A G E N D A

ORMOND BEACH PLANNING BOARD

Regular Meeting

May 12, 2011 **7:00 PM**

City Commission Chambers
22 South Beach Street
Ormond Beach, FL

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO `APPEAL ANY DECISION MADE BY THE PLANNING BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, SAID PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PERSONS WITH A DISABILITY, SUCH AS A VISION, HEARING OR SPEECH IMPAIRMENT, OR PERSONS NEEDING OTHER TYPES OF ASSISTANCE, AND WHO WISH TO ATTEND CITY COMMISSION MEETINGS OR ANY OTHER BOARD OR COMMITTEE MEETING MAY CONTACT THE CITY CLERK IN WRITING, OR MAY CALL 677-0311 FOR INFORMATION REGARDING AVAILABLE AIDS AND SERVICES.

I. ROLL CALL

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. NOTICE REGARDING ADJOURNMENT

THE PLANNING BOARD WILL NOT HEAR NEW ITEMS AFTER 10:00 PM UNLESS AUTHORIZED BY A MAJORITY VOTE OF THE BOARD MEMBERS PRESENT. ITEMS WHICH HAVE NOT BEEN HEARD BEFORE 10:00 PM MAY BE CONTINUED TO THE FOLLOWING THURSDAY OR TO THE NEXT REGULAR MEETING, AS DETERMINED BY AFFIRMATIVE VOTE OF THE MAJORITY OF THE BOARD MEMBERS PRESENT (PER PLANNING BOARD RULES OF PROCEDURE, SECTION 2.7).

V. APPROVAL OF THE MINUTES

A. February 10, 2011

B. March 10, 2011

VI. PLANNING DIRECTOR'S REPORT

VII. PUBLIC HEARINGS

A. <u>LUPA 11-041: 1520 North US Highway 1 – Small Scale Land Use Map Amendment</u>

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±1.31 developed acres located at 1520 North US Highway 1 (Lil' Champ/Jiffy Stores, Inc.) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

B. LUPA 11-045: 1530 North US Highway 1 – Small Scale Land Use Map Amendment

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±2.58 developed acres located at 1530 North US Highway 1 (McDonalds Corporation) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

C. LUPA 11-051: 1561 North US Highway 1 – Small Scale Land Use Map Amendment

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±2.19 developed acres located at 1561 North US Highway 1 (Vacant former Wendy's) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

D. LUPA 11-049: 1560 North US Highway 1 – Small Scale Land Use Map Amendment

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±2.74 developed acres located at 1560 North US Highway 1 (Big Chief Travel Center) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

E. LUPA 11-055: 1570 North US Highway 1 – Small Scale Land Use Map Amendment

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±0.36 developed acres located at 1570 North US Highway 1 (Waffle House) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

F. LUPA 11-059: 1576 North US Highway 1 – Small Scale Land Use Map Amendment

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±0.76 developed acres located at 1576 North US Highway 1 (Fruit Store/Convenience & Sunoco Gas Station) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

G. LUPA 11-043: 1521 North US Highway 1 – Small Scale Land Use Map Amendment

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±2.16 developed acres located at 1521 North US Highway 1 (RaceTrac Petroleum, Inc.) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

H. LUPA 11-047: 1545 North US Highway 1 – Small Scale Land Use Map Amendment

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±1.42 developed acres located at 1545 North US Highway 1 (Cheaters Gentlemen's Club) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

I. LUPA 11-053: 1567 North US Highway 1 – Small Scale Land Use Map Amendment

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±2.46 developed acres located at 1567 North US Highway 1 (Econo Lodge Interstate) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

J. LUPA 11-057: 1571 North US Highway 1 – Small Scale Land Use Map Amendment

An administrative Small Scale Comprehensive Plan Land Use Map amendment for approximately ±7.07 developed acres located at 1571 North US Highway 1 (Comfort Suites) to change the land use designation from Volusia County "Commercial" to the land use designation of City of Ormond Beach "Low Intensity Commercial".

K. LDC 11-061: LDC Amendment – Adding "Low Intensity Commercial" land use to Section 2-02, Future Land Use Map Designations and Compatible Zoning Districts

An administrative request to amend Chapter 2, District and General Regulations, Article I, Establishment of Zoning Districts and Official Zoning Map, Section 2-02, Future Land Use Map Designations and Zoning Districts, Table 2-2, Future Land Use Map Designations and Compatible Zoning Districts, of the Land Development Code (LDC) to provide corresponding compatible zoning districts for the "Low Intensity Commercial" land use category.

L. RZ 11-042: 1520 North US Highway 1 – Zoning Map Amendment

An administrative Zoning Map Amendment for approximately ±1.31 developed acres located at 1520 North US Highway 1 (Lil'Champ/Jiffy Stores, Inc.) to change the zoning classification from Volusia County B-6 (Commercial) to the zoning classification of City of Ormond Beach B-7 (Highway Tourist Commercial).

M. RZ 11-046: 1530 North US Highway 1 – Zoning Map Amendment

An administrative Zoning Map Amendment for approximately ±2.58 developed acres located at 1530 North US Highway 1 (McDonalds) to change the zoning classification from Volusia County B-6 (Commercial) to the zoning classification of City of Ormond Beach B-7 (Highway Tourist Commercial).

N. RZ 11-052: 1561 North US Highway 1 – Zoning Map Amendment

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S. RZ 11-044: 1521 North US Highway 1 – Zoning Map Amendment

An administrative Zoning Map Amendment for approximately ±2.16 developed acres located at 1521 North US Highway 1 (RaceTrac Gas Station) to change the zoning classification from Volusia County B-6 (Commercial) to the zoning classification of City of Ormond Beach B-7 (Highway Tourist Commercial).

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U. RZ 11-058: 1571 North US Highway 1 – Zoning Map Amendment

An administrative Zoning Map Amendment for approximately ±7.07 developed acres located at 1571 North US Highway 1 (Comfort Suites) to change the zoning classification from Volusia County B-6 (Commercial) to the zoning classification of City of Ormond Beach B-7 (Highway Tourist Commercial).

VIII. OTHER BUSINESS

IX. MEMBER COMMENTS

X. ADJOURNMENT

M I N U T E S

ORMOND BEACH PLANNING BOARD

Regular Meeting

February 10, 2011 7:00 PM

City Commission Chambers
22 South Beach Street
Ormond Beach, FL 32174

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I. ROLL CALL

Members Present	Staff Present
Doug Thomas	Randy Hayes, City Attorney
Harold Briley	Ric Goss, AICP, Planning Director
Lewis Heaster	Steven Spraker, AICP, Senior Planner
Al Jorczak	Chris Jarrell, Recording Technician
Rita Press	
Doug Wigley	

Excused
Patricia Behnke

II. INVOCATION

Chairman Thomas led the invocation.

III. PLEDGE OF ALLEGIANCE

IV. NOTICE REGARDING ADJOURNMENT

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V. PLANNING DIRECTOR'S REPORT

Mr. Goss said he had no report to provide to the Board.

VI. PUBLIC HEARINGS

A. LDC 11-001: Tuscany (Il Villaggio subdivision) Planned Residential Development Amendment

Mr. Spraker said that this application was a request to amend the Tuscany Planned Residential Development (PRD), also known as the Il Villaggio subdivision. He stated that the subdivision is located on Granada Boulevard, west of the Indian Springs subdivision and east and south of the Breakaway Trails subdivision and the recreation area was proposed just north of SR40 next to a wetland. The request was to delete the required clubhouse/pool recreational amenity and provide, at a minimum a pocket park, with the exact recreational amenity determined by a vote of Home Owner's Association (HOA) after the construction of the 30th home. Mr. Spraker provided the history of the subdivision as follows:

- The development was approved in 2003 as a PRD Overlay and maintains an R-3 zoning designation.
- In 2004, the applicant came to staff and requested a deferral of clubhouse/pool until the construction of the 30th home. Staff had no objection at that time.
- The Site Plan Review Committee (SPRC) approved final construction plans in 2005 and accepted the construction of subdivision improvements in 2006.
- In 2010, the Il Villaggio subdivision fell into bankruptcy. Mr. Spraker recalled staff discussed the recreation requirements in January and April 2010 with a Fifth Third bank representative.
- Staff met with Villaggio Investors LLC, the applicant, in August 2010. In November 2010, the applicant submitted a PRD Amendment to change the recreation requirement to a passive open space area with no improvements. No other amendments were proposed with the application.
- Staff required a neighborhood meeting in December 2010. Some common themes of the meeting included:
    1. Who would be responsible for building the clubhouse/pool? There was not a clear answer at the neighborhood meeting.
    2. Discussion of the maintenance and insurance for clubhouse/pool for the Home Owner's Association (HOA).
    3. The applicant was concerned that the plat Ordinance was not recorded in the Volusia County public record.
    4. Some residents stated concerns that the clubhouse/pool was located outside the subdivision fence. The proposed location could lead to security issues.

Mr. Spraker said after the neighborhood meeting, Planning staff forwarded to the City Attorney office a request for a determination if the applicant, Il Villago Investors, LLC, was the proper entity to file the PRD recreation amendment. Mr. Spraker continued that the City Attorney made a determination that Villaggio Investors, LLC was the property entity to file the application and they were the subdivision

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master developer. Mr. Spraker stated that in 2010, the applicant applied for impact fee reimbursement extension for utility extensions completed by the previous developer.

Mr. Spraker explained that the Land Development Code (LDC) has certain requirements for PRD districts that are above and beyond typical zoning requirements such as open space and recreational amenities. He continued that the LDC indoor recreation requirement is 30 square feet per lot or 60 square feet per lot, if the subdivision does not provide any indoor facilities, which would total 3,180 square feet. Mr. Spraker stated that the LDC also requires 30 square feet per lot for outdoor recreation area. Mr. Spraker concluded that the total recreational area requirement for the subdivision is 4,770 square feet.

Mr. Spraker stated that the clubhouse/pool was not a City requirement, it was proposed by Mr. Viscomi of the Tuscan LLC, the original subdivision developer. He stated that the LDC only requires that amount of land required and staff does not mandate the amenities of the recreational facility. Mr. Spraker advised that a comparison in subdivision size is the 65 lot Creekside subdivision. Mr. Spraker stated that the Creekside subdivision provided a walking trail, pavilion, and BBQ grills.

In the packet staff provided, Mr. Spraker said all the documentation received for and against the request, including a letter from the Breakaway Trails HOA speaking against the request. He stated that a lot owner, John S. Olivari, contacted staff requested that the following e-mail be read to the Planning Board:

> "I apologize for the delay in getting this to you, however, up until a short time ago, I planned to attend tonight's meeting with the city commission. My wife and I have owned lots 51 and 52 in the referenced development since September, 2008. It was never disclosed to us that we could possibly lose the right to build upon these lots if recreational amenities were not completed as originally proposed. This potential encumbrance was not disclosed in our contract, title insurance, or in any other manner. I also understand that this was not clearly shown in the official recording in Volusia County records. We are in support of the proposed amendment which will be presented tonight. As you know, the original developer is bankrupt with a principal partner Mr. Vincent Viscomi now deceased. There are 41 vacant lots, two of which I own and 39 owned by another group. There are also 12 developed lots, with most of the owners of these homes and all lot owners supporting the amendment to delete or possibly delay development of the recreational amenities until a later date.
>
> This amendment will allow the remaining lots to be sold, unencumbered, and also gives owners down the road the flexibility to construct amenities at their cost in the future. None of the lot owners should have to pay more than their fair share to construct/maintain future amenities. To have the current encumbrance of tying the right to build out all 53 lots being contingent of someone building the amenities is unfair and unreasonable. I am surprised the city would have allowed this agreement without requiring a Performance Bond that could have been used to pay for the amenities construction in case the developer failed. I encourage our mayor and each commissioner to approve the amendment before them to correct this oversight. I would also appreciate this communication being read into the minutes of tonight's meeting."

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Mr. Spraker stated that there are 53 lots in the subdivision with 39 vacant lots owned by the applicant, 2 vacant lots owned by Mr. Olivari, and 12 properties with homes constructed on the lots. Mr. Spraker stated that he was aware of the following:

- 4 homeowners were against the request.
- 5 homeowners supported the request.
- There were no responses for 3 existing houses.
- The vacant lot owners, 39 lots for Villaggio Investors, LLC and 2 owned by Mr. Olivari supported the request.

Mr. Spraker concluded that staff is recommending approval of the proposed PRD recreational amendment. He stated that if this application was filed today and something other than a clubhouse/pool was proposed, staff would not object.

Chairman Thomas questioned the Board members to determine if there were any questions of staff.

Mr. Wigley asked if the recreational area was inside the gated community. Mr. Spraker responded that the recreational area was outside the subdivision gates but inside the subdivision boundary. He recalled that Mr. Viscomi, the original developer, may have intended to use the clubhouse/pool as a sales area.

Mr. Wigley questioned where the access to the clubhouse/pool area is located. Mr. Spraker responded that the access is off the main access road just before the gate.

Mr. Wigley asked if it had been determined that the applicant is the master developer. Mr. Spraker stated that it was the opinion of City staff, based on a legal determination, that the applicant is the master developer.

Mr. Wigley questioned the impact fee reimbursement and its value. Mr. Spraker stated that as part of the construction for the Tuscany subdivision the original developer had to do a major sewer line extension to construct the subdivision. He stated that he did not know the value tonight and estimated the sewer impact fees to be $1,100 to $1,200 per lot within the subdivision.

Mr. Jorczak stated that on page 3 of the City Attorney's memo in the packet it states $475,000 for the impact fee reimbursement? Mr. Jorczak asked if this is the cost of the project. Mr. Spraker stated that this is the City's portion of the project and the developer had other costs.

Mr. Jorczak asked if this was an expenditure already incurred by the City. Mr. Spraker responded that was correct. He continued that the developer gets a credit based on each new sewer line connection. Mr. Spraker stated for example, that when Tymber Creek Shoppes connected to the sewer line the Tuscany subdivision developer was paid those sewer impact fees.

Mr. Jorczak stated that the master developer will be paid the sewer impact fee once a home is connected. Mr, Spraker stated that is correct and he believed that the remaining impact fee reimbursement amount is between $90,000 to $100,000.

Mr. Jorczak noted the letter of objection from the adjoining subdivision, Breakaway Trails. He questioned how Breakaway Trails is impacted by the proposed amendment and what their interest may

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be. Mr. Spraker responded that they were noticed as an adjacent property owner and believed they held an HOA meeting to discuss the issue. Mr. Spraker said that he could not speak to what their concerns or objections may be.

Mrs. Press stated that she had visited the Il Villaggio subdivision. She stated that it seemed like a strange place to have a clubhouse/pool with open access so anybody can get into the facility. Ms. Press stated that normally when buying a home, people are told of the existing or planned amenities. She questioned if homeowners were told about the clubhouse/pool amenity. Ms. Press concluded that in many communities conditions can change over time such as the removal of the pool in Breakaway Trails subdivision.

Chairman Thomas stated that he could answer the question about a pool. He said that as you enter the main entrance, there is a house at the corner with a pool, so pools are possible.

Mr. Spraker stated there are subdivision residents and the HOA president are in attendance and can answer questions regarding pools and what they were or were not promised.

Mr. Heaster stated when City Attorney came to the conclusion that the applicant was the master developer, he referenced speaking with Eric Amon with Fifth Third bank. Mr. Heaster questioned if the City Attorney got any information or discussed the issue with any other counsel?

City Attorney Hayes stated that he did not see the need for discussion. Mr. Hayes stated that when the application came over to him, the issue was one of standing. He stated that Planning staff had questions if Villaggio Investors, LLC were the proper applicant, or if it was the HOA, or some number of residents within the subdivision. He summarized the issue as who had standing to submit an application to amend the development order.

Mr. Hayes said what his analysis concluded was that Villaggio Investors, LLC had standing to submit the application. Mr. Hayes stated the reason for that conclusion is that Fifth Third bank acquired every bit of interest in the property that the Tuscan LLC had, including all development agreements, which would include the PRD Development Order and impact fee reimbursement agreement. Mr. Hayes said those agreements traveled with the bank and when the bank conveyed title to Villaggio Investors, LLC, all approvals and obligations were conveyed. Mr. Hayes explained the bank is not going to retain the underlying development rights and give up the right to receive the impact fee credits that traveled with the development. Mr. Hayes stated he confirmed that yesterday with an attorney that represented the bank in the closing who indicated that the bank in no way would have retained those rights.

Mr. Hayes said he knows one of two things occurred: either the rights of the project stayed with the bank or they went with the purchaser. He stated the original issue analyzed was that of standing and the conclusion regarding the transfer of development rights came in his assessment in the tail end of the standing analysis.

Mr. Heaster asked Mr. Hayes if he ever experienced this situation before in his tenure here. Mr. Hayes responded that this situation is a first that he is aware of.

Mr. Heaster asked if staff's position is to amend the PRD to allow a pocket park.

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Mr. Spraker stated that City staff does not specify to subdivisions the amenities to be included in the development. He said what City staff uses is a formula for the land area required for recreation. Mr. Spraker stated the developer has a right to amend the PRD provided they are providing some type of recreation.

Mr. Spraker confirmed for Mr. Heaster that there are no other changes being requested, such as subdivision pavers or the modification of the architectural style of homes that help to maintain the subdivision value.

Chairman Thomas invited the applicant to address the Board.

Paul F. Holub, managing member of Villaggio Investors, LLC, 675 North Beach, stated that there were a lot of good comments made and he desired to clarify a few issues. Mr. Holub made the following points regarding the sewer forcemain:

- The sewer forcemain that was extended was oversized, much larger than what was required to serve the Tuscany subdivision in 2004.
- The original developer spent between $450,000 to $500,000 for the sewer forcemain extension.
- A portion of the sewer forcemain extension cost was allowed to be impact fee reimbursable, approximately $150,000 to $160,000.
- The original developer received approximately $40,000 over the years.
- Fifth Third bank, received a portion while the property was in bankruptcy. He believed the remaining balance to be approximately $100,000.
- The original developer was entitled to the impact fee credits based on building a larger size than what was needed so that other users can connect to the extension.
- The only way a developer would be reimbursed is if a sewer impact fee connection was made, either in the subdivision or surrounding area, such as the Tymber Creek Shoppes.
- The impact fee reimbursement agreement is an economic interest or an asset, which was a collateral asset that the bank had rights to. It is no different than if the bank had the right to stocks, bonds or trucks that the developer had. Those were collateral assets that the bank got back. The bank lost in excess of one million dollars, but they got those collateral assets back in conjunction with the fee simple lot interest in 39 lots. Without the impact fee reimbursement, Mr. Holub said the sale for the lots does not work based on a very thin margin for residential lots.
- The investment group asked the City if we can have an extension for repayment of the agreement because there was no likelihood that we would get that money back by the expiration date of 2012 or 2013.

Mr. Holub stated that the investment group that bought these lots are not developers. He continued to state it consists of a physician, paving contractor, home builder, auto mechanic, himself, retired investors, and active investors. Mr. Holub said the investment group bought these lots from Fifth Third bank with the intention of holding them until the market changes and as we all know with the current absorption rates, it is going to be many, many years before these lots are constructed. Mr. Holub said

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that the investment group stepped into ownership as lot owner and have participated with the HOA as such.

Mr. Holub said the group did not participate with the HOA as a developer, did not guarantee the budget, and did not make wholesale changes to the architectural requirements. He stated that the investment group made some minor modifications, mostly clarifications were made in good spirit with the Architectural Control Committee of Il Villaggio subdivision. Mr. Holub said the subdivision is really a niche neighborhood with spectacular homes. He continued that these are not entry level homes and sold for $400,000 to $500,000 a few years ago.

Mr. Holub said for the purposes of this meeting the investment group does not disagree with the City Attorney regarding the standing issue. He stated that the investor group does not believe that they fit into the developers shoes for various reasons. Mr. Holub stated one reason was that although Mr. Viscomi had passed away, the Tuscan LLC was still a valid entity in existence.

Mr. Holub said that it is unfortunate that there was not a bond posted, it was probably an oversight of the Building Department. Mr. Holub recalled that this happened in 2004 and 2005 when development was peaking. He stated that it is typical that a bond could or should have been posted for the recreational improvements. He said even if a bond was posted, we may have been here anyway because the homeowners do not want the maintenance, obligation and liability of the clubhouse/pool.

Mr. Holub said these lots could have been bought one lot at a time because Fifth Third bank was going to perform an auction to sell the lots individually. He stated that the investor group can still sell the lots one at a time and posed the question who builds the clubhouse/pool if this occurs. He questioned if it would be the 31st person who pulls a home construction permit and said that there is no equity or rationale in that. Mr. Holub said in a perfect world, if Mr. Viscomi was still here and he was building homes and he was going to build the entire subdivision, this condition would make sense. Mr. Holub stated that did not happen and this is how we got to this amendment which seeks to correct the condition for the recreational facilities. Mr. Holub stated that we have the right to request the amendment to the recreational improvements and that is simply what we are doing.

Mr. Holub said he took the amendment a step further, as the owner of 39 lots, and committed roughly $8,000 or $200 per lot that we own, to construct a pocket park in the future. He stated that this is a guarantee that the money for a pocket park would be there in the HOA reserves. Mr. Holub said in addition, after the 31st home is built, let's have another community meeting, and have a vote to determine the recreational amenity by a majority of homeowners at that time. He said if the majority of homeowners in the community want to have a pool, let's have a pool and we will pay our fair share for all the lots that we own, less the $200 per lot that we will pay today and let's have a pool. Mr. Holub stated that we do not know when the 30th home will be built, it could be 3 years, 5 years, or later.

Mr. Holub stated the recreation area site is a postage stamp lot, where only 7 parking spaces would fit. He said the plat that is recorded only shows this parcel as parcel f, drainage and maintenance and does not show it as recreational area. Mr. Holub stated the recreational area was not the right location for a clubhouse/pool. He said it is outside the subdivision gates, adjacent to SR40, a four lane highway. He believed that there would be liability issues, even if the area was fenced and it is not in a location where any of the homeowners can really keep an eye on it.

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Mr. Holub said that he was unsure of why the Breakaway Trails subdivision would oppose this amendment. He stated that Breakaway Trails themselves, several years ago, eliminated the clubhouse/pool from the phase 2 section of the Breakaway Trails subdivision. Mr. Holub continued that there are several subdivisions that are adjacent and in the vicinity of Breakaway Trails that do not have a clubhouse/pool as a recreational feature. Mr. Holub explained that Breakaway Trails is a guarded community and one cannot get in the subdivision without a bar code or a driver's license and security knows where you are going. Mr. Holub said he did not believe that Breakaway Trails opposition was based on the belief that Tuscany subdivision residents would use the Breakaway Trails clubhouse/pool.

Mr. Holub concluded his presentation with the following points:

- The requested amendment is to approve the pocket park with the condition that we will put up the money for the pocket park for our share, which may be enough money to build it and the rest of the HOA does not have to participate. This amendment would provide closure going forward with the recreation condition and when the 30th home is built, the HOA will reconvene and have a community meeting and provide a final vote on the recreational facility.
- If the vote is to build the clubhouse/pool, we will pay our fair share for all the lots we own. We estimate, depending on the type of clubhouse/pool, the range is $70,000 to $90,000 with all the improvements. If this is the homeowner's decision, then the 53 lot owners can pay for the facility and we will pay our fair share. We will support whatever the majority wants once that 30th home is built.
- When you go out the subdivision and you look at the location, it is not the right location for a clubhouse/pool for the reasons previously stated.
- In the West Ormond community there are numerous subdivision that have pocket parks or other recreational features that meet the code requirement that are not a clubhouse/pool.
- Right now there are 12 homes, 2 vacant lots owned by Mr. Olivari, and the 39 lots owned by our investment group and the consensus is that they do not want clubhouse/pool. Our group can not tell you the consensus is a pocket park, maybe it is a shuffle board court, tennis court or something else. The request is to allow additional homes to be built and allow additional homeowners to move in. Perhaps the character of the neighborhood changes.
- If we auction these lots tomorrow and there were 39 different lot owners, who would be building the clubhouse/pool. By virtue of accepting the collateral interest in the impact fee agreement, the investment group never acknowledged any development rights. Maybe it is implied, but that was an asset that came along with the real property. The impact reimbursement agreement closed the gap on us buying it and if that was not there, we would have been to far apart on the purchase. He stated the investment group would not have purchase the land and the lots would still be sitting there today.
- There was a community meeting and there was a majority to amend the recreational amenities. A couple property owners have changed their position, who had originally signed a letter of support, and they have the right to do that.

Mr. Holub concluded his presentation by stating we are here today to ask that you allow the recreational feature to be amended with the condition that it is again looked at down the road and we will abide what everyone votes when there are actual homes built.

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Mr. Wigley asked Mr. Holub if he was under the impression that the 31st homeowner would have to pay for the clubhouse/pool. Mr. Holub responded that there are no more building permits issued after the 30th home whether or not this group or Fifth Third bank sold these lots individually.

Mr. Wigley asked Mr. Holub that investor group is not questioning the standing determination that you are the master developer. Mr. Wigley continued that the Development Order requires the master developer to be responsible for the clubhouse/pool and not the 31st homeowner that is sold a lot.

Mr. Holub responded that for the purpose of standing for this application, the investor group does not object. He said that the investor group does not feel that they fit into the developers shoes in total and there are legal reasons for that. Mr. Holub stated that what the document says, and it is not in the recorded document, after the 30th permit is issued, the 31st permit will not be issued until the clubhouse/pool is built.

Mr. Wigley stated that the spirit in which that approval was granted to the original developer was to allow him to start the subdivision. Mr. Holub affirmed that it was for the original developer. Mr. Wigley said it could have been easily stated before the 1st house built, the master developer would be required to construct the clubhouse/pool. Mr. Wigley stated he would take exception that Villaggio Investors, LLC are not developers, I think you are developers.

Mr. Holub responded that this investor group that was put together was strictly for investment. He stated the group did not have the intention of going out there and developing property.

Mr. Wigley asked if the investor group had hired a builder yet. Mr. Holub responded that they had not. Mr. Holub continued that if you look at the absorption rate of new construction in Ormond Beach it is 2012/2013 before new housing occurs.

Mr. Wigley stated that when Breakaway Trails decided not to construct the pool and clubhouse that the developer ICI Homes, Inc. was required to pay $100,000 to the HOA.

Mr. Briley asked the City Attorney how the Board should approach the application and whether the applicant was an investment group or developer.

City Attorney Hayes stated he did not believe it made a difference. He stated what we know is that Villaggio Investors, LLC acquired from the bank the interest it had in the property. Mr. Hayes continued that from the bank's perspective, that would include the impact fee reimbursement and the development agreement as well. He stated that the conveyance was by warranty deed so Villaggio Investors, LLC got what its predecessor in title had. Mr. Hayes stated the predecessor in title to Villaggio Investors, LLC was the bank, the predecessor to the bank was the Tuscan LLC and the Tuscan LLC was the original developer.

Mr. Hayes stated the question for the Board is whether or not the Board desires to recommend amending the Development Order to eliminate the clubhouse/pool condition. Mr. Hayes stated what we do know is the City is prohibited from issuing any more permits for homes beyond number 30 unless and until the clubhouse/pool is constructed. Mr. Hayes concluded, it does not matter how the Board treat the current owners of the property, whether as investors or developers, because in the end, they had what the bank had and that includes the development agreement, the site plan, and the impact fee imbursement credits.

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Mr. Briley asked as investors, they are not obligated to do anything until lot 31 is constructed with respect to the clubhouse/pool.

Mr. Hayes said that the grayer question is whether they could spin off the individual lots. He stated that this would require additional research, but it is similar to the bank. He asked if the bank is going to convey its interest to only the lots and the interest in the impact fee reimbursement credits, but yet retain the underlying rights to develop and obligation to develop the clubhouse/pool. Mr. Hayes stated that the bank would not do that and that the obligation does not just disappear. He concluded that similarly here, if you had a property owner that wanted to sell off lots individually, that does not make the obligation of the development agreement disappear and it stays with the current owner.

Mr. Briley asked if Mr. Holub were to sell the lots and there were 53 different owners, who would be responsible at that point. He asked if it would it be the HOA.

Mr. Hayes stated that based on the information that he has looked at so far, he is comfortable in saying Villaggio Investors, LLC is the current owner of that and has responsibility at this point. He said that I do not believe the Villaggio Investors, LLC can spin off the individual lots and simply avoid the obligation that was conveyed to them by virtue of the warranty deed from the bank. Mr. Hayes said if there are some other documents that he has not seen, he would review it and determine if it changed his opinion.

Mr. Briley asked if the pocket park would be developed would it be in the same area as the clubhouse/pool. Mr. Holub affirmed that it was the only parcel of land that is available for recreation.

Mr. Briley stated it is the only parcel available without changing the interior of the subdivision. Mr. Holub stated if the pool/clubhouse were interior to the subdivision, it would place a community pool directly next to a homeowner and the subdivision was not designed for that.

Mr. Briley said that he agreed with Mrs. Press's comment that this is an odd location and perhaps a mistake that this was not put in the subdivision behind the gate. He stated that he lives in a subdivision where he has a clubhouse/pool and it is not a gated subdivision. Mr. Briley stated that there is a fence around the pool area, however, we still encounter problems with people from other subdivisions hopping the fence and vandalism to the clubhouse and the pool is a constant maintenance issue.

Mr. Holub stated that he is trying to be cooperative with both sides. He said the majority does not want it and there is a minority that wants it for a variety of reasons. Mr. Holub stated the application asks for approval of the pocket park, which we have the right to request, the LDC allows it, and staff supports. He continued that the investment group will put money into the HOA reserve account and it will be there for this pocket park and we will go a step further and say when that 30th home is built. Mr. Holub said let's reconvene and have a 30 homeowners and the lot owners come together and have a vote. Mr. Holub said maybe it is a basketball court, a tennis or shuffleboard court, or something that is appropriate to be outside of the gate instead of such a high liability amenity such as a pool.

Mr. Briley asked if the applicant would go along with a clubhouse/pool if the majority wishes at the time of the vote after construction of the 30th home. Mr. Holub responded that the group would pay their fair share for every lot they own if they approve a clubhouse/pool when there is 30 homes built.

Mr. Briley stated that the investor group may not own 39 lots. Mr. Holub responded that we may only own 5 or 10 lots. He said that this approval provides closure to us and to Mr. Olivari. Mr. Holub stated that if Mr. Olivari wanted to sell his lots today, no one will buy the lots because they do not know what will happen in terms of the recreational improvements. Mr. Holub said that they are trying to close the gap on what could happen and provide proper disclosure to any potential buyer and they know that you can build in here and right now it is a pocket park, but down the road it could be a clubhouse/pool or it could be a shuffleboard court.

Mr. Briley asked if there was any knowledge if Mr. Viscomi had promised a clubhouse/pool to the original buyers. Mr. Holub stated he would defer this question to Mr. Sweet.

Jeffery Sweet, 595 West Granada Boulevard, stated he did a lot of work with Vince Viscomi, but did not represent the Tuscan LLC in this subdivision development. Mr. Sweet stated that the location of the clubhouse/pool outside the gated area on a four lane highway does not make a lot of sense. He expressed concern that no bond was posted for the recreational improvements. Mr. Sweet stated he had spoken with Anthony Viscomi, the developer's son, who indicated that they were working to remove the clubhouse/pool requirement but got sidetracked as the economy worsened.

Mr. Sweet stated a developer is a bag of traits and what this group has done is come in and said OK if we were the master developer, the first thing we would do is guarantee the budget. Mr. Sweet continued they would not pay the maintenance assessment fee per lot, because the developer does not have to pay this. He said they are not doing this and they are paying the maintenance assessment fee per lot, just as if they were the lot owner. Mr. Sweet said that the developer has the right to appoint and run the Board of Directors, and from doing condominium work for 30 years, he stated most developers want to run the Board until they sell and get out because it just makes life easier. Mr. Sweet stated that there was no effort to do this. Mr. Sweet continued that most developers take control of the Architectural Review Committee (ARC), which they have a right to do. Mr. Sweet stated that they did not do this. He said that they are investors that bought lots and they have adhered to the ARC standards. Mr. Sweet concluded that the above are incidences of this grouping of identities that says to someone are you a developer or an investor that bought lots.

Mr. Sweet said there has been some discussion of the impact fee reimbursement agreement and this was pledged as collateral for the loan, because it was a source of cash. He stated this is what banks do and when they made the development loan, they looked at every available source of cash and had that pledged as collateral. Mr. Sweet stated the bank foreclosed that interest and the income from the lots is what they were out trying to sell on the open market place which was part of the packet that this investor group purchased.

Mr. Briley asked would the investor group would develop the concept of the pocket park or would it be a fair share cost among the lot owners. Mr. Holub responded that the group has agreed to put up approximately $8,000 today for the pocket park and suggest that it is not built today until the homeowners evolve and then they can decide what they want.

Mr. Briley asked what if the park concept costs more than $8,000. Mr. Holub stated if it is a pocket park and the $8,000 is there, then we would build it. He continued if it is a $15,000 tennis court, we would pay our fair share of the total cost, less the money put up front, this way the City will know there are funds to construct the park improvement and something will come of this vacant parcel at some time in the future.

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Mrs. Press said the homes are very attractive and it has been stated that they went for between $400,000 to $500,000. She asked what guarantee, if any, that these lots will not be sold and a home that may go for $150,000 will be built. She said she understood that there are architectural standards, but where is it written that the people who live there that have previously spent $400,000 to $500,000 that the value of their property will be protected.

Mr. Sweet said he thought the question related to size, quality and appearance of the homes. He stated that it is hard to equate in today's market the value of the homes purchased six years ago. Mr. Sweet said the ARC standards that existed when the original developer started are 99% in tact, with only a few minor changes that were inconsistent that have been corrected. Mr. Sweet continued that there has been no change in what the houses have to look like, what the architectural style has to be. Mr. Sweet said one of the commitments that this investor group made to the homeowners group when they came in was that they were coming in as an investor group who live in this community and who are not going to try to be the successor developer and come in and change the architectural standards. He said the size of the home, how they are located on the lot, what they are made out of, and all the architectural components are going to be identical. Mr. Sweet stated today you can duplicate the homes that are there for two thirds the cost and there will be some time before the actual value returns. He said whatever they paid for them, they will look the same.

Mrs. Press asked if this is an oral agreement or a written one. Mr. Sweet responded that the architectural standards are recorded and are in the declaration of restrictive covenants.

Mr. Wigley questioned if the covenants can be amended. Mr. Sweet stated it can be done, but it is a significant process. Mr. Wigley questioned if it is similar to what is being done tonight. Mr. Sweet stated that the only person that had the ability to unilaterally amend the covenants was the original developer, which we are not. He stated we are a lot owner, we just happen to own 39 lots. Mr. Sweet stated it would take a vote of the homeowners to do that. Mr. Wigley stated that the investor group has 39 lots, with 39 votes. Mr. Sweet stated if we were going to spin it that way, we would already have done it.

Mr. Wigley questioned who is responsible for repairing the buffering between Il Villaggio and Breakaway Trails subdivisions which has been deteriorating. Mr. Sweet responded that was the HOA. He indicated that Fifth Third bank turned control of the common areas to the HOA. Mr. Sweet stated that a lot of what the investment group has was put into place by the bank.

Mr. Hayes asked if the bank actually transferred the interest in the common areas to the HOA. Mr. Sweet responded that they did and when he became involved in the subdivision, Cobb/Cole law firm had been hired to address a profound water management district issue. He stated that the issue required all the conservation easements to be recorded and property transferred to the HOA.

Michael Pyle, 43 Apian Way stated he is the vice president of the association and they are in favor of the application. He stated he was one of the original buyers from Vince Viscomi and had meetings with him. Mr. Pyle said that Mr. Viscomi did state that there was going to be a clubhouse/pool in the initial discussions. Mr. Pyle said he read all the documents before we closed and I knew what was in the public records. Mr. Pyle stated he was unable to find any recorded documents regarding the clubhouse and pool and except one little statement in a City document about it.

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Mr. Pyle stated that before Fifth Third bank started foreclosing, the existing homeowners realized we were in trouble. He stated that Mr. Viscomi came and talked to us a few times and wanted to know if we wanted to buy the lots. Mr. Pyle stated as soon as we realized that the developer was falling apart and spent all the reserve, all of our capital contributions, and had not put in any money for anything, the homeowners decided that they needed to do something. He said that a few homeowners decided to create an association that worked with Bill Hansard, Vince Viscomi, Ann Viscomi and Anthony Viscomi to try to fix inconsistencies in the Declaration of Covenants. Mr. Pyle stated that these efforts failed due to a lack of a majority. He stated an Architectural Control Committee was appointed and they created the guidelines, that were approved by the Board, and then recorded.

Mr. Pyle stated once the Villaggio Investors, LLC investors took over, we had very good communication before and after they bought the 39 lots. He stated that Fifth Third bank representatives came to subdivision meetings and the bank actually gave back the money that Mr. Viscomi had blown, so we were able to get that into the association.

Mr. Pyle said that we did get a deed out of the developer for the common areas because it had not been done and the bank did hire Cobb/Cole law firm to resolve an environmental issue that had not been resolved yet. He stated from our viewpoint, as the subdivision, we realized that they were not going to come in as developers in that sense and take over the Board. Mr. Pyle stated they could have been able to control the ARC and we were picturing completely different houses, so we met with them and we agreed to some small amendments to our ARC.

Mr. Pyle stated he desired to make some points regarding the application:

- We as the original buyers are the only ones that can say things that the original developer would have told us. Anybody that bought after the original developer did not have anybody to tell them that they were going to build a clubhouse/pool.
- The plat does not show a clubhouse and pool. It was in the original site plan, which is not public record, it is not anything we would see. In the Ordinance that was approved in 2004, when the plat was approved, there is some discussion of the 30 lot rule, but it is not in the public record. Even the proposed plat that is attached to the Ordinance shows it the way it is now as tract “F”, drainage and maintenance. It does not say anything about a clubhouse/pool. There is no reason that we would have thought that the City was requiring that. No mention in Declaration & Covenants or Articles of Incorporation or the bylaws. No reference to maintenance of clubhouse/pool. Nothing at all about a clubhouse/pool.
- We as homeowners or the people who bought the lots should not be in effect forced to build the clubhouse/pool for any reason. The original development agreement was between the City and a developer who is not here. The agreement was superseded by a plat that did not show a clubhouse/pool. No buyer can say that they were on constructive notice, because the only notice in the public records was one phrase that the developer would show the architectural plans for their clubhouse to the City for approval.
- The majority of homeowners, some are wavering, do not want the liability, and the expense of building the pool and clubhouse. We do not think the 39 people who bought these lots are responsible and we do not think we are responsible and we are pleased with the proposed amendment.

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Mr. Jorczak asked of the original purchasers, were any representations made that they would have a clubhouse/pool. Mr. Pyle responded that he could not say that he did not say it, he probably did say it. He said Mr. Viscomi probably had it on a depiction on something, but no big deal was made of it.

Mr. Briley asked if Exhibit D of the staff report was what Mr. Pyle was referring to as was never filed in the public records. Mr. Pyle stated it was never recorded.

Mr. Wigley asked Mr. Pyle if he had a pool. Mr. Pyle responded that he did along with the HOA President, Mr. Roppolo. He stated that there were two pools and they were not wide.

Mr. Wigley stated to Mr. Pyle that you are a real estate attorney and based on what you heard tonight why do you as a homeowner believe that you would have to pay for the construction clubhouse/pool. Mr. Pyle responded that he does not think that these guys are developers and someone is saying that it is a City requirement.

Mr. Wigley stated the applicant has accepted the standing determination and they are more than happy to take the impact fee reimbursement, but everyone feels like they do not have to build the clubhouse/pool. Mr. Wigley said that he was confused by that.

Mr. Pyle responded that he is glad that they took the stance and have the standing because we would like to see the whole place get built out eventually. He said it is no money out of my pocket one way or the other, but that he does not feel that they are the kind of developer that is interpreted by regarding statutes on HOA law.

The Board took a five minute break at 8:21 p.m. and reconvened at 8:26 p.m.

Chairman Thomas asked if anyone else that would like to address the Board.

Louis Roppolo, 52 Apian Way, said that he is the President of the Il Villaggio subdivision Home Owner's Association and he believes that the pool was ill conceived. He stated that he did not buy his property directly from the builder but instead his son, Anthony Viscomi. Mr. Roppolo confirmed that his property did have a pool.

Mr, Roppolo said that the location of the clubhouse and pool was ill conceived because in one year there were three automobiles that went through the subdivision walls. He stated that this helped in getting the speed limit reduced along this portion of SR40 which took about six months and Congressman Mica.

Mr. Roppolo said when he looked at the lots it was only implied the clubhouse/pool would be constructed and there was never anything printed, written or, given to him. Mr. Roppolo stated that he was against the clubhouse/pool because it is ill conceived, in a poor location and is open to vandalism.

Mr. Hayes asked the Chairman if he could clarify a point on the bond issue. Mr. Hayes stated the bond, in his view, would have served no purpose for the reason that this is a private amenity and it is not a public City infrastructure so had there been a bond there is no legal right that the City would have to enforce the bond for purposes of following through with the construction.

Darren Elkind, Esquire, 142 East New York Avenue in Deland, stated that was his pleasure to be here before you. Mr. Elkind said he was wondering why they put recreational area at the proposed location and believes that he may have figured it out and asked Mr. Spraker a question. He stated that the City has a stacking requirement off of SR40 to allow for a few cars sitting at the gate. Mr. Elkind said where the gate is could not have been much closer to SR40 and to get everything, the maximum yield of the property, the pool or something had to go outside the gate. Mr. Elkind stated on the one side we have the yard with the gate around it and that was the obvious place to put a clubhouse/pool. He continued that the residents will tell you if a pool or any amenity goes in there, whether it's a pool or a park or a

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dog park or whatever it is, it needs to be secured and gated to where only the homeowners have keys. Mr. Elkind recalled when he grew up, we had condominiums and we had pools and they had gates and you had to have keys – both for safety and so that people that did not live there could not get in.

Mr. Elkind stated that he represents Mr. Oakwood, a homeowner in the Il Villaggio subdivision. Mr. Elkind stated that he believed that the homeowners, those people who live in the subdivision, are split about half and half on the amendment request. Mr. Elkind stated that he does not necessarily disagree with Mr. Holub that it may make sense to wait until we are at lot 30, or a few lots earlier, to decide the exact recreational amenity. He said by this point you have half of the community there and can determine what they want and what they would like to see. Mr. Elkind stated that he did not understand, if that is the idea, the need to perform this amendment now. Mr. Elkind said the applicant has told you, and I do not disagree with it, that it is going to take several years at best, before we are worrying about the construction on lot 30.

Mr. Elkind said there is nothing in the law, nothing in the Code, that would preclude them, whether they are a developer, investor, or the HOA, from coming back at any point in the future or perhaps when there is 26, 27 homes constructed from asking the City to change something and asking you to do what it is they want to do. He said at that point when they have a solidified plan and there may be some other changes that they need to make to the PRD in order to accommodate whatever their plans they may be. Mr. Elkind stated that he did not see the need, the rush, to do this now.

Mr. Wigley asked Mr. Elkind if he considered it is the marketing of the lots in order to proceed with the sale of the lots. Mr. Elkind stated that there was no question in my mind that is what it is.

Mr. Wigley said that would be the need to do it now, rather than three years from now. Mr. Elkind stated that if they are selling lots, they have said that they could sell 39 lots and whomever happens to be 30th home built is good and the next guy is in trouble. Mr. Elkind stated that he did not know the applicants, but he assumed that they are a responsible group and does not believe that they would go out and sell lots without telling people about the requirement to build the pool. Mr. Elkind agreed the amendment involved the marketing of the vacant lots. He said the amendment only benefits the group of investors and Mr. Olivari, who owns two lots. Mr. Elkind concluded that it is a direct economic benefit to the applicant in terms of marketing the lots.

Mr. Wigley said he thought it is to everyone's benefit that the project move forward and keep developing and builds out the houses. Mr. Wigley asked if Mr. Elkind would agree with that statement. Mr. Elkind agreed with the statement and added it benefits the developer in selling those lots without the requirement to pay for the clubhouse/pool. Mr. Elkind stated that the subdivision lots would now be less expensive. Mr. Elkind stated that they bought the property knowing that the recreational requirement was there and they talked to staff from what he understood in the staff presentation, prior to the time that they closed on the purchase of the lots. Mr. Elkind concluded that the applicants bought the lots knowing of the recreational requirements.

Mr. Elkind recalled that Mr. Briley asked the City Attorney had he ever seen this situation before. Mr. Elkind said that in his own experiences that this is a new phenomenon of whole subdivisions being taken back by banks. Mr. Elkind stated that hopefully it is not a common thing and this will be the last one that you see in the City of Ormond Beach, but it may not be, there maybe more.

Mr. Elkind questioned the message sent to folks if they come in and say we were just an investment group and we do not want to bear the responsibility of that which we have purchased. Mr. Elkind stated with all do respect, he believed that this not a good policy for government to establish. Mr. Elkind continued that if everyone in the HOA was here and said this pool makes no sense, we do not want it,

just get rid of this requirement, maybe I can see it, but this in large part a private issue amongst the homeowners association.

Mr. Elkind said that the City has a set of regulations, notwithstanding what the applicant has said are mistakes made by staff. Mr. Elkind stated that he believed that this was a normal project and normal accommodations were made to a developer. He stated the City should stick by what was approved and allow people to rely upon it and when the applicant gets down the road and they have 20 to 30 homes, maybe that is the time they need to come back with an amendment or maybe at that point it will be water under the bridge because they elect to do it.

Mr. Elkind recalled that Ms. Press asked the question, what guarantee is there that the architectural controls will not change. Mr. Elkind said that he thought the only architectural control that was changed was something about a roof pitch that the HOA agreed to change. Mr. Elkind said if, and he clarified that he is not suggesting that you should grant this request or recommend that the City Commission make this amendment, but if the Board is going to do it, it is suggested that architectural regulations be made a part of the zoning requirements as part of the PRD. Mr. Elkind concluded that individuals that already have homes will not object and if the investment group has no plans to make any changes, then they will not mind putting it into the agreement.

Michael Powell, 75 Apian Way, said the question was brought up about whether any of the people were told about having a pool. Mr. Powell recalled that he visited Tuscany subdivision in 2007 and they had a representative on-site in the model home selling lots. Mr. Powell said that when he inquired of the sales representative regarding future recreation area that they responded that there was to be a pool and clubhouse. Mr. Powell said that he purchased his home in February 2010. Mr. Powell confirmed that he was told by a representative that at some time that there would be a pool and clubhouse.

Mr. Powell questioned why the amendment needed to be amended now. He asked if we have to wait to the 30th lot to start the recreational amenity, why not wait until the subdivision has 30 homes and homeowners in there and see what the demographics of the neighborhood looks like and let the homeowners make a decision of what they want at that time.

Greg Oakwood, 79 Apian Way, said like Mr. Powell when Mr. Viscomi owned the subdivision, one of his bragging points was the subdivision was going to have a beautiful pool. Mr. Oakwood stated he put a deposit on a lot in the subdivision and when the economy started going bad, he chose not to purchase and Mr. Viscomi was nice enough to refund his deposit because he said I was making too much money on the property and the lots. Mr. Oakwood stated he disagreed with Mr. Viscomi for the amount of money he was charging to build the housing square footage. Mr. Oakwood recalled that Mr. Viscomi directly stated that the pool was going to be constructed.

Mr. Oakwood said that when he purchased his home, just prior to Mr. Holub's group purchasing the 39 lots, he went to his very first meeting and Mr. Holub said at the meeting, that if you do not sign this paper to change the recreational requirement, we are not going to buy this project. Mr. Oakwood stated that Mr. Holub's group went ahead and purchased the lots. Mr. Oakwood said he bought his home with the belief that eventually there was going to be a pool. He stated that he has two children that attend Hinson Middle School and he desired for them to have the recreational area. Mr. Oakwood said that he would like for the recreational requirement not to be changed and wait for the rest of the people as others have stated and make the developer responsible for paying for the pool and clubhouse.

Mr. Holub stated that he wanted to respond to Mr. Oakwood's statement. Mr. Holub stated the letter of support that we requested from the HOA members was secured after we purchased the property. Mr. Holub continued that we made no such request or demand at the HOA meeting. He said that the HOA

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meeting that Mr. Oakwood is referring to is the first meeting he attended with the bank. Mr. Holub restated we made no such request. Mr. Holub concluded that the request we made to bring this application to you tonight was done through a majority vote of the HOA and subsequent to our purchase and was not a condition of our purchase with the bank.

Michael Zaharias, 25 Apian Way, said that he was told in the beginning, as stated by others, that this community was going to have a clubhouse and a pool. Mr. Zaharias said he agreed with some of the homeowners that we should leave it the way it is. Mr. Zaharias stated that the home lots are small and it was presented that a pool and clubhouse would be constructed. Mr. Zaharias said as a speaker stated earlier, the pools are not wide, and does not make a pool of any value to the house, in his view. Mr. Zaharias stated a clubhouse and a pool can be enjoyed by people as a community, not homes that have small pools that are independent away from a community. Mr. Zaharias stated a pool and clubhouse helps to build a true community where people can be happy together.

Mr. Wigley asked if Mr. Zaharias given the lot size and architectural requirements for the square footage of the homes, are you stating that it is almost impossible to build a decent size pool.

Mr. Zaharias said he would agree with Mr. Wigley's statement. Mr. Zaharias continued that the lot sizes are small, the homes are close together, and there are pool setback requirements. Mr. Zaharias said he would not have bought in that development and then say, that a pool can be placed back here, the lots are way too small.

Mr. Zaharias said the subdivision is a lovely gated community and there are walls along SR 40. He said as you drive up into the subdivision, the pool and clubhouse would be there and if it were gated properly within the community and a wall made there instead of the entrance being outside we could somehow move the entrance inside the gate. Mr. Zaharias stated that would need some future planning. He stated his position is the pool/clubhouse and the homes themselves, which are beautiful, is brought me to Mr. Viscomi and the clubhouse/pool were part of the package. Mr. Zaharias said he understood that it was not going to happen right away, but it was going to be in this development. Mr. Zaharias though it would be a good marketing tool for the poor economy that we are in to try to develop the rest of the subdivision using the pool and clubhouse as what future homeowners are buying into.

Scott Vanacore, 1293 North Highway US1, said he disagreed with the last speaker's comments about no room for pools. Mr. Vanacore said the minimum lot size is 55' in width which leaves you 35' in width for a pool and the lots are 120' to 140' in depth. Mr. Vanacore stated, as a builder, the average design for a lot of those houses will not exceed 50 to 60 feet in depth and there is adequate room for a 30' wide by 20' deep pool.

Mr. Vanacore said that Mr. Wigley's comment regarding the marketability of the lots is important. Mr. Vanacore indicated that he owns four subdivisions in that general area and none have pools. He continued that in super communities or master communities, pools may make sense, but in these smaller subdivisions, with 50 or 60 lots, pocket and passive parks are really more the option that we have found our residents like.

Mr. Wigley asked Mr. Vanacore if he is an investor in the subdivision. Mr. Vanacore answered that he was an investor.

Mr. Wigley asked Mr. Vanacore if he was not a developer. Mr. Vanacore stated he was not a developer. He continued a developer is a guy who buys that land and who develops the land and goes through that process. Mr. Vanacore stated he bought as an investor. He stated just because we happen to be a group combined, we should not be penalized for buying 39 lots.

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Ms. Press said these are tough times to sell a house so what are you, as an investor, going to be offering that is different to make people want to buy in your development. Mrs. Press asked if you had some kind of designs of what could possibly be there in the recreational area, that would be helpful.

Mr. Vanacore responded that he liked the effort the applicant has made about the choice of the people to vote to see what they really want as the subdivision develops. He stated by allowing the vote after the 30th home constructed, the will of the homeowners will be represented.

Ms. Press commented that when she visited the site, it did not look like there was a tremendous amount of room for recreational improvements. Mr. Vanacore said it would be a small pool based on parking and setback.

Mr. Heaster stated that he thought we all are getting bogged down with who is a developer and who is an investor. He said this investment group could have bought 3 lots or they could have bought 39 lots and what they are trying to do here tonight is to clarify the recreation requirements of the subdivision so they can move forward with their planning and they know to tell future homeowners. Mr. Heaster stated the recreational improvement could be a pool at the 30th/31st lot or it could be something else, with the homeowners making that decision at that time. Mr. Heaster concluded that the Board has heard from the HOA President, the HOA Vice-president and we have heard from the majority of the owners tonight and what they want is this amendment to allow them in the future to plan accordingly to make a decision at that time.

Mr. Vanacore said that the impact fees keep getting tied into the investors. He said that we are a sharp bunch of investors he believed and we should not be penalized because we recognize an asset that is attached to those lots being the impact fees.

Chairman Thomas said he has been involved in the planning of Ormond Beach for an long time and he always thought a developer was a person who went in and constructed the sewer and water lines, the roads, and took a piece of raw land and developed it into a prepared area for housing. He stated he was having trouble tonight seeing where this group is a developer as opposed to investors. Chairman Thomas asked how many lots out of the 53 lots are owned by other people outside of your group.

Mr. Wigley responded that there are 14 lots outside the applicant's ownership with Mr. Olivari owning 2 vacant lots.

Chairman Thomas asked if the project developed out, if the 31st lot owner/buyer would be responsible for the amenities. He asked would that 31st lot buyer would have to be told that it would be his responsibility.

Mr. Hayes stated that was not correct. He said for purposes of this discussion, it does not really matter what you call them. Mr. Hayes said the Land Development Code provides specifically that Development Agreements/Orders run with the land so it is a covenant and they do not disappear, they are there forever.

Mr. Hayes stated the question becomes, along the chain of title, where does that Development Order travel from and to whom? He said it is kind of a semantical argument that we have been having tonight and he did not want to say it is a red herring, it could be important at some point in the future, but he thought for purposes of this Board the question is: Do you want to amend the Development Order as is proposed or not.

Chairman Thomas thanked Mr. Hayes for keeping the Board on task.

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Mr. Hayes said from reading the bylaws, it contemplates that an HOA will be responsible for the maintenance of the common areas and maintenance is not the same as development and construction. He continued that the underlying development rights still are there and so the question then becomes if we know one of two entities holds the development rights, it is either the bank or it is Il Villaggio Investors LLC. Fifth Third bank does not have the development rights. Mr. Hayes concluded that the issue that you need to resolve tonight is whether or not you want to recommend approval of this amendment to the Development Order.

Mr. Wigley stated he was unclear about comments from some of the homeowners who stated that they were asked to sign a document and asked Mr. Sweet to address this issue. Mr. Sweet responded, after the closing we approached the homeowners and one issue was the investor group that bought the lots but they do not own the recreation area, it is owned by the HOA. Mr. Sweet stated the investors bought a series of lots that were foreclosed by the bank, they did not buy any common areas. Mr. Wigley asked who is making this amendment request.

Mr. Sweet said that they went to the HOA and said we are going to the City to ask for this amendment to eliminate the clubhouse and pool for the reasons we discussed tonight. He said we wanted to know if the HOA agrees with us and the form was also designed to strengthen our standing position.

Mr. Wigley asked if the form presented with concept that the homeowners would ultimately have to pay for the clubhouse. He continued what homeowner would not sign a document if they believed that they would be stuck with the cost of the clubhouse/pool. Mr. Sweet stated that there was no threat to the homeowners. Mr. Wigley asked if there was an implication. Mr. Sweet stated that was not the intent at all.

Chairman Thomas asked if we were getting to bogged down in this?

Mr. Hayes commented that the standing issue is important and it is my understanding that the HOA and a majority of property owners granted approval to the Villaggio to process the application and that is the question that came to me. He said when he looked at the standing issue, he concluded that they did not need the approval of the HOA because Il Villago Investors, LLC has the right to amend the Development Order.

Mr. Wigley said this is a confusing amendment with investors versus developers. He continued that this is a very visible subdivision, unlike a lot of other subdivisions in the Ormond Beach area and it is on SR40. Mr. Wigley said this subdivision has the ability to economically impact surrounding subdivisions, most notably Breakaway Trails and his concern is once we do amendments eliminating amenities that we could be going down a slippery slope where the next amendment could be one that reduces the architectural integrity and concept of the subdivision.

Ms. Press said that we have had other applications that modified recreation requirements and it is not an uncommon action. She said that she does not think that is a good location for a swimming pool and it just does not make any sense with no supervision of access. Ms. Press stated that the amendment should provide some type of recreation in place of the pool and clubhouse. She said what she desired to see was whatever dollar figure the clubhouse and pool would be that the proposed recreational improvement have an equivalent dollar figure with homeowners deciding what recreation improvement is selected. Ms. Press concluded by stating that she would like to see some time certain date for the recreation improvements.

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Mr. Jorczak said the location of pool and clubhouse was poor. He stated his concern is that somewhere originally there were some representations made to owners that are out there that they feel that they were promised a clubhouse and pool at some point. Mr. Jorczak said he did not know if any consideration was given to the homeowners who felt they were promised a clubhouse and pool. Mr. Jorczak said Villaggio Investors, LLC acquired the lots from the bank and in my mind, you also acquired the responsibilities. He questioned if there is some way to make accommodation to the homeowners who were promised the clubhouse and pool that could offset that they may not get the amenity. He stated that he understood that the investors saw an asset that made the project more economical for them to make the acquisition of the property and being smart investors, they went and sought, but they also got the obligation that came with the land. Mr. Jorczak concluded if there was a way to do that, you would get rid of that issue completely and proceed with something else that meets the LDC for future homeowners.

Mr. Heaster said this amendment will help clarify what will be built, who will pay for it, and what the homeowners want for this site, it is a win-win for everyone. He said we have heard from staff who said that this amendment would meet the recreation requirement of the LDC. Mr. Heaster recalled a question was asked of why now. He said time is of the essence and this is an excellent time to do this, because they are clarifying and making changes for what is best for the community in the future. He concluded that they are re-vitalizing this community, that is down and out and this is a way to make positive changes for the community.

Mr. Briley agreed with the other Board members that the site for the clubhouse and pool is a poor location and it should be inside the gated subdivision.

Chairman Thomas stated he raised his family in the Village on Nova Road and the pool and clubhouse was up by Nova Road and every time he was there he was looking over his shoulder and felt it was a horrible location. Chairman Thomas stated he would entertain a motion.

Mr. Briley moved to recommend approval of LDC 11-01 which was seconded by Mr. Heaster.

Mrs. Press said when the item goes to City Commission they should consider a time constraint to build the recreation improvement.

Mr. Hayes stated that this can be done either as an either or condition, such as 30th home or a certain date.

Mr. Wigley asked if Mrs. Press desired a time frame for when the recreation improvements are constructed.

Mr. Hayes said let me clarify, the condition in the Development Order that is causing so much grief is in Ordinance 2004-30, Section 1, paragraph a, 4.b. and states:

> "The applicant and staff have agreed to defer the construction of the clubhouse and entry pavers until the 30th building permit. The purpose of allowing the clubhouse to be deferred is so that construction traffic does not impact the pavers and to allow the subdivision to be partially built to utilize the clubhouse facilities. No building permits will be issued after the 30th unless the clubhouse is under construction."

Mr. Hayes said the last sentence is the sticking point. He said what he understood of the motion made, the proposal is to eliminate that entire paragraph and do away the requirement to construct the clubhouse and pool. Mr. Hayes continued that what the motion needs to include is what the recreation amendment is to be changed to and what you might want to consider is what is the value, what is the timeline for

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construction, or is the proposal of a deposit of money to the HOA, and at time certain that the HOA would select the amenity by majority vote.

Mr. Holub stated the timeline is fine, whether it is a certain date or home constructed. He said we would the pocket park today if desired, but the investor group thought it was a waste of funds until the actual homeowners live there and let them chose. Mr. Holub stated they would prefer not to be penalized with a value of the recreational improvement and whatever it cost is a private matter. Mr. Holub said that the amendment sought to allow flexibility to allow actual homeowners to decide the final recreational amenity.

Ms. Jarrell called the vote:

Mr. Wigley:	No
Mr. Jorczak:	Yes
Mr. Heaster:	Yes
Mr. Briley:	Yes
Mrs. Press:	Yes
Chairman Thomas:	Yes

B. <u>LDC 11-012: Land Development Code Amendment –- Mobility Fees</u>

Mr. Goss recalled that the city's Mobility Strategy, approved by the City in December, had subsequently been approved by the Department of Community Affairs (DCA) and had been advertised in the newspaper in January. He explained for the new members that the process had been initiated in 2008, as a part of the Evaluation and Appraisal Report (E.A.R.); the City Commission had directed staff to do something other than continue to widen roads, since they were interested in transportation demand management strategies, i.e. multi-modal type options. He said that during the E.A.R., Senate Bill 360 declared the city of Ormond Beach to be a dense urban land area (DULA) and as such, required to do a financially feasible mobility plan. He said that in 2009, city planners coordinated the mobility plan and strategy with Votran, with the TPO (Transportation Planning Organization) and with Volusia County Traffic Engineering. He added that staff had an upcoming meeting in March with Volusia County administrators to work on an interlocal agreement designed to craft an exemption for the city's mobility fees.

Mr. Goss explained that the mobility fee was already in effect. He said that DCA, as part of the stipulated settlement agreement, required that the fee take effect at the time the plan was found to be in compliance (as advertised on January 18, 2011). He stated that the lengthy document had been adopted by ordinance and that DCA had wanted the fees in the comprehensive plan although such fees are typically found in the land development regulations.

The purpose of the mobility strategy, Mr. Goss said, was to enhance transit, provide better connectivity and to provide some type of increased attention to better form and land use. He said that the city had three (3) Transportation Concurrency Exception Areas (TCEAs): SR 40 (west to Williamson Boulevard), US1 (Wilmette Avenue south to the city limits) and SR A1A, i.e., areas in which concurrency no longer applies. (The corridors include the land approximately ¼ mile from the center line of the respective road.) He added that the routes reflected the Votran Routes 18, 19, 1 and 3, spine routes that would never go away and which, according to Votran's East Side Transportation Plan, handled about 63% of the traffic on the east side of Volusia County.

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Mr. Goss said that in addition to enhancing service, the strategy was intended to improve connectivity for non-motorized modes of traffic (sidewalks and trails). He said that Ormond was one of the few communities in Florida that had adopted levels of service for sidewalk coverage and already had funding through the Hunter's Ridge DRI to do so. He said that the strategy was also aimed at increasing ridership and frequency of service and had, as recommended by Votran, increased the densities to15 units/acre in the Land Use Plan, as well as the intensities in the Downtown in order to support premium transit. He said that adherence to the transit-oriented design guidelines, along with Votran's transit guidelines, needed to be implemented in the development standards for the three TCEA routes (US1, SR40 and SR A1A). He recalled that the recently adopted Downtown form-based code requires mixed-use, horizontal development in the Downtown; also, he said, the city was pursuing two redevelopment plans in concert with other jurisdictions, which the city intended to make multi-modal and in which TIF (tax increment financing) funds could be used to support transit operations. He noted that Volusia County Economic Development personnel had already expressed interest in doing that in concert with other communities, as well.

Concurrency will continue to apply in all areas outside of the three TCEAs, Mr. Goss stated. He explained that development in those other areas would have to meet the Volusia County traffic assessment guidelines, provide necessary traffic studies, pay Volusia County transportation impact fees and mitigate impacts by means of proportionate fair share. The mobility strategy and fee replaced the need for those concurrency requirements. (The impact fees, he noted, were based upon *trip generation rates*, whereas the city's mobility fee was based upon *person trips* (with a person trip equaling one traffic trip, 1.5).

Mr. Goss said that staff had documented nearly $12 million in transit needs and $9 million of sidewalk needs in order to connect 75% of the population within the corridor to the transit stops and elsewhere; therefore, the mobility fee had been comprised of three sub-components based upon person trips. He said that a road fee only applied outside the TCEAs (within the TCEAs, only the transit and the non-motorized fee component apply).

Mr. Goss stated that they would be pointing out to County personnel in March that the mobility fee is designed to encourage redevelopment and infill development. He said that the Plan estimated that 12% of the total fee would go towards roads ($9.40 per person trip) and 58% would go to transit ($45.40 per person trip), i.e., for Votran to do capital and transit improvements within the city's three TCEAs, Thirty percent (30%) of the allocation, or $23.02, would be used to match XU (TPO) funds for non-motorized improvements for trails or sidewalk connections from residential areas to transit stops or destination areas such as shopping centers.

Mr. Goss clarified that the mobility fee was not in addition to the impact fee, but was instead in lieu of the impact fee. He referenced the strategy detail and pointed out that since the road fee portion of the fee was not charged with the TCEAs, the mobility fee resulted in savings for retail uses of about 52%, for office uses, nearly 50% and for industrial uses, about 66%. He explained that the result was incentive for infill development/redevelopment/development in the Downtown (with the TCEAs); he added that it should be less expensive to develop where infrastructure was already in place. There was not internal capture for residential uses, Mr. Goss advised, because all trips would already be on the roadway. He said that it resulted in a savings

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of about 50%. He summarized that all types of development in the TCEAs would realize a savings, ranging from 40% to 66%.

Mr. Goss said that it made sense because the city would not be doing road improvements for improved road capacity. He reminded the board that the City Commission had indicated that they wanted improvements for efficiency (access management, traffic operations, interconnection of signals) instead of widening SR40, US1 or SR A1A, which would result in substantial business damages. He said that the mobility fee was based upon the mobility strategy, but that it was different than what the Board had previously seen the year before; DCA had found the City in non-compliance because it had not been shown to be financially feasible. He said that staff had to demonstrate feasibility by changing the fee.

Mr. Goss further explained that the proposed amendment would not be presented to the city commission until some issues were resolved with the County regarding the crafting of an exemption within the Volusia County Traffic Impact Fee Ordinance for mobility plans, and pointed out that several other cities in the County (Daytona Beach, Holly Hill, Port Orange, Deltona, Orange City and DeBary - all DULAs) were also preparing mobility plans. Ormond Beach, he said, was simply the first to have their Plan adopted under SB 360 and had written their plan before DCA had developed regulatory guidelines. He noted that planning staff had been very fortunate in having the city attorney's office hire Linda Shelley to help in getting the city through the process.

Mr. Wigley said that the mobility fee was already in place and asked if the Board was only being asked to approve the Code change.

Mr. Goss replied that the adopted mobility strategy contained the financial analysis and the fee in an ordinance, which had been dictated by the stipulated settlement agreement, but reiterated that such fees were not typically found in the comprehensive plan. And, he said, staff would typically work out any interlocal agreements prior to bringing such changes to public hearings. Since DCA had mandated the change, however, the city had already begun assessing the fee and collecting money in lieu of the road impact fees. He said that in the unlikely scenario that the County refused to work with the cities, it would be more expensive to redevelop in the Downtown than in outlying areas.

Mr. Wigley questioned why the city would bring the LDC amendment forward prior to the County's agreeing to waive the impact fees.

Mr. Goss answered that the city was required to do so by law, by SB 360, and by what had been approved in the stipulated settlement agreement. He explained to Mr. Heaster that the city was already collecting transit fees in lieu of the County's impact fee and pointed out that the County personnel had been aware for the last 2.5 years, through meetings and workshops, what was being done. He said that if for some reason Volusia County did not concur, the city would then continue with concurrency requirements. Noting that not much had been collected to date, he advised that any money collected would simply sit in escrow.

In response to Mr. Heaster, Mr. Goss said that the reasoning was two-fold: the fee was designed for 1) Smart Growth, i.e. to cause in-fill development/redevelopment to occur rather than the creation of urban sprawl, and to 2) allow local governments to invest in other modes of travel

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(transit, bike trails, sidewalks) in lieu of widening roads and altering the character of their communities. He restated that the transit fee was not an additional fee. He said that the interlocal agreement would allow the fee for all DULAs and would allow for an exemption to the County's road impact fee, the same as already had been done in the 1990s for economic development. He stated that it was not a new concept.

Mr. Heaster expressed concern that the County would then collect less revenue.

Mr. Goss thought that the County already recognized the issue and said that the only challenge the city had received during the comp plan-mobility fee-mobility strategy process had been from Daytona Beach. He added that it would not make sense to double up the fees; rather, the alternative was to simply stop growth by not allowing development to occur if the roadways could not meet acceptable levels of service. He said that transit included more than just roads and pointed out that Votran was a Volusia County function, not a county-wide function; 58% of the money would go to the County for transit, not road improvements.

Mr. Briley pointed out that the money was just allocated differently and although it would be less. He was unsure whether Votran received any of the road impact fee money at present.

Mr. Goss said that Votran currently got nothing, since there was no multi-modal allocation under the impact fee. He also pointed out that TCEAs in Ormond Beach were State roads and said that the County, although they collected road impact fees, did not spend impact fee money on State roads. He also pointed out that the city was responsible for concurrency, not the County. He said that was the reason why the city had proceeded with the mobility plan.

Mr. Heaster expressed concern that it would result in litigation.

Mr. Goss assured the Board that the amendment would not be taken to the City Commission until the issues had been resolved at the County level.

Mrs. Press said that she had full confidence in the Plan.

Mr. Wigley continued to worry that it would result in a double fee.

Mr. Goss went on record that it would not be a double fee. He stated that no one would want to redevelop along the DULA corridors and that the city would be better off with concurrency if that were true. In response to Mr. Briley, he said that a politically constrained roadway might better be called a policy-constrained roadway; e.g., a situation where something is politically approved for a road with a failing or marginal level of service. Another example, he said would be in cases such as along John Anderson, where the decision was made not to widen a failing or marginal road, because it would then become an urban street.

Mr. Briley thanked Mr. Goss for the PowerPoint presentation and asked if there would be short-term monies available from the TIF (tax increment financing) district to help the downtown area.

Mr. Goss confirmed that transit improvements, as recommended by the Department of Transportation, were planned as a part of integrating the Downtown Redevelopment Plan in the next five years. He said also that multi-modal corridors along US1 and SR A1A could be funded

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with TIF monies as the city established redevelopment plans in those TCEAs. He responded to Mr. Briley that the TPO had done four elementary school bike improvement studies which had been included as part of the city's sidewalk plan, also a part of the mobility strategy. He said that approximately $500,000 was available for transitioning from 5-foot to 8-foot sidewalks, which everyone now seemed to want.

Mr. Briley said that the amendment had his full support.

Mr. Goss agreed to provide the Board with an update after staff met with Volusia County personnel. He replied to Mr. Jorczak that any properties located along the corridors not under city jurisdiction would not be eligible to take advantage of the mobility strategy and fees, since they would not be located within the Ormond Beach DULA. He also advised that within those areas, the goal was to connect the 75% of the residents of the neighborhoods along the corridor, ¼ mile from the center line of the road, to the actual road corridor. Therefore, he advised, 5-foot sidewalks within the TCEA would eventually be replaced with 8-foot sidewalks and developments inside the TCEAs would receive credit against their fees for 8-foot sidewalks.

In answer to Mr. Jorczak, Mr. Goss explained that Votran was able to secure a lot of money for capital, but that the issue was the labor in trying to expand frequency of service and headways. He said that the idea was to go to ½ hour service on the same routes instead of the one-hour headways, because increased frequency of service would reduce the vehicle miles traveled (VMT); he said that they projected reducing 20% of all VMT (16,000 trips) by 2025. He noted that the plan had not considered the use of golf carts as a mode of local urban transport. He also stated that the fee schedule had been determined by need and based upon what they had thought to be the most logical approach. He acknowledged that although most were not traffic engineers, the planners had enough expertise to develop a plan that satisfied DCA and DOT requirements. He said staff felt comfortable with the way the fee schedule was structured because it was logical.

Mr. Goss replied to Mr. Wigley that Votran was not funded by road impact fees, but was instead funded by whatever allocation they received through the County budget.

Mr. Wigley expressed concern with 58% of the mobility fee monies going to Votran.

Mr. Goss stated that the alternative was to find another way of widening roads and to do only efficiency improvements, since the City Commission did not want the corridors widened. He explained that the money would benefit the TCEAs in Ormond Beach, not the other cities, by adding buses or perhaps increasing routes. Outside the TCEAs, he reminded the Board, impact fees and prop share would fund road improvements, such as the Hand Avenue extension.

Mr. Briley commented that some of the previously conceived relief corridors were not ideal because they were residential in nature, with low speed limits. He agreed that public transit was the only alternative way to move more people efficiently, with any positive effect on levels of service.

Mr. Goss informed the Board that staff had reviewed nine years of traffic studies for trip distribution and that 66% of all trips were distributed to three corridors: SR40, US1 and SR A1A; of that, 54% was distributed to SR 40, because it was the only east-west road.

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Mr. Briley made a motion to recommend approval of M 11-012 with the understanding that the mobility fee would be a replacement to the impact fee and not an additional fee.

Mrs. Press seconded the motion.

Mr. Goss assured Mr. Wigley that the mobility fee would be eliminated if Volusia County did not approve it; the city would then revert back to concurrency.

Ms. Jarrell called the vote:

Lewis Heaster	Yes
Harold Briley	Yes
Doug Wigley	Yes
Rita Press	Yes
Al Jorczak	Yes

The motion was unanimously approved

VII. OTHER BUSINESS

Ms. Press asked for an update regarding the Maria Bonita project. Mr. Goss responded that the project had commenced construction and was in process of grading the site. Ms. Press inquired into the landscaping for the Maria Bonita project. Mr. Spraker responded that there landscaping planned throughout the site.

Mr. Jorczak inquired to several projects in the monthly development report including Ormond Grande and the Tomoka Golf Village project.

Mr. Briley inquired to when La Fiesta in the Trails Shopping Center was set to open. Mr. Goss said he thought it would be in early May.

VIII. MEMBER COMMENTS

Mr. Jorczak thanked Mr. Goss for his presentation on the mobility fees and stated that the presentation assisted him in understanding the issue.

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IX. ADJOURNMENT

The meeting was adjourned at 10:14 p.m.

Respectfully submitted,

_____

Ric Goss, AICP, Planning Director

ATTEST:

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Doug Thomas, Chair

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M I N U T E S

ORMOND BEACH PLANNING BOARD

Regular Meeting

March 10, 2011 7:00 PM

City Commission Chambers
22 South Beach Street
Ormond Beach, FL 32174

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, SAID PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, INCLUDING THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PERSONS WITH A DISABILITY, SUCH AS A VISION, HEARING OR SPEECH IMPAIRMENT, OR PERSONS NEEDING OTHER TYPES OF ASSISTANCE, AND WHO WISH TO ATTEND CITY COMMISSION MEETINGS OR ANY OTHER BOARD OR COMMITTEE MEETING MAY CONTACT THE CITY CLERK IN WRITING, OR MAY CALL 677-0311 FOR INFORMATION REGARDING AVAILABLE AIDS AND SERVICES.

I. ROLL CALL

Members Present	Staff Present
Patricia Behnke	Randy Hayes, City Attorney
Harold Briley	Ric Goss, AICP, Planning Director
Lewis Heaster	Steven Spraker, AICP, Senior Planner
Al Jorczak	Chris Jarrell, Recording Technician
Rita Press	
Doug Thomas	
Doug Wigley	

II. INVOCATION

Chairman Thomas led the invocation.

III. PLEDGE OF ALLEGIANCE

IV. NOTICE REGARDING ADJOURNMENT

NEW ITEMS WILL NOT BE HEARD BY THE PLANNING BOARD AFTER 10:00 PM UNLESS AUTHORIZED BY A MAJORITY VOTE OF THE BOARD MEMBERS PRESENT. ITEMS WHICH HAVE NOT BEEN HEARD BEFORE 10:00 PM MAY BE CONTINUED TO THE FOLLOWING THURSDAY OR TO THE NEXT REGULAR MEETING, AS DETERMINED BY AFFIRMATIVE VOTE OF THE MAJORITY OF THE BOARD MEMBERS PRESENT (PER PLANNING BOARD RULES OF PROCEDURE, SECTION 2.7).

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V. PLANNING DIRECTOR'S REPORT

Mr. Goss said there are two updates for the Planning Board. He stated the first item before the Board is the updated City Comprehensive Plan which incorporates all of the Evaluation and Appraisal Report amendments. He stated the second item is that the City has been invited by the Florida Department of Transportation (FDOT) to showcase our mobility strategy on April 20th at the FDOT Offices in Orlando. Mr. Goss invited any Planning Board member who wished to attend to let staff know.

VI. PUBLIC HEARINGS

A. LDC 11-023: Restaurant type "D" LDC Amendment

Mr. Spraker said that this is a request by the Highlander Corporation that has three distinctive parts. The purpose of the request is to introduce a new type of restaurant in the City under defined conditions. Mr. Spraker explained the three components are as follows:

1. **Definition:** This component establishes the restaurant type;

2. **Placing the use in a zoning district.** The applicant has selected the B-4 zoning district as a conditional use. A conditional use is a use approved by staff provided all conditions have been met; and

3. **Establishment of certain conditions:** This component defines the conditions for the use.

Mr. Spraker outlined that the City currently has three categories of restaurants:

1. Restaurant Type "A": This is a 150 or more seat restaurant such as Outback or Lulu's where there may be a bar component, but there are certain attributes that make them a restaurant. The attributes include a minimum of 150 seats and 51% or more of their gross revenue on food and non-alcoholic beverages. This category lines up with the state SRX alcohol license;

2. Restaurant Type "B": Has less than 150 seats and can still be a sit down restaurant such as Pickles and Italian Village. These restaurants are allowed to serve beer and wine with a 2COP with the state. Mr. Spraker stated that the City regulations allow only beer and wine sales which helps prevents restaurants from turning into bars;

3. Restaurant Type "C": Less than 150 seats, typically with a fast food component with or without a drive thru window, such as a McDonald's or Wendy's. These restaurants are also allowed to serve beer and wine with a 2COP with the state.

Mr. Spraker said that the current application acknowledges the proposed type of restaurant will not be able to make the 51% of food and non-alcoholic beverage sales. He stated that the intent of the application is to maintain the restaurant use and the applicant is using the conditions to accomplish the intent. as follows:

1. 100 seat minimum;

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2. 4,000 square feet of floor area;

3. A full menu is required to be offered at all time;

4. Requirement that 25% of all sales be food and nonalcoholic beverage related;

5. Annual reporting requirement to the City; and

6. Located only in Downtown Community Redevelopment Area (CRA).

Mr. Spraker stated that there are not a large number of restaurants that meet these criteria. He stated that a 4COP is a broad alcohol license from the state that is limited in number for each County and have great value. He stated that from the state's perspective they do not regulate the percentage of food sales, which is why the conditions of the percentage of food sales, the seating, and the location requirement are important.

Mr. Spraker recalled that the Rose Villa was previously approved by a Special Exception with the same idea and staff believed that this was a reasonable request for a redevelopment area. Mr. Spraker stated there may be situations where people are buying dinner and because the quality of the alcohol, or a number of factors, that a restaurant cannot achieve the 51% sales percentage. Mr. Spraker stated during the application the following situation was presented: An individual has four drinks at $7 each and a dinner for $12. The ratio of food to alcohol sales would be 70% to 30%.

Mr. Spraker concluded that staff is recommending approval of the amendment request. He stated that both the Economic Advisory Committee and the Ormond Beach MainStreet Board of Directors recommended approval of this request.

Mr. Jorczak questioned if the Maria Bonita restaurant qualifies to have 150 seats.

Mr. Spraker stated that Maria Bonita will have 150 seats and they can obtain a SRX license.

In response to Mr. Jorczak question about the number of seats at La Crepe restaurant, Mr. Spraker responded he was unsure about the number of seats at this restaurant. Mr. Jorczak stated that La Crepe had full alcohol service.

Ms. Behnke inquired into the restaurant type "C". She stated that they are permitted wine and beer, but that she has never been to a McDonald's, Subway or Wendy's that has wine or beer service. She asked if other types of facilities would fit into that type of category.

Mr. Spraker stated the Land Development Code allows this type of fast food restaurant that serves alcohol and there is no prohibition against that today. In response to Ms. Behnke's question, Mr. Spraker confirmed that there was no minimum/maximum number of seats or percentage requirements for 2COP restaurants in the Land Development Code. He stated that 2COP licenses do have certain requirements from the state perspective.

Ms. Behnke said that the type "D" restaurant amendment is essentially creating a bar and calling it a restaurant. She said that she is concerned regarding the 25% food and non-

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alcohol beverage sale requirement. She questioned if the restaurant type "D" also falls under a separation requirement of so many feet from schools and churches?

Mr. Spraker responded that if it is licensed as a restaurant, there is no distance requirement. Ms. Behnke questioned if you can have a bar right next to a Church? Mr. Spraker stated not a bar. He stated Rose Villa would be classified as a restaurant type "D" and did not believe that anyone would classify this use as a bar. Mr. Spraker said Billy's Tap Room is a restaurant with a bar component that is literally right next to a Church, licensed as a restaurant. He stated that in the Downtown area, it is not always possible to have the ability to get 150 seat restaurants and this amendment seeks to acknowledge that restaurants that do not have 150 seat minimums can still operate as restaurant and have a bar component.

Ms. Behnke said if restaurants are allowed to have 75% alcohol sales and 25% food sales with a 4,000 square foot area, including live entertainment or some type of music, the City will eventually have a bar called a restaurant. She stated that this is her main concern and she thinks that the 25% food sale requirement is too low.

Mr. Heaster said the situation is do more with the price point and the type of product that is sold and their prices. He stated that this is already happening and is an issue. He believed it is a price point issue rather than a bar issue.

Ms. Behnke stated she had never been to a place that had $8 beer prices.

Mr. Spraker stated that Caffeine's does have these types of prices and it impacts the percentage of food versus alcohol sales. He said that staff had internal discussions over bars disguised as restaurants. Ms. Behnke confirmed that was her concern.

Mr. Spraker responded that what staff attempted to do was to try to come up with criteria that would assure the use would always be a restaurant. He said whether or not the applicant and staff did a good enough job is the Board's decision.

Ms. Behnke questioned if the amendment is for the benefit of one business. Mr. Spraker advised that Julian's is currently operating with a 4COP and another example is the Rose Villa. He concluded that the amendment is not intended to be tailored for one business.

Ms. Press asked if there is any limitation on the number of alcohol licenses there are in an area through state licensing. Mr. Spraker responded that it depends on the type of license. He said there are a certain number of 4COP licenses in the County, but there is not a number limitation on SRX or 2 COP licenses.

Mr. Briley pointed out that it is possible to go to restaurant and order a bottle of wine and it could cost $50 or $70 and your dinner would be less. He said that this would skew the percentage of food versus alcohol.

Ms. Behnke questioned if this would be a common occurrence. She said that it may occur with a party or two, but the majority of tables would likely have the correct percentage of alcohol to food sales. Mr. Briley stated he believed it would depend on the establishment itself.

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Chairman Thomas said that if a group goes to dinner and orders a bottle of wine that is $100 and the dinner is $18.95, he can easily see the imbalance in alcohol versus food sales.

Chobee Ebbets, P.A., 210 South Beach Street, attorney for the Highlander Corporation stated that as a lawyer we use the phrase if it walks like a duck, if it quacks like a duck, then it is probably a duck. He stated that he thinks that is what the question is here with the ratio sounding like a bar. Mr. Ebbets recalled that the environment of the restaurant business has change over the last five years and there are really two categories of people eating out. He stated that people either eat out for economy, going to the quickest place for the most food at the least amount of money, such as fast food restaurant or small local places. He stated the second category is where people eat out as their primary form of entertainment, typically at higher end restaurants.

Mr. Ebbets stated that Mr. Jones, owner of the Highlander Corporation, has a vision to build the highest level of high end restaurants that you have seen in this community and no expense has been spared in these buildings to attract the highest level of clientele. He stated when Caffeine first opened, it opened with a high line of food quality with a good staff and we expected to sell a lot more food.

Mr. Ebbets said what we did not know, as part of the oil price issue, is that oil prices impact food prices and restaurant costs. He said as food costs increased, over 180% over the last two years, the cost has to be passed onto the consumer and a $5 hamburger does not exist anymore. He said that hamburger is now $12 to $15.

Mr. Ebbets said that when people come to a quality restaurant, they will order the cheapest item on the menu and order the most expensive wine and drinks. He continued that over the last six to eight months, the percentage curve between food and alcohol sales has been bouncing around. He stated it is not something we wanted to see happen. Mr. Ebbets reasoned it happened because of the economy and we must pass food costs on to customers to operate as a business. He stated that he believed in transparency, but there are companies that will play with their books, including food and alcohol sales to make the percentages work. Mr. Ebbets stated that Mr. Jones does not desire not modify the books and wants to be above board, so there was no other way to make this work other than this amendment. He stated based on these facts, we needed to ask the City of Ormond Beach to work with us for this amendment.

Mr. Ebbets said we want to be a restaurant. He stated that the Highlander Corporation operates the Rose Villa, which we think is one of the finest restaurants in the area with impeccable service. He stated that 31 On the Boulevard (under construction) restaurant will be a unique establishment, unlike anything else with the preservation of artwork inside the restaurant. He said that we understand the Boards' concerns and we do not want to have just 25% food sales. However; we are not reaching the 51% mark with food sales at all times. Mr. Ebbets reasoned with the 100 seat requirement, it will not be a 100 seat bar. He said keeping a full restaurant staff, full chef, full compliment of servers, and all those people who are there 24/7 when that place is open, will ensure it remains a restaurant. Mr. Ebbets concluded it is not a duck, it truly is a high end restaurant.

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Ms. Behnke questioned how the cost of fuel has impacted the cost of food. She asked if Mr. Ebbets is stating that the fuel cost has not impacted alcohol prices?

Mr. Ebbets responded that alcohol prices have been fairly stable over the last six to seven years, just like coffee prices. He continued and stated that this restaurant only uses fresh vegetables and ingredients which have raised the prices. He said all prices have gone through the ceiling. He stated that this leaves Mr. Jones with the question do I compromise the food quality and start ordering frozen food which provides less of a product and not be the restaurant I want to be? Mr. Ebbets concluded by stating that Mr. Jones would rather close his doors than comprise the food quality.

Ms. Behnke said that Highlander Corporation standards are obvious. She said that she has seen places with 100 seat bars. She stated that when you consider the bar seats and table seats, one can still come up with 100 seats and have a lot of people sitting around drinking. She said this is her concern and this amendment will be available to any business that wants to do this in the B-4 zoning district.

Mr. Ebbets responded that he understood the concern but thought because they are required to have the full menu available at all times and the people to prepare it, it will be a restaurant.

Mr. Briley asked if the amendment was proposed as a conditional use and not a conditional use permit and would only require staff approval.

Mr. Spraker responded that a Conditional Use Permit is now a Special Exception. He said that none of the restaurant uses in the B-4 zoning district are Special Exceptions. He stated that they are technical reviews as a conditional use to determine if the requirements are met or not. Mr. Briley said he wanted to make sure that every time that someone wanted to utilize this use, it would not be a public hearing. Mr. Spraker said no public hearing would be required as a conditional use and staff is generally trying to streamline approval processes.

Chairman Thomas questioned if any place in the City could sustain a 100 seat bar, just knowing the City's neighborhoods and its history? He asked if any such places existed in the City now?

Mr. Heaster stated that he does not know of any. He stated one condition of the amendment requires a full menu at all times and there are expenses associated with that. He concluded the requirement of the menu will lower the chance of a bar.

Ms. Behnke stated that having a full menu available does not mean you have to have a chef available. Chairman Thomas stated he thought it would. Mr. Spraker stated condition seven of the proposed conditions states that the kitchen shall remain open for service.

Ms. Behnke said it does not take a chef to cook menu items and other staff could perform this task. Chairman Thomas asked if the amendment stated you have to have a full time chef or cook. Mr. Spraker responded that it states that the kitchen shall remain open, but the amendment does not get that specific.

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Chairman Thomas responded that he understood the concern regarding a restaurant use operating under the guise of a bar use, but being a long term resident and knowing Ormond Beach and what it does and does not support, he could not see a bar surviving long term in Ormond Beach.

Mr. Wigley asked staff's reason for having a kitchen open and a full menu at all times. He said that is not a requirement with SRX licenses or 2 COP licenses.

Mr. Spraker responded that the intent of the amendment is to ensure that this type of use operates as a restaurant and staff believes that this is one more condition that will help to ensure that.

Mr. Wigley said that staff has this amendment wrapped pretty tight already, and questioned if having a kitchen open and a full menu at all times was overkill. Mr. Wigley commented that the idea here is to ensure that the restaurant has an opportunity for success.

Mr. Spraker responded that the Board can amend the proposed amendment if it desires. Mr. Spraker said as far as staff understands the applicant is satisfied with the proposed conditions. He continued to say that if the Board wishes to modify the amendment, he does not think the applicant will object. Mr. Spraker concluded that ultimately this is the Highlander Corporation's amendment. He stated that staff made some recommended changes to reach a point that we feel comfortable that there are enough conditions to where the use will be a restaurant.

Mr. Wigley asked if the applicant wanted to address this or if they were comfortable with the regulation for an open kitchen and a full menu at all times?

Mr. Ebbets stated that they were satisfied with the amendment as written.

Ms. Press made a motion to approve LDC 11-23 to add a type "D" restaurant. Mr. Wigley seconded the motion, which was approved by a unanimous vote (7-0).

Chairman Thomas stated congratulations to the applicant. Mr. Thomas said that he cannot speak for the City or the Planning Board, but as someone who has lived here a long time, he felt like we have our own redevelopment guy and appreciated the Highlander Corporation's efforts.

B. <u>Internet Café and Automatic Amusement Center/Game Room, Moratorium Ordinance:</u>

Mr. Goss stated that the item before the Board is an Ordinance for a moratorium on internet sweepstakes and cafes. He said that this Ordinance was presented to the City Commission last week and it needed to be also presented to Planning Board because it affects the Land Development Code uses. He said that internet cafes are regulated under the amusement center use. Mr. Goss said gambling is an activity that is regulated by the City Code of Ordinances.

Mr. Goss said that the City has treated internet sweepstakes cafe as gambling because they provide prizes and are games of chance. He stated, over time the machines that simulate

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gambling devices have not been regulated and they can be set to be deceptive to the users. Mr. Goss stated that there are proposed laws coming forward in the Legislature with regards to gambling that may clarify internet sweepstakes cafés and that a moratorium will allow time to find out what happens with the Legislature. Mr. Goss said that there is a loophole that exists for the internet sweepstake machines and whether they are slot machines which are illegal or they are some other type of activity that is legal. Mr. Goss concluded that staff is recommending that the moratorium be put into place and the Ordinance will go back to the City Commission for second reading. He stated that it is possible that the moratorium could be extended and that staff recommended approval of the Ordinance.

Mr. Jorczak said that the Ordinance appeared to be a reasonable request to provide more time to study the issue and properly regulate the use.

Mr. Jorczak made a motion to approve the Ordinance for the moratorium. Mr. Briley seconded the motion, which was approved by a unanimous vote (7-0).

C. <u>LDC 09-09: Land Development Amendment, Chapter 3, Article II, Section 3-18, Surface Water Runoff Control</u>

Ms. Press made a motion to continue LDC 09-09 to a date uncertain. Mr. Jorczak seconded the motion, which was approved by a unanimous vote (7-0).

VII. OTHER BUSINESS

Mr. Jorczak asked if there would be any advantage to incorporate, under the Transportation Element, a subsection that deals with the Airport. He stated that he understood that this may be a sensitive issue but it may be beneficial to provide direction where the Airport is going.

Mr. Goss responded that there is a provision in Chapter 163 of the Florida Statutes that allows airport planning, not of the facility, but the land use around it and compatibility. He continued that staff will be working on this to bring it back to the Board.

Ms. Press inquired about an open house invitation from Amber's Jewels Celebration Place and where this business is located.

Mr. Goss responded that he did not know where this specific business was located.

VIII. MEMBER COMMENTS

Chairman Thomas invited members of the Planning Board to drive out to the Dale Buttlemen's softball complex and take a look at the boundless playground that is under construction that is for challenged children, it is absolutely phenomenal. He stated it is the money that was received from the Racing and Recreation District. Chairman Thomas stated it is scheduled to be completed in about two weeks and invited Board members to visit the playground.

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IX. ADJOURNMENT

The meeting was adjourned at 7:42 p.m.

Respectfully submitted,

_____

Ric Goss, AICP, Planning Director

ATTEST:

_____

Doug Thomas, Chair

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STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Lil' Champ/Jiffy Stores, Inc., 1520 North US Highway 1 Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-041

PROJECT PLANNER: S. Laureen Kornel, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for a ±1.31-acre parcel from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1520 North US Highway 1, Lil' Champ/Jiffy Stores, Inc. convenience store, as a result of recent annexation (Exhibit 1).

BACKGROUND:

The subject property is owned by Lil' Champ/Jiffy Stores Inc. which operates a convenience store with gasoline sales (Exhibit 2). The property was developed under Volusia County review in the early 1990's and connected to City utilities as part of the site construction. The property was annexed on December 7, 2010 with Ordinance 2010-52 (see Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project. City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. Subsequent to Planning Board review, the amendment will be submitted to the Volusia County Growth Management Commission for review, followed by review by the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

The Volusia County Comprehensive Plan states the following for the "Commercial" land use category:

> This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with

adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.

Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

City staff is requesting an amendment to the City's "Low Intensity Commercial" land use category. The Future Land Use Element of the City's Comprehensive Plan states the following for the "Low Intensity Commercial" category:

"A multi-use land use category to depict those areas of the city that are now developed, or appropriate to be developed, for retail, office and professional services, and restaurants consistent with the surrounding uses, transportation facilities and natural resource characteristics of such areas. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.

Density: Maximum 10 units per acre.

Maximum FAR: 0.6."

ANALYSIS:

The proposed land use amendment seeks to change the land use designation of the subject property from unincorporated Volusia County to the City of Ormond Beach on the future land use map. The existing use is consistent with the both the existing County land use and the proposed City land use designation.

Policy 2.5.2. of the Future Land Use Element of the City's Comprehensive Plan provides the review criteria for land use map amendments. The policy states:

"The following criteria shall be used in reviewing Comprehensive Plan amendments:

1. Consistency with the Goals, Objectives, and Policies of this Plan.
2. Consistency with state requirements, including 9J-5 and Florida Statutes requirements.
3. If the amendment is a map amendment, is the proposed change an appropriate use of land.

4. If the amendment is a map amendment, the impacts on the Level of Service of public infrastructure including schools, roadways, utilities, stormwater, and park and recreation facilities.
5. If the amendment is a map amendment, impacts to surrounding jurisdictions."

Staff's review of the criteria listed above is provided below:

1. Consistency with the Goals, Objectives, and Policies of this Plan.

The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive plan. It is important to note that the property's use is existing and no development changes are proposed. The City's Comprehensive Plan has five potential commercial land use categories as follows:

Category	Maximum Density (units per acre)	Maximum FAR	Existing Areas
General Commercial	32	0.7	Nova Road, US1 (Nova Road to Wilmette Avenue)
Heavy Commercial	18	0.8	US1 (Granada Boulevard to Hand Avenue)
Tourist Commercial	32	1.5	South Atlantic Avenue, Interchange Boulevard (Granada Blvd and I-95) and US1 and I-95
Office/Professional	15	0.5	Granada Boulevard
Low Intensity Commercial	10	0.6	New land use category

The existing County land use allows a 0.55 FAR. This area of North US Highway 1 is in close proximity to I-95 and is not appropriate for sole office style uses allowed in the "Office Professional" land use category or the automotive sales and repair style uses permitted in the "Heavy Commercial" land use category. Given the location and size of the subject property as well as the adjacent land uses, the "Tourist Commercial" and "Commercial" land uses were also examined as possible designation options. However, those land use categories were identified as having

relatively higher densities and intensities and it is staff's intention to apply a similar land use. It was determined that the "Low Intensity Commercial" (LIC) was the most suitable designation because it is the least intense City FAR available. Finally, the LIC land use designation was created during the EAR-based amendments in an effort to avert causing a large scale amendment to the Comprehensive Plan. The "Low Intensity Commercial" is the most similar land use category available within the City of Ormond Beach.

Below are specific Goals, Objectives, and Policies that are applicable to this application:

GOAL 1 Future Land Use Element	FUTURE DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHOULD BE DIRECTED IN APPROPRIATE AREAS AS DEPICTED ON THE FUTURE LAND USE MAP TO MEET THE LAND USE NEEDS OF THE ANTICIPATED POPULATION, IN A MANNER CONSISTENT WITH SOUND PLANNING PRINCIPLES, THE GOALS, OBJECTIVES AND POLICIES CONTAINED HEREIN, AND THE DESIRED COMMUNITY CHARACTER. THE FUTURE LAND USE PLAN ELEMENT SHOULD ALLOW LIMITED COMMERCIAL EXPANSION, PROMOTE INDUSTRIAL USE, AND MAINTAIN CURRENT RESIDENTIAL DENSITIES IN THE CORE AREA WHILE ESTABLISHING LOWER DENSITIES IN THE PERIMETER AREAS, FOCUSING REDEVELOPMENT IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA, US1, AND SRA1A, AND PROVIDING FOR A CONTINUED HIGH LEVEL OF OPEN SPACE. SPECIFIC GOALS AND POLICIES ARE LISTED BELOW FOR EACH TYPE OF LAND USE. FUTURE GROWTH SHALL BE TIMED AND LOCATED TO MAXIMIZE EXISTING PUBLIC INFRASTRUCTURE.
OBJECTIVE 1.2. COMMERCIAL LAND USE Future Land Use Element	Ensure that adequate amounts of land are available to meet the commercial land use needs of the community.

GOAL 5 Annexation Future Land Use Element	THE CITY PROVIDES UTILITY SERVICE BEYOND IT'S MUNICIPAL LIMITS AND SHALL REQUIRE THAT ANY CONNECTION TO THE CITY UTILITIY SYSTEM EITHER ANNEX INTO THE CITY OR ENTER INTO AN ANNEXATION AGREEMENT IF NOT CONTIGIOUS FOR UTILITY SERVICE.
Policy 5.1.1. Future Land Use Element	Properties that are annexed into the City of Ormond Beach shall be assigned a similar land use that existed in Volusia County. Property owners may apply for more intensive land uses, but shall be required to provide the data and analysis to justify the increase in density and/or intensity.

2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

COMPREHENSIVE PLAN

Amendment of adopted comprehensive plan:

In accordance with Chapter 163.31879(c), Florida Statutes 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. A small-scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is ±1.31 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is ±23 acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this

limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Surrounding Property

	Current Land Uses	Land Use Designation	Zoning
North	1530 North US Highway 1 - McDonalds	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	1510 North US Highway 1 - Teetime golf Carts	Ormond Beach "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	1521 North US Highway 1 - Racetrac	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Vacant	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial) – City B-7 (Highway Tourist Commercial)

The subject property is located along the North US Highway 1 corridor in close proximity to Interstate I-95 and a convenience store with gas pumps is a typical use along a major interchange. The existing use was approved with the Volusia County site plan approval and is an appropriate use of land.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the project was approved by

Volusia County and the land use amendment is the result of annexation. For the infrastructure analysis, staff used the building square footage for a convenience store with gas pumps.

Transportation: According to the Volusia County Property Appraiser's data, the size of the building on the subject property is 2,772 square feet. Based on the ITE Land Code #853 (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the site generates 668 average daily trips which includes 71.5% pass-by trips (Volusia County Roadway Impact Fee Update Technical Memorandum dated September 25, 2003). The land use amendment shall not impact the trip generation rate of the existing use. If the site were to expand in the future a concurrency analysis would occur at that time.

Water and Sewer: The site is served with existing City utilities and the land use maps amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The subject property was developed in Volusia County in the early 1990's and has a stormwater management system. Any major proposed site modifications would require stormwater review.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 public meetings. The land use application is the result of annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

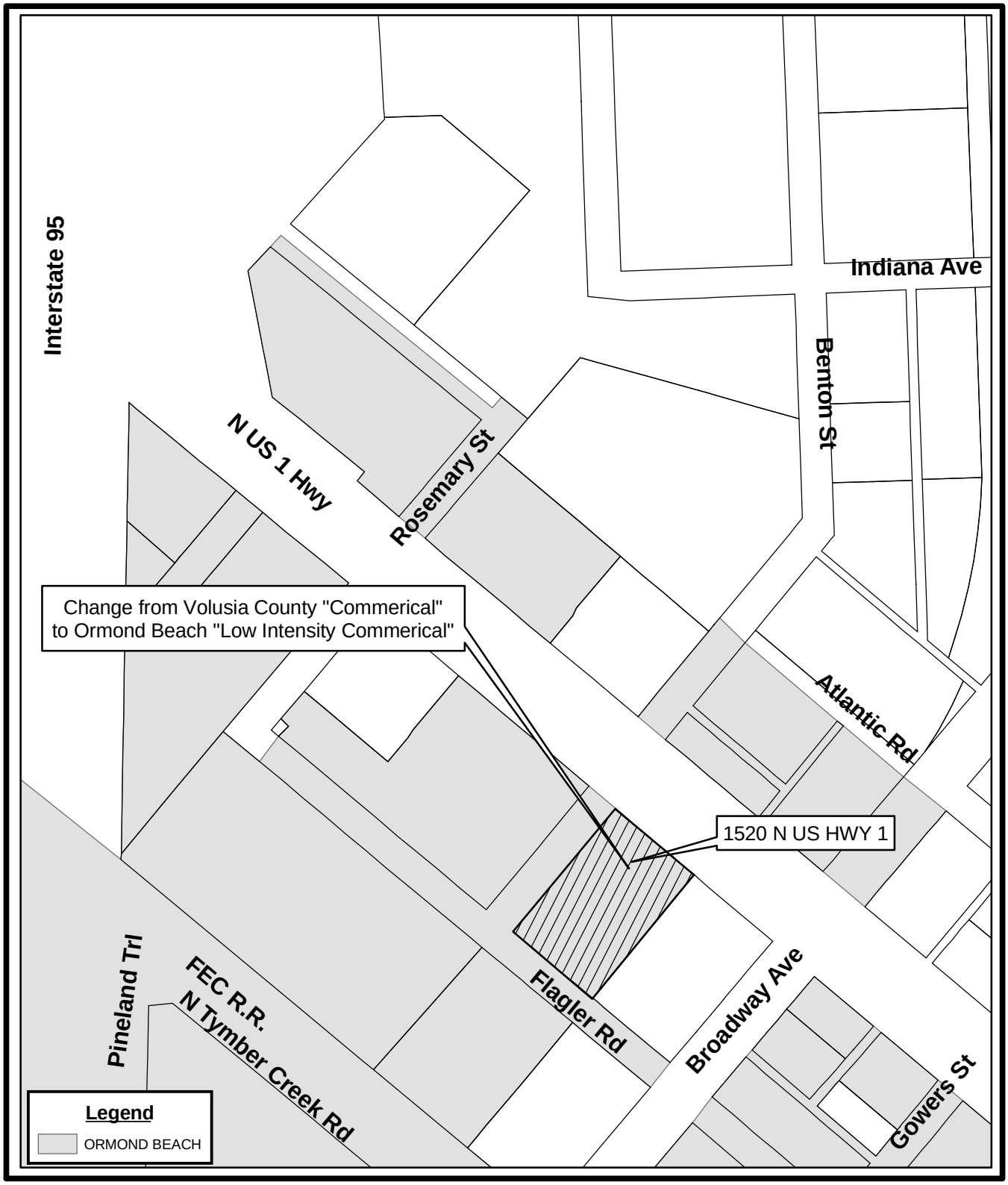
1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;
2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and

5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for ±1.31 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low intensity Commercial" at 1520 North US Highway 1, known as Lil' Champ/Jiffy Stores, Inc.

EXHIBIT 1

Future Land Use Maps



LAND USE AMENDMENT MAP
1520 N US HWY 1 (3136-01-61-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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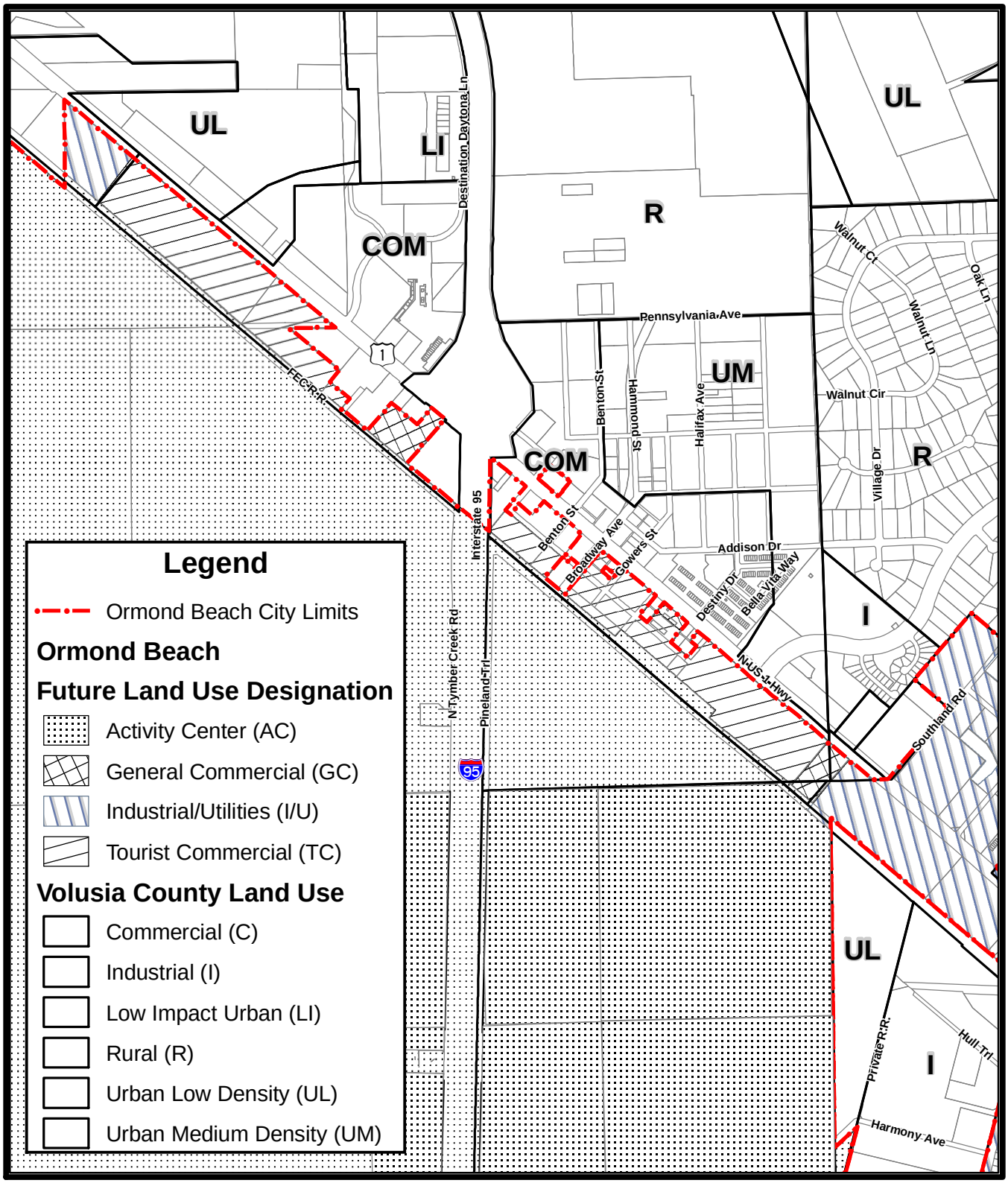

FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

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EXHIBIT 2

Photo, Site Plan and Location Aerial

1520 North US Highway 1 – Lil’Champ/Jiffy Stores, Inc.

04.29.11

MAP SHOWING

LOTS, 1, 2, 3, 4, 5, 6, 7, 23, 24, 25, 26, 27, 28, 29, AND THE NORTH 15 FEET OF LOTS 8 AND 22, BLOCK 61, NATIONAL GARDENS SUBDIVISION AS RECORDED IN MAP BOOK 10, PAGES 250–253 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. EXCEPT THAT PORTION TAKEN FOR R.O.W. OF U.S. No. 1 AND INCLUDING PART OF THE CLOSED ALLEY IN SAID BLOCK 61. CONTAINING 56,239.91 SQ. FT. OR 1.29 ACRES.

SCALE : 1" = 20'

PROPOSED McDONALD'S RESTAURANT
(SITE ENGINEERING PROVIDED BY ZEV COHEN & ASSOC., INC.)

12" WIDE CROSS-WALK STRIPING IN ACCORDANCE W/ FDOT INDEX # 17346

5' WIDE CONC. SIDEWALK 1' FROM ℄

5 WIDE LANDSCAPE BUFFER ALONG N. PROPERTY LINE

SELF SERVICE AIR & VACUUM AREA

BENTON STREET (60' R.O.W.)

332.95'

1 TAPER

N 40°10'40" E 296.00'

OWNER TO PROVIDE ESCROW FUNDS FOR FUTURE 4' WIDE SIDEWALK ALONG FLAGLER ROAD

PROVIDE CONC. WHEELCHAIR RAMP (12:1 MAX. SLOPE) TO ANSI STDS.

PROVIDE HANDICAP SIGNAGE & STRIPING (BLUE) IN ACCORDANCE W/ ANSI STDS.

PROVIDE 4" WIDE YELLOW STRIPING & " NO PARKING SIGN "

5' WIDE LANDSCAPE BUFFER ALONG W. PROPERTY LINE

PROVIDE CONC. DUMPSTER PAD W/ 6' HIGH WOODEN PRIVACY FENCE W/ LOCKING GATE

PROVIDE PRESSURE TREATED LANDSCAPE BARRICADE TO PROTECT 18" OAK

FLAGLER ROAD (60' R.O.W.)

N 40°55'20" W 190.00'

FDOT STD. DIRECTIONAL ARROWS

DOUBLE YELLOW

24" WIDE WHITE STOP BAR

STOP SIGN

30" CEDAR

PROPOSED CANOPY W/ (3) PUMP ISLANDS

RETENTION AREA

PROP. 30' x 40' UNDERGROUND STORAGE TANK AREA W/ (3) 10,000 GAL. OWENS CORNING SINGLE WALL FIBERGLASS TANKS.

ALL PARKING STALL STRIPING TO BE 4" WIDE WHITE + 24" WIDE HANDICAP STRIPING, WHICH WILL BE BLUE (ANSI)

PROPOSED ONE-STORY BRICK & FRAME CONV. STORE BUILDING

13' MIN. RADIUS TO THICK

S 40°55'20" E 190.00'

DOUBLE YELLOW

24" WIDE WHITE STOP BAR

S 40°10'40" W 296.00'

10' WIDE LANDSCAPE BUFFER ALONG S. PROPERTY LINE

100' TAPER

U.S. NO. 1 (160' R.O.W.)

FDOT IMPROVEMENTS PROPOSED BY McDONALD'S

5' WIDE CONC. SIDEWALK 1' FROM ℄

20' WIDE LANDSCAPE BUFFER ALONG E. PROPERTY LINE

OWNER TO PROVIDE 25' UTILITY EASEMENT TO VOLUSIA COUNTY.

FDOT STD. DIRECTIONAL ARROWS (TYP.)

2' WIDE CROSS-WALK STRIPING IN ACCORDANCE W/ FDOT INDEX # 17346

YELLOW NON-TRAFFIC STRIPING PER FDOT STDS.

NO-WAY ONE-WAY SIGN

STOP SIGN AND NO LEFT-TURN SIGN

VICINITY MAP
SCALE: 1" = 16 MILES

SITE

OCEAN

ATLANTIC

Ormond-by-the-Sea

Ormond Beach Pier

Daytona Beach

SITE NOTES

SPECIAL NOTES

SITE STATISTICS

Revisions	By
PER VOLUSIA CO. R.L. DRG. 11/26/90	A. B.
PER VOLUSIA CO. R.L. DEV. ORDER 1/28/91	A. B.

PRINTED AUG 11 1993

St. Johns Engineering

LIL' CHAMP FOOD STORES, INC.
(VOLUSIA COUNTY)
U.S. NO. 1 AND BENTON STREET

SITE AND STRIPING PLAN

St. Johns Engineering, Inc.

Date	10-31-90
Scale	1" = 20'
Drawn	LJL/BRB
Checked By	WET
Job	90-077
Sheet	2
Of	7 Sheets

NOT RELEASED FOR CONSTRUCTION

LOCATION MAP
1520 North US1

EXHIBIT 3

Legal Description

LEGAL DESCRIPTION

PART OF BLOCK 51, NATIONAL GARDENS SUBDIVISION, AS PER PLAT RECORDED IN MAP BOOK 10, PAGES 250 THRU 253, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE AND THE POINT OF BEGINNING, COMMENCE AT THE SOUTHEASTERLY RIGHT OF WAY LINE OF BENTON STREET (A 60' RIGHT OF WAY) WITH THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1 (A 160' RIGHT OF WAY); THENCE S 49° 55' 20" E ALONG THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1 A DISTANCE OF 180.00 FEET; THENCE LEAVING SAID WESTERLY RIGHT OF WAY LINE S 40° 15' 10" W A DISTANCE OF 300.00 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF FLAGLER STREET (A 60 FOOT RIGHT WAY); THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY N 49° 55' 20" W A DISTANCE OF 180.00 FEET TO A POINT OF INTERSECTION WITH THE AFORESAID SOUTHEASTERLY RIGHT OF WAY LINE OF BENTON STREET; THENCE N 40° 04' 40" E ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE 300.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 56,862.07 SQ.FT OR 1.31 ACRES MORE OR LESS

PROPERTY LOCATION: 1520 N US HWY 1

PROPERTY ID: 3136-01-61-0010

OWNER: The Pantry Inc., a Delaware corporation authorized to do business in the State of Florida

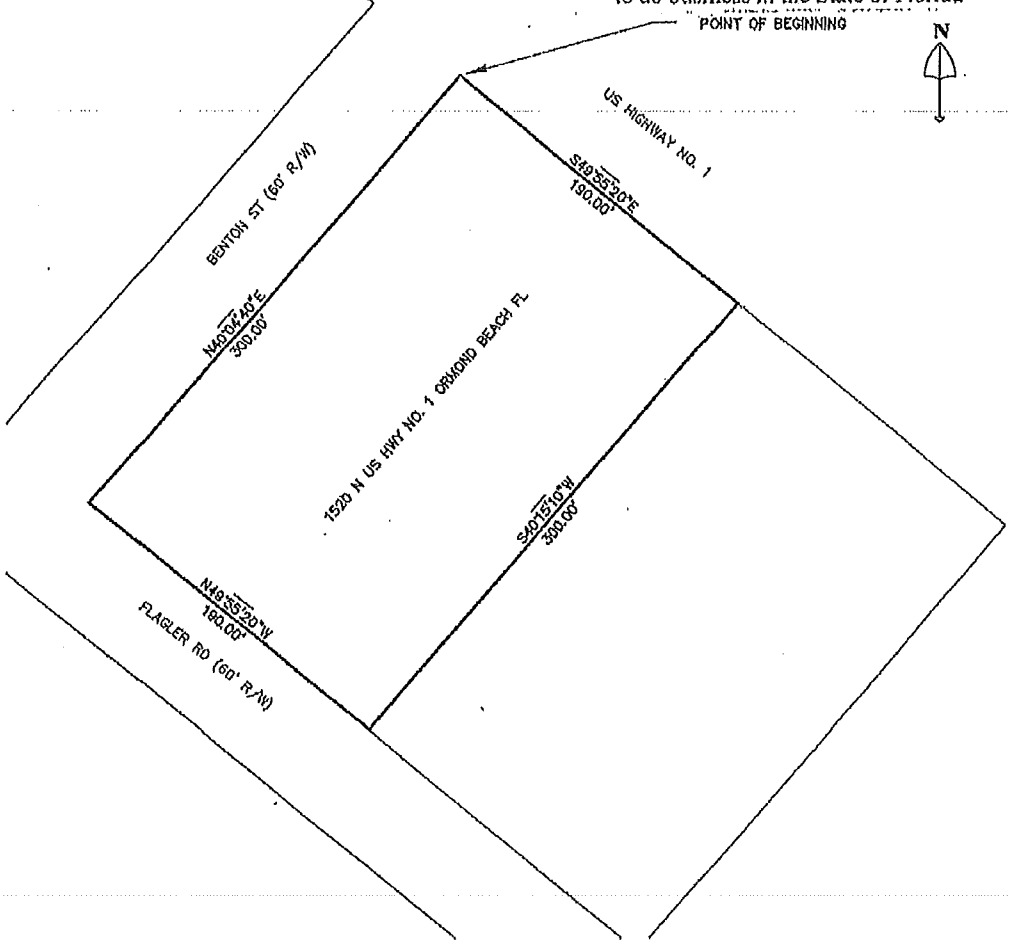


EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

Dear Mr. Spraker:

The school district has had the opportunity to review, for potential impacts, the ten (10) properties recently annexed by the city. Currently the subject properties, as evidenced by the property appraiser information, support various nonresidential uses.

The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Vacant former Wendy's - 1561 North US Highway 1
Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-051

PROJECT PLANNER: S. Laureen Kornel, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for a ±2.19-acre parcel from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1561 North US Highway 1, the vacant former Wendy's and gas station, as a result of recent annexation (Exhibit 1).

BACKGROUND:

The subject property is owned by Wendy's International Inc which previously operated as a fast food restaurant with a drive-through window, convenience store and fuel station (Exhibit 2). The commercial buildings on the site are presently vacant. The property was annexed on March 21, 2011 with Ordinance 2011-09 (see Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project. City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. Subsequent to Planning Board review, the amendment will be submitted to the Volusia County Growth Management Commission for review, followed by review by the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

The Volusia County Comprehensive Plan states the following for the "Commercial" land use category:

> This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with

adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.

Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

City staff is requesting an amendment to the City's "Low Intensity Commercial" land use category. The Future Land Use Element of the City's Comprehensive Plan states the following for the "Low Intensity Commercial" category:

"A multi-use land use category to depict those areas of the city that are now developed, or appropriate to be developed, for retail, office and professional services, and restaurants consistent with the surrounding uses, transportation facilities and natural resource characteristics of such areas. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.

Density: Maximum 10 units per acre.

Maximum FAR: 0.6."

ANALYSIS:

The proposed land use amendment seeks to change the land use designation of the subject property from unincorporated Volusia County to the City of Ormond Beach on the future land use map. The existing use is consistent with the both the existing County land use and the proposed City land use designation.

Policy 2.5.2. of the Future Land Use Element of the City's Comprehensive Plan provides the review criteria for land use map amendments. The policy states:

"The following criteria shall be used in reviewing Comprehensive Plan amendments:

1. Consistency with the Goals, Objectives, and Policies of this Plan.
2. Consistency with state requirements, including 9J-5 and Florida Statutes requirements.
3. If the amendment is a map amendment, is the proposed change an appropriate use of land.

4. If the amendment is a map amendment, the impacts on the Level of Service of public infrastructure including schools, roadways, utilities, stormwater, and park and recreation facilities.
5. If the amendment is a map amendment, impacts to surrounding jurisdictions."

Staff's review of the criteria listed above is provided below:

1. Consistency with the Goals, Objectives, and Policies of this Plan.

The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive plan. It is important to note that the property's use is existing and no development changes are proposed. The City's Comprehensive Plan has five potential commercial land use categories as follows:

Category	Maximum Density (units per acre)	Maximum FAR	Existing Areas
General Commercial	32	0.7	Nova Road, US1 (Nova Road to Wilmette Avenue)
Heavy Commercial	18	0.8	US1 (Granada Boulevard to Hand Avenue)
Tourist Commercial	32	1.5	South Atlantic Avenue, Interchange Boulevard (Granada Blvd and I-95) and US1 and I-95
Office/Professional	15	0.5	Granada Boulevard
Low Intensity Commercial	10	0.6	New land use category

The existing County land use allows a 0.55 FAR. This area of North US Highway 1 is in close proximity to I-95 and is not appropriate for sole office style uses allowed in the "Office Professional" land use category or the automotive sales and repair style uses permitted in the "Heavy Commercial" land use category. Given the location and size of the subject property as well as the adjacent land uses, the "Tourist Commercial" and "Commercial" land uses were also examined as possible designation options. However, those land use categories were identified as having

relatively higher densities and intensities and it is staff's intention to apply a similar land use. It was determined that the "Low Intensity Commercial" (LIC) was the most suitable designation because it is the least intense City FAR available. Finally, the LIC land use designation was created during the EAR-based amendments in an effort to avert causing a large scale amendment to the Comprehensive Plan. The "Low Intensity Commercial" is the most similar land use category available within the City of Ormond Beach.

Below are specific Goals, Objectives, and Policies that are applicable to this application:

GOAL 1 Future Land Use Element	FUTURE DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHOULD BE DIRECTED IN APPROPRIATE AREAS AS DEPICTED ON THE FUTURE LAND USE MAP TO MEET THE LAND USE NEEDS OF THE ANTICIPATED POPULATION, IN A MANNER CONSISTENT WITH SOUND PLANNING PRINCIPLES, THE GOALS, OBJECTIVES AND POLICIES CONTAINED HEREIN, AND THE DESIRED COMMUNITY CHARACTER. THE FUTURE LAND USE PLAN ELEMENT SHOULD ALLOW LIMITED COMMERCIAL EXPANSION, PROMOTE INDUSTRIAL USE, AND MAINTAIN CURRENT RESIDENTIAL DENSITIES IN THE CORE AREA WHILE ESTABLISHING LOWER DENSITIES IN THE PERIMETER AREAS, FOCUSING REDEVELOPMENT IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA, US1, AND SRA1A, AND PROVIDING FOR A CONTINUED HIGH LEVEL OF OPEN SPACE. SPECIFIC GOALS AND POLICIES ARE LISTED BELOW FOR EACH TYPE OF LAND USE. FUTURE GROWTH SHALL BE TIMED AND LOCATED TO MAXIMIZE EXISTING PUBLIC INFRASTRUCTURE.
OBJECTIVE 1.2. COMMERCIAL LAND USE Future Land Use Element	Ensure that adequate amounts of land are available to meet the commercial land use needs of the community.

GOAL 5 Annexation Future Land Use Element	THE CITY PROVIDES UTILITY SERVICE BEYOND IT'S MUNICIPAL LIMITS AND SHALL REQUIRE THAT ANY CONNECTION TO THE CITY UTILITIY SYSTEM EITHER ANNEX INTO THE CITY OR ENTER INTO AN ANNEXATION AGREEMENT IF NOT CONTIGIOUS FOR UTILITY SERVICE.
Policy 5.1.1. Future Land Use Element	Properties that are annexed into the City of Ormond Beach shall be assigned a similar land use that existed in Volusia County. Property owners may apply for more intensive land uses, but shall be required to provide the data and analysis to justify the increase in density and/or intensity.

2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

COMPREHENSIVE PLAN

Amendment of adopted comprehensive plan:

In accordance with Chapter 163.31879(c), Florida Statutes 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. A small-scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is ±2.19 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is ±23 acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the

proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Surrounding Property

	Current Land Uses	Land Use Designation	Zoning
North	1635 North US Highway 1 – Destination Daytona	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	1567 North US Highway 1 -	Ormond Beach "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	1545 North US Highway 1 - Cheaters	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	1576 North US Highway 1 - Florida Citrus World	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

The subject property is located along the North US Highway 1 corridor in close proximity to Interstate I-95 and restaurant/convenience store with gas pumps is a typical use along a major interchange. The existing use was approved with the Volusia County site plan approval and is an appropriate use of land.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the project was previously approved by Volusia County and the land use amendment is the result of annexation. For the infrastructure analysis, staff used the building square footages for a convenience store with gas pumps and also a fast food restaurant with drive-through window. The Volusia County Property Appraiser's website states the building square footage of the convenience store is 4,651 square feet while the restaurant portion of the building is 3,654 square feet.

Transportation: The subject property is developed with a convenience store with gas pumps and a fast food restaurant with a drive through window. Based on the ITE rate of category #853 (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the convenience store and pumps generate 1,121 average daily trips which includes 71.5% pass-by trips. Based on the ITE rate of category #934 (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the fast food restaurant generates 1,811 average daily trips which includes 40% pass-by trips (Volusia County Roadway Impact Fee Update Technical Memorandum dated September 25, 2003). Therefore, the total average daily trips for the subject property is 2,199. The land use amendment will not impact the trip generation rate of the existing use. If the site were to expand in the future a concurrency analysis would occur at that time.

Water and Sewer: The site is served with existing City utilities and the land use maps amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The subject property was developed prior to current stormwater regulations and any major proposed site modifications would require stormwater review.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 public meetings. The land use application is the result of

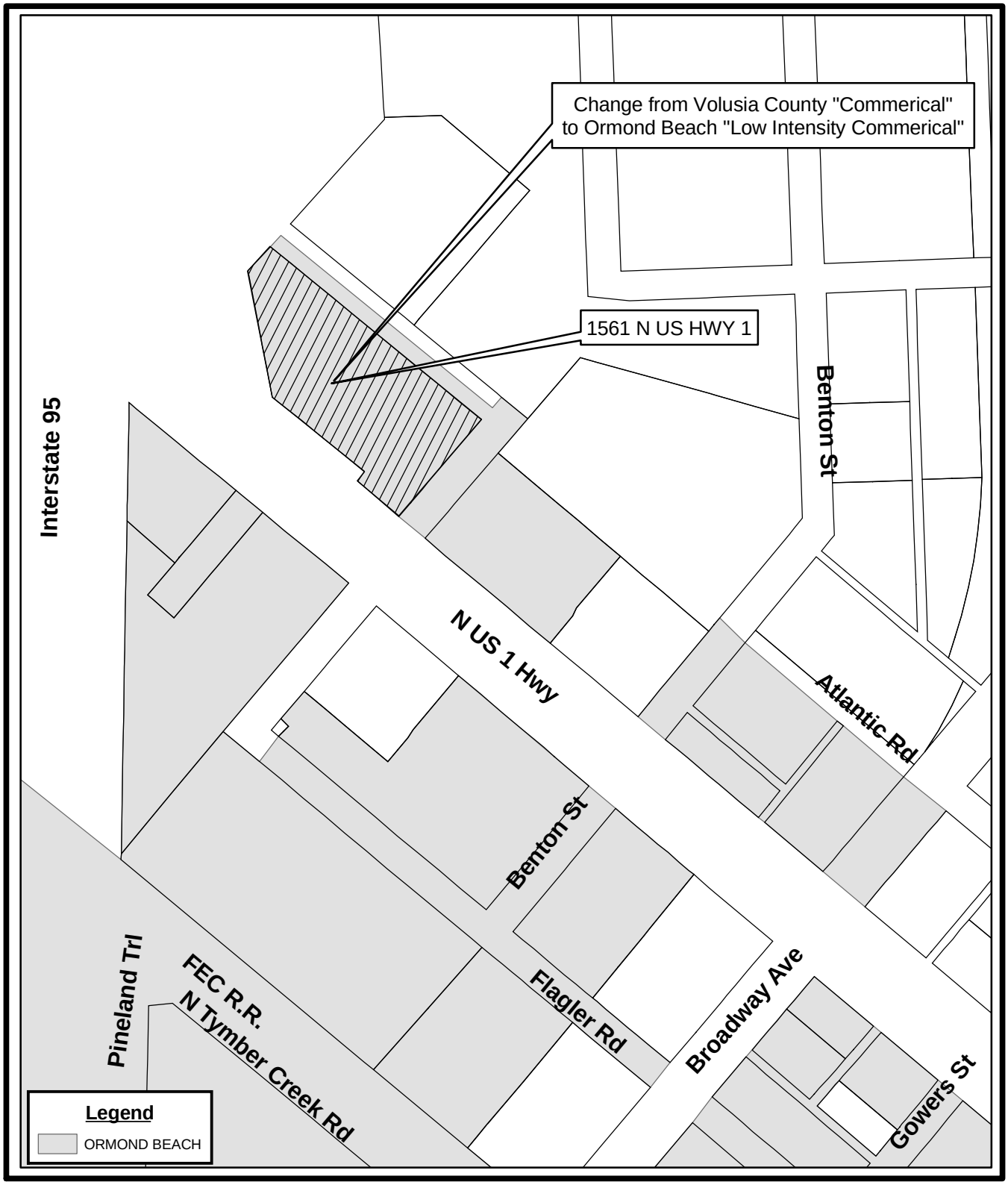
annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;
2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and
5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for ±2.19 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low intensity Commercial" at 1561 North US Highway 1, formerly known as Wendy's.

EXHIBIT 1

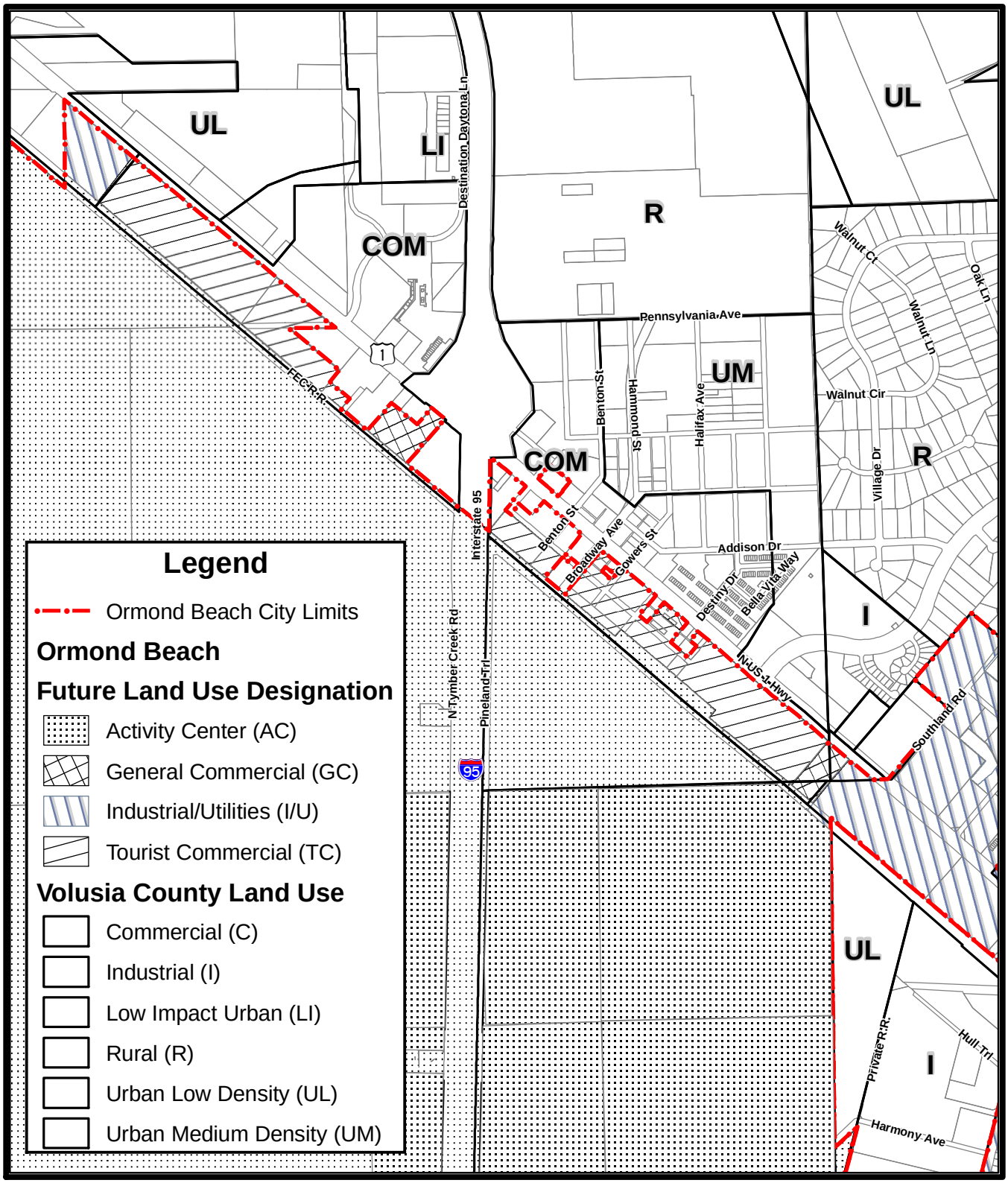
Future Land Use Maps



LAND USE AMENDMENT MAP
1561 N US HWY 1 (3136-01-17-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

N
W E
S



FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

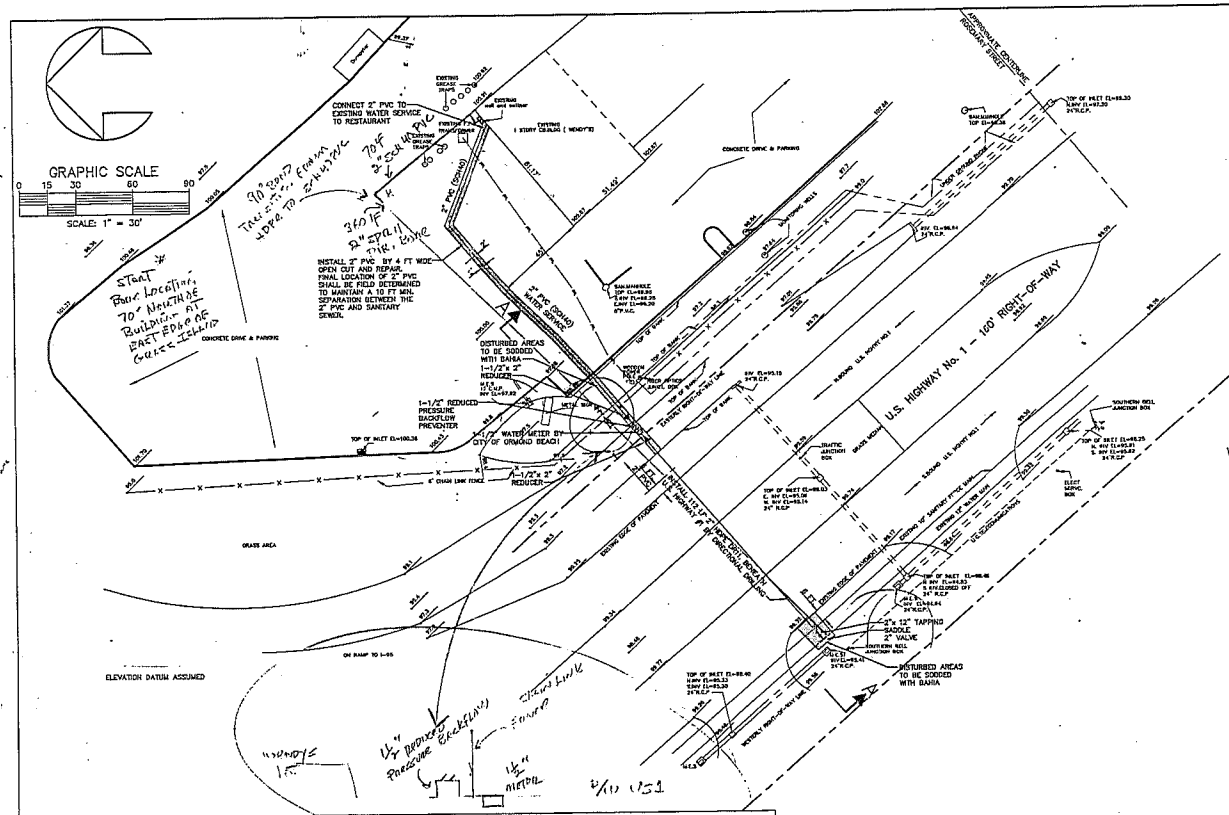
N
W E
S

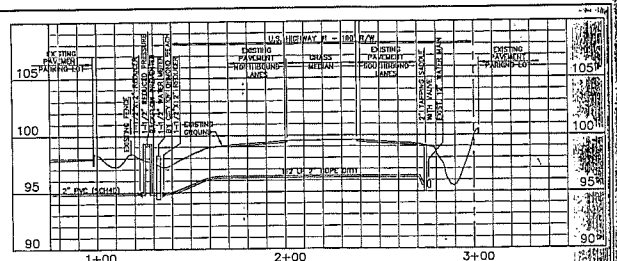
EXHIBIT 2

Photo, Site Plan and Location Aerial

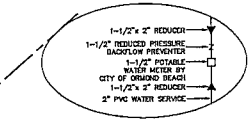
1561 North US Highway 1 – Former Vacant Wendy's

04.29.11

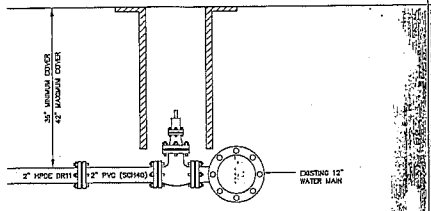




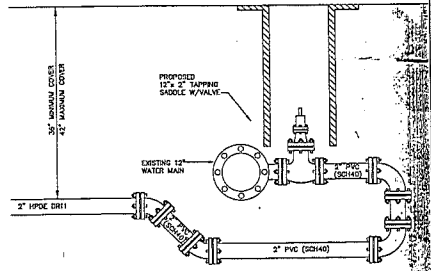
SECTION A – A
SCALE 1"=5' VERT, 1"=30' HORIZ.



WATER CONNECTION DETAIL
NOT TO SCALE



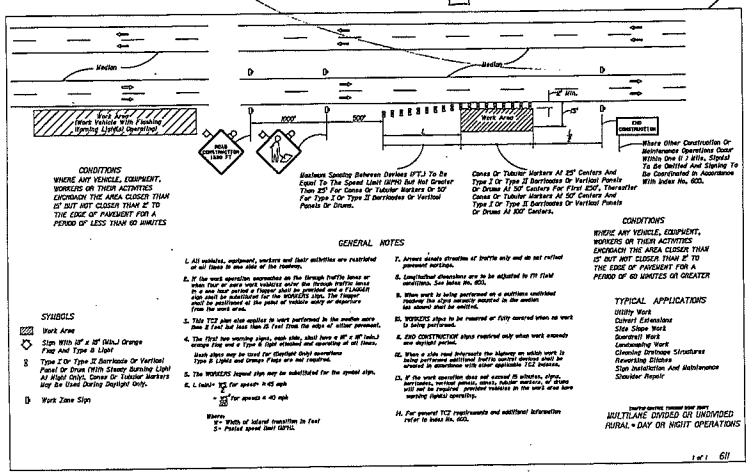
CONNECTION TO EXISTING FORCE MAIN OPTION 1



CONNECTION TO EXISTING FORCE MAIN OPTION 2

LEGEND

- U.G.TELECOMUNICATIONS
- UNDERGROUND TELEPHONE CABLE
- FLORIDA POWER & LIGHT LINES
- EXISTING ELEVATION (ASSUMED DATUM)
- EXISTING FENCE



NO.	DATE	DESCRIPTION	BY
3	12-21-99	REVISED PER RICHARD WISKERMAN LETTER DATED 11-09-99	*TW*
2	09-30-99	REVISED PER STEVE BUSWELL COMMENTS DATED 09-29-99	*TW*
1	09-10-99	REVISED PER STEVE BUSWELL COMMENTS DATED 09-03-99	*TW*

REVISIONS

PARKER MYNCHENBERG & ASSOCIATES, INC.
PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS
1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
(904) 677-6991 FAX (904) 677-2114 E-MAIL: pmc@n-joanter.com

SITE PLAN

WENDY'S RESTAURANT
VOLUSIA COUNTY (NATIONAL GARDENS AREA) * FLORIDA

FILE NO. 9945-SUR.DWG	DESIGNER: P.MYNCHENBERG
DATE: 07-15-99	CADD TECH: TOM WALKER
SCALE: 1" = 30'	SHEET 3 OF 4

SEAL

WENDY'S RESTAURANT - US1/NEAR I-95

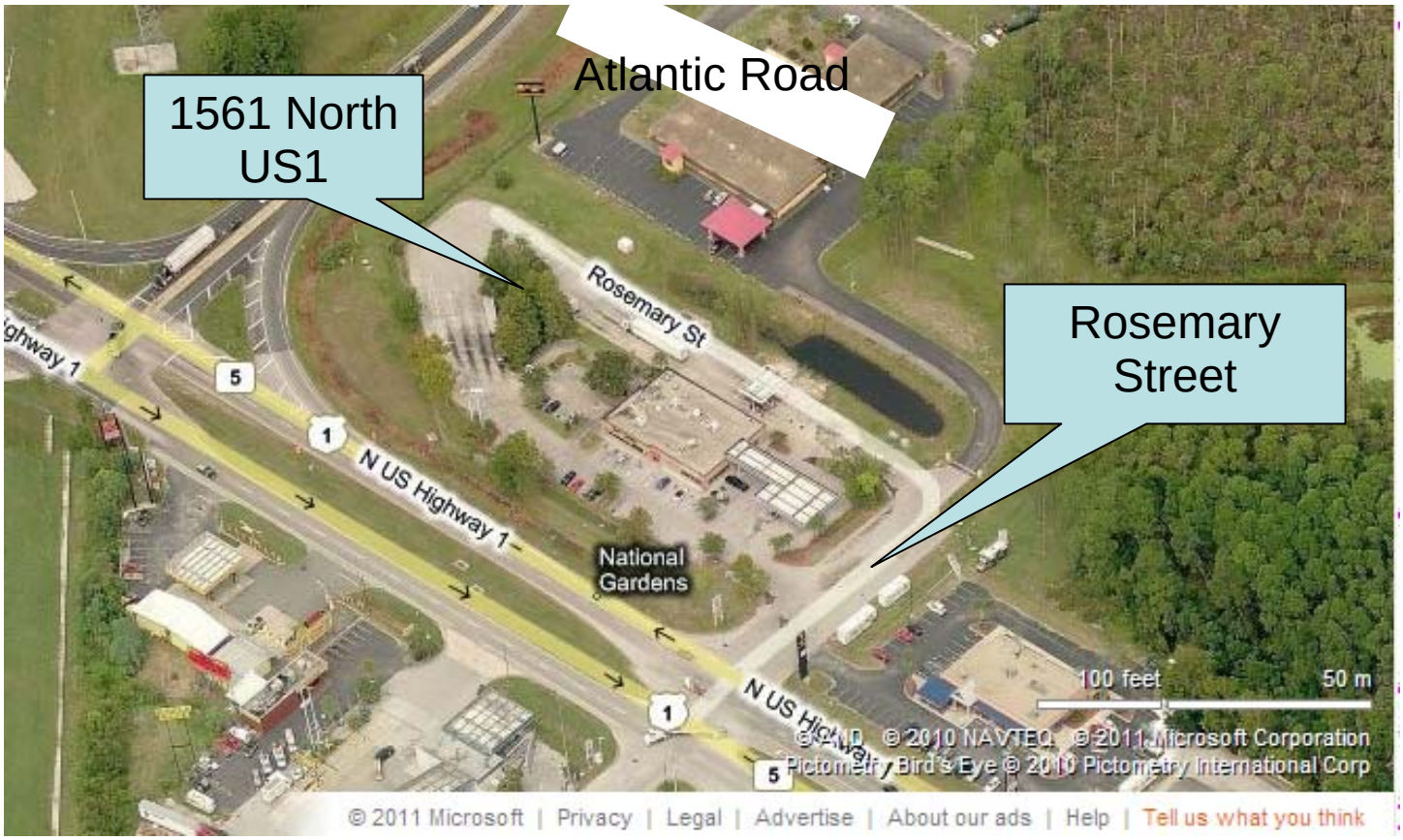

Atlantic Road
1561 North US1
Rosemary St
Rosemary Street
N US Highway 1
National Gardens
100 feet
50 m
© 2010 NAVTEQ © 2011 Microsoft Corporation
Pictometry Bird's Eye © 2010 Pictometry International Corp
© 2011 Microsoft | Privacy | Legal | Advertise | About our ads | Help | Tell us what you think

EXHIBIT 3

Legal Description

Block 17, except that part taken by U.S. No. 1 and Interstate Highway No. 95, National Gardens as recorded in Map Book10, Pages 250–253, inclusive, of the public records of Volusia County, Florida, more particularly described as follows:

BEGINNING at the southeasterly corner of said Block 17; thence South 40" 15' 10" West along the northerly right of way of Rosemary Street having a 60 foot right of way, being also the southerly line of said Block 17, 234.2 feet to a point in the easterly right of way of U.S. No. 1 being a 160 foot right of way; thence North 49" 55' 20" West along the easterly right of way of said U.S. No. 1, 96.9 ft. to a point in aforesaid right of way; thence North 40" 04' 40" East along the new right of way of 1–95, 23.0 feet to a point therein; thence North 49" 55' 20" West along said 1–95 right of way, 216.8 feet to a point therein; thence North 12" 04' 28" West along said right of way, 226.35 feet; thence North 40" 52' 45" East along said right of way 76.09 feet to a point therein being also in the westerly right of way of Atlantic Road being a 60 foot right of way, being also in the easterly line of Block 17 aforesaid; thence South 49" 29' 00" East along said right of way and said easterly line of Block 17, 492.10 feet to the point of BEGINNING. Together with the southwesterly 30.00 feet of vacated Atlantic Road, a 60.00 foot right of way, abutting the northeasterly line thereof.

Containing 95,348 sq.ft. or 2.19 acres more or less

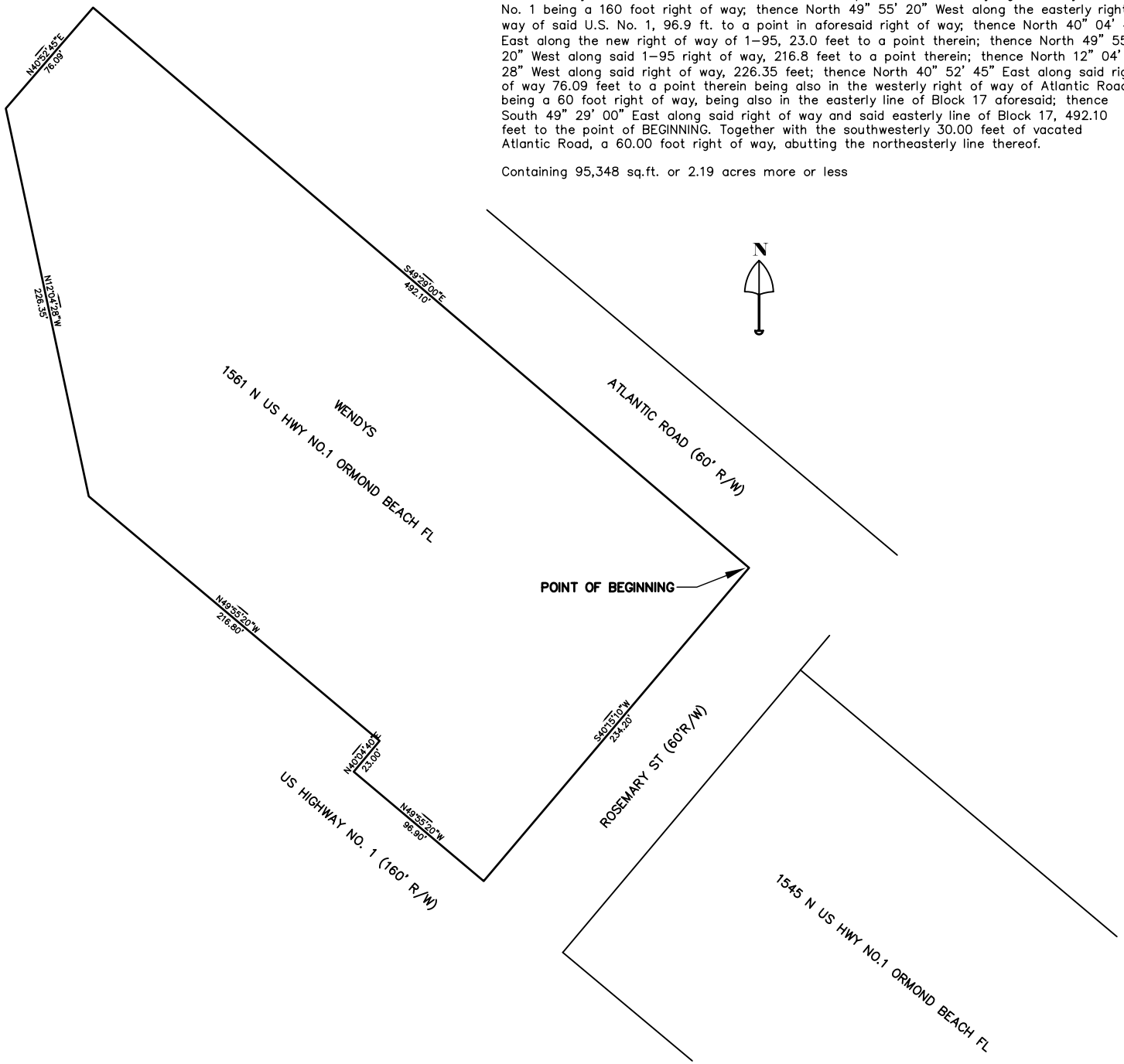


EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

Dear Mr. Spraker:

The school district has had the opportunity to review, for potential impacts, the ten (10) properties recently annexed by the city. Currently the subject properties, as evidenced by the property appraiser information, support various nonresidential uses.

The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Vacant former Wendy's - 1561 North US Highway 1
Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-051

PROJECT PLANNER: S. Laureen Kornel, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for a ±2.19-acre parcel from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1561 North US Highway 1, the vacant former Wendy's and gas station, as a result of recent annexation (Exhibit 1).

BACKGROUND:

The subject property is owned by Wendy's International Inc which previously operated as a fast food restaurant with a drive-through window, convenience store and fuel station (Exhibit 2). The commercial buildings on the site are presently vacant. The property was annexed on March 21, 2011 with Ordinance 2011-09 (see Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project. City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. Subsequent to Planning Board review, the amendment will be submitted to the Volusia County Growth Management Commission for review, followed by review by the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

The Volusia County Comprehensive Plan states the following for the "Commercial" land use category:

> This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with

adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.

Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

City staff is requesting an amendment to the City's "Low Intensity Commercial" land use category. The Future Land Use Element of the City's Comprehensive Plan states the following for the "Low Intensity Commercial" category:

"A multi-use land use category to depict those areas of the city that are now developed, or appropriate to be developed, for retail, office and professional services, and restaurants consistent with the surrounding uses, transportation facilities and natural resource characteristics of such areas. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.

Density: Maximum 10 units per acre.

Maximum FAR: 0.6."

ANALYSIS:

The proposed land use amendment seeks to change the land use designation of the subject property from unincorporated Volusia County to the City of Ormond Beach on the future land use map. The existing use is consistent with the both the existing County land use and the proposed City land use designation.

Policy 2.5.2. of the Future Land Use Element of the City's Comprehensive Plan provides the review criteria for land use map amendments. The policy states:

"The following criteria shall be used in reviewing Comprehensive Plan amendments:

1. Consistency with the Goals, Objectives, and Policies of this Plan.
2. Consistency with state requirements, including 9J-5 and Florida Statutes requirements.
3. If the amendment is a map amendment, is the proposed change an appropriate use of land.

4. If the amendment is a map amendment, the impacts on the Level of Service of public infrastructure including schools, roadways, utilities, stormwater, and park and recreation facilities.
5. If the amendment is a map amendment, impacts to surrounding jurisdictions."

Staff's review of the criteria listed above is provided below:

1. Consistency with the Goals, Objectives, and Policies of this Plan.

The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive plan. It is important to note that the property's use is existing and no development changes are proposed. The City's Comprehensive Plan has five potential commercial land use categories as follows:

Category	Maximum Density (units per acre)	Maximum FAR	Existing Areas
General Commercial	32	0.7	Nova Road, US1 (Nova Road to Wilmette Avenue)
Heavy Commercial	18	0.8	US1 (Granada Boulevard to Hand Avenue)
Tourist Commercial	32	1.5	South Atlantic Avenue, Interchange Boulevard (Granada Blvd and I-95) and US1 and I-95
Office/Professional	15	0.5	Granada Boulevard
Low Intensity Commercial	10	0.6	New land use category

The existing County land use allows a 0.55 FAR. This area of North US Highway 1 is in close proximity to I-95 and is not appropriate for sole office style uses allowed in the "Office Professional" land use category or the automotive sales and repair style uses permitted in the "Heavy Commercial" land use category. Given the location and size of the subject property as well as the adjacent land uses, the "Tourist Commercial" and "Commercial" land uses were also examined as possible designation options. However, those land use categories were identified as having

relatively higher densities and intensities and it is staff's intention to apply a similar land use. It was determined that the "Low Intensity Commercial" (LIC) was the most suitable designation because it is the least intense City FAR available. Finally, the LIC land use designation was created during the EAR-based amendments in an effort to avert causing a large scale amendment to the Comprehensive Plan. The "Low Intensity Commercial" is the most similar land use category available within the City of Ormond Beach.

Below are specific Goals, Objectives, and Policies that are applicable to this application:

GOAL 1 Future Land Use Element	FUTURE DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHOULD BE DIRECTED IN APPROPRIATE AREAS AS DEPICTED ON THE FUTURE LAND USE MAP TO MEET THE LAND USE NEEDS OF THE ANTICIPATED POPULATION, IN A MANNER CONSISTENT WITH SOUND PLANNING PRINCIPLES, THE GOALS, OBJECTIVES AND POLICIES CONTAINED HEREIN, AND THE DESIRED COMMUNITY CHARACTER. THE FUTURE LAND USE PLAN ELEMENT SHOULD ALLOW LIMITED COMMERCIAL EXPANSION, PROMOTE INDUSTRIAL USE, AND MAINTAIN CURRENT RESIDENTIAL DENSITIES IN THE CORE AREA WHILE ESTABLISHING LOWER DENSITIES IN THE PERIMETER AREAS, FOCUSING REDEVELOPMENT IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA, US1, AND SRA1A, AND PROVIDING FOR A CONTINUED HIGH LEVEL OF OPEN SPACE. SPECIFIC GOALS AND POLICIES ARE LISTED BELOW FOR EACH TYPE OF LAND USE. FUTURE GROWTH SHALL BE TIMED AND LOCATED TO MAXIMIZE EXISTING PUBLIC INFRASTRUCTURE.
OBJECTIVE 1.2. COMMERCIAL LAND USE Future Land Use Element	Ensure that adequate amounts of land are available to meet the commercial land use needs of the community.

GOAL 5 Annexation Future Land Use Element	THE CITY PROVIDES UTILITY SERVICE BEYOND IT'S MUNICIPAL LIMITS AND SHALL REQUIRE THAT ANY CONNECTION TO THE CITY UTILITIY SYSTEM EITHER ANNEX INTO THE CITY OR ENTER INTO AN ANNEXATION AGREEMENT IF NOT CONTIGIOUS FOR UTILITY SERVICE.
Policy 5.1.1. Future Land Use Element	Properties that are annexed into the City of Ormond Beach shall be assigned a similar land use that existed in Volusia County. Property owners may apply for more intensive land uses, but shall be required to provide the data and analysis to justify the increase in density and/or intensity.

2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

COMPREHENSIVE PLAN

Amendment of adopted comprehensive plan:

In accordance with Chapter 163.31879(c), Florida Statutes 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. A small-scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is ±2.19 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is ±23 acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the

proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Surrounding Property

	Current Land Uses	Land Use Designation	Zoning
North	1635 North US Highway 1 – Destination Daytona	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	1567 North US Highway 1 -	Ormond Beach "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	1545 North US Highway 1 - Cheaters	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	1576 North US Highway 1 - Florida Citrus World	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

The subject property is located along the North US Highway 1 corridor in close proximity to Interstate I-95 and restaurant/convenience store with gas pumps is a typical use along a major interchange. The existing use was approved with the Volusia County site plan approval and is an appropriate use of land.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the project was previously approved by Volusia County and the land use amendment is the result of annexation. For the infrastructure analysis, staff used the building square footages for a convenience store with gas pumps and also a fast food restaurant with drive-through window. The Volusia County Property Appraiser's website states the building square footage of the convenience store is 4,651 square feet while the restaurant portion of the building is 3,654 square feet.

Transportation: The subject property is developed with a convenience store with gas pumps and a fast food restaurant with a drive through window. Based on the ITE rate of category #853 (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the convenience store and pumps generate 1,121 average daily trips which includes 71.5% pass-by trips. Based on the ITE rate of category #934 (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the fast food restaurant generates 1,811 average daily trips which includes 40% pass-by trips (Volusia County Roadway Impact Fee Update Technical Memorandum dated September 25, 2003). Therefore, the total average daily trips for the subject property is 2,199. The land use amendment will not impact the trip generation rate of the existing use. If the site were to expand in the future a concurrency analysis would occur at that time.

Water and Sewer: The site is served with existing City utilities and the land use maps amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The subject property was developed prior to current stormwater regulations and any major proposed site modifications would require stormwater review.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 public meetings. The land use application is the result of

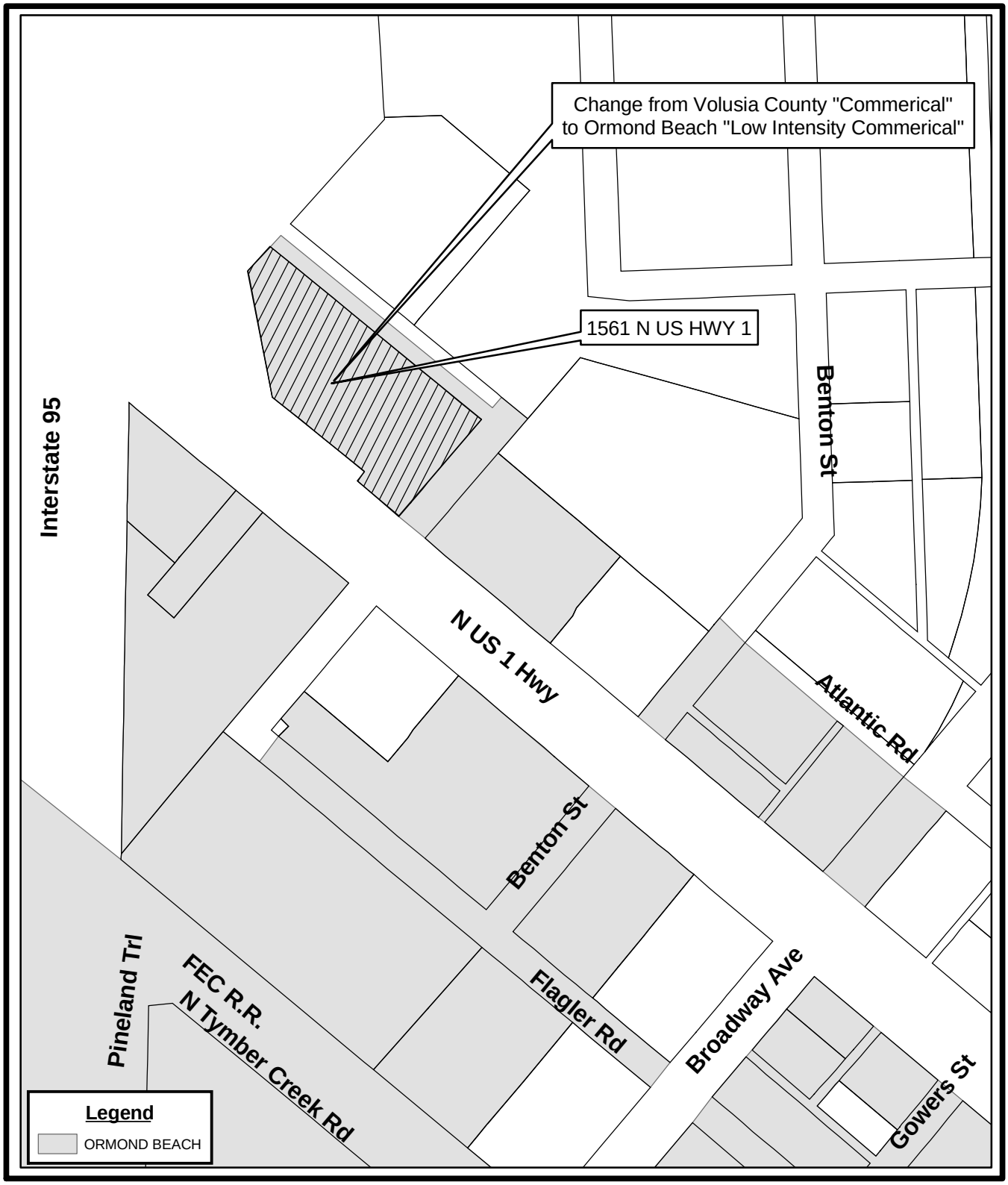
annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;
2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and
5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for ±2.19 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low intensity Commercial" at 1561 North US Highway 1, formerly known as Wendy's.

EXHIBIT 1

Future Land Use Maps



LAND USE AMENDMENT MAP
1561 N US HWY 1 (3136-01-17-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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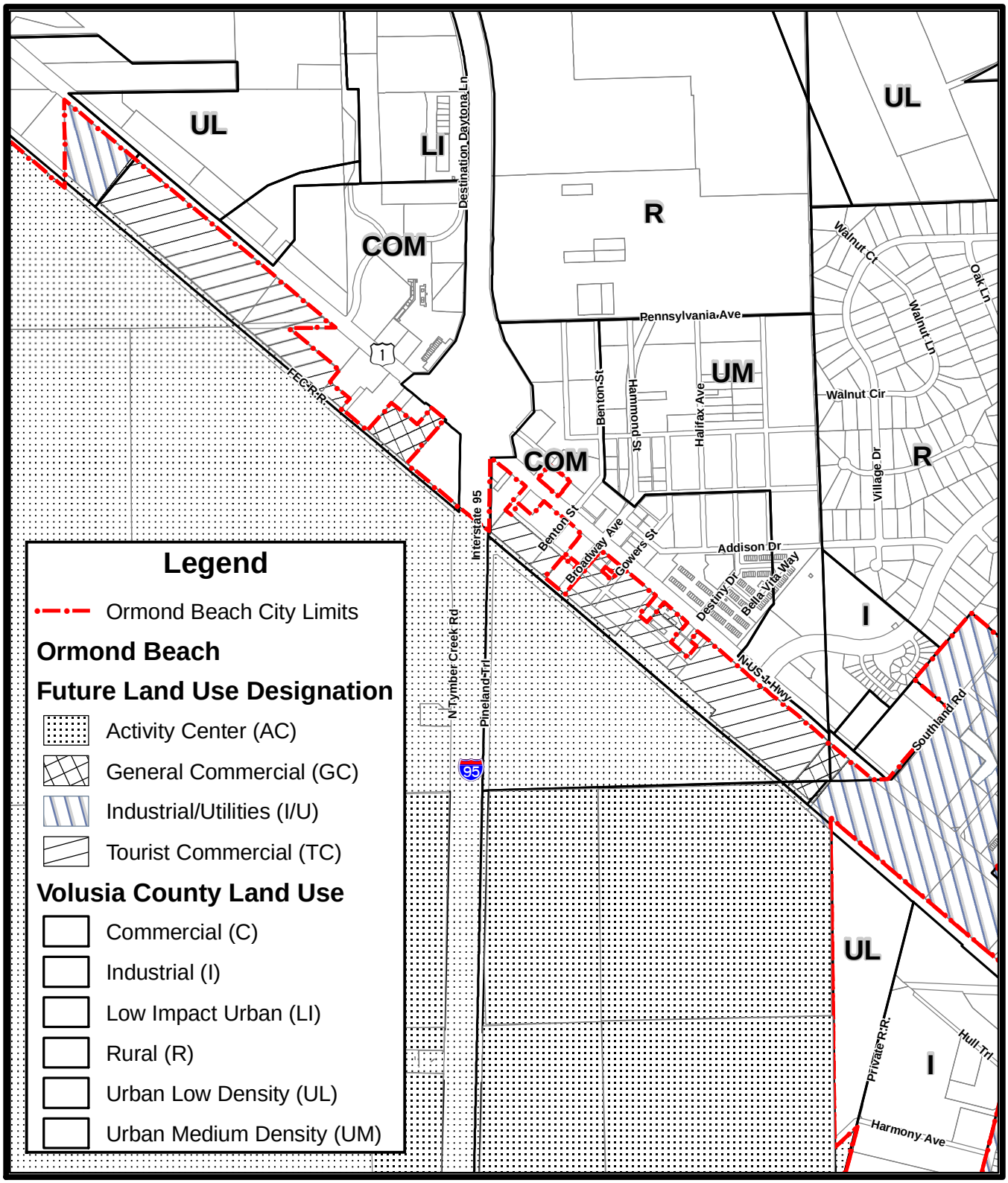

FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

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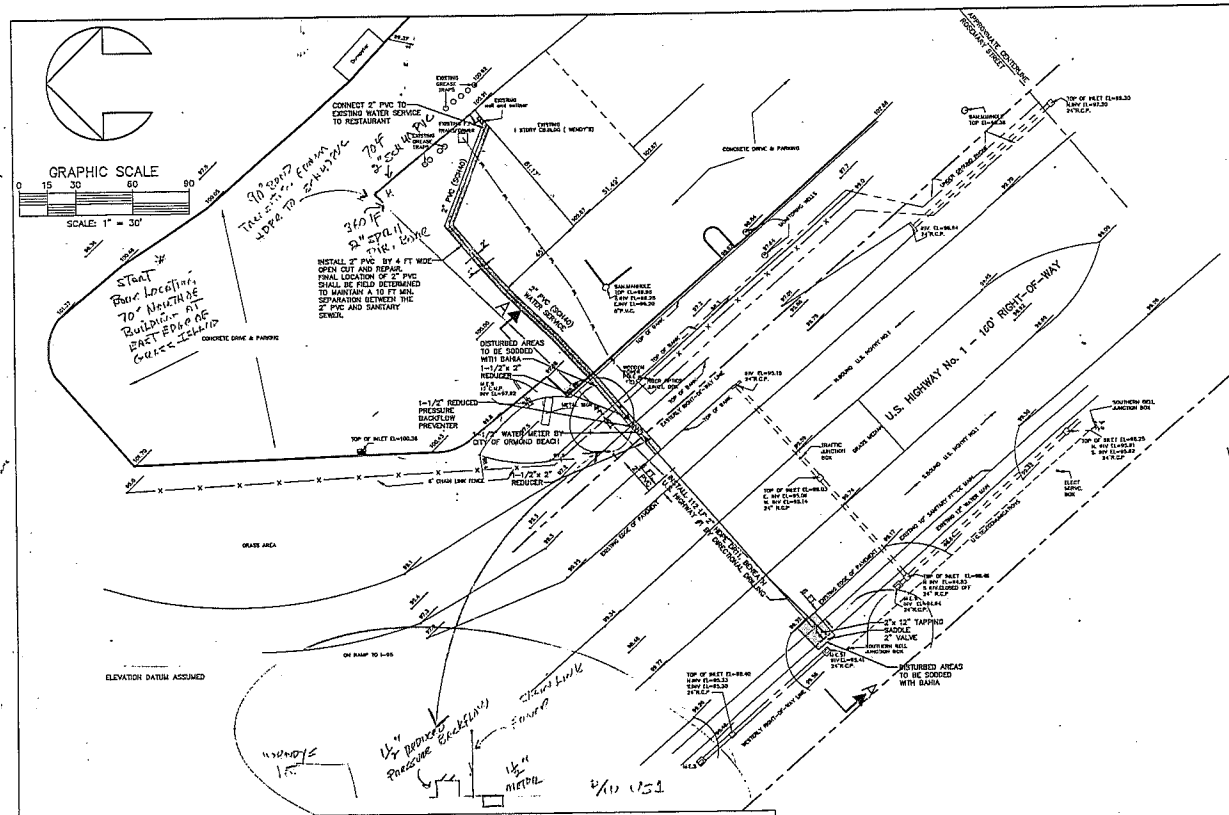
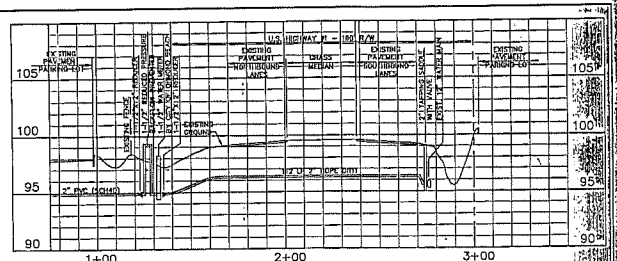
EXHIBIT 2

Photo, Site Plan and Location Aerial

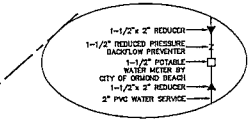
1561 North US Highway 1 – Former Vacant Wendy's

04.29.11

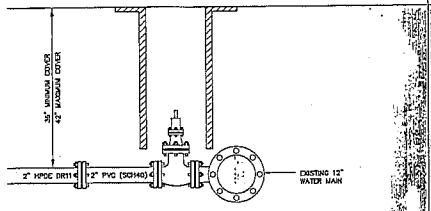




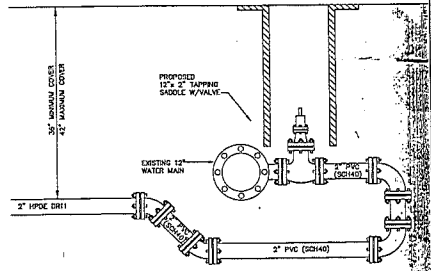
SECTION A – A
SCALE 1"=5' VERT, 1"=30' HORIZ.



WATER CONNECTION DETAIL
NOT TO SCALE



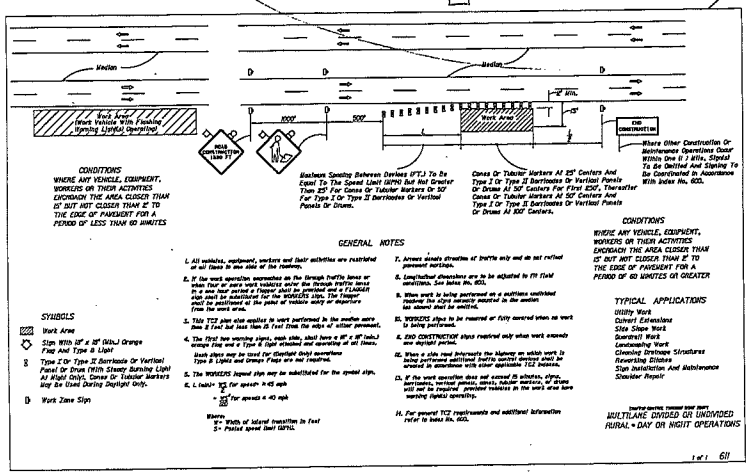
CONNECTION TO EXISTING FORCE MAIN OPTION 1



CONNECTION TO EXISTING FORCE MAIN OPTION 2

LEGEND

- U.G.TELECOMUNICATIONS
- UNDERGROUND TELEPHONE CABLE
- FLORIDA POWER & LIGHT LINES
- EXISTING ELEVATION (ASSUMED DATUM)
- EXISTING FENCE



NO.	DATE	DESCRIPTION	BY
3	12-21-99	REVISED PER RICHARD WISKERMAN LETTER DATED 11-09-99	*TW*
2	09-30-99	REVISED PER STEVE BUSWELL COMMENTS DATED 09-29-99	*TW*
1	09-10-99	REVISED PER STEVE BUSWELL COMMENTS DATED 09-03-99	*TW*

REVISIONS

PARKER MYNCHENBERG & ASSOCIATES, INC.
PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS
1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
(904) 677-6991 FAX (904) 677-2114 E-MAIL: pmc@n-joanter.com

SITE PLAN

WENDY'S RESTAURANT
VOLUSIA COUNTY (NATIONAL GARDENS AREA) * FLORIDA

FILE NO. 9945-SUR.DWG	DESIGNER: P.MYNCHENBERG
DATE: 07-15-99	CADD TECH: TOM WALKER
SCALE: 1" = 30'	SHEET 3 OF 4

SEAL

WENDY'S RESTAURANT - US1/NEAR I-95

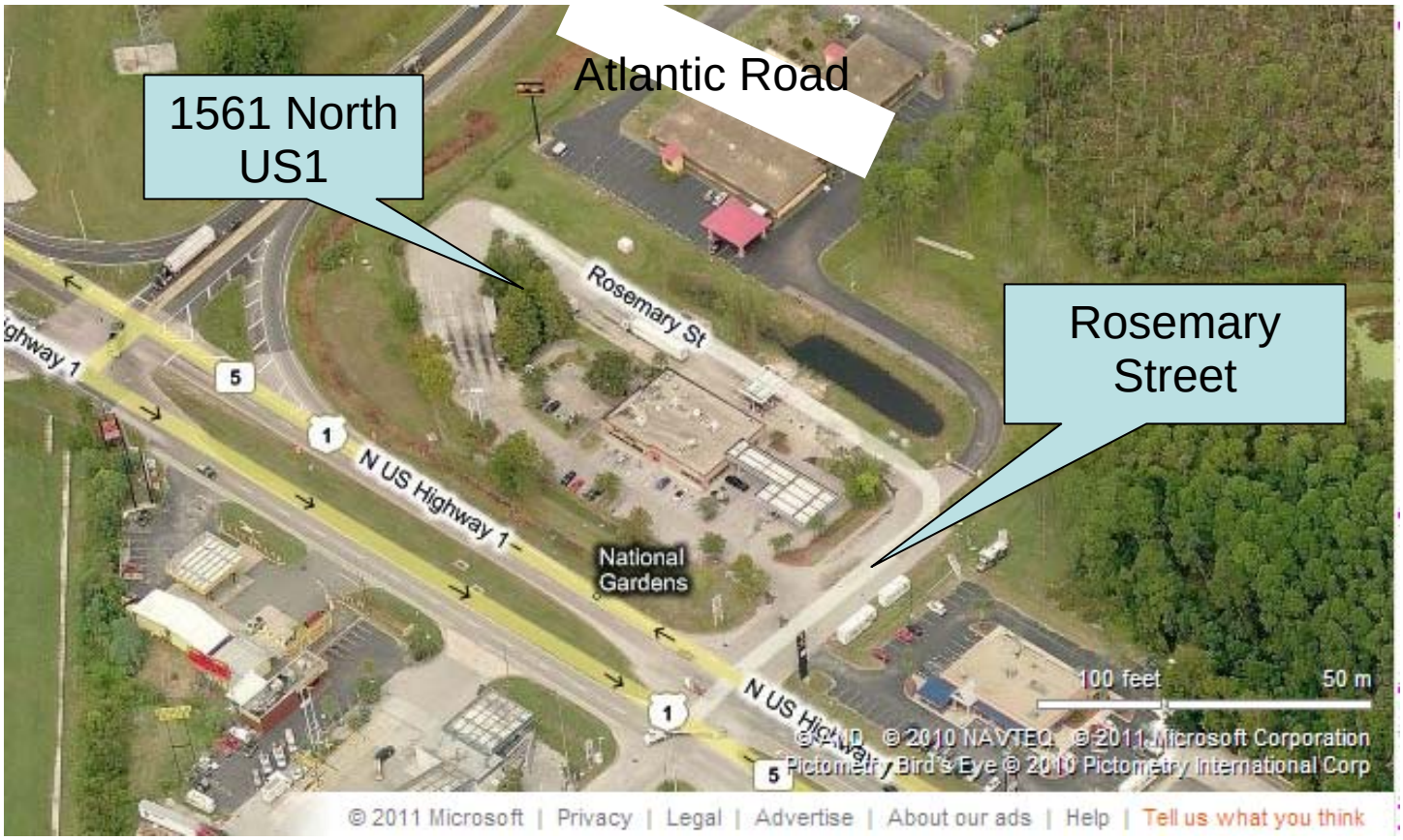

Atlantic Road
1561 North US1
Rosemary St
Rosemary Street
N US Highway 1
National Gardens
100 feet
50 m
© 2010 NAVTEQ © 2011 Microsoft Corporation
Pictometry Bird's Eye © 2010 Pictometry International Corp
© 2011 Microsoft | Privacy | Legal | Advertise | About our ads | Help | Tell us what you think

EXHIBIT 3

Legal Description

Block 17, except that part taken by U.S. No. 1 and Interstate Highway No. 95, National Gardens as recorded in Map Book10, Pages 250–253, inclusive, of the public records of Volusia County, Florida, more particularly described as follows:

BEGINNING at the southeasterly corner of said Block 17; thence South 40" 15' 10" West along the northerly right of way of Rosemary Street having a 60 foot right of way, being also the southerly line of said Block 17, 234.2 feet to a point in the easterly right of way of U.S. No. 1 being a 160 foot right of way; thence North 49" 55' 20" West along the easterly right of way of said U.S. No. 1, 96.9 ft. to a point in aforesaid right of way; thence North 40" 04' 40" East along the new right of way of 1–95, 23.0 feet to a point therein; thence North 49" 55' 20" West along said 1–95 right of way, 216.8 feet to a point therein; thence North 12" 04' 28" West along said right of way, 226.35 feet; thence North 40" 52' 45" East along said right of way 76.09 feet to a point therein being also in the westerly right of way of Atlantic Road being a 60 foot right of way, being also in the easterly line of Block 17 aforesaid; thence South 49" 29' 00" East along said right of way and said easterly line of Block 17, 492.10 feet to the point of BEGINNING. Together with the southwesterly 30.00 feet of vacated Atlantic Road, a 60.00 foot right of way, abutting the northeasterly line thereof.

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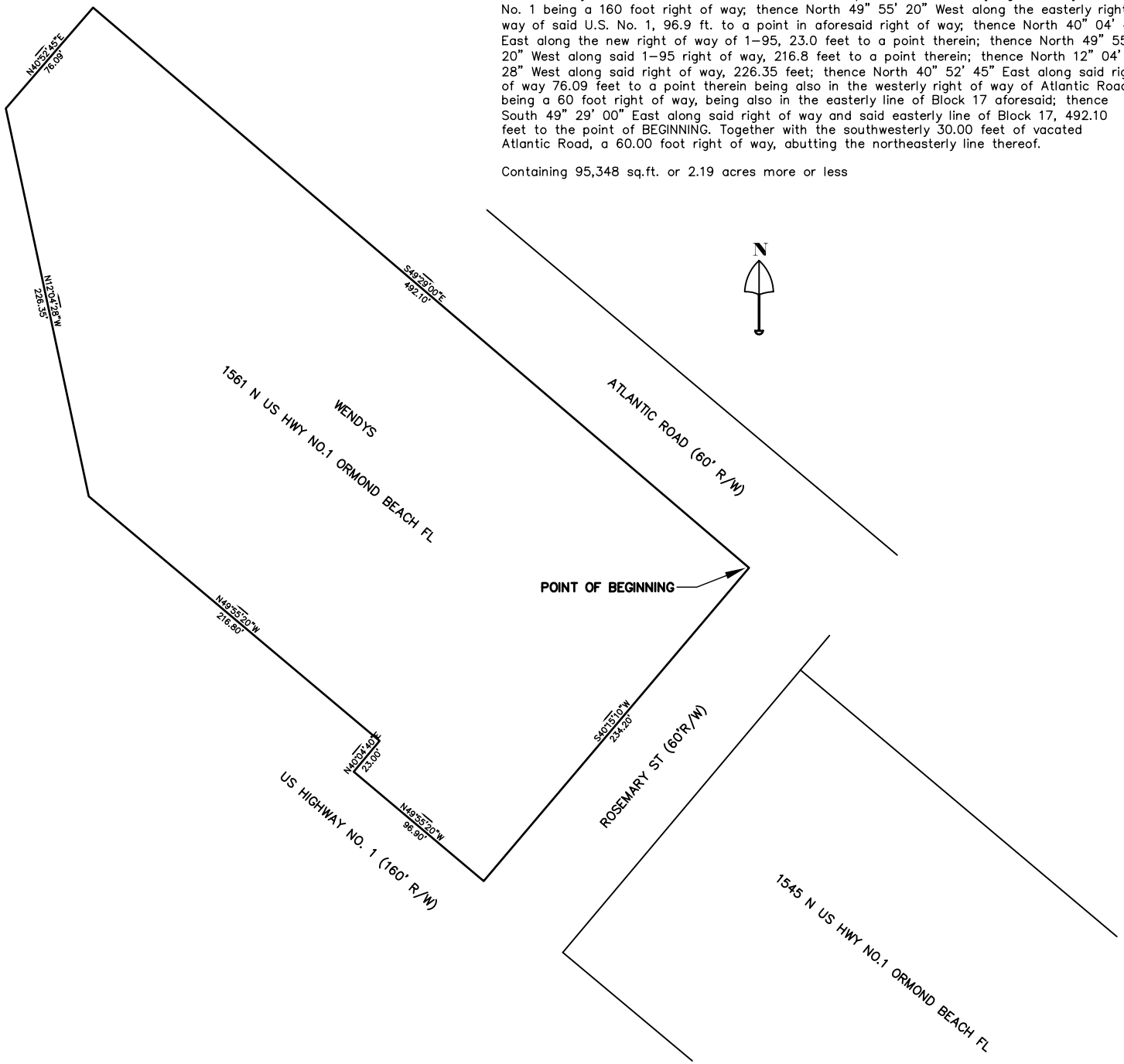


EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

Dear Mr. Spraker:

The school district has had the opportunity to review, for potential impacts, the ten (10) properties recently annexed by the city. Currently the subject properties, as evidenced by the property appraiser information, support various nonresidential uses.

The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Vacant Gas Station and Fruit Store, 1560 North US Highway 1 - Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-049

PROJECT PLANNER: Becky Weedo, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for approximately 2.74 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1560 North US Highway 1, vacant gas station, as the result of annexation (Exhibit 1).

BACKGROUND:

The property at 1560 North US Highway 1 is owned by Harley and Pamela Head and is currently operating as a fruit stand/convenience store (See Exhibit 2 - Photo and Location Aerial). Previously, it was a gas station/truck stop. In December 1995, FinaServe, Incorporated signed a Declaration of Covenants and Restrictions for annexation in order to receive City utilities at the property. The property was annexed on December 7, 2010 with Ordinance 2010-53. The annexation occurred based on the connection to City water and sewer (See Exhibit 2 – Utilities Map, and Exhibit 3-Legal Description).

City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. After Planning Board review, the amendment shall be sent to the Volusia County Growth Management Commission for review, and then to the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

The Volusia County Comprehensive Plan states the following for the "Commercial" land use category:

> This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In

reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.

Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

City staff is requesting a Future Land Use amendment to the City's "Low Intensity Commercial" land use category. The Future Land Use Element of the City's Comprehensive Plan states the following for the "Low Intensity Commercial" category:

"A multi-use land use category to depict those areas of the city that are now developed, or appropriate to be developed, for retail, office and professional services, and restaurants consistent with the surrounding uses, transportation facilities and natural resource characteristics of such areas. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.

Density: Maximum 10 units per acre.

Maximum FAR: 0.6."

ANALYSIS:

The proposed land use amendment seeks to change the land use designation of the subject property from unincorporated Volusia County to the City of Ormond Beach on the future land use map. The existing use is consistent with both the existing County land use and the proposed City land use designation.

Policy 2.5.2. of the Future Land Use Element of the City's Comprehensive Plan provides the review criteria for land use map amendments. The policy states:

"The following criteria shall be used in reviewing Comprehensive Plan amendments:

1. Consistency with the Goals, Objectives, and Policies of this Plan.
2. Consistency with state requirements, including 9J-5 and Florida Statutes requirements.

3. If the amendment is a map amendment, is the proposed change an appropriate use of land.
4. If the amendment is a map amendment, the impacts on the Level of Service of public infrastructure including schools, roadways, utilities, stormwater, and park and recreation facilities.
5. If the amendment is a map amendment, impacts to surrounding jurisdictions."

Staff's review of the criteria listed above is provided below:

1. Consistency with the Goals, Objectives, and Policies of this Plan.

The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive plan. It is important to note that the property's use is existing and no development changes are proposed. The City's Comprehensive Plan has five potential commercial land use categories as follows:

Category	Maximum Density (units per acre)	Maximum Floor Area Ratio (FAR)	Existing Areas
General Commercial	32	0.7	Nova Road, US Highway 1 (Nova Road to Wilmette Avenue)
Heavy Commercial	18	0.8	US Highway 1 (Granada Boulevard to Hand Avenue)
Tourist Commercial	32	1.5	South Atlantic Avenue, Interchange Boulevard (Granada Blvd and I-95) and US Highway 1 and I-95
Office/Professional	15	0.5	Granada Boulevard
Low Intensity Commercial	10	0.6	New land use category

The existing County land use allows a 0.55 FAR. This area of North US Highway 1 is in close proximity to I-95 and is not appropriate for sole office style uses allowed in

the “Office Professional” land use category or the automotive sales and repair style uses permitted in the “Heavy Commercial” land use category. Given the location and size of the subject property as well as the adjacent land uses, the “Tourist Commercial” and “Commercial” land uses were also examined as possible designation options. However, those land use categories were identified as having relatively higher densities and intensities and it is staff’s intention to apply a similar land use. It was determined that the “Low Intensity Commercial” (LIC) was the most suitable designation because it is the least intense City FAR available. Finally, the LIC land use designation was created during the EAR-based amendments in an effort to avert causing a large scale amendment to the Comprehensive Plan. The “Low Intensity Commercial” is the most similar land use category available within the City of Ormond Beach.

Below are specific Goals, Objectives, and Policies that are applicable to this application:

GOAL 1 Future Land Use Element	FUTURE DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHOULD BE DIRECTED IN APPROPRIATE AREAS AS DEPICTED ON THE FUTURE LAND USE MAP TO MEET THE LAND USE NEEDS OF THE ANTICIPATED POPULATION, IN A MANNER CONSISTENT WITH SOUND PLANNING PRINCIPLES, THE GOALS, OBJECTIVES AND POLICIES CONTAINED HEREIN, AND THE DESIRED COMMUNITY CHARACTER. THE FUTURE LAND USE PLAN ELEMENT SHOULD ALLOW LIMITED COMMERCIAL EXPANSION, PROMOTE INDUSTRIAL USE, AND MAINTAIN CURRENT RESIDENTIAL DENSITIES IN THE CORE AREA WHILE ESTABLISHING LOWER DENSITIES IN THE PERIMETER AREAS, FOCUSING REDEVELOPMENT IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA, US1, AND SRA1A, AND PROVIDING FOR A CONTINUED HIGH LEVEL OF OPEN SPACE. SPECIFIC GOALS AND POLICIES ARE LISTED BELOW FOR EACH TYPE OF LAND USE. FUTURE GROWTH SHALL BE TIMED AND LOCATED TO MAXIMIZE EXISTING PUBLIC INFRASTRUCTURE.
OBJECTIVE 1.2. COMMERCIAL LAND USE Future Land Use Element	Ensure that adequate amounts of land are available to meet the commercial land use needs of the community.

GOAL 5 Annexation Future Land Use Element	THE CITY PROVIDES UTILITY SERVICE BEYOND IT'S MUNICIPAL LIMITS AND SHALL REQUIRE THAT ANY CONNECTION TO THE CITY UTILITIY SYSTEM EITHER ANNEX INTO THE CITY OR ENTER INTO AN ANNEXATION AGREEMENT IF NOT CONTIGIOUS FOR UTILITY SERVICE.
Policy 5.1.1. Future Land Use Element	Properties that are annexed into the City of Ormond Beach shall be assigned a similar land use that existed in Volusia County. Property owners may apply for more intensive land uses, but shall be required to provide the data and analysis to justify the increase in density and/or intensity.

2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

COMPREHENSIVE PLAN

Amendment of adopted comprehensive plan:

In accordance with Chapter 163.31879(c), Florida Statutes 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. A small-scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is approximately 2.74 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is approximately 23 acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the

proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Surrounding Properties

	Current Land Uses	Future Land Use Designation	Zoning
Northwest	Waffle House & I-95	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant Land	Volusia County "Commercial" & "Highway Tourist Commercial"	Volusia County B-6 (Highway Interchange Commercial)
North	Vacant Gas Station and Wendy's	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	I-95	N/A	N/A

The property is located along the North US Highway 1 corridor in close proximity to Interstate I-95 and a gas station/truck stop is a typical use along a major interchange. The Volusia County land use in this area is "Commercial" which allows a variety of uses. The future land use of "Low Intensity Commercial" is an appropriate use of land.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the project was originally approved by Volusia County as a Fina Truck Stop and the land use amendment is the result of annexation. For the infrastructure analysis, staff shall use the gas station designation as was previously approved.

Transportation:

The subject property had 12 fuel pump dispensers associated with the truck stop. Even though the subject property is currently operating as a convenience store/fruit stand, the most intense land use will be used in this analysis. Based on a trip generation rate using Land Code #945 (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the site would generate approximately 859 average daily trips which includes 56% pass-by trips. The land use amendment shall not impact the trip generation rate of the existing use. If the site expands in the future, a concurrency analysis will be required at that time.

Water and Sewer: The site is served with existing City utilities and the land use amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The property has an approved site plan that contains a stormwater management system.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

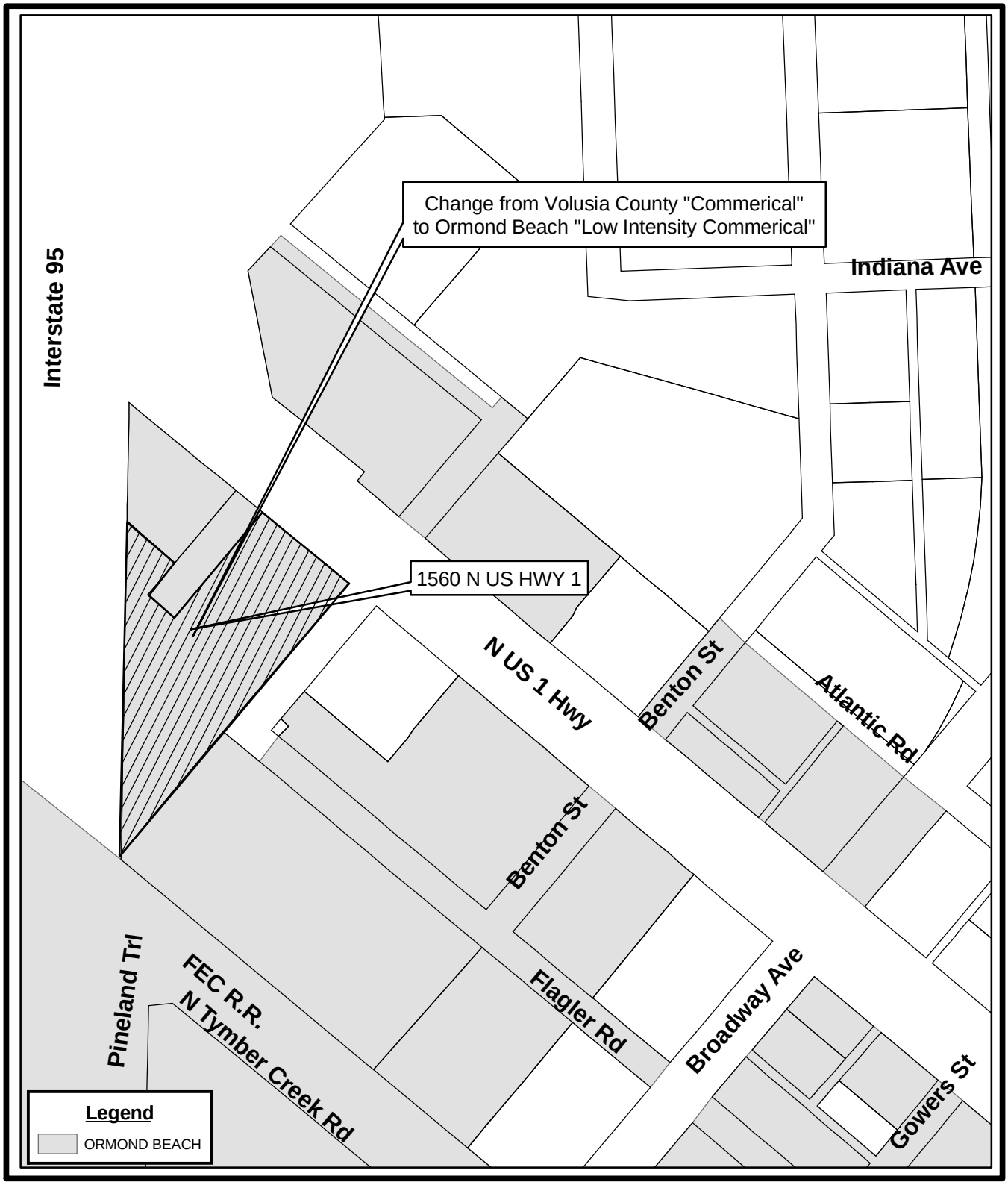
It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 meetings. The land use application is the result of annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;
2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and
5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for approximately 2.74 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low intensity Commercial" at 1560 North US Highway 1.

EXHIBIT 1

Future Land Use Maps



LAND USE AMENDMENT MAP
1560 N US HWY 1 (3136-01-63-0020)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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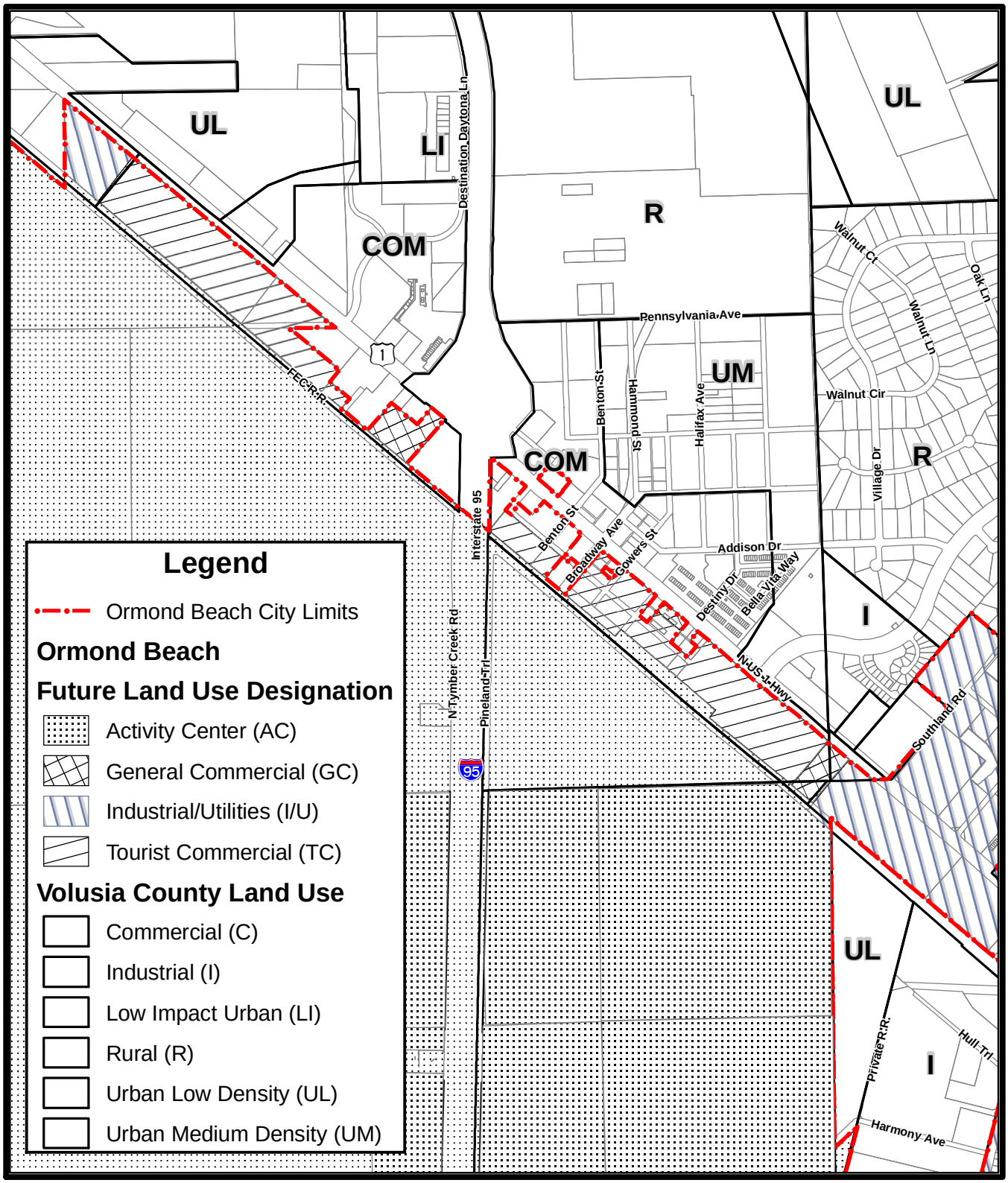

FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

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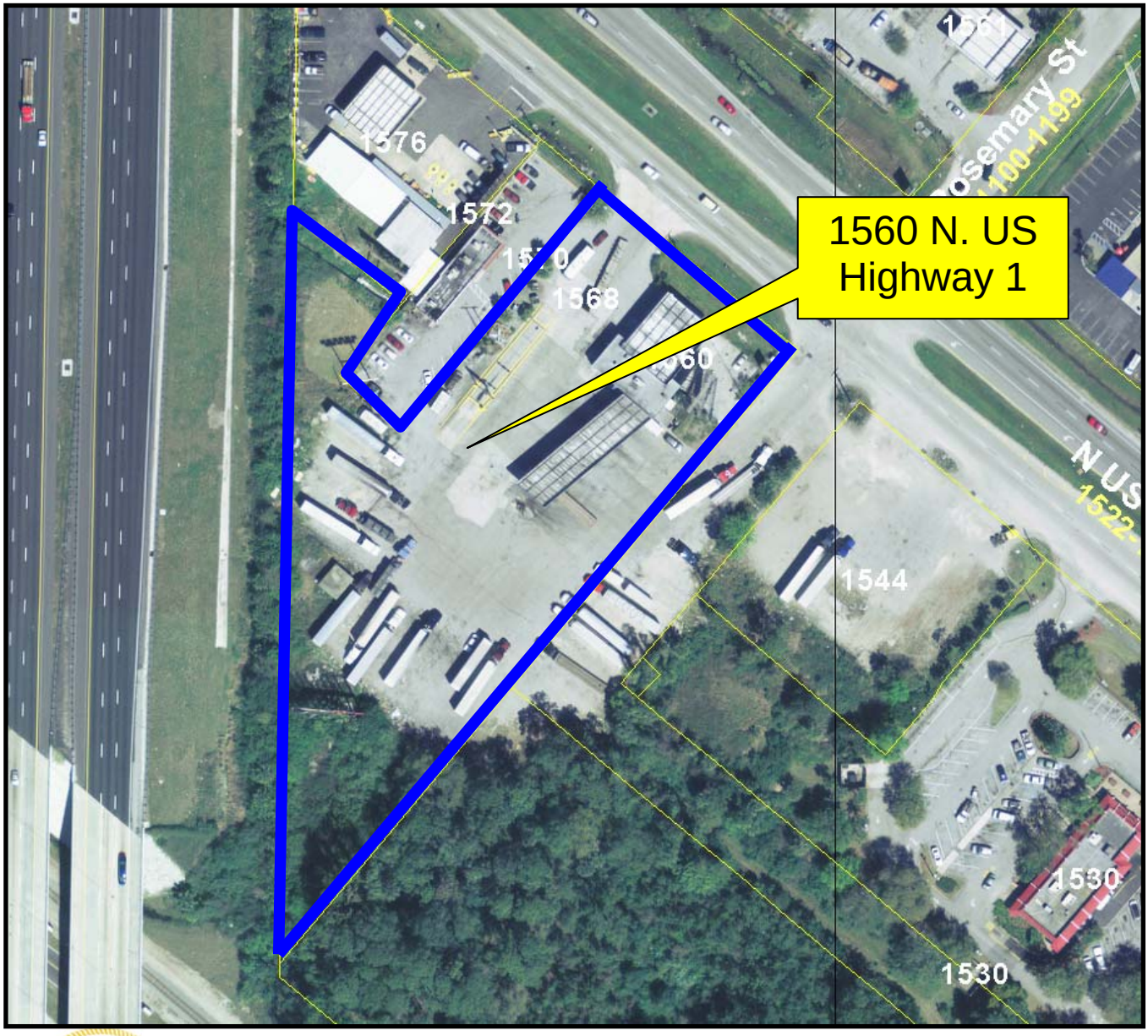
EXHIBIT 2

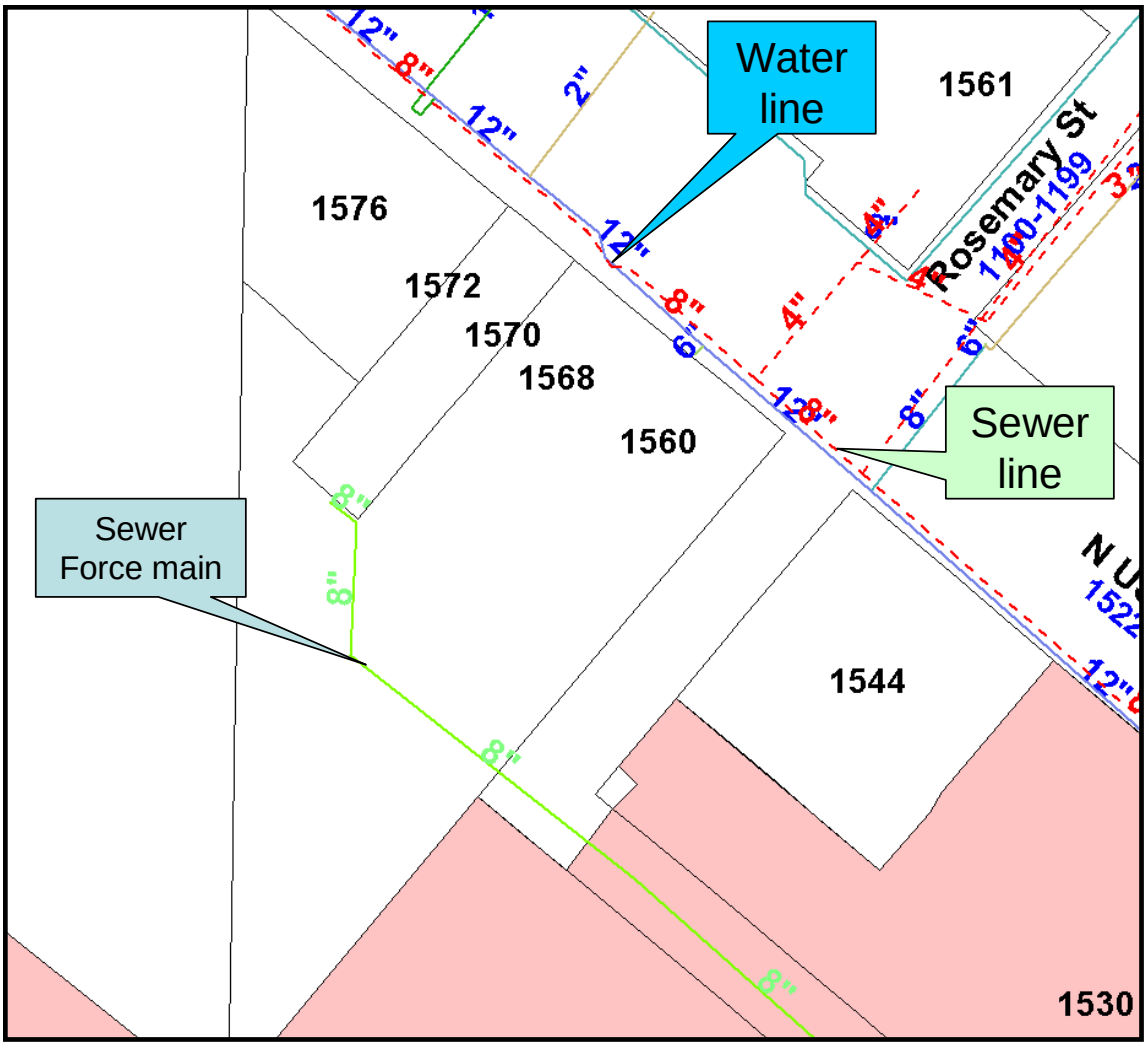
Photo, Location Aerial, and Utilities Map

1560 N. US Highway 1
Fruit Store and Vacant Gas Station/Convenience

April 29, 2011



LOCATION MAP
1560 North US1



UTILITIES MAP
1560 North US1

EXHIBIT 3

Legal Description

PROPERTY LOCATION: 1560 N US HWY 1
PROPERTY ID: 3136-01-63-0020
OWNER: EMAC 1998-1 US 1, LLC,
a Florida limited liability company

LEGAL DESCRIPTION

THAT PART OF BLOCK 63, EXCEPT THAT PORTION BEING IN US HIGHWAY NO. 1 AND LYING EAST OF US I-95; ALL OF FLAGLER STREET EAST OF US I-95 AND WEST OF THE EAST LINE LOT 15 SAID BLOCK 68, AS EXTENDED SOUTHERLY, ALSO THAT PART OF BLOCK 68, LYING BETWEEN THE EAST LINE OF SAID I-95 AND THE EAST LINE OF SAID LOT 15, BLOCK 63, EXTENDED SOUTHERLY TO THE EAST LINE OF I-95 AFORESAID, ALL BEING IN NATIONAL GARDENS, AS RECORDED IN MAP BOOK 10, PAGES 250 TO 253, INCLUSIVE, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. MORE PARTICULARLY DESCRIBED AS FOLLOWS: FORM A POINT OF REFERENCE, BEING THE INTERSECTION OF THE EAST LINE OF THE 300 FOOT RIGHT-OF-WAY OF US I-95, AS NOW LAID OUT AND ESTABLISHED, WITH THE SOUTHWESTERLY LINE OF THE 160 FOOT RIGHT-OF-WAY OF US HIGHWAY NO. 1, AS NOW OCCUPIED AND ESTABLISHED; THENCE S 49° 55' 20" E ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF US HIGHWAY NO. 1 323.01 FEET TO A POINT THERIN AND THE POINT OF BEGINNING; THENCE S 49° 55' 20" E PARALLEL TO SAID US HIGHWAY NO. 1 200 FEET TO A POINT IN STREET SHOWN ON SAID PLAT OF NATIONAL GARDENS, THENCE S 40° 15' 10" W ALONG SAID NORTHWESTERLY RIGHT -OF-WAY LINE 643.36 FEET TO ITS INTERSECTION WITH THE EAST LINE OF US I-95 AFORESAID; THENCE N 01° 04' 28" EAST ALONG SAID EAST LINE 602.88 FEET TO A POINT THERIN; THENCE S 49° 55' 20" E TO A POINT PARALLEL TO US HIGHWAY NO. 1, AFORESAID 118.27 FEET TO A POINT; THENCE S 40° 04' 40" W 75.15 FEET TO A POINT; THENCE S 49° 55' 20" E 62.36' TO A POINT; THENCE N 40° 15' 10" E 250.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 119,493.62 SQ FT OR 2.74 ACRES MORE OR LESS

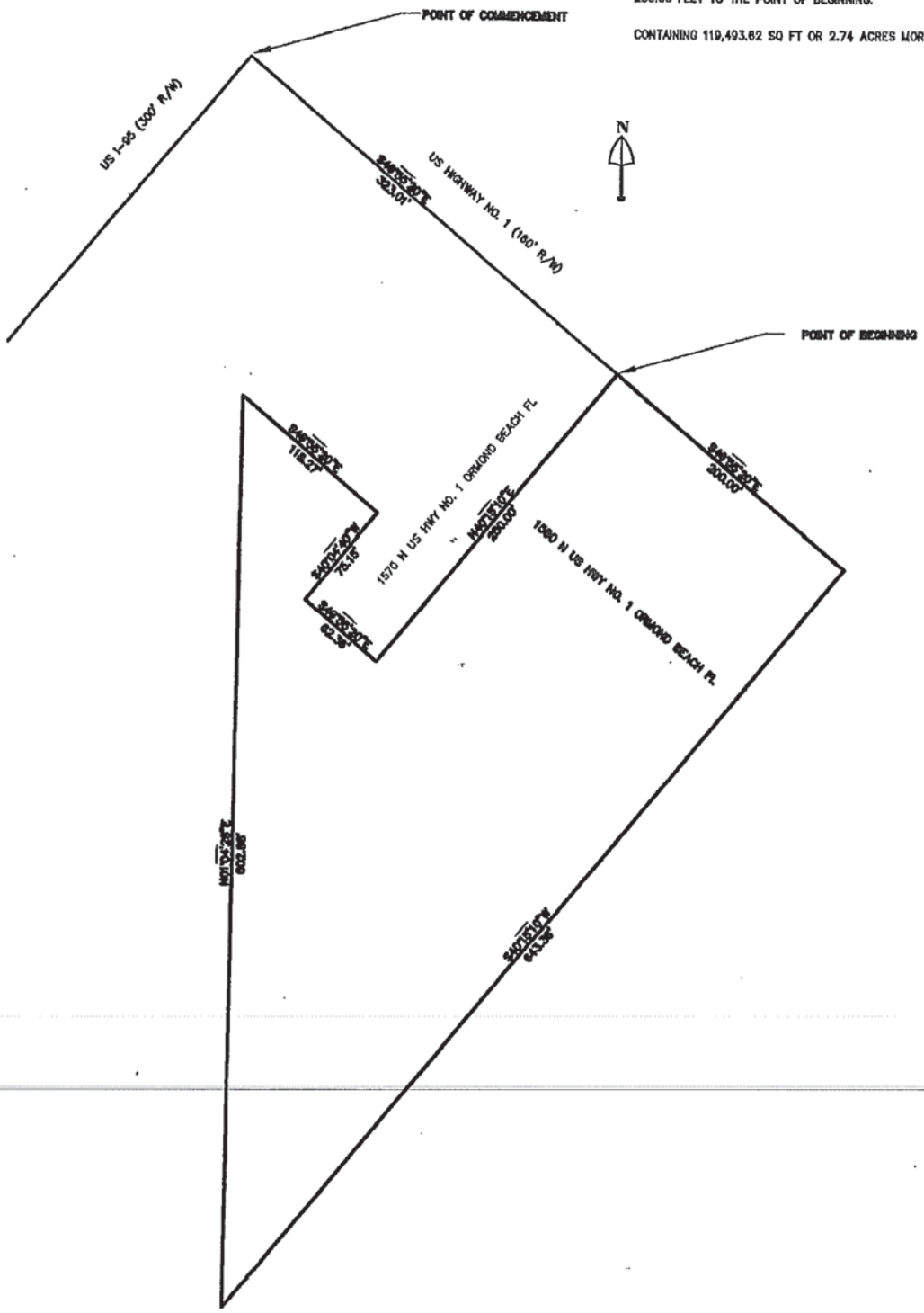


EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

Dear Mr. Spraker:

The school district has had the opportunity to review, for potential impacts, the ten (10) properties recently annexed by the city. Currently the subject properties, as evidenced by the property appraiser information, support various nonresidential uses.

The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Waffle House, 1570 North US Highway 1
Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-055

PROJECT PLANNER: Becky Weedo, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for approximately 0.36 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1570 North US Highway 1, Waffle House, as the result of the recent annexation (Exhibit 1).

BACKGROUND:

The property at 1570 North US Highway 1 is owned by National Gardens Properties Inc. and is currently operating as a Waffle House (See Exhibit 2 - Photo and Location Aerial). The property was annexed on December 21, 2010 with Ordinance 2010-54. The annexation occurred based on the connection to City water and sewer (Exhibit 2 – Utilities Map and Exhibit 3-Legal Description).

City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. After Planning Board review, the amendment shall be sent to the Volusia County Growth Management Commission for review, and then to the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

The Volusia County Comprehensive Plan states the following for the "Commercial" land use category:

> This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with adjacent uses, availability of highway capacity, ease of access and availability of

other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.

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Density: Maximum 10 units per acre.

Maximum FAR: 0.6."

ANALYSIS:

The proposed land use amendment seeks to change the land use designation of the subject property from unincorporated Volusia County to the City of Ormond Beach on the future land use map. The existing use is consistent with both the existing County land use and the proposed City land use designation.

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The existing County land use allows a 0.55 FAR. This area of North US Highway 1 is in close proximity to I-95 and is not appropriate for sole office style uses allowed in the "Office Professional" land use category or the automotive sales and repair style uses permitted in the "Heavy Commercial" land use category. Given the location and size of the subject property as well as the adjacent land uses, the "Tourist

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2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

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1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is approximately 0.36 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is approximately 23 acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the

proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Surrounding Properties

	Current Land Uses	Future Land Use Designation	Zoning
North	Gas Station and Fruit Stand	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	Vacant Gas Station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant Gas Station and Wendy's	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Vacant Gas Station	Volusia County "Commercial"	N/A Volusia County B-6 (Highway Interchange Commercial)

The property is located along the North US Highway 1 corridor in close proximity to Interstate I-95 and a fast food restaurant is a typical use along a major interchange. The Volusia County land use in this area is "Commercial" which allows a variety of uses. The future land use of "Low Intensity Commercial" is an appropriate use of land.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the project was originally approved by Volusia County as a Waffle House and the land use amendment is the result of annexation. For the infrastructure analysis, staff shall use the "High-Turnover (Sit-Down)" restaurant designation.

Transportation:

The subject property currently operates as a Waffle House approximately 1,634 square feet in size. Based on a trip generation rate using Land Code #932 (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the site would generate approximately 152 average daily trips which includes 28.4% pass-by trips (Volusia county roadway Impact Fee Update Technical Memorandum dated September 25, 2003). The land use amendment shall not impact the trip generation rate of the existing use. If the site were to expand in the future a concurrency analysis will be required at that time.

Water and Sewer: The site is served with existing City utilities and the land use amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The site was constructed prior to current stormwater regulations and any major site modifications would require a stormwater review.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 meetings. The land use application is the result of annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

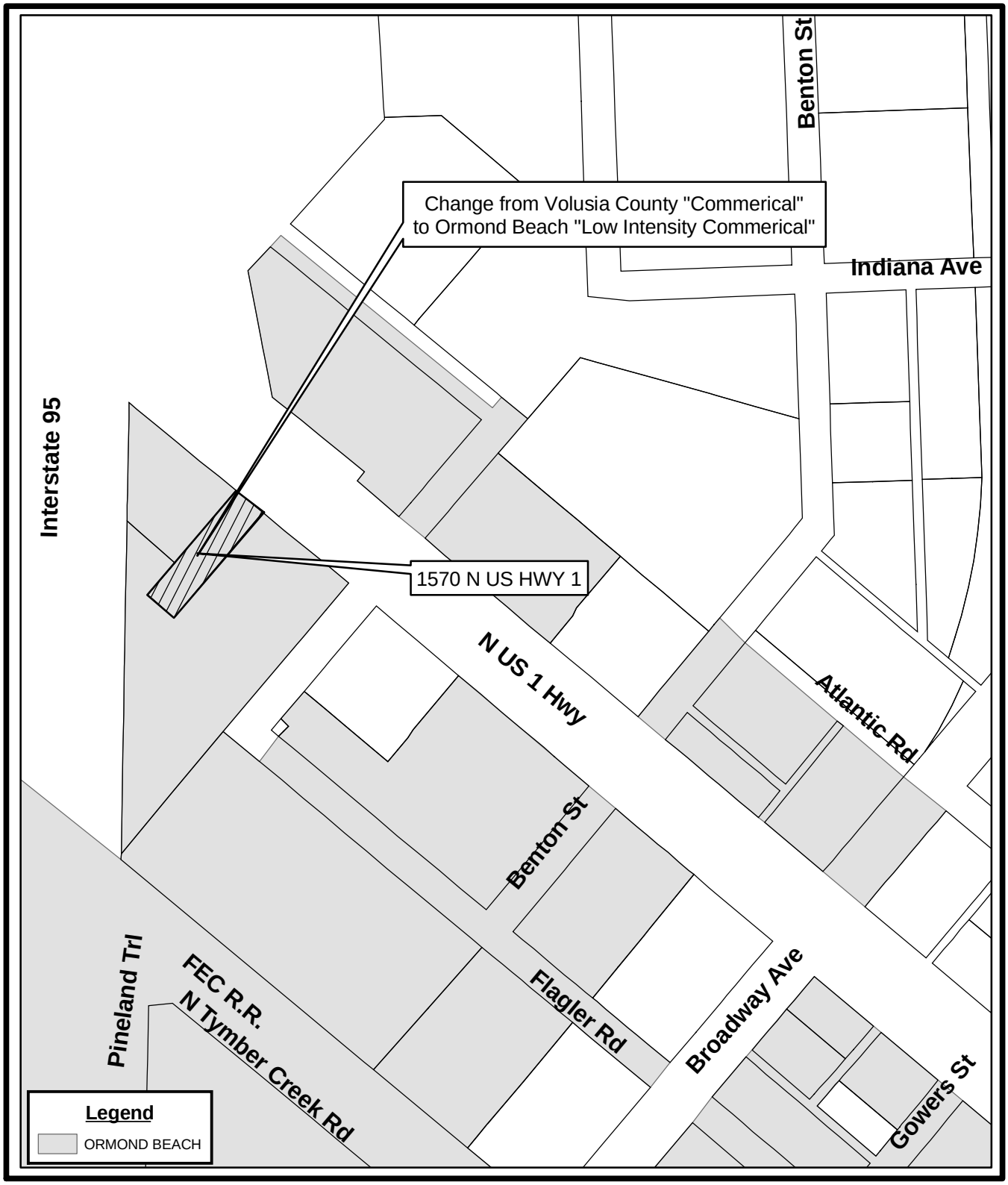
1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;

2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and
5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for approximately 0.36 acres from the existing land use designation of Volusia County “Commercial” to City of Ormond Beach “Low intensity Commercial” at 1570 North US Highway 1.

EXHIBIT 1

Future Land Use Maps



LAND USE AMENDMENT MAP
1570 N US HWY 1 (3136-01-63-0030)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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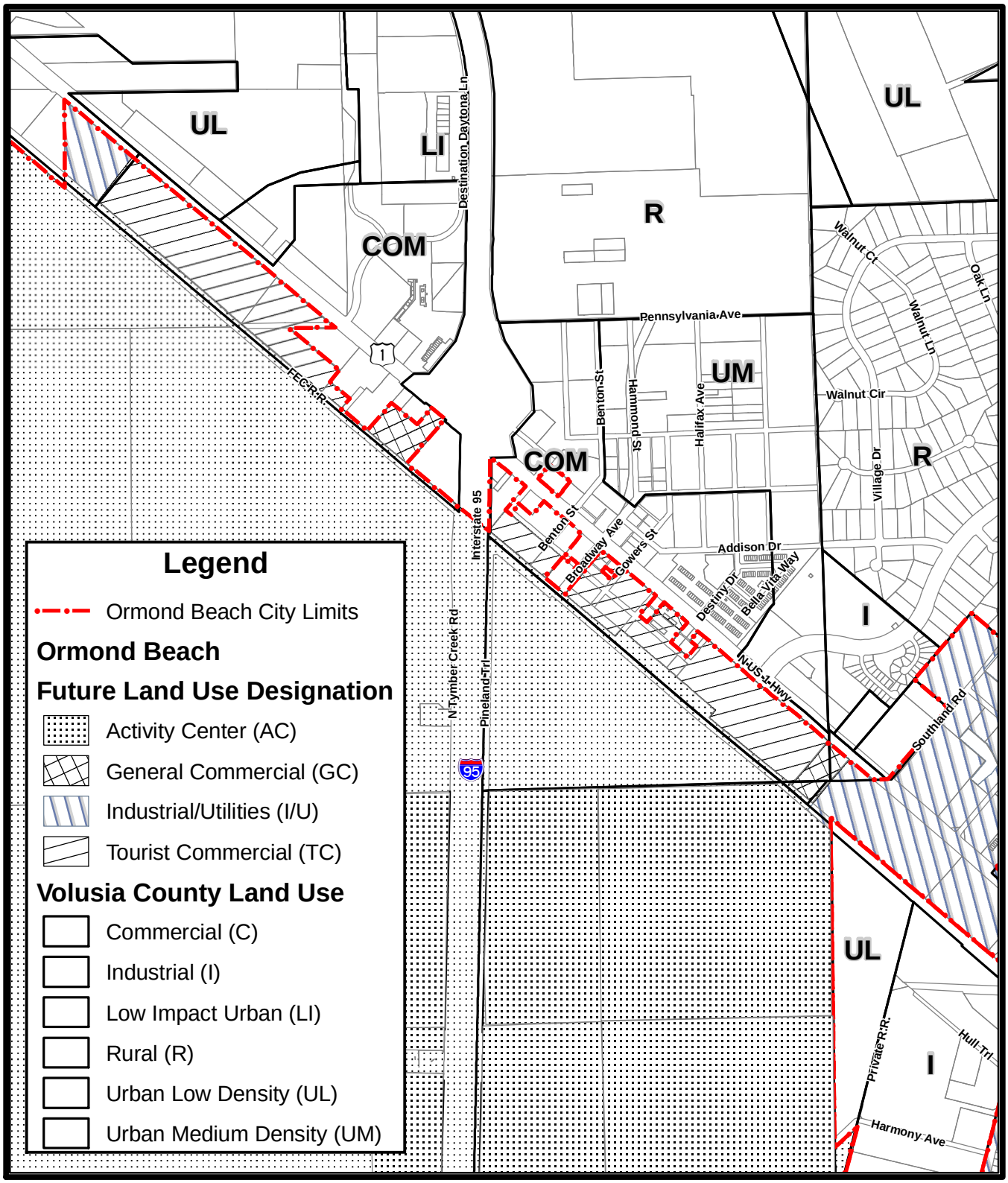

FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

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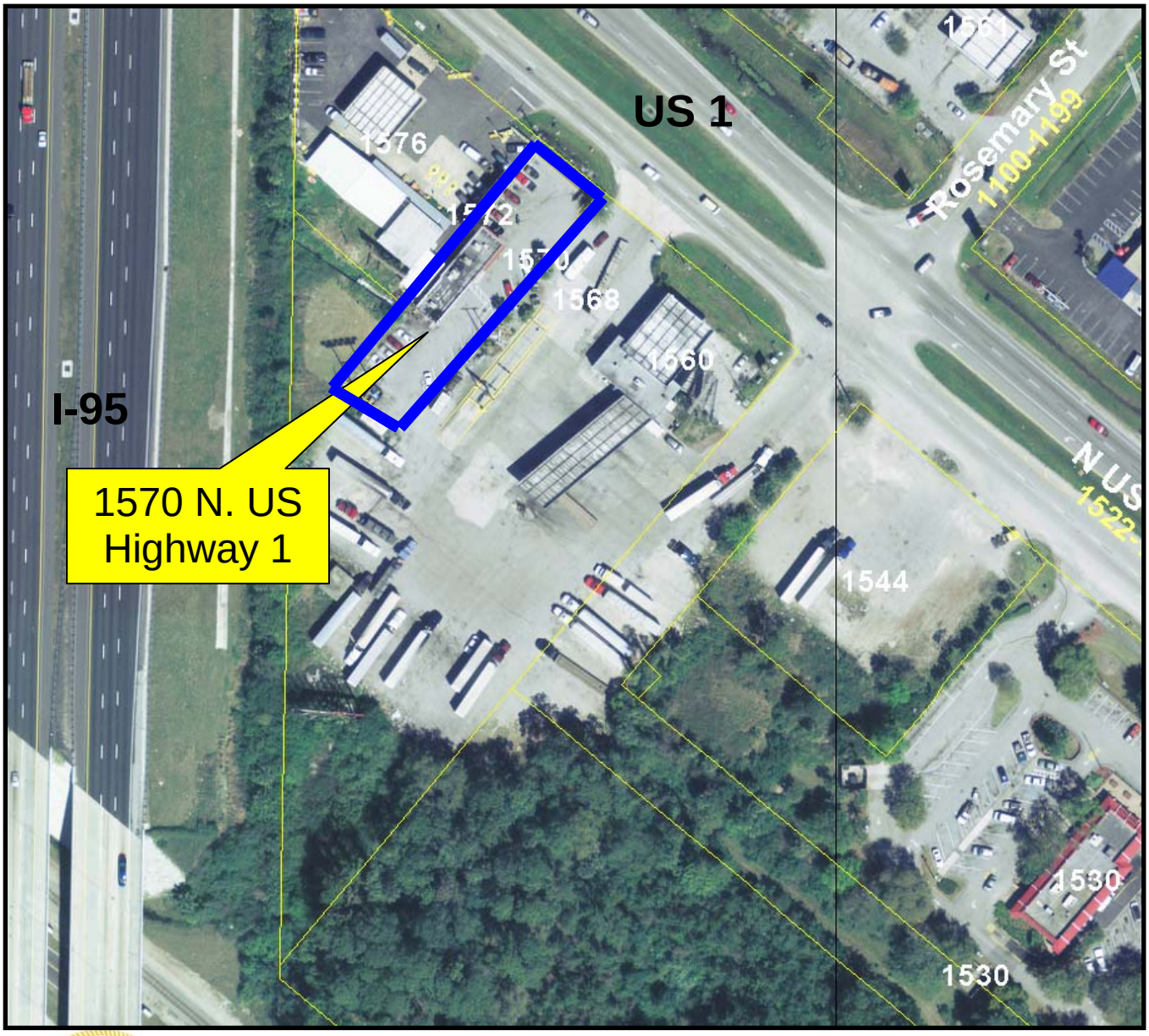
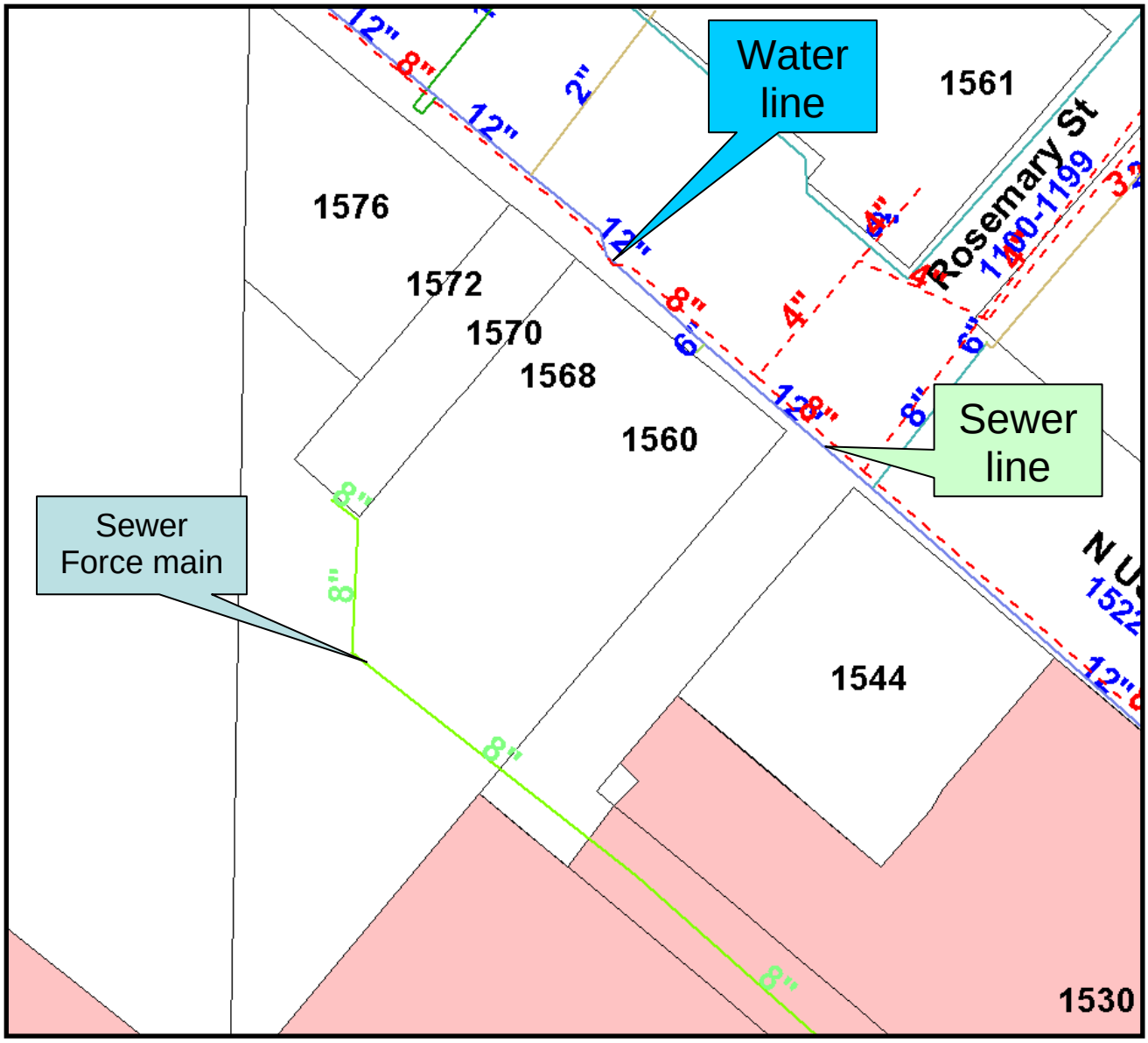
EXHIBIT 2

Photo, Location Aerial, and Utilities Map

1570 N. US Highway 1 – Waffle House



LOCATION MAP – WAFFLE HOUSE
1570 North US1



UTILITIES MAP
1570 North US1

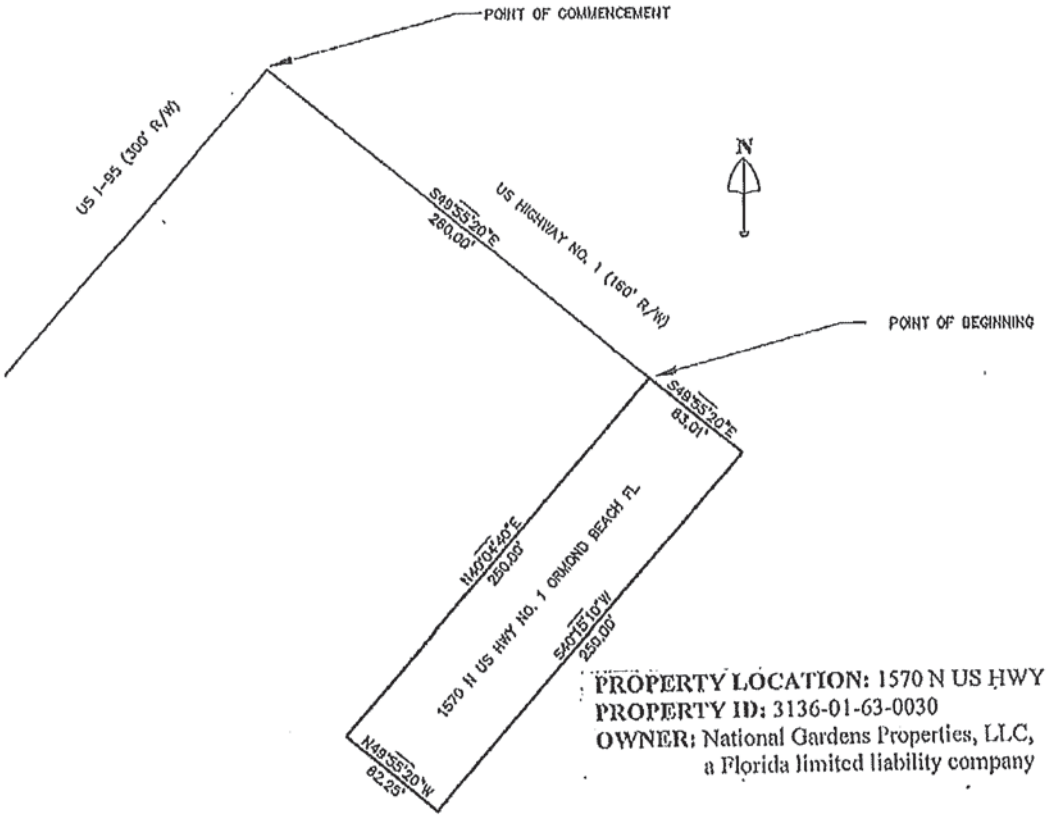
EXHIBIT 3

Legal Description

LEGAL DESCRIPTION

THAT PART OF BLOCK 63, EXCEPT THAT PORTION BEING IN US HIGHWAY NO. 1 AND LYING EAST OF US I-95; ALL OF FLAGLER STREET EAST OF US I-95 AND WEST OF THE EAST LINE OF BLOCK 68, LYING BETWEEN THE EAST LINE OF SAID I-95 AND THE EAST LINE OF SAID LOT 15, BLOCK 63, EXTENDED SOUTHERLY TO THE EAST LINE OF I-95 AFORESAID, ALL BEING IN NATIONAL GARDENS, AS RECORDED IN MAP BOOK 10, PAGES 250 TO 253, INCLUSIVE, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. MORE PARTICULARLY DESCRIBED AS FOLLOWS: FORM A POINT OF REFERENCE, BEING THE INTERSECTION OF THE EAST LINE OF THE 300 FOOT RIGHT-OF-WAY OF US I-95, AS NOW LAID OUT AND ESTABLISHED, WITH THE SOUTHWESTERLY LINE OF THE 160 FOOT RIGHT-OF-WAY OF US HIGHWAY NO. 1, AS NOW OCCUPIED AND ESTABLISHED; THENCE S 49° 55' 20" E ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF US HIGHWAY NO. 1 260.00 FEET TO A POINT THEREIN AND THE POINT OF BEGINNING; THENCE CONTINUE S 49° 55' 20" E ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 63.01 FEET TO AN INTERSECTION WITH THE NORTH LINE OF LOT 11, BLOCK 63 OF SAID NATIONAL GARDENS, THENCE DEPARTING THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID US HIGHWAY NO. 1, RUN S 40° 15' 10" W ALONG THE NORTH LINE OF SAID LOT 11, BLOCK 63, A DISTANCE OF 250.00 FEET; THENCE N 49° 55' 20" W A DISTANCE OF 62.25 FEET; THENCE N 40° 04' 44" E A DISTANCE OF 250.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 15,681.00 SQ FT OR 0.36 ACRES MORE OR LESS



PROPERTY LOCATION: 1570 N US HWY 1
PROPERTY ID: 3136-01-63-0030
OWNER: National Gardens Properties, LLC,
a Florida limited liability company

EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

Dear Mr. Spraker:

The school district has had the opportunity to review, for potential impacts, the ten (10) properties recently annexed by the city. Currently the subject properties, as evidenced by the property appraiser information, support various nonresidential uses.

The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Fruit Store & Gas Station, 1576 North US Highway 1
Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-059

PROJECT PLANNER: Becky Weedo, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for approximately 0.76 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1576 North US Highway 1, fruit store and gas station, as the result of annexation (Exhibit 1).

BACKGROUND:

The property at 1576 North US Highway 1 is owned by Florida Citrus World, Incorporated and is currently operating as a fruit store and gas station (See Exhibit 2 - Photo and Location Aerial). The property was annexed on December 21, 2010 with Ordinance 2010-55. The annexation occurred based on the connection to City water and sewer (See Exhibit 2 – Utilities Map and Exhibit 3-Legal Description).

City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. After Planning Board review, the amendment shall be sent to the Volusia County Growth Management Commission for review, and then to the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

The Volusia County Comprehensive Plan states the following for the "Commercial" land use category:

> This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with adjacent uses, availability of highway capacity, ease of access and availability of

other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.

Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

City staff is requesting a Future Land Use amendment to the City's "Low Intensity Commercial" land use category. The Future Land Use Element of the City's Comprehensive Plan states the following for the "Low Intensity Commercial" category:

"A multi-use land use category to depict those areas of the city that are now developed, or appropriate to be developed, for retail, office and professional services, and restaurants consistent with the surrounding uses, transportation facilities and natural resource characteristics of such areas. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.

Density: Maximum 10 units per acre.

Maximum FAR: 0.6."

ANALYSIS:

The proposed land use amendment seeks to change the land use designation of the subject property from unincorporated Volusia County to the City of Ormond Beach on the future land use map. The existing use is consistent with both the existing County land use and the proposed City land use designation.

Policy 2.5.2. of the Future Land Use Element of the City's Comprehensive Plan provides the review criteria for land use map amendments. The policy states:

"The following criteria shall be used in reviewing Comprehensive Plan amendments:

1. Consistency with the Goals, Objectives, and Policies of this Plan.
2. Consistency with state requirements, including 9J-5 and Florida Statutes requirements.
3. If the amendment is a map amendment, is the proposed change an appropriate use of land.

4. If the amendment is a map amendment, the impacts on the Level of Service of public infrastructure including schools, roadways, utilities, stormwater, and park and recreation facilities.
5. If the amendment is a map amendment, impacts to surrounding jurisdictions."

Staff's review of the criteria listed above is provided below:

1. Consistency with the Goals, Objectives, and Policies of this Plan.

The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive plan. It is important to note that the property's use is existing and no development changes are proposed. The City's Comprehensive Plan has five potential commercial land use categories as follows:

Category	Maximum Density (units per acre)	Maximum Floor Area Ratio (FAR)	Existing Areas
General Commercial	32	0.7	Nova Road, US Highway 1 (Nova Road to Wilmette Avenue)
Heavy Commercial	18	0.8	US Highway 1 (Granada Boulevard to Hand Avenue)
Tourist Commercial	32	1.5	South Atlantic Avenue, Interchange Boulevard (Granada Blvd and I-95) and US Highway 1 and I-95
Office/Professional	15	0.5	Granada Boulevard
Low Intensity Commercial	10	0.6	New land use category

The existing County land use allows a 0.55 FAR. This area of North US Highway 1 is in close proximity to I-95 and is not appropriate for sole office style uses allowed in the "Office Professional" land use category or the automotive sales and repair style uses permitted in the "Heavy Commercial" land use category. Given the location

and size of the subject property as well as the adjacent land uses, the "Tourist Commercial" and "Commercial" land uses were also examined as possible designation options. However, those land use categories were identified as having relatively higher densities and intensities and it is staff's intention to apply a similar land use. It was determined that the "Low Intensity Commercial" (LIC) was the most suitable designation because it is the least intense City FAR available. Finally, the LIC land use designation was created during the EAR-based amendments in an effort to avert causing a large scale amendment to the Comprehensive Plan. The "Low Intensity Commercial" is the most similar land use category available within the City of Ormond Beach.

Below are specific Goals, Objectives, and Policies that are applicable to this application:

GOAL 1 Future Land Use Element	FUTURE DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHOULD BE DIRECTED IN APPROPRIATE AREAS AS DEPICTED ON THE FUTURE LAND USE MAP TO MEET THE LAND USE NEEDS OF THE ANTICIPATED POPULATION, IN A MANNER CONSISTENT WITH SOUND PLANNING PRINCIPLES, THE GOALS, OBJECTIVES AND POLICIES CONTAINED HEREIN, AND THE DESIRED COMMUNITY CHARACTER. THE FUTURE LAND USE PLAN ELEMENT SHOULD ALLOW LIMITED COMMERCIAL EXPANSION, PROMOTE INDUSTRIAL USE, AND MAINTAIN CURRENT RESIDENTIAL DENSITIES IN THE CORE AREA WHILE ESTABLISHING LOWER DENSITIES IN THE PERIMETER AREAS, FOCUSING REDEVELOPMENT IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA, US1, AND SRA1A, AND PROVIDING FOR A CONTINUED HIGH LEVEL OF OPEN SPACE. SPECIFIC GOALS AND POLICIES ARE LISTED BELOW FOR EACH TYPE OF LAND USE. FUTURE GROWTH SHALL BE TIMED AND LOCATED TO MAXIMIZE EXISTING PUBLIC INFRASTRUCTURE.
OBJECTIVE 1.2. COMMERCIAL LAND USE Future Land Use Element	Ensure that adequate amounts of land are available to meet the commercial land use needs of the community.

GOAL 5 Annexation Future Land Use Element	THE CITY PROVIDES UTILITY SERVICE BEYOND IT'S MUNICIPAL LIMITS AND SHALL REQUIRE THAT ANY CONNECTION TO THE CITY UTILITIY SYSTEM EITHER ANNEX INTO THE CITY OR ENTER INTO AN ANNEXATION AGREEMENT IF NOT CONTIGIOUS FOR UTILITY SERVICE.
Policy 5.1.1. Future Land Use Element	Properties that are annexed into the City of Ormond Beach shall be assigned a similar land use that existed in Volusia County. Property owners may apply for more intensive land uses, but shall be required to provide the data and analysis to justify the increase in density and/or intensity.

2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

COMPREHENSIVE PLAN

Amendment of adopted comprehensive plan:

In accordance with Chapter 163.31879(c), Florida Statutes 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. A small-scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is approximately 0.76 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is approximately 23 acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the

proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Surrounding Properties

	Current Land Uses	Future Land Use Designation	Zoning
North	I-95	N/A	N/A
South	Waffle House and Vacant Gas Station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant Gas Station and Wendy's	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Vacant Gas Station	Volusia County "Commercial"	N/A Volusia County B-6 (Highway Interchange Commercial)

The property is located along the North US Highway 1 corridor in close proximity to Interstate I-95 and a fast food restaurant is a typical use along a major interchange. The Volusia County land use in this area is "Commercial" which allows a variety of uses. The future land use of "Low Intensity Commercial" is an appropriate use of land.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the project was originally approved by Volusia County as a Fruit Store and Gas Station and the land use amendment is the result of annexation. For the infrastructure analysis, staff shall use the Gas station designation.

Transportation:

The subject property currently operates as a fruit store (1,080 s.f.) and gas station with 8 fueling positions. Based on a trip generation rate using Land Code #945 (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the gas station generates approximately 573 average daily trips which include 56% pass-by trips (Volusia County Roadway Impact Fee Update Technical Memorandum dated September 25, 2003). Based on a trip generation rate for Retail: Less than 10,000 sf, the fruit store generates approximately 80 average daily trips which includes 52% pass-by trips (Volusia County Roadway Impact Fee Update Technical Memorandum dated September 25, 2003). The total average daily trips for both uses equal 653. The land use amendment shall not impact the trip generation rate of the existing use. If the site expands in the future, a concurrency analysis will be required at that time.

Water and Sewer: The site is served with existing City utilities and the land use amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The site was constructed prior to current stormwater regulations and any major site modifications would require a stormwater review.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

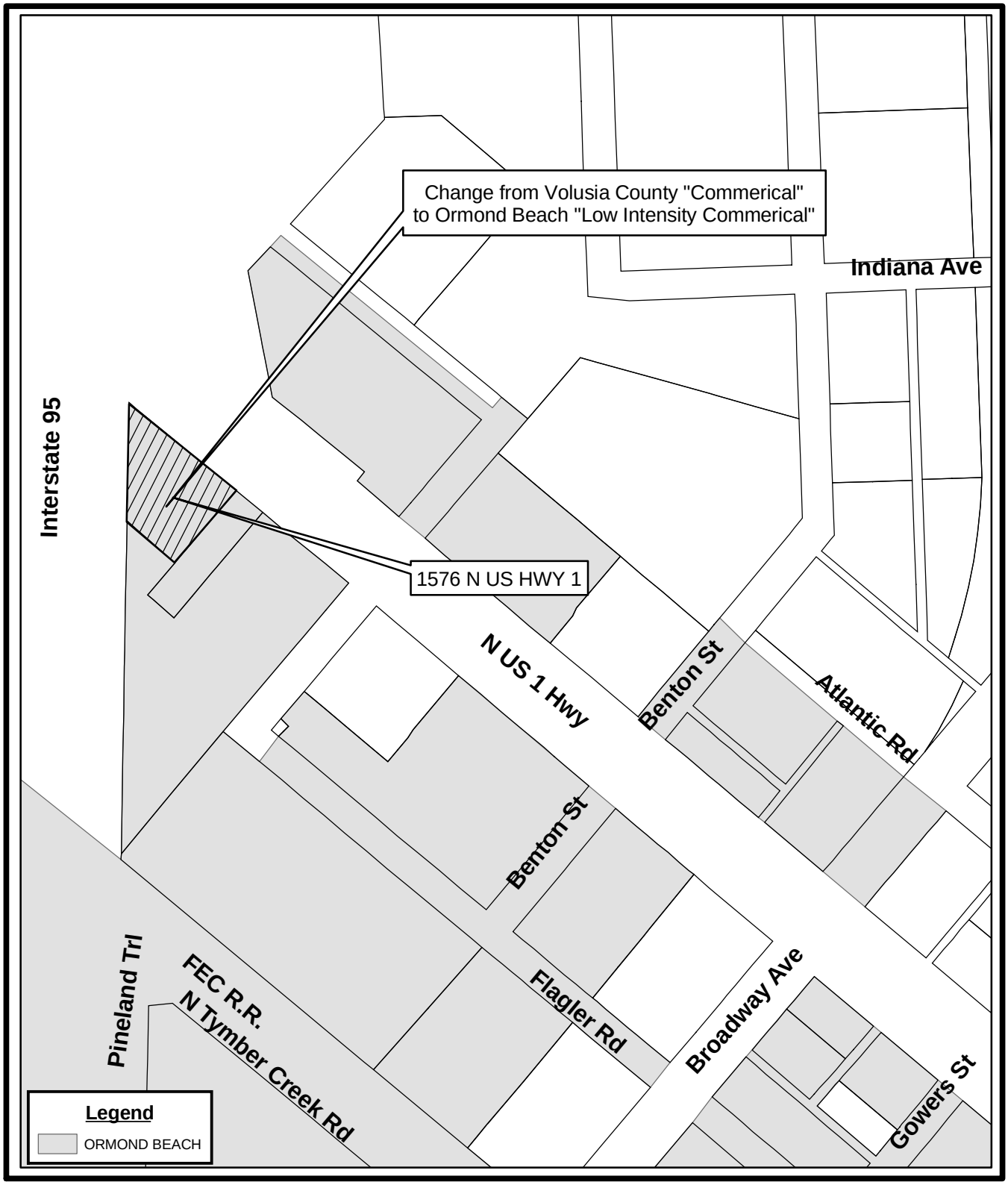
It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 meetings. The land use application is the result of annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;
2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and
5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for approximately 0.76 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low intensity Commercial" at 1576 North US Highway 1.

EXHIBIT 1

Future Land Use Maps



LAND USE AMENDMENT MAP
1576 N US HWY 1 (3136-01-63-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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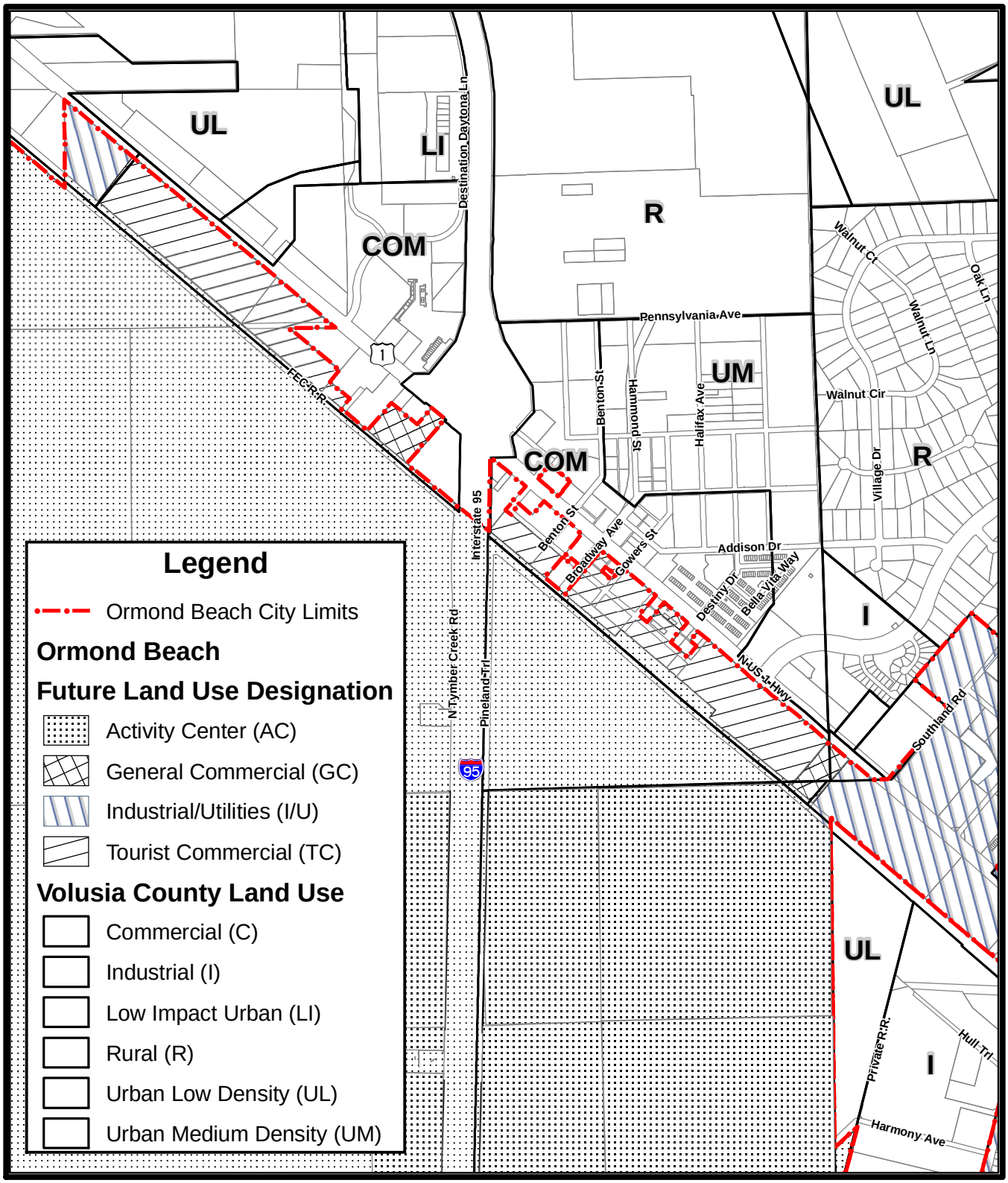

FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

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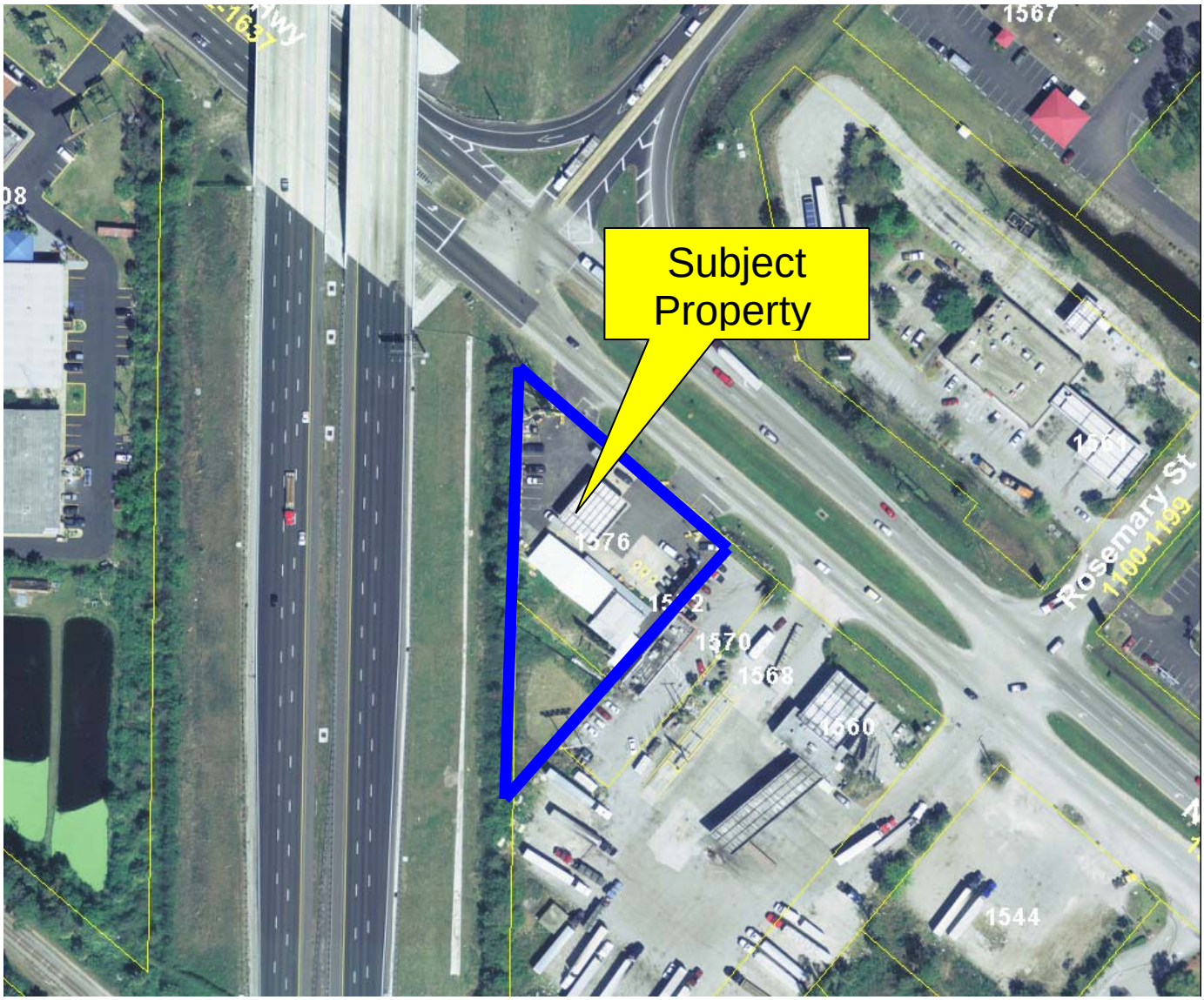
EXHIBIT 2

Photo, Location Aerial, and Utilities Map

1576 N. US Highway 1 – Sunoco and Fruit Store

April 29, 2011



LOCATION MAP -SUNOCO & FRUIT STAND

1576 North US1

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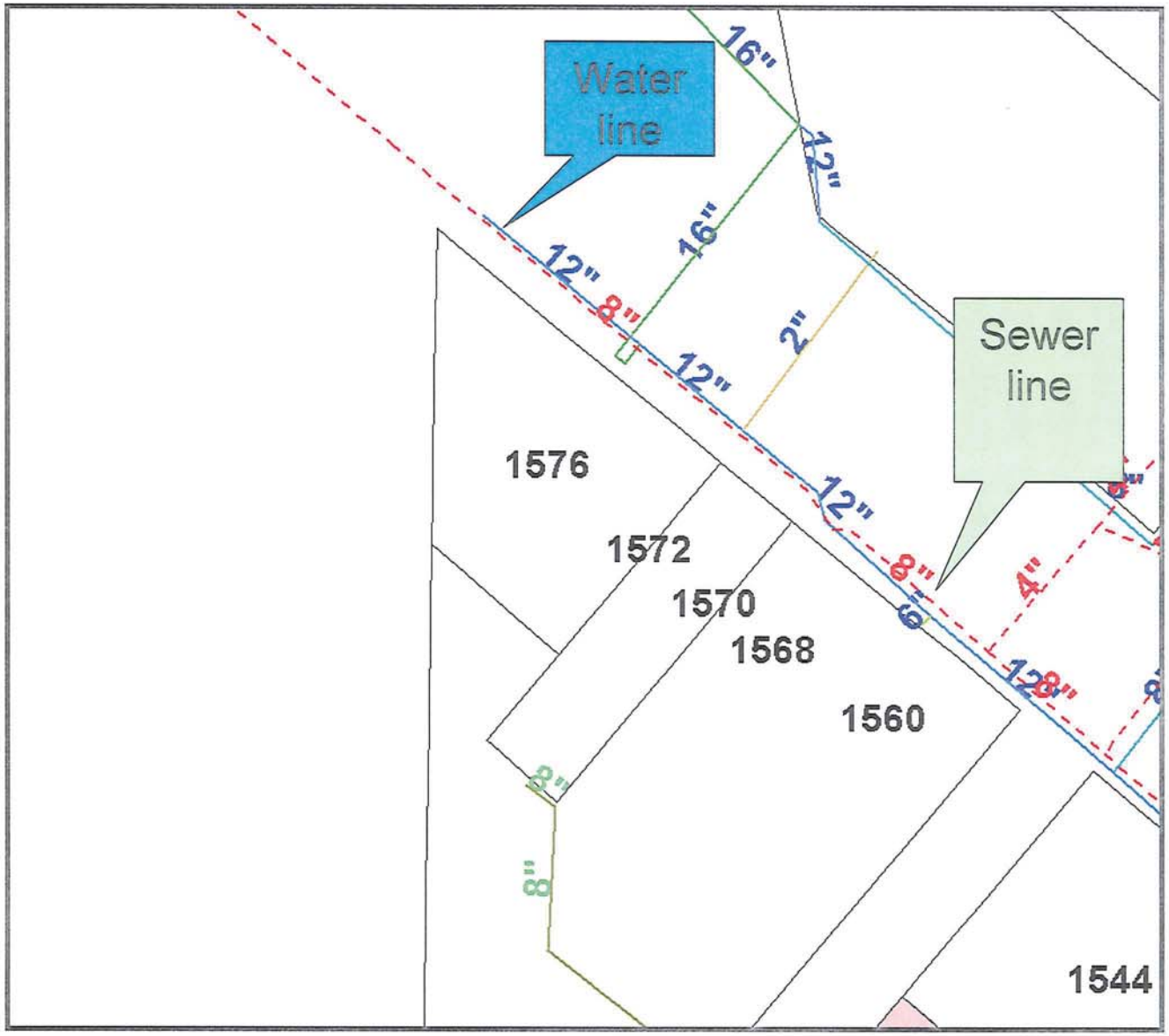


UTILITIES MAP -SUNOCO & FRUIT STORE

1576 North US1

N W E S

EXHIBIT 3

Legal Description

LEGAL DESCRIPTION

A PORTION OF BLOCK 63, NATIONAL GARDENS, AS PER MAP OR PLAT THEROF AS RECORDED IN MAP BOOK 10, PAGES 250–253, INCLUSIVE, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF A 300 FOOT RIGHT OF WAY OF US I–95, AS NOW LAID OUT AND ESTABLISHED, WITH THE SOUTHWESTERLY LINE OF THE 160 FOOT RIGHT OF WAY OF US HIGHWAY NO. 1 AS NOW OCCUPIED AND ESTABLISHED; S 49° 55' 20" E, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE A DISTANCE OF 260.00 FEET; THENCE S 40° 04' 40" W, 175.00 FEET; THENCE N 49° 55' 20" W, 118.27 FEET TO THE EAST RIGHT OF WAY LINE OF SAID I–95; THENCE WITH SAID RIGHT OF WAY LINE N 01° 04' 28" E, 225.19 FEET TO THE POINT OF BEGINNING.

CONTAINING 33098.03 SQ. FT. OR 0.76 ACRES MORE OR LESS

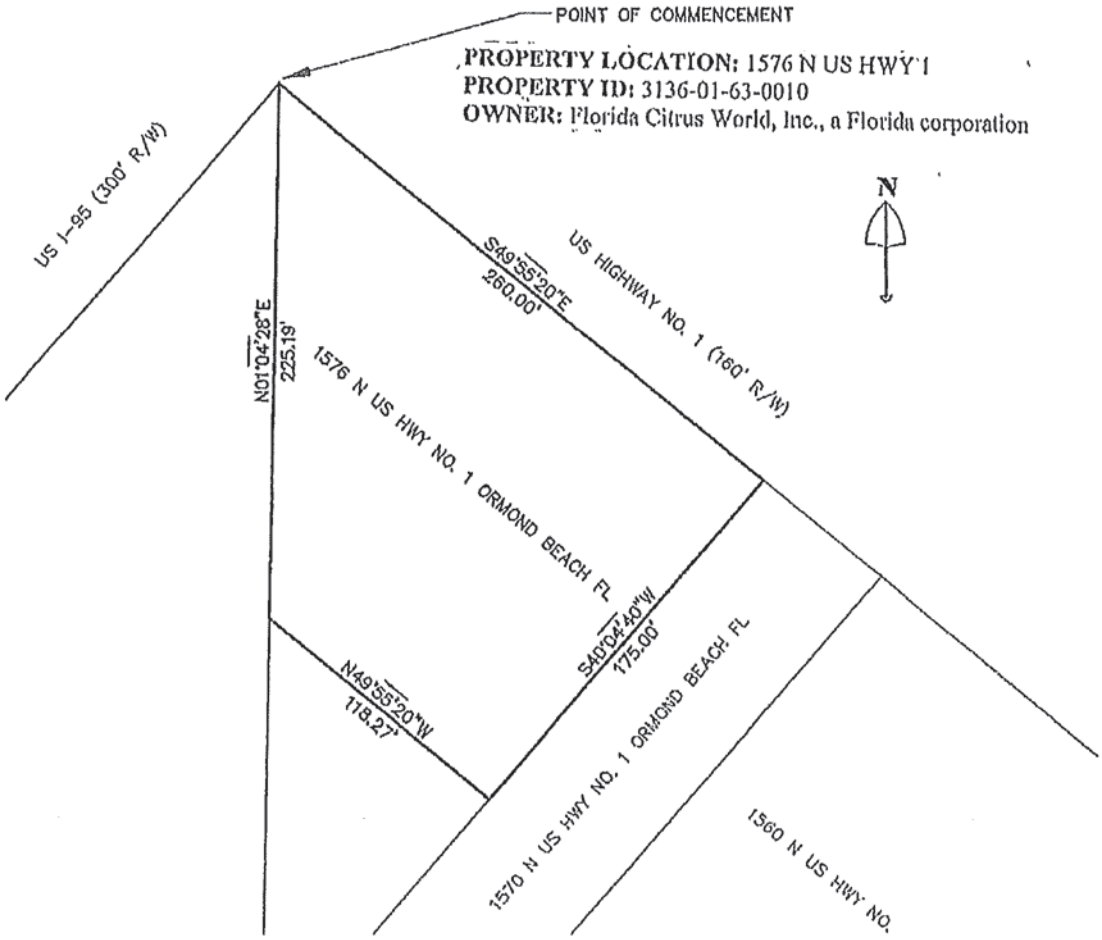


EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

Dear Mr. Spraker:

The school district has had the opportunity to review, for potential impacts, the ten (10) properties recently annexed by the city. Currently the subject properties, as evidenced by the property appraiser information, support various nonresidential uses.

The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: RaceTrac Gas Station, 1521 North US Highway 1
Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-043

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for a ±2.16 acre parcel from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1521 North Highway US 1, RaceTrac gas station, as a result of recent annexation (Exhibit 1).

BACKGROUND:

The property at 1521 North US1 is owned by RaceTrac which operates a convenience store with gasoline sales. The site plan (Exhibit 2) was approved by Volusia County in 1999 (DRC 98-F-FSP-0324) and they connected to City utilities. The property was annexed on March 21, 2011 with Ordinance 2011-10 (See Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project. City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. Subsequent to Planning Board review, the amendment will be submitted to the Volusia County Growth Management Commission for review, followed by review by the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

The Volusia County Comprehensive Plan states the following for the "Commercial" land use category:

> This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent

residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.

Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

City staff is requesting an amendment to the City's "Low Intensity Commercial" land use category. The Future Land Use Element of the City's Comprehensive Plan states the following for the "Low Intensity Commercial" category:

"A multi-use land use category to depict those areas of the city that are now developed, or appropriate to be developed, for retail, office and professional services, and restaurants consistent with the surrounding uses, transportation facilities and natural resource characteristics of such areas. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.

Density: Maximum 10 units per acre.

Maximum FAR: 0.6."

ANALYSIS:

The proposed land use amendment seeks to change the land use designation of the subject property from unincorporated Volusia County to the City of Ormond Beach on the future land use map. The existing use is consistent with the both the existing County land use and the proposed City land use designation.

Policy 2.5.2. of the Future Land Use Element of the City's Comprehensive Plan provides the review criteria for land use map amendments. The policy states:

"The following criteria shall be used in reviewing Comprehensive Plan amendments:

1. Consistency with the Goals, Objectives, and Policies of this Plan.
2. Consistency with state requirements, including 9J-5 and Florida Statutes requirements.
3. If the amendment is a map amendment, is the proposed change an appropriate use of land.
4. If the amendment is a map amendment, the impacts on the Level of Service of public infrastructure including schools, roadways, utilities, stormwater, and park and recreation facilities.

5. If the amendment is a map amendment, impacts to surrounding jurisdictions."

Staff's review of the criteria listed above is provided below:

1. Consistency with the Goals, Objectives, and Policies of this Plan.

The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive plan. It is important to note that the property's use is existing and no development changes are proposed. The City's Comprehensive Plan has five potential commercial land use categories as follows:

Category	Maximum Density (units per acre)	Maximum FAR (Floor Area Ratio)	Existing Areas
General Commercial	32	0.7	Nova Road, US1 (Nova Road to Wilmette Avenue)
Heavy Commercial	18	0.8	US1 (Granada Boulevard to Hand Avenue)
Tourist Commercial	32	1.5	South Atlantic Avenue, Interchange Boulevard (Granada Blvd and I-95) and US1 and I-95
Office/Professional	15	0.5	Granada Boulevard
Low Intensity Commercial	10	0.6	New land use category

The existing County land use allows a 0.55 FAR. This area of North US Highway 1 is in close proximity to I-95 and is not appropriate for office style uses allowed in the "Office Professional" land use category or the automotive sales and repair style uses permitted in the "Heavy Commercial" land use category. Given the location and size of the subject property as well as the adjacent land uses, the "Tourist Commercial" and "Commercial" land uses were also examined as possible designation options. However, those land use categories were identified as having relatively higher densities and intensities and it is staff's intention to apply a similar land use. It was determined that the "Low Intensity Commercial" was the most suitable designation because it is the least intense City floor area ratio available. Finally, the "Low Intensity Commercial" land use designation was created during the EAR-based

amendments in an effort to avert causing a large scale amendment to the Comprehensive Plan. The "Low Intensity Commercial" is the most similar land use category available within the City of Ormond Beach.

Below are specific Goals, Objectives, and Policies that are applicable to this application:

GOAL 1 Future Land Use Element	FUTURE DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHOULD BE DIRECTED IN APPROPRIATE AREAS AS DEPICTED ON THE FUTURE LAND USE MAP TO MEET THE LAND USE NEEDS OF THE ANTICIPATED POPULATION, IN A MANNER CONSISTENT WITH SOUND PLANNING PRINCIPLES, THE GOALS, OBJECTIVES AND POLICIES CONTAINED HEREIN, AND THE DESIRED COMMUNITY CHARACTER. THE FUTURE LAND USE PLAN ELEMENT SHOULD ALLOW LIMITED COMMERCIAL EXPANSION, PROMOTE INDUSTRIAL USE, AND MAINTAIN CURRENT RESIDENTIAL DENSITIES IN THE CORE AREA WHILE ESTABLISHING LOWER DENSITIES IN THE PERIMETER AREAS, FOCUSING REDEVELOPMENT IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA, US1, AND SRA1A, AND PROVIDING FOR A CONTINUED HIGH LEVEL OF OPEN SPACE. SPECIFIC GOALS AND POLICIES ARE LISTED BELOW FOR EACH TYPE OF LAND USE. FUTURE GROWTH SHALL BE TIMED AND LOCATED TO MAXIMIZE EXISTING PUBLIC INFRASTRUCTURE.
OBJECTIVE 1.2. COMMERCIAL LAND USE Future Land Use Element	Ensure that adequate amounts of land are available to meet the commercial land use needs of the community.
GOAL 5 Annexation Future Land Use Element	THE CITY PROVIDES UTILITY SERVICE BEYOND IT'S MUNICIPAL LIMITS AND SHALL REQUIRE THAT ANY CONNECTION TO THE CITY UTILITIY SYSTEM EITHER ANNEX INTO THE CITY OR ENTER INTO AN ANNEXATION AGREEMENT IF NOT CONTIGIOUS FOR UTILITY SERVICE.

Policy 5.1.1. Future Land Use Element	Properties that are annexed into the City of Ormond Beach shall be assigned a similar land use that existed in Volusia County. Property owners may apply for more intensive land uses, but shall be required to provide the data and analysis to justify the increase in density and/or intensity.

2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

COMPREHENSIVE PLAN

Amendment of adopted comprehensive plan:

In accordance with Chapter 163.31879(c), Florida Statutes 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. A small-scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is ±2.16 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is ±23 acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as

defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Adjacent Property

	Current Land Uses	Future Land Use Designation	Zoning
North	Vacant Gas Station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	Vacant Land	Volusia County "Commercial"	Volusia County B-4 (General Commercial)
East	Vacant Land	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	The Pantry Gas Station & Tee Time Golf Carts	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

The subject property is located along the North US Highway 1 corridor in close proximity to Interstate I-95. The use was approved with the Volusia County and is an existing gas station with a convenience store.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the site development has occurred in Volusia County and the land use amendment is the result of annexation.

Transportation:

The subject property has eight existing fuel pump dispensers associated with the convenience store. Based on the ITE rate of category #945, the site generates today 1,302 average daily trips with 56% being pass-by trips. The land use amendment shall not impact the trip generation rate of the existing use. If the site were to expand in the future a concurrency analysis would occur at that time.

Water and Sewer: The site is served with existing City utilities and the land use maps amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The site was constructed prior to current stormwater regulations and any major site modifications would require a stormwater review.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 public meetings. The land use application is the result of annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;
2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and
5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for ±2.16 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low intensity Commercial" at 1521 North US Highway 1, known as RaceTrac gas station.

Attachments:

Exhibit 1: Zoning Map

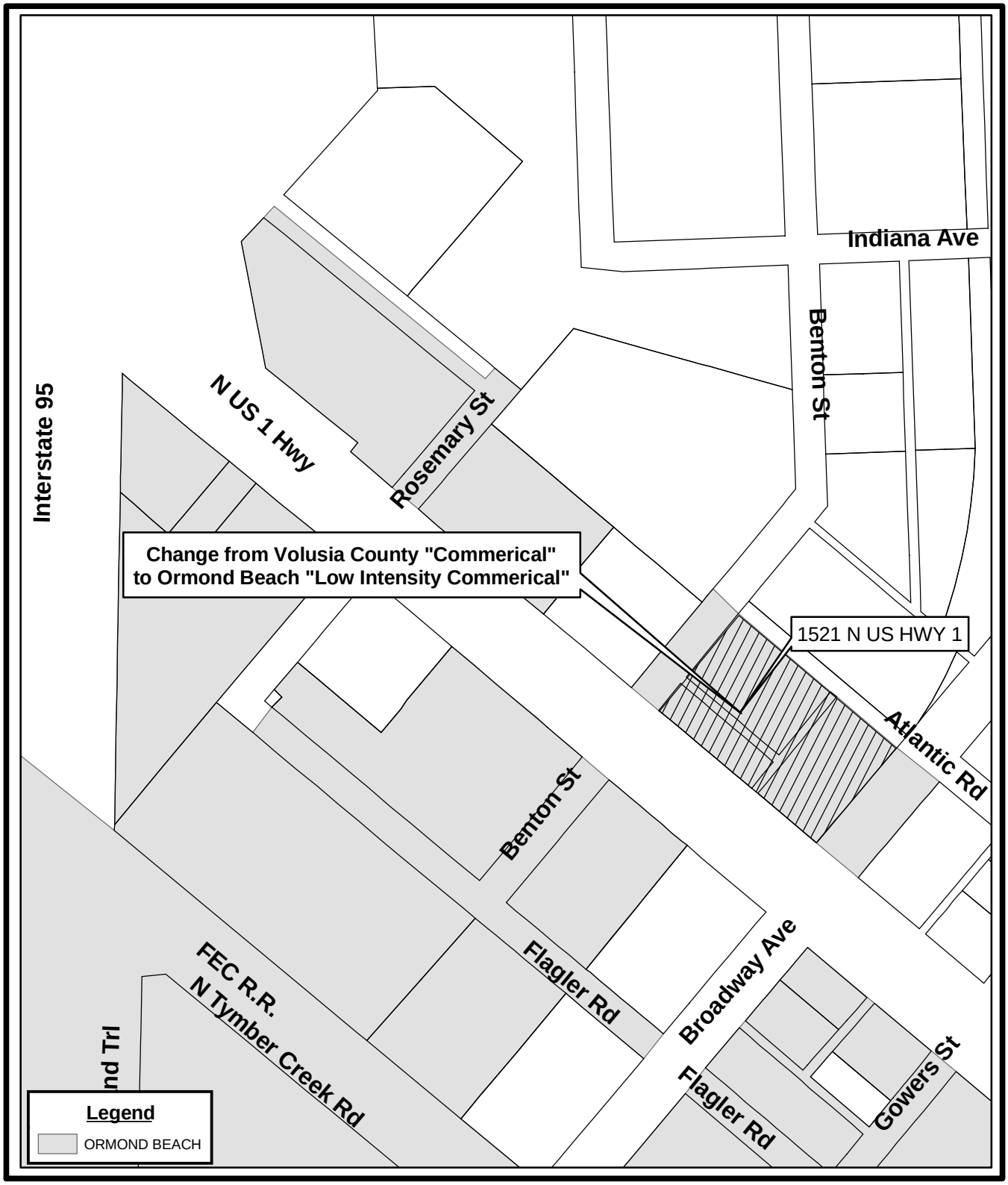
Exhibit 2: Photo, Site Plan and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Future Land Use Maps



LAND USE AMENDMENT MAP
1521 N US HWY 1 (3136-01-37-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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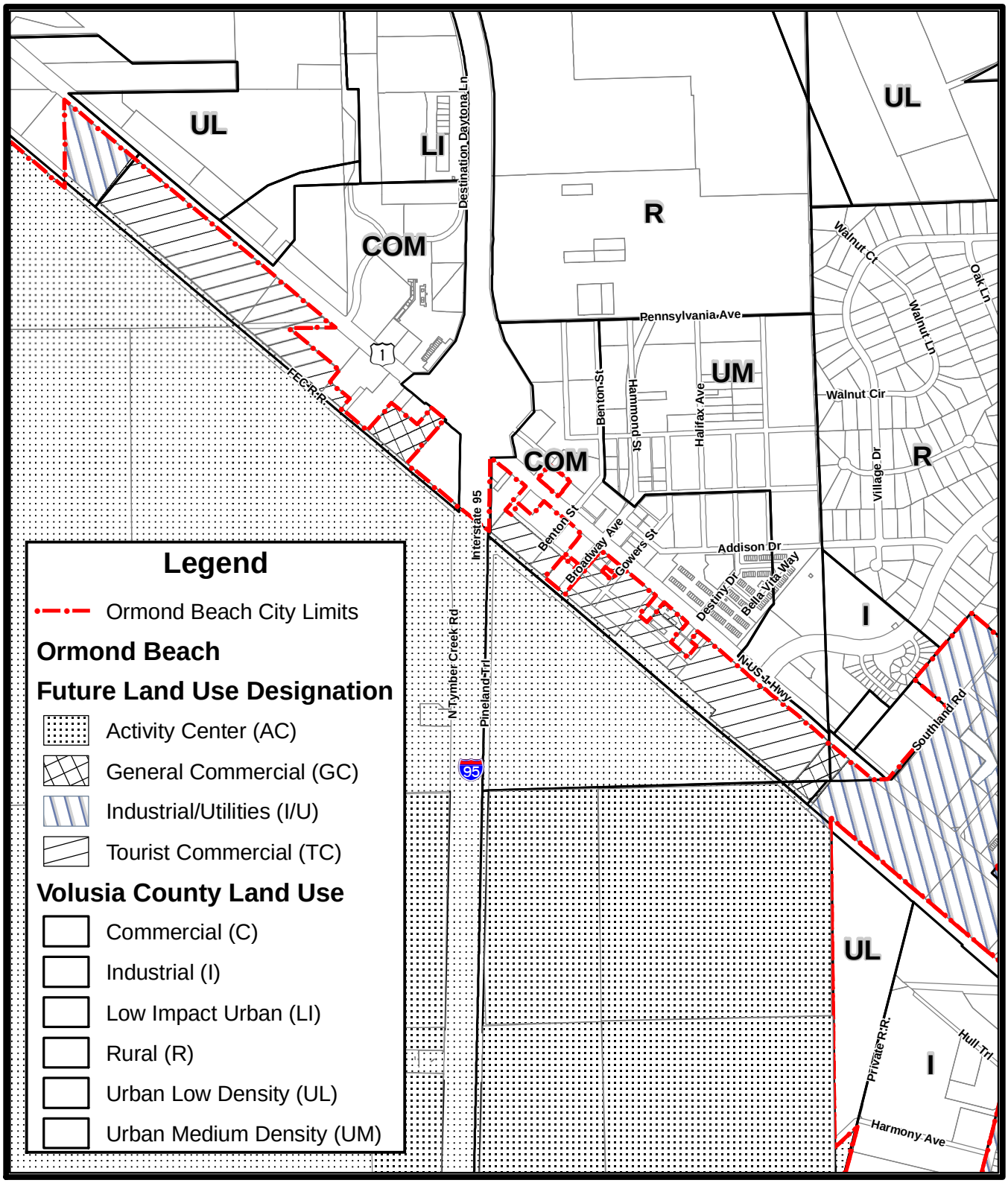

FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

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EXHIBIT 2

Photo and Location Aerial

Race Trac at 1521 North US1

NO.	REVISION	DATE
8	REVISED BENTON ST. TAPERS AND ADDED SW TO BENTON ST.	6/22/99
9	REVISED AS PER RACETRAC'S COMMENTS	10/04/99
10	CLIENT REVISIONS	3/22/00
11	CLIENT REVISIONS	5/19/00
12	CLIENT REVISIONS	7/14/00
12	CLIENT REVISIONS	7/15/01
13	AS-BUILT INFORMATION	6/11/01

NO.	REVISION	DATE
1	REVISED DRAINAGE STRUCTURE LOCATIONS	9/11/98
2	ADDED TREE PROTECTION AREA AND MODIFED POND MAINTENANCE BERM	10/1/98
3	ADDED STS 3A, 157 LF OF 8" PVC PER SJRWMD COMMENTS	10/5/98
4	PERMIT & BUILDING REVISIONS	10/28/98
5	MODIFIED S/W AND ADDED 6" PVC UNDER S/W	12/02/98
6	REVISED SITE PLAN AND REVISED PER V.C. COMMENTS	12/02/98
7	GENERAL REVISIONS TO BENTON ST. ADDED TRAFFIC SEPARATORS, REVISED BOUNDARY SURVEY & LEGAL DESCRIPTION. ADDED CLEANOUTS TO PROP. 10" PVC DRAINAGE PIPE.	5/11/99

PROJ. NO. 98018
DATE JUNE 1998
SCALE 1" = 20'
P.M. T.C.L. CKD. T.C.L.
DESIGNER T.A.A. APPROVED R.J.L.

SCALE: 1" = 20'

EXIST. UTILITIES:

WATER:
CITY OF ORMOND BEACH PUBLIC UTILITIES
501 NORTH ORCHARD STREET
ORMOND BEACH, FLORIDA 32174

SEWER:
CITY OF ORMOND BEACH PUBLIC UTILITIES
501 NORTH ORCHARD STREET
ORMOND BEACH, FLORIDA 32174

ELECTRICITY:
FLORIDA POWER & LIGHT
3000 SPRUCECREEK RD.
PORT ORANGE, FL 32119

TELEPHONE:
FLUOR DANIEL
500 N. ORANGE AVE.
ROOM 365
ORLANDO, FL 32801

OUTLINE OF TREE PROTECTION AREA

NOTES:

1. THE LOCATIONS OF THE UTILITIES SHOWN IN THE PLANS ARE APPROXIMATE ONLY. THE EXACT LOCATION SHALL BE DETERMINED BY THE CONTRACTOR BEFORE ANY CONSTRUCTION EFFORT.
2. PRIOR TO THE START OF ANY CONSTRUCTION, THE CONTRACTOR SHALL FIELD VERIFY LOCATIONS OF ALL EXISTING FEATURES THAT COULD AFFECT HIS OPERATIONS. CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF ANY DISCREPANCIES FOUND BETWEEN THESE PLANS AND FIELD CONDITIONS PRIOR TO CONSTRUCTION.
3. MINIMUM OF 36" COVER SHALL BE PROVIDED OVER PROPOSED WATER MAINS AND FORCE MAINS.
4. VERTICAL SEPARATION OF 18 INCHES AND HORIZONTAL SEPARATION OF 10 FEET MUST BE MAINTAINED AT ALL WATER MAIN, SANITARY SEWER AND STORM CROSSINGS. IF MINIMUM SEPARATIONS ARE NOT MAINTAINED, DUCTILE IRON PIPE LENGTHS, CONCRETE ENCASEMENT OR ALTERNATE SOLUTIONS ACCORDING TO "RECOMMENDED STANDARDS FOR WATER WORKS" SHALL BE SPECIFIED.

RECORD DRAWING

THIS IS TO CERTIFY THAT THE PROJECT HAS BEEN SUBSTANTIALLY COMPLETED IN ACCORDANCE WITH APPROVED PLANS AND SPECIFICATIONS.

SIGNATURE DATE 7/26/01

RaceTrac
FOR
RaceTrac PETROLEUM, INC.
VOLUSIA COUNTY FLORIDA

UNDERGROUND UTILITIES PLAN

LOCHRANE
ENGINEERS • SURVEYORS
PH: (407) 896-3317 FAX: (407) 896-9167 EMAIL: WWW.LOCHRANE.COM

SHEET P5

RACE TRAC V51

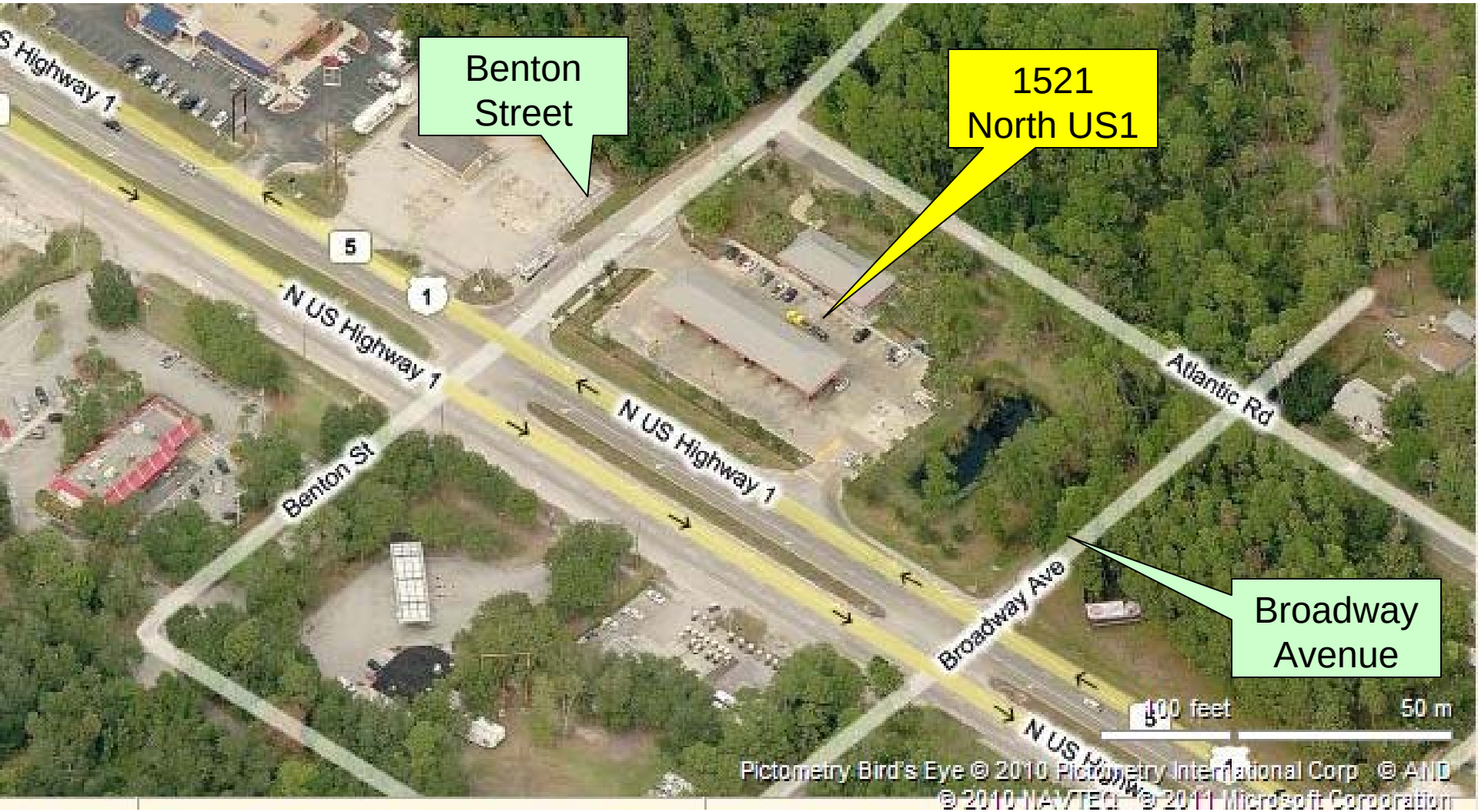
Benton Street
1521 North US1
Broadway Avenue
S Highway 1
N US Highway 1
N US Highway 1
Benton St
Broadway Ave
Atlantic Rd
N US Highway
5
1
100 feet
50 m
Pictometry Bird's Eye © 2010 Pictometry International Corp. © AND
© 2010 NAVTEQ © 2011 Microsoft Corporation

EXHIBIT 3

Legal Description

OWNER: RACETRAC PETROLEUM, INC. **PARCEL ID:** 3136-01-37-0010
ADDRESS: 1521 N US HWY 1 ORMOND BEACH, FL

ALL OF BLOCK 37, NATIONAL GARDENS SUBDIVISION AS RECORDED IN MAP BOOK 10, PAGES 250–253, INCLUDING THE ALLEYS LOCATED IN BLOCK 37 AND VACATED PER OFFICIAL RECORDS BOOK 697 PAGES 138–155 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. LESS RIGHT–OF–WAY TAKEN FOR U.S. 1 (160' RIGHT OF WAY / VOLUSIA ROAD – PLAT) PER STATE OF FLORIDA STATE ROAD DEPARTMENT RIGHT OF WAY MAPS, MAP SECTION NO. 7903–175, BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF THE AFORESAID U.S. #1 AND THE SOUTH RIGHT OF WAY LINE OF BENTON STREET (50' R/W), SAID LINE ALSO BEING THE NORTH LINE OF THE AFORESAID BLOCK 37; THENCE N40°04'59"E ALONG THE AFORESAID SOUTH RIGHT OF WAY LINE OF BENTON STREET A DISTANCE OF 234.65 FEET TO AN INTERSECTION WITH THE WEST RIGHT OF WAY LINE OF ATLANTIC ROAD (60' R/W), SAID LINE ALSO BEING THE EAST LINE OF BLOCK 37; THENCE DEPARTING THE AFORESAID SOUTH RIGHT OF WAY LINE OF BENTON STREET RUN S49°58'31"E ALONG AFORESAID WEST RIGHT OF WAY LINE OF ATLANTIC ROAD A DISTANCE OF 400.19 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF BROADWAY (100' R/W), SAID LINE ALSO BEING THE SOUTH LINE OF THE AFORESAID BLOCK 37; THENCE DEPARTING THE AFORESAID EAST RIGHT OF WAY LINE OF ATLANTIC ROAD RUN S40°02'06"W ALONG THE AFORESAID NORTH RIGHT OF WAY LINE OF BROADWAY A DISTANCE OF 235.05 FEET TO AN INTERSECTION WITH THE AFORESAID EAST RIGHT OF WAY LINE OF U.S. # 1; THENCE DEPARTING THE AFORESAID NORTH RIGHT OF WAY LINE OF BROADWAY RUN N49°55'00"W ALONG THE AFORESAID EAST RIGHT OF WAY LINE OF U.S. #1 A DISTANCE OF 400.39 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 94,005 SQUARE FEET OR 2.16 ACRES MORE OR LESS

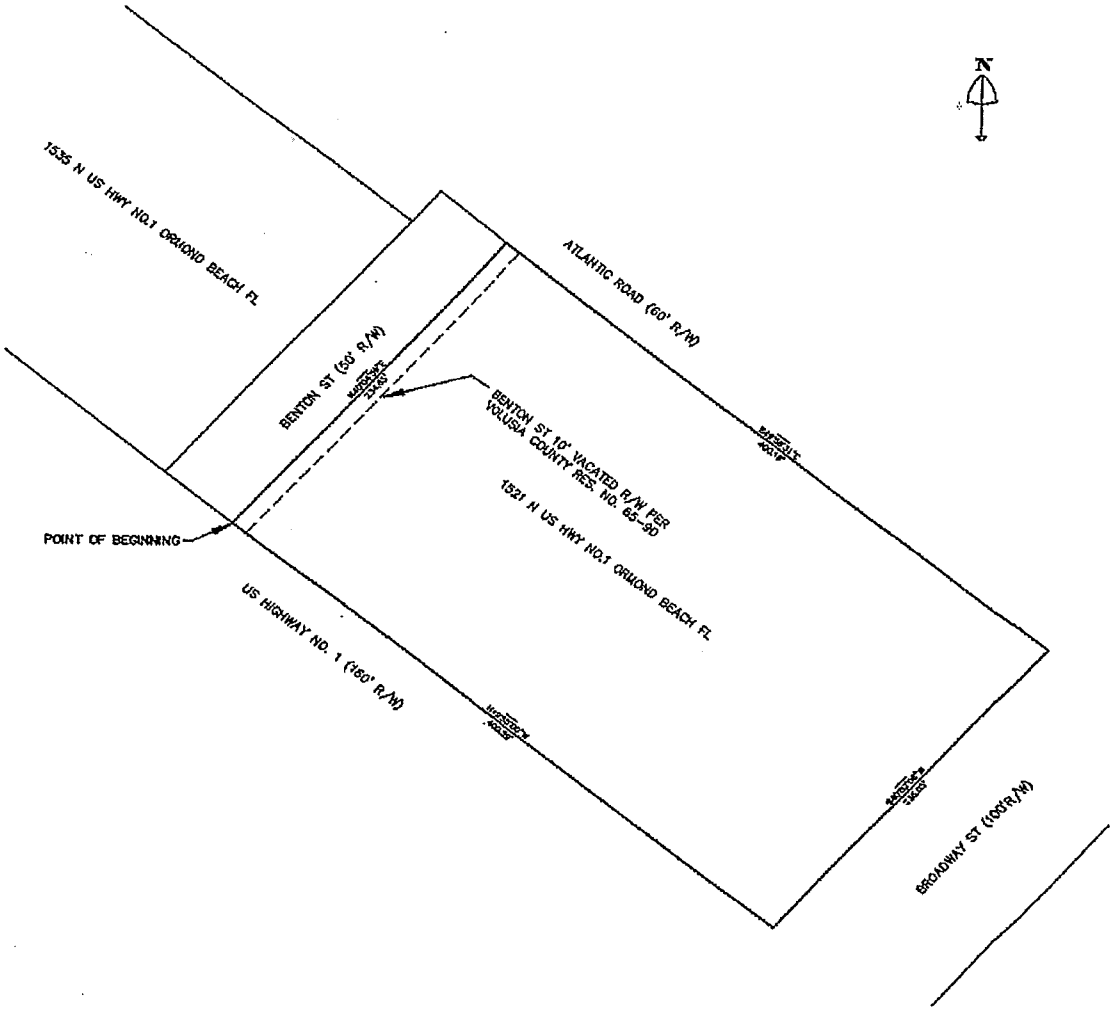

EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

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The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Cheaters Gentlemen's Club, 1545 North US Highway 1
Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-047

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for a ±1.42 acre parcel from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1545 North US Highway 1, Cheaters Gentlemen's Club, as a result of recent annexation (Exhibit 1).

BACKGROUND:

The property at 1545 North US Highway 1 is the existing Cheaters Gentlemen's Club. The property was annexed on October 5, 2011 with Ordinance 2010-46 (See Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project and an annexation agreement (See Exhibit 2 for site plan). In November 2010, the city issued a Business Tax Receipt for a nightclub/bar use consistent with the Volusia County land use and zoning categories. City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. Subsequent to Planning Board review, the amendment will be submitted to the Volusia County Growth Management Commission for review, followed by review by the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

The Volusia County Comprehensive Plan states the following for the "Commercial" land use category:

> This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent

> residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.
>
> Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

City staff is requesting an amendment to the City's "Low Intensity Commercial" land use category. The Future Land Use Element of the City's Comprehensive Plan states the following for the "Low Intensity Commercial" category:

> "A multi-use land use category to depict those areas of the city that are now developed, or appropriate to be developed, for retail, office and professional services, and restaurants consistent with the surrounding uses, transportation facilities and natural resource characteristics of such areas. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.
>
> Density: Maximum 10 units per acre.
>
> Maximum FAR: 0.6."

ANALYSIS:

The proposed land use amendment seeks to change the land use designation of the subject property from unincorporated Volusia County to the City of Ormond Beach on the future land use map. The existing use is consistent with the both the existing County land use and the proposed City land use designation.

Policy 2.5.2. of the Future Land Use Element of the City's Comprehensive Plan provides the review criteria for land use map amendments. The policy states:

> "The following criteria shall be used in reviewing Comprehensive Plan amendments:

1. Consistency with the Goals, Objectives, and Policies of this Plan.
2. Consistency with state requirements, including 9J-5 and Florida Statutes requirements.
3. If the amendment is a map amendment, is the proposed change an appropriate use of land.
4. If the amendment is a map amendment, the impacts on the Level of Service of public infrastructure including schools, roadways, utilities, stormwater, and park and recreation facilities.

5. If the amendment is a map amendment, impacts to surrounding jurisdictions."

Staff's review of the criteria listed above is provided below:

1. Consistency with the Goals, Objectives, and Policies of this Plan.

The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive plan. It is important to note that the property's use is existing and no development changes are proposed. The City's Comprehensive Plan has five potential commercial land use categories as follows:

Category	Maximum Density (units per acre)	Maximum FAR (Floor Area Ratio)	Existing Areas
General Commercial	32	0.7	Nova Road, US1 (Nova Road to Wilmette Avenue)
Heavy Commercial	18	0.8	US1 (Granada Boulevard to Hand Avenue)
Tourist Commercial	32	1.5	South Atlantic Avenue, Interchange Boulevard (Granada Blvd and I-95) and US1 and I-95
Office/Professional	15	0.5	Granada Boulevard
Low Intensity Commercial	10	0.6	New land use category

The existing County land use allows a 0.55 FAR. This area of North US Highway 1 is in close proximity to I-95 and is not appropriate for office style uses allowed in the "Office Professional" land use category or the automotive sales and repair style uses permitted in the "Heavy Commercial" land use category. Given the location and size of the subject property as well as the adjacent land uses, the "Tourist Commercial" and "Commercial" land uses were also examined as possible designation options. However, those land use categories were identified as having relatively higher densities and intensities and it is staff's intention to apply a similar land use. It was determined that the "Low Intensity Commercial" was the most suitable designation because it is the least intense City floor area ratio available. Finally, the "Low Intensity Commercial" land use designation was created during the EAR-based amendments in an effort to avert causing a large scale amendment to the

Comprehensive Plan. The "Low Intensity Commercial" is the most similar land use category available within the City of Ormond Beach.

Below are specific Goals, Objectives, and Policies that are applicable to this application:

GOAL 1 Future Land Use Element	FUTURE DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHOULD BE DIRECTED IN APPROPRIATE AREAS AS DEPICTED ON THE FUTURE LAND USE MAP TO MEET THE LAND USE NEEDS OF THE ANTICIPATED POPULATION, IN A MANNER CONSISTENT WITH SOUND PLANNING PRINCIPLES, THE GOALS, OBJECTIVES AND POLICIES CONTAINED HEREIN, AND THE DESIRED COMMUNITY CHARACTER. THE FUTURE LAND USE PLAN ELEMENT SHOULD ALLOW LIMITED COMMERCIAL EXPANSION, PROMOTE INDUSTRIAL USE, AND MAINTAIN CURRENT RESIDENTIAL DENSITIES IN THE CORE AREA WHILE ESTABLISHING LOWER DENSITIES IN THE PERIMETER AREAS, FOCUSING REDEVELOPMENT IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA, US1, AND SRA1A, AND PROVIDING FOR A CONTINUED HIGH LEVEL OF OPEN SPACE. SPECIFIC GOALS AND POLICIES ARE LISTED BELOW FOR EACH TYPE OF LAND USE. FUTURE GROWTH SHALL BE TIMED AND LOCATED TO MAXIMIZE EXISTING PUBLIC INFRASTRUCTURE.
OBJECTIVE 1.2. COMMERCIAL LAND USE Future Land Use Element	Ensure that adequate amounts of land are available to meet the commercial land use needs of the community.
GOAL 5 Annexation Future Land Use Element	THE CITY PROVIDES UTILITY SERVICE BEYOND IT'S MUNICIPAL LIMITS AND SHALL REQUIRE THAT ANY CONNECTION TO THE CITY UTILITIY SYSTEM EITHER ANNEX INTO THE CITY OR ENTER INTO AN ANNEXATION AGREEMENT IF NOT CONTIGIOUS FOR UTILITY SERVICE.

Policy 5.1.1. Future Land Use Element	Properties that are annexed into the City of Ormond Beach shall be assigned a similar land use that existed in Volusia County. Property owners may apply for more intensive land uses, but shall be required to provide the data and analysis to justify the increase in density and/or intensity.

2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

COMPREHENSIVE PLAN

Amendment of adopted comprehensive plan:

In accordance with Chapter 163.31879(c), Florida Statutes 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. A small-scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is ±1.42 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is ±23 acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as

defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Adjacent Property

	Current Land Uses	Future Land Use Designation	Zoning
North	Vacant Gas Station and Restaurant	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	Vacant Gas Station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Gas Station & McDonald's	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

The subject property is located along the North US Highway 1 corridor in close proximity to Interstate I-95. The existing use was approved with the Volusia County and is an existing use.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the site development has occurred in Volusia County and the land use amendment is the result of annexation.

Transportation: The subject property is developed with a building ±5,471 square feet in size. The use is existing and the land use amendment shall not impact the trip generation rate of the existing use. If the site were to expand in the future a concurrency analysis would occur at that time.

Water and Sewer: The site is served with existing City utilities and the land use maps amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The site was constructed prior to current stormwater regulations and any major site modifications would require a stormwater review.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 public meetings. The land use application is the result of annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;
2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and
5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for ±1.42 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low intensity Commercial" at 1545 North US Highway 1, known as Cheaters Gentlemen's Club.

Attachments:

Exhibit 1: Zoning Map

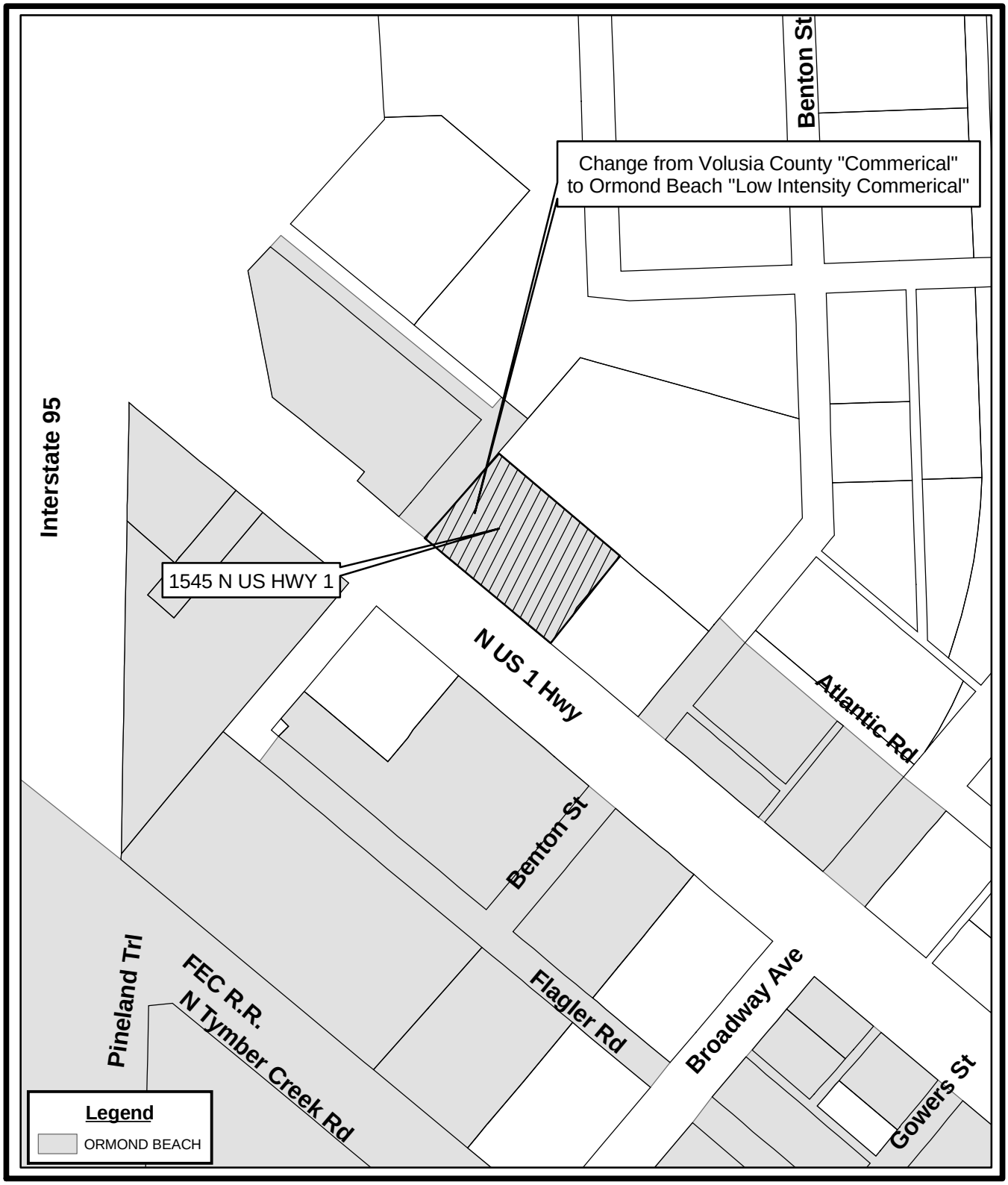
Exhibit 2: Photo, Site Plan and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Future Land Use Maps



LAND USE AMENDMENT MAP
1545 N US HWY 1 (3136-01-36-0020)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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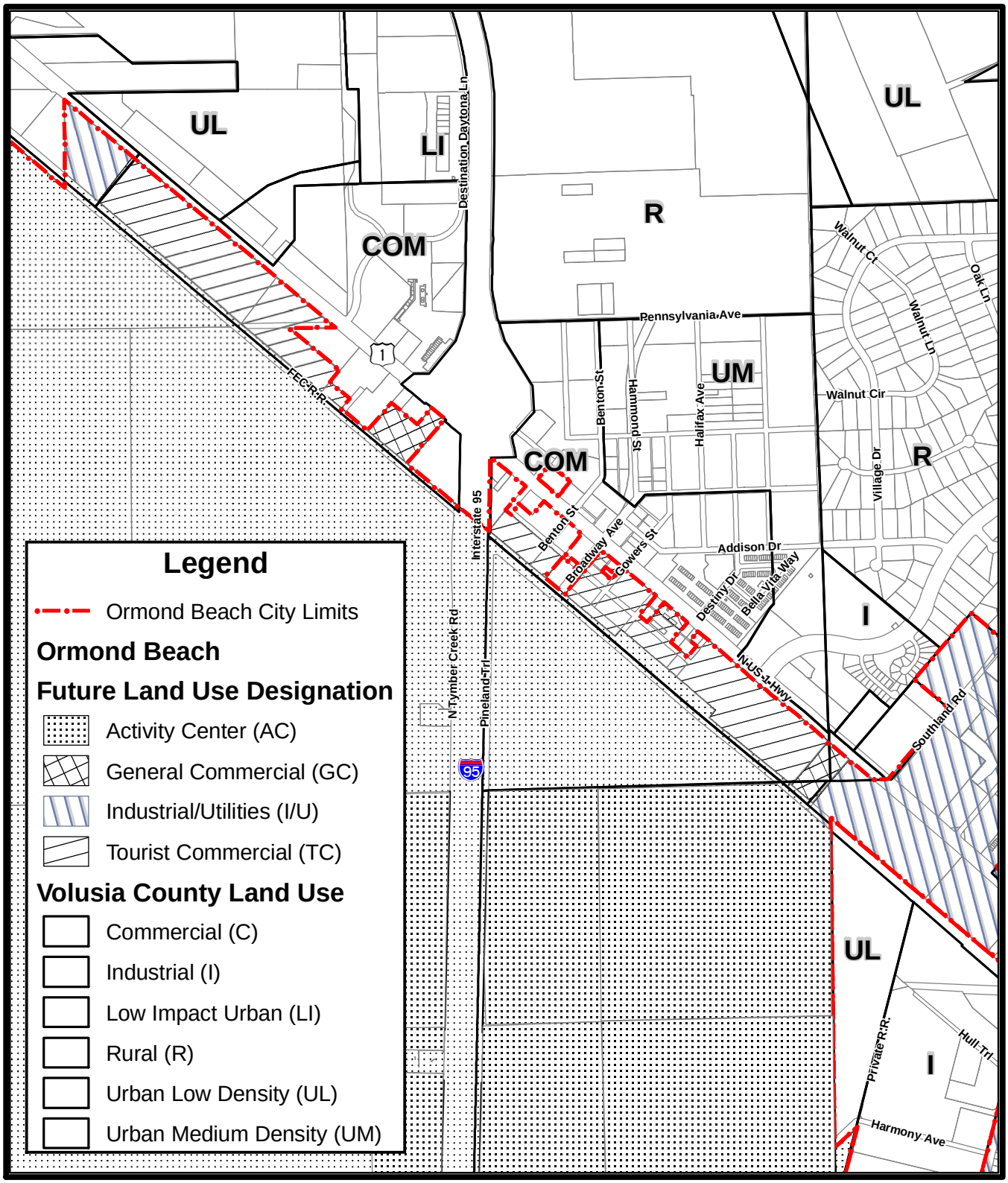

FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

N
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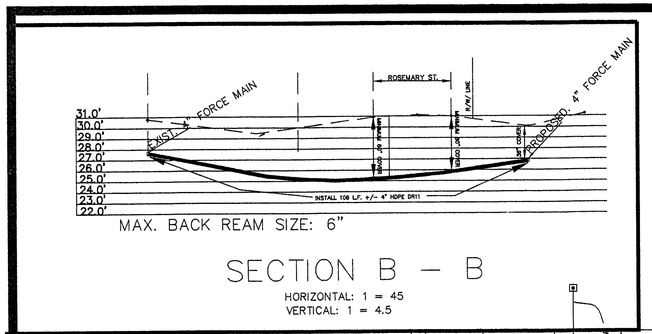
EXHIBIT 2

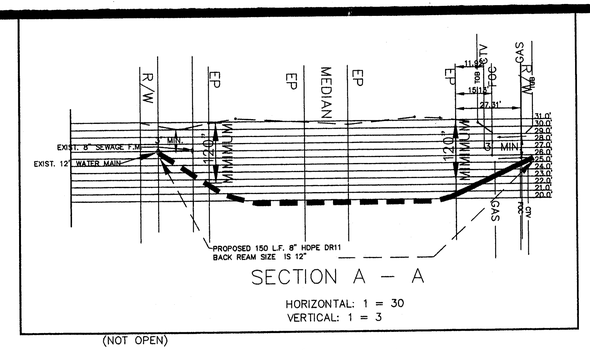
Photo and Location Aerial

CABARET
cheaters
Gentlemen's Club
HAPPY HOUR 12 TO 7
FIRST SHOT FREE
BEST DEAL IN TOWN



SECTION B – B

HORIZONTAL: 1 = 45
VERTICAL: 1 = 4.5



SECTION A – A

HORIZONTAL: 1 = 30
VERTICAL: 1 = 3

OWNER:
SADDLE JACK'S BAR & GRILL INC
1545 N. U.S. HIGHWAY 1
ORMOND BEACH, FL 32174

386 – 615 – 8511

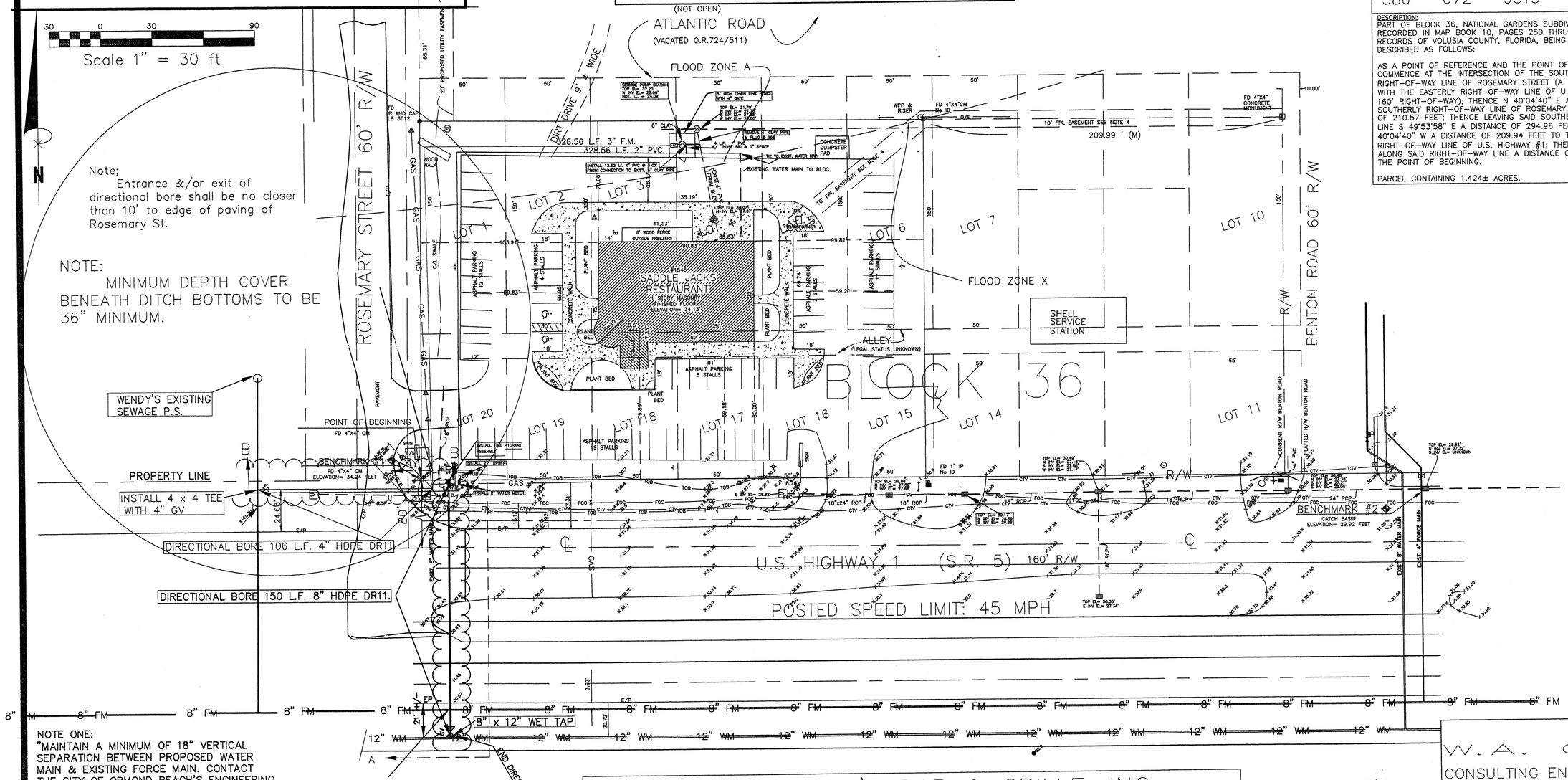
SURVEYOR:
UPHAM INC
265 KENILWORTH AVE
ORMOND BEACH, FL 32174

386 – 672 – 9515

DESCRIPTION:
PART OF BLOCK 36, NATIONAL GARDENS SUBDIVISION, AS PER PLAT RECORDED IN MAP BOOK 10, PAGES 250 THRU 253, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE AND THE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT–OF–WAY LINE OF ROSEMARY STREET (A 60' RIGHT–OF–WAY) WITH THE EASTERLY RIGHT–OF–WAY LINE OF U.S. HIGHWAY #1 (A 160' RIGHT–OF–WAY); THENCE N 40°04'40" E ALONG THE SOUTHERLY RIGHT–OF–WAY LINE OF ROSEMARY STREET A DISTANCE OF 210.57 FEET; THENCE LEAVING SAID SOUTHERLY RIGHT–OF–WAY LINE S 49°53'58" E A DISTANCE OF 294.96 FEET; THENCE S 40°04'40" W A DISTANCE OF 209.94 FEET TO THE EASTERLY RIGHT–OF–WAY LINE OF U.S. HIGHWAY #1; THENCE N 50°01'05" W ALONG SAID RIGHT–OF–WAY LINE A DISTANCE OF 294.96 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 1.424± ACRES.



Note;
Entrance &/or exit of directional bore shall be no closer than 10' to edge of paving of Rosemary St.

NOTE:
MINIMUM DEPTH COVER BENEATH DITCH BOTTOMS TO BE 36" MINIMUM.

NOTE ONE:
"MAINTAIN A MINIMUM OF 18" VERTICAL SEPARATION BETWEEN PROPOSED WATER MAIN & EXISTING FORCE MAIN. CONTACT THE CITY OF ORMOND BEACH'S ENGINEERING DIVISION @ 672–3269 TO REQUEST AN INSPECTION PRIOR TO START OF CONSTRUCTION"

NOTE TWO:
"ALL CONSTRUCTION WITHIN THE FDOT RIGHT–OF–WAY SHALL CONFORM TO THE LATEST EDITIONS OF THE FDOT DESIGN STANDARDS, THE FDOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION AND THE FDOT UTILITY ACCOMODATION MANUAL"

NOTE THREE:
IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION.

SADDLE JACK'S BAR & GRILLE, INC.
FDOT UTILITY PERMIT DWG.
DIRECTIONAL BORE 4" HDPE BENEATH ROSEMARY ST.
DIRECTIONAL BORE 8" HDPE BENEATH U.S. No. 1

W.A. Cross 02/02/07

REVISED: 02/02/07
SHEET 2/4

W. A. CROSS
CONSULTING ENGINEERING, INC.
CERTIFICATE OF AUTHORIZATION # 9250
P.O. BOX 5266
ORMOND BEACH, FL. 32175
(386) 672–3069

SADDLE JACK'S

LOCATION MAP

1545 North US1

EXHIBIT 3

Legal Description

EXHIBIT "A"

Part of Block 36, NATIONAL GARDENS SUBDIVISION, as per plat recorded in Map Book 10, Pages 250 thru 253, Public Records of Volusia County, Florida, being more particularly described as follows:

As a point of reference and the point of beginning, commence at the intersection of the Southerly right-of-way line of Rosemary Street (a 60' right-of-way) with the easterly right-of-way line of U.S. Highway #1 (a 160' right-of-way); thence N 40°04'40" E along the Southerly right-of-way line of Rosemary Street a distance of 210.57 feet; thence leaving said Southerly right-of-way line S 49°53'58" E a distance of 294.96 feet; thence S 40°04'40" W a distance of 209.94 feet to the Easterly right-of-way line of U.S. Highway #1; thence N 50°01'05" W along said right-of-way line a distance of 294.96 feet to the Point of Beginning.

EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

Dear Mr. Spraker:

The school district has had the opportunity to review, for potential impacts, the ten (10) properties recently annexed by the city. Currently the subject properties, as evidenced by the property appraiser information, support various nonresidential uses.

The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Econo Lodge Interstate, 1567 North US Highway 1
Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-053

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for a ±2.46 acre parcel from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1567 North Highway US 1, Econo Lodge Interstate, as a result of recent annexation (Exhibit 1).

BACKGROUND:

The property at 1567 North US Highway 1 is an existing transient lodging facility (See Exhibit 2 for site plan). The property was annexed on April 20, 2011 with Ordinance 2011-11. (See Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project. City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. Subsequent to Planning Board review, the amendment will be submitted to the Volusia County Growth Management Commission for review, followed by review by the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

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Density: Maximum 10 units per acre.

Maximum FAR: 0.6."

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Intensity Commercial" land use designation was created during the EAR-based amendments in an effort to avert causing a large scale amendment to the Comprehensive Plan. The "Low Intensity Commercial" is the most similar land use category available within the City of Ormond Beach.

Below are specific Goals, Objectives, and Policies that are applicable to this application:

GOAL 1 Future Land Use Element	FUTURE DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHOULD BE DIRECTED IN APPROPRIATE AREAS AS DEPICTED ON THE FUTURE LAND USE MAP TO MEET THE LAND USE NEEDS OF THE ANTICIPATED POPULATION, IN A MANNER CONSISTENT WITH SOUND PLANNING PRINCIPLES, THE GOALS, OBJECTIVES AND POLICIES CONTAINED HEREIN, AND THE DESIRED COMMUNITY CHARACTER. THE FUTURE LAND USE PLAN ELEMENT SHOULD ALLOW LIMITED COMMERCIAL EXPANSION, PROMOTE INDUSTRIAL USE, AND MAINTAIN CURRENT RESIDENTIAL DENSITIES IN THE CORE AREA WHILE ESTABLISHING LOWER DENSITIES IN THE PERIMETER AREAS, FOCUSING REDEVELOPMENT IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA, US1, AND SRA1A, AND PROVIDING FOR A CONTINUED HIGH LEVEL OF OPEN SPACE. SPECIFIC GOALS AND POLICIES ARE LISTED BELOW FOR EACH TYPE OF LAND USE. FUTURE GROWTH SHALL BE TIMED AND LOCATED TO MAXIMIZE EXISTING PUBLIC INFRASTRUCTURE.
OBJECTIVE 1.2. COMMERCIAL LAND USE Future Land Use Element	Ensure that adequate amounts of land are available to meet the commercial land use needs of the community.
GOAL 5 Annexation Future Land Use Element	THE CITY PROVIDES UTILITY SERVICE BEYOND IT'S MUNICIPAL LIMITS AND SHALL REQUIRE THAT ANY CONNECTION TO THE CITY UTILITIY SYSTEM EITHER ANNEX INTO THE CITY OR ENTER INTO AN ANNEXATION AGREEMENT IF NOT CONTIGIOUS FOR UTILITY SERVICE.

Policy 5.1.1. Future Land Use Element	Properties that are annexed into the City of Ormond Beach shall be assigned a similar land use that existed in Volusia County. Property owners may apply for more intensive land uses, but shall be required to provide the data and analysis to justify the increase in density and/or intensity.

2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

COMPREHENSIVE PLAN

Amendment of adopted comprehensive plan:

In accordance with Chapter 163.31879(c), Florida Statutes 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. A small-scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is ±2.46 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is ±23

acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas

approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Adjacent Property

	Current Land Uses	Future Land Use Designation	Zoning
North	I-95	NA	NA
South	Vacant Land	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Comfort Inn	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Former Wendy's restaurant and gas station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

The subject property is located along the North US Highway 1 corridor in close proximity to Interstate I-95. The use was approved with the Volusia County and is an existing transient lodging facility with 71 rooms.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the site development has occurred in Volusia County and the land use amendment is the result of annexation.

Transportation:

The subject property has 71 rooms. Based on the ITE rate of category #320, motel, (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the site generates approximately 400 average daily trip. The land use amendment shall not impact the trip generation rate of the existing use. If the site were to expand in the future a concurrency analysis would occur at that time.

Water and Sewer: The site is served with existing City utilities and the land use maps amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The site was constructed prior to current stormwater regulations and any major site modifications would require a stormwater review.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 public meetings. The land use application is the result of annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;
2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and
5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for ±2.46 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low intensity Commercial" at 1567 North US Highway 1, known as Econo Lodge Interstate.

Attachments:

Exhibit 1: Zoning Map

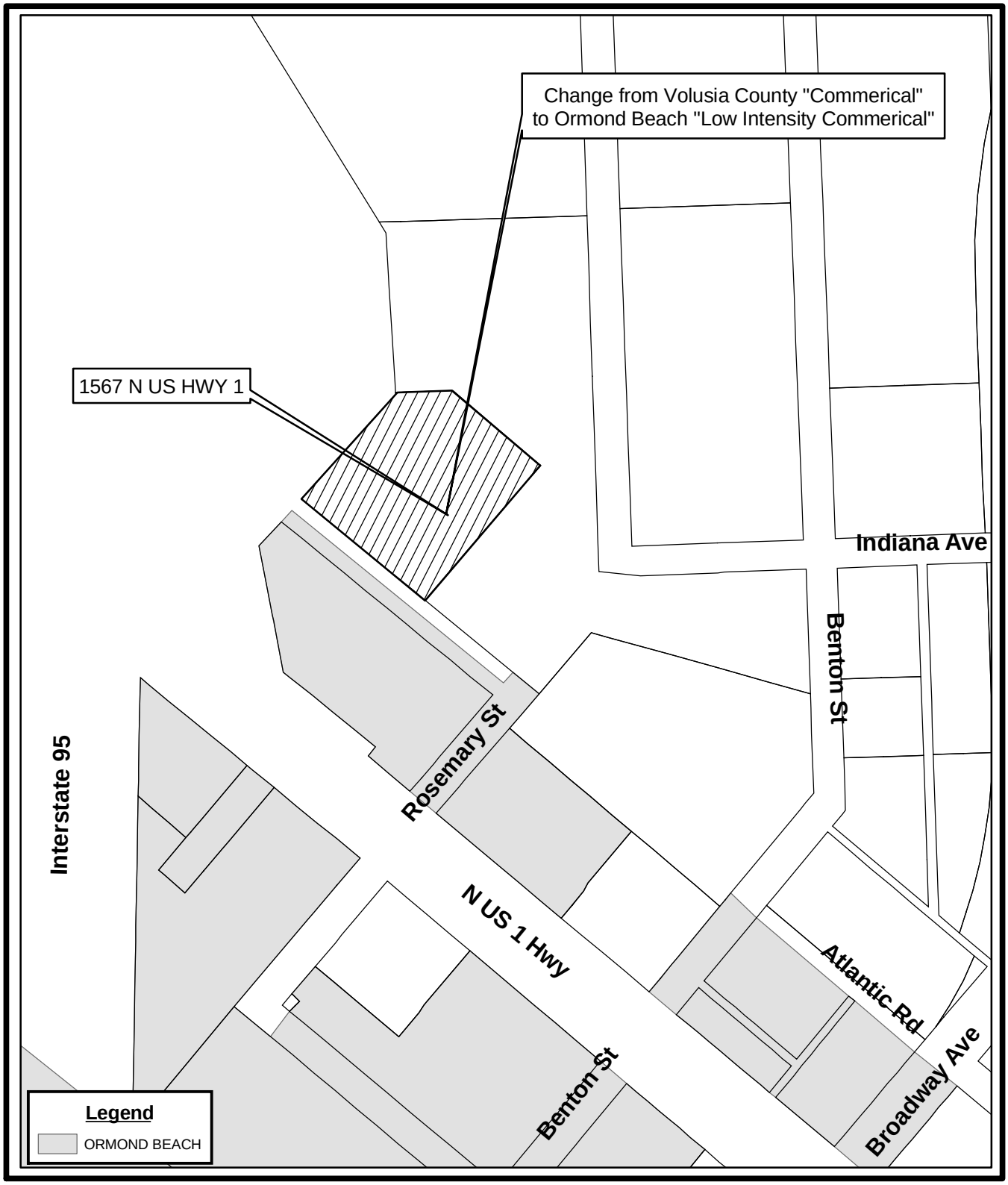
Exhibit 2: Photo, Site Plan and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Future Land Use Maps



LAND USE AMENDMENT MAP
1567 N US HWY 1 (3136-01-18-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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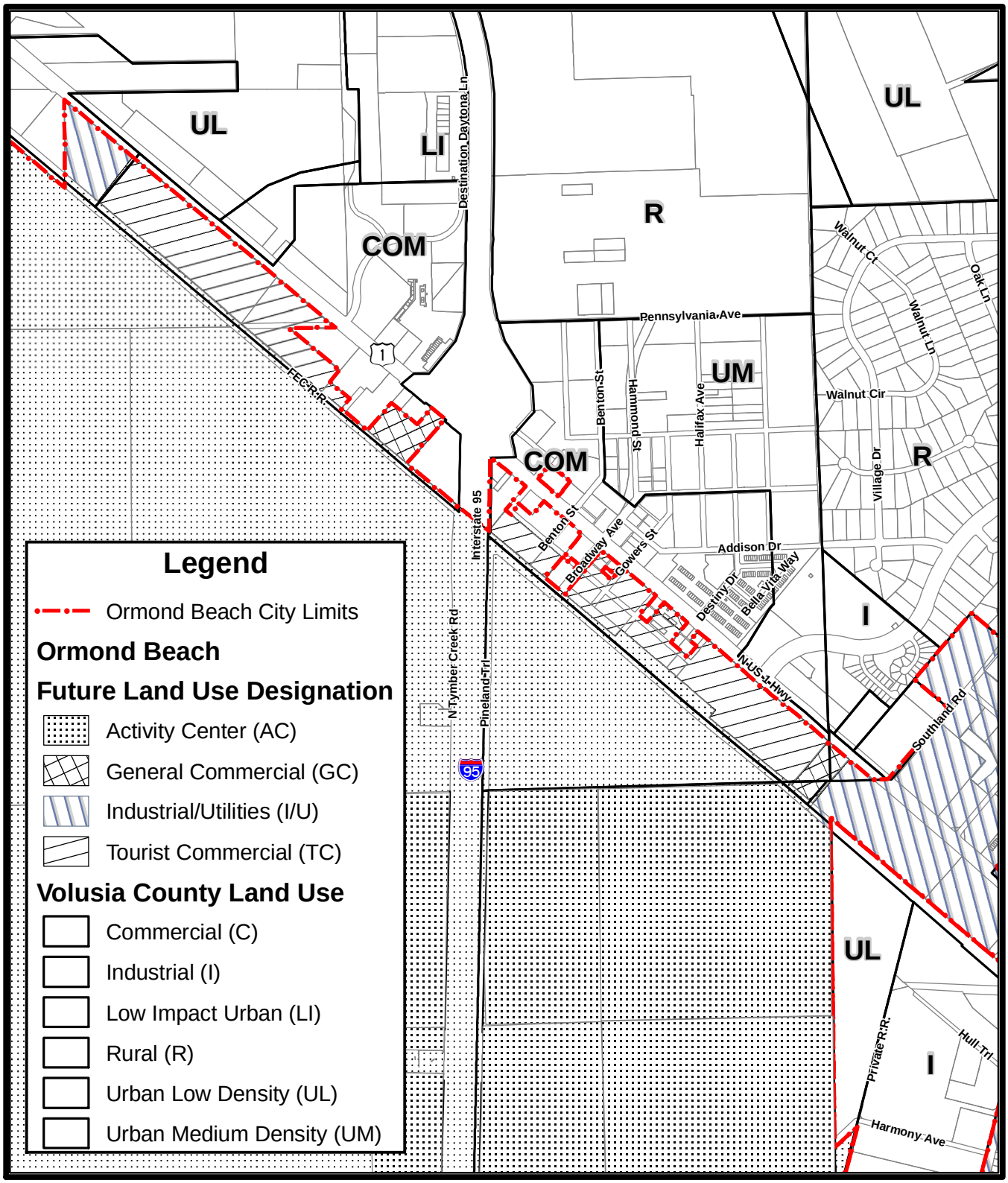

FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

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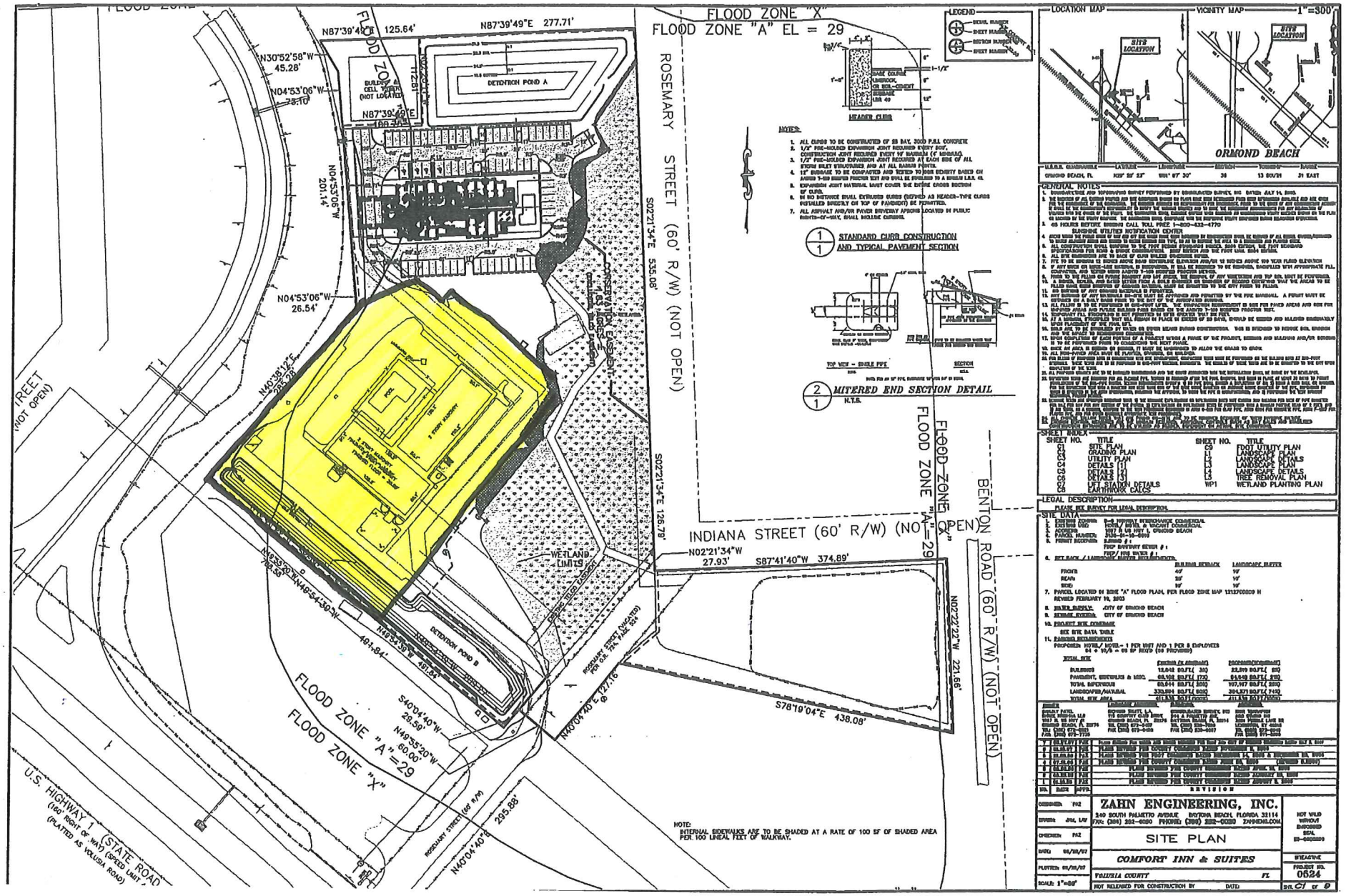
EXHIBIT 2

Photo and Location Aerial

Econo Lodge
Interstate

1567 North US1, Econo Lodge Intestate



Econo Inn
Interstate 95
Rosemary St
Benton St
Hammond St
Indiana Ave
Atlanta Rd
S 1 Hwy

EXHIBIT 3

Legal Description

LEGAL DESCRIPTION

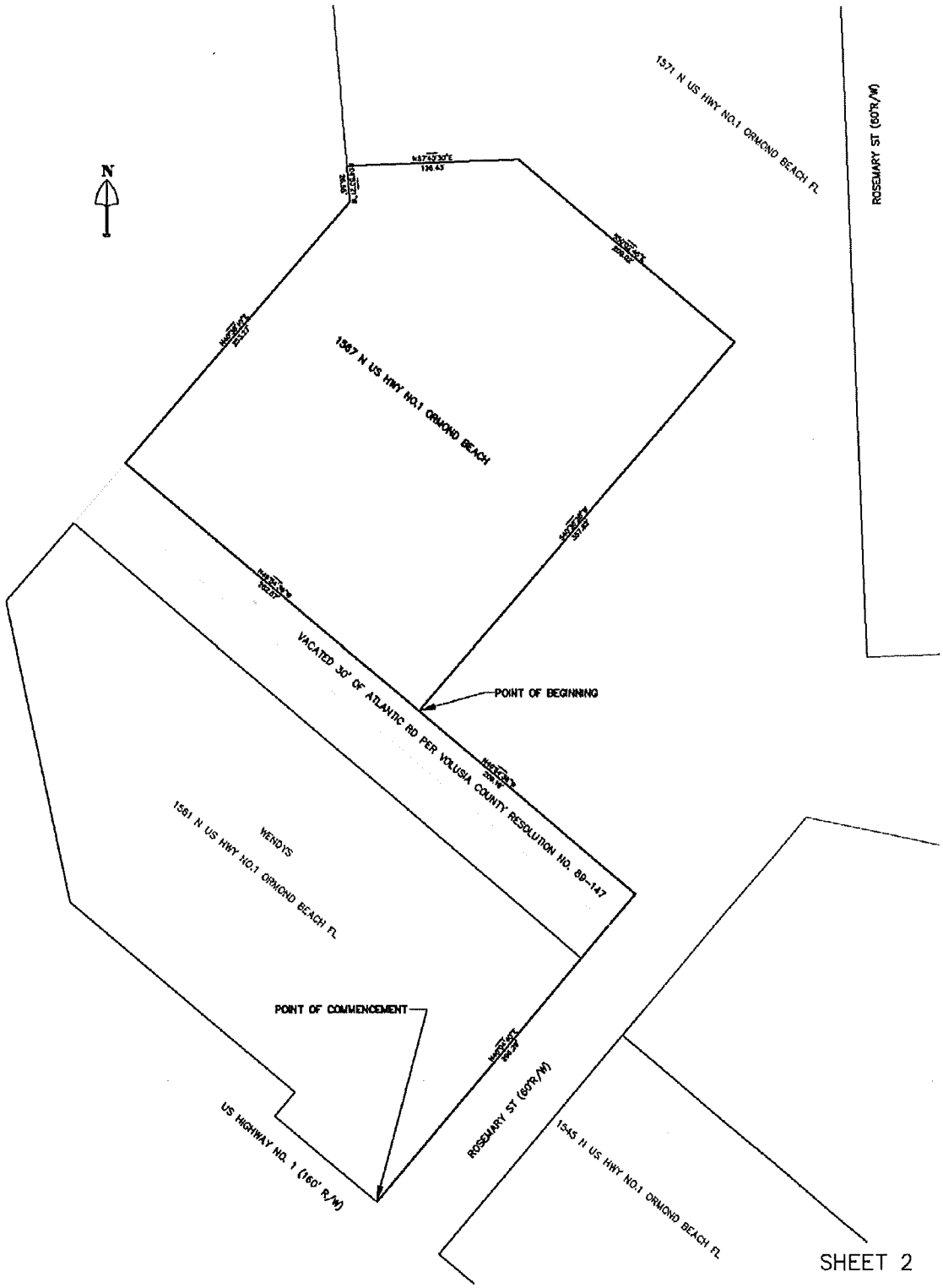
PARCEL ID: 3136-01-18-0010 **OWNER:** AGMT, LLC, a Florida limited liability company
ADDRESS: 1567 N US HWY 1 ORMOND BEACH, FL (ECONO LODGE)

BEING A PORTION OF BLOCK 18, NATIONAL GARDENS SUBDIVISION AS PER MAPS RECORDED IN MAP BOOK 10, PAGES 250 THROUGH 253, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET (A 60' RIGHT-OF-WAY) AND THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO.1 (A 160' RIGHT-OF-WAY): THENCE N 40° 04' 40" E ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET A DISTANCE OF 296.29 FEET; TO A POINT OF INTERSECTION IN THE EASTERLY RIGHT-OF-WAY LINE OF ATLANTIC ROAD (A 60 FOOT RIGHT-OF-WAY VACATED); THENCE N 49° 54' 39" W ALONG SAID EASTERLY RIGHT-OF-WAY A DISTANCE OF 209.19 TO A POINT, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE N 49° 54' 39" W ALONG SAID EASTERLY RIGHT-OF-WAY A DISTANCE OF 282.57 FEET TO A POINT IN THE INTERSTATE 95 RAMP RIGHT-OF-WAY OF INTERSTATE 95; THENCE N 04° 38' 10" E ALONG SAID RIGHT-OF-WAY OF INTERSTATE 95 RAMP, A DISTANCE OF 253.27 FEET; THENCE N 04° 53' 21" W A DISTANCE OF 26.55 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY OF INTERSTATE 95, N 87° 40' 30" E A DISTANCE OF 126.43 FEET; THENCE S 50° 02' 45" E A DISTANCE OF 209.02 FEET; THENCE S 40° 38' 28" W A DISTANCE OF 357.82 TO THE POINT OF BEGINNING. TOGETHER WITH THE NORTHEASTERLY 30.00 FEET OF VACATED ATLANTIC ROAD, A 60.00 FOOT RIGHT-OF-WAY, ABUTTING THE SOUTHWESTERLY LINE THEREOF.

CONTAINING 107,347 SQ.FT OR 2.46 ACRES MORE OR LESS

ECONO LODGE DEPICTION



SHEET 2

EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

Dear Mr. Spraker:

The school district has had the opportunity to review, for potential impacts, the ten (10) properties recently annexed by the city. Currently the subject properties, as evidenced by the property appraiser information, support various nonresidential uses.

The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Comfort Suites, 1571 North US Highway 1
Small Scale Land Use Map Amendment

APPLICANT: Administrative

NUMBER: LUPA 11-057

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is an administrative request for a Small Scale Comprehensive Plan Land Use Map amendment for a ±7.07 acre parcel from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low Intensity Commercial" located at 1571 North Highway US 1, Comfort Suites, as a result of recent annexation (Exhibit 1).

BACKGROUND:

The property at 1571 North US Highway 1 is an existing transient lodging facility (See Exhibit 2 for site plan). On September 18, 2007, the City Commission approved an annexation agreement, Resolution 2007-142, that stated the properties at 1567 North US1, Econo Lodge Interstate, and 1571 North US1, Comfort Suites, would annex once they became contiguous with the City boundaries. The site plan was approved by Volusia County and property connected to City utilities (see Exhibit 2). The property was annexed on April 20, 2011 with Ordinance 2011-12 (see Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project. City staff is proposing land use amendments for ten properties in the North US Highway 1 corridor that have been annexed into the City over the last year. The purpose of this land use amendment is to assign a similar City land use to the property as the Volusia County "Commercial" designation based on the required annexation. Subsequent to Planning Board review, the amendment will be submitted to the Volusia County Growth Management Commission for review, followed by review by the City Commission for final action. Along with the land use application, a zoning amendment is being processed to assign a City B-7 (Highway Tourist Commercial) zoning designation to the property.

The Volusia County Comprehensive Plan states the following for the "Commercial" land use category:

> This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses,

> and design will depend on locational factors, particularly compatibility with adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.
>
> Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

City staff is requesting an amendment to the City's "Low Intensity Commercial" land use category. The Future Land Use Element of the City's Comprehensive Plan states the following for the "Low Intensity Commercial" category:

> "A multi-use land use category to depict those areas of the city that are now developed, or appropriate to be developed, for retail, office and professional services, and restaurants consistent with the surrounding uses, transportation facilities and natural resource characteristics of such areas. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.
>
> Density: Maximum 10 units per acre.
>
> Maximum FAR: 0.6."

ANALYSIS:

The proposed land use amendment seeks to change the land use designation of the subject property from unincorporated Volusia County to the City of Ormond Beach on the future land use map. The existing use is consistent with the both the existing County land use and the proposed City land use designation.

Policy 2.5.2. of the Future Land Use Element of the City's Comprehensive Plan provides the review criteria for land use map amendments. The policy states:

> "The following criteria shall be used in reviewing Comprehensive Plan amendments:

1. Consistency with the Goals, Objectives, and Policies of this Plan.
2. Consistency with state requirements, including 9J-5 and Florida Statutes requirements.
3. If the amendment is a map amendment, is the proposed change an appropriate use of land.

4. If the amendment is a map amendment, the impacts on the Level of Service of public infrastructure including schools, roadways, utilities, stormwater, and park and recreation facilities.
5. If the amendment is a map amendment, impacts to surrounding jurisdictions."

Staff's review of the criteria listed above is provided below:

1. Consistency with the Goals, Objectives, and Policies of this Plan.

The proposed amendment is consistent with the Goals, Objectives, and Policies of the Comprehensive plan. It is important to note that the property's use is existing and no development changes are proposed. The City's Comprehensive Plan has five potential commercial land use categories as follows:

Category	Maximum Density (units per acre)	Maximum FAR (Floor Area Ratio)	Existing Areas
General Commercial	32	0.7	Nova Road, US1 (Nova Road to Wilmette Avenue)
Heavy Commercial	18	0.8	US1 (Granada Boulevard to Hand Avenue)
Tourist Commercial	32	1.5	South Atlantic Avenue, Interchange Boulevard (Granada Blvd and I-95) and US1 and I-95
Office/Professional	15	0.5	Granada Boulevard
Low Intensity Commercial	10	0.6	New land use category

The existing County land use allows a 0.55 FAR. This area of North US Highway 1 is in close proximity to I-95 and is not appropriate for office style uses allowed in the "Office Professional" land use category or the automotive sales and repair style uses permitted in the "Heavy Commercial" land use category. Given the location and size of the subject property as well as the adjacent land uses, the "Tourist Commercial" and "Commercial" land uses were also examined as possible designation options. However, those land use categories were identified as having relatively higher

densities and intensities and it is staff's intention to apply a similar land use. It was determined that the "Low Intensity Commercial" was the most suitable designation because it is the least intense City floor area ratio available. Finally, the "Low Intensity Commercial" land use designation was created during the EAR-based amendments in an effort to avert causing a large scale amendment to the Comprehensive Plan. The "Low Intensity Commercial" is the most similar land use category available within the City of Ormond Beach.

Below are specific Goals, Objectives, and Policies that are applicable to this application:

GOAL 1 Future Land Use Element	FUTURE DEVELOPMENT AND REDEVELOPMENT ACTIVITIES SHOULD BE DIRECTED IN APPROPRIATE AREAS AS DEPICTED ON THE FUTURE LAND USE MAP TO MEET THE LAND USE NEEDS OF THE ANTICIPATED POPULATION, IN A MANNER CONSISTENT WITH SOUND PLANNING PRINCIPLES, THE GOALS, OBJECTIVES AND POLICIES CONTAINED HEREIN, AND THE DESIRED COMMUNITY CHARACTER. THE FUTURE LAND USE PLAN ELEMENT SHOULD ALLOW LIMITED COMMERCIAL EXPANSION, PROMOTE INDUSTRIAL USE, AND MAINTAIN CURRENT RESIDENTIAL DENSITIES IN THE CORE AREA WHILE ESTABLISHING LOWER DENSITIES IN THE PERIMETER AREAS, FOCUSING REDEVELOPMENT IN THE DOWNTOWN COMMUNITY REDEVELOPMENT AREA, US1, AND SRA1A, AND PROVIDING FOR A CONTINUED HIGH LEVEL OF OPEN SPACE. SPECIFIC GOALS AND POLICIES ARE LISTED BELOW FOR EACH TYPE OF LAND USE. FUTURE GROWTH SHALL BE TIMED AND LOCATED TO MAXIMIZE EXISTING PUBLIC INFRASTRUCTURE.
OBJECTIVE 1.2. COMMERCIAL LAND USE Future Land Use Element	Ensure that adequate amounts of land are available to meet the commercial land use needs of the community.

GOAL 5 Annexation Future Land Use Element	THE CITY PROVIDES UTILITY SERVICE BEYOND IT'S MUNICIPAL LIMITS AND SHALL REQUIRE THAT ANY CONNECTION TO THE CITY UTILITIY SYSTEM EITHER ANNEX INTO THE CITY OR ENTER INTO AN ANNEXATION AGREEMENT IF NOT CONTIGIOUS FOR UTILITY SERVICE.
Policy 5.1.1. Future Land Use Element	Properties that are annexed into the City of Ormond Beach shall be assigned a similar land use that existed in Volusia County. Property owners may apply for more intensive land uses, but shall be required to provide the data and analysis to justify the increase in density and/or intensity.

2. Does it meet the criteria established in the City's Comprehensive Plan and the Florida Statute?

COMPREHENSIVE PLAN

Amendment of adopted comprehensive plan:

In accordance with Chapter 163.31879(c), Florida Statutes 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. A small-scale development amendment may be adopted only under the following conditions:

1. The proposed amendment involves a use of 10 acres or fewer and:

The subject property is ±7.07 acres (less than ten acres).

a. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government shall not exceed:

(I) A maximum of 120 acres in a local government that contains areas specifically designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e); however, amendments under this paragraph may be applied to no more than 60 acres annually of property outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under this paragraph.

(II) A maximum of 80 acres in a local government that does not contain any of the designated areas set forth in sub-sub-subparagraph (I).

(III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution.

The City has not adopted any small scale land use map amendments during 2011. This application is one of ten properties located along North US Highway 1. The cumulative acreage of all ten proposed applications is ±23 acres. The subject amendment does not exceed the acreage thresholds established above.

b. The proposed amendment does not involve the same property granted a change within the prior 12 months.

The proposed amendment does not involve the same property granted a change within the last 12 months.

c. The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.

The proposed amendment does not involve the same property owners granted a change within the last 12 months.

d. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity.

The proposed amendment is solely to the Future Land Use Map and does not propose any text amendments to the City's Comprehensive Plan.

e. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall be reviewed by the state land planning agency for consistency with the principles for guiding development applicable to the area of critical state concern where the amendment is located and shall not become effective until a final order is issued under s. 380.05(6).

The site location is not located within an area of state critical concern and this criterion does not apply.

f. If the proposed amendment involves a residential land use, the residential land use has a density of 10 units or less per acre or the proposed future land use category allows a maximum residential density of the same or less than the maximum residential density allowable under the existing future land use category, except that this limitation does not apply to small scale amendments involving the construction of affordable housing units meeting the criteria of s.

420.0004(3) on property which will be the subject of a land use restriction agreement, or small scale amendments described in sub-sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e).

The existing County land use does not permit residential uses. The proposed City land use allows a maximum of 10 units per acre and meets this criterion.

3. Is this an appropriate use of the land?

The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Adjacent Property

	Current Land Uses	Future Land Use Designation	Zoning
North	I-95	NA	NA
South	Vacant land	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant land	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Former Wendy's restaurant and gas station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

The subject property is located along the North US Highway 1 corridor in close proximity to Interstate I-95. The use was approved with the Volusia County and is an existing transient lodging facility with 64 rooms.

4. Is there adequate infrastructure to serve the proposed land use?

Typically, an infrastructure analysis is performed to determine the maximum development scenario. This application is unique in that the site development has occurred in Volusia County and the land use amendment is the result of annexation.

Transportation:

The subject property has 64 rooms. Based on the ITE rate of category #320, motel, (ITE Trip Generation Manual, Volume 3 of 3, 7th Edition), the site generates approximately 360 average daily trip. The land use amendment shall not impact the trip generation rate of the existing use. If the site were to expand in the future a concurrency analysis would occur at that time.

Water and Sewer: The site is served with existing City utilities and the land use maps amendment shall have no impacts on the provision of water and sewer.

Stormwater Management: The site was constructed prior to current stormwater regulations and any major site modifications would require a stormwater review.

Solid Waste: This property is served by Waste Management, Inc., and there is adequate capacity to serve the proposed land use.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-6 minute response time from emergency facilities.

Schools: School capacity for the increase in residential density has been reviewed by the Volusia County School Board and been determined acceptable (Exhibit 4). It should be noted that while the land use category does permit residential, the existing use is a commercial use.

5. Impacts to surrounding jurisdictions.

The property is not located next to another City and there are no impacts expected to any surrounding jurisdiction. The North US Highway 1 corridor around I-95 is a mixture of properties located within Ormond Beach and unincorporated Volusia County.

RECOMMENDATION:

It is expected that the application will be reviewed by the City Commission at the July 19, 2011 and August 3, 2011 public meetings. The land use application is the result of annexation and is necessary to assign City land use and zoning. It is staff's determination that the amendment:

1. Is consistent with the Goals, Objectives, and Policies established in the City's Comprehensive Plan;
2. Is consistent with state requirements;
3. Is an appropriate use of the land;
4. Has adequate infrastructure to serve the proposed land use; and
5. Does not impact surrounding jurisdictions.

Based on this review, staff recommends that the Planning Board recommend **APPROVAL** of the Future Land Use map amendment for ±2.46 acres from the existing land use designation of Volusia County "Commercial" to City of Ormond Beach "Low intensity Commercial" at 1571 North US Highway 1, known as Comfort Suites.

Attachments:

Exhibit 1: Zoning Map

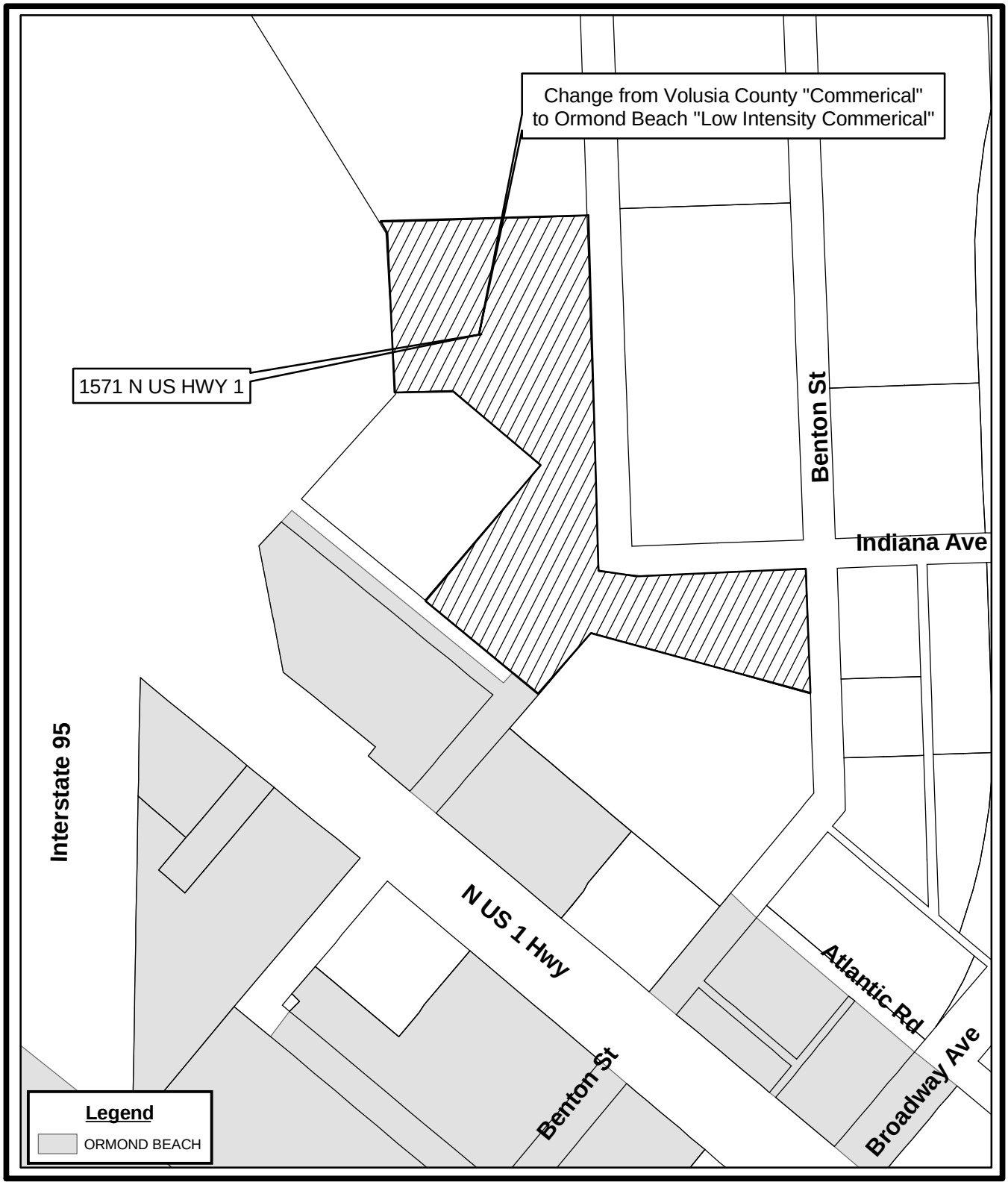
Exhibit 2: Photo, Site Plan and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Future Land Use Maps



LAND USE AMENDMENT MAP
1571 N US HWY 1 (3136-01-19-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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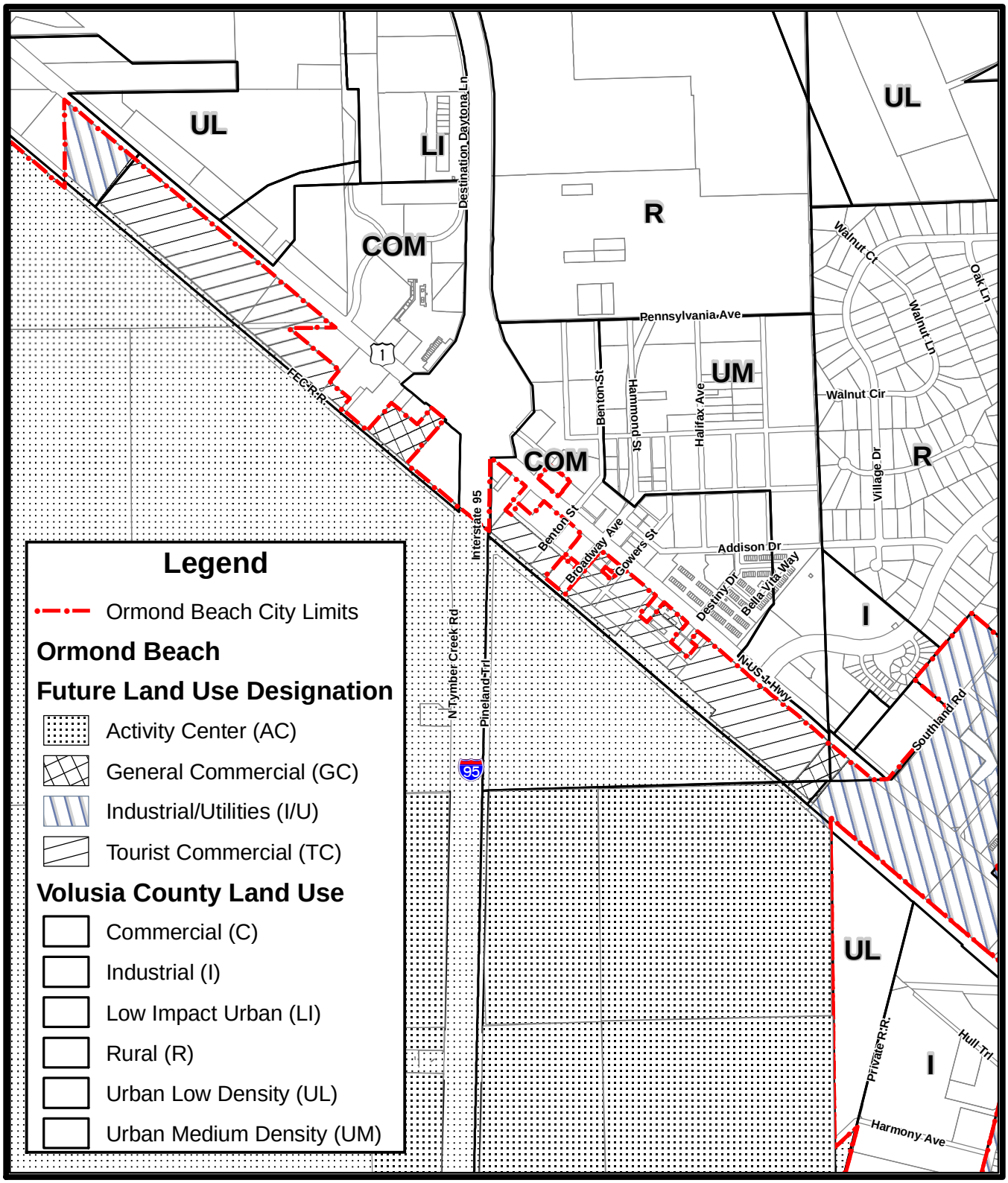

FUTURE LAND USE MAP
NORTH US 1 CORRIDOR

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 03/2/2011

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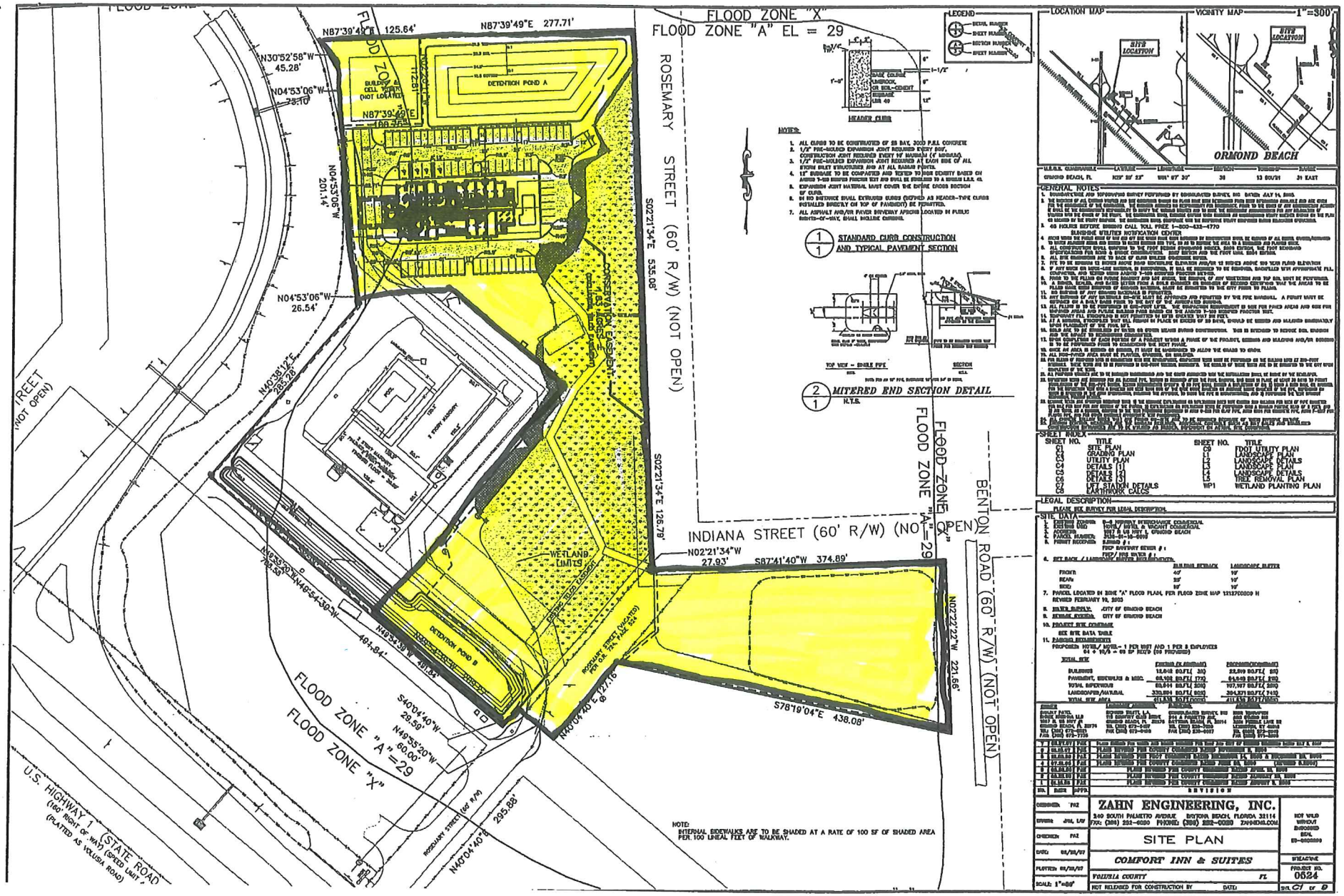
EXHIBIT 2

Photo and Location Aerial

View from I-95 off ramp

1571 North US1, Comfort Inn



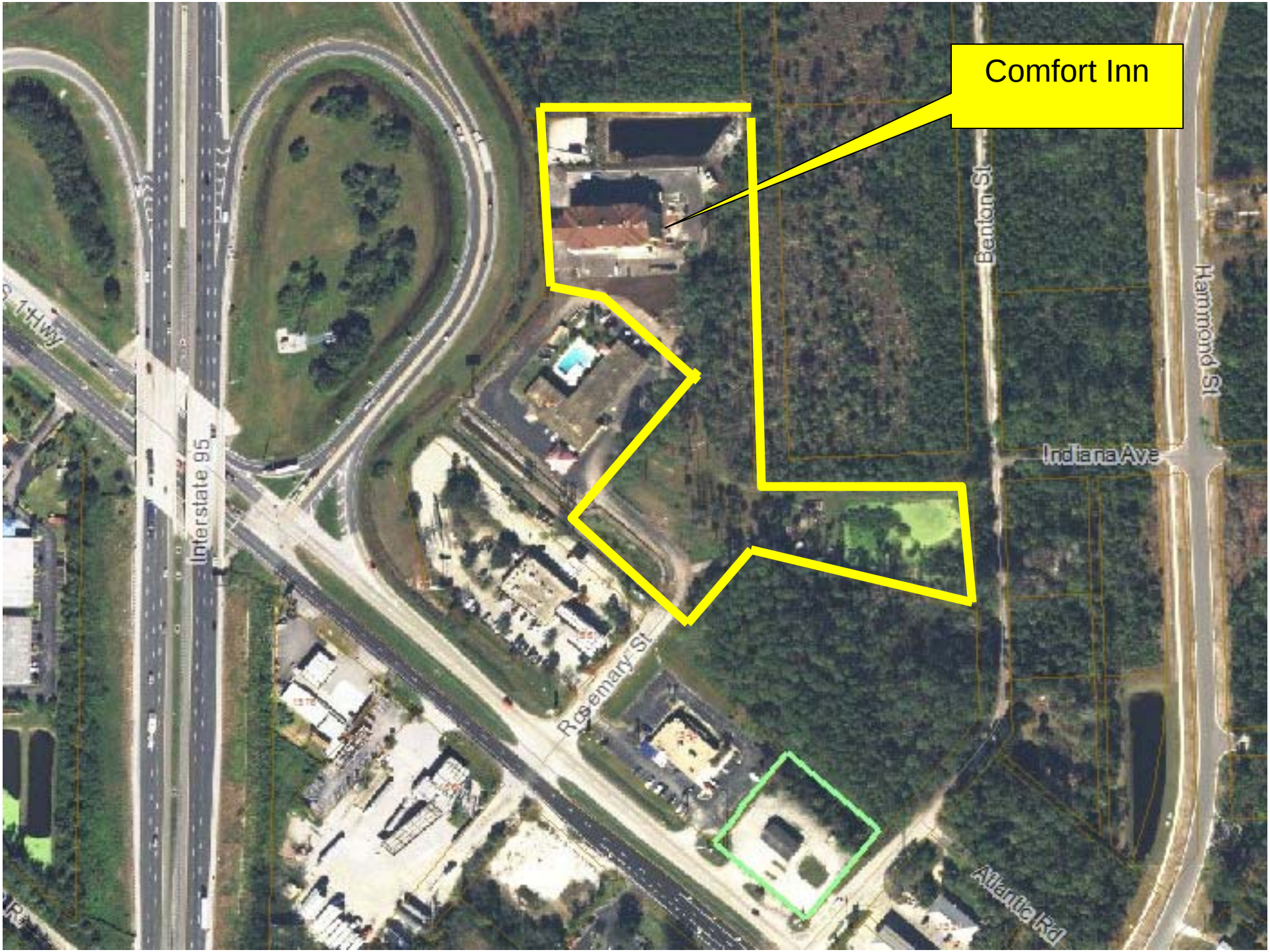

Comfort Inn
Interstate 95
Rosemary St
Benton St
Hammond St
Indiana Ave
Atlanta Rd

EXHIBIT 3

Legal Description

LEGAL DESCRIPTION

PARCEL ID: 3136-01-19-0010
OWNER: SHREE KRISHNA, A NEVADA LIMITED LIABILITY COMPANY
ADDRESS: 1571 N US HWY 1 ORMOND BEACH, FL (COMFORT INN)

BEING A PORTION OF LOT 1, BLOCK 19, LOT 1, BLOCK 18, BLOCK 9 AND BLOCK 10, NATIONAL GARDENS SUBDIVISION AS PER MAPS RECORDED IN MAP BOOK 10, PAGES 250 THROUGH 253, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET (A 60' RIGHT-OF-WAY) AND THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO.1 (A 160' RIGHT-OF-WAY): THENCE N 40° 04' 40" E ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET A DISTANCE OF 296.28 FEET; TO A POINT OF INTERSECTION IN THE EASTERLY RIGHT-OF-WAY LINE OF ATLANTIC ROAD (A 60 FOOT RIGHT-OF-WAY VACATED) SAID POINT BEING THE POINT OF BEGINNING; THENCE N49° 54' 39" W ALONG SAID EASTERLY RIGHT-OF-WAY A DISTANCE OF 268.89 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE OF VACATED ATLANTIC ROAD N 40° 37' 38" E A DISTANCE OF 369.83 FEET; THENCE N 50° 02' 44" W A DISTANCE OF 209.02 FEET; THENCE S 87° 40' 30" W A DISTANCE OF 126.43 FEET TO A POINT IN THE INTERSTATE 95 RAMP RIGHT-OF-WAY OF INTERSTATE 95; THENCE N 04° 53' 06" W ALONG SAID RIGHT-OF-WAY OF INTERSTATE 95 RAMP, A DISTANCE OF 274.23 FEET; THENCE N 30° 52' 58" W A DISTANCE OF 45.28 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY OF INTERSTATE 95, N 87° 39' 49" E A DISTANCE OF 403.35 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF AFORESAID ROSEMARY STREET; THENCE S 02° 18' 20" E ALONG THE WESTERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET A DISTANCE OF 689.80 FEET TO A POINT OF INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET WITH THE SOUTH LINE OF INDIANA STREET (A 60 FOOT RIGHT-OF-WAY); THENCE DEPARTING THE WESTERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET N 87° 41' 40" E ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID INDIANA STREET A DISTANCE OF 375.54 FEET TO THE NORTHEAST CORNER OF BLOCK 35, NATIONAL GARDENS SUBDIVISION, SAID POINT ALSO BEING THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF INDIANA STREET WITH THE WESTERLY RIGHT-OF-WAY LINE OF BENTON ROAD (A 60 FOOT RIGHT-OF-WAY); THENCE DEPARTING THE RIGHT-OF-WAY LINE OF INDIANA STREET S 02° 22' 22" E ALONG THE WESTERLY RIGHT-OF-WAY LINE OF BENTON ROAD A DISTANCE OF 221.66 FEET; THENCE DEPARTING THE WESTERLY RIGHT-OF-WAY LINE OF BENTON ROAD N 78° 19' 04" W A DISTANCE OF 438.08 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF VACATED ROSEMARY STREET, SAID POINT ALSO BEING ON THE NORTHWESTERLY LINE OF LOT 17 OF BLOCK 35; THENCE S 40° 04' 40" W ALONG SAID NORTHWESTERLY LINE OF LOT 17 A DISTANCE OF 136.76 FEET; TO THE POINT OF BEGINNING. TOGETHER WITH THE NORTHEASTERLY 30.00 FEET OF VACATED ATLANTIC ROAD, A 60.00 FOOT RIGHT-OF-WAY, ABUTTING THE SOUTHWESTERLY LINE THEREOF.

CONTAINING 308,168 SQ.FT OR 7.07 ACRES MORE OR LESS

COMFORT INN DEPICTION
1571 NORTH US HWY 1

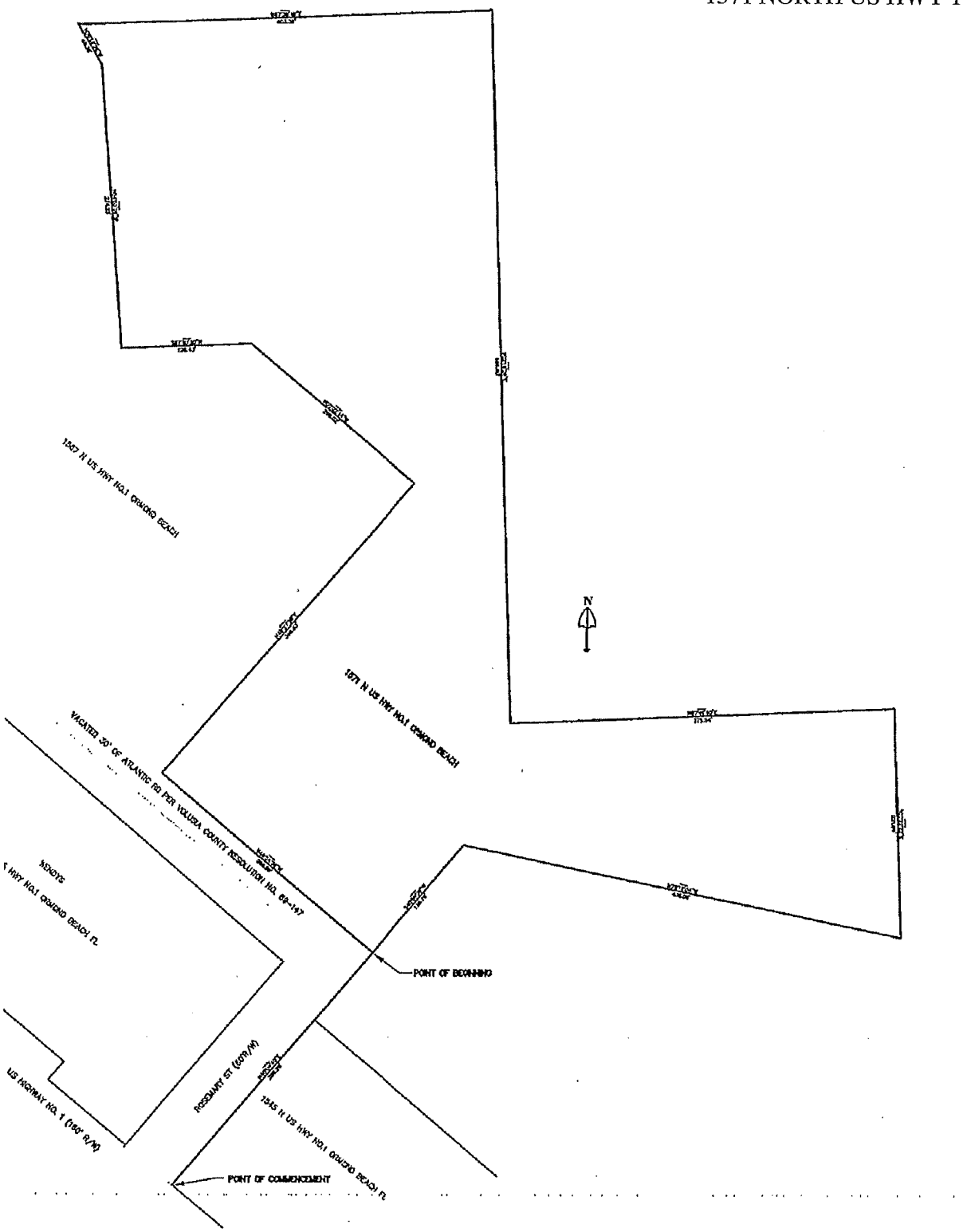


EXHIBIT 4

Volusia County Schools Letter

Volusia County Schools

FACILITIES SERVICES

3750 Olson Drive, Daytona Beach, Florida 32124
PHONE: 386/947-8786 FAX: 386/506-5056

Dr. Margaret A. Smith
Superintendent of Schools

School Board of Volusia County

Mr. Stan Schmidt, Chairman
Dr. Al Williams, Vice-Chairman
Ms. Candace Lankford
Ms. Judy Conte
Mrs. Diane Smith

April 22, 2011

Mr. Steven Spraker, Sr. Planner
Ormond Beach Planning Dept.
22 South Beach Street
Ormond Beach, FL 32175

RE: North US1 Properties

Dear Mr. Spraker:

The school district has had the opportunity to review, for potential impacts, the ten (10) properties recently annexed by the city. Currently the subject properties, as evidenced by the property appraiser information, support various nonresidential uses.

The review of the information provided indicates the city's is proposing land use amendments with the associated rezoning(s) for the subject properties. As such, these changes could potentially result in an increase of residential density. However, the district acknowledges the proposed changes are considered clarification ('housekeeping') and that the city is applying the applicable land use designation and zoning district to the annexed properties.

District staff has no objection to the proposed changes in land use and zoning since the properties currently support existing uses and there are no new residential uses proposed with these changes.

If you should have any questions or require additional information please do not hesitate to contact me at (386) 947-8786 extension 50805.

Sincerely,

Helen LaValley

Helen LaValley
Planning Specialist
Facilities Services Dept.

C: City File

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: LDC Amendment – Adding "Low Intensity Commercial" land use to Section 2-02, Future Land Use Map Designations and Compatible Zoning Districts

APPLICANT: Administrative

NUMBER: LDC 11-61

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION: This is an administrative request to amend Chapter 2, District and General Regulations, Article I, Establishment of Zoning Districts and Official Zoning Map, Section 2-02, Future Land Use Map Designations and Zoning Districts, Table 2-2, Future Land Use Map Designations and Compatible Zoning Districts, of the Land Development Code (LDC) to provide corresponding compatible zoning districts for the "Low Intensity Commercial" land use category developed through the Comprehensive Plan Evaluation and Appraisal amendments. The proposed compatible zonings with the "Low Intensity Commercial" land use category are: B-1 (Professional Office/Hospital), B-4 (Central Business), B-5 (Service Commercial), B-6 (Oceanfront Tourist Commercial), B-7 (Highway Tourist Commercial), B-8 (Commercial), B-9 (Boulevard), B-10 (Suburban Boulevard), and (PBD) Planned Business Development.

BACKGROUND: The state mandated Evaluation and Appraisal Report (EAR) Comprehensive Plan review and amendments was adopted in 2010. During the review of the EAR, the Department of Community Affairs required that the City introduce density and intensity standards into the City land use categories. Through the comprehensive plan amendment process, the commercial land use category was identified as a land use category that does not utilize the state Small Scale land use amendment process which is designed for properties under 10 acres and a land use designation allowing 10 or less units per acre for residential density. Without such a land use category, all commercial Comprehensive Plan land use map amendments would be required to be processed through a large scale map amendment with a general approval period of roughly nine months versus three to four months for a small scale map amendment. In order to utilize the small scale land use process, the "Low Intensity Commercial" land use category was developed as part of the EAR-based amendments.

The Future Land Use Element of the City's Comprehensive Plan states the following for the "Low Intensity Commercial" category:

"A multi-use land use category to depict those areas of the city that are now developed, or appropriate to be developed, for retail, office and professional services, and restaurants consistent with the surrounding uses, transportation facilities and natural resource characteristics of such areas. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.

Density: Maximum 10 units per acre.

Maximum FAR: 0.6."

Utilization the "Low Intensity Commercial" land use category, requires an assigned compatible zoning district in Section 2-02, Future Land Use Map Designations and Zoning Districts, Table 2-2, Future Land Use Map Designations and Compatible Zoning Districts, of the Land Development Code. The City is currently processing ten requests to assign the "Low Intensity Commercial" land use designation to properties located along the North US Highway 1 corridor as part of recent annexations. It is anticipated that this Land Development Code amendment would be reviewed by the City Commission on June 21, 2011 and July 5, 2011. The land use amendments for the ten properties along North US Highway 1 are scheduled for City Commission review on July 19, 2011 and August 3, 2011 and the zoning map amendments are scheduled for August 16, 2011 and September 6, 2011.

LDC AMENDMENT: Below is the proposed LDC amendment:

TABLE 2-2: FUTURE LAND USE MAP DESIGNATIONS AND COMPATIBLE ZONING DISTRICTS	
Comprehensive Plan Future Land Use Map Designation	**Corresponding Compatible Zoning District**
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

* No other change in text in the table.

ANALYSIS: The LDC amendment proposes to allow all of the commercial zoning districts to be consistent with the "Low Intensity Commercial" land use category. During the small scale land use and zoning designation review process, each property would undergo review to determine the appropriate zoning classification. This review would include the surrounding zoning in the

immediate area, the Volusia County zoning if a property was annexing, or Comprehensive Plan text policies.

There are certain criteria that must be evaluated before adoption of an amendment according to the Land Development Code (LDC); the Planning Board must consider the following criteria when making their recommendation.

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

   No specific development is proposed. The intent of the proposed amendment is to establish consistent zoning designations with the "Low Intensity Commercial" land use category. The proposed standards do not appear to adversely affect public health, safety, welfare or the quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   The proposed Land Development Code amendment is consistent with the Comprehensive Plan. The amendment proposes to establish consistent zoning designations in order to utilize the recently added "Low Intensity Commercial" land use category.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   There is no specific development application and this criterion is not applicable.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   There is no specific development application and this criterion is not applicable.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   There is no specific development application and this criterion is not applicable.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding**

shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.

There is no specific development application and this criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   There is no specific development application and this criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   There is no specific development application and this criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   There is no specific development application and this criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

RECOMMENDATION:

It is expected that the amendment will be reviewed by the City Commission on June 21, 2011 (1st reading) and July 5, 2011 (2nd reading). It is recommended that the Planning Board **APPROVE** LDC 11-61, to amend the Land Development Code as follows:

TABLE 2-2: FUTURE LAND USE MAP DESIGNATIONS AND COMPATIBLE ZONING DISTRICTS	
Comprehensive Plan Future Land Use Map Designation	**Corresponding Compatible Zoning District**
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Lil' Champ/Jiffy Stores, Inc., 1520 North US Highway 1
Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-042

PROJECT PLANNER: S. Laureen Kornel, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±1.31 acre parcel of land from the existing zoning classification of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1520 North US Highway 1, Lil' Champ/Jiffy Stores, Inc. (see Exhibit 1).

BACKGROUND:

The property located at 1520 North US Highway 1 is owned by Lil Champ/Jiffy Stores, Inc. which operates a convenience store with gasoline sales (see Exhibit 2). The property was developed under Volusia County review in the early 1990's and connected to City utilities. The property was annexed on December 7, 2010 with Ordinance 2010-52 (see Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project. Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification are adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

> "The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
Barber and beauty shops	Exempt landfills	Newsstands	Restaurants, types A and B
Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
Communication towers not exceeding 70 in height	Government sponsored civic centers	Museums	Theaters
Convenience stores with more than eight vehicular service positions	Home occupations, class A	Nightclubs	Tire sales
Convenience stores, with or without fuel dispensers	Hotels/motels	Outdoor entertainment event	

Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
Curb markets	Outdoor entertainment and recreational uses and structures	Railroad yards, siding and terminals	
Excavations only for stormwater retention ponds for which a permit is required	Professional or trade schools related to permitted uses	Schools, parochial or private	

The subject property is undergoing a land use amendment to assign a City Future Land Use designation of “Low Intensity Commercial” which was created as part of the City’s Evaluation and Appraisal amendment process. Concurrent with the North US Highway 1 land use and zoning amendments, staff is processing a Land Development Code

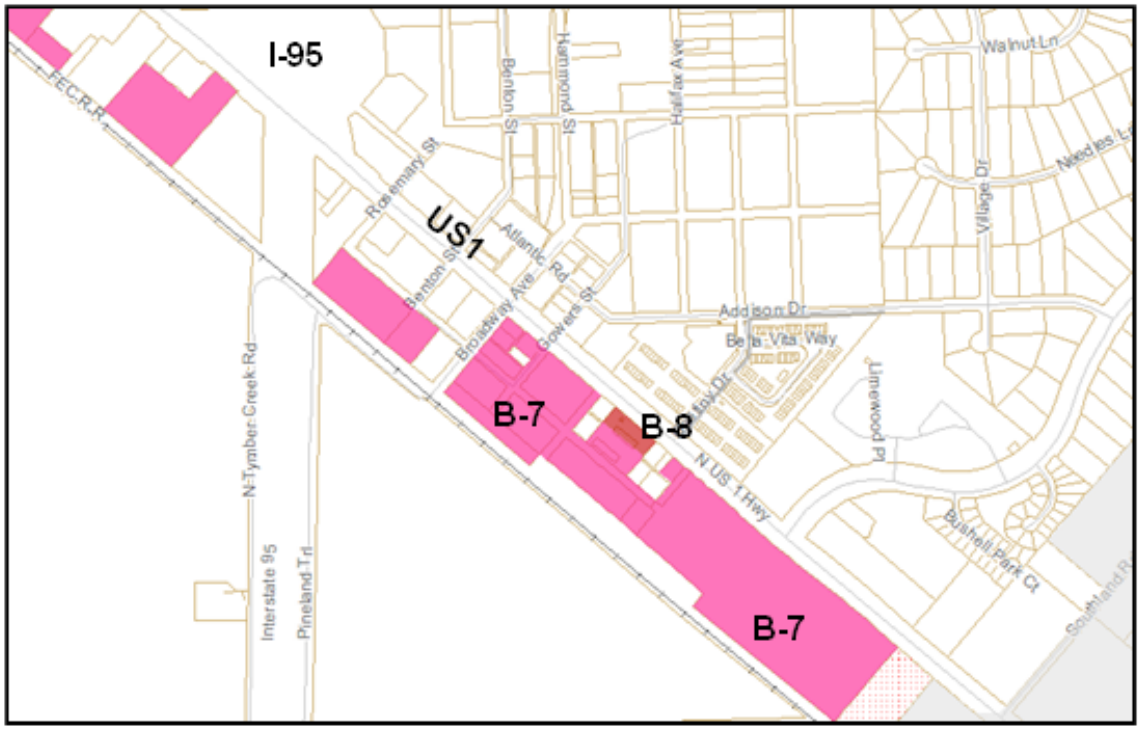
amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

Comprehensive Plan Future Land Use Map Designation	Corresponding Compatible Zoning District
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclub, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning classification is to provide the most similar classification assigned by Volusia County.

The potential zoning districts were analyzed as follows:

Zoning District	Staff Review
Professional Office/Hospital (B-1)	Intended for office, medical, and institutional uses. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Central Business (B-4)	Intended for the existing core area of the City, such as the Community Redevelopment Area. Staff concluded this was not an appropriate zoning classification for land located near the interchange.
Service Commercial (B-5)	Intended for automotive, construction materials, and warehousing. Staff concluded this was not an appropriate zoning classification for land near the interchange.
Oceanfront Tourist Commercial (B-6)	Intended for properties along the Atlantic Ocean with specialized design standards. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Highway Tourist Commercial (B-7) (See Exhibit 4 for zoning district uses)	The City Land Development Code provides the following purpose and intent for the B-7 (Highway Tourist Commercial) zoning district: "The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist related support activities in an attractive setting which will promote pedestrian activity and reinforces positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted." The B-7 zoning district offers the most similar City zoning district to the Volusia County B-6 zoning classification. In addition, there are existing properties in this area zoned as B-7.
Commercial (B-8)	Intended for general commercial activities (other than automotive) along arterial roadways. Though this zoning district was considered as a strong option, it was identified as not allowing transient lodging and tailored more toward general commercial uses, such as along Nova Road, rather than specifically next to a highway interchange.

Zoning District	Staff Review
Boulevard (B-9)	Intended for office, medical, and institutional uses. Therefore, it is not and appropriate zoning classification for the land located near the interchange.
Suburban Boulevard (B-10)	Intended for office, medical, and institutional uses. Therefore, it is not and appropriate zoning classification for the land located near the interchange.
Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classifications of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning Classification
North	1530 North US Highway 1 - McDonalds	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	1510 North US Highway 1 – Teetime Golf Carts	Volusia County "Commercial"	Volusia County B-4 (General Commercial)
East	1521 North US Highway 1 - Racetrac	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Vacant	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial) – City B-7 (Highway Tourist Commercial

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally**

permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.

No specific development is proposed and the request is based on a need to assign a City zoning classification to the property as the result of annexation. The zoning map amendment will not adversely affect public health, safety, welfare or the quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the existing convenience store with gas pumps will continue to operate as it historically has.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1520 North US Highway 1, as described in Exhibit 3, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments:

Exhibit 1: Zoning Map

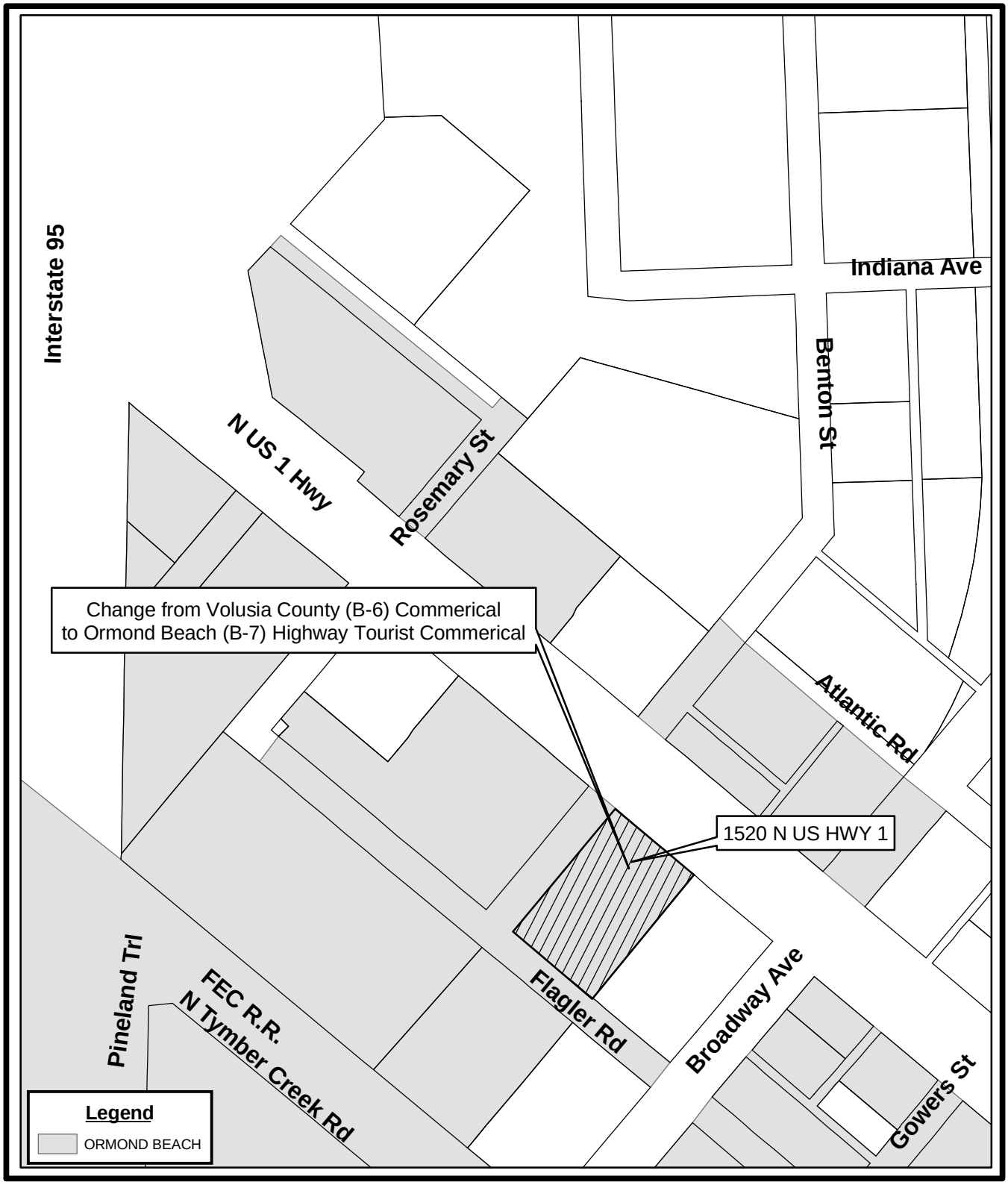
Exhibit 2: Photo, Site Plan and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Zoning Map



ZONING AMENDMENT MAP
1520 N US HWY 1 (3136-01-61-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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EXHIBIT 2

Photo, Site Plan and Location Aerial

1520 North US Highway 1 – Lil’Champ/Jiffy Stores, Inc.

04.29.11

MAP SHOWING

LOTS, 1, 2, 3, 4, 5, 6, 7, 23, 24, 25, 26, 27, 28, 29, AND THE NORTH 15 FEET OF LOTS 8 AND 22, BLOCK 61, NATIONAL GARDENS SUBDIVISION AS RECORDED IN MAP BOOK 10, PAGES 250–253 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. EXCEPT THAT PORTION TAKEN FOR R.O.W. OF U.S. No. 1 AND INCLUDING PART OF THE CLOSED ALLEY IN SAID BLOCK 61. CONTAINING 56,239.91 SQ. FT. OR 1.29 ACRES.

SCALE : 1" = 20'

PROPOSED McDONALD'S RESTAURANT
(SITE ENGINEERING PROVIDED BY ZEV COHEN & ASSOC., INC.)

12" WIDE CROSS-WALK STRIPING IN ACCORDANCE W/ FDOT INDEX # 17346

5' WIDE CONC. SIDEWALK 1' FROM ℄

5 WIDE LANDSCAPE BUFFER ALONG N. PROPERTY LINE

SELF SERVICE AIR & VACUUM AREA

BENTON STREET (60' R.O.W.)

332.95'

1 TAPER

N 40°10'40" E 296.00'

OWNER TO PROVIDE ESCROW FUNDS FOR FUTURE 4' WIDE SIDEWALK ALONG FLAGLER ROAD

PROVIDE CONC. WHEELCHAIR RAMP (12:1 MAX. SLOPE) TO ANSI STDS.

PROVIDE HANDICAP SIGNAGE & STRIPING (BLUE) IN ACCORDANCE W/ ANSI STDS.

PROVIDE 4" WIDE YELLOW STRIPING & " NO PARKING SIGN "

5' WIDE LANDSCAPE BUFFER ALONG W. PROPERTY LINE

PROVIDE CONC. DUMPSTER PAD W/ 6' HIGH WOODEN PRIVACY FENCE W/ LOCKING GATE

PROVIDE PRESSURE TREATED LANDSCAPE BARRICADE TO PROTECT 18" OAK

FLAGLER ROAD (60' R.O.W.)

N 40°55'20" W 190.00'

FDOT STD. DIRECTIONAL ARROWS

DOUBLE YELLOW

24" WIDE WHITE STOP BAR

STOP SIGN

30" CEDAR

PROPOSED CANOPY W/ (3) PUMP ISLANDS

RETENTION AREA

PROP. 30' x 40' UNDERGROUND STORAGE TANK AREA W/ (3) 10,000 GAL. OWENS CORNING SINGLE WALL FIBERGLASS TANKS.

ALL PARKING STALL STRIPING TO BE 4" WIDE WHITE + 24" WIDE HANDICAP STRIPING, WHICH WILL BE BLUE (ANSI)

PROPOSED ONE-STORY BRICK & FRAME CONV. STORE BUILDING

13' MIN. RADIUS TO THICK

S 40°55'20" E 190.00'

DOUBLE YELLOW

24" WIDE WHITE STOP BAR

S 40°10'40" W 296.00'

10' WIDE LANDSCAPE BUFFER ALONG S. PROPERTY LINE

100' TAPER

U.S. NO. 1 (160' R.O.W.)

FDOT IMPROVEMENTS PROPOSED BY McDONALD'S

5' WIDE CONC. SIDEWALK 1' FROM ℄

20' WIDE LANDSCAPE BUFFER ALONG E. PROPERTY LINE

OWNER TO PROVIDE 25' UTILITY EASEMENT TO VOLUSIA COUNTY.

FDOT STD. DIRECTIONAL ARROWS (TYP.)

2' WIDE CROSS-WALK STRIPING IN ACCORDANCE W/ FDOT INDEX # 17346

YELLOW NON-TRAFFIC STRIPING PER FDOT STDS.

NO-WAY ONE-WAY SIGN

STOP SIGN AND NO LEFT-TURN SIGN

VICINITY MAP
SCALE: 1" = 16 MILES

SITE

OCEAN

ATLANTIC

Ormond-by-the-Sea

Ormond Beach Pier

Daytona Beach

SITE NOTES

SPECIAL NOTES

SITE STATISTICS

Revisions	By
PER VOLUSIA CO. R.L. DRG. 11/26/90	A. B.
PER VOLUSIA CO. R.L. DEV. ORDER 1/28/91	A. B.

PRINTED AUG 11 1993

St. Johns Engineering

LIL' CHAMP FOOD STORES, INC.
(VOLUSIA COUNTY)
U.S. NO. 1 AND BENTON STREET

SITE AND STRIPING PLAN

St. Johns Engineering, Inc.

Date	10-31-90
Scale	1" = 20'
Drawn	LJL/BRB
Checked By	WET
Job	90-077
Sheet	2
Of	7 Sheets

NOT RELEASED FOR CONSTRUCTION

LOCATION MAP
1520 North US1

EXHIBIT 3

Legal Description

LEGAL DESCRIPTION

PART OF BLOCK 51, NATIONAL GARDENS SUBDIVISION, AS PER PLAT RECORDED IN MAP BOOK 10, PAGES 250 THRU 253, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE AND THE POINT OF BEGINNING, COMMENCE AT THE SOUTHEASTERLY RIGHT OF WAY LINE OF BENTON STREET (A 60' RIGHT OF WAY) WITH THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1 (A 160' RIGHT OF WAY); THENCE S 49° 55' 20" E ALONG THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 1 A DISTANCE OF 180.00 FEET; THENCE LEAVING SAID WESTERLY RIGHT OF WAY LINE S 40° 15' 10" W A DISTANCE OF 300.00 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF FLAGLER STREET (A 60 FOOT RIGHT WAY); THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY N 49° 55' 20" W A DISTANCE OF 180.00 FEET TO A POINT OF INTERSECTION WITH THE AFORESAID SOUTHEASTERLY RIGHT OF WAY LINE OF BENTON STREET; THENCE N 40° 04' 40" E ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE 300.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 56,862.07 SQ.FT OR 1.31 ACRES MORE OR LESS

PROPERTY LOCATION: 1520 N US HWY 1

PROPERTY ID: 3136-01-61-0010

OWNER: The Pantry Inc., a Delaware corporation authorized to do business in the State of Florida

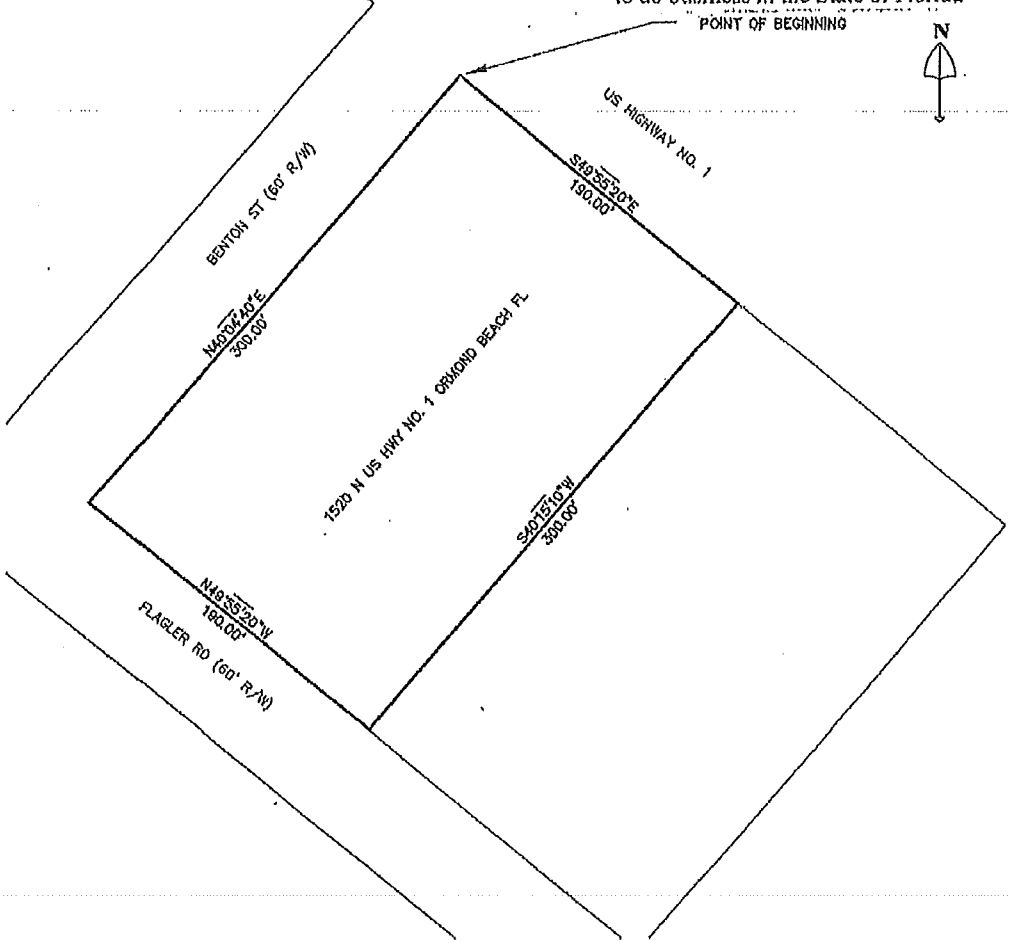


EXHIBIT 4

Section 2-28 of the LDC, B-7 Zoning District

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

A. PURPOSE: The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist-related support activities in an attractive setting which will promote pedestrian activity and reinforce positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted.

B. DIMENSIONAL STANDARDS

1. Type	2. Density	3. Maximum Building Height	4. Maximum Building Coverage	5. Maximum Impervious Lot Coverage	6. Minimum Lot Size	7. Minimum Lot Width	8. Minimum Lot Depth	9. Setbacks				
								a. Front	b. Rear	c. Side	d. Street Side/ Corner	e. Waterbody
Non-Residential Uses	36 (Transient Lodging)	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district; 5’ additional combined side yard required for each story over 2	10’ 20’ when abutting a multi-family district; 25’ when abutting a single-family district; 5’ of additional combined yard area required for each story over 2	20’	30’
Multi-Family	10	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district	10’ when abutting a multi-family district; 25’ when abutting a single-family district	20’	30’

C. PERMITTED USES

1. **Adult Day Care Center**
2. **Assisted Living Facility**
3. **Business/ Professional Services**
4. **Business Services**
5. **Clubs and Fraternal Organization**
6. **Convenience Store, Type “A”**
7. **Financial Institutions**
8. **Nursing Home**
9. **Personal Services**
10. **Retail Sales and Services**
11. **School of Art**
12. **Schools, Public**
13. **Transient Lodging**
14. **Veterinarian**

D. CONDITIONAL USES

1. **Bar**
2. **Community Residential Home**
3. **Convenience Store, Type “B”**
4. **Convenience Store, Type “C”**
5. **Dwelling, Multi-Family**
6. **Family Day Care Home**
7. **Golf Course, contoured**
8. **Hospital**
9. **House of Worship**
10. **Nightclub**
11. **Parking Lot**
12. **Parking Garage**
13. **Parks and Recreation Facilities, Private**
14. **Parks and Recreation Facilities, Public**
15. **Public Facilities**
16. **Public Utilities**
17. **Recreation Facilities, Indoor**
18. **Restaurant, Type “A”**
19. **Restaurant, Type “B”**
20. **Restaurant, Type “C”**
21. **School, Private**
22. **Shopping Center**
23. **Telecommunication Tower, Camouflaged**
24. **Theater**
25. **Wind Energy System**

E. SPECIAL EXCEPTION USES

1. **Automatic Amusement Center**
2. **Nightclub**
3. **Outdoor Activity**
4. **Outdoor Storage**
5. **Recreation Facilities, Outdoor**
6. **Telecommunication Tower**
7. **Vehicle Rental**

F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
2 Bedroom = 750 SF	Each Additional Bedroom = 150 SF

G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: McDonalds, 1530 North US Highway 1
Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-046

PROJECT PLANNER: S. Laureen Kornel, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±2.58 acre parcel of land from the existing zoning classification of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1530 North US Highway 1, McDonalds. (see Exhibit 1).

BACKGROUND:

The subject property at 1530 North US Highway 1 is owned by McDonalds Corporation which operates a fast food restaurant with a drive-through window (see Exhibit 2). The McDonalds site plan was approved by Volusia County and as part of that process, the property connected to City utilities. The property was annexed on September 21, 2011 with Ordinance 2010-45 (see Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project. Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification are adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

> "The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
Barber and beauty shops	Exempt landfills	Newsstands	Restaurants, types A and B
Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
Communication towers not exceeding 70 in height	Government sponsored civic centers	Museums	Theaters
Convenience stores with more than eight vehicular service positions	Home occupations, class A	Nightclubs	Tire sales
Convenience stores, with or without fuel dispensers	Hotels/motels	Outdoor entertainment event	

Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
Curb markets	Outdoor entertainment and recreational uses and structures	Railroad yards, siding and terminals	
Excavations only for stormwater retention ponds for which a permit is required	Professional or trade schools related to permitted uses	Schools, parochial or private	

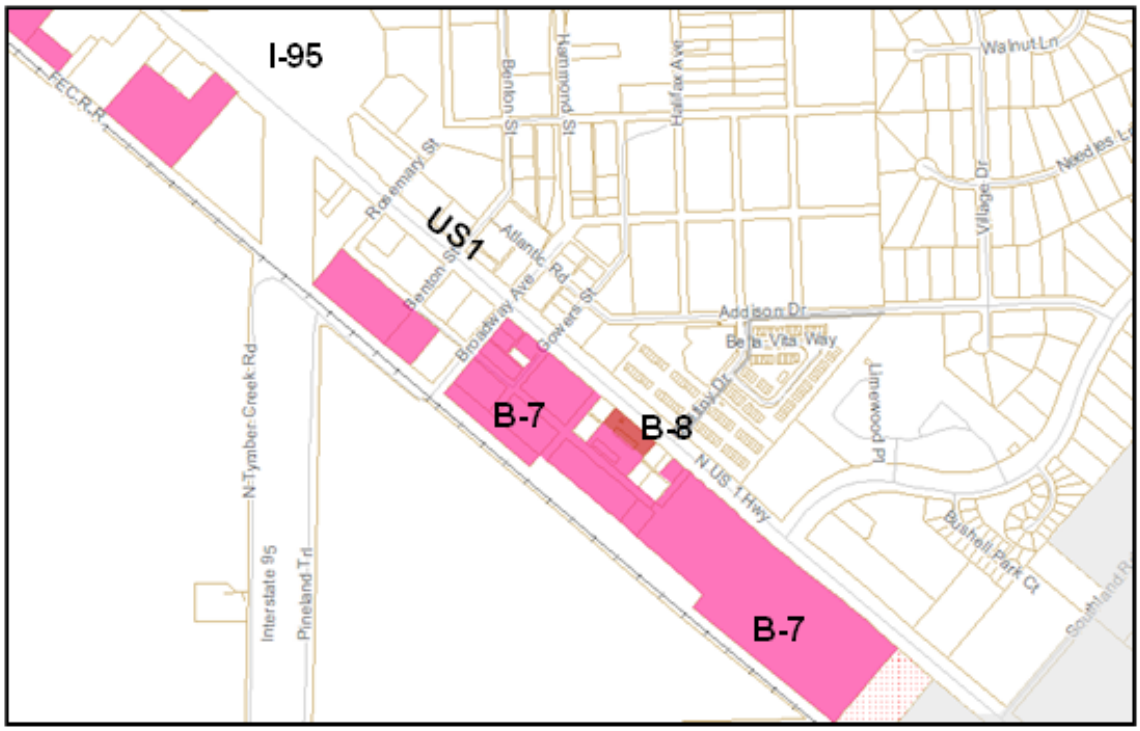
The subject property is undergoing a land use amendment to assign a City Future Land Use designation of "Low Intensity Commercial" which was created as part of the City's Evaluation and Appraisal amendment process. Concurrent with the North US Highway 1 land use and zoning amendments, staff is processing a Land Development Code amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

Comprehensive Plan Future Land Use Map Designation	**Corresponding Compatible Zoning District**
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclub, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning classification is to provide the most similar classification assigned by Volusia County.

The potential zoning districts were analyzed as follows:

Zoning District	Staff Review
Professional Office/Hospital (B-1)	Intended for office, medical, and institutional uses. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Central Business (B-4)	Intended for the existing core area of the City, such as the Community Redevelopment Area. Staff concluded this was not an appropriate zoning classification for land located near the interchange.
Service Commercial (B-5)	Intended for automotive, construction materials, and warehousing. Staff concluded this was not an appropriate zoning classification for land near the interchange.
Oceanfront Tourist Commercial (B-6)	Intended for properties along the Atlantic Ocean with specialized design standards. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Highway Tourist Commercial (B-7) (See Exhibit 4 for zoning district uses)	The City Land Development Code provides the following purpose and intent for the B-7 (Highway Tourist Commercial) zoning district: "The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist related support activities in an attractive setting which will promote pedestrian activity and reinforces positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted." The B-7 zoning district offers the most similar City zoning district to the Volusia County B-6 zoning classification. In addition, there are existing properties in this area zoned as B-7.
Commercial (B-8)	Intended for general commercial activities (other than automotive) along arterial roadways. Though this zoning district was considered as a strong option, it was identified as not allowing transient lodging and tailored more toward general commercial uses, such as along Nova Road, rather than specifically next to a highway interchange.

Zoning District	Staff Review
Boulevard (B-9)	Intended for office, medical, and institutional uses. Therefore, it is not and appropriate zoning classification for the land located near the interchange.
Suburban Boulevard (B-10)	Intended for office, medical, and institutional uses. Therefore, it is not and appropriate zoning classification for the land located near the interchange.
Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classifications of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning Classification
North	1544 North US Highway 1 - Vacant	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	1545 North US Highway 1 – Cheaters	Volusia County "Commercial"	Volusia County B-4 (General Commercial)
East	1520 North US Highway 1 – Lil' Champ	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Vacant	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial) – City B-7 (Highway Tourist Commercial

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally**

permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.

No specific development is proposed and the request is based on a need to assign a City zoning classification to the property as the result of annexation. The zoning map amendment will not adversely affect public health, safety, welfare or the quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the existing fast food drive-through restaurant will continue to operate as it historically has.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1530 North US Highway 1, as described in Exhibit 3, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments:

Exhibit 1: Zoning Map

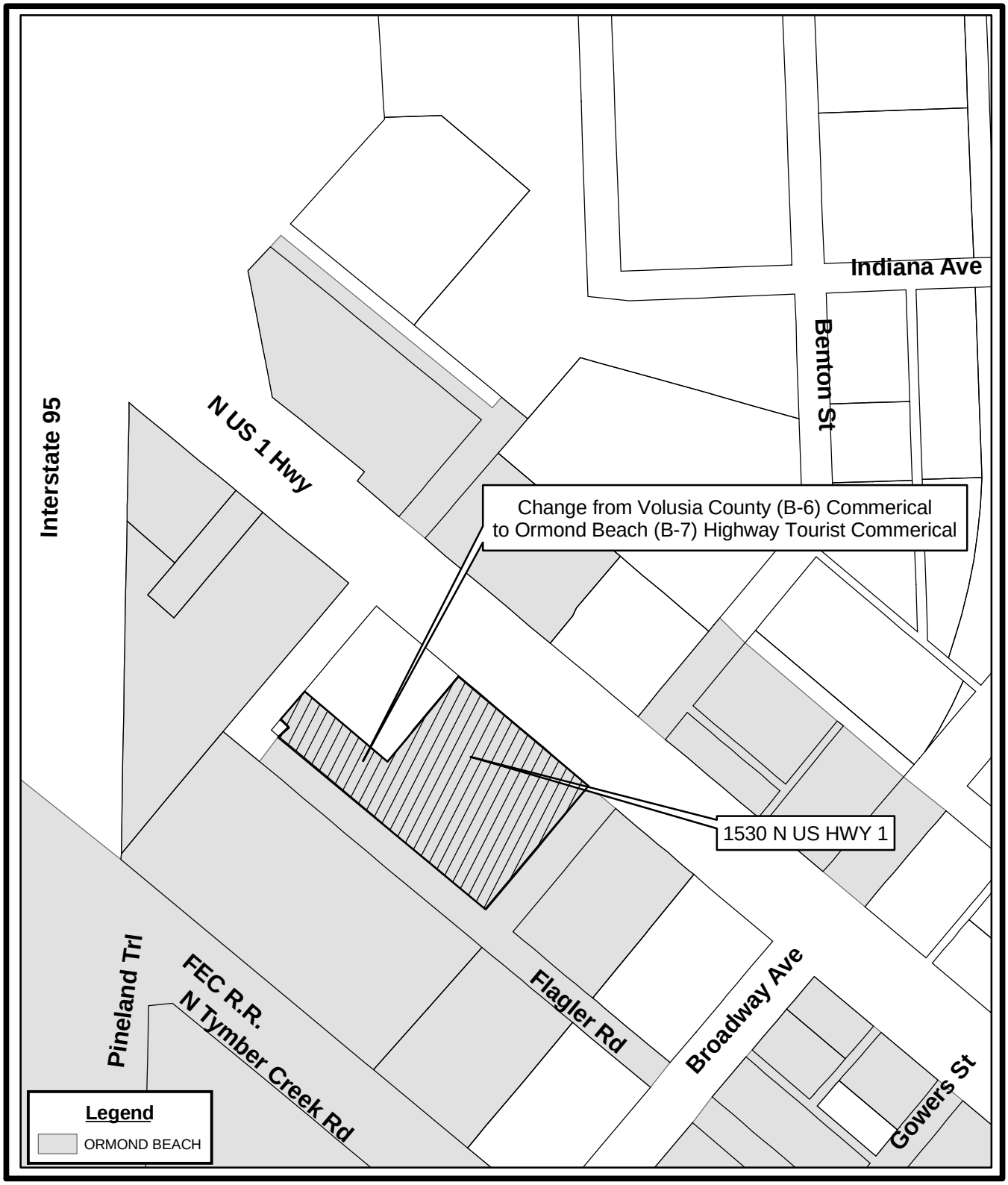
Exhibit 2: Photo and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Zoning Map



ZONING AMENDMENT MAP
1530 N US HWY 1 (3136-01-62-0050)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

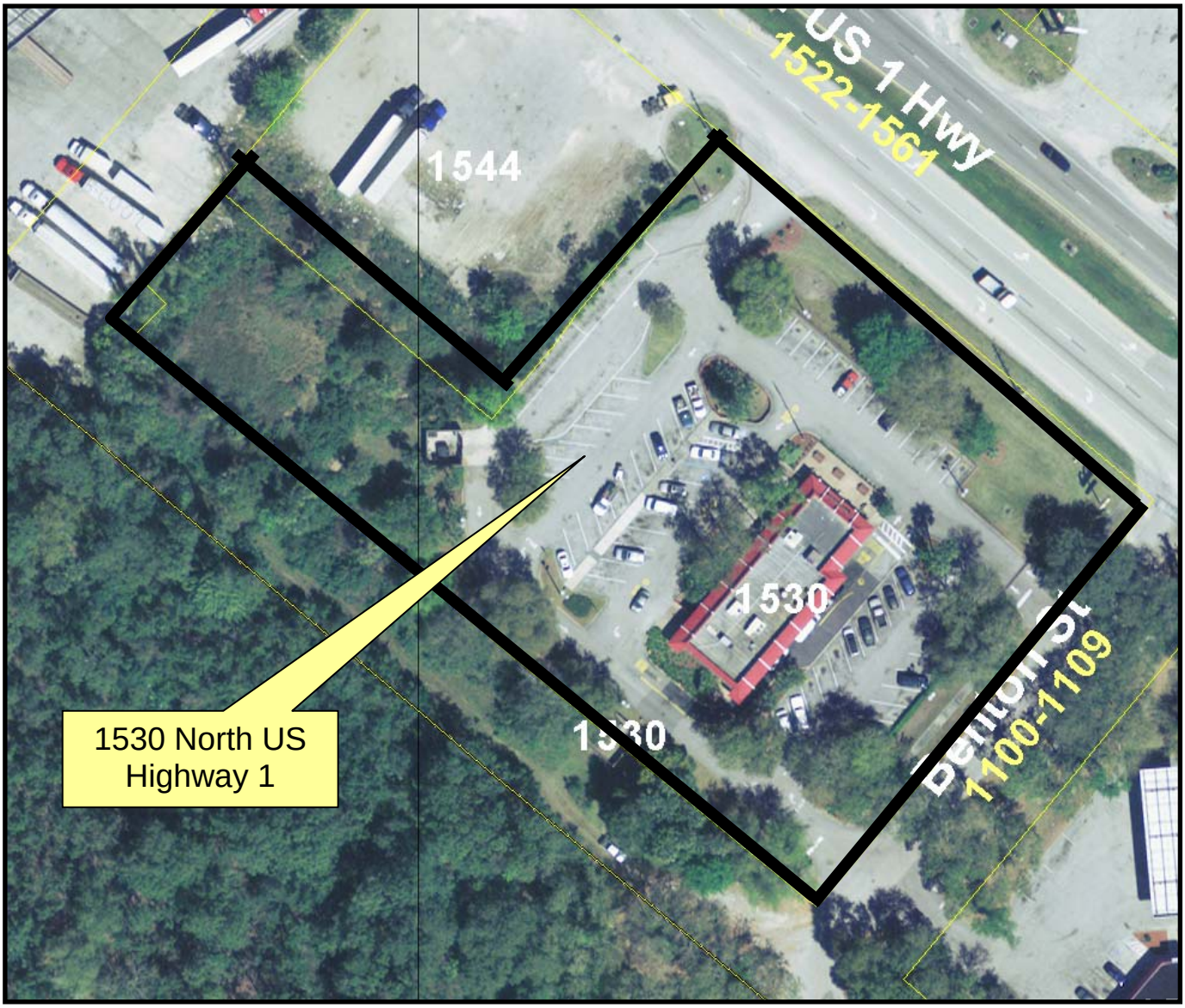
N
W E
S

EXHIBIT 2

Photo and Location Aerial

1530 North US Highway 1 – McDonalds

04.29.11



LOCATION MAP
1530 North US1

N
W E
S

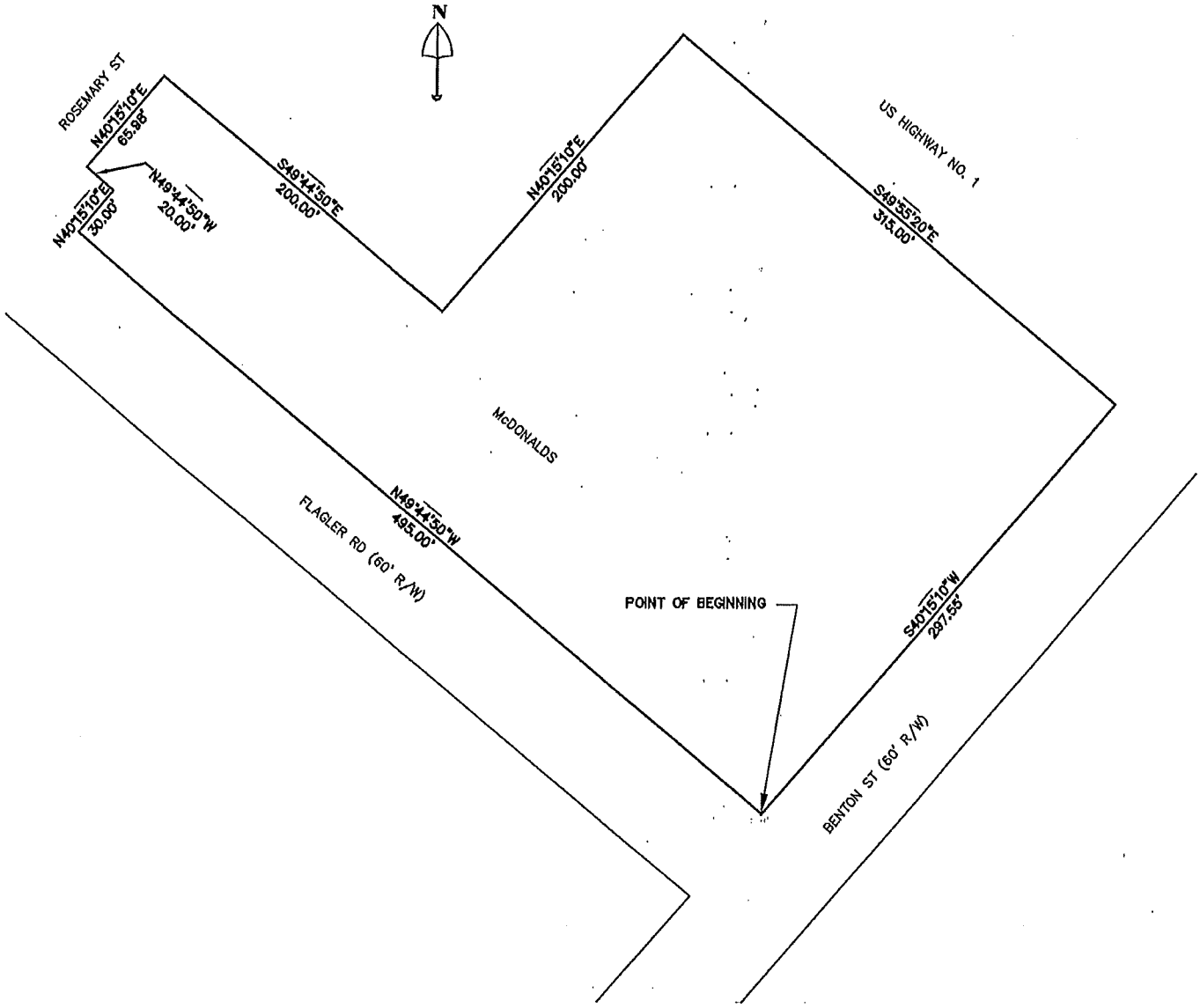
EXHIBIT 3

Legal Description

THAT PART OF BLOCK 62, NATIONAL GARDENS, AS PER PLAT THEREOF RECORDED IN MAP BOOK 10, PAGES 250–253 INCLUSIVE, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGIN AT THE POINT OF INTERSECTION OF THE NORTHWESTERLY RIGHT OF WAY LINE OF BENTON STREET AND THE NORTHEASTERLY RIGHT OF WAY LINE OF FLAGLER ROAD AND RUN THENCE N49°44'50" W ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF FLAGLER ROAD A DISTANCE OF 495.00 FEET; THENCE N40°15'10"E A DISTANCE OF 30.00 FEET; THENCE N49°44'50"W A DISTANCE OF 20.00 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF ROSEMARY STREET; THENCE N40°15'10"E ALONG THE SOUTHEASTERLY RIGHT OF WAY LINE OF ROSEMARY STREET A DISTANCE OF 65.98 FEET TO THE SOUTHWESTERLY CORNER OF GULF OIL CORPORATION'S SERVICE STATION'S PROPERTY; THENCE S49°44'50"E A DISTANCE OF 200.00 FEET TO THE SOUTHEAST CORNER OF GULF OIL CORPORATION'S SERVICE STATION'S PROPERTY; THENCE N40°15'10"E A DISTANCE OF 200.00 FEET, MORE OR LESS TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY LINE OF US HIGHWAY NO.1, WHICH POINT IS ALSO A NORTHEASTERLY CORNER OF GULF OIL CORPORATION'S SERVICE STATION'S PROPERTY; THENCE S49°55'20"E ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF US HIGHWAY NO.1 A DISTANCE OF 315.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT WAY LINE OF BENTON STREET; THENCE S40°15'10"W ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF BENTON STREET A DISTANCE OF 297.55 FEET TO THE POINT OF BEGINNING.

CONTAINING 112172.72 SQ FT. OR 2.575 ACRES MORE OR LESS.



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21. **School, Private**
22. **Shopping Center**
23. **Telecommunication Tower, Camouflaged**
24. **Theater**
25. **Wind Energy System**

E. SPECIAL EXCEPTION USES

1. **Automatic Amusement Center**
2. **Nightclub**
3. **Outdoor Activity**
4. **Outdoor Storage**
5. **Recreation Facilities, Outdoor**
6. **Telecommunication Tower**
7. **Vehicle Rental**

F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
2 Bedroom = 750 SF	Each Additional Bedroom = 150 SF

G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Vacant former Wendy's, 1561 North US Highway 1
Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-052

PROJECT PLANNER: S. Laureen Kornel, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±2.19 acre parcel of land from the existing zoning classification of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1561 North US Highway 1, former Wendy's, convenience store and fuel station. (see Exhibit 1).

BACKGROUND:

The property is owned by Wendy's International Inc., which previously operated a fast food restaurant with a drive-through window, convenience store and fuel station (see Exhibit 2). The commercial buildings on the site are presently vacant. The property was annexed on March 21, 2011 with Ordinance 2011.09 (see Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project. Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification are adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

> "The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
Barber and beauty shops	Exempt landfills	Newsstands	Restaurants, types A and B
Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
Communication towers not exceeding 70 in height	Government sponsored civic centers	Museums	Theaters
Convenience stores with more than eight vehicular service positions	Home occupations, class A	Nightclubs	Tire sales
Convenience stores, with or without fuel dispensers	Hotels/motels	Outdoor entertainment event	

Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
Curb markets	Outdoor entertainment and recreational uses and structures	Railroad yards, siding and terminals	
Excavations only for stormwater retention ponds for which a permit is required	Professional or trade schools related to permitted uses	Schools, parochial or private	

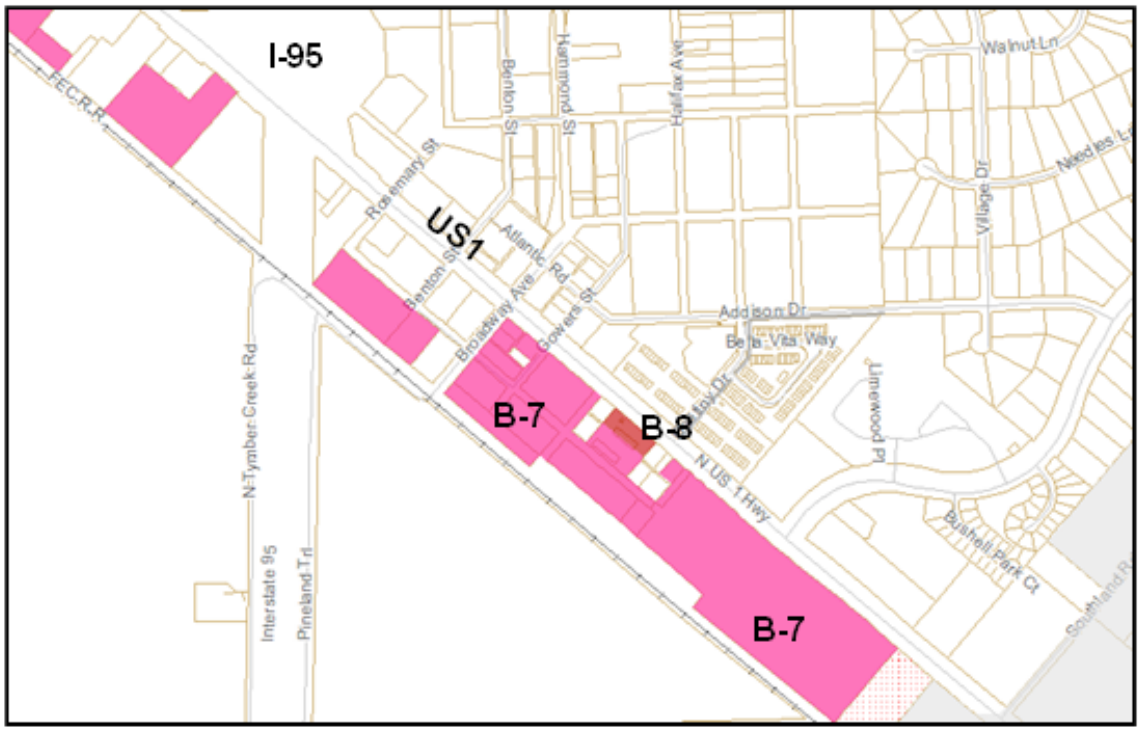
The subject property is undergoing a land use amendment to assign a City Future Land Use designation of "Low Intensity Commercial" which was created as part of the City's Evaluation and Appraisal amendment process. Concurrent with the North US Highway 1 land use and zoning amendments, staff is processing a Land Development Code amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

Comprehensive Plan Future Land Use Map Designation	**Corresponding Compatible Zoning District**
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclub, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning classification is to provide the most similar classification assigned by Volusia County.

The potential zoning districts were analyzed as follows:

Zoning District	Staff Review
Professional Office/Hospital (B-1)	Intended for office, medical, and institutional uses. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Central Business (B-4)	Intended for the existing core area of the City, such as the Community Redevelopment Area. Staff concluded this was not an appropriate zoning classification for land located near the interchange.
Service Commercial (B-5)	Intended for automotive, construction materials, and warehousing. Staff concluded this was not an appropriate zoning classification for land near the interchange.
Oceanfront Tourist Commercial (B-6)	Intended for properties along the Atlantic Ocean with specialized design standards. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Highway Tourist Commercial (B-7) (See Exhibit 4 for zoning district uses)	The City Land Development Code provides the following purpose and intent for the B-7 (Highway Tourist Commercial) zoning district: "The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist related support activities in an attractive setting which will promote pedestrian activity and reinforces positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted." The B-7 zoning district offers the most similar City zoning district to the Volusia County B-6 zoning classification. In addition, there are existing properties in this area zoned as B-7.
Commercial (B-8)	Intended for general commercial activities (other than automotive) along arterial roadways. Though this zoning district was considered as a strong option, it was identified as not allowing transient lodging and tailored more toward general commercial uses, such as along Nova Road, rather than specifically next to a highway interchange.

Zoning District	Staff Review
Boulevard (B-9)	Intended for office, medical, and institutional uses. Therefore, it is not and appropriate zoning classification for the land located near the interchange.
Suburban Boulevard (B-10)	Intended for office, medical, and institutional uses. Therefore, it is not and appropriate zoning classification for the land located near the interchange.
Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classifications of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning Classification
North	1635 North US Highway 1 – Destination Daytona	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	1567 North US Highway 1 – Econo Inn	Volusia County "Commercial"	Volusia County B-4 (General Commercial)
East	1545 North US Highway 1 - Cheaters	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	1576 North US Highway 1 – Florida Citrus World	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

No specific development is proposed and the request is based on a need to assign a City zoning classification to the property as the result of annexation. The zoning map amendment will not adversely affect public health, safety, welfare or the quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties given that the B-7 zoning classification would not allow a use more intense than the original use as a fast food restaurant, convenience store and fuel station. The intent of assigning the B-7 zoning classification is to assign a zoning classification that mimics the existing County zoning.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1561 North US Highway 1, as described in Exhibit 3, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments:

Exhibit 1: Zoning Map

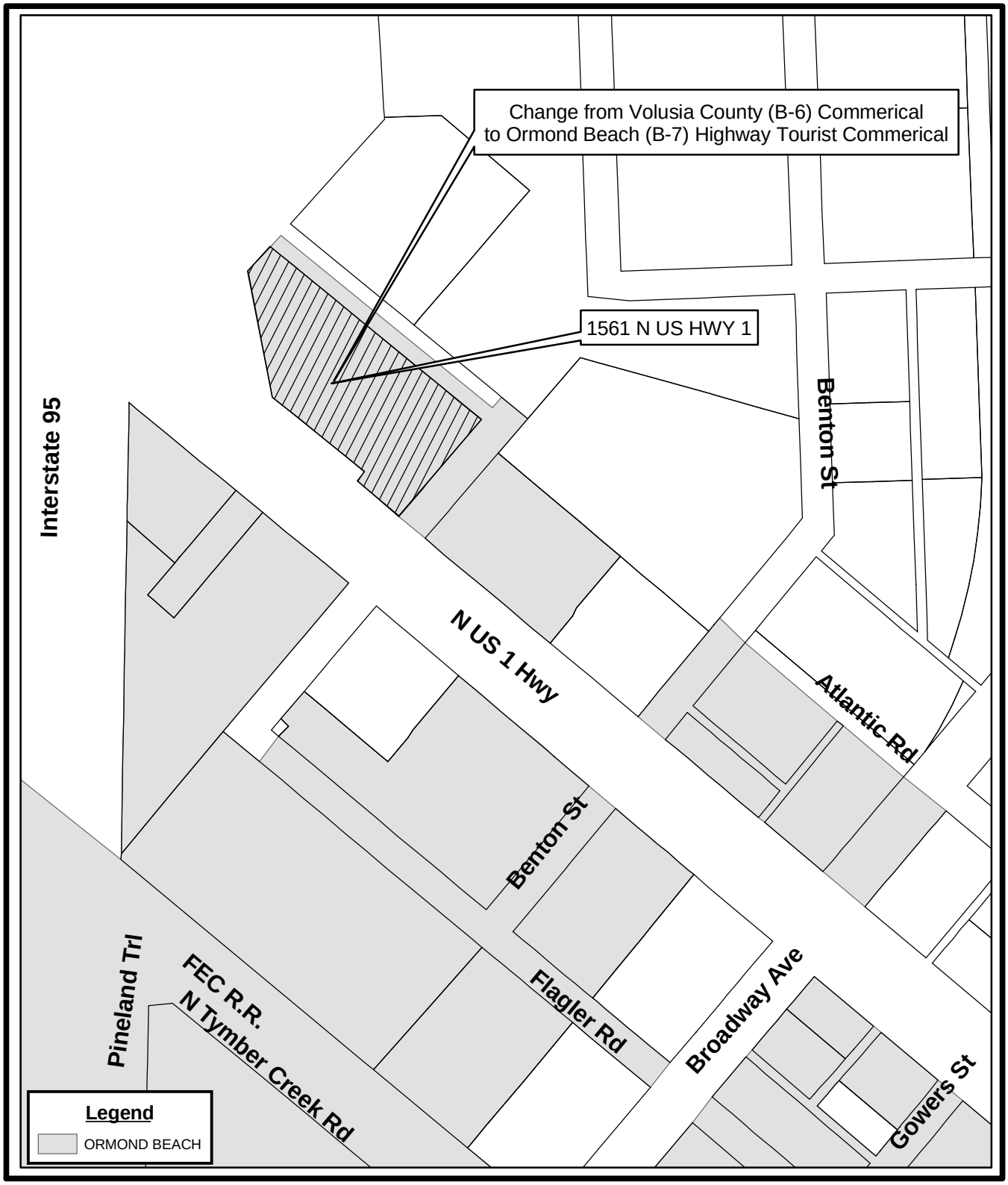
Exhibit 2: Photo, Site Plan and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Zoning Maps



ZONING AMENDMENT MAP
1561 N US HWY 1 (3136-01-17-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

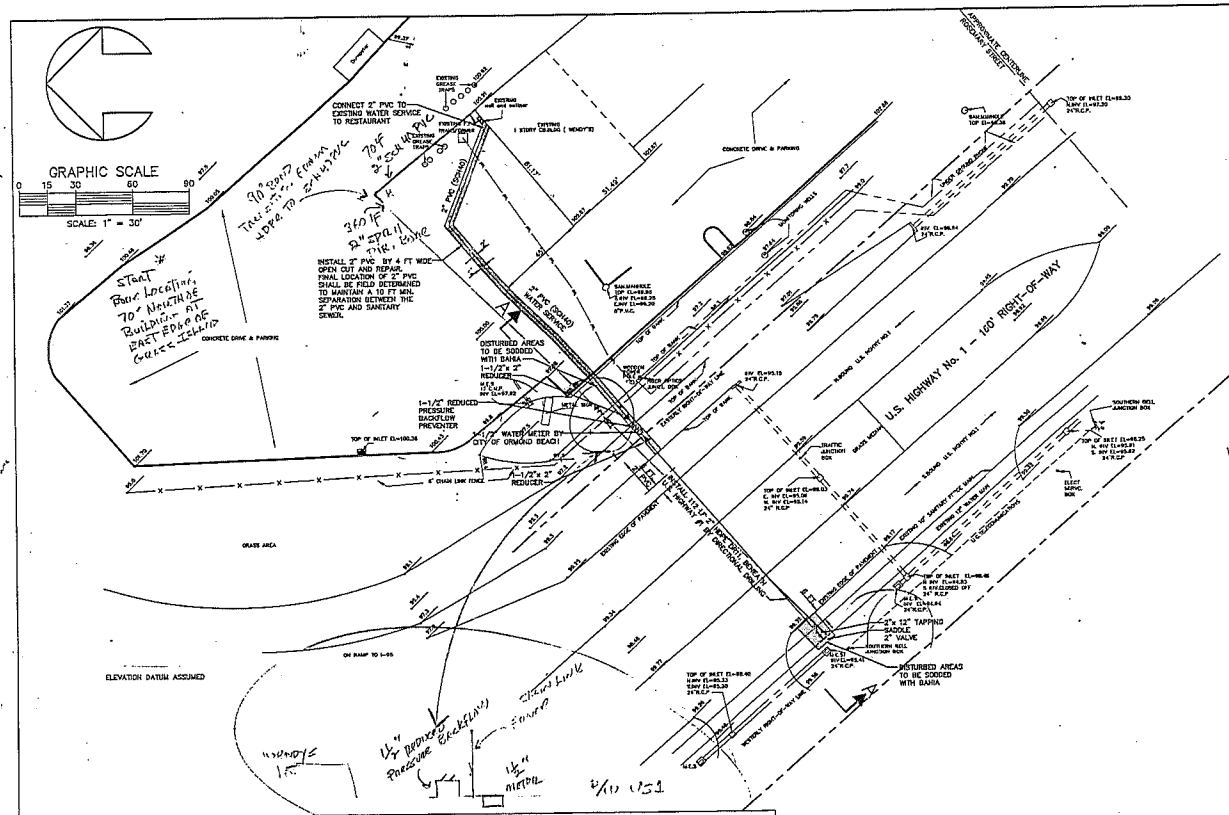
N
W E
S

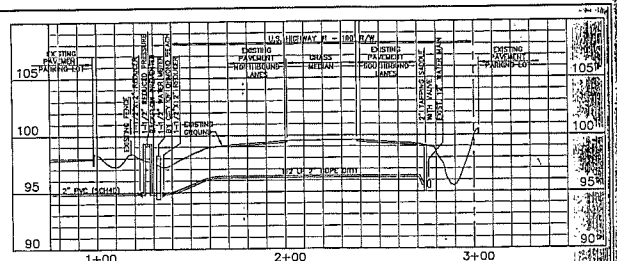
EXHIBIT 2

Photo, Site Plan and Location Aerial

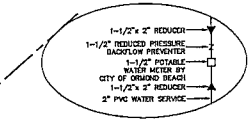
1561 North US Highway 1 – Former Vacant Wendy's

04.29.11

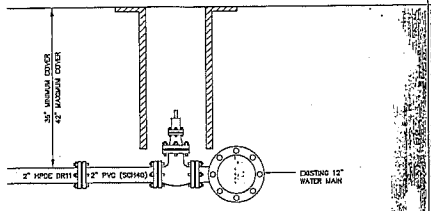




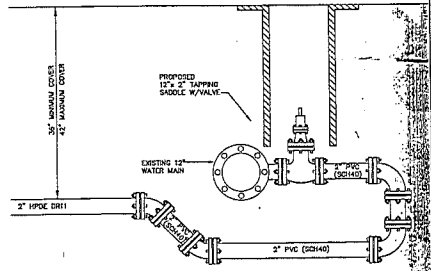
SECTION A – A
SCALE 1"=5' VERT, 1"=30' HORIZ.



WATER CONNECTION DETAIL
NOT TO SCALE



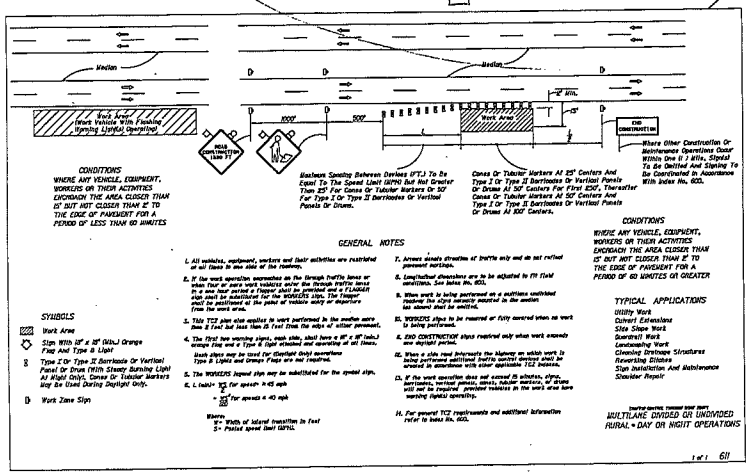
CONNECTION TO EXISTING FORCE MAIN OPTION 1



CONNECTION TO EXISTING FORCE MAIN OPTION 2

LEGEND

- U.G.TELECOMUNICATIONS
- UNDERGROUND TELEPHONE CABLE
- FLORIDA POWER & LIGHT LINES
- EXISTING ELEVATION (ASSUMED DATUM)
- EXISTING FENCE



NO.	DATE	DESCRIPTION	BY
3	12-21-99	REVISED PER RICHARD WISKERMAN LETTER DATED 11-09-99	*TW*
2	09-30-99	REVISED PER STEVE BUSWELL COMMENTS DATED 09-29-99	*TW*
1	09-10-99	REVISED PER STEVE BUSWELL COMMENTS DATED 09-03-99	*TW*

REVISIONS

PARKER MYNCHENBERG & ASSOCIATES, INC.
PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS
1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
(904) 677-6991 FAX (904) 677-2114 E-MAIL: pmc@n-joanter.com

SITE PLAN

WENDY'S RESTAURANT
VOLUSIA COUNTY (NATIONAL GARDENS AREA) * FLORIDA

FILE NO. 9945-SUR.DWG	DESIGNER: P.MYNCHENBERG
DATE: 07-15-99	CADD TECH: TOM WALKER
SCALE: 1" = 30'	SHEET 3 OF 4

SEAL

WENDY'S RESTAURANT - US1/NEAR I-95

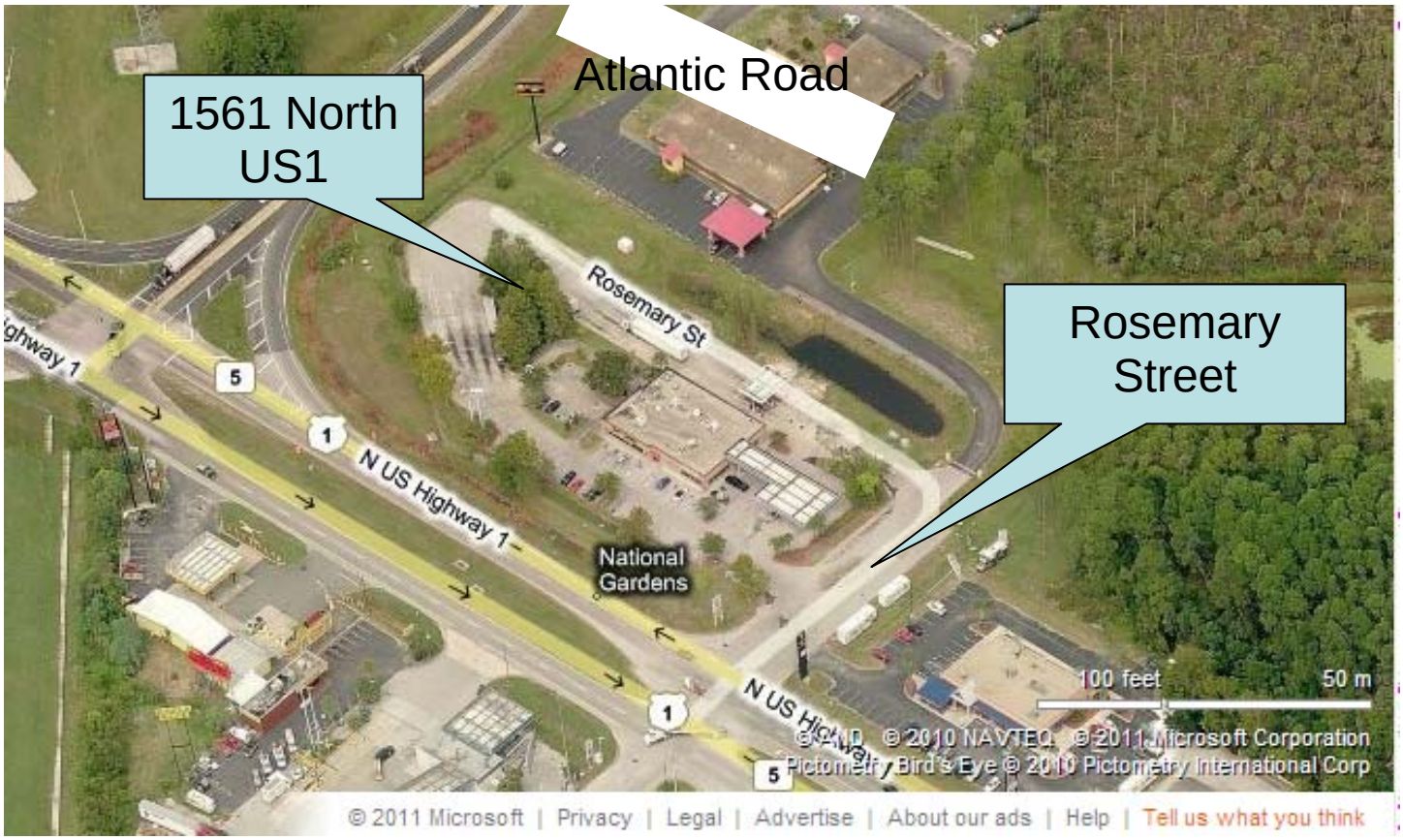

Atlantic Road
1561 North US1
Rosemary St
Rosemary Street
N US Highway 1
National Gardens
100 feet
50 m
© 2010 NAVTEQ © 2011 Microsoft Corporation
Pictometry Bird's Eye © 2010 Pictometry International Corp
© 2011 Microsoft | Privacy | Legal | Advertise | About our ads | Help | Tell us what you think

EXHIBIT 3

Legal Description

Block 17, except that part taken by U.S. No. 1 and Interstate Highway No. 95, National Gardens as recorded in Map Book10, Pages 250–253, inclusive, of the public records of Volusia County, Florida, more particularly described as follows:

BEGINNING at the southeasterly corner of said Block 17; thence South 40" 15' 10" West along the northerly right of way of Rosemary Street having a 60 foot right of way, being also the southerly line of said Block 17, 234.2 feet to a point in the easterly right of way of U.S. No. 1 being a 160 foot right of way; thence North 49" 55' 20" West along the easterly right of way of said U.S. No. 1, 96.9 ft. to a point in aforesaid right of way; thence North 40" 04' 40" East along the new right of way of 1–95, 23.0 feet to a point therein; thence North 49" 55' 20" West along said 1–95 right of way, 216.8 feet to a point therein; thence North 12" 04' 28" West along said right of way, 226.35 feet; thence North 40" 52' 45" East along said right of way 76.09 feet to a point therein being also in the westerly right of way of Atlantic Road being a 60 foot right of way, being also in the easterly line of Block 17 aforesaid; thence South 49" 29' 00" East along said right of way and said easterly line of Block 17, 492.10 feet to the point of BEGINNING. Together with the southwesterly 30.00 feet of vacated Atlantic Road, a 60.00 foot right of way, abutting the northeasterly line thereof.

Containing 95,348 sq.ft. or 2.19 acres more or less

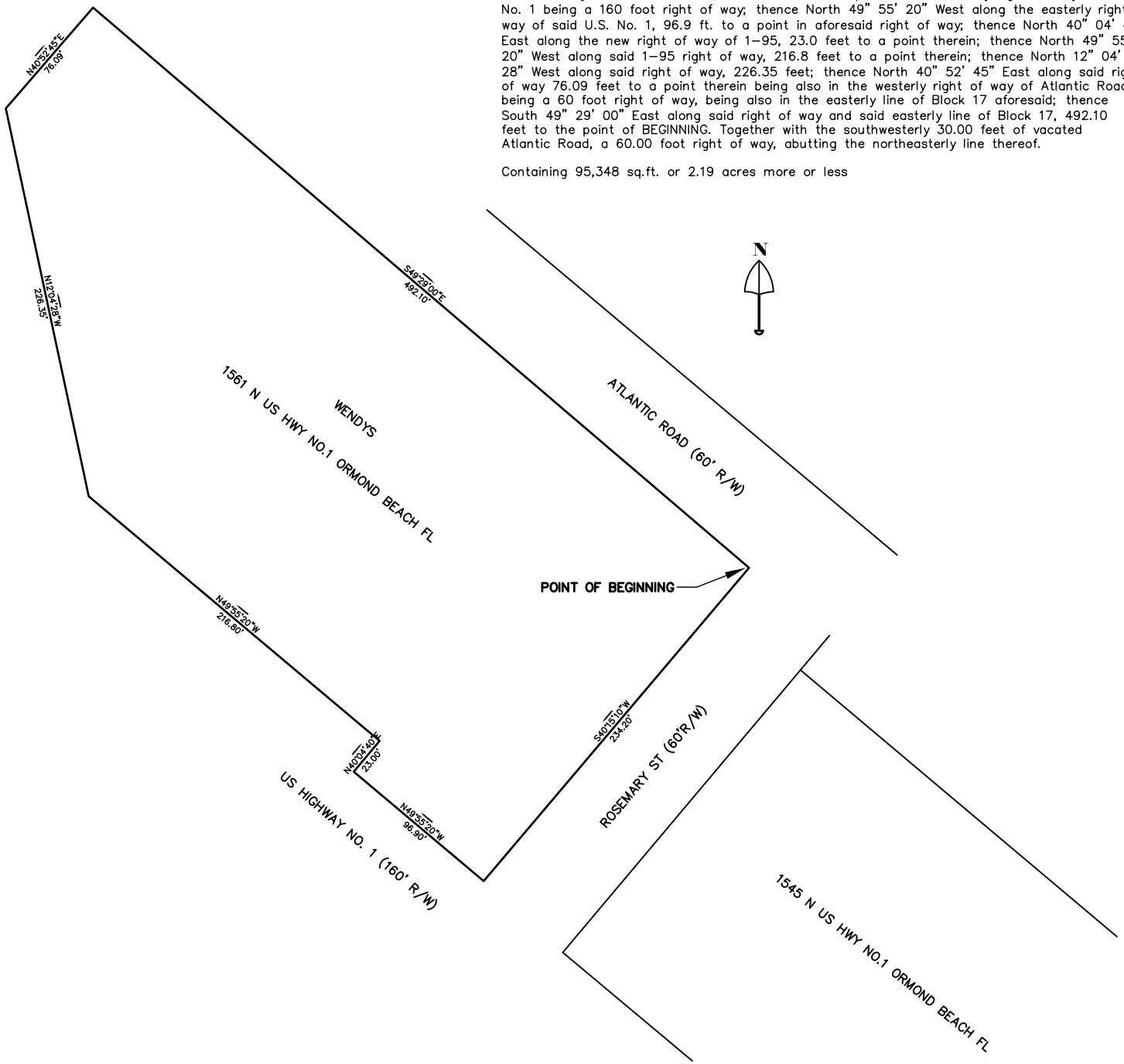


EXHIBIT 4

Section 2-28 of the LDC, B-7 Zoning District

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

A. PURPOSE: The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist-related support activities in an attractive setting which will promote pedestrian activity and reinforce positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted.

B. DIMENSIONAL STANDARDS

1. Type	2. Density	3. Maximum Building Height	4. Maximum Building Coverage	5. Maximum Impervious Lot Coverage	6. Minimum Lot Size	7. Minimum Lot Width	8. Minimum Lot Depth	9. Setbacks				
								a. Front	b. Rear	c. Side	d. Street Side/ Corner	e. Waterbody
Non-Residential Uses	36 (Transient Lodging)	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district; 5’ additional combined side yard required for each story over 2	10’ 20’ when abutting a multi-family district; 25’ when abutting a single-family district; 5’ of additional combined yard area required for each story over 2	20’	30’
Multi-Family	10	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district	10’ when abutting a multi-family district; 25’ when abutting a single-family district	20’	30’

C. PERMITTED USES

1. **Adult Day Care Center**
2. **Assisted Living Facility**
3. **Business/ Professional Services**
4. **Business Services**
5. **Clubs and Fraternal Organization**
6. **Convenience Store, Type “A”**
7. **Financial Institutions**
8. **Nursing Home**
9. **Personal Services**
10. **Retail Sales and Services**
11. **School of Art**
12. **Schools, Public**
13. **Transient Lodging**
14. **Veterinarian**

D. CONDITIONAL USES

1. **Bar**
2. **Community Residential Home**
3. **Convenience Store, Type “B”**
4. **Convenience Store, Type “C”**
5. **Dwelling, Multi-Family**
6. **Family Day Care Home**
7. **Golf Course, contoured**
8. **Hospital**
9. **House of Worship**
10. **Nightclub**
11. **Parking Lot**
12. **Parking Garage**
13. **Parks and Recreation Facilities, Private**
14. **Parks and Recreation Facilities, Public**
15. **Public Facilities**
16. **Public Utilities**
17. **Recreation Facilities, Indoor**
18. **Restaurant, Type “A”**
19. **Restaurant, Type “B”**
20. **Restaurant, Type “C”**
21. **School, Private**
22. **Shopping Center**
23. **Telecommunication Tower, Camouflaged**
24. **Theater**
25. **Wind Energy System**

E. SPECIAL EXCEPTION USES

1. **Automatic Amusement Center**
2. **Nightclub**
3. **Outdoor Activity**
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F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
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G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Vacant Gas Station and Fruit Store, 1560 North US Highway 1 - Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-050

PROJECT PLANNER: Becky Weedo, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±2.74 acre parcel of land from the existing zoning designation of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1560 North US Highway 1 (see Exhibit 1).

BACKGROUND:

The property at 1560 North US Highway 1 is owned by Harley and Pamela Head and is currently operating as a fruit stand/convenience store (See Exhibit 2 - Photo and Location Aerial). Previously, it was a gas station/truck stop. In December 1995, FinaServe, Incorporated signed a Declaration of Covenants and Restrictions for annexation in order to receive City utilities at the property. The property was annexed on December 7, 2010 with Ordinance 2010-53. The annexation occurred based on the connection to City water and sewer (See Exhibit 3 – Utilities Map).

Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification are adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

> "The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
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Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
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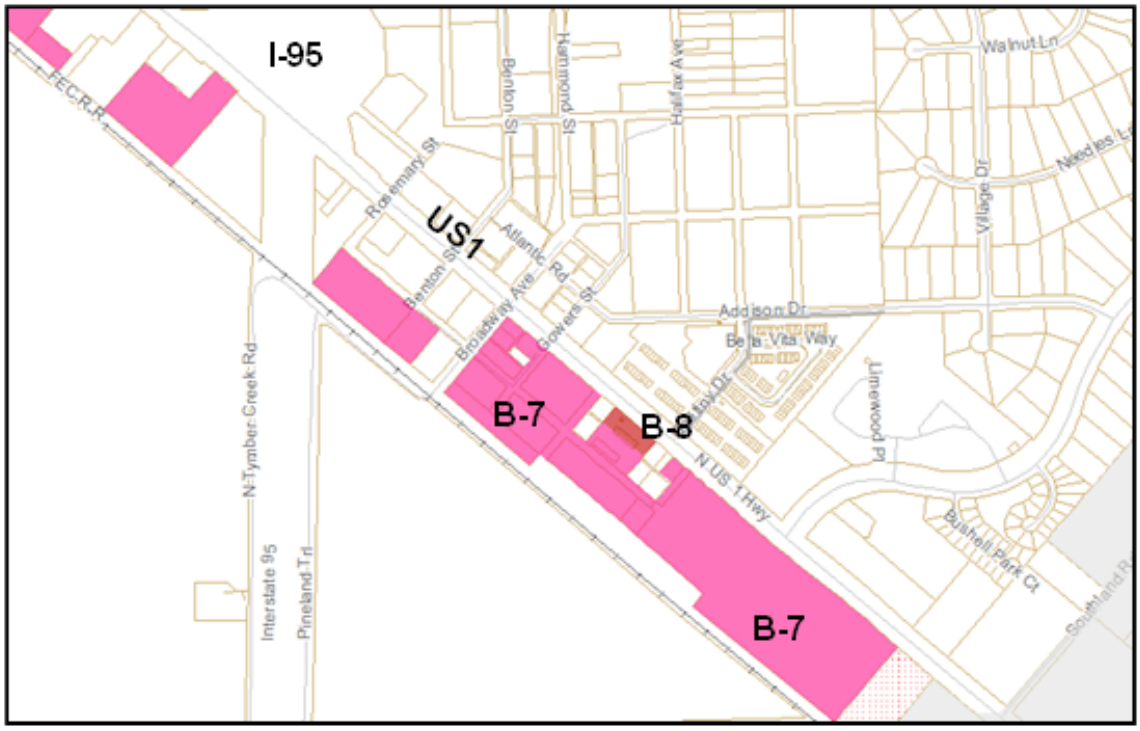
The subject property is undergoing a land use amendment to assign a City Future Land Use designation of "Low Intensity Commercial" which was created as part of the City's Evaluation and Appraisal amendment process. Concurrent with the North US Highway 1 land use and zoning amendments, Planning staff is processing an Land Development Code amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

Comprehensive Plan Future Land Use Map Designation	Corresponding Compatible Zoning District
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclub, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning classification is to provide the most similar classification as the property had in Volusia County.

Staff analyzed the potential zoning districts as follows:

Zoning District	Staff Review
Professional Office/Hospital (B-1)	Intended for office, medical, and institutional uses. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Central Business (B-4)	Intended for the existing core area of the City, such as the Community Redevelopment Area. Staff concluded this was not appropriate zoning classification for the land located near the interchange.
Service Commercial (B-5)	Intended for automotive, construction materials, and warehousing. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Oceanfront Tourist Commercial (B-6)	Intended for properties along the Atlantic Ocean with specialized design standards. Staff concluded this was not appropriate zoning designation for the land around the interchange.
Highway Tourist Commercial (B-7) (See Exhibit 4 for zoning district uses)	The City Land Development Code provides the following purpose and intent for the B-7 (Highway Tourist Commercial) zoning district: "The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist related support activities in an attractive setting which will promote pedestrian activity and reinforces positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted." The B-7 zoning district offers the most similar City zoning district to the Volusia County B-6 zoning classification. In addition, there are existing properties in this area zoned as B-7.
Commercial (B-8)	Intended for general commercial activities (other than automotive) along arterial roadways. Though this zoning district was considered as a strong zoning option, it was identified as not allowing transient lodging and tailored more toward general commercial uses, such as along Nova Road, rather than specifically next to a highway interchange.

Zoning District	Staff Review
Boulevard (B-9)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for the land near the interchange.
Suburban Boulevard (B-10)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for the land near the interchange.
Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classifications of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning Classification
Northwest	Waffle House & I-95	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant Land	Volusia County "Commercial" & "Highway Tourist Commercial"	Volusia County B-6 (Highway Interchange Commercial)
North	Vacant Gas Station and Wendy's	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	I-95	N/A	N/A

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

No specific development is proposed and the request is based on a need to assign a City zoning classification to the property as the result of annexation. The zoning map amendment will not adversely affect public health, safety, welfare or the quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the existing fruit store will continue to operate as it historically has.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1560 North US Highway 1, as described in Exhibit 5, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments:

Exhibit 1: Zoning Map

Exhibit 2: Photo and Location Aerial

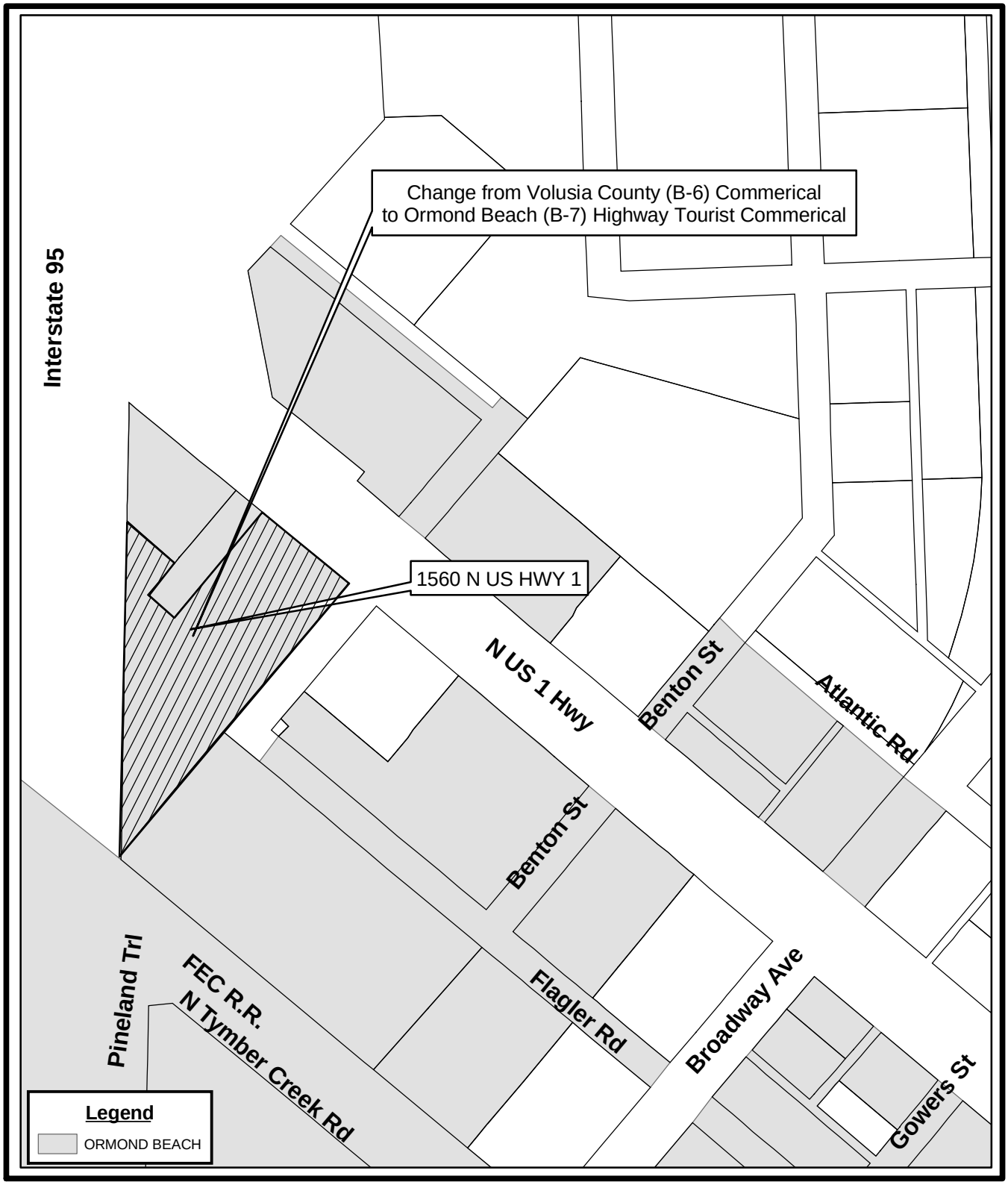
Exhibit 3: Utilities Map

Exhibit 4: Section 2-28 of the LDC, B-7 Zoning District

Exhibit 5: Legal Description

EXHIBIT 1

Zoning Map



ZONING AMENDMENT MAP
1560 N US HWY 1 (3136-01-63-0020)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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W E
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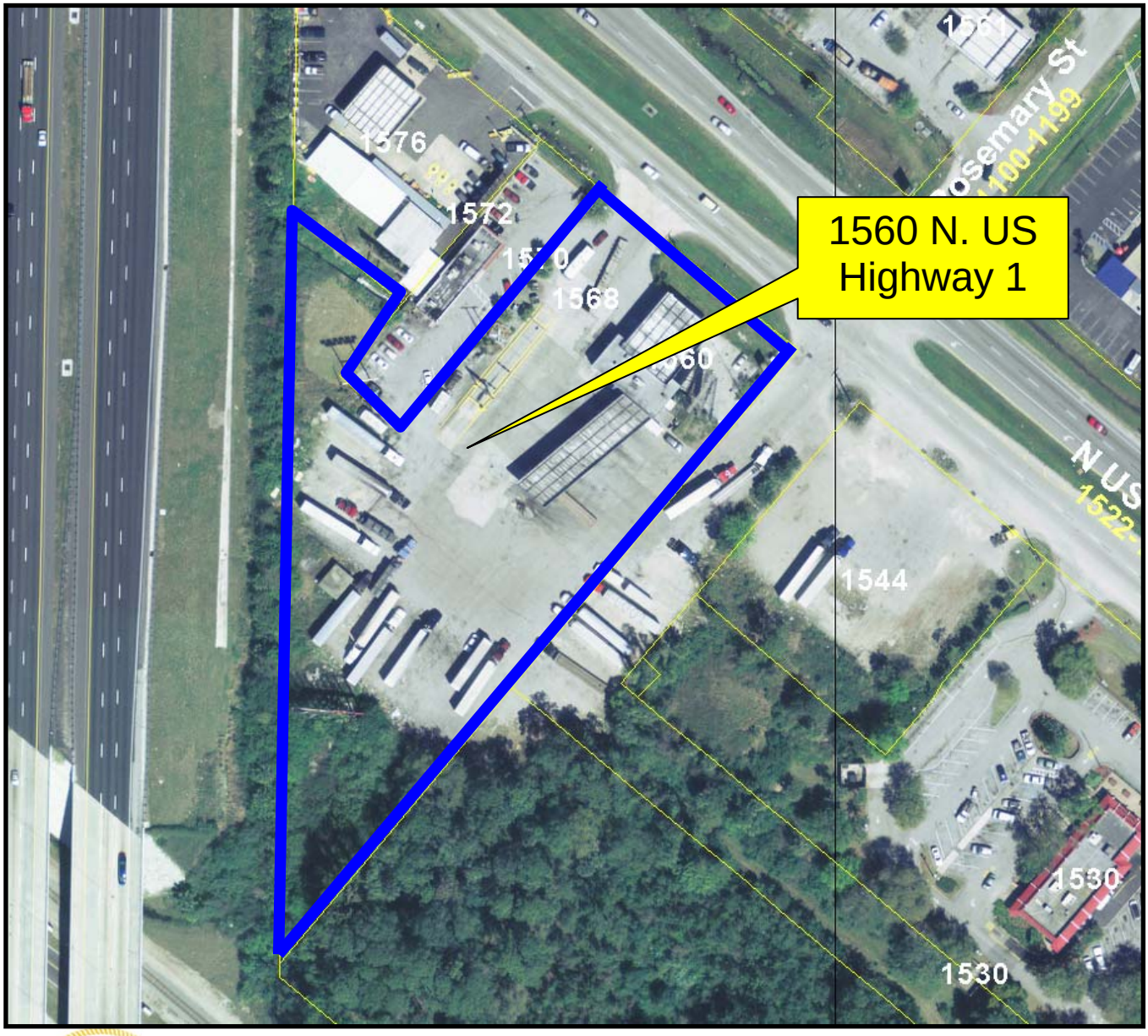
EXHIBIT 2

Photo and Location Aerial

1560 N. US Highway 1
Fruit Store and Vacant Gas Station/Convenience

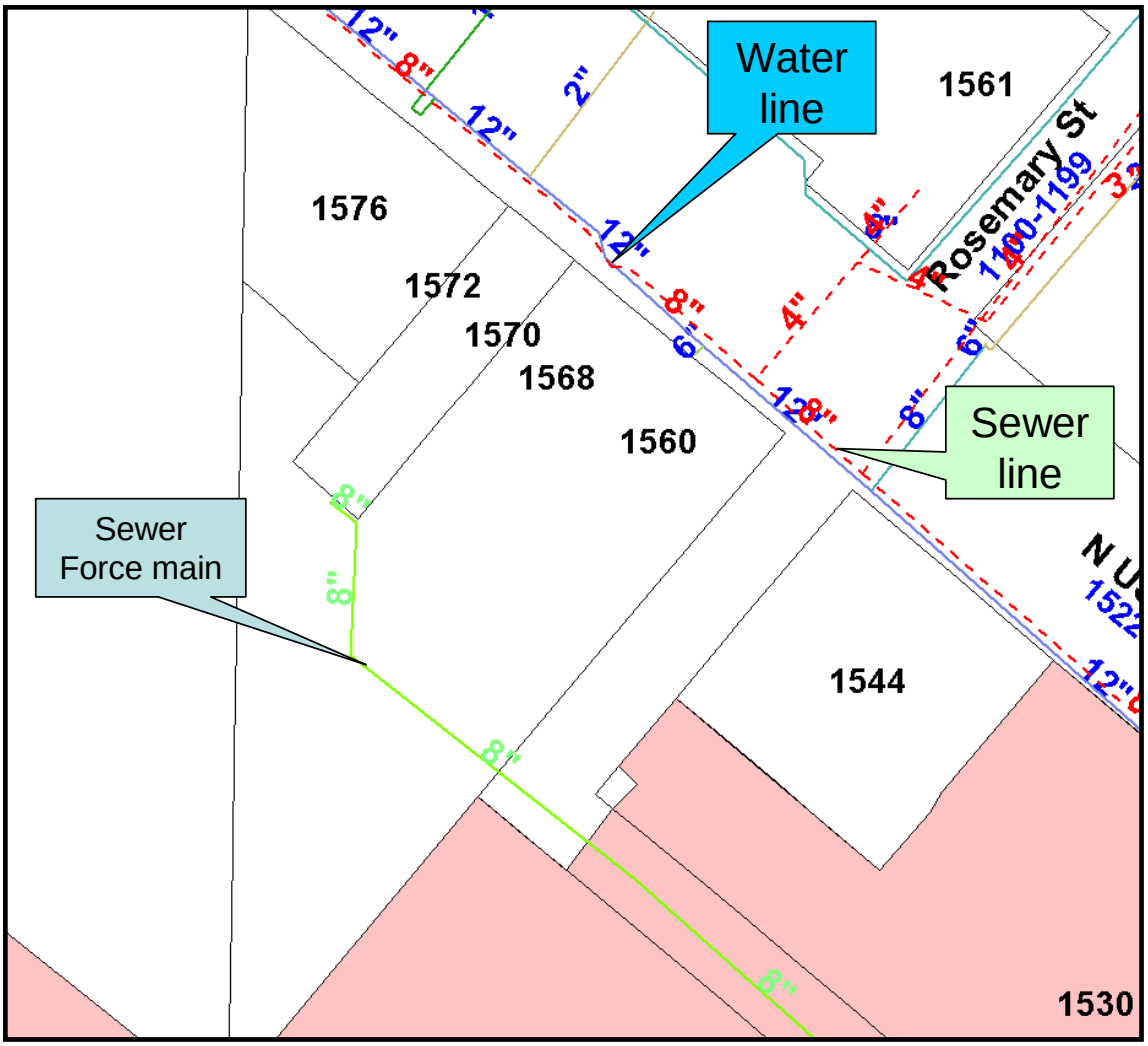
April 29, 2011



LOCATION MAP
1560 North US1

EXHIBIT 3

Utilities Map



UTILITIES MAP
1560 North US1

EXHIBIT 4

Section 2-28 of the LDC, B-7 Zoning District

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

A. PURPOSE: The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist-related support activities in an attractive setting which will promote pedestrian activity and reinforce positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted.

B. DIMENSIONAL STANDARDS

1. Type	2. Density	3. Maximum Building Height	4. Maximum Building Coverage	5. Maximum Impervious Lot Coverage	6. Minimum Lot Size	7. Minimum Lot Width	8. Minimum Lot Depth	9. Setbacks				
								a. Front	b. Rear	c. Side	d. Street Side/ Corner	e. Waterbody
Non-Residential Uses	36 (Transient Lodging)	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district; 5’ additional combined side yard required for each story over 2	10’ 20’ when abutting a multi-family district; 25’ when abutting a single-family district; 5’ of additional combined yard area required for each story over 2	20’	30’
Multi-Family	10	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district	10’ when abutting a multi-family district; 25’ when abutting a single-family district	20’	30’

C. PERMITTED USES

1. **Adult Day Care Center**
2. **Assisted Living Facility**
3. **Business/ Professional Services**
4. **Business Services**
5. **Clubs and Fraternal Organization**
6. **Convenience Store, Type “A”**
7. **Financial Institutions**
8. **Nursing Home**
9. **Personal Services**
10. **Retail Sales and Services**
11. **School of Art**
12. **Schools, Public**
13. **Transient Lodging**
14. **Veterinarian**

D. CONDITIONAL USES

1. **Bar**
2. **Community Residential Home**
3. **Convenience Store, Type “B”**
4. **Convenience Store, Type “C”**
5. **Dwelling, Multi-Family**
6. **Family Day Care Home**
7. **Golf Course, contoured**
8. **Hospital**
9. **House of Worship**
10. **Nightclub**
11. **Parking Lot**
12. **Parking Garage**
13. **Parks and Recreation Facilities, Private**
14. **Parks and Recreation Facilities, Public**
15. **Public Facilities**
16. **Public Utilities**
17. **Recreation Facilities, Indoor**
18. **Restaurant, Type “A”**
19. **Restaurant, Type “B”**
20. **Restaurant, Type “C”**
21. **School, Private**
22. **Shopping Center**
23. **Telecommunication Tower, Camouflaged**
24. **Theater**
25. **Wind Energy System**

E. SPECIAL EXCEPTION USES

1. **Automatic Amusement Center**
2. **Nightclub**
3. **Outdoor Activity**
4. **Outdoor Storage**
5. **Recreation Facilities, Outdoor**
6. **Telecommunication Tower**
7. **Vehicle Rental**

F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
2 Bedroom = 750 SF	Each Additional Bedroom = 150 SF

G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

EXHIBIT 5

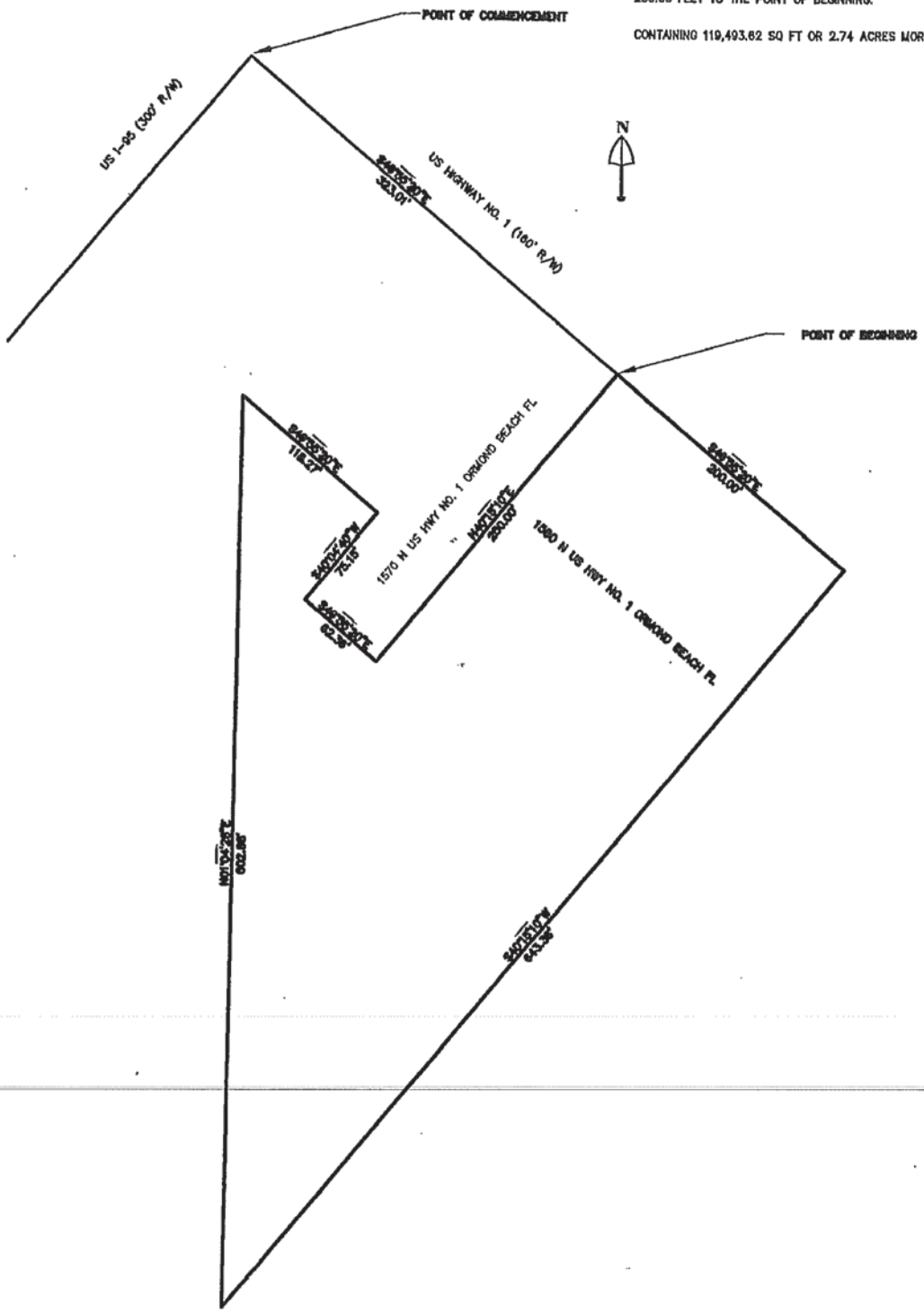
Legal Description

PROPERTY LOCATION: 1560 N US HWY 1
PROPERTY ID: 3136-01-63-0020
OWNER: EMAC 1998-1 US 1, LLC,
a Florida limited liability company

LEGAL DESCRIPTION

THAT PART OF BLOCK 63, EXCEPT THAT PORTION BEING IN US HIGHWAY NO. 1 AND LYING EAST OF US I-95; ALL OF FLAGLER STREET EAST OF US I-95 AND WEST OF THE EAST LINE LOT 15 SAID BLOCK 68, AS EXTENDED SOUTHERLY, ALSO THAT PART OF BLOCK 68, LYING BETWEEN THE EAST LINE OF SAID I-95 AND THE EAST LINE OF SAID LOT 15, BLOCK 63, EXTENDED SOUTHERLY TO THE EAST LINE OF I-95 AFORESAID, ALL BEING IN NATIONAL GARDENS, AS RECORDED IN MAP BOOK 10, PAGES 250 TO 253, INCLUSIVE, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. MORE PARTICULARLY DESCRIBED AS FOLLOWS: FORM A POINT OF REFERENCE, BEING THE INTERSECTION OF THE EAST LINE OF THE 300 FOOT RIGHT-OF-WAY OF US I-95, AS NOW LAID OUT AND ESTABLISHED, WITH THE SOUTHWESTERLY LINE OF THE 160 FOOT RIGHT-OF-WAY OF US HIGHWAY NO. 1, AS NOW OCCUPIED AND ESTABLISHED; THENCE S 49° 55' 20" E ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF US HIGHWAY NO. 1 323.01 FEET TO A POINT THERIN AND THE POINT OF BEGINNING; THENCE S 49° 55' 20" E PARALLEL TO SAID US HIGHWAY NO. 1 200 FEET TO A POINT IN STREET SHOWN ON SAID PLAT OF NATIONAL GARDENS, THENCE S 40° 15' 10" W ALONG SAID NORTHWESTERLY RIGHT -OF-WAY LINE 643.36 FEET TO ITS INTERSECTION WITH THE EAST LINE OF US I-95 AFORESAID; THENCE N 01° 04' 28" EAST ALONG SAID EAST LINE 602.88 FEET TO A POINT THERIN; THENCE S 49° 55' 20" E TO A POINT PARALLEL TO US HIGHWAY NO. 1, AFORESAID 118.27 FEET TO A POINT; THENCE S 40° 04' 40" W 75.15 FEET TO A POINT; THENCE S 49° 55' 20" E 62.36' TO A POINT; THENCE N 40° 15' 10" E 250.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 119,493.62 SQ FT OR 2.74 ACRES MORE OR LESS



STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Waffle House, 1570 North US Highway 1
Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-056

PROJECT PLANNER: Becky Weedo, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±.36 acres parcel of land from the existing zoning designation of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1570 North US Highway 1 (see Exhibit 1).

BACKGROUND:

The property at 1570 North US Highway 1 is owned by National Gardens Properties Inc. and is currently operating as a Waffle House (See Exhibit 2 - Photo and Location Aerial). The property was annexed on December 21, 2010 with Ordinance 2010-54. The annexation occurred based on the connection to City water and sewer (See Exhibit 3 – Utilities Map).

Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification are adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

> "The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
Barber and beauty shops	Exempt landfills	Newsstands	Restaurants, types A and B
Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
Communication towers not exceeding 70 in height	Government sponsored civic centers	Museums	Theaters
Convenience stores with more than eight vehicular service positions	Home occupations, class A	Nightclubs	Tire sales
Convenience stores, with or without fuel dispensers	Hotels/motels	Outdoor entertainment event	

Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
Curb markets	Outdoor entertainment and recreational uses and structures	Railroad yards, siding and terminals	
Excavations only for stormwater retention ponds for which a permit is required	Professional or trade schools related to permitted uses	Schools, parochial or private	

The subject property is undergoing a land use amendment to assign a City Future Land Use designation of “Low Intensity Commercial” which was created as part of the City’s Evaluation and Appraisal amendment process. Concurrent with the North US Highway

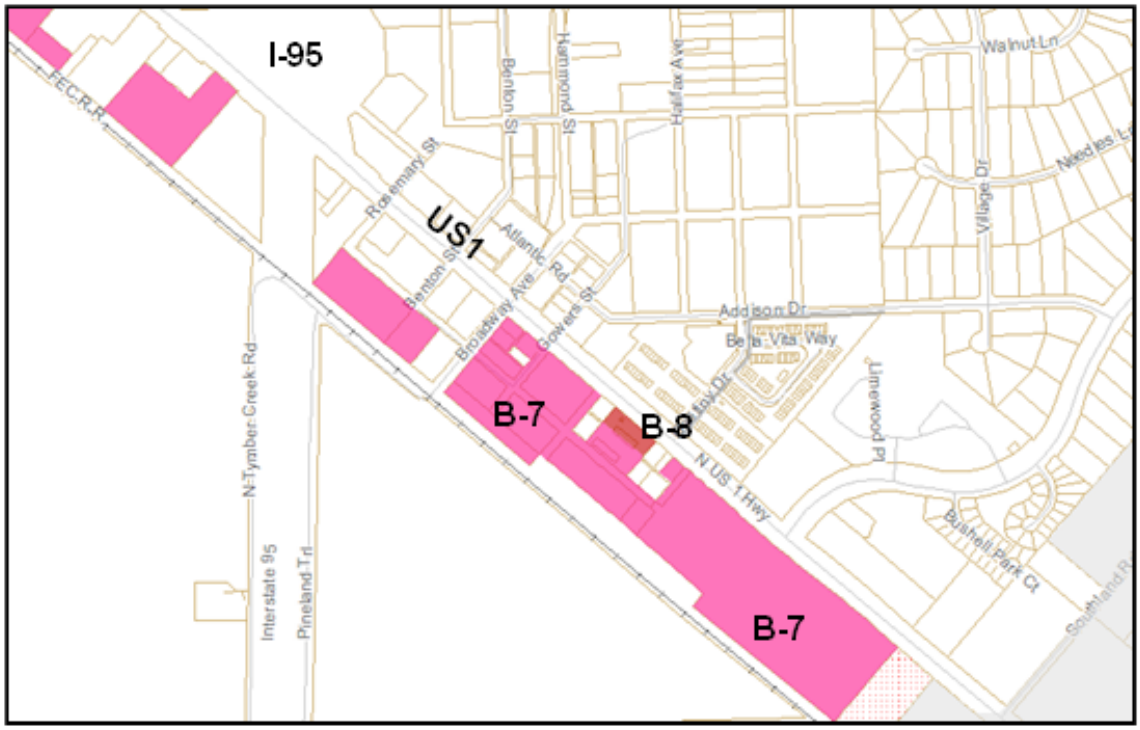
1 land use and zoning amendments, Planning staff is processing an Land Development Code amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

Comprehensive Plan Future Land Use Map Designation	Corresponding Compatible Zoning District
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclub, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning classification is to provide the most similar classification as the property had in Volusia County.

Staff analyzed the potential zoning districts as follows:

Zoning District	Staff Review
Professional Office/Hospital (B-1)	Intended for office, medical, and institutional uses. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
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Service Commercial (B-5)	Intended for automotive, construction materials, and warehousing. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Oceanfront Tourist Commercial (B-6)	Intended for properties along the Atlantic Ocean with specialized design standards. Staff concluded this was not appropriate zoning designation for the land around the interchange.
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Commercial (B-8)	Intended for general commercial activities (other than automotive) along arterial roadways. Though this zoning district was considered as a strong zoning option, it was identified as not allowing transient lodging and tailored more toward general commercial uses, such as along Nova Road, rather than specifically next to a highway interchange.

Zoning District	Staff Review
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Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classifications of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning Classification
North	Gas Station and Fruit Stand	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	Vacant Gas Station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant Gas Station and Wendy's	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Vacant Gas Station	Volusia County "Commercial"	N/A Volusia County B-6 (Highway Interchange Commercial)

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

No specific development is proposed and the request is based on a need to assign a City zoning classification to the property as the result of annexation. The zoning map amendment will not adversely affect public health, safety, welfare or the quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the existing Waffle House will continue to operate as it historically has.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

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9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

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10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1570 North US Highway 1, as described in Exhibit 4, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
Attachments:

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Exhibit 2: Photo and Location Aerial
Exhibit 3: Utilities Map
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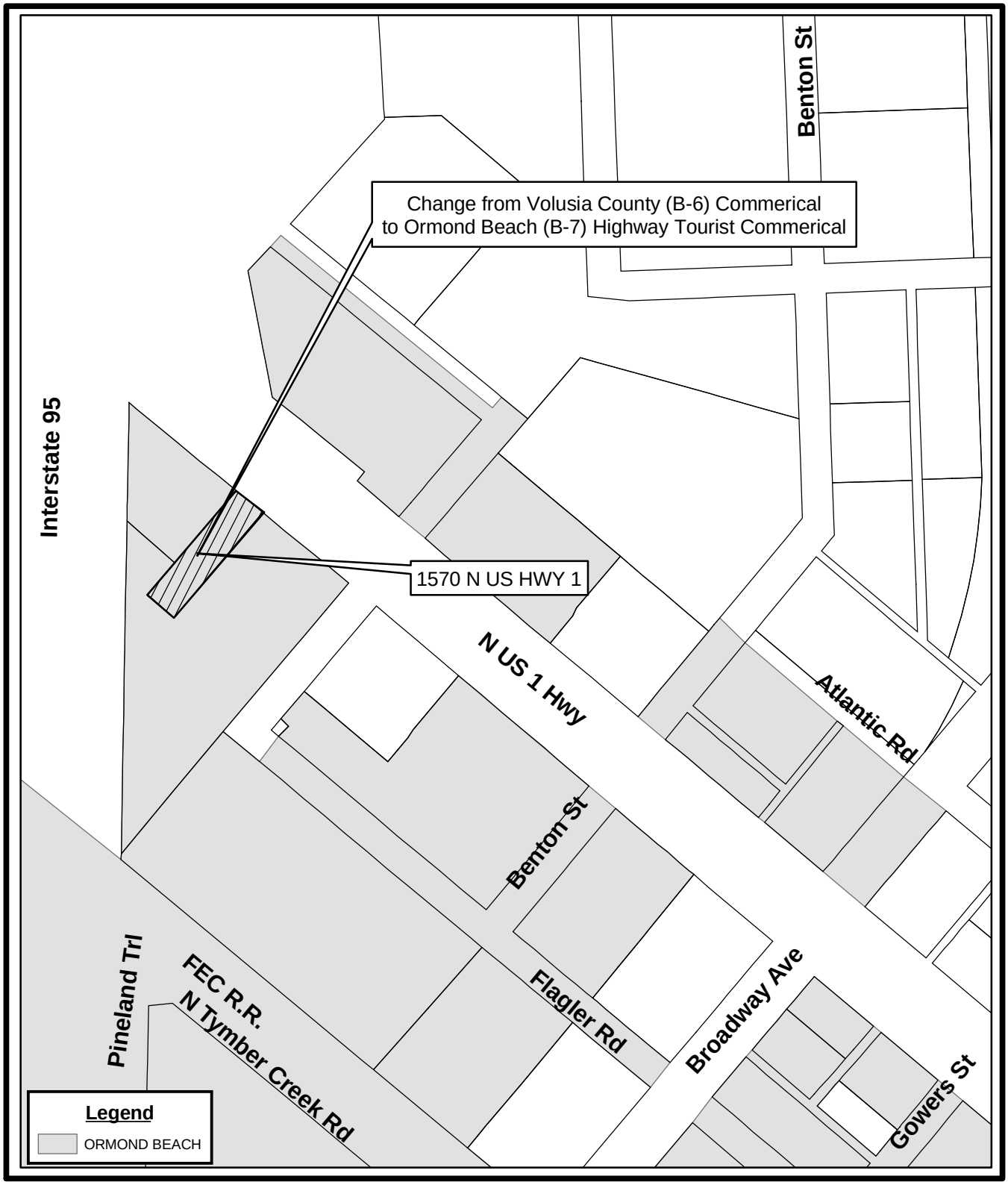
Exhibit 5: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Zoning Map



ZONING AMENDMENT MAP
1570 N US HWY 1 (3136-01-63-0030)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

N
W E
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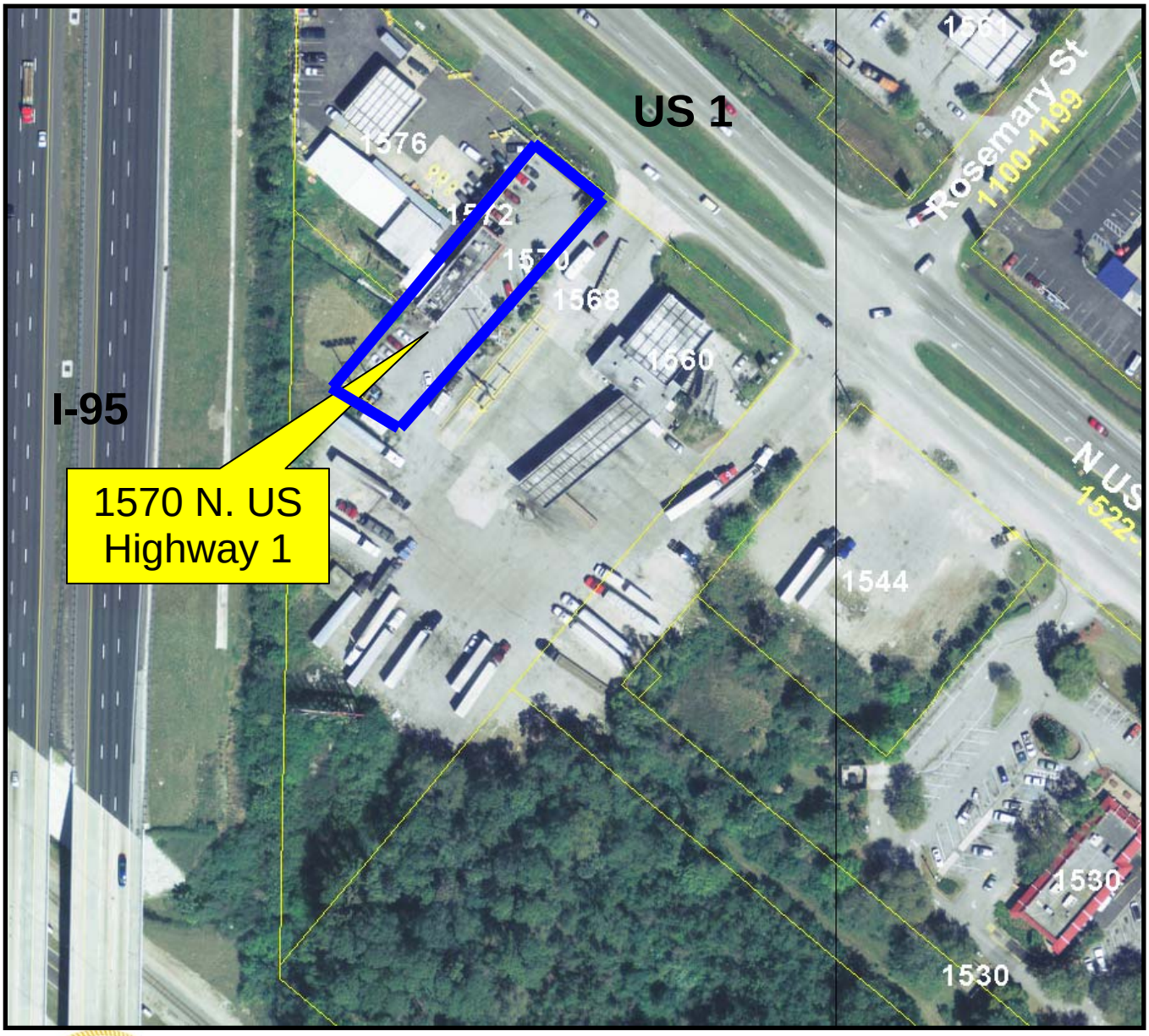
EXHIBIT 2

Photo and Location Aerial

1570 N. US Highway 1 – Waffle House

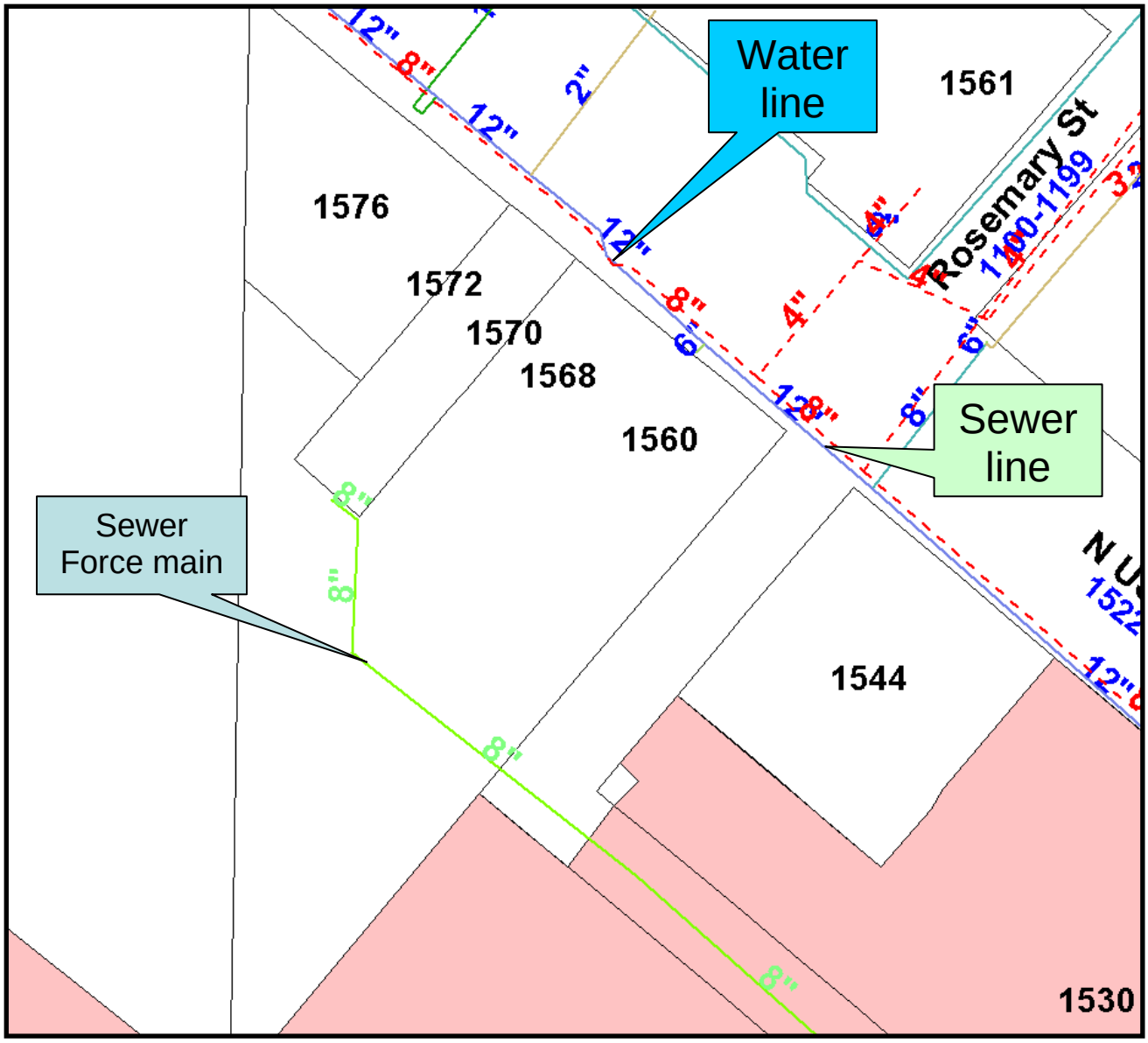
April 29, 2011



LOCATION MAP – WAFFLE HOUSE
1570 North US1

EXHIBIT 3

Utilities Map



UTILITIES MAP
1570 North US1

EXHIBIT 4

Section 2-28 of the LDC, B-7 Zoning District

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

A. PURPOSE: The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist-related support activities in an attractive setting which will promote pedestrian activity and reinforce positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted.

B. DIMENSIONAL STANDARDS

1. Type	2. Density	3. Maximum Building Height	4. Maximum Building Coverage	5. Maximum Impervious Lot Coverage	6. Minimum Lot Size	7. Minimum Lot Width	8. Minimum Lot Depth	9. Setbacks				
								a. Front	b. Rear	c. Side	d. Street Side/ Corner	e. Waterbody
Non-Residential Uses	36 (Transient Lodging)	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district; 5’ additional combined side yard required for each story over 2	10’ 20’ when abutting a multi-family district; 25’ when abutting a single-family district; 5’ of additional combined yard area required for each story over 2	20’	30’
Multi-Family	10	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district	10’ when abutting a multi-family district; 25’ when abutting a single-family district	20’	30’

C. PERMITTED USES

1. **Adult Day Care Center**
2. **Assisted Living Facility**
3. **Business/ Professional Services**
4. **Business Services**
5. **Clubs and Fraternal Organization**
6. **Convenience Store, Type “A”**
7. **Financial Institutions**
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9. **Personal Services**
10. **Retail Sales and Services**
11. **School of Art**
12. **Schools, Public**
13. **Transient Lodging**
14. **Veterinarian**

D. CONDITIONAL USES

1. **Bar**
2. **Community Residential Home**
3. **Convenience Store, Type “B”**
4. **Convenience Store, Type “C”**
5. **Dwelling, Multi-Family**
6. **Family Day Care Home**
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12. **Parking Garage**
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14. **Parks and Recreation Facilities, Public**
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16. **Public Utilities**
17. **Recreation Facilities, Indoor**
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20. **Restaurant, Type “C”**
21. **School, Private**
22. **Shopping Center**
23. **Telecommunication Tower, Camouflaged**
24. **Theater**
25. **Wind Energy System**

E. SPECIAL EXCEPTION USES

1. **Automatic Amusement Center**
2. **Nightclub**
3. **Outdoor Activity**
4. **Outdoor Storage**
5. **Recreation Facilities, Outdoor**
6. **Telecommunication Tower**
7. **Vehicle Rental**

F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
2 Bedroom = 750 SF	Each Additional Bedroom = 150 SF

G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

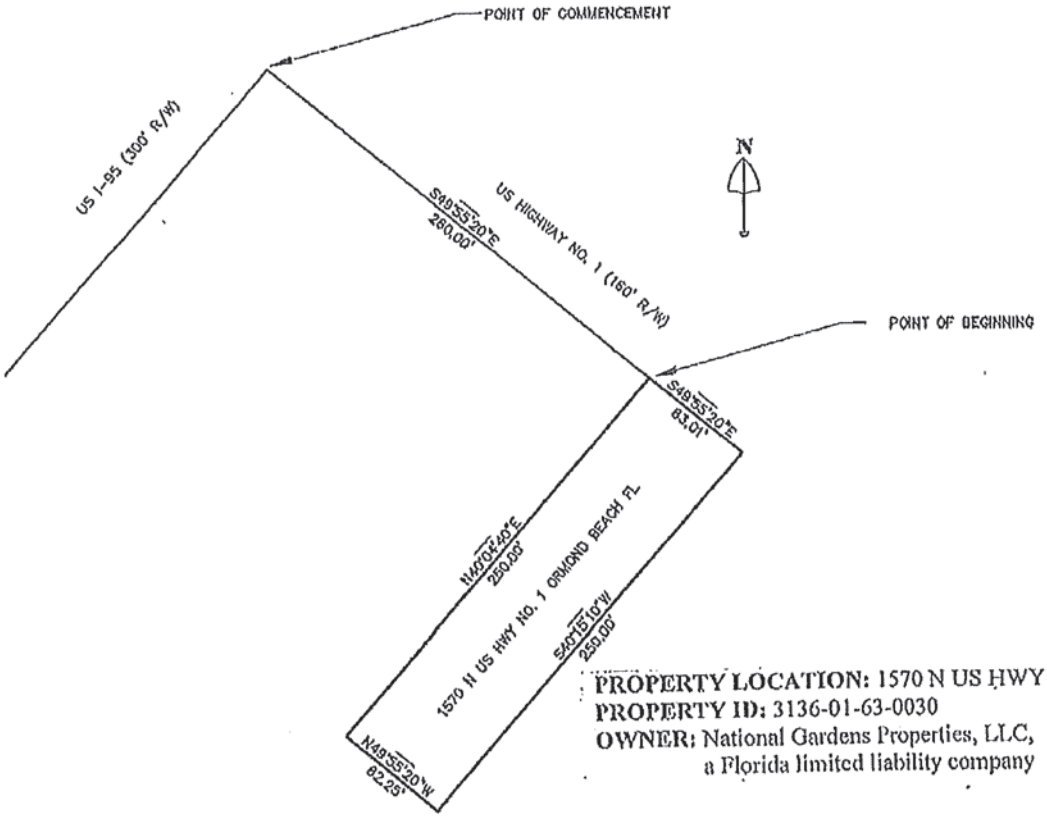
EXHIBIT 5

Legal Description

LEGAL DESCRIPTION

THAT PART OF BLOCK 63, EXCEPT THAT PORTION BEING IN US HIGHWAY NO. 1 AND LYING EAST OF US I-95; ALL OF FLAGLER STREET EAST OF US I-95 AND WEST OF THE EAST LINE OF BLOCK 68, LYING BETWEEN THE EAST LINE OF SAID I-95 AND THE EAST LINE OF SAID LOT 15, BLOCK 63, EXTENDED SOUTHERLY TO THE EAST LINE OF I-95 AFORESAID, ALL BEING IN NATIONAL GARDENS, AS RECORDED IN MAP BOOK 10, PAGES 250 TO 253, INCLUSIVE, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. MORE PARTICULARLY DESCRIBED AS FOLLOWS: FORM A POINT OF REFERENCE, BEING THE INTERSECTION OF THE EAST LINE OF THE 300 FOOT RIGHT-OF-WAY OF US I-95, AS NOW LAID OUT AND ESTABLISHED, WITH THE SOUTHWESTERLY LINE OF THE 160 FOOT RIGHT-OF-WAY OF US HIGHWAY NO. 1, AS NOW OCCUPIED AND ESTABLISHED; THENCE S 49° 55' 20" E ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF US HIGHWAY NO. 1 260.00 FEET TO A POINT THEREIN AND THE POINT OF BEGINNING; THENCE CONTINUE S 49° 55' 20" E ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 63.01 FEET TO AN INTERSECTION WITH THE NORTH LINE OF LOT 11, BLOCK 63 OF SAID NATIONAL GARDENS, THENCE DEPARTING THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID US HIGHWAY NO. 1, RUN S 40° 15' 10" W ALONG THE NORTH LINE OF SAID LOT 11, BLOCK 63, A DISTANCE OF 250.00 FEET; THENCE N 49° 55' 20" W A DISTANCE OF 62.25 FEET; THENCE N 40° 04' 44" E A DISTANCE OF 250.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 15,681.00 SQ FT OR 0.36 ACRES MORE OR LESS



PROPERTY LOCATION: 1570 N US HWY 1
PROPERTY ID: 3136-01-63-0030
OWNER: National Gardens Properties, LLC,
a Florida limited liability company

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Fruit Store & Gas Station, 1576 North US Highway 1
Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-060

PROJECT PLANNER: Becky Weedo, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±.36 acres parcel of land from the existing zoning designation of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1576 North US Highway 1 (see Exhibit 1).

BACKGROUND:

The property at 1576 North US Highway 1 is owned by Florida Citrus World, Incorporated and is currently operating as a fruit store and gas station (See Exhibit 2 - Photo and Location Aerial). The property was annexed on December 21, 2010 with Ordinance 2010-55. The annexation occurred based on the connection to City water and sewer (See Exhibit 3 – Utilities Map).

Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification are adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

> "The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
Barber and beauty shops	Exempt landfills	Newsstands	Restaurants, types A and B
Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
Communication towers not exceeding 70 in height	Government sponsored civic centers	Museums	Theaters
Convenience stores with more than eight vehicular service positions	Home occupations, class A	Nightclubs	Tire sales
Convenience stores, with or without fuel dispensers	Hotels/motels	Outdoor entertainment event	

Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
Curb markets	Outdoor entertainment and recreational uses and structures	Railroad yards, siding and terminals	
Excavations only for stormwater retention ponds for which a permit is required	Professional or trade schools related to permitted uses	Schools, parochial or private	

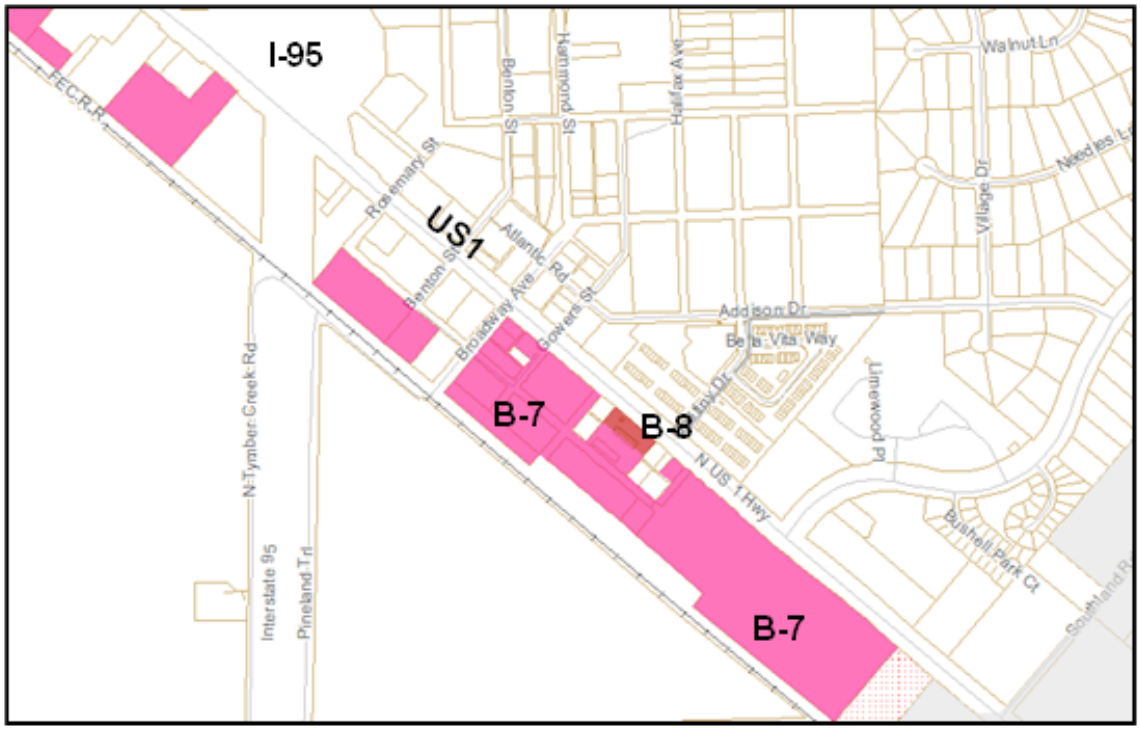
The subject property is undergoing a land use amendment to assign a City Future Land Use designation of "Low Intensity Commercial" which was created as part of the City's Evaluation and Appraisal amendment process. Concurrent with the North US Highway 1 land use and zoning amendments, Planning staff is processing an Land Development Code amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

Comprehensive Plan Future Land Use Map Designation	Corresponding Compatible Zoning District
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclub, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning classification is to provide the most similar classification as the property had in Volusia County.

Staff analyzed the potential zoning districts as follows:

Zoning District	Staff Review
Professional Office/Hospital (B-1)	Intended for office, medical, and institutional uses. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Central Business (B-4)	Intended for the existing core area of the City, such as the Community Redevelopment Area. Staff concluded this was not appropriate zoning classification for the land located near the interchange.
Service Commercial (B-5)	Intended for automotive, construction materials, and warehousing. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Oceanfront Tourist Commercial (B-6)	Intended for properties along the Atlantic Ocean with specialized design standards. Staff concluded this was not appropriate zoning designation for the land around the interchange.
Highway Tourist Commercial (B-7) (See Exhibit 4 for zoning district uses)	The City Land Development Code provides the following purpose and intent for the B-7 (Highway Tourist Commercial) zoning district: "The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist related support activities in an attractive setting which will promote pedestrian activity and reinforces positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted." The B-7 zoning district offers the most similar City zoning district to the Volusia County B-6 zoning classification. In addition, there are existing properties in this area zoned as B-7.
Commercial (B-8)	Intended for general commercial activities (other than automotive) along arterial roadways. Though this zoning district was considered as a strong zoning option, it was identified as not allowing transient lodging and tailored more toward general commercial uses, such as along Nova Road, rather than specifically next to a highway interchange.

Zoning District	Staff Review
Boulevard (B-9)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for the land near the interchange.
Suburban Boulevard (B-10)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for the land near the interchange.
Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classifications of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning Classification
North	I-95	N/A	N/A
South	Waffle House and Vacant Gas Station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant Gas Station and Wendy's	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Vacant Gas Station	Volusia County "Commercial"	N/A Volusia County B-6 (Highway Interchange Commercial)

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

   No specific development is proposed and the request is based on a need to assign a City zoning classification to the property as the result of annexation. The zoning

map amendment will not adversely affect public health, safety, welfare or the quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the existing gas station and fruit store will continue to operate as it historically has.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1576 North US Highway 1, as described in Exhibit 5, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments:

Exhibit 1: Zoning Map

Exhibit 2: Photo and Location Aerial

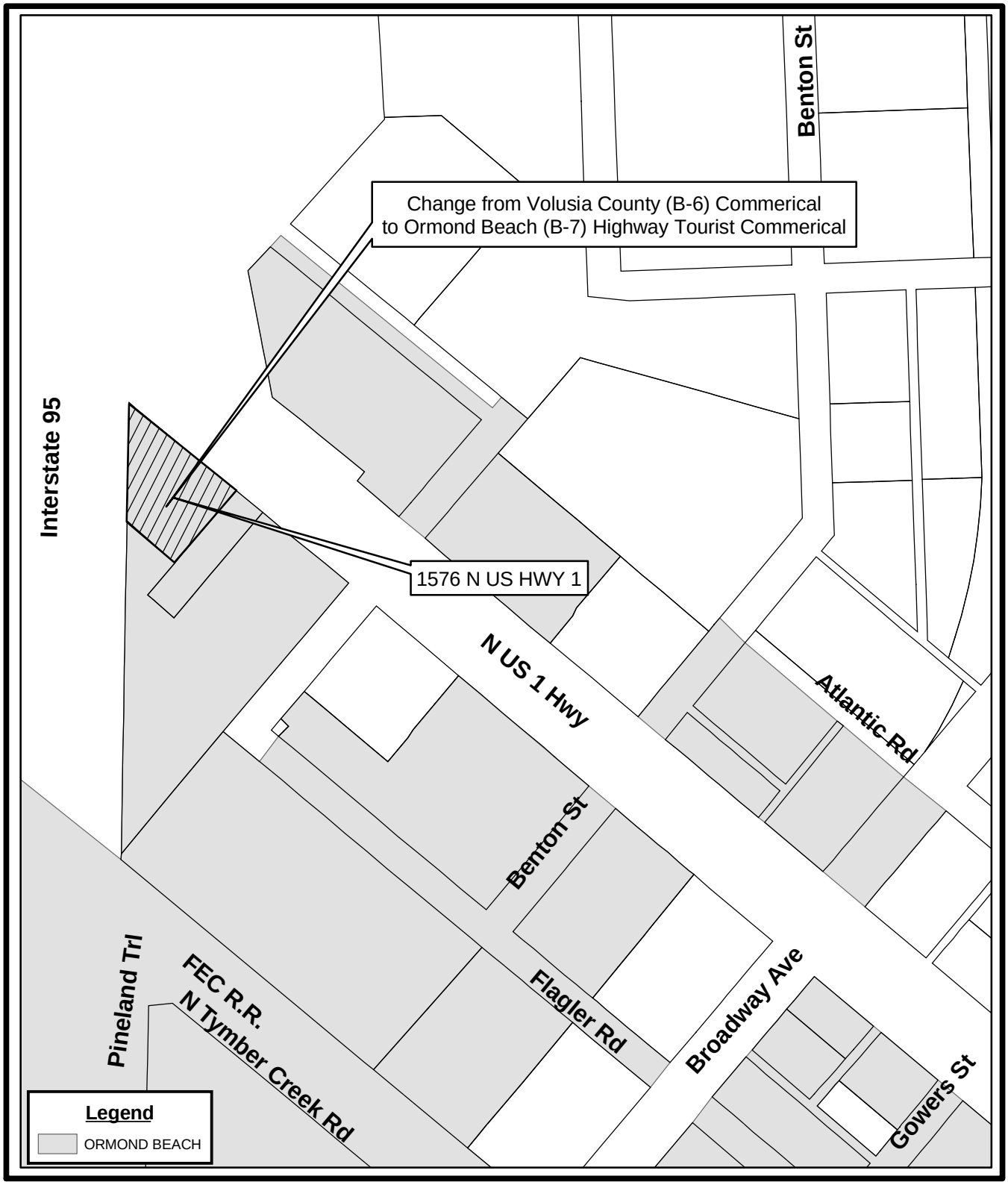
Exhibit 3: Utilities Map

Exhibit 4: Section 2-28 of the LDC, B-7 Zoning District

Exhibit 5: Legal Description

EXHIBIT 1

Zoning Map



ZONING AMENDMENT MAP
1576 N US HWY 1 (3136-01-63-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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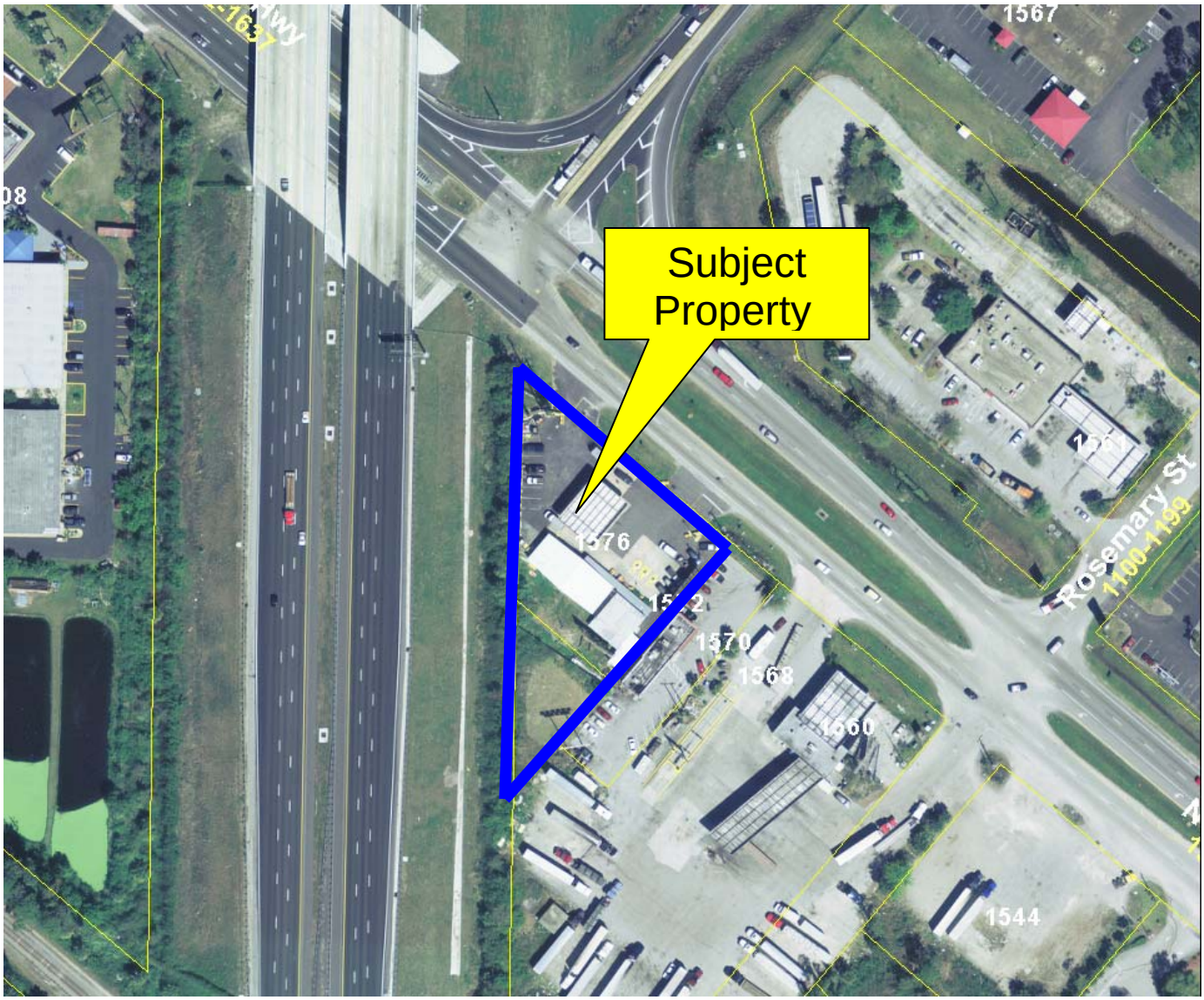
EXHIBIT 2

Photo and Location Aerial

1576 N. US Highway 1 – Sunoco and Fruit Store

April 29, 2011



LOCATION MAP -SUNOCO & FRUIT STAND

1576 North US1

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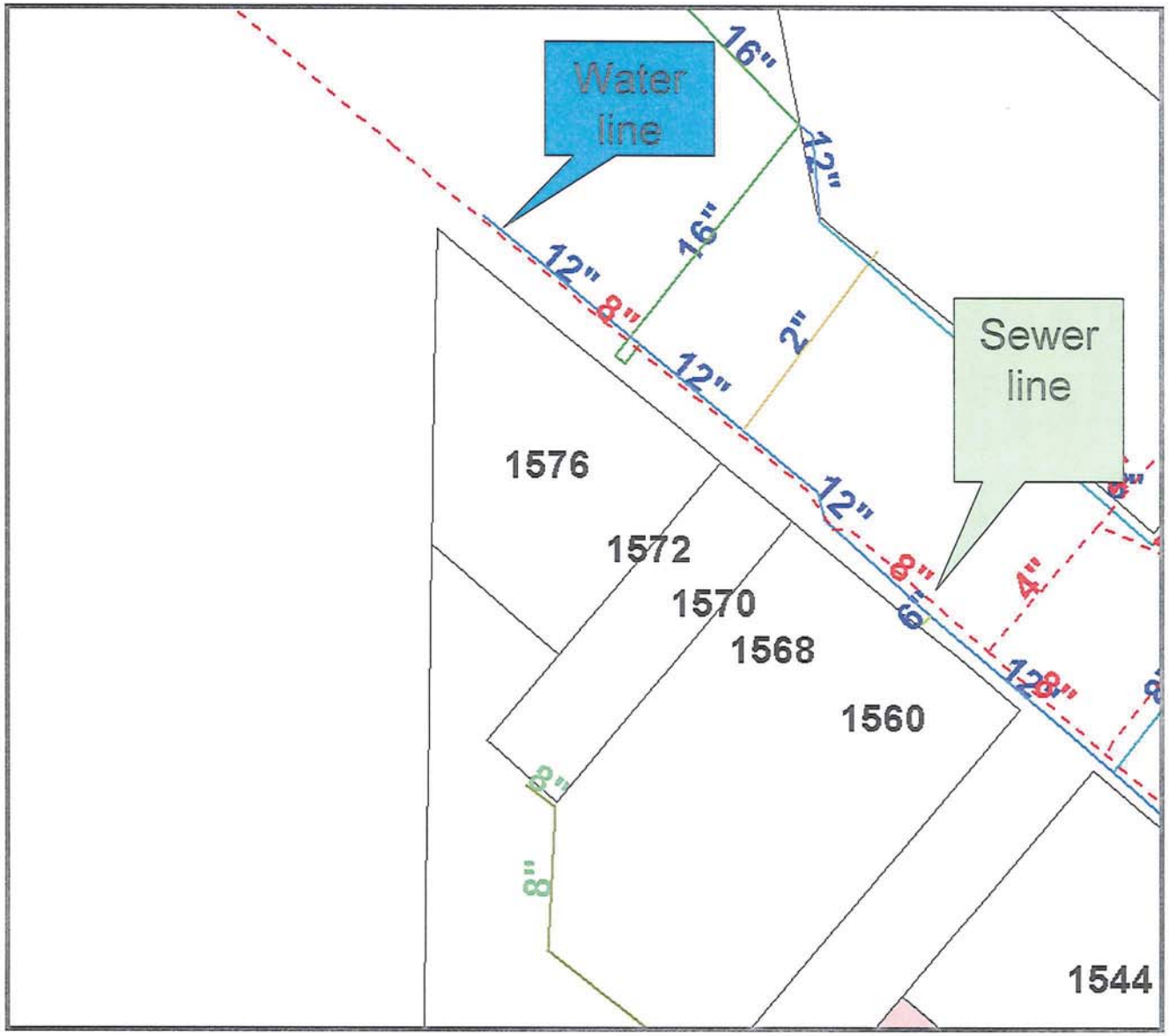
EXHIBIT 3

Utilities Map



UTILITIES MAP -SUNOCO & FRUIT STORE

1576 North US1

N W E S

EXHIBIT 4

Section 2-28 of the LDC, B-7 Zoning District

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

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F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
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4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
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G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

EXHIBIT 5

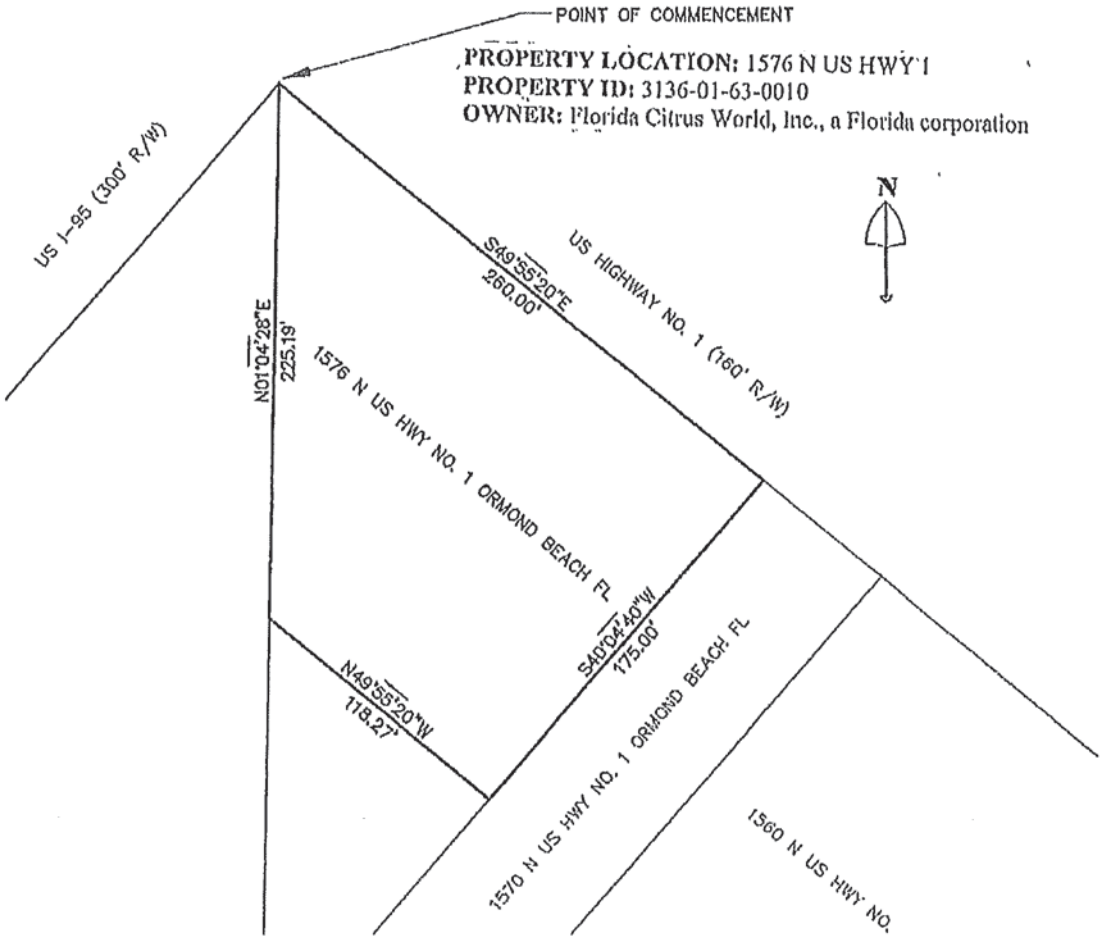
Legal Description

LEGAL DESCRIPTION

A PORTION OF BLOCK 63, NATIONAL GARDENS, AS PER MAP OR PLAT THEROF AS RECORDED IN MAP BOOK 10, PAGES 250–253, INCLUSIVE, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF A 300 FOOT RIGHT OF WAY OF US I–95, AS NOW LAID OUT AND ESTABLISHED, WITH THE SOUTHWESTERLY LINE OF THE 160 FOOT RIGHT OF WAY OF US HIGHWAY NO. 1 AS NOW OCCUPIED AND ESTABLISHED; S 49° 55' 20" E, ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE A DISTANCE OF 260.00 FEET; THENCE S 40° 04' 40" W, 175.00 FEET; THENCE N 49° 55' 20" W, 118.27 FEET TO THE EAST RIGHT OF WAY LINE OF SAID I–95; THENCE WITH SAID RIGHT OF WAY LINE N 01° 04' 28" E, 225.19 FEET TO THE POINT OF BEGINNING.

CONTAINING 33098.03 SQ. FT. OR 0.76 ACRES MORE OR LESS



STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Cheaters Gentlemen's Club, 1545 North US Highway 1
Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-048

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±1.42 acre parcel of land from the existing zoning designation of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1521 North US Highway 1 (see Exhibit 1).

BACKGROUND:

The property at 1545 North US Highway 1 is the existing Cheaters Gentlemen's Club. The property was annexed on October 5, 2011 with Ordinance 2010-46 (See Exhibit 3 for legal description). The annexation occurred based on the connection to City utilities for the construction of the project and an annexation agreement (See Exhibit 2 for site plan). In November 2010, the city issued a Business Tax Receipt for a nightclub/bar use consistent with the Volusia County land use and zoning categories. Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification is adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

> "The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
Barber and beauty shops	Exempt landfills	Newsstands	Restaurants, types A and B
Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
Communication towers not exceeding 70 in height	Government sponsored civic centers	Museums	Theaters
Convenience stores with more than eight vehicular service positions	Home occupations, class A	Nightclubs	Tire sales
Convenience stores, with or without fuel dispensers	Hotels/motels	Outdoor entertainment event	

Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
Curb markets	Outdoor entertainment and recreational uses and structures	Railroad yards, siding and terminals	
Excavations only for stormwater retention ponds for which a permit is required	Professional or trade schools related to permitted uses	Schools, parochial or private	

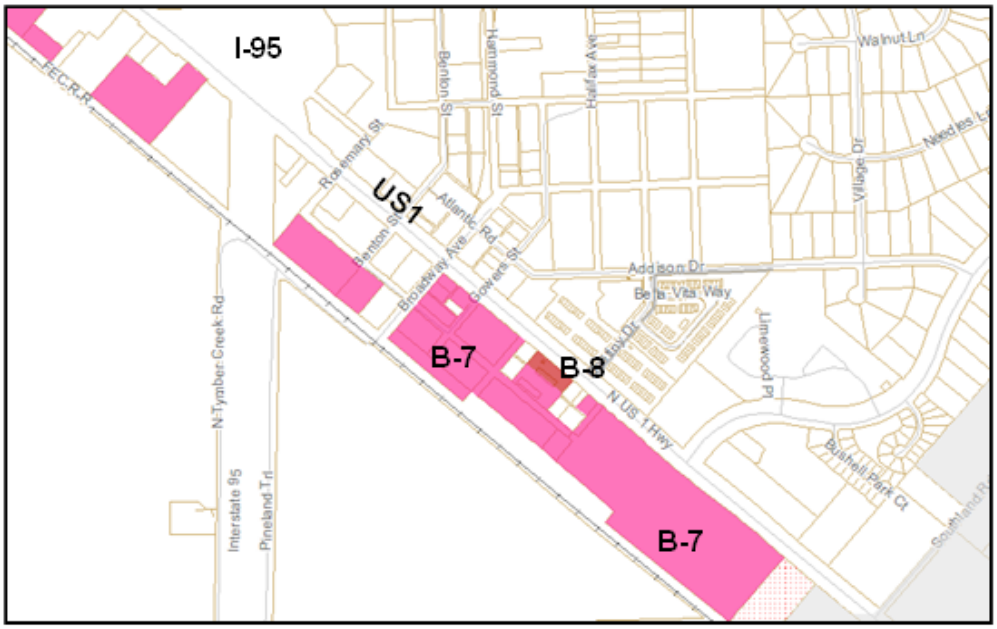
The subject property is undergoing a land use amendment to assign a City Future Land Use designation of "Low Intensity Commercial" which was created as part of the City's Evaluation and Appraisal amendment process. Concurrent with the North US Highway 1 land use and zoning amendments, staff is processing a Land Development Code amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

Comprehensive Plan Future Land Use Map Designation	Corresponding Compatible Zoning District
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclub, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning classification is to provide the most similar classification assigned by Volusia County.

Staff analyzed the potential City zoning districts as follows:

Zoning District	Staff Review
Professional Office/Hospital (B-1)	Intended for office, medical, and institutional uses. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Central Business (B-4)	Intended for the existing core area of the City, such as the Community Redevelopment Area. Staff concluded this was not appropriate zoning classification for land located near the interchange.
Service Commercial (B-5)	Intended for automotive, construction materials, and warehousing. Staff concluded this was not an appropriate zoning classification for land near the interchange.
Oceanfront Tourist Commercial (B-6)	Intended for properties along the Atlantic Ocean with specialized design standards. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Highway Tourist Commercial (B-7) (See Exhibit 4 for zoning district uses)	The City Land Development Code provides the following purpose and intent for the B-7 (Highway Tourist Commercial) zoning district: "The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist related support activities in an attractive setting which will promote pedestrian activity and reinforces positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted." The B-7 zoning district offers the most similar City zoning district to the Volusia County B-6 zoning classification. In addition, there are existing properties in this area zoned as B-7.
Commercial (B-8)	Intended for general commercial activities (other than automotive) along arterial roadways. Though this zoning district was considered as a strong zoning option, it was identified as not allowing transient lodging and tailored more toward general commercial uses, such as along Nova Road, rather than specifically next to a highway interchange.

Zoning District	Staff Review
Boulevard (B-9)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for land near the interchange.
Suburban Boulevard (B-10)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for land near the interchange.
Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classification of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning
North	Vacant Gas Station and Restaurant	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	Vacant Gas Station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Gas Station & McDonald's	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

No specific development is proposed and request based on a need to assign a City zoning classification to the property as the result of annexation. The zoning map amendment will not adversely affect public health, safety, welfare or the quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the use will continue to operate as it does now.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1545 North US Highway 1, Cheaters Gentlemen's Club, as described in Exhibit 3, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments:

Exhibit 1: Zoning Map

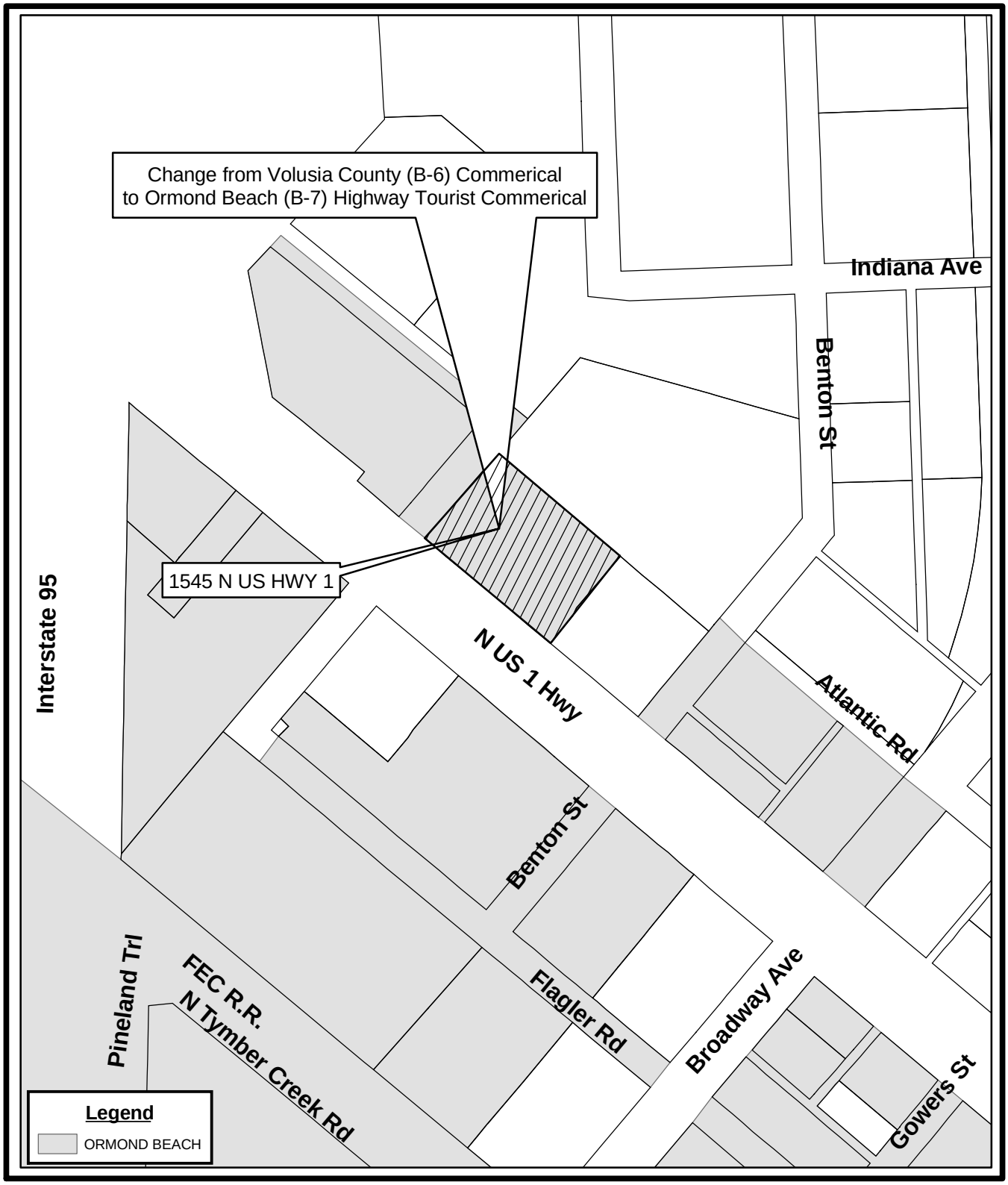
Exhibit 2: Photo, Site Plan and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Zoning Map



ZONING AMENDMENT MAP
1545 N US HWY 1 (3136-01-36-0020)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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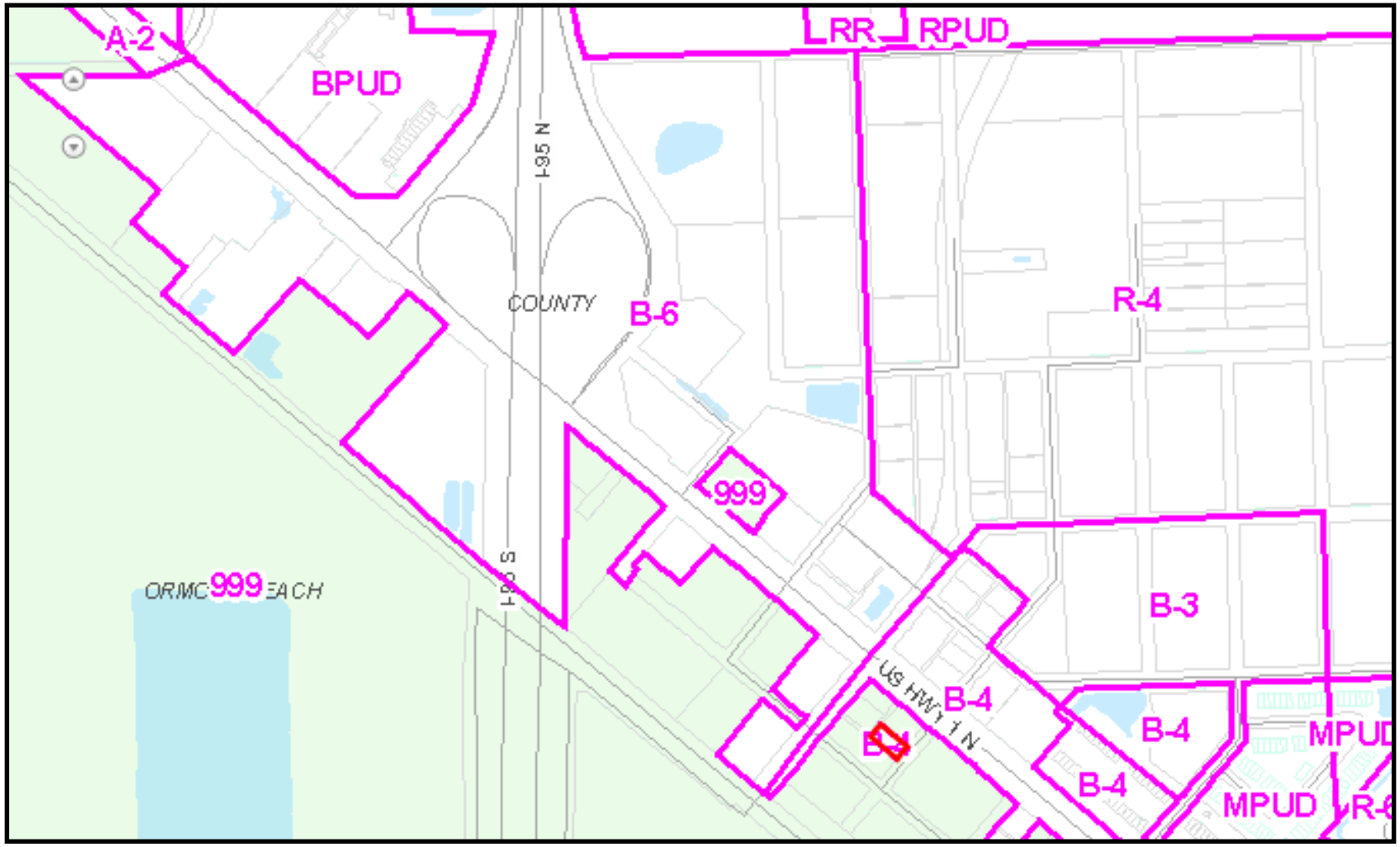


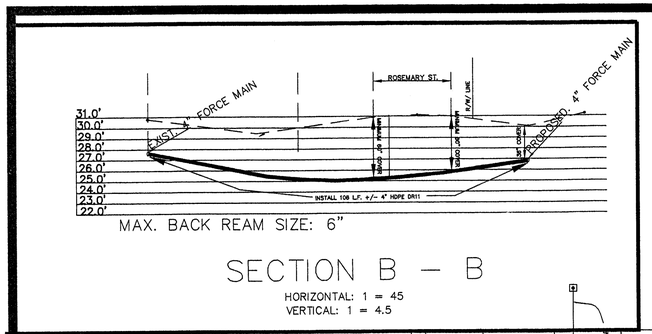
COUNTY ZONING MAP

North Highway US1

EXHIBIT 2

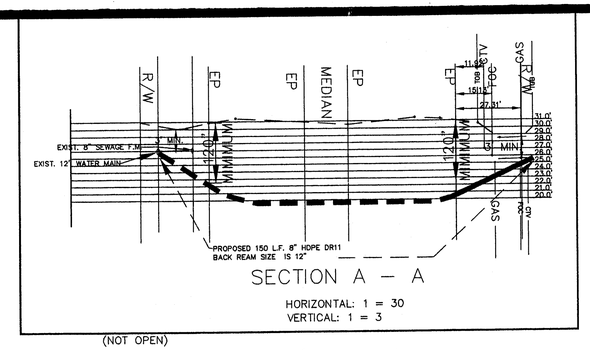
Photo, Site Plan and Location Aerial

CABARET
cheaters
Gentlemen's Club
HAPPY HOUR 12 TO 7
FIRST SHOT FREE
BEST DEAL IN TOWN



SECTION B – B

HORIZONTAL: 1 = 45
VERTICAL: 1 = 4.5



SECTION A – A

HORIZONTAL: 1 = 30
VERTICAL: 1 = 3

OWNER:
SADDLE JACK'S BAR & GRILL INC
1545 N. U.S. HIGHWAY 1
ORMOND BEACH, FL 32174

386 – 615 – 8511

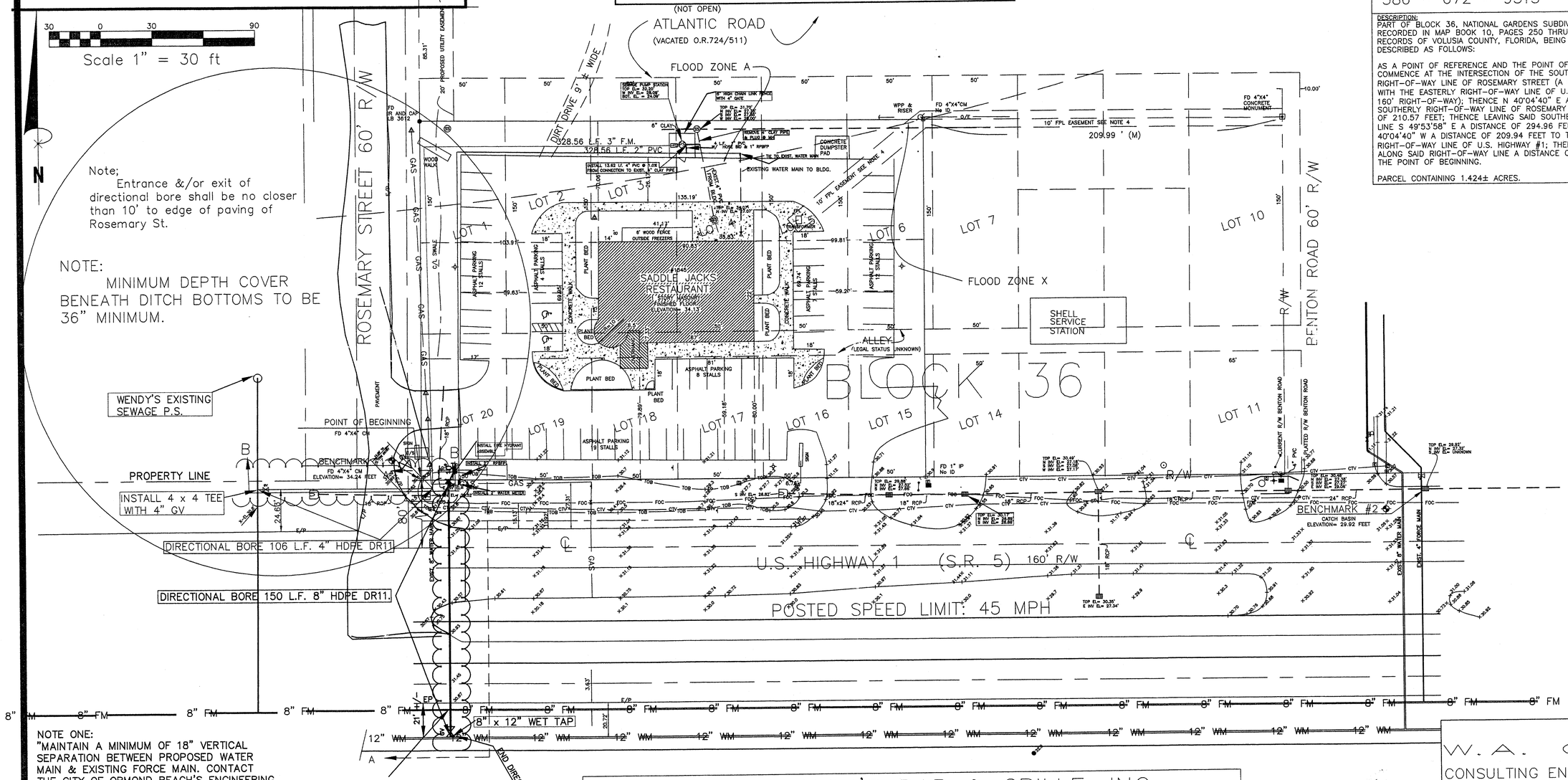
SURVEYOR:
UPHAM INC
265 KENILWORTH AVE
ORMOND BEACH, FL 32174

386 – 672 – 9515

DESCRIPTION:
PART OF BLOCK 36, NATIONAL GARDENS SUBDIVISION, AS PER PLAT RECORDED IN MAP BOOK 10, PAGES 250 THRU 253, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE AND THE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT–OF–WAY LINE OF ROSEMARY STREET (A 60' RIGHT–OF–WAY) WITH THE EASTERLY RIGHT–OF–WAY LINE OF U.S. HIGHWAY #1 (A 160' RIGHT–OF–WAY); THENCE N 40°04'40" E ALONG THE SOUTHERLY RIGHT–OF–WAY LINE OF ROSEMARY STREET A DISTANCE OF 210.57 FEET; THENCE LEAVING SAID SOUTHERLY RIGHT–OF–WAY LINE S 49°53'58" E A DISTANCE OF 294.96 FEET; THENCE S 40°04'40" W A DISTANCE OF 209.94 FEET TO THE EASTERLY RIGHT–OF–WAY LINE OF U.S. HIGHWAY #1; THENCE N 50°01'05" W ALONG SAID RIGHT–OF–WAY LINE A DISTANCE OF 294.96 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 1.424± ACRES.



Note;
Entrance &/or exit of directional bore shall be no closer than 10' to edge of paving of Rosemary St.

NOTE:
MINIMUM DEPTH COVER BENEATH DITCH BOTTOMS TO BE 36" MINIMUM.

NOTE ONE:
"MAINTAIN A MINIMUM OF 18" VERTICAL SEPARATION BETWEEN PROPOSED WATER MAIN & EXISTING FORCE MAIN. CONTACT THE CITY OF ORMOND BEACH'S ENGINEERING DIVISION @ 672–3269 TO REQUEST AN INSPECTION PRIOR TO START OF CONSTRUCTION"

NOTE TWO:
"ALL CONSTRUCTION WITHIN THE FDOT RIGHT–OF–WAY SHALL CONFORM TO THE LATEST EDITIONS OF THE FDOT DESIGN STANDARDS, THE FDOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION AND THE FDOT UTILITY ACCOMODATION MANUAL"

NOTE THREE:
IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY ALL UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION.

SADDLE JACK'S BAR & GRILLE, INC.
FDOT UTILITY PERMIT DWG.
DIRECTIONAL BORE 4" HDPE BENEATH ROSEMARY ST.
DIRECTIONAL BORE 8" HDPE BENEATH U.S. No. 1

W.A. Cross 02/02/07

REVISED: 02/02/07
SHEET 2/4

W. A. CROSS
CONSULTING ENGINEERING, INC.
CERTIFICATE OF AUTHORIZATION # 9250
P.O. BOX 5266
ORMOND BEACH, FL. 32175
(386) 672–3069

SADDLE JACK'S

LOCATION MAP

1545 North US1

EXHIBIT 3

Legal Description

EXHIBIT "A"

Part of Block 36, NATIONAL GARDENS SUBDIVISION, as per plat recorded in Map Book 10, Pages 250 thru 253, Public Records of Volusia County, Florida, being more particularly described as follows:

As a point of reference and the point of beginning, commence at the intersection of the Southerly right-of-way line of Rosemary Street (a 60' right-of-way) with the easterly right-of-way line of U.S. Highway #1 (a 160' right-of-way); thence N 40°04'40" E along the Southerly right-of-way line of Rosemary Street a distance of 210.57 feet; thence leaving said Southerly right-of-way line S 49°53'58" E a distance of 294.96 feet; thence S 40°04'40" W a distance of 209.94 feet to the Easterly right-of-way line of U.S. Highway #1; thence N 50°01'05" W along said right-of-way line a distance of 294.96 feet to the Point of Beginning.

EXHIBIT 4

Section 2-28 of the LDC, B-7 zoning district

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

A. PURPOSE: The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist-related support activities in an attractive setting which will promote pedestrian activity and reinforce positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted.

B. DIMENSIONAL STANDARDS

1. Type	2. Density	3. Maximum Building Height	4. Maximum Building Coverage	5. Maximum Impervious Lot Coverage	6. Minimum Lot Size	7. Minimum Lot Width	8. Minimum Lot Depth	9. Setbacks				
								a. Front	b. Rear	c. Side	d. Street Side/ Corner	e. Waterbody
Non-Residential Uses	36 (Transient Lodging)	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district; 5’ additional combined side yard required for each story over 2	10’ 20’ when abutting a multi-family district; 25’ when abutting a single-family district; 5’ of additional combined yard area required for each story over 2	20’	30’
Multi-Family	10	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district	10’ when abutting a multi-family district; 25’ when abutting a single-family district	20’	30’

C. PERMITTED USES

1. **Adult Day Care Center**
2. **Assisted Living Facility**
3. **Business/ Professional Services**
4. **Business Services**
5. **Clubs and Fraternal Organization**
6. **Convenience Store, Type “A”**
7. **Financial Institutions**
8. **Nursing Home**
9. **Personal Services**
10. **Retail Sales and Services**
11. **School of Art**
12. **Schools, Public**
13. **Transient Lodging**
14. **Veterinarian**

D. CONDITIONAL USES

1. **Bar**
2. **Community Residential Home**
3. **Convenience Store, Type “B”**
4. **Convenience Store, Type “C”**
5. **Dwelling, Multi-Family**
6. **Family Day Care Home**
7. **Golf Course, contoured**
8. **Hospital**
9. **House of Worship**
10. **Nightclub**
11. **Parking Lot**
12. **Parking Garage**
13. **Parks and Recreation Facilities, Private**
14. **Parks and Recreation Facilities, Public**
15. **Public Facilities**
16. **Public Utilities**
17. **Recreation Facilities, Indoor**
18. **Restaurant, Type “A”**
19. **Restaurant, Type “B”**
20. **Restaurant, Type “C”**
21. **School, Private**
22. **Shopping Center**
23. **Telecommunication Tower, Camouflaged**
24. **Theater**
25. **Wind Energy System**

E. SPECIAL EXCEPTION USES

1. **Automatic Amusement Center**
2. **Nightclub**
3. **Outdoor Activity**
4. **Outdoor Storage**
5. **Recreation Facilities, Outdoor**
6. **Telecommunication Tower**
7. **Vehicle Rental**

F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
2 Bedroom = 750 SF	Each Additional Bedroom = 150 SF

G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: RaceTrac Gas Station, 1521 North US Highway 1
Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-044

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±2.16 acre parcel of land from the existing zoning designation of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1521 North US Highway 1, RaceTrac Gas Station (see Exhibit 1).

BACKGROUND:

The property at 1521 North US Highway 1 is an existing convenience store with gasoline sales. The site plan was approved by Volusia County in 1999 (DRC 98-F-FSP-0324) and connected to City utilities (see Exhibit 2). The property was annexed on March 21, 2011 with Ordinance 2011-10 (see Exhibit 3). The annexation occurred based on the connection to City utilities for the construction of the project. Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification is adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

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Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

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Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
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Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
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The subject property is undergoing a land use amendment to assign a City Future Land Use designation of “Low Intensity Commercial” which was created as part of the City’s Evaluation and Appraisal amendment process. Concurrent with the North US Highway 1 land use and zoning amendments, staff is processing a Land Development Code

amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

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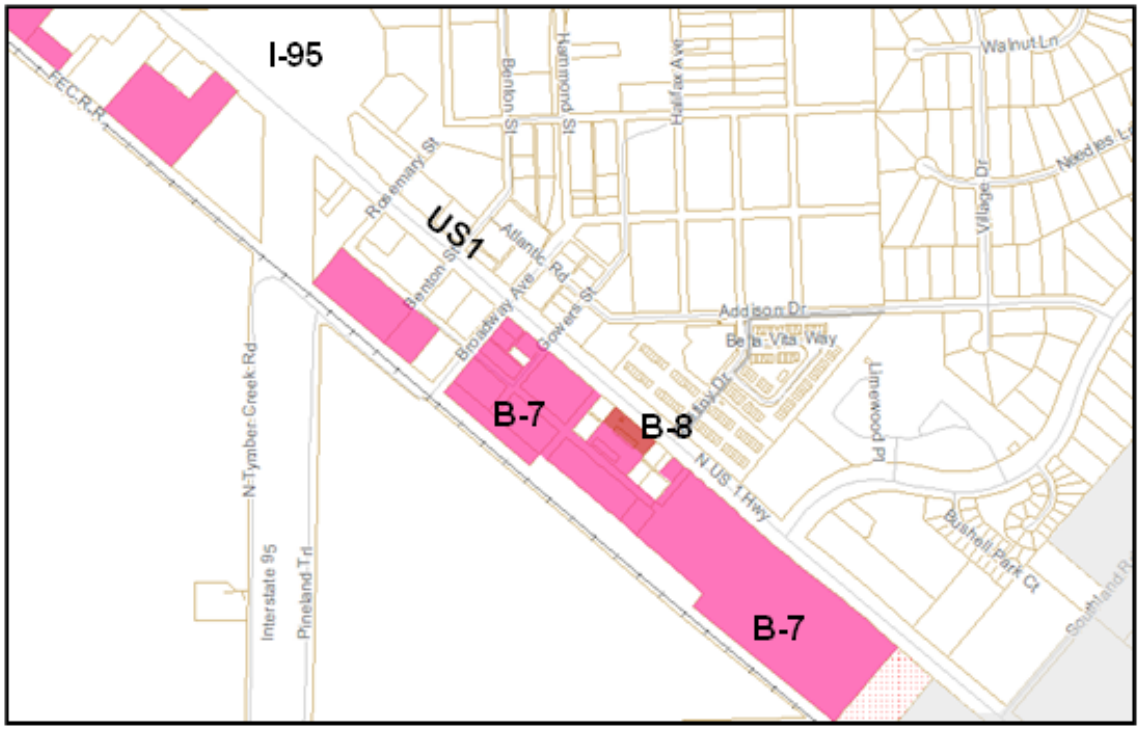
During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclub, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



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Zoning District	Staff Review
Boulevard (B-9)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for land near the interchange.
Suburban Boulevard (B-10)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for land near the interchange.
Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classification of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning Classification
North	Vacant Gas Station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	Vacant Land	Volusia County "Commercial"	Volusia County B-4 (General Commercial)
East	Vacant Land	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	The Pantry Gas Station & Tee Time Golf Carts	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

   No specific development is proposed and request based on a need to assign a City zoning classification to the property as the result of annexation. The zoning map

amendment will not adversely affect public health, safety, welfare or the quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the existing convenience store with gas pumps will continue to operate as it historically has.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1521 North US Highway 1, RaceTrac gas station, as described in Exhibit 3, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments:

Exhibit 1: Zoning Map

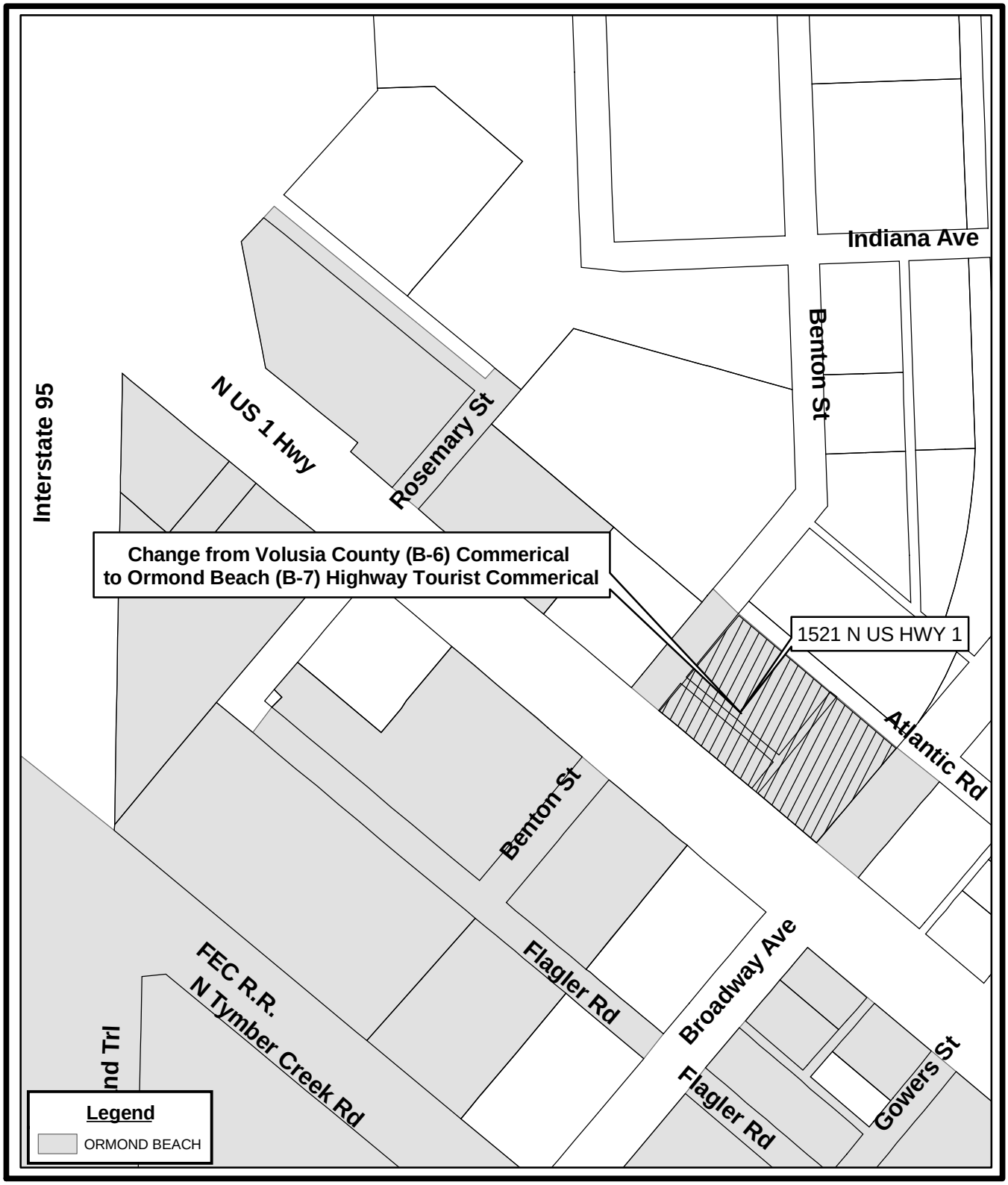
Exhibit 2: Photo, Site Plan and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Zoning Map



ZONING AMENDMENT MAP
1521 N US HWY 1 (3136-01-37-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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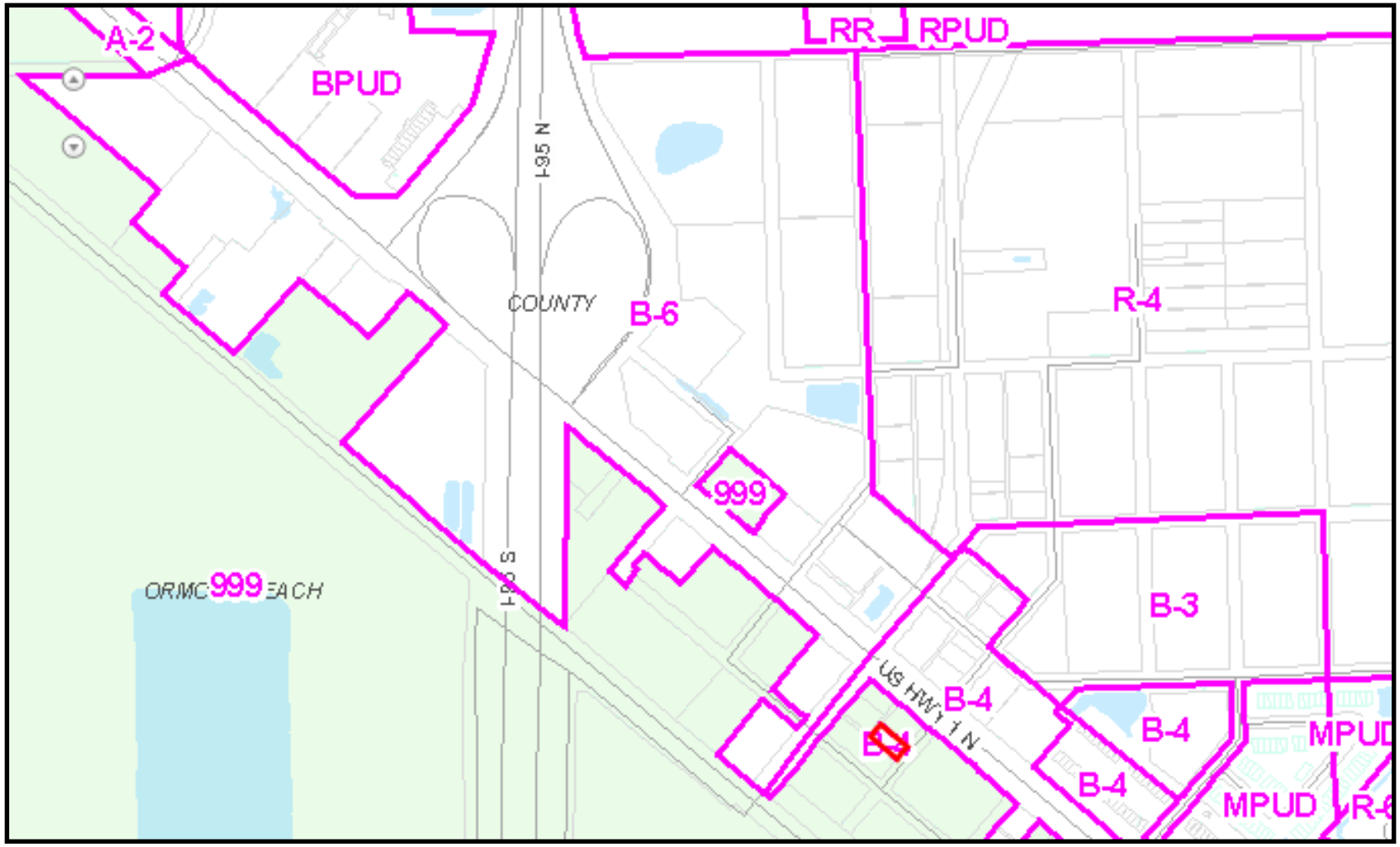


COUNTY ZONING MAP

North Highway US1

EXHIBIT 2

Photo, Site Plan and Location Aerial

Race Trac at 1521 North US1

NO.	REVISION	DATE
8	REVISED BENTON ST. TAPERS AND ADDED SW TO BENTON ST.	6/22/99
9	REVISED AS PER RACETRAC'S COMMENTS	10/04/99
10	CLIENT REVISIONS	3/22/00
11	CLIENT REVISIONS	5/19/00
12	CLIENT REVISIONS	7/14/00
12	CLIENT REVISIONS	7/15/01
13	AS-BUILT INFORMATION	6/11/01

NO.	REVISION	DATE
1	REVISED DRAINAGE STRUCTURE LOCATIONS	9/11/98
2	ADDED TREE PROTECTION AREA AND MODIFED POND MAINTENANCE BERM	10/1/98
3	ADDED STS 3A, 157 LF OF 8" PVC PER SJRWMD COMMENTS	10/5/98
4	PERMIT & BUILDING REVISIONS	10/28/98
5	MODIFIED S/W AND ADDED 6" PVC UNDER S/W	12/02/98
6	REVISED SITE PLAN AND REVISED PER V.C. COMMENTS	12/02/98
7	GENERAL REVISIONS TO BENTON ST. ADDED TRAFFIC SEPARATORS, REVISED BOUNDARY SURVEY & LEGAL DESCRIPTION. ADDED CLEANOUTS TO PROP. 10" PVC DRAINAGE PIPE.	5/11/99

PROJ. NO. 98018
DATE JUNE 1998
SCALE 1" = 20'
P.M. T.C.L. CKD. T.C.L.
DESIGNER T.A.A. APPROVED R.J.L.

SCALE: 1" = 20'

EXIST. UTILITIES:

WATER:
CITY OF ORMOND BEACH PUBLIC UTILITIES
501 NORTH ORCHARD STREET
ORMOND BEACH, FLORIDA 32174

SEWER:
CITY OF ORMOND BEACH PUBLIC UTILITIES
501 NORTH ORCHARD STREET
ORMOND BEACH, FLORIDA 32174

ELECTRICITY:
FLORIDA POWER & LIGHT
3000 SPRUCECREEK RD.
PORT ORANGE, FL 32119

TELEPHONE:
FLUOR DANIEL
500 N. ORANGE AVE.
ROOM 365
ORLANDO, FL 32801

OUTLINE OF TREE PROTECTION AREA

NOTES:

1. THE LOCATIONS OF THE UTILITIES SHOWN IN THE PLANS ARE APPROXIMATE ONLY. THE EXACT LOCATION SHALL BE DETERMINED BY THE CONTRACTOR BEFORE ANY CONSTRUCTION EFFORT.
2. PRIOR TO THE START OF ANY CONSTRUCTION, THE CONTRACTOR SHALL FIELD VERIFY LOCATIONS OF ALL EXISTING FEATURES THAT COULD AFFECT HIS OPERATIONS. CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF ANY DISCREPANCIES FOUND BETWEEN THESE PLANS AND FIELD CONDITIONS PRIOR TO CONSTRUCTION.
3. MINIMUM OF 36" COVER SHALL BE PROVIDED OVER PROPOSED WATER MAINS AND FORCE MAINS.
4. VERTICAL SEPARATION OF 18 INCHES AND HORIZONTAL SEPARATION OF 10 FEET MUST BE MAINTAINED AT ALL WATER MAIN, SANITARY SEWER AND STORM CROSSINGS. IF MINIMUM SEPARATIONS ARE NOT MAINTAINED, DUCTILE IRON PIPE LENGTHS, CONCRETE ENCASEMENT OR ALTERNATE SOLUTIONS ACCORDING TO "RECOMMENDED STANDARDS FOR WATER WORKS" SHALL BE SPECIFIED.

RECORD DRAWING

THIS IS TO CERTIFY THAT THE PROJECT HAS BEEN SUBSTANTIALLY COMPLETED IN ACCORDANCE WITH APPROVED PLANS AND SPECIFICATIONS.

SIGNATURE DATE 7/26/01

RaceTrac
FOR
RaceTrac PETROLEUM, INC.
VOLUSIA COUNTY FLORIDA

UNDERGROUND UTILITIES PLAN

LOCHRANE
ENGINEERS • SURVEYORS
PH: (407) 896-3317 FAX: (407) 896-9167 EMAIL: WWW.LOCHRANE.COM

SHEET P5

RACE TRAC V51

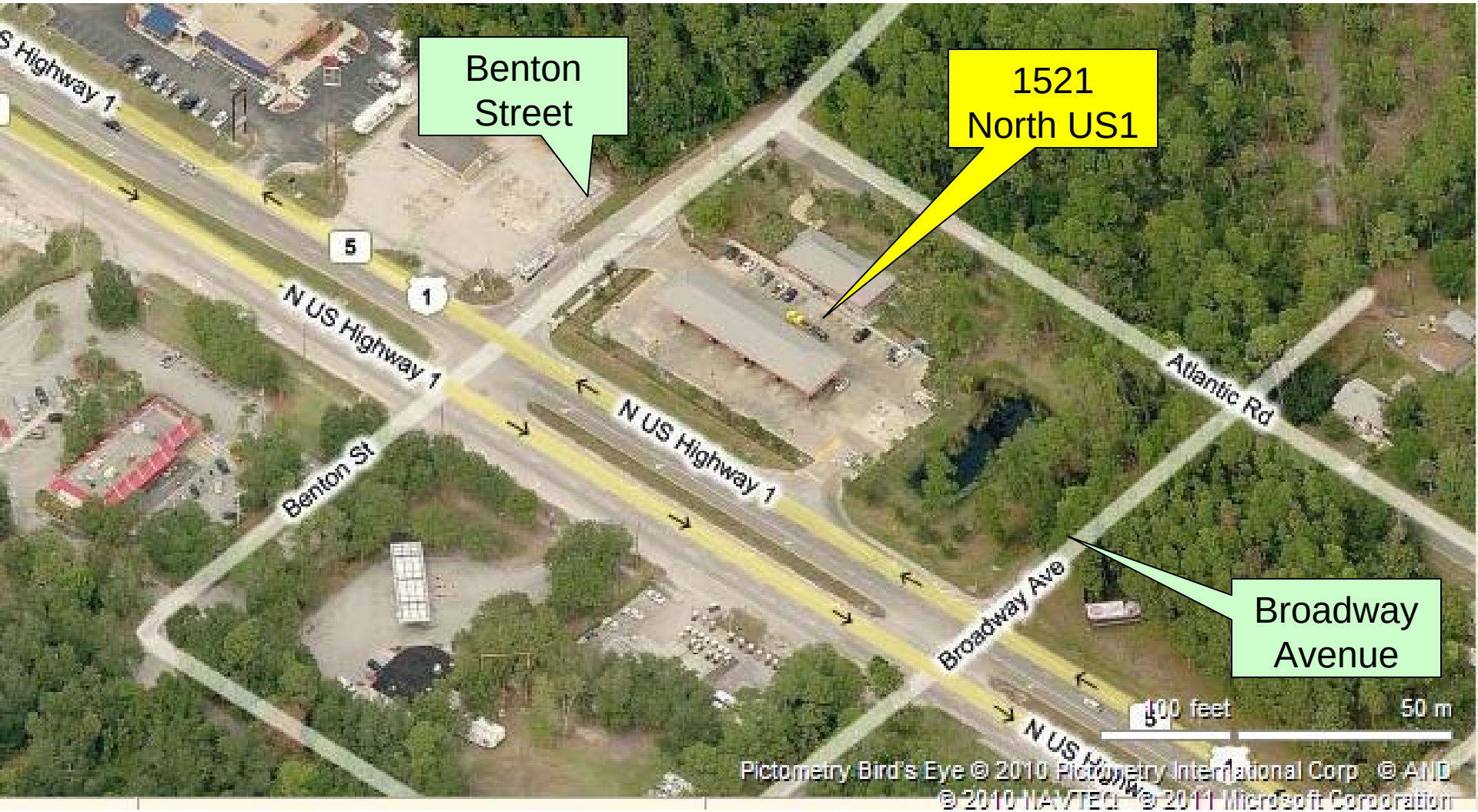

Benton Street
1521 North US1
Broadway Avenue
S Highway 1
N US Highway 1
N US Highway 1
Benton St
Broadway Ave
Atlantic Rd
N US Highway
5
1
100 feet
50 m
Pictometry Bird's Eye © 2010 Pictometry International Corp. © AND
© 2010 NAVTEQ © 2011 Microsoft Corporation

EXHIBIT 3

Legal Description

OWNER: RACETRAC PETROLEUM, INC. **PARCEL ID:** 3136-01-37-0010
ADDRESS: 1521 N US HWY 1 ORMOND BEACH, FL

ALL OF BLOCK 37, NATIONAL GARDENS SUBDIVISION AS RECORDED IN MAP BOOK 10, PAGES 250–253, INCLUDING THE ALLEYS LOCATED IN BLOCK 37 AND VACATED PER OFFICIAL RECORDS BOOK 697 PAGES 138–155 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. LESS RIGHT–OF–WAY TAKEN FOR U.S. 1 (160' RIGHT OF WAY / VOLUSIA ROAD – PLAT) PER STATE OF FLORIDA STATE ROAD DEPARTMENT RIGHT OF WAY MAPS, MAP SECTION NO. 7903–175, BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF THE AFORESAID U.S. #1 AND THE SOUTH RIGHT OF WAY LINE OF BENTON STREET (50' R/W), SAID LINE ALSO BEING THE NORTH LINE OF THE AFORESAID BLOCK 37; THENCE N40°04'59"E ALONG THE AFORESAID SOUTH RIGHT OF WAY LINE OF BENTON STREET A DISTANCE OF 234.65 FEET TO AN INTERSECTION WITH THE WEST RIGHT OF WAY LINE OF ATLANTIC ROAD (60' R/W), SAID LINE ALSO BEING THE EAST LINE OF BLOCK 37; THENCE DEPARTING THE AFORESAID SOUTH RIGHT OF WAY LINE OF BENTON STREET RUN S49°58'31"E ALONG AFORESAID WEST RIGHT OF WAY LINE OF ATLANTIC ROAD A DISTANCE OF 400.19 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF BROADWAY (100' R/W), SAID LINE ALSO BEING THE SOUTH LINE OF THE AFORESAID BLOCK 37; THENCE DEPARTING THE AFORESAID EAST RIGHT OF WAY LINE OF ATLANTIC ROAD RUN S40°02'06"W ALONG THE AFORESAID NORTH RIGHT OF WAY LINE OF BROADWAY A DISTANCE OF 235.05 FEET TO AN INTERSECTION WITH THE AFORESAID EAST RIGHT OF WAY LINE OF U.S. # 1; THENCE DEPARTING THE AFORESAID NORTH RIGHT OF WAY LINE OF BROADWAY RUN N49°55'00"W ALONG THE AFORESAID EAST RIGHT OF WAY LINE OF U.S. #1 A DISTANCE OF 400.39 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 94,005 SQUARE FEET OR 2.16 ACRES MORE OR LESS

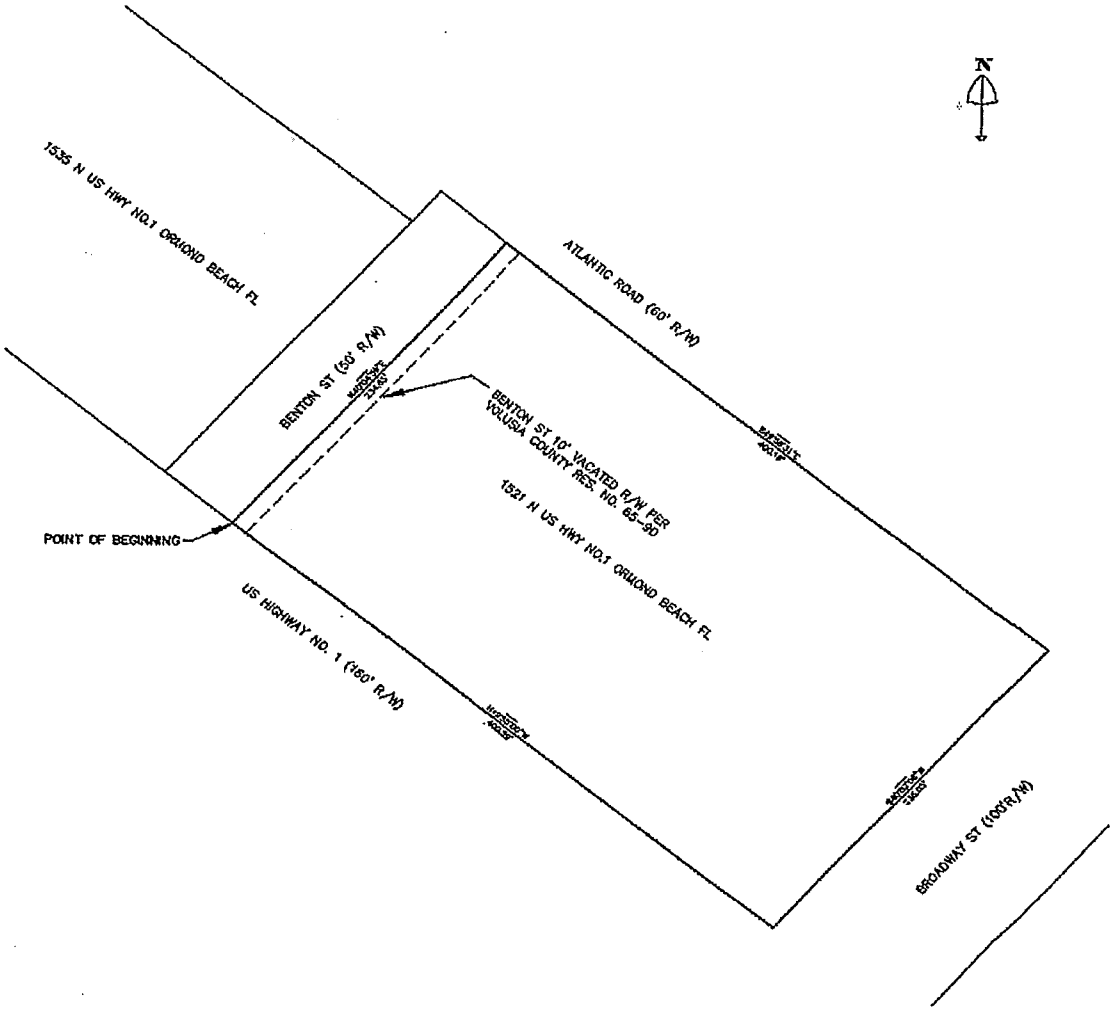


EXHIBIT 4

Section 2-28 of the LDC, B-7 zoning district

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

A. PURPOSE: The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist-related support activities in an attractive setting which will promote pedestrian activity and reinforce positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted.

B. DIMENSIONAL STANDARDS

1. Type	2. Density	3. Maximum Building Height	4. Maximum Building Coverage	5. Maximum Impervious Lot Coverage	6. Minimum Lot Size	7. Minimum Lot Width	8. Minimum Lot Depth	9. Setbacks				
								a. Front	b. Rear	c. Side	d. Street Side/ Corner	e. Waterbody
Non-Residential Uses	36 (Transient Lodging)	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district; 5’ additional combined side yard required for each story over 2	10’ 20’ when abutting a multi-family district; 25’ when abutting a single-family district; 5’ of additional combined yard area required for each story over 2	20’	30’
Multi-Family	10	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district	10’ when abutting a multi-family district; 25’ when abutting a single-family district	20’	30’

C. PERMITTED USES

1. **Adult Day Care Center**
2. **Assisted Living Facility**
3. **Business/ Professional Services**
4. **Business Services**
5. **Clubs and Fraternal Organization**
6. **Convenience Store, Type “A”**
7. **Financial Institutions**
8. **Nursing Home**
9. **Personal Services**
10. **Retail Sales and Services**
11. **School of Art**
12. **Schools, Public**
13. **Transient Lodging**
14. **Veterinarian**

D. CONDITIONAL USES

1. **Bar**
2. **Community Residential Home**
3. **Convenience Store, Type “B”**
4. **Convenience Store, Type “C”**
5. **Dwelling, Multi-Family**
6. **Family Day Care Home**
7. **Golf Course, contoured**
8. **Hospital**
9. **House of Worship**
10. **Nightclub**
11. **Parking Lot**
12. **Parking Garage**
13. **Parks and Recreation Facilities, Private**
14. **Parks and Recreation Facilities, Public**
15. **Public Facilities**
16. **Public Utilities**
17. **Recreation Facilities, Indoor**
18. **Restaurant, Type “A”**
19. **Restaurant, Type “B”**
20. **Restaurant, Type “C”**
21. **School, Private**
22. **Shopping Center**
23. **Telecommunication Tower, Camouflaged**
24. **Theater**
25. **Wind Energy System**

E. SPECIAL EXCEPTION USES

1. **Automatic Amusement Center**
2. **Nightclub**
3. **Outdoor Activity**
4. **Outdoor Storage**
5. **Recreation Facilities, Outdoor**
6. **Telecommunication Tower**
7. **Vehicle Rental**

F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
2 Bedroom = 750 SF	Each Additional Bedroom = 150 SF

G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Econo Lodge Interstate, 1567 North US Highway 1
Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-054

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±2.46 acre parcel of land from the existing zoning designation of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1567 North US Highway 1 (see Exhibit 1).

BACKGROUND:

The property at 1567 North US Highway 1 is an existing transient lodging facility (see Exhibit 2 for site plan). The property was annexed on April 20, 2011 with Ordinance 2011-11 (see Exhibit 3 for legal description). The annexation occurred based a 2007 annexation agreement and connection to City utilities. Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification is adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning designation for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

> "The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
Barber and beauty shops	Exempt landfills	Newsstands	Restaurants, types A and B
Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
Communication towers not exceeding 70 in height	Government sponsored civic centers	Museums	Theaters
Convenience stores with more than eight vehicular service positions	Home occupations, class A	Nightclubs	Tire sales
Convenience stores, with or without fuel dispensers	Hotels/motels	Outdoor entertainment event	

Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
Curb markets	Outdoor entertainment and recreational uses and structures	Railroad yards, siding and terminals	
Excavations only for stormwater retention ponds for which a permit is required	Professional or trade schools related to permitted uses	Schools, parochial or private	

The subject property is undergoing a land use amendment to assign a City Future Land Use designation of “Low Intensity Commercial” which was created as part of the City’s Evaluation and Appraisal amendment process. Concurrent with the North US Highway 1 land use and zoning amendments, staff is processing a Land Development Code

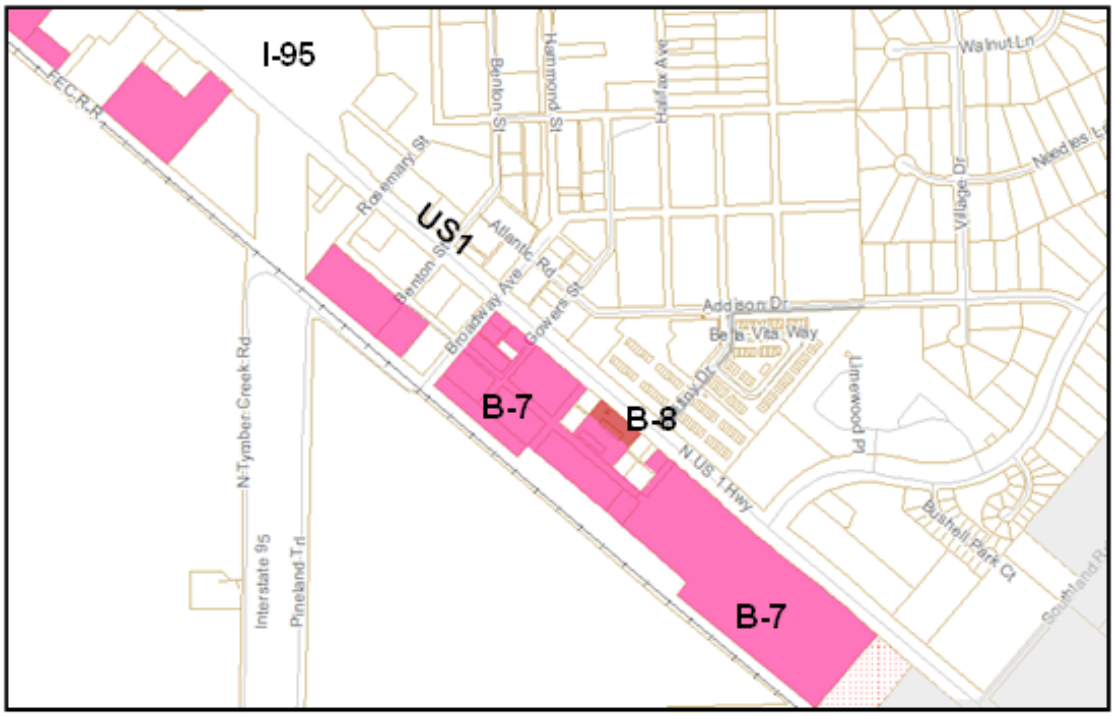
amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

Comprehensive Plan Future Land Use Map Designation	Corresponding Compatible Zoning District
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclub, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning designation is to provide the most similar designation as the property had in Volusia County.
4. The goal of the zoning classification is to provide the most similar classification assigned by Volusia County.

Staff analyzed the potential City zoning districts as follows:

Zoning District	Staff Review
Professional Office/Hospital (B-1)	Intended for office, medical, and institutional uses. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Central Business (B-4)	Intended for the existing core area of the City, such as the Community Redevelopment Area. Staff concluded this was not appropriate zoning classification for land located near the interchange.
Service Commercial (B-5)	Intended for automotive, construction materials, and warehousing. Staff concluded this was not an appropriate zoning classification for land near the interchange.
Oceanfront Tourist Commercial (B-6)	Intended for properties along the Atlantic Ocean with specialized design standards. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Highway Tourist Commercial (B-7) (See Exhibit 4 for zoning district uses)	The City Land Development Code provides the following purpose and intent for the B-7 (Highway Tourist Commercial) zoning district: "The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist related support activities in an attractive setting which will promote pedestrian activity and reinforces positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted." The B-7 zoning district offers the most similar City zoning district to the Volusia County B-6 zoning classification. In addition, there are existing properties in this area zoned as B-7.
Commercial (B-8)	Intended for general commercial activities (other than automotive) along arterial roadways. Though this zoning district was considered as a strong zoning option, it was identified as not allowing transient lodging and tailored more toward general commercial uses, such as along Nova Road, rather than specifically next to a highway interchange.

Zoning District	Staff Review
Boulevard (B-9)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for land near the interchange.
Suburban Boulevard (B-10)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for land near the interchange.
Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning
North	I-95	NA	NA
South	Vacant Land	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Comfort Inn	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Former Wendy's restaurant and gas station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall reviewed non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

   No specific development is proposed and request based on a need to assign a City zoning designation to the property as the result of annexation. The zoning map amendment will not adversely affect public health, safety, welfare or the quality of life.

2. The proposed development is consistent with the Comprehensive Plan.

There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.

The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties.

This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the transient lodging facility will continue to operate as it historically done.

5. There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.

The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

6. Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.

The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1567 North US Highway 1, the Comfort Inn Interstate, as described in Exhibit 3, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments:

Exhibit 1: Zoning Map

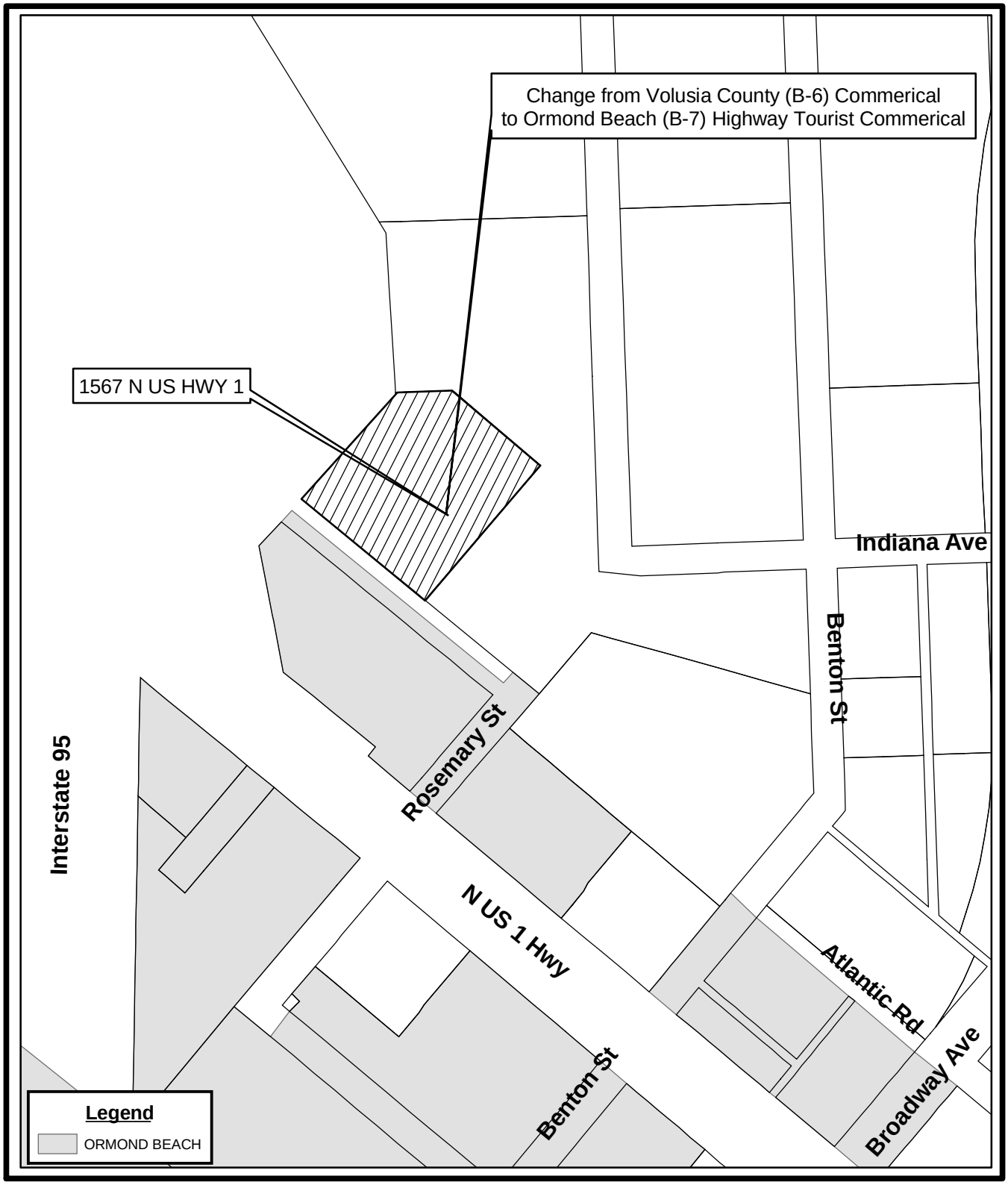
Exhibit 2: Photo, Site Plan and Location Aerial

Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Zoning Map



ZONING AMENDMENT MAP
1567 N US HWY 1 (3136-01-18-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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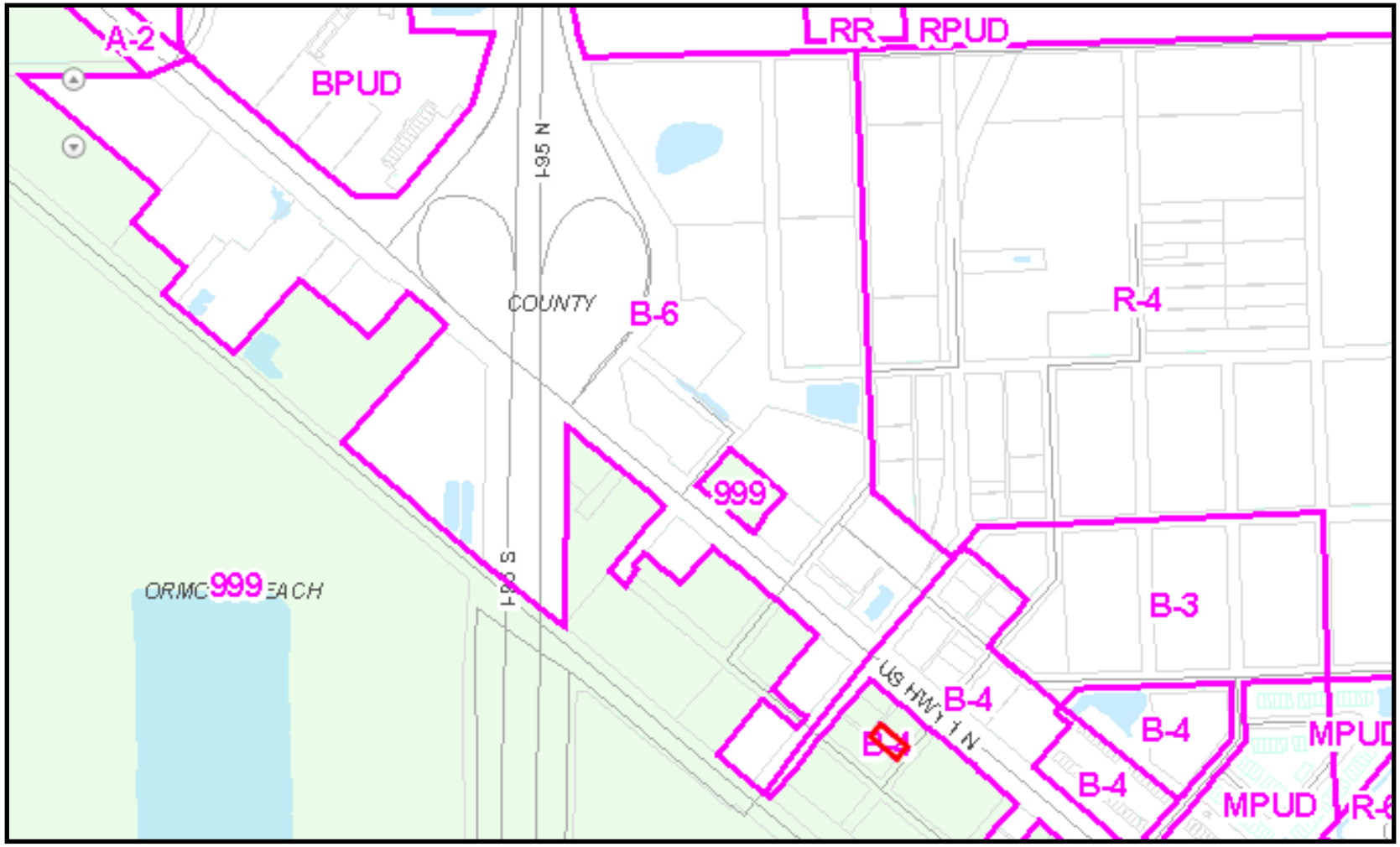


COUNTY ZONING MAP

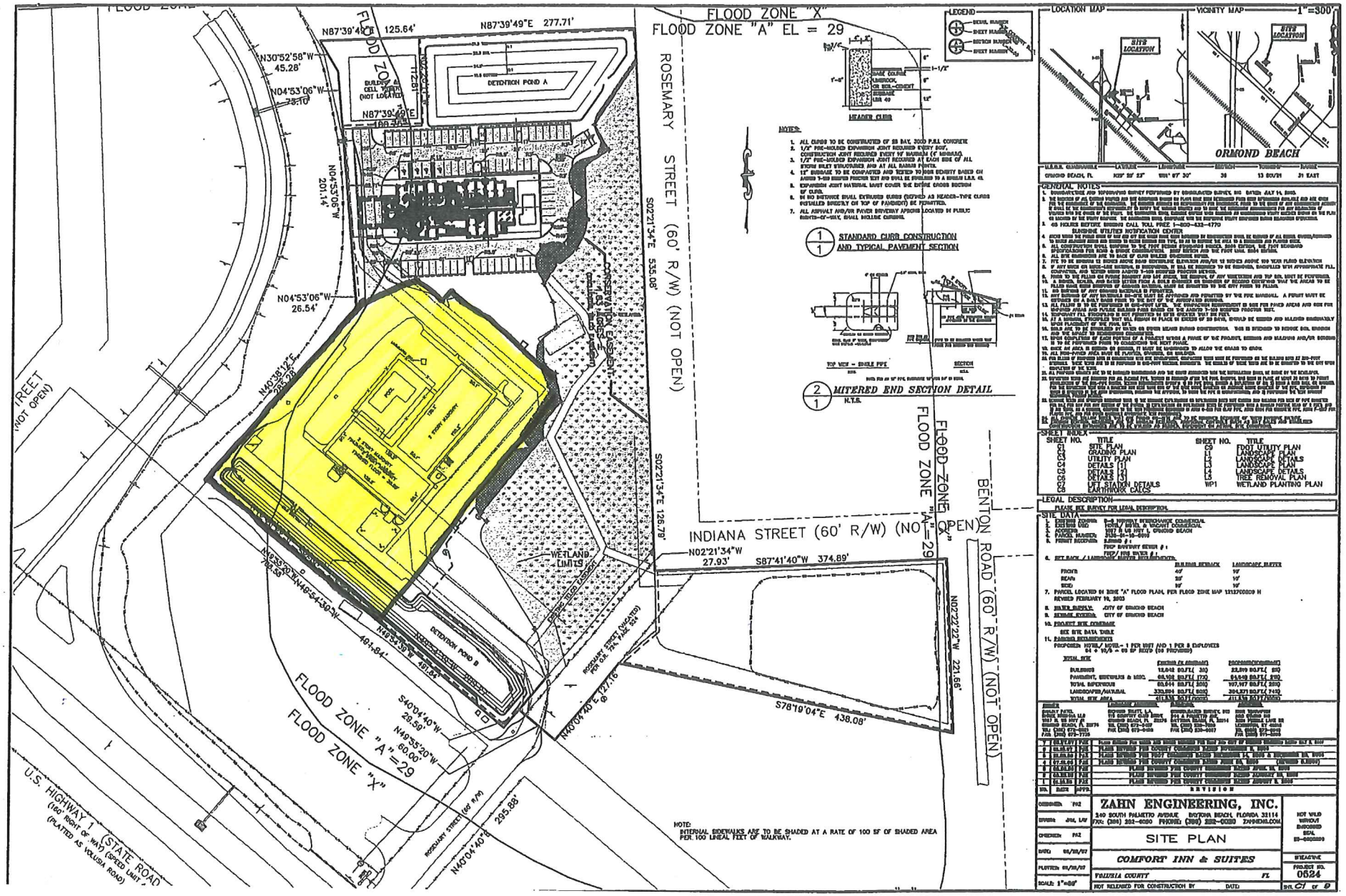
North Highway US1

EXHIBIT 2

Photo, Site Plan and Location Aerial

Econo Lodge
Interstate

1567 North US1, Econo Lodge Intestate



Econo Inn
Interstate 95
Rosemary St
Benton St
Hammond St
Indiana Ave
Atlanta Rd
S 1 Hwy

EXHIBIT 3

Legal Description

LEGAL DESCRIPTION

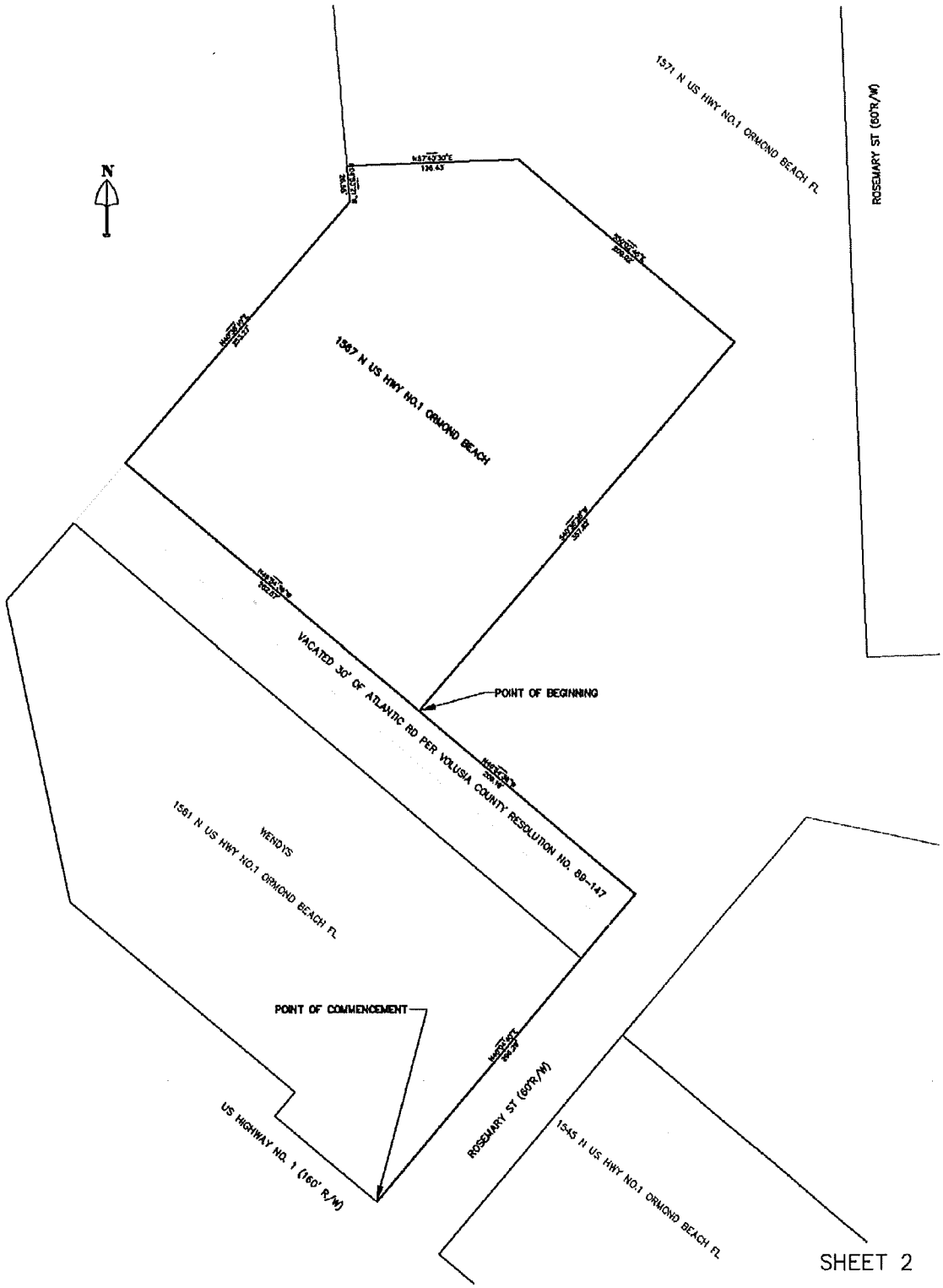
PARCEL ID: 3136-01-18-0010 **OWNER:** AGMT, LLC, a Florida limited liability company
ADDRESS: 1567 N US HWY 1 ORMOND BEACH, FL (ECONO LODGE)

BEING A PORTION OF BLOCK 18, NATIONAL GARDENS SUBDIVISION AS PER MAPS RECORDED IN MAP BOOK 10, PAGES 250 THROUGH 253, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET (A 60' RIGHT-OF-WAY) AND THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO.1 (A 160' RIGHT-OF-WAY): THENCE N 40° 04' 40" E ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET A DISTANCE OF 296.29 FEET; TO A POINT OF INTERSECTION IN THE EASTERLY RIGHT-OF-WAY LINE OF ATLANTIC ROAD (A 60 FOOT RIGHT-OF-WAY VACATED); THENCE N 49° 54' 39" W ALONG SAID EASTERLY RIGHT-OF-WAY A DISTANCE OF 209.19 TO A POINT, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE N 49° 54' 39" W ALONG SAID EASTERLY RIGHT-OF-WAY A DISTANCE OF 282.57 FEET TO A POINT IN THE INTERSTATE 95 RAMP RIGHT-OF-WAY OF INTERSTATE 95; THENCE N 04° 38' 10" E ALONG SAID RIGHT-OF-WAY OF INTERSTATE 95 RAMP, A DISTANCE OF 253.27 FEET; THENCE N 04° 53' 21" W A DISTANCE OF 26.55 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY OF INTERSTATE 95, N 87° 40' 30" E A DISTANCE OF 126.43 FEET; THENCE S 50° 02' 45" E A DISTANCE OF 209.02 FEET; THENCE S 40° 38' 28" W A DISTANCE OF 357.82 TO THE POINT OF BEGINNING. TOGETHER WITH THE NORTHEASTERLY 30.00 FEET OF VACATED ATLANTIC ROAD, A 60.00 FOOT RIGHT-OF-WAY, ABUTTING THE SOUTHWESTERLY LINE THEREOF.

CONTAINING 107,347 SQ.FT OR 2.46 ACRES MORE OR LESS

ECONO LODGE DEPICTION



SHEET 2

EXHIBIT 4

Section 2-28 of the LDC, B-7 zoning district

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

A. PURPOSE: The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist-related support activities in an attractive setting which will promote pedestrian activity and reinforce positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted.

B. DIMENSIONAL STANDARDS

1. Type	2. Density	3. Maximum Building Height	4. Maximum Building Coverage	5. Maximum Impervious Lot Coverage	6. Minimum Lot Size	7. Minimum Lot Width	8. Minimum Lot Depth	9. Setbacks				
								a. Front	b. Rear	c. Side	d. Street Side/ Corner	e. Waterbody
Non-Residential Uses	36 (Transient Lodging)	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district; 5’ additional combined side yard required for each story over 2	10’ 20’ when abutting a multi-family district; 25’ when abutting a single-family district; 5’ of additional combined yard area required for each story over 2	20’	30’
Multi-Family	10	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district	10’ when abutting a multi-family district; 25’ when abutting a single-family district	20’	30’

C. PERMITTED USES

1. **Adult Day Care Center**
2. **Assisted Living Facility**
3. **Business/ Professional Services**
4. **Business Services**
5. **Clubs and Fraternal Organization**
6. **Convenience Store, Type “A”**
7. **Financial Institutions**
8. **Nursing Home**
9. **Personal Services**
10. **Retail Sales and Services**
11. **School of Art**
12. **Schools, Public**
13. **Transient Lodging**
14. **Veterinarian**

D. CONDITIONAL USES

1. **Bar**
2. **Community Residential Home**
3. **Convenience Store, Type “B”**
4. **Convenience Store, Type “C”**
5. **Dwelling, Multi-Family**
6. **Family Day Care Home**
7. **Golf Course, contoured**
8. **Hospital**
9. **House of Worship**
10. **Nightclub**
11. **Parking Lot**
12. **Parking Garage**
13. **Parks and Recreation Facilities, Private**
14. **Parks and Recreation Facilities, Public**
15. **Public Facilities**
16. **Public Utilities**
17. **Recreation Facilities, Indoor**
18. **Restaurant, Type “A”**
19. **Restaurant, Type “B”**
20. **Restaurant, Type “C”**
21. **School, Private**
22. **Shopping Center**
23. **Telecommunication Tower, Camouflaged**
24. **Theater**
25. **Wind Energy System**

E. SPECIAL EXCEPTION USES

1. **Automatic Amusement Center**
2. **Nightclub**
3. **Outdoor Activity**
4. **Outdoor Storage**
5. **Recreation Facilities, Outdoor**
6. **Telecommunication Tower**
7. **Vehicle Rental**

F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
2 Bedroom = 750 SF	Each Additional Bedroom = 150 SF

G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: May 5, 2011

SUBJECT: Comfort Suites, 1571 North US Highway 1
Amendment to Official Zoning Map

APPLICANT: Administrative

NUMBER: RZ11-058

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend the City's Official Zoning Map for a ±7.07 acre parcel of land from the existing zoning designation of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1571 North US Highway 1 (see Exhibit 1).

BACKGROUND:

The property at 1571 North US Highway 1 is the Comfort Suites and operates as a transient lodging facility. On September 18, 2007, the City Commission approved an annexation agreement, Resolution 2007-142, that stated the properties at 1567 North US1, Econo Lodge Interstate, and 1571 North US1, Comfort Suites, would annex once they became contiguous with the City boundaries. The site plan was approved by Volusia County and property connected to City utilities (see Exhibit 2). The property was annexed on April 20, 2011 with Ordinance 2011-12 (see Exhibit 3). The annexation occurred based on the connection to City utilities for the construction of the project. Given that the parcel is now located within the City of Ormond Beach, the City is required to assign a City land use and consistent zoning. There is no site development or alterations proposed for the subject property associated with this re-zoning. Until a City land use designation and zoning classification is adopted, the property maintains its County land use and zoning classifications. The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Low Intensity Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial) is contingent upon adopting the land use change. In addition to the subject request, the city is proposing nine other land use amendments and rezonings located within the North Highway US 1 corridor that have been annexed into the City over the last year. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

> "The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
Barber and beauty shops	Exempt landfills	Newsstands	Restaurants, types A and B
Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
Communication towers not exceeding 70 in height	Government sponsored civic centers	Museums	Theaters
Convenience stores with more than eight vehicular service positions	Home occupations, class A	Nightclubs	Tire sales
Convenience stores, with or without fuel dispensers	Hotels/motels	Outdoor entertainment event	

Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
Curb markets	Outdoor entertainment and recreational uses and structures	Railroad yards, siding and terminals	
Excavations only for stormwater retention ponds for which a permit is required	Professional or trade schools related to permitted uses	Schools, parochial or private	

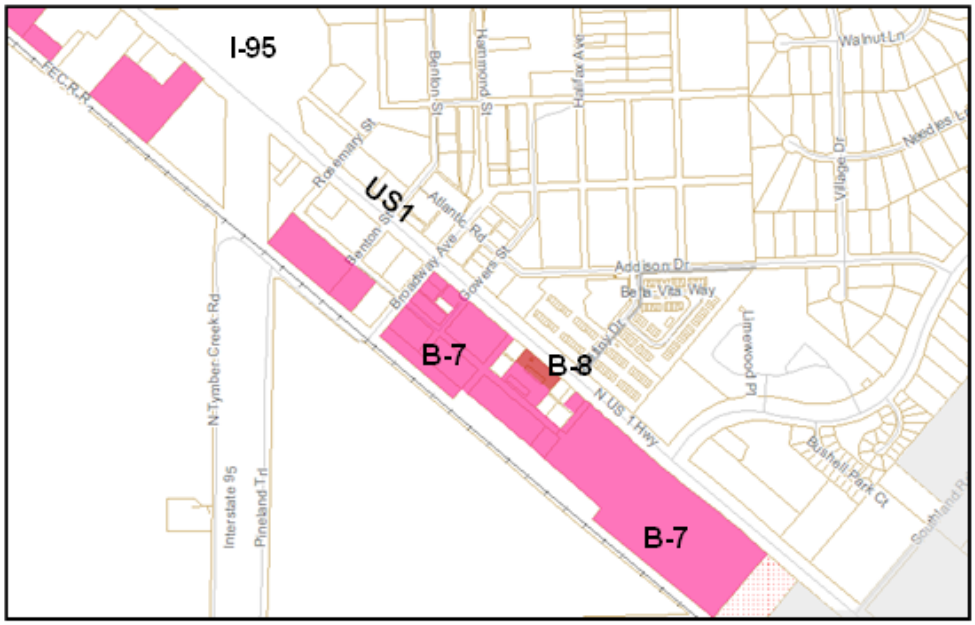
The subject property is undergoing a land use amendment to assign a City Future Land Use designation of "Low Intensity Commercial" which was created as part of the City's Evaluation and Appraisal Report amendment process. Concurrent with the North US Highway 1 land use and zoning amendments, staff is processing a Land Development Code amendment to designate consistent zoning classifications for the "Low Intensity Commercial" land use. The amendment proposes the following as compatible zoning districts:

Comprehensive Plan Future Land Use Map Designation	Corresponding Compatible Zoning District
Low Intensity Commercial	Professional Office – Hospital (B-1) Central Business (B-4) Service Commercial (B-5) Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Commercial (B-8) Boulevard (B-9) Suburban Boulevard (B-10) Planned Business Development (PBD)

During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and Highway US1. Uses in this area include gas stations, nightclubs, restaurants, convenience stores, and other commercial uses, including office and retail.
2. South of the intersection of Interstate 95 and Highway US1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning classification is to provide the most similar zoning classification assigned by Volusia County.

Staff analyzed the potential City zoning districts as follows:

Zoning District	Staff Review
Professional Office/Hospital (B-1)	Intended for office, medical, and institutional uses. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Central Business (B-4)	Intended for the existing core area of the City, such as the Community Redevelopment Area. Staff concluded this was not appropriate zoning classification for land located near the interchange.
Service Commercial (B-5)	Intended for automotive, construction materials, and warehousing. Staff concluded this was not an appropriate zoning classification for land near the interchange.
Oceanfront Tourist Commercial (B-6)	Intended for properties along the Atlantic Ocean with specialized design standards. Staff concluded this was not an appropriate zoning classification for the land around the interchange.
Highway Tourist Commercial (B-7) (See Exhibit 4 for zoning district uses)	The City Land Development Code provides the following purpose and intent for the B-7 (Highway Tourist Commercial) zoning district: "The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist related support activities in an attractive setting which will promote pedestrian activity and reinforces positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted." The B-7 zoning district offers the most similar City zoning district to the Volusia County B-6 zoning classification. In addition, there are existing properties in this area zoned as B-7.
Commercial (B-8)	Intended for general commercial activities (other than automotive) along arterial roadways. Though this zoning district was considered as a strong zoning option, it was identified as not allowing transient lodging and tailored more toward general commercial uses, such as along Nova Road, rather than specifically next to a highway interchange.

Zoning District	Staff Review
Boulevard (B-9)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for land near the interchange.
Suburban Boulevard (B-10)	Intended for office, medical, and institutional uses. This is not an appropriate zoning classification for land near the interchange.
Planned Business Development (PBD)	Intended for individual sites that desire to negotiate certain site development standards, such as permitted uses, dimensional standards, or phasing.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classification of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning
North	I-95	NA	NA
South	Vacant land	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Vacant land	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
West	Former Wendy's restaurant and gas station	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)

CONCLUSION/CRITERIA FOR APPROVAL

Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

   No specific development is proposed and request based on a need to assign a City zoning classification to the property as the result of annexation. The zoning map amendment will not adversely affect public health, safety, welfare or the quality of life.

2. The proposed development is consistent with the Comprehensive Plan.

There is a separate land use map amendment that proposes to assign a City "Low Intensity Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be assigned similar land uses that they had in Volusia County. The subject property is already constructed and in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Low Intensity Commercial" land use designation.

3. The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.

The property has existing building and site improvements. There is no construction proposed and criterion is not applicable.

4. The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties.

This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the existing transient lodging facility will continue to operate as it historically has.

5. There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

6. Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

8. **The proposed development provides for the safety of occupants and visitors**.

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed city zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Commercial".

RECOMMENDATION:

Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1571 North US Highway 1, Comfort Suites, as described in Exhibit 3, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments:

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Exhibit 3: Legal Description

Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

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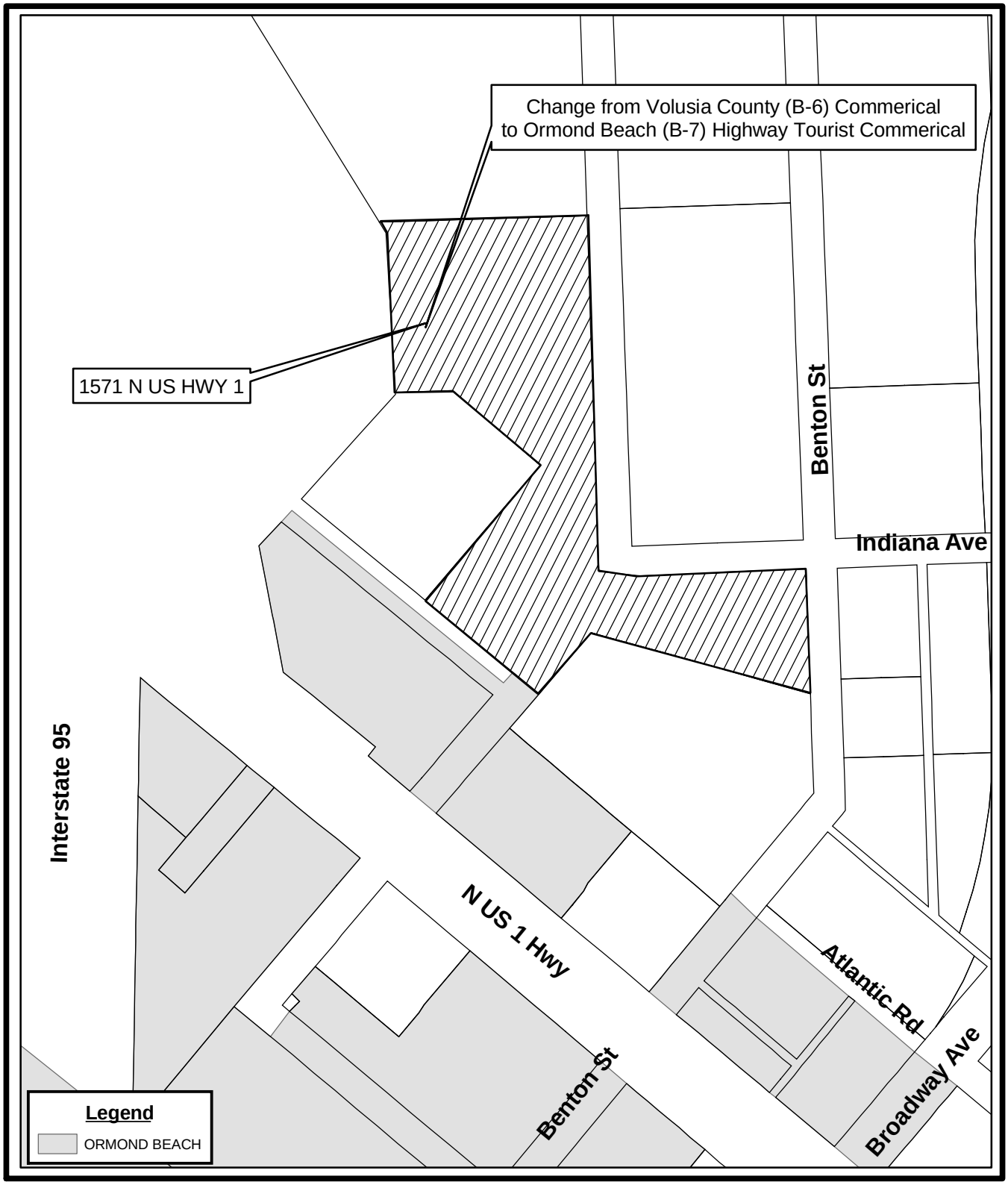
Zoning Map



ZONING AMENDMENT MAP
1571 N US HWY 1 (3136-01-19-0010)

The City of Ormond Beach
G.I.S. Department
Prepared by: Eric Dickens 04/04/2011

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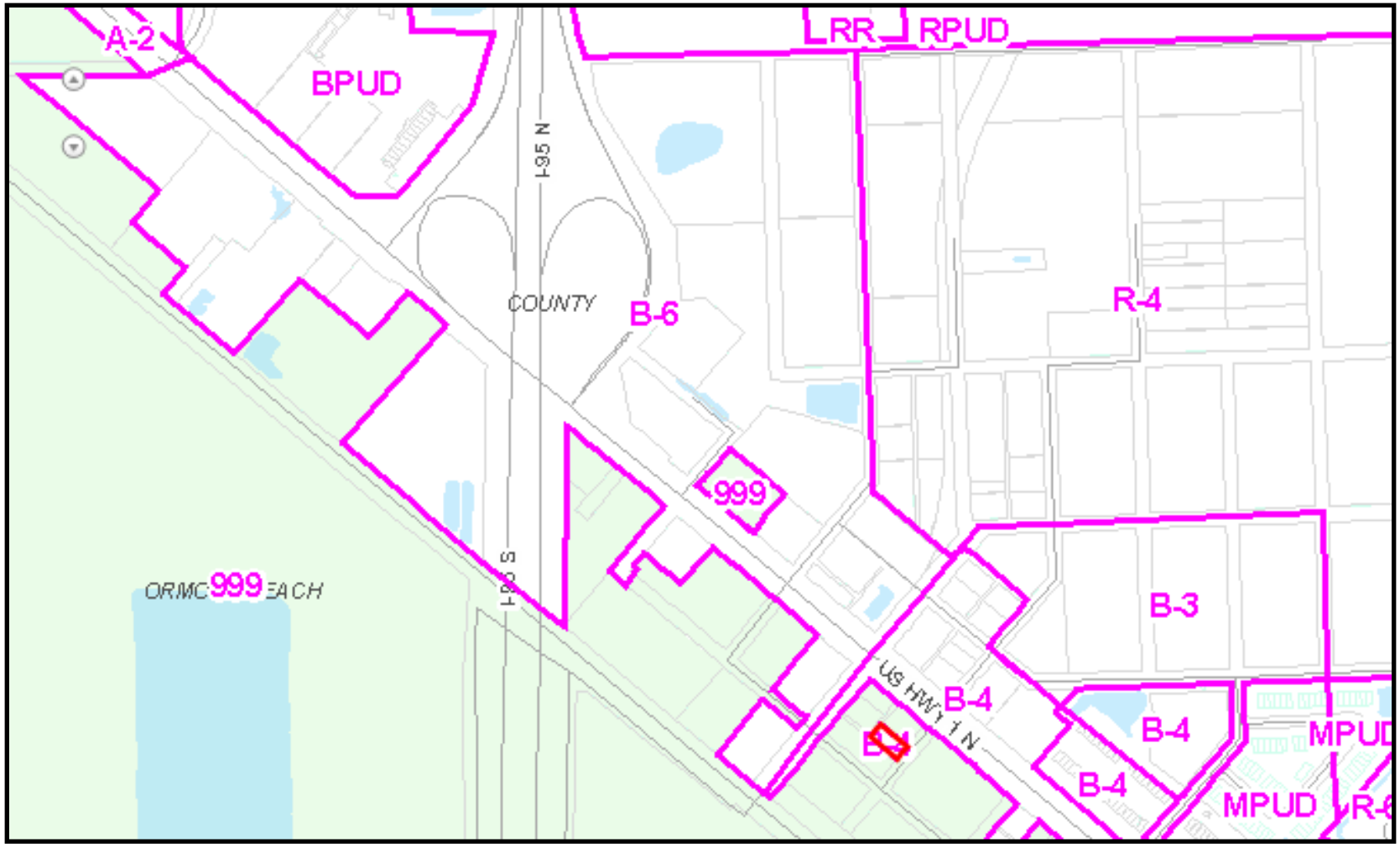


COUNTY ZONING MAP

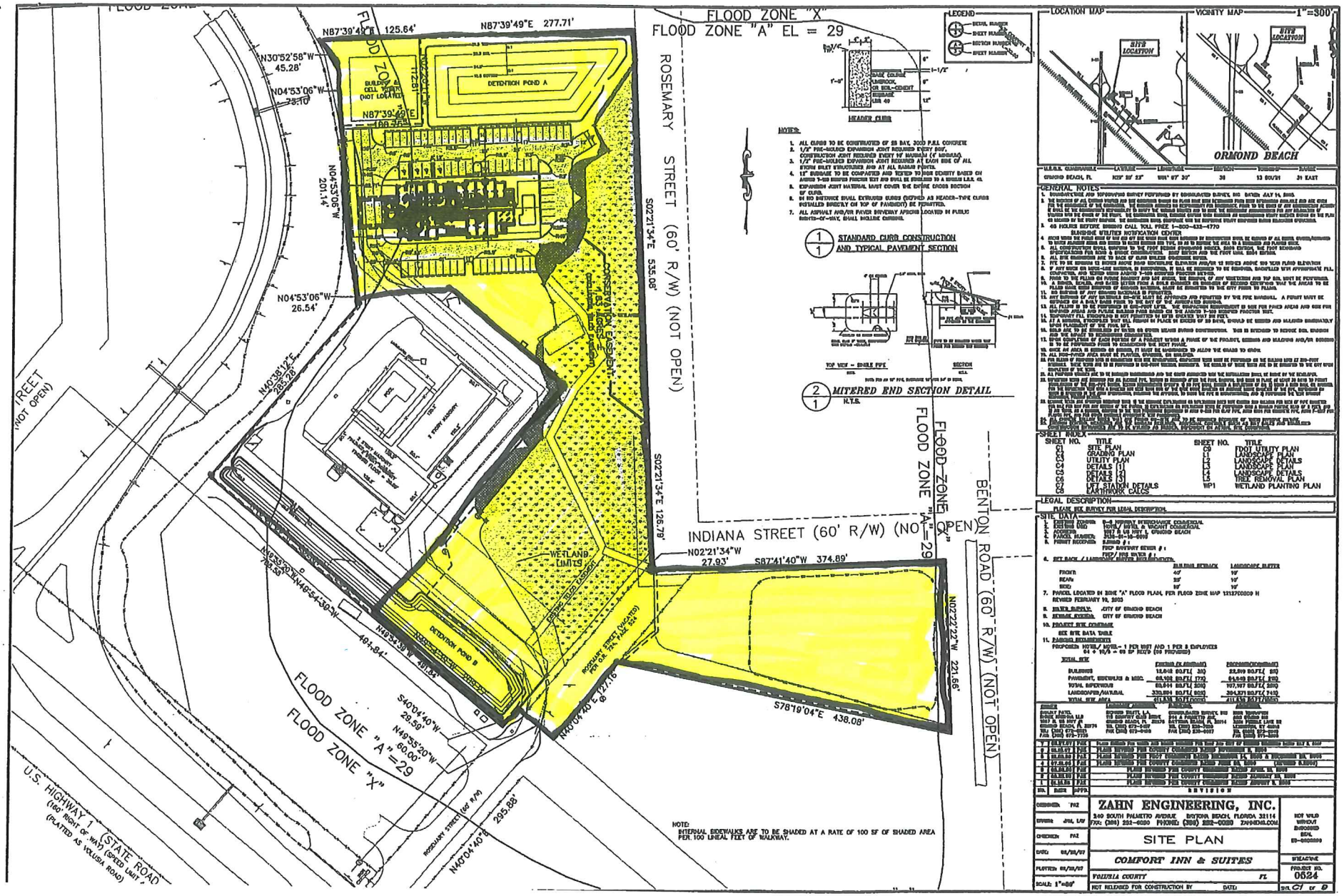
North Highway US1

EXHIBIT 2

Photo, Site Plan and Location Aerial

View from I-95 off ramp

1571 North US1, Comfort Inn



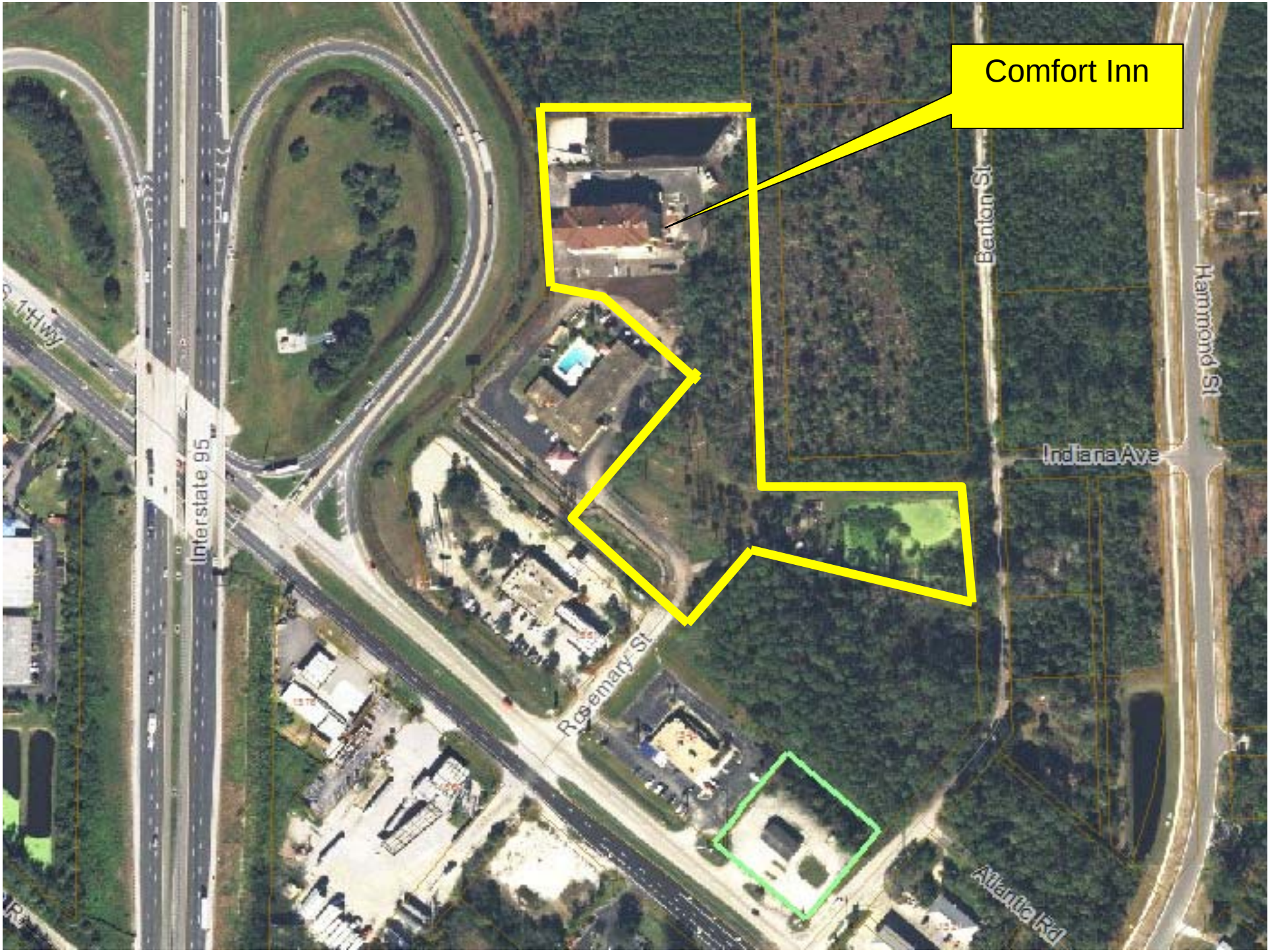

Comfort Inn
Interstate 95
Rosemary St
Benton St
Hammond St
Indiana Ave
Atlanta Rd

EXHIBIT 3

Legal Description

LEGAL DESCRIPTION

PARCEL ID: 3136-01-19-0010
OWNER: SHREE KRISHNA, A NEVADA LIMITED LIABILITY COMPANY
ADDRESS: 1571 N US HWY 1 ORMOND BEACH, FL (COMFORT INN)

BEING A PORTION OF LOT 1, BLOCK 19, LOT 1, BLOCK 18, BLOCK 9 AND BLOCK 10, NATIONAL GARDENS SUBDIVISION AS PER MAPS RECORDED IN MAP BOOK 10, PAGES 250 THROUGH 253, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET (A 60' RIGHT-OF-WAY) AND THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO.1 (A 160' RIGHT-OF-WAY): THENCE N 40° 04' 40" E ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET A DISTANCE OF 296.28 FEET; TO A POINT OF INTERSECTION IN THE EASTERLY RIGHT-OF-WAY LINE OF ATLANTIC ROAD (A 60 FOOT RIGHT-OF-WAY VACATED) SAID POINT BEING THE POINT OF BEGINNING; THENCE N49° 54' 39" W ALONG SAID EASTERLY RIGHT-OF-WAY A DISTANCE OF 268.89 FEET; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE OF VACATED ATLANTIC ROAD N 40° 37' 38" E A DISTANCE OF 369.83 FEET; THENCE N 50° 02' 44" W A DISTANCE OF 209.02 FEET; THENCE S 87° 40' 30" W A DISTANCE OF 126.43 FEET TO A POINT IN THE INTERSTATE 95 RAMP RIGHT-OF-WAY OF INTERSTATE 95; THENCE N 04° 53' 06" W ALONG SAID RIGHT-OF-WAY OF INTERSTATE 95 RAMP, A DISTANCE OF 274.23 FEET; THENCE N 30° 52' 58" W A DISTANCE OF 45.28 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY OF INTERSTATE 95, N 87° 39' 49" E A DISTANCE OF 403.35 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF AFORESAID ROSEMARY STREET; THENCE S 02° 18' 20" E ALONG THE WESTERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET A DISTANCE OF 689.80 FEET TO A POINT OF INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET WITH THE SOUTH LINE OF INDIANA STREET (A 60 FOOT RIGHT-OF-WAY); THENCE DEPARTING THE WESTERLY RIGHT-OF-WAY LINE OF ROSEMARY STREET N 87° 41' 40" E ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID INDIANA STREET A DISTANCE OF 375.54 FEET TO THE NORTHEAST CORNER OF BLOCK 35, NATIONAL GARDENS SUBDIVISION, SAID POINT ALSO BEING THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF INDIANA STREET WITH THE WESTERLY RIGHT-OF-WAY LINE OF BENTON ROAD (A 60 FOOT RIGHT-OF-WAY); THENCE DEPARTING THE RIGHT-OF-WAY LINE OF INDIANA STREET S 02° 22' 22" E ALONG THE WESTERLY RIGHT-OF-WAY LINE OF BENTON ROAD A DISTANCE OF 221.66 FEET; THENCE DEPARTING THE WESTERLY RIGHT-OF-WAY LINE OF BENTON ROAD N 78° 19' 04" W A DISTANCE OF 438.08 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF VACATED ROSEMARY STREET, SAID POINT ALSO BEING ON THE NORTHWESTERLY LINE OF LOT 17 OF BLOCK 35; THENCE S 40° 04' 40" W ALONG SAID NORTHWESTERLY LINE OF LOT 17 A DISTANCE OF 136.76 FEET; TO THE POINT OF BEGINNING. TOGETHER WITH THE NORTHEASTERLY 30.00 FEET OF VACATED ATLANTIC ROAD, A 60.00 FOOT RIGHT-OF-WAY, ABUTTING THE SOUTHWESTERLY LINE THEREOF.

CONTAINING 308,168 SQ.FT OR 7.07 ACRES MORE OR LESS

COMFORT INN DEPICTION
1571 NORTH US HWY 1

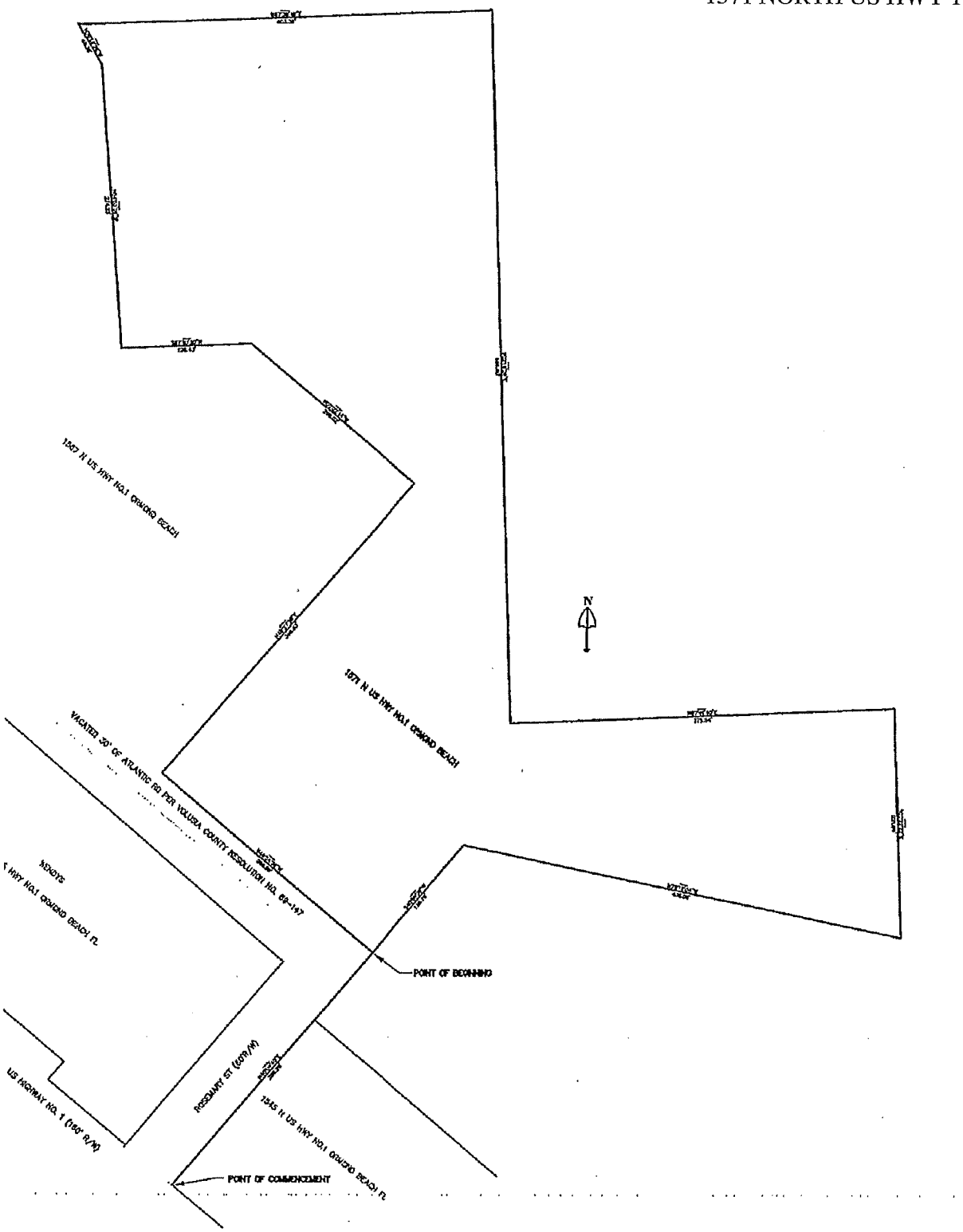


EXHIBIT 4

Section 2-28 of the LDC, B-7 zoning district

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

A. PURPOSE: The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist-related support activities in an attractive setting which will promote pedestrian activity and reinforce positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted.

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								a. Front	b. Rear	c. Side	d. Street Side/ Corner	e. Waterbody
Non-Residential Uses	36 (Transient Lodging)	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district; 5’ additional combined side yard required for each story over 2	10’ 20’ when abutting a multi-family district; 25’ when abutting a single-family district; 5’ of additional combined yard area required for each story over 2	20’	30’
Multi-Family	10	50’	40%	75%	20,000 SF	100’	N/A	20’	20’ 30’ if abutting residential district	10’ when abutting a multi-family district; 25’ when abutting a single-family district	20’	30’

C. PERMITTED USES

1. **Adult Day Care Center**
2. **Assisted Living Facility**
3. **Business/ Professional Services**
4. **Business Services**
5. **Clubs and Fraternal Organization**
6. **Convenience Store, Type “A”**
7. **Financial Institutions**
8. **Nursing Home**
9. **Personal Services**
10. **Retail Sales and Services**
11. **School of Art**
12. **Schools, Public**
13. **Transient Lodging**
14. **Veterinarian**

D. CONDITIONAL USES

1. **Bar**
2. **Community Residential Home**
3. **Convenience Store, Type “B”**
4. **Convenience Store, Type “C”**
5. **Dwelling, Multi-Family**
6. **Family Day Care Home**
7. **Golf Course, contoured**
8. **Hospital**
9. **House of Worship**
10. **Nightclub**
11. **Parking Lot**
12. **Parking Garage**
13. **Parks and Recreation Facilities, Private**
14. **Parks and Recreation Facilities, Public**
15. **Public Facilities**
16. **Public Utilities**
17. **Recreation Facilities, Indoor**
18. **Restaurant, Type “A”**
19. **Restaurant, Type “B”**
20. **Restaurant, Type “C”**
21. **School, Private**
22. **Shopping Center**
23. **Telecommunication Tower, Camouflaged**
24. **Theater**
25. **Wind Energy System**

E. SPECIAL EXCEPTION USES

1. **Automatic Amusement Center**
2. **Nightclub**
3. **Outdoor Activity**
4. **Outdoor Storage**
5. **Recreation Facilities, Outdoor**
6. **Telecommunication Tower**
7. **Vehicle Rental**

F. OTHER STANDARDS

All development must comply with the following requirements:

1. Wetlands (Chapter 3, Article II)
2. Special corridors and buffer requirements (Chapter 3, Article I)
3. See Conditional and Special Exception regulations (Chapter 2, Article IV)
4. Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
2 Bedroom = 750 SF	Each Additional Bedroom = 150 SF

G. PERMITTED ACCESSORY USES:

Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.