



March 17, 2011		AGENDA ITEM		Item 07
<input checked="" type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input type="checkbox"/> Budget Resolution
<input checked="" type="checkbox"/> Other				
Department: Growth and Resource Management		File Number: VC-1299007944910-A		
Division: Planning and Development				
Subject: Ordinance No. 2011-06. Second public hearing for ordinance amending the zoning code to define sweepstakes center, to include them as a permitted principal use in B-3, B-4, and B-5 zoning classifications, and to establish conditions for approval.				
Account Number(s): N/A				
Total Item Budget: N/A				
Staff Contact(s): Kelli McGee, Acting Director of Growth & Reource Management Phone: (386)736-5959 ext. 2000				
Summary/Highlights: On November 18, 2010, county council directed staff to draft an ordinance regulating sweepstakes centers. This ordinance provides for a new definition of sweepstakes centers and proposes them as a permitted principal use in the B-3, B-4, and B-5 zoning classifications with the following conditions: 1. They are not located within a Thoroughfare Overlay Zone. 2. They are not located within 1,000 feet of a house of worship, school, park, or day care center. There are existing sweepstakes centers located within unincorporated Volusia County. While not specifically defined as a use within the zoning code, the county has previously				
Recommended Motion: Adopt.				
Kelli McGee1, Interim Director Growth and Resource Management <i>No Signature Present</i> Kelli McGee Director Planning and Development <i>No Signature Present</i>	OMB Approved as to Budget Requirements	Legal  Approved as to Form and Legality	Betty Holness County Manager's Office  Approved Agenda Item For: March 17, 2011	
Council Action:		Modification:		
<input type="checkbox"/> Approved as Recommended <input type="checkbox"/> Approved With Modifications <input type="checkbox"/> Disapproved <input type="checkbox"/> Continued Date:				

Summary/Highlights Continued:

classified and approved these businesses as either a game room or retail sales/service. Game rooms and retail sales/service are permitted principal uses in only the B-3, B-4, and B-5 zoning classifications. The addition of sweepstakes centers as a new use in these zoning classifications could be compatible. The limitations on sweepstakes centers' proximity to houses of worship and children's areas will make a few of the existing centers nonconforming uses. Those existing operations will then be regulated by the nonconforming use provisions of the zoning code.

On February 8, 2011, the PLDRC voted to forward the ordinance to county council for adoption. No one from the public spoke for or against the ordinance.

The first public hearing was held on March 3, 2011. A second public hearing is required because this ordinance amends the proposed uses of certain zoning classifications.

Attachments:

1. Proposed Ordinance No. 2011-06
2. PLDRC package
3. February 8, 2011 PLDRC minutes

1 sale of a consumer product or service, sweepstake or game promotion that, with
2 or without payment of consideration, a person may enter to win or become
3 eligible to receive anything of value from a predetermined finite pool of entries,
4 determination of which is dependent on any element of chance. This definition
5 does not include amusement games or machines described in §849.161, Florida
6 Statutes, as amended, or business licensed under Chapter 550, Florida Statutes.

7 ...

8 **SECTION II:** Chapter 72, article II, division 7, section 72-241, of the Code
9 of Ordinances, County of Volusia is amended to read as follows:

10 **Sec. 72-241. Classifications.**

11 ...

12 B-3 SHOPPING CENTER CLASSIFICATION
13

14 *Permitted principal uses and structures:* In the B-3 Shopping Center
15 Classification, no premises shall be used except for the following uses and their
16 customary accessory uses or structures:

17 ...

18 Sweepstakes centers (refer to subsection 72-290(12)).

19 ...

20 B-4 GENERAL COMMERCIAL
21 CLASSIFICATION
22

23 *Permitted principal uses and structures:* In the B-4 General Commercial
24 Classification, no premises shall be used except for the following uses and their
25 customary accessory uses or structures:

1 ...

2 Sweepstakes centers (refer to subsection 72-290(12)).

3 ...

4 B-5 HEAVY COMMERCIAL CLASSIFICATION

5

6 *Permitted principal uses and structures:* In the B-5 Heavy Commercial
7 Classification, no premises shall be used except for the following uses and their
8 customary accessory uses or structures:

9 ...

10 Sweepstakes centers (refer to subsection 72-290(12)).

11 ...

12 **SECTION III:** Chapter 72, article II, division 8, section 72-290, of the Code
13 of Ordinances, County of Volusia is amended to read as follows:

14 **Sec. 72-290. Additional regulations for certain permitted principal uses.**

15 The following additional regulations shall apply to specific permitted
16 principal uses in all classifications where so permitted.

17 ...

18 (12) Sweepstakes Center. No sweepstakes center shall be located in a
19 thoroughfare overlay zone as defined in section 72-297(b) or within 1,000 feet of
20 a house of worship, school, park, or day care center. The distance shall be
21 measured from property line to property line, without regard to the route of travel.

22 **SECTION IV:** AUTHORIZING INCLUSION IN CODE - The provisions of
23 this ordinance shall be included and incorporated into the Code of Ordinances of
24 the County of Volusia, as additions or amendments thereto, and shall be



TO: Chairman and Members
Planning & Land Development
Regulation Commission

DATE: January 31, 2011

FROM: Becky Mendez, AICP
Senior Planning Manager

PLDRC HEARING: February 8, 2011

SUBJECT: Ordinance No. 2011-XX. An ordinance amending the zoning code to define sweepstakes center, to include them as a permitted principal use in the B3, B4, and B5 zoning classifications, and to establish conditions for approval.

SUMMARY: On November 18, 2010, county council directed staff to draft an ordinance regulating sweepstakes centers. This ordinance provides for a new definition of sweepstakes centers and proposes them as a permitted principal use in the B3, B4, and B5 zoning classifications with the following conditions:

1. They are not located within a Thoroughfare Overlay Zone.
2. They are not located within 1,000 feet of a house of worship, school, park, or day care center.

There are existing sweepstakes centers located within unincorporated Volusia County. While not specifically defined as a use within the zoning code, the county has previously classified and approved these businesses as either a game room or retail sales/service. Game rooms and retail sales/service are permitted principal uses in only the B3, B4, and B5 zoning classifications. The addition of sweepstakes centers as a new use in these zoning classifications could be compatible. The limitations on sweepstakes centers' proximity to houses of worship and children's areas will make a few of the existing centers nonconforming. Those existing operations will then be regulated by the nonconforming use provisions of the zoning code.

STAFF RECOMMENDATION: Staff recommends that the commission find the draft ordinance consistent with the comprehensive plan and forward to county council for approval.

ATTACHMENTS: Draft Ordinance No. 2011-XX
November 18, 2010 county council agenda item

ORDINANCE NO. 2011-

AN ORDINANCE OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE COUNTY OF VOLUSIA, CHAPTER 72 LAND PLANNING, ARTICLE II ZONING, DIVISION 2 DEFINITIONS AND INTERPRETATION, SECTION 72-67 DEFINITIONS, BY ADDING DEFINITION FOR SWEEPSTAKES CENTERS; BY AMENDING DIVISION 7 ESTABLISHMENT OF CLASSIFICATIONS, SECTION 72-241 CLASSIFICATIONS BY PROVIDING FOR SWEEPSTAKES CENTERS IN CERTAIN ZONING CLASSIFICATIONS; BY AMENDING DIVISION 8 SUPPLEMENTARY REGULATIONS, BY ADDING SECTION 72-290(12), RESTRICTING SWEEPSTAKES CENTERS FROM OPERATING WITHIN 1000 FEET OF A SCHOOL, OTHER GATHERING PLACE OF CHILDREN, HOUSE OF WORSHIP, OR IN A THOROUGHFARE OVERLAY ZONE AS DEFINED IN SECTION 72-297(b); PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, AS FOLLOWS:

(Words in ~~strike through~~ type are deletions; words in underscore type are additions.)

SECTION I: Chapter 72, article II, division 2, section 72-67, of the Code of

Ordinances, County of Volusia is amended to read as follows:

Sec. 72-67. Definitions.

...

Sweepstakes Center: Any premises or establishment that operates, maintains, or places into operation for use by a person on the premises any machine, computer, or other electronic or mechanical devise that is used or adapted for the

1 use to conduct or reveal results of a drawing by chance in connection with the
2 sale of a consumer product or service, sweepstake or game promotion that, with
3 or without payment of consideration, a person may enter to win or become
4 eligible to receive anything of value from a predetermined finite pool of entries,
5 determination of which is dependent on any element of chance. This definition
6 does not include amusement games or machines described in §849.161, Florida
7 Statutes, as amended, or business licensed under Chapter 550, Florida Statutes.

8 ...

9

10 **SECTION II:** Chapter 72, article II, division 7, section 72-241, of the Code of
11 Ordinances, County of Volusia is amended to read as follows:

12 **Sec. 72-241. Classifications.**

13 ...

14 B-3 SHOPPING CENTER CLASSIFICATION
15

16 *Permitted principal uses and structures:* In the B-3 Shopping Center
17 Classification, no premises shall be used except for the following uses and their
18 customary accessory uses or structures:

19 ...

20 Sweepstakes centers (refer to subsection 72-290(12)).

21 ...

22 B-4 GENERAL COMMERCIAL
23 CLASSIFICATION
24

1 a house of worship, school, park, or day care center. The distance shall be
2 measured from property line to property line, without regard to the route of
3 travel.

4
5 **SECTION IV: AUTHORIZING INCLUSION IN CODE** - The provisions of
6 this ordinance shall be included and incorporated into the Code of Ordinances of
7 the County of Volusia, as additions or amendments thereto, and shall be
8 appropriately renumbered to conform to the uniform numbering system of the
9 code.

10 **SECTION III: SEVERABILITY** - Should any word, phrase, sentence,
11 subsection or section be held by a court of competent jurisdiction to be illegal,
12 void, unenforceable, or unconstitutional, then that word, phrase, sentence,
13 subsection or section so held shall be severed from this ordinance and all other
14 words, phrases, sentences, subsections, or sections shall remain in full force and
15 effect.

16 **SECTION IV: CONFLICTING ORDINANCES** - All ordinances, or part
17 thereof, in conflict herewith are, to the extent of such conflict, repealed.

18 **SECTION V: EFFECTIVE DATE** - A certified copy of this Ordinance shall
19 be filed with the Department of State by the County Manager within ten (10) days
20 after enactment by the County Council and this Ordinance shall take effect upon
21 filing with the Department of State.

22 ADOPTED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY,
23 FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE COUNTY
24 COUNCIL CHAMBERS AT THE THOMAS C. KELLY ADMINISTRATION

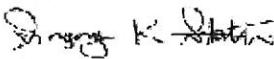


1 CENTER, 123 WEST INDIANA AVENUE, DELAND, FLORIDA, THIS ____ DAY
2 OF _____ A.D., 2011.

3
4
5
6
7
8
9

ATTEST: COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

10 _____
James T. Dinneen, County Manager Frank T. Bruno, Jr., County Chair

DRAFT

November 18, 2010		AGENDA ITEM		Item 07
<input type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input type="checkbox"/> Budget Resolution
<input checked="" type="checkbox"/> Other				
Department: Growth and Resource Management		File Number: VC-1288193282902-A		
Division: Planning and Development				
Subject: Discussion on zoning regulation of sweepstake and game promotions in Volusia County.				
Account Number(s): N/A				
Total Item Budget: N/A				
Staff Contact(s): Gregory K. Stubbs, AICP, Director Growth and Resource Management Phone: 736-5959 ext. 2000				
Summary/Highlights: On September 30, 2010, and October 7, 2010, county council requested additional information on the county's regulation of sweepstake and game promotion business. Recently, the cities of Orange City and Deltona passed a moratorium on these types of business until additional information could be gathered. The county's zoning code does not have a definition for this specific business. If a use is not expressly permitted in a zoning classification, then it is not allowed unless it is substantially similar to another use otherwise permitted (Section 72-172, Code of Ordinances). In applying this test, staff would consider the following two principal uses as				
Recommended Motion: Council direction.				
Gregory Stubbs Director Growth and Resource Management  Kelli McGee Director Planning and Development No Signature Present	OMB Approved as to Budget Requirements	Legal  Approved as to Form and Legality	Betty Holness County Manager's Office  Approved Agenda Item For: November 18, 2010	
Council Action: <input checked="" type="checkbox"/> Approved as Recommended <input type="checkbox"/> Approved With Modifications <input type="checkbox"/> Disapproved <input type="checkbox"/> Continued Date:		Modification: Come back with an ordinance that identifies a 1,000-foot separation (following the City of Ormond Beach ordinance) from youth activities & churches and schools and exclude them out of approved gateways to cities		

Summary/Highlights Continued:

substantially similar to sweepstake and game promotions:

1. Gamerooms or arcades for pool, billiards, pinball machines, jukeboxes or other coin operated amusements.
2. Retail sales and service.

Both of these uses are permitted principal uses in the B3, B4 and B5 zoning classifications, and in any BPUD that allows retail sales and service. To date, staff has issued four (4) Business Tax Receipts (BTR) in unincorporated Volusia County for sweepstake/game promotion uses. At this time staff is not aware of the location of any of these types of establishments that have been approved within any of the cities. Staff surveyed the cities within Volusia County to determine local regulations and summarized this information in the attached table.

Staff seeks council direction on defining this use in the code and direction regarding appropriate zoning classifications.

Attachments:

1. B3, B4, and B5 zoning location by council district
2. City regulation summary table
3. City land development codes and ordinances

**County Council of Volusia County, Florida
MINUTES
NOVEMBER 18, 2010**

COUNCIL MEMBERS:		STAFF:
Frank T. Bruno, Jr.	County Chair	James T. Dinneen, County Manager
Joie Alexander	At-Large	Daniel D. Eckert, County Attorney
Andy Kelly	District 1	Mary Anne Connors, Deputy County Manager
Joshua J. Wagner	District 2	Charlene Weaver, Deputy County Manager
Jack H. Hayman	District 3	Betty J. Holness, Community Outreach Manager
Carl G. Persis	District 4	Marcy A. Zimmerman, Deputy Clerk
Patricia Northey	District 5	Camilla Grasso, Recording Secretary
		Karen Yaris, Administrative Aide

...
PUBLIC HEARINGS AND OTHER TIME CERTAIN MATTERS

11:00 a.m.

Item 7

Discussion on zoning regulation of sweepstake and game promotions in Volusia County
Staff Contact: Gregory Stubbs, 386-822-5013, ext. 2000 VC-1288193282902

Growth and Resource Management Department Director Greg Stubbs gave the staff report and displayed overhead area maps showing the location of the four existing sweepstake/game promotion/retail sales and service establishments in the unincorporated County area. They were permitted uses in the B-3, B-4 and B-5 zoning classifications. Mr. Stubbs also displayed a spreadsheet comparing the cities' regulations on such uses with the County's. He noted the City of DeBary was the most restrictive, allowing such uses only in its Light Industrial classification. The definitions and regulations were different among all the cities and the County.

Council Member Northey said she had requested the report simply to ensure that the County had zoning regulations similar to those of the cities. She did not want rejections by the cities to end up in the County. She preferred seeing such uses in an Industrial zoning classification, but apparently only DeBary had opted for that. She also liked what Ormond Beach had done in requiring a 1,000-foot distance separation from any school, house of worship or youth activity building.

John Stockham, Planner III, displayed slides of the Future Land Use Map and pointed out areas where Industrial uses were permitted. Some Council discussion followed. Chair Bruno thought city gateways should be addressed and said the question was if the Council should proceed on a particular zoning regulation for such an operation. Council Member Hayman felt the cities should lead the way for the County, but felt in the County such uses should ideally be in a business or commercial classifications. Council Member Kelly also liked the approach Ormond Beach had used as well as the gateway placement idea, as decided by the city in question. The city's wishes had to be respected.

Council Member Northey moved to DIRECT staff to return with an ordinance for sweepstake/game promotion/retail sales and service establishments providing for a 1,000-foot distance separation from any school, house of worship or youth activity building and that the ordinance also EXCLUDE such a use in approved gateways existing between the County and the cities. Council Member Kelly seconded the motion, which CARRIED 6-0, with Council Member Alexander absent due to a death in the family.

Excerpt from the minutes of the PLDRC meeting of February 8, 2011. These minutes have not been approved by the PLDRC, and are therefore subject to change.

1 **PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION**
2 **PUBLIC HEARING HELD**
3 **February 8, 2011**
4

- 5 1. Proposed Ordinance No. 2010-XX regarding sweepstakes center
6 Ian A. Williams, Assistant County Attorney, Legal Services

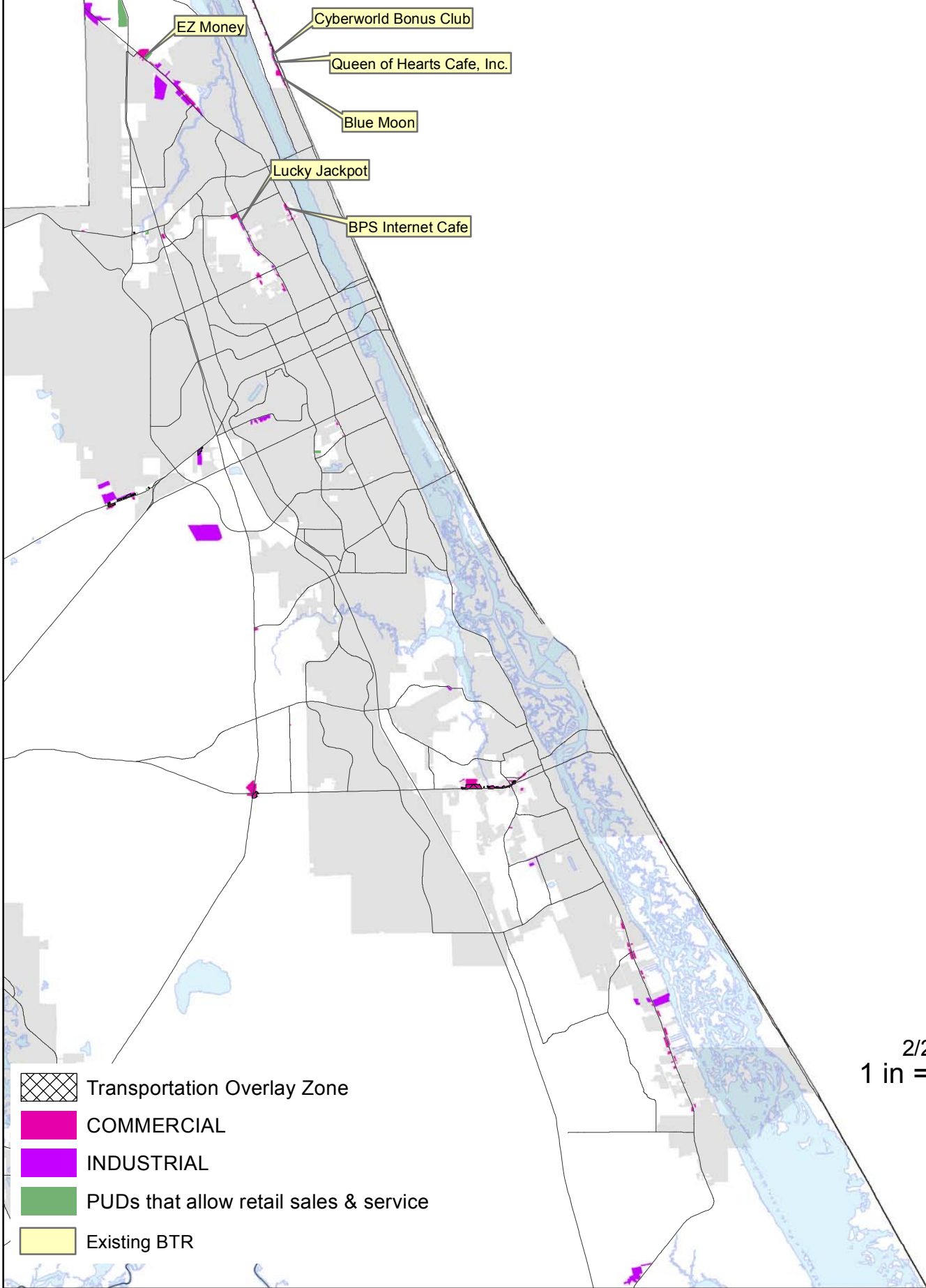
7
8 Ian Williams, Assistant County Attorney, commented that on page 1 line 39 the word
9 “divise” should be “device” and on page 3 line 23 the word “the” should be “a”.

10
11 There was discussion regarding state law regarding sweepstakes machines and the
12 effects on existing establishments.

13
14 No public participation.

15
16 **Member Russell moved to forward the proposed ordinance to county council**
17 **finding it consistent and recommending adoption. Member Sixma seconded**
18 **the motion. Motion carried unanimously 6 to 0.**
19

Volusia County Sweepstakes Center Locations East



EZ Money

Cyberworld Bonus Club

Queen of Hearts Cafe, Inc.

Blue Moon

Lucky Jackpot

BPS Internet Cafe



Transportation Overlay Zone



COMMERCIAL



INDUSTRIAL



PUDs that allow retail sales & service

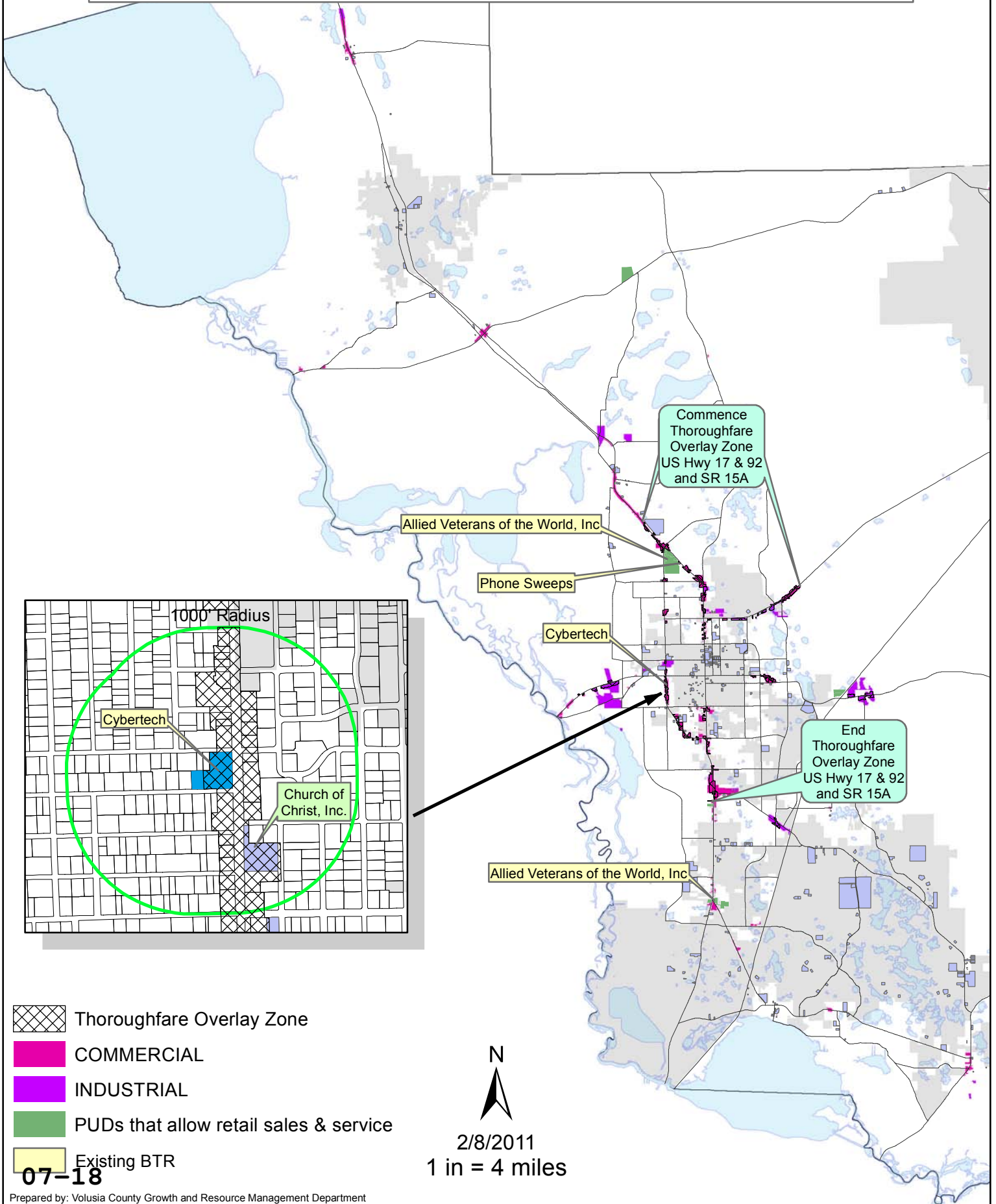







Existing BTR



2/2/2011
1 in = 4 miles

Volusia County Internet/Sweepstakes Center Locations West



-  Thoroughfare Overlay Zone
-  COMMERCIAL
-  INDUSTRIAL
-  PUDs that allow retail sales & service
-  Existing BTR

07-18

N
 2/8/2011
 1 in = 4 miles