

ORDINANCE NO. 1128 – 2022

**AN ORDINANCE OF THE CITY OF MIAMI SPRINGS,
FLORIDA, AMENDING THE CITY’S COMPREHENSIVE
PLAN BY ADOPTING THE EVALUATION AND
APPRAISAL REPORT (EAR) BASED COMPREHENSIVE
PLAN AMENDMENTS; PROVIDING FOR TRANSMITTAL;
PROVIDING FOR CONFLICTS; PROVIDING FOR
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE
DATE.**

WHEREAS, Section 163.3191, Florida Statutes directs local governments to periodically assess the success or failure of the adopted comprehensive plan in adequately addressing changing conditions, state policies, and rules; and

WHEREAS, Section 163.3191(1), Florida Statutes directs local governments to adopt an Evaluation and Appraisal Report (“EAR Report”) assessing the progress in implementing the local government’s comprehensive plan; and

WHEREAS, based on its EAR Report, the City of Miami Springs (the “City”) has prepared comprehensive plan amendments, attached hereto as Exhibit “A,” which are necessary to update the City’s Comprehensive Plan and address the issues and opportunities identified in the EAR Report; and

WHEREAS, in accordance with Section 161.3191(2), Florida Statutes on August 23, 2022, the City transmitted its EAR Report Notification Letter to the Florida Department of Economic Opportunity (“DEO”); and

WHEREAS, the DEO and other state reviewing agencies have reviewed the EAR Report and determined it to be sufficient; and

WHEREAS, the City Council, sitting as the Local Planning Agency, has reviewed the proposed Comprehensive Plan amendments and recommends approval; and

WHEREAS, the City Council finds that this proposed Ordinance serves to further enhance the protection of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA, AS FOLLOWS:¹

Section 1. **Recitals.** That the above recitals are confirmed, adopted, and incorporated herein and made a part hereof by reference.

Section 2. **Comprehensive Plan Amendments Adopted.** The City Council hereby adopts the EAR Report Based Comprehensive Plan Amendments attached hereto as Exhibit “A.”

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~double strikethrough~~ and double underline.

Section 3. **Transmittal.** The City Planner is directed to transmit the EAR Report Based Comprehensive Plan Amendments adopted by this Ordinance to the DEO and all other units of local government or governmental agencies required by Florida Statutes, Section 163.3184.

Section 4. **Conflicts.** All ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. **Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. **Effective Date.** That this Ordinance shall be effective immediately upon passage by the City Council on second reading, except that the effective date of the comprehensive plan amendments approved by this Ordinance shall be the date a final order is issued by the DEO or Administrative Council finding the plan amendments in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. The Florida DEO notice of intent to find the plan amendments in compliance shall be deemed to be the final order if no timely petition challenging the plan amendment is filed.

PASSED ON FIRST READING on the 22nd day of August, 2022, on a motion made by Councilwoman Bravo and seconded by Vice Mayor Fajet.

PASSED AND ADOPTED ON SECOND READING this 14th day of November, 2022, on a motion made by Councilman Best and seconded by Councilman Fajet. Upon being put to a roll call vote, the vote was as follows:

Vice Mayor Dr. Victor Vazquez	<u>YES</u>
Councilman Bob Best	<u>YES</u>
Councilwoman Jacky Bravo	<u>YES</u>
Councilman Dr. Walter Fajet	<u>YES</u>
Mayor Maria Puente Mitchell	<u>YES</u>



MARIA PUENTE MITCHELL
MAYOR

ATTEST:


ERIKA GONZALEZ, MMC
CITY CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF MIAMI SPRINGS ONLY:


WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
CITY ATTORNEY

EXHIBIT A

EAR REPORT BASED COMPREHENSIVE PLAN AMENDMENTS

Exhibit
Proposed
Amendments

Amendments by Element:

Intergovernmental Coordination Element

Policy 1.1.12: *Dispute Resolution Process*, The City of Miami Springs shall utilize the South Florida Regional Planning Council's dispute resolution process to resolve disputes or conflicts, on planning, growth management, related issues between other local governments. When the City's efforts fail to resolve a dispute with any local government, the City shall notify the Regional Planning Council in writing about the dispute, requesting the Council's mediation. The City shall also notify the local government that the City has requested mediation assistance from the South Florida Regional Planning Council.

Policy 1.3.1: Miami Springs shall monitor changes to the adopted level-of-service standards of adjacent municipalities and jurisdictions, including City of Hialeah, Village of Virginia Gardens, and Miami-Dade County, and adjust its own level- of-service standards accordingly.

Policy 1.1.21 The City shall coordinate its planning and permitting processes with Miami-Dade County, Miami-Dade County Public Schools, and other parties of the Interlocal Agreement consistent with the procedures established within the Interlocal Agreement as follows:

1. Review and update of the annual Public Schools Work Program, containing the ~~financially feasible~~ schedule of capital improvements for school facilities needed to achieve and maintain the adopted level of service standards in all concurrency service areas (CSAs) and/or districtwide

Capital Improvements:

Policy 1.2.1

The following Level of Service (LOS) standards shall be maintained:

Potable Water: The City shall secure adequate potable water supply from Miami- Dade WASD to provide an average of 155-94 gallons of water per capita per day. In addition, the City shall enforce the following standards through its interlocal agreement with the Miami-Dade Water and Sewer Department:

(a) The regional treatment system shall operate with a rated maximum daily capacity of no less than 2 percent above the maximum daily flow for the preceding year and an average daily capacity of 2 percent above the average daily system demand for the preceding 5 years. The maximum daily flow shall be determined by calculating the average of the highest five single day flows for the previous 12 months.

Policy 1.2.3

~~Miami Springs hereby adopts by reference the Miami-Dade County Comprehensive Development Master Plan Amendments adopted February 4, 2015, the Miami-Dade Water and Sewer Department 20-year Water Supply Facilities Work Plan (2014-2033) Support Data (November 2014), the 2018 Lower East Coast Water Supply Plan Update (LEC) approved by the South Florida Water Management District (SFWMD) on November 8, 2018 and additional information found within Water Use Permit 13-00017-W are herein incorporated by reference. The Water Use Permit which was modified and approved by the SFWMD on February 9, 2015, will now expire on February 9, 2035. Currently, WASD is preparing to submit a WUP modification that will include updated water demand projections based on revised population data and is requesting an extension of the permit duration through the year 2040.~~

Policy 1.2.3

Miami Springs hereby adopts by reference, the Miami-Dade Water Supply Facilities Work Plan as revised April 2008, the capital projects described therein and subsequent revisions. County Comprehensive Development Master Plan Amendments adopted February 4, 2015, the Miami-Dade Water and Sewer Department 20-year Water Supply Facilities Work Plan (2014-2033) Support Data (November 2014), the 2013 2018 Lower East Coast Water Supply Plan Update (LEC) approved by the South Florida Water Management District (SFWMD) on October 10, 2013 November 8, 2018 and additional information found within Water Use Permit 13-00017-W are herein incorporated by reference. The Water Use Permit which was modified and approved by the SFWMD on February 9, 2015, will now expire on February 9, 2035. Currently, WASD is preparing to submit a WUP modification that will include updated water demand projections based on revised population data and is requesting an extension of the permit duration through the year 2040.

CONSERVATION ELEMENT

Policy 1.2.1 The City shall cooperate with the Miami-Dade County Water and Sewer Authority and other Miami-Dade County agencies to help ensure that wellfields and cones of influence are protected. Protection measures shall include restrictions on uses. No new facilities that use, handle, generate, transport or dispose of hazardous wastes shall be permitted within wellfield protection areas, and all existing facilities that use, handle, generate, transport or dispose of more than the maximum allowable quantity of hazardous wastes (as specified in Chapter 24-12-1 of the Code of Miami-Dade County, as may be amended from time to time within wellfield protection areas shall be required to take substantial measures such as secondary containment and improved operating procedures to ensure environmentally safe operations.

Policy 1.3.3 The City shall continue to evaluate alternative potable water supply sources evaluation techniques and technologies for water capture and reuse, including rainwater harvesting, and revise its Land Development Regulations as necessary to allow for these options with local building design

Policy 1.3.4 The City shall continue to promote the use of ultra-low-flow high efficiency plumbing fixtures through its Showerhead Exchange Program and requires and enforces the guidelines established by the Florida Building Code, Plumbing.

FUTURE LAND USE ELEMENT

GOAL 1: ACHIEVE THE FOLLOWING COMMUNITY CHARACTER: Miami Springs should be a residential community which offers the best possible residential environment consistent with its location and development history. Development policies should protect and preserve its single-family residential character and neighborhoods by maintaining an adequate supply of safe decent and affordable housing for its current and future residents. The planning horizon in maintaining these goals for the City shall be 2040.

Policy 1.1.1 The City shall enact and enforce land development code provisions which are consistent with the Future Land Use Map (Figure 1.1), including the land uses and the densities and intensities specified in Policy 1.1.8. The City shall maintain land use densities at levels which shall a minimum be sufficient to accommodate growth for a 2040 planning horizon.

Policy 1.1.4

The City shall enact and enforce as part of the land development code a concurrency management system. The concurrency management system shall specify that no development permit shall be issued unless the public facilities necessitated by a development (in order to meet level of service standards specified in the Transportation, Recreation and Open Space, and Infrastructure Policies) will be in place concurrent with the impacts of the development or the permit is conditional to assure that they will be in place. The requirement that no development permit shall be issued unless public facilities necessitated by the project are in place concurrent with the impacts of development shall be effective immediately and shall be interpreted pursuant to the following:

Policy 1.1.9 The City shall maximize the use of native plants in City landscaping projects and large redevelopment sites utilizing Florida Friendly Landscape principles to provide and improve urban habitat and connectivity for native species.

Policy 1.1.10 The City shall adopt Florida Friendly Landscape principles into the Land Development Regulations.

Policy 1.2.1: ~~By 2016,~~ The City will adopt and maintain a community redevelopment plan that will address commercial redevelopment and deteriorated and blighted areas within the community.

Objective 1.10: Decisions regarding the location, extent and intensity of future land use will be based upon the physical ~~and financial~~ feasibility of providing all urbanized areas with services at levels of service (LOS) which meet or exceed the minimum standards adopted in the Capital Improvements Element.

INFRASTRUCTURE ELEMENT

Policy 1.4.3 Drainage: All nonresidential development and redevelopment shall adequately accommodate runoff to meet all Federal, state and local requirements. Stormwater shall be treated in accordance with the state code. One inch of runoff shall be retained on site. Post-development runoff shall not exceed peak pre development runoff.

Objective 1.5 Water Conservation

Policy 1.5.2 The city shall promote education programs for residential, commercial and other uses which will discourage waste and conserve potable water. The City will coordinate with the Miami-Dade Water and Sewer Department on this matter whenever possible.

Policy 1.5.3 The City shall collaborate with the Miami-Dade County Water and Sewer Department efforts to identify and reduce non-revenue water.

Policy 1.5.5 The City will continue to actively support the SFWMD and Miami-Dade County in the implementation of new regulations or programs that are designed to conserve water during the dry season. The City will also comply with the water conservation requirements of the Miami-Dade County Code.

Policy 1.5.6 The City shall adopt Florida Friendly Landscape principles into the Land Development Regulations.

Policy 1.5.7 The City shall maximize the use of native plants in City landscaping projects and large redevelopment sites utilizing Florida Friendly Landscape principles to provide and improve urban habitat and connectivity for native species.

Policy 1.5.8 The City shall continue to evaluate alternative potable water supply sources evaluation techniques and technologies for water capture and reuse, including rainwater harvesting, and revise its Land Development Regulations as necessary to allow for these options with local building design.

Policy 1.5.9 The City shall continue to promote the use of ultra-low-flow high efficiency plumbing fixtures through its Showerhead Exchange Program and requires and enforces the guidelines established by the Florida Building Code, Plumbing.

Public Schools Facilities Element

Objective 1.1 *The City shall work in conjunction with Miami-Dade County Public Schools towards the reduction of the overcrowding which currently exists in the public school system, while striving to attain an optimum level of service pursuant to Objective 1.2. ~~The City shall also coordinate with Miami-Dade County Public Schools and other appropriate agencies to provide additional solutions to overcrowding so that countywide enrollment in Miami-Dade County's public schools will meet state requirements for class size by September 1, 2010.~~*

Policy 1.2.3: It is the goal of Miami-Dade County Public Schools, Miami-Dade County, and parties of the Amended and Restated Interlocal Agreement for Public School Facilities Planning, including the City of Miami Springs, for all public school facilities to achieve 100 percent utilization of Permanent FISH (No Relocatable Classrooms) ~~by January 1, 2018.~~ To help achieve the desired 100 percent utilization of Permanent FISH by 2018, Miami-Dade County Public Schools should continue to decrease the number of relocatable classrooms over time. Public school facilities that achieve 100 percent utilization of Permanent FISH capacity should, to the extent possible, no longer utilize relocatable classrooms, except as an operational solution, such as to achieve the level of service standard during replacement, remodeling, renovation or expansion of a public school facility. ~~By December 2010, Miami-Dade County in cooperation with Miami-Dade County Public Schools will assess the viability of modifying the adopted LOS standard to 100 percent utilization of Permanent FISH (No Relocatable Classrooms) for all CSAs.~~

Policy 1.2.1: The City shall amend its plan annually to adopt a new fifth year, updating the ~~financially feasible~~ public schools capital facilities program, coordinating the program with the 5-year school district facilities work plan, the plans of other local governments and as necessary, updates to the concurrency service area maps.

Transportation Element:

Policy 1.1.3 The City shall approve no alteration in the existing traffic circulation system which materially reduces the continuity and rights-of-way of arterials or collectors shown on the Future Transportation Map. The Future Transportation Map will provide, at minimum, for the 5 and 10 year planning horizon. This policy shall not be interpreted to block closing of local streets to enhance neighborhood security and quietude. The planning horizon for the City's transportation system shall be 2040, and shall be reviewed for updates upon the Miami-Dade Transportation Planning Organization's adoption of an updated regional Long-Range Transportation Plan.

Recreation & Open Space Element

Policy 1.3.7: The City shall create a Recreation and Open Space Master Plan ~~by 2016~~ which will address the current and future needs of City residents, possible sites for new projects as well as coordination and integration of recreation and open space goals with the other Elements of the Comprehensive Plan. The Plan will include potential funding sources that will allow the enhancement and expansion of the City's recreation and open space system.

Draft New Property Rights Element

PROPERTY RIGHTS ELEMENT

Goal The City of Miami Springs will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

Objective 1.1 The City of Miami Springs will respect judicially acknowledged and constitutionally protected private property rights.

Policy 1.1.1 The City of Miami Springs will consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

Policy 1.1.2 The City of Miami Springs will consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

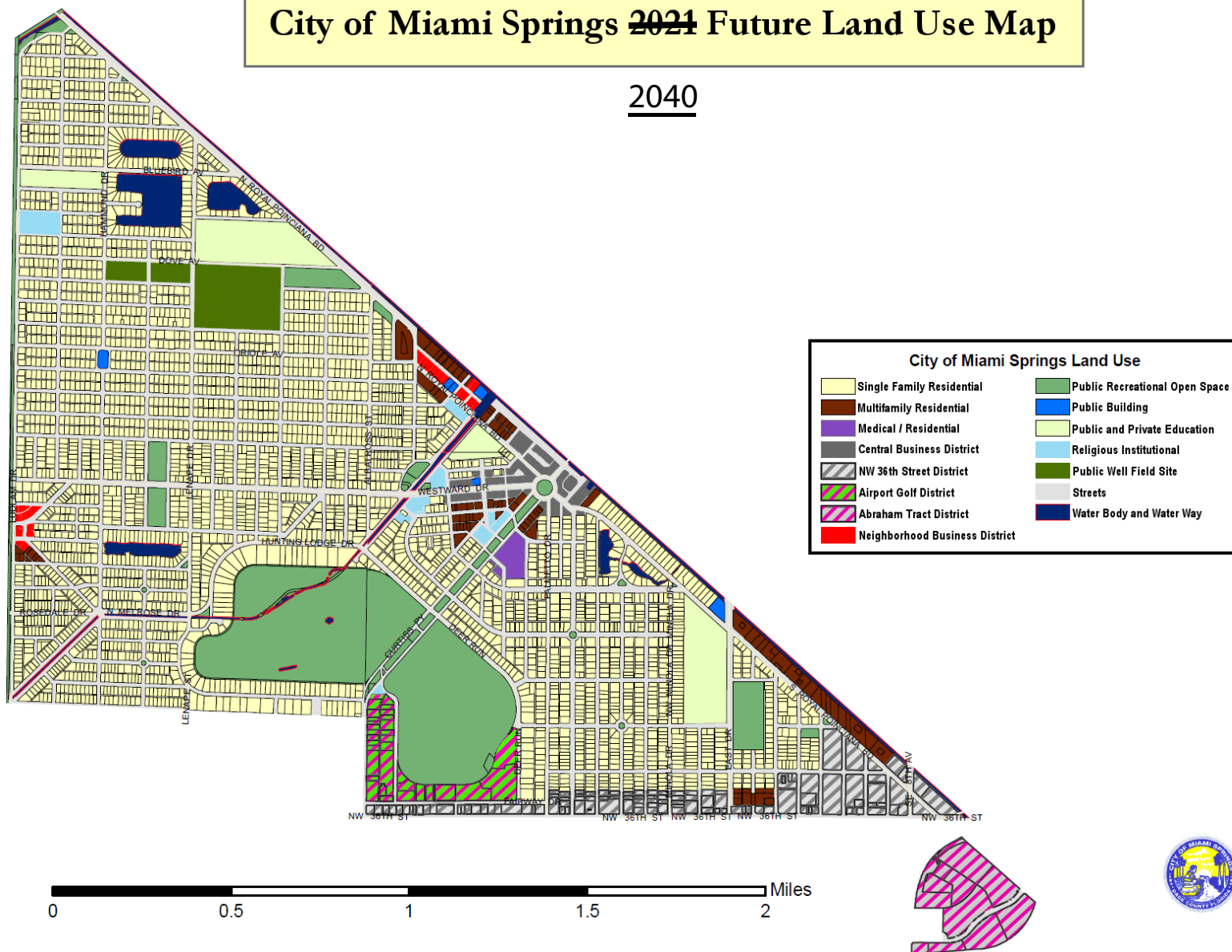
Policy 1.1.3 The City of Miami Springs will consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 1.1.4 The City of Miami Springs will consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

Figure 1.1

City of Miami Springs ~~2021~~ Future Land Use Map

2040



**Objections, Recommendations and Comments Report
Proposed Comprehensive Plan Amendment
City of Miami Springs 22-01ER**

The Department has identified three comments regarding the City of Miami Springs' proposed comprehensive plan amendments. The comments are provided below, along with recommended actions the City could take to resolve issues of concern. Comments are offered to assist the local government and will not form the basis for a compliance determination.

Department staff has discussed the basis of the report with City staff and is available to assist the City to address the comments.

Comment 1: Property Rights Element:

Section 163.3177(6)(i)1., Florida Statutes (F.S.), requires each local government to include a property rights element in its comprehensive plan. The City's proposed Property Rights Element generally models the statement of rights set forth in section 163.3177(6)(i)1., F.S. However, the Goal of the proposed Property Rights Element limits the consideration of property rights matters to "planning and development decisions" as opposed to considering them in all local decision making.

Prior to adoption, the Department recommends that the proposed amendment be revised to consider private property rights in all of the City's local decision making.

Please be advised the Property Rights Element adopted by the local government may not conflict with the statement of rights provided under Section 163.3177(6)(i)1., F.S. To ensure the adopted language does not conflict, the Department recommends that the local government consult with its legal department.

Response: The Amendment has been revised accordingly to remove the limitation to planning and development. **Goal The City of Miami Springs will make planning and development decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.**

Comment 2: Planning Horizon:

The proposed comprehensive plan amendment does not reflect an updated planning horizon for the City's Comprehensive Plan. Section 163.3177(5)(a), F.S. requires comprehensive plans to establish at least two (2) planning periods, one covering the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period. Additional planning periods for specific components, elements, land use amendments, or projects shall be permissible and accepted as part of the planning process. Prior to adoption, the amendment should be revised to incorporate an appropriate, updated planning horizon covering at least the two required planning periods.

Response: Th City is adding the additional amendments:

GOAL 1: ACHIEVE THE FOLLOWING COMMUNITY CHARACTER: Miami Springs should be a residential community which offers the best possible residential environment consistent with its location and development history. Development policies should protect and preserve its single-family residential character and neighborhoods by maintaining an adequate supply of safe decent and affordable housing for its current and future residents. The planning horizon in maintaining these goals for the City shall be 2040.

Policy 1.1.1 The City shall enact and enforce land development code provisions which are consistent with the Future Land Use Map (Figure 1.1), including the land uses and the densities and intensities specified in Policy 1.1.8. The City shall maintain land use densities at levels which shall a minimum be sufficient to accommodate growth for a 2040 planning horizon.

The City's map shall note 2040 Future Land Use Map in its title.

The Transportation Element shall additionally be amended as follows:

Transportation Element:

Policy 1.1.3 The City shall approve no alteration in the existing traffic circulation system which materially reduces the continuity and rights-of-way of arterials or collectors shown on the Future Transportation Map. The Future Transportation Map will provide, at minimum, for the 5 and 10 year planning horizon. This policy shall not be interpreted to block closing of local streets to enhance neighborhood security and quietude. The planning horizon for the City's transportation system shall be 2040, and shall be reviewed for updates upon the Miami-Dade Transportation Planning Organization's adoption of an updated regional Long-Range Transportation Plan.

Comment 3: Internal Inconsistency:

The City has proposed revisions to its Capital Improvements Element ("CIE") in both the Evaluation and Appraisal Review ("EAR")-based amendment to the City's comprehensive plan and in the update to the City's Water Supply Facilities Work Plan (the "Work Plan"). While these two sets of proposed revisions are similar in intent, the proposed policy revisions do not exactly correlate. For instance, the Work Plan update proposes to delete text within Policy 1.2.3 of the CIE; however, the proposed EAR-based amendments do not include such a revision to Policy 1.2.3 of the CIE. The Department recommends revising the amendments further to avoid internal inconsistencies.

Response: Report and Comprehensive Plan have been adjusted for second reading as follows and matched for consistency.

Policy 1.2.3

Miami Springs hereby adopts by reference, the Miami-Dade ~~Water Supply Facilities Work Plan as revised April 2008, the capital projects described therein and subsequent revisions.~~ County Comprehensive Development Master Plan Amendments adopted February 4, 2015, the Miami-Dade Water and Sewer Department 20-year Water Supply Facilities Work Plan (2014-2033) Support Data (November 2014), the 2013 2018 Lower East Coast Water Supply Plan Update (LEC) approved by the South Florida Water Management District (SFWMD) on October 10, 2013 November 8, 2018 and additional information found within Water Use Permit 13-00017-W are herein incorporated by reference. The Water Use Permit which was modified and approved by the SFWMD on February 9, 2015, will now expire on February 9, 2035. Currently, WASD is preparing to submit a WUP modification that will include updated water demand projections

based on revised population data and is requesting an extension of the permit duration through the year 2040.