



**GROWTH AND RESOURCE MANAGEMENT DEPARTMENT  
PLANNING AND DEVELOPMENT SERVICES DIVISION  
CURRENT PLANNING ACTIVITY**  
123 W. Indiana Avenue, DeLand, FL 32720  
(386) 736-5959

**PUBLIC HEARING:** September 10, 2013 – Planning and Land Development Regulation Commission (PLDRC)

**CASE NO:** Z-13-060

**SUBJECT:** Zoning map amendment creating the Wilbur-by-the-Sea overlay zone for inclusion in article IV, chapter 72, Land Planning of the county code of ordinances.

**STAFF:** Becky Mendez, AICP, Senior Planning Manager

**SUMMARY OF REQUEST**

The Volusia County Council adopted the Wilbur-by-the-Sea Local Plan in 2004. The expressed goal of the Local Plan is to maintain the existing residential, cultural, and scenic values associated with the Wilbur community within a framework, which will allow for growth compatible with the established development pattern and current land use policies. The Local Plan also provides objectives and policies for implementation, which includes the use of an overlay zone (policy WIL 1.3.2).

On March 14, 2013, the county council authorized staff to begin drafting a Wilbur-by-the-Sea community overlay zone. Today, the area contains five zoning classifications, which are; RC, P, R-3, R-9, and B-7.

On April 15, 2013, county planning staff met with the Wilbur-by-the-Sea community association to discuss local issues. Below is a summary of that meeting and the issues discussed.

#	Issue	Overlay?
1	Bus Bench Advertising. On February 18, 2010, the county council approved a text amendment to the sign code, allowing advertising on public transportation benches within the right-of-way. The Wilbur community objected to the “commercialization” of the area, and as a result, Waverly (contract) voluntarily removed the advertising. The HOA would like a more permanent solution.	No, because of existing contract
2	Building Height. Local plan policy WIL 1.1.6 requires the county to maintain the pattern of predominately low-density, low-profile single-family residential land uses. The overlay zone could include a height limitation of 35 feet for all zoning classifications (Max height is 35’ in R-3 and R-9. Max height is 45’ in RC, P and B-7).	Yes

#	Issue	Overlay?
3	Nonconforming Provisions. Section 72-206 requires zoning code compliance if the building is damaged in excess of 75%, as assessed by the property appraiser. Section 72-302 requires zoning code compliance if the building is hurricane-damaged by more than 50% of the replacement cost. After discussion, the HOA agreed with existing regulations, and did not recommend lowering the threshold.	No change
4	Short Term Rental. This issue does not appear to be as significant as it once was. Staff explained that the definition of hotel/motel applied and therefore, owners cannot rent properties at less than one-month intervals. Any evidence otherwise, would violate the zoning code and subject to code enforcement involvement.	No change
5	Use List. Planning staff reviewed the permitted principal and special exception use list for the Urban Single-Family zoning classifications (R-3 and R-9) with the HOA. The HOA clarified that the bed and breakfast special exception use was appropriate so long as it followed the public hearing process. Also, clarified that the county was not required to rezone the Toronito Parking area, because the R-3 zoning classification allows public uses.	No change
6	Drainage to the Beach. Planning staff confirmed with Public Works that the drainage issue will be resolved with the construction engineering of the sidewalk/stormwater improvements currently underway.	No
7	Joint Planning Agreement. Local plan policy WIL 1.3.3 requires that the county seek JPAs with adjacent municipalities to ensure that annexation activities do not lead to development that is incompatible with the character of the area. To date, the county has not negotiated any such agreements.	No
8	Due Public Notice. The zoning code requires mail notices to adjacent property owners for public hearings. The HOA requested an increase radius of 200 feet.	Not recommended because of increased advertising cost
9	Cluster and zero lot line subdivisions. The HOA president contacted planning staff in May, 2013 and requested additional information regarding cluster and zero lot line subdivisions, which are a permitted principal use in the R-3 zoning classification. The R-3 classification requires a minimum lot size of 10,000 square feet and lot width of 85 feet that may be reduced to 5,000 square feet and lot width to 45 feet, so long as certain standards are met. However, the HOA requests an increase in the cluster and zero lot line subdivisions minimum standards to mirror the R-3 classification.	Yes

Staff drafted a proposed text amendment to address building height and cluster and zero lot line subdivisions as requested by the community. The proposed overlay zone amends the development standards as follows:

- Indicates the overlay with the letter “S”
- Maximum height is 35 feet, regardless, of zoning classification

- Cluster and zero lot line subdivision minimum lot size and width will match the standards of the R-9 zoning classification

The Wilbur-by-the-Sea community association reviewed the draft amendment and provided a letter of support dated August 9, 2013.

### **STAFF RECOMMENDATION**

Find the proposed ordinance consistent with the comprehensive plan and forward to county council for final action with a recommendation of approval. The county council is required to hold two public hearings on this item. The first public hearing is tentatively scheduled for October 24, 2013, and November 7, 2013, for the second public hearing.

### **ATTACHMENTS**

Wilbur-by-the-Sea Local Plan  
Wilbur community association letter of support  
Draft Proposed Ordinance No. 2013-XX  
Maps

ORDINANCE 2013-

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA BY AMENDING CHAPTER 72, ARTICLE IV, BY ADDING A NEW DIVISION 4, SECTIONS 72-1356 THROUGH 72-1362; AMENDING THE OFFICIAL ZONING MAP BY AMENDING THE ZONING CLASSIFICATIONS OF CERTAIN HEREIN DESCRIBED PROPERTIES BY ADDING THE SUFFIX "S" TO DESIGNATE THE WILBUR-BY-THE-SEA OVERLAY ZONE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:

(Words in ~~strike-through~~ type are deletions; words in underscore type are additions.)

SECTION I: Chapter 72, article IV of the Code of Ordinances, County of Volusia is hereby amended by adding a new Division 4. Wilbur-by-the-Sea, to read, in full, as follows:

Division 4. Wilbur-by-the-Sea

Sec. 72-1356- 72-1359. Reserved.

Sec. 72-1360. Applicability.

These development regulations apply to properties located within those boundaries identified in Figure 1-12I, titled "Wilbur-by-the-Sea Local Plan," of the Volusia County Comprehensive Plan. This overlay zone shall apply to all zoning classifications established in article II, division 7 of this chapter, and the official zoning map shall identify said overlay zone by adding the letter "S" as a suffix to the existing zoning

1 classification. In the event of a conflict between this division and other provisions of this  
2 chapter, the provisions of this division shall apply.

3

4 **Sec. 72-1361. Development standards.**

5 (a) The maximum building height for any principal or accessory structure is 35 feet.

6 (b) Cluster and zero lot line subdivisions shall comply with section 72-304, Volusia  
7 County Code of Ordinances, except that the minimum lot size is 10,000 square  
8 feet and the minimum lot width is 85 feet.

9

10 **Sec. 72-1362. Variances.**

11 A petition for variance from the requirements of this division shall be governed by the  
12 provisions of section 72-379.

13

14 **SECTION II:** The Official Zoning Map of Volusia County is hereby amended in  
15 accordance with the map attached hereto as "Exhibit A." The zoning classifications for  
16 those certain unincorporated real properties are hereby changed by adding the letter "S"  
17 as a suffix to the existing classifications, as depicted on "Exhibit A."

18

19 **SECTION III:** AUTHORIZING INCLUSION IN CODE - The provisions of this  
20 ordinance shall be included and incorporated into the Code of Ordinances of the County  
21 of Volusia, as additions or amendments thereto, and shall be appropriately renumbered  
22 to conform to the uniform numbering system of the code.

23

24 **SECTION IV:** SEVERABILITY - Should any word, phrase, sentence, subsection  
25 or section be held by a court of competent jurisdiction to be illegal, void, unenforceable,

1 or unconstitutional, then that word, phrase, sentence, subsection or section so held shall  
2 be severed from this ordinance and all other words, phrases, sentences, subsections, or  
3 sections shall remain in full force and effect.

4

5 **SECTION V: CONFLICTING ORDINANCES** - All ordinances, or part thereof, in  
6 conflict herewith are, to the extent of such conflict, repealed.

7

8 **SECTION VI: EFFECTIVE DATE** - A certified copy of this Ordinance shall be  
9 filed with the Department of State by the County Manager within ten (10) days after  
10 enactment by the County Council and this Ordinance shall take effect upon filing with the  
11 Department of State.

12 **ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN**  
13 **OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT**  
14 **THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA**  
15 **AVENUE, DELAND, FLORIDA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 2013.**

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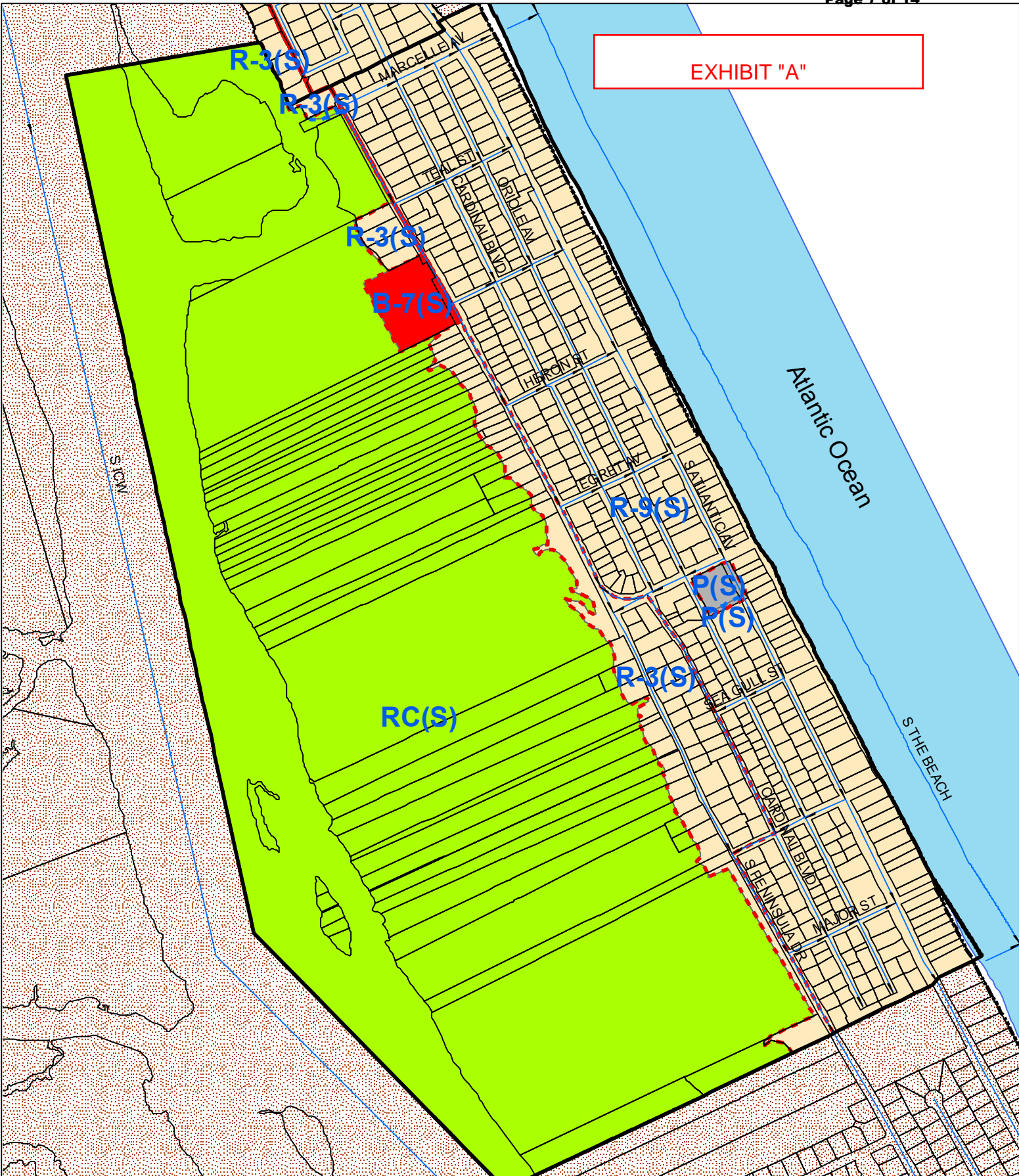
ATTEST:

COUNTY COUNCIL  
COUNTY OF VOLUSIA, FLORIDA


\_\_\_\_\_  
James T. Dinneen, County Manager

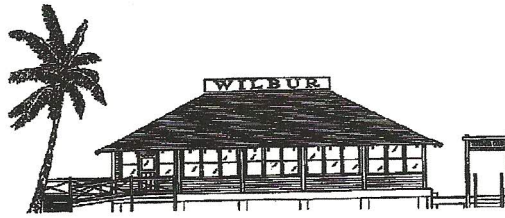
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Jason Davis, County Chair

EXHIBIT "A"



WILBUR BY THE SEA - PROPOSED ZONING


 Date: 5/22/2013  
 1 inch = 700 feet



**Wilbur BoatHouse  
Wilbur Improvement Association , Inc.  
4200 South Peninsula Drive  
Wilbur-by-the-Sea, FL 32127**

August 9, 2013

Planning and Land Development Regulation Commission  
Volusia County Government  
DeLand, Florida

The Wilbur Improvement Association recommends the adoption and implementation of the proposed Wilbur-by-the-Sea Overlay Zone as an augmentation to the Wilbur-by-the-Sea Local Plan as adopted in 2004. Specific provisions of the proposed overly zone include:

- A building height limitation of 35 feet in all zoning classifications.
- In R3 zoning areas, which currently allow for cluster and zero lot line development, require such development to mirror the standards established for all R3 residential construction.

In the past several months, after meeting with the Growth and Resource Management staff, we have discussed the above provisions in our Board of Directors meetings, which are open for all interested parties to attend and participate, as well as our monthly members meetings. Additionally, we have presented these provisions of the overly zone in our monthly newsletter. We have received only positive feedback from the community.

We, therefore, recommend that any and all actions be undertaken to adopt the above provisions to further support the original intent of the Wilbur Overlay Zone, to “maintain the existing residential, cultural and scenic values associated with the Wilbur community within a framework which will allow for growth compatible with the established development pattern and current land use patterns.”

Thank you for consideration of this matter of great importance to the Wilbur community.

A handwritten signature in blue ink, appearing to read 'Robert Mills'. The signature is written in a cursive, flowing style.

Robert Mills, President

## 9. WILBUR-BY-THE-SEA LOCAL PLAN

### Background

A support document for the Wilbur study area was prepared which inventoried and evaluated the area's historic, cultural, and natural resources. A survey was conducted of the study area population and the results are summarized in the support document. The document is entitled "Support Document #1-13, Wilbur-by-the-Sea Study Area."

### GOAL:

WIL 1 Maintain the existing residential, cultural and scenic values associated with the Wilbur Community within a framework which will allow for growth compatible with the established development pattern and current land use policies.

### OBJECTIVE:

WIL 1.1 Preserve the residential scale of urban development in keeping with the historic residential pattern of Wilbur-by-the-Sea.

### POLICIES:

WIL 1.1.1 Applications for increases in the land use intensities and densities above those currently designated on the Volusia County Land Use Map shall be presumed inconsistent with the Wilbur-by-the-Sea Local Plan.

WIL 1.1.2 Sanitary Sewer and potable water design capacity for any systems should be sized at a level appropriate to support a single family residential development pattern. It will not be used to justify increased density of a multi-family character typical of neighboring adjacent beach front communities.

WIL 1.1.3 Applications to convert a residential single family land use to nonresidential use or increase residential density within the Wilbur Community shall not be allowed, except for a valid public purpose pursuant to section 125.01, Florida Statutes on publicly owned property, which is also consistent with the Wilbur-by-the-Sea local area plan and zoning overlay.

WIL 1.1.4 Commercial use should be limited to areas currently designated for that purpose and in use.

WIL 1.1.5 Limited commercial use as allowed in the Comprehensive Plan's Urban Land Use designations shall be subject to Planned Unit Development (PUD) requirements. Any use developed as a PUD must demonstrate compatibility with the character and development pattern of the Wilbur Community.

WIL 1.1.6 The pattern of the predominant low density, low profile single-family residential land uses shall be maintained. The limitation of density facilitates evacuation along the barrier island coastal community and protects the scenic views and the other estuary attributes associated with the river and ocean front areas in the Wilbur-by-the-Sea community.

OBJECTIVE:

WIL 1.2 Protect and enhance the environmental and cultural resources of Wilbur-by-the-Sea which define the area's character and visual appeal.

POLICIES:

WIL 1.2.1 The areas of Wilbur-by-the-Sea that are designated as Environmental Systems Corridor (ESC) shall retain this designation to ensure the protection of the environmental resources.

WIL 1.2.2 The County shall continue to support the protection, historical significance, and recreational use of the Wilbur Boathouse.

OBJECTIVE:

WIL 1.3 The Wilbur Plan will continue to be implemented.

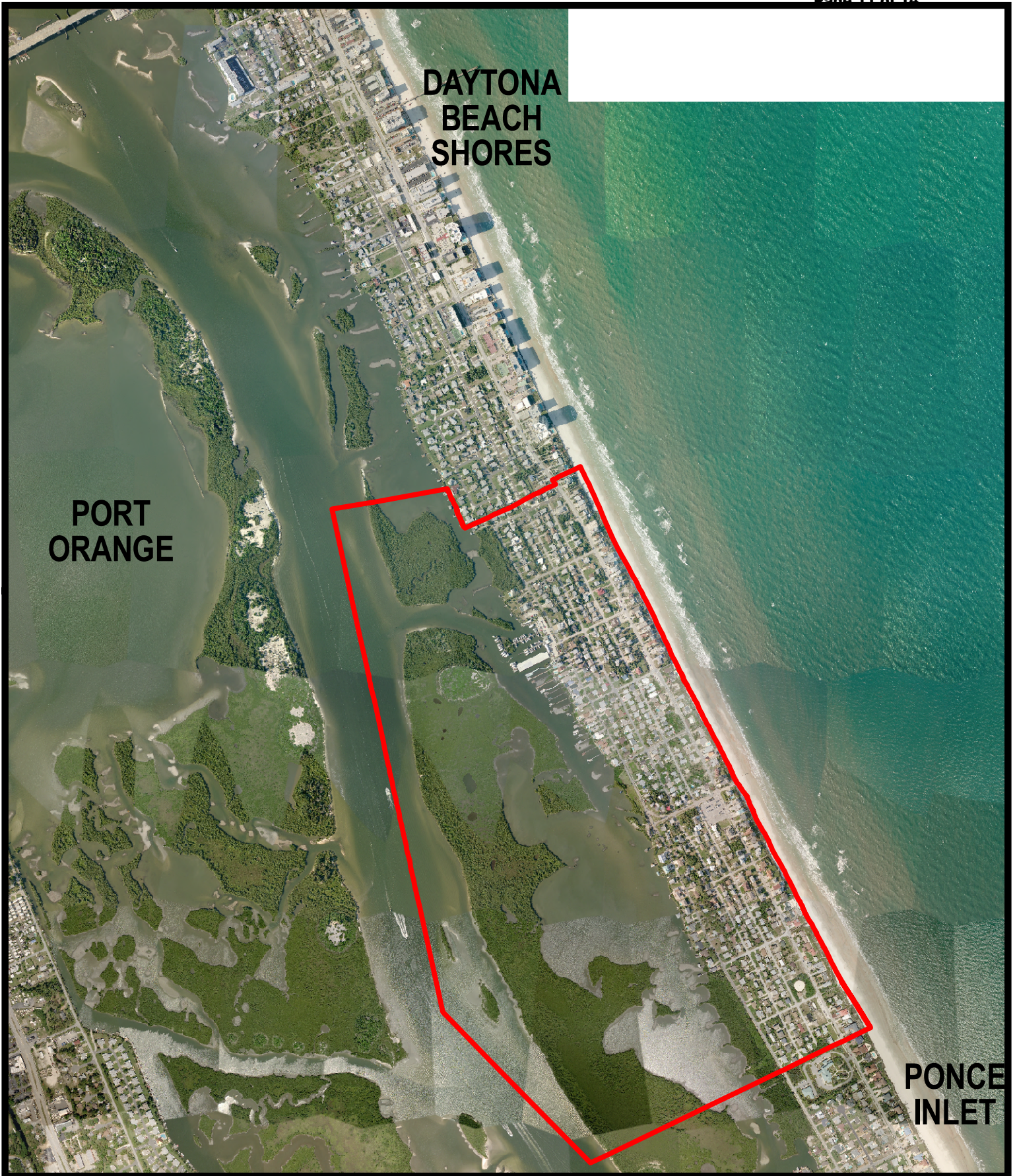
POLICIES:

WIL 1.3.1 Any plans and programs for the Wilbur-by-the-Sea study area that are deemed to be appropriate shall be implemented through amendments as necessary to the Comprehensive Plan, Zoning Ordinance, and Land Development Code. Implementation shall not be limited to the above and may be accomplished by any other appropriate means.

WIL 1.3.2 Specific implementation tools that may be used include, but are not limited to:

- a) Use of an Overlay Zone; and,
- b) Joint Planning Agreements.

WIL 1.3.3 The County shall seek joint planning agreements with adjacent municipalities to ensure that annexation activity does not lead to development that is incompatible with the character of the Wilbur-by-the-Sea Community and the intent of this plan.



**DAYTONA  
BEACH  
SHORES**

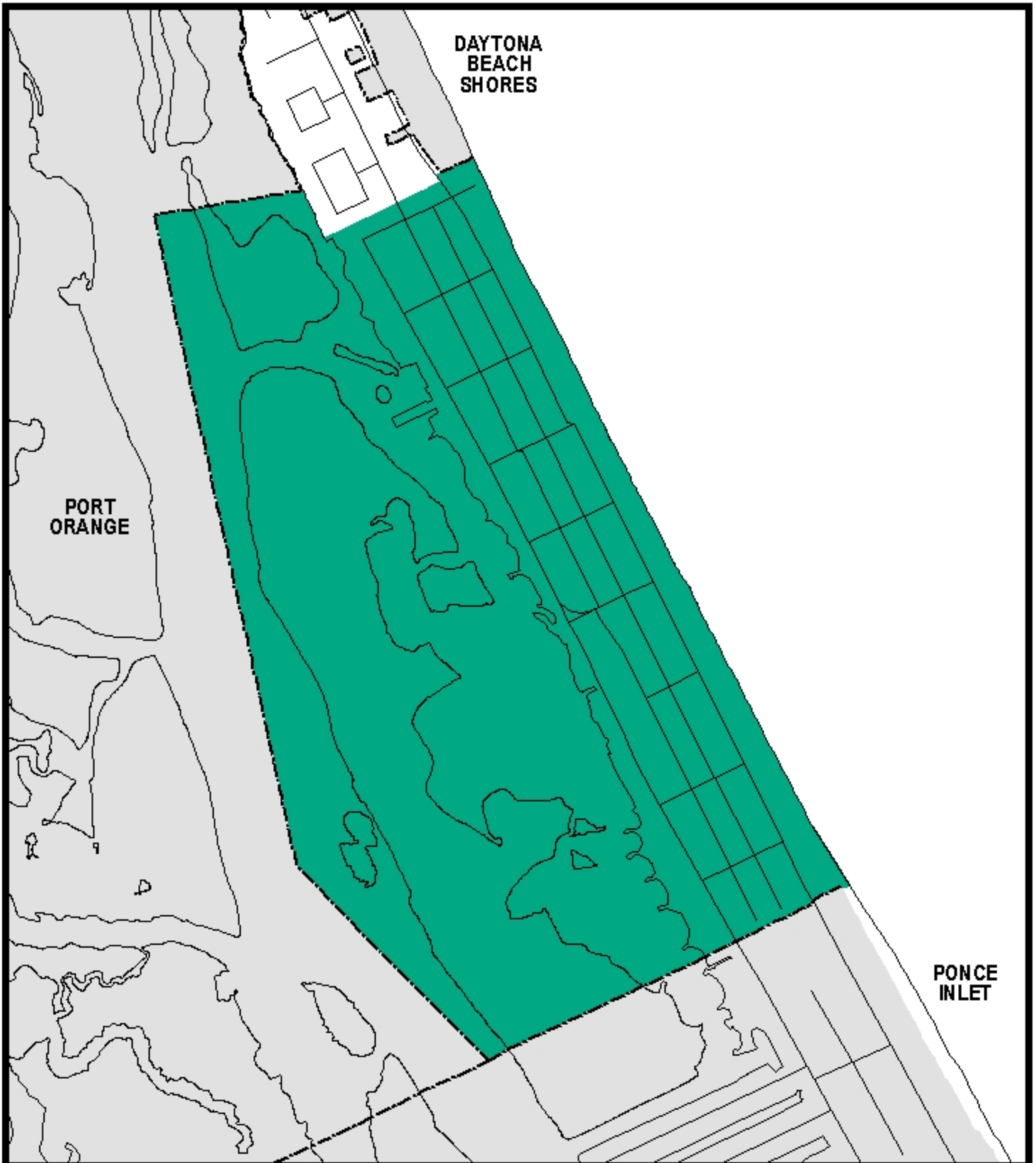
**PORT  
ORANGE**

**PONCE  
INLET**

**WILBUR by the SEA & VICINITY  
2008 Aerial Photography**



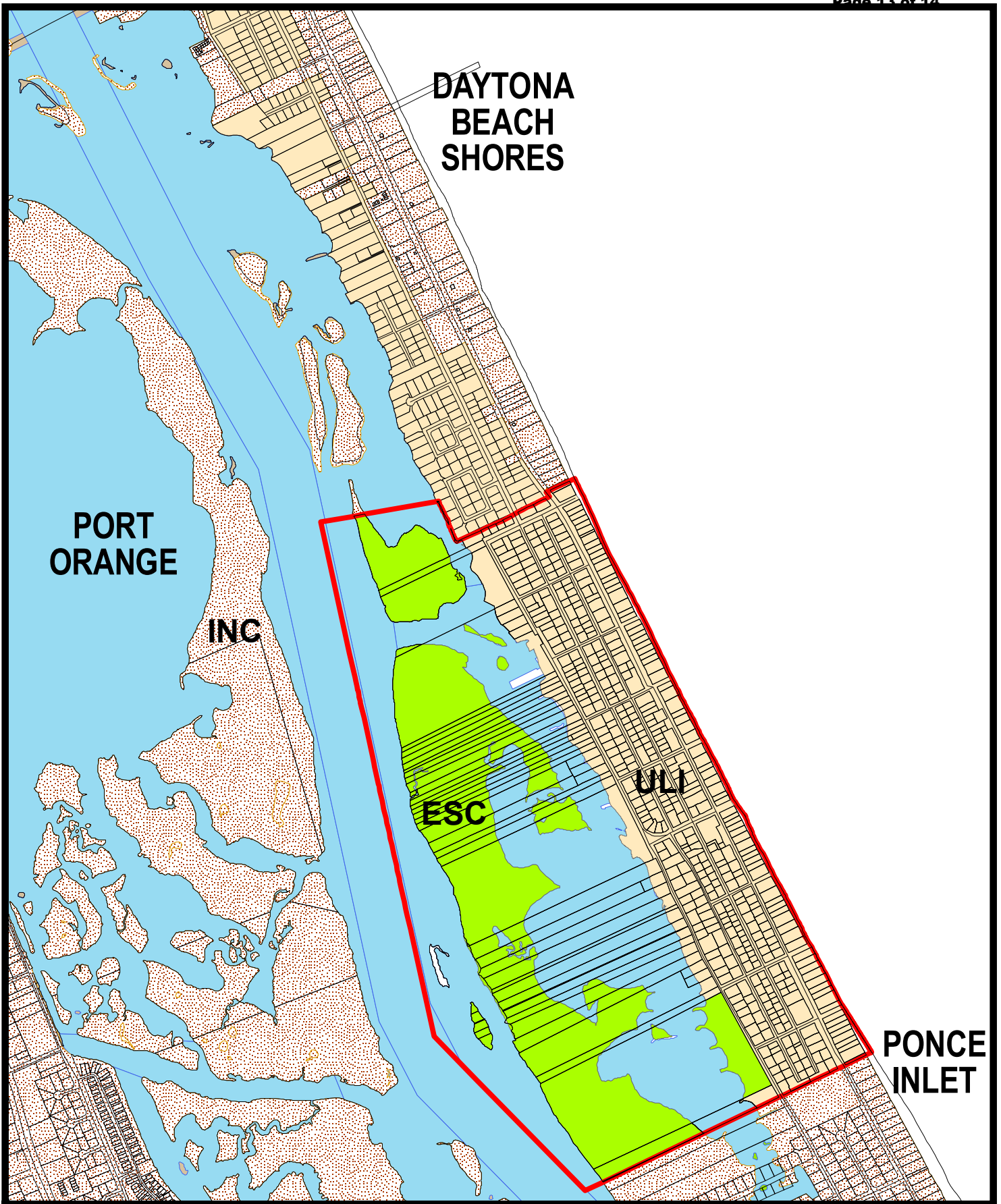
1 in = 1,200 ft  
14-Sep-10



**FIGURE 1-12I**  
**WILBUR BY THE SEA LOCAL PLAN**



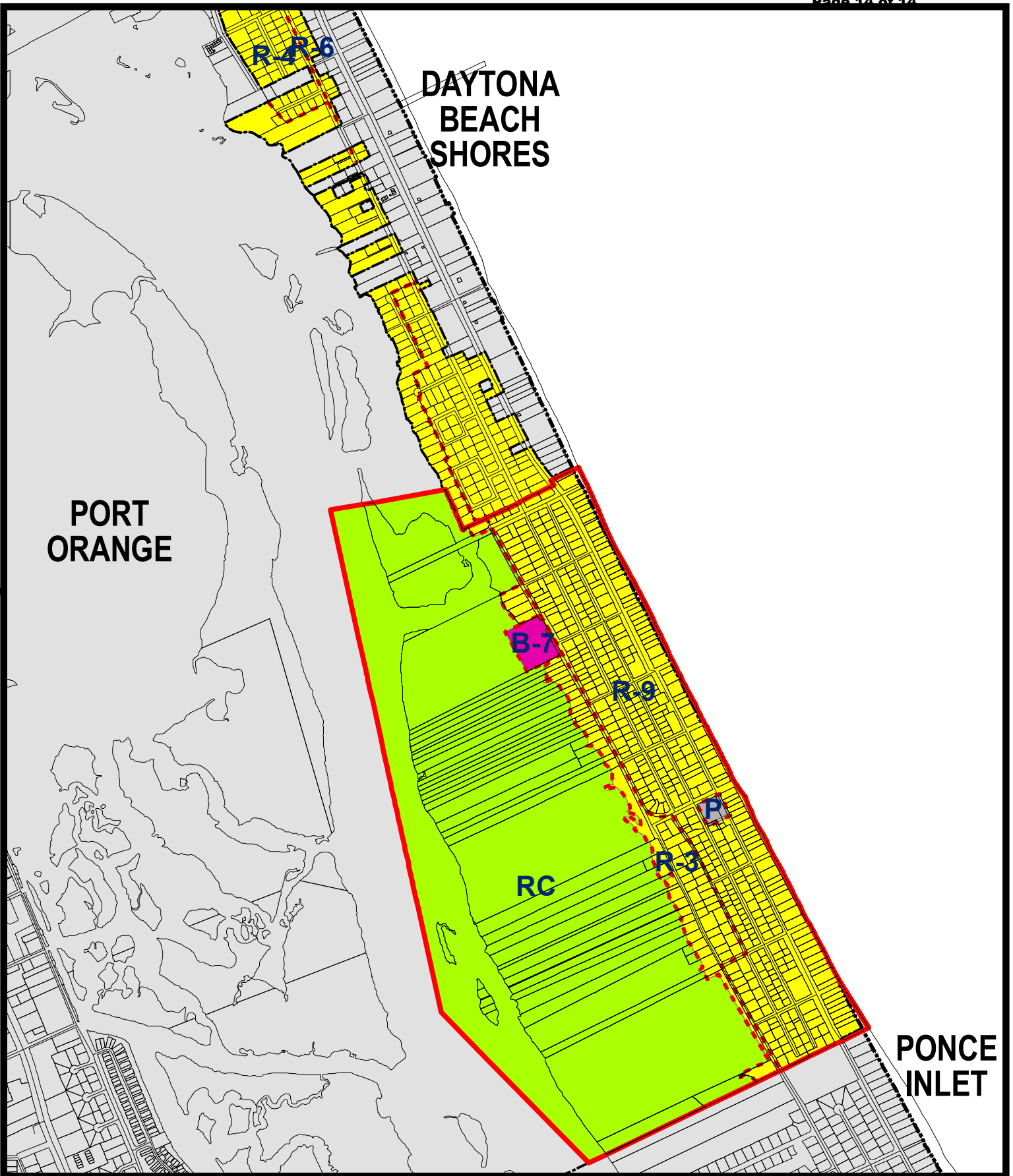
PREPARED BY: VOLUSIA COUNTY GROWTH & RESOURCE MANAGEMENT DEPARTMENT



# WILBUR by the SEA & VICINITY Future Land Use



1 in = 1,200 ft  
09-Sep-10



# WILBUR by the SEA & VICINITY Zoning



1 in = 1,200 ft  
14-Sep-10