

EVALUATION OF MAJOR ISSUES

2.2 CURRENT ANNEXATION POLICY RESULTING IN URBAN SPRAWL

Population Projections: In analyzing population growth and demographic shifts, the County will attempt to geographically distribute growth projections within municipalities and unincorporated areas based on demonstrated need.

Directing growth/development away from environmental, agricultural and rural areas: The County will explore the removal of thoroughfares and other infrastructure initiatives that will result in sprawl development, assess whether provisions of the Comprehensive Plan adequately encourage smaller lots (Infill) by allowing zoning by right and taking advantage of vacant land in cities and unincorporated urban areas instead of promoting urban sprawl.

Intergovernmental coordination: The County will assess current partnerships with the State and municipalities with respect to protecting natural and rural resources and the provision of future services relating to annexation. The County will explore Inter-local Agreements to address enclaves and service delivery issues and Joint Planning Agreements outlining local annexation procedures to ensure annexation and planning happen concurrently.

INTRODUCTION

Volusia County contains a large geographic area comprising about 1200 square miles. Within the County there are 16 municipalities, each with its own land use jurisdiction. Some of the smaller municipalities within the County wholesale central water and sewer from adjacent municipalities or the County, and also represent incorporated towns that are situated within a rural context. Most of the larger municipalities within the County provide a full range of urban services including central water and sewer facilities.

For large scale development to occur, central services, including water and sewer, are needed and required. The County is not a large provider of central water and sewer facilities and the provision of urban services typically rests with the cities. The prevailing political philosophy within the County is that urban growth should occur within municipalities. While the philosophy that urban growth should happen within a city is sound, the fact is that municipal annexation policies can and do create urban sprawl.

DIRECTING GROWTH / DEVELOPMENT AWAY FROM ENVIRONMENTAL, AGRICULTURAL AND RURAL AREAS

The annexation/urban sprawl situation is driven in part by the fact that the annexation of large vacant, undeveloped parcels under single or few owners is much easier to annex than smaller developed parcels. The fact that already developed unincorporated areas close to existing urban/municipal areas may resist annexation further confounds any attempt to create compact urban growth patterns. Finally, the concept of redevelopment has really not been given serious attention unless the area is associated with an amenity (beach or waterfront). The lack of redevelopment attention is evidenced by the existence of vacant or under-utilized shopping centers, or residential neighborhoods with a lack of and/or decaying infrastructure.

The annexation of larger tracts of land located at the periphery of traditional urban areas is facilitated and encouraged by existing State law. Chapter 171 F.S. allows the voluntary annexation of tracts of land by municipalities by establishing simple contiguity criteria and requires very little planning data and analysis. The challenge period is short (30 days). Finally, the lack of any real linkage between Chapter 171 F.S. and State Growth Management Law is profound.

Many of the cities have annexed large undeveloped areas, which were eventually developed, or are planned to be developed, at urban scales. The result has been urban encroachment into areas that are environmentally sensitive, the displacement of agricultural operations, the creation of land use incompatibilities and conflicts, or all of the above. Annexation activities have continued to push municipal limits out further from developed areas. In the years 1999 and 2000 the County began to question the appropriateness of some of the municipal annexation activities. More specifically the annexation activity of the City of New Smyrna Beach and later Deltona began to galvanize public sentiment concerning sprawl and community character.

In 1999 the City of New Smyrna Beach annexed a large tract of vacant land located well west of I-95. The property totaled approximately 1500 acres and was known locally as Spruce Creek Ranch. The land was used for agricultural purposes and for all intent and purposes was part of a large agricultural area commonly referred to as Samsula. The Spruce Creek Ranch annexation resulted in a large westward extension of a municipality that was traditionally oriented to the beach and other areas located east of I-95. Annexation of the Spruce Creek Ranch property was achieved utilizing a narrow corridor of incorporated land that extended to the interstate and ultimately tied into the Spruce Creek Ranch property. After lengthy negotiations with the Florida Department of Community Affairs (FDCA) the Spruce Creek Ranch property was granted a land use designation that allowed the urban development of the area.

Public opposition grew when the Spruce Creek Ranch property was renamed Venetian Bay portending the advent of suburban residential development, and ancillary commercial uses, complete with golf course amenities. While some were opposing the wisdom of approving the development, others began to question the process and policies that facilitated the Venetian Bay development. The public sentiment concerning the appropriateness of the Venetian Bay development and other projects and annexations started to shape County policy regarding planning, land use, and annexation.

A significant event that demarked County policy concerning land use and annexation was the initiation and eventual adoption of the Enterprise Local Plan. Enterprise is a unique unincorporated community located in south-central Volusia County on the shore of Lake Monroe. Enterprise can generally be described as a low-density residential area that is associated with historical and environmental resources. The community of Enterprise is bounded on the north by the City of Deltona. Deltona started out as a large retirement community that featured numerous ¼ acre residential lots situated on a curvilinear road network. Development of Deltona started in the 1960's, and was an unincorporated service district until 1995 when Deltona was incorporated by referendum. After the Deltona incorporation the City began to annex and approve developments within Enterprise that the Enterprise Community felt did not fit with the community

character and vision. A citizens group known as the Enterprise Preservation Society (EPS) represented the Enterprise community. EPS was effective at gaining County support for a local plan. The local plan was intended to protect the character of the community and hopefully achieve an agreement with the City of Deltona concerning annexation activities and protecting the character of Enterprise.

County staff worked on the Enterprise Local Plan during the year 2002. Staff envisioned that the Plan would be appended to the County Future Land Use Element, and the Local Plan would be implemented via land use and land development regulations. In addition, the County hoped that annexation activity and development occurring within the neighboring City of Deltona would be managed through a joint planning agreement between the City and the County. The County was effective at establishing policies for land use and land development occurring within Enterprise, and the County adopted the Enterprise Local Plan in the summer of 2003. However, the intergovernmental component of the Enterprise Plan never came to fruition. The City and the County could not come to an agreement on the terms of a planning agreement concerning Enterprise. The situation with Enterprise and the City of Deltona is still unresolved and there is an open issue between the City and the County concerning land use and annexation activity within the Enterprise community.

Since the adoption of the Enterprise Local Plan other unincorporated communities have approached the County seeking the same type of planning effort issued for Enterprise. The County has adopted a Local Plan for the Wilbur-by-the-Sea and Samsula communities; and the County is currently working on a Local Plan for the Tomoka Farms Rural Village.

Local plan requests by unincorporated communities tend to be driven by various factors including the following:

- 1) Desire to maintain community character and identity;
- 2) Fear of municipal annexation;
- 3) Possible extension of central water and sewer and conversion of land to urban;
- 4) Loss of agricultural viability; and
- 5) Traffic

Annexation activity, community character issues, and urban sprawl led the County to look at its planning regulations to see if there were adequate tools to effectively manage growth. The County determined that while the existing Comprehensive Plan was sound, there was room for enhancement. There was an idea that an urban growth boundary (UGB) approach would be an appropriate method to further County goals that encourage compact urban growth. The UGB would also be used as a tool to curtail municipal annexation that lead to sprawl. In 2003 the County Council at a goal setting session established some type of urban growth limitation as a prime goal. During the first half of 2003 County Planning staff worked on a UGB concept.

When the UGB process was just in the initial stages, the City of Port Orange attempted to annex a large tract of land located well west of the existing City limit. The land proposed for annexation was about 6400 acres and was actually owned by the City. (The City owned the land for a wellfield.) In the late spring of 2003 the City annexed the land; the County challenged the annexation pursuant to Chapter 171 F.S. This was the

first County annexation challenge in about 20 years. Reasons cited in the County's challenge ranged from lack of significant contiguity to the proliferation of urban sprawl. After a mandated mediation session between the City and the County, the City repealed the annexation. However, the County and the City of Port Orange entered into a joint planning agreement for the 6400-acre area.

During the summer of 2003 the County UGB process continued with mapping, data collection and meetings. The first County Council workshop on the UGB was held in November of 2003. The County Council was receptive to the proposed UGB as mapped, and when presented with implementation options, considered an amendment to the County Charter a viable approach to implementing the UGB. The idea of incorporating the UGB into the Charter would have made it effective for the entire County, municipalities included.

The County Council had another goal setting session in early 2004 and identified the establishment of the UGB a priority for the County. During early 2004 additional data collection occurred and support documents were drafted. The County also had numerous meetings with cities (both elected officials and staff) and interested parties (neighborhood groups, farm bureau, environmental groups, etc.).

In February 2004 the City of Deltona annexed a 5000-acre area located east of the City limits in an area the County had earmarked on the FLUM for low intensity uses. Contiguity of the 5000 acres with the existing limits of Deltona was a strip of land 320 feet wide by over 1200 feet long. The County challenged the Deltona annexation citing numerous reasons such as lack of significant contiguity, proliferation of urban sprawl, etc. The 5000-acre annexation was not heard by the Circuit Court until early 2005.

In 2004 as winter turned to spring the UGB concept was a well-discussed topic in the community and was turning into a divisive issue for some. After much discussion, the County Council in April of 2004 decided to drop any plans to amend the Charter to incorporate the UGB, or to make the UGB an amendment to the Comprehensive Plan. The Council was still interested in enhancing the County growth management policies, but in lieu of a UGB, the Council decided to pursue a consensus based approach that was intended to address the concept of "smart growth." Consensus for how "smart growth" could or would be applied within the County was to occur through the establishment of a smart growth committee. Committee members would be appointed by the County Council and municipalities, and consist of landowners, developers, environmental interests and other community stakeholders. The smart growth committee was responsible for formulating recommendations about how "smart growth" could be applied in the County. The County was a participant in the "smart growth" committee idea but did not sponsor the "smart growth" committee or process. The County did fund about 1/3rd of the costs. Other costs were borne by the cities and other entities.

The County dropping the UGB concept had a coalescent effect on the environmental community and other groups concerned with growth management. The result was a petition drive intended to secure enough signatures to incorporate a UGB into the County Charter. The County Charter does provide for citizen initiatives to amend the County's Charter. Charter changes through citizen initiatives can only be accomplished during presidential election cycles. In addition, for a topic to be placed on the ballot the signatures must reflect 15% of the voters from each of the 5 districts. After all of those

requirements are met, the County Council then has to decide if the measure should be placed on the ballot. The time frame to complete the petition period was short - a little over a month. However, the requisite numbers of signatures were obtained and eventually the signatures were confirmed. When the County Council learned that the requisite number of signatures was obtained the Council decided that the UGB initiative could be placed on the ballot. The Council also reinitiated the UGB as a Comprehensive Plan amendment.

The Volusia Home Builders Association then challenged the language of the UGB ballot initiative, and in September of 2004 a trial court ruled that the language was misleading. However, the citizen's group that initiated the ballot drive and sponsored the ballot language appealed the trial court decision. While the appeal was ongoing the ballot was printed with the UGB language and the November election occurred. The UGB passed with over a 70% margin. After the election, the appeals court heard the case and found that the ballot language was inappropriate and nullified the election results.

The UGB along with the 04-2 Amendment Cycle was being reviewed by the FDCA at the time of the election, and adoption was scheduled for early December 2004. However, the County did not adopt the UGB in part because the Volusia Growth Management Commission certification conditions made the UGB difficult to implement.

After the UGB process ended, municipal annexations continued. As was stated above, in the winter of 2004 the City of Deltona annexed about 5000 acres of land that is still under judicial review. The City of Deltona continued to annex vacant land along the eastern margin of the City. In late 2004 the City annexed well over 600 acres of vacant land located generally in the Osteen area. The County did challenge most of those annexations, but eventually dropped the annexation challenge of all of the parcels with the exception of one property. The property on which the County maintained a challenge was a parcel of land located on the east side of SR 415 referred to locally as the Chalk property.

Finally, on the east side of the County the City of Edgewater in early 2005 annexed over 6000 acres mostly located west of I-95. In the spring of 2005 the City of New Smyrna Beach annexed more land located to the east of the Spruce Creek Ranch property.

POPULATION PROJECTIONS

A good portion of the recent annexation activity has resulted in the incorporation of vacant land that the County had designated on the Future Land Use Map (FLUM) with low intensity Future Land Use types. Examples of County low intensity land use types include Environmental Systems Corridor (ESC), Forestry Resource (FR) and Agricultural Resource (AR). These land use types have non-urban minimum lot size requirements, and allow for agricultural uses of various intensities depending on land use type. For example, the ESC requires a 25-acre minimum lot size and the FR has a density allotment of one unit per 20 acres. Finally the minimum lot size of the AR designation is 10 acres. Notwithstanding the low intensity nature of some of the annexed areas, the land is incorporated with the understanding that there will be some type of urban development on the property. Typically, the annexation of larger tracts of land will yield large urban developments that feature residential uses along with supporting commercial and recreational amenities. The result is often a dramatic change in the population and

location of population within a City. An example is the Victoria Park DRI project that occurred within the City of Deland in the late 1990's. At the time the Victoria Park DRI was approved the population of DeLand was about 20,000. At build-out the number of residents that are predicted to inhabit the Victoria Park project will be about 10,000. The Victoria Park DRI represents a significant increase in population for the City of Deland. Other cities, including New Smyrna Beach, will have major population increases as a result of new development.

Pursuant to state growth management law and procedure, the allocation of land uses depicted on a local government land use map is intended to be population driven. There is a certain level of extra allocation allowed to act as a market cushion. The preferred population projection methodology for the County has been the Bureau of Economic and Business Research (BEBR) median population figures. However, some municipalities within the County use other population projection methodologies such as the Shimborg model. Shimborg tends to inflate the population of a city by assuming that the unincorporated portion of the county will lose population as a city annexes and grows. Under the Shimborg model there is an assumption that land annexed into a city is already developed within a county. This assumption is fatally flawed because the annexation of already developed land within a county tends to be procedurally and politically difficult and sometimes a city has no desire to annex such a pre-developed unincorporated areas. Therefore, the majority of the annexation activity includes vacant land where new development can be constructed.

The ability to allocate projected population numbers to a geographical area smaller than a county has proven to be difficult. To effectively manage growth a standard population projection and distribution methodology is needed. The BEBR projections are done only on a County-wide basis and BEBR does not project the population for cities because city boundaries can and do change much more frequently than county limits. The challenge before the County and ultimately the State is how to allocate and distribute the population between Volusia County municipalities and the unincorporated areas.

To work toward a more geographic distribution of population, the County is suggesting that the Volusia County Metropolitan Planning Organization (MPO) population figures be incorporated as support for the County's Comprehensive Plan. The MPO is the leading planning agency regarding the location of new roads and road improvements, and both the County and the municipalities participate in the MPO process. Also, the MPO plans are used to allocate transportation funds for not only road projects, but also for mass transit and other multi-modal endeavors. Therefore, using the MPO model that geographically distributes the population is considered best available data. In addition, the MPO projections are controlled by the BEBR median population projections.

The annexation areas of various municipalities are not accounted for by Volusia County or the MPO TAZ population projections to support urban land use densities or intensities. If density increases in areas of the County earmarked for non-urban, low intensity land uses, there will be greater population increases beyond the existing, reasonable population projections supported by BEBR. The resulting consequences of such an increase of land use density will have major physical impacts on the State and County transportation network and inhibit the County's ability to protect natural resources.

Two ingredients are needed to implement a new county-wide approach to population projections. One is the willingness of the FDCA to accept and enforce the population projections that would effectively bind all local governments within the county to the same population projection methodology. The other approach to help implement the projection data would be to engage in a series of joint planning agreements (JPA's) to help manage growth within the county.

INTERLOCAL AGREEMENTS

When the County was in the process of working on the UGB initiative there was a considerable amount of scoping on the UGB topic between the municipalities and the County. The general consensus is that most municipalities at best were not happy with the proposal. A preferred method of implementing the UGB was through a series of JPA's. However, the UGB exercise did not lead to any JPA's.

As previously mentioned, the County did challenge a City of Port Orange annexation. While the formulation of policy regarding land use is never good in a litigious environment, there was a positive outcome that can be described as an agreement between the City and the County. The agreement is the Wellfield Interlocal Agreement. The City obtained law enforcement jurisdiction and the ability to engage in limited activities on the property. The County was able to stop the annexation and maintain a 6000-acre area located near I-4 within the Conservation land use designation.

The County has also discussed the possibility of allowing annexation in a manner that creates enclaves if the City serves such enclave areas. Allowing an annexation pattern that creates enclaves can help facilitate more compact annexation patterns by allowing the annexation of smaller properties that may be located in a developed area where ownership patterns are more diverse. While there has been communication between certain cities and the County on this topic, there has only been one agreement of this nature. The agreement is between the City of Ormond Beach and the County. Ormond Beach did annex a large tract of land that will be developed under the DRI process. However, there were several unincorporated enclaves that the County and City agreed would remain included within the County, but be served by the City for police, fire fighting, etc.

Intergovernmental relations between the County and some of the municipalities need improvement. Disputes over annexations, land use decisions, water and sewer service areas and extensions, traffic capacity and service responsibilities have led to a poor state of intergovernmental affairs within the County. The Volusia Growth Management Commission (VGMC), a charter created body intended to work out differences between local governments concerning land use decisions, has had some positive impact. However, the lack of or selective enforcement of VGMC conditions intended to achieve consistency and compatibility has in some cases led to further intergovernmental disputes.

The prime issue is that there appears to be different visions about how each municipality should develop and grow and how the County and other governments (i.e., School Board, municipalities) factor in to each envisioned growth scenario. For intergovernmental coordination to work, all parties need to be willing to work together and understand the objectives of each government.

OBJECTIVE ANALYSIS

The Objective analysis is provided in Table 2.2 using the recommended matrix format.

Table 2.2: Objective Analysis Regarding Current Annexation Policy

OBJECTIVE	TARGET	CONDITIONS AT THE 1998 EAR	CURRENT CONDITIONS	COMMENTS / ACTIONS
1.1.1 Growth management criteria will be established to ensure that future land use patterns will maintain vital natural functions and in conjunction with the availability of public facilities and services to support that development at the appropriate level of service.	The intent of this Objective is to establish policies that encourage compact urban growth patterns and to ensure that new growth is appropriately served.	The County was implementing the Future Land Use Map (FLUM) in part by rezoning the entire unincorporated County to be consistent with the adopted FLUM.	The County has earmarked areas of the County that are not generally suitable for urban development (environmentally constrained, not adequately served by appropriate infrastructure, etc.), but areas designated with non-urban land use categories have been annexed into municipalities, a precursor to urban development.	A solution is to determine an appropriate allocation of population to standardize County and municipal projection methodologies. The County has proposed using MPO projections that are controlled by BEBR numbers. The benefit of the MPO projections is that there is a geographic distribution of population. The MPO material is not complete but the County may need to update County land use allocation and related projections to incorporate the MPO methodology. In addition, support from the FDCA with regard to municipal annexation in determining appropriate demonstrated need for the conversion of newly annexed land to an urban use would be helpful in curtailing sprawl.

OBJECTIVE	TARGET	CONDITIONS AT THE 1998 EAR	CURRENT CONDITIONS	COMMENTS / ACTIONS
1.1.3 Volusia County shall limit urban sprawl by directing urban growth to those areas where public facilities and services are available inside designated service areas.	Foster compact urban growth and logical development patterns that make efficient use of public services.	The County experienced lower than expected urban growth levels, and in relative terms, compact growth was maintained.	Growth rates have increased and there has been growth proposed and occurring on the periphery of traditional urban areas. Much of this outward growth is a result of annexation activities.	The Policies that implement this Objective are sound but the term "urban service area" needs to be better defined to ensure that service areas established pursuant to Chapter 180 F.S. are not the sole determining factor with regard to establishing future growth areas.
1.2.1 Future Land Use designations will reflect the inherent capabilities and limitations of the existing natural features of the land.	The County has earmarked areas of the County with low intensity land uses that have poor development suitability parameters.	The County implemented the FLUM by rezoning the County to be consistent with the adopted FLUM. There were several new Zoning classifications created to reflect low intensity land use designations of the FLUM.	The County has attempted to protect areas of the County by designating such areas with low intensity land uses. However, in some cases these areas have been annexed into adjacent municipalities with the expectation that the annexed land would be used for urban uses. The County tried the Urban Boundary approach to help implement its FLUM and the County has resorted to litigation by challenging annexations.	Policies are sound and should be maintained.

OBJECTIVE	TARGET	CONDITIONS AT THE 1998 EAR	CURRENT CONDITIONS	COMMENTS / ACTIONS
1.2.2 Volusia County shall protect natural, and historic resources from the adverse impact of development as outlined in the Conservation and Historic Preservation elements.	The intent of this objective is to establish policies to protect historic and natural resources from growth and development.	The County had inventoried and had established policies to protect resources from growth and development (Land Development Code, Zoning Ordinance, etc.).	The County Policies, regulations and programs are still in place. However, areas that are associated with significant resources have been annexed into municipalities for the purpose of urban expansion.	The Policies that implement this Objective are sound, but the existing state laws and FDCA actions make protecting resource areas difficult in light of municipal annexation.

OBJECTIVE	TARGET	CONDITIONS AT THE 1998 EAR	CURRENT CONDITIONS	COMMENTS / ACTIONS
1.2.3 Consistent with section 163.3202(1) F.S. Volusia County shall continue to review its Land Development Regulations to ensure innovative design and the conservation of open space and natural resources.	Objective establishes techniques to protect resources from development. Techniques include clustering and wetland buffers.	The County did not have much growth and development, and the development that did occur was designed and built in a traditional manner. The County did implement a wetland buffer through the Wetlands Ordinance.	The County has recently processed and approved a cluster subdivision in a rural area. The property was 7,000 acres in size and about 4,000 acres was left in a natural state. The County continues to implement wetland buffers.	Policies are appropriate. However, the County needs to look at allowing clustering as a right instead of a rezoning.

OBJECTIVE	TARGET	CONDITIONS AT THE 1998 EAR	CURRENT CONDITIONS	COMMENTS / ACTIONS
1.3.1 Volusia County shall provide for adequate and appropriate lands for the location of all land use types (residential, commercial, industrial, agricultural, recreational, conservation and public facility) to support the anticipated population and maximize compatibility with existing uses.	This Objective establishes policies to facilitate the appropriate allocation of land uses to foster a functioning urban form, and direct growth away from areas not suitable for urban development.	The County had rezoned the County to be consistent with the FLUM and was implementing the FLUM.	Municipal annexation has, in some cases, created sprawl development patterns. The County has had to challenge certain annexations in an attempt to implement its land use vision.	There is not a unified population projection/distribution methodology for the County. In addition the FDCA, notwithstanding some municipal population projections being flawed, has approved urban development in rural areas. The County Policies are sound and set forth measurable criteria for the expansion of urban areas linked to population projections.

OBJECTIVE	TARGET	CONDITIONS AT THE 1998 EAR	CURRENT CONDITIONS	COMMENTS / ACTIONS
1.4.1 Consistent with Section 163.3202(1) F.S., the County will review its Land Development Regulations and determine if it is necessary to adopt standards that protect agricultural and silvicultural resource areas.	Protect the agricultural base of the County.	The County agricultural base had gone through significant changes in the first planning cycle. Citrus was phased out as a crop due to the freezes in the 1980s, including the 1989 freeze. Fern began to increase in acreage and timber production started to wane because a major timber company sold its holdings within the County.	The fern industry is being displaced by foreign competition. Hurricanes of 2004 further stressed the fern industry as hammock and saran shade structure was blown down. However, cattle have started to rebound after NAFTA-oriented competition depressed the cattle industry. Finally, increasing real estate values and related speculation have further hastened the conversion of agricultural lands to other uses such as urban uses or rural residential development.	The County's Policies with regard to agricultural protection are sound. There may need to be some language changes to the Policies to further discourage incompatible uses within agricultural areas. In addition, language changes may be necessary to allow for the diversification of uses on agricultural lands to help further encourage farming.

RECOMMENDATION

The County has an interest in protecting environmental resources, working landscapes and curtailing urban sprawl. As evidenced by the FLUM, large areas of the County that exhibit environmental resource value, associated with agriculture and not served by adequate infrastructure, are designated with low intensity land uses. Much of the land that is earmarked with low intensity uses is located within the central part of the County. The County should maintain and continue to implement land use designations and policies that are intended to direct growth away from these areas and encourage compact urban growth.

As was explained in the body of the report, municipal annexation activities can, and have, undermined County planning efforts to direct growth away from environmentally sensitive areas. However, the County should continue to review annexations. If municipal annexations do conflict with County planning goals the County should investigate the feasibility of challenging the annexation pursuant to Chapter 171 F.S. and continue to review municipal FLUM changes through the VGMC and FDCA review processes.

While the intergovernmental coordination track record within the County has been lacking, there have been successes that deal with individual parcels or limited issues. The County is still willing to work on effective joint planning, and joint planning continues to be a goal of the County.