

ORDINANCE 2011-10

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE VOLUSIA COUNTY COMPREHENSIVE PLAN ORDINANCE NO. 90-10 AS PREVIOUSLY AMENDED BY ADOPTING REMEDIAL AMENDMENTS IN ACCORDANCE WITH THE COMPLIANCE AGREEMENT IN THE MATTER OF DEPARTMENT OF COMMUNITY AFFAIRS V. VOLUSIA COUNTY (DOAH CASE NO. 10-2419GM); BY AMENDING CERTAIN POLICIES OF THE FARMTON LOCAL PLAN; BY AMENDING APPENDIX 1 MAPS AND FIGURES BY AMENDING THE FARMTON LOCAL PLAN-FUTURE LAND USE MAP FIGURE 1-12N, BY ADDING MANDATORY RESOURCE BASED OPEN SPACE AS A LAND USE AND EXPANDING THE SOUTHWEST WILDLIFE CORRIDOR; BY ADDING FIGURE 2-10 FARMTON LOCAL PLAN SPINE TRANSPORTATION NETWORK TO THE TRANSPORTATION MAP SERIES; BY AUTHORIZING INCLUSION IN THE VOLUSIA COUNTY COMPREHENSIVE PLAN; BY PROVIDING FOR SEVERABILITY; BY PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on February 18, 2010, the county council adopted comprehensive plan amendment 09-2-10 Farmton Local Plan by Ordinance No. 2009-34 as part of comprehensive plan cycle 10-1 also referred to as cycle 09-2;

WHEREAS, on April 12, 2010, the Florida Department of Community Affairs ("Department") issued a Statement of Intent to Find Comprehensive Plan Amendments Not In Compliance; and

WHEREAS, on May 4, 2010, the Department filed a Petition for Formal Administrative Hearing against the County of Volusia which challenged the Farmton Local Plan, to wit: *Department of Community Affairs v. County of Volusia* (State of Florida Division of Administrative Hearings, Case No. 10-2419GM); and

1 **WHEREAS**, on March 17, 2011, the county council approved a Stipulated
2 Settlement Agreement that requires certain Farmton Local Plan policies and maps be
3 amended and added, and supplemental water resource data and analysis be submitted
4 as support documents to the plan amendment.

5
6 **NOW THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF**
7 **VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:**

8
9 The Volusia County Comprehensive Plan, Ordinance 90-10, as previously
10 amended, is further amended:

11
12 **SECTION I:** Chapter 1 Future Land Use Element, Farmton Local Plan, Policies
13 FG 2.4, FG 2.5, FG 2.18, FG 4.14, FG 4.15, FG 4.18, FG 4.20, FG 4.21, FG 5.7,
14 FG 5.8, FG 5.16, and FG 8.1, are hereby amended as presented in Exhibit "A," attached
15 hereto, and made a part hereof.

16 **SECTION II:** Appendix I Maps and Figures is hereby amended by amending
17 Figure 1-12N Farmton Local Plan-Future Land Use Map as presented in Exhibit "B,"
18 attached hereto and made a part hereof, to include new land use of Mandatory
19 Resource Based Open Space and by expanding the Southwest Wildlife Corridor to
20 include additional lands.

21 **SECTION III:** Appendix I Maps and Figures is hereby amended by adding the
22 "Farmton Local Plan Spine Transportation Network" as a new Figure 2-10 to the
23 transportation map series. Said Figure 2-10 is appended hereto as Exhibit "C," and
24 made a part hereof.

25 **SECTION III: SEVERABILITY.** Should any section or provision of this Ordinance,
26 or application of any provision of this Ordinance, be declared to be unconstitutional,

1 invalid, or inconsistent with the Volusia County Comprehensive Plan, such declaration
2 shall not affect the validity of the remainder of this Ordinance.

3 **SECTION III: EFFECTIVE DATE.** A certified copy of this ordinance shall be
4 transmitted to the Department of Community Affairs filed with the Department of State
5 by the County Manager within ten (10) days after enactment and this ordinance shall
6 take effect when the Florida Department of Community Affairs or the Administration
7 Commission issues a final order determining this ordinance to be in compliance with
8 Chapter 163, Florida Statutes, or upon the date of issuance of a certificate of
9 consistency or conditional certificate of consistency by the Volusia Growth Management
10 Commission, whichever is later.

11 **ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN**
12 **OPEN MEETING DULY ASSEMBLED IN THE COUNTY COUNCIL CHAMBERS AT**
13 **THE THOMAS C. KELLY ADMINISTRATION CENTER, 123 WEST INDIANA**
14 **AVENUE, DELAND, FLORIDA, THIS 7th DAY OF APRIL A.D., 2011.**

15
16
17
18
19 ATTEST:

20
21
22
23
24 James T. Dinneen, County Manager

COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

Frank T. Bruno, Jr., County Chair

EXHIBIT A

FG 2.4 Resource Based Open Space. Resource Based Open Space shall be designed within Sustainable Development Area districts to protect and enhance environmental systems. Resource Based Open Space shall not include parcels identified for development (including, but not limited to individual yards), active open space, or civic open space. Resource Based Open Space lands may include areas set aside for ecological preservation, enhancement and restoration, nature trails, conservation education programs, observation decks and similar facilities including lakes used for detention and retention of surface water. ~~Resources~~ Resource Based Open Space may include, flood plains, wetlands, mitigation areas, vegetative buffers, specialized habitat for flora or fauna, passive recreation areas, and water resource development areas, and shall be designated during the development review process. All such lands shall be subject to a conservation management plan, as set forth in FG 2.10 and FG 2.11, and protected in perpetuity by conservation easements. At least 25% of each the SDA districts as a whole shall be Resource Based Open Space and the Mandatory Resource Based Open Space shall be included in the calculation of the 25% requirement. Resource Based Open Space shall have a public access plan for trails, boardwalks, and environmental education areas, for passive recreational use where appropriate and shall be consistent with the conservation management plan. Lands designated on Map Figure 1-12N as Mandatory Resource Based Open Space shall not be subject to the public access and shall be subject to the Black Bear Management Plan as set forth in FG 2.5b.

FG 2.5 Southwest Wildlife Corridor. The Southwest Wildlife Corridor is indicated on the Farmton Local Plan map in black cross hatch on the Farmton Local Plan – Future Land Use Map Figure 1-12N. This area includes portions of the GreenKey land and Mandatory Resource Based Open Space located within the SDA. These lands combined create an undulating corridor that is approximately one mile in width. Lands within the Southwest Wildlife Corridor shall be managed consistent with a forestry management plan designed to provide prescribed fire, promote dense understory vegetation such as palmetto, and encouragement of uneven-age management techniques and consistent with the black bear management plan to remain in a primarily natural state. Within the Mandatory Resource Based Open Space portions of the Southwest Wildlife Corridor lands shall be managed to protect wildlife habitat through conservation, enhancement and restoration. These Mandatory Resource Based Open Space portions of the Southwest Wildlife Corridor may include wetlands, flood plains, mitigation areas, vegetative buffers, and specialized habitat for flora or fauna which shall qualify as the minimum 25% requirement set forth in FG 2.4. Within the Southwest Wildlife Corridor the following additional policies shall apply:

- a. **Deep Creek Conservation Area.** Within the Southwest Wildlife Corridor is a special management area called the Deep Creek Conservation Area as depicted on the Farmton Local Plan - Future Land Use Map Figure 1-12N. The Deep Creek Conservation Area shall be subject to a site specific conservation management plan with the highest level of natural resource protection within the Farmton Local Plan. The Deep Creek Conservation Area shall be managed subject to the Mitigation Bank Permit and Forestry Stewardship Plan. Within the Deep Creek Conservation Area harvesting within wetlands shall be prohibited except as part

of an approved restoration plan and wetlands shall be protected with a 300 foot buffer. Controlled upland access by canoe or kayak to Deep Creek shall be an allowed passive recreation use. Other passive recreational uses may be allowed by permit (as granted by the Community Stewardship Organization established in FG 2.16), consistent with the management plan, and designed to have limited impacts on the resource. Boardwalks and viewing platforms may be allowed within the Deep Creek Conservation area if permitted by SJRWMD. Protection of areas surrounding Bald Eagle nests shall be subject to National Bald Eagle Management Guidelines established by United States Fish and Wildlife Service (USFWS).

b. Black Bear Management. The conservation management plan within the Southwest Wildlife Corridor shall specifically address habitat requirements of the Florida Black Bear. ~~The plan shall have a forest management plan designed to provide prescribed fire, promote dense understory vegetation such as palmetto, and encouragement of uneven age management techniques.~~ The black bear management plan shall be developed in consultation with the Florida Fish and Wildlife Conservation Commission consistent with their Black Bear Habitat Management Guidelines and best available science.

FG 2.18 Transportation Policies and Natural Resource Protection.

- a.** The Spine Network as it traverses GreenKey lands shall be designed to avoid and minimize conflicts between motor vehicles and the movement of wildlife. Tools to minimize this conflict include, but are not limited to location criteria, landscaping techniques, fencing, speed limits, wildlife underpasses or overpasses, bridging, and elevating roadways. Transportation corridors shall be designed to avoid the areas permitted for mitigation banking.
- b.** As Maytown Road and Arterial A are improved as required by the Farnton Local Plan to accommodate the long term regional transportation needs of the area they shall be designed consistent with the following additional design guidelines:

 - 1. Promotes “parkway” look with appropriate natural buffer between the roadways and the adjacent areas;
 - 2. Minimizes any impacts to habitat and species conserving habitat connectivity by innovative measures;
 - 3. Follows, where feasible, existing road alignments through environmentally sensitive areas although alignments may be re-aligned to provide for greater public safety or natural resource protection;
 - 4. At a minimum, the road design will mitigate for adverse impacts or maintain the existing habitat connectivity levels for wildlife afforded by the current road and traffic levels to the maximum extent practicable under the best available science as determined by FWCC.

c. The design of Maytown Road and Arterial A as required by the Farnton Local Plan should include the following criteria for features and construction:

1. Consideration of re-alignment of the existing right of way in locations which would reduce impacts on natural resources and/or enhance public safety;
2. Include provisions for wildlife underpasses or overpasses for an appropriate width across the Cow Creek and powerline Wildlife Corridors to encourage safe passage of wildlife;
3. Design storm water treatment facilities to minimize habitat loss and promote restoration of impacted sites and assure capture and treatment of runoff from bridges;
4. Provide non-intrusive roadway and bridge lighting;
5. Incorporate safety and access design features to allow for the continuation of prescribed burning in the area;
6. Incorporate appropriate speed controls through sensitive areas.

FG 4.14 Water Resources. Farnton Water Resources LLC and the City of Edgewater are the authorized water providers to the Farnton Local Plan area. Farnton Water Resources LLC is a utility certified by the Florida Public Service Commission and serves most of the area of the Farnton Local Plan. Farnton Water Resources, through extensive well placement and stress testing, has determined that significant groundwater resources exist within its jurisdiction perimeter that are far in excess of the water needs required by buildout under the Farnton Local Plan. Farnton Water Resources shall apply for a Consumptive Use Permit (CUP) from SJRWMD to supply groundwater to the areas and the proposed development allowed by the Farnton Local Plan. In the event SJRWMD deems the existing groundwater insufficient to serve buildout of the Farnton Local Plan, then any additional water supply needed shall be provided by an alternative water supply source identified in the SJRWMD's District Water Supply Plan. The landowner and/or developer shall coordinate with Farnton Water Resources LLC and City of Edgewater to develop an integrated water resources plan (including a long range waste water plan) for expeditious implementation of water supply projects, which meet the needs of the landowner and local utilities and shall enter into such agreements as are necessary to accommodate that plan for up to 50 years.

FG 4.15 Farnton Water Resources shall coordinate with the City of Edgewater and county to revise their 10-year water supply facilities work plans to include Farnton Water Resources service area and descriptions of projects needed to provide potable and nonpotable water to the service area. Farnton Water Resources, LLC shall coordinate with the County, the municipalities in the southeast and southwest part of Volusia County, and St. Johns River Water Management District (SJRWMD) to propose additions to the District Water Supply Plan to

provide for water resource development and alternative water supply plans including storage of water, and acceptance of reuse or storm water, and augmentation or wetlands restoration.

FG 4.18 Farnton Water Resources, LLC is responsible for providing onsite and offsite infrastructure improvements necessary to provide potable and nonpotable water and waste water to development within the Farnton Local Plan area. Infrastructure improvements shall include wells, surface water intake facilities, pumps, raw water transmission lines, water treatment plants, waste water treatment plants (meeting public access reclaimed water standards), finished water transmission lines, reclaimed water transmission lines, potable and nonpotable water storage facilities. As the infrastructure projects are identified and approved by the County and the SJRWMD, those projects shall be included in the County's Water Supply Work Plan and Capital Improvements Element during the annual update.

FG 4.20 The County shall not issue any development orders or development permits for any development within the Farnton Local Plan until:

- a. A Consumptive Use Permit is issued to Farnton Water Resources, LLC, or the City of Edgewater receives a revised Consumptive Use Permit by the SJRWMD to meet the projected demand for potable water.
- b. The water supplier certifies it has facilities and capacity to serve the development.
- c. ~~Also,~~ Adequate wastewater infrastructure shall be planned to serve the new development and shall be available no later than the anticipated date of issuance of building permits.

FG 4.21 Consistent with Policy 7.1.3.1 of the Potable Water Element, Farnton Water Resources LLC shall provide the county with sufficient support documentation for its Water Supply Facilities Work Plan and provide data to the SJRWMD for the District Water Supply Plan to address water supply facilities necessary to meet the existing and projected demand within the County's water supply planning areas to ensure that adequate water supplies exist to serve the new development and will be available no later than the anticipated date of issuance of building permits. The information provided to the County and SJRWMD in support of the Farnton Future Land Use Map amendment will be updated to support the application for a Master DRI. After a Master DRI is approved, updates will be provided by DRI increment. At a minimum, information to be provided includes:

- a. Existing potable and non potable demand based on the phasing schedule.
- b. Five year projection of potable and non potable demand.
- c. Assumptions used for calculating the demand such as level of service standards and adjustments for water conservation and reuse.
- d. Water conservation measures that have been implemented.
- e. Water conservation measures that are to be implemented in the next phase.

- f. Identification of water supply sources currently being used.
- g. Identification of water supply sources needed to accommodate the next proposed phase.
- h. Location and pumping rates of any wells added to the Farmton Local Plan since the last update.
- i. Permit numbers obtained for wells in operation or pending before the SJRWMD.
- j. Provide sufficient data and analysis to update the District Water Supply Plan through 2030. The onsite and offsite infrastructure improvements necessary to provide potable and nonpotable water and waste water service to development within the Farmton Local Plan area. Infrastructure improvements shall include wells, surface water intake facilities, pumps, raw water transmission lines, water treatment plants, wastewater treatment plants (meeting public access reclaimed water standards), finished water transmission lines, reclaimed water transmission lines, and potable and nonpotable water storage facilities.

~~This information shall be provided to the SJRWMD as an update to the County's Evaluation and Appraisal Report until a Master DRI is approved, in which case, updates will be provided by DRI increment.~~

FG 5.7 Spine Transportation Network. The Farmton Local Plan establishes a transportation spine network of arterial roads upon adoption of the Farmton Local Plan that identifies approximate alignments and right-of-way widths of the arterials and interchanges consistent with the needs of access between major uses on-site and access to the external transportation network, as generally depicted in Figure 2-10 of the Transportation Map Series. The final alignment shall be determined during the Master Planning process and may be impacted by such factors as wetland avoidance, final design criteria, and utility impacts. Construction of the spine transportation network is the sole responsibility of the owner/developer. The following identifies the minimum right-of-way widths and connections of the spine transportation network:

- a. **Maytown Road.** A 200 ft. multi-modal right-of-way shall be preserved through the Farmton Local Plan area. Direct access from Maytown Road to SR 415 shall be required within five-years of the commencement of any development within the Farmton Local Plan occurring on, or accessing, Maytown Road. The improvement of Maytown Road shall provide for adequate path crossings, wildlife crossings, elevated roads, and utility crossings, as set forth in FG 2.18.
- b. **Maytown Road/ I 95 Interchange.** A future interchange access to Interstate 95 at the existing Maytown Road underpass shall be constructed in potential, partial mitigation of over-capacity conditions at adjacent interchange(s), subject to the procedural requirements set for by Florida Department of Transportation (FDOT)

for interstate connections. Adequate setback from the proposed interchange shall be required to protect the traffic-handling capacity of the proposed interchange.

- c. **Williamson Boulevard.** A 200 ft. multi-modal right-of-way shall be preserved for the proposed Williamson Boulevard Extension from the SR 442 Extension, through the Farmton Local Plan in Brevard County, with access to the existing Interstate 95 interchange at SR 5A.
- d. **SR 5A Interchange.** Proposed Williamson Boulevard shall connect to the existing SR 5A interchange at I-95. Development setback from the proposed interchange shall be required to protect the traffic-handling capacity of the proposed interchange.
- e. **Proposed Arterial A.** This arterial shall provide a 200 foot multi-modal right of way for a new northwest quadrant connection between Williamson Boulevard and Maytown Road and its location is generally depicted on the Farmton Local Plan map.

FG 5.8 The ultimate location and design of the spine network shall be approved by the county and constructed to county ~~thoroughfare~~ arterial standards. However, construction costs for these improvements will not be paid for with impact fees, mobility fees or other fee credits, as this spine network is considered the minimum necessary improvements for development of the 2060 Farmton Local Plan.

FG 5.16 ~~An average daily trip external "trip cap"~~ external two-way p.m. peak-hour trips is established for each horizon year that distributes projected trips through buildout. The trip cap will be revaluated every seven years coinciding with Volusia County's Evaluation and Appraisal Report (EAR) process and the transportation planning horizon and the trip cap will be adjusted with the County's EAR-based Comprehensive Plan Amendments based on a financially feasible plan in accordance with the following table:

Planning Horizon Year	P.M. Peak-Hour Two-Way Trip Generation				
	Gross Trip Generation		Internal Capture Rate %	Net External Trip Generation	
	Horizon Year	Cumulative		Horizon Year	Cumulative
2025	8,526	8,526	20%	6,821	6,821
2030	2,815	11,341	25%	2,111	8,932
2035	2,815	14,156	30%	1,971	10,903
2040	2,815	16,971	35%	1,830	12,733
2045	2,815	19,786	40%	1,689	14,422
2050	2,815	22,601	45%	1,548	15,970
2055	2,815	25,416	50%	1,408	17,377
2060	2,818	28,234	55%	1,268	18,645

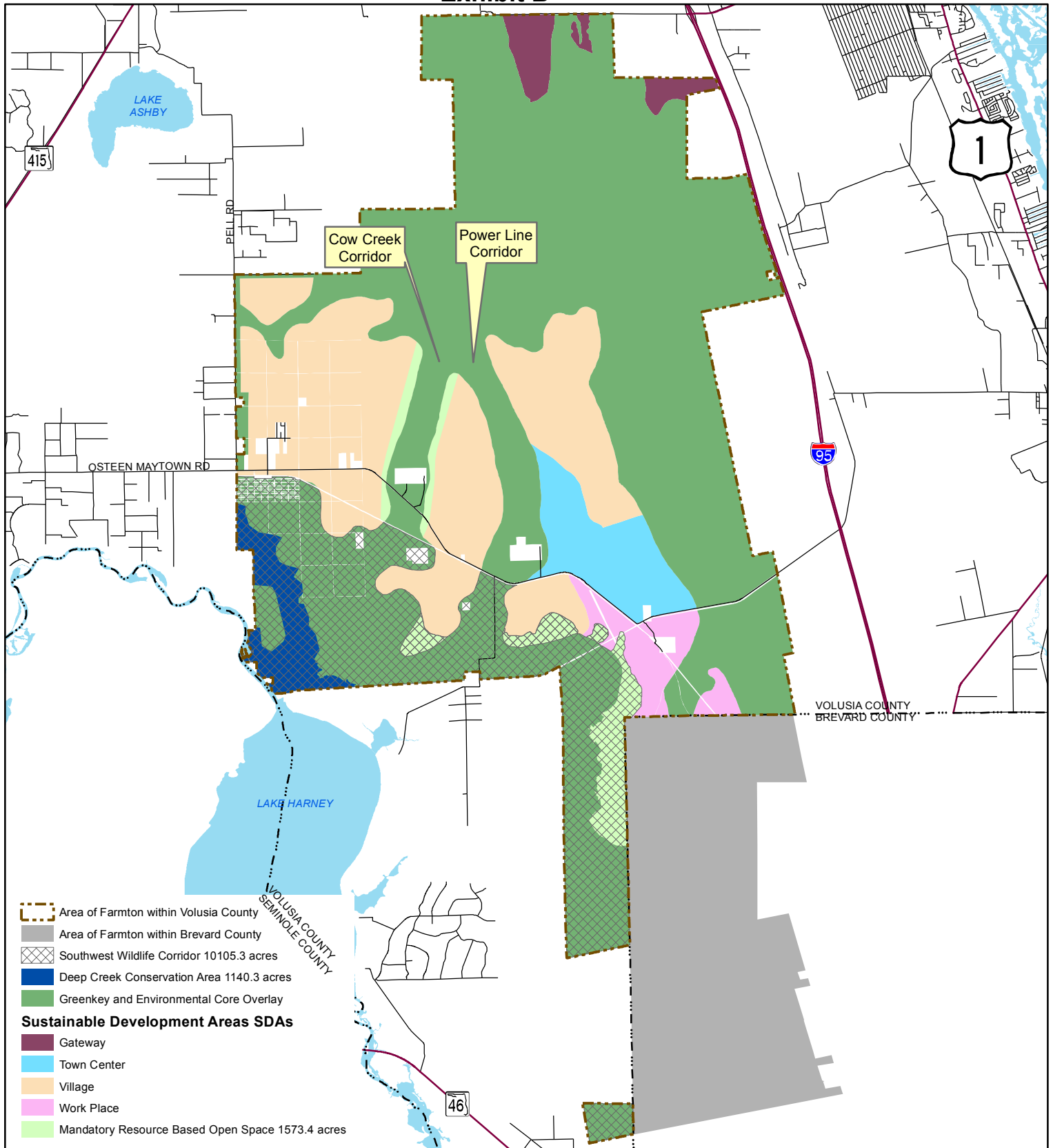
These trip cap numbers shall be reviewed by the County concurrently with the EAR schedule. Should the County determine that existing and anticipated development within the Farmton Local Plan will exceed the trip cap number to the extent that mitigation is insufficient to

accommodate the transportation impacts; the County and developer shall reduce the development plan to a level consistent with the available mitigation.

The companion EAR and EAR-based amendment must include a financially feasible roadway improvement plan consistent with proportionate share mitigation to accommodate the growth/development corresponding to the trip cap numbers.

FG 8.1 The Farmton Local Plan allows for development over an extended period of time. The land owner/developer is required to apply for and receive a master development approval for the entire project pursuant to section 380.06(21)(b), Florida Statutes (2009). No development shall take place within the SDA districts until the Farmton Local Plan is processed as a Master Development of Regional Impact (DRI) in accordance with section 380.06(21)(b), Florida Statutes (2009) and the development review procedures established herein. No building permit shall be issued for new development within the SDA districts within five (5) years of the effective date of the Farmton Local Plan. No development order for new construction shall be issued prior to the approval by the county council of the Conservation Management Plan (CMP) described in policies FG 2.10 and 2.11 and the recording of a perpetual conservation easement over all Green Key lands as set forth in policy FG 2.15 with the specific exception of essential public utilities or communication structures. Phase one, located in the Gateway district, will be the first increment to be reviewed and will be reviewed concurrently with the application for master development approval. All other increments will be submitted and approved subsequent to and in accordance with the master development order. The developer shall provide for the timing and review of phases, increments, and issues related to regional impacts of the proposed development and any other considerations that must be addressed in the application for master development approval required by paragraph 380.06(21)(b), Florida Statutes (2009). The development agreement shall be entered into by the land owner/developer, the East Central Regional Planning Council, and the county. The review of subsequent incremental applications shall be as prescribed in paragraph 380.06(21)(b), Florida Statutes (2009).

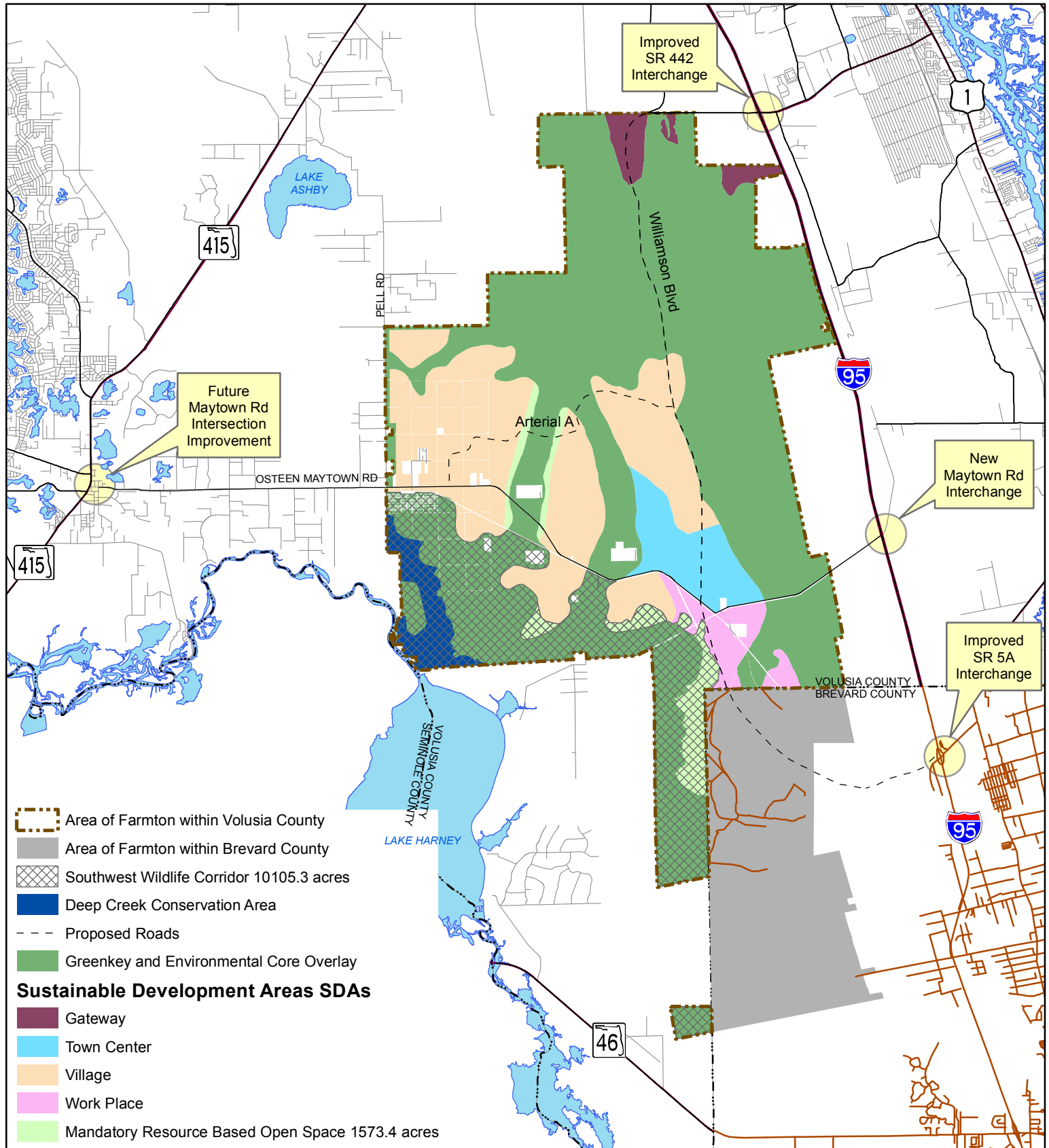
Exhibit B



MAP FIGURE 1-12N
FARMTON LOCAL PLAN - FUTURE LAND USE MAP



Farmton Local Plan Spine Transportation Network CPA-09-02-10



1" = 2.5 Mile
3/1/2011