RESOLUTION 2007-06

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 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 August 27, 2007, the VGMC received a large-scale comprehensive plan amendment application from the City of Daytona. The application, was assigned VGMC No. 07-053, contained four (4) amendment items.

(2) Upon initial review by VGMC planning staff and the receipt of comments from adjacent jurisdictions, it was determined that the amendment package should be split to allow certification by letter of certain items. The package was split into three (3) parts:

- 07-053A – Hand Avenue Amendment & 957 Beach Density Bonus,
- 07-053B – Riverbend Church Amendment,
- 07-053C – Master Development (Walker's Green),

and this Resolution only pertains to Case No. 07-053B.

(3) The Commission's planning staff report addressed the consistency certification of Case No. 07-053B, the Riverbend Church Amendment, which proposed the following:

- Re-designation of approximately 65 acres from Volusia County – Natural Resource Management Area - Low Impact Urban & Environmental Systems Corridor to City of Daytona Beach – Government/Institutional on the City's Future Land Use Map ("FLUM").

- Amendment to the City of Daytona Beach's Neighborhood "V" policies to limit the subject site to a 0.3 FAR.

- Amendment to the City of Daytona Beach's Neighborhood "V" policies to provide for a fifty (50') foot scenic setback along Tymber Creek Road.

(4) On October 17, 2007, the VGMC's planning staff issued a request for additional information ("RAI") citing VGMC certification criteria #4 and requesting additional environmental analysis of the subject site and information addressing the inconsistencies between the existing Future Land Use designation and the proposed Future Land Use designation in regards to environmental protection.

(5) On November 6, 2007, the VGMC received from the City of Daytona Beach a response to the RAI. The response was deemed insufficient by VGMC planning staff as it contained no additional information.

(6) On November 20, 2007, at the request of VGMC staff, a meeting was held with the applicant (City staff was not present) to discuss the RAI issued on October 17, 2007, and the subsequent response. At this meeting parameters for preliminary environmental analysis of the subject site were agreed upon. In addition, the applicant provided VGMC staff language intended to address the lack of consistency between the existing and proposed FLUM designations.

(7) On November 26, 2007, VGMC planning staff issued a second request for additional information containing the items agreed upon at the November 20, 2007, meeting.

(8) On November 30, 2007, in response to the RAI, the VGMC received a Cursory Endangered and Threatened Species Survey and FLUCFCS map depicting the location and extent of onsite wetlands.

(9) The complete application and supporting documentation submitted by the City of Daytona Beach 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: The City of Daytona Beach's large-scale comprehensive plan amendment application received August 27, 2007.

VGMC Exhibit 2: The first Request for Additional Information dated October 17, 2007.

VGMC Exhibit 3: The City of Daytona Beach's response to the RAI dated November 6, 2007.

VGMC Exhibit 4: Agreed upon parameters for preliminary environmental analysis of the subject site dated November 20, 2007.

VGMC Exhibit 5: The second Request for Additional Information dated November 26, 2007.

VGMC Exhibit 6: The Cursory Endangered and Threatened Species Survey and FLUCFCS map submitted by the City in response to the second RAI received by the VGMC on November 30, 2007.

(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) The ± 65 acre subject property is located on the west side of Tymber Creek Road, south of SR 40 and west of I-95. The FLUM amendment proposes to change the designation of the subject property from Volusia County – Natural Resource Management Area - Low Impact Urban & Environmental Systems Corridor to City of Daytona Beach – Government/Institutional. The site is currently undeveloped and has historically been used for silviculture purposes.

(13) Volusia County's Natural Resource Management Area ('NRMA") is a Future Land Use category intended to recognize areas of critical natural resources located within the core of the County and provides for these areas the highest degree of protection in land development decisions and planning. The subject site was recognized by the County as containing significant environmental resources and, therefore, was included within the NRMA on the County's Future Land Use Map.

(14) A preliminary environmental analysis of the subject site found approximately twenty-five (25) acres of wetlands scattered throughout the property. These wetlands fall within the Tomoka River Drainage Basin and will comply with all applicable rules and regulations governing the protection of the Tomoka River, an Outstanding Florida Waterway (OFW), along with its associated tributaries. In addition, any development of the site will be subject to St John's River Water Management District ("SJRWMD") and Florida Department of Environmental Protection ("FDEP") rules and regulations regarding wetland delineation, protection and mitigation.

(15) The Government/Institutional FLUM designation is intended to allow public and quasi-public uses such as government offices, airports, schools, hospitals, churches and cemeteries. Intensities for theses uses may vary dependent upon location and specific site conditions. City of Daytona Beach policies allow a maximum FAR of 0.5 for church uses under the Government/Institutional FLUM designation. The proposed amendment contains language limiting the subject site to a FAR of 0.3, which would allow for a maximum development scenario of 849,420 sq. ft.

(16) As the City of Daytona Beach contains a wide variety of landscapes and land uses, the City has adopted Neighborhood Development Policies to address uses and intensities within specifically defined "neighborhoods". The subject site falls within the boundaries of the City's "Neighborhood V". In general, Neighborhood V is the area located west of LPGA Boulevard and extending south from SR 40 to US 92.

(17) Given the environmentally sensitive nature of lands within this area, City of Daytona Beach FLUM designations within Neighborhood V have been traditionally limited to Low Impact Urban (LIU), Urban Transition (UT) and Conservation (CON). These designations carry restrictions on uses and densities/intensities, as well as minimum criteria regarding open space, wetland protection and provisions for utilities.

(18) 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	Ormond Beach – Suburban Low Density Residential	2.1 du/ac	Church
East	Volusia County – Low Impact Urban	1 du/ac	Residential
South	Volusia County – Low Impact Urban	1 du/ac	Vacant
West	Volusia County – Low Impact Urban & Environmental Systems Corridor	1 du/ac & 1 du/ 25 ac	Vacant

As indicated in the above-table, the surrounding development pattern consists of the existing Riverbend Community Church to the north, single-family residential development to the east and vacant, undeveloped property to the south and west.

(19) Based on the City of Daytona Beach's currently adopted FLUM, it would appear that the proposed amendment would be the first to depart from the aforementioned designations traditionally found in Neighborhood V. As submitted, the proposed amendment contains no conditions regarding preservation of open space, protection of onsite wetlands or provision of utilities.

(20) 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.

(21) Utilizing all the information submitted by the City of Daytona Beach and its representatives, the VGMC used the criteria stated in Volusia County Code Section 90-37(c), to determine whether the proposed future land use map amendment adversely affects intergovernmental cooperation and coordination.

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

(a) Information provided with the proposed amendment states that potable water and sanitary sewer service for the subject site will be provided by the City of Ormond Beach through the Second Amended Water and Sewer Service Area Agreement with the City of Daytona Beach. Although a sixteen inch (16") watermain and a ten inch (10") force main currently run along SR 40 to the north of the subject property, the existing church has been developed on central water and septic. Given the environmentally sensitive nature of the area and the proximity to the Tomoka River, development of the subject site shall not occur until potable water and sanitary sewer are available then connection to potable water and sanitary sewer shall be required.

(23) As to Criteria 2: The extent to which the plan, element, or plan amendment provides for area wide or regional transportation solutions:

(a) A Trip Generation Analysis provided with the City's application stated that the adoption of the proposed development would result in a net reduction in traffic trips. The County's Low Impact Urban FLUM designation allows all types of urban land uses. Although a maximum density of one dwelling unit per acre (1du/ac) has been set for residential uses, no limitations on the intensity of non-residential uses has been adopted. Due to a lack of an adopted FAR, it is difficult to determine the theoretical non-residential impacts should the subject site be developed under the current entitlements.

(b) The Trip Generation Analysis provided with the City's application assumes that, using a FAR of 0.2, a 566,280 sq. ft. medical office (720) complex may be constructed on the subject site under the County's current Low Impact Urban designation. It is estimated that this would result in approximately 22,940 daily trips and 1,582 p.m. peak hour trips.

(c) The proposed amendment would allow the construction of an 849,420 sq. ft. church (560) facility. It is estimated that this would result in approximately 7,738 daily trips and 561 p.m. peak hour trips.

(d) The use of a specific ITE category, such as medical office, is debatable. Common practice dictates the use of a generalized ITE category such as "General Office" or "General Retail" to determine potential trip generation when the end use is unknown. Following common practice, if under existing entitlements, 566,280 sq. ft. of general office (710) is constructed on the subject site, it is estimated that the result would be 5,070 daily trips and 713 p.m. peak hour trips. Under this scenario, the adoption of the proposed amendment would result in 2,668 additional daily trips but 152 fewer p.m. peak hour trips.

(e) The proposed amendment will be subject to concurrency and development of the subject site will require a traffic impact analysis to be studied by the City of Daytona Beach, Volusia County and FDOT.

(24) As to 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:

(a) The proposed amendment is not expected to cause significant adverse impacts on infrastructure beyond the extent of the applicant jurisdiction.

(25) As to 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:

(a) The subject property falls within the County's Natural Resource Management Area ("NRMA"). The NRMA is intended to recognize the environmental significance of large, relatively uninterrupted expanses of natural resources which extend throughout the core of Volusia County. The currently adopted Future Land Use designations, Low Impact Urban & Environmental Systems Corridor, are governed by policies intended to protect Volusia County's natural resources. Specifically, the following minimum requirements apply:

(i) Service by central utilities,

(ii) Designation of at least 50% of required open space as provided for in land development regulations to be preservation of upland habitat and sited in an ecologically strategic manner,

(iii) Clustering of both residential and non-residential uses,

(iv) Reduced lot coverage for buildings or impervious surfaces to protect environmental resources,

(v) Increased landscaped buffers to protect onsite environmental resources, and

(vi) Reduced parking areas.

(b) As proposed, the Future Land Use Map amendment contains no policies to assure sufficient preservation and protection of environmental resources. Due to a lack of protective policies, it can be reasonably assumed that development of the subject site may result in significant adverse impacts on natural resources which extend beyond the boundaries of the City of Daytona Beach.

(26) As to 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:

(a) The proposed amendment is not expected to duplicate capital improvement efforts or cause competition among adjacent and affected jurisdictions.

(27) As to 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.

(a) The subject site and proposed amendment is not subject to an Interlocal Agreement or Joint Planning Area.

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF CONSISTENCY.

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 on the information provided by the VGMC staff, the Volusia Growth Management Commission concludes the proposed amendment is not consistent with the plans of affected jurisdictions, and further concludes that the proposed plan amendment adversely impacts adjacent jurisdictions based on the criteria of consistency as established in Volusia County Code. Such a conclusion results in a recommendation of denial.

B. However, there are conditions which may be placed upon the certification of this amendment, such that the application (VGMC Case No. 07-053B) and the comprehensive plan amendments contained therein can be conditionally certified

consistent. Therefore, the Volusia Growth Management Commission elects to approve VGMC Application Case No. 07-053B with conditions, as follows:

1. In order to ensure sufficient preservation and protection of environmental resources and provide a greater level of consistency between the existing County FLUM designation and the proposed City of Daytona Beach designation, the following open space criteria shall be applied to the subject site:

   a. A minimum of twenty percent (20%) of the subject site or thirteen (13) acres, whichever is greater, shall be set aside as permanently protected open space to be placed in a conservation easement.

   b. Open space shall be defined as, "That portion of the subject site not used for buildings, street rights-of-way or off-street parking and loading areas or other impervious surfaces (not including recreational facilities)."

   c. A minimum of fifty percent (50%) of the required open space shall be comprised of contiguous upland habitat sited in an ecologically strategic manner (e.g, adjacent to wetlands, contiguous to off-site conservation areas). Wetlands shall not account for more than fifty percent (50%) of total required open space.

2. In order to ensure sufficient protection of the area's environmental resources, development of the subject site will not occur without connection to central utilities.

3. To ensure compliance with the aforementioned conditions, future development of the subject site shall be processed as a Planned Unit Development. An Open Space Plan depicting the location and type of areas to be permanently preserved in accordance with condition one (1) of this document shall be submitted with the Planned Unit Development. Both the Planned Unit Development and Open Space Plan shall be subject to review and comment by the VGMC and Volusia County.

4. The developer of the subject site shall provide an Environmental Impact Assessment, the contents and timing of which shall be consistent with Volusia County Code of Ordinances, Section 105. This assessment shall be considered by the Development Review Commission and/or City Council during the review of the preliminary plat or final site plan for a development order. A determination will be made by the City according to policies set out in the City of Daytona Beach's comprehensive plan and zoning ordinance and also with this Resolution as to the environmental, physical and fiscal impact of the development on

the public services, and facilities of the City and County and the measures necessary to offset such impacts. Direct and indirect impacts to on-site and off-site natural resources shall be substantially minimized.

C. Any changes or amendments proposed to be made or adopted to the City's Comprehensive Plan in response to a FDCA Notice of Intent to Find in Compliance ("NIFC") 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 unenforceable.

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

RESOLVED this 19th day of December, 2007.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Gerald Brandon, Chairman

ATTEST:

_____
Joan Spinney, Secretary

FILED WITH THE SECRETARY THIS 19th DAY OF DECEMBER, 2007.

_____
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2007-04

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

(5) 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.

(6) 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.

(7) 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).

(8) 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.

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

(10) On June 21, 2007, the Volusia County Commission approved a Joint Planning Area Interlocal Agreement ("JPA") with the City of Daytona Beach Shores specifically concerning the ±3.03 acre Lady Godiva parcel.

(11) 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 Interlocal Agreement.

(12) 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).

(13) 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, Case No. 06-064A. Similar correspondence, withdrawing a request for public hearing, was received from the Growth Management Department of Volusia County on September 24, 2007.

(14) 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.

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

(16) 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: Request for public hearing from Volusia County received October 9, 2006
VGMC Exhibit 3: Citizen's petition for public hearing and numerous letters of objection received October 10, 2006
VGMC Exhibit 4: City's request for minimum 60-day abeyance for Lady Godiva amendment received October 16, 2006
VGMC Exhibit 5: City's request to split application Case No. 06-064 received November 11, 2006
VGMC Exhibit 6: Certification of Consistency for application Case No. 06-064B dated December 12, 2006
VGMC Exhibit 7: County Commission's approval of JPA dated June 21, 2007
VGMC Exhibit 8: Large-scale comprehensive plan amendment application Case No. 07-051 received August 20, 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: Letter with overview of density controls from City Assistant Manager James McCroskey dated June 1, 2007

(17) 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.*

(18) 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."

(19) The ± 3.03-acre subject property, which is currently vacant, 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, Joint Planning Area Interlocal Agreement.

(20) 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.

(21) The Medium Density Residential FLUM designation allows residential development at a maximum density of 35 du/ac. Under the original application (Case No. 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 feet.

(22) Given the significant increase in development entitlements contained in the proposed amendment, Volusia County expressed five (5) major issues regarding the request. These concerns are 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.

(23) These 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 required the adoption of an overlay zone for the subject property with the following restrictions:

- 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;
- The requirement for at least an average of a 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;

- Any parcel determined to be two and one 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 this Joint Planning Agreement by the City.
- City Land Development Code shall be amended to permit PUD based on these criteria for this area.

(24) In addition to the aforementioned conditions of the agreement, the County was to be provided a 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 agreed to withdraw its previous comments and recommend Consistency Certification for the subject amendment by the VGMC.

(25) 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 the correspondence, Mr. McCroskey 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.

(26) On August 20, 2007, the VGMC received Application Case No. 07-051 which contained two text and two map amendments intended to meet the conditions outlined in the JPA and replace the map amendment (Item 1) proposed in Application Case No. 06-064. These amendments are 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.

(27) The adopted JPA and related amendments proposed by VGMC Application Case No. 07-051 resulted 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.

(28) A Citizen Petition for Public Hearing, dated October 10, 2006, was timely filed by residents of the area. Immediately following the VGMC's receipt of application Case No. 06-064, approximately one dozen pieces of correspondence were received by the VGMC from surrounding residents. Each of these items stated opposition to the development of the subject site under the originally proposed entitlements. This public input is highly valued and appreciated as part of the VGMC review, as receiving and acting on public input and is an indispensable part of the comprehensive planning process.

(29) Although there is a JPA between Volusia County and Daytona Beach Shores, Volusia County Code Section 90-37(c)(6) (Conditions No. 6) states that the JPA or ILA agreement is to be between ". . . *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.*"

(30) In this instance, testimony shows substantially affected parties (citizens) were not parties to the JPA, therefore, the Volusia Growth Management Commission cannot presume that the application does not adversely affect intergovernmental cooperation and coordination.

(31) A motion was made to deny a certificate of consistency because the applicant had not affirmatively provided the Commission with reasonable assurances that the amendment was consistent with adjacent Volusia County's comprehensive plan, and specifically did not meet Criteria 1 through 5 concerning adverse impacts to

natural resources and infrastructure. Further, the evidence presented effectively rebuts the presumption that the application does not adversely affect intergovernmental cooperation and coordination.

(32) Based upon the input of Attorney Dennis Baer and his clients, the citizens, testimony was presented that the JPA does not address stormwater, impacts to utilities, impacts to adjacent infrastructure and natural resources, the presumption of consistency can be rebutted.

(33) The concerned citizens (affected parties) who have objected to consistency certification were not involved in the JPA process as required under criteria (6).

(34) The JPA does not call for shoreline buffers which would protect the wetlands; therefore, wetland protection is not adequately addressed in the JPA.

(35) Testimony established an inconsistency of the proposed amendment with the existing surrounding single-family residential area.

(36) The JPA does not address an areawide or central utility service solution as required under criteria (1).

(37) Daytona Beach Shores is considering changing its evacuation time from six (6) hours to nineteen (19) which would substantially increase traffic impact in the area. Not only are the roads an evacuation route for Daytona Beach Shores, residents of Ponce Inlet and Wilbur by the Sea, to name a few, would be impacted by this amendment.

(38) As to criteria (4), proposed public marinas, boat slips, dredging, and wetland impacts are impacts that should be addressed now rather than at the permitting phase of a project. Nothing presented in the proposed amendment specifically prohibited use of the river or addressed marina and wetland impacts.

(39) While the JPA addressed height by limiting height to thirty-five feet (35') less architectural features, testimony established that the finished height of structures is really forty-seven feet (47') as provided by the JPA.

(40) Citizen testimony from Ms. Myra Gercken stated that the proposed amendment would allow a 45-unit condominium on the west side of Cardinal Boulevard, creating a multi-family development in the middle of a single family residential area, which are inconsistent, incompatible, and incongruent with the neighboring properties.

(41) Further, citizen testimony from Mr. Daniel Baer pointed out the lack of infrastructure leading to safety issues such as narrow roads and rainwater runoff that were unresolved by the JPA.

(42) Citizen testimony from Mr. Peter Gjessing established that there were only two roads to travel from Dunlawton to Ponce Inlet – Cardinal Boulevard and A-1-A.

There are concerns for the traffic impact on the already existing community. Flooding and emergency evacuations are also concerns that should be further discussed and are not fully addressed by the JPA.

(43) 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.

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF CONSISTENCY.

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."

B. The concerns raised by VGMC Application Case Nos. 2006-064A and 2007-051A have not been adequately addressed by the Joint Planning Area Agreement (JPA) between the City of Daytona Beach Shores and Volusia County. All substantially affected parties were not signatories to the JPA.

C. The applicant has not affirmatively provided the Volusia Growth Management Commission with reasonable assurances that the amendment is consistent with the adjacent Volusia County's comprehensive plan, and specifically does not meet VGMC Criteria 1 through 5 concerning adverse impacts to natural resources and infrastructure based on the evidence presented at the October 24, 2007, hearing on these applications. Further, the evidence presented at the hearing effectively rebuts the presumption that these applications do not adversely affect intergovernmental cooperation and coordination.

D. Accordingly, VGMC Application Case No. 2006-064A is found to be inconsistent with the plans of adjacent and/or affected jurisdictions and will adversely affect intergovernmental cooperation or coordination among the jurisdictions of Volusia County. Therefore, the Volusia Growth Management Commission elects to deny approval of VGMC Application Case Nos. 2006-064A and 2007-051A and resolves that these applications are inconsistent with providing adequate intergovernmental consistency and compatibility.

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

RESOLVED this 24th day of October, 2007.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald F Brandon
Gerald Brandon, Chairman

ATTEST:

Robert Pascoe, Vice Chairman

FILED WITH THE SECRETARY THIS 6th DAY OF NOVEMBER, 2007.

Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2007-02

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

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

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

(1) On November 9, 2006, the Commission received a Large-Scale Comprehensive Plan Amendment Application for Consistency Certification from the City of DeBary. The amendment proposed to change the Future Land Use Map designation of approximately 127 acres of a ±330-property from *Agricultural/Rural Residential* (90.5 acres) and *Environmentally Sensitive Lands* (36.5 acres) to *Residential/Low Density* (117 acres) and Commercial/*Retail* (10 acres).

(2) The complete application submitted by the City of DeBary, assigned VGMC Application No. 06-073, the VGMC Staff Report for Case No. 06-073 dated April 12, 2007, including the Staff Report Exhibits 1 through 9, and the Addendum to the VGMC Planning Staff Report dated May 15, 2007, including Staff Report Exhibits 10 through 16, are on file and are available to the public at the Volusia Growth Management Commission office located at 140 S. Beach Street, #305, Daytona Beach, Florida, 32114. The VGMC Staff Report and the Addendum to the VGMC Planning Staff Report and exhibits thereto are collectively referred to herein as the "VGMC Planning Staff Report". The VGMC Planning Staff Report summarizes the full 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:

April 12, 2007 Staff Report

VGMC Exhibit 1: City of DeBary VGMC Application No. 2006-073.
VGMC Exhibit 2: Request for Additional Information ("RAI") dated November 28, 2006.
VGMC Exhibit 3: RAI follow-up letter dated February 9, 2007.
VGMC Exhibit 4: Letter from Volusia County Schools dated March 16, 2007.
VGMC Exhibit 5: Second RAI dated March 20, 2007.
VGMC Exhibit 6: The City's ORC/RAI response package dated March 27, 2007.
VGMC Exhibit 7: City or DeBary Staff Planning and Zoning Staff Report.
VGMC Exhibit 8: Citizens' comments.
VGMC Exhibit 9: Historic and Archeological Map.

May 15, 2007 Staff Report Addendum

VGMC Exhibit 10: Response letter to the VGMC, dated May 3, 2007
VGMC Exhibit 11: Response letter from CPH to the City of DeBary related to VGMC's RAI, dated March 27, 2007
VGMC Exhibit 12: Florida Department of Environmental Protection ("FDEP") letter regarding Sovereign Submerged Lands ("SSL") land ownership, dated March 2, 2007.
VGMC Exhibit 13: Boundary Survey
VGMC Exhibit 14: Revised Transportation Demand Analysis prepared by Luke Transportation, dated March 2007.
VGMC Exhibit 15: On May 11, 2007, a site visit was held with representatives of the VGMC, developer and City. Based on the results of that meeting, CPH submitted the information contained in Attachment A, to the Addendum Staff Report.
VGMC Exhibit 16: May 11, 2007 Submittal Package from Volusia County as included in the Addendum Staff Report as Attachment B.

(3) The subject property is generally bound by Fort Florida Road to the north; Lake Konomac to the east and the St. Johns River to the south and west and consists of approximately 330 acres with ±2.5 miles of frontage along the St. Johns River. Currently, the only access to the subject property is provided via Fort Florida Road, which is unpaved. Potable water and sanitary sewer are not currently provided to the site.

(4) DeBary Application No. 2006-73 proposed to change the Future Land Use Map designation of approximately 127 acres of the +/- 330-acre property from *Agricultural/Rural Residential* (90.5 acres) and *Environmentally Sensitive Lands* (36.5 acres) to *Residential/Low Density* (117 acres) and *Commercial/Retail* (10 acres). The maximum development potential, both before and after the proposed amendment, is detailed in the following tables:

Development potential before proposed amendment:

Existing Future Land Use	**Acres**	**Density**	**Units**
Agricultural/Rural Residential	90.5 acres	1 unit/5 acres	18 units
Environmentally Sensitive Lands	239.5 acres	1 unit/10 acres	26 units
Total	**330 acres**	n/a	44 units

Development potential after proposed amendment:

Existing Future Land Use	**Acres**	**Density/ Intensity**	**Units/SF**
Residential/Low Density	117 acres	4 units/acre	468 units
Commercial/Retail	10 acres	0.50 FAR	217,800 sf
Sub Total	**127 acres**	n/a	468 units 217,800 sf
Conservation Easement	203 acres	n/a	zero (0)

Existing Future Land Use	Acres	Density/ Intensity	Units/SF
Total	330 acres	n/a	468 units 217,800 sf

(5) Information provided within the City of DeBary's VGMC Application and supplemental materials reference the proposal of a 250-unit subdivision with a 10,000 to 15,000 square-foot yacht clubhouse and a 50 wet slip marina and dry slip storage not to exceed 450 slips/boats.

(6) In accordance with the City's adopted Comprehensive Plan, a development program much more intensive than that found in the proposed amendment could be realized under the requested *Residential/Low Density* and *Commercial/Retail* Future Land Use designations. Pursuant to the adopted Future Land Use policies, densities associated with the *Residential/Low Density* designation will generally be limited to four (4) dwelling units per acre; however, bonus densities of up to twenty-five percent (25%) would be allowed in connection with cluster developments and planned unit developments. A marina is not specifically called out as an allowed use under the City's *Commercial/Retail* Future Land Use designation.

(7) Further, the *Residential/Low Density* designation does allow for convenience commercial uses which include the following:

- Convenience stores
- Self service laundries
- Dry cleaners
- Small restaurants and sandwich shops
- Gasoline sales
- Branch banks
- Personal service establishments
- Retail shops under 1,500 square feet

(8) Other non-residential uses, including higher density residential and office employment uses could be allowed in certain situations if implemented through the Planned Unit Development (PUD) process.

(9) Through the PUD process, schools and institutional uses, employment centers, office parks, and larger retail areas could also be allowed within the *Residential/Low* Density designation.

(10) The *Commercial/Retail* designation provides for commercial retail and service uses which include the following:

- Offices
- Financial institutions

- Business service establishments such as printing and copy centers and mailing centers
- Accessory activities such as personal services, restaurants and snack bars within a larger development
- Retail sales and services such as personal care services

(11) Intensity of non-residential use shall be limited to a floor-area ratio (FAR) of 0.50. The *Commercial/Retail* designation also allows, through the PUD process, residential development at a density of twelve (12) dwelling units per acre.

(12) The existing land uses, as well as the future land use designations of the properties surrounding the proposed amendment are provided below:

	Existing Land Use	**Future Land Use Designation**
North	Lake Konomac; Vacant land; Residential subdivision (Riviera Bella)	Agricultural/Rural Residential; Residential/ Low Density
East	Lake Konomac; Vacant land; Large-lot single-family homes	Agricultural/Rural Residential; Environmentally Sensitive Lands; Southwest Mixed Use
West	Vacant land; St. Johns River	Agricultural/Rural Residential; Seminole County
South	St. Johns River	Seminole County

(13) On May 2, 2007, a meeting was held between representatives of the VGMC, Volusia County, the City of DeBary and St. John Partners, LLC, regarding the VGMC DeBary Application No. 06-073. On May 3, 2007, as a result of the meetings the VGMC received a package submitted by Dana E. Boyte of CPH Engineers, Inc on behalf of the City.

The submittal included the following documents:

1. Response letter to the VGMC dated May 3, 2007,
2. Response letter from CPH to the City of DeBary related to VGMC's RAI dated March 27, 2007,
3. Florida Department of Environmental Protection ("FDEP") letter regarding Sovereign Submerged Lands ("SSL") land ownership dated March 2, 2007,
4. Boundary Survey, and
5. Revised Transportation Demand Analysis prepared by Luke Transportation dated March 2007.

The foregoing documents are also referenced as Exhibits 10 through 14, respectively.

(14) On May 11, 2007, a meeting was held at the site with representatives of the VGMC, developer, and City. Based on the results of that meeting, CPH submitted the

information contained in Attachment A of the Addendum to the Planning Staff Report. Attachment A is also referenced as Exhibit 15.

(15) On May 11, 2007, the information contained in Attachment B of the Addendum to the Planning Staff Report was provided to the VGMC by the Volusia County Attorney's office via electronic mail. Attachment B depicts a plan view of the SSL in relation to the proposed marina location. Attachment B is also referenced as Exhibit 16.

(16) Based on the above information, the Future Land Use Map ("FLUM") amendment for 117 acres from Agricultural/Rural, Residential and Environmentally Sensitive Lands to Residential/Low Density and Commercial/Retail was approved on April 4, 2007 by the DeBary City Council in Ordinance No. 31-06 contingent upon the following conditions:

1. The 117-acres site is limited to 250 residential units,
2. The 117-acre site is limited to an amount not to exceed fifty (50) wet boat slips within the area designated as Commercial/Retail,
3. The Owner/Developer must enter into a capacity enhancement agreement with the Volusia County School Board, and
4. The portion of the property designated as Environmentally Sensitive Lands ("ESL") and conservation will be donated to the City as a condition of the MPUD rezoning Approval.

(17) Pursuant to information provided on the City's behalf, the City's Comprehensive Plan was amended to include policy language restricting development on the subject property to a maximum of 250 single-family dwelling units and 50 wet boat slips. To minimize further potential impacts to the roadway network and utility systems, the VGMC planning staff would recommend additional policy language to be incorporated in the PUD to insure that the yacht club, including restaurant and ancillary uses, does not exceed 15,000 sf.

(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 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.*

(19) 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."

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

(20) The County will be the provider of potable water and sanitary sewer service. In a letter dated November 7, 2006, the Volusia County Public Works Department confirmed that there is adequate capacity to service the proposed 250-unit subdivision and a 10,000 to 15,000-square foot yacht club. The applicant will be solely responsible for extension and construction of potable water and sewer transmission lines to the subject property; therefore, it does not appear that this will result in additional capital facilities needs.

(21) Based on the above information and the fact that construction of the project will allow for existing development served by wells and septic tanks to be connected to a central water and wastewater system, the proposed FLUM amendment is consistent with criteria item (1) as cited in County Code Section 90-37(c).

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

(22) Based on the revised Transportation Demand Analysis prepared by Luke Transportation Engineering Consultants dated March 2007, the proposed development of 250 single-family dwelling units, a 10,000-square foot yacht clubhouse, and a 500-berth marina is not anticipated to cause significant or adverse impacts on the traffic network.

(23) It is understood that the developer will be required to meet the LOS standards adopted by the City during the land development process and will be solely responsible for widening and paving the portion of Ft. Florida Road from north of the property line to Barwick Road.

(24) Based on the above information, the proposed FLUM amendment is consistent with criteria item (2) as cited in County Code Section 90-37(c).

VGMC 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.

(25) Based on information provided on the City's behalf, the owner/developer will be required to enter into a capacity enhancement agreement with the Volusia County School Board to address the increase in residential density and associated capacity issues at the elementary school level.

(26) The impacts on public schools caused by the proposed FLUM amendment are not consistent with County Code 90-37(c). However, the VGMC may consider allowing an approval conditioned upon execution of the capacity enhancement agreement with the School Board no later than final plat approval by the City of DeBary for the first residential phase of this Project.

VGMC 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.

(27) The VGMC has concerns about natural resource impacts. Conditions addressing these concerns shall be required for approval under item (4) of County Code 90-37(c). Many of these concerns were outlined in the VGMC's Planning Staff's original report dated April 12, 2007. Specifically, it has been determined that:

(a) Based on information provided on the City's behalf, impacts to historical and archaeological resources as identified by the State DHR are consistent with County Code 90-37(c).

(b) Also based on information provided on the City's behalf, the use of wetlands designated as ESL for development is not consistent with County Code 90-37(c) or the Conservation Element of the County's Comprehensive Plan, but may be found to be consistent with the imposition of conditions No. 3 through 6 as listed below.

(28) During the site visit held on May 11, 2007, the developer indicated that the marina or commercial/retail location shown on the original application package and the package submitted on May 3, 2007, would not coincide with the location of the SSL owned by St. John Partners, LLC. Rather, the marina or commercial/retail area shown on all the packages submitted to the VGMC to date sites the marina or

commercial/retail location north of that location adjacent to an area of the St. Johns River that is contained within the Wekiva River Aquatic Preserve ("WRAP").

(29) The marina impacts proposed by the FLUM amendment are not consistent with County Code 90-37(c). Provided approval is conditioned upon Conditions 7 through 11 below, the FLUM amendment is consistent with County Code 90-37(c).

VGMC 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.

(30) Based on the information provided by the City of DeBary, there is no evidence of duplication or competition of capital improvements associated with the proposed amendment. Therefore, the proposed amendment is consistent with criteria item (5) as cited in Volusia County Code Section 90-37(c).

VGMC 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.

(31) The purpose of 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. As described in VGMC criteria (6) as listed above, no such interlocal agreement exists at this time. Therefore, this criterion is not applicable to reviewing the consistency of the proposed plan amendments.

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF CONSISTENCY.

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 on the lack of consistency with VGMC criteria items (3) and (4), the Volusia Growth Management Commission concludes that the amendment, as proposed, without conditions, would not be consistent with the plans of affected jurisdictions, and further concludes that the proposed plan amendment, without conditions, would adversely impact adjacent jurisdictions based on the criteria of consistency as established in Volusia County Code. However, there are conditions that may be placed upon the certification of this amendment, such that VGMC Application No. 06-073 and the comprehensive plan amendment contained therein can be certified consistent.

B. VGMC Application No. 06-73 and the comprehensive plan amendment contained therein and City of DeBary Ordinance 31-06 is hereby certified consistent subject to the conditions below and the Volusia Growth Management Commission therefore elects to approve VGMC Application No. 06-073, with the following conditions:

1. The City of DeBary shall submit to the VGMC an executed capacity enhancement agreement between the developer and the Volusia County School Board no later than October 1, 2007.

2. No impacts shall be allowed to any historical or archaeological resources as defined by Chapter 267, Florida Statutes, without prior approval by the DHR.

3. No wetlands (as defined by County Code 50-71) along the shoreline of the St. Johns River and within the area designated as ESL, or wetlands contiguous with wetlands along the shoreline of the St. Johns River, and within the area designated as ESL shall be impacted for the purposes of development, with the exception of: (1) the minimal impacts required for a pervious pedestrian crossing of the shoreline wetlands, (2) a single boat ramp in accordance with the passive recreational language contained in the standard SJRWMD Conservation Easement, (3) for the specific purpose of pedestrian access to and from the St. Johns River and commercial/retail facilities, and (4) construction of a single boat ramp. This condition shall not apply in the event the marina component of this application is not approved by the applicable regulatory agencies or if a request for a marina is withdrawn by the developer.

4. No docks or piers associated with any land along the shoreline of the St. Johns River shall be constructed other than those required for the marina. No seawalls, gravity walls, or retaining walls shall be constructed along the shoreline of the St. Johns River. This condition shall not apply in the event the marina component of this application is not approved by the applicable regulatory agencies or if a request for a marina is withdrawn by the developer.

5. All wetlands remaining after construction shall be surrounded by a 25-foot minimum, 50-foot average naturally vegetated upland buffer. The buffers shall begin at and extend landward of the wetland boundary.

6. All upland buffers and wetlands remaining after construction shall be preserved via Conservation Easement that shall run with the land in perpetuity, and be recorded in favor of the City of DeBary, the SJRWMD, or any other appropriate regulatory agency or land trust. In the event a marina component of this application is not approved by the applicable regulatory agencies or if a request for a marina is withdrawn by the developer, homeowners of waterfront lots shall have the right to apply for an individual

single family boat dock with all appropriate regulatory agencies, not to exceed a maximum of fifty (50) boat docks.

7. Development within the portion of the property designated commercial/retail shall be limited to the following uses:

a. Marina; not to exceed 50 wet slips.
b. Yacht Club or Community Center; may include a restaurant and ancillary uses not to exceed 15,000 sf.
c. Dry dock/storage facilities for vessels in an amount the lesser of a maximum of 200 vessels/dry slips or the amount that may be permitted by the applicable state permitting agencies.

The above conditions 7.a. and 7.c. shall not apply in the event the marina component of this application is not approved by the applicable regulatory agencies or if a request for a marina is withdrawn by the developer.

8. Additional conditions for the commercial/retail land use include:

a. Yacht Club; no trailers or permanent buildings associated with the commercial/retail area shall be located waterward of the 50-foot upland buffer.
b. Marina; wet slips shall be limited to floating docks and piers affixed to pilings.
c. Marina; shall maintain a naturally vegetated shoreline
d. Marina; shall not occur as an inland-cut marina that requires "dredge and fill".
e. Marina; shall participate in the FDEP's Clean Boating Partnership by adopting its Best Management Practices ("BMP").
f. Marina; shall be designated as a "Clean Marina", as defined by Florida Department of Environmental Protection ("FDEP"), within one year of completion of construction.
g. Marina; shall comply with the Volusia County Manatee Protection Plan as adopted by the City.

This condition shall not apply in the event the marina component of this application is not approved by the applicable regulatory agencies or if a request for a marina is withdrawn by the developer.

9. This project shall be processed as a Planned Unit Development ("PUD"). In order to insure compliance with the development program represented in this amendment and the conditions of approval in this certification, the City shall provide a copy of the adopted PUD to VGMC.

10. If the marina is located within the WRAP, no presumption of environmental approval for the marina is possible at this time. Therefore, approval of the marina as a land use within the PUD shall only occur within and wharfing and mooring out from the commercial/retail area, and then only in the event that all necessary permits from the applicable regulatory agencies are obtained for marina development. The City is to furnish the VGMC with marina permits.

11. Related operations and uses of the marina including, but not limited to, fueling facilities and services, petroleum or hazardous waste storage, and boat repair services shall be located landward of the 50-foot upland buffer unless otherwise permitted by the appropriate regulatory agencies. All other marina activities shall be conducted according to the BMPs provided by the FDEP's Clean Boating Partnership, if applicable.

C. The foregoing conditions of approval #2, 3, 4, 5, 6, 7, 8 and 11 shall be incorporated by the City into the PUD zoning ordinance. The PUD ordinance, upon adoption, and above referenced permits, upon being rendered, shall be submitted to the VGMC.

D. City of DeBary Ordinance 31-06, based upon ongoing compliance with the foregoing conditions by the City of DeBary is deemed to be certified as consistent with the VGMC Certification Rules as codified in Volusia County Code Chapter 90, Article II. The City of DeBary shall not be required to readopt the Large-Scale Comprehensive Plan Amendment subject to this Resolution or further amend the City of DeBary Comprehensive Plan in order to comply with this Resolution.

E. Any proposed changes or amendments to the City's Comprehensive Plan in response to a Florida Department of Community Affairs Notice of Intent to Find in Compliance shall be submitted to the VGMC.

F. Failure to comply with any of the conditions of certification in this Resolution shall result in a revocation of this certification thereby rendering the City's Comprehensive Plan Amendment unenforceable.

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

RESOLVED this 11th day of June, 2007.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald T. Brandon
Gerald Brandon, Chairman

ATTEST:

Joan Spinney
Joan Spinney, Secretary

FILED WITH THE SECRETARY THIS 13th DAY OF JUNE, 2007.

Merry C. Smith
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2006-07

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

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

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

(1) On June 12, 2006, the Volusia Growth Management Commission (VGMC) received a small-scale comprehensive plan amendment application from the City of Port Orange. The application, which was assigned VGMC Application No. 2006-040, proposes to redesignate approximately 0.39 acre located at 5156 Riverside Drive from Urban Low Density Residential to Office/Residential Transition on the City's Future Land Use Map. The subject property is internal to the City of Port Orange and does not border any other jurisdictions. Therefore, there are no intergovernmental coordination issues associated with this proposed amendment.

(2) On July 3, 2006, a Citizen Petition for Public Hearing was timely filed by residents of Riverside Drive/Halifax Drive neighborhood corridor.

(3) The complete application submitted by the City of Port Orange, assigned VGMC Application No. 2006-040, the VGMC Staff Report for Case No. 2006-040 dated August 7, 2006, including the Staff Report Exhibits 1 and 2, are on file and are available to the public at the Volusia Growth Management Commission office located at 140 S. Beach Street, #305, Daytona Beach, Florida, 32114. Within the VGMC Staff Report, the following exhibits are referenced:

VGMC Exhibit 1: Volusia County VGMC Application #06-40
VGMC Exhibit 2: Citizen Petition for public hearing, dated July 3, 2006

(4) The ± 0.39 acre subject property, which is currently vacant, is located on the west side of Riverside Drive between Katherine Street and Kirby Place. The Future Land Use Map amendment contained within the application proposed to change the designation of the subject property from Urban Low Density Residential to Office/Residential Transition.

(5) The subject property is adjacent to the existing Clark Professional Center and Wedding Chapel Planned Commercial Development (PCD). 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:	Urban Low Density Residential	8 du/ac	Single-Family Dwelling
East:	N/A	N/A	Riverside Drive/Halifax River
South:	Urban Low Density Residential	8 du/ac	Single-Family Dwelling
West:	Commercial	N/A	Wedding Chapel

(6) As indicated in the above-table, the surrounding development pattern consists of residential development to the north and south of the subject property and commercial development to the west and along the Ridgewood Avenue Corridor.

(7) The proposed Office Residential Transition Future Land Use designation will serve as a buffer between areas of high and low intensity and, therefore, is compatible with the Future Land Use designations surrounding the subject property. The Office Residential Transition Future Land Use designation would accommodate a mix of medium-density uses such as offices, multi-family developments (up to 16 du/ac) and houses of worship, and is intended to allow zoning districts that permit less intense uses than commercial districts.

(8) The proposed Future Land Use designation would allow rezoning of the subject property to PCD. If approved, the adjacent Clark Professional Center and Wedding Chapel PCD would be amended to incorporate the subject property for use as an accessory gazebo for an existing wedding chapel. Per information provided by the City of Port Orange, the applicant plans to construct an access pier and platform on the Halifax River on which the gazebo will be placed. A 10-foot wide concrete access way from the wedding chapel to the river already exists.

(9) Based on the analysis provided within the City's VGMC application, the proposed Future Land Use amendment and accessory use would not create additional impacts to the City's infrastructure. The existing wedding chapel parking lot, which is accessed from Ridgewood Avenue, will provide parking for gazebo guests.

(10) The Master Development Agreement (MDA) for the amended Clark Professional Center and Wedding Chapel PCD will include language restricting development of the subject property to one (1) single-family dwelling unit or a 400-square-foot wedding gazebo.

(11) The MDA will contain strict language prohibiting the use of the proposed gazebo structure as a boat dock and will outline the limitations of the gazebo and access pier in regards to the Manatee Protection Plan. A more intense use on the subject property would require an amendment to the MDA and approval by the City Council.

(12) A Citizen Petition for Public Hearing, dated July 3, 2006, was timely filed by residents of Riverside Drive/Halifax Drive neighborhood corridor in objection to the proposed amendment. 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. However, the concerns raised within the Citizen Petition for Public Hearing are beyond VGMC's scope of review and cannot be addressed using the following VGMC consistency certification criteria, as defined in Volusia County Code Section 90-37(c):

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.*

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF INCONSISTENCY.

A. The VGMC reviewed Application No. 2006-040 pursuant to the above criteria expressly defined in Section 90-37, Criteria for Issuance of Certificate, as adopted by the Volusia County Code of Ordinances. Since the proposed amendment is internal to the City of Port Orange, it does not negatively impact the public infrastructure, natural resources, or roadway network of adjacent jurisdictions.

B. According to Volusia County Code Section 90-37, the amendment is found to be eligible for consistency certification due to a lack of adverse comments from any adjacent and/or potentially affected jurisdictions during the 45-day review period.

C. Therefore, VGMC Application No. 2006-040 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. Accordingly, the Volusia Growth Management Commission therefore elects to approve VGMC Application No. 2006-040.

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

RESOLVED this 23rd day of August, 2006.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald Brandon
Gerald Brandon, Chairman

ATTEST:

Joan Lee, Secretary

FILED WITH THE SECRETARY THIS 23rd DAY OF AUGUST, 2006.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

VGMC ROLL CALL VOTE Date: 8/23/06

MOTION made by Rachel Sieg to approve Resolution 2006-07; seconded by Ann Caneer.

	Member	City Population	Weighted Percentage	Present	Vote Yes	Vote No
DAYTONA BEACH	Vacant	65,088	13.21%	--	--	
DB SHORES	Robert Pascoe	4,661	0.95%	Y	X	
DeBARY	Jay Erndl	18,222	3.70%	Y	X	
DeLAND	Vacant	25,055	5.09%	N	--	
DELTONA	Rebecca Mendez	82,973	16.84%	N	--	
EDGEWATER	Karen Hall	21,156	4.29%	Y	X	
HOLLY HILL	John Heaphy	12,620	2.56%	Y	X	
LAKE HELEN	Ed Blackman	2,847	0.58%	N	--	
NEW SMYRNA	Sally MacKay	22,025	4.47%	Y	X	
OAK HILL	Vacant	1,922	0.39%	N	--	
ORANGE CITY	James Kerr	8,854	1.80%	Y	X	
ORMOND BEACH	Gerald Brandon	39,753	8.06%	Y	X	
PIERSON	Vacant	2,633	0.53%	N	--	
PONCE INLET	Ann Caneer	3,247	0.66%	Y	X	
PORT ORANGE	Donna Steinebach	54,630	11.09%	N	--	
SOUTH DAYTONA	Joan Spinney	13,955	2.83%	Y	X	
UNINCORPORATED AREA*		113,061	22.95%*			
	Suzanne Steiner		4.59%	Y		X
	Joan Lee		4.59%	Y	X	
	Rachel Sieg		4.59%	Y	X	
	Tony Cole		4.59%	Y	X	
	Douglas Weaver		4.59%	Y	X	
	TOTAL:	**492,702**	**100.0%**	**52.27%**	**47.68%**	**4.59%**

Affirmative votes required: 8
Total weighted vote required: 26.19%

RESULT: Motion carried 13-1 representing 47.68% of the weighted vote.

RESOLUTION 2006-06

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF ORANGE CITY, FLORIDA, AS CONSISTENT; PROVIDING 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 November 22, 2005, the VGMC received a Large-Scale Comprehensive Plan Amendment Application for Consistency Certification from the City of Orange City. The application consisted of modifications to the City's Comprehensive Plan's Future Land Use Map.

(2) The complete application submitted by the City of Orange City, assigned VGMC Application No. 2005-075, the VGMC Staff Report for Case No. 2005-075 dated August 23, 2006, including the Staff Report Exhibits 1 through 9, are on file and are available to the public at the Volusia Growth Management Commission Office located at 140 S. Beach Street, #305, Daytona Beach, Florida, 32114. Within the VGMC Staff Report, the following exhibits are referenced:

VGMC Exhibit 1: Orange City's Existing and Proposed Future Land Use Maps
VGMC Exhibit 2: First Request for Additional Information (RAI), dated December 22, 2005, with Volusia County's comments and the City's response
VGMC Exhibit 3: Second RAI, dated February 3, 2006 and the City's response
VGMC Exhibit 4: Meeting correspondence and agenda dated February 23, 2005
VGMC Exhibit 5: Meeting Summary, dated May 5, 2006
VGMC Exhibit 6: Letter to Orange City regarding lack of information dated June 7, 2006
VGMC Exhibit 7: Bill Reischmann's reply to VGMC staffs inquiry dated June 20, 2006
VGMC Exhibit 8: Conditions of Request for Continuance dated July 3, 2006
VGMC Exhibit 9: Vacant 100-acres Map

(3) A similar request to this proposed amendment was submitted by Orange City to the Commission on June 24, 2004. The request (Application No. 04-18) was subsequently withdrawn by Orange City prior to the November 2, 2005, VGMC hearing. Per Article II, Section 90-42 of VGMC Code, "No local government shall have the right to file an application for certification pursuant to section 90-35 if the same plan, element, or plan amendment for which certification is applied has been the subject of an application before the commission within a period of 12 months prior to the filing of the application." Subject to this requirement, this proposed request is being reviewed as a new and completely separate application for certification. As such, all materials

provided to the Commission in the previous submittal (Application No. 04-18), as well as details agreed upon in discussions regarding said application, do not apply to the current application for certification.

(4) The application package submitted to VGMC contains a single amendment proposing a change to the Future Land Use Map (FLUM) designation of approximately 481 acres of property within Orange City.

(5) Included in this total are 276 acres of property with existing City FLUM designations. The entirety of this acreage is to be designated Mixed-Use (MX). Should the proposed amendments be certified, the result would be an additional 419 acres of Mixed Use (MX) designated properties within Orange City. A synopsis of this proposed change can be found in the table below.

Properties with existing City FLUM designations		
From	To	Acreage
Residential Low *(0-4 du/ac)*	Mixed Use	148.3
Residential Medium *(5-8 du/ac)*	Mixed Use	95.4
Residential High *(9-12 du/ac)*	Mixed Use	8.8
Commercial Neighborhood *(.25 FAR)*	Mixed Use	9.3
Commercial General *(.25 FAR)*	Mixed Use	14.3
	Total	**276.1**

(6) The remaining 205 acres are newly annexed properties which currently have a Volusia County FLUM designation. These properties are proposed to be changed to 31 acres of Commercial General, 6 acres of Residential High, 21 acres of Residential Low, 5 acres of Industrial Limited and 142 acres of Mixed Use. A synopsis of those proposed changes can be found in the following table:

Annexed properties FLUM designations		
From	To	Acreage
Parks and Recreation (0 *du/ac*) (0 FAR)	Residential Low *(0-4 du/ac)*	6.9
Urban Low Intensity *(.2-4 du/ac)*	Residential Low *(0-4 du/ac)*	14
Urban Low Intensity *(.2-4 du/ac)*	Mixed Use	133.3
Urban Low Intensity *(.2-4 du/ac)*	Industrial Limited *(.30 FAR)*	5.1
Urban Low Intensity *(.2-4 du/ac)*	Commercial General *(.25 FAR)*	.2
Urban High Intensity *(8.1-20 du/ac)*	Residential High *(9-12 du/ac)*	5.8
Urban High Intensity *(8.1-20 du/ac)*	Commercial General *(.25 FAR)*	3.9
Commercial *(.25 FAR)*	Commercial General *(.25 FAR)*	26.9
CDP (zoning district)	Mixed Use	9.5
	Total	**205.4**

(7) On or about December 20, 2005, during the review period, comments regarding the proposed amendment were submitted to the VGMC by Volusia County. These comments were included as part of the first RAI issued by the VGMC to clarify omissions in the original submittal enabling the continued review of Orange City's Application No. 05-75.

(8) Both Volusia County's comments and the VGMC's first RAI were submitted to Orange City on December 22, 2005. On January 24, 2006, the VGMC received the City's response to the RAI, dated January 23, 2006. VGMC's RAI with the County's comments and the City's response are attached to the Staff Report as Exhibit 2.

(9) On February 3, 2006, the VGMC issued a second RAI to obtain additional clarification of the amendment application as well as the City's response to the first RAI. The City's Attorney, William Reischmann, responded to the second RAI on February 9, 2006. In his response, Mr. Reischmann stated that Orange City had fully complied with the first Request for Additional Information and therefore refused to recognize the most recent request as valid. He also stated that the City would welcome the opportunity to meet with VGMC staff and to address any concerns as was proposed in the second Request for Additional Information. The VGMC's second RAI and Mr. Reischmann's response are attached to the Staff Report as Exhibit 3.

(10) On February 16, 2006, a meeting was scheduled for February 27, 2006, to discuss VGMC staff concerns regarding omissions and errors in both the original application and subsequent Requests for Additional Information. An agenda containing specific questions and points of clarification was forwarded to Orange City by the Commission on February 23, 2006. The meeting request and respective agenda are attached to the Staff Report as Exhibit 4.

(11) On February 27, 2006, the VGMC's professional staff met with Orange City staff, consultants, and legal council to discuss the items contained in the aforementioned agenda. The attending representatives from the City stated they would proceed with adoption hearings for the amendments contained in Orange City's VGMC Application No. 05-75 with disregard for VGMC certification.

(12) With no additional information forthcoming from the City, VGMC planning staff submitted a staff report recommending denial of the proposed amendment at the March 22, 2006, hearing. Based upon their recommendation, a request for a 60-day continuance of the application was submitted by the City on March 20, 2006. In their request for continuance, the City cited their need to work with VGMC staff and its legal counsel to resolve VGMC's need for additional information for a review of the City's pending application.

(13) On May 3, 2006, a working meeting regarding Orange City's VGMC Application No. 05-009 was held at the offices of Stenstrom, McIntosh, Colbert, Whigham, Reischmann, & Partlow, P.A. At that time specific materials needed for the accurate analysis of the proposed amendment were requested by VGMC staff. In addition, options for conditions for the certification of the proposed amendment were

discussed. The details of this meeting are contained in a summary attached to the Staff Report as Exhibit 5.

(14) On June 7, 2006, a letter was sent by VGMC staff to Orange City inquiring as to the lack of correspondence and failure by the City to supply necessary information as requested at the May 3, 2006 meeting. The June 7, 2006, letter is attached to the Staff Report as Exhibit 6.

(15) On June 20, 2006, a letter was sent by Orange City's legal staff stating that the City would not provide additional information necessary to review of the proposed amendment as agreed upon at the May 3, 2006 meeting. This June 20, 2006, letter is attached to the Staff Report as Exhibit 7.

(16) Based upon the City's failure to provide any of the requested materials within the 60-day continuance period, VGMC planners once again submitted a staff report recommending denial of the proposed amendment at the June 28, 2006, hearing due to insufficient information.

(17) At the June 28, 2006, VGMC hearing, Orange City requested a continuance of the application until the next VGMC hearing scheduled August 23, 2006. A summary of the conditions of continuance as approved by the VGMC are attached to the Staff Report as Exhibit 8. At the June 28, 2006, hearing it was agreed that only the 100 vacant acres, as described in the City's application, would be analyzed for transportation impacts. A map of the 100 vacant acres is attached to the Staff Report as Exhibit 9

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

(20) If the proposed amendments are certified, VGMC calculates the net increase in development entitlements as found in the tables below.

Properties with Existing City FLUM Designations						
From		**To**		**Acreage**	**Net Increase**	
Residential	Non-Residential	Residential	Non-Residential		Residential (DU)	Non-residential (sq. ft.)
593	0	742	0	148.3	148	0
1,250	0	1,876	0	104.2	625	0
0	257,004	0	514,008	23.6	0	257,004
				Totals	**774**	**257,004**

Annexed Properties						
From		**To**		**Acreage**	**Net Increase**	
Residential	Non-Residential	Residential	Non-Residential		Residential (DU)	Non-residential (sq. ft.)
0	0	28	0	6.9	28	0
56	0	56		14.0	0	0
533	0	667	0	133.3	133	0
20	0	0	66,647	5.1	-20	66,647
1	0	0	2,178	0.2	-1	2,178
116	0	70	0	5.8	-46	0
78	0	0	42,471	3.9	-78	42,471
0	292,941	0	292,941	26.9	0	0
0	0	0	0	9.5	0	0
				Totals	**15**	**111,296**

Total Net Increase in Development Entitlements	
Residential Dwelling Units	Non-residential Sq. Ft.
789	**368,300**

(21) If certified, the proposed FLUM amendments would result in a net entitlement increase of 789 residential dwelling units and 368,300 square feet of non-residential uses. These entitlements fall just short of the adopted Development of Regional Impact (DRI) thresholds as required in Section 380.0651 of the Florida Statutes.

(22) As specified in the Future Land Use Element of Orange City's Comprehensive Plan, the MX designation shall be allowed only where utilities and transportation system capabilities are adequate to support the uses. New development occurring within the areas designated as MX shall be reviewed and rezoned as a Planned Unit Development (PUD) that complies with all applicable requirements of the City's Land Development Code. Land uses within the City's Mixed Use area shall comply with the percentages and densities/intensities specified in the following table, included in the City's Future Land Use Element:

MIXED-USE LAND USE PERCENTAGES AND DENSITY/INTENSITY

Land Use	Minimum Percentage*	Maximum Percentage*	Maximum Density/Intensity
Single Family-Residential	20%	50%	2.05 to 5.0 du/ac
Multi-Family Residential	20%	50%	5.08 to 18 du/ac
Commercial, Industrial and Office	35%	65%	0.50 FAR
Institutional/Civic Use	15%	45%	0.35 FAR

*These mixed uses apply to the entire Mixed Use area, rather than on a parcel-by-parcel basis.

(23) Should the proposed amendments be certified, the result would be an additional 419 acres of MX designated properties within Orange City. Based on previous VGMC Resolutions, all PUDs within the MX district must be submitted to the VGMC for consistency review. This requirement allows VGMC and all adjacent jurisdictions the additional opportunity to review development/re-development of the MX portions of an amendment for specific impacts at the time of rezoning.

(24) Since the potential for Orange City's proposed Future Land Use Map amendments to negatively impact Volusia County's road network has become the primary concern associated with this application, VGMC Consistency Criteria 2 & 3, which read as follows, were the focus of the VGMC review.

Criteria 2: *The extent to which the plan, element, or plan amendment provides for area wide or regional transportation solutions;*

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;*

(25) Utilizing all the information submitted by the applicant, the VGMC used the above criteria, as stated in Volusia County Code Section 90-37(c), to determine whether the proposed future land use map amendment adversely affects intergovernmental cooperation and coordination. Upon analysis, it was determined that the proposed

amendment is inconsistent with criteria 2 & 3 as cited in Volusia County Code Section 90-37(c).

(26) Orange City and Volusia County Transportation Planning staff met to discuss transportation study methodology and potential solutions to the aforementioned issues. As a result of these meetings, the following transportation impact analysis methodology criteria were established:

(a) It was agreed that the City had resolved the Florida Department of Transportation (FDOT) concerns along US 17/92, SR 472, and Interstate 4. Given this finding, the City's transportation analysis will focus on the County/City transportation network.

(b) A transportation analysis of the proposed amendment's one hundred (100) vacant acres, as described in the City's application, will be done under three (3) scenarios. They are as follows:

(i) 100 acres – Commercial/Retail (0.5 FAR) [DCA worst case – highest used

(ii) 100 acres – Commercial/Retail (0.25 FAR) [City worst case – historical FAR

(iii) 100 acres – Mixed Use

- Parcels A+B+C (67 acres) @ Commercial/Retail (0.25 FAR)
- Parcel D (1.7 acres) @ multi-family (proposed Liberty Square)
- Parcels E+F (30.6 acres) @ single family residential

(c) Entitlements for the existing FLUM designation will be subtracted from the entitlements for the proposed FLUM designation to determine net increase in trips. Only new trips will be analyzed on the transportation network. This is similar to FDOT methodology.

(d) The City's traffic engineer will incorporate vested trips for the Victoria Park DRI and SWAC DRI (Phase I only 45,500 trips).

(e) Planning horizon will be both 2010 (City comprehensive plan) and 2014 (Department of Community Affairs).

(f) Historical traffic counts and growth rates were provided to the City by the County. It was agreed that the City's transportation engineer will use 2004 AADT as the start year. Also, it was determined that a 2.0% minimum growth rate would be used on all transportation networks.

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF INCONSISTENCY.

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 on the lack of consistency with VGMC criteria item (2), the Volusia Growth Management Commission concludes that the amendment, as proposed, is not consistent with the plans of affected jurisdictions, and further concludes that the proposed plan amendment would adversely impact adjacent jurisdictions based on the criteria of consistency as established in Volusia County Code. Such a conclusion results in a recommendation of denial.

B. However, there are conditions that may be placed upon the certification of this amendment, such that Application (VGMC No. 2005-075) and the comprehensive plan amendment contained therein can be conditionally certified consistent. The Volusia Growth Management Commission therefore elects to approve VGMC Application No. 2005-075, with conditions as follows:

1. Adoption of the proposed amendment shall require any future development under the Mixed Use (MX) FLUM designation to be processed as a Planned Development and include details regarding the proposed use on the subject property. The proposed Planned Development will be subject to review by both the VGMC and Volusia County as required by VGMC Resolution 89-04 and 89-05.

2. As adopted in the Orange City Comprehensive Plan, the following table detailing the mixture and distribution of land uses with the Mixed Use (MX) FLUM designation shall be implemented and all property proposed to be MX as part of this application shall be included as part of the City's application of this table, as it relates to all properties within the City of Orange City designated as MX:

MIXED-USE LAND USE PERCENTAGES AND DENSITY/INTENSITY

Land Use	Minimum Percentage*	Maximum Percentage*	Maximum Density/Intensity
Single Family-Residential	20%	50%	2.05 to 5.0 du/ac
Multi-Family Residential	20%	50%	5.08 to 18 du/ac
Commercial, Industrial and Office	35%	65%	0.50 FAR
Institutional/Civic Use	15%	45%	0.35 FAR

*These mixed uses apply to the entire Mixed Use area, rather than on a parcel-by-parcel basis.

3. Within one (1) year from the date of adoption of this Resolution, Orange City shall enter into an interlocal agreement with Volusia County to identify appropriate transportation review methodologies and necessary financially feasible funding strategies for roadway improvements where Orange City's developments are anticipated to significantly and adversely impact County and State roadways. The determination of financial feasibility for any necessary funding strategies shall be as provided in Sections 163.3177(2) and (3), Florida Statutes. An executed copy of the interlocal agreement shall be submitted to the VGMC to document compliance with this condition.

4. Within one (1) year from the date of adoption of this Resolution, Orange City will implement a concurrency management system to track approved development trips on Federal, State, County, and City roadways to ensure Level of Service standards do not significantly degrade below their adopted Level of Service standard.

5. Approved development trips on Federal, State, and County roads will be provided to the surrounding local jurisdictions and the Volusia County MPO, if requested.

C. Any proposed changes or amendments to Orange 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.

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 unenforceable.

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

RESOLVED this 23rd day of August, 2006.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Gerald F. Brandon
Gerald Brandon, Chairman

ATTEST:

Joan Lee, Secretary

FILED WITH THE SECRETARY THIS 23rd DAY OF AUGUST, 2006.

Merry Chris Smith, VGMC Coordinator

RESOLUTION 2006-05

A RESOLUTION OF THE VOLUSIA GROWTH MANAGEMENT COMMISSION; MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW; CERTIFYING THE APPLICATION SUBMITTED BY THE CITY OF DELAND, FLORIDA, AS CONSISTENT; PROVIDING 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 January 31, 2006, the Volusia Growth Management Commission (VGMC) received a Large-Scale Comprehensive Plan Amendment Application for Consistency Certification from the City of DeLand. The City's application consists of eleven (11) separate amendments which comprise its 2006-1 Large-Scale Amendment package.

(2) In response to comments on roadway capacity from Volusia County and school capacity from the Volusia County School Board, the original application was revised on May 31, 2006, to propose two (2) new Future Land Use designations: *Urban Low Intensity (ULI)*, which mirrors Volusia County's ULI designation (4 du/acre), and *Business Retail (BR)*, a less intense retail commercial category (0.2 FAR) than the City's originally-proposed Highway Commercial designation (0.7 FAR). By applying these new designations to some of the proposed amendments, it appears that the potential impacts to public infrastructure will be equal to or less than the impacts under the existing land use designations and will eliminate many of the concerns expressed by the County and the School Board. The proposed amendments, as revised, are summarized below:

1. **VGMC Item A – Paspalakis Amendment** **Case:** LU-06-01 **Location:** Southwest corner of Beresford Avenue and SR 15A **Size:** 2.39 acres **Future Land Use Designation** **From:** Volusia County Commercial (0.35)* **To:** City of DeLand Business Retail (0.2 FAR)	**Adjacent Existing Land Uses**	
	North:	Vacant
	South:	Vacant
	East:	Convenience Store, Vacant
	West:	SF Residential, Church
	Adjacent Future Land Use Designations	
	North:	County Commercial
	South:	City Highway Commercial
	East:	City Highway Commercial
	West:	County Urban Low Intensity

2. **VGMC Item B – Woodland Crossings Amendment** **Case:** LU-06-02 **Location:** Northwest corner of Woodland Boulevard and Violetwood Road **Size:** 9.14 acres **Future Land Use Designation** **From:** Volusia County Commercial (0.35)* **To:** City of DeLand Business Retail (0.2 FAR)	**Adjacent Existing Land Uses**	
	North:	Commercial, SF Residential
	South:	Commercial, Agricultural
	East:	Commercial
	West:	SF Residential
	Adjacent Future Land Use Designations	
	North:	County Commercial and Urban Medium Intensity
	South:	County Commercial and Urban Low Intensity
	East:	City Highway Commercial
	West:	County Urban Low Intensity
3. **VGMC Item C –Volusia Groves and Cattle Company Amendment** **Case:** LU-06-03 **Location:** Northeast of the intersection of Taylor Road & Martin Luther King Boulevard **Size:** 113 acres **Future Land Use Designation** **From:** Volusia County Rural (1 du/ac) and Urban Low Intensity (4 du/ac)** **To:** City of DeLand Low Density Residential (5.8 du/ac)	**Adjacent Existing Land Uses**	
	North:	Vacant
	South:	Vacant
	East:	Vacant
	West:	Vacant
	Adjacent Future Land Use Designations	
	North:	City Low Density
	South:	City New Community Development
	East:	County Rural
	West:	City Low Density
4. **VGMC Item D – Cipparone Amendment** **Case:** LU-06-04 **Location:** South of Orange Camp Road, west of Waller Road. **Size:** 114.9 acres **Future Land Use Designation** **From:** Volusia County Urban Low (4 du/ac)**, Urban Medium Intensity (8 du/ac)*** & Rural (1 du/ac) **To:** City of DeLand Low Density Residential (5.8 du/ac)	**Adjacent Existing Land Uses**	
	North:	SF Residence, Church
	South:	SF Subdivision, Golf Course, Vacant
	East:	SF Residence
	West:	Vacant
	Adjacent Future Land Use Designations	
	North:	County Urban Low Intensity
	South:	County Urban Medium Intensity, City New Community Development
	East:	County Rural
	West:	County Urban Low Intensity, County Urban Medium Intensity

5. **VGMC Item E – Marotte Amendment** **Case:** LU-06-05 **Location:** 1740, 1710, and 1746 West Minnesota Avenue **Size:** 17.1 acres **Future Land Use Designation** **From:** Volusia County Urban Low Intensity (4 du/ac)** **To:** City of DeLand Urban Low Intensity (4 du/ac)**	**Adjacent Existing Land Uses**	
	North:	SF Residential
	South:	Auto Junkyard, Fernery
	East:	SF Residential, Vacant
	West:	SF Residential
	Adjacent Future Land Use Designations	
	North:	County Urban Low Intensity
	South:	County Rural Residential
	East:	County Urban Low Intensity, City Low Density Residential
	West:	County Urban Low Intensity, County Rural Residential
6. **VGMC Item F – Vincik Amendment** **Case:** LU-06-06 **Location:** 1480 South Adelle Avenue **Size:** 7.42 acres **Future Land Use Designation** **From:** Volusia County Urban Medium Intensity (8 du/ac)*** **To:** City of DeLand High Density Residential (16 du/ac)	**Adjacent Existing Land Uses**	
	North:	SF Residential
	South:	Church, Retention, Vacant
	East:	SF Residential
	West:	Commercial
	Adjacent Future Land Use Designations	
	North:	County Urban Medium Intensity
	South:	County Urban Medium Intensity, County Commercial
	East:	County Urban Medium Intensity, City Highway Commercial
	West:	County Urban Medium Intensity
7. **VGMC Item G – Beresford Woods Amendment** **Case:** LU-06-07 **Location:** Northeast corner of south Spring Garden Avenue and Gayle Drive **Size:** 86.90 acres **Future Land Use Designation** **From:** Volusia County Urban Low Intensity (4 du/ac)** **To:** City of DeLand Urban Low Intensity (4 du/ac)**	**Adjacent Existing Land Uses**	
	North:	SF Residential, Elementary School; Vacant
	South:	Vacant, SF Residential
	East:	SF Residential, Retention, Commercial
	West:	SF Residential

	Adjacent Future Land Use Designations	
	North:	County Urban Low Intensity, City Commercial, City Medium Intensity
	South:	County Urban Low Intensity
	East:	County Urban Low Intensity, County Commercial
	West:	County Urban Low Intensity
8. <u>VGMC Item H – Oak Hammock Amendment</u> **Case:** LU-06-08 **Location:** West of South Spring Garden Avenue and north of West Beresford Avenue **Size:** 40 acres **Future Land Use Designation** **From:** Volusia Urban Low Intensity (4 du/ac)** **To:** City of DeLand Urban Low Intensity (4 du/ac)**	**Adjacent Existing Land Uses**	
	North:	Vacant
	South:	SF Residential
	East:	SF Residential
	West:	SF Residential
	Adjacent Future Land Use Designations	
	North:	County Urban Low Intensity
	South:	County Rural
	East:	County Urban Low Intensity, County Rural
	West:	County Urban Low Intensity
9. <u>VGMC Item I – Taylor Estates Amendment</u> **Case:** LU-06-09 **Location:** southwest corner of Taylor Road and Adelle Avenue **Size:** 91.70 acres **Future Land Use Designation** **From:** Volusia County Rural (1 du/ac) **To:** City of DeLand Low Density Residential (5.8 du/ac)	**Adjacent Existing Land Uses**	
	North:	SF Residential
	South:	SF Residential, Vacant
	East:	SF Residential, Vacant
	West:	SF Residential
	Adjacent Future Land Use Designations	
	North:	County Urban Medium Intensity, County Rural
	South:	County Rural
	East:	County Rural
	West:	County Rural
10. <u>VGMC Item J – Epic Theatres Amendment</u> **Case:** LU-06-10 **Location:** Northeast corner of SR 15A and CR 92 **Size:** 23.259 acres **Future Land Use Designation** **From:** Volusia County Urban Medium Intensity (8 du/ac)*** **To:** City of DeLand Business Retail (0.2 FAR)	**Adjacent Existing Land Uses**	
	North:	Agricultural, Commercial, SF Residential
	South:	Commercial, Vacant
	East:	Vacant
	West:	Commercial, Vacant

	Adjacent Future Land Use Designations	
	North:	County Urban Low Intensity
	South:	County Rural
	East:	County Urban Low Intensity
	West:	County Urban Low Intensity
11. VGMC Item K – Acorn Amendment **Case:** LU-06-011 **Location:** 1120 N. Stone Street **Size:** 38.5 acres **Future Land Use Designation** **From:** Volusia County Urban Low Intensity (4du/ac)** and Commercial(0.35)* **To:** City of DeLand Low Density Residential	**Adjacent Existing Land Uses**	
	North:	Vacant
	South:	Hospital
	East:	Assisted Living Facility Nursing Rehab Center
	West:	SF Residential
	Adjacent Future Land Use Designations	
	North:	County Urban Low Intensity
	South:	County Commercial
	East:	City Mixed Office
	West:	City Low Density

*Per the Revised Traffic Impact Analysis prepared by Lassiter Transportation Group, Inc., dated May 2006, Volusia County's maximum commercial density value was used. The FAR value of 0.35 was determined to be a fair, conservative assumption, considering space requirements for setbacks, green space requirements, parking facilities, access drives, etc.

**It should be noted that the ULI Future Land Use designation, in both Volusia County and the City of DeLand, may also allow neighborhood convenience uses and individual office buildings as transitional uses that meet the Comprehensive Plan's location criteria.

*** It should be noted that Volusia County's UMI Future Land Use designation allows neighborhood business areas and office development that meet the Comprehensive Plan's location criteria.

Exhibit 1 to the VGMC Staff Report for Case No. 2006-014 dated June 16, 2006, depicts the location of each amendment within the VGMC Application No. 2006-14. The complete application submitted by the City of DeLand and the VGMC Staff Report for Case No. 2006-014 dated June 16, 2006, including VGMC Exhibits 1 through 6, inclusive, are on file and are available to the public at the Volusia Growth Management Commission Office located at 140 South Beach Street, Suite 305, Daytona Beach, Florida. Within the staff report, the following exhibits are referenced:

VGMC Exhibit 1: Location Map, prepared by Lassiter Transportation Group, Inc.
VGMC Exhibit 2: First Request for Additional Information (RAI), dated March 2, 2006.
VGMC Exhibit 3: Second RAI, dated March 6, 2006.

VGMC Exhibit 4: Letter from Volusia County Schools, dated May 15, 2006.
VGMC Exhibit 5: Trip Generation Comparison, prepared by Lassiter Transportation Group, Inc.
VGMC Exhibit 6: School Capacity Mitigation Agreement for the Acorn Amendment, dated June 13, 2006.

(3) The VGMC planning staff reviewed the application in accordance with the criteria expressly defined in Volusia County Code Section 90-31 through Section 90-44. During the review period, the VGMC planning staff issued a Request for Additional Information on March 2, 2006 (*Exhibit 2*). The City of DeLand responded to the RAI on March 8, 2006.

(4) On March 6, 2006, the VGMC planning staff issued a second RAI based on comments received from Volusia County, dated March 1, 2006 (*Exhibit 3*). The City responded to the RAI on April 27, 2006; however, the response did not include a revised traffic impact analysis, as requested by Volusia County, and was, therefore, considered incomplete.

(5) On May 31, 2006, the City submitted additional information which included a revised traffic impact analysis, dated May 2006, prepared by Lassiter Transportation Group, Inc. The City's response included a request for a June 28, 2006, VGMC public hearing for Application No. 2006-14.

(6) VGMC planning staff used all information submitted by the City of DeLand when it prepared the VGMC planning staff report.

(7) The scope of VGMC's authority is to evaluate the impacts of proposed amendments to determine consistency with the plans of adjacent jurisdictions. Therefore, the following section evaluates the impacts of the DeLand Application No. 2006-14 on adjacent jurisdictions. Pursuant to Volusia County Code Section 90-37(c), the following criteria were used in reviewing the proposed future land use amendments for VGMC Consistency Certification:

(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.

(8) Utilizing all the information submitted by the City of DeLand, the VGMC planning staff used the above factors as stated in Volusia County Code Section 90-37(c) to determine whether the plan amendments proposed by VGMC Application No. 2006-14 aversely impact intergovernmental cooperation and coordination.

As to Criteria No. 1:

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

(9) According to information provided by City staff, public water and sewer capacity are available to service the proposed amendments. The capacity of DeLand's potable water system is 6.57 MGD; however, SJRWMD is currently reviewing an increase to 8.2 MGD. The current capacity of the City's wastewater treatment facilities is 6.0 MGD, with a current daily usage of 2.8 MGD.

(10) Water service is available adjacent to the east side of the Paspalakis Property (*Item A*) via SR 15A; however, the City of DeLand does not currently provide sewer service to the property.

(11) The City of DeLand does not currently provide potable water or sewer service to the Woodland Crossings (*Item B*), Volusia Groves and Cattle Company (*Item C*), Cipparone (*Item D*), Beresford Woods (*Item G*), Oak Hammock (*Item H*), Taylor Estates (*Item I*), Epic Theatres (*Item J*) or Acorn (*Item K*) Amendments.

(12) Water service is available adjacent to the north side of the Marotte Property (*Item E*) and the Vincik Property (*Item F*) via Minnesota Avenue; however, the City of DeLand does not currently provide sewer service to these properties.

(13) While capacity is available in the City's utility system, the infrastructure to connect the properties relating to the amendment properties is not available to the majority of the amendment properties proposed by VGMC Application No. 2006-14. For those properties not currently serviced with potable water and/or sewer, line extensions will be required to be installed by the developers of the subject properties. As part of the future development review process, the developer of each property will be required to extend utility infrastructure to the site at the expense of the developer.

(14) As described above, adequate capacity is available to serve the proposed developments. The specific potable water and wastewater demands for each individual amendment will be dependent on the final use of each property. The final concurrency evaluation will be made once the proposed uses are identified. The City will monitor the potable water treatment and delivery system to ensure that adequate capacity continues to be available.

(15) Therefore, as proposed, VGMC Application 2006-14 is consistent with Criteria (1) as cited in Volusia County Code Section 90-37(c).

As to Criteria Nos. 2 and 3, collectively:

(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;

(16) On March 1, 2006, Volusia County submitted comments to the VGMC requesting that the City provide a revised traffic impact analysis (TIA) for each amendment included in VGMC Application No. 2006-14. In response, a revised TIA, dated May 2006 was prepared by Lassiter Transportation Group, Inc., and was distributed to Volusia County and to the VGMC planning staff.

(17) The TIA compares potential trip generation of the existing land use designations with the proposed land use designations under four different time frames. The first compares trips on the current roadways, the second compares at build-out, the third looks at the five year program impacts, and the fourth looks at the 2020 impacts. *Exhibit 5,* prepared by Lassiter Transportation Group, Inc., provides a trip generation comparison for the existing and proposed Future Land Use Designations.

(18) Pursuant to the TIA and information provided by the City of DeLand, eight (8) of the eleven (11) amendments included within VGMC Application No. 2006-14 result in no changes in traffic projections or result in decreases in allowable daily trips. For example, the Paspalakis (*Item A*), Woodland Crossings (*Item B*) and Acorn (*Item K*) Amendments are not anticipated to generate additional trips due to the similarity of the proposed Future Land Use designations to the current Volusia County designations and, therefore, were not included in the revised TIA.

(19) As described previously, the City of DeLand is proposing the adoption of a Future Land Use designation that would duplicate the Volusia County's Urban Low Intensity designation and would be applied to the Marotte, Beresford Woods and Oak Hammock Amendments (*Items E, G* and *H*). Since this new category would allow for the same density as the current County designation (4 du/acre), there would be no increase in the projected number of trips associated with these amendments.

(20) In comparing Future Land Use designations, the most intensive scenarios must be used in the analysis, per the requirement of FDCA. For these two amendments, when the allowable commercial development is added along with the residential development, the existing Future Land Use designations of *Volusia County Urban Low and Medium Intensity* could actually generate more traffic than the requested City Future Land Use designation of *Low Density Residential* and *High Density Residential.* Therefore, upon reevaluating the Cipparone (*Item D*) and Vincik (*Item F*) Amendments, City staff determined that additional analysis would not be necessary. Consequently, these two (2) amendments (*Items D and F*) were not included in the revised TIA.

(21) Analysis by the City of DeLand and Lassiter Transportation Group, Inc., determined that only three (3) of the amendments within VGMC Application No. 2006-14 present potential increases in projected daily traffic: *Items C, I* and *J.* The Volusia Groves and Cattle Company, Taylor Estates and Epic Theatres Amendments were reevaluated using Volusia County's methodology. A summary of the analysis for each amendment is provided below:

(a) **Volusia Groves and Cattle Company Amendment (*Item C*):** SR 44, between Blue Lake Avenue and Summit Avenue, is the only facility that is anticipated to exceed capacity in the buildout year of 2011; however, the 2-lane extension of Beresford Avenue to SR 44 is planned between 2011 and 2025 (Volusia County MPO Long Range Transportation Plan) and will provide a parallel facility to ease the capacity issue. At the time of site plan or plat review, the current capacity of SR 44 and the status of the Beresford Avenue extension will be determined along with any applicable corrective measures.

(b) **Taylor Estates (*Item I*):** US 17/92 between Beresford Avenue and SR 472, SR 15A between SR 44 to Beresford Avenue, and McGregor Road between Oak Hill Drive to US 17/92, are the three (3) facilities that exceed capacity between buildout (2011) and 2020. However, the Volusia County MPO's 2025 Long-Range Transportation Plan reveals plans for a commuter rail and commuter rail bus service, which is likely to relieve some traffic on US 17/92 and SR 15A. Furthermore, a DeLand Intermodal Center at US 17/92 and Euclid Avenue will provide new roadways to the planned Intermodal facility; this alternate route will provide additional relief for US 17/92 and SR 15A traffic. In addition, the Westside Parkway is planned for an extension parallel to US 17/92, which will provide alternate parallel capacity. Although these projects may help with the roadway capacity issue, future development of the subject property should include an interlocal agreement with Volusia County to determine the appropriate funding mechanism to ensure that all adverse impacts to adjacent jurisdictions are addressed.

(c) **Epic Theatres Amendment (*Item J*):** Amelia Avenue between Pennsylvania Avenue and Ohio Avenue, and Plymouth Avenue between Florida Avenue and US 17/92, are the two facilities that exceed capacity at buildout (2011) and 2020. According to the Volusia County MPO 2025 Long-Range Transportation Plan, Kepler Road is planned for widening, which is anticipated to intercept some of the south-to-east traffic as an alternate route to Amelia Avenue. Per the TIA, the over-capacity condition on Plymouth Avenue only occurs for one block and suggests a proportionate fair share agreement be established at the time of development approval.

(22) Although the roadway improvement projects described above will help alleviate the roadway capacity issues associated with the Volusia Groves and Cattle Company (*Item C*), Taylor Estates (*Item I*) and Epic Theatres (*Item J*) Amendments, future development of the subject properties should include interlocal agreements with Volusia County to determine the appropriate funding mechanism to ensure that all adverse impacts to adjacent jurisdictions are addressed.

(23) Based on the information submitted by the City of DeLand, VGMC Application No. 2006-14 provides for areawide or regional transportation solutions and, consequently, is not anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of the City of DeLand. Therefore, as proposed, Application No. 2006-14 is consistent with VGMC criteria (2) and (3) as cited in Volusia County Code Section 90-37(c).

As to Criteria No. 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;

(24) Pursuant to information provided by the City of DeLand, the Paspalakis, Woodland Crossings, Cipparone, Marotte, Vincik, Beresford Woods, Oak Hammock, Taylor Estates, Epic Theatres, and Acorn Properties (*Items A*, B, *D, E, F, G, H, I, J* and *K*) do not contain any wetlands, nor do they lie within the 100-year floodplain.

(25) The staff report received from the City and included as part of the City's VGMC Application indicates that, according to aerial photography and the St. Johns River Water Management District's 2000 wetland cover data, the Volusia Groves and Cattle Company Property (*Item C*) contains a small surface body of water in the north central portion of the property, with areas of wetland present. Portions of the property are within the 100-year floodplain. A detailed wetland analysis will be required at the time of development and any flood prone areas will be identified and addressed as part of the typical development process already established.

(26) Therefore, it does not appear that the Future Land Use Map amendments proposed as part of VGMC Application No. 2006-14 will cause significant adverse impacts on natural resources beyond the boundaries of the City of DeLand.

(27) Consequently, VGMC Application No. 2006-14 is consistent with Criteria (4) as cited in Volusia County Code Section 90-37(c).

As to Criteria No. 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

(28) Information provided by the City of DeLand suggests that the City has continued to work with the Volusia County School Board towards a means of mitigating the potential impacts to the area schools. *Exhibit 4* to the planning staff report is a letter from Ms. Saralee Morrissey, dated May 15, 2006, which details the School Board's position on the proposed amendments. The letter states that if an application is not increasing the residential density of a property, the School District will not object to the amendment. The letter also indicates, however, that the School District cannot support land use map amendments which increase residential densities until sites and plans to address the projected growth have been identified.

(29) Since no density increase is proposed for Items *E* (Marotte), *G* (Beresford Woods) and *H* (Oak Hammock), these amendments are not expected to generate adverse impacts on Volusia County's public schools. Therefore, *Items E*, *G* and *H* are consistent with Criteria (5) as cited in Volusia County Code Section 90-37(c).

(30) In DeLand VGMC Application No. 2006-14, five (5) of the eleven (11) amendments propose an increase residential density: the Volusia Groves and Cattle Company Amendment (*Item C*), the Cipparone Amendment (*Item D*), the Vincik Amendment (*Item F*), the Taylor Estates Amendment (*Item I*) and the Acorn Amendment (*Item K*). These amendments would each allow a maximum density of 5.8 du/acre, with the exception of the Vincik Amendment (*Item F*) which would allow a maximum density of 16 du/acre.

(31) The Volusia County School Board has identified that two (2) new elementary schools and a middle school will be necessary to accommodate the projected growth for the DeLand area. The School Board also indicated that a site for an elementary school has been obtained to serve the northwestern section of the City of DeLand, which will help address the overcrowding of schools on the west side of the City, including the impacts of the Vincik Amendment (*Item F*), the Taylor Estates Amendment (*Item I*) and the Acorn (*Item K*) Amendment. Since an elementary school site has been identified and will aid in addressing school overcrowding, *Items F, I* and *K* can be considered consistent with Criteria (5) as cited in Volusia County Code Section 90-37(c).

(32) However, to address overall capacity issues, including the need for an additional middle school, School District staff has requested individual mitigation agreements between the applicants/developers of the Vincik (*Item F*), Taylor Estates (*Item I*) and the Acorn (*Item K*) Amendments and the School Board, as these

Amendments allow for an increase in residential density. It should be noted that per Volusia County's School Impact Fee Study, multi-family development has a lower student generation rate per household than single-family development. As a result, it is possible that development of the Vincik property (*Item F*) may not increase the projected number of students generated by this amendment.

(33) On June 15, 2006, the VGMC Planning Staff was informed by the Volusia County School District that a capacity mitigation agreement has been executed for the Acorn Amendment (*Item K*). Refer to *Exhibit 6* of the VGMC planning staff report for a signed copy of the agreement. To reinforce the School District's request, the Commission recommends a Condition of Approval for the Vincik (*Item F*) and Taylor Estates (*Item I*) Amendments requiring each applicant/developer to enter into an individual capacity mitigation agreement with the School Board. However, if it is determined at the time of site plan approval that the number of students generated by development of the Vincik Property (*Item F*) will be fewer than or equal to the number of students potentially generated by development under the existing County UMI Future Land Use designation, this condition shall not apply.

(34) With regard to the Volusia Groves and Cattle Company (*Item C*) and the Cipparone (*Item D*) Amendments, Volusia County School District staff has expressed concern regarding the lack of an elementary school site on the east side of DeLand. Although the Volusia School Board has been searching for a site since January 2005, to date, no timeframe or funding for a new elementary school on the east side has been established. Until an elementary school site is acquired on the east side of the City, the School Board has indicated that it could not support any Future Land Use Map amendments that increases residential density on the east side of DeLand, including the Volusia Groves and Cattle Company Amendment (*Item C*) and the Cipparone Amendment (*Item D*). Until such time that the Volusia County School Board has obtained an elementary school site on the east side of the City of DeLand to address capacity issues in that area, these amendments are premature. Therefore, Items C and D, as proposed, are inconsistent with Criteria (5) as cited in Volusia County Code Section 90-37(c). However, if it is determined at the time of site plan approval that residential development on the subject property will have a density greater than or equal to the density allowed under the existing County Land Use designation, this condition shall not apply.

As to Criteria No. 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.

(35) 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. As described in VGMC Criteria (6) as listed above, no such interlocal agreement exists at this time. Therefore, this criterion is not applicable to reviewing the consistency of the proposed plan amendments.

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF CONSISTENCY.

A. The VGMC planning staff reviewed the City of DeLand VGMC Application (VGMC No. 2006-14) in accordance with the criteria expressly defined in Volusia County Code Section 90-37. To ensure that intergovernmental coordination and cooperation is not adversely affected and to reinforce the commitments that have been made by the City of DeLand with regard to VGMC *Items C, D, F, I,* and *J*, the VGMC recommends that conditions be placed upon the certification of this application, such that VGMC Application No. 2006-14 and the comprehensive plan amendments contained therein, are certified with the following conditions:

1. **Condition 1 relating to the Volusia Groves and Cattle Company Amendment (Item C):** Within one year of the date of adoption of this Resolution, the City of DeLand shall enter into an interlocal agreement with Volusia County to identify appropriate transportation review methodologies and necessary financially feasible funding strategies for roadway improvements where development that is attributable to this amendment is anticipated to significantly and adversely impact County and State roadways. The determination of financial feasibility for any necessary funding strategies shall be as provided in Section 163.3177(2) and (3), F.S. An executed copy of the interlocal agreement shall be submitted to the VGMC to document compliance with this condition.

2. **Condition 2 relating to the Volusia Groves and Cattle Company Amendment (Item C):** To provide funding for improvements to impacted roadways, the developer of the Subject Property shall enter into a Proportionate Share Agreement, or similar type of agreement, with the City of DeLand and Volusia County prior to receipt of any building permits for the Subject Property.

3. **Condition 3 relating to the Volusia Groves and Cattle Company Amendment (Item C):** No development approval shall be granted for the Subject Property until such time that the Volusia County School Board has obtained an elementary school site on the east side of the City of DeLand to address capacity issues in this area. However, if it is determined at the time of site plan approval that residential development on the Subject Property will have a density less than or equal to the density allowed under the existing County Land Use designation, this condition shall not apply.

4. **Condition 4 relating to the Cipparone Amendment (Item D):** No development approval shall be granted for the Subject Property until such time that the Volusia County School Board has obtained an elementary school site on

the east side of the City of DeLand to address capacity issues in this area. However, if it is determined at the time of site plan approval that residential development on the Subject Property will have a density less than or equal to the density allowed under the existing County Land Use designation, this condition shall not apply.

5. **Condition 5 relating to the Vincik Amendment (Item F):** Prior to any development approval for the Subject Property, the developer shall enter into a capacity mitigation agreement with the Volusia County School Board. An executed copy of the agreement shall be submitted to the City of DeLand and to the VGMC to document compliance with this condition. However, if it is determined at the time of site plan approval that the number of students generated by development of the Vincik Property (*Item F*) will be fewer than or equal to the number of students potentially generated by development under the existing County UMI Future Land Use designation, this condition shall not apply.

6. **Condition 6 relating to the Taylor Estates Amendment (Item I):** Prior to any development approval for the Subject Property, the developer shall enter into a capacity mitigation agreement with the Volusia County School Board. An executed copy of the agreement shall be submitted to the City of DeLand and to the VGMC to document compliance with this condition.

7. **Condition 7 relating to the Taylor Estates Amendment (Item I):** Within one year of the date of adoption of this Resolution, the City of DeLand shall enter into an interlocal agreement with Volusia County to identify appropriate transportation review methodologies and necessary financially feasible funding strategies for roadway improvements where development that is attributable to this amendment is anticipated to significantly and adversely impact County and State roadways. The determination of financial feasibility for any necessary funding strategies shall be as provided in Section 163.3177(2) and (3), F.S. An executed copy of the interlocal agreement shall be submitted to the VGMC to document compliance with this condition.

8. **Condition 8 relating to the Taylor Estates Amendment (Item I):** To provide funding for improvements to impacted roadways, the developer of the Subject Property shall enter into a Proportionate Share Agreement, or similar type of agreement, with the City of DeLand and Volusia County prior to receipt of any building permits for the Subject Property.

9. **Condition 9 relating to the Epic Theatres Amendment (Item J):** Within one year of the date of adoption of this Resolution, the City of DeLand shall enter into an interlocal agreement with Volusia County to identify appropriate transportation review methodologies and necessary financially feasible funding strategies for roadway improvements where development that is attributable to this amendment is anticipated to significantly and adversely impact County and State roadways. The determination of financial feasibility for any

necessary funding strategies shall be as provided in Section 163.3177(2) and (3), F.S. An executed copy of the interlocal agreement shall be submitted to the VGMC to document compliance with this condition.

10. **Condition 10 relating to the Epic Theatres Amendment (Item J):** To provide funding for improvements to impacted roadways, the developer of the Subject Property shall enter into a Proportionate Share Agreement, or similar type of agreement, with the City of DeLand and Volusia County prior to receipt of any building permits for the Subject Property.

B. Any proposed changes or amendments be made or adopted to the City of DeLand'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.

C. 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 unenforceable.

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

RESOLVED this 28th day of June, 2006.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Mark H. Rakowski
Mark H. Rakowski, Chairman

ATTEST:

Joan Lee
Joan Lee, Secretary

FILED WITH THE SECRETARY THIS 28th DAY OF JUNE, 2006.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2006-04

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

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

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

(1) VGMC held a Public Hearing for the City of Deltona Application No. 05-034 on April 26, 2006, at which time final action on the Pinder amendment (*Item B* of the application) was continued until the VGMC Hearing scheduled for May 24, 2006, to allow the Property Owner time to provide additional information related to natural resources and traffic capacity, as requested by the Commission.

(2) The Pinder amendment proposed changing the designation of approximately 142 acres of annexed land, generally located northeast of Pine Ridge High School at 1200 Osteen Cemetery Road, from Volusia County Forestry Resource (93.3 acres) and Volusia County Agricultural Resource (49 acres) to City of Deltona Low Density Residential (117 acres) and Conservation (25.3 acres).

(3) In preparation for the April 26, 2006, VGMC Public Hearing, Miller, Sellen, Conner & Walsh (MSCW), planning consultant to the VGMC, issued a staff report, dated April 10, 2006, which recommended the following conditions of approval for the Pinder amendment:

- To promote compatibility with the rural character of the surrounding area, residential development on the Pinder Property shall be limited to a maximum density of 1 du/acre.

- The Pinder Property will necessitate utilities and access improvements that the School Board has designed and planned for Elementary "Y". Prior to or concurrent with construction occurring on the Pinder Property, the developer of the Pinder Property shall execute a developer's agreement with the City of Deltona and Volusia County Schools addressing the construction of these improvements. It should be noted that per a letter dated April 26, 2006, from Jason W. Searl, P.A., attorney for the Property Owner, an Infrastructure Installment and Reimbursement Agreement with the School Board is being finalized to address the construction of certain utilities and access improvements.

(4) In response VGMC planning staff's recommendations, Jason W. Searl, P.A., submitted a letter dated April 26, 2006, requesting a maximum density of 2.85 du/acre on the Pinder Property. The request was presented to the VGMC for consideration at the April 26, 2006, Public Hearing. Ron Paradise spoke on behalf of Volusia County Planning Staff to confirm that the County would not object to the proposed maximum density of 2.85 du/acre.

(5) The Commission voted to continue final action on the Pinder amendment and to waive to the 20-Day Rule for the applicant to submit materials to be considered at the May 24, 2006, VGMC Public Hearing. The letter, dated April 28, 2006, was also submitted to the VGMC by Jason W. Searl, P.A to reiterate the agreements made at April 26, 2006, hearing.

(6) The following materials were submitted on behalf of the Pinder Property owner on May 10, 2006:

- A transmittal from Jason W. Searl, P.A., dated May 10, 2006, which identified the consultants who would be present at the May 24, 2006, public hearing and included various City maps and Volusia County Future Land Use and Zoning information.

- A traffic impact analysis (TIA) for the Pinder amendment prepared by Ghyabi and Associates.

(7) The complete application submitted by the City of Deltona, VGMC 05-034, along with a copy of the VGMC Planning Staff Reports are on file and available at the Volusia Growth Management Commission Office located at 140 S. Beach Street, Suite #305, Daytona Beach, Florida. Included in the application are the County's staff reports, the Department of community Affairs Objections, Recommendations and Comments report, and letters submitted by interested parties as well as other background documentation. The VGMC Planning Staff Report summarizes the full application on file in addition to providing analysis to review the application for consistency as required.

(8) Utilitzing the supplemental information submitted by the applicant related to traffic impacts, natural resources, and land use compatibility submitted to or collected by the VGMC planning staff, the following factors, as stated in Volusia County Code Section 90-37(c), were used to determine whether the proposed plan amendments adversely affect intergovernmental cooperation and coordination. These factors area as follows:

<u>For Traffic Impacts:</u>

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

VGMC 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;*

(a) A traffic impact analysis (TIA) for the Pinder amendment, dated May 2006, was prepared for the Property Owner by Ghyabi & Associates, Inc. The TIA submitted used the following assumptions:

Scenario	Land Use Designation	Maximum Allowed Density	ITE Land Use Code	Size of Development		Daily Trips
				Acres	Allowed Development	
Adopted	County Agricultural Resource	1 du/10 ac	210	49	5 units	48
	County Forestry Resource	1 du/20 ac	210	93.3	5 units	48
Total Trip Generation from Adopted FLU						**96**
Adopted	County Agricultural Resource	1 du/10 ac	210	49	5 units	48
	County Forestry Resource*	1 du/5 ac	210	93.3	19 units	182.4
Total Trip Generation from Adopted FLU (caveat)						**230**
Proposed	City Low Density Residential	2.85 du/ac	210	117	333 units	3,197
	City Conservation	1 du/25 ac	210	25.3	1 unit	10
Total Trip Generation from Proposed FLU Amendment						**3,206**
Change in Daily Trips						**3,110**
Change in Daily Trips*						**2,976**

*With a caveat in Volusia County's Comprehensive Plan that a maximum density of 1 du/5 acres can be achieved under the Forestry Resource Future Land Use designation.

(b) The study analyzed the roadway links within a five-mile radius of the direct access of each amendment site. Links are considered adversely impacted where the link volume exceeds the adopted capacity. The analysis considered roadway links significantly impacted where project traffic equals five percent (5%) or more of the service volume at the adopted capacity of the roadway.

(c) Pursuant to the findings of the TIA, the 2010 and 2020 LOS analysis for the Pinder Amendment creates no additional adversely impacted links in the network when compared to the current Future Land Use Map analysis. The LOS analysis indicated that all the adversely impacted links are due to the projected growth in background traffic and not the trips related to this proposed amendment. Each of the roadways will be evaluated and measures taken to ensure that an acceptable LOS is achieved at the time development impacts actually occur.

(d) Significantly impacted roadways include the following:

Roadway	From	To
SR 415	SR 44	Ft. Smith Boulevard
Howland Boulevard	Wolf Pack Run	Providence Boulevard
Enterprise Road	Summerhaven Drive	Main Street
Normandy Road	Sullivan Street	Saxon Boulevard
Dirksen/DeBary/Doyle CR 4161	Enterprise Road	Garfield Road
Saxon Boulevard	Enterprise Road	Normandy Boulevard

(e) Based on the information provided by the City of Deltona and the Property Owner, it does not appear that improvements are planned or programmed for these roadways. While the TIA has provided documentation that the impacts are caused by background traffic not associated with the Pinder amendment, the City has not addressed these overall capacity issues on the affected roadway network which includes both City- and County-maintained roadways. However, it has been historically acknowledged by the Commission that the City's concurrency management system will prohibit construction of a proposed project until such time that roadway capacity is available to accommodate the development.

(f) Therefore, since the proposed Future Land Use Map amendment is not anticipated to cause significant or adverse impacts on the traffic network, the amendment could be adopted by the City as long as it is understood that, pursuant to concurrency requirements established by the Florida Statues, the City will prohibit development from occurring until road capacity is available.

<u>For Natural Resources:</u>

VGMC 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;

(g) According to the National Wetlands Inventory (NWI), it appears that there are wetlands located on the Pinder Property. Although NWI provides a good indicator for the presence or absence of wetlands, it is not always one hundred percent (100%) accurate. A review of other published data such as aerial photography, US Geological Survey topographic maps, and Natural Resources Conservation Service soil surveys is useful when conducting a site assessment. These additional data sources often identify wetland areas not included in the NWI. However, the information presented in any of these aforementioned data sources does not preclude the possibility of changing site conditions (e.g.

ditching, etc.) which may have affected the site after the publication date of the data source. For that reason, ground-truthing is advised.

(h) As part of their review, the Florida Department of Community Affairs (FDCA) noted that this amendment was not supported by an environmental analysis demonstrating the suitability of the site for the proposed land use and compatibility with adjacent natural resources, consistent with the requirements of the City's Comprehensive Plan and Rule 9J-5 F.A.C. In response to FDCA's objections, the City modified its original application to designate 25.3 acres of the subject property as Conservation to provide protection for wetlands identified by the NWI. It does not appear that a site-specific environmental analysis has been conducted to date. In accordance with the City of Deltona's Comprehensive Plan, a development may not create a net loss of wetlands or degrade the functional value of such wetlands as a result of land development. If unavoidable, the applicant shall mitigate any wetland loss prior to development approval. Mitigation shall adhere to all adopted policies and procedures.

(i) Information provided in the City's original VGMC application states that the northern portion of the subject site is located within the 100-year floodplain, specifically Flood Zone A, a zone for which no base flood elevation has been determined.

(j) Based on information presented by a concerned citizen at the April 26, 2006, VGMC Public Hearing, there was discussion among the Commission regarding the possibility of flooding of the subject and surrounding properties. Until a flood study has been conducted for the amendment site, the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM) is the best source of data available; however, it is important to note that since no base flood elevation has been determined, it would be inappropriate to assume that this area is flood-prone.

(k) It is also important to note that development within a floodplain may be accomplished by obtaining a Letter of Map Revision (LOMR) or a Conditional Letter of Map Revision (CLOMR) from FEMA. Some jurisdictions will allow a LOMR/CLOMR to be requested if the area impacts to the floodplain are compensated elsewhere on the site. It is unknown if the City of Deltona allows this type of site modification. Pursuant to the adopted regulations of FEMA and the St. Johns River Water Management District, any development on the site cannot create impacts, such a flooding, on adjacent properties.

(l) VGMC believes that the possibility of any flood prone areas will be identified and addressed as part of the typical development process already established and it does not appear that the proposed Future Land

Use Map amendment will cause significant adverse impacts on natural resources beyond the boundaries of the City of Deltona. Therefore, the Pinder amendment is consistent with Criteria (4) as cited in Volusia County Code Section 90-37(c).

For Land Use Compatibility:

(9) In order to evaluate and determine if a proposed Future Land Use Map amendment is consistent with the plans of affected jurisdictions, pursuant to the criteria established in the Volusia County Code, the evaluation of land use compatibility may be an integral component of the VGMC review process. Since the subject property is adjacent to property located in unincorporated Volusia County, land use compatibility has been taken into consideration during review of the Pinder amendment.

(10) Land located to the west of the Pinder Property is designated primarily as Low Density Residential (6 du/ac) on the City of Deltona's Future Land Use Map and is developed as such. Immediately adjacent to the Pinder Property is Pine Ridge High School to the south, while a site reserved for Elementary School "Y" is immediately adjacent to the west. The Pinder Property it is abutted to the north and east by vacant land designated as Volusia County Forestry Resource (1 du/20ac).

(11) As detailed in the letter from Jason W. Searl, P.A., dated April 26, 2006, the Property Owner has proposed a maximum density of 2.85 du/ac on the Pinder Property that is not designated as Conservation that equates to a maximum of 334 dwelling units. While this Future Land Use Map amendment would allow a substantial increase in the potential density of the property, the proposed density of 2.85 du/ac is significantly lower than the 6 du/ac typically allowed under the City of Deltona's Low Density Residential Future Land Use designation and would create a transition between rural and urban land uses.

(12) Examples of residential densities as set by the future land use designations adjacent to high schools are attached to the VGMC Planning Staff Report and are referenced as follows. Some of these examples also represent rural-to-urban transitional densities.

Exhibit #	Jurisdiction	High School
1	Clermont, Lake County	East Ridge High School
2	Orlando, Orange County	Timber Creek High School
3	Deltona, Volusia County	Deltona High School

(13) In Exhibit #1, East Ridge High School, located in Clermont, serves as a transition between vacant agricultural land to the west and commercial uses and residential development at a density of 6 du/ac to the east.

(14) In Exhibit #2, Timber Creek High School, located in Orlando, is situated between Planned Developments to the north, west, and south that include maximum residential densities of 20 du/ac, and a mobile home district developed at 4 du/ac and

vacant agricultural land use to the east. It is important to note the proximity of the Econlockhatchee River to the east.

(15) In Exhibit #3, Deltona High School is also located in a rural-to-urban transition area with vacant agricultural land to the west and residential development at 6 du/ac and commercial uses to the east.

(16) These examples demonstrate that residential densities adjacent to high school sites may vary significantly. It is recommended that while determining an appropriate residential density for the Pinder Property, the surrounding densities, as well as the City's ability to provide services to the property, are taken into consideration.

(17) The transportation network located within the City appears to have already met limitations on capacity. Therefore, roadway capacity may not be available to serve the proposed development. The original VGMC Planning Staff Report recommended a restriction of density at 1du/ac to address those issues.

(18) VGMC has considered the Property Owner's request to restrict density at 2.85 du/ac that equates to a maximum of 334 dwelling units to be developed on the Pinder Property. Recognizing that as part of future development of the property, a rezoning must occur and all regional regulatory permits will have to be obtained, VGMC believes that the amendment, as proposed with a density cap of 2.85 du/ac, is acceptable. However, if the City adopts the amendment, as proposed, it is not guaranteed that 334 dwelling units will be achieved; rather, this creates the maximum number of units permitted on the property.

(19) Utilizing all the information and supplemental information submitted by the City of Deltona, the VGMC used the above factors, as stated in Volusia County Code Section 90-37(c), to determine whether the proposed project adversely affects intergovernmental cooperation and coordination in Volusia County.

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF CONSISTENCY.

A. For the City of Deltona application (VGMC Case No. 05-034, Item B), the VGMC, in accordance with the criteria expressly defined in Volusia County Code Section 90-37(c), hereby concludes and determines that the Pinder Comprehensive Plan amendments, as proposed is inconsistent and incompatible with the existing and proposed plans of adjacent local government and will adversely effect intergovernmental cooperation and coordination between local governments. However, there are conditions that may be placed upon the certification of the amendment such that it can be conditionally certified consistent. The VGMC recommends that the certification of consistency be granted subject to the following revised conditions:

1. Within the next year, the City of Deltona shall enter into an interlocal agreement with Volusia County to identify appropriate transportation review methodologies and necessary funding strategies for roadway improvements where Deltona development is anticipated to significantly and adversely impact County roads.

An executed copy of the interlocal agreement shall be submitted to VGMC to document compliance with this condition.

2. Prior to issuing any building permits for the Pinder Property, the City of Deltona shall modify its Transportation Concurrency Management Ordinance to include language enabling appropriate proportionate share payments to address levels of service deficiencies on local, State and County roads. The final version of the revised Ordinance shall be submitted to VGMC to document compliance with this condition.

3. To provide funding for improvements to impacted roadways, the owner of the Pinder Property shall enter into a Proportionate Share Agreement, or similar type of agreement, with the City of Deltona and Volusia County prior to receipt of any building permits for the subject property.

4. The Pinder Property will require utilities and access improvements that the School Board has designed and planned for Elementary "Y". Prior to or concurrent with construction occurring on the Pinder Property, the developer of the Pinder Property shall execute a developer's agreement with the City of Deltona and Volusia County Schools addressing the construction of these improvements.

5. To promote compatibility with the rural character of the surrounding area, and to provide a transition from rural to urban land use, residential development on the Pinder Property shall be limited to a maximum density of one (1) du/acre on those portions of the property being non-wetland property.

6. Any changes or amendments proposed 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.

7. 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 unenforceable.

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

RESOLVED this 24th day of May, 2006.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: Mark H. Rakowski
Mark H. Rakowski, Chairman

ATTEST:

Joan Lee, Secretary

FILED WITH THE SECRETARY THIS 31st DAY OF MAY, 2006.

Merry Chris Smith
Merry Chris Smith, VGMC Coordinator

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RESOLUTION 2006-02

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

BE IT RESOLVED BY THE VOLUSIA GROWTH MANAGEMENT COMMISSION:

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

(1) On June 27, 2005, the Volusia Growth Management Commission received a Large-Scale Comprehensive Plan Amendment Application for Consistency Certification from the City of Deltona. The City's application originally consisted of nine (9) separate amendments which comprised their 05-1 Large-Scale Amendment package. The proposed amendments, some of which have been modified in response to the Objections, Recommendations and Comments Report (ORC Report) issued on August 29, 2005, by the Florida Department of Community Affairs (FDCA), are summarized below. Revisions to the original ordinances are provided in underline format.

Item A: **Howland Boulevard** ***(City Ordinance No. 11-2004)*** amending the City's Comprehensive Plan by changing the future land use designation of approximately 19.1 acres, generally located north on Howland Boulevard, east of Forest Edge Drive and west of Loblolly Street, from City of Deltona Medium Density Residential (12 du/ac) to City of Deltona Commercial.

Item B: **Pinder Property** ***(City Ordinance No.07-2005)*** amending the City's Comprehensive Plan by changing the future land use designation of approximately 142 acres of annexed land, generally located northeast of Pine Ridge High School at 1200 Osteen Cemetery Road, from Volusia County Forestry Resource (1 du/20 ac) and Volusia County Agricultural Resource (1 du/10 ac) to City of Deltona Low Density Residential (6 du/ac) and Conservation.

Item C: **Chalk Property** ***(City Ordinance No. 08-2005)*** amending the City's Comprehensive Plan by changing the future land use designation of approximately fifteen (15) acres of annexed property, generally located east of SR 415 and northeast of the intersection of Howland Boulevard and SR 415, from Volusia County Urban Low Intensity (4 du/ac) and Volusia County Low Impact Urban (1 du/ac) and County waterbodies to City of Deltona Commercial and Conservation.

Item D: **Doudney Property** ***(City Ordinance No. 09-2005)*** amending the City's Comprehensive Plan by changing the future land use designation of

approximately 58 acres of annexed land, generally located southeast of the intersection of Courtland Boulevard and Doyle Road at 525 Doyle Road, from Volusia County Urban Low Intensity (4 du/ac) to City of Deltona Low Density Residential (6 units/acre).

Item E: **Leahy/Pell Property *(City Ordinance No. 10-2005)*** amending the City's Comprehensive Plan by changing the future land use designation of approximately 31 acres, generally located at the northwest corner of the intersection of Howland Boulevard and SR 415, from City of Deltona Low Density Residential (8 acres) and Volusia County Urban Low Intensity (23 acres) to City of Deltona Commercial.

Item F: **Casey Property *(City Ordinance No. 11-2005)*** amending the City's Comprehensive Plan by changing the future land use designation of approximately 5.8 acres of annexed land, generally located 150 feet north of Howland Boulevard and northwest of the intersection of Howland Boulevard and Catalina Boulevard, from Volusia County Urban Low Intensity (4 du/ac) to City of Deltona Medium Density Residential (12 du/ac).

Item G: **D-Ranch Property *(City Ordinance No. 14-2005)*** amending the City's Comprehensive Plan by creating a new future land use designation known as "Village", which provides for a mix of permitted land uses, density and intensity standards, and resource protection requirements. The amendment also applies the new "Village" future land use designation by changing the future land use designation of approximately 516 acres of annexed property, generally at the northwest corner of Reed Ellis Road and SR 415, from Volusia County Agricultural Resource to City of Deltona Village.

Item H: **Thornby Property City *(Ordinance No. 22-2005)*** amending the City's Future Land Use Element to create a "Conservation" category, as well as, a special area plan, which will be applied to the Thornby property. The accompanying Future Land Use Map amendment proposes changing the designation of approximately 42.1 acres generally located at the northwest intersection of Lakeshore Drive and providence Boulevard, from Volusia County Low Impact Urban (40.7 acres) and County Environmental Systems Corridor (1.4 acres) with a Volusia County Natural Resource Management Area overlay on the entire 42.1 acres to City of Deltona Low Density Residential (22.97) acres and City of Deltona Conservation (18.63 acres). Approximately 0.50 acre of the property is Lakeshore Drive.

Item I: **Transportation Element Text Changes (City Ordinance No. 29-2005)** amending the Transportation Element of the City's Comprehensive Plan to evaluate the transportation impacts of the updated Future Land Use Map with all completed annexations, the Activity Center DRI, and all Future

Land Use Map amendments. The amendment includes a new map for the Year 2020 Deltona Long Range Transportation Plan, new tables, and a schedule of recommended transportation system capital improvements.

(2) On October 5, 2005, the City submitted a letter to the VGMC requesting that the Thornby amendment (Item H) be separated from the application package and scheduled for a public hearing. A special public hearing was held on November 2, 2005, at which time certification of the Thornby amendment was denied.

(3) On March 21, 2006, the City submitted a written request that the package be further separated and the Howland, Doudney and Casey amendments (*Items A, D,* and *F*) be recommended for consistency certification. The planning staff report focused on the remaining amendments: *Items B, C, E* and *G.*

(4) The complete application submitted by the City of Deltona is on file and is available to the public at the Volusia Growth Management Commission Office located at 135 E. International Speedway Boulevard, Daytona Beach, Florida. Within the staff report, the following exhibits are referenced:

VGMC Exhibit 1: First Request for Additional Information (RAI), dated July 21, 2005
VGMC Exhibit 2: Second RAI, dated August 4, 2005
VGMC Exhibit 3: Third RAI, dated August 10, 2005
VGMC Exhibit 4: Fourth RAI, dated August 25, 2005
VGMC Exhibit 5: Objections, Recommendations, and Comments (ORC) Report issued by the Florida Department of Community Affairs (FDCA), dated August 29, 2005
VGMC Exhibit 6: Fifth RAI, dated September 21, 2005
VGMC Exhibit 7: Traffic Impact Analysis for *Items B, C, E* and *G*
VGMC Exhibit 8: Sixth RAI, dated February 1, 2006
VGMC Exhibit 9: Seventh RAI, dated February 10, 2006
VGMC Exhibit 10: Eighth RAI, dated February 16, 2006
VGMC Exhibit 11: Letter from Volusia County Schools regarding mitigation for school impacts, dated March 16, 2006
VGMC Exhibit 12: Letter from the City of Deltona regarding the D-Ranch school site donation (undated)

(5) The planning staff reviewed the application in accordance with the criteria expressly defined in Volusia County Code Section 90-31 through Section 90-44. During the review period, the VGMC received a 21-day extension request from Volusia County, dated July 21, 2005. Pursuant to Volusia County Code Section 90-35, the County's request tolled the review period provided for the VGMC to act on the application.

(6) The VGMC received a petition for a VGMC public hearing, dated July 12, 2005, from the Stone Island Homeowner's Association, a citizen party that considers itself substantially affected and aggrieved by the D-Ranch Amendment (*Item G*). Volusia County's extension request and the petition submitted by the Stone Island

Homeowner's Association were forwarded to the City of Deltona on July 21, 2005 and constituted a request for additional information (RAI). (Exhibit 1)

(7) On July 26, 2005, the VGMC received a second petition for a public hearing from Selis & Associates, on behalf of Stephen Wiechert, an adjacent property owner who considers himself substantially affected and aggrieved by the Thornby amendment. On July 27, 2005, the VGMC received comments related to the City's amendment package from Volusia County Schools. The petition from Selis & Associates and comments from the School District were forwarded to the City of Deltona as a second RAI, dated August 4, 2005 (Exhibit 2)

(8) On August 10, 2005, the VGMC issued a third RAI (Exhibit 3) based on comments and requests for additional information from Volusia County, dated August 8, 2005. Although the County has expressed concern related to the potential impacts of the amendment package as a whole, the County provided specific comments related to the Pinder, Chalk, D-Ranch and Thornby amendments (*Items B, C, G,* and *H)*.

(9) On August 18, 2005, the VGMC received comments from the City of Lake Helen. The City of Lake Helen indicated that it did not receive a copy of Deltona's VGMC Application from the City of Deltona, and therefore, requested a copy of the amendment package from the VGMC office. The City of Lake Helen's comments regarding urban sprawl, land use incompatibility, environmental concerns, and road impacts pertain primarily to *Items B, C, G* and *H.* Of specific concern to the City of Lake Helen were potential transportation system and traffic impacts which could negatively affect the City of Lake Helen and the Cassadaga community.

(10) On August 22, 2005, Volusia County submitted supplemental comments for Volusia County related to the Thornby amendment. The comments from Lake Helen and the supplemental comments from Volusia County constituted a fourth RAI, which was issued by the VGMC on August 25, 2005 (Exhibit 4)

(11) On August 29, 2005, the FDCA issued an ORC Report for the City of Deltona's 05-1 Large-Scale Amendment Package (VGMC Application No. 05-034). The ORC Report, which sites six (6) objections related to transportation, public facilities coordination, site suitability, urban sprawl, and commercial intensity standards, as detailed in Exhibit 5. The FDCA's comments pertained largely to the Pinder, Chalk, Doudney, Leahy, D-Ranch and Thornby amendments (*Items A, C, D, E, G* and *H*).

(12) On September 21, 2005, the VGMC issued a fifth RAI based on planning staff review. The RAI focused primarily on potable water and sanitary sewer capacity, roadway capacity, and the future land use policies associated with the proposed Village Land Use Designation. (Exhibit 6)

(13) On September 30, 2005, the City of Deltona forwarded email correspondence to partially respond to the VGMC's fifth RAI, which was issued on September 21, 2005. The response addressed only the Thornby and D-Ranch

Amendments (*Items G* and *H*) and was utilized in preparing a staff report for the November 2, 2005 special public hearing scheduled for the Thornby Amendment.

(14) On January 4, 2006, the City of Deltona forwarded to the VGMC a copy of the adoption package for the Howland, Doudney and Casey amendments (*Items A, D* and *F*), as submitted to the FDCA on January 3, 2006. The adoption package included a revised traffic impact analysis, as requested by Volusia County.

(15) On January 19, 2006, the City of Deltona submitted additional information to respond to the VGMC's 5th RAI. The City's response pertained primarily to the Pinder, Chalk, Leahy and D-Ranch amendments (*Items B, C, E* and *G*), and included a traffic impact analysis. (Exhibit 7)

(16) On February 1, 2006, the VGMC issued a sixth RAI based on comments from the Volusia County Growth and Resource Management Department related to the traffic impact analysis for the Howland Boulevard, Doudney and Casey amendments (*Items A, D* and *F*). (Exhibit 8)

(17) On February 10, 2006, the VGMC issued a seventh RAI based on additional comments from Volusia County Schools, which focused specifically on mitigation for utilities and road construction, in relation to schools, as well as a pending school-site donation associated with the D-Ranch amendment (*Item G*). (Exhibit 9)

(18) On February 16, 2006, the VGMC issued an eighth RAI based on comments from the Volusia County Growth and Resource Management Department (Exhibit 10). The County's comments were related to the City of Deltona's January 19, 2006, response to the VGMC's August 21, 2005, RAI. The County's letter requested additional information on water and sewer and roadway capacity for Amendment *Items B, C, E* and *G*.

(19) On February 22, 2006, the VGMC received from the City a response to the February 1, 2006, RAI. The City's response, dated February 14, 2006, stated that information contained within the response "satisfactorily resolves the Volusia Growth Management Commission's staff request." The City also stated in its response that "no additional requests for information were received" and requested that the Howland, Doudney and Casey amendments (*Items A, D* and *F*) be certified without a public hearing.

(20) On February 24, 2006, the VGMC planning staff submitted a letter to the City of Deltona clarifying that the RAIs dated February 10, 2006, and February 15, 2006, were still outstanding. However, the VGMC planning and City staff discussed that the outstanding comments were related to the Pinder, Chalk, Leahy and D-Ranch amendments (*Items B, C, E* and *G*), which are located along the SR 415 corridor. Therefore, the Howland, Doudney and Casey amendments could be recommended for certification without a public hearing, if separated from the rest of the package.

(21) On March 22, 2006, the City of Deltona submitted to the VGMC a response to the RAIs dated February 10, 2006, and February 16, 2006, related to the Pinder, Chalk, Leahy and D-Ranch amendments (*Items B, C, E* and *G*).

(22) All information submitted by the City of Deltona was considered in preparation of the planning staff report.

(23) The Howland Boulevard, Doudney and Casey Future Land Use Map amendments (*Items A, D* and *F*) were 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. With the exception of comments from Volusia County Schools on *Items D* and *F*, all comments related to the Howland Boulevard, Doudney and Casey amendments have been addressed and rescinded.

(24) The Howland Amendment (*Item A*) was found to be eligible for consistency certification, and a Letter of Consistency for the Howland Amendment was issued (*Item A*).

(25) In regard to the Doudney and Casey Amendments (*Items D and F*), a letter from Volusia County Schools, dated March 16, 2006 (Exhibit 11), indicated that the School Board had coordinated with the developers of these properties regarding school impacts. The School Board's expectations related to mitigation for the school impacts associated with the Doudney and Casey Amendments (*Items D* and *F)* are outlined as follows:

(a) Doudney: The developer will reimburse the School Board for costs associated with construction of a 6-inch forcemain.

(b) Casey: The developer will construct access from Howland Boulevard that will be utilized by the development as well as by Elementary "D".

(26) Approval of *Items D* and *F* are conditioned upon the commitment that the developers are to provide the improvements requested by Volusia County Schools. Recommended Conditions of Approval for the Doudney and Casey Amendment are listed on pages 19 and 20 of the planning staff report.

(27) In order to evaluate and determine if a proposed future land use amendment is consistent with the plans of affected jurisdictions, pursuant to the criteria established in the Volusia County Code, the evaluation of land use compatibility is frequently an integral component of the VGMC review process. Since the subject properties are adjacent to land located in unincorporated Volusia County, land use compatibility has been taken into consideration during review of the application. An evaluation of the development potential associated with the current future land use designations and the land use designations proposed for Amendment *Items B, C, E* and *G* are provided below. Information regarding the land uses adjacent to the proposed amendment areas is also provided.

(28) The Future Land Use Map Amendment proposed changing the designation of approximately 142 acres of annexed land, generally located northeast of Pine Ridge High School at 1200 Osteen Cemetery Road, from Volusia County Forestry Resource and Volusia County Agricultural Resource to City of Deltona Low Density Residential and Conservation. A comparison of the development potential under the existing Volusia County designations and the proposed City designations is provided below:

Development Potential Before Amendment				
Amendment	**Existing Future Land Use**	**Acres**	**Density**	**Units**
Item B (Pinder)	County Forestry Resource	93.3 ac	1 du/20 ac	5 du
	County Agricultural Resource	49 ac	1 du/10 ac	5 du
		142.3 ac	**n/a**	**10 du**
Development Potential After Amendment				
	Proposed Future Land Use	**Acres**	**Density**	**Units**
Item B (Pinder)	City Low Density Residential	117	6 du/ac	702 du
	Conservation	25.3	1 du/25 ac	1 du
		142.3 ac	**n/a**	**703 du**

(29) The existing land uses, as well as the future land use designations of the properties surrounding the proposed amendment are provided below:

	Existing Land Use	**Future Land Use Designation**
North	Large tract vacant lands	County Forestry Resource
East	Large tract vacant lands	County Forestry Resource
South	Developed and vacant residential acreage, Pine Ridge High School, Pet Hospital	City Low Density Residential and City Public/Semi-Public/Conservation, and City Commercial
West	Single-family homes and vacant residential lots	City Low Density Residential and City Public/Semi-Public/Conservation, and City Commercial

(30) The Pinder property is immediately adjacent to Pine Ridge High School, which is located south of the property, it is abutted to the north, east and west by vacant

land designated as County Forestry Resource. As detailed above, the proposed Low Density Residential future land use would allow the development of six (6) dwelling units per acre, or a maximum of 703 dwelling units for the subject property, a density that is inconsistent with the rural character of the area. The change in land use would allow a substantial increase in the potential density of the property.

(31) The Future Land Use Map amendment proposed changing the designation of approximately eight (8) acres of annexed property, generally located east of SR 415 and northeast of the intersection of Howland Boulevard and SR 415, from Volusia County Urban Low Intensity, Volusia County Low Impact Urban to City of Deltona Commercial and Conservation. A comparison of the development potential under the existing Volusia County designations and the proposed City designations is provided below:

Development Potential Before Amendment				
Amendment	**Existing Future Land Use**	**Acres**	**Density/ Intensity**	**Units/SF**
Item C (Chalk)	County Urban Low Intensity	8.6 ac	4 du/ac	34 du
	County Low Impact Urban	2.8 ac	1 du/ac	3 du
	Waterbodies	4	n/a	n/a
		15.4 ac	**n/a**	**37 du**
Development Potential After Amendment				
Amendment	**Existing Future Land Use**	**Acres**	**Density/ Intensity**	**Units/SF**
Item C (Chalk)	City Commercial	8 ac	0.50 FAR	174,240 SF
	Conservation	7.4 ac	1 du/25 ac	0
		15.4	**n/a**	**0 du**

(32) The existing land uses, as well as the future land use designations of the properties surrounding the proposed amendment are provided below:

	Existing Land Use	**Future Land Use Designation**
North	Developed and vacant single-family residential acreage	County Urban Low Intensity
East	Single-family homes and vacant residential lots	County Low Impact Urban
South	Single-family homes	County Urban Low Intensity
West	Vacant commercial and SR 415	City Commercial

(33) The Chalk property is proposed for a commercial land use. While there is vacant commercial land to the west of the property, single family residential

development surrounds the property to the north, south and east. State Road 415 has historically been considered a regional connector with little urbanization anticipated between the Cities of Deltona and New Smyrna Beach. Currently, there are no commercial uses on the eastside of SR 415. Applying a commercial land use to the Chalk property is inconsistent with the character of the surrounding area and would set a precedent for strip commercialization along this rural segment of SR 415.

(34) The Future Land Use Map Amendment proposed changing the designation of approximately 31 acres, generally located at the northwest corner of the intersection of Howland Boulevard and SR 415, from City of Deltona Low Density Residential and Volusia County Urban Low Intensity to City of Deltona Commercial. A comparison of the development potential under the existing Volusia County designations and the proposed City designation is provided below:

Development Potential Before Amendment				
Amendment	**Existing Future Land Use**	**Acres**	**Density/ Intensity**	**Units**
Item E (Leahy/Pell)	City Low Density Residential	12 ac	6 du/ac	72 du
	County Urban Low Intensity	19 ac	4 du/ac	76 du
		31 ac	**n/a**	**148 du**
Development Potential After Amendment				
Amendment	**Proposed Future Land Use**	**Acres**	**Density/ Intensity**	**Units/SF**
Item E (Leahy/Pell)	City Commercial	31 ac	0.50 FAR	675,180 SF

(35) The existing land uses, as well as the future land use designations of the properties surrounding the proposed amendment are provided below:

	Existing Land Use	**Future Land Use Designation**
North	Single-family homes	City Low Density Residential
East	Single-family homes and vacant residential acreage	County Urban Low Intensity
South	Vacant commercial	City Commercial
West	Single-family homes, City park, and City Public Works Depot	City Low Density Residential

(36) The Leahy property is located west of SR 415 at its intersection with Howland Boulevard and the properties to the north, south and west are within the City of Deltona. A large residential subdivision consisting of single-family homes is developed

to the north of the property. A low intensity commercial land use in this location could be beneficial to the surrounding residential development.

(37) The amendment created a new future land use designation known as "Village," which provides for a mix of permitted land uses, density and intensity standards, and resource protection requirements. The amendment also applies the proposed "Village" future land use designation by changing the designation of approximately 516 acres of annexed property, generally at the northwest corner of Reed Ellis Road and SR 415, from Volusia County Agricultural Resource to City of Deltona Village. A comparison of the development potential under the existing Volusia County designation and the proposed City designation is provided below:

Development Potential Before Amendment				
	Existing Future Land Use	**Acres**	**Density/ Intensity**	**Units/SF**
Item G (D-Ranch)	County Agricultural Resource	516 ac	1 du/10 ac	52 du
Development Potential After Amendment				
	Proposed Future Land Use	**Acres**	**Density/ Intensity**	**Units/SF**
Item G (D-Ranch)	City Village	516 ac	2 du/ac 0.22 FAR	1,032 du 344,995 SF

(38) As previously noted, the Village Future Land Use designation allows for a mix of uses including single-family residential, townhomes, commercial, public/semi-public development and open space. Pursuant to Policy 2A, as proposed for the Village Future Land Use designation, the minimum and maximum ranges for the mix of uses are provided below:

Use	**Minimum Range**	**Maximum Range**
Single- family	40%	60%
Townhome	0%	60%
Commercial	5%	7%
Public/Semi-public	Minimum requirements (if any) to meet (level of service) LOS standards and school needs through on-site facilities.	15% or minimum requirements to meet LOS standards and school needs, whichever is greater. If LOS and school space needs exceed 15%, minimum % range of mix of other uses shall be adjusted to reflect the reduction of available space

Use	Minimum Range	Maximum Range
		in equal proportions.
Open Space	40%	60%

(39) Per Policy 2A, as proposed for the Village Future Land Use designation, open space percentages are applied to the total gross site and are designated for residential land uses, not including the gross site area developed in commercial land uses. Areas designated for commercial uses shall have a maximum floor area ratio of 0.22 and a maximum impervious surface of 65% of the total gross acreage of commercial land area.

(40) When natural resources are protected by conservation easements or transferred to public ownership, said areas receive a density credit of one dwelling unit per acre which may be transferred to upland areas in order to achieve the maximum permitted density of two dwelling units per acre.

(41) The existing land uses, as well as the future land use designations of the properties surrounding the proposed amendment, are provided below:

	Existing Land Use	Future Land Use Designation
North	Vacant residential acreage	County Rural and County Agricultural Resource
East	Mobile Home Park	County Rural, County Urban Low Intensity, and County Urban Medium Intensity, County Recreation, County Conservation
South	Single-family homes and vacant lands	County Recreation
West	Vacant conservation land	County Conservation

(42) A conceptual park master plan had been prepared for the County recreation land to the south and east of the amendment site. The park will be known as Beck Ranch and will provide a variety of passive, active and educational recreation opportunities that work in conjunction with the proposed Low Density and Intensity Mixed-Use development.

(43) The amendment to the Transportation Element of the City's Comprehensive Plan involved evaluating the transportation impacts of the updated Future Land Use Map with all completed annexations, the Activity Center DRI, and all Future Land Use Map amendments. The amendment included a new map for the Year 2020 Deltona Long Range Transportation Plan, new tables, and a schedule of recommended transportation system capital improvements. The amendment also proposed standards for driveway separations, requirements for the analysis of

intersections and driveway connections for development projects, including Planned Unit Developments.

(44) In a letter dated, April 18, 2005, the City of Lake Helen objected to the connector road proposed between the City of Deltona and Cassadaga Road/CR 4139 and stated that, while potentially helping to relieve some of Deltona's traffic problems, the connector road will result in the deterioration in the quality of life of the residents of Lake Helen and Cassadaga. The City of Lake Helen therefore requested that all references to the connector road be removed from the amendment package and supporting documentation.

(45) The City of Deltona's response, dated January 19, 2006, clarified that the City of Deltona was not proposing a connection to the existing right-of-way north of the Activity Center and outside the City limits. The proposed connector road would provide access to the northern portions of the Activity Center DRI located within the incorporated City of Deltona limits with access to the Arbor Ridge residential subdivision and access to the Timbercrest residential subdivision.

(46) The City of Deltona further clarified in its March 22, 2006 response that the extension of the proposed road connection with Cassadaga Road/4139 had been deleted.

(47) Since the City of Lake Helen's concerns with Amendment *Item I* had been adequately addressed, the proposed Transportation Element Text Changes are consistent with the plans of adjacent jurisdictions and no further evaluation will be required at this time.

(48) Utilizing all the information submitted by the applicant, the VGMC used the above factors as stated in Volusia County Code Section 90-37(c) to determine whether the plan amendments proposed by Items B, C, E and G adversely affects intergovernmental cooperation and coordination. The criteria and analysis are as follows:

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

(i) Deltona Water Service, owned by the City of Deltona, will supply the amendment properties with potable water and wastewater treatment services. The following information related to the City's potable water and wastewater treatment services was provided in the City's March 22, 2006 RAI response.

(ii) Potable Water: The City's existing potable water system includes 15 water treatment plants located throughout the City's service area. The 2006 average water treatment plant capacity is 12.9 mgd. The existing potable water demand is 10.9 mgd, which includes 100,000 gallons per day of committed capacity for approved projects that are not currently connected to the water

system. This leaves approximately 2.0 mgd of uncommitted capacity. The proposed amendments are anticipated to generate an additional potable water demand of 549,000 gallons per day and the annual average daily demand is expected to increase to approximately 17.8 mgd over the next 5 years. As detailed below, the City is currently working on utility system expansions to address the increased demand.

(iii) Wastewater: The total capacity of the City's wastewater treatment plants (WWTPs) is 1.4 mgd. The existing WWTP demand is 1.2 mgd, which includes 60,000 gallons per day for approved projects that are not currently connected to the wastewater system. This leaves approximately 200,000 gallons per day of uncommitted capacity. The proposed amendments are anticipated to generate an additional wastewater treatment demand of 530,270 gallons per day. In addition, phase one of the City's new southeast WWTP, which will be completed in 2009, will add an additional 1.5 mgd of capacity.

(iv) It is the City's policy that no building permits will be issued for any development that cannot meet the City's plan and State requirements for concurrency.

(v) The City of Deltona recently expanded its water and wastewater service area to add approximately 77,500 acres of mostly undeveloped land, located to the east of the City's previous service area. In order to provide water and wastewater service, the City acknowledged that construction of infrastructure, including water and wastewater treatment and transmission facilities, are needed. Various capital improvements are required to meet the needs of the existing system. At this time, the City has not added the needed capital improvements to the Capital Improvements Element (CIE) of the City's Comprehensive Plan. Volusia County has stated their opinion that these CIE amendments are necessary in order to document areawide or central utility solutions as required by the VGMC criteria for consistency. However, historically VGMC has applied this consistency criteria based on the City's acknowledgement that utilities must be in place prior to construction of development occurring and relying on the City's concurrency management system to regulate the development from occurring prematurely.

(vi) The City's Capital Improvements Program (CIP) for FY 2005-FY 2009 reflects future capital projects, associated capital expenditures and timing for projects over the next several years. The City's CIP focuses primarily on increasing well, storage and high service pump capacity with additional transmission system

improvements to efficiently serve anticipated development. Per City staff, once these improvements are complete the total potable water system capacities will equal approximately 24 mgd on an average daily basis and 47 mgd on a maximum daily basis.

(vii) The City has a renewed Consumptive Use Permit (CUP) from the St. Johns River Water Management District which allows an annual average daily groundwater withdrawal of 13.9 mgd (not to exceed 26.7 mgd average). Therefore, the Water Management District Permit is the limiting factor on capacity at 26.7 mgd.

(viii) In response to Volusia County's concerns regarding groundwater supply, the City of Deltona has noted that it is a member of the Water Authority of Volusia (WAV) and continues to support WAV in search for alternative water supplies. The City believes they are as committed as the County is to finding alternative water supply sources and minimizing the impacts on the Floridan Aquifer. The schedule in the current Master Water Facilities Plan, dated December 2005, indicates a connection to Deltona from the proposed surface water plant on St. John's River. Many of the transmission system projects in the City's CIP will distribute water throughout the City from the interconnect when the surface water plant is operational.

(ix) Volusia County has noted their concerns regarding the lack of dedicated funding for the expansion of the City's Utility System. They believe that the City's annexations and proposed land use amendments constitute sprawl and are inconsistent with the County's adopted Rural and Natural Resource Management Area (NRMA) policies including the adopted Future Land Use Map. However, while the County has not amended the future land use designations from Rural and NRMA along SR 415, the County identified the amendment areas as appropriate for urban expansion in the proposed Urban Growth Boundary Amendment, which subsequently, did not get adopted by the County Council. Therefore, the appropriateness of these areas for urbanization, as well as the need to transition from rural to urban land uses via a transect of increasing density and intensity of land use designations, has been previously documented by the County.

(x) The potential development created by Amendment *Items B, C, E* and *G* are located within the City of Deltona's water and wastewater utility areas. Therefore, the City, as opposed to any adjacent jurisdiction, would experience the impacts caused by potential development. As noted previously, the City has stated that development will not be permitted to occur until central utilities are available. The City's concurrency mechanism will regulate this

state mandate. Therefore, proposed amendment *Items B, C, E* and *G* are consistent with Criteria (1) as cited in Volusia County Code Section 90-37(c).

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

(c) 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.

(i) The following considers both Criteria 2 & 3 collectively:

(ii) As previously mentioned, amendment *Items B, C, E* and *G* are all located along the SR 415 Corridor in an area that has maintained a predominately rural character. Historically, the SR 415 roadway corridor has been considered a regional connector with little urbanization anticipated between Deltona and New Smyrna Beach.

(iii) Per the FDOT's comments, issued as part of FDCA's ORC Report, one (1) affected segment of SR 415 is currently over capacity and two (2) affected segments are expected to be over capacity by 2014 without the additional traffic caused by the amendments. The FDOT recommended that the City submit a traffic impact analysis that assumed the maximum development scenario, addressed impacts to all state roads in the vicinity, and included mitigation measures for SR 415 to support the City's request for the Leahy (*Item E*), Chalk (*Item C*), Pinder (*Item B*) and D-Ranch (*Item G*) future land use map amendments.

(iv) A traffic impact analysis (TIA) for the Leahy, Chalk, Pinder and D-Ranch amendments, dated January 2006, was prepared for the City of Deltona by Ghyabi & Associates, Inc. The TIA submitted used the following assumptions:

VGMC Items	***TIA Assumed* Land Use**		***Proposed* Land Use Permits**	
	Existing	Proposed	Existing	Proposed
E: **Leahy**	148 du	241,000 SF	148 du	675,180 SF
C: **Chalk**	37 du	56,000 SF	37 du	174,240 SF
B: **Pinder**	10 du	703 du	10 du	703 du
G: **D-Ranch**	52 du	1,032 du 375,000 SF	52 du	1,032 du 344,995 SF

(v) Therefore, the TIA did not assume the maximum development scenario for the Leahy (Item E) and Chalk (Item C) amendments. The maximum development scenarios for these two amendments are based on the maximum floor area ratio (FAR) permitted which is 0.50 FAR. The City may be intending to limit the intensity of development as part of the future rezoning associated with the property but to date no limitations on development have been established. Based on the information provided in the TIA, the Leahy amendment would be developed with a floor area ratio (FAR) of 0.17 and the Chalk amendment would be developed with a FAR of 0.16.

(vi) The trip generation under the current and proposed future land use designations, associated with each amendment, as provided in the TIA is summarized below:

Amendment	**Daily Trip Generation** *Current* Future Land Use Designation	**Daily Trip Generation** *Proposed* Future Land Use Designation
Pinder *(Item B)*	125 ADT	6,254 ADT
Chalk *(Item C)*	417 ADT	4,659 ADT
Leahy *(Item E)*	1,491 ADT	12,030 ADT
D-Ranch *(Item G)*	570 ADT	24,368 ADT
Total	**2,603** ADT	**47,311** ADT

(vii) The study analyzed the roadway links within a five-mile radius of the direct access of each amendment site. Links are considered adversely impacted where the link volume exceeds the adopted capacity. The analysis considered roadway links significantly impacted where project traffic equals 5% or more of the service volume at the adopted capacity of the roadway. TIA conclusions regarding LOS impacts are provided below:

(1) Chalk, Leahy & Pinder: The 2010 & 2020 LOS analysis will not create any additional adversely impacted links in the network when compared to the current future land use map analysis. The LOS analysis indicated that all the adversely impacted links are due to the projected growth in background traffic and not the trips related to this proposed amendment. Each of the roadways will be evaluated and measures taken to ensure that an acceptable LOS is achieved at the time development impacts actually occur.

(2) D-Ranch: The 2010 & 2020 LOS analysis will not create any additional adversely impacted segments in the

network. However, the LOS analysis indicated that the Lemon Bluff Road Extension, providing direct access to the D-Ranch property, needs to be built as a four-lane facility to meet the adopted level of service requirements (LOS C). The Proportionate Fair Share costs associated with this new facility would be approximately $4,805,221.

(3) All other adversely impacted links are due to the projected growth in background traffic and not the trips related to this amendment.

(viii) As noted above, the traffic impact analysis states that "the LOS analysis indicated that all the adversely impacted links are due to the projected growth in background traffic and not the trips related to these amendment;" language which was suggested by Volusia County Traffic Engineering. However, a memo dated January 19, 2006 from Volusia County Traffic Engineering states the following:

We do not agree with this statement entirely, as each of the amendments does generate traffic that significantly impacts (impacts above 5% of the adopted level of service volumes) the network. In some areas of the network, those significantly impacted areas correlate with links that are projected to operate below the adopted LOS.

(ix) These significantly impacted roadways include the following:

Roadway	From	To
SR 415	SR 44	Ft. Smith Boulevard
Howland Boulevard	Wolf Pack Run	Providence Boulevard
Enterprise Road	Deltona Boulevard	Main Street
Normandy Road	Sullivan Street	Saxon Boulevard
Dirksen/DeBary/Doyle CR 4161	Enterprise Road	Garfield Road
Lemon Bluff Extension	East of D-Ranch Access	

(x) Based on the information provided by the City, it doesn't appear that improvements are planned or programmed for these roadways. While the TIA has provided documentation that the impacts are caused by background traffic not associated with the amendments, the City has not addressed these overall capacity issues on the affected roadway network which includes both City and County maintained roadways. The County has been coordinating with the City and the City's traffic consultants regarding the TIA. However, County comments regarding the findings of the TIA have not been provided to VGMC.

(xi) Furthermore, the development which will result from these proposed future land use amendments, specifically the Pinder, Leahy and Chalk amendments, will alter the rural character of the area by increasing the development potential, including the maximum allowable density and intensity along SR 415.

(xii) In September of 2003, Glatting, Jackson, Kercher, Anglin, Lopez, Rinehart, Inc. completed a SR 415 Land Use and Transportation Study for FDOT and Volusia County. The purpose of the Study was to establish the ultimate character of the area and acknowledged the three most pressing factors that could cause the character of the area to change. The Study listed the following factors:

- FDOT is considering expansion and improvements to SR 415. Roadway expansion and improvement could promote urban sprawl.

- Volusia County and the City of Deltona are searching for additional roadway connections to SR 415. Additional development demand could occur in the location of new roadway corridors.

- Future development prompted by annexation of properties into the city limits of New Smyrna Beach and Deltona may change the character of the area.

(xiii) Although the Study was never officially adopted by Volusia County Council, there was consensus on its findings. The purpose of the Study was to provide the following:

- A community character profile of the SR 415 corridor from the Seminole County line to SR 44 that communicates the County's long-term vision for the pattern of future development and the protection of natural resources;

- Roadway design alternatives for SR 415 that support the future vision of Southwest Central Volusia County and that are responsive to the issues of the community; and

- Strategies needed to implement this long-term vision. The Study identified seven strategies and defined the immediate, short-term and long-term action recommended for implementation. The strategies included the following:

1. Create an Osteen Local Area Plan
2. Adopt Scenic View Protections
3. Improve Rural Development Clusters
4. Negotiate Annexation Joint Planning Agreements
5. Establish an Urban Growth Boundary
6. Create a Coordinated Conservation Strategy
7. Build Roadways that Enhance Adjacent Communities

(xiv) The Study identified the maintenance of rural character as a common goal for the SR 415 area. The desired community character is a result of a partnership between Volusia County, private landowners and developers. Though the Pinder, Leahy, Chalk and D-Ranch amendment properties have been annexed by the City of Deltona, the desires and vision of Volusia County and area citizens remains unchanged. The City Planning Staff noted to the VGMC the possibility of reviewing and adopting the Study, and per information provided in the City of Deltona's March 22, 2006, RAI response, the Deltona City Commission and the Volusia County Council conducted a workshop on February 14, 2006, to discuss joint planning opportunities for the Osteen area. The City has indicated that a map depicting the City's understanding of the boundary that was decided at the meeting was forwarded to Volusia County for review and comment, but as of March 21, 2006, no comments had been received.

(xv) The Chalk amendment (*VGMC Item C*) proposed commercial development in an area of very low density residential development and vacant land. Currently, there is little development and no commercial uses on the eastside of SR 415. Applying a commercial land use to the Chalk property is inconsistent with the character of the surrounding area and would set a precedent for strip commercialization along this rural segment of SR 415. As noted in the Study, strip commercial development and additional curb-cuts along SR 415 would be detrimental to the rural character of the area. These potential adverse impacts to the adjacent jurisdiction, Volusia County, along with the increase from 417 average daily trips to 4, 659 average daily trips, which appear to create regional transportation impacts, prohibit the Chalk amendment form being eligible for VGMC Consistency Certification.

(xvi) To date, the Leahy amendment (VGMC Item E) proposed commercial development in an area of rural development, as noted above. The City has clarified that other commercial development has been approved directly north of the Leahy property on Howland Boulevard. The City has explained to VGMC the possibility of this intersection of SR 415 and Howland Boulevard being a "Gateway" into the City and the appropriate location for non-residential uses. Specific information regarding a "Gateway" or commercial node has not been provided to VGMC. It is unclear if specific access management issues such as limitation of curb-cuts on SR 415 have been considered as part of the land use amendment proposed.

(xvii) The Pinder amendment (*VGMC Item B*) proposed a residential use with a maximum density of six (6) dwelling units per

acre (approximately 703 dwelling units) in an area characterized predominately by land designated as Forestry Resource (1 du/20 ac) and Agricultural Resource (1 du/10 ac) on Volusia County's Future Land Use Map. The proposed density and traffic generation would further degrade the rural character of the area and the associated segment of SR 415.

(xviii) The Chalk, Leahy, and Pinder amendments have not been analyzed in comparison with the SR 415 Land Use and Transportation Study, prepared by Glatting, Jackson, Kercher, Anglin, Lopez & Rinehart. It appears that based on the findings of the Study, there may be specific design standards which could be applied to the development of these properties that would preserve the rural character of the area. However, prior to the City addressing development standards as part of the zoning and development review processes, the appropriate land use designations should be applied to the properties. As proposed, the land uses designations of Low-Density Residential (0-6 du/ac) and Commercial (0.5 FAR) appear to be inconsistent with the land use designations and policies of the adjacent Volusia County Comprehensive Plan. While it is recognized that the City has an imbalance of residential to non-residential land uses, the appropriateness of allowing 1,224,420 square feet of non-residential development and 703 residential units in this area off of SR 415 has not been provided. Therefore, we recommend that the City consider reducing the density and intensity of development on these properties in order to minimize the impacts on the adjacent jurisdiction.

(xix) The City of Deltona has very few land use designations which allow low density and intensity development. The City's Residential Low Density Land Use designation allows a density range from 0 to 6 dwelling units per acre. The City's only has one Commercial Land Use designation, which allows a maximum intensity of non-residential development at 0.5 FAR; this equates to approximately 21,780 SF of building per acre. As part of other amendments including the D-Ranch Amendment and the Thornby Amendment, the City has created land use designations which limit the density and intensity of development. In the proposed Village Land Use designation, the residential density is limited to 2 du/ac and the non-residential development is limited to 0.22 FAR. As a part of the Thornby Amendment, which was not adopted by the City, transferred residential density was proposed to be capped at 1 du/ac. It appears that the City has created the Thornby Special Area Plan and the Village alternative land use designations in order to create transitions in density and intensity of development from the surrounding rural properties. Therefore, we recommend that

the City limit the residential density on the Pinder property to no greater than 1 du/ac and the intensity of commercial development on the Leahy development to no more than 0.22 FAR. Since the Chalk property is located on the east side of SR 415, the amendment appears to be inconsistent with the established development pattern along SR 415 and should not be adopted.

(xx) As proposed, the Chalk, Leahy and Pinder amendments (*Items B, C and E*) appear to negatively impact SR 415, a state-maintained roadway. Therefore, these three Future Land Use Map amendments do not provide for areawide transportation solutions and are anticipated to cause adverse impacts beyond the boundaries of Deltona. Consequently, *Items B, C and E* are not consistent with Criteria 2 and 3 as cited in Volusia County Code Section 90-37 (c).

(xxi) The D-Ranch amendment (*VGMC Item G*), which proposes clustered development with a maximum density of two (2) dwelling inputs per acre with limited intensity commercial and public/semi-public uses, is located adjacent to the unincorporated community of Osteen. Within the area's rural context, Osteen has the most developed section of SR 415. According to the SR 415 Study, Osteen has maintained its rural character while allowing development to occur via clustering of housing on smaller lots and limited commercial uses, not unlike the development pattern proposed for the D-Ranch amendment.

(xxii) An analysis of the site plan associated with the D-Ranch amendment (the Trails of St. John), in relation to the design framework and principles outlined in the SR 415 Land Use and Transportation Study, was prepared by Glatting, Jackson, Kercher, Anglin, Lopez & Rinehart on January 21, 2006. The analysis determined that the proposed project is consistent with the recommendations of the SR 415 Land Use and Transportation Study. It can therefore be concluded that the D-Ranch amendment (*Item G*) is consistent with the plans of, and will not negatively impact, the infrastructure of adjacent jurisdictions. Thus, *Item G* is consistent with Criteria 2 and 3 as cited in Volusia County Code Section 90-37 (c).

(d) 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.

(i) Portions of the Pinder and Chalk amendments, and the D-Ranch amendment in its entirety, are located within the County's

Natural Resource Management Area (NRMA) overlay category. The NRMA is characterized as large expanses of relatively uninterrupted environmentally sensitive areas intended to be managed as an interconnected functioning system. If development does occur, it is the intent of the NRMA to ensure that the development does not adversely impact the quality and quantity of existing resources. The environmental conditions associated with each amendment and information on how the City will address these conditions are provided below:

(1) Pinder: Information provided in the City's VGMC application states that the northern portion of the subject site is located within the 100-year floodplain, specifically Flood Zone A, a zone for which no base flood elevation has been determined. According to the National Wetlands Inventory, there may be wetlands located on the amendment site. However, site-specific details were not provided in the City's VGMC Application.

a. As part of their review, FDCA noted that this amendment was not supported by an environmental analysis demonstrating the suitability of the site for the proposed land use and compatibility with adjacent natural resources, consistent with the requirements of the City's Comprehensive Plan and Rule 9J-5 F.A.C.

b. In response to FDCA's objections, the City modified its original application to designate 25.3 acres of the subject property as *Conservation* to provide protection for these wetlands.

(2) Chalk: Information provided in the City's VGMC application indicates that the property is almost entirely within the 100-year floodplain (Flood Zone A) and consists of poorly-drained soils. A large portion of the site appears to consist of wetlands and submerged lands (Thompson Lake). However, site-specific details were not provided in the City's VGMC Application.

a. As part of their review, FDCA noted that this amendment was not supported by an environmental analysis demonstrating the suitability of the site for the proposed land use and compatibility with adjacent natural resources, consistent with the requirements of the City's Comprehensive Plan and Rule 9J-5 F.A.C.

b. In response to FDCA's objection, the City modified its original application to designate 7.4 acres of the subject property as *Conservation* to provide protection of Thompson Lake and the associated wetlands. This change only addresses the portion of the property including Thompson Lake eastward. The amendment, as proposed, includes commercial development up to the western boundary of Thompson Lake. Therefore, it appears that impacts to the natural resources located in the Thompson Lake area may be impacted.

(3) Leahy: This amendment is not located within the 100-year floodplain and is not considered an area of special environmental concern per the Storm Management Study performed for the City by Professional Engineering Consultants, Inc. This amendment does not appear to include any environmentally sensitive areas, and therefore, is not anticipated to cause adverse impacts on natural resources which extend beyond the boundaries of Deltona.

(4) D-Ranch: A portion of the D-Ranch amendment is within the 100-year floodplain (Flood Zone A) and appears to contain wetlands. However, pursuant to Objective A of the proposed Village policies, the built environment will be designed to minimize the impact on the natural qualities of the site through significant buffering, preservation, and restoration. Pursuant to proposed Policy 5A, the clustering of units shall be required within the density limitations to reduce potential adverse impacts to natural resources.

a. It has been reported that there is an eagle's nest on the D-Ranch property. To address this, Policy 1C of the Village Future Land Use designation provides protection standards for threatened or endangered species, including the American Bald Eagle, as follows:

Development utilizing the Village Land Use Designation containing areas of endangered and/or threatened species shall adhere to the regulations and policies set forth by the Florida Fish and Wildlife Conservation Commission (FFWCC) and all other local, State and Federal regulations. Wildlife corridors shall be established in the form of greenways when such corridors are identified by the City and required in the Village plan, such corridors are generally required when natural wildlife paths of travel are established in the field, and their protection is determined by the City to be necessary to ensure the preservation of wildlife in the region surrounding

the proposed Village. Also, the nesting areas of the American Bald Eagle shall be protected by establishing conservation easements that cover the primary protection zones of said nesting areas, and prohibiting development therein. Unless additional requirements are employed, the maximum density of a village development shall be limited to one dwelling unit per gross acre.

b. In accordance with the City of Deltona's Comprehensive Plan, a development may not create a net loss of wetlands or degrade the functional value of such wetlands as a result of land development. If unavoidable, the applicant shall mitigate any loss prior to development approval. Listed and Endangered species will be reviewed by appropriate Federal, State and local agencies when a development request has been made and will follow all necessary protection measures, as stated in the Conservation Element of the City's Comprehensive Plan.

c. Based on the information provided by the City, proposed amendment *Items B, C, E* and *G* will not cause significant adverse impacts on natural resources beyond the boundaries of the City of Deltona. Therefore, *Items B, C, E* and *G* are consistent with Criteria (4) as cited in Volusia County Code Section 90-37(c). However, it appears that Item C will impact the natural resources associated with Thompson Lake, and therefore, is not consistent with Criteria (4) as cited in Volusia County Code Section 90-37(c).

(e) 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.

(i) The City of Deltona and Volusia County Schools have coordinated efforts in drafting a mutually acceptable policy to address school capacity and mitigation, which will be adopted as part of this comprehensive plan amendment cycle, and therefore, will be applicable to all residential development within the City. The policy reads as follows:

For Comprehensive plan amendments and rezonings to a residential land use or zoning category that increase residential densities, the City shall request School Board comments for inclusion in staff reports for consideration by the local planning agency and City Commission. Applications that are affected by this policy shall be forwarded to the

application does not adversely affect intergovernmental cooperation and coordination.

(i) 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. As described in VGMC Criteria (6) as listed above, no such interlocal agreement exists at this time. Therefore, this criterion is not applicable to reviewing the consistency of the proposed plan amendments.

(49) On April 25, 2006 a letter was received from Jason Searl, attorney for the property owner of the Pinder, Item B Amendment. That letter stated the property owner is willing to self-impose a density cap over the 117 acres of City Low Density Residential property to 2.85 dwelling units per acre.

(50) Based upon a Motion to Continue the Pinder Amendment, Item B, to the May 2006 meeting of VGMC for further information, no action is taken on the Pinder Amendment, Item B by and through this Resolution.

(51) At the April 26, 2006 VGMC public hearing on the Deltona 05-11 Large Scale Amendment, VGMC Case No. 05-34, a representative of the City of Deltona made a formal statement to the VGMC withdrawing from VGMC consideration the Chalk Property, Item C and the D-Ranch Property, Item G. Accordingly, the VGMC will take no action on the withdrawn Amendments for the Chalk Property, Item C and the D-Ranch Property, Item G.

SECTION 2. CONCLUSIONS OF LAW AND CERTIFICATION OF CONSISTENCY.

A. For the City of Deltona application (VGMC Case No. 05-034), the VGMC, in accordance with the criteria expressly defined in Volusia County Code Section 90-37(c), hereby concludes and determines that the Howland Boulevard (Item A) and the Transportation Element (Item I) comprehensive plan amendments, as proposed and amended, would not have an adverse impact on the affected and/or adjacent local governments and will not adversely affect intergovernmental cooperation and coordination between local governments; therefore, Items A and I are deemed consistent and hereby receive this certificate of consistency without conditions.

B. Based on the City of Deltona's withdrawal of the Chalk Property, Item C, and the D-Ranch Property, Item G, from the Comprehensive Plan Amendment Package, VGMC Case No. 05-34 the Volusia Growth Management Commission and the City of Deltona will not take any further action on the Chalk Property, Item C or the D-Ranch Property, item G, as part of the City of Deltona's 05-01 Large Scale Amendment Comprehensive Plan Package.

C. Based upon a Motion to Continue the Pinder Amendment, Item B, to the May 2006 meeting of VGMC for further information, no action is taken on the Pinder Amendment, Item B by and through this Resolution.

D. 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 certificates." Based on the lack of consistency with VGMC review criteria set forth in Volusia County Code Section 90-37(c), the Volusia Growth Management Commission concludes that the amendments that for Pinder (Item B), Doudney (Item D), Leahy (Item E), and Casey (Item F), as proposed and amended, are not consistent and are incompatible with the plans of adjacent local government and will adversely effect intergovernmental cooperation and coordination between local governments.

E. There are conditions which may be placed upon the certification of Amendment Items D, E, and F such that Items D, E, and F can be conditionally certified consistent.

F. The Volusia Growth Management Commission hereby elects to find VGMC Application No. 05-034 for Items D, E, and F consistent subject to compliance with those conditions set forth below:

1. Doudney Amendment (Item D): Prior to construction occurring on the Doudney Property, the developer of the Doudney Property shall execute a developer's agreement with the City of Deltona and the Volusia County School Board addressing the impacts of the proposed development on the surrounding infrastructure. It is anticipated that the developer's agreement will include the requirement that the developer/representative of the Doudney property shall reimburse the Volusia County School Board for costs associated with construction of a 6-inch forcemain adjacent to the property.

2. Casey Amendment (Item F): Prior to or concurrent with construction occurring on the Casey Property, the developer of the Casey Property shall execute a developer's agreement with the City of Deltona addressing the need to construct access from Howland Boulevard that will be utilized by the development as well as by Elementary "D". Design of the shared access shall be approved by both the City of Deltona as well as the appropriate representatives of the Volusia County School Board.

4. Leahy Amendment (Item E): To promote compatibility with the rural character of the surrounding area, non-residential development on the Leahy Property shall be limited to a maximum intensity of 0.22 FAR. As the development plan for the Leahy property is generated, consideration to minimizing impacts on SR 415 should be required.

Design alternatives include, but are not limited to, access management options such as limited access on SR 415.

5. Amendment Items D, E, F: Any changes or amendments proposed to be made or adopted to the City of Deltona'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.

6. Amendment Items D, E, F: 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 unenforceable.

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

RESOLVED this 26th day of April, 2006.

VOLUSIA GROWTH MANAGEMENT COMMISSION

By: _____
Mark Rakowski, Chairman

ATTEST:

_____
Joan Lee, Secretary

FILED WITH THE SECRETARY THIS 26th DAY OF APRIL, 2006.

_____
Merry Chris Smith, VGMC Coordinator

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