



A G E N D A
ORMOND BEACH BROWNFIELD
ADVISORY BOARD
Regular Meeting

April 10, 2012

6:00 PM

City Hall
Training Room (enter through Breezeway)
22 South Beach Street
Ormond Beach, FL

-
- I. ROLL CALL**
 - II. ADMINISTRATIVE ITEMS**
 - A. Election of Chairperson and Vice Chairperson**
 - B. Review and Adoption of 2012 Rules and Procedures**
 - III. OTHER BUSINESS: (See Olive Grove Sales Tax Refund Application)**
 - VI. MEMBER COMMENTS**
 - V. ADJOURNMENT**

CITY OF ORMOND BEACH

FLORIDA

PLANNING

MEMORANDUM

TO: Brownfield Advisory Board Members
FROM: Richard P. Goss, AICP, Planning Director
DATE: April 10, 2012

SUBJECT: Election of Officers and Draft Rules of Procedures

CC: Joyce Shanahan, City Manager and Randy Hayes, City Attorney

This is the first meeting of the Brownfield Advisory Board. There are two administrative items on the agenda including the election of the chairperson/vice-chairperson, and the rules of procedures. Section 2-229 (d) of the City Code of Ordinance states at the first meeting of the Brownfield Advisory Board each year, the secretary shall call the meeting to order and shall then call for nominations for chairperson. Staff has included a suggested Rules of Procedure for Board action.

In addition, staff will be seeking a consensus from the Board as to a regular time to meet to conduct business. Once the day and time is decided upon, staff will bring to the Brownfield Advisory Board a Schedule of Meeting Dates for the year for the Board to approve at the next meeting of the Board

If there are any questions, I can be contacted at 676.3343 or by e-mail at goss@ormondbeach.org. Thank you.

**RULES OF PROCEDURE
OF THE
BROWNFIELD ADVISORY BOARD
FOR THE
CITY OF ORMOND BEACH**

The Brownfield Advisory Board of the City of Ormond Beach, Florida shall be governed by the terms of the Code of Ordinances, and the Rules of Procedure set forth herein and adopted by the Board.

SECTION 1. OFFICERS, MEMBERS AND DUTIES

1.1 Chairman. A Chairman shall be elected by the Board, in accordance with Subsection 2-229 (d) of the City Code of Ordinances. The Chairman shall decide upon all points of order and procedure subject to these rules, unless otherwise directed by a majority of the Board in session at the time. The Chairman shall appoint any subcommittee found necessary to investigate matters before the Board. The Chairman shall sign all minutes of the Board and all pertinent correspondence.

1.2 Vice-Chairman. A Vice-Chairman shall be elected by the Board, in accordance with Section 2-229 (d) of the City Code of Ordinances. The Vice-Chairman shall serve as Acting Chairman in the absence of the Chairman and, at such times, shall have the same powers and duties as the Chairman.

1.3 Secretary. The Secretary shall be the Director of Planning or the designee of the said Director. The Secretary shall keep all records, shall conduct all correspondence of the Board, shall cause to be given the required legal notice of each public hearing and shall generally take charge of the clerical work of the Board. The Secretary shall take, or cause to be taken, the minutes of every meeting of the Board. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board, and all votes of members of the Board upon any resolution or upon the final determination of any questions, in dictating the names of members absent or failing to vote. The Secretary shall endeavor to present the final copy of the minutes to the Chairman for signature not later than five (5) days before the next regular meeting. The Secretary shall keep all records open to the public at all times during normal business hours (8:00 AM-5:00 PM), but shall in no event relinquish the original of any record to any person, unless such authority is granted by the Chairman of the Board.

1.4 Members. As required by Ordinance 2012-01 codified as Section 2-229 (b) of the City Code of Ordinances, the board shall consist of seven (7) members who shall be comprised of residents within or adjacent to a Brownfield area, businesses operating within a Brownfield Area, and other persons deemed appropriate by the City Commission in accordance with the residency requirements of Section 5 herein. Terms and conditions of appointment shall be governed by subsection 2-229 (c). Members shall provide the Secretary with their current home address and home and/or office telephone number, unless such information is made confidential by law. Such information shall be kept

current by the members. In the event that a member of the Board shall be unable to attend a regularly scheduled meeting, the member shall notify the Secretary of the member's expected absence no later than five (5) days before that meeting. The five (5) days notice of absence shall not apply to emergency absences beyond the member's control, nor to special meetings described in Subsection 2.2 below.

1.5 Viewing. The Board members shall make every effort to view any redeveloped site being considered by the Board for financial incentives related to the Brownfield designation. The Secretary shall provide each member with a map showing the subject site.

1.6 Schedule of Meetings. Pursuant to Subsection 2-229 (c) of the City Code of Ordinances, the Board members shall approve a yearly calendar of meetings at its inaugural meeting in January of each year. This schedule of meetings will establish timeframes for application submittal and staff review.

SECTION 2. MEETINGS

2.1 Regular Meetings. Regular meetings of the Brownfield Advisory Board shall be held generally on the _____ of each month, at _____ PM, in the City Hall Commission Chambers. If the Chambers are not available, an alternate location shall be noted on the agenda and in all related advertising and noticing. The time and place of the regular monthly meeting may be changed by affirmative vote of a majority of the Board.

2.2 Special Meetings. Special meetings of the Board may be called at any time by the Chairman, or at the direction of any three (3) members of the Board. At least seventy-two (72) hours advance notice of the time and place of special meetings shall be given by the Secretary or Chairman to each member of the Board.

2.3 Cancellation of Meetings. Whenever there is no business for the Board, or whenever so many members notify the Secretary of inability to attend that a quorum will not be available, the Chairman may dispense with the regular meeting by instructing the Secretary to give written or oral notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

2.4 Quorum. A quorum shall consist of four (4) members for the transaction of business.

2.5 Conduct of Meeting. All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- a. Roll Call
- b. Invocation
- c. Pledge of Allegiance
- d. Approval of the Minutes
- e. Public Hearings on applications
- f. Other Business and Discussion Items
- g. Member Comments

h. Adjournment

2.6 Continued Meetings. The Board may continue a regular or special meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for resuming such a meeting if the time and place of its resumption is stated at the time of continuance and is not thereafter changed.

2.7 Adjournment. Upon the conclusion of member comments, the meeting shall adjourn. New items other than those properly advertised and on the agenda shall not be heard by the Board.

SECTION 3. VOTING

3.1 Vote. The affirmative vote of a majority of the members present and legally entitled to vote at any meeting shall be necessary to make any recommendation on any matter coming before the Board. The Chairman shall have one (1) vote on all issues voted upon by the Board.

3.2 Voting Conflict of Interest. No member of the Board shall participate in any matter which would inure to the member's special private gain or loss, which the member knows would inure to the special private gain or loss of any principal by whom the member is retained, or to the parent organization or subsidiary of a corporate principal by which the member is retained; or which the member knows would inure to the special private gain or loss of a relative or business associate of the member without first disclosing the nature of the member's interest in the matter.

Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the Secretary prior to the meeting in which consideration of the matter will take place, and shall be incorporated in the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the Board, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

In the event that disclosure has not been made prior to the meeting, or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within fifteen (15) days after the oral disclosure with the Secretary and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the Board, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

Any member of the Board who, after written notice and public hearing, is found to have violated the provisions listed above, shall have the member's membership on the Board immediately terminated.

3.3 Abstention. All members of the Board shall vote in favor of, or in opposition to, all matters coming before the Board for vote, and such vote shall be recorded in the official records of the Board. However, no member shall vote upon any matter which would inure to the member's special private gain or loss; which the member knows would inure to the special private gain or loss of any principal by whom the member is retained or to the parent organization or subsidiary of a corporate principal by which the member is retained, other than an agency as defined in Florida Statutes, Section 112.312(2); or which the member knows would inure to the special private gain or loss of a relative or business associate of the member. Any member so required to abstain shall, prior to the vote being taken, publicly state to the assembly the nature of the member's interest in the matter from which the member is abstaining from voting and, within fifteen (15) days after the vote occurs, disclose the nature of the member's interest as a public record in a memorandum filed with the Secretary, who shall incorporate the memorandum in the minutes.

3.4 Policy. It shall be the policy of the Board to provide sufficient findings to ensure all applications before the Board have addressed the criteria described in section 376.80 (5) of the Brownfield Act. The information and application provided by the applicant shall be reviewed by the Planning staff with a recommendation to the Board along with appropriate information or evidence and testimony presented at the public hearing.

SECTION 4. ATTENDANCE

Attendance of the Brownfield Advisory Board members shall be subject to the standards contained in the Code of Ordinances, Chapter 2 Administration, Article VI Boards, Commissions, Committees and Other Agencies, Division 1. Generally, Section 2-202, Attendance of Members, as amended.

SECTION 5. RESIDENCY REQUIREMENTS

All Board members must be residents of the City of Ormond Beach. A member who, after appointment or selection to the Board, ceases to be a resident of the city shall promptly tender a resignation, which shall be effective immediately upon its tender. Failure to resign shall result in the person's membership on the Board being terminated by the City Commission. A member who locates his permanent residence outside of the zone from which he was appointed shall also be required to tender a resignation from the Board. Failure to tender the resignation, with continuous residency outside the zone from which he was appointed for more than sixty (60) days, shall be presumed to constitute residency outside the zone and the membership shall be terminated by the City Commission. Upon request of the person involved and upon a showing of good cause, the City Commission may extend such time.

SECTION 6. CONDUCT OF HEARINGS

The applicant may appear in person or by agent or by attorney at the hearing. The order of procedure for each hearing shall be as follows:

6.1 The Chairman, the Chairman's designee, shall present a summary explanation of the application;

6.2 The staff shall present its analysis and recommendations regarding the application;

6.3 The applicant or the applicant's agent shall be afforded the opportunity to speak in behalf of the application;

6.4 Any Board member, with permission of the Chairman, may request additional staff input or question the application or his agent;

6.5 The Chairman shall direct persons wishing to speak in favor of, or in opposition to, the application shall be allowed to do so after signing in and stating their name and address - such presentation shall be made at the podium. The Chairman shall ensure that there is sufficient time allocated to the staff, applicant and public to provide comments and to address questions, comments and recommendations raised by the Board members in their discussion of the application;

6.6 In order to allow the meeting to proceed in an orderly fashion, the Board, by motion, may limit the time allowed for remarks concerning a specific agenda item to a maximum of thirty (30) minutes for City staff, the designated representative of the applicant and the designated representative of any organized group and to five (5) minutes for members of organizations and other individual speakers. Additional time shall be allowed to respond to questions from the Board. The Chairman may also direct speakers to limit their comments to issues which have not been previously stated;

6.7 Arguments between the parties shall not be permitted - all remarks shall be addressed to the Chair;

6.8 Where there is no opposition to an application, the Chairman, by consensus of the Board and upon confirmation that all Board members have read the staff report, may waive the staff analysis;

6.9 Members shall at all times speak directly into the microphones to facilitate the recording of the meetings; and

6.10 Copies of any and all letters, exhibits, or any information not otherwise provided prior to the meeting are required to be presented to the recording secretary for inclusion in the Board minutes.

SECTION 7. DECISIONS

7.1 Time. Decisions by the Board shall be made in the form of a motion upon completion of the hearing.

7.2 Notification. The Secretary shall send a copy of the Board's recommendations to the City Commission and to the applicant within fifteen (15) days of the date of decision by the Board. A copy of the Board's recommendation shall be inserted in the applicant's file.

SECTION 8. AGENDA

Each matter shall be placed upon the agenda of the Board by the Secretary. The order shall be set by the Chairman with emphasis placed on anticipated audience interest. There may be a cut-off date established by the Board after which no further matters shall be added to the agenda. The agenda of matters to be heard shall be mailed or delivered to each member of the Board at least five (5) days before the regular meeting.

SECTION 9. RECONSIDERATION

Once a motion has been adopted, the Board may reconsider that matter at the same meeting, provided a motion to reconsider is made by a member who voted with the prevailing side.

SECTION 10. AMENDMENTS

These Rules of Procedures may be amended or modified by an affirmative vote of not less than four (4) members of the Board, provided that such amendment be presented in writing at a regular meeting and action taken thereon at a subsequent regular meeting.

SECTION 11. MOTIONS

Every motion shall require an affirmative vote of the majority of the Board members present and voting. Prior to polling the board, the Chairman shall announce the movant and the second.

SECTION 12. ROBERT'S RULES OF ORDER

Any point of procedure not otherwise addressed by these Rules shall be governed by the current edition of Robert's Rules of Order, Newly Revised.

PRESENTED IN WRITING at a regular meeting of the Board on _____, 2012.

CITY OF ORMOND BEACH

FLORIDA

PLANNING

MEMORANDUM

TO: Brownfield Advisory Board Members

FROM: Richard P. Goss, AICP, Planning Director

DATE: April 10, 2012

SUBJECT: Other Business Items

CC: Joyce Shanahan, City Manager and Randy Hayes, City Attorney

I have attached several items that may be of interest to the board. My Department and I am committed to ensuring that the Brownfield Advisory Board is knowledgeable and informed about the subject of brownfields. To that end, I have attached the following items:

1. Brownfield Advisory Board Ordinance
2. Brownfield 101 Primer
3. Olive Grove's Refund Application to the Department of Revenue for sales tax paid on construction materials.
4. FS 376 establishing Brownfields
5. Brownfield Ordinances designating the Granada Economic Opportunity Zone and US 1 N/Airport/Business Park
6. PDF of FDEP's powerpoint presentation on Brownfields



FLORIDA'S BROWNFIELDS REDEVELOPMENT PROGRAM

Presented by
George Houston II, PG
Central District Brownfields Coordinator
Florida Department of Environmental Protection



Presentation Overview

- Brownfields Redevelopment Program
 - ◆ What are Brownfields?
 - ◆ Florida's Brownfields Process
- Program Benefits
 - ◆ Brownfield areas
 - ◆ Brownfield sites
 - ◆ Other Brownfields opportunities and tools
- Integrating the Federal and State Programs
- Success Stories
- Information and Contacts



What Are Brownfields?



What Are Brownfields?

- Brownfield site means real property, the expansion, redevelopment or reuse of which may be complicated by *actual or perceived* environmental contamination. 376.79(3)
F.A.C.



What Are Brownfields?

- Brownfield area means a contiguous area of one or more brownfield sites, some of which *may not be contaminated*, and which has been *designated by a local government by resolution*. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprive communities and areas, and Environmental Protection Agency-designated brownfield pilot projects. 376.79(4) F.A.C.



Florida's Brownfields Process



Florida Brownfields Process

**BROWNFIELD AREA
DESIGNATION**
By Local Government

- Initiated by local government or PRFBSR - DEP not involved
- Statutory Requirements
- Makes some benefits available



Florida Brownfields Process

BROWNFIELD AREA
DESIGNATION
By Local Government



IDENTIFICATION OF
PRFBSR

- Person Responsible for Brownfield Site Rehabilitation (PRFBSR)
- May occur before or after designation of area



Florida Brownfields Process

**BROWNFIELD AREA
DESIGNATION**
By Local Government



**IDENTIFICATION OF
PRFBSR**



EXECUTION OF BSRA
By FDEP and PRBSR

- **Brownfield Site Rehabilitation Agreement (BSRA)**
- **Voluntary**
- **Negotiable**
- **Eligible for voluntary cleanup tax credit**
- **Model agreement available on line**



Florida Brownfields Process

**BROWNFIELD AREA
DESIGNATION**
By Local Government

**IDENTIFICATION OF
PRFBSR**

EXECUTION OF BSRA
By FDEP and PRBSR

**IMPLEMENTATION OF
BSRA**
By PRFBSR

- Conduct site rehabilitation
- According to:
 - ◆ Chapter 62-785
 - ◆ Schedule in BSRA



Florida Brownfields Process

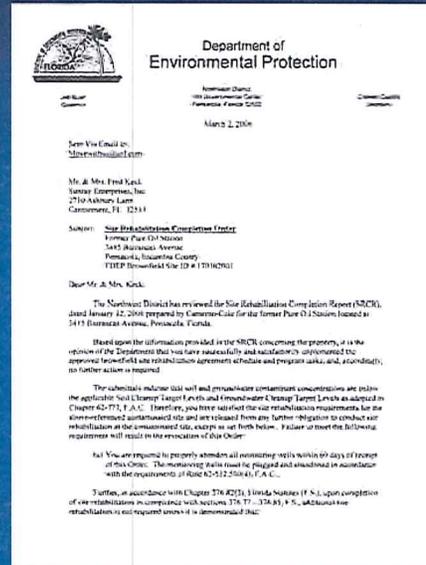
**BROWNFIELD AREA
DESIGNATION**
By Local Government

**IDENTIFICATION OF
PRFBSR**

EXECUTION OF BSRA
By FDEP and PRFBSR

**IMPLEMENTATION OF
BSRA**
By PRFBSR

SRCO



- Site Rehabilitation Completion Order (SRCO)



Brownfields Program Benefits



Brownfields Program Benefits

- Brownfield Area
 - ◆ Economic Incentives
 - ◆ Loan Guaranties
 - ◆ Contact Enterprise Florida early in process



Brownfield Area Economic Incentives

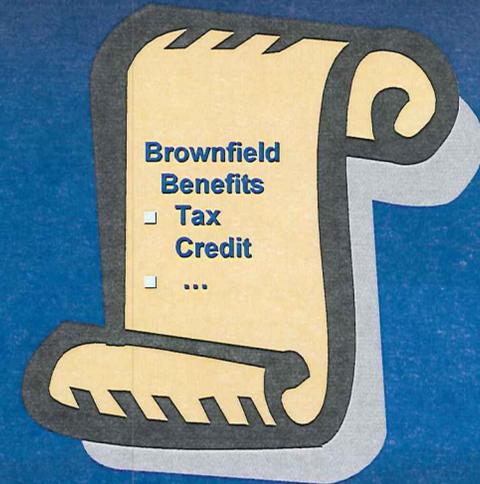
- Bonus Refund for Job Creation
 - ◆ up to \$2,500 per job
- Loan Guarantee Program
 - ◆ 50% loan guarantee on site rehabilitation and development
 - ◆ 75% for affordable housing/health care providers
- Sales/Use Tax Exemption on Building Materials for Affordable Housing Projects

Applicable to any property within a designated brownfield area provided eligibility criteria for each incentive are met



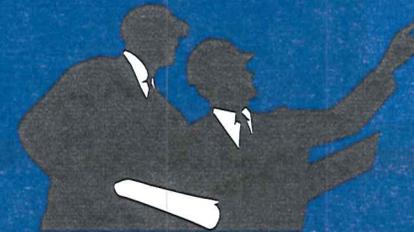
Brownfields Program Benefits

- Brownfield Sites (executed BSRA)
 - ◆ All benefits of Brownfield area
 - ◆ Regulatory Framework for Cleanup (Rules 62-785 and 62-777, F.A.C.)
 - ◆ Dedicated staff – expedited technical review
 - ◆ Liability Protection
 - ◆ Voluntary cleanup tax credits
 - ◆ Memorandum of Understanding with EPA



BSRA Liability Protections

- Owners and Redevelopers (PRFBSRs)
 - ◆ Relief from further liability for site rehabilitation Section 376.82(2)(a), F.S.
 - ◆ Does not limit third party rights for damages Section 376.82(2)(b), F.S.
 - ◆ Available if BSRA terms met
- Lenders
 - ◆ Serving in fiduciary capacity - loan
 - ◆ Did not
 - Cause/contribute to contamination
 - Control/manage site rehabilitation
 - ◆ Economic incentives do not apply during the lender's ownership
- Government, non-profit, charitable organizations



Voluntary Cleanup Tax Credits

Tax Credit Type	Application Frequency	Maximum Credit for Costs Incurred after 06/30/06	
Site Rehabilitation	Annually	50%	\$500,000
No Further Action Bonus (i.e., SRCO)	Once	25%	\$500,000
Affordable Housing Bonus	Once	25%	\$500,000
Health Care Facility Bonus	Once	25%	\$500,000
Solid Waste	Once	50%	\$500,000



Voluntary Cleanup Tax Credits

- Credits on Florida corporate income tax
- May be transferred once
- \$2 million annual cap
 - ◆ If exhausted, first priority in next year's allocation
- Credits awarded for eligible work
 - ◆ Site rehabilitation
 - ◆ Solid waste removal, transport and disposal
- Bonus credits awarded for site rehabilitation only
 - ◆ SRCO
 - ◆ Affordable housing



Other Brownfields Opportunities and Tools



SRP Grant

- State and Tribal Response Grant
 - ◆ EPA funding
 - ◆ Administered by FDEP
- Independent of the Florida Brownfields Program
- Grant of services, performed by FDEP contractors
 - ◆ Up to \$200,000 for assessment tasks
 - ◆ Up to \$200,000 for remediation tasks (source removal)
- Eligibility considerations
 - ◆ Meet federal definition of brownfield
 - ◆ Applicant did not cause or contribute to contamination
 - ◆ No viable responsible party
 - ◆ Project provides public benefit
 - ◆ Applicant has willingness and ability to complete project



Brownfields Geoviewer

FDEP Consolidated Web Mapping Application (CA/MapDirect) - Microsoft Internet Explorer



FDEP Consolidated Web Mapping Application (CA/MapDirect)

[DEP Home](#) | [About DEP](#) | [Programs](#) | [Contact](#) | [Site Map](#)

Map Focus: Brownfields

Welcome

Change Map Focus
Brownfields

Welcome

[Add to Favorites \(Internet Explorer\)](#)
Welcome to the Division of Waste Management's Brownfields web mapping site.

Find

Help

- » [Disclaimer](#)
- » [What's New](#)
- » [Map Viewer Quick Start](#)
- » [Map Viewer Tutorial](#)
- » [Map Viewer Help](#)
- » [System Recommendations](#)
- » [Known Issues / Troubleshooting](#)
- » [For MapDirect Users](#)
- » [Feedback and Comments](#)
- » [Help Desk](#)

Links

- » [FDEP Brownfields Website](#)
- » [Florida Brownfields Introduction](#)
- » [Florida Brownfields Instructional Aids](#)
- » [Brownfields Economic Incentives](#)
- » [Florida Front Porch Communities](#)
- » [Federal EPA Enviromapper](#)
- » [Brownfields](#)
- » [Federal EPA Pilots](#)

Zoom

Layers

Tools



Selection Results

This frame is used to display results for the current Selection Set. The Selected features will be highlighted on the map image. There is currently no selection set. Use the controls in the Find Tab to select features using focused input forms. Use the Select map tool from the toolbar to manually select features using the mouse.



Department of
Environmental
Protection



[CA 4.3.10.0] [Helpdesk](#); (850) 245-7555

Done



Local intranet

Map Focus: Brownfields

Welcome

Change Find Tools ?
Brownfields

Find

Find Brownfields by City ?
ORLANDO
Find

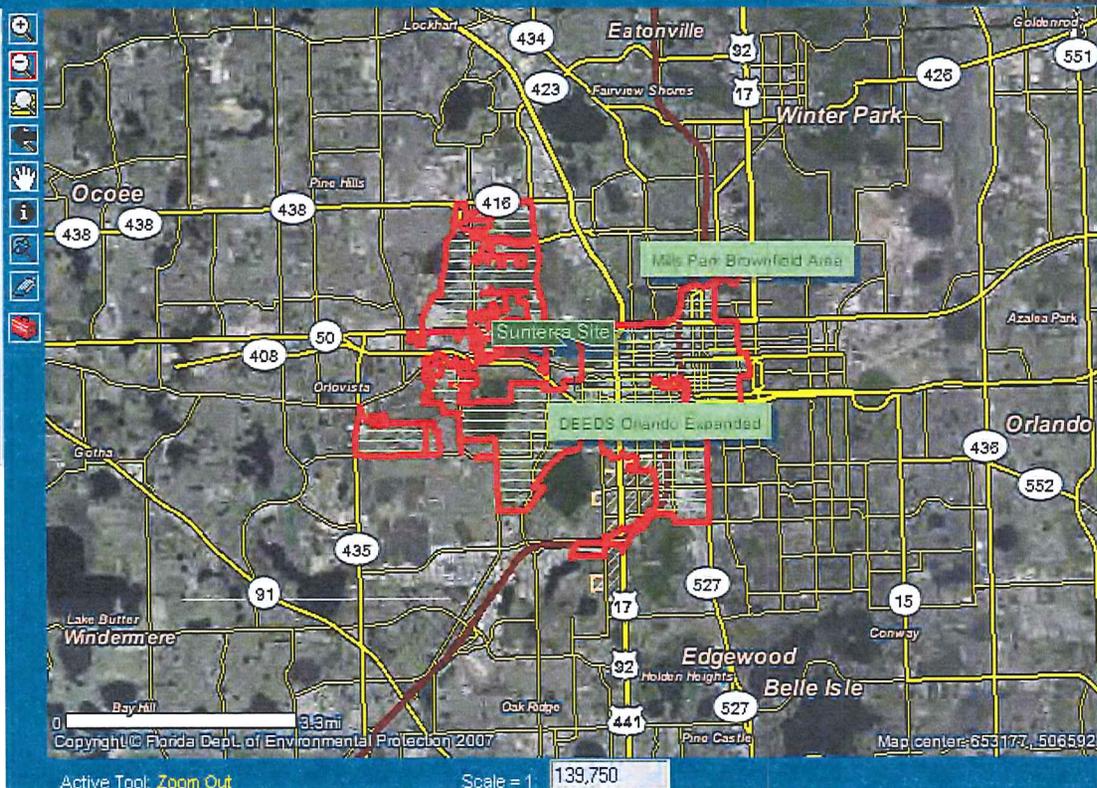
Find Brownfields by County ?
Select County
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Find Brownfields by Area Id ?
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Find Brownfields by Area Name ?
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Find Brownfields with BSRAs by City ?
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Find Brownfields with BSRAs by County ?



Selection Results

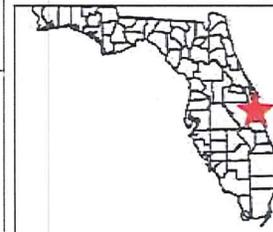
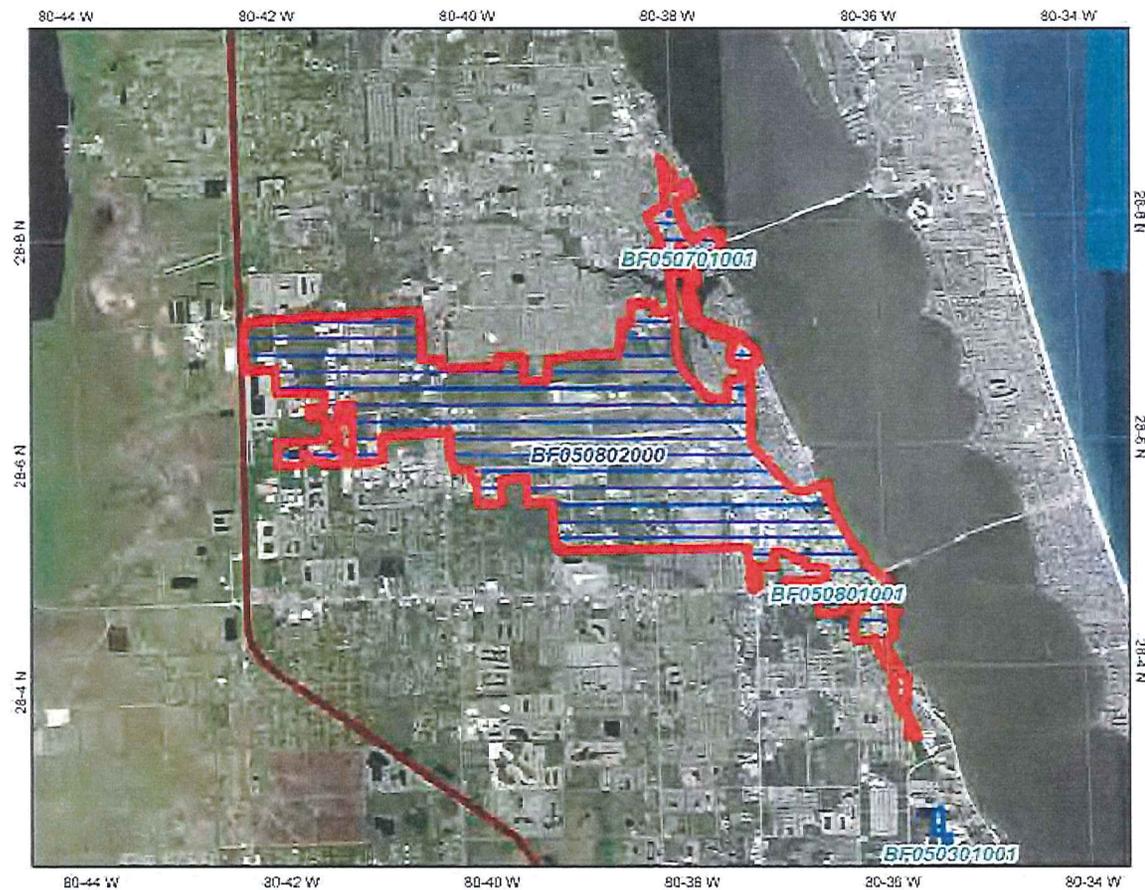
5 feature(s) found from: [Brownfields \(areas\)](#)

Rec.#	Links	Area Id	Area Name	City	County	Acreage	FDEP D
1		BF480202000	DEEDS Orlando	Orlando	Orange	21	Central
2		BF480601000	Hughes Supply Mega Center Brownfield Area	Orlando	Orange	73	Central

Department of Environmental Protection
[CA 4.3.10.0] [Helpline](#): (850) 245-7555



MEED area



Legend

- Brownfield Areas
- Brownfield Sites with BSRAs
- Interstates (no labels)
- Counties (generalized)

0 1.75 3.5 5.25 mi.

Map center: 728491, 459445



Scale: 1:96,621

[Florida Department of Environmental Protection] Disclaimer: This map is intended for display purposes only. It was created using data from different sources collected at different scales, with different levels of accuracy, and/or covering different periods of time.

Notes: Map produced on Thu Aug 20 09:28:07 EDT 2009

Current Status of Program

as of February 2009

- Statewide –
 - ◆ 238 Brownfield Designation Areas
 - >174,000 acres
 - ◆ 42 executed BSRAS (BF Sites)
 - >3300 acres
 - ◆ 32 Site Rehabilitation Completion Orders (SRCOs)
- Central District –
 - ◆ 51 Brownfield Designation Areas (5 in Brevard)
 - >28,000 acres
 - ◆ 24 executed BSRAS (BF Sites)
 - >433 acres
 - ◆ 6 SRCOs



Current Status of Program

- **New Jobs - In 2008**
 - ◆ 2,232 new direct jobs,
 - ◆ 5,873 new indirect jobs
- **New Capital Investment - \$407,922,598.**
- **Since Program Inception**
 - ◆ **New Job Creation –**
 - 10,827 new direct jobs,
 - 13,137 new indirect jobs
 - ◆ **Capital Investment - \$1,291,636,591**



Success Stories





City View

(Bank of America/City of Orlando)



Challenges

- Parramore Area of Orlando
 - ◆ CRA
 - ◆ Enterprise Zone
 - ◆ Brownfields Area
- Corner Gas Station
- Underground Storage Tank Removal
- Groundwater Contamination
- Excavation of Petroleum Contamination





City View

(Bank of America/City of Orlando)



Tools

- \$900,000 Building Materials Tax Refund
- Florida Brownfield Program Support
- Brownfields Liability Protection
- Brownfields Job Bonus Refund





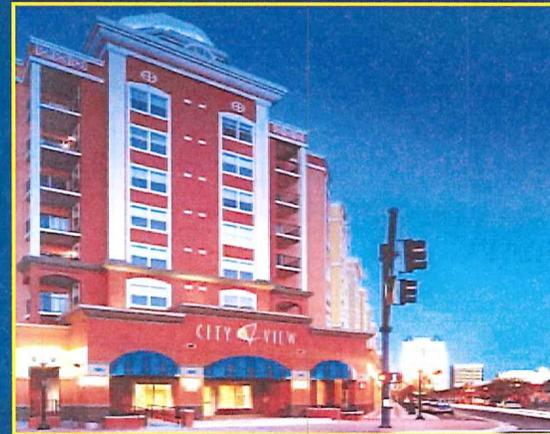
City View

(Bank of America/City of Orlando)



Results

- \$64-Million Investment
- Mixed-Use / Mixed-Income Project
- 266 Apartments
 - ◆ 40% Affordable
 - ◆ 60% Market Rate
- 200,000 sf Office
- 25,000 sf Ground Floor Retail
- Hughes Supply Corporate Headquarters



Former Whites Meats Plant- Ocala

- **Historical Use**
 - ◆ **Meat Packing/ Cold Storage Plant**
- **Contaminants**
 - ◆ **Petroleum soil impacts**
- **Status**
 - ◆ **Plant demolished**
 - ◆ **Soil remediated**
 - ◆ **SRCO issued 2006**
 - ◆ **Taylor Bean & Whittaker Corporate HQ**
 - ◆ **Opened Fall 2007**



Lowes - Fern Park

- **Historical Use**
 - ◆ **Kmart – oil change facility**
- **Contaminants**
 - ◆ **Petroleum soil and groundwater impacts**
- **Status**
 - ◆ **USTs/ Hydraulic Lifts removed**
 - ◆ **Soil remediated**
 - ◆ **SRCO issued 3/2008**
 - ◆ **Lowes opened 2007**
 - ◆ **\$225,000 for job creation**



Baratta ROCC, Apopka



- 2596 Clark Street
- Historical use:
 - ◆ Empty lot for over 20 years
 - ◆ Storage for Used Tires
- Contaminants
 - ◆ 88,000 buried tires
 - ◆ No groundwater contamination
- Status
 - ◆ Tires removed and disposed
 - ◆ SRCO issued May 2008
 - ◆ Collected SW Incentive
 - ◆ In 2002, the property valued at \$210,000. The current value is \$1,560,000.



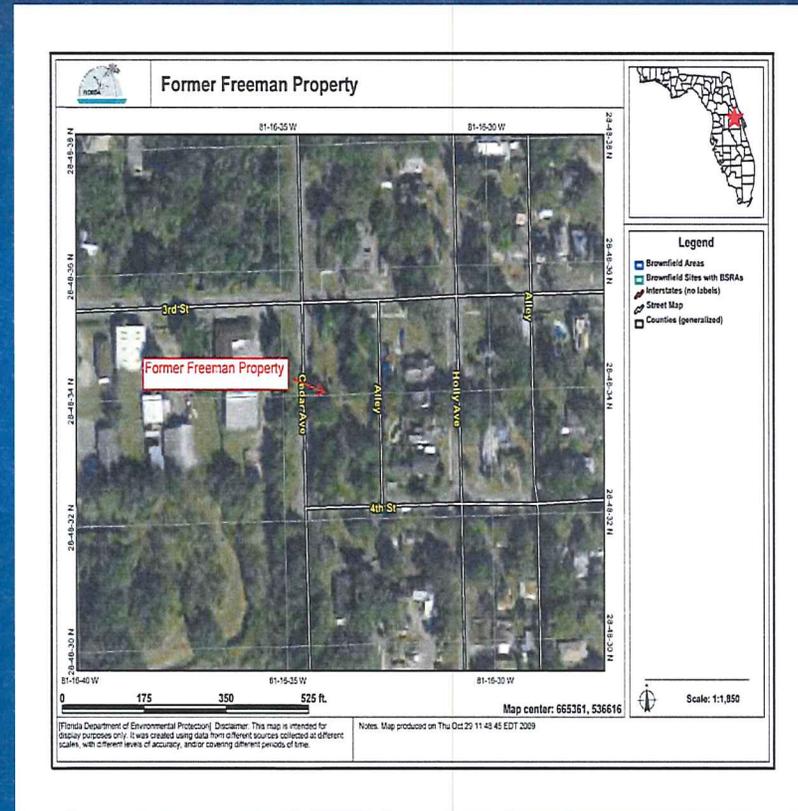
Matt's Casbah Restaurant

- 801 New Haven Ave, Melbourne
- Historical Use
 - ◆ Former Gas station
- Contaminants
 - ◆ Petroleum
- Status
 - ◆ Nine Aboveground and Underground Storage Tanks Removed
 - ◆ No soil or groundwater contamination present
 - ◆ SRCO issued 12/18/08
 - ◆ VCTC awarded - \$36,312.54



Cedar Grove Apartments

- 30 years vacant parcel
- Former Laundry Facility
- Petroleum contamination
- Site rehabilitated by SRP grant
- Affordable housing for local senior citizens
- Project completed in 2008



Cedar Grove Apartments



Amway Center



- New Home of the Orlando Magic
- Largest Public/Private Partnership in Orlando's history
- City of Orlando signed BSRA in 2007
- Chlorinated Solvents and Petroleum Contamination
- Site Assessment ongoing and source area remediation complete



Amway Center



- Broke ground on building April 2008
- 800,000 square feet
- Sustainable building design
- 380 Million dollar capital investment
- Over 900 new jobs created for local residents
- To be completed Fall 2010



Information and Contacts



Visit Us on the Web

- Brownfields

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- VCTC

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- Rule Development

- ◆ <http://www.dep.state.fl.us/waste/categories/wc/pages/WCRuleDevelopment.htm>





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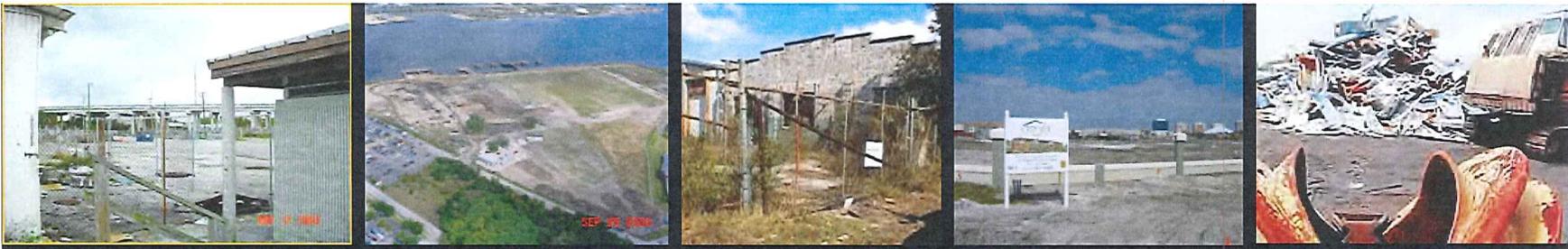
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FLORIDA'S BROWNFIELDS REDEVELOPMENT PROGRAM

Presented by
George Houston II, PG
Central District Brownfields Coordinator
Florida Department of Environmental Protection





Florida Neighborhood Revitalization Program

DR-26RP
R. 10/09

Rule 12A-1.007
Florida Administrative Code
Effective 06/10

(If you are applying for an enterprise zone - building materials or business equipment refund, please obtain an EZ-M or EZ-E from your local enterprise zone coordinator.)

1. Please indicate the type of refund you are applying for by clearly marking the appropriate boxes:

- Enterprise (empowerment) zone
(This application must be verified and signed by your local enterprise zone coordinator.)
 - Single family home
 - Housing project
 - Mixed-use project
- Urban high crime area
 - Housing project
 - Mixed-use project
- Front Porch Florida Community
(This application must be verified and signed by your Front Porch Florida council chair.)
 - Single family home
 - Housing project
 - Mixed-use project
- Brownfield area
 - Housing project
 - Mixed-use project
- Urban infill and redevelopment area
 - Housing project
 - Mixed-use project

2. Zone number, area number, or name: Granada Economic Opportunity Zone

(For enterprise or empowerment zones ONLY - please have the local enterprise zone coordinator complete #3 of this application verifying the construction is inside the boundaries of an enterprise or empowerment zone)

3. Florida EZ Number: EZ- _____

4. Owner's name: Olive Grove Apartments Limited Partnership

5. Owner's social security* or FEI number: 27-0746929

6. Mailing address: 2206 Jo-An Drive
c/o Beneficial Communities, LLC
city, state, ZIP: Sarasota, FL 34231

7. Property address: 765 West Granada Boulevard
city, state, ZIP: Ormond Beach, FL 32174

8. Assessment roll parcel number: 4241-01-08-0060

9. Building permit number: See Attachment A Inspector's name: Joseph Levrault
Phone number: (386) 676-3350 Fax number: (386) 676-3361

10. Date of certificate stating improvements are substantially completed: See Attachment A

I hereby affirm under penalty of perjury that all of the above statements are true and correct to the best of my knowledge and belief.

Sworn to and subscribed before me this _____ day of _____, _____.

(Signature of owner) Donald Paxton,
President

3/13/12
(Date)

(Signature of enterprise zone coordinator) /
(Signature of Brownfield Area Coordinator)

(Date)

Please attach the following documents and this application to a completed Form DR-26 or DR-26S. If these documents are not attached with this application, your application will be considered incomplete and sent back to you.

1. Florida Department of Revenue Application for Refund (Form DR-26 or Form DR-26S).
2. A copy of the building permit.
3. Certificate from building inspector that improvements are substantially completed.

If a general contractor was used

4. Attach a sworn statement, under penalty of perjury, from the Florida licensed general contractor who constructed the home, housing project, or mixed-use project which lists the building materials used in constructing the home and the actual cost of those materials, the labor costs associated with construction, and the amount of sales tax paid on materials and labor.

If a general contractor was not used

5. The owner must provide the information set forth in #4 in a sworn statement, under penalty of perjury. **Copies of invoices evidencing payment of sales tax must also be attached.**

For single-family homes – building materials and labor

6. A sworn statement, under penalty of perjury, from the owner certifying that the owner occupies the home for residential purposes.
7. An appraisal evidencing that the appraised value of the home is no more than \$160,000. Acceptable appraisals include the following:
 - (a) An assessment from the property appraiser.
 - (b) An appraisal from an independent, licensed Florida appraiser.

For housing projects or mixed-use projects – building materials only

8. Provide verification that the housing or mixed-use project was developed from the conversion of an existing manufacturing or industrial building. Acceptable certification includes:
 - (a) Prior year property record card from local property appraiser.
9. A sworn statement, under penalty of perjury, from the owner of the project showing that at least 20 percent of the square footage of the housing or mixed-use project has been set aside for low-income and moderate-income housing.
10. **For a mixed-use project** - provide verification by means of description that the building has been converted into mixed-use units that include artists' studios, art and entertainment services, or other compatible uses.

The completed application and DR-26 (or DR-26S) must be submitted to the Department of Revenue within six (6) months after the date the single-family home, housing project or mixed-use project is deemed to be substantially completed by the local building inspector.

Please submit the DR-26 (or DR-26S), DR-26RP, all documentation, and attachments to the following address:

**Florida Department of Revenue
Refunds Subprocess
PO Box 6490
Tallahassee FL 32314-6490**

* Social security numbers (SSNs) are used by the Florida Department of Revenue as unique identifiers for the administration of Florida's taxes. SSNs obtained for tax administration purposes are confidential under sections 213.053 and 119.071, Florida Statutes, and not subject to disclosure as public records. Collection of your SSN is authorized under state and federal law. Visit our Internet site at www.myflorida.com/dor and select "Privacy Notice" for more information regarding the state and federal law governing the collection, use, or release of SSNs, including authorized exceptions.

Attachment A

Olive Grove Apartments Limited Partnership

FEIN: 27-0746929

Building Permit (BP) and Certificate of Occupancy (CO) Schedule

Building Number/Name	Property Address Per CO	BP Number	BP Issue Date	CO Date
1	773 W Granada Ave	740225	12/6/2011	11/18/2011
2	771 W Granada Ave	740241	12/6/2011	11/18/2011
3	769 W Granada Ave	740258	12/6/2011	12/9/2011
4	767 W Granada Ave	740274	12/6/2011	1/31/2012
Clubhouse	765 W Granada Ave	740563	12/6/2011	11/18/2011
Maintenance Building *	765 W Granada Ave	740720	12/6/2011	N/A
Picnic Pavilion *	765 W Granada Ave	740662	12/6/2011	N/A
Guard House	765 W Granada Ave	740670	12/6/2011	1/31/2012

Note:

1. Only a Certificate of Completion not a CO was issued for the maintenance building and the picnic pavilion.*

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376.77 Short title.—Sections 376.77-376.85 may be cited as the “Brownfields Redevelopment Act.”
History.—s. 1, ch. 97-277; s. 1, ch. 98-75.

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The Florida Senate

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376.78 Legislative intent.—The Legislature finds and declares the following:

(1) The reduction of public health and environmental hazards on existing commercial and industrial sites is vital to their use and reuse as sources of employment, housing, recreation, and open space areas. The reuse of industrial land is an important component of sound land use policy for productive urban purposes which will help prevent the premature development of farmland, open space areas, and natural areas, and reduce public costs for installing new water, sewer, and highway infrastructure.

(2) The abandonment or underuse of brownfield sites also results in the inefficient use of public facilities and services, as well as land and other natural resources, extends conditions of blight in local communities, and contributes to concerns about environmental equity and the distribution of environmental risks across population groups.

(3) Incentives should be put in place to encourage responsible persons to voluntarily develop and implement cleanup plans without the use of taxpayer funds or the need for enforcement actions by state and local governments.

(4) Environmental and public health hazards cannot be eliminated without clear, predictable remediation standards that provide for the protection of the environment and public health.

(5) Site rehabilitation should be based on the actual risk that contamination may pose to the environment and public health, taking into account current and future land and water use and the degree to which contamination may spread and place the public or the environment at risk.

(6) According to the statistical proximity study contained in the final report of the Environmental Equity and Justice Commission, minority and low-income communities are disproportionately impacted by targeted environmentally hazardous sites. The results indicate the need for the health and risk exposure assessments of minority and poverty populations around environmentally hazardous sites in this state. Redevelopment of hazardous sites should address questions relating to environmental and health consequences.

(7) Environmental justice considerations should be inherent in meaningful public participation elements of a brownfields redevelopment program.

(8) The existence of brownfields within a community may contribute to, or may be a symptom of, overall community decline, including issues of human disease and illness, crime, educational and employment opportunities, and infrastructure decay. The environment is an important element of quality of life in any community, along with economic opportunity, educational achievement, access to health care, housing quality and availability, provision of governmental services, and other socioeconomic factors. Brownfields redevelopment, properly done, can be a significant element in community revitalization.

(9) Cooperation among federal, state, and local agencies, local community development organizations, and current owners and prospective purchasers of brownfield sites is required to accomplish timely cleanup activities and the redevelopment or reuse of brownfield sites.

History.—s. 2, ch. 97-277.

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376.79 Definitions relating to Brownfields Redevelopment Act. — As used in ss. 376.77-376.85, the term:

- (1) "Additive effects" means a scientific principle that the toxicity that occurs as a result of exposure is the sum of the toxicities of the individual chemicals to which the individual is exposed.
- (2) "Antagonistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is less than the sum of the toxicities of the individual chemicals to which the individual is exposed.
- (3) "Brownfield sites" means real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.
- (4) "Brownfield area" means a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects.
- (5) "Contaminant" means any physical, chemical, biological, or radiological substance present in any medium which may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or aesthetic condition in groundwater.
- (6) "Contaminated site" means any contiguous land, sediment, surface water, or groundwater areas that contain contaminants that may be harmful to human health or the environment.
- (7) "Department" means the Department of Environmental Protection.
- (8) "Engineering controls" means modifications to a site to reduce or eliminate the potential for exposure to chemicals of concern from petroleum products, drycleaning solvents, or other contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.
- (9) "Environmental justice" means the fair treatment of all people of all races, cultures, and incomes with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.
- (10) "Institutional controls" means the restriction on use of or access to a site to eliminate or minimize exposure to chemicals of concern from petroleum products, drycleaning solvents, or other contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.
- (11) "Local pollution control program" means a local pollution control program that has received delegated authority from the Department of Environmental Protection under ss. 376.80(9) and 403.182.
- (12) "Natural attenuation" means a verifiable approach to site rehabilitation that allows natural processes to contain the spread of contamination and reduce the concentrations of contaminants in contaminated groundwater and soil. Natural attenuation processes may include sorption, biodegradation, chemical reactions with subsurface materials, diffusion, dispersion, and volatilization.
- (13) "Person responsible for brownfield site rehabilitation" means the individual or entity that is designated by the local government to enter into the brownfield site rehabilitation agreement with the department or an approved local pollution control program and enters into an agreement with the local government for redevelopment of the site.
- (14) "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

(15) "Risk reduction" means the lowering or elimination of the level of risk posed to human health or the environment through interim remedial actions, remedial action, or institutional, and if appropriate, engineering controls.

(16) "Secretary" means the secretary of the Department of Environmental Protection.

(17) "Site rehabilitation" means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For purposes of sites subject to the Resource Conservation and Recovery Act, as amended, the term includes removal, decontamination, and corrective action of releases of hazardous substances.

(18) "Source removal" means the removal of free product, or the removal of contaminants from soil or sediment that has been contaminated to the extent that leaching to groundwater or surface water has occurred or is occurring.

(19) "Synergistic effects" means a scientific principle that the toxicity that occurs as a result of exposure is more than the sum of the toxicities of the individual chemicals to which the individual is exposed.

History.—s. 3, ch. 97-277; s. 2, ch. 98-75; s. 10, ch. 2000-317; s. 1, ch. 2004-40; s. 4, ch. 2008-239.

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376.80 Brownfield program administration process.—

(1) A local government with jurisdiction over the brownfield area must notify the department of its decision to designate a brownfield area for rehabilitation for the purposes of ss. 376.77-376.86. The notification must include a resolution, by the local government body, to which is attached a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 166.041, except that the notice for the public hearings on the proposed resolution must be in the form established in s. 166.041(3)(c)2. For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 125.66, except that the notice for the public hearings on the proposed resolution shall be in the form established in s. 125.66(4)(b)2.

(2)(a) If a local government proposes to designate a brownfield area that is outside community redevelopment areas, enterprise zones, empowerment zones, closed military bases, or designated brownfield pilot project areas, the local government shall adopt the resolution and conduct the public hearings in accordance with the requirements of subsection (1), except at least one of the required public hearings shall be conducted as close as reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns. Notice of the public hearing must be made in a newspaper of general circulation in the area and the notice must be at least 16 square inches in size, must be in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing. In determining the areas to be designated, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) A local government shall designate a brownfield area under the provisions of this act provided that:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site;
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks;

3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations;

4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be made in a newspaper of general circulation in the area, at least 16 square inches in size, and the notice must be posted in the affected area; and

5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(c) The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed

and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. 376.81, including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. 376.77-376.86, and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment. Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

(a) Meets all certification and license requirements imposed by law; and

(b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site

rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. 376.82 are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. 403.182 to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

(a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and

(b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.

2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. 376.78.

3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.

4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.

2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.

3. Any new or increased access to open, green, park, or other recreational spaces that provide

recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.

4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

History.—s. 4, ch. 97-277; s. 3, ch. 98-75; s. 11, ch. 2000-317; s. 2, ch. 2004-40; s. 44, ch. 2005-2; s. 7, ch. 2006-291; s. 5, ch. 2008-239.

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376.81 Brownfield site and brownfield areas contamination cleanup criteria. —

(1) It is the intent of the Legislature to protect the health of all people under actual circumstances of exposure. By July 1, 2001, the secretary of the department shall establish criteria by rule for the purpose of determining, on a site-specific basis, the rehabilitation program tasks that comprise a site rehabilitation program and the level at which a rehabilitation program task and a site rehabilitation program may be deemed completed. In establishing the rule, the department shall apply, to the maximum extent feasible, a risk-based corrective action process to achieve protection of human health and safety and the environment in a cost-effective manner based on the principles set forth in this subsection. The rule must prescribe a phased risk-based corrective action process that is iterative and that tailors site rehabilitation tasks to site-specific conditions and risks. The department and the person responsible for brownfield site rehabilitation are encouraged to establish decision points at which risk management decisions will be made. The department shall provide an early decision, when requested, regarding applicable exposure factors and a risk management approach based on the current and future land use at the site. The rule shall also include protocols for the use of natural attenuation, the use of institutional and engineering controls, and the issuance of “no further action” letters. The criteria for determining what constitutes a rehabilitation program task or completion of a site rehabilitation program task or site rehabilitation program must:

(a) Consider the current exposure and potential risk of exposure to humans and the environment, including multiple pathways of exposure. The physical, chemical, and biological characteristics of each contaminant must be considered in order to determine the feasibility of risk-based corrective action assessment.

(b) Establish the point of compliance at the source of the contamination. However, the department is authorized to temporarily move the point of compliance to the boundary of the property, or to the edge of the plume when the plume is within the property boundary, while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding. The department also is authorized, pursuant to criteria provided for in this section, to temporarily extend the point of compliance beyond the property boundary with appropriate monitoring, if such extension is needed to facilitate natural attenuation or to address the current conditions of the plume, provided human health, public safety, and the environment are protected. When temporarily extending the point of compliance beyond the property boundary, it cannot be extended further than the lateral extent of the plume at the time of execution of the brownfield site rehabilitation agreement, if known, or the lateral extent of the plume as defined at the time of site assessment. Temporary extension of the point of compliance beyond the property boundary, as provided in this paragraph, must include actual notice by the person responsible for brownfield site rehabilitation to local governments and the owners of any property into which the point of compliance is allowed to extend and constructive notice to residents and business tenants of the property into which the point of compliance is allowed to extend. Persons receiving notice pursuant to this paragraph shall have the opportunity to comment within 30 days of receipt of the notice.

(c) Ensure that the site-specific cleanup goal is that all contaminated brownfield sites and brownfield areas ultimately achieve the applicable cleanup target levels provided in this section. In the circumstances provided below, and after constructive notice and opportunity to comment within 30 days from receipt of the notice to local government, to owners of any property into which the point of compliance is allowed to extend, and to residents on any property into which the point of compliance is allowed to extend, the department may

allow concentrations of contaminants to temporarily exceed the applicable cleanup target levels while cleanup, including cleanup through natural attenuation processes in conjunction with appropriate monitoring, is proceeding, if human health, public safety, and the environment are protected.

(d) Allow brownfield site and brownfield area rehabilitation programs to include the use of institutional or engineering controls, where appropriate, to eliminate or control the potential exposure to contaminants of humans or the environment. The use of controls must be preapproved by the department and only after constructive notice and opportunity to comment within 30 days from receipt of notice is provided to local governments, to owners of any property into which the point of compliance is allowed to extend, and to residents on any property into which the point of compliance is allowed to extend. When institutional or engineering controls are implemented to control exposure, the removal of the controls must have prior department approval and must be accompanied by the resumption of active cleanup, or other approved controls, unless cleanup target levels under this section have been achieved.

(e) Consider the additive effects of contaminants. The synergistic and antagonistic effects shall also be considered when the scientific data become available.

(f) Take into consideration individual site characteristics, which shall include, but not be limited to, the current and projected use of the affected groundwater and surface water in the vicinity of the site, current and projected land uses of the area affected by the contamination, the exposed population, the degree and extent of contamination, the rate of contaminant migration, the apparent or potential rate of contaminant degradation through natural attenuation processes, the location of the plume, and the potential for further migration in relation to site property boundaries.

(g) Apply state water quality standards as follows:

1. Cleanup target levels for each contaminant found in groundwater shall be the applicable state water quality standards. Where such standards do not exist, the cleanup target levels for groundwater shall be based on the minimum criteria specified in department rule. The department shall apply the following, as appropriate, in establishing the applicable cleanup target levels: calculations using a lifetime cancer risk level of 1.0E-6; a hazard index of 1 or less; the best achievable detection limit; and nuisance, organoleptic, and aesthetic considerations. However, the department shall not require site rehabilitation to achieve a cleanup target level for any individual contaminant which is more stringent than the site-specific, naturally occurring background concentration for that contaminant.

2. Where surface waters are exposed to contaminated groundwater, the cleanup target levels for the contaminants shall be based on the more protective of the groundwater or surface water standards as established by department rule. The point of measuring compliance with the surface water standards shall be in the groundwater immediately adjacent to the surface water body.

3. Using risk-based corrective action principles, the department shall approve alternative cleanup target levels in conjunction with institutional and engineering controls, if needed, based upon an applicant's demonstration, using site-specific data, modeling results, risk assessment studies, risk reduction techniques, or a combination thereof, that human health, public safety, and the environment are protected to the same degree as provided in subparagraphs 1. and 2. Where a state water quality standard is applicable, a deviation may not result in the application of cleanup target levels more stringent than the standard. In determining whether it is appropriate to establish alternative cleanup target levels at a site, the department must consider the effectiveness of source removal, if any, which has been completed at the site and the practical likelihood of the use of low yield or poor quality groundwater, the use of groundwater near marine surface water bodies, the current and projected use of the affected groundwater in the vicinity of the site, or the use of groundwater in the immediate vicinity of the contaminated area, where it has been demonstrated that the groundwater contamination is not migrating away from such localized source, provided human health, public safety, and the environment are protected. When using alternative cleanup target levels at a brownfield site, institutional controls shall not be required if:

- a. The only cleanup target levels exceeded are the groundwater cleanup target levels derived from nuisance, organoleptic, or aesthetic considerations;
- b. Concentrations of all contaminants meet the state water quality standards or minimum criteria, based on protection of human health, provided in subparagraph 1.;
- c. All of the groundwater cleanup target levels established pursuant to subparagraph 1. are met at the property boundary;
- d. The person responsible for brownfield site rehabilitation has demonstrated that the contaminants will not migrate beyond the property boundary at concentrations exceeding the groundwater cleanup target levels established pursuant to subparagraph 1.;
- e. The property has access to and is using an offsite water supply and no unplugged private wells are used for domestic purposes; and
- f. The real property owner provides written acceptance of the "no further action" proposal to the department or the local pollution control program.

(h) Provide for the department to issue a "no further action order," with conditions, including, but not limited to, the use of institutional or engineering controls where appropriate, when alternative cleanup target levels established pursuant to subparagraph (g)3. have been achieved, or when the person responsible for brownfield site rehabilitation can demonstrate that the cleanup target level is unachievable within available technologies. Prior to issuing such an order, the department shall consider the feasibility of an alternative site rehabilitation technology in the brownfield area.

(i) Establish appropriate cleanup target levels for soils.

1. In establishing soil cleanup target levels for human exposure to each contaminant found in soils from the land surface to 2 feet below land surface, the department shall apply the following, as appropriate: calculations using a lifetime cancer risk level of $1.0E-6$; a hazard index of 1 or less; and the best achievable detection limit. However, the department shall not require site rehabilitation to achieve a cleanup target level for an individual contaminant which is more stringent than the site-specific, naturally occurring background concentration for that contaminant. Institutional controls or other methods shall be used to prevent human exposure to contaminated soils more than 2 feet below the land surface. Any removal of such institutional controls shall require such contaminated soils to be remediated.

2. Leachability-based soil target levels shall be based on protection of the groundwater cleanup target levels or the alternate cleanup target levels for groundwater established pursuant to this paragraph, as appropriate. Source removal and other cost-effective alternatives that are technologically feasible shall be considered in achieving the leachability soil target levels established by the department. The leachability goals shall not be applicable if the department determines, based upon individual site characteristics, and in conjunction with institutional and engineering controls, if needed, that contaminants will not leach into the groundwater at levels that pose a threat to human health, public safety, and the environment.

3. Using risk-based corrective action principles, the department shall approve alternative cleanup target levels in conjunction with institutional and engineering controls, if needed, based upon an applicant's demonstration, using site-specific data, modeling results, risk assessment studies, risk reduction techniques, or a combination thereof, that human health, public safety, and the environment are protected to the same degree as provided in subparagraphs 1. and 2.

(2) The department shall require source removal, as a risk reduction measure, if warranted and cost-effective. Once source removal at a site is complete, the department shall reevaluate the site to determine the degree of active cleanup needed to continue. Further, the department shall determine if the reevaluated site qualifies for monitoring only or if no further action is required to rehabilitate the site. If additional site rehabilitation is necessary to reach "no further action" status, the department is encouraged to utilize natural attenuation and monitoring where site conditions warrant.

(3) The cleanup criteria described in this section govern only site rehabilitation activities occurring at the

contaminated site. Removal of contaminated media from a site for offsite relocation or treatment must be in accordance with all applicable federal, state, and local laws and regulations.

History.—s. 5, ch. 97-277; s. 4, ch. 98-75; s. 12, ch. 2000-317.

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376.82 Eligibility criteria and liability protection. —

(1) **ELIGIBILITY.**— Any person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, is eligible to participate in the brownfield program established in ss. 376.77-376.85, subject to the following:

(a) Potential brownfield sites that are subject to an ongoing formal judicial or administrative enforcement action or corrective action pursuant to federal authority, including, but not limited to, the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. ss. 9601 et seq., as amended; the Safe Drinking Water Act, 42 U.S.C. ss. 300f-300i, as amended; the Clean Water Act, 33 U.S.C. ss. 1251-1387, as amended; or under an order from the United States Environmental Protection Agency pursuant to s. 3008(h) of the Resource Conservation and Recovery Act, as amended (42 U.S.C.A. s. 6928(h)); or that have obtained or are required to obtain a permit for the operation of a hazardous waste treatment, storage, or disposal facility; a postclosure permit; or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984, are not eligible for participation unless specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency pursuant to paragraph (2)(g). A brownfield site within an eligible brownfield area that subsequently becomes subject to formal judicial or administrative enforcement action or corrective action under such federal authority shall have its eligibility revoked unless specific exemptions are secured by a memorandum of agreement with the United States Environmental Protection Agency pursuant to paragraph (2)(g).

(b) Persons who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, and who, prior to the department’s approval of a brownfield site rehabilitation agreement, are subject to ongoing corrective action or enforcement under state authority established in this chapter or chapter 403, including those persons subject to a pending consent order with the state, are eligible for participation in a brownfield site rehabilitation agreement if:

1. The proposed brownfield site is currently idle or underutilized as a result of the contamination, and participation in the brownfield program will immediately, after cleanup or sooner, result in increased economic productivity at the site, including at a minimum the creation of 10 new permanent jobs, whether full-time or part-time, which are not associated with implementation of the brownfield site rehabilitation agreement; and

2. The person is complying in good faith with the terms of an existing consent order or department-approved corrective action plan, or responding in good faith to an enforcement action, as evidenced by a determination issued by the department or an approved local pollution control program.

(c) Potential brownfield sites owned by the state or a local government which contain contamination for which a governmental entity is potentially responsible and which are already designated as federal brownfield pilot projects or have filed an application for designation to the United States Environmental Protection Agency are eligible for participation in a brownfield site rehabilitation agreement.

(d) After July 1, 1997, petroleum and drycleaning contamination sites shall not receive both restoration funding assistance available for the discharge under this chapter and any state assistance available under s. 288.107. Nothing in this act shall affect the cleanup criteria, priority ranking, and other rights and obligations inherent in petroleum contamination and drycleaning contamination site rehabilitation under ss. 376.30-376.317, or the availability of economic incentives otherwise provided for by law.

(2) **LIABILITY PROTECTION.**—

(a) Any person, including his or her successors and assigns, who executes and implements to successful completion a brownfield site rehabilitation agreement, shall be relieved of further liability for remediation of the contaminated site or sites to the state and to third parties and of liability in contribution to any other party who has or may incur cleanup liability for the contaminated site or sites.

(b) This section shall not be construed as a limitation on the right of a third party other than the state to pursue an action for damages to property or person; however, such an action may not compel site rehabilitation in excess of that required in the approved brownfield site rehabilitation agreement or otherwise required by the department or approved local pollution control program.

(c) This section shall not affect the ability or authority to seek contribution from any person who may have liability with respect to the contaminated site and who did not receive cleanup liability protection under this act.

(d) The liability protection provided under this section shall become effective upon execution of a brownfield site rehabilitation agreement and shall remain effective, provided the person responsible for brownfield site rehabilitation complies with the terms of the site rehabilitation agreement. Any statute of limitations that would bar the department from pursuing relief in accordance with its existing authority is tolled from the time the agreement is executed until site rehabilitation is completed or immunity is revoked pursuant to s. 376.80(8).

(e) Completion of the performance of the remediation obligations at the brownfield site shall be evidenced by a site rehabilitation completion letter or a "no further action" letter issued by the department or the approved local pollution control program, which letter shall include the following statement: "Based upon the information provided by (property owner) concerning property located at (address), it is the opinion of (the Florida Department of Environmental Protection or approved local pollution control program) that (party) has successfully and satisfactorily implemented the approved brownfield site rehabilitation agreement schedule and, accordingly, no further action is required to assure that any land use identified in the brownfield site rehabilitation agreement is consistent with existing and proposed uses."

(f) Compliance with s. 376.80(5)(i) must be evidenced as set forth in that paragraph.

(g) The Legislature recognizes its limitations in addressing cleanup liability under federal pollution control programs. In an effort to secure federal liability protection for persons willing to undertake remediation responsibility at a brownfield site, the department shall attempt to negotiate a memorandum of agreement or similar document with the United States Environmental Protection Agency, whereby the United States Environmental Protection Agency agrees to forego enforcement of federal corrective action authority at brownfield sites that have received a site rehabilitation completion or "no further action" determination from the department or the approved local pollution control program or that are in the process of implementing a brownfield site rehabilitation agreement in accordance with this act.

(h) No unit of state or local government may be held liable for implementing corrective actions at a contaminated site within an eligible brownfield area as a result of the involuntary ownership of the site through bankruptcy, tax delinquency, abandonment, or other circumstances in which the state or local government involuntarily acquires title by virtue of its function as a sovereign, or as a result of ownership from donation, gift, or foreclosure unless the state or local government has otherwise caused or contributed to a release of a contaminant at the brownfield site.

(i) The Legislature finds and declares that certain brownfield sites may be redeveloped for open space, or limited recreational, cultural, or historical preservation purposes, and that such facilities enhance the redeveloped environment, attract visitors, and provide wholesome activities for employees and residents of the area. Further, the Legislature finds that purchasers of contaminated sites who are nonprofit conservation organizations acting for the public interest and who did not cause or contribute to the release of contamination on the site warrant protection from liability.

(j) Notwithstanding any provision of this chapter, chapter 403, other laws, or ordinances of local

governments, a nonprofit, charitable, federal tax-exempt, s. 501(c)(3) national land conservation corporation which purchases title to property in the state for the purpose of conveying such land to any governmental entity for conservation, historical preservation or cultural resource, park, greenway, or other similar uses shall not be liable to the state, local government, or any third party for penalties or remediation costs in connection with environmental contamination found in the soil or groundwater of such property, provided that such corporation did not cause the original deposit or release of the environmental contaminants, and provided the department and local pollution control program and responsible parties have access to the land for investigation, remediation, or monitoring purposes.

(k) A person whose property becomes contaminated due to geophysical or hydrologic reasons, including the migration of contaminants onto their property from the operation of facilities and activities on a nearby designated brownfield area, and whose property has never been occupied by a business that utilized or stored the contaminants or similar constituents is not subject to administrative or judicial action brought by or on behalf of another to compel the rehabilitation of or the payment of the costs for the rehabilitation of sites contaminated by materials that migrated onto the property from the designated brownfield area, if the person:

1. Does not own and has never held an ownership interest in, or shared in the profits of, activities in the designated brownfield area operated at the source location;
2. Did not participate in the operation or management of the activities in the designated brownfield area operated at the source location; and
3. Did not cause, contribute to, or exacerbate the release or threat of release of any hazardous substance through any act or omission.

(l) When a property, including a brownfield site, escheats to a county, the county is not subject to any liability imposed by this chapter or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. However, this paragraph does not affect the rights or liabilities of any past or future owners of the escheated property and does not affect the liability of any governmental entity for the results of its actions that create or exacerbate a pollution source. The county and the Department of Environmental Protection may enter into a written agreement for the performance, funding, and reimbursement of the investigative and remedial acts necessary for a property that escheats to the county.

(3) REOPENERS.—Upon completion of site rehabilitation in compliance with ss. 376.77-376.85, no additional site rehabilitation shall be required unless it is demonstrated:

(a) That fraud was committed in demonstrating site conditions or completion of site rehabilitation;

(b) That new information confirms the existence of an area of previously unknown contamination which exceeds the site-specific rehabilitation levels established in accordance with s. 376.81, or which otherwise poses the threat of real and substantial harm to public health, safety, or the environment in violation of the terms of ss. 376.77-376.85;

(c) That the remediation efforts failed to achieve the site rehabilitation criteria established under s. 376.81;

(d) That the level of risk is increased beyond the acceptable risk established under s. 376.81 due to substantial changes in exposure conditions, such as a change in land use from nonresidential to residential use. Any person who changes the land use of the brownfield site thus causing the level of risk to increase beyond the acceptable risk level may be required by the department to undertake additional remediation measures to assure that human health, public safety, and the environment are protected to levels consistent with s. 376.81;

or

(e) That a new release occurs at the brownfield site subsequent to a determination of eligibility for participation in the brownfield program established under s. 376.80.

(4) ADDITIONAL LIABILITY PROTECTION FOR LENDERS.—

(a) The Legislature declares that, in order to achieve the economic redevelopment and site rehabilitation of brownfield sites in accordance with this act, it is imperative to encourage financing of real property transactions involving brownfield site rehabilitation plans. Accordingly, lenders, including those serving as a

trustee, personal representative, or in any other fiduciary capacity, in connection with a loan, are entitled to the liability protection established in subsection (2) if they have not caused or contributed to a release of a contaminant at the brownfield site.

(b) Lenders who hold indicia of ownership of a parcel within a brownfield area primarily to protect a security interest or who own a parcel within a brownfield area as a result of foreclosure or a deed in lieu of foreclosure of a security interest and who seek to sell, transfer, or otherwise divest the parcel via sale at the earliest practicable time are not liable for the release or discharge of a contaminant from the parcel; for the failure of the person responsible for brownfield site rehabilitation to comply with the brownfield site rehabilitation agreement; or for future site rehabilitation activities required pursuant to a reopener provision established in subsection (3) where the lender has not divested the borrower of, or otherwise engaged in, decisionmaking control of the site rehabilitation or site operations or undertaken management activities beyond those required to protect its financial interest while making a good faith effort to sell the site as soon as practicable and when an act or omission of the lender has not otherwise caused or contributed to a release of a contaminant at the brownfield site.

(c) The economic incentives that were granted to a person responsible for site rehabilitation by state or local governments shall not accrue to a lender who obtains ownership of the brownfield site by one of the methods described in this subsection. The economic incentives are abated during the lender's ownership, but they may be transferred and reinstated upon the sale of the brownfield site.

History.—s. 6, ch. 97-277; s. 5, ch. 98-75; s. 182, ch. 99-13; s. 13, ch. 2000-317; s. 3, ch. 2004-40; s. 71, ch. 2007-5; s. 6, ch. 2008-239.

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376.83 Violation; penalties. —

(1) It is a violation of ss. 376.77-376.85, and it is prohibited for any person, to knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained, or to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under ss. 376.77-376.85, or by any permit, rule, or order issued under this chapter or chapter 403.

(2) Any person who willfully commits a violation specified in subsection (1) is guilty of a misdemeanor of the first degree, punishable by a fine of not more than \$10,000 or by 6 months in jail, or by both, for each offense. Each day during any portion of which such violation occurs constitutes a separate offense.

History.—s. 7, ch. 97-277; s. 6, ch. 98-75.

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376.84 Brownfield redevelopment economic incentives.—It is the intent of the Legislature that brownfield redevelopment activities be viewed as opportunities to significantly improve the utilization, general condition, and appearance of these sites. Different standards than those in place for new development, as allowed under current state and local laws, should be used to the fullest extent to encourage the redevelopment of a brownfield. State and local governments are encouraged to offer redevelopment incentives for this purpose, as an ongoing public investment in infrastructure and services, to help eliminate the public health and environmental hazards, and to promote the creation of jobs in these areas. Such incentives may include financial, regulatory, and technical assistance to persons and businesses involved in the redevelopment of the brownfield pursuant to this act.

- (1) Financial incentives and local incentives for redevelopment may include, but not be limited to:
- (a) Tax increment financing through community redevelopment agencies pursuant to part III of chapter 163.
 - (b) Enterprise zone tax exemptions for businesses pursuant to chapters 196 and 290.
 - (c) Safe neighborhood improvement districts as provided in ss. 163.501-163.523.
 - (d) Waiver, reduction, or limitation by line of business with respect to business taxes pursuant to chapter 205.
 - (e) Tax exemption for historic properties as provided in s. 196.1997.
 - (f) Residential electricity exemption of up to the first 500 kilowatts of use may be exempted from the municipal public service tax pursuant to s. 166.231.
 - (g) Minority business enterprise programs as provided in s. 287.0943.
 - (h) Electric and gas tax exemption as provided in s. 166.231(6).
 - (i) Economic development tax abatement as provided in s. 196.1995.
 - (j) Grants, including community development block grants.
 - (k) Pledging of revenues to secure bonds.
 - (l) Low-interest revolving loans and zero-interest loan pools.
 - (m) Local grant programs for facade, storefront, signage, and other business improvements.
 - (n) Governmental coordination of loan programs with lenders, such as microloans, business reserve fund loans, letter of credit enhancements, gap financing, land lease and sublease loans, and private equity.
 - (o) Payment schedules over time for payment of fees, within criteria, and marginal cost pricing.
- (2) Regulatory incentives may include, but not be limited to:
- (a) Cities' absorption of developers' concurrency needs.
 - (b) Developers' performance of certain analyses.
 - (c) Exemptions and lessening of state and local review requirements.
 - (d) Water and sewer regulatory incentives.
 - (e) Waiver of transportation impact fees and permit fees.
 - (f) Zoning incentives to reduce review requirements for redevelopment changes in use and occupancy; establishment of code criteria for specific uses; and institution of credits for previous use within the area.
 - (g) Flexibility in parking standards and buffer zone standards.
 - (h) Environmental management through specific code criteria and conditions allowed by current law.
 - (i) Maintenance standards and activities by ordinance and otherwise, and increased security and crime prevention measures available through special assessments.

- (j) Traffic-calming measures.
- (k) Historic preservation ordinances, loan programs, and review and permitting procedures.
- (l) One-stop permitting and streamlined development and permitting process.
- (3) Technical assistance incentives may include, but not be limited to:
 - (a) Expedited development applications.
 - (b) Formal and informal information on business incentives and financial programs.
 - (c) Site design assistance.
 - (d) Marketing and promotion of projects or areas.

History.—s. 8, ch. 97-277; s. 72, ch. 2007-5.

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376.85 Annual report.—The Department of Environmental Protection shall prepare and submit to the President of the Senate and the Speaker of the House of Representatives by August 1 of each year a report that includes, but is not limited to, the number, size, and locations of brownfield sites: that have been remediated under the provisions of this act, that are currently under rehabilitation pursuant to a negotiated site rehabilitation agreement with the department or a delegated local program, where alternative cleanup target levels have been established pursuant to s. 376.81(1)(g)3., and where engineering and institutional control strategies are being employed as conditions of a “no further action order” to maintain the protections provided in s. 376.81(1)(g)1. and 2.

History.—s. 13, ch. 97-277; s. 61, ch. 2010-205.

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376.86 Brownfield Areas Loan Guarantee Program. —

(1) The Brownfield Areas Loan Guarantee Council is created to review and approve or deny, by a majority vote of its membership, the situations and circumstances for participation in partnerships by agreements with local governments, financial institutions, and others associated with the redevelopment of brownfield areas pursuant to the Brownfields Redevelopment Act for a limited state guaranty of up to 5 years of loan guarantees or loan loss reserves issued pursuant to law. The limited state loan guaranty applies only to 50 percent of the primary lenders loans for redevelopment projects in brownfield areas. If the redevelopment project is for affordable housing, as defined in s. [420.0004](#), in a brownfield area, the limited state loan guaranty applies to 75 percent of the primary lender's loan. If the redevelopment project includes the construction and operation of a new health care facility or a health care provider, as defined in s. [408.032](#), s. [408.07](#), or s. [408.7056](#), on a brownfield site and the applicant has obtained documentation in accordance with s. [376.30781](#) indicating that the construction of the health care facility or health care provider by the applicant on the brownfield site has received a certificate of occupancy or a license or certificate has been issued for the operation of the health care facility or health care provider, the limited state loan guaranty applies to 75 percent of the primary lender's loan. A limited state guaranty of private loans or a loan loss reserve is authorized for lenders licensed to operate in the state upon a determination by the council that such an arrangement would be in the public interest and the likelihood of the success of the loan is great.

(2) The council shall consist of the secretary of the Department of Environmental Protection or the secretary's designee, the secretary of the Department of Community Affairs or the secretary's designee, the State Surgeon General or the State Surgeon General's designee, the Executive Director of the State Board of Administration or the executive director's designee, the Executive Director of the Florida Housing Finance Corporation or the executive director's designee, and the Director of the Governor's Office of Tourism, Trade, and Economic Development or the director's designee. The chairperson of the council shall be the Director of the Governor's Office of Tourism, Trade, and Economic Development. Staff services for activities of the council shall be provided as needed by the member agencies.

(3) The council may enter into an investment agreement with the Department of Environmental Protection and the State Board of Administration concerning the investment of the balance of funds maintained in the Inland Protection Trust Fund. The investment must be limited as follows:

(a) Not more than \$5 million of the balance of the Inland Protection Trust Fund in a fiscal year may be at risk at any time on loan guarantees or as loan loss reserves. Of that amount, 15 percent shall be reserved for investment agreements involving predominantly minority-owned businesses which meet the requirements of subsection (4).

(b) Such funds at risk at any time may not be used to guarantee any loan guaranty or loan loss reserve agreement for a period longer than 5 years.

(4) A lender seeking a limited state guaranty for a loan from the Brownfield Areas Loan Guarantee Council must first provide to the council a report demonstrating that the lender has reviewed the project for redevelopment of the brownfield area and determined its feasibility in accordance with its standard procedures. The procedures include, but are not limited to:

(a) Obtaining a satisfactory credit report from a source deemed reliable by the lender;

(b) Reviewing a report of environmental conditions at the project and determining that actions are underway to comply with specific recommendations;

(c) Investigating the background and experience of the entity to receive the loan and manage the project and determining that the managing entity appears to possess the experience, competence, and capacity to manage the project;

(d) Determining that conditions exist to establish a financially sound redevelopment project that exposes the state loan guarantee program to a reasonable or acceptable level of risk; and

(e) Determining that the local government with jurisdiction over the area where the brownfield redevelopment project is located has committed in-kind resources, local financial incentives, or local financial resources to the total project cost.

(5) A lender covered by a limited state guaranty for a loan is not entitled to file a claim for loss pursuant to the guaranty unless all reasonable and normal remedies available and customary for lending institutions for resolving problems of loan repayments are exhausted. If the lender has received collateral security in connection with the loan, the lender must first exhaust all available remedies against the collateral security.

(6) The council may, by rule, establish requirements for the issuance of loan guarantees, including contractual provisions to foster reimbursement, in the event of default, to the guarantee fund.

(7) The council may receive public and private funds, federal grants, and private donations in carrying out its responsibilities.

(8) The council shall provide an annual report to the Legislature by February 1 of each year describing its activities and agreements approved relating to redevelopment of brownfield areas. This section shall be reviewed by the Legislature by January 1, 2007, and a determination made related to the need to continue or modify this section. New loan guarantees may not be approved in 2007 until the review by the Legislature has been completed and a determination has been made as to the feasibility of continuing the use of the Inland Protection Trust Fund to guarantee portions of loans under this section.

History.—s. 10, ch. 98-75; s. 7, ch. 2000-153; ss. 55, 56, ch. 2003-399; s. 4, ch. 2004-40; s. 8, ch. 2006-291; s. 7, ch. 2008-239.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.
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Florida Department of Revenue

DR-26S
R. 01/08

Application for Refund - Sales and Use Tax

Important Note: Refund requests cannot be processed without complete documentation as suggested.

STOP: YOU MAY TAKE A CREDIT ON YOUR NEXT RETURN INSTEAD OF APPLYING FOR A REFUND (See FAQ # 3)

Your refund application will be rejected if the fields in red are not completed. Type or print clearly.

Part 1 Fill in

Name of applicant: Olive Grove Apartments LP

Mailing street address: 2206 Jo-An Drive

Mailing city, state, ZIP: Sarasota, FL 34231

Location street address: 765 West Granada Boulevard

Location city, state, ZIP: Ormond Beach, FL 32174

Business telephone number (include area code): 941-929-1270 Home telephone number (include area code):

Fax number (include area code optional): E-mail address (optional):

Part 2 Sign and date this form.

Signature of Applicant/representative: *[Signature]* Date: 3/13/12

Donald Paxton Manager

Print name: Title:

Important - A Florida Department of Revenue Power of Attorney (Form DR-835) must be properly executed and included if the refund request is submitted by the applicant's representative.

Representative's phone number: (954) 462-4703

Part 3 Enter amount of refund. \$ 1,39,843.00

Part 4 Provide the identification number of the applicant. If you do not have a Sales Tax Certificate Number or Federal Employer Identification Number, provide your Social Security Number.

Contract Object Number: Sales Tax Certificate Number:

Federal Employer Identification Number: 27-0746929 Social Security Number:

Part 5 Enter the date paid or the collection period(s) on the tax return(s) used to report the tax.

Date Paid: Applied period: to

Part 6 Refer to the Page (pg) number indicated for appropriate documentation instructions.

YOU MAY TAKE A CREDIT ON YOUR NEXT RETURN INSTEAD OF APPLYING FOR A REFUND (See FAQ #3)

Explain the reason for this refund & check appropriate box below

Florida Neighborhood Revitalization Program- Building Materials Sales Tax Refund

Amended Return (070) pg 5 Duplicate Payment (001) pg 6 Exempt Issues (071) pg 8 Rental of Real Property (1270) pg 10

Audit Overpayment (050) pg 5 Estimated Tax (1201) pg 6 Gross Receipts pg 8 Repossession (1350) pg 10

Bad Debt (1300) pg 5 Enterprise Zone Brownfield pg 7 Lemon Law (1217) pg 8 Other pg 10 (attach explanation)

Community Contribution Tax Credit (1225) pg 6 Enterprise Zone Building Materials (1102) pg 7 Motor Vehicles/Boat/Mobile Home/ Aircraft (1210) pg 9

Credit Memos (065) pg 6 Enterprise Zone Equipment (1103) pg 7 New & Expanding Business (1105) pg 6

FOR FLORIDA DEPARTMENT OF REVENUE USE ONLY

Refund Approval Amount \$ Authorized By Date

Review Refund Amount \$ Approved By Date

MAIL TO: FLORIDA DEPARTMENT OF REVENUE REFUNDS SUB-PROCESS PO BOX 8490 TALLAHASSEE FL 32314 - 6490 FAX: 850-410-2526



February 1, 2012

Florida Department of Revenue
Refunds Sub-Process
PO Box 6490
Tallahassee, FL 32314-6490

RE: *Olive Grove*
Florida Redevelopment Building Materials Sales Tax Refund

Dear Sir or Madam:

CORE Construction Services of Florida, LLC served as General Contractor for the *Olive Grove* housing project in Ormond Beach. I hereby affirm under penalty of perjury that to the best of my knowledge and belief, sales or use tax was paid on building materials in the construction of the *Olive Grove* project.

Sincerely,

Brent R. Elliott
Vice President
CORE Construction Services of Florida, LLC

State of Florida
County of Sarasota

The foregoing instrument was acknowledged before me by Brent R. Elliott as, Vice President, of CORE Construction Services of Florida, LLC, who is personally known to me, or has produced as identification _____, this 1st day of February, 2012.

Notary Signature

Lisa Johnson

Notary Print Name





February 9, 2012

Florida Department of Revenue
Refunds Sub Process
PO Box 6490
Tallahassee, FL 32314-6490

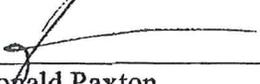
Re: Olive Grove Apartments Limited Partnership
Olive Grove
Florida Redevelopment Building Materials Sales Tax Refund

Dear Sir or Madam:

Olive Grove Apartments Limited partnership is owner of Olive Grove Apartments affordable housing project in Ormond Beach, Florida. I hereby affirm that 100% of the units have been set aside for persons described in Florida statute s.420.0004(9),(11),(12), or (17) or in s.159.603(7).

Sincerely,

Olive Grove Apartments Limited Partnership

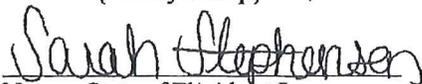


Donald Paxton
Member of GP

STATE OF FLORIDA
COUNTY OF Sarasota

The foregoing instrument was acknowledged before me this 9th day of February, 2012, by Donald Paxton Member of the GP, of Olive Grove Apartments, LP who is X personally known to me or ___ who has produced not applicable as identification and who did not take an oath.

{Notary Stamp}


Notary, State of Florida at Large

NOTARY PUBLIC-STATE OF FLORIDA
Sarah Stephenson
Commission # EE039275
Expires: NOV. 02, 2014
BONDED THRU ATLANTIC BONDING CO., INC.

RESOLUTION NO. 2012-02

A RESOLUTION DESIGNATING CERTAIN LANDS TO BE A BROWNFIELD AREA, INCLUDING LANDS THAT ARE SITUATED INSIDE AND OUTSIDE THE CITY'S COMMUNITY REDEVELOPMENT AREA; PROVIDING LEGISLATIVE FINDINGS; AUTHORIZING THE USE OF ECONOMIC AND TAX INCENTIVES TO FACILITATE AND PROMOTE THE REHABILITATION OF LANDS IN THE BROWNFIELD AREA; AUTHORIZING THE ESTABLISHMENT OF AN ADVISORY COMMITTEE; DIRECTING THE CITY CLERK TO NOTIFY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION REGARDING THE BROWNFIELD AREA DESIGNATION; AND SETTING FORTH AN EFFECTIVE DATE.

WHEREAS, the stated intent of the Florida legislature in enacting the Brownfields Redevelopment Act ("Act"), sections 376.77 through 376.85, *Florida Statutes*, is to reduce public health and environmental hazards on commercial and industrial sites in order to promote employment, housing, recreation and open space areas; to promote the reuse of industrial land in accordance with sound land use policies that will prevent the premature development of farmland, open space areas, and natural areas and to reduce public costs for installing new water, sewer, and highway infrastructure; to encourage the use of Brownfield Sites in order to encourage the efficient use of public facilities and services, land and other natural resources; to promote the use of incentives to encourage responsible persons to voluntarily develop and implement cleanup plans without the use of taxpayer funds or the need for enforcement action by state and local governments; to promote clear and predictable remediation efforts to eliminate environmental and public health hazards; to promote site rehabilitation to eliminate the risk that contamination may pose to the environment and public health, taking into account the current and future use of land and water and the degree to which contamination may spread and place

the public or environment at risk; and to eliminate community decline, including disease and illness, crime, educational and employment opportunities, and infrastructure decay; and that the rehabilitation and redevelopment of Brownfield Sites can lead to an improved quality of life and health benefits; and

WHEREAS, section 376.79 of the Act defines:

- a) **Brownfield Area** to mean a contiguous area of one or more “Brownfield Sites”, some of which may not be contaminated, and which may include all or part of community redevelopment areas, enterprise zones, empowerment zones, other designated economically deprived areas, and Brownfield Site pilot projects that have been designated by the Environmental Protection Agency.
- b) **Brownfield Site** to mean real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental “Contamination”.
- c) **Contaminated Site** to mean any contiguous land, sediment, surface water, or groundwater areas that contain “Contaminants” that may be harmful to human health or the environment.
- d) **Contaminant** to mean any physical, chemical, biological, or radiological substance present in any medium that may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or anesthetic condition in groundwater.

WHEREAS, the Act provides authority to local government agencies to designate certain lands to be a Brownfield Area; and to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of Brownfield Areas to help eliminate public health and environmental hazards, and to promote the creation of jobs and economic development, specifically including:

Financial incentives and local incentives for redevelopment:

- a) Tax increment financing through community redevelopment agencies as provided in Chapter 163 (Part III), *Florida Statutes*.

- b) Enterprise zone tax exemptions for business as provided in Chapters 196 and 290, *Florida Statutes*.
- c) Safe neighborhood improvement districts as provided in sections 163.501 through 163.523, *Florida Statutes*.
- d) Waiver, reduction, or limitation by line of business with respect to business taxes as provided in Chapter 205, *Florida Statutes*.
- e) Tax exemption for historic properties as provided in section 196.1997, *Florida Statutes*.
- f) Residential electricity exemption of up to the first 500 kilowatts of use may be exempted from municipal public service tax as provided in section 166.231(6), *Florida Statutes*.
- g) Minority business enterprise programs as provided in section 287.0943, *Florida Statutes*.
- h) Electric and gas tax exemptions as provided in section 166.231(6), *Florida Statutes*.
- i) Economic development tax abatement as provided in section 196.1995, *Florida Statutes*.
- j) Grants, including community development block grants.
- k) Pledging of revenue to secure bonds.
- l) Low-interest revolving loans and zero-interest loan pools.
- m) Local grant programs for façade, storefront, signage and other business improvements.
- n) Governmental coordination of loan programs with lenders, such as micro loans, business reserve fund loans, letter of credit enhancements, gap financing, lease and sublease loans, and private equity.
- o) Payment schedules over time for payment of fees, within criteria, and marginal cost pricing.

Regulatory incentives:

- a) Absorption by the city of developers' concurrency needs.

- b) Developers' performance of certain analysis.
- c) Exemptions and lessening of state and local review requirements.
- d) Water and sewer regulatory incentives.
- e) Waiver of transportation impact fees and permit fees.
- f) Zoning incentives to reduce review requirements for redevelopment changes in use and occupancy; establishment of code criteria for specific uses; and institution of credits for previous use within the area.
- g) Flexibility in parking and buffer zone standards.
- h) Environmental management through specific code criteria and conditions allowed by law.
- i) Maintenance standards and activities by ordinance and otherwise, and increased security and crime prevention measures available through special assessments.
- j) Traffic-calming measures.
- k) Historic preservation ordinances, loan programs, and review and permitting process.
- l) One-stop permitting and streamlined development and permitting process.

Technical assistance incentives:

- a) Expedited development applications.
- b) Formal and informal information on business incentives and financial programs.
- c) Site design assistance.
- d) Marketing and promotion of projects or areas.

WHEREAS, section 376.80 of the Act requires the following factors to be considered in determining the areas to be designated a Brownfield Area:

- a) Whether the Brownfield Area warrants economic development and has a reasonable potential for such activities;

- b) Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
- c) Whether the area has potential to interest the private sector in participating in rehabilitation; and
- d) Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

WHEREAS, section 376.80 of the Act further provides that a Brownfield Area may be designated as such, provided that:

- a) A person who owns or controls a potential Brownfield Site is requesting the designation and has agreed to rehabilitate and redevelop the Brownfield Site;
- b) The rehabilitation and redevelopment of the proposed Brownfield Site will result in economic productivity of the area, along with the creation of at least five (5) new permanent jobs at the Brownfield Site that are full-time equivalent positions not associated with the implementation of the Brownfield Site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed Brownfield Site or Area; except that the job creation requirement shall not apply to the rehabilitation and redevelopment of a Brownfield Site that will provide affordable housing (as defined in section 420.0004, Florida Statutes) or the creation of recreational areas, conservation areas, or parks.
- c) The redevelopment of the Brownfield Site is consistent with the local comprehensive plan and is a permissible use under applicable land development regulations.
- d) Notice of the proposed rehabilitation of the Brownfield Area has been provided (in a newspaper of general circulation in the affected area, and being at least 16 square inches in size) to neighbors and nearby residents, and that those persons have been afforded an opportunity to provide comments and suggestions about the rehabilitation.
- e) The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the Brownfield Site.

WHEREAS, section 376.80(1) of the Act provides that a resolution designating a Brownfield Area must include a map that clearly delineates the specific parcels that are to be

included in the Brownfield Area or a less-detailed map accompanied by a detailed legal description of the Brownfield Area; and

WHEREAS, the lands that are proposed to be designated a Brownfield Area include lands that are both inside and outside of the city's community redevelopment area; and

WHEREAS, section 376.80(1) of the Act requires a municipality to adopt a resolution designating a Brownfield Area in accordance with the procedures outlined in section 166.041, *Florida Statutes*, and that notice for the public hearings must be in the form established in section 166.041(3)(c)2, *Florida Statutes*; and

WHEREAS, section 376.80(2)(a) of the Act further provides that if a proposed Brownfield Area is outside community redevelopment areas, enterprise zones, empowerment zones, closed military bases, or designated Brownfield pilot project areas, at least one of the public hearings shall be conducted as reasonably practicable to the area to be designated; and

WHEREAS, section 376.80(2)(a) of the Act and section 166.041(3)(c)2, *Florida Statutes* requires two public hearings for the designation of the lands that are proposed to be designated a Brownfield Area; and

WHEREAS, public workshops were conducted regarding the intention to designate a Brownfield Area on July 26, August 9, August 30, and September 13, 2011 at Ormond Beach city hall and The Casements (with written notice having been provided to each affected property owner and published on the city's website and in the *News Journal*) for the purpose of informing property owners and the general public about the benefits and opportunities that a Brownfield Area designation may provide regarding the redevelopment of lands so designated; and

WHEREAS, the matters set forth in this resolution were considered at a public hearing before the city's planning board on December 8, 2011, and were considered at a public hearing before the city commission on January 3, 2012; and

WHEREAS, the city has not received a written request from any property owner in accordance with section 376.80(1) of the Act requesting that his or her lands be removed from the proposed Brownfield Area; and

WHEREAS, the city commission of the city of Ormond Beach has determined that it is in the best interest of the health, welfare and safety of its citizens and the general public to designate the lands legally described and depicted in Exhibit "A" attached hereto to be a Brownfield Area; now therefore,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:

SECTION ONE. The city commission makes the following findings:

- a) Beneficial Communities, LLC (and/or Beneficial Communities Development, LLC), 2206 Jo-An Drive, Sarasota, Florida, has requested by letter dated June 3, 2011, that certain lands it owns being situated at 765 West Granada Boulevard, be designated as a Brownfield Area for the purpose of rehabilitation as an affordable housing development. A copy of the written request is attached hereto as Exhibit B". Beneficial Communities, LLC has the financial resources to rehabilitate the subject Brownfield Site.
- b) The city's planning director proposes that the city commission designate the lands that are generally depicted on the map and that are legally described in Exhibit "A" attached hereto to be a Brownfield Area. The map and legal description attached as Exhibit "A" complies with the requirements of section 376.80 of the Act. The lands that are the subject of the proposed designation include the lands that are the subject of the request by Beneficial Communities, LLC, as well as lands that are situated both inside and outside the city's community redevelopment area.

- c) The public notice and public hearing requirements as set forth in section 376.80(2)(a) and 166.041(3)(c)2, *Florida Statutes*, regarding the designation of lands to be a Brownfield Area have been satisfied.
- d) The city has not received a written request from any property owner in accordance with section 376.80(1) of the Act, requesting that his or her lands be removed from the proposed Brownfield Area.
- e) The redevelopment of the Brownfield Area will be consistent with the city's comprehensive land use plan and land development regulations.

SECTION TWO. The city commission has considered the following factors and has determined that the lands that are the subject of the proposed Brownfield Area designation:

- a) Warrant economic development and have a reasonable potential for such activities.
- b) Represents a reasonably focused approach for such designation and is not overly large in geographic coverage.
- c) Has the potential to interest the private sector in participating in the rehabilitation of the designated lands.
- e) Contains sites or parts of sites that are suitable for limited recreational open space, cultural, or historical preservation purposes.

SECTION THREE. The city commission hereby declares and designates those lands that are generally depicted in the map and legally described in Exhibit "A" attached hereto to be a Brownfield Area in accordance with the Act, and authorizes use of the full range of economic and tax incentives available to facilitate and promote the rehabilitation of the Brownfield Area, specifically including:

Financial incentives and local incentives for redevelopment:

- a) Tax increment financing through community redevelopment agencies as provided in Chapter 163 (Part III), *Florida Statutes*.

- b) Enterprise zone tax exemptions for business as provided in Chapters 196 and 290, *Florida Statutes*.
- c) Safe neighborhood improvement districts as provided in sections 163.501 through 163.523, *Florida Statutes*.
- d) Waiver, reduction, or limitation by line of business with respect to business taxes as provided in Chapter 205, *Florida Statutes*.
- e) Tax exemption for historic properties as provided in section 196.1997, *Florida Statutes*.
- f) Residential electricity exemption of up to the first 500 kilowatts of use may be exempted from municipal public service tax as provided in section 166.231(6), *Florida Statutes*.
- g) Minority business enterprise programs as provided in section 287.0943, *Florida Statutes*.
- h) Electric and gas tax exemptions as provided in section 166.231(6), *Florida Statutes*.
- i) Economic development tax abatement as provided in section 196.1995, *Florida Statutes*.
- j) Grants, including community development block grants.
- k) Pledging of revenue to secure bonds.
- l) Low-interest revolving loans and zero-interest loan pools.
- m) Local grant programs for façade, storefront, signage and other business improvements.
- n) Governmental coordination of loan programs with lenders, such as micro loans, business reserve fund loans, letter of credit enhancements, gap financing, lease and sublease loans, and private equity.
- o) Payment schedules over time for payment of fees, within criteria, and marginal cost pricing.

Regulatory incentives:

- a) Absorption by the city of developers' concurrency needs.

- b) Developers' performance of certain analysis.
- c) Exemptions and lessening of state and local review requirements.
- d) Water and sewer regulatory incentives.
- e) Waiver of transportation impact fees and permit fees.
- f) Zoning incentives to reduce review requirements for redevelopment changes in use and occupancy; establishment of code criteria for specific uses; and institution of credits for previous use within the area.
- g) Flexibility in parking and buffer zone standards.
- h) Environmental management through specific code criteria and conditions allowed by law.
- i) Maintenance standards and activities by ordinance and otherwise, and increased security and crime prevention measures available through special assessments.
- j) Traffic-calming measures.
- k) Historic preservation ordinances, loan programs, and review and permitting process.
- l) One-stop permitting and streamlined development and permitting process.

Technical assistance incentives:

- a) Expedited development applications.
- b) Formal and informal information on business incentives and financial programs.
- c) Site design assistance.
- d) Marketing and promotion of projects or areas.

And further provided that:

- a) The rehabilitation and redevelopment of a proposed Brownfield Site will result in economic productivity of the area, along with the creation of at least five (5) new permanent jobs at the Brownfield Site that are full-time equivalent positions not associated with the implementation of the Brownfield Site rehabilitation agreement and that are not associated with redevelopment project demolition or construction

activities pursuant to the redevelopment of the proposed Brownfield Site or Area; except that the job creation requirement shall not apply to the rehabilitation and redevelopment of a Brownfield Site that will provide affordable housing (as defined in section 420.0004, Florida Statutes) or the creation of recreational areas, conservation areas, or parks.

- b) Designation of the Brownfield Area shall not render liable the city (including its elected and appointed officials and employees) for the cost of site rehabilitation or source removal, as those terms are defined in section 376.79(17) and (18), *Florida Statutes*, or for any other costs that may arise or be incurred, including but not limited to incidental or consequential costs.

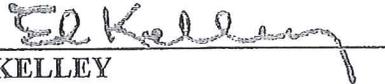
SECTION FOUR. The city commission shall designate by separate resolution or ordinance, an advisory committee in accordance with the requirements of section 376.80(4) of the Act. Members of the advisory committee shall include residents within or adjacent to the Brownfield Area, businesses operating within the Brownfield Area, and others deemed appropriate by the city commission. The duties of the advisory committee shall be to:

- a) Hold public meetings and seek public participation and comments regarding the rehabilitation and redevelopment of the Brownfield Area.
- b) Review draft rehabilitation plans to ensure that the criteria described in section 376.80(5) of the Act have been addressed.
- c) Review proposed redevelopment agreements and provide comments to the city commission.
- d) Review and provide comments regarding site assessment reports or technical documents for a proposed course of action.
- e) Any person responsible for the rehabilitation of a Brownfield Site must notify the advisory committee of the intent to rehabilitate and redevelop the Brownfield Site before executing a Brownfield Site Rehabilitation Agreement, and provide the advisory committee with a copy of the draft plan for site rehabilitation that addresses the conditions required by section 376.80(5) of the Act.
- f) Other duties as prescribed by the Act.

SECTION FIVE. The City Clerk, or his designee, shall notify the Florida Department of Environmental Protection in writing and provide a copy of this Resolution setting forth the designation of the property depicted and legally described in Exhibit "A" to be a Brownfield Area, for the purposes set forth in the Act.

SECTION SIX. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED this 3rd day of January, 2012.


ED KELLEY
Mayor

ATTEST:

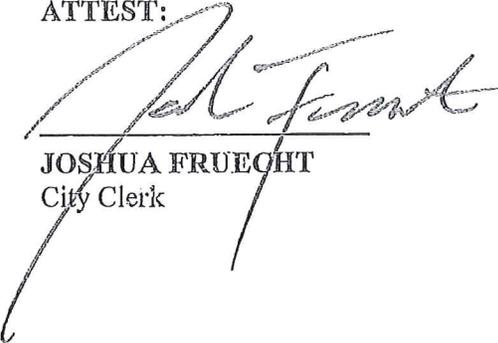

JOSHUA FRUECHT
City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION OF BROWNFIELD AREA

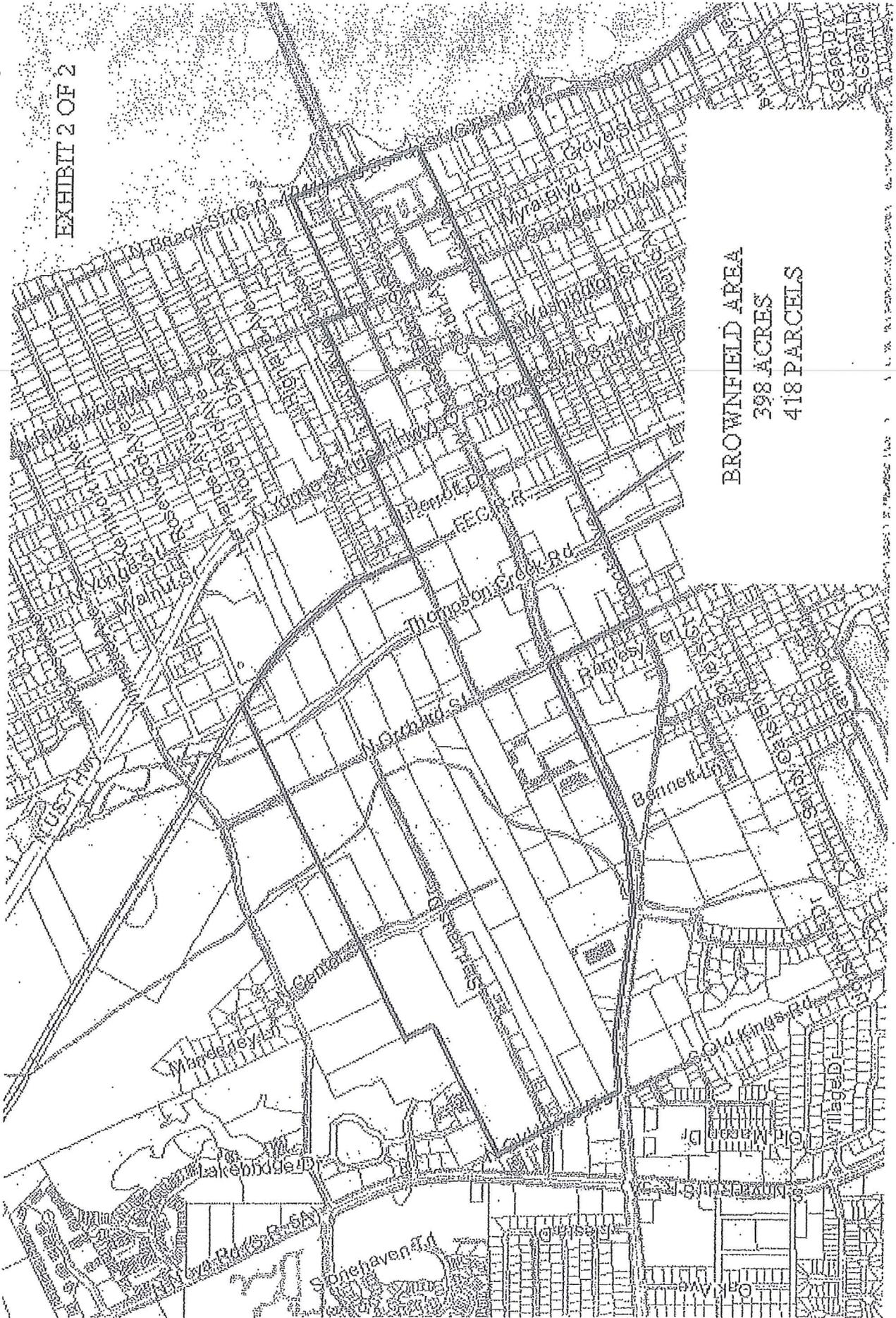
THE BROWNFIELD AREA IS DESCRIBED AS FOLLOWS:

THAT PORTION OF THE CITY OF ORMOND BEACH FLORIDA, LYING WITHIN THE BOUNDARY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE CITY OF ORMOND BEACH FLORIDA, LYING WITHIN THE BOUNDARY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF TOMOKA AVENUE AND THE CENTERLINE OF SOUTH BEACH STREET CONTINUE NORTHWESTERLY ALONG THE CENTERLINE OF SOUTH BEACH STREET TO THE INTERSECTION OF THE CENTERLINE OF WEST GRANADA BOULEVARD AND THE CENTERLINE OF NORTH BEACH STREET; THENCE COUNINUE ALONG THE CENTERLINE OF NORTH BEACH STREET TO A POINT OF INTERSECTION WITH THE NORTH LINE (PROJECTED EASTERLY) OF THE ANDERSON BLOCK (PB 17 PG 16 VOLUSIA COUNTY FLORIDA); THENCE CONTINUE SOUTHWESTERLY ALONG THE NORTH LINE OF THE ANDERSON BLOCK TO A POINT OF INTERSECTION WITH THE CENTERLINE OF NORTH RIDGEWOOD AVENUE; THENCE CONTINUE NORTHWESTERLY ALONG THE CENTERLINE OF NORTH RIDGEWOOD AVENUE TO A POINT OF INTERSECTION WITH THE CENTERLINE OF LINCOLN AVENUE; THENCE CONTINUE SOUTHWESTERLY ALONG THE CENTERLINE OF LINCOLN AVENUE TO A POINT OF INTERSECTION WITH THE CENTERLINE OF NORTH YONGE STREET; THENCE CONTINUE NORTHWESTERLY ALONG THE CENTERLINE OF NORTH YONGE STREET TO A POINT OF INTERSECTION WITH THE CENTERLINE OF LINCOLN AVENUE; THENCE CONTINUE SOUTHWESTERLY ALONG THE CENTERLINE OF LINCOLN AVENUE TO A POINT OF INTERSECTION WITH THE CENTERLINE OF THE FLORIDA EAST COAST RAILWAY; THENCE CONTINUE NORTHWESTERLY ALONG THE CENTERLINE OF THE FLORIDA EAST COAST RAILWAY TO A POINT OF INTERSECTION WITH THE CENTERLINE OF ROSEWOOD AVENUE AS PLATTED PER ORMOND HEIGHTS (MB 21 PG 43 VOLUSIA COUNTY FLORIDA); THENCE CONTINUE SOUTHWESTERLY ALONG THE CENTERLINE OF PAPER PLATTED ROSEWOOD AVENUE PROJECTED SOUTHWESTERLY TO A POINT OF INTERSECTION WITH THE CENTERLINE OF NORTH ORCHARD STREET AND THE NORTH LINE PROJECTED EASTERLY OF LOT C, SUB GRANT LOT 10 1/2 (OR 2943 PG 0642 VOLUSIA COUNTY FLORIDA); THENCE CONTINUE SOUTHWESTERLY ALONG THE PLATTED NORTH LINE OF LOT C, GRANT LOT 10 1/2 , ASSESSORS SUBDIVISION OF THE HENRY YONGE

.GRANT, TO POINT OF INTERSECTION WITH THE NORTH LINE OF LOT D, GRANT LOT 11 (OR 5114 PG 3223 VOLUSIA COUNTY FLORIDA); THENCE CONTINUE ALONG THE PLATTED NORTH LINE OF LOT D, GRANT LOT 11 TO A POINT OF INTERSECTION WITH THE CENTERLINE OF NORTH CENTER STREET, AND THE NORTH LINE PROJECTED EASTERLY OF THE ORMOND BEACH MEMORIAL HOSPITAL PROPERTY ALSO KNOWN AS LOT D, GRANT LOT 11 (MT 2 PG 118 PER OR 3146 PG 1630 VOLUSIA COUNTY FLORIDA); THENCE CONTINUE SOUTHWEST ALONG THE ORMOND MEMORIAL HOSPITAL PROPERTY TO A POINT OF INTERSECTION WITH THE EAST LINE OF THE SHADOW LAKES PROPERTY; THENCE CONTINUE SOUTHEAST ALONG THE EAST LINE OF THE SHADOW LAKES PROPERTY TO A POINT OF INTERSECTION WITH THE NORTH LINE OF THE ORMOND MEMORIAL HOSPITAL PROPERTY ALSO KNOWN AS LOT D, GRANT LOT 10 1/2 (OR 3146 PG 1630 PER VOLUSIA COUNTY FLORIDA THENCE CONTINUE SOUTHWESTERLY ALONG THE NORTH LINE OF THE ORMOND MEMORIAL HOSPITAL PROPERTY TO A POINT OF INTERSECTION WITH THE CENTERLINE OF NORTH OLD KINGS ROAD; THENCE CONTINUE SOUTHEASTERLY ALONG THE CENTERLINE OF NORTH OLD KINGS ROAD TO A POINT OF INTERSECTION WITH THE CENTERLINE OF WEST GRANADA BOULEVARD; THENCE CONTINUE SOUTHEASTERLY AND NORTHEASTERLY ALONG THE CENTERLINE OF WEST GRANADA BOULEVARD TO A POINT OF INTERSECTION WITH THE CENTERLINE OF NORTH ORCHARD STREET; THENCE CONTINUE SOUTH EASTERLY ALONG THE CENTERLINE OF NORTH ORCHARD STREET TO A POINT OF INTERSECTION WITH THE CENTERLINE OF TOMOKA AVENUE; THENCE CONTINUE NORTHEASTERLY ALONG THE CENTERLINE OF TOMOKA AVENUE TO A POINT OF INTERSECTION WITH THE FLORIDA EAST COAST RAILWAY AND THE CENTERLINE OF THAT PORTION OF VACATED TOMOKA AVENUE; THENCE CONTINUE NORTHEASTERLY ALONG THE CENTERLINE OF VACATED TOMOKA AVENUE TO POINT OF INTERSECTION OF THE CENTERLINE OF SOUTH PERROTT DRIVE AND THE CENTERLINE OF TOMOKA AVENUE; THENCE CONTINUE NORTHEASTERLY ALONG THE CENTERLINE OF TOMOKA AVENUE TO A POINT OF INTERSECTION WITH THE CENTERLINE OF SOUTH YONGE STREET AND THE CENTERLINE OF TOMOKA AVENUE; THENCE CONTINUE NORTHEASTERLY ALONG THE CENTERLINE OF TOMOKA AVENUE TO A POINT OF INTERSECTION WITH THE CENTERLINE OF SOUTH BEACH STREET, ALSO KNOWN AS THE POINT OF BEGINNING.



BROWNFIELD AREA
398 ACRES
418 PARCELS



EXHIBIT "B"

June 3, 2011

Ms. Joyce Shanahan
City Manager
City of Ormond Beach
22 South Beach Street
Ormond Beach, Florida 32174

Re: Brownfield Designation

Dear Ms. Shanahan:

In accordance with Section 376.80(2)(b)(1), F.S., Beneficial Communities respectfully requests that the City of Ormond Beach designate our site at 765 West Granada Boulevard as a brownfield area for rehabilitation as an affordable housing development. In addition, the City may also want to consider a brownfield designation for sections of the surrounding area, including portions of the Ormond Beach Community Redevelopment Area.

As you may know, Florida statute §376.79 defines a Brownfield area as "...a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution...". Brownfield designation provides significant state economic development incentives, including a sales tax refund on the purchase of qualified building materials used in an affordable housing development (§212.08(5)(e), F.S.) and a job bonus refund of up to \$2,500 per employee for employers creating high wage jobs within a brownfield area (§288.107(2)(b), F.S.).

Many jurisdictions and property owners within the State of Florida have successfully utilized the Brownfield Redevelopment Program as an economic development tool. A brownfield designation will not only allow Beneficial's affordable housing development, *Olive Grove Apartments*, to utilize the sales tax refund incentives, but it will provide benefits to other businesses as well.

2206 Jo Ann Drive
Sarasota, FL 34231
Ph 941 929 1270
Fax 941 929 1271

We look forward to your consideration of our request and would welcome the opportunity to discuss this further with you and your staff.

Sincerely,



Donald Paxton
President

cc: Ken Bowron, Beneficial Communities
Craig Taylor, Cooperative Resource Center
Richard Goss, City of Ormond Beach
Joe Mannarino, City of Ormond Beach
Maggie Sacks, Ormond Main Street
George Houston II, P.G., Brownfields Coordinator-FDEP Central District
Lori Fields, KPMG LLP

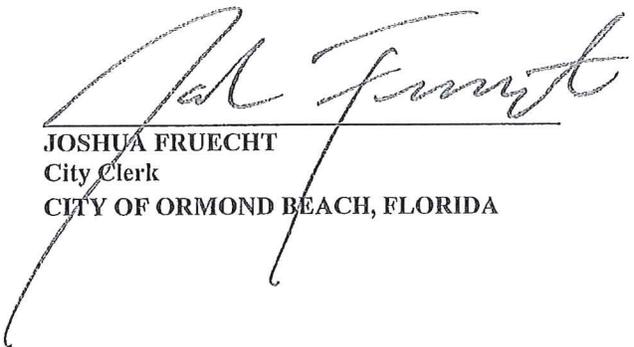
CERTIFICATE

STATE OF FLORIDA
COUNTY OF VOLUSIA
CITY OF ORMOND BEACH

I, Joshua Fruecht, City Clerk of the City of Ormond Beach, Florida, do hereby certify that the foregoing is a true, correct and complete copy of Resolution No. 2012-02, as the same appears of record at City Hall, City of Ormond Beach, Florida.

Dated this 6th day of January 2012.

SEAL



JOSHUA FRUECHT
City Clerk
CITY OF ORMOND BEACH, FLORIDA

RESOLUTION NO. 2012-21

A RESOLUTION DESIGNATING CERTAIN LANDS LOCATED IN THE NORTH US HIGHWAY 1 AREA TO BE A BROWNFIELD AREA, INCLUDING LANDS THAT ARE SITUATED INSIDE AND OUTSIDE THE CITY'S NORTH MAINLAND/ORMOND CROSSINGS COMMUNITY REDEVELOPMENT AREA AND THE ORMOND BEACH MUNICIPAL AIRPORT/BUSINESS PARK; PROVIDING LEGISLATIVE FINDINGS; AUTHORIZING THE USE OF ECONOMIC AND TAX INCENTIVES TO FACILITATE AND PROMOTE THE REHABILITATION OF LANDS IN THE BROWNFIELD AREA; DIRECTING THE CITY CLERK TO NOTIFY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION REGARDING THE BROWNFIELD AREA DESIGNATION; AND SETTING FORTH AN EFFECTIVE DATE.

WHEREAS, the stated intent of the Florida legislature in enacting the Brownfields Redevelopment Act ("Act"), sections 376.77 through 376.85, *Florida Statutes*, is to reduce public health and environmental hazards on commercial and industrial sites in order to promote employment, housing, recreation and open space areas; to promote the reuse of industrial land in accordance with sound land use policies that will prevent the premature development of farmland, open space areas, and natural areas and to reduce public costs for installing new water, sewer, and highway infrastructure; to encourage the use of Brownfield Sites in order to encourage the efficient use of public facilities and services, land and other natural resources; to promote the use of incentives to encourage responsible persons to voluntarily develop and implement cleanup plans without the use of taxpayer funds or the need for enforcement action by state and local governments; to promote clear and predictable remediation efforts to eliminate environmental and public health hazards; to promote site

rehabilitation to eliminate the risk that contamination may pose to the environment and public health, taking into account the current and future use of land and water and the degree to which contamination may spread and place the public or environment at risk; and to eliminate community decline, including disease and illness, crime, educational and employment opportunities, and infrastructure decay; and that the rehabilitation and redevelopment of Brownfield Sites can lead to an improved quality of life and health benefits; and

WHEREAS, section 376.79 of the Act defines:

- a) **Brownfield Area** to mean a contiguous area of one or more “Brownfield Sites”, some of which may not be contaminated, and which may include all or part of community redevelopment areas, enterprise zones, empowerment zones, other designated economically deprived areas, and Brownfield Site pilot projects that have been designated by the Environmental Protection Agency.
- b) **Brownfield Site** to mean real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental “Contamination”.
- c) **Contaminated Site** to mean any contiguous land, sediment, surface water, or groundwater areas that contain “Contaminants” that may be harmful to human health or the environment.
- d) **Contaminant** to mean any physical, chemical, biological, or radiological substance present in any medium that may result in adverse effects to human health or the environment or which creates an adverse nuisance, organoleptic, or anesthetic condition in groundwater; and

WHEREAS, the Act provides authority to local government agencies to designate certain lands to be a Brownfield Area; and to use the full range of economic and tax

incentives available to facilitate and promote the rehabilitation of Brownfield Areas to help eliminate public health and environmental hazards, and to promote the creation of jobs and economic development, specifically including:

Financial incentives and local incentives for redevelopment:

- a) Tax increment financing through community redevelopment agencies as provided in Chapter 163 (Part III), *Florida Statutes*.
- b) Enterprise zone tax exemptions for business as provided in Chapters 196 and 290, *Florida Statutes*.
- c) Safe neighborhood improvement districts as provided in sections 163.501 through 163.523, *Florida Statutes*.
- d) Waiver, reduction, or limitation by line of business with respect to business taxes as provided in Chapter 205, *Florida Statutes*.
- e) Tax exemption for historic properties as provided in section 196.1997, *Florida Statutes*.
- f) Residential electricity exemption of up to the first 500 kilowatts of use may be exempted from municipal public service tax as provided in section 166.231(6), *Florida Statutes*.
- g) Minority business enterprise programs as provided in section 287.0943, *Florida Statutes*.
- h) Electric and gas tax exemptions as provided in section 166.231(6), *Florida Statutes*.
- i) Economic development tax abatement as provided in section 196.1995, *Florida Statutes*.
- j) Grants, including community development block grants.
- k) Pledging of revenue to secure bonds.
- l) Low-interest revolving loans and zero-interest loan pools.

- m) Local grant programs for façade, storefront, signage and other business improvements.
- n) Governmental coordination of loan programs with lenders, such as micro loans, business reserve fund loans, letter of credit enhancements, gap financing, lease and sublease loans, and private equity.
- o) Payment schedules over time for payment of fees, within criteria, and marginal cost pricing.

Regulatory incentives:

- a) Absorption by the city of developers' concurrency needs.
- b) Developers' performance of certain analysis.
- c) Exemptions and lessening of state and local review requirements.
- d) Water and sewer regulatory incentives.
- e) Waiver of transportation impact fees and permit fees.
- f) Zoning incentives to reduce review requirements for redevelopment changes in use and occupancy; establishment of code criteria for specific uses; and institution of credits for previous use within the area.
- g) Flexibility in parking and buffer zone standards.
- h) Environmental management through specific code criteria and conditions allowed by law.
- i) Maintenance standards and activities by ordinance and otherwise, and increased security and crime prevention measures available through special assessments.
- j) Traffic-calming measures.
- k) Historic preservation ordinances, loan programs, and review and permitting process.

- l) One-stop permitting and streamlined development and permitting process.

Technical assistance incentives:

- a) Expedited development applications.
- b) Formal and informal information on business incentives and financial programs.
- c) Site design assistance.
- d) Marketing and promotion of projects or areas; and

WHEREAS, section 376.80 of the Act requires the following factors to be considered in determining the areas to be designated a Brownfield Area:

- a) Whether the Brownfield Area warrants economic development and has a reasonable potential for such activities;
- b) Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
- c) Whether the area has potential to interest the private sector in participating in rehabilitation; and
- d) Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes; and

WHEREAS, section 376.80 of the Act further provides that a Brownfield Area may be designated as such, provided that:

- a) A person who owns or controls a potential Brownfield Site is requesting the designation and has agreed to rehabilitate and redevelop the Brownfield Site;
- b) The rehabilitation and redevelopement of the proposed Brownfield Site will result in economic productivity of the area, along with the creation of at least five (5) new permanent jobs at the Brownfield Site that are full-time equivalent positions not associated with the implementation of the

Brownfield Site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed Brownfield Site or Area; except that the job creation requirement shall not apply to the rehabilitation and redevelopment of a Brownfield Site that will provide affordable housing (as defined in section 420.0004, Florida Statutes) or the creation of recreational areas, conservation areas, or parks.

- c) The redevelopment of the Brownfield Site is consistent with the local comprehensive plan and is a permissible use under applicable land development regulations.
- d) Notice of the proposed rehabilitation of the Brownfield Area has been provided (in a newspaper of general circulation in the affected area, and being at least 16 square inches in size) to neighbors and nearby residents, and that those persons have been afforded an opportunity to provide comments and suggestions about the rehabilitation.
- e) The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the Brownfield Site; and

WHEREAS, section 376.80(1) of the Act provides that a resolution designating a Brownfield Area must include a map that clearly delineates the specific parcels that are to be included in the Brownfield Area or a less-detailed map accompanied by a detailed legal description of the Brownfield Area; and

WHEREAS, the lands that are proposed to be designated a Brownfield Area include lands that are both inside and outside of the city's community redevelopment area; and

WHEREAS, section 376.80(1) of the Act requires a municipality to adopt a resolution designating a Brownfield Area in accordance with the procedures outlined in section

166.041, *Florida Statutes*, and that notice for the public hearings must be in the form established in section 166.041(3)(c)2, *Florida Statutes*; and

WHEREAS, section 376.80(2)(a) of the Act further provides that if a proposed Brownfield Area is outside community redevelopment areas, enterprise zones, empowerment zones, closed military bases, or designated Brownfield pilot project areas, at least one of the public hearings shall be conducted as reasonably practicable to the area to be designated; and

WHEREAS, section 376.80(2)(a) of the Act and section 166.041(3)(c)2, *Florida Statutes* requires two public hearings for the designation of the lands that are proposed to be designated a Brownfield Area; and

WHEREAS, public workshops were conducted regarding the intention to designate a Brownfield Area on October 11 and 27, and November 8, 2011 at Ormond Beach City Hall (with written notice having been provided to each affected property owner and published on the City's website and in the *News Journal*) for the purpose of informing property owners and the general public about the benefits and opportunities that a Brownfield Area designation may provide regarding the redevelopment of lands so designated; and

WHEREAS, the matters set forth in this resolution were considered at a public hearing before the City's Planning Board on January 12, 2012, and were considered at a public hearing before the City Commission on February 21, 2012; and

WHEREAS, the City has not received a written request from any property owner in accordance with section 376.80(1) of the Act requesting that his or her lands be removed from the proposed Brownfield Area; and

WHEREAS, the City Commission of the City of Ormond Beach has determined that it is in the best interest of the health, welfare and safety of its citizens and the general public to designate the lands located within the North US Highway 1 area, legally described and depicted in Exhibit "A" attached hereto to be a Brownfield Area; now therefore,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:

SECTION ONE. The City Commission makes the following findings:

- a) The city's planning director proposes that the City Commission designate the lands located within the North US Highway 1 area that are generally depicted on the map and that are legally described in Exhibit "A" attached hereto to be a Brownfield Area. The map and legal description attached as Exhibit "A" complies with the requirements of section 376.80 of the Act. The lands that are the subject of the proposed designation include lands that are situated both inside and outside the city's community redevelopment area.
- b) The public notice and public hearing requirements as set forth in section 376.80(2)(a) and 166.041(3)(c)2, *Florida Statutes*, regarding the designation of lands to be a Brownfield Area have been satisfied.
- c) The city has not received a written request from any property owner in accordance with section 376.80(1) of the Act, requesting that his or her lands be removed from the proposed Brownfield Area.
- d) The redevelopment of the Brownfield Area will be consistent with the city's comprehensive land use plan and land development regulations.

SECTION TWO. The City Commission has considered the following factors and has determined that the lands that are the subject of the proposed Brownfield Area designation:

- a) Warrant economic development and have a reasonable potential for such activities.

- b) Represents a reasonably focused approach for such designation and is not overly large in geographic coverage.
- c) Has the potential to interest the private sector in participating in the rehabilitation of the designated lands.
- d) Contains sites or parts of sites that are suitable for limited recreational open space, cultural, or historical preservation purposes.

SECTION THREE. The City Commission hereby declares and designates those lands located within the North US Highway 1 area that are generally depicted in the map and legally described in Exhibit "A" attached hereto to be a Brownfield Area in accordance with the Act, and authorizes use of the full range of economic and tax incentives available to facilitate and promote the rehabilitation of the Brownfield Area, specifically including:

Financial incentives and local incentives for redevelopment:

- a) Tax increment financing through community redevelopment agencies as provided in Chapter 163 (Part III), *Florida Statutes*.
- b) Enterprise zone tax exemptions for business as provided in Chapters 196 and 290, *Florida Statutes*.
- c) Safe neighborhood improvement districts as provided in sections 163.501 through 163.523, *Florida Statutes*.
- d) Waiver, reduction, or limitation by line of business with respect to business taxes as provided in Chapter 205, *Florida Statutes*.
- e) Tax exemption for historic properties as provided in section 196.1997, *Florida Statutes*.
- f) Residential electricity exemption of up to the first 500 kilowatts of use may be exempted from municipal public service tax as provided in section 166.231(6), *Florida Statutes*.

- g) Minority business enterprise programs as provided in section 287.0943, *Florida Statutes*.
- h) Electric and gas tax exemptions as provided in section 166.231(6), *Florida Statutes*.
- i) Economic development tax abatement as provided in section 196.1995, *Florida Statutes*.
- j) Grants, including community development block grants.
- k) Pledging of revenue to secure bonds.
- l) Low-interest revolving loans and zero-interest loan pools.
- m) Local grant programs for façade, storefront, signage and other business improvements.
- n) Governmental coordination of loan programs with lenders, such as micro loans, business reserve fund loans, letter of credit enhancements, gap financing, lease and sublease loans, and private equity.
- o) Payment schedules over time for payment of fees, within criteria, and marginal cost pricing.

Regulatory incentives:

- a) Absorption by the city of developers' concurrency needs.
- b) Developers' performance of certain analysis.
- c) Exemptions and lessening of state and local review requirements.
- d) Water and sewer regulatory incentives.
- e) Waiver of transportation impact fees and permit fees.
- f) Zoning incentives to reduce review requirements for redevelopment changes in use and occupancy; establishment of code criteria for specific uses; and institution of credits for previous use within the area.

- g) Flexibility in parking and buffer zone standards.
- h) Environmental management through specific code criteria and conditions allowed by law.
- i) Maintenance standards and activities by ordinance and otherwise, and increased security and crime prevention measures available through special assessments.
- j) Traffic-calming measures.
- k) Historic preservation ordinances, loan programs, and review and permitting process.
- l) One-stop permitting and streamlined development and permitting process.

Technical assistance incentives:

- a) Expedited development applications.
- b) Formal and in formal information on business incentives and financial programs.
- c) Site design assistance.
- d) Marketing and promotion of projects or areas.

And further provided that:

- a) The rehabilitation and redevelopment of a proposed Brownfield Site will result in economic productivity of the area, along with the creation of at least five (5) new permanent jobs at the Brownfield Site that are full-time equivalent positions not associated with the implementation of the Brownfield Site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed Brownfield Site or Area; except that the job creation requirement shall not apply to the rehabilitation and redevelopment of a Brownfield Site that will provide affordable housing (as defined in section 420.0004, Florida Statutes) or the creation of recreational areas, conservation areas, or parks.

- b) Designation of the Brownfield Area shall not render liable the city (including its elected and appointed officials and employees) for the cost of site rehabilitation or source removal, as those terms are defined in section 376.79(17) and (18), *Florida Statutes*, or for any other costs that may arise or be incurred, including but not limited to incidental or consequential costs.

SECTION FOUR. The City Commission has established by ordinance a brownfield advisory committee in accordance with the requirements of section 376.80(4) of the Act. Members of the advisory committee shall include residents within or adjacent to the Brownfield Area, businesses operating within the Brownfield Area, and others deemed appropriate by the City Commission. The duties of the advisory committee shall be to:

- a) Hold public meetings and seek public participation and comments regarding the rehabilitation and redevelopment of the Brownfield Area.
- b) Review draft rehabilitation plans to ensure that the criteria described in section 376.80(5) of the Act have been addressed.
- c) Review proposed redevelopment agreements and provide comments to the City Commission.
- d) Review and provide comments regarding site assessment reports or technical documents for a proposed course of action.
- e) Any person responsible for the rehabilitation of a Brownfield Site must notify the advisory committee of the intent to rehabilitate and redevelop the Brownfield Site before executing a Brownfield Site Rehabilitation Agreement, and provide the advisory committee with a copy of the draft plan for site rehabilitation that addresses the conditions required by section 376.80(5) of the Act.
- f) Other duties as prescribed by the Act.

SECTION FIVE. The City Clerk, or his designee, shall notify the Florida Department of Environmental Protection in writing and provide a copy of this Resolution setting

forth the designation of the property located within the North US Highway 1 area and depicted and legally described in Exhibit "A" to be a Brownfield Area, for the purposes set forth in the Act.

SECTION SIX. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED this 21st day of February, 2012.



ED KELLEY
Mayor

ATTEST:



JOSHUA FRUECHT
City Clerk

EXHIBIT "A"

PAGE 1 OF 4

LEGAL DESCRIPTION

THAT PORTION OF THE CITY OF ORMOND BEACH FLORIDA, LYING WITHIN THE BOUNDARY DESCRIBED AS FOLLOWS:

FROM A POINT OF BEGINNING, SAID POINT BEING THE SOUTHWEST CORNER OF AIRPORT BUSINESS PARK PHASE I, MB 39, PGS 136-137, VOLUSIA COUNTY FLORIDA, (ALSO KNOWN AS THE SOUTHWEST CORNER OF GOV'T LOT 1, SEC 13 TOWNSHIP 14S, RANGE 31E), THENCE NORTHERLY ALONG THE WEST LINE OF AFORESAID AIRPORT BUSINESS PARK PHASE I, TO A POINT OF INTERSECTION WITH THE SOUTHWEST CORNER OF LOT 67, AIRPORT BUSINESS PARK PHASE II, MB 43, PG 29-30, VOLUSIA COUNTY, FLORIDA; THENCE CONTINUE NORTHERLY ALONG THE WEST LINE OF SAID LOT 67 TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF LOT 51 OF AFORESAID AIRPORT BUSINESS PARK PHASE II; THENCE WESTERLY ALONG SAID SOUTH LINE TO THE SOUTHWEST CORNER OF AFORESAID AIRPORT BUSINESS PARK PHASE II; THENCE NORTHERLY ALONG THE WEST LINE OF SAID AIRPORT BUSINESS PARK PHASE II, TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF GOV'T LOT 3, SECTION 12, TOWNSHIP 14S, RANGE 31E, VOLUSIA COUNTY, FLORIDA; THENCE WESTERLY ALONG SAID SOUTH LINE TO A POINT OF INTERSECTION WITH THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 14S, RANGE 31E; THENCE NORTHERLY ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF GOV'T LOT 2, SECTION 12, TOWNSHIP 14S, RANGE 31E VOLUSIA COUNTY FLORIDA; THENCE EASTERLY ALONG SAID SOUTH LINE TO A POINT OF INTERSECTION WITH THE SOUTHERLY BOUNDARY LINE OF THE ORMOND BEACH SPORTS COMPLEX; THENCE NORTHEASTERLY ALONG SAID SOUTH BOUNDARY LINE TO A POINT OF INTERSECTION WITH THE EAST LINE OF THE AFORESAID ORMOND BEACH SPORTS COMPLEX; THENCE NORTHERLY, WESTERLY, AND NORTHEASTERLY ALONG SAID BOUNDARY LINE TO A POINT OF INTERSECTION WITH THE NORTH LINE OF THE AFORESAID SPORTS COMPLEX; THENCE WESTERLY AND NORTHERLY ALONG SAID BOUNDARY LINE PROJECTED TO A POINT OF INTERSECTION WITH THE EASTERN LINE OF THE GEORGE ANDERSON GRANT, SECTION 37, TOWNSHIP 14S, RANGE 31E, VOLUSIA COUNTY, FLORIDA; THENCE NORTHEASTERLY ALONG SAID GEORGE ANDERSON GRANT LINE TO A POINT OF INTERSECTION WITH THE SOUTHWEST CORNER OF LOT "R" OF AFORESAID GEORGE ANDERSON GRANT; THENCE SOUTHEASTERLY ALONG THE SOUTH LINE OF SAID LOT "R" TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF HULL ROAD; THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF HULL ROAD PROJECTED NORTHERLY; THENCE NORTHEASTERLY ALONG SAID PROJECTED RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE TO A POINT OF

EXHIBIT "A"

PAGE 2 OF 4

INTERSECTION WITH THE EAST LINE OF DAYTONA NATIONAL GARDENS PARK, MB 10, PG 219 VOLUSIA COUNTY FLORIDA; THENCE SOUTHERLY ALONG SAID EAST LINE TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF HARMONY AVENUE; THENCE SOUTHWESTERLY AND WESTERLY ALONG SAID RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95; THENCE SOUTHERLY ALONG SAID EAST RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SECTION 1, TOWNSHIP 14S, RANGE 31E, VOLUSIA COUNTY FLORIDA; THENCE WESTERLY ALONG SAID SOUTH LINE TO A POINT OF INTERSECTION WITH THE EAST BANK OF GROOVER BRANCH; THENCE NORTHERLY ALONG SAID EAST BANK TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SECTION 2, TOWNSHIP 14S, RANGE 31E; THENCE WESTERLY ALONG SAID NORTH LINE TO A POINT OF INTERSECTION WITH THE WEST BANK OF GROOVER BRANCH; THENCE NORTHERLY AND WESTERLY ALONG SAID WEST BANK TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SECTION 35, TOWNSHIP 13S, RANGE 31E, VOLUSIA COUNTY FLORIDA; THENCE EASTERLY ALONG SAID NORTH SECTION LINE TO A POINT OF INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE NORTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE WEST BOUNDARY LINE OF THE CITY OF ORMOND BEACH CORPORATE LIMITS (PROJECTED SOUTHERLY); THENCE NORTHERLY ALONG SAID WEST BOUNDARY LINE TO A POINT OF INTERSECTION WITH THE NORTHERLY BOUNDARY LINE OF AFORESAID CITY OF ORMOND BEACH FLORIDA CORPORATE LIMITS; THENCE FOLLOWING ALONG SAID BOUNDARY LINE TO POINT OF INTERSECTION WITH THE NORTH LINE OF GOV'T LOT 1, SECTION 6, TOWNSHIP 14S, RANGE 32E; THENCE EASTERLY ALONG SAID NORTH LINE TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF SOUTHLAND ROAD; THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE SOUTHWESTERLY LINE OF PINE CREEK ESTATES, MB 38, PAGES 142-143, VOLUSIA COUNTY FLORIDA; THENCE SOUTHEASTERLY ALONG SAID SOUTHWEST LINE TO A POINT OF INTERSECTION WITH THE WEST BOUNDARY LINE OF ORMOND LAKES UNIT 2A, MB 47, PAGES 136-137, VOLUSIA COUNTY FLORIDA; THENCE SOUTHERLY ALONG SAID WEST BOUNDARY LINE TO A POINT OF INTERSECTION WITH THE NORTHEAST PROPERTY LINE OF 1281 N US HIGHWAY NO. 1; THENCE NORTHWESTERLY ALONG SAID PROPERTY LINE TO A POINT OF INTERSECTION WITH THE SOUTHEAST BOUNDARY LINE OF ORMOND COMMERCE PARK, OR 5935, PAGES 2857-2931, VOLUSIA COUNTY, FLORIDA; THENCE SOUTHWESTERLY ALONG SAID BOUNDARY LINE TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF N US HIGHWAY NO. 1; THENCE SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF WALL AVENUE PROJECTED SOUTHERLY; THENCE SOUTHWESTERLY ALONG SAID PROJECTED LINE TO A POINT OF INTERSECTION WITH THE NORTHWEST CORNER OF LOT 18, BLOCK 2, AS PLATTED IN THE TOMOKA ESTATES RESUB, MB 11, PG 195, VOLUSIA COUNTY FLORIDA; THENCE CONTINUE SOUTHWESTERLY ALONG THE WESTERLY LINE OF SAID LOT 18 (PROJECTED SOUTHWESTERLY) TO A POINT OF

EXHIBIT "A"
PAGE 3 OF 4

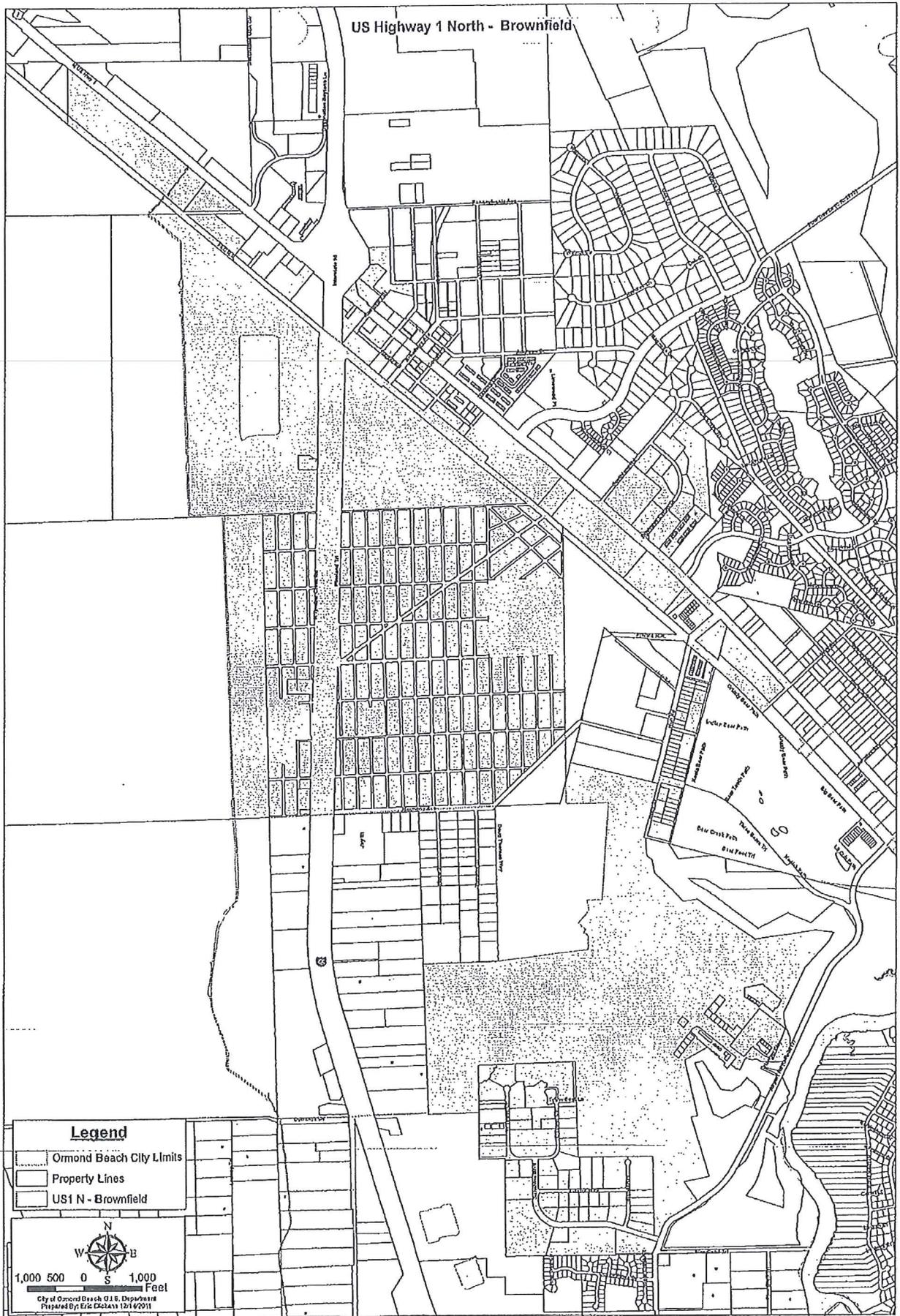
INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF THE FLORIDA EAST COAST RAILWAY; THENCE NORTHWESTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE EASTERLY BOUNDARY LINE OF UNRECORDED TOMOKA HEIGHTS, OR 2026, PG 1133, VOLUSIA COUNTY FLORIDA; THENCE SOUTHWESTERLY ALONG SAID BOUNDARY LINE TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF OCCUPIED PALMETTO ROAD AS PLATTED IN AFORESAID UNRECORDED TOMOKA HEIGHTS; THENCE NORTHWESTERLY ALONG SAID SOUTH LINE TO A POINT OF INTERSECTION WITH THE BOUNDARY LINE OF RIVERBEND GOLF CLUB LEASE AS SURVEYED AND PLOTTED BY CONSOLIDATED SURVEY INC, 5/29/2007; THENCE FOLLOWING SAID PLOTTED LEASE LINE TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF AIRPORT ROAD; THENCE SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE TO A POINT OF INTERSECTION WITH THE SOUTHEAST CORNER OF AFORESAID AIRPORT BUSINESS PARK PHASE I; THENCE WESTERLY ALONG THE SOUTH BOUNDARY LINE OF SAID AIRPORT BUSINESS PARK PHASE 1 TO THE POINT OF BEGINNING.

AND ALSO THE FOLLOWING PARCELS OF SAID PUBLIC RECORDS AND DESCRIBED AS FOLLOWS:

1561 N US HIGHWAY NO. 1, (CITY ORDINANCE 2011-09, AS RECORDED IN MAP BOOK 6575, PAGES 2321-2173, VOLUSIA COUNTY, FLORIDA), **1571 N US HIGHWAY NO. 1** (CITY ORDINANCE 2011-12, AS RECORDED IN MAP BOOK 6587, PAGES 2046-2072, VOLUSIA COUNTY, FLORIDA), **1567 N US HIGHWAY NO. 1** (CITY ORDINANCE 2011-11, RECORDED IN MAP BOOK 6587, PAGES 2020-2045, VOLUSIA COUNTY FLORIDA), **1545 N US HIGHWAY NO. 1** (CITY ORDINANCE 2010-46, RECORDED IN MAP BOOK 6525, PAGES 518-528, VOLUSIA COUNTY FLORIDA), THAT PORTION OF VACATED **ATLANTIC ROAD** (VOLUSIA COUNTY RESOLUTION NO. 89-147), THAT PORTION OF ANNEXED **ROSEMARY ST** (BETWEEN AFORESAID VACATED ATLANTIC ROAD AND N US HIGHWAY NO. 1 RIGHT-OF-WAY LINE), THAT PORTION OF ANNEXED **BENTON ST**, (BETWEEN ATLANTIC ROAD AND N US HIGHWAY NO. 1 RIGHT-OF-WAY LINE),

1521 N US HIGHWAY NO. 1 (CITY ORDINANCE 2011-10, RECORDED IN MAP BOOK 6375, PAGES 2293-2320, VOLUSIA COUNTY, FLORIDA), AND THAT PORTION OF ANNEXED **BROADWAY AVE** (BETWEEN AFORESAID VACATED ATLANTIC ROAD AND N US HIGHWAY NO. 1 RIGHT-OF-WAY LINE).

LESS AND EXCEPT LOTS 27 & 28, AND THE SOUTHWEST 12 FEET OF LOT 26, OF BLOCK 60, NATIONAL GARDENS, (MB 10, PG 250, PER OR 4262, PG 2718-2719, PER OR 5716, PG 4931)





CITY OF ORMOND BEACH

22 South Beach Street • Ormond Beach, FL 32174 • (386) 677-0311 • Fax (386) 676-3330

CITY MANAGER MEMORANDUM

To: The Honorable Mayor Kelley and City Commissioners
Through: Joyce A. Shanahan, City Manager
From: Richard P. Goss, Planning Director
Date: February 21 2012
Subject: Resolution Designating US 1 North Brownfield Area

Introduction

This is a resolution designating the US 1 North Brownfield Area pursuant to the Florida Brownfield Redevelopment Act.

Background

Following the consideration of the designation of the Granada Brownfield area, an interested citizen suggested designating the US 1 North area including industrial and commercial areas within Ormond Crossings and the Ormond Beach Municipal Airport/Business Park as a Brownfield. In response to that request, and in addition to the Granada Brownfield area workshops, three more public workshops were held to gauge property owner interest of the financial benefits and opportunities a Brownfield designation could provide to properties located in the US 1 North area.

The Planning Board met on January 12, 2012, and held the first of two required public hearings on the proposed US 1 North Brownfield Area. Board members discussed the Brownfield Program and its implementation in the US 1 North area at great length. A question was raised about the proposed size of the US 1 Brownfield in accordance with the criteria of the Brownfield Program. Staff explained that there are examples of Brownfields throughout the state of Florida that encompass large areas and even entire cities. For example, the entire downtown of Orlando, much of Ocala and the City of Quincy are designated Brownfield areas. When staff analyzed the proposed area to be included in the North US 1 Brownfield, the Brownfield Program criteria was used and only those properties with commercial or industrial land uses with the potential for economic development were included in the proposed Brownfield designation. The State generally leaves the determination of the boundary of a Brownfield to the municipality.

The Planning Board questioned the timing of the proposed project following the Granada Brownfield designation, why the North US 1 area was targeted, the City's lack of experience with Brownfields, and the cost of implementation of a Brownfield designation. Staff explained there was no correlation between the timing of the North US 1 Brownfield designation compared with the Granada designation other than as the municipality learned more about the benefits of the Brownfield Program, the public later expressed an interest initially in designating

the airport area because of the potential for financial incentives. As the project evolved, additional areas that could potentially benefit from the program were identified and included in the proposed boundary. Staff advised that the current two designations that the City is seeking are the first Brownfield designations ever sought within this municipality. As such, there will be a learning curve that could be labor intensive throughout the processes of designation and implementation. Staff reviewed the program in its entirety and had extensive discussions with the State about the potential benefits of the program and concluded that the Brownfield Program could be used as a means to allow the City of Ormond Beach to access federal funds that have been set aside for redevelopment purposes. The City does have some economic development funds specifically for creating jobs as well as undesignated funds that the City could tap into for its contributions toward implementation of Brownfield designations. Staff anticipates that the cost associated with implementing Brownfield designations will be greater in terms of staff time than in providing financial support. While there will be some financial assistance the City will be required to provide, the financial benefits from the State are expected to far exceed the City's anticipated investment.

The Board also discussed the possibility of the State running out of grant funds and the potential for delays on projects if businesses are depending on receiving financial assistance. Staff advised that there is no way of predicting such a scenario and explained that the mandate of government today is to create jobs. If funds are exhausted, perhaps the State would set aside more funds based on need. The precedent has been that the State recently increased the annual cap of the program from 2 million to 3 million dollars. One member of the public expressed concern over potential traffic impacts caused by the Brownfield designation. Staff explained that the land use and zoning of the proposed properties for designation are already in place; the Brownfield Program is voluntary rather than regulatory. The Brownfield designation will have no impact to traffic. The Planning Board voted (6-1) to recommend approval. The public hearing before the City Commission is the second and final public hearing required by the Brownfield Redevelopment Act.

Discussion

A Brownfield designation is a formalized process involving a resolution, 2 public hearings and informational meetings. Designation through the Brownfield Program has various financial incentives such as tax credits and loan guaranties offered through Enterprise Florida. In addition, individual sites with environmental issues have a host of other benefits such as liability protection for the property owner and lender, and voluntary cleanup tax credits. There are also federal benefits that are available, including grants and the Brownfield Federal Tax Incentive, which allow environmental cleanup costs to be fully deducted in the same year they occur. These federal and state incentives are flexible enough to dovetail quite nicely with the Ormond Crossings CRA and other redevelopment efforts in the US 1 North area. The City is also empowered by Section 376.84, F.S. to provide financial, regulatory or technical assistance beyond the state and Federal incentives provided.

A maximum effort to inform affected property owners of this designation occurred during the fall of 2011. A series of three Brownfield Area workshops were conducted in 2011 on October 11th and 27th and November 8th for the purpose of informing and educating property owners about the benefits and opportunities a Brownfield Area designation provides in redevelopment of properties. Staff and the Florida Department of Environmental Protection assisted property owners in understanding the program and its incentives. In addition, individual flyers were sent to every property owner within the proposed designated area. Staff fielded a number of telephone inquiries about the program throughout the period of time when workshops were conducted.

Workshop Results

Relative to the Granada Brownfield Workshops, workshop attendance was low. This may have been due to 4 previous educational workshop held related to the Granada Brownfield designation. However participant response was generally positive. There was a general understanding that the program is voluntary rather than regulatory and there was a realization of the economic incentives provided by the Brownfield Program.

Advisory Board Needed

The City of Ormond Beach is required to use an existing or establish an Advisory Committee that can advise the City Commission regarding redevelopment in the brownfield area. By statute, members of the advisory committee should be made up of residents adjacent to the brownfield area, businesses operating within the brownfield area, and other interested parties deemed appropriate. In response to the Granada Brownfield, the City has established a 7 person advisory board that is anticipated to function as the sole Board to review any and all Brownfield Area projects. The Brownfield Advisory Board will be required to comply with the Sunshine Laws.

In Summary

After reviewing the enabling Statute and operating program guidelines, it is clear that the Florida Brownfield Program is voluntary, not regulatory and designed to assist redevelopment through the use of financial tax incentives. The goal of layering the Brownfield designation on top of the Ormond Crossings CRA will make investment and reinvestment become even more attractive in the US 1 North area. There are currently 10 designations in Volusia County - all in cities. Four of those designations include Community Redevelopment Areas. The area for designation is unchanged from the originally proposed map presented at the workshops in the fall of 2011. There are 311 parcels involving 2,113 acres. Staff received no correspondence from property owners requesting their property be removed from the list of properties contained within the proposed designated area.

Budget Impact

The job bonus incentive requires an 80%/20% split between the State and the City. An applicant is eligible for a job bonus incentive of \$2,500 for each additional job that is created over and above an initial five jobs. The City's pro rata portion of the \$2,500 is \$500 of the job bonus incentive. Since the jobs are tied to redeveloping a property, funds within the redevelopment line item of the Redevelopment Trust Fund are sufficient and can be used for that portion of the CRA that is located within the US 1 North Brownfield Area. Funds for the City's match outside of the CRA will need to be appropriated from General Fund Reserves at the time an application for an eligible project is submitted to the City staff for review and City Commission action. If approved, the application package is then transmitted to Enterprise Florida.

Recommendation

Staff is recommending the City Commission approve this resolution designating the US 1 North Brownfield Area as described and depicted therein pursuant to the Florida Brownfield Redevelopment Act.

ATTACHMENTS:

Name:

[ID US 1 North Brownfield Designation Staff Report.pdf](#)

[ID 12-021A R E - BROWNFIELD AREA DESIGNATION US1 NORTH P12-0009G.pdf](#)

Description:

US 1 North Brownfield Designation Staff Report

Resolution

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: January 2, 2012

SUBJECT: M 12-037 US 1 North Brownfield Designation

APPLICANT: Administrative

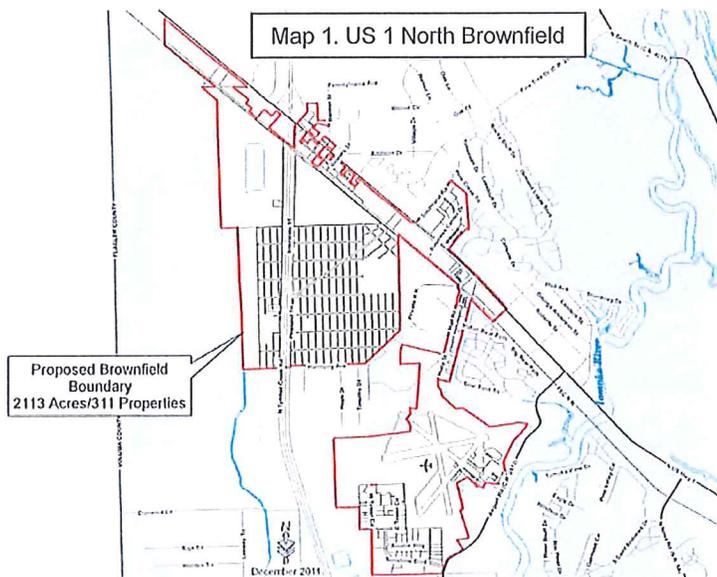
PROJECT PLANNER: S. Laureen Kornel, AICP, Senior Planner

INTRODUCTION: This is an administrative request to consider a proposed Brownfield Area designation known as the US 1 Brownfield including 311 parcels involving 2,113 acres. After the SR 40 Brownfield Designation was initiated, a member of the public recommended staff consider Brownfield designation in the US

1 North area containing properties which are contiguous along North US 1, the Ormond Beach Municipal Airport/Business Park and Ormond Crossings as depicted in Map 1. In response, staff examined the feasibility of designating the subject area and conducted a series of informational public workshops to provide information and receive input on the Florida Department of Environmental Protection (FDEP) Brownfield Redevelopment Program.

FDEP, the state agency responsible for the Brownfield Redevelopment Program, frames

the program as a smart growth approach to community, economic development, environmental, land use, tax base and urban redevelopment issues. Brownfield redevelopment is one area where environmental and economic development goals further each other. In Florida, cities and counties throughout the state have designated Brownfield areas as a priority due to the emphasis placed on economic and urban redevelopment initiatives. The current administration in Tallahassee for the State has placed a priority on the Brownfield Redevelopment Program because of its proven record in job creation.



The City's Brownfield Program is being presented to the Planning Board as a public hearing item pursuant to the Board's authority outlined in Section 1-15 C.1.c. of the Land Development Code.

BACKGROUND:

Proposed Area Overview

As previously stated, the proposed Brownfield Area generally lies along the US 1 North Corridor including Ormond Crossings and the Ormond Beach Municipal Airport/Business Park. The US 1 corridor has historically been used as the primary north/south arterial thru the City of Ormond Beach. The corridor has changed with age over time and has somewhat declined in aesthetic character. Some sections of the corridor particularly near the interchange are characterized by overhead utilities, sign clutter, and ingress/egress conflicts with deteriorating buildings. The subject area has an inter-mixing of properties in unincorporated Volusia County and the City of Ormond Beach with differing sometimes conflicting standards and has been identified as a redevelopment opportunity. Ormond Crossings, already designated a CRA, consists primarily of vacant lands and is yet to be developed. Though Ormond Crossings is not considered derelict or declining in aesthetic character, at present the property is idle and economically underutilized. The Ormond Beach Municipal Airport/Business Park consists of a variety of businesses including manufacturing, assembly, offices, and communication and is viewed as an area with the potential to generate increased employment in the City of Ormond Beach.

Designation Criteria

In defining the boundaries of the proposed area the City considered the following criteria:

1. Whether the Brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural or historical preservation purposes.

Overall, the area for the proposed Brownfield designation fits the criteria used to determine areas to be designated.

Brownfield Program Definitions

The Brownfield Program is designed to redevelop previously used sites including Brownfield sites, locating needed jobs to an urban area and revitalizing commercial corridors where shopping patterns have changed. To understand the Florida Brownfield Redevelopment Program, three definitions are provided:

1. Brownfield's are abandoned, idled, or underused industrial and commercial properties where expansion, reuse, or redevelopment may be complicated by real or perceived environmental contamination.

2. Brownfield area means a contiguous area of one or more Brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency designated Brownfield pilot projects. 376.79(4) F.A.C.
3. Brownfield site means real property, the expansion, redevelopment or reuse of which may be complicated by actual or perceived environmental contamination. 376.79(3) F.A.C.

The Brownfield Program is voluntary and not regulatory. The City is not proposed to change land use or zoning on any of the properties located within the proposed Brownfield Area. A Brownfield designation according to Florida Statute 376 is a formalized process involving a resolution, 2 public hearings and informational meetings. The public hearing before the Planning Board serves as one of those required public hearings.

Financial Incentives Brownfield Area designations offer three financial incentives that are available to all property owners within the designated area regardless whether environmental issues exist or not on a site. These incentives include:

1. A tax credit of up to \$2,500 for each new job above the first five jobs created within the designated area;
2. A sales tax credit on building materials purchased to construct a housing project or mixed-use project in the designated area; and
3. A last resort loan guarantees from 50% to 75% of a total loan.

All these incentives are offered through Enterprise Florida. The one time job bonus is an 80/20 cost sharing with the State. The State provides \$2,000 and the City provides \$500.

In addition to the three incentives provided for area designation, individual sites with environmental issues have a host of other benefits such as liability and legal protection for the property owner and lender, and voluntary cleanup tax credits. There are also federal benefits that are available, including grants and the Brownfield Federal Tax Incentive that allows environmental clean-up costs to be to be fully deducted in the same year they occur.

Advisory Board Requirement

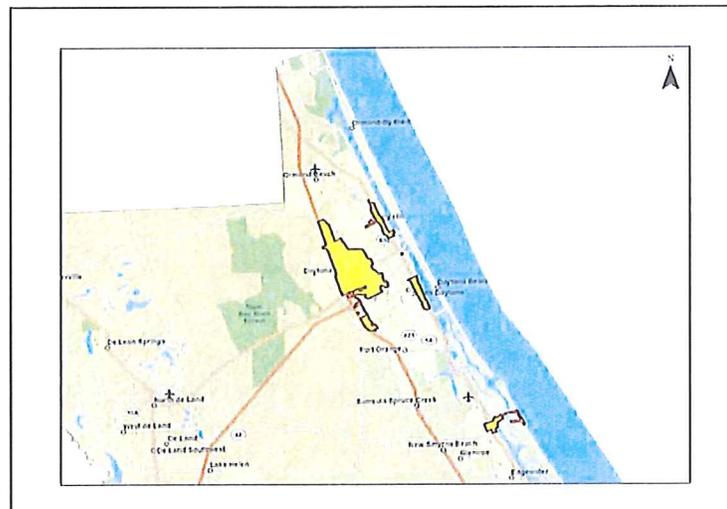
The City is required to use an existing or establish an Advisory Committee that can advise the City Commission regarding redevelopment in the Brownfield Area. In accordance with Florida Statutes, members of the advisory committee should be made up of residents adjacent to the Brownfield Area, businesses operating within the Brownfield area, and other interested parties deemed appropriate.

Current Brownfield Initiatives in Volusia County/Central District/State

The following Brownfield designations exist in Volusia County and are depicted in Map 2 below.

- Daytona Beach Area – Aero Park - (Airport, Aero Industrial Park, ERAU, and Clyde Morris Boulevard properties)
- Holly Hill Special Economic Enhancement District (CRA-downtown)
- New Port LLP (Port Orange) – (Individual property)
- NSB Brownfield Enhancement Zone (CRA-downtown)
- NSB Airport (recent designation)
- River walk Project Area (CRA Downtown Port Orange)
- South Daytona Florida Brownfields Economic Enhancement Area (CRA-downtown)
- William Lofts (Daytona Beach) –(Individual property in downtown)
- 1601 Tonia Road (NSB) – (Individual property)
- Central Business Corridors (Daytona Beach)

Map 2 – Volusia County Brownfield Designations



- Central District:
 - ◆ 60 Brownfield Designation Areas (1 in 2011 so far)
 - 39,100 acres in Brownfield Area Designations
 - >433 acres in Brownfield Sites (1% of Brownfield Area)

- Statewide:
 - ◆ 262 Brownfield Designation Areas
 - >198,000 acres in Brownfield Area Designations
 - >39,100 acres in Brownfield Sites (2% of Brownfield Area)

Brownfield Economic Success

- New Jobs - January 2009 to June 2010
 - ◆ 2,336 new direct jobs,
 - ◆ 3,392 new indirect jobs
 - ◆ New Capital Investment - \$387,903,000

- Since Program Inception in 1997
 - ◆ 13,163 new direct jobs,
 - ◆ 16,529 new indirect jobs
 - ◆ Capital Investment - \$1,679,539,591

Public Outreach

A substantial effort to inform property owners of this proposed designation occurred during the fall of 2011. A series of workshops were held on October 11 and 27, and November 8 with the intention to inform and educate property owners about the benefits and opportunities a Brownfield Area designation provides in redevelopment of properties. The Florida Department of Environmental Protection attended two of the three workshops to assist in disseminating information. In addition staff sent flyers to each property owner located in the proposed area. Workshops were not well attended it is thought perhaps due to the previous four informational Brownfield workshops that were held to designate the Downtown Brownfield.

CONCLUSION: After reviewing the enabling Statute and operating program guidelines, it is clear that the Florida Brownfield Program is voluntary, not regulatory and designed to assist redevelopment through the use of financial tax incentives. The fact that the Brownfield Designation is proposed to include Ormond Crossings, a CRA, further encourages reinvesting in the North US 1 Area. There are currently ten Brownfield designations in Volusia County – all in cities and one proposed designation in the Downtown area of the City of Ormond Beach. Five of those designations include either all or portions of downtown Community Redevelopment Areas. There are 311 parcels involving 2,113 acres in the proposed US 1 Brownfield. Staff received no correspondence from property owners with properties in the proposed Brownfield Area objecting to their property being included in the designation; therefore no property has been deleted from the original list of properties.

RECOMMENDATION: It is recommended that the Planning Board recommend to the City Commission that the US 1 North Brownfield be designated as a Brownfield Area in accordance with FS 376.