



# CITY COUNCIL AGENDA FORM

REQUESTED COUNCIL MEETING DATE 2/26/08

**SUBJECT: SMALL SCALE LAND USE AMENDMENT/JAY PATEL  
CASE NO. 07-20000004**

**DEPARTMENT: COMMUNITY DEVELOPMENT**

**RECOMMENDED MOTION:**

To adopt Ordinance No. 2008-9, amending the Future Land Use Map of the City of Port Orange Comprehensive Plan Update '98 for property located south of Taylor Rd. and east of I-95, as recommended by the Planning Commission.

**SUMMARY:**

**PLANNING COMMISSION ACTION:**

At its January 24, 2008 meeting, the Planning Commission recommended approval (7-0), of an amendment to the Future Land Use Map of the City of Port Orange Comprehensive Plan Update '98. The purpose of the proposed amendment is to change the future land use designation of approximately 6.71 acres from *Suburban Residential (2-4 Units/Acre)* to *Commercial*. If approved, the contract purchaser intends to develop the property with a mini-warehouse/self-storage facility and 2-story office building. The staff report is attached for your review.

**ATTACHMENTS:**

Ordinance

Resolution

Budget Resolution

Other

Support Documents/Contracts Available for Review in Manager's Office

**DEPARTMENT HEAD**

Wayne Clark  
Community Development Director

Date

2/15/08

**CITY ATTORNEY**

Approved as to Form and Legality

Date

2.15.08

**CITY MANAGER**

Approved Agenda Item For:

2/26/08

**COUNCIL ACTION:**

Approved as Recommended

Disapproved

Tabled Indefinitely

Continued to Date Certain

Approved with Modification

Second Reading 3/18/08

ORDINANCE NO. 2008-9

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, RELATING TO COMPREHENSIVE PLANNING; AMENDING THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING THE FUTURE LAND USE DESIGNATION FROM SUBURBAN RESIDENTIAL TO COMMERCIAL FOR PROPERTY LOCATED SOUTH OF TAYLOR ROAD AND EAST OF I-95; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after careful review and a public hearing, the Planning Commission, sitting as the Local Planning Agency, has forwarded a recommendation to the City Council regarding this proposed amendment to the Comprehensive Plan for the City of Port Orange; and

WHEREAS, the proposed amendment to the Comprehensive Plan directly relates to small scale development activities as provided in Section 163.3187(1)(c), Florida Statutes; and

WHEREAS, the City Council of the City of Port Orange has received comments and proposals from the general public and held at least one public hearing with regard to the proposed amendment to the Comprehensive Plan; and

WHEREAS, the amendment to the Comprehensive Plan shall be submitted to the Volusia Growth Management Commission for a determination of consistency in accordance with Section 202.3 of the Charter of Volusia County, Florida; and

WHEREAS, the City Council hereby declares that the purpose and intent of the proposed amendment to the Comprehensive Plan is to guide future growth and development; encourage the most appropriate use of land, water, and other resources, consistent with the public interest; promote and protect the public health, safety, comfort,

(ORD. NO. 2008- 9 )

good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; provide adequate and efficient transportation, water, sewage, drainage, fire protection, parks, recreational facilities, housing, and other services, facilities and resources; and conserve and protect natural resources within the City, while protecting private property rights.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. For purposes herein, the term "Comprehensive Plan," shall mean the Comprehensive Plan for the City of Port Orange, consisting of the one (1) volume book entitled "City of Port Orange Comprehensive Plan Update '98," and containing nine (9) elements, including Future Land Use; Transportation; Housing; Public Facilities; Coastal Zone Management; Conservation; Recreation and Open Space; Intergovernmental Coordination; and Capital Improvements, all as adopted by Ordinance No. 1999-43, as subsequently amended by Ordinances No. 1999-46, 1999-56, 1999-57, 2000-1, 2000-8, 2000-13, 2000-25, 2000-29, 2000-41, 2001-2, 2001-21, 2001-26, 2001-75, 2001-76, 2001-89, 2002-7, 2002-20, 2003-3, 2003-1, 2003-22, 2003-39, 2004-34, 2004-39, 2005-1, 2005-3, 2005-13, 2005-15, 2005-25, 2005-27, 2005-30, 2005-31, 2005-49, 2006-16, 2006-24, 2006-41, 2006-51, 2006-53, 2007-4, 2007-14, 2007-30, 2007-48, 2007-55, 2007-57, 2007-60, 2007-61, 2008-8 and this ordinance.

Section 2. The Future Land Use Map of the Comprehensive Plan is hereby amended for the parcel of land as described in Exhibit A and as shown on the Map depicted in Exhibit B, attached hereto and by reference made a part hereof, from Suburban Residential to Commercial, subject to the City's right to limit trips generated

from the subject property to 301 Average Daily Trips, so as not to create a significant impact on the Volusia County thoroughfare network and State roadway facilities.

Section 3. All ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective as provided by general law, Department of Community Affairs rule, and Volusia County Charter.

\_\_\_\_\_  
MAYOR ALLEN GREEN

ATTEST:

\_\_\_\_\_  
Kenneth W. Parker, City Manager

Passed on first reading on the      day of

Passed and adopted on second and final reading on the      day of

Reviewed and Approved:

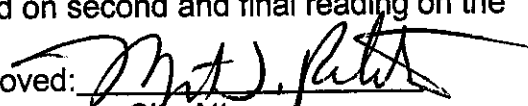
  
\_\_\_\_\_  
City Attorney

EXHIBIT "A"

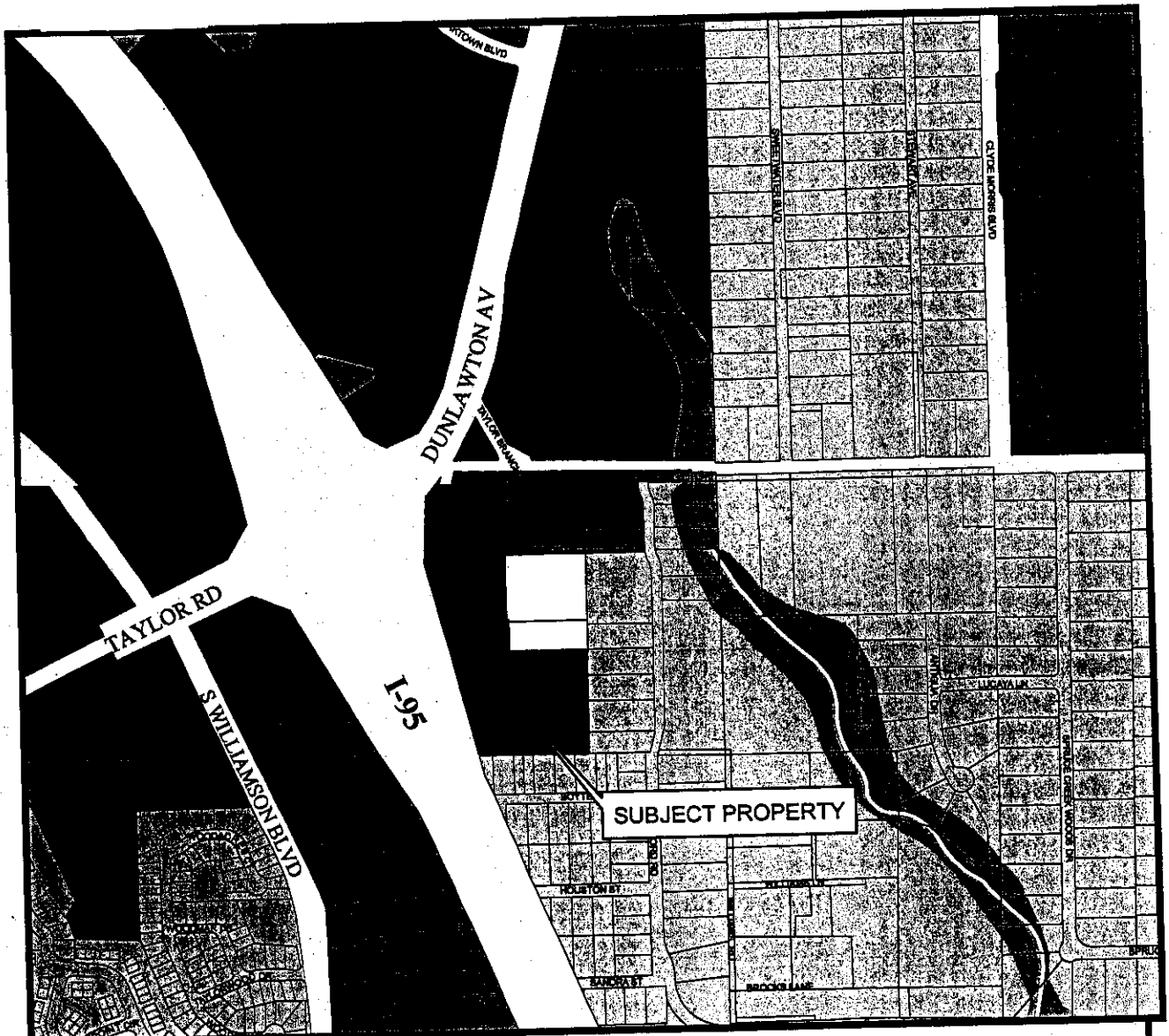
LEGAL DESCRIPTION

DESCRIPTION

A PORTION OF SECTIONS 19 AND 20, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE NORTHWEST CORNER OF SAID SECTION 20 AS THE POINT OF REFERENCE, RUN SOUTH 00 DEGREES 28 MINUTES 04 SECONDS EAST ALONG THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 810.04 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID WEST LINE, RUN NORTH 89 DEGREES 35 MINUTES 07 SECONDS EAST, A DISTANCE OF 280.00 FEET; THENCE SOUTH 00 DEGREES 28 MINUTES 04 SECONDS EAST, A DISTANCE OF 3.15 FEET; THENCE NORTH 89 DEGREES 31 MINUTES 41 SECONDS EAST, A DISTANCE OF 218.87 FEET; THENCE SOUTH 00 DEGREES 24 MINUTES 53 SECONDS EAST, A DISTANCE OF 154.33 FEET; THENCE NORTH 89 DEGREES 31 MINUTES 41 SECONDS EAST, A DISTANCE OF 170.15 FEET TO THE EAST LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20; THENCE SOUTH 00 DEGREES 28 MINUTES 19 SECONDS EAST ALONG SAID EAST LINE, A DISTANCE OF 356.06 FEET TO THE NORTH LINE OF MAC-JOHN SUBDIVISION AS RECORDED IN MAP BOOK 27, PAGE 223 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE SOUTH 89 DEGREES 35 MINUTES 07 SECONDS WEST ALONG SAID NORTH LINE, A DISTANCE OF 544.81 FEET TO THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE NO. 95 (S.R. NO. 9); THENCE NORTH 18 DEGREES 52 MINUTES 05 SECONDS WEST LONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 202.31 FEET; THENCE CONTINUE ALONG SAID EASTERLY RIGHT OF WAY LINE, NORTH 15 DEGREES 19 MINUTES 11 SECONDS WEST, A DISTANCE OF 332.43 FEET; THENCE DEPARTING SAID EASTERLY RIGHT OF WAY LINE, RUN NORTH 89 DEGREES 35 MINUTES 07 SECONDS EAST, A DISTANCE OF 24.97 FEET TO THE POINT OF BEGINNING.

CONTAINING 6.7147 ACRES, MORE OR LESS.



**Case No.:** 07-20000004

**Applicant:** Jim Morris, Applicant  
Jay Patel, Owner

**Location:** South of Peacock Way PCD.  
East of I-95, south of Taylor Rd.

**FUTURE LAND USE**








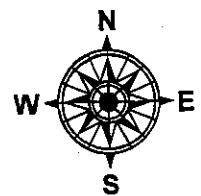
-  Public/QuasiPublic
-  Conservation
-  Agriculture/Residential 0-2 Units/Acre
-  Residential 2-4 Units/Acre
-  Residential 4-8 Units/Acre
-  Office/Residential Transition
-  Commercial

EXHIBIT "B"

**CITY OF PORT ORANGE**

DEPARTMENT OF COMMUNITY DEVELOPMENT





## STAFF REPORT

CASE NO. 07-20000004

**SMALL SCALE FUTURE LAND USE AMENDMENT**

6.71 acres located south of Taylor Rd., east of I-95

Jay Patel, owner/Jim Morris, applicant

January 18, 2008

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### INTRODUCTION:

Jim Morris, applicant, representing the property owner, Jay Patel, and Todd Marshall, contract purchaser, requests approval of a small-scale amendment to the City's Future Land Use Map of the *Comprehensive Plan- Update '98*. If approved, the amendment will change the designation of 6.71 acres of land located south of Taylor Rd. and east of I-95 from *Suburban Residential 2-4 units per acre* to *Commercial* (Exhibit "A"). If approved, the contract purchaser intends to rezone the property from "A" (Agriculture) to "PCD" (Planned Commercial Development) and develop the property with a mini-warehouse/ self-storage facility and 3-story office building.

### BACKGROUND:

In 2006, the applicant approached Staff about rezoning the property and incorporating it with the existing Journey's End PCD. Staff informed the contract purchaser that a small-scale land use amendment to change the future land use would be required for the proposed PCD rezoning.

The subject property is currently vacant and wooded. The site is accessible only by Journey's End Dr. The surrounding future land use designations and zoning for the proposed amendment are depicted graphically on Exhibits "B" and "C".

### DISCUSSION:

As defined by the City's Comprehensive Plan, the *Commercial* designation is intended to provide for the retail sale of items and services to the general public. The subject property is located just south of the existing Journey's End PCD, which includes the approved but unbuilt Country Inn & Suites hotel. The subject property is also within close proximity to the I-95/Dunlawton interchange, which is identified in the Comprehensive Plan as one of the designated Sub-Regional Commercial Nodes. Furthermore, since this property is only accessible off of Journey's End Dr., it is logical to incorporate it into the existing commercial subdivision. Otherwise, future residents would have to drive through a commercial development to reach their homes.

The Journey's End PCD is located in the I-95/Dunlawton Ave. Sub-Regional Commercial Node as identified in the Comprehensive Plan. This node is intended to serve customers at a regional level, such as tourists, and not solely Port Orange residents. The proposed amendment represents a geographic expansion of this node. Sub-regional commercial nodes usually include such uses as shopping centers, hotels, and restaurants. Although the proposed development by itself is not currently one that is traditionally considered regional by the above definition, it can be considered a component of the broad range of commercial uses found within the large commercial

nodes. If the proposed uses are not constructed, the *Commercial* future land use designation could allow a wide variety of other uses, with the proper zoning.

### IMPACTS OF THE PROPOSED AMENDMENT:

The applicant is proposing to change 6.71 acres from *Suburban Residential 2-4 units per acre* to *Commercial*. The proposed change is needed for approval of the PCD rezoning request (Case No. 07-40000001). The maximum building coverage for the *Commercial* designation is 35 percent. In accordance with the standard practice from the Florida Department of Community Affairs (DCA) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the theoretical maximum development potential under the current future land use designation versus the designation proposed. This is shown below in the Impact Analysis Table.

### IMPACT ANALYSIS:

LEVEL OF SERVICE	RESIDENTIAL	COMMERCIAL
Number of Residential Units/Retail Square Feet <sup>1</sup>	26 units	102,300 s.f.
A.M./P.M. Peak Hour Trips <sup>2</sup>	27 A.M./32 P.M.	636 A.M./636 P.M.
Daily Trips <sup>2</sup>	301	6,892
Sanitary Sewer (gallons/day) <sup>3</sup>	4,680	10,230
Potable Water (gallons/day) <sup>4</sup>	6,630	10,230
Stormwater Drainage <sup>5</sup>	n/a	n/a
Recreation/Open Space <sup>6</sup>	0.26	0

#### Notes:

1. Residential: max. units per acre. Commercial: 35% maximum building coverage for the Commercial FLU Designation.
2. Rates for A.M. and P.M. peak hour of adjacent street traffic.  
A.M. peak-hour trips =  $.70(X)+9.43$  residential;  $.60\text{Ln}(X)+2.29$  commercial  
P.M. peak-hour trips =  $.90\text{Ln}(X)+.53$  residential;  $.66\text{Ln}(X)+3.4$  commercial  
Daily trip generation =  $.92\text{Ln}(X)+2.71$  residential;  $.65\text{Ln}(X)+5.83$  commercial
3. Sanitary Sewer: 1/10 gallon per s.f. per day of commercial development, 180\* gallons per day per residential unit. (\*There is a pending Comprehensive Plan Amendment that once adopted will change the residential level-of-service standard for potable water from 255 to 180 GDP.)
4. Potable Water: 1/10 gallon per s.f. per day of commercial development, 255 gallons per day per residential unit
5. Stormwater Drainage: LOS standard = 25 year, 24 hour event. Drainage system will be designed to meet the requirements contained in the Land Development Code.
6. Recreation & Open Space: 1-acre/250 persons (0.004 acres/person)

#### Sources:

ITE Trip Generation Manual, 7<sup>th</sup> Edition  
2007 Port Orange Concurrency Management Report

#### Transportation

A land use level traffic study was prepared for the purposes of this amendment to determine the initial impacts of the change from residential to commercial. If developed under the current residential theoretical maximum, this property would generate 301 daily trips. If the property were to be developed under a commercial theoretical maximum, it would have the potential to generate 6,892 daily trips. However, in effort to ensure that the number of trips does not exceed the available capacity on the Volusia



County thoroughfare network and State roadway facilities, the City is putting a trip limitation on the property to limit the trip generation potential to that of the existing residential land use.

Please note that the extent of the impacts on the City's road network will not be truly known until the traffic concurrency review is conducted with the final site plan for this site. At that time the 301 trip capacity will be applied. Similar to other developments, the developer will be required to enter into a Fair-Share and Concurrency Agreement with the City, and possibly Volusia County, to pay for their share of the scheduled improvements to the road segments and intersections impacted by the development of this site.

#### Sanitary Sewer

For sanitary sewer, the City's adopted LOS standard is 200 gallons per day per Equivalent Residential Unit (ERU) and 1/10 gallon per square foot per day of commercial, industrial, or institutional development. Using these standards, the proposed land use would theoretically create a demand of 10,230 gallons per day. The City currently has sufficient sewer capacity to accommodate the proposed amendment and future development of the property.

#### Potable Water

For potable water, the City's adopted LOS standard is 255 gallons per day per ERU and 1/10 gallon per square foot per day of commercial, industrial, or institutional development. Using these standards, the proposed land use would theoretically create a demand of 10,230 gallons of water per day. Even though the City may have the technical capability to pump 15 MGD from its wells, prohibitions within the City's 20-year Consumptive Use Permit (CUP) issued by the St. Johns River Water Management District (SJRWMD) significantly limits the amount of water that is permitted to be withdrawn. The City's CUP allows for an average daily withdrawal of 7.24 MGD in 2008. Actual average daily flow during the 2007 Calendar year was 6.1 MGD. When SJRWMD reviews future land use amendments they consider the current year CUP allocation, consumption in the previous calendar year, reserved capacity, and projected water capacity available for all other future land uses. Based upon this measure, the City still has available CUP capacity but is close to exceeding the maximum permitted water withdrawal allowed by the CUP.

#### Solid Waste Collection

Approximately 10,535 tons of commercial solid waste was collected during FY 06/07. Figures for commercial yard waste generation and recycling rates are not currently available, since each business is allowed to choose its own private collection service.

Solid waste generated within the City of Port Orange is delivered to the Volusia County Tomoka Farms Road Landfill. This 3,400 acre landfill is a Class I facility that accepts the City's residential and commercial waste. The capacity at the landfill is projected to be sufficient to accommodate waste from Volusia County until the year 2050.

Stormwater Drainage

Stormwater management in the City of Port Orange deals with both quality and quantity. The City's adopted LOS standard for stormwater is the 25-year, 24-hour storm event. More specifically, the stormwater facilities must be capable of treating and conveying the runoff from such a storm without causing flooding of adjacent properties or polluting any receiving water bodies. In addition, the Comprehensive Plan requires that there be no net loss of stormwater retention function as a result of development. In other words, a given parcel must have the same ability to store and discharge water after development as it does before development occurs. The applicants will be required to address stormwater retention on the property in accordance with these City standards. Therefore, no impact to the City's drainage system is anticipated by the proposed development.

Recreation and Open Space

Because the proposed land use amendment will not increase the population of the area, there will not be an increased demand for recreational facilities as a result of this amendment.

**APPLICABLE PLANS, CODES AND REGULATIONS:**

PORT ORANGE COMPREHENSIVE PLAN – UPDATE '98 GOALS, OBJECTIVES, AND POLICIES:

Future Land Use Element

*Policy 1.1.2:* The Land Use Plan shall provide for compatible land use transition through an orderly land use arrangement, proper buffering, and the use of physical and natural separators.

*Policy 1.1.3:* The City's tax base will be maintained and improved by encouraging the appropriate use of properties based on their locational characteristics in accordance with the goals, objectives, and policies of this Comprehensive Plan.

*Policy 1.4.3:* The City shall discourage proposed amendments to the Future Land Use Map, which would reduce the efficient functioning of transportation facilities.

*Objective 1.5:* Base land use designations on the accessibility to necessary infrastructure and public services.

*Policy 1.5.1:* Require that land use intensity designations be based on an analysis of adequate existing and planned road and utility capacity utilizing the level-of-service standards set listed in the Capital Improvements Element.

*Objective 1.8:* The City shall continue to evaluate the impacts of significant development activities in a comprehensive manner. The City shall require these impacts to be mitigated through design and performance standards.

*Policy 1.8.2:* Require compatibility between commercial areas and adjacent lower intensity uses through the use of landscape and open space buffering.

**Objective 2.2:** Commercial development will be promoted in sufficient and convenient locations to serve both resident and tourist populations.

**Policy 2.2.1:** Commercial uses will be located at major roadway intersections or commercial nodes, as defined in the Future Land Use Element.

**Objective 2.4:** Commercial and industrial development will be designed to enhance access and circulation, and result in a positive and attractive built environment.

**Policy 2.4.2:** Adequate parking and safe and convenient traffic flow shall be required on all sites, based on Code requirement and best design practices.

### Transportation Element

**Policy 1.4.1:** Prior to the approval of an application for a final subdivision plan or final site plan, the City will review the proposed application to ensure that roadways necessary to support the development are available concurrent with the impacts of such development. The City may grant de minimus traffic volume exceptions up to a cumulative 3% of the adopted peak hour LOS standard.

### **STAFF FINDINGS:**

1. The land use proposals are consistent with the goals, objectives, and policies of the adopted Port Orange *Comprehensive Plan – Update '98*.

**Staff Finding:** The proposed land use amendment is consistent with Goals, Objective, and Policies of the City of Port Orange *Comprehensive Plan – Update '98*.

2. Amendments shall not result in incompatible land use designations for adjacent parcels or a neighborhood. Compatibility shall be determined by scale of development, intensity, density, and type of use, and the juxtaposition of uses.

**Staff Finding:** The proposed future land use designation is consistent with the property to the north and will be part of the existing I-95/Dunlawton commercial node. Commercial and residential land uses are compatible if developed per LDC requirements; including buffering, architectural design, height, and setback restrictions. Therefore, the land use amendment will not create any land use incompatibilities.

3. An amendment shall not result in negative economic, social, or other impacts to the City of Port Orange.

**Staff finding:** The proposed land use amendment will not result in any negative impacts to the City's infrastructure and services.

4. An amendment shall be approved only if the parcel can subsequently be developed in full compliance with any and all applicable standards of the Port Orange Land Development Code.

**Staff finding:** Development of the property will be required to comply with all applicable standards of the Port Orange Land Development Code.

5. An amendment shall not increase the clearance with for evacuation of the population in the Hurricane Vulnerability Zone above six hours.

**Staff finding:** The subject property does not lie on an official hurricane evacuation route, or within the Hurricane Vulnerability Zone. Therefore, the proposed amendment will not increase the clearance time for evacuation of the population in the Hurricane Vulnerability Zone above 6 hours. The conversion from residential to commercial also reduces the number of people that would need to evacuate.

**STAFF RECOMMENDATION:**

Staff recommends **approval** of the request to change the future land use designation of 6.71 acres, located east of I-95 and south of Taylor Rd., from *Residential 2-4 units per acre* to *Commercial*.

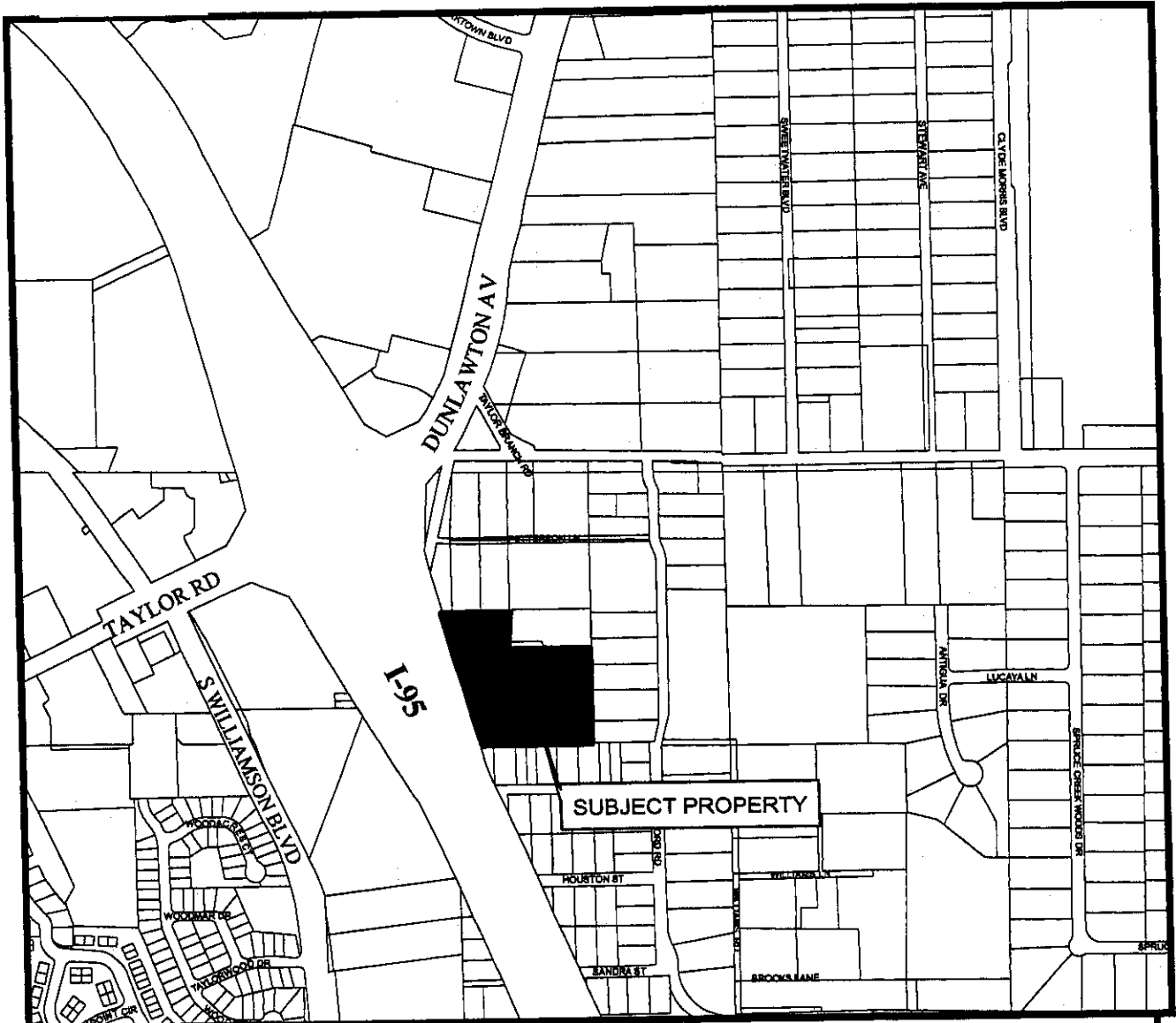
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Prepared by: Gwen Perney, Planner  
City of Port Orange Department of Community Development

(386) 506-5673  
(386) 506-5600

PLANNING COMMISSION DATE:  
CITY COUNCIL DATE:

January 24, 2008  
February 26, 2008



<p><b>Case No.:</b> 07-20000004</p>	<p><b>Requested Action:</b>          Approval of a change to the future land use of approximately 6.71 acres from Residential 2-4 units per acre to Commercial. If approved, the developer is proposing to build a mini-warehouse facility and two-story office building.</p>
<p><b>Applicant:</b> Jim Morris, Applicant          Jay Patel, Owner</p>	
<p><b>Location:</b> South of Peacock Way PCD.          East of I-95, south of Taylor Rd.</p>	

Exhibit "A"

**CITY OF PORT ORANGE**

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DEPARTMENT OF COMMUNITY DEVELOPMENT

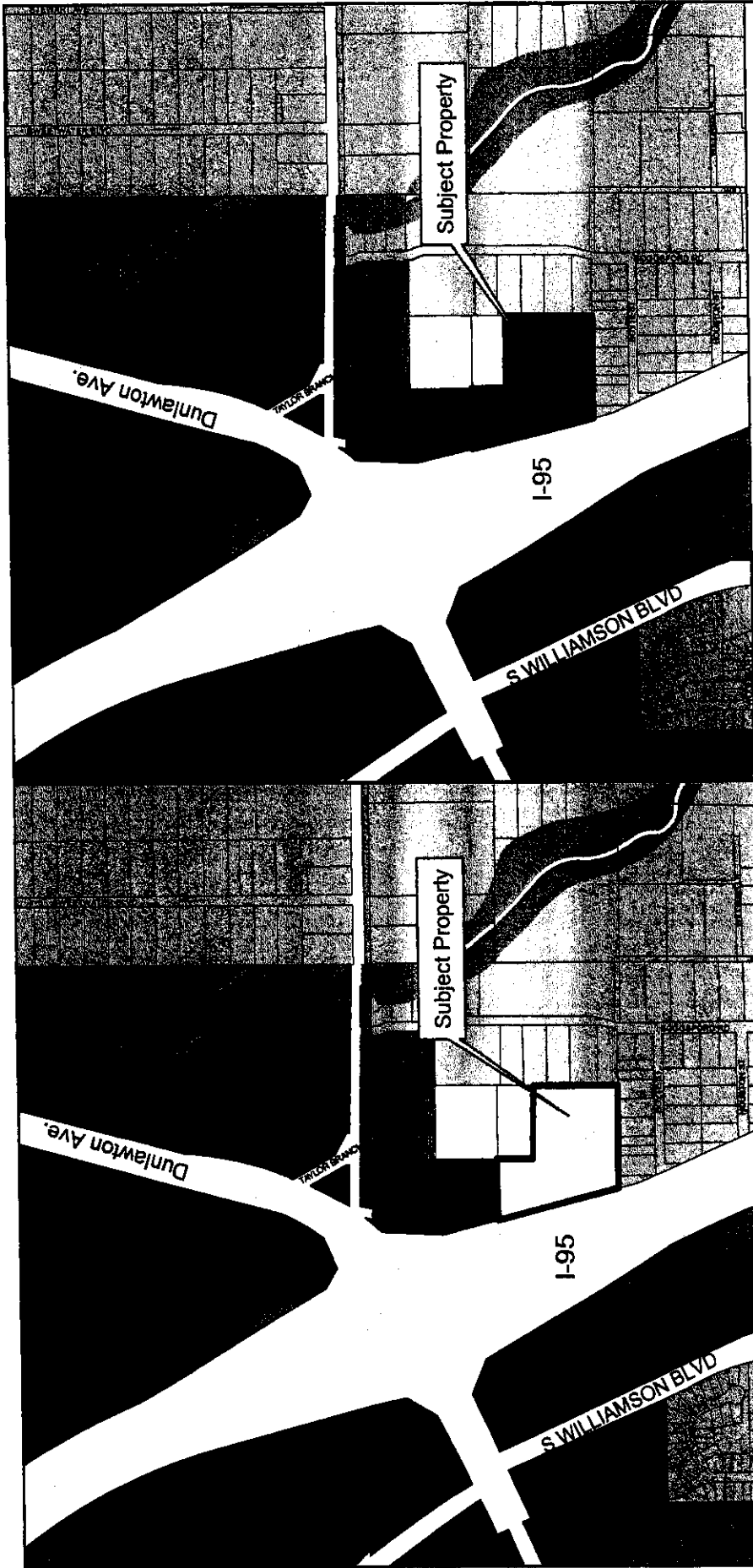


EXHIBIT "B"  
 CASE NO. 07-20000004



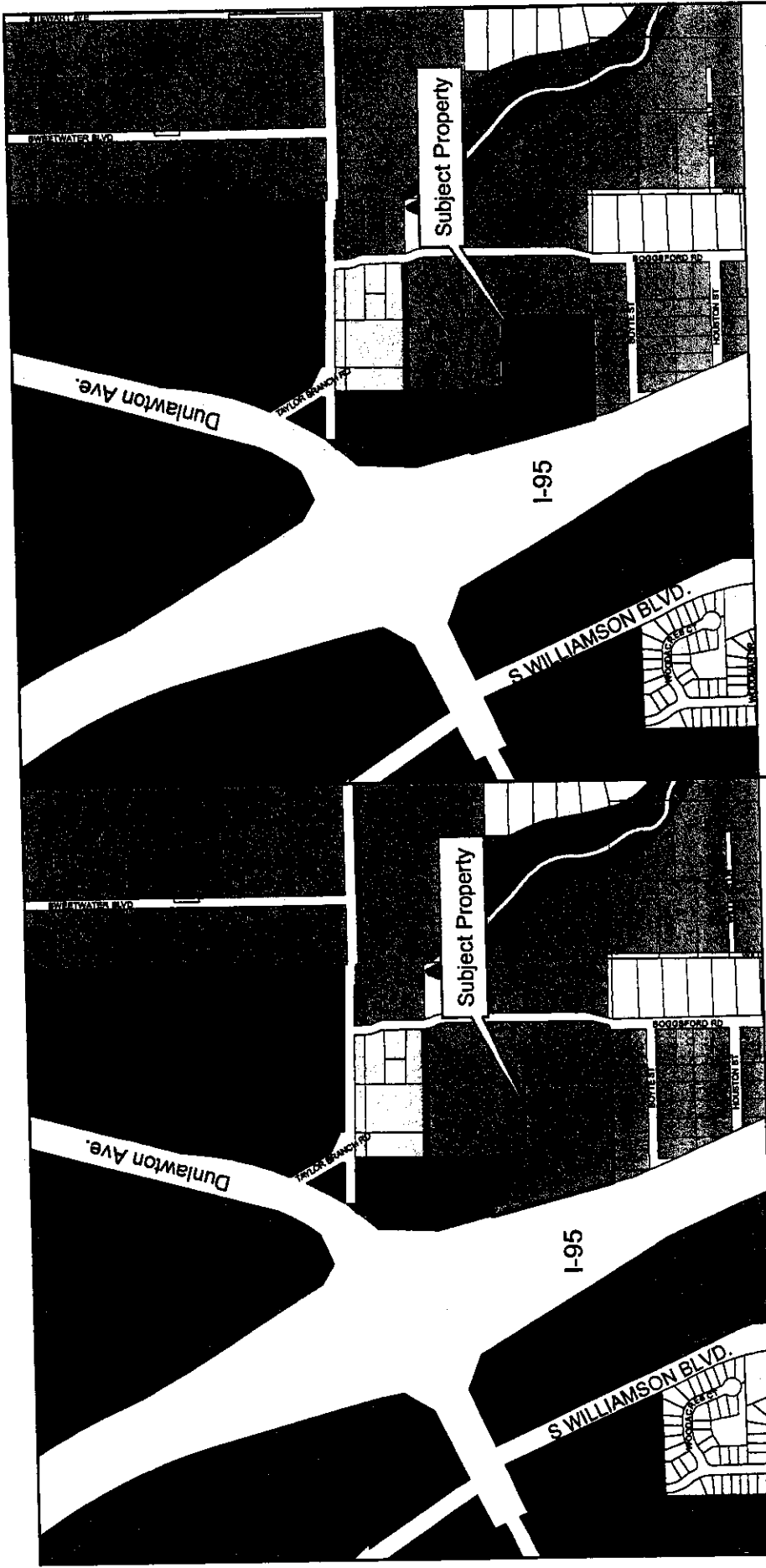
**FUTURE LAND USE**  
**DEPARTMENT OF COMMUNITY DEVELOPMENT**

**Proposed FLU**

- Public/Quasi Public
- Conservation
- Agriculture/Residential 0-2 Units/Acre
- Suburban Residential 2-4 Units/Acre
- Urban Low Density Residential 4-8 Units/Acre
- Office/Residential Transition
- Commercial

**Current FLU**

- Public/Quasi Public
- Conservation
- Agriculture/Residential 0-2 Units/Acre
- Suburban Residential 2-4 Units/Acre
- Urban Low Density Residential 4-8 Units/Acre
- Office/Residential Transition
- Commercial

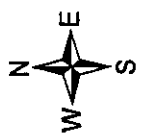


**Current Zoning**

- F-C Flood Plain-Conservation
- A Agriculture
- RR Rural Residential
- R-2D Two Family Residential
- PCD Planned Commercial Development
- PO Professional Office
- ICD Interchange Commercial District

**Proposed Zoning**

- F-C Flood Plain-Conservation
- A Agriculture
- RR Rural Residential
- R-2D Two Family Residential
- PCD Planned Commercial Development
- PO Professional Office
- ICD Interchange Commercial District



REZONING 07-20000004

EXHIBIT "C"

**DEPARTMENT OF COMMUNITY DEVELOPMENT**