City of Deltona's transportation system. To the extent permitted by law, developers or operators of educational facilities shall be responsible for construction of both on-site and off-site improvements required to mitigate adverse impacts on the City of Deltona's transportation system and residential properties.

Compliance Actions
Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (FLUE Policy 12C). 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.

16) *The City of Deltona shall add a policy to their Comprehensive Plan stating all new educational facilities in the City of Deltona should be accessible from at least two (2) public streets to reduce facility traffic impacts and to improve public safety. New private educational facilities shall be located on a collector or arterial roadway. New public educational facilities shall, to the maximum extent possible, be located on or directly accessible from a collector or arterial roadway.*

Compliance Actions
Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (Transportation Policy 7D). The current EAR based amendment package does not propose the alteration or deletion of this policy.

17) *The City of Deltona shall add a policy to their Comprehensive Plan stating development of educational facilities within the Deltona Activity Center shall be limited to development sites of less than twenty (20) gross acres in size.*

Compliance Actions
Following the adoption of Resolution 99-07, the City adopted the above condition as a policy in its comprehensive plan (FLUE Policy 37J). The current EAR based amendment package proposes the language be deleted and replaced with the following, "*Industrial and other land uses are planned for the Activity Center and that may be incompatible with K through 12 educational facilities.*" Volusia County Schools has stated that they do not object to this change. Public school siting is an issue addressed through the Interlocal Agreement for Public School Facility Planning and the PSFE.

18) *The City of Deltona shall add a policy to their Comprehensive Plan stating the City of Deltona shall continue to participate and support the intergovernmental coordination efforts of the Volusia Growth*

Management Commission. The City of Deltona shall also comply with requirements of Section 202.3 of the Volusia County Charter which states the Volusia Growth Management Commission has authority to determine the consistency of the City of Deltona's Comprehensive Plan or Plan amendment(s) with the Volusia County and each municipality within Volusia County Comprehensive Plans.

Compliance Actions
Following the adoption of Resolution 99-07, the City adopted this condition as a policy in its comprehensive plan (ICE Policy 3C). The current EAR based amendment package proposes only grammatical changes to this policy.

19) *The City of Deltona shall consider incorporating Village Planning and Design Guidelines in the City of Deltona Comprehensive Plan's Intergovernmental Coordination Element to establish principles and guidelines in addressing the urban form for newly annexed properties and for properties transitioning from rural to urban land uses.*

Compliance Actions
The City has stated that they have taken this under consideration.

10. 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.*

11. 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."

12. 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:

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

The proposed plan amendment will not result in adverse impacts to public utilities.

As to Criteria 2:

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

The proposed plan amendments will not result in adverse impacts to transportation infrastructure.

As to Criteria 3:

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;*

The proposed plan amendments will not result in adverse impacts to infrastructure beyond the boundaries of the City of Deltona.

As to Criteria 4:

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;*

The proposed plan amendments will not result in significant adverse impacts to natural resources which extend beyond the boundaries of the City of Deltona.

As to Criteria 5:

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*

The proposed plan amendments will not result in adverse impacts to the coordination of the timing and location of capital improvements, nor will it cause duplication or competition.

As to Criteria 6:

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.*

The City is a party to the Interlocal Agreement for Public School Facility Planning.

SECTION 2. CONCLUSIONS OF LAW.

A. The VGMC concludes that the conditions of approval contained in VGMC Resolution 99-07 have been adequately addressed through the actions of the City of Deltona. Therefore, the proposed amendments contained in the City of Deltona's VGMC application #10-015 do not create an inconsistency or conflict with VGMC Resolution 99-07.

B. Further, the VGMC, in accordance with Code Section 90-37(c), hereby determines and concludes that the proposed amendments in application #10-015 will not adversely impact regional infrastructure, transportation systems, or natural resources and the amendments are found to be consistent with all of the aforementioned criteria.

C. The VGMC further determines and concludes that the City of Deltona's application #10-015 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. Therefore, the Volusia Growth Management Commission elects to approve VGMC application #10-015 without conditions.

SECTION 3. EFFECTIVE DATE. This Resolution 2010-07 shall take effect immediately upon its adoption.

RESOLVED this 25th day of August, 2010.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald Brandon
Gerald Brandon, Chairman

ATTEST:

Steve Katz
~~Rachel Sieg, Secretary~~
Steve Katz, Vice Chairman

FILED WITH THE SECRETARY THIS 25th DAY OF AUGUST, 2010.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2010-06

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF PORT ORANGE, 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 (Commission and/or VGMC) hereby makes the following findings of fact:

1. On September 10, 2007, the Volusia Growth Management Commission ("VGMC") received a small-scale comprehensive plan amendment application from the City of Port Orange ("Port Orange") related to a change in the future land use designation of approximately 9.6 acres from Volusia County Rural (0.2-1 units/acre) to City of Port Orange Rural Residential/Agricultural (0-2 units/acre). The application indicated that, if approved, the owner proposed to rezone the property to "R-20SF" (Single Family Residential) and to subdivide the property into twelve (12) single-family residential lots. The property is located north of Town West Boulevard, east of Tomoka Farms Road, and south of Fiddler Lane. Parcel identification number 6214-01-03-0160. The application was assigned VGMC #07-055.

2. On September 20, 2007, the VGMC received a letter from Volusia County Growth & Resource Management Department indicating its continued objection to the proposed amendment based on the intent of the Tomoka Farms Local Plan to "preserve" density within the community as outlined in their prior letter to Port Orange dated April 13, 2007. Volusia County also requested that a public hearing be scheduled to discuss the matter.

3. On September 24, 2007, the VGMC acknowledged receipt of Volusia County's letter and indicated that a public hearing would be scheduled as requested.

4. On September 27, 2007, the VGMC planning staff issued a Request for Additional Information (RAI) to the City of Port Orange stating that the proposed amendment did not analyze the maximum development potential as well as demonstrate how the increase in residential density preserved the existing land use densities of the rural area. The RAI also referenced the September 20, 2007, letter from Volusia County.

5. The VGMC received and acknowledged receipt of a petition from a potentially affected party, Tomoka Farms Village, Inc., within the 21-day deadline window which was October 5, 2007. The VGMC is regularly closed on Fridays, therefore, the petition was received on the next regular business day which was October 8, 2007.

6. On June 21, 2010, the VGMC received Port Orange's June 18, 2010, response to the RAI acknowledging that the VGMC will proceed with a public hearing and resolution on the proposed amendment; that the resolution would indicate that the small scale Future Land Use Map amendment would be restricted to 1 unit/acre; and that the resolution would indicate a date-certain in the future of how the City of Port Orange would implement the 1 unit/acre restriction. The response to the RAI also included a letter from the property owner, Mr. William Bethune, acknowledging his concurrence with the terms of the proposed resolution.

7. On June 23, 2010, the VGMC acknowledged receipt of the City of Port Orange's response to the RAI dated June 18, 2010. The letter also served as official Notice of Public Hearing to the City of Port Orange stating that a public hearing was scheduled on July 28, 2010, beginning at 7:00 p.m., for the City of Port Orange's small scale amendment application, assigned VGMC Case #07-055.

8. The complete application and supporting documentation submitted by Volusia County 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: Affected Property Location Map.
VGMC Exhibit 2: Objection letter and request for public hearing from Volusia County received by the VGMC on September 24, 2007.
VGMC Exhibit 3: Letter from Volusia County dated April 13, 2007, to Port Orange stating the change in the land use on the property is inconsistent with the County's Comprehensive Plan.
VGMC Exhibit 4: VGMC's letter dated September 24, 2007, to Volusia County confirming receipt of their September 20, 2007, letter and that a public hearing will be scheduled.
VGMC Exhibit 5: VGMC's Planning Staff's RAI dated September 27, 2007.
VGMC Exhibit 6: Letter of objection from Tomoka Farms Rural Village, Inc., received by the VGMC on October 6, 2007.
VGMC Exhibit 7: Notice of Public Hearing letter to the City of Port Orange dated June 23, 2010.
VGMC Exhibit 8: City of Port Orange's response to RAI received by the VGMC on June 21, 2010.

VGMC Exhibit 9: Property owner, Mr. William Bethune's, June 3, 2010, letter agreement to the conditions for approval of the amendment application.

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. 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.*

10. 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."

11. 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 comprehensive 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.

12. In August 2006, Mr. William Bethune, the property owner of the parcel which is the subject of the comprehensive plan amendment application to the VGMC, met with the City of Port Orange to discuss his intent to develop a residential subdivision on the subject property which is located within unincorporated Volusia County. Mr. Bethune also discussed the need to annex the property into the City of Port Orange for which an application was submitted on August 24, 2006, changing the Future Land Use Map (FLUM) designation and to rezone the property.

13. In March 2007, Mr. Bethune submitted a request to the City of Port Orange to change the FLUM from Volusia County Rural (0.2-1 unit/acre) to City of Port Orange Rural Residential/Agricultural (0-2 units/acre). However, the proposed density for the use of residential subdivision on the property was to be restricted to 1.25 units per acre.

14. VGMC staff received and reviewed the application and determined that there was insufficient information to make a consistency finding and, therefore, issued an RAI. The RAI cited that the proposed amendment did not analyze the maximum potential development impacts of up to 2 dwelling units/acre which is the maximum permitted residential density for the future land use category. Also, the application did not demonstrate how the increase in residential density would preserve the existing rural character of the area.

15. Following several months of communication with various parties including Mr. Bethune, the City of Port Orange, Volusia County, and Tomoka Farms Village, Inc. (f/k/a Tomoka Farms Rural Village, Inc.), a proposed agreement was reached between all the parties. The proposed agreement would limit the residential density of the subject property to 1 unit/acre which is consistent with maximum residential density if the property were developed within unincorporated Volusia County. Also, the property would be rezoned to "Agriculture" in order to implement the 1 unit/acre restriction.

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

As to Criteria 1:

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

17. The proposed amendment is not intended to address areawide or central utility service solutions.

As to Criteria 2:

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

18. At the agreed upon density of 1 unit/acre, the proposed plan amendment has no immediate impact on the areawide or regional transportation system.

As to Criteria 3:

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*

19. At the agreed upon density of 1 unit/acre, the proposed plan amendment is not anticipated to cause significant adverse impacts on infrastructure beyond the extent of the applicant jurisdiction.

As to Criteria 4:

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*

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

As to Criteria 5:

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*

21. The proposed amendment is not intended to address the coordination of the timing and location of capital improvements in a manner to reduce duplication and competition.

As to Criteria 6:

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.

22. There are no agreements currently in existence that may impact the proposed amendment.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code Section 90-37(e) states 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 Future Land Use Map amendment and associated text amendments, as originally proposed, are not consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendments 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 Application #07-055 and the comprehensive plan amendments contained therein can be conditionally certified consistent.

B. VGMC Application #07-055 and the comprehensive plan amendments contained herein are hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approve VGMC Application #07-055, with the following conditions which have been offered by and agreed to by the City of Port Orange:

1. The City of Port Orange shall limit the residential density of the subject property to 1 unit/acre which is consistent with maximum residential density if the property were developed within unincorporated Volusia County. The limitation on density to 1 unit/acre shall be included in the City of Port Orange's Ordinance of Adoption for the proposed amendment. Upon adoption, a copy of the executed Adoption Ordinance shall be forwarded to the VGMC.

2. The City of Port Orange shall rezone the subject property to "Agriculture" in order to implement the 1 unit/acre restriction. Upon adoption, a copy of the executed Rezoning Ordinance shall be forwarded to the VGMC

C. Any proposed changes or amendments to be made or adopted to the City of Port Orange's Comprehensive Plan in response to a Florida Department of Community Affairs Notice of Intent to Find in Compliance must be resubmitted to the Volusia Growth Management Commission as additional information pursuant to Volusia Code Section 90.37(i).

D. Failure to comply with any of the conditions of certification shall result in an automatic revocation of this certification, thereby rendering the City of Port Orange's

Comprehensive Plan, as applicable to the amendment and the property subject to VGMC Case #07-055, unenforceable.

E. Any and all agreements, orders, ordinances, and resolutions which are entered into by the City of Port Orange in furtherance of and in compliance with the foregoing conditions, in accordance with Volusia County Code Section 90-37(i), shall be submitted in writing to the VGMC Coordinator within thirty (30) days of execution of such document by the City of Port Orange.

SECTION 3. EFFECTIVE DATE. This Resolution 2010-06 shall take effect immediately upon its adoption.

RESOLVED this 28th day of July, 2010.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Gerald Brandon, Chairman

ATTEST:

_____
~~Rachel Sieg~~, Secretary
Steve Katz, Vice Chairman

FILED WITH THE SECRETARY THIS 28th DAY OF JULY, 2010.

_____
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2010-04

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY VOLUSIA COUNTY, 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 (Commission and/or VGMC) hereby makes the following findings of fact:

1. On October 22, 2009, the Volusia Growth Management Commission (VGMC) received a large-scale comprehensive plan amendment application from Volusia County. The application was assigned VGMC #09-022, contained a total of ten amendments to the County's comprehensive plan, including the Farmton Local Plan.

2. On November 11, 2009, the VGMC received correspondence from Volusia County Schools objecting to the Farmton Local Plan.

3. On November 20, 2009, the VGMC received correspondence from the City of Deltona requesting additional information regarding the Farmton Local Plan. In addition, the City requested the commission hold a public hearing on the matter.

4. On November 23, 2009, the VGMC's planning staff issued a Request for Additional Information ("RAI") consistent with Section 90-35, Volusia County Code. As part of that correspondence, staff requested that a public hearing be held to determine consistency of the proposed amendment.

5. On December 1, 2009, the VGMC received correspondence from Volusia County requesting the Farmton Local Plan be separated from the other nine amendments contained in the application package.

6. On December 2, 2009, the VGMC separated the application package consistent with the County's request. The Farmton Local Plan was assigned VGMC #09-022B while the remainder of the package was assigned VGMC #09-022A.

7. On December 21, 2009, the VGMC issued a certification of consistency for VGMC #09-022A.

8. On January 7, 2010, the VGMC received correspondence from Volusia County responding to the RAI issued on November 23, 2009.

9. On January 11, 2010, the VGMC received correspondence from Volusia County requesting a special hearing be held prior to February 18, 2010.

10. On January 19, 2010, the VGMC received correspondence from the City of Deltona stating that Volusia County's RAI response did not address the City's issues with the proposed amendment.

10.1 On February 4, 2010, the VGMC received a request from Volusia County to continue the February 10, 2010, special meeting of the VGMC to the regular meeting of VGMC scheduled February 24, 2010.

10.2 On February 4, 2010, the VGMC received correspondence from Glenn D. Storch, Esq., on behalf of Miami Corporation petitioning for leave to intervene.

10.3 On February 5, 2010, the VGMC received correspondence from Volusia County requesting an extension from the February 10, 2010, special meeting of the VGMC to the regular meeting of the VGMC scheduled March 24, 2010 and requesting a waiver of the 90-days rule.

10.4 On February 9, 2010, the VGMC received a revised Farmton Local Plan from Mike Dyer, Volusia County Assistant County Attorney.

10.5 On February 10, 2010, the VGMC approved Volusia County's request for a waiver of the 90-day rule and approved Volusia County's request for a continuance of the public hearing to March 24, 2010.

10.6 On February 16, 2010, the VGMC received correspondence from Volusia County attaching additional documents, as follows:

- February 5, 2010, memo by Kelli McGee, Director of Planning and Development Services to the County council;
- County's response to the DCA ORC report;
- Underline/strickthrough ordinance version 30 reflecting all post-transmittal revisions to proposed amendment;
- Ordinance No. 2009-34 (post transmittal version);
- Additional support documentation, including
    - DEVO Engineering memorandum dated January 14, 2010;
    - Lassiter Transportation memorandum dated November 23, 2009;
    - Forestry Stewardship Plan for Mitigation Bank dated June 24, 1999;
    - Revised Spine Transportation Network map depicting the Southwest Wildlife Corridor and Deep Creek Conservation Area; and
    - Link to the Florida Fish and Wildlife Conservation Commission: Black Bear Habitat Management Guidelines for Florida.

- February 9, 2010 letter from Dr. Margaret Smith, Superintendent of Schools, School District of Volusia County, to Mr. Jim Dinneen, County Manager, County of Volusia and the February 8, 2010 email from Saralee Morrissey, Director of Site Acquisition and Intergovernmental Coordination, School District of Volusia County.

10.7 On February 16, 2010, the VGMC received the Memorandum of Population Projections and Methodologies from Becky Mendez, Volusia County Planning.

10.8 On February 22, 2010, the VGMC received a copy of Volusia County's Ordinance No. 2009-34.

10.9 On February 24, 2010, the VGMC received supplemental documents from Volusia County, as follows:

- Executed copy of Ordinance No. 2009-34, adopting the Farmton Local Plan amendment, adopted on February 18, 2010.
- Policies FG 2.13, 2.15, 2.6, and 2.17, as revised by County Council at the adoption hearing
- Farmton Conservation Areas map
- Farmton mitigation bank area maps which correct exhibits 21 and 23 to the VGMC staff report
- Miami Corporation's minor modification application to SJRWMD permit #4127-76185-1 dated February 4, 2010.
- Florida Fish and Wildlife Conservation Commission: Blackbear habitat Management Guidelines for Florida.
- Final declaratory judgment, *City of Edgewater v. Edgewater Citizens' Alliance for Responsible Development, Inc., et al.*
- City of Edgewater Utility Service Area map updating exhibit 17 to the VGMC staff report.
- Water supply demand data provided by Mark Dowst to Volusia County on February 10, 2010.
- Spine Transportation Network map
- Sarasota County 2050 plan, Ordinance No. 2001-076, printed February 23, 2010.
- *Manasota 88 v. Sarasota County*, 2004 WL 1092425, Florida Division of Administrative Hearings, May 14, 2004.
- East Central Florida 2060 Plan, East Central Florida Regional Planning Council, printed February 23, 2010.
- The Volusia County Comprehensive Plan

10.10 On March 5, 2010, the VGMC received correspondence from Volusia County Schools stating their position.

10.11 On March 10, 2010, the VGMC received a draft Memorandum of Understanding from Clay Henderson, attorney for Miami Corporation.

10.12 On March 11, 2010, the VGMC received a response to the VGMC Resolution 2010-04 drafted for the February 10, 2010, special meeting.

10.13 On March 12, 2010, the VGMC received correspondence from the City of Deltona referencing the Memorandum of Understanding and stating their position.

10.14 On March 16, 2010, the VGMC received a copy of the Memorandum of Understanding between the City of Deltona and the County as executed by the City of Deltona.

11. The complete application and supporting documentation submitted by Volusia County and the City of Deltona 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: County's large-scale comprehensive plan amendment application #09-022 received October 22, 2009.
VGMC Exhibit 2: Objection letter from Volusia County Schools received November 11, 2009.
VGMC Exhibit 3: Request for additional information and request for a public hearing from the City of Deltona received November 20, 2009.
VGMC Exhibit 4: Request for additional information and request for a public hearing issued by the VGMC planning staff on November 23, 2009.
VGMC Exhibit 5: Volusia County's request that Farmton Local Plan be separated from the other nine proposed amendments received December 1, 2009.
VGMC Exhibit 6: VGMC's December 2, 2009, acknowledgement of separating the Farmton Local Plan to Case #09-022B and remainder assigned #09-022A.
VGMC Exhibit 7: VGMC letter of consistency certification for Case #09-022A issued December 21, 2009.
VGMC Exhibit 8: Volusia County's response to the RAI issued on November 23, 2009, and received January 7, 2010.
VGMC Exhibit 9: Request for special hearing from Volusia County received January 11, 2010.
VGMC Exhibit 10: Correspondence from the City of Deltona stating County's response to RAI did not address City's issues received January 19, 2010.
VGMC Exhibit 11: Farmton Local Plan Amendment Location
VGMC Exhibit 12: Farmton Local Plan Amendment Aerial
VGMC Exhibit 13: Farmton Local Plan Changes to Environmental Core Overlay
VGMC Exhibit 14: Current Future Land Use Map of subject property

VGMC Exhibit 15: Future Land Use Map
VGMC Exhibit 16: High School Concurrency Service Areas
VGMC Exhibit 17: Public Water Service Areas and CUPs (Revised)
VGMC Exhibit 18: St. Johns River Water Management District's Priority Water Resource Caution Areas
VGMC Exhibit 19: FDEP, Office of Greenways and Trails, Florida Ecological Greenways & Florida Black Bear Range map
VGMC Exhibit 20: Wetlands map
VGMC Exhibit 21: Farmton Mitigation Banks map (Revised)
VGMC Exhibit 22: Farmton Mitigation Bank service areas
VGMC Exhibit 23: Mitigation Bank Conflicts map (Revised)
VGMC Exhibit 24: Farmton Local Plan Spine Transportation Network map
VGMC Exhibit 25: FEMA 100-year Flood zones map
VGMC Exhibit 26: Hydric Soil map
VGMC Exhibit 27: Volusia County's request to continue the February 10, 2010, special meeting dated February 4, 2010.
VGMC Exhibit 28: Correspondence from Glenn D. Storch, Esq., on behalf of Miami Corporation petitioning for leave to intervene.
VGMC Exhibit 29: Correspondence from Volusia County requesting an extension from the February 10, 2010, special meeting, to March 24, 2010, and requesting a waiver of the 90-days rule received February 5, 2010.
VGMC Exhibit 30: Revised Farmton Local Plan received from Mike Dyer, Volusia County Assistant County Attorney, on February 9, 2010.
VGMC Exhibit 31: VGMC's February 10, 2010, approval of Volusia County's request for a waiver of the 90-day rule and approval for a continuance of the public hearing.
VGMC Exhibit 32: Supplemental documents received from Volusia County Schools on March 5, 2010.
VGMC Exhibit 33: Correspondence from the City of Deltona referencing the Memorandum of Understanding and stating their position received on March 12, 2010.
VGMC Exhibit 34: The Memorandum of Understanding between the City of Deltona and Volusia County.
- **VGMC Exhibit 35:** Executed copy of Ordinance No. 2009-34, adopting the Farmton Local Plan amendment, adopted on February 18, 2010.

12. The proposed map and text amendments to the Volusia County Comprehensive Plan are intended to implement the Farmton Local Plan, a long-term build-out plan for ±46,957 acres of land located in Southeast Volusia County. The subject site, commonly referred to as the Farmton Tree Farm, has been managed by the Miami Corporation for the past 80 years as a timber operation. Presently, the site is undeveloped and primarily utilized for silvicultural, agricultural, and wetland mitigation banking purposes.

13. The entire site falls within the County's *Natural Resource Management Areas* (NRMA) overlay. This overlay is intended to recognize and protect large expanses of environmentally sensitive lands. Lands within the NRMA are subject to heightened development standards intended to protect the quantity and quality of existing natural resources.

14. In addition to the NRMA overlay, approximately 11,000 acres of the subject site falls within the *Environmental Core Overlay* (ECO). The ECO is intended to provide smart growth development solutions for properties that should receive the greatest degree of protection and suffer the least impacts from development. Development within the ECO is encouraged to utilize conservation design principles such as clustering and preservation of open space. Density bonuses are available to developments preserving 75% or more open space.

15. The site's current future land use map (FLUM) designations reflect its historic use as a tree farm and include *Agricultural Resource* (AR), *Environmental Systems Corridor* (ESC) and *Forestry Resource* (FR). A general overview of these designations and their associated development standards are contained in **Table 1**.

Table 1: Current FLUM Designations

Land Use	Acres	Maximum Residential Density	Maximum Non-residential Intensity*
Agricultural Resource (AR)	2,309	1 du/10 ac	.10 FAR
Environmental Systems Corridor (ESC)	22,344	1 du/25 ac	.10 FAR
Forestry Resource (FR)	22,294	1 du/20 ac	.10 FAR
Lakes	9	0	none
Totals	**46,957**		

**Limited to agriculture and silviculture supporting uses.*

16. Per Volusia County's comprehensive plan, the *Agricultural Resource* (AR) designation is intended to include lands most suitable for cultivation, ranching, aquaculture and timber farming. Lands within this designation are to be protected from uses incompatible with agriculture. Uses and facilities that support or encourage urban development are not permitted. Limited non-agricultural uses such as, agritourism, recreation, disposal and extractive uses may be permitted provided they are ancillary to the primary agricultural use of the property. A residential density of one (1) dwelling unit per ten (10) acres and a non-residential floor area ratio (FAR) of 0.10 has been assigned to this designation.

17. The *Environmental Systems Corridor* (ESC) designation is intended to include interconnected natural systems of environmentally sensitive and ecologically significant lands. Any use of these lands is not to degrade natural functions and connections. Permitted uses include conservation, silviculture utilizing Best Management Practices (BMP's) and other compatible passive agricultural activities such as improved pasture. A residential density of one (1) dwelling unit per twenty-five (25) acres and a non-residential FAR of 0.10 have been assigned to this designation.

18. The *Forestry Resource* (FR) designation is intended to include lands primarily suited for silviculture activities and protect both the value of land for forest and environmental purposes. Although silviculture is the primary permitted use, other limited agricultural activities may also be allowed. A residential density of one (1) dwelling unit per twenty (20) acres and a non-residential FAR of 0.10 have been assigned to this designation. The existing Future Land Use Element provides densities up to one (1) unit per five (5) acres as part of a rural cluster that conserves seventy-five percent (75%) of the site.

19. In calculating overall development entitlements for the subject site, several factors must be taken into consideration.

a. Density Bonuses. The Volusia County comprehensive plan allows density bonuses intended to encourage the clustering of development under the *Environmental Systems Corridor* (ESC) and *Forestry Resource* (FR) designations. These bonuses range from a 25% increase in total units for lands within the County's *Environmental Core Overlay* (ECO) which utilize *Conservation Development* (CD) practices to a 300% increase in total units for lands within the *Forestry Resource* (FR) designation which are part of an existing cluster subdivision.

   From 1972-2009 the Volusia County Land Development Code contained provisions for exempting certain subdivisions of property from the County's development review process. Subdivisions of parcels 10 acres or greater in size could qualify as "exempt" provided the minimum lot sizes were consistent with the County's comprehensive plan and zoning code. These were basic subdivisions of land and contained none of the items typically required by a subdivision plan such as road rights-of-way or stormwater/utility easements. In the fall of 2007, the property owner's representative recorded 78 exempt subdivisions for the subject site.

   The existing Future Land Use Element specifically provides for the density bonuses which were confirmed by the circuit court in the case of *Edgewater vs. Edgewater Citizen's Alliance for Responsible Development* (Cir 7th 2008-20337-CINS), which was previously provided to VGMC staff.

b. Ancillary Uses. Each of the respective land use designations allows limited ancillary development intended to support the primary use of the property (i.e., agriculture, silviculture, environmental protection). The County utilizes a FAR development standard for calculating the maximum size of structures but an assumption must be made regarding the total amount of ancillary uses permitted on the subject site as a whole. For the purpose of estimating total entitlements, it is

assumed that 1% of both the *Agricultural Resource* (AR) and *Forestry Resource* (FR) lands may eventually develop as ancillary uses. No value has been given to lands designated *Environmental Systems Corridor* (ESC) as a majority of these areas are wetlands and ancillary uses under this category would include *de minimus* uses such as boardwalks and environmental learning centers.

Any lands utilized for ancillary uses must be removed from residential unit calculations so as to not be counted twice.

c. Conservation Easements. Approximately 24,000 acres of the subject site has been permitted for a multi-phase wetlands mitigation bank. As credits are sold within this bank, conservation easements are placed over sections of land. Lands which have been placed under conservation easements must be removed from all calculations, as these entitlements have been surrendered as part of the mitigation banking process. To date, approximately 6,300 acres of lands has been placed under easement.

20. Utilizing the aforementioned assumptions, **Table 2** estimates total current entitlements for the subject site.

Table 2: Existing Entitlements

Land Use	Acres	Dwelling Units	Square Footage
Agricultural Resource (AR)			
Residential	2,286	229	--
Non-residential*	23	--	100,580
*Environmental Systems Corridor (ESC)***			
Residential	16,445	658	--
Non-residential	0	--	0
*Forestry Resource (FR)***			
Residential	21,630	1,081	--
Non-residential*	218	--	949,608
Lakes	9	--	--
Active Mitigation Bank	6,345	--	--
Totals	**46,957**	**1,968 du*****	**1,050,188 sq ft**

**Assumes 1% of total land will be used for non-residential structures ancillary to the properties agricultural or silvicultural uses.*
***Active mitigation bank lands have been removed.*
****Assuming all acreage is committed to residential uses only, 2,287 dwelling units may be permitted.*

21. The proposed amendment to Volusia County's FLUM and accompanying text amendments would alter the permitted uses, densities and intensities for the subject site. The amendments are intended to implement the Farmton Local Plan, a long-term vision for the use of the subject site.

22. The Farmton Local Plan is to have two planning horizons. The first phase of the plan is to extend through 2025 and utilize the site's existing entitlement rights as identified by County staff (see **Table 5**). The second phase would extend from 2026 through 2060 (build-out) and permit an additional 18,408 dwelling units and 3.8 million sq. ft. of non-residential uses.

23. Upon adoption of the Farmton Local Plan, the existing FLUM designations would be replaced with two new designations, *GreenKey* and *Sustainable Development Area* (SDA). Total acreages for each designation are contained in **Table 3**.

Table 3: Proposed FLUM Designations

Land Use	Acres	% of Total Acreage
Sustainable Development Area (SDA)	15,081	32%
GreenKey	31,876	68%
Total	**46,957**	

24. The *GreenKey* designation is intended to recognize areas of significant natural resources and act as a "sending" area in an internal transfer of development rights system. Upon adoption of the plan, all residential entitlements are to be transferred from *GreenKey* areas to *Sustainable Development Areas*. Permitted uses within the *GreenKey* include agriculture, trails, boardwalks, passive recreation, utilities, elevated road crossing, and environmental learning centers. The subject site's current timbering and wetland mitigation bank operations will continue to be permitted. Upon adoption, the entirety of these lands is to be included in the County's ECO.

24.1 In response to the concerns raised in paragraph 24 above, the County has provided documentation establishing:

a. Farmton Local Plan policies 2.13, 2.15, 2.16 and 2.17 have been revised to provide requested clarification of the timing of conservation easement, covenants, and dedication.

b. A conservation easement shall be recorded within twelve (12) months of the effective date of the amendment for the mitigation bank areas located within the proposed GreenKey land use designation. A conservation covenant, renewed every ten (10) years, shall be recorded for all other GreenKey lands. Upon approval of a Master Development of Regional Impact (DRI), the conservation covenant shall be converted to a perpetual conservation easement within sixty (60) days (FG 2.15). The conservation easement and covenant are subject to a conservation management plan as established in policy FG 2.10 and 2.11.

c. The conservation easement and covenant shall be granted to the Community Stewardship Organization (CSO), comprised of non-

profit organizations and governed by a board of directors, as described in policy FG 2.16. The 400 acres of the Deep Creek Conservation Area (DCCA) shall be deeded to the CSO within twelve (12) months of the effective date of the amendment. The remaining 740 acres of the DCCA shall be deeded to the CSO as credits in the West Mitigation Bank are sold.

25. The *Sustainable Development Area* (SDA) designation is intended to designate areas where development may occur on the subject site. The SDA contains four sub-districts: *Gateway, Work Place, Town Center* and *Villages*. Total acreage for each of these sub-districts is contained in Table 4.

Table 4: SDA Sub-districts

Land Use	Acres	% of Total Acreage
Gateway	821	5%
Work Place	1,351	9%
Town Center	1,909	13%
Villages*	11,000	73%
Total	**15,081**	**100%**

**Includes a minimum of 3,100 acres of resource based open space*

26. Phase I of the Farmton Local Plan proposes to transfer the subject site's existing entitlements to the *Gateway District*. Given that proposed plan would cluster development within the *Gateway District*, County staff has calculated the sites existing entitlements utilizing the various density bonuses provided within the comprehensive plan. These include a 25% increase in total units for lands within the County's *Environmental Core Overlay* (ECO) and a 300% increase in total units for lands within the *Forestry Resource* (FR) designation. These calculations are contained in **Tables 5** through **Table 8**.

Table 5: Agriculture Resource (AR) Entitlements

Land Use	Acres	Density/Intensity	Yield	
Residential	2,286	99% of AR land area at 1 du/10 ac	228 du	
Non-residential	23	1% of AR land area at 0.10 FAR	100,580 sq ft	
Totals	**2,309**		**228 du**	**100,580 sq ft**

Table 6: Environmental Systems Corridor (ESC) Entitlements

Land Use	Acres	Density/Intensity	Yield
Residential - ECO	4,996	1 du/25 ac (25% bonus)	249 du
Residential - Non-ECO	11,449	1 du/25 ac	457 du
Mitigation Bank	5,899	None	0

Totals	**22,344**		**706 du**	**0 sq ft**

Table 7: Forestry Resource (FR) Entitlements

Land Use	Acres	Density/Intensity	Yield	
Wetlands - Residential	4,130	1 du/10 ac - Clustered	413 du	
Uplands - Residential	16,355	1 du/5 ac - Clustered	3,271 du	
Wetlands/Uplands – Residential ECO	1,198	1 du/20 ac – 25% bonus	74	
Active Mitigation Bank	446	None	0	
Non-residential less Active Mitigation Bank and ECO	165	1% of FR Uplands at .10 FAR	719,637	
Totals	**22,294**		**3,758 du**	**719,637 sq ft**

Table 8: Total Entitlements Utilizing Bonuses (Clustered)

Land Use	Acres	Residential	Non-residential
Agricultural Resource (AR)	2,309	228 du	100,580 sq ft
Environmental Systems Corridor (ESC)	22,344	706 du	0
Forestry Resource (FR)	22,294	3,758 du	719,637 sq ft
Totals	**46,957**	**4,692 du**	**820,217 sq ft**

27. In addition to the increase in total residential entitlements provided by the aforementioned clustering bonuses, allowable uses will also be expanded. Whereas, the subject site's existing permitted uses include single-family residential, agriculture (including silviculture) and agriculture support, once transferred to the *Gateway District*, the 4,692 dwelling units and 820,217 sq. ft. of non-residential may include single-family and multi-family residential, retail, office, warehousing/light industrial, hotel, and institutional. Additionally, the proposed amendment contain an equivalency matrix allowing the conversion of residential dwelling units to non-residential square footage provided the exchange does not result in additional p.m. peak hour auto trips.

28. It should be noted that preparation of the 2007 Public School Planning Interlocal Agreement and subsequent Public School Facilities Elements occurred under the assumption that the subject site's residential entitlements allowed for a maximum of 2,287 dwelling units. For this reason, residential dwelling units have been capped at 2,287 until May 31, 2027, or at such time as the interlocal agreement and Public Schools Facilities Elements are amended to allow a Capacity Enhancement Agreement to be executed.

29. On January 1, 2026 (provided a Capacity Enhancement Agreement has

been executed to address public school impacts), permitted development entitlements for the subject site shall increase to a maximum of 23,100 dwelling units and 4.7 million square feet of non-residential uses. Then the remaining SDA sub-districts become available for development. A summary of each of the sub-districts is as follows:

a. **Work Place District** – This sub-district is intended to provide opportunities for employment generating uses. Allowable uses include office, warehousing, light manufacturing, research and development, retail, multi-family residential, hotel, recreational, and institutional. Residential density within the Work Place District shall range from 8-18 dwelling units per acre and non-residential Floor Area Ratios shall range from 0.3 to 0.7 depending on use.

b. **Town Center District** – This sub-district is intended to be the social, cultural, economic, civic and educational hub for the surrounding area. Allowable uses include office, retail, single-family and multi-family residential, hotel, educational facilities, medical facilities, religious facilities, and active and passive recreational space. The Town Center District shall contain a central Town Square of 180 acres or less. Target residential density shall be 15 dwelling units per acre within the Town Center District and 24 dwelling units per acre within the Town Square. Minimum FARs shall be .3 within the Town Center and .5 within the Town Square. Maximum FAR shall be 1.5.

c. **Villages District** – This sub-district is intended to be primarily residential in nature and include internally designed mixed-use village centers and significant open space. Allowable uses include single-family and multi-family residential, office, retail, institutional, open space, and bed and breakfasts. Minimum residential density within the Village District shall be 3 dwelling units per acre. Target residential density for each village shall be 6 dwelling units per gross acre and 10 dwelling units per gross acre for the Village Centers. Non-residential uses shall be limited to the Village Center. Minimum FAR shall be 0.30 but no Village Center shall contain more than 200,000 sq. ft. of non-residential.

30. In addition to amending the subject site's adopted FLUM designations, the Farmton Local Plan proposes text amendments to the County's Future Land Use Element (FLUE) that include a new Goal with eight objectives. These objectives and their respective policies address entitlements, preservation of open space, principles of sustainability, water and energy conservation, transportation, school concurrency, provision of infrastructure and processes for development review.

31. Assuming the current entitlements as calculated by County staff in Table 8, Phase I (2025) of the Farmton Local Plan would result in no additional development entitlements for the subject site. As calculated in Table 9, Phase II (2060) of the Plan

may result in a net increase of over 18,000 dwelling units and 3.8 million square feet of non-residential entitlements.

Table 9: Net Change in Development Entitlements

Land Use	Existing	Proposed	Net Change
Residential (du)	4,692*	23,100	**18,408**
Non-residential (sq ft)	820,217	4,700,000	**3,879,783**

**Pending an executed public school Capacity Enhancement Agreement.*

32. 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.*

33. 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."

34. 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 comprehensive 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.

35. The proposed amendment as originally submitted, intended to implement the Farmton Local Plan, appeared to have two noticeable areas of incompatibility. These incompatibilities are summarized below:

a. Horizon: The Farmton Local Plan proposes a plan horizon extending to 2060. This 50-year horizon is to apply only to the subject site. The County's adopted comprehensive plan, updated in 2009, has a planning horizon of 2025. Other jurisdictions' comprehensive plan horizons vary within a 10-15 year range, however, none exceed 2025.

1. While it is not beyond reason to assume that Volusia County's sixteen jurisdictions will always have varying time horizons, the proposed amendment use of a horizon that varies as much as 50-years from that of an adjacent jurisdiction results in an inherent obstacle for determining compatibility.

2. Section 163.3191, Florida Statutes, requires that comprehensive plans be updated once every seven (7) years, at which time the horizon is typically extended 10-20 years. Within a 50-year period, a jurisdiction, by law, must update its plan a minimum of seven (7) times. The requirement that these plans be subject to regular updates presumes that planning concerns will change over time and comprehensive plans will require regular amending to address these previously unforeseen issues.

3. Given that the Farmton Local Plan proposes significant entitlement rights over a planning horizon that greatly exceeds that of all other jurisdictions within Volusia County, it may be concluded that the proposed amendments are inherently incompatible with adjacent and affected jurisdictions comprehensive plans.

b. Planning for Public Schools: Planning for Volusia County's public schools is a comprehensive endeavor that includes all of the County's jurisdictions as well as the Volusia County School Board. Two county-wide initiatives have been undertaken to ensure that adequate public school facilities exist to serve the citizens of Volusia County.

1. In 2006, the Volusia County Charter Review Commission recommended, and voters approved, an amendment to Volusia County's Home Rule Charter which required a finding of adequate public school capacity before any county or municipal comprehensive plan amendments or re-zonings could be approved. Volusia County's Home Rule Charter, Section 206, School Planning, reads as follows:

"The county council shall provide no later than September 30, 2007 by ordinance that any county or municipal comprehensive plan amendment or rezoning 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. Any ordinance implementing this section shall respect the constitutional authority of the school district to operate, control, and supervise its public schools. Any ordinance implementing this section shall prevail over conflicting municipal comprehensive plan, ordinance or resolution provisions. (Res. No. 2006-189, 9/21/2006)"

2. In 2007, Volusia County, Volusia County School District, and each of the county's municipalities executed the First Amendment to Interlocal Agreement for Public School Facility Planning. This interlocal agreement was a required component for implementing public school concurrency as mandated by the Florida Legislature in 2005.

3. Rules and procedures outlined in this document, and agreed upon by all jurisdictions within Volusia County, were utilized in the creation of each jurisdiction's Public School Facilities Element (PSFE). The PSFEs are adopted elements within the jurisdictions' comprehensive plans and contain goals, objectives and policies intended to guide local governments in planning for adequate public school facilities.

4. Similar to Volusia County Charter Section 206, the interlocal agreement states, *"In the event that the school district reports that there is not adequate school capacity to serve the proposed increase in residential density, then the local government shall not approve the proposed Future Land Use Amendment until such time as the school district can issue a finding that adequate school capacity will exist. . ."*

5. Section 11(E)(d) of the interlocal agreement states, "No School Zones" shall be created to identify areas within the district where no school capacity exists or is planned for the purpose of increasing residential densities and approving additional residential development. The subject site falls completely within the Central Southern Concurrency Service Area (CSA), a No School Zone.

6. Utilizing adopted student generation rates, Volusia County Schools' staff has estimated that the proposed amendment may result in an additional 7,562 students and the need to construct up to five (5) elementary schools, one and one-half (1 ½) middle schools and one and one-half (1 ½) high schools. In correspondence to Volusia County dated February 26, 2009, June 24, 2009, August 24, 2009, and January 21, 2010, School District staff very clearly stated that adequate school capacity to serve the proposed amendment did not exist. In addition, District staff stated that the subject site's location within the "No School Zone" resulted in additional complexities requiring amendment to the First Amendment to Interlocal Agreement for Public School Facility Planning and associated PSFEs.

7. The Farmton Local Plan is inconsistent with Volusia County's Home Rule Charter, Section 206, the First Amendment to Interlocal Agreement for Public School Facility Planning, and adjacent and affected jurisdiction's Public School Facilities Elements; therefore, it is concluded that the proposed amendment are incompatible with adjacent and affected jurisdictions comprehensive plans due to a failure to address the impacts of the proposed amendment on public school facilities.

35.1 The County, in response to the issues raised in paragraph 35 above, has provided additional information, as follows:

a. Horizon: FG 1.1 has been revised to provide requested clarification of the phased planning horizons for the Farmton Local Plan, as follows:

FG 1.1 There shall be two (2) planning horizons within the Farmton Local Plan. The ~~overall~~ initial planning horizon shall be ~~50 years. The first phase of this plan shall extend through~~ 2025 and ~~there~~ shall constitute phase one of the plan. The operation of two planning horizons over a 50 year period allows for greater opportunities to provide a long term plan for a more sustainable outcome as articulated in this objective. It is recognized that build out will necessarily extend beyond the County's current planning horizon as is consistent with other DRIs and Activity Centers provided for in this comprehensive plan. There shall be no increases in the density or intensity of development during phase one beyond what is allowed by the future land use plan in effect at the time of adoption of this amendment. The second planning horizon for the Farmton Local Plan shall be from 2026 to 2060. Any increases in density and intensity allowed by adoption of the Farmton Local Plan will be applicable to the second phase only. The initial density in phase one shall be 2,287 units and any increase to the currently allowable

maximum density of 4,692 units will be effective only upon a finding of school adequacy from the Volusia County School District.

No adjacent or substantially affected local government argues that an extended planning horizon is inconsistent with its comprehensive plan. The County's comprehensive plan already provides for a planning horizon in excess of twenty (20) years within the Southwest Activity Center Local Plan, to which the cities of DeLand and Deltona are partners of the Areawide DRI. See, SW 1.1.1. The Southwest Activity Center Local Plan obtained a certificate of consistency from the VGMC. Notably, the Farmton Local Plan does not propose any increase in density within the twenty (20) year horizon than that already provided for in the County's comprehensive plan.

The Farmton Local Plan guarantees consistency through utilization of a Master DRI process requiring the VGMC review and certification at each DRI stage. See FG 8.1 and 8.2(a). Further assurance of consistency is found in the requirement that the Farmton Local Plan be reviewed during the Evaluation and Appraisal Report (EAR) process every seven (7) years.

Long term planning horizons are well established. The East Central Florida Regional Planning Council has drafted and proposed the East Central Florida 2060 Plan for which all local governments in the six (6) county region must be consistent. The Florida Department of Transportation has recently proposed its Florida Transportation Plan 2060. The Department of Community Affairs recommends a fifty (50) year plan for local governments to plan for sea level rise and climate change.

b. Planning for Public Schools:

1. The Farmton Local Plan amendment does not allow for an increase in residential density within the County's general 20-year planning horizon. Accordingly, the Plan is consistent with the city's and county's public schools facilities elements. The school district authorized revisions to the Farmton Local Plan to resolve its school planning concerns. The county adopted these revisions. The school district has no objection to the county's application before the VGMC and confirms that the Farmton Local Plan address and protect its interests. See revised policies FG 1.1, 1.4, 6.1 – 6.8, 7.1, 8.2(b), 8.3(h), 8.4(j), 8.5, 8.6(a), and 8.7(a).

2. The Farmton Local Plan does not provide for an increase in residential density beyond the capacity approval of the school district. Any increase in residential density beyond that capacity through the DRI

process must obtain capacity approval by the school district and each DRI must be certified by the VGMC.

3. These revised policies provide that:

- The proposed Farmton Local Plan does not increase residential density through 2025 and Phase 1 of the Farmton Local Plan caps residential density at 2,287 through May 31, 2027. this corresponds to the planning analysis used in the Public Schools Facilities Element. Accordingly, the county and school district have made a finding of school adequacy for the first 2,287 units of residential development during the initial planning phase.

- Additional units up to a total of 4,692 may be allowed in the initial 20 year planning phase only if the school board makes a finding of school adequacy as required by section 90-78, County Code of Ordinances.

- No increases in density or re-zonings shall be approved without a finding of school adequacy.

- A finding of adequacy school capacity cannot be made until such time as the Interlocal agreement on school planning is amended to allow capacity within the central concurrency management areas.

- Applications for re-zoning may be conditioned on a capacity enhancement agreement which will require the developer to pay for additional school capacity.

- The concept of fiscal neutrality also applies to school capacity.

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

As to Criteria 1:

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

37. When reviewing a proposed amendment to determine the extent to which it provides for areawide or central utility service solutions, it is typical for the VGMC to

consider such factors as existing consumptive use permits (CUP), treatment plant capacity and availability of infrastructure to the subject site. Although, the Farmton Local Plan provides a framework for addressing central utility service provision in the future, little, if any, data are provided regarding the aforementioned factors.

38. The application does provide a calculation of the proposed amendment's overall potable water and sanitary sewer demands. Utilizing Volusia County's adopted level of service (LOS) standards; the VGMC has calculated potential demand under the subject site's existing FLUM designations. A comparison of existing demand to proposed demand is contained in **Table 10**.

Table 10: Potable Water Supply Impacts

Utility	Current FLUM Demand (MGD)	Proposed FLUM Demand (MGD)	Net Change (MGD)
Potable Water (gallons/day)	0.524	6.762	+6.237
Sanitary Sewer (gallons/day)	0.524	6.762	+6.237

39. Build-out of the subject site under the proposed amendment would result in a significant increase in demand for potable water and sanitary sewer. While it is estimated that the subject site's existing entitlements could result in a maximum demand of 524,000 gallons of potable water per day, the proposed amendment could result in an approximate daily demand of 6,762,000 gallons.

40. The subject site is not currently served by public utilities nor is it within the projected service area of any current public providers. While the property owner has been granted a certificate by the Florida Public Service Commission to provide water service in Volusia County, St Johns Water Management District (SJRWMD) has yet to approve a consumptive use permit (CUP) for this utility.

41. A potable water supply assessment has been provided by the applicant as part of the application package to Volusia County. This report indicates that significant quantities of groundwater may be available from the Upper Floridan aquifer under the subject site. Both SJRWMD and County staff have indicated that further assessment and testing are needed to substantiate this finding.

42. Portions of the subject site are in a Priority Water Resource Caution Area (PWRCA) as identified by the SJRWMD. A PWRCA is an area where existing and reasonably anticipated sources of water may not be adequate to supply water for all existing legal uses and anticipated future needs while sustaining water resources and related natural systems through 2025. The District reviewed the proposed amendment as part of the Florida Department of Community Affairs (DCA) Objections, Recommendations and Comments (ORC) report and found, *"the Farmton Local Plan*

does not demonstrate availability of potable and non-potable water supplies and facilities to support development allowed by the plan."

43. The impacts of the proposed amendment are not included in Volusia County's Water Supply Facilities Work Plan or the SJRWMD's Water Supply Plan 2005 or draft Water Supply Assessment 2008. Additionally, the 50-year scope of water withdrawal significantly exceeds the 10-year planning window of any water supply agency or local government.

44. The proposed amendment, as originally submitted, fails to provide for areawide or central utility solutions and can reasonably be expected to adversely affect intergovernmental cooperation and coordination. The proposed amendment would result in a significant increase in potable water and waste water demand. The County has failed to identify adequate permits, treatment capacity or distribution infrastructure to serve the subject site; therefore, it may be concluded that adequate supply and/or infrastructure is not available to accommodate the impacts of the proposed amendment.

44.1 The County, in response to the issues raised regarding review Criteria 1 above, has provided additional information, as follows:

a. The Farmton Local Plan ensures that it does not adversely affect intergovernmental cooperation and coordination. No development may occur within the Farmton Local Plan unless a CUP has been issued by the water management district to meet the projected potable water demands of that development. FG 4.20 of the Farmton Local Plan that requires Farmton Water Resources, LLC, a private utility provider, obtain a Consumptive Use Permit (CUP) from the water management district before any development is approved. The policy reads:

FG 4.20 The County shall not issue any development orders or development permits for any development within the Farmton Local Plan until a Consumptive Use Permit is issued to Farmton Water Resources, LLC, or the City of Edgewater receives a revised Consumptive Use Permit by the SJRWMD to meet the projected demand for potable water. Also, adequate wastewater infrastructure shall be planned to serve the new development and shall be available no later than the anticipated date of issuance of building permits.

b. The Farmton Local Plan does not require an update to the county's Water Supply Facilities Work Plan (Work Plan) because the adoption of the Work Plan amendment preceded this amendment. Any Work Plan amendment must be consistent with the St. Johns River Water Management District (SJRWMD) District Water Supply Plan (DWSP). The water management district's water supply plan was last amended in February 2006. It is premature for the county to update its Work Plan until such time as the DWSP is updated to include the projected demand for

the Farmton Local Plan, along with identifying any needed alternative water supply sources.

c. Objective 4 of the Farmton Local Plan requires Farmton Water Resources LLC to coordinate with the affected local governments and utilities, enter into needed agreements, and develop long-range water resources plan to coincide with the planning horizon of the Farmton Local Plan. Farmton Water Resources, LLC is required to propose needed water resource and supply projects for inclusion into the DWSP that are identified in the long-range water resources plan required by policy FG 4.14. Objective 4 requires that any potable water demand not served by traditional sources be served by alternative sources identified in the DWSP.

d. Farmton Water Resources, LLC, is responsible for future water and wastewater infrastructure. Objective 4 requires this infrastructure be included in the county's capital improvements element (CIE).

e. On March 12, 2010 the City of Deltona signed a Memorandum of Understanding (MOU) that requires the landowner to enter into a bilateral agreement with the city regarding water supply. The county, while not party to the bilateral agreement, is scheduled to sign the tri-party MOU on March 18, 2010 and does not object to including the provisions of the MOU as conditions of VGMC certification.

As to Criteria 2:

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

45. The Volusia County application contains multiple documents addressing the proposed amendment's potential transportation impacts. Though it is clear that significant time and resources were spent attempting to determine the Farmton Local Plan's impacts on the regional transportation network, it does not appear that this effort has resulted in a final conclusion.

46. Volusia County contracted with an independent consultant to review the applicant's transportation analysis. The County's consultant found several critical outstanding issues with the applicant's analysis. These issues include:

a. The applicant and the County/Reviewing Agencies did not reach agreement on the transportation methodology.
b. Existing infrastructure and infrastructure improvements used in the 2014 analysis were not approved.
c. Existing infrastructure and infrastructure improvements used in the 2025 analysis were not approved.

d. No accompanying amendment to the Transportation Element's 2025 Number of Lanes Map is proposed.
e. No accompanying amendment to address how additional improvements will be funded in the Capital Improvements Element.

The above issues were addressed prior to adoption of the Farmton Local Plan in Objective 5 and the Lassiter Transportation memorandum dated November 23, 2009.

47. Both the DCA and Florida Department of Transportation (FDOT) have objected to the proposed amendment due to insufficient data and analysis and a failure to address potential deficiencies through financially feasible capital improvements. In regards to the transportation analysis provided by the applicant of the comprehensive plan amendment to the County, FDOT stated the following,

> *". . . the 2060 modeling summary technical memorandum, included as Exhibit I, does not constitute an appropriate transportation analysis because it was not done with an approved methodology, does not address preservation and conservation of corridors, and does not address financial feasibility issues."*

48. The data and analysis as originally provided to support the proposed amendment are incomplete and fail to provide reasonable assurance that the amendments provide for areawide or regional transportation solutions; therefore, adoption of the proposed amendment can reasonably be expected to adversely affect intergovernmental cooperation and coordination.

48.1 The County, in response to the issues raised regarding review Criteria 2 above, has provided additional information as follows:

a. The Master DRI provisions of policies FG 8.1 and 8.2 satisfy this concern. FG 5.7 establishes the Spine Transportation Network, which consists of on and off site transportation improvements by the landowner at its sole expense without transportation impact fee credits. The Spine Transportation Network is the minimum arterial road system needed to support buildout of the Farmton Local Plan. The Spine Transportation Network includes Maytown Road improvements from SR 415 to a new interchange at I-95, Williamson Boulevard extension from improved SR 442 interchange to SR 5A in Brevard County, and new arterial road A located completely within Farmton boundaries.

b. Policy FG 5.6 (e) places sole responsibility for all on site collectors and local roads constructed within local plan on the landowner. Policy FG 5.13 establishes the proportionate fair share criteria for off-site impacts and standards for review to be finalized during the Master DRI process. Policy 5.16 establishes a 5 year trip cap to further limit development potential in phase 2.

c. Transportation impact concerns of the City of Deltona have been resolved by a memorandum of understanding between the city, county and landowner. The county does not object to including the provisions of the MOU as a condition to VGMC certification.

As to Criteria 3:

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*

49. As previously discussed, the proposed amendment significantly impact regional infrastructure such as public schools, potable water, waste water and transportation. The DCA, Department of Education (DOE), FDOT, and SJRWMD have each objected to the proposed amendment within their respective areas of review.

50. The failure of the proposed amendment to address impacts to regional infrastructure is best summarized by the DCA as provided in its ORC report:

> *"The proposed amendment does not address the timing, magnitude, construction costs of the needed public facilities (potable water, non-potable water, stormwater and sanitary sewer), including extension of services, to serve the development. Specifically, the amendment is not supported by the following data and analysis: (1) the available uncommitted capacity of these facilities; (2) identification of any capital facility improvements that are needed to maintain the adopted level of service standards; (3) coordination of any needed facility improvements with the Potable Water, Sanitary Sewer and Drainage Sub-elements and Capital Improvements Element, including implementation through the Five-year schedule of Capital Improvements."*

51. The data and analysis as originally provided to support the proposed amendment are incomplete and fail to provide reasonable assurance that the amendments will not cause significant adverse impacts on infrastructure beyond the boundaries of one jurisdiction; therefore, adoption of the proposed amendment can reasonably be expected to adversely affect intergovernmental cooperation and coordination.

51.1 The County, in response to the issues raised regarding review Criteria 3 above, has provided additional information, as follows:

a. See revised policies FG 1.9, 3.3, 3.10, 3.13, 4.21, 5.7, 7.2, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.9 and 8.11, which reference the master DRI provision as requested by VGMC staff. All potential adverse impacts on infrastructure beyond the boundaries of one jurisdiction shall be analyzed during this process.

b. School infrastructure concerns have been addressed in the county's response to VGMC paragraph 35 (b) (7).

c. Utility infrastructure concerns have been addressed in the county's response to VGMC paragraph 44 and revised policy FG 4.18. This policy reads:

> FG 4.18 Farmton Water Resources, LLC is responsible for providing infrastructure improvements necessary to provide water and waste water to development within the Farmton Local Plan area. As the infrastructure projects are identified and approved by the County and the SJRWMD, those projects shall be included in the County's Water Supply Work Plan and Capital Improvements Element during the annual update.

d. Transportation infrastructure concerns have been addressed in the county's response to VGMC paragraph 48.

As to Criteria 4:

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*

52. As previously stated, the entirety of the subject site falls under the County's Natural Resource Management Area (NRMA) overlay. This overlay is intended to recognize large expanses of environmentally sensitive lands and protect them through heightened development standards. The County's application on the Farmton Local Plan amendment as originally submitted to the VGMC includes additional information which further identifies the subject site's regionally significant natural resources and its critical role in the areas ecosystem.

a. Wildlife Habitat. A majority of the proposed Farmton Local Plan is located within a Priority 1 Critical Linkage of the Florida Ecological Greenways Network (FEGN) as managed by the FDEP, Office of Greenways and Trails. This is the highest priority given by the FDEP. According to Tom Hoctor, Ph.D. (UF Director of Center for Landscape and Conservation Planning and member of peer review team), in a letter dated October 14, 2009, as such letter is contained in the County's application on the Farmton Local Plan amendment, Farmton is the "keystone" or "lynchpin" in the FEGN. Without the onsite corridors remaining intact, a functional network connecting North and South Florida could not be achieved. According to Dr. Hoctor, the plan also does not protect black bear corridors or rare and high quality natural communities adequately (e.g., Swallowtail), and is "professionally insufficient regarding accepted standards in

conservation biology and landscape ecology". The black bear corridors extending north-south near the St. Johns River and east-west through Maytown are of particular concern because The Farmton Local Plan shows these passages may be degraded or severed. Additional impacts could be proposed during the DRI "reshaping process". According to the Ecological Evaluation Assessment Methods submitted by Sharon Collins on October 14, 2009, as such evaluation is contained in the County's application on the Farmton Local Plan amendment, there are six (6) wildlife species protected by the federal government and seventeen (17) wildlife species protected by Florida's government that could be affected negatively by this habitat fragmentation.

b. Wetlands. According to SJRWMD GIS data, the subject site contains approximately 24,474 acres of wetlands. Approximately 24% of the Substantial Development Area (SDA) contains potentially jurisdictional wetlands. There are no data provided on how these wetlands would be avoided or their impacts minimized. The data provided seems to indicate that all wetlands within the SDAs could be impacted. Additional impacts could be proposed during the DRI "reshaping" process proposed by the FLP. According to Section 404(b)(1) of the Clean Water Act (CWA) the guidelines for demonstrating compliance with the CWA say that an Applicant must (1) establish that avoidance of impacts to state waters, including wetlands is not practicable; (2) demonstrate that all practicable efforts to minimize unavoidable impacts to state waters, including wetlands, have been taken in the project design and construction plan; and (3) provide a plan for compensation for all unavoidable impacts. Although it is assumed that the Farmton Mitigation Bank and GreenKey areas would be used as mitigation for jurisdictional wetland impacts, there are no data indicating such action.

c. Wetlands Mitigation Bank. The subject site contains the largest wetland mitigation bank in the United States. The Farmton Mitigation Bank is separated into the North, South and West Banks. Each of these portions is further defined by individual implementation phases. Together, they cover greater than 24,000 acres or approximately 51% of the area contained within the Farmton Local Plan. The Bank's "service area" covers greater than 1.2M acres and spans Brevard, Orange, Seminole, Volusia and Flagler Counties. The intent of the bank is to replace the ecological value of the wetlands that were lost within the service area by improving the ecological value of the Farmton Mitigation Bank. Though the process allows wetlands to be impacted within the service area, the mitigation banking process is intended to result in a net-positive balance to the region's ecological value.

d. Over 200 projects within the service area have offset jurisdictional wetland impacts by purchasing credits from the Farmton Mitigation Bank. Examples include: Taylor Middle School & High School, Florida Gas Transmission Mainline, FPL Substation, United Methodist Children's Home, Father Lopez Catholic High, Florida Hospital and Daytona Beach International Airport. According to St. Johns River Water Management District (SJRWMD), Phase 1 of the North, South and West banks has been activated and all have had credits released and purchased.

e. Condition 21 of SJRWMD Permit No. 4-127-0363-ERP, as such permit is contained in the County's application on the Farmton Local Plan amendment, states,

"Upon permit issuance, the permittee must manage the entire designated bank property according to the provisions of the mitigation plan which refer to forestry stewardship so as to maintain the specified ecological conditions upon which the permit is based. For the pending, non-implemented phases, the permittee may deviate from the plan only by notifying the District in writing of its intent to surrender the subject area from the mitigation bank plan. Any substantial deviations from the mitigation and management plan are grounds for revoking the bank permit for the pertinent areas unless staff agrees that compliance with the plan could and would be readily re-established. This condition does not affect the right of the permittee to address such areas by obtaining a formal permit modification."

f. In Section E.3 of a letter from the SJRWMD dated December 11, 2009, as such letter is contained in the County's application on the Farmton Local Plan amendment, the SJRWMD indicated that,

"New development and roads are not authorized by the mitigation bank permit issued by the District and are not appropriate in a mitigation bank. Prior to initiating any new development or road improvement projects, the mitigation bank permittee (Miami Corporation) must apply to surrender a portion of the mitigation bank permit, by modifying the permit to eliminate the affected areas from the mitigation bank in accordance with Section 12.4.10 of the District's Applicant's Handbook: Management and Storage of Surface Waters." At that time, the mitigation bank permit would be reevaluated by the District to determine the effect on the remaining parts of the mitigation bank."

g. Section E.4 of the SJRWMD letter referenced in subsection 52.f. above states,

"Other areas designated Sustainable Development Area on the FLUM are adjacent to the area permitted as a mitigation bank. Permit applications for development projects in these areas would be required to include an assessment of how the development projects would affect the adjacent land, which includes the mitigation bank. The assessment may result in a determination by the District that additional mitigation is required for the secondary impacts that would occur as a result of the development."

h. The Gateway and portions of the Village SDAs encroach upon the North and West Banks. Portions of the aforementioned roadway extensions are also proposed to extend through the Bank, in some cases bisecting it with a 200-foot wide corridor dedicated to vehicular traffic. Additional impacts could be proposed during the DRI "reshaping process" included in the proposed amendment.

Note that the landowner proposed to resolve this concern through submission of a minor modification application to SJRWMD permit #4127-76185-1 dated February 4, 2010. This application seeks to remove approximately 1,074 unused acres from the 24,323 acres of mitigation bank to accommodate the Gateway district, spine transportation network and a northern portion of the east Villages district. See revised policy FG 3.3 regarding reshaping.

i. There are no data to indicate the bank would continue to function as intended in light of the modifications shown in the Farmton Local Plan. Should the SJRWMD consider revocation of all or a portion of the bank's credits, the areas that have already sold credits could be considered less valuable ecologically; therefore, the public assurance that ecological value from wetland impacts (no net loss) would be offset within the bank's large service area is nullified and the projects that purchased credits could be considered to have caused a loss of wetlands or ecological value within that region.

j. The Farmton Local Plan proposes the transfer of density from the non-"active" portions of the Farmton Mitigation Bank. Since the ERP dictating conditions of the mitigation bank states that even the "pending, non-implemented phases" are subject to the same level of stewardship as the active or implemented phases and no application has been submitted to surrender those areas from the Bank, the assumption should be that this does not include the right to develop and therefore the entire Farmton Mitigation Bank has no development rights to transfer. Furthermore, given that the SJRWMD ledgers show credit releases and purchases in Phases N1 – N9 of the North and Phase 1 of the South and West Banks, these areas should also be considered as implemented portions of the Farmton Mitigation Bank.

k. Roadway Crossings. The installation of new 200-foot roadway corridors as shown on the Farmton Local Plan Spine Transportation Network Exhibit would sever ecological connectivity and would have a negative effect on wildlife mortality, foraging and dispersal to offsite lands. This exhibit also shows additional, potential road connections that do not exist as public roads today. There are no data indicating how wildlife corridors would be maintained (e.g., wildlife crossings) or how the cumulative edge effect from these new openings would be minimized. According to the proposed plan, Maytown Road must be widened and improved west to SR 415. There is no discussion on the impact to offsite lands and ecological resources from this roadway work.

l. Floodplain. The subject site contains approximately 34,000 acres of 100-year floodplain. Fifty-five percent (55%) of the floodplain falls within areas designated for development by the proposed amendment. Given the existence of large areas of hydric soil that are poorly suited for development, large amounts of fill and additional land area would be required to compensate for the floodplain loss. The County's application contains no data indicating how the development would impact the floodplain. In addition, there are no data indicating how the development will provide to assure that development of the subject site would not cause flooding problems for the region.

m. The subject site includes significant natural resources and is a critical component in the regions ecosystem. Data and analysis provided to support the proposed amendment fails to adequately address potentially significant impacts to regional wetlands, floodplain and wildlife habitat and corridors. In addition, it is unclear as to what effect the proposed amendment may have on the subject site's existing wetlands mitigation bank.

n. 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.

52.1 The County, in response to the issues raised regarding review Criteria 4 above, has provided additional information, as follows:

a. The Farmton Local Plan identifies the most "environmentally sensitive areas" and proactively plans for perpetual conservation of the most significant natural resources. Areas with less environmental sensitivity for are planned for future sustainable development consistent with the

existing provisions of the county's comprehensive plan. The Farmton Local Plan provides greater protections than that already provided within the county's existing Natural Resource Management Area (NRMA) policies. These greater protections avoid any adverse affect on intergovernmental cooperation and coordination.

b. NRMA. As set forth in the Comprehensive Plan, "It is the intent of the Natural Resource Management Area Overlay to ensure that the development that occurs within its boundaries does not adversely impact the quality and quantity of existing resources. Development standards established for land use activities within the NRMA are more restrictive than for the same uses falling outside the NRMA." The Farmton Local Plan is consistent with this intent, provides a higher degree of natural resource protection and directs development away from sensitive areas. See Farmton Local Plan Objectives 1, 2, and 3. Specifically, the Farmton Local Plan identifies and conserves the most environmentally significant areas as "GreenKey" and Environmental Core Overlay (see policies FG 1.3, 1.6, and 2.1 - 2.24).

   The Farmton Local Plan avoids the rural sprawl allowed by NRMA and is far more specific and restrictive than NRMA in the following respects:

   - Farmton requires significant set asides for conservation.
   - Farmton requires use of conservation covenants and easements for perpetual conservation.
   - Farmton requires a conservation management plan.
   - Farmton provides a wider wetland buffer.
   - Farmton requires sustainable development.
   - Farmton requires central utilities, while NRMA relies heavily on septic tanks.

c. Greenways. The Farmton Local Plan has evolved through a peer reviewed Greenprinting process to designate the best natural resource areas for their conservation through a conservation management plan and conservation easements. The Florida Ecological Greenways Network was considered along with other GIS data layers including Environmental Core Overlay (ECO), FNAI data, Strategic Conservation Habitat Areas, Biodiversity Hotspots, Florida Forever lands, Natural Resources of Regional Significance (NRORS) Model of the East Central Florida Regional Planning Council, Primary Black Bear Habitat, Brevard EELs (Environmental Endangered Lands) Program Volusia Forever, and Critical Lands & Waters Identification Project (CLIP) areas. Nearly all of the lands designated as ECO will be conserved and heightened environmental standards are being proposed for a mile wide corridor of black bear habitat.

Additionally, two formal GIS reviews of the plan were conducted. One review was convened by the ECFRPC, which included participants from major statewide conservation organizations, state resource agencies, and county staff. The plan was then reviewed by the GeoPlan Center at University of Florida. Additional specific changes to the plan were made after participating in that meeting. As a result, the revised policy FG 2.5 creates the Southwest Wildlife Corridor along the southern and southwestern area of the tract to protect a regional wildlife corridor.

The Farmton Local Plan recognizes the importance of protecting and enhancing large, interconnected and diverse habitats. Farmton designed its conservation landscape by identifying its natural resource components and providing connectivity between large, natural communities of sufficient in size for a broad span of species--both umbrella and keystone species such as the Florida black bear and the gopher tortoise. The plan also protects approximately half of the scrub uplands.

d. Florida Black Bear. As to conservation for the Florida Black Bear, the plan provides for conservation of 32,000 acres in Volusia and 40,000 acres in both Volusia and Brevard counties. As a result of the Peer Reviews, the corridor in closest proximity to the St. Johns River was identified as the most significant regional wildlife linkage and specific policies have been revised to protect this corridor. Policy FG 2.5 establishes the Southwest Wildlife Corridor which is identified on the FLUM and is required to be managed for habitat protection. A Deep Creek Conservation Area is established with the highest levels of protection and specific policies are established for use of Black Bear Management Guidelines established by FWCC. These policies require a buffer to approximate one mile in width and the area closest to the St. Johns River has a 2.5 mile corridor width. Revised policies in the Farmton Local Plan require that the conservation management plan address listed species.

e. Wetlands. As to wetlands policies, the Farmton Local Plan specifically protects the vast majority of approximately 26,300 acres of wetlands on site. Revised policy FG 2.20 direct proposed development away from wetlands and sets forth the very limited basis for impacting wetlands. Ultimately, nearly all of the wetlands will be subject to a conservation easement and conservation management plan. In addition, the revised policy FG 2.19(d) requires specific buffers around wetlands. Flood plain policies are no different from what is currently in effect in Volusia County.

f. As to potential impacts on mitigation banks, while Farmton is permitted for 24,323 acres for Farmton Mitigation Bank, there is no requirement that the bank proceed if economic conditions were to change. Currently, only 6,300 acres are under conservation easement and considered an "active bank." Under the revised policy FG 2.15, all of the permitted mitigation bank lands within GreenKey will be placed under conservation easement within one year of the effective date of the plan. Revised policy FG 2.18 seeks to avoid transportation conflicts with mitigation banks. The applicant has recently filed for a permit modification with SJRWMD and ACOE for the Farmton Mitigation Bank to remove those areas which conflict with the Sustainable Development Area districts and transportation network.

g. In summary, the proposed Future Land Use Map for the Farmton Local Plan shows Sustainable Development Area and GreenKey lands. Through greenprinting and scientific peer review, the Farmton Local Plan identifies the best natural resources for conservation and reserves development for Sustainable Development Area districts. Approximately 75% or approximately 36,000 acres of Farmton in Volusia County will be conserved through this effort.

As to Criteria 5:

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*

53. The proposed amendment contains many mechanisms intended to address the timing and location of capital improvements in the future but propose no amendments to the County's Capital Improvements Element or other documents intended to guide the construction of needed infrastructure. It is unclear who will provide the subject site with the potable water and waste water infrastructure required to accommodate the significant impacts of the proposed amendment. Given the lack of a financially feasible plan to provide capital improvements to accommodate the proposed amendment, it is uncertain as to whether the proposed amendment will provide for the coordination of the timing and location of capital improvements in a manner which reduces duplication and competition.

53.1 The County, in response to the issues regarding review Criteria 5 above, has provided additional information, as follows:

No development is currently planned within the 5-year Capital Improvements Program. Therefore, amendment to the Capital Improvements Element is premature. The Farmton Local Plan requires that the Capital Improvements Element must be amended prior to any development approval to address the timing and funding for needed public facilities:

FG 7.7 Prior to development approval, the county shall amend its Capital Improvements Element to include the timing and funding of public facilities required by the Farmton Local Plan.

Please also see revised policies 7.1 and 7.6 regarding fiscal neutrality and county condition of approval.

As to Criteria 6:

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.*

54. No Interlocal agreements are currently in existence that may impact the proposed amendment; however, the City of Deltona and Volusia County have amicably resolved the City's concerns regarding the County's application before the VGMC in the form of a MOU. The MOU provides for the preparation of an Interlocal agreement between the City, County, and the property owner regarding traffic issues, and an agreement relating to water supply between the City and property owners. The MOU has been approved by the City and is scheduled for presentation to the County council on March 18, 2010. The County will immediately provide an executed copy of the MOU to the VGMC. The MOU sets forth terms and procedures for intergovernmental cooperation between Deltona and Volusia County and those provisions should be made a condition for the VGMC certification.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code Section 90-37(e) states 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 Future Land Use Map amendment and associated text amendments, as proposed, are not consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendments 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 Application #09-022B and the comprehensive plan amendments contained therein can be conditionally certified consistent.

B. VGMC Application #09-022B and the comprehensive plan amendments contained herein are hereby certified consistent subject to the conditions below and the

Volusia Growth Management Commission therefore elects to approve VGMC Application #09-022B, with the following conditions:

1. To address the lack of data and analysis available at this time, all development within the Farmton Local Plan shall occur as part of a master Development of Regional Impact (DRI) to be submitted to the VGMC for consistency certification consistent with Sections 90-31 through 90-44 of Volusia County Code. Specifically, the Application for Master Development Approval (AMDA), all subsequent Applications for Incremental Development Approval (AIDAs) and any Substantial Deviation amendment to the DRIs shall be submitted to VGMC and must receive a certification of consistency before any development may proceed. Before any AIDA can proceed, the County must submit to the VGMC the data and analysis that updates the appropriate elements of the Volusia County plans relative to the impacts of the AIDA on infrastructure required to support development within the AIDA as well as adjacent and affected jurisdictions. The data and analysis on infrastructure must include any changes required to the County's Capital Improvement Element (CIE) or Capital Improvement Program (CIP).

2. Volusia County's Future Land Use Map (FLUM) shall only depict the location and size of the Greenkey and Sustainable Development Area (SDA) Future Land Use designations. The location and size of SDA sub-districts shall be determined during the master DRI process.

3. No residential development beyond 2,287 residential units shall occur within the Farmton Local Plan until such time as Volusia County Schools provides a finding of adequate school capacity to accommodate the increase in residential dwelling units.

4. Due to lack of data and analysis available at this time, the standards and criteria contained in the SDA Gateway District are neither approved nor deemed certified as consistent by this Resolution. Specifically, Volusia County Future Land Use Policy FG 3.4, SDA Gateway District, shall be submitted to the VGMC for consistency certification consistent with Sections 90-31 through 90-44 of Volusia County Code as part of a Master Development of Regional Impact and/or Incremental Development of Regional Impact, as appropriate. In the event the densities and/or intensities contemplated for the SDA Gateway District in Policy FG 3.4 cannot be certified as consistent at the levels set forth in Policy FG 3.4 then the amount of those densities and/or intensities not certified as consistent shall be transferred to other SDA subdistricts consistent with Policy FG 1.5.

5. In recognition that a Memorandum of Understanding (MOU) between the City of Deltona and Volusia County sets forth the terms and

procedures for intergovernmental cooperation between Deltona and the County, regarding the Farmton Local Plan, the provisions of that MOU are included as conditions to this Resolution as follows:

a. The Master DRI Development Order and all increments of the DRI or functional equivalents thereof will provide or address mitigation by the Developer/Landowner for impacts caused by the increase in density and intensity contemplated by the Farmton Local Plan on Deltona and County roads within the corporate limits of Deltona. Said mitigation may include cooperation with the City and/or County.

b. Increased density or intensity within Farmton, consistent with the Farmton Local Plan, shall not be permitted to proceed in the event DRI level traffic studies determine that said increased density or intensity consistent with the Farmton Local Plan will reduce the levels of service (LOS) or cause material adverse impact on any Deltona roadway or Volusia County roadway within the Deltona city limits to the point that the City cannot address development request/capacity reservations or concurrency requirements or allow the issuance of building permits or development approvals.

c. Transportation mitigation to address or resolve such levels of service issues or capacity reduction may be permitted, in lieu of and in addition to actual improvement, as the parties may agree, provided that the funding mechanism and the timing of the improvement are agreed to by the City and Farmton and/or Volusia County (depending on the improvement). This approval and agreement shall be a condition precedent to any development.

d. Any existing commitments to the City and/or County in the form of planned or programmed improvements shall not be altered by the Farmton Local Plan and Miami Corporation agrees not to apply for same without City concurrence.

e. Farmton agrees not to seek and County agrees not to process any application for development approval without City concurrence with regard to impacts to transportation and traffic issues within the City limits.

f. Finally, the City of Deltona and/or County of Volusia shall not be financially responsible for any traffic improvement costs resulting from such traffic mitigation or the implementation of the Farmton Local Plan, unless the City specifically agrees to accept such responsibility for any such costs or a portion thereof. Every effort will be made by the City and/or County for intergovernmental coordination and it is expected by the

above language that the City will receive expedited efforts for intergovernmental coordination for the construction of any and all improvements as determined by the City and/or County to be reasonably necessary as a condition precedent to any development activities consistent with the Farmton Local Plan.

g. Additionally, the parties recognize that Deltona and Miami Corporation shall intend to complete an additional bilateral agreement with regard to water resource supply. Nothing herein shall prevent individual governments and utilities from entering bilateral agreements for the purchase of water, construction of access pipeline and distribution networks and/or development of alternative water resources.

6. As a condition of maintaining the validity of the consistency certification granted by this Resolution, an Application for Master Development Approval for the Master Development of Regional Impact shall be filed with the appropriate regulatory body within sixty (60) months of the effective date of the Farmton Local Plan comprehensive plan amendment.

C. 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 ("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 Volusia County.

D. Failure to comply with any of the conditions of certification shall result in a revocation of this certification, thereby rendering the County's Comprehensive Plan as applicable to the amendment and the property subject to VGMC Case #09-022B unenforceable.

E. Any and all agreements, orders, ordinances, and resolutions which are entered into by the County in furtherance of and in compliance with the foregoing conditions, in accordance with Volusia County Code Section 90-37(i), shall be submitted in writing to the VGMC Coordinator within thirty (30) days of execution of such document by Volusia County.

SECTION 3. EFFECTIVE DATE. This Resolution 2010-04 shall take effect immediately upon its adoption.

RESOLVED this 24th day of March, 2010.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald Brandon
Gerald Brandon, Chairman

ATTEST:

Steve Katz
~~Rachel Sieg, Secretary~~
Steve Katz, Vice Chair

FILED WITH THE SECRETARY THIS 25th DAY OF MARCH, 2010.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

RESOLUTION 2010-03

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF DELTONA, 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 OF FACT. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

1. On October 13, 2009, the Volusia Growth Management Commission ("VGMC") received a large-scale comprehensive plan amendment application from the City of Deltona. The application, which was assigned VGMC #09-021, contained text amendments to the City's Future Land Use, Infrastructure, Conservation, Intergovernmental Coordination and Capital Improvements Elements. The amendments are components of a single, administratively initiated item intended to address state statutory requirements for water supply planning.

2. On October 26, 2009, the VGMC received correspondence from Volusia County containing multiple objections to the proposed amendments and requesting a public hearing.

3. On November 4, 2009, the VGMC received correspondence from the City of Edgewater requesting additional information on the proposed.

4. On November 5, 2009, the VGMC received correspondence from the New Smyrna Beach Utilities Commission containing multiple objections to the proposed amendments and requesting a public hearing.

5. On November 5, 2009, the VGMC received correspondence from the City of New Smyrna Beach containing multiple objections to the proposed amendments.

6. On November 12, 2009, VGMC planning staff submitted to the City of Deltona a comprehensive request for additional information (RAI) incorporating the objections and requests for additional information submitted by Volusia County, the City of Edgewater and the City of New Smyrna Beach.

7. On December 7, 2009, the VGMC received from the City of Deltona responses to the previously issued RAI and a request to bring the application to hearing on January 27, 2010.

8. On December 22, 2009, VGMC planning staff met with Volusia County and City of Deltona staff to discuss possible remedies for the County's objections.

9. The proposed comprehensive plan amendments are intended to meet statutory requirements enacted by the Florida Legislature in 2002, 2004 and 2005. This legislation was in reaction to the finding that, within four of Florida's five water management districts, traditional water supply sources commonly utilized in the districts will be insufficient to meet projected demands over the next 20 years.

10. In 2002, legislation was added to Chapter 163, Florida Statutes (F.S.), requiring local governments to prepare a 10-year water supply facilities work plan. The intent of this legislation was to strengthen the connection between the respective water management district's regional water supply plan and local comprehensive plans. The water supply facilities work plan was to be incorporated into each jurisdiction's comprehensive plan.

11. Chapter 163 was amended again in 2004 to give local government's additional time to prepare the required plans and to further strengthen the linkage between land use and water supply planning.

12. In 2005, Senate Bills 360 and 444 once again strengthened the link between water management district water supply plans and local government's comprehensive plan. The Department of Community Affairs now requires all local government comprehensive plan amendments to be accompanied by data and analysis demonstrating adequate water supplies to meet the needs of the proposed amendment(s).

13. The complete application as submitted by the City of Deltona, the VGMC's Planning Staff's Report, and supporting documentation are available to the public at the VGMC office located at 140 S. Beach Street, Daytona Beach, Florida. 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 large-scale comprehensive plan amendment application submitted by the City of Deltona, received by the VGMC on October 13, 2009;

VGMC Exhibit 2: Multiple objections from Volusia County to the proposed amendments and request for public hearing received October 26, 2009;

VGMC Exhibit 3: The City of Edgewater's request for additional information received November 4, 2009;

VGMC Exhibit 4: Multiple objections to the proposed amendments and request for a public hearing received from the New Smyrna Beach Utilities Commission on November 5, 2009;

VGMC Exhibit 5: Multiple objections from the City of New Smyrna Beach received November 5, 2009;

VGMC Exhibit 6: Planning staff's request for additional information to the City of Deltona containing objections and requests submitted by Volusia County, the City of Edgewater, and the City of New Smyrna Beach submitted November 12, 2009;

VGMC Exhibit 7: City of Deltona's response to the previous request for additional information and request to submit application to the commission on January 27, 2010; and

VGMC Exhibit 8: City of Deltona's Water Service Area Boundary map

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. 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 or not the proposed plan amendments adversely affect intergovernmental cooperation and coordination. An analysis of the proposed amendments' consistency with each of the criteria is discussed below.

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

16. The proposed plan amendments are specifically intended to provide for areawide or central utility service solutions, specifically, potable water.

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

17. The proposed amendments have no immediate impact on the areawide or regional transportation system.

Criteria (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;*

18. The proposed amendments are not expected to cause significant adverse impacts on infrastructure beyond the extent of the applicant's jurisdiction.

Criteria (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;*

19. The proposed amendments are not expected to cause significant adverse impacts to natural resources which extend beyond the boundaries of one jurisdiction.

Criteria (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

20. The proposed amendments are accompanied by data and analysis in the form of a Water Supply Work Plan (Work Plan). A required component of this Work Plan is a map depicting the respective jurisdictions water supply service area. The City of Deltona's Water Service Area Boundary map depicts an approximately 94,000 acre service area, including a 55,000 acre "Chapter 180 Reserve Area".

21. In 2005, the City of Deltona adopted by ordinance a "Chapter 180 area" as permitted by Chapter 180, F.S. Chapter 180 permits municipalities to create an area or zone, extending up to 5 miles from corporate limits, in which the municipality may execute its powers to provide such services as potable water and wastewater utilities. Although the existence of such an area is information that should not be excluded from a municipality's Work Plan, its inclusion in this circumstance creates some unique issues.

a. First, at the time of its adoption, the City of Deltona's Chapter 180 area was predicated on the annexation of the "Leffler Property", an approximately 5,000 acre tract located along the eastern boundary of the City. The City's Chapter 180 Area boundary extended the statutory maximum 5 miles from the edge of this annex. The Leffler annexation was subsequently found invalid leaving the City's Chapter 180 Area boundary in excess of the statutory maximum. In addition, it was found that the boundary incorporated property owned by the City of New Smyrna Beach Utilities Commission. Given that the proposed "Water Service Area Boundary" map both exceeds the 5 mile statutory limitation for Chapter 180 areas AND incorporates property owned and utilized by an adjacent municipality/service provider, the associated amendments may be expected to result in duplication of services and competition among providers.

b. Second, the City's Chapter 180 area includes approximately 55,000 acres of unincorporated properties. Volusia County has asserted that the use of the City's Chapter 180 area for water supply planning purposes is an attempt to plan for unincorporated areas. Per the County's comprehensive plan, such an exercise requires an interlocal agreement between the two jurisdictions. Given that no interlocal agreement currently exists, it may be concluded that the proposed amendments are inconsistent with an adjacent jurisdictions comprehensive plan.

22. In response to these concerns, the City of Deltona has offered to amend the "Water Service Area Boundary" exhibit to meet the 5 mile limitation for Chapter 180 areas AND exclude properties owned by the New Smyrna Beach Utilities Commission. Additionally, the City has offered to amend the proposed text amendments to recognize Volusia County's authority to plan for all unincorporated areas and grant assurance that development within these areas shall be consistent with Volusia County's comprehensive plan.

Criteria (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.*

23. No agreements are currently in existence that may impact the proposed amendments.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code Section 90-37(e) states 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 Future Land Use Map amendment and associated text amendments, as proposed, are not consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendments 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 Application #09-021 and the comprehensive plan amendments contained therein can be conditionally certified consistent.

B. VGMC Application #09-021 and the comprehensive plan amendments contained herein are hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approve VGMC Application #09-021, with the following conditions:

1. In order to reduce the possibility of duplication and competition regarding utility service and provide consistency with adjacent jurisdiction comprehensive plans, the City of Deltona shall:

   a. Replace Figure 2-1 *Deltona Water Service Boundary* with Attachment A (Updated Date: 1/12/2010), attached hereto and made a part of this Resolution 2010-03.

b. Revise the proposed amendments to include the modifications outlined in Attachment B, attached hereto and made a part of this Resolution 2010-03.

C. 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 must be resubmitted as an application for Plan Amendment to the Volusia Growth Management Commission.

D. Failure to comply with any of these conditions of certification shall result in an automatic revocation of this certification, thereby rendering the City's Comprehensive Plan as applicable to the amendment and the property subject to VGMC Case #09-021 unenforceable.

E. Any and all agreements, orders, ordinances, and resolutions which are entered into by the City in furtherance of and in compliance with the foregoing conditions, in accordance with Volusia County Code Section 90-37(i), shall be submitted in writing to the VGMC Coordinator within thirty (30) days of execution of such document by the City.

SECTION 3. EFFECTIVE DATE. This Resolution 2010-03 shall take effect immediately upon its adoption.

RESOLVED this 27th day of January, 2010.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald T. Brandon
Gerald Brandon, Chair

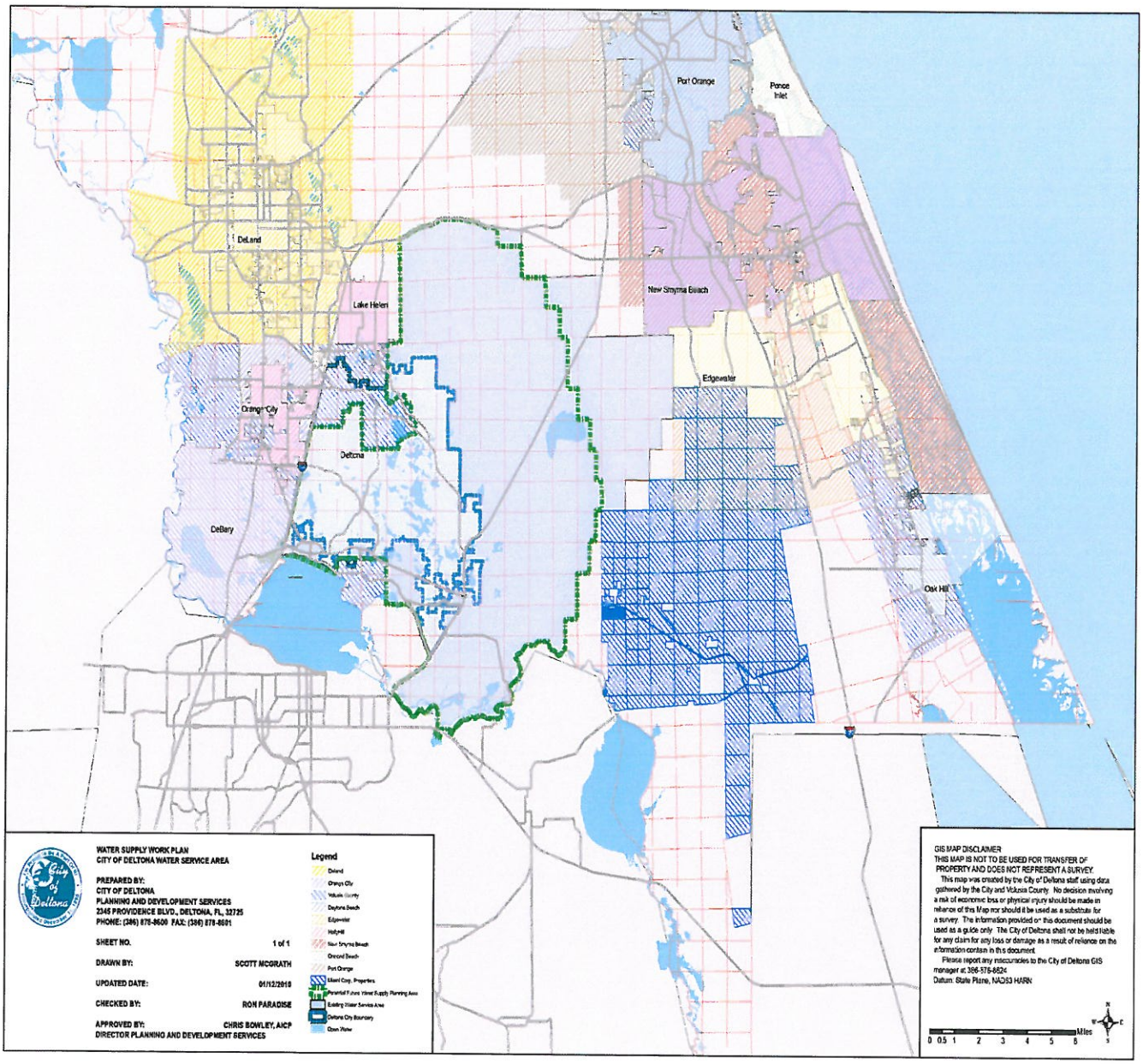
ATTEST:

Rachel Sieg
Rachel Sieg, Secretary

FILED WITH THE SECRETARY THIS 27th DAY OF JANUARY, 2010.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

ATTACHMENT A – City of Deltona Water Service Area Boundary



ATTACHMENT B – VGMC Resolution No. 2010-03

RESOLUTION NO. 2010-08

A RESOLUTION OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA; RECOMMENDING CONDITIONAL APPROVAL OF THE APPLICATION OF THE CITY OF DELTONA FOR A CERTIFICATE OF CONSISTENCY FROM THE VOLUSIA GROWTH MANAGEMENT COMMISSION RELATING TO ITS PROPOSED COMPREHENSIVE PLAN AMENDMENT ESTABLISHING A WATER SUPPLY FACILITIES WORK PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Volusia Growth Management Commission ("VGMC") has scheduled a hearing January 27, 2010 on the application for consistency for a proposed comprehensive plan amendment ("amendment") of the City of Deltona ("City") relating to water supply planning (case no. 09-021);

WHEREAS, the County objected to the amendment on the basis that it exceeds the comprehensive planning authority of the City and is inconsistent with the County's comprehensive plan;

WHEREAS, County and City staffs have arrived at a proposed resolution to this dispute, which respects the comprehensive planning authority of the County for the unincorporated area and recognize the City's obligation and authority to adopt a water supply plan into its comprehensive plan;

WHEREAS, the County offers this resolution to the VGMC and request that it certify the amendment, 09-RWSP1, contingent on the City incorporating the changes identified in Section 1 into the adopted amendment.

NOW THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA THIS 21ST DAY OF JANUARY 2010 AS FOLLOWS:

SECTION I: The Volusia County Council requests that the VGMC conditionally approve the City's application subject to the following modifications to the adopted amendment:

1. *Water Supply Work Plan, Section 2.1.1, City of Deltona Water Service Area –*

The first sentence of the first paragraph shall be amended to read: "The existing and the potential future water service area for the City of Deltona is shown on figure 2-1."

The legend to Figure 2-1 shall be amended to read: "Existing and potential Deltona Water Service Area."

2. *Water Supply Work Plan, Section 3.1.2, Future Service Area Boundary–*

This paragraph should be amended to read:

~~With the recent expansion of~~ The City's potential future water service planning area to include the Chapter 180 Reserve Area ~~the future water service area~~ is not expected to change the water demand significantly from the existing water service area demand. Most of the ~~recently expended~~ future service area is currently undeveloped. Population within this area is self supplied water users through predominately surficial groundwater wells. As and if development occurs in these unincorporated areas, the City and/or developers would be required to construct the infrastructure necessary to provide potable water. All such development would need to be consistent with the county's comprehensive land use plan.

3. Policy 3h of Ordinance 13-2009 shall be stricken in its entirety:

~~The City shall require a contingency to annex in exchange for the provision of central services, so that when appropriate, those uses served by City services can be annexed pursuant to Chapter 171, F.S.~~

4. Ordinance 13-2009, Exhibit E, intergovernmental coordination element, Page 21 of 26, Policy 2b should read as follows:

~~The City of Deltona shall maintain and coordinate a utility service area agreement with privately held utilities serving the Deltona Planned Unit development for the provision of service to out parcels within the development and adjacent unincorporated areas.~~
~~9J5.015(e)(3)~~
The City shall initiate dialog with Volusia County with an interlocal agreement being the expected outcome to accomplish the following:
~~a.~~ establishment of a water supply planning area;

~~b. recognition of the City's established Chapter 180 F.S. service area franchise;~~ establishment of future service areas;

~~c.~~ recognition of the Deltona North service area; and

~~d.~~ annexation agreements.

SECTION II: Applicability. In the event the aforementioned changes are not fully incorporated into the conditional approval by the VGMC, the terms of this resolution are rescinded.

SECTION III: Effective date. This resolution shall become effective immediately upon its adoption.

DONE AND ORDERED IN OPEN MEETING.

ATTEST:

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

James T. Dinneen, County Manager/Clerk

Frank T. Bruno, Jr., County Chair

RESOLUTION 2009-06

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF DAYTONA 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 OF FACT. The Volusia Growth Management Commission (the Commission and/or the VGMC) hereby makes the following findings of fact:

(1) The Commission received a large-scale comprehensive plan amendment application on July 13, 2009, from the City of Daytona Beach (the City). This application, assigned VGMC #09-016, consisted of six amendments.

(2) On September 1, 2009, Volusia County (the County) submitted to the VGMC a request for additional information (RAI) regarding the subject amendment package. The County's request cited concerns with development yield calculations and natural resource protection pertaining to four of the six amendments, including the subject amendment. The County also requested an analysis of the proposed amendments' potential impacts to the regional transportation system.

(3) On September 2, 2009, the VGMC planning staff transmitted to the City a formal RAI consistent with Volusia County Code Section 90-35(e)(1), referencing the correspondence received from Volusia County.

(4) September 23, 2009, the City submitted to the VGMC a request to split the contents of the subject amendment package into individual review items. This amendment (*DEV 2008-146 Cloar Anderson*) was assigned VGMC Case #09-016A.

(5) On October 22, 2009, in response to the September 2, 2009, RAI, the City submitted to the VGMC additional information regarding amendment 09-016A. This information was forwarded to Volusia County for their review.

(6) October 27, 2009, based on the City's October 22, 2009, response, Volusia County submitted to the VGMC a second RAI.

(7) On October 29, 2009, the VGMC planning staff forwarded Volusia County's comments to the City as a formal RAI consistent with Volusia County Code Section 90-35(e)(1).

(8) November 2, 2009, the City submitted to the VGMC a response to the October 29, 2009, RAI. This information was forwarded to Volusia County for their review.

(9) On November 3, 2009, the County submitted to the VGMC correspondence stating that their concerns regarding the subject amendment had been satisfactorily addressed by the City.

(10) The complete application as submitted by the City of Daytona Beach, the VGMC's Planning Staff's Report, and supporting documentation is available to the public at the VGMC office located at 140 S. Beach Street, Daytona Beach, Florida. 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 large-scale comprehensive plan amendment application submitted by the City of Daytona Beach, received by the VGMC on July 13, 2009;

VGMC Exhibit 2: The County's RAI submitted to the VGMC on September 1, 2009;

VGMC Exhibit 3: The City's request to split the contents of the original amendment package into individual review items submitted September 23, 2009;

VGMC Exhibit 4: The City's response to the VGMC's RAI submitted October 22, 2009;

VGMC Exhibit 5: The County's comments submitted to the VGMC on October 27, 2009, and forwarded to the City on October 29, 2009;

VGMC Exhibit 6: The City's response to the second RAI submitted November 2, 2009;

VGMC Exhibit 7: The County's comments to the VGMC in response to the City's response to the second RAI;

VGMC Exhibit 8: Location Map

VGMC Exhibit 9: Aerial Map

VGMC Exhibit 10: Current Future Land Use Map

VGMC Exhibit 11: Proposed Future Land Use Map

(11) The proposed Future Land Use Map (FLUM) amendment would modify the future land use designations for ±375 acres located West of I-95 and North of LPGA Boulevard. The subject property was annexed into the City of Daytona Beach in 2004 but still retains Volusia County FLUM designations. The current FLUM designations, proposed FLUM designations, and net changes are summarized in the tables below.

Current FLUM Designations (Volusia County)

Land Use	Density/Intensity	Acres	Maximum Development Scenario	
			Dwelling Units	Square Footage
Environmental Systems Corridor (ESC)	1 du per 25 acres	174	6	--
Low Impact Urban (LIU)	1 du acre/.35 FAR*	201	185	250,000
Totals		**375**	**191**	**250,000**

**Assumes ±16 acres of non-residential development and 185 acres of residential development*

Proposed FLUM Designations (City of Daytona Beach)

Land Use	Density/Intensity	Acres	Maximum Development Scenario	
			Dwelling Units	Square Footage
Potentially Environmentally Significant (PES)	None	174	--	--
Low Impact Urban (LIU)	1 du acre/.30 FAR*	201	375**	300,000***
Totals		**375**	**375**	**300,000**

** Limited per Neighborhood V policy 10.*
*** Residential units may be transferred from PES to LIU at a density of 1du/ac.*
**** Limited per Neighborhood V policy 9.*

Net Change

FLUM	Current	Proposed	Net Change
Residential	191 du	375 du	+184 du
Non-residential	250,000 sq ft	300,000 sq ft	+50,000 sq ft
Conservation	174 acres	174 acres	None

(12) As illustrated in the tables above, the current FLUM designations allow for a maximum development scenario of 191 residential dwelling units and 250,000 square feet of non-residential uses. The proposed FLUM designations would allow for a maximum development scenario of 375 residential dwelling units and 300,000 square feet of office and commercial uses. If adopted, the proposed amendment would result in a net increase of 184 dwelling units and 50,000 sq. ft. of non-residential uses.

(13) In addition to the proposed FLUM amendment, several related text amendments had been proposed, as follows:

Neighborhood V

***(m) Issue**: The ±375-acre tract known as "Cloar Anderson" is located northwest of the I-95/LPGA interchange, short Parcel Numbers: 5205-00-00-0010, 5205-00-00-0030, 4231-00-00-0010, 5204-00-00-0030, 5208-00-00-0010, 5209-00-00-0040, and 4136-00-00-0270. With the Low Intensity Urban and Potentially Environmentally Significant land use classifications it is intended to provide development that will maximize development potential and efficient use of public infrastructure to support long range growth and urbanization of the City of Daytona Beach. The environmental goals of the area include development strategies using compact development forms, a mix of uses, better use of existing infrastructure, and preservation of environmentally sensitive areas.*

***(1) Policy**: The density of this area shall be no greater than one (1) unit per one (1) gross acre. This land use designation includes a mixture of single townhome and multi-family structure types.*

***(2) Policy**: Mixed uses may occur as well as commercial, office, financial, civic, cultural and related activities.*

***(3) Policy**: Civic, institutional, and commercial activity should be embedded in neighborhood centers, not isolated in remote single-use complexes.*

***(4) Policy**: Recreation uses are allowable and may include facilities such as fields, courts, playgrounds, pools, picnic areas and active or passive open space.*

***(5) Policy**: A minimum open space requirement of fifty percent (50%) shall be required with wetlands accounting for one-half (1/2) of this requirement.*

***(6) Policy**: The environmental corridor in this area shall be preserved through development techniques including requiring Planned Unit Development rezoning, smart growth techniques, cluster zoning and implementing the City's wetland regulations.*

***(7) Policy**: The Conservation Corridor shall be maintained free of structures or other modifications to the natural landscape, excluding approved drainage conveyances; and excluding walkways, park benches and similar amenities for public use.*

***(8) Policy**: Thoroughfare crossings, utility crossings, drainage conveyances when necessary and trails may be allowed.*

***(9) Policy**: Commercial space may not exceed 300,000 square feet on the overall property.*

***(10) Policy**: Individual developments within this area shall have an allowable intensity development of 0.30 FAR in order to limit the scale of development and the land devoted to parking.*

***(11) Policy**: A minimum 100-foot right-of-way from this property to LPGA Boulevard must be secured before any development plan is approved.*

***(12) Policy:** The applicant shall demonstrate the amount of development that may be accommodated without a shortfall in the ability of the City to serve the recreational/park needs of its residents. Any shortfall may be remedied by donation of land, payment of impact fees for recreational purposes, or the provision of such services by others. The applicant shall also provide a recreational/parks master plan that identifies the conceptual location for mini-parks and neighborhood parks prior to development in the area. The plan shall demonstrate that the acreage standards as well as facility standards, as identified by The City's Comprehensive Plan, are sufficient to accommodate the recreational needs of the residents in the area.*

(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) 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 or not the proposed plan amendments adversely affect intergovernmental cooperation and coordination. An analysis of the proposed amendments' consistency with each of the criteria is discussed below.

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

(16) The proposed plan amendments will result in a net increase in impacts to public utilities. These impacts are summarized in the table below.

Maximum Development Impacts

Utility	Current FLUM Designation	Proposed FLUM Designation	Net Change
Potable Water (gallons/day)	87,600	181,466	+ 93,866
Sanitary Sewer (gallons/day)	87,600	181,466	+ 93,866

(17) Adoption of the proposed amendments is estimated to result in a net increase in demand of approximately 94 million gallons per day of potable water supply and treatment and wastewater treatment services. The City of Daytona Beach Utilities Engineering Division has determined that both potable water and wastewater treatment facility capacity exists to service the proposed amendment. The proposed amendments are not anticipated to result in adverse impacts to regional utility services.

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

(18) The proposed plan amendments will result in a net increase in impacts to transportation infrastructure. These impacts are summarized in the table below.

Maximum Development Impacts

Measurement	Current FLUM Designation	Proposed FLUM Designation	Net Change
Average Daily Trips (ADT)	14,671	31,785	+ 17,114

(19) A Traffic Impact Analysis (TIA) has not been completed for the proposed amendments; therefore, it is not known whether adoption of the amendments will result in significant adverse impacts to the regional transportation network. The proposed amendments may result in adverse impacts to the regional transportation system.

Criteria (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;

(20) The proposed plan amendments will result in a net increase in impacts to regional infrastructure. These impacts are summarized in the table below.

Maximum Development Impacts

Utility	Current FLUM Designation	Proposed FLUM Designation	Net Change
Potable Water (gallons/day)	87,600	181,466	+ 93,866
Sanitary Sewer (gallons/day)	87,600	181,466	+ 93,866
Solid Waste (lbs./day)	21,032	23,139	+ 2,107
Transportation (Average Daily Trips)	14,671	31,785	+ 17,114
Public Schools (students)	76	149	+ 73

(21) If adopted, the proposed amendments will result in a net increase in impacts to potable water, sanitary sewer, solid waste, transportation infrastructure and public schools. It has been determined that adequate capacity exists to serve the proposed amendments increased impacts to potable water, sanitary sewer and solid waste facilities.

(22) As previously mentioned, a Traffic Impact Analysis (TIA) has not been completed for the proposed amendments; therefore, it is not known whether adoption of

the amendments will result in significant adverse impacts to the regional transportation network.

(23) Also, a school impact analysis has not been completed for the proposed amendments; therefore, it is not known whether the adoption of the amendments will result in significant adverse impacts to public schools.

(24) The proposed amendments may result in significant adverse impacts to regional infrastructure.

Criteria (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;

(25) The proposed amendments are not anticipated to result in significant adverse impacts to natural resources which extend beyond the boundaries of one jurisdiction.

Criteria (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

(26) The proposed amendments are not anticipated to result in the duplication of services or competition among providers. The subject site is within the City of Daytona Beach's utility service area and will be served by the City.

Criteria (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) No agreements are currently in existence that may impact the proposed amendments.

SECTION 2. CONCLUSIONS OF LAW.

A. Volusia County Code Section 90-37(e) states 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 Future Land Use Map amendment and associated text amendments, as proposed, are not consistent with the plans of adjacent and/or affected jurisdictions. We further conclude that the proposed amendments 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 Application #09-016A

and the comprehensive plan amendments contained therein can be conditionally certified consistent.

B. VGMC Application #09-016A and the comprehensive plan amendments contained herein is hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approved VGMC Application #09-016A, with the following conditions:

1. The City of Daytona Beach shall adopt the following revisions to the proposed Neighborhood M policies:

***(1) Policy**: ~~The density of this area shall be no greater than one (1) unit per one (1) gross acre.~~ Residential units shall be limited to no more than 191. This land use designation includes a mixture of single, townhome and multi-family structure types.*

***(2) Policy**: Commercial space may not exceed ~~300,000~~ 250,000 square feet on the overall property.*

***(3) Policy:** Mixed uses may occur as well as commercial, office, financial, civic, cultural and related activities.*

***(4) Policy:** Civic, institutional, and commercial activity should be embedded in neighborhood centers, not isolated in remote single-use complexes.*

***(5) Policy:** Recreation uses are allowable and may include facilities such as fields, courts, playgrounds, pools, picnic areas and active or passive open space.*

***(6) Policy:** A minimum open space requirement of ~~fifty percent (50%)~~ 25% of site uplands in the Low Intensity Urban (LIU) category shall be required ~~with wetlands accounting for one-half (1/2) of this requirement~~.*

***(7) Policy:** Lands within ~~T~~the Potentially Environmentally Significant (PES) land use category (formerly in the Volusia County ~~e~~Environmental Systems ~~c~~Corridor (ESC) ~~in this area~~ land use category) shall be preserved through development techniques including requiring Planned Unit Development rezoning, smart growth techniques, cluster zoning and implementing the City's wetland regulations.*

***(8) Policy:** Lands within ~~T~~the ~~Conservation Corridor~~ PES land use category shall be maintained free of structures or other modifications to the natural landscape, excluding approved drainage conveyances; and excluding walkways, park benches and similar amenities for public use.*

***(9) Policy:** Thoroughfare crossings, utility crossings, drainage conveyances when necessary and trails may be allowed.*

(10) Policy: *Individual developments within this area shall have an allowable intensity development of .30 FAR in order to limit the scale of development and the land devoted to parking.*

(11) Policy: *A minimum 100-foot right-of-way from this property to LPGA Boulevard must be secured before any development plan is approved.*

(12) Policy: *The applicant shall demonstrate the amount of development that may be accommodated without a shortfall in the ability of the City to serve the recreational/park needs of its residents. Any shortfall may be remedied by donation of land, payment of impact fees for recreational purposes, or the provision of such services by others. The applicant shall also provide a recreational/parks master plan that identifies the conceptual location for mini-parks and neighborhood parks prior to development in the area. The plan shall demonstrate that the acreage standards as well as facility standards, as identified by The City's Comprehensive Plan, are sufficient to accommodate the recreational needs of the residents in the area.*

C. 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 must be resubmitted as an application for Plan Amendment to the Volusia Growth Management Commission.

D. Failure to comply with any of the conditions of certification shall result in an automatic revocation of this certification, thereby rendering the City's Comprehensive Plan as applicable to the amendment and the property subject to VGMC Case #09-016A unenforceable.

E. Any and all agreements, orders, ordinances, and resolutions which are entered into by the City in furtherance of and in compliance with the foregoing conditions, in accordance with Volusia County Code Section 90-37(i), shall be submitted in writing to the VGMC Coordinator within thirty (30) days of execution of such document by the City.

SECTION 3. EFFECTIVE DATE. This Resolution 2009-06 shall take effect immediately upon its adoption.

RESOLVED this 18th day of November, 2009.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald Brandon
Gerald Brandon, Chair

ATTEST:

Steven Hill
~~Rachel Sieg, Secretary~~
Steven Hill, Vice Chairman

FILED WITH THE SECRETARY THIS 18th DAY OF NOVEMBER, 2009.

Merry Chris Smith

Merry Chris Smith, VGMC Coordinator

RESOLUTION 2009-05

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF PORT ORANGE, FLORIDA, AS CONSISTENT; 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 March 26, 2009, the Volusia Growth Management Commission (the VGMC) received a large-scale comprehensive plan amendment application from the City of Port Orange. The application, assigned VGMC #09-009A, consisted of a Future Land Use Map (FLUM) amendment and associated text amendments.

(2) On March 30, 2009, the VGMC received correspondence from the City of New Smyrna Beach requesting a 21-day extension of time to comment on the proposed amendments and a public hearing.

(3) On April 17, 2009, VGMC planning staff met with City of Port Orange staff and the representatives for the applicant to discuss the content of the proposed amendments and the VGMC certification process.

(4) On April 20, 2009, the VGMC received correspondence from Turnbull Bay Community, Inc., requesting a public hearing for the proposed amendments.

(5) On April 21, 2009, the VGMC received correspondence from Tomm and Lorelle Friend requesting a public hearing for the proposed amendments.

(6) On May 8, 2009, the VGMC received correspondence from the City of New Smyrna Beach containing objections to the proposed amendments.

(7) On May 12, 2009, VGMC planning staff submitted a Request for Additional Information (RAI) to the City of Port Orange. The RAI contained the aforementioned objections offered by the City of New Smyrna Beach.

(8) On July 14, 2009, the VGMC received correspondence from the City of Port Orange responding to the RAI.

(9) On July 24, 2009, at the request of VGMC staff, a mediation meeting was held to discuss the City of New Smyrna Beach's objections, the subsequent City of Port Orange responses, and potential points of agreement. In attendance were representatives from both cities, including elected officials, city managers, and the VGMC's legal and planning staff.

(10) On July 30, 2009, the VGMC received correspondence from the City of New Smyrna Beach responding to the RAI responses received from the City of Port Orange.

(11) The proposed FLUM amendment would modify the future land use designations for a ±763 acre site commonly referred to as the Woodhaven-Stanaki Property. The subject site is located at the northwest corner of the intersection of I-95 and Pioneer Trail. Although this property is within the City of Port Orange, it is also immediately adjacent to the City of New Smyrna Beach.

(12) The current FLUM designations, proposed FLUM designations, and net change are summarized in the tables below.

Current FLUM Designations:

Land Use	Density/Intensity	Acres	Maximum Development Scenario	
			Dwelling Units	Square Footage
Conservation	None	107	--	--
Rural Residential	0-2 units/acre	487	974	--
Suburban Residential	2-4 units/acre	100	400	--
Commercial	.35 lot coverage	69	--	1,051,974
Totals		**763**	**1,374**	**1,051,974**

Proposed FLUM Designations:

Land Use	Density/Intensity	Acres	Maximum Development Scenario	
			Dwelling Units	Square Footage
Conservation	None	137	--	--
Rural Residential	0-2 units/acre	443	886	--
Suburban Residential	2-4 units/acre	113	452	--
Commercial	.35 lot coverage	69	--	650,000*
Totals		**763**	**1,338**	**650,000**

**Maximum Commercial square footage is capped by associated text amendment (policy 2.2.4).*

Net Change:

Land Use	Density/Intensity	Acres	Maximum Development Scenario	
			Dwelling Units	Square Footage
Conservation	None	+30	--	--
Rural Residential	0-2 units/acre	-44	-88	--
Suburban	2-4 units/acre	+13	+52	--

Land Use	Density/Intensity	Acres	Maximum Development Scenario	
Residential				
Commercial	.35 lot coverage	0	--	-401,974
Totals		**0**	**- 36**	**- 401,974**

(13) As illustrated in the tables above, the current FLUM designations allow for a maximum development scenario of 1,374 residential dwelling units and 1,051,974 square feet of office and commercial uses. The proposed FLUM designations would allow for a maximum development scenario of 1,338 residential dwelling units and 650,000 square feet of office and commercial uses. If adopted, the proposed amendment would result in a net reduction of 36 dwelling units and 401,974 square feet of office and commercial uses.

(14) In addition to the proposed FLUM amendment, several related text amendments have also been proposed. The proposed amendments are as follows:

a. **Future Land Use Element:**

Implementation Strategies, Future Commercial Land Use, Sub-regional Nodes:

~~*The fourth sub regional commercial node is located at the once planned interchange of I-95 and Williamson Boulevard, south of Spruce Creek. This node has not developed because the construction of the interchange has not occurred. The Volusia County MPO's 2020 Transportation Update shows that the interchange will most likely be moved south to Pioneer Trail. Furthermore, the interchange will most likely not be built until after the year 2011. Once the location and timing of this interchange is finalized, the City must adjust its Future Land Use Map accordingly to accommodate the projected commercial development.*~~

The fourth sub-regional commercial node is located on Williamson Boulevard North of Pioneer Trail, south of Spruce Creek and west of the potential interchange at Pioneer Trail and I-95. This node has not been developed because the previously planned interchange at Williamson Boulevard and I-95 has been relocated south to Pioneer Trail and I-95 by the Volusia County Metropolitan Planning Organization 2025 Long Range Transportation Plan. Commercial uses at this sub-regional node shall be accessed primarily from Williamson Boulevard, with secondary access from Pioneer Trail limited to one secondary access point. Primary access from 'Williamson Boulevard will reduce the number of driveways and turning movements off Pioneer Trail, resulting in shortened travel times and limited commercial intensity along Pioneer Trail. Additionally, the sub-regional node west of I-95 abuts an area of Conservation Future Land Use to the South along Pioneer Trail which shall provide a buffer between the commercial development and Pioneer Trail. Parking facilities and commercial structures shall not be permitted within this buffer area; however, passive recreational uses /pedestrian paths, decks, and rail/fence features),

stormwater retention ponds, signage as permitted and approved by the Planned Unit Development (PUD) process, landscaping and similar uses may be permitted in the Conservation Future Land Use area located between the Williamson Boulevard Extension and I-95. Additionally, one secondary access point from Pioneer Trail shall be permitted within the Conservation Future Land Use area, as provided herein and in Policy 2.2.4. Finally, the overall square footage for this sub-regional commercial node shall be limited to 650,000 square feet of non-residential uses, and shall be zoned through the PUD process.

b. **Proposed New Future Land Use Element Policy:**

Policy 2.2.4: The commercial node located on Williamson Boulevard North of Pioneer Trail shall be developed through the Planned Unit Development (PUD) review process and shall be subject to the following conditions:

(i) *Primary access to the commercial node shall be from Williamson Boulevard with no more than one secondary access point from Pioneer Trail;*

(ii) *The commercial node is buffered from Pioneer Trail by the intervening Conservation Future Land Use area. Parking facilities and commercial structures shall not be permitted within this buffer area; however, passive recreational uses (pedestrian paths, decks, and rail/fence features), stormwater retention ponds, signage, landscaping and similar uses may be permitted and approved through a PUD in this Conservation Future Land Use area;*

(iii) *The overall square footage for the commercial node shall be limited to 650,000 square feet of non-residential uses; and*

(iv) *Residential uses, along with open space, passive, and non-passive recreational amenities may be integrated within this sub-regional commercial node through the PUD process; however, the gross residential density within the PUD property shall not exceed that allowed by the Future Land Use Map. Medium-intensity uses such as offices may also be integrated into the lands adjacent to the north designated Suburban Residential, provided the gross commercial square-footage allowed in this sub-regional node is not exceeded. The unique mixture of uses shall form a Village Center in a design that cohesively integrates these community components to establish live/work opportunities.*

c. **Table 8** and **Figure 14:**

Text amendments to the Future Land Use Element, Table 8, and Figure 14 to relocate the Sub-Regional Commercial Node from the previous intersection of Williamson Boulevard and I-95 to Williamson Boulevard, approximately 400 ft. north of Pioneer Trail.

d. **Transportation Element:**

Implementation Strategies, Private Sector:

Developers will extend Madeline Avenue from Clyde Morris Boulevard to Williamson Boulevard, as well as construct several collector roads west of Williamson Boulevard termed, for now, "A ", "B", and "C". ~~Developers will also construct Collector road "D" through the Stanaki property to the east of Airport Road and south of Williamson Boulevard, and Collector road "E" connecting Airport Road with Pioneer Trail through the Water's Edge PUD.~~ As approved by Volusia County and the City as a condition of PUD approval, Developers will also extend Williamson Boulevard from its current terminus 0.60 miles south of the intersection of Airport Road and Williamson Boulevard to Pioneer Trail west of I-95 generally in the location as approved by Ordinance 2008-36 (DCA No. 08-02). This shall include making transportation improvements along Pioneer Trail centered at, but not limited to, the intersection with Williamson Boulevard to accommodate turning vehicles accessing the PUD property. Developers shall also construct collector road "D" (a.k.a. Martin Road) from Williamson Boulevard approximately 0.40 miles south of Spruce Creek to Williamson Boulevard.

Note: Collector road "E" has already been constructed.

e. **Proposed New Transportation Element Policy:**

Policy 3.3.5: As a condition of PUD approval, Developers will construct the following transportation improvements as generally illustrated on Figure 11 of the Transportation Element:

(i) Williamson Boulevard extension from its current terminus. 0.60 miles south of the intersection of Airport Road and Williamson Boulevard to Pioneer Trail west of I-95;

(ii) Transportation improvements along Pioneer Trail centered at, but not limited to, the intersection with Williamson Boulevard to accommodate turning vehicles accessing the PUD property; and

(iii) Collector road "D" (a.k.a. Martin Road).

f. **Table 17:**

Text amendments to the Transportation Element, Table 17 to identify the Williamson Boulevard extension as a 4-lane road and to revise the segment description for Martin Road.

(15) In summary, the above text amendments, in combination with the proposed FLUM amendment, result in the relocation of the subject site's commercial node from the current location at the once planned intersection of I-95 and Williamson

Boulevard to a location along the proposed Williamson Boulevard extension just north of Pioneer Trail. Additionally, these amendments propose:

(a) A reduction in the maximum development potential of the commercial node by approximately 400,000 sq. ft;

(b) A requirement that the developer of the subject site construct the Williamson Boulevard extension from its current terminus to Pioneer Trail;

(c) Limitations on access to the subject site's commercial node; and

(d) Conditions for buffering the commercial node from Pioneer Trail.

(16) The complete application as submitted by the City of Port Orange, the VGMC's planning staff's report, and supporting documentation is available to the public at the VGMC office located at 140 S. Beach Street, Daytona Beach, Florida. 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: City of Port Orange large-scale comprehensive plan amendment application, Case #09-009A, received March 26, 2009;

VGMC Exhibit 2: City of New Smyrna Beach's request for a 21-day extension to comment on proposed amendments and request for a public hearing, received March 30, 2009;

VGMC Exhibit 3: Turnbull Bay Community, Inc.'s request for a public hearing received April 20, 2009;

VGMC Exhibit 4: Tomm and Lorelle Friend's request for public hearing received April 21, 2009;

VGMC Exhibit 5: City of New Smyrna Beach's objections to proposed amendments received May 8, 2009;

VGMC Exhibit 6: Request for Additional Information from the VGMC planning staff submitted May 12, 2009;

VGMC Exhibit 7: City of Port Orange's response to the RAI received July 14, 2009;

VGMC Exhibit 8: The City of New Smyrna Beach's comments to Port Orange's responses to the RAI;

VGMC Exhibit 9: Location of subject property;

VGMC Exhibit 10: Current Future Land Use Map of subject property;

VGMC Exhibit 11: Proposed Future Land Use Map of subject property;

VGMC Exhibit 12: Correspondence from the Florida Department of Transportation, St. Johns River Water Management District, East Central Florida Regional Planning Council, and Volusia County Schools finding no significant adverse impacts on regional infrastructure;

VGMC Exhibit 13: Future Conservation areas map for subject project; and

VGMC Exhibit 14: Map of Wetlands within the Commercial node.

(17) 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."

(18) 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 or not the proposed plan amendments adversely affect intergovernmental cooperation and coordination. The 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.

(19) As to criteria (1), the proposed plan amendments will result in a net reduction in impacts to public utilities. These reductions are summarized in the table below.

Maximum Development Impacts

Utility	Current FLUM Designation	Proposed FLUM Designation	Net Change
Potable Water (gallons/day)	1,402,344	406,109	- 996,235
Sanitary Sewer (gallons/day)	1,326,774	332,600	- 994,174
Solid Waste (lbs./day)	11,379	11,081	- 298

(20) Development of the subject site is accounted for in the City of Port Orange's Utility Master Plan and Water Supply Work Plan and adequate capacity exists to service the maximum development scenario. Adoption of the proposed amendments could result in a net savings of approximately 364 million gallons of potable water, 363 gallons of wastewater, and 54 tons of solid waste per year.

(21) With regard to criteria (2), the proposed plan amendments will result in a net reduction in impacts to transportation infrastructure. These reductions are summarized in the table below.

Maximum Development Impacts

Measurement	Current FLUM Designation	Proposed FLUM Designation	Net Change
Average Daily Trips (ADT)	31,392	25,409	- 5,981
Peak Hour Trips	2,972	2,412	- 560

(22) A Traffic Impact Analysis was completed to determine the impacts of the proposed amendment on the areawide transportation system. Generated trips were modeled under three scenarios:

- Year 2013 and year 2025 with Volusia County Metropolitan Planning Organization (MPO) data and MPO Long Range Transportation Plan (LRTP) improvements;
- Year 2013 and year 2025 with South East Volusia Regional Transportation Study (SEVRTS) data and MPO LRTP improvements; and
- Year 2013 and year 2025 with SEVRTS data and SEVRTS transportation improvement plan.

(23) Of the three model scenarios above, the last scenario using SEVRTS data and improvements is perhaps of greatest significance. The SEVRTS is an area specific

transportation study which originated as a condition item in VGMC Resolution #2005-02, City of New Smyrna Beach. The study included participation and funding by Volusia County and the Cities of New Smyrna Beach, Port Orange, and Edgewater. The use of SEVRTS data and improvements for the modeling of the proposed amendments potential impacts was requested by both Volusia County and the City of New Smyrna Beach. It is important to note that the SEVRTS transportation improvement plan does not include an interchange at I-95 and Pioneer Trail.

(24) Using the SEVRTS data improvements, both short-term (2013) and long-term (2025) analysis were conducted to determine the proposed amendments impact on the area-wide transportation system. The findings of these analyses are quoted below.

> "In the 2013 peak hour LOS analysis, there are no additional segment failures as a result of the proposed amendment. In fact, there are four segments which show an improvement from a failing LOS to an acceptable LOS as a result of the proposed amendment."

> "In the 2025 peak hour LOS analysis, there are no additional segment failures as a result of the proposed amendment. There are two segments which show an improvement from a failing LOS to an acceptable LOS as a result of the proposed amendment."

(25) In addition to the reduction in trips, the proposed amendments are estimated to reduce daily vehicle miles traveled by 50,582 in 2013 and 50,928 in 2025. Assuming an average of 35 miles per gallon for vehicular fuel efficiency (model year 2011-2020 CAFE standards), adoption of the proposed amendments could result in an approximate savings of 647,692,500 gallons of gasoline and 22,206,600 pounds of CO_2 emissions per year.

(26) Through the RAI process, the City of New Smyrna Beach has argued that the relocation of the subject site's commercial node will place additional vehicular trips on New Smyrna Beach roadways. Although any southward movement of the commercial node can be expected to result in a correlated shift in vehicular trips, such trips become a concern only if they are significant enough to cause adverse impacts on transportation infrastructure. Transportation impacts are commonly considered "adverse" if they result in the degradation of a facility's LOS below acceptable standards. None of the three transportation model scenarios found the commercial node's relocation to cause additional roadway failures; therefore, the adoption of the proposed amendments will result in no significant adverse impacts on transportation infrastructure.

(27) As to criteria (3), the proposed plan amendments will result in a net reduction in impacts to infrastructure. These reductions are summarized in the table below.

Maximum Development Impacts

Utility	Current FLUM Designation	Proposed FLUM Designation	Net Change
Potable Water (gallons/day)	1,402,344	406,109	- 996,235
Sanitary Sewer (gallons/day)	1,326,774	332,600	- 994,174
Solid Waste (lbs./day)	11,379	11,081	- 298
Transportation (Average Daily Trips)	31,392	25,409	- 5,981
Public Schools (students)	544	529	- 15

(28) As previously stated above, if adopted, the proposed amendments could result in a net decrease in impacts to potable water, sanitary sewer, solid waste, roadways, and public schools. The Department of Community Affairs submitted no objections, recommendations or comments on the proposed amendments. The Florida Department of Transportation, St. Johns River Water Management District, East Central Florida Regional Planning Council, and Volusia County Schools have reviewed the proposed amendment and found no significant adverse impacts on regional infrastructure.

(29) Relating to criteria (4), the proposed plan amendments will result in a net reduction in impacts to natural resources. The subject amendments propose the re-designation of 30 additional acres from Rural Residential to Conservation. In total, 137 acres of the subject site is proposed to be designated Conservation. Additionally, the proposed reduction in residential units and non-residential square footage can be reasonably expected to have a positive impact on natural resources. An example of this positive impact is the estimated reduction in demand for potable water resources by nearly 1,000,000 gallons daily.

(30) The relocation of the subject site's commercial node was analyzed to determine potential impacts to wetlands. It was determined that the proposed new location could result in slightly less wetland impacts than the current location. It is important to note that a comprehensive plan amendment does not grant the ability to impact wetlands. Federal, state, and local regulations which govern such things as impacts, mitigation, and buffering exist and must be addressed at various stages of the development process.

(31) The proposed amendments, as they relate to criteria (5), are not anticipated to result in the duplication of services or competition among providers. As previously stated, the subject site is within the City of Port Orange's utility service area and will be served by the City. In addition, the proposed extension of Williamson Boulevard at developer cost can be expected to result in significant regional benefit.

(32) With regard to criteria (6), there are no agreements currently in existence that may impact the proposed amendments.

SECTION 2. CONCLUSIONS OF LAW.

A. The VGMC, in accordance with Section 90-37(c), hereby determines and concludes that the proposed amendments in application #09-009A will not adversely impact regional infrastructure, transportation systems or natural resources and the amendments are found to be consistent with all of the aforementioned criteria.

B. VGMC determines and concludes that the City of Port Orange's application #09-009A 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. Therefore, the Volusia Growth Management Commission elects to approve VGMC application #09-009A.

SECTION 3. EFFECTIVE DATE. This Resolution 2009-05 shall take effect immediately upon its adoption.

RESOLVED this 26th day of August, 2009.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Joan Spinney
Joan Spinney, Chair

ATTEST:

Steve Katz
Steve Katz, Secretary

FILED WITH THE SECRETARY THIS 26th DAY OF AUGUST, 2009.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2008-06

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF ORMOND 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 (Commission and/or VGMC) hereby makes the following findings of fact:

(1) On July 3, 2008, the Volusia Growth Management Commission ("VGMC") received a large-scale comprehensive plan amendment application from the City of Ormond Beach ("City"). The application, was assigned VGMC #08-043, contained text amendments to the City's Future Land Use, Capital Improvements, Conservation and Utilities Elements. The amendments are components of a single, administratively initiated item intended to address State statutory requirements for water supply planning.

(2) On August 1, 2008, the VGMC received correspondence from Volusia County containing multiple objections to the proposed amendments and requesting a public hearing.

(3) On August 1, 2008, VGMC planning staff issued a Request for Additional Information (RAI), containing Volusia County's correspondence, to the City of Ormond Beach.

(4) On August 13, 2008, the City of Ormond Beach and Volusia County met to discuss the contents of the application package and subsequent RAI.

(5) On August 26, 2008, Volusia County forwarded to the City of Ormond Beach correspondence related to the August 13th meeting. The correspondence contained a meeting summary, minutes (prepared by Volusia County staff) and proposed actions intended to resolve the County's concerns.

(6) On August 28, 2008, the VGMC received from the City of Ormond Beach a response to the RAI issued on August 13, 2008.

(7) On September 10, 2008, the VGMC received correspondence from the Volusia County stating that the City of Ormond Beach's RAI response dated August 26, 2008, was sufficient to address County staff's concerns provided two conditions be placed upon the application prior to certification.

(8) The complete application and supporting documentation submitted by the City of Ormond Beach, the Growth Management Department of Volusia County, and Volusia County's legal staff is on file and is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. 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: City's Large-scale comprehensive plan amendment application Case No. 08-043 received July 3, 2008.

VGMC Exhibit 2: Correspondence from Volusia County objecting to the proposed amendments and requesting a public hearing received August 1, 2008.

VGMC Exhibit 3: Planning staff's request for additional information to the City of Ormond Beach issued August 1, 2008.

VGMC Exhibit 4: Volusia County's correspondence to the City dated August 26, 2008, summarizing the joint meeting held on August 13, 2008, and proposing actions to resolve Volusia County's objections.

VGMC Exhibit 5: City's response to the RAI received August 28, 2008.

VGMC Exhibit 6: Correspondence received by the VGMC September 10, 2008, from Volusia County stating the City's response to the RAI was sufficient to address Volusia County's objections, with conditions.

(9) The proposed comprehensive plan amendments are intended to meet statutory requirements enacted by the Florida Legislature in 2002, 2004, and 2005. This legislation was in reaction to the finding that four of Florida's five water management districts have determined that traditional water supply sources commonly utilized in the districts will be insufficient to meet projected demands over the next 20 years.

(10) In 2002, legislation was added to Chapter 163, Florida Statutes, which required local governments to prepare a 10-year water supply facilities work plan. The intent of this legislation was to strengthen the connection between the respective water management district's regional water supply plan and local comprehensive plans. The water supply facilities work plan was to be incorporated into each jurisdiction's comprehensive plan.

(11) Chapter 163 was amended again in 2004 to give local governments additional time to prepare the required plans and to further strengthen the linkage between land use and water supply planning. In 2005, Senate Bills 360 and 444 once again strengthened the link between water management district water supply plans and local government's comprehensive plan. The Department of Community affairs (DCA) now requires all local government comprehensive plan amendments to be accompanied by data and analysis demonstrating adequate water supplies to meet the needs of the proposed amendment(s).

(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) 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 or not the proposed plan amendments adversely affect intergovernmental cooperation and coordination. The 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) As to criteria (1), the proposed plan amendments are specifically intended to provide for areawide or central utility service solutions, specifically, potable water.

(15) As to criteria (2), the proposed amendments have no immediate impact on the areawide or regional transportation system.

(16) As to criteria (3), the proposed amendments are not expected to cause significant adverse impacts on infrastructure beyond the extent of the applicant jurisdiction.

(17) As to criteria (4), the proposed amendments are not expected to cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction.

(18) As to criteria (5), the proposed Water Supply Work Plan, as submitted, was determined to contain planning areas which overlapped with those of Volusia County; therefore, duplication of services may have occurred. As previously mentioned, the City of Ormond Beach and Volusia County staff met to discuss the County's concerns regarding what was perceived to be an encroachment within County planning areas. The City agreed to amend Figure 1-1 *Utility Service Area Map* (later changed to figure 2.1-1) of the Water Supply Work Plan and include a text amendment assuring all future planning in un-incorporated areas would be consistent with the Volusia County Comprehensive Plan.

(19) As to criteria (6), the purpose of the VGMC as stated in Section 202.3 of the Volusia County Code, is to review for the intention of determining consistency among all plans, including, but not limited to, the goals of eliminating or mitigating impacts of incompatible, adjacent land uses, and promoting coordination of infrastructure which affects more than one governmental jurisdiction. No such Interlocal agreement exists at this time; therefore, this criterion is no applicable to reviewing the consistency of the proposed plan amendments.

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF CONSISTENCY.

A. County Code Section 90-37(e) states 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 Future Land Use Map amendment, as proposed, is not consistent with the plans of affected jurisdictions.

C. The VGMC further concludes that the proposed amendment could adversely impact adjacent jurisdictions based on the Criteria of Consistency as established in the Volusia County Code. Therefore, the VGMC denies Certification of Consistency for City of Ormond Beach VGMC Application #08-043; however, there are conditions which may be placed upon the certification of this amendment, such that the application (VGMC #08-043) and the comprehensive plan amendments contained therein can be conditionally certified consistent. The Volusia Growth Management Commission recommends that the certification of consistency be granted subject to the following condition(s):

1. In order to reduce the possibility of duplication and competition regarding utility service provisions, the City of Ormond Beach shall:

a. Replace Figure 1-1 *Utility Service Area Map* with Figure 2.1-1 *Utility Service Area Map* as contained in the City of Ormond Beach's August 28, 2008, correspondence, which is Exhibit 5 of the staff report; and

b. Include within the City of Ormond Beach's Utilities Element the following policy:

> *"The City of Ormond Beach will plan for municipal service areas or extend water and sewer services into unincorporated Volusia County in a manner consistent with the Volusia County Comprehensive Plan."*

D. Any proposed changes or amendments to be made or adopted to the City's Comprehensive Plan in response to a FDCA Notice of Intent to Find in Compliance must be resubmitted as an application for Plan Amendment to the Volusia Growth Management Commission.

E. Failure to comply with any of the conditions of certification shall result in an automatic revocation of this certification, thereby rendering the City of Ormond Beachs' Comprehensive Plan unenforceable.

F. Any and all agreements, orders, ordinances, and resolutions which are entered into by the City in furtherance of and in compliance with the foregoing conditions, in accordance with Volusia County Code Section 90-37(i), shall be submitted in writing to the VGMC Coordinator within thirty (30) days of execution of such document by the City.

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

RESOLVED this 22nd day of October, 2008.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald T. Brandon
Gerald Brandon, Chairman

ATTEST:

Joan Spinney
Joan Spinney, Secretary

FILED WITH THE SECRETARY THIS 22nd DAY OF OCTOBER, 2008.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2008-02

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF DAYTONA BEACH SHORES, FLORIDA, AS CONSISTENT; PROVIDING FOR CONDITIONS TO CERTIFICATION; RESCINDING RESOLUTION 2007-04; 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 September 21, 2006, the Volusia Growth Management Commission ("VGMC") received a large-scale comprehensive plan amendment application from the City of Daytona Beach Shores. The application, which was assigned VGMC Case No. 06-064, contained both map and text amendments.

(2) Item I of the package contained a single amendment which proposed to re-designate approximately 3.03 acres located at 3704 Cardinal Boulevard from Volusia County – Urban Low Intensity to Daytona Beach Shores – Medium Density Residential on the City's Future Land Use Map. This map amendment has been commonly referred to as "Lady Godiva."

(3) Item II of the application package contained several staff-initiated text changes amending the Future Land Use, Public Facilities, Coastal Management, Conservation, Recreation and Open Space, and Capital Improvements elements of the Comprehensive Plan.

(4) On August 20, 2007, the VGMC received a large-scale comprehensive plan amendment application from the City of Daytona Beach Shores. That application, which was assigned VGMC No. 07-051, contained eleven (11) map and text amendments. Four of the proposed amendments (items 8-11) were directly related to VGMC application No. 06-064A, Lady Godiva, and the respective Joint Planning Area Interlocal Agreement (JPA) constructed to address concerns regarding the amendments. As an update to the previous application No. 06-064A, the contents of application No. 07-051 subsume the content and subsequent comments of application No. 06-064.

(5) On October 9, 2006, the VGMC received correspondence from the Volusia County Growth Management Department requesting a public hearing on the proposed amendment and stating that a Request for Additional Information ("RAI") would follow.

(6) On October 10, 2006, the VGMC received a citizen's petition for a public hearing, as well as numerous letters of objection to the proposed amendment.

(7) On October 16, 2006, the VGMC received correspondence from the City of Daytona Beach Shores requesting a minimum 60-day abeyance for the Lady Godiva amendment.

(8) On October 25, 2006, the VGMC received correspondence from the City of Daytona Beach Shores requesting the application package be split. In response to this request, VGMC staff divided the proposed amendments into two packages, Case No. 06-064A (Lady Godiva) and Case No. 06-064B (remainder of the package).

(9) On November 29, 2006, the VGMC approved the City of Daytona Beach Shore's request for a waiver of the 90-day rule. This waiver applied only to Case No. 06-064A, Lady Godiva.

(10) On December 12, 2006, the VGMC issued a Certification of Consistency for VGMC Application Case No. 06-064B.

(11) On June 21, 2007, the Volusia County Commission approved a JPA with the City of Daytona Beach Shores specifically concerning the ±3.03 acre Lady Godiva parcel.

(12) On August 20, 2007, the VGMC received a large-scale comprehensive plan amendment application from the City of Daytona Beach Shores. The application, which was assigned VGMC Case No. 07-051, contained eleven (11) map and text amendments. Four (4) of the proposed amendments (items 8-11) were directly related to VGMC Case No. 06-064A, Lady Godiva, and the respective JPA.

(13) On September 17, 2007, the VGMC received correspondence from the City of Daytona Beach Shores requesting application package assigned Case No. 07-051 be split. In response to this request, VGMC staff divided the proposed amendments into two packages, Case No. 07-051A (items 8-11) and Case No. 07-051B (items 1-7).

(14) Also on September 17, 2007, the VGMC received correspondence from Volusia County legal staff withdrawing the County's request for a public hearing on the Lady Godiva Future Land Use Map amendment. Similar correspondence, withdrawing a request for public hearing, was received from the Growth Management Department of Volusia County on September 24, 2007.

(15) On September 18, 2007, based upon the citizen's petition for public hearing received on October 10, 2006, VGMC submitted a request for public hearing for Case No. 06-064A and Case No. 07-051A.

(16) On September 24, 2007, the VGMC issued a Certification of Consistency for Case No. 07-051B.

(17) On October 19, 2007, the VGMC received a Motion to Intervene from Michael Woods representing Lady Godiva 2, LLC.

(18) On October 24, 2007, the proposed amendment was heard and denied by the VGMC as reflected in VGMC Resolution 2007-04. At that hearing, the VGMC granted Party Status to Lady Godiva 2, LLC, as well as a petitioning citizens group.

(19) On November 7, 2007, the VGMC received from the City of Daytona Beach Shores a copy of the Florida Department of Community Affairs ("FDCA") Objections, Recommendations and Comments report.

(20) On November 7, 2007, the VGMC received a motion for rehearing from Mark Watts on behalf of Lady Godiva 2, LLC.

(21) On November 15, 2007, the VGMC received a motion for rehearing from Glenn Storch on behalf of the City of Daytona Beach Shores.

(22) On November 19, 2007, the VGMC received correspondence from Dennis Bayer in response to the motion for rehearing from Mark Watts.

(23) On November 28, 2007, the requests for a rehearing from Lady Godiva 2, LLC's and the City of Daytona Beach Shores were heard and approved by the VGMC.

(24) On December 10, 2007, the VGMC received from Mark Watts, representing Lady Godiva 2, LLC, a Petition for Writ of Certiorari along with appendix, Motion to Hold in Abeyance, and Motion to Amend and Supplement Record.

(25) On December 27, 2007 the VGMC received correspondence from citizen petitioner, Myra Gercken, regarding the proposed amendment.

(26) On January 4, 2008, the VGMC received comments from K. McMillan.

(27) As mentioned above, a Citizen Petition for Public Hearing, dated October 10, 2006, was timely filed by residents of the area. The VGMC has received multiple pieces of correspondence from surrounding residents, including those granted Party Status by the VGMC on October 24, 2007. Each of these items stated opposition to the development of the subject site under both the originally proposed amendments as well as the revised amendments. This public input is highly valued and appreciated as part of VGMC's review, as receiving and acting on public input is an indispensable part of the comprehensive planning process.

(28) The ± 3.03-acre subject property is currently vacant and is located on the west side of Cardinal Boulevard between Phillis Avenue and Emilia Avenue. As previously stated, the Future Land Use Map ("FLUM") amendment proposes to change the designation of the subject property from Volusia County - Urban Low Intensity to Daytona Beach Shores – Medium Density Residential, subject to the conditions and restrictions contained in the June 21, 2007, JPA.

(29) The Future Land Use designations and existing land uses of the surrounding properties include the following:

	Future Land Use	Density/ Intensity	Existing Land Use
North:	Unincorporated Volusia County -Urban Low Intensity	0.2 - 4 du/ac	Single-family Residential
East:	Daytona Beach Shores – Medium Density Residential	12 - 35 du/ac	Multi-family Residential
South:	Unincorporated Volusia County -Urban Low Intensity	0.2 - 4 du/ac	Single-Family Residential
West:	N/A	N/A	Halifax River

As indicated in the above-table, the surrounding development pattern consists of single-family residential development to the north and south of the subject property and multi-family development to the east.

(30) The Medium Density Residential FLUM designation allows residential development at a maximum density of 35 du/ac. Under the original application (06-064A), no restrictions were placed on the amendment; therefore, the maximum development program may have resulted in 106 du with a maximum building height of twelve (12) stories. This represented an eight-fold increase over the existing Volusia County FLUM designation, which would allow a development program of 12 du and a maximum building height of 35 ft.

(31) Given the significant increase in development entitlements contained in the proposed amendment, Volusia County expressed five major issues regarding the request. These concerns have been summarized below.

(a) Compatibility – The subject property is located in an area that is predominantly single-family residential and lower density multi-family residential. The proposed density of 35 du/ac. is inappropriate for this location and incompatible with surrounding development.

(b) Wilbur by the Sea Local Area Plan – The subject property is located within close proximity to the Wilbur by the Sea community. A Local Area Plan has been developed and adopted by Volusia County to protect the existing low-density development found in this area. The proposed amendment is inconsistent with this plan and is in direct contrast to the intent to preserve the existing urban form.

(c) Scale – The amendment proposes a significant departure in building scale and is incompatible with existing development in the immediate area.

(d) Traffic Impacts – The proposed increase in density would result in significant impacts to the surrounding transportation network. The location of the subject property on a barrier island amplifies the need to ensure adequate roadway capacity in the event of evacuation.

(e) Environmental Considerations – The subject site contains both wetlands and 100-year floodplain. The application fails to address the protection of these resources.

(32) The above issues were the subject of subsequent negotiations between the City of Daytona Beach Shores and Volusia County. The result of the negotiations was the JPA dated June 21, 2007. The conditions of the JPA require the adoption of an overlay zone for the subject property with the following restrictions:

(a) A height limitation of thirty-five (35) feet, not including architectural roof lines; roof line not to exceed an additional twelve (12) feet in height;

(b) The requirement for at least an average of fifteen (15) foot landscape buffer, with a minimum width of ten (10) feet, surrounding any development within said properties in addition to a masonry wall on the interior of said landscape buffer; this landscape buffer may not be required on the riverfront;

(c) Any parcel determined to be two and a half (2.5) acres or greater shall be required to utilize a Planned Unit Development ("PUD") and with zoning classification land use development shall incorporate requirements for:

1. A traffic study;
2. A concept plan;
3. Architectural standards and designs consistent with and compatible with the community as determined by the City;
4. In the event there is a clear interaction between the development and the Halifax River, a detailed plan shall be submitted indicating the proposed waterfront treatment for the project and how said waterfront treatment shall interact with the community; and
5. Further, the parties agree that an additional condition of approval of any such PUD is a finding of consistency with the standards of the Joint Planning Agreement by the City.

(d) City Land Development Code shall be amended to permit PUD based on these criteria for this area.

(33) In addition to the aforementioned conditions of JPA, the County is to be provided any concept plan for the area and allowed reasonable opportunity to comment on the plan prior to approval by the City. Should the City of Daytona Beach Shores

abide by these conditions, Volusia County agrees to withdraw its previous comments and recommend Consistency Certification for the subject amendment by the VGMC.

(34) On June 1, 2007, subsequent to JPA negotiations but prior to execution, Daytona Beach Shores Assistant City Manager, James McCroskey, provided an overview of density controls to be placed on the subject site in correspondence to Volusia County Manager, Jim Dinneen. In this correspondence, Mr. McCorskey stated that City staff had determined that, based on the conditions of the JPA and preexisting land development code requirements, a maximum of 36 to 45 dwelling units may be achieved on the subject site.

(35) On August 20, 2007, the VGMC received application No. 07-051 that contained two text and two map amendments which meet the conditions outlined in the JPA and replaced the map amendment (Item 1) proposed in application No. 06-064. The amendments were outlined as follows:

> Item 8: Text Amendment – Future Land Use Element
> Policy 1-1.1.2.1.1: Parcel Specific Density Limitation proposes the adoption of a maximum residential density of twenty (20) dwelling units per acre for the subject site.
>
> Item 9: Text Amendment – Intergovernmental Coordination Element
> Objective 8-12 and Policy 8-1.2.4 propose the adoption by reference of the JPA, as well as amendment of the City's Land Development Code to reflect the conditions of the JPA.
>
> Items 10 & 11: Map Amendments – Future Land Use Element
> These items propose amendment of the Future Land Use Map pursuant to items 8 and 9 and change the designation of the subject site from Volusia County – Urban Low Intensity to City of Daytona Beach Shores – Medium Density Residential.

(36) The adopted JPA and related amendments proposed by VGMC application No. 07-051 result in an estimated increase of 48 residential dwelling units on the subject site. Height limitations have been fixed at 35 ft. and setbacks have been increased to assure development on the subject site is compatible with existing residences in the area. Additionally, joint review of conceptual plans by the City of Daytona Beach Shores and Volusia County ensure that City and County residents are represented in the development review process.

(37) The complete applications and supporting documentation submitted by the City of Daytona Beach Shores, the Growth Management Department of Volusia County, and Volusia County's legal staff is on file and is available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Daytona Beach, Florida. The VGMC Planning Staff Report summarizes the two applications and provides analysis and review of the applications for consistency as required by Volusia

County Code Section 90-31 through Section 90-44. Within the reports, the following exhibits are referenced:

VGMC Exhibit 1: City's Large-scale comprehensive plan amendment application Case No. 06-064 received September 21, 2006.
VGMC Exhibit 2: Large-scale comprehensive plan amendment application Case No. 07-051 received August 20, 2007
VGMC Exhibit 3: Request for public hearing from Volusia County received October 9, 2006
VGMC Exhibit 4: Citizen's petition for public hearing and numerous letters of objection received October 10, 2006
VGMC Exhibit 5: City's request for minimum 60-day abeyance for Lady Godiva amendment received October 16, 2006
VGMC Exhibit 6: City's request to split application Case No. 06-064 dated October 25, 2006
VGMC Exhibit 7: Certification of Consistency for application Case No. 06-064B dated December 12, 2006
VGMC Exhibit 8: County Commission's approval of JPA dated June 21, 2007
VGMC Exhibit 9: City's request to split application Case No. 07-051 received September 17, 2007
VGMC Exhibit 10: County's withdrawal of request for public hearing on Lady Godiva amendment received September 17, 2007
VGMC Exhibit 11: Growth Management Department's withdrawal of request for public hearing received September 24, 2007
VGMC Exhibit 12: Certification of Consistency for application Case No. 07-051B dated September 24, 2007
VGMC Exhibit 13: Motion to Intervene from Michael Woods representing Lady Godiva 2, LLC received October 19, 2007
VGMC Exhibit 14: Party Status granted to Lady Godiva 2, LLC as well as a petitioning citizens group on October 24, 2007
VGMC Exhibit 15: Copy of the FDCA Objections, Recommendations and Comments report received November 7, 2007
VGMC Exhibit 16: Motion for rehearing from Mark Watts on behalf of Lady Godiva 2, LLC received November 7, 2007
VGMC Exhibit 17: Motion for rehearing from Glenn Storch on behalf of the City of Daytona Beach Shores received November 15, 2007
VGMC Exhibit 18: Correspondence from Dennis Bayer in response to the motion for rehearing from Mark Watts received November 19, 2007
VGMC Exhibit 19: Correspondence from citizen petitioner, Myra Gercken, regarding the proposed amendment received December 27, 2007
VGMC Exhibit 20: Comments from K. McMillan received January 4, 2008
VGMC Exhibit 21: Table showing surrounding development pattern
VGMC Exhibit 22: Capacity and Availability letter received from the City of Port Orange received September 11, 2006
VGMC Exhibit 23: Traffic Impact Analysis dated June 2007
VGMC Exhibit 24: Environmental Assessment

(38) 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."

(39) 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 or not the proposed plan amendments adversely affect intergovernmental cooperation and coordination. The 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.

(40) As to criteria (1), information provided with the application states that potable water and sanitary sewer service for the subject site will be provided by the City of Port Orange. On September 11, 2006, a Capacity and Availability Letter was received from the City of Port Orange stating that sufficient system capacity exists to serve a 100-unit, multifamily project on the subject site.

Potable Water

The City of Port Orange's water treatment plant has a capacity of 15 MGD. Annualized average daily demand for 2006 was 6.47 MGD, leaving approximately 8.53 MGD in available capacity. The proposed project is estimated to withdraw approximately 8,600 GPD; therefore, sufficient system capacity exists to serve the proposed project.

Currently the subject site is served by a 16" watermain constructed along the west side of Cardinal Boulevard. City of Daytona Beach Shores' staff has stated that any infrastructure improvements necessary to serve the proposed project would be constructed at developer expense.

Sanitary Sewer

The City of Port Orange's waste water treatment plant has a current permitted capacity of 8.83 MGD. Annualized average daily demand for 2007 was 5.205 MGD, leaving approximately 3.625 MGD in available capacity. The proposed project is estimated to produce approximately 9,600 GPD; therefore, sufficient system capacity exists to serve the proposed project.

(41) Currently the subject site is served by an 8" PVC gravity sewer constructed along the west side of Cardinal Boulevard. A dry, 16" forcemain is also in place to accommodate future needs. City of Daytona Beach Shores' staff has stated that any infrastructure improvements necessary to serve the proposed project would be constructed at developer expense.

(42) As to criteria (2), a Traffic Impact Analysis dated June 2007, completed by Ghyabi & Associates, Inc., was provided with the application package. The report found no adverse and significant impacts to the local transportation network attributable to the proposed amendments.

(43) VGMC planning staff's independent analysis of the proposed amendment's trip generation found the following:

Scenario	Max. Density	ITE Land Use Code	Avg. Generation Rate	Total Units	Peak Hour Trips
Adopted	4 du/ac	210	1.01	12 single-family	12
Proposed	20 du/ac	230	0.52	60 multi-family	31
Total Increase in Weekday Peak Hour Trips					**19**

As depicted in the table above, it is estimated that the proposed amendment would result in approximately 19 additional weekday peak hour trips.

(44) As to criteria (3), the proposed amendments do not cause significant adverse impacts on infrastructure beyond the extent of the applicant jurisdiction.

(45) As to criteria (4), given the subject site's location is on the Halifax River, special consideration must be given to potential environmental impacts to this cross-jurisdictional water body. A preliminary environmental assessment did not identify any evidence of protected coastal or wading bird species utilizing the project site. However, due to the types of habitats found onsite, nine species of protected coastal and wading birds have been listed as having a moderate potential to utilize the site for foraging. The Florida Manatee and two species of protected sea turtle (Loggerhead and Atlantic Green) were found to have a moderate potential of occurrence adjacent to the site, due to their known presence in the Halifax River area. Black Mangrove was the only protected plant species observed on the subject site. This species is protected by local and state ordinances and all impacts would need to be approved through proper regulatory processes.

(46) The upland area of the property has been impacted by previous development and is primarily composed of St. Augustine grass and ornamental trees. Wetlands associated with the Halifax River extend approximately 70 ft. landward from the river onto the subject site. Any impacts to these wetlands, including protected plant species within this area, would need to be permitted through the proper regulatory agencies. These agencies include the County of Volusia, St. Johns Water River Water Management District ("SJRWMD") and the U.S. Army Corp of Engineers.

(47) The proposed increase in residential units on the subject site will not cause significant adverse impacts on natural resources which extend beyond the boundaries of one jurisdiction. As mentioned, all impacts to jurisdictional wetlands and protected plant and animal species will be subject to review by the appropriate regulatory agencies. This includes construction of docks and other water-ward improvements.

(48) As to criteria (5), the proposed amendments will not duplicate capital improvement efforts or cause competition among adjacent and affected jurisdictions.

(49) As to criteria (6), the proposed amendments are subject to a JPA between the County of Volusia and the City of Daytona Beach Shores which was executed on June 21, 2007. Conditions contained in the JPA were intended to address the initial concerns of the County regarding the intensity and compatibility of development on the subject site and resulted in the withdrawal of the County's request for public hearing. These conditions, combined with self imposed density limitations proposed by the City of Daytona Beach Shores, significantly reduce the potential impacts of the proposed project. In addition, the executed JPA provides for joint review of conceptual plans by the City of Daytona Beach Shores and Volusia County, ensuring both City and County residents are represented in the development review process. As stated in Finding (35) above, the terms of the JPA are being incorporated by reference into Daytona Beach Shores Intergovernmental Coordination Element Objective 8-12 and Policy 8-1.2.4.

(50) The purpose of the VGMC as stated in Section 202.3 of the Volusia County Code, is to review for the intention of determining consistency among all plans, including, but not limited to, the goals of eliminating or mitigating impacts of incompatible, adjacent land uses, and promoting coordination of infrastructure which affects more than one governmental jurisdiction.

(51) At the Public Hearing held on January 23, 2008, representatives of the City of Daytona Beach Shores and Lady Godiva 2, LLC voluntarily offered that the following condition of approval be added into this resolution:

i) the approximately 3.03 acre parcel located at 3704 Cardinal Boulevard, Daytona Beach Shores, which is the subject of VGMC Application No. 07-051A (the "Parcel") shall be processed as a PUD.

ii) a limitation of fifteen (15) dwelling units per acre shall apply to the Parcel.

iii) there shall be a minimum fifteen (15) foot landscape buffer around the perimeter of the Parcel and this buffer shall be shown on the PUD site plan.

iv) there shall be no commercial marina or commercial usage on site on the Parcel.

v) the riverfront building on the south side of the Parcel shall have a minimum building setback line of thirty-five (35) feet from the Parcel's south property line.

vi) notice shall be mailed by the City of Daytona Beach Shores to attorney Dennis Bayer and those individuals who requested notice of future re-zoning activity on the Parcel at the January 23, 2008 VGMC Meeting. That list of individuals is attached hereto and incorporated herein as Exhibit A.

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF CONSISTENCY.

A. The VGMC, in accordance with Section 90-37(c), hereby determines and concludes that the proposed amendments in application No. 06-064A has been fully incorporated into application No. 07-051A and No. 07-051A will not adversely impact regional infrastructure, transportation systems or natural resources and is found to be consistent with all of the aforementioned criteria.

B. Additionally, the amendments contained in application No. 07-051A are the subject of an executed Joint Planning Area Interlocal Agreement between the City of Daytona Beach Shores and Volusia County, and thus advances intergovernmental cooperation and coordination. The terms of the JPA have been incorporated by reference into Daytona Beach Shores Intergovernmental Coordination Element Objective 8-12 and Policy 8-1.2.4.

C. Representatives of the City of Daytona Beach Shores and Lady Godiva 2, LLC voluntarily offered and the Volusia Growth Management Commission elects to impose the following conditions:

i) the approximately 3.03 acre parcel located at 3704 Cardinal Boulevard, Daytona Beach Shores, which is the subject of VGMC Application No. 07-051A (the "Parcel") shall be processed as a PUD.

ii) a limitation of fifteen (15) dwelling units per acre shall apply to the Parcel.

iii) there shall be a minimum fifteen (15) foot landscape buffer around the perimeter of the Parcel and this buffer shall be shown on the PUD site plan.

iv) there shall be no commercial marina or commercial usage on site on the Parcel.

v) the riverfront building on the south side of the Parcel shall have a minimum building setback line of thirty-five (35) feet from the Parcel's south property line.

vi) notice shall be mailed by the City of Daytona Beach Shores to attorney Dennis Bayer and those individuals who requested notice of future re-zoning activity on the Parcel at the January 23, 2008 VGMC Meeting. That list of individuals is attached hereto and incorporated herein as Exhibit A.

D. Therefore, VGMC determines and concludes that the City of Daytona Beach Shores' application No. 07-051A 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. Therefore, the Volusia Growth Management Commission elects to approve VGMC application No. 07-051A with the additional conditions set forth above in Conclusions of Law Number C.

E. VGMC Resolution 2007-04 adopted on October 24, 2007 is hereby rescinded and of no further force or effect and is replaced by this Resolution adopted at the rehearing held on January 23, 2008.

F. Any proposed changes or amendments to be made or adopted to the City's Comprehensive Plan in response to a FDCA Notice of Intent to Find in Compliance must be resubmitted as an application for Plan Amendment to the Volusia Growth Management Commission.

G. Failure to comply with any of the conditions of certification shall result in an automatic revocation of this certification, thereby rendering the City of Daytona Beach Shores' Comprehensive Plan unenforceable.

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

RESOLVED this 23rd day of January, 2008.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Gerald Brandon, Chairman

ATTEST:

_____
Joan Spinney, Secretary

FILED WITH THE SECRETARY THIS 31st DAY OF JANUARY, 2008.

_____
Merry Chris Smith, VGMC Coordinator

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Parties to receive individual notice of any rezoning activity relating to the subject property located at 3704 Cardinal Boulevard – Daytona Beach Shores Lady Godiva Amendment (VGMC Case Nos. 06-064A & 07-051A)

Dennis Bayer, Attorney at Law
109 South Sixth Street, Suite 200
Flagler Beach, FL 32136

Hobert Lambert
3617 Cardinal Boulevard
Daytona Beach Shores, FL 32118

James Ecenbarger
3530 Cardinal Boulevard
Daytona Beach Shores, FL 32118

Kathy & Bill Walker
3708 Cardinal Boulevard
Daytona Beach Shores, FL 32118

Neil Thurston
3712 Cardinal Boulevard
Daytona Beach Shores, FL 32118

Arnold Marfoglia
4050 S. Peninsula Drive
Port Orange, FL 32127

Tony Perna
3650 Cardinal Boulevard
Daytona Beach Shores, FL 32118

Peter Gjessing
3718 Cardinal Boulevard
Daytona Beach Shores, FL 32118

William Preston
3517 S. Peninsula Drive
Port Orange, FL 32127

Tommy Partin
3709 Cardinal Boulevard
Daytona Beach Shores, FL 32118

Dan Behr
3520 Surfside Terrace
Port Orange, FL 32127

Mike Durkin
3710 Cardinal Boulevard
Daytona Beach Shores, FL 32118

Michael Clancy
3812 Emilia Drive
Port Orange, FL 32127

Myra Gercken
3712 Cardinal Boulevard
Daytona Beach Shores, FL 32118

Sue Burns
4250 S. Atlantic Avenue
Port Orange, FL 32127

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EXHIBIT A