

**LAMBERT AVENUE
CONCERNED CITIZENS'
OBJECTIONS & COMMENTS
TO
FLAGLER COUNTY BOARD OF COMMISSIONERS
AGENDA ITEM NO. 21
March 16, 2015**

Prepared by:

**James S. Morris, J.D., M.A., Urban and Regional Planning
Unit 304, 750 Oak Heights Court
Port Orange, Florida 32127**

Nature of Objection:

The Concerned Citizens of Lambert Avenue object to the proposed amendment in the item due to its inconsistency with the Flagler County Comprehensive Plan, the Flagler Beach Comprehensive Plan and operable provisions of F.S. 163, The Florida Community Planning Act, the amendments incompatibility with the Lambert Avenue neighborhood, negative effect on undeveloped residential land, and availability of an alternative site.

To: The Flagler County Board of County Commissioners

Submitted: March 16, 2015

PROPOSED ACTION:

Exercise of the Commissions legislative authority to amend the Flagler County future Land Use Map (FLUM) and consider an accompanying “limiting policy” applicable to the area proposed to be changed from Residential Low Density to Commercial High Intensity.

GOVERNING STANDARDS FOR THE PROPOSED EXERCISE OF LEGISLATIVE AUTHORITY:

F.S. 163, Part II, The Community Planning Act

Flagler County Adopted Comprehensive Plan including the 2005 Amendment

Flagler Beach Comprehensive Plan

Flagler County Planning Commission recommendation.

THE PROPOSAL:

To re-designate a 24.4 acre “spot” of land from Low Density Residential Land Use to High Intensity Commercial to allow it to be used as a parking lot for an industrial use

NATURE OF THE ACTION:

The legislative authority of the County Commission, **subject to the process, standards and limitations of F.S.163, Part II, The Local Community Planning Act** may be applied to approve or deny the proposal. Either action should conform to the standards of F.S. 163.

TO BE VALID AND RELIED UPON, LAND USE MAP CHANGES MUST CONFORM TO THE REQUIREMENTS OF F.S. 163.

F.S. 163.3161(4) - (8):

(4) It is the intent of this act that local governments have the ability to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions. Through the process of comprehensive planning, it is intended that units of local government can preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdictions.

(5) It is the intent of this act to encourage and ensure cooperation between and among municipalities and counties and to encourage and ensure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government in accord with applicable provisions of law.

(6) It is the intent of this act that adopted comprehensive plans shall have the legal status set out in this act and that no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.

(7) It is the intent of this act that the activities of units of local government in the preparation and adoption of comprehensive plans, or elements or portions thereof, shall be conducted in conformity with this act.

(8) The provisions of this act in their interpretation and application are declared to be the minimum requirements necessary to accomplish the stated intent, purposes, and objectives of this act; to protect human, environmental, social, and economic resources; and to maintain, through orderly growth and development, the character and stability of present and future land use and development in this state.

F.S. 163.3164 (9)- Definitions

(9) “Compatibility” means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

F.S 163.3181(1)(2)

(1) It is the intent of the Legislature that the public participate in the comprehensive planning process to the fullest extent possible. Towards this end, local planning agencies and local governmental units are directed to adopt procedures designed to provide effective public participation in the comprehensive planning process and to provide real property owners with notice of all official actions which will regulate the use of their property. The provisions and procedures required in this act are set out as the minimum requirements towards this end.

(2) During consideration of the proposed plan or amendments thereto by the local planning agency or by the local governing body, the procedures shall provide for broad dissemination of the proposals and alternatives, opportunity for written comments, public hearings as provided herein, provisions for open discussion, communications programs, information services, and consideration of and response to public comments.

F.S. 163.3184(3)(b)1.

(b)1. The local government, after the initial public hearing held pursuant to subsection (11), shall transmit within 10 working days the amendment or amendments and appropriate supporting data and analyses to the reviewing agencies. [...]

F.S. 163.3194 Legal Status of Comprehensive Plan

(1)(a) After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(3)(b) A development approved or undertaken by a local government shall be consistent with the comprehensive plan if the land uses, densities or intensities, capacity or size, timing, and other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

(4)(a) A court, in reviewing local governmental action or development regulations under this act, may consider, among other things, the reasonableness of the comprehensive plan, or element or elements thereof, relating to the issue justifiably raised or the appropriateness and completeness of the comprehensive plan, or element or elements thereof, in relation to the governmental action or development regulation under consideration. The court may consider the relationship of the comprehensive plan, or element or elements thereof, to the governmental action taken or the development regulation involved in litigation, but private property shall not be taken without due process of law and the payment of just compensation.

The proposed land use map amendment, even with an adopted limiting policy, will be in violation of F.S. 163.3194. The reasons are:

LIMITATIONS ON PLANNING DECISIONS AS A LEGISLATIVE ACTIVITY:

The Commission's legislative authority to act is limited by the terms and provisions of F.S. 163 which, among other things, requires:

a) Data and Analysis to support the proposed legislative activity. F.S. 163.3184(3)(b)1. The required data would require identification of:

The Data:

1. Available alternative sites.
2. Identification of County wide demand for the proposed designation.
3. The unavailability of sites to meet the demand.
4. Relationship of the proposed use to existing designations.
5. Applicable adopted County Land Use Plan policies.
6. Applicable policies of adjacent planning jurisdictions- here it would be Flagler Beach and Palm Coast.
7. Identification of intergovernmental coordination efforts between the County and the nearby effected municipalities.
8. Changed conditions that justify the proposed change from the current designation to the proposed designation.

The Analysis

1. *Comment: There is no data to allow a determination of alternative sites. None have been identified or discussed by the staff.*

2. **Comment:** County wide demand for High Intensity Commercial land use in this remote location has not been identified.
3. **Comment:** There are not high intensity commercial sites the meet the demand described by the applicant – a 24.4 acre combination staging area for loading and shipping of product manufactured by Sea Ray’s industrial plant, parking on a separately designated commercial land use area to support an existing industrial use for industrial shift workers who will enter the adjacent industrial site owned by the applicant and storage of products and transport vehicles on the presumed “commercial” site.
4. **Comment:** There is not analysis to address the issues of compatibility of a High Intensity Commercial designation which simply cuts the top off of a County approved low density residential PUD. Power Point Pages 13 and 14.

There is no analysis to show how placement of 24.4 acre parking area with sea grass and a scant area of onsite buffer will protect the value of the adjacent homes on Lambert Avenue or correspondingly damage the value of existing residents or limit environmental damage to the conservation area nearby.

5. **Comment:** There is not analysis to show the justification of reversing a ten (10) year old low density residential land use relied upon by residents who, in that ten (10) year period, moved to Lambert Avenue in reliance upon the adopted terms and provisions of the adopted Comprehensive Plan and Map.

Comment: There is no analysis to show how or why the southern end of the subject parcel is a logical stopping point of the Commercial designation. The proposed land use change shifts the dynamics of the existing Low Density Residential PUD, the residential neighborhood of Lambert Avenue and even the existing recreational (park facilities) and commercial facilities (Publix and others) that are already situated to coexist with existing and future residential development.

Comment: There is no analysis to answer the staggering questions of nearby residents: ***If this happens, where does it stop??***

COMMISSION ACTION:

To adopt the proposed amendment without adequate production and presentation of data and analysis to support the amendment is a violation of F.S. 163.3184(3)(b)1. which requires data and analysis to demonstrate a basis to support a proposed amendment.

ADOPTED FLAGLER COUNTY COMPREHENSIVE PLAN:

The proposal is inconsistent with adopted Goals, Objectives and Policies of the adopted Flagler County Comprehensive Plan and F.S. 163.

The proposal to change Low Density Residential land to Commercial High Intensity **violates the following adopted Flagler County Comprehensive Plan Standards:**

Goal 1

Policy 1.2(c)(2)

2) Mixed use- High Intensity Medium high Density Residential, Mixed General Office and General Commercial Uses, Supporting Public Uses (high visibility), and Mixed Use Planned Unit Developments.

Comment: Pursuant to the policy matrix, general commercial uses are not considered compatible with Low Density residential uses. Approving the proposal will devalue and destabilize the residential use in the area. See Power Point Page 16; 17-22. Additionally, the change will create pressure to expand south down Roberts Road. Power Point Page 15.

Objective 2

Policy 2.2(1)

1) Parcels being considered for amendment to the land use map shall be concurrently evaluated for rezoning to the most appropriate zoning district.

Comment: No rezoning has been submitted. The parcel is being “considered” for amendment. The plan standard is broad and not limited to the adoption hearing. Without a rezoning, the amendment should be denied.

Policy 2.3

Policy 2.3: Expansion and replacement of existing land uses which are incompatible with the future land use plan shall be prohibited.

Comment: *By the County's own matrix of compatibility, the proposed commercial designation is incompatible. Allowing expansion of the Sea Ray production capability, whether directly or indirectly, is incompatible with the Low Density Residential uses proximate to Sea Ray and its uncontained generation of toxic pollutants to the air. See Power Point Pages 23-25. The uses allowed by intense commercial zoning are also incompatible.*

Policy 4.7

Policy 4.7: Species of flora and fauna listed in the Conservation Element of the plan as endangered, threatened or species of special concern shall be protected through inclusion of their habitats in designated "Conservation Areas" and lands acquired through the County environmentally sensitive lands acquisition program.

Comment: *The proposal does not contain a census of information to allow determination of whether listed flora and fauna are impacted so as to determine the appropriate areas for conservation.*

Policy 8.6

Policy 8.6: New commercial development shall be limited to commercially designated areas on the "Future Land Use Map". The impact of that commercial development shall be managed through access management, traffic signalization and similar techniques.

Comment: *There is no proximate commercial area to the subject parcel. The area is not designated for commercial on the Future Land Use Map. A review of the Flagler County Future Land Use Map (FLU) will show the property is not properly located to serve as any sort of commercial activity and it is not consistent with other commercial areas shown by the Plan. See Power Point Pages 26-27.*

A free standing parking lot and staging area is not an allowable permitted use under any Flagler County zoning regulation and therefore not permissible by zoning.

Since no zoning proposal has been made, the County has no way of knowing that an office associated with the parking lot will be built, where it will be built or any ability to condition the land use change on a condition that an office building will be built. Even if an office building was promised, the proposed parking is far out of proportion to any possibly anticipated office building.

AT 24.2 ACRES, THE SITE EXCEEDS THE SIZE OF THE WAL-MART SUPER CENTER IN EITHER PORT ORANGE (22.52 acres) or Daytona Beach (23.45 acres). See Power Point Pages 51-52.

The proposal is just a cloaked effort to de facto allow Sea Ray an industrial expansion. The County has, until now, been unable to deliver the designed Industrial use due to the points raised herein. See Power Point Pages 29-30. Also, see Power Point Page 45.

Policy 13.2

Flagler County shall implement its Comprehensive Plan through land development regulations which protect residential neighborhoods from encroachment by incompatible land uses such as commercial and industrial development. This type of protection may require as part of the land development regulations, standards for natural and planted landscape buffers and that less intensive office, commercial or industrial uses be located adjacent to residential development and that the intensity may increase the further the distance away from residential development.

***Comment:** The policy identifies industrial and commercial use as incompatible with the residential use. There is no zoning development agreement to allow the Commission to assure the Plan objective is met. With the scope of the proposal, compatibility in the area provided is impossible. The site does not conform to locational criteria demonstrated by the existing Comprehensive Plan Map. The amendment should be denied.*

THE MYTH OF THE 2005 AMENDMENT:

In the March 15, 2015 edition of the Daytona Beach News-Journal County Manager Craig Coffee was quoted in part to say:

It was not that long ago this property was zoned industrial before the rush to rezone everything during the residential market boom in the early 2000s. That rush led to incompatibility in our land-use plan. We now have the opportunity to correct the situation and provide a transition.

As a result of comments from the now defunct Department of Community Affairs (DCA) which were withdrawn in 2005, since the parties kept the settlement agreement secret, Planning Manager Adam Mengel may think the 2005 matter was never resolved but it was. See Power Point Pages 46-50.

In fact, DCA withdrew its objections and the Commission adopted the 2005 amendment and it has been in effect for ten (10) years. The adoption in 2005 is evidence that the current residential land uses in 2005 was deemed by the Commission to be compatible with Sea Ray. Since that time, many people, in reliance of the 2005 amendment, bought property on Lambert Avenue.

See Power Point Page 31, where change of ownership has occurred in the last ten (10) years is shown in pink. The survey was done only for the area near the proposed change. Changing the land use designation to commercial to allow industrial expansion will be a breach of trust to the property owners that since 2005 have come to Lambert Avenue. The housing market in Flagler County is resurgent. See Power Point Page 32.

In 2005, The Flagler County Commission re-designated the area in question from Industrial to Low Density Residential. That change was at the time:

- (a) determined by the County Commission to be appropriate and compatible with the area. Evidence of this fact lies in the Commission's approval; and
- (b) accepted by Sea Ray and its controlling entity as well as adjacent land owners north, west and south of Sea Ray. This is evidenced by the dismissal of Sea Ray's Chapter 163 challenge to the validity of 2005 **after Sea Ray executed a settlement agreement with adjacent land owners seeking the change from Industrial to Low Density Residential.**

IMPORTANT NOTE:

THE RECORDS REFLECT THAT SEA RAY AND ADJACENT LAND OWNERS IN 2005 NEGOTIATED A SETTLEMENT AGREEMENT TO END THE 2005 CHALLENGE. THE EVIDENCE SETTLEMENT WAS REACHED IS IN THE DCA DISMISSAL, WITH SEA RAY'S CONSENT, OF THE ADMINISTRATIVE CHALLENGE TO THE 2005 AMENDMENT AND SUBSEQUENT ADOPTION BY THE COUNTY OF THE 2005 AMENDMENT DESIGNATING THE SUBJECT PROPERTY LOW DENSITY RESIDENTIAL.

However

The Settlement Agreement between the various private parties has been kept secret. It is apparently not recorded in the public records of the Clerk of Court in and for Flagler County.

And

Multiple public record requests seeking the settlement agreement have been answered by the statement that the Flagler County Planning Staff does not have and cannot obtain a copy of the settlement agreement that settled the 2005 Comprehensive Plan challenge.

THE MYTH OF 2015:

That the proposed land use change is a change to High Intensity Commercial. The change is to Commercial in name only:
The uses disclosed by the applicant are auxiliary uses to an Industrial activity. The uses disclosed are:

1. Preparation of manufactured product to be sold elsewhere.
2. Storage of vehicles and equipment specifically related to shipping of industrial manufactured product to point of sale.
3. No commercial activity- retail sales is discussed or proposed. The activity proposed is parking and storage for industrial use.
4. The sometimes mentioned 40,000 square foot office building is not currently proposed and no guarantee is offered for the future, “no decision has yet been made.”

The change is due to a dead residential market, but the market isn't dead. See Power Point Page 32.

ADOPTED FLAGLER BEACH COMPREHENSIVE PLAN:

Flagler Beach opposes the amendment.

See Power Point Pages 33-37.

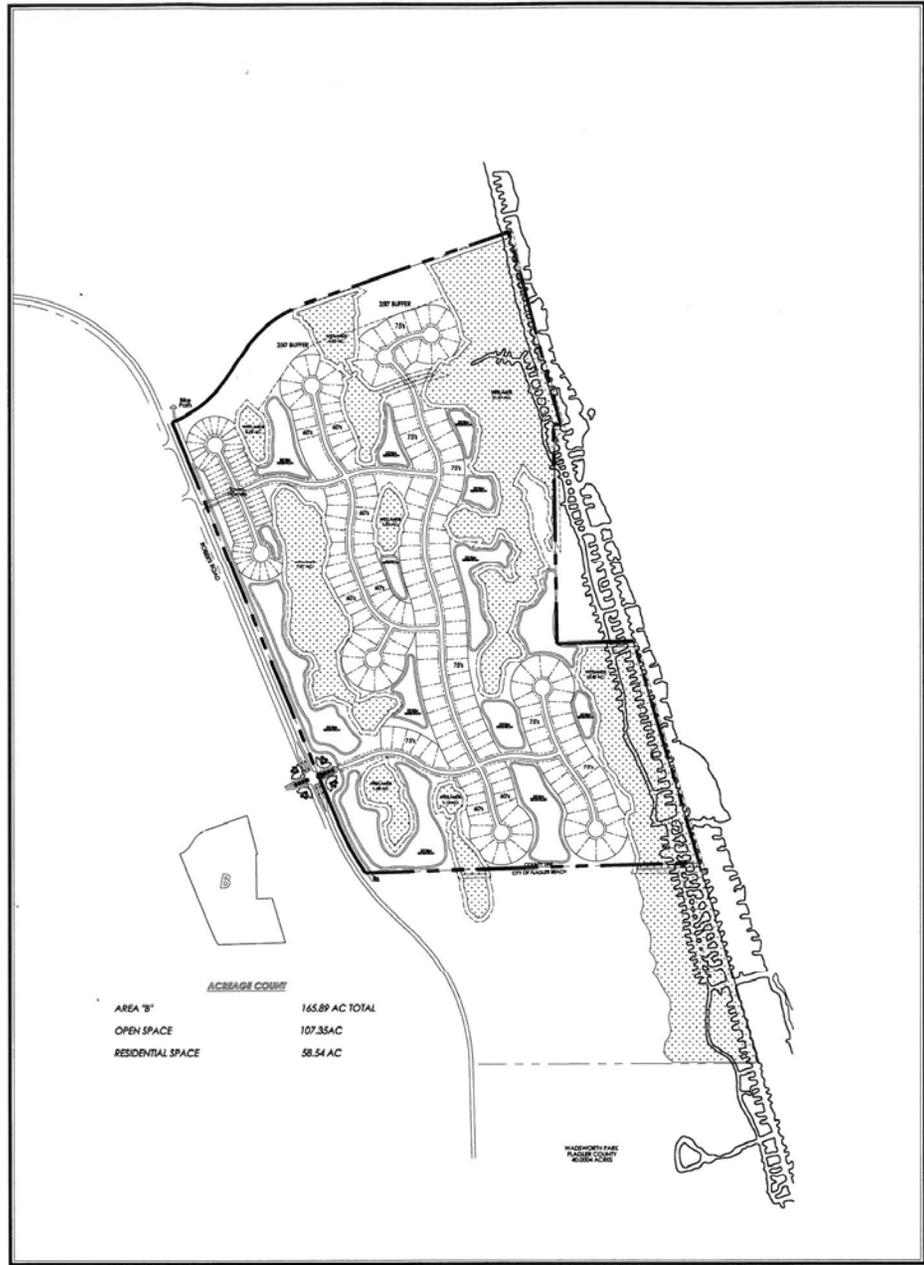
INTERGOVERNMENTAL COORDINATION REQUIRED BY CHAPTER 163 HAS NOT OCCURRED:

The City of Flagler Beach has advised County administrative staff that it objects to the proposal. Flagler Beach staff requested a meeting with Flagler County personnel to facilitate intergovernmental coordination between the two local legislative borders. Flagler County, the entity responsible for intergovernmental coordination has not met with Flagler Beach. No coordination with Palm Coast is known to exist.

ALTERNATIVE SITE

The Concerned Citizens of Lambert Avenue have discovered, through review of correspondence, etc. in the County files, that the property west of and adjacent to the Sea Ray site may be available to Sea Ray. The alternate site would:

- A. Move the parking lot to an undeveloped area controlled by a property owner who may agree to sell to Sea Ray for the proposal to become viable.
- B. The location is much closer to the intersection of Roberts Road and Colbert Lane. Traffic would naturally flow to Colbert and Roberts thus helping to preserve the viability of the current site and its associated low density residential remainder as well as occupants on Lambert Avenue. See Power Point Pages 38-44 regarding the alternative site.



FLAGLER BEACH COASTAL RESIDENTIAL

232± acres
Flagler County, FL

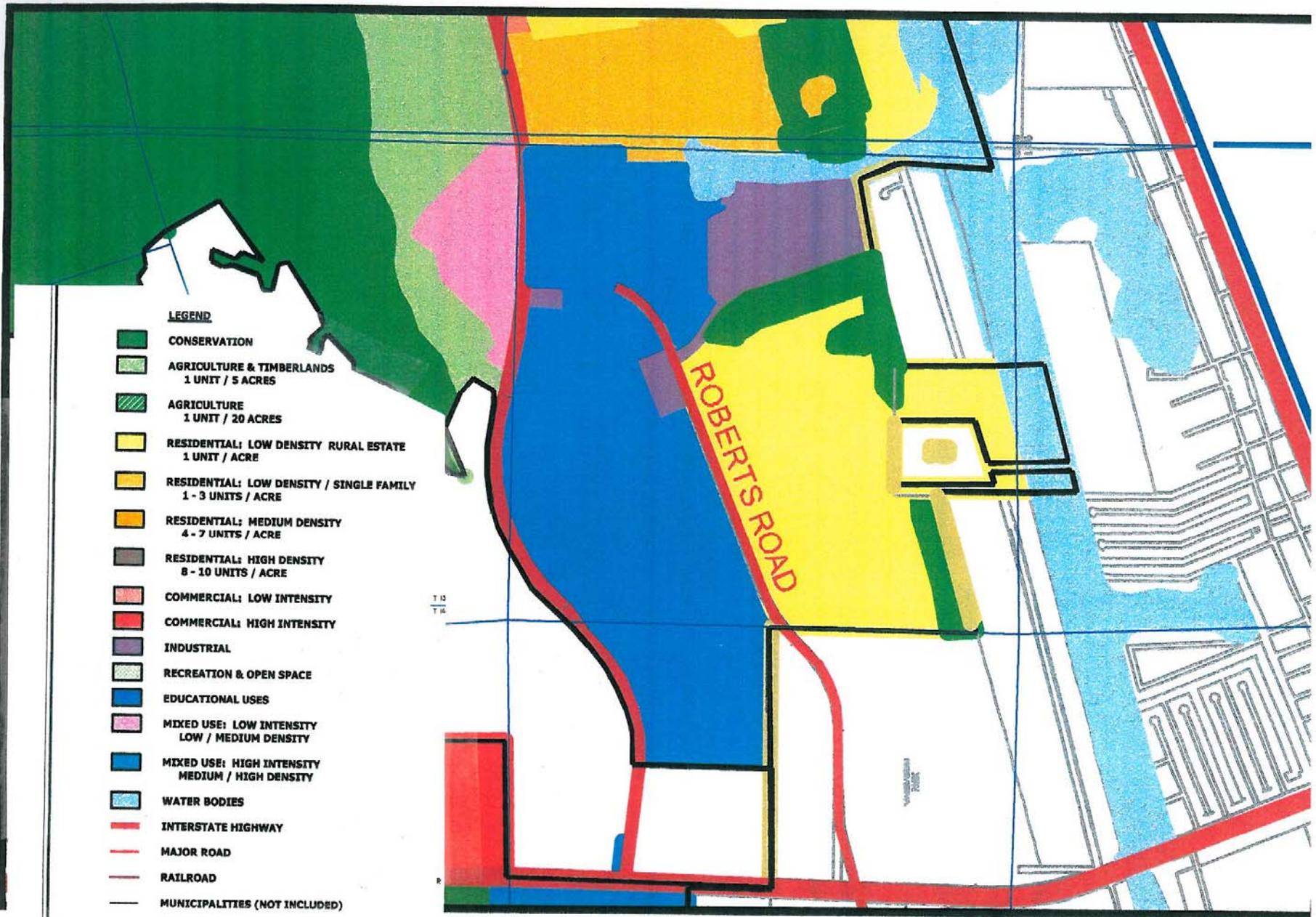


COMPREHENSIVE PLAN

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Maury L. Carter & Associates, Inc.
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Stephanie Presley
57 Perkins Ln
Palm Coast, FL 32164
386-801-8935

March 5, 2015

Flagler County Board of Commissioners,

I have worked in Flagler County as a realtor for almost than 7 years. I have enjoyed showing and selling houses to families with young children and many retirees. All my buyers look for a community that is a safe, and a clean place to live an active lifestyle at the beach and enjoy the beautiful weather and fresh air.

Now, this attractive feature is being shaken. Are we going to continue to have an environment with clean air, conducive to enjoying activities in the fresh air?

Reading the Air Permit # 0350003-011-AC, I'm quite concerned about:

- 1- the VOLATILE ORGANIC COMPOUND emissions that can be increased,
- 2- the boat manufacturing operations that are being relocated to Palm Coast,
- 3- the resin/lamination operations, gel coat operations, adhesive operations, mold cleaning & preparation operations and MISCELLANEOUS operations. All of these activities can add to increased emissions.

And to read that "This Sea Ray facility does not have an add-on control device to control the HAP's and VOCs emissions from the boat manufacturing activities"!!!!

If an expansion, through this rezoning is granted, to Sea Ray, a facility that "is a major source of HAZARDOUS AIR POLLUTANTS", and a "Title V major source of air pollution in accordance with Chapter 213, F.A.C.", all realtors will need to disclosure this to their buyers when showing homes on Lambert Ave. In my professional opinion, this will definitely have a negative impact on the value of the homes on Lambert Ave as well as the surrounding neighborhood homes.

Is this going to attract more residents and home buyers to Flagler County.
The answer is 'NO'.

We do not need to have a poor quality of air, and pollution to be a major feature of living in Flagler County. Please think this request for zoning change through thoroughly and make an ethical decision for clean air, reduced pollution and a healthy lifestyle for all our county residents.

Sincerely,


Stephanie Presley, realtor

Manormor

Sotheby's
INTERNATIONAL REALTY

1300 Marsh Landing Parkway, Suite 107
Jacksonville Beach, FL 32250
t 904.285.7700 f 904.285.2022
800.732.9770
manormorsir.com

Flagler County Planning and Development Board
Board of County Commissioners

February 25, 2015

Gentlemen,

I am a real estate agent with Manormor Sotheby's International Realty. Our company represents unique, luxury properties located in highly desirable settings and markets these properties throughout our 550 offices across the globe. When we listed the residence at 5 Lambert Cove in Flagler Beach we listed a jewel of a property considering the construction, the design of the home, the floor plan, the gardens and the beautiful, lush surrounding property. 5 Lambert Cove met our criteria in every way. When my customer, Mr. Vurpillat, purchased the land to build his home, he was comfortable with the existing zoning of the site occupied by Sea Ray. However, he contacted me two days to ask for my professional opinion with regard to how the change in zoning requested by Sea Ray, from Low Density Residential to High Intensity Commercial, would impact the value of his residence which is located only 25' from the Eastern border of the Sea Ray property.

I explained to Mr. Vurpillat, that the law requires realtors disclose "all known facts that materially affect the value of residential real property that are not readily observable." As Mr. Vurpillat's Realtor, representing his property, I would be required to advise a potential buyer of the proposed change in zoning. It is my personal opinion, that this change will negatively impact the peace and pristine beauty of the location and it is my professional opinion that the change in zoning would negatively impact the value of Mr. Vurpillat's home making it much more difficult if not impossible to sell.

Please feel free to contact me if you have any questions.

Warm Regards,



Michele Rossie
Realtor
Manormor Sotheby's International Realty

Stephanie Presley
57 Perkins Ln
Palm Coast, FL 32164
386-801-8935

March 5, 2015

Dear Flagler County Board of Commissioners,

I have worked in Flagler County as a realtor for almost than 7 years. I have enjoyed showing and selling houses to families with young children and many retirees. All my buyers look for a community that is a safe, and a clean place to live an active lifestyle at the beach and enjoy the beautiful weather and fresh air.

Now, this attractive feature is being shaken. Are we going to continue to have an environment with clean air, conducive to enjoying activities in the fresh air?

Reading the Air Permit # 0350003-011-AC, I'm quite concerned about:

- 1-the VOLATILE ORGANIC COMPOUND emissions that are being increased,
- 2-the boat manufacturing operations that are being relocated to Palm Coast,
- 3- the existing facility is a fiberglass manufacturing facility and is being increased to resin/lamination operations, gel coat operations, adhesive operations, mold cleaning & preparation operations and MISCELLANEOUS operations.

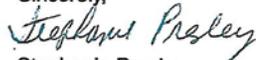
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Is this going to attract more residents and home buyers to Flagler County.
The answer is 'NO'.

We do not need to have a poor quality of air, and pollution to be a major feature of living in Flagler County. Please think this request for zoning change through thoroughly and make an ethical decision for clean air, reduced pollution and a healthy lifestyle for all our county residents.

Sincerely,



Stephanie Presley
Realtor

Yollette Eugene
22 Woodfield Drive
Palm Coast, FL 32164

March 5, 2015

Dear Flagler County Board of Commissioners,

I have worked in Flagler County as a Florida licensed realtor for more than twelve years.

I have had many discussions with other realtors about the Sea Ray requests, and the impact this will have on the county if it gets approved.

I'm urging the board to deny the FLUM amendment requested by Sea Ray boats. The parcels in question have been zoned residential for 10 years and many of residents of Lambert Ave have moved onto the street during this time period. These homeowners did their due diligence and bought on Lambert Ave knowing the land south of Sea Ray was already zoned residential. This provided a level of security because although Sea Ray was already present, there was not a way they could expand to the south because that land is zoned residential.

In my professional opinion, changing the FLUM and allowing commercial uses what has been residential land will have a severe negative impact on the property values of the abutting and on other homes in the neighborhood. The county should not take actions that devalue many properties in order to help one company.

Furthermore, it is clear to many observers that Sea Ray is requesting this FLUM amendment and zoning change in order to free up space on their industrial site to increase production. The increased emissions and odors from the industrial site will also severely impact the property values of the surrounding residential neighborhood.

Sincerely,


Yollette Eugene

Carolyn Hawkins
2 Puritan Lane
Palm Coast, FL 32164

March 5, 2015

Flagler County Board of Commissioners

I have been following the issue of Sea Ray requesting a change in zoning in the newspapers and on the internet. This concerns me because I am a resident in Flagler County and a licensed realtor in Flagler County, and believe that this is just wrong.

Subjectively, it is unfair to the residents on Lambert Ave who have invested their life savings to live in a residentially zoned area, and it puts many realtors in a very compromising position. Considering residents who have recently purchased, working with a realtor who didn't disclose this situation, to current listings and potential buyers who questionably need to be informed of this situation, it places realtors with quite a conflicting ethical dilemma. This situation could cause a realtor to be sanctioned.

Objectively, it is spot zoning at the request of an individual property owner. From what I understand, this issue has been reviewed and denied several times, so why is this happening again?

I request that the Commissioners look closely at the ethical issues of the decision as well as the perceived legal issue of the county residents who see this as 'just wrong'.

Sincerely,

Carolyn Hawkins

Edith Cunningham
234 Beachway Drive
Palm Coast, FL 32135

March 6, 2015

Flagler County Board of Commissioners

I have been a resident of Flagler County since 1995 and a licensed realtor working in Flagler County for 15 years.

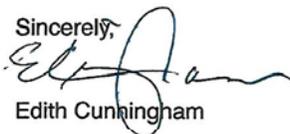
I am appalled at the violation of rights to the property owners on Lambert Ave and to all the other nearby property owners who will be effected by the hazardous fumes from Sea Ray, if they are granted the request to rezone and to expand.

I am skeptical of Sea Ray obtaining a C-2 zone for 'just employee parking'. It seems to me that there is a plan to build up their industry at this site. Even if there are stipulations if this rezoning is approved, will that be enforced in the future. I don't think so.

Approving this rezoning for one business is setting a bad precedence. It will make potential home buyers skeptical of the workings of this county.

I am requesting that you deny this rezoning request and work to protect the rights of the many residents, not one big business. I believe property taxes pay more of the county budget than one business.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edith Cunningham', written over the printed name.

Edith Cunningham

Ellen Dostal
7 Perth Place
Palm Coast, FL 32164
ellendostal@gmail.com
386-569-3322

February 9, 2015

Flagler County Planning and Development Board and Board of County
Commissioners,

I am a Florida licensed realtor and a member of the Flagler County Realtors Association. I frequently show properties in Flagler Beach and have shown properties on Lambert Ave. I always inform the buyers of the zoning around the properties they are considering to purchase and possibly live there for the rest of their lives.

If residents purchase their homes abutting residential-zoned property, and that abutting property were to later be changed to a high intensity commercial zoning, this would have a significant negative impact on their quality of life. They would have a difficult task to relocate because the decreased value of their residential property, due to the more intense uses that the high intensity commercial zoning would allow. This would either leave them to live with an unexpected and unforeseen poorer quality of life, or move to a peaceful home at a significant financial loss. And if they move to another unincorporated area of Flagler County, would this happen again?

In my professional opinion, light, noise and odor spilling into residential neighborhoods will have an adverse affect the quality of life for the the surrounding homeowners and will significantly lower the value of residential properties.

Sincerely,



Ellen Dostal

Below are some important facts and links that everyone living in Flagler Beach should know:

Flagler Beach already ranks No. 31 (out of Florida's approximately 930 cities/towns - 410 incorporated, 520 unincorporated) on the 2013 Toxic Air Inventory list because of emissions from Sea Ray Boats.

Source: Right-to-Know-Network
http://www.rtknet.org/db/tri/tri.php?state=FL&dbtype=C&rsei=y&sortp=D&detail=1&datatype=T&reptype=f&database=tri&reporting_year=2013&submit=GO&splash=&sum_expand=PC

Nationally, the local Sea Ray facility that abuts Flagler Beach ranks #52 highest in HAP (Hazardous Air Pollutant) releases out of 1042 TRI (Toxic Release Inventory) facilities in the industry of Transportation Equipment. Also, Sea Ray's TRI HAP releases amount for 98% of Flagler County's TRI HAP releases.

Source: <http://www2.epa.gov/toxics-release-inventory-tri-program> (enter 32136 in the zip code field on the map. Click "find facilities." Click on the Blue balloon where Sea Ray Boats is located. Then, click on the name Sea Ray Boats for the full report).

What are HAPs?

"Hazardous air pollutants, also known as toxic air pollutants or air toxics, are those pollutants that cause or may cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental and ecological effects".

Source: <http://www.epa.gov/ttn/atw/allabout.html>

What are VOCs?

VOCs play a significant role in the formation of ozone and smog. The best way to prevent to increase in ozone and smog is to eliminate these harmful VOCs from being released.

Source: <http://www.anguil.com/resources/introduction-to-pollution-control.aspx>

The majority of the Volatile Organic Compounds we breathe in from Sea Ray's emissions are HAPs, the majority of which is Styrene. Styrene is "Reasonably anticipated to be a carcinogen" under the guidelines of the National Toxicology Program, an inter-agency group coordinated by the U.S. Department of Health and Human Services.

Source: 13th Report on Carcinogens, National Toxicology Program: http://ntp.niehs.nih.gov/ntp/roc/content/listed_substances_508.pdf

Brunswick, Sea Ray's Parent Company, ranks 19th in Florida in TRI HAP Industries out of a very long list of 5 pages of industries.

http://www.rtknet.org/db/tri/tri.php?state=FL&dbtype=C&rsej=y&sortp=D&detail=1&datatype=T&reptype=f&database=tri&reporting_year=2013&submit=GO&splash=&sum_expand=PC

Recently, Sea Ray boats applied for and was granted a new DEP permit that "authorizes an increase in facility material usage such that Volatile Organic Compound (VOC) potential to emit **increases emissions from 249 to 489 tons (978,000 lbs.)** per any consecutive 12-month period. If Sea Ray were to max out their permit, this would represent an approximate 470% increase over their 2013 VOC emissions of approximately 208,000 lbs.

Source: Florida DEP Air Permit No. 0350003-011-AC

Sea Ray's HAP emissions for 2013 were approximately **119,000 lbs.** The new permit will allow Sea Ray to max out HAP emissions at **over 600,000 lbs.**

Source: DEP (Department of Environmental Protection)

Property Rights:

At least 31 properties have changed hands on the middle/north end of Lambert Ave. in the past 10 years. That number is quite a bit higher if you consider the entire street. These residential property owners have relied on the residential zoning surrounding Sea Ray Boats when making their investment. The county commission must not change zoning laws to favor one company over the rights of others – especially when we are dealing with a Major Source of HAP Pollutants. The facility is a Title V Major Source of Air Pollution in accordance with chapter 213, F.A.C.

Flagler Beach vs. Palm Coast Toxic Release Inventory

Flagler Beach has about 1/17th the population size of Palm Coast, yet has approximately 100 times the Toxic Release Inventory of Hazardous Air Pollutants and Palm Coast due to Sea Ray Boats.

If Sea Ray were to max out its 2013 permit, Flagler Beach may possibly have over 500 times the Toxic Release Inventory of Hazardous Air Pollutants as Palm Coast. (There is one TRI facility in Palm Coast – Sandvik, Inc. – which released only 1,243 lbs. of HAPs in 2013). vs 119,000lbs. for Sea Ray Boats in 2013).

DEP vs. Local Jurisdictions

Flagler Beach, Palm Coast and Flagler County residents cannot look to the DEP to control or eliminate odors from larger VOC and HAP emitting industries such as Sea Ray Boats. **This responsibility falls to the local jurisdictions.**

How would you feel if what happened in Tennessee to this park happened to our beautiful beach area?

<http://web.utk.edu/~nolt/radio/Worstair.htm>

Sea Ray is Expanding

Sea Ray's new DEP permit states that the company is relocating additional boat manufacturing operations to the Flagler facility from other Brunswick Corporation facilities. The permit also states that The Sea Ray Facility that abuts Flagler Beach **does not have any add-on control device to controls the HAPs and VOCs emissions** from their boat manufacturing activities. However, the technology to capture and destroy Styrene emissions exists and is used in various Styrene-producing industries throughout the nation.

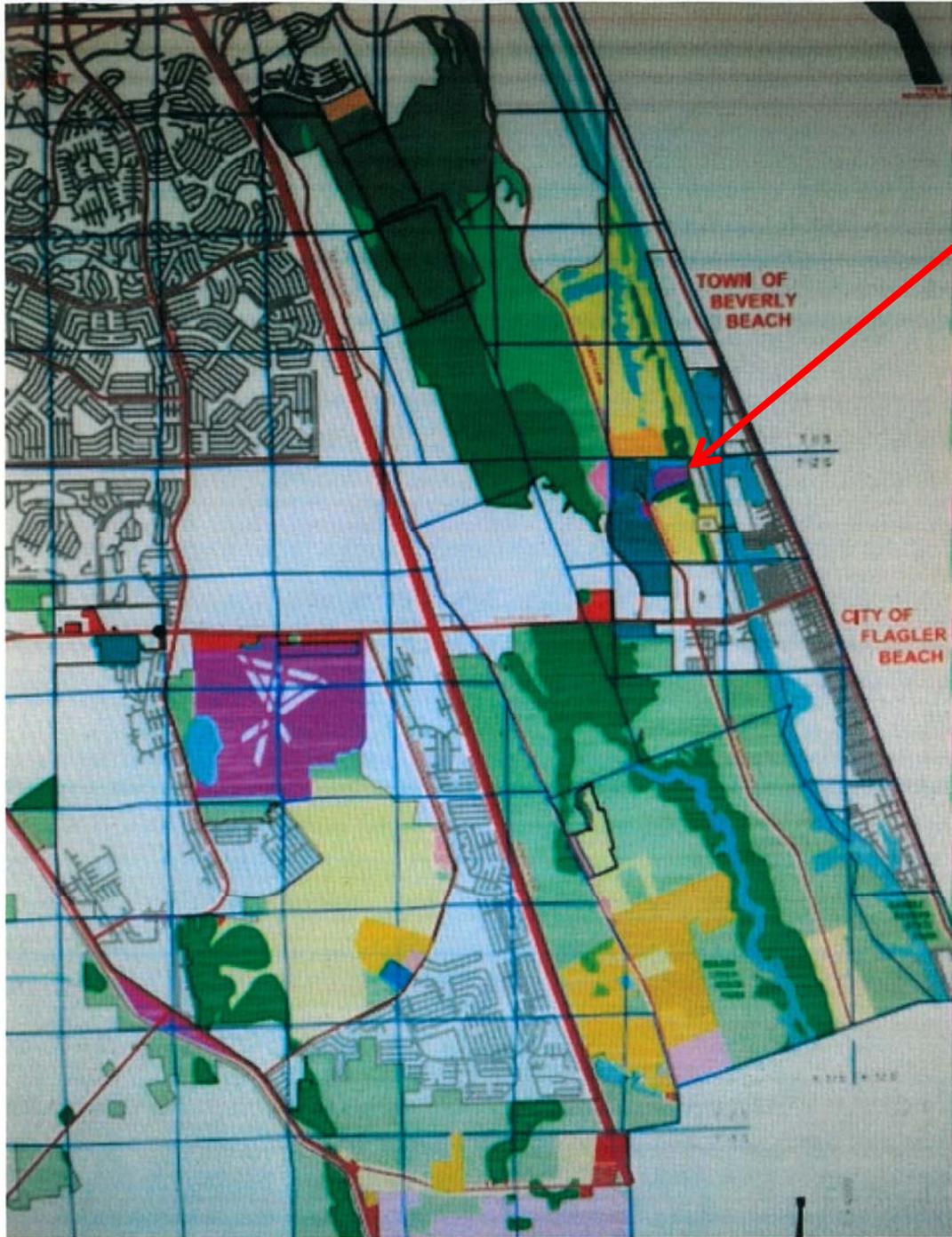
Depending on wind direction, the offensive styrene odors from Sea Ray can already be detected in the neighborhoods surrounding Sea Ray and on our beautiful barrier island. If we smell and breathe in Styrene at Sea Ray's current emission rate, what will the impact be throughout Flagler Beach if Sea Ray expands emissions approximately 470 percent over their 2013 VOC emissions?

What about tourism, property rights, property values, quality of life and everything else that makes Flagler Beach special? Everyone, in every corner in or near Flagler Beach, should be concerned.

Our beach is our economic engine.

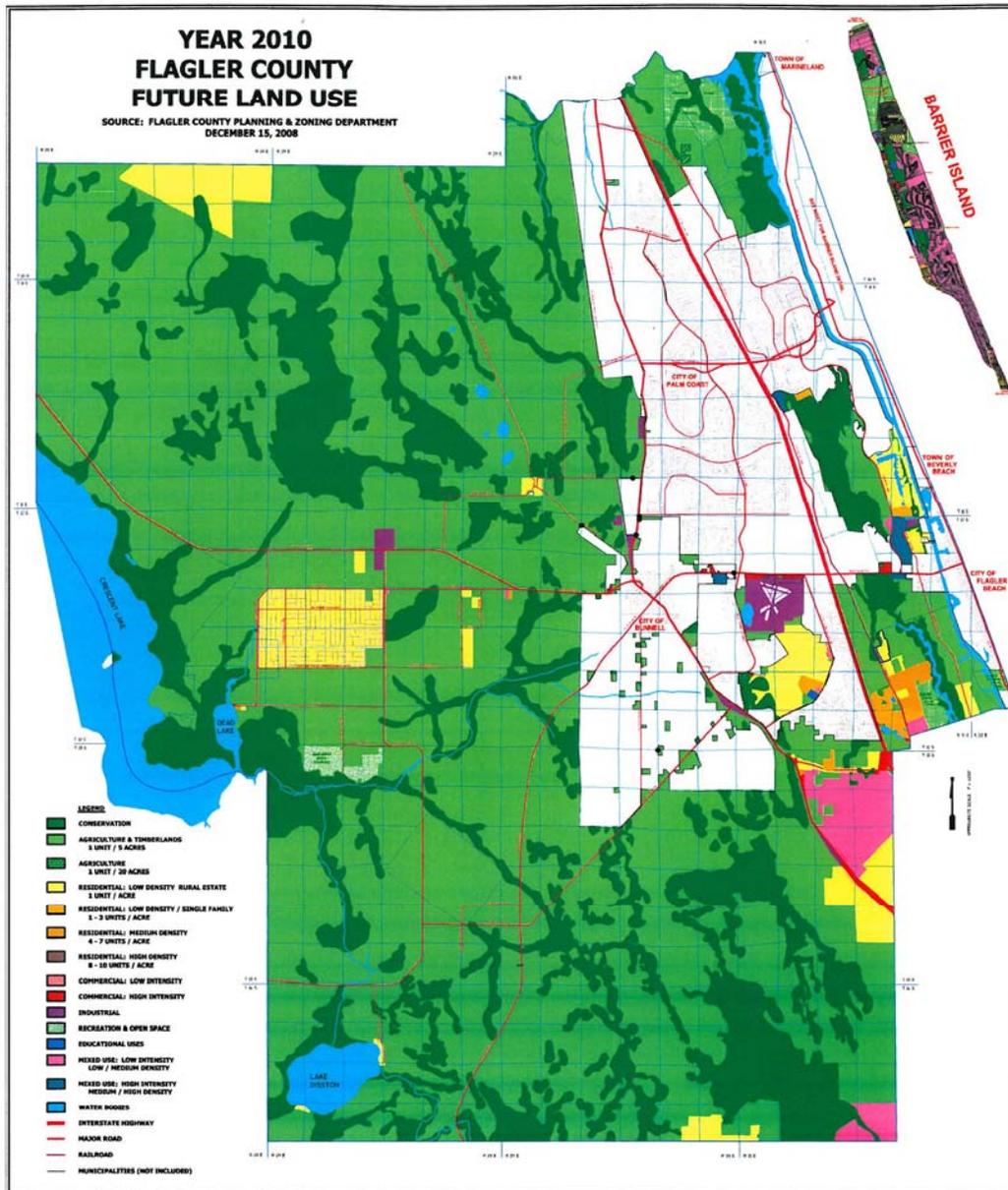
Sincerely,

Don Deal and Roseanne Stocker



YEAR 2010 FLAGLER COUNTY FUTURE LAND USE

SOURCE: FLAGLER COUNTY PLANNING & ZONING DEPARTMENT
DECEMBER 15, 2008



From: Helga van Eckert
Sent: Tuesday, June 17, 2014 3:01 PM
To: Adam Mengel
Subject: RE: Harbor View Marina project

Thanks again

Helga van Eckert
Executive Director
Department of Economic Opportunity
Flagler County Board of County Commissioners
1769 E. Moody Blvd., Bldg. #2, Bunnell, FL 32110
Office: (386) 313-4071
Fax: (386) 313-4101



From: Adam Mengel
Sent: Tuesday, June 17, 2014 2:54 PM
To: Helga van Eckert
Subject: RE: Harbor View Marina project

Hi Helga:

This is what is going on south of Sea Ray, where Landmark (Clint Smith) had owned, known to us as Grand Reserve East. I tried to change the Future Land Use administratively to Industrial (intending for warehousing/distribution), but got shot down and we never advanced out of Planning and Development Board. There is a strip of Conservation that exists abutting Sea Ray.

Thanks,

Adam

From: Helga van Eckert
Sent: Tuesday, June 17, 2014 2:31 PM
To: Adam Mengel
Subject: RE: Harbor View Marina project

Thanks Adam
Any luck with the site restrictions?
Thanks again!

Helga van Eckert
Executive Director

From: Kate Stangle <kstangle@broadandcassel.com>
Sent: Monday, February 09, 2015 9:22 AM
To: Adam Mengel
Cc: Sally A. Sherman; Albert J. Hadeed
Subject: Application #2972 and #2973 / Sea Ray

Adam,

On the Sea Ray FLUM and Rezoning application:

- Am I correct that this application relates to the request you made back in January to amend the zoning code to allow parking lots as a permitted and principal use in the C-2 District? If so, I thought you had indicated that the parking allowance would only be for C-2 (General Commercial), yet this application is asking for C-2 (Commercial and Shopping Center). Can I get a copy of the executed ordinance from the January approval? The zoning text included in the agenda backup does not include the parking lot updated language.
- Is there any way this could have been submitted as a PUD? I know that it would be uncustomary, but this is an uncustomary request, in a way, but with a PUD the County could impose more restrictions to give the residents some additional comfort.
- Why are they seeking to change all 24 acres? Are they actually intending to make all 24 acres a parking lot?
- You suggest in the staff recommendation that the P&D Board could make the FLUM subject to site specific text to further limit what could be done on the site. Do you have proposed language? You note that the proposed language should not focus on use and, instead, should focus on trip generation, but we did recommend and add limitation language based on use for the fireworks folks and the past control folks, correct?
- For the FLUM, this is a large scale amendment, which will require a transmittal and adoption hearing, correct?

HOME BIO VCARD

Kate Stangle
OF COUNSEL
390 NORTH ORANGE AVENUE
SUITE 1400
ORLANDO, FL 32801-4961
TELEPHONE: 407.839.4200
FACSIMILE: 407.425.8377
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Please be aware this e-mail is confidential, and may be privileged under Florida law. The contents are intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you are not the intended recipient, please delete the e-mail without reading it, and reply to us that you received the communication in error so that we may correct our records. Thank you.

From: Marv Howell [marvhowell@hotmail.com]
Sent: Monday, February 09, 2015 3:57 PM
To: Nate McLaughlin; Charles Ericksen Jr.; Frank Meeker; George Hanns; mbovd@bellsouth.net; tcrowe6@cfl.rr.com; dickinsonci@aol.com; laureenkornel@hotmail.com; rreinke@aol.com; Gina Lemon; Barbara S. Revels; coryi62@earthlink.net; pam4houses@gmail.com; Luci Dance
Subject: Sea Ray's Applications #2972 and #2973

My name is Marv Howell and I am a resident on the east side of Lambert Ave. directly across from the Future Land Use Amendment request to High Intensity Commercial and companion re-zoning to C-2 Shopping Center. I am a retired Builder and the majority of the homes I built were right here in Flagler County. As such, I understand the importance of economic development and jobs.

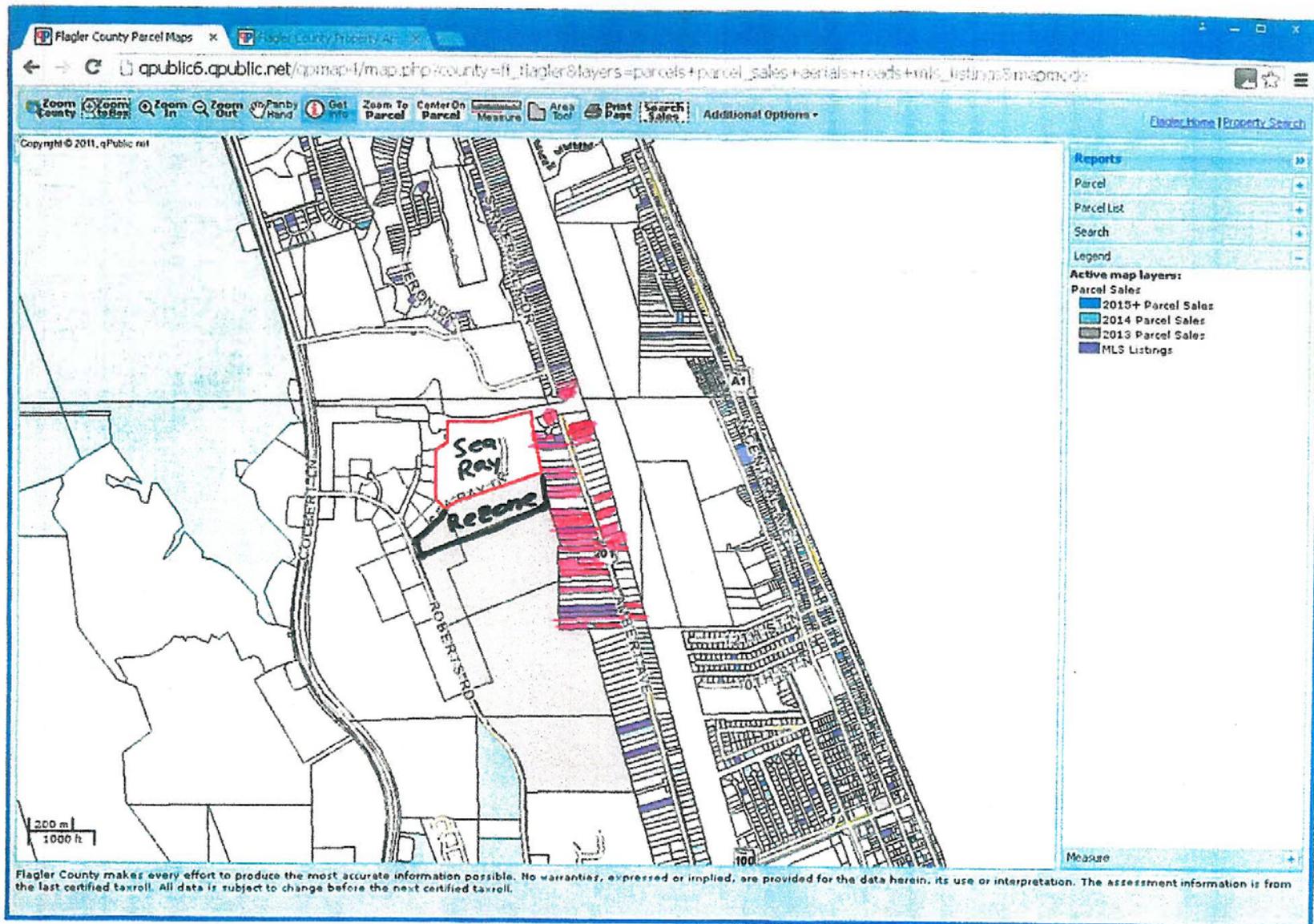
My concern is a broader base than that. I am not opposed to the expansion of Sea Ray Boats. I understand their importance and economic contribution to Flagler County. However, I am opposed to the avenue to which this is proposed, through a FLUM amendment and zoning change. A number of residences on Lambert Ave., including those directly abutting this property purchased in the last 10 years after doing their due diligence recognizing that this property was and is currently zoned Low Density Residential. Now to propose to change the FLUM to High Intensity Commercial Use and it's companion zoning of C-2 Commercial Shopping Center is not fair or safe for those individuals that relied on the FLUM and zoning of Low Density Residential. These individuals purchased with the least intensive zoning category behind their home and now you are proposing to rezone to the MOST intense commercial zoning category. This category would allow more noise and more pollution in our air. We are concerned for our health, our home values and our future.

There is another option for Sea Ray Boats to expand, and that is to go west rather than south. In doing so, there would be no need to change the current residential zoning that abuts Lambert on the west side to a much more intensive Commercial use. Once the zoning is changed to the most intensive Commercial Use, all principal permitted uses would be permitted regardless of the intent, and not used only for a parking lot. The residential zoning that the residents relied upon when purchasing and building their dream homes should not be changed. It is my understanding, the property directly abutting Sea Ray to the west has an intended commercial use of boat storage under the PUD that was approved years ago. Why not allow Sea Ray to expand in this direction?

As a resident of Lambert Avenue, I am opposed to the FLUM amendment and rezoning request. There is a better option for Sea Ray to pursue that will not impact the neighbors directly abutting or in close proximity to the FLUM request and high intensity commercial zoning. That is for Sea Ray to expand to the west.

Sincerely,

Marv Howell,
Former owner of Howell Homes and a resident of 1560 Lambert Ave., Flagler Beach



Business Observer

MARCH 2015

WORKS

thier employees
productive.

PUPPY LOVE

Associate returns dog to owner,
propels company to help
with shelter. **PAGE 6**

LOVE A PARADE

Big parades of homes are
planned for Volusia and Flagler.
PAGE 8

SKY'S

THE LIMIT

How the homebuilding industry
is on the rise in Palm Coast
and Ormond Beach, and why builders
aren't necessarily hoping
for a large-scale boom

City of Flagler Beach Consistency Report:

1. APPLICATION #2972 – FUTURE LAND USE MAP AMENDMENT FROM RESIDENTIAL LOW DENSITY AND CONSERVATION TO COMMERCIAL HIGH INTENSITY AND CONSERVATION
2. APPLICATION #2973 - REZONING FROM PUD (PLANNED UNIT DEVELOPMENT) DISTRICT TO C-2 (COMMERCIAL AND SHOPPING CENTER) DISTRICT

CONCLUSION OF FINDINGS:

- A. Future Land Use Map Amendment (FLUM)
 - I. Comprehensive Plan (Inconsistent)
 - II. Land Development Code (Inconsistent)
- B. Rezoning petition:
 - I. Proposed zoning district (Inconsistent)
 - II. Furthering Public Interest (inconsistent)

INTRODUCTION:

The proposed FLUM map amendment and accompanying rezoning petition raises bona fide concerns as each relates to the impact upon:

1. The adjoining residential area.
2. The Robert's Road corridor.
3. The City of Flagler Beach.

Each finding is based upon the adopted Flagler County Comprehensive Plan Goals, Objectives, and Policies and regulatory language of the adopted Flagler County Land Development Code. As such, the findings presented are deemed fact based and therefore submitted as substantial competent evidence in rendering a consistency determination for the respective applications.

SUMMARY of Findings:

1. COMPREHENSIVE PLAN

Determination of Consistency:

Future Land Use Element

1.

Goal A.1.

Flagler County shall strive to achieve orderly, harmonious and judicious use of the land through a distribution of compatible land uses, fostering the viability of new and existing communities while maintaining the agricultural pursuits of the County, and recognizing and preserving the integrity of the natural environment.

INCONSISTENCY FINDING:

The proposed action to consider a FLUM change from Residential Low Density and Conservation to Commercial High Intensity and Conservation fails to demonstrate harmonious and judicious use of the land area in question and the effect to future orderly development of the neighboring areas. Foremost, the proposed FLUM amendment violates the policy edict of the Comprehensive Plan which specifies all commercial land use shall be confined to those areas designated as such on the FLUM (**Policy 8.6**) and

Policy 13.2 which mandates protection of residential neighborhoods from encroachment of incompatible land uses such as commercial and industrial uses. Flagler County has not demonstrated nor provided documentation that the land uses change and the proposed underlying zoning classification will remain compatible with and further the public interest as it relates to:

- i. The adjoining land FLUM and zoning district classification and balance of Flagler County lands currently designated Residential Low Density.
- ii. The Robert's Road corridor.
- iii. The City of Flagler Beach Robert's Road current FLUM and current zoning designations.

2. **Policy 2.2:** The Planning Department shall maintain consistency between the Land Development Code and the Comprehensive Plan by the following means:

- 1) Parcels being considered for amendment to the land use map shall be concurrently evaluated for rezoning to the most appropriate zoning district.

INCONSISTENCY FINDING:

The proposed applications are inconsistent with Comprehensive Plan **Policy 8.6** which serves as the basis for "new" commercial development consideration. The proposed underlying zoning fails to meet the most basic criteria of the C-2 General Commercial and shopping center district which states in part "It is intended that such commercial areas will be located around the interchange of I-95 and Palm Coast Parkway, I-95 and SR 100, I-95 and U.S.1, along arterial roads and other suitable areas when consistent with the Flagler County Comprehensive Plan."

The area in question, given its location, lower tier roadway classification and coupled with current and projected future land uses on Robert's Road as delineated on the Flagler County FLUM and Zoning District Map fails to meet the minimum criteria for the C-2 district as it relates to location and consistency with Comprehensive Plan elements identified herein.

3. **Policy 8.6:** New commercial development shall be limited to commercially designated areas on the "Future Land Use Map". The impact of that commercial development shall be managed through access management, traffic signalization and similar techniques.

INCONSISTENCY FINDING:

The proposed FLUM amendment is fundamentally inconsistent with this requisite.

4. **Policy 12.4 – (Policy language below)** Although the FLUM amendment does not purport an Industrial designated land use designation, clearly the purpose is to accommodate and enlarge what is presently an active industrial land use and as such, is contrary to established Comprehensive Plan policy, specifically, Policy D.1.4. A legitimate argument that Policy D.1.4 should not be given consideration is ill-advised. The proposed land use amendment is an effort to accommodate an industrial related use in an unrelated zoning classification. This premise is further reinforced by the proposed amendment to the C-2 principal permitted uses category to include "parking" and therefore enable use of the land as proposed. The following is offered in support of the stated inconsistency finding: The elements deemed inconsistent are noted in bold print.

INCONSISTENCY FINDING:

Policy 12.4: In light of the general decline in manufacturing and the economic shift toward services and high technology industries, Flagler County recognizes the need to conduct a Countywide Land Use Study to support and implement the strategies set forth in the Countywide *Strategic Plan for Economic Development*. The Countywide Land Use Study will re-evaluate land use allocations to support a more diversified economic base, determine land use siting requirements for targeted businesses and industries. Flagler County shall obtain input from the City of Bunnell, City of Palm Coast, Flagler County Chamber of Commerce and Enterprise Flagler during the preparation of the study. The County shall complete the Study and recommend appropriate amendment to its Comprehensive Plan by December 2006.

Interim Siting Criteria

Flagler County recognizes that land use must necessarily evolve in response to changing economic community conditions and that areas previously planned for Industrial, Agriculture or other non-residential land use may no longer be suitable for such uses. In considering requests for land use amendments, Flagler County shall apply the following siting and compatibility criteria during the interim period prior to the implementation of the Countywide Land Use Study:

- 1) Areas designated as Industrial on the future Land Use Map shall be considered appropriate for change of land use when one or more of the following conditions exist:
 - A. Site does not meet one or more of the following location/siting criteria:
 - 1) Direct access or proximate access to I-95;
 - 2) Access to the FEC railroad;
 - 3) Proximity to Flagler County Airport;
 - 4) Proximity to supporting services, related industries and existing industrial parks.
 - B. Lack of existing or planned supporting infrastructure;
 - C. **Site has remained undeveloped for more than 20 years or, if located within a designated industrial park, a significant portion of the park has remained undeveloped for more than 20 years;**
 - D. Alternative industrially-designated lands are available to meet projected industrial land use needs on a Countywide basis;
 - E. Proposed land use or uses depend on similar locational criteria for functional needs, i.e., fly-in developments near a runway, business hotels near the interstate etc.
- 2) **Residential land use categories may be considered compatible with adjacent industrial uses and with adjacent Industrial future land use designations provided buffers are utilized as described in Objective 13 (Guide for future development) of the Future Land Use Element and its related policies.**
- 3) Flagler County recognizes that Palm Coast Intracoastal Industrial Park is appropriate for a transition in land use and is no longer suitable for the Industrial land use designation because it includes significant vacant lands that have not functioned with Industrial use during the past 20 years and it does not meet the industrial siting criteria set forth above. **Land Use amendments to change the land use designation from Industrial to alternative land use categories, such as Residential and Mixed Use land use categories, shall be deemed consistent with the compatibility criteria set forth in this policy.**

5. **Policy 13.2:** Flagler County shall implement its Comprehensive Plan through land development regulations which protect residential neighborhoods from encroachment of incompatible land uses such as commercial and industrial uses. This type of protection may require as part of the land development regulations, standards for natural and planted landscape buffers and that less intensive office, commercial, or industrial uses be located adjacent to residential development and that the intensity may increase the further away from residential development.

INCONSISTENCY FINDING:

The proposed land use amendment and underlying zoning is in direct conflict with Policy 13.2 which is a most significant principal declaration.

ECONOMIC ELEMENT

6. **Policy A.3.4:** The County shall continue to coordinate economic development efforts with all cities and other applicable agencies.

INCONSISTENCY FINDING:

The above Policy is called out not in the sense of coordinating an economic growth effort per se between the jurisdictions, but rather Flagler County's failure to co-ordinate with the City of Flagler Beach in the review process given proximate jurisdictional boundaries (See A. Goal Statement Intergovernmental Coordination below).

7. **Goal E:** Flagler County shall promote balanced economic growth while enhancing the quality of life in the County.

INCONSISTENCY FINDING:

The applications and supporting Flagler County documents fail to demonstrate that "quality of life" concerns will not be affected in the immediate and surrounding area.

INTERGOVERNMENTAL COORDINATION

8. **A. Goal Statement:**
Flagler County will develop and maintain intergovernmental coordination mechanisms necessary to achieve consistency among local, county and regional plans and policies and coordinate all development activities in order to improve delivery of services, enhance the quality of life and protect the natural environment.

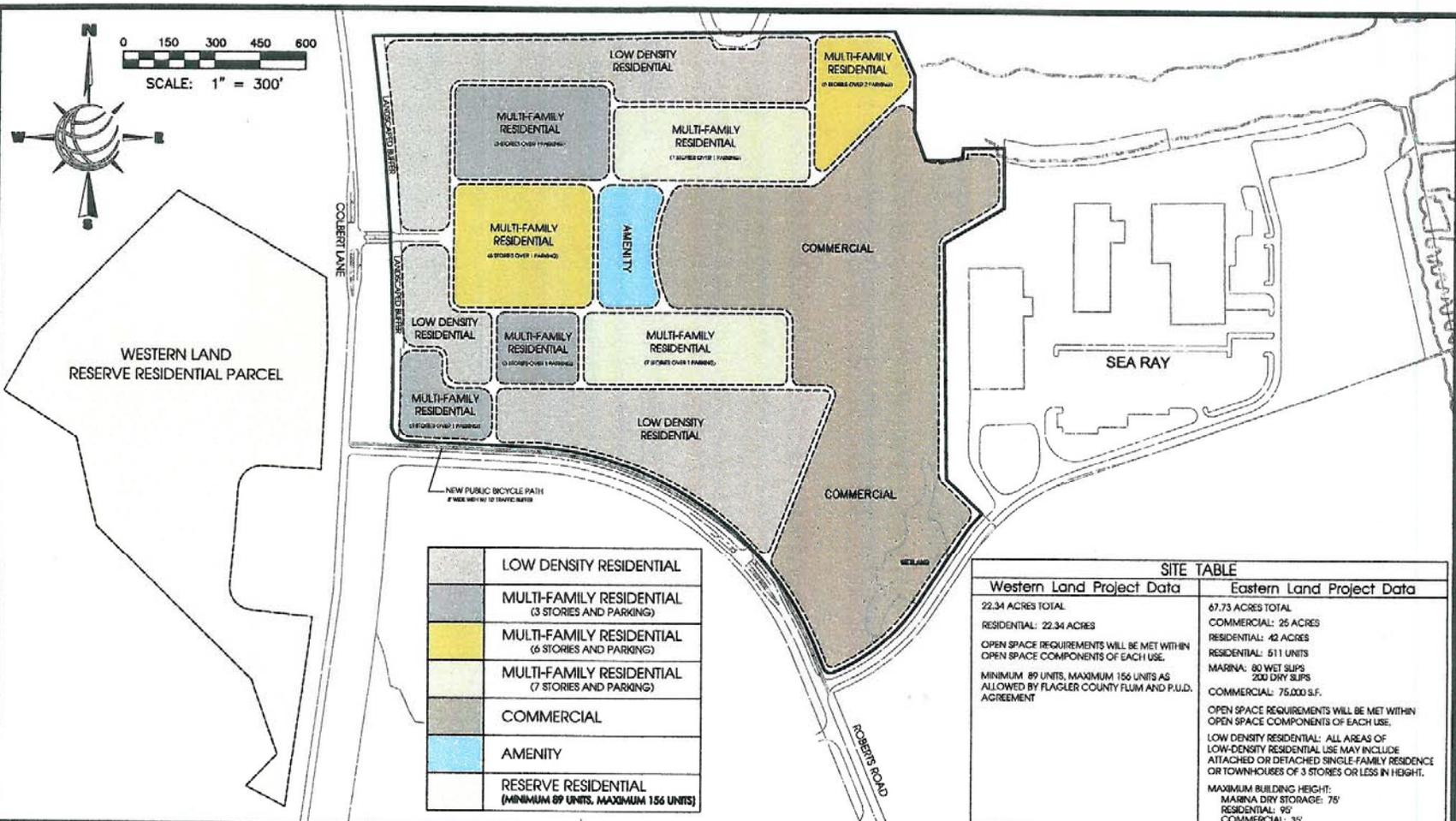
INCONSISTENCY FINDING:

Flagler County actions are not consistent with the above stated Goal given proximity of jurisdictional boundaries. The proposed amendments are not compatible with the shared development vision for the Robert's Road corridor as presently reflected on the respective FLUM's and zoning maps (See Policy A.3.4 above) .

9. **Policy 5.2:** The County shall utilize the *Northeast Florida Regional Planning Council as a mediator when development issues* or annexation issues cross-jurisdictional boundaries and cannot be resolved by the County or other local governments involved.

INCONSISTENCY FINDING:

The above stated Policy is noted for advisement purposes as a potential resolution option given the discord expressed by Flagler Beach residents and the City of Flagler Beach City Commission should Flagler County continue to proceed with the respective applications, as proposed.



	LOW DENSITY RESIDENTIAL
	MULTI-FAMILY RESIDENTIAL (3 STORIES AND PARKING)
	MULTI-FAMILY RESIDENTIAL (6 STORIES AND PARKING)
	MULTI-FAMILY RESIDENTIAL (7 STORIES AND PARKING)
	COMMERCIAL
	AMENITY
	RESERVE RESIDENTIAL (MINIMUM 89 UNITS, MAXIMUM 156 UNITS)

SITE TABLE	
Western Land Project Data	Eastern Land Project Data
22.34 ACRES TOTAL	67.73 ACRES TOTAL
RESIDENTIAL: 22.34 ACRES	COMMERCIAL: 25 ACRES
OPEN SPACE REQUIREMENTS WILL BE MET WITHIN OPEN SPACE COMPONENTS OF EACH USE.	RESIDENTIAL: 42 ACRES
MINIMUM 89 UNITS, MAXIMUM 156 UNITS AS ALLOWED BY FLAGLER COUNTY FLUM AND P.U.D. AGREEMENT	RESIDENTIAL: 511 UNITS
	MARINA: 80 WET SLIPS 200 DRY SLIPS
	COMMERCIAL: 75,000 S.F.
	OPEN SPACE REQUIREMENTS WILL BE MET WITHIN OPEN SPACE COMPONENTS OF EACH USE.
	LOW DENSITY RESIDENTIAL: ALL AREAS OF LOW-DENSITY RESIDENTIAL USE MAY INCLUDE ATTACHED OR DETACHED SINGLE-FAMILY RESIDENCE OR TOWNHOUSES OF 3 STORIES OR LESS IN HEIGHT.
	MAXIMUM BUILDING HEIGHT: MARINA DRY STORAGE: 75' RESIDENTIAL: 95' COMMERCIAL: 35'

NO.	DATE	DESCRIPTION	BY
1	10/20/09	REVISED PER FLAGLER COUNTY COMMENTS	CHRYSTAL CURRAN
2	11/20/09	REVISED PER FLAGLER COUNTY COMMENTS	CHRYSTAL CURRAN

Civil Engineering • Land Planning
 Permitting • Construction Administration
 www.atlasdg.com • CA#228986
 50 Leanni Way, Suite B4, Palm Coast, FL 32137
 Phone: 386.446.8288 • Fax: 386.446.8277



PROJECT #	AD091015
SHEET DATE	09/20/09
SCALE	1" = 300'
DRAWN BY	CHW
CHECKED BY	BLM
PLAT FILE	AD091015.PDF
CADD FILE	AD091015.DWG

MARINA VILLAGE P.U.D.
LAND USE AREA DESIGNATIONS
 FLAGLER COUNTY FLORIDA

From: Christie L. Mayer
Sent: Monday, June 16, 2014 4:00 PM
To: Craig Coffey
Cc: Sally A. Sherman
Subject: Lighthouse Harbor

Did you get this email from Jim Cullis while I was away? I just uncovered it in my email.....

Sorry for the delay!

Christie

From: Jim Cullis [<mailto:jcullis@grandhavenpalmcoast.com>]
Sent: Tuesday, May 27, 2014 10:36 AM
To: Christie L. Mayer
Subject:

Craig

Last file Lighthouse harbor property info is the old master plan for the marina village. First file lh school site is the current survey +/- 6 acres. The office plan2 file is a rough site plan showing potential for the site +/- 48,000 sq ft of office/warehouse keeping the existing concrete buildings and removing trailers.

Happy to brainstorm. Sea Ray should buy/lease this facility from me for the immediate needs and some control over the entire project.

Thanks

Jim

Jim Cullis, President

CULLIS
REAL ESTATE
SOLUTIONS

JTCullis@yahoo.com

7 Sandpiper Court

Palm Coast, FL 32137

386-569-8823 - Cell

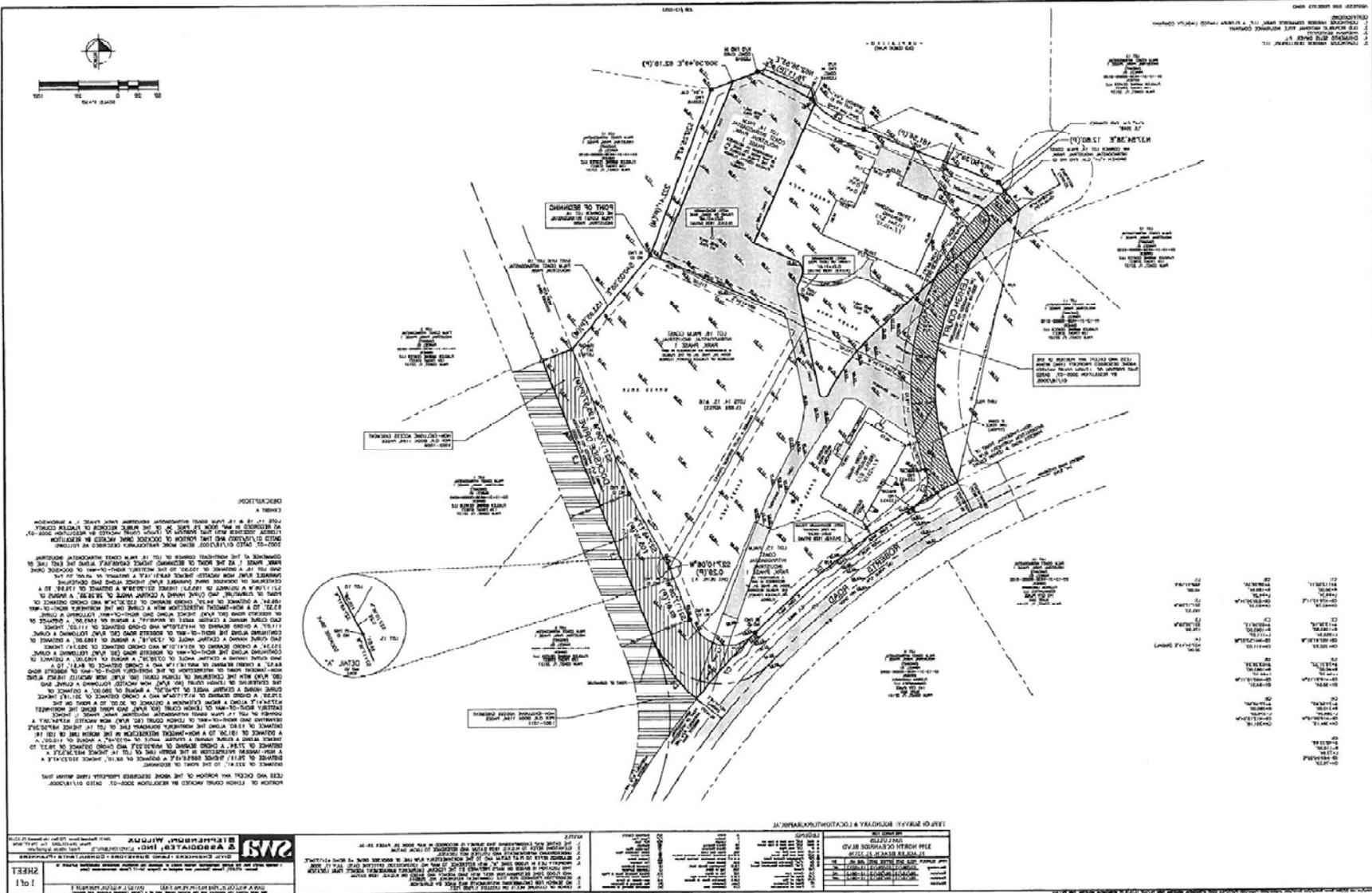
386-447-0800 / 800-957-0213

386-445-6470 Fax

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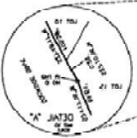
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Version: 2013.0.3495 / Virus Database: 4257/9268 - Release Date: 03/10/15



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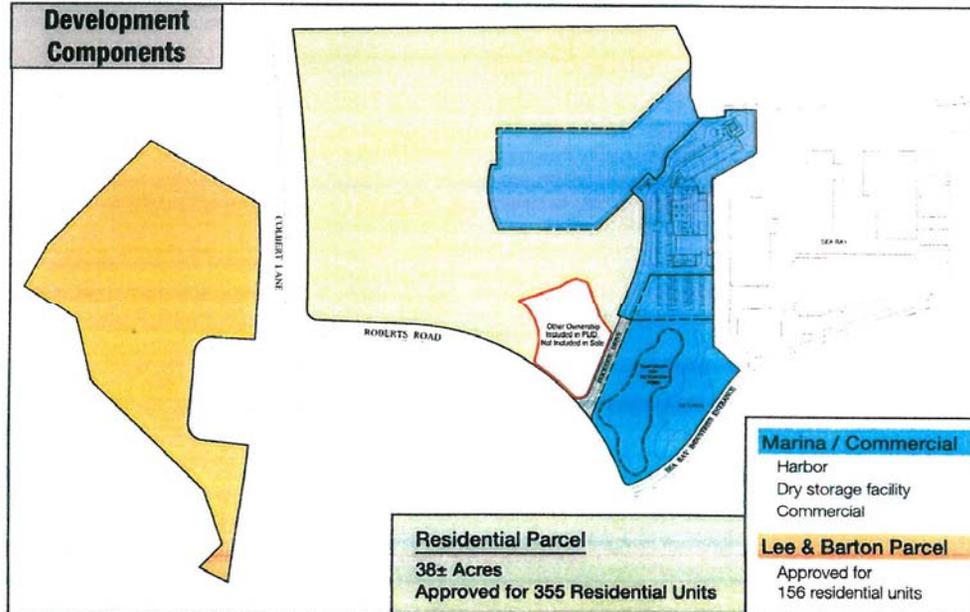
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Lighthouse Harbor Marina Mixed Use Development

Colbert Lane & Roberts Road, Palm Coast, Florida 32136

Property Information



Soil Map—Flagler County, Florida
(SEA RAY-ROBERTS ROAD)



484600 484700 484800 484900 485000 485100 485200 485300 485400 485500 485600 485700 485800 485900 486000 486100 486200 486300 486400 486500 486600 486700

3262000 3262100 3262200 3262300 3262400 3262500 3262600 3262700 3262800 3262900 3263000 3263100 3263200 3263300 3263400 3263500 3263600 3263700 3263800 3263900 3264000

84° 8' 12" W 84° 8' 12" W

29° 27' 52" N 29° 27' 52" N

84° 8' 12" W 84° 8' 12" W

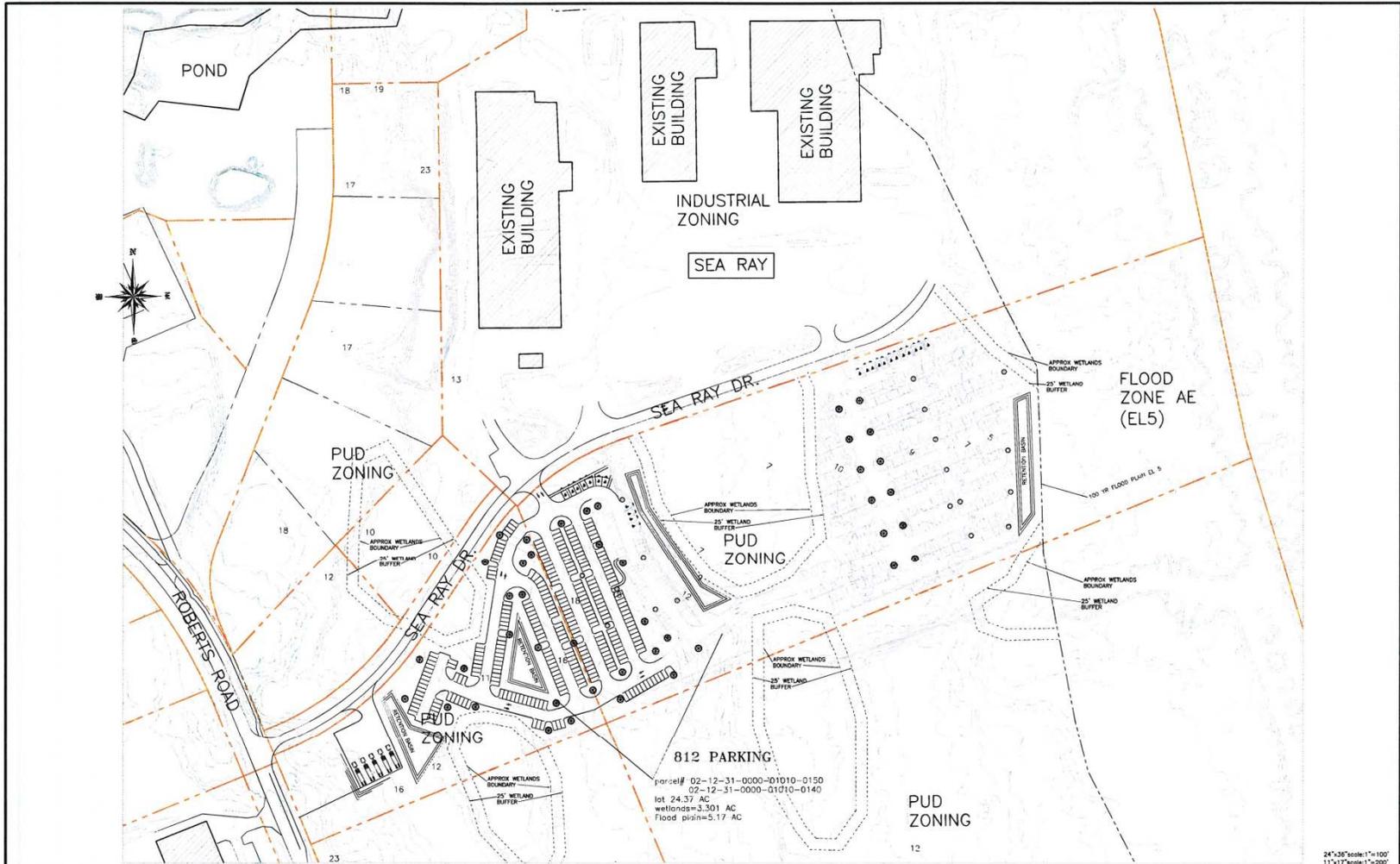
29° 27' 17" N 29° 27' 17" N

Map Scale: 1:5,800 if printed on B landscape (17" x 11") sheet.
0 50 100 200 300 Meters
0 250 500 1000 1500 Feet
Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 17N WC284

 Natural Resources
Conservation Service

Web Soil Survey
National Cooperative Soil Survey

7/21/2014
Page 1 of 3



812 PARKING
 parcel# 02-12-31-0000-01010-0150
 02-12-31-0000-01010-0140
 lot 24.37 AC
 wetlands=3.301 AC
 Flood plain=5.17 AC

24"x36" scale 1"=100'
 11"x17" scale 1"=200'

REVISIONS				DRAFT FA_DATE_7/24/2014	SITE PLAN-D ROBERTS ROAD AND SEA RAY DR.	SHEET NO. 1D
NO.	DATE	BY	DESCRIPTION			

December 12, 2005
Special Meeting

ITEM 6 - APPLICATION #2400 - ADOPTION OF AN ORDINANCE AMENDING THE FUTURE LAND USE MAP BY REDESIGNATING A 166-ACRE PARCEL LOCATED ON THE EAST SIDE OF ROBERTS ROAD BETWEEN THE FLAGLER BEACH CITY LIMITS AND SEA RAY BOATS. THIS IS A REQUEST TO REDESIGNATE APPROXIMATELY 139.8 ACRES FROM INDUSTRIAL TO RESIDENTIAL LOW - SINGLE FAMILY AND APPROXIMATELY 26.2 ACRES FROM INDUSTRIAL TO CONSERVATION. OWNER: FLORIDA LANDMARK PROPERTIES, INC.; APPLICANT: LANDMAR GROUP

The following information was provided by Walter Fufidio, Planning and Zoning Director:

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA REQUEST ITEM # 6**

CONSENT PUBLIC HEARING GENERAL BUSINESS

SUBJECT: Application #2400 - Adoption Of An Ordinance Amending The Future Land Use Map By Redesignating A 166-Acre Parcel Located On The East Side Of Roberts Road Between The Flagler Beach City Limits And Sea Ray Boats. This Is A Request To Redesignate Approximately 139.8 Acres From Industrial To Residential Low - Single Family And Approximately 26.2 Acres From Industrial To Conservation. Owner: Florida Landmark Properties, Inc. / Applicant: Landmar Group

DATE OF MEETING: December 12, 2005

SUBJECT/GOALS/OBJECTIVES: The requested amendment seeks to redesignate 166 acres lying east of Roberts Road, southeast of Sea Ray Boats and north of Wadsworth Park from *Industrial to Residential Low Density* (1-3 units per acre) and *Conservation*. This amendment will enable consideration of future rezoning action(s) for a residential community of not more than 419 dwelling units.

JUSTIFICATION/BACKGROUND/CONCERNS/ISSUES: This amendment request dates back to 2004. During the 2004 second amendment cycle, the Planning Board deferred action until policy direction regarding the Sea Ray Boats facility was established pursuant to the Marina Cove proposal (FLUM # 2339). On March 21, 2005 the Board of County Commissioners approved transmittal of this application as part of Flagler County's first amendment cycle for 2005. On October 3, 2005 the Board deferred adoption to provide additional time for a comprehensive settlement agreement between Sea Ray Boats and surrounding property owners.

On June 17, 2005 DCA issued its Objections, Recommendations and Comments (ORC) Report. The ORC Report included objections based on internal inconsistency – economic diversification; provision of potable water and sanitary sewer service; and land use compatibility with the adjacent Sea Ray manufacturing facilities.

The adoption of Ordinance 2005-17 established interim industrial siting criteria to address the internal consistency objection. The water and wastewater capacity issue was addressed in correspondence dated July 27, 2005 from Brian Matthews of the City of Palm Coast Utilities describing the need to obtain a temporary increase in [expired] Consumptive Use Permit #1947. The remaining issue is the protection of Sea Ray's existing and future operations.

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Negotiations involving a global settlement have been ongoing since early 2005. Parties to these negotiations include Sea Ray Boats, Inc., Landmar Communities (FLUM #2339 and this application), and Florida Waterway Properties, LLC / Great Star Investors VIII LLC (FLUM #2424). The settlement negotiations also involve dismissal of the outstanding consistency challenge involving FLUM #2339 and naming DCA and Flagler County as defendants.

The Applicants have been advised of the need to present an executed settlement agreement or letter of no objection from Sea Ray Boats, Inc. prior to the Board's action. To date, neither has been made available. These are complicated issues involving upward of \$7.5m in capital and recurring costs for a Sea Ray retrofit and future economic development grant applications.

PLANNING BOARD RECOMMENDATION: The Planning Board conducted a public hearing on this matter on February 8, 2005 and voted 3-2 to recommend approval, subject to inclusion of the conservation buffer.

PARTIES OF RECORD:

FOR	AGAINST
Victor Rugg, Lambert Avenue	Robert Lincoln, Sarasota
Roseanne Staker, Lambert Avenue	

RECOMMENDATION: Request the Board adopt Future Land Use Map Amendment application #2400 only upon presentation of an executed Settlement Agreement; this adoption shall only become effective when the Department of Community Affairs issues a final order to find the amendment to be in compliance.

- ATTACHMENTS:**
1. Proposed Ordinance;
 2. Published Legal Notice;
 3. June 17, 2005 ORC Report
 4. Response to ORC Report



Department Head
12-07-2005
Date



County Administrator
12-8-05
Date

Reviewed by
County Attorney 

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Chairman Darby asked staff if there was a settlement agreement.

County Attorney Kern suggested the parties put on the record where they were regarding the settlement agreement. Staff did not have a copy of the settlement agreement.

Chairman Darby invited the applicant to give his presentation.

Jim Cullis, regional manager for the Landmar Group, explained the project and that it was part of the company's overall plan for the Colbert Lane/Roberts Road area.

Stated they had worked for over a year on the settlement with Sea Ray and were at the "final hour" of the agreement. There was one little scientific line of sight issue to work out. Asked the BCC to approve the project so Landmar could move forward knowing that Sea Ray had protected its right to appeal or give them another week to get the settlement agreement done.

County Attorney Kern stated from the date of this hearing the County had ten days to transmit the applications to the State. Suggested an executed settlement agreement signed by all parties be presented to staff within that ten-day period, otherwise staff would not transmit.

Commissioner Kanbar stated it appeared this was at a "photo finish and all parties would cross the finish line together" to get this deal done. Complimented everyone involved in this process.

Mr. Cullis stated this was a three-party agreement so the BCC might want to also hear from Mr. Katz. As a businessman trying to negotiate a very complicated agreement, it was difficult for him to have an approval that put the other party in the driver's seat to make any objection it wanted and to hold the process up. For the BCC the decision was not whether Sea Ray was made happy, it was whether this was the right thing for this piece of property for the County. But he was there to hear the BCC's wishes and to make it work.

Paul Katz, attorney representing Harborview, stated Sea Ray and his client had worked out all of their issues. The issue that remained between Sea Ray and Landmar was a technical issue and he had the greatest confidence that was going to be worked out. Stated he did not want a ten-day trigger and suggested the BCC adopt and transmit what it had because the DCA had forty-five days to review after the submittal.

Dennis Bayer, attorney representing Sea Ray, stated a tremendous amount of progress had been made over the last month in settlement negotiations. He did not object to the BCC adopting both amendments on the agenda, but Sea Ray was reserving its right to request an administrative hearing if the one issue could not be agreed upon. He did not believe that was going to happen and did believe there would be a final agreement with all parties by the end of the week.

Commissioner King stated he was going to support it because all parties saw it the same way.

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Planning and Zoning Director Fufidio stated there was no stopping it once this was sent to the State. This had to be resolved now and to say that it would be fixed in forty-five days put the BCC on the hook.

Chairman Darby questioned why the testimony from the representatives did not carry the weight for the BCC to react in a positive way. There were no negatives except those exhibited by staff. All of the principles have consented to an answer by Friday.

County Attorney Kern stated if the parties could give staff something by Friday that would conclude the matter, but it could not be ruled on contrary to the ORC Report without being resolved.

County Administrator Haas stated the BCC could not ignore the ORC Report. The concern was when it was transmitted the review process by DCA started and if the agreement fell apart the County would be found in non-conformance with its own comp plan.

Commissioner King asked what the BCC needed to do.

County Attorney Kern stated there needed to be a signed agreement from the parties before this was sent to Tallahassee and that needed to be received within ten days.

County Administrator Haas stated the ten days was also a problem because Sea Ray would “hold all the chips” and the developer would have none.

Mr. Katz stated if this FLUM amendment was adopted by the BCC and sent to the DCA, but if for some reason the agreement was not signed and the DCA needed a signed agreement and it found the County not in compliance, then his client would defend the County.

Commissioner King asked if that was acceptable.

County Attorney Kern stated it was on the record.

Mr. Cullis pointed out that they had been in a year-long dispute and Landmar had paid all the legal bills. Also pointed out in the ORC Report the DCA never said if there was not a settlement agreement with Sea Ray it would not be approved.

A motion was made by Commissioner King to adopt Application #2400 with the understanding if the deal fell apart and the County ended up in litigation Mr. Cullis illustrated that Landmar would be responsible for the attached litigation.

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Chairman Darby asked if the sentence “only upon presentation of an executed settlement agreement” was not included in the motion.

Commissioner King and Kanbar concurred.

Chairman Darby opened the public hearing.

Dennis Bayer reiterated if a deal was not reached he would draw the BCC's attention back to the compatibility evidence raised when this issue was before the BCC last December.

There was no further public comment.

Chairman Darby closed the public hearing.

County Administrator Haas stated although the BCC was not a signatory on the tri-party agreement it was a funding partner to the solution. The County had committed that Sea Ray would apply through the Economic Development Incentive Program for funding and also to assist with and administer an application for a CDBG Economic Development Grant.

Mr. Bayer stated one reason Sea Ray did not get involved earlier with the grant application process was it had a universe of other issues that required resolution. It had a much more comprehensive package on the table right now so that was not going to be a problem.

There was no further public comment.

The BCC thanked all parties and staff for working together.

Chairman Darby called the question. Motion carried unanimously.

(Ordinance 2005-31 is on file in the Finance Department of the Flagler County Clerk's Office.)



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

Last Updated: 03-10-2015 Today's Date: 3-15-2015		Volusia County Property Appraiser's Office Property Record Card (PRC) Morgan B. Gilreath Jr., M.A., A.S.A., C.F.A. Property Appraiser			
Full Parcel ID	17-16-33-20-00-0010	Mill Group	402 Port Orange		
Short Parcel ID	6317-20-00-0010				
Alternate Key	5009149	2014 Final Millage Rate	21.15960		
Parcel Status	Active Parcel	PC Code	13		
Date Created	02 MAY 1988				
Owner Name	WAL-MART STORES EAST LP	GO TO ADD'L OWNERS			
Owner Name/Address 1	PROPERTY TAX DEPT STORE 582				
Owner Address 2	PO BOX 8050 MS 0555				
Owner Address 3	BENTONVILLE AR				
Owner Zip Code	727168050				
Owner Percentage	100	Ownership Type			
Location Address	1590 DUNLAWTON AV PORT ORANGE 32127				

LEGAL DESCRIPTION	GO TO ADD'L LEGAL
TRACT 1 WOODLAND CENTER & TRI PARCEL IN NE 1/4 OF NW 1/4 BEI NG S OF & MEAS 844.06 FT ON DUNLAWTON MB 42 PG 17 PER OR 427	

SALES HISTORY								GO TO ADD'L SALES
#	BOOK	PAGE	DATE	INSTRUMENT	QUALIFICATION	IMPROVED?	SALE PRICE	
1	6342	2277	3/2009	Warranty Deed	Unqualified Sale	Yes	100	
2	4275	1292	2/1998	Warranty Deed	Qualified Sale	Yes	3,027,856	
3	3629	0529	12/1990	Warranty Deed	Affiliated Parties	No	100	

HISTORY OF VALUES													GO TO ADD'L HISTORY
YEAR	LAND	BLDG(S)	MISC	JUST	ASD	SCH ASD	NS ASD	EXEMPT	TXBL	SCH TXBL	ADD'L EX	NS TXBL	
2014	3,420,721	6,176,175	346,678	9,943,574	9,943,574	9,943,574	9,943,574	0	9,943,574	9,943,574	0	9,943,574	
2013	3,420,721	5,612,302	348,525	9,381,548	9,381,548	9,381,548	9,381,548	0	9,381,548	9,381,548	0	9,381,548	

LAND DATA												
CODE	TYPE OF LAND USE	FRONTAGE	DEPTH	# OF UNITS	UNIT TYPE	RATE	DPH	LOC	SHP	PHY	JUST VAL	
1300	DEPT STORE	No Data	No Data	980852.00	SQUARE FEET	7.75	100	100	50	90	3,420,721	
NEIGHBORHOOD CODE	C5540	DUNLAWTON BLVD-NOVA RD TO I-9										
TOTAL LAND CLASSIFIED 0												
TOTAL LAND JUST 3,420,721												

BUILDING CHARACTERISTICS



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Last Updated: 03-10-2015 Today's Date: 3-15-2015		Volusia County Property Appraiser's Office Property Record Card (PRC) Morgan B. Gilreath Jr., M.A., A.S.A., C.F.A. Property Appraiser			
Full Parcel ID	41-15-33-09-00-0010	Mill Group	204 Daytona Beach		
Short Parcel ID	5341-09-00-0010				
Alternate Key	6354197	2014 Final Millage Rate	23.59040		
Parcel Status	Active Parcel	PC Code	13		
Date Created	14 JUL 2004				
Owner Name	WAL-MART STORES EAST LP	GO TO ADD'L OWNERS			
Owner Name/Address 1	PROPERTY TAX DEPT NO 1391				
Owner Address 2	PO BOX 8050 MS-0555				
Owner Address 3	BENTONVILLE AR				
Owner Zip Code	727168050				
Owner Percentage	100	Ownership Type			
Location Address	1101 BEVILLE RD DAYTONA BEACH 32119				

LEGAL DESCRIPTION							
LOT 1 WAL-MART/SAM'S REPLAT DAYTONA BEACH MB 51 PGS 18-19 PE							
R OR 6342 PG 2267							

SALES HISTORY							
#	BOOK	PAGE	DATE	INSTRUMENT	QUALIFICATION	IMPROVED?	SALE PRICE
1	6342	2267	3/2009	Warranty Deed	Unqualified Sale	Yes	100

HISTORY OF VALUES													GO TO ADD'L HISTORY	
YEAR	LAND	BLDG(S)	MISC	JUST	ASD	SCH ASD	NS ASD	EXEMPT	TXBL	SCH TXBL	ADD'L EX	NS TXBL		
2014	2,191,075	5,507,797	196,193	7,895,065	7,895,065	7,895,065	7,895,065	0	7,895,065	7,895,065	0	7,895,065		
2013	2,191,075	4,991,319	197,799	7,380,193	7,380,193	7,380,193	7,380,193	0	7,380,193	7,380,193	0	7,380,193		

LAND DATA												
CODE	TYPE OF LAND USE	FRONTAGE	DEPTH	# OF UNITS	UNIT TYPE	RATE	DPH	LOC	SHP	PHY	JUST VAL	
1300	DEPT STORE	900.0	900.0	1021480.00	SQUARE FEET	3.25	100	110	60	100	2,191,075	
NEIGHBORHOOD CODE		C5544 DAYTONA BEACH- BEVILLE RD										
TOTAL LAND CLASSIFIED											0	
TOTAL LAND JUST											2,191,075	

BUILDING CHARACTERISTICS	
BUILDING 1 OF 1	