

B. RZ 12-098: 1634 North US HWY 1 (Super 8 Motel) - Rezoning

This is an administrative request for approval of a Rezoning for ±4.6 developed acres owned by Ajal Management Inc. from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

IX. MEMBER COMMENTS**X. ADJOURNMENT**

M I N U T E S
ORMOND BEACH PLANNING BOARD
Regular Meeting

April 12, 2012

7:00 PM

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

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

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

I. ROLL CALL

Members Present

Lewis Heaster
Harold Briley
Doug Thomas
Doug Wigley
Al Jorczak
Rita Press
Pat Behnke

Staff Present

Randy Hayes, City Attorney
Richard Goss, AICP, Planning Director
Steven Spraker, AICP, Senior Planner
Meggan Znorowski, Recording Technician

II. INVOCATION

Mr. Wigley led the invocation.

III. PLEDGE OF ALLEGIANCE

IV. NOTICE REGARDING ADJOURNMENT

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

V. APPROVAL OF JANUARY 12, 2012 PLANNING BOARD MINUTES

VI. PLANNING DIRECTOR'S REPORT

Mr. Goss advised that the Brownfield Advisory Board held its first meeting on April 10, 2012. Mr. Goss stated that Olive Grove was already taking advantage of the sales tax incentive, and with the hospital set for demolition, the developer of that property will be able to use the incentives provided by the Brownfield designation as well.

VII. PUBLIC HEARINGS

A. SE 12-71: Caffeine Outdoor Activity Special Exception, 45-49 West Granada Boulevard and 50 New Britain Avenue

Steven Spraker, Senior Planner, Planning Department City of Ormond Beach, stated that this is an application for a Special Exception to allow activity, specifically live entertainment under certain conditions at 45-49 West Granada Boulevard and 50 New Britain Avenue. Mr. Spraker explained the location and orientation of the subject property. Mr. Spraker stated the properties along New Britain Avenue are zoned as Commercial (B-1) with several nonconforming houses; behind the New Britain property is the Lincoln Avenue Historic District which is a single family residential area; there has been significant renovations to the subject properties recently. Mr. Spraker explained the zoning map of the area and the designations of the surrounding properties. Mr. Spraker showed pictures of the front of the subject property as well as the renovations made to the property. Mr. Spraker stated that the area between the buildings has been turned into an outdoor deck which proved to be popular and advances a lot of the goals in the downtown redevelopment area to stimulate development; the property owner has done significant renovations to the carriage house at 50 New Britain Avenue via a property improvement grant- façade changes, outdoor bar and seating area, and restrooms; and it has become a focal point for entertainment.

Mr. Spraker stated the request is to allow outdoor entertainment; in the application they have requested from 4:00 PM to midnight Monday through Saturday and noon to 8:00 PM on Sunday. Mr. Spraker stated staff recommended the music stop at 10:00 PM and 8:00 PM on Sunday. Mr. Spraker continued that Staff reviewed the applicant's request against the criteria in the Land Development Code; Section 2.57 requires a sound test to be performed, must show where the music is going to go, and a site plan that reflects that. Mr. Spraker explained that on March 2, 2012, the applicant conducted a sound test; fourteen days prior to that the applicant sent a notice to the property owners within 600' inviting them to the sound test; at that sound test, the applicant had a decibel meter by their sound engineer and the City's Neighborhood Improvement Division was present with a sound meter so the decibels could be verified; the Staff report contains the summary and the locations of where the sound tests were conducted.

Mr. Spraker explained the decibel readings and the locations where they were recorded; behind the carriage house on New Britain it was 50-55, it appears that the cars were louder which causes the increased readings; along the north side of New Britain there were a variety of readings ranging from 49-60. Mr. Spraker explained that the Code of Ordinances sets the standards for audible sounds; in residential areas the decibel level cannot exceed 60 decibels from 7:00 AM to 10:00 PM, after 10:00 PM it is 55 decibels, which is why 10:00 PM seemed to be a natural cutoff point to follow the decreased sounds required in the Code of Ordinances. Mr. Spraker explained a diagram of where the music performers were located. Mr. Spraker stated it was his understanding that Caffeine has had music prior to their application and he cannot speak to how loud they were, and he can only speak as to the levels observed at the sound test. Mr. Spraker stated that what they have seen in the Rivergrille application, there was a provision that if there was a violation twice within a calendar year, they would lose the special exception. Mr. Spraker stated Staff thinks that is important in order to provide an enforcement mechanism; there is a buy in from the property owner knowing that if they get a loud band to perform and the neighbors complain, that would be one violation with the potential of losing this special exception.

Mr. Spraker stated that during the public notification process of the application, Staff received two inquiries; one from 48 Lincoln Avenue. Mr. Spraker continued that Staff met and looked at what they were doing on the property on the north side of New Britain and the sound test; the other property owner was at 75 Lincoln Avenue- they wrote a letter which is on the dais, which states concerns and requests either to deny or establish restrictions. Mr. Spraker explained Staff reviewed the application against the LDC criteria: the outdoor activity, the general criteria for special exceptions, and the development order criteria. Mr. Spraker explained that the Code doesn't prohibit outdoor activity, what it says is that you need to go through a public hearing process; the applicant has held a neighborhood meeting with the sound test, advertised for Planning Board and City Commission, which will be the next step, and it gives everyone an opportunity to speak for or against it; the Planning Board and City Commission can impose whatever reasonable conditions they feel are appropriate to protect the quality of life and not negatively impact surrounding properties; Staff is recommending approval with the hours until 10:00 PM Monday through Saturday and 12:00 PM to 8:00 PM on Sunday.

Mr. Briley asked how many people attended the neighborhood meeting/sound test.

Mr. Spraker responded that there were no residents, although Ms. Behnke attended the test and she was the only member of the public that attended the meeting.

Mr. Jorczak asked Mr. Spraker to point on the map to 48 Lincoln Avenue and 75 Lincoln Avenue relative to Caffeine.

Mr. Spraker did so and explained their location.

Mr. Heaster asked for a comparison of sounds in order to understand the decibel readings recorded at the sound test and is 60 dba comparative to a lawn mower.

Mr. Spraker responded that 60 dba is a normal conversation; a lawn mower would be approximately 75-80 decibels.

Mr. Heaster asked if there are two demonstrated code violations throughout the year, what review board would review the violations.

Mr. Spraker responded that the review organization would be the Special Master. Mr. Spraker stated just because the applicant received a code violation doesn't mean they are guilty; they have to go through the process; the Neighborhood Improvement Division (NID) or Police Department would have to prove that a violation occurred and the judge acting as Special Master would have to agree.

Mr. Heaster inquired as to the time frame for that process.

Mr. Spraker responded thirty to sixty days.

Ms. Behnke stated to give a point of reference; she just checked Mr. Spraker's sound over the microphone was 77 decibels.

Mr. Wigley asked if Staff's recommendation was consistent with Rivergrille.

Mr. Spraker responded that the enforcement provision is consistent with what was applied to Rivergrille.

Mr. Wigley inquired as to the hours of music.

Mr. Spraker responded that he would have to check the Development Order.

Ms. Press inquired about the two entertainers; that there were to be no more than two, a singer and acoustical guitar, and as to the type of entertainment.

Mr. Spraker replied that the applicant would be better at addressing that.

Ms. Behnke stated that originally the application requested two vocalist and now it calls for two live performers, which doesn't mean they cannot have a recorded hip-hop band or the like recorded in the background that would be playing music along with the live performers; she feels that needs to be clarified.

Mr. Spraker responded that it is at the discretion of the Board as to what the Board feels is appropriate.

Ms. Behnke stated at Rivergrille it was two performers, their instruments, and their amplifiers.

Mr. Thomas asked with regards to Rivergrille, how long they were able to have live entertainment; how many complaints they have had in those four years.

Mr. Spraker responded he would have to look at the Development Order and he is not aware of any violations.

Mr. Thomas asked if they are playing an instrument or singing, it still cannot go over 60 decibels at a certain time.

Mr. Spraker responded that is correct.

Mr. Thomas stated noise is noise, it doesn't matter how it is generated.

Mr. Spraker responded yes.

Ms. Press stated she wanted to go over the process again. She asked what happens if someone thinks that the noise is too much and calls the police. Ms. Press asked if the police come with a meter.

Mr. Spraker responded that is correct; if they see a violation has occurred; the police would inform the management to turn the music down; the second part would be to record the violation and taking it through the Special Master process.

Ms. Press asked if they are allowed two of those.

Mr. Spraker responded that is correct and that is similar to what Rivergrille has done.

Mr. Thomas stated they are actually only allowed one because the second time would trigger the termination of the special exception.

Ms. Behnke stated anyone with an iPhone in their house can check the decibels.

Mr. Spraker stated that is correct, so there really is no reason for them to exceed the decibel limits and the technology is there to determine what the decibels are.

Dorian Burt, 203 Pine Cone Trail, Ormond Beach, Project Coordinator for the Highlander Corp. which owns Caffeine, 50 New Britain Avenue and Rose Villa. Ms. Burt stated she will answer any questions to the best of her ability; she wrote the application and when she requested two musicians, it meant two people. She stated that if one sings and one plays a guitar or both sing- not karaoke, not people singing with background music.

Ms. Press stated one of the sticking points might be the time. Ms. Press inquired during what hours Caffeine does the most business.

Ms. Burt responded that she put in until midnight; Thursday night is their busy night; Ms. Burt stated she would compromise at 11:00 by going to the lower decibel; they have purchased an expensive decibel reading meter and part of the valet's job is to constant monitor the sound; the applicant is not looking to lose this privilege; the applicant is going to ask for permission to build on the deck on the westerly side a band shell to keep the music in the courtyard.

Ms. Press thought it was interesting that the highest readings are right next door at Rose Villa and inquired if that bothered the patrons eating at Rose Villa.

Ms. Burt responded that the music faces easterly as to not project to the residences in the back so that may be why. Ms. Burt added that there was traffic outside and you cannot hear the music from Caffeine inside Rose Villa.

Ms. Behnke stated she is inclined to check on the hours that the Rivergrille was permitted because she thinks that works, and if that works the Board has set a precedent it should follow.

Mr. Spraker responded that Rivergrille was allowed 10:00 PM Monday through Thursday and 11:00 Friday through Sunday.

Ms. Behnke stated she thought it was fair to grant the same thing.

Mr. Thomas asked if there were any complaints about Rivergrille.

Mr. Spraker responded to the best of his knowledge there have been none.

Mr. Heaster stated he thinks the Board needs to take into consideration the location of the requests. Mr. Heaster stated that Rivergrille is more rural and Caffeine is urban, downtown with a lot more homes in close proximity than Rivergrille.

Ms. Burt stated Caffeine would happily give up Sunday night to 8:00 PM.

Mr. Thomas called for anyone in the audience to speak.

Ms. Ellen Hayden Needham, 48 Lincoln Avenue, Ormond Beach, stated that she and her husband, Jonathan, owned their historic home for fourteen years. Ms. Needham stated that they did meet with Ms. Burt and Mr. Spraker, and she didn't realize the application was for seven days a week. Ms. Needham stated that they are concerned about the noise level. Ms. Needham asked for clarification the noise level was supposed to be like normal conversation in their backyard.

Mr. Spraker responded that was to be the level at Caffeine's property line.

Ms. Needham asked if she hears louder than 60 decibels at her house than that's a problem.

Mr. Spraker responded yes, that is a violation.

Ms. Needham stated she did not want to police Caffeine, but she is concerned about seven days a week. Ms. Needham asked if the applicant will be having live music seven days a week and will it just be acoustic or bands.

Ms. Burt responded that acoustic means no singing and the applicant wants to have two people, no drums or pianos. Ms. Burt stated that if the applicant intends

to adhere to the decibels that are required by the City Ordinances and they do not want to lose the privilege of having the music.

Ms. Burt stated she was contacted by the Needham's and staff because currently there is temporary parking behind 43 New Britain Avenue. Ms. Burt continued that the Needhams have enjoyed living in their home with approximately 60' of buffer because the property was overgrown and some of it was cleared. Ms. Burt stated the applicant owns property at 64 Lincoln Avenue and the applicant is not looking to devalue that property along Lincoln Avenue.

Ms. Needham stated she just wanted to voice her concerns about Caffeine having music every night. Ms. Needham stated that they don't want to stand in the way of progress, but wanted clarity regarding the application.

Mr. Briley stated he understands the neighbors' concerns, the Board has talked about this for a long time and there was a transition from Granada Boulevard to Lincoln Avenue. Mr. Briley stated he would have no issue supporting the application and if the residents on Lincoln Avenue experienced issues they could contact the Highlander Corporation. Mr. Briley stated he was inclined to go along with the recommendations of what has been allowed with Rivergrille and Ms. Burt's amendment of stopping the outdoor music at 8:00 PM on Sundays.

Ms. Behnke stated she agreed with Mr. Briley.

Mr. Jorczak stated he concurred; that it is a reasonable way to approach the issue and is not too divergent from what was done with Rivergrille.

Ms. Press stated that the rule to only allow two violations is good protection. Ms. Press concluded that the fact that smart phones can detect decibel level is fantastic, and allowing the music to 11:00 PM is a reasonable time.

Mr. Wigley stated he agreed with Mr. Briley and he would like to see it consistent with what the Board required of Rivergrille with the exception of Sunday night brought back to 8:00 PM, which the applicant agrees with.

Mr. Heaster stated he doesn't necessarily agree with the Board. Mr. Heaster stated that he thinks it is a totally different geographic area, and it is more urban with residents and businesses downtown within close proximity to each other compared to the Rivergrill. Mr. Heaster stated he would be inclined to eliminate Sunday and allow it until 10:00 PM as requested for the other nights, taking into consideration the people that live in the area and the resident that wrote the letter.

Mr. Thomas asked Mr. Heaster if he didn't want music at all on Sundays.

Mr. Heaster stated that is his feeling.

Mr. Thomas stated that going by Rivergrille, and the way that this part of downtown is developing, it is exciting to see downtown grow and actually start define the area. Mr. Thomas stated he has lived here since 1973 and he is still

trying to figure out where downtown Ormond Beach is, and now he is starting to find the definition. Mr. Thomas stated he agrees with Mr. Briley with regards to the hours established for Rivergrille, and if the applicant is set the cut off to 8:00 PM on Sunday, Mr. Thomas thinks that is excellent idea.

Mr. Thomas stated he would entertain a motion.

Mr. Jorczak moved to adopt the application with the amendments of Monday through Thursday until 10:00 PM, Friday and Saturday until 11:00 PM, and Sunday to 8:00 PM. Mr. Wigley seconded the motion. Vote was called: Mr. Briley for; Mr. Heaster against; Mr. Jorczak for; Ms. Press for; Mr. Wigley for; Ms. Behnke for; Mr. Thomas for: motion carried 4 to 1.

B. SE 12-72: Lowe's Outdoor Activity Special Exception, 1340 West Granada Boulevard

Mr. Spraker stated this is a request for Special Exception for outdoor activity, which is the permanent display of product at 1340 West Granada Boulevard. Mr. Spraker explained the property is zoned Commercial (B-8) and Special Environmental (SE), which included the retention area. Mr. Spraker explained that when the application went through the notification process, Chelsea Place, an abutting subdivision, was concerned about the Special Environmental area. Mr. Spraker stated the application is solely for the outdoor product display in front of the store and there is no development activity within the special environmental area.

Mr. Spraker explained that the outdoor activity is listed as a Special Exception use. Mr. Spraker stated the LDC allows outdoor product display through a Special Event Permit four (4) times a year, fourteen (14) days at a time for a total of fifty-six (56) days a year. Mr. Spraker explained that this application is to supplement the 56 days they are allowed under special event permit and allow outdoor display year round. Mr. Spraker stated Lowe's would still have the ability to do special event permits if they want to hold a tent side or expand beyond the limits of what they have identified in their site plan.

Mr. Spraker stated within the staff report there is a site plan which shows the limits of the display area. Mr. Spraker explained that Staff reviewed this application based on the criteria outlined in the LDC with the first criteria assessing the impacts to residential uses. Mr. Spraker stated that all of the activity is occurring in front of the store, and the residential is by the special environmental area, and therefore no impacts residential uses exist. Mr. Spraker continued by stating the second criteria was the need for a site plan demonstrating where the outdoor activity was to be located, which was included in the packet, and established the parameters. Mr. Spraker stated that during the pre-application meeting Staff raised concerns about enforcement, and after talking to Neighborhood Improvement Division (NID) and other City Staff, Staff has

recommended that if the applicant violates limits of the outdoor display area in the application, they would be subject to code enforcement just like everyone else. Mr. Spraker explained that they would be issued a Notice of Violation, given so many days to correct the problem, if the violation is not corrected, the applicant would have to appear before the special master.

Mr. Spraker explained that Staff also reviewed the application based on the other criteria in the Code including the general Special Exception criteria and the development order criteria. Staff does not believe that this would negatively impact other properties. Mr. Spraker displayed pictures to the Board of the property with outdoor storage. Mr. Spraker explained that Staff has reviewed the application against the criteria of the Land Development Code and recommends approval. Mr. Spraker concluded that the Board can impose any reasonable condition that the Board feels necessary to protect surrounding properties in order to not devalue them.

Mr. Briley asked if there have been many complaints or have they been cited by the City in the past for outdoor display.

Mr. Spraker responded that NID could not find any Notices of Violation for outdoor product display.

Ms. Behnke stated that Lowe's is her husband's home away from home, and she has never been there that the plants were not outside. Ms. Behnke asked why this would be any different than what they have been doing all along; they cannot have a permit 365 days a year.

Mr. Spraker responded that what the applicant is requesting is to allow the outdoor product display per the submitted site plan year round. Mr. Spraker stated that he could not speak to what they have done historically and he could not speak for NID.

Mr. Spraker responded that this may be something the Board may want to consider in its review of the application.

Ms. Behnke stated it gives her concern that if they could not follow the rules in the past, why would the Board think they would follow them now.

Mr. Spraker stated he thinks that is a question for the applicant, and Staff is not in a position to answer that question.

Mr. Jorczak asked if most of the product would be moved inside at closing, with the issue being if they are allowed to be kept out overnight it could potentially increase crime and if there is a limitation of hours that the items are allowed to be stored outside.

Mr. Spraker responded in the pre-application meeting Staff asked this question and the response was that some of the items will be wheeled in and out and other items are chained permanently outside.

Mr. Heaster stated that it reminded him of a similar situation with Wal-Mart and their outdoor area. Mr. Heaster asked to be refreshed on the history of that situation.

Mr. Spraker replied that at the Wal-Mart site for a number of years their garden center was very small, so in order to increase their sales they stored and sold products outside. Mr. Spraker continued that there was a constant code enforcement case, and eventually Wal-Mart expanded the garden center, and to his knowledge they have not been in violation since.

Mr. Heaster stated that they disregarded the City for quite a time with a big corporate mentality.

Mr. Spraker responded that Wal-Mart's position was that it was cheaper to pay the fine and sell the products than to comply. Mr. Spraker explained that the Board has several considerations: the impacts to surrounding residential properties and whether or not the Board believes the applicant can stay within the limits that they are proposing. Mr. Spraker stated the LDC does not prohibit outdoor activity.

Mr. Heaster stated that from the Board's vantage point, it is the big neighbor across the street had a similar situation and they took advantage of it.

Mr. Spraker responded correct; they could have chosen to apply for a Special Exception.

Ms. Press stated that the issue before the Board is something allowed and is reasonable. A second issue is that NID doesn't enforce the outdoor activity regulation.

Mr. Heaster stated he wanted to stress the point of the similar type of user, a large corporation, which disregarded the local municipality, and the Board could be setting the City up for the same type of issues.

Mr. Rodger Strcula, Upam, Inc., 265 Kenilworth Avenue, representing Lowe's Home Centers, stated that they had their initial pre-application meeting with city staff on February 23, 2012 to propose to staff to look at having permanent outdoor display and sales area in front of the store, similar to other Lowe's within the state. Mr. Strcula stated Lowe's had not received any violations in the past from code enforcement on any material or product in front of the store and the applicant had prepared an exhibit to delineate the locations in front of the store where there would be different types of product. Mr. Strcula stated that this request is to permit convenience for the customer. Mr. Strcula stated that going through the Special Exception Criteria Items A-G- because they will be keeping

the product in front of the store, there will be no impact to parking or buffers and no impact to site lighting. Mr. Strickola stated that staff did have some concerns with regards to having products and merchandise outside defined areas which is why they have proposed to delineate it on the apron.

Mr. Adam Millus, Store Manager, Lowe's, 1340 West Granada Boulevard, Ormond Beach, stated that currently we are in a challenging environment, and as a general manager he is challenged year in and year out to increase sales and productivity through his establishment. Mr. Millus indicated that the increased sales opportunity will not only drive payroll, but will also provide approximately 5 additional part time employees through the entire year. Mr. Millus stated if someone purchases a lawn mower, large palm tree, or grill they have to go to the back of the store and bring it forward while the customer waits at the front of the store usually with a vehicle parked in the front.

Ms. Behnke stated that products have been outside consistently and the applicant was not permitted to do that. Ms. Behnke asked what assurance would the Board possibly have that if the special exception is granted that the applicant will stay within those boundaries and not creep out further because outside display of material has been going on without any approvals from the city.

Mr. Millus responded that over the years there had been rolling racks out in front of the garden gates, and the only time lawn mowers or grills were outside were by Special Event permit. Mr. Millus stated that Lowe's has utilized all of its permits for this year, so anything that has been outside this year has been approved and under a permit. Mr. Millus stated he has done that so his employees could get used to it, so they can meet the demands of the customer, but also to allow the community to come and shop.

Ms. Behnke stated she has lived here for nine years, and it has always been the same. Ms. Behnke asked how the Board can be assured that the applicant will stay within the guidelines given.

Mr. Millis responded that one of the concerns that they were presented with was ensuring that there was a defined boundary for products. Mr. Millus stated the painted yellow-striped areas for where the product will be placed and not outside of those stripes areas so as inspectors will simply drive by and determine if the product was contained within the yellow lines or not. Mr. Millis stated the lines are not there just for the City to see, they are there for his employees to follow the guidelines as well.

Ms. Behnke asked about the stacks of product in the parking lot on the side of the building.

Mr. Millis responded that is no longer there.

Ms. Behnke stated that the applicant had used all of their Special Event permits for this year, but would have special event permits in future years. Ms. Behnke

asked if that means in addition to the Special Exception, the applicant might set up tents in the parking lot.

Mr. Millis responded that the types of events that they have done in the past are children's events, safety events where they have invited community members to join them for different types of fairs; they have had a couple of events across the front of the store similar to the site lines submitted for power tool events especially around Daytona and the races.

Mr. Briley stated he was there a couple of weeks ago and along the west side of the garden center in the parking spaces there was pallets of mulch stacked. Mr. Briley asked if that was through a Special Event permit.

Mr. Millus responded no, and that was his mistake as he was trying something new to improve safety. Mr. Millus stated they had mulch on sale for a dollar which created a frenzy and they attempted a different traffic pattern.

Mr. Briley stated it seemed to work out well.

Mr. Millus responded that he thought that would be covered under the Special Event permit they had in place at the time, it was not, and as soon as he was notified of that it was removed.

Mr. Jorzak asked what they are going to do with the displays at night, and if it the applicant's intent to leave a lot of that displayed merchandise up overnight.

Mr. Millis replied it depends on whether it is mobile or not. He indicated rolling racks and pallets of material on the garden and lumber sides will be brought in, and things that are fully shrink-wrapped or items locked with a high-strength aircraft cable would be left outside. Mr. Millus stated employees are on duty 24 hours a day Sunday night through Thursday night, with that they do bring the night employees' vehicles to the front to block it off, and there is security in the parking lot.

Mr. Jorzak asked if they have had many reported theft issues.

Mr. Millus replied no.

Mr. Jorzak asked if they are generally inclined to report that.

Mr. Millis responded that they do not see a large portion of it, and it is not significant enough.

Ms. Press stated she was concerned about the propane. Ms. Press asked if it was contained in a cage.

Mr. Millis replied that the propane outside is caged and it also has safety barrier poles or is set behind a column of the store, the same as you would see at any convenience store that has propane cages outside.

Ms. Press stated she has a different attitude than most. She stated it is the applicant's property and there are certain parameters as to how far you can extend it; the security is left up to you; as long as it is not seen from Granada and she feels that the applicant should do the most they can to get the most sales and convenience for the customers. Ms. Press asked if they had considered having a cash register outside.

Mr. Millus responded that they have thought about it, and in some Lowe's stores they do put a temporary cashier outside. Mr. Millus stated one of the first things he learned in Ormond Beach is the honesty of the customers, and they don't want to be challenged on payment for their product. Mr. Millus continued that he has been here for 11 years, and all retailers are trained by their customers and they train their customers. Mr. Millus stated, for example, when he did the test of moving the mulch to the side to make it simpler, it confused their regular customers because they were looking for it a particular place.

Ms. Press stated that they are in an excellent location with no competition.

Mr. Heaster thanked Mr. Millus for coming and speaking to the Board. Mr. Heaster stated that he knows Mr. Millus is in a tough position because he is the general manager and he is supposed to maximize profits for the store. Mr. Heaster stated he has seen other stores where they have had merchandise outside, and the code is not as stringent here, and the merchandise creeps out and junks it up, his concern is that this location is the gateway into Ormond Beach.

Mr. Millus stated he is not familiar with what took place with Wal-Mart, and they are two very different businesses. Mr. Millus stated any time there was an issue that was brought to his attention; immediate action was taken regardless of what it was with his goal being to continue a long-standing relationship with the City. Mr. Millus stated they are going to continue to build on that relationship with or without this Special Exception. Mr. Millus stated he has a good relationship with the code enforcement inspectors, and he has invited them out to see if what he has is acceptable, and they have been very helpful in providing that feedback.

Mr. Thomas stated he liked the idea of the yellow lines so that a drive-by inspection can take place and that is convenient for the City and Lowe's employees.

Mr. Briley stated that when Lowe's first came to Ormond Beach he was concerned because when this site was developed, it was developed in Volusia County because they did not want to adhere to City of Ormond Beach regulations. Mr. Briley stated he didn't think it was fair to compare Wal-Mart and Lowe's because Wal-Mart has been a repeat offender of numerous code violations including overnight camping in the parking lot, outdoor display, and Wal-Mart

thought it was cheaper to pay the fine than stop the outdoor display. Mr. Briley stated he thinks Lowe's has been a good corporate partner in the City; they have been a good neighbor. Mr. Briley concluded that he doesn't find anything of their outdoor display offensive or tacky.

Mr. Jorczak stated that he gives a lot more business to Lowe's than he gives to Home Depot. Mr. Jorczak continued that he doesn't find what they are doing objectionable, and likes the fact that they have set guidelines as to where the displays are going to go and makes the front more attractive for customers. Mr. Jorczak concluded if it can help the store with its profit numbers and help the customers with respect to access to merchandise then it is a good business decision; he supports their request.

Mr. Thomas called for anyone in the audience that would like to speak.

Mr. Jodi Davis, 21 Southern Pine, Ormond Beach stated he appreciates the opportunity to speak about concerns over the applicant's submission. Mr. Davis presented pictures to the Board. Mr. Davis stated he has known Mr. Millus for a number of years and to be a good manager, but he doesn't know if Mr. Millus is going to be there always and Mr. Davis' concern is that what is proposed in the applicant's submission is not always going to be the case. Mr. Davis requested the Board look at the picture of the garden center frontage, the Board will notice on the right hand side there is a parking area and that has been filled for at least four years with bulk product. Mr. Davis continued that only recently has it been removed and only based on code enforcement visits did that product get moved to the rear of the parking lot and the property as a whole.

Mr. Davis stated he has lived in the community for 20 years, and he has seen the problems the City had in keeping Wal-Mart in check. Mr. Davis stated Wal-Mart was flagrant about their non-compliance, but they are in compliance now. Mr. Davis questioned why the City would give a similar entity the opportunity for a special exception after finally getting Wal-Mart in compliance. Mr. Davis stated Lowe's doesn't comply with the Land Development Code with regards to the screening requirements for the garden center. Mr. Davis directed the Board's attention to a picture of the steel fencing. Mr. Davis stated all of that is supposed to have screening on it, but large chunks of that screening are missing. Mr. Davis requested that as the Board considers the last item on its agenda tonight and the new architectural design standards that it considers if the City is going backwards.

Mr. Davis suggested to the Board that the application is not complete, and there is no example provided of the fence board display that is intended. Mr. Davis stated in the original application submitted by the applicant, the Board will see on the layout design, that Slide 1 is duplicated and says Slide 2, but if you go to Slide 1 you will see a 5' by 30' fence display, and there has been no example provided of what that will look like. Mr. Davis stated in regards to the picnic benches, the grills, and what is not indicated are lawn mowers- those encroach on the fire lane. Mr. Davis stated he didn't think it was a good idea to encourage encroachment on the fire lane. Mr. Davis stated he would argue that the provisions for noise

violations that the Board has imposed on Caffeine could be duplicated here. Mr. Davis stated it seems to him that instead of burdening NID even more, that simply including a provision as was contained in Caffeine's applicant, that it should include, "the development order shall automatically be revoked without further action of the City Commission" or something to that effect. Mr. Davis stated that the fact is that the City has no zoning for flea markets and he thinks that is a good thing.

Mr. Davis stated that in the past the store has been cited, and he is not sure where the mistake was made in not finding those violations. Mr. Davis stated there was a 40' trailer was placed by the curb along Granada Boulevard with a large banner on it, and it was only taken down after a Notice of Violation was given by the community improvement officers at the complaint of a business across the street. Mr. Davis stated he thinks there are things that need to be strengthened in the application to ensure compliance and to avoid the concerns he has voiced. Mr. Davis stated he would suggest to the Board that the Board does not have all of the information as to what this looks like. Mr. Davis stated if you look at the Lowe's in Deland, you can see from 17-92 or International Speedway Boulevard what this will look like without the landscaping that is currently on the applicant's site. Mr. Davis stated he feels the application has the potential for abuse and would lead to safety issues as well as to degrade the standards that the Board's next topic regarding architectural design standards. Mr. Davis stated the City already does not enforce its Land Development Code in terms of having screening, the mulch in the western parking lot, and block and other bulk materials palletized which for years if not seven years code enforcement had not dealt with. Mr. Davis stated that the Board's concerns about enforcement and compliance are things that need to be considered as it looks at this application.

Mr. Briley stated that if this did pass that he was going to make it a condition to put a threshold on it, that if it were violated a number of times per calendar year that they would have the special exception suspended.

Mr. Davis responded that it is likely to lead to greater applications from other proprietors and stores for the same thing.

Mr. Jorczak asked what the logic was on the part of the City to say that the areas that are impinging on the fire lane are acceptable areas to store merchandise.

Mr. Spraker stated that the Site Plan Review Committee, including the fire inspector, reviewed the application, and found that the fire lane width that they left is adequate to serve the fire trucks; there is a 14' width outside of the display area.

Mr. Jorczak asked if the fire department signed off on it.

Mr. Spraker responded yes.

Mr. Heaster asked if the applicant had been out of compliance for that many years.

Mr. Spraker responded that all he can tell the Board is that as part of the application he emailed Joanne Naumann, Neighborhood Improvement Manager, who emailed him back and stated that they do not have any, at least for the last four years, any Notices of Violation, that doesn't mean that code enforcement officers have not gone there and informed Lowe's that they are not in compliance and they have 24 hours to fix it, if they do not fix it then NID issues a Notice of Violation. Mr. Spraker stated that there are no Notices of Violation, which are written documents from a code enforcement officer noting they are in violation.

Mr. Heaster stated that Ms. Behnke stated that she remembers the plants being out there as long as she can remember, which means they have been out of compliance.

Mr. Spraker responded that is part of the Board's consideration, and the Staff report stated that this is additional code enforcement forced onto the City.

Mr. Heaster stated he is trying to get an answer as to if they have been out of compliance, yes or no.

Mr. Spraker responded that all he can tell the Board is that they have not been issued any Notices of Violation.

Mr. Thomas asked how many special event permits they are allowed each year.

Mr. Spraker responded four, fourteen days each, for a total of fifty-six days.

Mr. Thomas stated that perhaps in the non-compliance part of the development order, the Board could include a penalty clause stating that they lose their special event permits after so many violations.

Mr. Briley stated he thought the Board could include a provision that after "x" amount of violations they would lose the special exception.

Ms. Behnke stated she would be ok with that.

Mr. Randy Hayes, City Attorney, City of Ormond Beach, stated that if that is where the Board is leaning, there already exists a similar provision as contained in the Rivergrille Development Order specifically for that purpose. Mr. Hayes stated he believes it is enforceable because he drafted it, and it does provide adequate due process. Mr. Hayes explained that the way the code enforcement process works is that an observation or complaint is made; code enforcement goes out and they make a determination. Mr. Hayes continued if a violation is deemed to have occurred, the individual is provided an opportunity to cure it, and if they cure it then that is the end of the story because code enforcement is about seeking compliance not to be punitive in nature. Mr. Hayes stated if they don't comply

they get a citation or notice to appear before a special master in City Commission Chambers, which is a quasi-judicial evidentiary proceeding. Mr. Hayes stated the special master will determine whether or not the violation occurred, and if the special master determines that a violation occurred then they can provide an opportunity to the violator to cure the violations. Mr. Hayes stated that the special master can levy a fine. Mr. Hayes stated decisions from the special master can be appealed through circuit court so there are layers of due process involved.

Mr. Hayes stated the reason he is comfortable with that process is because the way it works with the Rivergrille Development Order is if there is an affirmative determination by a special master of two violations in a 12 month period then the Special Exception is deemed to be automatically terminated. Mr. Hayes explained there is a process to go through for code enforcement, which is a quasi-judicial proceeding so it is not something that occurs in a short period of time. Mr. Hayes continued that code enforcement does operate as a punitive reminder that you need to comply because if you don't then there is a penalty you might have to pay. Mr. Hayes stated there hasn't been a problem to his knowledge with Rivergrille. Mr. Hayes stated Wal-Mart was a special situation which is hard to compare to any other applicant, but the Board's concerns are well taken. Mr. Hayes stated he thought Mr. Millus was sincere, but he may not be here five years from now. Mr. Hayes stated there is no absolute right to outdoor storage, and it is prohibited by the code unless a special exception is granted, and the Board can add any conditions that the Board believes are reasonable for enforcement.

Ms. Behnke asked if the enforcement provisions would have to be specifically included.

Mr. Hayes replied that the Board can incorporate a provision similar to what was contained in Rivergrille's Development Order.

Ms. Behnke asked if it would have to be added because it is not included now.

Mr. Hayes responded correct. Mr. Hayes stated the Rivergrille language is a better mechanism to use if that is what the Board desires.

Ms. Behnke asked that if without the exact language, can the Board approve the application with the addition of the proper enforcement language.

Mr. Spraker stated the language states: within in any one year period there are two demonstrated code violations of outdoor activity exceeding the number of times the Board wants to cite; Caffeine and Rivergrille were both recommended with two within a one-year period.

Ms. Behnke stated she feels that is reasonable.

Mr. Spraker stated if the Board wants to include that recommendation, Staff will work with the city attorney's office to include it in the City Commission packet.

Ms. Behnke stated that would make her more comfortable.

Mr. Jorczak stated he would go along with that.

Ms. Behnke asked if this has to go before the City Commission before it is approved.

Mr. Spraker responded yes.

Mr. Thomas called for anyone else that would like to speak.

Mr. Millus stated he would like to address some of the concerns and make himself available for any questions the Board may have. Mr. Millus stated the yellow lines are not set up just for code enforcement for a quick drive-by, but it is also a barrier and outline for his employees. Mr. Millus stated that code enforcement has come out to the store, this is a trust opportunity, and a trust that he understands he has to grow with the City. Mr. Millus stated there are a few things he will openly admit to, some of the mistakes in the past have been due to his ignorance, not knowing, or simply accepting things as they were when he took the store. Mr. Millus stated there has been no official incidences (Notices of Violation) reported, there has been visits by code enforcement that let him know that he was out of compliance. Mr. Millus stated he wanted to let the Board know that side of the garden center was full and has been full for more than five years and never notified of it, but he paid 30 hours of overtime to get it moved immediately with the whole lot blown off and cleaned. Mr. Millus stated there will be mistakes and he has made mistakes, but he is committed to a long-lasting relationship with the City and is completely open to any provisions that need to be put in place to protect the City in his absence or replacement.

Mr. Briley asked Mr. Millus if he felt two violations is reasonable.

Mr. Millis responded absolutely. Mr. Millus stated his understanding is, if there is a violation he has an opportunity to fix it, and he doesn't plan on any violations.

Ms. Behnke asked if the last special events permit had run out.

Mr. Millis responded no, Monday.

Ms. Behnke asked if she goes to Lowe's on Tuesday, the flowers sitting on cement blocks will not be there.

Mr. Millis replied that the tables and everything will be gone, and there is already a plan in place for that to take place.

Ms. Behnke stated that until the City Commission hears this and they approve it, then they would be able to put them back.

Mr. Thomas asked if it they would make it look more presentable than just on concrete blocks.

Mr. Millus replied that the normal process is concrete block and the front finished with landscaping blacks, he would look into other avenues, but the front of those tables are finished.

Ms. Behnke stated that since they have to water and so forth, she didn't have a problem with the appearance of them.

Mr. Jorczak asked if they were aware of screening issues that have not been fixed.

Mr. Millus responded that there is actually a submittal to the corporate office, and the last quote he received is now in the quote process was \$48,000 to replace the screen.

Mr. Jorczak asked if they were then in the process of fixing it, getting it budgeted.

Mr. Millus replied yes.

Mr. Thomas stated that as of March 15th, the wind speed requirements have dropped.

Ms. Press stated that what the Board is trying to do is to fit in a business with something that is entirely different. Ms. Press stated when you speak of Rivergrille, the only thing the Board is concerned with is the decibel level of the music. Ms. Press continued in this case, it is completely different, and that there are two problems: (1) the City does not have adequate code enforcement, and we want code enforcement to do all these things and be everywhere, but we do not put any money into it and keep reducing the amount of people in code enforcement, and (2) there is a lack of knowledge regarding the rules and regulations, which is something that should be given to everyone who comes to the City.

Ms. Press stated she would give the applicant the benefit of the doubt, and she hopes they make it as aesthetically attractive as it can.

Mr. Thomas asked what their policy regarding the picture that was provided by Mr. Davis with the motorcycle parked in the garden center. Mr. Thomas stated that he thought it was their legal responsibility, if someone walked into the motorcycle, would be tremendous as it is in a no parking zone, in the middle of someplace. Mr. Thomas asked if Lowe's announces over the loud speaker that they need to remove their vehicle when someone is parked in there.

Mr. Millus responded yes, and over the years one of the challenges they have had is the illegal parking, from parking in front of fire exits to pulling up in front of the exit gates in the garden center; they do make pages to customers and ask them to remove their vehicles; many times, unfortunately, it goes unnoticed or ignored.

Mr. Millus added they do have regular rotations of volunteers or police that do write tickets. Mr. Millus stated he has reached out to the Police and Fire Departments, and they redesigned the front of the store last year to what their guidelines were and what they wanted to store like as far as loading zones and no parking areas and signage on columns.

Ms. Behnke stated she wrote some of those tickets as a police volunteer, and she is glad that they are expecting the customer to take responsibility. Ms. Behnke stated she doesn't think it matters what business you have, it's the businesses' responsibility to know what the regulations are.

Mr. Millus responded yes; they are open to any provisions to be put in place, and they are confident that they will be followed.

Mr. Thomas asked if there was anyone else in the audience that wished to speak; having none turned it back to the Board.

Mr. Heaster stated they had gone over everyone's concerns and he likes the theme to ensure the control.

Mr. Wigley stated that something they hadn't touched on is the fact that whatever the Board allows the applicant to do it will have to allow other businesses up and down Granada Boulevard to also do as well. Mr. Wigley stated he didn't know if that was something anyone else had given some thought to. Mr. Wigley stated this expands the size of their store without going through the permit process and the Board needs to be prepared that Ace and everyone up and down Granada is going to want to do it. Mr. Wigley questioned how the Board is going to tell others no, when Lowe's is told yes. Mr. Wigley stated that he feels it is a slippery slope that the Board is on and needs to proceed with caution. Mr. Wigley stated everyone goes to Lowe's, and Lowe's is a great store, but they have tons of room on the inside of that store. Mr. Wigley stated the reason that they are using it in this manner is that they want to sell more product and they don't want to expand their store and don't want to go through the process of adding to the size of that store. Mr. Wigley stated that other businesses along Granada are going to see this as an opportunity to follow suit.

Mr. Thomas asked Mr. Hayes, to follow up on Mr. Wigley's concern, would it make a difference that Lowe's is a self-standing business by itself and is only going to impact itself in comparison to Ormond Town Square that it is a continuous footprint, and if you were to give special exceptions to the individual stores that would impact the entire footprint; could a line be drawn to make that separation.

Mr. Hayes responded that he didn't think that was the best example because he didn't know if any of the stores in Ormond Town Square would be able to request a special exception without amending the entire development order. Mr. Hayes stated the rule is that each application gets judged on its own merits, but once one is granted then it gets recited as a comparable.

Mr. Thomas asked to take the one that has been presented of Ace Hardware.

Mr. Heaster stated that Mr. Thomas mentioned stand-alone, which made him think of different type of uses such as a grocer.

Mr. Thomas responded yes that it's a stand alone, but there is a strip center along the side; Mr. Wigley has a legitimate concern, which is why he wanted to see if Mr. Hayes had some clarification.

Mr. Hayes stated to keep in mind that the special exception process exists today, and the Board has to consider each application individually. Mr. Hayes stated that from a code enforcement perspective, if that is a concern, he is reasonably confident that they can address that particular issue for the Board.

Ms. Press stated she thinks that is a legitimate concern, and it seems that a number of years ago when Ace Hardware was in their previous location, they had asked for outdoor storage for mulch and other things and it was not granted. Ms. Press the reason she it is appropriate for Lowe's is because it is not visible and it is in its own self-contained area. Ms. Press stated she didn't know if that could be grounds that if a business is in a self-contained area that is not visible from the highway, which is why she would support Lowe's whereas she might not support it for other locations which are more visible. Ms. Press asked if they could put that type of language in the order legally.

Mr. Hayes stated they could always recite the basis for the Board's decision and ask that be included as part of the development order. Mr. Hayes stated it would become another element or factor that may be considered or may not be considered on another application that may or may not be similar.

Mr. Wigley stated that this is not a Granada Boulevard only City, and there are businesses up and down Nova Road and U.S. 1 which are also prohibited from outdoor displays and additional product display on a permanent basis without a special exception. Mr. Wigley stated that he didn't feel the site not being visible from Granada Boulevard is valid reason for approval.

Mr. Thomas asked if Mr. Wigley has a solution or a suggestion as to how it could be handled.

Mr. Wigley stated he thinks there is a mechanism already in place called a special event permit, and they are allowed four each fourteen days in length. Mr. Wigley stated that's what was created and it seems to work fine.

Mr. Thomas stated that the Land Development Code also has the special exception.

Ms. Press stated that is a valid point. Ms. Press asked if Staff had anything else to add.

Mr. Goss stated that Staff had a work session with the City Commission two weeks prior and one of the topics was outside product display. Mr. Goss stated that from the perspective of the City Commission, they think that perhaps it should be permitted as a conditional use subject to criteria and administratively approved. Mr. Goss stated that this item would be brought before the Board formally at a later date.

Mr. Wigley asked if it is Mr. Goss's suggestion that this item be tabled until the Board has the whole picture before them.

Mr. Goss responded that is one way of looking at it or the Board could move the issue forward realizing that there are other larger policy issues. Mr. Goss stated this application was filed before the meeting with City Commission, and he just wanted to make the Board aware that this issue is coming to the Board.

Mr. Jorczak stated that Mr. Wigley's comment has a fair amount of merit, but hadn't thought of it because he was only looking at this application as a single individual situation where they have a considerable amount of room directly in front of the store between the front wall of the building and the traffic lanes. Mr. Jorczak stated Lowe's has a place to do this and it is being done under a set of controlled circumstances. Mr. Jorczak continued that the proposal is not a bad way for a business to be able to expand their customer base in a fashion that is still attractive.

Mr. Jorczak stated he would be in favor of tabling the item until the Board has a tighter definition. Mr. Jorczak stated he didn't believe the "I didn't know what the rules were" as an issue that Mr. Millus could overlook if there is a requirement and that requirement isn't being met then the privilege goes away, and what the Board would be doing is granting privilege. Mr. Jorczak stated he would be in favor withholding a decision tonight and getting a better definition as to what the long-term implications of this are for other retail businesses before the Board makes a decision.

Ms. Behnke stated she doesn't mind this application and feels it is a good thing to do with a stipulation that businesses can display goods if they are not visible from a major throughway. Ms. Behnke stated she would hate to delay it because the applicant will have to rearrange everything in the middle of a busy season with his special event permit expiring on Monday.

Mr. Thomas stated he will have to do it on Tuesday anyway because this item will have to go before the City Commission for first and second readings which will take at least four weeks.

Mr. Heaster asked if the applicant had fifty-six days via special event permits.

Ms. Behnke replied that he is on his last one.

Mr. Heaster asked if he was on the last of the fifty-six days.

Mr. Briley responded that they get four at fourteen days each, and he is coming up on the fourteenth day of his fourth special event permit for the year.

Ms. Behnke stated the applicant cannot have any special event permits this year. Ms. Behnke stated she has chastised him all along, but having said that it is a hard thing to say rearrange everything and put it wherever you can find a place to put it. Ms. Behnke stated she absolutely agreed with having stipulations for violations.

Mr. Briley stated he agreed with Ms. Behnke and he felt that it should be voted on at this meeting. Mr. Briley continued this site is conducive for outdoor display and it is the way these stores are designed. Mr. Briley stated if you look at the health, welfare, and safety of the customers, none of that is jeopardized by the display of product. Mr. Briley stated that he thinks the question is how to tell Lowe's they can and someone else they cannot. Mr. Briley concluded that the Board will have to look at their site constraints and see what would be allowed.

Ms. Press asked if it was possible to do something to allow this for a period of six months and then revisit it.

Mr. Hayes responded that if the Board feels that it is a reasonable condition, it can do that, and the Board would have to revisit the issue again as well as have another application fee and advertisement fee.

Ms. Behnke asked if the Board could waive the second set of fees.

Mr. Hayes replied not necessarily, if the code says there is a fee for a certain thing, it needs to be paid unless there is a provision in the code that says it can be waived.

Ms. Behnke stated that the City Commission has done it in the past.

Mr. Hayes stated he was explaining how things should work, and he doesn't get involved in the operational aspects. Mr. Hayes stated he didn't know whether or not the fee could be waived or whether it could be paid by someone else. Mr. Hayes stated that if the Board is inclined to grant the permanent outdoor storage and sales on a temporary basis, the Board needs to ask itself whether six months is sufficient or too short, or whether what you need to do is to consider a longer period like twelve months to give it an opportunity to go through a cycle. Mr. Hayes stated he thinks it has been many years since the Commission has approved a development order like that, but he believes they have done something like that.

Ms. Press stated sometimes the Board needs to be like Solomon. Ms. Press stated that the Board wants the store to succeed, but it is a legitimate concern about the impacts of other applications.

Mr. Hayes stated that there is another challenge with that concept of a provisional approval, in order to grant the Special Exception, the Board has to make a finding that the application meets all of the applicable requirements and the Board can impose whatever reasonable conditions the Board believes are sufficient. Mr. Hayes continued, if it is the decision of the Board that the Board is not sure how it will work and wants to implement it on a temporary basis, the LDC doesn't create a mechanism for that to occur.

Mr. Hayes stated he would be concerned with delaying the application too long waiting to see, from a policy perspective, how the code may or may not be amended; there is certain due process and equal protection issues that come into play with that; the Board may be better off dealing with the application straight up for what it is as difficult as that may be.

Mr. Briley stated he understands Ms. Press's concerns, but what makes him comfortable with it is the two violations that would trigger the Special Exception being revoked.

Mr. Thomas stated, using the Solomon example, instead of cutting the baby in half, what if, but in order to not open up a slippery slope, would it be possible, instead of having four, fourteen-day special event permits, to go to ten special event permits for fourteen days each, or 140 days, which would be a little over 4 ½ months.

Mr. Thomas stated he thought that if the applicant took the middle of the store and divided it and went west, that part of the store is more seasonal than the east portion; putting concrete bags and lawnmowers out front, he could see where that as a year round thing and use the special event permits for during the very busy season; in that way the Board is not going to where Mr. Wigley is concerned about creating a new problem, as soon as Lowe's does this, he is sure that other stores, Lowe's competitors, will be applying as well; by doing more special event permits and not opening the flood doors for everyone to do it all year, the City would be utilizing what it already has in place, but expanding it.

Mr. Wigley stated that it seems like the Board should wait and see what direction it wants to go in with outdoor sales as that item is being brought before the Board in the future. Mr. Wigley asked if there was a time frame for when the Board would be addressing this issue city-wide.

Mr. Goss responded that Staff is trying to get to the Board by the next month. Mr. Goss stated that he wanted to clarify that when you expand the special event permits to ten times, fourteen days at a time, it would apply Citywide.

Mr. Thomas stated that does not mean that every businesses is going to take advantage of it.

Ms. Goss stated that it is for every tenant for every property.

Ms. Behnke stated which will mean flags and banners flying.

Mr. Thomas stated that the Board will be discussing that in a little bit.

Mr. Goss suggested that the City Attorney has a good point in reviewing this individual application for Special Exception. Mr. Goss stated staff is not sure when it will be bringing the outdoor product display to the Board, our intentions are next month. Mr. Goss recommended that the Board move forward with the application and state in their findings why they think the City Commission should approve or deny this application. Mr. Goss concluded he would like this item moved forward, particularly because there is a mechanism that can be taken to the special master.

Mr. Thomas asked that when Mr. Goss said move this forward, he wanted a yes or no vote; not necessarily that he wants the Board to approve it and move it forward, just that he wants the Board to take a vote and move it on.

Mr. Goss stated he is not sure how the Board is sitting, but if the Board thinks that the application could be supported then it should be moved on based upon the findings.

Mr. Briley stated Mr. Goss is basically looking for a yes or no.

Mr. Hayes stated that would be the most appropriate course of action. Mr. Hayes stated procedurally if the Board wants to continue an application, there has to be a basis that is fundamental to the application to itself. Mr. Hayes stated that what the Board is currently looking at is to wait and see what the broader policy question will be, which doesn't really suffice from a legal perspective, and that is a concern. Mr. Hayes stated what they can offer the Board as far as assistance is that they can address the code enforcement issue if there are specific findings that the Board would like to include as a fundamental basis to support a grant of the Special Exception, the Board can recite what those are and include them specifically in the development order; that way if a future application comes before the Board the Board will have that to review as well.

Mr. Jorczak asked if this was to move forward on the basis of including the restriction with respect to code enforcement that has been discussed, and it has effectively been established through the City's Staff's concurrence a recommendation as to what they find agreeable with respect to where this display is and how it is displayed, is there a process by which, as thing moves further downstream, that this can be revisit the issue and then restrict what was granted.

Mr. Hayes responded no, it becomes a code enforcement issue at that point and it goes through the code enforcement process.

Mr. Wigley asked if there is anything currently not allowing the applicant to expand the size of the store if they don't feel they have enough floor space or display space. Mr. Wigley stated it appears that they have enough parking, and

the purpose of the four, fourteen-day special event permit is to allow businesses four time a year to pump up their sales and allow a sidewalk merchandise to be displayed and sold outside; this is nothing more than an attempt to circumvent the permitting process and expand the size of the store in his opinion.

Mr. Spraker responded that to the best of his knowledge they could expand, and they are likely over in terms of the parking. Mr. Spraker stated it would take an analysis of how much parking they have over versus what the parking requirement is; his opinion is that they have more parking spaces than what is required in the City's Land Development Code.

Mr. Thomas stated by putting this merchandise outside is accomplishing the same thing as a café does by putting tables on the sidewalk. Mr. Thomas asked how four special event permits was determined, was it because there are four seasons in a year.

Mr. Spraker responded that his recollection was that it used to be ten days and it came through the Planning Board and Commission and it was bumped up to fourteen days.

Mr. Jorczak stated that is essentially correct and previously it was too short a time period, and the Board opened it up a little bit, but the Board wanted constraints on it so it wasn't a year-round event. Mr. Jorczak stated that his recollection is that the Board thought it was a reasonable approach to help the businesses.

Mr. Thomas stated that it was a recommendation from Staff and he wanted to know how Staff arrived at four.

Mr. Spraker stated that is what is in the code currently, and it came before the Planning Board and there was a question of how much time did the Board allow for outdoor product display; there was a decision that forty days was not enough and that fifty-six days was appropriate.

Ms. Press stated it is like garage sales.

Mr. Thomas stated that if they asked businesses right now, they would prefer to 365 days of outdoor display.

Ms. Press moved to approve the application because it is a stand-alone store and it is not visible from any major street, and to include the language regarding violations as contained in the Rivergrille and Caffeine Development Orders. Mr. Briley seconded the motion.

Mr. Hayes asked for clarification that one of the supporting reasons that the Board would like to be specifically included is that Lowe's is a stand-alone facility.

Ms. Press added that it is a stand-alone facility in an area that can accommodate this without any issues in an area that is not visible from any major street.

Mr. Thomas asked for a clarification regarding visibility; if you are stopped at the light you can see this; you will have someone else saying that if you are driving down the road at 35 miles per hour you should be looking at the road not looking at what is visible on either side of the road.

Ms. Press stated she didn't want to make this to be something that is spot-zoning, but the Board could do it by saying that it is a certain number of feet from the road.

Mr. Thomas stated he doesn't want to make this so prohibitive that it excludes a small business either.

Mr. Hayes stated that the Board is establishing standards for this application because the Board is reviewing this application. Mr. Hayes continued the Board would have to evaluate any other application the Board may receive on its own merits; the standards for this one may or may not necessarily apply; the more technical are, the better it is.

Mr. Goss stated he was going to try to help Ms. Press because he thinks what she is trying to say was that it was a combination of the fact that they have a great buffer along the street and then they have a setback that is sufficient so that the building is sitting back so that the combination of those two really makes the visibility of the outside product doesn't overwhelm the rest of the store; otherwise if it was up, with little buffer, right on the street, it could be overwhelming.

Mr. Wigley stated that he wanted to go back to Ms. Behnke's concerns that the applicant was basically thumbing their nose at the violations and have gone to great lengths for the presentation tonight, but what teeth is there in the code enforcement to keep them behind what will be the new yellow lines.

Mr. Thomas responded that the applicant will lose the Special Exception.

Ms. Press stated if they do not toe the line they will not be allowed they will have to remove all of the outdoor product display.

Mr. Wigley wanted to clarify that it was two violations within a twelve months period.

Mr. Thomas stated the same as Rivergrille and Caffeine.

Mr. Wigley stated the process with code enforcement is rather lengthy from the time that the violation is noted and brought before the special master it could be three or four months before the violation is handled.

Mr. Jorczak stated that the penalty here is severe.

Mr. Thomas stated that if it takes three months, it would be hard to get the second conviction within twelve months; they could get one and have it last four months through the process.

Ms. Behnke stated that they could get the second one while the first is being processed.

Ms. Press stated the way she interpreted it is that there are two violations, it doesn't matter how long it takes through the process; there are only two violations in a year.

Mr. Hayes clarified that it is two findings by the special master within a year. Mr. Hayes stated the other component is that if there is a finding of violation, there will be a fine. Mr. Hayes continued, the City's code enforcement procedure mirrors State law, and it provides first time offenders can be fined for violation up to \$250 and for repeat offenders, the fine can be up to \$500 per violation. Mr. Hayes stated that using Wal-Mart as the example, they had pretty hefty fines upwards of \$10,000 to \$20,000. Mr. Hayes stated the higher the fine number goes, it eventually gets their attention.

Mr. Hayes stated code enforcement is not a quick process, and it is not supposed to be punitive, it is about compliance. Mr. Hayes stated if there is someone that is flagrantly violating, there will be two violations in a twelve month period, and if there is someone that is trying to work within the parameters, it probably will not be a problem because they want to comply. Mr. Hayes stated the code enforcement condition is good because it does provide a due process element, but as the Board noted, code enforcement is under-staffed and over-worked; it is the best system they have.

Mr. Spraker stated that the Rivergrille and Caffeine provision has a statement that if there is a second Notice of Violation the applicant automatically could no longer do their activity; it is suspended until the findings of the special master. Mr. Spraker stated, if the applicant gets one, as soon as they get the second one all outdoor product has to be pulled in until the findings of the special master.

Mr. Briley stated that it can occur prior to the special master hearing.

Mr. Hayes replied yes, it would be a temporary suspension which is contingent on the ultimate determination of the special master.

Mr. Wigley asked if that applies to this applicant as well.

Mr. Hayes responded yes.

Vote was called: Mr. Heaster against; Mr. Jorczak for; Ms. Press for; Mr. Wigley against; Ms. Behnke for; Mr. Briley for; Mr. Thomas for: motion carried (5-2).

C. LDC 12-78: Chapter 3, Performance Criteria, Article IV, Sign Regulations, Section 3-46: Temporary Signs, Community Event Banners

Mr. Spraker stated that this is a request for a Land Development Code amendment to the signage, specifically temporary signs. Mr. Spraker stated staff had received a request from Ormond Main Street to allow banner signs over right-of-ways. Mr. Spraker continued that staff talked to other cities and representatives from Florida Department of Transportation (FDOT) and stated banners are a good way to advertise events. Mr. Spraker continued that staff specifically asked if they had issues with the banners falling or other issues and they stated to date they have not.

Mr. Spraker stated there is not an exact location for the banners, and the poles would have to be engineered and placed outside the FDOT right-of-way. Mr. Spraker stated amending the LDC is the first step to allowing banners over any right-of-way. Mr. Spraker continued that staff developed some criteria and relied more on the FDOT standards. Mr. Spraker concluded that representatives from Ormond Main Street are present if the Board has any questions and staff is recommending approval.

Mr. Jorzak asked how many events they could have.

Mr. Spraker stated you could have however many are in the downtown redevelopment area.

Mr. Jorzak asked what if there were thirty events times fourteen.

Ms. Spraker responded then it could be up year round between taking them down and putting them up.

Mr. Jorzak stated that is what he was getting at on the number of events they schedule and there could be a banner hanging there for a long period of time.

Mr. Spraker responded that it is not just Ormond Main Street; it could be the Casements or the City's Fourth of July event. Mr. Spraker stated Main Street brought the request forward, but it applies to other non-profit organizations performing community events. Mr. Spraker stated that he thinks they have six or eight total events per year, and the Board could limit the number of banners that are allowed.

Mr. Jorzak asked if they could have multiple locations and multiple events.

Mr. Spraker replied that there can only be one banner per event, and there is nothing prevent banners on East Granada Boulevard and another somewhere in the downtown on West Granada, the only the restriction of one banner per event.

Ms. Behnke asked why someone would be able to have two banners for the same event.

Mr. Spraker clarified he didn't say the same event. He stated only one banner per event is allowed, but there could be two events going on at the same time; one event this weekend and another the next weekend there could potentially be more than one at a time.

Ms. Behnke stated that if there is one this weekend and one next weekend the fourteen days are going to overlap.

Mr. Spraker responded correct, and there could be a banner on East and West Granada Boulevard.

Ms. Behnke asked if there were two events with banners on the same weekend what would happen.

Mr. Spraker replied that that would mean there is an active downtown.

Mr. Wigley asked if the proposed location would be in front of Caffeine.

Mr. Spraker responded that the locations have not been determined, and there needs be to analysis performed of where the exact locations could be. Mr. Spraker stated South Daytona has a banner up for their Indian Festival along US1 and Deland has similar banners that they stretch across the right-of-way.

Ms. Behnke stated that Holly Hill also has banners.

Mr. Thomas stated he travels this state a lot in a car and every town he goes to banners advertising for their special events.

Ms. Behnke stated she had not heard of any lawsuits or any issues resulting from any of them in this area.

Mr. Briley asked who would install the banners. He stated Volusia County Traffic Engineering used to do it under contract with the City of Holly Hill because they did not have the bucket trucks. Mr. Briley stated he did see the 625 Index in the packet and he is not sure five minutes is going to be enough to install a banner knowing the complexity and the MOT that has to be set up.

Mr. Spraker replied that this amendment is not intended to tell the Board the details of how to install the banners, permitting or locations. Mr. Spraker stated that the amendment is simply to allow that type of sign to occur, and there are a number of steps and analyses that need to happen.

Mr. Briley stated the only concern he has is whoever installs the banners has to be licensed and insured.

Mr. Spraker responded absolutely.

Ms. Behnke stated that each participant would pay for their own banner.

Mr. Spraker responded that the amendment does not get that detailed, but it would be implied in the process. Mr. Spraker stated he wanted to draw the attention of the Board to the fourteen days, where Staff followed the business banners. Mr. Spraker stated FDOT allows up to thirty day and there is no magic in the number, it is just how long you want to see a banner for an event.

Mr. Wigley asked if there was a fee.

Mr. Spraker responded he believed there would be a fee because he would imagine that it would be the City crews would install it so there would be a fee for their time and expense of installing the banner.

Ms. Press stated that had to be established.

Mr. Spraker stated that all this amendment does is allow the sign, with the process and the details still need to be worked out through various City departments.

Mr. Heaster stated that it is a great idea. Mr. Heaster asked if Main Street will be reviewing the wording and if there is an event being held and an organization wants to have their banner up that the City doesn't want to advertise, who would make that decision, who would review the wording.

Mr. Spraker responded that FDOT would review the wording as would Planning & Zoning and Public Works. Mr. Spraker continued the banner has to advertise a non-profit, it cannot advertise businesses, and there are certain criteria.

Mr. Wigley asked if the event has to be in the downtown.

Mr. Spraker responded the event and the banner have to be in the downtown redevelopment area.

Mr. Heaster asked if Ormond Main Street will help facilitate applying.

Mr. Spraker responded yes, and the banners will be permitted on a first come, first serve basis.

Mr. Briley stated he would be inclined for the City to make that decision only because of legal ramifications and liabilities if Ormond Main Street said that someone couldn't put a sign up; whereas if the City denied it they have counsel on staff that can defend the decision.

Ms. Press asked how many organizations that would have an event in downtown.

Mr. Briley responded the gas light parade and other opportunities.

Mr. Thomas stated nothing has been mentioned yet that is objectionable. Mr. Thomas called for anyone in the audience to address the issue.

Mr. Bill Partington, 40 Melrose Avenue, Ormond Beach, stated that Ormond Main Street proposes the following non-profits be allowed to use the banner signage: The Museum of Art, Historical Society, Ormond Main Street, Ormond Chamber of Commerce, Ormond Yacht Club, Casements Guild, and the City of Ormond Beach for City sponsored events. Mr. Partington stated each of the organizations with the exception of the City would pledge funds in support of the project. Mr. Partington concluded it was discussed that Ormond Main Street and the other organizations would cover all of the costs so that there would be no cost to the City for installing the banners, and if there was an insurance requirement that comes up and has to be paid for they would anticipate that would all be taken care of through a mechanism so that there was no cost to the taxpayers.

Mr. Wigley asked if it was going to be made mandatory that the City put the banners up.

Mr. Briley responded that was the question he had.

Mr. Spraker responded that is an operational issue that they will need to work out. He stated all Staff was seeking with this amendment was the ability to have the banners, and it will be worked out with FDOT and Public Works to see who installs them.

Mr. Thomas asked if this item will be going to the City Commission.

Mr. Spraker responded yes.

Mr. Thomas stated that there are three attorneys on the Commission.

Mr. Briley moved for approval as submitted. Mr. Jorczak seconded the motion. Vote was call and the motion unanimously approved.

VIII. OTHER BUSINESS

Chapter 3, Article VI- Architectural Design Draft Amendments

Mr. Spraker stated that this is a discussion item to go over changes that Staff is considering to the architectural design standards, and Staff sent this to VCARD as well as local architects who have worked in the City. Mr. Spraker explained that this is a massage versus a major overhaul, and the City's architectural standards in 1998 in the downtown redevelopment area with the 2004 Land Development Code they expanded City-wide. Mr. Spraker stated that the LDC currently allows four styles and anything other than that has to go through a public hearing. Mr. Spraker stated that one concern that has been voiced is that the City's

architectural standards stifle creativity. Mr. Spraker states an example was the Andy Romano Beachfront Park building which required a public hearing based on the blending of the Key West and Florida Cracker architectural styles.

Mr. Spraker explained another issue has been the Property Appraiser assessment of their building is artificially low and that is what Staff uses to determine at 50%; this would allow for private appraisal of the building. Mr. Spraker stated this amendment would take the private appraisal versus the Property Appraiser value which is a credible, reliable source, but typically undervalued for taxation purposes.

Mr. Spraker stated the amendment has attempted to better organize the architectural styles and provide local examples of the architectural styles. Mr. Spraker stated that if the Board has feedback or comments they would like provide Staff, they could be emailed to him for incorporation into the Article.

Mr. Behnke stated regarding the colors being earth tones and pastels, she thought the City was getting away from that.

Mr. Spraker responded no, except in the downtown where more vibrant colors are allowed.

Ms. Press stated that when she first started on this Board everything was Mediterranean, and what the City really got was that they were nice buildings, but it was boring. Ms. Press continued that Bill Jones has developed a vision for buildings Downtown. Ms. Press stated that Planning Boards, Commissions, and even Staff don't come up with the vision. Ms. Press continued that the City was very lucky that Bill Jones came up with a vision, and now the City has art deco and has changed the colors with Rose Villa being purple. Ms. Press asked if in residential someone came with a plan that is completely different such as not having a lawn because it uses too much water, if they wanted to change the way things are done and make the lawn into the house, how does this allow someone who is creative to do something in a residential area.

Mr. Spraker responded that this code amendment does not apply to single family residential.

Ms. Press responded that she is taking it a step further because this is a discussion item.

Mr. Spraker responded that most of the properties that are left to be developed are SR zoning district and requires a Planned Residential Development (PRD), so within that development you can establish architectural design guidelines, low impact development, and different styled for the lawn areas; you can establish your own standards; not everyone goes that far, but it is possible.

Mr. Briley stated that Ms. Press touched on a good point and one of the reasons that a lot of the architectural standards and color standards came to be in effect because of one particular house on A1A that people found objectionable.

Ms. Press stated that she is glad that even though it is nice, it is boring.

Mr. Goss stated that what the Board could do is amend the PRD to require architectural standards, for example, to require that when you build a single family home they cannot replicate the same design elements within the a six house block area. Mr. Goss stated that Staff has been working on the low impact developments since he came to the City.

Mr. Heaster stated he had a concern under the general section pertaining to the exterior alterations exceeding 50%, that could be a problem if it is a mature building that has a lower assessed value and the cost of repairs or construction could exceed that. He concluded that he doesn't want it to be too onerous on the property owner that it would then throw them into something else.

Mr. Spraker responded that is the standard that has existed since 1998, and there has to be a threshold of when you have gone beyond renovating and now doing a complete repair. Mr. Spraker continued Staff has tried to mitigate that by allowing the use of a private appraisal of the building, and on Page 4 there are administrative variance procedures that if there is an existing building that is being renovating it and all of the standards cannot be met, it provides a way to get it up to the code to the maximum extent practical.

Mr. Heaster asked what would happen in the case of fire or storm damage.

Mr. Spraker responded that if it is not repair or maintenance it is new exterior architectural design by adding square footage or changing a roof from shingle to tile; repair and maintenance do not fall under that 50% valuation. Mr. Spraker stated perhaps that is something that could be better drawn out.

Mr. Thomas stated that he likes this because it is getting old going into subdivisions and seeing everything cookie cutter; he likes the variety that this allows to come in.

Mr. Goss stated that this does not apply to single family homes.

Mr. Thomas stated he understands, and likes this because it is allowing different types and everything is not going to be out of the same cookie cutter. Mr. Thomas concluded that the one thing that he and everyone on the Board can relate to is cookie cutter subdivisions.

Mr. Goss stated that if the Board wants to address residential those changes can be made via the PRD.

Mr. Heaster stated that it is a cost effective approach for builders in the market to keep their costs down, which is something to take into consideration.

Mr. Wigley stated as a member of a homeowners association board, they don't like a lot of different varieties.

Mr. Jorczak stated he would concur that the opening of the standards and allowing more flexibility in that area is a positive step; he commended Staff on taking that step.

Mr. Goss asked if there was any desire to look at the PRD.

The Board responded yes.

Mr. Briley stated if nothing else it gives the flexibility for a developer to come in.

IX. MEMBER COMMENTS

Mr. Jorczak stated regarding the Brownfield Advisory Board, the City Commission has made its decision, and with all due respect, he was disappointed, and he thought that Mr. Thomas's comment with respect to Zone 2 has come to bare at least until the end of the year, but the manufacturing community isn't represented on that board. Mr. Jorczak stated to bring the Board up to date, the concept that he had talked about was presented to the City in a three-minute request that Mayor Kelley had made prior to the meeting; he tried to address the issue at that point, but there has not been any feedback from the Commission being interested in having a business forum to provide additional data. Mr. Jorczak continued, the way the Board is currently constituted, Main Street activities are well represented, but some of the other business segments aren't being covered.

Mr. Jorczak stated what he is hoping to do is take another approach as to how this could be addressed in view of the fact that 20% of the workforce has been lost with the decision by Stylemark to move out of the Ormond Industrial Park, losing 250-300 production jobs. Mr. Jorczak stated that what he would like to do is welcome the comments of the Board with respect to the possible area of considering a taskforce approach as they did with the Noise Abatement Committee for the airport to take a look at the economic development and how to assist Joe Mannarino in trying to speed up the process of getting more industrial activity in the City. Mr. Jorczak stated he has not given up on the idea of trying to find a mechanism to develop the economic base along the manufacturing lines.

Mr. Briley stated that about a month ago he was out having dinner with his wife in downtown Ormond Beach and was basically accosted by someone in the restroom. Mr. Briley stated that another couple sitting next to them commented that there is a church on Nova Road that welcomes the transients that come through Ormond Beach. Mr. Briley stated they called the police, and the police stated that you would be amazed how many homeless camps are around that general area within a couple of miles. Mr. Briley stated one reason they come here

rather than Daytona Beach is because in Daytona Beach if you are caught with an open container you go straight to jail, and in the City of Ormond Beach you are issued a fine. Mr. Briley stated he is sure there are not a lot of transients that go to court to pay their fines. Mr. Briley asked what mechanism could be put in place, and perhaps the City Commission should look at the fact that the City is not strict enough.

Mr. Thomas asked if there were laws about vagrants and having a certain amount of money in your pocket, and if that is unconstitutional.

Mr. Hayes responded in those terms, yes; he is generally familiar with the issue that has been raised and there are a couple of different components of that. Mr. Hayes stated regarding the open container there are laws that prohibit that.

Mr. Briley stated he is not against the churches their work.

Mr. Hayes responded that it is something they have looked into, the issue is that they are not getting help from the property owner; and that is the problem because it is on private property. Mr. Hayes informed the Board that Ann-Margaret Emery, Deputy City Attorney, would have more information on that issue.

Mr. Briley commented he was okay with the situation, but what if it had been visitors to Ormond Beach and that was the impression that got of the City.

Mr. Thomas stated that the police were in his neighborhood back behind a conservation easement, and there were homeless living back there. Mr. Thomas stated that is one of the downsides for providing so much green space in Ormond Beach is that there are so many places for them.

X. ADJOURNMENT

The meeting was adjourned at 10:03 p.m.

Respectfully submitted,

Ric Goss, AICP, Planning Director

ATTEST:

Doug Thomas, Chair

Minutes transcribed by Meggan Znorowski.

M I N U T E S
ORMOND BEACH PLANNING BOARD
Regular Meeting

June 14, 2012

7:00 PM

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

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

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

I. ROLL CALL

Members Present

Doug Thomas
Harold Briley
Pat Behnke
Rita Press
Al Jorczak
Lewis Heaster
Doug Wigley (excused)

Staff Present

Richard Goss, AICP, Planning Director
Steven Spraker, AICP, Senior Planner
Lauren Kornel, AICP, Senior Planner
Meggan Znorowski, Recording Technician

II. INVOCATION

Mr. Jorczak led the invocation.

III. PLEDGE OF ALLEGIANCE

IV. NOTICE

REGARDING

ADJOURNMENT

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

V. APPROVAL OF MEETING MINUTES: MAY 10, 2012

Ms. Behnke stated on Page 9 regarding the HAM stations; the regulation is that if a HAM station interferes with frequencies, the other station, not the HAM operator must install filters.

Mr. Jorczak stated on Page 10, first paragraph, "Ms." Jorczak should be changed to "Mr." Jorczak; also on Page 5, fourth paragraph, fourth line which states, "complying, but it those," which should read, "complying, but if those."

Mr. Thomas stated on Page 8, second paragraph should read "garage sales than" instead of "then"; also on Page 12, first paragraph, "shut them done" should read "shut them down."

Ms. Press moved to approve the minutes as amended. Mr. Briley seconded the motion. Vote was called, and the motion unanimously approved.

VI. PLANNING DIRECTOR'S REPORT

Richard Goss, Planning Director, City of Ormond Beach, stated he had nothing to report.

VII. PUBLIC HEARINGS

A. LUPA 12-82: 115 North Nova Road- Small Scale Land Use Map Amendment.

Ms. Laureen Kornel, Senior Planner, City of Ormond Beach, stated this is a land use amendment for 115 North Nova Road for a property 0.46 acres in size, owned by Nova/Old Kings Investors, Inc.; the land use change is from open space conservation to office professional. Ms. Kornel explained the history of this site is that a site plan was submitted to the Planning Department, and in the review of the site plan, staff discovered that there was an incompatible land use and zoning. Ms. Kornel stated staff researched this issue and could not find how the error came about. Ms. Kornel explained that staff looked at the B-1 zoning classification and determined that it was an appropriate zoning for the parcel, and at that time staff decided to do an administrative land use amendment to place the land use in line with B-1 zoning. Ms. Kornel explained the location, orientation, and characteristics of the subject parcel. Ms. Kornel explained, with regards to an aerial photograph of the subject parcel and surrounding parcels, the surrounding parcels are zoned office professional. Ms. Kornel explained in staff's analysis, there were no environmental limitations on the subject property, which are generally conditions that exist which would be appropriate for the open space conservation land use. Ms. Kornel stated the use is compatible with the B-1 zoning classification and is appropriate given that Nova Road is a major

commercial corridor. Ms. Kornel stated there is more than adequate infrastructure to serve the proposed land use. Ms. Kornel stated staff recommends approval of the land use map amendment. Ms. Kornel explained the tentative hearing dates for the Commission would be August 21st and September 4th, 2012.

Mr. Jorczak asked how large of a building could be built with the setbacks on the subject property.

Ms. Kornel responded that the applicant has proposed an 1,800 square foot building, and a bank would have less impact than medical offices, which would be permitted on the subject property.

Mr. Briley asked if the park was separate from the subject property, and if so, who owns the park.

Ms. Kornel responded that the park is separate and is owned by the City.

Ms. Press stated she was sorry the applicant was not present because she wanted to ask him a question regarding the park. Ms. Press stated the park is maintained by the Garden Club. Ms. Press asked if all small scale amendments go to VGMC.

Ms. Kornel responded yes all small scale amendments go to VGMC.

Ms. Press asked if all small scale amendments go to Department of Community Affairs.

Ms. Kornel responded that it is now Department of Economic Opportunity (DEO); small scale map amendments are still transmitted.

Ms. Behnke asked if the park would be impacted by the new building.

Ms. Kornel responded that there will be some impact to the park if a building is constructed.

Ms. Behnke asked who owns the property.

Ms. Kornel responded that Mr. Holub owns the subject property, but the City owns the park as they are two separate parcels.

Ms. Behnke asked if the parcel with the park would be changed.

Ms. Kornel responded no, it will remain the same. Ms. Kornel explained that the land use amendment before the Board does not impact the park in any way.

Mr. Thomas called for anyone in the audience who wished to speak.

Mr. Tom Massfeller, Member of the Ormond Beach Garden Club, stated he was present because the ad in the paper made it look like the park was going away. Mr. Massfeller stated that the Ormond Beach Garden Club does maintain the park every other month. Ms. Massfeller asked that when the City negotiates with the

buyers that perhaps they could reserve a couple of parking places for people to use the park.

Ms. Press stated that was her thought as well. Ms. Press stated that was why she was hoping Mr. Holub was present because he is asking for an amendment that perhaps he would be willing to do something like reserving parking. Ms. Press stated that if the park is enhanced, it would enhance Mr. Holub's property. Ms. Press stated she thought the Garden Club might have the funds if Mr. Holub supplied the labor to improve the park.

Mr. Goss explained that the application is not being applied for by Mr. Holub. Mr. Goss stated that this is a City initiated application for a land use map amendment because somehow this property got a park recreation land use over private property. Mr. Goss explained staff cannot figure out how that was done so staff took it upon themselves because the error appears to be with the City's perspective to correct the error. Mr. Goss stated there is an approved development. Mr. Goss explained that it is a very small parcel; therefore, what little building can be accommodated needs to be supported with parking. Mr. Goss continued that to reserve parking for the park would then take parking away from the small building. Mr. Goss stated the next time the site plan expires, shared parking could be looked at as far as days when the bank is closed or the use is closed, it could be used for parking for the park.

Mr. Press stated her point was that maybe the Garden Club, the City, and Mr. Holub could work together to make the park more presentable.

Mr. Jorczak moved to approve the item as submitted. Mr. Heaster seconded the motion. Vote was called, and the motion unanimously approved.

VIII. OTHER BUSINESS

A. Outdoor Activity Discussion Item

Steven Spraker, Senior Planner, City of Ormond Beach, stated this is part two of the outdoor activity discussion continued from the previous month's discussion which provided staff with good input. Mr. Spraker explained that staff reviewed other jurisdictions' standards as included in the memo. Mr. Spraker stated staff was able to identify the different types of outdoor activities. Mr. Spraker explained that there are six different types of outdoor activity within the City: seasonal display of merchandise, non-profit activities, outdoor music and entertainment, itinerant vending, temporary sale of merchandise, and permanent sale of merchandise. Mr. Spraker stated if the Board wanted to make any changes to this list or the types, now would be the time to discuss it. Mr. Spraker explained for the permanent display of merchandise a number of jurisdictions were looked at: Flagler Beach has no ordinances allowing or disallowing, so as long as it does not impede pedestrian traffic it is permitted; Orlando and College Park allows retail boutiques and within overlay districts when they draft neighborhood plans, generally within Orlando it is prohibited, but there are exceptions carved throughout sections of their code. Mr. Spraker explained there

are extremes on either ends, there are cities that do not allow it at all, cities that allow it with no regulation, and cities that are somewhere in the middle.

Mr. Spraker explained that what staff drafted includes common themes with general standards, identifying the display areas, location standards. Mr. Spraker stated staff patterned the proposed language after Deland, which allows it in commercial zoning districts. Mr. Spraker explained that the City of Ormond Beach's commercial districts are B-4, B-5, B-7, B-8 and PBD, which would not include the entire City; portions of Granada from Orchard to Clyde Morris are office land use so they do not have the same commercial characteristics. The east side of A1A is multi-family, condominiums, and transient lodging; therefore they would not have the same retail demand as the west side of A1A which are gift shops and retail activities. Mr. Spraker stated any of those zoning districts can be amended or if the Board chooses to allow it for office uses that can be amended as well.

Mr. Spraker stated at the last meeting criteria for locations was discussed. Mr. Spraker stated at 100' it will stop a lot of older sites, such as along US 1, if the Board wished to institute a dimensional standard. Mr. Spraker stated among all of the municipalities the minimum pedestrian width was 5', that way pedestrian access is not impeded.

Mr. Spraker stated some municipalities had size limitations and others had health and welfare standards, which is a general category which states no display shall impede public health, safety, or create hazards; outdoor displays shall be temporary and easily moved.

Mr. Thomas asked instead of having a set setback, could there be a possibility of a formula of a percentage of the existing depth for the setback.

Mr. Spraker responded that can be done.

Mr. Heaster stated enforcement would be an issue with using a formula.

Mr. Spraker responded that a site plan would have to be submitted with the application, which would show the location of the outdoor product display.

Ms. Behnke stated having the yellow mark will cause it to not be so much of an enforcement issue because Neighborhood Improvement will be able to see if it is beyond the yellow line. Ms. Behnke stated she felt the formula would help more people. Ms. Behnke stated she thinks the Board needs to consider what they want the City to look like and they cannot spot zone.

Mr. Heaster stated this issue came to a head for him a few months prior when Lowe's application was being considered. Mr. Heaster stated outdoor product display could impact property values as well. Mr. Heaster stated he could see how it would benefit businesses on US 1, but he wouldn't want to see it in other areas.

Mr. Spraker responded that the Board can distinguish between office and retail; there already is a prohibition of outdoor product display for restaurants, convenience stores, offices and industrial uses.

Mr. Heaster stated that the 56 days that businesses have cumulatively throughout the year was a surprise to him. Mr. Heaster stated that when Ormond Beach is compared to other cities, he felt the City is liberal in that area.

Ms. Press stated that in reading the minutes from the Commission, Commissioner Boehm asked why the City was changing the rules. Ms. Press stated this is what happens frequently in the City, every few meetings someone has a particular problem and the rules are being redone. Ms. Press stated she feels the City's rules are very good. Ms. Press stated she didn't feel any of the rules should be changed. Ms. Press concurred with Mr. Heaster in that the City is quite liberal with outdoor product display in allowing four special event permits per year for fourteen days under each permit; no other City does that. Ms. Press stated, as far as comparing Ormond Beach to other cities, she doesn't want to emulate Holly Hill or Daytona Beach; Ormond Beach should be making its own rules to look the way the citizens want it to look. Ms. Press stated she believed none of the rules should be changed.

Mr. Jorczak stated as this is opened up, you cannot differentiate between new and used, only an area the vendor has designated; the fact that you have allowed outdoor product display for whatever the product may be. Mr. Jorczak stated in general he concurred with Ms. Press in that there already is a mechanism for someone to request a special exception to a set of parameters that currently exist to see if something can be worked out individually that will satisfy the given situation, especially given the fact that there are all different retail establishments with different locations from the sidewalk or from the road; it becomes a situation where it will be very difficult to write a set of rules even if it is done by percentage that would allow visual consistency. Mr. Jorczak stated the issues the Board had to resolve with respect to Lowe's was where the building was located, the space available, and the proximity of the building to a major corridor; the Board ultimately decided to make an accommodation based on a unique set of circumstances for that structure and location. Mr. Jorczak explained he doesn't see anything wrong with doing that for someone that wants to move outside of what the City's regulations are as a special exception. Mr. Jorczak stated he thinks the entire Board feels that outside music should be a special exception that comes before the Board and conduct all the necessary tests. Mr. Jorczak stated the only issue the gentleman from TropiCasual has was the application fee, which would be an investment, the same as an improvement to his building; it is a cost of doing business.

Mr. Thomas stated he thought that gentleman had more issues than just the cost that he had a space issue on the sidewalk as well as other issues he was concerned with.

Ms. Behnke stated he had quite a bit of space on the sidewalk.

Mr. Thomas stated that there were regulations that he had to follow as far as how far out into the sidewalk he could go and storage spaces.

Mr. Jorczak stated he thought that was a function of how much he wanted to place out there and how close to the road it would be.

Mr. Thomas stated he thought that was all encompassing.

Mr. Spraker stated his recollection was that he had a 12' sidewalk leaving 7' to display product.

Ms. Behnke stated that if this is opened up, it is opened up to everyone, and the question is what the Board wants the City to look like. Ms. Behnke stated she felt the special exception is the way to go; that the applicant has to supply a site plan for an attractive display that is not damaging the City's image rather than making a broad change.

Mr. Briley stated he concurs with what has been said.

Ms. Behnke stated she would like to commend staff for the work put into researching this item; staff did a tremendous job in a short amount of time. Ms. Behnke stated when this discussion item was first presented it was not thought through clearly, but she feels the City is better off with the special exception process.

Ms. Press concurred with what was said and that it should remain a special exception.

Mr. Thomas asked where this would affect major thoroughfares; where the retail would actually be.

Mr. Spraker stated it depends on what area is chosen. Mr. Spraker explained the guidelines presented tried to limit it to commercial B-4, which is from the ocean to Orchard Street along Granada.

Mr. Thomas asked to forget the B-4 and B-6, etc. Mr. Thomas asked Mr. Spraker to tell him what areas this could encompass.

Mr. Spraker responded from the ocean to Orchard Street, and around Clyde Morris Boulevard on Granada; the Houligan's Plaza, Lowe's, Ormond Town Square, Wal-Mart, Seminole Center, and Tuscany Shoppes. Mr. Spraker explained there is quite a bit of retail within that corridor. Mr. Spraker stated it is how the Board would like the ordinance to be drafted; it could be limited to Planned Business Developments, but all of Nova Road has commercial and all of U.S. 1 has commercial.

Mr. Thomas stated around Houligan's there is no way that those people are going to be able to have outside displays because the sidewalks are only about 5' wide. Mr. Thomas stated most of those places have parking in front with a very narrow

sidewalk, so there is no place that he can envision outside of Lowe's that would be affected by this on Granada Boulevard from Houligan's west. Mr. Thomas asked what areas would be affected on Nova Road. Mr. Thomas stated all of the places along Nova Road have parking in front of the buildings. Mr. Thomas stated they are not talking about littering the main thoroughfares with stuff because there is no place for it because there are very few places that would qualify. Mr. Thomas stated if you stop and look at it there are not that many places that will be affected by this. Mr. Thomas stated the Board can vote against it and keep it the way it is, but he wants everyone to understand that there are not that many places for this to go.

Ms. Press stated the point is that if every time someone has a problem the Board changes the rules; then for instance Houligan's then has an issue because they are excluded and then wants the rules changed again; you can't keep changing the rules because two businesses come in and say, "Why can't we do this?"

Mr. Thomas asked why not. The country keeps changing the rules every time you turn around. Mr. Thomas stated 25 years ago when he was on the Planning Board as a much younger man with different ideas, he bought into the idea that monument signs were the way to go. Mr. Thomas stated times do change, things change, circumstances change; and if he is going to stay stuck in the mud with what was set 25 years ago then he shouldn't be on this Board.

Ms. Behnke stated when you consider the changes you must also consider where the City wants to go. Ms. Behnke stated as buildings are renovated or torn down and rebuilt, the objective is to bring them to the front with the parking in the back; now do you go back and change the rules again when they have them in the front. Ms. Behnke stated she is in favor of special exceptions.

Mr. Thomas stated he has an issue with saying we're not going to change rules because those are the rules.

Ms. Press stated they didn't say they didn't change rules, but rather they change rules when there is a need to change rules and when it makes sense to change rules.

Mr. Thomas asked Ms. Press if it was her opinion that there is not a need.

Mr. Press responded yes there is no need to change this particular item.

Mr. Briley stated he was intrigued with Port Orange because he thinks of Port Orange of being more in-line with Ormond Beach. Mr. Briley stated when he looks at what Port Orange allows as permanent display of merchandise which is landscape or garden supplies, outdoor recreation equipment, and lawn equipment, which is what the Board allowed with Lowe's. Mr. Briley stated they allow display setups of products customarily allowed out-of-doors such as pools, spas, lawn furniture, concrete fixtures, and other similar items limited to one of any product model. Mr. Briley stated this is similar to what TropiCasual was requesting. Mr. Briley stated in looking through what Port Orange allows as a

permanent display of merchandise limits what types of businesses can do so other than with a special exception because Port Orange requires outdoor display or storage may be permitted in conjunction with special sale events, by special exception or approved as part of a development plan. Mr. Briley stated that would give a way to still use the special exception for other types of outdoor product display.

Mr. Spraker stated staff respectfully requests some type of vote or action so staff can report to the Commission the Board's discussion.

Mr. Briley stated he liked the idea of the special exception, but he does see in a situation such as Lowe's it is almost a no-brainer to allow some sort of permanent outdoor product display such as TropiCasual as well. Mr. Briley stated if you could find some sort of parameters that allow those people to come in without having to go through special exception that would be appropriate.

Mr. Jorczak asked if it was the consensus of the Board that this continues to be handled through a special exception.

Ms. Behnke stated yes, especially outdoor music.

Mr. Jorczak moved to handle the outdoor display of product in accordance with the current rules and regulations.

Mr. Jorczak stated he would recommend staff make some guidelines because this issue may come up again, and TropiCasual very well may apply.

Mr. Spraker stated that what Mr. Briley was speaking to has merit; what Port Orange and other communities do is allow things that are large items such as lawn chairs as an outdoor display, but only one, which could be written in if that is the pleasure of the Board or Commission. Mr. Spraker stated there are a number of options; the City Commission could say that it is part of the special exception fee for small businesses. Mr. Spraker stated there are a lot of options available to the Commission; perhaps only charging the true hard costs of advertising.

Mr. Jorczak stated he would like to include that in the motion.

Ms. Behnke stated she would second that.

Mr. Randal Hayes, City Attorney, City of Ormond Beach called for the motion to be re-stated clearly and succinctly.

Mr. Jorczak moved to handle the outdoor display of product in accordance with the current rules and regulations as they currently exist with regards to special exceptions; with the addition of seasonal items being able to be displayed as a conditional use; waiving or reducing the cost of the application fee for the special exception to include only the hard costs for small businesses while if there is criteria the Commission can agree on by policy to reduce/waive the fee. Ms. Behnke seconded the motion.

Mr. Thomas asked for the definition of seasonal and how that works.

Mr. Spraker stated the existing regulation allows 30 days prior to the holiday with no cost for non-profit, but for example, Lowe's putting out Christmas trees they would pay the special event permit fee for 30 days which does not count towards their overall number of special event permits.

Mr. Thomas asked if ABC applied for a seasonal permit what it would cost.

Mr. Spraker responded they would pay a special event permit fee which is \$20 and would be good for 30 days, which is allowed under the current code.

Vote was called, and the motion unanimously approved.

B. Site Signage Discussion Item

Mr. Spraker stated that at the April 3, 2012, City Commission Workshop the issue of site signage came up. Mr. Spraker explained that the City Commission discussed what area should monument versus pole signs be allowed and the height of monument signs. Mr. Spraker asked staff to do the same thing as with outdoor activities; present it to the Planning Board, get an opinion, and see if there is some conclusion. Mr. Spraker explained in the current code for both pole and monument signs there are standards that include the area, height, number allowed, location, design, and landscaping. Mr. Spraker stated the monuments signs are focused along the gateways and areas being promoted such as the Greenbelt, Downtown Overlay District, Office Zoning Districts, and all resident zoning districts. Mr. Spraker explained that if a property is not excluded in that, then you are allowed a pole sign, which is primarily along South Atlantic Avenue, US 1 from Melrose Avenue south, Nova Road, and industrial areas.

Mr. Spraker stated one of the issues the City Commission discussed was the height of monument signs. Mr. Spraker explained that the current height standard is a maximum of 5' for the copy above the crown of the road. Mr. Spraker stated current code permits 5' for copy and an additional 2' for the site address and building architecture. Mr. Spraker explained that landscaping and site address are requirements. Mr. Spraker stated one of the design standards is a limit to 6 tenant panels.

Board members commented on the address number being on the bottom of the monument signs being hard to read as one is driving down the road at 45 miles per hour and make it difficult while trying to negotiate traffic.

Mr. Spraker stated under direction from the Planning Board on outdoor activities, staff gathered information of what different jurisdictions are doing with regards to signage. Mr. Spraker showed multiple photographs of different types, heights, and designs of monument versus pole signs. Mr. Spraker explained that there is a design element that no matter what staff suggests, the sign contractors, landscape architects, and site designers need to help their clients as well. Mr. Spraker

explained that if the Board does not like the site address on the bottom it can be required to be on the top.

Ms. Press stated that the code should be amended to require the site address at the top of the sign where it is visible.

Mr. Briley concurred and stated it would keep uniformity as well so when people are looking for addresses they would know to look at the top of the sign for the address.

Mr. Thomas stated he would prefer where there are blank tenant signs that the existing tenants take up that space until the other units are occupied.

Mr. Heaster responded that has to do with the building owner keeping the blank spaces open for future use.

Ms. Behnke stated she is more concerned with safety than she is appearances and she feels monument signs create a safety hazards.

Mr. Spraker stated that ground signs are a mix between the monument sign and pole sign. Mr. Spraker explained a ground sign is taller than the monument sign height; it is a monument style sign that is taller than 7'.

Mr. Briley stated monument signs become excellent targets for teenagers to throw things at and then the inserts are broken, which becomes a financial burden to the tenant to replace the panels.

Mr. Thomas stated there is a safety problem with monument signs acting like walls. Mr. Thomas asked if it was possible to have a combination of a smaller base of 2.5' column with the large sign on top which would give more visibility; more of a pedestal than a monument. Mr. Thomas stated if the Board was inclined to allow pole signs they could make aesthetic requirements that the base has to be cut block, brick, masonry or something of that nature.

Mr. Spraker responded yes; the Board can establish design standards for pole signs.

Mr. Thomas stated he feels the higher the sign, the easier it is to see it because you are not competing with shrubs, trees, and the like to see the information on the sign.

Ms. Press stated there is a question of if there is going to be a difference in the signs that are used downtown from others.

Ms. Behnke stated she likes the pole signs on beachside, the City signs, but those are one item signs. Ms. Behnke stated she likes this just above eye-level in a car. Ms. Behnke stated she does not like the monument signs that are competing with shrubbery because they are hard to read.

Mr. Spraker stated downtown has the Form Based Code which draws the buildings to the front; when the downtown code was implemented there is now not room at the site area for monument signs. Mr. Spraker explained that the wall signs become the building and site sign, which is currently in the Form Based Code.

Mr. Briley stated in 2004 there was discussion about signage for the downtown such as Billy's Tap Room as the type of sign the City wanted to see.

Mr. Spraker explained projecting signs are allowed under the Form Based Code.

Ms. Press stated she feels downtown is very different with the buildings close to the street with traffic going slow so you can really see what the stores are offering or if there is a restaurant. Ms. Press stated she thinks there is a different way to look at signs in the downtown versus any other place. Ms. Press stated she likes to see signs on buildings, signs on awnings, and tastefully done lettering in windows. Ms. Press stated she feels that's what makes a downtown.

Mr. Briley stated he thought at one time the City limited the size of signage on awnings.

Mr. Spraker responded for a time they were not allowed; signage on awnings is currently permitted, but it counts towards the wall signage.

Mr. Thomas stated he would like to see larger signage along downtown because it is hard to see and dangerous with all of the people turning in the downtown area across traffic.

Mr. Heaster responded to keep in mind FDOT's plans to change the downtown which will make traffic slow down.

Mr. Thomas stated that has been happening for 20 years, and it still hasn't happened.

Mr. Goss stated if the City does not want a downtown that's walkable and the Board believes downtown should just be a highway, then there should be monument signs or pole signs and make them as large as you can, but medians and crosswalks will be put in. Mr. Goss stated traffic will be slowing down. Mr. Goss explained that as you move the building up to the street level, the signs will be able to be seen. Mr. Goss explained that if the City is not trying to encourage people to walk the downtown, then downtown Granada Boulevard should not be treated any different than Granada Boulevard out west or if it were Nova Road or A1A. Mr. Goss stated in his view, the City is designing for today, but rather for conditions in the future based on concrete actions that will occur in the next 2-3 years.

Mr. Thomas asked if that program is still funded and is ready to go.

Mr. Goss responded absolutely.

Mr. Jorczak stated he was not opposed to raising the height of the monument signs and/or incorporating a pedestal style arrangement to get the elevation. Mr. Jorczak asked what the current height restriction is.

Mr. Spraker responded 5' for the copy, 7' for the overall height.

Mr. Jorczak asked if that was raised a couple of feet for the overall height so they are closer to eye level on a pedestal which effectively reduces the mass of signage because you can see underneath. Mr. Jorczak stated allowing a pole sign could be permitted if visibility is an issue so as not to create an undo safety hazard and increase the flexibility.

Mr. Thomas asked for the definition of a pole sign.

Mr. Spraker responded in the City's code it is anything that exceeds 7' in height.

Mr. Thomas asked if it was strictly a height versus a round pole/diameter issue.

Mr. Spraker responded the typical characteristics are two poles and the cabinet.

Mr. Thomas asked at what height from the ground to the bottom of the cabinet Mr. Spraker thought a safe distance to see underneath to see oncoming traffic or cross traffic.

Ms. Behnke responded eye height level from your vehicle, which would be 3.5-4'.

Mr. Heaster asked if the Board could keep the setbacks in mind. Mr. Heaster stated these issues are already taken into consideration.

Ms. Behnke stated the thing you have to look at is the people that have signs now are not going to tear them down, but through attrition over a period of time they could be changed if they are more than 50% damage.

Mr. Heaster asked what happens when a sign is damaged or destroyed.

Mr. Spraker responded that current existing non-conforming sign code is very gentle; as long as the non-conforming sign is maintained it can be kept forever; there is no amortization schedule, no requirements to move it. Mr. Spraker explained that if the sign is damaged more than 50%, it must be replaced with a conforming sign. Mr. Spraker stated if a use is changed such as Arby's which went from a permitted use to a special exception use, they then have to come into conformance with the code, which is why that sign changed; also, if a property is vacant longer than 6 months, then the sign will need to conform with current code.

Mr. Goss stated one of the issues Mr. Spraker raised was that the City only allows 6 panels. Mr. Goss explained the City has always had people asking for more panels.

Mr. Spraker stated Winn Dixie is allowed to have a sign for each principal building as well as being a corner, so they are allowed 3, they are probably over 50,000 square feet, so that property is allowed 4 signs. Mr. Spraker explained therefore they may not be able to have 1 big sign, but they could have 4 signs. Mr. Spraker stated using the Pavilion in Port Orange as an example, there are no signs, it says "The Pavilion" and that's it.

Mr. Heaster stated that is a theme a lot of places are going to; the name of the destination or building. Mr. Heaster explained the experience he's had is that you're driving down Granada Boulevard at 45 mph; you're not going to see doctor so-and-so or so-and-so real estate- you're going to the main name or theme on the sign of the building or the destination. Mr. Heaster stated in his discussion with sign contractors, they say the only person that sees the individual business name is the one tenant that sees their name. Mr. Heaster stated retail is a different animal from professional/medical.

Mr. Thomas asked for examples of a "destination" other than Lowe's.

Mr. Spraker responded Ormond Town Square.

Mr. Heaster responded Holland Financial Center.

Ms. Press stated complexes should have a name, for example, Clyde Morris Medical Center with a large site address and be destinations without a million names on a sign. Ms. Press stated regarding Page 5, "... not every commercial corridor was a gateway into the city and therefore higher standards were not needed," that "higher standards" should never be said. Ms. Press stated higher standards should be needed on every gateway, and there are complications when it is both County and City, but every gateway should be upgraded.

Mr. Thomas stated it would be nice to have signs half way before you get to the next intersection that tells the driver what street is coming up; those signs save a lot of last minute lane changes.

Mr. Heaster asked what was expected of the Board for this item.

Mr. Thomas stated it was to get the Board's opinion on pole signs as opposed to monument signs.

Mr. Spraker stated if the Board was to follow the categories as contained in the memorandum, the Board could make recommendations according to those categories and if pole signs should be allowed in other areas than currently allowed. Mr. Spraker stated the Greenbelt which includes properties in the County and North US 1; whatever is decided for the Greenbelt would apply to

County properties as well as downtown, professional office, and residential. Mr. Spraker stated the City is probably the most flexible with granting additional number of signs; they are granted based on each principle building, square footage, and each entrance on a shopping center.

Mr. Thomas stated he would like to officially change the name from pole signs to pedestal signs because it sounds better.

Ms. Behnke stated she concurred.

Mr. Heaster stated it was a shame there wasn't a sign contractor present for the Board to pose questions to.

Mr. Spraker stated staff can request sign contractors to attend the next meeting.

Mr. Thomas stated he concurred with Mr. Heaster and would love to have sign contractors attend the next meeting.

Mr. Briley stated he doesn't see an issue with pole signs in the Downtown Overlay District.

Mr. Thomas concurred with Mr. Briley.

Ms. Press stated she would like to know how many accidents there have been in the City of Ormond Beach because of monument signs.

Mr. Goss stated the City has all crash data, so if someone was in a crash due to a sign the City would have that data either from the County or FDOT.

Mr. Briley stated with pole signs the Board can create design criteria where it is not just a single pole.

Mr. Heaster stated his focus is on the downtown and redevelopment efforts.

Mr. Spraker suggested that staff bring sign contractors at the next regularly scheduled meeting for another discussion on this item.

Mr. Thomas asked if staff could research to see if there is such a thing as a pedestal sign with a monument sign on the top and height requirements.

C. City of Ormond Beach Commercial Development Project Sheet

Mr. Jorczak asked for Mr. Spraker to bring the Board up to date regarding the items on the Project Sheet which appears to not have any activity at all going on.

Mr. Spraker responded that some of the projects are approved and are extending their approvals to the best of their ability; other projects have not provided resubmittals in a long time.

Mr. Jorczak asked what HB 7207 is.

Mr. Spraker responded that it is a legislative bill that extended development orders; a State action that allowed the extension of development orders.

Mr. Jorczak stated that the developer has up until that date to request an extension.

Mr. Spraker responded that they had until December 31, 2011; there was a time certain by which they had to apply for the extension which is good for an additional two years over and above what the applicant already had.

Mr. Jorczak asked for the status of the McNamara warehouse.

Mr. Spraker responded that they have fire issues; there are no fire hydrants in that area. Mr. Spraker explained during the first submittal, it was recognized that there were no fire hydrants. Mr. Spraker stated that there is a capital improvements program that will put fire hydrants down that street, so the developer has to wait until the water line is complete as there is currently only a 2" waterline.

Mr. Jorczak asked if all of the projects are active.

Mr. Spraker responded they are active in that they still have some level of approval. Mr. Spraker explained if all of the projects were deemed expired; all they would have to do is resubmit a site plan.

Mr. Thomas asked what is happening just south of the old World Color building.

Mr. Spraker responded that it is a Volusia County project by Scott Vanacore for either a Walgreens or CVS. Mr. Spraker explained that there is an Annexation Agreement in place that once that site has water and sewer it will be annexed.

Mr. Jorczak asked if there was a timeline for the force main on Airport Road as well as the paving.

Mr. Goss responded that there is a timeline for the Airport Road extension, but staff will follow up with the exact date.

Mr. Jorczak asked if the paving would be west of the business park.

Mr. Spraker responded he will follow up with Engineering and provide it to the Board.

Mr. Thomas asked when the Tymber Creek widening will take place.

Mr. Goss responded the Tymber Creek project has been put out to bid.

IX. MEMBER COMMENTS

Ms. Behnke thanked staff for the information; it provided a good set of parameters to consider with regards to special exceptions.

Mr. Briley stated he concurred with Ms. Behnke.

Mr. Thomas stated he would like it reflected in the minutes that since the City Commission never saw fit to take action on the Planning Board's recommendation on electronic signs, he would like to ask them directly as Chairman if the City Commission would like the Planning Board to address that as well. Mr. Thomas stated he would like an answer as to what the City Commission would like the Planning Board to do.

X. ADJOURNMENT

The meeting was adjourned at 8:53 p.m.

Respectfully submitted,

Ric Goss, AICP, Planning Director

ATTEST:

Doug Thomas, Chair

Minutes transcribed by Meggan Znorowski.

CITY OF ORMOND BEACH

FLORIDA

PLANNING

MEMORANDUM

TO: Chairman Thomas and Planning Board members

FROM: Steven Spraker, AICP, Senior Planner

DATE: July 3, 2012

SUBJECT: Other Business

Planning staff has confirmed that two signage companies will attend the July Planning Board meeting to discuss site signage as discussed in the June Planning Board meeting. There is no additional staff report for this item other than the June memorandum previously distributed.

Also, at the June 18, 2012 Planning Board workshop regarding Ormond Crossings it was stated if there are any additional comments that Board members, they may be presented at the July 12, 2012 Planning Board meeting.

If there are any questions regarding either item, please contact me at (386) 676-3341 or by e-mail at spraker@ormondbeach.org. Thank you

STAFF REPORT

City of Ormond Beach Department of Planning

DATE: July 5, 2012

SUBJECT: 1634 North US Highway 1 (Super 8) – Small-Scale Land Use Plan Amendment

APPLICANT: City Initiated

NUMBER: LUPA 12-097

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

INTRODUCTION: This is a city initiated request, to change the existing Future Land Use designation of a ±4.6-acre parcel from Volusia County “Commercial” to Ormond Beach “Tourist Commercial” located at 1634 North US Highway 1.

BACKGROUND: The property located at 1634 North US Highway 1 is owned by Ajal Management Inc. which operates a 48-room motel. The property was developed under Volusia County review in the mid 1970’s and connected to City water in 2000. The property was annexed on May 1, 2012, with Ordinance 2012-17. The annexation occurred based on connection to City utilities.

Given that the subject property is now located within the City of Ormond Beach, the City is required to assign a City land use and compatible zoning. Until a City land use designation and zoning classification are adopted, the property maintains its County land use and zoning classifications.

The subject property currently has a County Future Land Use Map designation of Volusia County “Commercial” and fronts the west side of US Highway 1. The property abuts the Dairy Queen property to the south and AA Accurate Truck and Tire Repair to the north. The Florida East Coast Railway lies to the west. The property is currently developed as a 48-room motel and there are currently no plans for further site development. The expected zoning designation will be B-7 (Highway Tourist Commercial) and will follow upon the completion of the administrative land use change from Volusia County “Commercial” to Ormond Beach “Tourist Commercial”. The land use amendment schedule of the subject property is as follows:

Action/Board	Date
Planning Board	July 12, 2012
Transmit to Volusia County Growth Management Commission	July 13, 2012
City Commission 1 st Reading	September 4, 2012
City Commission 2 nd Reading	September 18, 2012
Transmit to Florida Department of Economic Opportunity	September 19, 2012

The purpose of this amendment is to amend the land use designation of the ±4.6-acre County “Commercial” tract of land to City “Tourist Commercial” to assign a land use to the subject property as a result of annexation to allow development of the site for the uses allowed in the B-1 zoning district.

The directive text of the County’s Comprehensive Plan states the following for the “Commercial” land use category:

“Commercial (C) - This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.

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

However, the Plan recognizes existing strip commercial development along many arterial roadways may remain. These areas are identified on the Future Land Use Map and if the designation is shown on only one side of a roadway, this specifically provides that particular side is intended for commercial use and is not to suggest that the opposite side

is also included. Future extension of the strip commercial beyond that shown on the Plan Map shall require a Plan amendment.

Existing commercial uses not indicated on the Future Land Use Map may be consistent with the Plan if they comply with Number 16 of the Interpretation Section.”

The request is for an amendment to the City “Tourist Commercial” land use category. The directive text of the City’s Comprehensive Plan states the following for “Tourist Commercial” category:

“Purpose: A multi-use land use category to provide uses along the Atlantic Ocean, SR A1A and highway interchanges, that include transit availability, retail services, tourist attractions, restaurants, multi-family and lodging to visitors to the City. For projects that propose a mixture of residential and non-residential uses, the minimum FAR should be 0.2.

Density: Maximum: 32 units per acre.

Maximum FAR: 1.5.”

ANALYSIS: Staff has reviewed the application to amend the land use as follows:

1. Whether the land use meets the criteria established in the City’s Comprehensive Plan and Florida Statute.

COMPREHENSIVE PLAN

Amendment of Adopted Comprehensive Plan:

In accordance with Chapter 163.3187(1)(a)(b)(c), Florida Statutes, any local government comprehensive plan amendments directly related to proposed small-scale development activities may be approved without regard to statutory limits on the frequency of consideration of amendments to the local comprehensive plan. A small-scale development amendment may be adopted only under the following conditions:

1. A small scale development amendment may be adopted under the following conditions.

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

The subject property is ±4.6 acres (less than 10 acres).

b. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government does not exceed a maximum of 120 acres in a calendar year.

The proposed small-scale amendment complies with this requirement. The proposed small-scale amendment is the 2nd request for the year 2012. The following represent previous amendments for 2012:

<u>Case #</u>	<u>Address</u>	<u>Acreage</u>
LUPA 12-06	115 North Nova Road	±0.46

- c. **The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government’s comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible under this section.**

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

- d. **The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. [420.0004\(3\)](#), and is located within an area of critical state concern designated by s. [380.0552](#) or by the Administration Commission pursuant to s. [380.05\(1\)](#).**

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

City’s Comprehensive Plan:

Objective 1.2 of the Future Land Use Element of the Comprehensive Plan states that the City needs to ensure that there are adequate amounts of lands to meet the commercial land use needs of the community. The existing development pattern in this area is the “Tourist /Commercial” land use designation. In addition, Policy 5.1.1 under Goal 5. Annexation of the Future Land Use Element, states that the City shall assign a similar land use to annexed properties.

2. Whether the land use is an appropriate use of the land.

Land Use: The adjacent land uses and zoning are as follows:

Land Use and Zoning Designations of Adjacent Property			
	Current Land Uses	Future Land Use Designation	Zoning
North	AA Accurate Truck and Tire Repair	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	Dairy Queen	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	Destination Daytona	Volusia County "Commercial"	Volusia County BPUD (Business Planned Unit Development)
West	Vacant	Ormond Beach "Activity Center"	Volusia County A-2

The future land use designation presently assigned to the subject property is Volusia County "Commercial" and the proposed future land use designation is Ormond Beach "Tourist Commercial". Both land use designations are compatible with adjacent land uses to the east and west (County "Commercial"). The adjacent property to the north has a Future Land Use Map designation of Volusia County "Commercial". This land use is also compatible with the subject property and surrounding properties to the north and east.

At this time, the Planning Department does not have any proposals regarding any further development of the property. The directive text of the City's Comprehensive Plan explains that commercial development in Ormond Beach has occurred along the major arterials and that this trend should be continued.

3. Whether there is adequate infrastructure to serve the proposed land use.

Infrastructure: Impact analysis examines the maximum expected impacts of the current designation versus the requested designation based on a preliminary development scenario. This analysis is not meant to replace or contradict the findings of a Concurrency Management Review. However, the relative differences between designations can provide useful information in the long-range planning process. This analysis is based on ±4.6 developed acres to be assigned the City "Tourist Commercial" land use.

Transportation: Based on the ITE rate of category 320 (ITE Trip Generation Manual, Volume 3 of 3, 8th Edition), a motel of 48 units is estimated to generate 270 daily trips. Since the site is already developed and designated Volusia County “Commercial”, a change in Future Land Use to Ormond Beach “Tourist Commercial” will not generate an increase in new trips at this time.

Water & Sewer: The subject property is located in the utility service area of the City of Ormond Beach and will not generate in increase in demand. While the existing water pressure is low, the City plans to install a booster pump at Nova Road and US Highway 1.

Stormwater Management: The site is developed and a stormwater management plan will be required if the property is further developed in the future.

Solid Waste: This property is served by the City of Ormond Beach.

Schools: The site is developed as a hotel and there will be no impacts to schools as a result of the subject land use amendment.

Other Services: City police and fire protection services serve this area. The parcel is located within an approximate 4-5 minute response time from emergency facilities.

CONCLUSION: Staff supports the land use amendment from Volusia County “Commercial” to Ormond Beach “Tourist Commercial”. Since the existing parcel is developed as a motel, this small-scale land use map amendment is an administrative amendment required to assign a City Future Land Use Map designation to the subject parcel. Staff believes that the Ormond Beach “Tourist Commercial” land use category is appropriate for the following reasons:

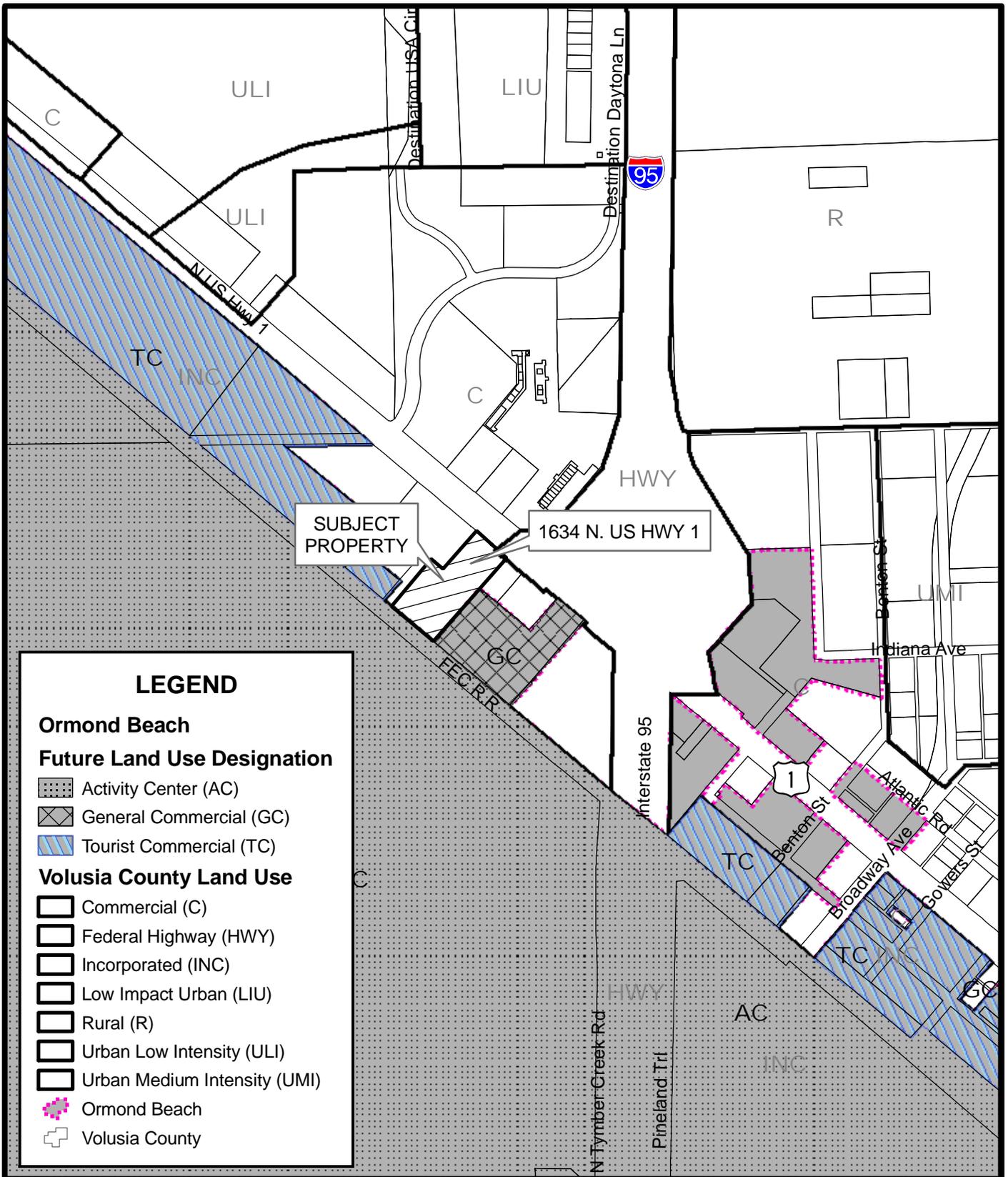
1. The amendment meets the criteria established in the City’s Comprehensive Plan and Florida Statute;
2. The proposed land use is an appropriate use of land; and
3. There is adequate infrastructure to serve the proposed land use. Since the site is already developed, there will be no change to impacts on facilities and services as a result of the administrative change in land use from county “Commercial” to Ormond Beach “Tourist Commercial”.

RECOMMENDATION: Staff recommends that the Planning Board recommend **APPROVAL** of Case # LUPA 12-097 – a Future Land Use map amendment to change the land use for ±4.6 acres from County “Commercial” to City “Tourist Commercial” for 1634 North US Highway 1.

- Attachments
- Exhibit 1: Land Use Map
 - Exhibit 2: Photo and Location Aerial
 - Exhibit 3: Legal Description

EXHIBIT 1

Future Land Use Map



FUTURE LAND USE MAP
1634 N. US HWY 1 (3136-01-64-0021)

The City of Ormond Beach G.I.S. Department
 Prepared By: Eric Dickens 11/15/11

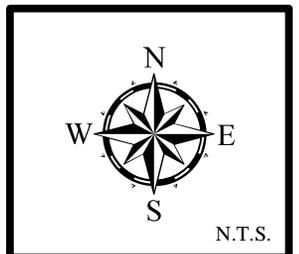


EXHIBIT 2

Photo and Location Aerial





AERIAL MAP
1634 N. US HWY 1 (3136-01-64-0021)

The City of Ormond Beach G.I.S. Deaprtment
Prepared By: Eric Dickens 11/15/11

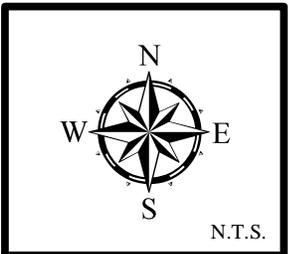


EXHIBIT 3

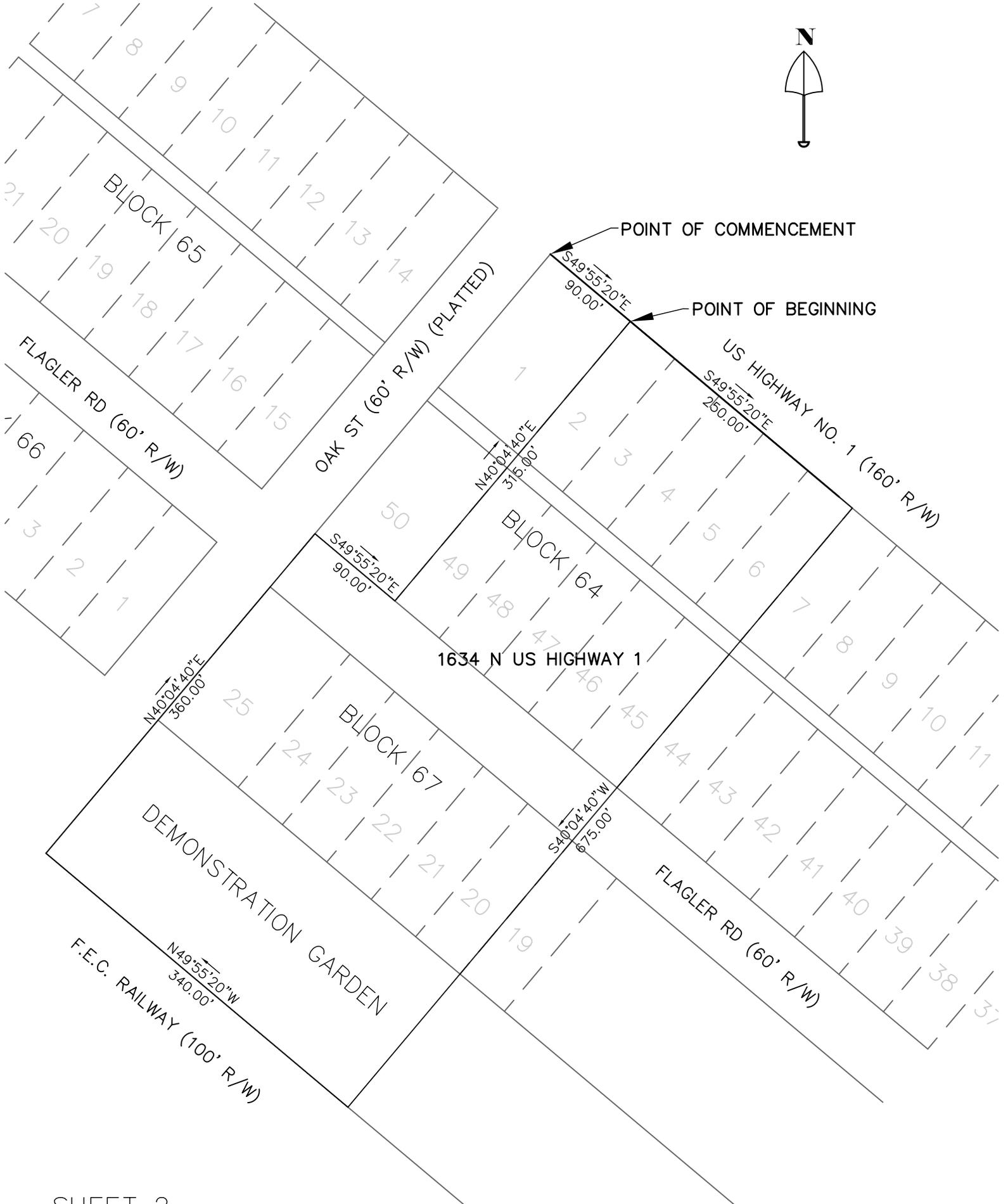
Legal Description

LEGAL DESCRIPTION

LOTS 2-6, AND 45-49, BLOCK 64, INCLUDING THAT PORTION OF CLOSED ALLEY WAY, AND VACATED FLAGLER ROAD, ALSO LOTS 20-25, AND THAT PORTION OF DEMONSTRATION GARDEN, BLOCK 67, ALL IN REVISED PLAT OF NATIONAL GARDENS, AS RECORDED IN MAP BOOK 10, PAGES 250-253, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE INTERSECTION OF THE EASTERLY LINE OF OAK STREET (A 60' RIGHT-OF-WAY AS SHOWN IN SAID PLAT NATIONAL GARDENS), WITH THE SOUTHERLY LINE OF U.S. HIGHWAY No.1 (A 160 FOOT RIGHT-OF-WAY AS NOW OCCUPIED AND ESTABLISHED); RUN THENCE S49°55'20"E ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 90.00 FEET TO POINT OF INTERSECTION WITH THE WESTERLY LINE OF LOT 2, BLOCK 64 OF SAID NATIONAL GARDENS, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE S49°55'20"E ALONG SAID SOUTHERLY LINE A DISTANCE OF 250.00 FEET; THENCE DEPARTING SAID SOUTHERLY LINE RUN THENCE S40°04'40"W A DISTANCE OF 675.00 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY LINE OF THE FLORIDA EAST COAST RAILWAY (A 100' RIGHT-OF-WAY AS NOW OCCUPIED AND ESTABLISHED); THENCE N49°55'20"W ALONG SAID NORTHERLY LINE A DISTANCE OF 340.00 FEET; TO A POINT OF INTERSECTION WITH THE EASTERLY LINE OF SAID OAK STREET; THENCE N40°04'40"E ALONG SAID EASTERLY LINE A DISTANCE OF 360.00 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY LINE OF FLAGLER ROAD (A 60' RIGHT-OF-WAY AS SHOWN IN SAID PLAT NATIONAL GARDENS); THENCE S49°55'20"E ALONG SAID NORTHERLY LINE A DISTANCE OF 90.00 FEET; THENCE DEPARTING SAID NORTHERLY LINE RUN N40°04'40"E A DISTANCE OF 315.00 FEET TO THE POINT OF BEGINNING

SAID PARCEL CONTAINING 201,150 SQ. FT. OR 4.62 ACRES MORE OR LESS.



STAFF REPORT

City of Ormond Beach Department of Planning

DATE: July 5, 2012

SUBJECT: 1634 North US Highway 1- Super 8: Amendment to Official Zoning Map

APPLICANT: City Initiated

NUMBER: RZ12-098

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

INTRODUCTION: This is a city initiated request to amend the City's Official Zoning Map for a ±4.6-acre parcel of land from the existing zoning classification of Volusia County B-6 (Highway Interchange Commercial) to City of Ormond Beach B-7 (Highway Tourist Commercial) at 1634 North US Highway 1, Super 8 (see Exhibit 1).

BACKGROUND: The property located at 1634 North US Highway 1 is owned by Ajal Management, Inc. which operates a 48-room motel. The property was developed under Volusia County review in the mid 1970's and connected to City water in 2000. The property was annexed on May 1, 2012, with Ordinance 2012-17. The annexation occurred based on connection to City utilities.

The City is presently processing a separate land use amendment from Volusia County "Commercial" to Ormond Beach "Tourist Commercial". The proposed rezoning from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Tourist Commercial) is contingent upon adopting the land use change. As previously stated, the subject property is already developed and there is no site development or alterations proposed for the subject property associated with this re-zoning. Subsequent to Planning Board review, the rezoning will be reviewed by the City Commission for final action.

ANALYSIS: The existing Volusia County zoning classification for the subject property is B-6 (Highway Tourist Commercial). The Volusia County Land Development Code states the purpose and intent for the B-6 zoning is as follows:

"The purpose and intent of the B-6 Highway [Interchange] Commercial Classification is to provide a specialized classification for hotels, motels and tourist-related retail facilities near major highway interchanges."

Below is a list of the permitted (staff approval) and Special Exception (County Council approval) uses for the existing zoning district.

Volusia County Permitted B-6 (Highway Interchange Commercial) Uses

Automobile rental agencies	Cultural arts center	Houses of worship	Public schools
Automotive service stations, types A, B, C	Essential utility services	Laundry and dry-cleaning establishments	Publicly owned park and recreational areas
Bars, accessory to hotels & restaurants	Exempt excavations	Libraries	Publicly owned or regulated water supply wells
Barber and beauty shops	Exempt landfills	Newsstands	Restaurants, types A and B
Car washes	Fire stations	Mobile recreational vehicle shelter sales and services	Retail specialty shops
Communication towers not exceeding 70 in height	Government sponsored civic centers	Museums	Theaters
Convenience stores with more than eight vehicular service positions	Home occupations, class A	Nightclubs	Tire sales
Convenience stores, with or without fuel dispensers	Hotels/motels	Outdoor entertainment event	

Volusia County Special Exception B-6 (Highway Interchange Commercial) Uses

Communication towers exceeding 70 feet	Flea Markets	Public uses not listed as a permitted principal use	Only one single-family dwelling for the owner/manager of an existing permitted use
Cemeteries	Mobile recreational vehicle and shelter parks	Public utility users and structures	Truck stops and storage
Curb markets	Outdoor entertainment and recreational uses and structures	Railroad yards, siding and terminals	
Excavations only for stormwater retention ponds for which a permit is required	Professional or trade schools related to permitted uses	Schools, parochial or private	

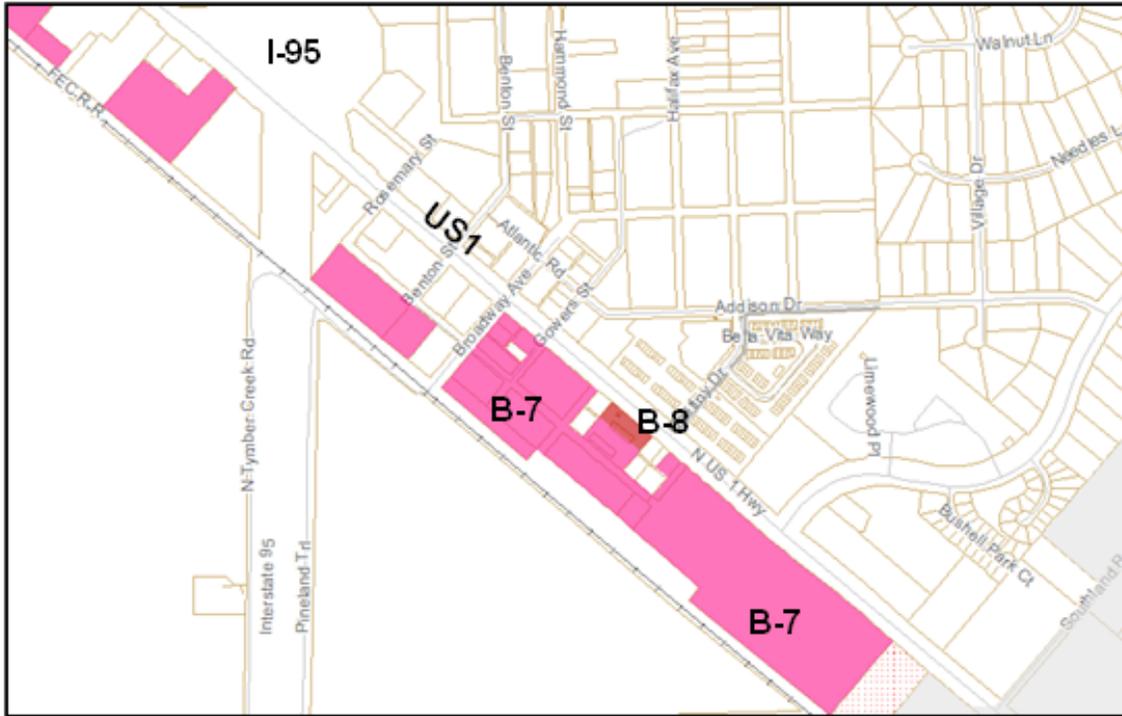
The subject property is undergoing a land use amendment to assign a City Future Land Use designation of "Tourist Commercial". During staff's analysis the following points were considered:

1. The area of the subject property is located in the general area of the intersection of Interstate 95 and US Highway 1. Uses in this area include motel, gas station,

nightclub, restaurant, convenience store, and other commercial uses, including office and retail.

2. South of the intersection of Interstate 95 and US Highway 1, the B-7 (Highway Tourist Commercial) zoning classification extends approximately 4,500 linear feet.

Ormond Beach Zoning Map



3. The goal of the zoning classification is to provide the most similar classification assigned by Volusia County. In accordance with the City’s Comprehensive Plan the city “Tourist Commercial” land use designation was applied to the subject property. In choosing an appropriate zoning district, Table 2.2 under Chapter 2, Article I – Establishment of Zoning Districts and Official Zoning Map, Section 2.02 of the City’s Land Development Code was referenced.

Comprehensive Plan Future Land Use Map Designation	Corresponding Compatible Zoning District
Tourist Commercial	Oceanfront Tourist Commercial (B-6) Highway Tourist Commercial (B-7) Planning Residential Development (PRD) Planned Business Development (PBD)

Chapter 2, Article I Zoning Districts, Section 2.02 Future Land Use Map Designations and Zoning Districts, Table 2.2

Under the “Tourist Commercial” land use designation, there are four corresponding and compatible zoning districts including Oceanfront Tourist Commercial (B-6), Highway Tourist Commercial (B-7), Planned Residential Development (PRD), and Planned Business Development (PBD). The PRD and PBD zoning districts were eliminated since those districts are planned development designations and do not apply to the annexation of the subject

property. Since the subject property is not located beachside, the B-7 zoning district is not applicable. Given the location of the subject property near an interchange where tourist facilities and tourist related activities are located, the B-6 zoning district was identified as corresponding and compatible with the "Tourist Commercial" land use designation.

Zoning Adjacent Land Use:

Adjacent land uses and zoning are as follows:

Land Use Designations and Zoning Classifications of Surrounding Property

	Current Land Uses	Future Land Use Designation	Zoning Classification
North	1644 North US Highway 1 - AA Accurate Truck and Tire Repair	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
South	1626 North US Highway 1 - Dairy Queen	Volusia County "Commercial"	Volusia County B-6 (Highway Interchange Commercial)
East	1637 North US Highway 1 - Destination Daytona	Volusia County "Commercial"	Volusia County BPUD (Business Planned Unit Development)
West	Vacant	Ormond Beach "Activity Center"	Volusia County A-2

CONCLUSION/CRITERIA FOR APPROVAL: Section 1-18 D.3. of the Land Development Code states that the Planning Board shall review non-planned development rezonings based on the Development Order criteria in Section 1-18.E. of the Land Development Code which are analyzed below:

- 1. The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare, or quality of life.**

No specific development is proposed and the request is based on a need to assign a City zoning classification to the property as the result of annexation. The zoning map amendment is contingent on a City land use being assigned and will not adversely affect public health, safety, welfare, or the quality of life.

- 2. The proposed development is consistent with the Comprehensive Plan.**

There is a separate land use map amendment that proposes to assign a City "Tourist Commercial" designation to the property. Policy 5.1.1. of the Future Land Use Element states that properties annexed into the City of Ormond Beach shall be

assigned similar land uses that they had in Volusia County. The subject property is already developed with a 48-room motel in operation and no additional improvements are proposed. The requested B-7 zoning district is consistent with the "Tourist Commercial" land use designation.

- 3. The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

The property has an existing building and site improvements. There is no construction proposed and criterion is not applicable.

- 4. The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties.**

This proposed zoning map amendment is not anticipated to have a significant impact on adjacent properties and the existing motel will continue to operate as it historically has.

- 5. There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

- 6. Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

- 7. The proposed development is functional in the use of space and aesthetically acceptable.**

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

- 8. The proposed development provides for the safety of occupants and visitors.**

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

- 9. The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

The property has existing building and site improvements. There is no construction proposed and this criterion is not applicable.

10. The testimony provided at public hearings.

There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

Section 1-18.E.3 of the Land Development Code states that the City Commission shall consider rezonings based on the consistency with the Comprehensive Plan. The rezoning is consistent based upon the following points:

- The impacts on facilities and services will not change as a result of the requested zoning amendment from Volusia County B-6 (Highway Interchange Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).
- The proposed City zoning classification of B-7 is most consistent with the Volusia County zoning classification of B-6 and provides similar types of uses.
- The administrative request is consistent with the compatibility matrix outlined in the Land Development Code for the Future Land Use Plan Map designation of "Tourist Commercial".

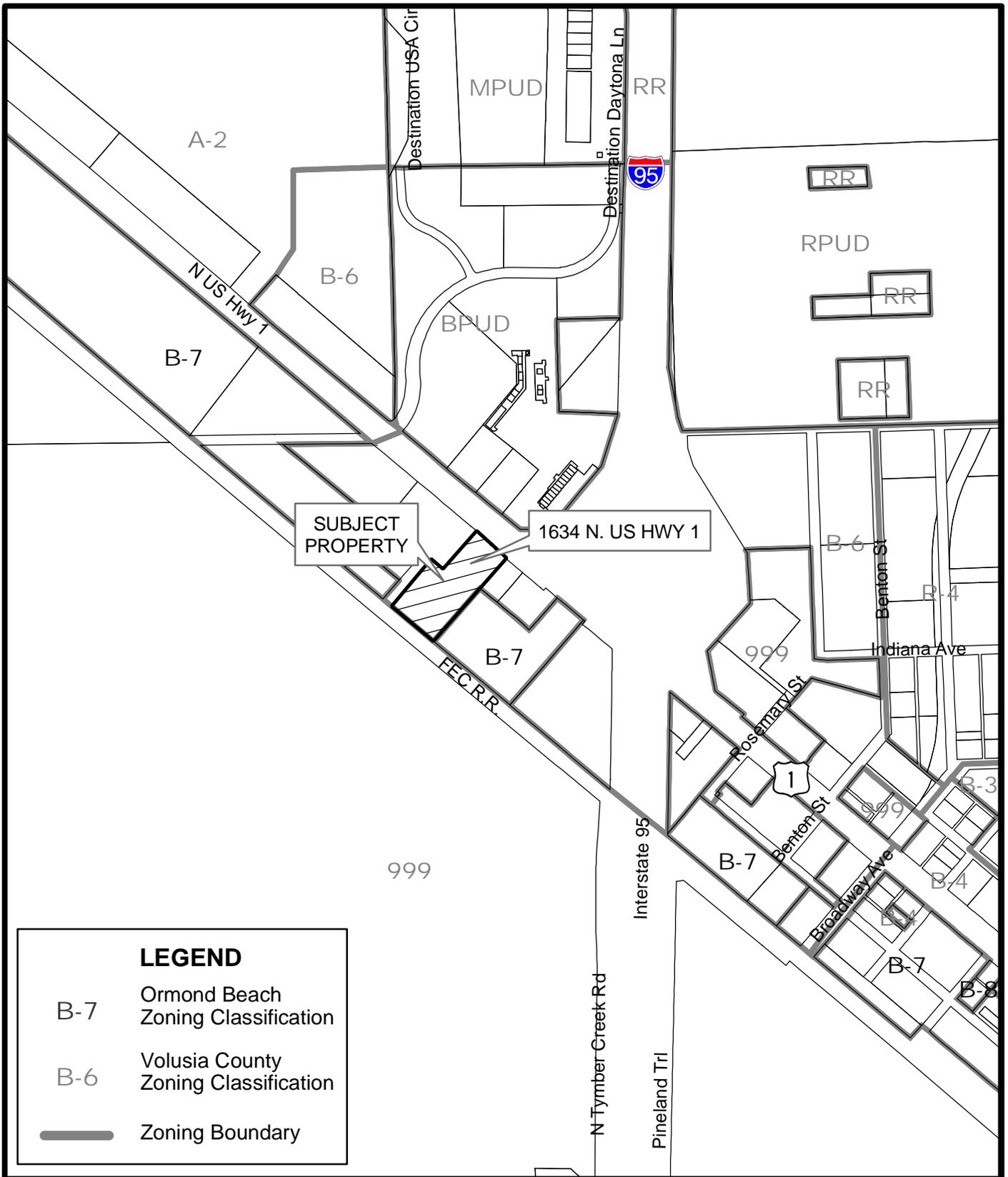
RECOMMENDATION: Staff recommends that the Planning Board recommend **APPROVAL** to the City Commission of the administrative request to amend the Official Zoning Map to change the zoning classification of 1634 North US Highway 1, as described in the attached legal description, from Volusia County B-6 (Commercial) to Ormond Beach B-7 (Highway Tourist Commercial).

Attachments

- Exhibit 1: Zoning Map
- Exhibit 2: Photo, and Location Aerial
- Exhibit 3: Legal Description
- Exhibit 4: Section 2-28 of the LDC, B-7 zoning district

EXHIBIT 1

Zoning Map



ZONING MAP
1634 N. US HWY 1 (3136-01-64-0021)

The City of Ormond Beach G.I.S. Deaprtment
 Prepared By: Eric Dickens 11/15/11

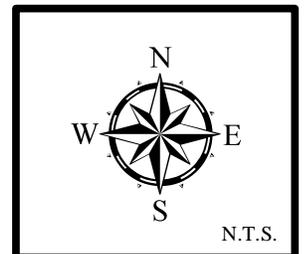


EXHIBIT 2

Photo and Location Aerial



1634





AERIAL MAP
1634 N. US HWY 1 (3136-01-64-0021)

The City of Ormond Beach G.I.S. Deaprtment
Prepared By: Eric Dickens 11/15/11

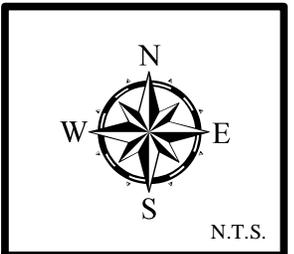


EXHIBIT 3

Legal Description

LEGAL DESCRIPTION

LOTS 2-6, AND 45-49, BLOCK 64, INCLUDING THAT PORTION OF CLOSED ALLEY WAY, AND VACATED FLAGLER ROAD, ALSO LOTS 20-25, AND THAT PORTION OF DEMONSTRATION GARDEN, BLOCK 67, ALL IN REVISED PLAT OF NATIONAL GARDENS, AS RECORDED IN MAP BOOK 10, PAGES 250-253, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCE AT THE INTERSECTION OF THE EASTERLY LINE OF OAK STREET (A 60' RIGHT-OF-WAY AS SHOWN IN SAID PLAT NATIONAL GARDENS), WITH THE SOUTHERLY LINE OF U.S. HIGHWAY No.1 (A 160 FOOT RIGHT-OF-WAY AS NOW OCCUPIED AND ESTABLISHED); RUN THENCE S49°55'20"E ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 90.00 FEET TO POINT OF INTERSECTION WITH THE WESTERLY LINE OF LOT 2, BLOCK 64 OF SAID NATIONAL GARDENS, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE S49°55'20"E ALONG SAID SOUTHERLY LINE A DISTANCE OF 250.00 FEET; THENCE DEPARTING SAID SOUTHERLY LINE RUN THENCE S40°04'40"W A DISTANCE OF 675.00 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY LINE OF THE FLORIDA EAST COAST RAILWAY (A 100' RIGHT-OF-WAY AS NOW OCCUPIED AND ESTABLISHED); THENCE N49°55'20"W ALONG SAID NORTHERLY LINE A DISTANCE OF 340.00 FEET; TO A POINT OF INTERSECTION WITH THE EASTERLY LINE OF SAID OAK STREET; THENCE N40°04'40"E ALONG SAID EASTERLY LINE A DISTANCE OF 360.00 FEET TO A POINT OF INTERSECTION WITH THE NORTHERLY LINE OF FLAGLER ROAD (A 60' RIGHT-OF-WAY AS SHOWN IN SAID PLAT NATIONAL GARDENS); THENCE S49°55'20"E ALONG SAID NORTHERLY LINE A DISTANCE OF 90.00 FEET; THENCE DEPARTING SAID NORTHERLY LINE RUN N40°04'40"E A DISTANCE OF 315.00 FEET TO THE POINT OF BEGINNING

SAID PARCEL CONTAINING 201,150 SQ. FT. OR 4.62 ACRES MORE OR LESS.

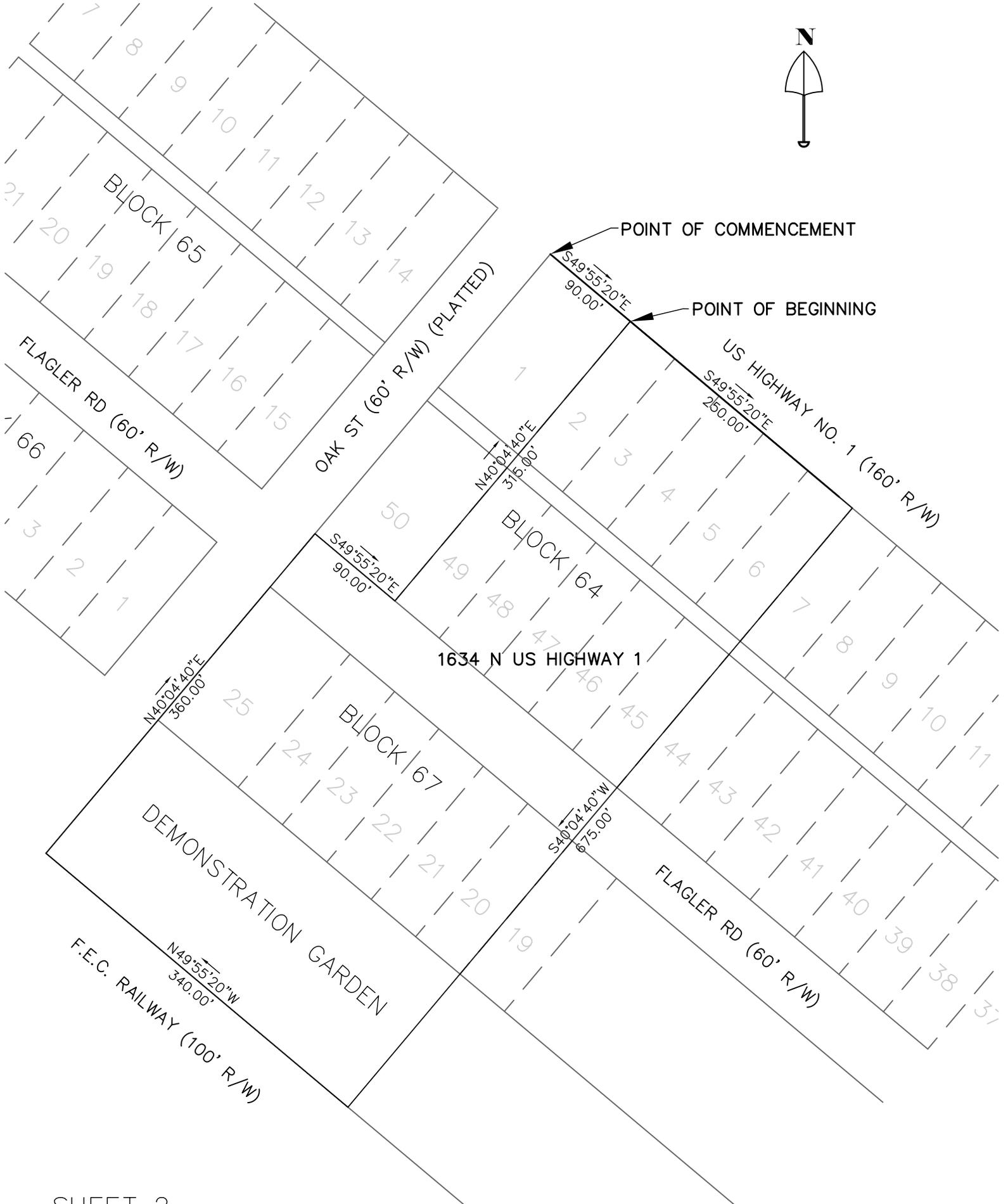


EXHIBIT 4

Section 2-28 of the LDC, B-7 Zoning District

SECTION 2-28: B-7: HIGHWAY TOURIST COMMERCIAL Zoning District

A. PURPOSE: The purpose of the Highway Tourist Commercial (B-7) zoning district is to provide for a variety of tourist facilities and tourist-related support activities in an attractive setting which will promote pedestrian activity and reinforce positive visitor experience. This district is designed for use within or in close proximity to other districts within which major Transient Lodging development has occurred or is permitted.

B. DIMENSIONAL STANDARDS

1. Type	2. Density	3. Maximum Building Height	4. Maximum Building Coverage	5. Maximum Impervious Lot Coverage	6. Minimum Lot Size	7. Minimum Lot Width	8. Minimum Lot Depth	9. Setbacks					
								a. Front	b. Rear	c. Side	d. Street Side/Corner	e. Waterbody	
Non-Residential Uses	36 (Transient Lodging)	50'	40%	75%	20,000 SF	100'	N/A	20'	30' if abutting residential district; 5' additional combined side yard required for each story over 2	10'	20' when abutting a multi-family district; 25' when abutting a single-family district; 5' of additional combined yard area required for each story over 2	20'	30'
Multi-Family	10	50'	40%	75%	20,000 SF	100'	N/A	20'	30' if abutting residential district	10' when abutting a multi-family district; 25' when abutting a single-family district		20'	30'

C. PERMITTED USES

- Adult Day Care Center
- Assisted Living Facility
- Business/Professional Services
- Business Services
- Clubs and Fraternal Organization
- Convenience Store, Type "A"
- Financial Institutions
- Nursing Home
- Personal Services
- Retail Sales and Services
- School of Art
- Schools, Public
- Transient Lodging
- Veterinarian

D. CONDITIONAL USES

- Bar
- Community Residential Home
- Convenience Store, Type "B"
- Convenience Store, Type "C"
- Dwelling, Multi-Family
- Family Day Care Home
- Golf Course, contoured
- Hospital
- House of Worship
- Nightclub
- Parking Lot
- Parking Garage
- Parks and Recreation Facilities, Private
- Parks and Recreation Facilities, Public
- Public Facilities
- Public Utilities
- Recreation Facilities, Indoor
- Restaurant, Type "A"
- Restaurant, Type "B"
- Restaurant, Type "C"
- School, Private
- Shopping Center
- Telecommunication Tower, Camouflaged
- Theater
- Wind Energy System

E. SPECIAL EXCEPTION USES

- Automatic Amusement Center
- Nightclub
- Outdoor Activity
- Outdoor Storage
- Recreation Facilities, Outdoor
- Telecommunication Tower
- Vehicle Rental

F. OTHER STANDARDS

- All development must comply with the following requirements:
- Wellands (Chapter 3, Article II)
 - Special corridors and buffer requirements (Chapter 3, Article I)
 - See Conditional and Special Exception regulations (Chapter 2, Article IV)
 - Multi-family dwelling units shall have the following minimum square footage per bedroom:

1 Bedroom = 600 SF	3 Bedroom = 900 SF
2 Bedroom = 750 SF	Each Additional Bedroom = 150 SF

G. PERMITTED ACCESSORY USES: Accessory uses customarily associated with, dependent on and incidental to their permitted principal uses, provided that such uses conform to the regulations set forth in Chapter 2, Article III.