



**GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION**
Comprehensive Planning Activity

PUBLIC HEARING: November 12, 2013-Planning and Land Development Regulation Commission (PLDRC)

CASE NO: CPMA-03-004

SUBJECT: Pioneer Square small scale comprehensive plan map amendment from Agricultural Resource (AR) to Commercial designation.

LOCATION: 3585 Pioneer Trail, New Smyrna Beach

APPLICANT: James Stowers, Esquire

OWNER: RR Farms, LLC

STAFF: Becky Mendez, AICP, Senior Planning Manager

I. Project Summary

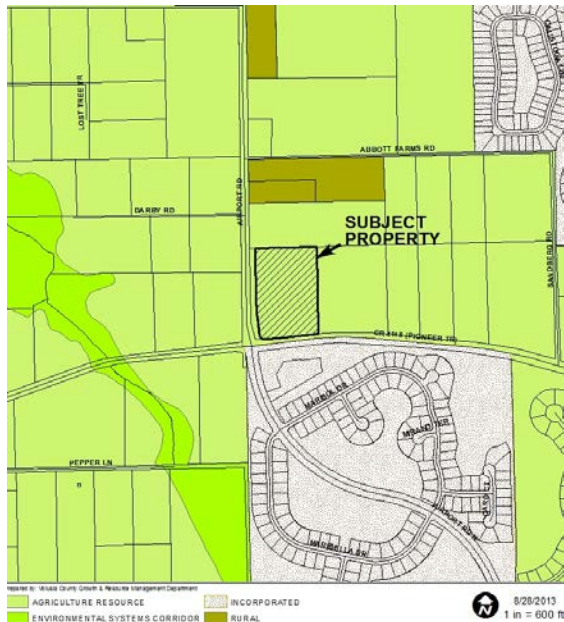
1. Applicant/Owner:	James Stowers, Esquire for Sheldon Rubin as RR Farms, LLC
2. Property ID:	7306-01-00-0170
3. Acres:	9.6 acres
4. General Location:	Northeast corner of Pioneer Trail and Airport Road
5. County Council District:	3
6. Current Future Land Use:	Agricultural Resource (AR)
7. Overlay:	None
8. Proposed Future Land Use:	Commercial (COM)

II. Overview

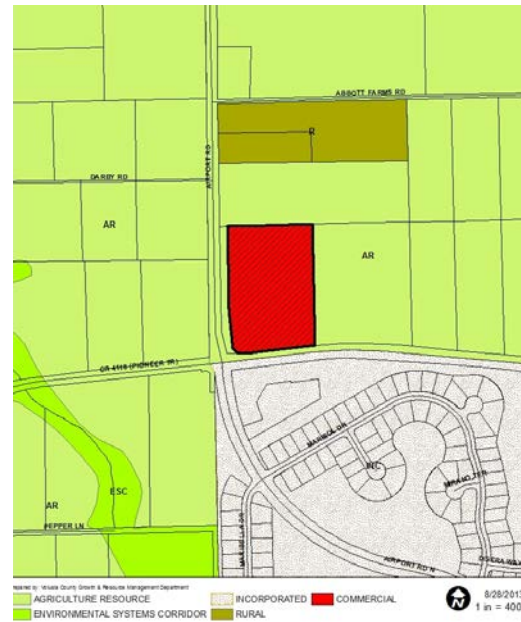
The property is 9.6 acres located at the northeast intersection of Pioneer Trail and Airport Road. It has an Agriculture Resource (AR) future land use designation and Prime Agriculture (A-1) zoning classification. The applicant proposes a future land use map amendment from the AR to the Commercial designation. The amendment also includes a proposed map annotation as follows:

- Commercial uses shall not exceed 75,000 square feet
- The property shall include the following minimum landscape buffers:
 - Adjacent to Airport Road- 35 feet
 - Adjacent to Pioneer Trail- 23 feet
 - East property boundary- 20 feet
 - North property boundary- 20 feet

A companion rezoning request from Prime Agriculture (A-1) to Business Planned Unit Development (BPUD) is scheduled concurrently with the small scale amendment, and will be reviewed under separate cover.



Existing Future Land Use



Proposed Future Land Use

III. Background

Attachment A includes previous correspondence regarding the subject property since September 15, 2004. In September 2005, the Volusia County Council approved a settlement agreement with the City of Port Orange regarding their Use Permit application to construct a water main along Taylor Road (Phase I) and Pioneer Trail (Phase II), with the condition that the city shall not make any connections to the water main without the county's prior written consent. To date, the county has not approved any connections to the city's water main for the property (Attachment B).

On December 16, 2008, the owner submitted an application for a small scale comprehensive plan amendment from AR to Commercial designation with a development cap of 60,000 square feet, and a rezoning from A-1 to Business Planned Unit Development (BPUD).

On July 8, 2010, the county council adopted the small scale amendment. Thereafter, four objectors; the City of Port Orange, Pioneer Investments of Port Orange, Inc., Venetian Bay of New Smyrna Beach, LLC, and James Pleterski, an individual d/b/a Jamar Farms, filed a petition for administrative hearing in opposition of the adopted amendment.

On November 11, 2010, the county council discussed proposals for settlement of the amendment challenge. Council agreed to direct legal settlement by assigning the Urban Low Intensity (ULI) future land use designation with its restriction of a maximum of 50,000 square feet, with no one structure being greater than 15,000 square feet; and directed staff to negotiate

a draft Joint Planning Agreement with Samsula, New Smyrna Beach, and Port Orange within six months. The applicant did not accept the settlement proposal, and on December 9, 2010, the county council rescinded the adopted amendment ordinance (Attachment C).

On June 28, 2013, the applicant submitted a small scale comprehensive plan map amendment from AR to Commercial designation with a map annotation limiting the nonresidential development to 75,000 square feet and specified minimum perimeter landscape buffer widths. The applicant revised the amendment on August 22, 2013, by reducing the landscape buffer width along Pioneer Trail from 50 feet to 23 feet to accommodate the existing utility easement (Attachments D and E).

IV. Land Use Analysis

The current future land use designation is Agricultural Resource, which is defined as follows:

Areas representing land that is suited for intensive cultivation, ranching, aquaculture, and timber farming. The criteria used to identify these areas include the soil quality, existing or potential value of production, existing agricultural uses, parcel size, ownership patterns, and investment in farming. In order to protect the agricultural industry, it is important that uses incompatible with agriculture, and uses and facilities that support or encourage urban development are not allowed. In addition, to facilitate a diversification of land uses within AR areas, non-agricultural uses, such as agri-tourism, recreational, disposal and extractive uses may be allowed. However, to protect the viability of agriculture, such uses should be ancillary to the primary agricultural use of the property. The residential density after the effective date of the Comprehensive Plan shall not exceed 1 dwelling unit per 10 acres.

The proposed future land use designation is Commercial, which is described as follows:

This category accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In wellfield protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a 0.55 FAR consistent with the applicable underlying zoning category standards and land development regulations.

Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

The Chapter 20, definitions of shopping centers include; super regional (1,000,000 square feet or more), regional (300,000-1,000,000 square feet), community (100,000-300,000 square feet), neighborhood shopping (30,000-100,000 square feet), neighborhood business (50,000 square

feet, with no one use to exceed 15,000 square feet), and neighborhood convenience (3,000-8,500 square feet, with no one use to exceed 5,000 square feet).

The 2010 application for map amendment included a 60,000 square-foot development limitation, which county council revised via the proposed settlement agreement to 50,000 square feet, with no one building exceeding 15,000 square feet to meet the development standards of the neighborhood business shopping center category. Neighborhood business shopping centers may be located in the Urban Medium, Urban Low and Low Impact Urban land use designations. Higher intensive commercial uses should be constructed in areas designated as Commercial, which is why the applicant proposed the Commercial designation.

This 2013 application for a map amendment includes a 75,000 square-foot development limitation. Neighborhood shopping centers of this size are typically located in commercial areas, but may be allowed in the Urban High designation (and possibly Urban Medium based on Policy 1.3.1.12).

Applications to amend the county's future land use map to a commercial designation must meet the location criteria of Section E (Future Land Use Element, Comprehensive Plan), which are as follows:

- a. Be located in planned centers to avoid strip commercial development;
- b. Not be located solely on local streets (major frontage on thoroughfare roadways);
- c. Be located in areas which are adequately served by the arterial and collector road system so as not to unduly burden the local road network serving adjacent neighborhoods;
- d. Have adequate area and road frontage to allow for controlled access points and proper spacing between driveways to minimize the impact on the operating capacity and safety of the adjacent road network;
- e. Have sufficient area to provide adequate parking, landscaping, stormwater management, and building setbacks;
- f. Where appropriate, utilize service roads, shared access, or local roads at intersections with major roads;
- g. Be located in areas to best serve population concentrations; (where market studies are done for a proposed commercial development, they should be submitted for County consideration);
- h. If located adjacent to existing residential neighborhoods, be developed to provide adequate buffers, maintain adequate tree cover, prevent unwanted glare from outside lighting, and maximize visual compatibility with the surrounding neighborhoods; these commercial developments are encouraged to apply the Business Planned Unit Development requirements;
- i. If developed inside a Residential Planned Unit Development (RPUD), be located and designed to service primarily that development's population;

- j. If located at the intersection of two major roads, there shall be a mix of commercial uses (i.e., office, retail, and service) to provide a wide range of goods and services;
- k. Commercial development as part of an Activity Center may be appropriate if access is provided with appropriate pedestrian linkages, internal trip capture is encouraged, and reduced impact on thoroughfare roads can be documented; and,
- l. Be located such that all structures area outside the 100 year flood plain.

The amendment does not meet this location criteria because the property is not located in a planned center, nor does it provide a mix of commercial uses (i.e., office, retail, and service) for a wide range of goods and services. While the property fronts on Airport Road, an arterial road and Pioneer Trail, a collector road, these roads are not constructed to county thoroughfare standards and are considered substandard. The commercial location criteria of the comprehensive plan presumes access to a thoroughfare system of sufficient lane width, pavement conditions, right-of-way, and intersection alignment (Attachment F).

The amendment increases the year 2025 net external daily trips from 10 to 4,412. These new development trips do not cause level of service deficiencies on the adjacent road network, but without the voluntary development limitation, this may not be the case. The subject roads are functionally classified as rural two-lane facilities that are not programmed for widening. Development of a commercial node at this intersection may stress the operational ability of the intersection and network.

Future land use element policy 1.3.1.27, requires that amendments to the Future Land Use map be evaluated with respect to consistency with the Goals, Objectives and Policies of all Elements, or other timely issues, and in particular the extent to which the proposal, if approved, would:

- a. Satisfy a deficiency in the Future Land Use map to accommodate projected population (supported by median BEBR projections) or nonresidential/non-retail commercial economic growth of the County;
- b. Enhance or impede provision of services at adopted LOS standards;
- c. Be compatible with abutting and nearby land uses;
- d. Enhance or degrade environmental or historical resources, features or systems of County significance;
- e. Provide adequate potable water supply and facilities to meet the projected need consistent with the policies in the Potable Water Sub-Element; and
- f. Be consistent with policy 1.3.1.28.

This property is part of a rural enclave located between the cities of Port Orange and New Smyrna Beach. Both cities have expanded residential development near this rural enclave. New Smyrna has a DRI sized project called Venetian Bay to the south, which allows up to 4,200 dwelling units with a mix of densities, and up to 350,000 square feet of commercial uses internal

to the site. They also allow for up to 10,000 square feet of nonresidential uses on a 2-acre site at the southeast intersection of Airport Road and Pioneer Trail. Port Orange has several residential subdivisions located within a quarter mile to the north along Airport Road.

This rural enclave abuts the Samsula Local Plan area directly to the west, which is largely a rural agricultural area. Generally, Samsula area residents desire to preserve the low-density residential scale in keeping with the historic, rural, residential and agricultural land use patterns, and to discourage increases in land use intensities and densities. The amendment is not compatible with the immediately adjacent land uses to the west, north and east, but is compatible with the Venetian Bay development to the south.

However, the area to the east of the Samsula Local Plan may be considered in transition from the primarily rural uses to more suburban uses. Both adjacent cities are developing urban-style uses within the area.

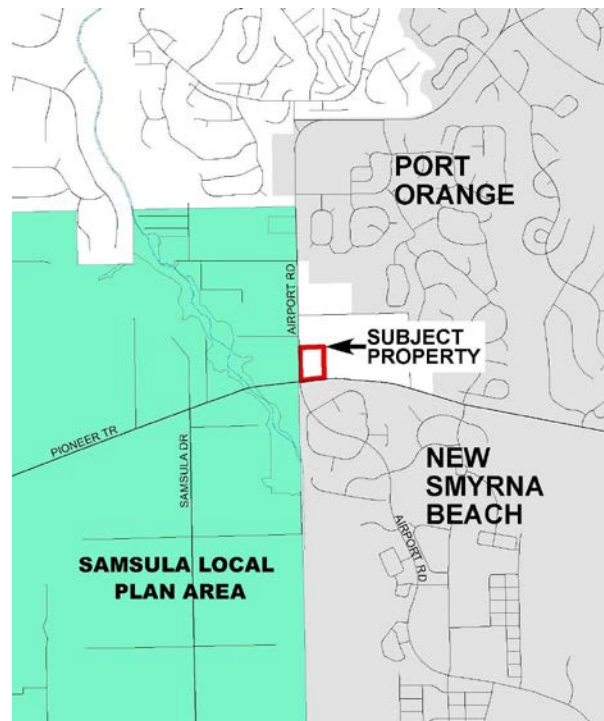
This particular parcel could be pivotal for the northeast quadrant of Airport Road and Pioneer Trail area. It could either create a neighborhood scale shopping destination that would reduce trip lengths in the immediate area, or it could lead to sprawl and parcel-by-parcel amendment requests. In 2010, the county council discussed square footage restrictions to address this issue.

The northern and western boundaries of the subject parcel are wooded with several mature trees, including live oak, laurel oak, water oak and slash pine. Several of these trees are considered specimen trees by the county's land development standards.

There is an area in the northeastern section of the site that contains wetland vegetation, and is part of a larger wetland system that extends off-site. The property is located outside the 100-year flood zone, the Natural Resource Overlay Area and the Environmental Core Overlay. An environmental survey of the property indicates there are no endangered, threatened or species of special concern found on site.

The existing AR land use designation is considered an open-space designation in that the uses and development standards are specific to supporting agricultural pursuits, such as ranching and timber farming. Conversely, the Commercial designation allows up to a 0.55 Floor Area Ratio (FAR) or 209,000 square feet of nonresidential uses on the property. The applicant has voluntarily capped the maximum development potential to 75,000 square-feet (0.18 FAR), but this does not consider the additional impervious surface materials necessary to support the building footprint. Potentially, more than 6 acres of the total 9.6 acre parcel may include impervious materials.

In summary, the amendment does not meet the location criteria and policy 1.3.1.27.



V. Urban Sprawl Criteria

State law (the Community Planning Act) contains urban sprawl criteria, which is designed to identify areas that discourage sprawl. A future land use amendment discourages the proliferation of urban sprawl if it achieves four or more of the following eight criteria (F.S. 163.3177 (6)(a)(9)(b)):

1. Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

The amendment does not direct urban development to the area without adverse impact on the natural resources and ecosystems. However, this property is outside the Natural Resource Management Area and the Environmental Core Overlay.

2. Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

The amendment does not promote efficient and cost-effective extension of public infrastructure. The adjacent transportation system is substandard. The amendment, if approved will increase the number of daily trips that the site will generate from 10 to 4,412. Although these increased development trips are within the road's capacity, it may negatively impact the existing narrow roadway widths, poor roadway pavement conditions, roadway segments that lack required right-of-way, and create potential stormwater issues. Approval of the amendment could increase the county's costs for roadway improvements and maintenance, which is not fiscally neutral to the county.

3. Promotes walkable and connected communities and provides for compact development and mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

The amendment does not promote walkable and connected communities. It does not provide for compact development and mix of uses at densities and intensities that support a range of housing choices. The 9.6 acre parcel is bordered by the Samsula Local Plan area to the west, 175 acres of unincorporated lands with a Agricultural Resource (1 dwelling unit per 10 acres) future land use designation to the north and east, and the Venetian Bay mixed use development to the south.

4. Promotes conservation of water and energy.

Not applicable.

5. Preserves agricultural areas and activities, including silviculture, and dormant, unique and prime farmlands and soils.

The proposed amendment seeks to remove the agricultural future land designation and zoning classification from the property. It does not preserve agricultural areas and activities.

6. Preserves open space and natural lands and provides for public open space and recreational needs.

The amendment does not preserve open space and natural lands and it does not provide for public open space and recreational needs.

7. Creates a balance of land uses based upon demands of residential population for the nonresidential needs of an area.

Based on the applicant's market analysis, the area is underserved by retail and grocery services (See Attachment I), and therefore, the amendment meets this criterion.

8. Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in Section 163.3164, Florida Statutes.

The amendment does not remediate an existing or planned development pattern that constitutes sprawl. The property is located within a 175-acre, unincorporated, rural enclave that is bounded by the Samsula Local Plan to the west, the City of Port Orange to the north and east, and the City of New Smyrna Beach to the south. Commercial development of the 9.6 acre property increases the potential of additional sprawl into this rural area.

In summary, the amendment may encourage urban sprawl based on the above criteria.

VI. Applicable Comprehensive Plan Goals, Objectives & Policies

Applicable comprehensive plan goals, objectives and policies are listed in *Attachment G*.

VII. Conclusion

The amendment is located within a rural enclave bounded by the Samsula Local Plan, Port Orange and New Smyrna Beach.

The property is so located as to be a key parcel in determining future development trends in the enclave.

The amendment is not consistent with all elements of the comprehensive plan and is not compatible with all adjacent land uses.

The amendment may encourage the proliferation of urban sprawl.

The amendment does not impede provision of services for concurrency-monitored facilities.

The amendment site abuts a roadway network that is substandard.

VIII. Staff Recommendation

Denial. However, if the PLDRC forwards the amendment to county council for approval, staff recommends, 1) revising the map annotation to match the square-footage proposed in the BPUD rezoning, and 2) authorizing connection to the City of Port Orange utility in accordance with the 2005 settlement agreement.

IV. Attachments

Ordinance No. 2013-XX

Maps

- A- Previous correspondence
- B- 2005 Settlement Agreement with the City of Port Orange
- C- Rescission Ord No. 2010-07
- D- Applicant's submittal
- E- Applicant's resubmittal
- F- County traffic engineering comments
- G- Applicable goals, objectives and policies

ORDINANCE 2013-

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE VOLUSIA COUNTY COMPREHENSIVE PLAN ORDINANCE NO. 90-10, AS PREVIOUSLY AND SUBSEQUENTLY AMENDED, BY AMENDING FIGURE 1-11, FUTURE LAND USE MAP; CHANGING FUTURE LAND USE DESIGNATION FOR APPROXIMATELY 9.6 ACRES LOCATED AT 3585 PIONEER TRAIL, NEW SMYRNA BEACH, FROM AGRICULTURAL RESOURCE TO COMMERCIAL; BY AUTHORIZING INCLUSION IN THE VOLUSIA COUNTY COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 163.3161, et seq., Florida Statutes, created the Community Planning Act, hereinafter referred to as the "Act;" and

WHEREAS, Section 163.3167, Florida Statutes, requires each county in the State of Florida to prepare and adopt a Comprehensive Plan; and

WHEREAS, the County of Volusia has adopted the Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, pursuant to this Act; and

WHEREAS, pursuant to Section 163.3187, Florida Statutes, application has been submitted for the small scale amendment to said Comprehensive Plan; and

WHEREAS, said proposed small scale amendment does not propose a text change to any goals, policies or objectives of the Volusia County Comprehensive Plan; and

WHEREAS, said amendment is not located in areas of critical state concern; and

WHEREAS, said Comprehensive Plan amendment involves a use of 10 acres or

1 less; and

2 **WHEREAS**, the County of Volusia has complied with the required legal notices
3 for a small scale amendment to the Comprehensive Plan; and

4 **WHEREAS**, pursuant to Section 163.3174, Florida Statutes, the Volusia County
5 Code of Ordinances, chapter 72, article II, division 11, section 72-413, has designated
6 the Volusia County Planning and Land Development Regulation Commission as a local
7 planning agency for the unincorporated area of the County of Volusia; and

8 **WHEREAS**, said Planning and Land Development Regulation Commission has
9 held a public hearing on said Comprehensive Plan amendment; and

10 **WHEREAS**, the County Council of the County of Volusia has conducted its
11 adoption public hearing on said small scale amendment to the Comprehensive Plan.

12 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF**
13 **VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:**
14

15 The Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, is
16 further amended as follows:

17 **SECTION I: FUTURE LAND USE MAP AMENDMENT** - Appendix 1: "Maps and
18 Figures," Figure 1-11, Future Land Use Map, is hereby amended to change the future
19 land use designation of Agricultural Resource to Commercial for approximately 9.6
20 acres located at 3585 Pioneer Trail, New Smyrna Beach. The future land use map
21 notations are amended as shown in Exhibit "C." The subject property is located as
22 shown on Exhibit "A" and as described in Exhibit "B." Said Exhibits are appended

1 hereto, and by reference, made a part hereof.

2 **SECTION II: SEVERABILITY** - Should any section or provision of this
3 Ordinance, or application of any provision of this Ordinance be declared to be
4 unconstitutional or invalid, or inconsistent with the applicable state law, such declaration
5 shall not affect the validity of the remainder of this Ordinance.

6 **SECTION III: EFFECTIVE DATE** - A certified copy of this ordinance shall be
7 filed with the Department of State by the County Manager within ten (10) days after
8 enactment, and this ordinance shall take effect either 31 days after adoption, or upon
9 the date of issuance of a certificate of consistency or conditional certificate of
10 consistency by the Volusia Growth Management Commission, whichever is later.

11
12 **ADOPTED BY THE COUNTY COUNCIL OF THE VOLUSIA COUNTY,**
13 **FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY CHAMBERS**
14 **AT THE THOMAS C. KELLY ADMINISTRATION CENTER IN THE CITY OF DELAND,**
15 **FLORIDA, THIS ____ DAY OF ____, 2013.**

16
17
18 ATTEST:

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

19
20
21
22
23 _____
James T. Dinneen, County Manager

Jason P. Davis, County Chair

Exhibit A

Future Land Use Map Amendment
CPMA 13-004



Exhibit B

Legal Description

A PORTION OF LOTS 17 AND 18, 1ST SUBDIVISION OF ABBOTT FARMS, AS RECORDED ON MAP BOOK 8, PAGE 127 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 18, THENCE RUN N88°54'12"E, ALONG THE NORTH LINE OF SAID LOT 18, A DISTANCE OF 49.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF AIRPORT ROAD AS DESCRIBED IN WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 6456, PAGE 2902, SAID PUBLIC RECORDS AND THE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF LOT 18 AND LOT 17, N88°54'12"E, 538.53 FEET TO THE NORTHEAST CORNER OF SAID LOT 17; THENCE ALONG THE EAST LINE OF SAID LOT 17, S01°09'10"E, 759.51 FEET TO THE SOUTHEAST CORNER OF SAID LOT 17; THENCE ALONG THE SOUTH LINE OF SAID LOT 17 AND LOT 18, S83°19'37"W, 491.74 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID AIRPORT ROAD; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, THE FOLLOWING COURSES: N06°40'23"W, 27.00 FEET; THENCE N51°40'23"W, 35.36 FEET; THENCE N06°40'23"W, 160.48 FEET TO THE BEGINNING OF A CURVE CONCAVE EAST HAVING A RADIUS OF 1,290.00 FEET AND A CENTRAL ANGLE OF 05°47'34"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, 130.42 FEET; THENCE N00°52'49"W, 468.04 FEET TO THE POINT OF BEGINNING.

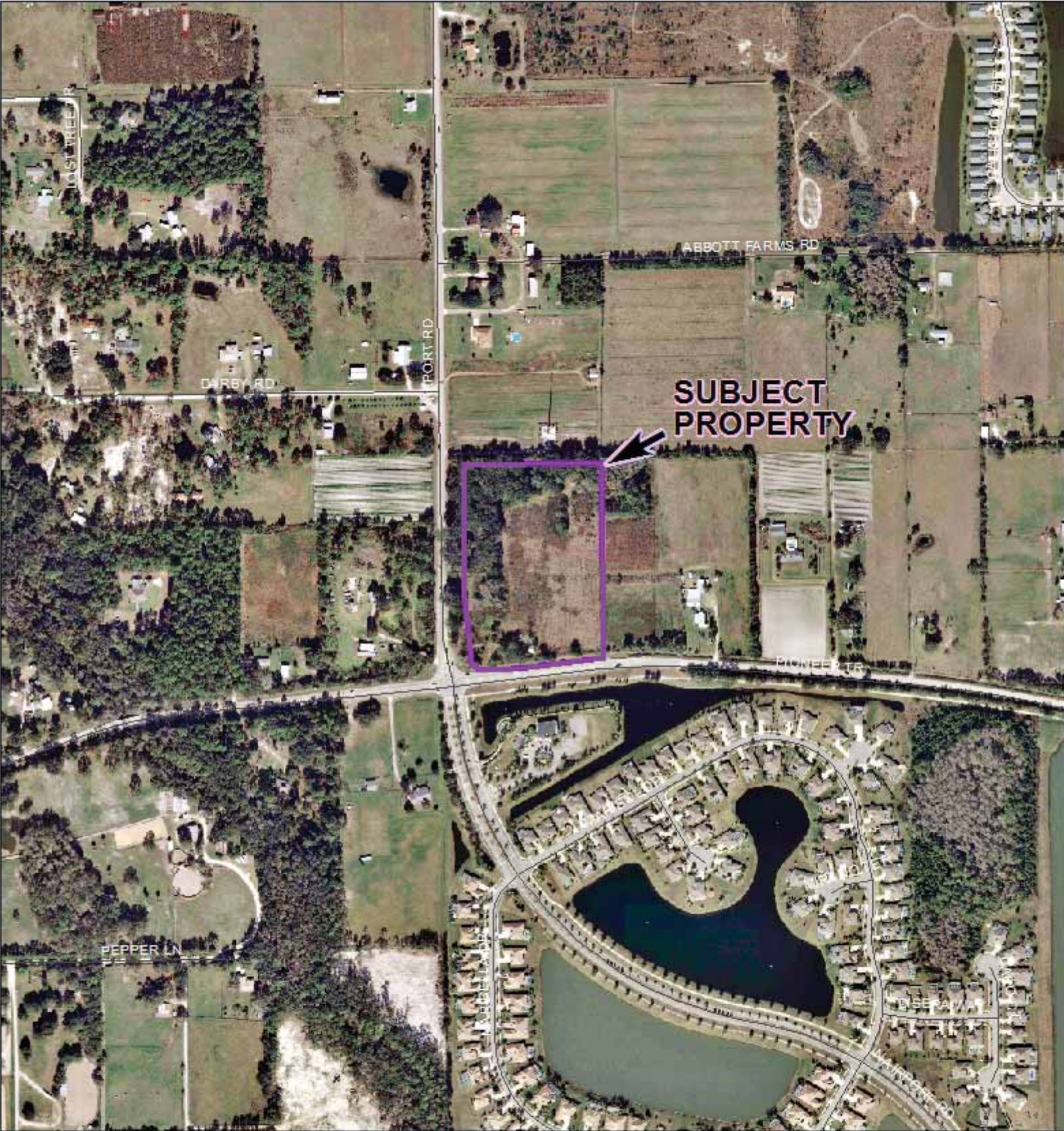
Exhibit C

1-11. Future Land Use Map/Plan Notations

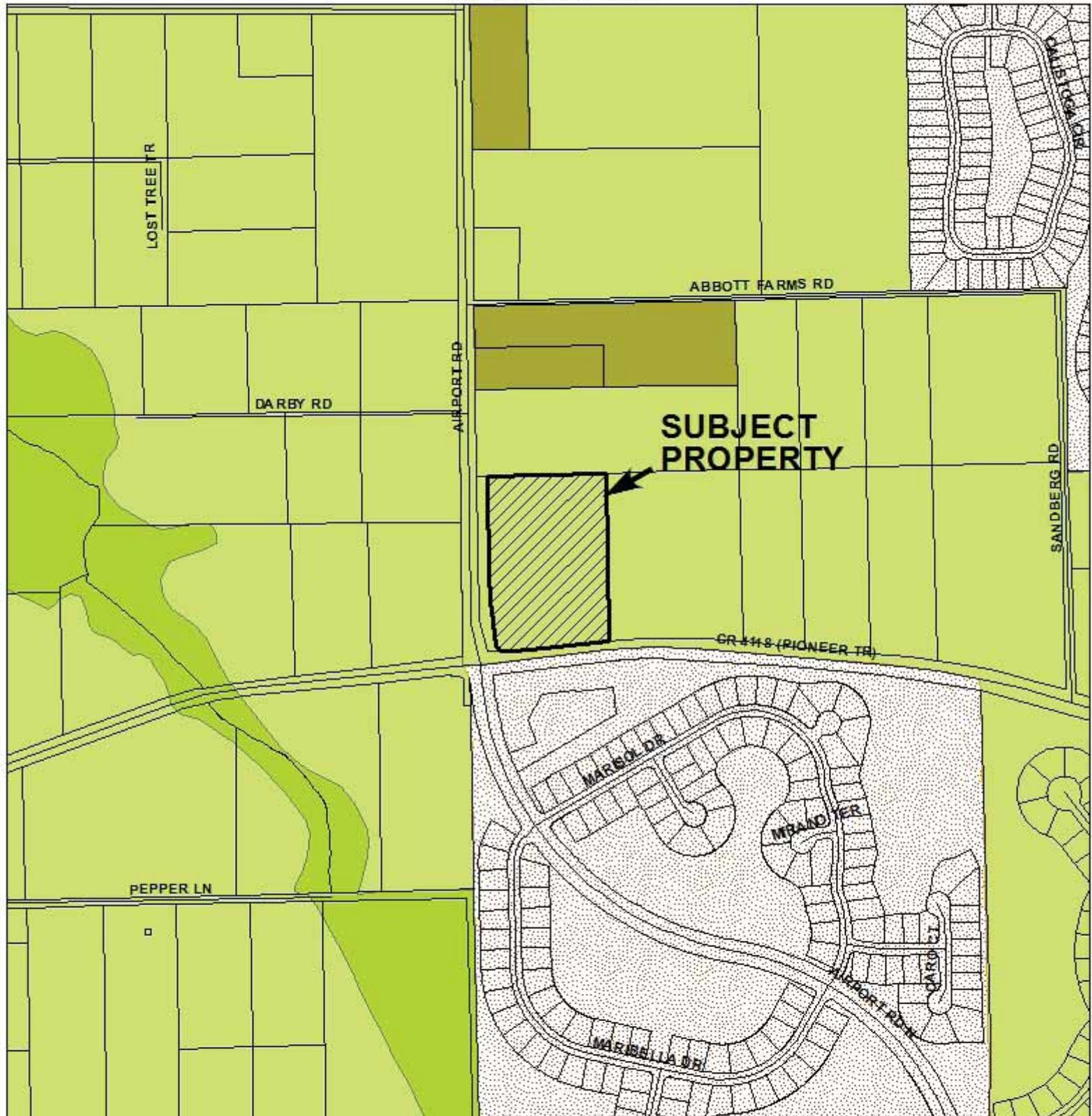
Note: The following Future Land Use Map Notations have been adopted as a component of the Future Land Use Map under 9J-5.005(1)5., Florida Administrative Code.

Map Notation	Parcel Numbers or Legal Description	Acres	Adopted FLU Designation	Restriction	Ordinance
1	01-16-31-00-00-0010	20.92	Industrial	Development of the parcel shall be limited to a Floor Area Ratio of 0.6.	2007-46
2	01-16-31-00-00-0010	5.14	Industrial	Development of the parcel shall be limited to a Floor Area Ratio of 0.6.	2008-19
3	30-15-33-11-00-0010, 25-15-32-11-00-0010, 25-15-32-11-00-0020, 25-15-32-07-00-0021, 25-15-32-07-00-0020, 25-15-32-07-00-0010, 25-15-32-00-00-0049, 25-15-32-00-00-0048, 25-15-32-00-00-0040, 36-15-32-00-00-0039, and that part of 39-15-32-53-01-0010 to the east and south of Bellevue Ave. approximately 460 feet to the west of the west ROW line of Clyde Morris Blvd.	226.00	Public/Semi-Public	Development of the parcels taken together shall be limited to a maximum of 118,583 Average Daily Trips. This property will not be zoned residential or non-airside related industrial.	2008-28
4	28-16-30-00-00-0410 28-16-30-00-00-0070 28-16-30-01-00-0050	17.31	Commercial	Commercial uses shall not exceed 116,552 square feet.	2010-09
<u>5</u>	<u>06-17-33-01-00-0170</u>	<u>9.6</u>	<u>Commercial</u>	<u>Commercial uses shall not exceed 75,000 square feet.</u> <u>The property shall include the following minimum landscape buffers:</u> <u>Adjacent to Airport Road – 35 feet.</u> <u>Adjacent to Pioneer Trail – 23 feet.</u> <u>East property boundary – 20 feet.</u> <u>North property boundary – 20 feet.</u>	<u>2013-XX</u>

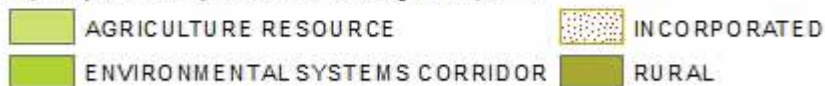
Amendment Location
CPMA-13-004



Future Land Use CPMA-13-004

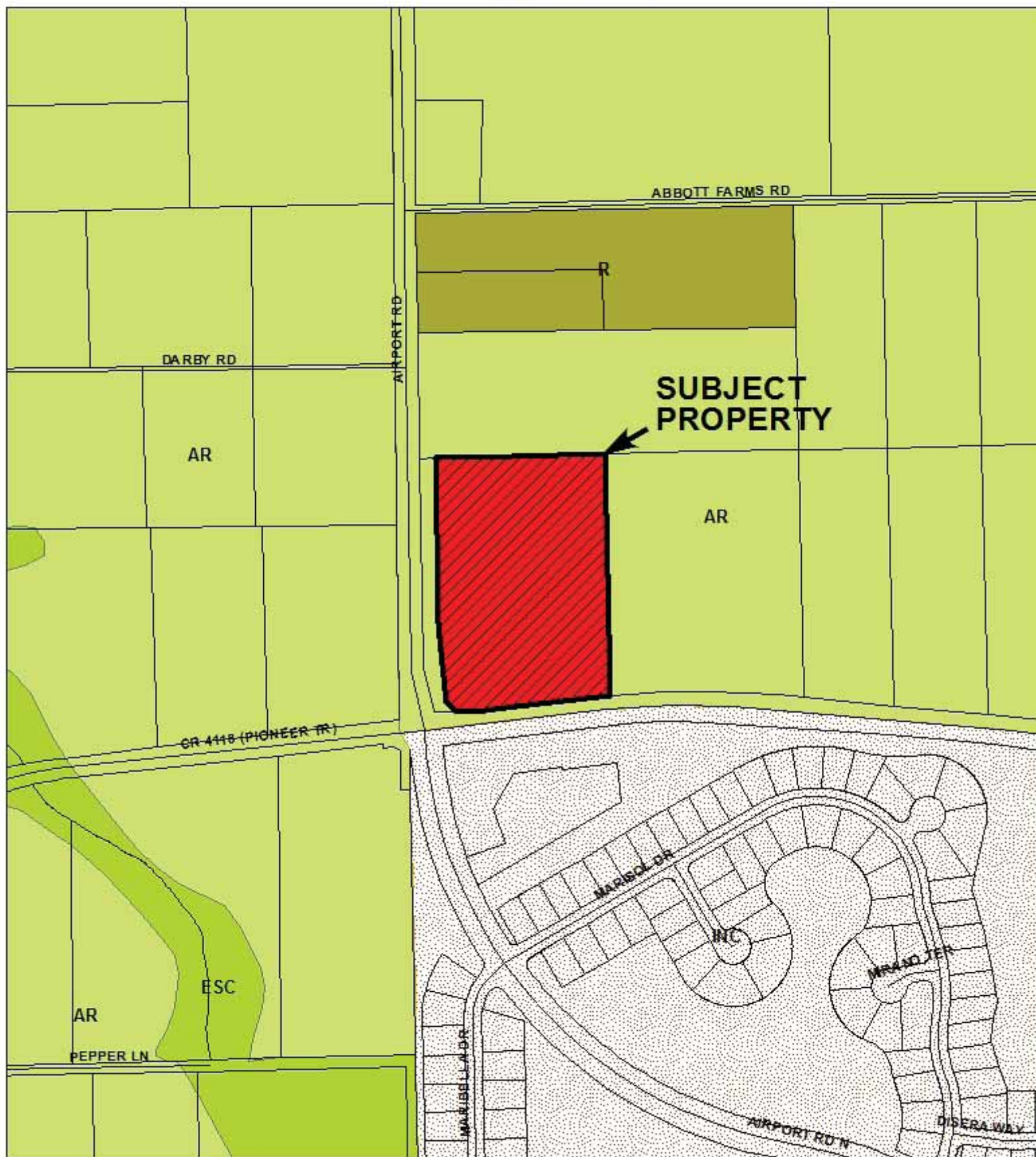


Prepared by: Volusia County Growth & Resource Management Department



9/5/2013
1 in = 600 ft

Proposed Future Land Use CPMA-13-004



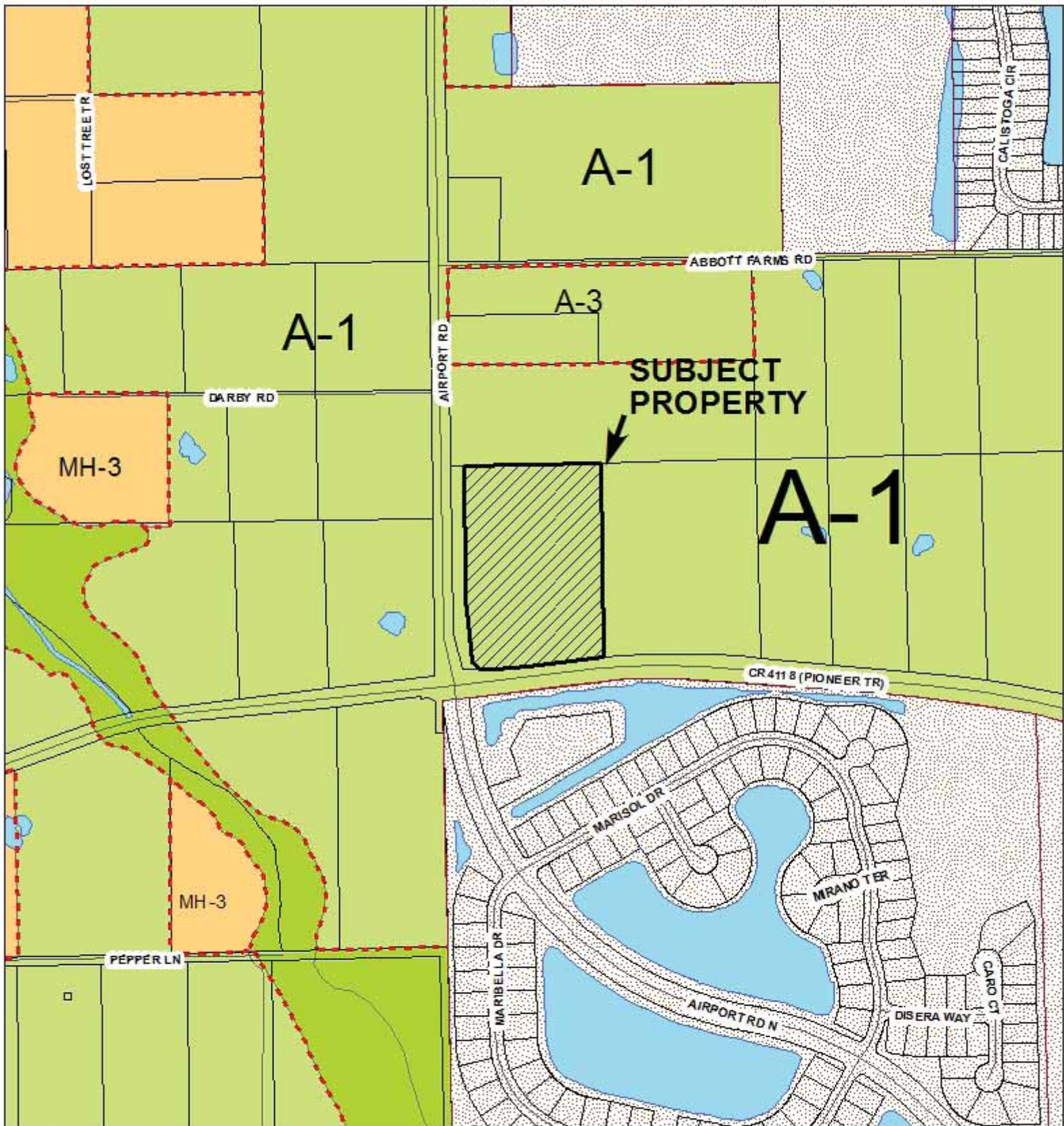
Prepared by: Volusia County Growth & Resource Management Department

AGRICULTURE RESOURCE	INCORPORATED	COMMERCIAL
ENVIRONMENTAL SYSTEMS CORRIDOR	RURAL	

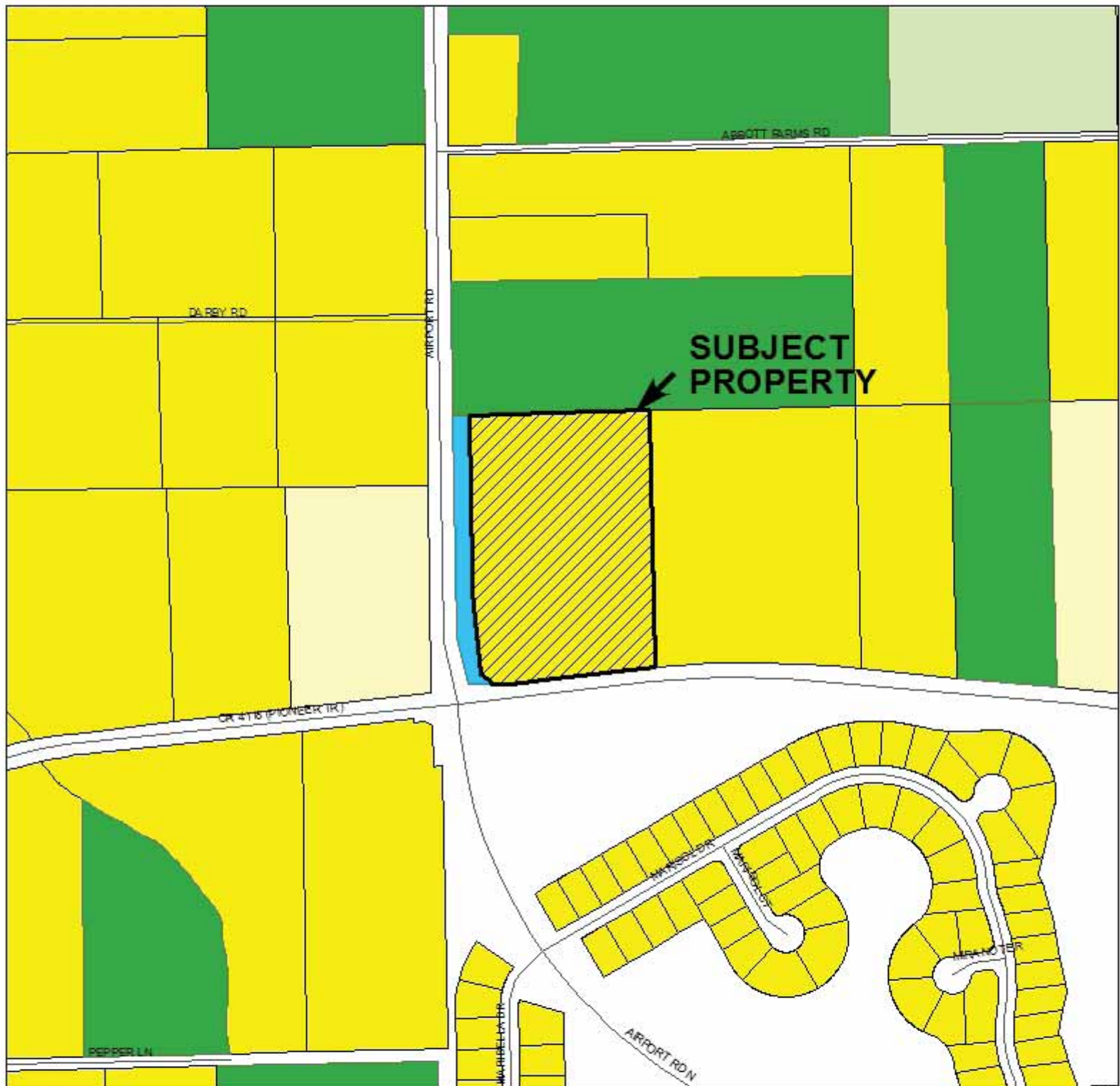


9/5/2013
1 in = 400 ft






Zoning
CPMA-13-004



Existing Land Use CPMA-13-004



Prepared by: Volusia County Growth & Resource Management Department

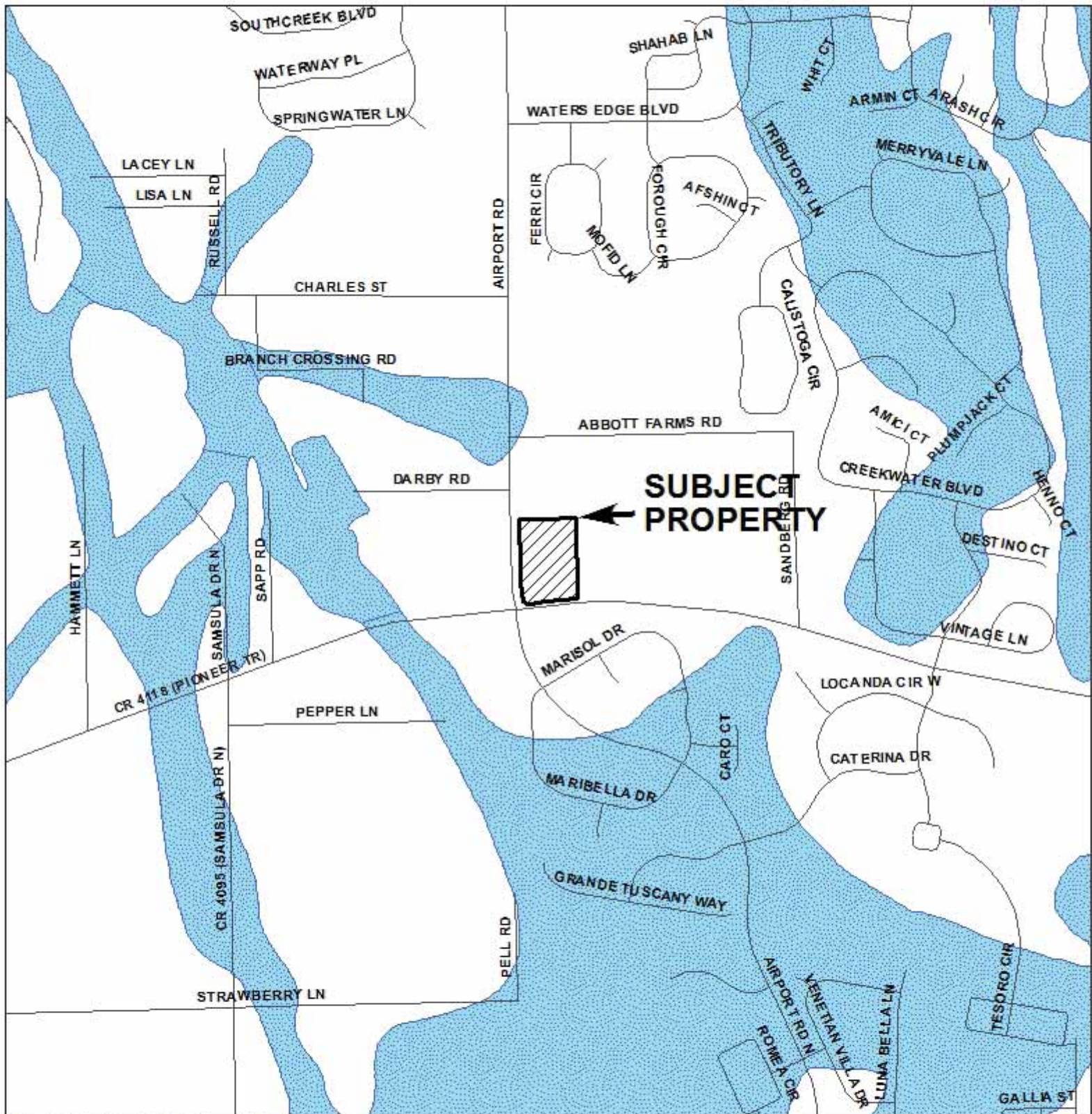
 VACANT RESIDENTIAL	 AGRICULTURE	 NOT AGRICULTURE EXEMPT
 EXISTING RESIDENTIAL	 OTHER PUBLIC	




9/5/2013

1 inch = 400 ft

Flood Zone CPMA-13-004



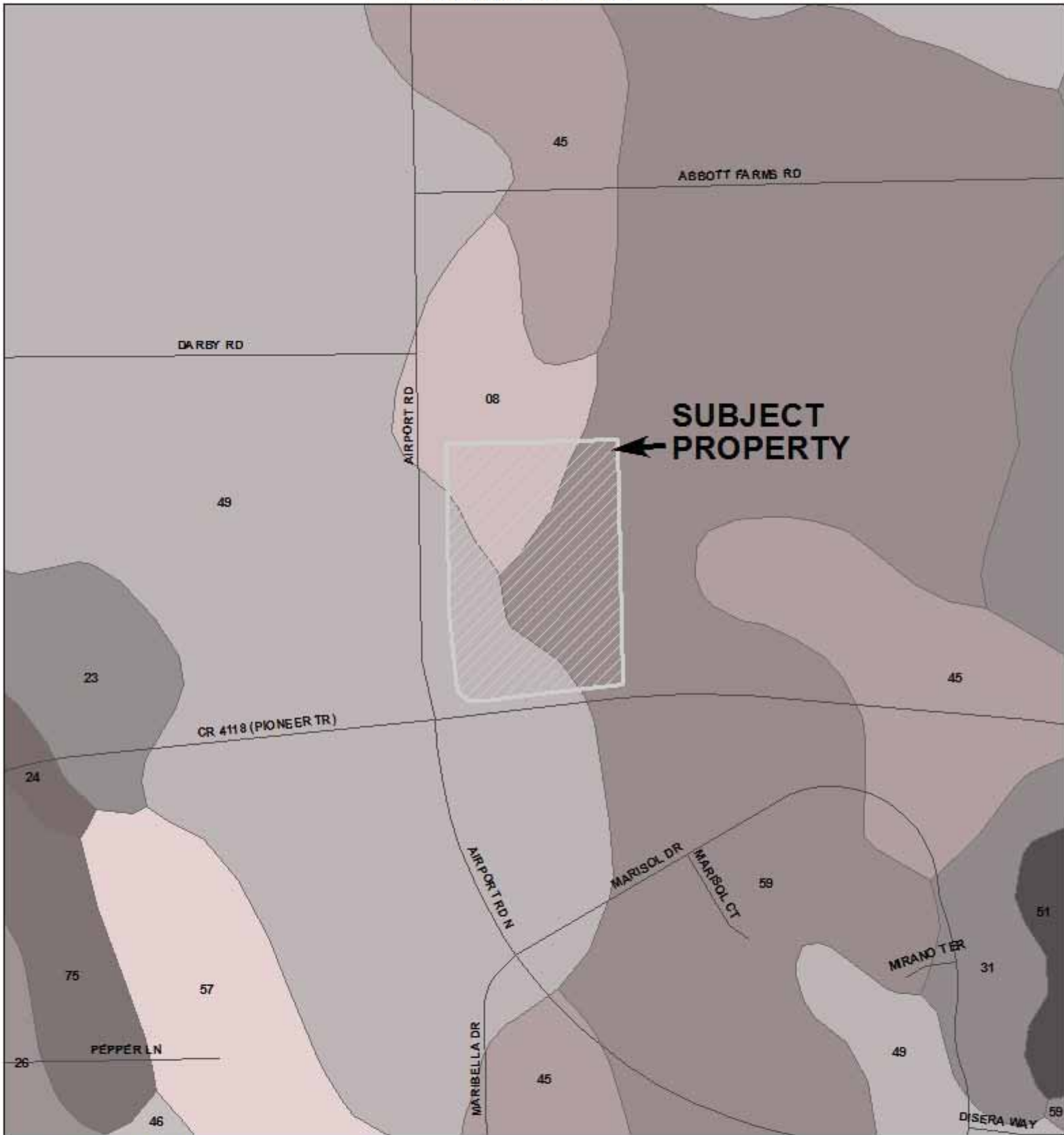
Prepared by: Volusia County Growth & Resource Management Department

 AREAS WITHIN 100 YEAR FLOODPLAIN

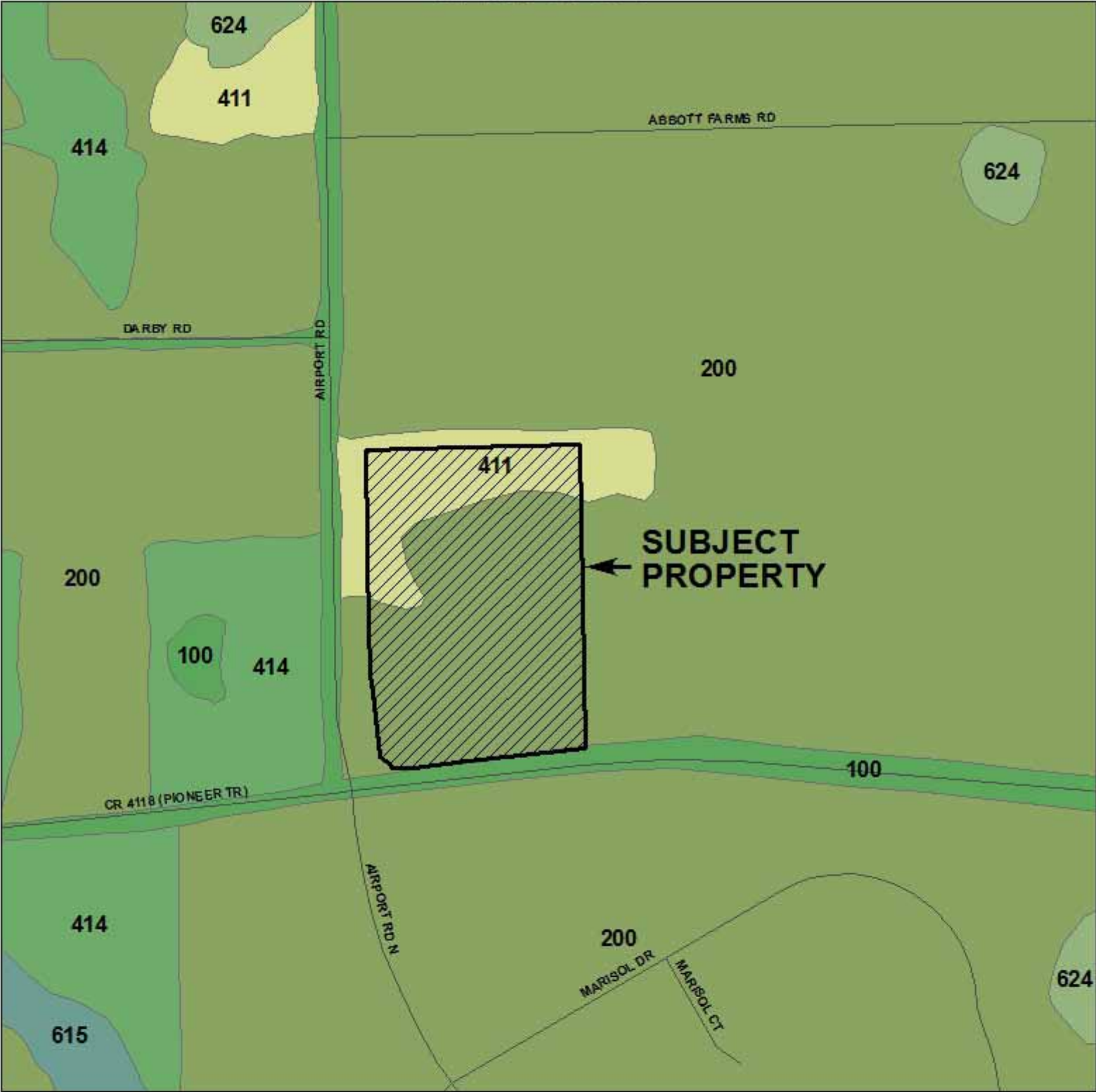


9/5/2013
1 in = 1,250 ft

Soils CPMA-13-004









Vegetation
CPMA-13-004



Prepared by: Volusia County Growth & Resource Management Department

1" = 400'

- | | | |
|--|---|--|
|  BOTTOMLAND SWAMP |  GENERALIZED AGRICULTURE |  PINE FLATWOOD |
|  CYPRESS/PINE/CABBAGE PALM |  GENERALIZED URBAN |  PINE/MESIC OAK |



ATTACHMENT A



CITY OF PORT ORANGE

1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32119
TELEPHONE 904-756-5200
FAX 904-756-5290

September 15, 2004

Mr. Tom Fleming
Regency Realty Corporation
121 W. Forsyth Street
Suite 200
Jacksonville, FL 32202

Re: Availability of Water & Sewer Capacity
Proposed Pioneer Trail Shopping Center
3561 & 3585 Pioneer Trail
Volusia County, FL 32168
Parcel ID's: 06-17-33-01-00-0150 and 06-17-33-01-00-0150

Dear Mr. Fleming:

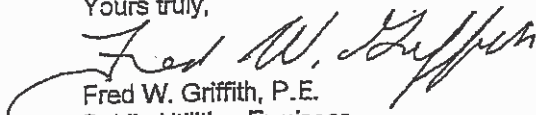
We understand that you desire to develop approximately 150,000.s.f. of commercial shopping center on the above referenced property, which is to be located on the northeast corner of Airport Blvd. and Pioneer Trail. You have represented that a maximum potable water and/or sewer demand is not expected to exceed 15,000 gallons per day (gpd). Commencement of construction is currently anticipated in the first quarter of 2006.

Please be advised that the proposed project is contained within the utility service area of the City of Port Orange and the City currently owns and operates a 12" potable water main and 6" sanitary sewer force main in the vicinity. These mains have the capacity to serve the proposed development. At the present time our water and reclaimed water plants also have adequate capacity to serve this development. This development, however, may be required to provide an additional water line extension and looping of the existing 12" water line to the eastward along the Pioneer Trail frontage in accordance with Chapter 11 of the City's Land Development Code.

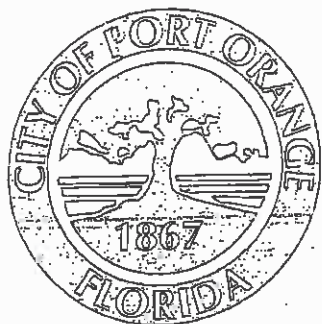
Please also be aware that the City of Port Orange and the City of New Smyrna Beach are in opposition to this development at this location because it is inconsistent with both of the two City's Comprehensive Plans.

The City of Port Orange has already gone on record as being opposed to this development, and will continue to express it's opposition to the County, State, and Volusia Growth Management Commission throughout the land use amendment process.

Yours truly,


Fred W. Griffith, P.E.
Public Utilities Engineer

Kenneth Parker, City Manager
Roger Smith, Public Utilities Director
Donna Steinebach, Community Development Director



ATTACHMENT A

CITY OF PORT ORANGE

1000 CITY CENTER CIRCLE
 PORT ORANGE, FLORIDA 32129
 TELEPHONE 386-506-5500
 FAX 386-756-5290
www.Port-Orange.org

July 9, 2007

Ms. Montye Beamer
 Community Development Director
 Volusia County
 123 W. Indiana Avenue
 De Land FL 32720-4612

Dear Montye:

The City of Port Orange continues to hear rumors concerning a potential commercial development on the northeast corner of Pioneer Trail and Airport Road. Although their property is located in the unincorporated area of Volusia County, the property is located adjacent to the Port Orange utility system.

In September, 2004, the City's Public Utilities Department notified Mr. Tom Fleming of the Regency Realty Corporation from Jacksonville that although Port Orange could serve the property with utilities, the City was opposed to the commercial development of this corner. I have attached a copy of our City's letter to Mr. Fleming. Our position remains the same. Please keep us informed if there are applications to amend the County's Comprehensive Plan or zoning.

Should you have questions, please feel free to contact me.

Sincerely,

Kenneth W. Parker
 City Manager

Kw/prlg
 Attachment

Cc: Mayor Allen Green
 Vice Mayor Mary Martin
 Councilman Dennis Kennedy
 Councilman Robert Pohlmann
 Councilman George Steindorfer
 Wayne Clark, Community Development Director
 Fred Griffith, Public Utilities Engineer
 John Hagood, City Manager, City of New Smyrna Beach

ATTACHMENT A

RECEIVED

JUL 12 2007



Volusia County FLORIDA

County Manager

FAXED

7/12/07

FRANK T. BRUNO JR.
COUNTY CHAIRJOIE ALEXANDER
VICE-CHAIR, AT-LARGEANDY KELLY
DISTRICT 1ART GILES
DISTRICT 2JACK H. HAYMAN
DISTRICT 3CARL G. PERSIS
DISTRICT 4PATRICIA NORTHEY
DISTRICT 5JAMES T. DINNEEN
COUNTY MANAGER

July 12, 2007

✓ Tom Renne
Publix Supermarkets, Inc.

The following information is provided pursuant to our recent conversation and your request for development information regarding the property on the northeast corner of Airport and Pioneer Trail. The property has a future land use designation of Agricultural Resource (AR) and a zoning of A-1 (Prime Agriculture). Each of these allows one dwelling unit per ten acres. To change the future land use map designation to Commercial would require a large scale comprehensive plan amendment; and, if successful, a rezoning would then be needed. The County is limited to two large scale amendment cycles per calendar year. The schedule for 2008 includes October, 2007 for the first cycle application submittal with September, 2008 for adoption and February, 2008 for the second cycle application submittal with December, 2008 for adoption. There is an application and fee involved with an initial pre-application meeting to review submittal requirements and at submittal a sufficiency analysis.

The large-scale amendment cycle entails a two phase public hearing process. The initial public hearing process has the Planning and Land Development Review Commission and County Council deciding whether to transmit the amendment to the Florida Department of Community Affairs (FDCA) and Volusia Growth Management Commission (VGMC); consistency review process by the FDCA results in an Objections, Recommendations and Comment Report (ORC) with VGMC results in a consistency determination with the Comprehensive Plans of adjacent and affected local governments; final public hearing to adopt the amendment addresses any FDCA ORC issues and has a determination of consistency by VGMC to proceed; the adoption of the amendment is followed by a compliance review by FDCA leading to a Notice of Intent either finding or not finding the amendment in compliance with Chapter 163, F.S. and Chapter 9J-5, Florida Administrative Code (FAC); if found in compliance, the land can move forward to a rezoning, and if found not in compliance, there would need to be resolution of FDCA's concerns (e.g. such as through a stipulated agreement process).

Tom Renne
 Page Two
 July 12, 2007

A zoning change would be necessary from the current A-1 category to an applicable zoning category that would allow uses contemplated by the change to commercial following the effective date of the large scale amendment. The timeframe for a zoning change is generally 4 to 6 months – rezoning applications are processed on a once per month cycle. The rezoning process also includes a pre-application meeting in advance of submitting the formal application.

The application requirements for a future land use map amendment consist of the following:

- Type of change requested
 - Applicant/owner information
 - Property Information
 - Comprehensive Plan Compatibility/Justification Narrative
 - Narrative of how the change is justified based on the Goals, Objectives, and Policies of the Comprehensive Plan.
 - Appropriateness of the requested change in land use particularly the justification of a change from a rural to an urban category.
 - Impact Analysis
 - Transportation: Analysis of traffic impacts on failing road segments along Pioneer Trail, Williamson Blvd, Taylor Road both in the near-term and long-term (i.e., 2025) would be required. In addition, since a Southeast Volusia Transportation Study is progressing, the transportation model modified for that study (i.e., traffic analysis zone modifications & proposed future transportation improvements) should be used. Still to be identified are the future transportation improvements and financial plan to implement improvements identified in the study. Study completion is anticipated sometime this fall. Preliminary results show failing segments along Williamson Blvd even after the 4-laning starting in 2015.
- In brief, significant traffic improvements may be required based on project impacts and public funding is not available.
- Environmental: Identification of any wetlands on the property including existence of endangered species or species of concern.
 - Public Services: As the change is to an urban category the application would need to identify service providers for water, sewer, fire, and police (public schools not applicable with change to Commercial) and indicate the ability of the provider to meet applicable levels of service for the net impact of the change in land use. The subject parcel is in the utility service area for the City of Port Orange. The City has advised us that it does not intend to provide service for commercial development of the parcel.

Tom Renne
Page Three
July 12, 2007

In summary, there are numerous potential issues with this future land use map amendment. Transportation issues are the failure of various road segments with no planned improvements. The property is surrounded by rural designated land to the east, west, and north which creates compatibility problems. Adjacency to the Samsula Local Plan to the west side of the subject property across Airport Rd. may generate opposition from a community committed to preservation of the area's rural character. As noted above, the availability of water and wastewater service is unlikely since the provider has indicated opposition to commercial development of the parcel.

Annexation is not an option at this time. The subject parcel is in the future annexation area for Port Orange but is not contiguous to any city property.

I hope this information is useful. Please contact me if you have any questions.

Sincerely,



Mary Anne Connors
Deputy County Manager

MAC:kky

cc: Montye Beamer, Director of Growth Resource & Management ✓

LAW OFFICES OF
ROBERT J. RIGGIO, P.A.
Attorneys & Counselors at Law

Telephone
(386) 252-3004

400 South Palmetto Avenue
Daytona Beach, Florida 32114

Fax
(386) 255-6233

April 8, 2009

Ms. Becky Mendez, AICP
Senior Planning Manager
Growth and Resource Management
Planning and Development Services
Room 200
123 West Indiana Avenue
DeLand, FL 32720-4604

RE: **RR FARMS, LLC APPLICATIONS**

Dear Ms. Mendez:

Thank you for your March 17, 2009 rendition letter regarding the applications made by RR Farms, LLC. In reference to that letter, please be advised that my client requests a continuation of its applications without further staff review and recommendation until there is a resolution of the County right-of-way dedication issues and further efforts to determine to what extent we can achieve project support from local officials.

We have been coordinating right-of-way dedication issues with Scott Mays and Jon Cheney and are now awaiting their determination as to additional right-of-way requirements at the northeast corner of Airport Road and Pioneer Trail. As soon as we are advised of the additional right-of-way requirements, we intend to incorporate these dedications into our application package. These lands will not require a land use designation change as obviously there is no purpose in changing the land use classification of land which is being conveyed to the County for road purposes. We have been advised that this method was acceptable and utilized in previous situations. As a result, this project will remain a small scale plan amendment as originally submitted and as originally discussed with County staff.

Thank you for your consideration of this request. This is a time consuming process and the extra time will enable my client to ensure that the County has adequate right-of-way for the future right-of-way needs for Airport Road and Pioneer Trail. We would concur that such need is evident based upon the urbanization of the area immediately to the north, immediately to the east and immediately to the south of the RR Farms, LLC, property. Please let me know if you have any questions or need any additional information.

Sincerely,

RJR/cam:605.doc

Robert J. Riggio

cc: Mr. Sheldon Rubin
Don Sikorski

ATTACHMENT A

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

City of Port Orange,
a Florida municipal corporation,

Pioneer Investments of Port Orange, Inc.
a Florida corporation,

Venetian Bay of New Smyrna Beach, L.L.C.
a Florida limited liability corporation,

and

James Pleterski, an individual
d/b/a Jamar Farm

Petitioners,

vs.

THE COUNTY OF VOLUSIA
a Florida municipal corporation

Respondent.

_____ /

DOAH CASE NO.: 10-7188GM
DCA NO.: _____
Volusia County Ordinance: 2010-07
a/k/a CPMA-002-09

10 AUG -6 AM 10:00
ADMINISTRATIVE HEARING
JULY 10 2010

PETITION FOR FORMAL ADMINISTRATIVE PROCEEDING

Petitioners, City of Port Orange, a Florida municipal corporation (hereinafter "City of Port Orange"), Pioneer Investments of Port Orange, Inc. a Florida corporation (hereinafter "Pioneer Investments"), Venetian Bay of New Smyrna, L.L.C., a Florida limited liability company (hereinafter "Venetian LLC"), and James Pleterski, an individual doing business as Jamar Farm (hereinafter "Pleterski"), pursuant to §120.569, §120.57(1), *F.S.* (2009) and Rule 28-106, *F.A.C.*, by and through the undersigned counsel who is licensed to practice law in the State of Florida, request a Formal Administrative Hearing in the above-styled case and state:

AFFECTED AGENCIES AND PARTIES

1. The agencies are:

- a. The Respondent,
The County of Volusia
123 W. Indiana Avenue
DeLand, FL 32720
386-257-6000

2. The Petitioners:

- a. City of Port Orange, a Florida municipal corporation
1000 City Center Circle
Port Orange, FL 32129
386-506-5525
- b. Pioneer Investments of Port Orange, Inc., a Florida corporation
2379 Beville Road
Daytona Beach, FL 32119
386-788-0820
- c. Venetian Bay of New Smyrna Beach, L.L.C., a Florida limited liability company
424 Luna Bella Lane, ste. 133
New Smyrna Beach, FL 32168
386-767-8000
- d. James Pleterski, an individual d/b/a Jamar Farm
581 N. Samsula Dr.
New Smyrna Beach, FL 32168
386-847-3309

(Please note for service purposes the address, phone number,
and fax number of Petitioners' counsel at the end of this document.)

NOTICE OF AGENCY ACTION

- 3. Notice of Volusia County's adoption of Ordinance 2010-07 (A.K.A. CPMA-002-09, RR Farms Small Scale Amendment) changing a 9.63 acre tract of property designated by the Volusia County Comprehensive Plan from Agricultural to

Commercial was provided to Petitioners' counsel by Volusia County and Petitioners on July 29, 2010.

PETITIONERS' SUBSTANTIAL INTERESTS AND STANDING

4. Petitioner City of Port Orange is a municipal corporation with municipal limits near the subject property. The subject property is an area which, if ever annexed into a City, will be part of the City of Port Orange pursuant to an interlocal agreement between the City of Port Orange and the City of New Smyrna Beach. The subject property is included in the utility service area of the City of Port Orange. Pursuant to an agreement with the City of New Smyrna Beach, the City of Port Orange has the ability to annex the property in the future when all requirements for annexation of the property can be met. The property is not presently contiguous to a boundary of the City of Port Orange. (Appendix A-36)
5. Petitioner Pioneer Investments is the owner of a large tract of property on Pioneer Trail in the City of Port Orange. Pioneer Investment's property, known as Woodhaven, is located on Pioneer Trail approximately two miles east of the subject property which is also on Pioneer Trail. (Appendix A-140, A-141) Pioneer Investment's property is approved by the City of Port Orange for development of Woodhaven, a new urban or traditional new town development (TND) styled community with a planned commercial area of six hundred and fifty thousand (650,000) square feet of commercial and office space and extension of a County arterial thoroughfare. (Appendix A-139) Through its representatives,

Pioneer Investments appeared at the plan amendment hearings and objected to the amendment.

6. Petitioner Venetian LLC is the developer of a new urbanist community or TND known as Venetian Bay located in the City of New Smyrna Beach. Internal to the Venetian Bay development and about one mile to the south of the subject property is the Venetian Bay Town Center located on the extension of Airport Road which connects Pioneer Trail and State Road 44. The Airport Road extension constructed by Venetian LLC is a part of Volusia County's arterial thoroughfare system. (Appendix A-139) Venetian Bay was specifically designed to comply with the West New Smyrna Beach Sub Area Plan which requires TND style development west of Interstate 95. (Appendix A-132) Through its representatives, Venetian LLC appeared at the plan amendment hearings and objected to the amendment.
7. Petitioner James Pleterski farms a family owned four (4) acre agricultural plot located on Pioneer Trail approximately 500 feet east of the subject property. Additional members of the Pleterski family farm other portions of the family owned farm land which totals twenty (20) acres. The total ownership is known as Jamar Farm. Mr. Pleterski appeared at the plan amendment hearing and objected to the amendment.
8. Pursuant to Florida Statutes and the applicable Florida Rules of Administrative Code, Petitioners are entitled to party standing in this administrative action and have met all conditions precedent for doing so.

**ULTIMATE FACTS,
MATERIAL FACTS WARRANTING REVERSAL OR MODIFICATION,
RULES AND STATUTES REQUIRING REVERSAL OR MODIFICATION,
and
RELIEF SOUGHT**

ULTIMATE FACTS:

RR Farms, Inc., a Florida corporation hereinafter referred to as "RR", purchased a ten (10) acre tract in the agricultural community of Samsula, farmers Robert and Paulina Jontes. Mr. and Mrs. Jontes retained an additional 10.3 acres of property to the east of the parcel purchased by RR. The parcel purchased by RR could be developed for a maximum two hundred thousand (200,000) square feet of commercial space.

Mr. and Mrs. Jontes are in their senior years. For many years they farmed all of their property including the parcel purchased by RR. The parcel immediately east of the land still in the Jontes' ownership is a four (4) acre parcel farmed by James Pleterski. James Pleterski appeared at the Volusia County Planning and Land Development Regulation Commission (PLDRC) and the Volusia County Council hearing on behalf of Jamar Farm and objected to the RR plan amendment request to allow commercial land use in an agricultural area. Although Mr. Pleterski offered a number of valid reasons to deny the amendment, one of the most important facts established by his testimony was that for his livelihood he farms his four acre tract. In other words, he was able and has continued to viably farm his four (4) acres. RR has contended in its justification statement that the 10 acres comprising the subject property cannot be viably farmed and, therefore, should be reclassified to Commercial. The Jontes family and the Pleterski families are recognized in Volusia County as pillars of the Samsula farming community. Neither time or land sales have changed the viability of the Jontes or Jamar Farm lands, including the parcel purchased from Jontes by RR, to support agricultural activity.

The RR parcel is located at the northeast corner of the intersection of Pioneer Trail and Airport Road. Both roads are two lane rural section roads designated as collectors on the County Thoroughfare Plan. As noted in the Volusia County staff report recommending denial of the RR plan request, neither Airport Road or Pioneer Trail are included in the County's Capital Improvement Plan (CIP) and there is not funding scheduled to widen or rebuild either road.

As noted above, the RR parcel was originally ten (10) acres. To avoid treatment and a review as a large scale comprehensive plan amendment, RR appealed to the Volusia County Council to treat the ten (10) acres as a small scale amendment. The County Council denied the request. Then, RR, in advance of its plan application or site plan review of its project, artificially reduced the size of its parcel from 10.0 acres to 9.63 acres by conveying approximately 1/3 of an acre of land to Volusia County and proceeded with a small scale amendment request. The record contains no indication that Volusia County required conveyance of the 1/3 acre tract to serve as a County right-of-way or to otherwise meet some site related demand for RR's planned commercial development. As a small scale request, the Department of Community Affairs (DCA) is prohibited from reviewing the RR request for compliance with State law. (§163.3187(3)(a), *F.S.*)

The Samsula Local Plan is a sub-element of the adopted Volusia County Comprehensive Plan. The goal of the Samsula Local Plan is to:

"Maintain the existing rural, agricultural, natural, cultural and scenic values associated with the Samsula community within a framework which will allow for growth compatible with the established development pattern and current land use policies." (Samsula Local Plan, Goal – SAM 1) (Appendix A-118)

The subject property, at its western boundary and southwestern corner, abuts the Samsula planning area. (Appendix A-9)

Immediately south of the subject property is the New Smyrna Beach community of Venetian Bay. Venetian Bay is a traditional new town development developed in accord with the goals and policies of the New Smyrna Comprehensive Plan and its sub-element, the West New Smyrna Beach Plan. (Appendix A-132) The plan directs the creation of commercial, office and mixed use space in village centers. The Venetian Bay Town Center is approved for a commercial area of 250,000 square feet. The Venetian Bay Town Center is located on the extension of Airport Road approximately one (1) mile south of the subject property. The extension of Airport Road was built by Venetian LLC to conform to County thoroughfare standards. The extension of Airport Road connects to State Road 44 on the south end and Pioneer Trail on the north end.

The West New Smyrna Beach Plan, which directed the development of Venetian Bay, focuses on avoiding highway strip commercial, trip recapture through self sustaining new urbanist or TND communities by placement of town centers with graduated density and creation of a central corridor road to serve the community. The West New Smyrna Beach Plan seeks to implement new urbanist development practices espoused by Reid Ewing in his book Best Development Practices. To preserve the rural characteristics of Pioneer Trail and to concentrate non-residential and commercial development into a viable town center, the West New Smyrna Beach Plan limits Venetian Bay's commercial or non-residential area on Pioneer Trail to 15,000 square feet. Venetian Bay's Town Center is located approximately 1 mile south of the subject property on the extension of Airport Road built by Venetian LLC between Pioneer Trail and

State Road 44. The Venetian Bay Town Center is allowed 250,000 thousand square feet of commercial area. It is located on a public road and open to the public.

Approximately two (2) miles east of the subject property is the planned Woodhaven community. Woodhaven is owned by Pioneer Investments. As part of its development plan, Pioneer Investments has entered an agreement with Volusia County to extend Williamson Boulevard, a County arterial thoroughfare, from the current southern end of Williamson Boulevard in Port Orange to Pioneer Trail near its crossing of Interstate 95. The Williamson Boulevard extension is set out and called for by the County Thoroughfare Plan, a sub-element of the County's Comprehensive Plan. The Williamson extension will conform to standards for an arterial thoroughfare road as required by the County Comprehensive Plan. Part of the Woodhaven development plan is 650,000 square feet of retail space to be located near the intersection of Williamson Boulevard and Pioneer Trail. To preserve the rural character of Pioneer Trail, Woodhaven agreed to maintain a 400 foot wide vegetated buffer from Pioneer Trail to its commercial area.

The Samsula Local Plan, at Objective 1.3, requires implementation of the Samsula Local Plan by 2005. (Samsula Local Plan SAM 1.3) Included in the policies of the Samsula Local Plan is policy SAM 1.3.2 which indicates implementation of the policies may include Joint Planning Agreements. In conjunction with SAM 1.3, Samsula Local Plan, Policy SAM 1.3.3 requires, "[t]he County shall seek joint planning agreements with adjacent municipalities to insure that annexation activity does not lead to development that is incompatible with the character of the Samsula Rural Community and the intent of this plan."

The City of New Smyrna Beach, via letter from Mayor Adam Barringer, has stated that the RR Farms amendment is premature and should be delayed until the City of New Smyrna

Beach, City of Port Orange and Volusia County have entered into a joint planning agreement (JPA). The JPA would deal with the planning issues relating to the area north of Pioneer Trail and east of Airport Road which contains the subject property. (Appendix A-63) The City of Port Orange agrees with the City of New Smyrna Beach and has coordinated discussions to address formulating a JPA. (Appendix A-127) In addition, the City of Port Orange, via letter from its City Manager (Appendix A-121), has objected to the proposed amendment.

Volusia County through its County Council has conducted several workshops to address the concept of "Smart Growth". The Volusia County Council, along with other area governments has adopted a resolution to support and endorse "Smart Growth" concepts. (Appendix A-116) Smart Growth, as promoted in Volusia County, is seen as the promotion of TND or new urban development. The general concept calls for the creation of "walk-able" communities with mixed use town centers and surrounding residential uses of different types (multi-family, townhomes, single family, etc.)

Venetian Bay and Woodhaven are examples of the Smart Growth approach endorsed by the Volusia County Council and cities within Volusia County. The communities create a defined separation between urban and rural areas, provide significant open space, create a development pattern that reduces reliance on the automobile, avoid urban sprawl and, at developers' expense and risk, create public facilities such as arterial road extensions anticipated by the Volusia County Comprehensive Plan.

The Volusia County Thoroughfare Plan and Volusia County policies related to road impact fees encourage developers to dedicate right-of-way for and construction of arterial roadways that will benefit the public at large. Both Pioneer Investments and Venetian LLC have committed to (Pioneer Investments) or built (Venetian LLC) arterial roads through their projects.

The RR amendment is the antithesis of the Smart Growth concept. It places a commercial use in a rural area. With the RR amendment, the placement is accomplished by breaking up a part of a traditional family farm. The farm may not be farmed presently due to the age of its owners but it would be viable as an agricultural use to someone at a later time. With the conversion allowed by the RR amendment, the existing farm land is taken forever for an urban use. To make matters worse, the proposed use sets the trend for conversion of other agricultural land in the area which, but for the RR amendment, would not presently be considered as available for conversion from agricultural to non-agricultural use.

The RR small scale plan amendment allows RR to convert the portion of the Jontes Farm it purchased from County Agricultural to Commercial land use. The primary justifications offered by RR to allow the conversion are location of the subject property at a corner location on two substandard roads and a desire to provide retail commercial service to a rural area. The planned conversion relies upon a traffic analysis which finds IF development on the property is limited to 100,000 square feet, traffic from the development will fit into the 2014 and 2025 traffic horizons. The RR small scale plan amendment contains a notation limiting the subject property to 60,000 square feet of commercial space. One assumption of the 2025 horizon is that Pioneer Trail will be four laned by 2025. The only indication to support the traffic study assumption of four laning of Pioneer Trail by 2025 is the effort of the cities of New Smyrna Beach and Port Orange to obtain additional right-of-way for Pioneer Trail. No funding sources, County or otherwise, exist and none are identified in any plan or CIP by Volusia County, any city or the local Metropolitan Planning Organization (MPO), to give credence to the traffic study's 2025 assumption of four laning Pioneer Trail.

MATERIAL FACTS WARRANTING REVERSAL OR MODIFICATION:

1. Small Scale Plan Notation – Text Amendment.

- a. The 9.63 acre parcel proposed to be amended from Agricultural Resource to Commercial will support 200,000 thousand square feet of commercial space. In order to avoid a conclusion that the amendment will exceed the capacity of Pioneer Trail and Airport Road, RR has “voluntarily” agreed to a notation to the amendment which will limit square footage at the site to 60,000 square feet. As a small scale amendment the notation can be removed at anytime after the current plan cycle and the issues, such as roadway capacity, raised by greater square footage will escape review. DCA is statutorily prohibited from reviewing small scale amendments. (§163.3187(3)(a), *F.S.*)
- b. The RR plan notation may be a violation of Florida Statutes Chapter 163 and Florida Administrative Code 9J-5 as a text amendment which must be reviewed as a large scale amendment.

2. Absence of a Joint Planning Agreement (JPA)

As noted above, the Samsula Local Plan requires Volusia County to enter JPA's to avoid adverse impacts on the Samsula Planning Area by development outside of, but near or adjacent to, the Samsula Planning Area boundary. Volusia County's staff and some members of the Volusia County Council noted the need to enter a JPA to direct a plan for the overall area which includes the subject property. The Mayor of New Smyrna Beach, Adam Barringer, wrote the County (Appendix A-63) and expressed his City's desire for and the need to have a JPA for this area. Mayor Allen Green of Port Orange appeared at the July 22,

2010 meeting of the County Council and expressed his City's desire for a JPA to address the area. Commentary in the record indicated that the Cities of Port Orange and New Smyrna Beach had shown no interest in a JPA. In fact, the City of Port Orange had directed its staff in conjunction with the staffs of the City of New Smyrna Beach and Volusia County to draft a JPA.

Ironically, immediately following its vote to approve the RR rezoning two weeks after approving the amendment, some members of the Volusia County Council attempted to impose a planning/zoning moratorium on the area surrounding the subject property until creation of a JPA. The attempted action failed due to the objections of County Council members who had opposed RR but thought it would be unfair to other area owners to lock them out of the opportunity to advance their financial opportunity. The motion did, however, show that even the Volusia County Council members who approved the RR request thought it opened the door for additional change.

Presently, the stage is set for creation of a tri-party JPA (City of Port Orange, City of New Smyrna Beach and Volusia County) to address overall development and land uses for the enclave in which the subject property is located. Adoption of the isolated RR amendment will be counterproductive to the effort of an overall planned area governed by a JPA and inconsistent with the Volusia County Comprehensive Plan policies contained in the Samsula Local Plan. The amendment should be found to be inconsistent with the Samsula Local Plan.

3. Compatibility and Need.

a. The West New Smyrna Beach Plan

The West New Smyrna Plan focused on creation of new urbanist TND "Village Centers". The plan called for creation of a north village at Venetian Bay to serve areas north of SR-44 in New Smyrna Beach and into the south part of Port Orange. The south village is to be created on property that was to be developed by the Landmar Corporation. Woodhaven, a new urbanist TND community to be developed by Pioneer Investments in the City of Port Orange was planned by the City of Port Orange to serve development within the Woodhaven development but also in the Samsula area and the area of Port Orange north of Woodhaven along Williamson Boulevard and Airport Road. The Venetian Bay North Village and the Woodhaven Town Center, in conjunction with the regional shopping facilities at Taylor Road and Dunlawton, provide in excess of one million square feet of existing or planned commercial space to provide all the possible commercial capacity that could be needed for the area including the area that could be served by RR.

Woodhaven is designed for and intends to accommodate a grocery store and pharmacy. Venetian Bay is designed for and intends to accommodate a grocery store and commercial needs in excess of a neighborhood shopping area. At Taylor Road and Williamson Boulevard, there exists a Publix, Walgreens, department stores, dry cleaners, etc. Slightly north of Taylor Road and Williamson Boulevard intersection is the regional Pavillion Shopping Center with movie theaters, restaurants, department stores, etc. At the intersection of Williamson Boulevard and Airport Road in Port Orange and approximately three miles from the subject property is a neighborhood commercial site comprised of three (3) parcels totaling available acreage in the amount of approximately 28.5 acres. Two of the three parcels are vacant.

It should be noted that the RR parcel is approximately five (5) miles south of the intersection of Taylor Road/Williamson Boulevard/Interstate 95. RR offers congestion of this intersection as justification for its request since the RR parcel is located away from the Taylor Road/Williamson Boulevard/Interstate 95 intersection. The shortening or elimination of trips to meet the commercial needs of Samsula residents can be met by existing commercial parcels at Williamson Boulevard/Airport Road or at the Woodhaven or Venetian Bay Town Centers.

The Woodhaven and Venetian Bay locations are a 5 to 10 minute drive from the subject site. Both Woodhaven and Venetian Bay will or have constructed arterial roadways consistent with the Volusia County Thoroughfare Plan which is a part of the Volusia County Comprehensive Plan. The placement of an isolated commercial parcel such as the RR tract only siphons away the function of the new urbanist village centers. The RR tract does not fill a need. That need is already able to be met within the two planned development areas and the existing commercial space at Dunlawton and Taylor Road and Airport Road/Williamson Blvd.

Creation of additional commercial area is incompatible with the new urbanist town center goals established by the West New Smyrna Beach Plan, the development of Venetian Bay pursuant to the plan, and the City of Port Orange Comprehensive Plan allowing the Woodhaven new urbanist development.

b. The Samsula Local Plan – Compatibility and Consistency

The Samsula Local Plan was created by the Volusia County Council to preserve and protect the historically agricultural area of Samsula. The Samsula planning area is

depicted on Appendix A-9 attached to this petition. State Road 44 is an arterial four lane highway with an interchange on the east at Interstate 95 and the west near DeLand at I-4. State Road 44 is the primary route used by Orange, Lake and Seminole County residents to access the beaches at New Smyrna Beach. The area of Samsula north of State Road 44 is intended to be used for farming and large lot residential. On all of the Samsula Local Plan area, there is no commercial area of even 1/10 the size planned by RR. Even on the northern edge of Venetian Bay, the maximum allowed commercial area at Pioneer Trail and Airport Road is 15,000 square feet. Placement of 60,000 square feet of commercial space at the edge of the rural area of Samsula is the beginning of urbanization of the area included in the Samsula Local Plan. The allowance is not compatible with the goals and objective of the Samsula Local Plan.

The subject property is in the future annexation area for the City of Port Orange. Port Orange has advocated that the proposed amendment should be denied. A part of the reason the City of Port Orange requests denial is that the City of Port Orange and its residential subdivision are not adjacent to the subject property. Despite some commentary to the contrary, the subject property is surrounded by agricultural area and homes associated with the agricultural area. Port Orange advocates delay due to the belief that the overall area should be planned to allow proper delivery of City of Port Orange services. In addition, the City of Port Orange recognizes that the RR proposed development does not support achievement of the goals and objectives of the Port Orange Comprehensive Plan or the New Smyrna Beach Comprehensive Plan.

4. Volusia County.

The Volusia County planning staff recommended denial of the RR amendment. The Volusia County planning staff's position is set out in the Appendix beginning at A-1. The particular policies of the Volusia County Comprehensive Plan relied on by the Volusia County staff for their report are set out in the Appendix.

5. Small Scale vs. Large Scale.

RR manipulated the plan amendment to be small scale. The Volusia County Council actually heard and denied an appeal from RR to have the property treated as small scale. See Appendix A-7. Subsequent to denial of its appeal, RR was able to convince the county to accept .327 acres of its land so that it could claim small scale status. Petitioners respectfully contend that the reduction in size should be disregarded and the amendment should be subject to large scale review for consistency and compatibility with State and regional goals.

6. Traffic Analysis.

RR's traffic analysis and Volusia County's commentary thereon are flawed. The allowable area of building allowed to the subject property is 60,000 square feet. The traffic analysis considered 100,000 square feet. The actual yield of the property if the plan notation is ignored is 200,000 square feet.

It is inferred, but not stated in the reports, that a building area in excess of 100,000 square feet on the subject property would exceed the available traffic levels for planning horizon levels at 2014 and 2025. Regardless of the building area limitation agreed to by RR to get approved, the fact remains there is no justification to assume that in 2025 Pioneer Trail

will be paved of planned to be paved to meet the anticipated 2025 needs. The staff report contains no justification or explanation of why the 4 lane Pioneer Trail assumption was acceptable. The assumption should be disregarded and the plan amendment should be rejected.

STATUTES AND RULES REQUIRING REVERSAL:

9J-5.005(2), F.A.C – Data and Analysis.

There is no data or analysis to support the amendment. The Volusia County Planning staff report analyzed the request and recommended denial. The applicant's justification statement fails to qualify its response as competent and, therefore, it cannot be relied on to support the conclusion to amend. The justification statement offered by RR fails to justify in anyway how the RR request fills a need not already able to be met by commercial facilities already built or planned to be built in the area. In addressing the 2025 traffic horizon, the justification statement simply infers Pioneer Trail and Airport Road in the vicinity of the request will be improved because the Cities of Port Orange and New Smyrna Beach have, when possible, obtained dedications of additional right-of-way. The justification statement fails to establish adequate support for the inference by explaining how road improvements that are not funded, budgeted or included in an adopted CIP will be accomplished.

RR justified the change of land use by arguing its parcel is too small to support agriculture. Yet in 2006, RR bought the 10 acre parcel from a farming family with the apparent specific purpose of converting the agricultural acreage to a commercial use. If viability is in doubt, the doubt was created by RR. Testimony at the plan amendment hearings from Petitioner

James Pleterski, a farmer located about 500 feet to the east of the RR parcel, established even less than ten (10) acres could viably be farmed if an adequate effort was made.

9J-5.005(5) – Internal Consistency.

The RR parcel abuts the Samsula Local Plan area. Though not part of the Samsula Local Plan Area, the RR parcel is also a part of the area historically recognized as Samsula. In recognition of the agricultural heritage and use of the Samsula area, Volusia County adopted the Samsula Local Plan. The Samsula Plan recognizes that peripheral uses may erode the agricultural, rural character sought to be preserved by the Samsula Local Plan. The RR amendment is inconsistent with the Samsula Local Plan and thereby creates an internal inconsistency between the land use map and the goals, policies and objectives of the text of the adopted Volusia County Comprehensive Plan. The Volusia County planning staff report identifies other inconsistencies between the map amendment and the text of the adopted Volusia County Comprehensive Plan.

9J-5.0055, F.A.C. – Concurrency

9J-5.0055(1)(b), F.A.C. requires that the local government Capital Improvement Plan (CIP) shall set forth a financially feasible plan which demonstrates adopted levels of service will be achieved and maintained. The RR amendment is notated to limit the development of the property to 60,000 square feet when maximum yield is calculated to be 200,000 square feet. The purpose of the notation is to allow the traffic study included with the amendment to demonstrate that the 2025 planning horizon standards will not be violated by the RR amendment. Yet, as a small scale amendment, the RR square footage could be lifted with impunity at a later date if the

political climate would allow. Small scale amendments are legally immune to agency review above the local level to determine if the standards of Chapter 163, *F.S.* and 9J-5, *F.A.C.* are not met.

9J-5.006, F.A.C. – Land Use Plan

The RR amendment does not contain adequate analysis to support the amendment as required by 9J-5.006(2), *F.A.C.* The amendment fails to demonstrate how it would eliminate or reduce uses inconsistent with the community's character and proposed future land use. (9J-5.006(2)(d)(2), *F.A.C.*) The amendment is also in violation of the requirement of 9J-5.006(3)(b)(3), *F.A.C.* to eliminate or reduce uses inconsistent with the community's character and future land use. Finally, the amendment fails to adequately protect adjacent agricultural areas, fails to provide a clean separation between rural and urban uses and it discourages infill development of existing neighborhoods or communities.

9J-5.015, F.A.C. – Intergovernmental Coordination

The amendment fails to take the opportunity to promote intergovernmental coordination through a JPA that everyone, including Volusia County at its hearing and in the Samsula Local Plan, agrees should occur. If anything, a delay of the RR amendment that the Volusia County Council felt compelled to approve could have been the catalyst to create the impetus for intergovernmental coordination. The record of the Volusia County Council hearing and the attachments hereto indicate the cities of Port Orange and New Smyrna Beach are ready for a JPA to address the area including the subject property. Some Volusia County Council members, apparently unaware of the expressions of the cities of Port Orange and New Smyrna Beach,

voted for the amendment because no one (as far as they knew) had stepped forward to create a JPA.

RELIEF SOUGHT:

It is requested that the hearing officer conclude the RR Farms Small Scale Amendment:

- 1) Is inconsistent with Samsula Local Plan.
- 2) Lacks adequate data and analysis to support the decision.
- 3) Is premature in that, currently available commercial facilities equal or exceed foreseeable demand.
- 4) Does not promote intergovernmental coordination in the absence of a JPA.
- 5) Is internally inconsistent with the Volusia County Comprehensive Plan.



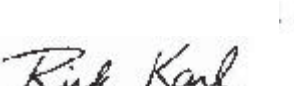

CERTIFICATE OF GOOD FAITH FILING
AND SERVICE

I HEREBY CERTIFY I am authorized to act as counsel for the parties named herein as Petitioners and, that I have prepared, read and filed the foregoing document in good faith, absent of any improper purposes, such as to harass or to cause unnecessary delay, or for frivolous purposes or needless increases in the cost of litigation. Further, I hereby certify that a true and correct copy of the foregoing was furnished by overnight delivery this 5th day of August, 2010 to: Volusia County Manger James Dinneen, c/o Dan Eckerd, Volusia County Attorney, 123 W. Indiana Avenue, DeLand, FL 32720; Division of Administrative Hearings, c/o Robert S. Cohen, Chief Judge, 1230 Apalachee Parkway, Tallahassee, FL 32399.

Respectfully submitted,


James S. Morris, Esq.
Fla. Bar No. 0339687
420 S. Nova Road
Daytona Beach, FL 32114
386-238-8383 ext. 12
386-238-0988 (fax)
jamesmorris@storchmorrisharris.com
Counsel for Petitioners

ATTACHMENT B

September 22, 2005		AGENDA ITEM		Item 41
<input type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input type="checkbox"/> Budget Resolution
<input checked="" type="checkbox"/> Other				
Department: Legal Department		File Number: VC-1124799189662-A		
Division: Legal				
Subject: Settlement of litigation with the City of Port Orange regarding Phase I of the waterline extension.				
Account Number(s): N/A				
Total Item Budget: N/A				
Staff Contact(s): Rick Karl Phone: 736-5990 ext. 2459				
Summary/Highlights: On August 18, 2005, the County Council granted the City of Port Orange a use permit to construct the "Phase II" waterline improvements along Tomoka Farms Road and Pioneer Trail. The "Phase I" use permit was denied last year and is in litigation. Based upon the Council's action on August 18, the County staff negotiated the attached settlement agreement with Port Orange during the August 29, 2005 mediation. The settlement agreement grants the use permit for Phase I, and requires Port Orange to obtain prior approval from the County Council before it provides water services to any customer in the unincorporated areas of the County.				
Recommended Motion: Approve the settlement agreement with the City of Port Orange and grant the city use permit number 031125021.				
Daniel D. Eckert, County Attorney 	OMB 	Legal 	Betty Holness County Manager's Office 	
Approved as to Budget Requirements		Approved as to Form and Legality		Approved Agenda Item For: September 22, 2005
Council Action: <input type="checkbox"/> Approved as Recommended <input type="checkbox"/> Approved With Modifications <input type="checkbox"/> Disapproved <input type="checkbox"/> Continued Date:		Modification:		



August 29, 2005
3:30 PM

SETTLEMENT AGREEMENT

This is a settlement agreement (the "Agreement") between Volusia County (the "County") and the City of Port Orange (the "City"). As of the Effective Date (as defined below), the County and the City (collectively the "Parties") agree as follows:

1. The County received from the City an application (the "Phase I Application") to construct a water main along a portion of Taylor Road, a public right-of-way in Volusia County. The County assigned to that application the numbers 04-P-USE-0363 and 031125021. The Phase I Application was denied. Thereafter, the City filed an application (the "Phase II Application") to construct water mains along Tomoka Farms Road and Pioneer Trail, public right-of-ways in Volusia County. The County assigned to that application the numbers 05-P-USE-0492 and 041028058. The Volusia County Council approved the Phase II Application with conditions on August 18, 2005. The City received the use permit for the Phase II Application (the "Phase II Use Permit") on August 25, 2005.

2. In response to the denial of the Phase I Application, the City brought an action (the "Lawsuit") against the County in the Volusia County Circuit Court, Case No. 2004-11024 CIDL (Fla. 7th Cir. 2004). The Parties have now resolved the Lawsuit on the terms set forth in this Agreement.

3. The effective date of this Agreement (the "Effective Date") shall be the date of the last Party to approve and execute this Agreement. The effective date shall be no later than September 23, 2005.

4. No later than five (5) business days following the Effective Date, the County shall issue a use permit approving the Phase I Application (the "Phase I Use Permit"), subject to the terms and conditions of this Agreement. The Phase I Use Permit shall become effective upon commencement of construction by the City, which shall be within six (6) months of the Effective Date, and shall expire one year from said date of commencement of construction. The Phase I Use Permit's expiration date may be extended by the County in accordance with Section 609.03 of the County's Land Development Regulations. The City shall advise the County in writing of its date of commencement of construction at least seven (7) days prior to commencement of construction.

5. The County shall allow the City to proceed with construction in the manner described in the Phase I Use Permit. In the event of any new construction or use that requires a use permit and may interfere with or impede the City's construction, the County shall take appropriate steps in issuing a use permit to ensure that the City is not unduly delayed.

6. The County shall allow the City to proceed with construction in the manner described in the Phase II Use Permit. In the event of any new construction or use that requires a use permit and may interfere with or impede the City's construction, the County shall take appropriate steps in issuing a use permit to ensure that the City is not unduly delayed.

7. The City shall not make any connections to the Phase I water main without the County's prior written consent for so long as those areas are unincorporated.

8. The City shall not make any connections to the Phase II water main without the County's prior written consent for so long as those areas are unincorporated.

9. Phase I shall be built only with fire hydrants as designated by the County in the Phase I Use Permit.

10. Phase II shall be built only with fire hydrants as designated by the County in the Phase II Use Permit.

11. The City hereby remises, releases, acquits, satisfies and forever discharges the County and all principals, attorneys, elected officials, officers, agents, representatives or employees and their successors and assigns thereof individually, of and from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, obligations, duties, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, whether at law or in equity, direct or indirect, intentional or negligent, professional or commonplace, in contract or in tort, compensatory or punitive or otherwise that the City ever had, now has or may have in the future relating to or arising from the Lawsuit or Phase II Application; provided, however, that nothing contained herein shall be construed as a waiver of future claims or causes of action by the City against the County arising out of the breach or alleged breach of this Agreement.

12. The County hereby remises, releases, acquits, satisfies and forever discharges the City and all principals, attorneys, elected officials, officers, agents, representatives or employees and their successors and assigns thereof individually, of and from all actions, causes of action, claims, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, obligations, duties, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, whether at law or in equity, direct or indirect, intentional or negligent, professional or commonplace, in contract or in tort, compensatory or punitive or otherwise that the County ever had, now has or may have in the future relating to or arising from the Lawsuit or Phase II Application; provided, however, that nothing contained herein shall be construed as a waiver of future claims or causes of action by the County against the City arising out of the breach or alleged breach of this Agreement.

13. Within five (5) business days following issuance of the permits, the City will dismiss the Lawsuit with prejudice, each party to bear its own attorneys' fees and costs.

14. The Parties agree to take any further actions and execute any further agreements needed to carry out the spirit and intent of this Agreement.

15. This Agreement may be amended, modified or supplemented only by written agreement executed by both Parties; provided, however, the City may install additional fire hydrants without amending, modifying, or supplementing this Agreement.

16. Each of the Parties warrants and represents that the Party has the capacity and right to enter this Agreement; that this Agreement was fully negotiated by the Parties; that none of the provisions hereof is to be considered as having been drafted by either Party; and that each Party consents to the terms and conditions of this Agreement.

17. This Agreement comprises the entire agreement and understanding of the Parties with respect to the subject matter hereof. This Agreement supersedes all prior oral or written communications, agreements or understandings between the Parties with respect to the subject matter hereof. Neither Party has relied upon any oral or written representations of either Party.

18. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, agency or employment relationship between the Parties. Nothing contained in this Agreement shall be construed as an admission of wrongdoing or liability on the part of either Party.

19. This Agreement may be executed in counterparts and in duplicate. Each duplicate shall be deemed an original, and both counterparts together shall constitute one and the same instrument.

20. In the event that any term or provision of this Agreement is held to be unenforceable, the remaining portions of this Agreement shall remain in full force and effect, and the invalid term or provision shall be replaced by such valid term or provision as comes closest to the intention underlying the invalid term or provision.

21. All notices, requests, demands and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand or confirmed facsimile or mailed, first class certified mail with postage prepaid:

In the case of the County: County Manager
Volusia County
Thomas C. Kelly Administration Center
123 W. Indiana Ave.
DeLand, FL 32720

with a copy to: Daniel D. Eckert, Esquire
Volusia County Legal Department
Thomas C. Kelly Administration Center
123 W. Indiana Ave., 3rd Floor
DeLand, FL 32720-4615

In the case of the City: City Manager
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

with a copy to: Margaret T. Roberts, Esquire
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

VOLUSIA COUNTY

CITY OF PORT ORANGE

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

WE HAVE REVIEWED THIS AGREEMENT AS TO FORM AND LEGALITY.

Counsel for Volusia County
Date: _____

Counsel for the City of Port Orange
Date: _____

WE HAVE REVIEWED THIS AGREEMENT AND AGREE TO RECOMMEND THIS AGREEMENT
FOR APPROVAL TO OUR RESPECTIVE COUNCILS.



Counsel for Volusia County



Counsel for the City of Port Orange

Date: August 24, 2005

Date: August 29, 2005

ATTACHMENT C**ORDINANCE NO. 2010-20**

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE VOLUSIA COUNTY COMPREHENSIVE PLAN ORDINANCE NO. 90-10, AS PREVIOUSLY AMENDED, BY AMENDING AND RESTATING VOLUSIA COUNTY ORDINANCE NO. 2010-07, BY RESCINDING THE COMMERCIAL LAND USE, BY AMENDING APPENDIX 1, MAPS AND FIGURES, FIGURE 1-11; CHANGING FUTURE LAND USE DESIGNATION FOR APPROXIMATELY 9.637 ACRES OF LAND LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF AIRPORT ROAD AND PIONEER TRAIL, TO AGRICULTURAL RESOURCE; BY AUTHORIZING INCLUSION IN THE VOLUSIA COUNTY COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 163.3187(1)(c), Florida Statutes, an application was submitted for the small scale amendment to said Comprehensive Plan; and

WHEREAS, on July 8, 2010, the county council adopted ordinance 2010-07 amending the comprehensive plan future land use map; and

WHEREAS, on August 6, 2010, the City of Port Orange, Pioneer Investments of Port Orange, LLC, Venetian Bay of New Smyrna, LLC and James Plerterksi challenged the amendment in DOAH case no. 10-007188GM; and

WHEREAS, the previously approved land use of commercial approved in ordinance 2010-07 is rescinded and the property will be designated the future land use of Agricultural Resource.

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

1
2 The Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, is
3 further amended as follows:

4 **SECTION I: FUTURE LAND USE MAP AMENDMENT.** Appendix 1, *Maps and*
5 *Figures*, figure 1-11, *Future Land Use Map*, of the Volusia County Comprehensive Plan, is
6 amended to change the future land use designation for approximately 9.637 acres of land
7 located at the northeast corner of the intersection of Airport Road and Pioneer Trail (tax
8 parcel # 06-17-33-01-00-0170), as described in Exhibit "A" and depicted on Exhibit "B," to
9 Agricultural Resource. Exhibits "A" and "B" are attached hereto and incorporated herein by
10 reference.

11 **SECTION II: CONFLICTING ORDINANCES.** All ordinances, or part thereof, in
12 conflict herewith are, to the extent of the conflict, repealed.

13 **SECTION III: SEVERABILITY.** Should any section or provision of this ordinance,
14 or application thereof, be declared to be unconstitutional or invalid, or inconsistent with the
15 applicable state law, such declaration shall not affect the validity of the remainder of this
16 ordinance.

17 **SECTION IV: EFFECTIVE DATE.** A certified copy of this ordinance shall be
18 transmitted to the Department of Community Affairs filed with the Department of State by
19 the County Manager within ten (10) days after enactment and this ordinance shall take
20 effect either 31 days after adoption, or when the Florida Department of Community Affairs
21 or the Administration Commission issues a final order determining this ordinance to be in

1 compliance with Chapter 163, Florida Statutes, or upon the date of issuance of a certificate
2 of consistency or conditional certificate of consistency by the Volusia Growth Management
3 Commission, whichever is later.
4

5 **ADOPTED BY THE COUNTY COUNCIL OF THE VOLUSIA COUNTY, FLORIDA,**
6 **IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY CHAMBERS AT THE**
7 **THOMAS C. KELLY ADMINISTRATION CENTER IN THE CITY OF DELAND, FLORIDA,**
8 **THIS 9TH DAY OF DECEMBER A.D., 2010.**
9

10
11 ATTEST:

12
13
14
15 James T. Dinneen, County Manager

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

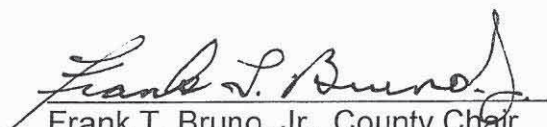

Frank T. Bruno, Jr., County Chair

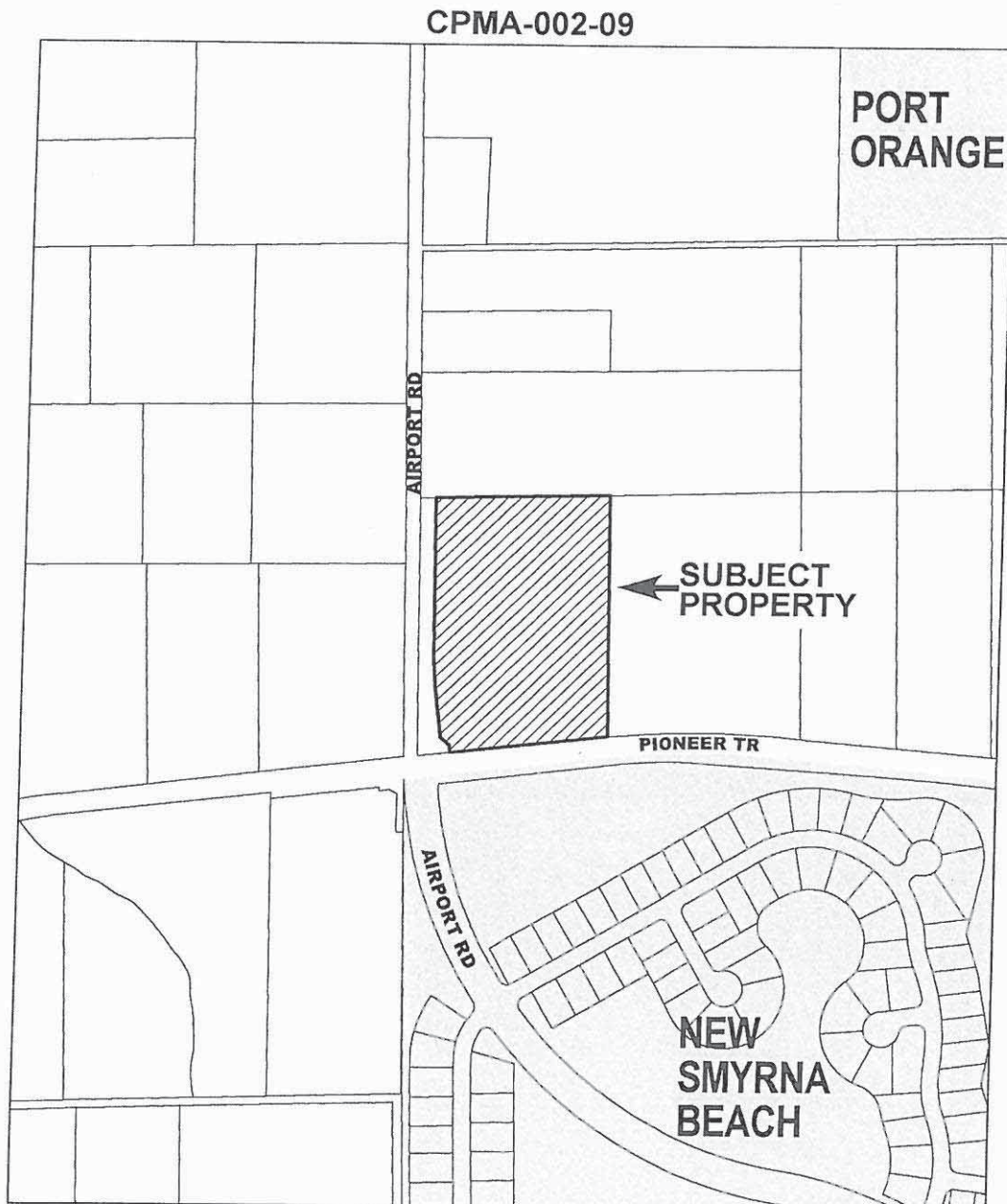
Exhibit A**Legal Description (submitted February 12, 2010)****DESCRIPTION**

A PORTION OF LOTS 17 AND 18, 1ST SUBDIVISION OF ABBOTT FARMS, AS RECORDED ON MAP BOOK 8, PAGE 127 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 18, THENCE RUN N88°54'12"E, ALONG THE NORTH LINE OF SAID LOT 18, A DISTANCE OF 49.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF AIRPORT ROAD AS DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK , PAGE , SAID PUBLIC RECORDS AND THE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF LOT 18 AND LOT 17, N88°54'12"E, 538.53 FEET TO THE NORTHEAST CORNER OF SAID LOT 17; THENCE ALONG THE EAST LINE OF SAID LOT 17, S01°09'10"E, 759.51 FEET TO THE SOUTHEAST CORNER OF SAID LOT 17; THENCE ALONG THE SOUTH LINE OF SAID LOT 17 AND LOT 18, S83°19'37"W, 491.74 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID AIRPORT ROAD; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, THE FOLLOWING COURSES: N06°40'23"W, 27.00 FEET; THENCE N51°40'23"W, 35.36 FEET; THENCE N06°40'23"W, 160.48 FEET TO THE BEGINNING OF A CURVE CONCAVE EAST HAVING A RADIUS OF 1,290.00 FEET AND A CENTRAL ANGLE OF 05°47'34"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, 130.42 FEET; THENCE N00°52'49"W, 468.04 FEET TO THE POINT OF BEGINNING. CONTAINING 9.637 ACRES, MORE OR LESS.

Exhibit B

Amendment Parcel Map



Prepared by: Volusia County Growth & Resource Management Department



15-Feb-10
1" = 400'

ATTACHMENT D

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan Amendment Application

Prepared by
JAMES STOWERS, Esq.
Wright, Casey & Stowers, P.L.
44A West Granada Boulevard
Ormond Beach, FL 32174

Contents:

- (1) Title Sheet & Cover Letter
- (2) Completed Application Form (Including Required Supplemental Information)
 - Exhibit A: Pre-Application Meeting Form
 - Exhibit B: CPMA and BPUD Zoning Fees Correspondence
 - Exhibit C: Proof of Ownership
 - Exhibit D: Ownership Disclosure Form
 - Exhibit E: Applicant Authorization Form
 - Exhibit F: Statement of Understanding
 - Exhibit G: Amendment to Figure 1-11 A. Future Land Use Map/Plan Notations
 - Exhibit H: Boundary Survey (two copies)
 - Exhibit I: Legal Description
 - Exhibit J: Vicinity Map
 - Exhibit K: Statement of Justification
 - Exhibit L: School Impact Analysis – N/A Confirmation Correspondence
 - Exhibit M: Land Use Needs Analysis Report
 - Exhibit N: Transportation Analysis
 - Exhibit O: Environmental Impact Analysis
 - Exhibit P: Letter of Capacity Availability

WRIGHT, CASEY & STOWERS, P.L.
ATTORNEYS AT LAW
www.surfcoastlaw.com

JAMES STOWERS
Direct Dial: (386) 310-4197
Email: jstowers@surfcoastlaw.com

Please Reply To:
Ormond Beach Office
PO Box 2517
Ormond Beach, FL 32175-2517

June 27, 2013

VIA HAND DELIVERY

Volusia County
Planning and Development Services
Comprehensive Planning
123 West Indiana Avenue, Room 200
Deland, FL 32720-4604

Re: Small Scale Comprehensive Plan Amendment and BPUD Rezoning –
RR Farms, LLC Property at 3585 Pioneer Trail, New Smyrna Beach.

Dear Ms. McGee:

Wright, Casey & Stowers is privileged to represent RR Farms, LLC in their application for a small-scale amendment to the Volusia County Comprehensive Plan and concurrent rezoning request to the Business Planned Unit Development zoning category related to their property at 3585 Pioneer Trail, New Smyrna Beach, Florida (the "Property"). Purchased by RR Farms, LLC in September 2006, the Property has been the subject of numerous discussions related to nonresidential development to serve the region surrounding the Property. This letter serves to transmit the subject applications and outline key points related to the attached application.

The Property went through a lengthy public hearing process in 2010. The requests for a small-scale comprehensive plan map amendment to Commercial (C) and rezoning to BPUD were supported by the PLDRC by a vote of 5-1 and later approved by the County Council by a vote of 4-3. After a third party challenge, the County Council elected to revisit the issue and was prepared to approve a ULI land use and BPUD. Instead, RR Farms, LLC (Sheldon Rubin) voluntarily withdrew the applications. The withdrawal included an agreement by the County Council that Mr. Rubin would be credited for his fees paid at such time that he brought back a request "when he decided to move forward."

Mr. Rubin has decided to move forward due to continuing demand for local grocery shopping and a local economy that continues to show improvement. In addition to strong demand for a local grocery store in this region and changes to planning law since 2010, the information collected from the numerous meetings and hearings from 2010 have provided Mr. Rubin with the tools to modify the previous proposal to present a project that will enhance the quality of life for thousands of residents in the region by providing an efficiently located local grocery store that truly blends in with the overall character of this region. Substantial landscape buffers along both Airport Road and Pioneer Trail will preserve the beautiful oak hammock on the Property. The building intensity for the Property will be capped through a map amendment

WRIGHT, CASEY & STOWERS, P.L.
ATTORNEYS AT LAW
www.surfcoastlaw.com

notation in the Comprehensive Plan in order to ensure development of the site is compatible with the surrounding area.

With over 5,100 built homes within a three mile radius of the Property, it is apparent that the transition of this area to more intense uses was set into motion years ago. Future residential development in this same area will balloon to over 11,000 homes in coming years. Despite this explosive growth, the area still lacks a local grocery store to serve the daily needs of the current residents. The attached materials will confirm that the placement of a local grocery store on the Property will serve existing residents in the area without undermining other larger, regional projects in this part of Volusia County.

The attached application materials include a comprehensive analysis of the assessed need for nonresidential development in the area surrounding the Property. The County's Comprehensive Plan covers a 20-year planning horizon. As detailed in the attached materials, the current and future nonresidential needs for this area include the anticipated need for up to six grocery store sites within that 20-year planning horizon. The approval of the Commercial FLU and map notations directly related to our request will ensure that the Property is developed at a scale that complements the area while ensuring compatibility with nearby properties.

Sincerely,



James Stowers, Esquire

Direct Dial: (386) 310-4197

Email: jstowers@surfcoastlaw.com

44A West Granada Boulevard

Ormond Beach, FL 32174

cc: Sheldon Rubin, RR Farms, LLC
Gregory J. Oravec, Oravec and Company
Paul Momberger, RLA, Zev Cohen & Associates, Inc.

Application for an Amendment
to the
Volusia County Comprehensive Plan

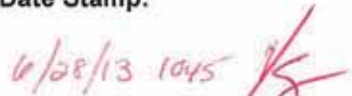

This application is intended to accommodate the primary information needs for all amendment requests. You may be required to submit additional information for the County's review process. If you have any questions relating to this application, please call the Comprehensive Planning Department at (386) 736-5959, ext 2022.

1. Application Type

Small Scale Amendment: A small scale amendment is generally defined as being a parcel(s) of land less than 10 acres in size and, if residential, proposing a density less than 10 units per acre. [See s. 163.3187(1)(c) F.S. for complete definition.]	X
Large Scale Amendment: A large scale amendment is generally defined as being a parcel(s) of land 10 acres in size or greater.	
Text Amendment: Text Amendments to the Goals, Objectives and Policies of the Comprehensive Plan are processed as Large scale amendments.	
Thoroughfare Map Amendment	
Development of Regional Impact: Defined by Section 380.06, Florida Statutes	
Development of Regional Impact Notice of Proposed Change	

You may submit your application in person or by mail. Please submit your application to:

Planning and Development Services
 Comprehensive Planning
 123 West Indiana Avenue, Room 200
 Deland, FL 32720-4604

For Office Use Only	
Date Stamp: 	Received by: 

2. Contact Information

	Applicant/Authorized Agent**	Property Owner *
Name	James Stowers, Esq.	RR Farms, LLC (Sheldon Rubin)
Address	Wright, Casey & Stowers, P.L. 44A West Granada Blvd. Ormond Beach, FL 32174	9210 Equus Cir. Boynton Beach, FL 33472
Phone	(386) 383-4232	(561) 704-1959
FAX	(386) 427-9516	
Email	jstowers@surfcoastlaw.com	sheldonrubin@gmail.com

* If the Owner is a corporation or Trust, Give the Name and Title of the person who can legally sign on behalf of the corporation and provide Documentation that they have legal Authority.

** Proof of property owner's authorization is required when submittal is signed by authorized agent.

What is the relationship between Applicant and Owner? Applicant is Owner's land use attorney.

Note: Required Ownership Information.

List all persons who have ownership interest in the property by Name and address. Attach separate sheets if necessary.

In the case of a Trust, list the name and address of each trustee.

In the case of a Corporation, list the Corporate Officer(s) who has authority to act on behalf of the corporation and provide documentation of said authority.

Is there an existing contract of sale or option to purchase on the subject property?

Yes _____ No X

If yes, list names and addresses of all parties to the contract and/or option. Notify this office if ownership changes during the period of this amendment process.

3. Project Information (To be completed by Applicant)

Project Name	Pioneer Square
Site Address	3585 Pioneer Trail New Smyrna Beach, FL 32168
General Location (include distance and direction from nearest cross-roads)	The property is located at the northeast corner of the crossroads of Airport Road and Pioneer Trail.
Tax Parcel ID Number(s)	06-17-33-01-00-0170
Size of Property (acres or square feet)	9.637 +/- acres
Existing Conditions	
Current Future Land Use Designation	Agricultural Resource (AR)
Current Zoning Designation	A-1
Existing Use(s)	Vacant
Proposed Conditions	
Proposed Future Land Use Designation	Commercial (C) (Note: the FLU Map amendment includes two map notations.)
Proposed Zoning Designation	Business Planned Unit Development (BPUD)
Proposed Use(s) (Include densities/intensities per types of use)	75,000 sq. ft. retail and grocery store - 48,000 sq. ft. grocery store - 27,000 sq. ft. retail
Service Providers	
Sanitary Sewer	Port Orange
Potable Water	Port Orange
Reclaimed Water	NA

4. Required Supplemental Information

- ✓ **Pre-Application Meeting.** Date of meeting April 22, 2013 (follow up on June 19, 2013).
- ✓ **Application Fee.** Note: See attached letter re: fees previously paid.
- ✓ **Proof of Ownership.** A property owner printout from the Property Appraiser dated as of the date of the application. Deeds will not be accepted as proof of ownership.
- ✓ **Ownership Disclosure Form.** (attached)
- ✓ **Applicant Authorization Form.** (attached)
- ✓ **Statement of Understanding.** (attached)
- ✓ **Boundary Survey.** Two Copies. Must be signed and dated with last two years.
- ✓ **Legal Description.** Provide paper and digital (disk or email) word format.
- ✓ **Vicinity Map.** Show the property location in relation to major roads and area within 2 mile radius of the proposed amendment site. 8 ½ x 11.
- ✓ **Statement of Justification.** Attach a narrative describing the justification for the request, using support material, including but not limited to Volusia County Comprehensive Plan adopted Goals, Objectives and Policies. Note: Any Plan Map Amendment which seeks to convert an area from a non-urban to an urban land use designation must specifically address Policy 1.3.1.28.
- ✓ **School Impact Analysis.** (If Residential) Contact the Volusia County School Board Facilities Services Department at (386) 947-8786.
- ✓ **Transportation Analysis.** A Multimodal Transportation Analysis shall be required for any change of use when trip ends generated by the proposed change of use equal or exceed 1000 trip ends per day, or when deemed necessary by the Director of Traffic Engineering. The analysis shall be performed for the most trip intensive use as defined by the latest edition of the ITE Trip Generation Manual within the proposed Land Use category. Contact the Volusia County Traffic Engineering Department at (386) 736-5968 ext. 2709 for study area requirements.
- ✓ **Environmental Impact Analysis.** (Required for all sites 1 acre or greater) The analysis shall be conducted by a qualified biologist and dated less than one year old. The analysis shall document the types of habitat found on site; identify vegetation types, soils types, wetlands, floodplain; and must identify the presence of any threatened or endangered species and/or species of special concern.

If the property has been identified by Volusia County Environmental Management as containing habitat that has the potential to be occupied by the Florida scrub jay, a five-day scrub jay survey conforming to United States Fish and Wildlife Survey guidelines is required. The survey may be no more than one year old.
- ✓ **Letters of Capacity Availability.** For each public service provider (potable water, sanitary sewer, reclaimed water) a letter shall be submitted, signed by the public service provider, which states:
 - 1) the project's capacity requirements at build-out based on maximum development potential; and,
 - 2) provides data on existing and future plant/public facility capacity; and,
 - 3) provides data on the capacity of the public facility that is unencumbered for other uses; and,
 - 4) provides a statement on the ability of the plant to serve the project.
 - 5) For potable water facilities, submit a complete the SJRWMD's water supply availability worksheet. The worksheet is available on line at:
http://www.sjrwmd.com/comprehensiveplanning/potable_water_worksheet.doc

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit A
Pre-Application Meeting Form
(1 page)



**PLANNING & DEVELOPMENT SERVICES DIVISION
COUNTY OF VOLUSIA
PRE- APPLICATION MEETING FORM**

You must set up a pre-application meeting **before** submitting your application. Please call extension 12777 from one of the following numbers to set up an appointment: From the DeLand area at (386) 943-7059, from Daytona/Ormond Beach at 248-8115, and from New Smyrna Beach/Oak Hill at 424-6815 or fax this completed form to (386) 626-6570.

The following background information is required to schedule a pre-application meeting. County staff will use this to research the project site in preparation for the meeting. Although this is the minimal amount of background material required, more information is welcome. Please reference the list of Recommended Pre-Application Materials. Please attach additional sheets or plans as needed.

APPLICANT

Name: James Stowers
Address: 44 A. W. Granada Blvd.
City/State/Zip: Ormond Beach, FL 32174
Phone: (386) 393-4232 Fax: (386) 427-9516
E-Mail Address: jstowers@surfcoastfla.com
Contact Person: James Stowers, Esq.

OWNER

Name: RR Farms, LLC
Address: 9210 Equus Cir.
City/State/Zip: Boynton Beach, FL 33472
Phone: (561) 704-1959 Fax: _____
E-Mail Address: sheldon.rubin@gmail.com
Contact Person: Sheldon Rubin

My application will be: (Please check the type of request)

- ☒ A Rezoning from A-1 to BPUD.
☐ A Special Exception/Conditional Use for a _____.
☐ A Variance to _____.
☒ A Minor/Map Amendment to FLU - Agriculture Resource to Commercial.

PROJECT INFORMATION

Tax parcel number(s): 7366-01-00-0170
Address of parcel: 3585 Pioneer Trail New Smyrna Beach, FL 32168
Size of parcel: 9.63 Ac Existing zoning: A-1
Future Land Use: Agriculture Resource
Existing Use of Property: Undeveloped

You are recommended to submit the following with this form:

- ☐ A signed and sealed survey of the property (should be no more than 2 years old)
- ☐ Legal description of the subject property, if not on the survey
- ☐ A site plan to scale (for Special Exceptions & Variances)
- ☐ Written description of the request

Violation(s): _____
 TRS Meeting Date: _____
 EMD Required: YES NO
 N/C Lot Letter Required: _____
 Unrecorded Subdivision: _____
 Other: _____
 ARSN: _____

STAFF USE ONLY

Planner's Comments/Notes: _____

☐ Notifications Discussed

Date Submitted: _____ Taken By: _____ Time: _____ a.m./p.m.

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit B
CPMA and BPUD Zoning Fees Correspondence
(3 pages)

From: "James Stowers" <jstowers@surfcoastlaw.com>
To: <sashley@co.volusia.fl.us>, <ppanton@volusia.org>
CC: <jstowers@surfcoastlaw.com>
Date: 6/18/2013 2:00 PM
Subject: FW: RR Farms Property

Scott,

I would like to confirm that the fees listed here still apply to our applications. Just wanted to confirm that the fees haven't changed since last year. Thanks and we will see you tomorrow.

CPMA \$1,400 - \$89.00 due
PWD Zoning \$2,638 - \$74.00 due

Regards,

James Stowers

Description: Description: cid:image005.jpg@01CDBDCD.C6354E60Wright, Casey & Stowers, P.L.

44A West Granada Blvd.

Ormond Beach, FL 32174

Phone: 386.310.4197 |Cell: 386.383.4232

<mailto:jstowers@surfcoastlaw.com> jstowers@surfcoastlaw.com

<http://www.surfcoastlaw.com> www.surfcoastlaw.com

-----Original Message-----

From: Scott Ashley [<mailto:sashley@co.volusia.fl.us>
mailto:sashley@co.volusia.fl.us]

Sent: Friday, August 17, 2012 2:34 PM

To: <mailto:swrubin@bellsouth.net> swrubin@bellsouth.net

Cc: Kelli McGee; Palmer Panton; Robert J. Ball; Dwight DuRant

Subject: RR Farms Property

Mr. Rubin,

Per your e-mail of 8/13/12, you intend to resubmit CPMA and BPUD applications for the property on Pioneer Trail. As stated in the rendition letter dated 12/19/10, the prior application fees of the CPMA (\$1,311) and rezoning (\$2,564) will be applied to the future applications.

However, the application fees have slightly changed since 2010, with the current CPMA fee at ~~\$1,354~~ ^{1,400 effective 10/12} and the PUD rezoning fee total is \$2,638. ✓

Therefore, an additional fee of \$43 and \$74 respectively, will be required with the future CPMA and rezoning submissions.

2,338 base
+ 300 average
2,638

If you have any further questions, or if I may be of any additional help, please feel free to contact me.

Scott Ashley, AICP

Planning Manager

V.C./Planning and Development Services

Phone: (386) 943-7059 ext 12014

Fax: (386) 626-6570

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from County of Volusia officials and employees regarding public business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

The views expressed in this message may not necessarily reflect those of the County of Volusia. If you have received this message in error, please notify us immediately by replying to this message, and please delete it from your computer. Thank you.

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit C
Proof of Ownership
(3 pages)



Volusia County Appraisers Office



The Volusia County Property Appraiser makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The values shown in the Total Values section at the end of the Property Record Card are "Working Tax Roll" values, as our valuations proceed during the year. These Working Values are subject to change until the Notice of Proposed Taxes (TRIM) are mailed in mid-August. For Official Tax Roll Values, see the History of Values section within the property record card below.

Last Updated: 06-18-2013 Today's Date: 6-27-2013		Volusia County Property Appraiser's Office <u>Property Record Card (PRC)</u> <u>Morgan B. Gilreath Jr., M.A., A.S.A., C.F.A.</u> Property Appraiser			
Full Parcel ID	06-17-33-01-00-0170	Mill Group	600 Unincorporated - Southeast		
Short Parcel ID	7306-01-00-0170				
Alternate Key	3698657	2012 Final Millage Rate	24.13700		
Parcel Status	Active Parcel	PC Code	01		
Date Created	31 DEC 1981				
Owner Name	RR FARMS LLC		<input type="button" value="GO TO ADD'L OWNERS"/>		
Owner Name/Address 1					
Owner Address 2	9210 EQUUS CIR				
Owner Address 3	BOYNTON BEACH FL				
Owner Zip Code	33472				
Location Address	3585 PIONEER TR NEW SMYRNA BEACH 32168				

LEGAL DESCRIPTION	<input type="button" value="GO TO ADD'L LEGAL"/>
6 17 33 ALL LOT 17 & LOT 18 EXC IRREG PARCEL IN W 102.43 FT	
MEAS ON S/L & MEAS 817.26 FT ON W/L & 49 FT ON N/L 1ST SUB A	

SALES HISTORY							
#	BOOK	PAGE	DATE	INSTRUMENT	QUALIFICATION	IMPROVED?	SALE PRICE
1	5929	0673	9/2006	Warranty Deed	Unqualified Sale	Yes	1,500,000

HISTORY OF VALUES								<input type="button" value="GO TO ADD'L HISTORY"/>				
YEAR	LAND	BLDG (S)	MISC	JUST	ASD	SCH ASD	NS ASD	EXEMPT	TXBL	SCH TXBL	ADD'L EX	NS TXBL
2012	104,615	80	0	104,695	104,695	104,695	104,695	0	104,695	104,695	0	104,695
2011	104,615	259	0	104,874	104,874	104,874	104,874	0	104,874	104,874	0	104,874

LAND DATA												
CODE	TYPE OF LAND USE	FRONTAGE	DEPTH	# OF UNITS	UNIT TYPE	RATE	DPH	LOC	SHP	PHY	JUST VAL	
0111	IMP PVD 5 - 9.99 AC	No Data	No Data	9.80	ACREAGE	9550.00	100	100	100	100	93,590	
NEIGHBORHOOD CODE	7302	PIONEER/CHARLES/DARBY ET AL										

TOTAL LAND CLASSIFIED	0
TOTAL LAND JUST	93,590

BUILDING CHARACTERISTICS**BUILDING 1 OF 1**[GO TO BLDG SKETCH](#)

Physical Depreciation %	69	Next Review	2017	Obsolescence	Functional	99%
		Year Built	1939		Locational	0%
Quality Grade	200	Architecture			Base Perimeter	64
Improvement Type	Single Family					
Roof Type	GABLE			Bedrooms	1	7FixBath 0
Roof Cover	Metal			Air Conditioned	No	6FixBath 0
Wall Type	Wall Board or Wood Wall			Fireplaces	0	5FixBath 0
Floor Type	Pine or Soft Wood			XFixture	0	4FixBath 0
Foundation	Wood / Concrete Piers			Heat Method 1	None	3FixBath 0
Heat Source 1	None			Heat Method 2		2FixBath 1
Heat Source 2				Year Remodeled		

SECTION #	AREA TYPE	EXTERIOR WALL TYPE	NUMBER OF STORIES	YEAR BUILT	ATTIC FINISH	% BSMT AREA	% BSMT FINISH	FLOOR AREA
1	Heated Living Area (BAS)	SINGLE SIDING, WOOD FRAME, NO SHEATING	1.0	1939	N	0.00	0.00	240 Sq. Feet
2	Finished Open Porch (FOP)	Non-Applicable	1.0	1939	N	0.00	0.00	48 Sq. Feet
3	Unfinished Enclosed Porch (UEP)	Non-Applicable	1.0	1939	N	0.00	0.00	160 Sq. Feet
4	Unfinished Enclosed Porch (UEP)	Non-Applicable	1.0	1939	N	0.00	0.00	120 Sq. Feet

MISCELLANEOUS IMPROVEMENTS

TYPE	NUMBER UNITS	UNIT TYPE	LIFE	YEAR IN	GRADE	LENGTH	WIDTH	DEPR. VALUE
------	--------------	-----------	------	---------	-------	--------	-------	-------------

PLANNING AND BUILDING

PERMIT NUMBER	PERMIT AMOUNT	DATE ISSUED	DATE COMPLETED	DESCRIPTION	OCCUPANCY NBR	OCCUPANCY BLDG
30721-D	15,145.00	8-1-1987	12-1-1987	MH WPR/DL		0
20000418047	18,000.00	5-25-2000	8-1-2001	ADDITIONS/ALTERATION		0

TOTAL VALUES

The values shown in the Total Values section at the end of the Property Record Card are "Working Tax Roll" values, as our valuations proceed during the year. These Working Values are subject to change until the Notice of Proposed Taxes (TRIM) are mailed in mid-August. For Official Tax Roll Values, see the [History of Values](#) section above.

The Volusia County Property Appraiser makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation.

Land Value	93,590	New Construction Value	0
Building Value	89	City Econ Dev/Historic Taxable	0

Miscellaneous	0		
Total Just Value	93,679	Previous Total Just Value	104,695
School Assessed Value	93,679	Previous School Assessed	104,695
Non-School Assessed Value	93,679	Previous Non-School Assessed	104,695
Exemption Value	0	Previous Exemption Value	0
Additional Exemption Value	0	Previous Add'l Exempt Value	0
School Taxable Value	93,679	Previous School Taxable	104,695
Non-School Taxable Value	93,679	Previous Non-School Taxable	104,695

MapIT

PALMS

Map Kiosk

Parcel Notes

MapIT: Your basic parcel record search including sales.

PALMS: Basic parcel record searches with enhanced features.

Map Kiosk: More advanced tools for custom searches on several layers including parcels.



Click Here
for Tax Bill
Info

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit D
Ownership Disclosure Form
(6 pages)

5. Ownership Disclosure Form

Please provide the information as requested below. (Use additional sheets if necessary)

1. List all persons who have an ownership interest in the property, which is the subject matter of this petition, by name and address.

Name: RR Farms, LLC	Name: _____
Address: 9210 Equus Cir.	Address: _____
Boynton Beach, FL 33472	_____
Phone # (561) 704-1959	Phone # _____
_____	_____
Name: _____	Name: _____
Address: _____	Address: _____
_____	_____
Phone # _____	Phone # _____

2. For each corporate owner, list the name, address, and title of each officer of the corporation.


Name of Corporation: RR Farms, LLC	Name of Corporation: _____
Officer: Sheldon Rubin, Manager	Officer: _____
Address: 9210 Equus Cir.	Address: _____
Boynton Beach, FL 33472	_____
_____	_____

Name of Corporation: _____	Name of Corporation: _____
Officer: _____	Officer: _____
Address: _____	Address: _____
_____	_____

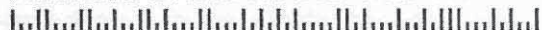
3. In the case of a trust, list the name and address of each trustee.


Name of Trust: _____	Trustee: _____
Trustee: _____	Address: _____
Address: _____	_____
_____	_____
Trustee: _____	Trustee: _____
Address: _____	Address: _____
_____	_____

X

 **IRS** DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
P.O. BOX 9003
HOLTSVILLE NY 11742-9003

002204.326967.0007.001 1 MB 0.326 530



 RR FARMS LLC
SHELDON RUBIN MBR
7120 LIONS HEAD LANE
BOCA RATON FL 33496

002204

Date of this notice: 10-13-2006

Employer Identification Number:
20-5664804

Form: SS-4

Number of this notice: CP 575 B

For assistance you may call us at:
1-800-829-4933IF YOU WRITE, ATTACH THE
STUB OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 20-5664804. This EIN will identify your business account, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, please use the label we provided. If this isn't possible, it is very important that you use your EIN and complete name and address exactly as shown above on all federal tax forms, payments and related correspondence. Any variation may cause a delay in processing, result in incorrect information in your account or even cause you to be assigned more than one EIN. If the information isn't correct as shown above, please correct it using tear off stub from this notice and return it to us so we can correct your account.

Based on the information from you or your representative, you must file the following form(s) by the date(s) shown.

Form 1065

04/15/2007

If you have questions about the form(s) or the due dates(s) shown, you can call or write to us at the phone number or address at the top of the first page of this letter. If you need help in determining what your tax year is, see Publication 536, Accounting Periods and Methods, available at your local IRS office or you can download this Publication from our Web site at www.irs.gov.

We assigned you a tax classification based on information obtained from you or your representative. It is not a legal determination of your tax classification, and is not binding on the IRS. If you want a legal determination on your tax classification, you may request a private letter ruling from the IRS under the guidelines in Revenue Procedure 2004-1, 2004-1 I.R.B. 1 (or superseding Revenue Procedure for the year at issue.)

RR FARMS, LLC
a Florida limited liability company

LIMITED LIABILITY COMPANY AGREEMENT

DATED September 5, 2006

LIMITED LIABILITY COMPANY AGREEMENT
OF
RR FARMS, LLC

LIMITED LIABILITY COMPANY AGREEMENT ("**Agreement**") of **RR FARMS, LLC**, a Florida limited liability company (the "**Company**"), executed on this 5th day of September, 2006 (the "**Effective Date**"), by and between Sheldon Rubin ("**Rubin**" or Managing Member; Rubin and any person subsequently admitted as a member by executing a joinder to this Agreement, are each referred to as a "**Member**" and collectively as the "**Members**"), and the Company.

RECITALS

WHEREAS, the Company was formed under the name **RR FARMS, LLC**, as a Florida limited liability company, pursuant to the Articles of Organization filed with the Secretary of State of the State of Florida on September 5, 2006, under the Florida Limited Liability Company Act (as from time to time amended, the "**Act**");

WHEREAS, as of the Effective Date, one hundred percent (100%) Interest will be issued to Rubin; and

WHEREAS, the Member desires to enter into this Agreement for the purpose of stating the rights and obligations of the Members and the Company;

AGREEMENT

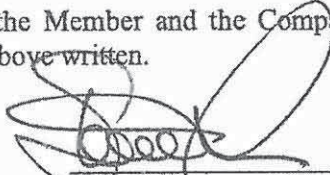
NOW, THEREFORE, in consideration of the covenants and agreements set forth herein and other good and lawful consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE 1
DEFINED TERMS

1.1 **Defined Terms.** The capitalized terms used in this Agreement shall have the respective meanings specified in this Article I.

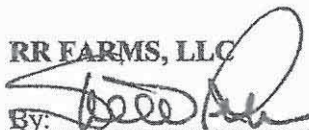
"Accountants" means the firm of certified public accountants as determined by the Managing Member.

IN WITNESS WHEREOF, the Member and the Company have executed and adopted this Agreement as of the date first above written.



SHELDON RUBIN

RR FARMS, LLC

By: 
Print Name: SHELDON W RUBIN
Its: Managing member

[Signature Page to Limited Liability Company Agreement]

MIAMI 852537.9 7193204537

EXHIBIT "A"
MEMBERS

<u>Member:</u>	<u>Interest</u>
Sheldon Rubin 7120 Lyons Head Lane Boca Raton, Florida 33496	100%
with a copy to:	
Tescher Gutter Chaves Josepher Rubin Ruffin & Forman, P.A. 2101 Corporate Blvd. Suite 107 Boca Raton, Florida 33431 Attention: Robert A. Chaves, Esq. Facsimile: (561) 998-2642	
TOTAL	100%

RR FARMS, LLC

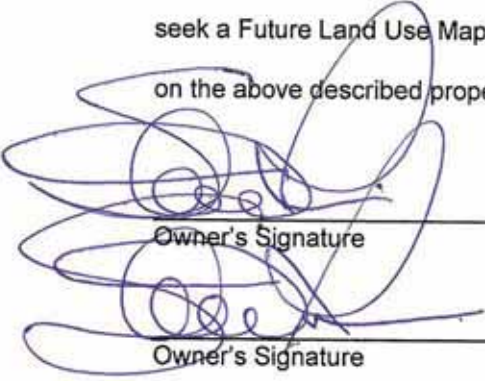
PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit E
Applicant Authorization Form
(1 page)

6. Authorization of Owner.I/We Sheldon Rubin, Manager of RR Farms, LLC

As the sole or joint fee simple title holder(s) of the property described as:

Full Parcel ID: 06-17-33-01-00-0170(Legal description or parcel ID number(s))Authorize James Stowers, Esq. to act as my agent to
(Applicant's name)seek a Future Land Use Map Amendment from Agricultural Resource (AR) to Commercial (C) (Note: the FLU Map amendment includes two map notations.)
on the above described property.
Owner's SignatureSheldon Rubin

Type or Print Owner's Name

Owner's Signature

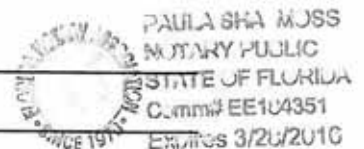
Type or Print Owner's Name

*If additional Owner's names are required, attach additional signature pages.

STATE OF FLORIDA
COUNTY OF VolusiaThe foregoing instrument was acknowledged before me this June 24, 2013
(Date)
by Sheldon Rubin, who is personally known to me or
(Name of person acknowledging)
who has produced PID R150-799-53-0490 as identification and
(Type of identification)
who did not take an oath.
Notary Public, State of FloridaPaula Sha Moss
Type or Print Name

Commission No.: _____

My Commission Expires: _____



RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit F
Statement of Understanding
(1 page)

7. Statement of Understanding.

By my signature hereto, I do hereby certify that the information contained in this application is true and correct to the best of my knowledge, and understand that deliberate misrepresentation of such information may be grounds for denial or reversal of this application and/or revocation of any approval based upon this application.

I hereby authorize Volusia County staff permission to view and enter upon the subject property for the purposes of investigating and reviewing this request.

I understand that this application and payment of fees for the processing and public hearing advertisement does not imply or guarantee that an amendment of the Volusia County Comprehensive Plan, maps(s) or for the Future Land Use of the subject property(ies) will be approved.

I understand that a formal concurrency review will be required if/when a final development order is issued for this project and that any statement of capacity availability provided for review of this proposed Future Land Use Amendment does not constitute concurrency review, nor does it constitute a reservation of said capacities. I specifically acknowledge that any proposed development on the subject property will be required to undergo Concurrency Review and meet all Concurrency requirements at the time of development.


 Signature of Owner/Applicant

(* Proof of property owner's authorization is required with submittal if signed by someone other than the property owner.)

James Stowers, Esq.

Print or Type Name

6/28/13
 Date

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit G

Amendment to Figure 1-11 A.
Future Land Use Map/Plan Notations
(1 page)

Amendment to Figure 1-11 A. Future Land Use Map/Plan Notations

The following map notations are added to this figure:

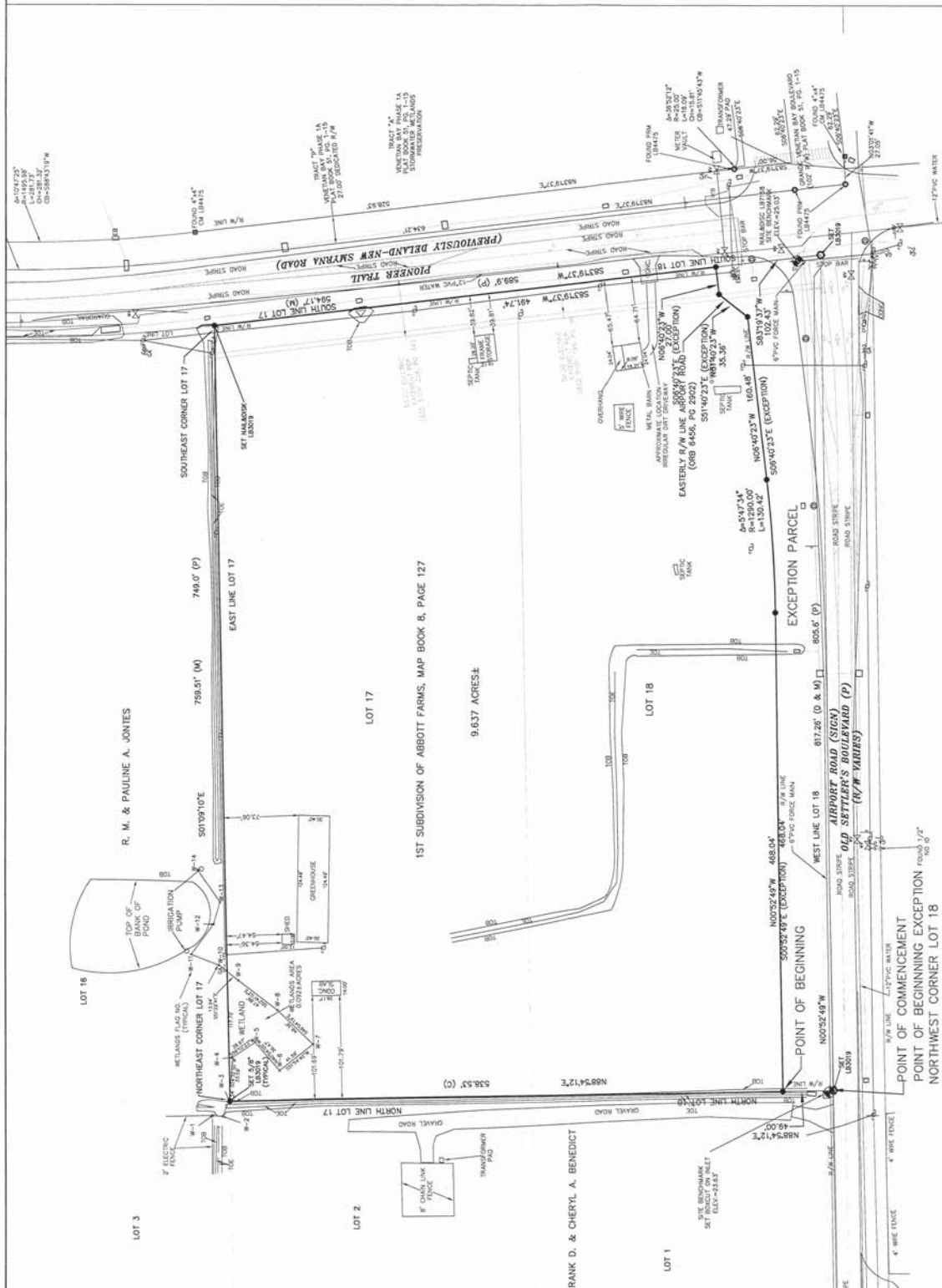
Map Notation	Parcel Numbers or Legal Description	Acres	Adopted FLU Designation	Restriction	Ordinance
(Number to be assigned upon the effective date of the amendment.)	<u>06-17-33-01-00-0170</u>	<u>9.637</u>	<u>Commercial</u>	<u>Commercial uses shall not exceed 75,000 square feet.</u> <u>The property shall include the following minimum landscape buffers:</u> <u>Adjacent to Airport Road – 35 feet</u> <u>Adjacent to Pioneer Trail – 50 feet</u> <u>East property boundary – 20 feet</u> <u>North property boundary – 20 feet</u>	<u>2013-XX</u>

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit H
Boundary Survey
(2 copies)

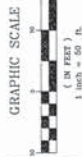


UTILITY STATEMENT

ADDITIONAL ABBREVIATIONS—TREE LEGEND

[illegible][illegible]

WFL, LLC		FEEL ROOM	FASTENED	PARTY CHIEF	SHEET			SCHEDULE BY		
NO.	TYPE	MARKET DATE	JOB NUMBER		1	2	3	4	5	6
1	TR	2/17/2013	13-0005	888	-	-	-	-	-	-
2	TR	2/17/2013	13-0005	888	-	-	-	-	-	-
3	TR	2/17/2013	13-0005	888	-	-	-	-	-	-



RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit I
Legal Description
(1 page)

SURVEYORS NOTES



1. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY/SKETCH OF DESCRIPTION THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. THIS SURVEY/SKETCH OF DESCRIPTION PREPARED WITH BENEFIT OF FIRST AMERICAN TITLE INSURANCE COMPANY COMMITMENT FOR TITLE INSURANCE NO. 5011612-2037-2795678, EFFECTIVE DATE OCTOBER 8, 2012 AT 8:00 AM.
2. DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.
3. BEARING STRUCTURE IS BASED ON THE PLAT OF VENETIAN BAY PHASE 1A WITH THE SOUTH R/W LINE OF PIONEER TRAIL HAVING A BEARING OF N83°19'37"E.
4. UNDERGROUND FOUNDATIONS, IF ANY, NOT LOCATED.
5. ELEVATIONS REFER TO N.G.V.D. OF 1929, PER BENCHMARK HV7, HAVING A PUBLISHED ELEVATION OF 25.82 FEET.
6. "NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER."
7. WETLANDS FLAGS SET BY ENVIRONMENTAL SERVICES, INC.
8. REVISED 10-17-2012 TO REFLECT REVISED TITLE COMMITMENT AND ADDRESS ATTORNEY COMMENTS.

A PORTION OF LOTS 17 AND 18, 1ST SUBDIVISION OF ABBOTT FARMS, AS RECORDED ON MAP BOOK 8, PAGE 127 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID LOT 18, THENCE RUN N88°54'12"E, ALONG THE NORTH LINE OF SAID LOT 18, A DISTANCE OF 49.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF AIRPORT ROAD AS DESCRIBED IN WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 6456, PAGE 2902, SAID PUBLIC RECORDS AND THE POINT OF BEGINNING; THENCE ALONG THE NORTH LINE OF LOT 18 AND LOT 17, N88°54'12"E, 538.53 FEET TO THE NORTHEAST CORNER OF SAID LOT 17; THENCE ALONG THE EAST LINE OF SAID LOT 17, S01°09'10"E, 759.51 FEET TO THE SOUTHEAST CORNER OF SAID LOT 17; THENCE ALONG THE SOUTH LINE OF SAID LOT 17 AND LOT 18, S83°19'37"W, 491.74 FEET TO THE EASTERLY RIGHT OF WAY LINE OF SAID AIRPORT ROAD; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, THE FOLLOWING COURSES: N06°40'23"W, 27.00 FEET; THENCE N51°40'23"W, 35.36 FEET; THENCE N06°40'23"W, 160.48 FEET TO THE BEGINNING OF A CURVE CONCAVE EAST HAVING A RADIUS OF 1,290.00 FEET AND A CENTRAL ANGLE OF 05°47'34"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, 130.42 FEET; THENCE N00°52'49"W, 468.04 FEET TO THE POINT OF BEGINNING.

FORMERLY DESCRIBED AS:

LOTS 17 AND 18, MAP OF 1ST SUBDIVISION OF "ABBOTT FARMS" ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 8, PAGE 127 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY.

LESS AND EXCEPT:

A PORTION OF LOT 18, 1ST SUBDIVISION OF ABBOTT FARMS, AS RECORDED IN MAP BOOK 8, PAGE 127 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 18, THENCE RUN N88°54'12"E, ALONG THE NORTH LINE OF SAID LOT 18, A DISTANCE OF 49.00 FEET; THENCE RUN S00°52'49"E, AND PARALLEL WITH THE WEST LINE OF SAID LOT 18, A DISTANCE OF 468.04 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE EASTERLY, SAID CURVE HAVING A RADIUS OF 1290.00 FEET; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 5°47'34", FOR AN ARC DISTANCE OF 130.42 FEET TO THE POINT OF TANGENCY; THENCE RUN S06°40'23"E, A DISTANCE OF 160.48 FEET; THENCE S51°40'23"E, A DISTANCE OF 35.36 FEET; THENCE S06°40'23"E, A DISTANCE OF 27.00 FEET TO A POINT ON THE SOUTH LINE OF AFOREMENTIONED LOT 18; THENCE S83°19'37"W, ALONG SAID SOUTH LINE, A DISTANCE OF 102.43 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 18; THENCE RUN N00°52'49"W, ALONG THE WEST LINE OF SAID LOT 18, A DISTANCE OF 817.26 FEET TO THE NORTHWEST CORNER THEREOF AND THE POINT OF BEGINNING.

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit J
Vicinity Map
(1 page)



300 Interchange Blvd
Ormond Beach, FL 32174
ph 386-677-2482

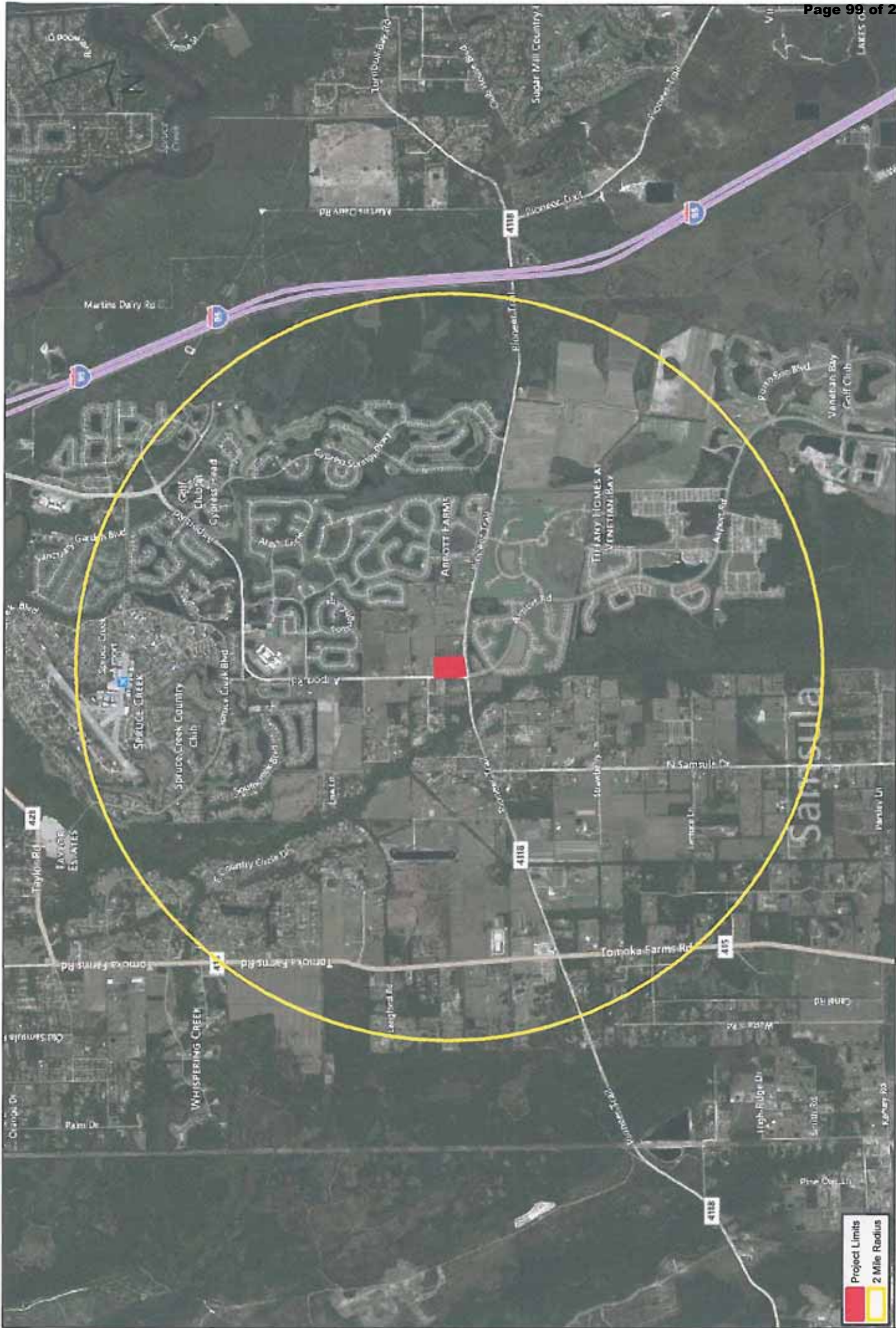
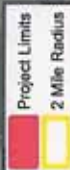
Pioneer Square Vicinity Map Volusia County, Florida

Source: ESRI Basemap Imagery

Date: 06/27/13

Path : 12054/publix

0.5 0.25 0 0.5 Miles



RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit K
Statement of Justification
(23 pages)

STATEMENT OF JUSTIFICATION

Introduction

RR Farms, LLC is requesting approval of a small scale amendment to the Volusia County Comprehensive Plan. The amendment parcel (the “Property”) is located at the northeast corner of the intersection of Airport Road and Pioneer Trail. The area surrounding the Property has seen explosive development over the past decade. Residential development within close proximity to the Property exceeds five thousand one hundred (5,100) units built and over eleven thousand (11,000) units approved with major residential projects including: Cypress Head (1,395 units), Water’s Edge (1,072 units), the Spruce Creek Fly-In (1,300 units), and Venetian Bay (1,823 units). Despite this extensive residential development, the immediate area has seen limited non-residential development to service the ten thousand plus residents living in the area. In order to serve the needs of the existing neighborhoods surrounding the Property, RR Farms, LLC is requesting an amendment of the Property’s future land use (FLU) designation from Agricultural Resource (AR) to Commercial (C). The amendment proposes to include two notations on the FLU Map: one that limits the development of the parcel to a maximum commercial building floor area of 75,000 sq. ft., and a second that requires the placement of a landscape buffer thirty-five (35) ft. in width along Airport Road, fifty (50) ft. in width along Pioneer Trail, twenty (20) ft. in width along the east Property boundary, and twenty (20) ft. in width along the north Property boundary.¹

Pursuant to §163.3184(12), Fla. Stat., we are requesting concurrent zoning changes with the small scale amendment request. We recognize that any approved rezoning of the Property from A-1 to the Business Planned Unit Development (BPUD) zoning category will be contingent upon the approval of the small scale amendment request. Nevertheless, the concurrent application will allow for both the Commercial FLU amendment and BPUD rezoning approval to be addressed at the same public hearings.

Florida’s Community Planning Act

The Community Planning Act provides the framework for local governments to address the use and development of land within their jurisdictions through the process of comprehensive planning. Through the comprehensive planning process, local governments promote the public health, safety and welfare, but they are also tasked with: promoting convenience and facilitating the adequate and efficient provision of services. See §163.3161(4), Fla. Stat. The primary tool to address the specific allocation of future land uses within a particular jurisdiction is the comprehensive plan’s future land use element. Pursuant to §163.3177(6), Fla. Stat., the future

¹ Pursuant to §163.3187(1)(c), Fla. Stat., “text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment **shall** be permissible under this section” (emphasis added).

land use element “*shall establish the long-term end toward which land use programs and activities are ultimately directed.*” Additionally, the future land use element must also “*provide a balance of uses that foster vibrant, viable communities and economic development opportunities...*” §163.3177(6)(a)(4), Fla. Stat. Note that state law also specifically references the fact that the “*amount of land designated for future land uses should allow the operation of real estate markets to provide adequate choices for permanent and seasonal residents and business and may not be limited solely by the projected population.*” *Id.* Collectively, these state law provisions provide requirements for local governments to assess land uses with a focus on the long-term future, while also incorporating an assessment of the operation of real estate markets and the need for businesses to have adequate choices.

In addition to guidance related to the general drafting and administration of the future land use element, §163.3177(8-9), Fla. Stat. provides detailed information on the analysis that any future land use amendment must be based upon. In order to provide a comprehensive assessment of why our request for a future land use map amendment is consistent with state law, we have included a point-by-point analysis of each provision within §163.3177(8-9), Fla. Stat. (*bold italics*) below:

(8) Future land use map amendments shall be based upon the following analysis:

a. An analysis of the availability of facilities and services.

Response: Included with this Statement of Justification, we have attached a detailed traffic analysis from Lassiter Transportation Group and a letter from Port Orange regarding existing facility capacity for the Property. These documents provide the necessary analysis related to the availability of both facilities and services for the Property.

b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.

Response: The Property is vacant and is located at the area’s primary intersection at the entrance of Venetian Bay, a large-scale development that includes over 1,800 residential units. There have been no agriculture pursuits on the Property for many years. Bona fide agricultural activity on the parcel would require an essential clear cutting of the site to provide adequate sunlight favorable to the production of crops or forage necessary for livestock. The Property is vacant, but does include historic trees that will be incorporated into a conservation area/park to both preserve the trees and create a wider landscape buffer along a significant portion of the Property’s frontage along Airport Road. The historic tree located near Pioneer Trail will be incorporated into the fifty (50) ft. landscape buffer along that roadway. Given the site’s considerable constraints related to agricultural pursuits that are not feasible, along with the substantial amount of residential

development that exists within the immediate area (residential development within a three mile radius exceeds five thousand one hundred (5,100) units built and over eleven thousand (11,000) units approved), we believe a commercial use at the intersection of Airport Road and Pioneer Trail is not only appropriate, but necessary.

c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.

Response: The proposed amendment will promote the efficient use and development of the Property concurrent with the market needs and demands of the surrounding neighborhoods to the north, east, and south of the Property. At present, there is a convenience store located on Williamson Boulevard and two vacant commercial parcels near Williamson Boulevard and Airport Road that are within three miles of the Property. These vacant commercial parcels have remained undeveloped despite the explosive growth of residential development throughout the area. These vacant commercial parcels now face spatial constraints due to the development of residential neighborhoods that immediately abut these vacant properties on all sides except where there are roadways. Development of commercial enclaves within existing residentially developed properties creates both intensity and use issues which are not present at the amendment site.

In addition to the smaller commercial parcels that have remained vacant, there are two larger developments near the Property that incorporate commercial uses: the Venetian Bay and Woodhaven projects. Venetian Bay's Master Development Agreement provides for a minimum "assumed demand" of commercial uses per residential unit within the Venetian Bay development. The assumed demand for retail development is 33 square feet per dwelling unit. Although this retail development is directly related to only that residential development that is built within Venetian Bay, the retail development portion of Venetian Bay has seen minimal interest from the business community despite large numbers of residents within Venetian Bay. Applying the assumed demand of 33 square feet per dwelling unit previously approved for Venetian Bay, the application of this threshold to those areas not within Venetian Bay that surround the Property results in the following calculations:

- Assumed demand 33 sq. ft. per dwelling unit for Retail uses.
- Residential units built within a three mile radius of the Property: Cypress Head (665 units), Water's Edge (1,038 units), the Spruce Creek Fly-In (1,280 units), Whispering Woods (100 units), The Sanctuary (553 units) and the Samsula area (235 dwelling units).

- Total residential units built - 3,871 x 33 sq. ft. of Retail per dwelling unit = 127,743 sq. ft. of Retail uses as the assumed demand based on Venetian Bay's previously approved standard for Retail development.²

Based on the minimum thresholds for Retail uses to support residential development, the residents in the area north of Venetian Bay are in need of Retail uses to support the extensive residential development throughout the area.

Port Orange's Comprehensive Plan provides some additional details on the interplay between residential development and the corresponding retail needs of given populations. The Port Orange Comprehensive Plan's Future Land Use Element provides certain guidelines for the placement of Commercial land uses on the Future Land Use Map of the City. These provisions include a policy of placing commercial nodes at intersections of roadways; scaling of commercial uses to accommodate the surrounding neighborhoods; and a breakdown of certain thresholds of commercial uses including: Neighborhood – serving the needs of a neighborhood area within a +/- 1 mile radius (0.30 FAR), and Community – serving the needs of a neighborhood area within a +/- 2mile radius (0.50). Based on our proposed text amendment which limits development of the Property to 75,000 sq. ft., the proposed Commercial use on the Property will have an FAR of 0.18; a threshold that the Port Orange Comprehensive Plan has determined is a Neighborhood commercial use threshold.

In addition to the analysis included within this Statement of Justification, the application includes a Land Use Needs Analysis report submitted by Fishkind & Associates, Inc. Fishkind & Associates, Inc. have provided a comprehensive analysis of the need for nonresidential development within the study area and the viability of other sites within the area compared to the Property. Their full report is included as part of our small scale amendment application package. Although we anticipated a need for nonresidential uses to support local residential development surrounding the Property, we were surprised to find just how much of a deficit exists in both the short and long term planning horizons. Their report states that there is a need for six viable grocery store sites within a 3-mile radius of the Property (based on projected need within a twenty year horizon).

(9) The future land use element and any amendment to the future land use element shall discourage the proliferation of urban sprawl.

a. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the

² Note that this assumed demand does not include the Venetian Bay residential units, despite the fact that Venetian Bay has 1,823 dwelling units but minimal Retail development to support those residents within Venetian Bay.

context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:

(I) Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.

Response: The proposed amendment provides for a FLU Map amendment for a 9.637 +/- acre property to the Commercial FLU designation. Not only is this not a substantial area of land in terms of the overall size of the County, the building intensity for the Property is being limited through a text amendment directly related to the proposed amendment site. The text amendment will limit the size of the development which will serve the immediately surrounding area and its plethora of single-family residential neighborhoods. The plan amendment will allow for local residents in the immediate vicinity of the Property to have access to commercial uses for their daily needs. Additionally, the plan amendment will ensure the efficient use of existing infrastructure and the existing roadway network, both of which were previously committed to and constructed through taxpayer dollars. This increased efficiency will result in reduced trip lengths, which will also reduce greenhouse gas emissions.

(II) Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.

Response: The plan amendment will encourage the use of non-substantial amounts (9.637 +/- acres) of undeveloped lands that are available and suitable for development. The Property is located within the County's previously proposed urban growth boundary. The Property is outside the Samsula Local Plan Area and is also located at one of the main entrances to Venetian Bay, a planned urban community within New Smyrna Beach. In addition to the close proximity to Venetian Bay, the Property is in close proximity to two substantial, urban density subdivisions within Port Orange: Water's Edge and Cypress Head. The Spruce Creek Fly-In is also within approximately one mile of the Property. The Samsula Local Plan encompasses rural areas, but the Property is uniquely situated outside this rural area but also adjacent (Venetian Bay) and nearby (Water's Edge, Cypress Head, and Spruce Creek Fly-In) densely populated single-family neighborhoods. Given the unique location of the Property, the applicant recognizes that this undeveloped land is available and suitable for commercial development in order to provide a much needed mix of use from the numerous single-family residential neighborhoods that lack access to a local grocery store. The single-family residential neighborhoods were built without the necessary

commercial amenities, and the infill development of the Property for commercial uses will provide for better distribution of traffic, with shorter trip lengths and a more efficient use of the existing roadway network.

(III) Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.

Response: The plan amendment will promote the development of commercial uses to service the thousands of residents living in single-family residential neighborhoods in close proximity to the Property. The Samsula Local Plan map includes the boundaries of the Plan area. Both Venetian Bay and Water's Edge abut the Samsula Local Plan, although the Water's Edge residential development is located across Airport Road from the Plan areas (the same as the Property). The character of the area east of Airport Road shifted to urban development years ago with the approvals of Venetian Bay, Water's Edge, and Cypress Head. The plan amendment will present the third location where property abutting the eastern boundary of the Samsula Local Plan includes urban development. The plan amendment will therefore not promote or allow urban development in radial, strip, isolated, or ribbon patterns emanating from an existing urban development.

(IV) Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.

Response: A portion of the Property was previously cleared, but a large section at the northwest corner of the Property includes native vegetation and three historic trees. In order to ensure that the Property's existing natural vegetation is conserved, both the proposed future land use amendment (via text amendment) and rezoning documents (concept plan) include significant landscape buffers to protect the Property's five (5) historic trees. In addition to the landscape buffer, an even wider conservation area/park along a significant portion of the Property's frontage on Airport Road will ensure the protection of the current natural vegetation on the portion of the Property that was not cleared years ago. This conservation area/park will also enhance the overall compatibility of the Property's commercial development with nearby properties.

(V) Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.

Response: The parcel size is 9.637 +/- acres; a size that will not accommodate intensive cultivation, ranching, aquaculture or timber farming. As to the adjacent properties, the plan amendment includes text amendments directly related to the Property that: limit the overall size of commercial development of the Property to 75,000 sq. ft. and requires the placement of a landscape buffer thirty-five (35) ft. in width along Airport Road, fifty (50) ft. in width along Pioneer Trail, twenty (20) ft. in width along the east Property boundary, and twenty (20) ft. in width along the north Property boundary. These substantial landscape buffers, to be mandated as part of the Volusia County Comprehensive Plan, will be supported at the zoning level by substantial buildings setbacks incorporated into the BPUD Agreement for the Property. Finally, in addition to the thirty-five (35) ft. landscape buffer along Airport Road, a significant portion of the Property's frontage along that roadway will include an even wider conservation area/park.

(VI) Fails to maximize use of existing public facilities and services.

Response: Port Orange water and sewer infrastructure has already been extended to the Property and beyond. Additionally, the Airport Road and Pioneer Trail intersection is located adjacent to the Property. While neither Port Orange nor Volusia County codes entitle property for commercial uses based solely on their location at intersections, both codes have explicit provisions that direct commercial uses to the corners of intersections rather than in commercial strips along roadways. Currently, the County's FLU map does not provide adequate opportunities for commercial businesses to locate within the vicinity of the Property in order to serve the ten thousand plus existing local residents. The amendment of the Property's FLU to Commercial at the corner of Airport Road and Pioneer Trail will allow the business community to meet the market's demand for efficiently located commercial uses in this area. Additionally, the plan amendment will ensure that use of the existing public facilities and services is maximized; thereby enhancing the efficiency of the overall infrastructure system and leveraging previously utilized tax dollars to the greatest extent practical.

(VII) Fails to maximize use of future public facilities and services.

Response: As stated in Section VI, the plan amendment will maximize the use of existing public facilities and services. To the extent that future public facilities and services evolve in the immediate vicinity of the Property, the plan amendment will help to ensure that this is done efficiently.

(VIII) Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services.

Response: The plan amendment is timed and located to maximize the efficient use of public infrastructure because: the area surrounding the Property to the north, east, and south consists primarily of urban density single-family subdivisions; the Property fronts on two major County thoroughfare roads (a location that makes it consistent with the Volusia County Comprehensive Plan's locational criteria for commercial uses); and existing water and sewer lines are located on Pioneer Trail and Airport Road.

(IX) Fails to provide a clear separation between rural and urban uses.

Response: As stated in Section III, the plan amendment will further reinforce the clear separation between rural uses within the Samsula Local Plan area, and those areas directly east of the Plan area. There is no "slippery slope" here; the Samsula Local Plan is very clearly geared toward maintaining a more rural set of uses for the area. However, those uses are clearly defined and clearly separated by those uses that abut the Samsula Local Plan to the south (Venetian Bay) and to the north (Water's Edge) of the Property. The plan amendment simply confirms and reiterates the clear separation that has already been put in place.

(X) Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.

Response: The plan amendment for the Property will encourage infill development within the existing neighborhoods (Spruce Creek Fly-In, Water's Edge, and Cypress Head) and communities (Venetian Bay) by providing a market feasible commercial area for local residents.

(XI) Fails to encourage a functional mix of uses.

Response: The proposed plan amendment promotes a functional mix of uses in the area surrounding the Property. Currently, single-family residential development dominates the thousands of acres surrounding the Property. Despite over 10,000 plus residents in the area, commercial development in the area is currently limited to a few small shops in Venetian Bay and a convenience store north of the Property on Williamson Boulevard. The plan amendment will encourage a desperately needed mix of uses in an area currently dominated by residential uses.

(XII) Results in poor accessibility among linked or related land uses.

Response: The plan amendment does not result in poor accessibility among linked or related land uses. Uses within the Property will be internally linked and accessible from both Pioneer Trail and Airport Road.

(XIII) Results in the loss of significant amounts of functional open space.

Response: As previously stated, the plan amendment area covers 9.637 +/- acres. While we do not believe the Property encompasses a “significant” amount of space within the context of the Volusia County Comprehensive Plan FLU Map, it is important to note that we have included a text amendment directly related to the Property that requires landscape buffers around the perimeter of the Property. These landscape buffers will be specifically implemented and supported through specific provisions of the BPUD Agreement. In addition to the landscape buffers, all historic trees on the site will be surrounded by significant landscaped areas. Specifically, the four historic trees in the northwest portion of the Property will be incorporated into either the landscape buffer or the significantly larger conservation area/park.

b. The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:

(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

Response: The Property is uniquely situated at the only intersection of County thoroughfare roads in the area west of I-95, south of the Spruce Creek Fly-In neighborhood, north of SR 44 and east of Samsula. While the area is part of a relatively small (approximately 162 acres) area of land that remains designated with a future land use of Agricultural Resource, the Property is predominantly surrounded to the north, east, and south by large residential subdivisions with residential densities similar to the County’s Urban Medium Intensity future land use designation. With the Property’s unique location at an important intersection, yet outside the Samsula Local Plan area and east of the Environmental Systems Corridor area related to Spruce Creek, the modification of the Property’s future land use to Commercial will ensure that current residents have efficient access to commercial uses without any adverse impacts to the area’s natural resources and ecosystems.

(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

Response: The Property is located along two County thoroughfare roads at the intersection of Airport Road and Pioneer Trail which is consistent with the Comprehensive Plan’s location criteria for commercial uses. The location of commercial uses at this intersection will promote the efficient provision of

existing infrastructure and services. The roadway network adjacent to the Property has been built and the water/sewer facilities provided by Port Orange were previously extended to and beyond the Property. With over 5,100 residential units built in the area surrounding the Property, those residents living in the area are already utilizing the existing roadway infrastructure to travel to commercial areas outside this region. The placement of important commercial uses in the center of this area (at the only major crossroads of the area), will maximize the efficiency of the roadway network by promoting pass-by traffic as residents travel to and from work, rather than designated trips to commercial areas outside this region.

(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and multimodal transportation system, including pedestrian, bicycle, and transit, if available.

Response: The amendment of the Property's FLU to Commercial will promote efficient, compact, and economically feasible commercial development in the area surrounded by over 5,100 built and over 11,000 approved residential units. The residents living in this region have virtually no mix of uses at the current time. Despite the inclusion of commercial uses in certain areas north of the Property along Williamson and south of the Property in Venetian Bay, the market has not supported these locations as viable sites. As referenced earlier, state law requires that the future land use element "provide a balance of uses that foster vibrant, viable communities and economic development opportunities..." §163.3177(6)(a)(4), Fla. Stat. Additionally, state law also specifically references the fact that the "amount of land designated for future land uses should allow the operation of real estate markets to provide adequate choices for permanent and seasonal residents and business and may not be limited solely by the projected population." *Id.* Thousands of single-family homes are built in the area surrounding the Property, yet commercial businesses looking to locate within this area are not being provided with adequate choices on where to locate in order to service these residents.

(IV) Promotes conservation of water and energy.

Response: Commercial uses at the intersection of Airport Road and Pioneer Trail will promote traffic efficiency by changing the current travel patterns associated with current locations of shopping uses (existing shopping uses at SR44/I-95 and at Taylor Road) through the reduction of trip lengths, which will reduce greenhouse gas emissions. Additionally, the project will be developed in

accordance with the St. Johns River Water Management District's standards which have been implemented to protect water resources for all Floridians.

(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

Response: As previously discussed, the Property is not viable for agricultural uses and lacks the size and soil types conducive for agricultural activities. The placement of commercial uses at the intersection of Airport Road and Pioneer Trail and the entrance to Venetian Bay will promote efficient economic growth in a manner that eliminates the need for sprawling strip centers and additional non-residential development in areas poorly suited for the development of non-residential uses to service the existing residents.

(VI) Preserves open space and natural lands and provides for public open space and recreational needs.

Response: As previously stated, the text amendments accompanying the map amendment include required landscape buffers to provide open space on the Property. Additionally, the natural tree canopy and foliage will be preserved in the northwest corner of the Property to provide another buffer and public space for local residents.

(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of the area.

Response: Despite over 5,100 residential units built and over 11,000 residential units approved in the vicinity of the Property, there are virtually no existing structures or businesses serving the nonresidential needs of the area. While there are commercial land uses designated in Venetian Bay, north of the Property on Williamson Boulevard and east of the Property, two of these locations have not proven to be economically viable as evidenced by the lack of any actual development on these sites, and the third location includes substantial residential development that will be serviced by the project's nonresidential uses. Clearly, there is a need to service the current nonresidential needs of the area, but the current future land use designations throughout the area have not fully accounted for the need for businesses to have adequate choices on where to locate to service these residents. The amendment to commercial uses for the Property will help address the current imbalance in the area based on the needs of the current residents and the virtual nonexistence of commercial uses to service these residents.

(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented development or new towns as defined in s. 163. 3164.

Response: The amendment will provide both a use and intensity of use that will allow the market to remediate the existing residential development pattern that does not currently include businesses to support the nonresidential needs of the area. Residential development within close proximity of the Property exceeds 5,100 units built and over 11,000 units approved with major residential projects including: Cypress Head (1,395 units), Water's Edge (1,072 units), the Spruce Creek Fly-In (1,300 units), and Venetian Bay (1,823 units). While nonresidential uses have been planned and approved for a number of years in Venetian Bay, only a handful of businesses have located in the predetermined nonresidential area of the development. The amendment will provide a unique opportunity to address the realities of the largely single-use residential development in the vicinity of the Property by accommodating commercial uses at the crossroads of Airport Road and Pioneer Trail.

State law provides an objective set of standards for a determination of whether or not a future land use element or plan amendment discourages the proliferation of urban sprawl. The preceding responses provide an objective set of facts and development patterns that conveys how the proposed amendment achieves more than four of the eight thresholds. Accordingly, we believe the amendment meets the state law threshold regarding the discouragement of urban sprawl.

Volusia County Comprehensive Plan – Future Land Use Element

The Future Land Use (FLU) Element of the County's Comprehensive Plan establishes the *pattern* of land uses and location of urban growth for Volusia County through 2025. The FLU Element's Overview states that the future land uses are set forth to manage growth in a manner that supports projected population and economic growth, incorporates existing urban areas, and manages growth in an efficient manner that optimizes public service delivery. The FLU designations are not an open door for immediate development; rather, they articulate broad policy regarding future land use and zoning patterns. Most importantly, the Overview states that the FLU Element **"reflects and promotes, activity in the private land market."**

In addition to the broader concepts detailed in the FLU Element's Overview, the section goes on to detail the "Urban Service Concept," whereby existing and planned urban services play a role in the encouragement of new urban growth in areas that have a full range of urban services. As detailed below, the Property is situated at a unique crossroads that has access to existing Port Orange urban services.

The detailed information provided in the FLU Element's Overview is critical to the Volusia Comprehensive Plan's consistency with state law. As discussed in the previous section, the Community Planning Act provides both guidelines and requirements regarding how local governments implement their respective comprehensive plans and approve amendments to those documents.

The proposed amendment is consistent with the Future Land Use Element as follows:

Goal 1.1: Ensure that future growth is timed and located to maximize efficient use of public infrastructure.

Response: The Property is located at the intersection of Airport Road and Pioneer Trail. These roadways currently serve the thousands of residents that already live in the surrounding areas including Venetian Bay, the Spruce Creek Fly-In and the Water's Edge neighborhood. This existing development is almost exclusively single-family residential; meaning the existing residents lack the necessary nonresidential uses in the area. With the existing roadway network in place and Port Orange utilities already constructed to service the Property, the amendment will maximize the efficient use of the public infrastructure.

Policy 1.1.1.1: Development consistent with the Future Land Use Map shall not occur until Class A (concurrency) public services and facilities have been determined to be available concurrent with the impacts of the proposed development.

Response: The proposed amendment is consistent with this Policy because the parcel will be served by existing water and sewer lines with available capacity. Additionally, as discussed in the traffic study, there is adequate roadway capacity.

Objective 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.

Response: As detailed in the previous section, the amendment meets at least four of the eight criteria required by state law to prove that the amendment does not encourage the proliferation of urban sprawl. Additionally, the proposed amendment is located within Port Orange's utility service area; an area where Port Orange water and sewer lines have been extended along Pioneer Trail and Airport Road in front of the Property.

Policy 1.1.3.6: Requests for land use map amendments will be reviewed using the urban sprawl indicators contained in Rule 9J-5.006(5)(g). Requests that exhibit a presence of a majority of the indicators shall be concluded as to encourage urban sprawl.

Response: While the rules of 9J-5 have been repealed, the urban sprawl indicators previously contained in those provisions have been incorporated into the Florida Statutes. The previous section on Florida's Community Planning Act provided a point-by-point analysis of each of these sprawl indicators. Not only does the amendment not exhibit a

presence of a majority of the indicators provided by state law, it meets more than the necessary indicators (more than 4 of 8) that the amendment actually discourages the proliferation of urban sprawl.

Policy 1.1.3.8: In order to prevent new strip commercial development from occurring, new site plan or subdivisions shall not be designed with outparcels or subsequent phases that lead to the creation of narrow strips of land adjacent to roadways.

Response: The shape and size of the Property is not conducive to strip development. Only one outparcel is contemplated and its location at the intersection of Pioneer Trail and Airport Road will not lead to the creation of narrow strips of land adjacent to these roadways.

Policy 1.1.3.10: New commercial development outside of commercially designated areas on the Future Land Use Map should be limited in scale and intensity in order to be compatible with the surrounding area. In predominantly residential areas, compatibility will be judged in relation to landscaping, building size, setbacks and traffic patterns.

Response: The proposed amendment will be limited in scale and intensity by including a notation on the Future Land Use Map that the parcel cannot exceed 75,000 square feet of commercial floor area. Additionally, a second annotation directly related to the Property will require landscape buffers around the perimeter of the Property. These landscape buffers will ensure compatibility with the adjacent properties while also providing significant landscape buffers along both Airport Road and Pioneer Trail. These limitations, along with the BPUD rezoning application filed concurrently with this small scale plan amendment application and compliance with Zoning Ordinance Section 72-303 Nonresidential Development Design Standards, will ensure compatibility with the surrounding area.

Policy 1.1.4.6: Developers shall assess their needs for essential services (electricity, gas, etc.) and seek confirmation of future availability and location of infrastructure from appropriate utility suppliers. Confirmation of availability and location should be provided by the utility during the planning stages of development, but no later than the issuance of a development order.

Response: The City of Port Orange has provided assurances that they will provide water and sewer services and have adequate capacity.

Objective 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.

Response: A consistent theme throughout this Statement of Justification is the reality that the area surrounding the Property currently includes over 5,100 residential units that have been built and over 11,000 residential units that have been approved. While

residents in this area have been told that commercial uses may be on the horizon, the private market has not elected to locate in the previously designated locations. The Property is uniquely located at the intersection of Airport Road and Pioneer Trail. The amendment includes text amendments that will ensure that not only are the commercial uses in place to support the existing population, but the commercial uses are limited in intensity and heavily buffered to maximize compatibility with existing uses.

Policy 1.3.1.2: Nonresidential development may be permitted within rural areas provided it meets the appropriate location criteria and the following standards:

Response: While the Property is not in a rural area, we recognize that the Samsula Local Plan area is located nearby. The location of the Samsula Local Plan is one of the primary reasons we elected to include a landscape buffer as a text amendment within the Comprehensive Plan as an item directly related to our map amendment request. Additionally, as detailed below, our second text amendment directly related to our map amendment request includes an intensity limitation of 75,000 sq. ft. for the approximately 9.637 acre site.

a. Commercial uses should contain retail and personal services intended to primarily serve the immediate population, but may allow uses that cater to visitors to Volusia County;

Response: The amendment is proposed in order to address a need for nonresidential uses to service existing residents in the area surrounding the Property. Specifically, the location of a grocery store at the intersection of Airport Road and Pioneer Trail will ensure the efficient use of existing public infrastructure, while serving the immediate population located within close proximity to the Property.

b. The amount of commercial development appropriate for any rural area should be relative to the population being served and the character of the community but should not exceed a thirty-five percent Floor Area Ratio (0.35 FAR);

Response: While the Property is in an area that includes over 5,100 residential units built and over 11,000 residential units approved, we recognize the relative proximity to the Samsula Local Plan area. Therefore, while we are not obligated to meet the policy provided, we have elected to include a text amendment directly related to our map amendment request that limits the building intensity to 75,000 sq. ft. On the approximately 9.637 acre site, a Floor Area Ratio of 0.35 would yield 146,925.702 sq. ft. of commercial space. The proposed text amendment of 75,000 sq. ft. will limit the amount of commercial development on the Property to a Floor Area Ratio of under 0.18.

c. Commercial uses should be concentrated at the center of activity in a cluster and preferably at the intersection of major roadways; and,

Response: The Property is located at the northeast corner of the intersection of Airport Road and Pioneer Trail. This crossroads represents the only intersection of two major roadways near the Property in the area east of Samsula, north of SR-44 and south of the Williamson Boulevard/Airport Road intersection. Accordingly, the Property is ideally situated for commercial uses. Additionally, the Property is directly across Pioneer Trail from Venetian Bay, a planned development with over 1,800 built or approved residential units. Within one mile north and east of the Property are the entrances to neighborhoods including Water's Edge (1,072 residential units), Cypress Head (1,395 residential units), and Spruce Creek (1,300 residential units). There are other residential developments within this area, but these (including Venetian Bay) are the projects located near the Property that include over 1,000 residential units each. These residential neighborhoods are located to the north, east, and south of the property, with the Samsula area located to the west of the Property. The primarily five and ten acre residential properties in Samsula include many additional existing residents that will be benefited by an efficiently located grocery store at the intersection of Airport Road and Pioneer Trail in the center of these large residential developments.

Policy 1.3.1.13: The size, location and function of shopping centers and other commercial uses should be related and central to the population and market area they serve.

Response: See the response to Policy 1.3.1.2(c) above. The amendment will provide an opportunity for nonresidential uses to service the existing population immediately surrounding the Property.

Policy 1.3.1.28: The Future Land Use Map shall not be amended to provide additional urban expansion except in conjunction with the required 5 year update of the Comprehensive Plan and Capital Improvements Program (CIP) except under the following conditions:

1. Population projections have been revised and accepted by DCA,
2. Justification is provided for the expansion of the urban boundary,
3. Compatibility with the character of the area,
4. Availability of the full range of all urban services to accommodate inclusion in an urban area,
5. Documentation is provided that urban expansion will not be in conflict with the intent of the Natural Resource Management Area.

Response: As discussed in the response to Objective 1.1.3 above, the Property is located within an area that was previously proposed for inclusion within the County's proposed Urban Growth Boundary and therefore would not have constituted an urban expansion. Additionally, the amendment is being proposed in order to provide nonresidential uses to service existing residents. Finally, water and sewer is available from Port Orange and the

parcel is not located in the NRMA.

A request to amend the Property's FLU to Commercial was previously made in 2010. During that process, County staff raised a number of Volusia County Comprehensive Plan provisions and cited them as applicable to the 2010 request. In addition to providing a detailed analysis of why this amendment request does not encourage the proliferation of urban sprawl and how the proposed amendment is consistent with the Volusia County Comprehensive Plan, this portion of the Statement of Justification will address each of the provisions of the Volusia County Comprehensive Plan previously raised:

Policy 1.1.1.4: Central water and sewer are neither intended nor required for areas designated with non-urban land use categories. Extension of central sewer into non-urban areas must be consistent with the provisions of the Sanitary Sewer Sub-element. Extension of central water into non-urban areas must be consistent with the provisions of the Potable Water Sub-element.

Response: Fortunately, the Property is located in an area that already has readily available access to central water and sewer from Port Orange. Accordingly, there is no extension of central sewer proposed. The plan amendment will ensure that use of the existing public facilities and services is maximized; thereby enhancing the efficiency of the overall infrastructure system and leveraging previously utilized tax dollars to the greatest extent practical.

Policy 1.1.3.2: Future urban development requiring access or connection to public facilities shall be located within designated urban areas.

Response: The Property is located in an area surrounded by over five thousand one hundred (5,100) existing residential dwelling units. Many of these developments have been constructed at approximately 4 dwelling units per acre. The Volusia County Comprehensive Plan provides that the Urban Medium Intensity (UMI) future land use category includes densities between 4-8 units per acre. Therefore, while the developments surrounding the Property are located in New Smyrna Beach and Port Orange, these developments have been built at a density that is urban in character. Additionally, while the Commercial FLU category is being requested as part of the amendment, the text amendment also included with the request limits the commercial development intensity of the Property to an FAR of 0.18. This is important because Policy 1.3.1.2(c) of the Volusia County Comprehensive Plan provides for commercial development in rural areas. While we disagree with any statement that characterizes the Property as rural, even if the area is accepted as rural, the commercial development proposed (0.18 FAR) is nearly half of the intensity explicitly stated in the Volusia County Comprehensive Plan as appropriate for rural areas (0.35 FAR).

Policy 1.1.3.7: New "strip" commercial uses shall be discouraged by permitting "infill" of existing developed commercial strips rather than creating new "strip" commercial, or designating new concentrated or nodal commercial centers on the Future Land Use Map. Infill of "strip" commercial development may be permitted as provided in the Highway Commercial Section under the Land Use location Guidelines. In addition, commercial development along arterials must meet the

requirements of the Land Development Code Section on Access to Thoroughfare Corridors.

Response: As detailed in the Volusia County Comprehensive Plan, certain shopping center uses of up to 100,000 sq. ft. are explicitly referenced as being located at the intersection of collectors, or at the intersection of a collector with an arterial. The Property is located at an intersection and will serve a local market area. Additionally, the language proposed by County staff in their staff report for the January 8, 2013 hearing before the PLDRC regarding Commercial Shopping Center Definition and Location Criteria (the item was pulled just before the June 8 PLDRC meeting) would also work to eliminate the potential of “strip” commercial uses. As repeatedly stated in this Statement of Justification, the amendment for the Property includes a text amendment that significantly reduces the intensity when compared to the County’s standard Commercial FLU. This limitation is proposed in order to eliminate the possibility of a “strip” center and limit the commercial uses to a level that only serves the local residents in desperate need of a local grocery store.

Policy 1.1.3.8: In order to help prevent new strip commercial development from occurring, new site plans or subdivisions shall not be designed without parcels or subsequent phases that lead to the creation of narrow strips of land adjacent to roadways.

Response: While this is a policy that is implemented at the Code level and not within the context of a comprehensive plan amendment, it should be noted that our comprehensive plan amendment request includes a text amendment that will ensure substantial landscape buffers along both Airport Road and Pioneer Trail. We believe these buffers will ensure that there are no narrow strips of land adjacent to Airport Road or Pioneer Trail.

Policy 1.1.3.11: In order to protect Volusia County’s valuable natural resources, new development shall be encouraged toward infilling existing urbanized areas.

Response: The Property is located in an area surrounded by residential development with densities approaching approximately 4 units per acre. The Volusia County Comprehensive Plan provides that the Urban Medium Intensity (UMI) future land use category includes densities between 4-8 units per acre. Therefore, while the developments surrounding the Property are located in New Smyrna Beach and Port Orange, these developments have been built at a density that is urban in character. Additionally, Port Orange has already extended urban services to the Property and beyond. The infill of commercial uses on the Property will address an existing deficit of non-commercial uses in the region surrounding the project area.

Policy 1.2.2.18: In implementing the Future Land Use Element, the County shall maintain regulations to ensure to the maximum extent feasible, compatibility of use between properties, including, but not limited to such factors as traffic circulation, air quality and odor control, noise control, lighting, and aesthetics.

Response: We support the County's efforts to implement the Future Land Use Element in a manner that supports all residents of Volusia County.

Policy 1.3.1.13: The size, location and function of shopping centers and other commercial uses should be related and central to the population and market area they serve.

Response: The Property is located at the only intersection of major roads in an area that currently includes over 5,100 built residential units. Despite a retail development minimum threshold of 33 sq. ft. per dwelling unit built, the market has not supported retail uses within Venetian Bay. As repeatedly stated throughout this Statement of Justification, the proposed amendment has been limited to an FAR of 0.18 to limit the size of the project to only that which is necessary to serve the population in this market area that is desperately in need of a grocery store.

Policy 1.3.1.15: Granting of commercial or other non-residential zoning or amending the Future Land Use category by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways or alongside an arterial.

Response: We understand that the Property's unique location at the intersection of two major roadways does not, in and of itself, warrant the approval of our request. However, we also recognize the fact that the Property is at an efficient location and is consistent with Port Orange and Volusia County provisions related to placement of commercial uses at intersections. This fact should not be construed as a negative factor in our request. Moreover, as the "Land Use Needs Analysis" prepared by Fishkind & Associates reveals, this particular intersection is at the heart of a severely underserved area.

Policy 1.3.1.28: The Future Land Use Map shall not be amended to provide additional urban expansion except in conjunction with the required EAR update of the Comprehensive Plan and Capital Improvements Program (CIP) except under the following conditions:

- a. Population projections have been revised, and accepted by DCA;
- b. Justification is provided for expansion of the urban boundary;
- c. Compatibility within the character of the area;
- d. Availability of the full range of urban services, including adequate potable water supply and facilities, to accommodate inclusion in an urban area; and
- e. Documentation is provided that urban expansion will not be in conflict with the intent of the Natural Resource Management Area.

Response: This particular Policy stems from Objective 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.* Port Orange has already extended urban services to the Property and beyond. With

potable water and sewer facilities in place and a location at the crossroads of a commercial underserved area surrounded by single-family residential development, the amendment request for Commercial should be approved in order to ensure consistency with Objective 1.3.1. For the reasons provided herein, Policy 1.3.1.28 is not relevant to the Property due to its location in an area that already has urban services provided.

Goal 1.4: Ensure that agricultural and silvicultural lands are protected from encroachment by incompatible land uses and remain a vital element of the County's economy.

Response: In order to ensure compatibility with the surrounding area, the amendment request includes a text amendment that requires extensive landscape buffers along Airport Road and Pioneer Trail. Due to the unique characteristics of the Property that make agricultural pursuits unfeasible, the requested amendment includes a text amendment limiting the Property's FAR to a level (0.18) that is well below the threshold set by Policy 1.3.1.2(c) of the Volusia County Comprehensive Plan for commercial development in rural areas (0.35). While we understand that the Property is located in an area that already has access to urban services and is surrounded by single-family residential neighborhoods developed at a density close to the range provided by the County's Urban Medium Intensity FLU, we have limited building intensity to a level well below the County's threshold for commercial development in rural areas in order to ensure that local residents can have efficient access to a local grocery store that is compatible with the surrounding area.

Policy 1.4.1.1: Urban growth shall be directed away from designated agricultural areas.

Response: See the preceding Response to Goal 1.4.

Policy 1.4.1.2: Volusia County shall protect Agricultural and Forestry Resource areas from encroachment of non-agricultural activities.

Response: See the Response to Goal 1.4.

Policy 1.4.1.3: In agricultural areas, Volusia County shall prevent the intrusion of incompatible land uses such as urban density residential and non-agricultural oriented commercial and preclude the provision of urban services while encouraging and supporting programs which enhance the agricultural environment.

Response: Urban services from Port Orange, including water and sewer, have already been extended to the Property and beyond. The two text amendments that accompany the amendment request will ensure that the Property is compatible with the surrounding area.

Policy SAM 1.11.2.3: Land use in the vicinity of the Samsula Community should not have an adverse effect on the existing character of the community.

Response: The two text amendments that accompany our FLU map amendment request have been specifically tailored to ensure that the project is compatible with the surrounding area. The FAR is limited to 0.18, an intensity that is nearly half the building

intensity explicitly provided for commercial uses in rural areas (0.35). Additionally, the landscape buffers proposed for the Property have been integrated into the FLU map amendment request through a second text amendment that provides for the exact landscape buffer width for each side of the Property.

Policy SAM 1.11.3.3: 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 Samsula Rural Community and the intent of this plan.

Response: There is no annexation activity proposed or contemplated at this time.

Transportation Element

Objective 2.1.2: Volusia County shall coordinate the transportation system with the Future Land Use Element to ensure compatibility between land use and the thoroughfare system necessary to support it.

Response: Airport Road and Pioneer Trail are existing County roadways that were previously constructed with tax payer dollars. The efficient location of a local grocery store at the center of over five thousand one hundred (5,100) existing dwelling units at the area's only major intersection is an efficient land use for an area in desperate need of non-residential development to serve residents' daily needs.

Sanitary Sewer Sub-element

Policy 6.1.5.6: The duties and responsibilities which flow from an interlocal agreement previously entered into between the County and a municipality shall prevail over subsequent amendments to the Comprehensive Plan until and unless such interlocal agreement is renegotiated as deemed appropriate by the County and a municipality.

Response: We understand an annexation agreement is in place between Volusia County and Port Orange related to the ultimate annexation of the Property into Port Orange. However, there is no annexation contemplated in association with the current amendment request.

Potable Water Sub-element

Policy 7.1.8.7: The duties and responsibilities which flow from an interlocal agreement previously entered into between the County and a municipality shall prevail over subsequent amendments to the Comprehensive Plan until and unless such interlocal agreement is renegotiated as deemed appropriate by the County and a municipality.

Response: We understand an annexation agreement is in place between Volusia County and Port Orange related to the ultimate annexation of the Property into Port Orange. However, there is no annexation contemplated in association with the current amendment request.

Intergovernmental Coordination Element

Goal 14.1: Volusia County shall initiate and/or participate in the intergovernmental coordination mechanisms necessary to ensure consistency among local, county and regional government plans and policies and to resolve any conflicts that may arise.

Response: As was done in 2010, our amendment request will go through the Volusia Growth Management Commission (VGMC) for review and evaluation related to any potential intergovernmental issues. However, due to the extremely limited size and scale of the project, we do not anticipate any transportation or service capacity issues to arise.

Policy 14.1.1.4: Volusia County shall continue to coordinate with adjacent local governments to ensure consistency in land planning for those lands adjacent to an incorporated area or an adjacent county.

Response: Following the amendment request process for the Property in 2010, we understand Volusia County, New Smyrna Beach, and Port Orange discussed the roughly 162-acre area between Port Orange and New Smyrna Beach east of Airport Road. We also understand that all discussions contemplated some level of commercial uses for the Property. Based on the consensus on the Property's use, the primary issue that remains is the intensity of the commercial use on the Property. Our requested amendment explicitly limits the intensity of the commercial use on the Property (0.18 FAR) to a level that is nearly one half the intensity of the County's recommended intensity for rural commercial sites (0.35 FAR), despite the fact that the Property is surrounded by urban-level density residential and already has urban services accessible to the site from Port Orange.

Objective 14.1.2: Volusia County shall negotiate interlocal agreements coordinating land and planning development activities to allow for orderly growth and facilitate the efficient provision of government services and facilities. The County shall coordinate with those State, regional or local entities having operation and maintenance responsibility for public facilities when establishing level of service standards. The interlocal agreements may include, but not be limited to, the following topics:

- Land Use
- Transportation
- Recreation
- Utility Services including water supply
- Conservation
- Housing
- Libraries
- Schools
- Development Activity
- Annexation

Response: This appears to be catch-all provision meant to provide the County with the

ability to pursue interlocal agreements. We are unaware of any interlocal agreements that were either pursued or approved for Venetian Bay, Water's Edge, or Cypress Head. In fact, there are thousands of residential units that have access to both Airport Road and Pioneer Trail that were all entitled and built without the pursuit or completion of an interlocal agreement. We believe the amendment proposal and rezoning are limited in a manner that will ensure that residents throughout this area, whether in New Smyrna Beach, Port Orange, or Samsula, will appreciate and support a local grocery store to serve their daily needs in an efficient manner.

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit L

School Impact Analysis – N/A
Confirmation Correspondence
(1 page)

James Stowers

From: smorriss@volusia.k12.fl.us
Sent: Thursday, June 27, 2013 3:30 PM
To: jstowers@surfcoastlaw.com
Subject: RE: Pioneer Square - Small-Scale Comprehensive Plan Amendment Application

Based on the information provided below, your application for a comprehensive plan amendment from agricultural resource land use to commercial land use is not an increase in residential density and is therefore not subject to school district review. Thanks for checking with us.

Saralee L. Morrissey, AICP
Director, Planning
Volusia County Schools
 386-255-6475 ext. 50772

Make no little plans; they have no magic to stir men's blood...
 Make big plans, aim high in hope and work.
 ~Daniel Burnham

From: James Stowers [mailto:jstowers@surfcoastlaw.com]
Sent: Thursday, June 27, 2013 1:36 PM
To: Morrissey, Saralee L.
Cc: jstowers@surfcoastlaw.com
Subject: Pioneer Square - Small-Scale Comprehensive Plan Amendment Application

Saralee,

My client, RR Farms, LLC (Sheldon Rubin) is requesting a change of the future land use for his property located at the northeast corner of Airport Road and Pioneer Trail in unincorporated Volusia County (3585 Pioneer Trail). If approved, the amendment will change the property's future land use from Agricultural Resource (AR) to Commercial (C). The amendment includes two text notations that will limit commercial development to 75,000 sq. ft. on the property and require landscape buffers around the perimeter of the site.

I was asked to confer with you regarding a confirmation that our amendment request does not include residential and is therefore not applicable to the typical School Impact Analysis required for projects requesting additional residential uses and/or density. Can you please provide an e-mail response that confirms this?

Regards,

James Stowers

 Wright, Casey & Stowers, P.L.
 44A West Granada Blvd.
 Ormond Beach, FL 32174
 Phone: 386.310.4197 | Cell: 386.383.4232
jstowers@surfcoastlaw.com
www.surfcoastlaw.com

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit M
Land Use Needs Analysis Report
(28 pages)

Land Use Needs Analysis Pioneer Square Volusia County, Florida

June 27, 2013

Prepared for:

**RR Farms
9210 Equus Circle
Boynton Beach, Florida 33472**

Prepared by:

**Fishkind & Associates, Inc.
12051 Corporate Blvd.
Orlando, Florida 32817
407-382-3256**

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Appendix 1 ESRI Business Analyst Online Demographics

Appendix 2 Aerial Maps of Competitive Parcels within 3 Miles of Site

1.0 Introduction

RR Farms, LLC ("Client") has asked Fishkind and Associates, Inc. ("Fishkind") to provide an economic and market needs analysis associated with its property in Volusia County. This analysis examines a request for future land use change on the 9.6+ acres located on the northeast corner of Airport Road and Pioneer Trail in unincorporated Volusia County. The inclusion of these acres will change the land use from "agricultural resource" to commercial with BPUD zoning allowing for 75,000 square feet of building space. The lands are currently vacant. There are no other neighborhood commercial sites within a 3-mile radius which are fully entitled, able to accommodate 75,000 square feet, and currently meet all transportation and infrastructure requirements at the present time. There are other existing lands within the 3-mile radius which have appropriate future land use and zoning, however, these lands have substantial development and market constraints which appear to limit their ability to meet the market needs of thousands of existing households. The market the RR Farms site will serve is currently devoid of any significant neighborhood/community retail services within a 3 mile radius. Without the land use change requested by RR Farms, the local market area remains disadvantaged for the foreseeable future.

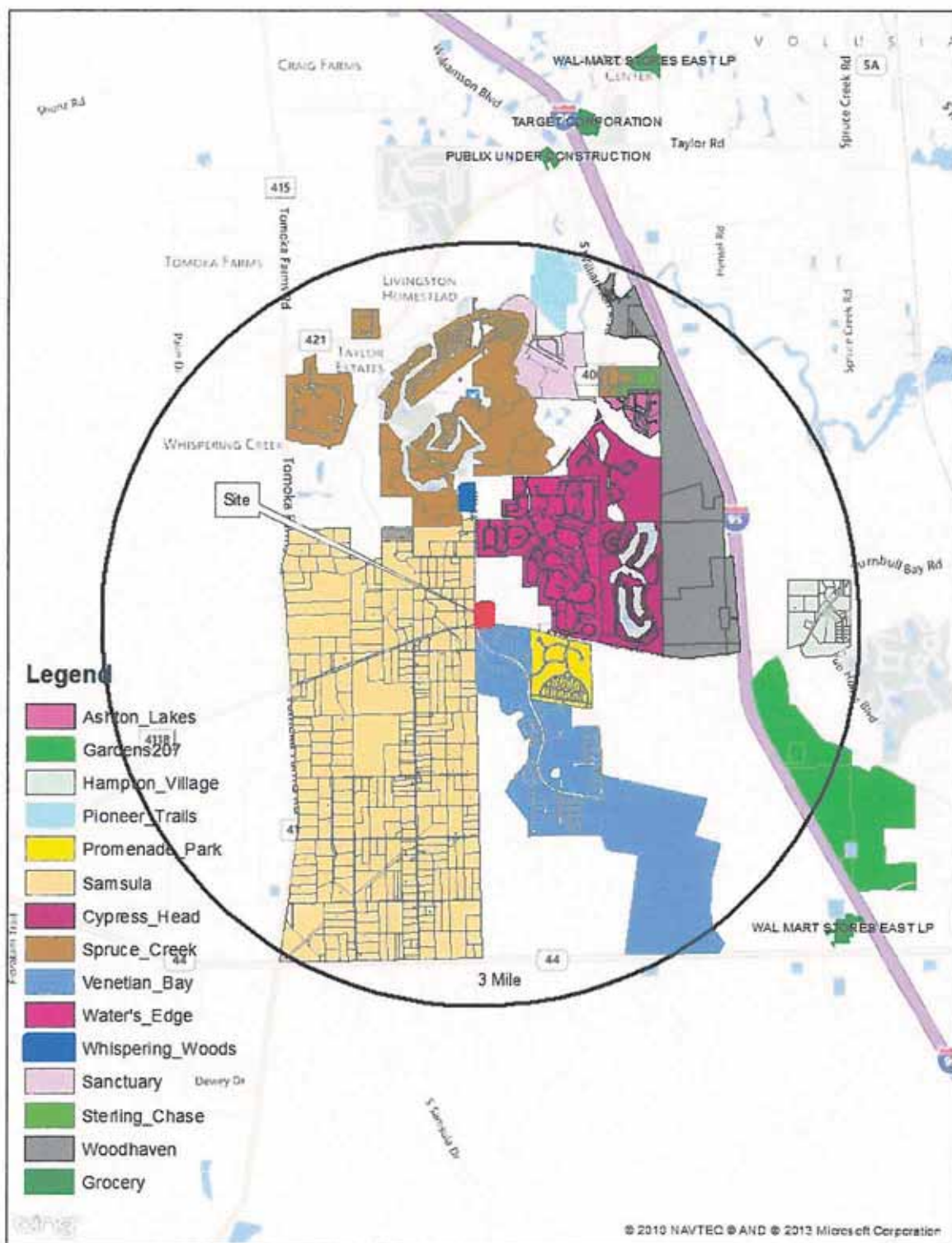
This report evaluates the economic conditions surrounding the use of the property and the need for neighborhood commercial land use. The report provides substantive economic and market analysis which provides the basis for economic need and the requested land use plan change.

2.0 Subject Site Study Area

The subject site is 9.6+ acres, located on the northeast corner of Airport Road at Pioneer Trail. The site is centrally located within a 3-mile radius in which there are no existing grocery stores available to serve the more than 5,400 existing households. There is available retail and grocery space outside the 3-mile neighborhood market area, however, the neighborhood/community market within three miles of the subject site is highly underserved. The future land use category requested for the subject site is Commercial with BPUD zoning, allowing for 75,000 square feet of building space.

The appropriate market radius for defining neighborhood/small community serving sites is a 3-mile radius. The character of lands approved for development within the 3-mile radius over the past decade has been overwhelmingly suburban in nature. These include small-lot single family homes with overall residential densities of approximately 3 units per acre on average within the Study Area. More than 12,000 residential units of suburban master-planned nature have been approved within this area. The rural settlement at Samsula is also located within this 3-mile radius. Map 1 shows the subject site, recent subdivision approvals, Rural Samsula, and the 3-mile market radius Study Area.

Map1. Neighborhood Serving Market Area Surrounding RR Farms



3.0 Retail Market Conditions

3.1 Overview of Retail Demand Analysis Methodology

The RR Farms site is located at the northeast corner of Airport Road and Pioneer Trail. The site is 9.6 acres with a minimum of 25% of the lands designated open space to provide adequate rural setback buffer. The RR Farms site has requested a change from “agricultural resource” land use to commercial land use with BPUD zoning allowing for maximum development potential of 75,000 square feet of retail space. Fishkind’s analysis provides a detailed assessment of current retail market conditions with respect to neighborhood/community retail demand and supply in the Study Area. An inventory of competing sites and retail centers was compiled and competing retail space (supply) is quantified in Section 4.0. The market study generates demand estimates for neighborhood/community retail space by store-type based on spending power from existing and planned future households in the 3-mile Study Area.

Fishkind has developed a retail demand model to determine the net need for retail space, within the Study Area. The net need for neighborhood/community retail is a function of:

- Demand
 - Number of permanent households in the relevant study area
 - Average household income and spending in the study area
- Supply
 - Volume of competing regional retail space within the market, discounted for distance to the subject site
 - Availability of competitive vacant retail sites with proper zoning and land use

Spending data is generated using household income data and applying the Consumer Expenditure Survey data household spending profile published by the US Bureau of Labor Statistics¹. The income spending pattern is then distributed across store type and center type, using the shopping center profiles by center type from Dollars and Cents of Shopping Centers published by the Urban Land Institute². This results in a store by type spending matrix. Through this matrix Fishkind identified spending potential. Fishkind then compared this demand-based-spending potential for retail sales with study-area-supply in terms of square footage and competitive vacant parcels.

¹ Consumer Expenditure Survey, www.bls.gov/cex/ household spending profiles are used to distribute spending across shopping center type and store type retailers to identify regional, GAFO, community, and neighborhood spending power demand for study area households and other spending sources such as visitors and students.

² *Dollars and Cents of Shopping Centers*, Urban Land Institute, 2008. ISBN: 978-0-87420-094-2 ULI Order Number: DC30

3.2 Retail Demand in the Study Area

The demand for neighborhood/community retail space is based on household incomes and spending within a 3-mile radius of the RR Farms site. Data from ESRI Business Analysis Online data source indicates there are 5,413 households currently in the study area. Year 2012 household income is \$84,670 (see Appendix 1)³. The resulting demand for neighborhood/community retail space, discounted for distance to the subject site is estimated to be 353,265 square feet today. At build-out, the planned subdivisions expected demand will reach 785,627 square feet serving 12,000 households. Table 1 describes retail square footage demand by store type in the Study Area. This demand is discounted for distance to the subject site within the 3-mile market radius as well as limited to neighborhood/community type shopping needs only. There is additional disposable income available which supports larger scale regional shopping type needs such as automotive sales and upscale retail which is not reflected in the neighborhood/community analysis. The market area in which regional spending needs are met is larger than the 3-mile radius and it is assumed these regional needs are met outside the 3-mile market.

**Table 1. Neighborhood/Community Retail
Square Feet Demand 2012-2022**

	2012	2017	2022	2027
GENERAL MERCHANDISE	17,090	22,931	29,641	34,506
FOOD	127,234	170,719	220,667	256,889
FOOD SERVICE/LIQUOR	54,370	72,951	94,295	109,774
CLOTHING & ACCESSORIES	579	777	1,004	1,169
SHOES	429	576	745	867
HOME FURNISHINGS	14,909	20,005	25,858	30,102
HOME APPLIANCES/MUSIC	3,775	5,065	6,547	7,621
BUILDING MAT./HARDWARE	93,740	125,777	162,577	189,263
GIFT/SPECIALTY	5,609	7,526	9,728	11,325
JEWELRY	303	406	525	611
DRUGS	13,078	17,548	22,682	26,405
OTHER RETAIL	5,928	7,954	10,281	11,968
PERSONAL SERVICES	5,040	6,763	8,742	10,177
ENTERTAINMENT	11,181	15,002	19,391	22,574
TOTAL N/C DEMAND	353,265	474,000	612,682	713,252

Source: Fishkind & Associates, Inc.

³ Source: ESRI Business Analyst Online, 2010-2012. Household growth forecasts are provided by Fishkind & Associates.

The retail analysis indicates the Study Area can support neighborhood/community retail space of 353,265 square feet today with the expectation this will grow to 725,687 square feet need in fifteen years as the Study Area builds out. A wide variety of neighborhood/community retail uses can be accommodated in the Study Area based on existing need. Grocery store needs comprise about 36% of overall neighborhood/community demand.

There is demand for 127,234 square feet of grocery store space within the 3-mile study area today. This demand will increase to 282,956 square feet of grocery store need as planned communities continue to buildout. The square footage grocery store demand translates to a need for approximately five grocery stores, of which portions of this need are being met outside the Study Area today. This results in an estimated need for up to 3 additional grocery stores sites, beyond existing available locations, within the 3 mile study area, based on the current Land Use Plan residential and commercial approvals.

The pace of new single family building has accelerated 68% in Volusia County from Jan-Apr 2011 vs. Jan-Apr 2013. The rate of acceleration in Port Orange/New Smyrna/Edgewater during this same period is nearly 150%. The recovery momentum continues to accelerate, and the rate of acceleration is sharply faster in the Study Area. The need for additional grocery stores exists in the Study Area market today and this need is rapidly growing.

4.0 Supply of Competitive Neighborhood/Community Retail Space and Lands

4.1 Existing Competitive Retail Space

Demand for neighborhood/community retail space is typically met within a 3-mile radius. As the RR Farms site has specifically requested zoning which would allow for a grocery store, Fishkind examined all grocery opportunities within this area. **THERE ARE NO GROCERY STORES SERVING THIS MARKET AT THE PRESENT TIME WITHIN THE NEIGHBORHOOD MARKET STUDY AREA.** Fishkind's analysis indicates there are four stores offering grocery, all nearby and located outside the neighborhood/community Study Area. These include a Publix (under re-construction) at Taylor Road, two WalMart Supercenters and a Super Target store. The Wal-Mart's and Super Target also offer other neighborhood/community retail supply, in addition to the grocery. Also, nearby, just west of I-95 on Williamson Boulevard off Taylor Road, is Port Orange Pavilion-a newly built community center. These centers represent the set of functional competitive neighborhood/community centers which meet substantial portions of the internal 3-mile neighborhood/community demand market being studied in this report.

The location of the existing retail space requires all residents to travel toward the congested highway interchange intersections at SR 44 and I-95 or Taylor Road and I-95. This means approximately 100% of daily and weekly shopping needs

must be met at the interchange intersections causing ongoing traffic constraints. Without alternative in-market retail opportunities, this traffic pattern will continue. The congestion caused by the requirement for all Study Area households to travel toward or through the interchange intersections will get worse, as build-out occurs in the Study Area.

Ideally, neighborhood/community demand is met within the neighborhood/community market. There is an estimated 20,000 square feet of retail space today within the 3-mile market Study Area, primarily characterized by gasoline stations and convenience stores. The Study Area is highly underserved with retail at present. The available retail space outside the 3-mile radius requires and directs residents toward the most congested locations at interstate interchange intersections. Table 2 provides a list of existing competitive neighborhood/community (N/C) retail centers. All of these centers are located outside the Study Area. Because there are no appropriately located neighborhood/community centers existing within the Study Area, these centers function to provide needed services to a sharply underserved market.

Table 2. Neighborhood/Community Supply

<u>N/C Retail Supply</u>	<u>Distance</u>	<u>Total SF</u>	<u>Competing SF</u>
Super Wal-Mart - Taylor Rd	4.7	185,000	8,727
Super Target - Taylor Rd	4.2	178,834	92,764
Publix re-construction - Taylor Rd	3.8	40,323	20,162
Super Wal-Mart - SR 44	3.9	146,151	80,988
The Pavilion at Port Orange	3.9	133,340	73,889
<u>Existing small convenience</u>	<u>1.5</u>	<u>20,000</u>	<u>19,000</u>
Competitive N/C Retail		703,648	295,530

In the retail market analysis, the 703,648 square feet of retail space is discounted for distance from the center of the 3-mile market. By discounting for distance, the propensity of householders to shop for neighborhood/community retail goods outside the 3-mile area is taken into account. These centers are discounted because they are outside the normal market area for retail to meet neighborhood/community retail needs. In this way the analysis indicates that 295,530 square feet of retail space effectively serves the 3-mile market. Table 3 shows the retail market conditions with both demand and supply.

Table 3. Summary of Market Demand and Land Use Conditions

REGIONAL STUDY AREA	2012	2017	2022	2027
HOUSEHOLDS	5,413	7,263	9,388	10,929
HOUSEHOLD GROWTH	-	1,850	2,125	1,541
DEMAND (sq. ft.)	353,265	474,000	612,682	713,252
COMPETING SUPPLY (sq. ft.)	(295,530)	(295,530)	(295,530)	(295,530)
NET NEED (sq. ft.)	57,735	178,470	317,152	417,722
GROCERY DEMAND	127,234	170,719	220,667	256,889
GROCERY SUPPLY	106,440	106,440	106,440	106,440
GROCERY NET NEED		64,279	114,227	150,449

Source: Fishkind and Associates, Inc.

By meeting 295,530 square feet of the internal 353,265 square feet of demand there remains unmet need within the Study Area today of 57,735 square feet. Existing supply has met 84% of today's Study Area needs, in an inefficient, uneconomic manner, which is outside the appropriate market area at interchange intersections. Applying the percentage of demand currently being met outside the study area to the Neighborhood/Community grocery demand of 127,234 square feet (as shown in Table 3), it is estimated the existing competitive retail meets 106,440 square feet of Study Area grocery demand at present, or approximately two full grocery stores represented at these outside locations. There remains unmet grocery need today within the study area to the extent there is **no grocery store within the Study Area today.** Despite existing grocery needs empirically being met outside the Study Area, it remains that this need is significantly more effectively and economically efficient if met inside the Study Area. In fact, the Volusia County Comprehensive Plan in defining neighborhood retail needs clearly recognizes the small area radius in which it is appropriate to meet neighborhood demand. Were a grocery store to be located at the RR Farms site today, it would immediately capture the currently unserved need and help meet the growing needs within the Study Area which is expected to support four more grocery stores within the planning horizon.

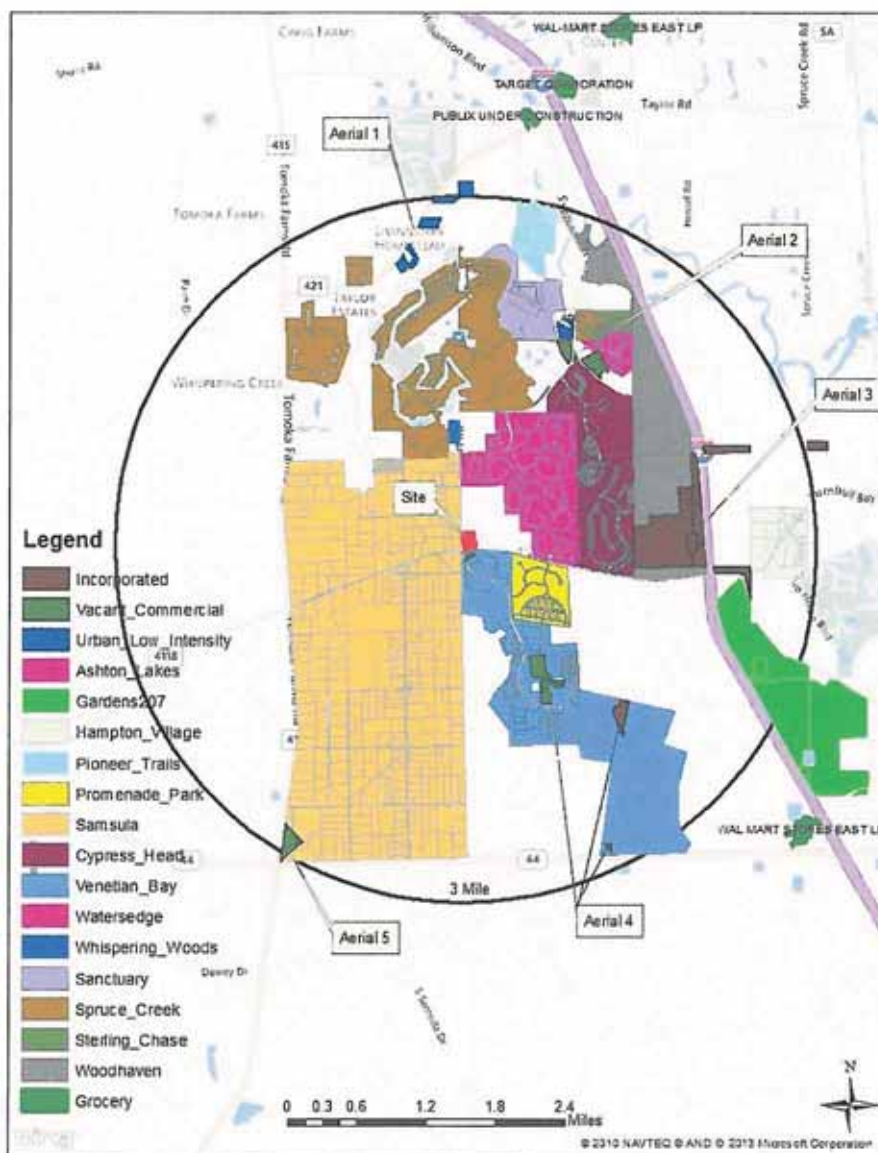
Under this set of market conditions, site preparation and site plan design should begin immediately such that the market may be properly served as soon as possible. A failure to meet growing market demands for retail services is likely to result in diminished pricing power and absorption for planned residential product.

By forcing residents to make longer trips to interchange-intersections, where traffic is likely to impinge on residents making retail shopping trips to meet daily neighborhood needs, the local market is negatively affected, is characterized by economic inefficiency, and is likely to experience greater economic weakness in terms of tax base growth. As the Study Area builds out, it is expected the need for additional grocery store space will reach 150,449 square feet within 15 years. **There is identified market need for three additional grocery stores within the Study Area**, in addition to the more than 100,000 square feet of grocery store space outside the Study Area which serves the market today. In total, the Study Area generates grocery store demand which will fully support 256,889 square feet of grocery store space over the planning horizon, as many as five full grocery stores under the 48,000 square foot store layout.

4.2 Vacant Competitive Retail Sites

The Study Area is in need of appropriately zoned lands, with future land use, which can accommodate growth of 417,722 square feet of retail space needs (713,252 sf demand less 295,530 square feet competing supply see Table 3). Of this space, it is estimated 150,449 square feet of grocery store space is needed over the coming 15 years. This translates into need for 3+ grocery stores of today's common size configuration.

Fishkind identified parcels that could potentially support commercial retail and specifically grocery stores within the 3-mile radius of the RR Farms site. Map 2 summarizes the parcels identified and Table 4 provides brief detail on each of the parcels identified. Appendix 2 provides detailed aeriels of the parcels provided herein.

Map 2. Competitive Commercial Retail Parcels within 3-Mile Radius

Source: Volusia County Property Appraiser and Fishkind and Associates, Inc.

Table 4. Competitive Commercial Retail Parcels within 3-Mile Radius

Parcel No.	PARCEL_ID	PROPTY_CLA	ACRES	FLUCODE
1	32162502000060	00	8.7	URBAN LOW INTENSITY
2	32162503000070	00	9.8	URBAN LOW INTENSITY
3	33171701000002	00	14.8	INCORPORATED
4	33163100000015	10	10.4	INCORPORATED
5	33163200000010	10	18.6	INCORPORATED
6	32172302160010	10	18.8	RURAL
7	32172302160010	10	18.8	AGRICULTURE RESOURCE
8	3317070100000H	10	6.9	INCORPORATED
9	3317070100000I	10	6.6	INCORPORATED
10	3317070200000E	10	16.8	INCORPORATED
11	33163300000090	55	16.8	INCORPORATED
12	33170400000190	55	11.2	INCORPORATED
13	33170900000120	55	15.0	INCORPORATED
14	32162503000010	68	11.3	URBAN LOW INTENSITY
15	33163000000124	68	17.8	URBAN LOW INTENSITY
16	33163400000050	68	9.1	INCORPORATED
17	33161900000171	69	9.9	URBAN LOW INTENSITY
18	32162402000010	70	9.9	URBAN LOW INTENSITY
19	3317060600000B	10	2.0	INCORPORATED
20	33170500000020	55	153.3	INCORPORATED
21	33170400000111	55	37.4	FEDERAL HIGHWAY
21	33170400000111	55	37.4	INCORPORATED
22	33170400000060	96	8.7	INCORPORATED
23	33171701000004	10	1.8	INCORPORATED

Source: Volusia County Property Appraiser and Fishkind and Associates, Inc.

Aerial 1 Zone

Fishkind has identified five parcels on Taylor Road to the north within three miles of the RR Farms site. The five parcels are summarized herein:

- Parcel 17 (9.9 acres), Current LU Code 6900 Agriculture, FLU Code Urban Low Intensity
- Parcel 18 (9.9 acres), Current LU Code 7000 Vacant Institutional, FLU Code Urban Low Intensity
- Parcel 2 (9.8 acres), Current LU Code 0000 Vacant Residential, FLU Code Urban Low Intensity
- Parcel 14 (11.3 acres), Current LU Code 6800 Agriculture, FLU Code Urban Low Intensity

- Parcel 1 (8.7 acres), Current LU Code 0000 Vacant Residential, FLU Code Urban Low Intensity

Given the juxtaposition of all five parcels to each other, these parcels essentially offer the same opportunity with respect to future commercial development. These parcels are located in an area with residential units surrounding them. Three of the five parcels, however, are limited with respect to commercial development opportunities. According to the City of Port Orange Comprehensive Plan, Parcel 17 does not have a commercial designation. This parcel is not located on Taylor Rd. limiting its visibility and access and is adjacent to conservation space making commercial development incompatible with adjacent use. Parcels 18 and 14 are irregularly shaped limiting the ability to effectively develop retail space on each of the sites. In addition, Parcel 18 has a future land use of public/institutional.

Parcel 1 is located 1.7 miles from the Publix west of I-95 on Taylor Rd. and Parcel 2 is 1.3 miles from the same Publix. According to the Port Orange Comprehensive Plan, Parcel 1 does not have a commercial land use designation. Parcel 2 has a future land use of public/institutional. While Parcel 1 and Parcel 2 have appropriate configuration they do not have the appropriate future land use designation.

Analysis shows each of these five parcels is unsuitable for retail development.

Aerial 2 Zone

Fishkind has identified four parcels in the Aerial 2 zone. Three parcels are located on South Williamson Blvd. to the northeast within three miles of the RR Farms site and one site across Pioneer Trail from the subject site at the north entrance of Venetian Bay. The four parcels are summarized herein:

- Parcel 15 (17.8 acres), Current LU Code 6800 Agriculture, FLU Code Urban Low Intensity
- Parcel 4 (10.4 acres), Current LU Code 1000 Vacant Commercial, FLU Code Incorporated
- Parcel 5 (18.6 acres), Current LU Code 1000 Vacant Commercial, FLU Code Incorporated
- Parcel 19 – Promenade Park convenience commercial

Given the juxtaposition of Parcel 15, Parcel 4 and Parcel 5 to each other, these parcels essentially offer the same value proposition with respect to future commercial development. Each of these parcels is surrounded by residential units and can support commercial space. According to the City of Port Orange Comprehensive Plan, Parcel 15 lists the parcel as Volusia County Rural with a coastal high hazard area designation. Parcel 15 is irregularly shaped and is not

at a primary roadway intersection. It is possible this site could accommodate office or apartments but it is unlikely this site could be a viable future retail location.

The City of Port Orange's Comprehensive Plan lists Parcel 4 and Parcel 5 as future commercial development locations. These two sites have Williamson Blvd. frontage and could accommodate retail development. Parcel 19 can support convenience commercial development with a maximum of 15,000 square feet and does not effectively compete with the RR Farms site because of the intensity limitation. Based on the analysis, Parcels 4 and 5 represent viable opportunities for future commercial development.

Aerial 3 Zone

Fishkind has identified four parcels to the east along I-95 within three miles of the RR Farms site. In addition, Fishkind has identified the area within the Woodhaven PUD which has been designated as commercial. The five parcels are summarized herein:

- Parcel 11 (16.8 acres), Current LU Code 5500 Agriculture, FLU Code Incorporated
- Parcel 16 (9.0 acres), Current LU Code 6800 Agriculture, FLU Code Incorporated
- Parcel 12 (11.2 acres), Current LU Code 5500 Agriculture, FLU Code Incorporated
- Parcel 13 (15.0 acres), Current LU Code 5500 Agriculture, FLU Code Incorporated
- Parcels 20 & 21 – Woodhaven Commercial PUD (199.4 acres), Current LU Code 5500 Agriculture, FLU Code Incorporated

Given the juxtaposition of Parcel 11, Parcel 16, and Parcel 12, these parcels essentially offer the same value proposition with respect to future commercial development. All of these parcels lack access and visibility to I-95 or any other major arterial road making them unattractive for commercial development on any scale at this time. Parcel 13 is located on Pioneer Trail Road just east of I-95. While this parcel is 15 acres, its irregular shape limits effective development for retail purposes. Parcel 13 has a depth of 300 square feet. Assuming common setback requirements considered locally, Parcel 13 cannot be effectively developed to support commercial retail space. In addition, parcels 11 and 13 are located east of I-95 making these sites least desirable with regard to meeting retail demand originating west of I-95. Fishkind believes that these four parcels are not commercially viable retail sites for serving the Study Area demand.

Lastly, the commercial component of the Woodhaven PUD (Parcels 20, 21) includes an estimated 550,000 to 650,000 square feet of commercial space. The

project requires significant and expensive transportation infrastructure improvements with the extension of Williamson Boulevard through the property from south of Airport Road to Pioneer Trail. The planning for construction of this road improvement is underway. The resulting transportation access with the Williamson Boulevard extension will allow for commercial development to take place at Woodhaven. Analysis shows, and Fishkind believes this location is a commercially viable retail site.

Aerial 4 Zone

Fishkind has identified four parcels along Airport Road, to the southeast of the subject site and within three miles of the RR Farms site. In addition, Fishkind identified the following convenience commercial parcels at the southern entrance of Venetian Bay. The five parcels are summarized herein:

- Parcel 10 (16.8 acres), Current LU Code 1000 Vacant Commercial, FLU Code Incorporated
- Parcel 8 (6.9 acres), Current LU Code 1000 Vacant Commercial, FLU Code Incorporated
- Parcel 9 (6.6 acres), Current LU Code 1000 Vacant Commercial, FLU Code Incorporated
- Parcel 3 (14.8 acres), Current LU Code 0000 Vacant Residential, FLU Code Incorporated
- Parcel 23 (1.9 acres) Current LU Code 1000 Vacant Commercial, FLU Code Incorporated

Given the juxtaposition of all three parcels to each other, these parcels essentially offer the same value proposition with respect to future commercial development. Each of these parcels is surrounded by residential units and can support commercial space. Parcel 8, Parcel 9, and Parcel 10 represent the remaining footprint for the Venetian Bay Town Center which is permitted to develop 307,800 square feet of commercial space. Within the built portions of the Town Center location there is first floor retail beneath four-story residential units at the site. Approximately 80 percent of this built retail space within the existing town center development is vacant. Retail facilities with such high vacancy rates are effectively non-functional. With Town Center development patterns established with the development on existing portions of the Town Center, the prospective Venetian Bay Town Center has very limited grocery store opportunities because of a lack of visibility, limited access off Airport Road, and poor access to the population to the north of the RR Farms site. Fishkind believes as development expands at Venetian Bay, some of the non-functioning retail and other restaurant or service oriented retail facilities can be successfully leased. This location is a commercially viable retail site but unsuitable for grocery store, in our view.

RR Farms Land Use Needs Analysis

Parcel 3 is located between Venetian Bay golf course holes with access off of Portofino Blvd. Given the limited visibility and adjacent uses, this parcel's highest and best use is residential which would be most compatible with the golf course. This site is not a commercially viable retail site. Parcel 23 can support convenience commercial development with a maximum of 15,000 square feet and does not effectively compete with the RR Farms site due to its limited development intensity.

Aerial 5 Zone

Fishkind has identified one parcel within three miles of the RR Farms site on the northeast corner of Tomoka Farms Road and SR 44. A summary of the parcel is provided below:

- Parcel 6 (18.8 acres), Current LU Code 1000 Vacant Commercial, FLU Codes Rural and Agricultural Resource

According to information provided by Volusia County, this parcel is located within the Volusia County Samsula Local Plan Area B. The Samsula Local Plan was created to preserve the rural character of the Samsula community. The plan was designed to maintain existing conditions and prevent conversion of agricultural resource lands into suburban and urban development. This plan was then challenged by several landowners concerned that it would limit the development potential of their property. As a result, the areas labeled "A" and "B" have received specific language within the Samsula Local Plan allowing for the review of increased density and intensity of development in these locations.

Parcel 6 is located in Area B within the Samsula Local Plan allowing consideration of increased commercial development at the site. The language within the Samsula Local Plan that applies to this particular parcel is "...the County may determine whether future land use map amendments that change the density and intensity within the two areas are appropriate and/or timely." While the Samsula Local Plan has designated this area for consideration for potential for increased development and intensity, such designation does not currently exist. Fishkind does not believe this location is commercially viable given the current future land use designation and constraints placed on lands located within the Samsula Plan.

Summary of Analysis

Fishkind analyzed the viability of 21 parcels six to twenty acres in size within three miles of the RR Farms site. In addition, Fishkind included Venetian Bay convenience commercial locations at both the north and south entrances of the development. The criteria of the viability analysis included location, current land use, future land use, parcel shape, access, visibility and compatibility/adjacent uses. Based on the analysis, Fishkind identified two current locations comprised of three parcels which are commercially viable retail sites within the three mile

radius. The first location is the commercial node at Parcels 4 and 5, and the second location is at the Woodhaven PUD, shown in Aerial 3 in Appendix 2.

The RR Farms site has greater accessibility and is more centrally located than any of the viable competing sites within the Study Area. The RR Farms site, should it be developed, will help ease growing congestion at nearby interchange intersections as the area continues to grow and build-out, with the expectation the household count will double over time. The RR Farms site, requiring less large scale infrastructure development, can meet immediate and short term market needs sooner and more effectively than existing viable locations within the Study Area. The RR Farms site is ideally suited and located from a market and economic perspective to complement currently planned retail development in the Study Area while providing needed flexibility in the Comprehensive Plan without creating excessive retail allocations or built space over time.

The market driven aspects of an economically effective and efficient land use plan call for land use flexibility and a sufficient number of choices and allocation of lands such that appropriate and timely development of lands is not prevented by: a) supply restrictions which drive up price, b) owner preferences to sell or develop, c) build out on existing lands at less than the maximum which creates the need for more land designation, d) intensification of residential land uses which drives up demand for commercial space, e) changes in environmental or preservation requirements, f) structural changes such as a new interchange, and/or g) end user preference. Because of these reasons, there should be a significantly larger allocation of lands in the Future Land Use Plan for specific land uses greater than a 1:1 allocation to meet the identified market need.

The additional land use allocation to provide needed Plan flexibility should allow for a 2:1 allocation. The 2:1 allocation means there should be at least twice the number of sites and locations available for identified land use needs than demand identifies so the land use plan can provide for the needed flexibility, economic efficiency, and cushion against uncertainty as described in items a)-g). In rapidly growing, fast changing locations this is particularly important.

5.0 Conclusions

There is substantial market need for the development of neighborhood/community retail space the Study Area today. The Study Area is dramatically underserved with respect to neighborhood retail and specifically, grocery stores. There is very limited retail space in the Study Area today. There are NO GROCERY STORES EXISTING within the 3-mile study area, and the total neighborhood/community retail demand is expected to reach 713,252 square feet within fifteen years of which more than 400,000 square feet is likely to be accommodated within the Study Area.

Table 4. Summary of Market Demand and Land Use Conditions

REGIONAL STUDY AREA	2012	2017	2022	2027
HOUSEHOLDS	5,413	7,263	9,388	10,929
HOUSEHOLD GROWTH	-	1,850	2,125	1,541
DEMAND (sq. ft.)	353,265	474,000	612,682	713,252
COMPETING SUPPLY (sq. ft.)	(295,530)	(295,530)	(295,530)	(295,530)
NET NEED (sq. ft.)	57,735	178,470	317,152	417,722
GROCERY DEMAND	127,234	170,719	220,667	256,889
GROCERY SUPPLY	106,440	106,440	106,440	106,440
GROCERY NET NEED		64,279	114,227	150,449

Source: Fishkind and Associates, Inc.

There is supportable demand for three additional grocery stores within the 3-mile study area over the planning horizon. **Development of an additional 150,449 square feet of grocery store space is supported based on development projections.** In order to accommodate this development with adequate flexibility, there should be allocated six or more grocery store sites with the potential to accommodate commercially viable grocery development within the Study Area Land Use Plan.

Fishkind has **identified three potentially viable grocery locations** with appropriate land use, zoning, parcel configuration, size, location, access, and adjacency of uses such that a grocery store would be a feasible use. **There is need in the Study Area for six viable sites** offering grocery store potential in order for the Comprehensive Land Use Plan to offer the type of flexibility and diversity of market choice required for a practical and efficient land use plan which meets the needs of a developing community over time. The number of viable grocery store sites within the Study Area should be doubled, based on the planning and analysis conducted. There is substantial identified market need and an existing and growing shortfall of needed neighborhood/community retail services. While there is short term need today, the controlling planning document is needed to guide land use needs over the longer planning horizon. Fishkind & Associates has identified need for an additional three grocery store sites in the Study Area.

The Land Use Plan change request for the inclusion of the RR Farms, LLC. site, as a site with commercial land use and BPUD zoning capable of accommodating a grocery store and additional retail, as requested, is justified based on economic market need, land use need, and the analysis conducted.

Appendix 1



Demographic and Income Profile

RR Farms
New Smyrna Beach, FL, 32168
Ring: 3 mile radius

Summary	Census 2010	2012
Population	13,193	13,378
Households	5,352	5,413
Families	4,000	4,020
Average Household Size	2.46	2.47
Owner Occupied Housing Units	4,650	4,640
Renter Occupied Housing Units	702	773
Median Age	48.7	49.5
Trends: 2012 - 2017 Annual Rate	Area	State
Population	0.06%	0.68%
Households	0.10%	0.65%
Families	0.08%	0.67%
Owner HHs	0.21%	0.87%
Median Household Income	2.52%	3.42%

	2012	
Households by Income	Number	Percent
<\$15,000	278	5.1%
\$15,000 - \$24,999	384	7.1%
\$25,000 - \$34,999	575	10.6%
\$35,000 - \$49,999	706	13.0%
\$50,000 - \$74,999	1,061	19.6%
\$75,000 - \$99,999	852	15.7%
\$100,000 - \$149,999	940	17.4%
\$150,000 - \$199,999	347	6.4%
\$200,000+	269	5.0%

Median Household Income	\$65,884
Average Household Income	\$84,670
Per Capita Income	\$34,876

	Census 2010		2012	
Population by Age	Number	Percent	Number	Percent
0 - 4	534	4.0%	535	4.0%
5 - 9	703	5.3%	699	5.2%
10 - 14	871	6.6%	860	6.4%
15 - 19	781	5.9%	746	5.6%
20 - 24	488	3.7%	502	3.8%
25 - 34	903	6.8%	928	6.9%
35 - 44	1,572	11.9%	1,553	11.6%
45 - 54	2,031	15.4%	1,986	14.8%
55 - 64	2,207	16.7%	2,326	17.4%
65 - 74	1,798	13.6%	1,927	14.4%
75 - 84	1,011	7.7%	1,005	7.5%
85+	294	2.2%	311	2.3%

	Census 2010		2012	
Race and Ethnicity	Number	Percent	Number	Percent
White Alone	12,141	92.0%	12,262	91.7%
Black Alone	330	2.5%	346	2.6%
American Indian Alone	28	0.2%	29	0.2%
Asian Alone	385	2.9%	415	3.1%
Pacific Islander Alone	4	0.0%	4	0.0%
Some Other Race Alone	94	0.7%	98	0.7%
Two or More Races	211	1.6%	225	1.7%
Hispanic Origin (Any Race)	523	4.0%	561	4.2%

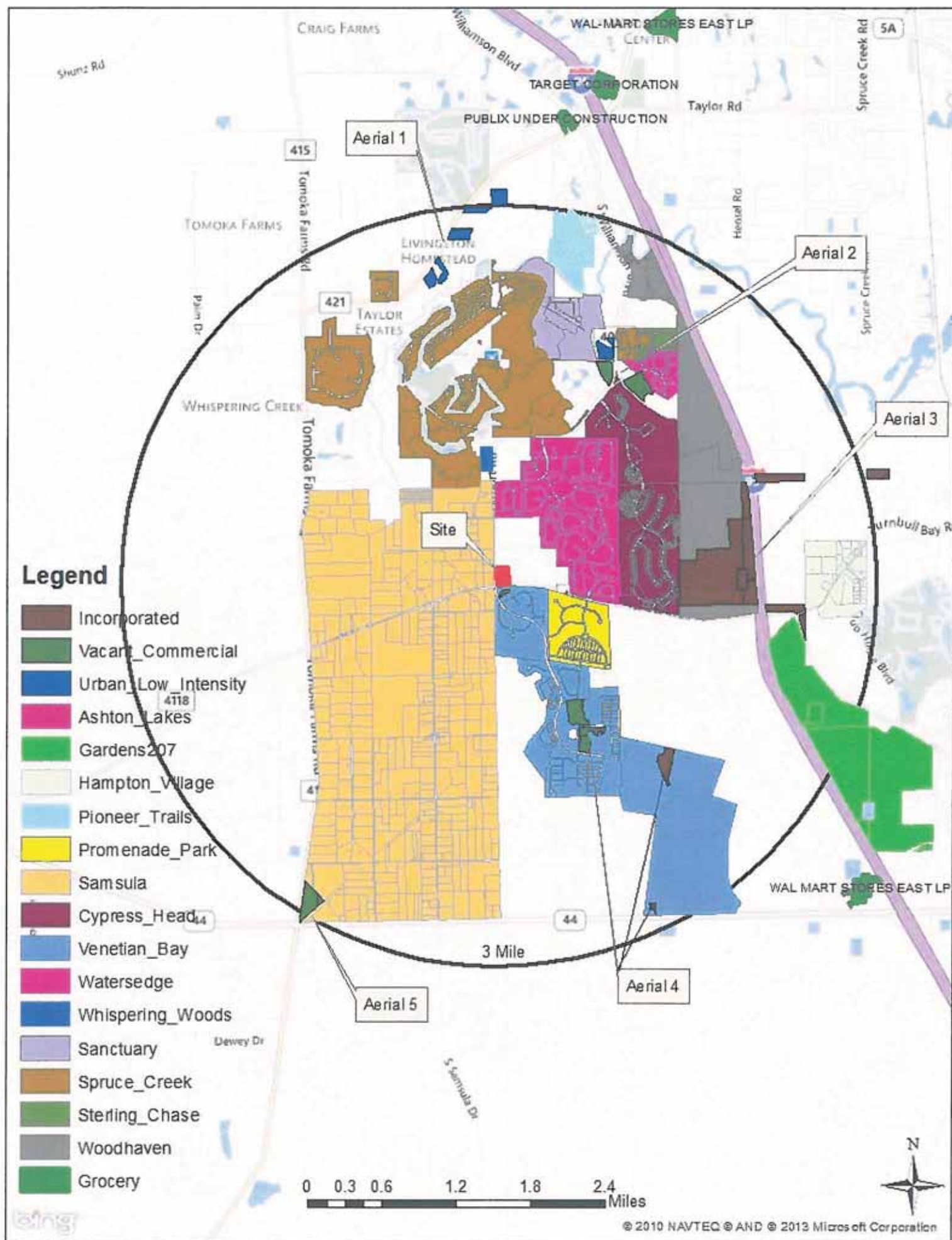
Data Note: Income is expressed in current dollars.

Source: U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2012 and 2017.

May 31, 2013

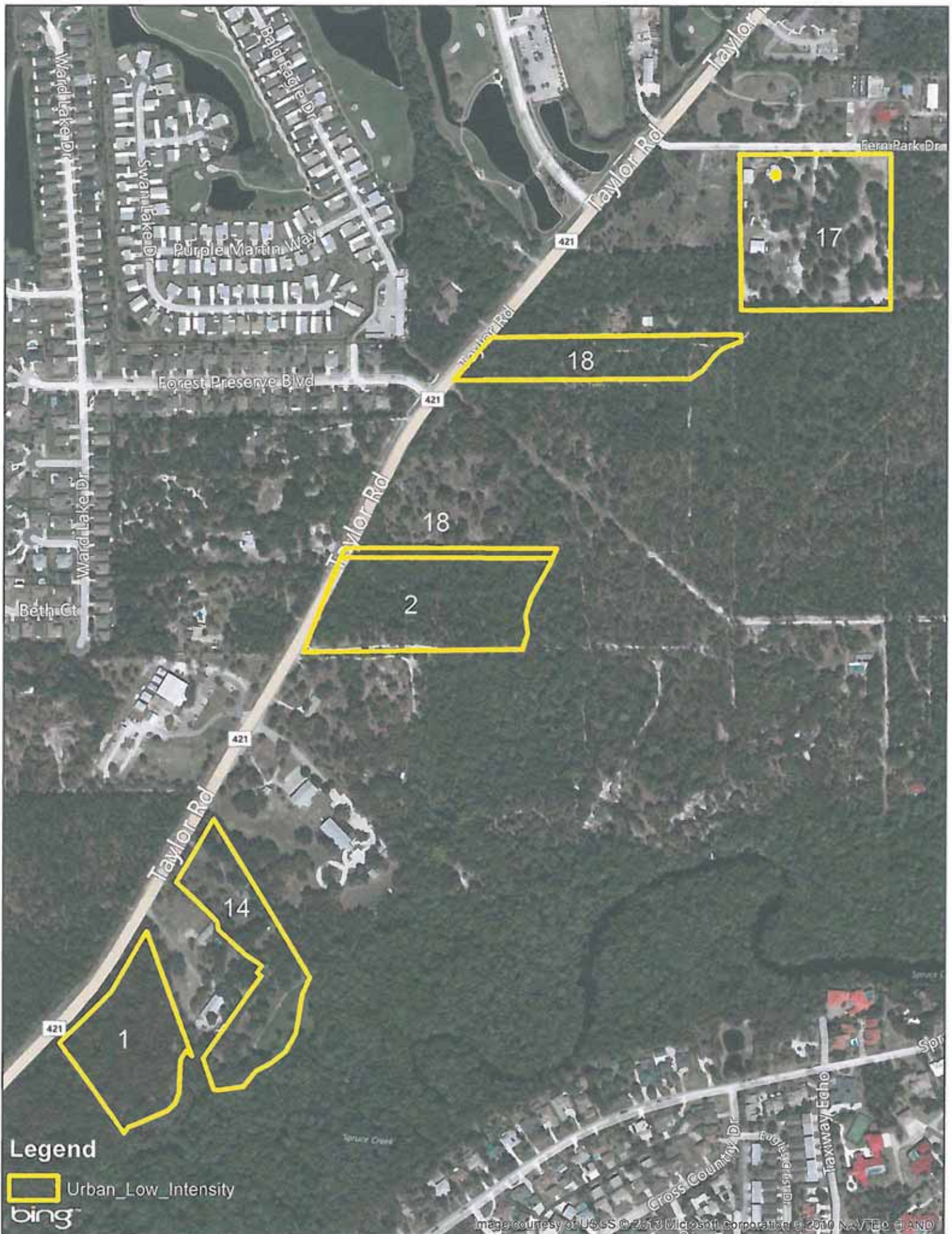
Made with Esri Business Analyst

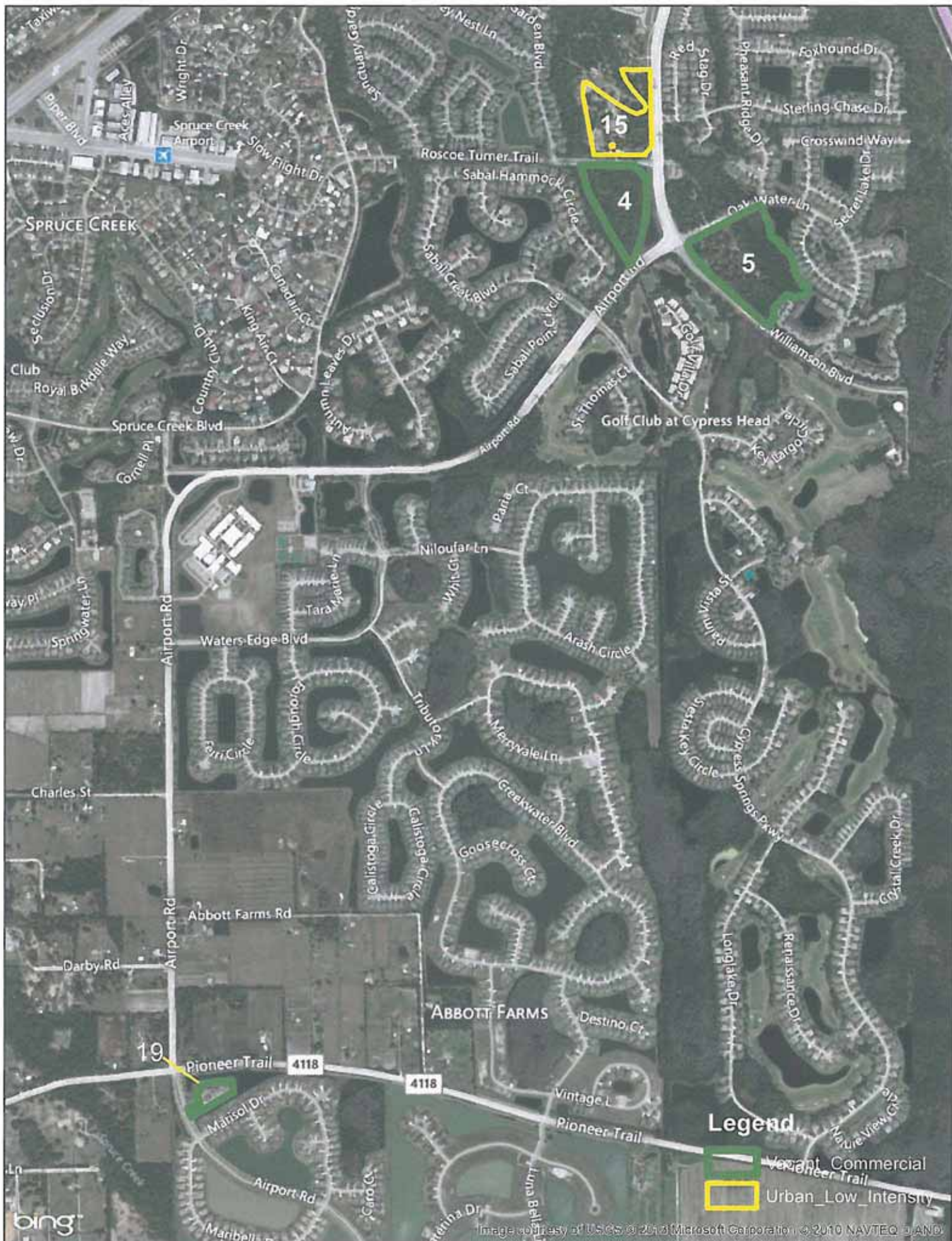
Appendix 2



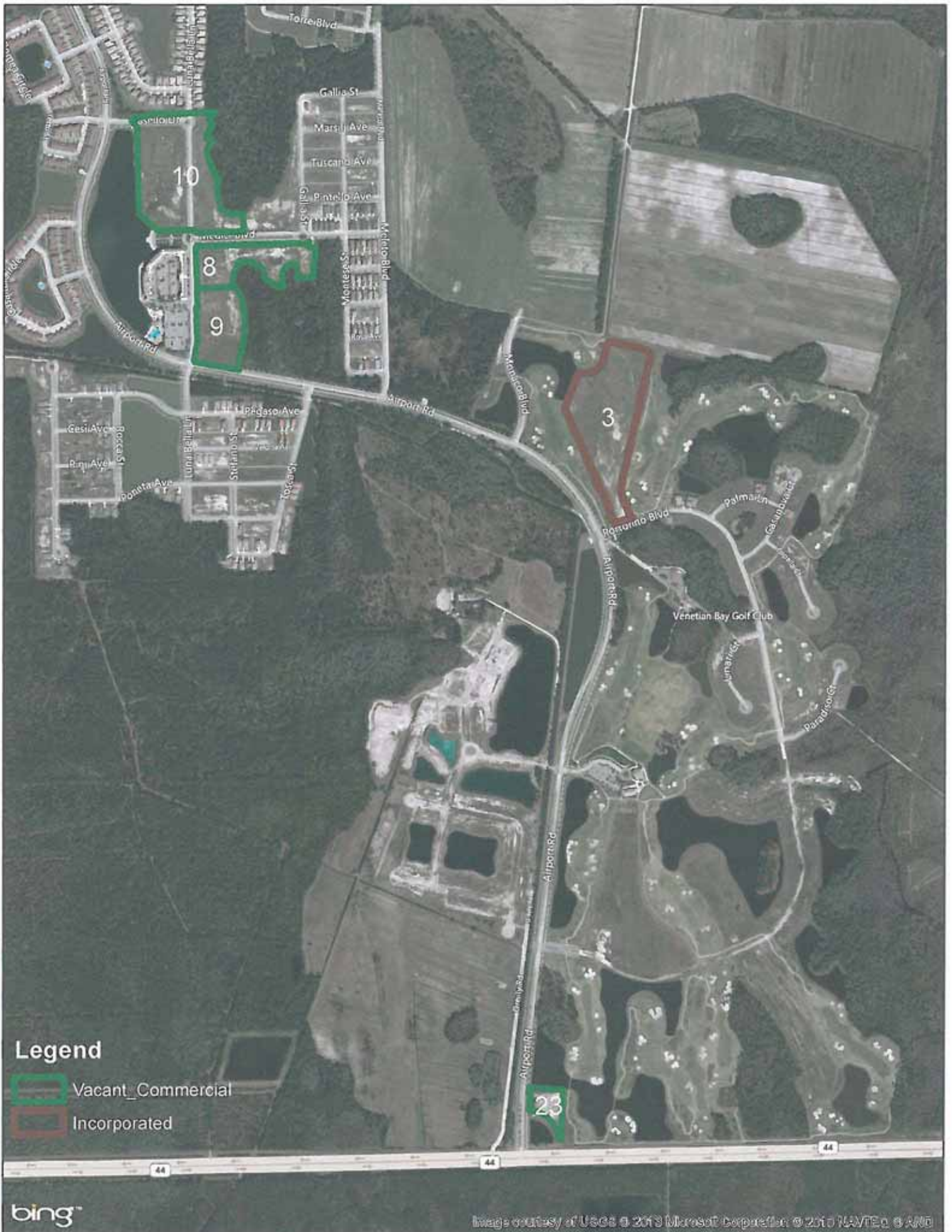
Parcel No.	PARCEL_ID	PROPTY_CLA	ACRES	FID_FLU	FLUCODE
1	32162502000060	00	8.7	3551	URBAN LOW INTENSITY
2	32162503000070	00	9.8	3551	URBAN LOW INTENSITY
3	33171701000002	00	14.8	4014	INCORPORATED
4	33163100000015	10	10.4	3531	INCORPORATED
5	33163200000010	10	18.6	3531	INCORPORATED
6	32172302160010	10	18.8	2421	RURAL
7	32172302160010	10	18.8	4013	AGRICULTURE RESOURCE
8	3317070100000H	10	6.9	4014	INCORPORATED
9	3317070100000I	10	6.6	4014	INCORPORATED
10	3317070200000E	10	16.8	4014	INCORPORATED
11	33163300000090	55	16.8	2914	INCORPORATED
12	33170400000190	55	11.2	3531	INCORPORATED
13	33170900000120	55	15.0	2914	INCORPORATED
14	32162503000010	68	11.3	3551	URBAN LOW INTENSITY
15	33163000000124	68	17.8	2221	URBAN LOW INTENSITY
16	33163400000050	68	9.1	2914	INCORPORATED
17	33161900000171	69	9.9	3551	URBAN LOW INTENSITY
18	32162402000010	70	9.9	3551	URBAN LOW INTENSITY
19	3317060600000B	10	2.0	4014	INCORPORATED
20	33170500000020	55	153.3	3531	INCORPORATED
21	33170400000111	55	37.4	2952	FEDERAL HIGHWAY
21	33170400000111	55	37.4	3531	INCORPORATED
22	33170400000060	96	8.7	3531	INCORPORATED
23	33171701000004	10	1.8	4014	INCORPORATED

Source: Volusia County Property Appraiser and Fishkind and Associates, Inc.











RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit N
Transportation Analysis
(Packaged by Lassiter Transportation Group)

VOLUSIA COUNTY TRANSPORTATION ENGINEERING

FUTURE LAND USE (FLU) AMENDMENT - Pioneer Square **TRANSPORTATION ANALYSIS SUBMISSION CHECKLIST**

****Important**** All Transportation Analyses and TIAs must first receive an approved methodology by Volusia County Traffic Engineering PRIOR to TIA submission. Transportation Analyses and TIAs will be returned to applicant if a methodology is not fully completed and approved. To coordinate obtaining a methodology approval, please contact 386-736-5968 x 2523.

	DESCRIPTION	INFORMATION INCLUDED			
		YES	NO	N/A	Remarks ¹
FLU AMENDMENT - TRANSPORTATION REPORT	4 Printed Copies Signed and Sealed by Professional Engineer	X			
	1 Electronic version of the Analysis & all analysis computer files	X			
	Site Location relative to surrounding roadway network (map)	X			
	Description of proposed land use change(s) • Existing land use • Proposed land use	X			
	Proposed FLU Designation trip generation/internal capture/pass by capture – ITE for Current & Proposed land use change(s) • DCA/FDOT most intense land use • Anticipate land use (if agency has no adopted FAR's)	X			
	Transit Trips/Modal Split			X	
	Proposed FLU Amendment trip distribution and assignment (map) • Model (latest adopted base year Central Florida Regional Planning Model) • Manual (document trip distribution decision making)	X			
	Study area boundaries including all Thoroughfare Road segments within appropriate radius (map) • 3%, or more, of the adopted LOS service volume • 2-mile radius impact on Critical or Near-Critical Roads • Issues impacting the Florida DOT's Strategic Intermodal System or local jurisdiction TRIP funded facilities • Issues impacting local jurisdiction TCEA (Daytona Bch/Port Orange) or TCMA (DeLand)	X			
	List Programmed Roadway Improvements of County, FDOT, and/or City Capital Improvement Programs	X			
	Analysis of Existing LOS (roadway segment analysis)	X			
	Future Background Traffic Volume Estimates • Vested Trips • Historical Growth rate, minimum growth rate of 2% (unless documented by professional accepted technique)	X			Minimum 1% growth applied, per approved methodology
	Future Total Traffic Volume Estimates (Future Background + FLU Designation Trips)	X			
	Short Term Analysis (5-Year)	X			
	Long-Term Analysis (Minimum 10-Year or adopted County/City Comprehensive Plan Transportation Element Horizon Year)	X			
	If near a City or adjoining county boundary, are extra jurisdictional impacts addressed? Are FDOT impacts addressed?	X			
	Conclusions (if adverse LOS, is FLU Amendment financial feasibility?)			X	LOS not adverse
APPENDIX DATA	Methodology Documentation & Conceptual Site Plan	X			
	Background Traffic Growth supporting worksheets	X			
	Trip Generation, Internal Capture, Pass-By Capture worksheets	X			Presented in report
	Model Trip Distribution & 2-mile Critical/Near-Critical map	X			
	Existing Conditions Analysis supporting worksheets	X			Presented in report
	Short-Term Conditions Analysis supporting worksheets	X			Presented in report
	Long-Term Conditions Analysis supporting worksheets	X			Presented in report

¹ – Remarks: Justify "NO" and "N/A"

Submitted By: D. D'Antonio Printed Name: DAN D'ANTONIO

Date: 6-27-13



Via Email: (JCheney@co.volusia.fl.us)

Ref: 3861.01

April 29, 2013

Jon Cheney, PE
Volusia County Traffic Engineering
123 W. Indiana Avenue
DeLand, FL 32720

**Re: Pioneer Square – Proposed Comprehensive Plan Amendment –
Transportation Analysis Methodology**

Dear Mr. Cheney:

Lassiter Transportation Group, Inc. (LTG) was retained to prepare a Transportation Analysis (TA) for a proposed comprehensive plan amendment to change the Future Land Use Map (FLUM) of Volusia County's Comprehensive Plan from the existing agricultural designation to commercial designation with a maximum of 75,000 sq. ft. of development. The subject property consists of approximately 9.637 acres of land and is located in the northeast corner of Pioneer Trail and Airport Road just south of the City of Port Orange. Figure 1 shows the location of the property relative to the surrounding roadway network.

This property was the subject of a prior comprehensive plan amendment application. The methodology presented below is based on the Volusia County Transportation Analysis Submission Checklist, on the approved methodology for a prior amendment submitted for this property in 2009, and based on changes to the growth management laws.

Analysis Period

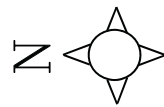
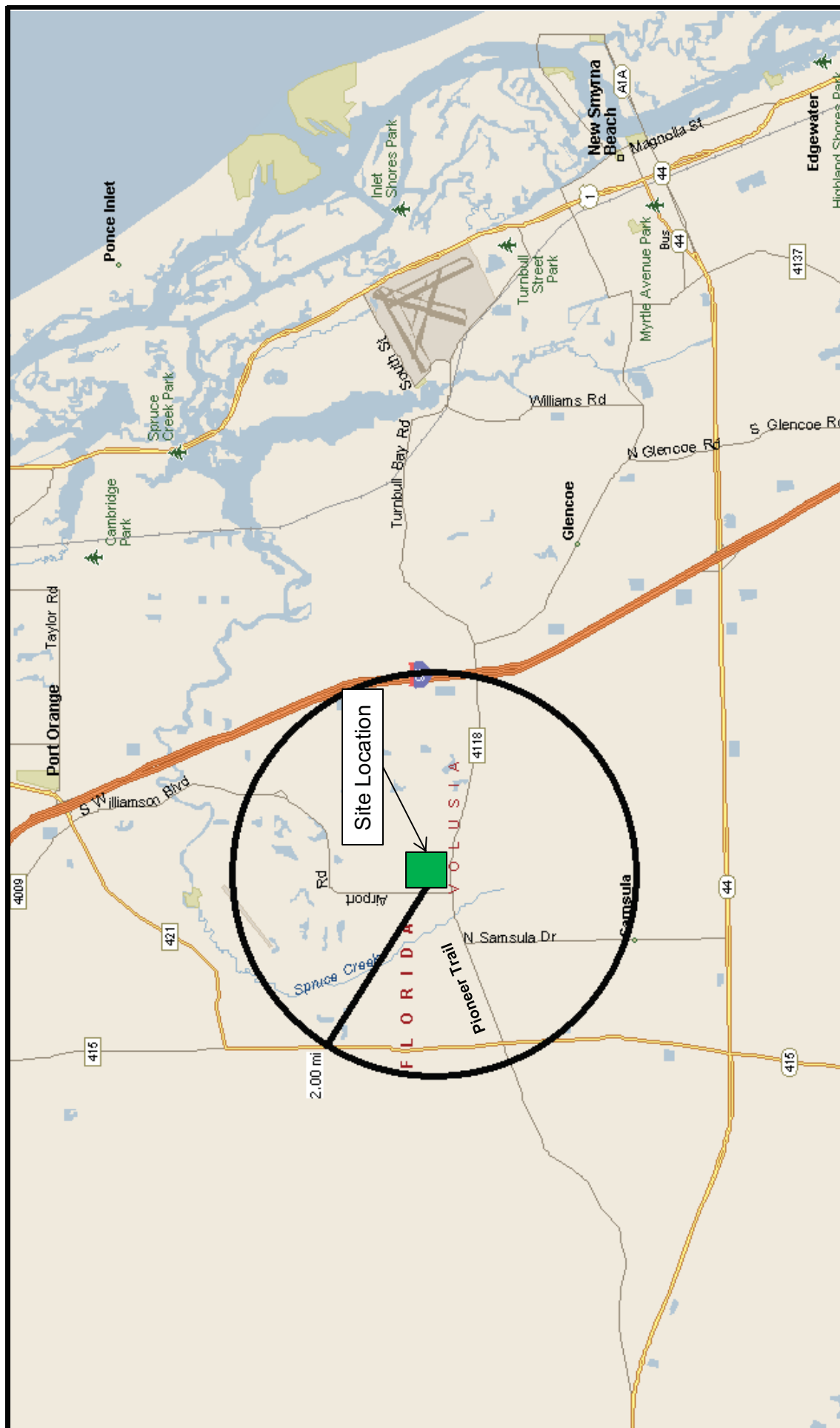
Analysis of the project will be in terms of p.m. peak-hour two-way and will assess the theoretical maximum development potential of the property under the existing future land use designation and the planned development program, as limited by the development proposal, for the proposed future land use designation for the 5-year period (2018) and the target year of the adopted long range transportation plan (LRTP) (2035).

Traffic Concurrency Spreadsheet

The analysis will be based on the latest concurrency information as obtained from the Volusia County Concurrency Spreadsheet.

Study Area

In accordance with Volusia County's procedures for Comprehensive Plan Amendments, the study area is defined as all roadway segments where the projected peak-hour two-way project traffic under the maximum proposed land use scenario represents three percent or more of the roadway's capacity at the adopted level-of-service and all critical and near critical roadways within a two-mile radius. The same study area identified in the prior 2009 analysis is proposed for this analysis (copy attached).



Pioneer Square

Site Location Map

Project No.: 3861.01

Figure: 1

Lassiter Transportation Group, Inc.
Engineering and Planning

123 Live Oak Avenue – Daytona Beach, Florida 32114
Telephone: 386.257.2571 Fax: 386.257.6996 EB# 0009227

Trip Generation

The daily and p.m. peak-hour trip generation will be calculated for the theoretical maximum development scenario (retail use, in this case) under the existing and proposed FLUM designations using trip generation rates contained in the Institute of Transportation Engineers (ITE) 9th edition of the publication Trip Generation. Pass-by reduction will be applied, where appropriate. No mode split will be used other than what is contained in the trip generation rates.

Trip Distribution and Assignment

The approved distribution pattern approved for the 2009 study is proposed for use in this analysis (a copy of the original study is attached). Using the p.m. peak-hour trip generation and the trip distribution pattern, trips will be assigned to the study area roadway segments.

Existing Traffic

Existing traffic volumes will be obtained from the current Volusia Traffic Counts Spreadsheet. Appropriate K factors will be applied to the daily volumes to obtain Peak-hour two-way volumes. We will document the K factors used in the report. The adopted levels-of-service and capacities at the adopted LOS will be obtained from the City's Comprehensive Plan and the Volusia County Traffic Count Spreadsheet.

Future Year Traffic

Future traffic for both the existing and proposed land use scenarios will be determined by adding the proposed project trips associated with the existing FLUM designation and the proposed FLUM designation to the estimated future background volumes. Future background volumes will be determined using a combination of vested trips and historical growth rates. Historical growth rates will be calculated for each of the study area roadway segments using FDOT's *Traffic Trends* software and the historic average annual daily traffic from the previous five years. Vested trips will also be shown for each roadway segment as provided by Volusia County, Port Orange and New Smyrna Beach. The vested trips will then be compared to the study area roadway's historical growth rates to determine if the vested trips equal or exceed the growth rates. If the vested trips plus existing traffic counts do not exceed the growth rates for either the five-year (2018) or the target year (2035), additional growth in traffic will be added to meet the historical rates. A minimum of 2% growth per year will be used unless otherwise documented and approved by County staff.

Planned and Programmed Roadway Improvements

Roadway improvements included in the first three years of the adopted Capital Improvements Program of Volusia County and of surrounding municipalities within the study area will be assumed for the five-year (2018) analysis. Roadway improvements included in the adopted LRTP will be assumed in the horizon year (2035) analysis.

Segment Analysis

The impacts on the study area roadway segments for both the existing and proposed FLUM designations will be shown. If warranted, improvements will be identified for segments deficient in the five-year (2018) analysis and for the target year of the adopted LRTP (2035).

Jon Cheney, PE
April 29, 2013
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If you have any questions, please contact me at 386.257.2571.

Sincerely,

LASSITER TRANSPORTATION GROUP, INC.



R. Sans Lassiter, PE
President

c: Sheldon Rubin, Developer (swrubin@bellsouth.net)
Paul Momberger, RLA, Zev Cohen & Associates, Inc. (PMomberger@zevcohen.com)
James Stowers, Esq., Wright, Casey & Powers, P.L. (jstowers@surfcoastlaw.com)



Ref: 3861.02

TECHNICAL MEMORANDUM

To: James Stowers, Esq., Wright, Casey & Stowers, P.L.

From: Daniel M. D'Antonio, PE

Subject: Pioneer Square – Comprehensive Plan Amendment

Date: June 27, 2013

INTRODUCTION

Lassiter Transportation Group, Inc. (LTG) was retained on behalf of RR Farms, LLC to prepare a traffic analysis in support of a Future Land Use Map (FLUM) amendment to the Volusia County Comprehensive Plan. The proposed map amendment will change the FLUM designation for a total of 9.63 acres from Agricultural Resource designation to Commercial designation. The subject property is located in the northeast corner of the Pioneer Trail and Airport Road intersection. Figure 1 depicts the project location in relation to the surrounding roadway network.

In accordance with the approved methodology letter (Exhibit A), the transportation impacts will be assessed for the 5-year (2018) and the proposed out year of the County's Comprehensive Plan (2025) for the proposed FLUM designation.

PROGRAMMED ROAD IMPROVEMENTS

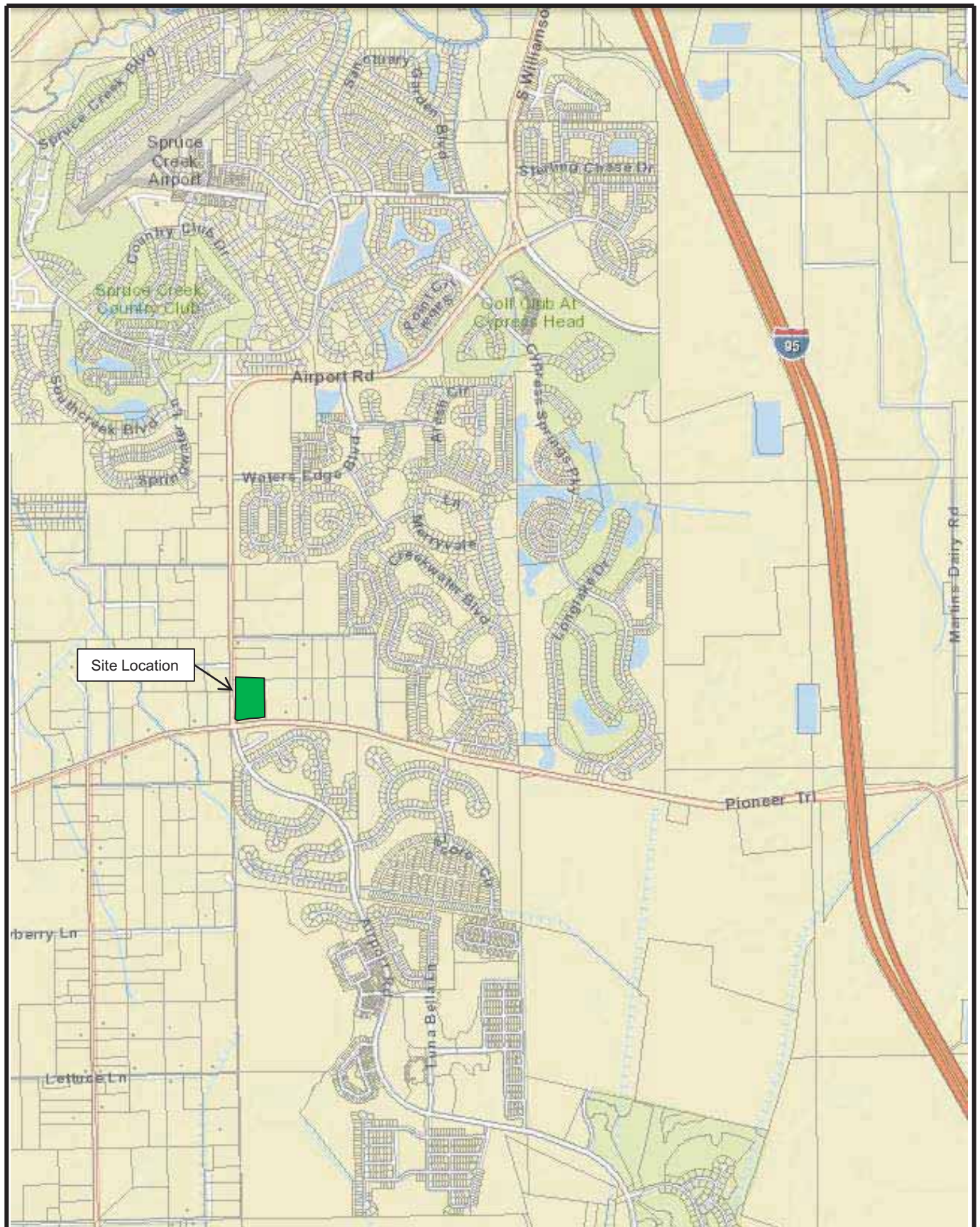
Per the Volusia County Five Year Road Program, Williamson Boulevard Extension from Pioneer Trail to its current terminus south of Airport Road, is programmed for construction as a four-lane divided roadway for the fiscal year 2013/2014. At the request of the County, this roadway has been included in the analysis, although the project's impact is less than three percent of the roadway's future capacity.

TRIP GENERATION FOR THE EXISTING FLUM DESIGNATION

The existing FLUM designation of Agricultural Resource allows residential development at a density of one unit per 10 acres, yielding one dwelling unit on the 9.63 acre site. The daily and p.m. peak-hour trip generation for the existing FLUM designation was determined using the trip generation rates published by the Institute of Transportation Engineers (ITE) in the Trip Generation Manual, 9th Edition, and are presented in Table 1.

Table 1
Daily and P.M. Peak-Hour Trip Generation – Existing FLUM Designation
Pioneer Square CPA

Time Period	Land Use	ITE Land Use Code	Trip Rate Equation	Units (X)	Total Trips (T)	% Enter	% Exit	Trips Entering	Trips Exiting
Daily	Single-Family Residential	210	$T = 9.52(X)$	1 DU	10	50%	50%	5	5
P.M. Peak-Hour	Single-Family Residential	210	$T = 1.0(X)$	1 DU	2	63%	37%	1	1



**Pioneer Square
CPA**



Site Location

Project No. 3873.01

Figure: 1

Lassiter Transportation Group, Inc.
Engineering and Planning

123 Live Oak Avenue – Daytona Beach, Florida 32114
Telephone: 386.257.2571 Fax: 386.257.6996 EB# 0009227

TECHNICAL MEMORANDUM

James Stowers, Esq.

June 27, 2013

Page 3

TRIP GENERATION FOR THE PROPOSED FLUM DESIGNATION

The proposed Commercial FLUM amendment includes a FLU Map note that limits total commercial development of the property to 75,000 sq. ft., limiting the property to an FAR of 0.18. As such, the analysis of the proposed FLU Commercial designation was conducted utilizing a 75,000 square foot shopping center as the maximum development scenario. The daily and p.m. peak-hour trip generation for the existing FLUM designation was determined using the trip generation rates published by the Institute of Transportation Engineers (ITE) in the Trip Generation Manual, 9th Edition, and are presented in Table 2.

Table 2
Daily and P.M. Peak-Hour Trip Generation – Proposed FLUM Designation
Pioneer Square CPA

Time Period	Land Use	ITE Land Use Code	Trip Rate Equation	Units (X)	Total Trips (T)	% Enter	% Exit	Trips Entering	Trips Exiting
Daily	Shopping Center	820	$\ln(T) = 0.65\ln(X) + 5.83$	75 ksf	5,634	50%	50%	2,817	2,817
P.M. Peak-Hour	Shopping Center	820	$\ln(T) = 0.67\ln(X) + 3.31$	75 ksf	496	63%	37%	238	238

Due to the nature of the proposed development, a portion of the trips known as pass-by trips, will be attracted to the shopping center land use from traffic on adjacent roadways. The pass-by percentages (not to exceed 14 percent of the adjacent roadway traffic) were obtained from the ITE Trip Generation Handbook, 2nd Edition and applied to the land use. The existing, two-way p.m. peak-hour trip count on Airport Road and Pioneer Trail adjacent to the site is 869. As such, the pass-by trips were limited to 14 percent of the adjacent street traffic. The resulting net new external daily and p.m. peak-hour trip generation is shown in Table 3.

Table 3
Net New P.M. Peak-Hour Trip Generation – Proposed FLUM Designation
Pioneer Square CPA

Time Period	Land Use	Total Trips			Internal Trips			Pass-by Trips*			New External Trips		
		Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total	Enter	Exit	Total
Daily	Shopping Center	2,817	2,817	5,634	0	0	0	611	611	1221	2,206	2,206	4,412
P.M. Peak Hour	Shopping Center	238	258	496	0	0	0	59	63	122	179	195	374

*The pass-by trips shown were limited to 14% of the adjacent street traffic

PROJECT TRIP DISTRIBUTION AND ASSIGNMENT

The process of determining the directional flow of traffic associated with a new development is called trip distribution. Per the agreed upon methodology, the distribution pattern approved for the 2009 study was used in this analysis. Using the p.m. peak-hour trip generation and the trip distribution pattern, trips were assigned to the study area roadway segments. The 2009 trip distribution is included in Exhibit B. An electronic copy of the entire 2009 study is included with this submittal. Since Williamson Boulevard Extension was not included in the original study, the Central Florida Regional planning Model (CFRPM) v 5.01 was run in order to determine the project distribution on Williamson Boulevard Extension (0.5%) as well as the background traffic which was used to calculate future background growth.

TECHNICAL MEMORANDUM

James Stowers, Esq.
June 27, 2013
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STUDY AREA

The study area includes the roadway segments that are impacted by the project to within three percent or greater of the peak-hour two-way adopted level of service (LOS) capacity and roadway segments that have been designated as "critical" or "near critical" within a two-mile travel distance of the site. Critical and near critical roadways are defined by Volusia County as roadways with a volume-to-capacity (v/c) ratio that is equal to or greater than 1.0 and 0.90, respectively. The Volusia County Traffic Engineering Division provided a graphic designating the critical and near critical roadway segments within a two-mile radius of the site. Please refer to Figure 2. Table 4 presents the significance test.

Table 4
Significance Test
Pioneer Square CPA

Roadway	From	To	Adopted LOS	Peak-Hour Two-Way Capacity at Adopted LOS	Project Distribution	P.M. Peak-Hour Two-Way		Critical/ Near Critical?	3% Sig.?	Analyze?
						Project Trips	Impact of LOS			
Tomoka Farms Rd	SR 44	Pioneer Trail	C	1,550	1.0%	4	0.26%	Critical	No	Yes
	Pioneer Trail	Taylor Rd	E	2,990	1.0%	4	0.13%	Critical	No	Yes
Samsula Dr	SR 44	Pioneer Trail	E	1,314	3.0%	11	0.84%	No	No	No
Airport Rd	SR 44	Luna Bella Ln.	E	1,512	10.0%	37	2.45%	Critical	No	Yes
	Luna Bella Ln.	Pioneer Trail	E	1,512	15.0%	56	3.70%	Critical	Yes	Yes
	Pioneer Trail	Williamson Blvd	E	1,440	40.8%*	152	10.56%	Critical	Yes	Yes
Pioneer Trail	Tomoka Farms Rd	Airport Rd	E	1,440	3.5%	13	0.90%	No	No	No
	Airport Rd	Williamson Blvd	E	1,440	15.0%	56	3.89%	No	Yes	Yes
	Williamson Blvd	Turnbull Bay Rd	E	1,440	9.0%	34	2.36%	Critical	No	Yes
Turnbull Bay Rd	Pioneer Trail	Williams Rd	E	1,440	6.50%	24	1.67%	No	No	No
Williamson Blvd	Pioneer Trail	Airport Rd	E	3,222	0.5%	2	0.06%	No	No	No
	Airport Rd	Spruce Creek Bridge	E	3,222	3.0%	11	0.34%	Critical	No	Yes

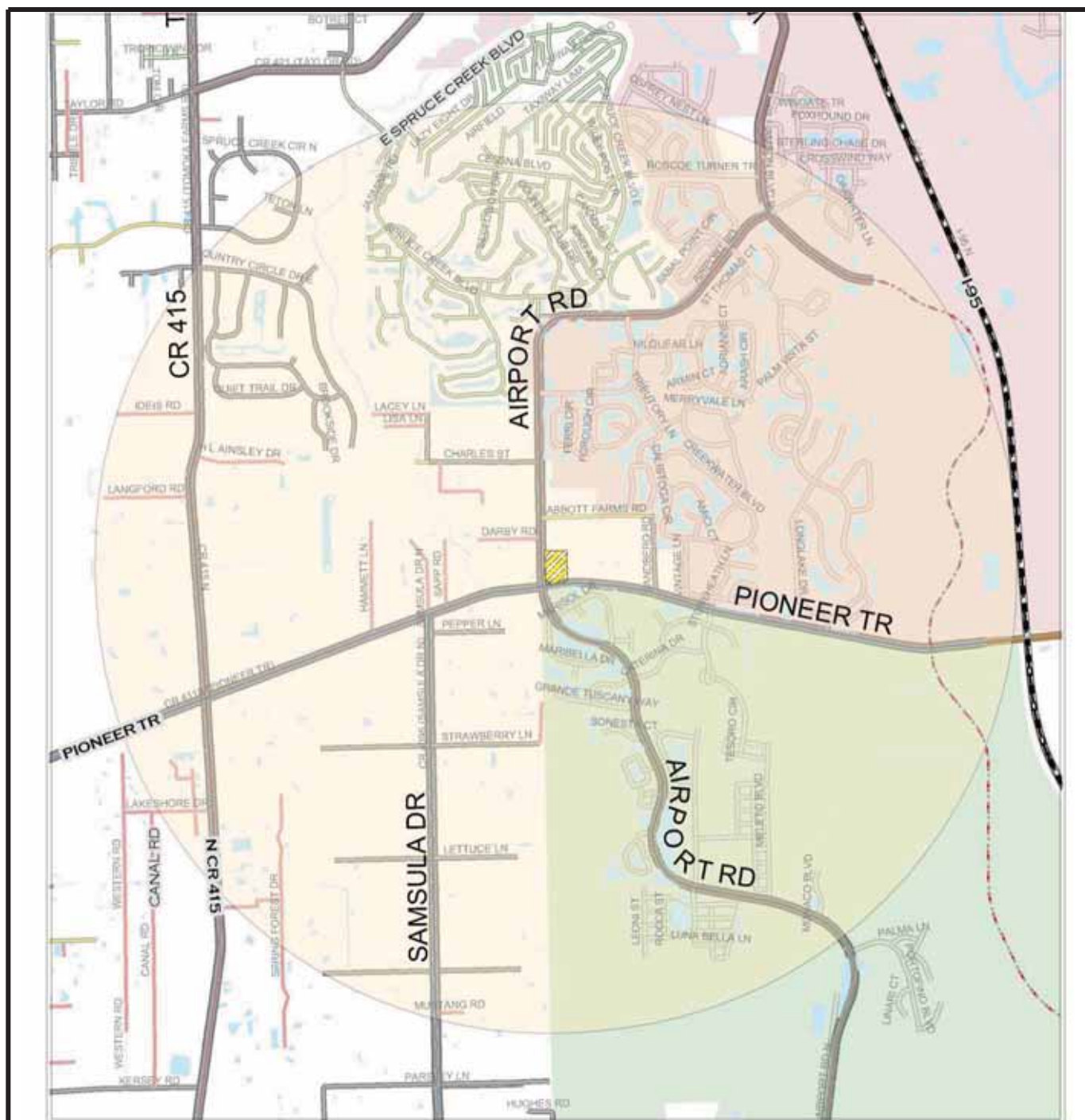
*Average distribution along segment, consistent with prior study

As indicated in Table 4, the study area includes the following roadway segments:

- Tomoka Farms Road from SR 44 to Taylor Road (Critical)
- Airport Road from SR 44 to Williamson Blvd (Critical and Significant)
- Pioneer Trail from Airport Road to Turnbull Bay Road (Significant)
- Williamson Boulevard from Pioneer Trail to Spruce Creek Bridge

EXISTING TRAFFIC

Existing traffic volumes were obtained from the current (2011) Volusia Traffic Counts Spreadsheet. A demand K-factor of 0.0997 was applied to the daily volumes to obtain peak-hour two-way volumes. The adopted levels-of-service for each roadway segment were obtained from the respective municipality's comprehensive plans. The capacities at the adopted LOS were obtained from FDOT's Generalized Service Volume Tables. Table 5 shows the existing p.m. peak-hour two-way roadway LOS for the study area roadways. As indicated in this table, all of the study roadway segments are currently operating within their adopted LOS.



Legend

- buffer
- NE_quadrant_of_Pioneer_Tr_and_Airport_Rd
- Hydrology
- LOS2011_NearCritical
- LOS2011_Critical

Impact Area - 2 mile radius

NE quadrant of Pioneer tr and Airport Rd



Map provided by Volusia County

**Pioneer Square
CPA**



NTS

**Critical and Near
Critical Roadways**

Project No. 3861.02

Figure: 2

Lassiter Transportation Group, Inc.
Engineering and Planning

123 Live Oak Avenue – Daytona Beach, Florida 32114
Telephone: 386.257.2571 Fax: 386.257.6996 EB# 0009227

TECHNICAL MEMORANDUM

James Stowers, Esq.

June 27, 2013

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Table 5
Existing Peak-Hour Two-Way Level of Service – Proposed FLUM Designations
Pioneer Square CPA

Roadway	From	To	Adopted LOS	Pk-Hr 2-Way Capacity at Adopted LOS	AADT	Peak-Hour Two-Way Volume	Adverse?
Tomoka Farms Rd.	SR 44	Pioneer Trail	C	1,550	4,510	450	No
	Pioneer Trail	Taylor Rd	E	2,990	9,330	930	No
Airport Rd.	SR 44	Luna Bella Ln.	E	1,512	2,550	254	No
	Luna Bella Ln.	Pioneer Trail	E	1,512	3,110	310	No
	Pioneer Trail	Williamson Blvd	E	1,440	6,000	598	No
Pioneer Trail	Airport Rd	Williamson Blvd	E	1,440	2,720	271	No
	Williamson Blvd	Turnbull Bay Rd	E	1,440	2,720	271	No
Williamson Blvd	Pioneer Trail	Airport Rd	E	3,222	0	0	No
	Airport Rd	Spruce Creek Bridge	E	3,222	16,410	1,636	No

FUTURE TRAFFIC

The determination of future impacts requires projecting future background traffic volumes. Annual growth rates were calculated for each study area segment using FDOT *Traffic Trends* software and historical AADT (2002-2011) data as obtained from Volusia County. The Traffic Trends Worksheets are included in Exhibit C. Table 6 shows the calculated historical annual growth rate for each study area segment.

Table 6
Trend and Applied Growth Rates
Pioneer Square CPA

Roadway	From	To	Trend Growth Rate	Applied Growth Rate
Tomoka Farms Rd	SR 44	Pioneer Trail	-1.57%	1.00%
	Pioneer Trail	Taylor Rd	-0.43%	1.00%
Airport Rd	SR 44	Luna Bella Ln.	N/A	1.04%
	Luna Bella Ln.	Pioneer Trail	N/A	1.04%
	Pioneer Trail	Williamson Blvd	1.04%	1.04%
Pioneer Trail	Airport Rd	Williamson Blvd	0.93%	1.00%
	Williamson Blvd	Turnbull Bay Rd	0.93%	1.00%
Williamson Blvd	Pioneer Trail	Airport Rd	N/A	1.37%
	Airport Rd	Spruce Creek Bridge	1.37%	1.37%

IMPACTS ON THE 2018 and 2025 LOS

Determination of 2018 and 2025 LOS impacts for proposed FLUM designation involve the comparison of future traffic volumes (sum of background traffic plus project traffic) to the adopted LOS peak-hour two-way capacities. The impacts of the proposed development on the study area roadways in 2018 and 2025 are shown in Tables 7 and 8, respectively. As indicated in the tables, all study area roadways will operate within the adopted level of service capacity in the 2018 and 2025 build-out conditions.

TECHNICAL MEMORANDUM

James Stowers, Esq.

June 27, 2013

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Table 7
2018 Peak-Hour Two-Way Level of Service – Proposed FLUM Designations
Pioneer Square CPA

Roadway	From	To	Adopted LOS	Pk-Hr 2-Way Capacity at Adopted LOS	Existing Peak-Hour Two-Way Volume	Growth Rate	2018 Pk-Hr Background Volume	Project Distribution	Project Trips	2018 Pk-Hr Build-Out Traffic	Adverse?
Tomoka Farms Rd.	SR 44	Pioneer Trail	C	1,550	450	1.00%	482	1.0%	4	486	No
	Pioneer Trail	Taylor Rd	E	2,990	930	1.00%	995	1.0%	4	999	No
Airport Rd.	SR 44	Luna Bella Ln.	E	1,512	254	1.04%	272	10.0%	37	309	No
	Pioneer Trail	Pioneer Trail	E	1,512	310	1.04%	333	15.0%	56	389	No
Pioneer Trail	Williamson Blvd	Williamson Blvd	E	1,440	598	1.04%	642	40.8%	152	794	No
	Airport Rd	Williamson Blvd	E	1,440	271	1.00%	290	15.0%	56	346	No
	Williamson Blvd	Turnbull Bay Rd	E	1,440	271	1.00%	290	9.0%	34	324	No
	Pioneer Trail	Airport Rd	E	3,222	1,571	1.37%	1,614	0.5%	2	1,616	No
Williamson Blvd	Airport Rd	Spruce Creek Bridge	E	3,222	1,636	1.37%	1,793	3.0%	11	1,804	No

Table 8
2025 Peak-Hour Two-Way Level of Service – Proposed FLUM Designations
Pioneer Square CPA

Roadway	From	To	Adopted LOS	Pk-Hr 2-Way Capacity at Adopted LOS	Existing Peak-Hour Two-Way Volume	Growth Rate	2025 Pk-Hr Background Volume	Project Distribution	Project Trips	2025 Pk-Hr Build-Out Traffic	Adverse?
Tomoka Farms Rd.	SR 44	Pioneer Trail	C	1,550	450	1.00%	513	1.0%	4	517	No
	Pioneer Trail	Taylor Rd	E	2,990	930	1.00%	1,060	1.0%	4	1,064	No
Airport Rd.	SR 44	Luna Bella Ln.	E	1,512	254	1.04%	291	10.0%	37	328	No
	Pioneer Trail	Pioneer Trail	E	1,512	310	1.04%	355	15.0%	56	411	No
Pioneer Trail	Williamson Blvd	Williamson Blvd	E	1,440	598	1.04%	685	40.8%	152	837	No
	Airport Rd	Williamson Blvd	E	1,440	271	1.00%	309	15.0%	56	365	No
Williamson Blvd	Williamson Blvd	Turnbull Bay Rd	E	1,440	271	1.00%	309	9.0%	34	343	No
	Pioneer Trail	Airport Rd	E	3,222	1,571	1.37%	1,765	0.5%	2	1,767	No
	Airport Rd	Spruce Creek Bridge	E	3,222	1,636	1.37%	1,950	3.0%	11	1,961	No

TECHNICAL MEMORANDUM

James Stowers, Esq.
June 27, 2013
Page 8

CONCLUSION

This study was conducted to evaluate the impact that a change in FLUM designation for the Pioneer Square CPA would have on area roadways. The proposed land use will generate 4,412 net new daily trips and 374 net new p.m. peak-hour trips. The analysis of both the short term (2018) and long range (2025) proposed FLUM amendment build-out conditions demonstrate that all study area roadway segments will operate within the adopted LOS.

Further, this change in land use will provide neighborhood shopping services at a more convenient location to an area that currently has limited services. This will ultimately reduce trip lengths and reduce impacts to critical intersections along SR 421, where currently the local shopping needs are being met.

As a result, this comprehensive plan amendment is recommended for adoption.

Attachments:

Exhibit A – Approved Methodology Letter
Exhibit B – Previous 2009 Trip Distribution
Exhibit C – Trends Worksheets

c: Sheldon Rubin, RR Farms, LLC
Gregory J. Oravec, Oravec and Company
Paul Momberger, RLA, Zev Cohen & Associates, Inc.

I affirm, by affixing my signature and seal below, that the findings contained herein are, to my knowledge, accurate and truthful and were developed using current procedures standard to the practice of professional engineering.

Name: Daniel M. D'Antonio

Signature: _____

Florida PE License No.: 68399

Date: June 27, 2013

EXHIBIT A

APPROVED METHODOLOGY LETTER



Via Email: (JCheney@co.volusia.fl.us)

Ref: 3861.01

June 17, 2013

Jon Cheney, PE
Volusia County Traffic Engineering
123 W. Indiana Avenue
DeLand, FL 32720

**Re: Pioneer Square – Proposed Comprehensive Plan Amendment –
Transportation Analysis Methodology - REVISED**

Dear Mr. Cheney:

This proposed methodology letter has been revised per the comments received by Volusia County on May 13, 2013.

Lassiter Transportation Group, Inc. (LTG) was retained to prepare a Transportation Analysis (TA) for a proposed comprehensive plan amendment to change the Future Land Use Map (FLUM) of Volusia County's Comprehensive Plan from the existing agricultural designation to commercial designation with a maximum of 75,000 sq. ft. of development. The subject property consists of approximately 9.637 acres of land and is located in the northeast corner of Pioneer Trail and Airport Road just south of the City of Port Orange. Figure 1 shows the location of the property relative to the surrounding roadway network.

This property was the subject of a prior comprehensive plan amendment application. The methodology presented below is based on the Volusia County Transportation Analysis Submission Checklist, on the approved methodology for a prior amendment submitted for this property in 2009, and based on changes to the growth management laws.

Analysis Period

Analysis of the project will be in terms of p.m. peak-hour two-way and will assess the theoretical maximum development potential of the property under the existing future land use designation and the planned development program, as limited by the development proposal, for the proposed future land use designation for the 5-year period (2018) and the planning horizon of the County's Comprehensive Plan (2025).

Traffic Concurrency Spreadsheet

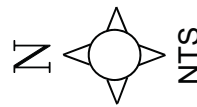
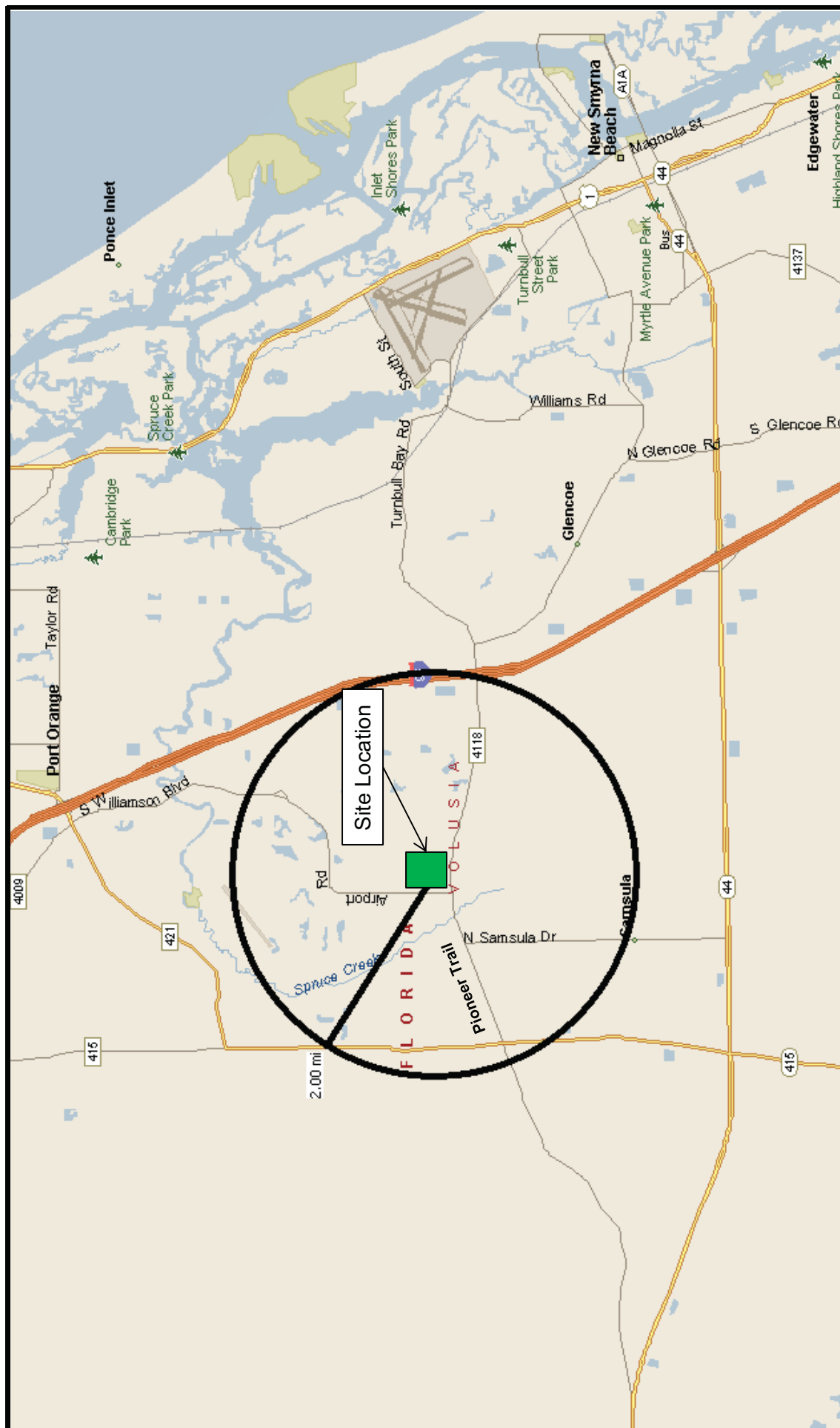
The analysis will be based on the latest concurrency information as obtained from the Volusia County Concurrency Spreadsheet.

Study Area

In accordance with Volusia County's procedures for Comprehensive Plan Amendments, the study area is defined as all roadway segments where the projected peak-hour two-way project traffic under the maximum proposed land use scenario represents three percent or more of the roadway's capacity at the adopted level-of-service and all critical and near critical roadways within a two-mile radius. The same study area identified in the prior 2009 analysis is proposed for this analysis (copy attached).

Trip Generation

The daily and p.m. peak-hour trip generation will be calculated for the theoretical maximum development scenario (retail use, in this case) under the existing and proposed FLUM designations using trip generation rates contained



Pioneer Square

Site Location Map

Project No.: 3861.01

Figure: 1

Lassiter Transportation Group, Inc.
Engineering and Planning

123 Live Oak Avenue – Daytona Beach, Florida 32114
 Telephone: 386.257.2571 Fax: 386.257.6996 EB# 0009227

Jon Cheney, PE
June 17, 2013
Page 3

in the Institute of Transportation Engineers (ITE) 9th edition of the publication *Trip Generation*. Pass-by reduction will be applied, where appropriate. No mode split will be used other than what is contained in the trip generation rates.

Trip Distribution and Assignment

The approved distribution pattern approved for the 2009 study is proposed for use in this analysis (a copy of the original study is attached). Using the p.m. peak-hour trip generation and the trip distribution pattern, trips will be assigned to the study area roadway segments.

Existing Traffic

Existing traffic volumes will be obtained from the current Volusia Traffic Counts Spreadsheet. Appropriate K factors will be applied to the daily volumes to obtain Peak-hour two-way volumes. We will document the K factors used in the report. The adopted levels-of-service and capacities at the adopted LOS will be obtained from the City's Comprehensive Plan and the Volusia County Traffic Count Spreadsheet.

Future Year Traffic

Future traffic for both the existing and proposed land use scenarios will be determined by adding the proposed project trips associated with the existing FLUM designation and the proposed FLUM designation to the estimated future background volumes. Future background volumes will be determined using historical growth rates. Historical growth rates will be calculated for each of the study area roadway segments using FDOT's *Traffic Trends* software and the historic average annual daily traffic from the previous ten years. A minimum of 1% growth per year will be used.

Planned and Programmed Roadway Improvements

Roadway improvements included in the first three years of the adopted Capital Improvements Program of Volusia County and of surrounding municipalities within the study area will be assumed for the five-year (2018) analysis. Roadway improvements included in the adopted LRTP will be assumed in the horizon year (2025) analysis.

Segment Analysis

The impacts on the study area roadway segments for both the existing and proposed FLUM designations will be shown. If warranted, improvements will be identified for segments deficient in the five-year (2018) analysis and for the horizon year of the county's Comprehensive Plan (2025).

If you have any questions, please contact me at 386.257.2571.

Sincerely,

LASSITER TRANSPORTATION GROUP, INC.



R. Sans Lassiter, PE
President

c: Sheldon Rubin, Developer (swrubin@bellsouth.net)
Paul Momberger, RLA, Zev Cohen & Associates, Inc. (PMomberger@zevcohen.com)
James Stowers, Esq., Wright, Casey & Stowers, P.L. (jstowers@surfcoastlaw.com)



Via Email: (JCheney@co.volusia.fl.us)

Ref: 3861.01

June 17, 2013

Jon Cheney, PE
Volusia County Traffic Engineering
123 W. Indiana Avenue
DeLand, FL 32720

Re: **Pioneer Square – Response to CPA Traffic Analysis Methodology Comments**

Dear Mr. Cheney:

Lassiter Transportation Group, Inc. (LTG) is in receipt of comments from Volusia County, dated May 16, 2013, regarding the Proposed CPA Traffic Analysis Methodology for the Pioneer Square Project. The review comments are listed below with our responses to each comment in bold typeface.

Comment 1 Analysis Period, Planned and Programmed Roadway Improvements and Segment Analysis: Instead of the LRTP 2035 planning horizon, please analyze the future year to the 2025 timeframe, as that is the planning horizon of the county's comprehensive plan.

Response 1 The year 2025 will be analyzed as the out year.

Comment 2 Advisory: A 2-mile radius critical/near critical map is provided.

Response 2 Noted.

Comment 3 The methodology states that a copy of the original study is provided, yet the 2009 study was not attached. Please be sure to include the original study if reference is made to it in the TIA.

Response 3 Noted. The original study will be attached to the TIA, if referenced.

Comment 4 Existing Traffic: The adopted levels of service and capacities should be obtained from the appropriate local government's comprehensive plan.

Response 4 Noted. The adopted LOS will be obtained from the appropriate local government comprehensive plan.

Comment 5 Future Year Traffic: Historical growth rates should be calculated for each segment using either Traffic Trends software or those rates provided by the vTIMAS spreadsheet. The vTIMAS spreadsheet is attached. Please utilize the past 10 years (as opposed to 5 (Background Traffic Growth/Future Traffic section, bottom of page 6) in the determination of historical growth rates.

Response 5 The methodology for calculating future year traffic has been revised to only include calculated historical growth rates based on 10-year time frame using TRENDS software.

Comment 6 Advisory: Volusia County doesn't use vested trips for projecting future year traffic unless they are derived from a very large project or DRI. As such, growth rates are obtained by using those rates provided by the vTIMAS spreadsheet. The county will accept a minimum 1% growth per year, if able to be supported with documentation. Note that the vTIMAS is in the midst of being updated

Jon Cheney, PE
June 17, 2013
Page 2

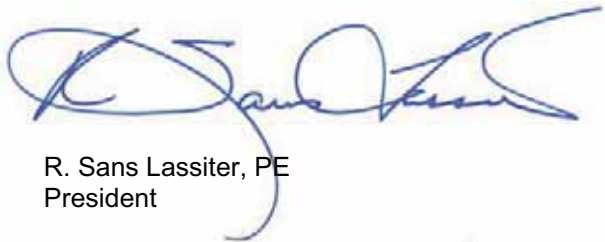
with 2012 counts along with the new 2012 FDOT LOS Handbook calculations; therefore, the vTIMAS spreadsheet will not reflect 2012 adopted levels of service.

Response 6 Noted, vested trips will not be included to project future year traffic.

If you have any additional questions regarding our responses as stated above, please feel free to contact me at (386) 257-2571.

Sincerely,

LASSITER TRANSPORTATION GROUP, INC.

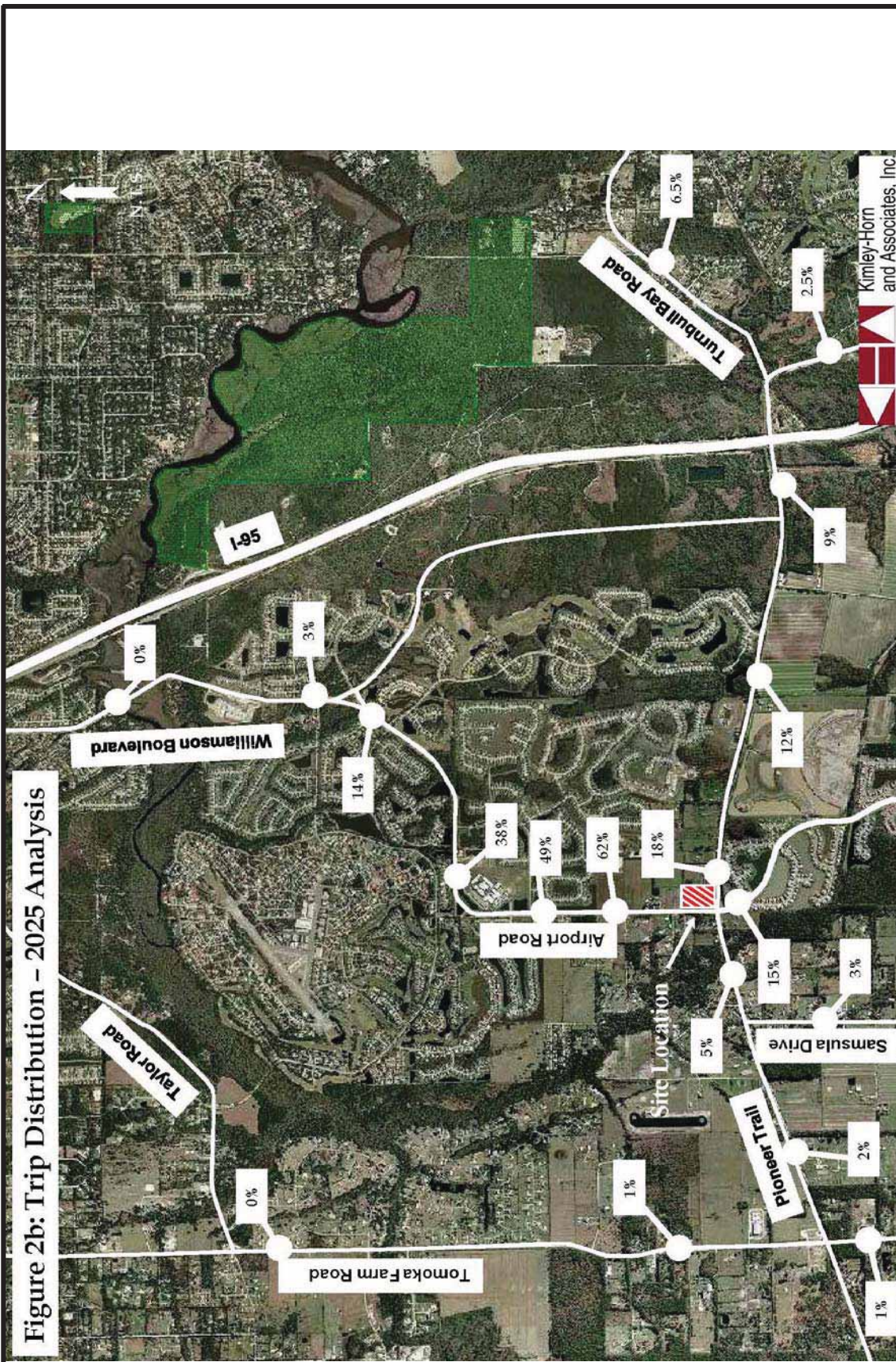
A handwritten signature in blue ink, appearing to read "R. Sans Lassiter", is positioned above the typed name and title.

R. Sans Lassiter, PE
President

c: Sheldon Rubin, Developer (swrubin@bellsouth.net)
 Paul Momberger, RLA, Zev Cohen & Associates, Inc. (PMomberger@zevcohen.com)
 James Stowers, Esq., Wright, Casey & Stowers, P.L. (jstowers@surfcoastlaw.com)

EXHIBIT B

2009 APPROVED TRIP DISTRIBUTION



**Pioneer Square -
CPA**

**Project Distribution
from Prior Study**

Project No.:3861.02

Exhibit : B

Lassiter Transportation Group, Inc.
Engineering and Planning

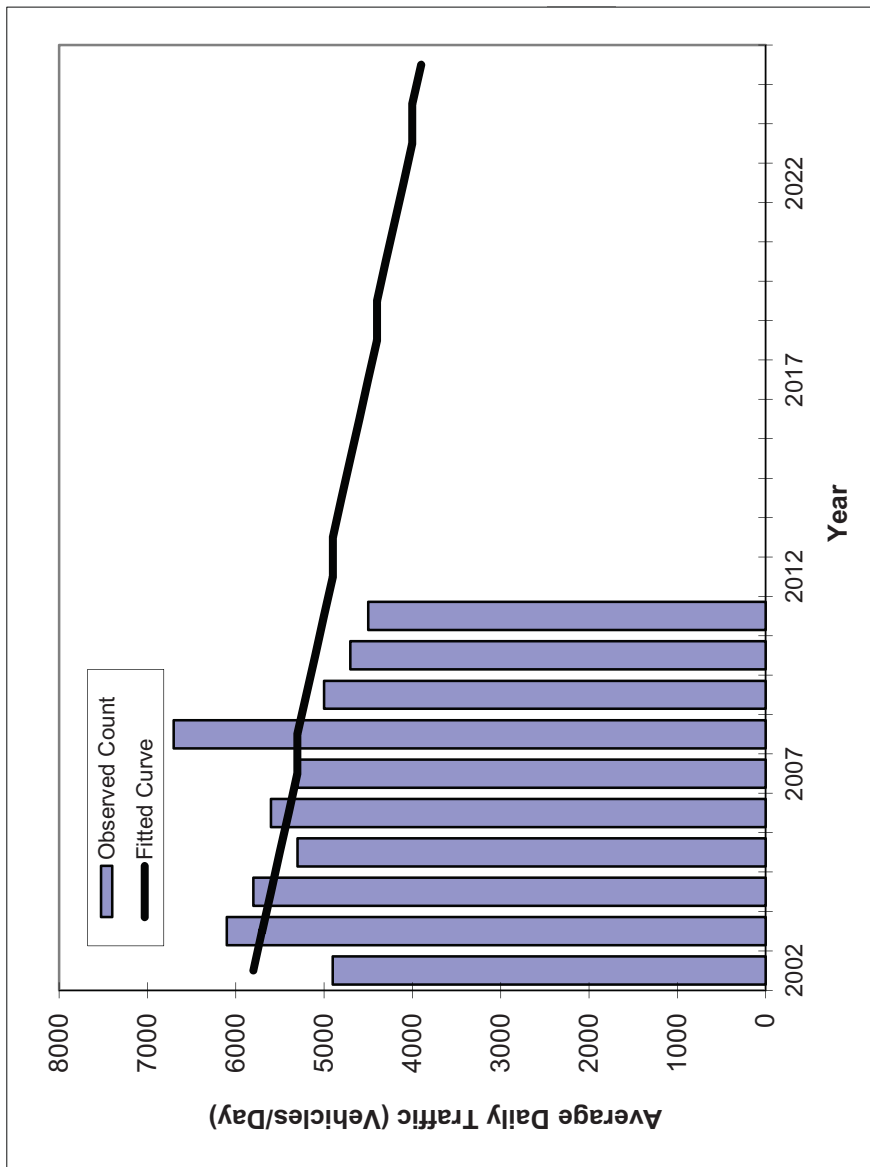
123 Live Oak Avenue – Daytona Beach, Florida 32114
Telephone: 386.257.2571 Fax: 386.257.6996 EB# 0009227

EXHIBIT C

TRENDS WORKSHEETS

TRAFFIC TRENDS **Tomoka Farms Rd -- SR 44 to Pioneer Trail**

County:	Volusia
Station #:	1840
Highway:	Tomoka Farms Rd



Year	Traffic (ADT/AADT)	
	Count*	Trend**
2002	4900	5800
2003	6100	5700
2004	5800	5600
2005	5300	5500
2006	5600	5400
2007	5300	5300
2008	6700	5300
2009	5000	5200
2010	4700	5100
2011	4500	5000
2016 Opening Year Trend		
2016	N/A	4600
2018 Mid-Year Trend		
2018	N/A	4400
2025 Design Year Trend		
2025	N/A	3900
TRANPLAN Forecasts/Trends		

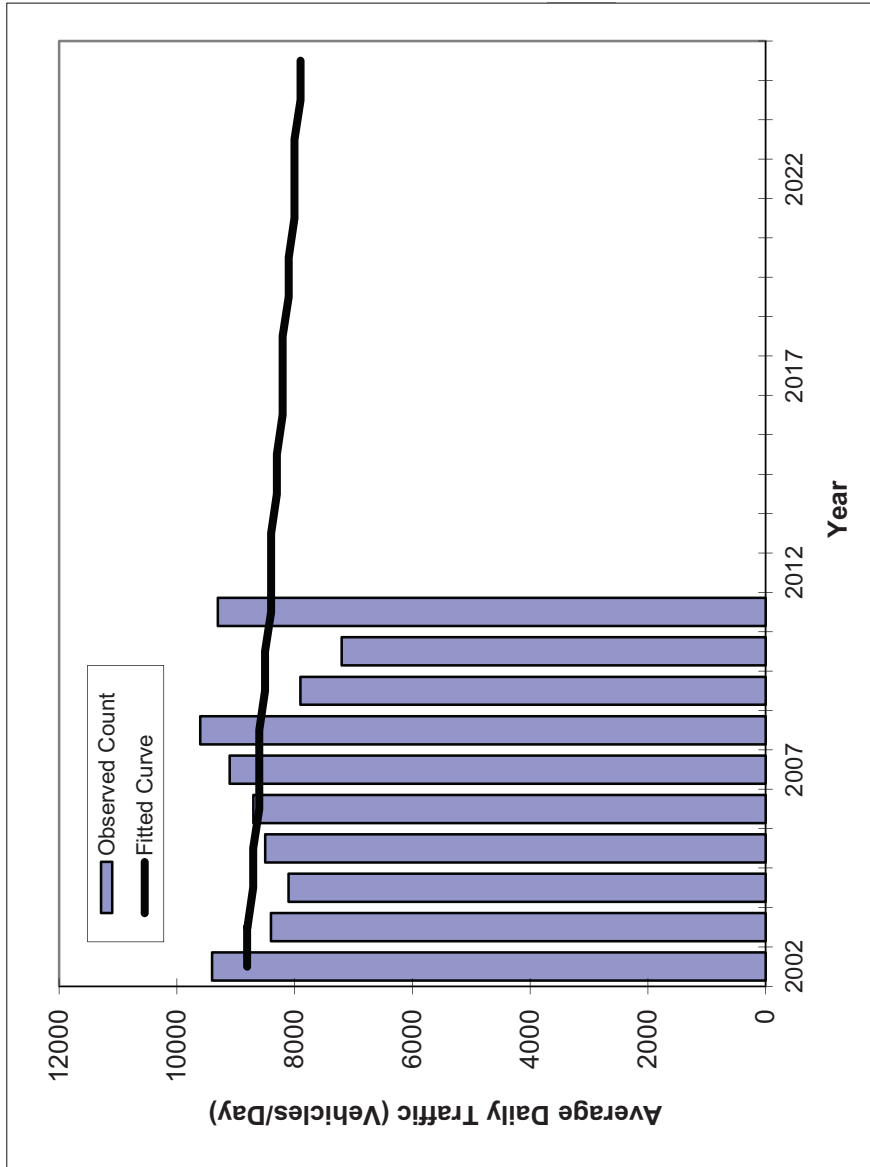
*Axle-Adjusted

** Annual Trend Increase:	-82
Trend R-squared:	13.4%
Trend Annual Historic Growth Rate:	-1.53%
Trend Growth Rate (2011 to Design Year):	-1.57%
Printed:	27-Jun-13
Straight Line Growth Option	

TRAFFIC TRENDS

Tomoka Farms Rd -- Pioneer Trail to Taylor Rd

County:	Volusia
Station #:	1843
Highway:	Tomoka Farms Rd



Year	Traffic (ADT/AADT)	
	Count*	Trend**
2002	9400	8800
2003	8400	8800
2004	8100	8700
2005	8500	8700
2006	8700	8600
2007	9100	8600
2008	9600	8600
2009	7900	8500
2010	7200	8500
2011	9300	8400
2016 Opening Year Trend		
2016	N/A	8200
2018 Mid-Year Trend		
2018	N/A	8200
2025 Design Year Trend		
2025	N/A	7900
TRANPLAN Forecasts/Trends		

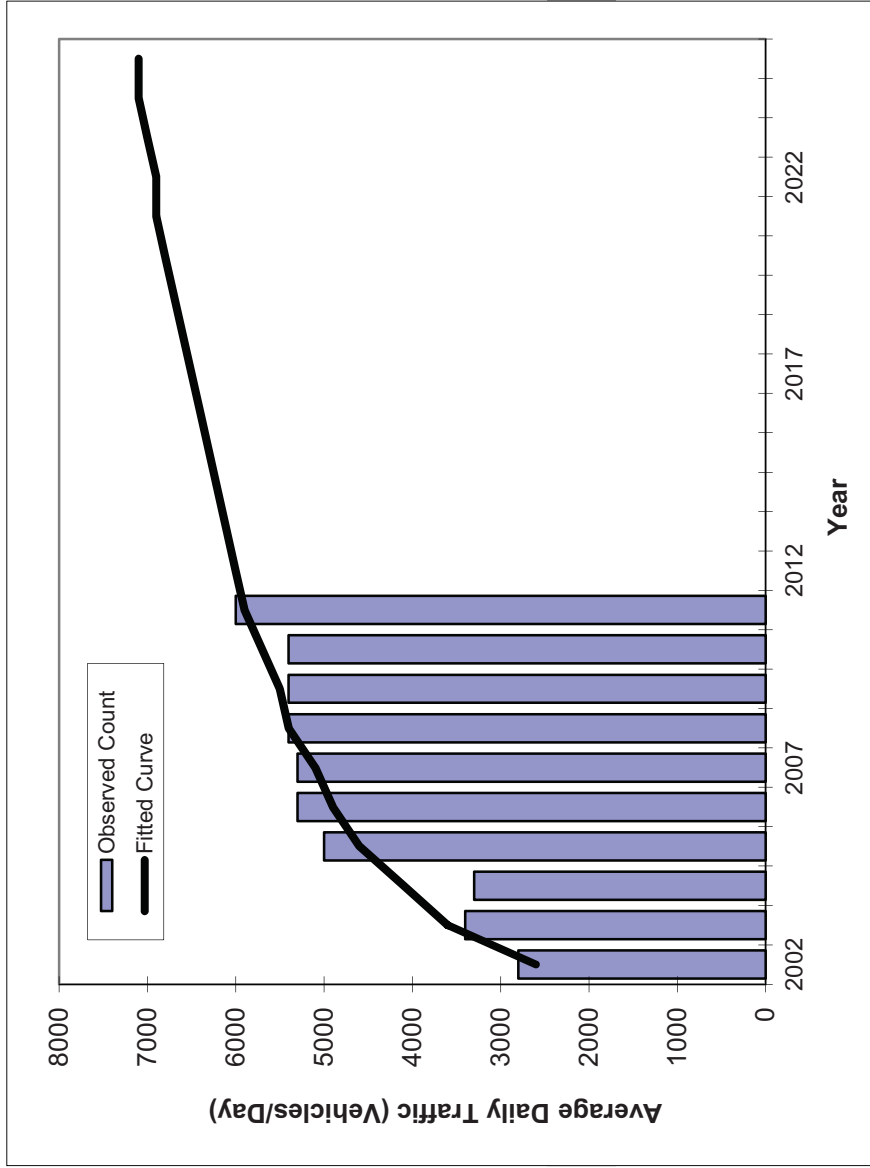
*Axle-Adjusted

** Annual Trend Increase:	-40
Trend R-squared:	2.6%
Trend Annual Historic Growth Rate:	-0.51%
Trend Growth Rate (2011 to Design Year):	-0.43%
Printed:	27-Jun-13
Straight Line Growth Option	

TRAFFIC TRENDS

Airport Rd -- Pioneer Trail to Williamson Blvd

County:	Volusia
Station #:	64
Highway:	Airport Rd



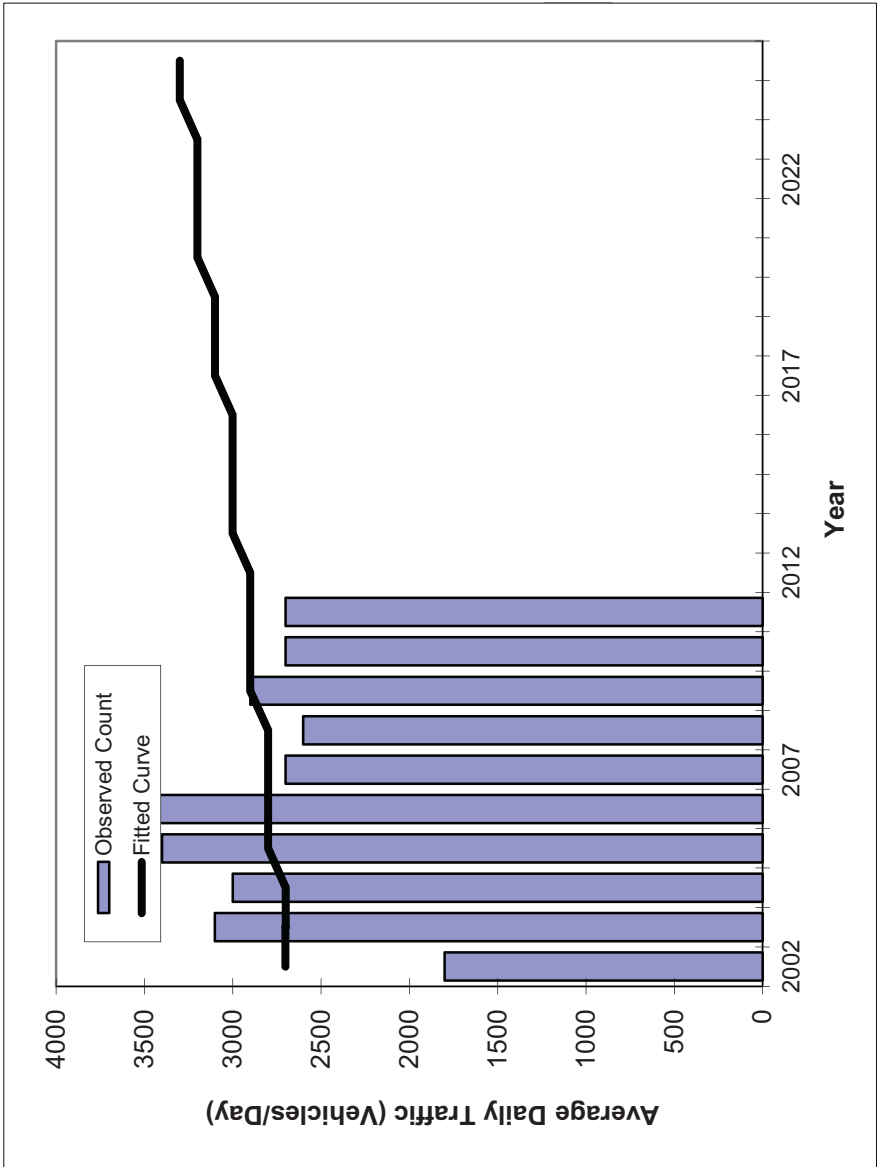
Year	Traffic (ADT/AADT)	
	Count*	Trend**
2002	2800	2600
2003	3400	3600
2004	3300	4100
2005	5000	4600
2006	5300	4900
2007	5300	5100
2008	5400	5400
2009	5400	5500
2010	5400	5700
2011	6000	5900
2016 Opening Year Trend		
2016	N/A	6400
2018 Mid-Year Trend		
2018	N/A	6600
2025 Design Year Trend		
2025	N/A	7100
TRANPLAN Forecasts/Trends		

*Axle-Adjusted

Trend R-squared:	88.1%
Compounded Annual Historic Growth Rate:	7.63%
Compounded Growth Rate (2011 to Design Year):	1.04%
Printed:	27-Jun-13
Decaying Exponential Growth Option	

TRAFFIC TRENDS
Pioneer Trail -- Airport Road to Turnbull Bay Road

County:	Volusia
Station #:	1465
Highway:	Pioneer Trail



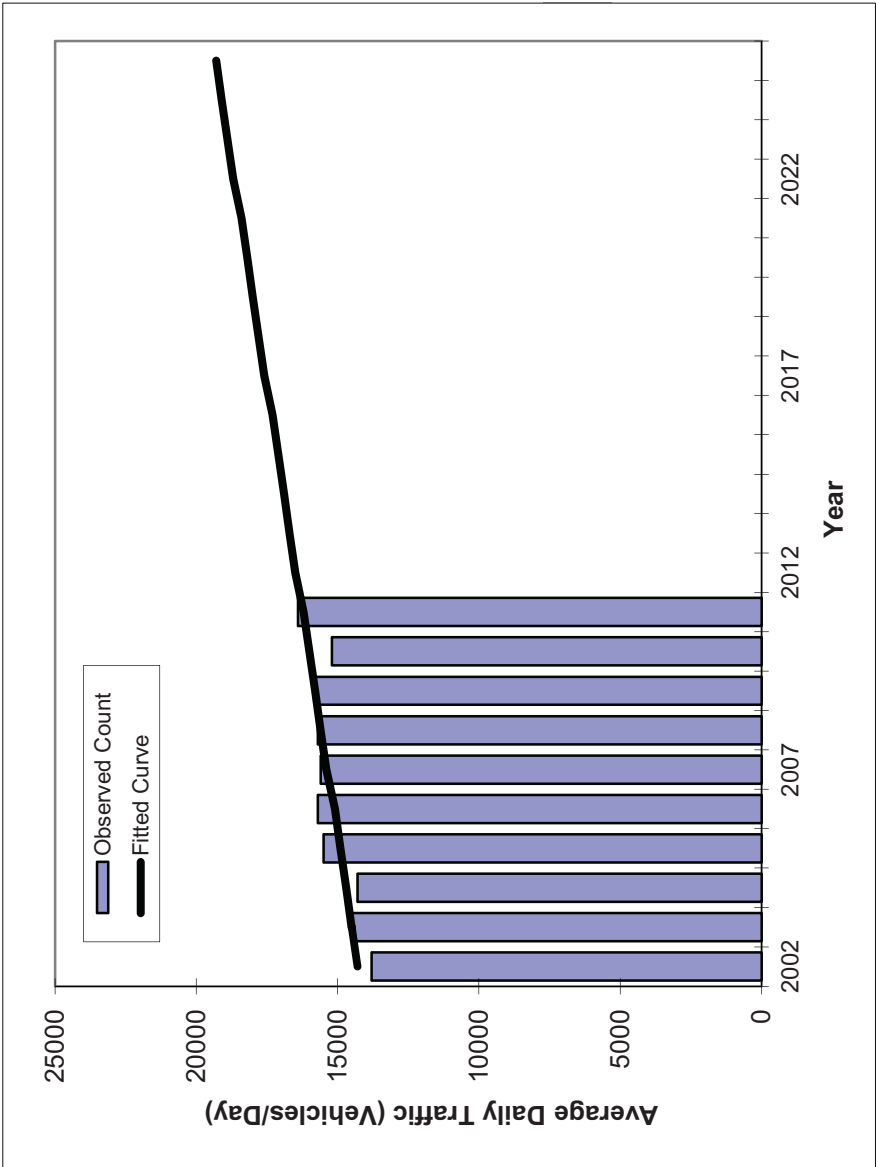
Year	Traffic (ADT/AADT)	
	Count*	Trend**
2002	1800	2700
2003	3100	2700
2004	3000	2700
2005	3400	2800
2006	3600	2800
2007	2700	2800
2008	2600	2800
2009	2900	2900
2010	2700	2900
2011	2700	2900
2016 Opening Year Trend		
2016	N/A	3000
2018 Mid-Year Trend		
2018	N/A	3100
2025 Design Year Trend		
2025	N/A	3300
TRANPLAN Forecasts/Trends		

*Axle-Adjusted

Trend R-squared:	1.9%
Compounded Annual Historic Growth Rate:	0.39%
Compounded Growth Rate (2011 to Design Year):	0.93%
Printed:	27-Jun-13
Exponential Growth Option	

TRAFFIC TRENDS
Williamson Blvd -- Airport Road to Spruce Creek Bridge

County:	Volusia
Station #:	65
Highway:	Williamson Blvd



Year	Traffic (ADT/AADT)	
	Count*	Trend**
2002	13800	14300
2003	14500	14500
2004	14300	14700
2005	15500	14900
2006	15700	15100
2007	15600	15400
2008	15700	15600
2009	15800	15800
2010	15200	16000
2011	16400	16200
2016 Opening Year Trend		
2016	N/A	17300
2018 Mid-Year Trend		
2018	N/A	17800
2025 Design Year Trend		
2025	N/A	19300
TRANPLAN Forecasts/Trends		

*Axle-Adjusted

** Annual Trend Increase:	220
Trend R-squared:	69.0%
Trend Annual Historic Growth Rate:	1.48%
Trend Growth Rate (2011 to Design Year):	1.37%
Printed:	27-Jun-13
Straight Line Growth Option	

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit O
Environmental Impact Analysis
(9 pages)

ENVIRONMENTAL SERVICES, INC.
124 N. Nova Road, PMB 129
Ormond Beach, FL 32174

Phone 386-566-2733 * Fax 866-633-5688

www.environmentalservicesinc.com

17 April 2013

Mr. Sheldon Rubin
Sheldon Rubin, Inc.
7120 Lions Head Lane
Boca Raton, Florida 33496

RE: Biological Site Assessment (Update of the 2008 Report)
Rubin/Pioneer and Airport
ESI Project Number EV08138.02

Dear Mr. Rubin:

Pursuant to your request, Environmental Services, Inc. (ESI) has updated the 2008 Biological Site Assessment for the above referenced property. A copy of our report is enclosed.

We appreciate the opportunity to assist you on this project, and we hope that the information provided in this report is useful in meeting your goals and objectives. Should you have questions or need additional information or services, please contact Jon Barmore or me.

Sincerely yours,

ENVIRONMENTAL SERVICES, INC.



Shannon R. Julien
Vice President/Senior Manager

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**BIOLOGICAL SITE ASSESSMENT
RUBIN/PIONEER AND AIRPORT
NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA
16 April 2013**

I. INTRODUCTION

On 16 April 2013, Environmental Services, Inc. (ESI) conducted a site-specific biological assessment of a site located on the northeast corner of Airport Road and Pioneer Trail, New Smyrna Beach, Volusia County, Florida (Figure 1). Our investigation was conducted to reestablish previous determinations regarding the nature and extent of jurisdictional wetlands pursuant to the current methodologies of the following agencies:

- Florida Department of Environmental Protection (FDEP). (Chapters 373 and 403, F.S.; and Chapter 62-340, F.A.C).
- St. Johns River Water Management District (SJRWMD). (Section 40C-4, F.A.C).
- U.S. Army Corps of Engineers (ACOE). (33 C.F.R. 320 through 330).

In addition, we re-reviewed the site for listed wildlife species. Our preliminary investigation included a review of the relevant maps for the area, including a United States Geological Survey (U.S.G.S.) topographic map (New Smyrna Beach Quadrangle 1993), a National Wetlands Inventory (NWI) map (New Smyrna Beach, FL 1983), the *Soil Survey of Volusia County, Florida* (U.S. Department of Agriculture, Soil Conservation Service, 1980), and aerial photographs of the project vicinity. This was followed by an on-site field review of the area within the boundaries of the property.

II. SITE DESCRIPTION

A. Location and Site Conditions

The project area is bordered on the north and east by agricultural land, on the west by Airport Road, and on the south by Pioneer Trail. More specifically, this property is located in Section 6, Township 17 South, Range 33 East, Volusia County, Florida. The parcel identification number is as follows: 06-14-33-01-00-0170.

B. Soils

The *Soil Survey of Volusia County, Florida*, indicates the presence of three soil types within the property (Figure 2). A description of each soil type, as mapped, is listed below.

1. Basinger Fine Sand, depressional (8). This poorly drained, nearly level sandy soil is mainly in depressions and in a few poorly defined drainage ways in the flatwoods and sandhills. Slopes are smooth to concave, and are mostly less than one-half percent but range from 0 to 2 percent. The water table is above the surface for several months in most years. The rest of the time it is within 30 inches except during very dry periods. The hydrology of this area has been altered by roadways and ditching and is not consistent with jurisdictional wetlands.

2. Pomona Fine Sand (49). This poorly drained, nearly level soil occurs in low, broad areas within the flatwoods. Slopes are smooth and range from 0 to 2 percent. The water table is within a depth of 10 inches for 1 to 3 months and within 40 inches for about 6 months during most years. There is low potential for community development due to excessive wetness. Alterations to the land have occurred over several decades. Ditching and alterations to hydrology in the area have allowed for this area to develop into largely into a live oak hammock.

3. Scoggin Sand (59). This very poorly drained soil is in swamps and in low places bordering swamps in the flatwoods. It is covered with standing water during the summer rainy season. It formed in loamy and sandy marine sediments, and has slopes that are nearly level to concave with gradients less than 1 percent. The water table is at or above the surface for as much as six months during most years. This soil type contains the one wetland located in the northeast corner of the property. However, the remaining area was converted into agricultural uses decades ago and while currently fallow, remains consistent with uplands.

C. Vegetation

Five land use types occur within the boundaries of the site (Figure 3). These communities were characterized using the *Florida Land Use, Cover and Forms Classification System* (FLUCFCS) (Florida Department of Transportation State Topographic Bureau Thematic Mapping Section Procedure No. 550-010-001-a) and are summarized below:

1. Residential, low density (FLUCFCS 110). There is a small, abandoned home site on the property. Most of the vegetation in this area is either ornamental or seeded from the adjacent Live Oak community (see below).

2. Other Open Lands <Rural> (FLUCFCS 260). The majority of the eastern portion of the site is uplands dominated by rural and/or agricultural lands whose intended use cannot be determined. In the years since this has been actively used, the land has begun to go fallow. This area is now covered in Bahia grass (*Paspalum notatum*). Other ground cover includes Caesar weed (*Urena lobata*), lantana (*Lantana camara*), sensitive briar (*Mimosa quadrivalvis* var. *floridana*), and dayflower (*Commelina* spp.).

3. Live Oak (FLCUFCS 427). The forested portion of the site is composed of live oak (*Quercus virginiana*), laurel oak (*Quercus laurifolia*), water oak (*Quercus nigra*), slash pine (*Pinus elliottii*), sycamore (*Platanus occidentalis*), red maple (*Acer rubrum*), American elm (*Ulmus americana*), Caesar weed, dog fennel (*Eupatorium capillifolium*), saw palmetto (*Serenoa repens*), broom grass (*Andropogon* spp.), beauty berry (*Callicarpa americana*), muscadine grape (*Vitis rotundifolia*), green briar (*Smilax* spp.), elderberry (*Sambucus canadensis*), poison ivy (*Toxicodendron radicans*), air potato (*Dioscorea bulbifera*), Virginia creeper (*Parthenocissus quinquefolia*), and lantana.

4. Ditch (FLUCFCS 510). There is a ditch/swale that runs along Airport Road, along the northern property boundary, and intrudes halfway into the site from the western property boundary in the center of the site. This ditch had no water in it and contained no wetland vegetation.

5. Wetland Forested Mix (FLCUFCS 630). A small portion of a wetland that extends off-site to the east is located in the northeast corner of the site. The vegetation consists of slash pine, water oak, laurel oak, bald cypress (*Taxodium distichum*), red maple, sugarberry (*Celtis laevigata*), cabbage palm (*Sabal palmetto*), and saw palmetto.

III. ENDANGERED AND THREATENED SPECIES

Observations were made based upon habitat types and the knowledge of the ranges and habitats of endangered and threatened species occurring in Volusia County. The Florida Fish and Wildlife Conservation Commission's (FWC) Bald Eagle Nest Locator online search engine was used. No documented bald eagle nests are located within 1 mile of the project area. With regards to listed or regulated wildlife species, the review of the project site resulted in the determination that the property does provide suitable habitat for threatened, endangered, and/or species of special concern. However, no listed species, or evidence of such species was observed on the site during any of the site visits conducted over the last 4 years. It must be noted that protected wading birds may utilize the on-site wetland and/or swales for feeding/foraging. However, none of these protected birds were observed during our investigations.

IV. FEMA FLOOD ZONE

The FEMA (Federal Emergency Management Administration) web site was searched for known flood zones or other hazards for the property. The property is located in zone X, which is outside of the 100 year flood zone

V. TREES

A tree removal permit will be required from Volusia County for the removal of any protected tree, excluding non-native trees listed on the exempt list section 50-169(a)(6). A tree is defined as any woody self-supporting plant characterized by having a single trunk of at least six inches diameter at breast height (DBH) or multi-stem trunk system with well-developed crown at least 15 feet high as measured from its base. Diameter at breast height is defined as the trunk diameter of a tree measured 4 1/2 feet above the average ground level at the base of the tree. However, if the tree forks 4 1/2 feet above ground level, it is measured below the swell resulting from the double stem. Stems that fork below 4 1/2 feet above ground level should be considered separate trees. The site did contain protected trees. A specimen tree is defined as the following species of trees with the minimum specified diameter at breast height:

Common Name	Botanical Name	DBH
Turkey oak	<i>Quercus laevis</i>	12 inches and larger
Other oak species	<i>Quercus</i> spp.	18 inches and larger
Sweet gum	<i>Liquidambar styraciflua</i>	18 inches and larger
Hickory	<i>Carya</i> spp.	18 inches and larger
Elm	<i>Ulmus</i> spp.	18 inches and larger
Loblolly bay	<i>Gordonia lasianthus</i>	12 inches and larger
Sweet bay	<i>Magnolia virginiana</i>	12 inches and larger
Real bay	<i>Persea borbonia</i>	12 inches and larger
Swamp bay	<i>Persea palustris</i>	12 inches and larger
Sycamore	<i>Platanus occidentalis</i>	18 inches and larger
Magnolia	<i>Magnolia grandiflora</i>	12 inches and larger
Bald Cypress	<i>Taxodium distichum</i>	18 inches and larger
Red Cedar	<i>Juniperus silicicola</i>	12 inches and larger

Specimen trees must be preserved on the site as follows:

Number of specimen tree per acre	On site protection required
Less than 3 per acre or a portion thereof	80 percent of all specimen trees
3.0 to 5.0 per acre	65 percent of all specimen trees
5.1 to 8.0 per acre	50 percent of all specimen trees
8.0 or more per acre	4 specimen trees per acre

A historic tree is defined as any live oak or bald cypress 36 inches DBH or greater or any other tree which is 36 inches DBH or greater and is determined by the local governing body to be of such unique and intrinsic value to the general public because of its size, age, historic association, or ecological value as to justify this classification. Any tree in this county selected and duly

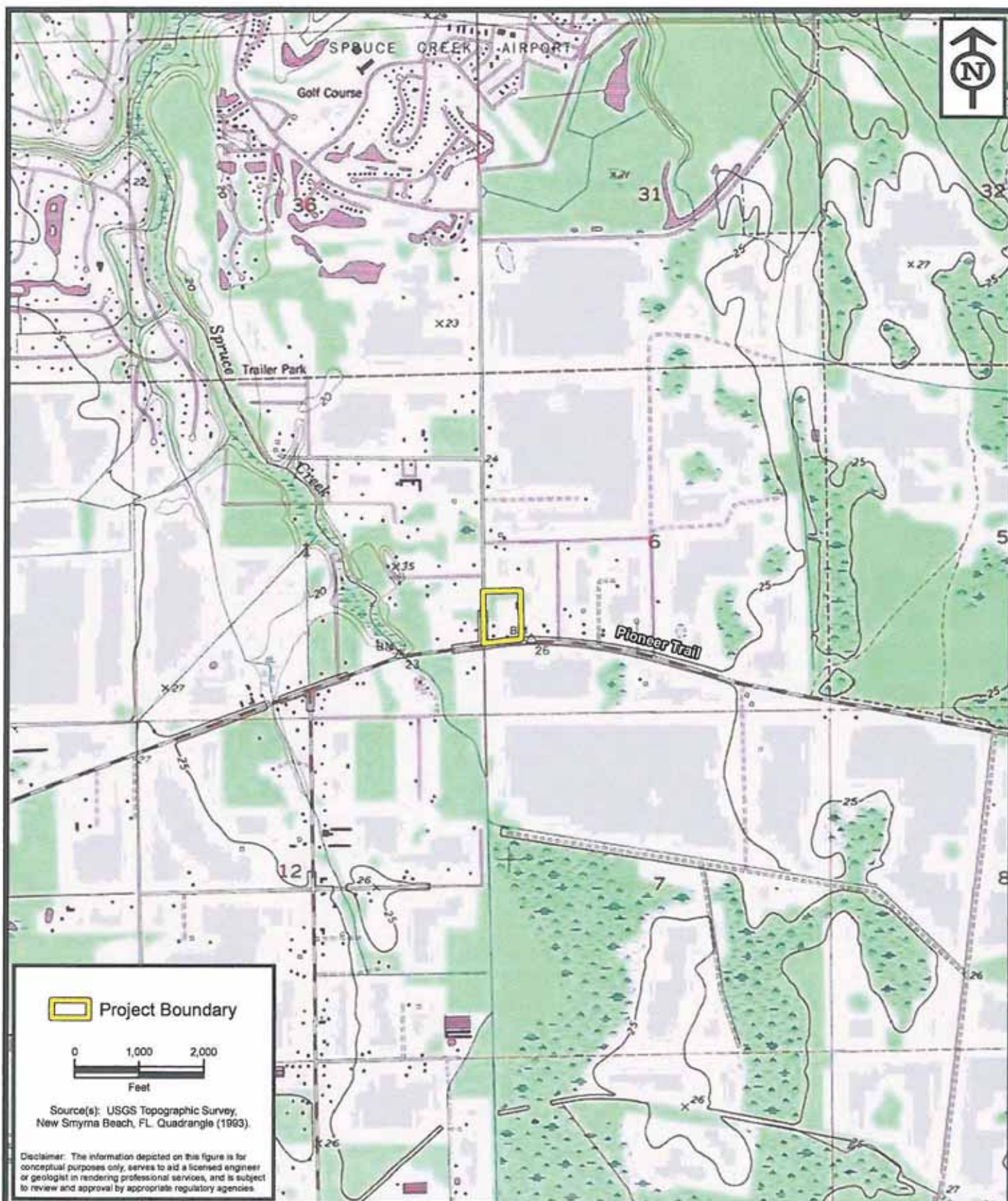
designated a Florida State Champion, United States Champion or a World Champion by the American Forestry Association shall likewise be within this definition.

A tree may be exempt from permitting if it is determined to be deteriorated, degenerated or damaged to the point where the death of the tree is imminent or to the point where the tree poses a significant hazard. This assessment must be verified by the County forester. Deteriorated trees which have been removed with prior approval of the County forester, are exempt from the provisions of this article. The removal of a historic tree will require approval from the County Council.

Based on current evaluations, the central portion of the live oak community (in the western section of the site) has been inundated with air potato which is considered an invasive species. Air potato was observed growing into the tree canopy.

VI. CONCLUSION

Due to the location of the site and the past land use, the site appears suitable for development/redevelopment. This site contains wetlands and protected trees that will need to be addressed in local permitting. If impacts to either of these resources are required, permits and mitigation consistent with the Land Development Code will be required. In addition, if wetland impacts are to occur, a permit from St. Johns River Water Management District will also be required. The site is located outside of the known flood plain and is not located within a special basin. Impacts to protected species will be minimal given that no protected species have been observed within the project limits and wetland habitats are plentiful in the area. In sum, the redevelopment of this site will have minimal to moderate impacts on natural resources, mainly wetlands and protected trees, both of which can be addressed through avoidance and minimization in combination with permitting and mitigation.



**ENVIRONMENTAL
SERVICES, INC.**

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(904) 824-5494

www.environmentalservicesinc.com

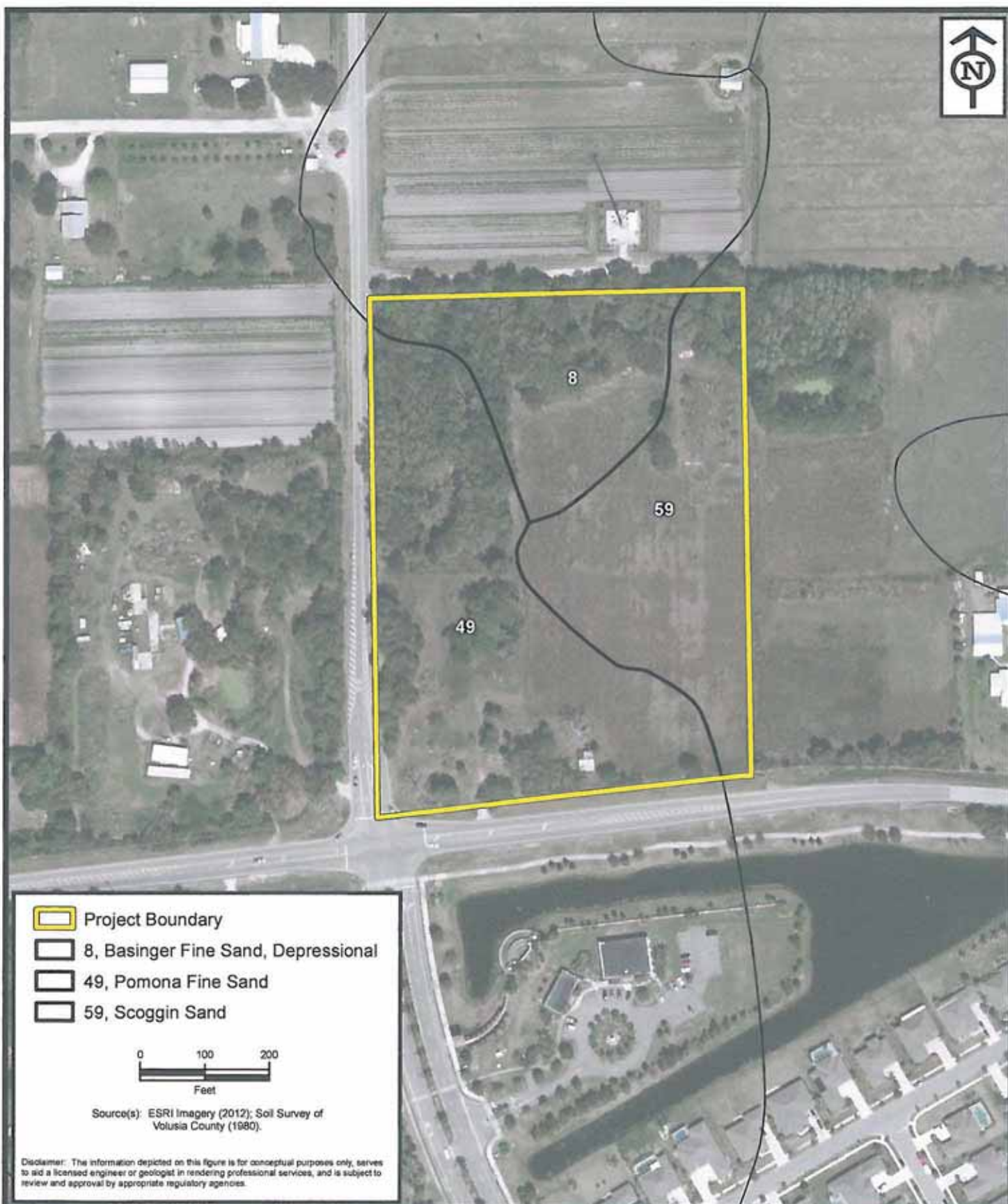
Project Location
Pioneer/Airport
Volusia County, Florida

Project: EV08138.02

Date: Apr 2013

Drwn/Chkd: JGB/SRJ

Figure: 1



**ENVIRONMENTAL
SERVICES, INC.**

2600 North Fifth Street, Suite 302
St Augustine, Florida 32084
(904) 824-5494

www.environmentalservicesinc.com

NRCS Soil Survey
Pioneer/Airport
Volusia County, Florida

Project: EV08138.02

Date: Apr 2013

Drwn/Chkd: JGB/SRJ

Figure: 2



**ENVIRONMENTAL
SERVICES, INC.**

2800 North Fifth Street, Suite 302
St Augustine, Florida 32084
(904) 824-5494

www.environmentalservicesinc.com

Existing Site Conditions
Pioneer/Airport
Volusia County, Florida

Project: EV08138.02

Date: Apr 2013

Drwn/Chkd: JGB/SRJ

Figure: 3

RR FARMS, LLC

PIONEER SQUARE

Small-Scale Comprehensive Plan
Amendment Application

Exhibit P
Letter of Capacity Availability
(5 pages)



CITY OF PORT ORANGE

1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA 32129
TELEPHONE 386-506-5500
FAX 386-756-5290
www.Port-Orange.org

RE: 9.637 Acres at NE Corner of Pioneer Trail and Airport Road. Volusia County
Tax ID: 06-17-33-01-00-0170
Proposed 75,000 SF Commercial Building (Various Uses)
Anticipated Potable Water Demand of 7,500 GPD

Dear Mr. Stowers:

Per your request by e-mail dated May 29, 2013, the below information is provided with regard to the above referenced property.

R. Dwayne Huffman Reclaimed Water Plant Facility ID No. FL 0020559

Plant Design Capacity	12.0 MGD
Existing Flow Commitments Against DEP Sewer Plant Permit	7.074 MGD

I hereby confirm that the above data is correct; and that currently, the wastewater treatment plant has available capacity to serve the referenced 75,000 SF commercial project.

 DATE: 6/13/13
Fred Griffith, P.E.
Public Utilities Engineer



St. Johns River Water Management District Potable Water Availability Worksheet

This worksheet is for use by local governments submitting comprehensive plan amendments to determine the availability of potable water resources to serve proposed development. Instructions and St. Johns River Water Management District (SJRWMD) staff contact information are attached.

1. General Information

Date: May 31, 2013 Project: Pioneer Square/Parcel ID: 06-17-33-01-00-0170
 Contact name: Fred Griffith E-mail: fgriffith@port-orange.org
 Local government: City of Port Orange
 Potable water supplier: City of Port Orange

2. Infrastructure Information

Water treatment plant permit number: 3641044 Permitting agency: FDEP
 Permitted capacity of the water treatment plant(s): 15 million gallons a day (mgd)
 Total design capacity of the water treatment plant(s): 15 mgd
 Are distribution lines available to serve the property? Yes ☒ No ☐
 If not, indicate how and when the lines will be provided: _____
 Are reuse distribution lines available to serve the property? Yes ☐ No ☒
 If not, indicate if, how and when the lines will be provided: Reuse will not be provided to this property

3. SJRWMD Consumptive Use Permit (CUP) Information

CUP number: 8595 Expiration date: 6/1/22
 Total CUP duration (years): 20
 CUP allocation in last year of permit: 8.97 MGD (annual average)
 Current status of CUP: In compliance ☒ Not in compliance ☐
 Allocations to other local governments: Ponce Inlet as a whole sale customer; Daytona Beach Shores & Volusia County are partially served as retail customers; No specific water usage amount has been recorded or agreed for these local governments
 Reserved capacity: Total committed capacity built and unbuilt is 6.961 MGD - based on 38,673 total ELUs (483 unbuilt) at 180 GPD/ELU

4. Consumptive Use Analysis

Designate mgd ☒ or mgy ☐

A. Current year CUP allocation: 8.13
 B. Consumption in the previous calendar year: 6.32

9/2/03

C. Reserved capacity ☐ or growth projection ☒ (check the one used): 0.18
 D. Projected consumption by proposed comprehensive plan amendment areas 0.01
 E. Amount available for all other future uses (A - B - C - D = E): 1.62

If the amount in E is zero or a negative number, explain how potable water will be made available for future uses: Please note for "C" - the growth projection is based a historical growth rate of 0.15 MGD - 0.18 MGD calculated from monthly operating reports data (MORs, DEP form 17.1.122 (40)) of the City's Garnsey Water Plant.

This worksheet is available electronically at http://www.sjrwmd.com/programs/outreach/local_gov/

Worksheet Contacts



Zone 1: Alachua, Baker, Bradford, Clay, Duval, Flagler, Marion, Nassau, Putnam, and St. Johns counties:

Geoffrey Sample

Home office: Palatka headquarters
Office mailing address: 4049 Reid Street, Palatka, FL 32177
Office telephone numbers: (386) 329-4436, Suncom 860-4436
Office fax number: (386) 329-4103
Office e-mail address: gsample@sjrwmd.com

Zone 2: Brevard, Indian River, Lake, Okeechobee, Orange, Osceola, Seminole, and Volusia counties:

Peter Brown

Home office: Palatka headquarters
Office mailing address: 4049 Reid Street, Palatka, FL 32177
Office telephone numbers: (386) 329-4311, Suncom 860-4311
Office fax number: (386) 329-4103
Office e-mail address: pbrown@sjrwmd.com

Worksheet Instructions

1. General Information

Date: Enter worksheet completion date.

Contact name: Enter the contact information for the person who prepared the worksheet.

Local government: Enter your city or county.

Potable water supplier: If there are different suppliers for any proposed amendment areas, use additional work sheets.

2. Infrastructure Information

Permitted capacity of the water treatment plant: Obtain from the utility.

Distribution lines: Indicate if distribution lines are available to serve the property. If not available, indicate who will fund the improvements and when the improvements will be completed.

Reuse distribution lines: Indicate if reuse distribution lines are available to serve the property. If not available, indicate if they will be provided. If the lines are to be provided, indicate who will fund the improvements and when the improvements will be completed.

3. SJRWMD Consumptive Use Permit (CUP) Information

CUP information: Obtain from the utility.

Allocations to other local governments: If the supplier provides water to other local governments, enter the names of the other local governments and the supply allocation for each.

Reserved capacity: Enter the amount of potable water capacity currently encumbered for developments that are approved but not yet constructed. This could be the amount reserved under your concurrency management system, but may include other encumbrances.

4. Consumptive Use Analysis

Designate mgd or mgy: Indicate which unit of measure is used. The figures may be cited in units of either million gallons per year (mgy) or million gallons per day (mgd), but you must be consistent throughout the worksheet.

- A. Current-year CUP allocation: Provide the annual groundwater withdrawal allowed under the SJRWMD-issued CUP for the current calendar year. If you receive water from another local government, enter the allocation established by agreement or by the secondary user CUP issued by SJRWMD. It is important to consider the duration of the CUP and the CUP allocation in the last year of permit. If your CUP allocation is less in the final-year than in the current year, consider using the final year figure as a more conservative approach for planning purposes.
- B. Consumption in the previous calendar year: This figure may be taken from the EN-50 forms (SJRWMD), from FDEP monthly operating reports, or from other acceptable documentation. Cite your source.
- C. Reserved capacity or growth projection: Enter an amount based on your reserved capacity or growth projection. Check which alternative you selected. Attach the calculation for the alternative selected.

Reserved capacity: Enter the amount of potable water capacity currently encumbered for developments that are approved but not yet constructed. This could be the amount reserved under your concurrency management system, but may include other encumbrances. If your supplier provides water to other local governments, add the amount of the previous year's allocation that was not used.

Growth projection: Enter the water use attributable to this year's growth and cite your data source(s). Sources for growth projections include the comprehensive land use plan, the CUP, the most current SJRWMD water supply assessment, or the utility's water supply plan. If your supplier provides water to other local governments, include the amount of the previous year's allocation that was not used.

- D. Projected consumption: Attach a description of formulas, including figures and assumptions, used to derive this figure. This worksheet may be used to analyze individual amendments or multiple amendments. If using a single worksheet for multiple amendments, include the projected consumption for all amendments. If using more than one worksheet, provide a separate summary sheet with the cumulative total for all worksheets. The projected consumption should be based on new growth attributable to the proposed amendment. If the proposed change is due to annexation, it is presumed to be new growth unless there are data and analysis that identify the annexation as existing development or as part of the growth projection entered on line C. If the annexation is presumed to be new growth, the projected consumption should be calculated based on the maximum development potential of the amendment area. If the proposed change is not due to annexation or is due to an annexation determined to be accounted for in the growth projection, calculate the difference in projected consumption based on the difference between the maximum development potential under the current designation and the proposed designation.
- E. Amount available for all other future uses: This line automatically calculates the amount available for all other future uses by subtracting lines B, C and D from A. If the amount in line E is zero or a negative number, explain how potable water will be made available for future development. For example a reuse system may be coming on-line that will reduce per capita consumption of potable water.

ATTACHMENT E

RR FARMS, LLC

PIONEER SQUARE

Technical Review Staff Comments
Response Letter
2013-O-TRS-0131, RSN 762886
(Small Scale Map Amendment)

Prepared by
JAMES STOWERS, Esq.
Wright, Casey & Stowers, P.L.
44A West Granada Boulevard
Ormond Beach, FL 32174

Contents:

- (1) Title Sheet & Cover Letter
- (2) Pioneer Square FLU Map Text Amendments (redline)
- (3) Pioneer Square FLU Map Text Amendments

WRIGHT, CASEY & STOWERS, P.L.
ATTORNEYS AT LAW
www.surfcoastlaw.com

JAMES STOWERS
Direct Dial: (386) 310-4197
Email: jstowers@surfcoastlaw.com

Please Reply To:
Ormond Beach Office
PO Box 2517
Ormond Beach, FL 32175-2517

August 22, 2013

VIA HAND DELIVERY

Volusia County
Planning and Development Services
Comprehensive Planning
123 West Indiana Avenue, Room 200
Deland, FL 32720-4604

Re: Pioneer Square – Small Scale Map Amendment – 2013-O-TRS-0131, RSN 762886
Responses to Technical Review Staff Comments (July 31, 2013)

Dear Ms. McGee:

As you know, Wright, Casey & Stowers is privileged to represent RR Farms, LLC in their application for a small-scale amendment to the Volusia County Comprehensive Plan and concurrent rezoning request to the Business Planned Unit Development zoning category related to their property at 3585 Pioneer Trail, New Smyrna Beach, Florida (the "Property"). Following our application submittals in June, we had our Technical Review Committee (TRC) meeting with County staff on July 31, 2013. This letter will provide a comprehensive response to the Technical Review Staff Comments we received on July 30, 2013 and subsequently discussed with County staff on July 31, 2013.

For ease of reference, this letter will provide the technical review staff comments with responses directly beneath each. In order to reduce redundancies and limit the size of the response package, we have elected not to include those comments that simply provided that there was "no comment" or items that simply conveyed a statement (i.e., Potable water to be supplied by Port Orange Utility).

City of New Smyrna Beach – Planning

City of New Smyrna Beach Planning staff has reviewed the requested submittal. The following comments are offered only as suggestions to enhance the project, which is immediately adjacent to the City's Venetian Bay project:

- 1. The maximum permitted density in Venetian Bay is 1.5 dwelling units per acre.***

Response: The baseline density provided for the overall Venetian Bay project is 1.5 du/ac, but the project's development agreement contemplates a variety of "bonus" housing units that may be secured in both the Village Center (VC) and Village Urban

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Neighborhood (VUN) sub-districts (these two sub-districts are obligated to comprise 60% of the Venetian Bay development). The minimum densities for the VC and VUN sub-districts are 4.0 du/ac and 2.7 du/ac respectively. Accordingly, the actual planned residential density for the majority of Venetian Bay falls somewhere between 1.5 du/ac and the du/ac minimums provided above (4.0 and 2.7).

2. Staff encourages the expanded use of trails and/or sidewalks throughout the project to provide enhanced connectivity between the project and residents of the nearby Venetian Bay and Waters Edge subdivisions.

Response: We agree with this comment and have revised our Preliminary Plan to provide for a wider sidewalk (8 feet wide) in order to better accommodate pedestrians and bicycles. The pedestrian trail is configured in a manner to allow it to meander among the existing specimen and historic trees in the area. Additionally, the trail will provide pedestrian and bicycle access and connections between the project's primary grocery store structure and the outparcel site. This will encourage safe pedestrian movements for visitors to Pioneer Square that reduce conflicts between pedestrians and automobiles.

3. Staff encourages the use of an architectural style that will be compatible in scale and features, with the Venetian Bay project and other surrounding residential projects located within Port Orange.

Response: We are providing more detailed architectural style information in the BPUD. The architectural styles and materials will be high quality in nature and consistent with the quality of other projects in the area.

Current Planning

Current Planning staff has reviewed the requested submittal and provides the following comments:

1. The application is complete and the future land use amendment is under review. It will be scheduled for a public hearing simultaneously with the associated BPUD.

Response: We look forward to moving the future land use amendment and BPUD rezoning forward to the public hearing stage.

2. There is a map annotation associated with the amendment that indicates a 35-foot buffer along Pioneer Trail. There is a 50-foot FPL easement along Pioneer Trail. Clarify where the buffer is to be measured from.

Response: In the rezoning application (2013-O-TRS-0132), Public Works stated that the additional 27-foot right-of-way is needed along the southerly boundary line abutting Pioneer Trail. The Preliminary Plan has been updated to clearly depict the 50-foot FPL easement, 27-foot future right-of-way dedication area, and 50-foot landscape buffer. The

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proposed landscape buffer along Pioneer Trail is intended to support project compatibility based on current off-site conditions. Currently, the portion of Pioneer Trail abutting the proposed project is classified as a thoroughfare collector roadway. As a 2-lane road that is not currently in the County's 5-year road program for widening, we believe the 27-foot future right-of-way area will only be impacted once Pioneer Trail is slated for widening to a 4-lane roadway. At such point that Pioneer Trail has transitioned to a 4-lane roadway, the remaining 23-foot landscape buffer on the north side of the currently proposed project will provide a buffer consistent with the future off-site conditions. Accordingly, we have amended our Development Agreement to provide a 23-foot setback, not to include the existing FPL easement. Additionally, we have amended the map annotations included in this application to provide the same language.

3. **Connection to utilities requires County Council approval in accordance with the 2005 Settlement Agreement between the City of Port Orange and Volusia County.**

Response: We agree that Section 8 of the 2005 Settlement Agreement states that, "*The City shall not make any connections to the Phase II water main without the County's prior written consent for so long as those areas are incorporated.*"

Land Development

Land Development staff has reviewed the requested submittal and provides the following comments:

1. **The subject parcel consists of two platted lots, except the right-of-way for Airport Road. The subject lots will need to be combined with submission of a subdivision exemption application. If the lands proposed for development are to be platted, a subdivision exemption application will not be required.**

Response: The Pioneer Square BPUD provides that the project will consist of two lots. A lot line shift or subdivision will be processed concurrent with a Subdivision Preliminary Plat Development Order of Final Site Plan application process.

Public Works – Road Impact

Road Impact staff has reviewed the requested submittal and provides the following comments:

1. **Additional right-of-way is needed along the southerly boundary line abutting Pioneer Trail. The standard is a total of 120 feet of right-of-way for a future urban 4-lane section. The original Pioneer Trail right-of-way is 33 feet on each side of centerline. Venetian Bay donated an additional 27-foot on the southerly side of Pioneer Trail to achieve half (60 feet) of the required 120 feet total. The requirement for this development is 27-foot donation along the southerly boundary line abutting Pioneer Trail.**

WRIGHT, CASEY & STOWERS, P.L.
ATTORNEYS AT LAW
www.surfcoastlaw.com

Response: The 27-foot future right-of-way dedication will be provided with site plan approval and has been depicted on the revised Preliminary Plan.

Sincerely,



James Stowers, Esquire
Direct Dial: (386) 310-4197
Email: jstowers@surfcoastlaw.com
44A West Granada Boulevard
Ormond Beach, FL 32174

cc: Sheldon Rubin, RR Farms, LLC
Gregory J. Oravec, Oravec and Company
Paul Momberger, RLA, Zev Cohen & Associates, Inc.

Amendment to Figure 1-11 A. Future Land Use Map/Plan Notations

The following map notations are added to this figure:

Map Notation	Parcel Numbers or Legal Description	Acres	Adopted FLU Designation	Restriction	Ordinance
(Number to be assigned upon the effective date of the amendment.)	<u>06-17-33-01-00-0170</u>	<u>9.637</u>	<u>Commercial</u>	<p><u>Commercial uses shall not exceed 75,000 square feet.</u></p> <p><u>The property shall include the following minimum landscape buffers:</u></p> <p><u>Adjacent to Airport Road – 35 feet</u> <u>Adjacent to Pioneer Trail – 23 feet,</u> <u>not to include the existing FPL easement</u> <u>East property boundary – 20 feet</u> <u>North property boundary – 20 feet</u></p>	<u>2013-XX</u>

ATTACHMENT F

INTER-OFFICE MEMORANDUM



TO: Susan Jackson, AICP, Planner III

DATE: September 6, 2013

THRU: Jon Cheney, P.E., Traffic Engineer

FROM: Melissa Winsett, Transportation Planner *MW*

SUBJECT: Pioneer Square BPUD/Rezoning Transportation Analysis

Background:

Lassiter Transportation Group was retained to complete the Pioneer Square Business Planned Unit Development (BPUD) Rezoning application transportation impact analysis (TIA) on behalf of the applicant, James Stowers, Esq. of Wright, Casey & Stowers. The TIA was found acceptable by Volusia County Traffic Engineering.

The subject property consists of 9.63 acres and is located on the northeast quadrant of the Airport Road/Pioneer Trail intersection. The applicant requests a change in zoning from Prime Agriculture (A-1) to Business Planned Unit Development (BPUD). Approval of the BPUD would facilitate the development of a 75,000 square foot shopping center named "Pioneer Square." Anticipated buildout is in the year 2017.

Overview:

Based on information provided in the TIA, if the BPUD were approved and developed, development trips would impact narrow roadway widths and roadway segments that lack required right-of-way. Additionally, right and left turn lanes would be required at both site driveways, and any improvements necessary to address substandard conditions could trigger potential stormwater issues. For additional information on traffic impacts to the area's road network, please refer to the TIA document contained in the application.

Trip Generation

Under the existing zoning category one single-family dwelling unit is allowed, which generates 1 p.m. peak-hour trip and 10 trips daily. If the BPUD were approved, a 75,000 square foot shopping center is estimated to generate a total of 374* p.m. peak-hour and 5,634 daily trips. The net trip increase would be an additional 5,624 daily trips and 373 P.M. peak-hour trips generated from the site.

Zoning Category	Net External Trips – Daily	Net External Trips – P.M. Peak-hour Trips
Adopted Zoning (A-1)	10	1
Proposed Zoning (BPUD)	5,634	381*

*Includes allowable pass-by reduction to account for traffic already on the road today that will use the commercial site. The pass-by reduction was only applied to the P.M. peak-hour trips and *not* the daily trips.

Analysis

The following roadways and intersections, which were determined as significantly impacted based upon the Volusia TPO's TIA Guidelines, were included in the study area:

- Airport Road (Pioneer Trail to Williamson Blvd)
- Pioneer Trail (Airport Road to Turnbull Bay Rd)
- Pioneer Trail/Airport Rd intersection
- Airport Rd/Williamson Blvd intersection
- Airport Rd site driveway
- Pioneer Trail site driveway

Roadway	Limits	Adopted LOS	Capacity (2-way Peak Hr)	Current Volume (2-way Peak Hour)	PM Peak Hr Project Trips	2017 Buildout Traffic	Exceeds Capacity?
Airport Rd	Williamson Blvd to Pioneer Trail	E	2,990	540	191	769	No
Pioneer Tr	Airport Rd to Turnbull Bay Rd	E	1,120	245	103	442	No
Pioneer Tr	Williamson Blvd to Turnbull Bay Rd	E	1,440	271	34	324	No
Williamson Blvd	Pioneer Tr to Airport Rd	E	3,222	1,571	2	1,616	No
Williamson Blvd	Airport Rd to Spruce Creek Bridge	E	3,222	1,636	11	1,804	No

As shown above, the additional traffic generated by the BPUD will not cause or further impact any deficient roadway segments; therefore, there are no needed capacity improvements to the existing roadway network necessary to handle the traffic proposed to be generated from the rezoning site. All roadways are proposed to operate at the adopted level of service.

If the BPUD were developed, the unsignalized intersection of Pioneer Trail and Airport Road will operate at the adopted level of service. Additionally, the signalized intersection of Airport Road and Williamson Blvd would operate at the adopted level of service.

If the site were to be developed, based on information provided, right turn lanes and left turn lanes would be required at both site driveways. Also additional right-of-way would be needed to address the intersection offset at Airport Road/Pioneer Trail.

Other information:

The following information is provided for consideration of the application's potential impact.

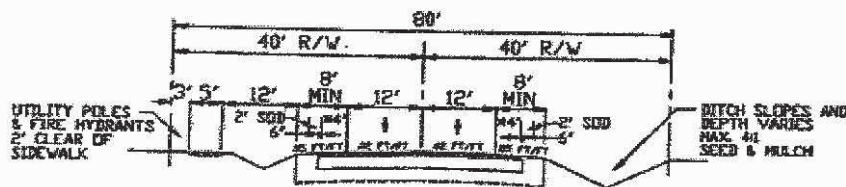
Pavement Width Issues: An assessment of Pioneer Trail and Airport Road travel lane widths and shoulder widths was made through a detailed field inspection during the week of July 1, 2013. The assessment found the following road segments were not built to thoroughfare or FDOT standards (11 or 12 foot travel lanes with 4' paved shoulders):

Pioneer Trail Locations	Lane Width, centerline to centerline	Substandard*?
East of SR 44	Two 11'11" lanes, 1' paved shoulders	Yes
@ Pioneer Way	10'11" & 11'5" lanes, no paved shoulders	Yes
West of CR 415	9'4" & 9'9" lanes, no paved shoulders	Yes
West of CR 415 @ intersection	9'5" & 9'7" lanes, 1' paved shoulders	Yes
East of CR 415 @ intersection	9'10" & 9'7" lanes, 1' paved shoulders	Yes
West of Airport Rd	12'4" & 12'2" lanes, approx 4' shoulders	No
West of Airport Rd @ intersection	12'6" & 11'8" lanes, 4-5' paved shoulders	No
East of Airport Rd @ intersection	12'2" & 12'5" lanes, 4-5' paved shoulders	No
East of Airport Rd	9'9" & 9'6" lanes, no paved shoulders	Yes
East of Luna Bella @ intersection	12' & 11'8" lanes, 4'3" paved shoulders	No
East of Luna Bella	Two 9'6" lanes	Yes
@ I-95 overpass	11'1" & 11'9" lanes, 5'3" paved shoulders	No
@ Turnbull Bay Rd**	10'5" & 11' lanes, no paved shoulders	No**

Airport Rd Locations	Pavement Width, centerlane to centerlane	Substandard*?
Through Venetian Bay	Two 11'6" lanes, 5' paved shoulders	No
North of Pioneer Trail	Two 11'6" lanes, no paved shoulders	Yes

**Pioneer Trail Curve improvement project, Construction FY 12/13, Currently adopted Volusia County Road Program

*The FDOT Standard requires 11' travel lanes and the Land Development Code requires 12' travel lanes. See below from the Volusia County Code of Ordinances, Chapter 72, section 72-612 Streets:



TWO-LANE RURAL COLLECTOR

Right of Way Issues: Pioneer Trail is considered a two-lane rural collector which, according to the Volusia County Code of Ordinances, Chapter 72, section 72-612 Streets, should have a total right-of-way width of 80 feet. Since the application's location is at the intersection, intersection improvements may be needed in the future, warranting the need for four or five lanes (travel lanes and turn lanes) or the standard 120 feet. Currently, the right-of-way width is 66 feet, making it substandard. When Venetian Bay was developed, developers donated 27 feet on the south side of Pioneer Trail to provide half of the 54 feet necessary to bring the road's right-of-way up to standard. Like Venetian Bay, an additional 27 feet on the north side will be needed.

Pavement condition issues: Pavement conditions in the land use amendment's area vary from poor to very good. Notably, Pioneer Trail, adjacent to the site, has poor/fair pavement conditions.

Road	Limits	Pavement Condition
CR 415	SR 44 to Taylor Rd	Very Good
CR 415	North of Taylor Rd	Poor
Airport Rd	SR 44 to Williamson Blvd	Good*
Pioneer Trail	Airport Rd to Turnbull Bay Rd	Poor/Fair
Pioneer Trail	Airport Rd to SR 44	Fair
Williamson Blvd	Airport Rd to Spruce Creek	Very Good

*Exception: Between Spruce Creek Fly-In and Water's Edge, Poor Condition. Scheduled for repaving in 2013; therefore, the improvement is funded.

Stormwater issues: The subject land use amendment is close to Spruce Creek, and outstanding Florida water. The county has significant drainage canals and roadside drainage that discharge into the Spruce Creek basin. Potential development should be reviewed to ensure that no adverse impacts to Spruce Creek and the county's upstream drainage facilities occur.

Conclusions:

- If approved, the BPUD would not have an adverse road capacity impact on any significantly impacted roadway segments or intersections.
- If approved and developed, the BPUD's development trips would impact narrow roadway widths, poor roadway pavement conditions, roadway segments that lack required right-way, and potential stormwater issues.

If you would like to discuss this further or need additional information, please contact me at 386-736-5968 x 12322.

CC: Becky Mendez, Senior Planning Manager

ATTACHMENT G

Policy 1.1.1.4 Central water and sewer are neither intended nor required for areas designated with non-urban land use categories. Extension of central sewer into non-urban areas must be consistent with the provisions of the Sanitary Sewer Sub-element. Extension of central water into non-urban areas must be consistent with the provisions of the Potable Water Sub-element.

Objective 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 that have urban Future Land Use Map categories.

Policy 1.1.3.2 Future urban development requiring access or connection to public facilities shall be located within designated urban areas.

Policy 1.1.3.7 New "strip" commercial uses shall be discouraged by permitting "infill" of existing developed commercial strips rather than creating new "strip" commercial, or designating new concentrated or nodal commercial centers on the Future Land Use Map. Infill of "strip" commercial development may be permitted as provided in the Highway Commercial Section under the Land Use Location Guidelines. In addition, commercial development along arterials must meet the requirements of the Land Development Code Section on Access to Thoroughfare Corridors.

Policy 1.1.3.8 In order to help prevent new strip commercial development from occurring, new site plans or subdivisions shall not be designed with out parcels or subsequent phases that lead to the creation of narrow strips of land adjacent to roadways.

Policy 1.1.3.10 New commercial development outside of commercially designated areas on the Future Land Use Map should be limited in scale and intensity in order to be compatible with the surrounding area. In predominantly residential areas, compatibility will be judged in relation to the type of use, landscaping, building size, setbacks, and traffic patterns.

Policy 1.1.3.11 In order to protect Volusia County's valuable natural resources, new development shall be encouraged toward infilling existing urbanized areas.

Policy 1.2.2.18 In implementing the Future Land Use Element, the County shall maintain regulations to ensure to the maximum extent feasible, compatibility of use between properties, including but not limited to such factors as traffic circulation, air quality and odor control, noise control, lighting and aesthetics.

Policy 1.3.1.13 The size, location and function of shopping centers and other commercial uses should be related and central to the population and market area they serve.

Policy 1.3.1.15 Granting of commercial or other non-residential zoning or amending the Future Land Use category by the County is not necessarily warranted on a given property by virtue of nearby or adjacent roadway construction or expansion, or by its location at the intersection of two roadways or alongside an arterial.

Policy 1.3.1.28 The Future Land Use Map shall not be amended to provide additional urban expansion except in conjunction with the required EAR update of the Comprehensive Plan and Capital Improvements Program (CIP) except under the following conditions:

- a. Population projections have been revised, and accepted by DCA;

ATTACHMENT G

- b. Justification is provided for the expansion of the urban boundary;
- c. Compatibility within the character of the area;
- d. Availability of the full range of all urban services, including adequate potable water supply and facilities, to accommodate inclusion in an urban area; and
- e. Documentation is provided that urban expansion will not be in conflict with the intent of the Natural Resource Management Area.

Goal 1.4 Ensure that agricultural and silvicultural lands are protected from encroachment by incompatible land uses and remain a vital element of the County's economy.

Policy 1.4.1.1 Urban growth shall be directed away from designated agricultural areas.

Policy 1.4.1.2 Volusia County shall protect Agricultural and Forestry Resource areas from encroachment of non-agricultural activities.

Policy 1.4.1.3 In agricultural areas, Volusia County shall prevent the intrusion of incompatible land uses such as urban density residential and non-agricultural oriented commercial and preclude the provision of urban services while encouraging and supporting programs which enhance the agricultural environment.

Policy SAM 1.11.2.3 Land use in the vicinity of the Samsula Community should not have an adverse effect on the existing character of the community.

Policy SAM 1.11.3.3 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 Samsula Rural Community and the intent of this plan.

Transportation Element

Objective 2.1.2 Volusia County shall coordinate the transportation system with the Future Land Use Element to ensure compatibility between land use and the thoroughfare system necessary to support it.

Sanitary Sewer Sub-element

Policy 6.1.5.6 The duties and responsibilities which flow from an interlocal agreement previously entered into between the County and a municipality shall prevail over subsequent amendments to the Comprehensive Plan until and unless such interlocal agreement is renegotiated as deemed appropriate by the County and a municipality.

Potable Water Sub-element

Policy 7.1.8.7 The duties and responsibilities which flow from an interlocal agreement previously entered into between the County and a municipality shall prevail over subsequent amendments to the Comprehensive Plan until and unless such interlocal agreement is renegotiated as deemed appropriate by the County and a municipality.

Intergovernmental Coordination Element

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Goal 14.1 Volusia County shall initiate and/or participate in the intergovernmental coordination mechanisms necessary to ensure consistency among local, county and regional government plans and policies and to resolve any conflicts that may arise.

Policy 14.1.1.4 Volusia County shall continue to coordinate with adjacent local governments to ensure consistency in land planning for those lands adjacent to an incorporated area or an adjacent county.

Objective 14.1.2 Volusia County shall negotiate interlocal agreements coordinating land and planning development activities to allow for orderly growth and facilitate the efficient provision of government services and facilities. The County shall coordinate with those State, regional or local entities having operation and maintenance responsibility for public facilities when establishing level of service standards. The interlocal agreements may include, but not be limited to, the following topics:

- * Land Use
- * Transportation
- * Recreation
- * Utility Services including water supply
- * Conservation
- * Housing
- * Libraries
- * Schools
- * Development Activity
- * Annexation

Definitions

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"SHOPPING CENTERS" - Are characterized by a unified design which seeks to group commercial uses served by common parking areas, limit ingress and egress, provide uniform signage and landscaping, and to develop the center according to a consistent design theme. Due to market changes in recent years, a single large building may perform the same function as a shopping center. A shopping center's specific characteristics vary according to the major tenant and overall size and can be categorized as follows:

1. **Super Regional Center**

The general characteristics of Super Regional Shopping Centers are described by the following standards:

Typical Site Area	100 acres or more
Gross Leasable Area (GLA)	1,000,000 sq. ft. or more
Uses	Retail, office, service (4 or more anchor tenants)
Market Area	Unlimited

2. **Regional Shopping Center**

The general characteristics of Regional Shopping Centers are described by the following standards:

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Typical Site Area	30-50 acres or more
Gross Leasable Area (GLA)	300,000-1,000,000 sq. ft.
Uses	Retail, service (at least 1 anchor tenant)
Market Area Radius	45 minute drive

3. Community Shopping Center

The general characteristics of Community Shopping Centers are described by the following standards:

Typical Site Area	10-25 acres
Gross Leasable Area (GLA)	100,000 to 300,000 sq. ft.
Uses	Discount or junior department store, supermarket
Market Area Radius	10 minute drive

4. Neighborhood Shopping Center

The general characteristics of neighborhood shopping centers are to serve a population between 2,000 to 40,000 with convenience goods and personal services. These uses are typically located within the Commercial land use category but may be allowed within the UHI designation. A neighborhood shopping center is represented by the following standards:

Typical Site Area	Up to 10 acres
Gross Leasable Area (GLA)	30,000 to 100,000 sq. ft.
Uses	Supermarket; Stores providing convenience goods and personal

services for the day-to-day needs of the immediate neighborhood.

Market Area Radius	5 minute drive
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The next two types of commercial areas may be applicable to the UHI, UMI, ULI or LIU designations. These areas may not be specifically designated on the Future Land Use Map due to their small size. Higher intensive commercial uses should be constructed in areas designated for Commercial.

5. Neighborhood Business Area

A neighborhood business area is located on an arterial or collector street, providing convenience goods and services for residents of the surrounding area. The major characteristic of the neighborhood business area is its scale. It does not contain any large stores designed to serve several neighborhoods.

Typical Site Area	Not Applicable
Gross Leasable	50,000 sq. ft. (No one use to exceed 15,000 sq. ft.)

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Uses	Convenience goods & services, and specialty stores.
Market Area Radius	Less than 5 minute drive

6. Neighborhood Convenience

The general characteristics of Neighborhood Convenience are represented by the following standards:

Typical Site Area	2 acres
Gross Leasable Area (GLA)	3,000 to 8,500 sq. ft. (max) (No one use to exceed 5,000 sq. ft.)
Uses	Convenience store, dry cleaning, video store
Market Area Radius	1 mile