



**GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION**
123 West Indiana Avenue, DeLand, Florida 32720
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PUBLIC HEARING: September 12, 2017 – Planning and Land Development Regulation Commission (PLDRC)

CASE NO: PUD-17-021

SUBJECT: Major Amendment to Resolution 2008-42 (DeLand Good Capital Group BPUDC) to allow for a new principal use and structures

LOCATION: 2100 E. New York Avenue

APPLICANT: Thomas Sullivan, Esq., Gray Robinson, P.A., on behalf of RaceTrac Petroleum, Inc., Contract Purchaser

OWNER: Fifth Third Bank

STAFF: Michael E. Disher, AICP, Planner III

NOTE: This item is continued from the June 13, 2017 PLDRC meeting. There have been no changes to the application since that time.

I. SUMMARY OF REQUEST

The applicant is requesting a major amendment to Resolution 2008-42, DeLand Good Capital Group Business Planned Unit Development/Thoroughfare Overlay Zone (BPUDC), to allow for a ± 5,000 square-foot convenience store with 14 fueling positions. The subject property is located at 2100 E. New York Avenue (SR 44), east of the city of DeLand. The proposed amendment is intended to replace the existing BPUDC Master Development Plan, approved under case PUD-07-032, in its entirety. If approved, the amendment will establish new permitted uses and development requirements for the 4.1-acre property.

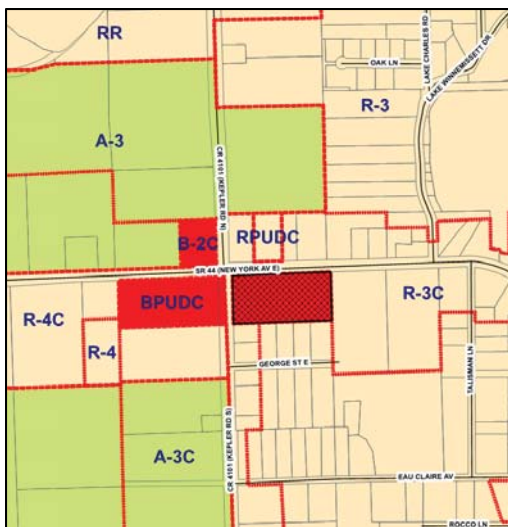
Staff Recommendation: Forward the BPUDC amendment application, case number PUD-17-021, to county council for final action with a recommendation of denial.

II. SITE INFORMATION

- 1. Location: 2100 E. New York Avenue; southeast corner of SR 44 and Kepler Road, DeLand
- 2. Parcel No: 7011-11-12-0050
- 3. Property Size: 4.1 acres
- 4. County Council District: 1
- 5. Zoning: Business Planned Unit Development/Thoroughfare Overlay Zone (BPUDC)
- 6. FLU Designation: Urban Low Intensity
- 7. ECO Map: No
- 8. NRMA Overlay: No
- 9. Adjacent Zoning and Land Use:

Direction	Zoning	Future Land Use	Existing Use
North	R-3C, RPUDC	ULI	Single-family residential, Assisted living facility
East	R-3C	ULI	Vacant
South	R-3, R-3C	ULI	Single-family residential
Southwest	R-4C	ULI	Single-family residential
West	BPUDC	ULI	Vacant
Northwest	B-2C	ULI	Convenience store with fuel dispensers

10. Maps



ZONING MAP



FUTURE LAND USE MAP

III. BACKGROUND AND OVERVIEW

On February 21, 2008, the Volusia County Council approved Resolution No. 2008-42, rezoning the subject property from R-3C (Urban Single Family Residential/Thoroughfare Overlay Zone) to BPUDC. The DeLand Good Capital Group (hereinafter “Good Capital”) BPUDC allows development of a financial institution with drive-through service and a general office or medical/dental office. The existing development agreement limits the size of individual buildings to a maximum of 5,000 square feet, in keeping with the Urban Low Intensity (ULI) future land use designation of the property. The total building square-footage of the project with two buildings is limited to 10,000 square feet. The building size limitation is also intended to match the scale of development allowed by the B-2C (Neighborhood Commercial/Thoroughfare Overlay Zone) classification, which is conditionally compatible with ULI. No development activity has taken place on the property in the time since the rezoning to BPUDC was approved.

The subject property is situated in a suburban residential area on the southeast corner of SR 44 and Kepler Road, approximately two miles travel distance west of I-4. The property is within the urban service delivery area of the City of DeLand. State Road 44 (New York Avenue) is an arterial road on the county’s thoroughfare system. At the time of the 2008 BPUDC approval, a single-family dwelling was located on the subject property, along with a former citrus grove. Today the property is vacant and wooded except for the cleared northwest corner.



On January 9, 2017, staff met with the applicant to discuss the use of the property, PUD amendment procedures, review criteria, submittal deadlines, and fees. The proposed BPUDC major amendment application was submitted on January 27, 2017. The application was reviewed by staff from Volusia County and the City of DeLand. Comments from this review were discussed with the applicant, engineer, and developer at the staff review meeting held on February 15, 2017. The applicant was also provided with advisory development requirements that would need to be addressed on the final site plan application if the major BPUDC amendment is approved, including tree preservation, site access and circulation, stormwater management, traffic concurrency

and mitigation, and signage, among others. The revised development agreement and preliminary site plan were resubmitted by the applicant on April 19, 2017.

The applicant and development team held a meeting with neighborhood residents on May 2, 2017. Staff has received comments from the public since that time, as discussed later in this report. At the time of this writing, the majority of technical review comments pertinent to the BPUDC amendment application have been addressed. The proposed amendment is now ready to be reviewed by the PLDRC and County Council.

IV. DEVELOPMENT PROPOSAL

The proposed Master Development Plan (MDP) consists of a written development agreement and a preliminary plan. The MDP, in combination with the County zoning code and land development code, will establish the regulatory framework for the development of the property if approved. The proposal would replace the existing agreement and preliminary plan for the Good Capital BPUDC with a new use and site layout, but retain the majority of the special development requirements previously approved. The new concept is a single-lot development, consisting of a convenience store, covered fuel pumps, and related site improvements such as parking, landscaping, stormwater retention, and access drives. Off-site improvements to the adjacent roads and intersection are proposed as well. The project is anticipated to be developed in one single phase. The key aspects of the proposed development are described below.

MASTER DEVELOPMENT AGREEMENT

Uses and Dimensional Standards – The agreement limits the use of the property to a +/- 5,500 square-foot convenience store with a maximum of 14 fueling service positions. Also proposed as an accessory use is a 500 square-foot outdoor seating area. The building exceeds the 5,000 square-foot size limitation for any single use in the B-2C zoning classification, while the number of fueling positions is significantly less than the 32 maximum allowed. The agreement prohibits “all uses not specifically permitted,” meaning that no additional uses will be allowed beyond those listed in the agreement and depicted on the preliminary plan. Minimum front setbacks of 75 feet are established from SR 44 and Kepler Road, consistent with the greater setback requirements of the Thoroughfare Overlay Zone. The 35-foot side-yard setbacks on the south and east sides match the additional distance required by the county zoning code adjacent to single-family residential zones. The agreement retains the 25-foot height limit of the Good Capital BPUDC, which is less than the 35-foot limit allowed by the Thoroughfare Overlay Zone and Urban Single-Family Residential (R-3) zones nearby. Maximum lot coverage – the percent of property occupied by principal and accessory structures – is limited to 30% of the property, which is also consistent with the Thoroughfare Overlay Zone. The actual lot coverage of the site as proposed would be approximately 8.6%.

Compliance with Codes – Zoning and development requirements for the property default to county code standards unless specified in the agreement. The agreement defers to county standards regarding the number and design of access points, off-street parking and loading, signage, architectural and site design, environmental protection, water and sewer infrastructure, stormwater drainage, and fire protection. It defers to the City of DeLand’s “Emerging Gateway Overlay District” standards regarding the required 40-foot wide front-yard landscape buffer, ground signage, and sidewalks. Such deference is required by the county’s nonresidential design standards in Section 72-303 for property, “...located within one mile of a municipality which has adopted gateway/corridor standards, within an area served by a municipal utility, or within the urban portion of the designated urban growth boundary area, whichever area is greatest.”

Landscape Buffers and Screening – Landscape buffer widths and plantings will comply with county and city requirements. A 40-foot wide buffer is required by the City of DeLand along both road frontages. The applicant is proposing to supplement the required tree and shrub plantings with “upsized” trees that will match the height of the gas pump canopy at the time of planting. A 30-foot wide buffer is required by the county abutting the single-family residential zones to the south and east. In addition to landscaping, the county code also requires a six-foot tall hedge, wall, or fence in the buffer adjacent to residential uses. The existing Good Capital BPUDC specifically required an eight-foot tall brick wall on the south side. The applicant is proposing to match that requirement with an eight-foot tall decorative masonry wall.

Architecture – The applicant has provided architectural renderings as part of Exhibit “B,” the Preliminary Plan. The renderings show a building design typical of new RaceTrac stores constructed recently in the area. The building features a stone base course combined with stucco walls and wooden accent panels; a prominent main entrance on the north side with a smaller, secondary entrance on the west; a covered seating area on the northwest corner and west side; vertically proportioned windows; a flat roof with corniced parapet; and decorative wall-mounted lighting. Wall signage will be required to comply with county code, likely resulting in a reduction from what is depicted on the architectural renderings. The proposed gas pump canopy will match the same colors, architectural detail, design elements, and roof design as the principal structure. The canopy fascia differs from the standard prototype in that the corporate red and white RaceTrac stripe around all four sides has been removed to comply with county sign regulations. Although not currently shown, the county’s nonresidential design standards will require the canopy to match the cornice on the main building roof. Staff has further suggested to the development team that the canopy height be lowered (from the corporate standard height of 21 feet) to be more compatible with the scale of the BP/Kangaroo station and other nearby buildings.

Parking Location – Paragraph E.9, Nonresidential Development Design Standards, proposes a modification to the zoning requirement regarding the location of parking for buildings not exceeding 10,000 square feet. Per zoning code section 72-303(g)(9), no more than 50 percent of the required off-street parking may be located between the

front façade of the establishment and the abutting street. The agreement proposes that the gas station canopy serve as the front façade for purposes of meeting this requirement on the SR 44 frontage. Considered in this manner, the parking layout of the site meets the 50 percent requirement. Staff supports this arrangement since shifting additional parking to the east or south sides of the building would place it closer to existing homes.

Illumination – Requirements regarding site illumination are included in the agreement in Paragraph E.10. Illumination standards require all lighting to be shielded and directed downward, to be dimmed 50% from 11 p.m. to sunrise, and for all fixtures to be decorative in appearance to compliment the architectural style of the building. Illumination levels cannot exceed 0.5 foot candles measured at the property line. Staff further recommends that all gas pump canopy lighting be recessed within the canopy ceiling.

Access and Transportation Improvements – Improvements for site access and transportation are described in the agreement under Paragraph I and are also depicted on the preliminary plan. The agreement carries over the same improvements listed in the existing Good Capital BPUDC. The site will be limited to one access point each on Kepler Road and SR 44. Site access improvements include:

- Right-in/right-out site access driveway on Kepler Road.
- Full access driveway on SR 44 with a new east-bound right-turn lane into the site.

The agreement also requires a cross-access easement to be provided to the property to the east at the time of development, pursuant to the county's nonresidential design standards.

Proposed improvements to the SR 44/Kepler Road intersection include:

- Extension of the continuous north-bound right-turn lane on Kepler Road
- Extension of the left-turn lane on SR 44 to Lake Winnemissett Avenue.
- Extension of the westbound right-turn lane on SR 44.

Finally, the agreement requires the front 20 feet of the entire property frontage on Kepler Road and SR 44 to be dedicated to Volusia County for additional right-of-way. The dedication is to occur by special warranty deed within 30 days after final site plan approval.

Together, according to the county Traffic Engineering Division, these improvements will enhance the functional efficiency of the intersection, allowing a larger number of vehicles to move through at a time and provide safe access for customers. The agreement defers to the zoning code and land development code regarding the final design of the road and intersection improvements, as may be modified by the Development Review Committee and/or Volusia County Traffic Engineer. The county land development code requires concurrency review of roads and public infrastructure

at the final site plan stage. The final design of the road improvements will be determined at that time based upon review of a full-scale Traffic Impact Analysis and consultation with the Florida Department of Transportation (FDOT). Mitigation will be required for any new development trips that impact or cause roads or intersections in the vicinity to exceed their respective adopted level-of-service (LOS) standards.

Special Standards – Paragraph K requires all storage of materials, merchandise, and equipment shall be located to be within the building. Staff further recommends that additional language be included requiring all utility distributions lines to be placed underground.

Expiration – Pursuant to Paragraph L, the owner or successors and assigns shall apply for final site plan approval within 12 months from the effective date of the PUD amendment order and resolution. If this condition is not met, the agreement expires and becomes null and void. This paragraph further provides the zoning enforcement official to extend this deadline for good cause through the minor PUD amendment process.

PRELIMINARY PLAN

Site Layout and Parking – The preliminary plan shows the proposed conceptual site layout. A 5,488 square-foot convenience store is indicated as the principal structure on the property. The 7,694 square-foot gas pump canopy will be located between the convenience store and SR 44. A 500 square-foot outdoor seating area is proposed on the northwest corner and west side of the building, between the building and parking lot. A dumpster enclosure and loading area is to be located east of the building. A total of 29 standard and handicapped-accessible parking spaces are provided. This number meets the minimum code requirement of 25 spaces based on the size of the convenience store building and the number of pumps. The number of spaces is also sufficient to accommodate the parking for the accessory outdoor seating area. This number does not include the fuel service positions adjacent to each fuel pump.

Fuel Pumps – The proposed layout of the fuel pumps is typical of RaceTrac stores and other contemporary gas stations. At this location, seven pump machines are proposed, each on an individual “island” spaced 27 feet apart on center. With a fuel service position on either side of each island, a total of 14 fuel service positions are thus proposed. According to RaceTrac officials, this arrangement maximizes customer access, eliminates parallel parking, and reduces wait times at each pump. The number of pumps has been reduced from the 18 originally proposed to 14, to be consistent with the number at the existing BP/Kangaroo store.

In contrast, the county B2-C zoning classification limits the number of fuel dispenser islands to four, but allows up to eight fueling service positions per island. A given business could therefore have up to 32 fuel service positions. The B-2C classification allows for a further increase in the number of fuel service positions per island through a Special Exception, although the number of islands is still limited to four. Staff supports

the tradeoff of more fuel pump islands but fewer fuel service positions overall compared to the number allowed by the B-2C classification.

Transportation and Access Improvements – The plan illustrates the aforementioned transportation improvements at the intersection and the proposed access drives. The site access points are located as far away from the intersection as possible to provide the greatest amount of room for turn lane improvements and vehicle stacking. The plan shows the proposed 20-foot right-of-way dedication on the Kepler Road and SR 44 frontages. It also depicts the location of the future cross-access easement required to serve the property to the east.

Landscape Buffers – The 40-foot-wide landscape buffer required by the City of DeLand and the 75-foot front setback required in the Thoroughfare Overlay Zone are measured from the future, post-dedication property line. The plan also shows the location of required side yards, landscape buffers, stormwater drainage, dumpsters, and future ground signs.

The preliminary plan contains sufficient content to serve as a conceptual site plan under the site development procedures of the land development code. The preliminary plan is conceptual in nature and does not constitute Final Site Plan approval. Pursuant to the zoning code, a detailed review of the development will take place during a final site plan review process to ensure compliance with applicable sections of Chapter 72 of the county code, including but not limited to concurrency, landscaping, and tree preservation, and stormwater management. The applicant was advised during the staff review meeting that the site layout may need to be modified on the final site plan application to comply with zoning and development requirements.

ZONING COMPARISON

The table below compares the zoning requirements of the B-2C classification with those of the existing Good Capital BPUDC and the proposed RaceTrac BPUDC. The B-2C classification is used for comparison because it is the most suitable conventional zoning under the property’s ULI future land use designation. B-2C is also the classification of the existing BP/Kangaroo store, with which the RaceTrac proposal has attempted to match. In most cases, the requirements of the proposed RaceTrac BPUDC match those of the B-2C classification and in some cases exceed those of the Good Capital BPUDC. It should be noted that in lieu of the BPUDC amendment, the applicant has the right to apply for a rezoning of the property to B-2C.

	B-2C	Good Capital BPUDC	RaceTrac BPUDC
Uses	Limited commercial convenience uses serving nearby residential neighborhoods; includes convenience stores with or without fuel dispensers	Limited to a financial institution with 5 drive-thru lanes, general office, and/or medical/dental office	Limited to a convenience store with fuel dispensers, plus accessory outdoor seating area
Min. lot size	1.0 acre	4.1 acres	3.5 acres*

	B-2C		Good Capital BPUDC		RaceTrac BPUDC	
Number of buildings	1 principal structure per lot		2 principal structures		1 principal structure	
Max. building size	5,000 square feet		5,000 square feet each, maximum 10,000 square feet total		5,500 square feet	
Max. number of fuel dispensers	4 fuel dispenser islands; 8 vehicular service positions per island; 32 vehicular service positions total (4 x 8 = 32)		0		7 fuel dispenser islands; 2 vehicular service positions per island; 14 vehicular service positions total (7 x 2 = 14)	
Max. building height	35 feet		25 feet		25 feet	
Max. lot coverage	30%		35%		30%	
Setbacks with T-fare Overlay Zone, abutting residential property	From SR 44	70 ft.	From SR 44	77 ft.	From SR 44	75 ft.
	From Kepler	70 ft.	From Kepler	60 ft.	From Kepler	75 ft.
	From south side	35 ft.	From south side	30 ft.	From south side	35 ft.
	From east side	35 ft.	From east side	None stated	From east side	35 ft.
Min. landscape buffer width	North/West	40 ft.*	North/West	60 ft.	North/West	40 ft.*
	South/East	25 ft.	South/East	30 ft.	South/East	25 ft.
Additional screening and/or landscaping	6' tall wall, fence, or hedge south and east sides		6' tall wall, fence, or hedge east side; plus 8' tall brick wall along south side 25'-30' north of south prop. line		6' tall wall, fence, or hedge east side; plus 8' tall decorative masonry wall along south side, 2' north of south prop. line; plus upsized trees by gas canopy equal to canopy height at time of planting	
ROW dedication	From SR 44	Per LDC	From SR 44	17 ft.	From SR 44	20 ft.
	From Kepler		From Kepler	0 ft.	From Kepler	20 ft.

* After ROW dedication. † Required by City of DeLand's Emerging Gateway standards.

V. REVIEW CRITERIA

Although the zoning classification itself is not changing, the proposed BPUDC amendment will replace the approved development agreement and establish a new set of uses and development requirements. For this reason, the request has been reviewed according to the same criteria as a rezoning. Section 72-414(e) of the zoning code includes the following criteria for review of rezoning applications:

(1) Whether it is consistent with all adopted elements of the comprehensive plan.

FUTURE LAND USE ELEMENT

The Urban Low Intensity future land use designation is described in the comprehensive plan as follows:

Urban Low Intensity (ULI) – Areas for low density residential dwelling units with a range of two-tenths (0.2) to four (4) dwelling units per acre. In reviewing rezoning requests, the specific density will depend on locational factors, particularly compatibility with adjacent uses and availability of public facilities. This residential designation is generally characterized by single family type housing, e.g., single family detached and attached, cluster and zero lot line. This designation will allow existing agricultural zoning and uses to continue. The ULI designation is primarily a residential designation but may also allow neighborhood convenience uses (see Shopping Center definition in Chapter 20) and individual office buildings as transitional uses that meet the Comprehensive Plan's location criteria. The commercial intensity shall be limited to no more than a fifty percent Floor Area Ratio (0.50 FAR) and in a manner to be compatible with the allowable residential density. In order to be considered compatible, the commercial development should be oriented to serve adjacent neighborhoods, reflect comparable traffic generation, similar traffic patterns, building scale, landscaping and open space and buffers. Due to the nature of some of the commercial uses, additional landscaping and visual screening shall be provided through the BPUD process when adjacent to low density residential in order to preserve the character of the neighborhood. More intensive neighborhood commercial use shall be reserved to areas designated for Commercial. All requests for nonresidential uses within one-quarter (¼) mile of another jurisdiction shall require notification to that jurisdiction.

According to the Future Land Use/Zoning Consistency Matrix, the BPUDC zoning classification is generally assumed compatible with the ULI future land use designation. The following Future Land Use Element policies are also generally applicable:

- 1.1.3.1 Future urban development requiring access or connection to public facilities shall be located within designated urban areas.
- 1.1.3.9 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.
- 1.3.1.10 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.
- 1.3.1.11 Commercial development shall use vegetative buffers and visual screens to minimize the negative impacts on surrounding residential uses. Existing commercial operations where adverse impacts have been documented shall be required to address the need for buffers or other visual screening if a change or enlargement of use is requested.

Also applicable are the definition and locational criteria of Neighborhood Convenience Centers.

Definition: Neighborhood Convenience Center

Typical Site Area:	2 acres
Gross Leasable Area:	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

Neighborhood Convenience Centers Locational Criteria

Located along collectors, with preference given to locations at the intersections of collectors with arterials. In rural communities with arterial roads being the only major streets, so that this type of center may be located along or at the intersection of arterials in such communities.

- New convenience centers shall not be located internally within existing single family developments unless part of a Planned Unit Development (PUD).
- Uses do not encourage urban sprawl.
- Designed to serve the needs of the immediate neighborhood.
- Building size, sufficient setbacks, landscaping and buffers to maximize visual compatibility.

The BPUDC proposal appears to be consistent with the description of the ULI designation. The maximum 30% building coverage is significantly less than the maximum 0.5 FAR allowed for commercial uses in the ULI designation. The development site will be accessible on two sides to serve its intended market area of the local neighborhoods and pass-by traffic. The traffic volume and patterns are expected to be similar to the BP/Kangaroo convenience store on the opposite corner, since it is the same type of use with the same number of fuel dispensers. The building will be taller than existing single-story residences in the area, but will be 10 feet shorter than the 35-foot maximum height allowed by the surrounding residential and commercial zoning classifications. The applicant has further discussed reducing the canopy height to be more compatible with the scale of existing buildings in the area. Landscaping, buffers, and open space will be provided pursuant to the zoning code as well as DeLand's emerging gateway standards, and will be supplemented by an eight-foot tall decorative masonry wall on the south side and upsized trees adjacent to the pump canopy. The City of DeLand's planning and utilities staff were included in the review of this proposal.

The proposed development is also consistent with the Future Land Use Element policies noted above. It is located within the DeLand utility service area and has an urban future land use designation. The applicant intends for the scale of the development to be consistent with that of the existing BP/Kangaroo station on the northwest corner in terms of the number of fuel dispensers (14). Because it is a new development, it must comply with current codes that require significantly greater landscape buffers, architectural quality, and light shielding than the existing station. The size, location, and function of the site is related and central to the population and market area it will serve, namely adjacent residential neighborhoods and pass-by traffic on the adjacent roads. The proposed visual screening and vegetative buffer plantings will exceed the minimum required by county code to minimize the impacts on surrounding residential uses.

However, the convenience store building exceeds the 5,000 square-foot size limit in the Neighborhood Convenience definition by 500 square feet. This building size limitation is also found in the B-2C zoning classification standards. The description of the ULI future land use designation refers to the Neighborhood Convenience definition (as a category

within the Shopping Center definition). The applicant was made aware of the square footage limitation during the PUD amendment review process. The proposal is not entirely consistent with this definition.

Lastly, the proposal meets the locational criteria for neighborhood convenience centers. It is located at the intersection of major roadways and not located internally within existing single-family developments. Given its location within the DeLand urban service area, and with an urban future land use, development of the site would be considered infill and not contributing to urban sprawl. The property is positioned to serve the immediate neighborhood, with which the applicant has attempted to achieve visual compatibility in terms of building size, setbacks, landscaping, and buffers.

TRANSPORTATION ELEMENT

The following policies are generally applicable:

- 2.1.6.3 Volusia County shall set peak hour level of service “D” standard for urbanized areas and level of service “C” standard for those areas outside urbanized areas for all Florida State Highway System roads, as consistent with FDOT procedure No. 525-000-006, Level of Service Standards, and Highway Capacity Analysis for the State Highway System.
- 2.1.6.4 Volusia County shall establish the following peak hour level of service standards for County maintained thoroughfares as shown on the Thoroughfare Roadway System Map.

County Maintained Thoroughfares Minimum Level of Service Standards					
Roadway Type	Rural Areas	Transitioning Areas	All Urbanized Areas	Inside Transportation Concurrency Management and Exception Areas and Multi-Modal Transportation Districts	Constrained
Arterials	C (B)	E (D)	E (D)	Refer to Local Jurisdictional Comprehensive Plan	Maintain
Collectors	C (B)	E (D)	E (D)	Refer to Local Jurisdictional Comprehensive Plan	Maintain

Level of service standards inside of parentheses apply to County Maintained Transportation Regional Incentive Program (TRIP) funded Thoroughfare Roadways consistent with FDOT standards.

- 2.1.6.7 Volusia County shall coordinate with the FDOT and local jurisdictions seeking Level of Service variances on the constrained facilities listed below:

State Constrained Facilities			
Roadway Name	From	To	Constraints
SR 40 (Granada Blvd.)	SR 5A (Nova Road)	US 1 (SR 5)	P, PO
SR A1A (Ocean Shore Blvd.)	Flagler County Line	SR 40 (Granada Blvd.)	PO

State Constrained Facilities			
Roadway Name	From	To	Constraints
SR A1A (Atlantic Ave.)	SR 40 (Granada Blvd.)	Atlantic Avenue (CR 4075)	P, PO
SR 5A (Nova Road)	SR 400 (Beville Road)	Brentwood Drive	PO
US 17/92	Plymouth Avenue	Beresford Avenue	P, PO
SR 44	Woodward Ave.	Gasline Road	P, PO

P = Physical (Physical constraints primarily occur when intensive land use development is immediately adjacent to the roadway, thus making expansion costs prohibitive.*)

PO = Policy (Policy constraints primarily occur when decisions are made not to expand a road based on environmental, historical, archaeological, aesthetic or social impact considerations.*)

*Florida Department of Transportation, 2002 Level of Service Handbook

- 2.1.6.10 On County roads designated as Constrained Facilities, Volusia County shall maintain the existing road, however, the County shall not schedule improvements to increase the number of through lanes. The County shall closely monitor the traffic volumes on designated Constrained Facilities, and at the time a County Constrained Facility reaches its minimum acceptable level of service standard the County may not allow further development which cannot provide acceptable mitigative measures to the adverse transportation impacts of the proposed development.
- 2.1.6.11 Volusia County shall require the developer of property in the unincorporated County which impacts constrained thoroughfares to prepare a Transportation Impact Analysis consistent with the most recent methodology contained in the Volusia TPO TIA Guidelines, as adopted by Volusia County Council.

State Road 44 is a state arterial highway maintained by FDOT, and is a designated hurricane evacuation route. Kepler Road is a county-maintained arterial road. State Road 44 is constrained between Woodward Avenue west of DeLand and Gasline Road, approximately 1.5 miles to the east of the subject property. Constrained facilities are roads that cannot be widened further beyond their existing right-of-way due to either physical limitations (e.g., existing development) or policy decisions (e.g. maintaining scenic character or funding limitations). As a state road, the adopted LOS standard for SR 44 is "D," while the LOS standard for Kepler Road is "E." The county measures roadway LOS using peak-hour traffic volume and average annual daily trips (AADT). The segment of SR 44 east of the property is considered "critical," meaning the existing traffic volume exceeds the road's capacity. The segment of Kepler Road between SR 44 and Highway 92 is considered "near-critical," which means its volume is at or over 90% of its capacity.

The policies listed above, along with those for the county's concurrency management system, establish the basis for the review of the Transportation Impact Analysis (TIA) that must be submitted with the site development application, if the proposed BPUDC

amendment is approved. The amendment is neither consistent nor inconsistent with these policies, since they apply to development, not rezonings. Approval of a rezoning does vest a development with a certain number of trips. That occurs only through a concurrency determination as part of final site plan review. That said, the policies above point to a situation where the options for traffic impact mitigation may be limited. The project will not be able to meet concurrency requirements, and the county will not be able to approve the future site development plan, if the impacts of the development cannot be mitigated.

(2) Its impact upon the environment or natural resources.

The site is not located in an environmentally sensitive area. The environmental report submitted with the application does not indicate the presence of wetlands or listed (protected) species. However, the soils and vegetation are considered moderately suitable habitat for gopher tortoises, which means additional inspections must be conducted prior to development. If tortoises are found on site, the developer must comply with state and county regulations regarding permits for relocation or incidental taking. Tree protection requirements must be followed with the site development application. Fuel storage and other related aspects of this particular use are required to comply with State and Federal Law.

(3) Its impact upon the economy of any affected area.

As a new commercial use, the amendment is expected to increase economic activity in the affected area.

(4) Notwithstanding the provisions of division 14 of the Land Development Code [article III], its impact upon necessary governmental services such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste or transportation systems.

Water and Sewer – The property lies within the DeLand utility service area. According to the City of DeLand Public Utilities Department, potable water service is currently available on the west side of Kepler Road and will be required to be extended to the site. The closest sanitary sewer connections are at Lakeview Drive/Voorhis Avenue approximately 0.6 miles to the west, as well as Kepler Road/Beresford Avenue 0.7 miles to the south. The city does not consider sewer service to be readily available at that distance, therefore the developer will not be required to extend it to the property at this time. However, the development will be required to connect to the sewer system if or when the lines are extended to the property.

Transportation – County Traffic Engineering staff has reviewed the theoretical maximum impact report prepared by the applicant's traffic consultant. The report, as required for rezonings, compares the *difference* in theoretical maximum trips between the uses approved in the 2008 development agreement and that of the proposed amendment. The 2008 agreement allowed up to 10,000 square feet of development, consisting of a

drive-in bank and a professional or medical office. The report used the more intensive of these uses, the bank, to compare against the proposed use at the maximum square-footages allowed by the agreement and proposed amendment. The report thus compares new daily and p.m. peak-hour trips between a 10,000 square-foot drive-in bank and a 5,500 square-foot convenience store/gas station. "New trips" do not include pass-by trips. Pass-by trips are vehicles that are already on the road headed to other destinations that will visit the site along the way. According to ITE (Institute of Transportation Engineers), medical offices and banks function as destinations that draw in traffic from throughout their market area. Gas stations, on the other hand, rely mostly on pass-by traffic already on the road.

The report concludes that while the number of new daily trips can be expected to increase by 615 (from 963 to 1,578), the number of new p.m. peak-hour trips (during the single hour with highest volume between 4-6 p.m. weekdays) will likely decrease by 63 (from 158 to 95). This translates to fewer new trips during the evening rush hour, but a greater number of trips overall throughout the day when compared to the uses currently approved.

In its review memo, Traffic Engineering staff notes that development of the property, whether under the 2008 development agreement or proposed amendment, would impact critical and near-critical roads and intersections in the vicinity. The intersection and turn-lane improvements required in the 2008 agreement were believed to help this situation by increasing the capacity of the Kepler Road/SR 44 intersection turn lanes. This provides more stacking room for cars turning right or left, thereby clearing the way for the through lanes and allowing more cars to move through the intersection at one time. Traffic Engineering believes these same improvements will still help today and has required them to be included in the development agreement and shown on the preliminary plan.

The traffic report submitted with the amendment application is required only to measure the theoretical impact *difference* between the existing and proposed uses. If the BPUDC amendment is approved, a full-scale traffic impact analysis (TIA) will be required to be submitted with the site development application for concurrency determination. The TIA will model the trip generation impacts on the surrounding road network to determine whether these facilities can still meet their adopted LOS and what improvements would be needed to correct any deficiencies. If the new trips cause the roadway capacity standards to be exceeded, mitigation will be required to address these impacts. The developer would then be required to construct or contribute to transportation improvement projects benefiting the nearby area to offset the impact by an equivalent amount. Through this process it will be determined if additional mitigation will be required beyond the 20-foot right-of-way dedications and intersection improvements now proposed.

Schools, Stormwater, Solid Waste, and Emergency Services – As a nonresidential use, the proposed BPUDC amendment will not affect school capacity. Sufficient room exists on the property to comply with stormwater drainage requirements pursuant to the

county land development code. Fire, police, and solid waste collection services are available to the property.

(5) Any changes in circumstances or conditions affecting the area.

Since the Good Capital BPUDC was approved in 2008, the subject property has remained vacant and undeveloped, as has the vacant property on the southwest corner of the intersection. The existing single-family homes are unchanged since that time as well. The future land use designations and zoning classifications are the same now as in 2008.

On April 28, 2017, the county received a rezoning application from a consultant representing Circle K to redevelop the existing BP/Kangaroo convenience store on the northwest corner of the intersection. The application would rezone the existing and adjacent property to the west from B-2C and A-3C to BPUDC, to allow a new convenience store with up to 20 fueling positions, as well as one additional commercial building. This proposal is at the very early stages of review, so the ultimate design and number of fuel pumps is not final. County Traffic Engineering staff has been in contact with FDOT regarding the two rezoning proposals and has requested continued coordination on future roadway/intersection improvements and right-of-way needs.

(6) Any mistakes in the original classification.

There are no mistakes in the property's current zoning classification. The 2008 Good Capital BPUDC was rezoned from R-3C and was found to have been consistent with the Urban Low Intensity future land use designation at that time.

The purpose and intent of the PUD classification is to provide for integrated developments, consistent with the comprehensive plan, that promote a mixture of housing types and economical and orderly development. Such developments may consist of a single use or of a mixture of compatible land uses. PUDs are expected to be sensitive to existing adjacent and future land uses as depicted on the future land use map, the natural environment, and the impact on public infrastructure. PUDs provide mechanisms to address such considerations through the use of appropriate buffer areas between land uses and limits on the types of permissible uses and structures.

The purpose and intent of the Thoroughfare Overlay Zone is to ensure safe ingress to and egress from proposed development along thoroughfares, maintain adequate highway capacity, eliminate hazardous traffic conditions, lessen or prevent traffic congestion, establish a high standard for development, including additional sign regulations, and create a more attractive streetscape.

(7) Its effect upon the use or value of the affected area.

If approved, the requested BPUDC amendment will change the permitted uses currently allowed on the property from a drive-in bank and professional/medical office to

convenience store with fuel service. Once developed, the value of the now-vacant property is expected to increase.

(8) *Its impact upon the public health, welfare, safety, or morals.*

Following the May 2, 2017 neighborhood meeting held by the development team, staff received written comments from four individuals opposed to the proposal (see attached). The majority of the comments are focused on traffic congestion, crashes, and safety; neighborhood compatibility; and the belief that one convenience store at the intersection is sufficient for neighborhood needs. No written comments received from the public were in favor of the proposal.

In addition, the following comments were received from the City of DeLand Planning Director from when the project was first submitted:

The City of DeLand has been working with both Volusia County and FDOT on how to improve the failing conditions that exist at the intersection of SR 44 and Kepler Rd. The TIA indicates that the proposed project will not significantly increase traffic in the surrounding area. However the traffic pattern will change; increasing the turning movements which creates more chances of crashes than office uses. There are no plans at the present time to correct the issues that currently exist. Although the proposed use may not increase traffic, the zoning does not have to be changed to accommodate a new use that will not improve the situation. One only has to look across the street to see what contortions that motorists go through to enter and leave the facility. There should not be an increase in intensity (or uses) at this intersection until the improvements are identified and funds are available for construction.

Staff followed up with the Director in May, and he confirmed that his original comments still stand.

VI. CONCLUSION

Based on the findings in this report, Staff believes the proposed BPUDC amendment application is consistent with the Volusia County comprehensive plan in most respects. However, it does not comply with the 5,000 square-foot use limitation in the Neighborhood Commercial definition. It is for that reason that Staff cannot recommend approval of the BPUDC proposal. Otherwise, the proposed development requirements and parameters in the agreement are consistent with the county zoning code and LDC, or otherwise defer to those codes. The site layout shown conceptually on the preliminary plan appears capable of meeting the on-site development requirements.

It must be further noted that if BPUDC amendment is approved, it does not guarantee that the site can actually be developed. Review of site development applications is a separate process from the review of rezonings and PUD amendments. All site development applications are required to follow all applicable requirements of the county zoning code and LDC. It cannot be determined at this time whether the future site development can comply with the concurrency management requirements of the

LDC, given that the adjacent roads are at or near capacity and SR 44 is constrained. That will not be known until a full-scale TIA is submitted, which is a required component of a site development application. If the TIA concludes that the new trips will impact roadways and intersections that are over capacity, development could occur only once acceptable transportation mitigation improvements have been identified and funding and construction arrangements have been made, pursuant to the LDC.

VII. STAFF RECOMMENDATION

Forward the BPUDC amendment application, case number PUD-17-021, to county council for final action with a recommendation of denial.

However, if the PLDRC finds that the proposal is consistent with the comprehensive plan, Staff recommends forwarding the application to county council for final action with a recommendation of approval, subject to the following staff-recommended conditions:

1. The written development agreement shall be amended in accordance with staff recommendations concerning maximum building size, height of gas pump canopy, recessed canopy lighting, and underground installation of utility distribution lines.
2. Approval is based on the conceptual design, land use placement, and architectural renderings depicted on the Preliminary Plan, prepared by Tannath Design, Inc., dated 5/25/17, and the Exterior Elevations, prepared by GPD Associates, LLC, dated 3/24/17, together referenced as Exhibit "B" of the BPUDC agreement.
3. Final design of land and structures shall be subject to modifications as required to comply with the Volusia County zoning code and land development code during the final site development review process, including additional right-of-way dedication and/or off-site intersection improvements necessary to meet transportation concurrency requirements.

VIII. ATTACHMENTS

- Resolution and Development Agreement
- Preliminary Plan, Architectural Renderings
- Survey
- Res. No. 2008-42, Good Capital BPUDC
- Environmental Report
- Traffic Engineering Staff Memorandum
- Traffic Report from Applicant
- Public Correspondence
- Site Photographs
- Map Exhibits

IX. AUTHORITY AND PROCEDURE

Pursuant to Section 72-414, the county council shall hold a public hearing after due public notice on all recommendations from the commission. It may accept, reject, modify, return, or seek additional information on those recommendations. No approval of a rezoning application shall be made unless, upon motion, four members of the county council concur. The county council will thereafter forward its decision to the applicant.

Any new information presented at the planning and land development regulation commission for any application will be grounds to continue an application to the next planning and land development regulation commission. Applicants shall inform and provide staff with the new information prior to the planning and land development regulation commission.

Any new information presented at the county council meeting not previously presented to the planning and land development regulation commission for any application will be grounds to return an application to the planning and land development regulation commission for further review. Applicants shall inform and provide staff with the new information prior to the council meeting.

RESOLUTION 2017-____

A RESOLUTION OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA AMENDING THE DEVELOPMENT AGREEMENT FOR PUD-07-032 TO ALLOW FOR A NEW PRINCIPAL USE AND STRUCTURES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on February 21, 2008, the County of Volusia adopted Resolution 2008-42 approving the Development Agreement (PUD-07-032) entered into by the County and Good Capital Group, Inc. and recorded in Official Records Book 6242, Page 1781 of the Public Records of Volusia County, Florida; and

WHEREAS, Fifth Third Bank, a National Banking Association (hereinafter referred to as the "Owner"), is currently the owner of that parcel of land described in the Development Agreement referenced herein (hereinafter referred to as the "Property"); and

WHEREAS, RaceTrac Petroleum, Inc., a Georgia corporation, (hereinafter referred to as the "Applicant"), has currently applied, on behalf of the Owner, to the County of Volusia for a major amendment to the Development Agreement (PUD-07-032) recorded in Official Records Book 6242, Page 1781 of the Public Records of Volusia County, Florida; and

WHEREAS, the Applicant desires to amend the Development Agreement by modifying the permitted principal uses and the permitted accessory uses on the Property; and

WHEREAS, the application of RaceTrac Petroleum, Inc. for a major amendment of the Development Agreement for PUD-07-032 was heard by and before the Volusia County Council, Volusia County, Florida on _____, 2017; and

WHEREAS, based upon the verified Application and other supporting documents, maps, charts, overlays, other evidence and instruments; the advice, report, and recommendations of the Growth and Resource Management Department, Legal Department, and other Departments and agencies of Volusia County; and the testimony adduced and evidence received at the Public Hearing on this Application by the Planning and Land Development Regulation Commission on _____, 2017, and otherwise being fully advised, the Volusia County Council does hereby find and determine as follows:

A. That the Application of RaceTrac Petroleum, Inc., on behalf of Fifth Third Bank, was duly and properly filed here on January 27, 2017, as required by law.

B. That the Applicant has applied for a major amendment to the Development Agreement to amend permitted principal and accessory uses for the parcel described in Exhibit "A" to the Amended Development Agreement for Case No. PUD-17-021.

C. That all fees and costs that are by law, regulation, or ordinance required to be borne and paid by the Applicant have been paid.

D. That the Applicant has been authorized by the Owner of a 4.1 acre ± parcel of land, which is situated in Volusia County. This parcel of land is described more particularly in the legal description, a true copy of which is attached as Exhibit "A" to the Amended Development Agreement for Case No. PUD-17-021.

E. That the Applicant has held a pre-application meeting as required by Chapter 72, County Code of Ordinances, as amended.

F. That the Applicant has compiled with the "Due Public Notice" requirements of Chapter 72, County Code of Ordinances, as amended.

G. That the amendment to the Development Agreement is consistent with both the Volusia County Comprehensive Plan and the intent and purpose of the Zoning Ordinance of Volusia County, as codified in article II of Chapter 72, Code of Ordinance, and does promote the public health, safety, morals, general welfare and orderly growth of the area affected by the request.

G. That the Owner agrees with the provisions of the Amended Development Agreement, which is attached hereto as Exhibit "1".

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN AN OPEN MEETING DULY ASSEMBLED IN THE THOMAS C. KELLY COUNTY ADMINISTRATION BUILDING, COUNTY COUNCIL MEETING ROOM, DELAND, FLORIDA, THIS _____ DAY OF _____, 2017, AS FOLLOWS:

A. That the Application of RaceTrac Petroleum, Inc., for amendments to the Development Agreement is hereby granted.

B. That the Development Agreement of the subject parcel described in Exhibit "A" is hereby amended as set forth herein.

C. With respect to any conflict between the zoning code and this Resolution or the attached Amended Development Agreement, the provisions of this Resolution and Amended Development Agreement shall govern. The zoning code shall govern

with respect to any matter not covered by this Resolution or the Amended Development Agreement. The Volusia County Zoning Enforcement Official will ensure compliance with this Resolution and the Amended Development Agreement.

D. Unless otherwise provided in Paragraph C, nothing in this Resolution or the Amended Development Agreement shall abridge the requirements of the Code of Ordinances, County of Volusia. Timing and review procedures contained in this Resolution and the Amended Development Agreement may be modified to comply with the Land Development Code of Volusia County, Florida, as codified in article III of Chapter 72, Code of Ordinances, County of Volusia.

EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption by the Council.

DONE AND ORDERED IN OPEN MEETING.

ATTEST:

**COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA**

James T. Dinneen, County Manager

Ed Kelley, County Chair

Please return recorded document to

Volusia County
Growth and Resource Management
123 West Indiana Avenue, Room 202
DeLand, Florida 32720

AMENDED DEVELOPMENT AGREEMENT - PUD-17-021

(The Development Agreement Recorded at Official Records Book 6242, Page 1781 of the Public Records of Volusia County is replaced in its entirety with the following)

A. Development Concept. The property shall be developed as a BPUDC substantially in accordance with the Master Development Plan. The Master Development Plan shall govern the development of the property as a BPUDC and shall regulate the future use of the parcel.

1. Master Development Plan. The Master Development Plan (“MDP”) shall consist of the Preliminary Plan prepared by Tannath Design, Inc. and dated _____, 2017 and this Amended Development Agreement (hereinafter referred to as the “Agreement”). The Preliminary Plan is hereby approved and incorporated in this Agreement by reference as Exhibit “B”. The MDP shall be filed and retained for public inspection in the Growth and Resource Management Department and shall constitute a supplement to the Official Zoning Map of Volusia County.

2. Amendments. All amendments to the MDP, other than those deemed by the Zoning Enforcement Official’s reasonable opinion to be minor amendments, in accordance with Section 72-289 of the Zoning Code, shall require the review and recommendation of the Planning and Land Development Regulation Commission and action by the Volusia County Council in the same manner as a rezoning of the parcel.

3. Final Site Plan Approval. After the Preliminary Plan is recorded, and prior to the issuance of any permits for construction, including clearing and landfill, a Final Site Plan shall be prepared and submitted for review and approval in the manner required by the land development code, as amended. The Preliminary Plan, attached as Exhibit "B", meets the minimum submittal requirements of a Conceptual Site Plan application in accordance with the land development code. Therefore, the Preliminary Plan shall be in-lieu of a Conceptual Site Plan application, and the owner/developer is authorized to proceed with submittal of a Final Site Plan application once this Agreement has been recorded.

B. Unified Ownership. The Owner, and its successors and/or assigns, has and shall maintain unified ownership of the subject parcel until after the issuance date of Final Site Plan Development Order.

C. Phases of Development. The development of the BPUDC, as shown on the Preliminary Plan, shall occur in one (1) phase.

D. Land Uses within the BPUDC. The development of the parcel shall be consistent with the uses prescribed for each area within the proposed BPUDC. The general locations and size of said land use areas are shown on the Preliminary Plan, Exhibit "B", consistent with the Master Development Plan.

The subject parcel shall be used only for the following uses and their customary accessory uses or structures:

1. Permitted Uses: A convenience store with fuel dispensers that shall not exceed a gross floor area of 5,000 ~~+/- 5,500~~ square feet, with a maximum of fourteen (14) fueling service positions.
2. Permitted Accessory Use: +/- 500 square foot outdoor seating area.
3. Prohibited Uses. All uses not specifically permitted are prohibited.

E. Development Standards.

1. Minimum project Size: 3.5 acres
2. Minimum lot width: 270 feet
3. Minimum yard size (building setbacks):
 - a. *Front yard*: 75 feet from SR 44 and Kepler Road
 - b. *Side yard*: 35 feet from southern and eastern boundaries
4. Maximum lot coverage: 30%
5. Maximum ~~building~~ height:
 - a. Building: 25 feet
 - b. Fuel dispenser canopy: 19 feet
6. Landscape buffer requirements: Required landscaping shall

comply with the minimum requirements of Section 72-284 of the zoning code as amended, except as otherwise stated in this document. The front landscape buffer on SR 44 and Kepler Road shall comply with the City of DeLand Emerging Gateway Overlay District standards. An eight (8)-foot decorative masonry wall

shall be installed along the south property line two (2) feet north from said property line.

Additionally, the tree plantings closest to the gas pump canopy shall be upsized to match the height of the canopy.

7. Off-street parking and loading requirements. Off-street parking and loading requirements shall be in accordance with Section 72-286 of the zoning code as amended.

8. Signage requirements. Signs shall comply with applicable requirements of the zoning code, as amended, including Sections 72-297(j), 72-298, and 72-303(j), unless otherwise stated by this document or on the Master Development Plan. The City of DeLand's emerging gateway standards shall apply regarding the type, height, and size of any ground sign(s).

9. Nonresidential Development Design Standards. The requirements of Section 72-303 Nonresidential Development Design Standards of the zoning code as amended apply as stated by said Section 72-303, unless otherwise stated by the document. The zoning code requires developments with buildings not exceeding 10,000 square feet to provide no more than 50 percent of the required off-street parking between the front façade of the establishment and the abutting street. Given the nature of this use and the location of the canopy, which is also a structure, no parking spaces may be located between the canopy and the nearest right-of-way. Accordingly, the Project is hereby permitted to use the number of parking spaces in the locations as depicted on the Preliminary Plan. Additionally, Section 72-303(d)(l)h applies regarding the architectural design of

the gas canopy roof which must be consistent with the roof of the convenience store building in terms of style, color and materials.

10. Illumination. To minimize obtrusive aspects of excessive and/or nuisance outdoor light usage, while preserving safety, security and the nighttime use and enjoyment of the property, the following apply:

a. A signed and sealed illumination plan and details shall be submitted with the Final Site Plan application.

b. In no case shall illumination from the property increase the level of illumination at the property lines by more than half (0.5) foot candle (fc).

c. All light fixtures including wall and surface mounted luminaries shall be installed and maintained in such a manner that is fully-shielded down. [Light fixtures associated with the pump island canopy shall be further oriented away from the property lines and/or recessed in the canopy to minimize glare.](#)

d. Light Trespass: all external lighting shall be reduced by 50% after 11 p.m. until sunrise.

e. Illumination plan shall not exceed 40,000 lumens per acre.

f. Light fixtures shall be decorative in appearance and compliment the architectural style of the building. Light poles shall not exceed twenty (20) feet in height.

F. Environmental Considerations. The minimum environmental requirements of Chapter 72 of the Code of Ordinances, County of Volusia, as amended, shall be met.

G. Sewage Disposal and Potable Water Facilities. Provisions for sewage disposal and potable water needs of the BPUD will be provided in accordance with the comprehensive plan, the land development code and Fla. Admin. Code Ann. R. 64E-6. Potable water shall be provided by the City of DeLand. Sanitary sewer treatment/waste disposal shall be provided by an on-site septic system. Connection to the City of DeLand central sanitary sewer system shall be required when said system is available.

H. Stormwater Drainage. Provision for stormwater retention shall be in accordance with the land development code.

I. Access and Transportation System Improvements. All access and transportation system improvements shall be provided in accordance with the land development code and the requirements of Section 72-297 of the zoning code. The parcel shall be developed in substantial accordance with the following access and transportation system improvements.

1. Access. Access to the property shall be as generally depicted on the Preliminary Plan and shall be limited to one access point onto Kepler Road and one access point onto SR 44. The developer of the property shall provide a cross-access easement to the property adjoining the BPUDC's eastern boundary at the time of development. The future location of the easement is depicted on the Preliminary Plan. Final site access, pedestrian, bicycle and traffic circulation improvements and access points shall be determined during final site plan review, in accordance with the requirements of the land development code and zoning code as may be modified by the Development Review Committee and/or Volusia County Traffic Engineer as may be necessary to provide required

pedestrian, bicycle, and traffic safety improvements on and adjacent to the site. The City of DeLand's gateway corridor standards shall apply regarding sidewalks.

2. Transportation System Improvements. Transportation system improvements as generally depicted on the Preliminary Plan shall be constructed by the Owner or successors and assigns at the time of development. These improvements shall include but may not be limited to:

- a. Extension of the continuous north-bound right-turn lane on Kepler Road with a right-in/right-out access drive into the subject site.
- b. New in-bound right-turn lane with a full-access driveway on SR 44.
- c. Extension of the left-turn lane on SR 44 to Lake Winnemissett Avenue.
- d. Extension of the west-bound right turn lane on SR 44.

These improvements shall be provided as required by the land development code, as determined during final site plan review, and as may be modified by the Development Review Committee and/or Volusia County Traffic Engineer. Right-of-way identified to be dedicated to Volusia County on the Preliminary Plan shall be dedicated by special warranty deed within thirty (30) days of final site plan approval.

J. Fire Protection. The developer of the property, whether the Owner or successors and assigns, is responsible for providing adequate on-site water supply and other fire protection improvements to serve the BPUDC project. The design, capacity,

and location of the required water supply and other fire protection improvements shall be as required by the Volusia County Fire Marshall's office.

K. Other Requirements.

1. *Permanent storage of materials, merchandise and equipment.* All materials, merchandise and equipment, other than motor vehicle fuels/fueling positions, shall be stored within the principal building.

2. *Trash facilities.* Adequate, enclosed trash storage facilities shall be provided on the site.

3. *Utility lines.* All utility distributions lines within the BPUDC shall be located underground; however, those appurtenances requiring above-ground installations, such as transformers, junction boxes and similar system elements, may be exempted.

L. Expiration of Development Agreement. The Owner, or its successors and/or assigns, shall file a final site plan application within twelve (12) months from the effective date of this Order and Resolution. Failure to timely file said final site plan shall immediately render the development agreement null and void, unless the zoning enforcement official, for good cause shown, approves a minor amendment to extend the time period indicated in this paragraph.

M. Binding Effect of Plans, Recording, and Effective Date. The Master Development Plan, including any and all supplementary orders and resolutions, and the Preliminary Plan shall bind and inure to the benefit of the Owner and its successor(s) in title or interest. The BPUDC zoning, Order and Resolution and all approved plans shall run with the land.

This Order and Resolution and all subsequent Orders and Resolutions shall be filed with the Clerk of the Court and recorded within forty-five (45) days following execution of the document by the Volusia County Council, in the Official Records of Volusia County, Florida. One copy of the document, bearing the book and page number of the Official Record in which the document was recorded, shall be submitted to the Growth and Resource Management Department. The date of receipt of this document by Growth and Resource Management Department shall constitute the effective date of this Order and Resolution and its subsequent amendments. The applicant shall pay all filing costs for recording documents.

N. Conceptual Approval: The parties hereto acknowledge that reductions in density and/or intensity may and do occur; and that minor changes to roadway design, location, and size of structures, actual location of parking spaces, specific locations for land uses, and locations and design of stormwater storage, landscape buffers and upland buffers may result to comply with the land development code. A request for such an amendment shall be reviewed by the zoning enforcement official and may be processed as a minor amendment in accordance with Section 72-289 of the Zoning Code. The Applicant agrees to revise and record the Revised Preliminary Plan which reflects any such changes with the Clerk of Court immediately following the expiration of the 30-day period for appealing Development Review Committee (DRC) decisions to the County Council. A copy of the Revised Preliminary Plan, bearing the book and page number of the Official Record in which the document was recorded, shall be submitted to the Growth and Resource Management Department.

DONE AND ORDERED by the County Council of Volusia County, Florida this 20th day of _____, 2017.

ATTEST:

VOLUSIA COUNTY COUNCIL

James T. Dinneen
County Manager

Ed Kelley
County Chair

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by James T. Dinneen and Ed Kelley, as County Manager and County Chair, Volusia County Council, respectively, on behalf of the County of Volusia, and who are personally known to me.

FLORIDA NOTARY PUBLIC, STATE OF

WITNESSES:

FIFTH THIRD BANK

Signature

Print Name

Signature

Print Name

STATE OF
COUNTY OF

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____ who is _____ of Owner, Fifth Third Bank, and is [] personally known to me or [] has produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

EXHIBIT "A"

LEGAL DESCRIPTION (PROVIDED IN TITLE COMMITMENT)

LOT 5, BLOCK 12, WINNEMISSETT PARK, ACCORDING TO THE MAP IN MAP BOOK 1, PAGE 143, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, EXCEPT THAT PORTION USED FOR STATE ROAD PURPOSES, LESS:

THAT PORTION DESCRIBED IN DEED RECORDED IN OFFICIAL RECORDS BOOK 3979, PAGE 2354, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, FOR KEPLER ROAD WIDENING.

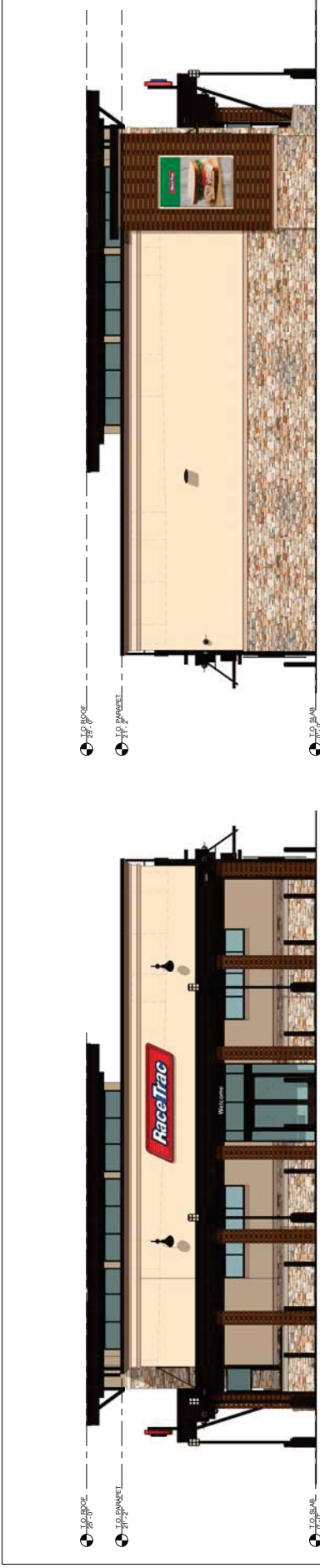
MORE PARTICULARLY DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION (PREPARED BY SURVEYOR)

COMMENCE AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 44, ACCORDING TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 7907-109 AND THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 17 SOUTH, RANGE 30 EAST, ALSO BEING THE EAST LINE OF LOT 5, BLOCK 12, MAP OF WINNEMISSETT PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 1, PAGE 143 AND RE-RECORDED IN MAP BOOK 17, PAGES 47 AND 48, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, FOR A POINT OF BEGINNING; THENCE RUN SOUTH 01°46'54" EAST ALONG SAID EAST LINES, 296.40 FEET TO THE SOUTHEAST OF SAID LOT 5; THENCE RUN SOUTH 88°26'04" WEST, ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 609.66 FEET TO THE EAST RIGHT-OF-WAY LINE OF KEPLER ROAD ACCORDING TO THE VOLUSIA COUNTY R/W MAP PROJECT# 1113-1; THENCE RUN NORTH 01°48'49" WEST, ALONG SAID EAST RIGHT-OF-WAY LINE 296.86 FEET TO THE AFORESAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 44, THENCE RUN NORTH 88°11'42" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 609.82 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PROPERTY LIES IN VOLUSIA COUNTY, FLORIDA AND CONTAINS 4.131± ACRES, MORE OF LESS.

EXHIBIT "B"



4 RIGHT ELEVATION
3/16" = 1'-0"

3 LEFT ELEVATION
3/16" = 1'-0"



2 REAR ELEVATION
3/16" = 1'-0"



1 FRONT ELEVATION
3/16" = 1'-0"

RaceTrac
 THESE PLANS ARE SUBJECT TO FEDERAL, STATE AND LOCAL REGULATIONS AND REQUIREMENTS. ANY CHANGES TO THESE PLANS MUST BE APPROVED BY THE ARCHITECT AND THE RACE TRAC STORE DESIGN CENTER. ANY CHANGES TO THESE PLANS MUST BE APPROVED BY THE ARCHITECT AND THE RACE TRAC STORE DESIGN CENTER. ANY CHANGES TO THESE PLANS MUST BE APPROVED BY THE ARCHITECT AND THE RACE TRAC STORE DESIGN CENTER.

GPD ASSOCIATES, LLC
 300 WEST CHALKWATER
 PROSPER, TEXAS 75088
 972.416.8888

ISSUE/REVISION RECORD
 DATE DESCRIPTION
 05/27/17 PRELIMINARY ELEVATIONS

RaceTrac
 RACE TRAC STORE DESIGN CENTER
 8225 CHERRYLAND BOULEVARD
 ATLANTA, GEORGIA 30339
 770.512.7000

PROJECT NAME
ANYTOWN, CITY

STATE 00000
ADDRESS

RACE TRAC STORE NUMBER
000

PROJECT TYPE SERVICE S.K.
2016 RF-RK-SV-A 0117

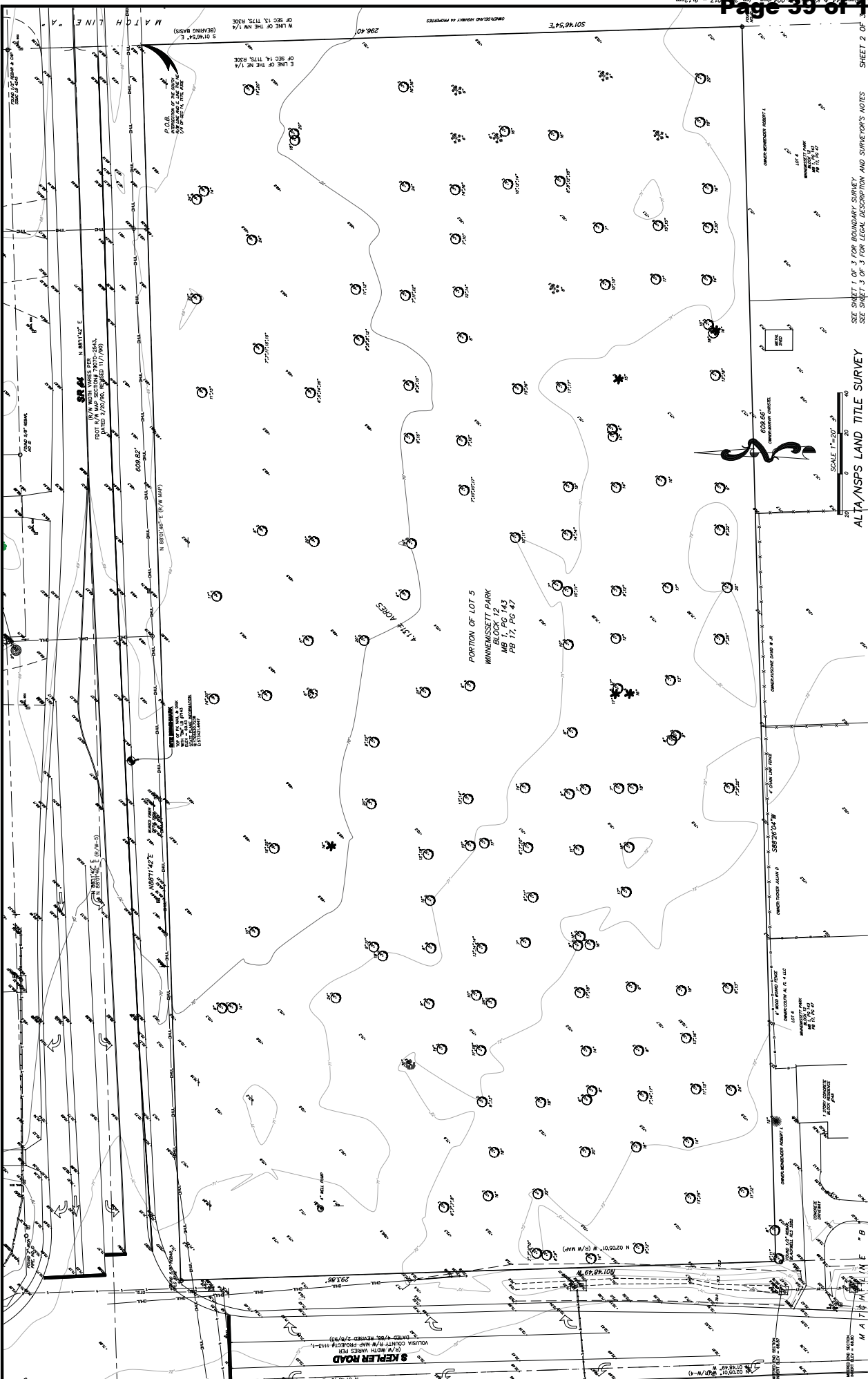
PLAN INDICATION NOTICE
 SHEET NO. 022 DATE 07/17/17
 THIS SET OF PLANS IS THE PROPERTY OF GPD ASSOCIATES, LLC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. NO PART OF THESE PLANS IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE EXPRESS WRITTEN PERMISSION OF GPD ASSOCIATES, LLC. THE USER AGREES TO HOLD GPD ASSOCIATES, LLC HARMLESS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE ASSERTED AGAINST GPD ASSOCIATES, LLC BY ANY PARTY AS A RESULT OF THE USER'S USE OF THESE PLANS FOR ANY PROJECT OTHER THAN THAT SPECIFICALLY IDENTIFIED HEREON.

PROFESSIONAL SEAL
 PROJECT NUMBER XXXXXXXX-XX
 SHEET TITLE
EXTERIOR ELEVATIONS
300E

NOT FOR CONSTRUCTION

EXTERIOR MATERIAL SCHEDULE

AWNING	ALUMINUM AWNING	SELECTED BY RACE TRAC
AW1	CONTINENTAL	MATCH ORNAMENTAL TUSCAN COLOR TO MATCH METAL CHAMPAGNE
AW2	OTHER	COLOR LIGHT BUFF*
BR1	BRICK	STANDARD
BR2	BRICK	STANDARD
BR3	BRICK	STANDARD
BR4	BRICK	STANDARD
BR5	BRICK	STANDARD
BR6	BRICK	STANDARD
BR7	BRICK	STANDARD
BR8	BRICK	STANDARD
BR9	BRICK	STANDARD
BR10	BRICK	STANDARD
BR11	BRICK	STANDARD
BR12	BRICK	STANDARD
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BR14	BRICK	STANDARD
BR15	BRICK	STANDARD
BR16	BRICK	STANDARD
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BR98	BRICK	STANDARD
BR99	BRICK	STANDARD
BR100	BRICK	STANDARD



SEE SHEET 1 OF 3 FOR BOUNDARY SURVEY
 SEE SHEET 3 OF 3 FOR LEGAL DESCRIPTION AND SURVEYOR'S NOTES

MAP OF BOUNDARY AND TOPOGRAPHIC SURVEY
 LOCATED IN
 SECTION 14, TOWNSHIP 17 SOUTH, RANGE 30 EAST
 VOLUSIA COUNTY, FLORIDA

PEC | SURVEYING AND MAPPING, LLC
 CERTIFICATE OF AUTHORIZATION NUMBER LB 7808
 2100 Alaflop Trail, Suite 203 • Oviedo, Florida 32765 • 407-542-4967
 WWW.PECONLINE.COM on@peconline.com

REVISIONS	DATE	BY

SHEET 2 OF 3
 SURV: D.A.W.
 CHECKED BY: TRACY W. BROCH, P.S.M., FL. REG. NO. 5579
 DATE: 2/25/2021
 DRAWN BY: D.A.W.
 F.I.A. (PAGE 3)
 98-4972-10

DAVID A. WHITE, P.S.M., FL. REG. NO. 6044
 TRACY W. BROCH, P.S.M., FL. REG. NO. 5579

ALTA/NSPS LAND TITLE SURVEY
 SCALE 1" = 20'

PORTION OF LOT 5
 WINNESSETT PARK
 BLOCK 12
 MB 1, PG 143
 PB 17, PG 47

KERLER ROAD

06/12/2008 11:11 AM
Instrument# 2008-119144 # 1
Book : 6242
Page : 1781

**IN THE COUNTY COUNCIL OF THE
COUNTY OF VOLUSIA, FLORIDA**

IN RE: PUD-07-032 Application of Good Capital Group, Inc., a Florida for-profit Corporation

RESOLUTION #: 2008-42

**ORDER AND RESOLUTION
GRANTING A REQUEST FOR CHANGE OF ZONING FROM THE R-3C (URBAN
SINGLE-FAMILY RESIDENTIAL / THOROUGHFARE OVERLAY ZONE)
TO
DELAND GOOD CAPITAL GROUP BPUDC (BUSINESS PLANNED UNIT
DEVELOPMENT / THOROUGHFARE OVERLAY ZONE)**

The application of Good Capital Group, Inc., a Florida for-profit Corporation, for rezoning was heard by and before the Volusia County Council, Volusia County, Florida, on February 21, 2008. Based upon the verified Application and other supporting documents, maps, charts, overlays, other evidence and instruments; the advice, report, and recommendations of the Growth Management Department, Legal Department, and other department and agencies of Volusia County and the testimony adduced and evidence received at the Public Hearing on this Application by the Planning and Land Development Regulation Commission on January 8, 2008, and otherwise being fully advised, the Volusia County Council does hereby find and determine as follows:

GENERAL FINDINGS

- A. That the application of Good Capital Group, Inc. (the "Applicant") was duly and properly filed herein on February 23, 2007, as required by law.
- B. That all fees and costs which are by law, regulation or Ordinance required to be borne and paid by Applicant have been paid.
- C. That Applicant is the contract purchaser of 4.1± acre parcel of land which is located in Volusia County, near the City of Deland. This parcel of land is

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described more particularly in the survey and legal description, a true copy of which is attached hereto as Exhibit "A" and referred to herein as the "Property".

- D. That Applicant has provided authorization for this Request for a Change of Zoning from DeLand Highway 44 Properties, LLC, a Florida Limited Liability Company, and referred to herein as the "Owner".
- E. That Applicant has held a pre-application meeting as required by Volusia County Zoning Ordinance No. 80-8, as amended.
- F. That Applicant has complied with the "Due Public Notice" requirements of Volusia County Zoning Ordinance No, 80-8, as amended.

FINDINGS REGARDING REZONING

- A. That Applicant has applied for a change of zoning from the present zoning classification of the Property from R-3C to Business Planned Unit Development / Thoroughfare Overlay Zone (BPUDC),
- B. The rezoning to BPUDC is consistent with both the Volusia County Comprehensive Plan, Ordinance No. 90-10, as amended, and the intent and purpose of the Volusia County Zoning Ordinance No. 80-8, as amended and does promote the public health, safety, morals, general welfare and orderly growth of the area affected by the rezoning request.

NOW THEREFORE, BE IT RESOLVED AND ORDERED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY ADMINISTRATION CENTER, COUNTY COUNCIL MEETING ROOM, DELAND, FLORIDA THIS 21ST DAY OF FEBRUARY, A.D., 2008, AS FOLLOWS:

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- A. That the application of Good Capital Group, Inc. for the rezoning of the subject parcel is hereby granted.
- B. The zoning classification of the Property, described in Exhibit "A", attached hereto, is hereby amended from R-3C to Business Planned Unit Development / Thoroughfare Overlay Zone (BPUDC) as described in Article VII of the Volusia County Zoning Ordinance No. 80-8, as amended.
- C. That the Official Zoning Map of Volusia County is hereby amended to show the rezoning of the Property to DeLand Good Capital Group BPUDC.
- D. That Volusia County Zoning Ordinance No. 80-8, as amended, is consistent with the provisions of the Development Agreement as hereinafter set forth in this Order and Resolution and with respect to any conflict between Ordinance No. 80-8, as amended, and the Development Agreement, the provisions of the Development Agreement shall govern. Ordinance No. 80-8, as amended, shall govern with respect to any matter not covered by the Development Agreement. The Volusia County Zoning Enforcement Official will ensure overall compliance with this Order and Resolution.
- E. Unless otherwise provided for herein, Article VIII, Supplementary Regulations of Volusia County Zoning Ordinance No. 80-8, as amended, shall apply to the BPUD in the same manner as the B-9 General Office Classification of the Volusia County Land Development Code.
- F. Nothing in this Order and Resolution shall abridge the requirements of any Volusia County Ordinance other than Zoning Ordinance 80-8, as amended. Timing and review procedures contained in this Order and Resolution may be modified to comply with the Volusia County Land Development Code, Ordinance

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No. 88-3, as amended. Further, nothing in the Development Agreement is intended to abridge the requirement of Ordinance No. 88-3 as amended, and any other County Ordinance.

DEVELOPMENT AGREEMENT

The County of Volusia County, Florida (the "County"), with a mailing address of 123 West Indiana Avenue, DeLand, Florida 32720, and Good Capital Group, Inc., a Florida for profit corporation (the "Applicant"), with a mailing address of 174 W. Comstock Avenue, S-114, Winter Park, Florida, 32789, hereby covenant and agree as follows:

- A. **Unified Ownership of the Property.** The parcel of land (the "Property"), more particularly described in Exhibit "A", attached hereto and incorporated herein, is under the unified ownership and control of DeLand Highway 44 Properties LLC, a Florida Limited Liability Company (the "Owner"). The Owner or its successors shall maintain unified ownership of the Property until after issuance of the Final Site Plan Development Order.
- B. **Development Concept.** The Property shall be developed as a BPUDC substantially in accordance with the Master Development Plan. The Master Development Plan shall govern the development of the Property as a BPUDC and shall regulate the future use of this parcel.
 1. **Master Development Plan.** The Master Development Plan shall consist of the Preliminary Plan and building architectural elevation drawings prepared by John S. Carter, Architect, P.A. and dated December 20, 2007, and this Development Agreement. The Preliminary Plan and

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building renderings are hereby approved and incorporated in this Order and Resolution by reference as Exhibit "B" & "C" respectively. The Master Development Plan shall be filed and retained for public inspection in the Growth Management Department and it shall constitute a supplement to the Official Zoning Map of Volusia County. The Master Development Plan generally depicts the planned features and improvements to the Property.

2. **Amendments.** All amendments of the Master Development Plan, other than those deemed by the Zoning Enforcement Official as minor amendments as set out by Section 813.06 of Ordinance 80-8, as amended, shall require the review and recommendation of the Planning and Land Development Regulation Commission and action by the Volusia County Council in the same manner as a rezoning of the Property.
 3. **Final Site Plan Approval.** After the Master Development Plan is recorded, and prior to the issuance of any permits for construction, including clearing and landfill, a Final Site Plan shall be prepared and submitted for review and approval in the manner required by Article III of the Volusia County Land Development Code, Ordinance 88-3, as amended
- C. **Phases of Development.** The infrastructure improvements, including off-site improvements to the intersection, shall be constructed in a single phase and shall be completed prior to issuance of the Certificate of Occupancy for either building. The project is limited to (2) two structures depicted on the preliminary plan attached hereto. The buildings can be built in separate phasing.

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- D. **Land Uses Within the BPU DC.** The development of the Property shall be Consistent with the uses described herein. The development of the Property may include the development of a Financial Institution, including drive through service, general offices, and medical / dental offices.
- E. **Development Standard.** The Preliminary Plan generally depicts the planned features and improvements to the Property. Final determination of the building location and alignment shall be provided in the Final Site Plan. However, the Final Site Plan must adhere to the development standards provided below.

1. **Lot Dimensions, Minimum Building Setback from Property's**

Boundary. The Property shall be developed as generally depicted on the Preliminary Plan. The following lot dimensions shall apply:

Minimum Project Area: 4.1+/- acres

Minimum Building Setback from SR 44 ROW: 77 feet

Minimum Building Setback from Kepler ROW: 60 feet

Minimum Building Setback from Property's

Southern Boundary: 30 feet

(Exception: An 8-foot brick wall shall be constructed, abutting the residential zoned property on the southern boundary, by the Applicant and/or Owner 25 to 30 feet off the south property line prior to any vertical construction on the Property and shall be placed in such manner to minimize impacts to existing trees.)

Maximum Building Area:

No single use shall exceed a building area of: 5000 sq. feet

Total Maximum Building Area for Project: 10,000 sq. feet

Maximum Building Height: 25 feet

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Maximum Lot Coverage: 35%

Landscape Requirement: 60 feet abutting SR

44 and Kepler Road; 30 feet abutting all other boundaries. Buffers shall consist of existing and planted vegetation meeting the requirements of Section 808 of the Zoning Ordinance 80-8, except the specific planting standards shall be consistent with the preliminary plan notations.

2. **Signage.** Signage shall be consistent with requirements of Volusia County's Zoning Ordinance 80-8, as amended, Section 821.09 *Sign Regulations* for ground signs and Section 822.00 (*Sign Regulations*) for wall signs.

F. **Sewer Disposal and Potable Water.** In accordance with the Volusia County Comprehensive Plan, provisions for sewage disposal shall be met through the installation of septic tank on the Property. The estimated wastewater flow from uses on the Property shall not exceed five thousand gallons per day. Connection to a central system of sanitary sewer service shall be required when said system is available. Potable water shall be provided pursuant to a separate service agreement with the City of DeLand.

G. **Stormwater Drainage.** As generally depicted on the Preliminary Plan, stormwater will be managed in accordance with the applicable laws and regulations of Volusia County Land Development Code, St. Johns River Water Management District, and any and all other applicable governmental entities with jurisdiction. The minimum requirements of the Volusia County Land Development Code, Ordinance No. 88-3, as amended, shall be met.

- H. **Parking.** Applicant shall provide parking as generally depicted on the Final Site Plan or as provided in Article VIII, Section 810.00 of the Volusia County Zoning Ordinance 80-8, as amended.
- I. **Access and Transportation System Improvements.** All access and transportation system improvements shall be provided by the Applicant or successors in accordance with the Volusia County Land Development Code, 88-3, as amended, and as required below:
1. **Access.** Access to the Property shall be as generally depicted on the Preliminary Plan and shall be limited to one access point onto Kepler Road and no more than one access point onto SR 44. The applicant shall provide cross-access easement to the property adjoining the BPUDC's eastern boundary in the event said property is ever developed for a residential use.
 2. **Turn Lanes.** The applicant will construct the intersection improvements outlined and detailed on Exhibit "D", including but not limited to the following requirements. A continuous right turn lane proposed on Kepler Road with a right-in, right-out access drive into the subject site. On S.R. 44, right and left turn lanes are proposed for the proposed full access driveway located at the east end of the parcel. Dedication of an additional 17 feet of right-of-way along the S.R. 44 property frontage to accommodate future roadway improvements. Also, an extended right turn lane on State Road 44 shall be designed and implemented as depicted on the Preliminary Site Plan.

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- J. **Environmental Standards.** In accordance with the Land Development Code, 88-3, as amended.
- K. **Additional Standards.**
1. All outdoor lights shall utilize shielded lighting technology to maintain light within the project area.
 2. Buildings permitted by the PUD shall be constructed according to LEED (Leadership in Energy and Environmental Design) principles.
- L. **Binding Effect of Plans, Recording and Effective Date.** The Master Development Plan, including any and all supplementary orders and resolutions; and the Preliminary Plan, shall bind and insure to the benefit of the Applicant and his successor in title or interest. The BPUDC zoning, provisions of this Development Agreement, and all approved plans shall run with the land and shall be administered in a manner consistent with Article IX of the Volusia County Zoning Ordinance No 80-8, as amended. This Order and all subsequent Orders and Resolutions shall be filed with the Clerk of the Court and recorded within ninety (90) days following execution of the document by the Volusia County Council in the Official Records of Volusia County, Florida. One copy of the document, bearing the book and page number of the Official Record in which the document was recorded, shall be submitted to the Growth & Resource Management Department. The date of receipt of this document by the Growth & Resource Management Department shall constitute the effective date of the BPUDC or its subsequent amendments. The applicant shall pay any filing costs for recording documents.

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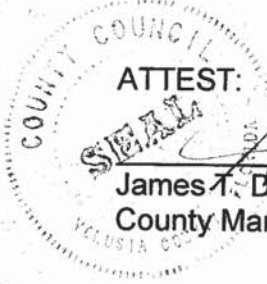
M. **Conceptual Approval.** The parties hereto acknowledge that reductions in density or intensity may and do occur; and that minor changes to roadway design, location and size of structures, actual location of parking spaces, specific locations for land uses, and locations and design of stormwater storage, landscape buffers and upland buffers may result to comply with the Volusia County Land Development Code Ordinance No. 88-3, as amended. Upon determination of the Zoning Enforcement Official, these revisions may be processed as minor amendments as set forth in Section 813.06 of the Volusia County Zoning Ordinance No 80-8, as amended. The Applicant agrees to revise and record the Revised Preliminary Plan which reflects any such changes with the Clerk of the Court immediately following the expiration of the 30 day period for appealing the Enforcement Official decisions to the County Council. A copy of the Revised Preliminary Plan, bearing the book and page number of the Official Record in which the document was recorded, shall be submitted to the Growth Management Department.

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DONE AND ORDERED by the County Council of Volusia County, Florida, this 21ST day of FEBRUARY, 2008.



ATTEST:

[Signature]
James T. Dinneen
County Manager

VOLUSIA COUNTY COUNCIL

[Signature]
Frank T. Bruno, Jr.
County Chair

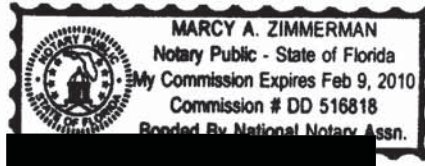
STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 12 day of May, 2008, by Frank T. Bruno, Jr. and James T. Dinneen, as County Chair, Volusia County Council and County Manager, respectively, on behalf of the County of Volusia.

[Signature]

NOTARY PUBLIC, STATE OF FLORIDA
Type or Print Name: _____

Commission No.: _____
My Commission Expires: _____



Instrument# 2008-119144 # 12

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Witnesses:

GOOD CAPITAL GROUP, INC., a Florida For-Profit Corporation

Barbara S. Wallace

[Signature]

Eileen Oedd

Carson Good, President

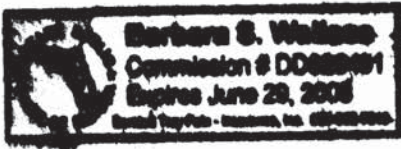
STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 23rd day of May, 2008, by Carson Good, President of Good Capital Group, Inc., a Florida For-Profit Corporation.

Barbara S. Wallace

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name: Barbara S. Wallace



Commission No.: DD 326491

My Commission Expires: 6/29/2008

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Book: 6242

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Witnesses:

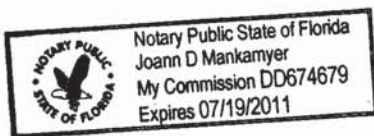
Joann D. Mankamyer
 Joann D. Mankamyer
Patricia A. Cohen
 Patricia A. Cohen

DELAND HWY 44 PROPERTIES, LLC

Michael Marder
 Michael Marder, Managing Director

STATE OF FLORIDA
 COUNTY OF ~~VOLUSIA~~ Orange

The foregoing instrument was acknowledged before me this 23rd day of May, 2008, by Michael Marder, Managing Director of DeLand Hwy 44 Properties, LLC.



Joann D. Mankamyer
 NOTARY PUBLIC, STATE OF FLORIDA
 Type or Print Name: Joann D. Mankamyer

Commission No.: DD674679
 My Commission Expires: 7/9/2011

Instrument# [REDACTED] # 14
Book : 6242
Page : 1794

Exhibit "A"

Legal Description of Property

LOT 5, BLOCK 12, WINNEMISSETT PARK, ACCORDING TO THE PLAT HEREOF AS RECORDED IN PLAT BOOK 1, PAGE 143, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT ANY PART THEREOF WITHIN THE SAID RIGHT OF WAY OF STATE ROAD NO. 44 (EAST NEW YORK AVE.) AND KEPLER ROAD AS NOW LAID OUT.

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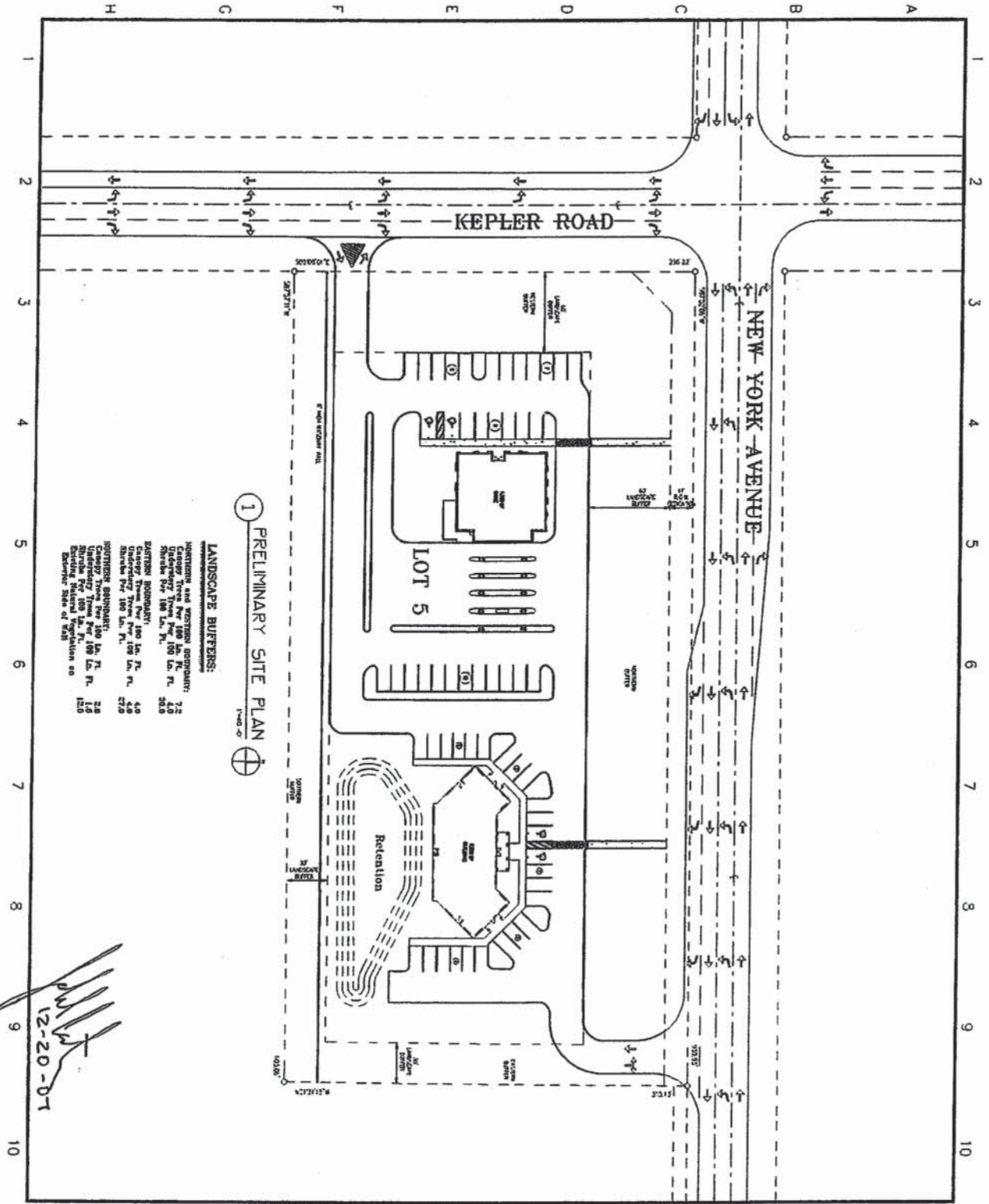
Exhibit "B"

Preliminary Plan

Instrument# 2008-119144 # 16

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LANDSCAPE BUFFERS:

Plant Type	Quantity	Notes
Northwest and Southeast	72	Canopy Trees Per 100 Ln. Ft.
Northwest and Southeast	48	Understory Trees Per 100 Ln. Ft.
Northwest and Southeast	48	Shrub Per 100 Ln. Ft.
Northwest and Southeast	48	Canopy Trees Per 100 Ln. Ft.
Northwest and Southeast	48	Understory Trees Per 100 Ln. Ft.
Northwest and Southeast	48	Shrub Per 100 Ln. Ft.
Northwest and Southeast	24	Canopy Trees Per 100 Ln. Ft.
Northwest and Southeast	12	Understory Trees Per 100 Ln. Ft.
Northwest and Southeast	12	Shrub Per 100 Ln. Ft.
Northwest and Southeast	12	Canopy Trees Per 100 Ln. Ft.
Northwest and Southeast	12	Understory Trees Per 100 Ln. Ft.
Northwest and Southeast	12	Shrub Per 100 Ln. Ft.

1 PRELIMINARY SITE PLAN
1"=40'

[Handwritten Signature]
12-20-07

<p>NOTES TO DRAWINGS:</p>		<p>JOHN SToudenMIRE CARTER ARCHITECT, P.A.</p> <p>19 TYMBER COVE DeLand, Florida 32724 386/736-3311 AA 0002396</p>	<p>GOOD OFFICE COMPLEX</p>

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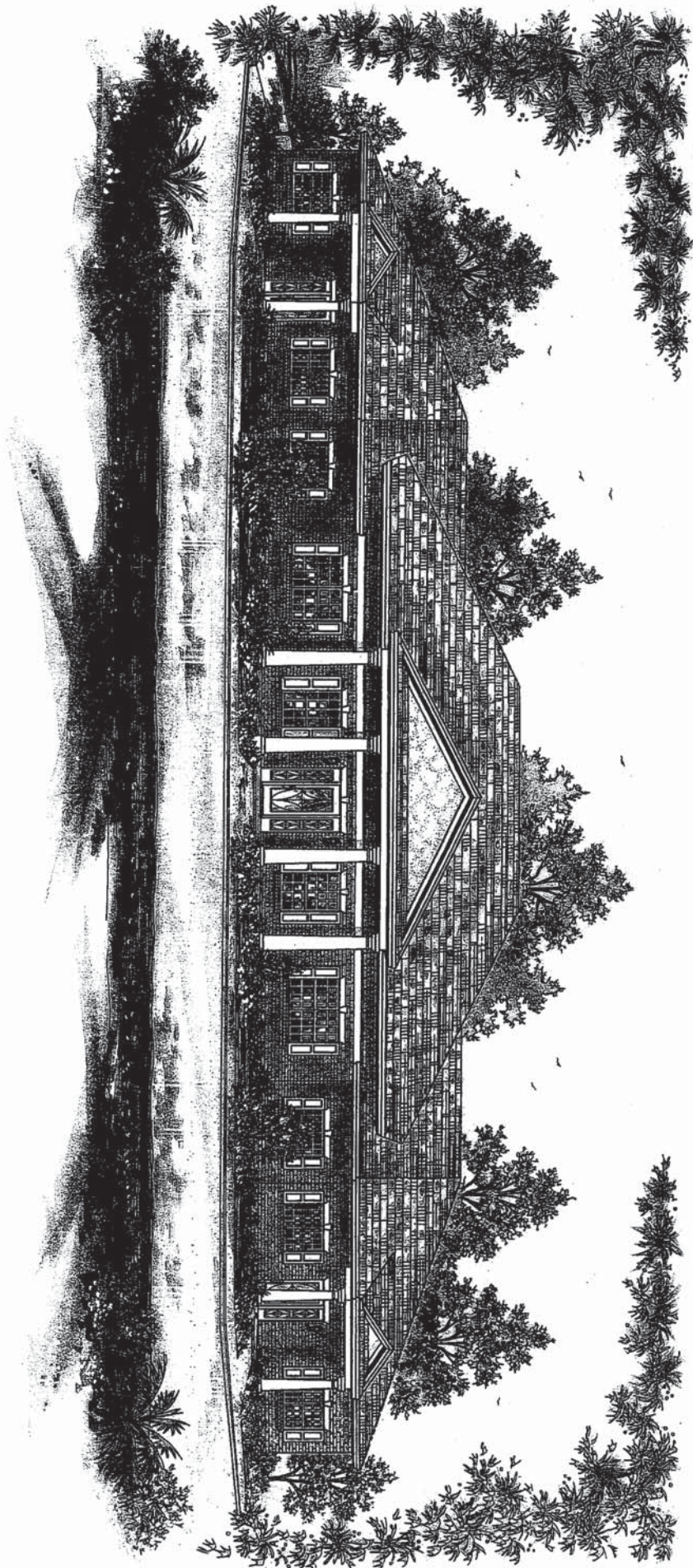
Exhibit "C"

Building architectural elevation drawings

Instrument# 2008-119144 # 18

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OFFICE BUILDING
VIEW FROM NEW YORK AVE.

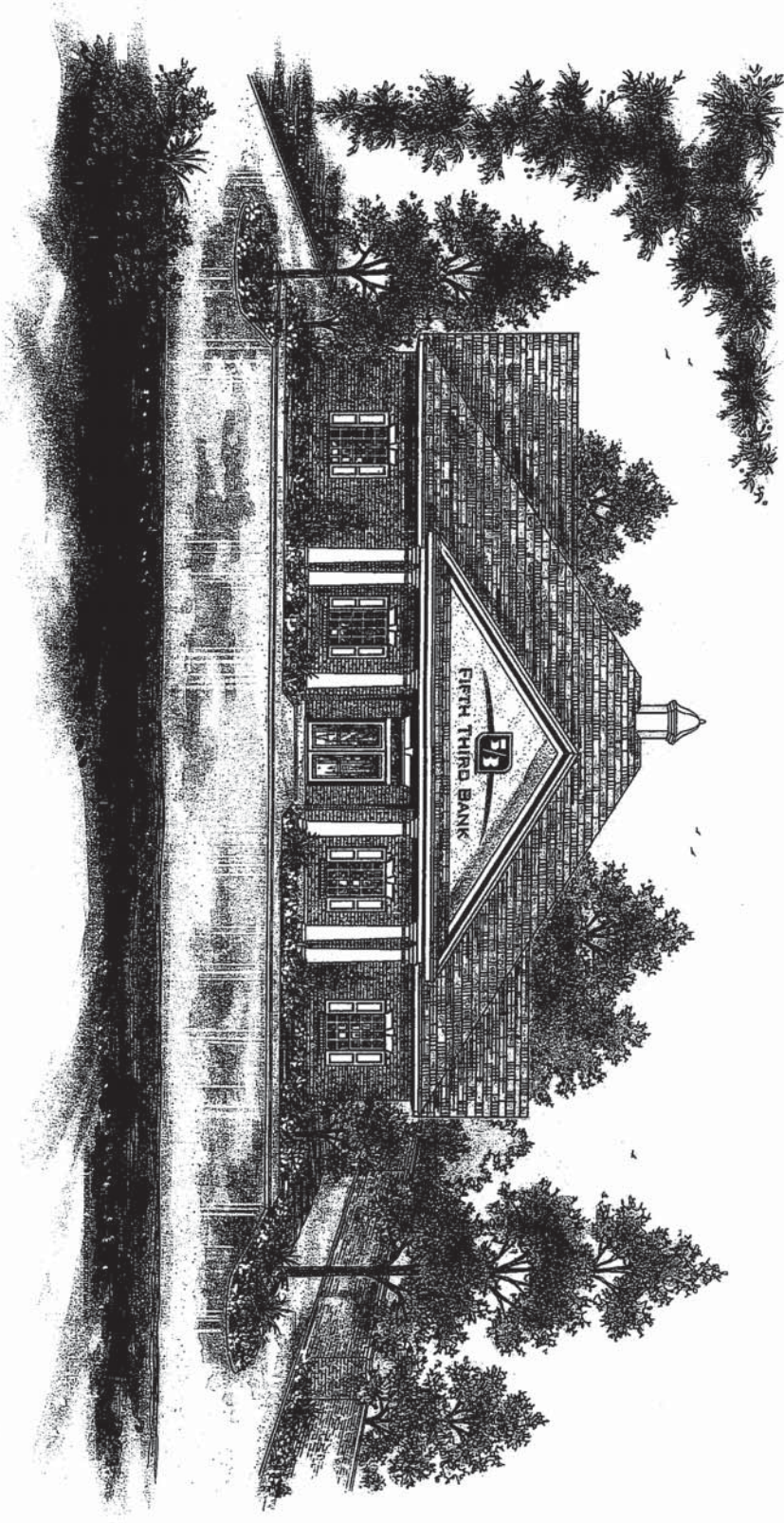
Instrument# 2008-119144 # 19

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BANK BUILDING

VIEW FROM KEPLER ROAD

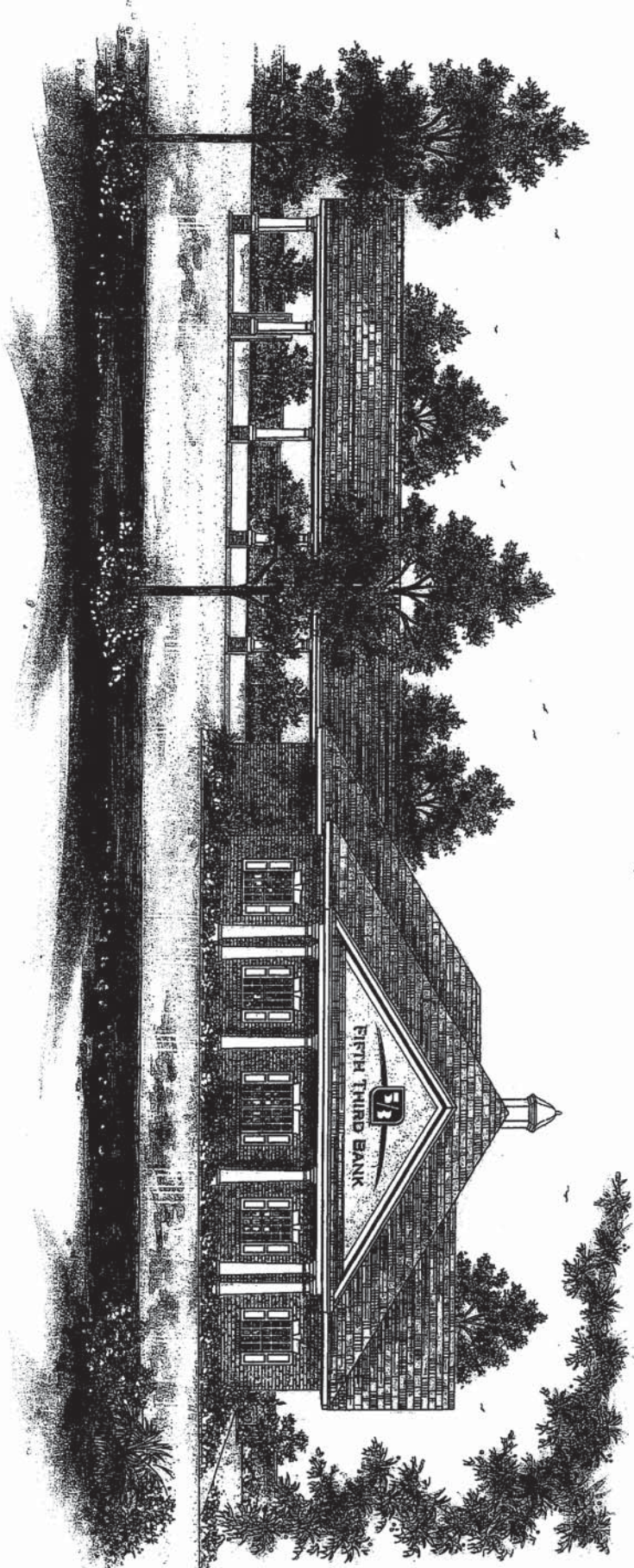


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BANK BUILDING
VIEW FROM NEW YORK AVE.



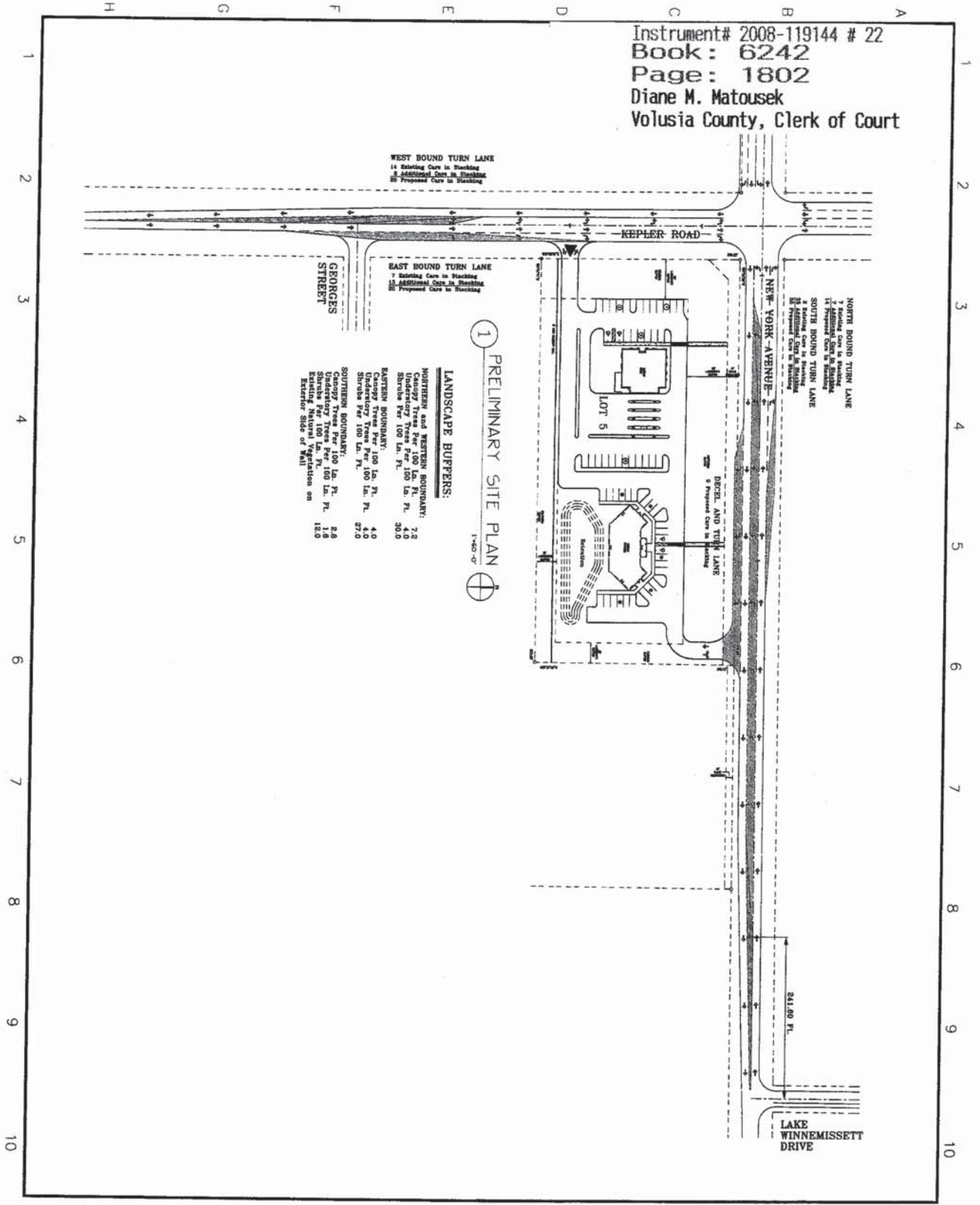
Instrument# 2008-119144 # 21

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Exhibit "D"

Traffic Intersection Improvements Plans



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 Book: 6242
 Page: 1802
 Diane M. Matousek
 Volusia County, Clerk of Court

1 PRELIMINARY SITE PLAN
 1'-0"=0'

LANDSCAPE BUFFERS:

NORTHERN and WESTERN BOUNDARY:	7.2
Canopy Trees Per 100 Ln. Ft.	7.2
Shrubs Per 100 Ln. Ft.	4.0
Stems Per 100 Ln. Ft.	30.0
EASTERN BOUNDARY:	
Canopy Trees Per 100 Ln. Ft.	4.0
Shrubs Per 100 Ln. Ft.	4.0
Stems Per 100 Ln. Ft.	27.0
SOUTHERN BOUNDARY:	
Canopy Trees Per 100 Ln. Ft.	2.8
Shrubs Per 100 Ln. Ft.	2.8
Stems Per 100 Ln. Ft.	18.0

Existing features vegetation on boundary side of wall

<p>NOTES TO DRAWINGS</p>	<p>JOHN SToudenMIRE CARTER ARCHITECT, P.A.</p> <p>19 TYMBER COVE DeLAND, FLORIDA 32724 386/736-3311 AA 0002396</p>														
<p>REVISIONS:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	NO.	DATE	DESCRIPTION										<p>GOOD OFFICE COMPLEX</p>		
NO.	DATE	DESCRIPTION													
<p>PROJECT NAME</p> <p>PRELIMINARY SITE PLAN</p> <p>A11</p>															



RECEIVED

By ysomers at 11:24 am, Feb 06, 2017

**UNIVERSAL ENGINEERING
SCIENCES**

**ENVIRONMENTAL IMPACT ASSESSMENT
VACANT COMMERCIAL PROPERTY
PROPOSED RACETRAC STORE #1257
SEC SR 44 & S. KEPLER ROAD
DELAND, VOLUSIA COUNTY, FL**

**UES Project No. 0140.1700033.0000
Report No. 1427781
Date: February 3, 2017**

Prepared For:

**Racetrac Petroleum, Inc.
3225 Cumberland Boulevard, Suite 100
Atlanta, GA 30339**

Prepared By:

**Universal Engineering Sciences, Inc.
3532 Maggie Boulevard
Orlando, Florida 32811
(407)423-0504
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1.0 GENERAL SITE DESCRIPTION

The subject property is approximately 4.13± acres in size and includes a single vacant commercial parcel (Volusia County PID 7011-11-12-0050). The property is located at the southeast corner of State Road 44 and S. Kepler Road, in DeLand, Volusia County, FL. The site is located in Section 14, Township 17 South, and Range 30 East. The subject property consists of only uplands. There are no wetlands or surface waters present.

2.0 EXISTING CONDITIONS

On-site land uses: The land uses described in this report are based on the Florida Department of Transportation's handbook "Florida Land Use Cover and Forms Classification System" 1999 edition.

Currently there are two (2) land uses on the project site including only uplands (Figure 2). Photographs of each land use can be found in Appendix A. On-site habitat descriptions are as follows:

- FLUCFCS 194: Undeveloped Land Within Urban Areas (0.25 acre/11%)

The northwest corner of the property has been historically developed and is now clear with only ground cover present. The ground cover in this area is dominated by bahia grass (*Paspalum notatum*) with a variety of weeds typical of un-maintained lawns.

- FLUCFCS 420: Upland Hardwood Forests (3.88 acres/93.94%)

The majority of the property consists of a mixed hardwood forest habitat. The property was historically orange grove that has regenerated with hardwood trees. The dominant tree species in this habitat includes laurel oak (*Quercus laurifolia*) and camphor tree (*Cinnamomum camphora*), with other species that include live oak (*Quercus laurifolia*) and Brazilian cherry (*Prunus serotina*). Shrubs included tree saplings with a lantana (*Lantana camara*). Dominant groundcover consisted of bahia grass (*Paspalum notatum*), broomsedge bluestem (*Andropogon virginicus*), witchgrass (*dicanthelium* spp.), dog fennel (*Eupatorium capillifolium*), field sandspur, and beggar ticks (*Bidens alba*).

Topography: The site has flat topography. Based on the data from Google Earth, the property is approximately 70-73 feet above sea level.

Soils: According to the Soil Conservation Service, Volusia County Soil Survey, surficial soils at the subject property are classified as Daytona Sand (0-5% slopes) and Orsino Fine Sand (0-5% Slopes). Soil descriptions are below. See Figure 3 for soils map.

17 – Daytona Sand (0-5% Slopes): This soil is found on knolls and ridges of marine terraces. This soil is considered moderately well drained and has a seasonal high water table between 40 to 60 inches below the surface. This soil is considered non-hydric.

34 – Orsino Fine Sand (0-5% Slopes): This soil is found on ridges and hills of marine terraces. 80% of this soil unit consists of orsino soils that are classified as moderately well drained and have a seasonal high water table of 42-60 inches below the surface. Minor components include Cassia, Daytona, Paola, and Tavares. All soils in this unit are considered non-hydric.

Drainage: The site has no formal drainage system in place.

Flood Zone: According to the FEMA Flood panel, the subject property is not located within a flood plain. The FEMA flood map is included as Figure 4 of this report.

Adjacent Land Uses: The site is in a moderately developed commercial and residential area 2.5 miles east of downtown DeLand. The adjoining property to the east is an undeveloped parcel. The adjoining properties to the south include single family residential homes. The adjoining properties to the west include S. Kepler Road and undeveloped land. The adjoining properties to the north include SR 44 and single family residential homes.

3.0 ASSESSMENT METHODOLOGY

UES staff scientists reviewed the property for signs of utilization or presence of any flora or fauna listed as protected by the U.S. Fish and Wildlife Service (FWS) and the Florida Fish & Wildlife Conservation Commission (FFWCC), and Florida Department of Agriculture and Consumer Services (FDACS) based on known habitat preference and geographical distribution. The field assessment was performed on February 2, 2017. Weather conditions were sunny and 75 degrees with no wind during the field assessment.

The protected species assessment included:

- (1) A review of aerial photographs to assess past uses and the potential for protected wildlife based on geographic area and ecological significance.
- (2) A review of numerous databases and reference materials including, but not limited to, those provided by the USFWS, FFWCC, and FNAI to determine the potential species of protected wildlife that may inhabit or utilize the subject property (Appendix B).
- (3) Site reconnaissance to evaluate existing site conditions. This included quiet observation for 15-20 minutes at various locations on the property. The assessment covered approximately 100% of the subject property via pedestrian transects.
- (4) A review of the FFWCC eagle nest database website for nearby bald eagle nesting sites and the waterbird colony locator for known wading bird nesting areas (Appendix B).
- (5) A review of the species occurrence data available from the FFWCC and Fish and Wildlife Research Institute.

4.0 ASSESSMENT RESULTS:**4.1 POTENTIAL PROTECTED WILDLIFE**

Based on the existing habitat found on site, the surrounding land uses, field observations, and the data obtained from the FNAI and FFWCC (Appendix B), the site has moderate potential to provide adequate habitat to support nesting and/or foraging by a few listed species. The species of protected wildlife that are most likely to be found utilizing the site would be the gopher tortoise and the Florida burrowing owl. The site provides fair to good burrowing and foraging habitat for these species. There are a few larger oak trees on the site that could be utilized by various hawk species or osprey for nesting. The potential use of the site by many listed species may be limited due to the adjacent land uses and/or the lack of sizeable contiguous undeveloped areas around the property. The current listed status and potential for specific species to utilize the site are discussed in Table 1 below.

TABLE 1: Potential for individual listed species to occur on the subject property.

Common Name	Scientific Name	Status *(FWC/USFWS)	Potential (low, moderate, high)	Comments
Gopher Tortoise	<i>Gopherus polyphemus</i>	T/None	Moderate	The property consists of relatively dry sandy soils with some low grasses in the northwest corner and along the road right of ways that provide potential habitat for this species. Potential for presence is likely limited due to physical barriers around the property from development. No burrows were observed on the property. 100% of the property was surveyed via pedestrian transects.
FL Burrowing Owl	<i>Athene cunicularia floridana</i>	SSC/None	Moderate	The northwest corner of the property has open areas that offer fair quality burrowing areas for this species. No burrows were observed on the property at the time of the assessment.
Bald Eagle	<i>Haliaeetus leucocephalus</i>	N/N Protected under Bald and Golden Eagle Act	Low	The subject property has no large pines that could provide a nesting opportunity for this species. A few larger oaks are present that could be used for nesting. The closest known nesting site is located approximately 1.03

				miles north of the subject property.
Osprey	<i>Pandion haliaetus</i>	SSC/None	Low-Moderate	The few large oaks on the site offer nesting opportunities for this species. The nearby lakes could be used foraging. No evidence observed.
Eastern Indigo Snake	<i>Drymarchon couperi</i>	T/T	Low	The subject property is undeveloped and mostly forested with some undeveloped areas to the east, west, and northwest. There is very minimal potential for this species to be found utilizing the subject property based on the surrounding roads and development. No evidence observed.

*SSC-species of special concern, T-threatened, E-endangered

4.2 OBSERVED PROTECTED WILDLIFE/PLANTS

The results of the assessment found no direct evidence of the presence or utilization of the property by protected species. In addition, there were no nests, dens, tracks, or scat observed. No listed plant species were observed.

A review of the FFWCC Eagle Nest Database website was negative as of February 1, 2017 (Appendix A). The closest known eagle nest is located approximately 1.03 miles north of the subject property.

4.3 NON-PROTECTED WILDLIFE OBSERVATIONS/EVIDENCE

Non-protected wildlife evidence observed on-site during the site visit included direct observations of the red-shouldered hawk, northern cardinal, brown anole, and gray squirrel. Two rabbit/mammal burrows were also observed.

5.0 SUMMARY:

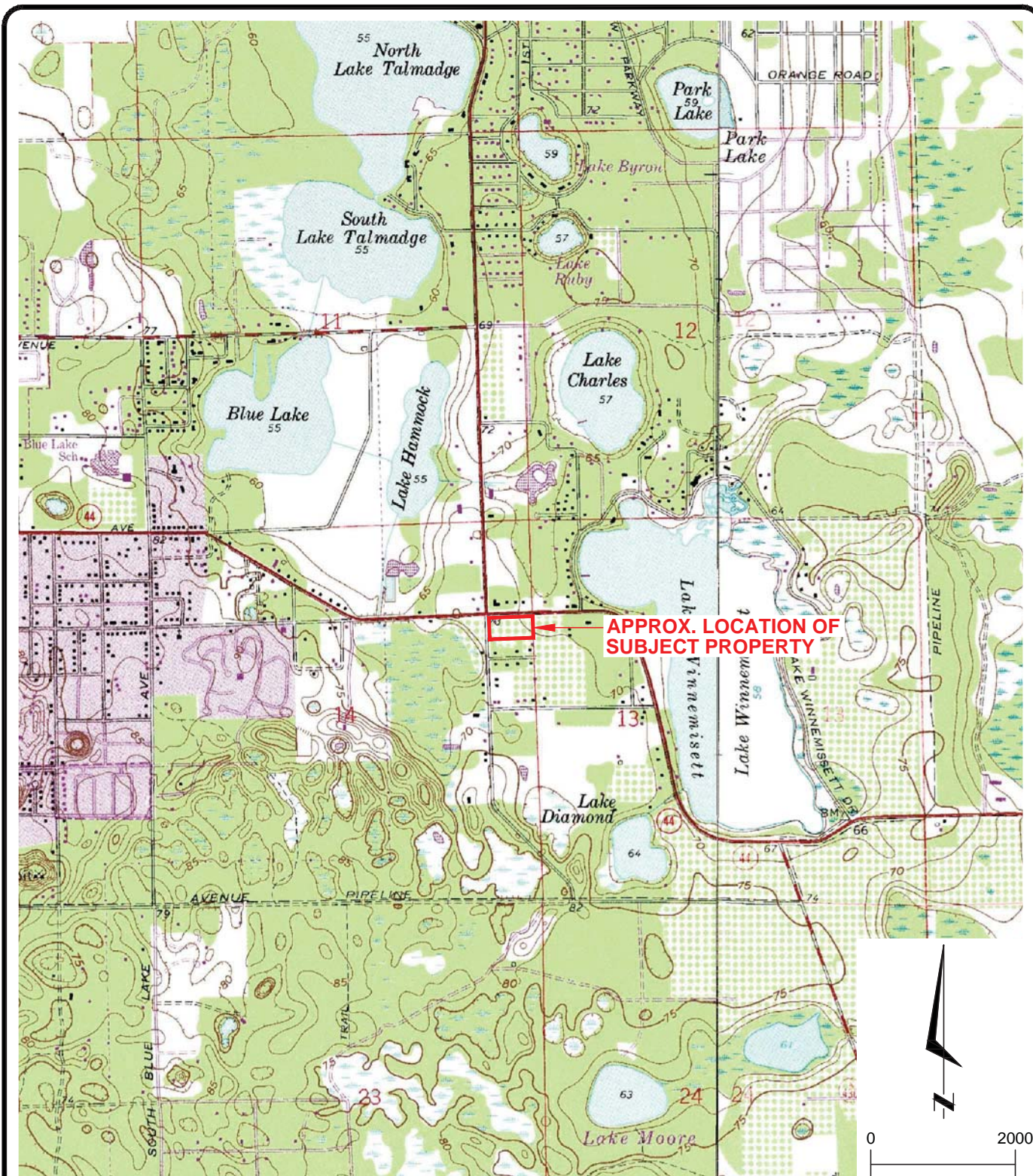
The Based on the results of the protected species assessment conducted, there was no evidence observed that would indicate the site is currently utilized or inhabited by any species of protected wildlife. The habitat types found on-site, along with the surrounding roads and development, likely reduce the potential for most protected species to be found on the property. The site has the best potential to provide foraging and nesting for gopher tortoise and the Florida burrowing owl. The site has minimal potential to provide nesting opportunities for the bald eagle and osprey due to the presence of mature oak trees and water bodies in the vicinity. However, there was no evidence of any of these species observed on or immediately adjacent

to the subject property. The eastern indigo snake has very limited potential to be seen on-site due to the surrounding land uses and lack of undeveloped corridor. There were no listed plant species observed on the property. There are no federally listed critical habitat areas found on site. It is our opinion that the proposed development of the property is likely to have very minimal effect, if any, on any species of protected wildlife.

Although there is very minimal potential for the site to be utilized by the Eastern Indigo Snake, the site does contain some potential nesting and foraging habitat for the eastern indigo snake due to undeveloped properties adjacent to and in the vicinity of the property. The eastern indigo snake is listed as “Threatened” pursuant to the Endangered Species Act of 1973 (state and federal level). The USFWS may recommend that the Standard Protection Measures for the Eastern Indigo Snake be implemented on the site during future construction activities (see Appendix B). On properties where indigo snakes may be found, and protection measures are going to be implemented during construction, no further action is required as long as the standard measures for protection are utilized. The standard measures typically include placing of signage at construction site entrances and in the construction office, along with educating construction staff on how to identify the indigo snake and what steps to take if one is observed or one is found injured/dead during construction activities. A copy of the “standard protection measures for eastern indigo snakes” is included in Appendix C of this report. Summaries of recommended actions and samples of signage and pamphlets that can be utilized on the project site can be found on-line on the USFWS website. http://www.fws.gov/northflorida/IndigoSnakes/20130812_Eastern_indigo_snake_Standard_Protection_Measures.htm

This assessment represents the results of our review on the date indicated. UES accepts no responsibility for recruitment of protected wildlife/plants to the site following the date(s) of this assessment. The USFWS, FFWCC, and local government agencies may request additional assessments and/or surveys at any time. Universal Engineering Sciences is pleased to provide this preliminary protected species assessment report for the above referenced site. If there are any comments and/or questions regarding this report, please contact David Whitney at (407) 423-0504.

FIGURE 1
VICINITY/TOPO MAP



SOURCE: USGS QUADRANGLE MAP OF "DELAND, FLORIDA".

SCALE (FT.)



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ENVIRONMENTAL IMPACT ANALYSIS
PROPOSED RACETRAC STORE #1257
SEC OF STATE ROAD 44 & KEPLER ROAD
DELAND, VOLUSIA COUNTY, FLORIDA

U.S.G.S. SITE LOCATION MAP

DRAWN BY: R.K.S.	DATE: 2-1-17	CHECKED BY:	DATE:
SCALE: AS SHOWN	PROJECT NO: 0140.1700033.0000	REPORT NO:	FIGURE NO: 1

17-0034-01

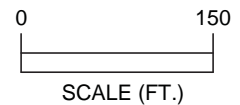
FIGURE 2
AERIAL/LAND USE MAP



FLUCCS LEGEND

- 191 - UNDEVELOPED LAND WITHIN URBAN AREAS (0.25 ACRES / 6.06%)
- 420 - UPLAND HARDWOOD FORESTS (3.88 ACRES / 93.94%)

TOTAL PROPERTY AREA = 4.13± ACRES



AERIAL PHOTO SOURCE: GOOGLE EARTH PRO



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**ENVIRONMENTAL IMPACT ANALYSIS
PROPOSED RACETRAC STORE #1257
SEC OF STATE ROAD 44 & KEPLER ROAD
DELAND, VOLUSIA COUNTY, FLORIDA**

FLUCCS MAP / 2016 AERIAL PHOTOGRAPH

DRAWN BY: R.K.S.	DATE: 2 - 1 - 17	CHECKED BY:	DATE:
SCALE: AS SHOWN	PROJECT NO: 0140.1700033.0000	REPORT NO:	FIGURE NO: 2

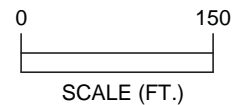
17-0034-01

FIGURE 3
SOILS MAP



SOILS LEGEND

- 17 - DAYTONA SAND, 0 TO 5 PERCENT SLOPES
- 37 - ORSINO FINE SAND, 0 TO 5 PERCENT SLOPES



SOIL DATA SOURCE: USDA-NRCS WEB SOIL SURVEY
 AERIAL PHOTO SOURCE: GOOGLE EARTH PRO



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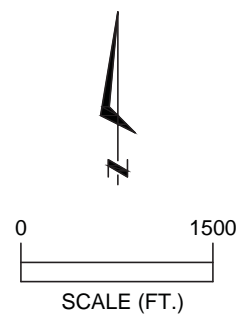
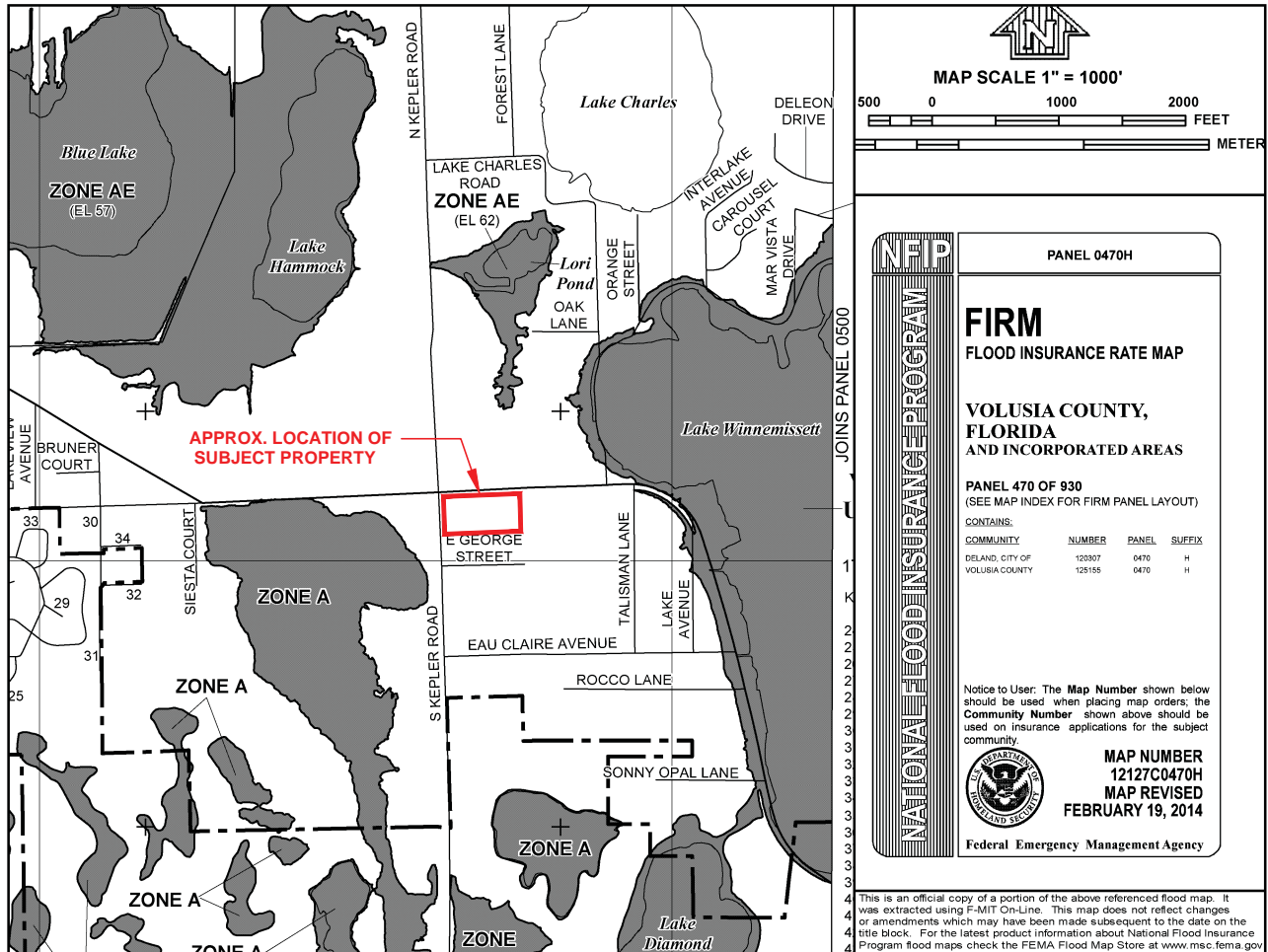
**ENVIRONMENTAL IMPACT ANALYSIS
 PROPOSED RACETRAC STORE #1257
 SEC OF STATE ROAD 44 & KEPLER ROAD
 DELAND, VOLUSIA COUNTY, FLORIDA**

USDA - NRCS SOIL SURVEY MAP

DRAWN BY: R.K.S.	DATE: 2 - 1 - 17	CHECKED BY:	DATE:
SCALE: AS SHOWN	PROJECT NO: 0140.1700033.0000	REPORT NO:	FIGURE NO: 3

17-0034-01

FIGURE 4
FEMA FLOOD MAP



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**ENVIRONMENTAL IMPACT ANALYSIS
PROPOSED RACETRAC STORE #1257
SEC OF STATE ROAD 44 & KEPLER ROAD
DELAND, VOLUSIA COUNTY, FLORIDA**

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD MAP

DRAWN BY: R.K.S.	DATE: 2 - 1 - 17	CHECKED BY:	DATE:
SCALE: AS SHOWN	PROJECT NO: 0140.1700033.0000	REPORT NO:	FIGURE NO: 4

17-0034-01

APPENDIX A
SITE PHOTOS



PHOTO #1 – View from the northwest corner of the property facing east along the north boundary.



PHOTO #2 - View from the northwest property corner facing south along the west property boundary.



PHOTO #3 – View from the northeast property corner facing west along the north property boundary.



PHOTO #4 - View from the northeast property corner facing south along the east property boundary.



PHOTO #5 – View from the southeast property corner facing west along the south property boundary.



PHOTO #6 - View from the southeast property corner facing north along the east property boundary.



PHOTO #7 – View from the southwest property corner facing north along the west property boundary.



PHOTO #8 - View from the southwest property corner facing east along the south property boundary.



PHOTO #9 – View within the interior of the forested portion of the property.



PHOTO #10 - View within the interior of the forested portion of the property.

APPENDIX B

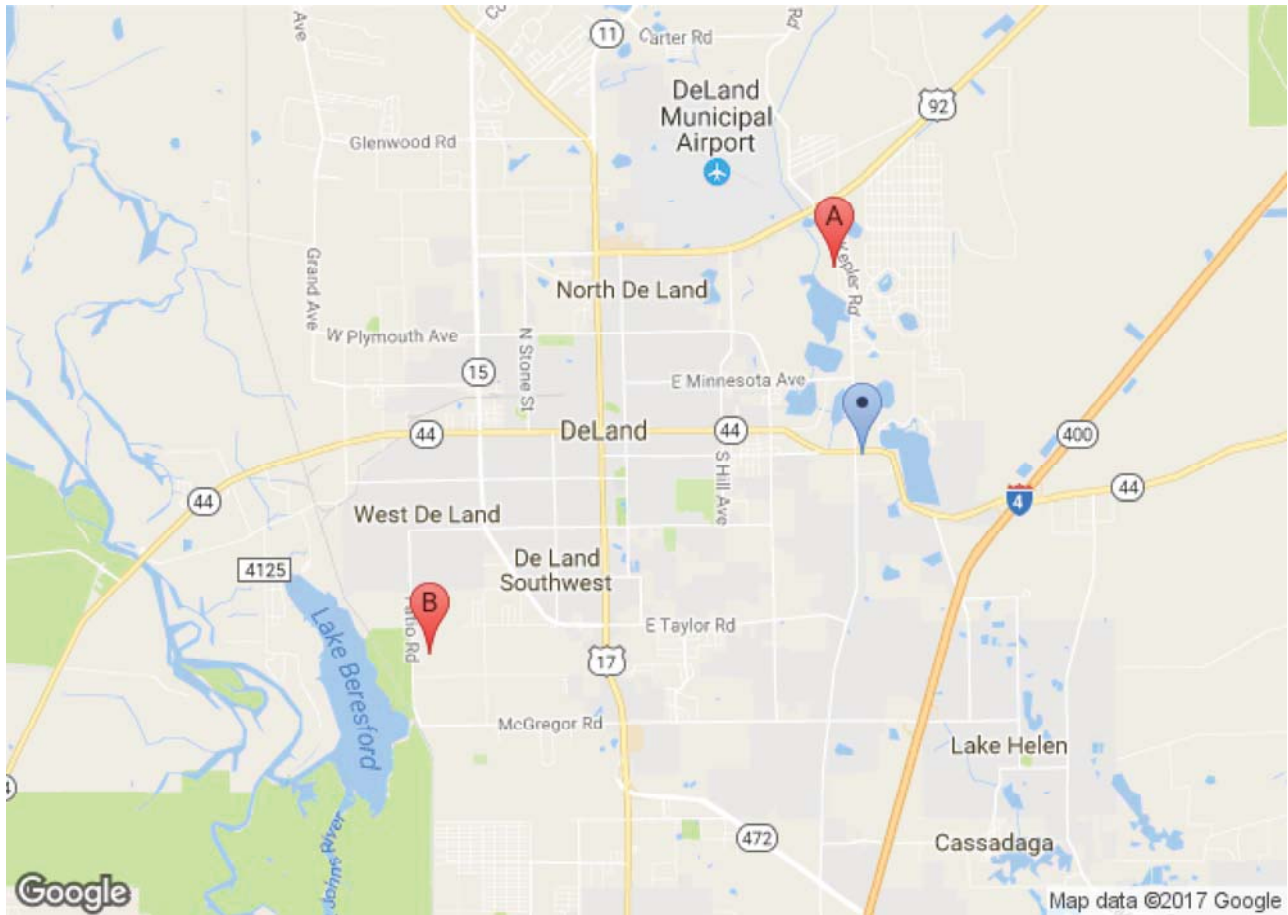
FNAI, FFWCC, USFWS DATA/MAPS

This report was generated using the bald eagle nest locator at <https://public.myfwc.com/FWRI/EagleNests/nestlocator.aspx> on 2/1/2017 9:54:46 AM.

Search Entered: Within 5 miles of latitude 29.0246805555556 and longitude -81.2587027777778; All Search Results

2 record(s) were found; 2 record(s) are shown

Bald Eagle Nest Map:



Bald Eagle Nest Data Search Results:

Results per page:

Letter	Nest ID	County	Latitude	Longitude	Township	Range	Section	Gaz Page	Last Known Active	Last Surveeyed	Act 11	Act 12	Act 13	Act 14	Act 15	Dist. (Mi)
A	VO043	Volusia	29 03.17	81 15.80	17S	30E	02	74	2012	2012	*	Y	*	*	*	1.96
B	VO105	Volusia	28 59.69	81 19.97	17S	30E	30	80	2012	2012	*	Y	*	*	*	4.93

"Y" denotes an active nest
 "N" denotes an inactive nest
 "-" denotes an unobserved nest
 "U" denotes a nest that was visited but status was undetermined
 "*" denotes a nest that was not surveyed



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 www.fnai.org

FLORIDA
Natural Areas
 INVENTORY

Florida Natural Areas Inventory

Biodiversity Matrix Query Results

UNOFFICIAL REPORT

Created 2/3/2017

(Contact the FNAI Data Services Coordinator at 850.224.8207 for information on an official Standard Data Report)

NOTE: The Biodiversity Matrix includes only rare species and natural communities tracked by FNAI.

Report for 1 Matrix Unit: 49504

	<p>Descriptions</p> <p>DOCUMENTED - There is a documented occurrence in the FNAI database of the species or community within this Matrix Unit.</p> <p>DOCUMENTED-HISTORIC - There is a documented occurrence in the FNAI database of the species or community within this Matrix Unit; however the occurrence has not been observed/reported within the last twenty years.</p> <p>LIKELY - The species or community is <i>known</i> to occur in this vicinity, and is considered likely within this Matrix Unit because:</p> <ol style="list-style-type: none"> 1. documented occurrence overlaps this and adjacent Matrix Units, but the documentation isn't precise enough to indicate which of those Units the species or community is actually located in; or 2. there is a documented occurrence in the vicinity and there is suitable habitat for that species or community within this Matrix Unit. <p>POTENTIAL - This Matrix Unit lies within the known or predicted range of the species or community based on expert knowledge and environmental variables such as climate, soils, topography, and landcover.</p>
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Matrix Unit ID: 49504

0 **Documented** Elements Found

0 **Documented-Historic** Elements Found

7 **Likely** Elements Found

Scientific and Common Names	Global Rank	State Rank	Federal Status	State Listing
Aphelocoma coerulescens Florida Scrub-Jay	G2	S2	LT	FT

Drymarchon couperi Eastern Indigo Snake	G3	S3	LT	FT
<i>Mesic flatwoods</i>	G4	S4	N	N
Mycteria americana Wood Stork	G4	S2	LT	FT
<i>Sandhill upland lake</i>	G3	S2	N	N
<i>Scrub</i>	G2	S2	N	N
Ursus americanus floridanus Florida Black Bear	G5T2	S2	N	N

Matrix Unit ID: 49504

20 **Potential** Elements for Matrix Unit 49504

Scientific and Common Names	Global Rank	State Rank	Federal Status	State Listing
<i>Arnoglossum diversifolium</i> Variable-leaved Indian-plantain	G2	S2	N	T
Calopogon multiflorus Many-flowered Grass-pink	G2G3	S2S3	N	T
Centrosema arenicola Sand Butterfly Pea	G2Q	S2	N	E
<i>Coelorachis tuberculosa</i> Piedmont Jointgrass	G3	S3	N	T
<i>Conradina grandiflora</i> Large-flowered Rosemary	G3	S3	N	T
Deeringothamnus rugelii Rugel's Pawpaw	G1	S1	LE	E
Gopherus polyphemus Gopher Tortoise	G3	S3	C	ST
Grus canadensis pratensis Florida Sandhill Crane	G5T2T3	S2S3	N	ST
Hartwrightia floridana Hartwrightia	G2	S2	N	T
Heterodon simus Southern Hognose Snake	G2	S2	N	N
Illicium parviflorum Star Anise	G2	S2	N	E
<i>Lechea cernua</i> Nodding Pinweed	G3	S3	N	T
Lithobates capito Gopher Frog	G3	S3	N	SSC
<i>Mustela frenata peninsulae</i> Florida Long-tailed Weasel	G5T3	S3	N	N
Nemastylis floridana Celestial Lily	G2	S2	N	E
Notophthalmus perstriatus Striped Newt	G2G3	S2	C	N
Picoides borealis Red-cockaded Woodpecker	G3	S2	LE	FE
Pituophis melanoleucus mugitus Florida Pine Snake	G4T3	S3	N	SSC
Pteroglossaspis ecristata Giant Orchid	G2G3	S2	N	T
Sciurus niger shermani Sherman's Fox Squirrel	G5T3	S3	N	SSC

Disclaimer

The data maintained by the Florida Natural Areas Inventory represent the single most comprehensive source of information available on the locations of rare species and other significant ecological resources statewide. However, the data are not always based on comprehensive or site-specific field surveys. Therefore, this information should not be regarded as a final statement on the biological resources of the site being considered, nor should it be substituted for on-site surveys. FNAI shall not be held liable for the accuracy and completeness of these data, or opinions or conclusions drawn from these data. FNAI is not inviting reliance on these data. Inventory data are designed for the purposes of conservation planning and scientific research and are not intended for use as the primary criteria for regulatory decisions.

Unofficial Report

These results are considered unofficial. FNAI offers a [Standard Data Request](#) option for those needing certifiable data.

IPaC

U.S. Fish & Wildlife Service

IPaC resource list

Location

Volusia County, Florida



Local office

North Florida Ecological Services Field Office

☎ (904) 731-3336

📠 (904) 731-3045

7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7517

Endangered species

This resource list is for informational purposes only and should not be used for planning or analyzing project level impacts.

[Section 7](#) of the Endangered Species Act **requires** Federal agencies to “request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action” for any project that is conducted, permitted, funded, or licensed by any Federal agency.

A letter from the local office and a species list which fulfills this requirement can only be obtained by requesting an official species list either from the Regulatory Review section in IPaC or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by creating a project and making a request from the Regulatory Review section.

Listed species

¹ are managed by the [Endangered Species Program](#) of the U.S. Fish and Wildlife Service.

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information.

The following species are potentially affected by activities in this location:

Birds

NAME	STATUS
Everglade Snail Kite <i>Rostrhamus sociabilis plumbeus</i> There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. http://ecos.fws.gov/ecp/species/7713	Endangered
Florida Scrub-jay <i>Aphelocoma coerulescens</i> No critical habitat has been designated for this species. http://ecos.fws.gov/ecp/species/6174	Threatened
Piping Plover <i>Charadrius melodus</i> There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. http://ecos.fws.gov/ecp/species/6039	Threatened

Red Knot <i>Calidris canutus rufa</i>	Threatened
No critical habitat has been designated for this species. http://ecos.fws.gov/ecp/species/1864	
Red-cockaded Woodpecker <i>Picoides borealis</i>	Endangered
No critical habitat has been designated for this species. http://ecos.fws.gov/ecp/species/7614	
Wood Stork <i>Mycteria americana</i>	Threatened
No critical habitat has been designated for this species. http://ecos.fws.gov/ecp/species/8477	

Flowering Plants

NAME	STATUS
Okeechobee Gourd <i>Cucurbita okeechobeensis</i> ssp. okeechobeensis	Endangered
No critical habitat has been designated for this species. http://ecos.fws.gov/ecp/species/5999	
Rugel's Pawpaw <i>Deeringothamnus rugelii</i>	Endangered
No critical habitat has been designated for this species. http://ecos.fws.gov/ecp/species/5355	

Mammals

NAME	STATUS
Southeastern Beach Mouse <i>Peromyscus polionotus</i> niveiventris	Threatened
No critical habitat has been designated for this species. http://ecos.fws.gov/ecp/species/3951	
West Indian Manatee <i>Trichechus manatus</i>	Endangered
There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. http://ecos.fws.gov/ecp/species/4469	

Reptiles

NAME	STATUS
Atlantic Salt Marsh Snake <i>Nerodia clarkii taeniata</i> No critical habitat has been designated for this species. http://ecos.fws.gov/ecp/species/7729	Threatened
Eastern Indigo Snake <i>Drymarchon corais couperi</i> No critical habitat has been designated for this species. http://ecos.fws.gov/ecp/species/646	Threatened
Hawksbill Sea Turtle <i>Eretmochelys imbricata</i> There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. http://ecos.fws.gov/ecp/species/3656	Endangered
Leatherback Sea Turtle <i>Dermochelys coriacea</i> There is a final critical habitat designated for this species. Your location is outside the designated critical habitat. http://ecos.fws.gov/ecp/species/1493	Endangered

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

Migratory birds

Birds are protected under the Migratory Bird Treaty Act

¹ and the Bald and Golden Eagle Protection Act².

Any activity that results in the take (to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) of migratory birds or eagles is prohibited unless authorized by the U.S. Fish and Wildlife Service

³. There are no provisions for allowing the take of migratory birds that are unintentionally killed or injured.

Any person or organization who plans or conducts activities that may result in the take of migratory birds is responsible for complying with the appropriate regulations and implementing appropriate conservation measures.

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.
3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Conservation measures for birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Year-round bird occurrence data <http://www.birdscanada.org/birdmon/default/datasummaries.jsp>

The migratory birds species listed below are species of particular conservation concern (e.g. [Birds of Conservation Concern](#)) that may be potentially affected by activities in this location, not a list of every bird species you may find in this location. Although it is important to try to avoid and minimize impacts to all birds, special attention should be made to avoid and minimize impacts to birds of priority concern. To view available data on other bird species that may occur in your project area, please visit the [AKN Histogram Tools](#) and [Other Bird Data Resources](#).

NAME	SEASON(S)
American Bittern <i>Botaurus lentiginosus</i> http://ecos.fws.gov/ecp/species/6582	Wintering
American Kestrel <i>Falco sparverius paulus</i>	Year-round
American Oystercatcher <i>Haematopus palliatus</i> http://ecos.fws.gov/ecp/species/8935	Year-round
Bachman's Sparrow <i>Aimophila aestivalis</i> http://ecos.fws.gov/ecp/species/6177	Year-round

Bald Eagle	<i>Haliaeetus leucocephalus</i> http://ecos.fws.gov/ecp/species/1626	Year-round
Black Rail	<i>Laterallus jamaicensis</i> http://ecos.fws.gov/ecp/species/7717	Breeding
Brown-headed Nuthatch	<i>Sitta pusilla</i>	Year-round
Chuck-will's-widow	<i>Caprimulgus carolinensis</i>	Breeding
Common Ground-dove	<i>Columbina passerina exigua</i>	Year-round
Henslow's Sparrow	<i>Ammodramus henslowii</i> http://ecos.fws.gov/ecp/species/3941	Wintering
Least Bittern	<i>Ixobrychus exilis</i> http://ecos.fws.gov/ecp/species/6175	Breeding
Lesser Yellowlegs	<i>Tringa flavipes</i> http://ecos.fws.gov/ecp/species/9679	Wintering
Limpkin	<i>Aramus guarauna</i>	Year-round
Loggerhead Shrike	<i>Lanius ludovicianus</i> http://ecos.fws.gov/ecp/species/8833	Year-round
Marbled Godwit	<i>Limosa fedoa</i> http://ecos.fws.gov/ecp/species/9481	Wintering
Nelson's Sparrow	<i>Ammodramus nelsoni</i>	Wintering
Peregrine Falcon	<i>Falco peregrinus</i> http://ecos.fws.gov/ecp/species/8831	Wintering
Prothonotary Warbler	<i>Protonotaria citrea</i>	Breeding

Red Knot <i>Calidris canutus rufa</i> http://ecos.fws.gov/ecp/species/1864	Wintering
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i>	Year-round
Rusty Blackbird <i>Euphagus carolinus</i>	Wintering
Saltmarsh Sparrow <i>Ammodramus caudacutus</i>	Wintering
Short-eared Owl <i>Asio flammeus</i> http://ecos.fws.gov/ecp/species/9295	Wintering
Short-tailed Hawk <i>Buteo brachyurus</i> http://ecos.fws.gov/ecp/species/8742	Breeding
Swainson's Warbler <i>Limnothlypis swainsonii</i>	Migrating
Swallow-tailed Kite <i>Elanoides forficatus</i> http://ecos.fws.gov/ecp/species/8938	Breeding
Worm Eating Warbler <i>Helmitheros vermivorum</i>	Migrating
Yellow Rail <i>Coturnicops noveboracensis</i> http://ecos.fws.gov/ecp/species/9476	Wintering

What does IPaC use to generate the list of migratory bird species potentially occurring in my specified location?

Landbirds:

Migratory birds that are displayed on the IPaC species list are based on ranges in the latest edition of the National Geographic Guide, Birds of North America (6th Edition, 2011 by Jon L. Dunn, and Jonathan Alderfer). Although these ranges are coarse in nature, a number of U.S. Fish and Wildlife Service migratory bird biologists agree that these maps are some of the best range maps to date. These ranges were clipped to a specific Bird Conservation Region (BCR) or USFWS Region/Regions, if it was indicated in the 2008 list of Birds of Conservation Concern (BCC) that a species was a BCC species only in a particular Region/Regions. Additional modifications have been made to some

ranges based on more local or refined range information and/or information provided by U.S. Fish and Wildlife Service biologists with species expertise. All migratory birds that show in areas on land in IPaC are those that appear in the 2008 Birds of Conservation Concern report.

Atlantic Seabirds:

Ranges in IPaC for birds off the Atlantic coast are derived from species distribution models developed by the National Oceanic and Atmospheric Association (NOAA) National Centers for Coastal Ocean Science (NCCOS) using the best available seabird survey data for the offshore Atlantic Coastal region to date. NOAA/NCCOS assisted USFWS in developing seasonal species ranges from their models for specific use in IPaC. Some of these birds are not BCC species but were of interest for inclusion because they may occur in high abundance off the coast at different times throughout the year, which potentially makes them more susceptible to certain types of development and activities taking place in that area. For more refined details about the abundance and richness of bird species within your project area off the Atlantic Coast, see the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other types of taxa that may be helpful in your project review.

About the NOAA/NCCOS models: the models were developed as part of the NOAA/NCCOS project: [Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#). The models resulting from this project are being used in a number of decision-support/mapping products in order to help guide decision-making on activities off the Atlantic Coast with the goal of reducing impacts to migratory birds. One such product is the [Northeast Ocean Data Portal](#), which can be used to explore details about the relative occurrence and abundance of bird species in a particular area off the Atlantic Coast.

All migratory bird range maps within IPaC are continuously being updated as new and better information becomes available.

Can I get additional information about the levels of occurrence in my project area of specific birds or groups of birds listed in IPaC?

Landbirds:

The [Avian Knowledge Network \(AKN\)](#) provides a tool currently called the "Histogram Tool", which draws from the data within the AKN (latest, survey, point count, citizen science datasets) to create a view of relative abundance of species within a particular location over the course of the year. The results of the tool depict the frequency of detection of a species in survey events, averaged between multiple datasets within AKN in a particular week of the year. You may access the histogram tools through the [Migratory Bird Programs AKN Histogram Tools](#) webpage.

The tool is currently available for 4 regions (California, Northeast U.S., Southeast U.S. and Midwest), which encompasses the following 32 states: Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

In the near future, there are plans to expand this tool nationwide within the AKN, and allow the graphs produced to appear with the list of trust resources generated by IPaC, providing you with an additional level of detail about the level of occurrence of the species of particular concern potentially occurring in your project area throughout the course of the year.

Atlantic Seabirds:

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the NOAA NCCOS [Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf project](#) webpage.

Facilities

Wildlife refuges

Any activity proposed on [National Wildlife Refuge](#) lands must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGES AT THIS LOCATION.

Fish hatcheries

THERE ARE NO FISH HATCHERIES AT THIS LOCATION.

Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

WETLAND INFORMATION IS NOT AVAILABLE AT THIS TIME

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

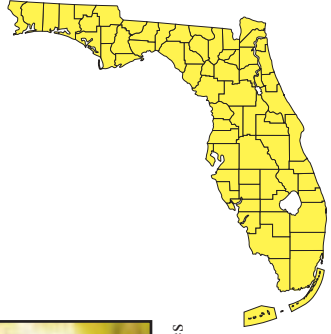
Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

APPENDIX C

EASTERN INDIGO SNAKE PROTECTION MEASURES

EASTERN INDIGO SNAKE*Drymarchon corais couperi*

Order:	Squamata
Family:	Colubridae
FNAI Ranks:	G4T3/S3
U.S. Status:	Threatened
FL Status:	Threatened



© Dan Hipes



© Dan Hipes

Description: A very large, stout-bodied, shiny black snake reaching lengths as great as 8 ft. (244 cm). Black ventrally, but chin, throat, and sides of head may be reddish or (rarely) white. Scales typically smooth (no ridges), though adult males have keel on front half of some scales along back; anal scale undivided. Young similar to adults though often more reddish anteriorly, 17 - 24 in. (430 - 610 mm) at hatching. When encountered, often hisses, flattens neck vertically (from side to side), and vibrates tail, but rarely bites.

EASTERN INDIGO SNAKE *Drymarchon corais couperi*

Similar Species: Black racer (*Coluber constrictor*), which rarely exceeds 5 ft. (152 cm), is more slender, a duller sooty black usually with a white chin and throat, and has a divided anal scale. The mostly aquatic mud snake (*Farancia abacura*) is glossy black above and can grow to 6 ft. (183 cm), but has a reddish, rarely white, belly, with the coloration encroaching the sides, and a sharp-pointed tail tip.

Habitat: Broad range of habitats, from scrub and sandhill to wet prairies and mangrove swamps. In northern part of range, often winters in gopher tortoise burrows in sandy uplands but forages in more hydric habitats. Requires very large tracts to survive.

Seasonal Occurrence: Active nearly year-round in southern Florida but winters underground farther north. Lays eggs in May and June.

Florida Distribution: Statewide, including Upper and Lower Keys, but rare in panhandle.

Range-wide Distribution: Florida and southern Georgia; formerly extended from southern South Carolina to southeastern Mississippi.

Conservation Status: Rare in most areas, though species has been recorded from many public lands statewide; however, whether most of these support viable populations is uncertain. Major threats are habitat loss, degradation, and fragmentation, with associated highway mortality. Other threats include gassing of tortoise burrows for rattlesnakes, collection for pets, and deliberate persecution, all of which are illegal.

Protection and Management: Protect very large tracts (> 5000 acres = 2025 ha) of appropriate natural habitat unfragmented by roads; use prescribed fire as needed. Maintain gopher tortoise populations and dead stumps to provide natural subterranean refugia. Enforce bans on tortoise burrow gassing and on collection or molestation of snake. Avoid construction of roads through unfragmented habitat. Educate public to avoid wanton destruction of large snakes.

Selected References: Ashton and Ashton 1988b, Conant and Collins 1991, Ernst and Barbour 1989, Georgia DNR 1999, Lazell 1989, Moler (ed.) 1992, Mount 1975, Tenant 1997.

STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE
U.S. Fish and Wildlife Service
August 12, 2013

The eastern indigo snake protection/education plan (Plan) below has been developed by the U.S. Fish and Wildlife Service (USFWS) in Florida for use by applicants and their construction personnel. At least **30 days prior** to any clearing/land alteration activities, the applicant shall notify the appropriate USFWS Field Office via e-mail that the Plan will be implemented as described below (North Florida Field Office: jaxregs@fws.gov; South Florida Field Office: verobeach@fws.gov; Panama City Field Office: panamacity@fws.gov). As long as the signatory of the e-mail certifies compliance with the below Plan (including use of the attached poster and brochure), no further written confirmation or “approval” from the USFWS is needed and the applicant may move forward with the project.

If the applicant decides to use an eastern indigo snake protection/education plan other than the approved Plan below, written confirmation or “approval” from the USFWS that the plan is adequate must be obtained. At least 30 days prior to any clearing/land alteration activities, the applicant shall submit their unique plan for review and approval. The USFWS will respond via e-mail, typically within 30 days of receiving the plan, either concurring that the plan is adequate or requesting additional information. A concurrence e-mail from the appropriate USFWS Field Office will fulfill approval requirements.

The Plan materials should consist of: 1) a combination of posters and pamphlets (see **Poster Information** section below); and 2) verbal educational instructions to construction personnel by supervisory or management personnel before any clearing/land alteration activities are initiated (see **Pre-Construction Activities** and **During Construction Activities** sections below).

POSTER INFORMATION

Posters with the following information shall be placed at strategic locations on the construction site and along any proposed access roads (a final poster for Plan compliance, to be printed on 11” x 17” or larger paper and laminated, is attached):

DESCRIPTION: The eastern indigo snake is one of the largest non-venomous snakes in North America, with individuals often reaching up to 8 feet in length. They derive their name from the glossy, blue-black color of their scales above and uniformly slate blue below. Frequently, they have orange to coral reddish coloration in the throat area, yet some specimens have been reported to only have cream coloration on the throat. These snakes are not typically aggressive and will attempt to crawl away when disturbed. Though indigo snakes rarely bite, they should NOT be handled.

SIMILAR SNAKES: The black racer is the only other solid black snake resembling the eastern indigo snake. However, black racers have a white or cream chin, thinner bodies, and WILL BITE if handled.

LIFE HISTORY: The eastern indigo snake occurs in a wide variety of terrestrial habitat types throughout Florida. Although they have a preference for uplands, they also utilize some wetlands



ATTENTION:

THREATENED EASTERN INDIGO SNAKES MAY BE PRESENT ON THIS SITE!!!

IF YOU SEE A LIVE EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and allow the eastern indigo snake sufficient time to move away from the site without interference.
- Personnel must NOT attempt to touch or handle snake due to protected status.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Immediately notify supervisor or the applicant's designated agent, **and** the appropriate U.S. Fish and Wildlife Service (USFWS) office, with the location information and condition of the snake.
- If the snake is located in a vicinity where continuation of the clearing or construction activities will cause harm to the snake, the activities must halt until such time that a representative of the USFWS returns the call (within one day) with further guidance as to when activities may resume.

IF YOU SEE A DEAD EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and immediately notify supervisor or the applicant's designated agent, **and** the appropriate USFWS office, with the location information and condition of the snake.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Thoroughly soak the dead snake in water and then freeze the specimen. The appropriate wildlife agency will retrieve the dead snake.

USFWS Florida Field Offices to be contacted if a live or dead eastern indigo snake is encountered:

North Florida Field Office – (904) 731-3336

Panama City Field Office – (850) 769-0552

South Florida Field Office – (772) 562-3909

Killing, harming, or harassing indigo snakes is strictly prohibited and punishable under State and Federal Law.

DESCRIPTION: The eastern indigo snake is one of the largest non-venomous snakes in North America, with individuals often reaching up to 8 feet in length. They derive their name from the glossy, blue-black color of their scales above and uniformly slate blue below. Frequently, they have orange to coral reddish coloration in the throat area, yet some specimens have been reported to only have cream coloration on the throat. These snakes are not typically aggressive and will attempt to crawl away when disturbed. Though indigo snakes rarely bite, they should NOT be handled.

SIMILAR SNAKES: The black racer is the only other solid black snake resembling the eastern indigo snake. However, black racers have a white or cream chin, thinner bodies, and WILL BITE if handled.

LIFE HISTORY: The eastern indigo snake occurs in a wide variety of terrestrial habitat types throughout Florida. Although they have a preference for uplands, they also utilize some wetlands and agricultural areas. Eastern indigo snakes will often seek shelter inside gopher tortoise burrows and other below- and above-ground refugia, such as other animal burrows, stumps, roots, and debris piles. Females may lay from 4 - 12 white eggs as early as April through June, with young hatching in late July through October.

PROTECTION: The eastern indigo snake is classified as a Threatened species by both the USFWS and the Florida Fish and Wildlife Conservation Commission. "Taking" of eastern indigo snakes is prohibited by the Endangered Species Act without a permit. "Take" is defined by the USFWS as an attempt to kill, harm, harass, pursue, hunt, shoot, wound, trap, capture, collect, or engage in any such conduct. Penalties include a maximum fine of \$25,000 for civil violations and up to \$50,000 and/or imprisonment for criminal offenses, if convicted.

Only individuals currently authorized through an issued Incidental Take Statement in association with a USFWS Biological Opinion, or by a Section 10(a)(1)(A) permit issued by the USFWS, to handle an eastern indigo snake are allowed to do so.

INTER-OFFICE MEMORANDUM



TO: Michael Disher, AICP
Planner III

DATE: May 18, 2017

FROM: Melissa Winsett *MW*
Transportation Planner

RSN: 867061

SUBJECT: RaceTrac SR 44 & Kepler BPUDC Amendment

LOCATION: Southeast quadrant of the SR 44/Kepler Road intersection, near DeLand

Application and Site Information

The applicant is requesting a BPUDC Development Agreement amendment (amendment) to allow for a convenience store (5,500 square feet) with gasoline pumps on approximately 4.1 acres at the southeast quadrant of the SR 44/Kepler Road intersection.

Transportation Analysis

The applicant's traffic engineering firm, Traffic & Mobility Consultants (TMC), submitted a transportation analysis as part of the rezoning application. The report compared the difference in theoretical maximum potential trips between the uses approved in the 2008 development agreement and that of the proposed. The 2008 agreement allowed up to 10,000 square feet of development, consisting of a Drive-in Bank and professional or medical office. The theoretical analysis concluded that the most intensive use is the Drive-in Bank, and if developed up to the 10,000 square-foot limit under the existing development agreement, could generate 963 net (new) daily trips and 158 net PM peak-hour trips. It also concluded that the under the proposed amendment, the 5,500 square foot convenience store/gas station could generate 1,578 net daily trips and 95 net PM peak hour trips.

	Net Average Daily Trips (24-hour period)	Net PM Peak-hour Trips (4-6 PM)
Current BPUDC - Maximum Devt Buildout Traffic (10,000 SF of Drive-in Bank)	963	158
BPUDC Amendment - Maximum Devt Buildout Traffic (5,500 SF Convenience Store/Gas Station)	1578	95

In this analysis, net trips are considered any "new trips" that are attracted to the site by the development. Net trips do not include pass-by trips, which are trips already on the roadway system that turn into the site and then continue on the same path.

Comparatively, the proposed amendment would allow an additional 615 net daily trips, but 63 fewer net PM peak-hour trips. Volusia County Traffic Engineering accepts this conclusion, with the following commentary:

- Regardless of whether the zoning amendment is approved, if the subject property were to be developed today, project trips would impact critical and near-critical roadways and intersections including, but not limited to, Kepler Road north and south of SR 44, SR 44 east and west of Kepler Road, and the SR 44/Kepler Road intersection. For this reason, the *access and intersection improvements listed in the 2008 BPUDC development agreement will also be required with the proposed amendment. The 2008 development agreement specified improvements to the SR 44/Kepler Road intersection, including various right- and left-turn lane extensions and/or additions.* These improvements to the overall intersection geometry would increase the traffic signal's level of service (LOS), allowing it to operate more efficiently and move more traffic through the intersection compared to the configuration as it exists today.
- The proposed amendment would generate less net PM peak-hour trips and more net daily trips when pass-by trips are not considered. Although pass-by trips are not counted as "new" trips, they serve as estimations of the percentage of existing traffic that would use the site once developed. Design of the site access driveways must be able to accommodate new net trips as well as existing pass-by trips.
- As with any development project that generates 100 or more PM peak-hour trips (both the existing and proposed uses would), the site plan application will require a Transportation Impact Analysis (TIA) that is accepted by the county. If needed, mitigation will be required to address project trip impacts on roadways deemed over-capacity in the buildout year. Typically, when mitigation is required, the proportionate share monetary amount is calculated for trips that impact failing roadways. The developer is then required to construct a transportation improvement project(s) equal to that amount that would benefit the nearby area. The TIA would also be coordinated with adjacent jurisdictions as required in the adopted River to Sea TPO TIA Guidelines.
- All safety and access concerns will be addressed with the applicant during the final site plan phase.

Conclusion

If the BPUDC amendment is approved, there would be an increase in net daily trips by an average 615 during a given 24-hour period and a decrease in net PM peak-hour trips by 63. Approving the amendment would allow the development of a 5,500 square foot convenience store with gasoline pumps. Impacts to roadways on the county's thoroughfare roadway system would occur on SR 44 and Kepler Road. To obtain concurrency approval, the applicant must mitigate any trips that impact roadways that already operate below the adopted level of service. This would be addressed during the site review process if the amendment is approved.

MW/



MEMORANDUM

April 12, 2017

Re: RaceTrac SR 44 & Kepler Road
 Rezoning Traffic Review
 Project № 17-007

Introduction

The following memorandum was prepared to assess the trip generation equivalency of the land uses associated with a Rezoning/PUD amendment for a ±4.1-acre parcel located on the southeast corner of SR 44 and Kepler Road in Volusia County, Florida. **Figure 1** depicts the site location and the surrounding transportation network.



Figure 1 – Site Location

RaceTrac SR 44 & Kepler Rd
 Rezoning Traffic Review
 Project № 17-007
 April 12, 2017
 Page 2 of 3

As currently approved, the PUD allows the development of a total of 10,000 square feet of medical office and drive-in bank with a maximum building area of 5,000 square feet for each land use. The applicant is proposing to amend the PUD to allow a 5,500 square foot convenience market with gas.

A comparative trip generation analysis was conducted using data published in the ITE *Trip Generation, 9th Edition* to compute the change in trips between the current and proposed maximum allowable development in the PUD, as summarized in **Table 1**. The corresponding data is included in the **Attachments**.

Table 1
Comparative Trip Generation Calculation

ITE Code	Land Use	Size	Rates			Trips		
			Daily	AM Pk	PM Pk	Daily	AM Pk	PM Pk
Approved Maximum Development								
912	Drive-in Bank	10 KSF	148.15	12.08	24.3	1,482	121	243
<i>Bank Pass-by Trips</i>						519	35	85
Net Trip Generation (Approved)						963	86	158
Proposed Development								
853	Convenience Market w/ Gas	5.5 KSF	845.60	40.9	50.92	4,641	224	279
<i>Convenience Market Pass-by Trips</i>						3,063	141	184
Net Trip Generation (Proposed)						1,578	83	95
Net Change in Trips Resulting from PUD Amendment						615	-3	-63

Trip generation analysis based on ITE Trip Generation, 9th Edition

Based on the trip generation calculations, the proposed amendment will result in an increase in the number of trips generated at the site throughout the 24-hour period, which is to be expected given that the proposed use is open 24-hours.

However, in the critical travel periods during the morning and evening peak hours, the proposed convenience market would result in a reduction of new trips on the roadway network than the currently approved uses. This is partly due to the fact that most trips occurring at convenience markets are captured from the existing traffic stream on the road. A very limited number of primary purpose trips are made to a convenience store or to gas station during the peak hours of travel. It should be noted that during the most congested hour in the evening peak, the proposed

RaceTrac SR 44 & Kepler Rd
Rezoning Traffic Review
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Page 3 of 3

amendment would reduce the new trips generated to the road network by 40%, which would help reduce the potential load at the critical intersection of SR 44 and Kepler Avenue.

Finally, the proposed PUD amendment will not remove the requirement to implement significant intersection improvements at SR 44 and Kepler Avenue. In accordance with the conditions of the PUD, the developer of the site is required to construct the following improvements:

1. Northbound Left Turn Lane on Kepler Avenue – Extend existing lane to George Street
2. Northbound Right Turn Lane on Kepler Avenue – Extend existing lane to George Street
3. Westbound Right Turn Lane on SR 44 – Extend existing lane by ~250 feet
4. Westbound Left Turn Lane on SR 44 – Extend existing lane to Lake Winnemissett Drive
5. Eastbound Right Turn Lane at SR 44 Access – Install new lane at driveway

These improvements will provide significant stacking and operations capacity to allow the signal at the intersection to operate more efficiently during the peak hour. A signal operations analysis will be submitted under separate cover to address the operation of the intersection.

In summary, the proposed PUD amendment will result in a net reduction in potential traffic generation from the site during the peak hours. The minor increase in daily trips is to be expected due to the extended hours of the proposed use, however those trips would occur during periods of the day when capacity on the road is available.

Therefore, the proposed amendment will not result in increased capacity impacts from the site during the peak periods of traffic, when capacity on the road network could be constrained.

Regards,



Mohammed Abdallah, PE
April 12, 2017

ATTACHMENTS

Convenience Market with Gasoline Pumps (853)

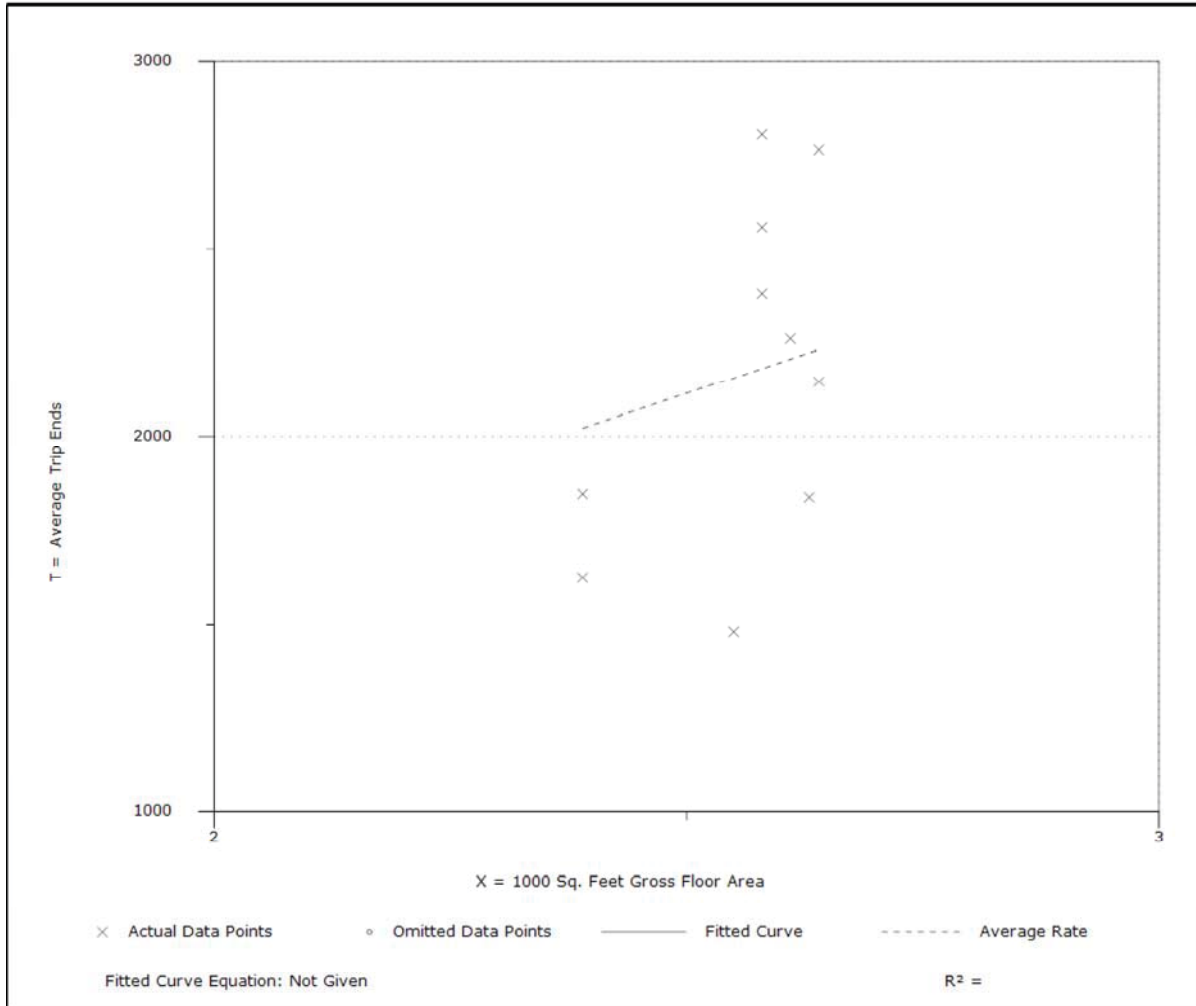
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday

Number of Studies: 10
Average 1000 Sq. Feet GFA: 3
Directional Distribution: 50% entering, 50% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
845.60	578.52 - 1084.72	167.42

Data Plot and Equation



Convenience Market with Gasoline Pumps (853)

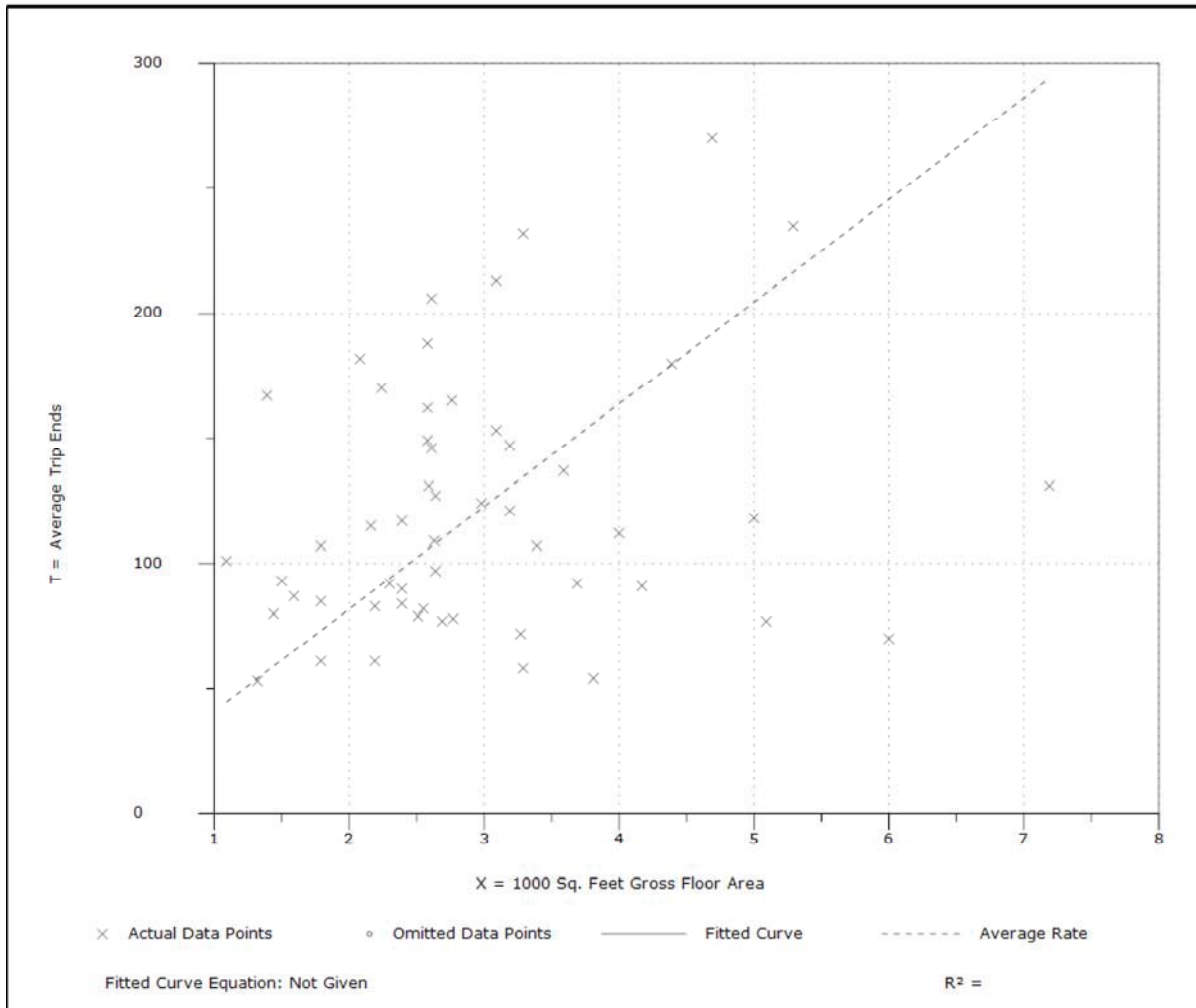
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 7 and 9 a.m.

Number of Studies: 53
 Average 1000 Sq. Feet GFA: 3
 Directional Distribution: 50% entering, 50% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
40.92	11.67 - 119.29	20.25

Data Plot and Equation



Convenience Market with Gasoline Pumps (853)

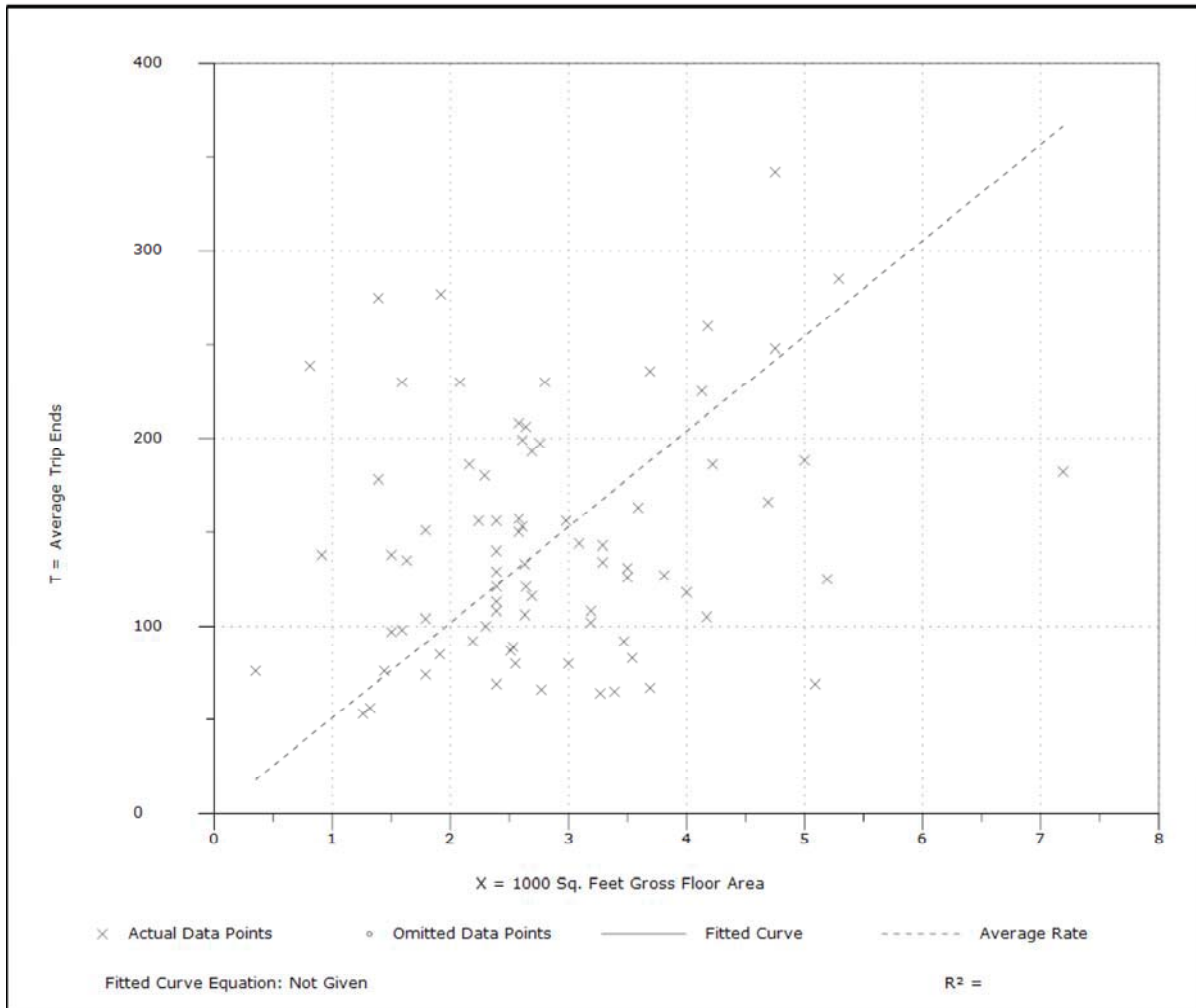
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.

Number of Studies: 78
 Average 1000 Sq. Feet GFA: 3
 Directional Distribution: 50% entering, 50% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
50.92	13.53 - 292.89	31.82

Data Plot and Equation



**Table F.15 Pass-By and Non-Pass-By Trips Weekday, AM Peak Period
Land Use Code 853—Convenience Market with Gasoline Pumps**

SIZE (1,000 SQ. FT. GFA)	LOCATION	WEEKDAY SURVEY DATE	NO OF INTERVIEWS	TIME PERIOD	PASS- BY TRIP (%)	NON-PASS-BY TRIPS (%)			ADJ. STREET PEAK HOUR VOLUME	SOURCE
						PRIMARY	DIVERTED	TOTAL		
2.8	Louisville area, KY	1993	—	7:00–9:00 a.m.	54	11	35	46	1,240	Barton-Aschman Assoc.
2.4	Louisville area, KY	1993	—	7:00–9:00 a.m.	48	17	35	52	1,210	Barton-Aschman Assoc.
4.2	Louisville area, KY	1993	47	7:00–9:00 a.m.	62	19	19	38	1,705	Barton-Aschman Assoc.
2.6	Crestwood, KY	1993	—	7:00–9:00 a.m.	72	15	13	28	940	Barton-Aschman Assoc.
3.7	Louisville area, KY	1993	49	7:00–9:00 a.m.	66	16	18	34	990	Barton-Aschman Assoc.
3.0	New Albany, IN	1993	62	7:00–9:00 a.m.	74	10	16	26	790	Barton-Aschman Assoc.
2.3	Louisville, KY	1993	58	7:00–9:00 a.m.	64	5	31	36	1,255	Barton-Aschman Assoc.
2.2	New Albany, IN	1993	79	7:00–9:00 a.m.	56	6	38	44	635	Barton-Aschman Assoc.
3.6	Louisville area, KY	1993	49	7:00–9:00 a.m.	67	4	29	33	1,985	Barton-Aschman Assoc.

Average Pass-By Trip Percentage: 63

“—” means no data were provided

**Table F.16 Pass-By and Non-Pass-By Trips Weekday, PM Peak Period
Land Use Code 853—Convenience Market with Gasoline Pumps**

SIZE (1,000 SQ. FT. GFA)	LOCATION	WEEKDAY SURVEY DATE	NO. OF INTERVIEWS	TIME PERIOD	PASS-BY TRIP (%)	NON-PASS-BY TRIPS (%)			ADJ. STREET PEAK HOUR VOLUME	SOURCE
						PRIMARY	DIVERTED	TOTAL		
2.8	Louisville area, KY	1993	—	4:00–6:00 p.m.	62	11	27	38	2,875	Barton-Aschman Assoc.
2.4	Louisville area, KY	1993	—	4:00–6:00 p.m.	58	13	29	42	2,655	Barton-Aschman Assoc.
4.2	Louisville area, KY	1993	61	4:00–6:00 p.m.	58	26	16	42	2,300	Barton-Aschman Assoc.
2.6	Crestwood, KY	1993	68	4:00–6:00 p.m.	67	15	18	33	950	Barton-Aschman Assoc.
3.7	Louisville area, KY	1993	70	4:00–6:00 p.m.	61	16	23	39	2,175	Barton-Aschman Assoc.
3.0	New Albany, IN	1993	80	4:00–6:00 p.m.	65	15	20	35	1,165	Barton-Aschman Assoc.
2.3	Louisville, KY	1993	67	4:00–6:00 p.m.	57	16	27	43	1,954	Barton-Aschman Assoc.
2.2	New Albany, IN	1993	115	4:00–6:00 p.m.	48	16	36	52	820	Barton-Aschman Assoc.
3.6	Louisville area, KY	1993	60	4:00–6:00 p.m.	56	17	27	44	2,505	Barton-Aschman Assoc.
2.6	Seminole Co., FL	1989	82	4:00–6:00 p.m.	73	20	7	27	—	Tipton Associates Inc.
2.6	Seminole Co., FL	1989	98	4:00–6:00 p.m.	81	15	4	19	—	Tipton Associates Inc.
2.6	Seminole Co., FL	1989	115	4:00–6:00 p.m.	69	16	15	31	—	Tipton Associates Inc.
2.6	Volusia Co., FL	1989	98	4:00–6:00 p.m.	74	15	11	26	—	Tipton Associates Inc.
2.4	Volusia Co., FL	1989	38	4:00–6:00 p.m.	74	24	2	26	—	Tipton Associates Inc.
2.7	Volusia Co., FL	1989	82	4:00–6:00 p.m.	87	8	5	13	—	Tipton Associates Inc.
2.6	Seminole Co., FL	1989	99	2:00–4:00 p.m.	64	28	8	36	—	Tipton Associates Inc.
2.4	Volusia Co., FL	1989	38	2:00–4:00 p.m.	68	21	11	32	—	Tipton Associates Inc.

Average Pass-By Trip Percentage: 66

“—” means no data were provided

Drive-in Bank (912)

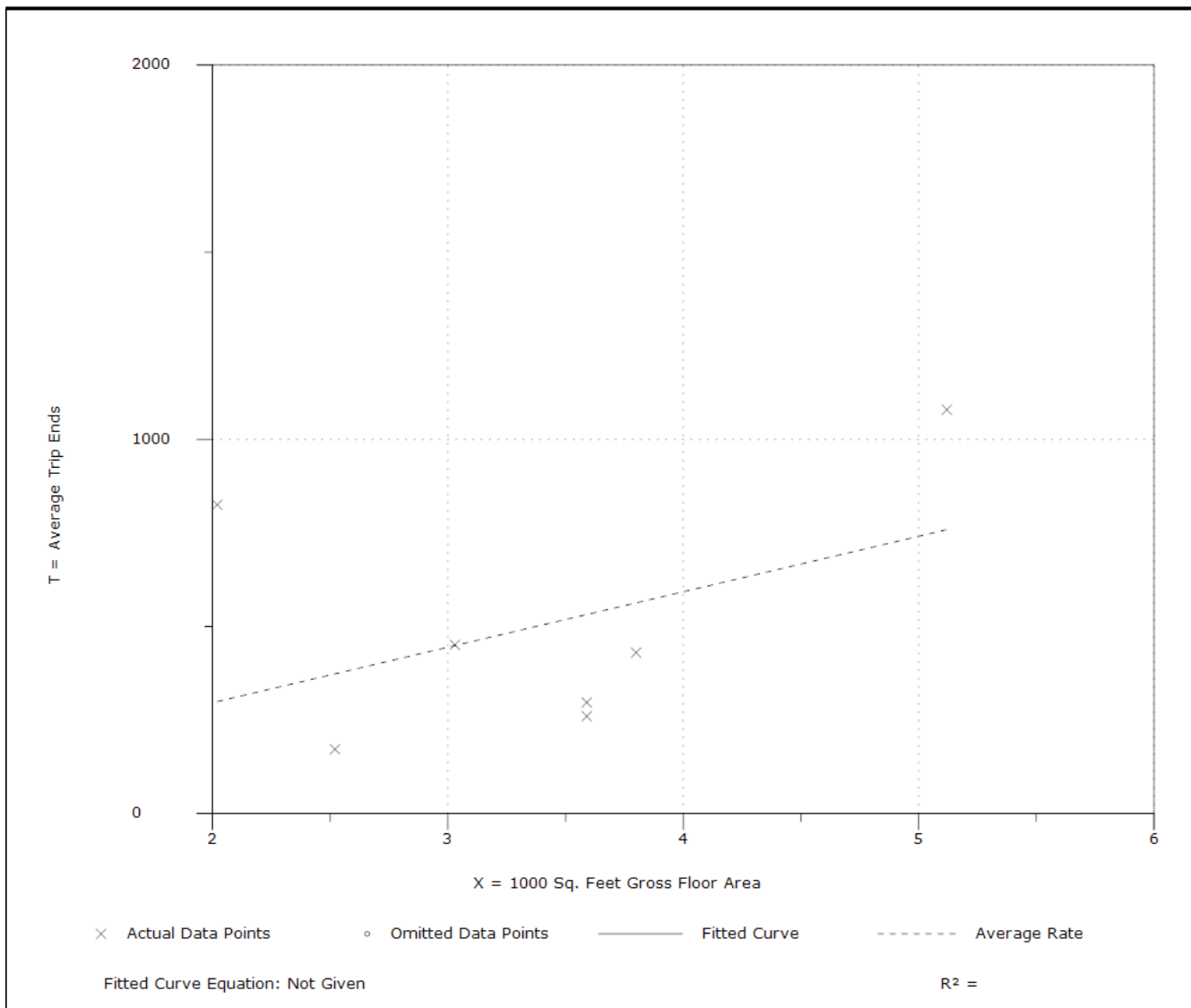
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday

Number of Studies: 7
 Average 1000 Sq. Feet GFA: 3
 Directional Distribution: 50% entering, 50% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
148.15	68.23 - 407.21	102.34

Data Plot and Equation



Drive-in Bank (912)

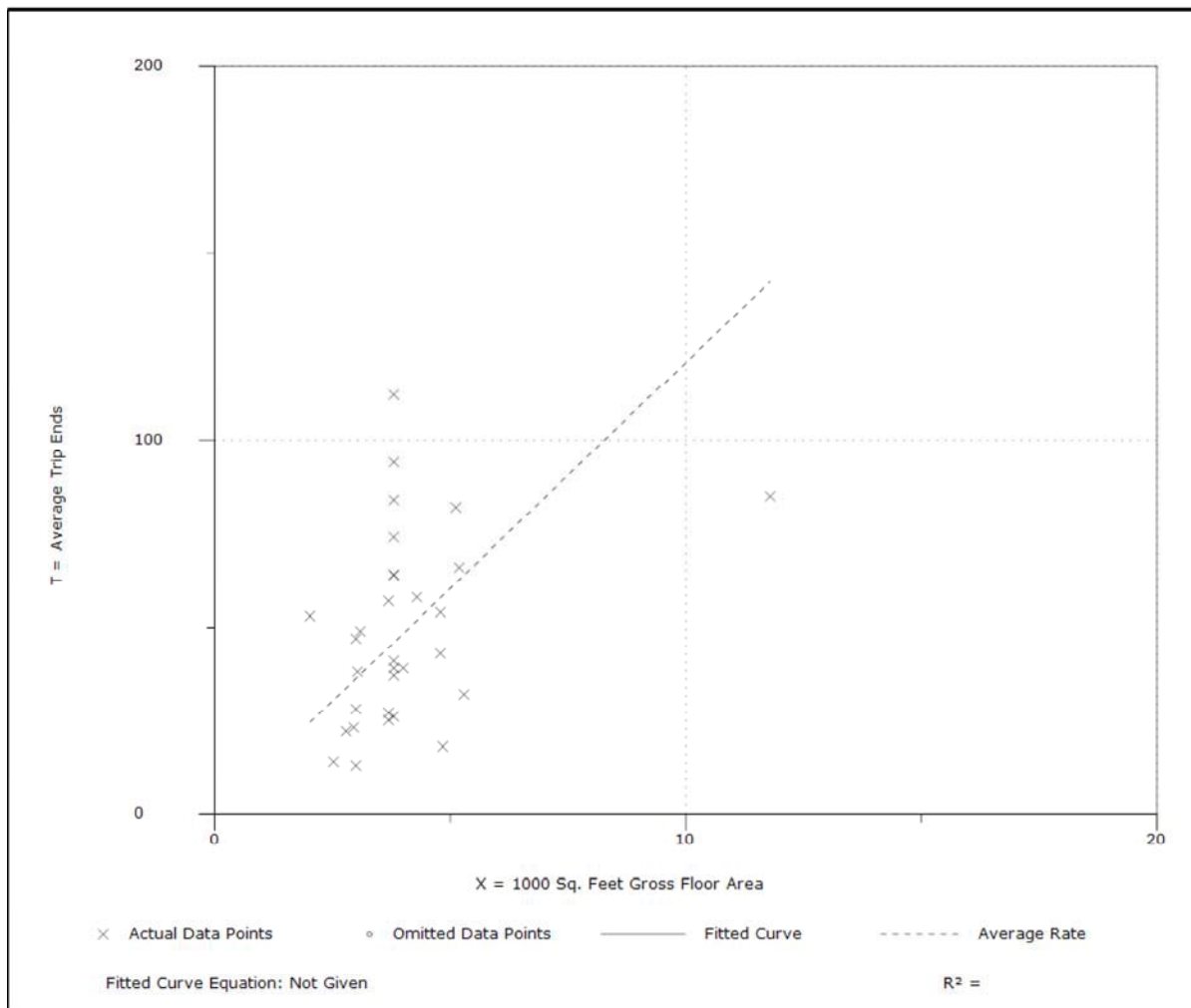
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 7 and 9 a.m.

Number of Studies: 31
 Average 1000 Sq. Feet GFA: 4
 Directional Distribution: 57% entering, 43% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
12.08	3.71 - 29.4	6.27

Data Plot and Equation



Drive-in Bank (912)

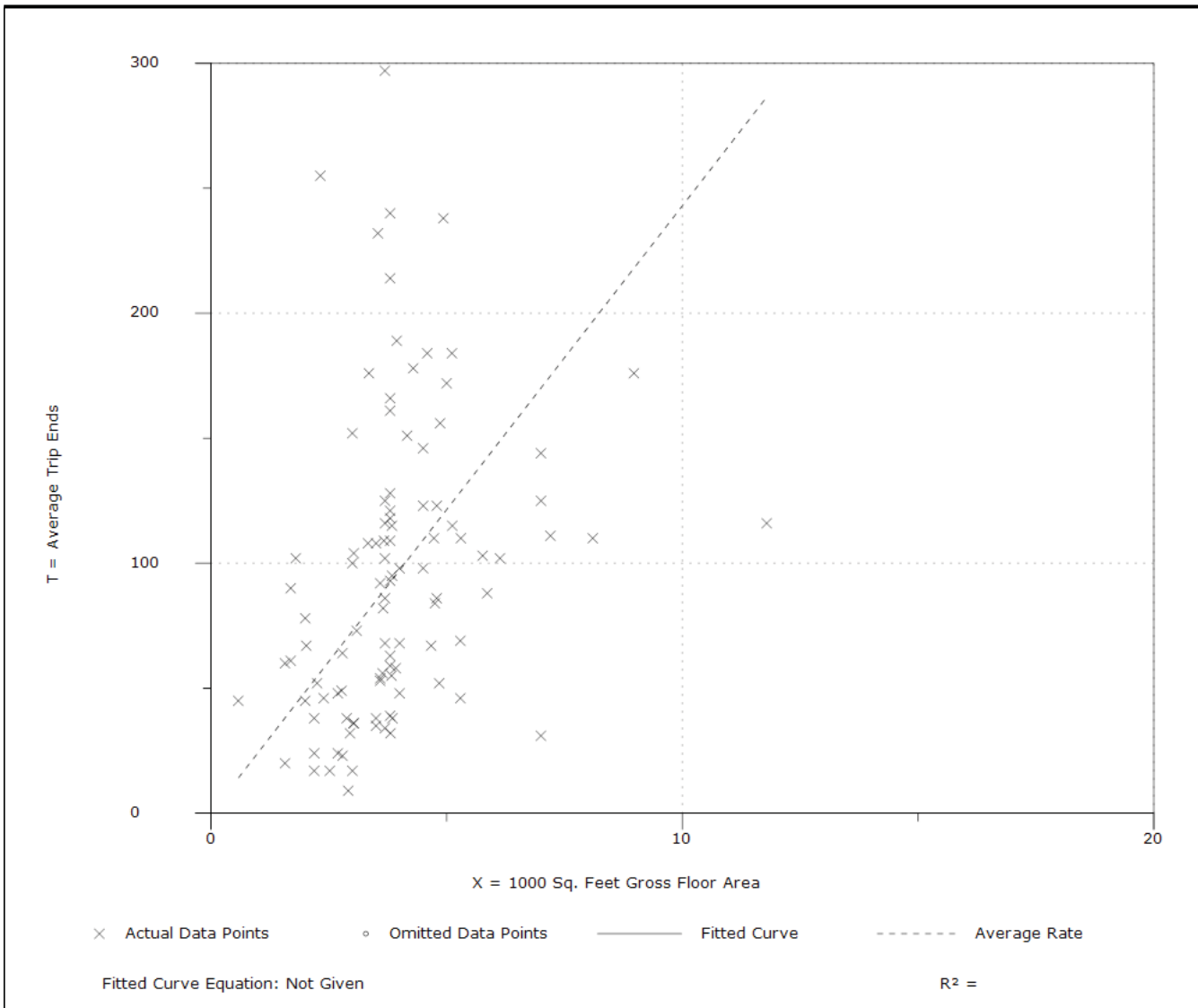
Average Vehicle Trip Ends vs: 1000 Sq. Feet Gross Floor Area
On a: Weekday, Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 p.m.

Number of Studies: 102
 Average 1000 Sq. Feet GFA: 4
 Directional Distribution: 50% entering, 50% exiting

Trip Generation per 1000 Sq. Feet Gross Floor Area

Average Rate	Range of Rates	Standard Deviation
24.30	3.09 - 109.68	15.74

Data Plot and Equation



**Table F.25 Pass-By and Non-Pass-By Trips Weekday, AM Peak Period
Land Use Code 912—Drive-in Bank**

SIZE (1,000 SQ. FT. GFA)	LOCATION	WEEKDAY SURVEY DATE	NO. OF INTERVIEWS	TIME PERIOD	PASS-BY TRIP (%)	NON-PASS-BY TRIPS (%)			ADJ STREET PEAK HOUR VOLUME	SOURCE
						PRIMARY	DIVERTED	TOTAL		
3.8	Camp Hill Mall, PA	March 2005	11	7:45–8:45 a.m.	27	—	—	73	—	McMahon Associates, Inc.
3.8	Exeter Twp, PA	March 2005	9	8:00–9:00 a.m.	24	—	—	76	—	McMahon Associates, Inc.
3.8	York, PA	March 2005	22	7:45–8:45 a.m.	34	—	—	66	—	McMahon Associates, Inc.
3.8	York, PA	March 2005	30	8:00–9:00 a.m.	27	—	—	73	—	McMahon Associates, Inc.
3.8	Mountain Road, PA	March 2005	34	7:30–8:30 a.m.	40	—	—	60	—	McMahon Associates, Inc.
3.8	Muhlenberg, PA	March 2005	7	8:00–9:00 a.m.	27	—	—	73	—	McMahon Associates, Inc.
3.8	York, PA	March 2005	15	8:00–9:00 a.m.	16	—	—	84	—	McMahon Associates, Inc.
3.8	Derry Street, PA	March 2005	27	8:00–9:00 a.m.	36	—	—	64	—	McMahon Associates, Inc.

Average Pass-By Trip Percentage: 29

“—” means no data were provided

**Table F.27 Pass-By and Non-Pass-By Trips Weekday, PM Peak Period
Land Use Code 912—Drive-in Bank**

SIZE (1,000 SQ. FT. GFA)	LOCATION	WEEKDAY SURVEY DATE	NO. OF INTERVIEWS	TIME PERIOD	PASS-BY TRIP (%)	NON-PASS-BY TRIPS (%)			ADJ. STREET PEAK HOUR VOLUME	SOURCE
						PRIMARY	DIVERTED	TOTAL		
16.0	Overland Park, KS	Dec. 1988	20	4:30–5:30 p.m.	15	55	30	85	—	—
3.3	Louisville area, KY	July 1993	—	4:00–6:00 p.m.	48	22	30	52	2,570	Barton-Aschman Assoc.
3.4	Louisville area, KY	July 1993	—	4:00–6:00 p.m.	64	22	14	36	2,266	Barton-Aschman Assoc.
3.4	Louisville area, KY	July 1993	75	4:00–6:00 p.m.	57	11	32	43	1,955	Barton-Aschman Assoc.
3.5	Louisville area, KY	June 1993	53	4:00–6:00 p.m.	47	32	21	53	2,785	Barton-Aschman Assoc.
6.4	Louisville area, KY	June 1993	66	4:00–6:00 p.m.	53	20	27	47	2,610	Barton-Aschman Assoc.
3.8	Colonial Park, PA	March 2005	56	4:00–5:00 p.m.	43	—	—	57	—	McMahon Associates, Inc.
3.8	Camp Hill Mall, PA	March 2005	38	4:15–5:15 p.m.	41	—	—	59	—	McMahon Associates, Inc.
3.8	Exeter Twp, PA	March 2005	14	4:00–5:00 p.m.	24	—	—	76	—	McMahon Associates, Inc.
3.8	York, PA	March 2005	63	4:00–5:00 p.m.	29	—	—	71	—	McMahon Associates, Inc.
3.8	York, PA	March 2005	70	4:00–5:00 p.m.	29	—	—	71	—	McMahon Associates, Inc.
3.8	Palmyra, PA	March 2005	29	4:15–5:15 p.m.	27	—	—	73	—	McMahon Associates, Inc.
3.8	Mountain Road, PA	March 2005	41	4:00–5:00 p.m.	25	—	—	75	—	McMahon Associates, Inc.
3.8	Hummelstown, PA	March 2005	37	4:00–6:00 p.m.	31	—	—	69	—	McMahon Associates, Inc.
3.8	Muhlenberg, PA	March 2005	19	4:00–6:00 p.m.	29	—	—	71	—	McMahon Associates, Inc.
3.8	York, PA	March 2005	34	4:00–6:00 p.m.	21	—	—	79	—	McMahon Associates, Inc.
3.8	Derry Street, PA	March 2005	36	4:00–6:00 p.m.	29	—	—	71	—	McMahon Associates, Inc.
3.6	Arlington, WA	Sept. 2007	—	4:00–6:00 p.m.	42	50	8	58	—	657
2.7	Lynnwood, WA	Sept. 2007	—	4:00–6:00 p.m.	26	66	8	74	—	657
2.8	Redmond, WA	Sept. 2007	—	4:00–6:00 p.m.	21	55	24	79	—	657
3.6	Snohomish, WA	July 2007	—	4:00–6:00 p.m.	29	—	—	71	—	657

Average Pass-By Trip Percentage: 35

“—” means no data were provided

Yolanda Somers - Fwd: RE: SR 44/Kepler RaceTrac BPUD

From: Mike Disher
To: Somers, Yolanda
Date: 5/12/2017 2:23 PM
Subject: Fwd: RE: SR 44/Kepler RaceTrac BPUD

See comments from City of DeLand below.

Sincerely,

Michael E. Disher, AICP, CNU-A
Planner III, Comprehensive Planning
Volusia County Planning & Development Services
mdisher@volusia.org
(386) 736-5959, ext. 12043

>>>

From: Mike Holmes <Holmesm@deland.org>
To: Mike Disher <mdisher@volusia.org>
Date: 5/12/2017 1:19 PM
Subject: RE: SR 44/Kepler RaceTrac BPUD

My original comments still stand. The site plan will be reviewed by City for ground sign and buffer. my other comment dealt with traffic. I have not seen a traffic analysis, but I was looking for how they will improve the traffic issues at the intersection before intensity is increased.

From: Mike Disher [mdisher@volusia.org]
Sent: Friday, May 12, 2017 12:27 PM
To: Mike Holmes
Subject: SR 44/Kepler RaceTrac BPUD

Good afternoon, Mike. Did you have any comments on the RaceTrac resubmittal? I confirmed with the applicant that 14 pumps are proposed, not 18 per the preliminary plan. The plan will need to be revised before it goes to public hearing. Thanks.

Sincerely,

Michael E. Disher, AICP, CNU-A
Planner III, Comprehensive Planning
Volusia County Planning & Development Services
mdisher@volusia.org
(386) 736-5959, ext. 12043

Site Photos



Subject property, looking south from SR 44



Subject property, looking southeast from SR 44/Kepler Rd. intersection



Existing BP/Kangaroo convenience store, NW corner of SR 44/Kepler Rd.



2101 E. New York Ave., looking north



2101 E. New York Ave., looking north



2113 E. New York Ave., looking north



2115 E. New York Ave., looking north



SR 44/Kepler Rd. intersection, looking east



SR 44/Kepler Rd. intersection, looking south



SR 44/Kepler Rd. intersection, looking west



SR 44/Kepler Rd. intersection, looking north



E. George St., looking east from Kepler Rd.

Mike Disher - Fwd: Re: FW: Proposal for Zoning Change--DeLand SR44 and Keplar Road

From: Mike Disher
Date: 5/3/2017 11:54 AM
Subject: Fwd: Re: FW: Proposal for Zoning Change--DeLand SR44 and Keplar Road

From: Jeanne Savoie [mailto:jeanne617@yahoo.com]
Sent: Wednesday, May 03, 2017 10:00 AM
To: frankseverino@gmail.com
Subject: Proposal for Zoning Change--DeLand SR44 and Keplar Road

Dear Mr. Severino:

Last night I attended a meeting designed to provide information on the proposed RaceTrac service station. Corporate officials explained their plans for a 24 hour convenience store and 14 pump gas station on the southwest corner of SR 44 and Keplar Road. There are many reasons to deny this request:

- 1) The current zoning of light commercial/professional was reached in 2008 with the promise that it would never be amended. Honor this designation.
- 2) Traffic at that intersection is currently failing. The roads cannot support additional trips. Three-quarter mile back-ups during peak commuting hours are not uncommon. Monday through Friday this occurs but Wednesday is particularly bad due the weekly Farmer's Market at the Volusia County Fairgrounds.
- 3) The number of accidents along SR44 adjacent to Lake Winnemissett, many of them fatal, place it among the most dangerous roads in the county.
- 4) There is an existing convenience store/gas station on the northwest corner of the intersection that meets the needs of the community. Circle K is planning a complete renovation and modernization.
- 5) This intersection is one of the major gateway corridors into DeLand. Every effort to make it aesthetically positive should be considered. A professional office would that standard, a gas station does not.

While growth and development are a reality, it is of utmost importance that development be completed in a carefully managed way. The intersection in question is adjacent to a residential communities on the north, south and east. Neighbors to the south, on George Street and Eau Claire, will be severely

impacted. Those living along Lake Winnemissett can anticipate more traffic deaths due to the increased congestion on a road that is already failing.

The original designation of light commercial/professional must be honored. The convenience store and gas station proposed by the RaceTrac Corporation would easily fit an alternative location closer to the SR 44/I-4 interchange and that option should be given careful consideration.

I appreciate your time and commitment to making all parts of Volusia County well planned communities where every project is considered based on the overall good it will provide to the residents.

Most sincerely,
Jeanne Savoie
332 Lake Winnemissett Drive
DeLand, Florida 32724
386 734-9371

Yolanda Somers - FW: Kepler and New York

From: "Frank Severino" <frankseverino@gmail.com>
To: "'Yolanda Somers'" <ysomers@volusia.org>
Date: 5/5/2017 2:03 PM
Subject: FW: Kepler and New York

For the record...

From: Sandra Williams [captainsandy42@gmail.com]
Sent: Friday, May 05, 2017 1:55 PM
To: frankseverino@gmail.com
Subject: Kepler and New York

Dear Mr Severino:

I live on E New York Ave on Lake Winnemissett. In the 20 years I've been in this house, I have watched the traffic on New York Ave grow progressively worse.

We who live in the neighborhood are deeply opposed to the Racetrac gas station proposed for the SE corner of Kepler and New York. This main entrance to DeLand is already overloaded and adding anything to the traffic load is a terrible idea.

The proposed Racetrac would likely turn a failing intersection into a failed intersection. One more vehicle on the road would be too much, and by some estimates, this station could add almost SIXTEEN HUNDRED more. This would be bad for all concerned.

We are the ones raising our voices, but this should be of great concern for everyone in the county. This is such a bad idea for a number of reasons: First and foremost is that adding any traffic to this dangerous section of road is an obviously bad idea. Also, this would encroach on a low density single family home neighborhood. Then there is the issue of a solemn agreement made between us and the county that this property would be zoned for professional office or other low density use.

I strongly urge you to oppose this Racetrac gas station.

Captain Sandra Williams

From: "Jay Young" <jyoung9508@cfl.rr.com>
To: <ysomers@volusia.org>
Date: 5/11/2017 1:32 PM
Subject: FW: RaceTrac June 13 vote

From: Christine Levings [levingschristine25@gmail.com]
Sent: Thursday, May 11, 2017 12:59 PM
To: jyoung9508@cfl.rr.com
Subject: RaceTrac June 13 vote

*I strongly oppose the approval of a Racetrac Gas Station proposed for the SE corner of Kepler Road and New York Avenue. As a local resident, I am alarmed at the anticipated increase in traffic and accidents that will negatively impact local infrastructure and significantly affect my quality of life. Because the traffic, in recent months, has become so bad on 44 and Kepler, many people are cutting through Lake Winnemissett Dr to avoid that intersection. There are already too many accidents on those curves of my road and CR44. **This land use should remain zoned for professional office or other low intensity use.** Please honor the contract of the 2008 zoning promising transitional low intensity use to residential area.*

The improvements to the Circle K at the NW corner will be an improvement and will provide sufficient gas for the public. This is the eastern gateway to our county seat- do we really want it to be a corner of big gas stations? One is enough. I reside at 415 Lake Winnemissett Dr, which is in close proximity to this proposed development. I also strongly support the Beresford Extension project, which would help improve safety and traffic flow on 44 and Kepler. FLDOT should take that project over as a 44 alternate and use eminent domain to secure the last piece of property holding up the improvement.

Please do the right thing for our citizens, not just what is expedient or profitable.

Thank you for your consideration,

Christine Levings

This email has been checked for viruses by Avast antivirus software.
www.avast.com

From: Jeff Gove <govejeff@gmail.com>
To: Yolanda Somers <ysomers@volusia.org>
Date: 6/8/2017 1:07 PM
Subject: Fwd: Racetrack

not included in staff report, I believe

----- Forwarded message -----

From: Cheryl Weinbender <c.a.weinbender@gmail.com>
Date: Tue, May 16, 2017 at 2:35 PM
Subject: Racetrack
To: Govejeff <govejeff@gmail.com>

I live at 145 Kepler Rd. I know that with racetrack coming and it's going to be right next door to my house there is going to be more crime brought to my home. The Noise level is going to be unbearable for us to enjoy our home. I also know it's going to be impossible to get into my driveway as it already is. If any business is going to come in I feel that they should've approached the person that's going to be right next to them and consider buying that property. This is really inconsiderate any unprofessional I think this is very selfish and definitely they do not care about people nor this community. I do health issue I suffer from seizures which is triggered by stree and this is very stressful for me. So therefore I must strongly oppose the approval of this race track gas station that will be put on southeast corner of Kepler Road and NewYork avenue.

From: "Frank Severino" <frankseverino@gmail.com>
To: "Yolanda Somers" <ysomers@volusia.org>
Date: 6/1/2017 12:44 PM
Subject: FW: Keep The Promise- No Racetrack

From: Joni Gonzalez [mailto:jonigonzalez@mac.com]
Sent: Thursday, June 01, 2017 11:49 AM
To: frankseverino@gmail.com
Subject: Keep The Promise- No Racetrack

I am a homeowner at 2225 E. NY Ave, Deland since 1995. My family has watched the corridor entering our Beautiful City of DeLand become home to horrible traffic jams daily for miles to our north and south. When we bought here there was never an issue with traffic, ever. We live on what we (our neighbors) call "The Bank of Deland" it is that bad curve people speed around that is adjacent to Lake Winnemissett between I-4 and Kepler. I am sure many of you all have driven it countless times. If you haven't we invite you to try out the morning and afternoon traffic jams that don't allow us to leave our drive way and head in the direction we want too. We have instead flow with the traffic and take a different route, or just sit. We are extremely alarmed at the idea of a 24 hour high traffic business (Racetrack) being built in the middle of the already failing intersection of 44 and Kepler. The RaceTrack Corp. has no one working for it living in our Deland area. They do not see or feel the impact of too much traffic on 44 and Kepler that we experience. Racetrack wants to be here because of the traffic and how it will benefit them. We encourage all of you who live in Volusia County, (many in this area) If you haven't witnessed what our complaints are to please come and experience the issues first hand. Know what we are talking about. It is your duty to plan our roads and DeLands future with every resident in mind.

We personally have been victims of 3 rear end accidents in front of our driveway. My family members have been part of countless car accidents and helping injured persons that have wrecked in front of our home. The noise of the brakes being applied, the spine shivering sounds of metal crushing together as yet another car wreck is happening on 44 in front of our home haunts us all. In a recent accident this year, a motorcyclist was hit head on by a car. Our 21 yr. old son was a first responder to this accident and the motorcyclist died. What he saw, and the others that helped was horrific. No drugs or alcohol were involved in this accident. Accidents happen in this area on a regular basis, and sadly it's not the first death here. Each year the accidents have increased. We don't live on I-4, 44 is a 2 lane state road that used to be quite and not over trafficked. We feel like we are risking our lives at times when getting the mail or taking out the trash. Traffic of 18-wheelers, construction trucks and vehicles just come barreling into Deland on a road that is not able to handle it all. Imagine getting your mail 6 ft. away from a "speeding" 18-wheeler that is flying past. That wasn't what we bought into in 1995, it has become that because of poor planning.

In 2008 there was a zoning contract promising low intensity use to residential areas. Please keep the promise. We all know that a 24hr Racetrack gas station in this failing intersection is not anything to make DeLand better, and will only hurt all the residents in many ways. Some have lived their whole lives in this area and now are at risk of having a gas station open 24hrs in their back yards. The lot that Racetrack wants to build on used to be 1 small residential home surrounding by an orange grove. We all feel very let down. It will make the traffic jams worse, continue to make the tax paying residents suffer even more, and we all pay a lot of taxes. We should continue to work harder for the Beresford Extension and reduce the traffic on E. NY Ave (44) that was not built to handle this amount of traffic.

Please remember the zoning promise made in 2008-

"Keep the Promise"

Charley Gonzalez

Joni Gonzalez

Charley Gonzalez III

Gabby Gonzalez

2225 E. NY Ave

DeLand, Fl.

32724

386-451-4688

From: John Engle <john@cookseyassociates.com>
To: Johnny Engle <jengle@knights.ucf.edu>
CC: "lwca32724@gmail.com" <lwca32724@gmail.com>
Date: 6/5/2017 2:30 PM
Subject: Regarding BPUD Change Proposal at SR44 & Kepler Deland

Greetings,

My name is John SL Engle and I reside at 2215 E New York Ave in unincorporated Deland. I am extremely concerned about the massive proposed Racetrac gas station being considered for the southeast corner of New York Ave (SR44) and Kepler Rd in Deland, which is up for recommendation at the upcoming PLDRC meeting on June 13th. I urge you not to recommend this or vote for this proposal.

Some quick background on this site that the developer may not tell you - this land was previously a single family home with an orange grove, and in fact, all land uses east of Kepler Rd are single family. The future land use of ULI is a residential category, only allowing limited commercial "residential transition" uses. An 18-pump 24-hour gas station does not fit that category. The currently approved BPUD was established during an era of excessive and uncontrolled development (during the housing boom). It was narrowly approved by the County Council and several members now regret their decision. The current low intensity "transitional" BPUD was sold to residents under the guise of being a contract - "You know exactly what you are going to get". A betraying of this promise to change the contract to a higher-intensity commercial use is a violation in the trust that we place in the Council.

This intersection and the roadway leading into Deland from I-4 is failing, long plagued by a horrendous traffic situation and gruesome fatal wrecks. SR44 and Kepler Rd are both 2-lane roads with traffic counts comparable to and in excess of some of Volusia's major 4-lane roads. In the mornings and evenings, traffic backs up over a mile to pass through this intersection, forcing drivers to speed down alternate residential streets, delay emergency vehicles, create fender-benders and making Deland a genuine nightmare to enter/exit for the populous. At night, the section of SR44 between Deland and I-4 turns into an all-out killing machine, where over the years I have witnessed (and I am not exaggerating) decapitations, broken bones, twisted metal, screams, fire, and gore. In my opinion it would be criminally negligent to allow thousands of more vehicles per day onto this over-run and dangerous roadway.

The developer's ultimate argument in favor of the BPUD change is that according to their paid traffic engineer-advocate, the gas station will add less peak hour traffic than the existing approval would add. That ignores the fact that the proposal will still add MORE peak hour traffic than what we currently have and cannot sustain. In addition, the non-peak hour traffic (including night time, when this road becomes incredibly deadly) is significantly higher - and they conveniently ignore this.

Lastly, the City of Deland has been nationally recognized over the years for its beauty and desirability. A lot of effort has been made to make this place 'idyllic'. Don't listen to the developer - gas stations on every corner of Deland's gateway are not beautiful! This is the eastern gateway into Deland from I-4. Let's make an effort to make it effortless and enjoyable to come to Volusia's County Seat!

We do not need to add more strain onto this failing infrastructure in the name of tax-base revenue generation. Gas stations belong near the interstate, not in residential areas that cannot support their infrastructure demands. We need to do the prudent thing and fix what we have. Please tell them NO!

Want a solution? Tell Racetrac to build out by I-4, and approve the Beresford extension. The will is there, the money is there and it would be a great "feather-in-the cap" for the current sitting Council to champion for the County Seat of Volusia.

John SL Engle
2215 E New York Ave
Deland, FL 32724

From: Sylvia Strother <sylstro@icloud.com>
To: <jcusack@volusia.org>, <ekelley@volusia.org>, <bwheeler@volusia.org>, <p...>
Date: 6/12/2017 4:09 PM
Subject: Volusia County Council members,

Volusia County Council members,

My family and I strongly oppose the approval of a Racetrac Gas Station proposed for the SE corner of Kepler Road and New York Avenue.

I reside at 2624 Winnemissett Oaks Drive, which is in close proximity to the proposed devolvement.

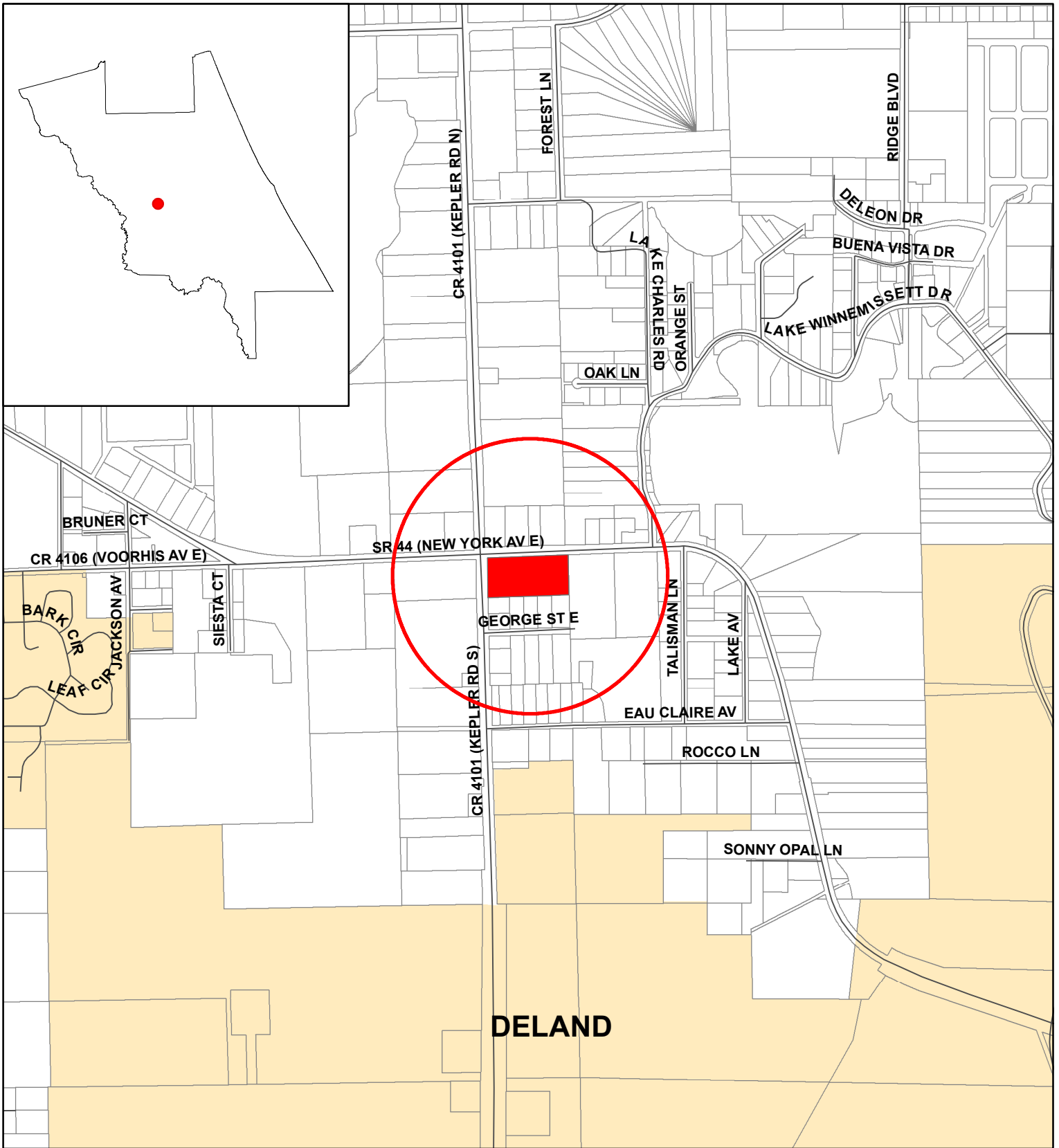
While we support changes and growth to our town, we feel that the land should remain zoned for professional offices or other low intensity use.

The amount of congestion from traffic is already a problem for me and the local residents living in the area. The Gas station will negativity impact our community and the increased flow of traffic will cause a major concern for the already congested area.

Also, as a local resident in the Lake Winnemissett area, I know of five (5) Gas Stations within a two (2) mile stretch starting at Amelia Avenue and traveling along East New York Avenue to Interstate I-4. Therefore, adding a 6th Gas Station within the same two mile stretch is definitely not needed in this area.

Very Respectful,

Raymond Strother
LTC(R) Army



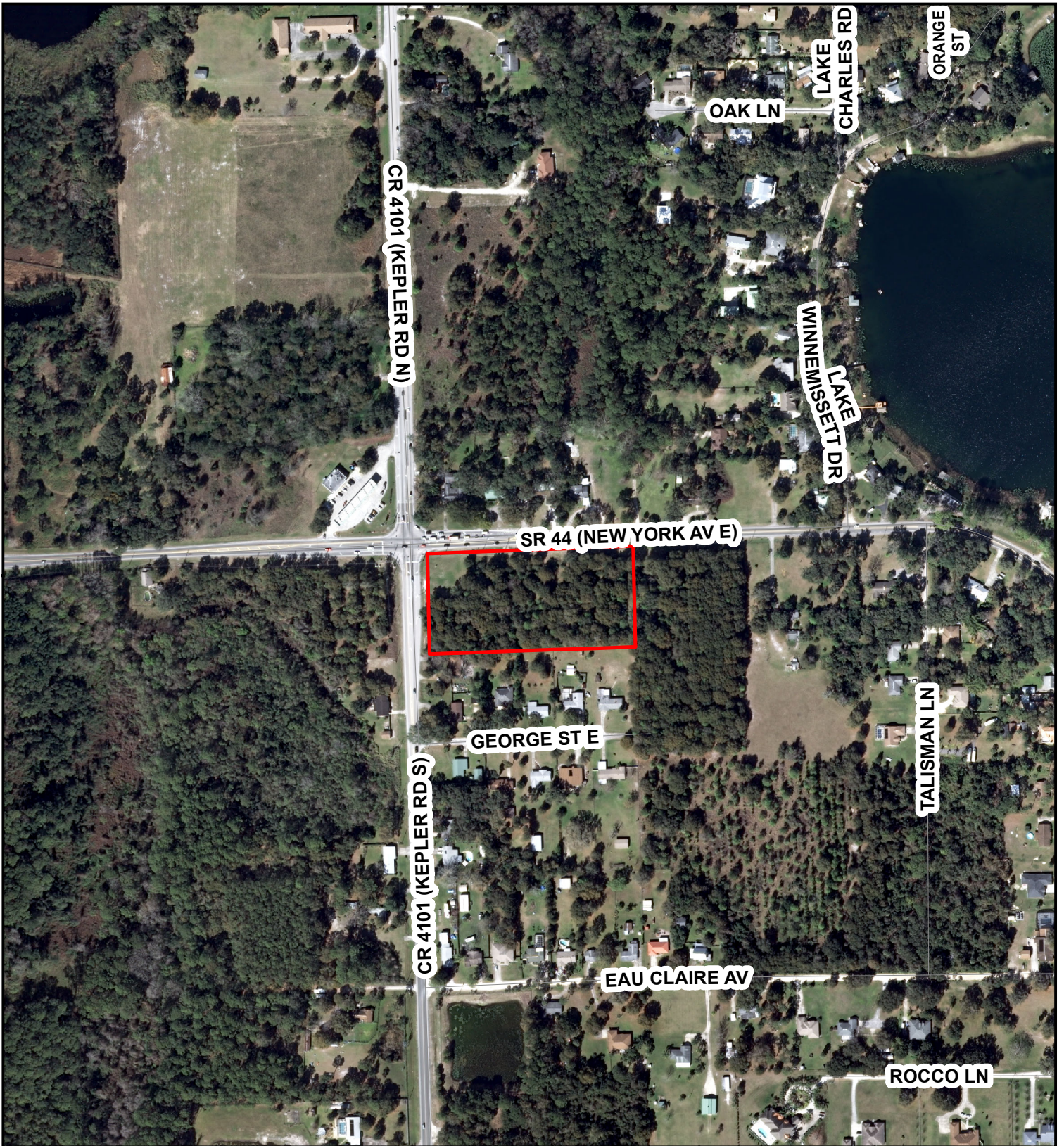
REQUEST AREA LOCATION



1" = 1000'

CASE NUMBER
PUD-17-021





AERIAL 2015

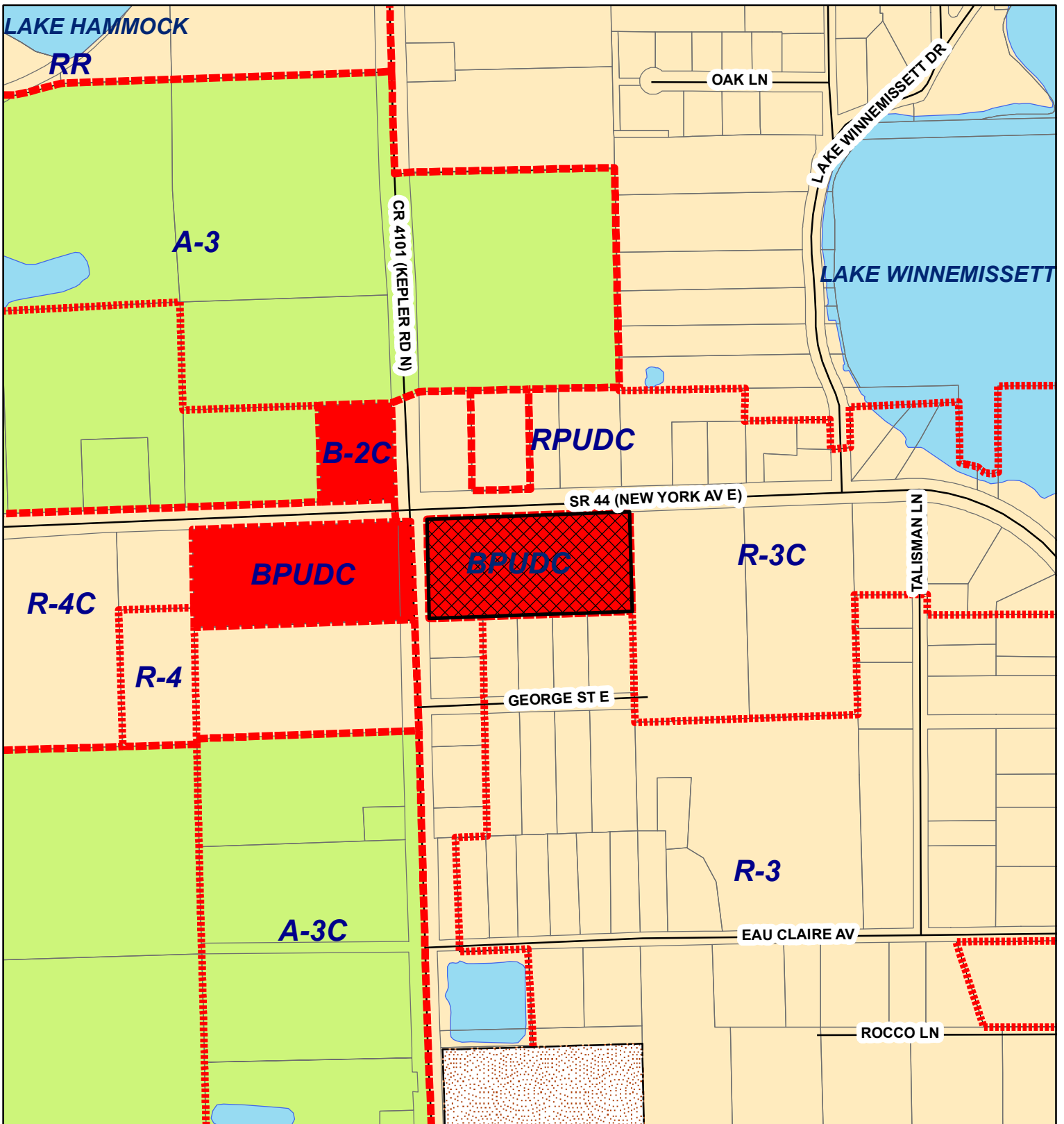
1" = 400'

CASE NUMBER

 **REQUEST AREA**



PUD-17-021



ZONING CLASSIFICATION

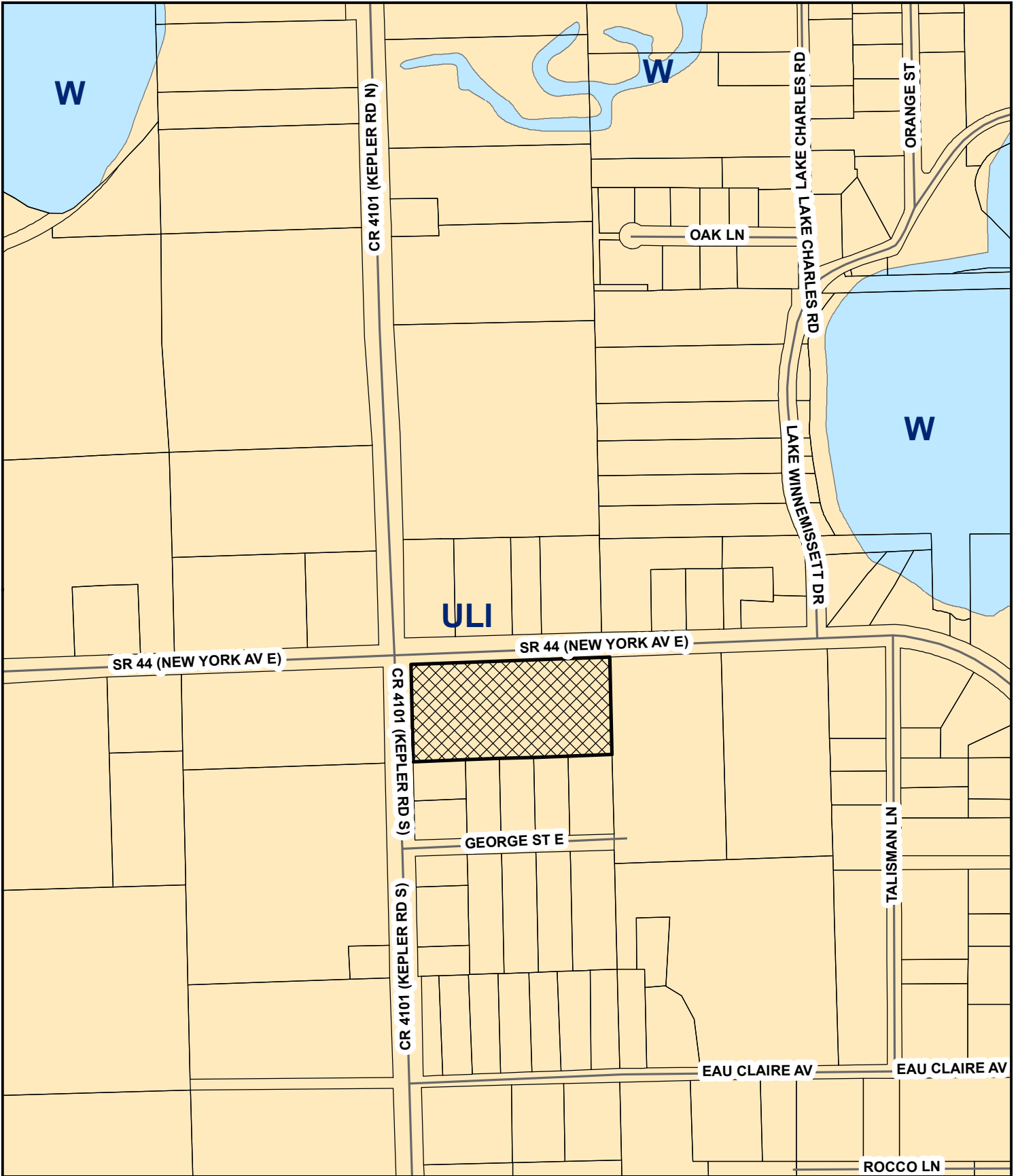
1" = 400'

**CASE NUMBER
PUD-17-021**

- COMMERCIAL
- AGRICULTURAL
- INCORPORATED
- RESIDENTIAL



REQUEST AREA



FUTURE LAND USE DESIGNATION

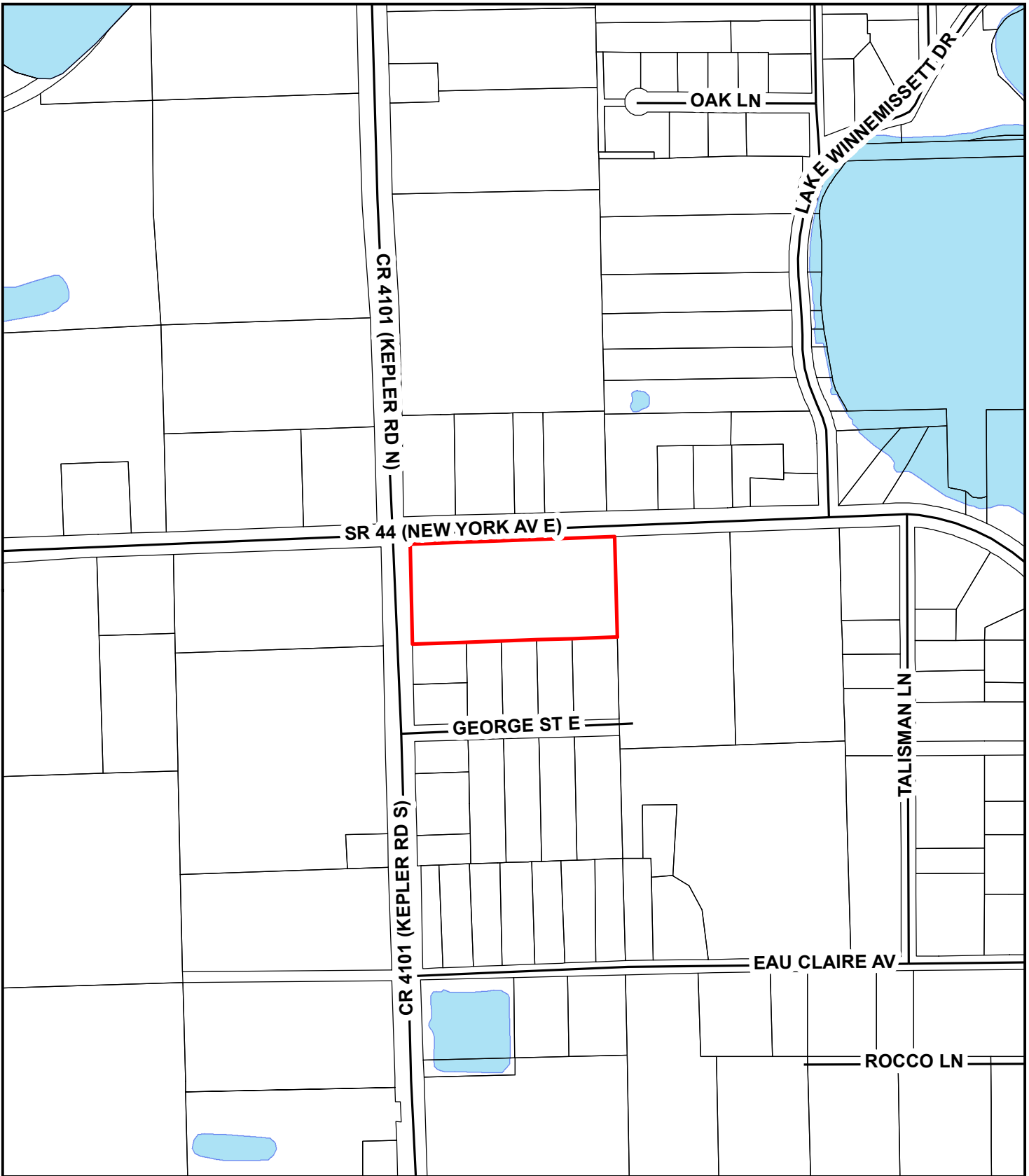
-  URBAN LOW INTENSITY
-  WATER

1"= 400'

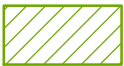
CASE NUMBER



PUD-17-021



ECO/NRMA



ECO



NRMA



REQUEST AREA

1" = 400'

CASE NUMBER
PUD-17-021

