RESOLUTION 2015-03

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY DELAND, FLORIDA, AS CONSISTENT AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On July 27, 2015, the VGMC received a small-scale future land use map amendment from the City of DeLand (the City). That application was assigned application package number VGMC #15-031.

2. On August 19, 2015, the VGMC received a Petition for Public Hearing filed by the DeLand Neighborhoods, Inc., for VGMC Case #15-031.

3. Volusia County Code Section 90-37 outlines the criteria to be used to determine whether a proposed amendment meets consistency certification requirements. Consistency determination is a two part process addressing the proposed amendments compatibility with adjacent or affected jurisdiction's comprehensive plans and the probability that the proposed amendments may adversely affect intergovernmental cooperation and coordination.

4. The City of DeLand requested to amend its Future Land Use Map from Low Density Residential to Medium Density Residential on ± 3.28 acres of land situated along the eastside of Amelia Avenue, south of Plymouth Avenue and north of Oakdale Avenue. The subject site is currently unimproved or vacant, is within the City's municipal boundaries, and has no adjacencies to other jurisdictions. There are no intergovernmental coordination issues related to this amendment, nor are there any objections from adjacent jurisdictions.

5. A determination of consistency with adjacent or affected jurisdiction's comprehensive plans is often a complex task. Comprehensive plans are intricate documents containing numerous elements, goals, objectives and policies. Due to state statutory requirements which govern the content of plans, many facets are inherently compatible. On the other hand, each jurisdiction is unique and must address, through their plans, localized issues that have limited applicability in adjacent jurisdictions.

6. During the 28-day review period, the VGMC received no comments from adjacent jurisdictions. A Petition for Public Hearing was timely filed by DeLand Neighborhoods, Inc.

7. The complete application and supporting documentation submitted by the City is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation, as described above, is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — The City's Small-Scale Future Land Use Map Amendment Application received by the VGMC on July 27, 2015

VGMC Exhibit 2 — Petition for Public Hearing filed by the DeLand Neighborhoods, Inc., received by the VGMC on August 19, 2015

8. Per Section 90-37(d), Volusia County Code, "For purposes of determining consistency under this section,...the plan amendment and the comprehensive plans against which it is compared and analyzed shall be construed as a whole and no specific goal and policy shall be construed or applied in isolation from the other goals and policies in the plans."

9. Utilizing all the information submitted by the applicant, the VGMC used the following criteria as stated in Volusia County Code Section 90-37(c) to determine whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. Below is an analysis of the proposed amendment as it pertains to each specific criteria.

As to Criteria 1:

10. *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

There are existing water and wastewater facilities in the vicinity of the subject property and there is sufficient capacity for both utilities to accommodate this development.

As to Criteria 2:

11. *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

Similar to the utility impacts, the traffic generation analysis provided by the applicant determined that sufficient capacity exists on the roadways adjacent to the subject property. Additionally, the City's application indicated that the property has access to all existing city facilities and there are no existing deficiencies.

As to Criteria 3:

12. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

The subject property is located in the City's municipal boundaries within close proximity of Stetson University. As shown in **Table 1**, the existing land uses surrounding the subject property are single family residences on three sides, and multifamily residential and vacant institutional on the west. Additionally, the future land use designations correspond to the existing land uses with Low Density Residential (5.8 units/acre) surrounding three sides, and Medium Density Residential (12 units/acre) and Educational on the west across Amelia Avenue.

Table 1: Surrounding Uses

Use Type	North	South	East	West
Existing Land Use	Single Family Residence	Single Family Residence	Single Family Residence	Multifamily Residential & Vacant Institutional
Future Land Use	Low Density Residential (5.8 units/acre)	Low Density Residential (5.8 units/acre)	Low Density Residential (5.8 units/acre)	Medium Density Residential (12 units/acre) & Educational
Zoning	R-1B (Single Family)	R-1A (Single Family)	R-1A & R-1B (Single Family)	R-12 (Multifamily) & E-1 (Educational)

The proposed amendment provides for a change of the future land use map from Low Density Residential (5.8 units/acre) to Medium Density Residential (12 units/acre). Low Density Residential is intended to primarily accommodate site built or manufactured single family dwellings. The current zoning of R-1A and R-1B correspond with the single family development pattern intended under the adopted future land use category.

Medium Density Residential allows a higher residential density (12 units/acre) and is intended to serve as a transitional area between non-residential/High Density Residential and Low Density Residential. The general development types allowed include single family, townhomes, duplexes, multifamily units and mixed use developments.

A rezoning of the property from R-1A and R-1B to Planned District (PD) has been requested concurrent with the comprehensive plan amendment application. At this time, the PD is not subject to VGMC review. Additionally, no site development proposals were submitted for review.

Under the current land use designation, the site could yield a maximum of 19 residential units. The maximum site yield under the proposed future land use designation would be 39 residential units, which would be an increase of 20 units. For planning purposes, the impact analysis for the current land use designation is based on single

family residential development and multifamily residential for the proposed land use designation.

Upon review of the applicant's impact analysis, planning staff determined that the additional density will not create significant impacts on the City's infrastructure that would result in extraterritorial impacts on adjacent jurisdictions. Although the amendment proposes an increase in the dwelling units, the net impacts of the proposed increase in density on City infrastructure is considered *de minimis* in nature or minor to the point that existing facilities can absorb the impacts of future development on this site.

As to Criteria 4:

13. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

The proposed amendment is not anticipated to result in significant adverse impacts on natural resources.

As to Criteria 5:

14. *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

The proposed amendment is not anticipated to result in the duplication of services or competition among providers.

As to Criteria 6:

15. *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

No agreements of this type exist for the subject site or proposed amendment.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code states in Section 90-37(e) that "The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate."

B. Based on the preceding information, the VGMC concludes that the proposed amendment, as originally submitted to the VGMC for consistency review, is

internal to the City of DeLand and that the net increase in the impacts of the proposed amendment is considered *de minimis* in nature or minor to the point that the existing facilities can absorb the impacts of the development.

C. The preponderance of evidence establishes that amendment will not negatively impact the public infrastructure, natural resources, or roadway network of the adjacent jurisdictions.

D. In Volusia County Code Section 90-37, the amendment is determined to be eligible for consistency certification due to a lack of adverse comments from any adjacent and/ or potentially affected jurisdictions during the 30-day review period.

E. Therefore, VGMC DeLand Case No #15-031, based upon a preponderance of the evidence presented, is found consistent with the plans of adjacent and/ or affected jurisdictions and will not adversely affect intergovernmental cooperation or coordination among the jurisdictions of Volusia County.

F. As it relates to the amendment subject to this certification, all proposed changes or amendments to be made or adopted to the City's Comprehensive Plan in response to a compliance agreement pursuant to Florida Statute Section 163.3184(6) or a directive from the Administrative Commission pursuant to Florida Statute Section 163.3184(8) (collectively referred to as "Remedial Amendment"), must be submitted to the Volusia Growth Management Commission as additional information to the original application pursuant to Volusia County Code Section 90- 37(i) and the VGMC may "determine in its sole discretion that the additional information changes the facts and circumstances of the prior certification." If such a determination is made, the VGMC shall hold a noticed public hearing on the Remedial Amendment. If the determination is made that the Remedial Amendment is consistent with the prior certification, no public hearing is required and a letter confirming consistency of the Remedial Amendment shall be issued to the City.

SECTION 3. EFFECTIVE DATE. This Resolution 2015-03 shall take effect immediately upon its adoption.

RESOLVED this 23rd day of September 2015.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
James Wachtel, Chairman

ATTEST:

_____
Roger Sonnenfeld, Secretary

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APPROVED AS TO FORM, CONTENT AND LEGALITY.
FOR USE AND RELIANCE OF THE VOLUSIA
GROWTH MANAGEMENT COMMISSION ONLY.

GrayRobinson, P.A.,
General Counsel to the Volusia Growth Management Commission
Dated: September 23, 2015

FILED WITH THE SECRETARY THIS 23rd DAY OF SEPTEMBER 2015.

Merry Chris Smith, VGMC Operations Manager

\40080\3 - # 9027820 v2 6

RESOLUTION 2015-02

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF OAK HILL, FLORIDA, AS CONSISTENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On or about February 24, 2015, the City of Oak Hill (the City) submitted a large-scale Comprehensive Plan Amendment Application to the VGMC. That application was assigned application package number VGMC #15-009.

2. On March 23, 2015, the VGMC received a Petition for Hearing filed by the Florida Audubon Society, Inc., and the Southeast Volusia Audubon Society, Inc., for VGMC Case #15-009.

3. On March 31, 2015, the VGMC issued a letter confirming the VGMC hearing for VGMC Case #15-009 will be held on April 22, 2015.

4. On April 6, 2015, the VGMC received a letter dated March 26, 2015, from the Florida Department of Environmental Protection (the FDEP) issuing comments and recommendations for VGMC Case #15-009.

5. On April 9, 2015, the VGMC received copies of review letters issued by the Florida Department of Transportation (the FDOT), the Florida Department of Education (the FDOE), Department of Economic Opportunity (the DEO), St. Johns River Water Management District (the SJRWMD) and an amended review letter issued by FDEP relating to VGMC Case #15-009.

6. On April 10, 2015, the VGMC received a copy of a memo from the Southeast Volusia Audubon Society and Florida Audubon Society regarding VGMC Case #15-009.

7. Also on April 10, 2015, the VGMC received a copy of a Bald Eagle Reproduction Surveys 2013/2014 Final Report for the Kennedy Space Center/Merritt Island National Wildlife Refuge.

8. Volusia County Code Section 90-37 outlines the criteria to be used to determine whether a proposed amendment meets consistency certification requirements (the "Certification Rules"). Consistency determination is a two part

process addressing the proposed amendments compatibility with adjacent or affected jurisdiction's comprehensive plans and the probability that the proposed amendments may adversely affect intergovernmental cooperation and coordination.

9. The City of Oak Hill requested to amend two Future Land Use Element policies, 1.1.2.H and 1.2.3. Policy 1.1.2.H changing the title name from Special District #1 to Activity Center, adding an option of allowable land uses to include industrial, conservation and agricultural uses, and adding a maximum floor area ratio of 1.0 for Industrial uses. Policy 1.2.3 would exclude the Activity Center from the thirty-five (35) foot building height limit.

10. A determination of consistency with adjacent or affected jurisdiction's comprehensive plans is often a complex task. Comprehensive plans are intricate documents containing numerous elements, goals, objectives and policies. Due to state statutory requirements which govern the content of plans, many facets are inherently compatible. On the other hand, each jurisdiction is unique and must address, through their plans, localized issues that have limited applicability in adjacent jurisdictions.

11. During the 30-day review period, the VGMC received no comments from adjacent jurisdictions. A Petition of Hearing was timely filed by the Audubon Society and the Southeast Volusia Audubon Society.

12. The City's current Comprehensive Plan allows for Residential and Commercial development to occur on the subject site. This proposed amendment will allow additional Industrial development at an intensity of 1.0 FAR, as well as the types of uses permitted under the Industrial designation, which raises questions regarding the compatibility of these uses with the adjacent affected community. Specifically, incompatibility as it relates to the impact on water quality of Mosquito Lagoon and environmental impacts to the National Seashore, was pointed out in the additional information included in the amended review letter issued by the FDEP.

13. The complete application and supporting documentation submitted by the City is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation, as described above, is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — The City's Large-Scale Comprehensive Plan Amendment Application received by the VGMC on February 24, 2015

VGMC Exhibit 2 — Petition for Hearing filed by the Florida Audubon Society, Inc., and the Southeast Volusia Audubon Society, Inc., on 3/23/2015

VGMC Exhibit 3 — The VGMC's letter dated March 31, 2015, confirming public hearing date for Case #15-009 to be held April 22, 2015

VGMC Exhibit 4 — Comments and Recommendations from the Florida

Department of Environmental Protection dated March 26, 2015.

VGMC Composite Exhibit 5 — Review letters from the Florida Department of Transportation, the Florida Department of Education, the Department of Economic Opportunity and the St. Johns River Water Management District and an amended review letter from the Florida Department of Environmental Protection received April 9, 2015

VGMC Exhibit 6 — Memorandum from the Southeast Volusia Audubon Society and the Florida Audubon Society received April 10, 2015

VGMC Exhibit 7 — The Bald Eagle Reproduction Surveys, 2013/2014 Final Report for the Kennedy Space Center/Merritt Island National Wildlife Refuge received April 10, 2015

14. Utilizing all the information submitted by the applicant, the VGMC used the following criteria as stated in Volusia County Code Section 90-37(c) to determine whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. These criteria are:

(1) The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;

(2) The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;

(3) The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;

(4) The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;

(5) The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and

(6) The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.

15. Per Section 90-37(d), Volusia County Code, "For purposes of determining consistency under this section,...the plan amendment and the comprehensive plans against which it is compared and analyzed shall be construed as a whole and no specific goal and policy shall be construed or applied in isolation from the other goals and policies in the plans."

16. As stated above, Volusia County Code Section 90-37(c) outlines six criteria to be used in determining whether a proposed amendment adversely affects intergovernmental cooperation and coordination. Below is an analysis of the proposed amendments as they pertain to each specific criteria.

As to Criteria 1:

17. *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

Currently, the City does not provide utility services. The City has entered into an interlocal agreement with Volusia County and the City of Edgewater for extension of central wastewater and potable water services to meet specified level of service standards to accommodate new growth in the City. The application does not provide a calculation of the proposed amendments' overall potable water and sanitary sewer demands. Utilizing the City's adopted level of service (LOS) standards, the VGMC staff calculated potential impacts under the subject site's existing development scenario. A comparison of existing impacts to proposed impacts are summarized in **Table 1** below.

Table 1 – Utilities

Utility	Unit of Measurement	Existing Scenario A Impact	Proposed Scenario B Impact	Net Change
Potable Water	Gallons Per Day (GPD)	203,024	189,813	-13,211
Sanitary Sewer	Gallons Per Day (GPD)	181,124	189,813	+8,689

VGMC staff found the proposed text amendment results in a net decrease in impacts to potable water and a net increase in impacts to sanitary sewer facilities. While City policy allows for an interlocal agreement to provide utility services, the Capital Improvement Program (CIP) for Edgewater, Volusia County and Oak Hill contemplates the extension of utility lines to this site during the planning period. VGMC staff has concerns regarding the ability to extend services in the near term and further believes any interim service using wells and septic systems would be inappropriate for this level of development.

Furthermore, Policy 1.1.3 of the City's Future Land Use Element (FLUE) allows for Industrial uses at an intensity of 0.5 FAR without central utilities. Therefore, using the development mix provided under proposed Scenario B, approximately 950,000 square feet of industrial uses could be developed without central utilities. This amount of industrial development being serviced by a septic system creates a greater chance of surface and groundwater contamination, causing an adverse impact to the water quality of the surrounding area.

As to Criteria 2:

18. *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

Analyses of the proposed revisions to the City's FLU Element indicate a net reduction in daily trips and a net increase in PM Peak Hour trips to the regional transportation system. The analysis of impacts is summarized in **Table 2** below.

Table 2 – Transportation

Unit of Measurement	Existing Scenario A		Proposed Scenario B		Total Change		Available Capacity
	AADT	PM Pk	AADT	PM Pk	AADT	PM Pk	
Annual Average Daily	21,547	2,065	14,077	2,557	-7,470	+492	Unknown

A traffic impact analysis was not provided with the application; therefore, it is unknown as to whether these new PM Peak Hour trips will have a significant adverse impact on the regional transportation network. In the absence of this information it may be reasonably presumed that the proposed amendment may fail to provide for areawide or regional transportation solutions.

As to Criteria 3:

19. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

The impact of the proposed amendment on potable water, sanitary sewer and transportation systems has been addressed in Criteria 1 and 2 above. The proposed amendment would result in a net decrease in residential entitlements; therefore, no new impacts to public school capacity are anticipated.

As previously mentioned, the subject area is not included in the CIP of Oak Hill, Volusia County or Edgewater. The VGMC has concerns with the ability of those jurisdictions providing infrastructure at the time development occurs; therefore, it may

be reasonably presumed that the proposed amendment may adversely impact infrastructure beyond the boundaries of one jurisdiction.

As to Criteria 4:

20. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

Two borders of the subject site are adjacent to the Canaveral National Seashore (the National Seashore). The National Seashore contains approximately 58,000 acres of barrier island, open lagoon, coastal hammock, pine flatwoods and offshore waters along the east central coast of Florida. The National Seashore was authorized by the 93rd Congress in the Act of January 3, 1975. The National Seashore was established to "*preserve and protect the outstanding natural, scenic, scientific, ecologic, and historic values of certain lands, shoreline, and waters of the State of Florida and to provide for public outdoor recreation use and enjoyment of the same*".

Additionally, because it contains ecological resources of statewide importance, the National Seashore is designated Outstanding Florida Waters 1 (OFW). Section 373.414(1)(a), Fla. Stat. (2010), states *"Projects regulated by the Department or a Water Management District (WMD) that are proposed within an OFW must not lower existing ambient water quality, which is defined for purposes of an OFW designation as the water quality at the time of OFW designation or the year before applying for a permit, whichever water quality is better."* The National Seashore is a critical component of the regions ecosystem. Data and analysis provided to support the proposed amendment fails to adequately address potentially significant impacts to regional water quality, wildlife habitat and corridors. Data and analysis supporting the proposed amendment fails to provide reasonable assurance that the amendments will not cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction; therefore, adoption of the proposed amendment can reasonably be expected to adversely affect intergovernmental cooperation and coordination.

As to Criteria 5:

21. *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

The proposed amendments are not anticipated to result in the duplication of services or competition among providers.

As to Criteria 6:

22. *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for*

all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.

No agreements of this type exist for the subject site or proposed amendment.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code states in Section 90-37(e) that "The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate." Based upon the preceding information, the VGMC concludes that the proposed amendment as originally submitted to the VGMC for consistency review may not be consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendment could adversely impact adjacent jurisdictions based on the Criteria of Consistency established in Volusia County Code. However, there are conditions which include, but not limited to, revisions submitted by the City based on the comments of the FDEP which may be placed upon the certification of this amendment, such that the application and the comprehensive plan amendments contained therein can be certified consistent.

B. VGMC #15-009 and the comprehensive plan amendments contained therein are hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approve VGMC Application #15-009, with the conditions as outlined below.

1. All development within the Activity Center shall occur as a Planned Development (PD) agreement which shall be submitted to the VGMC for review under the provisions of the Certification Rules and must receive a certification of consistency before any development may proceed. This requirement allows VGMC and all adjacent jurisdictions the additional opportunity to review development of the subject site for specific impacts at the time of rezoning.

2. All proposed development shall demonstrate how connection to the nearest central utility line locations will be accomplished.

3. All proposed development uses shall be located towards the center of the subject site. Only conservation and agricultural uses shall be allowed towards the edge of the property.

4. The City shall provide notice of the PD to Canaveral National Seashore at the same time the PD application is sent to the VGMC for review, and the City shall provide proof of such notice to the VGMC as part of PD application submittal.

5. As it relates to the amendments subject to this certification, all proposed changes or amendments to be made or adopted to the City's Comprehensive Plan in response to a compliance agreement pursuant to Florida Statute Section 163.3184(6) or a directive from the Administrative Commission pursuant to Florida Statute Section 163.3184(8) (collectively referred to as "Remedial Amendment"), must be submitted to the Volusia Growth Management Commission as additional information to the original application pursuant to Volusia County Code Section 90- 37(i) and the VGMC may "determine in its sole discretion that the additional information changes the facts and circumstances of the prior certification." If such a determination is made, the VGMC shall hold a noticed public hearing on the Remedial Amendment. If the determination is made that the Remedial Amendment is consistent with the prior certification, no public hearing is required and a letter confirming consistency of the Remedial Amendment shall be issued to the City.

6. Failure to comply with any of the conditions of certification shall result in an automatic revocation of this certification, thereby rendering the amendment to the City's Comprehensive Plan, which is the subject of this certification, invalid and ineffective.

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SECTION 3. EFFECTIVE DATE. This Resolution 2015-02 shall take effect immediately upon its adoption.

RESOLVED this 22nd day of April 2015.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
James Wachtel, Chairman

ATTEST:

_____
Roger Sonnenfeld, Secretary

APPROVED AS TO FORM, CONTENT AND LEGALITY.
FOR USE AND RELIANCE OF THE VOLUSIA
GROWTH MANAGEMENT COMMISSION ONLY.

_____
GrayRobinson, P.A.,
General Counsel to the Volusia Growth Management Commission
Dated: April 22, 2015

FILED WITH THE SECRETARY THIS 27th DAY OF APRIL 2015.

_____
Merry Chris Smith, VGMC Operations Manager

RESOLUTION 2014-03

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF DELAND, FLORIDA, AS CONSISTENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On July 1, 2014, the City of DeLand (City) submitted a large-scale Comprehensive Plan Amendment Application to the VGMC. That application was assigned application package number VGMC #14-028.

2. On July 28, 2014, the VGMC received correspondence from the Volusia County School Board (the School Board) expressing the School Board's concern with the City's application and a map that was not part of the original City staff report nor was it part of the City's "transmittal" public hearing, but surfaced after that public hearing. The map shows a proposed Beresford Avenue extension which bisects property owned by the School Board and planned for a future high school site.

3. On July 31, 2014, the VGMC's planning staff forwarded a formal Request for Additional Information (RAI) consistent with Section 90-35, Volusia County Code, that included the concerns expressed by the School Board.

4. On August 8, 2014, the VGMC received correspondence from the land owner/applicant's representatives responding to the RAI issued by the VGMC planning staff relating to VGMC #14-028. According to the land owner/applicant representatives' letter, the information provided was a supplement to the City's official response to the RAI.

5. On August 11, 2014, the VGMC received correspondence from the School Board, dated July 30, 2014, providing school capacity information for the proposed amendment, as well as expressing their concerns with the proposed amendment and suggested adding additional policies to satisfy the School Board.

6. On August 12, 2014, the VGMC received correspondence from the School Board indicating that a meeting between the School Board and the land owner/applicant's representative took place to discuss the School Board's concerns with the proposed amendment, specifically the policies being proposed in the amendment.

7. On August 19, 2014, the VGMC received correspondence from the City responding to the RAI issued on July 31, 2014, and offered revised policies to include in the application package; specifically policies f 14.1.9, f 14.4.4, f 14.4.5 and f 14.7.7.

8. On September 8, 2014, the VGMC received correspondence from the City to the School Board proposing an additional new policy, Policy f 14.4.6. Included within the correspondence were emails received from the School Board stating that the City's revised policies sufficiently addressed the School Board's concerns as outlined in the aforementioned correspondence.

9. The City's application proposes the amendment of text contained in Chapters I and II of the Comprehensive Plan. Below is a summary of each of the proposed changes:

Chapter I, Future Land Use Element

Chapter I of the City's Plan contains the Future Land Use Element pursuant to 163.3177(6)(a), Florida Statutes and 9J-5.006 of the Florida Administrative Code and is intended to insure that development is directed in a harmonious pattern with existing development and the natural systems. The proposed changes to this chapter are primarily related to the underline addition of the Lake Winnemissett Gateway Corridor Plan and the strike-through deletion of Goal f-12. Policies related to the Lake Winnemissett Gateway Corridor Plan. The specific text of these policies are provided below.

LOCAL PLANS

2. LAKE WINNEMISSETT GATEWAY CORRIDOR PLAN

THE VISION FOR THE LAKE WINNEMISSETT GATEWAY CORRIDOR

The vision is that the Activity Center will become a major gateway into the City of DeLand. The Lake Winnemissett Gateway Corridor (LWGC) will provide the residents and consumers of West Volusia with a greater array of comparison and shopping goods choices by having these additional retail opportunities in the County along with providing for employment opportunities. The development will be controlled by development agreements drafted through the PD process.

DESCRIPTIONS OF LWGC FUTURE LAND USE DESIGNATIONS

The Lake Winnemissett Gateway Corridor contains a development program that establishes a gateway into the City of DeLand by providing for a mix of land uses.

The description of the suggested land uses is provided below.

All of the following land uses require the provision of urban facilities and services as set forth in the Comprehensive Plan.

A. Non-Residential

(i) Business Park - The purpose and intent of this specialized use is to provide for multi-uses which supports industrial activity as it develops on the east side of the I-4 interchange. The gateway may contain a variety of uses including, but not limited to, research and development, flex space, and business headquarter offices, general/professional office, back offices, supporting ancillary uses, wholesale/retail showrooms, and incubator spaces for emerging companies. Distribution centers, fulfillment centers, truck stops, travel centers or other uses that generate or attract high volume of truck traffic shall not be permitted in the Gateway Corridor.

(ii) Office/Office Park - The intent of this use is to provide areas for corporate headquarters, general/professional use, and supporting ancillary uses. Mixed office/retail uses are also encouraged.

(iii) Commercial: Neighborhood and Interchange Retail - The intent of this use is to provide areas for neighborhood and convenience shopping including, but not limited to, supermarkets, neighborhood drugstores, and convenience stores. This category also includes the uses associated with the traveling public along Interstate 4.

(v) Commercial: Support/Ancillary Uses - The intent of this use is to provide ancillary commercial retail uses including restaurant and related support center uses including financial/banking, recreational facilities, health clubs, day care centers, and hotel/hotel conference centers, primarily for the traveling public as well as office and industrial uses.

(vi) Public/Semi-public - Purpose and intent is to provide recreational, institutional and educational uses to serve both the gateway and the greater DeLand areas.

B. Residential

Purpose of this use is to provide an opportunity for housing related to employment, pedestrian linkage, and trip capture within the LWGC. The type of residential land uses range between single-family and multi-family (max. density of 16 du/ac). Residential uses may also be included in mixed use projects.

C. District

Gateway - The intent of this district is to provide a mix of Residential and Non-Residential uses as described above. Specific uses allowed are as follows:

Office/Office Park

Commercial: Neighborhood and Interchange Retail

Commercial: Support/Ancillary Uses

Business Park

Public/Semi-public

Residential /Non-residential Mix

Low Density Residential

Medium Density Residential

High Density Residential (Max 16 du/ac)

GOAL, OBJECTIVES, AND POLICIES FOR LAKE WINNEMISSETT GATEWAY CORRIDOR

Development within the Lake Winnemissett Gateway Corridor shall be consistent with the goals, objectives, and policies enumerated below. These goals, objectives, and policies shall not be interpreted, either individually or collectively, as relieving compliance with other elements of the Comprehensive Plan and/or other City land development regulations. Rather, it is the purpose of these goals, objectives, and policies to supplement, not substitute or supersede, the Comprehensive Plan and other land development regulations.

GOAL f-14 w: Achieve an integrated and well-planned mixture of urban land uses within the Lake Winnemissett Gateway Corridor that encourages the creation of a gateway into the City.

Objective f14.1 w: Provide adequate and appropriate areas resulting in a mixture of urban land uses.

Policy f14.1.1 w: The Future Land Use Map for the Lake Winnemissett Gateway Corridor is incorporated as part of the City of DeLand Comprehensive Plan. Said map serves as a graphic guide for the future development of property. Not all lands within the LWGC study area are being assigned an LWGC land use designation with the initiation of this Local Plan. Land without an LWGC future land use designation may develop in accordance with the land use designation assigned to it in compliance with the City's Comprehensive Plan and Land Development Regulations.

Policy f14.1.2 w: All development within the Lake Winnemissett Gateway Corridor shall be consistent with the description of the land use designation assigned to it and with all other appropriate sections of the Comprehensive Plan and land development regulations.

Policy f14.1.3 w: Development of lands with the Gateway land use designation shall require rezoning to Planned Development (PD). The proposed land use pattern, development densities and intensities,

project design, and specific uses shall comply with the appropriate location criteria and policies specified by the Comprehensive Plan and any specific LWGC land development regulations.

Policy f14.1.4 w: Existing zoning designations and land use designations within the boundary of the LWGC may continue, but any new rezoning or future land use amendment application shall be consistent with the Future Land Uses for the LWGC.

Policy f14.1.5 w: Office park and research and development uses should be encouraged to locate at premium and high visibility sites within the gateway corridor.

Policy f14.1.6 w: Hotel accommodations should be in close proximity to and have easy access to the interchange of I-4 and SR 44.

Policy f14.1.7 w: Encourage unified design of new development that enhances the area as a mixed use gateway into the City of DeLand.

Policy f14.1.8w: In order to facilitate both the retail and office activity, as well as the safe and efficient movement of traffic from one use to another, require the use of common access arrangements during the development review process for the activity center.

Objective f14.2 w: Individual developments within the gateway shall be designed to provide visual compatibility and functional continuity within the gateway.

Policy f14.2.1 w: New development with a Gateway future land use designation (includes redevelopment) may, at a minimum, be required to:

- provide for a compatible and consistent appearance by utilizing such mechanisms as sign control (i.e., number, height, and copy area), landscape screening/buffering requirements (i.e., width and composition), underground utilities, and building setbacks and height requirements;

- required shared access and shared parking, and loading facilities, as practical in an effort to reduce impervious surfaces and multiple access points on the thoroughfare system;

- require interconnected vehicular, transit, and non-vehicular movement as appropriate;

- provide a network of unifying open spaces which promote linkage with other adjoining developments;

- cluster structures in order to protect listed species and their habitat; - use common frontage/service roads, and

- use shared or joint facilities such as stormwater, bus stops, and utility easements.

It is not intended that each development within the gateway be aesthetically identical. However, the Community Design Standards in the land development regulations of the City shall be used to ensure compatibility.

Policy f14.2.2 w: All uses within the gateway corridor abutting residential areas shall be designed to minimize the disruptive effects of lighting, noise, and signage.

Policy f14.2.3 w: Non-residential projects sharing a common boundary with an area planned for residential use shall be sensitive with the scale of a residential neighborhood. The design of non-residential uses should take into account adjacent residential styles (if existing), location of building masses, overall height, setbacks and areas in need of buffering.

Policy f14.2.4 w: Encourage mixed use development during the development review process, whenever practical, to encourage complementary uses as part of office and "flex space" buildings as a business and worker amenity.

Policy f14.2.5 w: The City of DeLand shall encourage development near the interchange in a manner that is consistent with creating an attractive gateway into the City.

Objective f14.3 w: Promote development within the gateway which protects and enhances the natural and built environment.

Policy f14.3.1 w: The clustering of activities and structures shall be encouraged so as to promote open space areas.

Policy f14.3.2 w: Developments shall be designed to integrate wetlands and other environmentally sensitive lands into an open space network. This network should be linked to similar systems on the same property or adjacent properties, including parcels outside of the gateway.

Policy f14.3.3 w: Protect original clusters of historic trees as designated in Twelve Oaks and Royal Oaks PD and any other historic trees located in the LWGC.

Policy f14.3.4 w: If listed species and their habitat are unavoidably impacted by development, mitigation shall be required. Mitigation activities may include preservation, creation, or management of like habitat. A

combination of the above mentioned mitigation approaches shall also be considered. All mitigation proposals shall be in compliance as applicable with Federal, State, and local agencies. Mitigation plans shall be integrated into a linked habitat management area to facilitate appropriate management and to afford long term sustainability for listed species populations.

Policy f14.3.5 w: Open space areas will be identified prior to the issuance of a development order/permit for individual projects to promote the overall intent of the LWGC concept. Open space may also be utilized.in protecting areas for habitat preservation or mitigation. The open space areas may allow the following or similar uses: public places, retention, landscaping or tree protection, passive recreation, or habitat protection. If the open space is utilized for habitat purposes, site plans or development agreements will identify these areas for such purposes and restrict future usage in these areas.

Policy f14.3.6 w: All mitigation activities for listed species shall include a management plan intended to ensure the long term vitality of listed species populations.

Policy f14.3.7 w: The protection of Lake Winnemissett as a valuable asset shall be accomplished through wetland protection, wetland buffers, and stormwater runoff filtration.

Policy f14.3.8 w: All landscaping plans shall be required to utilize water-efficient landscaping techniques. Water-efficient landscaping techniques include the utilization of plants indigenous to the subject physiographic area of Volusia County, strategic locations of plants, water-efficient irrigation systems, water reuse systems, and maintenance of native vegetation stands.

Objective f14.4 w: Promote cooperation and coordination between governmental jurisdictions and agencies when reviewing development proposals.

Policy f14.4.1 w: The City of DeLand shall, in cooperation with Volusia County and the Florida Department of Transportation, evaluate the impacts of specific land development proposals upon the existing and future plans for the roadway network and access management within the State Road 44 corridor. Development shall be designed to protect land critical for future roadway and intersection improvements.

Policy f14.4.2 w: The Future Land Use Map serves as a guide in locating land uses. Public facilities and support uses are not shown on the map, but they may be allowed under the various land use categories.

Policy f14.4.3 w: The City shall coordinate with County, State and Federal agencies to ensure the property owners provide the proper management of listed species occurring within the LWGC.

Objective f14.5 w: Provide for the correction/mitigation of projected roadway level of service deficiencies.

Policy f14.5.1 w: In conjunction with affected landowners, local governments and Florida Department of Transportation; the City of DeLand shall assure that necessary transportation improvements for the thoroughfares/roadways identified in the original Traffic Impact Analysis for the combined PD's of Twelve Oaks and Royal Oaks are reevaluated to determine appropriate mitigation. The specific segments that need to be re-evaluated are: Kepler/MLK from US 92 to SR 472

Beresford from Blue Lake to SR 44 (extension)

US 92 from Woodland to Kepler

SR 44 from Voorhis to I-4

Summit from SR 44 to I-4

Blue Lake from Plymouth to SR 44

Policy f14.6.2 w: Once the total number of new, external, daily trips being generated from all new development with a Gateway land use designation exceeds 1,000 trips, an updated TIA per the River to Sea TPO Guidelines for a Transportation Impact Analysis must be prepared and submitted to the City for the entire LWGC. After completion of the updated TIA, the Comprehensive Plan will be reviewed to determine if an amendment is appropriate to incorporate the results.

Policy f14.6.3 w: Development shall be monitored and transportation impacts addressed through individual Planned Developments consistent with the LWGC Plan policies.

Policy f14.6.4 w: Below are the maximum, estimated trips that may be generated by lands with a Gateway land use designation as derived from the non-residential component of the Royal Oaks PD and Twelve Oaks PD Traffic Analysis prepared by Traffic Planning and Design (1992). These maximum estimated trips shall serve as a cap for development for lands designated as Gateway until an updated TIA has been prepared and approved. Development shall not be permitted to exceed the following trip cap until and unless an

updated TIA has been reviewed and approved by Volusia County, City of DeLand, and FDOT.

Total Trips - 51,075

Policy f 14.6.5 w: Beresford Avenue is to be extended from Blue Lake Avenue to SR 44 to reduce the amount of traffic on SR 44. The final alignment is to be determined through a cooperative agreement between the River to Sea Transportation Planning Organization, City of DeLand, Volusia County and FDOT.

Policy f14.3.6.6 w The Construction of Beresford Avenue is critical to the proper maintenance of traffic in the LWGC area. Until construction of the Beresford Avenue extension has commenced, traffic impacts from the LWGC shall not exceed 25,537 gross external daily trips. This requirement shall be revisited and potentially updated with the submission of the required Traffic Impact Analysis for the entire LWGC as specified in Policy f14.6.2 w.

Objective f14.7 w: Promote development and programs which are designed to alleviate traffic congestion.

Policy f14.7.1 w: The LWGC shall be developed consistent with the Mixed-use Overlay of the Multi-modal Transportation Plan contained in the Transportation Element.

Policy f14.7.2 w: Mixed use buildings and projects shall be encouraged within a development in order to promote internal trip capture.

Policy f14.7.3w: Site planning/design for proposed projects shall, as a condition of approval by the City, facilitate and encourage the internal movement of mass transit vehicles, if the size/intensity of the proposed development warrants such considerations, or provide pedestrian connections to the local road network.

Policy f14.7.4 w: Commercial development which demonstrates appropriate pedestrian linkages, internal trip captures, and reduced impact on thoroughfare roads shall be encouraged.

Policy f14.7.5 w: Encourage beneficial development patterns during the development review process whenever practical, so that complementary uses can be located in close proximity to facilitate walking, bicycling or the use of local but not thoroughfare roads for auto trips from home to work to dining.

Policy f14.7.6 w: Encourage convenient pedestrian and local road access from lodging facilities to restaurants.

Policy f 14.7.7w: Residential development adjacent to a school site will ensure public access, including vehicular, bicycle and pedestrian traffic, will be integrated between the school and the residential community.

Chapter II, Transportation Element

Chapter II of the City of DeLand's Plan contains the Transportation Element pursuant to 163.3177(6)(b), Florida Statutes and 9J-5.019, Florida Administrative Code and is intended to aid in developing an integrated multi-modal transportation system that meets or exceeds the City's existing and future transportation needs through 2020. The proposed changes to this chapter are primarily related to the strike-through deletion of Policy t5.1.10 and all objectives and policies related to Twelve Oaks and Royal Oaks PD (per Resolution 93.04). The proposed deletion of text is provided below.

GOAL t-5: Integrate transportation and land use planning efforts.

OBJECTIVE t5.1: Continue to coordinate the transportation system with the Future Land Use Element to ensure compatibility between land uses and the thoroughfare system necessary to support it.

~~t5.1.10: The City shall adhere to applicable Volusia Growth Management Commission conditions regarding traffic (per Resolution 9304) related to LU920908 and LU940101 (Delfa Development Property).~~

GOAL t-8: Establish Objectives and Policies which address specific conditions resulting from individual Future Land Use Map amendments.

Note: Delete this objective and policies related to Twelve Oaks and Royal Oaks PD.

10. Volusia County Code Section 90-37 outlines the criteria to be used to determine whether a proposed amendment meets consistency certification requirements. Consistency determination is a two part process addressing the proposed amendments compatibility with adjacent or affected jurisdiction's comprehensive plans and the probability that the proposed amendments may adversely affect intergovernmental cooperation and coordination.

11. The complete application and supporting documentation submitted by the City is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation, as described above, is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — Large-Scale Comprehensive Plan Amendment Application
VGMC Exhibit 2 — Volusia County School Board correspondence dated July 28, 2014
VGMC Exhibit 3 — Planning Staff's Request for Additional Information dated July 31, 2014
VGMC Exhibit 4 — Land owner/applicant's representatives' response to the RAI dated August 8, 2014
VGMC Exhibit 5 — School Board's correspondence dated July 30, 2014
VGMC Exhibit 6 — School Board's correspondence dated August 12, 2014
VGMC Exhibit 7 — City's correspondence dated August 19, 2014
VGMC Exhibit 8 — City's correspondence dated September 8, 2014
VGMC Exhibit 9 — Volusia County letter dated August 18, 2014

12. Utilizing all the information submitted by the applicant, the VGMC used the following criteria as stated in Volusia County Code Section 90-37(c) to determine whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. These criteria are:

(1) *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

(2) *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

(3) *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

(4) *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

(5) *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

(6) *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

13. Per Section 90-37(d), Volusia County Code, "For purposes of determining consistency under this section,...the plan amendment and the comprehensive plans against which it is compared and analyzed shall be construed as a whole and no specific goal and policy shall be construed or applied in isolation from the other goals and policies in the plans."

14. As stated above, Volusia County Code Section 90-37(c) outlines six criteria to be used in determining whether a proposed amendment adversely affects intergovernmental cooperation and coordination. Below is an analysis of the proposed amendments as they pertain to each specific criteria.

As to Criteria 1:

15. *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

There is adequate capacity available to serve the proposed amendment.

As to Criteria 2:

16. *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

Specified in the original amendment application, the City indicates that there will be impacts to Volusia County's road system. The City further explains that meetings with Volusia County and FDOT were held to discuss the transportation issues. To address these issues, the City in preparation of this amendment, prior to submission to VGMC, added the following policies within the Lake Winnemissett Gateway Corridor Plan. These proposed policies are provided below. Note that Policy f14.6.2 has been amended subsequent to submission to VGMC to add additional language.

Policy f14.4.1 w: The City of DeLand shall, in cooperation with Volusia County and the Florida Department of Transportation, evaluate the impacts of specific land development proposals upon the existing and future plans for the roadway network and access management within the State Road 44 corridor. Development shall be designed to protect land critical for future roadway and intersection improvements.

Policy f14.5.1 w: In conjunction with affected landowners, local governments and Florida Department of Transportation; the City of DeLand shall assure that necessary transportation improvements for the thoroughfares/roadways identified in the original Traffic Impact Analysis for the combined PD's of Twelve Oaks and Royal Oaks are reevaluated to determine appropriate mitigation. The specific segments that need to be re-evaluated are: Kepler/MLK from US 92 to SR 472

Beresford from Blue Lake to SR 44 (extension)

US 92 from Woodland to Kepler

SR 44 from Voorhis to I-4

Summit from SR 44 to I-4

Blue Lake from Plymouth to SR 44

Policy f14.6.2 w: Once the total number of new, external, daily trips being generated from all new development with a Gateway land use designation exceeds 1,000 trips, an updated TIA per the River to Sea TPO Guidelines for a Transportation Impact Analysis must be prepared and submitted to the City for the entire LWGC. After completion of the updated TIA, the Comprehensive Plan will be reviewed to determine if an amendment is appropriate to incorporate the results.

Policy f14.6.4 w: Below are the maximum, estimated trips that may be generated by lands with a Gateway land use designation as derived from the nonresidential component of the Royal Oaks PD and Twelve Oaks PD Traffic Analysis prepared by Traffic Planning and Design (1992). These maximum estimated trips shall serve as a cap for development for lands designated as Gateway until an updated TIA has been prepared and approved. Development shall not be permitted to exceed the following trip cap until and unless an updated TIA has been reviewed and approved by Volusia County, City of DeLand, and FDOT.

Total Trips - 51,075

Policy f 14.6.5 w: Beresford Avenue is to be extended from Blue Lake Avenue to SR 44 to reduce the amount of traffic on SR 44. The final alignment is to be determined through a cooperative agreement between the River to Sea Transportation Planning Organization, City of DeLand, Volusia County and FDOT.

Policy f14.3.6.6 w The Construction of Beresford Avenue is critical to the proper maintenance of traffic in the LWGC area. Until construction of the Beresford Avenue extension has commenced, traffic impacts from the LWGC shall not exceed 25,537 gross external daily trips. This requirement shall be revisited and potentially updated with the submission of the required Traffic Impact Analysis for the entire LWGC as specified in Policy f14.6.2 w.

Objective f14.7 w: Promote development and programs which are designed to alleviate traffic congestion.

Policy f14.7.1 w: The LWGC shall be developed consistent with the Mixed-use Overlay of the Multi-modal Transportation Plan contained in the Transportation Element.

Policy f14.7.2 w: Mixed use buildings and projects shall be encouraged within a development in order to promote internal trip capture.

Policy f14.7.3w: Site planning/design for proposed projects shall, as a condition of approval by the City, facilitate and encourage the internal movement of mass transit vehicles, if the size/intensity of the proposed development warrants such considerations, or provide pedestrian connections to the local road network.

Policy f14.7.4 w: Commercial development which demonstrates appropriate pedestrian linkages, internal trip captures, and reduced impact on thoroughfare roads shall be encouraged.

Policy f14.7.5 w: Encourage beneficial development patterns during the development review process whenever practical, so that complementary uses can be located in close proximity to facilitate walking, bicycling or the use of local but not thoroughfare roads for auto trips from home to work to dining.

Policy f14.7.6 w: Encourage convenient pedestrian and local road access from lodging facilities to restaurants.

Policy f 14.7.7w: Residential development adjacent to a school site will ensure public access, including vehicular, bicycle and pedestrian traffic, will be integrated between the school and the residential community.

As to Criteria 3:

17. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

The impact on the transportation system is discussed above under Certification Criteria 2. As stated in the original amendment application, the City can provide adequate LOS of infrastructure for the proposed amendment.

As to Criteria 4:

18. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

Portions of the subject property contain well established high quality wetlands and lakes. As stated in the amendment application, additional research, ecological

protection and hazard mitigation policies and procedures will be required to address development criteria during the Planned Development and Site Plan phases.

As to Criteria 5:

19. *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

The proposed amendments are not anticipated to result in the duplication of services or competition among providers.

As to Criteria 6:

20. *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

An Interlocal Agreement (IA) between the City of DeLand and the Volusia County School Board has been in existence since March 2003. The IA recognizes the desire to maintain and enhance the cooperative and productive relationship regarding the exchange of information relating to planning efforts and public facilities in accordance with statutory requirements between the City and the School Board. In furtherance of Section 206 of the Volusia County Charter, the City shall require that every applicant seeking an amendment to the Future Land Use map or text which affects existing or proposed residential land uses shall provide a copy of the proposed amendment to the School Board at the time of submitting the application.

In its original form, the proposed amendment may have failed to provide information relating to the planning efforts of the proposed amendment which would substantially affect the School Board. Via the VGMC process, the City of DeLand has worked amicably with the Volusia County School Board to address the concerns outlined in the School Board's email correspondence dated July 28, 2014 and restated in their letter to the land owner/applicant dated July 30, 2014.

To ensure the proposed amendment satisfies the School Board's concerns, staff recommends that the agreed upon revisions to the Lake Winnemissett Gateway Corridor Plan become a condition of certification by the VGMC. The revised policies are as follows:

Policy f 14.1.9 - A full range of educational facilities such as public and private schools, universities, colleges, community colleges, or other post secondary educational facilities, or research facilities, including

environmental education are permitted throughout the Gateway district.

Policy f 14.4.4 - In the event that the School District reports that there is not adequate school capacity to serve a proposed increase in residential density then the City shall not approve the rezoning unless and until such time as the School District can issue a finding that adequate school capacity will exist.

Policy f14.4.5 - In order to ensure fiscal neutrality and to issue a finding that adequate school capacity will exist the School Board reserves the right to condition a finding of adequate school capacity on the Developer's ability to ensure that adequate school capacity can be timely planned and constructed to serve the anticipated students. The School District will require terms and conditions for such an agreement. The Developer's commitment to fund adequate school capacity will be set forth in a development agreement between the developer and the School District.

Policy f 14.4.6 – In order to delay the school capacity determination until a residential development is proposed in the new Local Plan Lake Winnemissett Gateway Corridor; the maximum number of dwelling units allowed cannot exceed 480, unless the Local Plan is amended and a school capacity agreement is approved between the School Board and the developer.

Policy f 14.7.7 – Residential development adjacent to a school site will ensure public access, including vehicular, bicycle and pedestrian traffic, will be integrated between the school and the residential community.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code states in Section 90-37(e) that "The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate." Based upon the preceding information, the VGMC concludes that the proposed amendment as originally submitted to the VGMC for consistency review may not be consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendment could adversely impact adjacent jurisdictions based on the Criteria of Consistency established in Volusia County Code. However, there are conditions which include revisions submitted by the City based on the comments of Volusia County School Board, Volusia County and the FDEO which may be placed upon the certification of this amendment, such that the application and the comprehensive plan amendments contained therein can be certified consistent.

B. VGMC #14-028 and the comprehensive plan amendments contained therein are hereby certified consistent subject to the conditions below and the Volusia

Growth Management Commission therefore elects to approve VGMC Application #14-028, with the conditions as outlined below.

1. The City of DeLand shall include as part of the adoption of its Comprehensive Plan Amendment the following revised policies to the Lake Winnemissett Gateway Corridor Plan:

Policy f 14.1.9w: A full range of educational facilities such as public and private schools, universities, colleges, community colleges, or other post secondary educational facilities, or research facilities, including environmental education are permitted throughout the Gateway district.

Policy f 14.4.4w: In the event that the School District reports that there is not adequate school capacity to serve a proposed increase in residential density then the City shall not approve the rezoning unless and until such time as the School District can issue a finding that adequate school capacity will exist.

Policy f14.4.5w: In order to ensure fiscal neutrality and to issue a finding that adequate school capacity will exist the School Board reserves the right to condition a finding of adequate school capacity on the Developer's ability to ensure that adequate school capacity can be timely planned and constructed to serve the anticipated students. The School District will require terms and conditions for such an agreement. The Developer's commitment to fund adequate school capacity will be set forth in a development agreement between the developer and the School District.

Policy f 14.4.6w: In order to delay the school capacity determination until a residential development is proposed in the new Local Plan, Lake Winnemissett Gateway Corridor; the plan is limited to only 480 multi-family dwelling units, unless the Local Plan is amended and a school capacity agreement is approved between the School Board and the developer.

Policy f14.6.2 w: Once the total number of new, external, daily trips being generated from all new development with a Gateway land use designation exceeds 1,000 trips, an updated TIA per the River to Sea TPO Guidelines for a Transportation Impact Analysis must be prepared and submitted to the City for the entire LWGC. After completion of the updated TIA, the Comprehensive Plan will be reviewed to determine if an amendment is appropriate to incorporate the results.

Policy f 14.7.7w: Residential development adjacent to a school site will ensure public access, including vehicular, bicycle and pedestrian traffic, will be integrated between the school and the residential community.

2. Failure to comply with any of the above conditions of certification shall result in an automatic revocation of this certification, thereby rendering the City's Comprehensive Plan, which is the subject of this certification, invalid and ineffective.

SECTION 3. EFFECTIVE DATE. This Resolution 2014-03 shall take effect immediately upon its adoption.

RESOLVED this 24th day of September 2014.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Gerald T. Brandon, Chairman

ATTEST:

_____
Roger Sonnenfeld, Secretary

APPROVED AS TO FORM, CONTENT AND LEGALITY.
FOR USE AND RELIANCE OF THE VOLUSIA
GROWTH MANAGEMENT COMMISSION ONLY.

_____
GrayRobinson, P.A.,
General Counsel to the Volusia Growth Management Commission
Dated: September 24, 2014

FILED WITH THE SECRETARY THIS 24th DAY OF SEPTEMBER 2014.

_____
Merry Chris Smith, VGMC Operations Manager

RESOLUTION 2014-02

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF ORANGE CITY, FLORIDA, AS CONSISTENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On May 21, 2014, the Volusia Growth Management Commission (the VGMC) received a Large-Scale Comprehensive Plan Amendment package from the City of Orange City (the City). The application was assigned VGMC #14-024 and it consisted of changes to the Future Land Use Map designation of 27 properties and a Text Amendment to the Future Land Use Element.

2. On June 18, 2014, Volusia County staff provided comments and requested additional information regarding the proposed Amendment.

3. On June 19, 2014, the VGMC's planning staff issued a Request for Additional Information (RAI) to the City of Orange City.

4. On June 30, 2014, the City responded to the RAI.

5. On July 7, 2014, the City sent a request to the VGMC to split the Future Land Use Element Text Amendment from the Future Land Use Map Amendments. A letter dated July 8, 2014, was sent to the City acknowledging their request and assigning the map amendments application number VGMC #14-024A and the text amendment application number VGMC #14-024B.

6. Also on July 7, 2014, the City forwarded a copy of a letter dated June 27, 2014, from the Florida Department of Economic Opportunity (the FDEO) commenting on the proposed text amendments.

7. On July 8, 2014, the VGMC's planning staff issued their findings related to the map amendments, VGMC #14-024A, and recommended they be certified by letter. On July 9, 2014, the chairman of the VGMC issued a letter to the City certifying VGMC #14-024A as consistent.

8. From the period beginning July 8, 2014, and into early August the VGMC staff and the City were in communication regarding scheduling a public hearing for the text amendments in application number VGMC #14-024B. During this time, the City also requested a waiver of the 90-day rule in order to allow sufficient time for the City

to meet with the FDEO to further discuss the issues. The waiver was administratively approved by the VGMC chairman for an additional 90 days for VGMC to act on application number VGMC #14-024B.

9. On August 15, 2014, after meeting with the FDEO, the City forwarded the FDEO's additional review comments dated August 6, 2014, along with revisions made by the City to the proposed text amendment.

10. On August 18, 2014, Volusia County provided a letter in response to the revisions the City made to the proposed text amendments and acknowledged acceptance of those revisions.

11. Volusia County Code Section 90-37 outlines the criteria to be used to determine whether a proposed amendment meets consistency certification requirements. Consistency determination is a two part process addressing the proposed amendments compatibility with adjacent or affected jurisdiction's comprehensive plans and the probability that the proposed amendments may adversely affect intergovernmental cooperation and coordination.

12. The complete application and supporting documentation submitted by the City is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation, as described above, is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — Large-Scale Comprehensive Plan Amendment Application
VGMC Exhibit 2 — Volusia County staff comments and RAI dated June 18, 2014
VGMC Exhibit 3 — Planning staff RAI to the City dated June 19, 2014
VGMC Exhibit 4 — The City's response to the RAI dated June 30, 2014
VGMC Exhibit 5 — City request to split the text amendment from the map amendments dated July 7, 2014, and the VGMC response dated July 8, 2014 acknowledging the split
VGMC Exhibit 6 — FDEO letter dated June 27, 2014
VGMC Exhibit 7 — VGMC Letter of Certification as to application number VGMC #14-024A dated July 9, 2014
VGMC Exhibit 8 — Additional FDEO comments dated August 6, 2014 and City revisions to the proposed text amendments
VGMC Exhibit 9 — Volusia County letter dated August 18, 2014

13. Utilizing all the information submitted by the applicant, the VGMC used the following criteria as stated in Volusia County Code Section 90-37(c) to determine whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. These criteria are:

(1) The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;

(2) The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;

(3) The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;

(4) The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;

(5) The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and

(6) The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.

14. Per Section 90-37(d), Volusia County Code, "For purposes of determining consistency under this section,...the plan amendment and the comprehensive plans against which it is compared and analyzed shall be construed as a whole and no specific goal and policy shall be construed or applied in isolation from the other goals and policies in the plans."

15. As stated above, Volusia County Code Section 90-37(c) outlines six criteria to be used in determining whether a proposed amendment adversely affects intergovernmental cooperation and coordination. Below is an analysis of the proposed amendments as they pertain to each specific criteria.

As to Criteria 1:

16. *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

The Text Amendment to the City's Future Land Use Element, with the revisions proposed below, does not directly impact the provision of area-wide or central

utility services. The densities and Floor Area Ratios (FAR) are not more, and in some Land Use designations they are lower, than the existing County Land Use designations would allow.

As to Criteria 2:

17. *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

The Text Amendment to the City's Future Land Use Element, with the revisions proposed below, does not directly impact the provision of area-wide or regional transportation solutions. The densities and Floor Area Ratios (the FAR) are not more, and in some Land Use designations they are lower, than the existing County Land Use designations would allow.

As to Criteria 3:

18. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

The Text Amendment to the City's Future Land Use Element, with the revisions proposed below, does not significantly impact infrastructure beyond the boundaries of the jurisdiction. The densities and the FAR are not more, and in some Land Use designations they are lower, than the existing County Land Use designations would allow.

As to Criteria 4:

19. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

The Text Amendment to the City's Future Land Use Element, with the revisions proposed below, does not significantly impact natural resources beyond the boundaries of one jurisdiction. The area is part of the region's urbanized area and no impact on natural resources is anticipated. The densities and the FAR are not more, and in some Land Use designations they are lower, than the existing County Land Use designations would allow.

As to Criteria 5:

20. *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

The Text Amendment to the City's Future Land Use Element, with the revisions proposed below, does not directly impact adopted Capital Improvement Plans.

The densities and the FAR are not more, and in some Land Use designations they are lower, than the existing County Land Use designations would allow. Capital Improvement Plans have been adopted in anticipation of development consistent with the levels allowed by Volusia County's adopted Land Use Plan.

As to Criteria 6:

21. *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

The City has cooperated with Volusia County in fine tuning their application request to avoid any conflict and they have reached a mutually agreeable solution as presented in their revised application. The Florida Department of Economic Opportunity has reviewed the proposed changes and through negotiated modifications has removed any objections. The East Central Florida Regional Planning Council has been copied on all proposed changes and has registered no objections.

22. The City in response to comments from Volusia County removed from their proposed County-to-City matrix any conversions from current County designations of Rural (R), Mixed Use Area (MUA), Mixed Use Zone (MXZ), and Planned Community (PC). They also acknowledged the need to annually adopt their Future Land Use Element, Map 2-2, including all annexations as provided for in Chapter 163 of the Florida Statutes. They further stipulated that when properties to be annexed are not included in the agreed matrix, or if there were a more appropriate designation, that they would follow the land use map amendment process as defined by Chapter 163 of the Florida Statutes, as well as applicable City and County codes and policies.

23. The City submitted an application in furtherance of Section 2 of their Future Land Use Element, Goal 9 – Annexation Within Designated Planning Area – "To annex all land within the City's designated planning area (DPA) as expeditiously as possible." Through intergovernmental coordination new polices have been agreed upon that will streamline the process and ensure consistency with the adjacent jurisdiction (Volusia County). VGMC #14-024B, as amended, for a Text Change to the City's Future Land Use Element is consistent with the criteria in Section 90-37 for certification.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code states in Section 90-37(e) that "The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate." Based upon

the preceding information, the VGMC concludes that the proposed amendment as originally submitted to the VGMC for consistency review may not be consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendment could adversely impact adjacent jurisdictions based on the Criteria of Consistency established in Volusia County Code. However, there are conditions which include revisions submitted by the City based on the Volusia County's and the FDEO's comments which may be placed upon the certification of this amendment, such that the application and the comprehensive plan amendments contained therein can be certified consistent.

B. VGMC #14-024B and the comprehensive plan amendments contained therein are hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approve VGMC Application #14-024B, with the conditions as they relate to Goal 9, Objective 9.1, Policies 9.1.1 – 9.1.6, indicated below (The text identified in single underline is proposed for insertion to goals and related policies as provided for in the City's original application. The text identified in ~~strike-through~~ is proposed for deletion to the City's original application. The text identified by double underline is that language which is conditionally added into the City's original application by the VGMC based upon Volusia County's and the FDEO's comments.):

1. **Goal 9** **Annexation Within Designated Planning Area**

To annex all land within the City's designated planning area (DPA) as expeditiously as possible.

Objective 9.1

The City and County shall encourage and actively pursue the annexation of all unincorporated areas within the City's DPA.

Policy 9.1.1

The County recognizes that the unincorporated area within the City's DPA will be annexed as parcels become contiguous to the City or areas are eligible for annexation pursuant to Florida law.

Policy 9.1.2

The City and County agree to extend public utilities and services to landowners within the DPA in accordance with the City/County water and sewer interlocal agreement.

Policy 9.1.3

Because it is the City's intent to annex all unincorporated land areas within its DPA, the City and County agree to insure that land within Volusia County's jurisdiction that is also within Orange City's DPA, shall be subject to this Element's Objective 1.2 and its related policies.

Policy 9.1.4

The City and County will support consistent and compatible land uses for

annexed properties within the Designated Planning Area and agree that **Table 2-4, County-to-City Future Land Use Correlation Table**, below, represents a reasonable correlation between the existing future land use designations in the unincorporated areas of Volusia County and the future land use designations in the urbanized areas of Orange City.

Table 2-4
County-to-City Future Land Use Correlation Table

Volusia County Future Land Use Designation	**Orange City Future Land Use Designation**
~~Rural (R)~~ Urban Low Intensity (ULI)	Residential Low (RL)
Urban Medium Intensity (UMI)	Residential Medium (RM)
Urban High Intensity (UHI)	Residential High (RH)
Recreation (Rec) Public/Semi Public (P)	Public/Government and Institutional (GUIS)
Commercial (C)	Commercial General (CG)
Industrial (I)	Industrial Limited (IL)
Water (W)	Waterbodies (W)
~~Multiple Use Area (MUA), including Mixed Use Zone (MXZ), Activity Center (AC) and Planned Community (PC)~~	~~Mixed Use (MX)~~

Policy 9.1.5
Upon annexation, land annexed into the City will be given an appropriate and compatible land use designation in one of the following ways:

1. If at the time of annexation, the City determines that the existing Volusia County Future Land Use Map designation is the most appropriate designation for the property, and will achieve the City's planning objectives for the area, the property will be ~~automatically~~ given the Orange City Future Land Use Map designation as indicated in Table 2-4, County-to-City Land Use Correlation Table. The cumulative annexation amendments will be depicted on the Future Land Use Map once per year through adoption of Future Land Use Element, Map 2-2, as provided for in Chapter 163 of the Florida Statutes.

2. If at the time of annexation the existing Volusia County Future Land Use Map designation is not included in Table 2-4, the property will be given a City Future Land Use Map designation in accordance with the land use map amendment process as defined by Chapter 163 of the Florida Statutes, as well as applicable City and County codes and policies.

3. If at the time of annexation, the City or the Property Owner determine that the existing Volusia County Future Land Use Map designation is not the most appropriate designation for the property, the property will be given a City future land use designation in accordance with the land use map amendment process as defined by Chapter 163 of the Florida Statutes, as well as applicable City and County codes and policies.

Policy 9.1.4 6
Annexation of existing substantially developed areas within the DPA will be offered in a manner and on terms and conditions which respect existing lifestyles and densities. The City will expect these areas to be brought to City standards only where necessary to protect the health and safety of the residents of the subject area or of the City. The County, which now has jurisdiction over these areas, shall be a supportive partner with the City in annexation efforts of substantially developed areas within the DPA.

2. Failure to comply with any of the above conditions of certification shall result in an automatic revocation of this certification, thereby rendering the City's Comprehensive Plan, which is the subject of this certification, invalid and ineffective.

SECTION 3. EFFECTIVE DATE. This Resolution 2014-02 shall take effect immediately upon its adoption.

RESOLVED this 27th day of August 2014.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By:_____
Gerald T. Brandon, Chairman

ATTEST:

_____
Roger Sonnenfeld, Secretary

FILED WITH THE SECRETARY THIS ____ DAY OF AUGUST 2014.

_____
Merry Chris Smith, VGMC Operations Manager

3. If at the time of annexation, the City or the Property Owner determine that the existing Volusia County Future Land Use Map designation is not the most appropriate designation for the property, the property will be given a City future land use designation in accordance with the land use map amendment process as defined by Chapter 163 of the Florida Statutes, as well as applicable City and County codes and policies.

Policy 9.1.4 6
Annexation of existing substantially developed areas within the DPA will be offered in a manner and on terms and conditions which respect existing lifestyles and densities. The City will expect these areas to be brought to City standards only where necessary to protect the health and safety of the residents of the subject area or of the City. The County, which now has jurisdiction over these areas, shall be a supportive partner with the City in annexation efforts of substantially developed areas within the DPA.

2. Failure to comply with any of the above conditions of certification shall result in an automatic revocation of this certification, thereby rendering the City's Comprehensive Plan, which is the subject of this certification, invalid and ineffective.

SECTION 3. EFFECTIVE DATE. This Resolution 2014-02 shall take effect immediately upon its adoption.

RESOLVED this 27th day of August 2014.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald T. Brandon
Gerald T. Brandon, Chairman

ATTEST:

Roger Sonnenfeld, Secretary

APPROVED AS TO FORM, CONTENT AND LEGALITY.
FOR USE AND RELIANCE OF THE VOLUSIA
GROWTH MANAGEMENT COMMISSION ONLY.

GrayRobinson, P.A.,
General Counsel to the Volusia Growth Management Commission
Dated: August 27, 2014

FILED WITH THE SECRETARY THIS 27th DAY OF AUGUST 2014.

Merry Chris Smith

Merry Chris Smith, VGMC Operations Manager

RESOLUTION 2013-02

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; ACKNOWLEDGING THAT RESOLUTION 2006-06 CONDITION OF APPROVAL 2.B.3, AS AMENDED BY RESOLUTIONS 2007-03, 2009-02, 2010-02 AND 2011-07, PERTAINING TO A TRANSPORTATION INTERLOCAL AGREEMENT, HAS BEEN SATISFIED BY THE CITY OF ORANGE CITY'S ADOPTION OF THE VOLUSIA TRANSPORTATION PLANNING ORGANIZATION'S TRAFFIC IMPACT ANALYSIS GUIDELINES; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS OF FACT. The Volusia Growth Management Commission (Commission and/or VGMC) hereby makes the following findings of fact:

(1) On August 23, 2006, the VGMC adopted Resolution 2006-06 which certified, with conditions, the City of Orange City's VGMC Application 2005-75.

(2) Resolution 2006-06 Condition of Approval 2.B.3 required within one (1) year the execution of an interlocal agreement with Volusia County to identify appropriate transportation review methodologies and necessary financially feasible funding strategies for roadway improvements anticipated to significantly and adversely impact county and state roadways.

(3) At the request of the City, the VGMC adopted Resolutions 2007-03, 2009-02, 2010-02 and 2011-07 which amended Resolution 2006-06 by extending the compliance period within which to comply with Condition of Approval 2.B.3 to June 1, 2012.

(4) The City of Orange City and Volusia County have continually worked toward implementing an interlocal agreement to comply with the conditions set forth in Resolution 2006-06 2.B.3.

(5) The Volusia County Council has approved a professional services contract to conduct a region-wide transportation study that includes the Cities of DeLand, Deltona, Lake Helen, Orange City, and Volusia County. The study is referred to the Southwest Volusia Regional Transportation Study which has been completed.

(6) The jurisdictions have worked together and met regularly. The study has resulted in the creation of the Volusia Transportation Impact Analysis Guidelines, which have been adopted in the City's Comprehensive Plan at Transportation Element Policies 1.7.1 and 1.7.4.

(7) The Volusia Transportation Planning Organization's Transportation Impact Analysis (TIA) Guidelines have been adopted by the City of Orange City through

Resolution 569-19 to recognize the uniform Transportation Impact Analysis Methodology.

(8) The TIA Guidelines serve as standardized methodologies for the purpose of completing transportation impact assessments for new development.

(9) The VGMC finds that the adoption by the City of the TIA Guidelines meets the intent of Resolution 2006-06 Section 2.B.3. and a formal interlocal agreement between the City and Volusia County is not necessary.

(10) The VGMC recognizes recent changes in state statutes for concurrency and mitigation, including the City being designated as a dense urban land area, have contributed to funding strategies for roadway improvements impacted by new development.

SECTION 2. CONCLUSIONS OF LAW.

A. Based on the foregoing Findings of Facts, the Volusia Growth Management Commission hereby finds, acknowledges and concludes that Condition 2.B.3. of Resolution 2006-06, as amended, by adoption of the TIA Guidelines through Orange City Resolution 569-09 and Orange City Comprehensive Plan Transportation Element Policies 1.7.1 and 1.7.4 has met the intent of Condition 2.B.3., that Condition 2.B.3. has been satisfied, and that an adoption of an interlocal agreement with Volusia County is no longer required.

B. The remainder of Resolution 2006-06, as amended, shall remain unchanged and in full force and effect.

[SPACE INTENTIONALLY LEFT BLANK]

SECTION 3. EFFECTIVE DATE. This Resolution 2013-02 shall take effect immediately upon its adoption.

RESOLVED this 28th day of August, 2013.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Gerald T. Brandon, Chair

ATTEST:

_____
James Wachtel, Secretary

APPROVED AS TO FORM, CONTENT AND LEGALITY,
FOR USE AND RELIANCE OF THE VOLUSIA
GROWTH MANAGEMENT COMMISSION ONLY.

_____
GrayRobinson, P.A.

General Counsel to the Volusia Growth Management Commission

Dated: August 28, 2013

FILED WITH THE SECRETARY THIS 28th DAY OF August 2013.

RESOLUTION 2011-07

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF ORANGE CITY, FLORIDA, AS CONSISTENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On June 7, 2010, the VGMC received a large-scale comprehensive plan amendment application from the City of Orange City (the City). The application was assigned VGMC #10-018 and consisted of the City's Evaluation and Appraisal Report (EAR) based amendments.

2. On July 7, 2010, the VGMC's planning staff issued a Request for Additional Information (RAI) pursuant to Section 90-35(e)(1)(a).

3. On November 5, 2010, the VGMC's received from the City of Orange City a response to the July 7, 2010, RAI.

4. On November 18, 2010, the VGMC's planning staff issued a second RAI regarding a single, unresolved concern extending from the July 7, 2010, RAI.

5. On April 28, 2011, the VGMC received from the City of Orange City a response to the November 18, 2010, RAI along with a request that the subject application package be heard before the VGMC at the scheduled May 25, 2011, meeting.

6. Pursuant to Section 163.3191, Florida Statutes, once every seven years each local government is required to adopt an Evaluation and Appraisal Report. The report assesses the community's success in achieving the goals and objectives of their comprehensive plan. It also evaluates the need to revise the plan to accommodate changes to state statutes and administrative codes.

7. Following the adoption of the EAR, it is common for a local government to prepare a series of text and map revisions to address identified issues. These revisions are referred to as "EAR-based amendments". VGMC Case #10-018 contains the City of Orange City's EAR-based amendments, including changes to the Future Land Use, Transportation (Mobility), Housing, Infrastructure, Conservation, Recreation and Open Space, Intergovernmental Coordination, Public School Facilities and Capital Improvements Elements.

8. Volusia County Code Section 90-37 outlines the criteria to be used to determine whether a proposed amendment meets consistency certification requirements. Consistency determination is a two part process addressing the proposed amendments compatibility with adjacent or affected jurisdiction's comprehensive plans and the probability that the proposed amendments may adversely affect intergovernmental cooperation and coordination.

9. A determination of consistency with adjacent or affected jurisdiction's comprehensive plans is often a complex task. Comprehensive plans are intricate documents containing numerous elements, goals, objectives and policies. Due to state statutory requirements which govern the content of plans, many facets are inherently compatible. On the other hand, each jurisdiction is unique and must address, through their plans, localized issues that have limited applicability in adjacent jurisdictions.

10. During the 30-day review period, VGMC received no comments from adjacent jurisdictions or substantially affected or aggrieved parties. In addition, VGMC review of the proposed amendment found no inconsistencies with adjacent local government's comprehensive plans.

11. The complete application and supporting documentation submitted by the City is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation, as described above, is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — Large-Scale Comprehensive Plan Amendment Application
VGMC Exhibit 2 — Request for Additional Information dated July 7, 2010
VGMC Exhibit 3 — City of Orange City's Response to the July 7, 2010, RAI, dated November 5, 2010
VGMC Exhibit 4 — Second Request for Additional Information dated November 18, 2010
VGMC Exhibit 5 — City of Orange City's Response to the November 18, 2010, RAI and requested a public hearing

12. Utilizing all the information submitted by the applicant, the VGMC used the following criteria as stated in Volusia County Code Section 90-37(c) to determine whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. These criteria are:

(1) The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;

(2) The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;

(3) The extent to which the plan, element, or plan amendment causes

or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;

(4) The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;

(5) The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and

(6) The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.

13. Per Section 90-37(d), Volusia County Code, "For purposes of determining consistency under this section,...the plan amendment and the comprehensive plans against which it is compared and analyzed shall be construed as a whole and no specific goal and policy shall be construed or applied in isolation from the other goals and policies in the plans."

14. As stated above, Volusia County Code Section 90-37(c) outlines six criteria to be used in determining whether a proposed amendment adversely affects intergovernmental cooperation and coordination. Below is an analysis of the proposed amendments as they pertain to each specific criteria.

As to Criteria 1:

15. *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

An analysis of the proposed revisions to the City's Future Land Use Map (FLUM) indicates that a net increase in impacts to public utilities may be expected. The increase in impacts is summarized in Table 1 below.

Table 1 — Utilities

Utility	Unit of Measurement	Net New Impact	Available Capacity
Potable Water	Gallons Per Day (GPD)	119,274	639,000
Sanitary	Gallons Per Day (GPD)	77,130	169,762

Although the proposed map revisions may result in a net increase in impacts to public utilities, adequate capacity currently exists in the City's potable water and sanitary sewer system to accommodate these impacts; therefore, the subject amendment provides for areawide or central utility service solutions and would not adversely impact regional resources such as potable water supply.

As to Criteria 2:

16. *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

An analysis of the proposed revisions to the City's FLUM indicates a net reduction in impacts to the regional transportation system may be expected. The reduction in impacts is summarized in Table 2 below.

Table 2 — Transportation

Unit of Measurement	Existing AADT	Proposed AADT	Total Change
Annual Average Daily	42,177	30,591	-11,586

As to Criteria 3:

17. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

The impact of the proposed amendment on potable water, sanitary sewer, and transportation systems has been addressed in Criteria 1 and 2 above. Per the City's analysis, the proposed FLUM amendments may result in a maximum theoretical increase of 468 residential dwelling units; therefore, a determination of adequate public school capacity must be made. Volusia County Schools has reviewed the proposed amendment and has provided correspondence stating that the proposed amendments may result in 57 additional students over the next 20-years. Volusia County Schools has determined that proposed amendment would have minimal impact on public schools.

As to Criteria 4:

18. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

The proposed amendment is not anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of the City of Orange City.

As to Criteria 5:

19. *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

The proposed amendment is not anticipated to result in the duplication of services or competition among providers.

As to Criteria 6:

20. *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

No agreements of this type exist for the subject site or proposed amendment.

21. In addition to the above consistency determination criteria, Volusia County Code Section 90-35(e) requires the Commission's professional staff make a determination regarding compliance with previous conditions of approval for outstanding resolutions. Staff has identified two issues which affect the subject application package in this regard as identified below.

(a) **VGMC Resolution 2006-06**

The City of Orange City has yet to fully address the conditions of VGMC Resolution 2006-06. Section 2, item B.3 requires that the City of Orange City enter into an interlocal agreement with Volusia County to identify financially feasible funding strategies for roadway improvements where the City's developments are anticipated to significantly and adversely impact County and State roadways. Although the City has not executed an interlocal agreement with the County, it has made good faith progress toward compliance with the condition and has been a participant in the Southwest Volusia Regional Transportation Study and worked closely with County staff to identify appropriate measures for accommodating impacts to regional transportation facilities. The date by which the City is to enter into the interlocal agreement has been extended by VGMC Resolutions 2007-03, 2009-02 and 2010-02.

VGMC professional staff recommends a one-year extension be granted to the City of Orange City to allow additional time to coordinate with Volusia County in determining how to most appropriately address the aforementioned outstanding condition.

(b) **Proposed Alterations to Planned Use Development (PUD) Process**

As part of the original application package, the City of Orange City proposed the elimination of the PUD zoning district. Several previous VGMC resolutions have relied upon the use of the PUD process to conditionally approve amendments. The removal of this mechanism, as proposed by the original application, would violate the conditions of approval of the previous resolutions. VGMC professional staff has coordinated with the City regarding this issue and the original application has been revised to retain the PUD zoning district.

The VGMC professional staff recommends that a condition be placed upon the subject application requiring adoption of the revised application which incorporates retention of the PUD zoning district.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code states in Section 90-37(e) that "The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate." Based upon the preceding information, the VGMC concludes that the proposed amendment as originally submitted to the VGMC for consistency review may not be consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendment could adversely impact adjacent jurisdictions based on the Criteria of Consistency established in Volusia County Code. We further conclude that the City has failed to comply with previous resolution conditions. However, there are conditions which may be placed upon the certification of this amendment, such that the application and the comprehensive plan amendments contained therein can be certified consistent.

B. VGMC Application #10-018 and the comprehensive plan amendments contained therein are hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approve VGMC Application #10-018, with the following conditions:

1. In order to address the outstanding condition as listed in Section 2.B.3 of Resolution 2006-06, as amended by VGMC Resolutions 2007-03, 2009-02 and 2010- 02, the compliance date listed in Section 2.B.3 of Resolution 2006-06, as amended, is hereby further amended to list the date of compliance as June 1, 2012.

2. To address the proposed removal of the PUD zoning district as listed in the original application to VGMC, which would violate previous VGMC Resolution conditions of approval dependant upon the PUD zoning district, the City of Orange City shall adopt the revised application package as provided to the VGMC on April 27, 2011, as described in the response to the Second Request for Additional Information which provides for the retention of the PUD

zoning district.

3. Any proposed changes or amendments to be made or adopted to the City's Comprehensive Plan in response to a Florida Department of Community Affairs Notice of Intent to Find in Compliance ("Remedial Amendment") must be submitted to the Volusia Growth Management Commission as additional information to the original application pursuant to Volusia County Code Section 90-37(i) and the VGMC may "determine in its sole discretion that the additional information changes the facts and circumstances of the prior certification." If such a determination is made, the VGMC shall hold a noticed public hearing on the Remedial Amendment. If the determination is made that the Remedial Amendment is consistent with the prior certification, no public hearing is required and a letter confirming consistency of the Remedial Amendment shall be issued to the City.

4. Failure to comply with any of the above conditions of certification shall result in an automatic revocation of this certification, thereby rendering the City's Comprehensive Plan, which is the subject of this certification, invalid and ineffective.

SECTION 3. EFFECTIVE DATE. This Resolution 2011-07 shall take effect immediately upon its adoption.

RESOLVED this 25th day of May 2011.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald T. Brandon
Gerald T. Brandon, Chairman

ATTEST:

Dwight D. Lewis
Dwight D. Lewis, Secretary

FILED WITH THE SECRETARY THIS 26th DAY OF MAY 2011.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

RESOLUTION 2011-03

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF NEW SMYRNA BEACH, FLORIDA, AS CONSISTENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On October 14, 2010, the VGMC received a large-scale comprehensive plan amendment application from the City of New Smyrna Beach (the City). The application, assigned VGMC #10-031, consisted of the City's Evaluation and Appraisal Report (EAR) based amendments.

2. On November 11, 2010, the VGMC planning staff issued a Request for Additional Information (RAI) pursuant to Section 90-35(e)(1)(a).

3. On November 12, 2010, the VGMC received correspondence from Volusia County commenting on the subject application package. On November 15, 2010, VGMC planning staff forwarded these comments to the City of New Smyrna Beach as a second RAI.

4. On February 14, 2011, the VGMC received from the City a response to both the November 11, 2010, and November 15, 2010, RAIs and requested that the proposed amendments be heard at the regularly scheduled March 23, 2011, VGMC public hearing.

5. On March 10, 2011, at the City's request, the VGMC separated the Florida East Coast Railroad Property (FEC Property) Future Land Use Map (FLUM) amendment from the remainder of the application package. The FEC Property FLUM amendment was assigned VGMC Case #10-031B, while the remainder of the package was assigned VGMC Case #10-031A.

6. On March 18, 2011, the VGMC received correspondence from the City requesting a continuance of VGMC Case #10-031A to the April 6, 2011, VGMC Special Meeting. The continuance was considered and approved by the VGMC at the March 23, 2011, meeting.

7. On March 21, 2011, the VGMC received correspondence from Volusia County stating that the responses provided in the City's February 14, 2011, correspondence adequately addressed the County's concerns.

8. Pursuant to Section 163.3191, Florida Statutes, once every seven years each local government is required to adopt an EAR. The report assesses the community's success in achieving the goals and objectives of their comprehensive plan. It also evaluates the need to revise the plan to accommodate changes to state statutes and administrative code.

9. Following the adoption of the EAR, it is common for a local government to prepare a series of text and map revisions to address identified issues. The revisions are referred to as "EAR-based amendments". VGMC Case #10-031A contains the City of New Smyrna Beach's EAR-based amendments, including changes to the Future Land Use, Transportation, Housing, Infrastructure, Coastal Management, Conservation, Recreational and Open Space, Intergovernmental Coordination, Capital Improvements, Historical and Archaeological Preservation, Public Schools and Economic Development Elements. In addition, to text amendments to the aforementioned elements, several amendments to the City's FLUM have been proposed.

10. Volusia County Code Section 90-37 outlines the criteria to be used to determine whether a proposed amendment meets consistency certification requirements. Consistency determination is a two part process addressing the proposed amendments compatibility with adjacent or affected jurisdiction's comprehensive plans and the probability that the proposed amendments may adversely affect intergovernmental cooperation and coordination.

(a) Compatibility: A determination of consistency with adjacent or affected jurisdiction's comprehensive plans is often a complex task. Comprehensive plans are intricate documents containing numerous elements, goals, objectives and policies. Due to state statutory requirements which govern the content of plans, many facets are inherently compatible. On the other hand, each jurisdiction is unique and must address, through their plans, localized issues that have limited applicability in adjacent jurisdictions.

(b) During the 30-day review period, the VGMC received written comments from Volusia County regarding the City's Utility Service Area Map, Bicycle and Pedestrian Ways Map, Evacuation Route Map, and completion of the Southeast Volusia Regional Transportation Study. The VGMC subsequently received correspondence from Volusia County stating that their concerns had been adequately addressed in the City's RAI response.

11. The complete application and supporting documentation submitted by the City is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation, as described above, is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — Large-Scale Comprehensive Plan Amendment Application
VGMC Exhibit 2 — Request for Additional Information dated November 11, 2010
VGMC Exhibit 3 — Second Request for Additional Information dated November 15, 2010
VGMC Exhibit 4 — City of New Smyrna Beach Responses to both Requests for Additional Information received February 14, 2011
VGMC Exhibit 5 — City of New Smyrna Beach's request for continuance dated March 18, 2011
VGMC Exhibit 6 — Correspondence from Volusia County dated March 21, 2011
VGMC Exhibit 7 – Proposed amendments to Maps, 10, 11, and 12

12. Utilizing all the information submitted by the applicant, the VGMC used the following criteria as stated in Volusia County Code Section 90-37(c) to determine whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. These criteria are:

(1) The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;

(2) The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;

(3) The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;

(4) The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;

(5) The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and

(6) The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.

13. Per Section 90-37(d), Volusia County Code, "For purposes of determining consistency under this section,...the plan amendment and the comprehensive plans

against which it is compared and analyzed shall be construed as a whole and no specific goal and policy shall be construed or applied in isolation from the other goals and policies in the plans."

14. As stated above, Volusia County Code Section 90-37(c) outlines six criteria to be used in determining whether a proposed amendment adversely affects intergovernmental cooperation and coordination. Below is an analysis of the proposed amendments as they pertain to each specific criteria.

As to Criteria 1:

15. *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

The proposed revisions to the City's FLUM would result in a net increase in impacts to public utilities. The impacts are summarized in Table 1 below.

Table 1 – Utilities

Utility	Unit of Measurement	Net New Impact	Available Capacity
Potable Water	Gallons Per Day (GPD)	111,584	2,530,000
Sanitary Sewer	Gallons Per Day (GPD)	96,241	2,910,000

Although the proposed map revisions may result in a net increase in impacts to public utilities, adequate capacity currently exists in the City's potable water and sanitary sewer system to accommodate these impacts; therefore, the subject amendment provides for areawide or central utility service solutions and would not adversely impact regional resources such as potable water supply.

As to Criteria 2:

16. *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

The majority of the proposed revisions to the City's FLUM would result in a net decrease in impacts to the regional transportation system, but several revisions in particular could result in a significant increase in impacts. The impacts are summarized in Table 2 below.

Table 2 – Transportation

Map Revision	Current*	Proposed*	Net New Impact*	Available Capacity
10	580	1,161	580	Unknown

Map Revision	Current*	Proposed*	Net New Impact*	Available Capacity
11	1,712	3,424	1,712	Unknown
12	28	2,370	2,342	Unknown

**PM Peak Hour Trips*

A traffic impact analysis was not provided with the application; therefore, it is unknown as to whether the new trips will have a significant adverse impact on the regional transportation network. In the absence of this information it may be reasonably presumed that the proposed amendment may fail to provide for areawide or regional transportation solutions.

To address the lack of a traffic impact analysis, the City proposed limiting potential transportation impacts to those permissible under current entitlements. Doing so would ensure that the proposed revisions would result in no new impacts to the regional transportation system. If the proposed amendment is to be found consistent under the test set forth in Section 90-37, a condition should be placed limiting map revisions 10, 11 and 12 to 580, 1,712 and 28 PM peak hour trips, respectively.

As to Criteria 3:

17. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

The impact of the proposed amendment on potable water, sanitary sewer and transportation systems has been addressed in Criteria 1 and Criteria 2 above. The proposed amendment would result in a new decrease in residential entitlements; therefore, no new impacts to public school capacity are anticipated.

As to Criteria 4:

18. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

The proposed amendment is not anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of the City.

As to Criteria 5:

19. *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

The proposed amendment is not anticipated to result in the duplication of services or competition among providers.

As to Criteria 6:

20. *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

No agreements of this type exist for the subject site or proposed amendments.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code states in Section 90-37(e) that "The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate." Based upon the preceding information, the VGMC concludes that the proposed amendment originally submitted to the VGMC for consistency review may not be consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendment could adversely impact adjacent jurisdictions based on the Criteria of Consistency established in Volusia County Code. However, there are conditions which may be placed upon the certification of this amendment, such that the application and the comprehensive plan amendments contained therein can be certified consistent.

B. VGMC Application #10-031A and the EAR based amendments contained therein are hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approve VGMC Application #10-031A, with the following conditions:

1. In order to address the potential future transportation impacts of map revisions 10, 11 and 12, the City of New Smyrna Beach shall adopt map notations on the City's Future Land Use Map stating:

a) for map revision 10, that any development within the boundaries of map revision 10 shall not cumulatively exceed 580 p.m. peak hour trips;

b) for map revision 11, that any development within the boundaries of map revision 11 shall not cumulatively exceed 1,712 p.m. peak hour trips; and

c) for map revision 12, that any development within the boundaries of map revision 12 shall not cumulatively exceed 28 p.m. peak hour trips.

A future comprehensive plan amendment, with attendant traffic analysis, will be required to remove any such note.

2. Any proposed changes or amendments to be made or adopted to the City's Comprehensive Plan in response to a Florida Department of Community Affairs Notice of Intent to Find in Compliance ("Remedial Amendment") must be submitted to the Volusia Growth Management Commission as additional information to the original application pursuant to Volusia County Code Section 90-37(i) and the VGMC may "determine in its sole discretion that the additional information changes the facts and circumstances of the prior certification." If such a determination is made, the VGMC shall hold a noticed public hearing on the Remedial Amendment. If the determination is made that the Remedial Amendment is consistent with the prior certification, no public hearing is required and a letter confirming consistency of the Remedial Amendment shall be issued to the Town.

3. Failure to comply with any of the above conditions of certification shall result in an automatic revocation of this certification, thereby rendering the amendments to the City's Comprehensive Plan, which are the subject of this certification, invalid and ineffective.

SECTION 3. EFFECTIVE DATE. This Resolution 2011-03 shall take effect immediately upon its adoption.

RESOLVED this 6th day of April 2011.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Gerald T. Brandon, Chairman

ATTEST:

_____
Dwight D. Lewis, Secretary

FILED WITH THE SECRETARY THIS 7th DAY OF APRIL 2011.

_____
Merry Chris Smith, VGMC Coordinator

3892564 v1

RESOLUTION 2011-06

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF NEW SMYRNA BEACH, FLORIDA, AS CONSISTENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On October 14, 2010, the VGMC received a large-scale comprehensive plan amendment application from the City of New Smyrna Beach (the City). The application, assigned VGMC #10-031, consisted of the City's Evaluation and Appraisal Report (EAR) based amendments.

2. On November 11, 2010, the VGMC planning staff issued a Request for Additional Information (RAI) pursuant to Section 90-35(e)(1)(a).

3. On November 12, 2010, the VGMC received correspondence from Volusia County commenting on the subject application package. On November 15, 2010, VGMC planning staff forwarded these comments to the City of New Smyrna Beach as a second RAI.

4. On February 14, 2011, the VGMC received from the City a response to both the November 11, 2010, and November 15, 2010, RAIs and requested that the proposed amendments be heard at the regularly scheduled March 23, 2011, VGMC public hearing.

5. On March 10, 2011, at the City's request, the VGMC separated the Florida East Coast Railroad Property (FEC Property) Future Land Use Map (FLUM) amendment from the remainder of the application package. The FEC Property FLUM amendment was assigned VGMC Case #10-031B, while the remainder of the package was assigned VGMC Case #10-031A.

6. On March 16, 2011, Commission representatives met with the City and FEC Property representatives to discuss possible conditions for approval of VGMC Case #10-031B. As a result of the meeting, a special hearing of the VGMC was scheduled for April 6, 2011.

7. VGMC Case #10-031B proposes a single revision to the City's Future land Use Map (FLUM). The proposed FLUM amendment would modify the future land use designation of a ±197 acre site commonly referred to as the FEC Property. The subject

site is bounded by SR 44 to the North, 10th Street to the South, US 1 to the East and South Myrtle Avenue to the West. This property is located immediately adjacent to Downtown New Smyrna Beach along the Florida East Coast Railway.

8. The current FLUM designation, proposed FLUM designation and net change are summarized in Table 1 below.

Table 1 – Entitlements

	Current	Proposed	Net Change
Land Use	Industrial	Industrial Mixed Use	--
Residential	0 units	5,124 units	**5,124 units**
Non-residential	17,169,609 sq. ft.	41,850,923 sq. ft.	**24,681,313 sq. ft.**

9. The City stated that the purpose of the proposed amendment is to permit for mixed-use transit oriented development (TOD) adjacent to the existing railway. The proposed Industrial Mixed Use designation would allow for a wider array of uses, including light industrial, office, retail and medium to high density residential, and higher densities and intensities.

10. The complete application and supporting documentation submitted by the City is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation, as described above, is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — Large-Scale Comprehensive Plan Amendment Application
VGMC Exhibit 2 — Request for Additional Information dated November 11, 2010
VGMC Exhibit 3 — Second Request for Additional Information dated November 15, 2010
VGMC Exhibit 4 — City of New Smyrna Beach Responses to both Requests for Additional Information received February 14, 2011
VGMC Exhibit 5 — Boundary Map of FEC Property
VGMC Exhibit 6 — Correspondence from the Volusia County School Board dated March 1, 2011

11. Utilizing all the information submitted by the applicant, the VGMC used the following criteria as stated in Volusia County Code Section 90-37(c) to determine whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. These criteria are:

(1) *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

(2) *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

(3) *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

(4) *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

(5) *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

(6) *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

12. Per Section 90-37(d), Volusia County Code, "For purposes of determining consistency under this section,...the plan amendment and the comprehensive plans against which it is compared and analyzed shall be construed as a whole and no specific goal and policy shall be construed or applied in isolation from the other goals and policies in the plans."

13. As stated above, Volusia County Code Section 90-37(c) outlines six criteria to be used in determining whether a proposed amendment adversely affects intergovernmental cooperation and coordination. Below is an analysis of the proposed amendments as they pertain to each specific criteria.

As to Criteria 1:

14. *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

The proposed amendment would result in a net increase in impacts to public utilities. The impacts are summarized in Table 2 below.

Table 2 – Utilities

Utility	Current	Proposed	Net Change	Available Capacity	Deficit?
Potable Water	1.03 MGD	3.74 MGD	2.71 MGD	2.53 MGD	Yes
Sanitary Sewer	0.88 MGD	3.23 MGD	2.34 MGD	2.91 MGD	No

As shown in Table 2, capacity currently exists in the City's waste water treatment system to accommodate the impacts of the proposed amendment; however, it does not appear that sufficient potable water capacity exists. Since potable water supply is a regional resource, it may be reasonable to presume that the proposed amendment could result in adverse impacts to adjacent local governments.

As to Criteria 2:

15. *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

The proposed amendment would result in a net increase in impacts to transportation facilities. These impacts are summarized in Table 3 below.

Table 3 – Transportation

	Current	Proposed	Net Change	Available Capacity
PM Peak Trips	14,656	22,684	8,120	Unknown

As shown in the Table above, the proposed amendment may generate as many as 8,120 new PM peak hour automobile trips. A traffic impact analysis was not provided with the application; therefore, it is unknown whether the new trips will have a significant adverse impact on the regional transportation network. In the absence of this information it may be reasonably presumed that the proposed amendment may fail to provide for areawide or regional transportation solutions.

To address the lack of a traffic impact analysis, the City proposed limiting potential transportation impacts to those permissible under the current entitlements, ensuring that the proposed amendment would result in no new impacts to the regional transportation system.

As to Criteria 3:

16. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

The impact of the proposed amendment on potable water, sanitary sewer and transportation systems has been addressed in Criteria 1 and Criteria 2 above. As previously stated, the proposed amendment may have adverse impacts on the region's water supply and transportation systems.

Given that the proposed amendment results in a net increase of 5,124 residential units, it is necessary to measure impacts to the public school system. Planning for Volusia County's public schools is a comprehensive endeavor that includes each of Volusia County's local governments as well as the Volusia County School Board. Section 206 of the Volusia County Charter and the First Amendment to Interlocal Agreement for Public School Facility Planning both require a finding of "adequate public school capacity" by the Volusia County School Board before an amendment resulting in additional residential entitlements may be adopted. On March 1, 2011, Volusia County School Board provided correspondence to both the City of New Smyrna Beach and the VGMC stating that they, ". . . cannot certify there will be adequate school capacity to serve the proposed increase in residential density. . . ."

Given the lack of adequate public school capacity to serve the proposed increase in residential units, it is reasonable to presume that the subject amendment may cause significant adverse impacts to infrastructure beyond the boundaries of the City of New Smyrna Beach.

As to Criteria 4:

17. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

The subject site is currently being utilized as a FEC rail yard. Given the site location within urbanized areas and its current entitlement to industrial uses, the proposed amendments to Industrial Mixed Use are not anticipated to cause significant adverse impacts on natural resources beyond the boundary of the City of New Smyrna Beach.

As to Criteria 5:

18. *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

The proposed amendments are not anticipated to result in the duplication of services or competition among providers.

As to Criteria 6:

19. *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

No agreements of this type exist for the subject site or proposed amendments.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code states in Section 90-37(e) that "The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate." Based upon the preceding information, the VGMC concludes that the proposed amendment to FEC Property as originally submitted to the VGMC for consistency review may not be consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendment could adversely impact adjacent jurisdictions based on the Criteria of Consistency established in Volusia County Code. However, there are conditions which may be placed upon the certification of this amendment, such that the application and the comprehensive plan amendments contained therein can be certified consistent.

B. VGMC Application #10-031B and the comprehensive plan amendments contained therein are hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approve VGMC Application #10-031B, with the following conditions:

1. The City of New Smyrna Beach shall adopt the following conditions as notations to the City's Future Land Use Map:

a) In order to avoid groundwater deficits associated with future aquifer withdrawals from well fields and water and sewer consumption concerns, a note to the Future Land Use Map shall be added to state that any development within the Industrial Mixed Use category shall not exceed the existing planned water and sewer capacity for the Future Land Use category existing on such property immediately prior to the change in Future Land Use designation to Industrial Mixed Use. For the Future Land Use Map Amendment No. 18 that capacity usage is limited to development which generates 1,030,296.00 GD for water and 888,630.30 GD for sewer.

A future comprehensive plan amendment will be required to remove such note.

b) In order to address the potential future transportation impacts from all the potential uses within the "Industrial Mixed Use" Future Land Use designation on FLUM #18, a note to the Future Land Use Map shall be added to state that any development within the Industrial Mixed Use category on the property contained with FLUM #18 shall not exceed 14,656 net external PM peak hour directional trips, which is the number of vehicular trips generated by the Future Land Use category existing on such property (197.08 +/- acres at an FAR of 2.0) immediately prior to the change in Future Land Use designation to Industrial Mixed Use. A future comprehensive plan amendment, with attendant traffic analysis, will be required to remove such note.

c) In order to be consistent with Volusia County Charter Section 206, which in part states, any "municipal comprehensive plan amendment ... allowing increased residential density may be effective only if adequate public schools can be timely planned and constructed to serve the projected increase in student population", a note to the Future Land Use Map shall be added to limit development on any parcel having an "Industrial Mixed Use" to non-residential uses only, until such time as a finding of adequate school capacity from the school district for any such property seeking residential uses with the Industrial Mixed Use Land Use designation is issued.

2. Any proposed changes or amendments to be made or adopted to the City's Comprehensive Plan in response to a Florida Department of Community Affairs Notice of Intent to Find in Compliance ("Remedial Amendment") must be submitted to the Volusia Growth Management Commission as additional information to the original application pursuant to Volusia County Code Section 90-37(i) and the VGMC may "determine in its sole discretion that the additional information changes the facts and circumstances of the prior certification." If such a determination is made, the VGMC shall hold a noticed public hearing on the Remedial Amendment. If the determination is made that the Remedial Amendment is consistent with the prior certification, no public hearing is required and a letter confirming consistency of the Remedial Amendment shall be issued to the Town.

3. Failure to comply with any of the above conditions of certification shall result in an automatic revocation of this certification, thereby

rendering the City's Comprehensive Plan, which is the subject of this certification, invalid and ineffective.

SECTION 3. EFFECTIVE DATE. This Resolution 2011-06 shall take effect immediately upon its adoption.

RESOLVED this 6th day of April 2011.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Gerald T. Brandon, Chairman

ATTEST:

_____
Dwight D. Lewis, Secretary

FILED WITH THE SECRETARY THIS 7th DAY OF APRIL 2011.

_____
Merry Chris Smith, VGMC Coordinator

3880162 v1

RESOLUTION 2011-04

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE ADDITIONAL INFORMATION SUBMITTED BY VOLUSIA COUNTY, FLORIDA, IN THE FORM OF A STIPULATED SETTLEMENT AGREEMENT AND REMEDIAL COMPREHENSIVE PLAN AMENDMENTS IN COMPOSITE EXHIBIT B TO THE STIPULATED SETTLEMENT AGREEMENT IS CONSISTENT WITH VGMC RESOLUTION 2010-04; CERTIFYING THE REMEDIAL AMENDMENTS CONTAINED IN COMPOSITE EXHIBIT B TO THE STIPULATED SETTLEMENT AGREEMENT AND DOES NOT CHANGE THE FACTS AND CIRCUMSTANCES CONTAINED IN VGMC RESOLUTION 2010-04; AUTHORIZING LEGAL COUNSEL TO EXECUTE THE STIPULATED SETTLEMENT AGREEMENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On March 4, 2011, Volusia County submitted to the VGMC additional information relating to VGMC Case #09-022B and requested a public hearing before the VGMC. The information was in the form of remedial comprehensive plan amendments (the Remedial Amendments), pursuant to Florida Statutes, Section 163.3184(16) compliance agreement. Pursuant to Section 90-37(i), the VGMC's planning staff has reviewed this information to determine whether it changes the facts and circumstances related to the VGMC's prior consistency certification issued on March 24, 2010.

2. The Remedial Amendments submitted by the County are the product of a proposed voluntary compliance agreement prepared by counsel for the Department of Community Affairs (the DCA), Volusia County, Miami Corporation, and the VGMC. The compliance agreement, formally and hereinafter referred to as the "Stipulated Settlement Agreement" relates to a proceeding filed by the Florida Department of Community Affairs with the Florida Division of Administrative Hearings, Case No. 10-2419GM. The Remedial Amendments are included as Composite Exhibit B to the Stipulated Settlement Agreement.

3. The Stipulated Settlement Agreement and Remedial Amendments contained therein as Composite Exhibit B were circulated among the DCA, Volusia County, Miami Corporation, and the VGMC, for review and approval. The Remedial

Amendments contain revisions to the Farmton Local Plan portion of the County's Future Land Use Element, the Land Use Map Series, the Transportation Map Series, and additional data and analysis regarding water supply, as described below.

(a) **Mandatory Resource Based Open Space** ***(Exhibits B-1 & B-2 to the Stipulated Settlement Agreement)***

The Farmton Local Plan requires at least twenty-five percent (25%) of the Sustainable Development Area (SDA) districts be designated Resource Based Open Space. The extent and location of this resource based open space is to be determined during the design of the specific SDAs. To address concerns regarding the width of proposed wildlife corridors, protection of adjacent environmental resources and consistency with Brevard County land uses, a Mandatory Resource Based Open Space map designation was created. This designation encompasses approximately 1,573 acres, expanding both the Cow Creek and Southwest Wildlife Corridors, and is intended to specifically identify areas that must be included in the 25% Resource Based Open Space.

(b) **Transportation Policies and Natural Resource Protection** ***(Exhibits B-1 & B-3 to the Stipulated Settlement Agreement)***

The Farmton Local Plan includes a "Spine Transportation Network" intended to identify key arterial roadways needed to serve the area. Two roadway corridors, Maytown Road and Arterial A, bisect designated wildlife corridors. To address concerns regarding the impact of these roadways on wildlife, the remedial amendment package contains text revisions to the Farmton Local Plan which guide the design of these facilities so as to minimize and mitigate impacts. In addition, the Farmton Local Plan Spine Transportation Network is to be adopted as part of the County's Transportation Map Series to memorialize the location of these roadways.

(c) **Water Supply — Revised Data and Analysis** ***(Exhibits B-1 & B-4 to the Stipulated Settlement Agreement)***

To address concerns regarding the availability of adequate water supply, additional data and analysis regarding potable and non-potable water demand for each phase of development has been included as a component of the Remedial Amendments (see Exhibit B-4 to the Stipulated Settlement Agreement). This support documentation has been reviewed and approved by the St. John's River Water Management District.

4. Party interveners Barbara Herrin and Edgewater Citizens Alliance for Responsible Development, Inc., chose not to enter into the Stipulated Settlement Agreement.

5. Pursuant to Section 163. 3187(16), Florida Statutes, and Volusia County Code Section 90-37(i), the Commission has reviewed the entire Stipulated Settlement Agreement which includes Composite Exhibit B.

6. The Remedial Amendments submitted by Volusia County is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The Remedial Amendments and supporting documentation as described above are hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the Remedial Amendments and provides analysis and review as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — Stipulated Settlement Agreement including Exhibits.

SECTION 2. CONCLUSIONS OF LAW.

A. At public hearing, the VGMC has determined that the additional information as contained in the Stipulated Settlement Agreement and Remedial Amendments contained in Composite Exhibit B to the Stipulated Settlement Agreement does not change the facts and circumstances upon which the prior VGMC certification granted in VGMC Resolution 2010-04 was based. The VGMC further determines that based upon its professional planning staff's review of the additional information and evidence and testimony received at the public hearing on the matter that the Stipulated Settlement Agreement and Remedial Amendments, as evaluated based upon the consistency review criteria established in Section 90-37(c), do not result in additional adverse impacts. Therefore, the VGMC Resolution 2010-04 remains valid and in effect.

B. The County, within thirty (30) days of passage of the ordinance adopting the Remedial Amendments, shall submit copies thereof to the VGMC. The VGMC professional planning staff shall timely review said adopted Remedial Amendments to ensure such adopted Remedial Amendments are substantially similar to the Remedial Amendments contained in Composite Exhibit B to the Stipulated Settlement Agreement. Provided the adopted Remedial Amendments are substantially similar, the VGMC professional planning staff shall issue written verification thereof to the VGMC chairman. In turn, the VGMC chairman shall issue a letter to the County confirming that the adopted Remedial Amendments are substantially similar to the Remedial Amendments contained in Composite Exhibit B to the Stipulated Settlement Agreement and that both VGMC Resolutions 2010-04 and 2011-04 remain valid and in effect. In the event the VGMC professional planning staff determines that the adopted Remedial Amendments are not substantially similar to the Remedial Amendments contained in Composite Exhibit B to the Stipulated Settlement Agreement, a public hearing shall be scheduled and held by the VGMC to reconsider VGMC Resolutions 2010-04 and 2011-04. At said public hearing, should the VGMC determine in its sole discretion that the adopted Remedial Amendments change the facts and circumstances related to the prior certification, the VGMC may change or modify its conditions of certification contained therein.

C. The VGMC hereby authorizes its legal counsel to execute the Stipulated Settlement Agreement on behalf of the VGMC.

D. Any proposed changes or amendments to be made or adopted to the County's Comprehensive Plan in response to a Florida Department of Community Affairs Notice of Intent to Find in Compliance must be submitted to the Volusia Growth Management Commission as additional information (the Remedial Amendment) to the original application pursuant to Volusia County Code Section 90-37(i). The VGMC professional planning staff shall review the additional information to determine whether such additional information could be deemed to change the facts and circumstances upon which the prior certification was based. If a determination is made by the VGMC professional planning staff that the additional information changes the facts and circumstances of the prior certification, then the VGMC shall hold a noticed public hearing on the Remedial Amendment and the VGMC may "determine in its sole discretion that the additional information changes the facts and circumstances of the prior certification." If the determination is made that the Remedial Amendment is consistent with the prior certification, no public hearing is required and a letter confirming consistency of the Remedial Amendment shall be issued to the County.

E. Failure to comply with any of the above conditions of certification shall result in an automatic revocation of this certification, thereby rendering the County's Comprehensive Plan, as applicable to the amendments under consideration in VGMC Case #09-022B, unenforceable.

SECTION 3. EFFECTIVE DATE. This Resolution 2011-04 shall take effect immediately upon its adoption.

RESOLVED this 23rd day of March 2011.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald T. Brandon
Gerald T. Brandon, Chairman

ATTEST:

Dwight D. Lewis
Dwight D. Lewis, Secretary

FILED WITH THE SECRETARY THIS 24th DAY OF MARCH 2011.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

3866362 v1

RESOLUTION 2011-02

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE TOWN OF PONCE INLET, FLORIDA, AS CONSISTENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On July 6, 2010, the Volusia Growth Management Commission ("VGMC") received a large-scale comprehensive plan amendment application from the Town of Ponce Inlet (the "Town"). The application was assigned VGMC #10-022 and consisted of several text amendments to the Town's Comprehensive Plan.

2. On July 29, 2010, the VGMC received correspondence from the law firm of Cobb Cole as representatives of a property owner within the Town of Ponce Inlet. The purpose of the correspondence was to formally file, as a substantially affected or aggrieved party, a Petition for Public Hearing (pursuant to Section 90-35) and a Petition to Intervene (pursuant to Section 90-38).

3. On August 3, 2010, the VGMC received correspondence from the City of Port Orange (the "City") requesting revisions to the Town's proposed amendment.

4. On August 5, 2010, the VGMC issued to the Town a request for additional information (RAI) consistent with Section 90-35 and attached the July 29th and August 3rd correspondence described above.

5. On October 20, 2010, the VGMC received from the Town the Department of Community Affair's (the "DCA") Objection, Recommendation and Comments Report (the "ORC") regarding the proposed amendment. The ORC contained a single objection regarding Sanitary Sewer Sub-Element Policy 1.2.2, the same policy which was the subject of the City of Port Orange's August 3, 2010, letter and included in the RAI.

6. On October 21, 2010, consistent with the time frame requirements contained in Florida Statutes, Chapter 163, Part II, the Town adopted the subject amendment package (2010-09) with the caveat that the proposed amendments would not become effective until such time as they received certification by the VGMC.

7. On October 26, 2010, the VGMC received from the Town a response to the RAI issued on August 5, 2010, and requested a waiver of the "90-day rule" pursuant

to Section 90-35(g). Included within the Town's response were emails received from the City of Port Orange stating that the Town's response sufficiently addressed the City's concerns.

8. On November 17, 2010, the VGMC approved the Town of Ponce Inlet's request for a waiver of the "90-day rule" and planned to schedule the matter for public hearing at the January 26, 2011, regular meeting of the VGMC.

9. On December 29, 2010, the VGMC received correspondence from the Town requesting a continuance of the public hearing to February 23, 2011, to allow the Town to address outstanding issues with the DCA.

10. January 27, 2011, the VGMC received from the Town a second response to Cobb Cole's Petition for Public Hearing.

11. The Town's application proposes the amendment of text contained in Chapters I, II and V of the Comprehensive Plan (the "Plan"), as well as the elimination of data and analysis which had previously been adopted as part of the Plan.

12. A summary of each of the proposed changes is as follows:

(a) Chapter I, Administration and Interpretation: The Administration and Interpretation chapter of the Town's Plan is intended to set forth the procedures and criteria for interpretation and amendment. The proposed changes to the chapter are minor and primarily address corrections in terminology and the removal of specific references to state statute. Examples include the replacement of the term "town planner" with "Director of Planning and Development" and the striking of specific statutory references and replacement with the phrase "under Florida Law".

(b) Chapter II, Future Land Use Element: Chapter II of the Town's Plan contains the Future Land Use Element pursuant to 163.3177(6)(a), Florida Statutes, and 9J-5.006, Florida Administrative Code, and is intended to guide the overall type, location, and intensity of development. The proposed changes to the chapter are primarily related to the strike-through and replacement of Policy 4.1.5 regarding the implementation of a zoning overlay district in the Town's riverfront area. This is the policy that is the primary subject of the July 29, 2010, Petition for Public Hearing submitted by the law firm of Cobb Cole on behalf of their client. The specific text of the policy (before and after amendment) are below.

~~Policy 4.1.5 The Town shall maintain a zoning overlay district over those Riverfront Commercial and High Density Multi-family Residential lands west of Sailfish Drive, south of Bounty Lane and north of the most southerly portion of Sailfish Drive to ensure access to the riverfront for both pedestrians and bicyclists and preserves the historic setting and unique character of this area, including, but not limited to, the scenic roads of Beach Street and Sailfish Drive. Dry boat storage facilities shall be prohibited within this overlay district.~~

Policy 4.1.5 The Town shall maintain a zoning overlay district over those Riverfront Commercial and High Density Multi-family Residential lands west of Sailfish Drive, south of Bounty Lane and north of the most southerly portion of Sailfish Drive to promote the water-oriented character of the River and compatibility with adjacent residential properties, to ensure protection of view corridors of the River and the tree canopy in the Front Street Area, and to preserve the historic setting and unique character of this area, including, but not limited to, the scenic roads of Beach Street and Sailfish Drive. Dry boat storage facilities shall be prohibited within this overlay district.

(c) Chapter V, Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water, and Natural Groundwater Aquifer Recharge Element: Chapter V of the Town's Plan contains the Sanitary Sewer, Solid Waste, Stormwater Management, Potable Water, and Natural Groundwater Aquifer Recharge Element pursuant to 163.3177(6)(d), Florida Statutes, and 9J-5.013(2) Florida Administrative Code, and is intended to ensure the adequate provision of public facilities and services. The proposed changes to the chapter are primarily related to the revision of Policies 1.2.2 and 1.2.3 regarding extension of sewer service. The policies are the primary subject of the August 5, 2010, RAI based on the comments submitted by the City of Port Orange in its letter of August 3, 2010. The specific amendments to the policies are provided below.

Policy 1.2.2 Where gravity sewer service is extended into previously un-served areas, property owners will be required to connect existing ~~homes~~ improved property within one (1) year of being notified, pursuant to 381.00655, Fla. Statutes, that sewer service is available. The town may adopt regulations which exempt from mandatory connection improved residential properties that meet certain criteria, taking into consideration that conversion from septic systems to a public sanitary sewer system is very expensive for some homeowners. However, if a scientific study demonstrates that a statistically significant relationship exists between the presence of septic systems within the town and a decline in the water quality measured in the Halifax River adjacent to Ponce Inlet, mandatory hook-up to the public sewer system shall be required.

Policy 1.2.3 When sewer service is available within 100' ~~150'~~ of a property, all new development, including single family residences, shall be required to connect to the sewer service, even if gravity flow cannot be maintained.

(d) Elimination of Data and Analysis from Adopted Plan: The Town proposed the removal of support documentation, commonly referred to as "data and analysis" from the Comprehensive Plan. During the Town's 2008-01 amendment cycle,

data and analysis supporting the Town's EAR based amendments was inadvertently included as part of the adoption ordinance. It is common practice to provide data and analysis in support of the comprehensive plan, but not adopt this documentation by ordinance. The elimination of support documentation from the adopted plan neither nullifies its content nor its applicability to the overall plan, but rather grants the local government the ability to revise this information outside of a formal amendment process.

13. The complete application and supporting documentation submitted by the Town of Ponce Inlet and the City of Port Orange is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation as described above is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — Large-Scale Comprehensive Plan Amendment Application
VGMC Exhibit 2 — July 29, 2010, Petition for Public Hearing and Petition to Intervene from Cobb Cole
VGMC Exhibit 3 — August 3, 2010, letter from the City of Port Orange
VGMC Exhibit 4 — August 5, 2010, Request for Additional Information
VGMC Exhibit 5 — October 20, 2010, Receipt of DCA's ORC from the Town
VGMC Exhibit 6 — October 26, 2010, Response from RAI and request for waiver of 90-day rule
VGMC Exhibit 7 — December 29, 2010, letter from the Town requesting continuance of public hearing to February 23, 2011
VGMC Exhibit 8 — January 27, 2011, Second response to Petition for Public Hearing

14. Utilizing all the information submitted by the applicant, the VGMC used the following criteria as stated in Volusia County Code Section 90-37(c) to determine whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. These criteria are:

(1) The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;

(2) The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;

(3) The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;

(4) The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse

impacts on natural resources which extend beyond the boundaries of one jurisdiction;

(5) The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and

(6) The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.

15. Per Section 90-37(d), Volusia County Code, "For purposes of determining consistency under this section,...the plan amendment and the comprehensive plans against which it is compared and analyzed shall be construed as a whole and no specific goal and policy shall be construed or applied in isolation from the other goals and policies in the plans."

16. As stated above, Volusia County Code Section 90-37(c) outlines six criteria to be used in determining whether a proposed amendment adversely affects intergovernmental cooperation and coordination. Below is an analysis of the proposed amendments as they pertain to each specific criteria.

As to Criteria 1:

17. *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

Sanitary Sewer policy 1.2.2, as originally submitted to the VGMC, was objected to by the City of Port Orange. Port Orange provides both potable water and sanitary sewer services to the Town of Ponce Inlet. A Sewer Services Interlocal Agreement between the municipalities has been in existence since 1993.

In its original form, the proposed amendment, as originally transmitted, may have failed to provide for areawide or central utility service solutions. Via the VGMC process, the Town of Ponce Inlet has work amicably with the City of Port Orange to address the concerns outlined in the City's letter of August 3, 2010, and included in the VGMC staff's Request for Additional Information dated August 5, 2010. As a result, modified language to Policy 1.2.2 has been proposed.

To ensure the proposed amendment provides for areawide or central utility service solutions, VGMC recommends that the aforementioned agreed upon

revisions to Sanitary Sewer policy 1.2.2 become a condition of certification. The revised policy is as follows:

> Policy 1.2.2 Where gravity sewer service is extended into previously un-served areas, property owners will be required to connect existing ~~homes~~ improved property within one (1) year of being notified, pursuant to §381.00655, Fla. Statutes, that sewer service is available. The town may adopt regulations which exempt from mandatory connection improved single-family residential and two-family residential properties with septic systems. A property otherwise exempt from mandatory sewer connection shall be required to connect to the available central sewer system when: (a) modification, repair or re-placement of an existing septic system is required that would warrant issuance of a permit by the Volusia County Health Department: (b) expansion of a unit would cause the enlargement of an existing septic system: or (c) the property changes ownership after December 31, 2010. ~~that meet certain criteria, taking into consideration that conversion from septic systems to a public sanitary sewer system is very expensive for some homeowners. However, if a scientific study demonstrates that a statistically significant relationship exists between the presence of septic systems within the town and a decline in the water quality measured in the Halifax River adjacent to Ponce Inlet, mandatory hook up to the public sewer system shall be required.~~

As to Criteria 2:

18. *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

> The proposed amendment is not anticipated to increase the total amount of residential dwelling units or non-residential square footage currently permitted within the Town's plan; therefore, no new transportation trips or additional impacts to the regional transportation system are anticipated.

As to Criteria 3:

19. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

> The proposed amendment is not anticipated to increase the total amount of residential dwelling units or non-residential square footage currently permitted within the Town's plan; therefore, the amendment is not anticipated to cause significant adverse impacts to infrastructure beyond the Town's boundary.

As to Criteria 4:

20. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

Cobb Cole, in their correspondence dated July 29, 2010, has alleged that the proposed amendment, more specifically, Future Land Use policy 4.1.5, may be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of the Town. This allegation is predicated upon an argument that the aforementioned policy is inconsistent with Volusia County's Manatee Protection Plan (MPP), a regulatory document, adopted by reference in the County's comprehensive plan. It should be noted that Cobb Cole currently represents the Pacetta Group, a property owner whom would be directly impacted by the proposed amendment's prohibition on dry boat storage facilities. The prohibition of these facilities has been and continues to be the subject of litigation between the property owner and the Town.

Originally approved in 2005, Phase II of the County's MPP is intended to "*minimize watercraft-related manatee mortalities by establishing requirements for siting, developing, revitalizing, or expanding boat facilities*" and specifically addresses the siting of boat facilities such as docks, wet and dry boat storage, and access ramps. Section B.4 Boat Facility Siting Specific Requirements, sets forth the requirements for new or expanding marine facilities. This section clearly states that, "*The provisions of this plan shall not preempt or nullify any other more restrictive federal, state, or local regulations that apply.*" The Town of Ponce Inlet's prohibition on dry boat storage facilities within the riverfront overlay area may be considered a more restrictive local regulation.

It is important to note that Volusia County is responsible for interpretation of the MPP and has stated that the Town's proposed amendment is consistent with the MPP as well as the County's comprehensive plan. The VGMC concurs with Volusia County's finding of consistency of this amendment with the MPP as well as the County's comprehensive plan.

Furthermore, as stated in Volusia County Code Section 90-37(d), "*For purposes of determining consistency under this section ... the ... plan amendment and the comprehensive plans against which it is compared and analyzed shall be construed as a whole and no specific goal or policy shall be construed or applied in isolation from the other goals or policies in the plans.*" Policy 4.1.5 must be considered as a component of the Town's larger plan which seeks to address a multitude of issues including, but not limited to, historic preservation, land use compatibility and urban design standards.

As to Criteria 5:

21. *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

The proposed amendments are not anticipated to result in the duplication of services or competition among providers.

As to Criteria 6:

22. *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

Interlocal agreements addressing both potable water and sanitary sewer service exist between the City of Port Orange and the Town of Ponce Inlet. The impact of these agreements upon the proposed amendment is discussed above under Certification Criteria 1. No other agreements currently exist that may impact the proposed amendments.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code states in Section 90-37(e) that "The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate." Based upon the preceding information, the VGMC concludes that the proposed amendment to Sanitary Sewer policy 1.2.2 as originally submitted to the VGMC for consistency review may not be consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendment could adversely impact adjacent jurisdictions based on the Criteria of Consistency established in Volusia County Code. However, there are conditions which may be placed upon the certification of this amendment, such that the application and the comprehensive plan amendments contained therein can be certified consistent.

B. VGMC Application #10-022 and the comprehensive plan amendments contained therein are hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approve VGMC Application #10-022, with the following conditions:

1. The Town of Ponce Inlet shall ensure that the following revision to Sanitary Sewer Policy 1.2.2 is or will be adopted so that the Policy reads as follows:

> Where gravity sewer service is extended into previously un-served areas, property owners will be required to connect existing ~~homes~~ improved property within one (1) year of being notified, pursuant to §381.00655, Fla. Statutes, that sewer service is available. The town may adopt regulations which exempt from mandatory connection

improved single-family residential and two-family residential properties with septic systems. A property otherwise exempt from mandatory sewer connection shall be required to connect to the available central sewer system when: (a) modification, repair or replacement of an existing septic system is required that would warrant issuance of a permit by the Volusia County Health Department: (b) expansion of a unit would cause the enlargement of an existing septic system: or (c) the property changes ownership after December 31, 2010. ~~that meet certain criteria, taking into consideration that conversion from septic systems to a public sanitary sewer system is very expensive for some homeowners. However, if a scientific study demonstrates that a statistically significant relationship exists between the presence of septic systems within the town and a decline in the water quality measured in the Halifax River adjacent to Ponce Inlet, mandatory hook up to the public sewer system shall be required.~~

2. Any proposed changes or amendments to be made or adopted to the Town's Comprehensive Plan in response to a Florida Department of Community Affairs Notice of Intent to Find in Compliance ("Remedial Amendment") must be submitted to the Volusia Growth Management Commission as additional information to the original application pursuant to Volusia County Code Section 90-37(i) and the VGMC may "determine in its sole discretion that the additional information changes the facts and circumstances of the prior certification." If such a determination is made, the VGMC shall hold a noticed public hearing on the Remedial Amendment. If the determination is made that the Remedial Amendment is consistent with the prior certification, no public hearing is required and a letter confirming consistency of the Remedial Amendment shall be issued to the Town.

C. Failure to comply with any of the above conditions of certification shall result in an automatic revocation of this certification, thereby rendering the Town's Comprehensive Plan, as applicable to the amendments under consideration in VGMC Case #10-022, unenforceable.

SECTION 3. EFFECTIVE DATE. This Resolution 2011-02 shall take effect immediately upon its adoption.

RESOLVED this 23rd day of February 2011.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Gerald T. Brandon, Chairman

ATTEST:

_____
Dwight D. Lewis, Secretary

FILED WITH THE SECRETARY THIS 24th DAY OF FEBRUARY 2011.

_____
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2010-09

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE COUNTY OF VOLUSIA, FLORIDA, AS CONSISTENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On August 30, 2010, the VGMC received an application for certification regarding a rezoning of approximately 831 acres of land to a Mixed Planned Unit Development (MPUD) classification. The property is comprised of seven (7) contiguous parcels bounded by Pioneer Trail on the north, State Road 44 to the south, Sugar Mill Drive to the east, and Interstate 95 to the west.

2. The future land use map amendment which established the current land use designation on the property was certified by the VGMC in 1994 via Resolution No. 94-04, and was subsequently amended by Resolution No. 97-04 and Resolution No. 97-06. The Conditions of Approval contained in VGMC Resolution 94-04 require those properties certified by said Resolution to be rezoned as a Planned Unit Development (PUD) and, further, provides that such PUD be reviewed for consistency by the VGMC.

3. The MPUD is named "Pioneer Trails" and, if approved would allow for the development of mixed residential and non-residential uses. The residential component is comprised of 1,250 residential units of four (4) housing types and includes single-family (5,000 sq. ft. lots), two-family (7,500 sq. ft. lots), multi-family/townhouse lots (1,600 sq. ft.) and standard multi-family dwelling. The non-residential component of the MPUD is proposed for 341,000 square feet of commercial use, 15,000 square feet of office use, and 98 hotel rooms. The Master Development Plan depicts the general location of each proposed use.

4. On November 24, 2009 the Commission received correspondence from Knight, McGuire & Associates, Inc., responding to a series of comments from the Volusia County Technical Review Committee (TRC) on the proposed MPUD application. The letter responded to more than 54 comments from various Volusia County departments as well as five comments from the City of New Smyrna Beach. There were several County departments that did not have any comments on the proposed MPUD rezoning application. The proposed Development Agreement was revised to incorporate all of the comments raised by the Volusia County TRC.

5. On May 18, 2010 the Commission received from the University of Florida Institute of Food and Agricultural Services (IFAS) Extension's memo which indicated that the agency identified and reviewed the soil conditions and did not have any objections to the proposed MPUD rezoning and revised Development Agreement.

6. In Volusia County Environmental Permitting staff's memo dated May 25, 2010, states they had no objections to the proposed rezoning. However, they cited the presence of substantial wetland acreage and a number of protected animal species, as well as the possibility of specimen trees on the property. The proposed Development Agreement between Volusia County and Gardens 207, LLC, includes "Section M" which includes several provisions for the protection and/or mitigation of wetland impacts, protection of protected animal species, as well as the requirement to comply with all other environmental protection provisions of the Volusia County's land development code.

7. The Traffic Engineering memo dated June 18, 2010, included a trip generation analysis for the maximum proposed development case scenario. The analysis indicated that there would be additional trips, but that the trips requiring mitigation would be addressed during the subdivision/final site plan stage of the development. The proposed Development Agreement between Volusia County and Gardens 207, LLC, includes "Section P" which includes several provisions related to Access and Transportation System Improvements.

8. The memo dated July 2, 2010, from the Volusia County Planning Department to the Planning and Land Development Regulation Committee (PLDRC) summarized the proposed MPUD rezoning application (Case PUD-09-044) Public Hearing. The memo cited several changes to the proposed Development Agreement, indicated that the application needed to be reviewed by the VGMC, and recommended that the PLDRC forward the MPUD rezoning application to the County Council for approval.

9. In the letter dated August 25, 2010, the Volusia County Growth and Resource Management Department requested the VGMC review the proposed MPUD rezoning application for the Gardens 207 project "Pioneer Trails" pursuant to VGMC rules.

10. On August 30, 2010, the VGMC acknowledged receipt of County of Volusia's Gardens 207 MPUD rezoning application and assigned it VGMC Case #10-028.

11. On September 16, 2010, the VGMC received a Request for Additional Information letter from Mr. Sheldon W. Rubin relating to VGMC Case #10-028.

12. On or about September 21, 2010, Mr. Rubin submitted a Petition for a Public Hearing to the VGMC.

13. On September 22, 2010, the VGMC acknowledged receipt of Mr. Rubin's Petition for a Public Hearing before the VGMC.

14. On September 28, 2010, the VGMC staff issued a Request for Additional Information (RAI) to the County of Volusia which cited that it was unclear whether there was any intent for the proposed MPUD to provide access to the adjacent property owned by Sheldon W. Rubin.

15. On or about October 13, 2010, the County of Volusia responded to the RAI indicating that the proposed MPUD rezoning does not preclude an agreement between the private parties (Gardens 207, LLC and Sheldon W. Rubin) for access to the property. The letter went on to request that the County's Response to the RAI be deemed sufficient and that the VGMC office schedule the public hearing as requested by Mr. Rubin.

16. On October 19, 2010, the VGMC acknowledged receipt of the Response to the RAI from the County of Volusia. The letter also served as an official Notice of Public Hearing to the County of Volusia for the public hearing scheduled November 17, 2010, at 7:00 p.m.

17. The complete application and supporting documentation submitted by the County of Volusia and Mr. Sheldon Rubin is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation as described above is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1 — Location Map
VGMC Exhibit 2 — Legal Description
VGMC Exhibit 3 — VGMC Resolution 94-04
VGMC Exhibit 4 — VGMC Resolution 97-04
VGMC Exhibit 5 — VGMC Resolution 97-06
VGMC Exhibit 6 — "Pioneer Trails" Master Development Plan
VGMC Exhibit 7 — Letter dated November 24, 2009 from Knight, McGuire & Associates
VGMC Exhibit 8 — County of Volusia Resolution and Development Order (Proposed)
VGMC Exhibit 9 — Memo from UF IFAS to Volusia Technical Review Committee dated May 18, 2010
VGMC Exhibit 10 — Memo from Environmental Permitting to Volusia TRC dated May 25, 2010
VGMC Exhibit 11 — Memo from Traffic Engineering to Volusia TRC dated June 18, 2010
VGMC Exhibit 12 — Memo from Planning to PLDRC dated July 2, 2010
VGMC Exhibit 13 — Letter from Volusia County requesting certification review dated August 25, 2010
VGMC Exhibit 14 — Acknowledgement Letter from VGMC for certification review dated August 30, 2010

VGMC Exhibit 15 — Request for Additional Information from Sheldon W. Rubin dated September 14, 2010
VGMC Exhibit 16 — Request for Public hearing from Sheldon W. Rubin dated September 21, 2010
VGMC Exhibit 17 — Acknowledgement Letter from VGMC for request for public hearing dated September 22, 2010
VGMC Exhibit 18 — RAI from VGMC planning staff dated September 28, 2010
VGMC Exhibit 19 — County Response to RAI dated October 13, 2010
VGMC Exhibit 20 — Acknowledgement Letter dated October 19, 2010, from VGMC regarding Notice of Public Hearing
VGMC Exhibit 21 — Letter from New Smyrna Beach Utilities Commission dated September 20, 2010

18. The property owner, Gardens 207, LLC, represented by attorney James Morris, submitted an application to rezone approximately 831 acres of land located in unincorporated Volusia County. The project site is comprised of seven (7) contiguous parcels which are bounded by Pioneer Trail on the north, State Road 44 to the south, Sugar Mill Drive to the east, and Interstate 95 to the west. The requested zoning is to Mixed Planned Unit Development (MPUD) to allow the following development program.

1. 1,250 residential units
    - Single-family – 5,000 sq. ft. lots (50 ft. x 100 ft.)
    - Two-family 7,500 sq. ft. lots (75 ft. x 100 ft.)
    - Multi-family/townhouse 1,600 sq. ft. lots
    - Standard Multi-family dwellings
2. 341,000 square feet commercial
3. 15,000 square feet office
4. 98 hotel rooms

19. A portion of the project is located within the Southeast Activity Center Local Plan area. Therefore, the policies of the Local Plan related to development must be achieved. Some of these policies include consideration of the following:

(a) Future development with the Activity Center shall be rezoned as Planned Unit Development;

(b) Commercial development shall demonstrate appropriate pedestrian linkages;

(c) Primary office development shall be encouraged on high visibility sites;

(d) New development shall include, but not be limited to providing for visual harmony through such mechanisms as sign control, screening/buffering, requiring underground utilities, providing for a network of unifying open spaces, and using common frontage/service roads;

(e) The portion of the project that fronts on SR 44 within the Activity Center must comply with the Thoroughfare Overlay Zone regulations which are designed to ensure safe ingress to and egress from proposed developments along thoroughfares;

(f) All uses in the Activity Center should be designed to minimize the disruptive effects of lighting, noise and signage on residential areas;

(g) Promote open space through such mechanisms as clustering of activities; and,

(h) The County is required to solicit comments from adjacent municipalities when reviewing the PUD application.

20. The proposed MPUD rezoning application sufficiently addressed the Southeast Activity Center Local Plan policy requirements.

21. Regarding public facilities, the VGMC confirmed that the proposed project is located within the New Smyrna Beach Utilities Commission (the Commission) service area. The Commission confirmed in a letter dated September 20, 2010, that there is adequate capacity in the Potable Water Treatment Plant and Water Reclamation Facility to accommodate the Gardens 207 (Pioneer Trails) MPUD.

22. The project is adjacent to the City of New Smyrna Beach and may ultimately be annexed into the city limits. As such, it was important to ensure optimal intergovernmental coordination. Therefore, the County solicited comments from the City of New Smyrna Beach during review by the County Technical Review Committee. The City of New Smyrna Beach provided comments to which the owner of the property which is the subject of this application ("Property Owner") adequately responded.

23. Property Owner's responses, along with responses to more than 54 comments from the TRC have been incorporated into the proposed Volusia County Resolution and Development Order.

24. The VGMC received the application and initiated review of the MPUD rezoning application. A Request for Additional Information was issued to the County of Volusia following a prior request by an adjacent property owner, Sheldon Rubin.

25. The VGMC planning and legal staff, over the past several weeks, has coordinated and communicated with various parties including the Property Owner, the County of Volusia, the City of New Smyrna Beach, and a representative for Mr. Rubin. Through these discussions, the VGMC was able to confirm and make a determination that the County's response to the RAI was sufficient. Additionally, the VGMC confirmed that the City of New Smyrna Beach continues to maintain that they do not have any objections to the proposed MPUD rezoning application.

26. Utilizing all the information submitted by the applicant, the VGMC used the following criteria as stated in Volusia County Code Section 90-37(c) to determine

whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. These criteria are:

(1) *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

(2) *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

(3) *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

(4) *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

(5) *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

(6) *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

27. Per Section 90-37(d), Volusia County Code, "For purposes of determining consistency under this section,...the plan amendment and the comprehensive plans against which it is compared and analyzed shall be construed as a whole and no specific goal and policy shall be construed or applied in isolation from the other goals and policies in the plans."

28. As stated above, Volusia County Code Section 90-37(c) outlines six criteria to be used in determining whether a proposed amendment adversely affects intergovernmental cooperation and coordination. Below is an analysis of the proposed amendments as they pertain to each specific criteria.

As to Criteria 1:

29. *The extent to which the plan, element, or plan amendment provides for areawide or central utility service solutions;*

The proposed MPUD rezoning application is not intended to address nor does it significantly adversely affect areawide or central utility service solutions.

As to Criteria 2:

30. *The extent to which the plan, element, or plan amendment provides for areawide or regional transportation solutions;*

The proposed MPUD rezoning application is not intended to provide for nor does it significantly adversely affect an areawide or regional transportation system. The proposed Development Agreement includes several provisions in "Section P" related to Access and Transportation System Improvements.

As to Criteria 3:

31. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction;*

The proposed MPUD rezoning application is not anticipated to cause significant adverse impacts on infrastructure beyond the extent of the applicant jurisdiction. The proposed rezoning is adjacent to the City of New Smyrna Beach and includes several provisions in the proposed Development Agreement to mitigate any off-site impacts.

As to Criteria 4:

32. *The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction;*

The proposed MPUD rezoning application is not anticipated to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction.

As to Criteria 5:

33. *The extent to which the plan, element, or plan amendment provides for the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition; and*

The proposed MPUD rezoning application is not intended to address nor does it significantly adversely affect the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition.

As to Criteria 6:

34. *The existence of an agreement among all substantially affected local governments, substantially affected parties (if any) and the applicant, which provides for all said governments' consent to the application. If the commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.*

There are no agreements currently in existence that may impact the proposed MPUD rezoning application.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code further states in Section 90-37(e) that "The Commission may deny certification where any applicant has failed to establish, by a preponderance of the evidence, its entitlement under this ordinance to the certificate." Based upon the preceding information, the VGMC concludes that the proposed MPUD, as originally proposed, is consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed MPUD could potentially adversely impact adjacent jurisdictions based on the Criteria of Consistency established in Volusia County Code if the conditions and terms of the MPUD are either changed or not followed.

B. VGMC Application #10-028 and the MPUD contained therein are hereby certified consistent subject to the conditions below. The Volusia Growth Management Commission therefore elects to approve VGMC Application #10-028, with the following conditions:

1. The County of Volusia has proposed a Development Order which identifies conditions under which the MPUD rezoning application may be approved and developed within unincorporated Volusia County. The Development Order shall be included in the County of Volusia's Adoption Resolution for the proposed MPUD rezoning application.

2. A copy of the executed Adoption Resolution shall be forwarded to the VGMC.

3. Any substantial change to the Gardens 207 MPUD Development Order shall be submitted to the VGMC for review consistent with the requirements of VGMC Resolution 94-04 Section 2(3).

SECTION 3. EFFECTIVE DATE. This Resolution 2010-09 shall take effect immediately upon its adoption.

RESOLVED this 17th day of November, 2010.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Gerald Brandon, Chairman

ATTEST:

_____
_____, Secretary

FILED WITH THE SECRETARY THIS 17th DAY OF NOVEMBER, 2010.

_____
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2010-07

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF DELTONA, FLORIDA, AS CONSISTENT; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

SECTION 1. FINDINGS. The Volusia Growth Management Commission (Commission and/or VGMC) hereby makes the following findings of fact:

1. On May 24, 2010, the Volusia Growth Management Commission (the VGMC) received a large-scale comprehensive plan amendment application from the City of Deltona. The application was assigned VGMC #10-015 and consists of the City's Evaluation and Appraisal Report (EAR) based amendments.

2. On June 23, 2010, the VGMC's Planning staff issued a Request for Additional Information (RAI) to the City of Deltona. The RAI sought clarification regarding the proposed removal or alteration of policies related to a previous conditional certification in VGMC Resolution 99-07.

3. On July 14, 2010, the VGMC received correspondence from the City of Deltona issued on June 30, 2010, responding to the RAI and requesting the case be heard before the VGMC.

4. On August 6, 2010, the VGMC and the City of Deltona staff met to discuss the City's response and address the conditions of Resolution 99-07.

5. On August 13, 2010, the City of Deltona and the VGMC received correspondence from Volusia County Schools stating that they did not object to the proposed amendment.

6. The complete application and supporting documentation submitted by the City of Deltona and Volusia County Schools is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The complete application and supporting documentation as described above is hereby deemed to be a part of the record in this matter. The VGMC Planning Staff Report summarizes the application and provides analysis and review of the application for consistency as required by Volusia County Code Section 90-31 through Section 90-44. Within the report, the following exhibits are referenced:

VGMC Exhibit 1: Large-scale Comprehensive Plan Amendment Application.

VGMC Exhibit 2: Planning Staff's Request for Additional Information dated June 23, 2010.

VGMC Exhibit 3: Correspondence from the City of Deltona responding to the Request for Additional Information and requesting a hearing before the VGMC dated June 30, 2010.

VGMC Exhibit 4: Correspondence received by the VGMC on August 13, 2010, from Volusia County Schools stating their non-objection to the proposed amendment.

VGMC Exhibit 5: VGMC Resolution 99-07.

7. Florida Statues require local governments adopt an Evaluation and Appraisal Report (EAR) once every seven (7) years. This report is meant to be the primary process for updating local comprehensive plans. It is intended to evaluate the plan's success in achieving its stated goals and objectives, identify areas in need of revision and incorporate all new statutory requirements. The EAR is reviewed and commented on by the Department of Community Affairs (DCA) and forms the basis for subsequent EAR based amendments to the local government's comprehensive plan.

8. The City of Deltona's EAR was found sufficient by DCA in September 2008. The City has since been preparing its EAR based amendments and are represented in the subject amendment package. The amendments propose revisions to each of the City's comprehensive plan elements, including the removal of policies intended to address the conditions of VGMC Resolution 99-07.

9. Resolution 99-07 was adopted by the VGMC on August 25, 1999. The Resolution represented a conditional certification of the City's first comprehensive plan and was intended to address consistency issues identified in the plan. Included in Resolution 99-07 were 22 conditions to certification. Three of the conditions were standard resolution conditions. The 19 conditions specific to Deltona in VGMC Resolution 99-07 are listed below in italics. A short description of the City's compliance actions follow each listed condition.

1) *The Activity Center is intended to serve retail/service/office/park needs generated by residential development within the southwest Volusia County sub-region. As a guideline to ensure a diversity of uses within the City of Deltona's Activity Center, the following mix and land use distributions should be used:*

Land Use	*Target Land Use Distribution*	*Maximum Target Land Use Distribution*
Residential	*10%*	*35%*
Commercial/Retail	*30%*	*60%*
Office	*30%*	*60%*
Industrial	*25%*	*50%*

Public Parks/Civic and Open Space	*5%*	*No Maximum*

In order to maintain flexibility, be responsive to market demands and maintain compatibility between uses, the target distributions shall be allowed to be decreased up to ten (10%) percent and the above-listed guidelines may be increased to the maximum listed.

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted this condition as a policy in its comprehensive plan (FLUE Policy 3J). The current EAR based amendment package proposes the reduction of Residential Target Land Use Distribution and Maximum Target Land Use Distribution to 0% and 15%, respectively. In addition, several non-substantial textual changes are proposed. These changes are primarily grammatical.

2) *Since the information provided by the City of Deltona's second RAI response did not provide sufficient performance standards to evaluate traffic impact from significant development which could take place within the Deltona Activity Center, all new development in the Deltona Activity Center which will exceed the employee per square foot conversation [sic] factor totals for industrial, commercial, and service uses respectfully, for traffic zones 707 and 722 (amounting to 615,701 square feet of floor area based on the Metropolitan Planning Organization's ("MPO's") 2020 Long Range Plan Transportation Model/Traffic Analysis Zone/Population and Employment data) shall be processed as a planned development and shall be reviewed by the Volusia Growth Management Commission. Should the Volusia Growth Management Commission determine the proposed planned development is not consistent, then the City of Deltona shall submit an application for comprehensive plan consistency certification to the Volusia Growth Management Commission for the subject planned development.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (FLUE Policy 4J). The current EAR based amendment package proposes the removal of Policy 4J. Condition 3, listed below, offers an alternative approach to addressing the identified inconsistency. A description of the City's actions intended to address the alternative is also below.

3) *As an alternative, the City of Deltona can (a) develop an Interstate 4 Master Corridor Plan jointly with other Interstate 4 corridor communities which evaluates the impact of future development along*

the Interstate 4 corridor; and/or (b) the City of Deltona can adopt adequate intensity and density performance standards and provide a detailed traffic analysis to justify the maximum intensity of development currently proposed for the Activity Center within the City of Deltona's Comprehensive Plan for the Deltona Activity Center.

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (FLUE Policy 5J). The current EAR based amendment package proposes the removal of Policy 5J. Consistent with option (a) above, the City has participated in the Southwest Volusia Regional Transportation Study, a jointly funded transportation planning effort intended to identify specific transportation strategies and improvements to address traffic issues in southwest Volusia County. The study consisted of five principal components, 1) evaluation of existing conditions, 2) evaluation of future conditions, 3) formulation of a multi-modal improvement plan, 4) formulation of a financing plan, and 5) development of recommendation and implementation strategies.

4) *In conjunction with the City of Deltona's next large scale Comprehensive Plan amendment cycle, the City of Deltona shall coordinate with Volusia County, the Florida Department of Transportation and the surrounding communities of Orange City, DeBary and DeLand to determine if a Transportation Concurrency Management Area ("TCMA") would be appropriate for the State Road 472/Saxon Boulevard/Interstate 4 corridor.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the condition as a policy in its comprehensive plan (FLUE Policy 6J). The current EAR based amendment package proposes to strike the above language and replace it with the following, "*The City shall explore the possibility of establishing a TCEA based on a mobility plan for the Activity Center.*" Per Section 163.3180(5), Florida Statutes, the Cities of Deltona, DeBary, DeLand and Orange City qualify as Dense Urban Land Areas (DULA) and are, therefore, Transportation Concurrency Exception Areas (TCEA).

The Cities of Deltona, DeBary, DeLand, Orange City, and Volusia County are participants in the Southwest Volusia Regional Transportation Study. As mentioned above, the study is intended to identify specific transportation strategies and improvements to address traffic issues in southwest Volusia County, including the State Road 472/Saxon Boulevard/Interstate 4 corridor.

5) *The City of Deltona shall add a policy to their Comprehensive Plan stating the City of Deltona shall work cooperatively and maintain an ongoing exchange of information with the Volusia County School Board and other educational facility providers to ensure new and expanded educational facilities are properly located, designed and constructed to be consistent with the City of Deltona's Comprehensive Plan. New and expanded educational facilities providing educational services to City of Deltona residents shall be developed consistent with the City of Deltona's Comprehensive Plan.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (FLUE Policy 8C). In 2007, the City became a party to the Interlocal Agreement for Public School Facility Planning and subsequently adopted a Public Schools Facilities Element (PSFE). As a component of the PSFE amendment, Policy 8C was omitted and its content was subsumed by Goal PSF1 and Policies PSF1-1.1 and PSF1-2.2.

6) *The City of Deltona shall add a policy to their Comprehensive Plan stating new public educational facilities in the City of Deltona shall, to the maximum extent possible, be located, designed and constructed on or adjacent to public park or recreational facilities. The City of Deltona shall coordinate its' [sic] park construction plans and continue completion of interlocal agreements with the Volusia County School Board to encourage joint public use of park and public school facilities.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the condition as a policy in its comprehensive plan (FLUE Policy 9C). In 2007, the City became a party to the Interlocal Agreement for Public School Facility Planning and subsequently adopted a PSFE. As a component of the PSFE amendment, Policy 9C was omitted and its content was subsumed by Policy PSF1-3.2.

7) *The City of Deltona shall add a policy to their Comprehensive Plan stating private educational facilities, such as, but not limited to vocational schools, which provide educational services to persons 18 years or under, shall provide open space and passive or active facilities as an integral part of the overall educational facility. The open space and passive or active recreational facilities shall be located, designed, constructed and maintained to provide recreational benefits to the facility users and open space benefits to the public.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the condition as a policy in its comprehensive plan (FLUE Policy 10C). The policy was subsequently omitted as part of the PSFE adoption process. Private educational facilities are subject to the open space and recreational facility standards contained in the City's Comprehensive Plan and Land Development Code.

8) *The City of Deltona shall amend the City of Deltona's land development regulations by the year 2001 to assist with implementation of condition (7) above. The City shall also evaluate, review, approve or deny proposed development plans for new private educational facilities based on City of Deltona Code standards and consistency with the City of Deltona's Comprehensive Plan and, in particular, the Urban Design Element.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the condition as a policy in its comprehensive plan (FLUE Policy 10C). The policy was subsequently omitted as part of the PSFE adoption process. Land development regulations have been adopted by the City. As with all uses, private educational facilities are subject to the City's Comprehensive Plan and Land Development Code regulations and review processes.

9) *The City of Deltona shall add a policy to their Comprehensive Plan stating new educational facilities shall be constructed on sites adequately sized and located to meet the needs of current and future facility users and the public. At a minimum, elementary, middle and high schools shall be located on school/public park facility sites which meet minimum City of Deltona and Volusia County School Board size and location standards.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the condition as a policy in its comprehensive plan (FLUE Policy 11C). In 2007, the City became a party to the Interlocal Agreement for Public School Facility Planning and subsequently adopted a Public Schools Facilities Element (the PSFE). As a component of the PSFE amendment, Policy 9C was omitted and its content was subsumed by Objective PSF1.2.

10) *The City of Deltona shall add a policy to their Comprehensive Plan stating all private educational facilities, including expansions of existing facilities, shall be located, designed and constructed to avoid adverse impacts to environmentally sensitive areas, including 100-year flood*

plains, wetlands, water bodies, endangered, threatened, and species of special concern, plants and animals and their habitats.

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (FLUE Policy 3D). The policy was subsequently omitted as part of the PSFE adoption process. Private educational facilities are subject to the siting and environmental protection standards contained in the City's Comprehensive Plan and Land Development Code.

11) *The City of Deltona shall add a policy to their Comprehensive Plan stating that, consistent with the requirements of Florida Statutes Chapters 235.193 and 235.34(1), the City of Deltona through interlocal agreement(s) and its development review process, shall evaluate or cause evaluation of educational facilities plans to determine their environmental impacts. The City of Deltona Commission shall have the authority to approve, modify or deny any educational facility development plan or proposal which is inconsistent with the City of Deltona's Comprehensive Plan, concurrency management requirements, the City of Deltona's zoning and land development regulations and the City of Deltona's environmental protection codes and standards.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (FLUE Policy 3D). The policy was subsequently omitted as part of the PSFE adoption process. As previously stated, private educational facilities are subject to the City's Comprehensive Plan and Land Development Code regulations and review processes.

12) *The City of Deltona shall add a policy to their Comprehensive Plan stating that before development, including site alteration, all new private educational facilities and proposed expansions of private educational facilities shall be reviewed and approved by the City of Deltona through the City of Deltona's zoning and land development review processes and procedures.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (FLUE Policy 3D). The policy was subsequently omitted as part of the PSFE adoption process. As previously stated, private educational facilities are subject to the City's Comprehensive Plan and Land Development Code regulations and review processes.

13) *The City of Deltona shall add a policy to their Comprehensive Plan stating proposed public educational facility development plans and proposals shall be evaluated and approved, modified or denied by the City of Deltona consistent with their Comprehensive Plan and the requirements of Florida Statute Chapters 235.193 and 235.34(1). The City of Deltona shall not impose a public educational facility development approval condition or standard that is inconsistent with the requirements of Florida Statutes Chapters 235.193 and 235.34(1) or the Florida State Uniform Building Code, unless the City of Deltona Commission and Volusia County School Board mutually agree upon such condition(s) or standard(s).*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (FLUE Policy 3D). The policy was subsequently omitted as part of the PSFE adoption process. The issue has been addressed through the Interlocal Agreement for Public School Facility Planning.

14) *The City of Deltona shall add a policy to their Comprehensive Plan stating, based on demonstrated public need, the City of Deltona Commission may grant the Volusia County School Board an exemption to the transportation maximum level of service requirements for local roads as otherwise required by policies 40 and 50 of the Transportation Element to permit the Volusia County School Board to appropriately develop a new or improve existing public elementary or public middle school in the City of Deltona. The Volusia County School Board shall submit to the City of Deltona an acceptable traffic impact analysis study, including an analysis of on-site and off-site transportation facilities improvements needed to minimize transportation system impacts. The City of Deltona shall consider the findings of the traffic impact analysis study during consideration of a local road level of service exemption request.*

Compliance Actions

Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (Transportation Policy 6D). The current EAR based amendment package proposes the deletion of the policy. Volusia County Schools has stated that they do not object to this change. The intent of the policy has been subsumed by the PSFE Policies 3B and 6B.

15) *The City of Deltona shall add a policy to their Comprehensive Plan stating all new educational facilities shall be located, designed and constructed to minimize impacts on adjacent residential uses and the*