined as including:

> the local government; persons owning property, residing, or owning or operating a business within the boundaries of the local government whose plan is the subject of review....

Fla. Stat. § 163.3184(1)(a). "Affected persons" are given standing to challenge small scale plan amendments under Section 163.3187(3)(a), Florida Statutes. There is no requirement that an "affected person" allege an injury, as there is for challenging development orders, such as rezonings, under Section 163.3215, Florida Statutes, and in petitioning for certiorari review.

After a petition challenging a small scale amendment is filed, the administrative proceeding gives legislative deference to local government decision-making as do "large scale plan amendment" proceedings. In the small scale proceeding,

> the local government's determination that the small scale development is in compliance is presumed to be correct. The local government's determination shall be sustained unless it is shown by a preponderance of the evidence that the amendment is not in compliance with the requirements of this act.

Ch. 95-322, § 3, Laws of Florida. The presumption that a small scale plan amendment is in compliance and the preponderance of the evidence burden are similar to the deference given to local governments in plan and "large scale plan amendment" proceedings. In proceedings where an affected person challenges the Department's finding a plan or "large scale plan amendment" in compliance, that

finding shall be upheld if "the local government's determination of compliance is fairly debatable." Fla. Stat.§ 163.3184(9). Under each of these procedures, there is no strict scrutiny of the local government's act.

The statutory requirements that determine whether a plan amendment may use the small scale process do not alter the character of the amendment process as a legislative act. The statute was enacted to allow small scale developments an opportunity to proceed at a faster pace than they otherwise would move under the ordinary plan amendment process. Petitioners' attempt to draw a line around one type of comprehensive pan amendment and require it to be given a stricter standard of review is a departure from Yusem and the statute. The statute clearly gives legislative deference to a local government when it has passed and is defending a comprehensive plan amendment. It would be error for the Court to accept Petitioners' urging to judicially impose a stricter standard of review on a local government that chooses to deny a proposed amendment. The law never was intended to require less deferential review of local government action for property owners than that afforded third party challengers.

### B. CREATING A LEGISLATIVE/QUASI-JUDICIAL DISTINCTION BASED ON THE SMALL SCALE STATUTE WOULD BE PROBLEMATIC

The complexity of the small scale comprehensive plan amendment exception

itself militates against the blurring of the legislative/quasi-judicial line to place these types of amendments on the quasi-judicial side of the line. Arguments in support of such a ruling focus only on the ten acre threshold of the statute and ignore the remaining statutory criteria.

There are numerous exceptions to the general rule that a parcel of land ten acres or fewer in size (the current statutory maximum) may avail itself of the small scale amendment procedure. There is an exception for residential densities exceeding ten units per acre, as well as an exception to that exception. Fla. Stat. § 163.3187(1)(c)1.f. (parcels of land within the plan's boundaries for a special type of planning area will not be held to a ceiling limit for residential density.)

An otherwise qualified small parcel property owner is precluded from the small scale procedure under certain conditions. The small scale process may not be used if the amendment involves the same property, or property within 200 feet owned by the same person, granted a change within the previous year. Fla. Stat § 163.3187(1)(c)1.b. c. If the property is located within an area of critical state concern, its owner may not use the small scale process. Fla. Stat. § 163.3187(1)(c)1.e.[2]

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[2] A recent exception to this exception applies to small scale amendments adopted by Monroe County or the City of Key West when the change in use will involve the construction of affordable housing units. Ch. 2000-284, Laws of

Local governments also are subject to a yearly cumulative acreage cap for small scale amendments. A local government may not use the small scale process for any property if the "cumulative annual effect of the acreage for all small scale development amendments" it adopted exceeds caps ranging from 80-120 acres, depending on the jurisdiction. Fla. Stat. § 163.3187(1)(c)1.(I)-(III).

These complexities are emphasized to illustrate the confusion and inequities that would be created if the Court were to accept Petitioners' argument that all small scale amendments should be reviewed as quasi-judicial acts. For example, consider the exception to the small scale process that applies to proposed amendments that "involve the same property granted a change within the prior 12 months." Fla. Stat. § 163.3187(1)(c)1.b. If the new owner of a three acre parcel desired to change the Future Land Use Map designation to "commercial" from a "residential" designation adopted three months earlier, the small scale amendment process could not be used. Therefore, such an amendment would be required to follow the large scale amendment procedure. If this amendment were denied, legislative deference would be given to the local government's decision. If Petitioners' argument were to prevail, a local government decision on a similarly situated three acre plot of land that had not been changed in designation within the last 12 months, but was likewise denied,

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Florida.

would be subject to strict scrutiny judicial review. All comprehensive plan amendments, regardless of size or method of adoption, should be treated as the legislative acts that they are.

Petitioners' urging that small scale amendments be afforded less deference and more scrutiny in the event they are denied by local government should likewise be rejected because of the changing nature of small scale amendments. The qualifications and procedures for small scale amendments have changed several times since their debut in 1986, and are likely to change again.[3] During the 2000 legislative session a bill was proposed, and rejected, that would have increased the small scale acreage threshold to forty acres; in a later form, also rejected, the bill proposed an increase of to up to twenty acres for projects located within certain types of designated planning areas. House Bills 2335,§ 9, and 2335E1, § 9, Regular Sess. (Fla. 2000).

If the small scale amendment class is expanded in the future, the courts again

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[3] The most significant changes are found in ch. 86-191, § 10, Laws of Florida, creating the small scale process for parcels five acres or less in size, with land use and density restrictions; ch. 92-129, § 8, Laws of Florida, expanding several criteria, including increasing the maximum parcel size to ten acres, and reducing the number of required public hearings from two to one; ch. 95-322 § 3, Laws of Florida, eliminating mandatory review by the Department and describing the administrative hearing procedure; ch. 95-396, § 5, Laws of Florida, prohibiting the use of small scale amendments in areas of critical state concern; ch. 96-205, § 1, Laws of Florida, expanding cumulative acreage thresholds.

will be called upon to determine whether small scale amendments categorically still are deemed to be quasi-judicial acts. The Department urges the Court to seize this opportunity to build on the excellent reasoning in Yusem, relied on in four appellate decisions, and clearly identify all comprehensive amendments as legislative acts.

### C. THE LEGISLATURE NEVER INTENDED THE SMALL SCALE STATUTE TO CONFER QUASI-JUDICIAL RIGHTS

The Petitioners mistake Chapter 95-396 as evidence of legislative intent to engraft the Snyder rationale for quasi-judicial rezonings onto small scale plan amendments. Not only does such a construction ignore the history of the small scale statute, it also incorrectly assumes that prior to 1995 text changes were subject to the small scale process. The site-specific intent of the small scale statute is evident in the introductory sentence of that statute, which has been at the beginning of the small scale statute since it was created in 1986:

> Any local government comprehensive plan amendments directly related to proposed small scale development activities may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan.

Fla. Stat § 163.3187(1)(c). Development activities are, by their vary nature, site specific. Text changes never fell within the intended scope of the expedited

amendment process. Ch. 95-396, Laws of Florida, cannot be reasonably construed to have deleted the availability of the small scale amendment process for text changes.

An understanding of the Future Land Use Map requirements shows that any such amendment necessarily would have been a Future Land Use Map revision. The only uses that are required to be designated in plans were future land uses, and the "distribution, location, and extent" of those proposed uses are required to be graphically depicted on the Future Land Use Map. Fla. Stat. § 163.3177(6)(a). An amendment that involved a use of ten acres or less was assumed to comprise only a change to the Future Land Use Map. Any changes outside the four corners of that map never was intended by the Legislature to qualify for the small scale amendment process.

A review of Chapters 95-310, 95-322, and 95-396 in their entirety further refutes the Petitioners' argument that the 1995 Legislature "was deliberately following this Court's lead" in Snyder. (Initial Brief at 16.) Nowhere in any of those bills did the Legislature state that it intended local hearings concerning small scale plan amendments to be conducted as quasi-judicial proceedings, despite many revisions to procedures in Chapters 125 (which relates to county government), 166 (which relates to municipal government), and 163 (which relates to growth

management), Florida Statutes.

If the 1995 Legislature had intended that small scale amendments be considered quasi-judicial acts, it would have said so. In response to the opinion in Jennings v. Dade County, 589 So.2d 1337 (Fla. 3d DCA 1991), the same session of the Legislature created a new law concerning access to local public officials and used the word "quasi-judicial" four times in its body. *See* Ch. 95-352, Laws of Florida, creating Section 286.0115, Florida Statutes. The following year the Legislature prominently added the term to the title of Section 286.0115 as follows: Access to local officials; quasi-judicial proceedings on local government land use matters., Ch. 96-324, § 31, Laws of Florida.

Most significantly, the Legislature has not responded to footnote 6 of Yusem, in which this Court specifically stated that its findings do not apply to small scale amendments, or to the cases which followed. Martin County v. Yusem, 690 S. 2d 1288, 1293 (Fla. 1997). Subsequent to Yusem, the district courts of appeal that addressed the issue at bar have uniformly ruled that small scale plan amendments are legislative in nature. City of Jacksonville Beach v. Coastal Development of North Florida, Inc., 730 So. 2d 792 (Fla. 1st DCA 1999), *rev. granted* 744 So. 2d 453 (Fla. 1999); Fleeman v. City of St. Augustine Beach, 728 So. 2d 1178 (Fla. 5th DCA 1999); Minnaugh v. County Commission of Broward County, 752 So. 2d 1263 (Fla.

4th DCA 2000); Palm Springs General Hospital v. City of Hialeah Gardens, 740 So. 2d 596 (Fla. 3d DCA 1999). The Legislature is presumed to know the judicial construction of a law when revising that law. Collins v. Investment Co. v. Metropolitan Dade County, 164 So. 2d 806, 809 (Fla. 1964). The Legislature is further presumed to have adopted the prior judicial construction of a law when it revises that law, unless a contrary intent is expressly indicated in the re-enactment. Deltona v. Kipnis, 194 So. 2d 295, 297 (Fla.2d DCA 1967)

In 1999 and 2000, the Legislature amended the small scale statute, but did not indicate an intent to depart from the case law and have small scale amendments considered to be quasi-judicial acts. Ch. 99-378, § 5, Laws of Florida, amending the jurisdiction-wide cumulative acreage threshold and the residential density exception to include urban infill and redevelopment areas; Ch. 2000-284, Laws of Florida, amending the small scale prohibition for property located within an area of critical state concern. Accordingly, it must be presumed that the Legislature intends small scale amendments to be treated as legislative acts.

## CONCLUSION

For the reasons stated above, the Department respectfully requests that this Court answer the certified question by ruling that decisions concerning small scale development amendments pursuant to Section 163.3187(1)(c), Florida Statutes, are

legislative in nature and subject to the "fairly debatable" standard of judicial review, regardless of the type of hearing provided by the local government.

Respectfully Submitted,


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## CERTIFICATE OF TYPE SIZE

Counsel for the Department of Community Affairs certifies that the following type size and style is being utilized in this brief: 14 point, Times New Roman.


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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing brief has been served by US mail on this ___ day of July, 2000, to: **EDWARD A. DION, ESQUIRE,** County Attorney, **ANDREW J. MEYERS, ESQUIRE,** Chief Appellate Counsel, and **TAMARA M. SCRUDDERS, ESQUIRE,** Assistant County Attorney, Broward County Government Center, 115 South Andrews Avenue, Suite 423, Fort Lauderdale, Florida 33301, Co-Counsels for Respondent; **WILLIAM S. SPENCER, ESQUIRE,** Ellis, Spencer and Butler, Emerald Hill Executive Plaza, Suite 505, 4601 Sheridan Street, Hollywood, Florida 33021, and **NANCY LITTLE HOFFMANN, ESQUIRE**, 440 East Sample Road, Suite 200, Pompano, Beach, Florida 33064, Co-Counsels for Petitioners; **THOMAS G. PELHAM**, **ESQUIRE**, 909 East Park Avenue, Tallahassee, FL 32301, Counsel for Florida Chapter of the American Planning Association; and **TERRELL K. ARLINE, ESQUIRE,** Legal Director, 1000 Friends of Florida, P.O. Box 5984, Tallahassee, FL 32314-5984.

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