



# City of New Smyrna Beach

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December 18, 2016

MEMBERS OF THE LOCAL PLANNING AGENCY  
PLANNING AND ZONING BOARD  
New Smyrna Beach, Florida

THIS SHALL SERVE AS YOUR OFFICIAL NOTIFICATION of the regular meeting of the LOCAL PLANNING AGENCY AND THE PLANNING AND ZONING BOARD on MONDAY, January 4, 2016 at 6:30 P.M., in the **CITY COMMISSION CHAMBERS, 210 SAMS AVENUE**, New Smyrna Beach, Florida, for consideration of the following:

ROLL CALL

ELECTION OF CHAIR AND VICE-CHAIR

APPROVAL OF MINUTES

Regular Meetings held December 7, 2015

PUBLIC PARTICIPATION

OLD BUSINESS

- A. V-13-15: SOUTH ATLANTIC AVENUE/OVERCHUCK  
John and Natacha Overchuck, 641 Manor Road, Maitland, Florida 32751, applicants and property owners, requests approval of a variance to reduce the required front yard setback on a corner lot from 10' to 5'. The subject property consists of approximately 0.4 acres, is currently zoned R-6, Multi-Family Residential, and is located southeast of the intersection of East 16th Avenue and Hill Street. (VCPA PID # 7422-01-17-0010) (This case was continued from its previously scheduled October 5, 2015, November 11, 2015, and December 7, 2015 meetings, due to inadequate public notice by and/or request of the applicant).

NEW BUSINESS

- B. A-1-16: 1921 & 1933 SOUTH GLENCOE ROAD / 2575 ERENA DRIVE
- George and Mary Seney, 1921 South Glencoe Road, New Smyrna Beach, Florida 32168, applicant and property owners, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County Rural

to City Rural, and rezoning from Volusia County A-4, Transitional Agriculture to City A-4, Transitional Agriculture, &

- Steven L. and Rachel D Hardock, 806 Oakview Drive, New Smyrna Beach, Florida 32169, applicants and property owners, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County Rural to City Rural, and rezoning from Volusia County RA, Rural Agricultural Estate to City RA, Rural Agriculture Estate.

The subject properties consist of approximately 7.5 acres, and are generally located south of SR 44, addressed as 1921 South Glencoe Road (VCPA# 7335-00-00-0063), 1933 South Glencoe Road (VCPA# 7335-00-00-006A), and 2575 Erena Drive (VCPA# 7335-00-00-0074).

C. A-2-16: VACANT PARCEL ON ROSS LANE / 436 WARREN AVENUE

- Larry E. Buck, 1603 South Riverside Drive, New Smyrna Beach, Florida 32168, and Cynthia V. Buck, 551 Doras Lane, Bakersville, North Carolina, 28705, and Michael R. Buck, 1143 Corbin Park Road, New Smyrna Beach, Florida 32168 applicants and property owners, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County UMI, Urban Density Intensity to City MDR, Medium Density Residential and rezoning from Volusia County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential.
- Suzanne T. Palmer, 436 Warren Avenue. New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County UMI, Urban Density Intensity to City MDR, Medium Density Residential and rezoning from Volusia County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential.

The subject properties consist of approximately 0.44 acres, and are generally located on the north side of Ross Lane (VCPA# 7419-00-00-0330), and north of Canal Street addressed as 436 Warren Avenue (VCPA# 7418-01-23-0010).

D. A-3-16: 2362 MELONIE TRAIL / 2342 MELONIE TRAIL

- Robin A. Vinay, 2362 Melonie Trail, New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County Rural to City Rural, and rezoning from Volusia County A-3, Transitional Agriculture to City A-3, Transitional Agriculture.
- Jack V. Travis, 2342 Melonie Trail, New Smyrna Beach, Florida 32168, , applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County Rural to City Rural, and rezoning from Volusia County A-3, Transitional Agriculture to City A-3, Transitional Agriculture.

The subject properties consist of approximately 2 acres, and are generally located east of the East Coast Railroad and north of Williams Road, addressed as 2362 Melonie Trail, (VCPA# 7340-04-00-0160) and 2342 Melonie Trail, (VCPA#7340-04-00-0170).

- E. A-4-15: 411 OLD MISSION ROAD  
Douglas J. Thompson, 400 Rush Street, New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County UMI, Urban Medium Intensity to City MDR, Medium Density Residential, and rezoning from Volusia County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property consists of approximately 0.345 acres, and is generally located south of SR 44 addressed as 411 Old Mission Road (VCPA# 7419-14-11-0040).
- F. A-5-16: 2218 DOSTER DRIVE  
Edward and Carol Fisher, 2218 Doster Drive, New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County ULI, Urban Low Intensity to City LDR, Low Density Residential, and rezoning from Volusia County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property consists of approximately 0.69 acres, and is generally located south of SR 44 addressed as 2218 Doster Drive (VCPA# 7344-03-00-0270).
- G. ZT-1-16: A-4, TRANSITIONAL AGRICULTURE ZONING DISTRICT  
The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests approval of amendments to the City's *Land Development Regulations* to create the A-4, Transitional Agriculture zoning district.
- H. S-9-15: CALLALISA PRESERVE PPL & FPL  
Patrick J. Knight, 1900 Adams Dr. E., Maitland, FL 32751, applicant and representative of property owner 524SouthPeninsula, LLC, same address, requests Preliminary & Final Plat approval for an 8 lot single family & duplex subdivision, with associated site improvements. The subject property consists of approximately 3.09 acres, is currently zoned R-4, Multi-Family Residential, and is generally located on the west side of South Peninsula Avenue between Ocean Avenue to the north and 2<sup>nd</sup> Avenue to the south, on the north and south sides of the Marker 33 entrance driveway (VCPA PID # 7416-00-00-0353).
- I. SP-8-15: BRILLIANCE ALF – US1 & WAYNE AVE / AILANI (CLASS III)  
Dr. Rajesh Ailani, PCCC of Volusia, LLC, 1055 No. Dixie Freeway, New Smyrna Beach, FL 32168, applicant and owner, requests Class III site plan

approval for the redevelopment of existing buildings for conversion into a 54 bed Assisted Living Facility (ALF) on a 1.2 acre developed site at the southeast corner of the intersection of US1 and Wayne Avenue that is zoned B3, Highway Service Business District (VCPA PID # 7441-02-00-1020).

- J. SP-19-15: RESPLENDENT MF / PORTOFINO BLVD. (CLASS III)  
Mark Dowst, P.E., 536 N. Halifax Ave., Suite 100, Daytona Beach, FL 32118, applicant and authorized representative of property owner Venetian View Ventures LLC, 1474 W 84<sup>th</sup> Street, Hialeah, FL 33014, requests Class III site plan approval for a new multi-family facility proposed for 267 units on an undeveloped 14.88 acre site. The property is within the Venetian Bay PUD zoned community, and is generally located north of Portofino Boulevard and east of Airport Road, within Tract F of Venetian Bay Ph 2 Unit 1 (VCPA # 7317-01-00-0002).
- K. V-1-16: 101 ESTHER STREET / DARRENKAMP  
Kevin C. and Terri L. Darrenkamp, 101 Esther Street, New Smyrna Beach, Florida 32169, requests approval of a variance from Land Development Regulation 803.03 to allow a 6 foot high fence in a front yard. The subject property consists of approximately 0.28 acres, is zoned R-2, Single-Family Residential, and is generally located west of North Peninsula Avenue and north of Flagler Avenue addressed as 101 Esther Street. (VCPA#7455-01-00-0991).
- L. V-2-16: 720 SOUTH DIXIE FREEWAY / SAVE A LOT  
Van Morgan of D & R Signs, 133 Thomason Avenue, Daytona Beach, Florida 32117 authorized applicant for Ozinus NSB LLC, 12481 Brantley Commons Court, Fort Myers, Florida 33907 property owner request approval of a variance of Section 604.12.G.2.b.1 to allow wall signage from the allowed 200 square feet to 310 square feet. The subject property consists of approximately 5 acres, with a 35,590 square foot commercial building and is zoned B-3, Highway Service Business District, and is generally located south of Canal Street on the west side of South Dixie Freeway addressed as 720 South Dixie Freeway. (VCPA #7444-01-00-0230)
- M. V-4-16: 124 S WALKER DR / STORCH  
Glenn D. Storch, 420 South Nova Road, Daytona Beach, FL 32114 applicant on behalf of Auto Zone LLC (Contract Purchaser) for property owners Mary K. Whitehouse, 2248 Grand Ave, Deland FL 32720; and Doyle Kennedy, 2642 Sunset Dr. New Smyrna Beach, FL 32168; requests variances to construct a new commercial building as follows:  
1. Reduce the minimum lot frontage from 300 feet to 225 feet.  
2. Increase the build-to-line from Walker Drive from 25 feet to 100-135 feet.

The subject property is zoned PUD and is in the SR 44 Corridor Overlay Zone (COZ), contains approximately 2.12 acres, and is generally located South of SR-44 and West of South Walker Drive. The property is addressed as 124 South Walker Drive (VCPA # 7343-06-00-0521 and 7343-06-00-0511/portion thereof).

COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

REPORTS AND COMMUNICATIONS BY THE STAFF

- January 2016 Development Activity Report
- Annual review of by-laws

ADJOURNMENT

Respectfully,

*Travous Dever*

Travous Dever  
Chairperson

cc: Mayor and City Commissioners  
City Manager  
City Clerk  
City Attorney  
Planning Manager  
Planners  
Members of the Press

Pursuant to Florida Statutes 286.01015, if an individual decides to appeal any decision made by the Planning & Zoning Board with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the Board Secretary listed below prior to the meeting:

Ursula Moccia, Planning and Zoning Secretary  
City of New Smyrna Beach  
210 Sams Avenue  
New Smyrna Beach, FL 32168  
(386) 424-2132

LPA / PLANNING AND ZONING BOARD  
MINUTES  
DECEMBER 7, 2015

The Local Planning Agency / Planning and Zoning Board held a regular meeting on Monday, December 7, 2015 in the City Commission Chambers, 210 Sams Avenue, New Smyrna Beach, Florida. Vice-Chairperson Steven Casserly called the meeting to order at 6:30p.m.

ROLL CALL

The following members were present:

Steven Sather  
Ian Ratliff  
Pat Arvidson  
Jamie Calkins  
Steven Casserly  
Kelly Azzinaro

Board member Travous Dever was absent. Also present were Assistant City Attorney Greg McDole; Interim Planning Manager Jeff Gove; Planner Robert Mathen; Planner Steve Bapp; Board Secretary Tammy Dickerson and members of the public.

**APPROVAL OF MINUTES**

**Motion by Ms. Arvidson, seconded by Mr. Sather, to approve the minutes of the regular November 11, 2015, Planning and Zoning Board meeting. Motion passed unanimously on a roll call vote, 6-0.**

**PUBLIC PARTICIPATION**

Mr. Casserly opened public participation.

No one from the public spoke regarding any items that were not on the agenda.

Mr. Casserly closed public participation.

**OLD BUSINESS**

A. **V-13-15: SOUTH ATLANTIC AVENUE / OVERCHUCK**

John and Natacha Overchuck, 641 Manor Road, Maitland, Florida 32751, applicants and property owners, requests approval of a variance to reduce the required front yard setback on a corner lot from 10' to 5'. The subject property consists of approximately 0.4 acres, is currently zoned R-6, Multi-Family Residential, and is located southeast of the intersection of East 16<sup>th</sup> Avenue and Hill Street. (VCPA PID # 7422-01-17-0010) *(This case was continued from its previously scheduled October 5, 2015 and November 11, 2015 meetings, due to inadequate public notice by and/or request of the applicant).*

Mr. Gove stated that the applicant would like to request a continuance for this case until the next scheduled meeting January 4, 2016. He stated the applicant was looking at doing a new design.

**Motion by Mr. Ratliff, seconded by Mr. Calkins, to continue this item to the January 4, 2015, Planning and Zoning Board meeting. Motion passed unanimously on a roll call vote, 6-0.**

B. PUD-8-15: TIMBERLANE RETAIL CENTER – SR 44

Robert Gierke, Rock RDP 3 LLC, 145 Lincoln Avenue, Suite B, Winter Park, FL 32789, applicant and authorized representative of property owner Platinum Bank, 802 W. Lumsden Road, Brandon, FL 33511, requests approval of a PUD Master Development Agreement to accompany an existing site zoning of PUD, Planned Unit Development. The subject property consists of approximately 4.5 acres and is generally located on the south side of State Road (SR) 44, between Timberlane Drive to the east and Oliver Drive to the west. (VCPA PID # 7343-06-00-0282) *continued from November 11, 2015 meeting.*

Mr. Gove reviewed staffs' findings and stated that staff recommends the Planning and Zoning Board **approve** a recommendation to the City Commission for the requested Planned Unit Development Master Development Agreement and Conceptual Development Plan, with the condition that all outstanding staff comments be addressed and those remaining Plan Review Committee member signatures be obtained, with this to be completed prior to City Commission review and approval.

Roger Rogers, Roger's Engineering, stated his name then addressed the Board. He stated that he agreed with staff's recommendation and was here for questions from the Board.

Randy Herman, 108 Esther Street, stated his name then addressed the Board. He stated that he noticed that all the massive trees were taken down for the Aldi store project. He stated that he didn't know what the plan was for this project but he would like to see the trees retained on the property.

Mr. Rogers stated that in the PUD agreement there is a statement that we will agree with both the city and county's tree preservation requirements which are pretty strict.

Mr. Ratliff stated that he noticed a scoring table on the trees in the staff report.

Mr. Gove stated that on their previous PUD and site plan application they had gone to the extra step to evaluate trees on the property. He stated that they had an arborist go on the property and score the trees which seems like an admirable goal on their part.

**Motion by Mr. Calkins, seconded by Mr. Ratliff, to recommend the City Commission approve the requested PUD, with the with the condition that all outstanding staff comments be addressed and those remaining Plan Review Committee member signatures be obtained, with this to be completed prior to City Commission review and approval. Motion passed unanimously on a roll call vote, 6-0.**

## NEW BUSINESS

- C. A-26-15: 2341 CAPTAIN BUTLER TRAIL / MARICH  
Joseph R. and Cora M. Marich, 2341 Captain Butler Trail, New Smyrna Beach, Florida 32168, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County Rural to City Rural, and rezoning from Volusia County A-3, Transitional Agriculture to City A-3, Transitional Agriculture. The subject property consists of approximately 1 acre and is generally located west of Turnbull Bay Road on the north side of Captain Butler Trail, on property addressed as 2341 Captain Butler Trail. (VCPA 7340-04-00-0140)
- D. A-27-15: 2420 SELLECK AVENUE / BRADLEY  
Kristy Bradley and Rudy Radakovich, 2420 Selleck Avenue, New Smyrna Beach, Florida 32168, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County Rural, to City Rural and rezoning from Volusia County RR, Rural Residential to City RE, Residential Estate. The subject property consists of approximately 2.5 acres and is generally located on the south of Selleck Avenue addressed as 2420 Selleck Avenue. (VCPA 7343-06-00-0092)
- E. A-28-15: 2231 DOSTER DRIVE / DUNCAN  
Bernie D. Duncan, 2231 Doster Drive, New Smyrna Beach, Florida 32168, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County ULI, Urban Low Intensity, to City LDR, Low Density Residential and rezoning from Volusia County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property consists of approximately 0.34 acres and is generally located on the north side of Doster Drive addressed as 2231 Doster Drive. (VCPA 7344-02-00-1060)
- Mr. Mathen reviewed staffs' findings and stated that staff recommended approval of the requested annexations, *Comprehensive Plan* amendments and rezonings.
- Motion by Mr. Ratliff, seconded by Mr. Casserly, to recommend the City Commission approve the requested annexations, *Comprehensive Plan* amendments, and rezonings. Motion passed unanimously on a roll call vote, 6-0.**
- F. V-28-15: 1599 TIONIA ROAD / HAZEN CONSTRUCTION LLC  
Dan Snellback, 1599 Tionia Road, New Smyrna Beach, Florida 32168, applicant for Hazen Construction LLC, 1599 Tionia Road, New Smyrna Beach, Florida 32168, request approval of a variance to *Land Development Regulation Article Six, Section 604.08 B, Building Improvements*, which states " All buildings in any business or industrial district constructed after the effective date of this ordinance shall have a building front façade made of decorative material such as brick, glass, glass block, wood, or siding, and shall not be made of aluminum, steel, vinyl siding or similar materials." The subject property is zoned I-1, Light Industry, contains approximately 3.8 acres, and is generally located west of the East Coast Railroad and south of Turnbull Bay Road, addressed as 1599 Tionia Road. (VCPA 7302-01-03-0063)

Vice-Chairman Casserly swore in Mr. Mathen. Mr. Mathen stated his qualifications and educational background and he was qualified as an expert witness. Mr. Mathen

reviewed staffs' findings and stated that staff recommended denial of the variance request because the request does not strictly meet all of the variance criteria. If the Board determines that the variance application meets of the criteria, the following conditions should be applied to the Board's approval:

1. The variance approval is only for the proposed metal accessory structure shown on the survey.
2. Storm water runoff from the proposed building must be directed to the interior of the subject property, and away from neighboring properties.
3. A building permit is obtained within 60 days of this variance approval.

Mr. Calkins asked Mr. Mathen if they only needed approval for the entrance that faces the roadway on the south side.

Mr. Mathen stated that was correct.

Mr. Sather asked if it will always be shielded by the trees or is that another lot that could be developed.

Mr. Mathen stated that is all one lot and he wasn't sure if it could be subdivided.

Mr. Calkins asked if there could be a condition on the variance that they don't reduce the landscaping between the new structure and the road.

Mr. Mathen stated that there could be.

Dan Snellback, Hazen Construction LLC, 1599 Tionia Road, was sworn in to testify then addressed the Board. He stated that they are willing to keep all the trees on the property so they would be in agreement to that condition on the variance.

Mr. Sather stated that he didn't want to impose the property owner with not being able to remove trees if they wanted to do that. He stated that he doesn't want to take an owner's property rights from them.

**Motion by Mr. Sather to recommend approval of the variance with the following conditions:**

1. **The variance approval is only for the proposed metal accessory structure shown on the survey.**
2. **Storm water runoff from the proposed building must be directed to the interior of the subject property, and away from neighboring properties.**
3. **A building permit is obtained within 60 days of this variance approval.**

**Motion withdrawn there was no second.**

**Motion by Mr. Ratliff, seconded by Mr. Calkins, to recommend approval of the variance with the following conditions:**

1. **The variance approval is only for the proposed metal accessory structure shown on the survey.**
2. **Storm water runoff from the proposed building must be directed to the interior of the subject property, and away from neighboring properties.**
3. **A building permit is obtained within 60 days of this variance approval.**
4. **No trees are to be removed as a result of this variance.**

**Motion passed unanimously on a roll call vote, 6-0.**

**G. V-29-15: 100 LINCOLN AVE / FUNK**

Robert Funk, 203 Middle Way, New Smyrna Beach, Florida 32169, applicant and property owner, requests approval of a variance to reduce the required front yard setback from 30 feet to 21 feet. The subject property is zoned R-2, Single-Family Residential, contains approximately 0.46 acres, and is generally located east of the Indian River, west of North Peninsula Avenue, on the north side of Lincoln Avenue, on property addressed as 100 Lincoln Avenue. (VCPA 7455-01-00-1190)

Vice-Chairman Casserly swore in Mr. Bapp. Mr. Bapp stated his qualifications and educational background and he was qualified as an expert witness. He stated that the application meets 4 of the 5 evaluation criteria. Due to this fact, staff recommends denial of the variance request. He stated that if the Board determines that the variance application meets all of the criteria, the following condition should be applied to the Board's approval:

1. The 21 foot front yard building setback encroachment area be limited to the portion of a single story building as shown on the submitted site plan, and per the applicant's response letter.

Mr. Calkins asked if the applicant had agreed to this condition.

Mr. Bapp stated that they did agree to the condition.

James Peterson, 418 Canal Street, stated his name then addressed the Board. He stated that his clients were under the assumption that the north and south property were the side property and the east side of the property was the front of their property where their driveway is located. He stated that we have limited the structure to one story to not impede on anyone's view.

Mr. Ratliff asked if the building was shrunk down from the previous variance request.

Mr. Funk stated that he did shrink the building down in width by 11 feet.

Mr. Herman was sworn in to testify then addressed the Board. He stated that he was one of the residents that was not in favor of the last variance request. He stated that he appreciated Mr. Peterson's emails he did a lot of fence mending and this is a good move in the right direction.

**Motion by Mr. Sather, seconded by Mr. Calkins, to approve the requested variance with the condition that the 21 foot front yard building setback encroachment area be limited to the portion of a single story building as shown on the submitted site plan, and per the applicant's response letter. Motion passed on a roll call vote, 6-0.**

NO COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

NO REPORTS AND COMMUNICATIONS BY THE STAFF

- December 2015 Development Activity Report

No discussion

- Approval of 2016 Submittal Calendars

**Motion by Ms. Arvidson, seconded by Mr. Ratliff to approve the 2016 Planning and Zoning calendar. Motion passed unanimously on roll call, 6-0.**

ADJOURNMENT

With there being no further business, the meeting was adjourned at 7:54 p.m.

# Interoffice Memorandum City of New Smyrna Beach

**To:** New Smyrna Beach Planning and Zoning Board Members  
**From:** Jeff Gove, AICP, Chief Planner  
**Subject:** Request for Continuance, Item A, V-13-15: So Atlantic Ave / Overchuck  
**Date:** December 18, 2016

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This agenda item is again being requested by staff to be continued to the following meeting, which in this case would be the February 1, 2016 meeting, due to the applicant's apparent effort to continue with an alternative plan that he has stated would not require this variance. While we have sent email inquiries regarding this case to the applicant and his representatives, we have had no responses from the applicant regarding this within recent months and will again be contacting him prior to the January meeting to discuss the current status.

In pursuing that alternative, the applicant has again not provided the required public notice mailings, and thus this case cannot be heard at the January meeting.

1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING BOARD  
2 **A-1-16: 1921 SOUTH GLENCOE ROAD / 1933**  
3 **SOUTH GLENCOE ROAD / 2575 ERENA DRIVE**  
4 **JANUARY 4, 2016**  
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6 **I. Background**  
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8 **A. Applicants and Property Owners:**

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- 10 • George and Mary Seney, 1921 South Glencoe Road, New Smyrna Beach, Florida, 32168, applicant and property owner
  - 11 • George and Mary Seney 1921 South Glencoe Road, New Smyrna Beach, Florida, 32168, applicant and property owner
  - 12 • Steven L. and Rachel D. Hardock, 806 Oakview Drive, New Smyrna Beach, Florida 32169, applicant and property owner
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16 **B. Requests:** Voluntary annexation, *Comprehensive Plan* amendment, and rezoning:

- 17 • **From:** Volusia County Future Land Use (FLU) designations of Rural Volusia County zoning designations of A-4, Transitional Agriculture and RA, Rural Agriculture Estate.
  - 18 • **To:** City FLU designations of Rural and City zoning designations of A-4, Transitional Agriculture and RA, Rural Agriculture Estate.
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24 **C. Site Information:**

- 25 • **Size:** 7.5 acres
  - 26 • **Locations:** Located at 1921 South Glencoe Road (2.5 acres), 1933 South Glencoe Road (2.5 acres), and 2575 Erena Drive (2.5 acres) (see **Exhibit A** for a location map).
  - 27 • **Tax I.D. Numbers:** 7335-00-00-0063, 7335-00-00-006A, and 7335-00-00-0074
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32 **II. Findings**

33 A. On April 23, 2013, the City Commission adopted an Interlocal Service Boundary Agreement (ISBA). The ISBA, which is permitted under Chapter 171, Part II, Florida Statutes, allows the City to annex any parcels that are within the designated annexation area, even if they are not contiguous to the current municipal boundaries. The agreement, which is between the County of Volusia and the City, was also approved by the County on May 2, 2013.

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41 B. The subject properties, which are in the annexation area covered by the ISBA, are as follows, 1921 South Glencoe Road and 1933 South Glencoe Road are each developed with a single-family residence and associated accessory uses and 2575 Erena Drive is undeveloped, An aerial view/map

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of the subject properties and surrounding area is attached as **Exhibit B**.

- C. The existing Volusia County Future Land Use (FLU) and zoning designations of the subject properties are shown on the following table. Maps showing the surrounding Future Land Use and Zoning designations are attached (as **Exhibits C and D** respectively). Text descriptions of the existing Future Land Use designations for the subject properties are attached as **Exhibit E**. The associated current zoning text descriptions for the subject properties are attached as **Exhibit F**.

Property Location	Volusia County FLU Designation	Volusia County Zoning Designation
1921 South Glencoe Road	Rural	A-4, Transitional Agriculture
1933 South Glencoe Road	Rural	A-4, Transitional Agriculture
2575 Erena Drive	Rural	RA, Rural Agriculture Estate

- D. Existing land uses are shown on the map attached as **Exhibit G**. The future land use and zoning designations for those properties surrounding the subject properties are as follows:

	North	East	South	West
<b>1921 South Glencoe Road</b>				
Future Land Use	County Rural	County Rural	County Rural	County Rural
Existing Land Use	Residential	Residential	Residential	Residential
Zoning	County R-A	County A-2	County A-4	County RA
<b>1933 South Glencoe Road</b>				
Future Land Use	County Rural	County Rural	County Rural	County Rural
Existing Land Use	Residential	Residential	Vacant	Residential
Zoning	County A-4	County A-2	County A-4	County RA
<b>2575 Erena Drive</b>				
Future Land Use	County Rural	County Rural	County Rural	County Rural
Existing Land Use	Residential	Residential	Residential	Residential
Zoning	County RA	County RA	County RA	County RA

1 E. The established City Commission policy is that when property is annexed  
2 into the City, the City will assign future land use and zoning designations  
3 that would be as similar as possible to existing County designations. The  
4 County zoning designation A-4, Transitional Agriculture does not match any  
5 current City zoning designations. Staff is proposing to create a new City  
6 zoning classification of A-4, Transitional Agriculture which would be similar  
7 to the County A-4, Transitional Agriculture. Staff will submit the new A-4,  
8 Transitional Agriculture zoning classification to the Planning and Zoning  
9 Board on January 4, 2016 for a recommendation of approval. As discussed  
10 above, the existing County FLU designations are Rural. The existing County  
11 zoning designations are A-4, Transitional Agriculture and RA, Rural  
12 Agriculture Estate. The proposed City FLU designation is Rural. The  
13 proposed City zoning designations are A-4, Transitional Agriculture and RA,  
14 Rural Agriculture Estate, which would correspond with the County's A-4 and  
15 RA classifications. The text description of the proposed City Rural  
16 designation is attached as **Exhibit H**, with a map of the proposed changes  
17 also attached as **Exhibit I**. The text description of the proposed City A-4  
18 and RA zoning designations, and a map of the proposed changes, are  
19 similarly attached as **Exhibits J** and **K** respectively.

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21 F. These annexation requests are within the City's annexation area and within  
22 the City's water and sewer service area (**Exhibit L**). The following table  
23 shows the availability of utilities to service the subject properties:  
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Property Location	Water	Sewer	Reclaim
1921 South Glencoe Road	6" line South Glencoe Road access/utility easement	Not Available	Not Available
1933 South Glencoe Road	6" line / South Glencoe Road access/utility easement	Not Available	Not Available
2575 Erena Drive	6 line / Erena Drive access/utility easement	Not Available	Not Available

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26 A map of the soil limitations for septic systems is attached as **Exhibit M**.  
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28 G. The *Land Development Regulations* requires any proposed development to  
29 conform to the Concurrency Management System. That system includes  
30 traffic, parks and recreation, potable water, wastewater treatment, solid

1 waste collection, storm water management, and public school facilities.  
2 Because 1921 South Glencoe Road and 1933 South Glencoe Road are  
3 already developed, and because no additional density is proposed for 2575  
4 Erena Drive property, staff did not prepare a concurrency analysis table for  
5 this case.

6  
7 H. There are numerous *Comprehensive Plan* maps that must be amended to  
8 incorporate the subject properties into the *Comprehensive Plan* (see  
9 **Exhibits N through Z**). A map showing the subject parcels being  
10 incorporated into City Commission Zone 4 is attached as **Exhibit AA**.

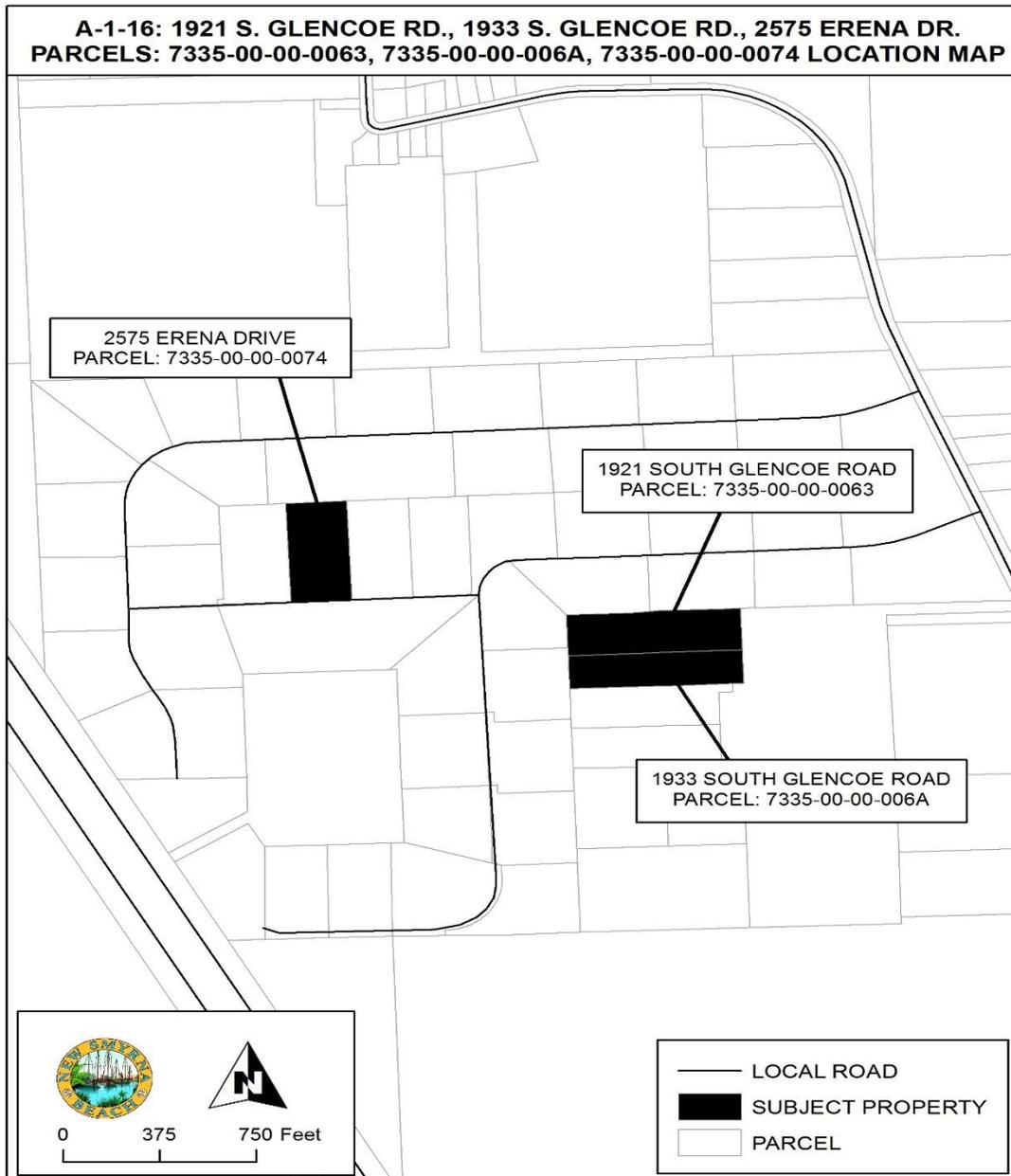
11  
12 I. The *Comprehensive Plan* provides guidance on annexations, future land  
13 use amendments, and rezoning. The following is a list of objectives in the  
14 *Comprehensive Plan* that support this proposal:

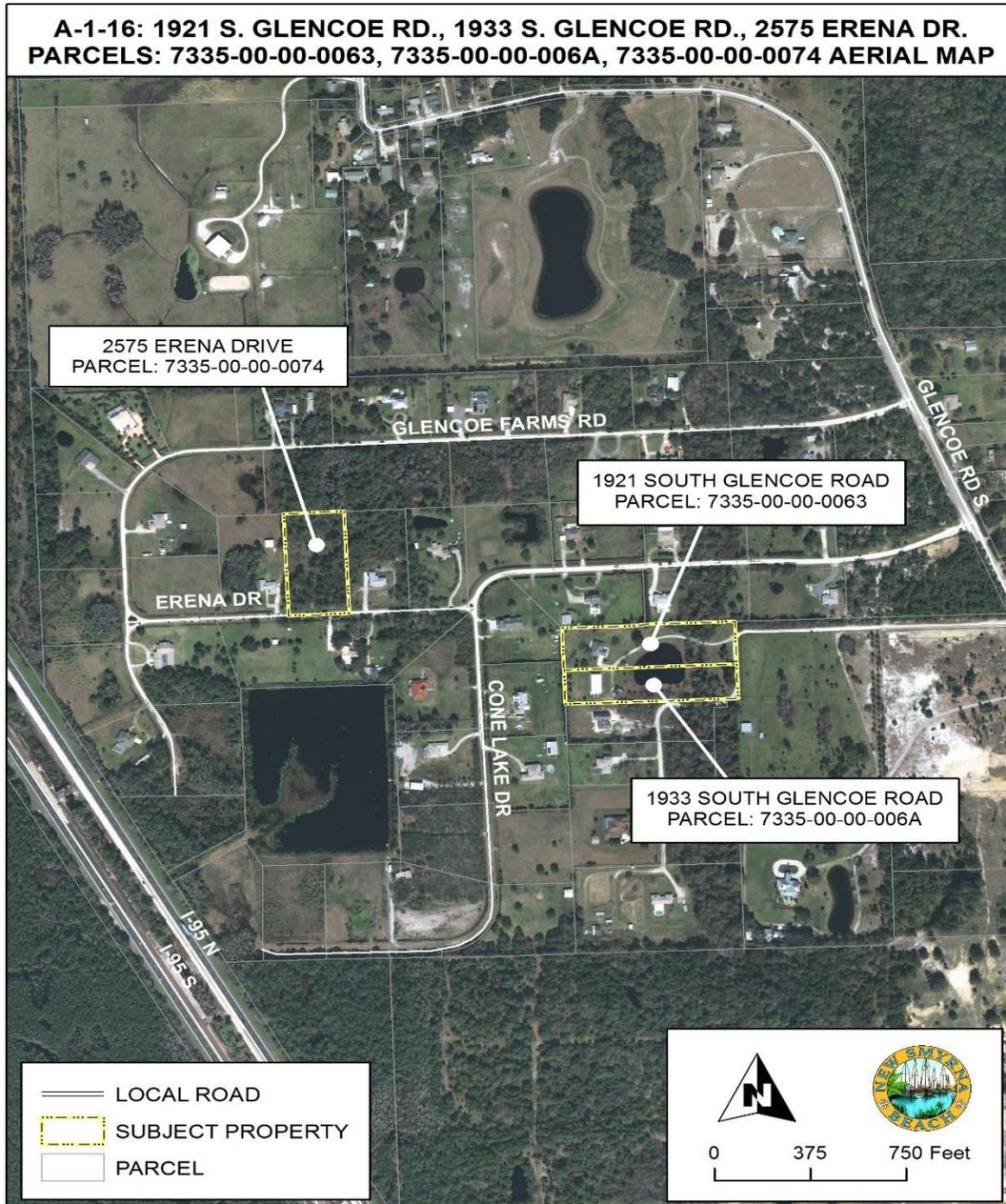
- 15
- 16 • Future Land Use Element Goal 2, Objective 3
- 17 • Future Land Use Element Goal 2, Objective 4
- 18 • Future Land Use Element Goal 2, Objective 7
- 19 • Future Land Use Element Goal 5, Objective 3
- 20

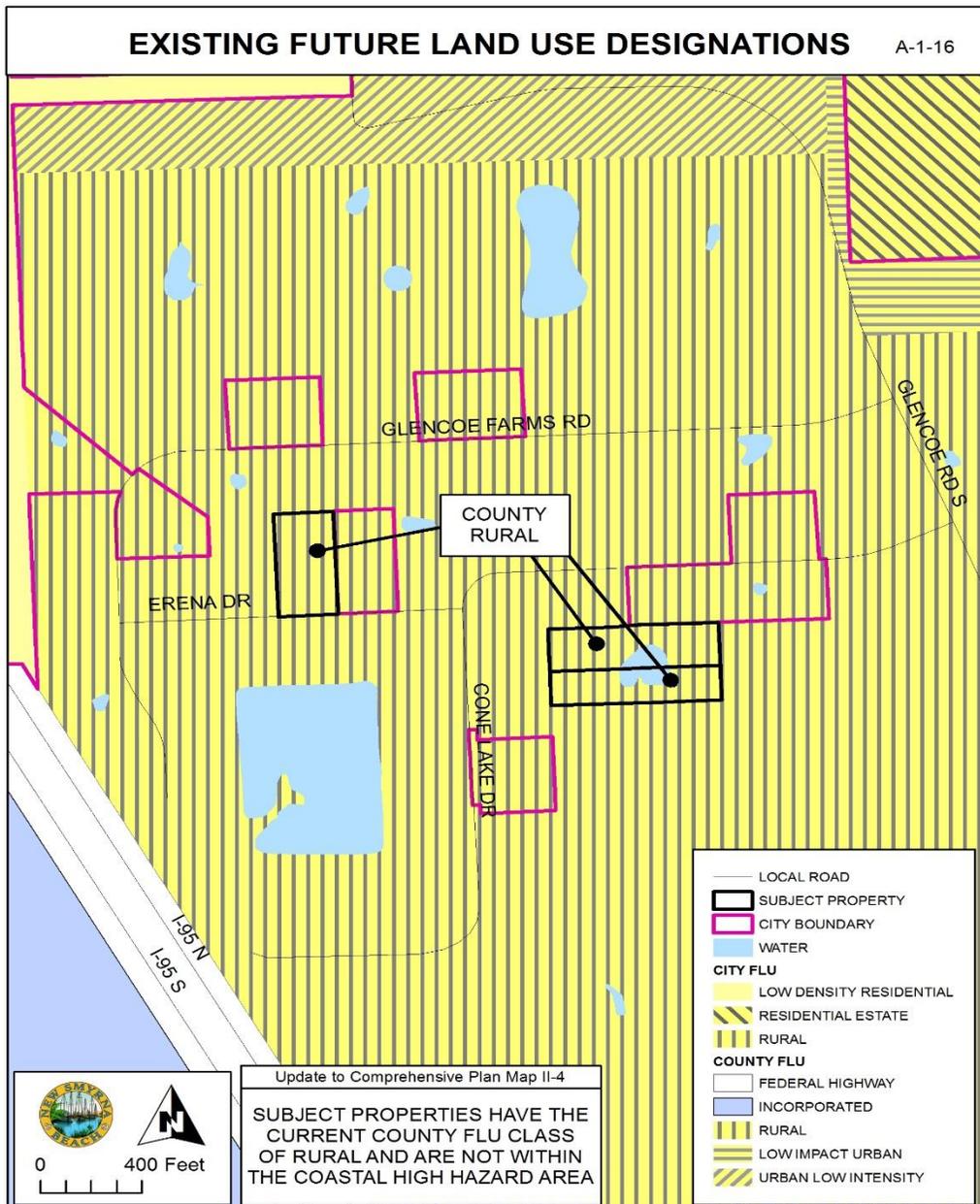
21 **III. Recommendation**

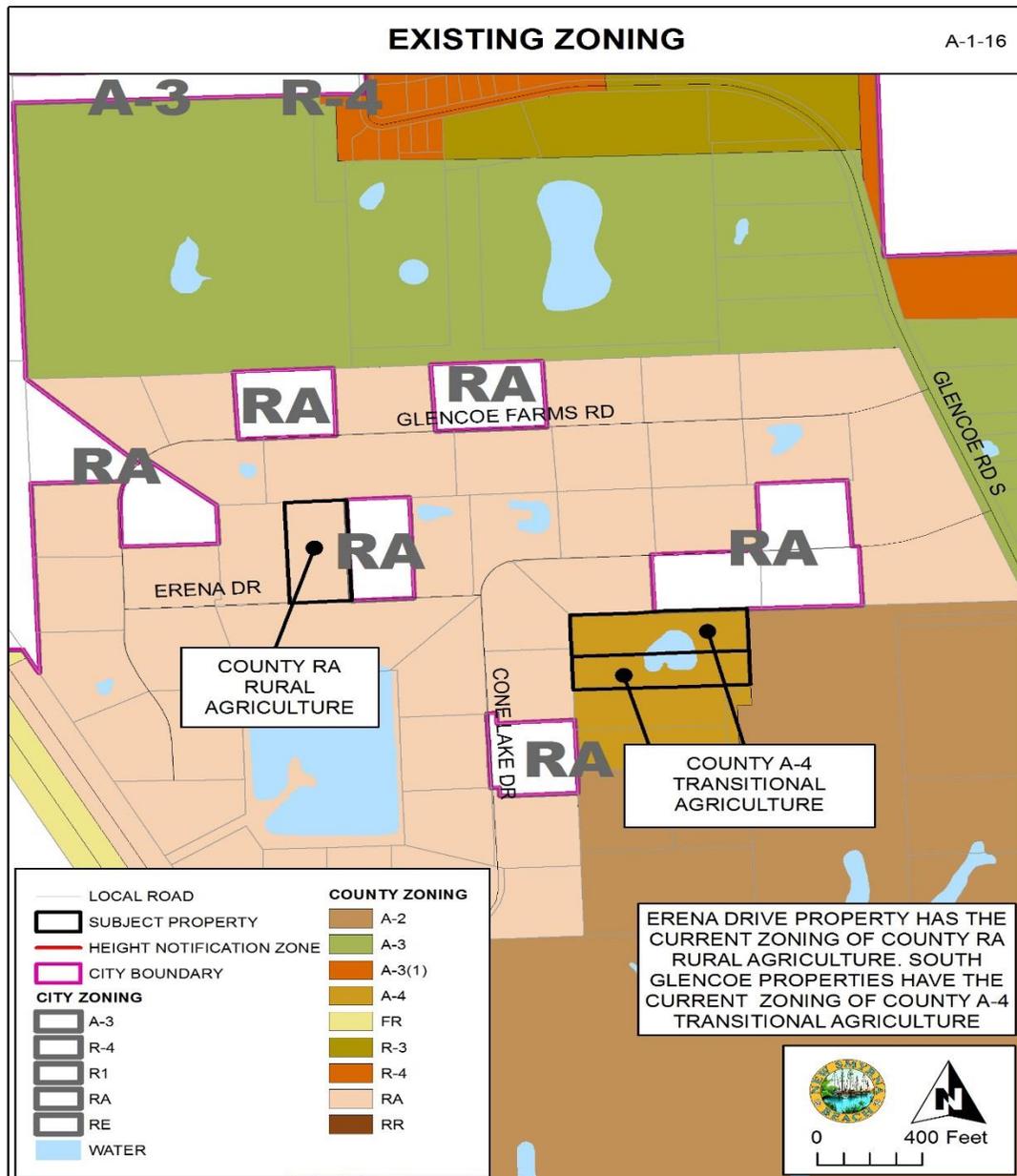
22 Staff recommends that the Planning and Zoning Board recommend the City  
23 Commission **approve** the requested annexations, *Comprehensive Plan*  
24 amendments to City Rural and rezoning to City A-4, Transitional Agriculture and  
25 City RA, Rural Agriculture Estate.

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## Exhibit E

### Rural (R)

This designation consists of areas which are a mixture of agriculture and low density residential development. Rural areas provide two functions, the first being a transitional use between the agricultural and urban uses and the second would be a rural community which serves as the economic focal point of a small region. Rural areas should be developed in a manner consistent with the retention of agriculture and the protection of environmentally sensitive areas. Strict limitation of development in rural areas contributes to the efficient growth and operation of public services and facilities, thus ensuring the most effective use of public resources. The natural features and constraints will be the primary determinants in deciding whether or not an area is suitable for rural type development.

(1) Lands designated as rural shall be developed at a density of one (1) dwelling unit per five (5) acres. This density allowance may be increased under specific conditions as follows:

(a) The subject parcel is within six-hundred-and-sixty feet (660') of an existing subdivision with a density less than one (1) dwelling unit per five (5) acres. In this case the rural land may be developed at a similar density not to exceed one (1) dwelling unit per one (1) acre and with lot sizes similar and compatible with said qualifying subdivision.

(b) The subject parcel is adjacent to an urban land use. In this case the rural land may develop at a similar density not to exceed one (1) dwelling unit per one (1) acre, or intensity not to exceed a maximum Floor Area Ratio of twenty-five percent (0.25 FAR).

(c) In addition to the above conditions, the appropriateness of allowing densities less than one (1) dwelling unit per five (5) acres will also be subject to the following:

- i. Compatibility of the proposed development in the context of existing uses, including the proximity of agricultural uses;
- ii. Public facility capacity in the area, including the availability of paved public roads;
- iii. Suitability for wells and septic tank usage (i.e. existence of hydric soils);
- iv. The natural features of the subject parcel such as soils, vegetation, wildlife habitat and flood plain; and,
- v. If applicable, consistency with Local Plans associated with this Element.

(2) There are two subcategories of the rural designation that address past development decisions. These subcategories are Rural Community and Rural Recreation. They are identified on the Special Rural Areas Map Series, presented in Appendix 1. These areas of intense or potentially intense

**Exhibit E (cont'd)**

1  
2  
3 development provide the mixed use concept to the rural areas. They help limit  
4 urban sprawl by providing services not necessarily found in remote rural areas  
5 thus reducing the number of trips out of these rural areas. Also allowing some  
6 limited urban type of development may help promote economic growth in the  
7 rural areas as well. In designated Rural Communities and Rural Recreation areas  
8 where densities are greater than one (1) unit per acre, existing platted lots,  
9 undeveloped subdivisions, or other pre-existing developments shall be permitted  
10 subject to zoning requirements. However, any new development or subdivision of  
11 land shall have to comply with current County regulations.  
12

13 (a) Rural Community - A rural community is characterized by a concentration of a  
14 permanent population, sometimes reaching over one-thousand (1,000)  
15 persons. These communities serve as the focal point for a specific  
16 neighborhood and generally contain existing lots less than one (1) acre in  
17 size. There may be commercial uses at a level to serve the immediate  
18 population. Commercial, retail and personal services may be allowed within  
19 the lower end of the range of what is can commonly be referred to as a  
20 neighborhood business (30,000 to 50,000 sq. ft. of gross leasable area) and  
21 shall not exceed a thirty-five percent Floor Area Ratio (0.35 FAR). The  
22 community commonly extends between one-half (½) to one (1) mile from the  
23 focal point which is usually the intersection of two rural roads. A rural  
24 community may retain the zoning classifications that exist at the time of  
25 adoption of the Comprehensive Plan. A change in zoning must be consistent  
26 with the overlying land use designation, however, if existing zoning is more  
27 intense than the land use designation, a change to a similar intensity zoning  
28 classification may be permitted (e.g., small lot single family residential to  
29 small lot mobile home). Existing agricultural operations shall be allowed even  
30 if currently zoned for nonagricultural uses.  
31

32 The following areas are considered Rural Communities:

- 33 i Seville
- 34 ii Barberville
- 35 iii Volusia
- 36 iv Cassadaga
- 37 v DeLeon Springs
- 38 vi Emporia

39 (b) Rural Recreation - Limited areas of intense use located in remote rural areas  
40 along the St. Johns River. These areas are used for launching and/or storing  
41 boats with areas available for camping (RV sites are included). These areas  
42 may also contain single and multi-family dwelling units, hotels, bait shops,  
43 restaurants, and gas stations. Many of them are commonly referred to as fish

**Exhibit E (cont'd)**

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camps. This designation is intended to be treated in a similar manner as the Rural Community in that the existing zoning (at the time of the effective date of the Comprehensive Plan) may remain and be developed consistent with current land development regulations. New requests for zoning changes must be consistent with the Comprehensive Plan, as stated under Rural Community.

The following areas are considered Rural Recreation areas:

- i Pine Island
- ii Shell Harbor Estates
- iii Volusia Bar
- iv South Moon
- v Paramore
- vi Highland Park
- vii Daisy Lake
- viii Crows Bluff
- ix St. Johns River Acres
- x Lemon Bluff
- xi Baxter Point
- xii Lakeview
- xiii St. Johns Gardens

**Exhibit F**

**A-4 TRANSITIONAL AGRICULTURE CLASSIFICATION <sup>(a)</sup>**

*Purpose and intent:* The purpose and intent of the A-4 Transitional Agriculture Classification is to preserve and protect small farms for personal and limited agricultural production or to provide a transitional agricultural zone between more intensive agricultural use areas and residential areas. It is intended that this classification be applied to preserve existing agricultural uses in urban and rural areas as depicted by the comprehensive plan, or to properties so as to coincide with the existing character of an area in a manner consistent with the comprehensive plan.

In order to ensure the long-term vitality of agricultural uses and natural resources, all agricultural uses are encouraged to utilize the natural resource conservation service (formerly the soil conservation service) best management techniques and other agricultural best management practices.

*Permitted principal uses and structures:* In the A-4 Transitional Agriculture Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

19Apiaries.

20Aquaculture operations in which there are no associated excavations.

21Aviaries.

22Communication towers not exceeding 70 feet in height above ground level.

23Essential utility services.

24Except for those permitted special exceptions listed hereunder, all agricultural pursuits, including the processing, packaging, storage and sale of agriculture products which are raised on the premises.

27Exempt excavations (refer to subsection [72-293\(15\)](#)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.

30Exempt landfills (refer to subsection [72-293\(16\)](#)).

31Fire stations.

32Hobby breeder.

33Home occupations, class A (refer to [section 72-283](#)).

**Exhibit F (cont'd)**

- 1
- 2 Houses of worship.
- 3 Parks and recreation areas accessory to residential developments.
- 4 Public schools.
- 5 Publicly owned parks and recreational areas.
- 6 Publicly owned or regulated water supply wells.
- 7 Silvicultural operations which follow the most up to date state-prescribed best management  
8 practices.
- 9 Single-family standard or manufactured modular dwelling.
- 10 Tailwater recovery systems.
- 11 Worm raising.
- 12 *Permitted special exceptions:* Additional regulations/requirements governing  
13 permitted special exceptions are located in sections [72-293](#) and [72-415](#) of this article.
- 14 Animal shelters.
- 15 Aquaculture operations in which there are nonexempt excavations (refer to subsection [72-](#)  
16 [293](#)(15)).
- 17 Bed and breakfast (refer to subsection [72-293](#)(19)).
- 18 Cemeteries (refer to subsection [72-293](#)(4)).
- 19 Communication towers exceeding 70 feet in height above ground level.
- 20 Dairies and dairy products (minimum parcel size requirement of five acres).
- 21 Day care centers (refer to subsection [72-293](#)(6)).
- 22 Dogs and cats boarded as personal pets exceeding the number permitted in subsection [72-](#)  
23 [306](#)(a).
- 24 Equestrian/livestock event facility.
- 25 Excavations only for storm water retention ponds for which a permit is required by this  
26 article.
- 27 Garage apartments.
- 28 Group home (refer to subsection [72-293](#)(12)).
- 29 Hog farms (minimum parcel size requirement of 2.5 acres).
- 30 Home occupations, class B (refer to [section 72-283](#)).

**Exhibit F (cont'd)**

- 1
- 2 Kennels.
- 3 Livestock feed lots (minimum parcel size requirement of five acres).
- 4 Off-street parking areas (refer to subsection [72-293](#)(14)).
- 5 Poultry farms (minimum parcel size requirement of 2.5 acres).
- 6 Processing, packaging, storage, retail or wholesale sales of agricultural products not raised  
7 on the premises.
- 8 Public uses not listed as a permitted principal use.
- 9 Public utility uses and structures (refer to subsection [72-293](#)(1)).
- 10 Recreational areas (refer to subsection [72-293](#)(3)).
- 11 Riding stables.
- 12 Schools, parochial and private (refer to subsection [72-293](#)(4)).
- 13 Single-family mobile home dwelling with a minimum floor area of 480 square feet as a  
14 temporary residence while building a standard or manufactured dwelling (maximum  
15 duration of 18 months).
- 16 Temporary campsites for three days before, during and three days after any regularly  
17 scheduled racing event at the Daytona Beach International Speedway for Speed weeks,  
18 Biketoberfest, the Pepsi 400, and Bike Week, on condition that security, portable toilets,  
19 garbage disposal and potable water facilities sufficient to accommodate all occupants  
20 and other relevant conditions are provided. Related special events and sales are  
21 allowed, if approved as part of the special exception.
- 22 Wholesale or retail fertilizer sales.
- 23 *Dimensional requirements:*
- 24 *Minimum lot size:*
- 25 Area: Two and one-half acres.
- 26 Width: 150 feet.
- 27 *Minimum yard size:*
- 28 Front yard: 40 feet.
- 29 Rear yard: 40 feet.
- 30 Side yard: 25 feet.
- 31 Waterfront yard: 40 feet.

**Exhibit F (cont'd)**

1

2 *Maximum building height: 55 feet.*

3 *Maximum lot coverage:* The total lot area covered with principal and accessory buildings  
4 shall not exceed 35 percent.

5 *Minimum floor area: 1,000 square feet.*

6 *Off-street parking and loading requirement:* Off-street parking and loading areas  
7 meeting the requirements of sections [72-286](#) and [72-287](#) shall be constructed.

8 *Skirting requirement for mobile home dwelling:* The area between the ground and  
9 floor of the mobile home dwelling shall be enclosed with skirting.

10 (Ord. No. 97-19, § II, 8-7-97; Ord. No. 98-25, § VII, 12-17-98; Ord. No. 2004-20, § V, 12-16-  
11 04; Ord. No. 2009-17, § III, 5-21-09)

12

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14

**Exhibit F (cont'd)**

**RA RURAL AGRICULTURAL ESTATE**

**CLASSIFICATION <sup>[10]</sup>**

*Purpose and intent:* The purpose and intent of the RA Rural Agricultural Estate Classification is to provide for low density development, personal agricultural production consistent with the comprehensive plan, in rural areas of the county.

*Permitted principal uses and structures:* In the RA Rural Agricultural Estate Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

Communication towers not exceeding 70 feet in height above ground level.

Community garden.

Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.

Exempt landfills (refer to subsection 72-293(16)).

Essential utility services.

Fire stations.

Hobby breeder.

Home occupations, class A (refer to section 72-283).

Houses of worship.

Parks and recreation areas accessory to residential developments.

Public schools.

Publicly owned parks and recreational areas.

Publicly owned or regulated water supply wells.

Raising of crops and keeping of animals, including aviaries, pisciculture, apiaries and worm raising for personal use (not for resale), accessory to a single-family dwelling. The personal use restriction is not intended to apply to 4-H, FFA or similar educational projects.

Single-family standard or manufactured modular dwelling.

**Exhibit F (cont'd)**

*Permitted special exceptions:* Additional regulations/requirements governing permitted special exceptions are located in sections 72-293 and 72-415 of this article.

Animal shelters.

Bed and breakfast (refer to subsection 72-293(19)).

Cemeteries (refer to subsection 72-293(4)).

Communication towers exceeding 70 feet in height above ground level.

Day care center (refer to subsection 72-293(6)).

Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).

Excavations only for stormwater retention ponds for which a permit is required by this article.

Garage apartments.

Group home (refer to subsection 72-293(12)).

Home occupations, class B (refer to section 72-283).

Kennels.

Off-street parking areas (refer to subsection 72-293(14)).

Public uses not listed as a permitted principal use.

Public utility uses and structures (refer to subsection 72-293(1)).

Recreational areas (refer to subsection 72-293(3)).

Schools, parochial or private (refer to subsection 72-293(4)).

*Dimensional requirements:*

*Minimum lot size:*

Area: Two and one-half acres.

Width: 150 feet.

*Minimum yard size:*

Front yard: 45 feet.

Rear yard: 45 feet.

Side yard: 25 feet.

Waterfront yard: 45 feet.

*Maximum building height:* 35 feet.

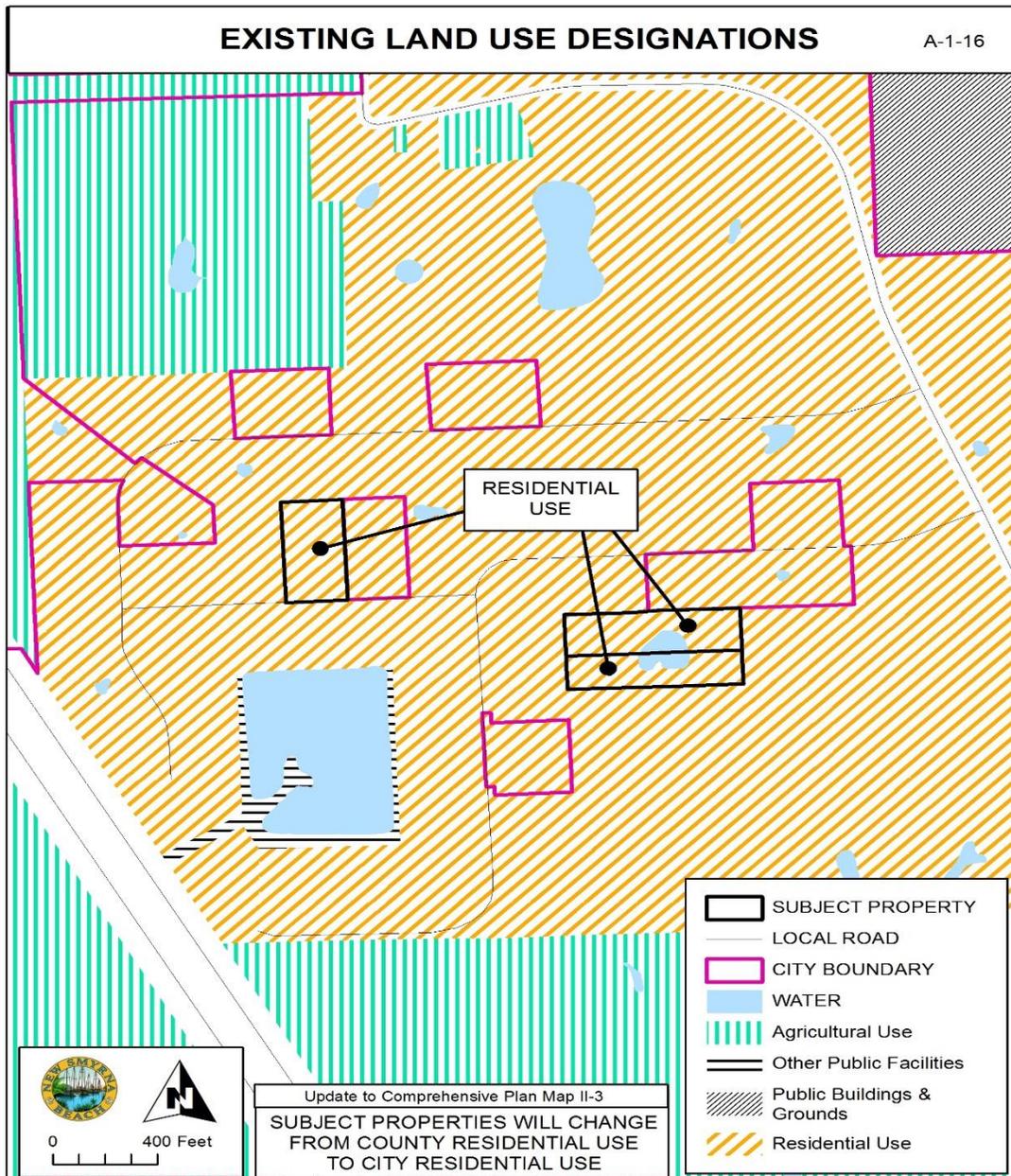
**Exhibit F (cont'd)**

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*Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

*Minimum floor area:* 1,000 square feet.

*Off-street parking and loading requirements:* Off-street parking and loading areas meeting the requirements of sections 72-286 and 72-287 shall be constructed. (Ord. No. 82-20, § XIII, 12-9-82; Ord. No. 84-1, §§ III, VII, VIII, 3-8-84; Ord. No. 85-2, § I, 3-14-85; Ord. No. 89-20, §§ VI, VII, X, 6-20-89; Ord. No. 90-34, § 12, 9-27-90; Ord. No. 92-6, § XV, 6-4-92; Ord. No. 94-4, § XVI, 5-5-94; Ord. No. 97-19, § II, 8-7-97; Ord. No. 98-25, § VII, 12-17-98; Ord. No. 2004-20, § V, 12-16-04; Ord. No. 2009-17, § III, 5-21-09; Ord. No. 2012-07, § II, 5-17-12)



## Exhibit H

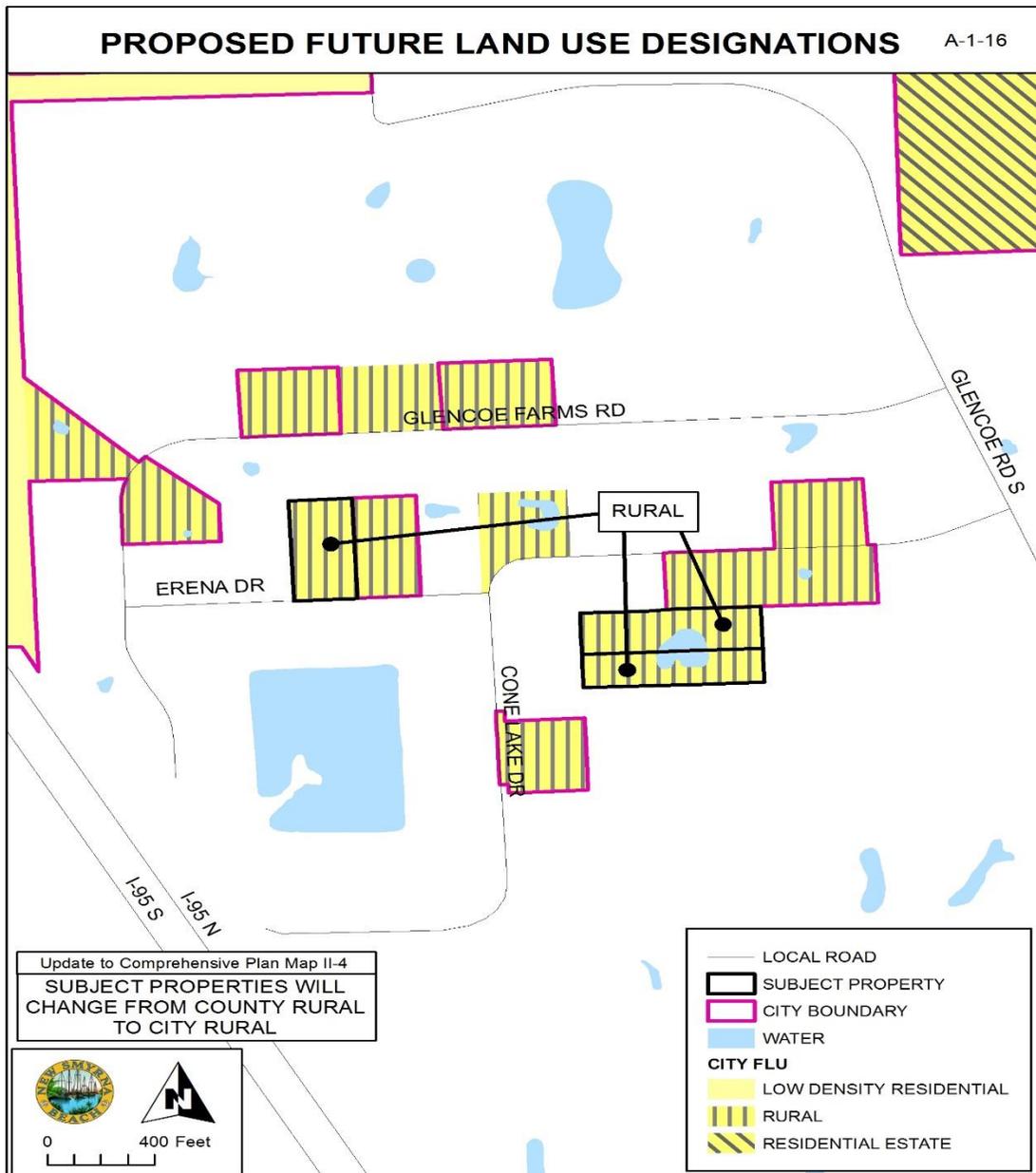
### RURAL

(Up to one [1] dwelling unit per five [5] acres or up to one [1] dwelling unit per acre)  
This category includes areas that may consist of agriculture land, undeveloped rural land, and large parcels of developed residential land. Areas designated with a Rural FLU category should be developed in a manner consistent with the retention of agriculture and rural lands, low-density residential and the protection of environmentally sensitive areas. Strict limitation of development in rural areas contributes to the efficient growth and operation of public services and facilities, thus ensuring the most effective use of Future Land Use Element public resources. The natural features and constraints will be the primary determinants in deciding whether or not an area is suitable for rural type development.

The Rural FLU designation may allow smaller lot sizes in clusters to protect environmentally sensitive land and upland buffers but shall not allow increase in density. Smaller cluster lots shall be allowed provided the clusters have large perimeter buffers to give the appearance of rural land from adjacent parcels and there is legal assurance that the property not included in the fee simple cluster lots are owned in common by the fee simple lot owners and will not be subsequently developed.

The density shall be determined as follows: Vacant parcels of land in the vicinity of existing exempt or approved platted subdivisions on or before April 3, 1990, with lot sizes from 1 unit per acre to 1 unit per 5 acres or vacant parcels of land immediately adjacent to an urban FLU category may be developed with similar density or lot sizes but not less than one (1) unit per acre. Only that portion of a parcel(s) that is within 660 feet from the above described existing exempt or approved subdivision or urban FLU category boundary, as of the adoption date of the Rural FLU category, is considered "in the vicinity." Note: If a parcel that is "in the vicinity" is covered by more than fifty percent (50%) of the 660 feet extension, then the remaining portion of that parcel which is 10 acres or less is eligible for increased density.

Although the adjacency to the conditions described above allows for the potential of subdivisions with lots less than 5 acres in size, the actual lot size will be dependent upon the following: Compatibility of the proposed development will be viewed within the context of existing uses, public facility capacity in the area, suitability for wells and septic tank usage, and the natural features of the parcel in question, such as soils, vegetation, and floodplain. Vacant parcels or tracts of land that do not meet the preceding criteria or are in areas which have not been previously platted with lots less than 5 acres in size shall only be developed with lot sizes that are 5 acres or greater or in cluster developments at a density of no greater than one (1) unit per five (5) acres.



**Exhibit J**

A-4 TRANSITIONAL AGRICULTURE  
CLASSIFICATION

*Purpose and intent:* The purpose and intent of the A-4 Transitional Agriculture Classification is to preserve and protect small farms for personal and limited agricultural production or to provide a transitional agricultural zone between more intensive agricultural use areas and residential areas. It is intended that this classification be applied to preserve existing agricultural uses in urban and rural areas as depicted by the comprehensive plan, or to properties so as to coincide with the existing character of an area in a manner consistent with the comprehensive plan.

In order to ensure the long-term vitality of agricultural uses and natural resources, all agricultural uses are encouraged to utilize the natural resource conservation service (formerly the soil conservation service) best management techniques and other agricultural best management practices.

*Permitted principal uses and structures:* In the A-4 Transitional Agriculture Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Apiaries.
- Aquaculture operations in which there are no associated excavations.
- Aviaries.
- Communication towers not exceeding 70 feet in height above ground level.
- Essential utility services.
- Exempt excavations.
- Exempt landfills.
- Fire stations.
- Hobby breeder.
- Parks and recreation areas accessory to residential developments.
- Public schools.
- Publicly owned parks and recreational areas.
- Publicly owned or regulated water supply wells.
- Silvicultural operations which follow the most up to date state-prescribed best management practices.
- Single-family standard or manufactured modular dwelling.
- Tailwater recovery systems.
- Worm raising.

1       **Exhibit J (cont'd)**

2       *Permitted special exceptions:*

- 3       Animal shelters.
- 4       Aquaculture operations in which there are nonexempt excavations.
- 5       Cemeteries.
- 6       Communication towers exceeding 70 feet in height above ground level.
- 7       Dairies and dairy products (minimum parcel size requirement of five acres).
- 8       Day care centers.
- 9       Equestrian/livestock event facility.
- 10      Excavations only for stormwater retention ponds for which a permit is required by this
- 11      article.
- 12      Garage apartments.
- 13      Group home.
- 14      Hog farms (minimum parcel size requirement of 2.5 acres).
- 15      Houses of worship.
- 16      Kennels.
- 17      Livestock feed lots (minimum parcel size requirement of five acres).
- 18      Off-street parking areas.
- 19      Poultry farms (minimum parcel size requirement of 2.5 acres).
- 20      Processing, packaging, storage, retail or wholesale sales of agricultural products not
- 21      raised on the premises.
- 22      Public uses not listed as a permitted principal use.
- 23      Public utility uses and structures.
- 24      Recreational areas.
- 25      Riding stables.
- 26      Schools, parochial and private.
- 27      Single-family mobile home dwelling with a minimum floor area of 480 square feet as
- 28      a temporary residence while building a standard or manufactured dwelling
- 29      (maximum duration of 18 months).
- 30      Temporary campsites for three days before, during and three days after any regularly
- 31      scheduled racing event at the Daytona Beach International Speedway for Speed
- 32      weeks, Biketoberfest, the Pepsi 400, and Bike Week, on condition that security,
- 33      portable toilets, garbage disposal and potable water facilities sufficient to
- 34      accommodate all occupants and other relevant conditions are provided. Related
- 35      special events and sales are allowed, if approved as part of the special exception.
- 36      Wholesale or retail fertilizer sales.

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**Exhibit J (cont'd)**

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*Dimensional requirements:*

*Minimum lot size:*

Area: Two and one-half acres.

Width: 150 feet.

*Minimum yard size:*

Front yard: 40 feet.

Rear yard: 40 feet.

Side yard: 25 feet.

Waterfront yard: 40 feet.

*Maximum building height:* 55 feet.

*Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

*Minimum floor area:* 1,000 square feet.

*Off-street parking and loading requirement:* Off-street parking and loading areas meeting the requirements of this LDR shall be constructed.

*Skirting requirement for mobile home dwelling:* The area between the ground and floor of the mobile home dwelling shall be enclosed with skirting.

1 **Exhibit J (cont'd)**

2 **RA, RURAL AGRICULTURE ESTATE**

3 *Intent.* The intent of the RA, Rural Agriculture Estate District is to provide  
4 for low density development, personal agricultural production consistent with the  
5 comprehensive plan in rural areas of the city.

6 *Permitted principal uses and structures.* In the RA, Rural Agriculture  
7 Estate district no premises shall be used except for the following uses and their  
8 customary accessory uses or structures:

9 Communication towers not exceeding 70 feet in height above ground level

10 Excavations (refer to subsection 801.15 of this LDR)

11 Exempt landfills (refer to subsection 801.20 of this LDR)

12 Essential utility services

13 Fire stations

14 Hobby breeder

15 Home occupations

16 Houses of worship

17 Parks and recreation areas accessory to residential developments

18 Public schools

19 Publicly owned parks and recreational areas

20 Publicly owned or regulated water supply wells

21 Raising of crops and keeping of animals, including aviaries, pisciculture,  
22 apiaries and worm raising for personal use (not for resale),  
23 accessory to a single-family dwelling. The personal use restriction  
24 is not intended to apply to 4-H, FFA or similar educational projects

25 Single-family standard or manufactured modular dwelling

**Exhibit J (cont'd)**

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*Permitted special exceptions.* Additional regulations/requirements governing permitted special exceptions are located in subsections 801.21 through 801.27 of this LDR.

- Animal shelters
- Bed and Breakfast (refer to subsection 801.21)
- Cemeteries (refer to subsection 801.22)
- Communication towers exceeding 70 feet in height above ground level
- Day care center (refer to subsection 801.23)
- Excavations only for stormwater retention ponds for which a permit is required by this LDR
- Garage apartments
- Group home (refer to subsection 801.24)
- Kennels
- Off-street parking areas (refer to subsection 801.25)
- Public uses not listed as a permitted principal use
- Public utility uses and structures (refer to subsection 801.26)
- Recreational areas (refer to subsection 801.27)
- Schools, parochial or private (refer to subsection 801.22)

*Dimensional requirements.*

- Minimum lot size:
  - Area: Two and one-half acres
  - Width: 150 feet

**Exhibit J (cont'd)**

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Minimum yard size:

Front yard: 45 feet

Rear yard: 45 feet

Side yard: 25 feet

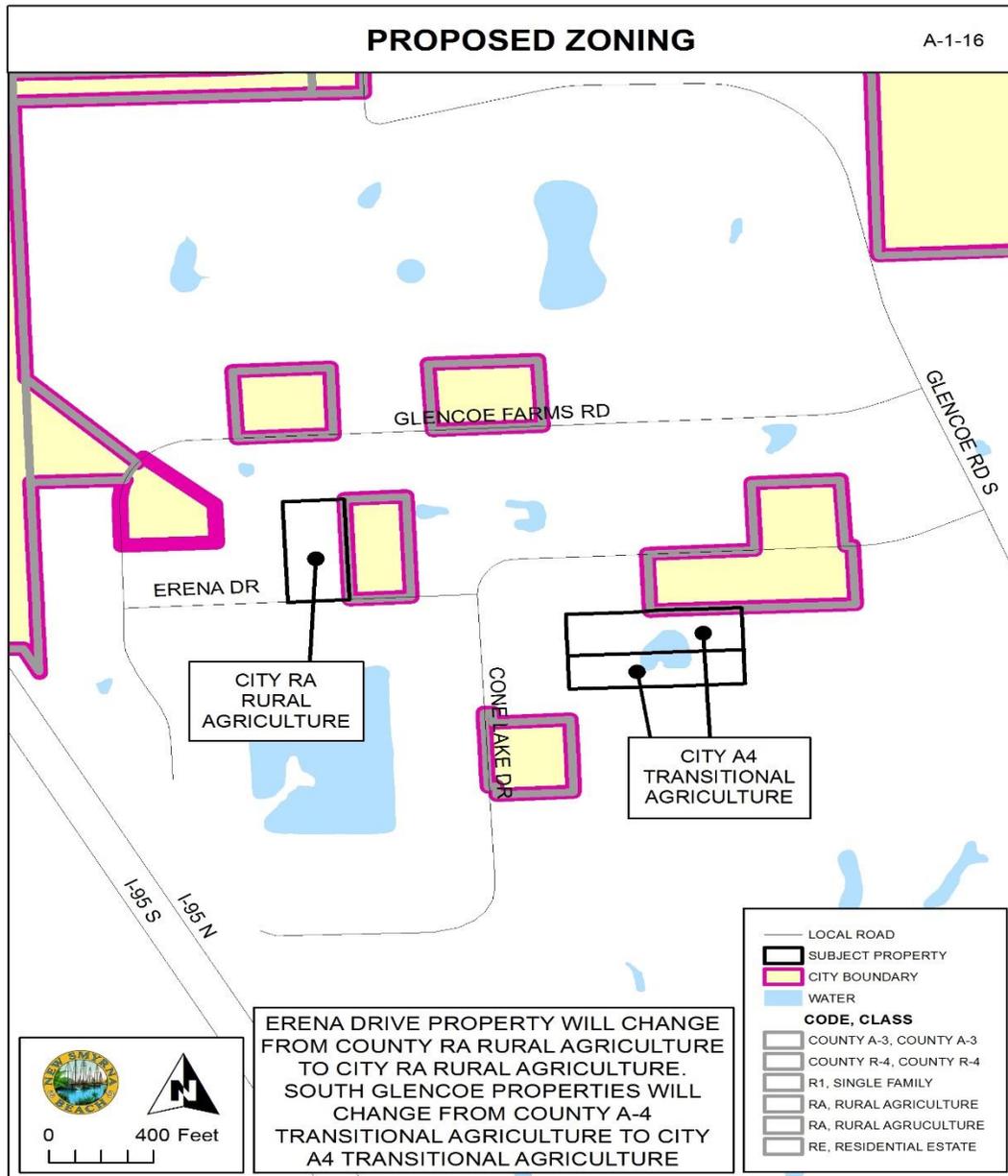
Waterfront yard: 45 feet

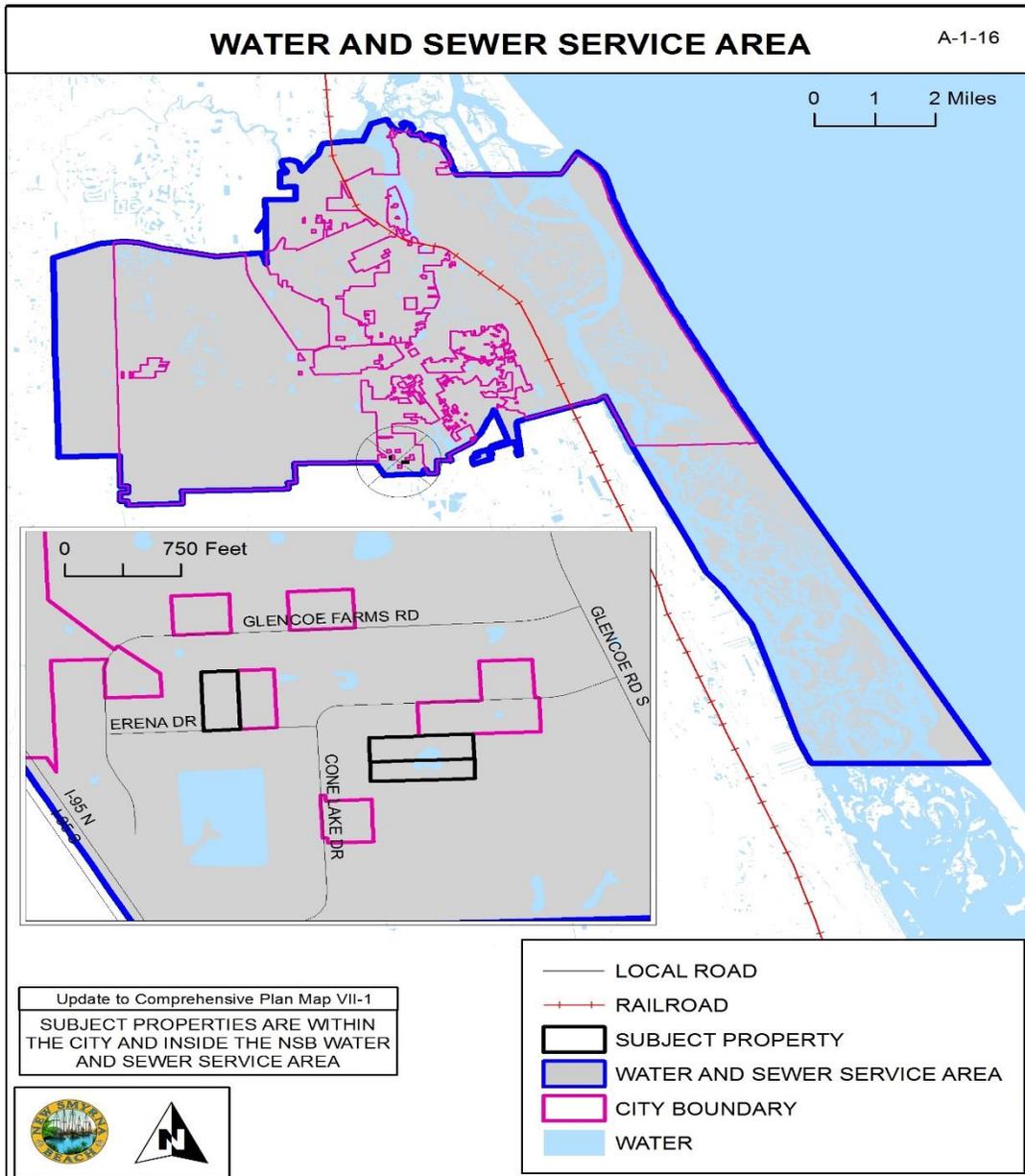
Maximum building height: 35 feet

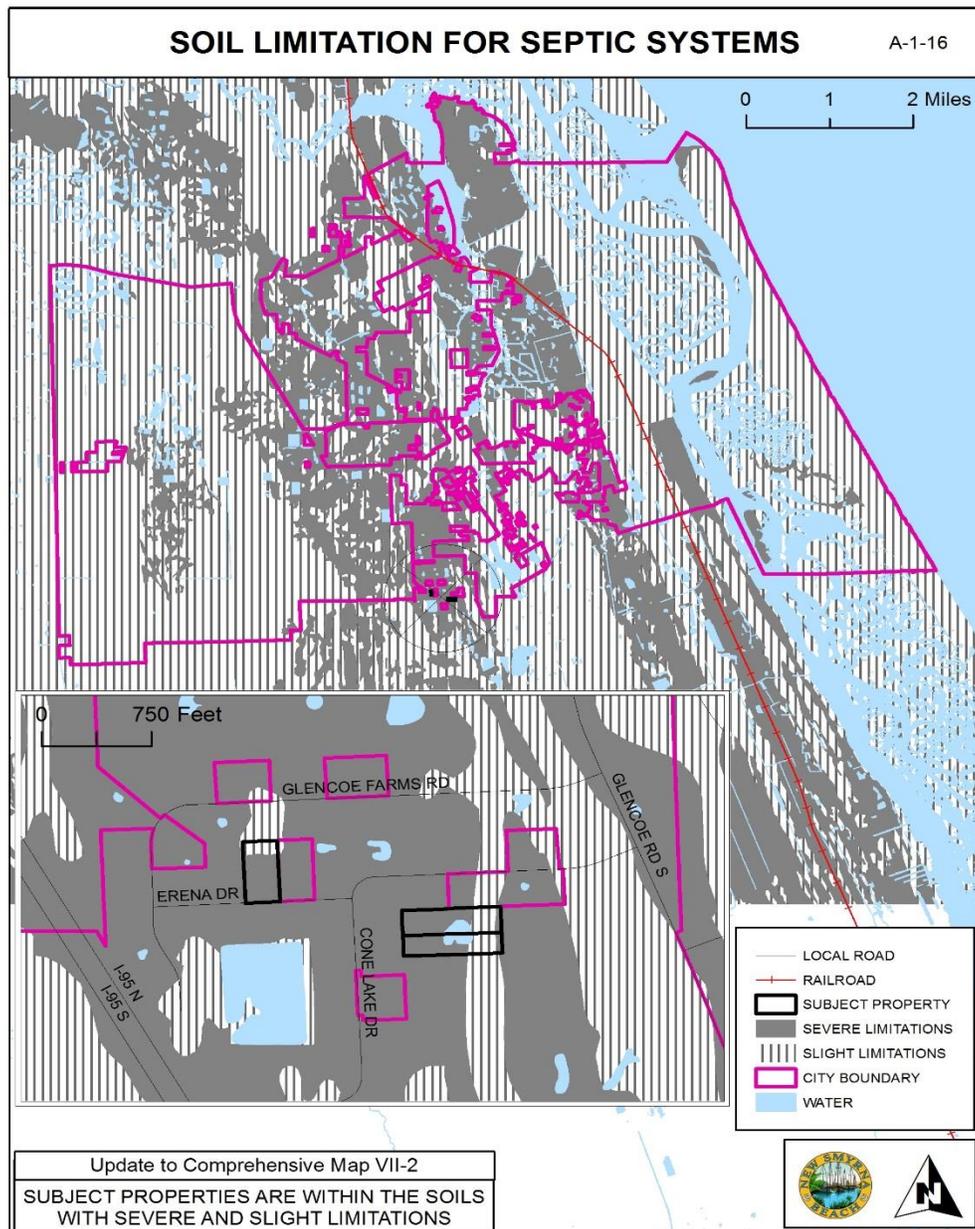
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

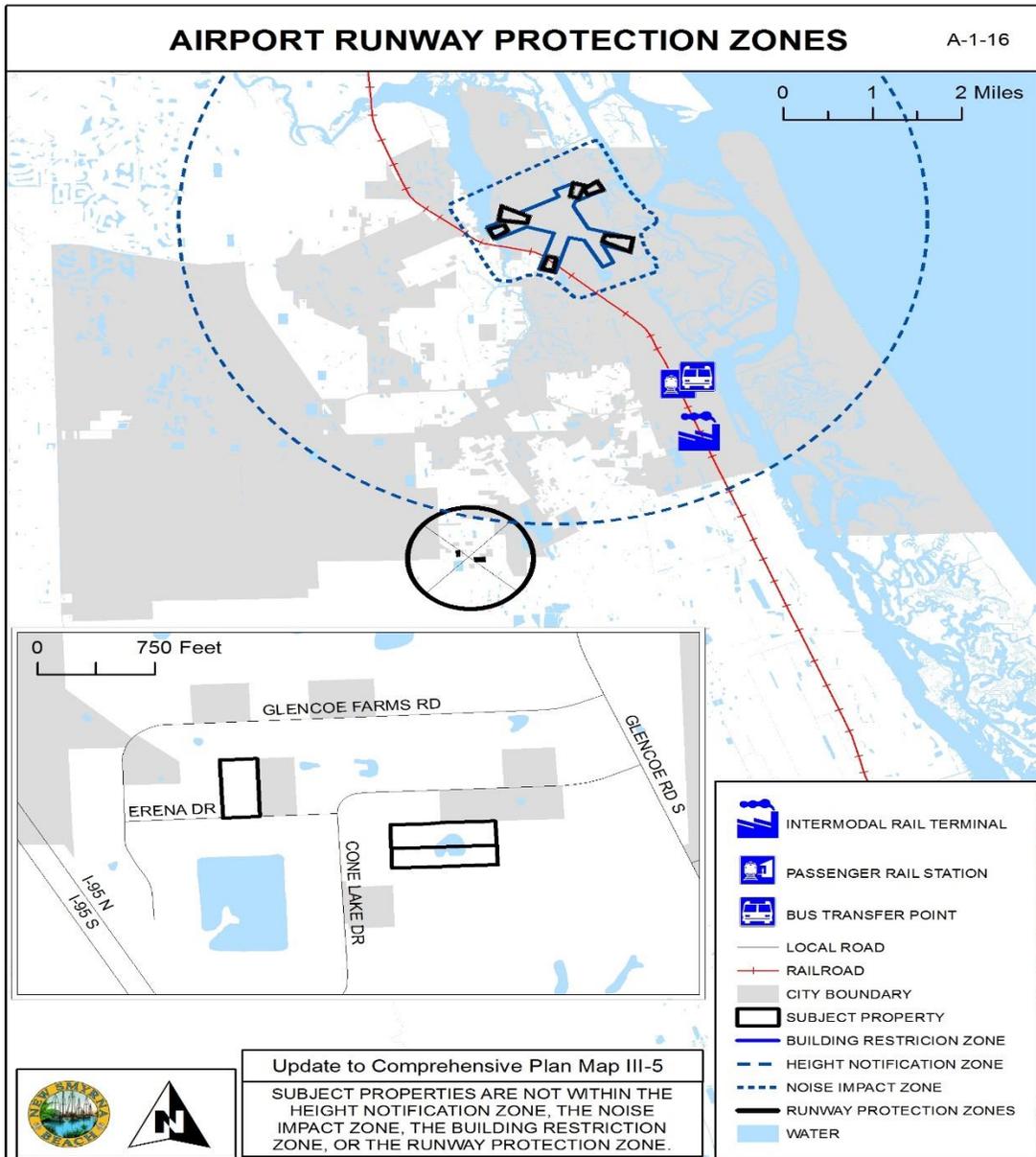
Minimum floor area: 1,000 square feet.

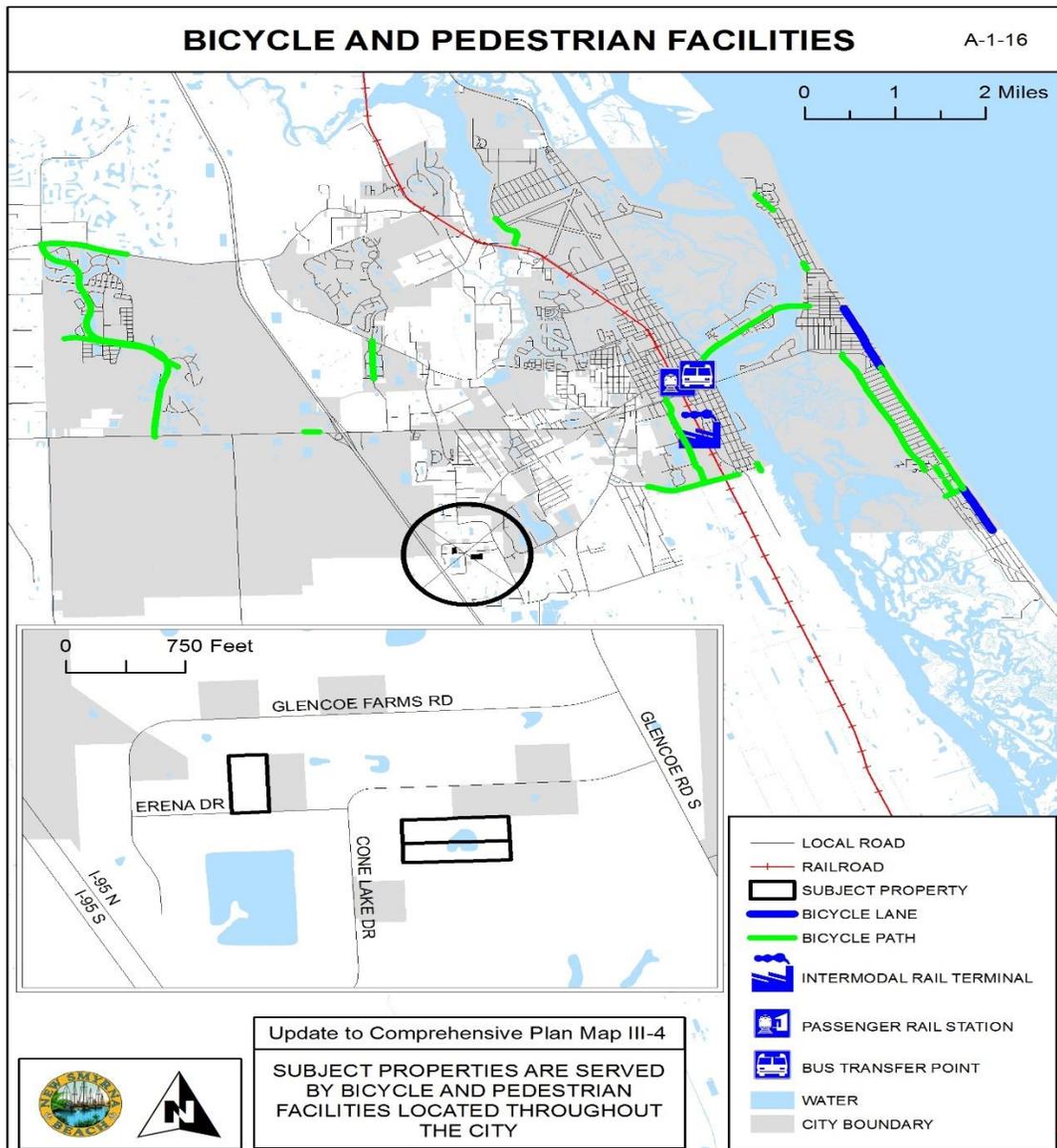
*Off-street parking and loading requirements:* Off-street parking and loading areas meeting the requirements of subsection 604.09 of this LDR shall be constructed.

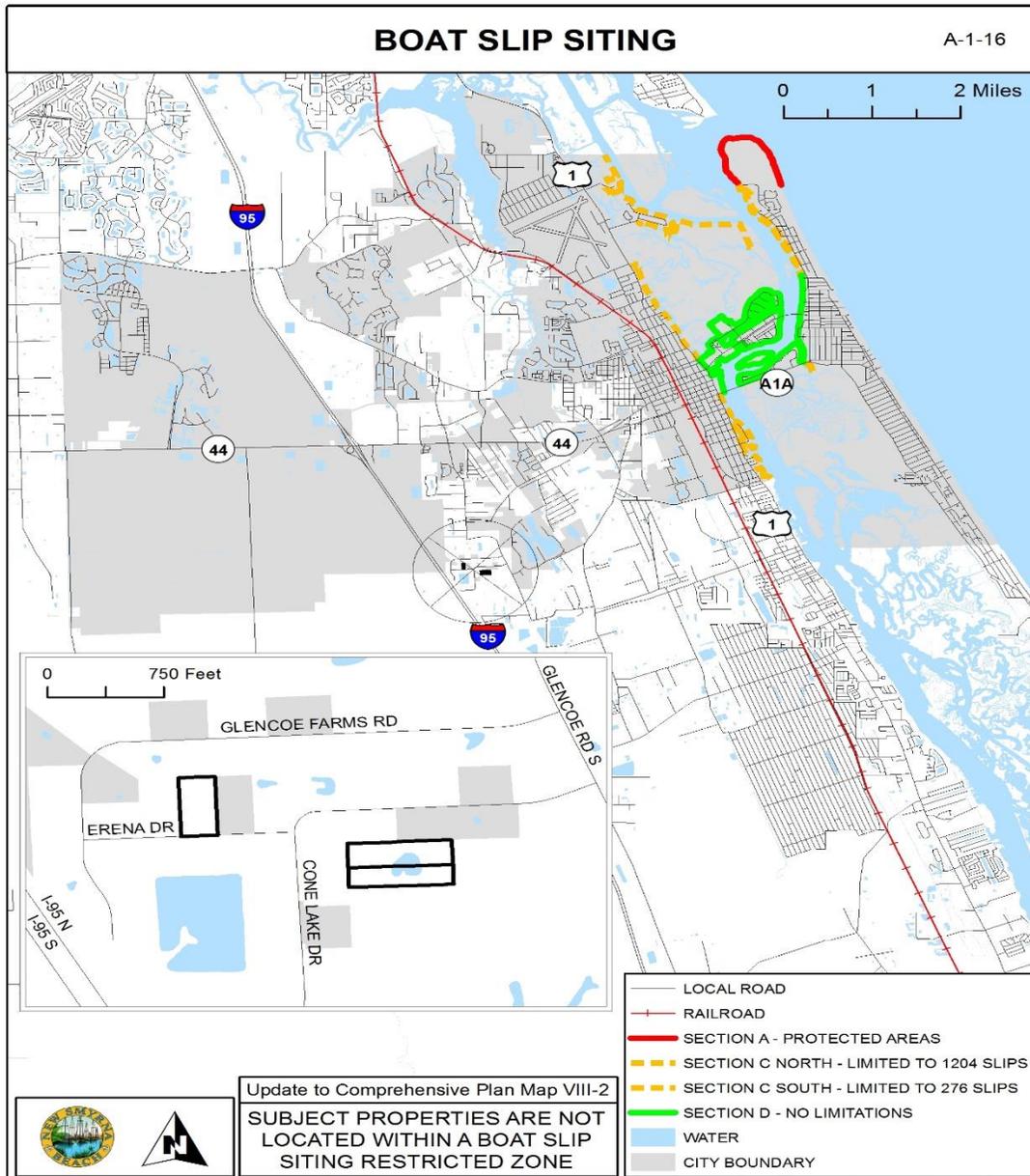


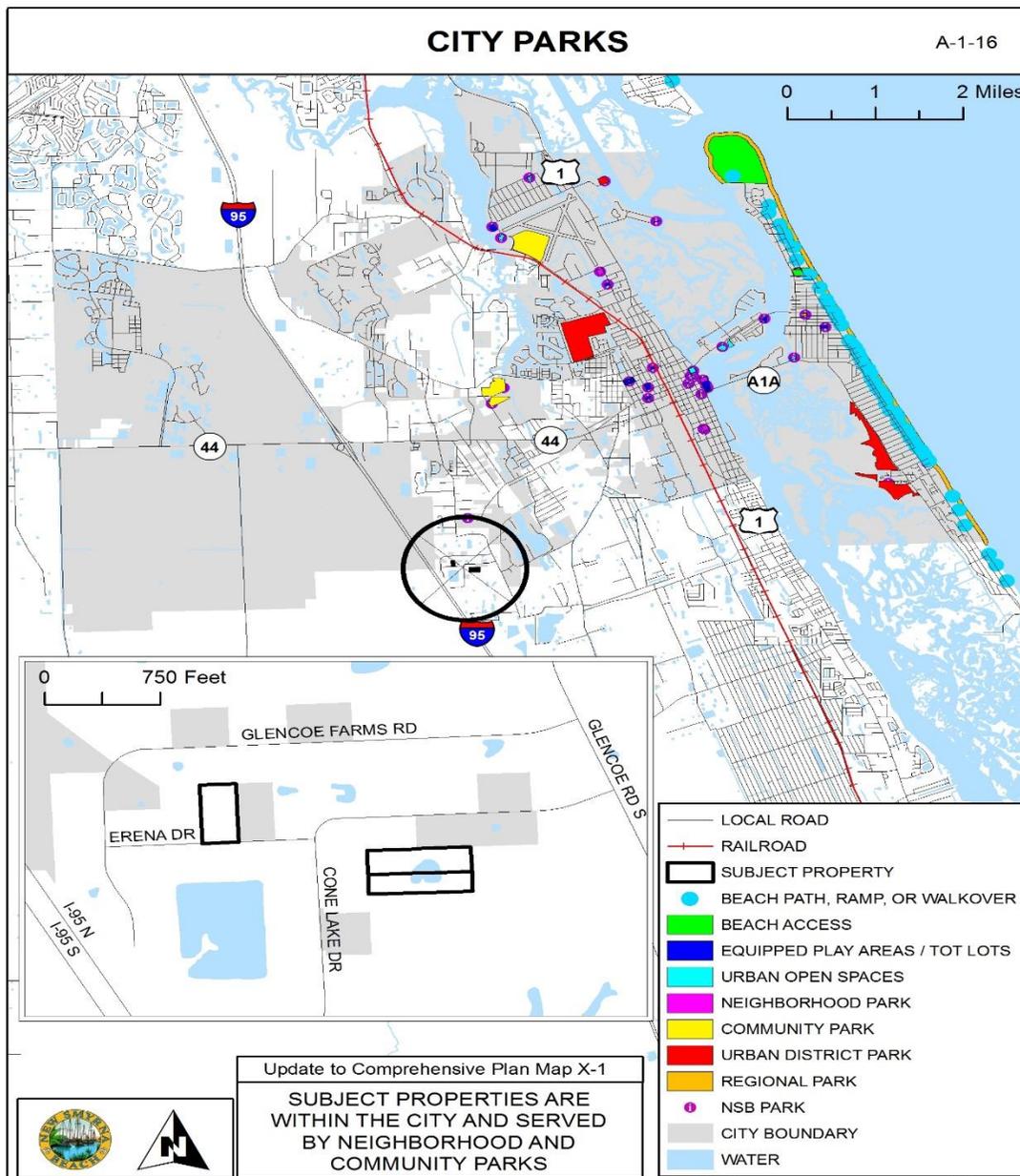


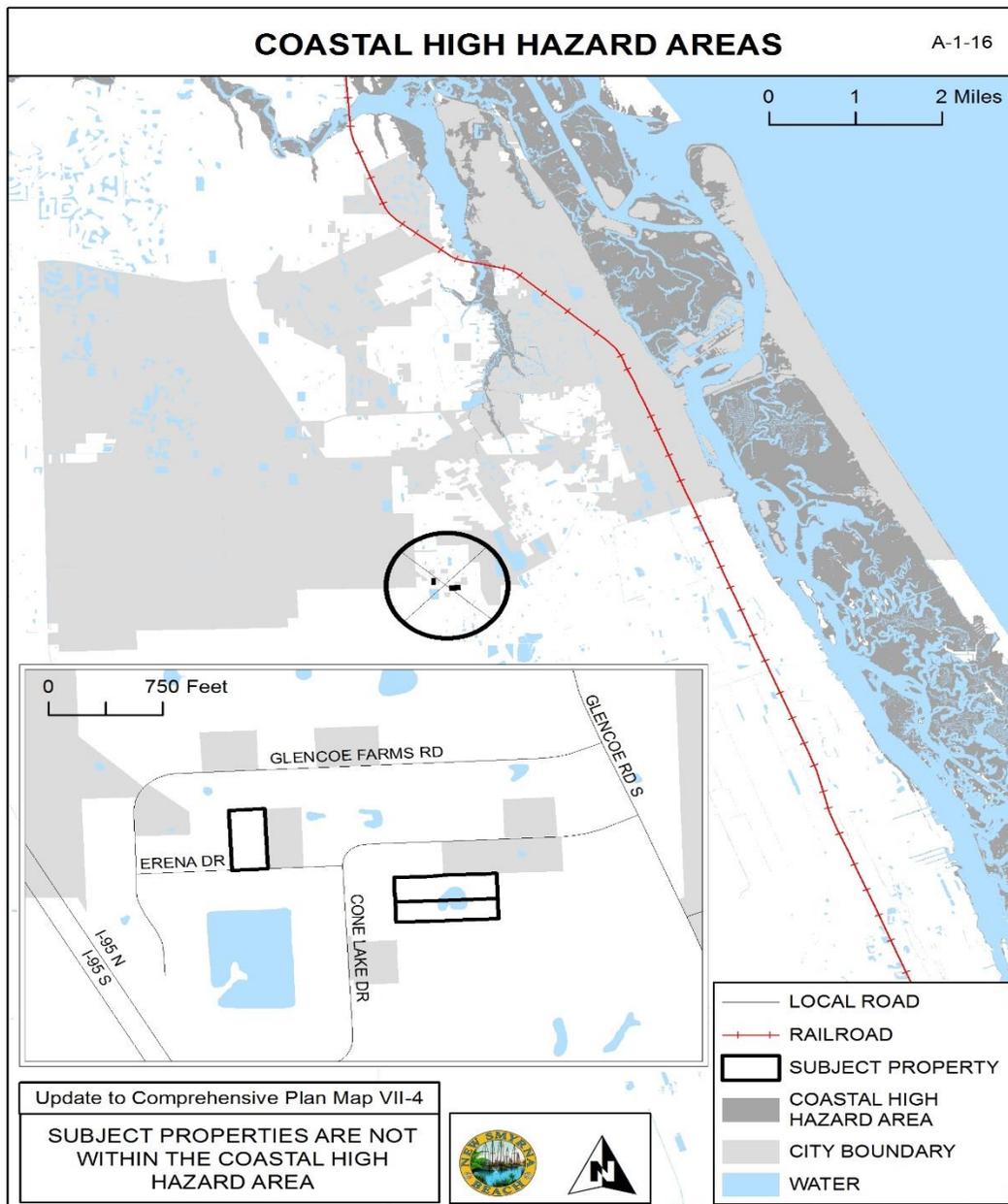


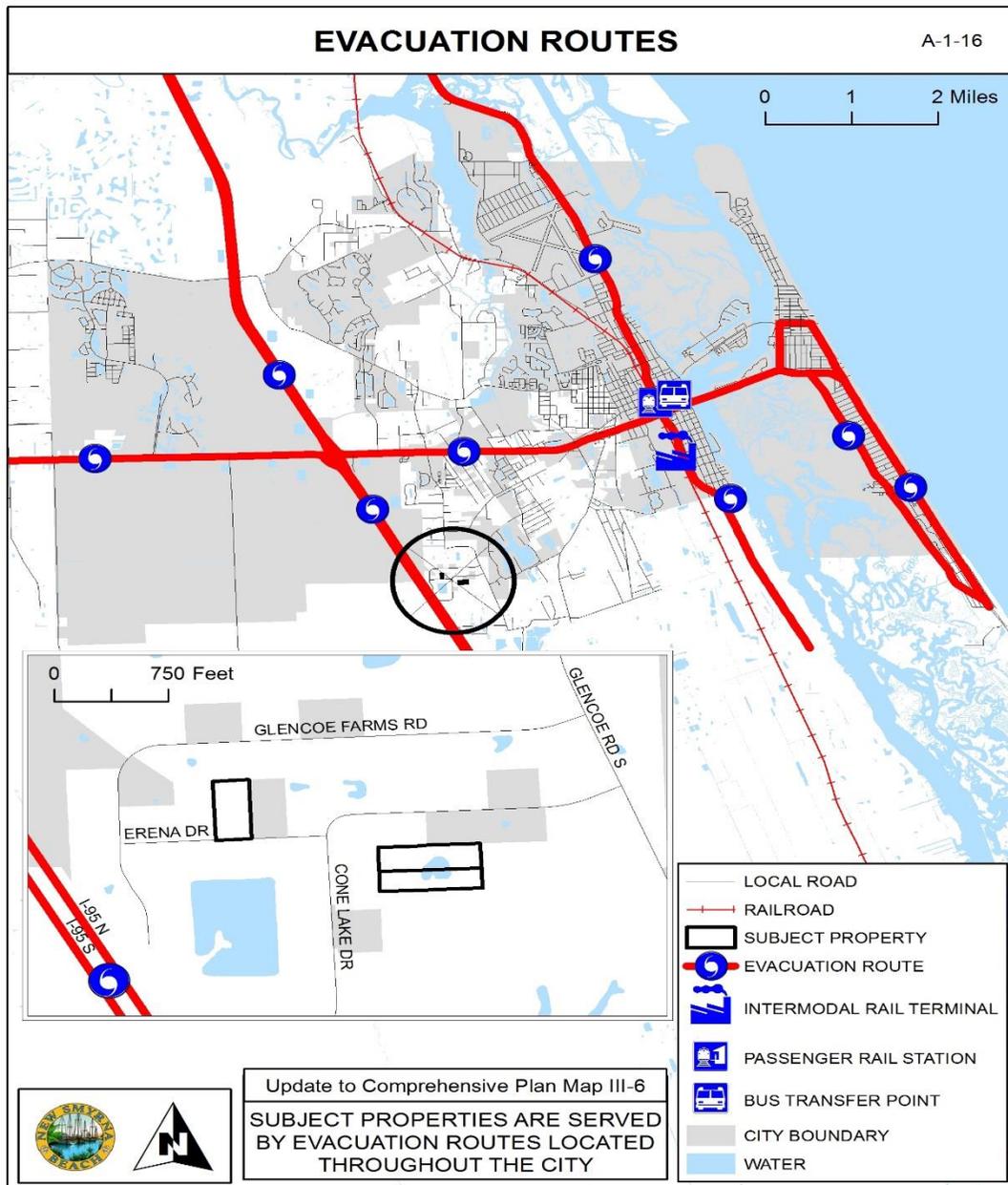


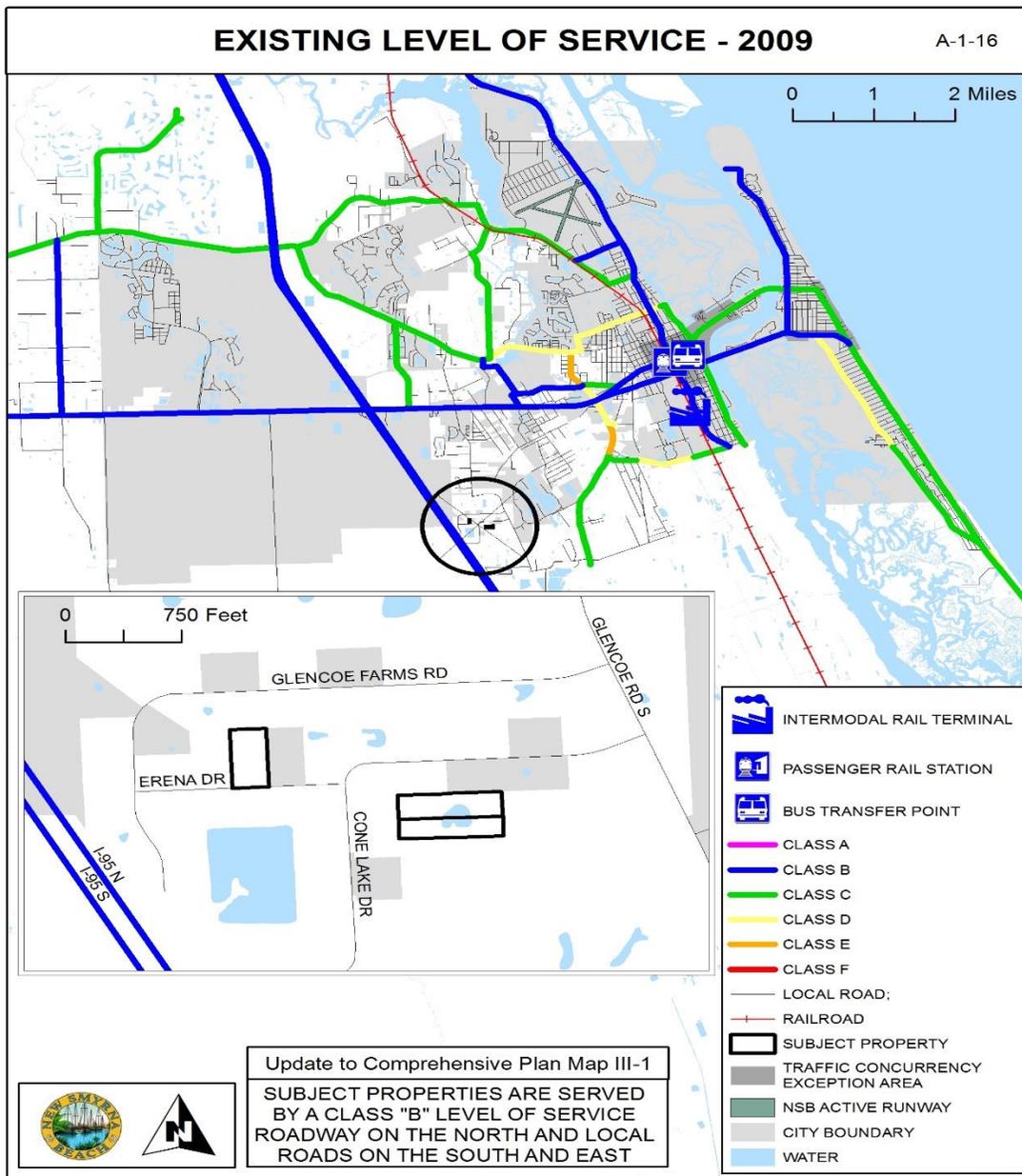


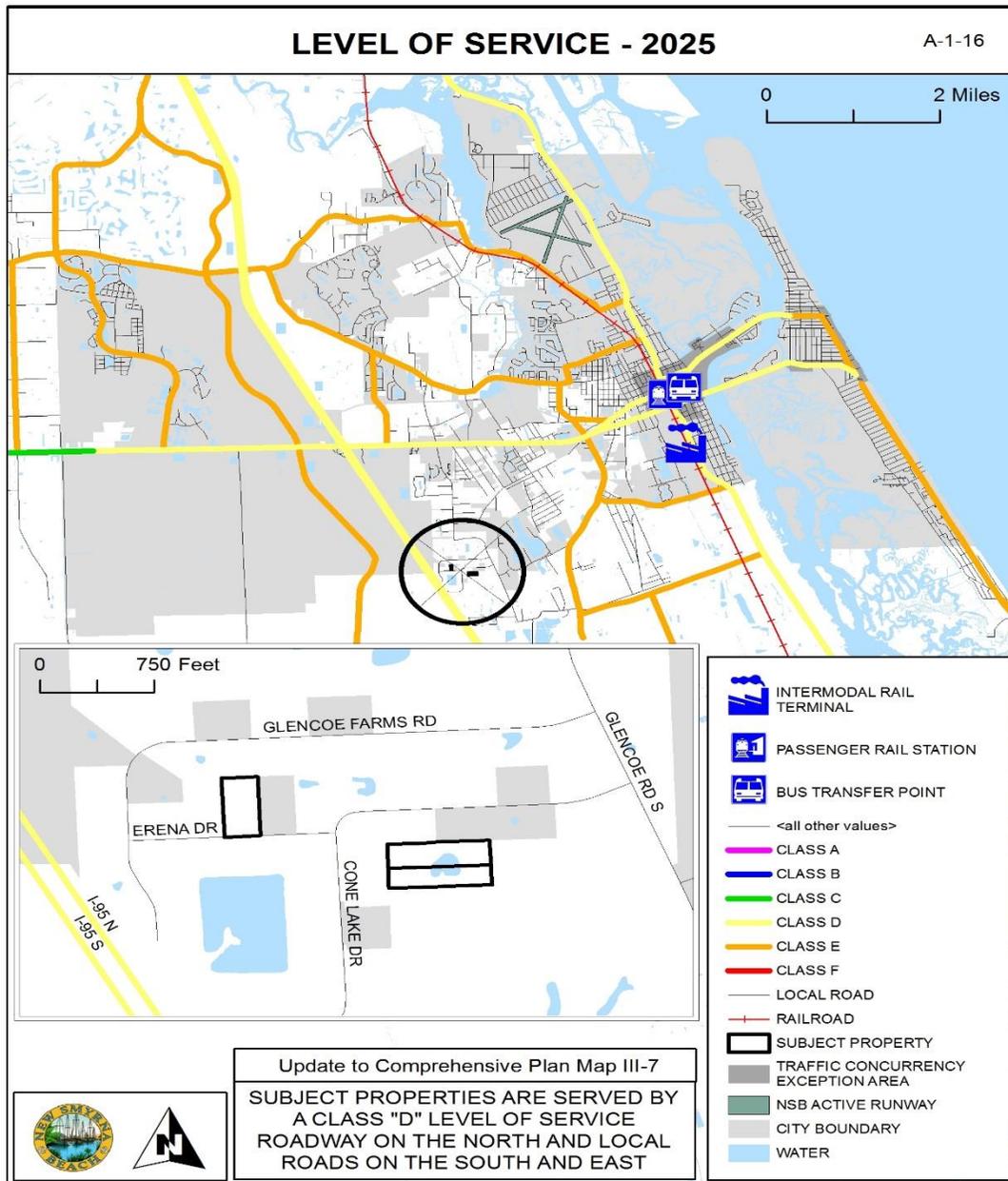


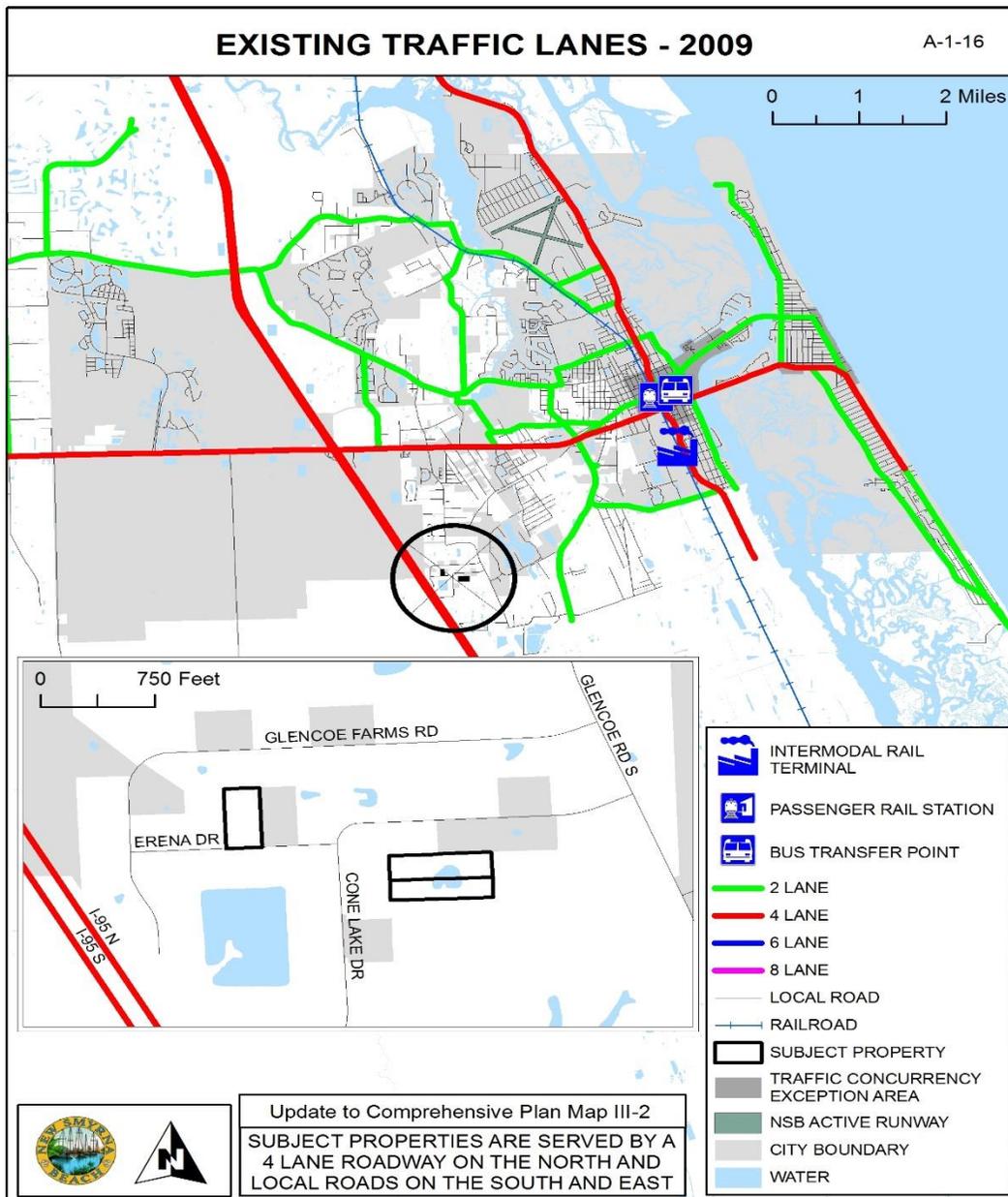


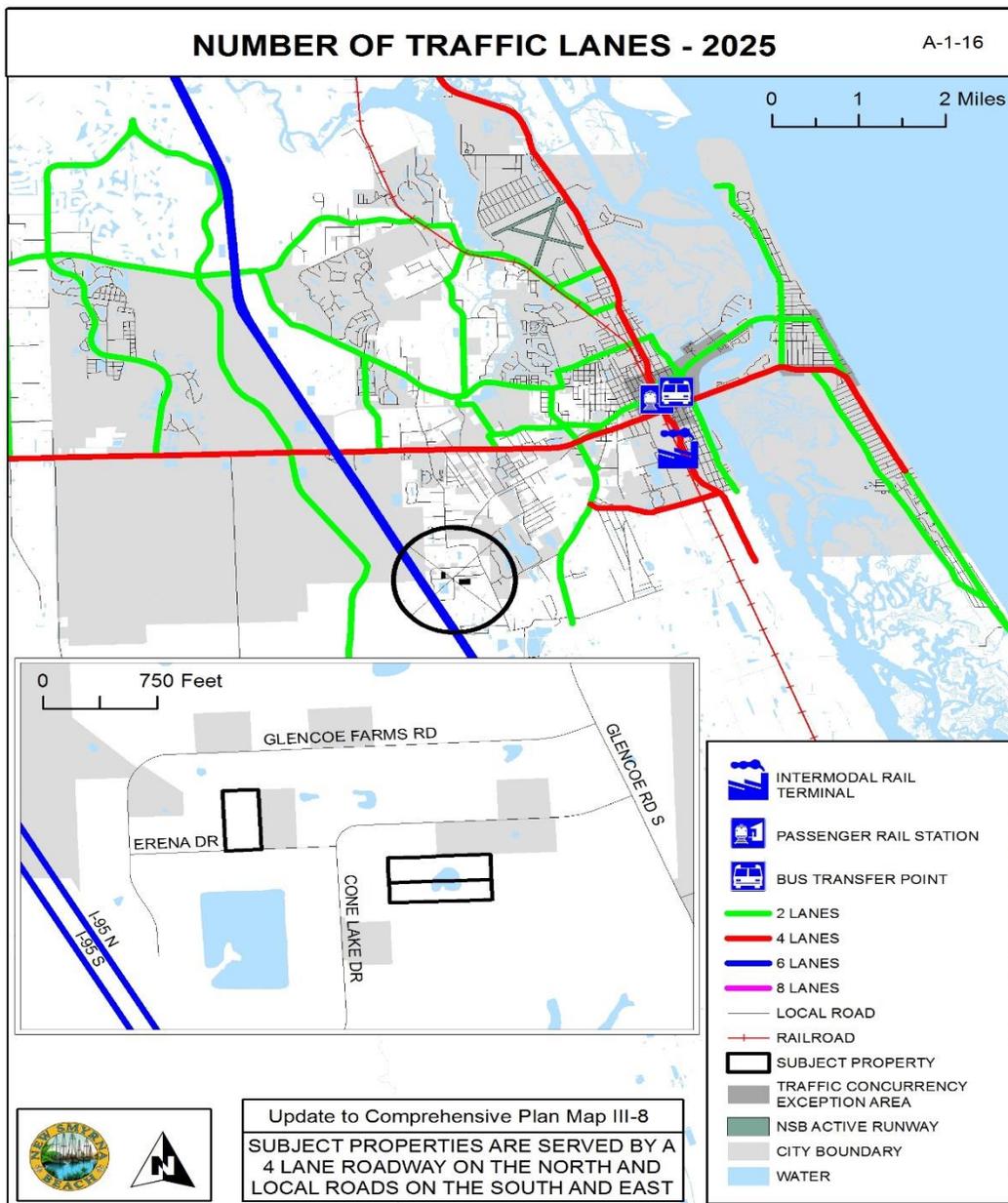


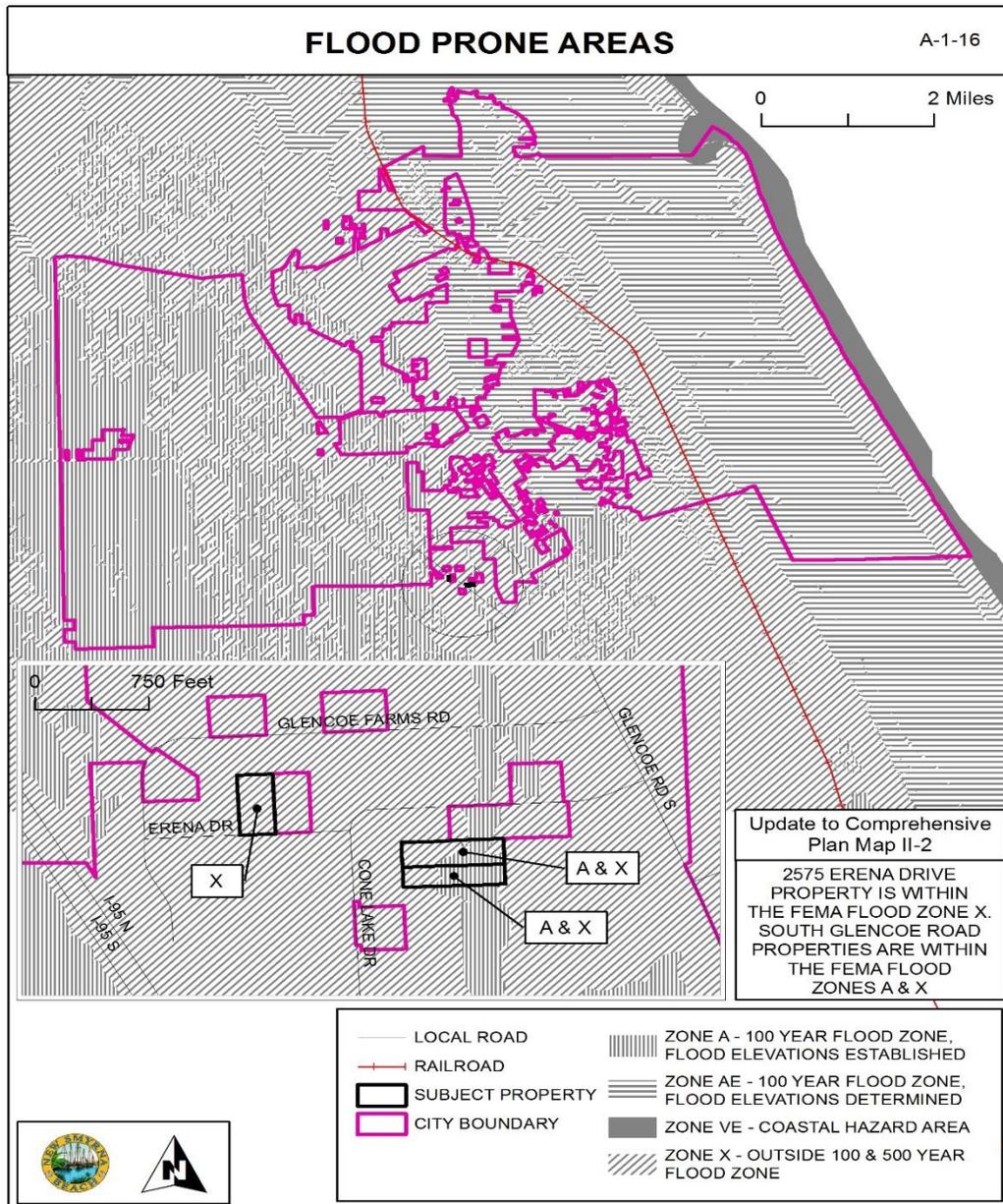


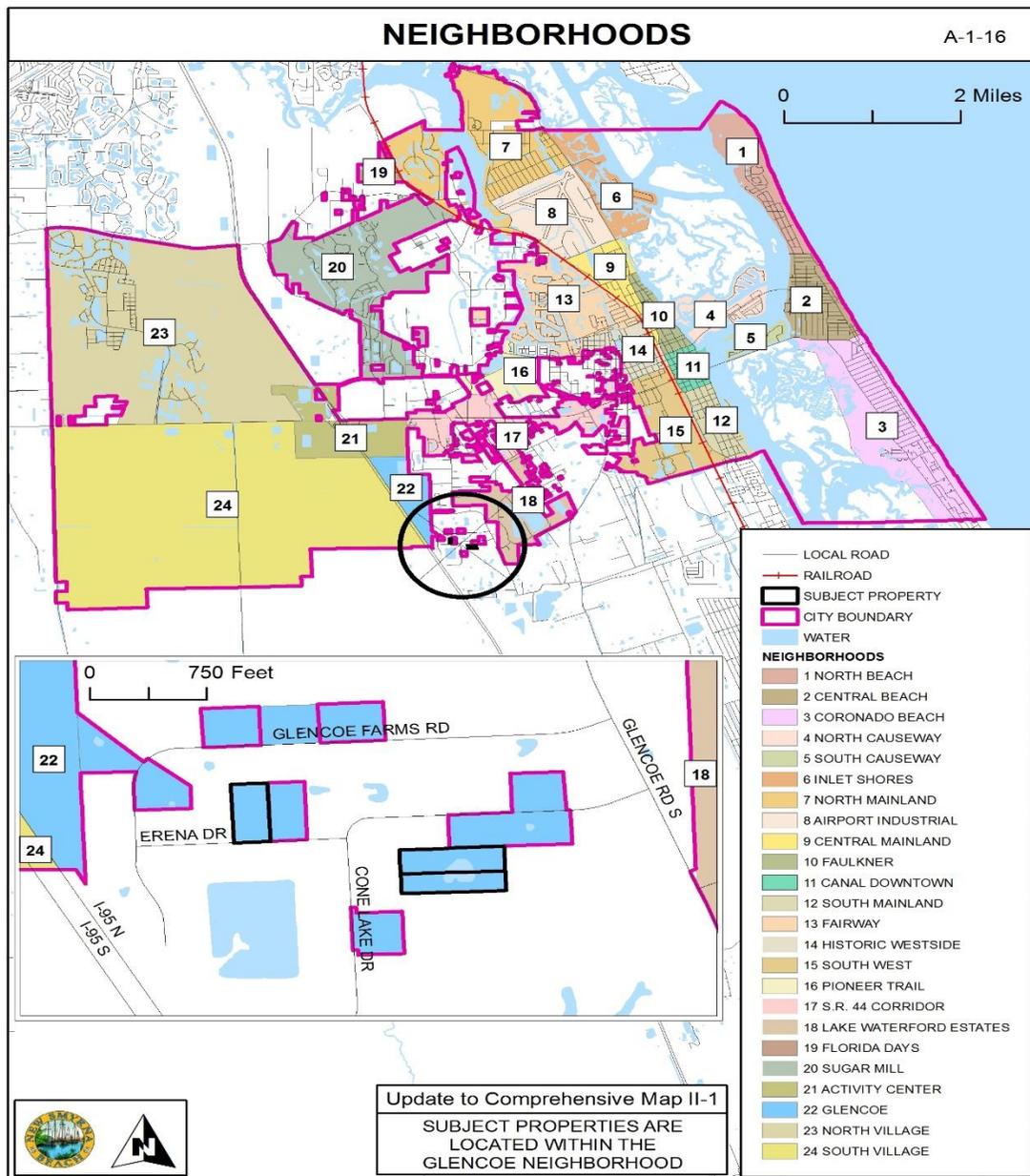


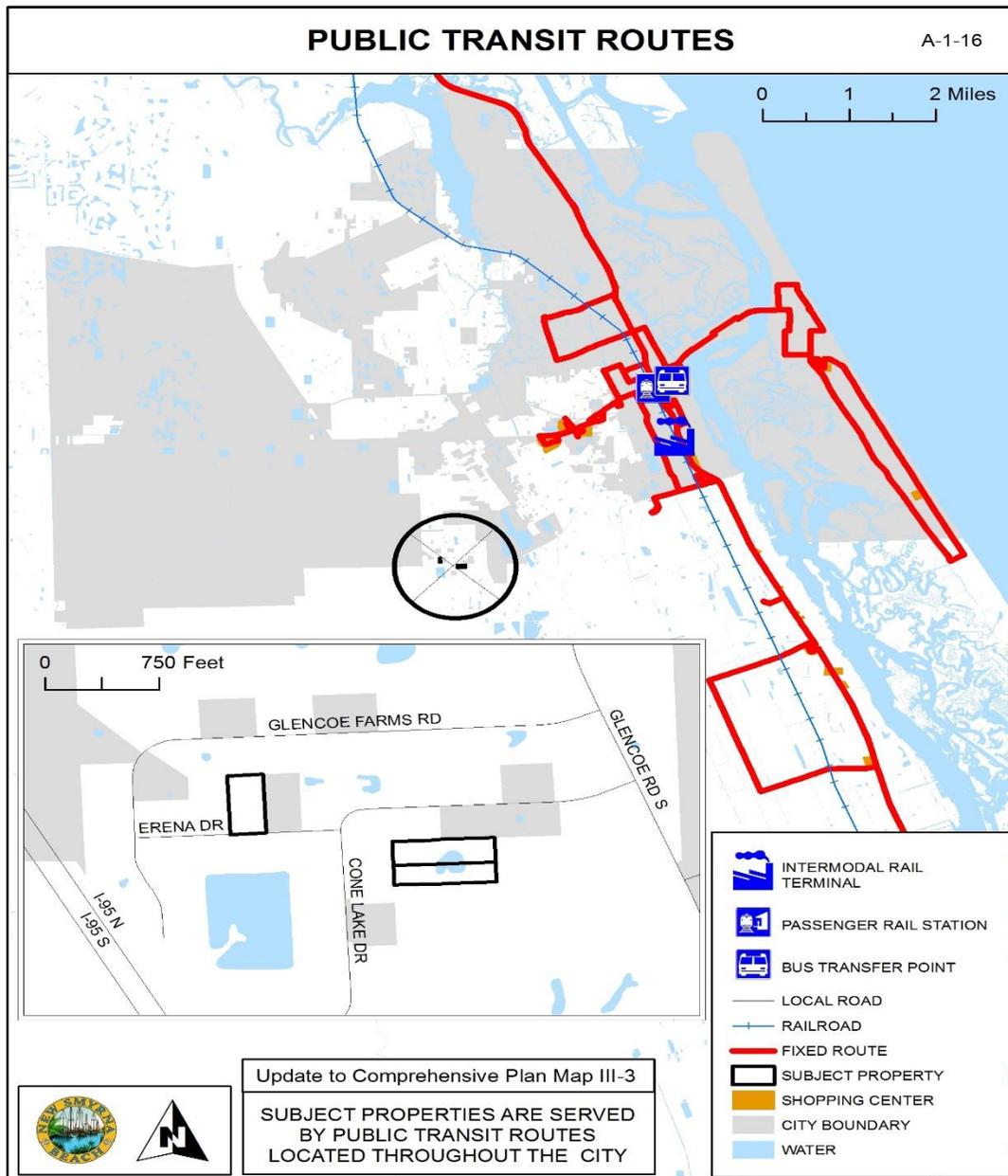


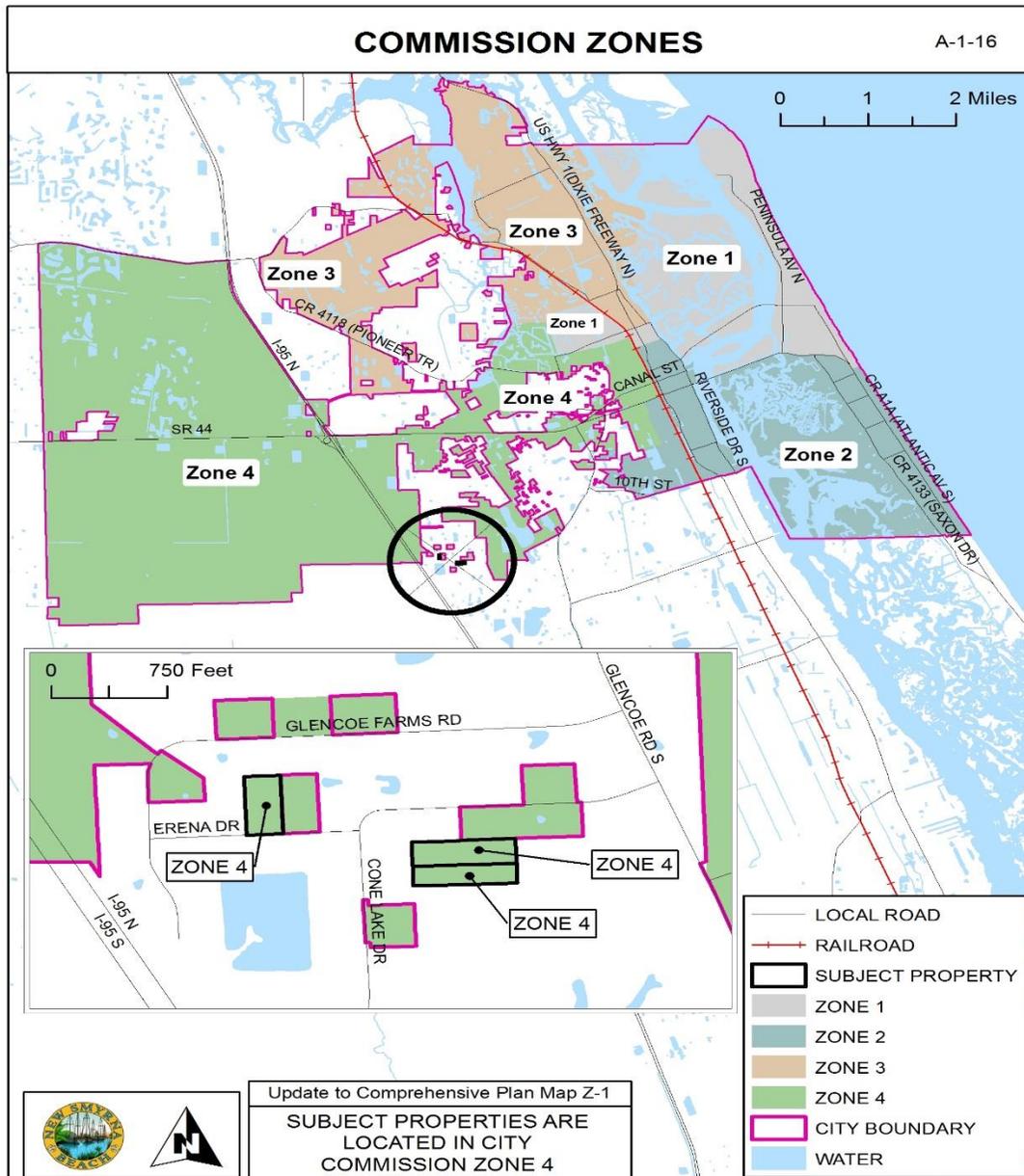












1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING BOARD  
2 **A-2-16: VACANT LOT ON ROSS LANE / 436**  
3 **WARREN AVENUE**

4 **JANUARY 4, 2016**

---

5  
6 **I. Background**

7  
8 **A. Applicant and Property Owner:**

- 9
  - 10 • Larry E. Buck, 1603 South Riverside Drive, Edgewater, Florida  
11 32132 and Cynthia V. Buck, 551 Doras Lane, Bakersville, North  
12 Carolina 28705, and Michael R. Buck, 1143 Corbin Park Road, New  
13 Smyrna Beach, Florida 32168
  - 14 • Suzanne T. Palmer, 436 Warren Avenue, New Smyrna Beach,  
15 Florida 32168

16 **B. Request:** Voluntary annexation, *Comprehensive Plan* amendment, and  
17 rezoning:

- 18
  - 19 • **From:** Volusia County Future Land Use (FLU) designation of UMI,  
20 Urban Medium Intensity, and Volusia County zoning designation of  
R-4, Urban Single-Family Residential.
  - 21 • **To:** City FLU designations of MDR, Medium Density Residential and  
22 City zoning designation of R-2, Single-Family Residential.

23  
24 **C. Site Information:**

- 25
  - 26 • **Size:** 0.44 acres
  - 27 • **Location:** North of State Road 44 on Ross Lane, 436 Warren  
28 Avenue (see **Exhibit A** for a location map).
  - 29 • **Tax I.D. Number:** 7419-00-00-0330 (0.10 acres), 7418-01-23-  
30 0010 (0.34 acres)

31 **II. Findings**

32  
33 A. On April 23, 2013, the City Commission adopted an Interlocal Service  
34 Boundary Agreement (ISBA). The ISBA, which is permitted under Chapter  
35 171, Part II, Florida Statutes, allows the City to annex any parcels that are  
36 within the designated annexation area, even if they are not contiguous to  
37 the current municipal boundaries. The agreement, which is between the  
38 County of Volusia and the City, was also approved by the County on May  
39 2, 2013.

40  
41 B. Subject properties are within the annexation area designated in the ISBA.  
42 The subject property on Ross Lane is undeveloped, the subject property at  
43 436 Warren Avenue is developed with a single-family house and accessory  
44 structures. An aerial view/map of the subject properties and surrounding

1 area is attached as **Exhibit B**.

2  
3 C. The existing Volusia County Future Land Use (FLU) and zoning  
4 designations of the subject properties are shown on the following table.  
5 Maps showing the surrounding Future Land Use and Zoning designations  
6 are attached (as **Exhibits C and D** respectively). The text description of the  
7 existing Future Land Use designation for the subject properties are attached  
8 as **Exhibit E**. The associated current zoning text description for the subject  
9 properties are attached as **Exhibit F**.

10

Property Location	Volusia County FLU Designation	Volusia County Zoning Designation
Ross Lane	UMI, Urban Medium Intensity	R-4, Urban Single-Family
436 Warren Avenue	UMI, Urban Medium Intensity	R-4, Urban Single-Family

11  
12 D. Existing land uses are shown on the map attached as **Exhibit G**. The future  
13 land use and zoning designations for those properties surrounding the  
14 subject properties are as follows:

15

	North	East	South	West
<b>Ross Lane</b>				
Future Land Use	County Urban Medium Intensity	County Urban Medium Intensity	City Industrial	County Urban Medium Intensity
Existing Land Use	Residential	Vacant	Public Grounds	Residential
Zoning	County R-4	County R-4	City I-2	County R-4
<b>436 Warren Avenue</b>				
Future Land Use	County Urban Medium Intensity			
Existing Land Use	Vacant	Residential	Residential	Residential
Zoning	County R-4	County R-4	County R-4	County R-4

16  
17 E. The established City Commission policy is that when properties are  
18 annexed into the City, the City will assign future land use and zoning  
19 designations that would be as similar as possible to existing County  
20 designations. As discussed above, the existing County FLU designation is  
21 UMI, Urban Medium Intensity. The existing County zoning designation is  
22 R-4, Urban Single-Family. The proposed City FLU designation is MDR,  
23 Medium Density Residential. The proposed City zoning designation is R-2,  
24 Single-Family Residential. A text description of the proposed City MDR,  
25 Medium Density Residential FLU designation is attached as **Exhibit H**, with  
26 a map of these proposed changes also attached as **Exhibit I**. A text

1 description of the proposed City R-2, Single-Family Residential zoning  
2 designation, and a map of the proposed change, are similarly attached as  
3 **Exhibits J** and **K** respectively.  
4

5 F. This annexation request is within the City’s annexation area and within the  
6 City’s water and sewer service area (**Exhibit L**). The following table shows  
7 the availability of utilities to service the subject property:  
8

Property Location	Water	Sewer	Reclaim
Ross Lane	2”line / Ross Lane ROW	10” FM Ross Lane ROW	Not Available
436 Warren Avenue	2” line / Warren Ave. ROW	Not Available	Not Available

9  
10 A map of the soil limitations for septic systems is attached as **Exhibit M**.

11  
12 G. The *Land Development Regulations* requires any proposed development to  
13 conform to the Concurrency Management System. That system includes  
14 traffic, parks and recreation, potable water, wastewater treatment, solid  
15 waste collection, storm-water management, and public school facilities.  
16 Although the property on Swoope Drive is undeveloped and the property on  
17 Doster Drive is developed with a single-family house and accessory  
18 structures, no increased density is proposed for the property. Therefore,  
19 staff did not prepare a concurrency analysis table for this case.  
20

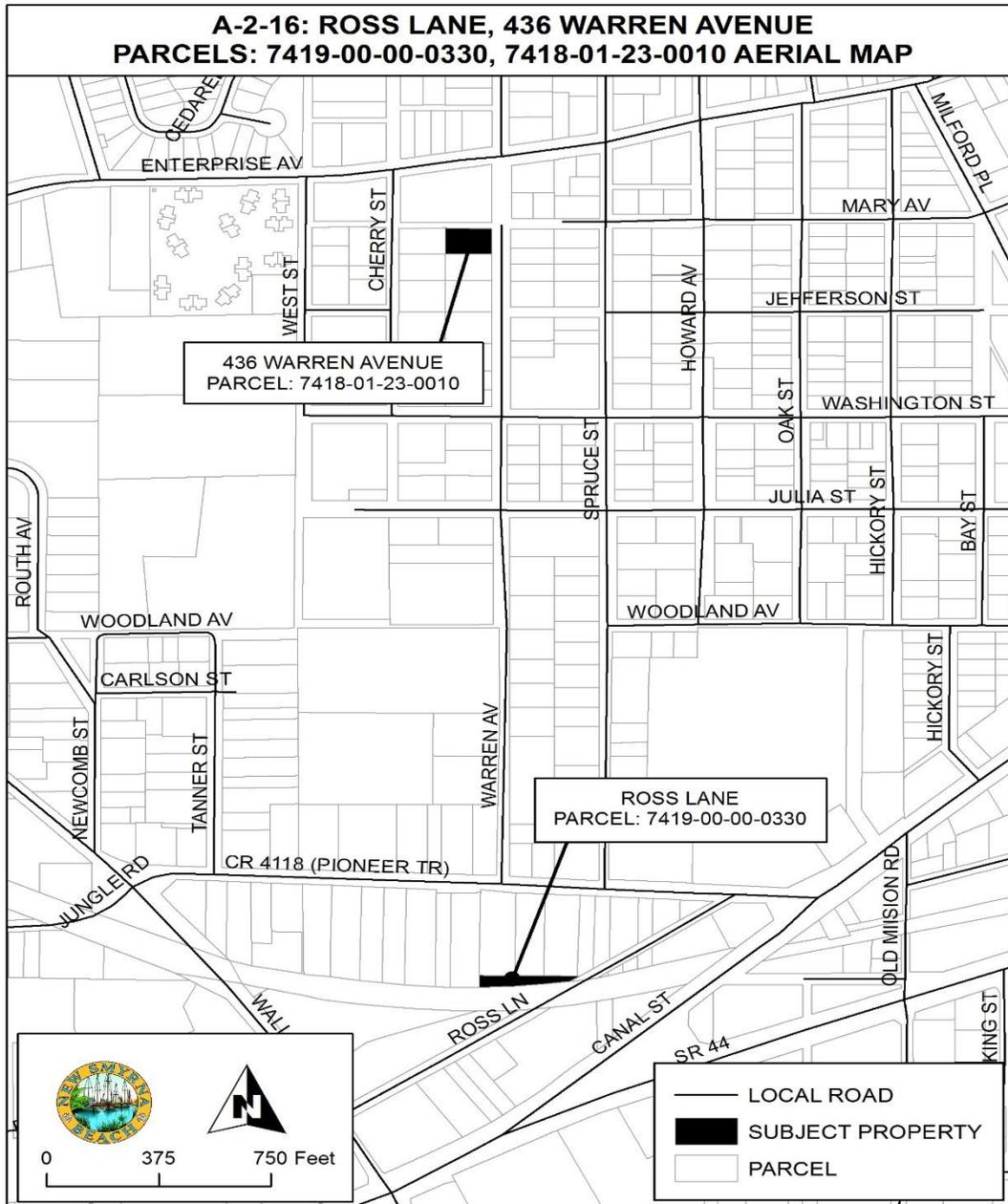
21 H. There are numerous *Comprehensive Plan* maps that must be amended to  
22 incorporate the subject property into the *Comprehensive Plan* (see **Exhibits**  
23 **N through Z**). A map showing the subject properties incorporated into  
24 Commission Zone 4 is attached as **Exhibit AA**.  
25

26 I. The *Comprehensive Plan* provides guidance on annexations, future land  
27 use amendments, and re-zonings. The following is a list of objectives in the  
28 *Comprehensive Plan* that support this proposal:  
29

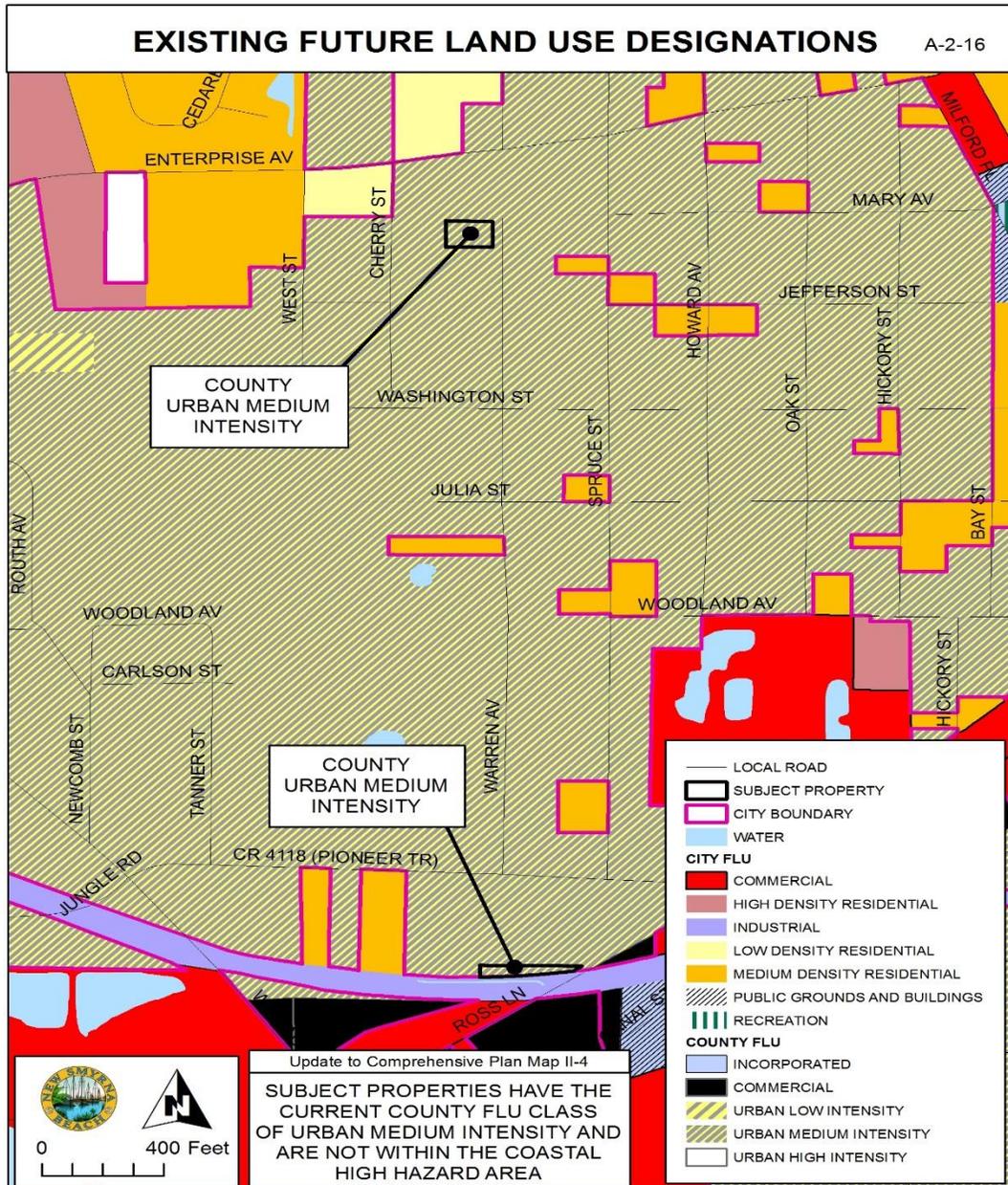
- Future Land Use Element Goal 2, Objective 3
- Future Land Use Element Goal 2, Objective 4
- Future Land Use Element Goal 2, Objective 7
- Future Land Use Element Goal 5, Objective 3

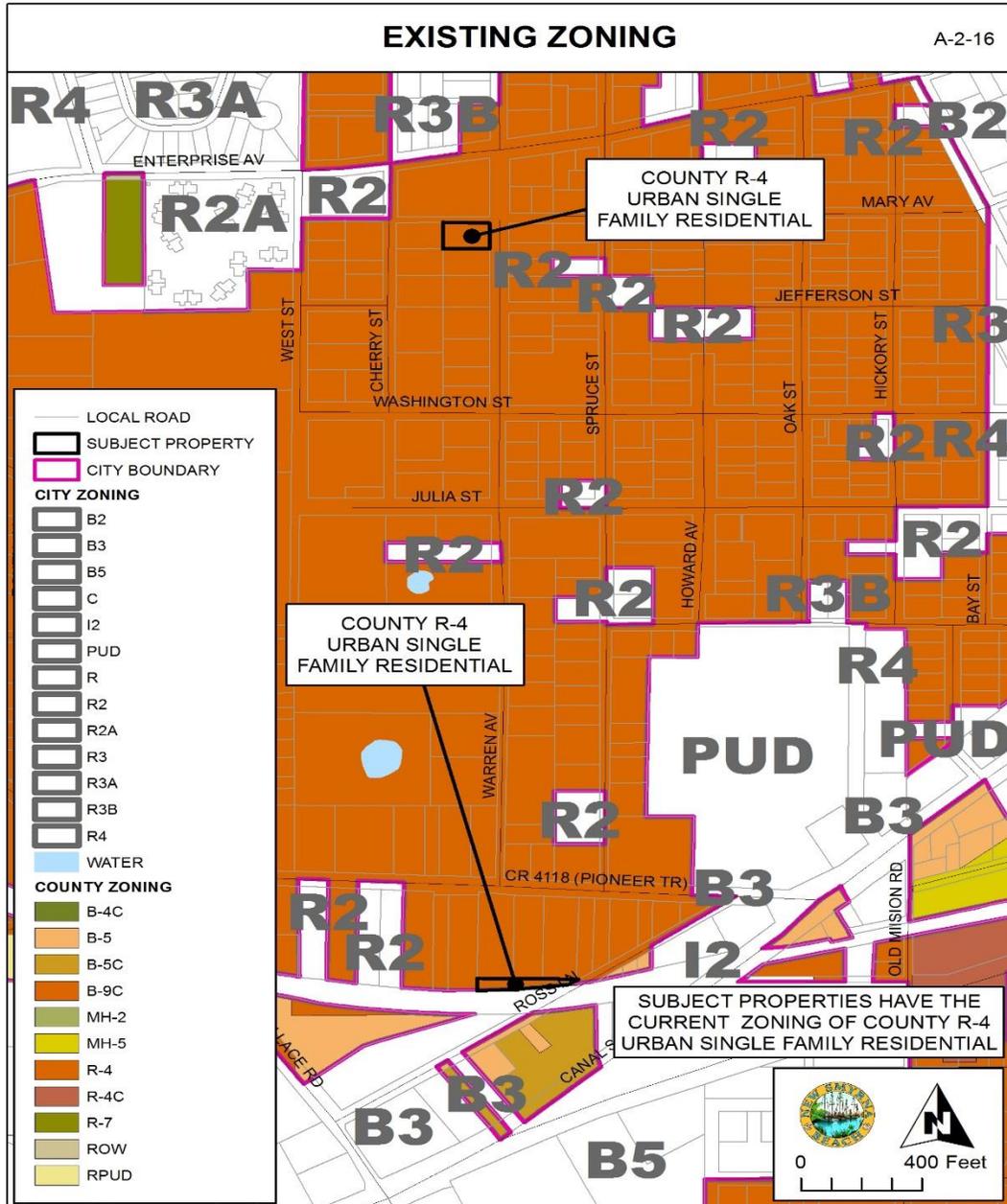
34  
35 **III. Recommendation**

36 Staff recommends that the Planning and Zoning Board recommend the City Commission  
37 **approve** the requested annexations, *Comprehensive Plan* amendment to City MDR,  
38 Medium Density Residential, and rezoning to City R-2, Single-Family Residential.









**Exhibit E**

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**Urban Medium Intensity (UMI) –**

Areas that contain residential development at a range of greater than four (4) to eight (8) dwelling units per acre. The types of housing typically found in areas designated urban medium intensity include single family homes, townhouses and low-rise apartments.

The UMI designation is primarily a residential designation but may allow neighborhood business areas (see Shopping Center definition in Chapter 20) and office development that meet the Comprehensive Plan's location criteria. The commercial intensity shall be no more than a fifty percent Floor Area Ratio (0.50 FAR) and shall be limited in a manner to be compatible with the allowable residential density. In order to be considered compatible, the commercial development should reflect similar traffic patterns, traffic generation, building scale, landscaping and open space, and buffers. More intensive commercial use, other than neighborhood business areas, shall be reserved to areas designated for Commercial.

All requests for nonresidential uses within one- quarter ( $\frac{1}{4}$ ) mile of another jurisdiction shall require notification to that jurisdiction.

**Exhibit F**

**R-4 URBAN SINGLE-FAMILY  
RESIDENTIAL CLASSIFICATION**

*Purpose and intent:* The purpose and intent of the R-4 Urban Single-Family Residential Classification is to provide medium-density residential developments, preserving the character of existing or proposed residential neighborhoods.

*Permitted principal uses and structures:* In the R-4 Urban Single-Family Residential Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Cluster and zero lot line subdivisions (refer to subsection 72-304).
- Communication towers not exceeding 70 feet in height above ground level.
- Essential utility services.
- Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.
- Exempt landfills (refer to subsection 72-293(16)).
- Fire stations.
- Home occupations, class A (refer to section 72-283).
- Houses of worship.
- Parks and recreational areas accessory to residential developments.
- Public schools.
- Publicly owned parks and recreational areas.
- Publicly owned or regulated water supply wells.
- Single-family standard or manufactured modular dwelling.

*Permitted special exceptions:* Additional regulations/requirements governing permitted special exceptions are located in sections 72-293 and 72-415 of this article.

- Bed and breakfast (refer to subsection 72-293(19)).
- Cemeteries (refer to subsection 72-293(4)).
- Communication towers exceeding 70 feet in height above ground level.
- Day care centers (refer to subsection 72-293(6)).
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).
- Excavations only for stormwater retention ponds for which a permit is required by this article.
- Garage apartments.
- Off-street parking areas (refer to subsection 72-293(14)).
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).
- Schools, parochial or private (refer to subsection 72-293(4)).

**Exhibit F (cont'd)**

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*Dimensional requirements:*

*Minimum lot size:*

Area: 7,500 square feet.

Width: 75 feet.

*Minimum yard size:*

Front yard: 25 feet.

Rear yard: 20 feet.

Side yard: 20 feet combined, minimum of eight feet on any one side.

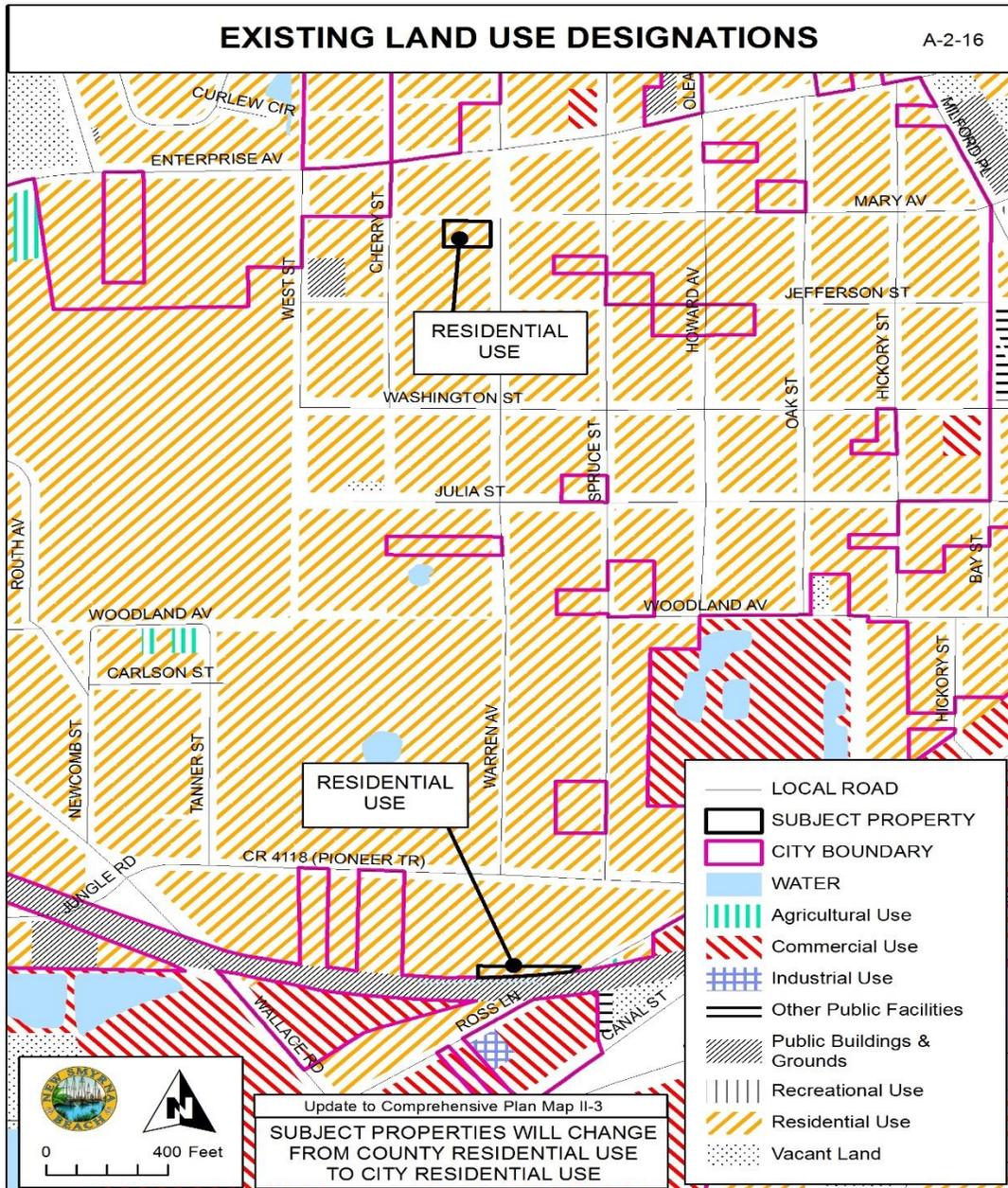
Waterfront yard: 25 feet.

*Maximum building height:* 35 feet.

*Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

*Minimum floor area:* 850 square feet.

*Off-street parking and loading requirements:* Off-street parking and loading areas meeting the requirements of sections 72-286 and 72-287 shall be constructed.



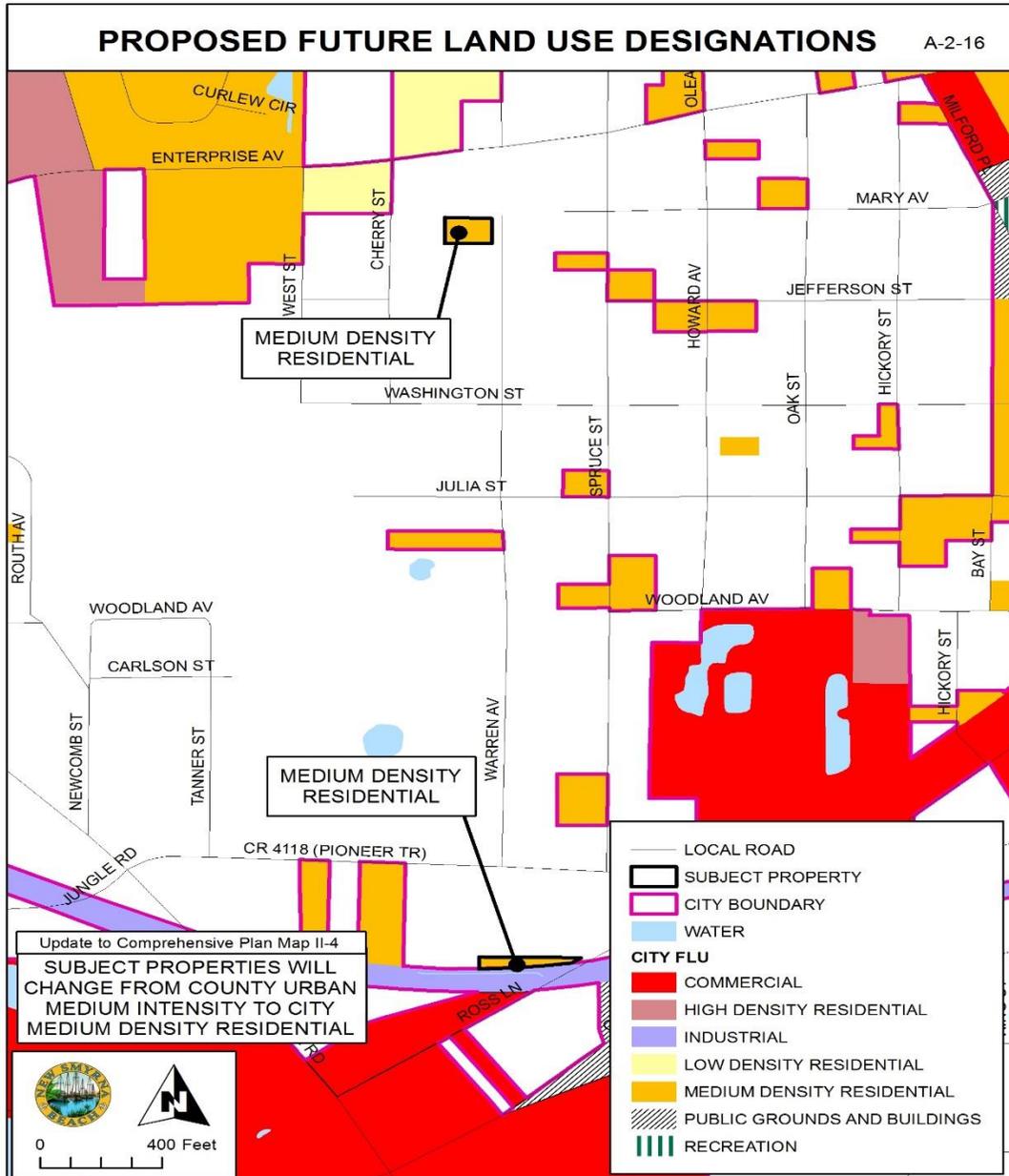
**Exhibit H**

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**MEDIUM-DENSITY RESIDENTIAL**

Maximum allowed density: 5.01 to eight [8] dwelling units per acre

Intent: This use is intended to provide a buffer between low-density residential uses and more intense uses, such as a high-density residential or commercial. It is also suitable at major intersections when adequate buffering from highway can be provided.



**Exhibit J**

**R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT**

**Intent.** The R-2, Single-Family Residential District is intended to be a single-family residential district for low population densities. Existing development and usage has resulted which is being preserved in order to stabilize the neighborhood. The nature of the residential use of the property throughout the district will enhance the prospects for orderly future residential development.

***Permitted uses.***

Playfields

Playgrounds

Public parks

Recreation buildings and complexes for exclusive use by residents and guests in a residential development

Single-family dwelling units

***Permitted accessory uses.***

Garages

Gazebos

Incidental uses

Permitted home occupations

Storage sheds

Swimming pools, private, provided a principal structure exists and the pool is located behind the front plane of the principal structure. Corner lots will be considered to have two front planes, one on each street. If a structure is not constructed squarely on a parcel, the swimming pool must be located at or behind the most restrictive front plane of the principal structure.

Uses customarily associated with the permitted principal uses

**Exhibit J (cont'd)**

***Special exceptions.***

Facilities owned and/or operated by federal, state, county or municipal government except country clubs and golf courses

Schools and churches provided all structures are located at least 35 feet from all side or rear property lines and off-street parking areas abutting residential property are screened by a buffer meeting the requirements of this LDR.

Child day care on church property, subject to the following additional conditions:

(1)

The church property shall be located on and be accessible by an arterial or collector roadway.

(2)

Play areas shall be fenced and landscaped. The landscaping shall have a vegetative hedge that will reach six feet in height within two years that is planted a minimum of three feet on center.

(3)

Play areas shall be located within all applicable setback dimensions.

(4)

The church property shall have a vehicular drop off and pickup area with a minimum [of] 100 feet of drive lane outside of the public right-of-way, or sufficient parking area to provide enough space to fit the required parking and provided space for drop off and pick up.

***Dimensional requirements.***

***Minimum lot size.***

Area: 8,625 square feet

Depth: 115 feet

Width: 75 feet

**Exhibit J (cont'd)**

***Minimum yard size.***

Front yard: 30 feet or as required per [sub] section 504.01M. of this LDR

Rear yard: 7.5 feet

Side yard: 7.5 feet

***Maximum building coverage.*** The total area covered with buildings on any lot shall not exceed 40 percent of the total lot area.

***Screen enclosures.*** As an exception to the maximum building coverage provision any parcel may be allowed an additional ten percent building coverage for only a screen pool enclosure if the following conditions are met:

1. A screen pool enclosure shall only cover the swimming pool and surrounding pool deck and shall have a roof and walls consisting entirely of screening; and
2. There shall be no variances granted to exceed the maximum building coverage or additional coverage allowed for screen enclosures.

***Maximum impervious lot coverage.*** The total area of the lot that may be covered with impervious material is 60 percent.

***Maximum principal building height.*** 35 feet; three stories.

***Minimum floor area requirements.*** 750 square feet of livable area for one and two-bedroom dwelling units; 1,200 square feet of livable area for a three-bedroom dwelling unit; and 1,300 square feet of livable area for a four-bedroom dwelling unit.

***Corner lots.***

- (1) Parcels which front on two streets shall provide a 30-foot front yard on one street frontage and a 15-foot half depth front yard on the other street, or as required per [sub]section 504.01M. of this LDR.

**Exhibit J (cont'd)**

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(2) Parcels fronting on three streets shall provide two 30-foot front yards and a 15-foot half depth front yard on the remaining street or as required per [sub]section 504.01M. of this LDR.

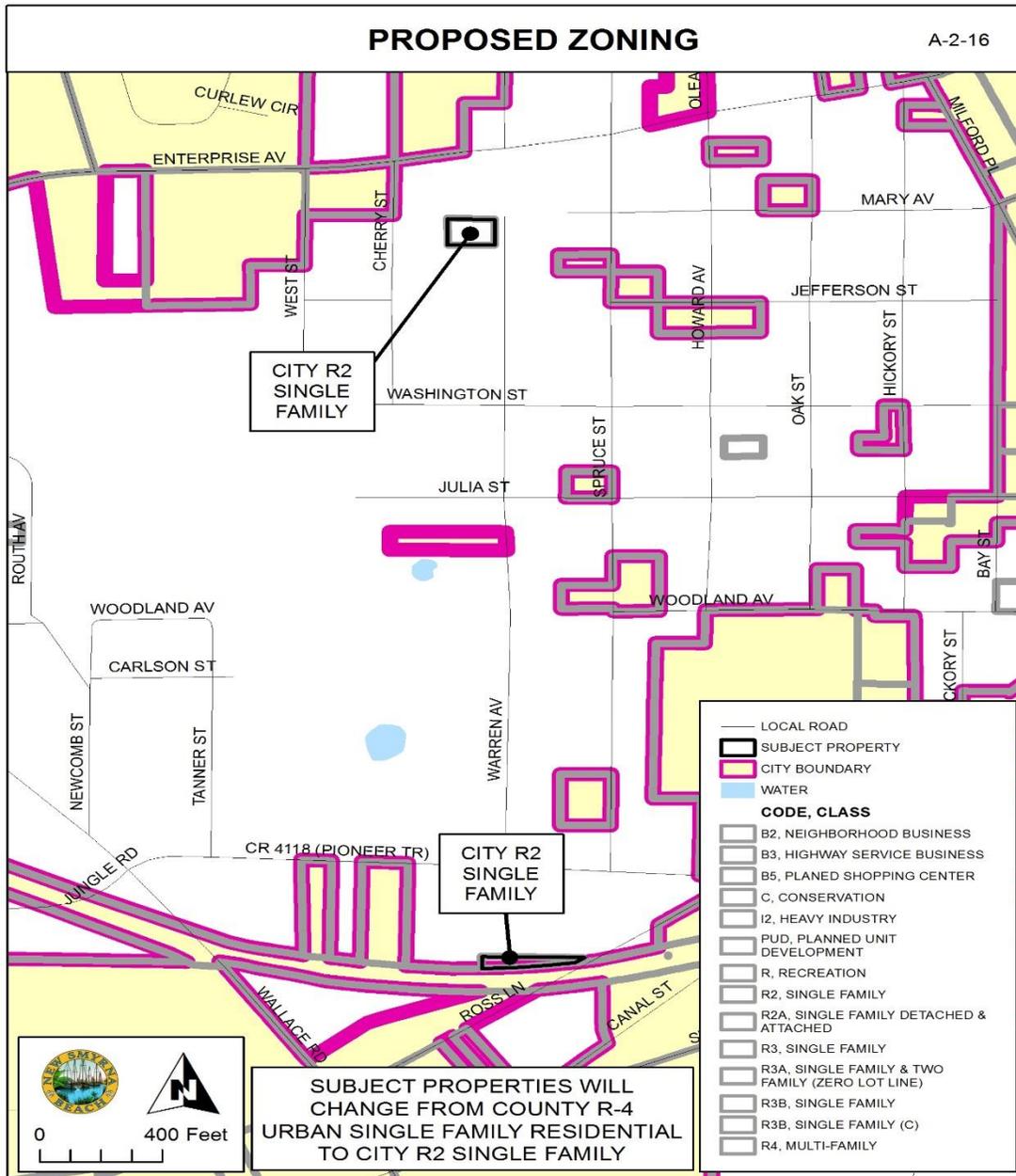
**Driveway access.** The minimum driveway length shall be 20 feet (excluding [that] portion of a driveway within the public right-of-way).

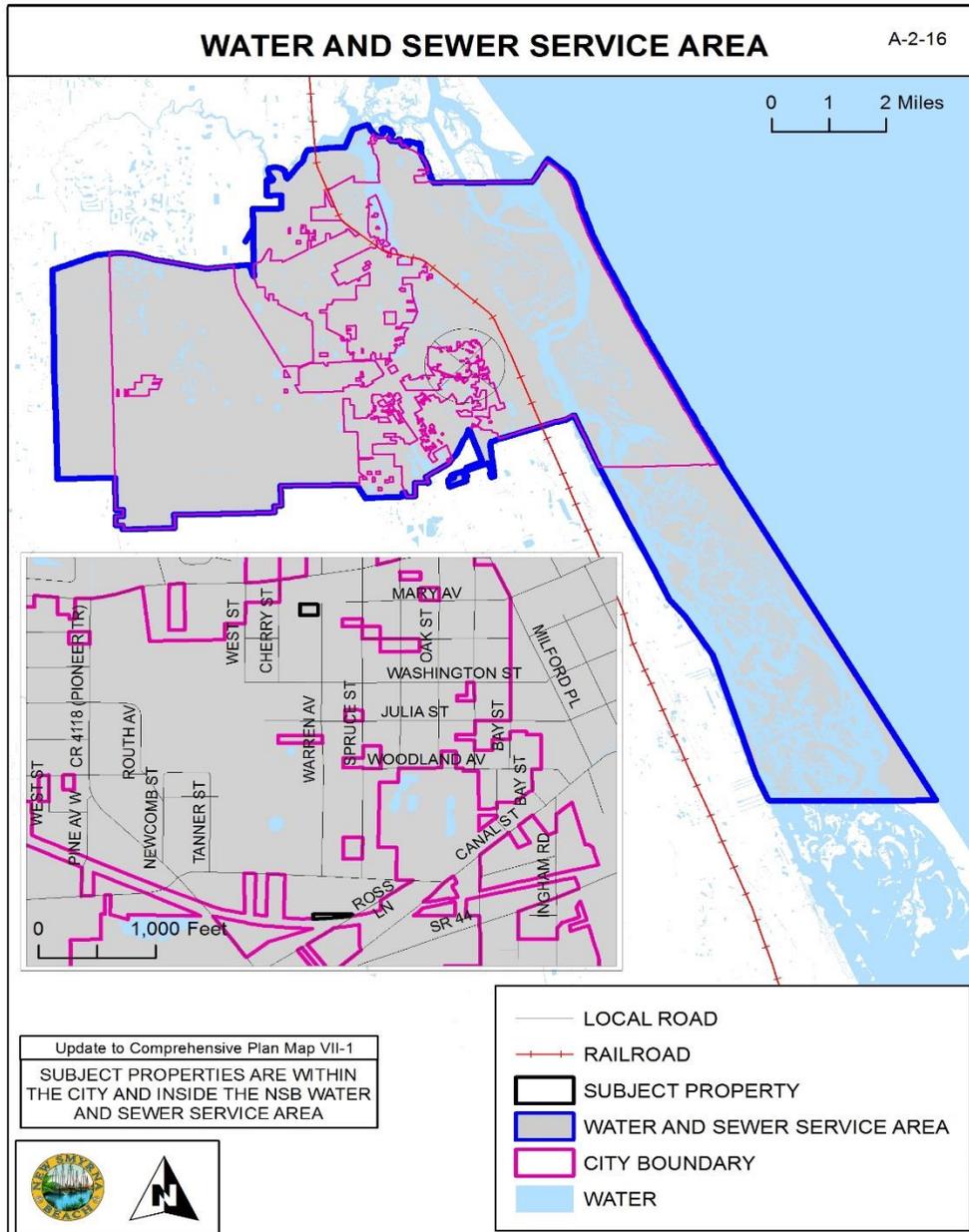
**Through lots.** Through lots shall provide a 30-foot front yard on each street, or as required per [sub] section 504.01M. of this LDR.

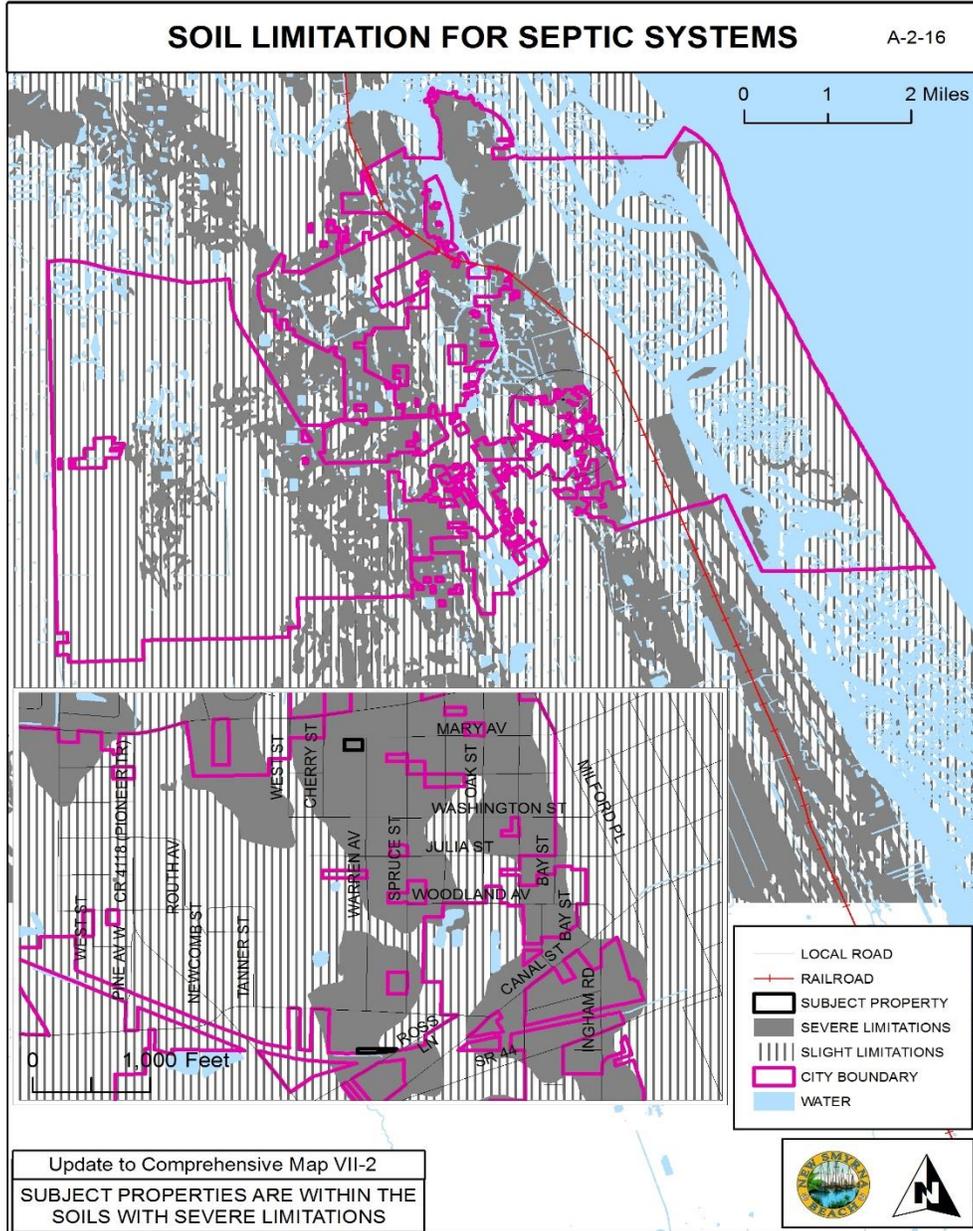
**Atypical lots.** Visibility triangles shall be established at the rear corners of an atypical lot. The visibility triangles shall be those areas formed by a line connecting the points 30 feet from the intersection of the side and rear lot line along the side lot line and 30 feet from the intersection of the side and rear lot line along the rear lot line; no principal or accessory structure having a height over four feet, except for incidental uses, shall protrude into the area of a visibility triangle.

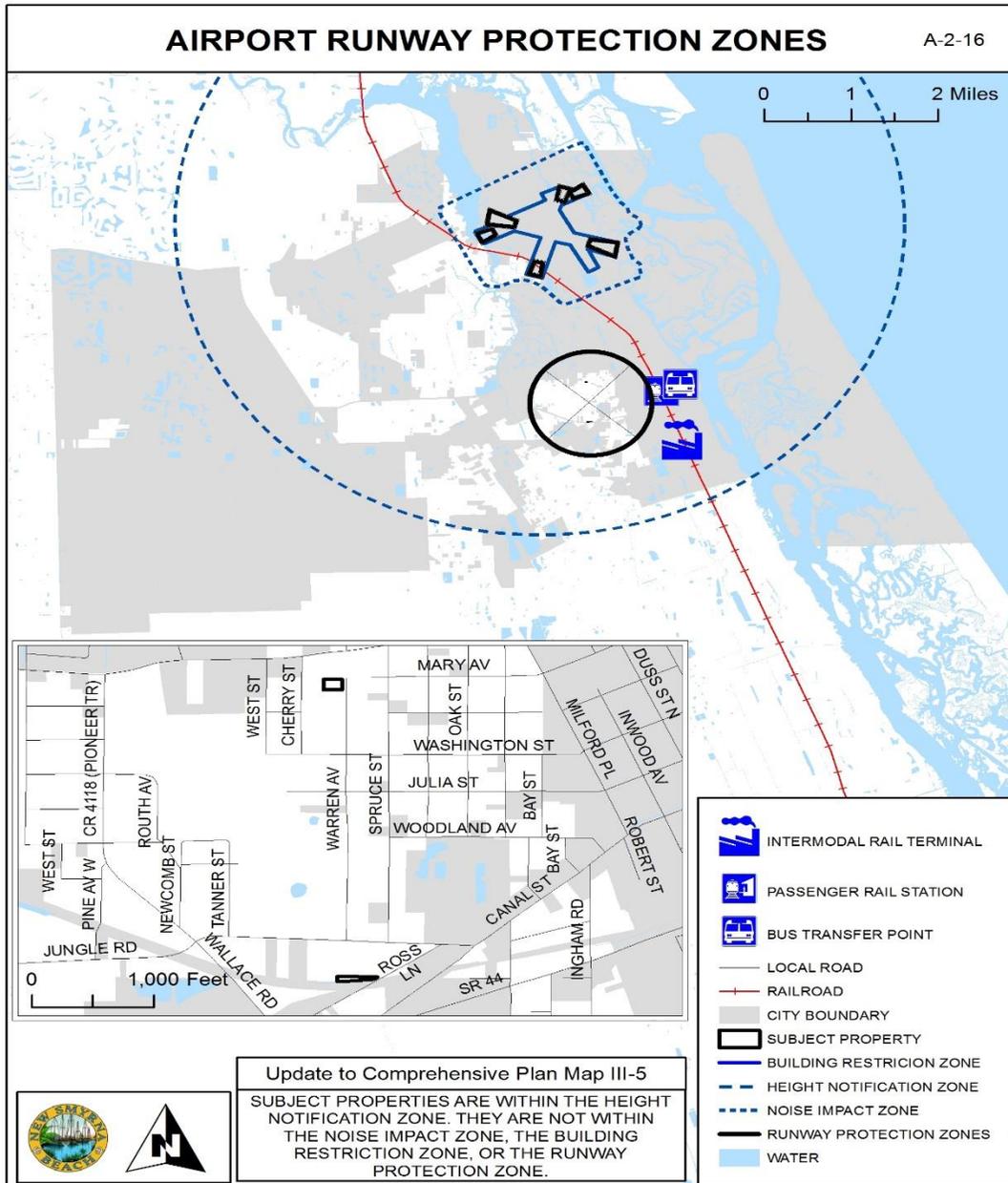
**Building projections.** There shall be no building projections into any required yard except for eaves with a maximum projection of 42 inches, but no closer than five feet to a property line; and those structures allowed in [sub] section 804.03.

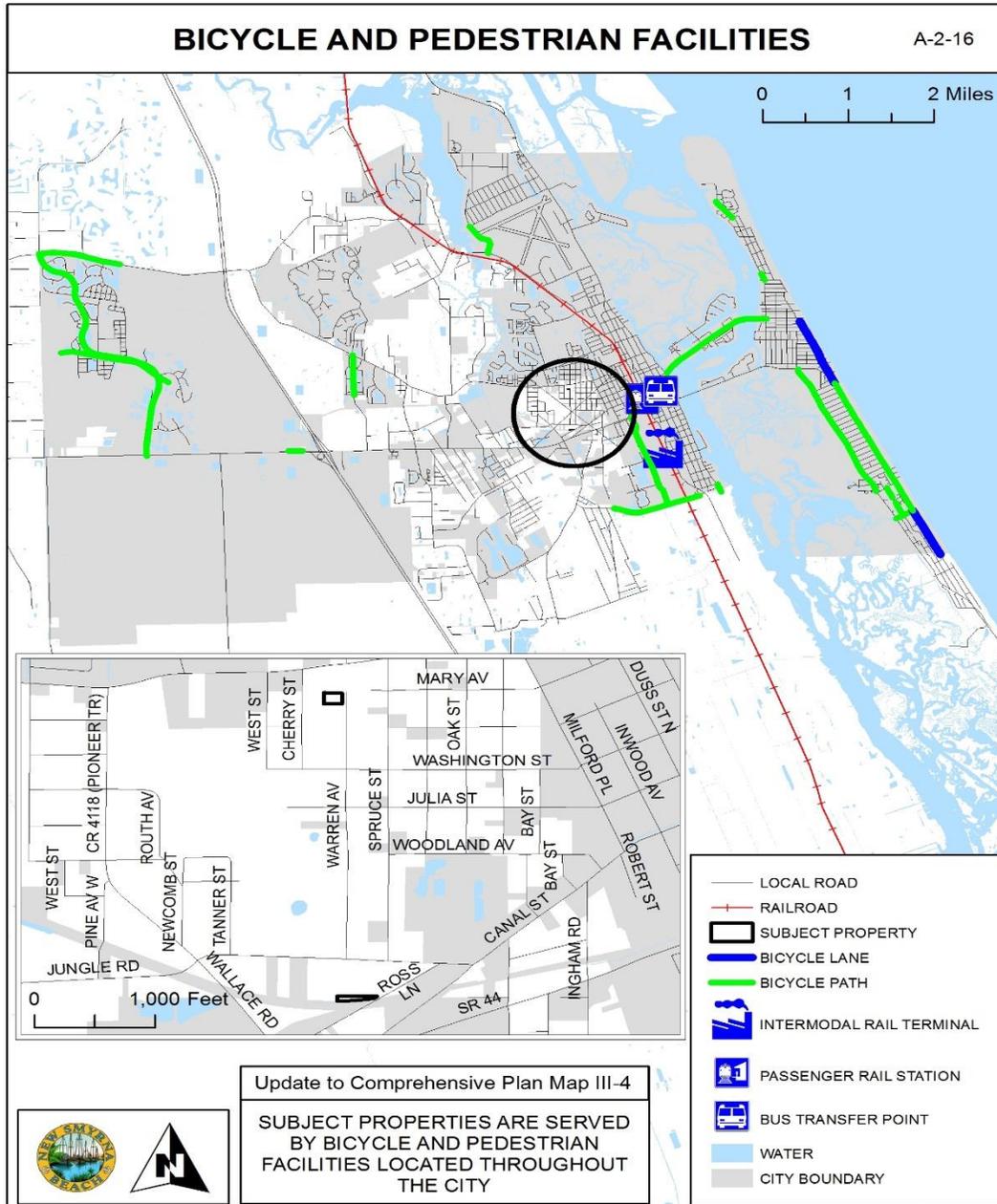
**Visibility at intersections.** Visibility at intersections shall be provided as required in this LDR.

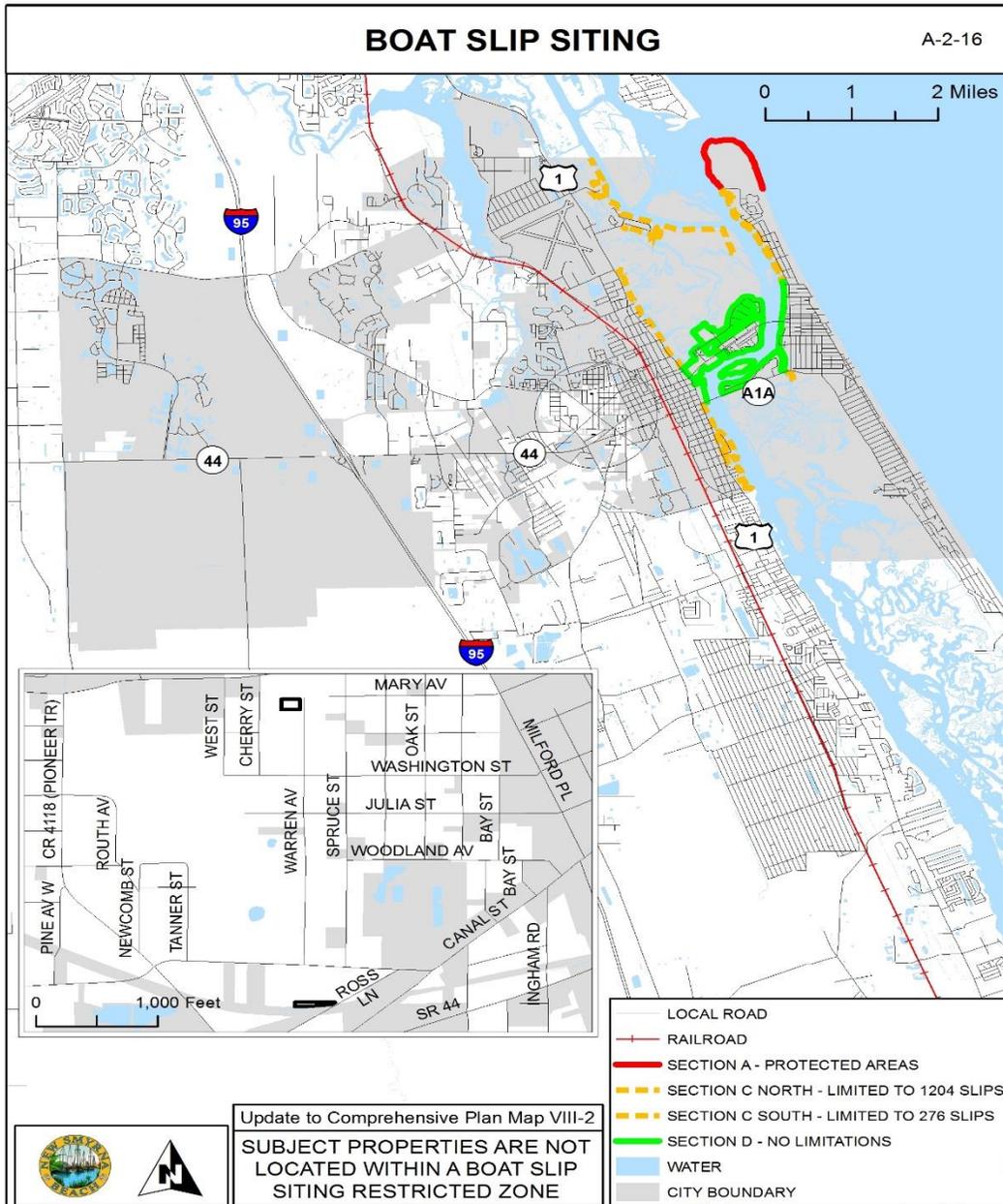


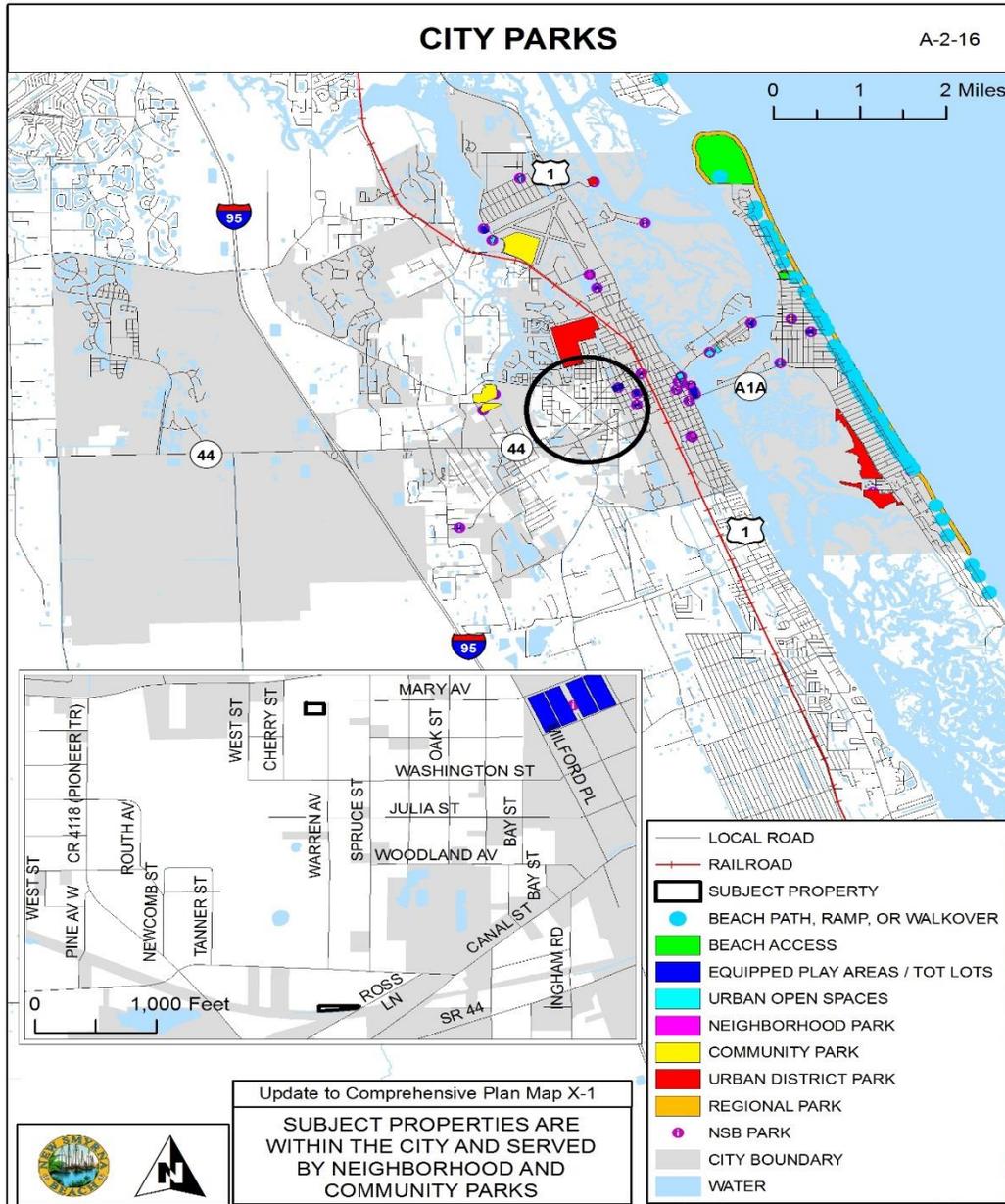


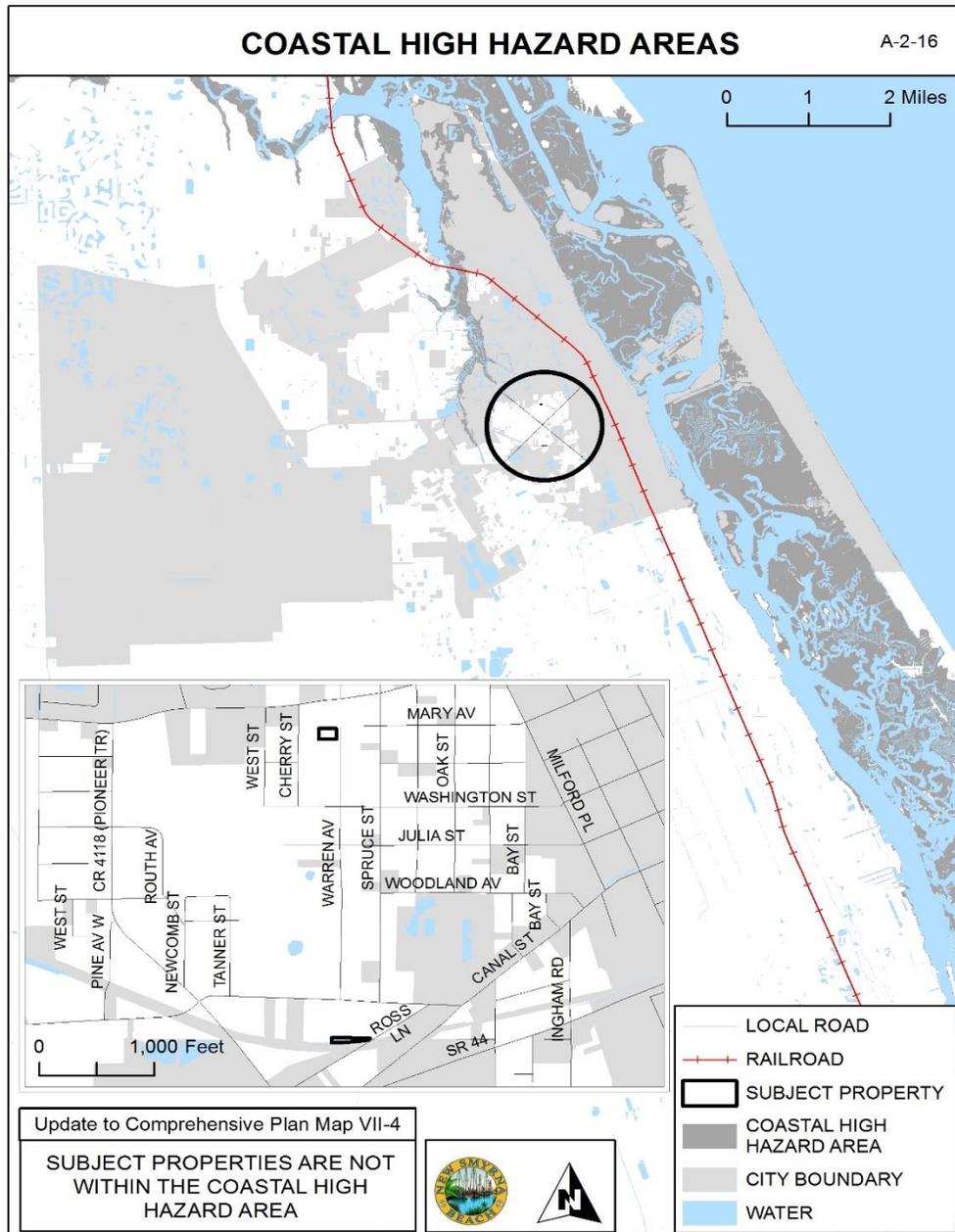


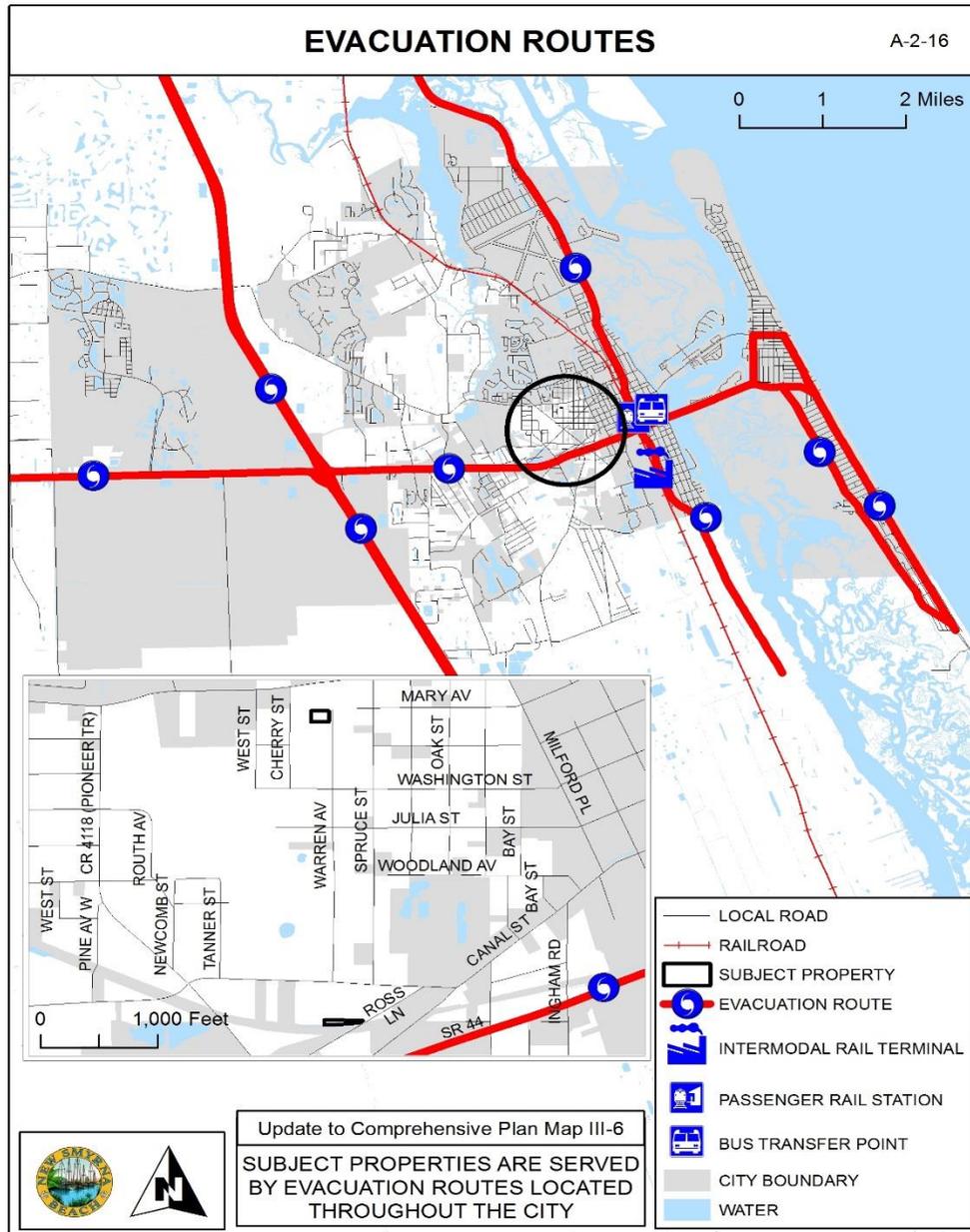


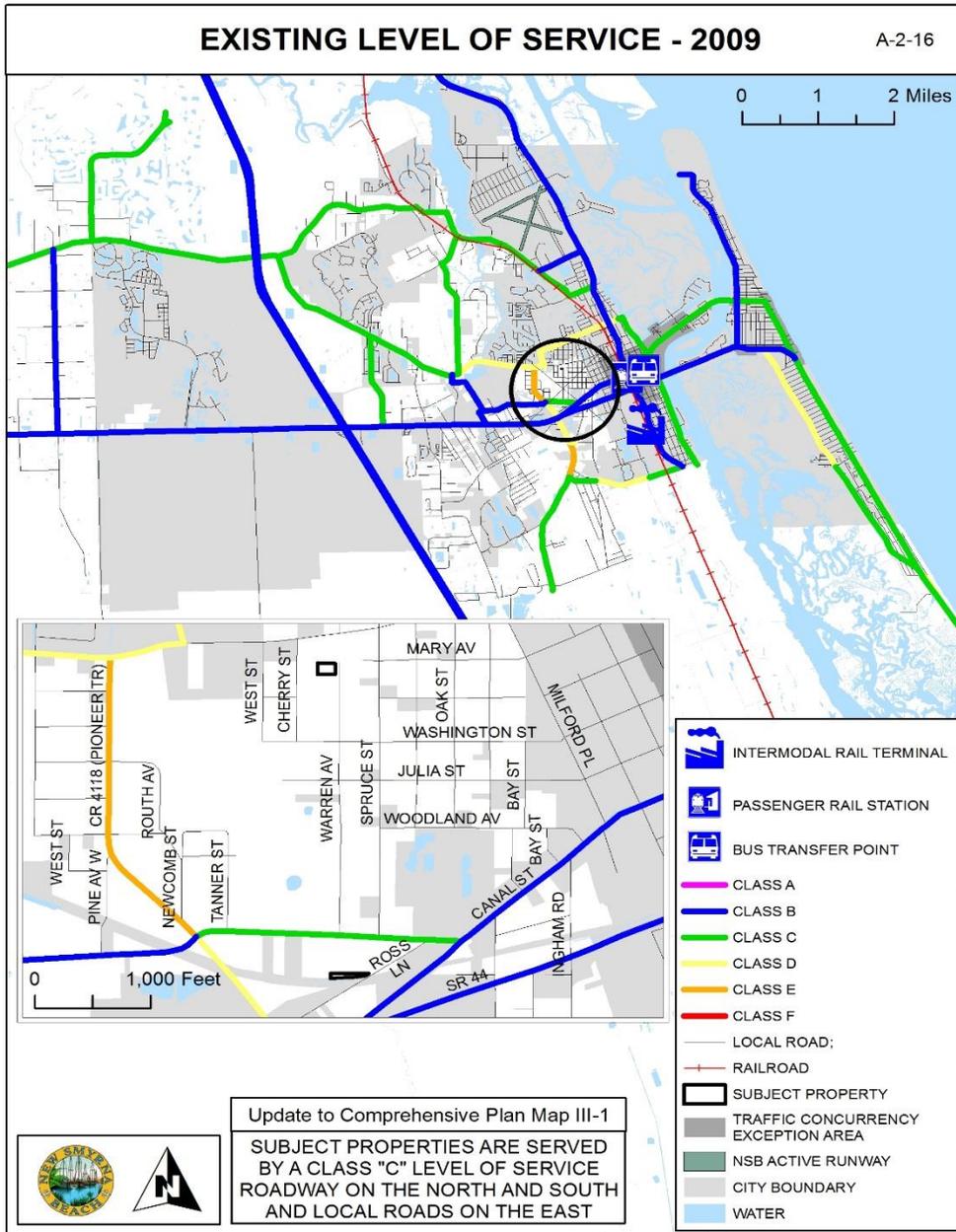


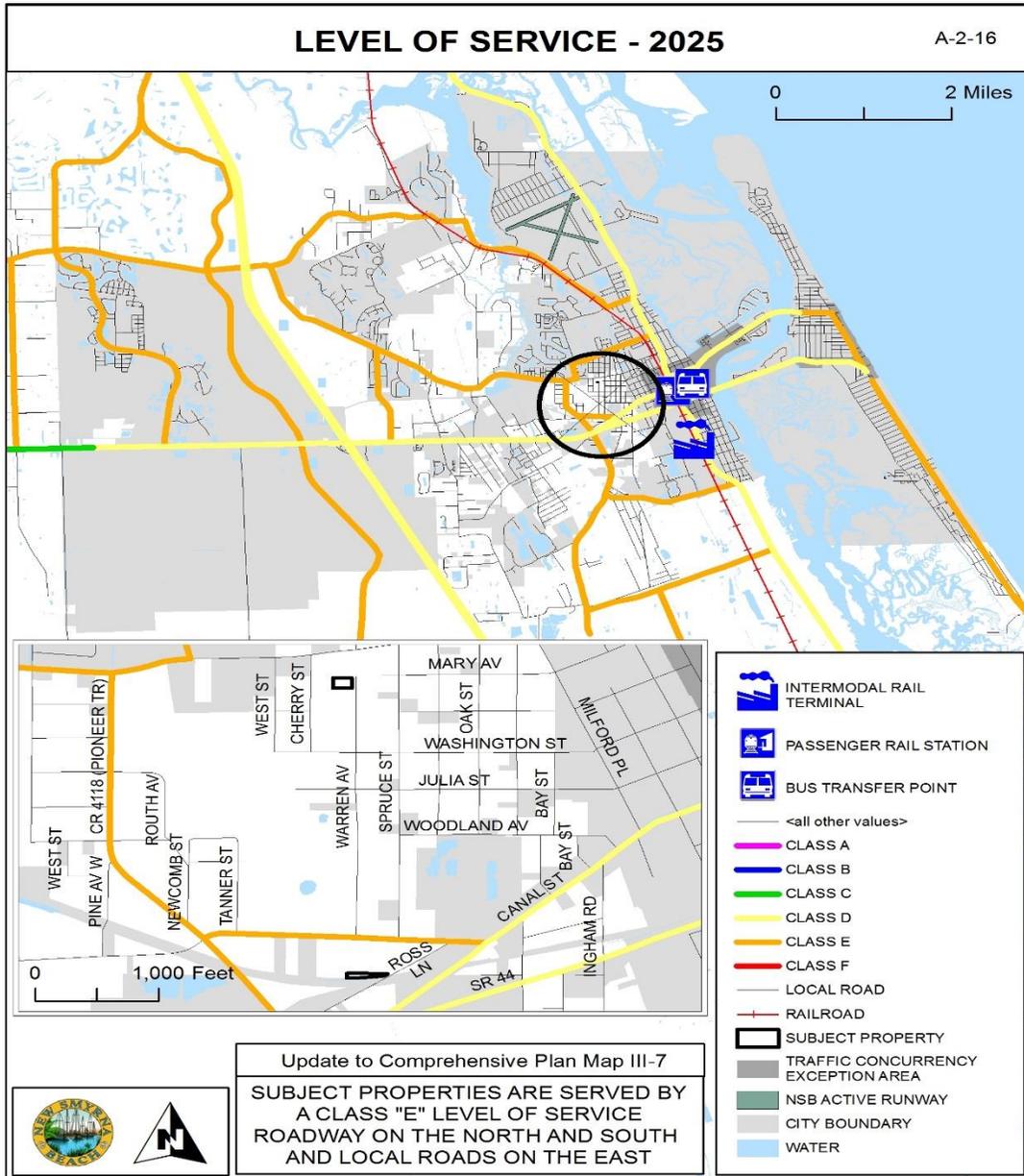


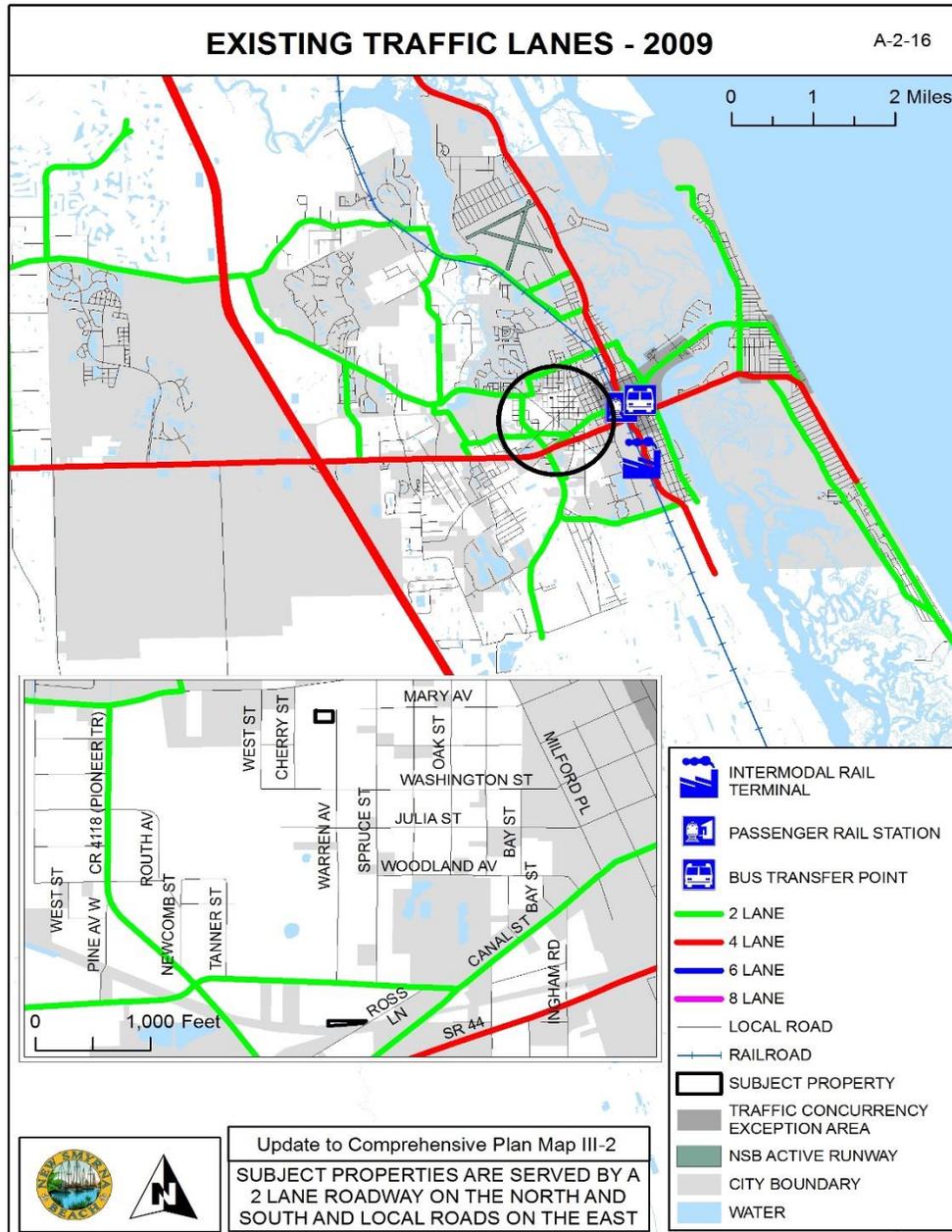


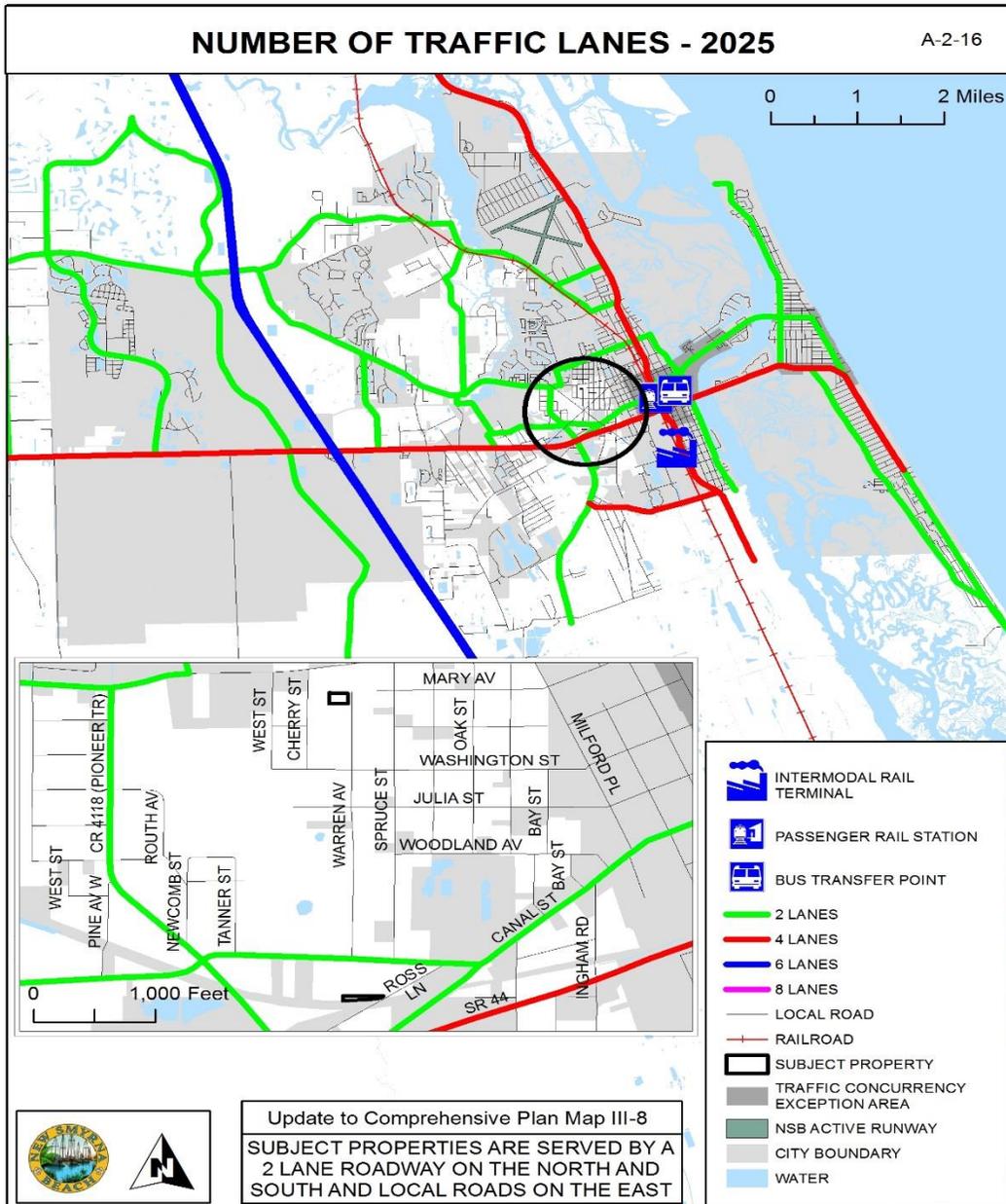


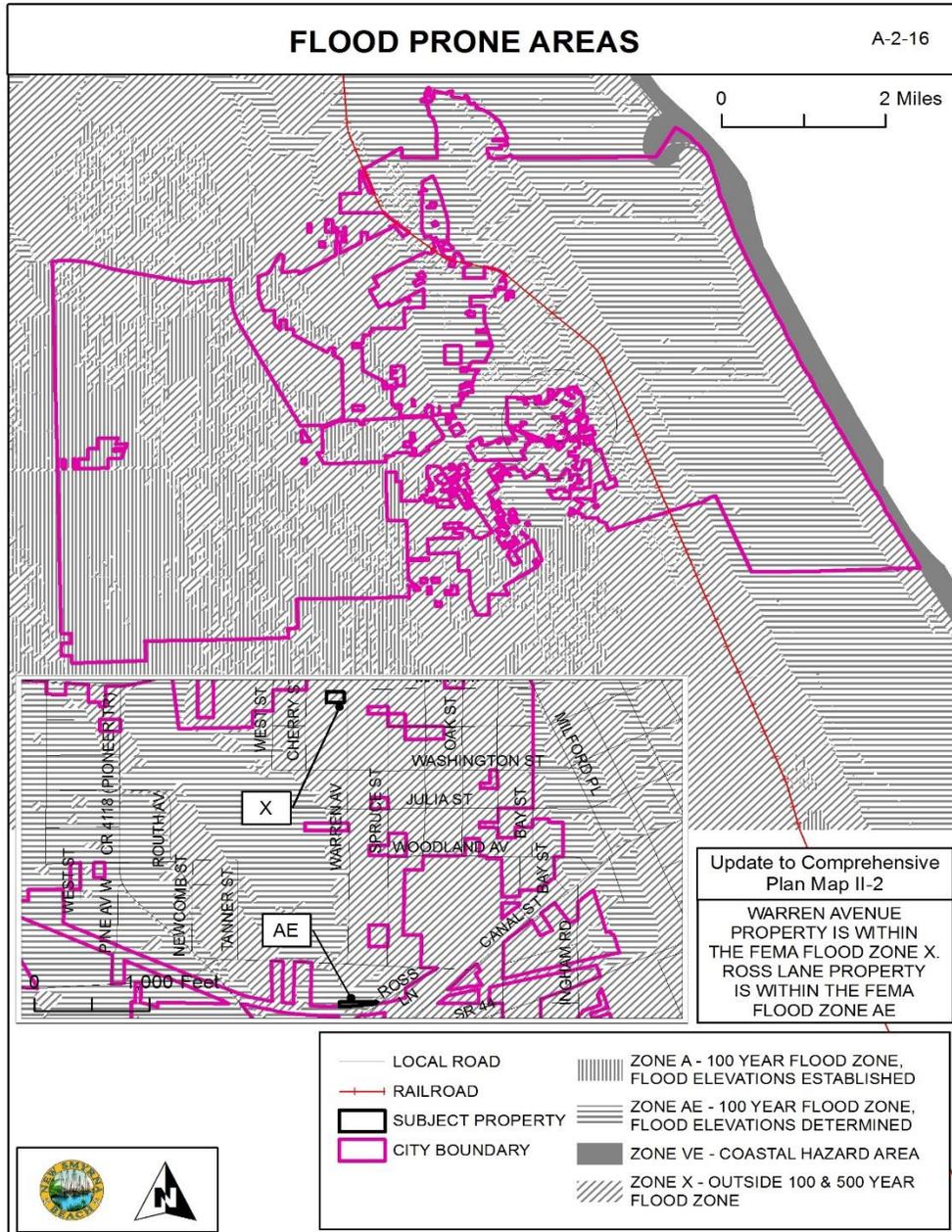


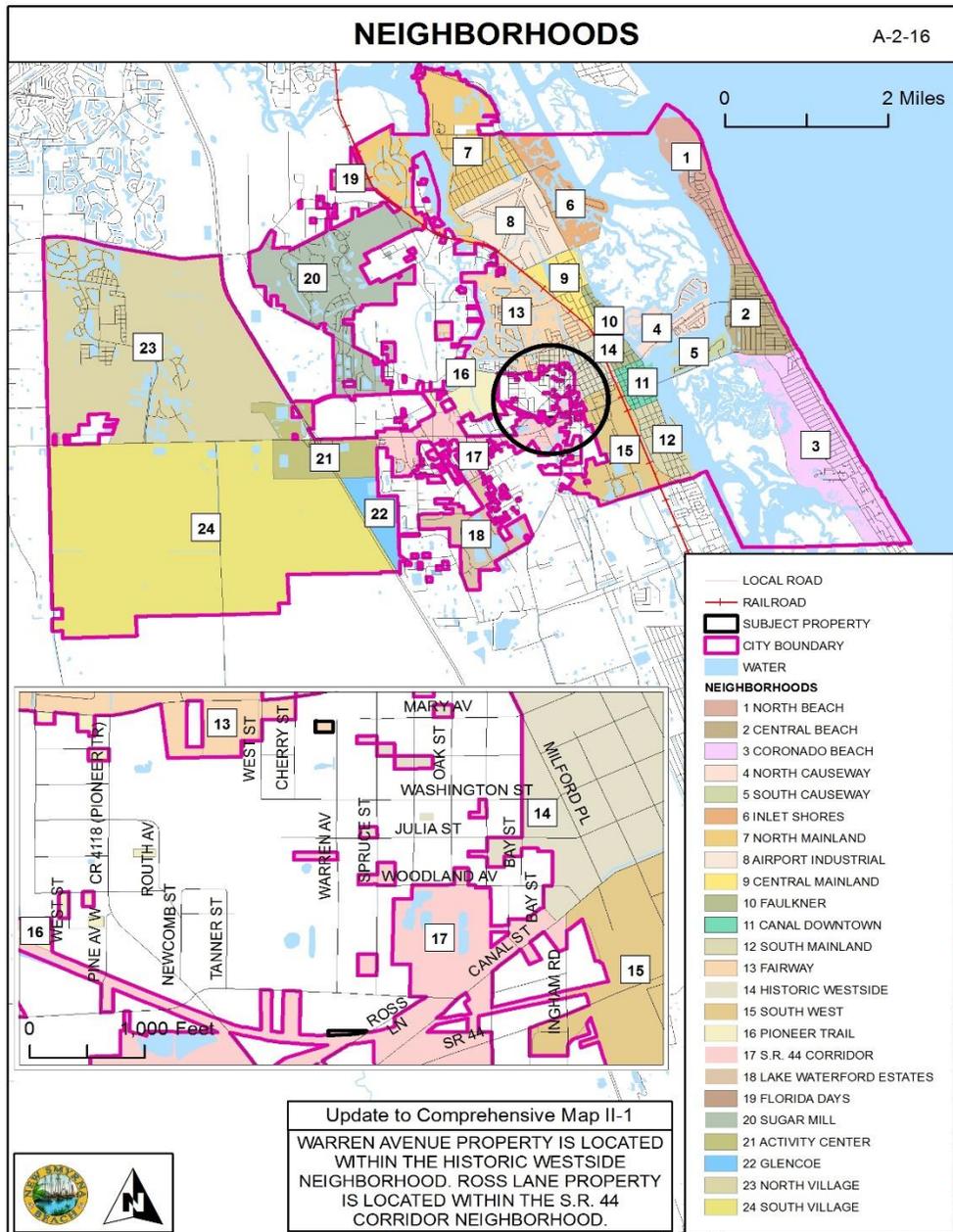


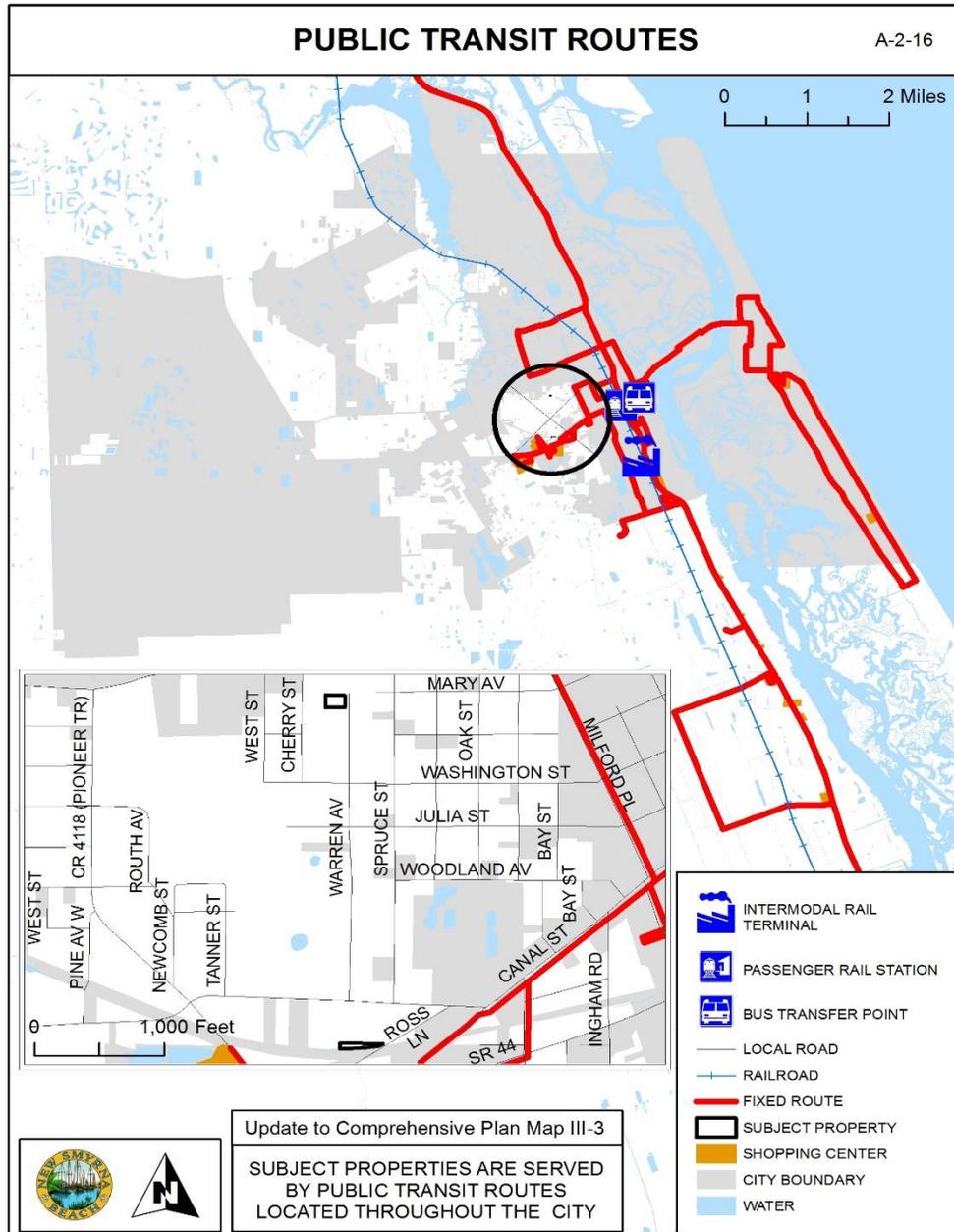


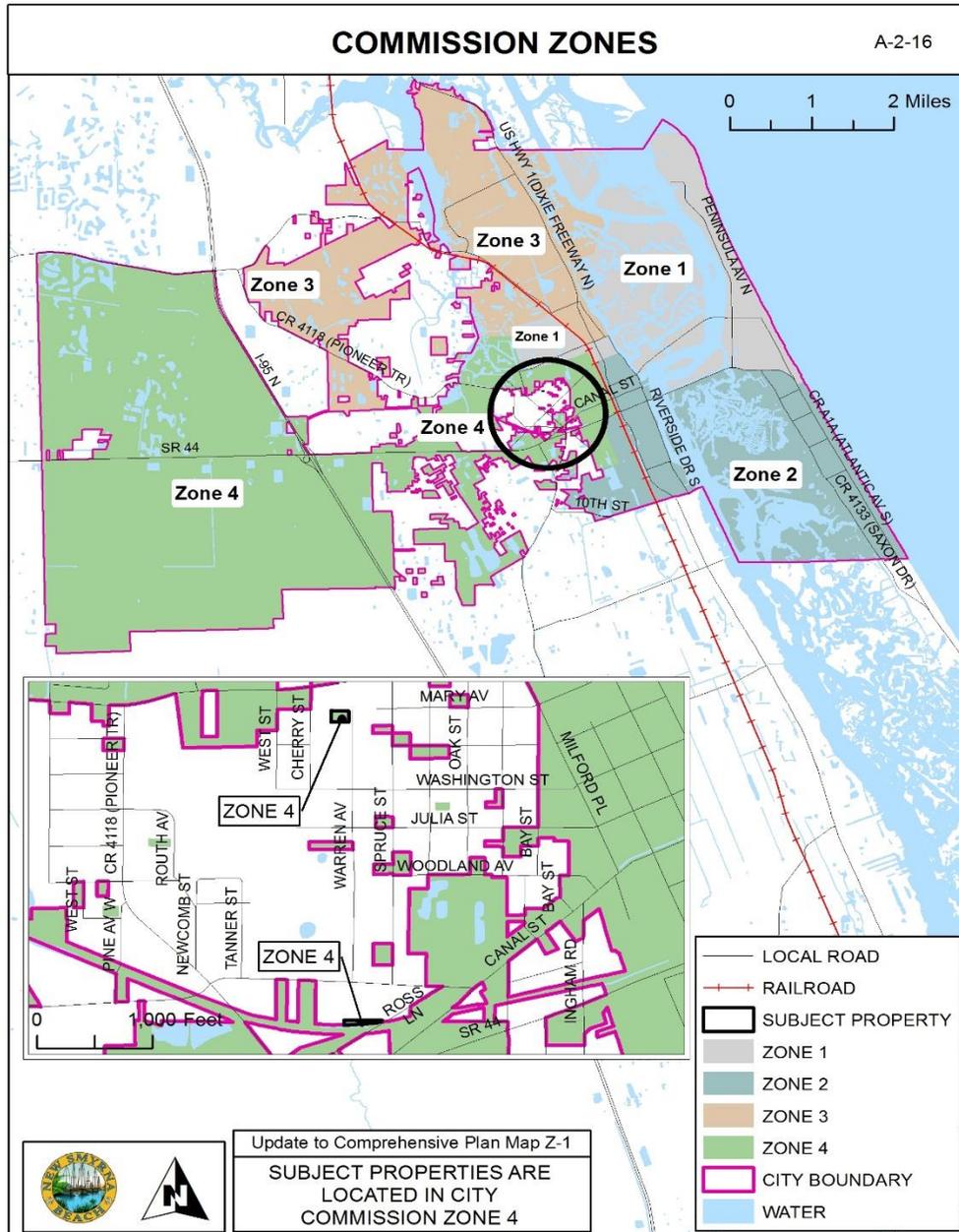












1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING BOARD  
2 **A-3-16: 2362 MELONIE TRAIL / 2342 MELONIE**  
3 **TRAIL**

4 **JANUARY 4, 2016**

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5  
6 **I. Background**

7  
8 **A. Applicant and Property Owner:**

- 9  
10
  - Robin A. Vinay, 2362 Melonie Trail, New Smyrna Beach, Florida, 32168
  - Jack V Travis, 2342 Melonie Trail, New Smyrna Beach, Florida, 32168

11  
12  
13  
14

15 **B. Request:** Voluntary annexation, *Comprehensive Plan* amendment, and rezoning:

- 16  
17
  - **From:** Volusia County Future Land Use (FLU) designation of Rural and Volusia County zoning designation of A-3, Transitional Agriculture.
  - **To:** City FLU designations of Rural, and City zoning designation of A-3, Transitional Agriculture.

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23 **C. Site Information:**

- 24
  - **Size:** 2 acres
  - **Location:** West of Turnbull Bay Road at 2362 Melonie Trail (1 acre) and 2342 Melonie Trail (1 acre) (see **Exhibit A** for a location map).
  - **Tax I.D. Number:** 7340-04-00-0160 & 7340-04-00-0170

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29 **II. Findings**

30  
31 A. On April 23, 2013, the City Commission adopted an Interlocal Service Boundary Agreement (ISBA). The ISBA, which is permitted under Chapter 32 171, Part II, Florida Statutes, allows the City to annex any parcels that are 33 within the designated annexation area, even if they are not contiguous to 34 the current municipal boundaries. The agreement, which is between the 35 County of Volusia and the City, was also approved by the County on May 36 2, 2013.  
37  
38

39 B. The subject properties are within the annexation area designated in the 40 ISBA. The properties are developed with a single-family residence and 41 associated accessory uses. An aerial view/map of the subject properties 42 and surrounding area is attached as **Exhibit B**.  
43

44 C. The existing Volusia County Future Land Use (FLU) and zoning

1 designations of the subject properties are shown on the following table.  
2 Maps showing the surrounding Future Land Use and Zoning designations  
3 are attached (as **Exhibits C and D** respectively). The text description of the  
4 existing Future Land Use designation for the subject properties are attached  
5 as **Exhibit E**. The associated current zoning text description for the subject  
6 properties are attached as **Exhibit F**.

Property Location	Volusia County FLU Designation	Volusia County Zoning Designation
<b>2362 Melonie Trail</b>	Rural	A-3, Transitional Agriculture
<b>2342 Melonie Trail</b>	Rural	A-3, Transitional Agriculture

8  
9 D. Existing land use is shown on the map attached as **Exhibit G**. The future  
10 land use and zoning designations for those properties surrounding the  
11 subject properties are as follows:

	North	East	South	West
<b>2362 Melonie Trail</b>				
Future Land Use	County Rural	County Rural	County Rural	County Rural
Existing Land Use	Residential	Residential	Residential	Residential
Zoning	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture
<b>2342 Melonie Trail</b>				
Future Land Use	County Rural	County Rural	County Rural	County Rural
Existing Land Use	Residential	Residential	Residential	Residential
Zoning	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture

13  
14 E. The established City Commission policy is that when property is annexed  
15 into the City, the City will assign future land use and zoning designations  
16 that would be as similar as possible to existing County designations. As  
17 discussed above, the existing County FLU designation is Rural. The existing  
18 County zoning designation is A-3, Transitional Agriculture. The proposed  
19 City FLU designation is Rural. The proposed City equivalent zoning  
20 designation to the County A-3, Transitional Agriculture designation is City  
21 A-3, Transitional Agriculture. A text description of the proposed City Rural  
22 FLU designation is attached as **Exhibit H**, with a map of this proposed  
23 change also attached as **Exhibit I**. A text description of the proposed City  
24 A-3, Transitional Agriculture zoning designation, and a map of this proposed

change, are similarly attached as **Exhibits J** and **K** respectively.

F. This annexation request is within the City’s annexation area and within the City’s water and sewer service area (**Exhibit L**). The following table shows the availability of utilities to service the subject property:

Property Location	Water	Sewer	Reclaim
<b>2362 Melonie Trail</b>	6” line / Melonie Tr. ROW	Not Available	Not Available
<b>2342 Melonie Trail</b>	6” line / Melonie Tr. ROW	Not Available	Not Available

A map of the soil limitations for septic systems is attached as **Exhibit M**.

G. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, storm-water management, and public school facilities. Because the properties are already developed with a single family house and accessory structures and because no increased density is proposed for the properties, staff did not prepare a concurrency analysis table for this case.

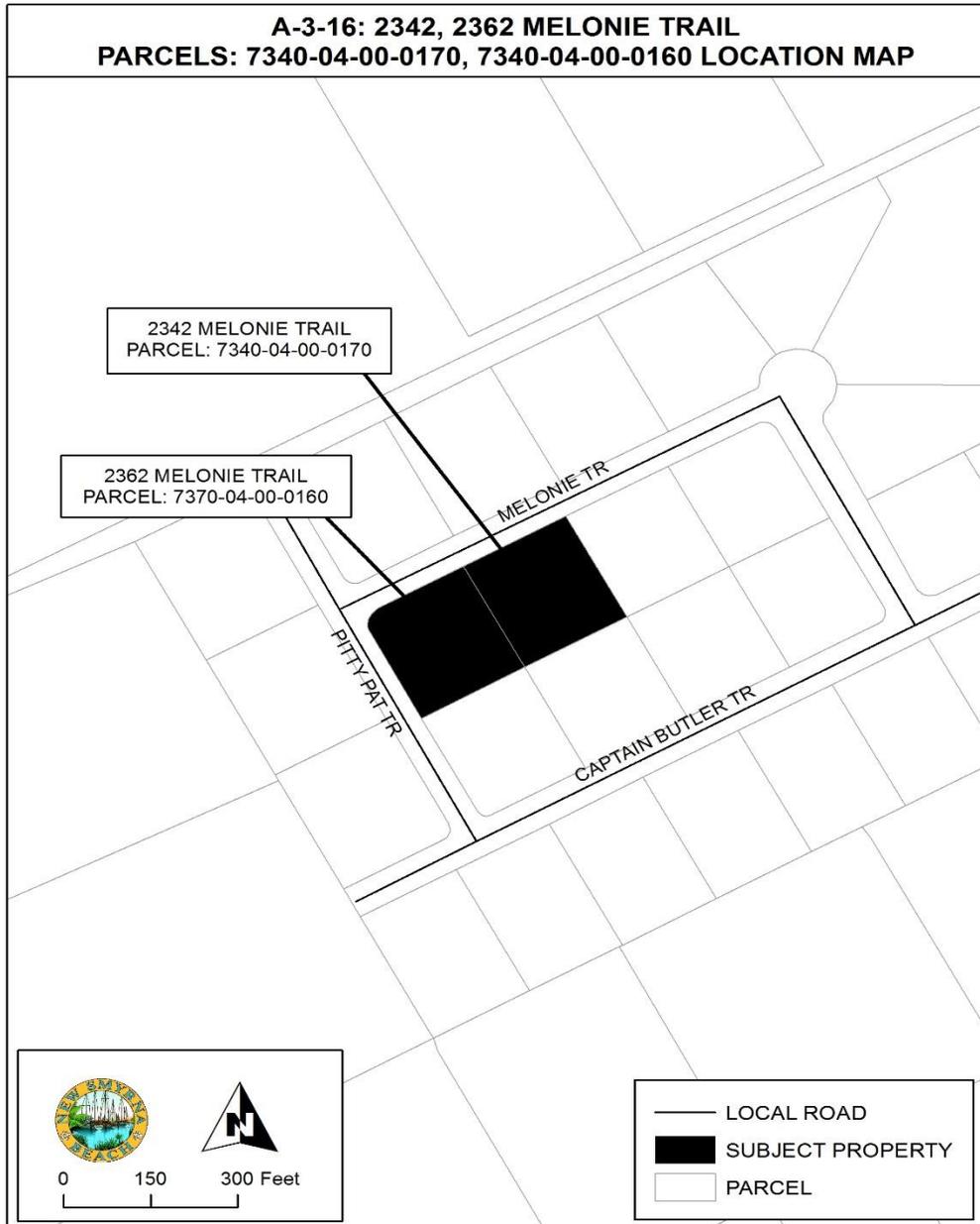
H. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject property into the *Comprehensive Plan* (see **Exhibits N through Z**). A map showing the property located in City Commission Zone 3 is attached as **Exhibit AA**.

I. The *Comprehensive Plan* provides guidance on annexations, future land use amendments, and re-zonings. The following is a list of objectives in the *Comprehensive Plan* that support this proposal:

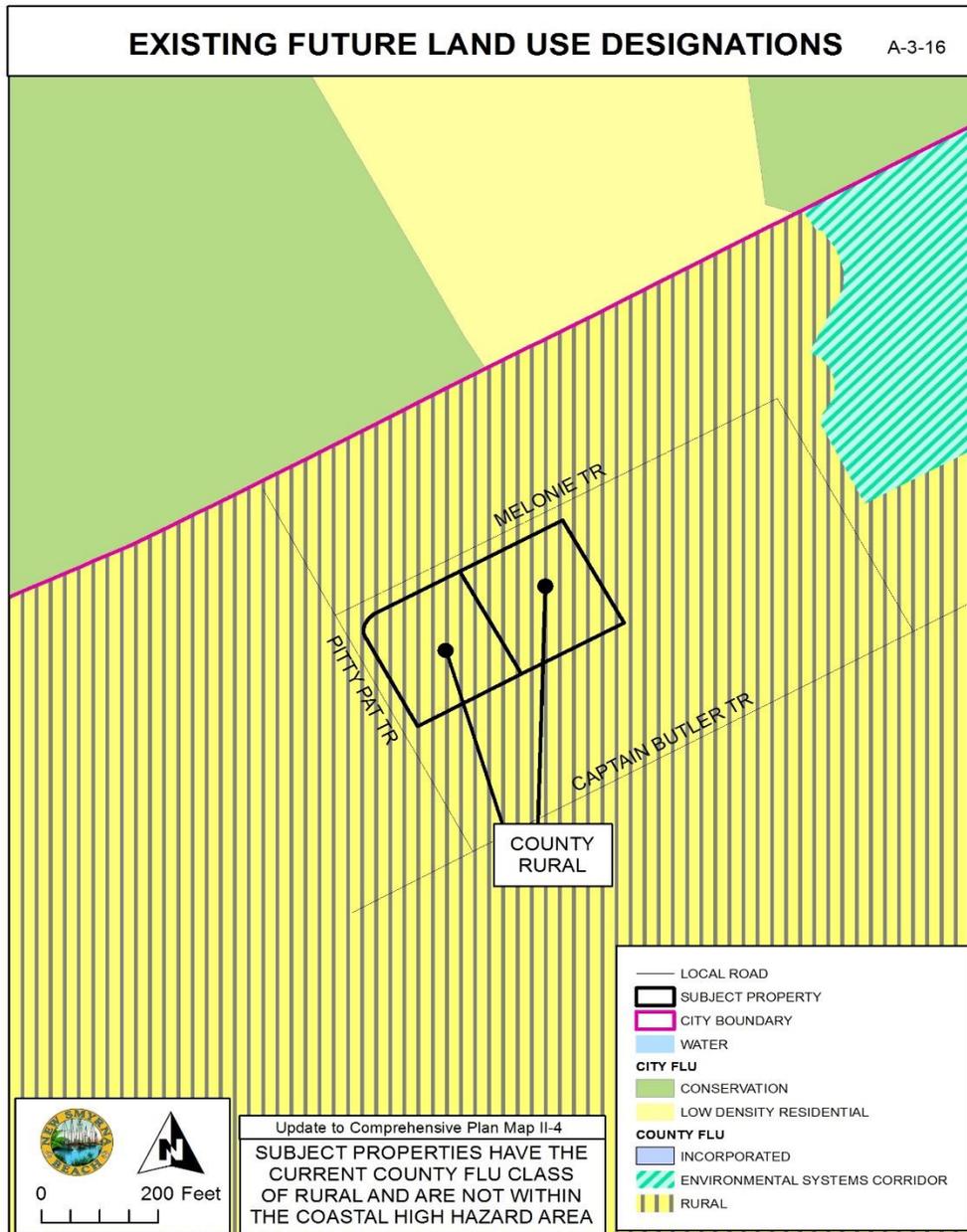
- Future Land Use Element Goal 2, Objective 3
- Future Land Use Element Goal 2, Objective 4
- Future Land Use Element Goal 2, Objective 7
- Future Land Use Element Goal 5, Objective 3

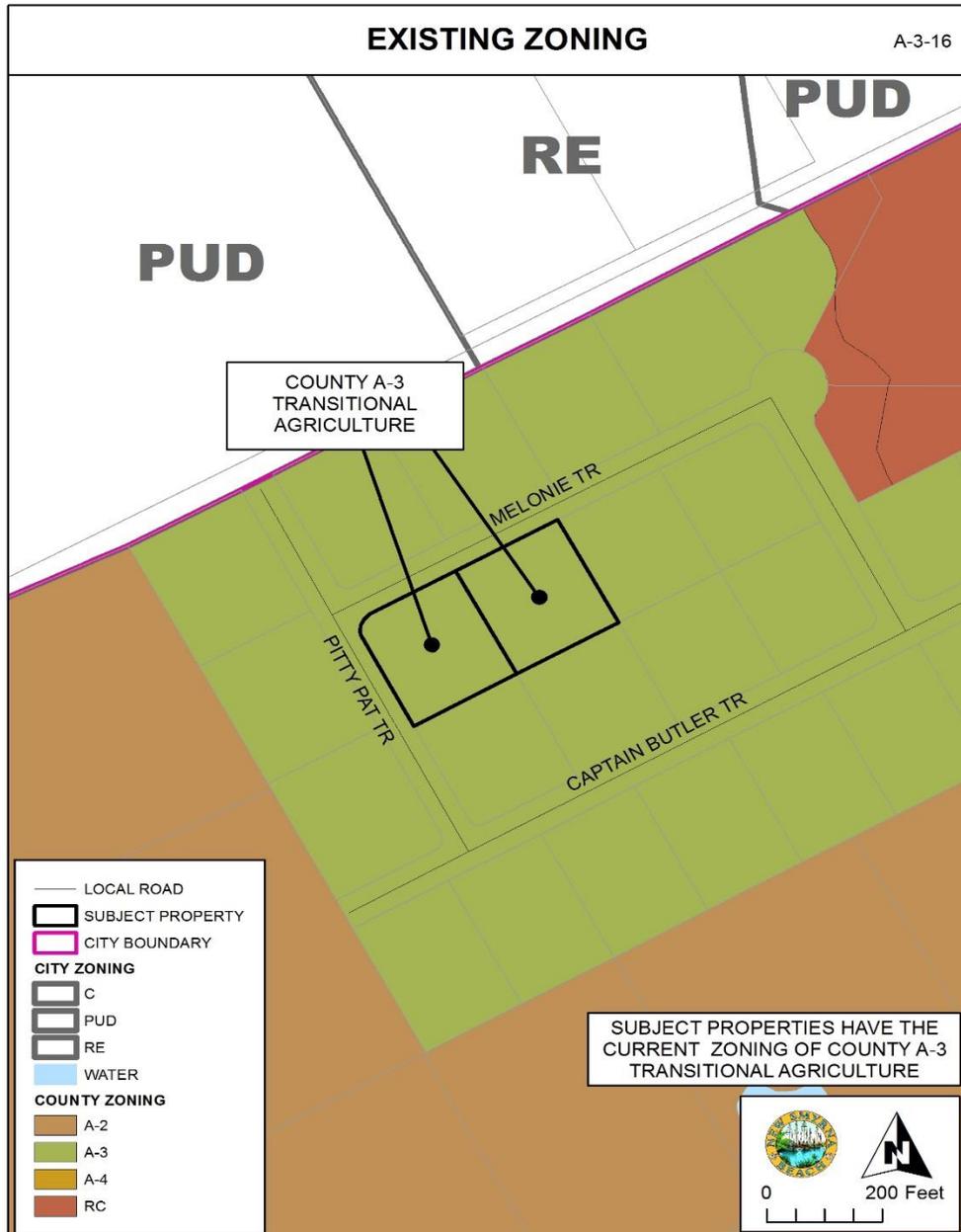
### III. Recommendation

Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the requested annexations, *Comprehensive Plan* amendments to City Rural and re-zonings to City A-3, Transitional Agriculture.









**Exhibit E**

**Rural (R)**

This designation consists of areas which are a mixture of agriculture and low density residential development. Rural areas provide two functions, the first being a transitional use between the agricultural and urban uses and the second would be a rural community which serves as the economic focal point of a small region. Rural areas should be developed in a manner consistent with the retention of agriculture and the protection of environmentally sensitive areas. Strict limitation of development in rural areas contributes to the efficient growth and operation of public services and facilities, thus ensuring the most effective use of public resources. The natural features and constraints will be the primary determinants in deciding whether or not an area is suitable for rural type development.

(1) Lands designated as rural shall be developed at a density of one (1) dwelling unit per five (5) acres. This density allowance may be increased under specific conditions as follows:

(a) The subject parcel is within six-hundred-and-sixty feet (660') of an existing subdivision with a density less than one (1) dwelling unit per five (5) acres. In this case the rural land may be developed at a similar density not to exceed one (1) dwelling unit per one (1) acre and with lot sizes similar and compatible with said qualifying subdivision.

(b) The subject parcel is adjacent to an urban land use. In this case the rural land may develop at a similar density not to exceed one (1) dwelling unit per one (1) acre, or intensity not to exceed a maximum Floor Area Ratio of twenty-five percent (0.25 FAR).

(c) In addition to the above conditions, the appropriateness of allowing densities less than one (1) dwelling unit per five (5) acres will also be subject to the following:

- i. Compatibility of the proposed development in the context of existing uses, including the proximity of agricultural uses;
- ii. Public facility capacity in the area, including the availability of paved public roads;
- iii. Suitability for wells and septic tank usage (i.e. existence of hydric soils);
- iv. The natural features of the subject parcel such as soils, vegetation, wildlife habitat and flood plain; and,
- v. If applicable, consistency with Local Plans associated with this Element.

(2) There are two subcategories of the rural designation that address past development decisions. These subcategories are Rural Community and Rural Recreation. They are identified on the Special Rural Areas Map Series, presented in Appendix 1. These areas of intense or potentially intense development provide the mixed use concept to the rural areas. They help limit

**Exhibit E (cont'd)**

1  
2 urban sprawl by providing services not necessarily found in remote rural areas  
3 thus reducing the number of trips out of these rural areas. Also allowing some  
4 limited urban type of development may help promote economic growth in the  
5 rural areas as well. In designated Rural Communities and Rural Recreation areas  
6 where densities are greater than one (1) unit per acre, existing platted lots,  
7 undeveloped subdivisions, or other pre-existing developments shall be permitted  
8 subject to zoning requirements. However, any new development or subdivision of  
9 land shall have to comply with current County regulations.

10  
11 (a) Rural Community - A rural community is characterized by a concentration of a  
12 permanent population, sometimes reaching over one-thousand (1,000)  
13 persons. These communities serve as the focal point for a specific  
14 neighborhood and generally contain existing lots less than one (1) acre in  
15 size. There may be commercial uses at a level to serve the immediate  
16 population. Commercial, retail and personal services may be allowed within  
17 the lower end of the range of what is can commonly be referred to as a  
18 neighborhood business (30,000 to 50,000 sq. ft. of gross leasable area) and  
19 shall not exceed a thirty-five percent Floor Area Ratio (0.35 FAR). The  
20 community commonly extends between one-half (½) to one (1) mile from the  
21 focal point which is usually the intersection of two rural roads. A rural  
22 community may retain the zoning classifications that exist at the time of  
23 adoption of the Comprehensive Plan. A change in zoning must be consistent  
24 with the overlying land use designation, however, if existing zoning is more  
25 intense than the land use designation, a change to a similar intensity zoning  
26 classification may be permitted (e.g., small lot single family residential to  
27 small lot mobile home). Existing agricultural operations shall be allowed even  
28 if currently zoned for nonagricultural uses.

29  
30 The following areas are considered Rural Communities:

- 31 i Seville
- 32 ii Barberville
- 33 iii Volusia
- 34 iv Cassadaga
- 35 v DeLeon Springs
- 36 vi Emporia

37 (b) Rural Recreation - Limited areas of intense use located in remote rural areas  
38 along the St. Johns River. These areas are used for launching and/or storing  
39 boats with areas available for camping (RV sites are included). These areas  
40 may also contain single and multi-family dwelling units, hotels, bait shops,  
41 restaurants, and gas stations. Many of them are commonly referred to as fish  
42 camps. This designation is intended to be treated in a similar manner as the  
43 Rural Community in that the existing zoning (at the time of the effective date  
44 of the Comprehensive Plan) may remain and be developed consistent with

**Exhibit E (cont'd)**

current land development regulations. New requests for zoning changes must be consistent with the Comprehensive Plan, as stated under Rural Community.

The following areas are considered Rural Recreation areas:

- i Pine Island
- ii Shell Harbor Estates
- iii Volusia Bar
- iv South Moon
- v Paramore
- vi Highland Park
- vii Daisy Lake
- viii Crows Bluff
- ix St. Johns River Acres
- x Lemon Bluff
- xi Baxter Point
- xii Lakeview
- xiii St. Johns Gardens

**Exhibit F**

**A-3 TRANSITIONAL AGRICULTURE  
CLASSIFICATION**

*Purpose and intent:* The purpose and intent of the A-3 Transitional Agriculture Classification is to preserve and protect small farms for personal and limited agricultural production or to provide a transitional agricultural zone between more intensive agricultural use areas and residential areas. It is intended that this classification be applied to properties which are within a designated rural community, to preserve existing agricultural uses in urban areas as depicted by the comprehensive plan, or to properties so as to coincide with the existing character of an area in a manner consistent with the comprehensive plan.

In order to ensure the long-term vitality of agricultural uses and natural resources, all agricultural uses are encouraged to utilize the natural resource conservation service (formerly the soil conservation service) best management techniques and other agricultural best management practices.

*Permitted principal uses and structures:* In the A-3 Transitional Agriculture Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

Except for those permitted special exceptions listed hereunder, all agricultural pursuits, including the processing, packaging, storage and sale of agriculture products which are raised on the premises.

Apiaries.

Aquaculture operations in which there are no associated excavations.

Aviaries.

Communication towers not exceeding 70 feet in height above ground level.

Essential utility services.

Exempt excavations (refer to subsection [72-293\(15\)](#)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.

Exempt landfills (refer to subsection [72-293\(16\)](#)).

Fire stations.

Hobby breeder.

Home occupations, class A (refer to [section 72-283](#)).

**Exhibit F (cont'd)**

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- Houses of worship.
- Parks and recreation areas accessory to residential developments.
- Public schools.
- Publicly owned parks and recreational areas.
- Publicly owned or regulated water supply wells.
- Silvicultural operations which follow the most up to date state-prescribed best management practices.
- Single-family standard or manufactured modular dwelling.
- Tailwater recovery systems.
- Worm raising.
- Permitted special exceptions:* Additional regulations/requirements governing permitted special exceptions are located in sections 72-293 and 72-415 of this article.
- Animal shelters.
- Aquaculture operations in which there are nonexempt excavations (refer to subsection 72-293(15)).
- Bed and breakfast (refer to subsection 72-293(19)).
- Cemeteries (refer to subsection 72-293(4)).
- Communication towers exceeding 70 feet in height above ground level.
- Dairies and dairy products (minimum parcel size requirement of five acres).
- Day care centers (refer to subsection 72-293(6)).
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).
- Equestrian/livestock event facility.
- Excavations only for stormwater retention ponds for which a permit is required by this article.
- Garage apartments.
- Group home (refer to subsection 72-293(12)).
- Hog farms (minimum parcel size requirement of 2.5 acres).
- Home occupations, class B (refer to section 72-283).
- Kennels.
- Livestock feed lots (minimum parcel size requirement of five acres).

**Exhibit F (cont'd)**

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- Off-street parking areas (refer to subsection 72-293(14)).
- Poultry farms (minimum parcel size requirement of 2.5 acres).
- Processing, packaging, storage, retail or wholesale sales of agricultural products not raised on the premises.
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).
- Riding stables.
- Schools, parochial and private (refer to subsection 72-293(4)).
- Single-family mobile home dwelling with a minimum floor area of 480 square feet as a temporary residence while building a standard or manufactured dwelling (maximum duration of 18 months).
- Temporary campsites for three days before, during and three days after any regularly scheduled racing event at the Daytona Beach International Speedway for Speedweeks, Biketoberfest, the Pepsi 400, and Bike Week, on condition that security, portable toilets, garbage disposal and potable water facilities sufficient to accommodate all occupants and other relevant conditions are provided.
- Related special events and sales are allowed, if approved as part of the special exception.
- Wholesale or retail fertilizer sales.

*Dimensional requirements:*

- Minimum lot size:*
  - Area: One acre.
  - Width: 150 feet.
- Minimum yard size:*
  - Front yard: 40 feet.
  - Rear yard: 40 feet.
  - Side yard: 25 feet.
  - Waterfront yard: 40 feet.
- Maximum building height:* 55 feet.
- Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

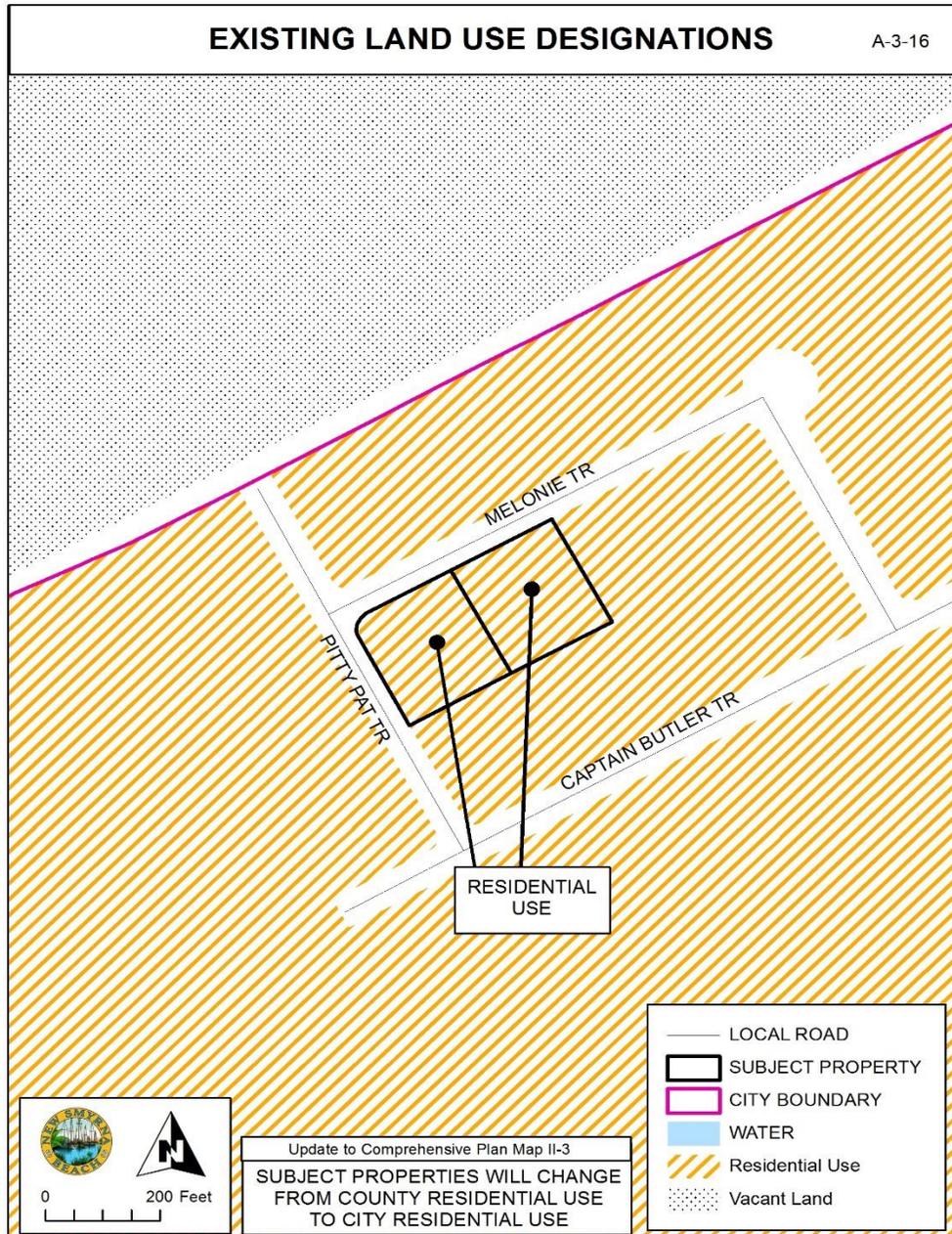
**Exhibit F (cont'd)**

*Minimum floor area:* 1,000 square feet.

*Off-street parking and loading requirement:* Off-street parking and loading areas meeting the requirements of sections 72-286 and 72-287 shall be constructed.

*Skirting requirement for mobile home dwelling:* The area between the ground and floor of the mobile home dwelling shall be enclosed with skirting.

(Ord. No. 81-39, §§ VII, VIII, 11-19-81; Ord. No. 82-20, §§ V, XIII, 12-9-82; Ord. No. 84-1, §§ I, III, VI, 3-8-84; Ord. No. 84-25, § IV, 10-10-84; Ord. No. 87-14, § II, 6-18-87; Ord. No. 89-20, §§ VI, VII, IX, 6-20-89; Ord. No. 90-34, § 11, 9-27-90; Ord. No. 92-6, § XIII, 6-4-92; Ord. No. 94-4, § XV, 5-5-94; Ord. No. 97-19, § II, 8-7-97; Ord. No. 98-25, § VII, 12-17-98; Ord. No. 2004-20, § V, 12-16-04; Ord. No. 2009-17, § III, 5-21-09)



**Exhibit H**

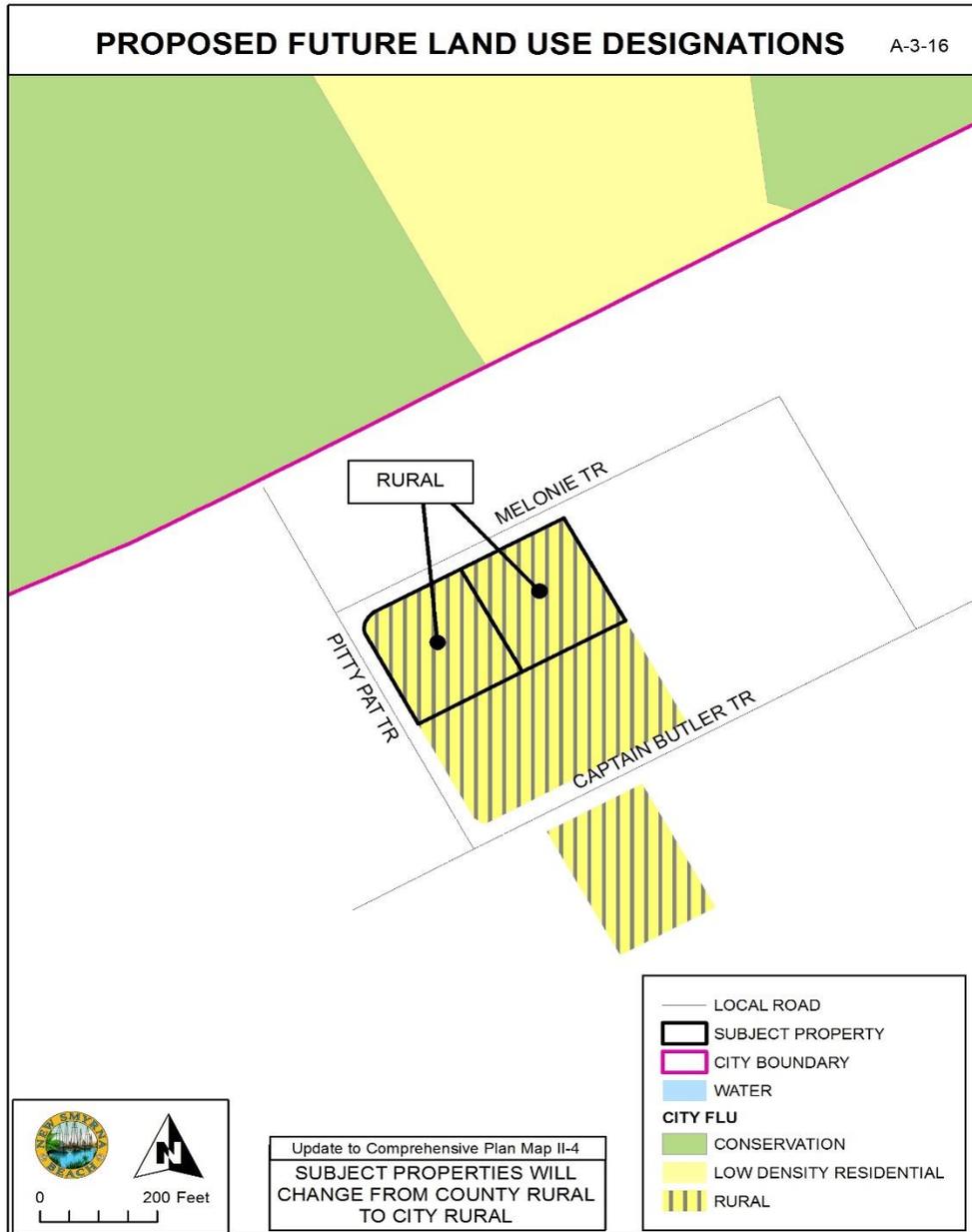
**RURAL**

(Up to one [1] dwelling unit per five [5] acres or up to one [1] dwelling unit per acre)  
This category includes areas that may consist of agriculture land, undeveloped rural land, and large parcels of developed residential land. Areas designated with a Rural FLU category should be developed in a manner consistent with the retention of agriculture and rural lands, low-density residential and the protection of environmentally sensitive areas. Strict limitation of development in rural areas contributes to the efficient growth and operation of public services and facilities, thus ensuring the most effective use of Future Land Use Element public resources. The natural features and constraints will be the primary determinants in deciding whether or not an area is suitable for rural type development.

The Rural FLU designation may allow smaller lot sizes in clusters to protect environmentally sensitive land and upland buffers but shall not allow increase in density. Smaller cluster lots shall be allowed provided the clusters have large perimeter buffers to give the appearance of rural land from adjacent parcels and there is legal assurance that the property not included in the fee simple cluster lots are owned in common by the fee simple lot owners and will not be subsequently developed.

The density shall be determined as follows: Vacant parcels of land in the vicinity of existing exempt or approved platted subdivisions on or before April 3, 1990, with lot sizes from 1 unit per acre to 1 unit per 5 acres or vacant parcels of land immediately adjacent to an urban FLU category may be developed with similar density or lot sizes but not less than one (1) unit per acre. Only that portion of a parcel(s) that is within 660 feet from the above described existing exempt or approved subdivision or urban FLU category boundary, as of the adoption date of the Rural FLU category, is considered "in the vicinity." Note: If a parcel that is "in the vicinity" is covered by more than fifty percent (50%) of the 660 feet extension, then the remaining portion of that parcel which is 10 acres or less is eligible for increased density.

Although the adjacency to the conditions described above allows for the potential of subdivisions with lots less than 5 acres in size, the actual lot size will be dependent upon the following: Compatibility of the proposed development will be viewed within the context of existing uses, public facility capacity in the area, suitability for wells and septic tank usage, and the natural features of the parcel in question, such as soils, vegetation, and floodplain. Vacant parcels or tracts of land that do not meet the preceding criteria or are in areas which have not been previously platted with lots less than 5 acres in size shall only be developed with lot sizes that are 5 acres or greater or in cluster developments at a density of no greater than one (1) unit per five (5) acres.



**Exhibit J**

**R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT**

**Intent.** The R-2, Single-Family Residential District is intended to be a single-family residential district for low population densities. Existing development and usage has resulted which is being preserved in order to stabilize the neighborhood. The nature of the residential use of the property throughout the district will enhance the prospects for orderly future residential development.

***Permitted uses.***

Playfields

Playgrounds

Public parks

Recreation buildings and complexes for exclusive use by residents and guests in a residential development

Single-family dwelling units

***Permitted accessory uses.***

Garages

Gazebos

Incidental uses

Permitted home occupations

Storage sheds

Swimming pools, private, provided a principal structure exists and the pool is located behind the front plane of the principal structure. Corner lots will be considered to have two front planes, one on each street. If a structure is not constructed squarely on a parcel, the swimming pool must be located at or behind the most restrictive front plane of the principal structure.

Uses customarily associated with the permitted principal uses

**Exhibit J (cont'd)**

***Special exceptions.***

Facilities owned and/or operated by federal, state, county or municipal government except country clubs and golf courses

Schools and churches provided all structures are located at least 35 feet from all side or rear property lines and off-street parking areas abutting residential property are screened by a buffer meeting the requirements of this LDR.

Child day care on church property, subject to the following additional conditions:

(1)

The church property shall be located on and be accessible by an arterial or collector roadway.

(2)

Play areas shall be fenced and landscaped. The landscaping shall have a vegetative hedge that will reach six feet in height within two years that is planted a minimum of three feet on center.

(3)

Play areas shall be located within all applicable setback dimensions.

(4)

The church property shall have a vehicular drop off and pickup area with a minimum [of] 100 feet of drive lane outside of the public right-of-way, or sufficient parking area to provide enough space to fit the required parking and provided space for drop off and pick up.

***Dimensional requirements.***

***Minimum lot size.***

Area: 8,625 square feet

Depth: 115 feet

Width: 75 feet

**Exhibit J (cont'd)**

**Minimum yard size.**

Front yard: 30 feet or as required per [sub] section 504.01M. of this LDR

Rear yard: 7.5 feet

Side yard: 7.5 feet

**Maximum building coverage.** The total area covered with buildings on any lot shall not exceed 40 percent of the total lot area.

**Screen enclosures.** As an exception to the maximum building coverage provision any parcel may be allowed an additional ten percent building coverage for only a screen pool enclosure if the following conditions are met:

1. A screen pool enclosure shall only cover the swimming pool and surrounding pool deck and shall have a roof and walls consisting entirely of screening; and
2. There shall be no variances granted to exceed the maximum building coverage or additional coverage allowed for screen enclosures.

**Maximum impervious lot coverage.** The total area of the lot that may be covered with impervious material is 60 percent.

**Maximum principal building height.** 35 feet; three stories.

**Minimum floor area requirements.** 750 square feet of livable area for one and two-bedroom dwelling units; 1,200 square feet of livable area for a three-bedroom dwelling unit; and 1,300 square feet of livable area for a four-bedroom dwelling unit.

**Corner lots.**

- (1) Parcels which front on two streets shall provide a 30-foot front yard on one street frontage and a 15-foot half depth front yard on the other street, or as required per [sub]section 504.01M. of this LDR.

**Exhibit J (cont'd)**

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(2) Parcels fronting on three streets shall provide two 30-foot front yards and a 15-foot half depth front yard on the remaining street or as required per [sub]section 504.01M. of this LDR.

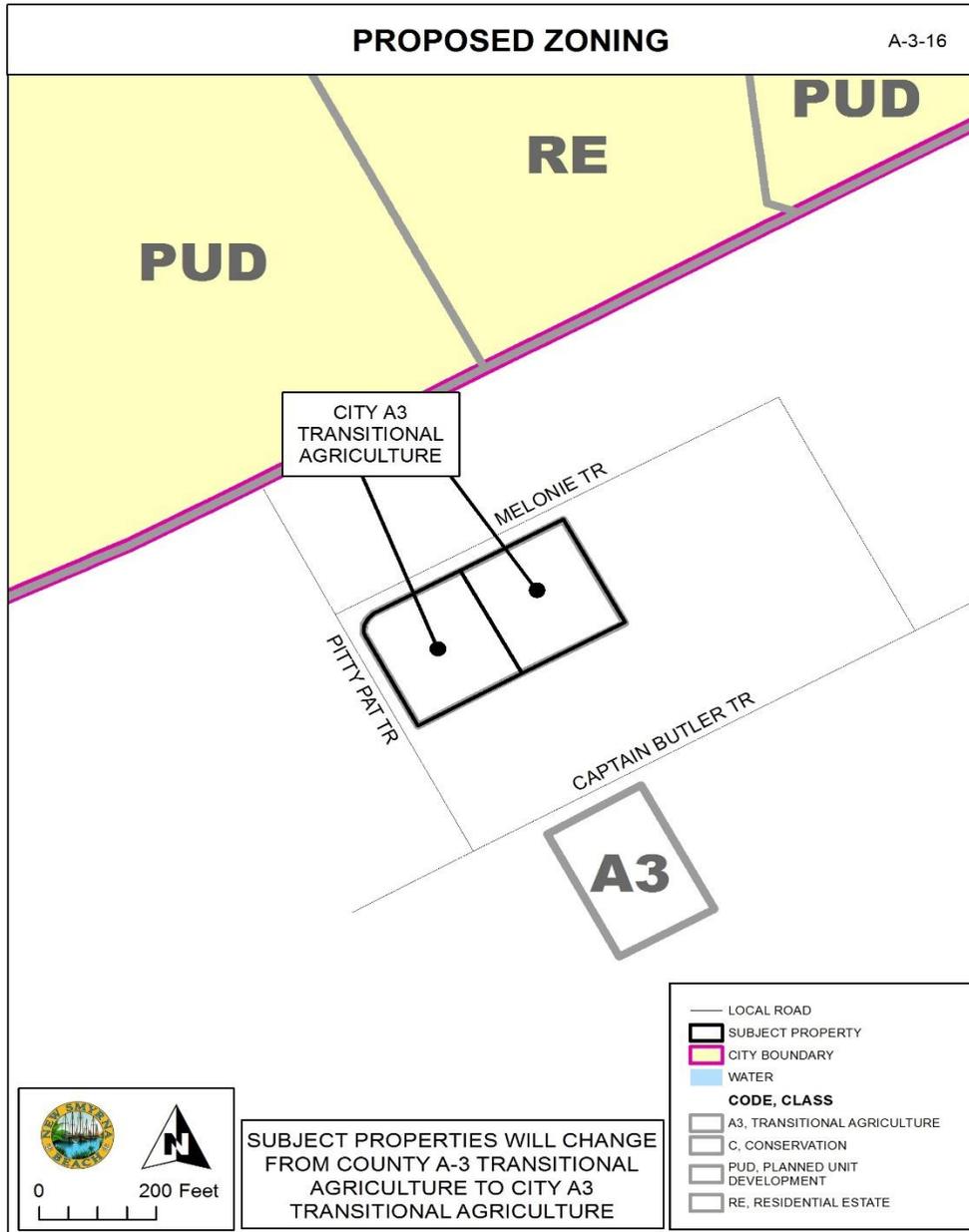
**Driveway access.** The minimum driveway length shall be 20 feet (excluding [that] portion of a driveway within the public right-of-way).

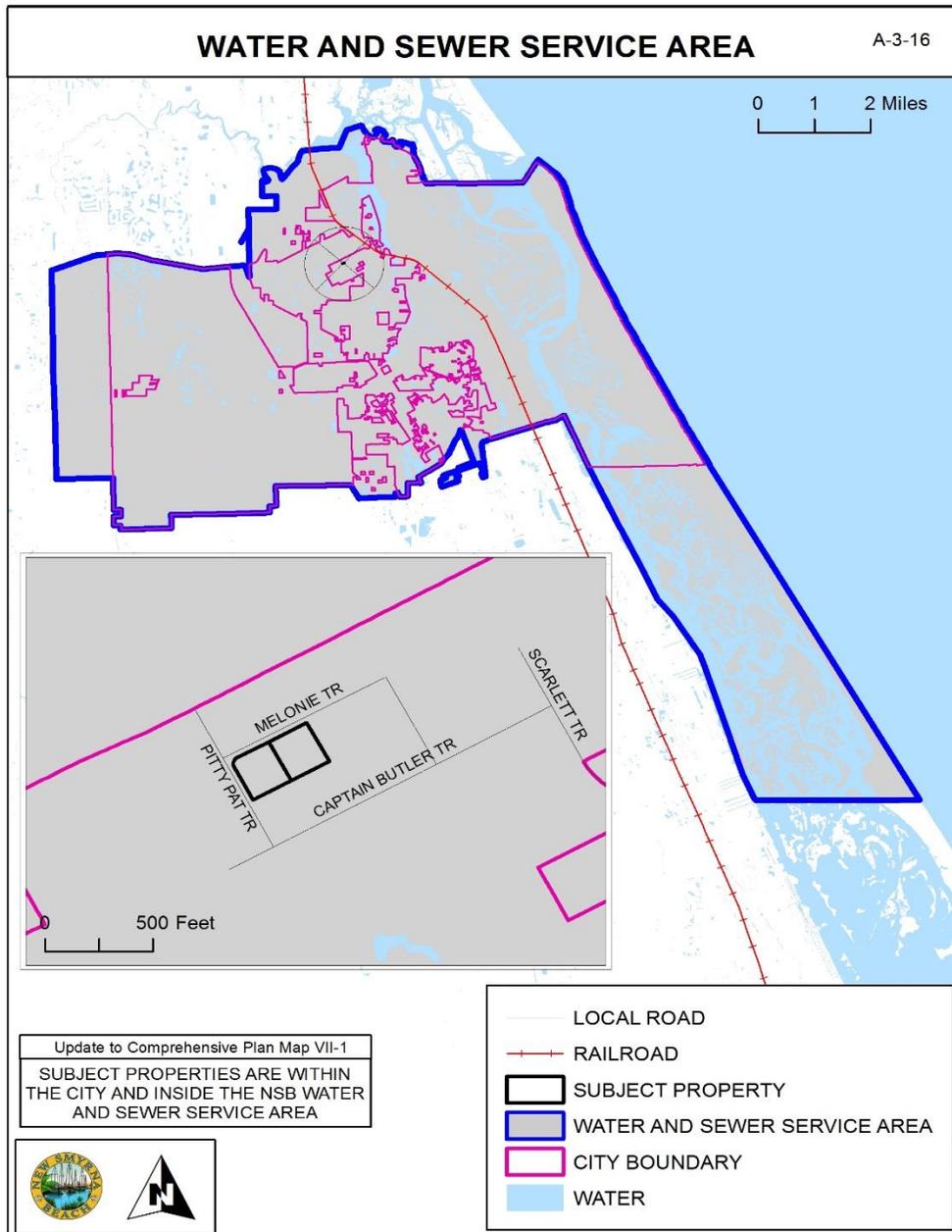
**Through lots.** Through lots shall provide a 30-foot front yard on each street, or as required per [sub] section 504.01M. of this LDR.

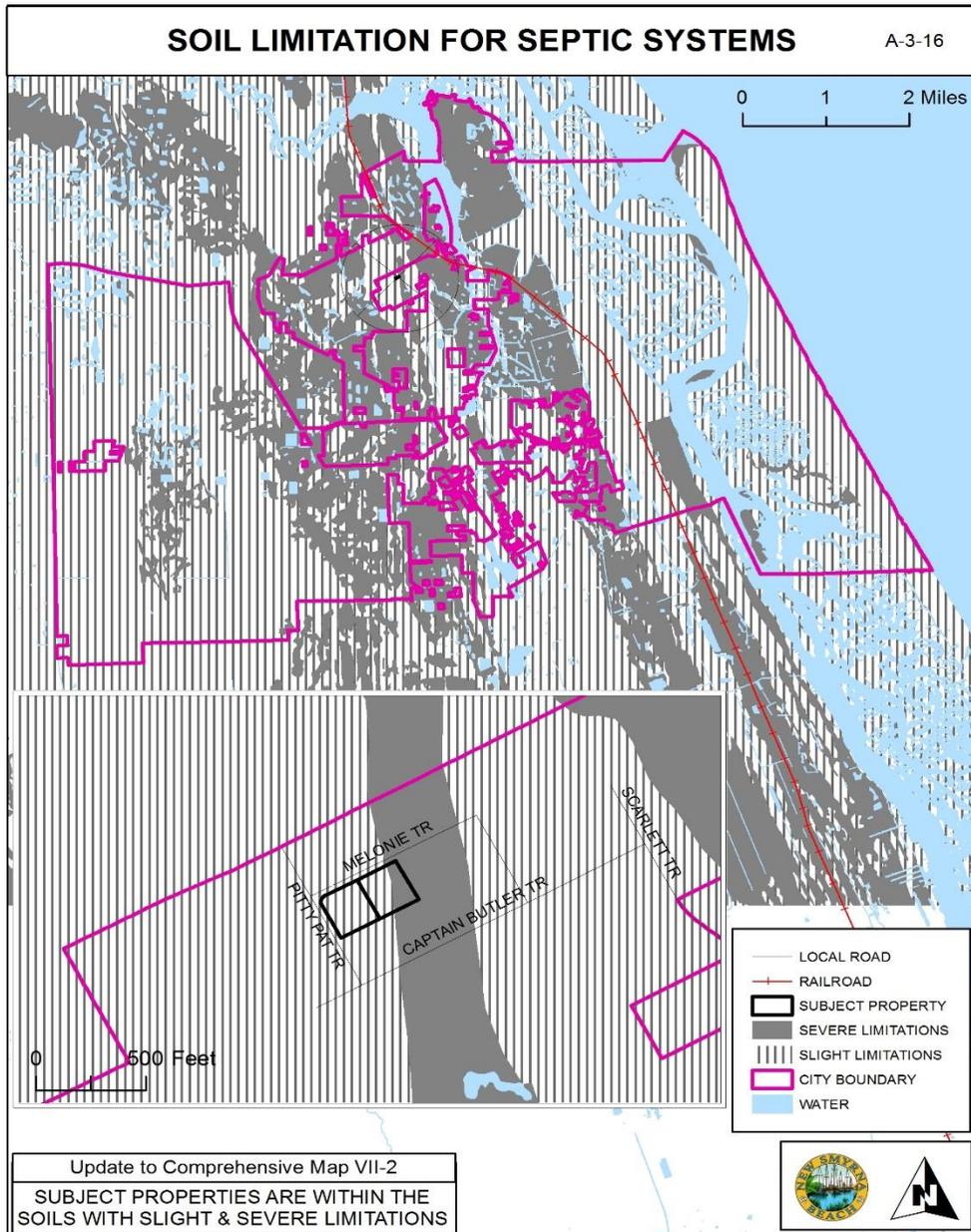
**Atypical lots.** Visibility triangles shall be established at the rear corners of an atypical lot. The visibility triangles shall be those areas formed by a line connecting the points 30 feet from the intersection of the side and rear lot line along the side lot line and 30 feet from the intersection of the side and rear lot line along the rear lot line; no principal or accessory structure having a height over four feet, except for incidental uses, shall protrude into the area of a visibility triangle.

**Building projections.** There shall be no building projections into any required yard except for eaves with a maximum projection of 42 inches, but no closer than five feet to a property line; and those structures allowed in [sub] section 804.03.

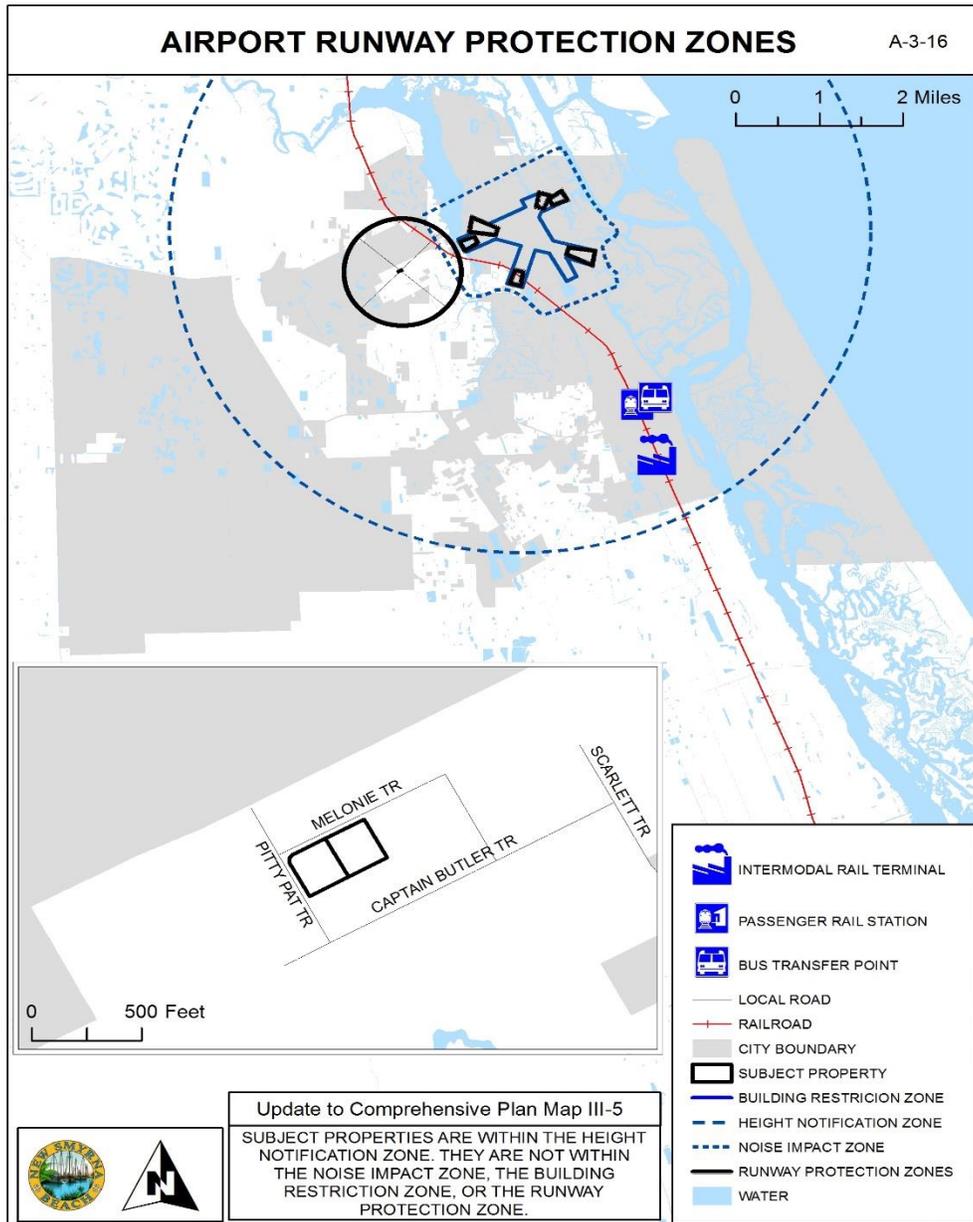
**Visibility at intersections.** Visibility at intersections shall be provided as required in this LDR.



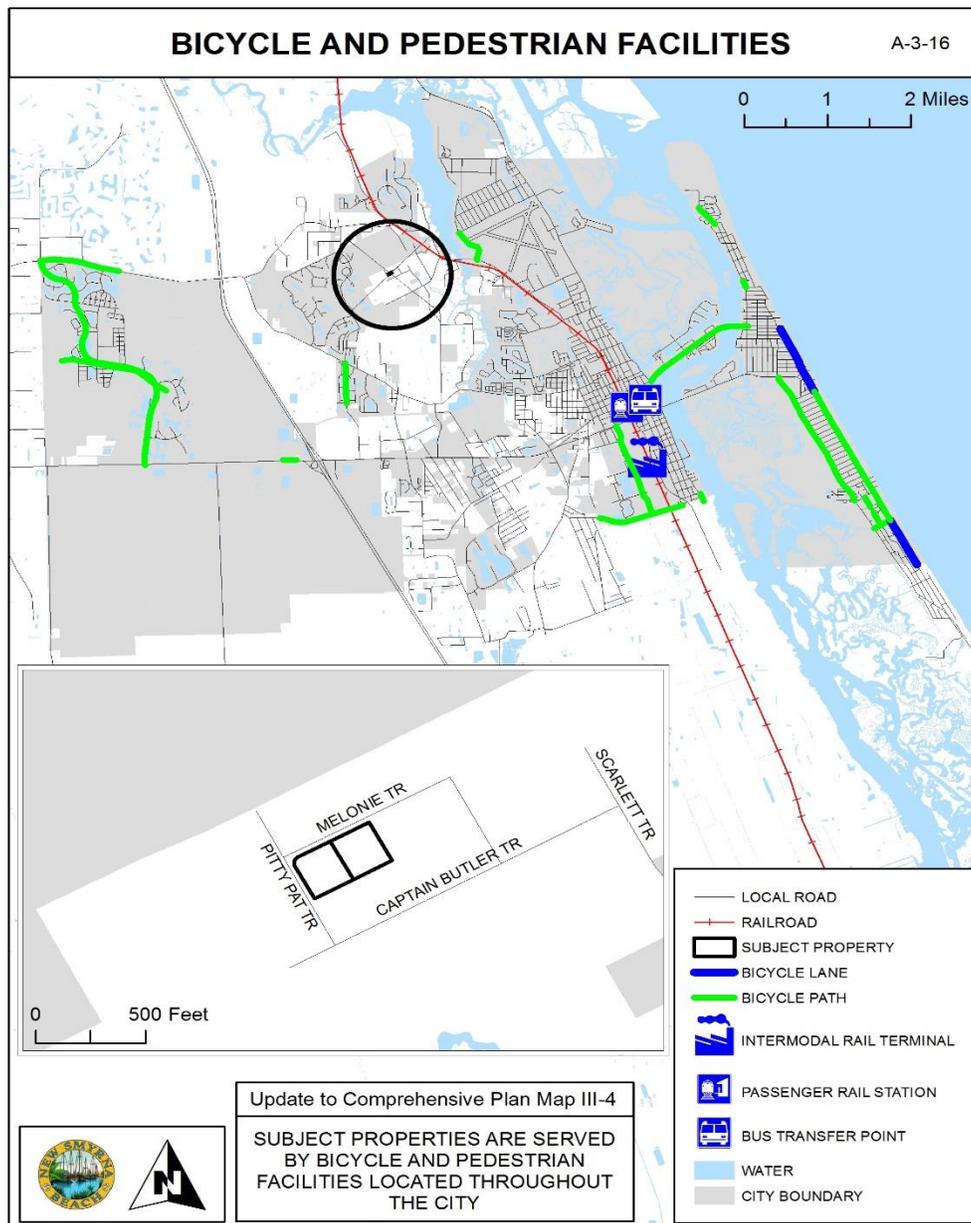


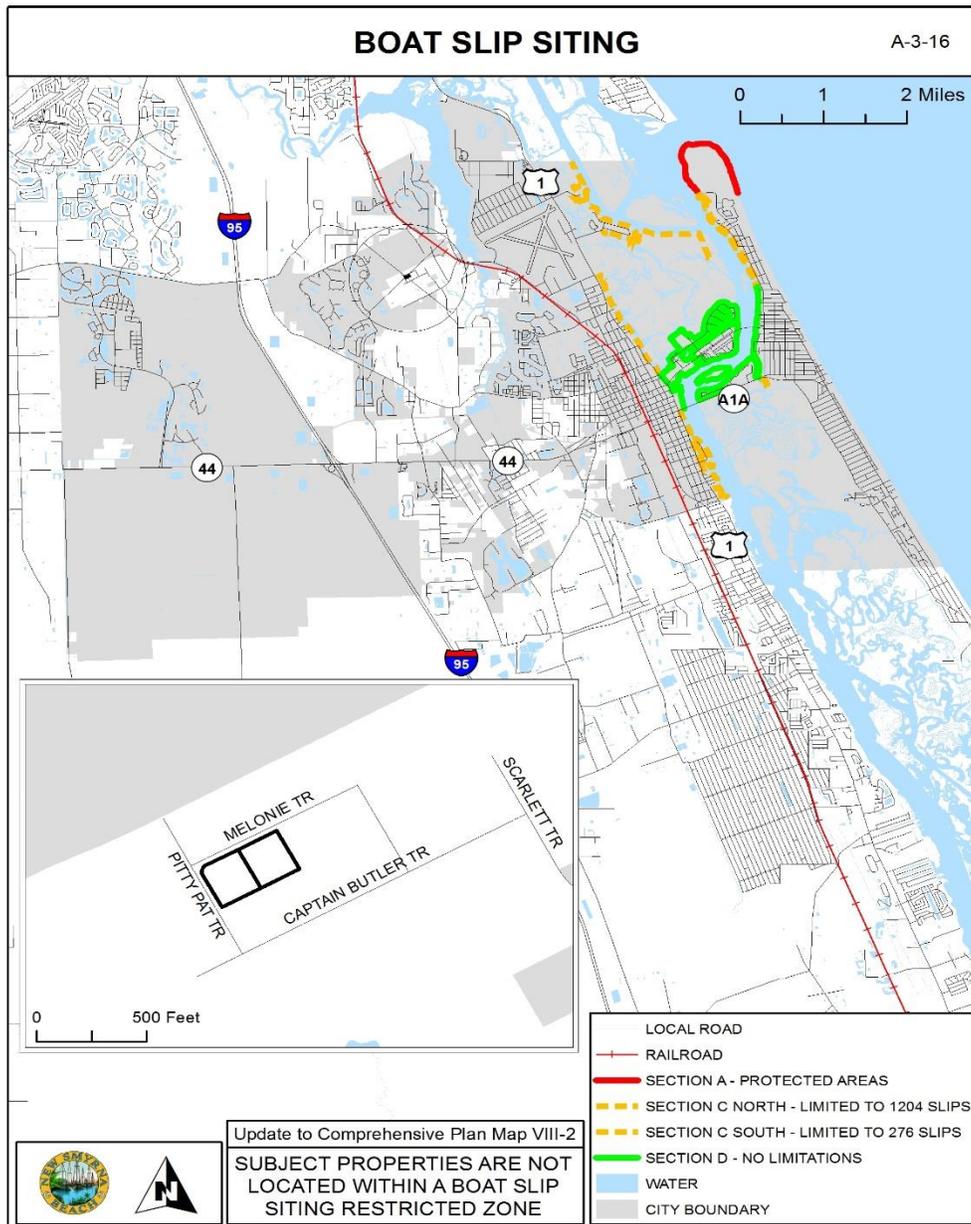


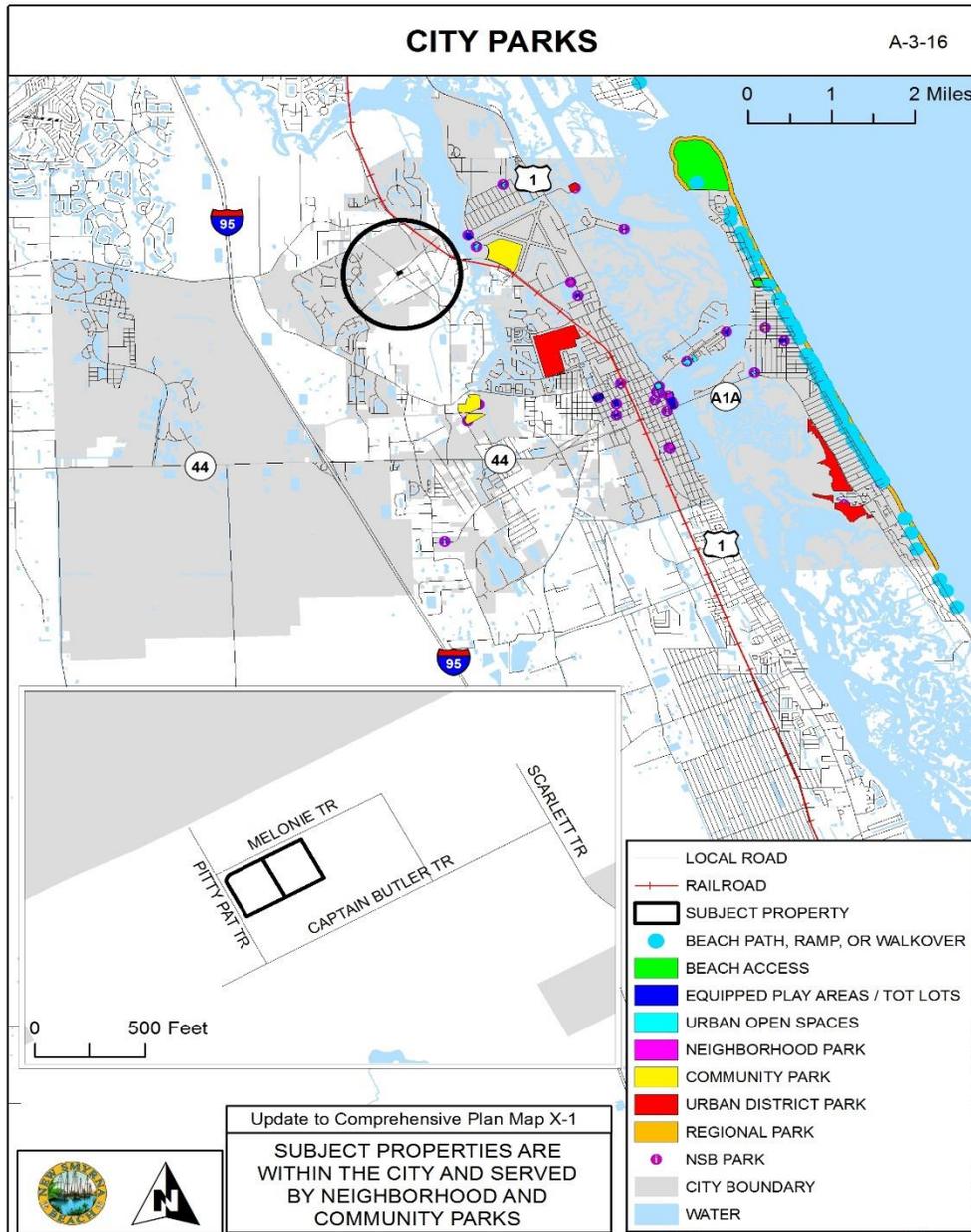
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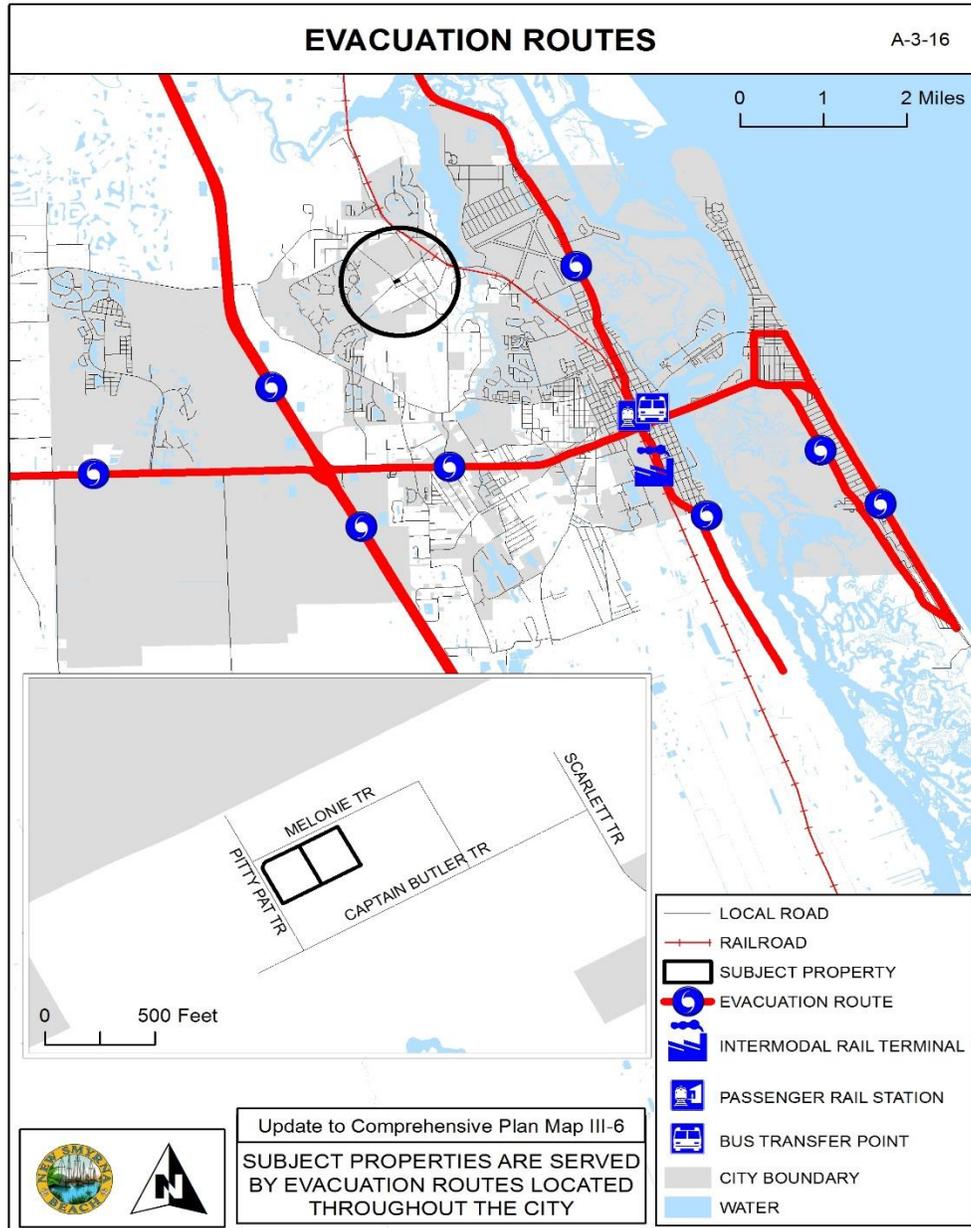
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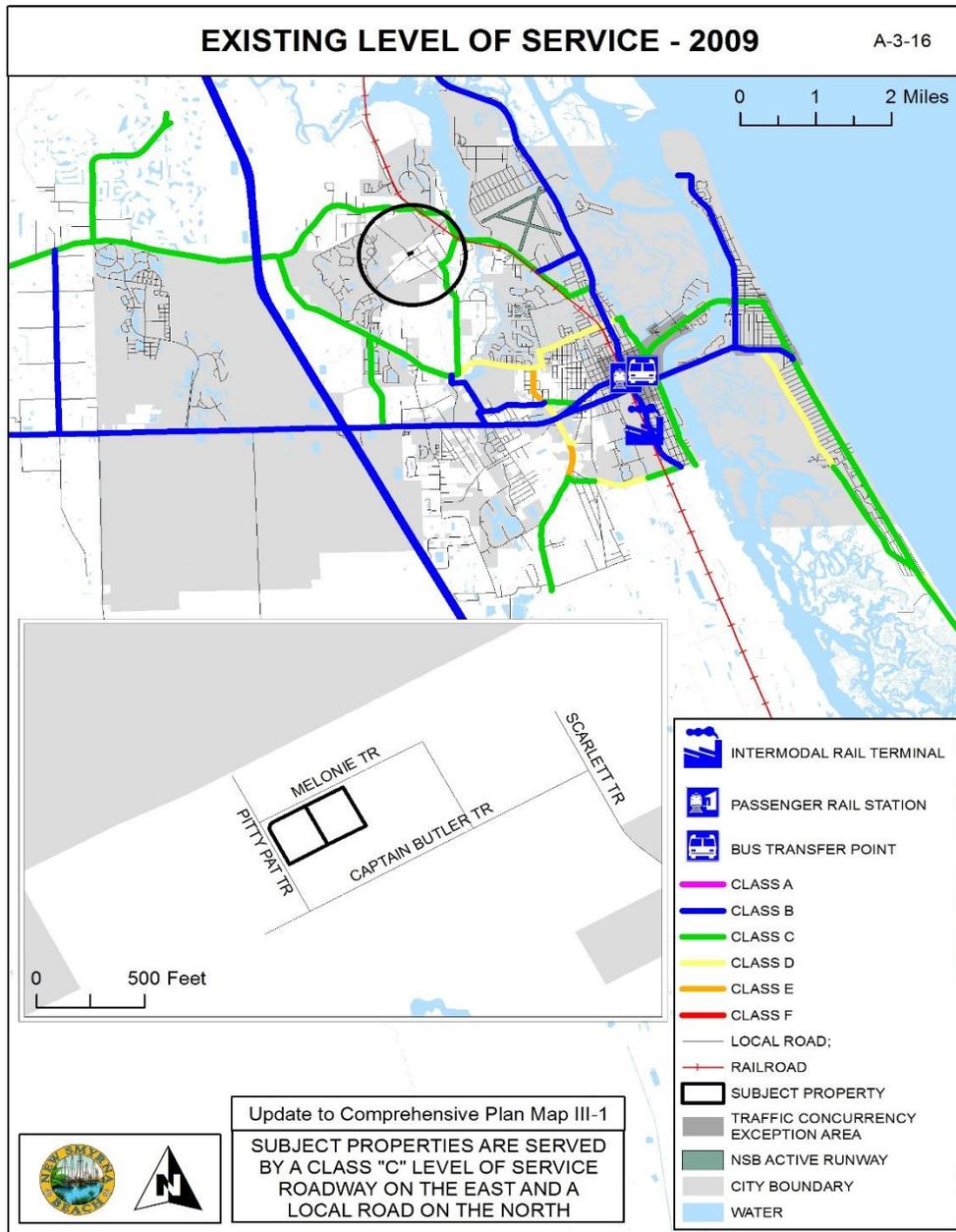


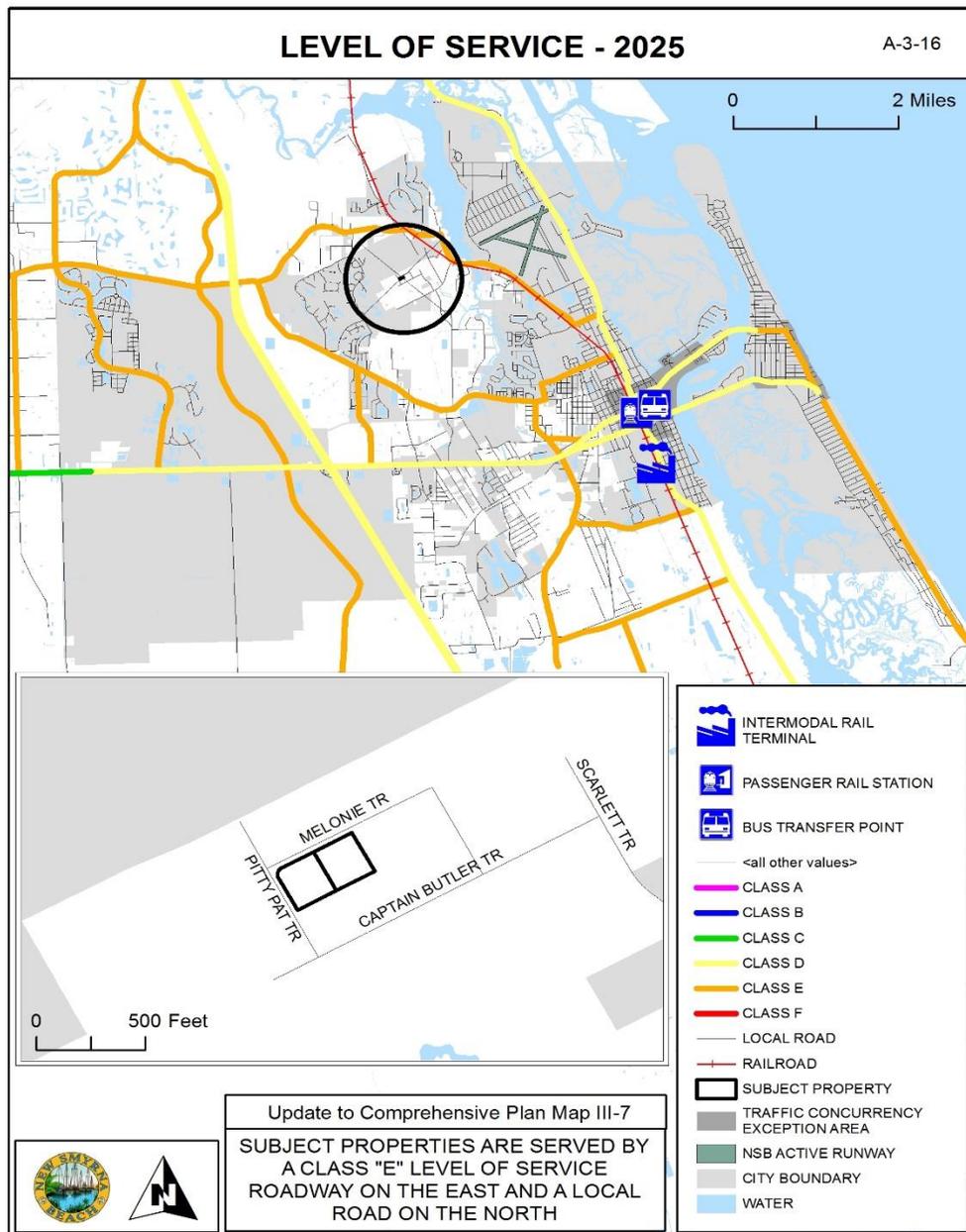


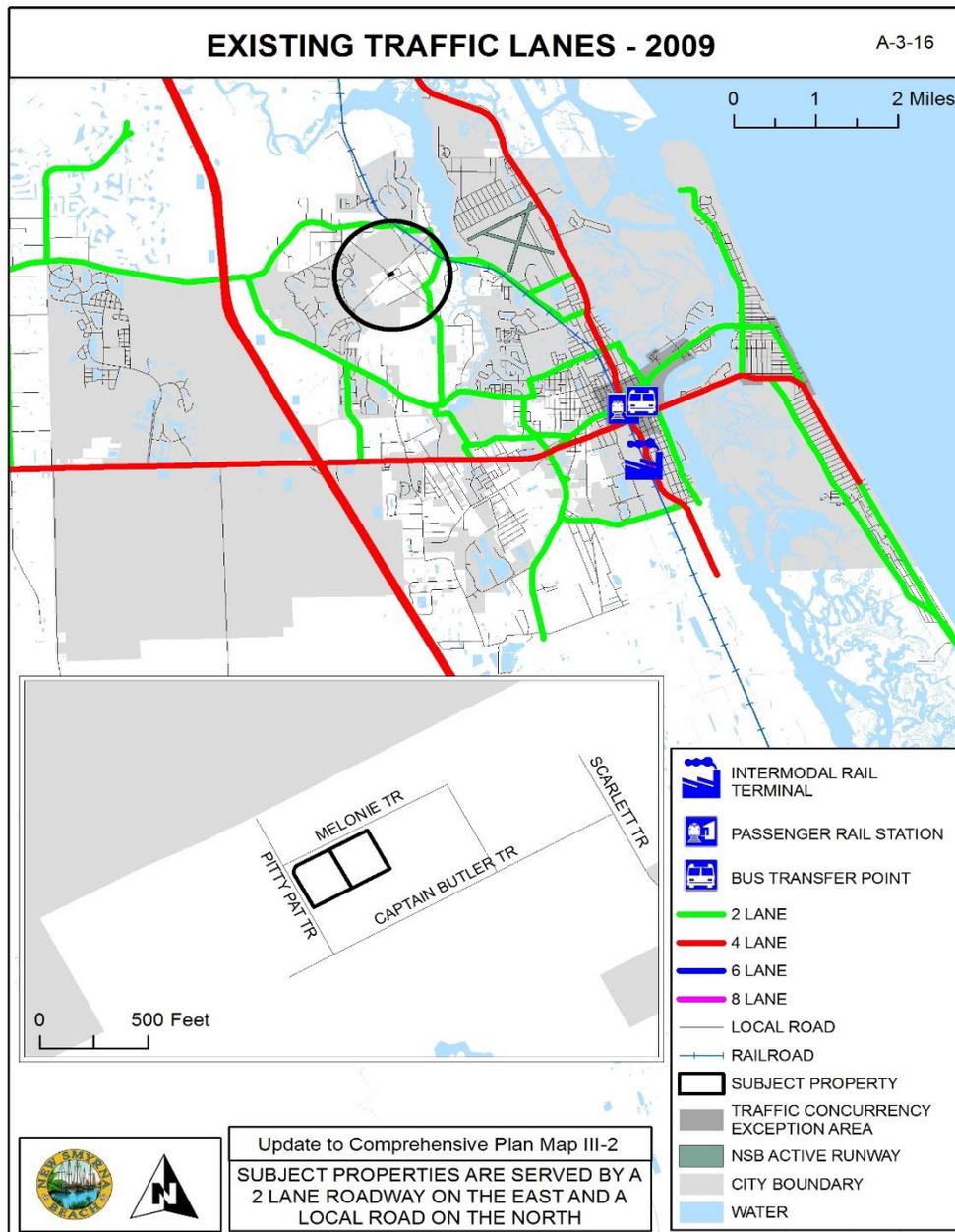


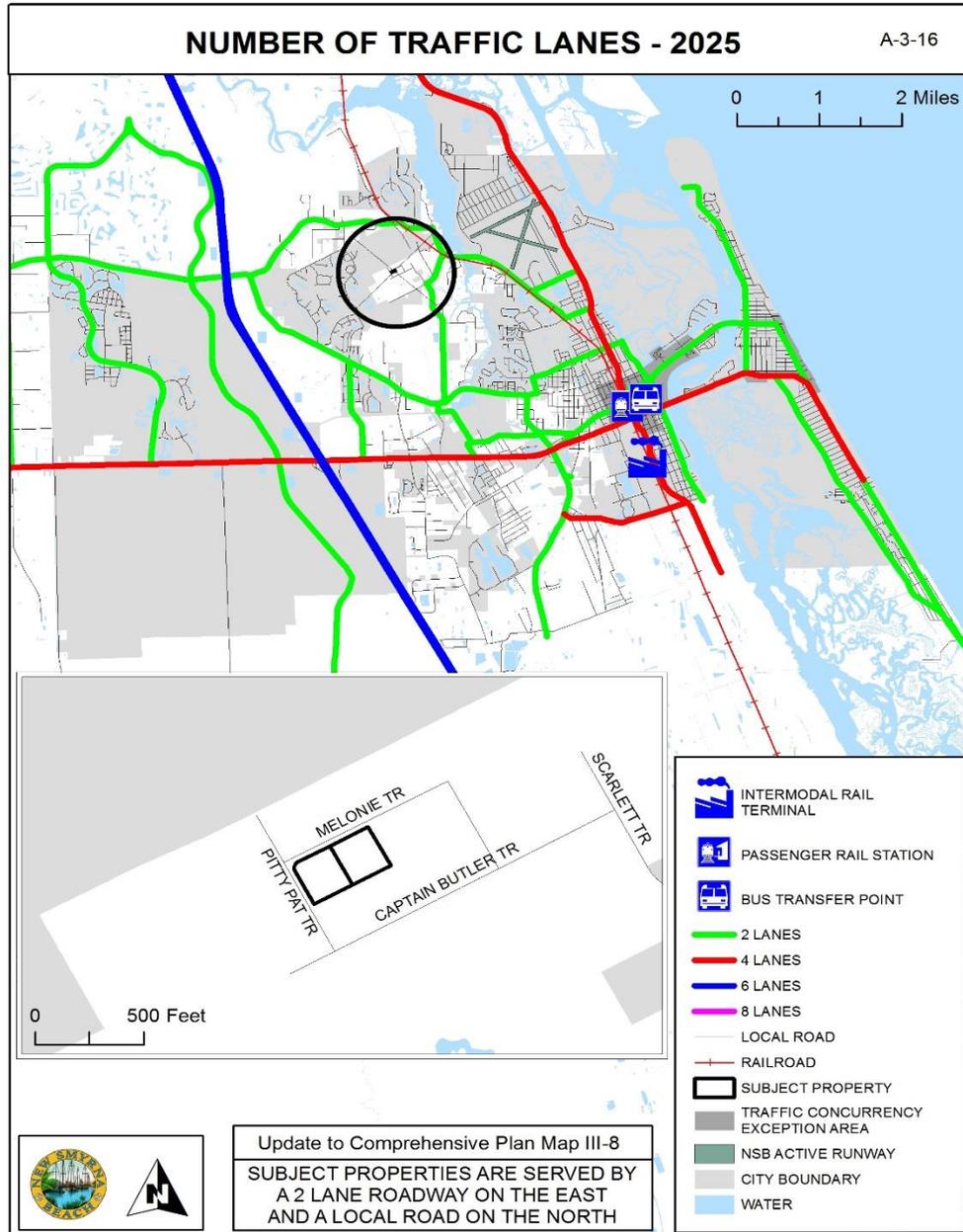


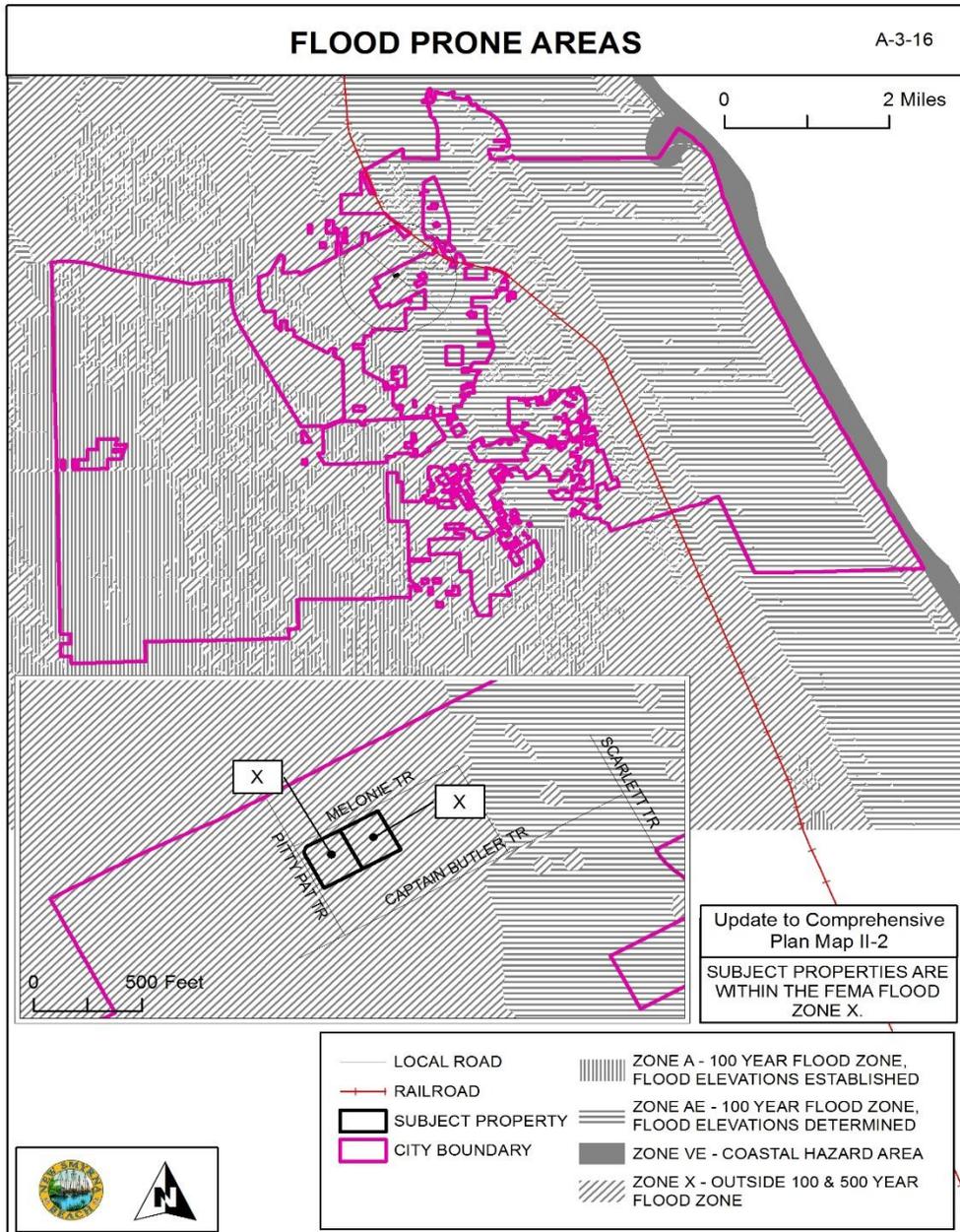


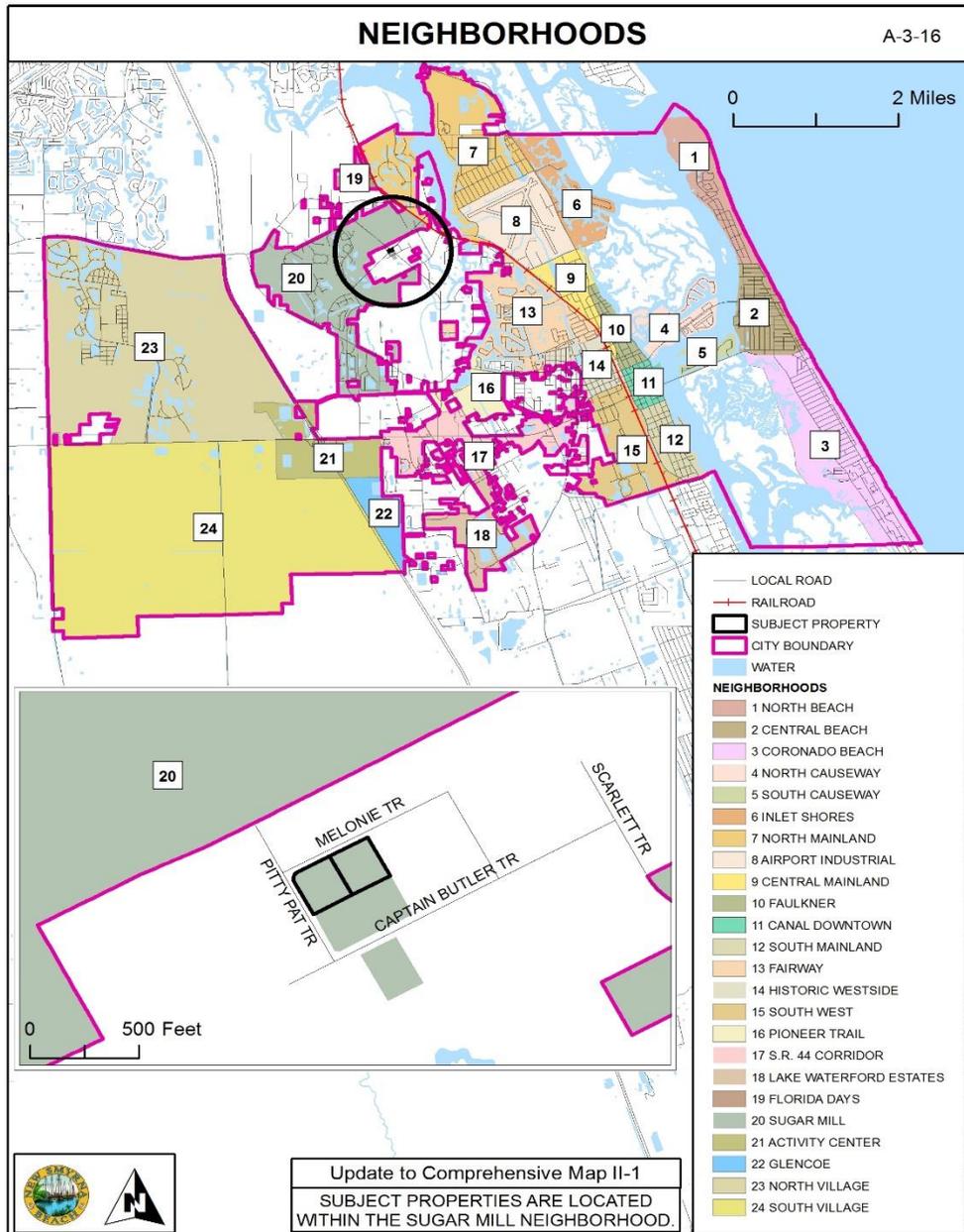


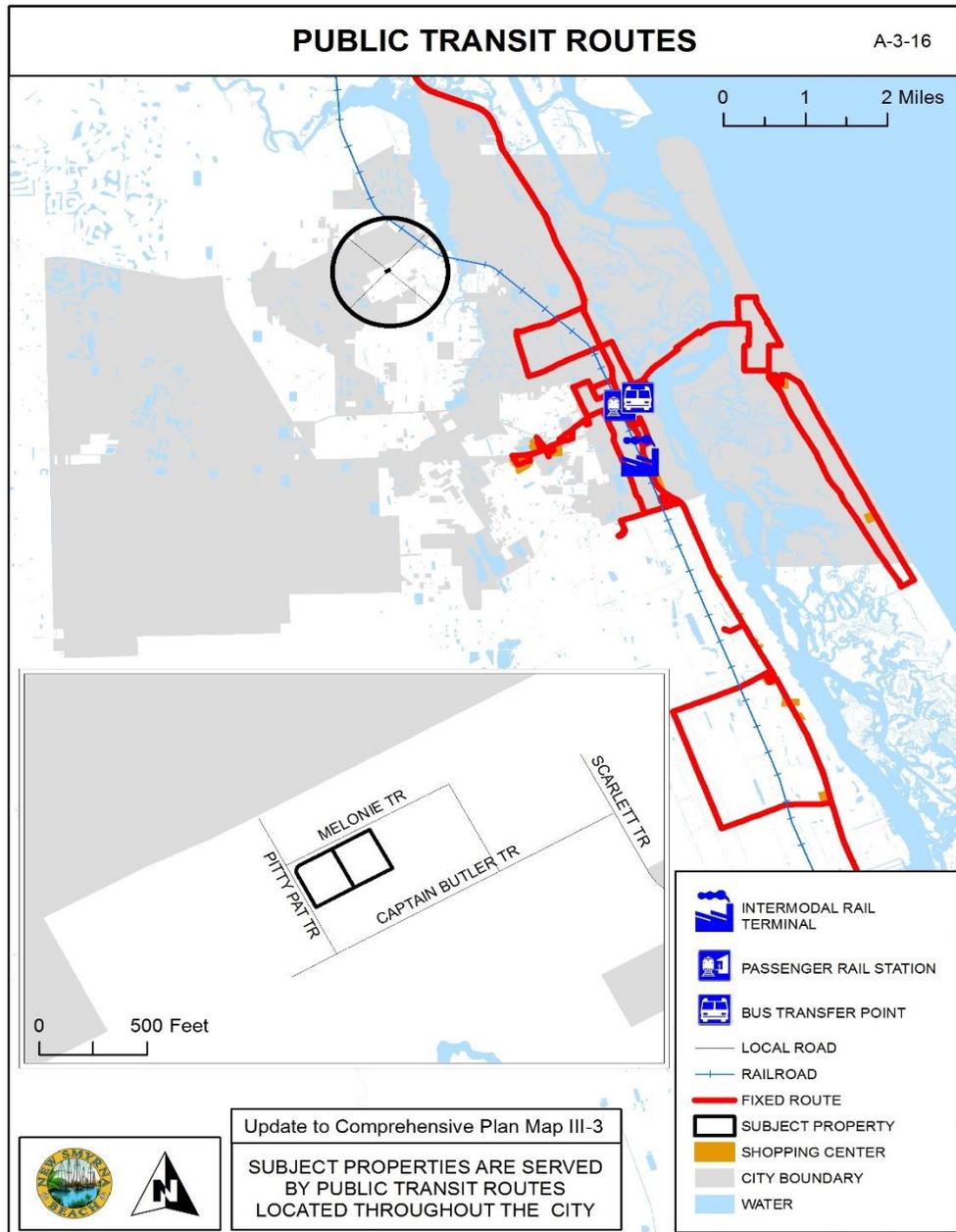


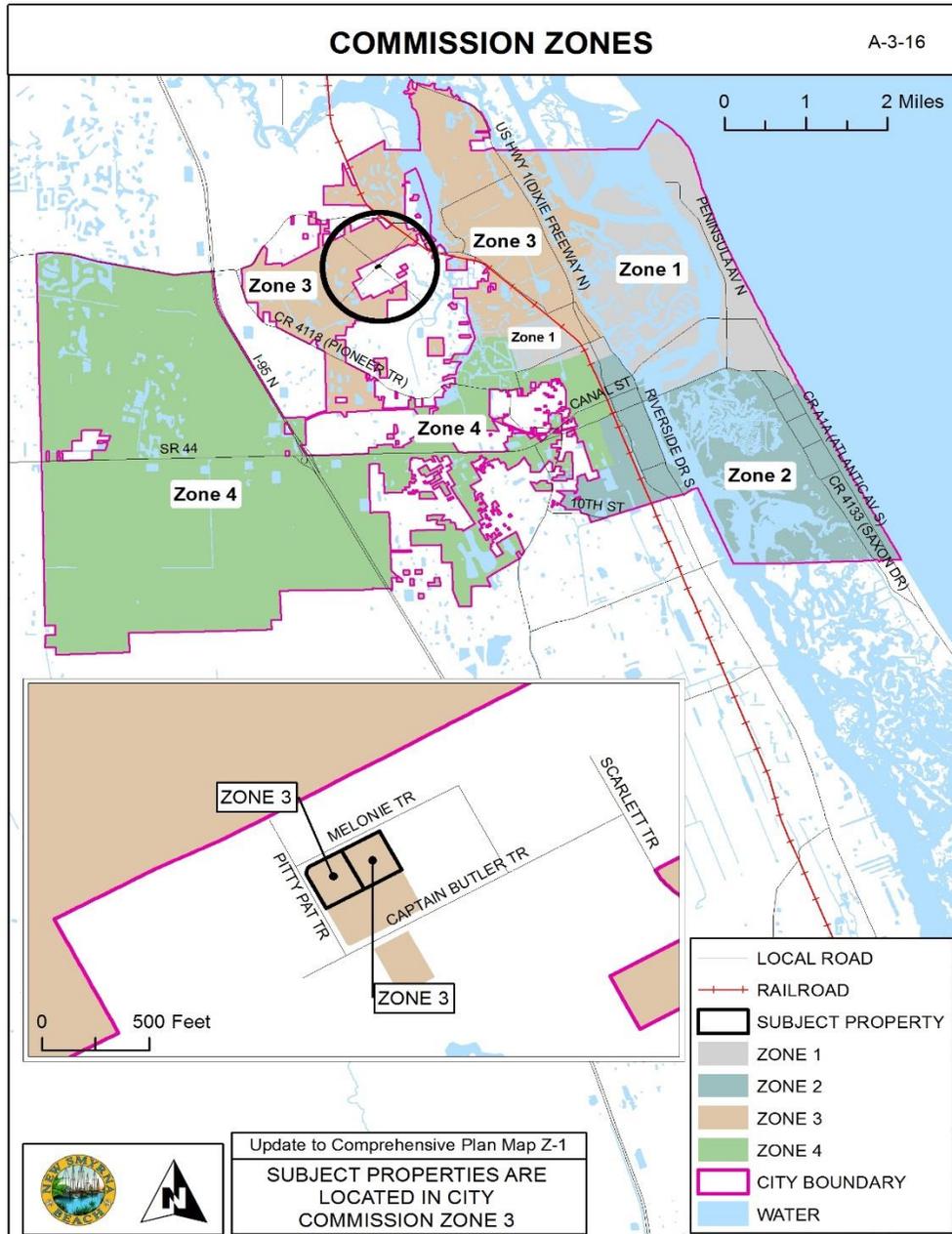












1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING BOARD  
2 **A-4-16: 411 OLD MISSION ROAD**  
3 **JANUARY 4, 2016**  
4

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5 **I. Background**  
6

7 A. **Applicant and Property Owner:** Douglas J. Thompson, 400 Rush Street,  
8 New Smyrna Beach, Florida, 32168  
9

10 B. **Request:** Voluntary annexation, *Comprehensive Plan* amendment, and  
11 rezoning:

- 12 • **From:** Volusia County Future Land Use (FLU) designation of UMI,  
13 Urban Medium Intensity, and Volusia County zoning designation of  
14 R-4, Urban Single Family Residential.
- 15 • **To:** City FLU designation of Medium Density Residential and City  
16 zoning designation of R-2, Single Family Residential.  
17

18 C. **Site Information:**

- 19 • **Size:** 0.345 acres
- 20 • **Location:** South of SR 44 at 411 Old Mission Road (see **Exhibit A**  
21 for a location map).
- 22 • **Tax I.D. Number:** 7419-14-11-0040  
23

24 **II. Findings**  
25

26 A. On April 23, 2013, the City Commission adopted an Interlocal Service  
27 Boundary Agreement (ISBA). The ISBA, which is permitted under Chapter  
28 171, Part II, Florida Statutes, allows the City to annex any parcels that are  
29 within the designated annexation area, even if they are not contiguous to  
30 the current municipal boundaries. The agreement, which is between the  
31 County of Volusia and the City, was also approved by the County on May  
32 2, 2013.  
33

34 B. The subject property is within the annexation area designated in the ISBA.  
35 The property is developed with a single-family residence and associated  
36 accessory uses. An aerial view/map of the subject property and surrounding  
37 area is attached as **Exhibit B**.  
38

39 C. The existing Volusia County Future Land Use (FLU) and zoning  
40 designations of the subject property are shown on the following table. Maps  
41 showing the surrounding Future Land Use and Zoning designations are  
42 attached (as **Exhibits C and D** respectively). The text description of the  
43 existing Future Land Use designation for the subject property is attached as  
44 **Exhibit E**. The associated current zoning text description for the subject  
45 property is attached as **Exhibit F**.

1

Property Location	Volusia County FLU Designation	Volusia County Zoning Designation
411 Old Mission Road	UMI, Urban Medium Intensity	R-4, Urban Single Family Residential

2  
3 D. Existing land use is shown on the map attached as **Exhibit G**. The future  
4 land use and zoning designations for those properties surrounding the  
5 subject property is as follows:  
6

	North	East	South	West
<b>411 Old Mission Road</b>				
Future Land Use	County UMI, Urban Medium Intensity	County UMI, Urban Medium Intensity	County UMI, Urban Medium Intensity	City MDR, Medium Density Residential
Existing Land Use	Residential	Vacant	Residential	Residential
Zoning	County R-4, Urban Single Family Residential	County R-4, Urban Single Family Residential	County R-4, Urban Single Family Residential	City R-4, Multi-family Residential

7  
8 E. The established City Commission policy is that when property is annexed  
9 into the City, the City will assign future land use and zoning designations  
10 that would be as similar as possible to existing County designations. As  
11 discussed above, the existing County FLU designation is UMI, Urban  
12 Medium Intensity. The existing County zoning designation is R-4, Urban  
13 Single Family Residential. The proposed City FLU designation is MDR,  
14 Medium Density Residential. The proposed City equivalent zoning  
15 designation to the County R-4, Urban Single Family Residential designation  
16 is City R-2, Single Family Residential. A text description of the proposed  
17 City MDR, Medium Density Residential FLU designation is attached as  
18 **Exhibit H**, with a map of this proposed change also attached as **Exhibit I**.  
19 A text description of the proposed City R-2, Single Family Residential  
20 zoning designation, and a map of this proposed change, are similarly  
21 attached as **Exhibits J** and **K** respectively.

22  
23 F. This annexation request is within the City's annexation area and within the  
24 City's water and sewer service area (**Exhibit L**). The following table shows  
25 the availability of utilities to service the subject property:  
26

Property Location	Water	Sewer	Reclaim
411 Old Mission Road	2" line / Old Mission Rd ROW	Not Available	Not Available

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A map of the soil limitations for septic systems is attached as **Exhibit M**.

G. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, storm-water management, and public school facilities. Because the property is already developed with a single family house and accessory structures and because no increased density is proposed for the property, staff did not prepare a concurrency analysis table for this case.

H. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject property into the *Comprehensive Plan* (see **Exhibits N through Z**). A map showing the property located in City Commission Zone 4 is attached as **Exhibit AA**.

I. The *Comprehensive Plan* provides guidance on annexations, future land use amendments, and re-zonings. The following is a list of objectives in the *Comprehensive Plan* that support this proposal:

- Future Land Use Element Goal 2, Objective 3
- Future Land Use Element Goal 2, Objective 4
- Future Land Use Element Goal 2, Objective 7
- Future Land Use Element Goal 5, Objective 3

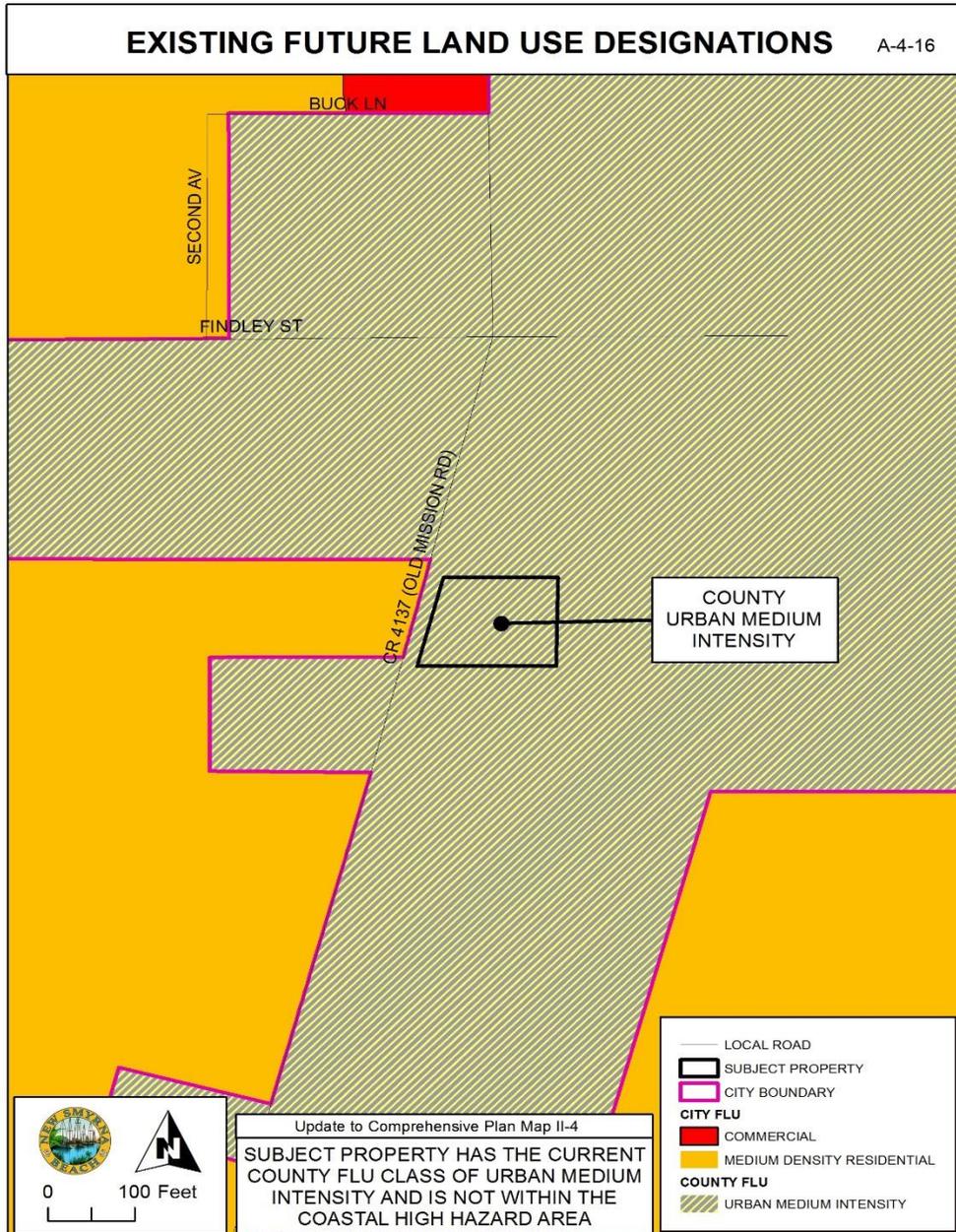
**III. Recommendation**

Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the requested annexation, *Comprehensive Plan* amendment to City MDR, Medium Density Residential and rezoning to City R-2, Single Family Residential.

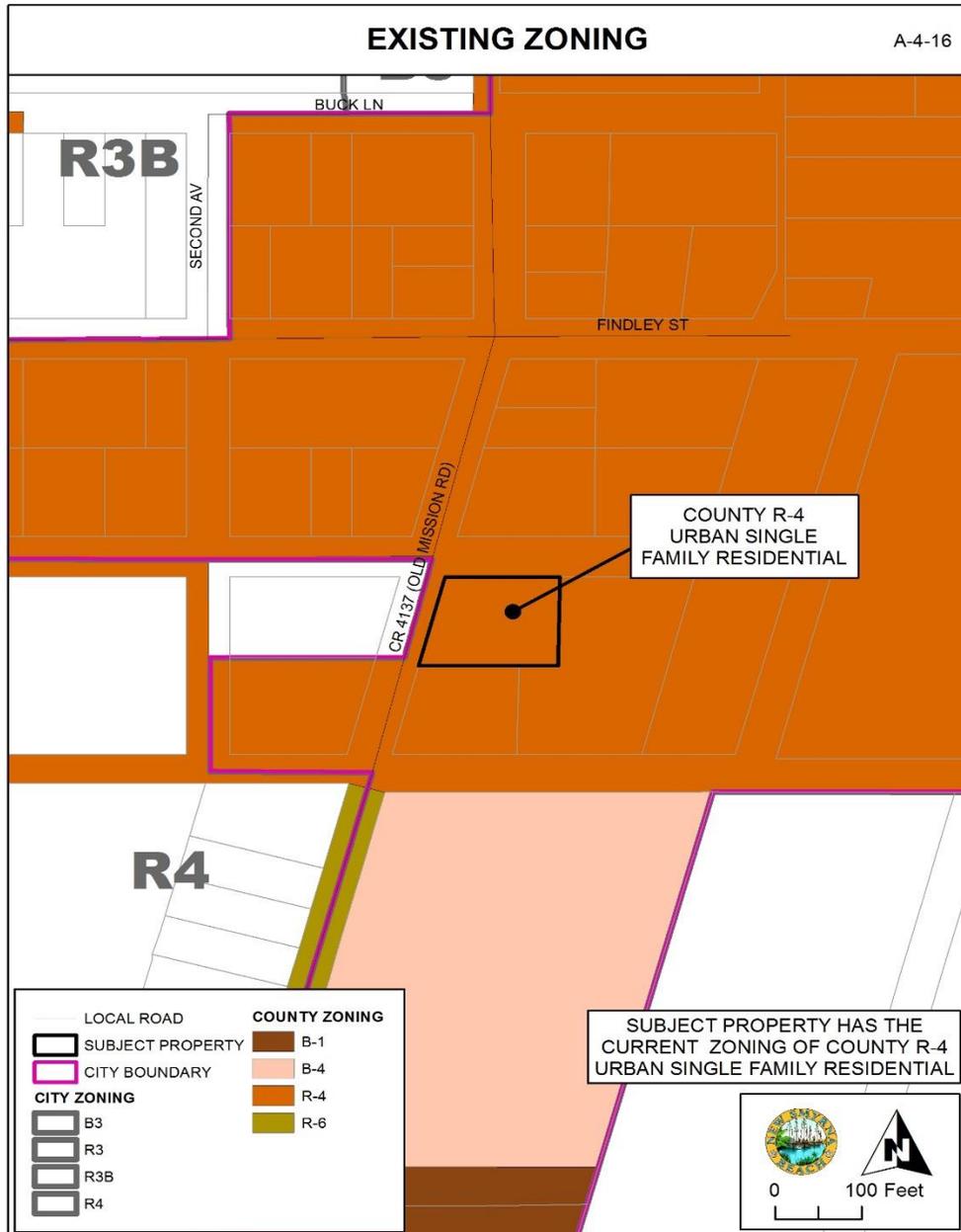




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**Exhibit E**

**Urban Medium Intensity (UMI) –**

Areas that contain residential development at a range of greater than four (4) to eight (8) dwelling units per acre. The types of housing typically found in areas designated urban medium intensity include single family homes, townhouses and low-rise apartments.

The UMI designation is primarily a residential designation but may allow neighborhood business areas (see Shopping Center definition in Chapter 20) and office development that meet the Comprehensive Plan's location criteria. The commercial intensity shall be no more than a fifty percent Floor Area Ratio (0.50 FAR) and shall be limited in a manner to be compatible with the allowable residential density. In order to be considered compatible, the commercial development should reflect similar traffic patterns, traffic generation, building scale, landscaping and open space, and buffers. More intensive commercial use, other than neighborhood business areas, shall be reserved to areas designated for Commercial.

All requests for nonresidential uses within one- quarter ( $\frac{1}{4}$ ) mile of another jurisdiction shall require notification to that jurisdiction.

**Exhibit F**

**R-4 URBAN SINGLE-FAMILY  
RESIDENTIAL CLASSIFICATION**

*Purpose and intent:* The purpose and intent of the R-4 Urban Single-Family Residential Classification is to provide medium-density residential developments, preserving the character of existing or proposed residential neighborhoods.

*Permitted principal uses and structures:* In the R-4 Urban Single-Family Residential Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Cluster and zero lot line subdivisions (refer to subsection 72-304).
- Communication towers not exceeding 70 feet in height above ground level.
- Essential utility services.
- Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.
- Exempt landfills (refer to subsection 72-293(16)).
- Fire stations.
- Home occupations, class A (refer to section 72-283).
- Houses of worship.
- Parks and recreational areas accessory to residential developments.
- Public schools.
- Publicly owned parks and recreational areas.
- Publicly owned or regulated water supply wells.
- Single-family standard or manufactured modular dwelling.

*Permitted special exceptions:* Additional regulations/requirements governing permitted special exceptions are located in sections 72-293 and 72-415 of this article.

- Bed and breakfast (refer to subsection 72-293(19)).
- Cemeteries (refer to subsection 72-293(4)).
- Communication towers exceeding 70 feet in height above ground level.
- Day care centers (refer to subsection 72-293(6)).
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).
- Excavations only for stormwater retention ponds for which a permit is required by this article.
- Garage apartments.
- Off-street parking areas (refer to subsection 72-293(14)).
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).
- Schools, parochial or private (refer to subsection 72-293(4)).

**Exhibit F (cont'd)**

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*Dimensional requirements:*

*Minimum lot size:*

Area: 7,500 square feet.

Width: 75 feet.

*Minimum yard size:*

Front yard: 25 feet.

Rear yard: 20 feet.

Side yard: 20 feet combined, minimum of eight feet on any one side.

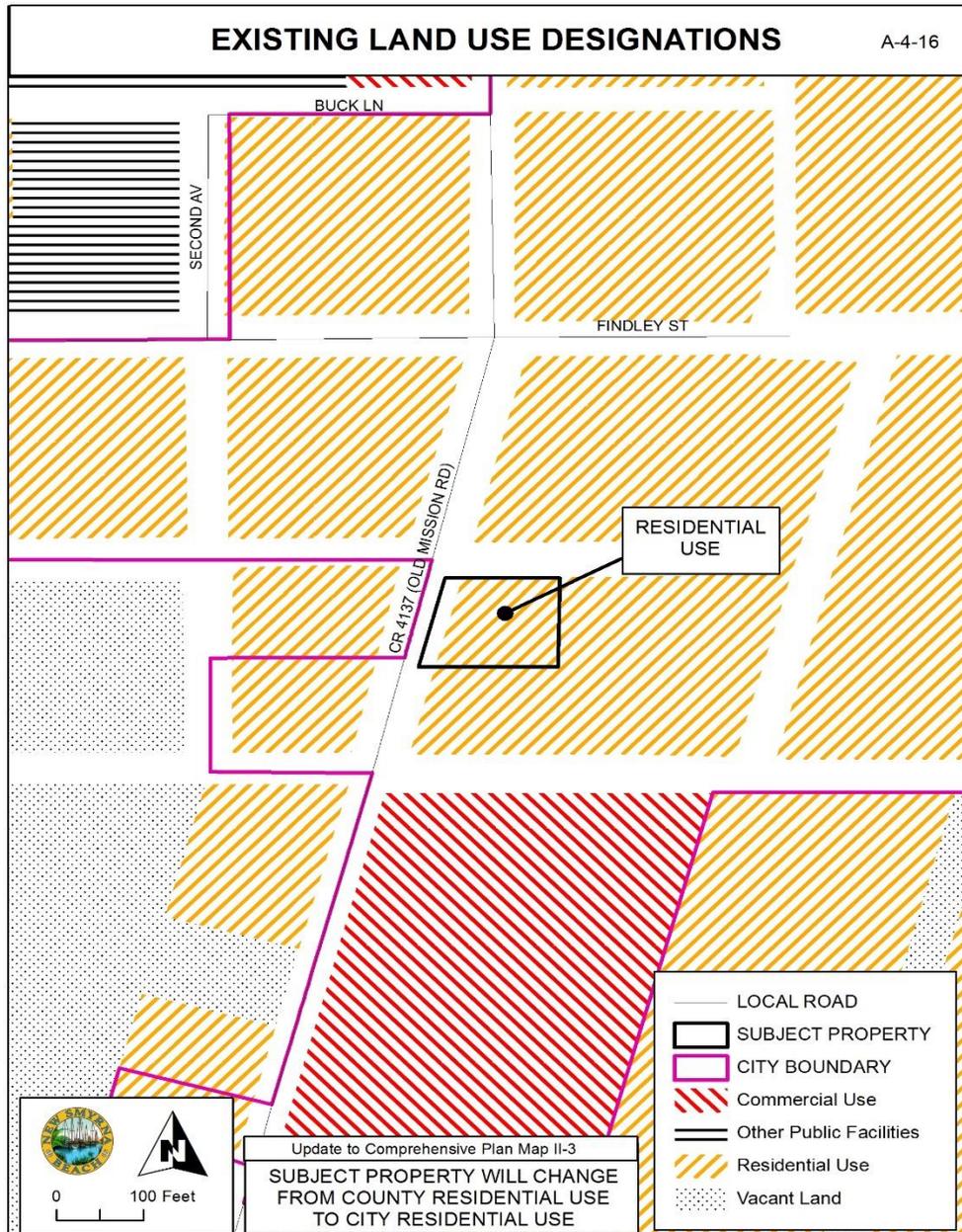
Waterfront yard: 25 feet.

*Maximum building height:* 35 feet.

*Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

*Minimum floor area:* 850 square feet.

*Off-street parking and loading requirements:* Off-street parking and loading areas meeting the requirements of sections 72-286 and 72-287 shall be constructed.



**Exhibit H**

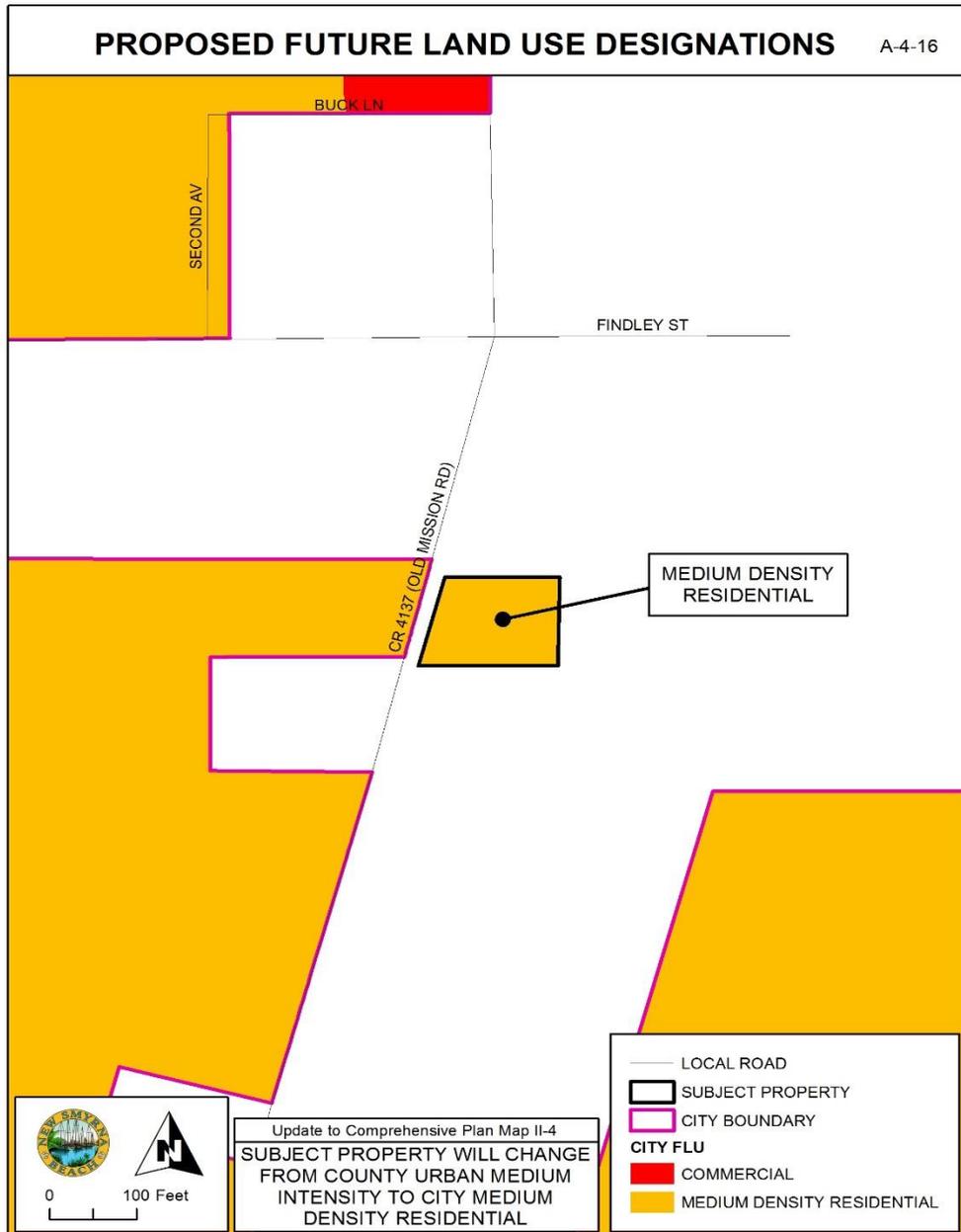
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**MEDIUM-DENSITY RESIDENTIAL**

Maximum allowed density: 5.01 to eight [8] dwelling units per acre

Intent: This use is intended to provide a buffer between low-density residential uses and more intense uses, such as a high-density residential or commercial. It is also suitable at major intersections when adequate buffering from highway can be provided.

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**Exhibit J**

**R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT**

**Intent.** The R-2, Single-Family Residential District is intended to be a single-family residential district for low population densities. Existing development and usage has resulted which is being preserved in order to stabilize the neighborhood. The nature of the residential use of the property throughout the district will enhance the prospects for orderly future residential development.

***Permitted uses.***

Playfields

Playgrounds

Public parks

Recreation buildings and complexes for exclusive use by residents and guests in a residential development

Single-family dwelling units

***Permitted accessory uses.***

Garages

Gazebos

Incidental uses

Permitted home occupations

Storage sheds

Swimming pools, private, provided a principal structure exists and the pool is located behind the front plane of the principal structure. Corner lots will be considered to have two front planes, one on each street. If a structure is not constructed squarely on a parcel, the swimming pool must be located at or behind the most restrictive front plane of the principal structure.

Uses customarily associated with the permitted principal uses

**Exhibit J (cont'd)**

***Special exceptions.***

Facilities owned and/or operated by federal, state, county or municipal government except country clubs and golf courses

Schools and churches provided all structures are located at least 35 feet from all side or rear property lines and off-street parking areas abutting residential property are screened by a buffer meeting the requirements of this LDR.

Child day care on church property, subject to the following additional conditions:

(1)

The church property shall be located on and be accessible by an arterial or collector roadway.

(2)

Play areas shall be fenced and landscaped. The landscaping shall have a vegetative hedge that will reach six feet in height within two years that is planted a minimum of three feet on center.

(3)

Play areas shall be located within all applicable setback dimensions.

(4)

The church property shall have a vehicular drop off and pickup area with a minimum [of] 100 feet of drive lane outside of the public right-of-way, or sufficient parking area to provide enough space to fit the required parking and provided space for drop off and pick up.

***Dimensional requirements.***

***Minimum lot size.***

Area: 8,625 square feet

Depth: 115 feet

Width: 75 feet

**Exhibit J (cont'd)**

***Minimum yard size.***

Front yard: 30 feet or as required per [sub] section 504.01M. of this LDR

Rear yard: 7.5 feet

Side yard: 7.5 feet

***Maximum building coverage.*** The total area covered with buildings on any lot shall not exceed 40 percent of the total lot area.

***Screen enclosures.*** As an exception to the maximum building coverage provision any parcel may be allowed an additional ten percent building coverage for only a screen pool enclosure if the following conditions are met:

1. A screen pool enclosure shall only cover the swimming pool and surrounding pool deck and shall have a roof and walls consisting entirely of screening; and
2. There shall be no variances granted to exceed the maximum building coverage or additional coverage allowed for screen enclosures.

***Maximum impervious lot coverage.*** The total area of the lot that may be covered with impervious material is 60 percent.

***Maximum principal building height.*** 35 feet; three stories.

***Minimum floor area requirements.*** 750 square feet of livable area for one and two-bedroom dwelling units; 1,200 square feet of livable area for a three-bedroom dwelling unit; and 1,300 square feet of livable area for a four-bedroom dwelling unit.

***Corner lots.***

- (1) Parcels which front on two streets shall provide a 30-foot front yard on one street frontage and a 15-foot half depth front yard on the other street, or as required per [sub]section 504.01M. of this LDR.

**Exhibit J (cont'd)**

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(2) Parcels fronting on three streets shall provide two 30-foot front yards and a 15-foot half depth front yard on the remaining street or as required per [sub]section 504.01M. of this LDR.

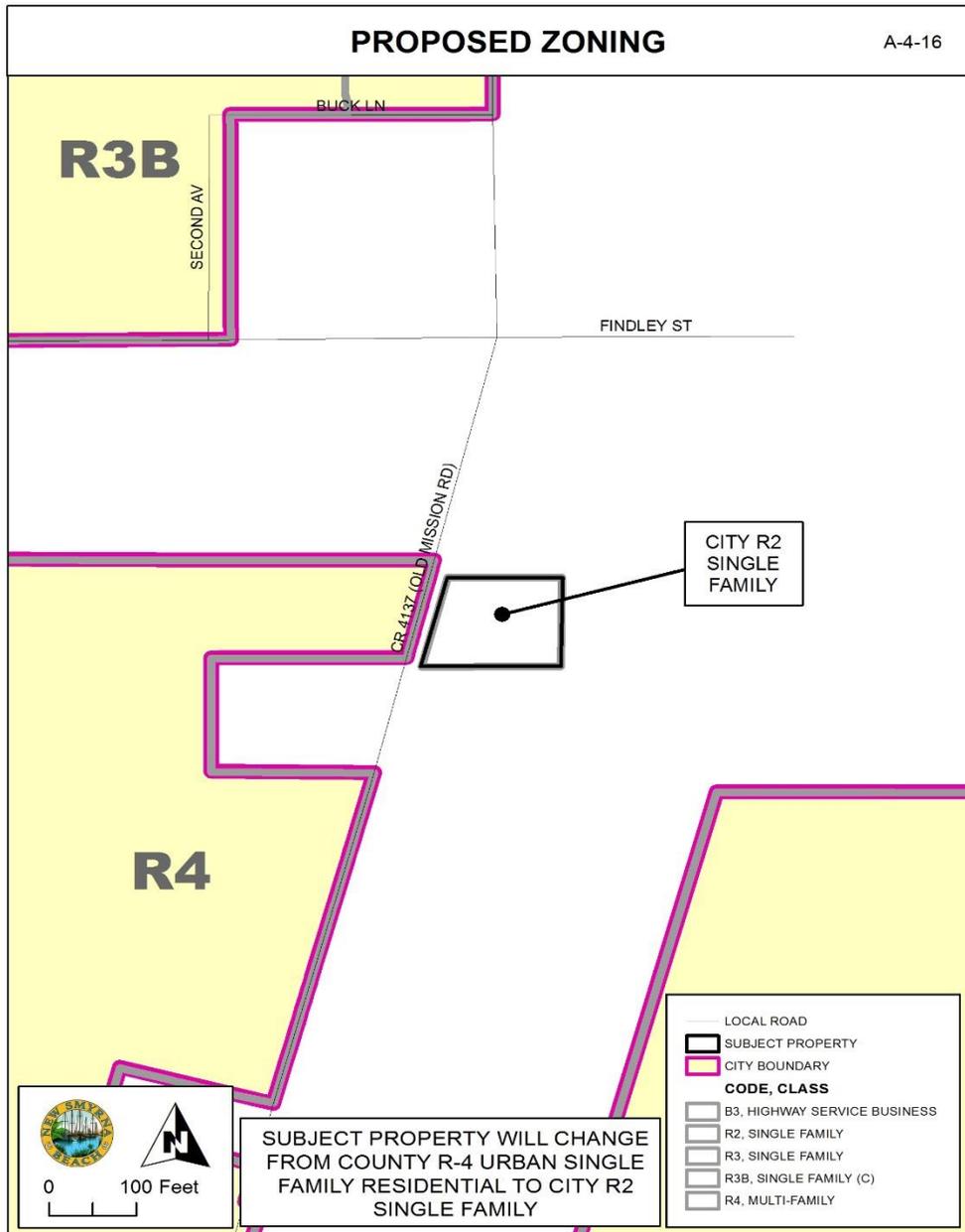
**Driveway access.** The minimum driveway length shall be 20 feet (excluding [that] portion of a driveway within the public right-of-way).

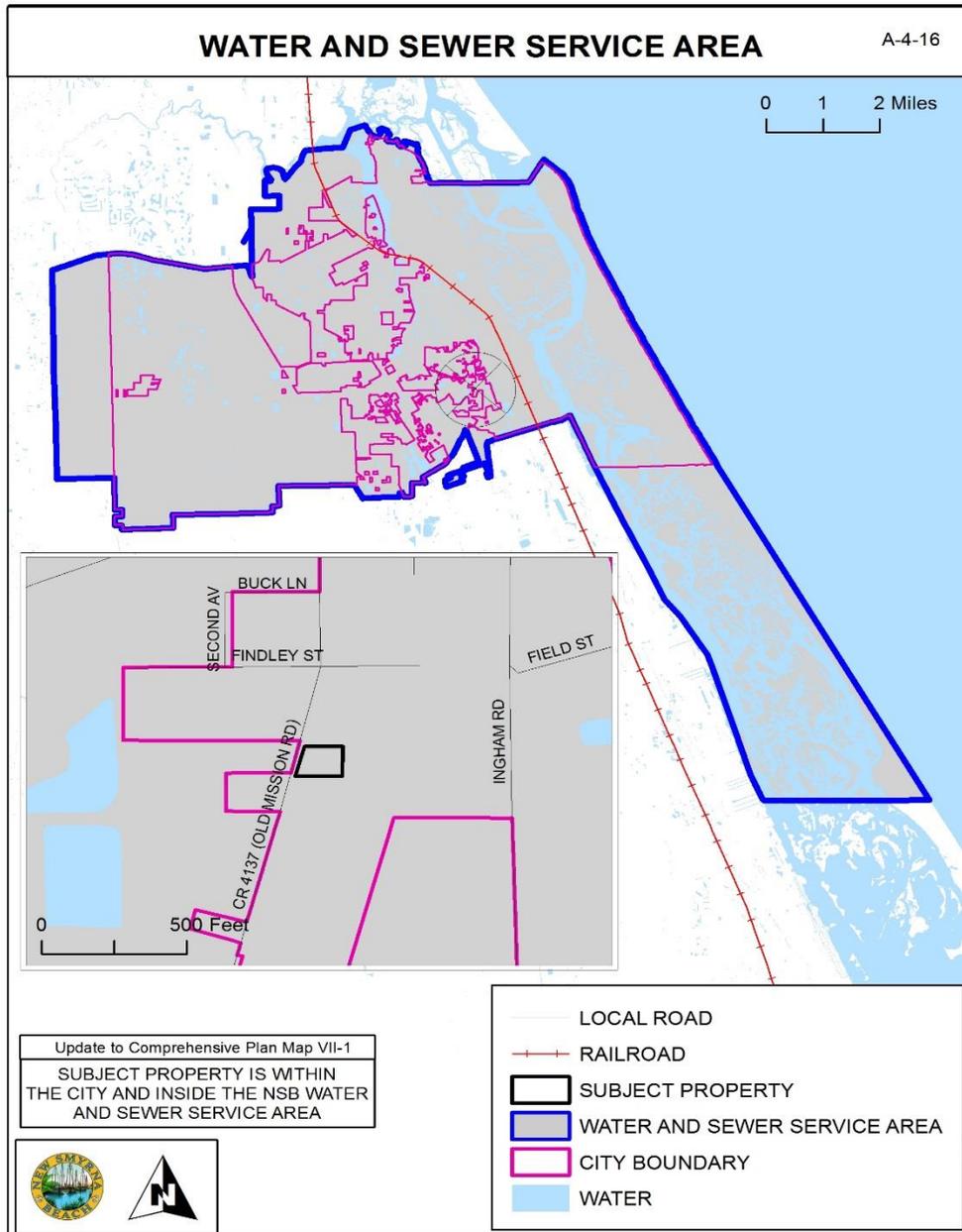
**Through lots.** Through lots shall provide a 30-foot front yard on each street, or as required per [sub] section 504.01M. of this LDR.

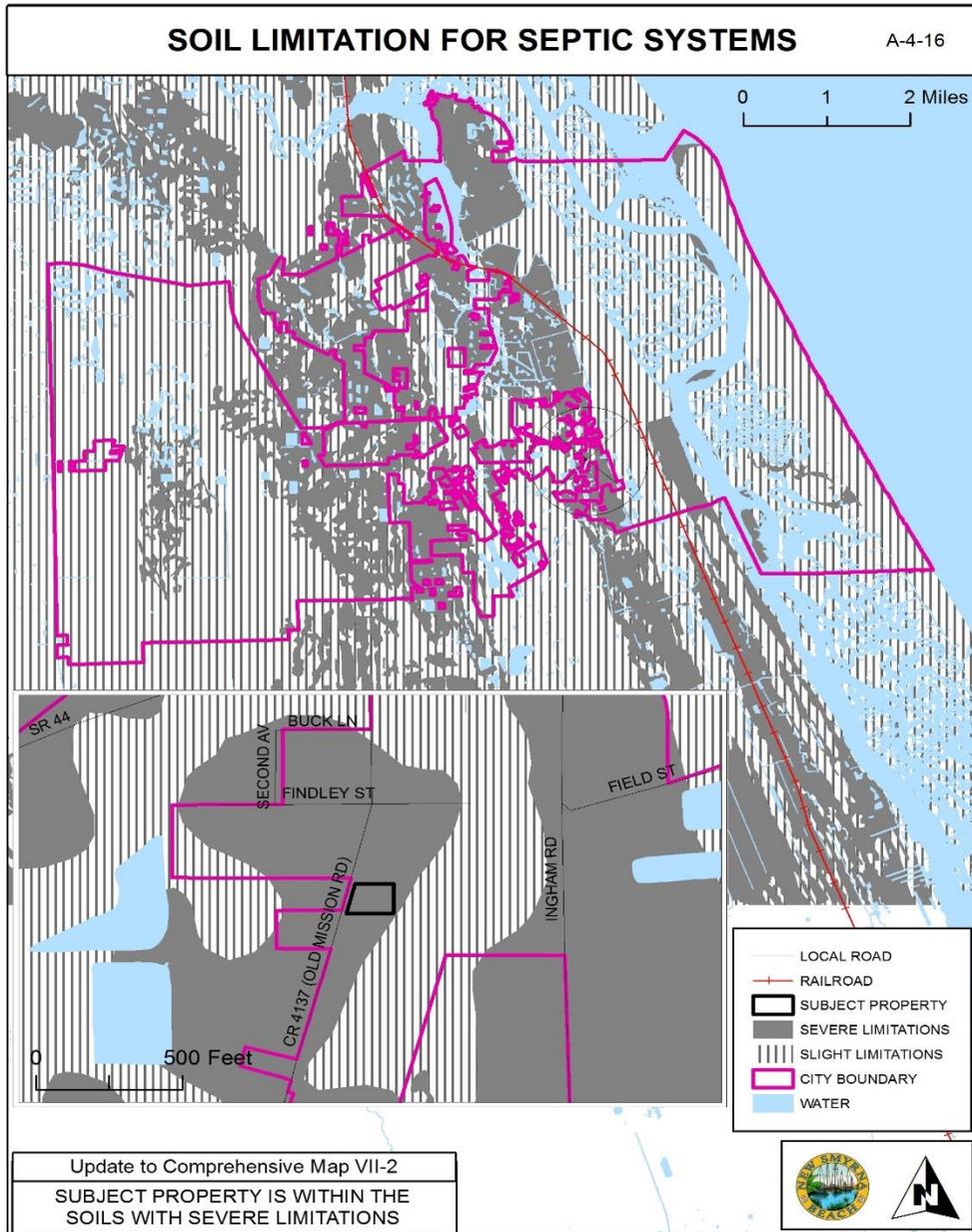
**Atypical lots.** Visibility triangles shall be established at the rear corners of an atypical lot. The visibility triangles shall be those areas formed by a line connecting the points 30 feet from the intersection of the side and rear lot line along the side lot line and 30 feet from the intersection of the side and rear lot line along the rear lot line; no principal or accessory structure having a height over four feet, except for incidental uses, shall protrude into the area of a visibility triangle.

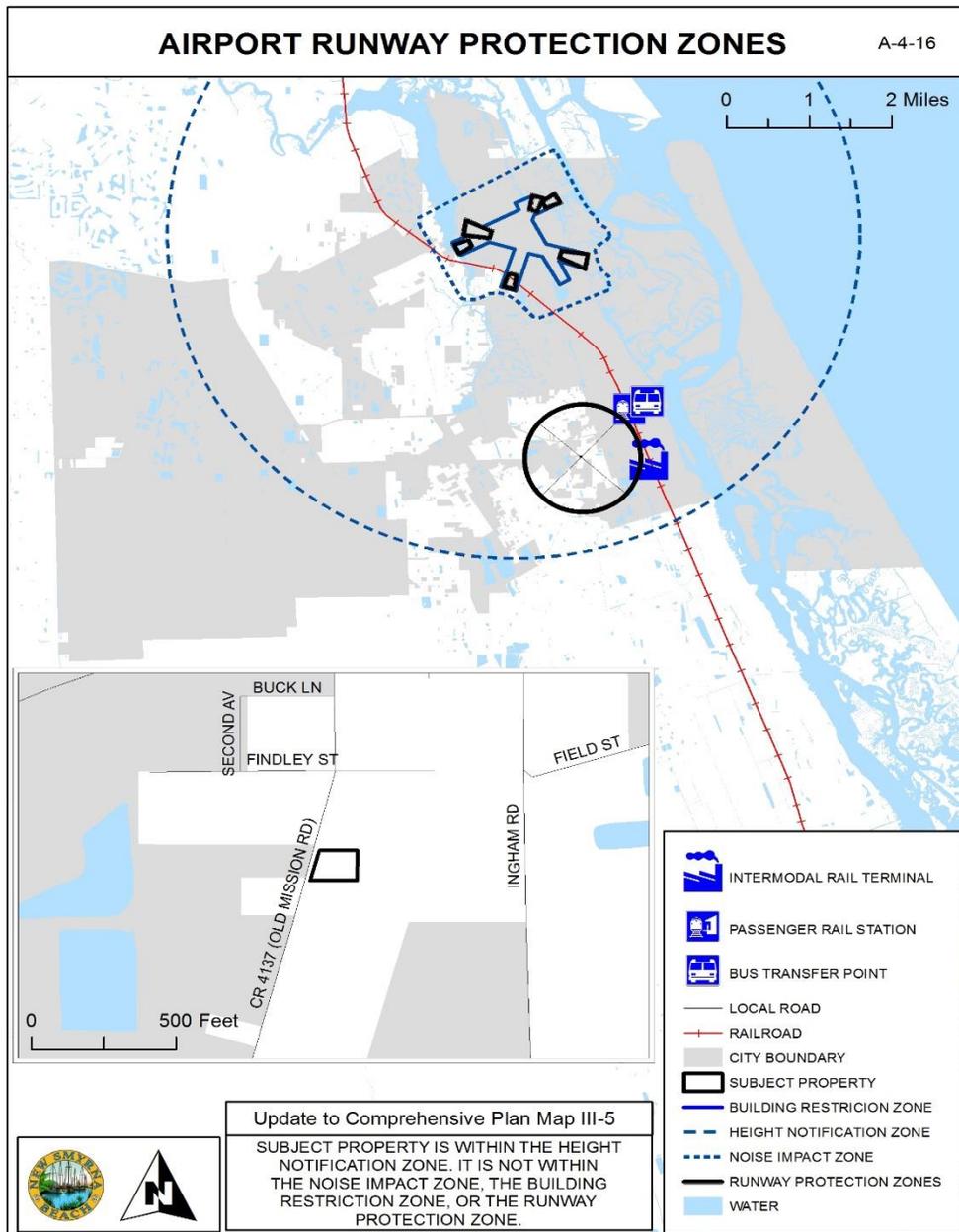
**Building projections.** There shall be no building projections into any required yard except for eaves with a maximum projection of 42 inches, but no closer than five feet to a property line; and those structures allowed in [sub] section 804.03.

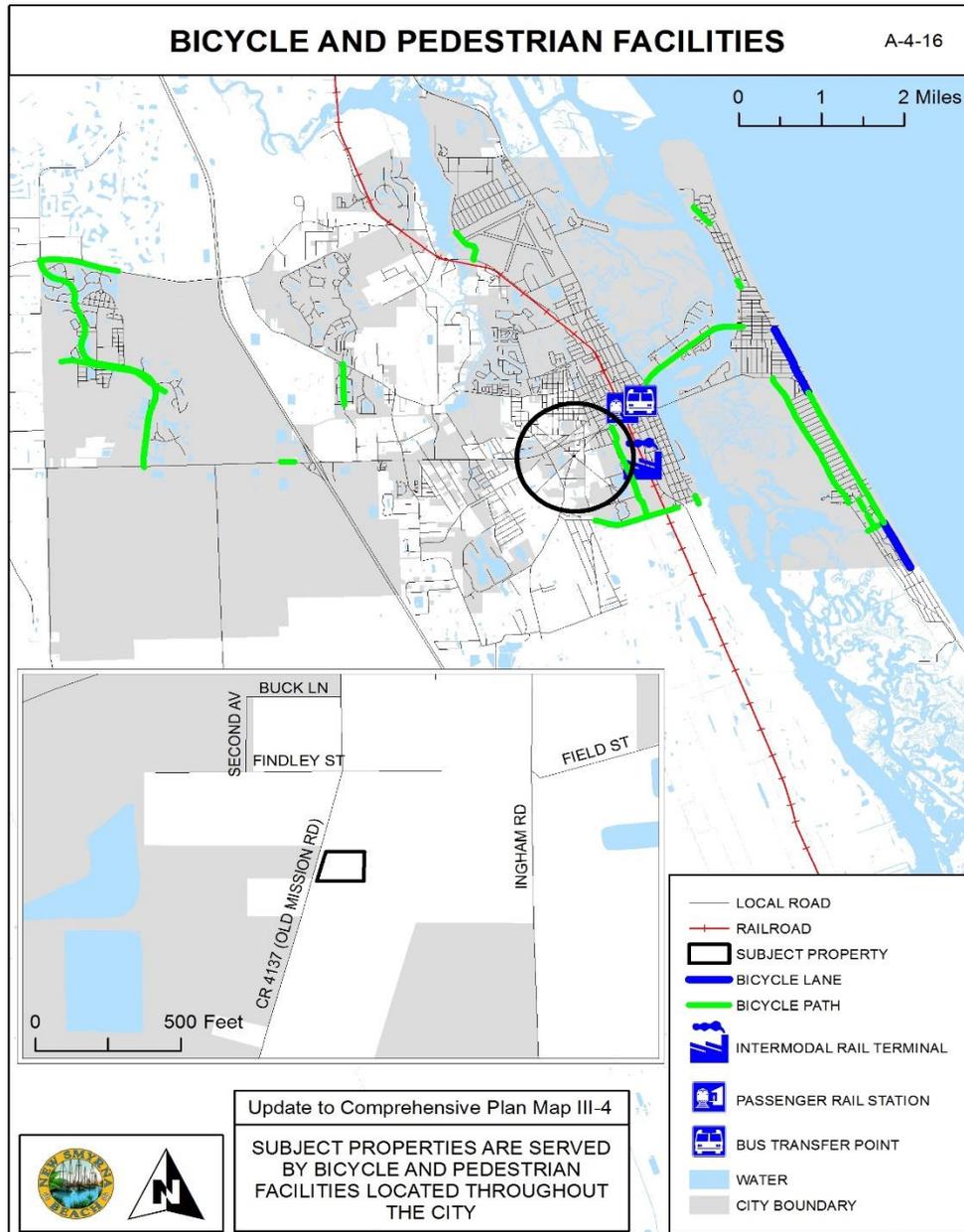
**Visibility at intersections.** Visibility at intersections shall be provided as required in this LDR.

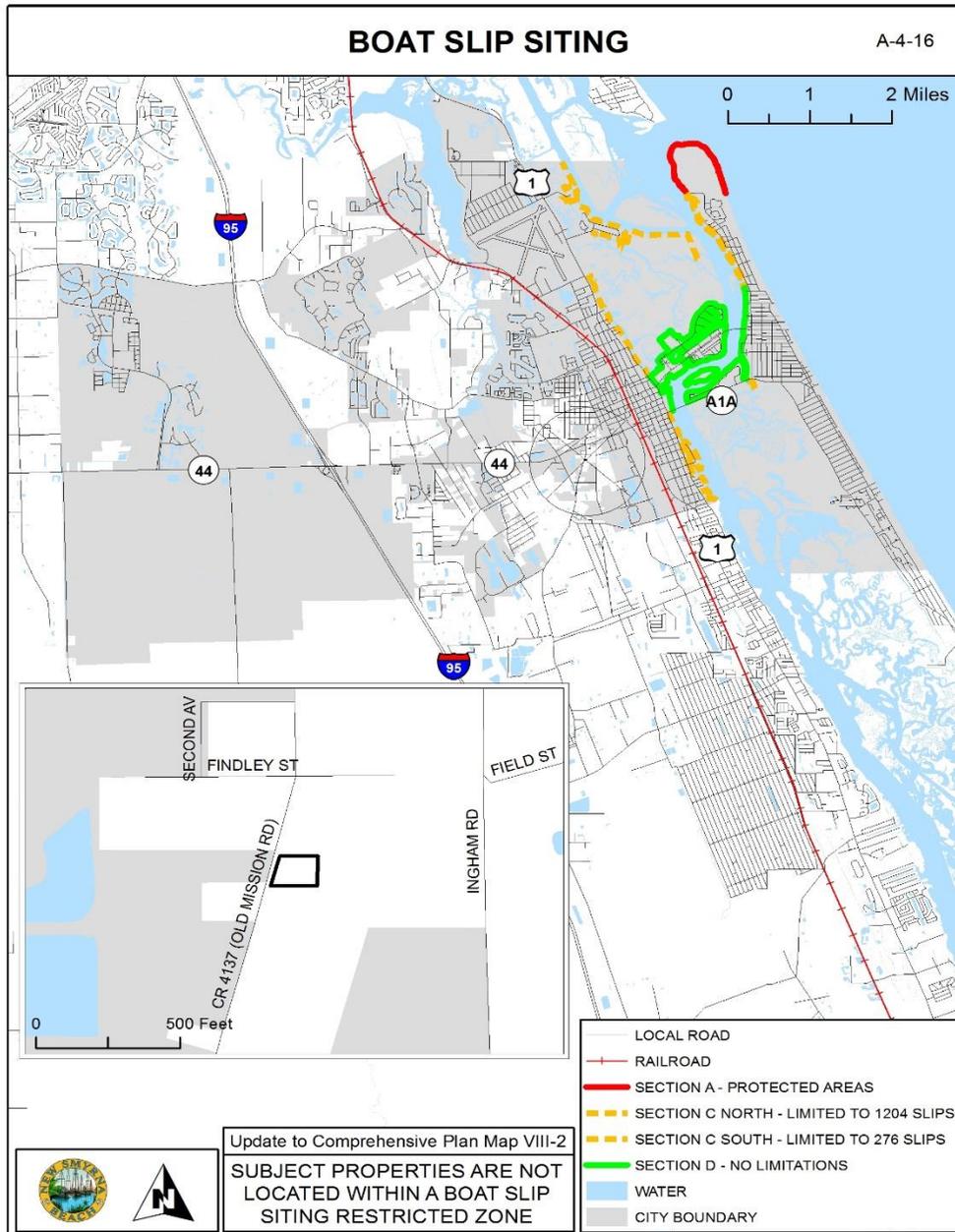


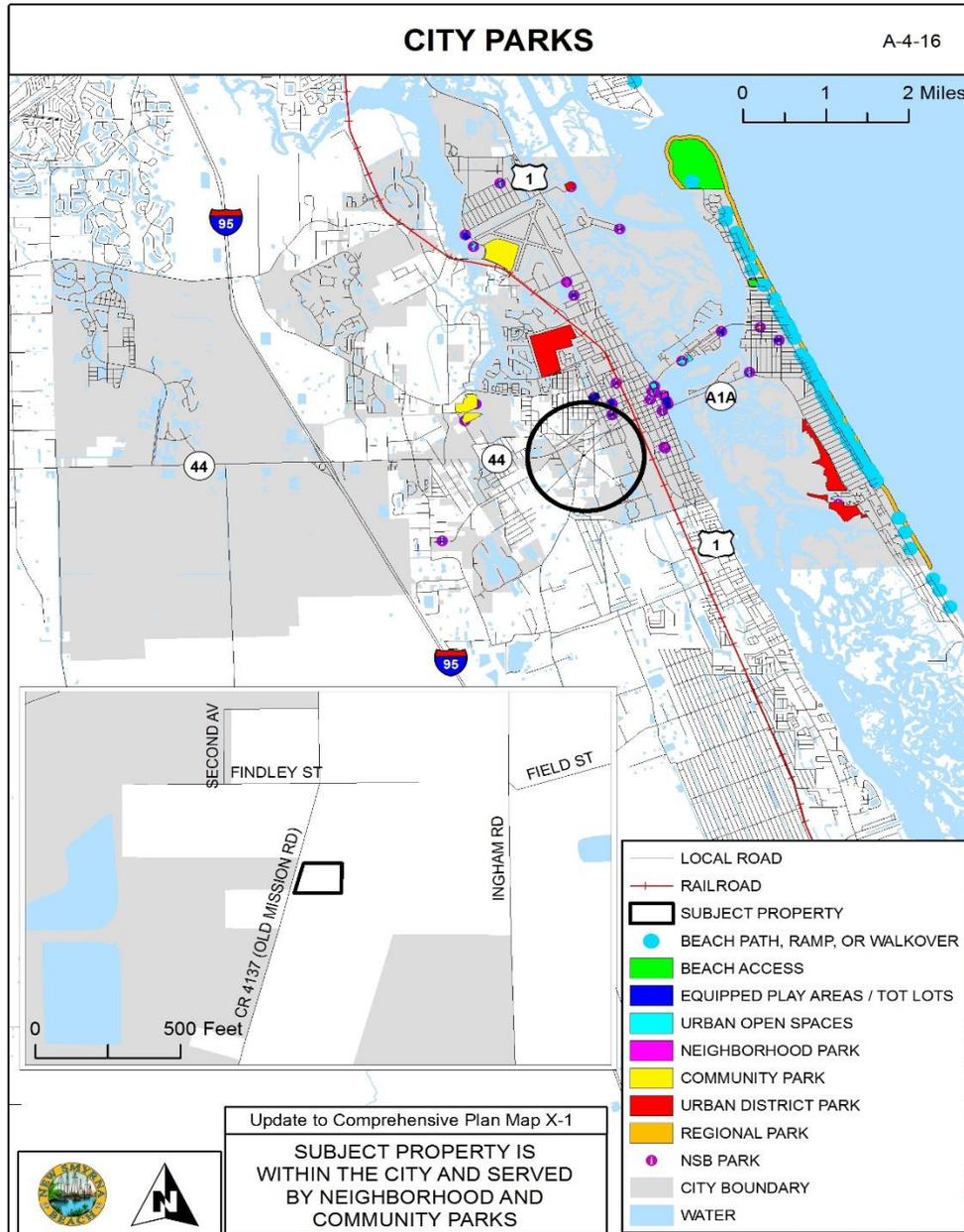




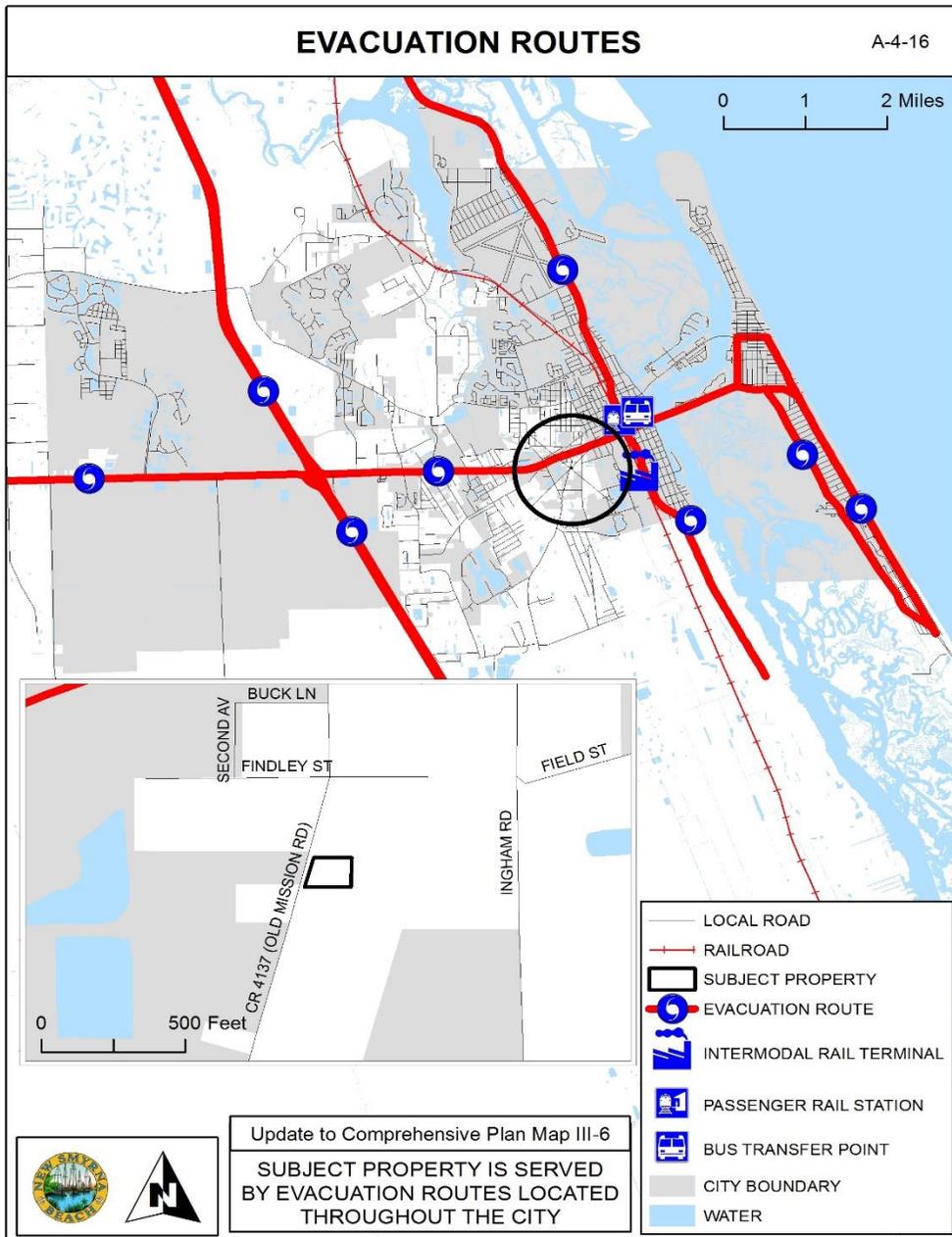


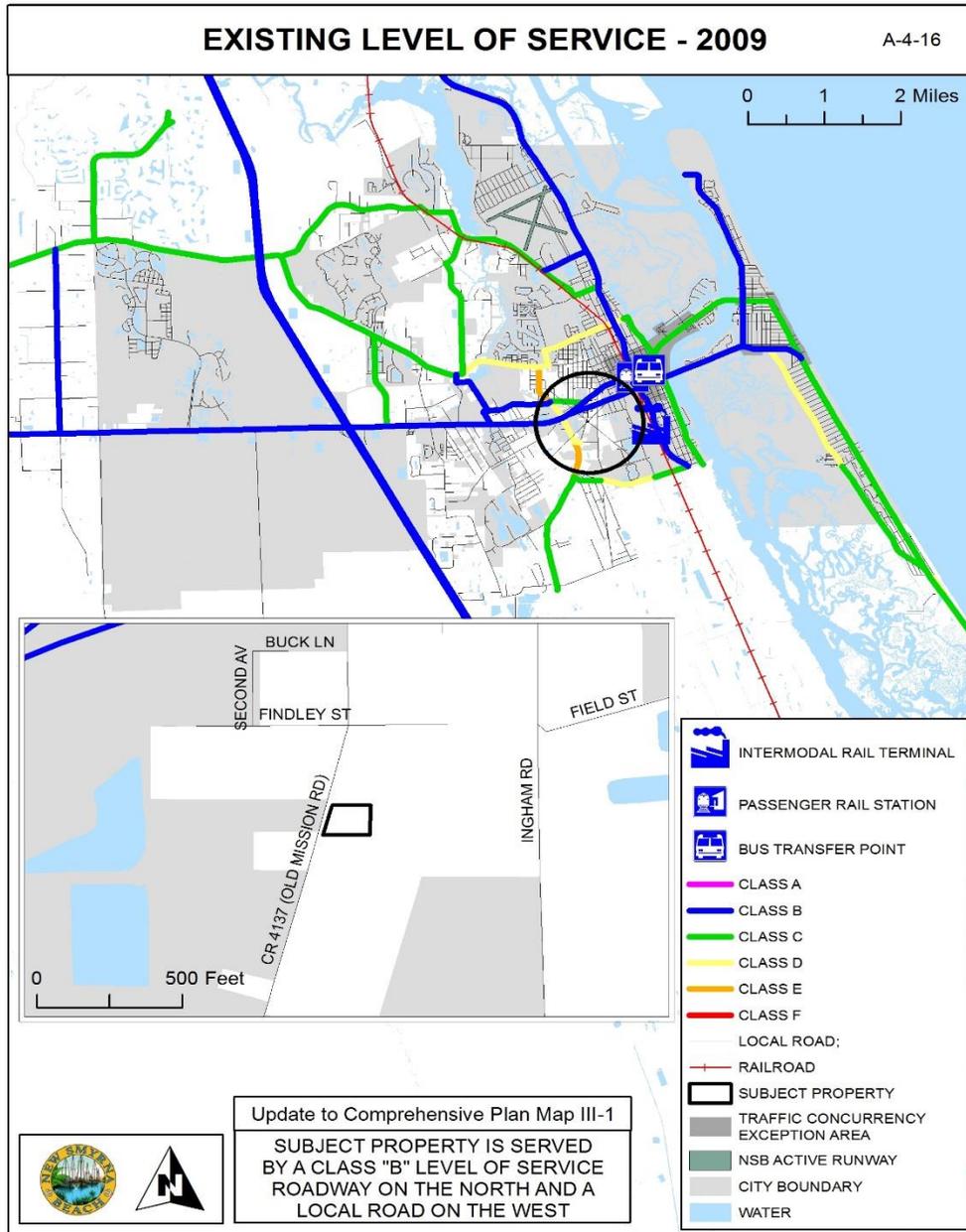




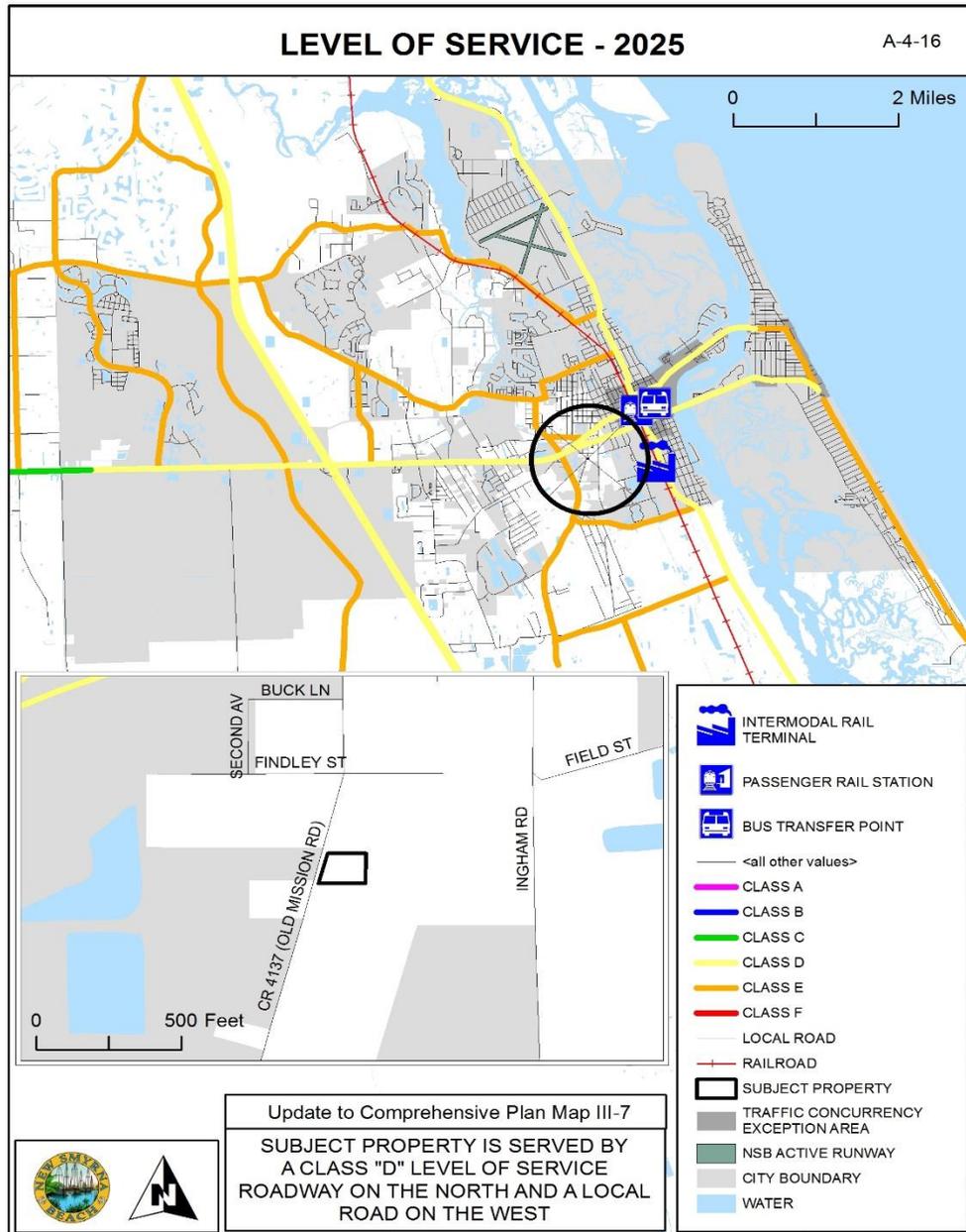






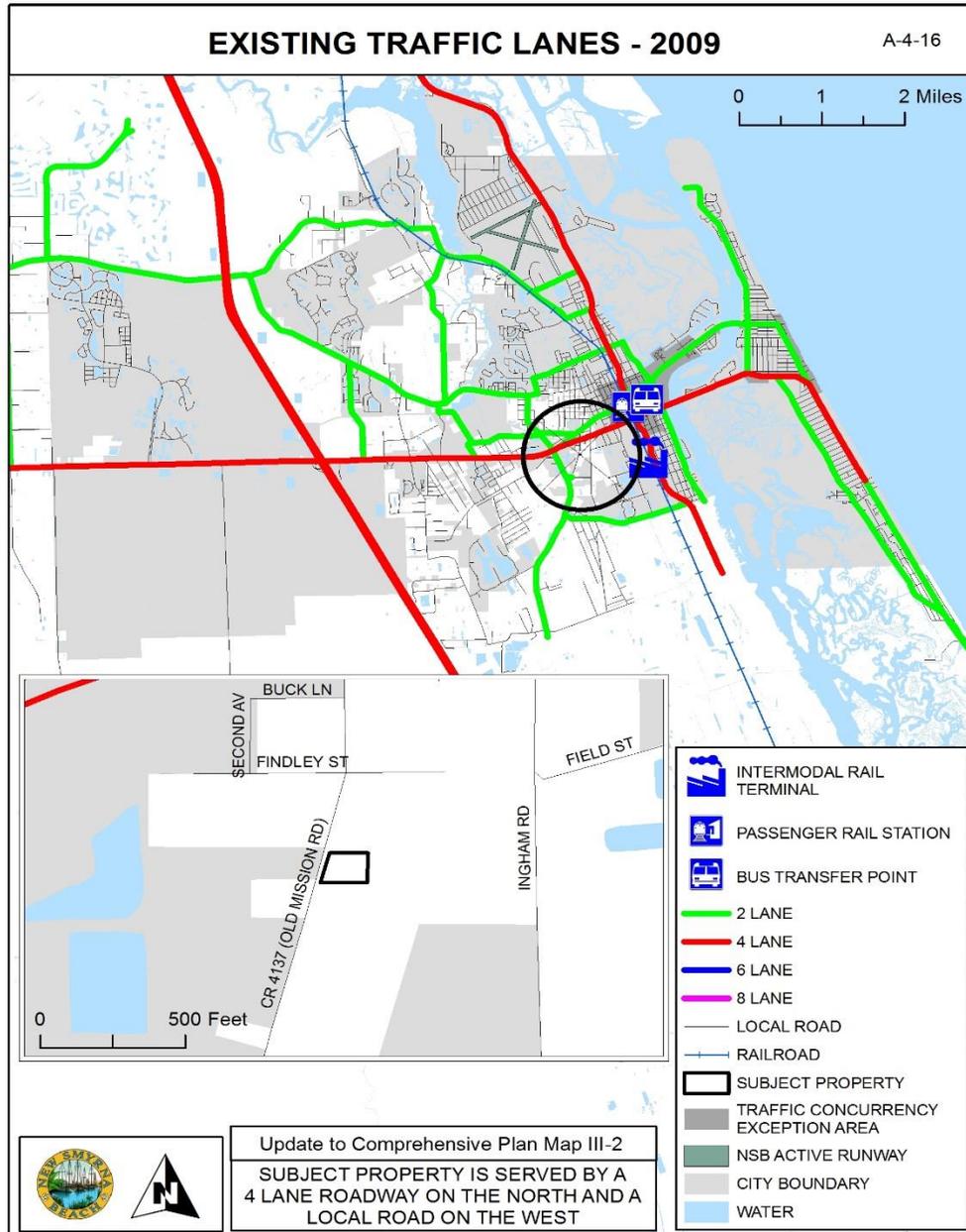


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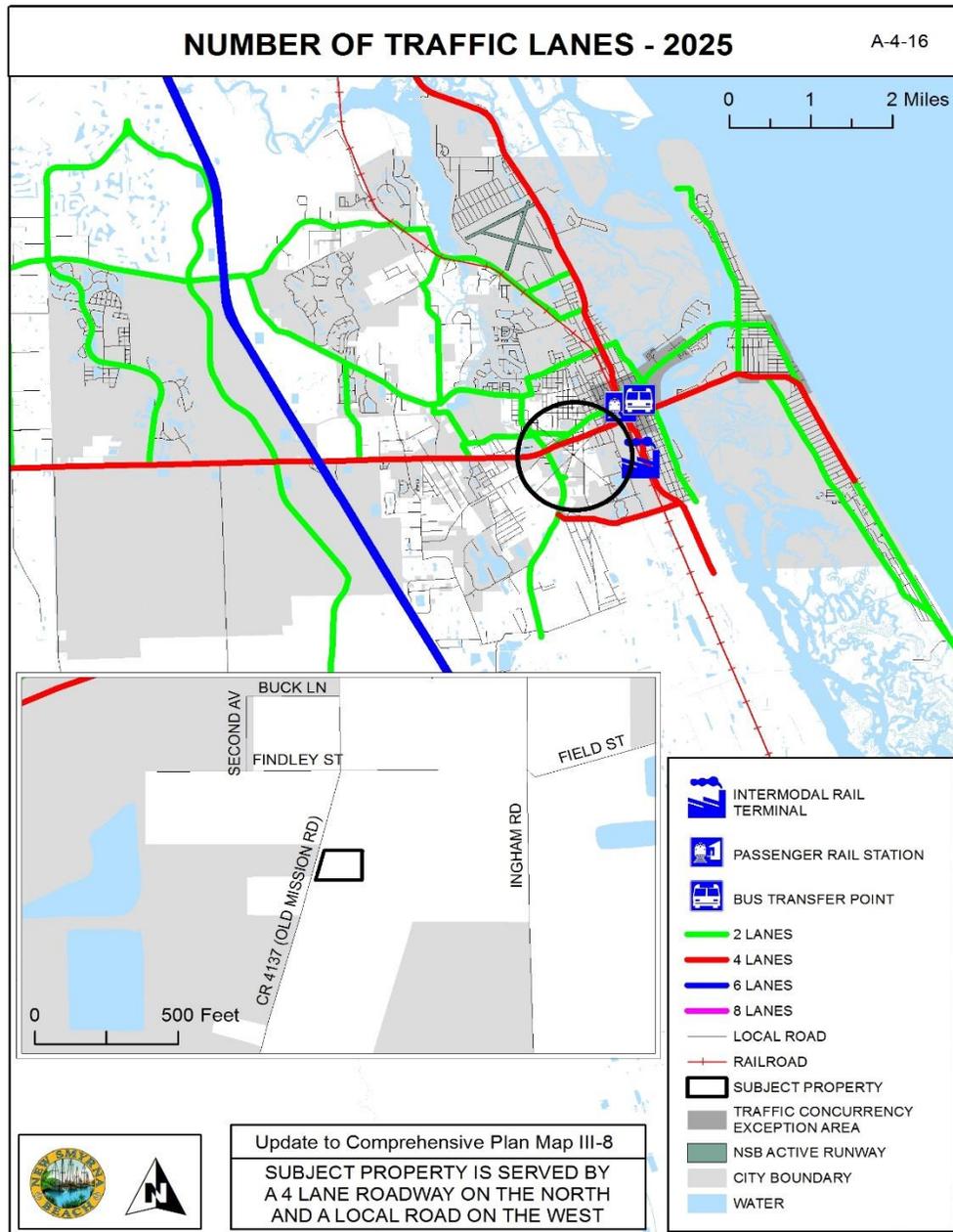


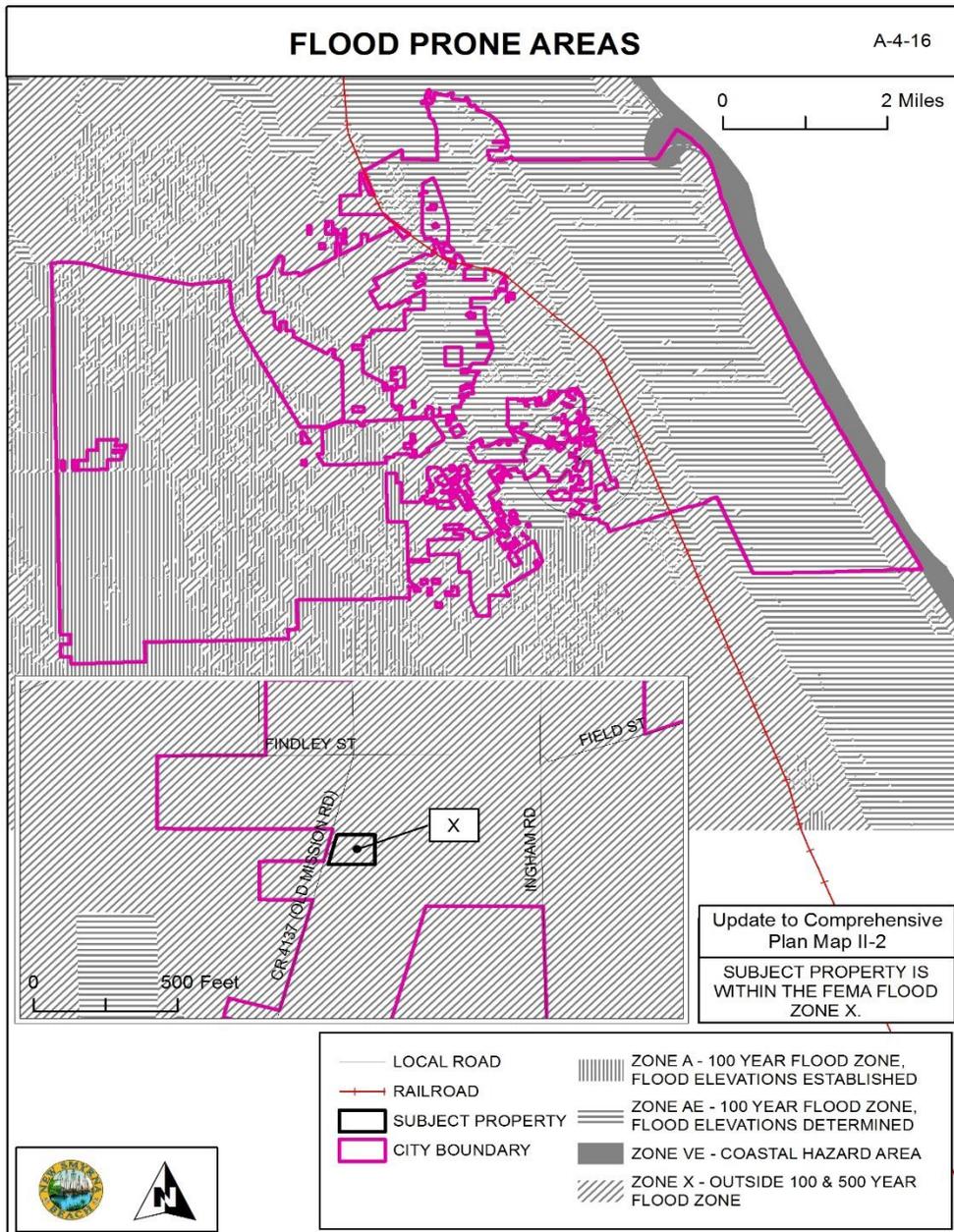
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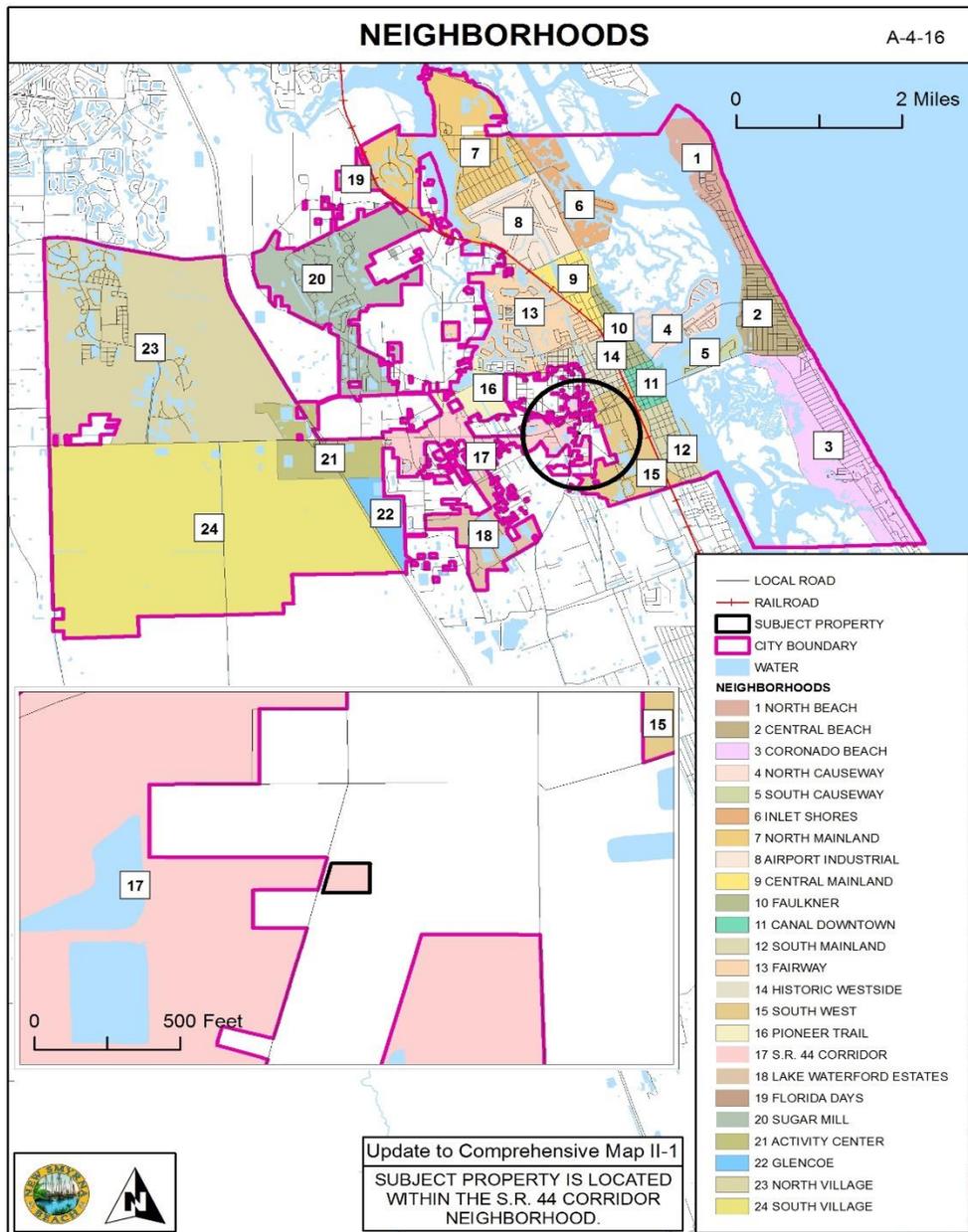
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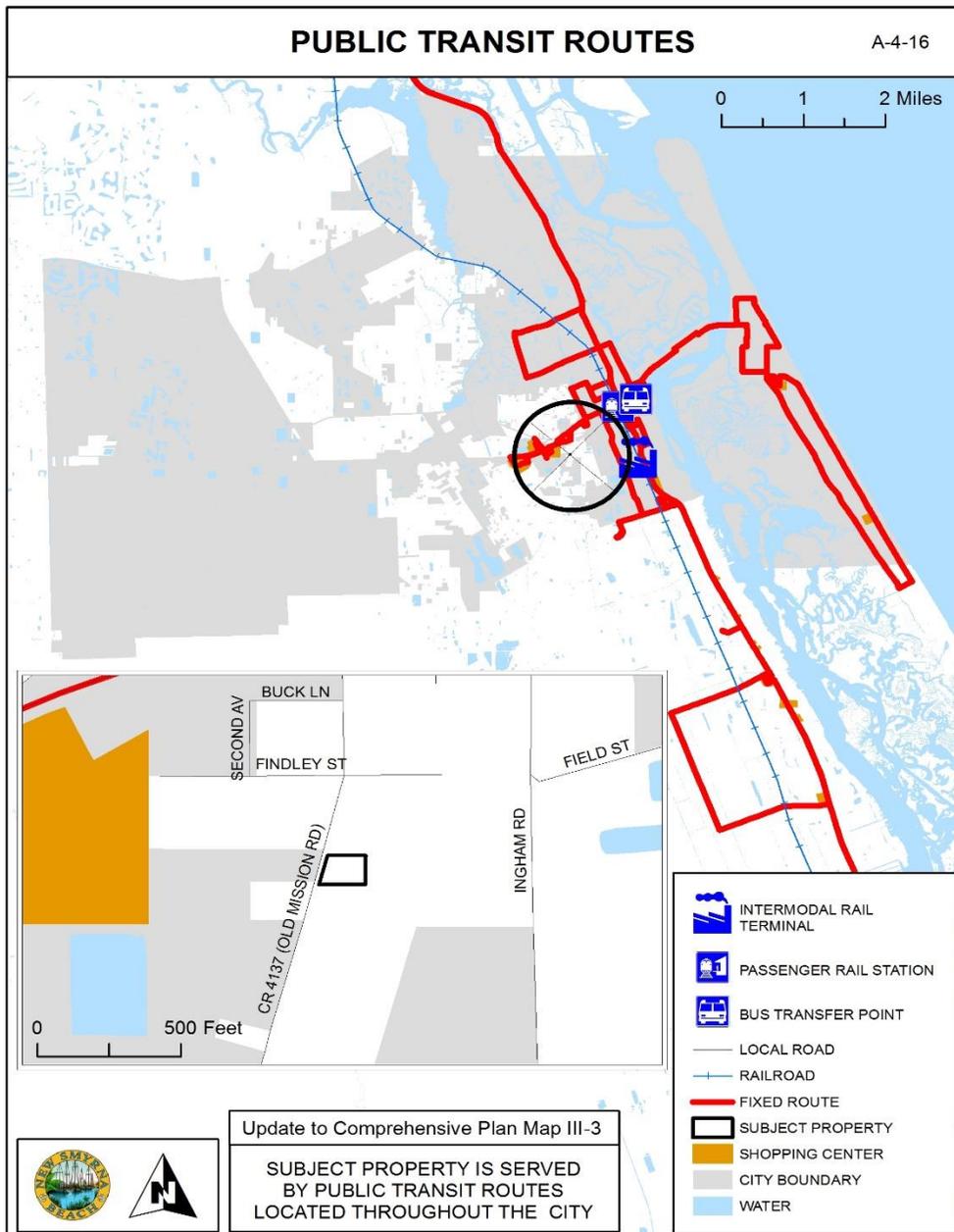


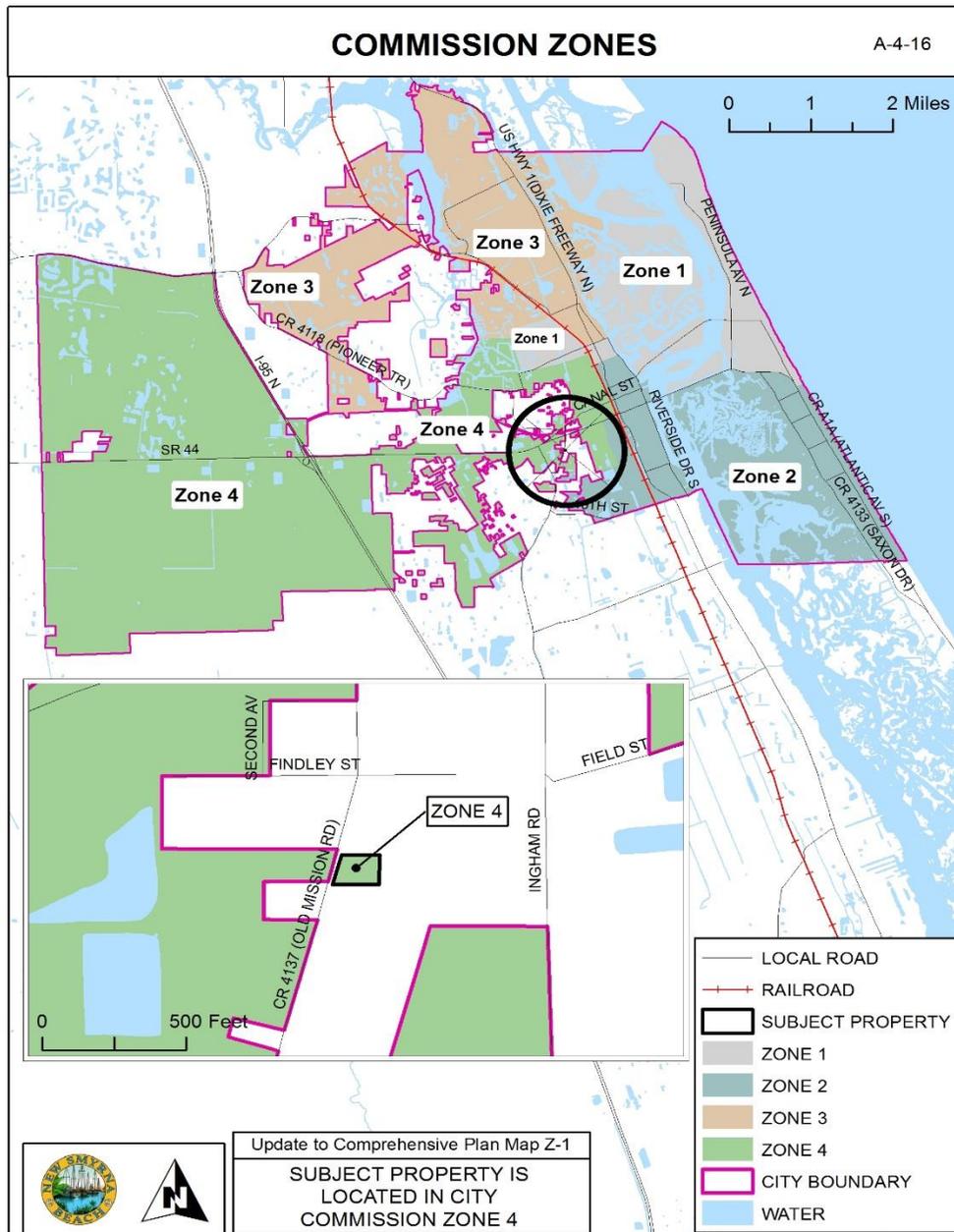
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1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING BOARD  
2 **A-5-16: 2218 DOSTER DRIVE**  
3 **JANUARY 4, 2016**  
4

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5 **I. Background**  
6

7 A. **Applicants and Property Owners:** Edward and Carol Fisher, 2218 Doster  
8 Drive, New Smyrna Beach, Florida, 32168  
9

10 B. **Requests:** Voluntary annexation, *Comprehensive Plan* amendment, and  
11 rezoning:

- 12 • **From:** Volusia County Future Land Use (FLU) designation of ULI,  
13 Urban Low Intensity and Volusia County zoning designation of R-4,  
14 Urban Single-Family Residential.
- 15 • **To:** City FLU designation of LDR, Low Density Residential and City  
16 zoning designation of R-2, Single-Family Residential.  
17

18 C. **Site Information:**

- 19 • **Size:** 0.69 acres
- 20 • **Locations:** West of Corbin Park Road at 2218 Doster Drive (see  
21 **Exhibit A** for a location map).
- 22 • **Tax I.D. Number:** 7344-03-00-0270  
23

24 **II. Findings**

25 A. On April 23, 2013, the City Commission adopted an Interlocal Service  
26 Boundary Agreement (ISBA). The ISBA, which is permitted under Chapter  
27 171, Part II, Florida Statutes, allows the City to annex any parcels that are  
28 within the designated annexation area, even if they are not contiguous to  
29 the current municipal boundaries. The agreement, which is between the  
30 County of Volusia and the City, was also approved by the County on May  
31 2, 2013.  
32

33 B. The subject property, which is in the annexation area covered by the ISBA,  
34 is undeveloped. An aerial map of the subject property and surrounding area  
35 is attached as **Exhibit B**.  
36

37 C. The existing Volusia County Future Land Use (FLU) and zoning  
38 designations of the subject property are shown on the following table. Maps  
39 showing the surrounding Future Land Use and Zoning designations are  
40 attached (as **Exhibits C and D** respectively). The text description of the  
41 existing Future Land Use designation for the subject property is attached as  
42 **Exhibit E**. The associated current zoning text description for the subject  
43 property is attached as **Exhibit F**.  
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Property Location	Volusia County FLU Designation	Volusia County Zoning Designation
2218 Doster Drive	ULI, Urban Low Intensity	R-4, Urban Single-Family

D. Existing land use is shown on the map attached as **Exhibit G**. The future land use and zoning designations for those properties surrounding the subject property is as follows:

	North	East	South	West
<b>2218 Doster Drive</b>				
Future Land Use	County Urban Low Intensity / City Low Density Residential	County Urban Low Intensity	County Urban Low Intensity	City Low Density Residential
Existing Land Use	Residential	Residential	Residential	Residential
Zoning	County R-4 / City R-2	County R-4	County R-4	City R-2

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E. The established City Commission policy is that when property is annexed into the City, the City will assign future land use and zoning designations that would be as similar as possible to existing County designations. As discussed above, the existing County FLU designation is ULI, Urban Low Intensity. The existing County zoning designation is R-4, Urban Single-Family Residential. The proposed City FLU designation is LDR, Low Density Residential. The proposed City zoning designation is R-2, Single-Family Residential, which corresponds with the County’s R-4, Urban Single-Family Residential. A text description of the proposed City FLU designation is attached as **Exhibit H**, with a map of this proposed change also attached as **Exhibit I**. A text description of the proposed City R-2, Single-Family Residential zoning designation, and a map of this proposed change, is similarly attached as **Exhibits J** and **K** respectively.

F. These annexation requests are within the City’s annexation area and within the City’s water and sewer service area (**Exhibit L**). The following table shows the availability of utilities to service the subject properties:

Property Location	Water	Sewer	Reclaim
2218 Doster Drive	6” line / Doster Dr. ROW	Not Available	Not Available

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A map of the soil limitations for septic systems is attached as **Exhibit M**.

G. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, storm water management, and public school facilities. Although the property is undeveloped, there is no proposed increased in permitted density as a result of the requested FLU amendment. Therefore, staff did not prepare a concurrency impact analysis table for this case.

H. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject properties into the *Comprehensive Plan* (see **Exhibits N through Z**). **Exhibit AA** shows the property located within City Commission Zone 4.

I. The *Comprehensive Plan* provides guidance on annexations, future land use amendments, and rezoning. The following is a list of objectives in the *Comprehensive Plan* that support this proposal:

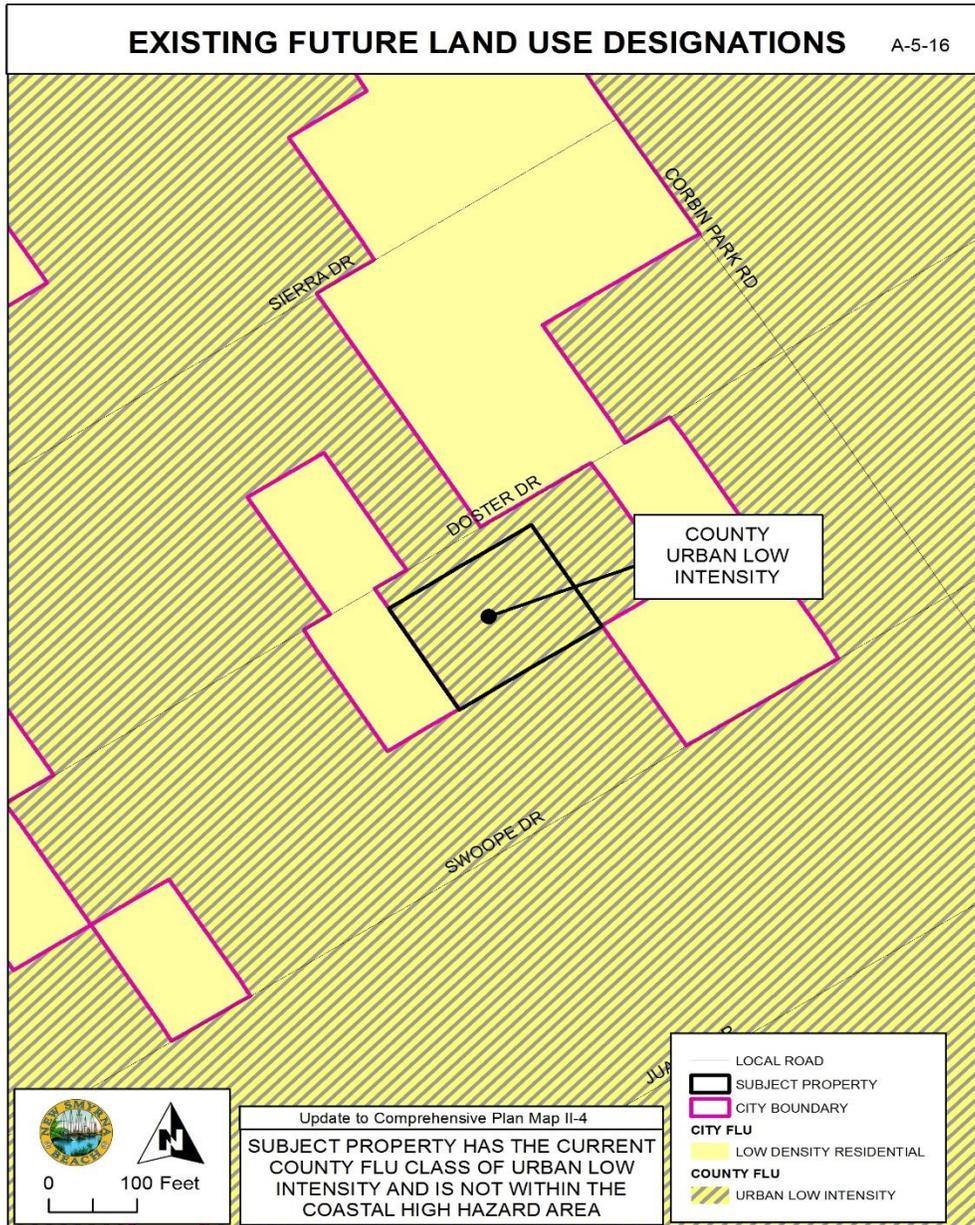
- Future Land Use Element Goal 2, Objective 3
- Future Land Use Element Goal 2, Objective 4
- Future Land Use Element Goal 2, Objective 7
- Future Land Use Element Goal 5, Objective 3

**III. Recommendation**

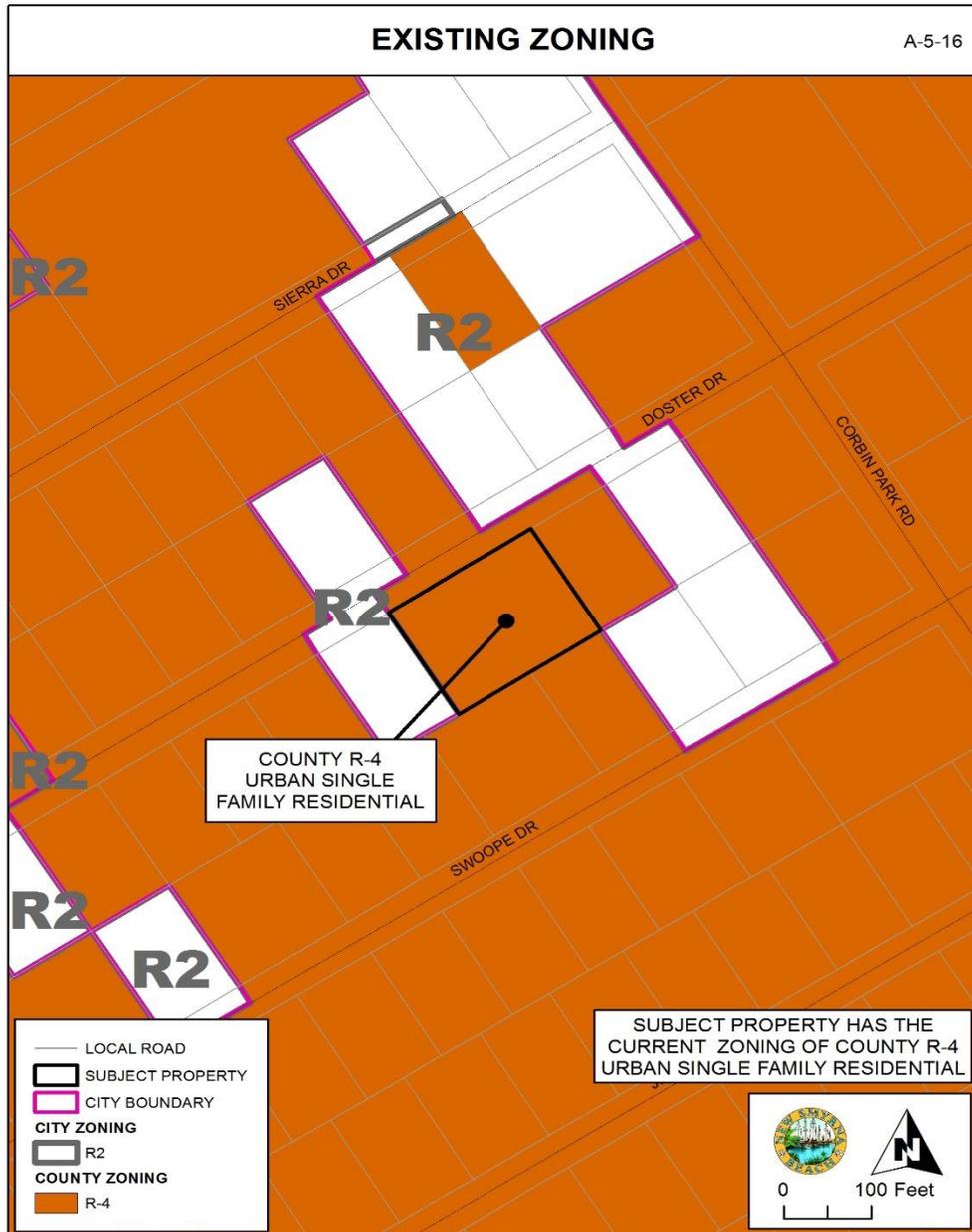
Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the requested annexation, *Comprehensive Plan* amendment to LDR, Low Density Residential, and rezoning to City R-2, Single-Family Residential.







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**Exhibit E**

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**Urban Low Intensity (ULI)** – Areas for low density residential dwelling units with a range of two-tenths (0.2) to four (4) dwelling units per acre. In reviewing rezoning requests, the specific density will depend on locational factors, particularly compatibility with adjacent uses and availability of public facilities. This residential designation is generally characterized by single family type housing, e.g., single family detached and attached, cluster and zero lot line. This designation will allow existing agricultural zoning and uses to continue.

The ULI designation is primarily a residential designation but may also allow neighborhood convenience uses (see Shopping Center definition in Chapter 20) and individual office buildings as transitional uses that meet the Comprehensive Plan's location criteria. The commercial intensity shall be limited to no more than a fifty percent Floor Area Ratio (0.50 FAR) and in a manner to be compatible with the allowable residential density. In order to be considered compatible, the commercial development should be oriented to serve adjacent neighborhoods, reflect comparable traffic generation, similar traffic patterns, building scale, landscaping and open space and buffers. Due to the nature of some of the commercial uses, additional landscaping and visual screening shall be provided through the BPUD process when adjacent to low density residential in order to preserve the character of the neighborhood. More intensive neighborhood commercial use shall be reserved to areas designated for Commercial.

All requests for nonresidential uses within one-quarter (¼) mile of another jurisdiction shall require notification to that jurisdiction.

**Exhibit F**

**R-4 URBAN SINGLE-FAMILY  
RESIDENTIAL CLASSIFICATION**

*Purpose and intent:* The purpose and intent of the R-4 Urban Single-Family Residential Classification is to provide medium-density residential developments, preserving the character of existing or proposed residential neighborhoods.

*Permitted principal uses and structures:* In the R-4 Urban Single-Family Residential Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Cluster and zero lot line subdivisions (refer to subsection 72-304).
- Communication towers not exceeding 70 feet in height above ground level.
- Essential utility services.
- Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.
- Exempt landfills (refer to subsection 72-293(16)).
- Fire stations.
- Home occupations, class A (refer to section 72-283).
- Houses of worship.
- Parks and recreational areas accessory to residential developments.
- Public schools.
- Publicly owned parks and recreational areas.
- Publicly owned or regulated water supply wells.
- Single-family standard or manufactured modular dwelling.

*Permitted special exceptions:* Additional regulations/requirements governing permitted special exceptions are located in sections 72-293 and 72-415 of this article.

- Bed and breakfast (refer to subsection 72-293(19)).
- Cemeteries (refer to subsection 72-293(4)).
- Communication towers exceeding 70 feet in height above ground level.
- Day care centers (refer to subsection 72-293(6)).
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).
- Excavations only for stormwater retention ponds for which a permit is required by this article.
- Garage apartments.
- Off-street parking areas (refer to subsection 72-293(14)).
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).
- Schools, parochial or private (refer to subsection 72-293(4)).

**Exhibit F (cont'd)**

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*Dimensional requirements:*

*Minimum lot size:*

Area: 7,500 square feet.

Width: 75 feet.

*Minimum yard size:*

Front yard: 25 feet.

Rear yard: 20 feet.

Side yard: 20 feet combined, minimum of eight feet on any one side.

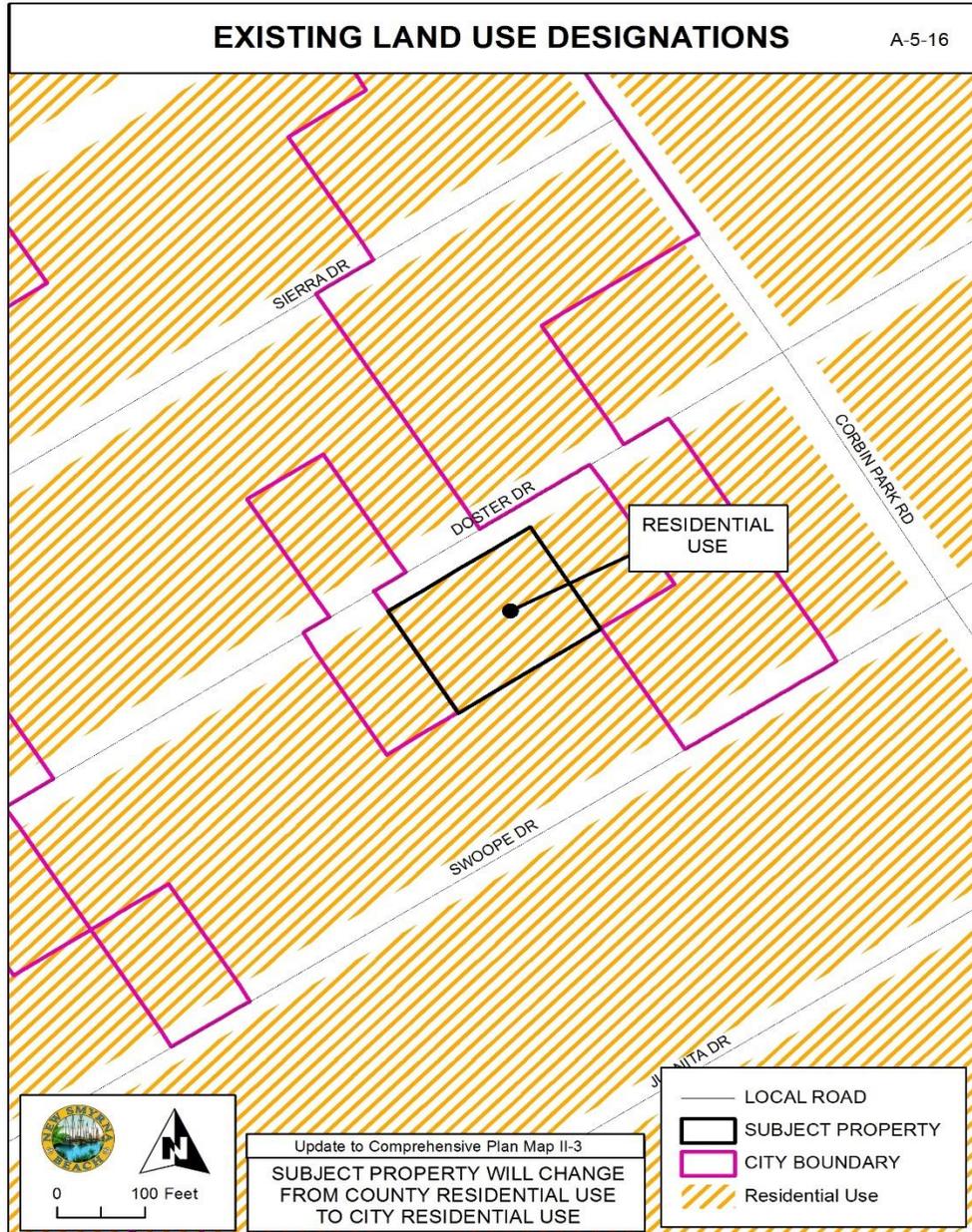
Waterfront yard: 25 feet.

*Maximum building height:* 35 feet.

*Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

*Minimum floor area:* 850 square feet.

*Off-street parking and loading requirements:* Off-street parking and loading areas meeting the requirements of sections 72-286 and 72-287 shall be constructed.



**Exhibit H**

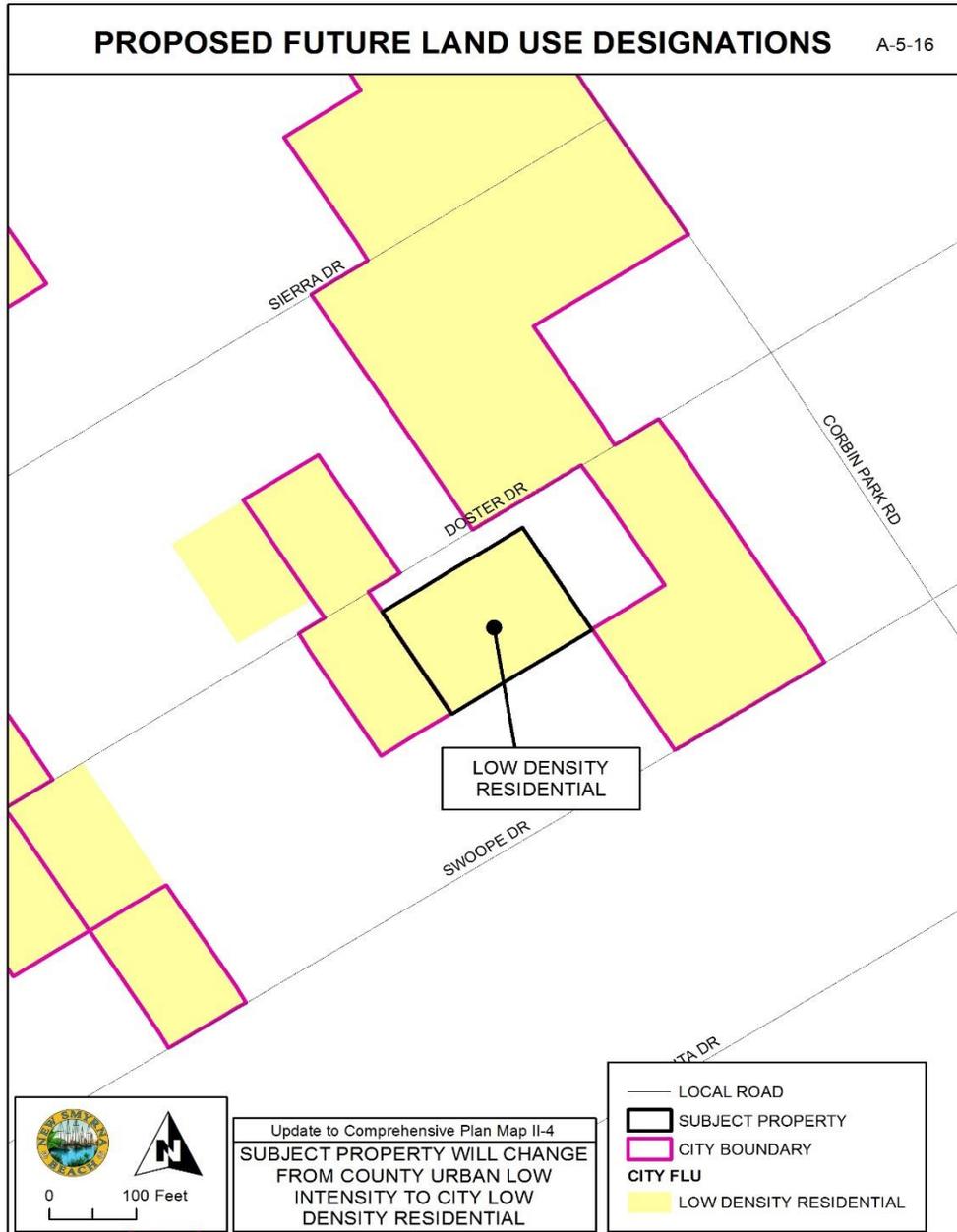
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**LOW-DENSITY RESIDENTIAL**

Maximum allowed density:  
Up to five [5] dwelling units per acre

Intent:  
This use is appropriate where a more suburban development pattern exists or is desired and where urban services are to be kept to a minimum.

1



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**Exhibit J**

**R-2, SINGLE-FAMILY RESIDENTIAL DISTRICT**

**Intent.** The R-2, Single-Family Residential District is intended to be a single-family residential district for low population densities. Existing development and usage has resulted which is being preserved in order to stabilize the neighborhood. The nature of the residential use of the property throughout the district will enhance the prospects for orderly future residential development.

***Permitted uses.***

Playfields

Playgrounds

Public parks

Recreation buildings and complexes for exclusive use by residents and guests in a residential development

Single-family dwelling units

***Permitted accessory uses.***

Garages

Gazebos

Incidental uses

Permitted home occupations

Storage sheds

Swimming pools, private, provided a principal structure exists and the pool is located behind the front plane of the principal structure. Corner lots will be considered to have two front planes, one on each street. If a structure is not constructed squarely on a parcel, the swimming pool must be located at or behind the most restrictive front plane of the principal structure.

Uses customarily associated with the permitted principal uses

**Exhibit J (cont'd)**

***Special exceptions.***

Facilities owned and/or operated by federal, state, county or municipal government except country clubs and golf courses

Schools and churches provided all structures are located at least 35 feet from all side or rear property lines and off-street parking areas abutting residential property are screened by a buffer meeting the requirements of this LDR.

Child day care on church property, subject to the following additional conditions:

(1)

The church property shall be located on and be accessible by an arterial or collector roadway.

(2)

Play areas shall be fenced and landscaped. The landscaping shall have a vegetative hedge that will reach six feet in height within two years that is planted a minimum of three feet on center.

(3)

Play areas shall be located within all applicable setback dimensions.

(4)

The church property shall have a vehicular drop off and pickup area with a minimum [of] 100 feet of drive lane outside of the public right-of-way, or sufficient parking area to provide enough space to fit the required parking and provided space for drop off and pick up.

***Dimensional requirements.***

***Minimum lot size.***

Area: 8,625 square feet

Depth: 115 feet

Width: 75 feet

**Exhibit J (cont'd)**

***Minimum yard size.***

Front yard: 30 feet or as required per [sub] section 504.01M. of this LDR

Rear yard: 7.5 feet

Side yard: 7.5 feet

***Maximum building coverage.*** The total area covered with buildings on any lot shall not exceed 40 percent of the total lot area.

***Screen enclosures.*** As an exception to the maximum building coverage provision any parcel may be allowed an additional ten percent building coverage for only a screen pool enclosure if the following conditions are met:

1. A screen pool enclosure shall only cover the swimming pool and surrounding pool deck and shall have a roof and walls consisting entirely of screening; and
2. There shall be no variances granted to exceed the maximum building coverage or additional coverage allowed for screen enclosures.

***Maximum impervious lot coverage.*** The total area of the lot that may be covered with impervious material is 60 percent.

***Maximum principal building height.*** 35 feet; three stories.

***Minimum floor area requirements.*** 750 square feet of livable area for one and two-bedroom dwelling units; 1,200 square feet of livable area for a three-bedroom dwelling unit; and 1,300 square feet of livable area for a four-bedroom dwelling unit.

***Corner lots.***

- (1) Parcels which front on two streets shall provide a 30-foot front yard on one street frontage and a 15-foot half depth front yard on the other street, or as required per [sub]section 504.01M. of this LDR.

**Exhibit J (cont'd)**

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(2) Parcels fronting on three streets shall provide two 30-foot front yards and a 15-foot half depth front yard on the remaining street or as required per [sub]section 504.01M. of this LDR.

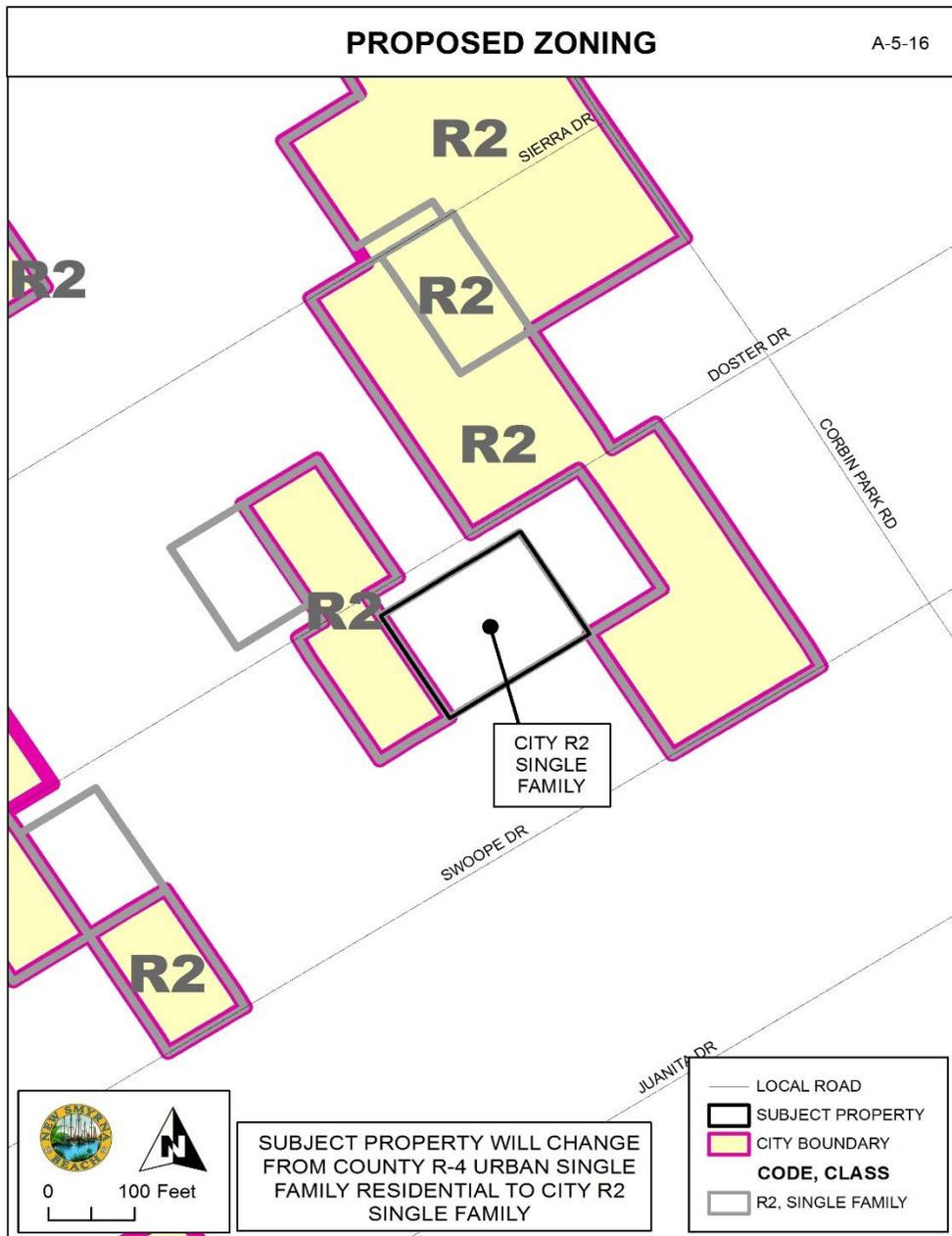
**Driveway access.** The minimum driveway length shall be 20 feet (excluding [that] portion of a driveway within the public right-of-way).

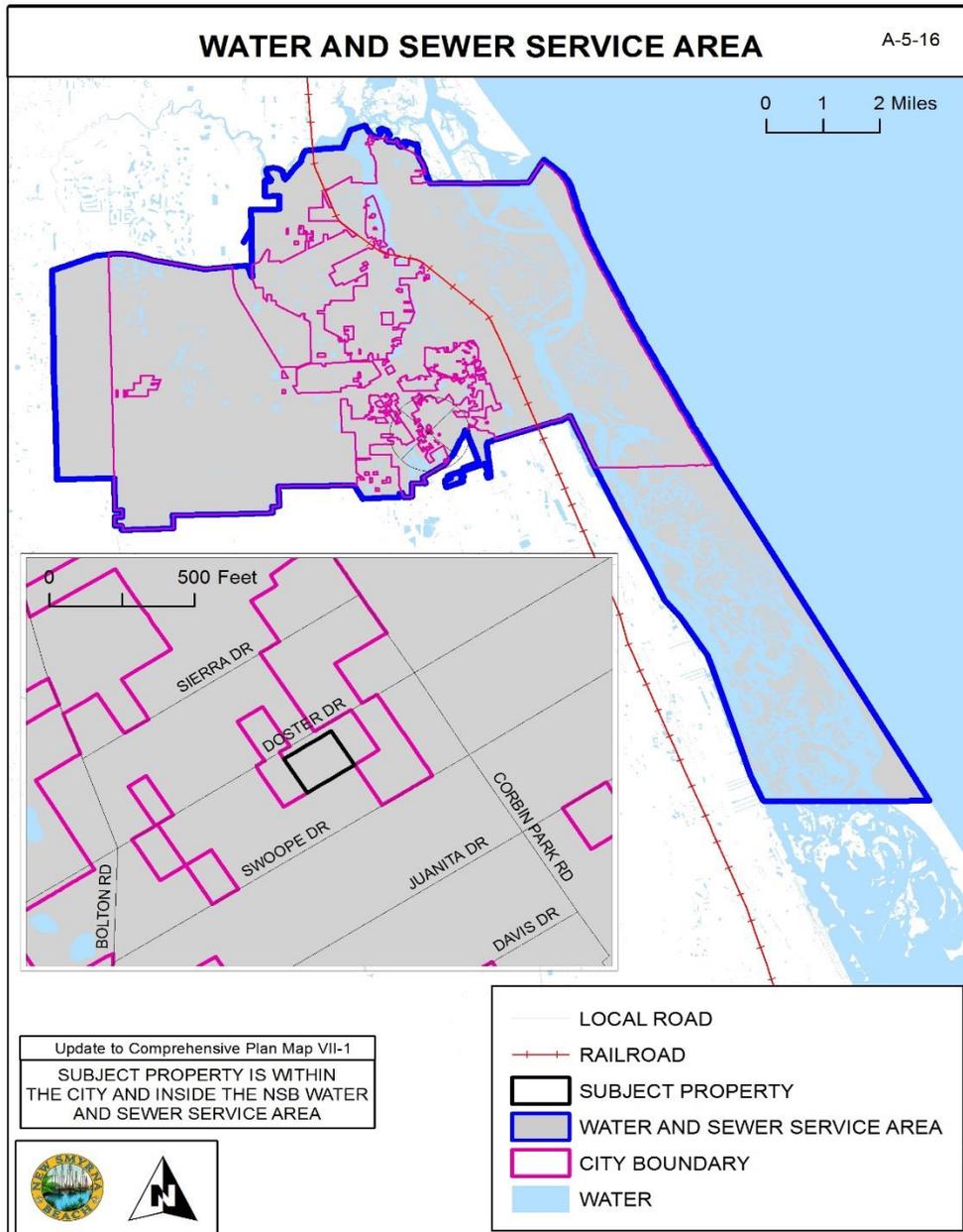
**Through lots.** Through lots shall provide a 30-foot front yard on each street, or as required per [sub] section 504.01M. of this LDR.

**Atypical lots.** Visibility triangles shall be established at the rear corners of an atypical lot. The visibility triangles shall be those areas formed by a line connecting the points 30 feet from the intersection of the side and rear lot line along the side lot line and 30 feet from the intersection of the side and rear lot line along the rear lot line; no principal or accessory structure having a height over four feet, except for incidental uses, shall protrude into the area of a visibility triangle.

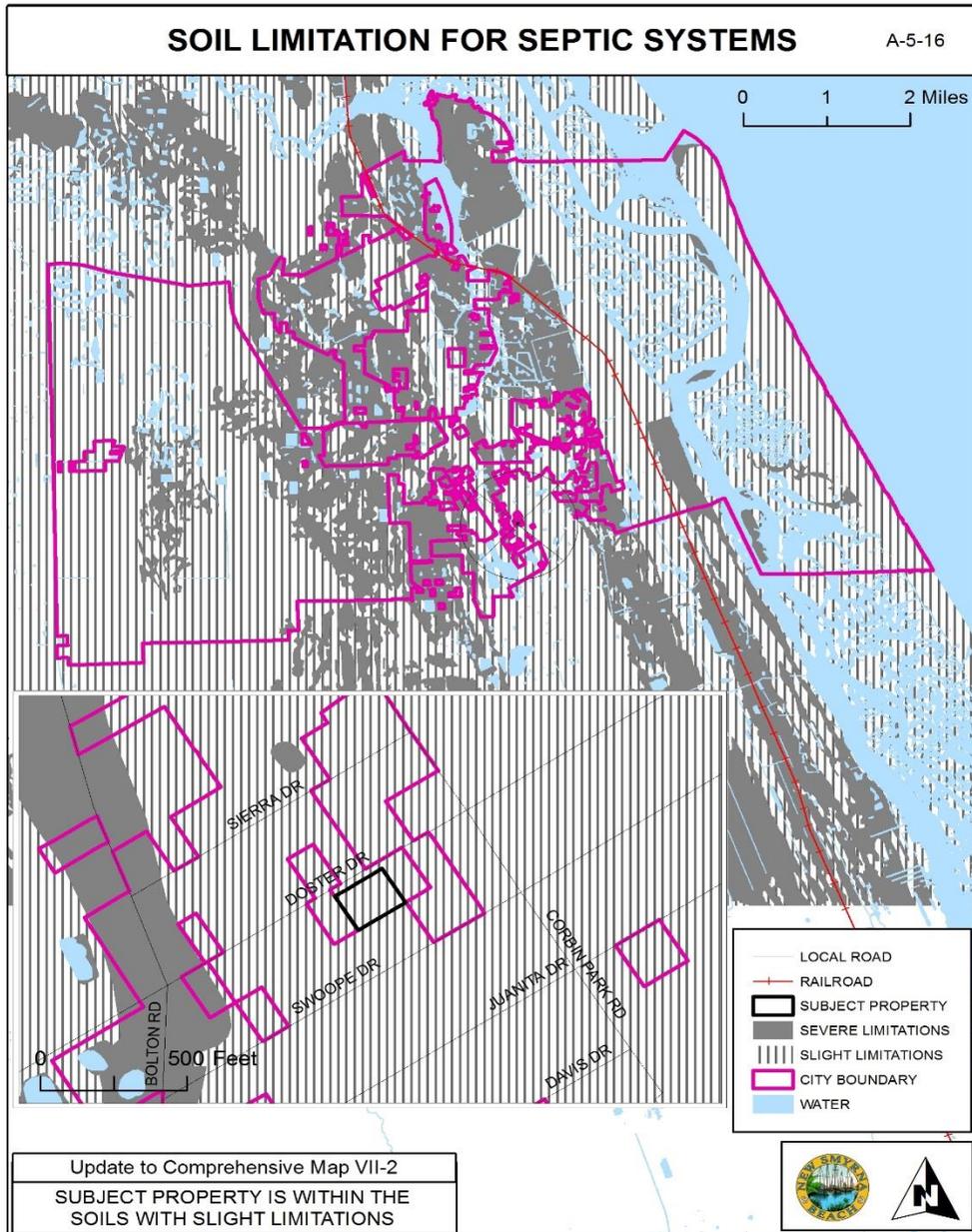
**Building projections.** There shall be no building projections into any required yard except for eaves with a maximum projection of 42 inches, but no closer than five feet to a property line; and those structures allowed in [sub] section 804.03.

**Visibility at intersections.** Visibility at intersections shall be provided as required in this LDR.

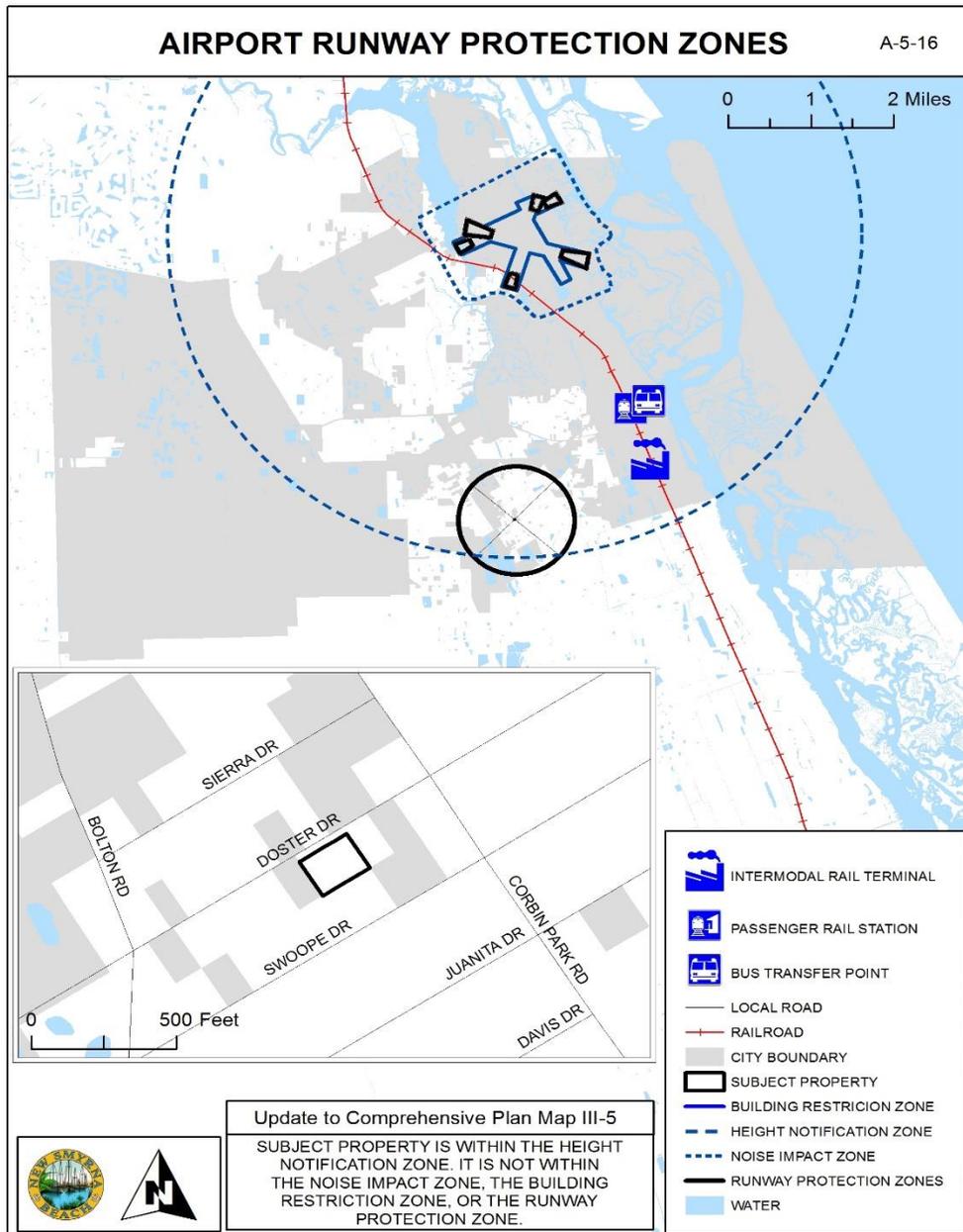


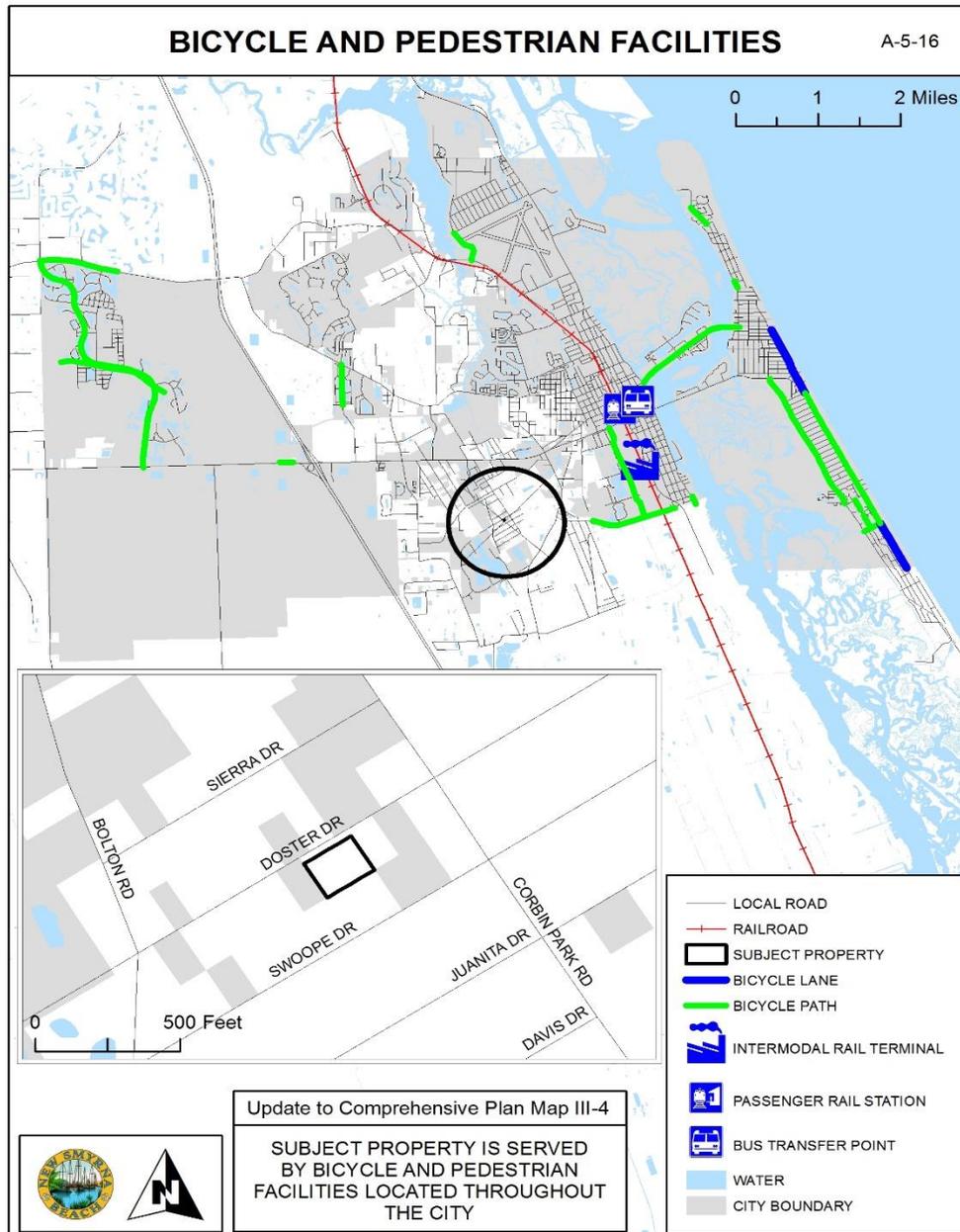


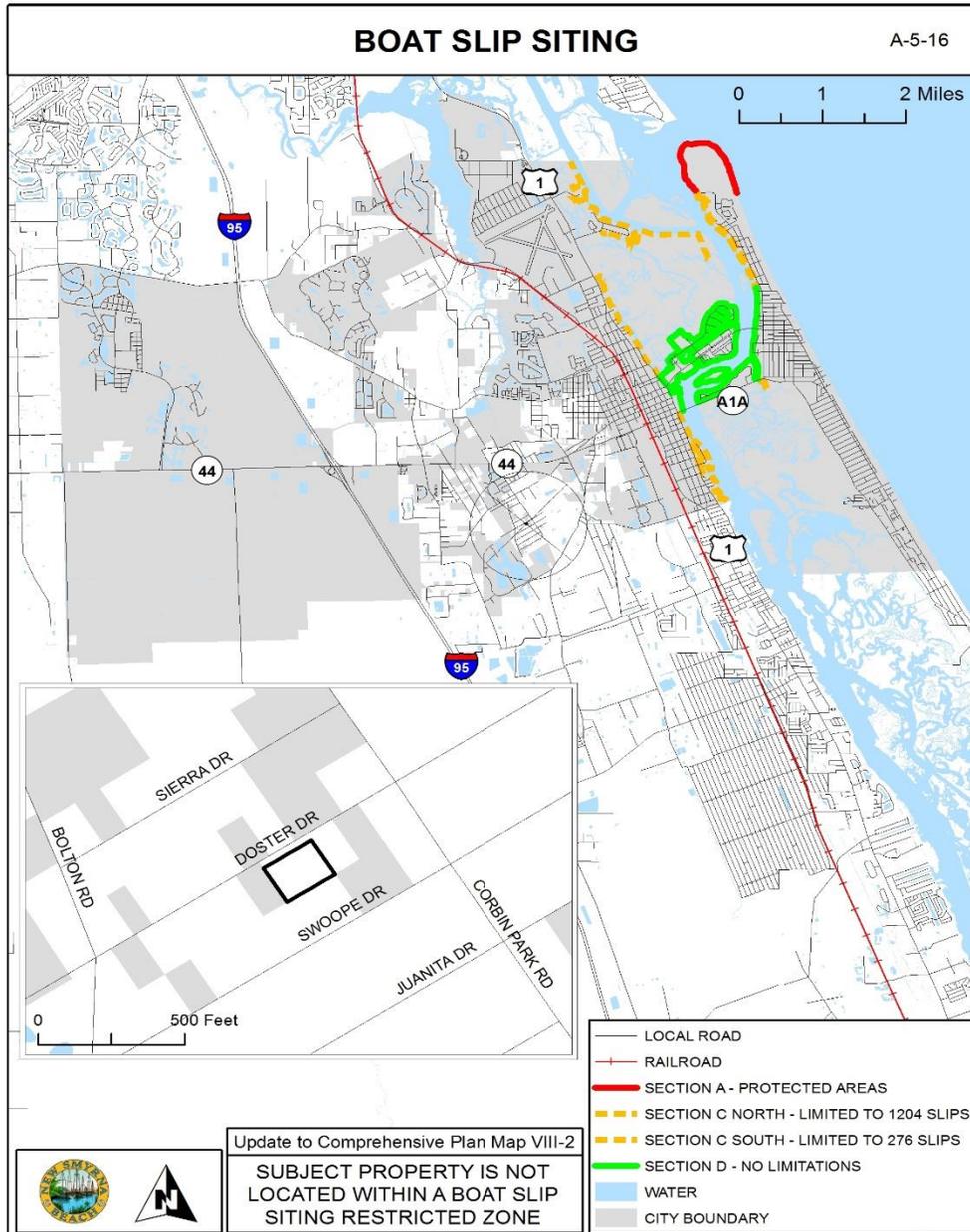
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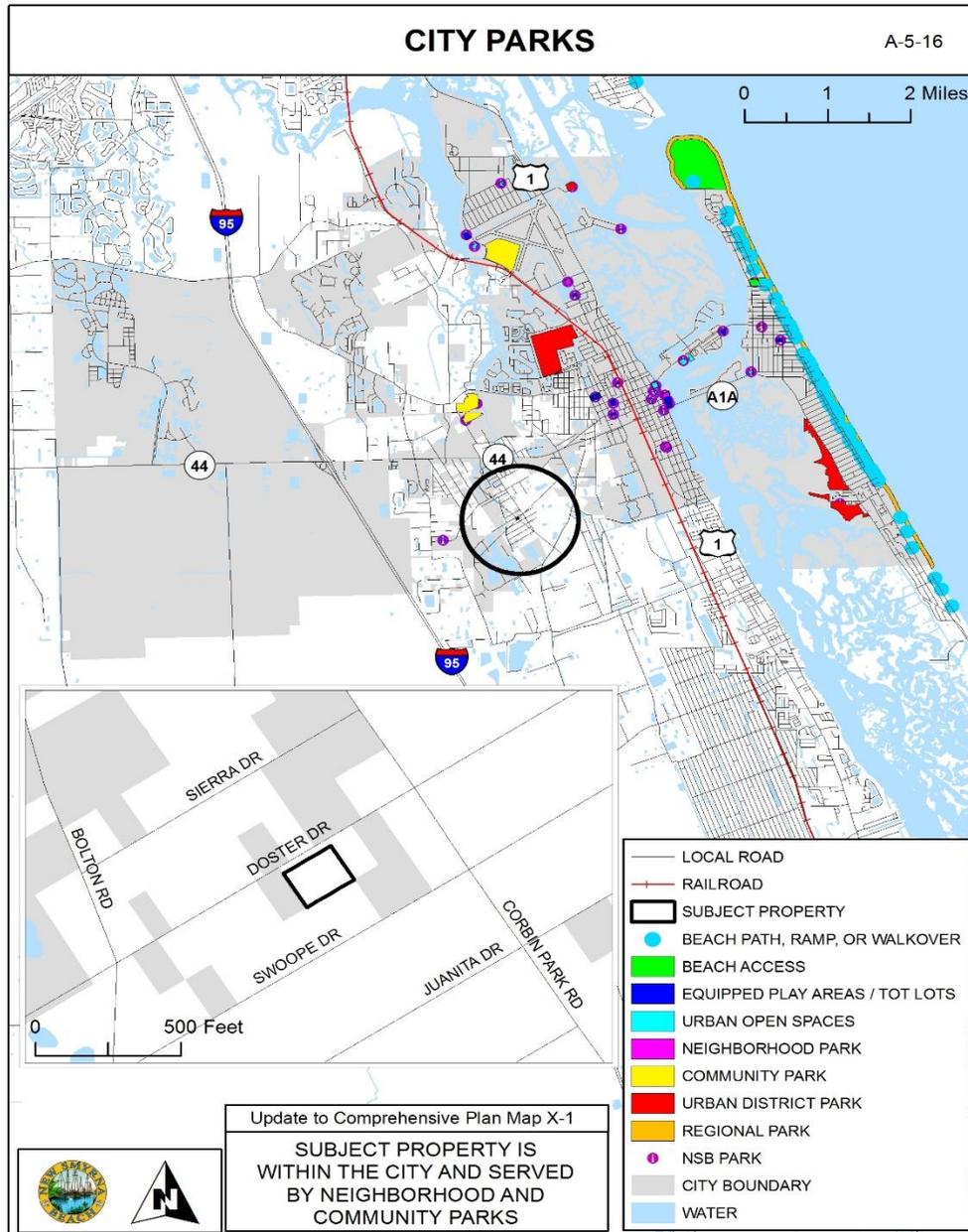


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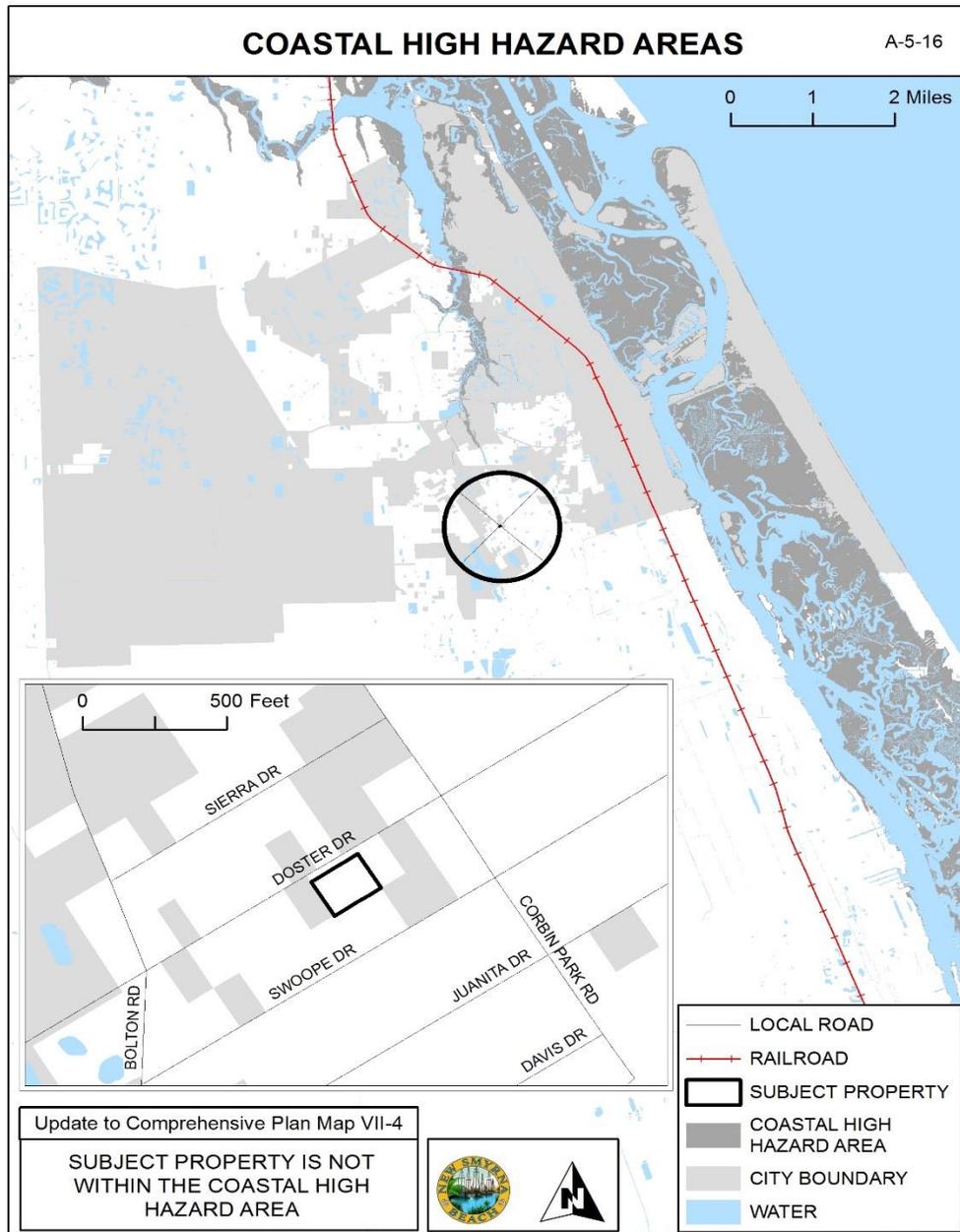




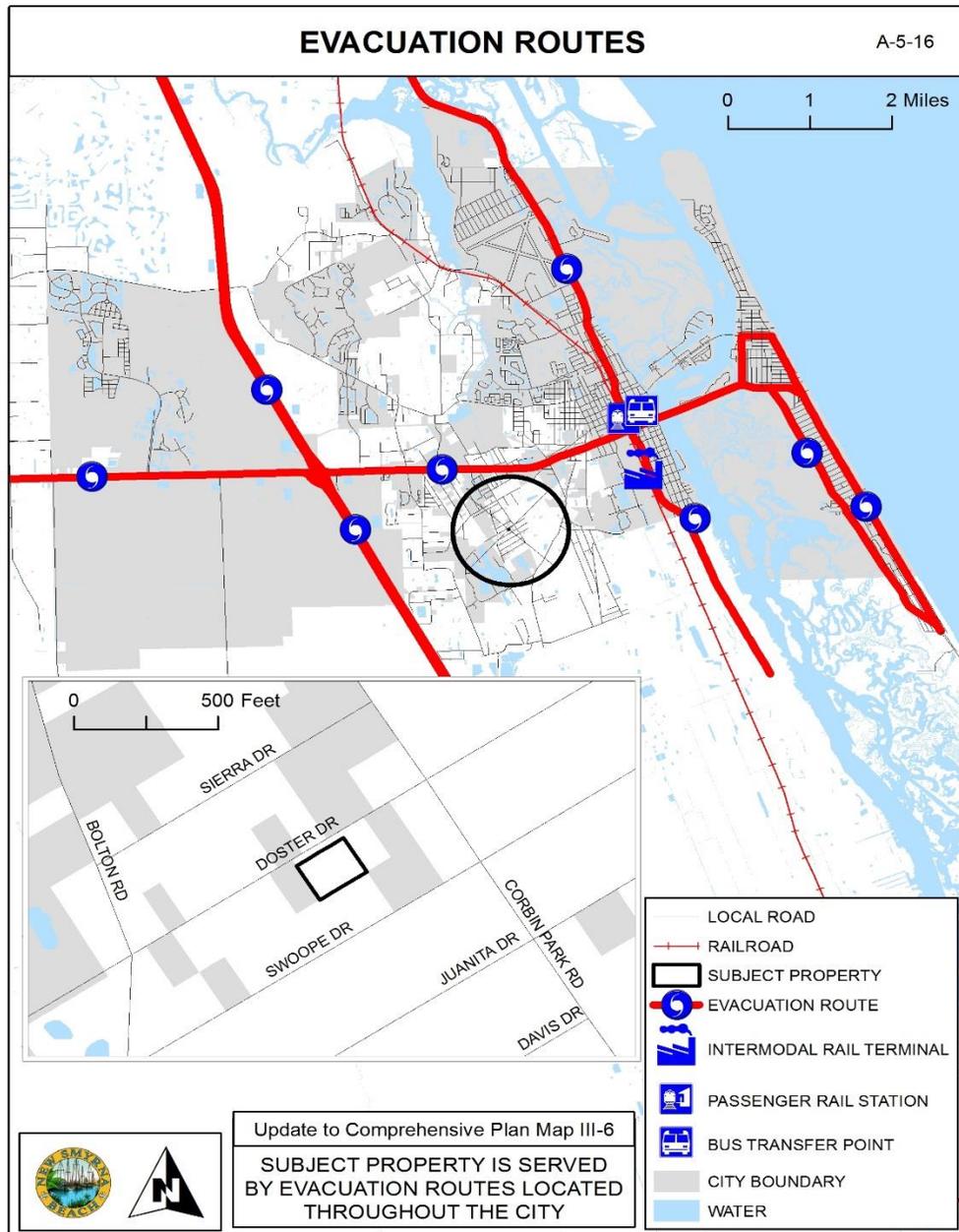




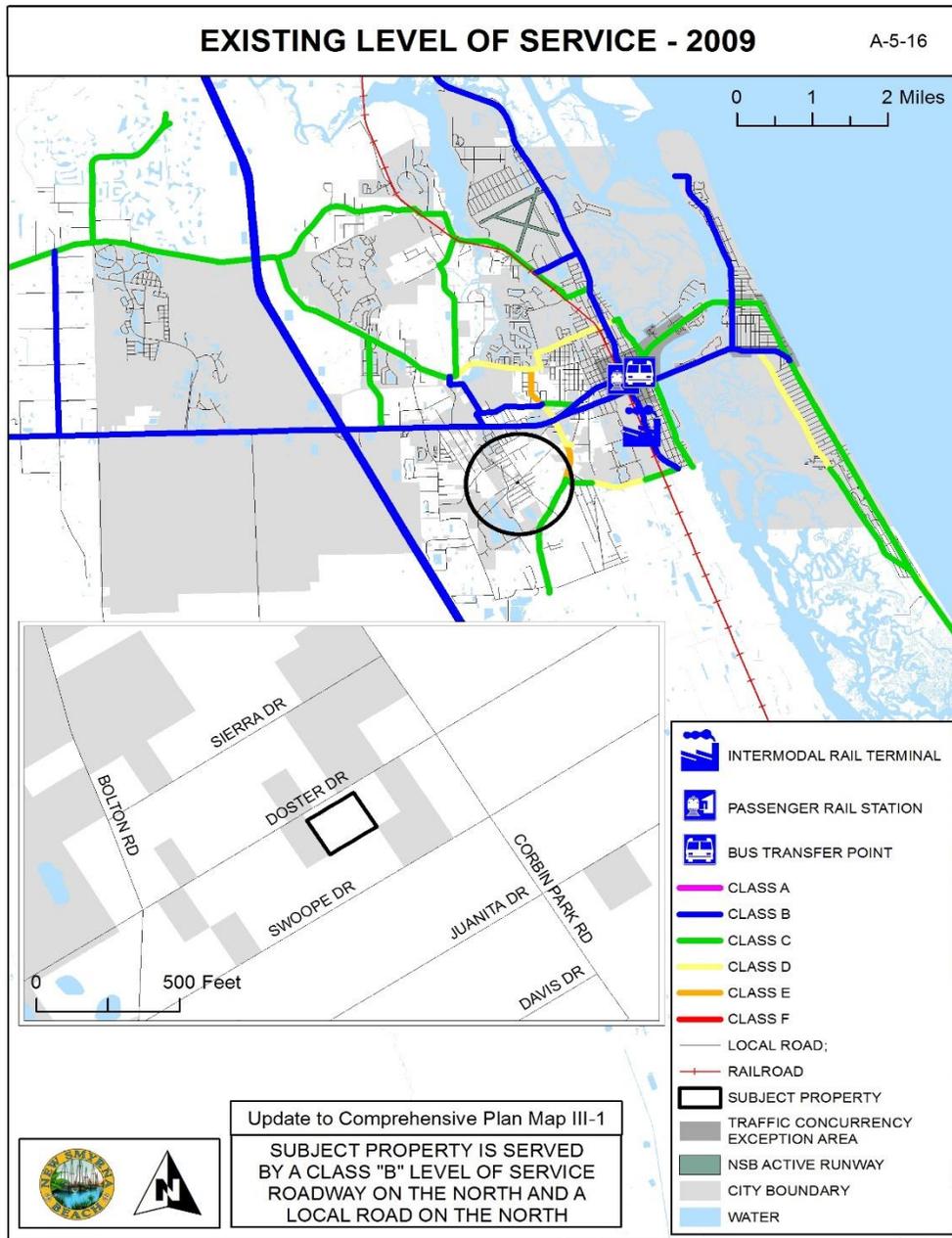
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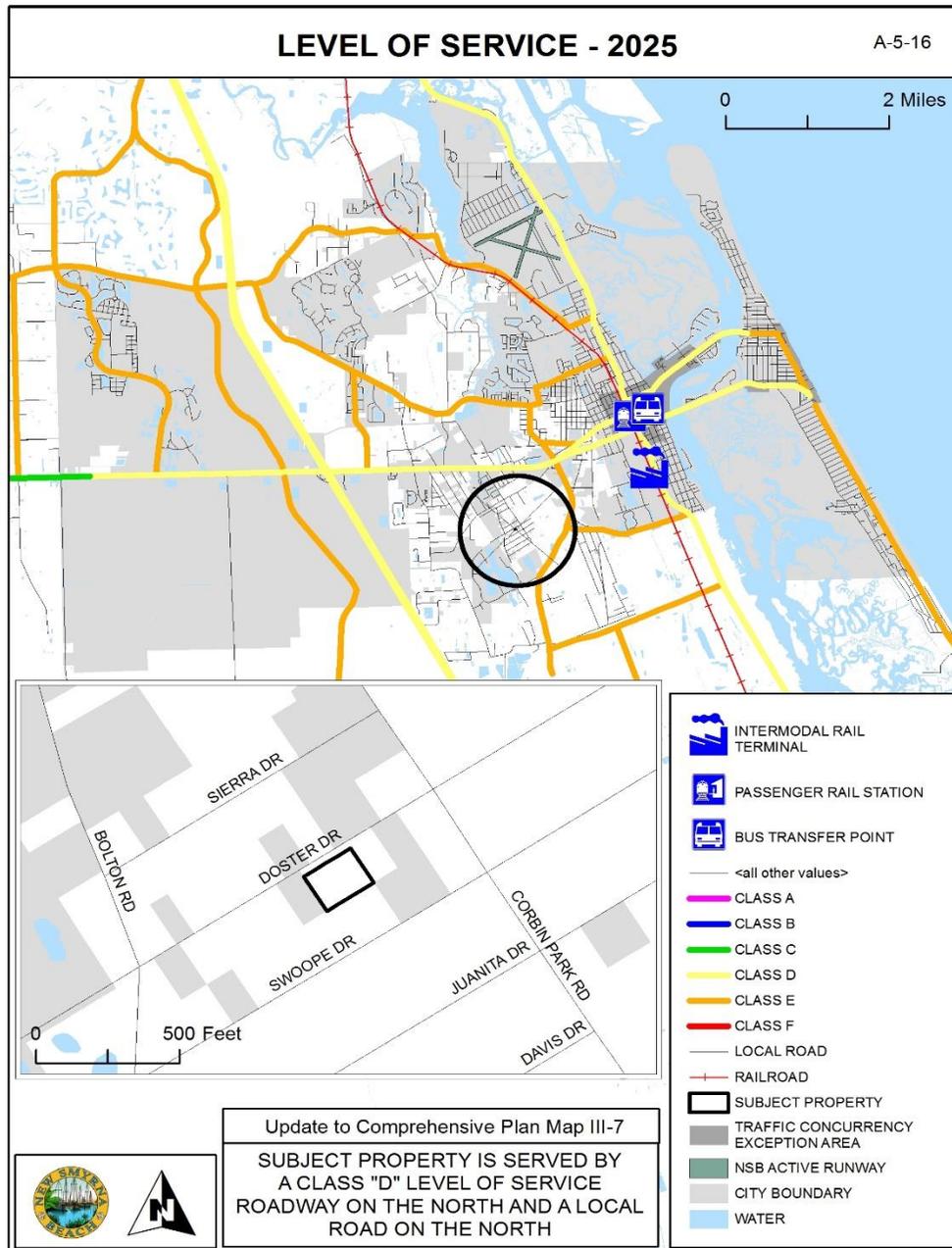
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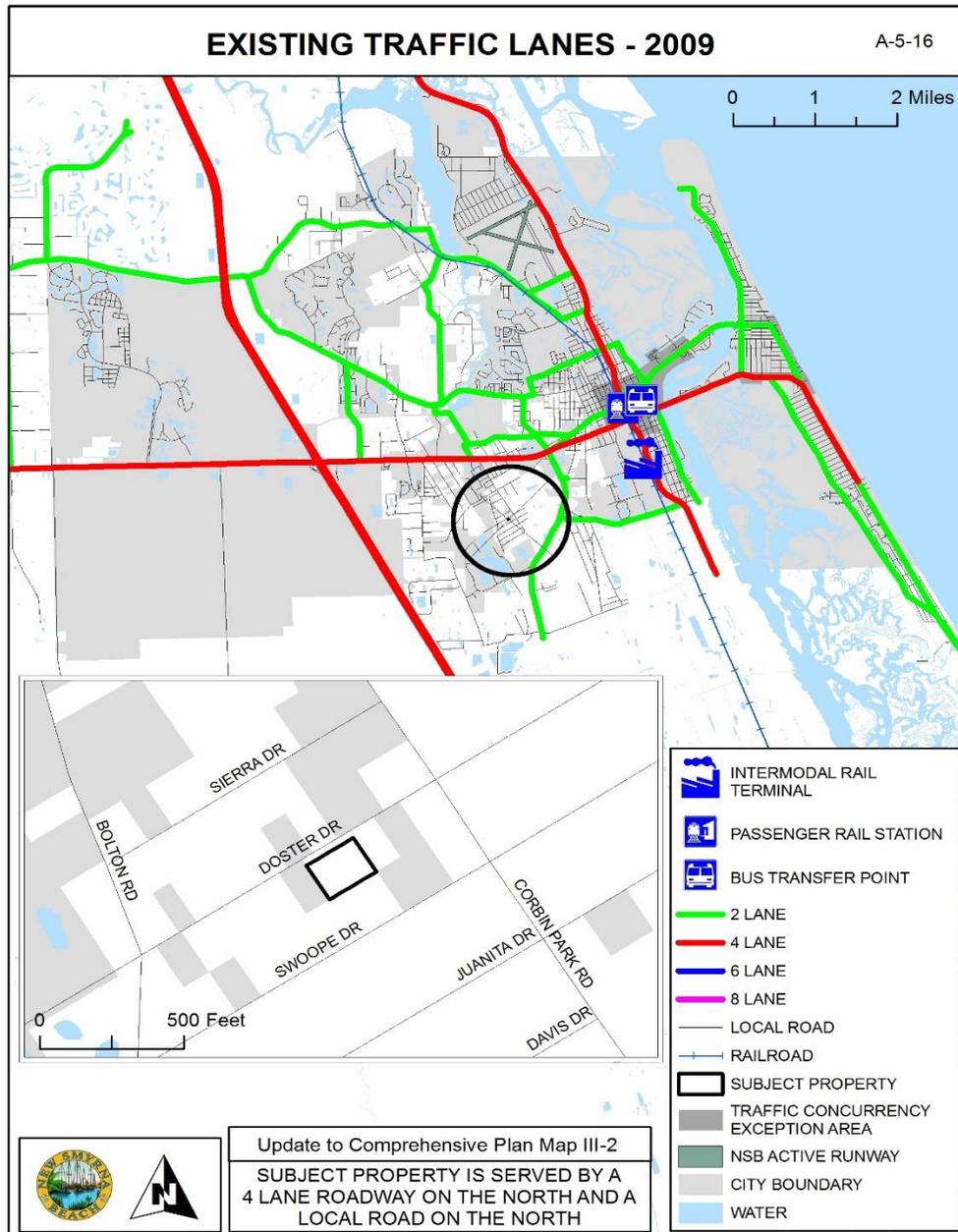


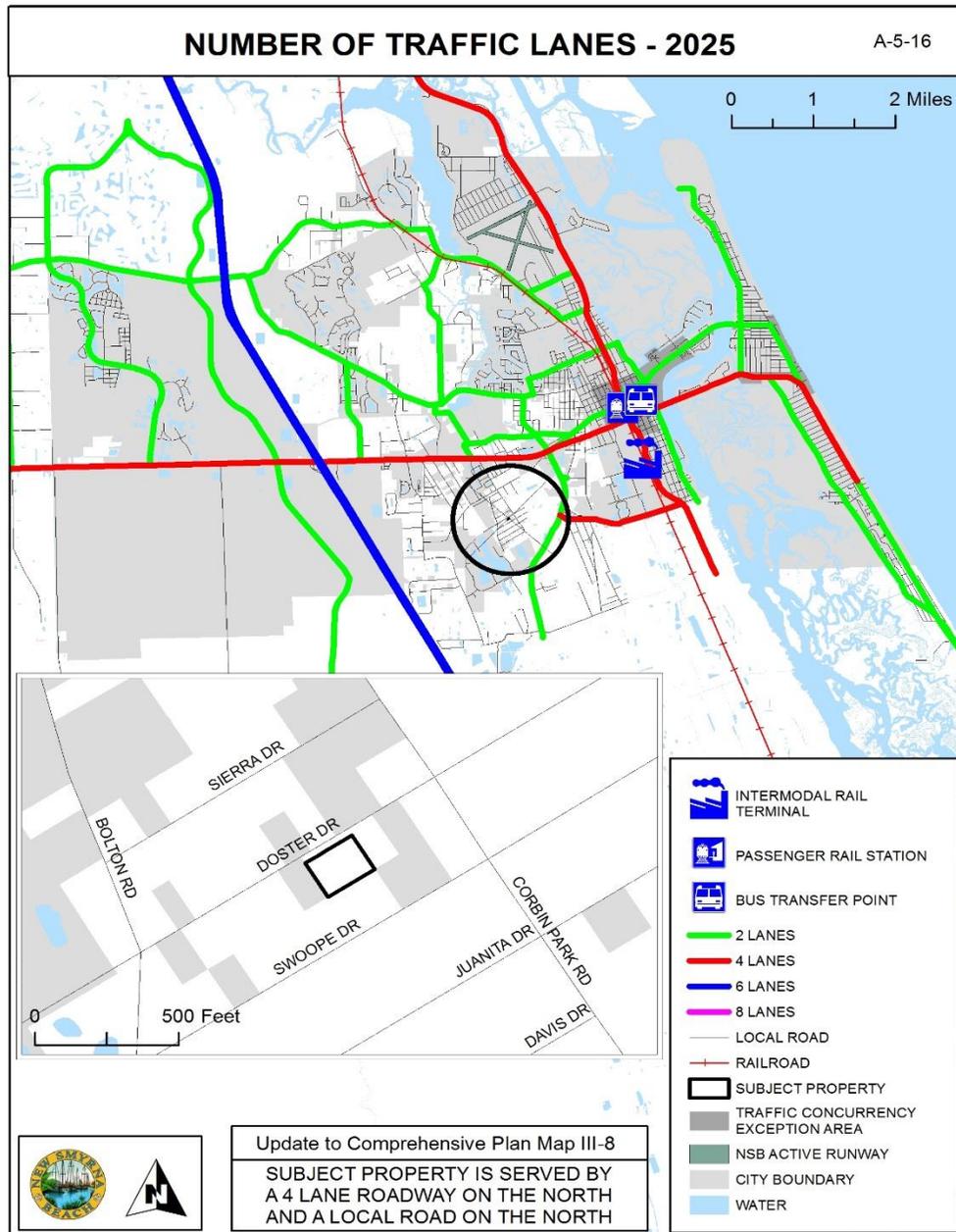
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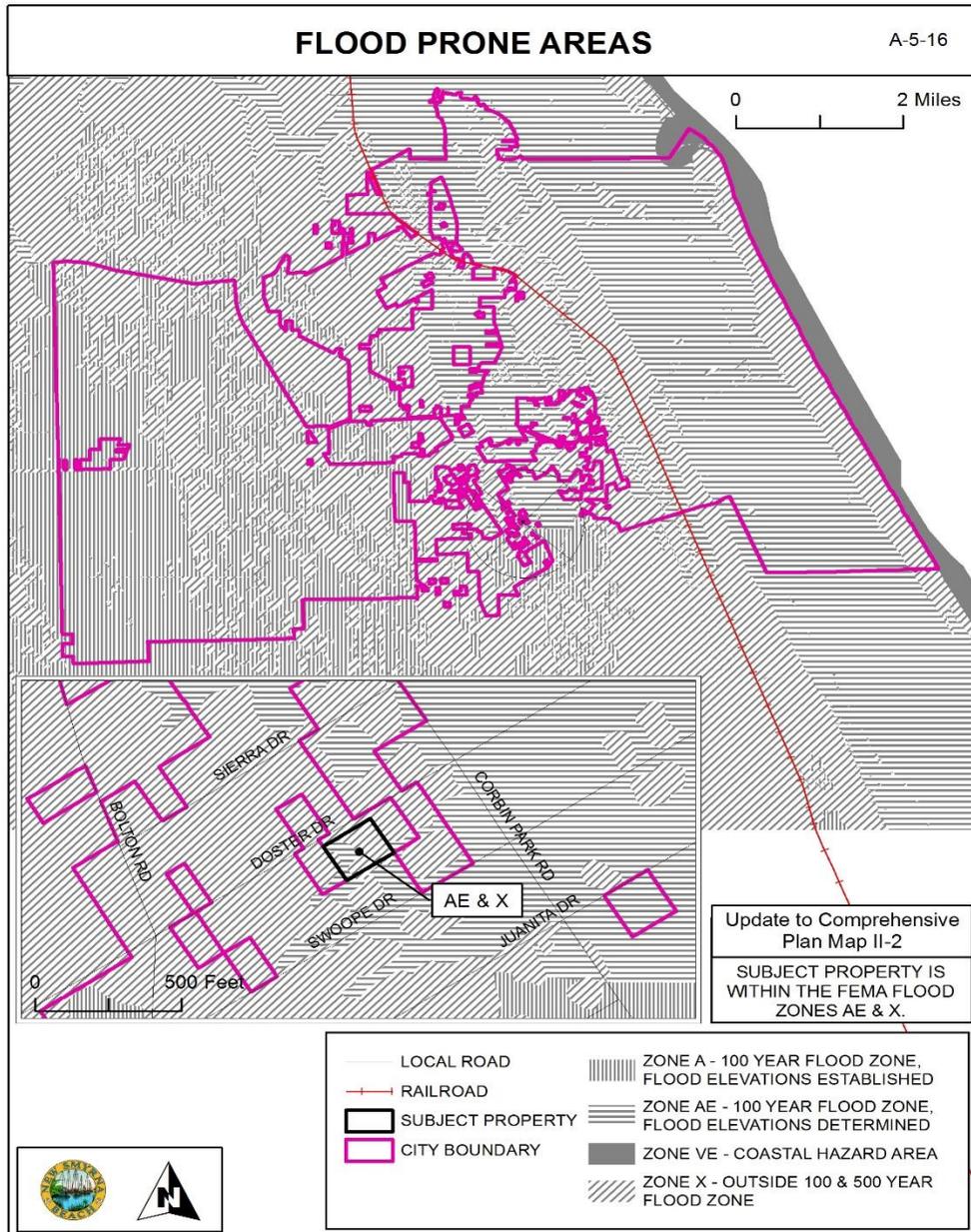


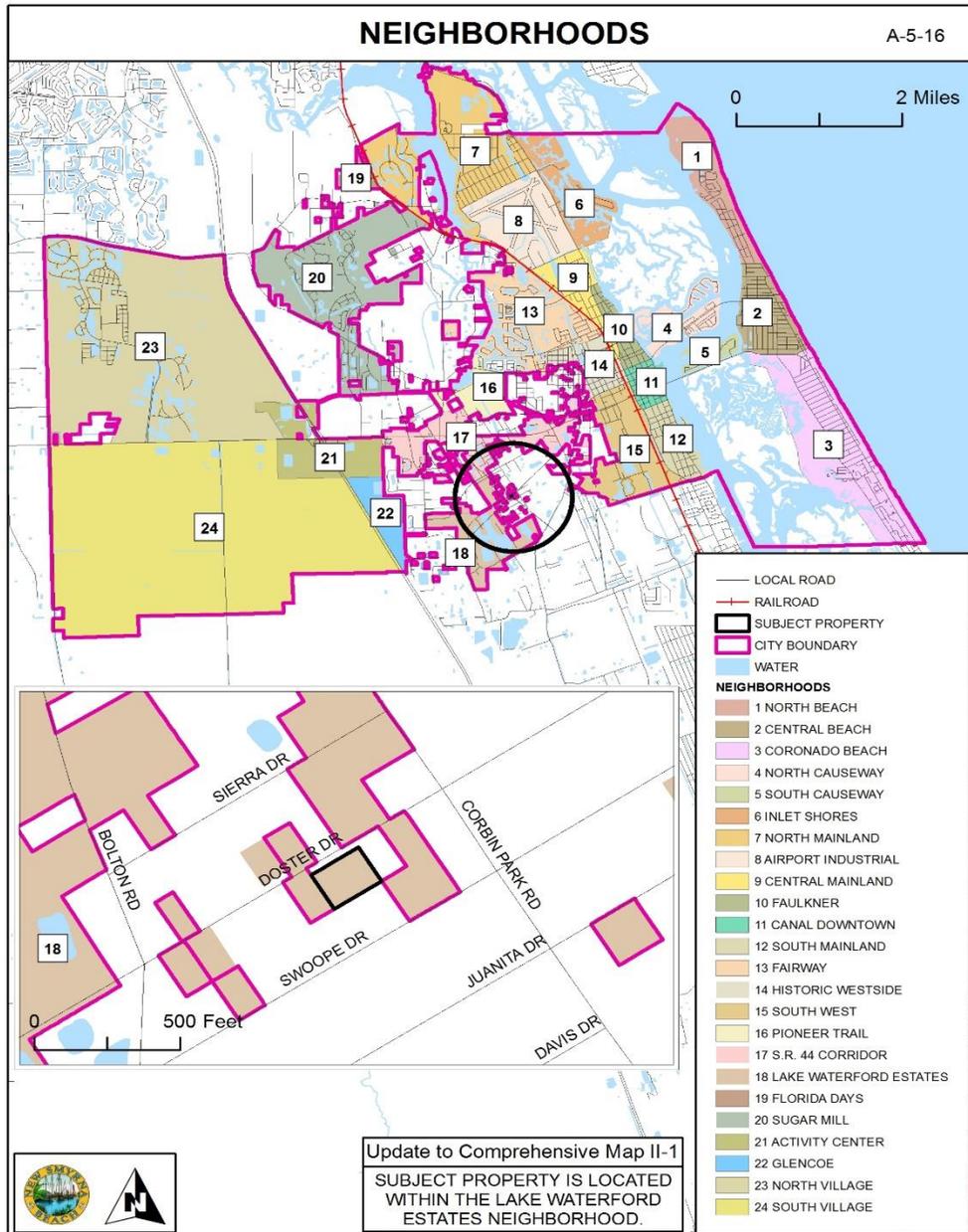
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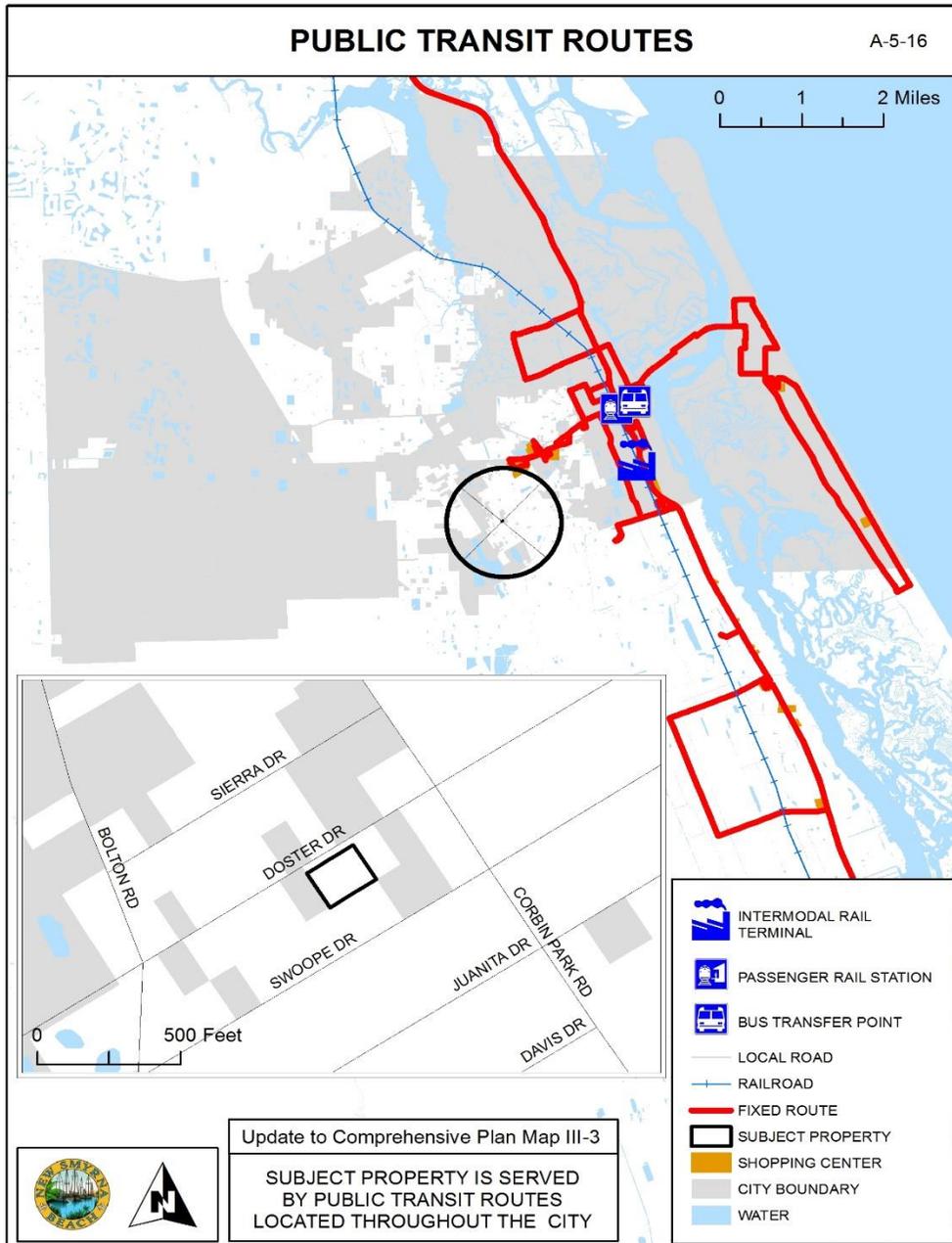




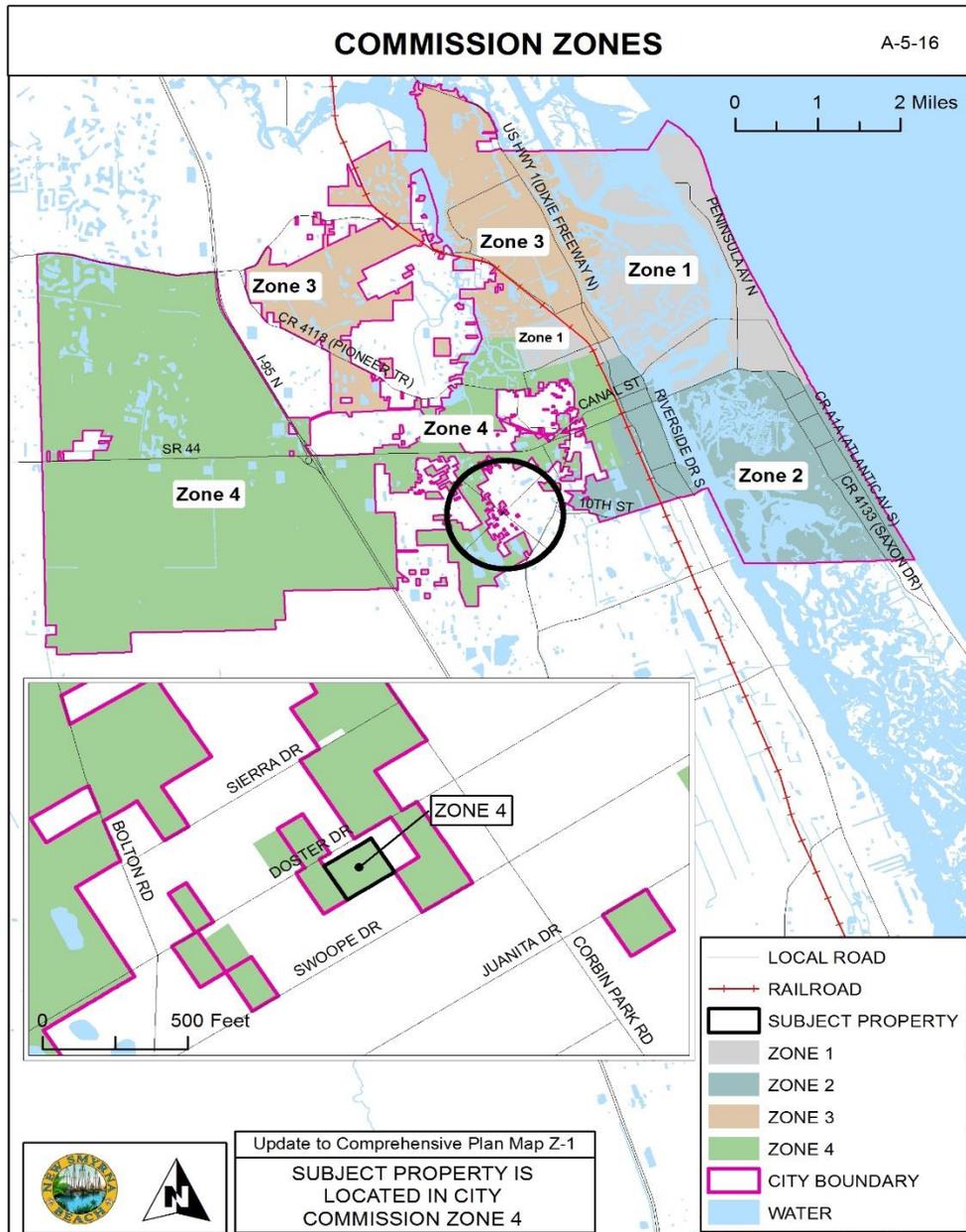








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1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
2 ZT-1-16: LDR AMENDMENT –  
3 A-4 TRANSITIONAL AGRICULTURE  
4 ZONING CLASSIFICATION  
5 JANUARY 4, 2016

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6  
7 **Background**

- 8  
9 A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach,  
10 Florida, 32168  
11  
12 B. **Request:** Approval of an amendment to the City's *Land Development*  
13 *Regulations* to create a new zoning classification – A-4, Transitional Agriculture.  
14

15 **Findings**

- 16 A. On April 23, 2013, the City Commission adopted an Interlocal Service Boundary  
17 Agreement (ISBA). The ISBA, which is permitted under Chapter 171, Part II,  
18 Florida Statutes, allows the City to annex any parcels that are within the  
19 designated annexation area, even if they are not contiguous to the current  
20 municipal boundaries. The agreement, which is between the County of Volusia  
21 and the City, was also approved by the County on May 2, 2013.  
22  
23 B. Recently, the City has received several voluntary annexation applications from  
24 residents in the annexation area covered by the ISBA. Some of these  
25 properties, have a Volusia County zoning classification of A-4, Transitional  
26 Agriculture.  
27  
28 C. The established policy of the City Commission is to match the existing Future  
29 Land Use and zoning classifications of properties that annex into the City.  
30 However, the City does not have a zoning classification that is similar to the  
31 County's A-4, Transitional Agriculture category, which has a minimum lot size of  
32 2 1/2 acres but, which also allows several different types of agricultural uses.  
33  
34 D. In order to address this deficiency staff is requesting an administrative  
35 amendment to the City's *Land Development Regulations* to create a new City  
36 zoning classification – A-4, Transitional Agriculture – which is similar to the  
37 County's A-4 zoning classification. A description of the County's A-4,  
38 Transitional zoning classification is attached as **Exhibit A**. A strike-thru/underline  
39 version of the proposed City A-4 zoning classification is attached as **Exhibit B**.  
40

41 **Recommendation**

42 Staff recommends **approval** of the proposed changes to the City's *Land Development*  
43 *Regulations*, as shown in **Exhibit B**, below (~~strikethroughs~~ are deletions and underlines  
44 are additions).

**A-4 TRANSITIONAL AGRICULTURE CLASSIFICATION** <sup>(9)</sup>

*Purpose and intent:* The purpose and intent of the A-4 Transitional Agriculture Classification is to preserve and protect small farms for personal and limited agricultural production or to provide a transitional agricultural zone between more intensive agricultural use areas and residential areas. It is intended that this classification be applied to preserve existing agricultural uses in urban and rural areas as depicted by the comprehensive plan, or to properties so as to coincide with the existing character of an area in a manner consistent with the comprehensive plan.

In order to ensure the long-term vitality of agricultural uses and natural resources, all agricultural uses are encouraged to utilize the natural resource conservation service (formerly the soil conservation service) best management techniques and other agricultural best management practices.

*Permitted principal uses and structures:* In the A-4 Transitional Agriculture Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

Apiaries.

Aquaculture operations in which there are no associated excavations.

Aviaries.

Communication towers not exceeding 70 feet in height above ground level.

Essential utility services.

Except for those permitted special exceptions listed hereunder, all agricultural pursuits, including the processing, packaging, storage and sale of agriculture products which are raised on the premises.

Exempt excavations (refer to subsection [72-293](#)(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.

Exempt landfills (refer to subsection [72-293](#)(16)).

Fire stations.

Hobby breeder.

Home occupations, class A (refer to [section 72-283](#)).

Houses of worship.

Parks and recreation areas accessory to residential developments.

Public schools.

Publicly owned parks and recreational areas.

Publicly owned or regulated water supply wells.

## EXHIBIT A (CONT'D)

Silvicultural operations which follow the most up to date state-prescribed best management practices.

Single-family standard or manufactured modular dwelling.

Tailwater recovery systems.

Worm raising.

*Permitted special exceptions:* Additional regulations/requirements governing permitted special exceptions are located in sections [72-293](#) and [72-415](#) of this article.

Animal shelters.

Aquaculture operations in which there are nonexempt excavations (refer to subsection [72-293\(15\)](#)).

Bed and breakfast (refer to subsection [72-293\(19\)](#)).

Cemeteries (refer to subsection [72-293\(4\)](#)).

Communication towers exceeding 70 feet in height above ground level.

Dairies and dairy products (minimum parcel size requirement of five acres).

Day care centers (refer to subsection [72-293\(6\)](#)).

Dogs and cats boarded as personal pets exceeding the number permitted in subsection [72-306\(a\)](#).

Equestrian/livestock event facility.

Excavations only for storm water retention ponds for which a permit is required by this article.

Garage apartments.

Group home (refer to subsection [72-293\(12\)](#)).

Hog farms (minimum parcel size requirement of 2.5 acres).

Home occupations, class B (refer to [section 72-283](#)).

Kennels.

Livestock feed lots (minimum parcel size requirement of five acres).

Off-street parking areas (refer to subsection [72-293\(14\)](#)).

Poultry farms (minimum parcel size requirement of 2.5 acres).

Processing, packaging, storage, retail or wholesale sales of agricultural products not raised on the premises.

Public uses not listed as a permitted principal use.

Public utility uses and structures (refer to subsection [72-293\(1\)](#)).

Recreational areas (refer to subsection [72-293\(3\)](#)).

Riding stables.

## EXHIBIT A (CONT'D)

Schools, parochial and private (refer to subsection [72-293](#)(4)).

Single-family mobile home dwelling with a minimum floor area of 480 square feet as a temporary residence while building a standard or manufactured dwelling (maximum duration of 18 months).

Temporary campsites for three days before, during and three days after any regularly scheduled racing event at the Daytona Beach International Speedway for Speed weeks, Biketoberfest, the Pepsi 400, and Bike Week, on condition that security, portable toilets, garbage disposal and potable water facilities sufficient to accommodate all occupants and other relevant conditions are provided. Related special events and sales are allowed, if approved as part of the special exception.

Wholesale or retail fertilizer sales.

### *Dimensional requirements:*

#### *Minimum lot size:*

Area: Two and one-half acres.

Width: 150 feet.

#### *Minimum yard size:*

Front yard: 40 feet.

Rear yard: 40 feet.

Side yard: 25 feet.

Waterfront yard: 40 feet.

*Maximum building height:* 55 feet.

*Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

*Minimum floor area:* 1,000 square feet.

*Off-street parking and loading requirement:* Off-street parking and loading areas meeting the requirements of sections [72-286](#) and [72-287](#) shall be constructed.

*Skirting requirement for mobile home dwelling:* The area between the ground and floor of the mobile home dwelling shall be enclosed with skirting.

(Ord. No. 97-19, § II, 8-7-97; Ord. No. 98-25, § VII, 12-17-98; Ord. No. 2004-20, § V, 12-16-04; Ord. No. 2009-17, § III, 5-21-09)

ARTICLE V

ZONING DISTRICTS

The City of New Smyrna Beach, Florida, is divided into the following districts within which the uses of land are regulated as provided by this LDR. Each district is listed below with its accompanying abbreviation:

A-1	Prime Agriculture
A-2	Agriculture
A-3	Transitional Agriculture
<u>A-4</u>	<u>Transitional Agriculture</u>
FR	Forestry Resource
C	Conservation
R	Recreation
RA	Rural Agriculture Estate
RE	Residential Estate
R-1	Single Family Residential
R-2	Single Family Residential
R-2A	Single Family Detached and Attached Residential
R-3	Single Family Residential
R-3A	Single Family and Two Family (Zero Lot Line) Residential
R-3B	Single Family Residential
R-3CO	Urban Single Family Residential
R-4	Multi-Family Residential

\*\*\*

**A-4 TRANSITIONAL AGRICULTURE  
CLASSIFICATION**

*Purpose and intent:* The purpose and intent of the A-4 Transitional Agriculture Classification is to preserve and protect small farms for personal and limited agricultural production or to provide a transitional agricultural zone between more intensive agricultural use areas and residential areas. It is intended that this classification be applied to preserve existing agricultural uses in urban and rural areas as depicted by the comprehensive plan, or to properties so as to coincide with the existing character of an area in a manner consistent with the comprehensive plan.

In order to ensure the long-term vitality of agricultural uses and natural resources, all agricultural uses are encouraged to utilize the natural resource conservation service (formerly the soil conservation service) best management techniques and other agricultural best management practices.

*Permitted principal uses and structures:* In the A-4 Transitional Agriculture Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Apiaries.
- Aquaculture operations in which there are no associated excavations.
- Aviaries.
- Communication towers not exceeding 70 feet in height above ground level.

## EXHIBIT B (CONT'D)

Essential utility services.

Except for those permitted special exceptions listed hereunder, all agricultural pursuits, including the processing, packaging, storage and sale of agriculture products which are raised on the premises.

~~Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.~~

~~Exempt landfills (refer to subsection 72-293(16)).~~

Fire stations.

Hobby breeder.

~~Home occupations, class A (refer to section 72-283).~~

~~Houses of worship.~~

Parks and recreation areas accessory to residential developments.

Public schools.

Publicly owned parks and recreational areas.

Publicly owned or regulated water supply wells.

Silvicultural operations which follow the most up to date state-prescribed best management practices.

Single-family standard or manufactured modular dwelling.

Tailwater recovery systems.

Worm raising.

*Permitted special exceptions:* ~~Additional regulations/requirements governing permitted special exceptions are located in sections 72-293 and 72-415 of this article.~~

Animal shelters.

Aquaculture operations in which there are nonexempt excavations ~~(refer to subsection 72-293(15)).~~

~~Bed and breakfast (refer to subsection 72-293(19)).~~

~~Cemeteries (refer to subsection 72-293(4)).~~

Communication towers exceeding 70 feet in height above ground level.

Dairies and dairy products (minimum parcel size requirement of five acres).

~~Day care centers (refer to subsection 72-293(6)).~~

~~Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).~~

Equestrian/livestock event facility.

Excavations only for stormwater retention ponds for which a permit is required by this article.

Garage apartments.

~~Group home (refer to subsection 72-293(12)).~~

Hog farms (minimum parcel size requirement of 2.5 acres).

~~Home occupations, class B (refer to section 72-283).~~

Houses of worship.

Kennels.

Landfills

Livestock feed lots (minimum parcel size requirement of five acres).

~~Off-street parking areas (refer to subsection 72-293(14)).~~

Poultry farms (minimum parcel size requirement of 2.5 acres).

Processing, packaging, storage, retail or wholesale sales of agricultural products not raised on the premises.

Public uses not listed as a permitted principal use.

## EXHIBIT B (CONT'D)

Public utility uses and structures ~~(refer to subsection 72-293(1)).~~

Recreational areas ~~(refer to subsection 72-293(3)).~~

Riding stables.

Schools, parochial and private ~~(refer to subsection 72-293(4)).~~

Single-family mobile home dwelling with a minimum floor area of 480 square feet as a temporary residence while building a standard or manufactured dwelling (maximum duration of 18 months).

Temporary campsites for three days before, during and three days after any regularly scheduled racing event at the Daytona Beach International Speedway for Speed weeks, Biketoberfest, the Pepsi 400, and Bike Week, on condition that security, portable toilets, garbage disposal and potable water facilities sufficient to accommodate all occupants and other relevant conditions are provided. Related special events and sales are allowed, if approved as part of the special exception.

Wholesale or retail fertilizer sales.

### *Dimensional requirements:*

#### *Minimum lot size:*

Area: Two and one-half acres.

Width: 150 feet.

#### *Minimum yard size:*

Front yard: 40 feet.

Rear yard: 40 feet.

Side yard: 25 feet.

Waterfront yard: 40 feet.

*Maximum building height:* 55 feet.

*Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

*Minimum floor area:* 1,000 square feet.

*Off-street parking and loading requirement:* Off-street parking and loading areas meeting the requirements of [sections 72-286 and 72-287](#) [this LDR](#) shall be constructed.

*Skirting requirement for mobile home dwelling:* The area between the ground and floor of the mobile home dwelling shall be enclosed with skirting.

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
**S-9-15: CALLALISA PRESERVE PRELIMINARY &  
FINAL PLAT (PPL/FPL) – SO. PENINSULA AVE.**  
JANUARY 4, 2016

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**I. INTRODUCTION**

1. **Applicant and Authorized Representative:** Patrick J. Knight, 1900 Adams Dr. E., Maitland, FL 32751
2. **Property Owner:** 524SouthPeninsula, LLC, 1900 E. Adams Dr., Maitland, FL 32751
3. **Request:** Preliminary / Final Plat approval for a eight (8) lot residential subdivision
4. **Site Data:** The proposed subject area is approximately 3.2 acres, is zoned R4, Multi-Family Residential District, and is located on the west side of So. Peninsula Avenue between Ocean Avenue to the north and 2<sup>nd</sup> Avenue to the south, on the north and south sides of the Marker 33 condominium entrance driveway.
5. **TAX ID #:** 7416-00-00-0353
6. **Attachments:** The applicant has submitted proposed subdivision plan sheets that show the boundaries, proposed lots, and other specific areas of this request. The two plat sheets are attached as **Exhibit C**, with various construction plan sheets attached as **Exhibit D**.

**II. FINDINGS**

- A. The 3.2 acre subject property is one tax parcel divided by a 40' wide separation that serves as the entrance driveway for the existing Marker 33 waterfront condominium complex that is immediately adjacent to the west, all of which is located west of South Peninsula Avenue. The subject property had once been approved for a multi-family development known as the Villas of Callalisa (in 2003, as SP-09-03), which consisted of 21 units in two buildings. That approval has since expired, and there currently is no active and/or "vested" development plan associated with the site.

The 3.2 acres are primarily comprised of wetlands in the southern portion of the parcel, with uplands limited to those areas surrounding and adjacent to the Marker 33 property bisecting the subject parcel, as shown on the Exhibit D site survey. Those wetland areas comprise about 2.4 acres of the 3.2 acre subject property, and are contained within existing Conservation Easements that were established as part of the previous multi-family development that was never completed. Consequently, there is no existing development within the site except for installation of utilities and 21 boat slips to the south that are accessed through the wetland/Conservation

Easement areas in the southern portion of the parcel. The applicant now seeks to develop the uplands under a different and less intense development plan, as shown on the Exhibit C plans. Those plans would create a total of eight lots, with five of those lots being proposed for single family use (under the minimum R4 50' x 100' site dimensions) and the other three lots being proposed for duplex use.

- B. The proposed lots can be developed using the concept shown on the Exhibit C plans, under this section of the LDR (# 3 below, applicable text underlined) :

*Section 605.01 F. No lot shall be developed unless:*

*(1) The lot has direct access and is adjacent to a right-of-way containing a paved city street conforming to city engineering standards unless the proposed development is single-family or duplex residential on an unpaved street which was officially opened by the city prior to the effective date of this LDR;*

*(2) The lot has direct access and is adjacent to a right-of-way containing a paved roadway meeting County and State specifications and maintained by the County or State or a prescriptive rights paved roadway maintained by the County or State;*

*(3) The lot has direct access and is adjacent to an access drive having a minimum width of 20 feet and approved by the Planning and Zoning Board of New Smyrna Beach, but has not been accepted for maintenance by the City and is not available for public uses.*

The required Planning and Zoning Board approval would be part of this subdivision plat approval, prior to final City Commission action.

- C. This plat application was preceded by an associated variance application for the proposed width dimensions of three of the eight proposed lots, which was heard and approved by the Planning and Zoning Board at a September 15, 2015 (as Case # V-22-15). Those three lots that were the subject of that request are all proposed for duplex use (Lots # 4, 7, & 8). That Board approval contained four specific conditions of approval, all of which have now been addressed within this subdivision application.
- D. This application was reviewed at the November 13, 2015 Plan Review Committee (PRC) meeting. Review comments were provided to the applicant at that meeting, and the applicant has resubmitted revised plat documents to address those comments. As of the date this report is being written, not all PRC members have signed off on this Site Plan application, with approval signatures of those PRC members still outstanding being those of the City Engineer, Building Official, City Horticulturist, City Planner, and Utilities Commission. The City Land Development Regulations (LDR) allow PRC members ten working days following the resubmittal to review the plans and then provide comments or approve the plans, with no comments provided to date. That ten day PRC resubmittal review period has not yet ended as of this time this report was prepared, but will end prior

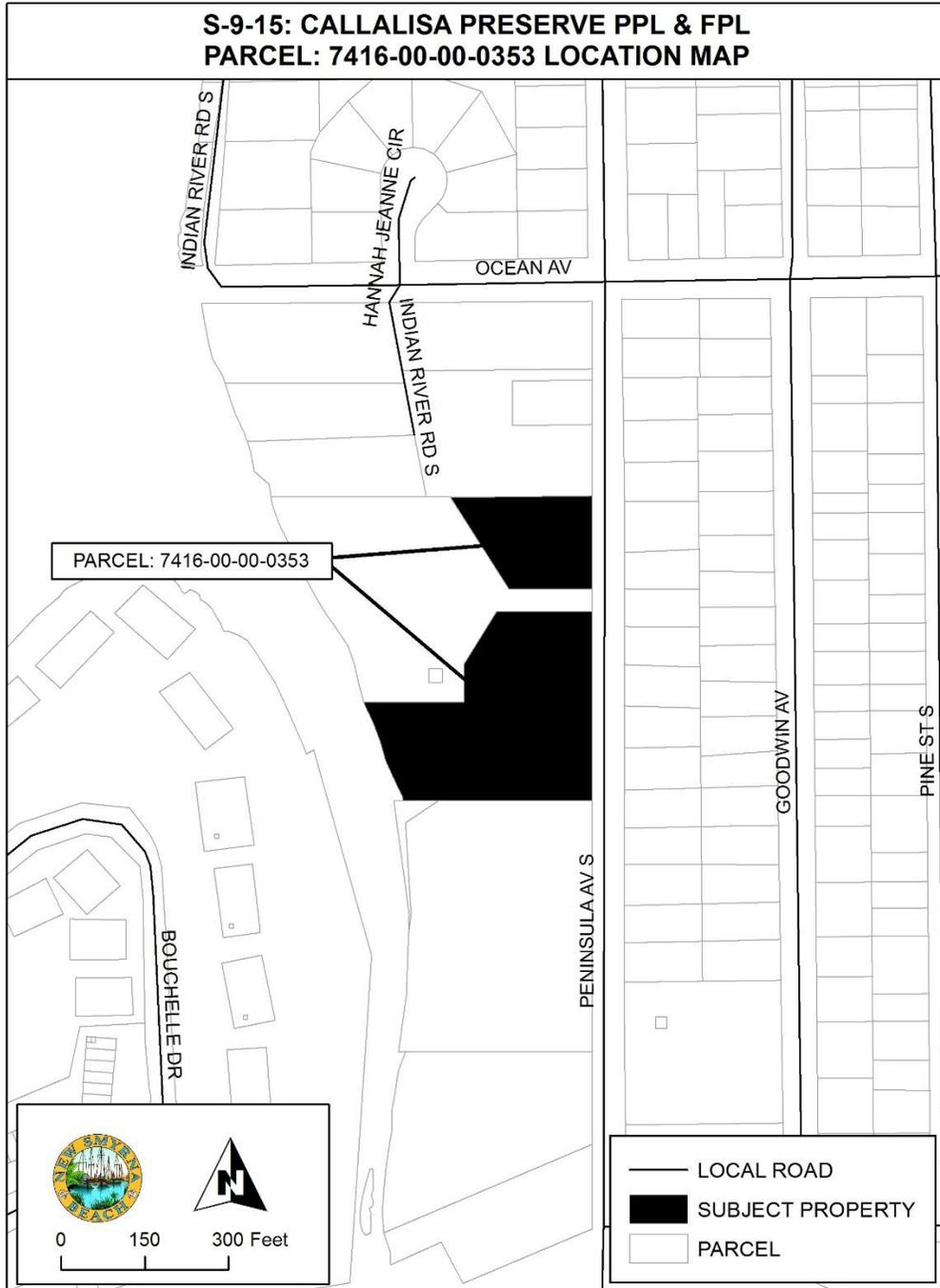
to the Planning and Zoning Board meeting at which this application is scheduled, with any updates as to staff/PRC comments and/or approvals then able to be provided to the Board at that time.

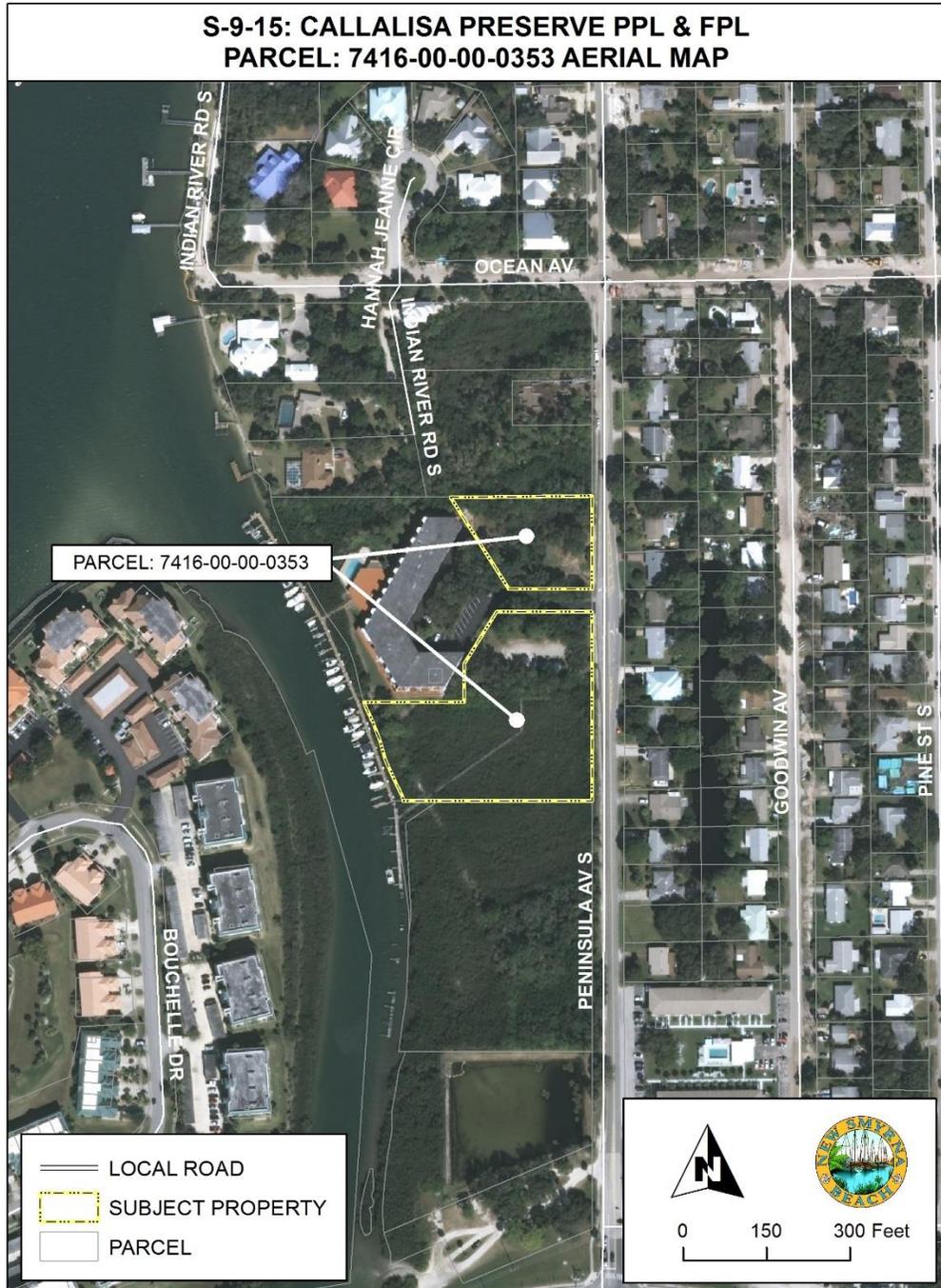
- E. The plat is also required to be reviewed by an independent consulting surveyor on behalf of the City, with all issues to be resolved to obtain approval by that reviewing surveyor, and before the City Commission can act to approve the plat. That process is currently being initiated.

### **Recommendation**

Staff recommends Planning and Zoning Board **approval** of this plat application with the following conditions:

- a. The Planning and Zoning Board specifically approve the layout shown on the Exhibit C plans, as required under Section 605.01 F (3) of the LDR, for those seven (7) proposed lots that each have *“direct access and is adjacent to an access drive having a minimum width of 20 feet and approved by the Planning and Zoning Board of New Smyrna Beach, but has not been accepted for maintenance by the City and is not available for public uses,”*
- b. All outstanding staff comments be addressed, and the plat is approved by all PRC members, prior to City Commission approval, and
- c. A review of the plat be completed by an independent surveyor contracted by the City at the applicant’s expense, to confirm the survey and plat as presented by the applicant, prior to City Commission approval.





### CALLALISA PRESERVE

A REPLAT OF A PORTION BLOCK 21, FIRST ADDITION TO J.Y. DETWILER'S SUBDIVISION  
 OF NEW SMYRNA BEACH, PER PLAT BOOK 7, PAGE 85, VOLUSIA COUNTY, FLORIDA  
 SECTION 16, TOWNSHIP 17 SOUTH, RANGE 34 EAST

SCALE IN FEET

**LEGAL DESCRIPTION:**

A PART OF THE NORTH 1350 FEET OF BLOCK 21, FIRST ADDITION TO J. Y. DETWILER'S SUBDIVISION OF NEW SMYRNA BEACH, AS SHOWN ON MAP IN MAP BOOK 7, PAGE 85, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF SOUTH PENINSULA AVENUE AND THE SOUTH RIGHT-OF-WAY LINE OF OCEAN AVENUE; THENCE SOUTH 00°00'00"W ALONG THE SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 350 FEET FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE, RUN N00°00'00"W, A DISTANCE OF 250.00 FEET; THENCE SOUTH 30°00'00" EAST, A DISTANCE OF 195.14 FEET; THENCE S80°00'00"E, A DISTANCE OF 152.44 FEET TO THE SAID WESTERLY RIGHT-OF-WAY LINE; THENCE S00°00'00"W ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 40.00 FEET; THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE, RUN N00°00'00"W, A DISTANCE OF 179.01 FEET; THENCE SOUTH 30°00'00" WEST, A DISTANCE OF 95.83 FEET; THENCE S00°00'00"W, A DISTANCE OF 73.34 FEET; THENCE N00°00'00"W, A DISTANCE OF 153.29 FEET; THENCE S07°59'50"E, A DISTANCE OF 388.30 FEET; THENCE S01°29'10"W, A DISTANCE OF 32.75 FEET; THENCE N07°09'11"E, A DISTANCE OF 33.84 FEET; THENCE N03°30'19"W, A DISTANCE OF 163.88 FEET; THENCE N55°22'09"E, A DISTANCE OF 70.30 FEET; THENCE S90°00'00"E, A DISTANCE OF 277.25 FEET TO THE AFORESAID WEST RIGHT-OF-WAY LINE; THENCE N00°00'00"E, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 547.81 FEET TO THE POINT OF BEGINNING TOGETHER WITH ALL RIPIARIAN AND LITTORAL RIGHTS AND ALL ACCRETIONS THEREUNTO APPERTAINING.

SAID LANDS CONTAIN 3.16 ACRES, MORE OR LESS.

**OCEAN AVENUE (75' RIGHT OF WAY)**

**SOUTH PENINSULA AVENUE (75' RIGHT OF WAY)**

**LEGEND**

sq. ft. = SQUARE FEET  
 AC. = ACRES  
 (M) = MEASURED  
 LB = LICENSED BUSINESS  
 CM = CONCRETE MONUMENT  
 O.R.B. = OFFICIAL RECORDS BOOK  
 TRM = PERMANENT REFERENCE  
 (P) = PER PLAT

**NOTES:**

- All plotted utility easements shall provide that such easements shall also be easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services shall interfere with the facilities and services of an electric, telephone, gas, or other public utility. In the event a cable television company damages the facilities of a public utility, it shall be solely responsible for the damages. This section shall not apply to those private easements granted to or obtained by a particular electric, telephone, gas, or other public utility. Such construction, installation, maintenance, and operation shall comply with the National Electrical Safety Code as adopted by the Florida Public Service Commission.
- Boundaries are based on the West Right of Way line of Fernside Avenue as being S00°00'00"E (South) as per deed call.
- Lots numbered 4, 7 & 8, on this Callalisa Preserve plat, which are authorized for the construction of multi-family (duplex) residences as well as single family residences, per the variance approved for Callalisa Preserve by the Planning and Zoning Board of the City of New Smyrna Beach (Variance V-22-15, September 15, 2015), are required to be held by a single owner in title (whether individual or entity), regardless of the status of the residences to be constructed. The requirement of single ownership will succeed in perpetuity for these lots.
- Vehicle access directly from Lot 1 and Lot 5 to South Peninsula Avenue is prohibited.

**NOTICE:**  
 There may be additional restrictions that are not recorded on this plat that may be found in the public records of this County.

This plat, as recorded in the graphic form, is the official depiction of the subdivided lands described herein and shall in no circumstances be supplanted in authority by any other graphic or digital form of the plat.

MATCH LINE ON SHEET 2

**CONSERVATION EASEMENT LINE TABLE**

LINE	LENGTH	BEARING
L48	16.88	N 88°02'54"E
L49	16.58	N 55°37'49"E
L50	48.83	S 84°48'02"E
L51	10.00	S 95°10'58"E
L52	13.60	N 82°02'22"E
L53	15.58	N 89°13'24"E
L54	24.37	N 89°13'24"E
L55	10.50	N 49°30'48"E
L56	17.84	N 28°16'56"E
L57	18.80	N 73°21'24"E
L58	4.87	S 84°30'00"E
L59	10.40	S 00°00'00"E
L60	11.34	S 78°37'58"E
L61	30.18	S 65°21'26"E
L62	25.39	S 69°02'24"E
L63	11.89	S 85°29'55"E
L64	7.13	S 00°00'00"E

**SHEET INDEX**

**PLAT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_**

**SHEET 1 OF 2**

**DEDICATION**

This is to certify that the undersigned Entities named below, collectively "Owner" is the lawful owner in fee simple of the lands herein described in the caption of this Plat and has caused said lands to be surveyed and that this Plat, made in accordance with said survey, is hereby adopted as the true and correct Plat of said lands and hereby grants the following:

Tract "A" is hereby dedicated to and shall be maintained by the Callalisa Preserve Home Owner's Association for Conservation purposes with a Conservation Easement in favor of the Florida Department of Environmental Protection Agency as shown hereon, and extends maintenance responsibility to the isolated Conservation Easement shown on Lot 4.

The Conservation Access Easement shown on Lot 4, is hereby dedicated to the Florida Department of Environmental Protection Agency for Access to the isolated Conservation Easement shown on Lot 4 and shall be maintained by the owner of Lot 4.

The Parking Easement and Building Easement is hereby dedicated to and shall be maintained by Marker "33" or it's successors, for parking and a building encroachment of approximately 0.3'. The Landscape Easements and Utility Easements shown hereon are hereby dedicated to and maintained by Callalisa Preserve Homeowner's Association and will remain private.

The Dock Access Easements and the Shored Driveway Easements shown are hereby dedicated to and shall be maintained by the Callalisa Preserve Homeowner's Association for waterfront dock access and shall remain private.

The Parking Easement shown on Lot 7 shall be dedicated to and be maintained by Marker 33 or it's successors and will remain private.

IN WITNESS WHEREOF, I have caused these presents to be signed by the owner named below on \_\_\_\_\_

By: \_\_\_\_\_

Signed and sealed in the presence of:

By: \_\_\_\_\_

By: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ who is personally known to me or produced \_\_\_\_\_ who is as identification.

Printed Name: \_\_\_\_\_  
 NOTARY PUBLIC  
 COMMISSION NUMBER \_\_\_\_\_  
 MY COMMISSION EXPIRES \_\_\_\_\_

**CERTIFICATE OF SURVEYOR**

I hereby certify that this plat is a true and correct representation of the lands surveyed, that the survey was made under my responsible direction and supervision, and that the survey data contained herein complies with all of the requirements of Chapter 177, Florida Statutes.

Further, I certify that I have complied with the requirements of Section 177.08(1)(7), Florida Statutes regarding "permanent reference monuments", and that the land is located within Seminole County, Florida.

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_  
 P.R.(RICK) BURNS LAND-TECH SURVEYING & MAPPING CORP.  
 350 S. Central Ave., Oviedo, FL 32765  
 Registration No. 4702 Certificate of Authorization No. 5777

**CITY COMMISSION APPROVAL**

"I have reviewed this plat and find it to be in conformity with Chapter 177, Florida Statutes."

City Commission \_\_\_\_\_  
 Date: \_\_\_\_\_

**CITY SURVEYOR APPROVAL**

"I have reviewed this plat and find it to be in substantial conformity with Chapter 177, Florida Statutes."

Printed Name: \_\_\_\_\_  
 Florida Certificate # \_\_\_\_\_  
 City Surveyor for New Smyrna Beach, Florida

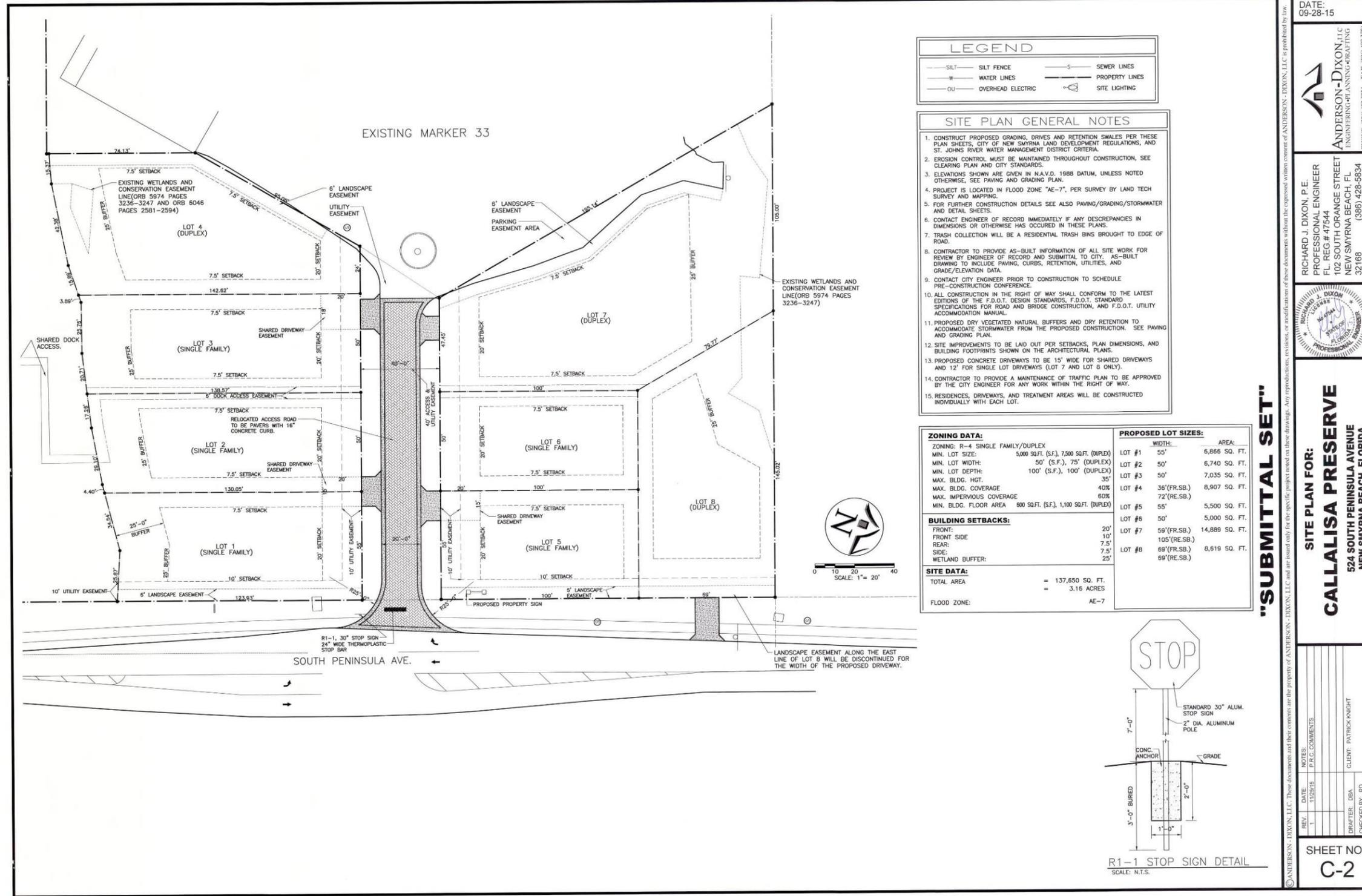
**CERTIFICATE OF CLERK OF CIRCUIT COURT**

I HEREBY CERTIFY, That I have examined the foregoing plat and find that it complies in form with all the requirements of Chapter 177, Florida Statutes, and was filed for record on \_\_\_\_\_ at \_\_\_\_\_ File No. \_\_\_\_\_

CLERK OF THE COURT \_\_\_\_\_  
 in and for Volusia County, Florida

By: \_\_\_\_\_ D.C.





DATE: 09-28-15

ANDERSON-DIXON, L.L.C.  
 ENGINEERING-PLANNING-DRAFTING  
 PHONE: (386) 425-5834 - FAX: (386) 425-5834

RICHARD J. DIXON, P.E.  
 PROFESSIONAL ENGINEER  
 FL REG # 47544  
 102 SOUTH ORANGE STREET  
 NEW SMYRNA BEACH, FL 32168  
 (386) 425-5834

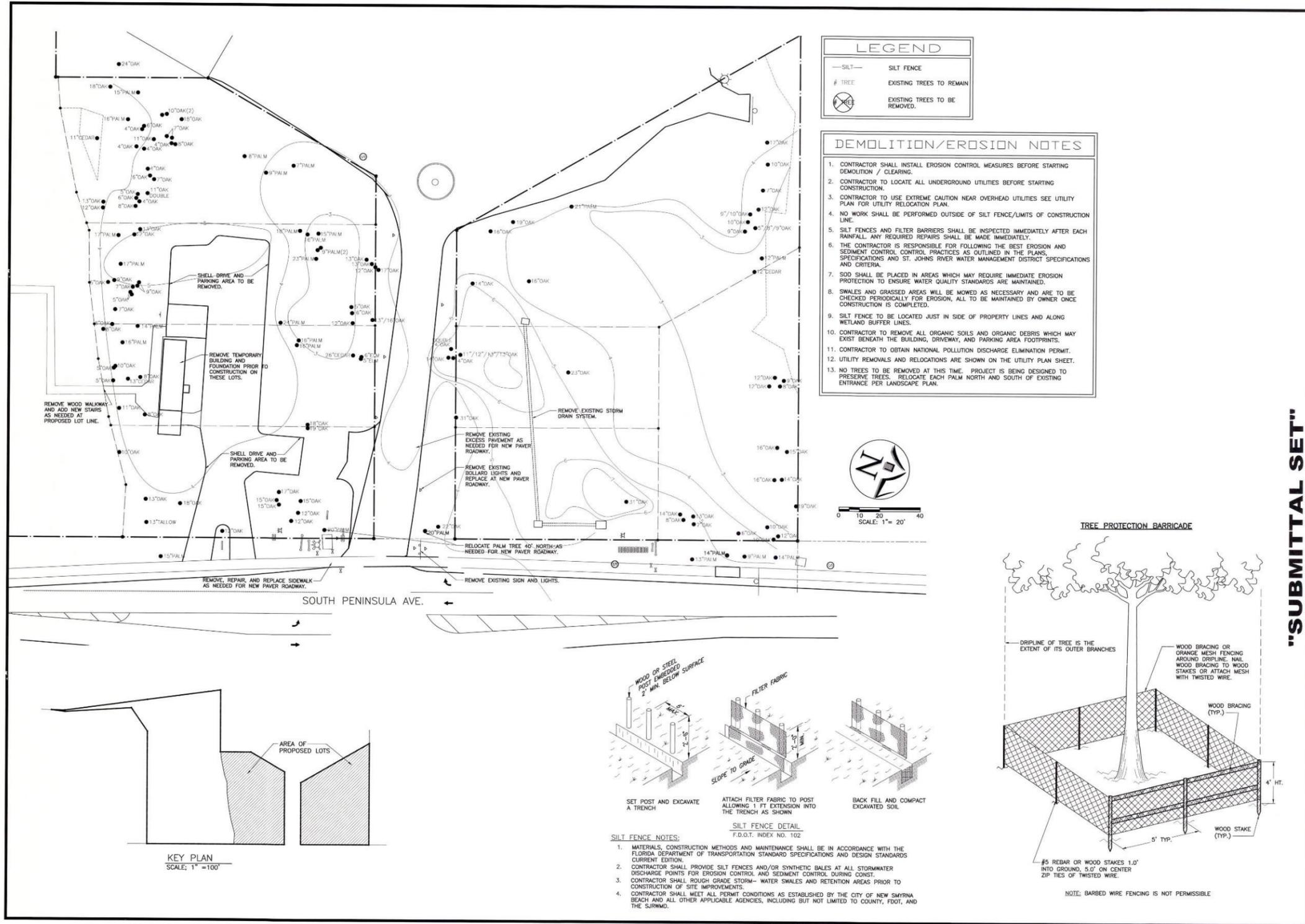
**"SUBMITTAL SET"**

**SITE PLAN FOR:**  
**CALLALISA PRESERVE**  
 524 SOUTH PENINSULA AVENUE  
 NEW SMYRNA BEACH, FLORIDA

REV. DATE: 11/28/15  
 P.R.G. COMMENTS

NOTES:  
 CLIENT: PATRICK KNIGHT  
 DRAFTER: DBA  
 CHECKED BY: RD  
 PROJECT NO: 1012

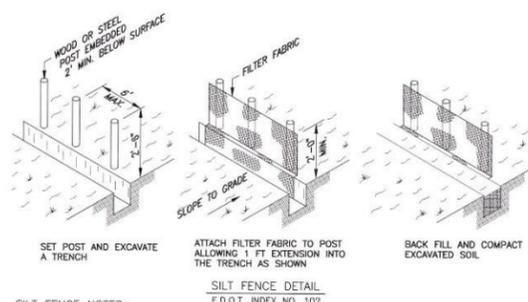
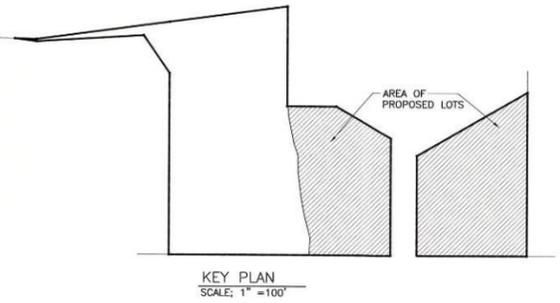
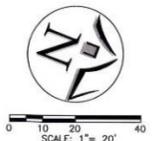
SHEET NO. C-2



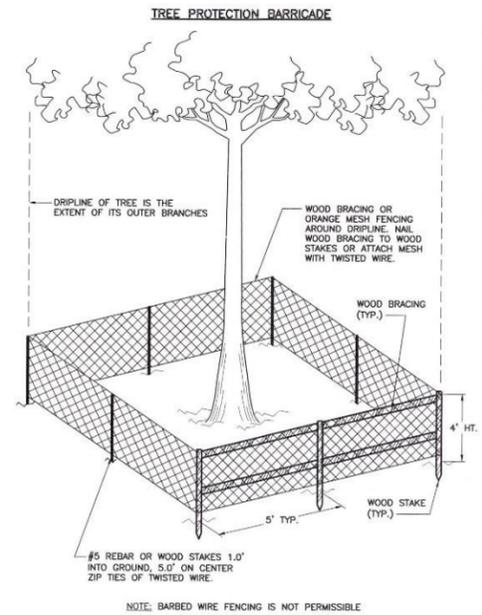
**LEGEND**

- SILT — SILT FENCE
- # TREE EXISTING TREES TO REMAIN
- ⊗ TREE EXISTING TREES TO BE REMOVED

- DEMOLITION/EROSION NOTES**
1. CONTRACTOR SHALL INSTALL EROSION CONTROL MEASURES BEFORE STARTING DEMOLITION / CLEARING.
  2. CONTRACTOR TO LOCATE ALL UNDERGROUND UTILITIES BEFORE STARTING CONSTRUCTION.
  3. CONTRACTOR TO USE EXTREME CAUTION NEAR OVERHEAD UTILITIES SEE UTILITY PLAN FOR UTILITY RELOCATION PLAN.
  4. NO WORK SHALL BE PERFORMED OUTSIDE OF SILT FENCE/LIMITS OF CONSTRUCTION LINE.
  5. SILT FENCES AND FILTER BARRIERS SHALL BE INSPECTED IMMEDIATELY AFTER EACH RAINFALL ANY REQUIRED REPAIRS SHALL BE MADE IMMEDIATELY.
  6. THE CONTRACTOR IS RESPONSIBLE FOR FOLLOWING THE BEST EROSION AND SEDIMENT CONTROL PRACTICES AS OUTLINED IN THE PLANS, SPECIFICATIONS AND ST. JOHNS RIVER WATER MANAGEMENT DISTRICT SPECIFICATIONS AND CRITERIA.
  7. SOD SHALL BE PLACED IN AREAS WHICH MAY REQUIRE IMMEDIATE EROSION PROTECTION TO ENSURE WATER QUALITY STANDARDS ARE MAINTAINED.
  8. SWALES AND GRASSED AREAS WILL BE MOWED AS NECESSARY AND ARE TO BE CHECKED PERIODICALLY FOR EROSION, ALL TO BE MAINTAINED BY OWNER ONCE CONSTRUCTION IS COMPLETED.
  9. SILT FENCE TO BE LOCATED JUST IN SIDE OF PROPERTY LINES AND ALONG WETLAND BUFFER LINES.
  10. CONTRACTOR TO REMOVE ALL ORGANIC SOILS AND ORGANIC DEBRIS WHICH MAY EXIST BENEATH THE BUILDING, DRIVEWAY, AND PARKING AREA FOOTPRINTS.
  11. CONTRACTOR TO OBTAIN NATIONAL POLLUTION DISCHARGE ELIMINATION PERMIT.
  12. UTILITY REMOVALS AND RELOCATIONS ARE SHOWN ON THE UTILITY PLAN SHEET.
  13. NO TREES TO BE REMOVED AT THIS TIME. PROJECT IS BEING DESIGNED TO PRESERVE TREES. RELOCATE EACH PALM NORTH AND SOUTH OF EXISTING ENTRANCE PER LANDSCAPE PLAN.



- SILT FENCE NOTES:**
1. MATERIALS, CONSTRUCTION METHODS AND MAINTENANCE SHALL BE IN ACCORDANCE WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS AND DESIGN STANDARDS CURRENT EDITION.
  2. CONTRACTOR SHALL PROVIDE SILT FENCES AND/OR SYNTHETIC BALES AT ALL STORMWATER DISCHARGE POINTS FOR EROSION CONTROL AND SEDIMENT CONTROL DURING CONST.
  3. CONTRACTOR SHALL ROUGH GRADE STORM- WATER SWALES AND RETENTION AREAS PRIOR TO CONSTRUCTION OF SITE IMPROVEMENTS.
  4. CONTRACTOR SHALL MEET ALL PERMIT CONDITIONS AS ESTABLISHED BY THE CITY OF NEW SMYRNA BEACH AND ALL OTHER APPLICABLE AGENCIES, INCLUDING BUT NOT LIMITED TO COUNTY, FDOT, AND THE SURVMD.



DATE:  
09-28-15

**ANDERSON-DIXON, LLC**  
ENGINEERING/PLANNING/DRAFTING  
PHONE: (888) 428-8334 - FAX: (888) 409-3788

RICHARD J. DIXON, P.E.  
PROFESSIONAL ENGINEER  
FL REG # 47544  
102 SOUTH ORANGE STREET  
NEW SMYRNA BEACH, FL  
32166  
(386) 428-5834

**"SUBMITTAL SET"**

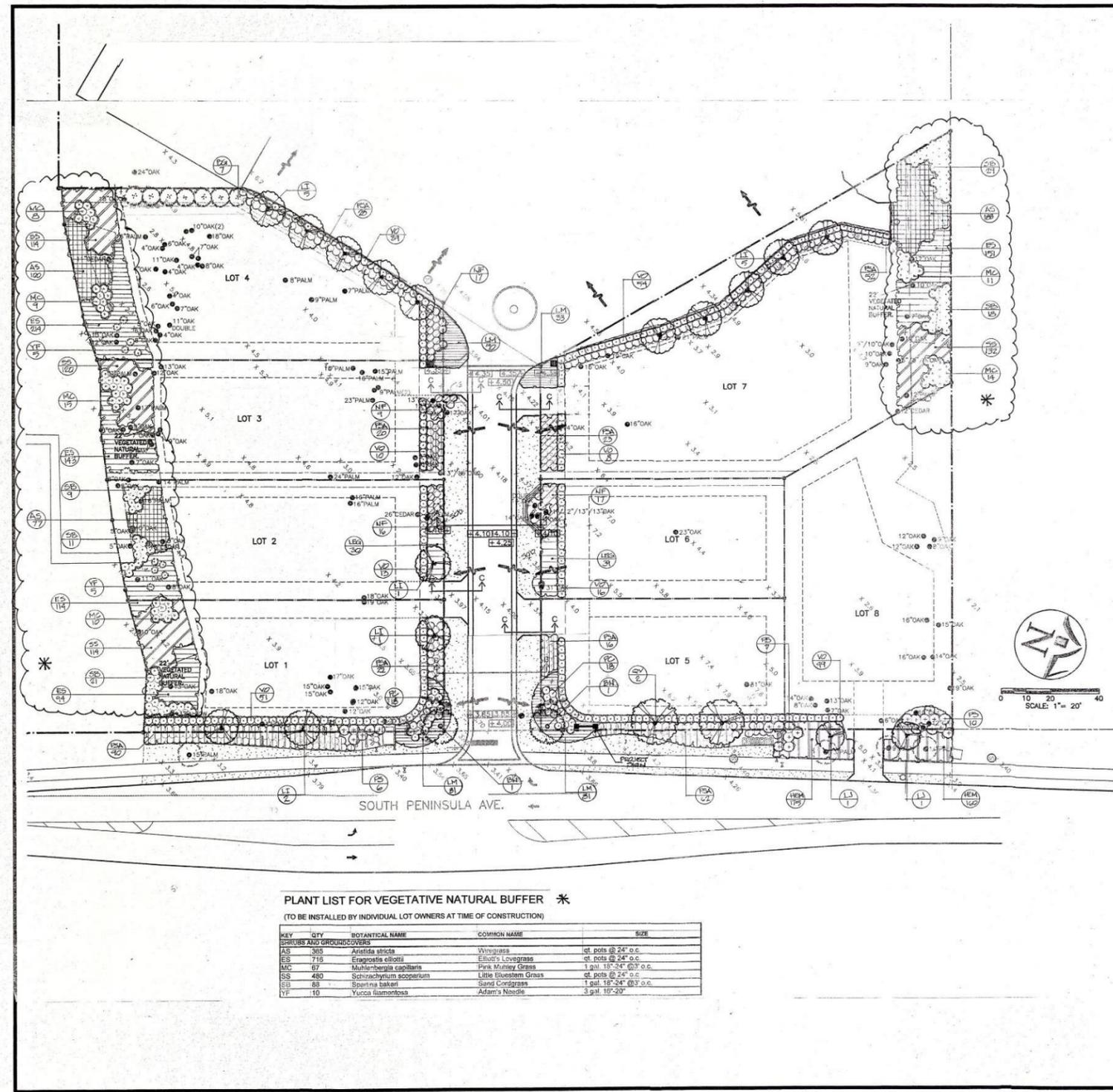
**CLEARING & DEMOLITION PLAN FOR:  
CALLALISA PRESERVE**  
524 SOUTH PENINSULA AVENUE  
NEW SMYRNA BEACH, FLORIDA

REV.	DATE	NOTES
1	11/25/15	P.E.C. COMMENTS

DRAFTER: DBA  
CHECKED BY: RD  
PROJECT NO.: 1012

CLIENT: PATRICK KNIGHT

**SHEET NO.  
C-3**



**PLANT LIST FOR VEGETATIVE NATURAL BUFFER \***  
 (TO BE INSTALLED BY INDIVIDUAL LOT OWNERS AT TIME OF CONSTRUCTION)

KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE
AS	385	Aristida stricta	Wiregrass	qt. pots @ 24" o.c.
ES	719	Eragrostis ciliata	Elephant's Livergrass	qt. pots @ 24" o.c.
MC	67	Muhlenbergia capillaris	Pink Muhly Grass	1 gal. 18"-24" @ 3" o.c.
SS	480	Schizachyrium scoparium	Little Bluestem Grass	qt. pots @ 24" o.c.
SB	88	Sperma bakeri	Sand Cordgrass	1 gal. 18"-24" @ 3" o.c.
YC	10	Yucca filamentosa	Adam's Needle	3 gal. 18"-24"

- NOTES:**
1. In the event of variation between the quantities shown on the plant list and the plans, the plans shall control. Sod quantity take-offs are the responsibility of the landscape contractor.
  2. No plant material substitutions shall be permitted or will be accepted without the written consent of the Landscape Architect.
  3. Fertilizer shall be applied to all planting areas at the rate of 1 1/2 lbs of actual nitrogen, 1 1/2 lbs of actual phosphorus, and 1 1/2 lbs. of actual potash per 1000 square feet of planting area.
  4. All plantings shall be backfilled with a mixture of 2/3 of the best of the on-site soil and 1/3 potting soil.
  5. It is the responsibility of the landscape contractor to prevent plants from falling or being blown over. The landscape contractor shall straighten, repair, and/or replace any plants damaged by a failure to properly stake or guy any trees on-site, at his/her own expense. The landscape contractor shall not be responsible for any trees blown over or damaged by winds in excess of 50 miles per hour.
  6. Unless otherwise stated on these plans, the landscape contractor shall only be responsible for fine grading of the planting and sodded areas.
  7. The landscape contractor shall assure that this work does not interrupt existing or projected drainage patterns.
  8. All sod must be placed with staggered joints, tightly butted, with no gaps or overlapping pieces. All sod shall be rolled.
  9. All planting beds shall be top dressed with 2 1/2" - 3" of pine bark nugget mulch.
  10. The landscape contractor shall remove his/her excess waste material from the project site on a daily basis.
  11. Maintenance shall be the responsibility of the landscape contractor until such time as final acceptance of the project has been granted by the Landscape Architect. Maintenance shall include watering, mowing, weeding, pruning, replacement of dead and dying plants, cutting sod and any other operation necessary for the proper care of these plants.
  12. All trees, shrubs, ground covers and sod shall be guaranteed for one year from date of substantial completion of this project. Replacement of material shall be guaranteed for an additional one year.
  13. The landscape contractor shall not be responsible to honor any warranty for the loss of any trees, shrubs, ground covers, or sod caused by flooding, fire, freezing temperatures, winds over 50 miles per hour, lightning or any other natural disaster. The landscape contractor is also not responsible for any damage caused by vandalism or negligence on the part of the owner.
  14. All plant material shall be Florida Number 1 or better in quality as described in Florida Grades and Standards for Nursery Plants, Florida Department of Agriculture.
  15. The Landscape Architect shall have the right, at any time during these operations to reject any and all plant material and workmanship which in his/her opinion does not meet the requirements of these specifications.

**PLANT LIST**

KEY	QTY	BOTANICAL NAME	COMMON NAME	SIZE
DA	2	Dianella nobilis 'Silver Select'	Bismarck Palm	14" o.a. Full Symmetrical head, match
BTG	7	Bambusa nuda 'Gracilis'	Weaver's Bamboo	15 gal. 12-14" o.a. @ 7" o.c.
LJ	2	Ligustrum japonicum	Ligustrum Tree	10' x 10' 5-6" CT, 3-4 main stems
LI	14	Lagerstroemia indica 'Muskogee'	Lavender Crape Myrtle	30 gal. 12-14" x 6-8"
QV	2	Quercus virginiana	Live Oak Tree	45 gal. 12-14" x 6-8", 2.5-3" calip
<b>SHRUBS AND GROUNDCOVERS</b>				
HEM	335	Hemerocallis spp.	Daylily	1 gal. @ 18" o.c.
LM	245	Lantana camara 'gold mound'	Yellow Lantana	1 gal. @ 24" o.c.
LEG	69	Liriope Emerald Goddess'	Giant Border Grass	1 gal. @ 24" o.c.
NE	59	Nephrolepis falcata	Macho Fern	3 gal. 18"-24" @ 3" o.c.
PSA	313	Pennisetum setaceum 'Alba'	White Fountain Grass	3 gal. 18"-24" @ 3" o.c.
PS	23	Philodendron selloum	Split-leaf Philodendron	3 gal. 30"-36" spnd. @ 4" o.c.
PC	29	Plumbago 'Imperial Blue'	Plumbago	3 gal. 18"-24" @ 3" o.c.
VO	240	Verbena odoratissima	Sweet Verbena	3 gal. 30"-36" HT @ 3" o.c.
SOD	4800 S.F.	St. Augustine 'Palmetto' Sod		
MULCH	125 C.Y.	Pine Bark Mulch		

THE TWO EXISTING PALMS AT ENTRANCE  
 TO BE RELOCATED OR REPLACED WITH EQUIVALENT



DATE: 09-28-15

ANDERSON-DIXON, LLC  
 ENGINEERING-PLANNING-DRAWING  
 PHONE: (386) 428-5834 - FAX: (386) 493-3781

RICHARD J. DIXON, P.E.  
 PROFESSIONAL ENGINEER  
 FL REG # 47644  
 102 SOUTH ORANGE STREET  
 NEW SMYRNA BEACH, FL  
 32168 (386) 428-5834

LANDSCAPE PLAN  
**CALLALISA PRESERVE**  
 524 SOUTH PENINSULA AVENUE  
 NEW SMYRNA BEACH, FLORIDA

REV: 11/29/15  
 DATE: 11/29/15  
 BY: J.C. DEWINE  
 CHECKED BY: J.C. DEWINE  
 PROJECT NO.: 102

CLIENT: PATRICK KNIGHT  
 DRAFTER: DBA

SHEET NO.  
 LA - 1

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
**SP-8-15: BRILLIANCE ALF / DR. AILANI – US 1 &  
WAYNE AVE. (CLASS III)**  
JANUARY 4, 2016

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**I. INTRODUCTION**

- A. **Applicant and Property Owner:** Dr. Rajesh K. Ailani, 1055 North Dixie Freeway, New Smyrna Beach, Florida 32168
- B. **Request:** Class III Site Plan approval for a 54 bed Adult Congregate Living (ALF) facility, to be redeveloped within an existing developed and currently unoccupied property.
- C. **Site Data:** The 1.2 acre site is at the southeast corner of the intersection of US1 and Wayne Avenue and is zoned B3, Highway Service Business District. A location map is attached as **Exhibit A**, along with an aerial photo of the site attached as **Exhibit B**.
- D. **TAX ID #:** 7441-02-00-1020 (now includes previous parcel # 7441-02-00-0970, per VCPA website)

**II. FINDINGS**

- A. The 1.2 acre corner site is in a prime commercial location, at the southeast corner of U. S. 1 /No. Dixie Freeway and Wayne Avenue, and has been developed with the currently existing buildings since the early 1970's. These buildings accommodated various retail and office uses during that time, and also served as the initial Southeast Volusia campus for what is now Daytona State College. The site is surrounded by the two major roads listed above (to the west and north) and a 15' wide unpaved alley to the east. In addition, the former property owner obtained an existing easement within the church property that is east of that alley, which allows the subject property owner to use the westernmost 20' of that church property adjacent to that alley for parking.
- B. The subject property has been underutilized in recent years, to the point where there are no current occupants, and the property was listed for sale for a number of years prior to the applicant purchasing it. The applicant is interested in redeveloping the site and its existing buildings, and has submitted this Class III Site Plan application for that purpose, for conversion into a 54 bed Assisted Living Facility (ALF). That site plan application was first reviewed at the June 5 Plan Review Committee (PRC) meeting, and again at a later December 4, 2015 PRC meeting.
- C. During this site plan review process, the applicant also requested three variance requests (as Case V-20-15) to allow for the proposed site plan,

and associated with the proposed renovation of the existing building for use as an Assisted Living Facility (ALF). Those specific requests were to:

- 1) Increase the maximum permitted building height from 35 feet to 42 feet,
- 2) Allow a pool to be installed in the front yard between the primary structure and the public right-of-way, and
- 3) Reduce the required setback for a dumpster enclosure from 5 feet to 1 foot.

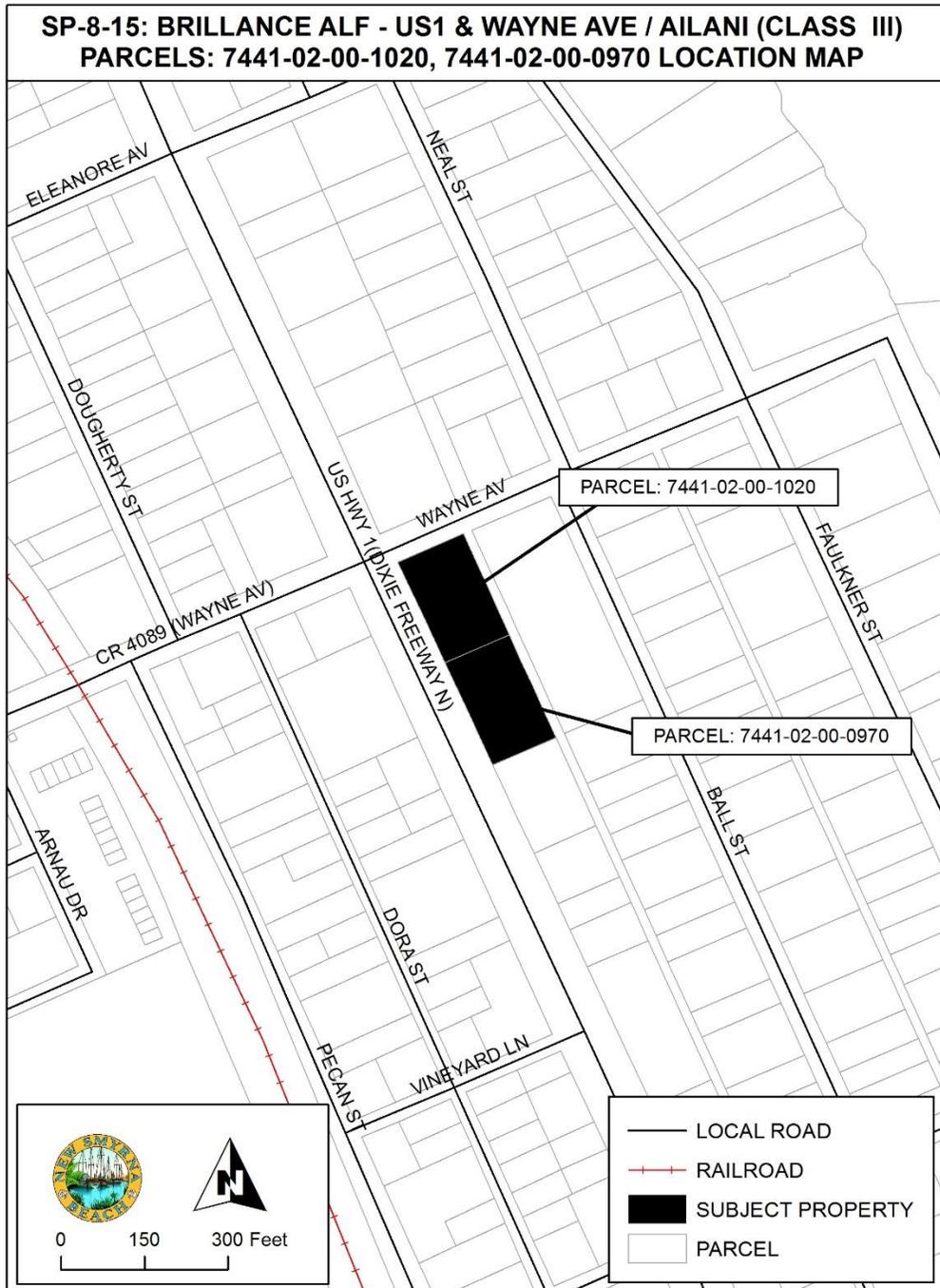
The above three variance requests were approved by the Planning and Zoning Board at the August 3, 2015 meeting, with six specific conditions as recommended by staff then attached to those approvals. The site plans now submitted for approval comply with all of the variance approvals and the associated conditions.

- D. Certain select and currently proposed Site Plan sheets from the most recent resubmittal are included as **Exhibit C**, with proposed building plans following as **Exhibit D**. As of the date this report is being written, not all PRC members have signed off on this Site Plan application, with approval signatures of those PRC members still outstanding being those of the City Engineer, Building Official, Utilities Commission, and Public Works Department. The City Land Development Regulations (LDR) allow PRC members ten working days following the resubmittal to review the plans and then provide comments or approve the plans, with no comments provided to date and this time period not yet completed. That ten day PRC period will end prior to the Planning and Zoning Board meeting at which this application is scheduled, and an update as to all staff/PRC comments and/or approvals can be provided to the Board at that time.

### **Recommendation**

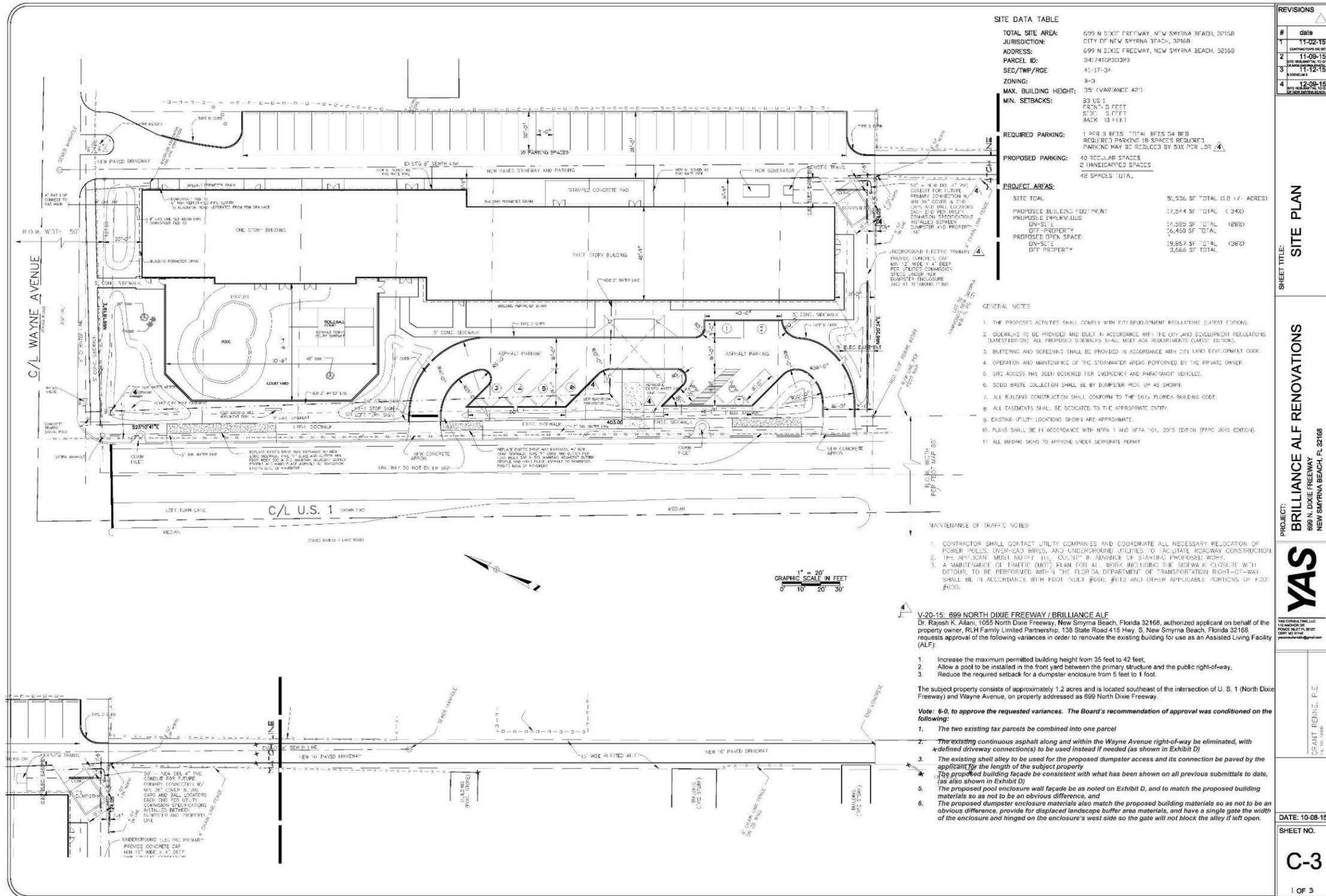
Staff recommends **approval** of this Site Plan application, with the condition that any outstanding items be addressed by the applicant for the plan to then be approved by all PRC members, as part of the review process still pending at the time of this report.

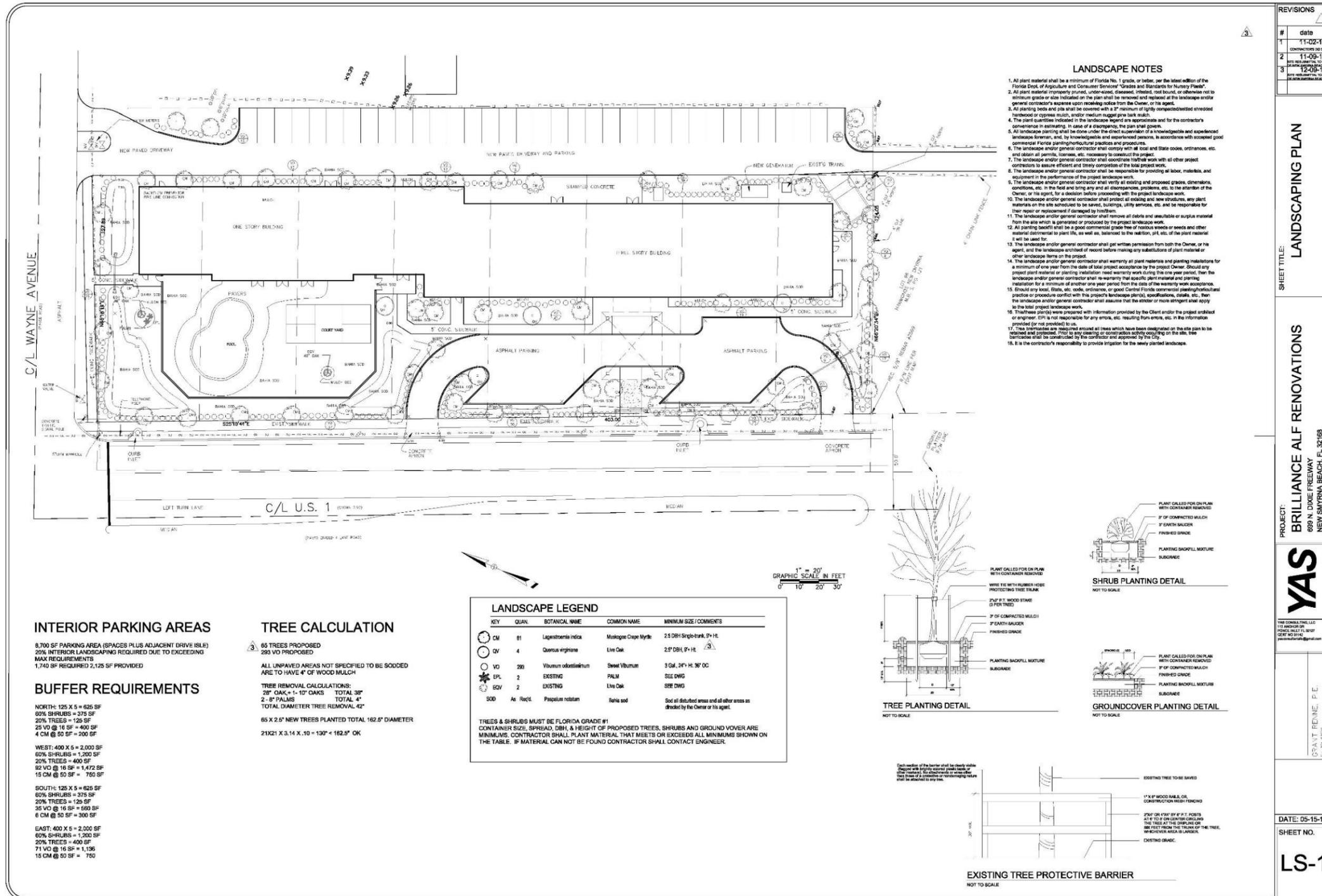
**EXHIBIT A**  
**Location Map**



**EXHIBIT B**  
**Aerial Map**







**INTERIOR PARKING AREAS**

8,700 SF PARKING AREA (SPACES PLUS ADJACENT DRIVE ISLE)  
 20% INTERIOR LANDSCAPING REQUIRED DUE TO EXCEEDING  
 MAX REQUIREMENTS  
 1,740 SF REQUIRED 2,125 SF PROVIDED

**BUFFER REQUIREMENTS**

**NORTH:** 125 X 5 = 625 SF  
 60% SHRUBS = 375 SF  
 20% TREES = 125 SF  
 25 VO @ 16 SF = 400 SF  
 4 CM @ 50 SF = 200 SF

**WEST:** 400 X 5 = 2,000 SF  
 60% SHRUBS = 1,200 SF  
 20% TREES = 400 SF  
 32 VO @ 16 SF = 512 SF  
 15 CM @ 50 SF = 750 SF

**SOUTH:** 125 X 5 = 625 SF  
 60% SHRUBS = 375 SF  
 20% TREES = 125 SF  
 35 VO @ 16 SF = 560 SF  
 6 CM @ 50 SF = 300 SF

**EAST:** 400 X 5 = 2,000 SF  
 60% SHRUBS = 1,200 SF  
 20% TREES = 400 SF  
 71 VO @ 16 SF = 1,136 SF  
 15 CM @ 50 SF = 750 SF

**TREE CALCULATION**

85 TREES PROPOSED  
 283 VO PROPOSED

ALL UNPAVED AREAS NOT SPECIFIED TO BE SOODED  
 ARE TO HAVE 4" OF WOOD MULCH

**TREE REMOVAL CALCULATIONS:**  
 28" OAK + 1" OAKS TOTAL 38"  
 2" 8" PALMS TOTAL 4"  
 TOTAL DIAMETER TREE REMOVAL 42"

65 X 2.5" NEW TREES PLANTED TOTAL 162.5" DIAMETER  
 21X21 X 3.14 X .10 = 130" < 162.5" OK

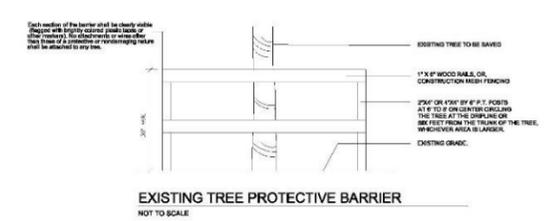
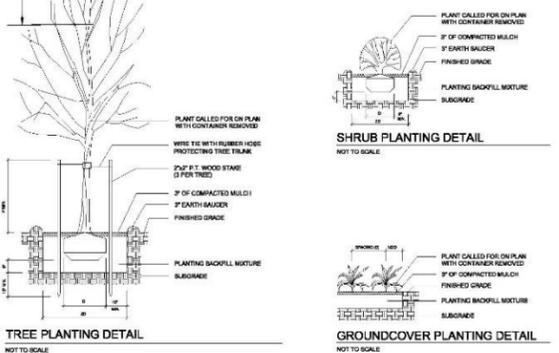
**LANDSCAPE LEGEND**

KEY	QUAN.	BOTANICAL NAME	COMMON NAME	MINIMUM SIZE / COMMENTS
CM	81	Lagerstrœmia indica	Muskogee Crape Myrtle	2.5 DBH Single-trunk, 7' Ht.
OV	4	Quercus virginiana	Live Oak	2.5" DBH 7' Ht.
VO	283	Viburnum odoratissimum	Sweet Viburnum	3 Gal, 24" H, 30" OC
EPL	2	EXISTING	PALM	SEE DWG
EQV	2	EXISTING	Live Oak	SEE DWG
SOD	As Rec'd	Paspalum notatum	Bahiã sod	Sod all disturbed areas and all other areas as directed by the Owner or his agent.

TREES & SHRUBS MUST BE FLORIDA GRADE #1  
 CONTAINER SIZE, SPREAD, DBH, & HEIGHT OF PROPOSED TREES, SHRUBS AND GROUND COVER ARE  
 MINIMUMS. CONTRACTOR SHALL PLANT MATERIAL THAT MEETS OR EXCEEDS ALL MINIMUMS SHOWN ON  
 THE TABLE. IF MATERIAL CAN NOT BE FOUND CONTRACTOR SHALL CONTACT ENGINEER.

**LANDSCAPE NOTES**

- All plant material shall be a minimum of Florida No. 1 grade, or better, per the latest edition of the Florida Book of Agriculture and Consumer Services "Grades and Standards for Nursery Plants".
- All plant material (improperly pruned, under-sized, diseased, infested, root bound, or otherwise not to minimum grade or size indicated on the plan) shall be removed and replaced at the landscape and/or general contractor's expense upon receiving notice from the Owner, or his agent.
- All planting beds and pits shall be covered with a 2" minimum of lightly compacted/bedded shredded hardwood or copes mulch, and/or medium nugget pine bark mulch.
- The plant quantities indicated in the landscape legend are approximate and for the contractor's convenience in estimating. In case of a discrepancy, the plan shall govern.
- All landscape planting shall be done under the direct supervision of a knowledgeable and experienced landscape foreman, and, by knowledgeable and experienced persons, in accordance with accepted good commercial Florida planting/horticultural practices and procedures.
- The landscape and/or general contractor shall comply with all local and state codes, ordinances, etc. and obtain all permits, licenses, etc. necessary to construct the project.
- The landscape and/or general contractor shall coordinate his/her work with all other project contractors to assure efficient and timely completion of the landscape work.
- The landscape and/or general contractor shall be responsible for providing all labor, materials, and equipment in the performance of the proposed landscape work.
- The landscape and/or general contractor shall verify all existing and proposed grades, dimensions, conditions, etc. in the field and bring any and all discrepancies, problems, etc. to the attention of the Owner, or his agent, for a decision before proceeding with the project landscape work.
- The landscape and/or general contractor shall protect all existing and new structures, any plant materials on the site scheduled to be saved, buildings, utility services, etc. and be responsible for their repair or replacement if damaged by him/them.
- The landscape and/or general contractor shall remove all debris and unusable or surplus material from the site which is generated or produced by the project landscape work.
- All planting beds shall be a good commercial grade free of noxious weeds or seeds and other material detrimental to plant life, as well as, balanced to the nutrition, pH, etc. of the plant material that will be used for.
- The landscape and/or general contractor shall get written permission from both the Owner, or his agent, and the landscape architect of record before making any substitutions of plant material or other landscape items on the project.
- The landscape and/or general contractor shall warranty all plant materials and planting installations for a minimum of one year from the date of last project acceptance by the project Owner. Should any project plant material or planting installation need warranty work during the one year period, then the landscape and/or general contractor shall warranty that specify plant material and planting installation for a minimum of another one year period from the date of the warranty work acceptance.
- Should any local, state, etc. codes, ordinances, or good Commercial Florida commercial planting/horticultural practice or procedure conflict with this project's landscape plan(s), specifications, details, etc., then the landscape and/or general contractor shall assume that the stricter or more stringent shall apply to the total project landscape work.
- The landscape plan(s) were prepared with information provided by the Client and/or the project architect or engineer. C/P is not responsible for any errors, etc. resulting from errors, etc. in the information provided (or not provided) to us.
- The landscape plan(s) are prepared around all trees which have been designated on the site plan to be retained and protected. Prior to any clearing or construction activity occurring on the site, the contractor shall be consulted by the architect and approved by the City.
- It is the contractor's responsibility to provide irrigation for the newly planted landscape.



**REVISIONS**

#	date
1	11-02-15
2	11-09-15
3	12-08-15

SHEET TITLE: **LANDSCAPING PLAN**

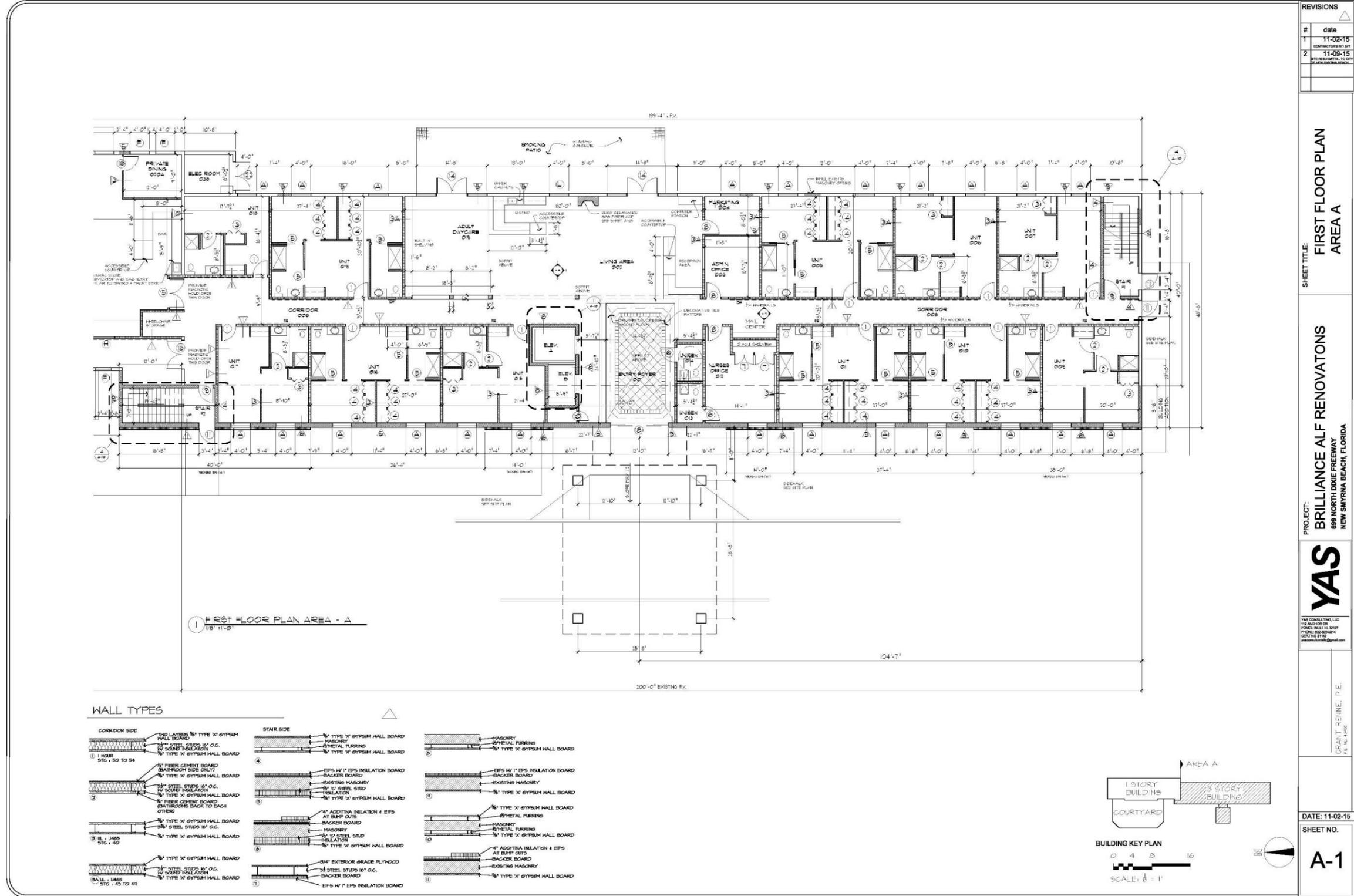
PROJECT: **BRILLIANCE ALF RENOVATIONS**  
 699 N. DIXIE FREEWAY  
 NEW SMYRNA BEACH, FL 32169



THE COMPANY SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF NEW SMYRNA BEACH, FLORIDA.

DATE: 05-15-15

SHEET NO. **LS-1**



REVISIONS

#	date
1	11-02-15
2	11-09-15

SHEET TITLE:  
**FIRST FLOOR PLAN  
 AREA A**

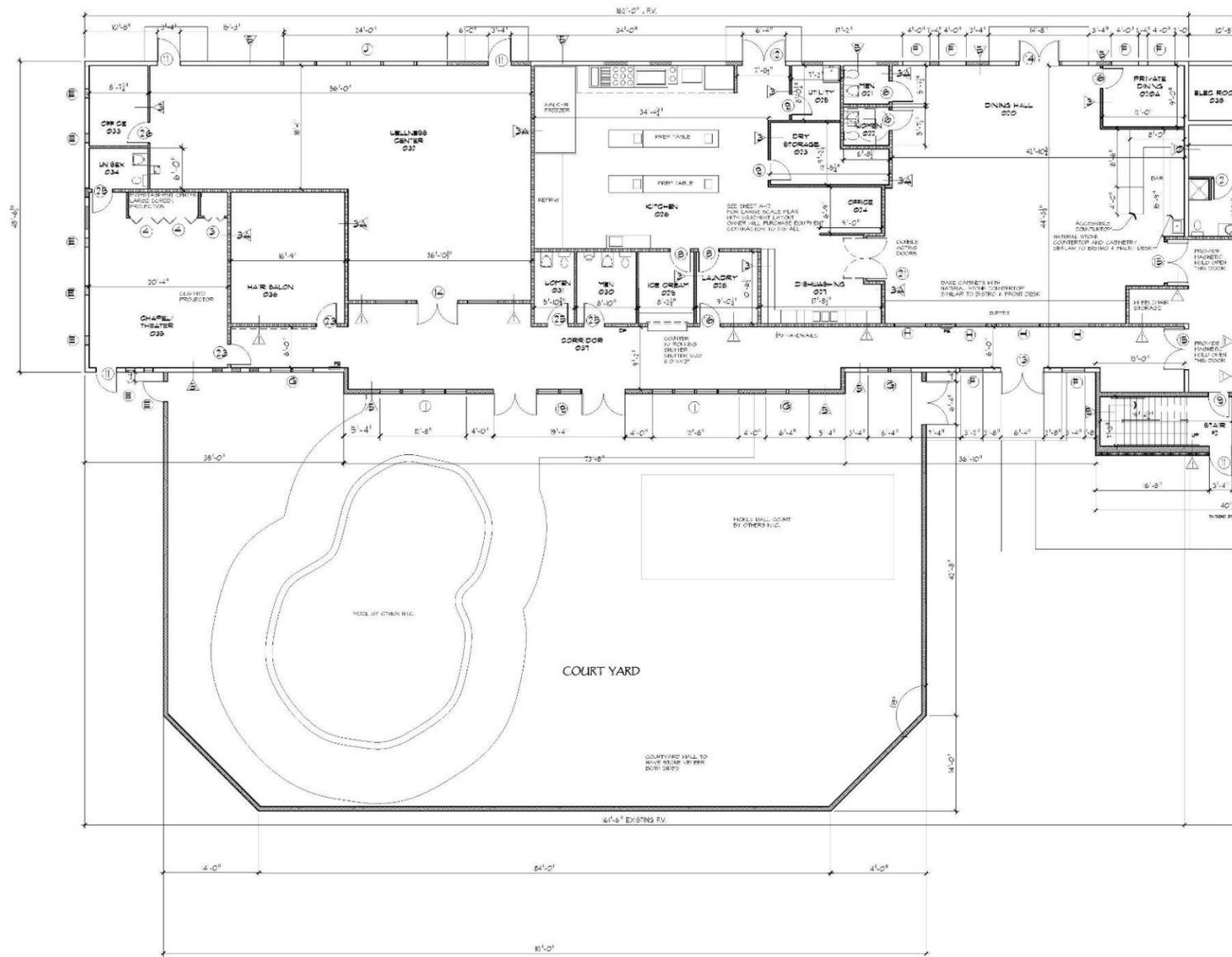
PROJECT:  
**BRILLIANCE ALF RENOVATIONS  
 699 NORTH DUNE FREEWAY  
 NEW SMYRNA BEACH, FLORIDA**



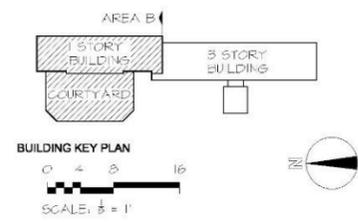
GRANT REINE, P.E.  
 P.L. No. 14302

DATE: 11-02-15  
 SHEET NO.

**A-1**



- GENERAL NOTES
- CONTRACTOR TO FIELD VERIFY ALL EXISTING CONDITIONS AND DIMENSIONS INCLUDING HEIGHTS BEFORE STARTING WORK. CONTACT ENGINEER IF DIMENSIONS OR RELATIONSHIPS ARE DIFFERENT THAN INDICATED.
  - ALL PLAN ANGLES ARE 90° OR 45° UNLESS OTHERWISE NOTED.
  - REFERENCE FINISH SCHEDULE FOR EXTENT OF FINISHES. ALL FINISHES NOTED ON SCHEDULE ARE NEW UNLESS OTHERWISE NOTED AS EXISTING TO REMAIN.
  - COORDINATE ALL WORK WITH ELECTRICAL AND MECHANICAL CONTRACTOR. GC/CM TO COORDINATE LOCATION OF ALL EQUIPMENT. PROVIDE OPENINGS IN WALL AND FLOORS AND PROVIDE HOUSE KEEPING PADS AS REQUIRED FOR ALL EQUIPMENT. GC/CM TO PROVIDE FIRE RATED PANELS FOR ELECTRICAL EQUIPMENT.
  - CORRIDOR WALLS AND UNIT PARTY WALLS SHALL BE CONTINUOUS TO THE UNDERSIDE OF THE FLOOR DECK OR ROOF DECK. WALLS SHALL HAVE A MIN. R/C RATING OF 54.
  - ALL CLOSET TO RECEIVE SHELF & ROD UNLESS OTHERWISE NOTED.
  - DIMENSIONS ARE FROM EDGE OF SLAB, FACE OF NEW STUDS, FACE OF EXIST WALLS, UNLESS OTHERWISE NOTED.
  - ALL INTERIOR WALLS TO BE 20 GA STL STUDS @ 16" O.C. UNLESS NOTED OTHERWISE. CEILING JOISTS SHALL BE 955J/6 @ 16" O.C. A LIGHT GAUGE METAL FRAMING SHALL BE INSTALLED IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS. SIZES ARE BASED ON U.S. GYPSUM COMPANY.
  - INSTALL HANDRAILS ON BOTH SIDES OF CORRIDORS. RETURN HANDRAIL ENDS INTO WALL. MID HEIGHT SHALL BE 34" AFF.
  - TOILET ROOMS SHALL ACCOMMODATE THE DISABLED PER THE AMERICANS WITH DISABILITIES ACT (ADA) AND SHALL COMPLY WITH ALL LOCAL APPLICABLE FEDERAL, STATE AND LOCAL REQUIREMENTS FOR ACCESSIBILITY.
  - DO NOT SCALE DIMENSIONS FROM DRAWINGS. IN CASE OF MISSING OR CONFLICTING DIMENSIONS CONTACT ENGINEER.
  - PROVIDE FIRE STOPPING AT CONNECTIONS BETWEEN VERTICAL AND HORIZONTAL SPACES. FIRE CAULK OR SEAL ANY PENETRATIONS THROUGH RATED ASSEMBLIES.
  - GC/CM TO PROVIDE BLOCKING IN WALLS FOR ALL GRAB BARS, TOILET ACCESSORIES, WALL STOPS, WALL CABINETS AND OTHER WALL MOUNTED EQUIPMENT.
  - CLOSET FINISHES SHALL MATCH THAT OF THE ADJACENT ROOMS.
  - GC/CM TO PROVIDE ALL REQUIRED PATCHING FOR INDICATED NEW WORK, INCLUDING INSTALLATION OF ELECTRICAL AND MECHANICAL WORK AT WHERE EXISTING FINISHES ON WALLS, CEILING ETC ARE INDICATED TO REMAIN.
  - ALL NEW GRADES AROUND BUILDINGS SHALL BE A MINIMUM OF 8" FROM ANY EXTERIOR FINISH MATERIALS.
  - ROOMS IDENTIFIED TO HAVE A FIRE RATING SHALL HAVE 1 HR SEPARATION AT CEILING AND WALLS. ALL PENETRATIONS THROUGH CEILING, WALLS AND FLOORS SHALL BE SEALED.
  - PROVIDE ACOUSTICAL INSULATION AT ALL CORRIDOR WALLS, UNIT PARTY WALLS AND BATHROOM WALLS AND AS INDICATED PER WALL TYPES.
  - ALL GWB SHALL BE 3/8" TYPE 'X' UNLESS OTHERWISE NOTED.
  - PATCH ALL EXISTING WALLS WHERE WALLS, MISC. APPURTENANCES HAS BEEN REMOVED.
  - ALL CORRIDORS TO HAVE 1 1/2" HANDRAILS MOUNTED AT 34" AFF. BOTH SIDES.
  - RECESSED FIRE EXTINGUISHER CABINET AMBASSADOR STEEL CABINET OR EQUAL RECESSED DIFFUSIBLE STATION AED CABINET AMP 180.



REVISIONS	
#	DATE
1	11-02-15
2	11-09-15

SHEET TITLE:  
**FIRST FLOOR PLAN  
 AREA B**

PROJECT:  
**BRILLIANCE ALF RENOVATIONS  
 609 NORTH DIXIE FREEWAY  
 NEW SMYRNA BEACH, FLORIDA**

**YAS**  
 THE CONSULTING LLC  
 1150 W. PALM BEACH BLVD  
 SUITE 1000  
 PALM BEACH, FL 33480-4404  
 PHONE: 561-838-0274  
 FAX: 561-838-0275  
 yas@yasllc.com

GRANT RENNE, P.E.  
 P.E. NO. 4482

DATE: 11-02-15  
 SHEET NO.

**A-2**

**1 FRONT ELEVATION - WEST**  
 1/8" = 1'-0"

**2 REAR ELEVATION - EAST**  
 1/8" = 1'-0"

**3 SIDE ELEVATION - NORTH**  
 1/8" = 1'-0"

**4 SIDE ELEVATION - SOUTH**  
 1/8" = 1'-0"

**GENERAL NOTES:**

- ALL DIMENSIONS SHOWN ARE FILED MEASUREMENTS TAKEN BY THE ENGINEER. THE ENGINEER DOES NOT MAKE ANY WARRANTY, EXPRESSED OR IMPLIED, OR ASSUME ANY LIABILITY OR RESPONSIBILITY FOR THE ACCURACY OF EXISTING DIMENSIONS.
- ACTUAL ELEVATIONS, HEIGHTS, GRADES AND FINISH FLOOR ELEVATION TO BE FIELD VERIFIED BY CONTRACTOR PRIOR TO THE START OF WORK OR ORDERING OF MATERIALS.

**ELEVATION KEY NOTES**

- EFS COLOR A
- EFS COLOR B
- EFS COLOR C
- EFS 4" THICK
- EFS 1" THICK
- EFS 3" THICK TRIM
- STONE VENEER 4 CAP
- ASPHALT SHINGLES  
 ALT. BID: STANDING SEAM MET. ROOF
- RIDGE VENT
- PTAC GRILLE
- ORNAMENTAL GUPOLA
- LINE OF COURTYARD HALL BEYOND
- CONTROL JOINT PER MANUFACTURER DETAIL AND RECOMMENDATION
- REFERENCE MECHANICAL DRAWINGS FOR EQUIPMENT TYPE AND CURSING REQUIREMENTS.
- ELECTRICAL CONDUIT CHASE
- KITCHEN HOOD EXHAUST

NOTE ALL BUILDING COLORS TO BE FROM EARTH TONE PALETTE

**BUILDING KEY PLAN**  
 0 4 8 16 32  
 SCALE: 1/8" = 1'

REVISIONS	
#	DATE
1	11-02-15
2	11-09-15

SHEET TITLE:  
**BUILDING ELEVATIONS**

PROJECT:  
**BRILLIANCE ALF RENOVATIONS**  
 688 NORTH DIXIE FREEWAY  
 NEW SMYRNA BEACH, FLORIDA

**YAS**  
 THE CONSULTING LLC  
 1515 ANDERSON DRIVE  
 FORT MYERS, FL 33907  
 PHONE: 888-338-2114  
 FAX: 888-338-2114  
 WWW.YASCONSULTING.COM

GRANT RENNE, P.E.  
 BY: [Signature]

DATE: 11-02-15  
 SHEET NO.  
**A-7**

# Interoffice Memorandum

## City of New Smyrna Beach

**To:** New Smyrna Beach Planning and Zoning Board Members

**From:** Jeff Gove, AICP, Interim Planning Director

**Subject:** Request for Continuance, Item J, SP-19-15: RESPLENDENT MF / PORTOFINO BLVD. (CLASS III)

**Date:** December 18, 2016

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This agenda item is requested by staff to be continued to a future and/or the following meeting of February 1, 2016, due to the requirements of Article XI Site Plan Approval, Section 3. Approval Process, C. (5), which states (pertinent section underlined):

Planning and zoning board approval. In addition to PRC review and approval, Class III site plans must also be reviewed and approved by the planning and zoning board. Only projects with ten or fewer outstanding technical and procedural comments shall be submitted by the planning and engineering department to the planning and zoning board for consideration, unless waived by the planning and zoning board.

A number of outstanding technical and/or procedural comments remain outstanding at this time, which are listed and detailed below.

This application was first reviewed at the October 2, 2015 Plan Review Committee (PRC) meeting, after a pre-application meeting in April and subsequent months. Review comments were then provided to the applicant at that October PRC meeting, and the applicant resubmitted revised plan documents to address those comments on December 4, 2015.

As of the date this report is being written, not all PRC members have signed off on this Site Plan application, with approval signatures still outstanding being those of the City Engineer, Building Official, City Horticulturist, City Planner, and Utilities Commission. The City Land Development Regulations (LDR) allow PRC members ten working days following a resubmittal to review the plans and then provide comments or approve the plans. That ten day PRC resubmittal review period has not yet ended as of this time of this report being prepared, but will end prior to the January Planning and Zoning Board meeting for which this application is currently scheduled. Any updates as to staff/PRC comments and/or approvals that may occur prior to that January meeting can then be provided to the Board at that time if requested.

Request for Continuance, Item J, SP-19-15: RESPLENDENT MF / PORTOFINO BLVD.  
December 18, 2016

However, current review comments now already include over ten outstanding items to be addressed, as such:

- 1) The Utilities Commission has provided the applicant (in a 12/14/15 email) a list of 25 comments to be addressed before they can approve the currently submitted plan.
- 2) The required review and approval of the required Traffic Impact Analysis (TIA) is still not complete as of the date of this memo, with a review letter from the City's traffic consultant for this TIA expected shortly.
- 3) The applicants were asked at the 10/2/15 PRC meeting to provide the required evidence of application and review by the Volusia County School Board regarding the proposed units and available school capacities in the area, and responded in the 12/4/15 resubmittal that approval letter would be provided to the City upon receipt. That has not occurred as of this date.

In addition, there may be further review comments from those PRC members who have not yet signed off on the plan, in addition to those in the above list that remain to be addressed. These various outstanding items will need to be satisfied by the applicant, in accordance with the above stated LDR requirement, before this can be scheduled for any future Planning and Zoning Board agenda.

For reference, the agenda for the following Planning and Zoning Board meeting of February 1, 2016 is tentatively set to be posted on January 22, 2016. All outstanding site plan review comments would have to meet the above LDR requirements to be posted for that February meeting at least a week prior to that January 22 agenda posting date, so a current and complete staff report and recommendation regarding this application can then be prepared and posted for the February meeting agenda date.

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
2 **V-1-16: 101 ESTHER STREET / DARRENKAMP**  
3 **JANUARY 4, 2016**  
4

---

5 **I. Summary**

6  
7 A. **Applicants and Property Owners:** Kevin C. and Terri L. Darrenkamp, 101  
8 Esther Street, New Smyrna Beach, Florida 32169  
9

10 B. **Request:**

- 11 1. Approval of a variance to allow a 6 foot high fence in a front yard.  
12 2. Approval of a variance to allow a future 6 foot high fence to replace  
13 the existing 4 foot high fence located in a front yard and in the  
14 waterfront visibility triangle on an “Atypical” lot.  
15

16 C. **Site Information:** The subject property consists of approximately 0.28  
17 acres, is zoned R-2, Single-Family Residential, and is generally located on  
18 the south side of Esther Street, north of Flagler Avenue, on property  
19 addressed as 101 Esther Street. A location map which shows the general  
20 area of the site is attached as **Exhibit A**, along with an aerial photo attached  
21 as **Exhibit B**.  
22

23 D. **Tax I.D. Number:** 7455-01-00-0991  
24

25 **II. Findings**

26  
27 A. The property is an “atypical” parcel with one front yard and has waterfront  
28 on the west side of the parcel. The subject property currently has an existing  
29 single-family house within the Walker Grant. The property has  
30 approximately 122.48 linear feet of frontage at Esther Street 94.90 linear  
31 feet of frontage to the Indian River. A property survey is attached as **Exhibit**  
32 **C**. A Site Plan with proposed 6 foot high fence location and existing 4 foot  
33 high fence was submitted by the applicant and is attached as **Exhibit D**.  
34

35 B. According to information from the applicant, they have contacted the City  
36 Manager’s Office, Code Enforcement Office and City Police Department  
37 about repeated trespass issues and harassment from access points on  
38 Esther Street and from the Indian River. Site photos are attached as **Exhibit**  
39 **E**.  
40

41 C. The City’s *Land Development Regulations (LDR) Section 803.03 B*.  
42 Pertaining to fences, walls, hedges, on “Atypical” lots state for properties  
43 that are zoned residential, “Maximum height within the required front yard  
44 setback is 4 feet.” This application is for a variance to the above listed  
45 section in order to allow the property owner to construct a 6 foot high fence  
46 on the north side of the parcel along the frontage on Esther Street and down

1 the entire east side property line, (request #1), and in the future replace the  
2 existing 4 foot high fence in the front yard and in the waterfront visibility  
3 triangle (request #2). Ordinance 77-15, *Fences on "Atypical" Lots*, allows  
4 for 6 foot high fences on the side property lines, but reduces the fence height  
5 to 4 foot in front and rear yards was adopted on September 8, 2015. This  
6 ordinance is attached, as **Exhibit F**. The proposed 6 foot high fence would  
7 be located outside of the waterfront visibility triangle, (request #1), but the  
8 future 6 foot high fence would be located within that visibility triangle,  
9 (request # 2). The two variance requests if approved would allow for a 6  
10 foot high fence to be located in a front yard, with a gate for access, (request  
11 #2) and allow the existing 4 foot high fence that is located in the northwest  
12 section of the front yard and in the waterfront visibility triangle to be replaced  
13 with a 6 foot high fence (request #2).  
14

15 D. The LDR requires variance requests to meet all of the criteria following. A  
16 letter from the applicant which addresses these criteria and a signed  
17 witness letter from neighbors are attached as **Exhibit G**. Staff's responses  
18 to the required criteria are listed below in **bold**.

19  
20 (i) Special circumstances exist which are peculiar to the subject  
21 property owner's land, structure, or building, and do not generally  
22 apply to the neighboring lands, structures, or buildings, in the same  
23 district or vicinity.

24  
25 **There is a special circumstance related to this parcel. The**  
26 **improved Esther Street right-of-way ends at the applicant's**  
27 **driveway and the rest of the Esther Street right-of-way is not**  
28 **improved. The 6 foot height restriction is in place to keep from**  
29 **having a blockade style along street frontages, since the Esther**  
30 **Street right-of-way dead ends at the Indian River, no thru traffic**  
31 **can occur, thus the stockade look would only effect this**  
32 **property and the parcel to the north.**

33  
34 **Staff believes this criterion has been met.**

35  
36 (ii) Strict application of the provisions of this LDR would deprive the  
37 subject property owner of reasonable rights commonly applicable to  
38 other properties in the same district or may preclude a benefit to the  
39 community in general.

40  
41 **Strict application of the LDR to this request would not seem to**  
42 **deprive the subject property owner of reasonable rights**  
43 **commonly applicable to other properties in the same R-2 zoning**

1 district. The 6 foot height restriction is in place to keep from  
2 having a blockade style along street frontages.

3  
4 Since the property owner could meet the front yard setback for  
5 a 6 foot high fence, by relocating back to the house location,  
6 staff cannot find a property hardship for the 6 foot high fence  
7 location. Therefore, strict application of the LDR to this request  
8 would not seem to deprive the subject property owner of  
9 reasonable rights.

10  
11 Staff believes this criterion has not been met.

- 12  
13 (iii) The special circumstances and conditions that exist do not result  
14 from the direct or indirect actions of the present property owner(s) or  
15 past property owner(s). This criterion shall not be satisfied if the  
16 present or past property owner created, to any degree, the hardship  
17 that is the subject of the variance request.

18  
19 There is a special circumstance related to the parcel, as the  
20 subdivision was platted prior to the City's current regulations  
21 regarding waterfront lots and fences. The parcel being located  
22 at the west end of Esther Street that dead ends to the Indian  
23 River and no thru traffic can go past the parcel except the  
24 property owner to the north, the 6 foot high fence would not  
25 seem to create a stockade view from a street that is not regular  
26 accessed by the public other than that of the current and neighboring  
27 property owners.

28  
29 Staff believes this criterion has been met.

- 30  
31 (iv) That granting of the variance will not cause substantial detriment to  
32 the public welfare or impair the purposes and intent of this  
33 Ordinance.

34  
35 Granting of the variance would not seem to cause detriment to  
36 the public welfare or impair the purpose and intent of this  
37 ordinance, but would improve the security conditions that have  
38 been stated by the property owner. The purposes and intent of  
39 this ordinance, is to have regulated views of front yards as the  
40 public travels down the streets of New Smyrna Beach, which in  
41 this case the street is a dead end and this property is the last  
42 property located on the south side of Esther Street.

43  
44 Staff believes this criterion has been met.

- 1  
2 (v) That granting of the variance will not constitute a grant of special  
3 privilege that is denied by this Ordinance to other lands, structures,  
4 or buildings, in the same district.  
5

6 **Approval of the requested variance may appear to constitute a**  
7 **grant of special privilege. Additionally, only one other parcel**  
8 **has the same condition which is located to the north.**  
9

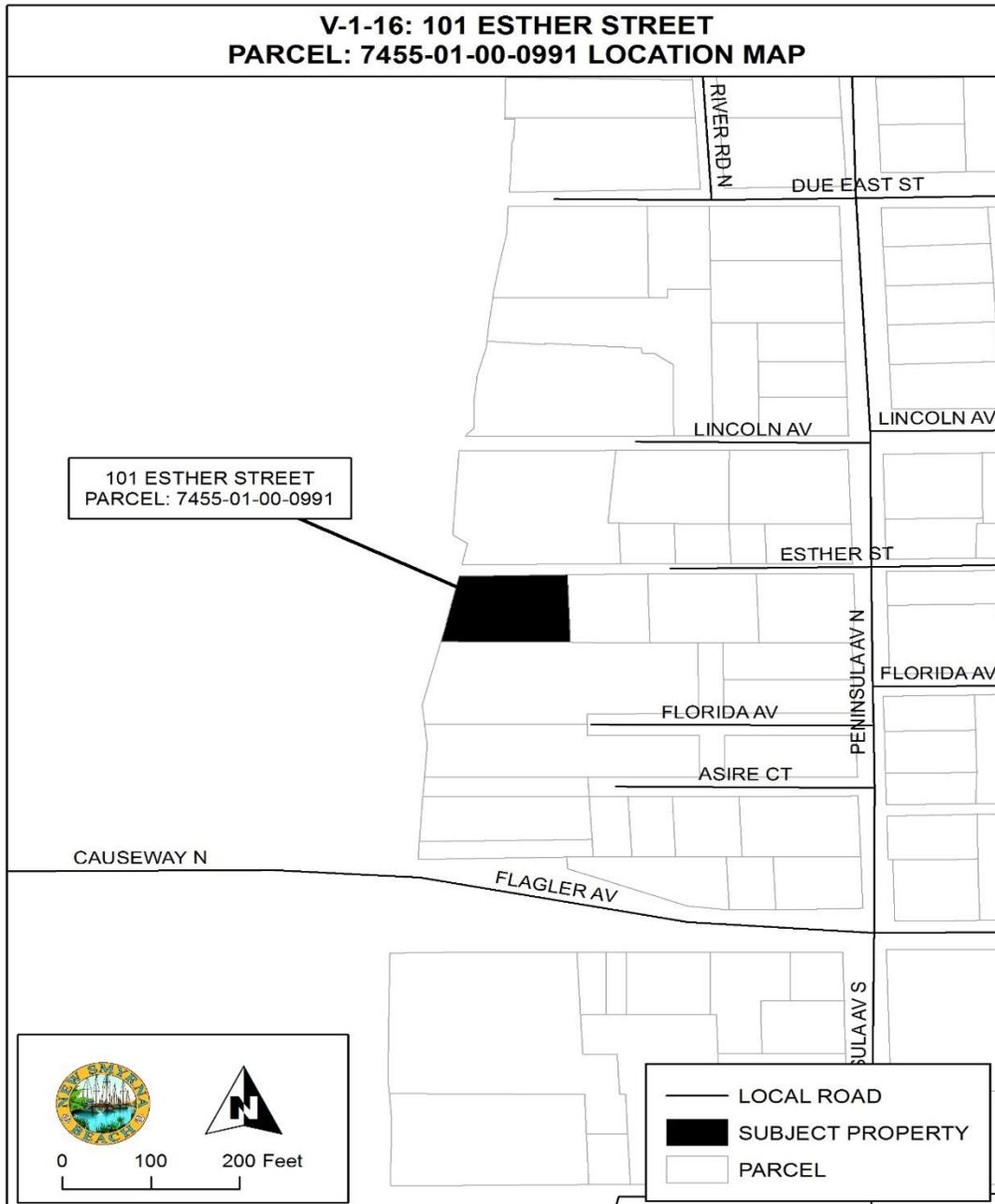
10 **Staff believes this criterion has not been met.**  
11

12 **III. Recommendation**  
13

14 As the request has not met all five criteria required for approval of a variance  
15 request, staff recommends **denial**.  
16

17 However, should the Board determine that all five variance criteria have been  
18 satisfied, staff would recommend that the following conditions be applied to the  
19 Board's approval:  
20

- 21 1. The variances only apply to the sections of fence showed on **Exhibit D**  
22 and not for other accessory structures.  
23 2. The property owner applies for and receives a building permit for the section  
24 of fence listed as request # 1, from the City Building Department within 60  
25 days or this portion of the variance would be null and void.  
26 3. The property owner applies for and receives a building permit for the section  
27 of fence listed as request # 2, from the City Building Department within 2  
28 years or this portion of the variance would be null and void.  
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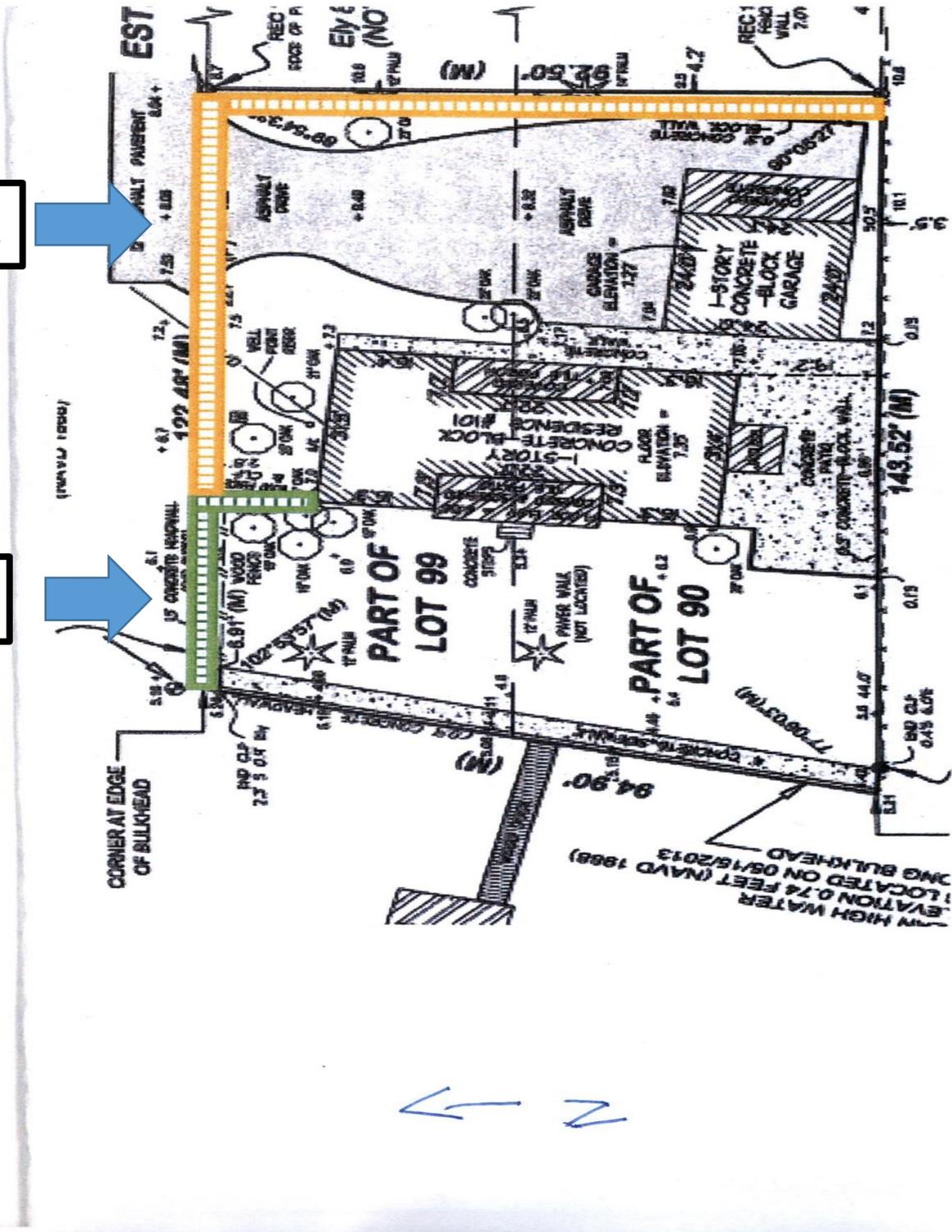




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Proposed  
Fence & Gate

Existing  
Fence



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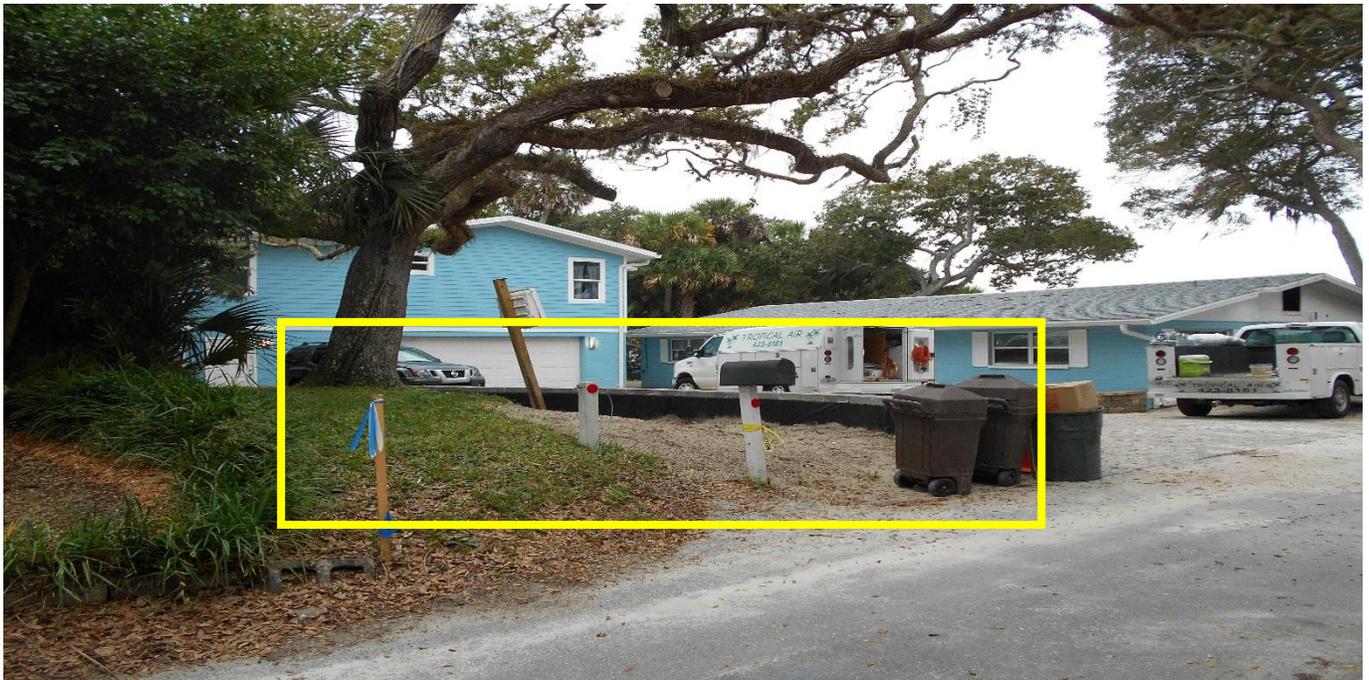
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**Proposed 6 foot high fence location across front of property**

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**Proposed 6 foot high fence location alongside of property**

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ORDINANCE NO. 77-15

AN ORDINANCE AMENDING THE LAND DEVELOPMENT REGULATIONS, SECTION 803.03, BY CHANGING THE FENCE HEIGHT REGULATIONS FOR ATYPICAL LOTS AND THROUGH LOTS; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

*WHEREAS*, the City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, FL, applicant, has requested an administrative amendment to Ordinance No. 1-91, New Smyrna Beach Land Development Regulations, Article VIII, Supplementary Regulations, Section 803.03, Regulations Pertaining to Fences, Walls and Hedges, to change the fence height regulations for atypical lots and through lots; and

*WHEREAS*, the Planning and Zoning Board, at its meeting August 3, 2015, by a vote of 6-0 (Chairperson Travous Dever was absent) recommended to the City Commission that the requested amendment be **approved**; and

*WHEREAS*, the City Commission deems it is in the best interests of the citizens of the City of New Smyrna Beach to amend the Land Development Regulations, as more particularly set forth hereinafter.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:**

**SECTION 1:** *Amendment to Article VIII, Supplementary Regulations, Section 803.03, Regulations Pertaining to Fences, Walls and Hedges.* That New Smyrna Beach Land Development Regulations, Article V, Zoning Districts, Section 504.02, Specific Regulations by District, is hereby amended to read as follows: (Note: Deletions from text are indicated by **strikeout**, additions to text are indicated by **underline**, and omissions in text are indicated by [ ... ].)

ARTICLE VIII. - SUPPLEMENTARY REGULATIONS

...

2

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36 803.03. Regulations pertaining to fences, walls and hedges:  
37  
38 A. *Typical lots.*  
39 *Properties zoned residential.*  
40 Maximum height:  
41 ● Within required front yard setback: Four feet;  
42 ● Outside required front yard setback: Six feet;  
43 ● ~~Hedges located outside of the required front yard~~  
44 ~~setback may exceed six feet in height;~~  
45 ● Tennis court fences taller than four feet in height  
46 may be permitted within the required front yard setback  
47 by special exception, as outlined in [sub)section 801.17;  
48 and  
49 ● Fences, walls, and hedges shall conform to visibility  
50 triangle requirements for corner lots, as outlined in  
51 [sub)section 804.01.  
52  
53 *Properties zoned non-residential.*  
54 Maximum height: Six feet.  
55 ● Fences, walls and hedges shall conform to visibility  
56 triangle requirements for commercial and industrial lots  
57 as outlined in [sub)section 804.01;  
58 ● Chain link and wire fences taller than three feet in  
59 height may be allowed in the visibility triangle,  
60 provided that slats or other opaque materials are not  
61 inserted in or placed on the fence; and  
62 ● Tennis court fences taller than four feet in height  
63 may be permitted within the required front yard setback  
by special exception, as outlined in [sub)section 801.17.

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64 [Insert Amended Illustration 803.03A~~1~~  
65 attached hereto as Exhibit "A" and by  
66 reference made a part hereof]

67 B. *Atypical lots.*

68 Maximum height:  
69 ● Within required front, ~~side~~, or rear setback: Four feet.  
70 ● Outside required front, ~~side~~, or rear setback: Six feet.  
71 ● Tennis courts fences taller than four feet in height may be  
72 permitted within the required front, ~~side~~, or rear setbacks  
73 by special exception, as outlined in [sub]section 801.17.  
74 ● Fences shall conform to visibility triangle requirements on  
75 corner and commercial lots as outlined in [sub]section 804.01.

76 [Insert Amended Illustration 803.03A~~2B~~  
77 attached hereto as Exhibit "B" and by  
78 reference made a part hereof]

79 [Insert Amended Illustration 803.03B~~C~~ attached  
80 hereto as Exhibit "C" and by reference made a  
81 part hereof]

82 [Insert Illustration 803.03D attached hereto  
83 as Exhibit "D" and by reference made a part  
84 hereof]

85 C. *Through lots.*

86 Maximum height:  
87 ● Within required front setbacks: 4 feet.  
88 ● Outside required front setbacks: 6 feet.  
89 ● Tennis courts fences taller than 4 feet in height may be  
90 permitted within the required front setbacks by special  
91 exception, as outlined in Section 801.17.  
92 ● Fences shall conform to visibility triangle requirements  
93 on corner and commercial lots as outlined in Section 804.01.

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94 [Insert Amended Illustration entitled  
95 "Through Lot - Maximum Fence Heights"  
96 attached hereto as Exhibit "E" and by  
97 reference made a part hereof]

98 **C D. Barbed-wire fences.** No fence made of barbed wire, or any other  
99 material whereby persons passing by day or night might be maimed or  
100 injured, shall hereafter be constructed alongside of any street or  
101 sidewalk or property line within the city limits unless the  
102 placement is such that the city commission shall decide that it may  
103 be permitted without danger. In the event the city commission  
104 permits such a fence, it shall not be less than six feet in height  
105 as measured from the finished grade.

106 **DE. Fences east of the Coastal Construction Setback Line (CCSL).**  
107 Fences four feet in height or less shall be allowed to encompass  
108 the area surrounding the perimeter of the pool and decking when  
109 required by the Florida Building Code to address life safety  
110 concerns. City commission approval shall not be required provided  
111 the fence does not exceed the height or setback requirements for  
112 fences on atypical lots.

113 **SECTION 2: Codification.** Following adoption of this ordinance,  
114 the City Attorney shall transmit a copy of this ordinance to  
115 Municipal Code Corporation of Tallahassee, Florida, to be codified  
116 into the City's Code of Ordinances. Municipal Code Corporation's  
117 usual and customary fee for said codification service is hereby  
118 approved.

119 **SECTION 3: Public Hearing.** That a public hearing considering  
120 the adoption of this ordinance held September 8, 2015, in the City  
121 Commission Chambers at City Hall, 210 Sams Avenue (south entrance  
122 on Julia Street), New Smyrna Beach, Florida, after notice  
123 published, is found to comply with §166.041(3)(a), F.S.

PAGE 4 OF 5

Fences on Atypical Lots - Land  
Development Regulations Amendment  
First Reading August 25, 2015  
Public Hearing September 8, 2015  
August 13, 2015  
9:32 am

1

124 **SECTION 4:** *Conflicting Ordinances.* That all ordinances or  
125 parts thereof that are in conflict with this ordinance shall be and  
126 the same are hereby rescinded and repealed.

127 **SECTIONS:** *Severability.* That if any section, sentence, clause  
128 or phrase of this ordinance is held invalid or unconstitutional by  
129 any court of competent jurisdiction, then said holding shall in no  
130 way affect the validity of the remaining portions of this  
131 ordinance.

132 **SECTION 6:** *Effective Date.* That this ordinance shall take  
133 effect immediately upon its final adoption.

134 **APPROVED AS TO FORM AND CORRECTNESS:**

135   
136 **FRANK B. GUMMEY, III**  
137 City Attorney  
138 **DATE:** 8/13/15

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Exhibit F (cont'd)

ILLUSTRATION 803.03A4

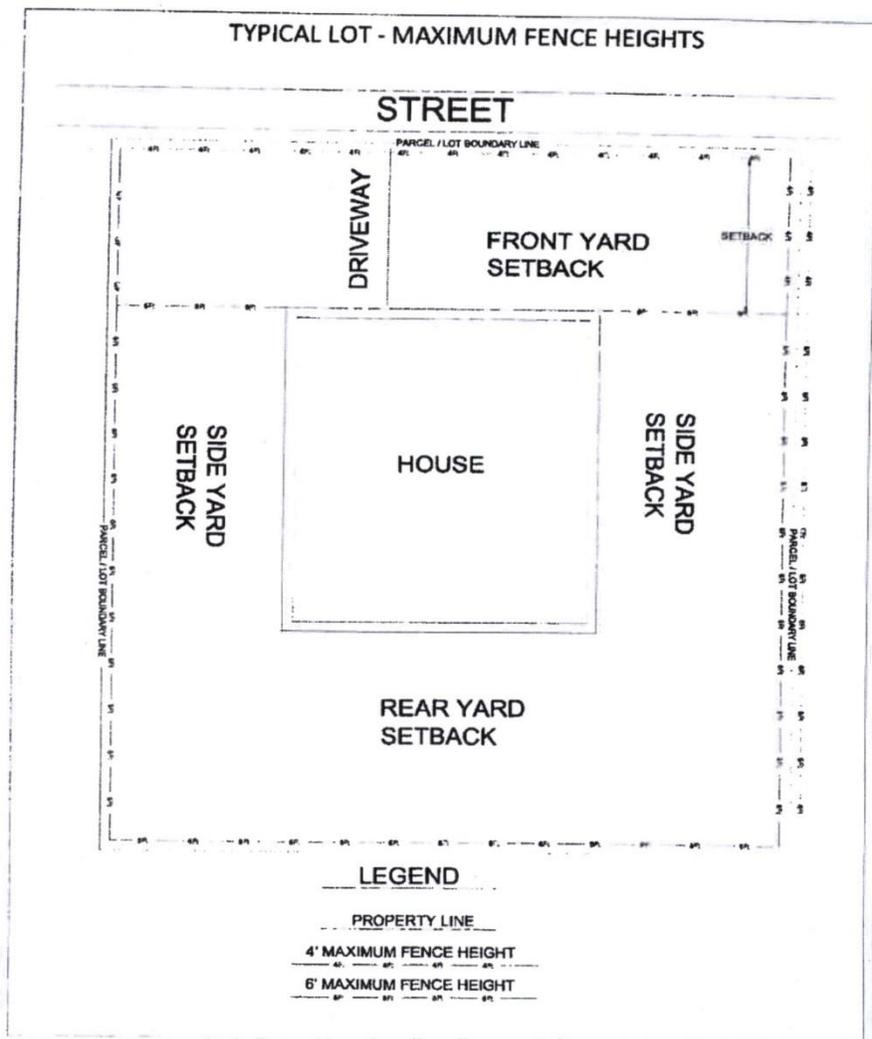


EXHIBIT  
A  
Ord. 77-15

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ILLUSTRATION 803.03A2B

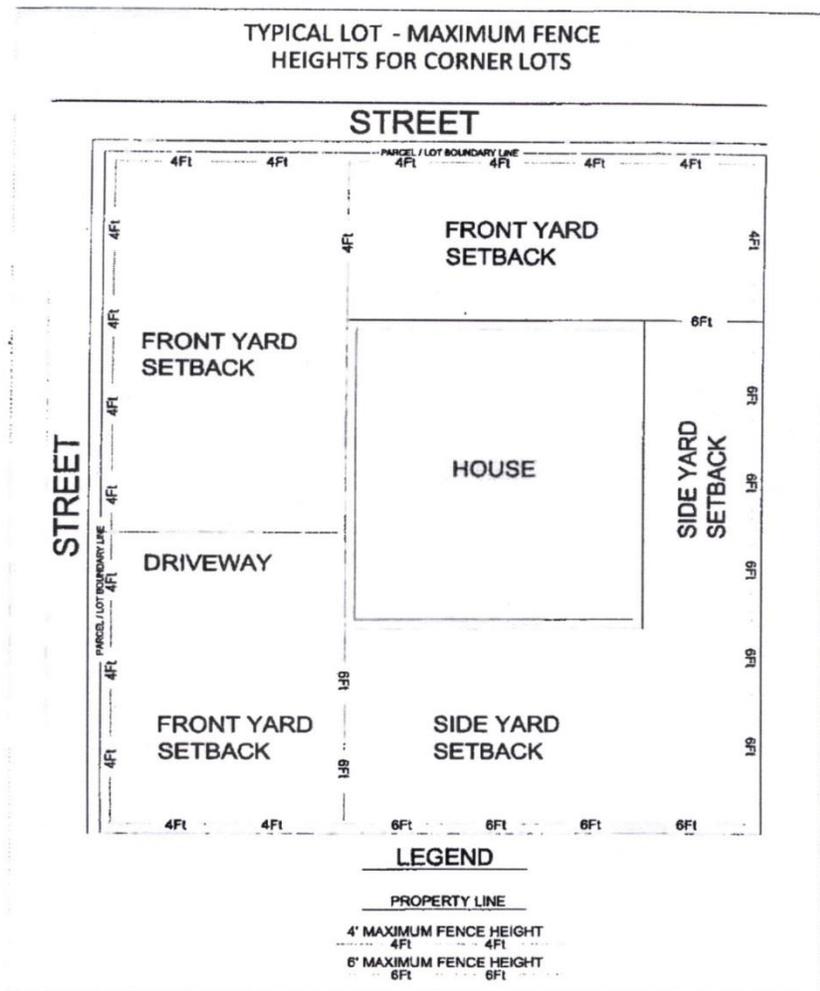


EXHIBIT  
B  
Ord. 77-15

ILLUSTRATION 803.03BC

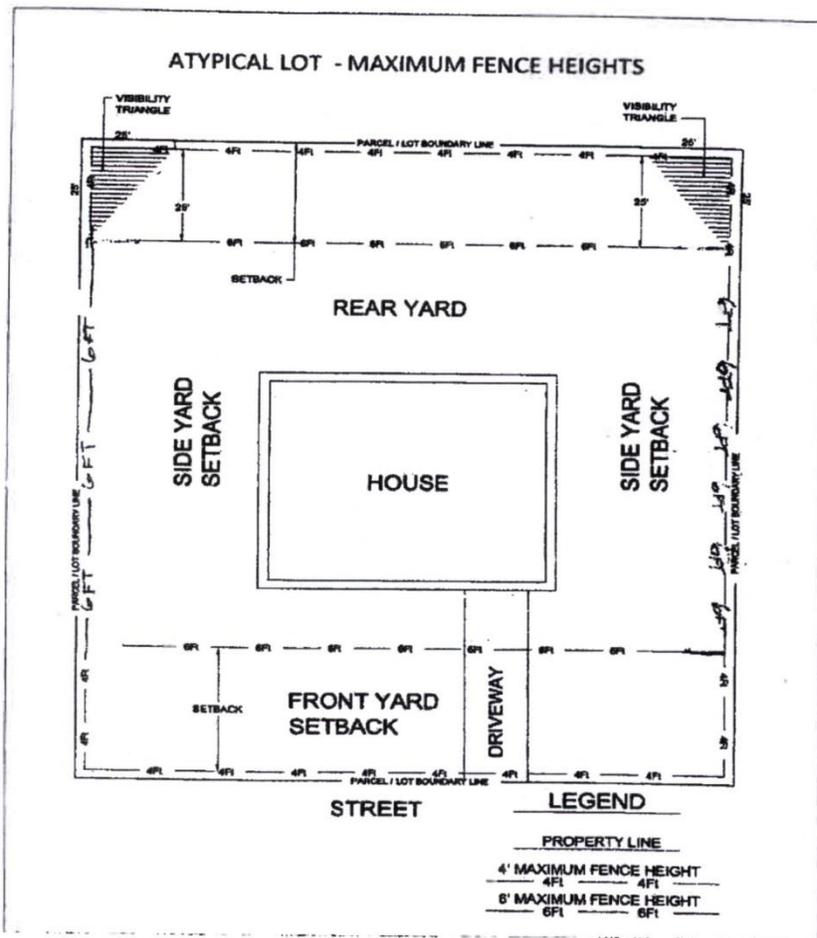
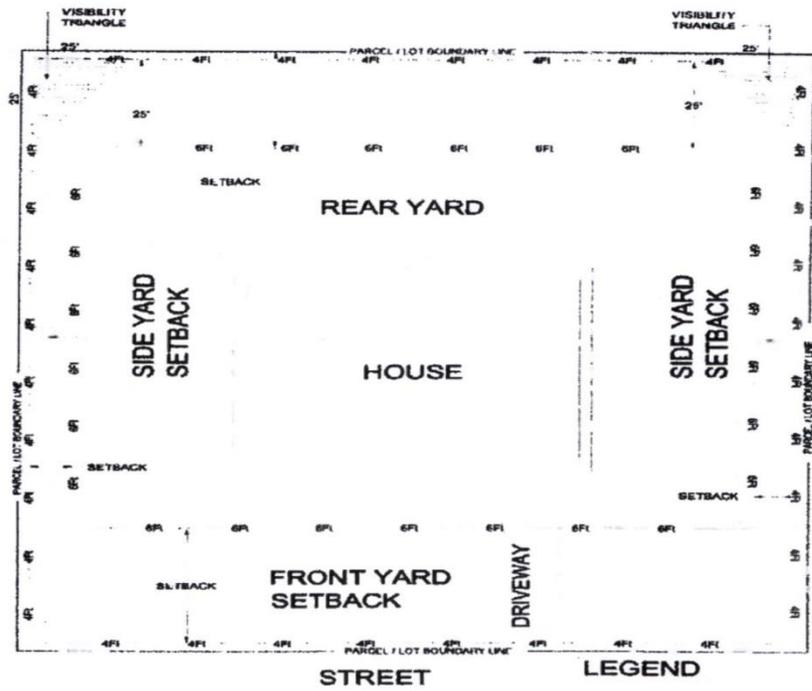


EXHIBIT  
C  
Ord. 77-15

ILLUSTRATION 803.03D

ATYPICAL LOT - MAXIMUM FENCE HEIGHTS

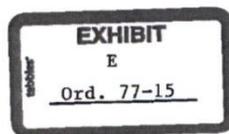
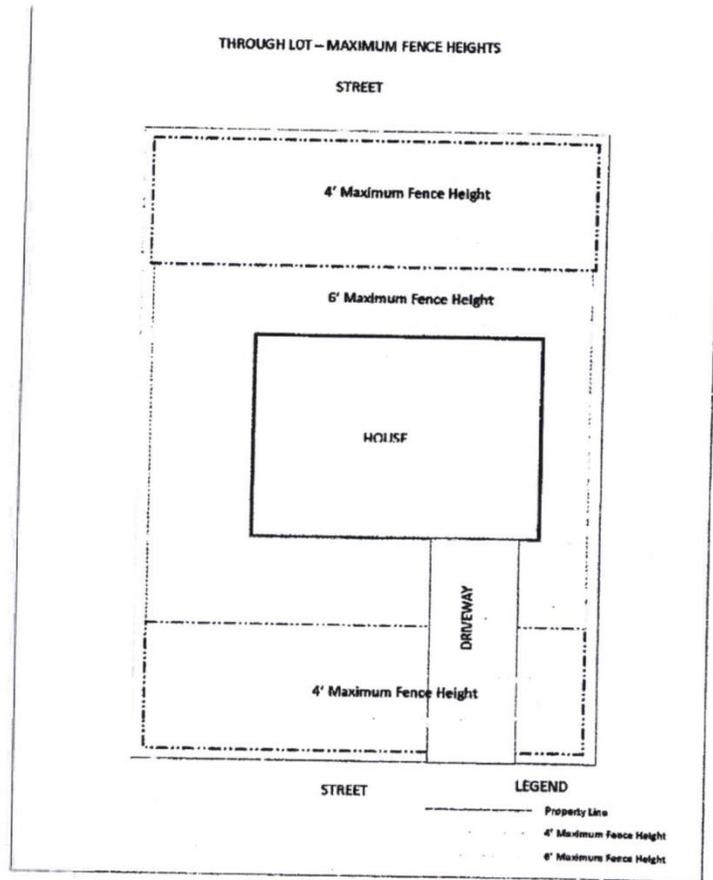


LEGEND  
PROPERTY LINE  
4' MAXIMUM FENCE HEIGHT  
4Ft  
6' MAXIMUM FENCE HEIGHT  
6Ft

EXHIBIT  
D  
Ord. 77-15

1

Exhibit F (cont'd)



2

101 Esther Street  
New Smyrna Beach, Florida 32169

November 27, 2015

Planning and Zoning Board  
City of New Smyrna Beach  
210 Sams Avenue  
New Smyrna Beach, Florida 32168

RE: 101 Esther Street, New Smyrna Beach, Florida (Parcel ID: 7455-01-00-0991)

Dear Board Members:

This letter of response is submitted in support of a variance request to erect fencing at a height in excess of the four foot height limitation provided in section 803.03 of the City of New Smyrna Beach Land Development Regulations ("LDR").

Current Conditions

My wife and I purchased the above-referenced property in May 2013. Since the first time we previewed the property, there has been a wooden fence that runs from the Northwest corner of the property (at the waterfront to the Indian River) along the Northern property line, and then runs perpendicular to the Northwest corner of our residence ("Existing Fence", as highlighted in green on Figure 1). Given the run-down condition of the fence, we assume it was installed quite some time ago. *We will not be altering the Existing Fence.*

Proposed Conditions

We propose to extend the Existing Fence to the Northeast corner of the property, to include a retractable gate at the driveway and, further, erect a fence from the Northeast corner of the property along the Eastern property line to the Southeast corner of the property ("Proposed Fence", as highlighted in yellow on Figure 1). *Because this fence will be in our front yard, we are requesting a variance to LDR 803.03 to build the Proposed Fence at a height of six feet.*

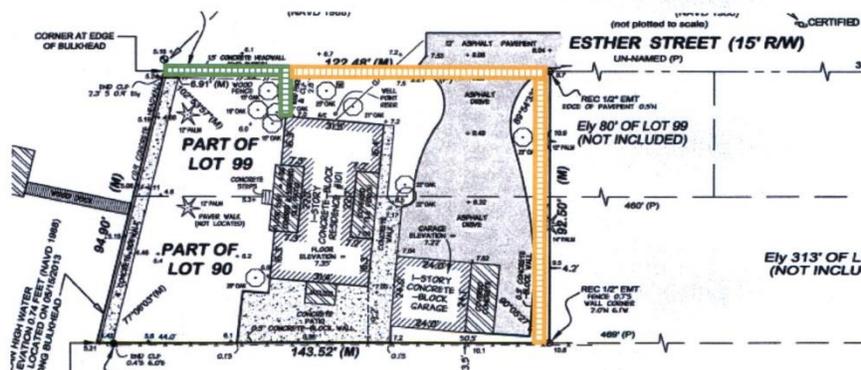


Figure 1

Circumstances Giving Rise to Variance Request.

Many of the facts and circumstances listed below can also be verified through City of New Smyrna Beach government officials (City Manager, Pam Brangaccio; Code Enforcement Officer, Barbara Bobelak; City Commissioner, Judy Reiker; and Deputy Chief of Police, Donna Lavellee) and police reports taken by the City of New Smyrna Beach Police Department. If you require any additional confirmation of this information, please notify me immediately so I can arrange for you to speak with others who can confirm these representations.

Trespass/Vandalism

Almost immediately after buying the property, and as recently as just two weeks ago, we have encountered people that trespass on our property; they enter our property as if it were their own yet when confronted they run from the property (suggesting they know they are trespassing). Accordingly, very early in our ownership of the property we posted "No Trespassing" signs; these signs are ignored or torn down and discarded into our yard. As the trespassers behavior became increasingly more aggressive we discussed this matter with the City Manager and police department.

The following is a representative sample of the trespassing<sup>1</sup> issue at our property:

- Without seeking our permission, people regularly enter our property and use our dock for: i) taking pictures of the lighthouse and sunset views and ii) gaining access to boats on the river. As a result, we have sustained damage to the safety cables on our dock. As previously discussed with the City Manager, the aggressiveness of the trespassers is escalating. In one instance, adult men were yelling profanities at my wife as they trespassed on our property to board a boat.
- Without seeking our permission, people exit boats on the river directly onto our property.
- A pedestrian gate on the interior of our property was torn off its hinges. Previously, a "No Trespassing" sign had been torn off this gate and thrown onto the ground.
- Our vehicle, which was parked in the driveway, was damaged by someone "keying" the side of the car.
- People throw rubbish over the Existing Fence onto the property including, at times, to torment our dog.
- Two men and a woman entered our property where the men began physically assaulting each other. The City of New Smyrna Police Department were called to the scene.
- Teenagers entered the property and sought to gain access to our residence before we confronted them and they ran off.
- Just two weeks ago, several adult men entered the property in the middle of the night to congregate near our garage door. The area where the men congregated is illuminated by motion-detected lighting, and the driveway was blocked at the street by yellow "Caution" tape. Awakened by the noise that the men were making, my wife turned on another outside light; only then did the men scatter from the property.

In light of the trespassing activity highlighted above (which is not necessarily an exhaustive list), there seems to be nothing short of a solid barrier that can't be vaulted over to deter this

<sup>1</sup> Based on the recommendation of government officials, we often called the police department when trespassing would occur so there should be a record within the government. However, the trespassers are often gone by the time the police would arrive so we just as often did not call the police.

increasingly brazen behavior. While not necessarily trespassing on our property, it is worth noting that the adjacent property at the end of Esther Street owned by the City of New Smyrna Beach ("Adjacent City Property") regularly experiences vandalism (e.g., three warning signs previously erected on the property were pulled up and one or more have been thrown into the river or completely removed from the site).

Harassment

Compounding the trespass situation discussed above is the relentless harassment occasioned by some of our neighbors who also enlist others in the community to engage in harassing activities by continuously lodging unfounded complaints with government officials (code enforcement, City Commission, and NSBPD), our construction crews and, recently, threatening us with legal action.

The harassing behavior dates back to our first permitted construction to repair our dock and seawall. On the morning construction was to begin (on or about March 24, 2014), our neighbors had enlisted a number of people to either: i) assemble and picket at City Hall, or ii) stand in the middle of Esther Street and, if necessary, threaten to lay down in front of our contractor's vehicles to prevent them from reaching our property. This disastrous incident was based on the false story created by our neighbors that we contracted for the removal of a set of dilapidated steps (a/k/a "historical steps") leading from the Adjacent City Property into the Indian River. Code Enforcement Officer Bobelak and Commissioner Reiker later confirmed that: i) our permit authorized our temporary use of the Adjacent City Property, ii) we had not contracted with anyone to remove the dilapidated steps, and iii) we had done nothing improper.

Unfortunately, the magnitude of the neighbors' response in this situation, the unwillingness of the neighbors to accept they were wrong on the facts as well as being outrageous in their response, and that some of the neighbors self-appoint themselves as guardians of the Adjacent City Property has resulted in continuously harassing behavior ever since. On average, we are harassed one or two times per month – including, but not limited to, complaints to code enforcement, the police department, or our construction crews regarding our permitted use of the Adjacent City Property. A congregation of neighbors and their enlistees at the end of our driveway, often taking pictures of our property or our permitted use of the Adjacent City Property, is a sure sign that we should soon expect a visit from some government enforcement agency responding to complaints about us, our invited guests, or our property. Their complaints are meritless and petty, e.g., calling the construction company to have the portable toilet moved five feet away from the property line. While we did not bother to confirm our belief that portable toilets for construction purposes could actually be located within five feet of a property line, it was moved just to avoid further confrontation.

We do not (nor do we want to) engage with this clique, and only desire for them to leave us alone. They refuse to do so. Quite the contrary, on one occasion Mr. Herman argued with my wife that he was not trespassing after being told he was not welcome on our property. Accordingly, we concluded that either he doesn't understand trespassing or arrogantly believed such rules don't apply to him with respect to our property. When we refuse to engage with them, this clique resorts to engaging others; oddly, they currently engage with our construction workers which, in turn, prolongs the construction for which they seem to protest.

In every single case where a complaint has been lodged, not once has it been determined that we were in violation of any ordinance, code, regulation or statute. We have always secured the proper permits and/or worked with government officials in advance to ensure our planned

activities were done in a compliant fashion. Accordingly, we have not created this situation leading to the circumstances giving rise to this variance request.

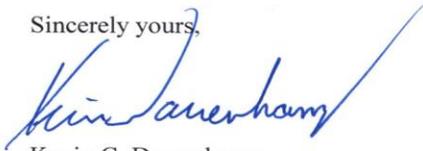
Conclusion

We firmly believe that the higher fence will significantly reduce the trespass and vandalism activity. We do not expect that a fence being extended in height by two feet will ever fully resolve the harassment issues, but we do hope that it reduces the neighbors' desire to file frivolous and harassing complaints. In short, we are hopeful that a higher fence will deter trespassers, and help us become "out of sight, out of mind" to our harassing neighbors. We believe granting this request may also be in the interest of the City of New Smyrna Beach to the extent that it reduces or eliminates our neighbors' misuse of limited government resources responding to these frivolous complaints.

We understand that the City would ordinarily limit the height of a fence at the front of a property in the interest of traffic safety. However, we believe that these interests do not outweigh the significant trespassing and harassment issues described above when one considers the remote likelihood of traffic at our property because: i) we are the last property on a street that dead ends at the Indian River, and ii) traffic near our property should be minimal where the only entrance to the street (at North Peninsula Avenue) is marked with "No Outlet" and "No Turnaround" signage.

In light of the foregoing, we respectfully request the Board grant our request for a variance from LDR 803.03, permitting the installation of the Proposed Fence at a height of six feet.

Sincerely yours,



Kevin C. Darrenkamp

encls

On Tuesday December 1, 2015 at approximately 11:00 a.m. I was at 101 Esther Street (Darrenkamp residence), and witnessed the following:

1. A large adult man came from 99 Lincoln (next door to 101 Esther) and demanded (not requested) the immediate movement of a construction vehicle that was blocking his driveway.
2. As Mr. Darrenkamp turned toward his house to go find the people that owned the vehicle blocking the neighbor's driveway, the neighbor came right up to the edge of the Darrenkamp's driveway screaming about the vehicles, waving his clinched fists in the air and, ultimately, pointed his finger at Mrs. Darrenkamp while at the top of his lungs he called her a "F\*\*king Bi\*\*h." Mrs. Darrenkamp had not been involved in the discussion with the neighbor.

  
\_\_\_\_\_  
Kevin Darrenkamp

  
\_\_\_\_\_  
Terri L. Darrenkamp

  
\_\_\_\_\_  
DAVID MANN

  
\_\_\_\_\_  
MIKE FORNESS

  
\_\_\_\_\_  
Leonard Barefield

\_\_\_\_\_

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
2 **V-2-16: 720 SOUTH DIXIE FREEWAY / SAVE A LOT**  
3 **JANUARY 4, 2016**  
4

---

5 **I. Summary**  
6

- 7 A. **Applicant:** Van Morgan, D & R Signs INC. 133 Thomason Avenue,  
8 Daytona Beach, Florida, 32117  
9
- 10 B. **Property Owner:** Ozinus NSB LLC., <sup>c/o</sup> Sunizo LLC., 12481 Brantley  
11 Commons Court, Fort Myers, Florida 3390732168  
12
- 13 C. **Request:** Approval of a variance to allow a 310 square foot wall sign instead  
14 of the allowed 200 square foot wall sign  
15
- 16 D. **Site Information:** The subject property is zoned B-3, Highway Service  
17 Business District, contains approximately 5.36 acres and is generally  
18 located east of the East Coast Railroad and south of Canal Street,  
19 addressed as 720 South Dixie Freeway. See location map attached as  
20 **Exhibit A.**  
21
- 22 E. **Tax I.D. Number:** 7444-01-00-0230  
23

24 **II. Findings**  
25

- 26 A. The subject property has been improved with an existing multi-tenant  
27 commercial building on the south end of the parcel. An aerial map is  
28 attached as **Exhibit B.**  
29
- 30 B. Article VI Section 604.12.G.(2).b.(b) adopted in November 2011, of the  
31 City's Land Development Regulations (LDR) states, *Individual anchor*  
32 *stores in a building that has two or more units can have two wall signs with*  
33 *a copy area of two square feet of copy area per one lineal foot of store unit*  
34 *frontage, not to exceed 200 square feet, and individual tenants in a multi-*  
35 *tenant building shall be allowed one wall sign with a copy area of four square*  
36 *feet of sign area per one lineal foot of store frontage, not to exceed 100*  
37 *square feet.*  
38

39 This application is for a variance to the above required sign standards. The  
40 applicant and property owner request approval to install a 6 foot by 51 foot  
41 8 inch, (310 square foot) wall sign on the north side of the building facing  
42 the parking lot. Site pictures, sign location map provided by the applicant  
43 are attached as **Exhibit C.** Specs of the proposed wall sign are attached at  
44 **Exhibit D.**  
45  
46  
47

1 C. The applicant has submitted a letter of response to the required variance  
2 criteria, which is attached as **Exhibit E**. In that letter, the applicant is  
3 requesting variance approval to allow a 310 square foot wall sign for the  
4 proposed Save A Lot. The applicant states that because of the location of  
5 the front of the building, not facing the road, and the trees and landscaping  
6 that are located along South Dixie Freeway in front of this parcel, it would  
7 make a smaller sign seemingly invisible to the flow of oncoming traffic.  
8

9 D. The LDR requires variance requests to meet all of the following criteria. The  
10 applicant's letter of response to the variance criteria is attached as **Exhibit**  
11 **E**. Staff's responses to the criteria are listed below in **bold**.  
12

13 (i) Special circumstances exist which are peculiar to the subject  
14 property owner's land, structure, or building, and do not generally  
15 apply to the neighboring lands, structures, or buildings, in the same  
16 district or vicinity.  
17

18 **Staff has not identified any special circumstances that exist**  
19 **with regard to this particular property. However, the applicant**  
20 **notes the location of the building faces to the north and not to**  
21 **South Dixie Freeway and the front facade is block by trees that**  
22 **are located along South Dixie Freeway.**

23  
24 **Using a strict interpretation of this criterion, staff does not**  
25 **believe it has not been met. However, those factors, including**  
26 **roadway trees and location of the building, could perhaps be**  
27 **considered special circumstances.**

28  
29  
30 (ii) Strict application of the provisions of this LDR would deprive the  
31 subject property owner of reasonable rights commonly applicable to  
32 other properties in the same district or may preclude a benefit to the  
33 community in general.  
34

35 **Strict applications of the provisions of the LDR would not**  
36 **deprive the subject property owner of reasonable rights**  
37 **commonly applicable to other properties in the same district.**  
38 **The applicant wants to use a 310 square foot sign on the front**  
39 **façade of the building, but could use two smaller signs and**  
40 **attached one on the east side of the building facing South Dixie**  
41 **Freeway.**

42  
43  
44 **Using a strict interpretation of this criterion, staff does not**  
45 **believe it has not been met. However, those factors, including**

1 **roadway trees and location of the building, could perhaps be**  
2 **considered as not allowing reasonable rights now used by other**  
3 **properties in the same zoning district.**  
4

- 5 (iii) The special circumstances and conditions that exist do not result  
6 from the direct or indirect actions of the present property owner(s) or  
7 past property owner(s). This criterion shall not be satisfied if the  
8 present or past property owner created, to any degree, the hardship  
9 that is the subject of the variance request.  
10

11 **No special circumstances peculiar to the land, have been**  
12 **identified. But the location of the building that was erected in**  
13 **1974 well before the current Land Development Regulation was**  
14 **adopted. Could be considered a special condition.**  
15

16 **This criterion has not been met.**  
17

- 18 (iv) That granting of the variance will not cause substantial detriment to  
19 the public welfare or impair the purposes and intent of this  
20 Ordinance.  
21

22 **Granting the variance would not cause substantial detriment to**  
23 **the general public welfare, since the sign will be facing the**  
24 **parking lot and not a public road**  
25  
26

27 **This criterion has been met.**  
28

- 29 (v) That granting of the variance will not constitute a grant of special  
30 privilege that is denied by this Ordinance to other lands, structures,  
31 or buildings, in the same district.  
32

33 **Granting the variance would seem to constitute a grant of**  
34 **special privilege, as the property owner has sufficient choices**  
35 **for using smaller walls sign in multiple locations.**  
36

37 **Other properties have received similar variances for oversized**  
38 **wall signage, for example the Out Rigger's restaurant.**  
39

40 **This criterion has not been met.**  
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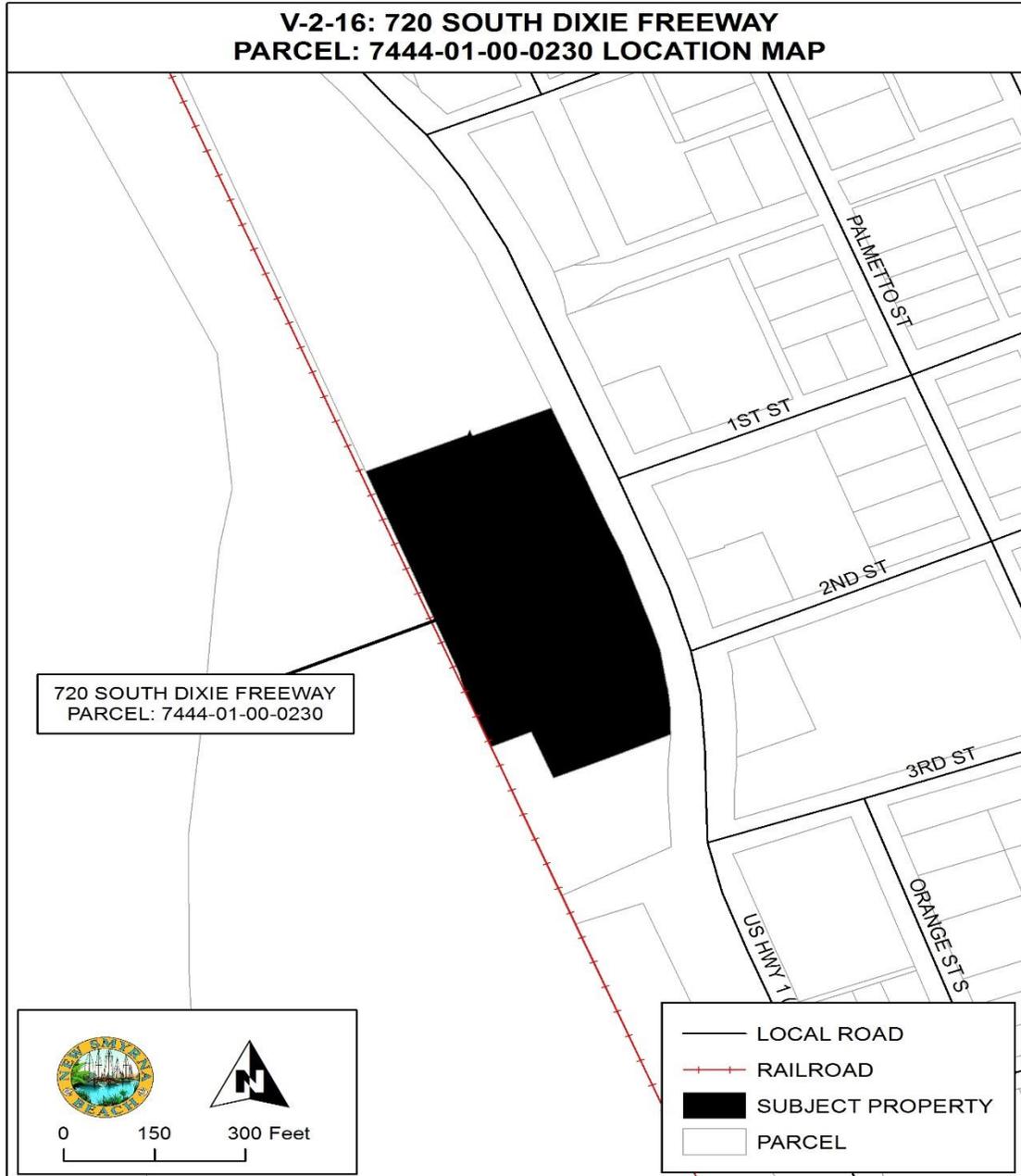
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**III. Recommendation**

Because the request does not strictly meet all of the variance criteria, staff recommends **denial**.

If the Board determines that the variance application meets of the criteria, the following conditions should be applied to the Board's approval:

1. The variance approval is only for the proposed 310 square wall sign located on the north side of the building and not for any additional wall signage.
2. A building permit is obtained within 60 days of this variance approval.





Existing "Ace Hardware" wall sign.



Location of proposed wall sign

1

**Exhibit C (cont'd)**

Roadview 1

Landscape trees blocking view of front of building from road.



2

1

**Exhibit C (cont'd)**

*Roadview 2*



2

1

Exhibit C (cont'd)

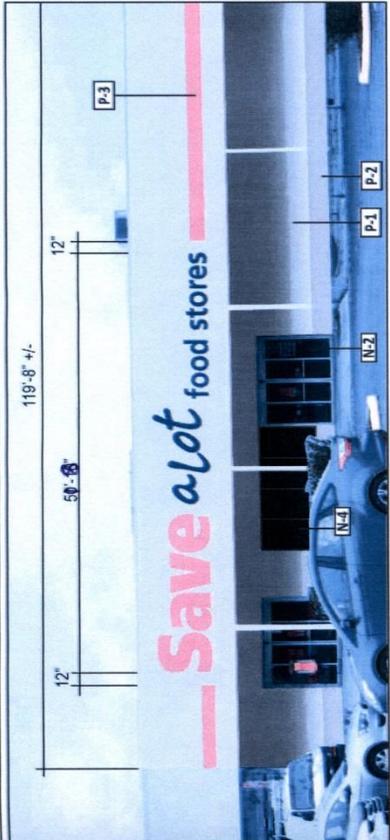
*proposed.*



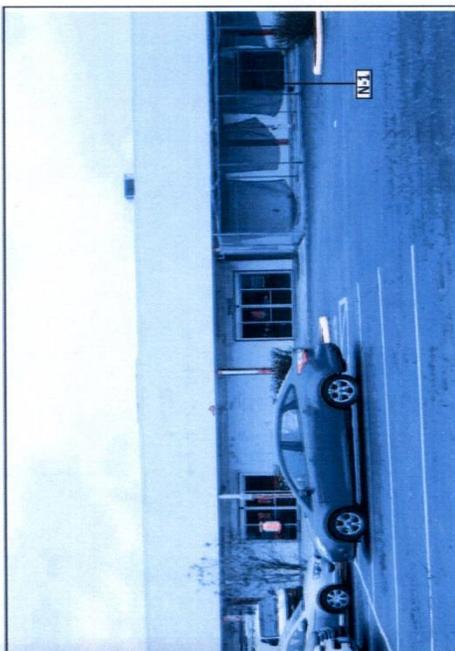
2



Exhibit D (cont'd)



**Proposed Elevation**



**Current Elevation**

**Proposed Pylon**

Pylon rendering will be proved upon verification of the pylon face measurements.  
 Do not order until approved pylon rendering has been provided.

APPROVED

**LICENSE**

**FL New Smyrna Beach (Dixie Frwy)**

6' Letter Package - 30" "food stores"  
 5' Letter Package - 30" "food stores"  
 4' Letter Package - 24" "food stores"  
 New Monument

Pylon Exterior Building  
 Front  Side  Rear  
 Backler

**New Pylon:**

Medium: 12' x 6' Does not include Pole (recommended 25' Pole)  
 Large: 16' x 8' Does not include Pole (recommended 35' Pole)  
 Re-face Existing Pylon/Monument (1)  
 Red Metal Stripe 8 ft. Sections  Red Painted Strip (12" H)

**General Notes**

• Place "food stores" 14" to the right of the Save-a-Lot letter set.  
 • The baseline of "food stores" is aligned with the bottom of the red stripe. Finish as specified.  
 • Please advise if city code or landlord restrictions require an alternate signage solution.

**Specified Notes**

1. Fill in door
2. Remove existing hardware, operators, and exit signs and lock existing doors in place
3. Red stripe is always 12" high and spaced 12" away from the furthest part of the Save-A-Lot Food Stores sign. Refer to the sign installation notes for horizontal positions of red stripe
4. New Windows

Part Name	Dryer / Finish
C-1	Field Amcon 516 Soudrift
C-2	Base 40" AFF Amcon 542 Agaziz
D-1	Field 103 Natural White
P-1	Field SW7019 Agreeable Gray**
P-2	Base** SW7031 Mega Greige**
P-3	Accent** SW4081 Safety Red**
P-4	Backer SW7005 Pure White
P-5	Tower SW6371 Venille**
P-6	Misc. SW7008 Aerie Gray**

**REMARKS**

17/15 CASODY NICOLE WELSH  
 1/7/15

**DATE**

1/7/15

**NO.**

3 A  
2 A  
1 A

**DATE**

8/11/15  
5/12/15  
5/6/15

**APPROVED**

INCREASE SIGN TO ADD WINDOWS  
 ADJUST Pylon LOCATION

**DESCRIPTION**

WITHINGTON  
 WITHINGTON  
 WITHINGTON  
 MILLER

**REQUESTED BY**

WITHINGTON

**DESIGNER**

**Save a Lot food stores**

160 CORPORATE OFFICE DR.  
 WEST PALM BEACH, FL 33411  
 PHONE: 561.952.7000



## Variance Letter of Response

In regards to the proposed Save-A-Lot signage at location 720 S. Dixie Freeway New Smyrna Beach, FL our clients have requested for variance to extend their current allowable signage of 100sqft to meet their proposed signage of 310sqft. Special circumstances do exist at the above location that would potentially cause our client to suffer loss of projected target markets, customer awareness, and future sales and revenue causing the proposed location to be short term. Based on the location of the storefront facing north on Dixie Freeway an allowable square footage for a proposed sign at 100sqft would make the visibility of our client's location seemingly invisible to the flow of oncoming traffic. Other locations within 150sqft have clear visibility either directly facing the road or running parallel to Dixie Freeway. Our client's projected sign is at the back of the lot with 2 other existing stores and signage in between them and the road. It is a hardship that the storefront does not face the road and the existing Pylon/Tenant Panel by the roadside is also positioned at the exact same height as the tree line and landscaping on the property making the visibility hampered from passing pedestrian traffic. The existing Pylon/Tenant Panel is on a limited term of seven years before it will be converted into a new monument sign with clearer visibility from oncoming traffic. Save-A-Lot will have difficulties competing simply due to lack of convenient access and visibility. Our client's customer base is primarily women with children where clear visibility would be critical in providing a safe environment when locating our location while driving. Also the previous tenant in our client's proposed location "Ace Hardware" existing signage had a rough estimate of over 200 plus square feet which is over the allowable square footage for the city. The proposed sign for our client will not cause substantial detriment to public welfare, the building, and its fascia but in fact improve public welfare by creating better visibility allowing passing vehicles to focus more on properly operating their vehicle rather than locating our proposed location.

Van Morgan  
D&R Signs Inc.  
Permit Procurer

A handwritten signature in black ink, appearing to read 'Van Morgan', is written over the typed name. Below the signature, the date '11/30/15' is handwritten in the same ink.

CITY OF NEW SMYRNA BEACH – PLANNING AND ENGINEERING  
**V-4-16: 124 South Walker Dr. / Storch**  
January 4, 2016

---

**I. Summary**

- A. **Applicant:** Glenn D. Storch, 420 South Nova Road, Daytona Beach, FL 32114.
- B. **Property Owner:** Mary K. Whitehouse, 2248 Grand Ave, Deland FL 32720; and Doyle Kennedy, 2642 Sunset Dr. New Smyrna Beach, FL 32168.
- C. **Request:** The applicant requests variances to construct a new 7,391 sq. ft. commercial building as follows:
  - 1) Reduce the minimum lot frontage from 300 feet to 225 feet,
  - 2) Increase the build-to-line from Walker Drive from 25 feet to 100-135 feet.
- D. **Site Information:** The subject property is zoned PUD and is in the SR 44 Corridor Overlay Zone (COZ), contains approximately 2.12 acres, and is generally located South of SR-44 and West of South Walker Drive. The property is addressed as 124 South Walker Drive. A location map is found in **Exhibit A** and an aerial photo is found in **Exhibit B**.
- E. **Tax I.D. Number:** 7343-06-00-0521 and 7343-06-00-0511.

**II. Findings**

- A. The subject property is zoned PUD, and is in the SR-44 COZ. The minimum required setbacks and lot frontage for this property are:
  - 1. Front yard: Build-to-line of 45—65 feet (along U.S.1) and 45-150 feet (along SR 44) Parcels which front on two streets shall provide the above Build-to line for the front yard on corridor frontage and a 25-foot front yard on the other street
  - 2. Side: 25 feet
  - 3. Rear: 25 feet
  - 4. Lot Frontage: 300 feet
- B. Existing site conditions are illustrated in **Exhibit C – Photos**. The subject property currently contains a single-family detached residence, a detached garage and several small accessory structures and is illustrated in **Exhibit D – Survey**. The site is a new parcel created by two former parcels, and is under two owners. The applicant is purchasing the properties as to create a 2+ parcel compliant in size with City PUD requirements.
- C. The applicant wishes to develop the site for a new 7,391 sq. ft. commercial building (Auto Zone) with associated parking, retention and required site

improvements. The proposed building footprint is illustrated in **Exhibit E – Site Plan**.

- D. The applicant is seeking the first variance to reduce lot width abutting SR 44 from 300 to 225 feet. This condition of the Land Development Code applies only to subdivisions of property. The applicant is not subdividing a property that would result in a reduced frontage, thus, there is not a requirement for this variance.
- E. The applicant has requested a second variance to increase the build-to line from the second front lot line from 25 feet to 100-135 feet. Staff has examined the proposed construction plans for this 2+ acre commercial site. Despite the fact of the odd shaped, angular lot, it appears with the information available the applicant could meet the build-to line requirement of 25 feet from S. Walker Drive.
- F. Staff has examined the applicant response found in **Exhibit F** of the staff report. The applicant has not proven how the current build-to line negatively impact his site design. The applicant claims the variance from build-to line is required to mitigate site circulation for emergency vehicles, site access problems and buffer issues. Staff determination that with redesign, a commercial site could be built on the property and meet the requirements of the build to line.
- G. The property owners, through his attorney and authorized agent, has provided an authorized agent letter is **in Exhibit G**.

H. The LDR requires variance requests to meet all of the following criteria, with **staff's responses are in bold.**

- (i) Special circumstances exist which are peculiar to the subject property owner's land, structure, or building, and do not generally apply to the neighboring lands, structures, or buildings, in the same district or vicinity.

**Staff determines that some special circumstances exist peculiar to the subject property that do not generally apply to other lots in the same district or vicinity. The lot is an irregular, angular corner lot, which would impact to design of the property to accommodate larger commercial uses.**

**The criterion has been met.**

- (ii) Strict application of the provisions of this LDR would deprive the subject property owner of reasonable rights commonly applicable to other properties in the same district or may preclude a benefit to the community in general.

**Strict applications of the provisions of the LDR would not deprive the subject property owner of reasonable rights commonly applicable to other properties in the same district. The applicant has not demonstrated why he could not design why he could not design the site to meet the COZ requirements, and meet other site plan requirements. The applicant could also design and build a less intensive commercial site suitable to the current lot size, with the COZ overlay requirements.**

**The criterion has not been met.**

- (iii) The special circumstances and conditions that exist do not result from the direct or indirect actions of the present property owner(s) or past property owner(s). This criterion shall not be satisfied if the present or past property owner created, to any degree, the hardship that is the subject of the variance request.

**Staff determines not special circumstances and conditions exist.**

**This criterion has not been met.**

- (iv) That granting of the variance will not cause substantial detriment to the public welfare or impair the purposes and intent of this Ordinance.

**Granting the variance would not cause substantial detriment to the public. Granting of the variance would not cause substantial impairment of the purposes of the Land Development Regulations.**

**This criterion has been met.**

- (v) That granting of the variance will not constitute a grant of special privilege that is denied by this Ordinance to other lands, structures, or buildings, in the same district.

**Granting the variance would not constitute a grant of special privilege that is denied by other lands, structures or buildings in the same district. The Land Development Regulations grant the ability for property owners of other lands, structures or buildings in the district, to apply for variances in the same manner as the applicant.**

**This criterion has been met.**

### **III. Recommendation**

This application meets 3 of the 5 evaluation criteria. Due to this fact, staff recommends **denial** of the variance request.

If the Board determines that the variance application meets all of the criteria, the following conditions should be applied to the Board's approval:

- 1) Increase the build-to-line from Walker Drive from 25 feet to 100-135 feet to the building footprint as shown on submitted concept plan.

**EXHIBIT A – Location Map**



**EXHIBIT B – Aerial Photo Map**



**EXHIBIT C (Cont.)**



**Northeast point of property looking west along SR 44**

**EXHIBIT C (Cont.)**



**Southeast corner of subject property looking north along S Walker Dr**

**EXHIBIT C (Cont.)**



**Northeast corner of the property looking south along S. Walker Dr**

**EXHIBIT C (Cont.)**



**Southeast corner of the property looking west**

**EXHIBIT C (Cont.)**



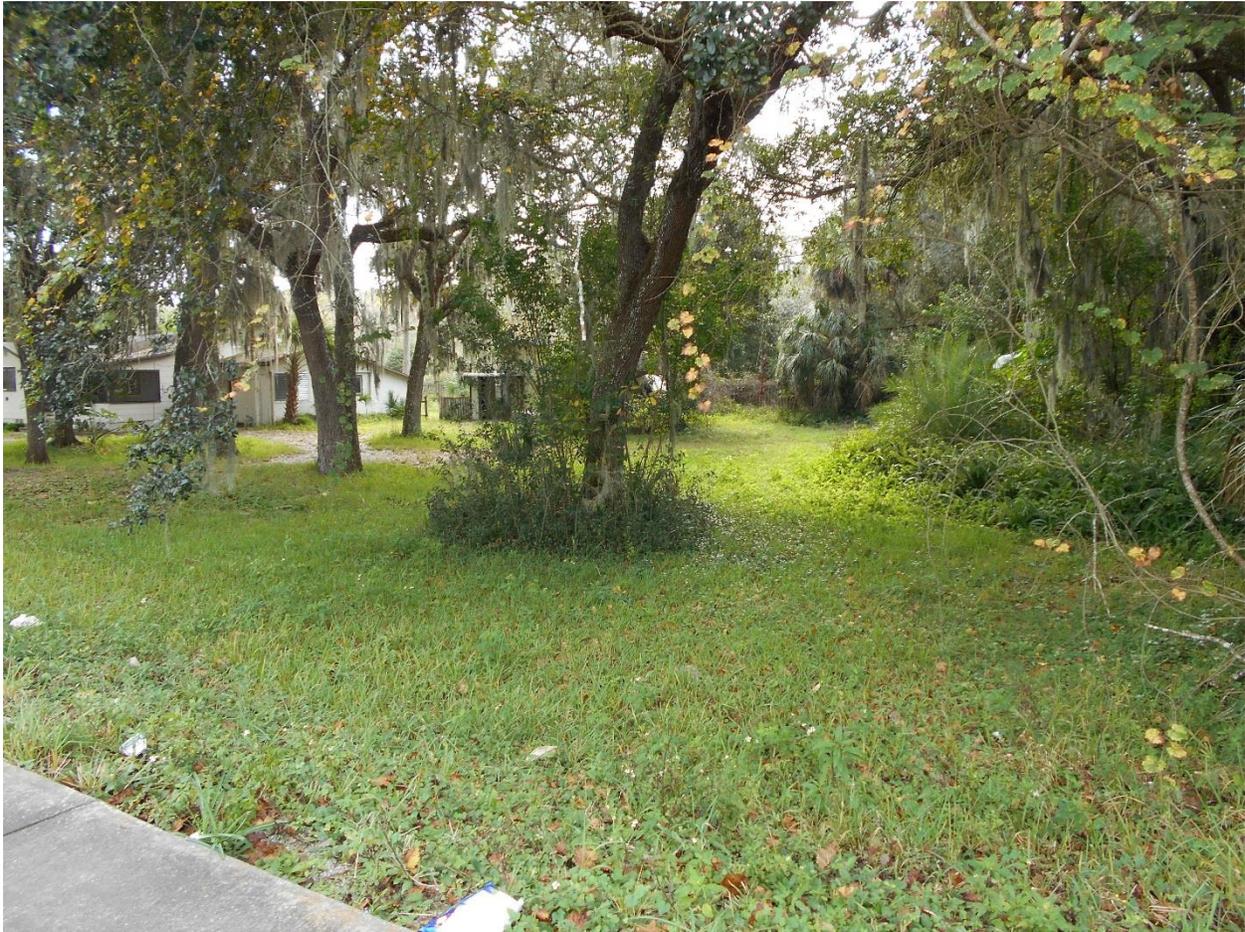
**Looking west along SR 44 on the north boundary of property**

**EXHIBIT C (Cont.)**



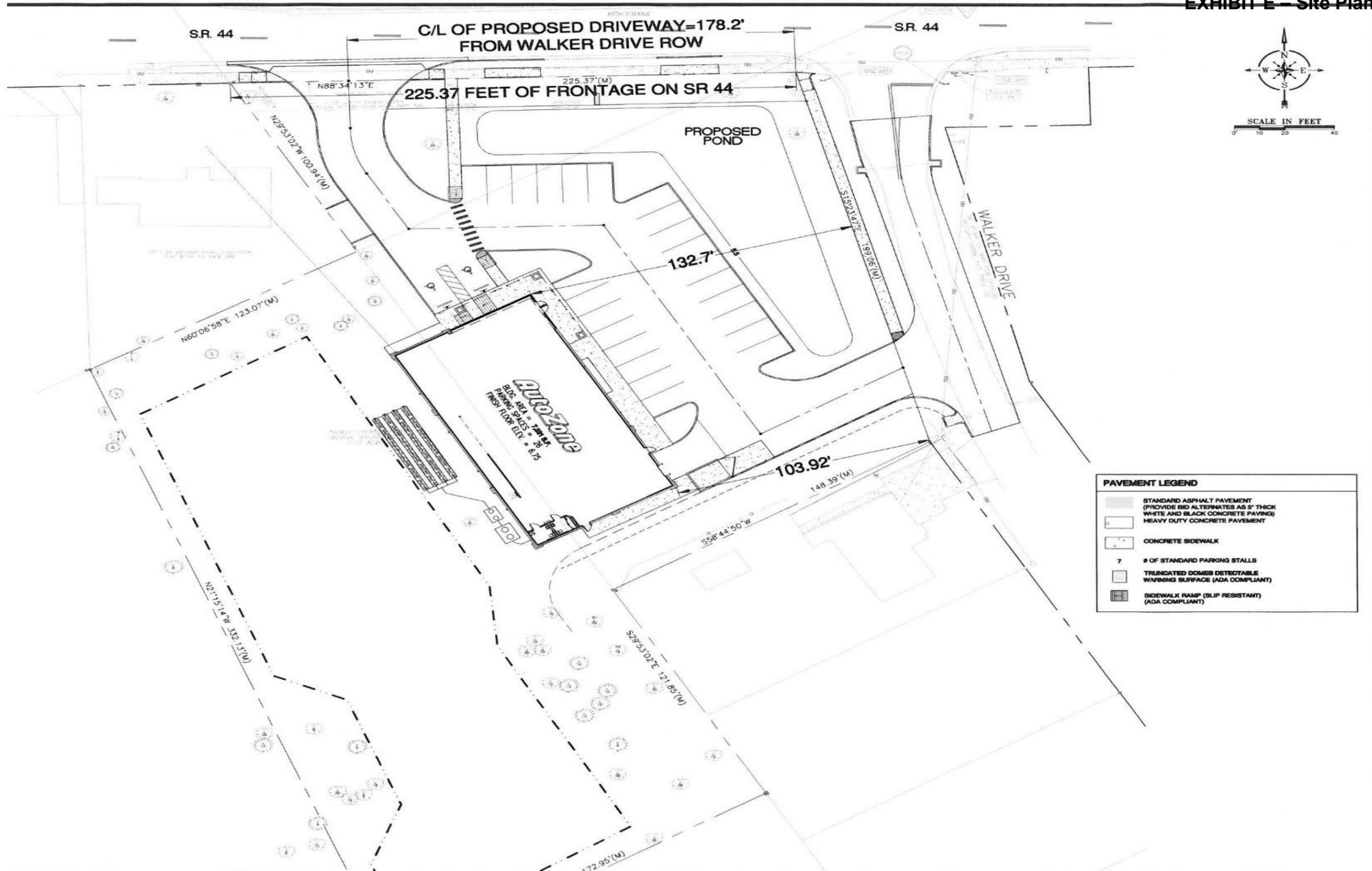
**Northwest corner of the property, looking generally southwest**

**EXHIBIT C (Cont.)**



**Looking South along the west property line**





LPA/PLANNING AND ZONING BOARD  
V-4-15: 124 WALKER DR. / STORCH  
JANUARY 4, 2016

## EXHIBIT F – Applicant Response Letter

### GLENN D. STORCH, P.A.

ATTORNEYS AT LAW

GLENN D. STORCH, ESQUIRE  
glenn@storchlawfirm.com

COREY D. BROWN, ESQUIRE  
corey@storchlawfirm.com

A. JOSEPH POSEY, ESQUIRE  
joey@storchlawfirm.com

December 4, 2015

*Via Hand Delivery*

Mr. Jeff Gove  
Interim Planning & Zoning Director  
City of New Smyrna Beach  
210 Sams Avenue  
New Smyrna Beach, Florida 32168

**Re: Variance Petition for AutoZone Stores, LLC  
PIN(s) 43-17-33-06-00-0521 and a portion of 43-17-33-06-00-0511**

Dear Jeff:

Thank you for the opportunity to make application to the City of New Smyrna Beach to request variances allowing a minimum lot frontage of 225 feet in lieu of 300 feet, and a minimum build-to-line from Walker Drive of 100-135 feet in lieu of 25 feet. This letter addresses the variance criteria listed in the City Land Development Regulations ("LDR") and provides several special circumstances demonstrating compliance with said variance requirements. Responses to the criteria are as follows:

*Special circumstances exist which occurred on the applicant's land, structure and/or building, and do not generally apply to the neighboring lands, structures or buildings in the same district or vicinity:*

**RESPONSE:**

The subject property has several special circumstances that generally do not apply to other properties in the area. This Property is an irregularly shaped corner lot zoned PUD that limits the potential commercial buildable footprint. The size and shape limitations of the Property are exacerbated by multiple Corridor Overlay Zone build-to-line requirements for corner lots. In addition, the non-conforming frontage is an existing site condition of the parcel. The current Corridor Overlay Zone build-to-lines and frontage requirements create site access issues, prevent adequate site circulation for emergency vehicles, and limit adequate buffer placement for the proposed development. Strict application of the City LDR build-to-line and frontage requirements in this case will create practical difficulties in constructing the proposed AutoZone store and diminish the reasonable use of the Property.

420 South Nova Road • Daytona Beach, Florida 32114  
(386) 238-8383 • (386) 238-0988 (fax)

*Strict application of the provisions of the LDR's would deprive the applicant of reasonable rights commonly applicable to other properties in the same district or may preclude a benefit to the community in general:*

RESPONSE:

The City of New Smyrna is experiencing increased growth along the SR 44 corridor. Application of LDR requirements must be considered in light of the increased commercial activity along the SR 44 corridor and the potential benefit such activity has for the community in general. In this case, strict adherence to the City LDR would run contrary to the development activity along SR 44 and preclude a benefit to the community in general. The City LDR is further promoted by allowing a minor decrease in lot frontage along SR 44 and reasonable build-to-line from Walker Drive.

In addition to providing a community benefit, the requested variances would give the owner the same reasonable rights commonly enjoyed by neighboring properties in the district. As mentioned previously, most commercial parcels and lots along SR 44 have reasonably shaped parcels and ample buildable area. The site restrictions for the Property make it impracticable for the owner to take advantage of the reasonable development rights commonly applicable to other commercial properties. This would deprive the owner of reasonable use of the property, which, along with similar variance requests, has not been denied to the other new developments in the area.

*The special circumstances and conditions do not result from the actions of the applicant:*

RESPONSE:

The special circumstances and conditions justifying the requested variances are not the result of the applicant. The applicant has attempted to create a developable lot and potentially mitigate the build-to-line and frontage limitations on PIN 43-17-33-06-00-0521 by including a portion of the neighboring parcel in the development. The owner is working diligently to address the circumstances on the property in a manner that is both a reasonable use of the Property and a benefit to the community in general.

*The granting of the variance will not cause substantial detriment to the public welfare or impair the purpose and intent of the ordinance:*

RESPONSE:

Given the special circumstances of the Property, granting the requested variance will allow for development in a reasonable and economically feasible manner, which will be a substantial benefit to the public welfare and further commercial development along the SR 44 corridor.

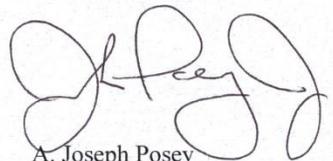
*The granting of the variances will not constitute a special privilege that is denied by this ordinance to other lands, structures or buildings in the same district:*

RESPONSE:

As mentioned previously, a number of commercial developments along the SR 44 corridor have received variances from the current Corridor Overlay Zone build-to line and lot frontage requirements in order to encourage development. In addition, much of the new development within the Corridor Overlay Zone did not and does not have to contend with the same set of special circumstances as the subject Property. The requested variances will allow reasonable site circulation and emergency vehicle access, and permit the applicant to meet the buffer requirements of the City LDR.

Please do not hesitate to contact me if you need any additional information regarding this variance request.

Kindest regards,

A handwritten signature in black ink, appearing to read 'A. Joseph Posey'. The signature is stylized with large loops and a long horizontal stroke.

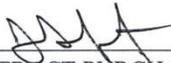
A. Joseph Posey  
For: Glenn D. Storch

GDS/ajp  
Enclosures

**Exhibit G – Authorization Letters**

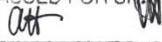
NOTARIZED AUTHORIZATION OF OWNER

I, James C. Griffith, Vice President of AutoZone Stores, LLC, a Nevada limited liability company (hereinafter "Contract Purchaser"), as the contract purchaser for the property attached hereto, hereby authorize Glenn D. Storch, P.A. to represent me in the PUD application for the property attached hereto and all other actions necessary to accomplish same, and to act as applicant, representing the Contract Purchaser in City of New Smyrna Beach public hearings regarding same.

  
\_\_\_\_\_  
CONTRACT PURCHASER

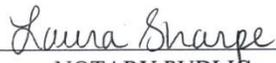
Print Name: James C. Griffith

Title: Vice President

APPROVED, VERIFIED AND  
PASSED FOR SIGNING  
  
\_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF SHELBY

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of October, 2015, by James C. Griffith, personally known to me as the Vice President of AutoZone Stores, LLC, a Nevada limited liability company, on behalf of the limited liability company.

  
\_\_\_\_\_  
NOTARY PUBLIC

Type or print name: Laura Sharpe 4-27-2010  
Commission No.: NA



**OWNER'S AFFIDAVIT DESIGNATING  
REPRESENTATION FOR:**

Before me this day personally appeared MARY K WHITEHOUSE who, being duly sworn, hereby proclaims that he/she is the owner of the described property, does hereby authorize AutoZone Stores, LLC; Goodson, Nevin & Associates, Inc.; and Kinney Engineering, LLC to act as agent with regard to the permitting of said site development.

PIN: 43-17-33-06-00-0521

Mary K. Whitehouse  
Signed

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of April, 2015, by Mary K. Whitehouse who is Personally know to me or who has produced FLDL as identification and who did/did not take an oath.

**NOTARY PUBLIC:**

Sign: [Signature] (seal)

Print: Larhonda R. Bell

Title or Rank:

Serial Number, if any:

My Commission Expires:



LARHONDA R. BELL  
MY COMMISSION # EE 847723  
EXPIRES: October 29, 2018  
Bonded Through Budget Notary Services

**OWNER'S AFFIDAVIT DESIGNATING  
REPRESENTATION FOR:**

Before me this day personally appeared DOYLE KENNEDY who, being duly sworn, hereby proclaims that he/she is the owner of the described property, does hereby authorize AutoZone Stores, LLC; Goodson, Nevin & Associates, Inc.; and Kinney Engineering, LLC to act as agent with regard to the permitting of said site development.

PIN: 43-17-33-06-00-0511

Ray M. Kinney  
Signed

The foregoing instrument was acknowledged before me this 3 day of April, by Bernie Doyle Kennedy who is Personally know to me or who has produced FL driver license as identification and who did/did not take an oath.

**NOTARY PUBLIC:**

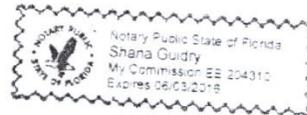
Sign: Shana Guldry (seal)

Print: Shana Guldry

Title or Rank:

Serial Number, if any:

My Commission Expires:



1 **BY-LAWS OF THE NEW SMYRNA BEACH**  
2 **PLANNING AND ZONING BOARD**

3  
4 ARTICLE I - The Planning and Zoning Board Name

5 The official name of the Planning Board shall be the New Smyrna Beach  
6 Planning and Zoning Board.

7  
8 ARTICLE II – Chairperson, Vice-Chairperson and Staff

9 Section 1. The Planning and Zoning Board/Local Planning Agency shall  
10 elect a Chairperson and Vice-Chairperson from among its members. The term of  
11 the Chairperson and Vice-Chairperson shall be one year with eligibility for re-  
12 election. The Chairperson and Vice-Chairperson shall be elected annually at the  
13 first meeting in January of each year. The Vice-Chairperson shall serve in the  
14 capacity and assume all the powers and authority of Chairperson in the event of  
15 illness, death, absence from the county, or resignation of the Chairperson. In the  
16 event that neither the Chairperson nor the Vice-Chairperson can fulfill their duties  
17 for any reason, the Board shall elect a new Chairperson and Vice-Chairperson  
18 from among the Board's membership.

19 The Vice-Chairperson shall chair the meetings of the Board in the  
20 absence of the Chairperson regardless of the reason for the absence of the  
21 Chairperson. In the absence of both the Chairperson and Vice-Chairperson of  
22 the meeting of the Board, the Board shall select from among its membership a  
23 member to chair the meeting.

24 The City of New Smyrna Beach, shall, by appointment, provide the  
25 Planning and Zoning Board/Local Planning Agency with the services of a

1 qualified, competently trained City Planner with an educational background in city  
2 and urban planning and zoning. The Planning Manager shall designate a staff  
3 member to serve as Secretary to the Board to provide necessary administrative  
4 services, maintenance of files, papers, books, and records of the Board.

5 Any reference in the Land Development Regulations to Chairman shall  
6 mean Chairperson and any reference to Vice-Chairman shall mean Vice-  
7 Chairperson for the purposes of the City's Land Development Regulations.

8

9 ARTICLE III – Meetings

10 Section 1. Official Planning and Zoning Board / Local Planning Agency  
11 Meeting Schedule – The Planning and Zoning Board/LPA shall adopt an official  
12 Planning and Zoning Board/LPA Meeting Schedule for the upcoming year at  
13 every December Planning and Zoning Board/LPA meeting. The meeting  
14 schedule shall be strictly adhered to except that the schedule may be deviated  
15 from if the Planning and Zoning Board/LPA shall decide to do so or a special  
16 meeting is called for by the Planning Manager or Chairperson of the Planning  
17 and Zoning Board/LPA.

18 Section 2. Planning and Zoning Board Meetings – The regular meeting  
19 of the Planning and Zoning Board/LPA shall be held at least once each calendar  
20 month on a date and a time decided upon by majority vote of the Planning and  
21 Zoning Board/LPA. The meeting shall be held at the City Commission  
22 Chambers, 210 Sams Avenue, unless another location is decided upon by the  
23 Planning Manager. If a regularly scheduled meeting falls on a legal holiday, the

1 meeting shall be held on the following Monday unless otherwise designated by  
2 the Planning Manager. Members of the public desiring to do business with the  
3 Planning and Zoning Board/LPA shall do so in accordance with the Official  
4 Planning and Zoning Board/LPA meeting schedule prepared annually by the  
5 Planning Manager and approved by the Planning and Zoning Board/LPA.

6 Section 3. Workshop Meetings – Workshop meetings may be held as  
7 required for the purpose of enabling Board members to actively participate in the  
8 formulation of Land Use Plans, Zoning Ordinance provisions, or other special  
9 projects, including but not limited to, individual requests occurring on or near the  
10 borders of another governmental jurisdiction, for the purpose of becoming aware  
11 of the effect said request might have on the other jurisdiction’s Land Use Plan. In  
12 no event shall official action be taken by the Board at any workshop meeting.

13 Section 4. Notice of Regular, Special or Workshop Meetings – Notice of  
14 Regular, special or workshop meetings of the Planning and Zoning Board shall  
15 be posted in the lobby of the City Hall and the local representatives of the news  
16 media notified at least twenty-four (24) hours prior to any such meeting. This  
17 requirement is supplemental to any other notice or advertising requirement  
18 provided by law or ordinance.

19 Section 5. Quorum – The Planning and Zoning Board shall consist of  
20 seven voting members appointed by the City Commission and one nonvoting  
21 member appointed by the Volusia County School Board. A majority of the voting  
22 members assigned to the Planning and Zoning Board/ LPA must be present to  
23 hold a Planning and Zoning Board/ LPA meeting.

1           Section 6.   Order of Business – The order of business at all meetings

2 shall be as follows:

3                   (a) roll call,

4                   (b) approval of minutes,

5                   (c) public participation,

6                   (d) old business,

7                   (e) new business,

8                   (f) comments or statements by members of the board,

9                   (g) reports and communications by the Staff,

10                  (h) adjournment.

11           The order of the agenda may be changed only by a majority vote of all  
12 Planning and Zoning Board members present at the meeting.

13           Section 7.   Majority Vote - A majority is a concurring vote of the majority  
14 of all members of the Planning and Zoning Board and Local Planning Agency  
15 present at the Planning and Zoning Board and Local Planning Agency meeting  
16 when a vote is taken.

17           Section 8.   Recording – All proceedings and meetings of the Planning  
18 and Zoning Board/Local Planning Agency shall be documented in official minutes  
19 prepared by the Planning and Engineering Division. All meetings shall be public  
20 and the Board is subject to Chapter 286, Florida Statutes, the Sunshine Law of  
21 the State of Florida.

22           Section 9.   Public Participation – Any person may attend Planning and  
23 Zoning Board meetings. In order for the Planning and Zoning Board to conduct

1 meetings in an orderly manner, however, no one will normally be recognized to  
2 speak before the Board unless authorized to speak by the Chairperson. The  
3 Chairperson's decision in this regard may be challenged by any two members of  
4 the Board. If such a challenge is made, the votes of the majority of the Board  
5 members present shall determine the issue of whether a person is or is not  
6 authorized to speak before the Board. A member of the Board may, as a matter  
7 of personal privilege, publicly confer with any person or persons during any  
8 meeting of the Board concerning any relevant matter being considered by the  
9 Board.

10 Section 10. Speaking Time – Ample time will be allowed to interested  
11 persons to speak when authorized to do so as indicated in Section 9 above, in  
12 support of, or against, any relevant matter being considered by the Board. The  
13 Chairperson may, however, fix equal time limitations for supporting and opposing  
14 parties to speak on such matters and may limit the number of persons speaking  
15 thereon.

16 Section 11. Public Hearings – The Board shall hold public hearings when  
17 the Board deems that such hearings will be in the public interest and when  
18 required to gather information necessary for the drafting, establishing, and  
19 maintenance of the Comprehensive Plan, or when the City Commission desires  
20 concurrent public hearings. Official action on the pending matter shall be  
21 decided after adjournment of the public hearing. If the public hearing is  
22 scheduled during a Planning and Zoning Board workshop meeting, official action

1 shall not be taken until the next scheduled special or regular Planning and  
2 Zoning Board meeting.

3           Section 12. Notice of Public Hearing – Notice of any public hearing by  
4 the Planning and Zoning Board shall be published in a newspaper of general  
5 circulation within New Smyrna Beach at least fifteen (15) days prior to the  
6 hearing. Notice of the hearing shall also be posted in the lobby of the City Hall.  
7 This requirement shall be supplemental to any requirement of law or ordinance.

8           Section 13. Rehearings – In any matter where action by the Planning  
9 and Zoning Board constitutes final administrative action, and the application or  
10 request is denied by the Board, the applicant may request a rehearing at any  
11 time within 30 days of the written decision of the Board, or prior to initiation of  
12 judicial proceedings, whichever occurs first. No matter may be reheard on the  
13 same subject more than one time. In the event a rehearing is granted, the matter  
14 shall be re-noticed and re-advertised at the applicant's expense. A rehearing  
15 may only be granted if a Planning and Zoning Board member who voted on the  
16 prevailing side on the original hearing, makes a motion to re-hear the case. The  
17 motion must then be seconded and approved by a majority vote of Planning and  
18 Zoning Board members present at the meeting at which the request for a re-  
19 hearing is made.

20           Section 14. Amendments to Applications – In the event an applicant  
21 requests to amend its application after the item is advertised or after the agenda  
22 is published and distributed, the following procedures shall apply:

- 1 a) If the amendment increases density or intensity, or makes a  
2 substantial change in the application, the amended application shall  
3 be continued and readvertised/re-noticed at the applicant's  
4 expense. Examples of substantial changes shall include, but not  
5 be limited to; changes to permitted uses, changes to building  
6 heights or locations; changes that would result in the need for a  
7 variance; or textual changes that alter the nature of the request.
- 8 b) If the amendment constitutes a minor or insubstantial change, the  
9 amended item may be heard by the P&Z Board at the meeting  
10 where the item is currently on the agenda.

11 Section 15. Continuances – Continuances may be approved by the  
12 Planning and Zoning Board as follows:

- 13 a) The Planning and Zoning Board may, in its sole discretion and on  
14 its own motion, during a regular or special meeting, continue any  
15 item on the agenda to a later date.
- 16 b) Either party (the City or an applicant) may request continuance of  
17 an item on the agenda. The party making the request shall give  
18 notice to the Planning Manager at least 5 business days prior to the  
19 meeting when the item is scheduled to be heard. If notice is given  
20 less than 5 business days before the meeting by either party, the  
21 P&Z Board shall grant the continuance only upon good cause  
22 shown. Good cause shall be determined based upon claims of  
23 natural disaster; death; disease; or grievous bodily injury.

1           c)    No more than four (4) requests for continuance may be granted  
2                    during a six-month period, except upon good cause shown. If the  
3                    maximum number of contiuances is reached, or if the Board should  
4                    not approve a request to continue, the applicant shall be prepared  
5                    to present the case at that meeting. Alternatively, the applicant  
6                    may submit a new application package, including the required  
7                    application fee and all supporting documentation. The party  
8                    requesting a continuance for a period greater than six months shall  
9                    stipulate in its request that the LDR provisions in effect at the time  
10                   the case is heard by the P&Z Board shall apply to the application.

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12   ARTICLE IV – Planning and Zoning Board Responsibilities

13           Section 1.   Duties – Responsibilities of the Planning and Zoning Board  
14 shall include the following:

- 15           (1)   Review and approve unconditionally, approve with conditions or  
16                   deny:  
17                   a.    Class III site plans; class II site plans when referred to by the  
18                           city planner or the applicant;  
19                   b.    Appeals for a variance from the requirements of the Land  
20                           Development Regulations, where owing to special  
21                           conditions, the literal enforcement of the provisions of the  
22                           Land Development Regulations would result in unnecessary  
23                           hardship.  
24                           hardship.  
25                           hardship.  
26                           hardship.
- 27           (2)   Review and make recommendations to the City Commission on:  
28                   a.    Rezoning requests;  
29                   b.    Street vacations;  
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- c. Final subdivision plats;
  - d. Special exceptions; and
  - e. Any other matters referred to them by the City Commission.
- (3) The Planning and Zoning Board is hereby established as the City Local Planning Agency which is responsible for reviewing and making recommendations to the City Commission on:
- a. Comprehensive Plan amendments;
  - b. Land Development Regulation amendments; and
  - c. Annexations.
- (4) Other duties of the Planning and Zoning Board, whether or not they are acting as the Local Planning Agency, include:
- a. To acquire and maintain information and perform studies relating to land use and development within the City limits and areas surrounding the City which may be annexed into the City;
  - b. To prepare and recommend to the City Commission other ordinances and resolutions promoting orderly development consistent with the comprehensive plan for the growth and improvement of the area;
  - c. To determine whether specific proposed developments conform to the goals, objectives and policies of the comprehensive plan for the growth and improvement of the area;
  - d. To determine whether specific proposed developments conform to the stated goals and policies established by the City Commission;
  - e. To conduct such public hearings as may be required to gather information necessary for the establishment and maintenance of the comprehensive plan and such additional public hearings as deemed necessary;
  - f. To keep the City Commission and the general public informed and advised as to these matters;

- 1           g.    To perform any other duties which may be lawfully assigned  
2                   to it by the City Commission of the City of New Smyrna  
3                   Beach, Florida;
- 4
- 5           h.    To ensure all recommendations and formal actions of the  
6                   Planning and Zoning Board are consistent with the Local  
7                   Government Comprehensive Planning and Land  
8                   Development Regulations Act of 1985 adopted by the state  
9                   legislature-; and
- 10
- 11          i.    To ensure coordination between the City of New Smyrna  
12                   Beach and the Volusia County School Board as required in  
13                   Section 163.31777, Florida Statutes.
- 14

15    ARTICLE V – Planning and Engineering Division Staff

16           Section 1.    Duties – The Planning and Engineering Division Staff shall  
17    provide the Planning and Zoning Board with all manner of technical assistance  
18    and advice in matters related to the scope of the Board’s areas of responsibility.  
19    The Planning and Engineering Division Staff shall perform studies, research and  
20    reviews as the Board may lawfully direct in the performance it its duties.  The  
21    Planning and Engineering Division Staff shall assemble all information and  
22    material pertaining to applications being acted upon at each regular, special or  
23    workshop meeting.  The Planning and Engineering Division Staff shall review all  
24    applications required to be reviewed by the Planning and Zoning Board.  The  
25    Planning and Engineering Division Staff shall engage in originating studies and  
26    programs concerning zoning, rezoning, short- and long-term land use concepts  
27    and projects; shall make reports to the Board on the progress of these matters as  
28    required.  At the direction of the Planning and Zoning Board, or its Chairperson,  
29    or of their own volition, the Planning and Engineering Division Staff will review or  
30    cause to be reviewed geographic areas considered to be prime for annexation in

1 the good interests of the City of New Smyrna Beach and its citizens in order to  
2 provide for the planned and orderly growth of the City.

3

4 ARTICLE VI – Agenda

5 Section 1. Preparation – An agenda shall be prepared for each regular,  
6 special or workshop meeting. The basic materials to be contained in any agenda  
7 shall be assembled by the Planning and Engineering Division Staff and made  
8 ready for approval by the Chairperson of the Planning and Zoning Board. All  
9 matters to be brought before the Planning and Zoning Board for consideration  
10 and/or action shall be approved by the Planning Manager. Prior to distribution of  
11 the agenda, the Chairperson shall signify his/her approval by affixing his/her  
12 signature to the agenda letter of transmittal. The agenda shall be distributed to  
13 all members of the Board no later than the Monday preceding the scheduled  
14 regular meeting. When the regularly scheduled meeting falls on a holiday, the  
15 agenda will be provided each member not less than seven calendar days prior to  
16 that meeting. Agendas for all other meetings shall be prepared and delivered not  
17 less than 24 hours prior to the special meeting date. No matters, except as  
18 provided for in ARTICLE III, Section 6, shall be considered as a part of the  
19 established agenda unless approved by the unanimous consent of the members  
20 of the Board present.

21 Section 2. Number of Items – No limit shall be placed on the number of  
22 agenda items.

1           Section 3.    Division of Agenda – In the event the number of agenda  
2 items to be considered at any regular Planning and Zoning Board meeting is  
3 thought to require more than three (3) hours deliberation, the Planning Manager,  
4 may, at his/her discretion, divide the proposed agenda into two (2) sections; the  
5 first section of the agenda to be heard on the day of the regular meeting and the  
6 remaining section to be heard at a second regular meeting.

7

8    ARTICLE VII – Conduct of Meeting

9           Section 1.   Rules of Order – All meetings of the Planning and Zoning  
10 Board, with the exception of workshop meetings, shall be governed by Roberts  
11 Rules of Order.

12          Section 2.   Minority Opinion Letter – Each Board member has the right  
13 to file a minority opinion letter where they have cast a dissenting vote on an item  
14 of business requiring official action at a regular or special meeting.  Alternatively,  
15 each Board member may verbally state their reasons for casting a dissenting  
16 vote at the time the vote is taken.

17

18    ARTICLE VIII – Board Member Residency Requirement

19          Section 1.   Residency – Each member shall be appointed and serve as  
20 provided by Sections 302.01 B(1) and (2) of the City's Land Development  
21 Regulations.

1 ARTICLE IX – Amendments to By-Laws

2 Changes may be made to the By-Laws of the Planning and Zoning Board  
3 by the affirmative vote of four members of the Board.

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Chairperson

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Vice-Chairperson

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Secretary

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1 Date Adopted: January 7, 1980  
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3 Date First Amended: October 3, 1983  
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5 Date Second Amended: March 4, 1985  
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7 Date Third Amended: September 9, 1985  
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9 Date Fourth Amended: December 8, 1986  
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11 Date Fifth Amended: January 9, 1989  
12  
13 Restated By-Laws Adopted: February 5, 2007  
14  
15 Date First Amendment Adopted: February 1, 2010  
16  
17 Date Second Amendment Adopted: February 7, 2011  
18  
19 Date Third Amendment Adopted: January 7, 2013  
20  
21 Date Fourth Amendment Adopted: January 5, 2015