



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.4.

10/24/2023

Subject:

Public Hearing: Amendment to Chapter 62, Article I, Section 62-2, "Rules of construction and definitions," Brevard County Code of Ordinances, to add a definition of "Major Transit Stop," in order to comply with Chapter 2023-17, Laws of Florida (Live Local Act)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

Staff is requesting the Board approve the attached Ordinance Amendment, in order to comply with Chapter 2023-17, Laws of Florida (Live Local Act).

Summary Explanation and Background:

On March 29, 2023, the "Live Local Act" (CS/SB 102) was signed into law by Governor DeSantis. This Act is designed to facilitate and encourage the development of affordable housing. Among many other requirements for local governments, the Act amends Section 125.01055, Florida Statutes, to state that "... a county must consider reducing parking requirements for a proposed development authorized under this subsection if the development is located within one-half mile of a major transit stop, as defined in the county's land development code, and the major transit stop is accessible from the development. ..."

The County's Land Development Code (i.e., Chapter 62, Brevard County Code of Ordinances) does not include a definition of "major transit stop." There are also no contextually relevant definitions in Florida Statutes. On September 12, the Board of County Commissioners considered legislative intent and permission to advertise an amendment to add such a definition. **The proposed definition is intended to be utilized for the limited purpose of determining when the County must consider reduced parking requirements pursuant to the Live Local Act. It is not a limitation on the utilization of other parts of the Act, such as approval of enhanced density.**

Staff had initially developed a definition modeled from the Florida Department of Transportation's definition of "transit center." This definition was considered by the Building Construction Advisory Committee ("BCAC"), which unanimously recommended approval of the Ordinance Amendment. This version of a potential definition is presented as "Option A" below and in the file name of the corresponding attached Ordinance Amendment. Subsequent to this, the Planning and Zoning Board/Local Planning Agency recommended expanding the definition to include all bus stops operated by Brevard County Transit. A definition meeting this recommendation is presented as "Option B" below and in the file name of the corresponding attached

Ordinance Amendment.

For purposes of the Live Local Act, those “major transit stops” that are within municipalities may still be used to qualify a development for reduced parking requirements, if the eligible development is in an unincorporated area within ½ mile from such stop. However, the definition would not apply to those developments within municipalities; cities are free to create their own definitions as they see fit.

It should be noted that this definition is designed to work in conjunction with procedures for implementing the Live Local Act. Its addition to the Code does not preclude a developer from utilizing existing tools including, but not limited to, reduced parking requirements obtained through parking accumulation studies (Sec. 62-3206, Brevard County Code of Ordinances) and affordable or workforce housing incentives (Sec. 62-6310).

As this Ordinance modifies Chapter 62 of the Brevard County Code of Ordinances, “Land Development Regulations,” the amendment, if adopted by the Board would not become effective within the Area of Critical State Concern until review by Florida Commerce, pursuant to Florida Law.

Option A: Adopt attached Ordinance Amendment with staff-proposed definition of “major transit stop,” as modeled after the Florida Department of Transportation’s definition of “transit center.”

Option B: Adopt attached Ordinance Amendment as recommended by the Planning and Zoning Board/Local Planning Agency, which would have the effect of qualifying all bus stops operated by Brevard County Transit as a “major transit stop.”

Clerk to the Board Instructions:

Once ordinance is filed with the State, please return two copies to Planning & Development.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

October 30, 2023

Honorable Rachel M. Sadoff
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2023-28, which was filed in this office on October 26, 2023.

Sincerely,

Anya Owens
Administrative Code and Register Director

ACO/wlh



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

October 25, 2023

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: Billy Prasad

RE: Item G.4., Public Hearing for Amendment to Chapter 62, Article I, Section 62-2 Rules of Construction and Definitions, Brevard County Code of Ordinances, to add a Definition of Major Transit Stop, in Order to Comply With Chapter 2023-17, Laws of Florida

The Board of County Commissioners, in regular session on October 24, 2023, conducted the public hearing and adopted Ordinance No. 23-28, amending Chapter 62, Article I, Section 62-2, Rules of Construction and Definitions, to add a definition of "Major Transit Stop," as modeled after the Florida Department of Transportation's definition of "Transit Center," in order to comply with Chapter 2023-17, Laws of Florida. Enclosed are two fully-executed Ordinances.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell".

Kimberly Powell, Clerk to the Board

Encls. (2)

ORDINANCE NO. 2023-28 _____

AN ORDINANCE AMENDING CHAPTER 62, ARTICLE I, SECTION 62-2, "RULES OF CONSTRUCTION AND DEFINITIONS" TO ADD A DEFINITION OF "MAJOR TRANSIT STOP"; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, Chapter 2023-17, Laws of Florida, also referred to as the "Live Local Act," provides certain opportunities for proposed affordable housing developments; and

WHEREAS, the Live Local Act provides the County the ability to reduce parking requirements for a proposed affordable housing development under Section 125.01055, Florida Statutes, as may be amended, if said development is located within one-half mile of a major transit stop and the major transit stop is accessible from the development; and

WHEREAS, "major transit stop" is not currently defined in the County's Land Development Code; and

WHEREAS, it is the intention of the Board of County Commissioners of Brevard County, Florida, to take full advantage of the development opportunities provided for by the Live Local Act and, as a result, the addition of such a definition would help incentivize affordable housing developments in the County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strike-through indicates deletions.~~

SECTION 1. Chapter 62 Article I, Section 62-2, "Rules of construction and definitions," Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

In the construction of this chapter, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the board of county commissioners. The rules of constructions and definitions set out in this section shall not be applied to any section of this chapter which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this chapter shall be liberally construed in order that the true intent and meaning of the board of county commissioners may be fully carried out. Terms used in this chapter, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the state for such terms. In the interpretation and application of any provisions of this chapter, they shall be held

Officially filed with the Secretary of the State on October 26, 2023.

to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this chapter imposes greater restrictions upon the subject matter than the general provision imposed by this chapter, the provision imposing the greater restriction or regulation shall be deemed to be controlling. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, map, chart, summary table or illustrative table, the text shall control.

Clerk of the board of county commissioners. "Clerk of the board of county commissioners" means the clerk of the circuit court of the 18th Judicial Circuit in and for Brevard County.

State law reference(s)—Clerk of circuit court to be clerk to board of county commissioners, F.S. § 125.17.

Clerk of the circuit court and county clerk. "Clerk of the circuit court" and "county clerk" mean the clerk of the circuit court of the 18th Judicial Circuit in and for Brevard County.

Code. "Code" means the Code of Ordinances of Brevard County, Florida, as designated in section 1-1.

Computation of time. The time within which an act is to be done shall be computed as provided in the Florida Rules of Civil Procedure (RCP).

Conjunctions. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows:

- (1) *And* indicates that all the connected items, conditions, provisions or events shall apply.
- (2) *Or* indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
- (3) *Either ... or* indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

County. "County" means Brevard County, Florida.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other county officer or county employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

F.A.C. "F.A.C." means the Florida Administrative Code, as amended.

F.S. "F.S." means the latest edition of Florida Statutes, as amended.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Includes and including. "Include" and "including" shall not be construed to limit a term to the specified examples, but are intended to extend the meaning of the term to all instances or circumstances of a like kind or character.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. "Keeper" and "proprietor" mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

Major Transit Stop. A "major transit stop" means a transit stop or station located at the meeting point of two or more transit routes or lines, or of different modes of transportation. Such stop or station may be located on the street or located on property that is designed to handle the movement of transit units, such as vehicles or trains, and the boarding, alighting, and transferring of passengers between such transit units. These locations can be referred to as a transfer center when between routes; modal interchange center; intermodal transfer facility; or a hub when between modes of transportation.

May. "May" is to be construed as being permissive.

Month. "Month" means a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person or thing. The use of the plural number shall be deemed to include any single person or thing.

Oath. "Oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officer and official. Whenever reference is made to any officer or official, the reference will be taken to be to such officer or official of Brevard County, Florida.

Ordinance. "Ordinance" means any ordinance of Brevard County and all amendments thereto.

Owner. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. "Person" shall extend and be applied to individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and legal entities or combinations thereof.

Property. "Property" includes real and personal property.

Shall. "Shall" is to be construed as being mandatory.

Sidewalk. "Sidewalk" means any portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

State. "State" means the State of Florida.

Street. "Street" means any street, avenue, boulevard, road, alley, viaduct or other public highway in the county.

Tenant and occupant. "Tenant" and "occupant," as applied to a building or land, include any person holding a written or oral lease of or occupying the whole or part of such building or land, either alone or with others.

Week. "Week" means seven days.

Written and in writing. "Written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. "Year" means a calendar year, unless a fiscal year is indicated.

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 3. Severability. 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 4. Area Encompassed. This Ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this Ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.


DONE, ORDERED, AND ADOPTED, in regular session, this 24th Day of October, 2023.

Attest:


Rachel M. Sadoff, Clerk of Court

(S E A L)

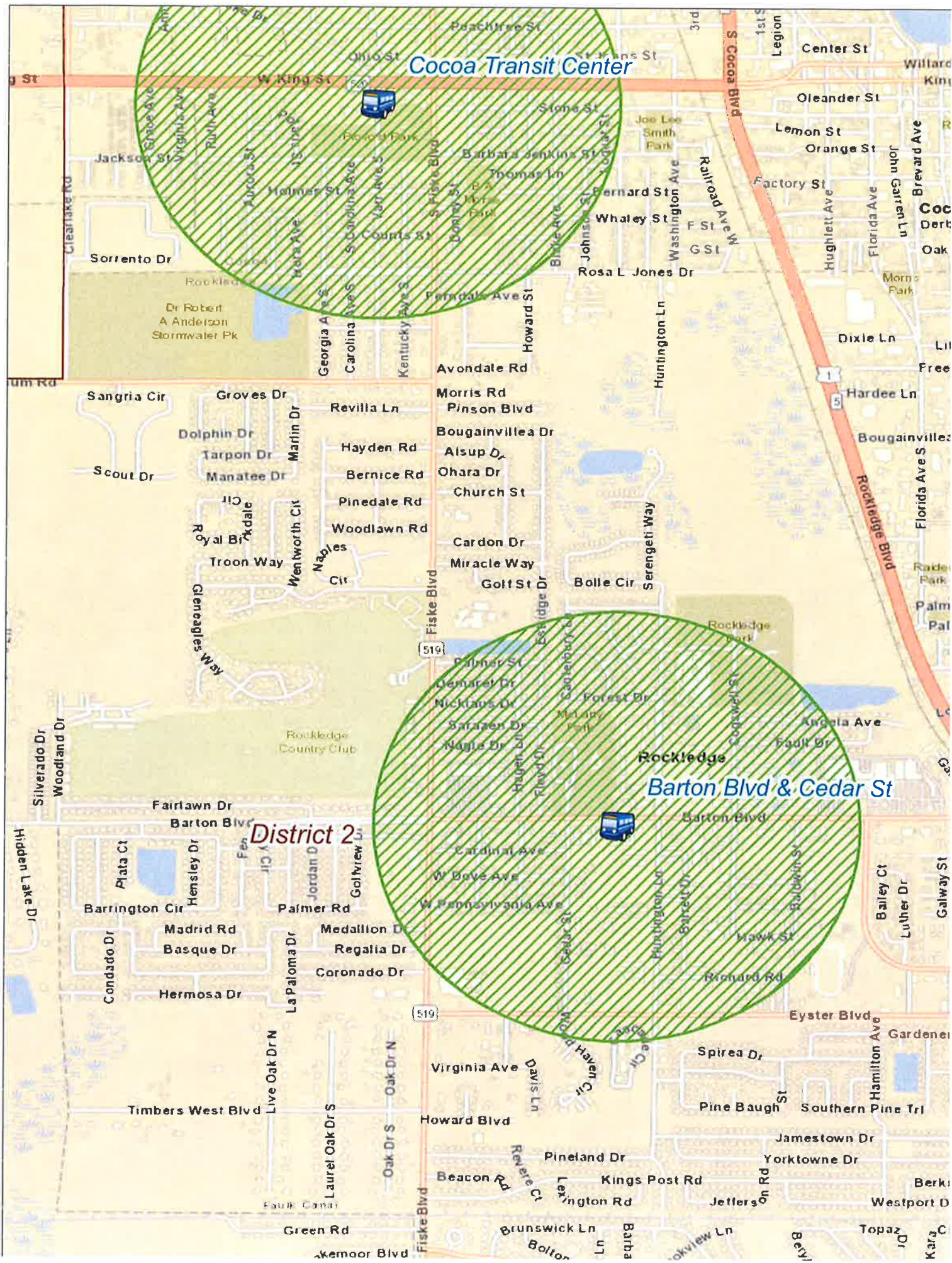
BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

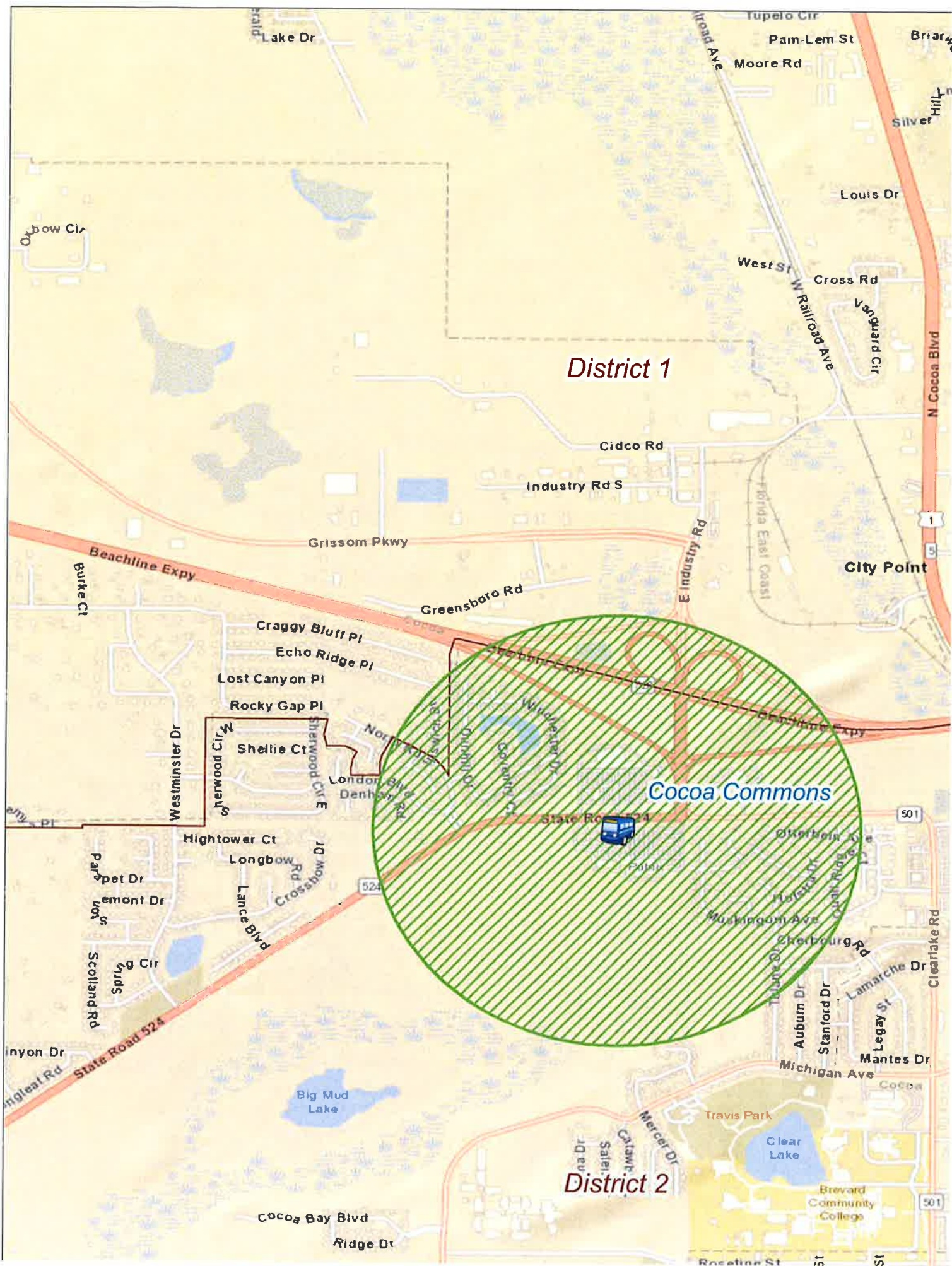

Rita Pritchett, Chair
(as approved by the Board on October 24, 2023)

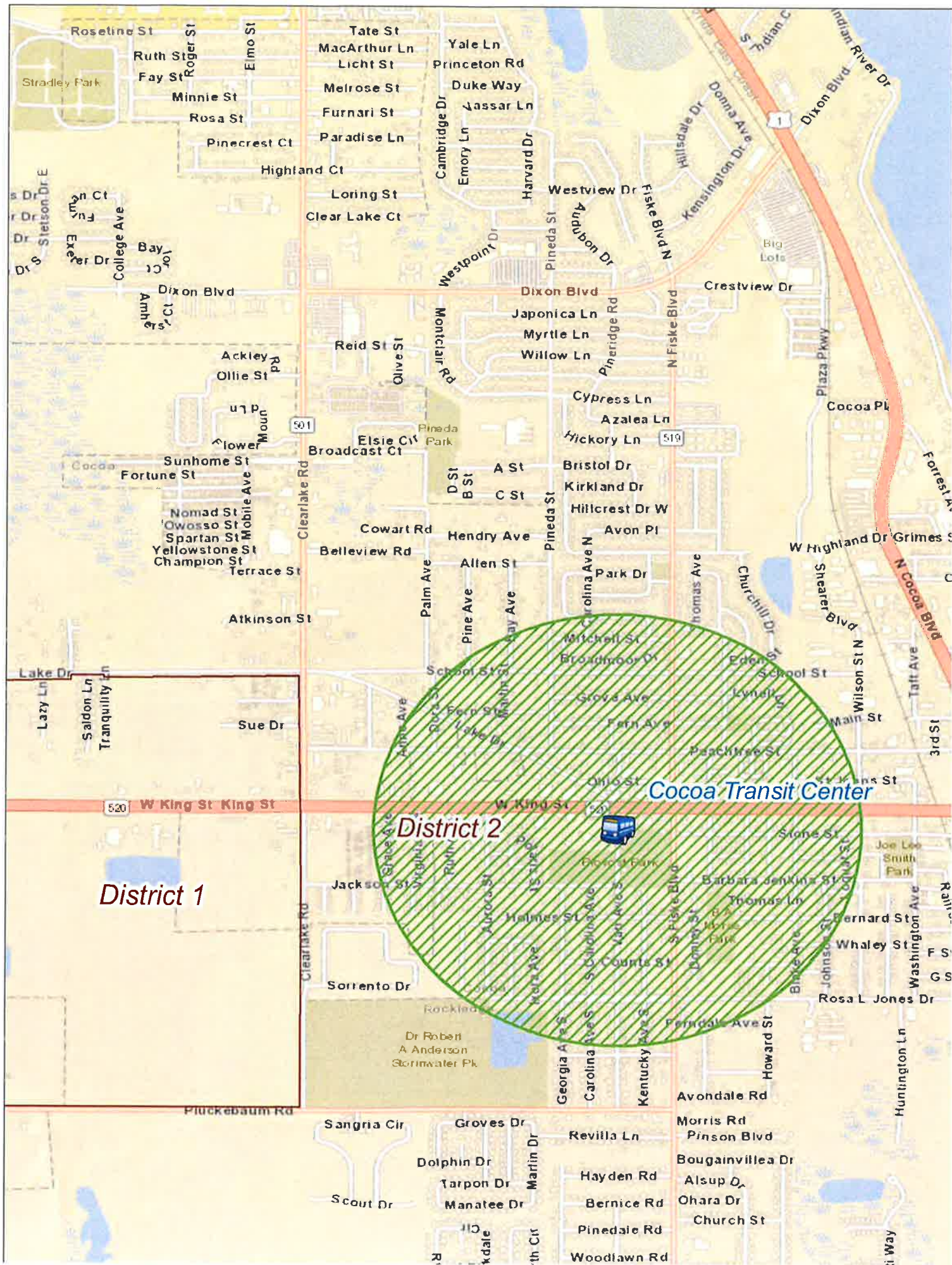
Cocoa Transit Center

Barton Blvd & Cedar St

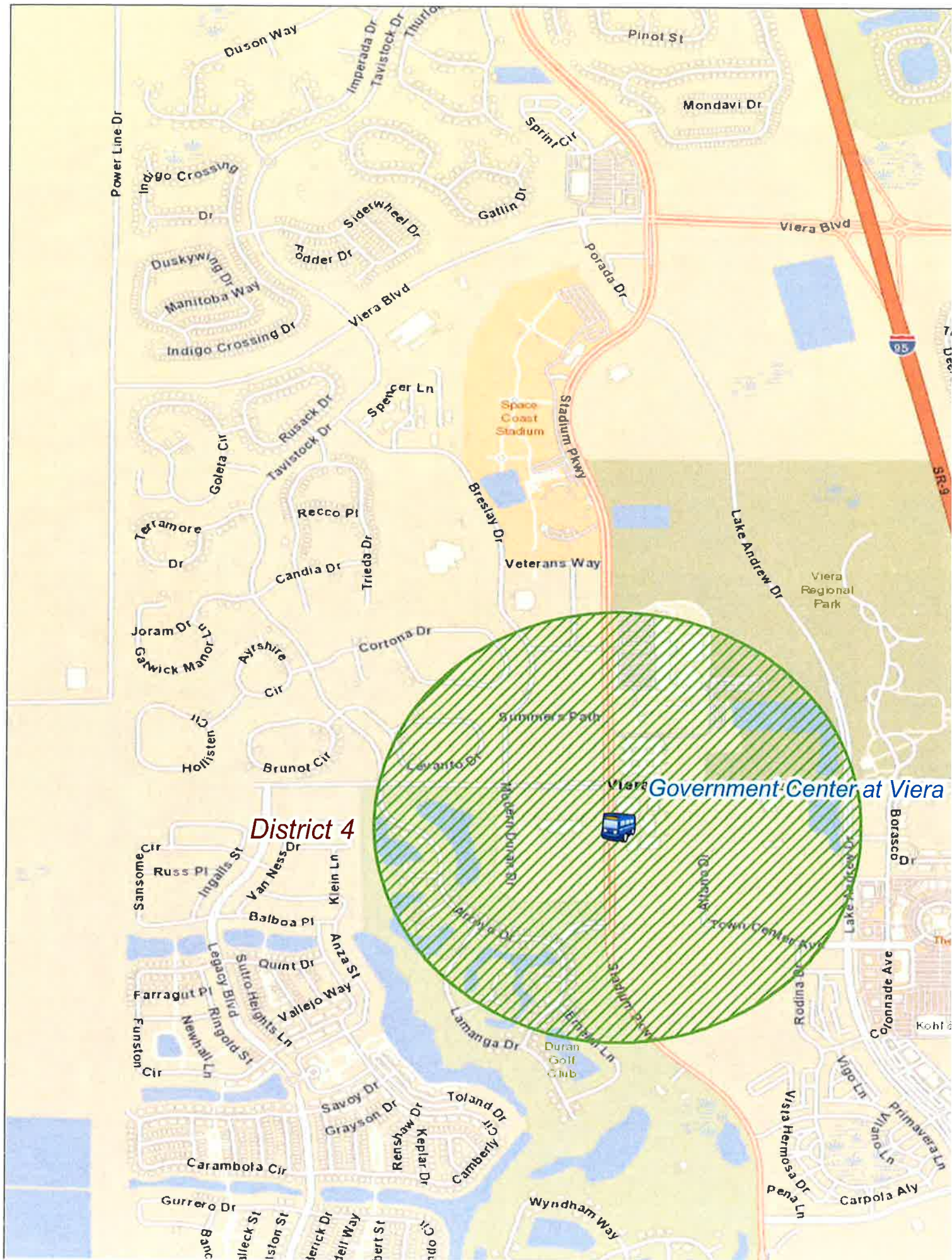
District 2





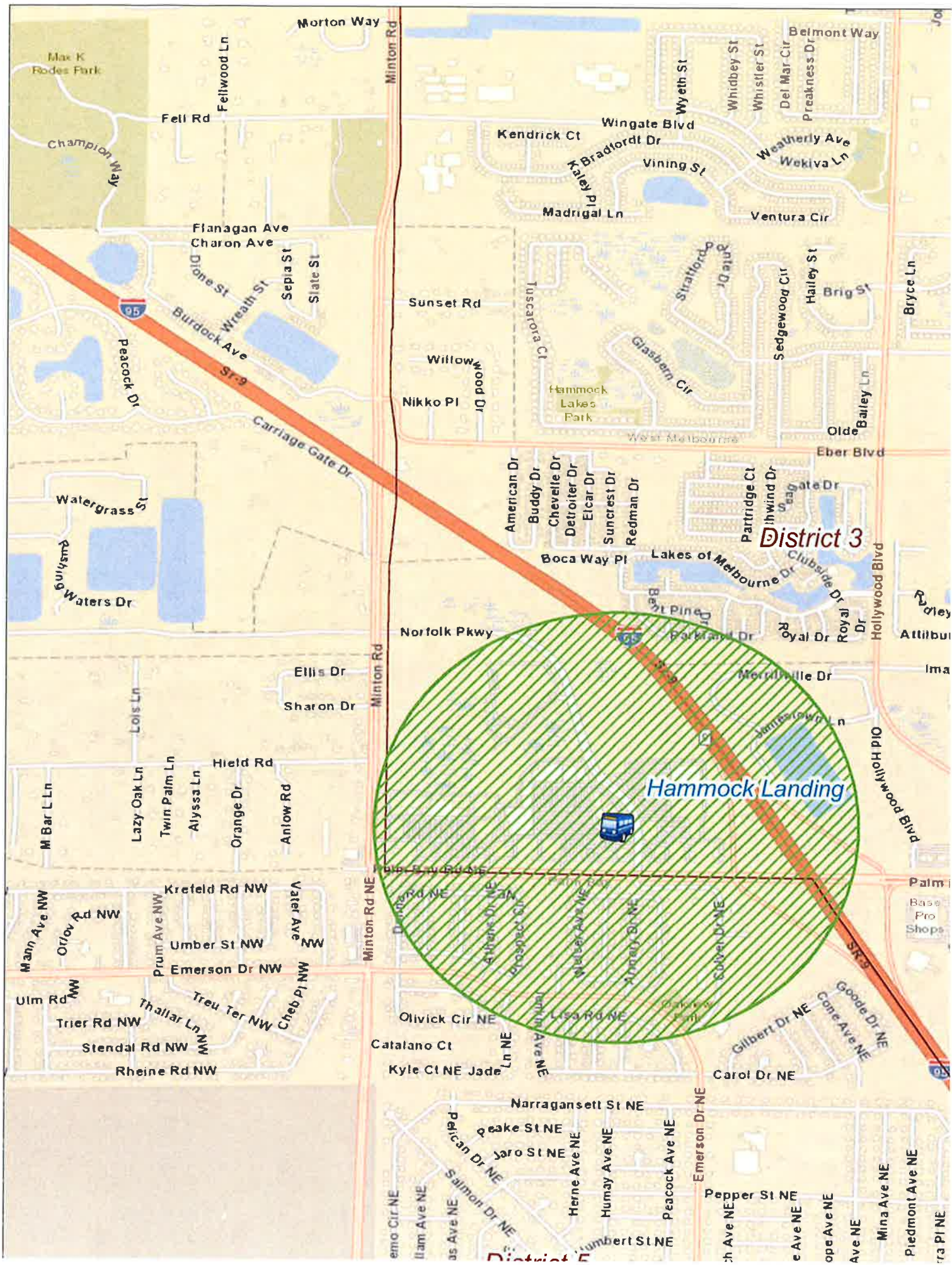






District 4

Viera Government Center at Viera



District 4

Eau Gallie

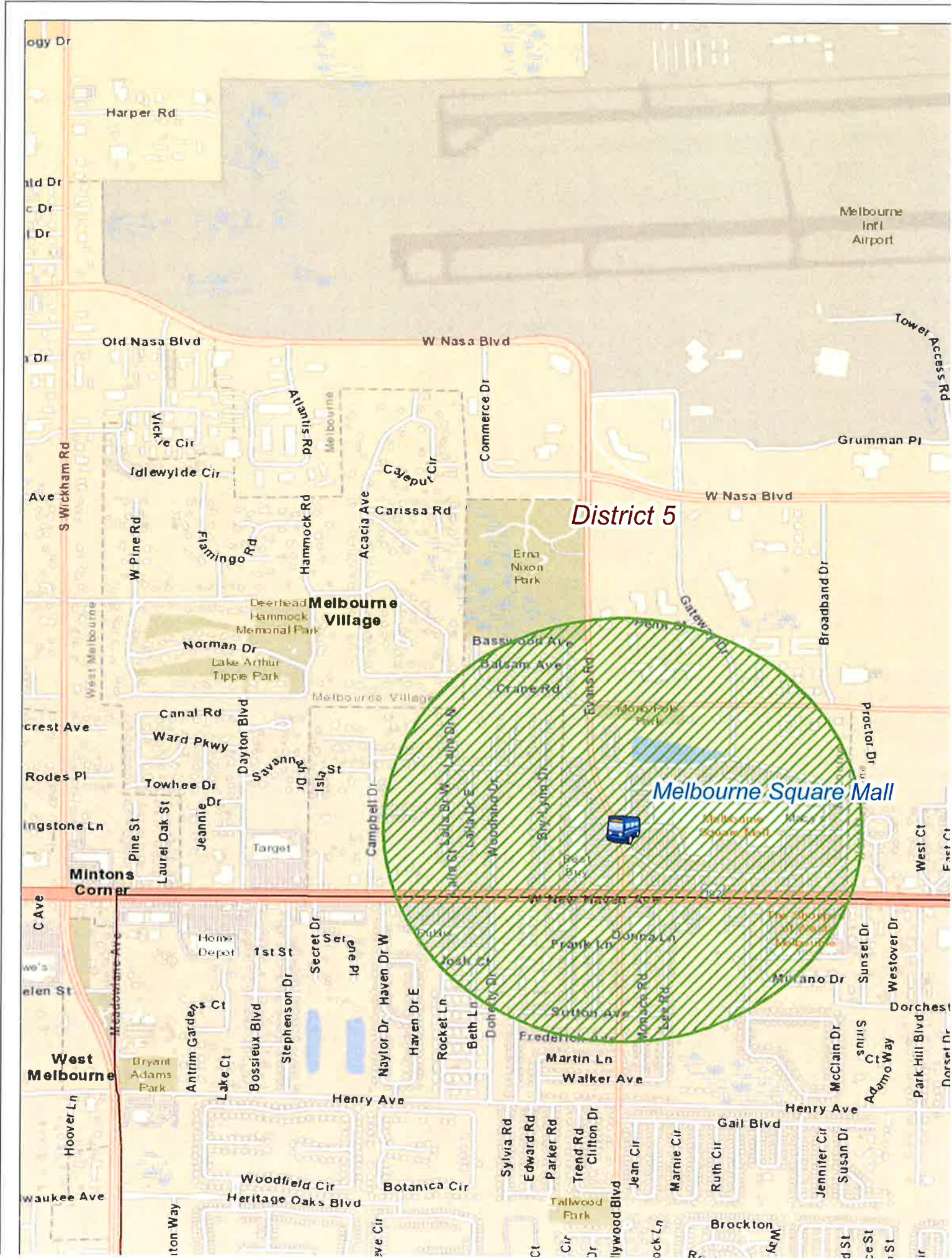
Eau Gallie River

Melbourne International Airport

District 5

Melbourne Intl Airport





District 5

Melbourne Village

Melbourne Square Mall

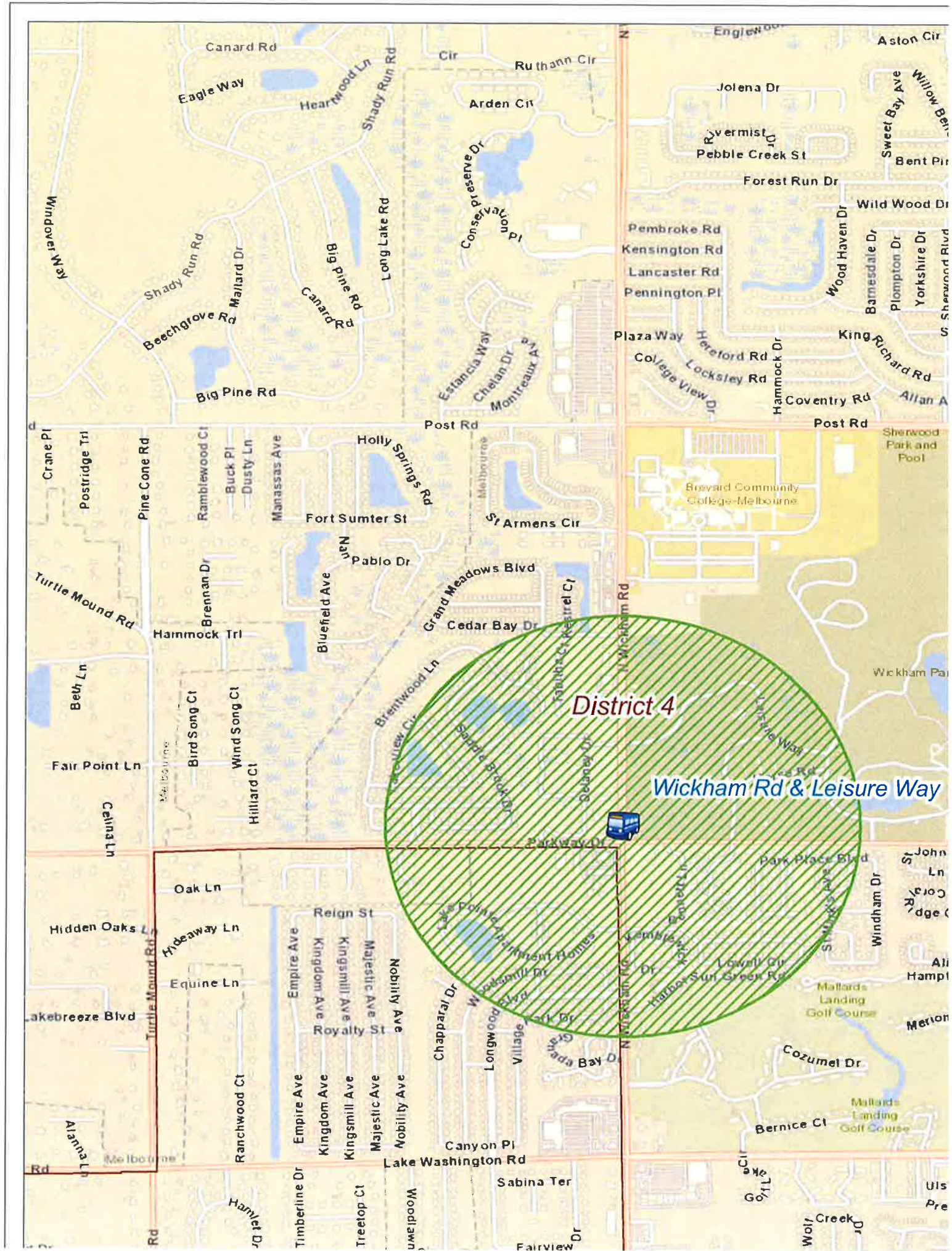












ORDINANCE NO. 2023-_____

The Board
Adopted Option A,
This is
Option B.

AN ORDINANCE AMENDING CHAPTER 62, ARTICLE I, SECTION 62-2, "RULES OF CONSTRUCTION AND DEFINITIONS" TO ADD A DEFINITION OF "MAJOR TRANSIT STOP"; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, Chapter 2023-17, Laws of Florida, also referred to as the "Live Local Act," provides certain opportunities for proposed affordable housing developments; and

WHEREAS, the Live Local Act provides the County the ability to reduce parking requirements for a proposed affordable housing development under Section 125.01055, Florida Statutes, as may be amended, if said development is located within one-half mile of a major transit stop and the major transit stop is accessible from the development; and

WHEREAS, "major transit stop" is not currently defined in the County's Land Development Code; and

WHEREAS, it is the intention of the Board of County Commissioners of Brevard County, Florida, to take full advantage of the development opportunities provided for by the Live Local Act and, as a result, the addition of such a definition would help incentivize affordable housing developments in the County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Underline indicates additions.

~~Strike-through indicates deletions.~~

SECTION 1. Chapter 62 Article I, Section 62-2, "Rules of construction and definitions," Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

In the construction of this chapter, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the board of county commissioners. The rules of constructions and definitions set out in this section shall not be applied to any section of this chapter which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this chapter shall be liberally construed in order that the true intent and meaning of the board of county commissioners may be fully carried out. Terms used in this chapter, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the state for such terms. In the interpretation and application of any provisions of this chapter, they shall be held

to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of this chapter imposes greater restrictions upon the subject matter than the general provision imposed by this chapter, the provision imposing the greater restriction or regulation shall be deemed to be controlling. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, map, chart, summary table or illustrative table, the text shall control.

Clerk of the board of county commissioners. "Clerk of the board of county commissioners" means the clerk of the circuit court of the 18th Judicial Circuit in and for Brevard County.

State law reference(s)—Clerk of circuit court to be clerk to board of county commissioners, F.S. § 125.17.

Clerk of the circuit court and county clerk. "Clerk of the circuit court" and "county clerk" mean the clerk of the circuit court of the 18th Judicial Circuit in and for Brevard County.

Code. "Code" means the Code of Ordinances of Brevard County, Florida, as designated in section 1-1.

Computation of time. The time within which an act is to be done shall be computed as provided in the Florida Rules of Civil Procedure (RCP).

Conjunctions. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows:

- (1) *And* indicates that all the connected items, conditions, provisions or events shall apply.
- (2) *Or* indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
- (3) *Either ... or* indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

County. "County" means Brevard County, Florida.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other county officer or county employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

F.A.C. "F.A.C." means the Florida Administrative Code, as amended.

F.S. "F.S." means the latest edition of Florida Statutes, as amended.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Includes and including. "Include" and "including" shall not be construed to limit a term to the specified examples, but are intended to extend the meaning of the term to all instances or circumstances of a like kind or character.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. "Keeper" and "proprietor" mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

Major Transit Stop. A "major transit stop" means all bus stops operated by Brevard County Transit Services, and any other transit stop or station located at the meeting point of two or more transit routes or lines, or of different modes of transportation.

May. "May" is to be construed as being permissive.

Month. "Month" means a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person or thing. The use of the plural number shall be deemed to include any single person or thing.

Oath. "Oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officer and official. Whenever reference is made to any officer or official, the reference will be taken to be to such officer or official of Brevard County, Florida.

Ordinance. "Ordinance" means any ordinance of Brevard County and all amendments thereto.

Owner. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. "Person" shall extend and be applied to individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups and legal entities or combinations thereof.

Property. "Property" includes real and personal property.

Shall. "Shall" is to be construed as being mandatory.

Sidewalk. "Sidewalk" means any portion of a street between the curblineline and the adjacent property line intended for the use of pedestrians.

State. "State" means the State of Florida.

Street. "Street" means any street, avenue, boulevard, road, alley, viaduct or other public highway in the county.

Tenant and occupant. "Tenant" and "occupant," as applied to a building or land, include any person holding a written or oral lease of or occupying the whole or part of such building or land, either alone or with others.

Week. "Week" means seven days.

Written and in writing. "Written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. "Year" means a calendar year, unless a fiscal year is indicated.

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

SECTION 3. Severability. 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 4. Area Encompassed. This Ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this Ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED, AND ADOPTED, in regular session, this 24th Day of October, 2023.

Attest:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk of Court

Rita Pritchett, Chair
(as approved by the Board on October 24, 2023)

(S E A L)