



GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
 PLANNING AND DEVELOPMENT SERVICES DIVISION
 CURRENT PLANNING ACTIVITY
 123 W. Indiana Avenue, Room 202, DeLand, FL 32720
 (386) 736-5959

PUBLIC HEARING: January 10, 2017 - Planning and Land Development
 Regulation Commission (PLDRC)

CASE NO: S-16-078

SUBJECT: Special exception for a flea market on Light Industrial (I-1)
 zoned property

LOCATION: 535 Fair Street, DeLand

APPLICANT: Eusebio Ferrusco

OWNER: John W. Pugh

STAFF: Michael E. Disher, AICP, Planner III

I. SUMMARY OF REQUEST

The applicant is requesting a special exception for a flea market on Light Industrial (I-1) zoned property. According to the proposed layout plan, the project area is 5.15 acres in size, located on Fair Street, on vacant property used by the Cole Bros. Circus. The site is intended to be the new location of the DeLand Flea Market, currently located on Woodland Avenue. The Flea Market is relocating due to the pending construction of a Wal-Mart at its current site. The plan proposes 80 vendor spaces on existing pastureland, with only minimal site improvements. The flea market will be open Saturdays and Sundays from 5:00 a.m. to 6:00 p.m., all year.

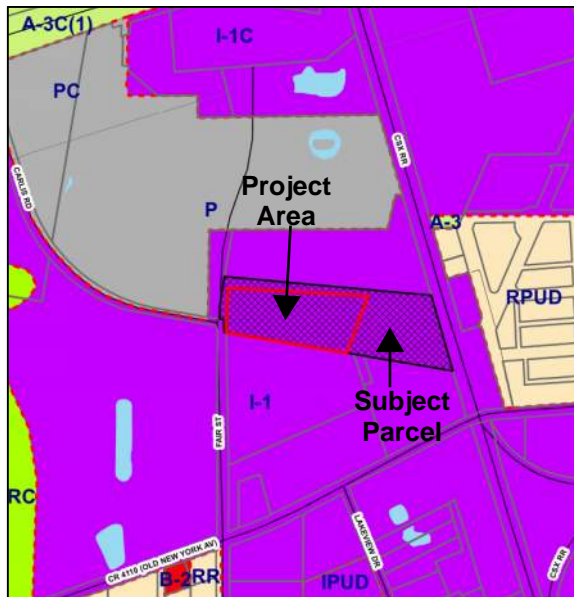
Staff Recommendation: Forward to county council for final action with a recommendation of approval with staff conditions.

II. SITE INFORMATION

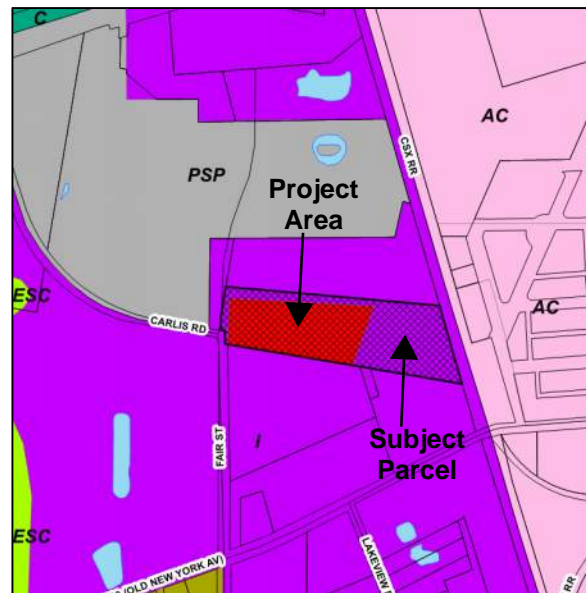
1. Location: The property is located on the east side Fair Street, at its intersection with Carlis Road, east of Volusia County Public Works yard, DeLand.
2. Parcel Number(s): 7940-03-01-0030
3. Property Size: 5.15 acres of a 9.93 parent parcel
4. Council District: 1
5. Zoning: Light Industrial (I-1)
6. Future Land Use: Industrial (Hontoon Island Local Planning Area)
7. ECO Map: No
8. NRMA Overlay: No
9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	I-1	Industrial	Vacant
East:	I-1	Industrial	DeLand Circus Headquarters
South:	I-1	Industrial	Vacant
West:	P	Public/Semi-Public	Public Works Yard

10. Location Maps



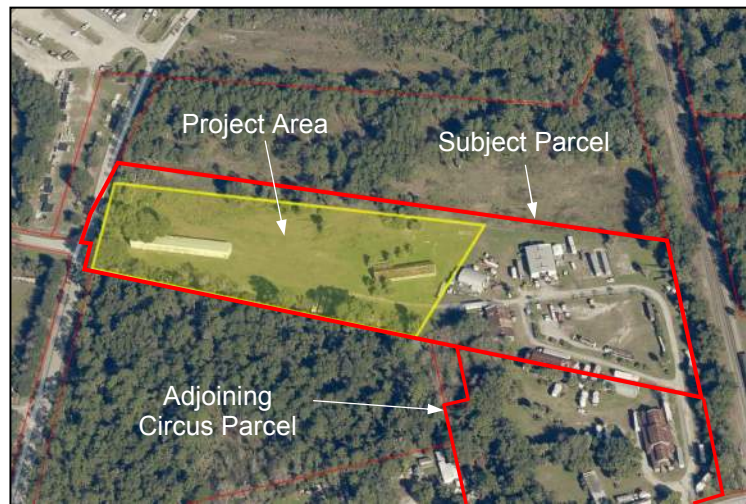
ZONING MAP



FUTURE LAND USE MAP

III. SITE OVERVIEW AND BACKGROUND

The subject 5.15-acre project area is located on the west side of a larger 9.93-acre parcel that is used by the Cole Bros. Circus. The Circus also occupies an adjoining parcel to the south fronting on Old New York Avenue. The project area is mostly open and grassed, bordered on the west and south sides with natural vegetation, and on the north side by a chain-link fence. The fence on the north side is located approximately 35-65 feet from the north property line. There is currently no border on the east side of the project area adjacent to the circus headquarters. Two buildings formerly used to house circus animals are on the east and west sides of the property. A ditch runs along the south side.



The pre-application meeting with the applicants and Staff was held on August 22, 2016. The application package was received a month later on September 22, 2016. The technical zoning requirements were discussed with the applicant and property owner at the Staff Review meeting held on October 12, 2016. The applicant was also provided with advisory development requirements that would need to be addressed on the final site plan application if the special exception is first approved. These advisory comments included tree preservation, site access and circulation, stormwater management, among others. Revised site layout plans were subsequently submitted by the applicant on December 13, 2016, and December 21, 2016.

IV. DISCUSSION

Site Proposal

The flea market is proposed to consist of 80 vendor spaces, each 10 feet x 25 feet, grouped together in the middle of the project area (see attached letter of request). The majority of vehicular parking spaces will be provided on the grass, while ADA-compliant spaces will be established on an existing concrete pad. The flea market will operate Saturdays and Sundays from 5:00 a.m. to 6:00 p.m. all year. Primary access is intended to be from SR 44 via Carlis Street, which terminates at Fair Street and partially aligns with the entrance of the property. Although the applicant originally proposed to utilize the two existing buildings as covered vendor spaces, the latest proposal no longer includes them since they do not comply with the Florida Building Code for use by the public. Portable toilets will be provided during flea market business hours.

The only permanent improvements proposed at this time are the ADA-compliant parking spaces, a dumpster, and removal of grass over the primary stabilized drive aisle from the main entrance. The property owner wishes for the site to remain in its current condition to the greatest extent possible so he may continue to use the site during the week when the flea market is not open. The site will be able to make use of the significant natural buffers along the south and west sides, the plants in which will be credited toward the applicable landscape buffer requirements. The fence on the north side will provide physical separation from the vacant property to the north, which lies approximately 35-65 feet north of the fence. The applicant intends to seek waivers from any additional required landscaping and other development improvements such as stormwater management through the site plan review process if the special exception is approved.

Zoning

A flea market is defined in the zoning code as, "The retail sale of merchandise from individually rented spaces or temporary structures on a lot. The term is not intended to apply to similar temporary activities conducted by houses of worship, or other nonprofit organizations." Flea markets are a permitted special exception use in the I-1 zoning classification subject to meeting the special conditions pursuant to Section 72-293(7).

As an independent use unrelated to the circus operation on the property, the proposed flea market would be considered a second principal use on the property. Per the Volusia County zoning code Section 72-80, more than one principal structure may be erected on a conforming industrial lot as long as the structure satisfies the applicable lot dimensional requirements as if it were on a separate conforming lot. The code does not require the property to be subdivided to create a separate lot for each use.

In this case, the subject 5.15-acre project area and 9.93-acre parent parcel far exceed the minimum lot size in the I-1 (Light Industrial) zoning classification. The proposed use will be able to meet also meet the setbacks of the I-1 classification, as shown on the attached survey. However, the eastern boundary of the project area will need to be shifted slightly west by approximately three feet so as not to create a non-conformity with an existing building on the parent parcel. The parent parcel must still be able to meet the minimum required 10-foot side-yard setback measured from the existing 35 feet x 53.5 feet building located just east of the project area. There appears to be sufficient room between the two buildings to meet the 20-foot rear-yard setback of the flea market and the side-yard setback of the parent parcel. For reference, the I-1 dimensional requirements are listed below.

Minimum lot size:	1 acre
Minimum width:	150 feet
Minimum yard size:	
Front yard:	30 feet
Side yard:	Ten feet
Rear yard:	20 feet
Waterfront yard:	25 feet
Maximum building height:	45 feet
Maximum lot coverage:	No maximum

Special Exception Requirements

A special exception use is defined as a type of use that may be appropriate in a given zoning classification only under certain conditions and in limited numbers. Special Exception uses shall, "...not adversely affect the public health, safety, comfort, good order, appearance, convenience, morals or general welfare" [Section 72-2, Definitions].

Per Section 72-293(7), flea markets are required to meet certain conditions for operational hours, parking, number of vendor stalls per acre, merchandise storage, trash containment, and compliance with health department regulations. With the exception of landscaping and signage, the proposal appears to meet these requirements as shown on the applicant's site plan and letter of request. The hours of operation will be limited to daylight hours. No merchandise will be stored on the property. A dumpster will be provided for refuse and trash. The number of parking spaces will meet the requirement of three per vendor that is unique to this use. As noted above, the applicant intends to request waivers from landscaping and screening requirements through the site development review process. The applicant also does not wish to provide signs on the property, but is in discussions with FDOT to place a small directory sign on SR 44 to direct traffic to the property via Carlis Road. The code does not require signs to be provided, but if desired their general location must be shown on the special exception site layout plan.

V. REVIEW CRITERIA

Under Section 72-415(8) *Reasons for denial*, the Commission may recommend denial of any application for a special exception, and the County Council may deny the application for one or more of the following reasons:

(a) It is inconsistent with the purpose or intent of this article.

The proposed flea market will be required to meet all of the standards of the zoning code applicable to this use. Adding a flea market to the subject property will not be inconsistent with the purpose of the zoning classification provided it maintains compliance with the special exception regulations for this type of use per Section 72-293(7).

(b) It is inconsistent with any element of the comprehensive plan.

The property has an Industrial future land use designation, which is intended to accommodate the full range of industrial activities. The maximum Floor Area Ratio for the Industrial land use designation is sixty percent (0.60 FAR). The use and development of the property will be consistent with the comprehensive plan.

(c) It will adversely affect the public interest.

Flea markets are a permitted special exception in the I-1 zoning classification. The parcel size is more than adequate to accommodate the use. The location will provide a new home for an existing flea market that is being displaced by new development. The proposed site layout plan meets the majority special exception criteria, with the exception of certain site development improvements that will be reviewed further with

the site plan application. The use will not adversely affect the public interest if it is operated in accordance with the special exception use regulations and other applicable requirements of the land development and zoning codes.

(d) It does not meet the expressed requirements of the applicable special exception.

This request meets the express requirements of the special exception with the exception of landscaping. No landscape buffers, plant materials, or screening is shown. The applicant intends to request a waiver from these requirements with the site development plan application. To be granted, any such waivers must be based upon a justifiable hardship.

(e) The applicant will not be able to meet all requirements imposed by federal, state or local governments, or by the county council.

The applicant will be required to meet any applicable requirements not otherwise waived.

(f) Notwithstanding the provisions of article XIV of the land development code [appendix A], it will generate undue traffic congestion.

The property is located within the Hontoon Island Local Planning Area, in which no development shall be approved that will cause traffic to operate at worse than a level of service "C" on county roads. The local roads in the vicinity are currently operating at level-of-service "C." The County's Traffic Engineering staff has conducted a preliminary examination of the projected traffic generation and found that approval would allow the site to generate an additional 886 daily trips and 54 PM peak hour trips. On the days it is open, the additional trips are not projected to generate undue traffic congestion on the thoroughfare road network and will not exceed the level-of-service "C" volumes.

(g) It will create a hazard or a public nuisance, or be dangerous to individuals or to the public.

The property owner has been in contact with the Health Department DeLand Office regarding the proposed portable toilets. According to Health Department staff,

"Portable bathrooms (toilet and sink facilities) could be used for a flea market provided that the market was not open more than 120 days in any 365 day period and the flea market was not housed in any permanent structures. The state code is clear that buildings open to the public require bathrooms. There are two existing buildings shown on the attached plans. If these buildings are proposed to house vendors or be open to the public, bathrooms connected to sanitary sewer or an onsite sewage system would be required."

The proposed flea market will be required to obtain any necessary permits and approvals for the toilets. The flea market will not create a hazard or public nuisance, or be dangerous to individuals or the public if it complies with all applicable zoning, development, and health codes.

(h) It will materially alter the character of surrounding neighborhoods or adversely affect the value of surrounding land, structures or buildings.

The surrounding properties on three sides are intended and zoned for industrial use. The remaining property to the west is zoned for public use but has an industrial function as a Public Works yard. The project area has substantial natural buffers on the west and south sides, and currently abuts vacant heavily wooded property on the north and south sides. Adding a flea market that operates a limited number of days per week will not materially alter the character of the surrounding neighborhood or adversely affect the value of surrounding land, structures or buildings.

(i) It will adversely affect the natural environment, natural resources or scenic beauty, or cause excessive pollution.

With almost no physical improvements proposed, the proposal is intended to have a minimal impact on the property and natural environment. Accordingly, the special exception will not adversely affect the natural environment, natural resources or scenic beauty, or cause excessive pollution.

VI. STAFF RECOMMENDATION

Staff recommends that the PLDRC forward this special exception for a flea market on I-1 (Light Industrial) zoned property to the County Council for final action with a recommendation of approval, subject to the following staff-recommended conditions:

1. The special exception is limited to authorization of the flea market use in the I-1 (Light Industrial) zoning classification. Granting the special exception does not constitute a waiver of any site development requirements per Chapter 72 county code. Before it may open to the public, the flea market must obtain site plan approval and complete all required improvements. Any waivers or variances from site development requirements must be formally requested with justification as part of the site plan application.
2. The special exception project area must maintain a 10-foot distance from the building just to the east for that building to meet its side-yard setback for the I-1 zoning classification.
3. The special exception is limited to 80 vendor stalls. Any future increase in the number of vendor stalls or flea market area beyond the project area indicated on the site layout plan prepared by RC Engineering, LLC, signed 12.21.2016, and not in compliance with I-1 classification yard requirements shall require approval of a new special exception.
4. The existing buildings shall not be used as part of the flea market operation unless they are brought into compliance with all applicable health and building code permit requirements.

5. The flea market shall comply with Health Department requirements regarding the use of portable toilets, and so shall be limited to operation no more than 120 days within any 365-day period.
6. Flea market hours of operation shall be limited to Saturdays and Sundays, 5:00 a.m. to 6:00 p.m. only.
7. The flea market must be completely clear of litter and other refuse after each day of operation.
8. No merchandise shall be stored on the property overnight until it can first be demonstrated to comply with the storage requirements of Section 72-293(7)g.
9. The flea market shall not sell automobiles, motorcycles, watercraft, or any item prohibited by local, state or federal law.
10. The applicant shall obtain and complete all required Building and Health Department permits and inspections before opening to the public.

VII. ATTACHMENTS

- Written Explanation
- Survey
- Special exception site plan
- Flea market special exception requirements
- Traffic Engineering memorandum
- Photographs
- Map Exhibits

VIII. AUTHORITY AND PROCEDURE

Pursuant to Section 72-415, 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 special exception 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 to be 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 to be presented at the county council meeting that was 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.



DeLand Circus Flea and Farmers Market Proposition.

The location of the proposed market will be 535 Fair St. Deland Fl. The entrance to the market will be at the intersection of Carlis Rd and Fair St to prevent any increase in traffic on Old New York Ave. Carlis rd is conveniently off of SR 44 and leads directly to the entrance of the proposed market.

The opening of this market will relocate the dozens of vendors who will lose their jobs or secondary source of income due to the planned building of a Wal Mart on S. Woodland where The Deland Flea Market is currently located.

Our market will be a family friendly place with a variety of vendors and other activities. It will be a great place for families to enjoy shopping and children will enjoy seeing a variety of circus memorabilia.

The proposed market will open Saturdays and Sundays from 5am until 6pm, year round. The market will be a combination of outdoor and indoor vendor spaces. Outdoor vendors will be on grass while our indoor vendors will be located in our 6,060 sq ft building. Outdoor vendors will bring their own tables and have the option to set up a tent, which will be removed daily. Indoor vendors will bring their own tables and remove them daily. Merchandise belonging to the vendors will also be removed from the property daily.

Our main entrance and exit is 26ft in width and divides into a one-way 16ft wide rd with parking on either side of that lane. Additional parking is located on the north side of the property along the fence line, with shade.

There will be a total of 100 vendor lots, 80 of which will be outdoor and 20 indoors. Outdoor vendor lots will be 10x25 spaces set on grass with a 12ft wide walkway for customers. Indoor vendor spaces will 10x15 with a 12ft wide walkway for customers.



05 Old New York Ave



Section 72-293. - Special exceptions.

The following uses or structures are permitted as special exceptions only when listed as permitted special exceptions in division 7 and meeting all requirements as set forth in division 11.

...

(7) Flea markets are permitted, provided:

- a. They operate only during daylight hours.
- b. Adequate refuse containers are provided.
- c. The area is completely clear of litter and other refuse after each day of operation.
- d. They do not contain more than 80 rental spaces or structures per acre.
- e. They contain at least three off-street parking spaces, ten feet by 20 feet in size, for each rental space or structure, all parking areas to have a hard, stabilized, but not necessarily paved, surface.
- f. They do not offer for sale automobiles, motorcycles, watercraft or any item which is prohibited by local, state or federal law.
- g. All merchandise displayed or offered for sale shall be removed from the premises at the end of the day of business, unless such merchandise is stored in any of the following ways:
 1. Stored in a fully enclosed building, meeting all county codes and regulations.
 2. Stored in a fully enclosed booth inside a partially enclosed building meeting all county codes and regulations.
 3. Stored in a portable storage container which meets all county codes and regulations. Vehicles, trailers or truck boxes cannot be used for this purpose.
 4. Stored in a booth inside a partially enclosed building, if enclosed or covered by fire-retardant tarpaulins or other fire-retardant material meeting all county codes and regulations.
 5. Stored in a chest-type locker or cabinet left in the booth inside a partially enclosed or fully enclosed building. The dimensions cannot exceed six feet high by four feet deep, by eight feet long.

Because of their nature, the following merchandise may be stored in the vendor booth without being enclosed or covered:

- i. Plants, shrubs and trees.
- ii. Produce, citrus and fruit.
- iii. Large concrete statuary.

Each of the above types of storage shall be uniform and enhance the appearance of the market. Buildings that were originally designed to have open sides cannot be enclosed beyond

50 percent of their total perimeter. All enclosures shall be of the type approved by Volusia County; and if required, a permit must be obtained prior to constructing the enclosure. Portable storage containers must be placed six feet from the main building and must be adjacent to an open space on one side. Chest-type lockers or cabinets in booths in partially enclosed buildings may be used provided the perimeter wall or the booth housing the locker or the perimeter wall of the adjacent booth are open and can be used for exiting during business hours.

The outside walls of all perimeter booths in partially enclosed buildings shall remain open during business hours unless a permit has been issued to enclose the outside wall. Metal or tarpaulin awnings on the outside wall shall be maintained at a minimum height of seven feet.

All vendor trailers, vehicles, forklifts or similar type equipment must be removed from the premises after the last consecutive day of business unless it is stored in the storage compound area approved by Volusia County.

h. [Repealed by Ord. No. 88-2, § XVIII, 1-19-88].

i. Flea markets existing on the effective date of this article may continue or remain in operation for one year from the effective date hereof and shall thereafter comply with subsections a. through h. of these regulations.

j. A letter stating compliance with applicable health department regulations is submitted at the time of application.

INTER-OFFICE MEMORANDUM



TO: Michael Disher, AICP
Planner III

DATE: December 12, 2016

FROM: Melissa Winsett
Transportation Planner

RSN: 855364

SUBJECT: DeLand Circus Flea and Farmers Market

LOCATION: 535 Fair Street, south of SR 44 and west of Grand Avenue, near DeLand

Application and Site Information

The applicant is requesting a special exception for a flea and farmers Market. The land has a current zoning classification of Light Industrial (I-1) on 9.93 acres.

Transportation Analysis

The proposed special exception trips were analyzed to determine how they would impact the transportation network. To complete this review, the special exception's trip generation was calculated using the ITE Trip Generation manual and information obtained from the applicant's layout plan for grass parking and vendor areas. The 2015 Volusia County traffic count spreadsheet was used to determine the Average Annual Daily Traffic (AADT) and adopted Level of Service (LOS) capacity information. In this phase, roadway capacity and level of service is analyzed when reviewing impacts to the transportation system. During the site plan phase, when additional information and project specifics are provided, the review is more thorough and typically addresses driveway access, safety concerns, signage, striping, construction requirements, etc. This memorandum is provided for the special exception phase.

Zoning Trip Potential:

Table 1 depicts the trip generation of the proposed special exception. The approval would allow the site to generate an additional 886 daily trips and 54 PM peak hour trips.

Table 1

<i>Special Exception:</i>				
<i>Existing Zoning</i>	<i>Land Use or Acreage*</i>	<i>Density</i>	<i>Trip Generation Rate*</i>	<i>Net Daily Trips</i>
I-1	Farmers Market	20,000 s.f. of vendor area	44 per square foot	886

*The ITE Trip Generation manual does not provide trip generation information for the proposed use. Instead, trip generation was completed using ITE Code 814/Specialty Retail.

Roadway Impact:

Table 2 depicts how the special exception's additional trips would impact the transportation network and helps determine whether enough capacity is available to handle the respective trips. As shown below, the adjacent impacted roadways are fully able to accommodate the additional 886 rezoning trips.

Table 2

SR 44 (Shell Road to Grand Ave)*					
2015 AADT	2015 LOS	Comp. Plan Max. Capacity	Comp. Plan Allowable LOS	Project Distribution/Estimated Additional Daily Trips	Potential LOS
10,000	C	17,000	C	70%/620	C
SR 44 (Grand Ave to Old New York Ave)					
2015 AADT	2015 LOS	Comp. Plan Max. Capacity	Comp. Plan Allowable LOS	Project Distribution/Estimated Additional Daily Trips	Potential LOS
10,100	C	24,200	D	60%/532	C
Old New York Ave (SR 44 to Hontoon Road)*					
2015 AADT	2015 LOS	Comp. Plan Max. Capacity	Comp. Plan Allowable LOS	Project Distribution/Estimated Additional Daily Trips	Potential LOS
840	C	6,570	C	20%/178	C
Euclid Ave (Grand Ave to Fatio Rd)					
2015 AADT	2015 LOS	Comp. Plan Max. Capacity	Comp. Plan Allowable LOS	Project Distribution/Estimated Additional Daily Trips	Potential LOS
1,130	C	13,640	E	10%/89	C
Grand Ave (Minnesota Ave to SR 44)					
2015 AADT	2015 LOS	Comp. Plan Max. Capacity	Comp. Plan Allowable LOS	Project Distribution/Estimated Additional Daily Trips	Potential LOS
2,570	C	13,640	E	10%/89	C

*Roads are within the Hontoon Island Study Area and impacted by the following policy:

2.1.6.14 Volusia County has approved a level of service C for all County roads in the Hontoon Island Study Area as contained in the Future Land Use Element.

Although typically provided during the site plan review process, the following additional comments are submitted at this time:

1. The proposed entrance is required to line up with Carlis Rd (+ intersection).
2. The entrance is required to have a minimum of 30 foot radii.
3. Street lighting at the driveway is required for nighttime visibility and safety if the site is operational after dark.
4. A gated entrance is shown on the plans. If the gate is to be closed during operation, a minimum of 125 feet of stacking space for incoming vehicles will be required from the right of way line. If it is only to be closed while the market is not operational, a minimum of 25 feet of stacking will be required.
5. The project may require either a Traffic Impact Analysis or a modified analysis to be decided upon by the County Traffic Engineer. It has not yet been determined which will be required.

Conclusion

If the special exception is approved, the additional 886 trips would not cause LOS problems for the thoroughfare roadway system. All safety and access concerns will be addressed with the applicant during the final site plan phase.

MW/

Photographs 535 Fair Street



Site entrance, just inside the gate,
looking west to Fair Street and Carlis
Road

Just inside site area, looking east.
Westernmost existing building at left.



Approximate center of site, looking east
toward easternmost existing building



Easternmost existing building within site area. Existing concrete pad for proposed HC parking at right

Existing concrete pad for proposed HC parking



Existing vegetative buffer along south side of property

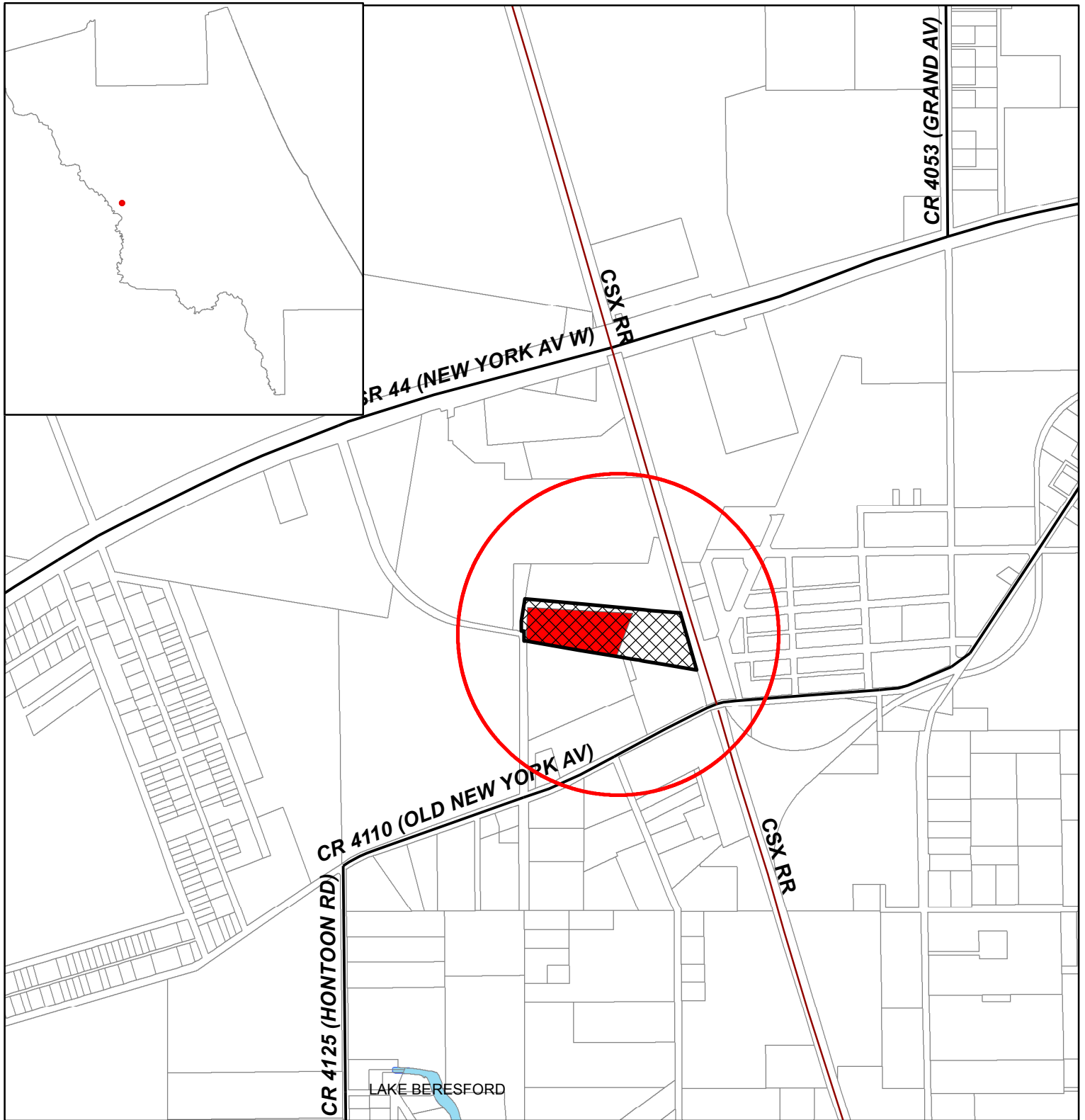


Existing vegetative buffer along west side of property by Fair Street entrance

Existing buildings on east and west sides, looking west



Easternmost building within project area, at right, and nearby building just outside of project area, at left.



REQUEST AREA LOCATION



1" = 1000'

SPECIAL EXCEPTION



CASE NUMBER
S-16-078



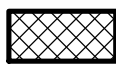
AERIAL 2015

1"= 400'

SPECIAL EXCEPTION



REQUEST AREA

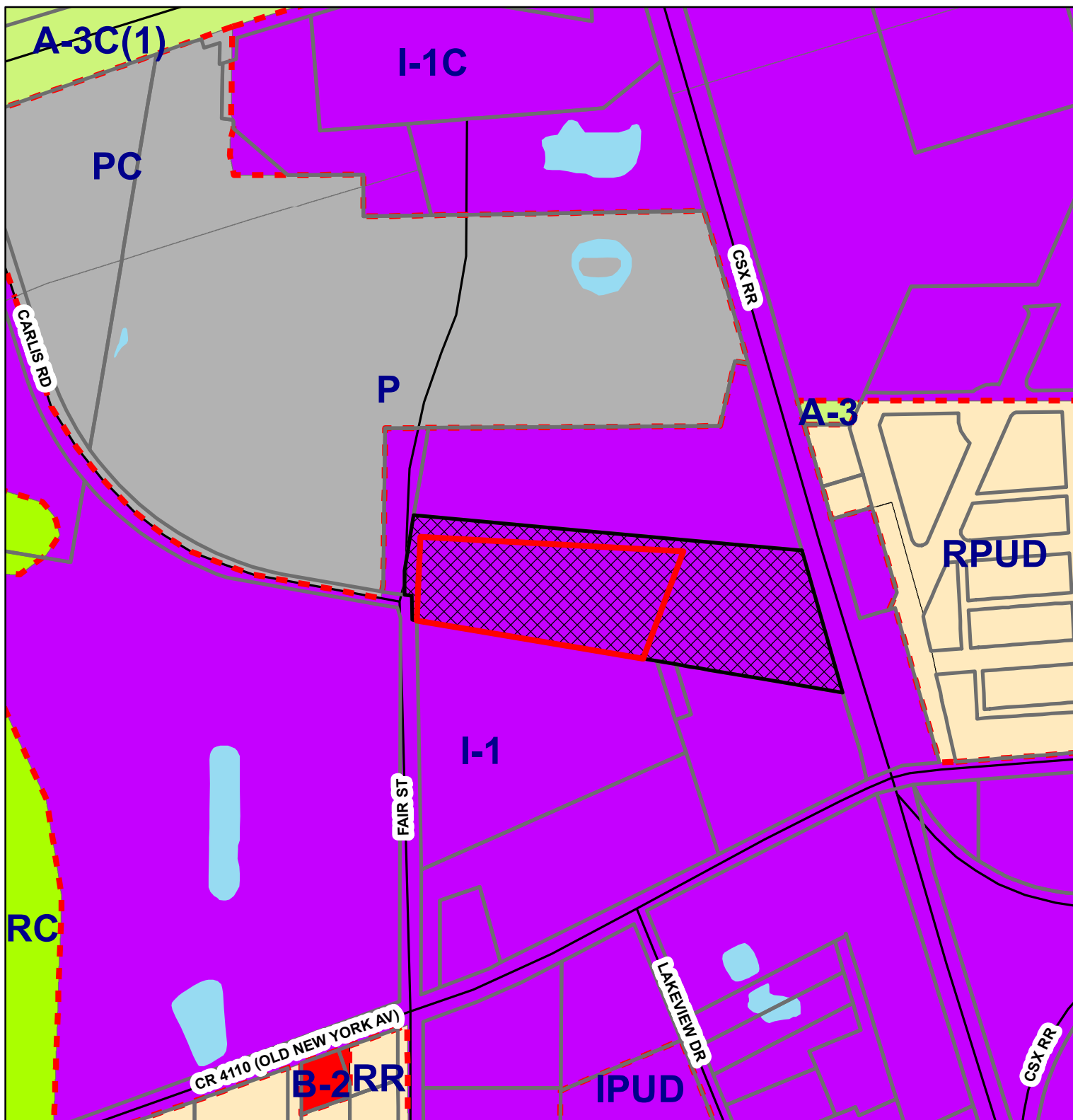


PARCEL AREA



CASE NUMBER

S-16-078



ZONING CLASSIFICATION

	AGRICULTURAL		INDUSTRIAL		RESIDENTIAL
	COMMERCIAL		PUBLIC		RESOURCE CORIDOR

1"= 400'

SPECIAL EXCEPTION

CASE NUMBER



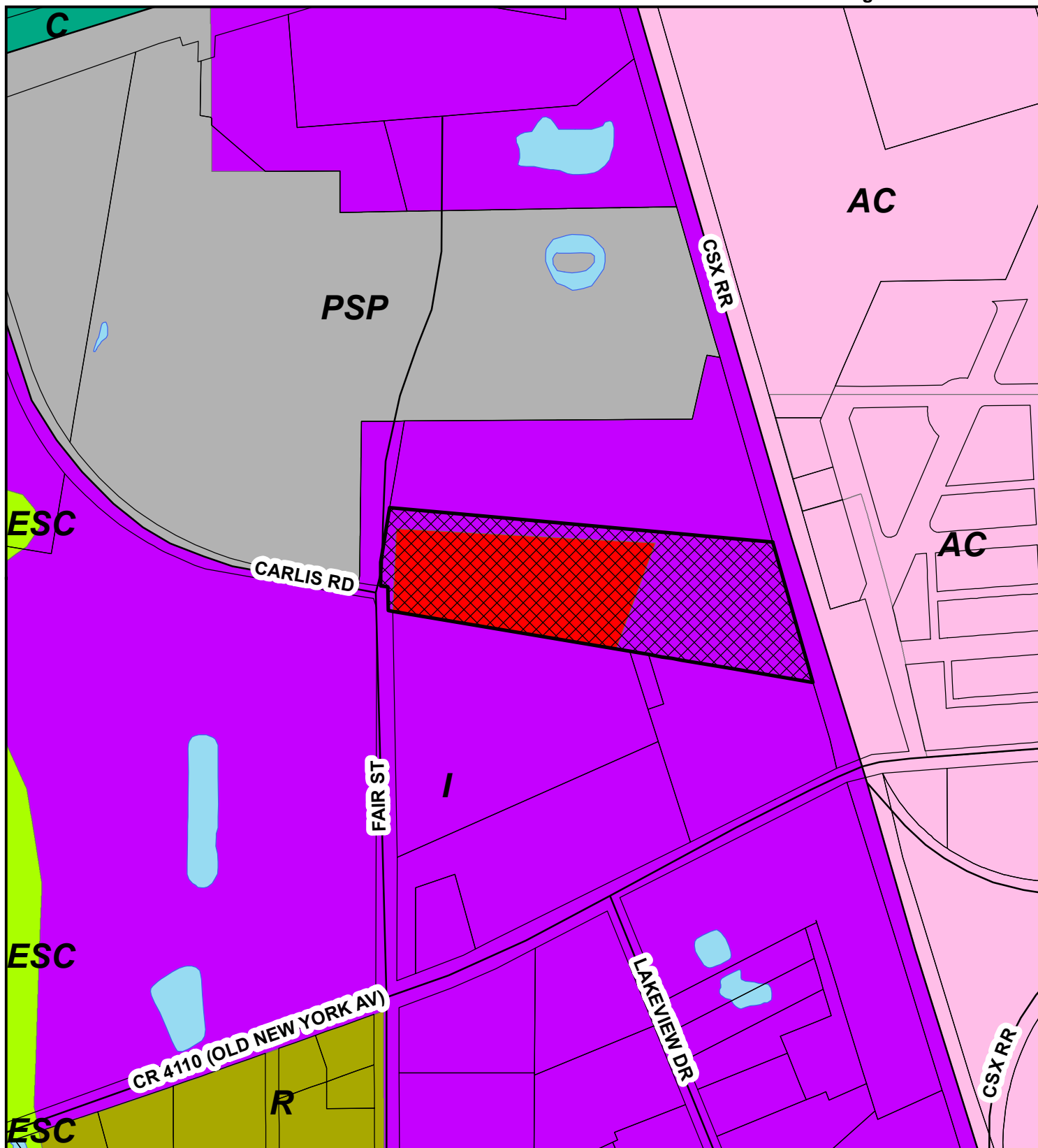
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REQUEST AREA



PARCEL BOUNDARY



FUTURE LAND USE DESIGNATION

- CONSERVATION
- ENVIRONMENTAL SYSTEMS CORRIDOR
- GENERALIZED ACTIVITY CENTER

1"= 400'

SPECIAL EXCEPTION

- INDUSTRIAL
- PUBLIC/SEMI PUBLIC
- RURAL



CASE NUMBER

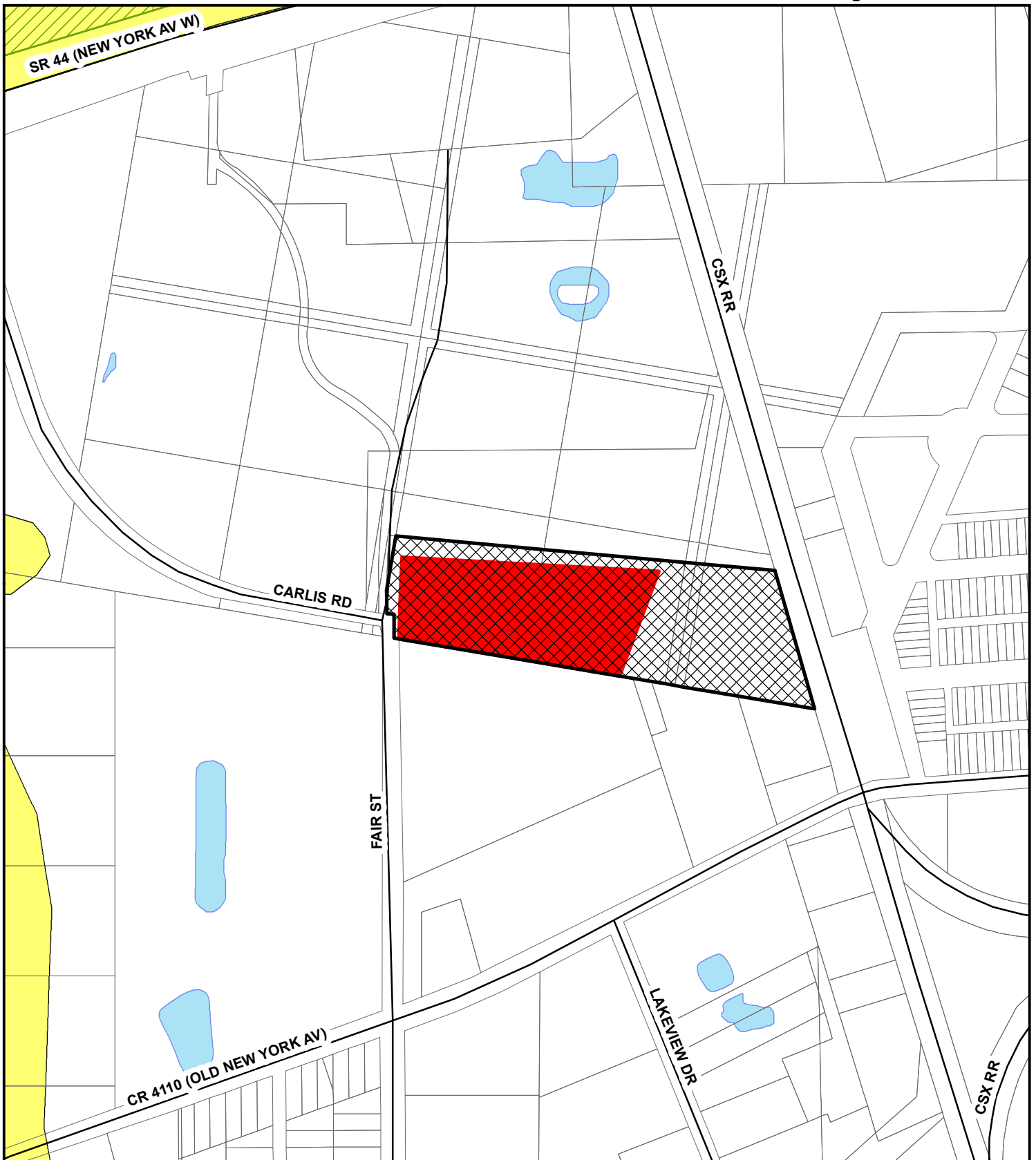
S-16-078



REQUEST AREA



PARCEL AREA



ECO/NRMA



ECO



NRMA

1"= 400'

SPECIAL EXCEPTION

CASE NUMBER

S-16-078



REQUEST AREA



PARCEL AREA