



# City of New Smyrna Beach

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January 22, 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, February 1, 2016 at 6:30 P.M., in the **CITY COMMISSION CHAMBERS, 210 SAMS AVENUE**, New Smyrna Beach, FL, for consideration of the following:

## ROLL CALL

## APPROVAL OF MINUTES

Regular Meeting held January 4, 2016

## PUBLIC PARTICIPATION

## OLD BUSINESS

None

## NEW BUSINESS

### A. A-6-16: 636 Glen Circle

Claude and Ann Bowman, 636 Glen 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 RR, Rural Residential to City RE, Residential Estate. The subject property consists of approximately 2.5 acres, and is generally located south of SR 44 addressed as 636 Glen Circle, (VCPA# 7326-05-00-0070)

### B. A-7-16: 2230 Sierra Drive

Wendell Dale and Rebecca Routh Weddle, 2230 Sierra 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 0.34 acres, and is generally located south of SR 44 addressed as 2230 Sierra Drive, (VCPA# 7343-06-00-1026)

C. A-8-16: Vacant Parcel on Sugar Mill Road

David K. Hall, 757 Hunting Camp Road, New Smyrna Beach, Florida 32168, applicant for HNWW, INC., 121 Wallace Road, New Smyrna Beach, Florida 32168, property owner, requests voluntary annexation, Comprehensive Plan amendment from Volusia County AC, Activity Center to City AC, Activity Center, and rezoning from Volusia County A-3, Transitional Agriculture to City A-3, Transitional Agriculture. The subject property consists of approximately 4.78 acres, and is generally located north of SR 44 and west of Sugar Mill Road, (VCPA# 7322-00-00-0030)

D. CPA-1-16 Future Land Use Amendments / City of New Smyrna Beach

The City of New Smyrna Beach, applicant, requests approval of amendments to the City's Comprehensive Plan to update the Future Land Use Element, as mandated by Florida statutes. The amendments concern specific revisions to the Hospitality FLU (for density, parking, design standards, and elimination of non-transient units), the Mixed Use FLU (for height and floor area ratio), and for special exception uses in residential FLU.

E. ZT-2-16 MU/B-3/B-4/PUD Zoning Districts / City of New Smyrna Beach

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 amend the MU Mixed Use District (Central Business District), the B-3 Highway Service Business District, the B-4 Ocean Commercial Business District and the PUD Planned Unit Development Zoning Districts.

F. ZT-3-16 Upland Buffer from Wetlands / Stowers

James Stowers, Esq., 424 Luna Bella Lane, New Smyrna Beach, Florida 32168, applicant, request approval of an amendment to the City's Land Development Regulations to amend Section 701.11 (A) from the requirement of a 25 foot upland buffer from all wetlands to require an average of 25 feet upland buffer with no less than 15 foot buffer from all wetlands in order to be more consistent with State upland buffer regulations.

COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

CCSL between Crawford and Sapphire (requested by Member Dever)

REPORTS AND COMMUNICATIONS BY THE STAFF

- February 2016 Development Activity Report
- Annual review of by-laws (continued from January 2016 meeting)

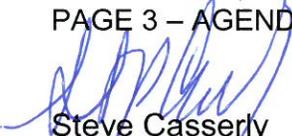
ADJOURNMENT

Respectfully,

LPA/PLANNING AND ZONING BOARD

FEBRUARY 1, 2016

PAGE 3 – AGENDA



Steve Casserly  
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  
2650 N. Dixie Freeway  
New Smyrna Beach, FL 32168  
(386) 410-2830

1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING BOARD  
2 **A-6-16: 636 GLEN CIRCLE**  
3 **FEBRUARY 1, 2016**  
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5 **I. Background**  
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7 **A. Applicant and Property Owner:**

8 Claude Lee and Ann T. Bowman, 636 Glen Circle, New Smyrna  
9 Beach, Florida, 32168  
10

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

- 13 • **From:** Volusia County Future Land Use (FLU) designations of ULI,  
14 Urban Low Intensity and Rural and Volusia County zoning designation  
15 of RR, Rural Residential.
- 16 • **To:** City FLU designations of LDR, Low Density Residential and City  
17 Rural and City zoning designation of RE, Residential Estate.  
18

19 **C. Site Information:**

- 20 • **Size:** 2.5 acres
- 21 • **Location:** South of SR 44 at 636 Glen Circle. (See **Exhibit A** for a  
22 location map).
- 23 • **Tax I.D. Numbers:** 7326-05-00-0070  
24

25 **II. Findings**  
26

27 **A.** On April 23, 2013, the City Commission adopted an Interlocal Service  
28 Boundary Agreement (ISBA). The ISBA, which is permitted under Chapter  
29 171, Part II, Florida Statutes, allows the City to annex any parcels that are  
30 within the designated annexation area, even if they are not contiguous to  
31 the current municipal boundaries. The agreement, which is between the  
32 County of Volusia and the City, was also approved by the County on May  
33 2, 2013.  
34

35 **B.** The subject property is within the annexation area designated in the ISBA.  
36 The subject property is developed with a single-family residence and  
37 associated accessory uses. An aerial view/map of the subject property and  
38 surrounding area is attached as **Exhibit B**.  
39

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

property is attached as **Exhibit F**.

Property Location	Volusia County FLU Designation	Volusia County Zoning Designation
636 Glen Circle	Urban Low Intensity	RR, Rural Residential

**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 properties are as follows:

	North	East	South	West
<b>636 Glen Circle</b>				
Future Land Use	County Urban Low Intensity	City Low Density Residential	City Medium Density Residential	County Urban Low Intensity
Existing Land Use	Residential	Residential	Vacant	Residential
Zoning	County RR	City R-1	City R-1	County RR

**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, existing County FLU designation is ULI, Urban Low Intensity. The existing County zoning designation is RR, Rural Residential. The proposed City FLU designation is LDR, Low Density Residential. The proposed City zoning designation is RE, Residential Estate. A text description of the proposed City LDR, Low Density Residential 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 RE, Residential Estate 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
636 Glen Circle	Not Available	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 property is developed with a single family house and

1                    accessory structures with no new proposed development, and because no  
2                    increased density is proposed for the properties, staff did not prepare a  
3                    concurrency analysis table for this case.  
4

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

9                    **I.**

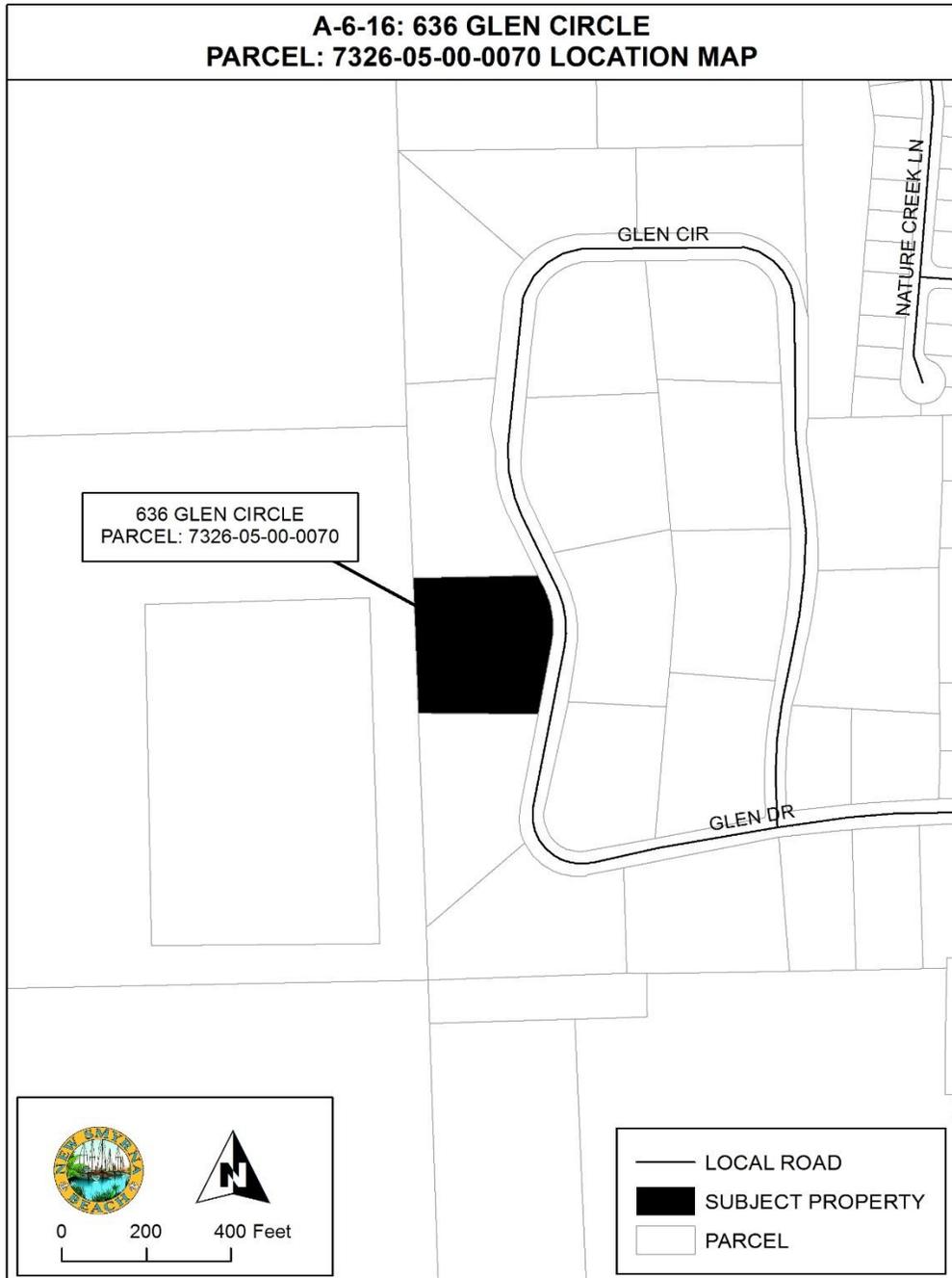
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11                    **J.**     The *Comprehensive Plan* provides guidance on annexations, future land  
12                    use amendments, and re-zonings. The following is a list of objectives in the  
13                    *Comprehensive Plan*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

- 14  
15                    • Future Land Use Element Goal 2, Objective 3  
16                    • Future Land Use Element Goal 2, Objective 4  
17                    • Future Land Use Element Goal 2, Objective 7  
18                    • Future Land Use Element Goal 5, Objective 3

19  
20 **III.     Recommendation**

21 Staff recommends that the Planning and Zoning Board recommend the City Commission  
22 **approve** the requested annexations, *Comprehensive Plan* amendment to City LDR, Low  
23 Density Residential, and rezoning to City RE, Residential Estate.  
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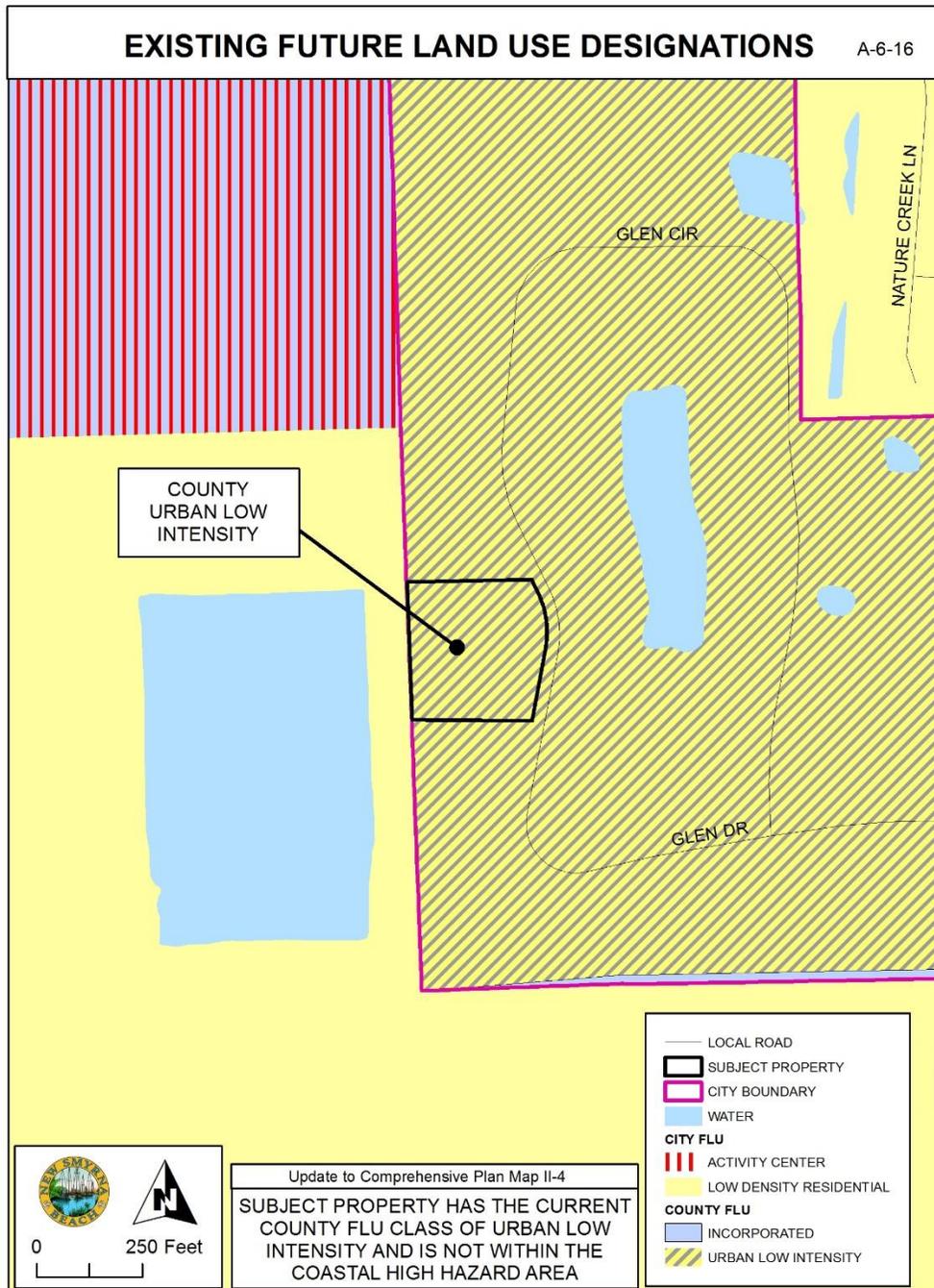
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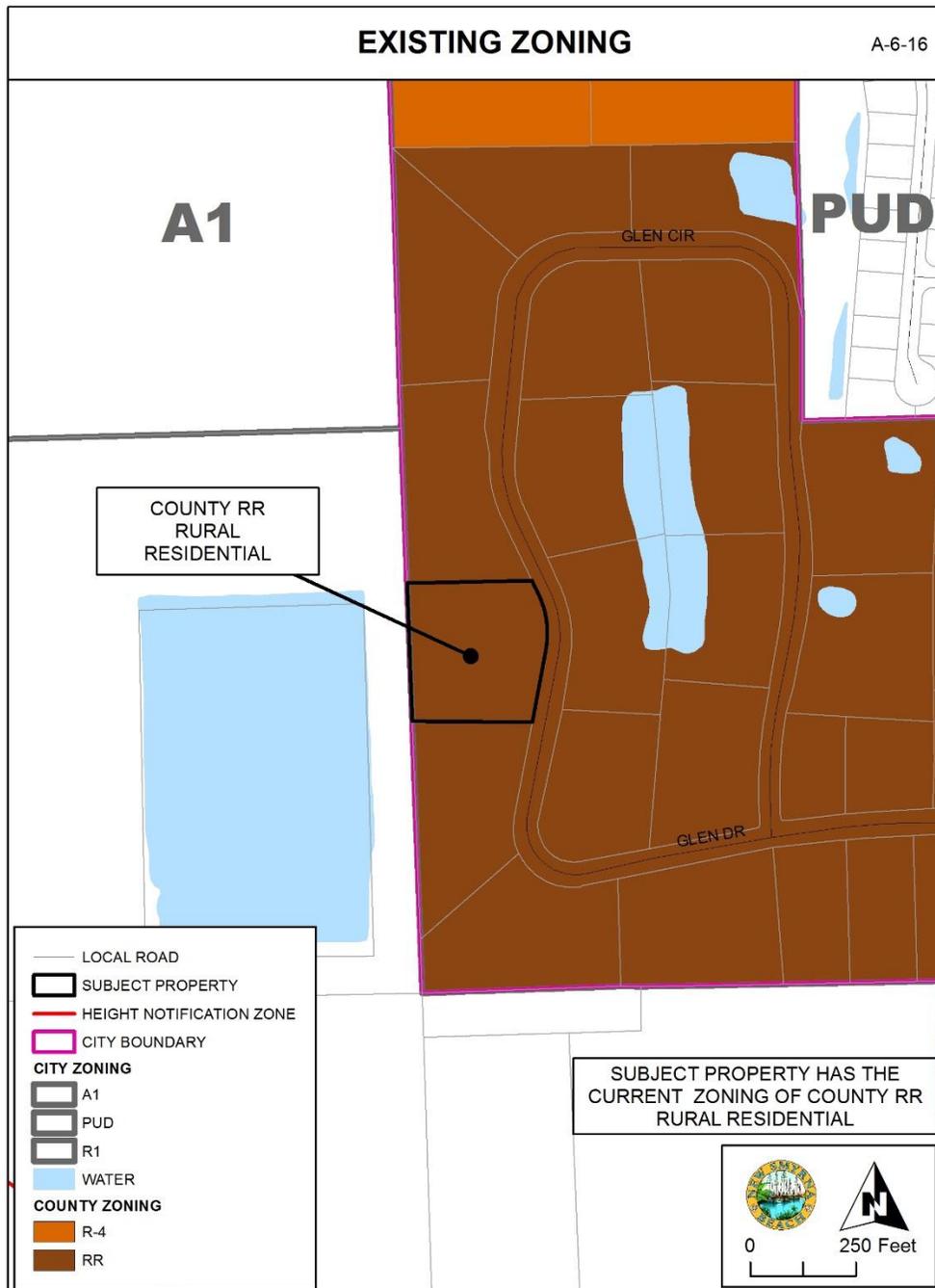


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**Exhibit E**

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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 (1/4) mile of another jurisdiction shall require notification to that jurisdiction.

**Exhibit F**

**RR RURAL RESIDENTIAL CLASSIFICATION**

*Purpose and intent:* The purpose and intent of the RR Rural Residential Classification is to provide for development, in a manner which is consistent with the comprehensive plan, in rural areas of the county.

*Permitted principal uses and structures:* In the RR Rural Residential 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.

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](#)).

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 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.

*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\(4\)](#)).

Cluster and zero lot line subdivisions (refer to subsection [72-304](#)).

**Exhibit F (cont'd)**

- 1
- 2 Communication towers exceeding 70 feet in height above ground level.
- 3 Day care center (refer to subsection 72-293(6)).
- 4 Dogs and cats boarded as personal pets exceeding the number permitted in
- 5 subsection 72-306(a).
- 6 Excavations only for stormwater retention ponds for which a permit is required by
- 7 this article.
- 8 Garage apartments.
- 9 Group home (refer to subsection 72-293(12)).
- 10 Home occupations, class B (refer to section 72-283).
- 11 Kennels.
- 12 Off-street parking areas (refer to subsection 72-293(14)).
- 13 Public uses not listed as a permitted principal use.
- 14 Public utility uses and structures (refer to subsection 72-293(1)).
- 15 Recreational areas (refer to subsection 72-293(3)).
- 16 Schools, parochial and private (refer to subsection 72-293(4)).

*Dimensional requirements:*

*Minimum lot size:*

Area: One acre.

Width: 100 feet.

*Minimum yard size:*

Front yard: 40 feet.

Rear yard: 40 feet.

Side yard: 15 feet.

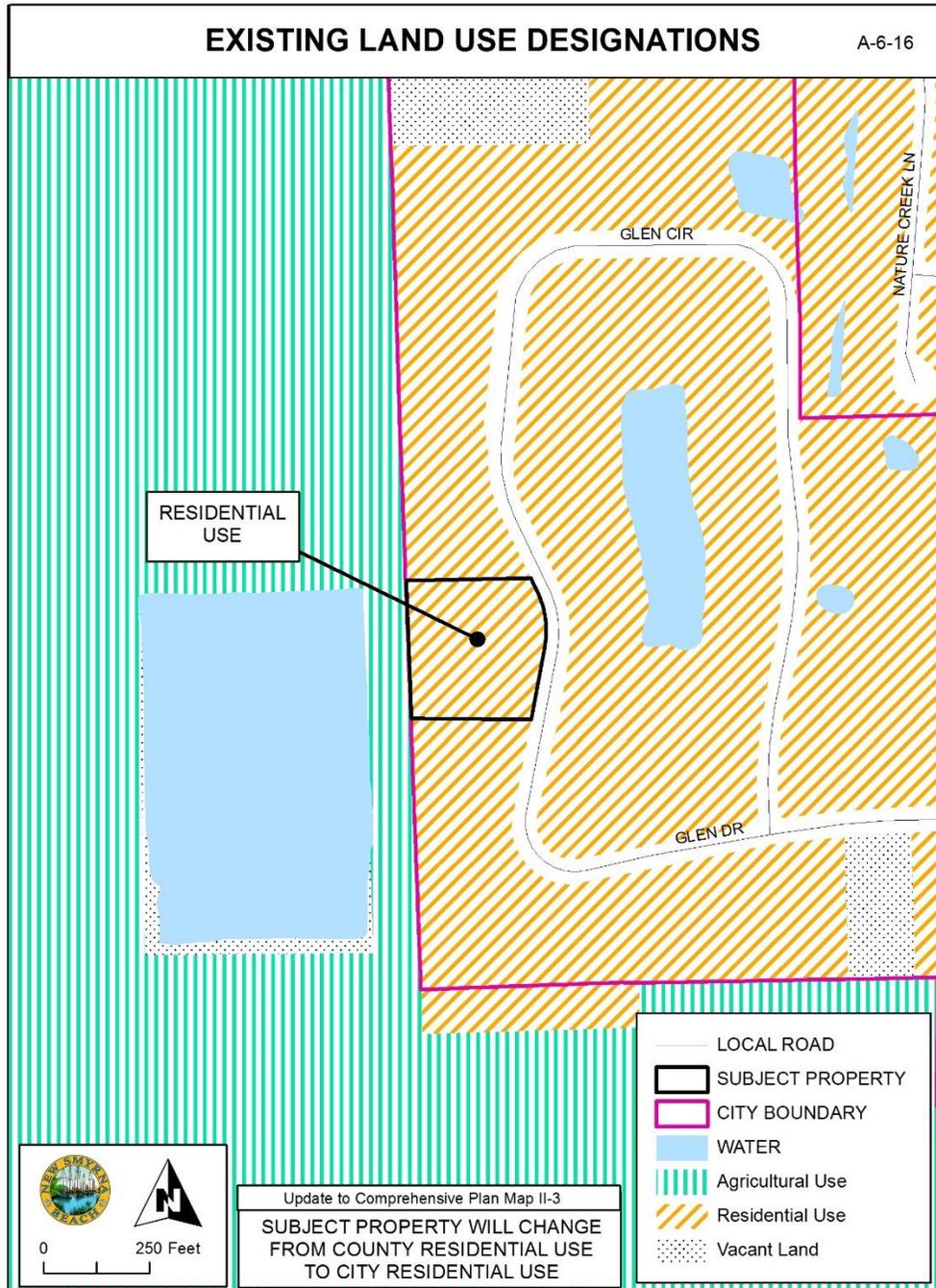
Waterfront yard: 40 feet.

*Maximum building height:* 35 feet.

*Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 30 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.



**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.



**Exhibit J**

**RE, RESIDENTIAL ESTATE**

*Intent.* The RE, Residential Estate District is intended to be a single-family residential district for low population densities and relatively large homes.

*Permitted principal uses.*

Single-family dwelling units

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

*Permitted accessory uses.*

Gazebos

Garages

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 uses

*Prohibited uses.*

Businesses (except home occupations)

Manufacturing facility

Offices (except home occupations)

Restaurants

**Exhibit J (cont'd)**

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Retail activity

*Special exceptions.*

Country clubs and golf courses

Schools and churches provided all structures are located at least 45 feet from all property lines and off-street parking areas abutting residential property are screened by a buffer meeting the requirements of this LDR except that the buffer shall be a minimum of 15 feet in width

*Dimensional requirements.*

*Minimum lot size.*

Area: 40,000 square feet\*

Width: 100 feet

Depth: 150 feet

\*Minimum lot depth multiplied by minimum lot width does not equal the minimum required lot area.

*Minimum yard size.*

Front: 45 feet or as required per [sub]section 504.01M. of this LDR

Rear: 40 feet

Side: 15 feet

*Maximum building coverage.* The total area covered with buildings on any lot shall not exceed 20 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:

**Exhibit J (cont'd)**

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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 coverage.* The total area covered with impervious ground cover shall not exceed 40 percent of the total lot area.

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

*Minimum floor area requirements.* 1,700 square feet of livable area per dwelling unit.

*Off-street parking.* Parking shall be required entirely on the lot for a minimum of two automobiles. There is no required backup area.

*Corner lots.*

(1)

Parcels which front on two streets shall provide a 45-foot front yard on street frontage with driveway access and a 22.5-foot front yard on the other street, or as required per [sub]section 504.01M. of this LDR.

(2)

Parcels fronting on three streets shall provide two 45-foot front yards including one with driveway access and a 22.5-foot front yard on the remaining street, or as required per [sub]section 504.01M. in this LDR.

*Through lots.* Shall provide a 45-foot front yard on each street, or as required per [sub]section 504.01M. of this LDR.

*Atypical lot.* Visibility triangles shall be established at the rear corners of an atypical lot. The visibility triangles shall be those areas formed by a line

**Exhibit J (cont'd)**

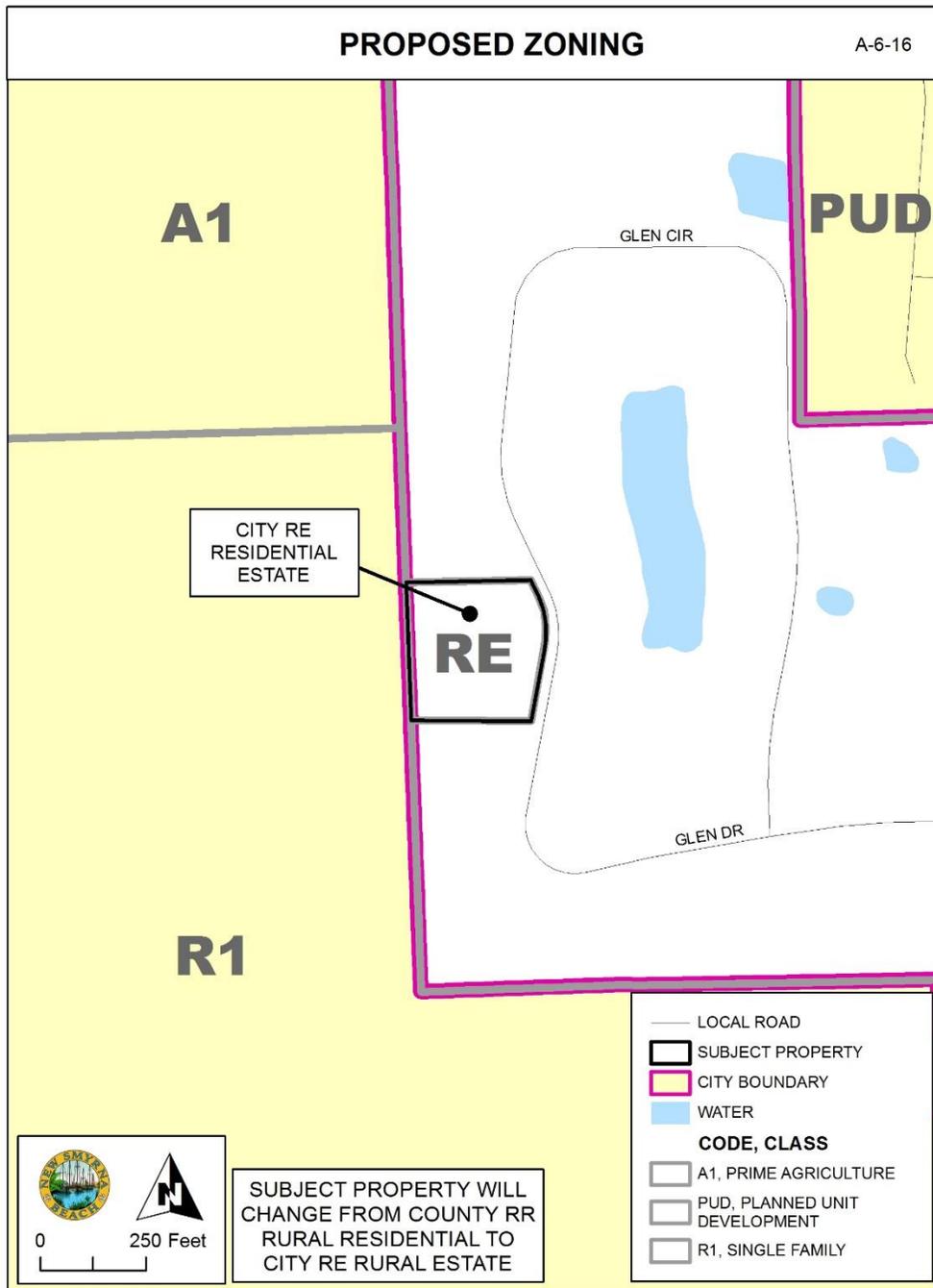
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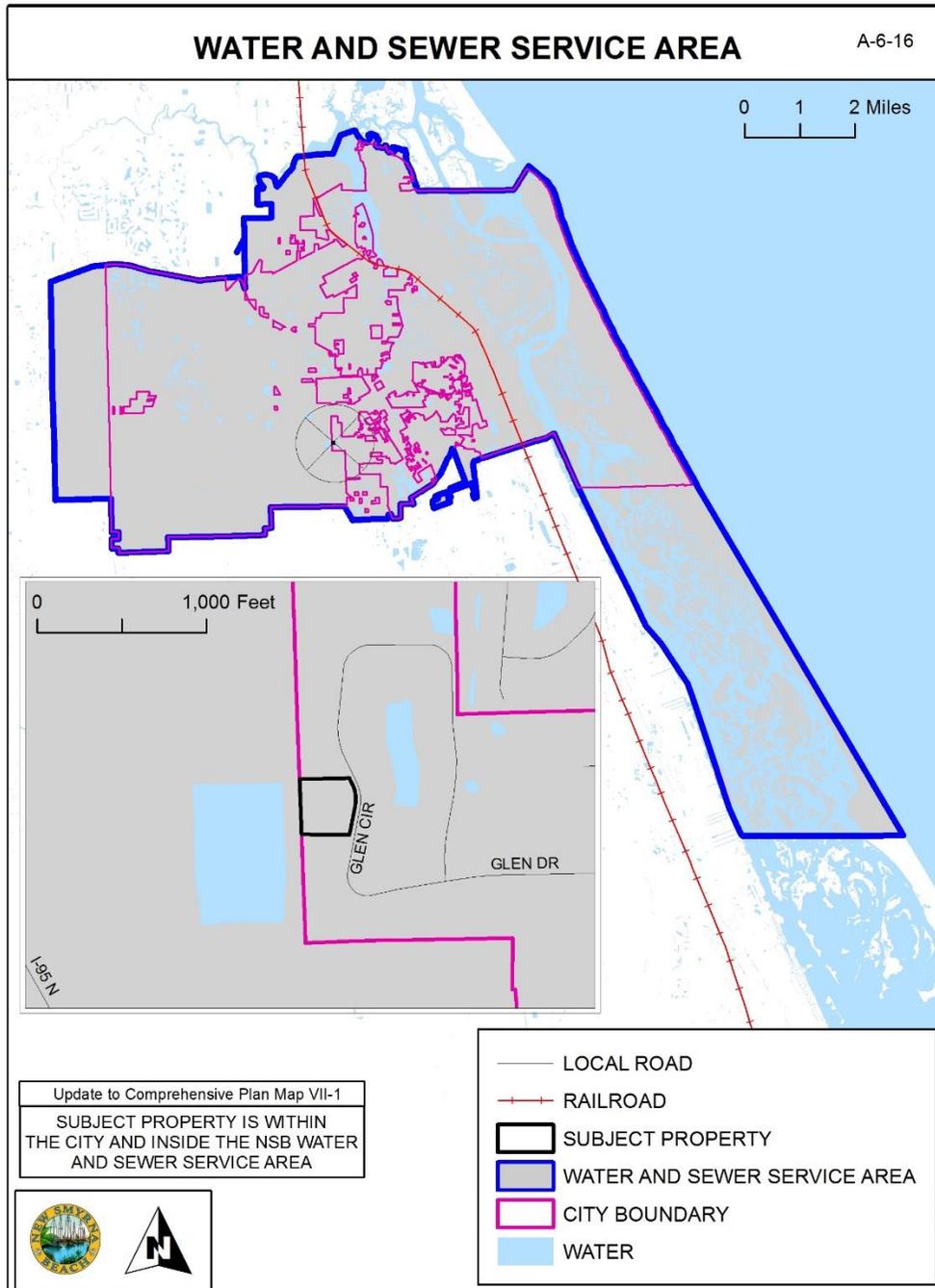
connecting the points 30 feet from the intersection of the side and rear lot line along the side lot line and 30 feet from the intersection of the side and rear lot line along the rear lot line; no principal or accessory structure having a height over four feet, except for incidental uses, shall protrude into the area of a visibility triangle.

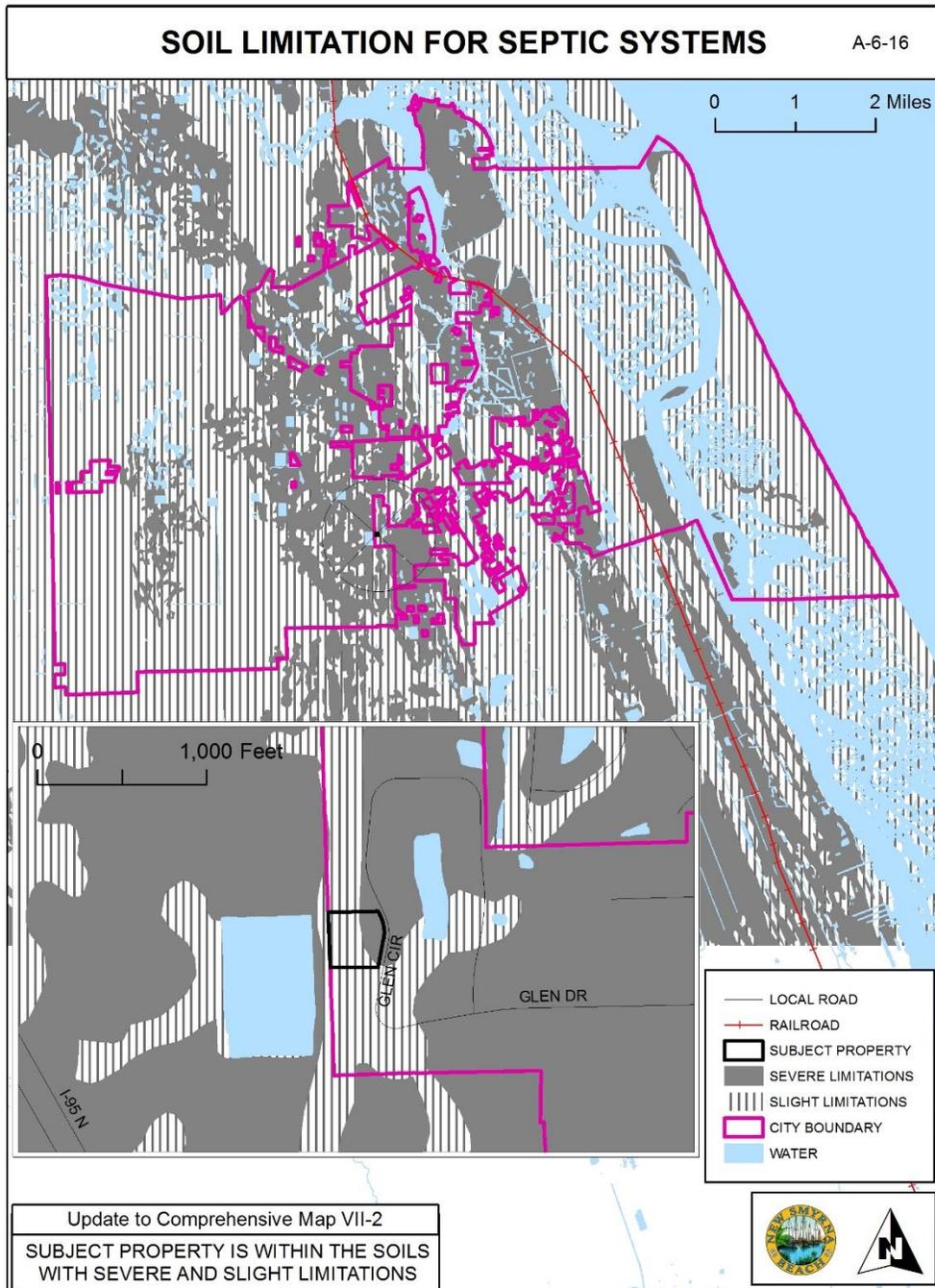
*Building projections.* Except for eaves with a maximum projection of 36 inches, there shall be no building projections into any required yard.

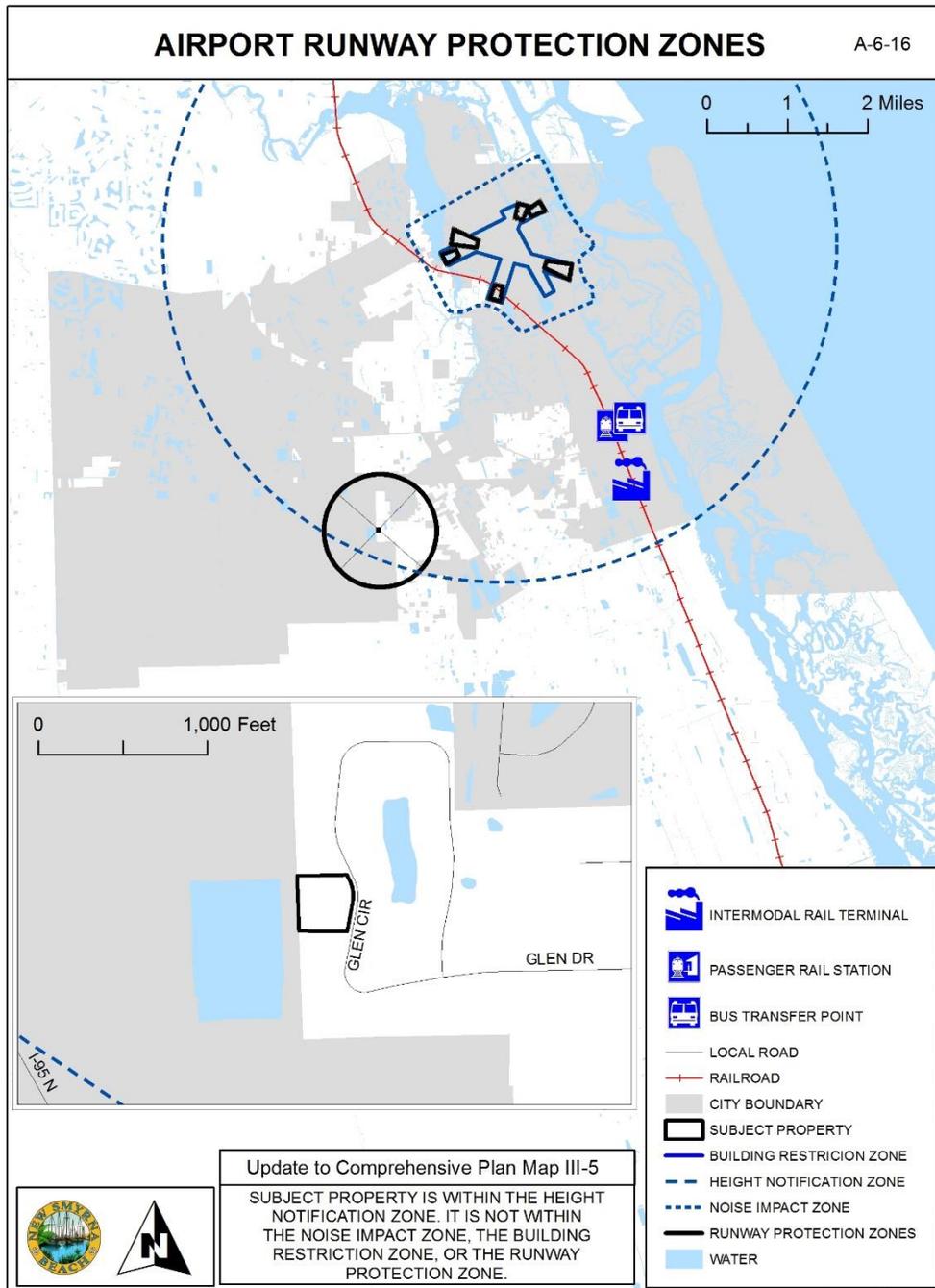
*Visibility at intersections.* Visibility at intersections shall be provided as required in this LDR.

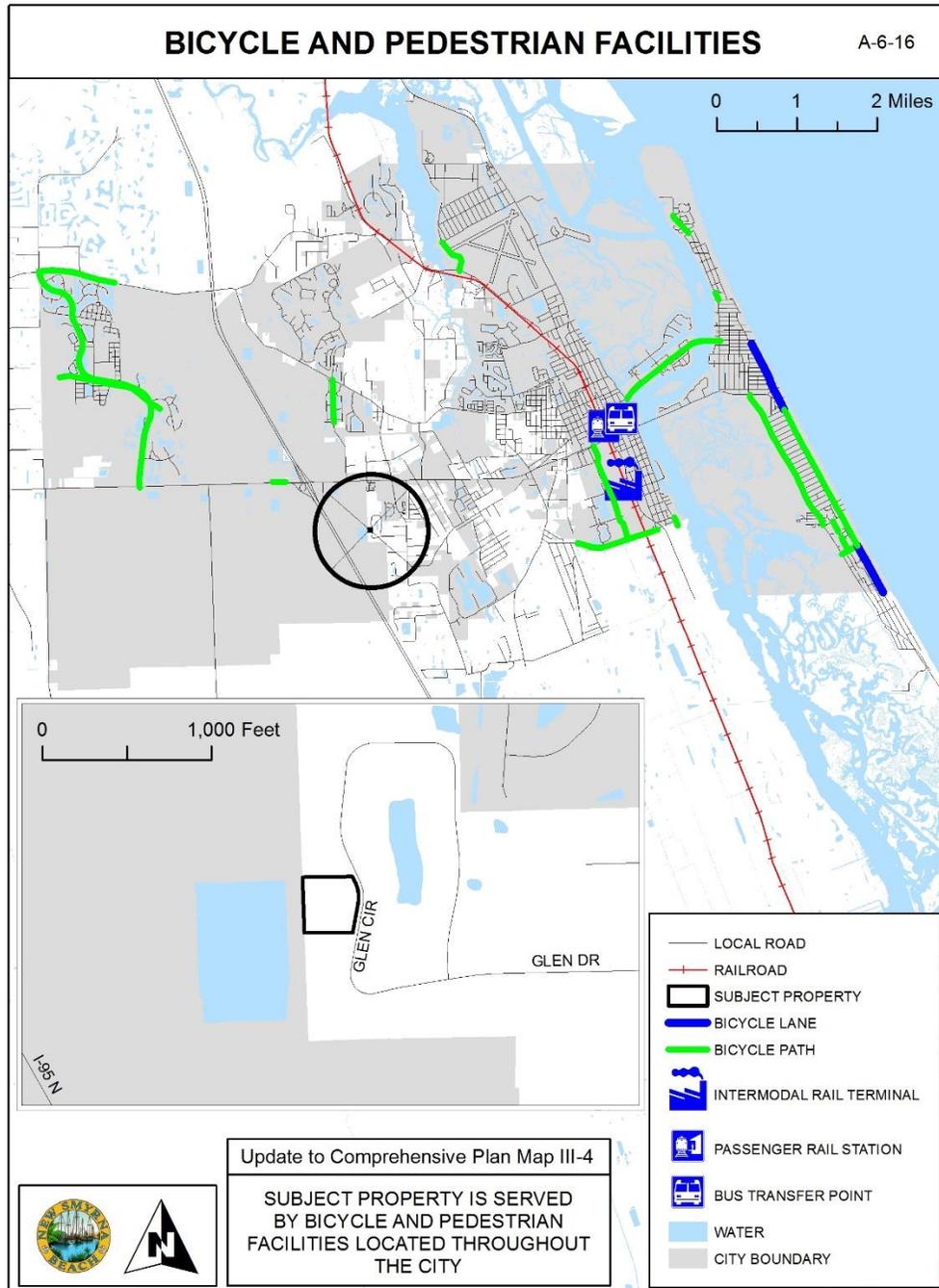
*Site plan approval for special exceptions.* Site plans approval for special exceptions is required.

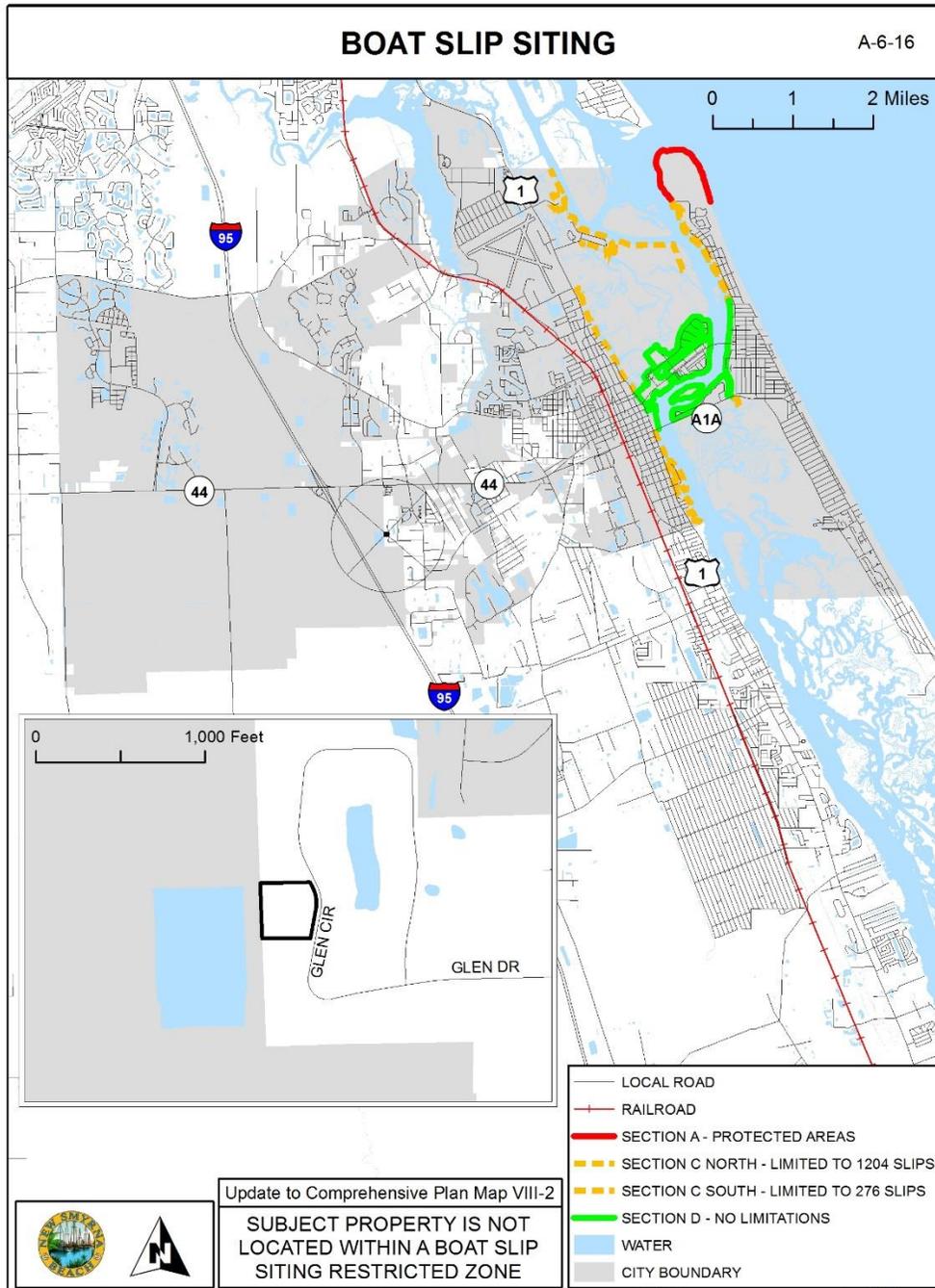


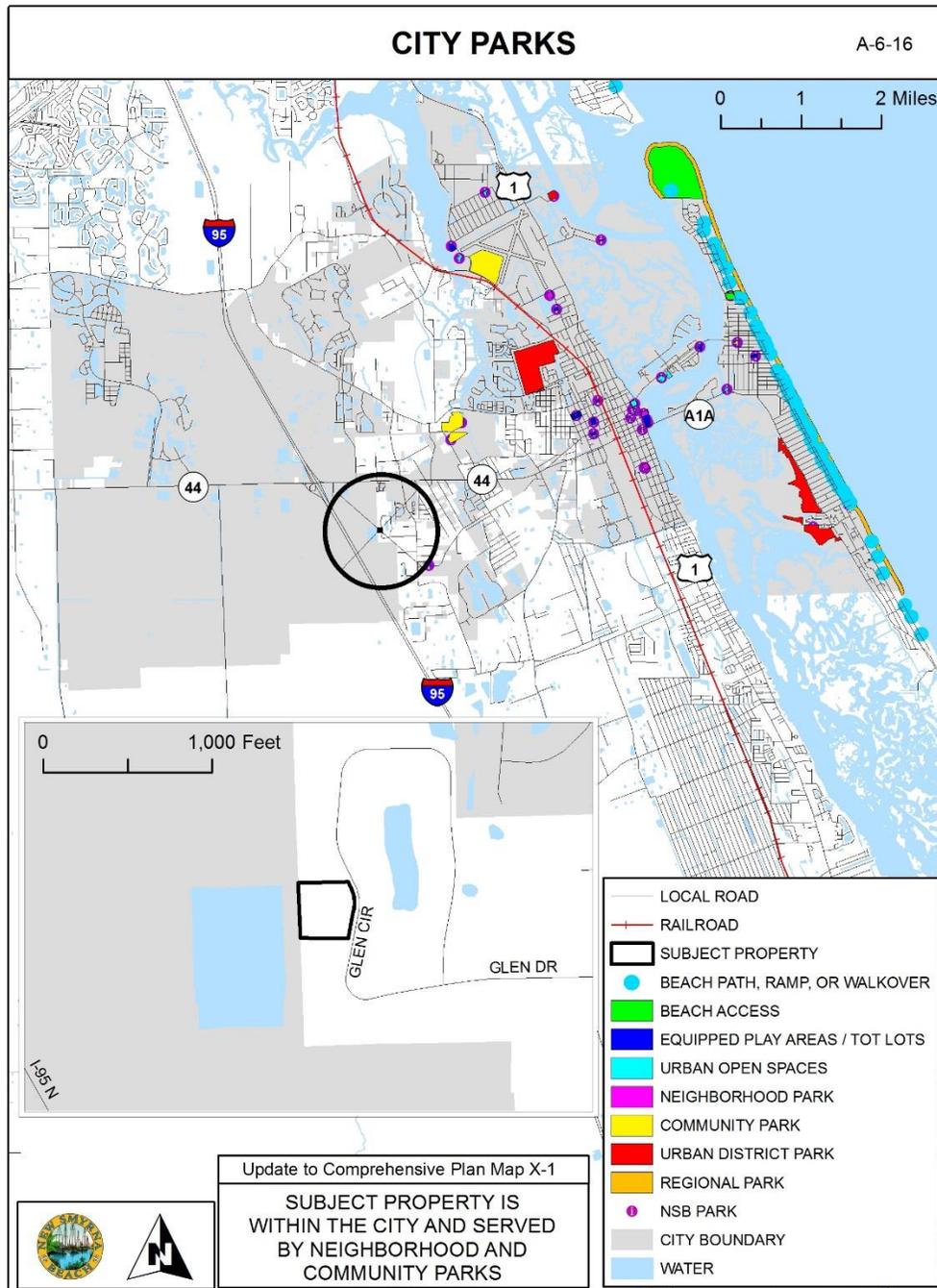


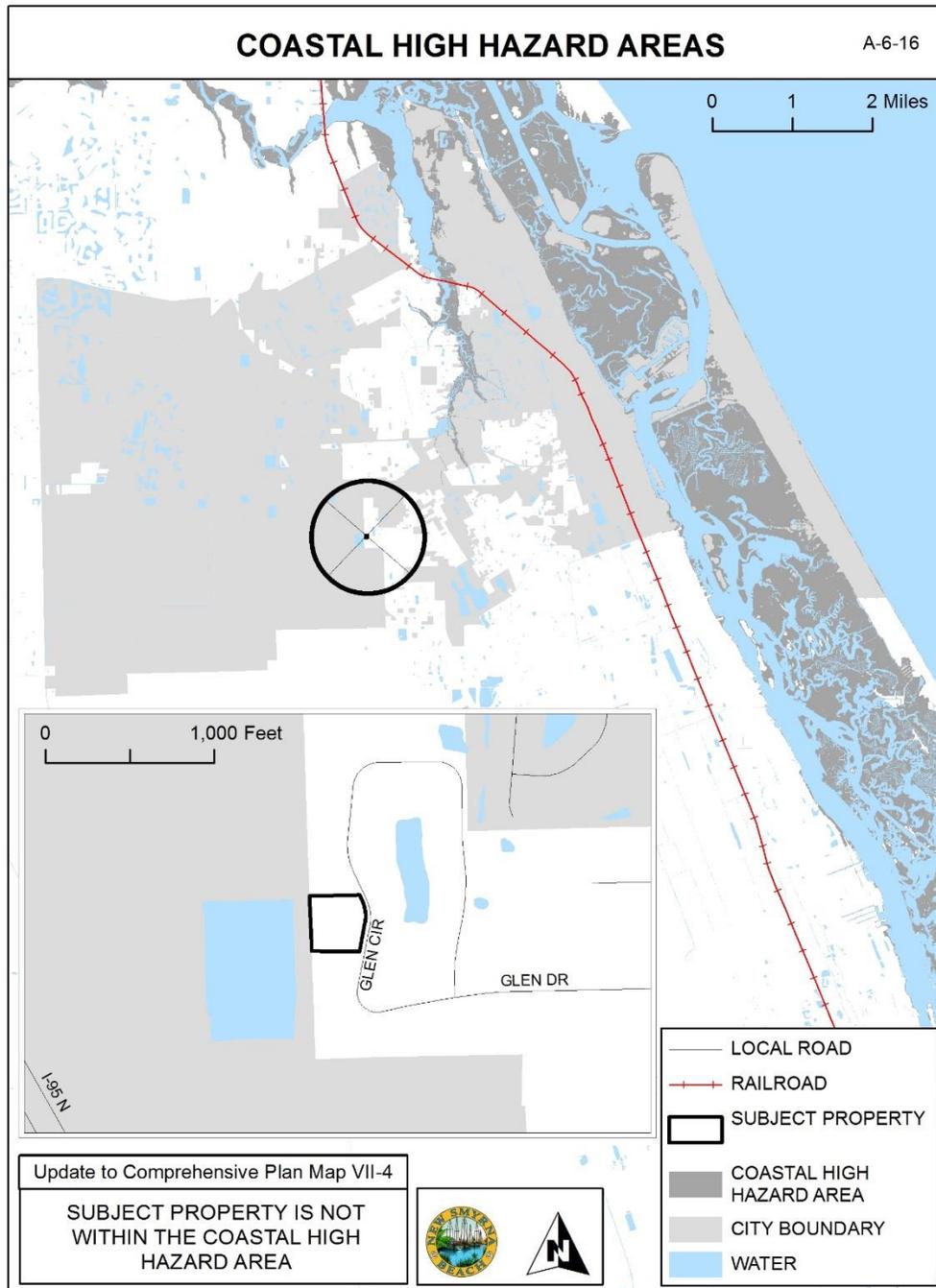


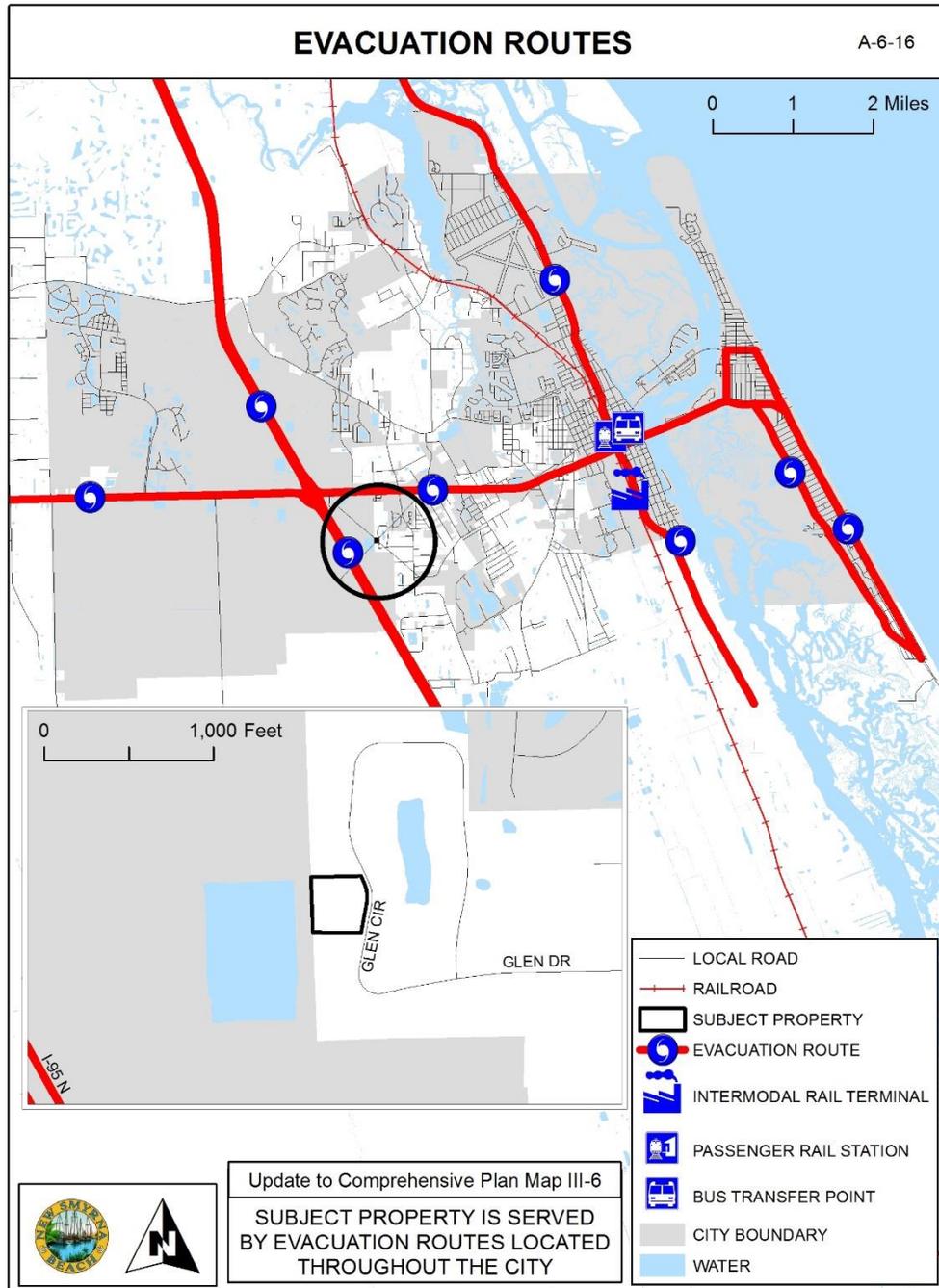


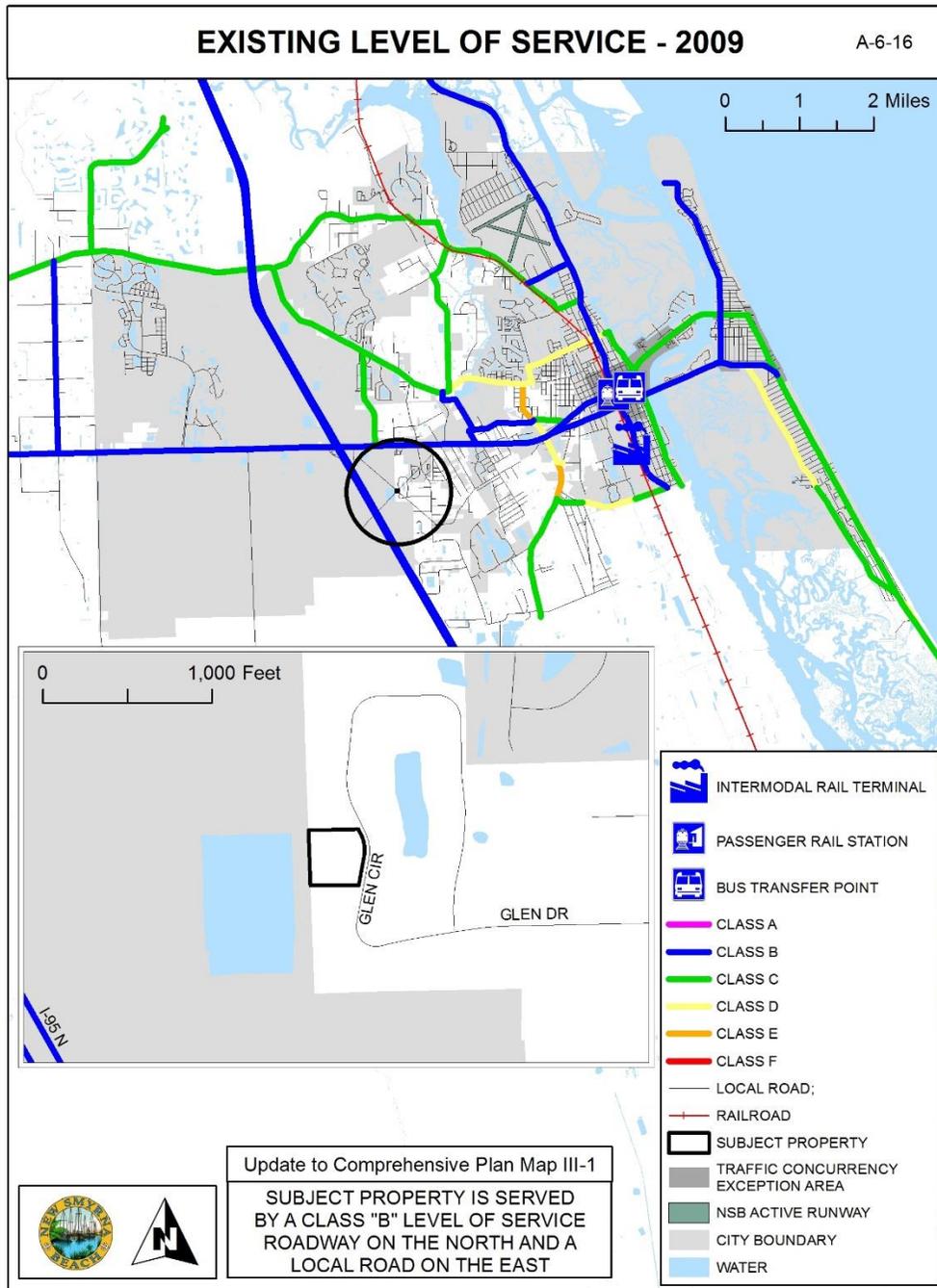


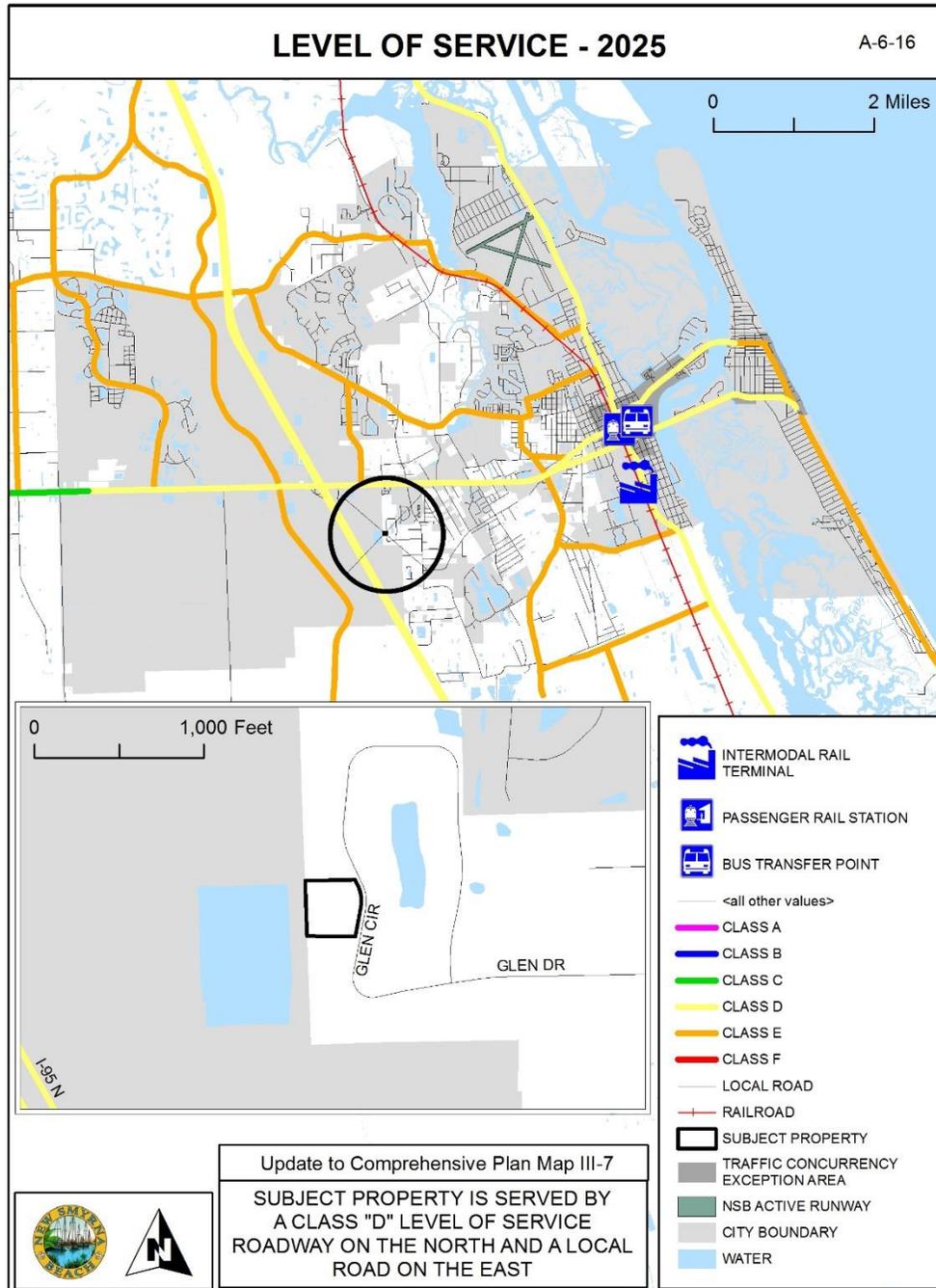


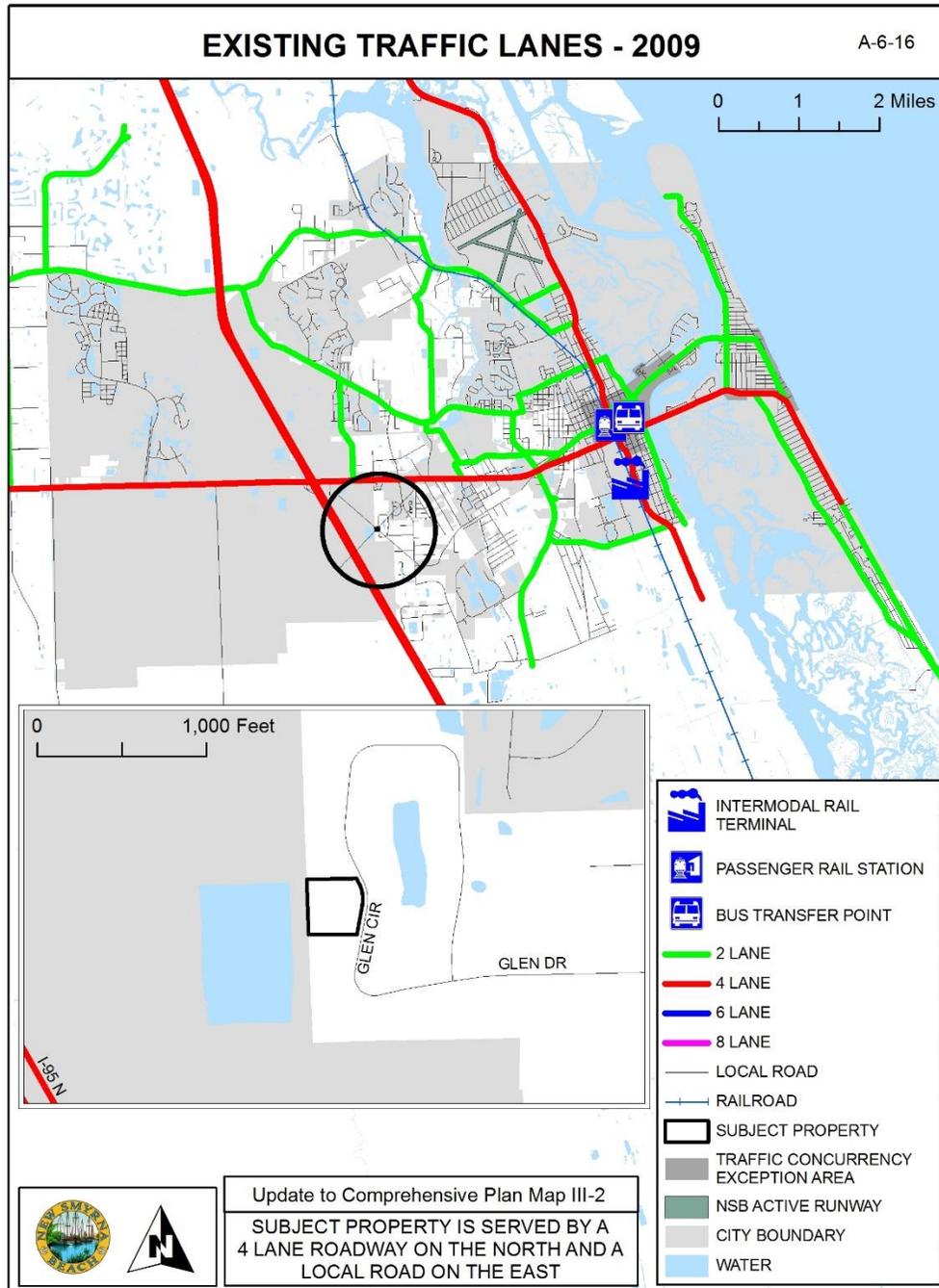


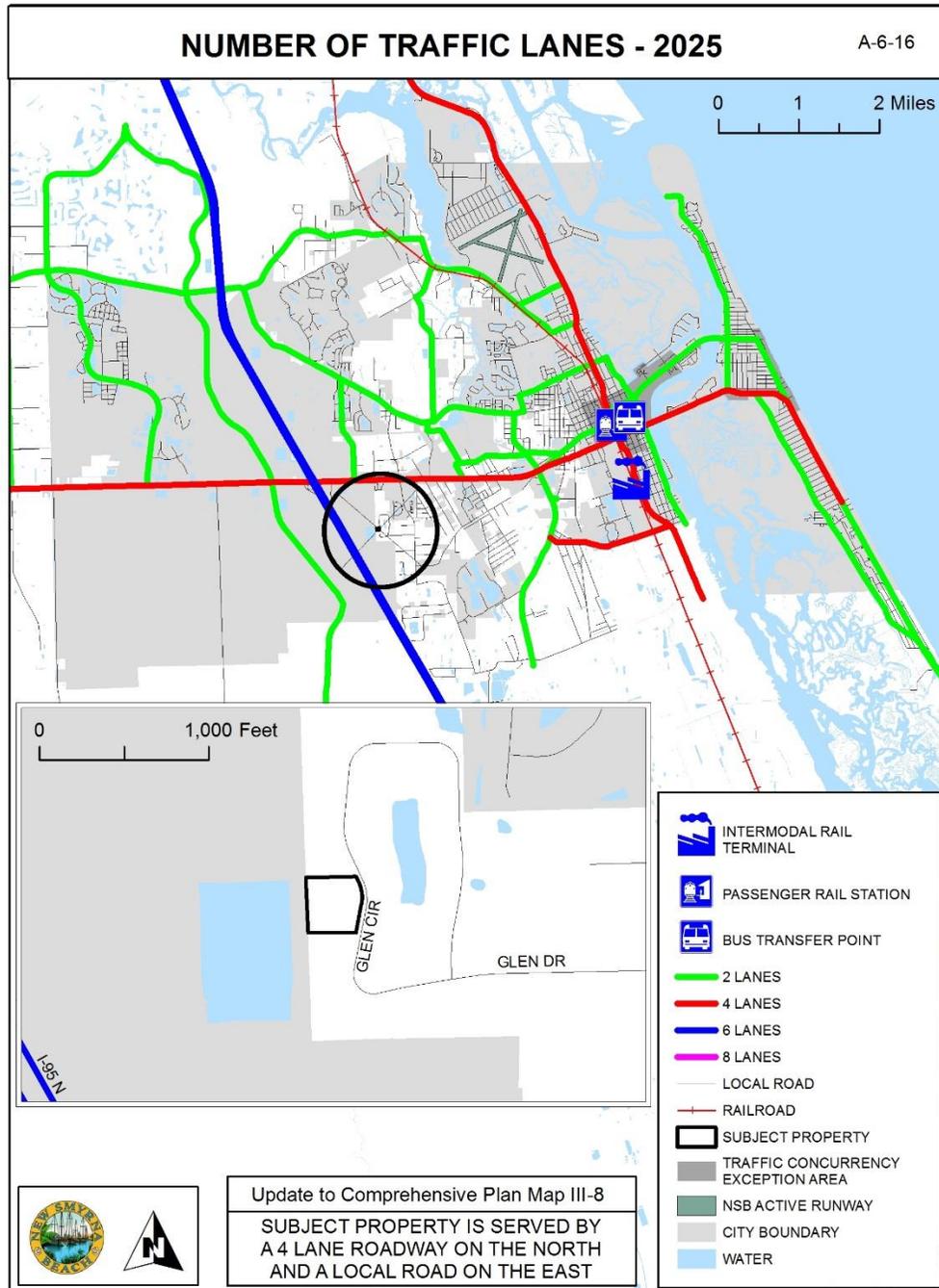


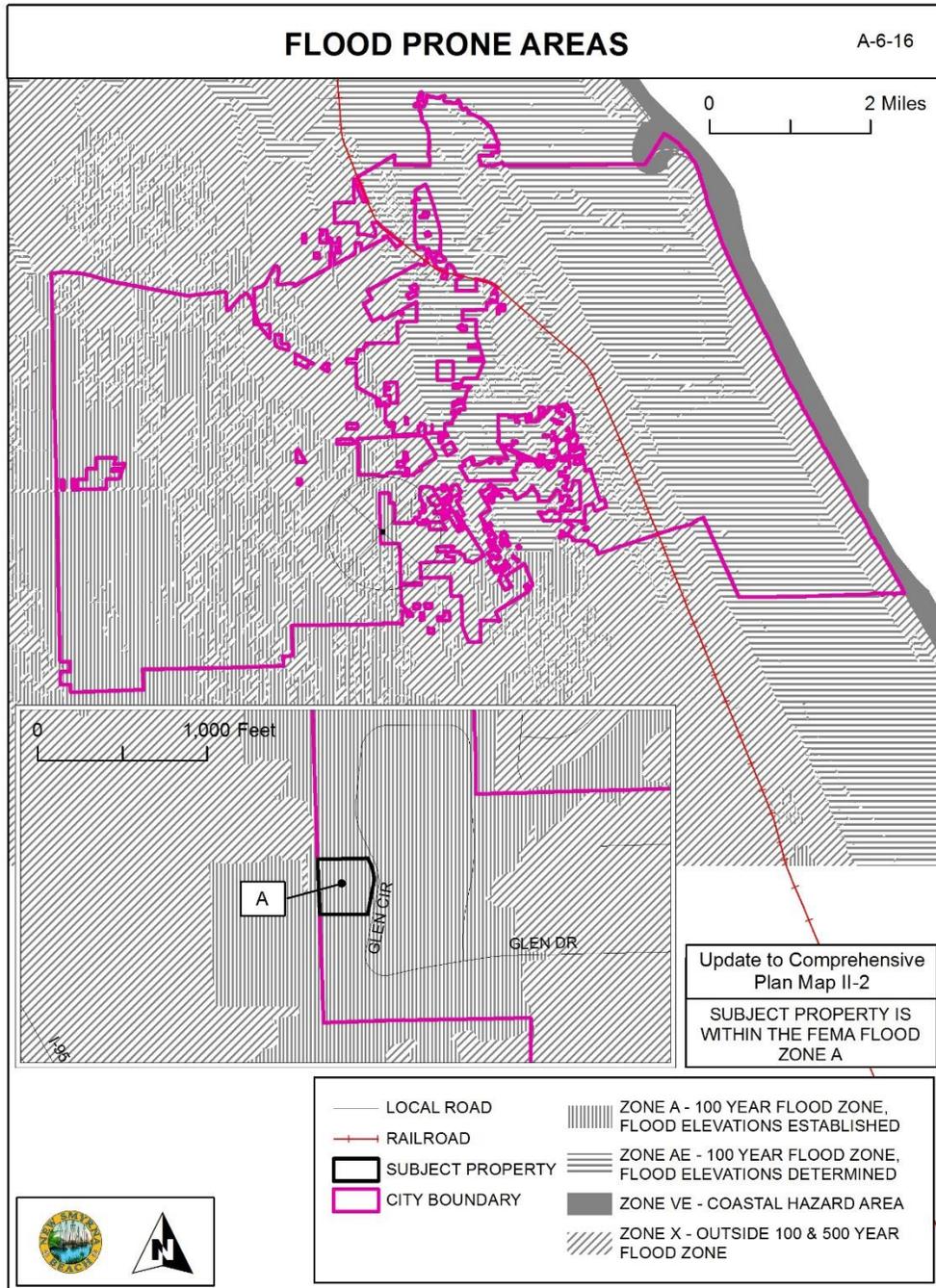


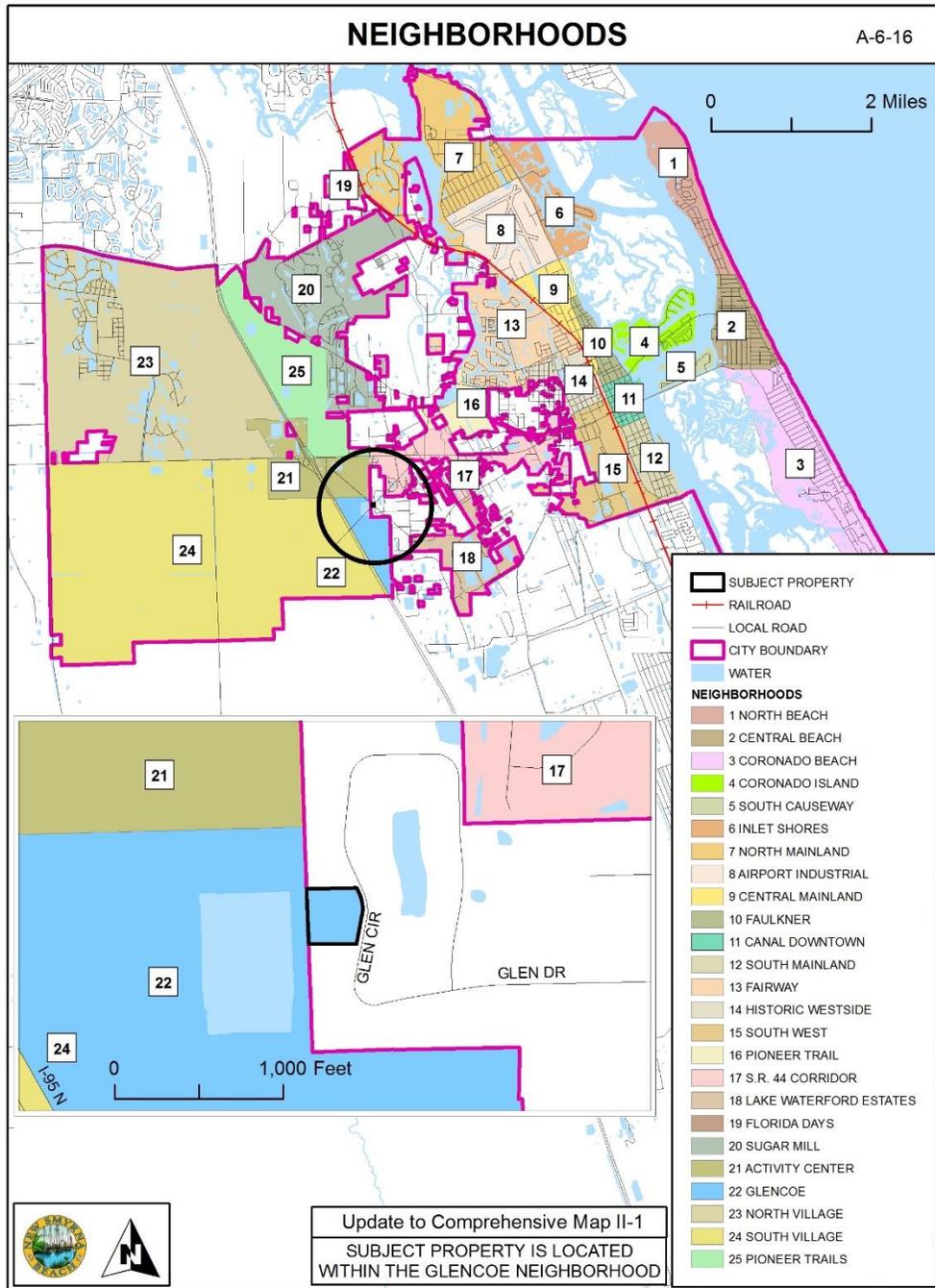


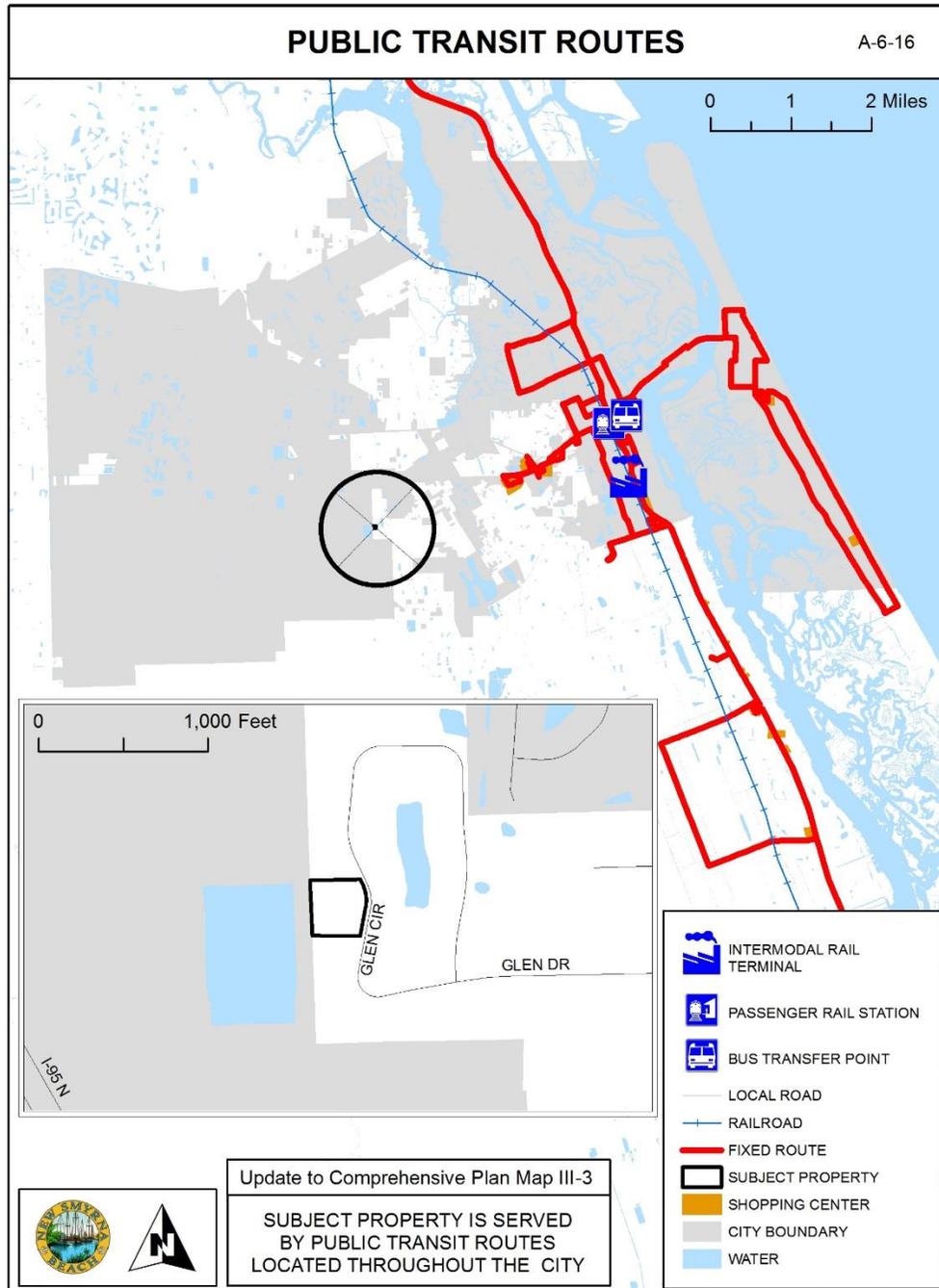


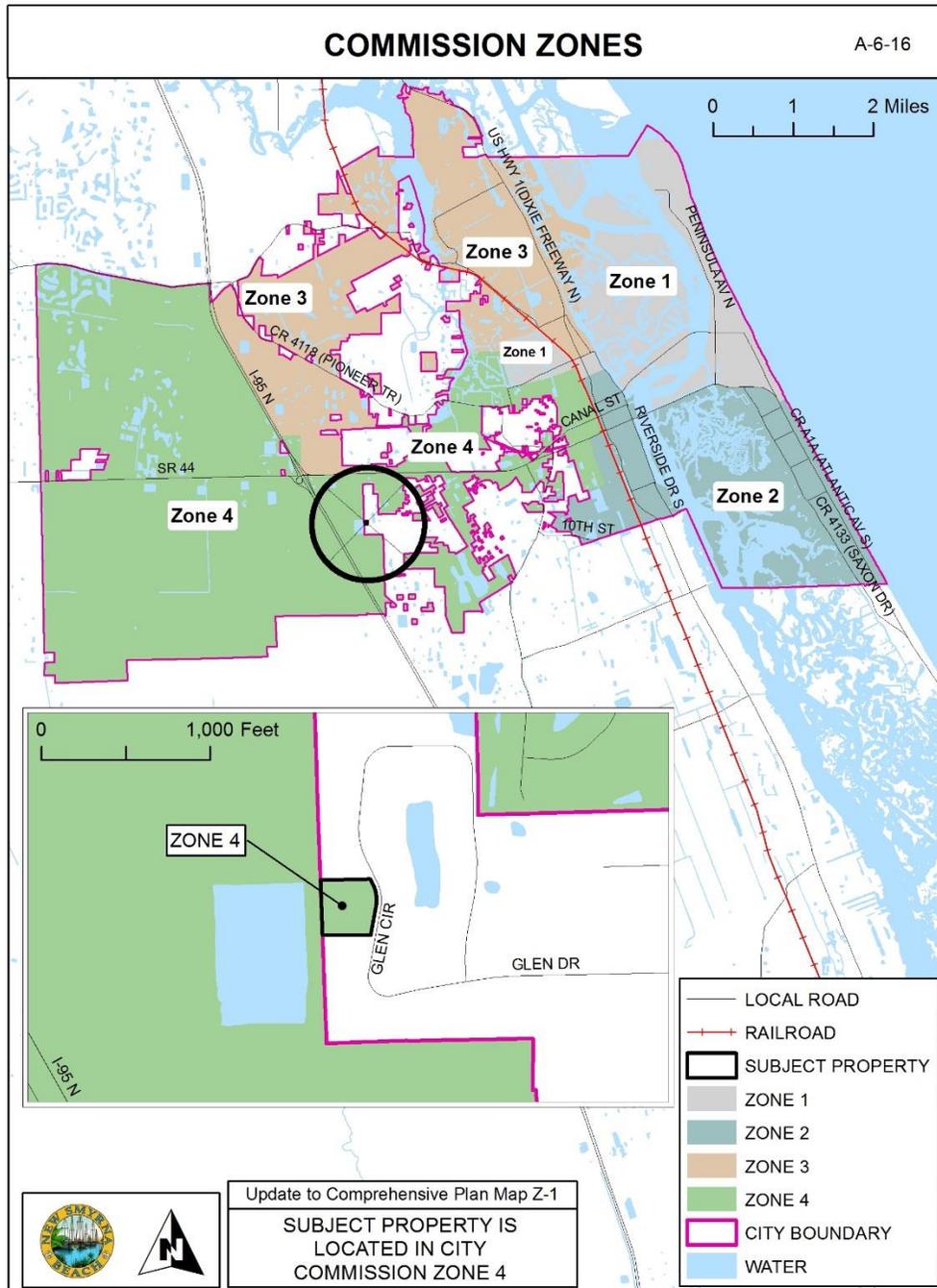












1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING BOARD  
2 **A-7-16: 2230 SIERRA DRIVE**  
3 **FEBRUARY 1, 2016**  
4

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5 **I. Background**  
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7 **A. Applicant and Property Owner:**

8 Wendell Dale and Rebecca Weddle, 2230 Sierra Drive, New Smyrna  
9 Beach, Florida, 32168  
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2230 Sierra Drive	Urban Low Intensity	R-4, Urban Single-Family Residential

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	North	East	South	West
<b>2230 Sierra Drive</b>				
Future Land Use	County Urban Low Intensity	City Low Density Residential	County Urban Low Intensity	County Urban Low Intensity
Existing Land Use	Residential	Residential	Residential	Residential
Zoning	County R-4	City R-2	County R-4	County R-4

**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, 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. A text description of the proposed City LDR, Low Density Residential 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, 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
2230 Sierra Drive	6” Line / Sierra Dr 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

1 waste collection, storm-water management, and public school facilities.  
2 Because the property is developed with a single family house and  
3 accessory structures with no new proposed development, and because no  
4 increased density is proposed for the properties, staff did not prepare a  
5 concurrency analysis table for this case.  
6

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

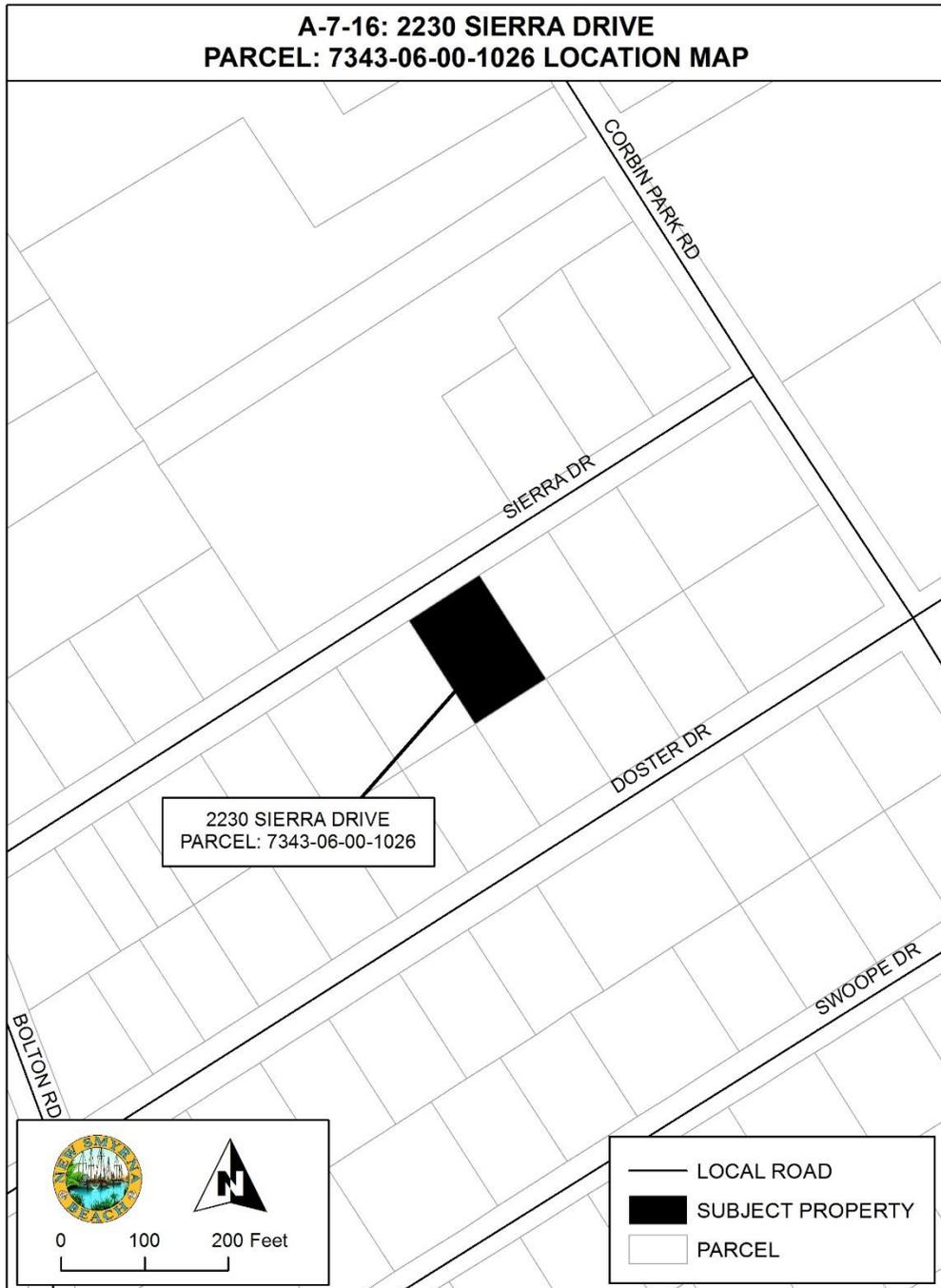
11 **I.**

12  
13 **J.** The *Comprehensive Plan* provides guidance on annexations, future land  
14 use amendments, and re-zonings. The following is a list of objectives in the  
15 *Comprehensive Plan* that support this proposal:  
16

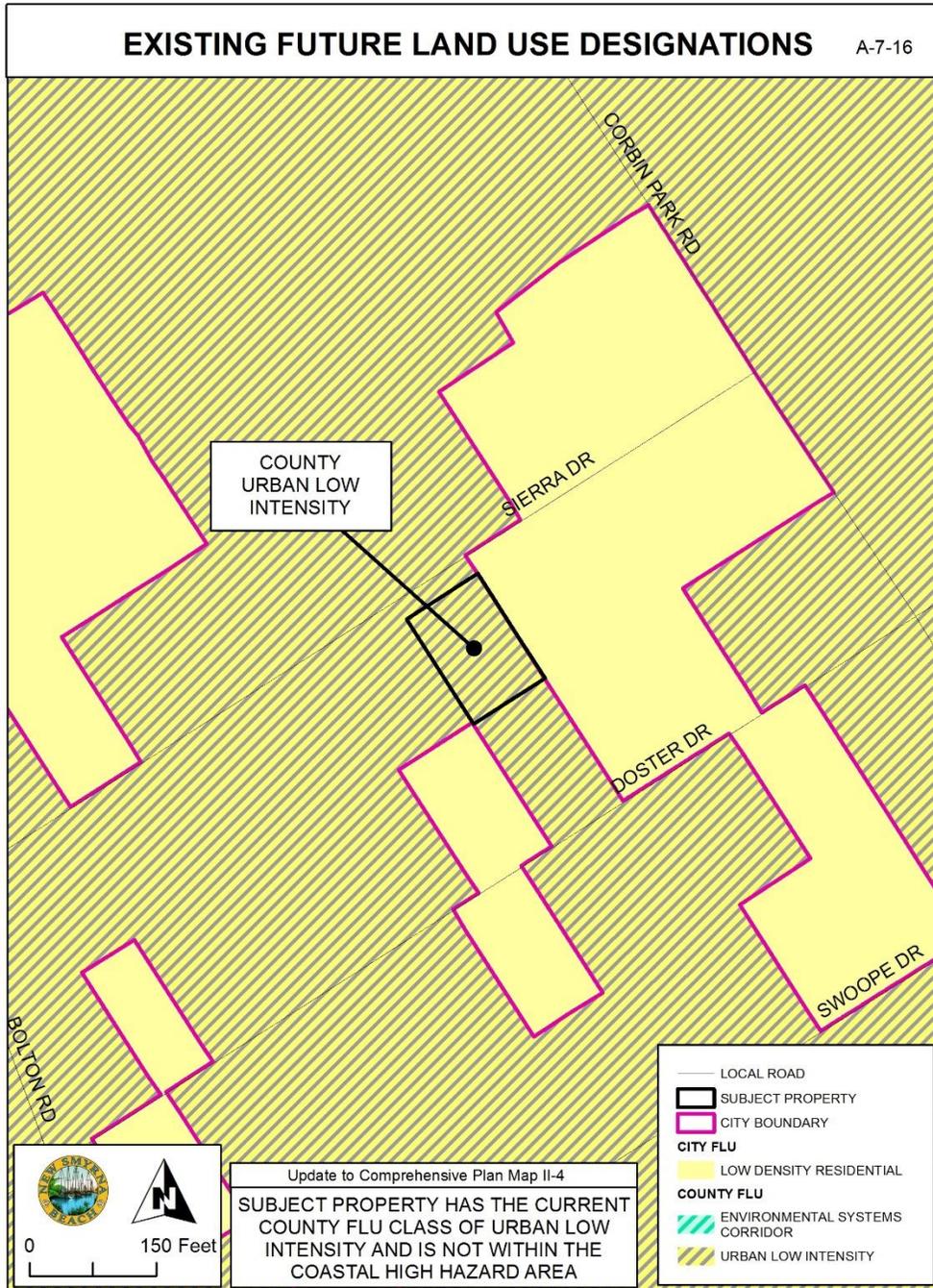
- 17 • Future Land Use Element Goal 2, Objective 3
- 18 • Future Land Use Element Goal 2, Objective 4
- 19 • Future Land Use Element Goal 2, Objective 7
- 20 • Future Land Use Element Goal 5, Objective 3

21  
22 **III. Recommendation**

23 Staff recommends that the Planning and Zoning Board recommend the City Commission  
24 **approve** the requested annexations, *Comprehensive Plan* amendment to City LDR, Low  
25 Density Residential, and rezoning to City R-2, Single-Family Residential.  
26  
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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 (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.

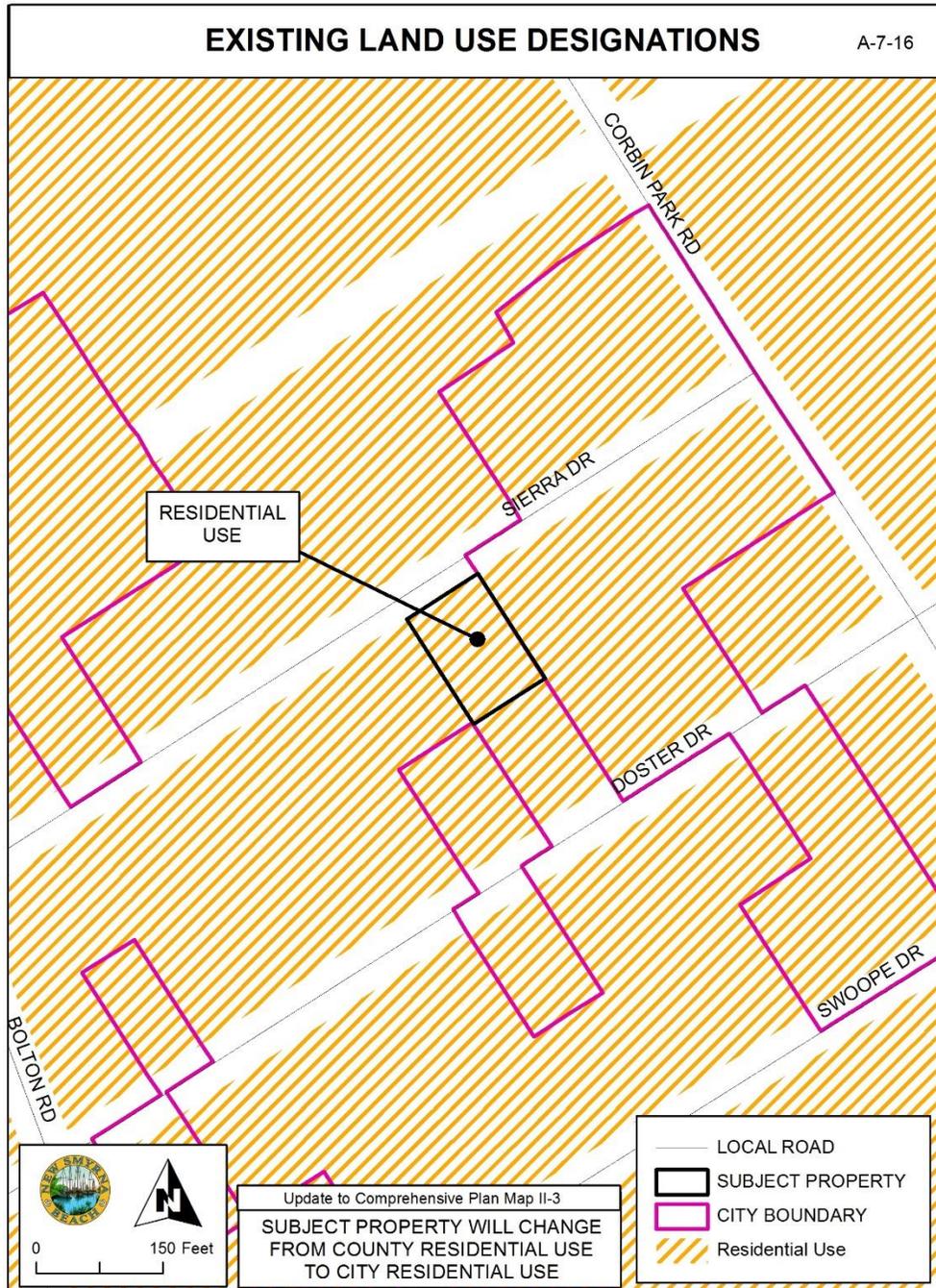
Waterfront yard: 25 feet.

*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.



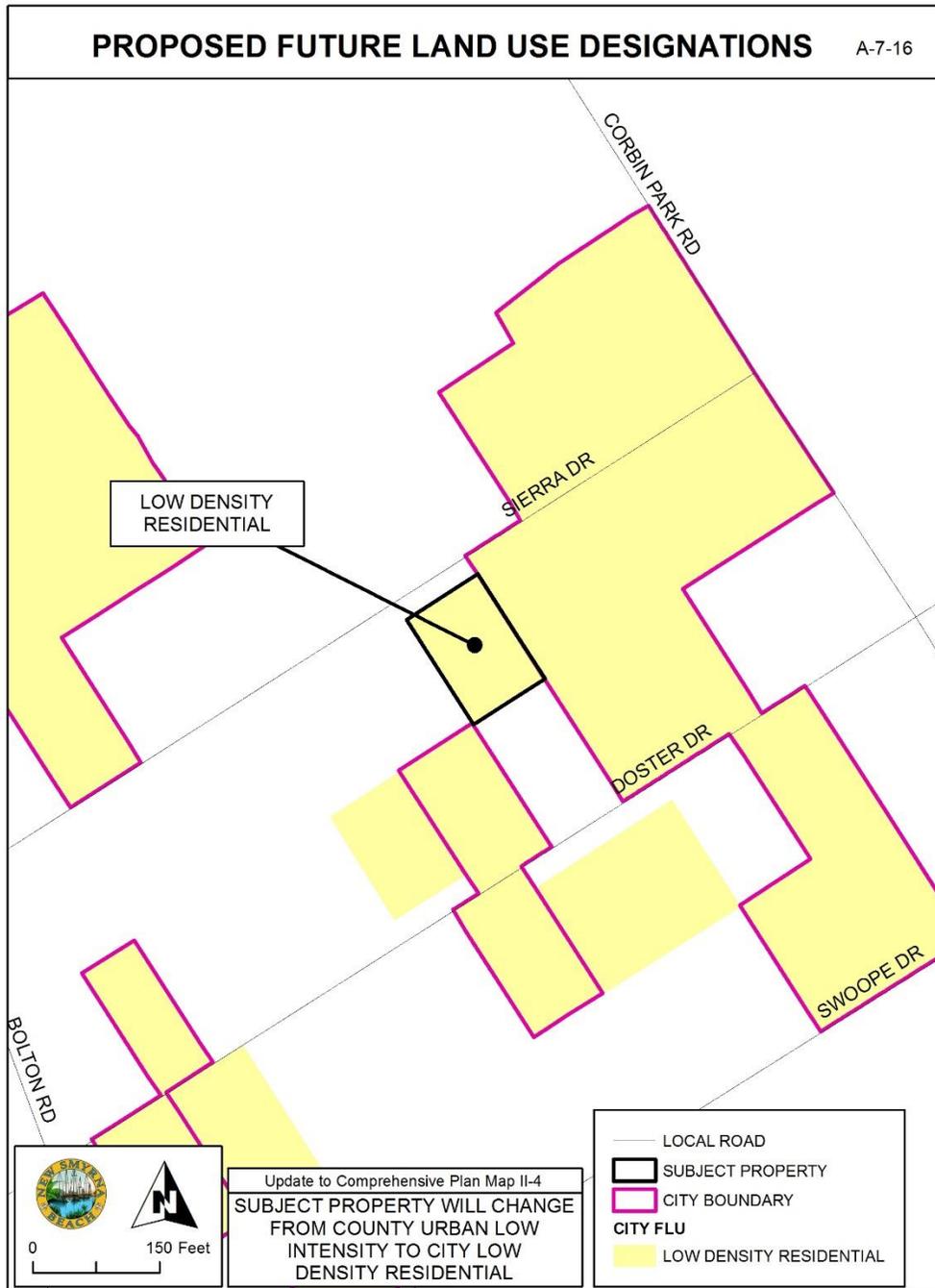
**Exhibit H**

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**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.



**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.

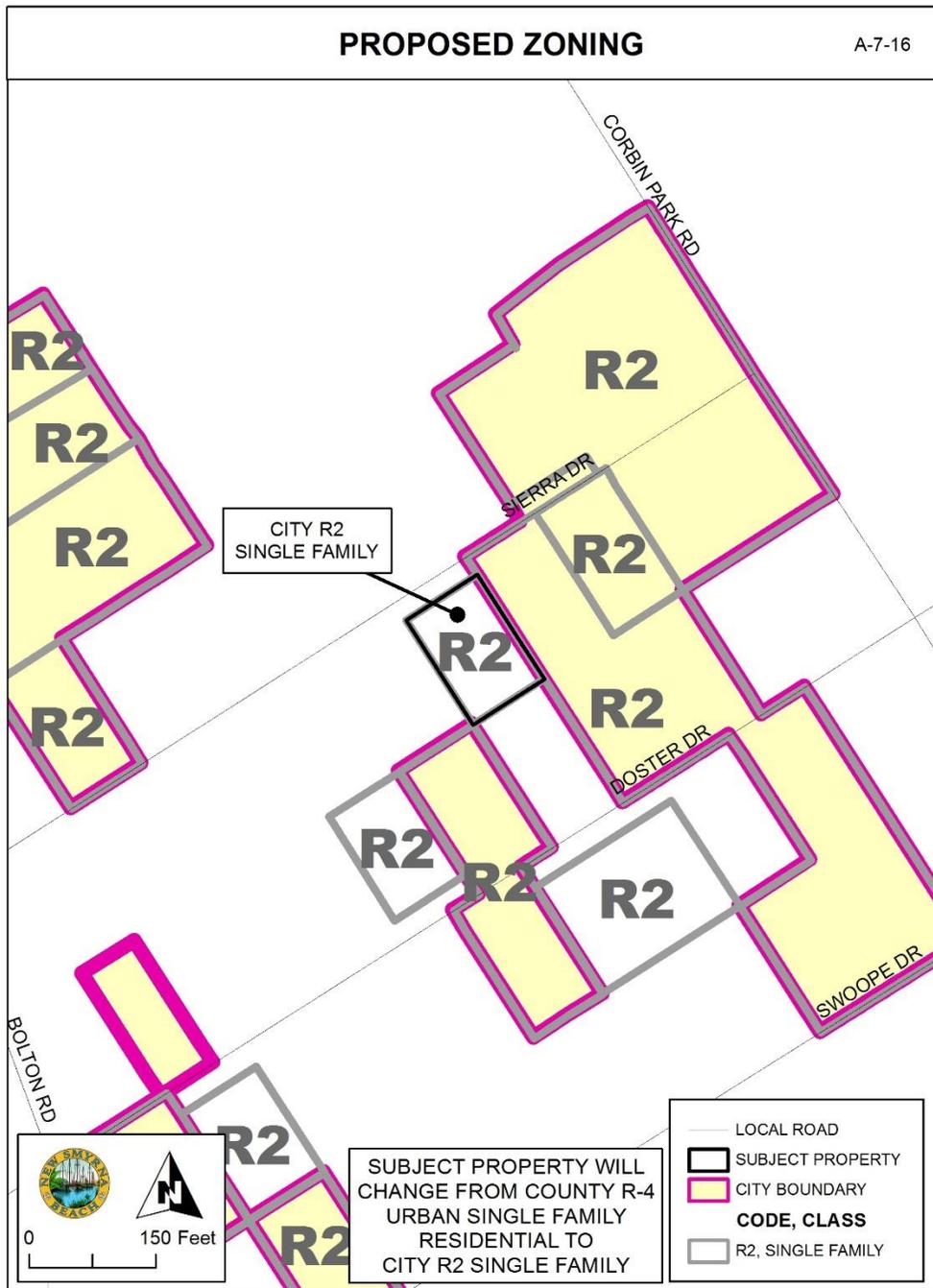
**Driveway access.** The minimum driveway length shall be 20 feet (excluding [that] portion of a driveway within the public right-of-way).

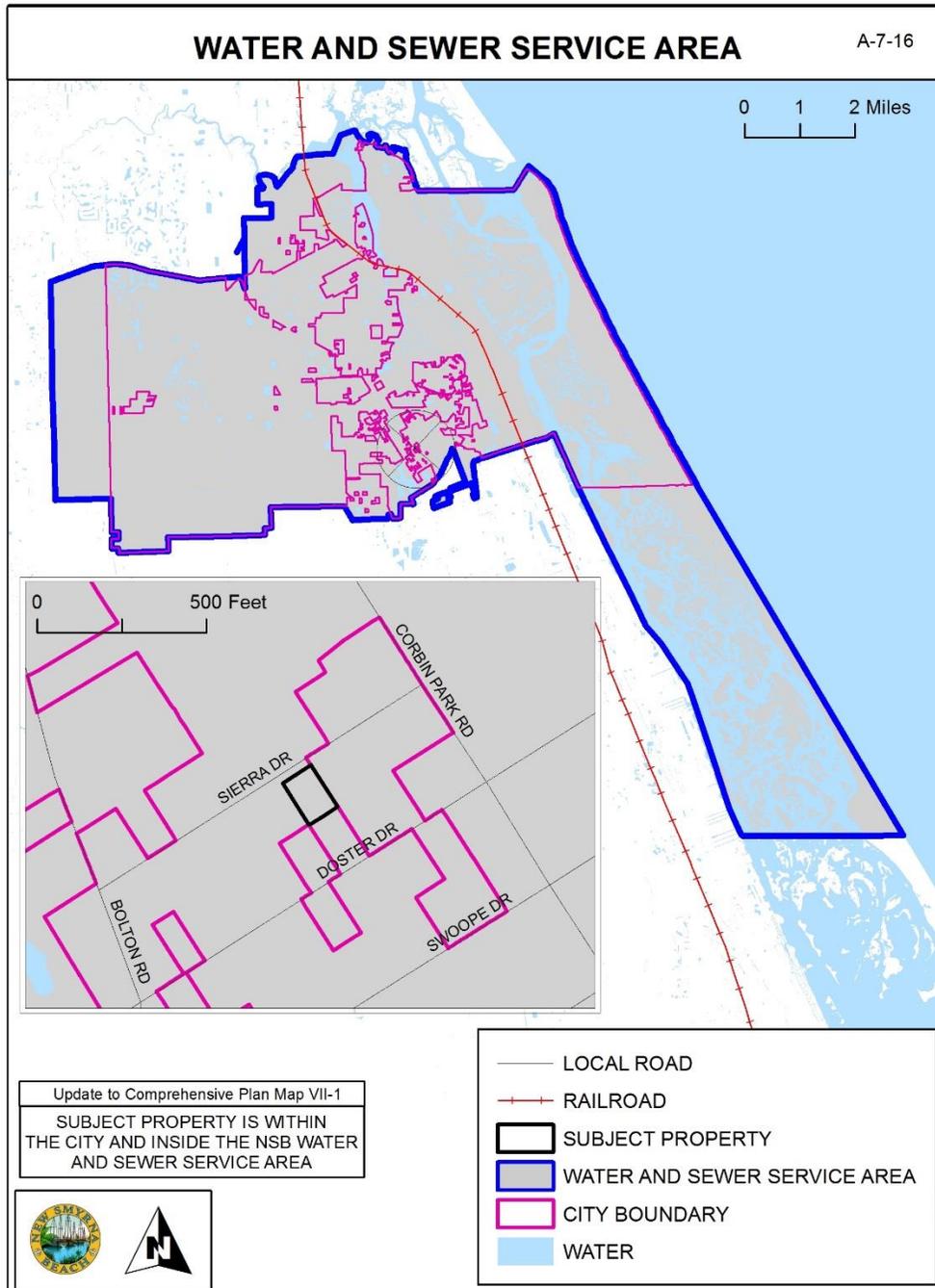
**Through lots.** Through lots shall provide a 30-foot front yard on each street, or as required per [sub] section 504.01M. of this LDR.

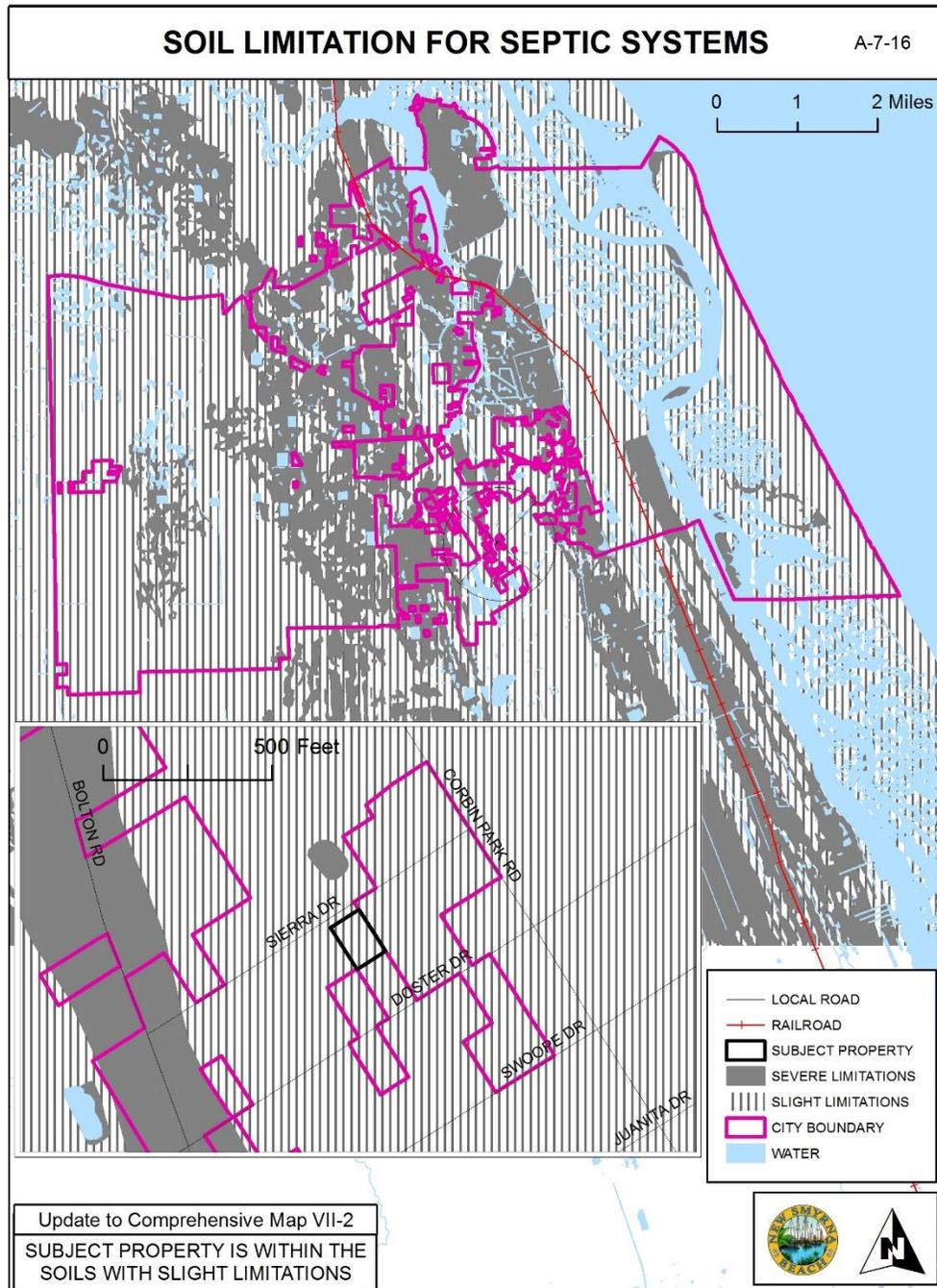
**Atypical lots.** Visibility triangles shall be established at the rear corners of an atypical lot. The visibility triangles shall be those areas formed by a line connecting the points 30 feet from the intersection of the side and rear lot line along the side lot line and 30 feet from the intersection 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.

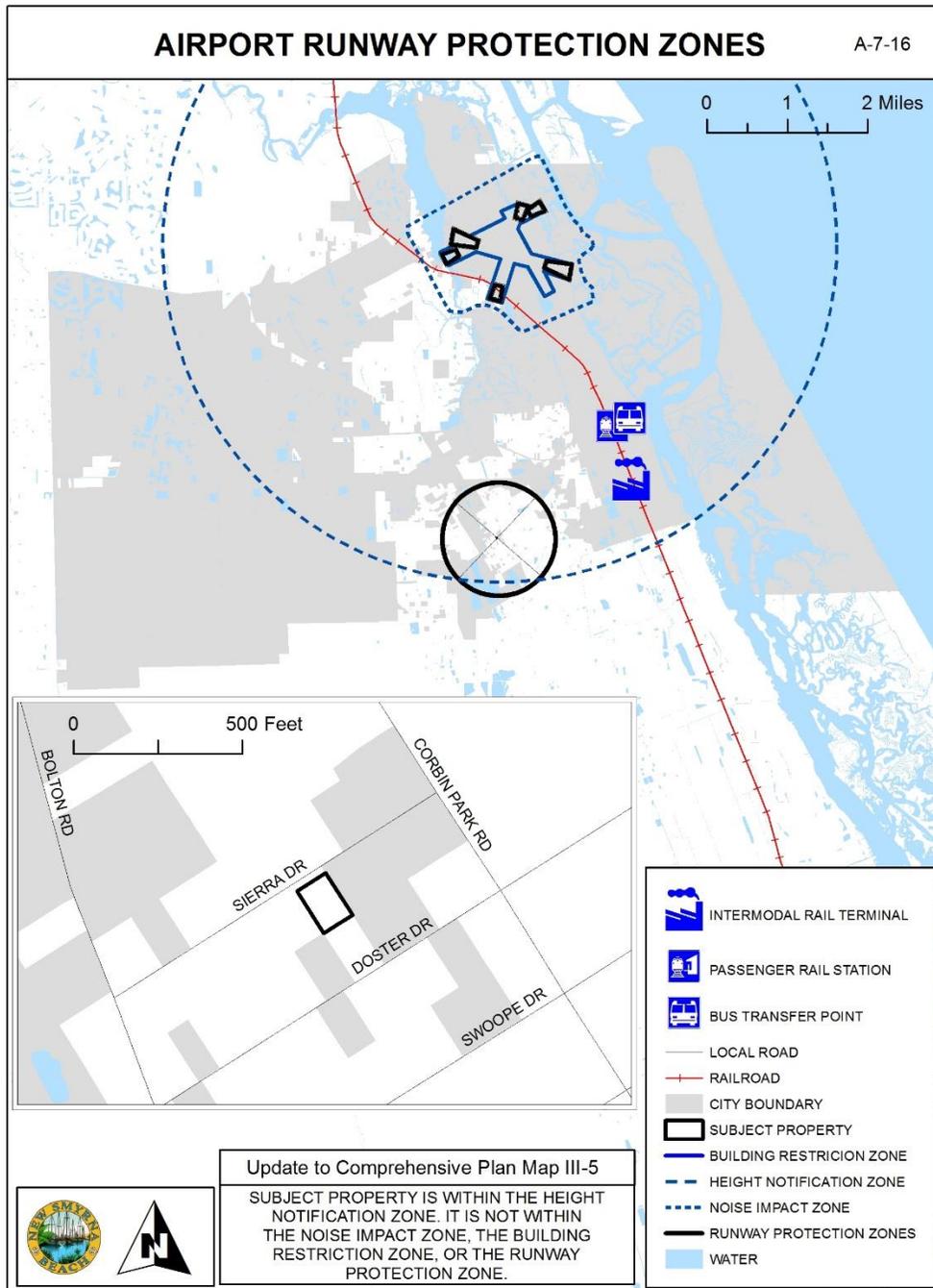
**Building projections.** There shall be no building projections into any required yard except for eaves with a maximum projection of 42 inches, but no closer than five feet to a property line; and those structures allowed in [sub] section 804.03.

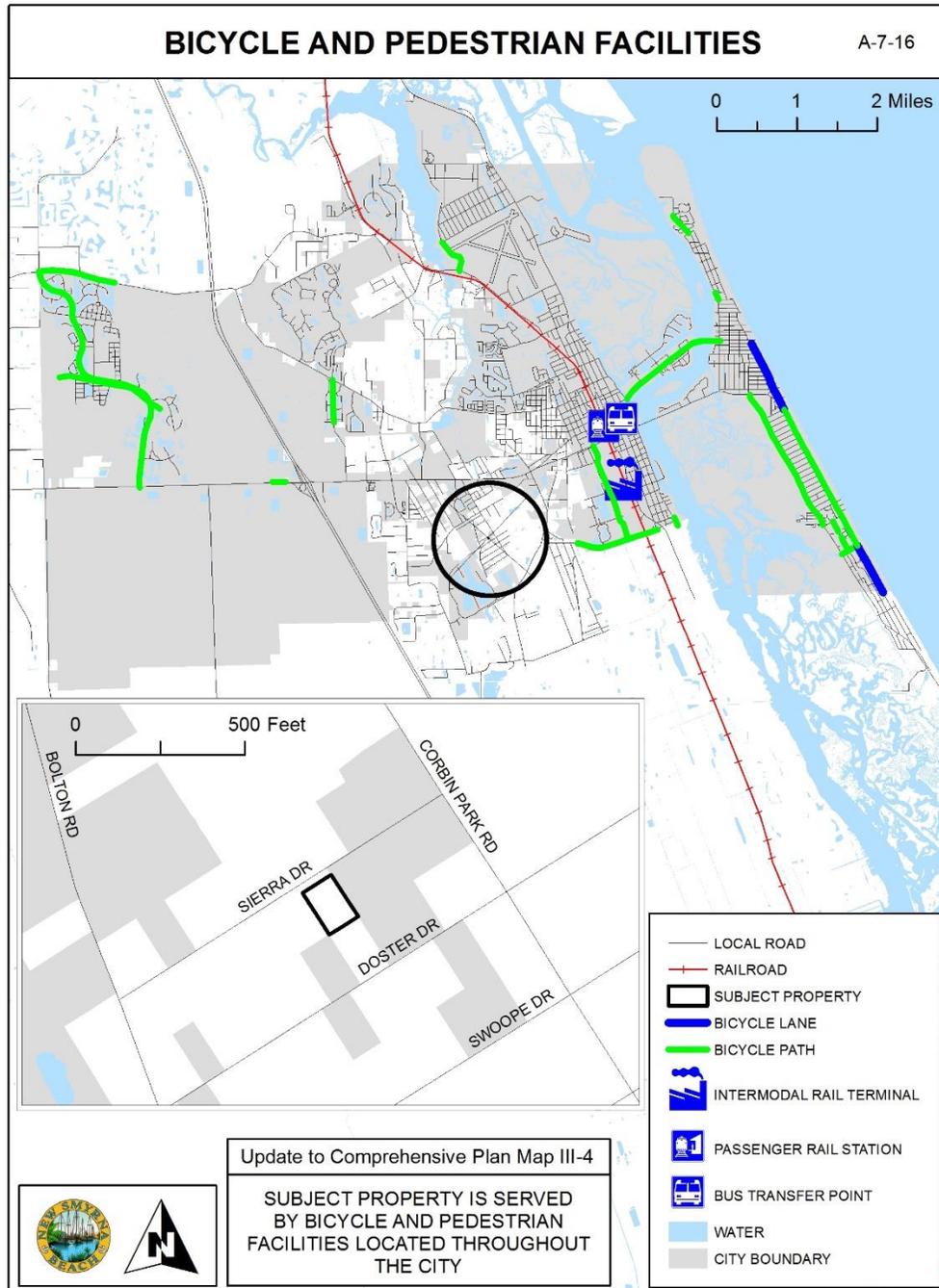
**Visibility at intersections.** Visibility at intersections shall be provided as required in this LDR.

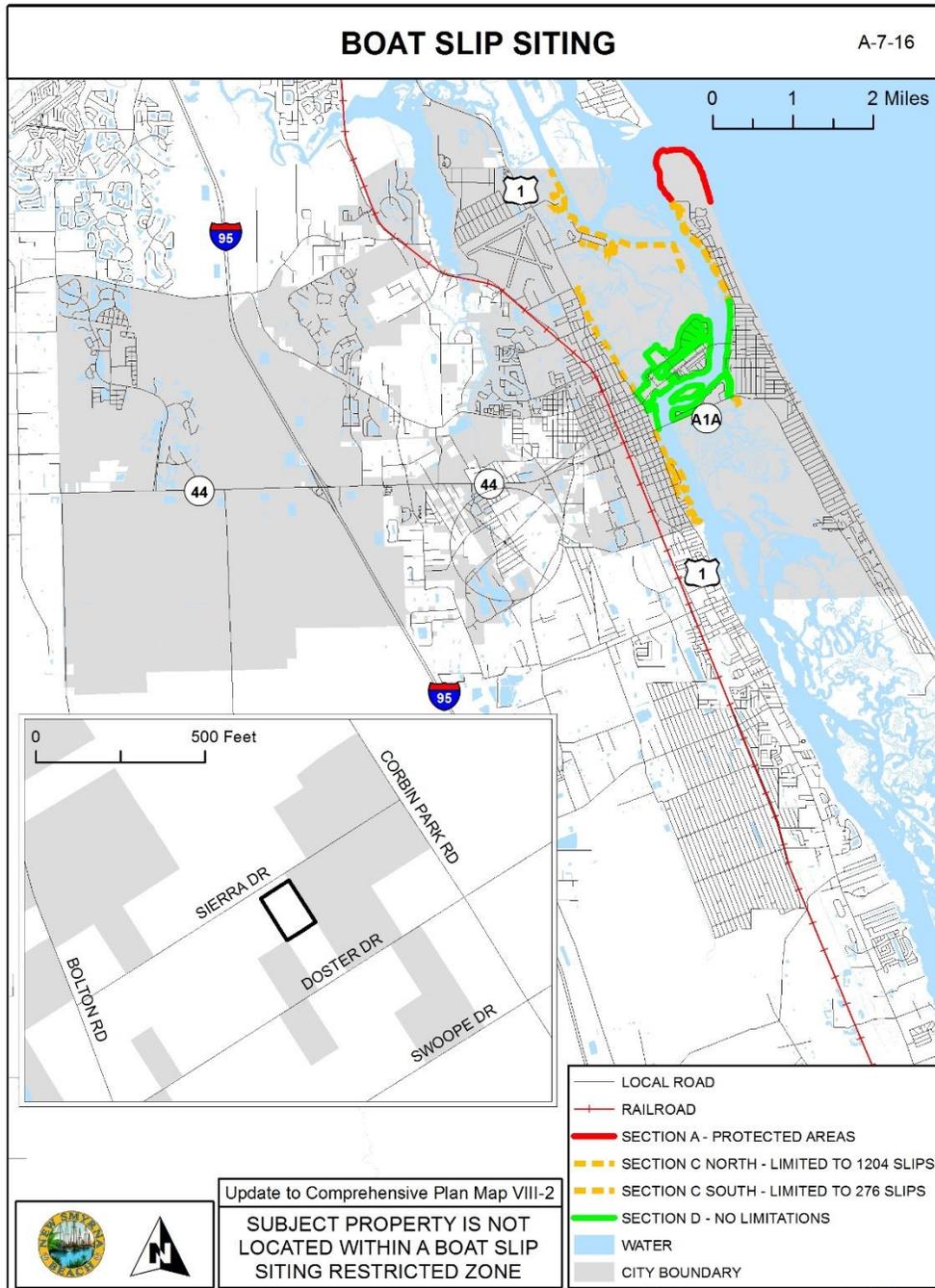


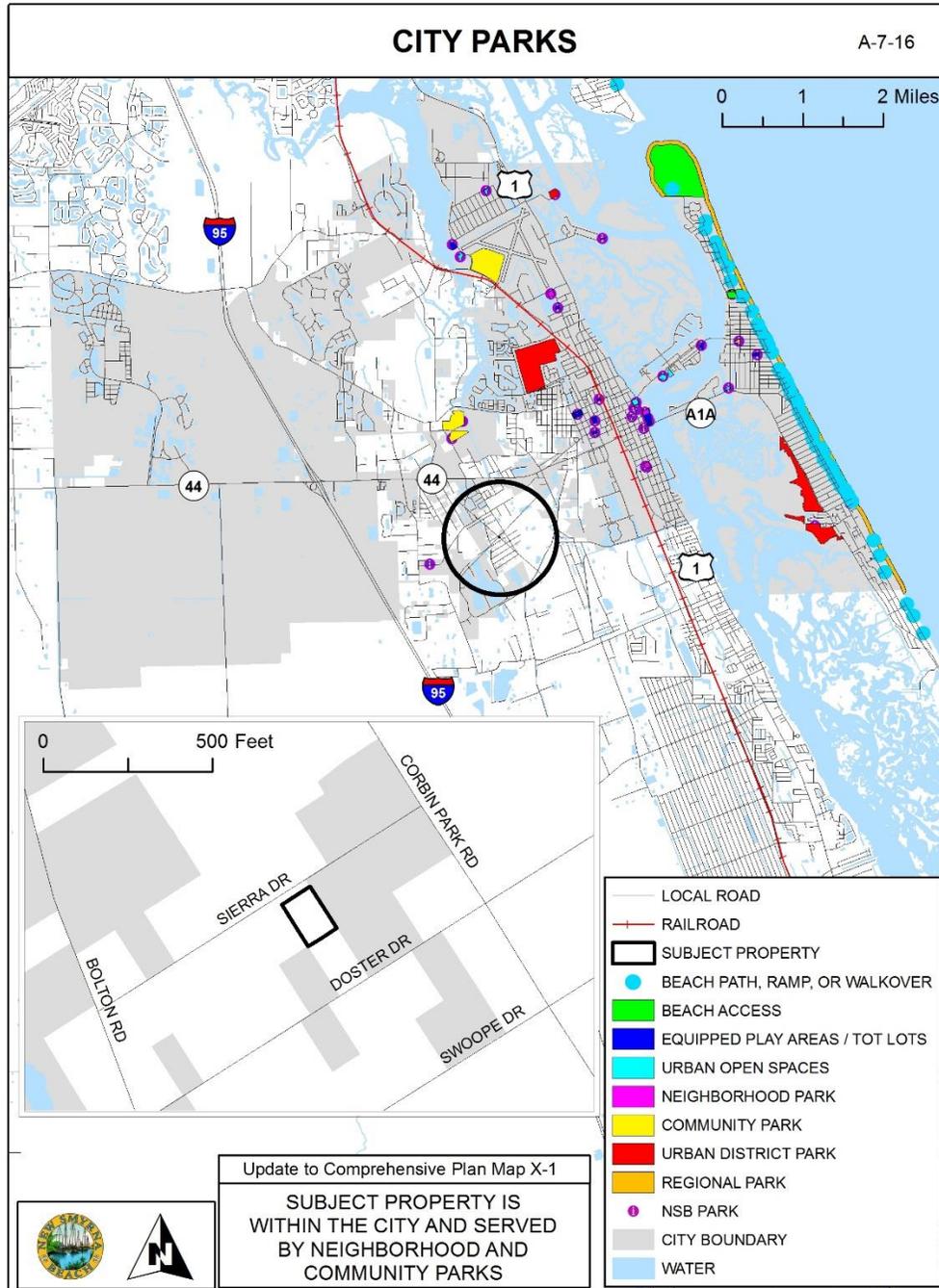


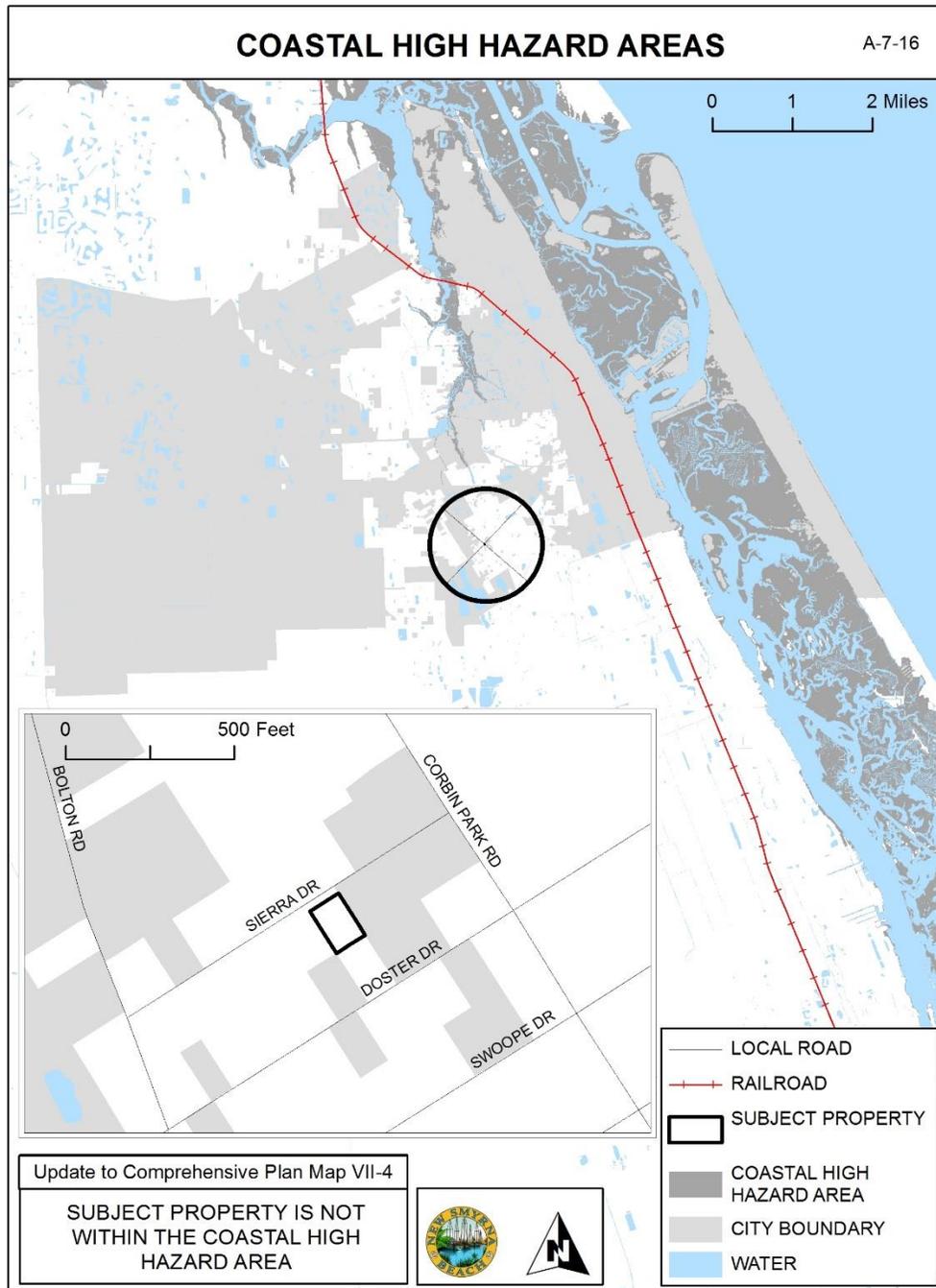


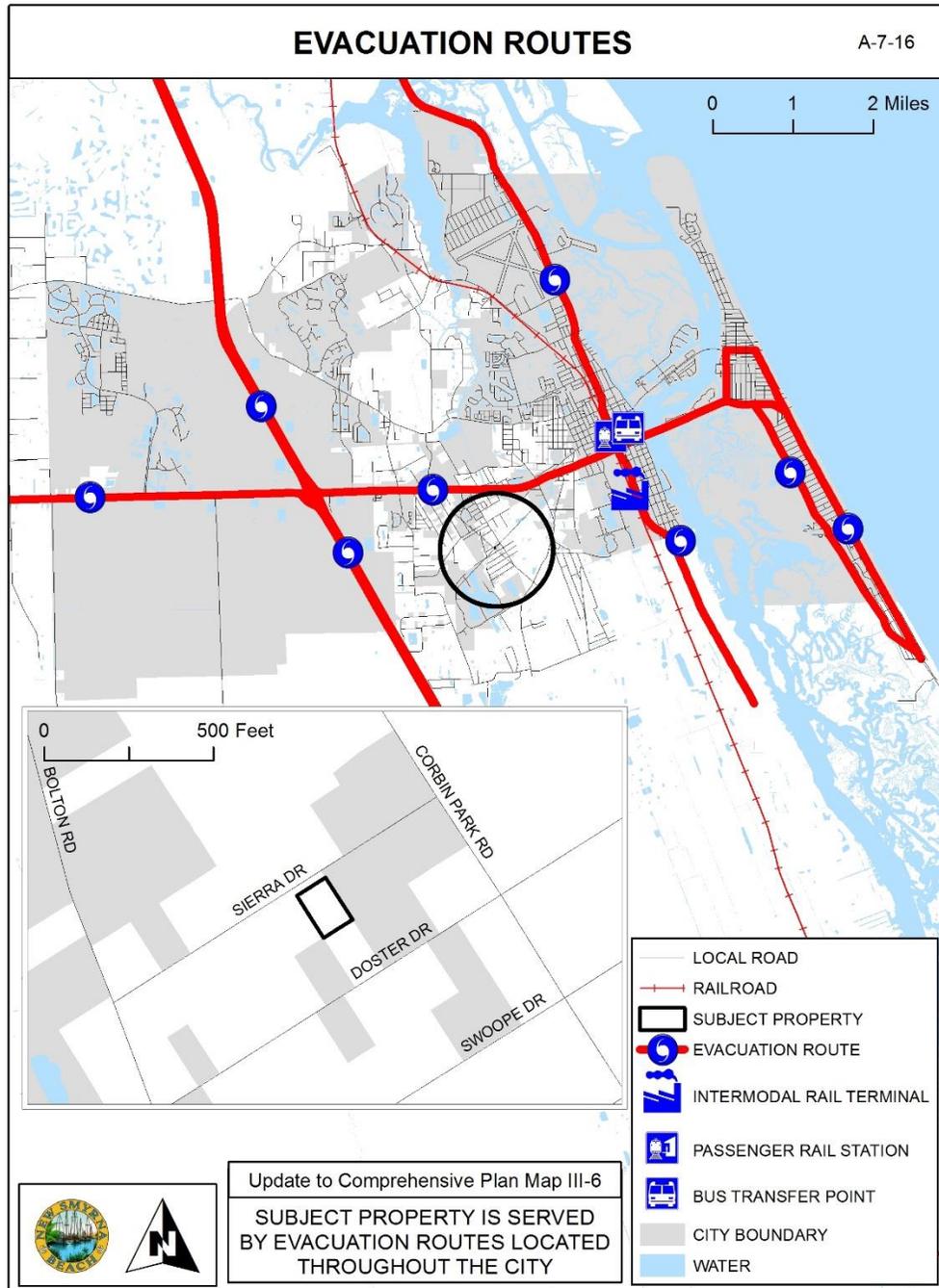


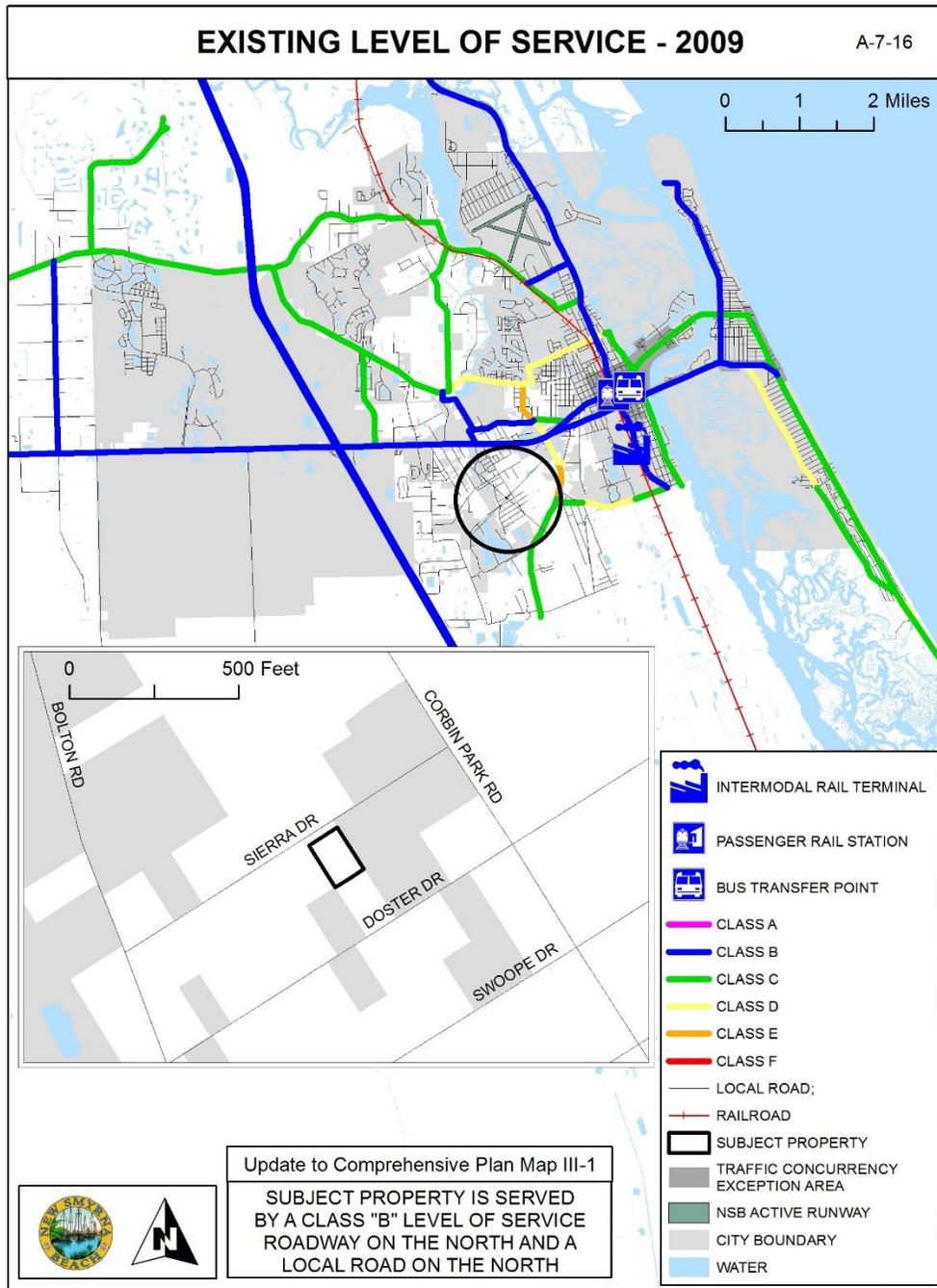


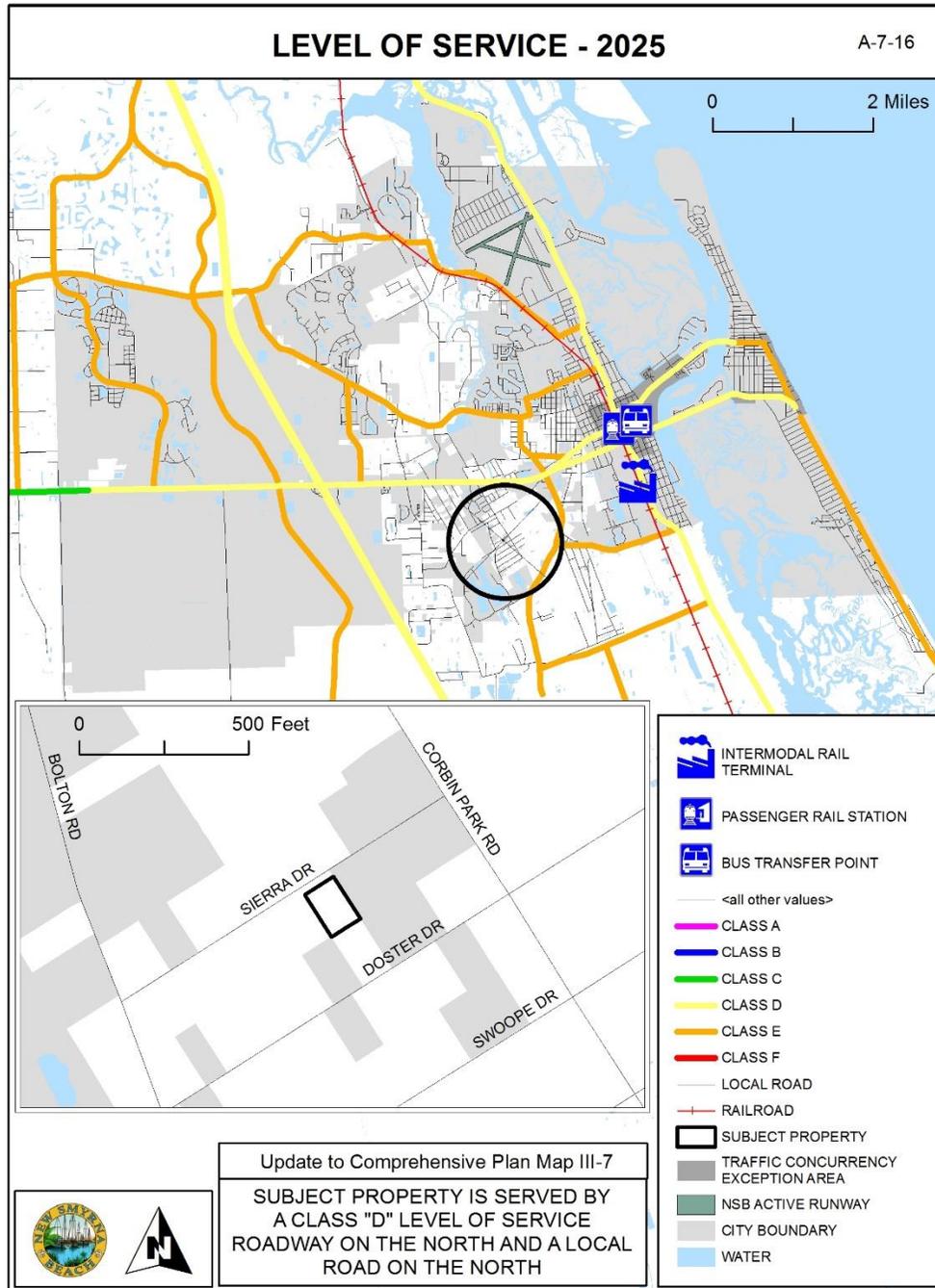


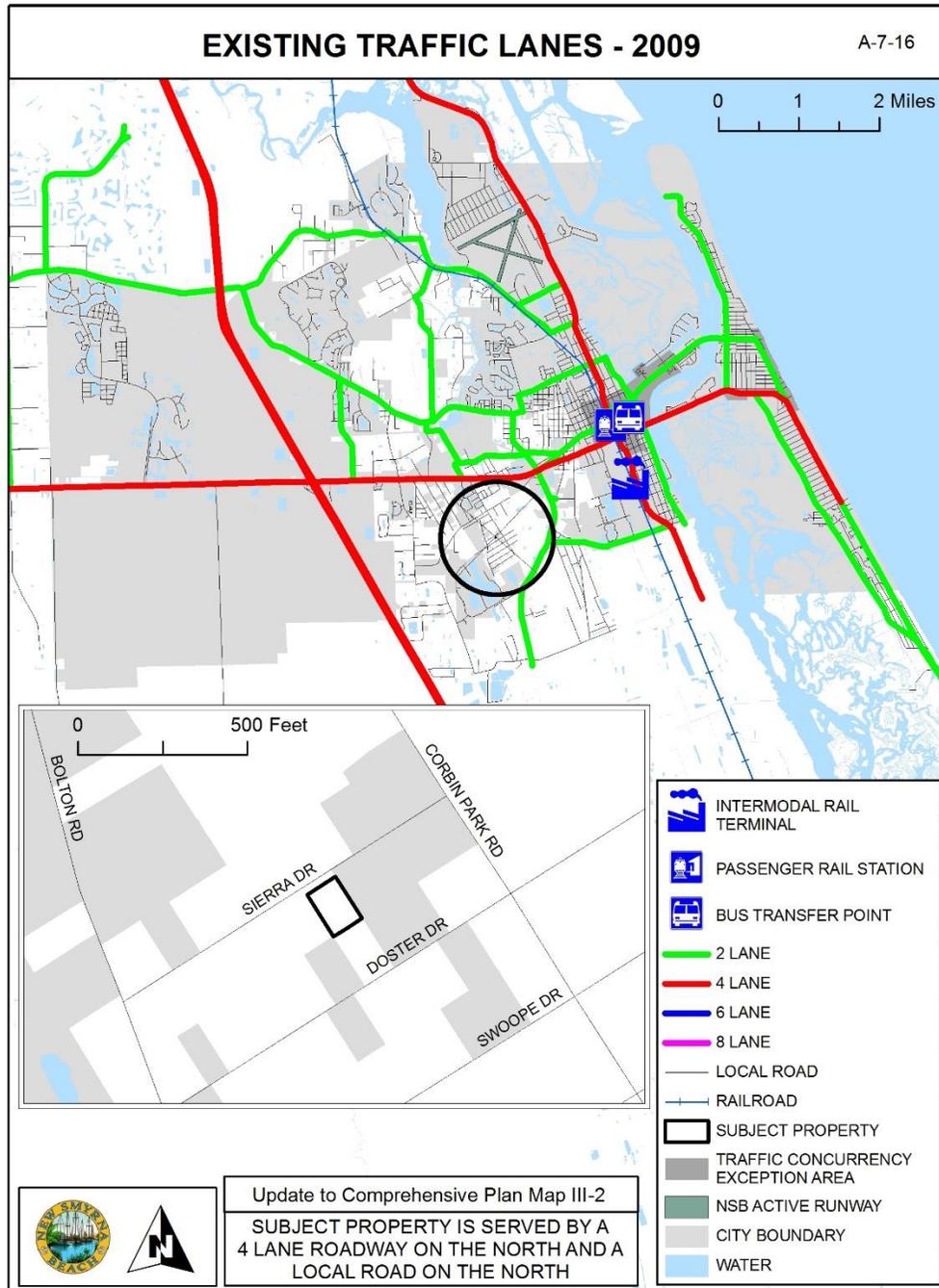


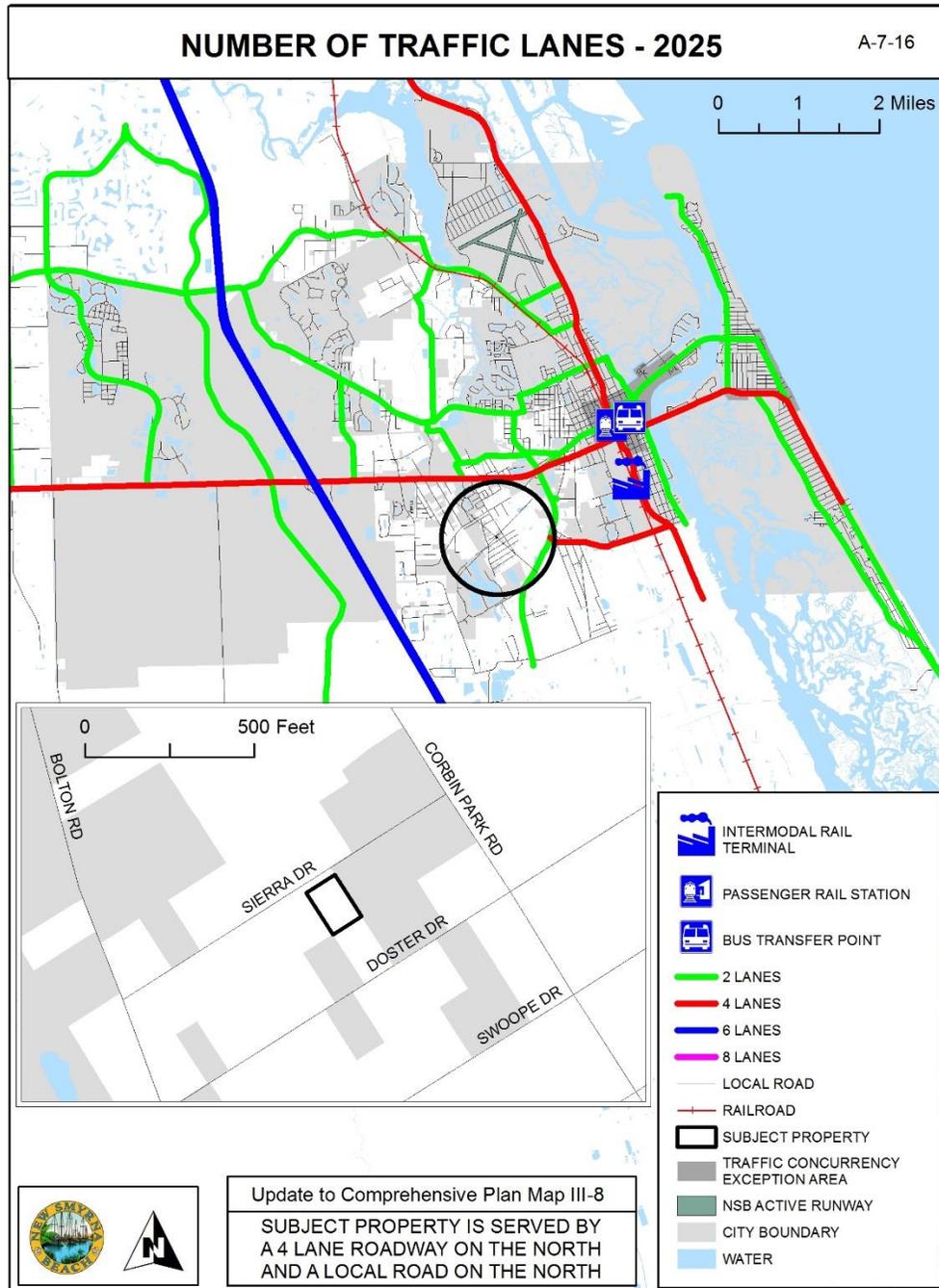


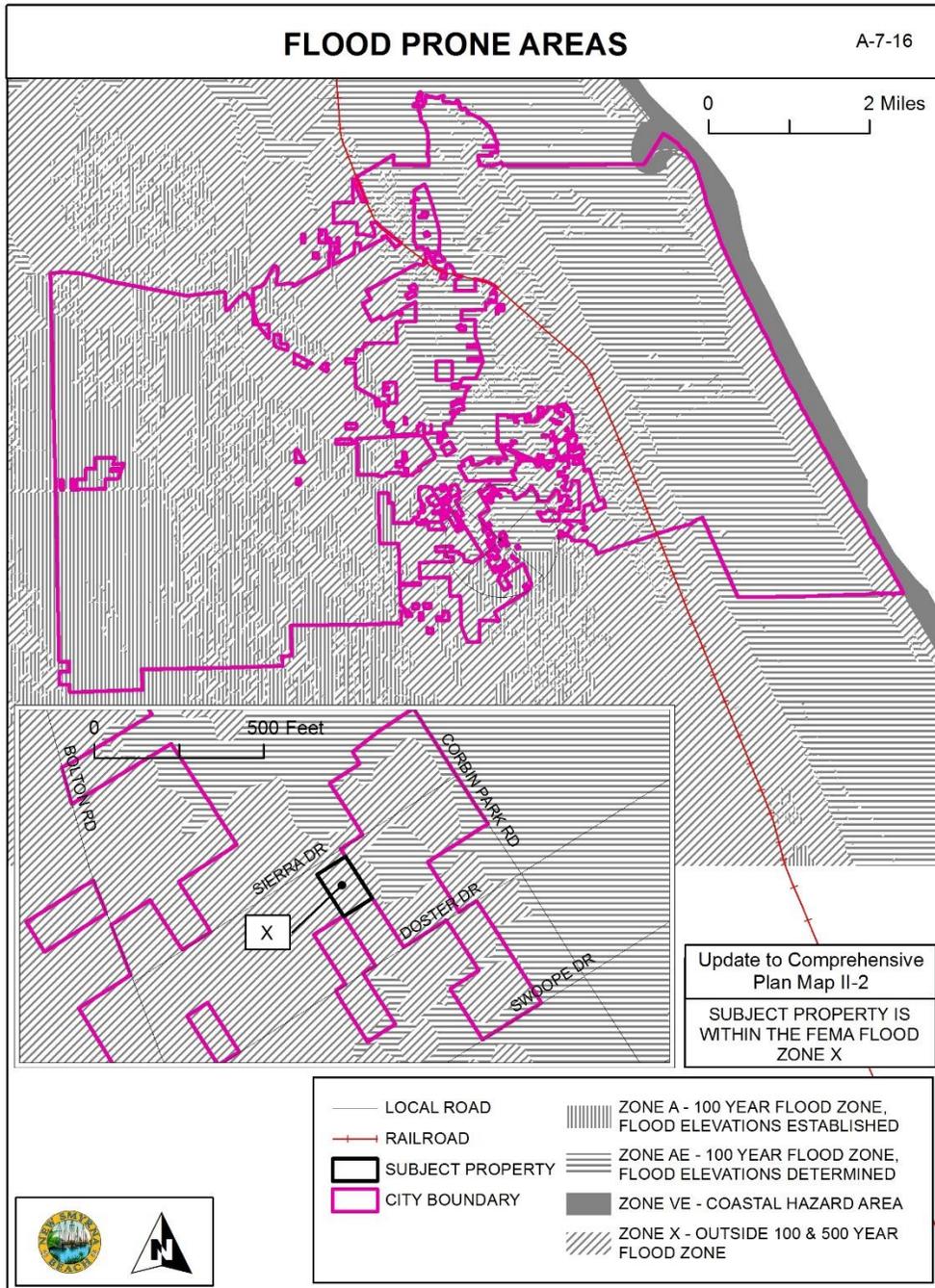


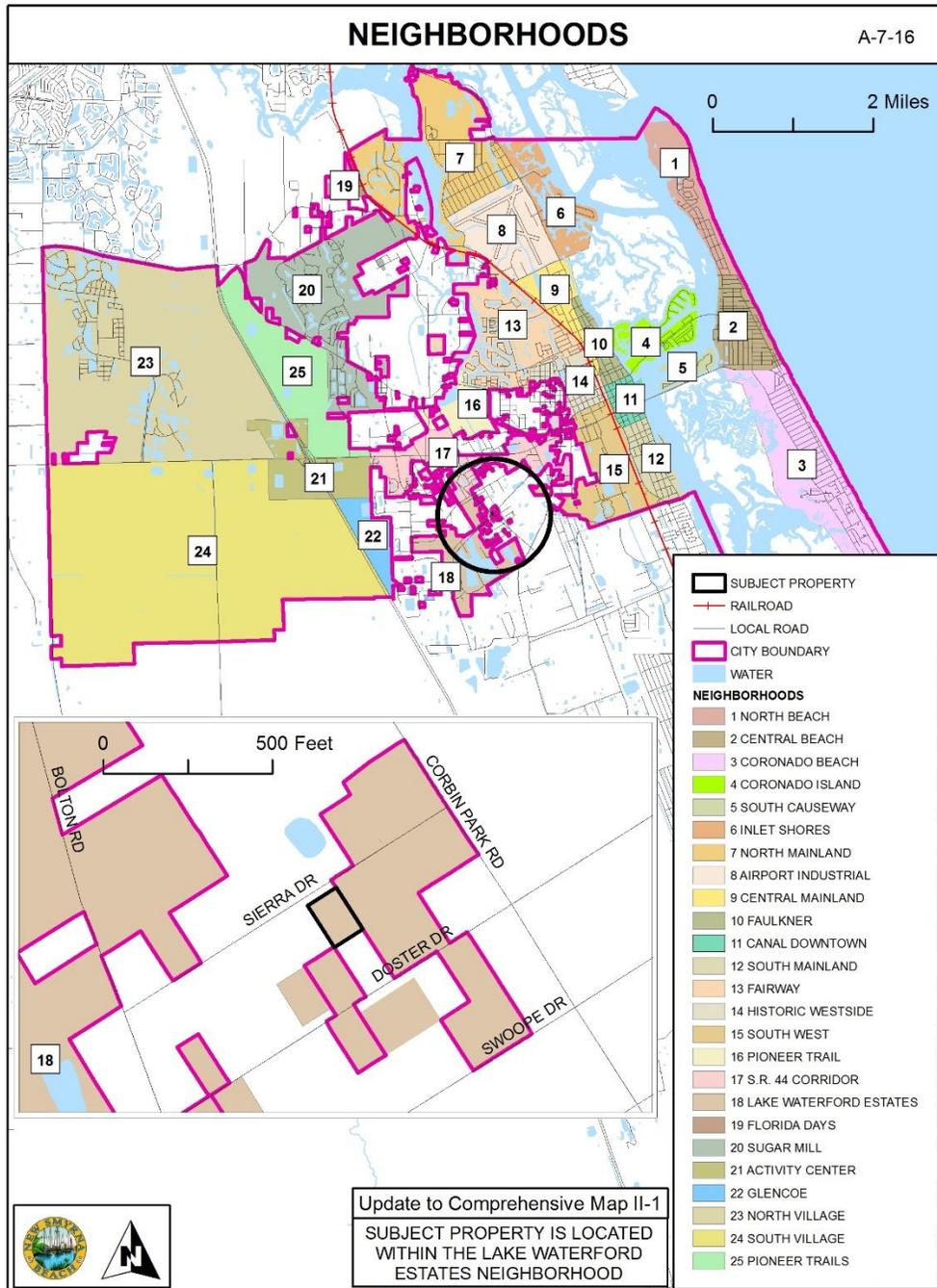


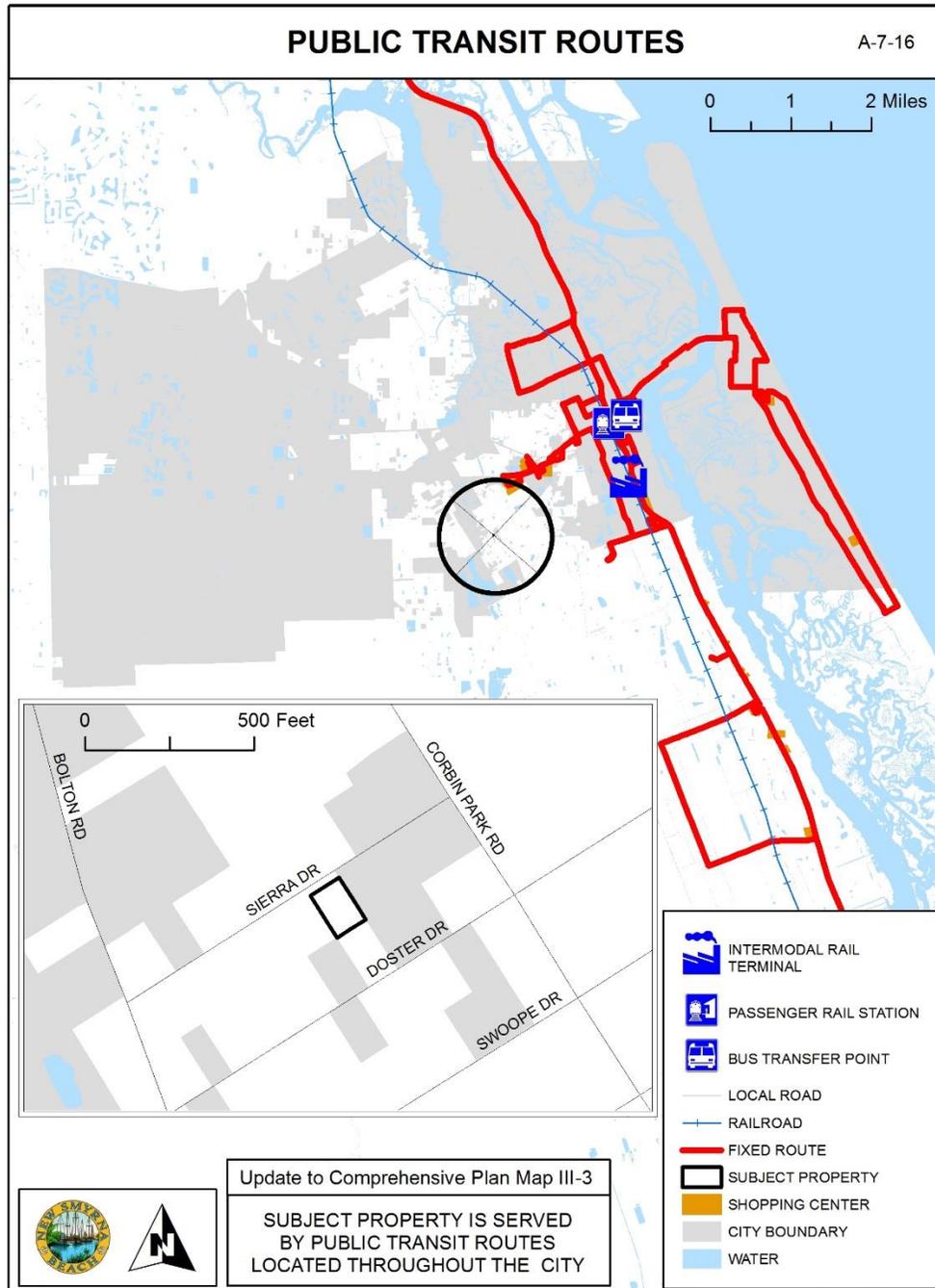


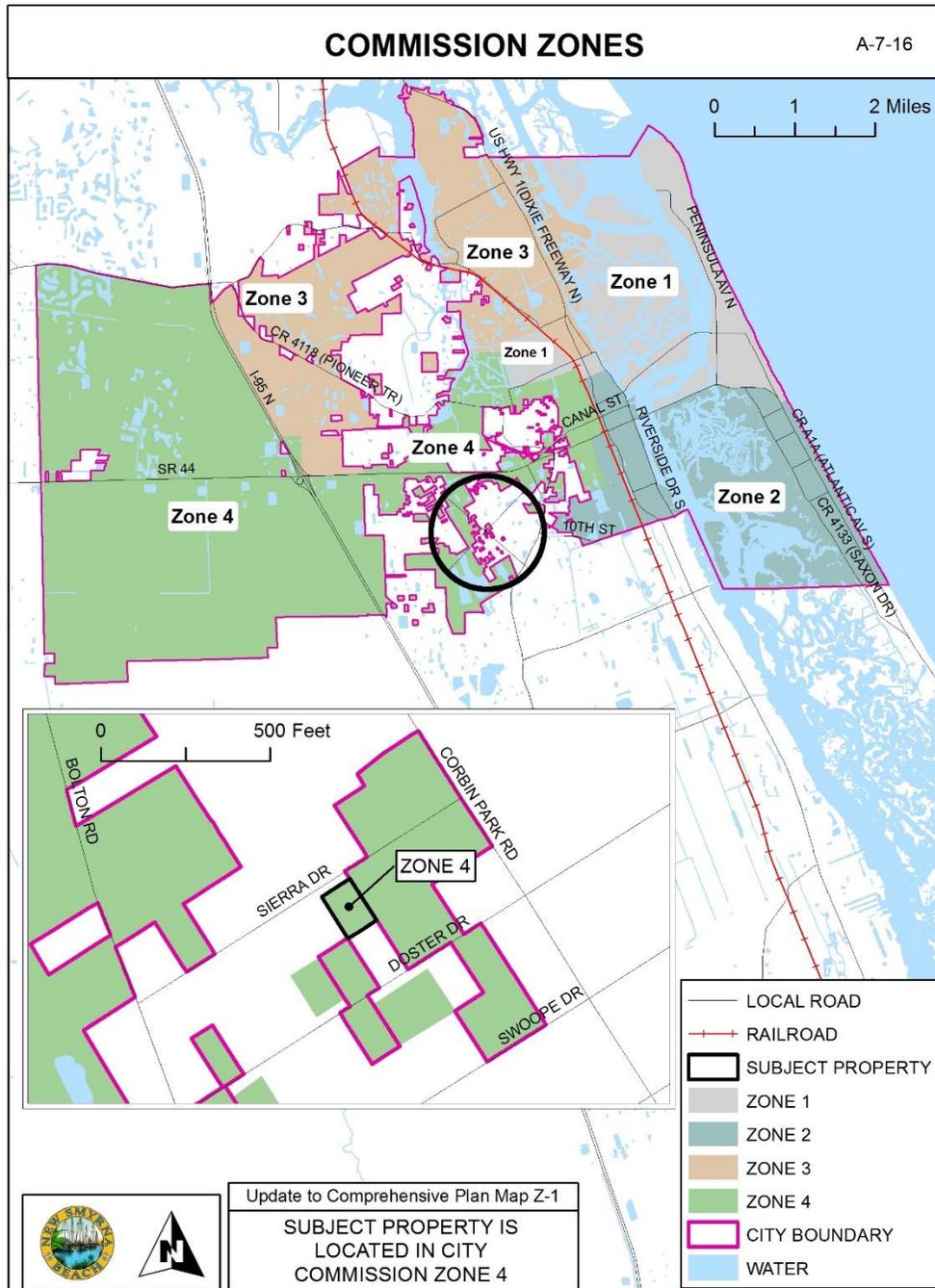












1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING BOARD  
2 **A-8-16: VACANT PARCEL ON SUGAR MILL**  
3 **DRIVE**

4 **FEBRUARY 1, 2016**

---

5  
6 **I. Background**

7  
8 **A. Applicant:** David K. Hall, 757 Hunting Camp Road, New Smyrna Beach,  
9 Florida 32168

10  
11 **B. Property Owner:** HNWW, INC., 121 Wallace Road, New Smyrna Beach,  
12 Florida 32168

13  
14 **C. Request:** Voluntary annexation, *Comprehensive Plan* amendment, and  
15 rezoning:

- 16 • **From:** Volusia County Future Land Use (FLU) designations of AC,  
17 Activity Center and Volusia County zoning designation of A-3,  
18 Transitional Agriculture.  
19 • **To:** City FLU designations of AC, Activity Center and City zoning  
20 designation of A-3, Transitional Agriculture.

21  
22 **D. Site Information:**

- 23 • **Size:** 4.78 acres  
24 • **Location:** North of SR 44 on the east side of Sugar Mill Drive. (See  
25 **Exhibit A** for a location map).  
26 • **Tax I.D. Numbers:** 7322-00-00-0030

27  
28 **II. Findings**

29  
30 **A.** On April 23, 2013, the City Commission adopted an Interlocal Service  
31 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 **B.** The subject property is within the annexation area designated in the ISBA.  
39 The subject property is un-developed with no future development applied  
40 for by the property owner. An aerial view/map of the subject property and  
41 surrounding area is attached as **Exhibit B**.

42  
43 **C.** The existing Volusia County Future Land Use (FLU) and zoning  
44 designations of the subject property is shown on the following table. Maps

PLANNING AND ZONING BOARD/LAND PLANNING AGENCY  
 A-8-16: VACANT PARCEL ON SUGAR MILL DRIVE  
 FEBRUARY 1, 2016

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

Property Location	Volusia County FLU Designation	Volusia County Zoning Designation
Sugar Mill Drive	AC, Activity Center	A-3, Transitional Agriculture

7  
 8 **D.** Existing land use is shown on the map attached as **Exhibit G**. The future  
 9 land use and zoning designations for those properties surrounding the  
 10 subject properties are as follows:  
 11

	North	East	South	West
<b>Sugar Mill Drive</b>				
Future Land Use	County Urban Medium Intensity	County Urban Medium Intensity	Activity Center	Activity Center
Existing Land Use	Residential / Public Grounds	Residential	Vacant	Vacant
Zoning	County A-3	County A-3	County A-3	City PUD

12  
 13 **E.** The established City Commission policy is that when property is annexed  
 14 into the City, the City will assign future land use and zoning designations  
 15 that would be as similar as possible to existing County designations. As  
 16 discussed above, existing County FLU designation is AC, Activity Center.  
 17 The existing County zoning designation is A-3, Transitional Agriculture. The  
 18 proposed City FLU designation is AC, Activity Center. The proposed City  
 19 zoning designation is A-3, Transitional Agriculture. A text description of the  
 20 proposed City AC, Activity Center FLU designation is attached as **Exhibit**  
 21 **H**, with a map of this proposed change also attached as **Exhibit I**. A text  
 22 description of the proposed City A-3, Transitional Agriculture zoning  
 23 designation, and a map of this proposed change, are similarly attached as  
 24 **Exhibits J and K** respectively.  
 25

26 **F.** This annexation request is within the City's annexation area and within the  
 27 City's water and sewer service area (**Exhibit L**). The following table shows  
 28 the availability of utilities to service the subject property:  
 29

Property Location	Water	Sewer	Reclaim
Sugar Mill Drive	Not Available	Not Available	Not Available

30  
 31 A map of the soil limitations for septic systems is attached as **Exhibit M**.  
 32

1           **G.**     The *Land Development Regulations* requires any proposed development to  
2                   conform to the Concurrency Management System. That system includes  
3                   traffic, parks and recreation, potable water, wastewater treatment, solid  
4                   waste collection, storm-water management, and public school facilities.  
5                   Because the property is un-developed with no new proposed development,  
6                   and because no increased density is proposed for the properties, staff did  
7                   not prepare a concurrency analysis table for this case.  
8

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

13           **I.**

14  
15           **J.**     The *Comprehensive Plan* provides guidance on annexations, future land  
16                   use amendments, and re-zonings. The following is a list of objectives in the  
17                   *Comprehensive Plan* that support this proposal:  
18

- 19                   • Future Land Use Element Goal 2, Objective 3
- 20                   • Future Land Use Element Goal 2, Objective 4
- 21                   • Future Land Use Element Goal 2, Objective 7
- 22                   • Future Land Use Element Goal 5, Objective 3

23  
24           **III. Recommendation**

25           Staff recommends that the Planning and Zoning Board recommend the City Commission  
26           **approve** the requested annexations, *Comprehensive Plan* amendment to City AC,  
27           Activity Center, and rezoning to City A-3, Transitional Agriculture.  
28  
29  
30

PLANNING AND ZONING BOARD/LAND PLANNING AGENCY  
A-8-16: VACANT PARCEL ON SUGAR MILL DRIVE  
FEBRUARY 1, 2016

1

Exhibit A



2

C-4

PLANNING AND ZONING BOARD/LAND PLANNING AGENCY  
A-8-16: VACANT PARCEL ON SUGAR MILL DRIVE  
FEBRUARY 1, 2016

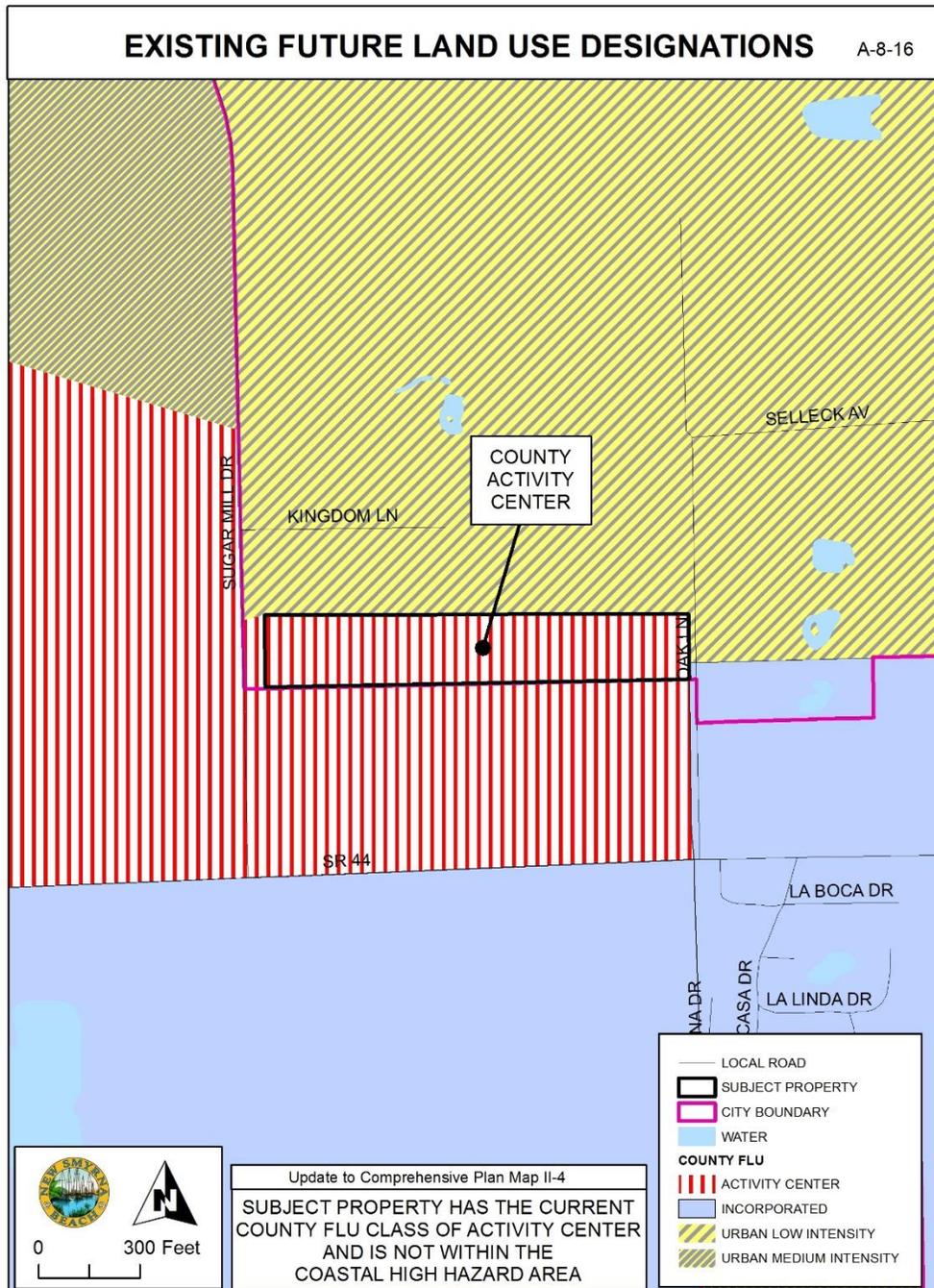
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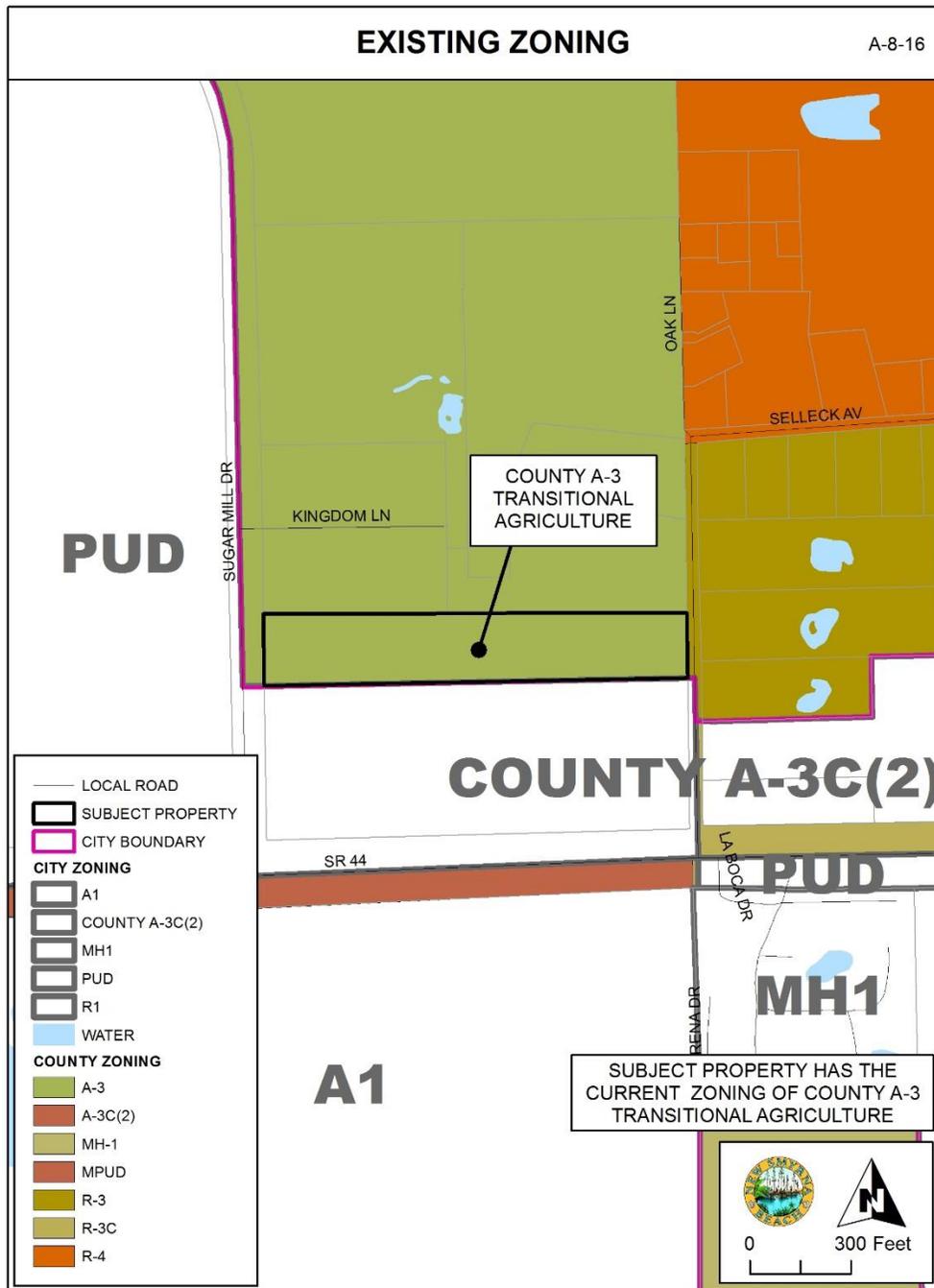
Exhibit B



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C-5





**Exhibit E**

**Activity Center (AC)**

An area planned to accommodate a range of activities from employment-based office and industrial activities to support and ancillary uses such as commercial services, recreational facilities, and housing. Design, aesthetics and environmental protection and enhancement are emphasized as part of the development. These Activity Centers are intended to be high-intensity design unified areas which will contain a concentration of different urban functions. The concentration of these economic uses provides the chance for the efficient provision of public facilities and by concentrating these uses, the need to provide buffers for incompatible uses is minimized. Activity Centers do not necessarily develop on their own, but require a cooperative effort between both the public and private sector to ensure that local services and infrastructure meet the anticipated demand. The location of Activity Centers has been targeted near major transportation nodes, such as airports, railroads, or interstate interchanges. Public transportation also should be a key ingredient in a successful Activity Center. Activity Centers at interchanges generally should contain limited amounts of retail type commercial development within the extent of one-half (½) mile to the interchange. The area closest to the interstate is a high visibility area that should be designed in a manner that utilizes the interchange to its best advantage. More extensive retail commercial uses may be permitted if these uses are consistent with the economic development strategies stated in the County's Overall Economic Development Plan. Certain interchanges or quadrants of an interchange will be oriented to the traveling public such as service stations, hotels and restaurants while others will be developed as high profile employment centers.

Activity Centers may be designated to serve many different property owners, but should function in a manner to share facilities and services. Coordination among the various projects provides better efficiency of governmental services. One of the more important aspects of the Activity Center is the manner in which traffic patterns are designed. Service or frontage roads, shared or limited access, shared parking and interconnecting parking areas should all be used in the general planning of these Centers and then followed through during the actual site plan stage. These Centers can provide a high development quality which emphasizes pleasant, convenient, and satisfying work conditions along with amenities, such as recreational areas, conference facilities, business oriented lodging facilities, restaurants, retail services, day care, health care and convenient location relative to residential areas, if designed properly. Activity Centers may also provide the County with opportunities to provide for unique land uses, such as the fairgrounds. The Future Land Use Map indicates both existing and proposed Activity Centers in the unincorporated areas. The new Centers are encouraged in areas having the following qualities: excellent county-wide accessibility; compatibility with future surrounding development; and programmed provision of public services. This designation indicates that Volusia County should encourage and support such development. The County should give emphasis to providing public mass transit service to all Activity Centers. Three areas have been identified in the unincorporated portions of Volusia County as initial Activity Centers.

- (a) Howland Boulevard/I-4 interchange (Southwest)
- (b) US 92/I-95/I-4/airport (Halifax)
- (c) SR 44/I-95 interchange (Southeast)

The above Activity Centers have their own individual Plans that describe how the Centers will be developed. The Plans are located in the Local Plans section of this Element. Some of these

**Exhibit E (cont'd)**

Plans contain phases that do not have designated land uses. Until these Plans are complete, the following procedures may be used for individual projects.

All projects shall be developed as Planned Unit Developments consistent with the Comprehensive Plan in order to coordinate proposed developments with the Activity Center Plans. A developer may apply to the County for a conceptual PUD in the area covered by the Activity Center. With the exception of PUD's located within the Southwest Activity Center, applications shall be submitted for consistency review with this Plan and the plans of adjoining local governments by the Volusia Growth Management Commission prior to submittal of application for rezoning to PUD.

The three identified locations on the Future Land Use Map do not preclude the proposal of Activity Centers in other locations. If proposals for the development of Activity Centers in locations other than those shown on the Future Land Use Map meet the appropriate concepts and policies of the Comprehensive Plan, amendments could be initiated.

**SOUTHEAST ACTIVITY CENTER**

A. FUTURE LAND USE MAP AND DESCRIPTIONS OF FUTURE LAND USE DESIGNATIONS

Each of the future land use designations specified by the Southeast Activity Center Plan, and the relationship of these designations to the Comprehensive Plan's Future Land Use Element, is presented below.

Two of these designations - Office and Tourist Commercial - are entirely unique to the Activity Center Plan. The remaining designations are either synonymous to, or are modifications of, existing designations with the Plan's Future Land Use Element. Regardless, all of these designations are considered to be urban and require the provision of facilities and services consistent with the levels of service standards of the Comprehensive Plan.

1. Nonresidential

- a. Activity Center Industrial - Except as provided for herein, the purpose and intent (including permissible uses) is identical to that described by the Future Land Use Element. Within an Activity Center, an Industrial Planned Unit Development (IPUD) may contain ancillary commercial uses provided that said uses do not represent over ten percent (10%) of the land area encompassed by the IPUD. Ancillary commercial uses, if proposed by an IPUD, shall be located and designed primarily to serve the needs of the IPUD. In furtherance of this requirement, ancillary commercial uses which are proposed to be established outside of structures housing primarily industrial functions, shall:

- (1) Be sited primarily adjacent to non-thoroughfare roads so as not to attract off-premises users/customers;
- (2) Be linked by an internal circulation system (i.e., walkways, streets, etc.) to other structures within the IPUD;

**Exhibit E (cont'd)**

(3) Be of a type and intensity (i.e., amount of square footage) of use which is clearly correlated to the larger industrial function(s) of the IPUD; and,

(4) Be accessible to vehicular traffic only from streets within the IPUD.

- b. Commercial - Purpose and intent, including permissible uses, identical to that described by Future Land Use Element and those uses accommodated by the Tourist Commercial designation described below are not permitted by this designation within the Activity Center.
- c. Public/Semi-public - Purpose and intent, including permissible uses, identical to that described by Future Land Use Element.
- d. Tourist Commercial - The purpose and intent of this specialized designation is to provide areas adjacent to interstate interchanges strictly for tourist accommodations and related uses which service and promote tourism (i.e., amusement facilities, automobile service stations, restaurants, and similar uses). Up to a thirty-five percent Floor Area Ratio (0.35 FAR) will be allowed in this designation.
- e. Office - The intent of this designation is to provide areas solely for general/professional office use and supporting ancillary uses. Up to a fifty-five percent Floor Area Ratio (0.55 FAR) will be allowed in this designation.

2. Residential

Three residential designations of differing densities are contained in the Activity Center. The permitted principal uses allowed by these designations would be exclusively residential in nature and, unlike the associated Low Impact Urban, Urban Low Intensity, Urban Medium Intensity, and Urban High Intensity designations contained in the Future Land Use Element will not permit commercial or industrial land uses. The density of residential development to be permitted by each of the residential designations is outlined as follows:

- a. low-medium (2.01 to 5.00 units/acre)
- b. medium (5.01 to 12 units/acre)
- c. high (12.01 to 20.00 units/acre)

B. VOLUSIA GROWTH MANAGEMENT COMMISSION CONDITIONS

The Volusia Growth Management Commission (VGMC) requires a comprehensive traffic study for any development proposed for the Southeast Activity Center where the proposed development program would generate trips in excess of 10% Level of Service "C" peak hour traffic volumes (significance) for any roadway segment in the County's Transportation Element. The traffic study shall be submitted to the VGMC for a determination of consistency. The VGMC shall review the traffic study based on the criteria expressly established in Volusia County Ordinance 87-24, as amended, and issue a determination of no adverse impact to adjacent local governments. Unless and until the VGMC finally determines that the study demonstrates that no adverse impacts will occur on adjacent jurisdictions, no development with the traffic impacts described above shall be permitted on any of the property covered by said map amendment.

**Exhibit E (cont'd)**

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The VGMC also requires any proposed development, except residential in excess of 10 acres, within the area which comprises the Southeast Activity Center to be approved as a planned development. The proposed planned development shall be forwarded to the VGMC for review and approval before issuing any development orders permitting such development. The VGMC shall review the planned development based on the criteria expressly established in Volusia County Ordinance 87-24, as amended, and issue a determination of whether the proposal shall be submitted as a comprehensive plan amendment or allow Volusia County to proceed with permitting. No development as described above shall take place on the property covered by said map amendment.

**C. GOAL, OBJECTIVES, AND POLICIES**

Development within the Southeast Activity Center shall be consistent with the Goal, Objective, and Policy statements enumerated below. These statements shall not be interpreted, either individually or collectively, as relieving compliance with other Elements of the Comprehensive Plan and/or other County land development regulations. Rather, it is the purpose of these statements to complement, not substitute or supersede the Comprehensive Plan and other land development regulations.

**GOAL:**

SE 1. Achieve an integrated and well-planned mixture of urban land uses within the Southeast Activity Center.

**OBJECTIVE:**

SE 1.1 Provide adequate and appropriate areas resulting in a mixture of urban land uses.

**POLICIES:**

SE 1.1.1 The Future Land Use Map for the Southeast Activity Center is incorporated as part of the Volusia County Comprehensive Plan (Ordinance 90-10, as amended). Said Map serves as a graphic guide for the future development of property within the Activity Center. Build-out of the Activity Center properties may extend beyond 2010. The Activity Center is partitioned into phases as depicted by the Future Land Use Map.

SE 1.1.2 All development within the Activity Center shall be consistent with the future land use designations depicted by the Activity Center Future Land Use Map, the description of the land use designation(s), and all other appropriate sections of the Comprehensive Plan and Land Development Regulations.

SE 1.1.3 The maximum building coverage for nonresidential development within the Southeast Activity Center shall not exceed thirty-five (35%) percent of an individual lot.

SE 1.1.4 The provision of affordable housing within residential areas shall be encouraged.

**Exhibit E (cont'd)**

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3 SE 1.1.5 Future development of lands within the Activity Center shall require rezoning to a  
4 Planned Unit Development (PUD) or amendment to an existing PUD (if said development is not  
5 permitted by the previously approved PUD). Provided, however, that any development of an  
6 existing parcel that is one acre or less in size and which is permissible by the existing zoning  
7 classification assigned the parcel shall not require rezoning to PUD if the existing zoning  
8 classification is consistent with the Future Land Use designation assigned the parcel by the  
9 Activity Center Plan. Where a single ownership of land or unified project may encompass two or  
10 more future land use designations, the physical arrangement of land uses on the property may  
11 be modified during the required Planned Unit Development (PUD). However, the intensity and  
12 acreage (exclusive of wetland areas) accorded the resultant land use mix shall be consistent  
13 with, and does not introduce land uses which differ from, that accorded the property by the  
14 adopted Future Land Use Map. The land use pattern shall also comply with the appropriate  
15 locational criteria and policies specified by the Comprehensive Plan.

16  
17 SE 1.1.6 Commercial development which demonstrates appropriate pedestrian linkages,  
18 internal trip capture, and reduced impact on thoroughfare roads shall be encouraged.

19  
20 SE 1.1.7 Primary office development should be encouraged to locate at premium and high  
21 visibility sites within the Activity Center.

22  
23 SE 1.1.8 Research and development uses should be encouraged to locate at premium and high  
24 visibility sites within the Activity Center.

25  
26 OBJECTIVE:

27  
28 SE 1.2 Individual developments within the Activity Center shall be designed to provide visual  
29 compatibility and functional continuity with other adjacent developments within the Activity  
30 Center.

31  
32 POLICIES:

33  
34 SE 1.2.1 New development (includes redevelopment) shall, at a minimum, be required to: -  
35 Provide visual harmony by, but not limited to, such mechanisms as sign control (i.e., number,  
36 height and copy area), establishing landscape screening/buffering requirements (i.e., width and  
37 composition), requiring the use of underground utilities, and establishing building setbacks and  
38 height requirements; - Encourage building orientation which promotes interaction between  
39 different projects and discourages creating unnecessary separation or the isolation of projects; -  
40 Use shared parking, access and loading facilities, as practical in an effort to reduce impervious  
41 surfaces; - Promote vehicular, pedestrian, and non-vehicular movement throughout the  
42 Activity Center; - Provide a network of unifying open spaces (said open spaces shall be in, or  
43 predominantly in, a natural state) which promote linkage with other adjoining developments;  
44 - Use common frontage/service roads; and, - Use shared or joint facilities, such as stormwater,  
45 bus stops, and utility easements.

46  
47 It is not intended that each development within an Activity Center be aesthetically identical.  
48 Development shall be consistent with the design requirements of the Zoning Ordinance.  
49

**Exhibit E (cont'd)**

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3 SE 1.2.2 Development of those portions of the Activity Center fronting upon State Road 44 shall  
4 be consistent with the requirements of the Thoroughfare Overlay Zone Regulations.

5  
6 SE 1.2.3 All uses within the Activity Center shall be designed to minimize the disruptive effects  
7 of lighting, noise, and signage on residential areas.

8  
9 OBJECTIVE:

10  
11 SE 1.3 Promote development within the Activity Center which protects and enhances the natural  
12 environment.

13  
14 POLICIES:

15  
16 SE 1.3.1 The clustering of activities and structures shall be encouraged so as to promote open  
17 space areas.

18  
19 SE 1.3.2 To the fullest extent possible, developments shall be designed to integrate wetlands  
20 and other environmentally sensitive lands into an open space network. This network, which may  
21 include upland areas, should be linked to similar systems on the same property or adjacent  
22 properties, including parcels outside the Activity Center.

23  
24 SE 1.3.3 Wetlands are generally depicted by the supporting document for the Activity Center  
25 Plan and are not intended to strictly represent jurisdictional areas. Specific boundaries of the  
26 wetland areas will be determined by field evaluations agreed upon by the County, land owner,  
27 and other agencies.

28  
29 SE 1.3.4 Development within that portion of the Activity Center located west of Interstate 95  
30 shall comply with the requirements of the Natural Resources Management Area.

31  
32 OBJECTIVE:

33  
34 SE 1.4 Promote cooperation and coordination between governmental jurisdictions and agencies  
35 when reviewing development proposals.

36  
37 POLICIES:

38  
39 SE 1.4.1 Volusia County shall, in cooperation with the Florida Department of Transportation,  
40 evaluate the impacts of specific land development proposals upon any future improvements to  
41 the Interstate 95 - State Road 44 interchange. Where possible, development approvals shall be  
42 designed to protect land critical for future interchange improvements.

43  
44 SE 1.4.2 Volusia County shall solicit comments from the appropriate adjacent municipalities  
45 when reviewing PUD applications within Activity Centers.

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47 OBJECTIVE:

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49 SE 1.5 Promote development and programs which are designed to alleviate traffic congestion.

**Exhibit E (cont'd)**

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POLICIES:

SE 1.5.1 Volusia County shall, in cooperation with the appropriate agencies, seek to promote mass transit service to the Activity Center.

SE 1.5.2 Mixed use buildings shall be required, where feasible.

OBJECTIVE:

SE 1.6 Promote development which enhances the economic base of the County.

POLICIES:

SE 1.6.1 Volusia County shall cooperate with Enterprise Volusia and the Southeast Volusia Advertising Authority to attract and promote appropriate development within the Activity Center.

SE 1.6.2 Volusia County shall explore various funding alternatives for the construction of required infrastructure. Examples of these financial mechanisms may include, but may not be limited to, special assessment districts, economic development administration grants, and tax increment financing programs.

SE 1.6.3 Development shall be coordinated with the City of New Smyrna Beach.

**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).

Houses of worship.

**Exhibit F (cont'd)**

- 1
- 2 Parks and recreation areas accessory to residential developments.
- 3 Public schools.
- 4 Publicly owned parks and recreational areas.
- 5 Publicly owned or regulated water supply wells.
- 6 Silvicultural operations which follow the most up to date state-prescribed best
- 7 management practices.
- 8 Single-family standard or manufactured modular dwelling.
- 9 Tailwater recovery systems.
- 10 Worm raising.
- 11 *Permitted special exceptions:* Additional regulations/requirements
- 12 governing permitted special exceptions are located in sections 72-293 and 72-
- 13 415 of this article.
- 14 Animal shelters.
- 15 Aquaculture operations in which there are nonexempt excavations (refer to
- 16 subsection 72-293(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
- 23 subsection 72-306(a).
- 24 Equestrian/livestock event facility.
- 25 Excavations only for stormwater retention ponds for which a permit is required by
- 26 this 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).
- 31 Kennels.
- 32 Livestock feed lots (minimum parcel size requirement of five acres).
- 33 Off-street parking areas (refer to subsection 72-293(14)).
- 34 Poultry farms (minimum parcel size requirement of 2.5 acres).
- 35

**Exhibit F (cont'd)**

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.

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

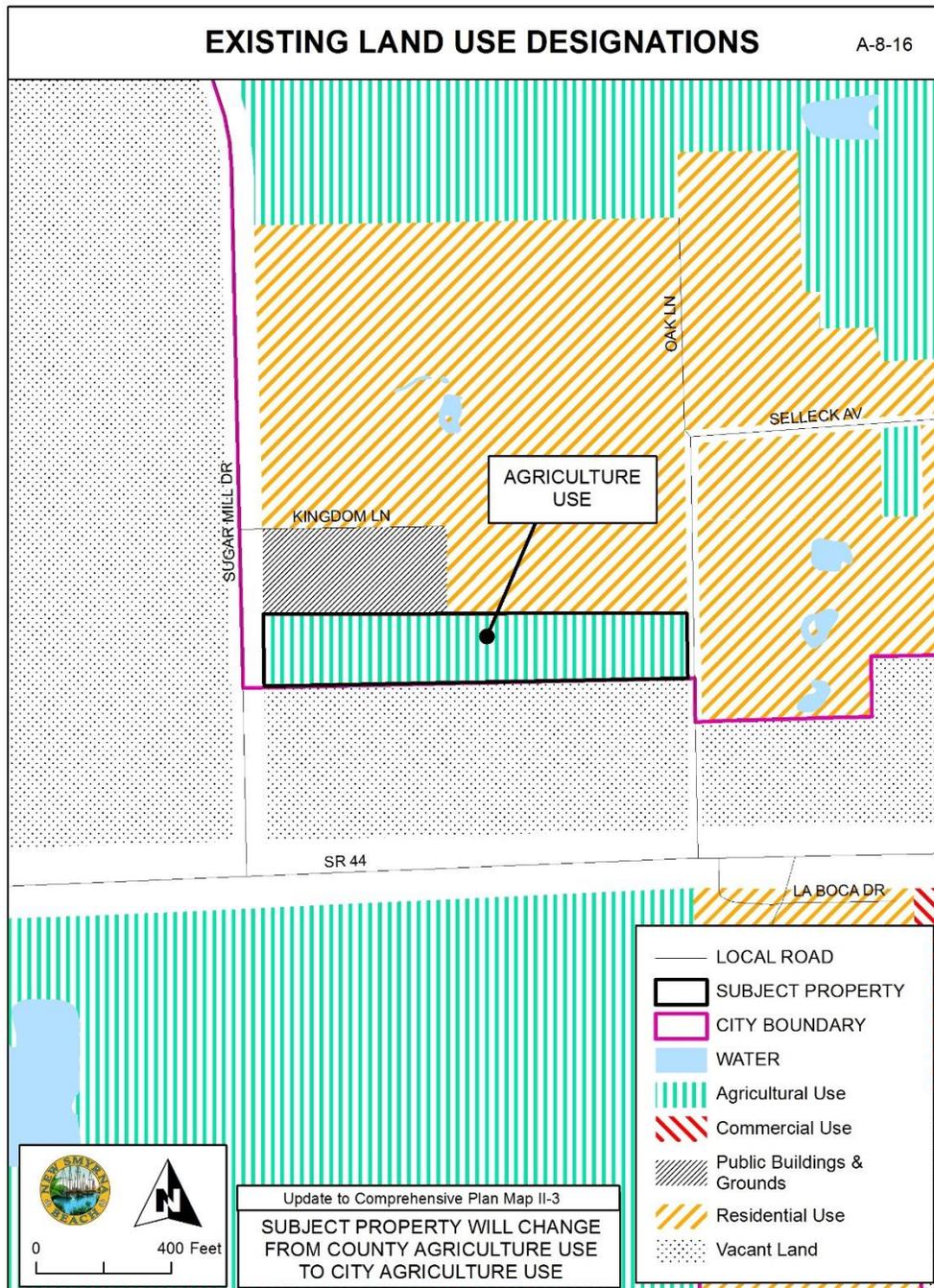
*Off-street parking and loading requirement:* Off-street parking and loading areas meeting the requirements of sections 72-286 and 72-287 shall be constructed.

**Exhibit F (cont'd)**

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*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)*



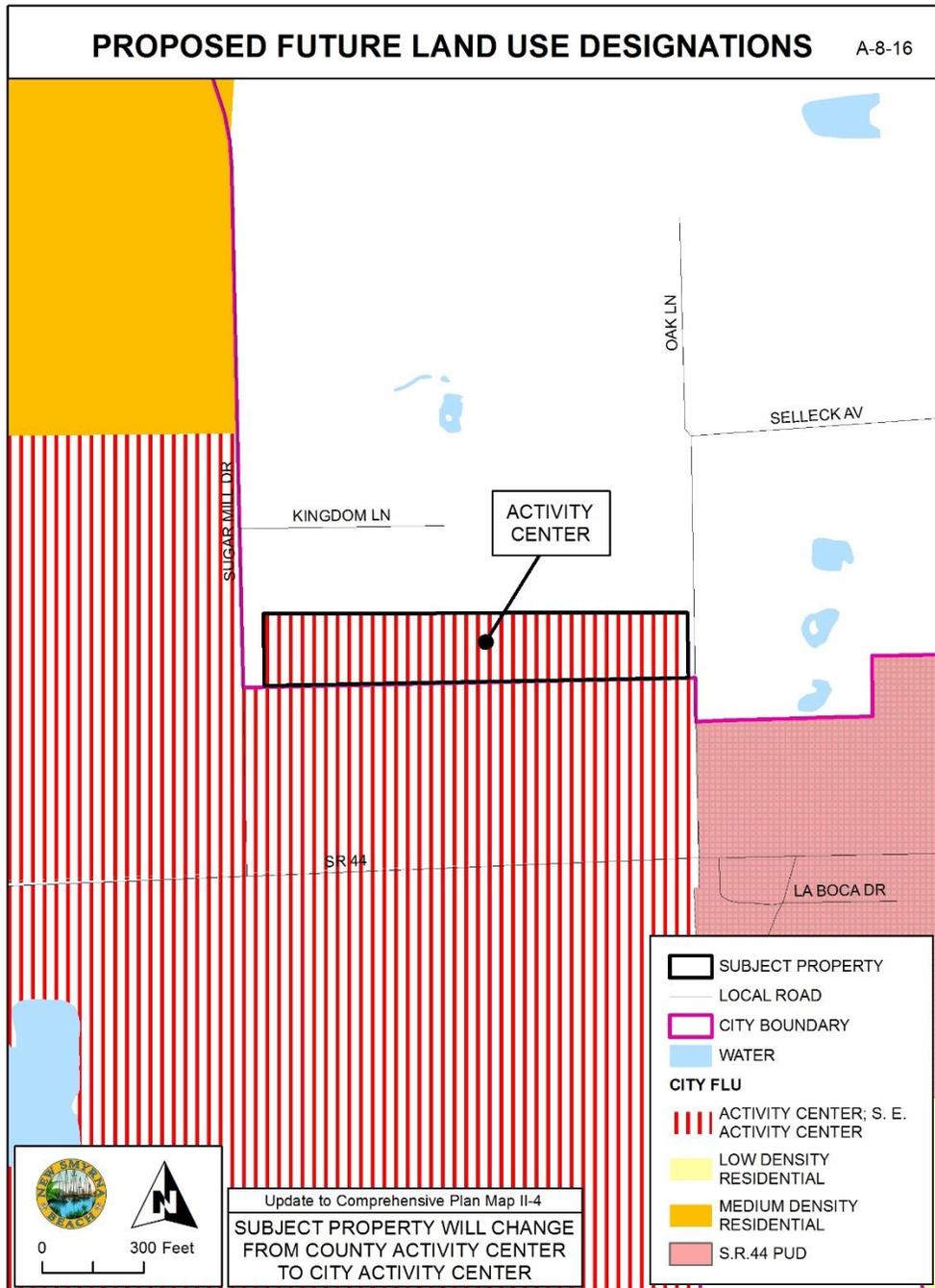
**SOUTHEAST VOLUSIA ACTIVITY CENTER**

Maximum allowed density:  
Up to 18 dwelling units per acre  
Up to 60 transient lodging units per acre Future Land Use Element II-21

Intent: An area planned to accommodate a range of activities from employment-based office and industrial activities to retail and service commercial, tourist commercial, special uses generating regional tourism (excluding regional shopping malls), housing, public and civic and park and open space. This area is intended to be a high-intensity design-unified area that will contain a concentration of different urban functions supported by a major transportation node. Development in this area shall stress value-added employment with housing and other types of development as supporting activities. Additional development parameters are:

- Priority uses within the activity center shall include industrial uses in an industrial park setting, office development, tourist accommodations, residential development, and local service and retail commercial development.
- Retail development in the activity center shall exclude regional shopping malls.
- “Big box” retail uses shall be allowed only in a mixed-use development project west of Interstate 95 that includes at least one (1) of the residential, local service commercial, tourist commercial, office, or industrial type land uses listed in the distribution of uses table below. Non-“big box” retail uses shall be located adjacent to the street frontage and must meet the New Smyrna Beach I-95 & SR44 Activity Center Design Guidebook standards.
- “Big box” retail uses must be located a minimum of 660 feet from the State Road 44 right-of-way line.
- Distribution of land uses within the activity center shall conform to the percentages in the following table:

Land Use	Minimum Land Use Area	Maximum Land Use Area	Maximum Floor Area Ratio
Residential	10%	40%	N/A
Tourist Commercial	20%	60%	2.0
Local Service Commercial	10%	25%	2.0
Office	10%	25%	2.0
Industrial	10%	60%	1.0
Public and Civic	10%	None	1.0
Parks and Open Space	5%	None	0.5
Big Box Retail	0%	25%	2.0
General Retail	10%	25%	2.0



**A-3 TRANSITIONAL AGRICULTURE  
CLASSIFICATION**

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*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.
- 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.

**Exhibit J (cont'd)**

- 1
- 2 Tailwater recovery systems.
- 3 Worm raising.
- 4 *Permitted special exceptions:*
- 5 Animal shelters.
- 6 Aquaculture operations in which there are nonexempt excavations.
- 7 Cemeteries.
- 8 Communication towers exceeding 70 feet in height above ground level.
- 9 Dairies and dairy products (minimum parcel size requirement of five acres).
- 10 Day care centers.
- 11 Equestrian/livestock event facility.
- 12 Excavations only for stormwater retention ponds for which a permit is required by this
- 13 article.
- 14 Garage apartments.
- 15 Group home.
- 16 Hog farms (minimum parcel size requirement of 2.5 acres).
- 17 Houses of worship.
- 18 Kennels.
- 19 Livestock feed lots (minimum parcel size requirement of five acres).
- 20 Off-street parking areas.
- 21 Poultry farms (minimum parcel size requirement of 2.5 acres).
- 22 Processing, packaging, storage, retail or wholesale sales of agricultural products not
- 23 raised on the premises.
- 24 Public uses not listed as a permitted principal use.
- 25 Public utility uses and structures.
- 26 Recreational areas.
- 27 Riding stables.
- 28 Schools, parochial and private.
- 29 Single-family mobile home dwelling with a minimum floor area of 480 square feet as a
- 30 temporary residence while building a standard or manufactured dwelling
- 31 (maximum duration of 18 months).
- 32 Temporary campsites for three days before, during and three days after any regularly
- 33 scheduled racing event at the Daytona Beach International Speedway for
- 34 Speedweeks, Biketoberfest, the Pepsi 400, and Bike Week, on condition that
- 35 security, portable toilets, garbage disposal and potable water facilities sufficient to
- 36 accommodate all occupants and other relevant conditions are provided. Related
- 37 special events and sales are allowed, if approved as part of the special exception.
- 38 Wholesale or retail fertilizer sales.
- 39

**Exhibit J (cont'd)**

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*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.

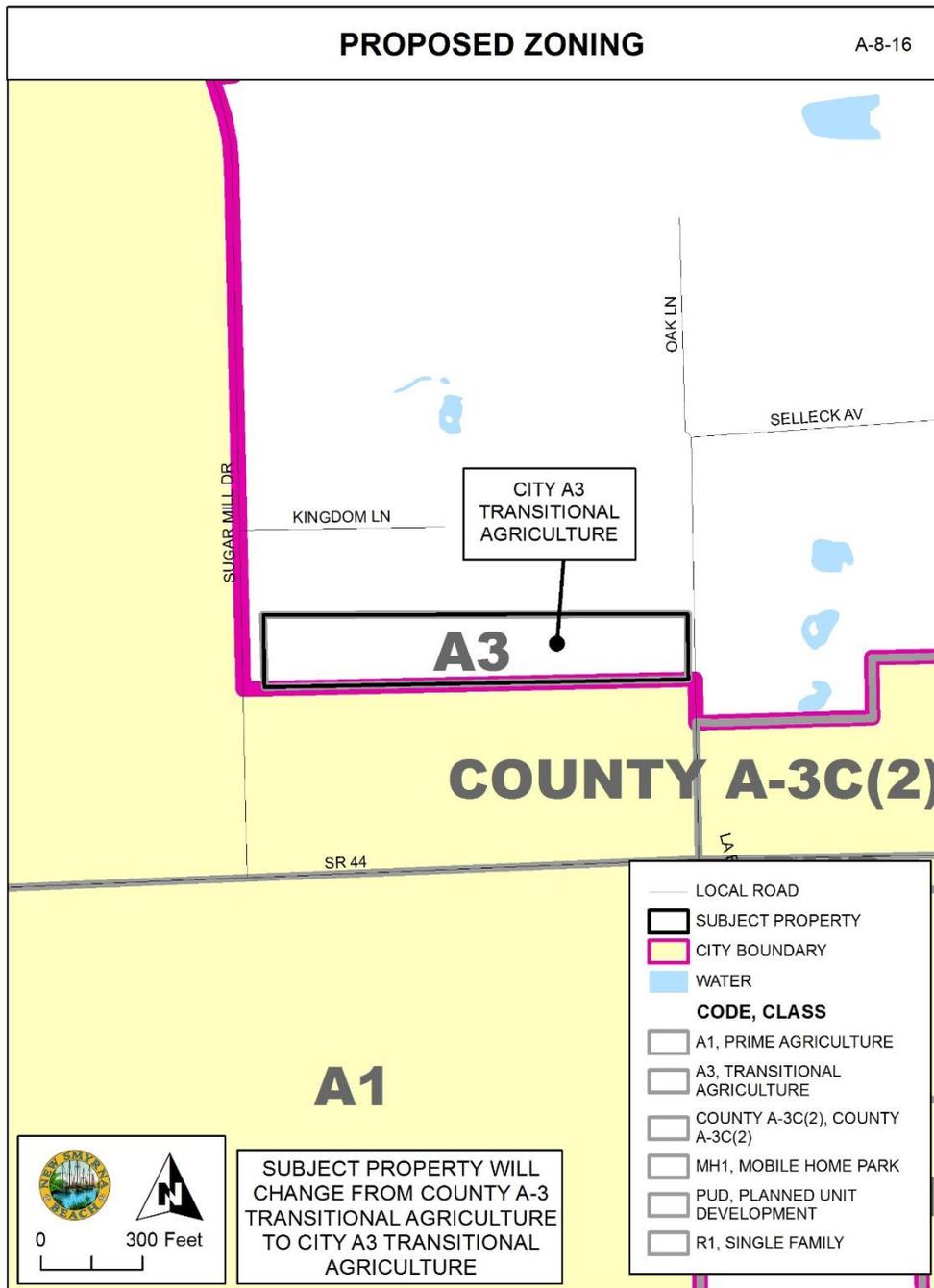
*Maximum building height:* 55 feet.

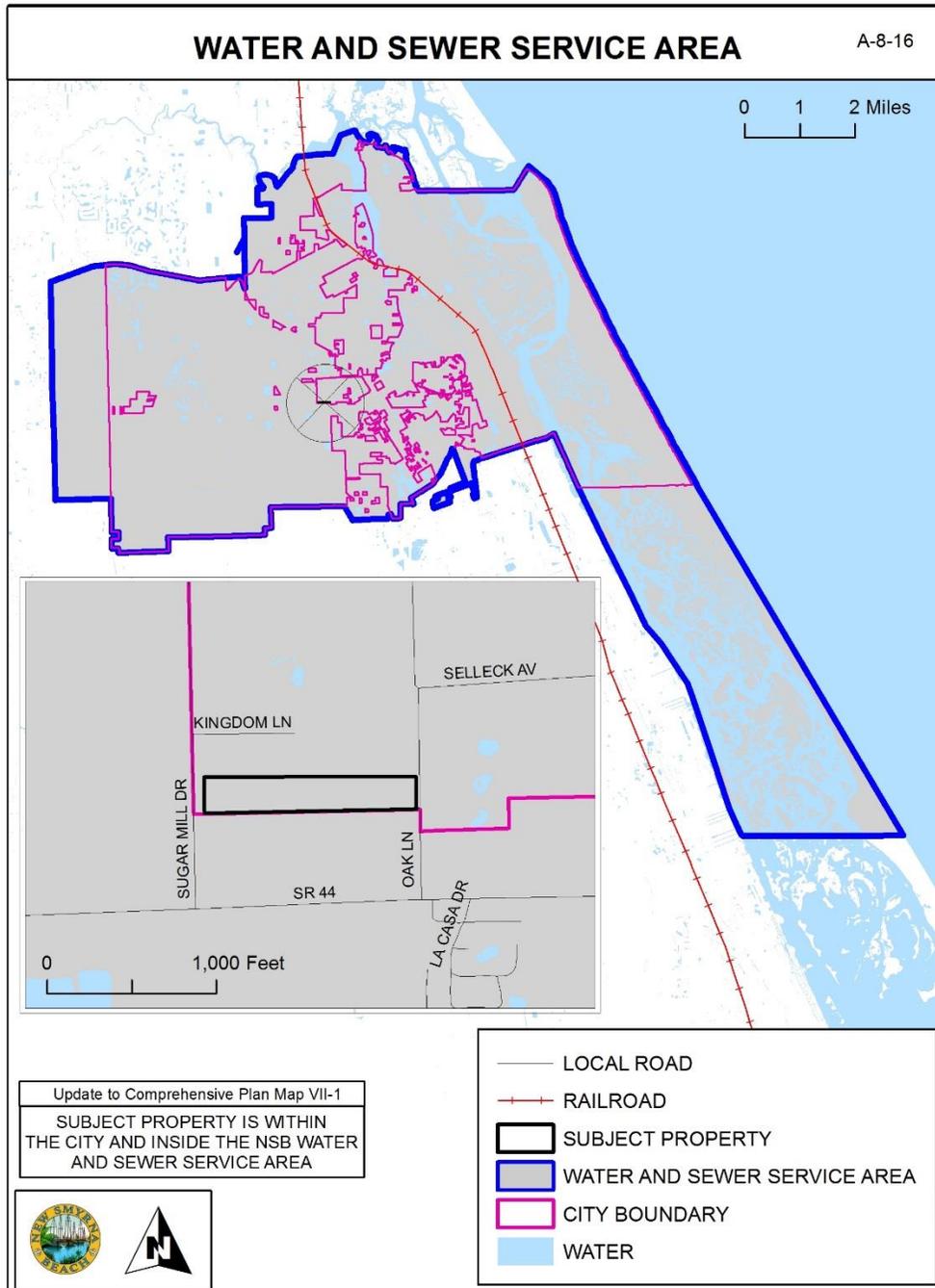
*Maximum lot coverage:* The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

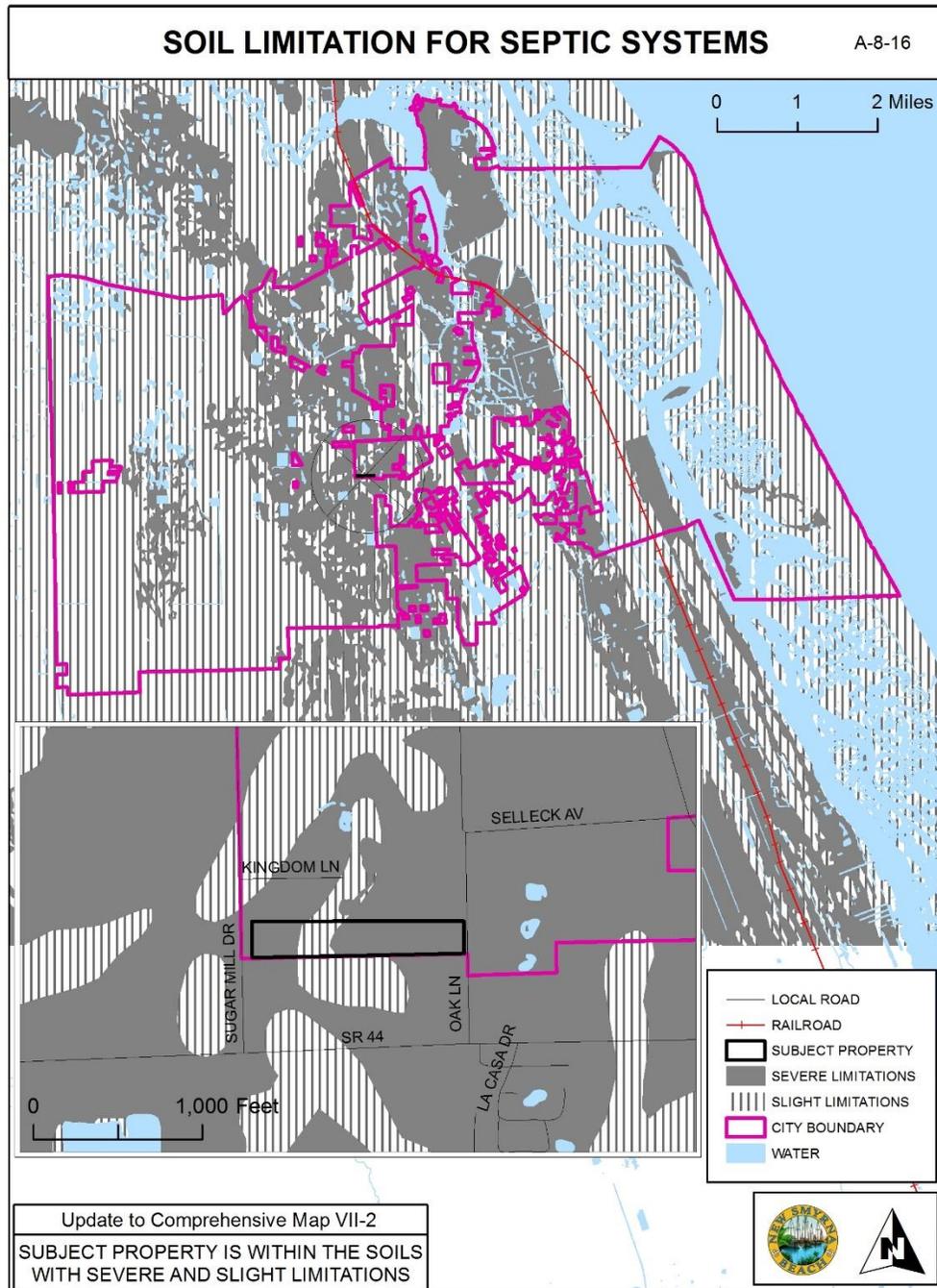
*Minimum floor area:* 1,000 square feet.

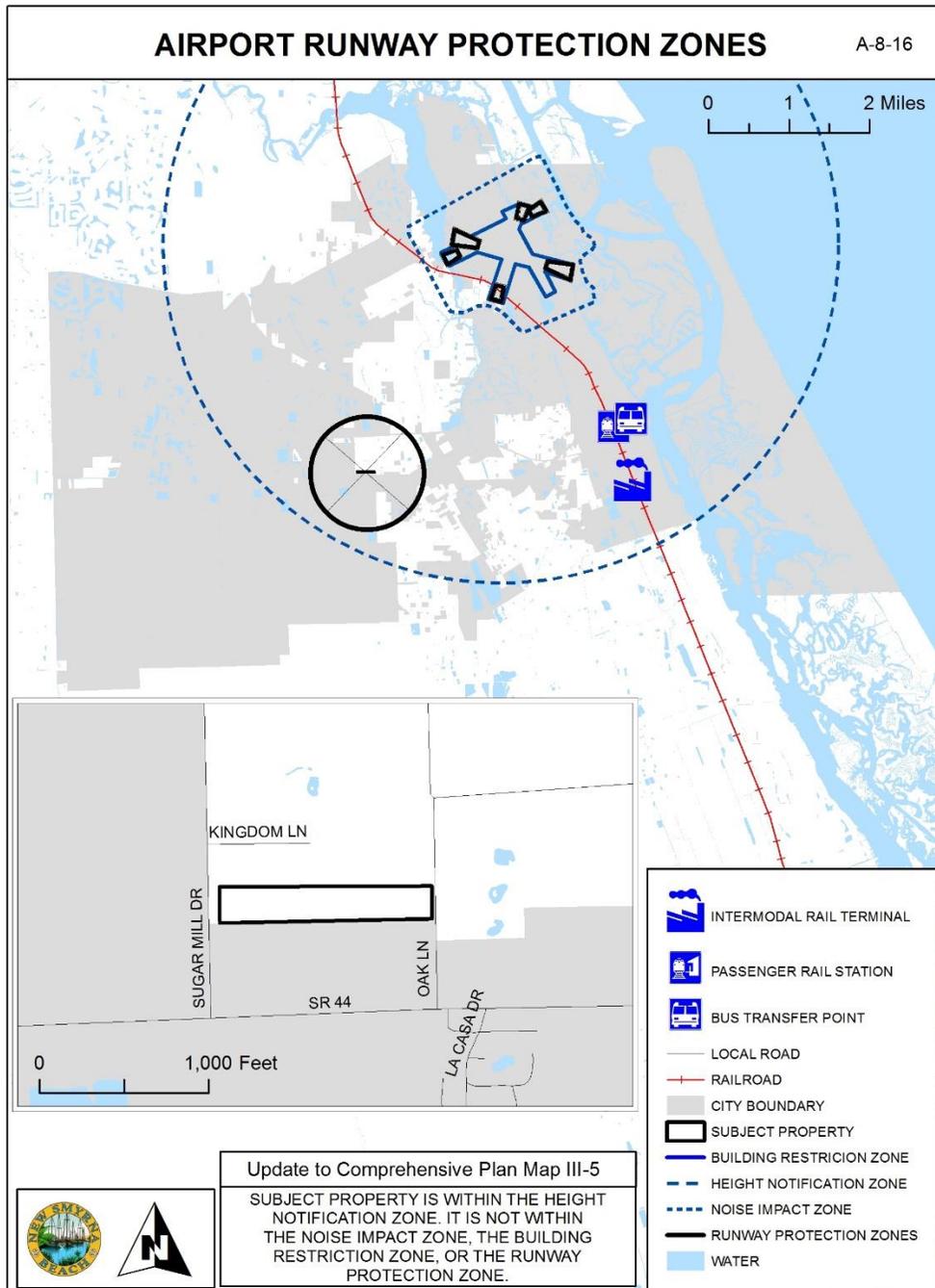
*Off-street parking and loading requirement:* Off-street parking and loading areas meeting the requirements of this LDR shall be constructed.

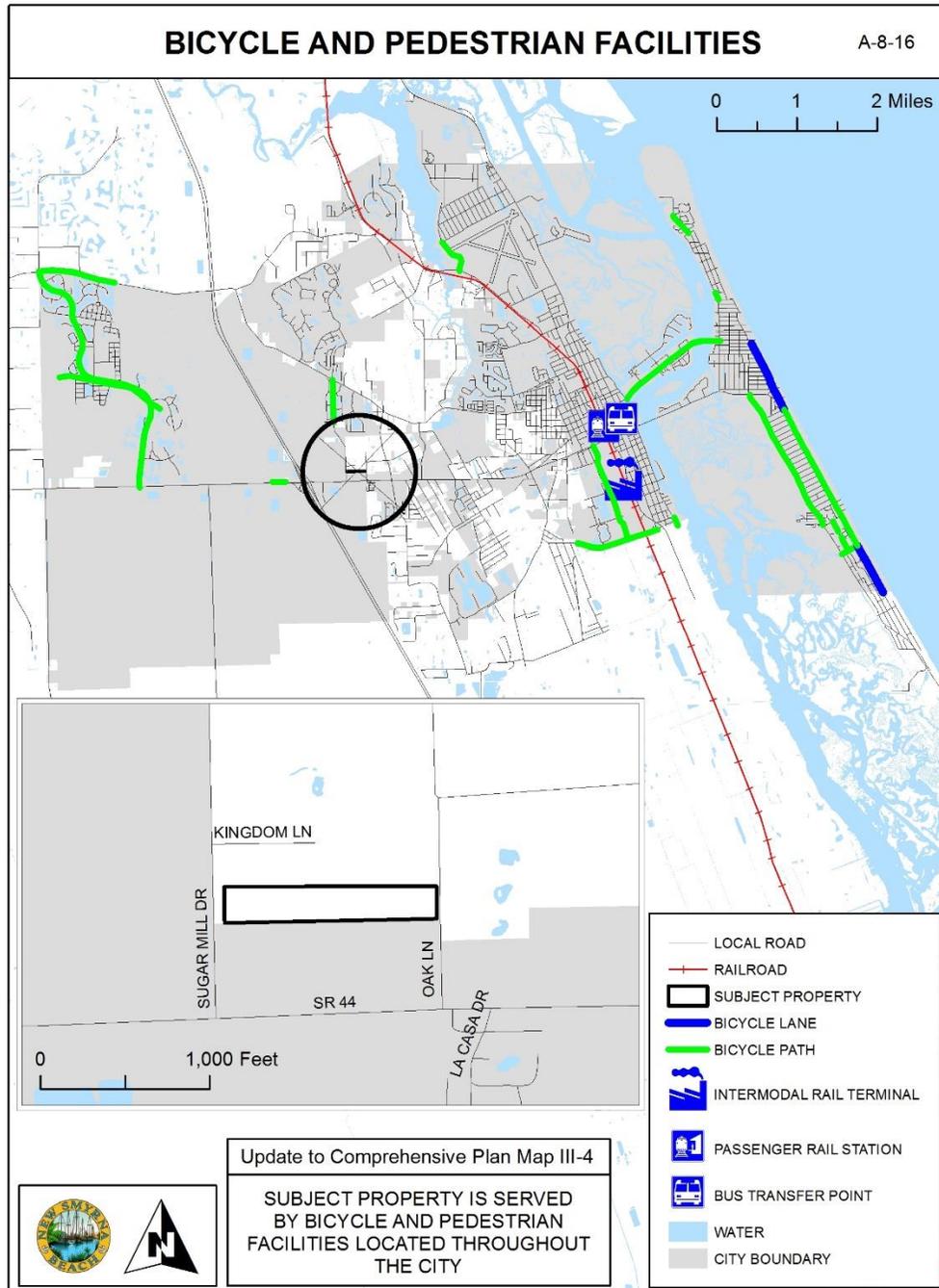
*Skirting requirement for mobile home dwelling:* The area between the ground and floor of the mobile home dwelling shall be enclosed with skirting.

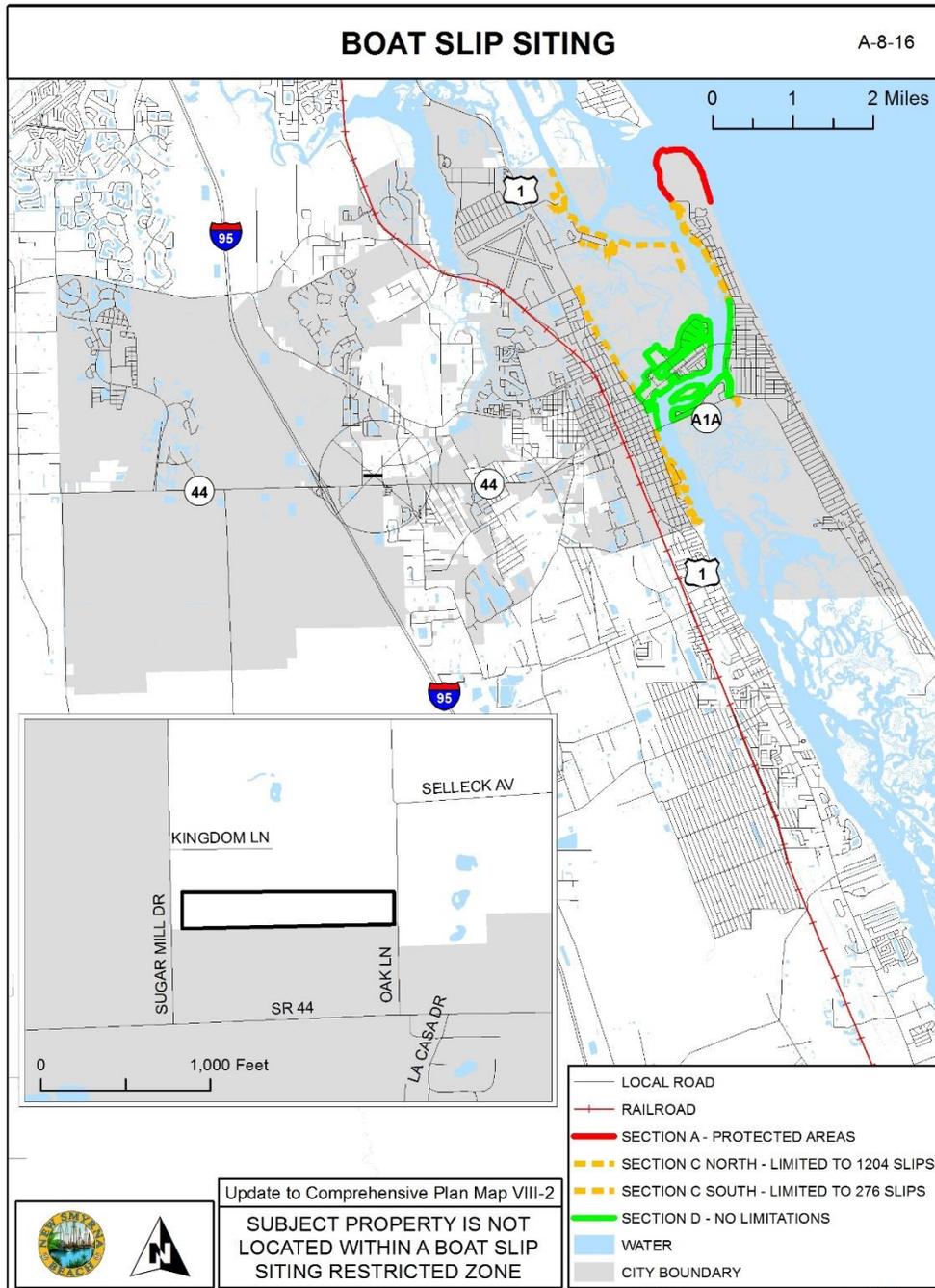


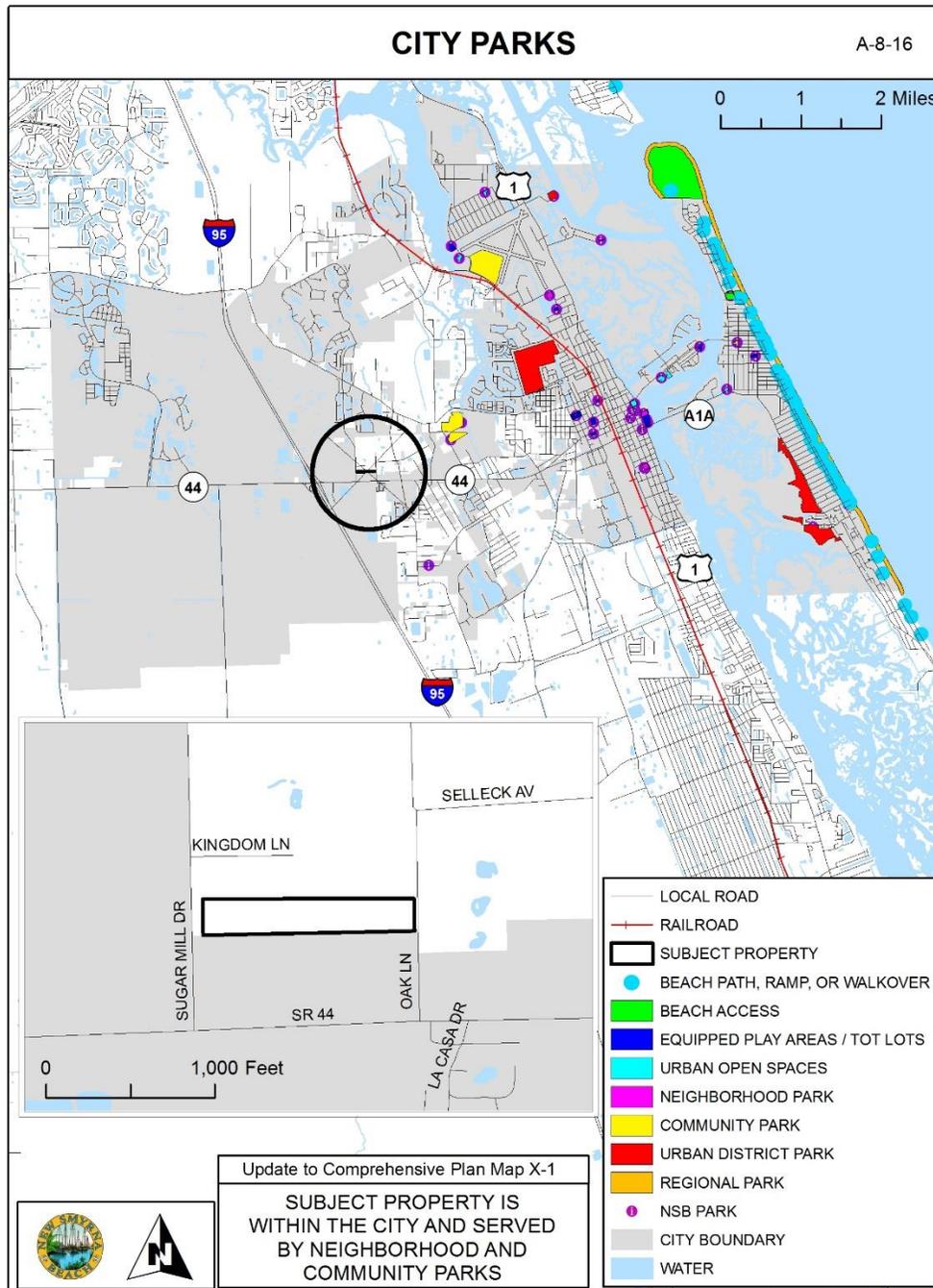


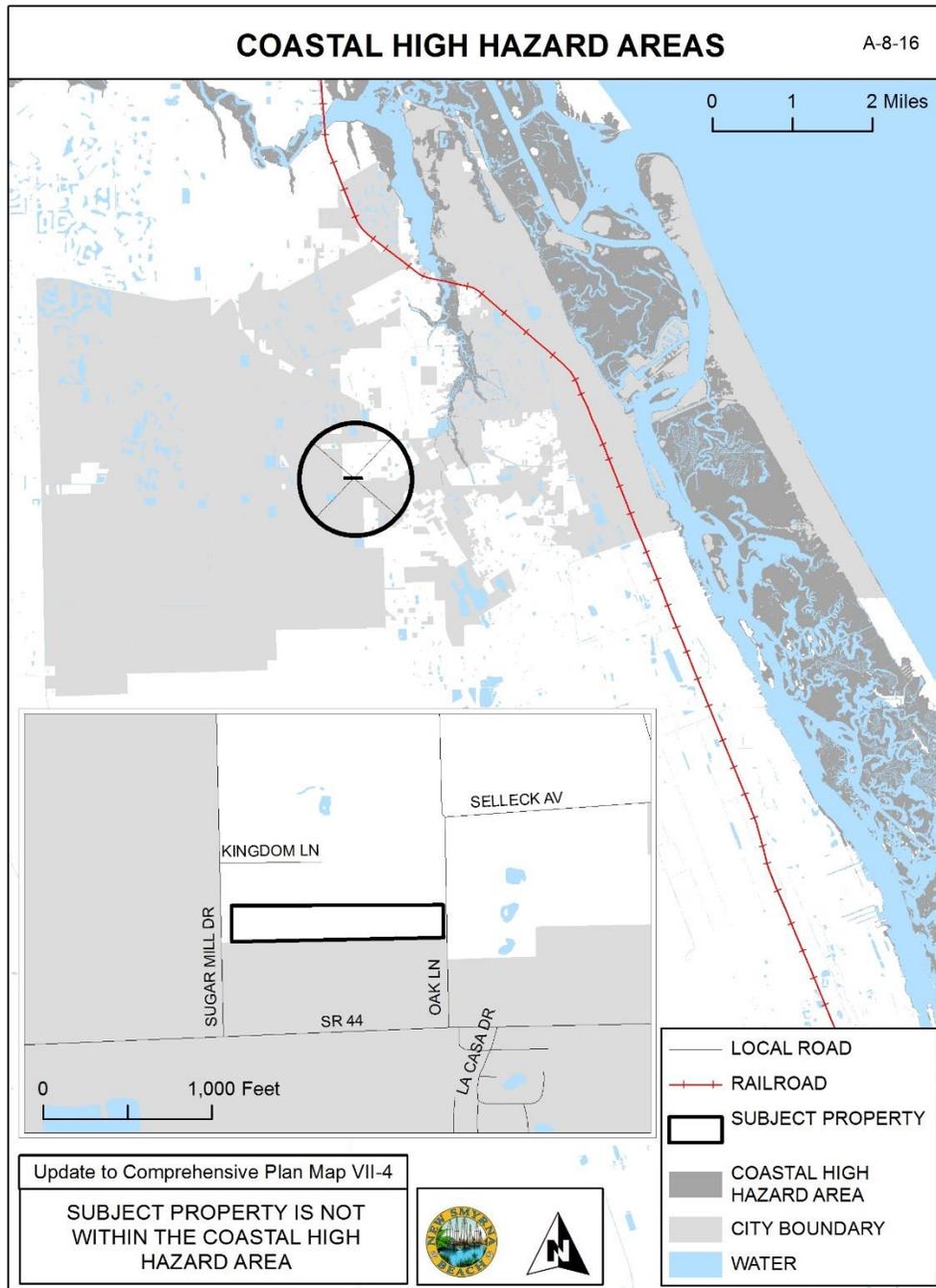


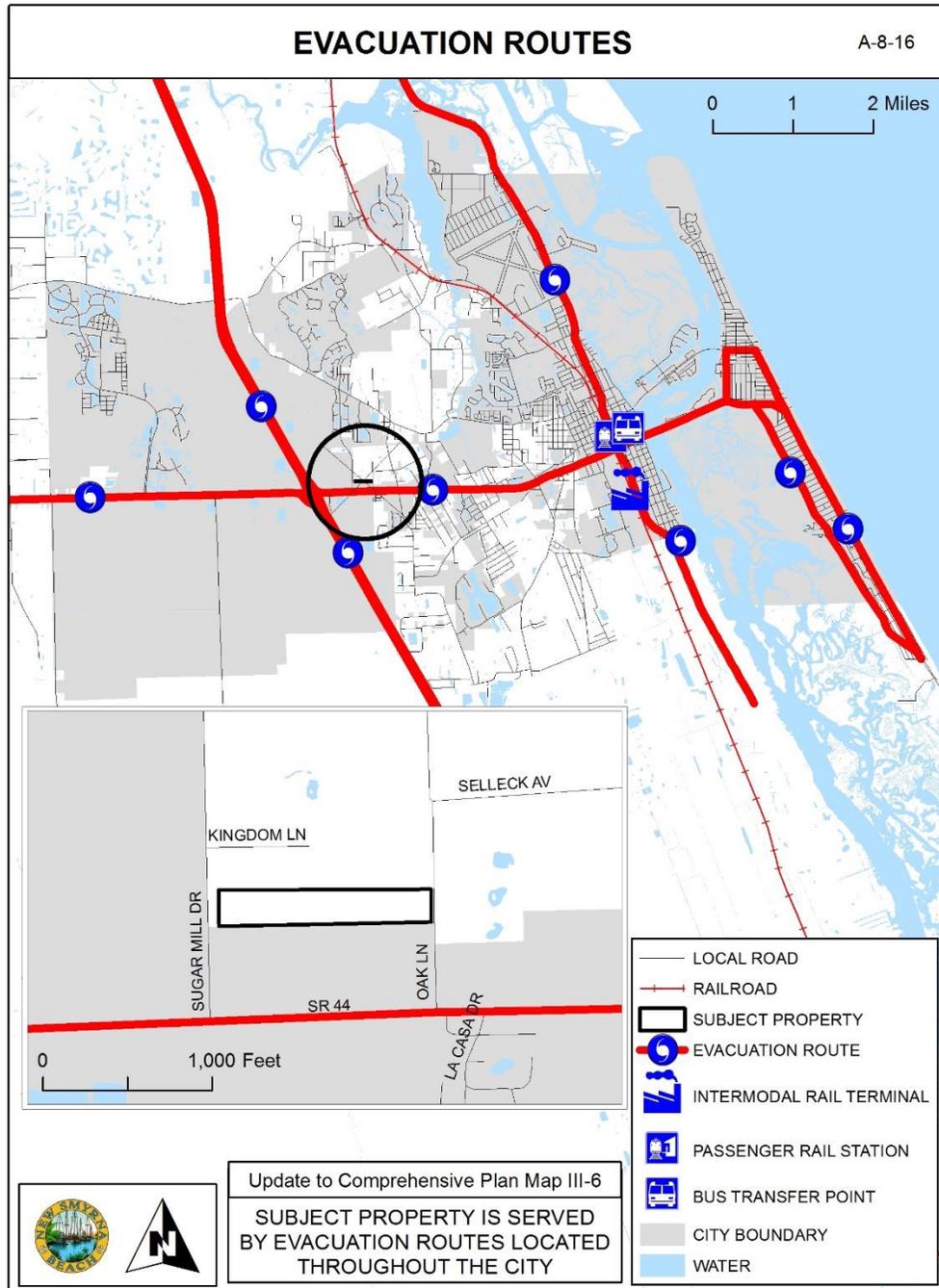


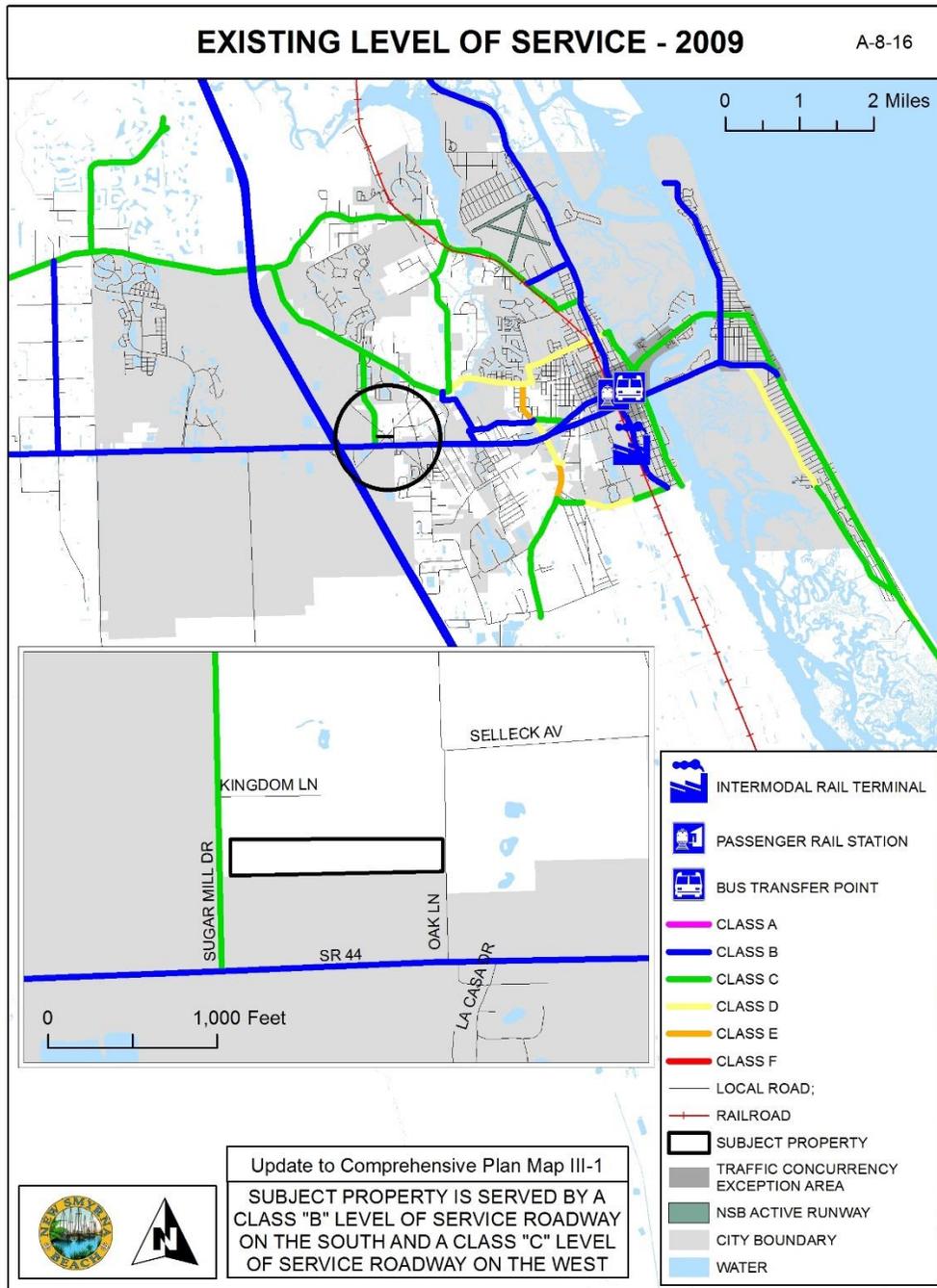


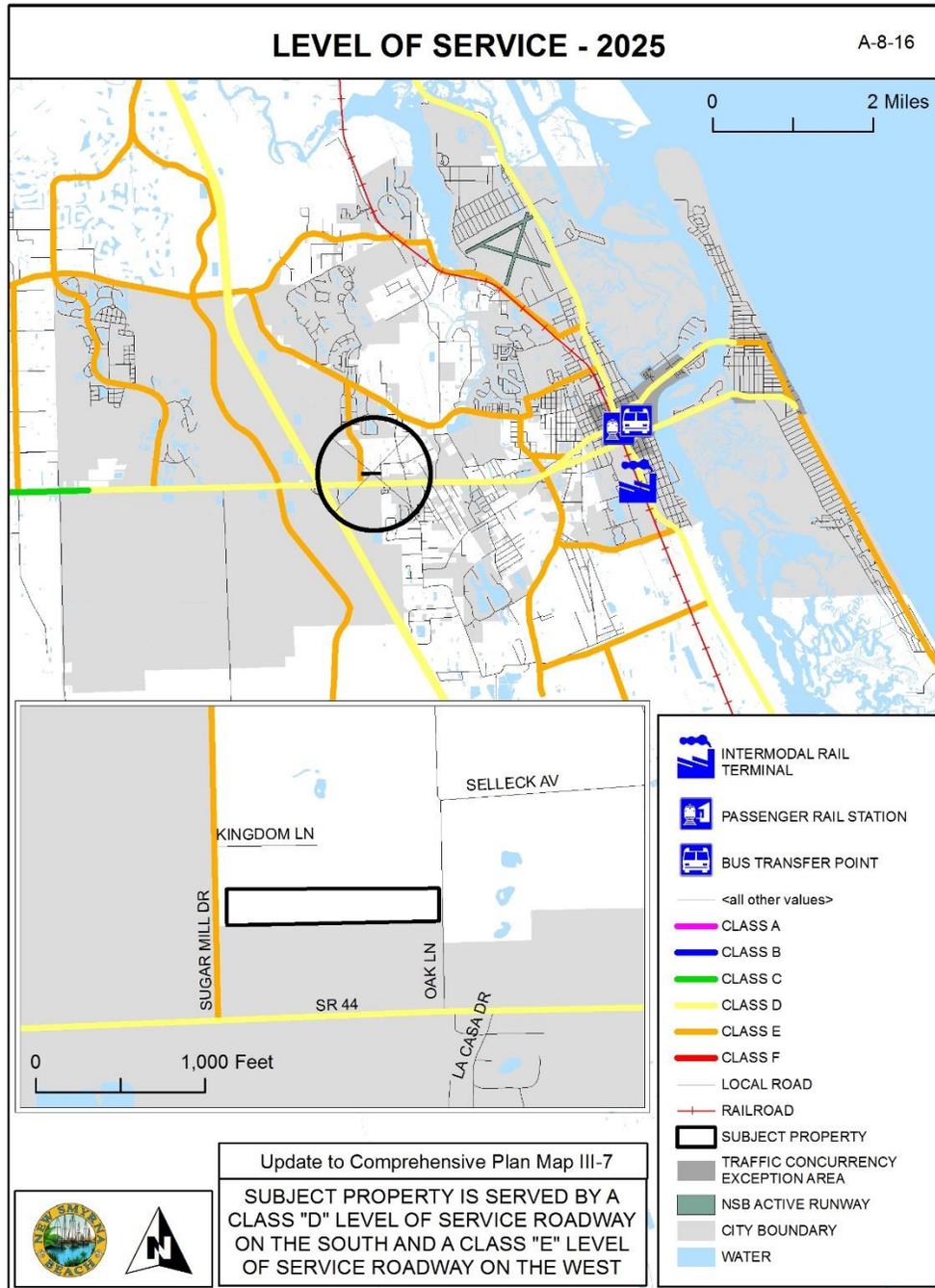


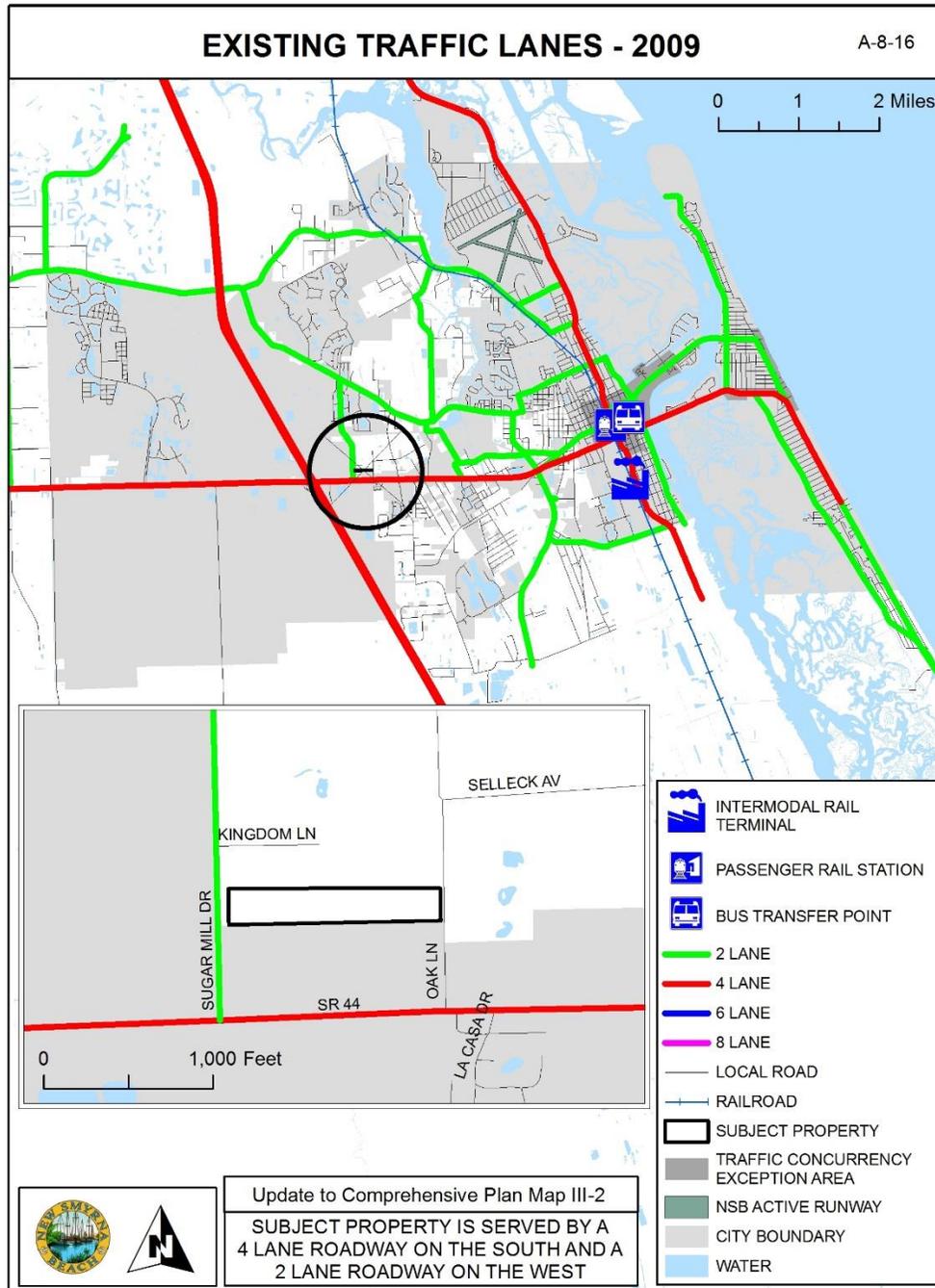


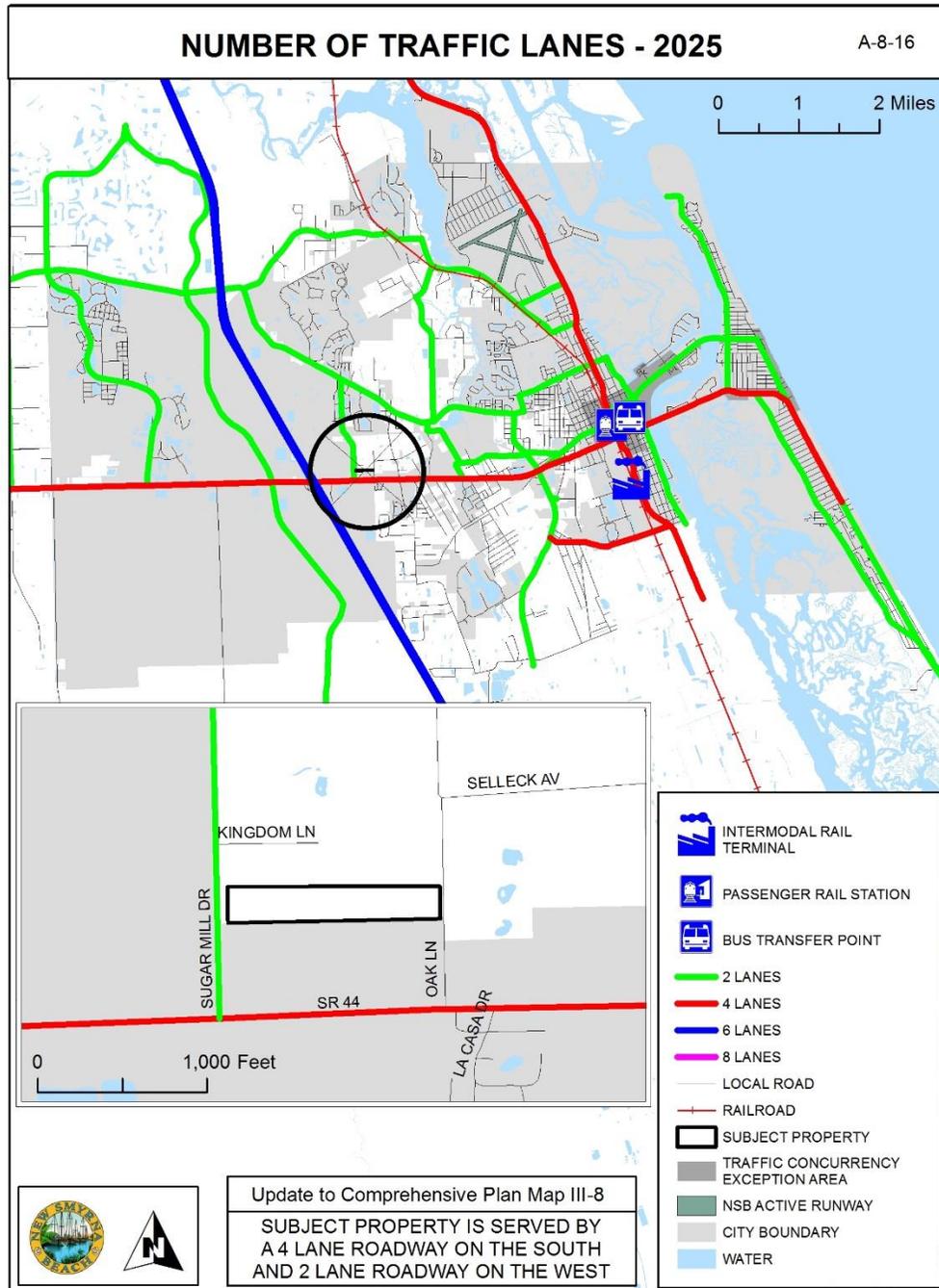


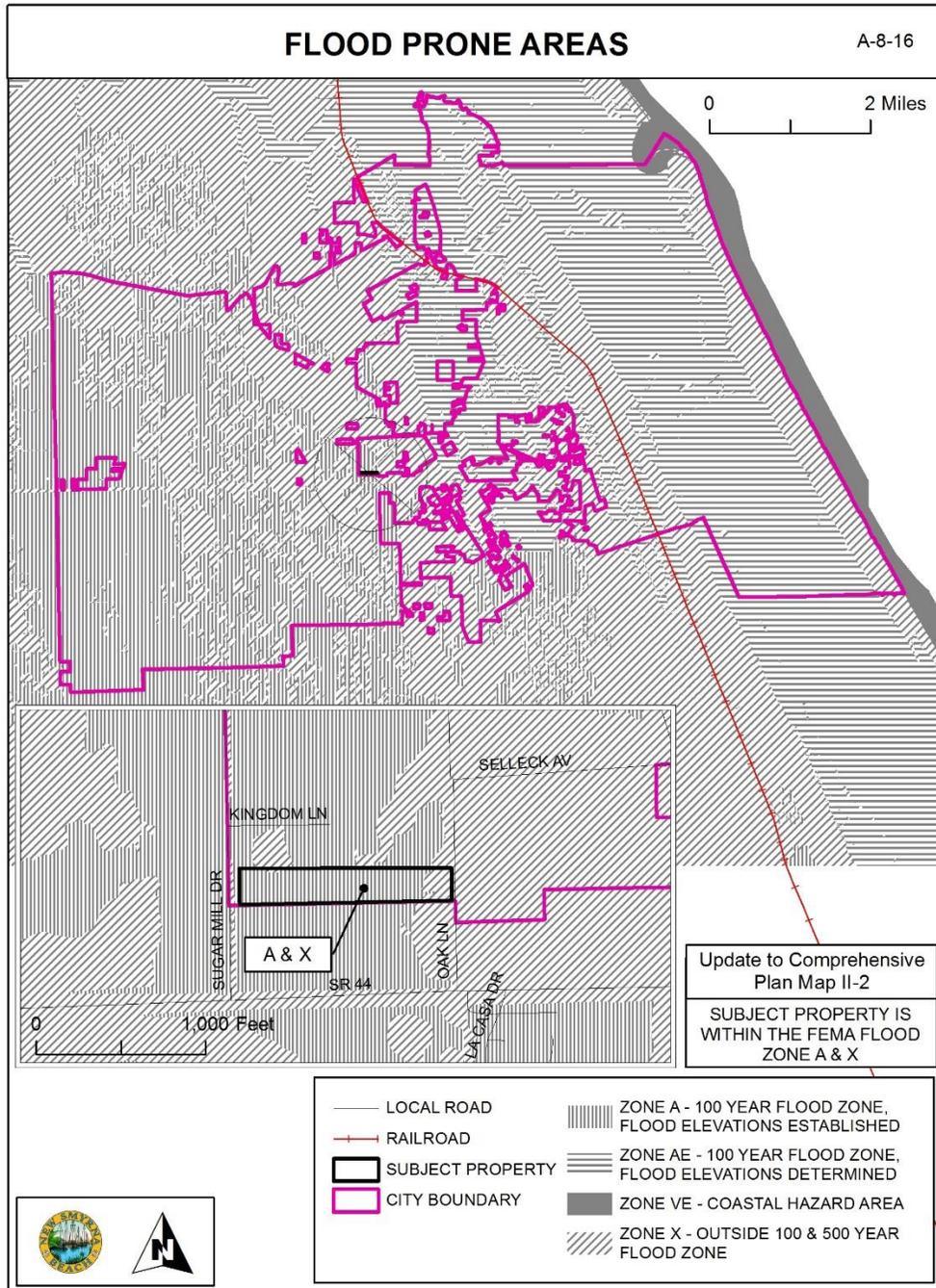








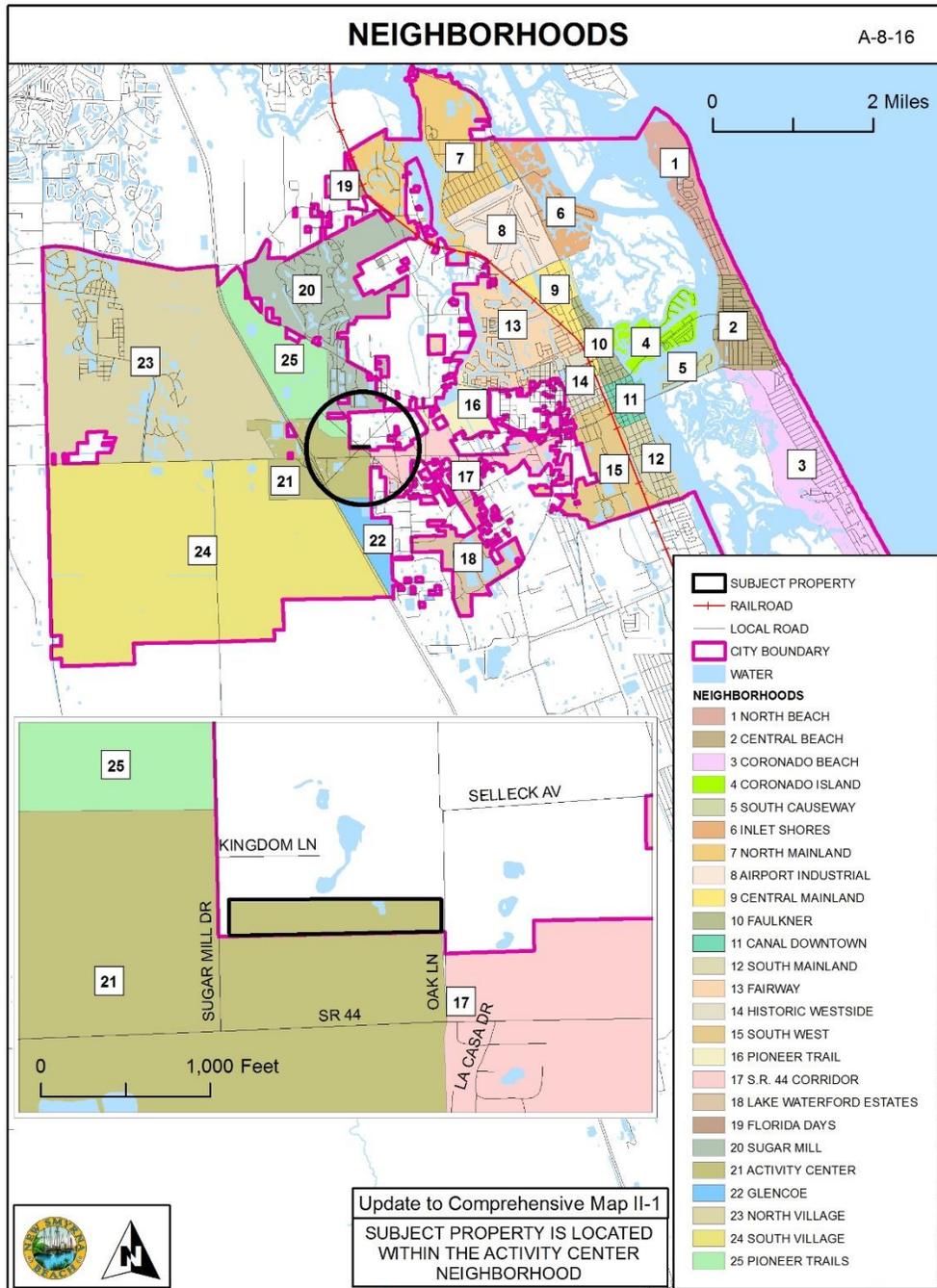




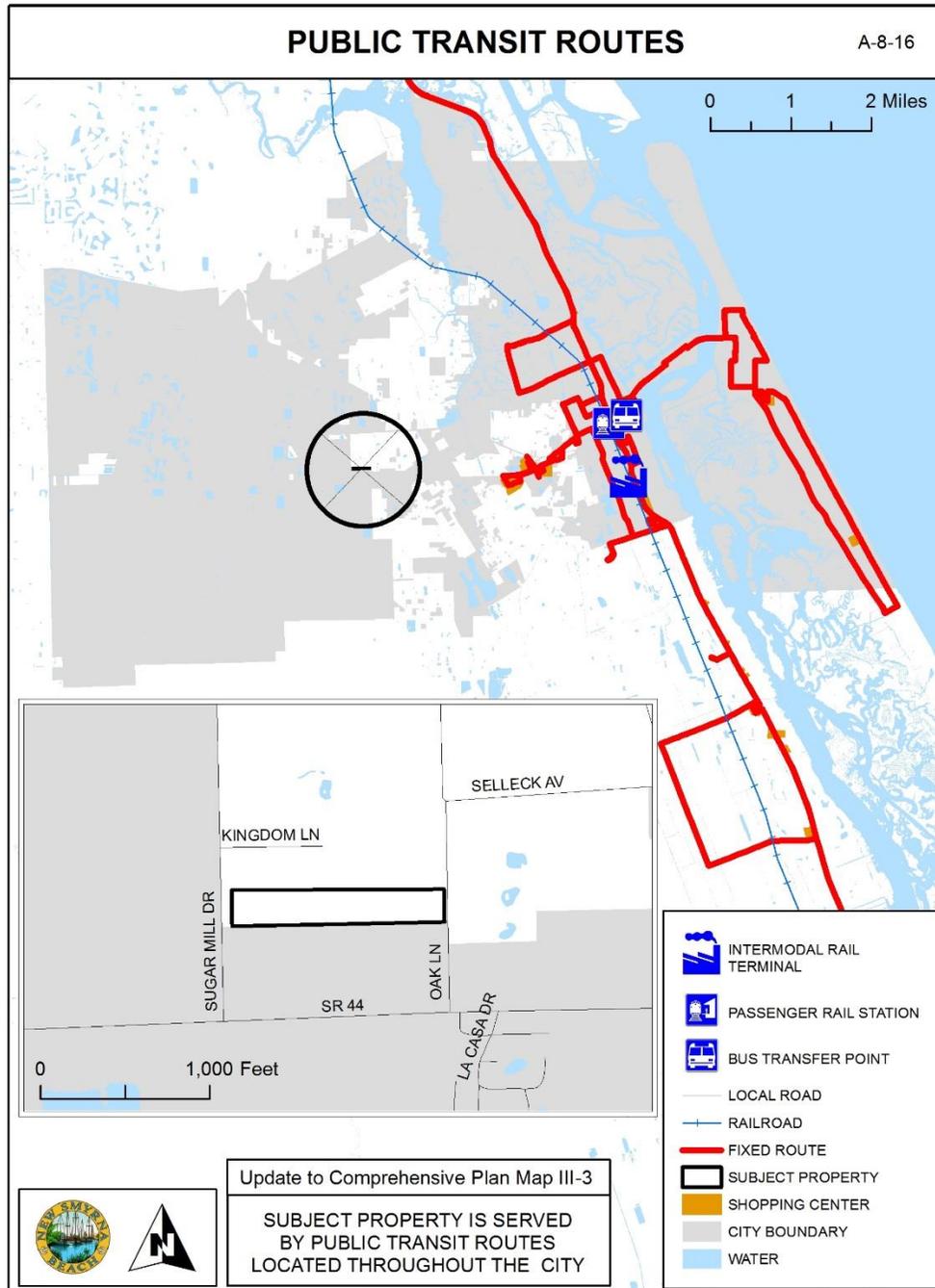
PLANNING AND ZONING BOARD/LAND PLANNING AGENCY  
 A-8-16: VACANT PARCEL ON SUGAR MILL DRIVE  
 FEBRUARY 1, 2016

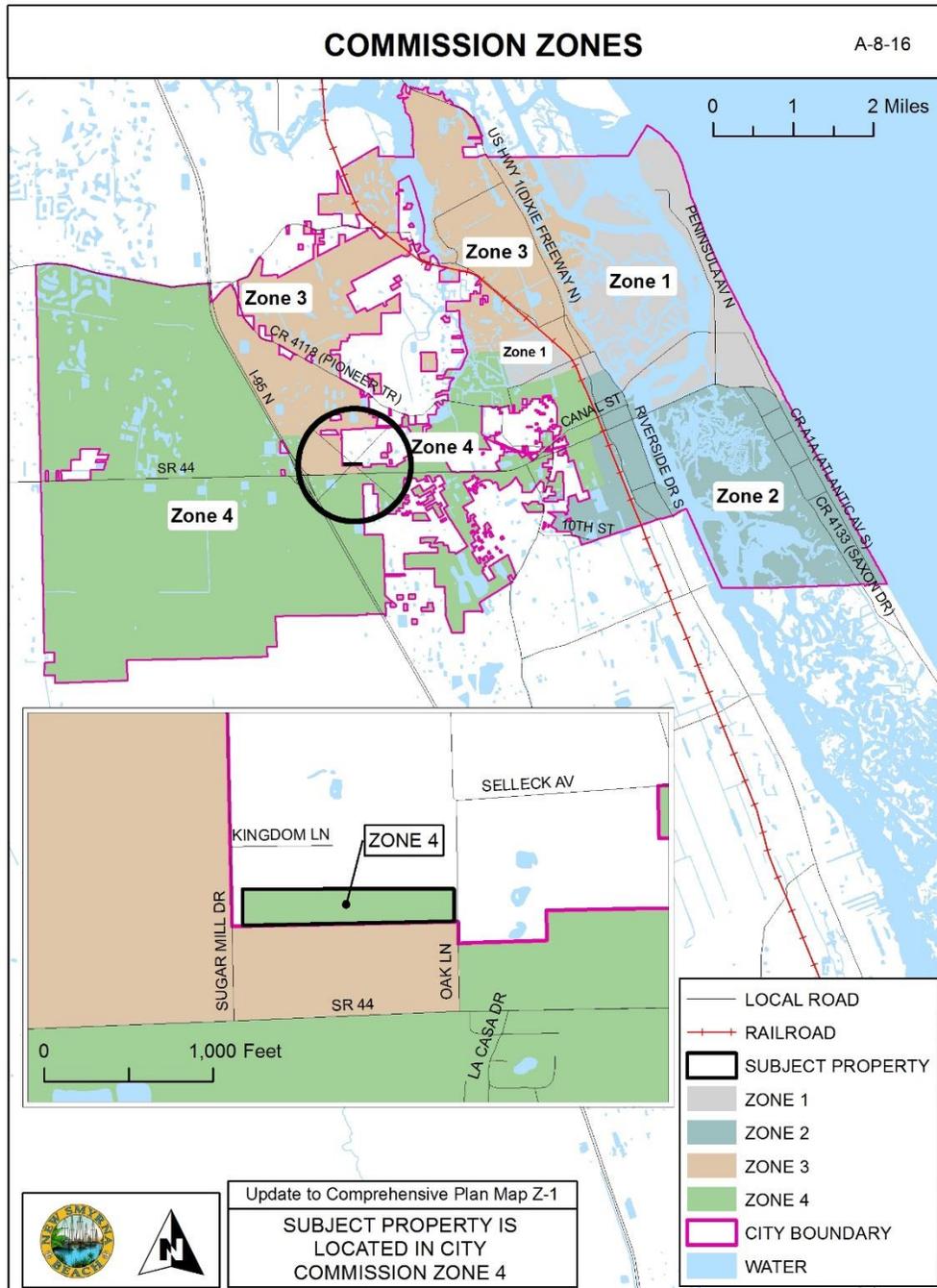
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Exhibit Y



2





1                   **CITY OF NEW SMYRNA BEACH – PLANNING AND ENGINEERING**  
2                   **CPA-1-16: Future Land Use Element Amendments**  
3                   **February 1, 2016**  
4

---

5 **I. Background**

- 6
- 7       A.     **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna  
8             Beach, FL 32168
- 9
- 10       B.    **Request:** Approval of Future Land Use Element amendments to City of  
11             New Smyrna Beach Comprehensive Plan. The amendments concern  
12             specific revisions to the Hospitality FLU (for density, parking, design  
13             standards, and elimination of non-transient units), the Mixed Use FLU (for  
14             height and floor area ratio), and for special exception uses in residential  
15             FLU.

16

17 **II. Findings**

- 18
- 19       A.     At the June 9, 2015, City Commission meeting, the Commission was  
20             presented with petitions signed by 1,325 registered voters within the City of  
21             New Smyrna Beach. The petition requests that the City Commission to  
22             “restore the previous density caps contained in the City Charter, which were  
23             removed in 1992”. The petition also requests that the City Commission  
24             “prohibit the application of the Hospitality Future Land Use classification to  
25             properties on the barrier islands, designated island, and in the City’s historic  
26             districts.” At this meeting, the City Commission directed staff to prepare a  
27             schedule and scope of work for review of the City’s future land use and  
28             zoning designations in those areas of the City. Follow-on guidance was to  
29             evaluate and recommend building heights in the study area.
- 30
- 31       B.     Over the course of six months, staff analyzed parcels on an individual basis  
32             to determine the actual level of development versus the theoretical  
33             maximum development that might be permitted to occur, under the  
34             assigned future land use designation. The study area included the Central  
35             Beach, the Coronado Island and the Canal Street Downtown  
36             Neighborhoods, as well as the City Historic Districts. Staff also conducted a  
37             review of seven other model cities considered for a comparative analysis.
- 38
- 39       C.     Staff determined the following general findings:
- 40             i. The City’s maximum permitted 18 dwelling units per acre was fairly  
41             consistent with the model cities average of 16 dwelling units,
- 42             ii. The City’s Commercial Floor Area Ratio (FAR) of 2.0 is fairly  
43             consistent with the model cities average of 2.6, and consistent with  
44             agenerally accepted professional planning principle of 2.0 FAR.

CPA-1-16 FUTURE LAND USE AMENDMENTS  
PLANNING AND ZONING BOARD/LPA  
FEBRUARY 1, 2015

- 1                   iii. The City's Mixed Use FAR beachside of 3.0 is fairly consistent with  
2                   model city averages of 2.6, and consistent with professional planning  
3                   principle of 3.0 for city core areas.  
4                   iv. The City's Mixed Use FAR mainland of 6.5 is over twice the model  
5                   city averages of 2.6, and inconsistent with professional planning  
6                   principle of 3.0 for city core areas.  
7                   v. The City's permitted Transient Units per Acre in Commercial FLU  
8                   areas of 24 is below the model city averages of 35.  
9                   vi. The City's permitted 75 Transient Units per Acre in Hospitality FLU  
10                  areas is over twice the model city averages of 35. Planning and  
11                  economic principles vary greatly on the ideal units per acre. The  
12                  City's comprehensive plan states hotels generally require 50 units  
13                  per acre. The City's Marina FLU permits up to 48 Transient Units per  
14                  Acre if certain conditions are met.  
15                  vii. Staff examined the Comprehensive Plan for Land Uses not found in  
16                  the study area, and determined higher densities of Transient Units  
17                  per Acre are permitted as follows:  
18                         1. Southeast Volusia Activity Center – 60 Transient Units per  
19                         Acre.  
20                         2. Industrial Mixed Use – 75 Transient Units per Acre.  
21                  viii. The City's actual developed residential densities were below the  
22                  permitted densities in three of the four following categories:  
23                         1. Low Density Residential (Actual 3.6, Permitted 5)  
24                         2. Medium Density Residential (Actual 6.4, Permitted 8)  
25                         3. High Density Residential – Mainland (Actual 16, Permitted 18)  
26                         4. High Density Residential – Beachside (Actual 12.5, Permitted  
27                         12)  
28                  ix. The City's developed FAR for Commercial (0.2) and Mixed Use  
29                  parcels (0.02) are developed below the permitted ratios of 2.0 for  
30                  commercial, 3.0 for beachside mixed use and 6.5 for mainland mixed  
31                  use.  
32                  x. The City does not have an established FAR for these non-residential  
33                  uses permitted by special exception within Residential FLU areas.  
34                  xi. Staff discovered that the previous ordinance (51-06) was tabled at  
35                  the second reading at the City Commission. This ordinance would to  
36                  reduce the current allowed building height of 82' in the Mainland MU,  
37                  Mixed Use zoning district to a maximum building height of 50', plus  
38                  an additional 12' if architectural features are added to the building.  
39  
40                  D.       From September to December 2015, staff presented their findings at the  
41                  Central Beach Neighborhood Workshop, the Coronado Island  
42                  Neighborhood Workshop, the Canal Street Downtown Neighborhood  
43                  Workshop, the Southeast Volusia County Chamber of Commerce, the  
44                  Economic Development Advisory Board, the Neighborhood Council, the  
45                  Planning and Zoning Board, and the City Commission. A summary of  
46                  comments from these presentations is found in **Exhibit A**. Staff presented

1 their findings to the City Commission on December 8, 2015. Commission  
2 directed the public to provide any comments on the findings to staff. Those  
3 then public comments are found in **Exhibit B**.

- 4
- 5 E. General consensus from the groups presented was:
- 6 i. Keep the FAR of Commercial FLU at 2.0.
  - 7 ii. Establish a consistent FAR for all MU FLU areas at 3.0.
  - 8 iii. Add a FAR for non-residential uses permitted by Special Exception  
9 in the residential FLU areas that is consistent with Volusia County.
  - 10 iv. Remove non-transient unit uses in the Hospitality FLU.
  - 11 v. Reduce the transient units per acre in the Hospitality FLU from 75 to  
12 48.
  - 13 vi. Establish a maximum height for the Hospitality FLU that would be  
14 more compatible with existing uses.
  - 15 vii. Establish design standards for development in the Hospitality FLU.
  - 16 viii. Require all parking for development in the Hospitality FLU be  
17 provided on site.
- 18
- 19 F. CPA-1-16 will implement the following changes to the Future Land Use  
20 Element of the City's Comprehensive Plan:
- 21 i. For all residential FLU add the text: *Non-residential development*  
22 *permitted by special exception shall be at a maximum Floor Area*  
23 *Ratio (FAR) of 0.5, and shall be limited in a manner to be compatible*  
24 *with the allowable residential density.*
  - 25 ii. Make the FAR for Mixed Use FLU consistent at 3.0 by deleting text:  
26 *Intent: The Future Land Use map shows two (2) areas that are*  
27 *suitable for Mixed Uses; Beachside; Maximum allowed Floor Area*  
28 *Ratio (FAR) Mainland: 6.50.*
  - 29 iii. Remove non-transient uses from the Hospitality FLU by deleting text:  
30 *Up to 12 dwelling units per acre on the barrier island, Up to 18*  
31 *dwelling units per acre on the mainland.*
  - 32 iv. Reduce the transient units per acre permitted in the Hospitality FLU  
33 from 75 to 48 by correcting text.
  - 34 v. Establish a maximum building height in the Hospitality FLU by  
35 adding text: *Maximum allowed height limit for the PUD zoning:*  
36 *Maximum Building Height 60 feet.*
  - 37 vi. Requires all parking for Hospitality FLU projects by adding text:  
38 *100% of parking to be provided on-site for all projects.*
  - 39 vii. Requires design standards for Hospitality FLU projects by adding  
40 text: *Design standards will be adopted in the LDR.*
  - 41 viii. Updates text to be consistent with items i – vii of this paragraph for  
42 Future Land Use Goals, Objectives and Policies of:
    - 43 1. Future Land Use Goal, Objective, Policy 2.1.a.
    - 44 2. Future Land Use Goal, Objective, Policy 2.1.g.
    - 45 3. Future Land Use Goal, Objective, Policy 2.1.i.

- 1 G. Although not addressed in CPA-1-16; Staff recommends resolving the  
2 inconsistency found during the review. Consistency between FLU and Zoning is  
3 mandated by Goal 2, Objective 6 of FLU Element of the Comprehensive Plan.  
4 Recommended changes to correct the inconsistencies include:  
5 a. Change the FLU from Commercial to Mixed Use within the area of the  
6 Flagler Business District to be consistent with the Zoning and pattern of use.  
7 b. Change the FLU from Low Density Residential to Public Grounds and  
8 Buildings for the Woman's Club Property (403 Lytle Ave).  
9 c. Change the FLU from High Density Residential to Public Grounds and  
10 Buildings for FDOT parcels along South Peninsula Avenue.

11  
12 **III. Recommendations**

13  
14 Staff recommends **approval** of the proposed changes to the LDR, as shown in  
15 **Exhibit C**. Underlines are additions and deletions are ~~struck through~~. All changes  
16 are also **highlighted in yellow**.

**Exhibit A - Future Land Use and Zoning Review Comment Matrix SEP – DEC 2015**

<b>Entity</b>	<b>Comment</b>
<b>SEV Chamber Of Commerce</b>	<p><b>1. It is our strong belief that restricting density will not solve congestion, parking or traffic issues but will however, serve to shut down the city for any much needed development of our commercial tax base and local economy. 2. It is our belief that the City’s recommendation to “encourage” voluntary changes to land use designations will serve to pit neighbor against neighbor, create a patchwork of inconsistent zoning and make a strong case for “non-compatible use” arguments for building applicants. We can also envision certain neighborhood groups lobbying residents to change land use designations to lower density without conveying all of the facts associated with doing so. We do not believe it is the City’s place to encourage residents to change land uses lot by lot, but rather to accurately and in an unbiased fashion, inform them of the implications and consequences of their decisions. 3. Specific to the recommendations made to the Hospitality Future Land Use Designations, it is our belief that the City should maintain the current allowable limits, set a maximum building height and establish an incentive plan which will serve to bring the desired hospitality projects that best serve the community. Limiting any density in this area will serve only to allow development of limited service hotels, prohibit any Condo/Hotels or Hotels with managers living on site</b></p>
<b>Neighborhood Council</b>	<p><b>1. The Neighborhood Council has concerns over the size, scale, design and impact over the proposed concept of the Coronado Island Marine Village.</b></p>
<b>Economic Development Advisory Board</b>	<p><b>1. Voluntary downsizing of FLU densities is not a viable option, and board does not believe anyone would do this to their property, 2. Limit height in the Mainland Mixed Use District to 4 stories, 3. Implement mandatory design guidelines for the Flagler and Canal Street (east of US1) business district, 4. Reduction of Transient Units from 75 to 48 in the Hospitality FLU is not economically viable to a hotel developer</b></p>

**Exhibit A - Future Land Use and Zoning Review Comment Matrix SEP – DEC 2015**

<b>Entity</b>	<b>Comment</b>
<p><b>Planning and Zoning Board</b></p>	<p><b>1. Voluntary downsizing of FLU densities is not a viable option, and board does not believe anyone would do this to their property, 2. The MU FLU is recommended for the Flagler district and compatible with the existing zoning and pattern of development. 3. 48 hotel rooms per acre would not be economically viable, nor attract investors to construct new lodging, 4. Downsizing densities or FAR will take developmental rights of existing property owners, 5. There needs to be more scientific research into recommended F.A.R. for the City, 6. The City has managed densities and intensities in an outstanding manner through its use of the comprehensive plan and adopted practices; 6. Model Cities of Naples and St Pete Beach are not good comparison cities as they contain an overabundance of high density multi family residence and tall buildings, 7. Any action from the City that creates a non-conforming lot or use must be avoided. The City already has a high percentage of non-conformities in the study area. In fact, the City should be proactive in identifying non-conforming lots, structures and uses; and have better contingencies to rebuild in cases such as natural disasters. 8. The hospitality FLU has been applied in so few properties in the City (3 to date), FLU changes have a due public process and are on a case by case basis. Do not make any reductions in F.A.R in the Hospitality Land use. Do not reduce the transient dwelling units per acre in the Hospitality FLU 9. "un-table" ordinance 51-06 that limits the Mainland MU height to 50 feet habitable, 62 feet total. This ordinance was tabled at its second commission reading, thus, Mainland MU height is currently at 82 feet, 11. Justify recommendation of 0.5 F.A.R in the non-residential use in residential land use.</b></p>
<p><b>Beachside Residents Task Force</b></p>	<p><b>1. Consider eliminating Type "C" (Drive-in) restaurants as a permitted use on all beachside commercial properties</b></p>

<b>Exhibit A - Future Land Use and Zoning Review Comment Matrix SEP – DEC 2015</b>	
<b>Entity</b>	<b>Comment</b>
<b>Canal Street Downtown Neighborhood Workshop</b>	<b>1. Establish a local historic district; 2. Support mixed use land use in the neighborhood; 3. Preserve the mix of residential densities in the neighborhood</b>
<b>Central Beach Neighborhood Workshop</b>	<b>1. Moratorium on number of hotels on the beach; Establish Local Historic District; 2. Maintain City Parks and seek to get more open public space; 3. Implement Petition Density Caps; 4. Review the short term rental use</b>
<b>Coronado Island Neighborhood Workshop</b>	<b>1. Lower the density allowed from 18 DUA to 12 DUA; 2. Rezone State of Florida TIITF properties Short Parcel ID 7408-00-00-0040 From R-1 Low Density Residential to C Conservation; 3. Rezoning of B6A to B2 on NE Corner of Coronado Island</b>

## Exhibit B Future Land Use (FLU) Comment Matrix After December 8 2015

Staff Recommendation	Coalition comments	Board of Realtors Comments	Steven C. Provost PE (RET)
<p>Within Residential FLU areas - Non-residential development permitted by special exception shall be at a maximum Floor Area Ratio (FAR) of 0.5, and shall be limited in a manner to be compatible with the allowable residential density</p>	<p>Within Residential FLU areas - Non-residential development permitted by special exception shall be at a maximum Floor Area Ratio (FAR) of 0.5, and shall be limited in a manner to be compatible with the allowable residential density; Reduce the number of dwelling units per acre to 12 on the Mainland Historic Districts</p>	<p>Maintain the multi-family density mainland at 18 dwelling units per acre and beachside at 12 dwelling units per acre</p>	<p>Within Residential FLU areas - Non-residential development permitted by special exception shall be at a maximum Floor Area Ratio (FAR) of 0.5, and shall be limited in a manner to be compatible with the allowable residential density</p>
<p>Reduce the FAR on Mainland from 6.5 to 3.0. Maintain the FAR on Beachside at 3.0</p>	<p>The Barrier Islands; Coronado Island; and the Mainland Historic District shall have a maximum FAR of 0.5 or less.</p>	<p>No Comment</p>	<p>Change MU FLU Beachside FAR to 2.0; Change MU FLU Mainland to 2.5 to be consistent with comparison cities</p>
<p>Reduce the Transient Units per Acre in the Hospitality FLU from 75 to 48</p>	<p>Reduce the Transient Units per Acre in the Hospitality FLU from 75 to 49</p>	<p>No Comment</p>	<p>No Comment</p>
<p>Eliminate residential uses in the Hospitality FLU</p>	<p>Eliminate residential uses in the Hospitality FLU</p>	<p>No Comment</p>	<p>No Comment</p>

## Exhibit B Future Land Use (FLU) Comment Matrix December 8 2015

Staff Recommendation	Coalition comments	Board of Realtors Comments	Steven C. Provost PE (RET)
Maintain the FAR with the Hospitality FLU at 3.0	Reduce the FAR with the Hospitality FLU to 1.2 or less	No Comment	Change the Hospitality FLU FAR to 2.0
Eliminate the requirement for shared parking must be available, require 100% of parking to be provided on-site for all projects	Eliminate the requirement for shared parking must be available, require 100% of parking to be provided on-site for all projects	Does not support full on-site parking for all hotel projects.	No Comment
Require design standard will be adopted in the LDR for Hospitality	Require design standard will be adopted in the LDR for Hospitality	Require design standard will be adopted in the LDR for Hospitality	No Comment
Establish a maximum height of 60 feet for all PUD zoned properties in the Hospitality FLU	Limit height to 45' inclusive of all architectural features	Lowering height limits would reduce the permissible density of hotel rooms	No Comment
Reduce maximum building height, Mixed Use Zoning District (Mainland) FROM Seven stories or 82 feet maximum TO 50 feet, plus an additional 12 feet, if architectural features are added to the building	Limit height to 45' inclusive of all architectural features	Lowering height limits would reduce the permissible density of hotel rooms	Reduce maximum building height, Mixed Use Zoning District (Mainland) FROM Seven stories or 82 feet maximum TO 50 feet, plus an additional 12 feet, if architectural features are added to the building

## Exhibit B Future Land Use (FLU) Comment Matrix

Staff Recommendation	Coalition comments	Board of Realtors Comments	Steven C. Provost PE (RET)
	<p>All B4 Commercial zoning on the Barrier Islands, Coronado Island and the Mainland Historic Districts shall have the following limitations: (1) a height limit of 45' inclusive of architectural features (2) a floor area ratio of 1.2 or less (3) a hotel shall be built on a one acre section of a parcel notwithstanding the total number of acres in the parcel</p>		<p>Repeal Ordinance 19-10 which permits Hospitality FLU along ocean front properties between Esther Street and East 8th Avenue</p>
	<p>All Planned Unit Developments on the Barrier Islands, Coronado Island and the Mainland Historic Districts shall have the following limitations: (1) a height limit of 45' inclusive of architectural features (2) a floor area ratio of 1.2 or less (3) a hotel shall be built on a one acre section of a parcel notwithstanding the total number of acres in the parcel</p>		
	<p>All projects developed under the Hospitality category shall be required to have a PUD application</p>		
	<p>All projects developed under the Marina FLU must have a PUD application.</p>		

## Exhibit B Future Land Use (FLU) Comment Matrix December 8 2015

Staff Recommendation	Coalition comments	Board of Realtors Comments	Steven C. Provost PE (RET)
	<p>Request amending the Comprehensive Plan by striking language in the Comprehensive Plan that provides for maximum densities and floor area ratios on the beachside</p>	<p>Does not support voluntary or involuntary downzoning of properties. This has the high potential for higher density development to occur on adjacent property without any buffer or transition. Also could result in "spot zoning"</p>	
<p><i>Although not addressed in upcoming CPA-1-16; Staff recommends resolving the inconsistency between the commercial FLU and MU zoning along Flagler Ave (Mandated by Goal 2, Objective 6 FLU Element and the Florida Statutes).</i></p>	<p>Disagree with changing the Commercial FLU to Mixed Use FLU along Flagler Ave for two reasons: (1) the change would result in an increase in FAR and (2) the current Commercial designation is more specific as to use than is the MU.</p>	<p>Resolve inconsistency between FLU and Zoning in accordance with Goal 2 Objective 6 of the Future Land Use element. Specifically inconsistency of commercial FLU with MU Zoning along Flagler Ave</p>	

## Future Land Use (FLU) Comment Matrix December 8 2015

Staff Recommendation	Coalition comments	Board of Realtors Comments	Steven C. Provost PE (RET)
	<p><b>Amend the Comprehensive Plan by striking that language providing for maximum densities and floor area ratios for properties designated as Mixed-Use Future Land Use on the Beachside since no properties on the Beachside have that designation. Retain the current Commercial Flu category for Flagler Avenue</b></p>		

1 **LOW-DENSITY RESIDENTIAL**

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

3 Non-residential development permitted by special exception shall be at a maximum Floor Area Ratio  
4 (FAR) of 0.5, and shall be limited in a manner to be compatible with the allowable residential density

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

7 **MEDIUM-DENSITY RESIDENTIAL**

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

9 Non-residential development permitted by special exception shall be at a maximum Floor Area Ratio  
10 (FAR) of 0.5, and shall be limited in a manner to be compatible with the allowable residential density

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

14 **HIGH-DENSITY RESIDENTIAL**

15 Maximum allowed density:

16 8.01 to 12 dwelling units per acre on the barrier island

17 8.01 to 18 dwelling units per acre on the mainland

18 Non-residential development permitted by special exception shall be at a maximum Floor Area Ratio  
19 (FAR) of 0.5, and shall be limited in a manner to be compatible with the allowable residential density

20 Intent: This use is intended for areas close to major intersections and commercial areas, where a slightly  
21 higher amount of residential trips can be allowed because they are relatively short (due to their  
22 proximity to shopping areas and major roads).

23

1 **MIXED USE**

2 Maximum allowed density:

3 8.01 to 12 dwelling units per acre on the barrier island

4 8.01 to 18 dwelling units per acre on the mainland

5 ~~Intent: The Future Land Use map shows two (2) areas that are suitable for Mixed Uses.~~

6 Maximum allowed Floor Area Ratio (FAR) ~~Beachside:~~ 3.0

7 ~~Maximum allowed Floor Area Ratio (FAR) Mainland: 6.50~~

8 Intent: The purpose of this land use designation is to promote the development of sustainable projects  
9 by providing maximum opportunity for innovative site planning for living, shopping, and working  
10 environments while insuring that development will occur according to appropriate population density,  
11 building coverage, improvement standards, and construction phasing, within the City's traditional  
12 downtown areas.

13

- 1 HOSPITALITY
- 2 Maximum allowed density: Up to 75 48 transient lodging units per acre
- 3 Up to 12 dwelling units per acre on the barrier island
- 4 Up to 18 dwelling units per acre on the mainland
- 5 Maximum allowed Floor Area Ratio (FAR) (~~Transient Lodging~~): 3.0
- 6 Maximum allowed Floor Area Ratio (FAR) (Non-Residential other than transient lodging): 2.0
- 7 Intent: Areas composed primarily of accommodations for short-term visitors. In addition, amusements
- 8 and restaurants may be permitted on oceanfront parcels between Esther Street and East 8th Avenue. A
- 9 limit on the maximum size of individual transient lodging rooms, for the majority of the rooms in a
- 10 project, is established by the Land Development Regulations. In order to be eligible for the Hospitality
- 11 future land use, the following conditions must be met:
- 12 The present Future Land Use designation is not residential;
- 13 The parcel must be within or adjacent to an existing business district;
- 14 The parcel must be located along an arterial or collector roadway;
- 15 The business district in which the parcel is located must include such amenities as retail shopping,
- 16 restaurants, entertainment venues, sporting venues, and other similar uses; and
- 17 Shared parking must available
- 18 Hotel / hotel conference center shall be designed to meet the typical size standard of a “Transient
- 19 Rental Accommodation” and limited to thirty percent (30%) of the total number of allowed hotel rooms
- 20 for specialty rooms that may be oversized or deluxe units for marketing purposes.
- 21 The proposed project must commit to development using a planned unit development zoning format.
- 22 Maximum allowed height limit for the PUD zoning:
- 23 Maximum Building Height 60 feet
- 24 Non-residential uses on oceanfront parcels, other than transient lodging, are limited to parking garages,
- 25 real estate offices, restaurants
- 26 100% of parking to be provided on-site for all projects
- 27 Design standards will be adopted in the LDR
- 28

- 1 Future Land Use Goal, Objective, Policy 2.1.a.
- 2
- 3 The Future Land Use Map shall contain the following categories, as described in this Element:
- 4 Conservation
- 5 Forestry Resource (up to 1 dwelling unit per 20 acres)
- 6 Agriculture (up to 1 dwelling unit per acre)
- 7 Residential Estate (up to 1 dwelling unit per acre)
- 8 Low-Density Residential (up to 5 dwelling units per acre)
- 9 Medium-Density Residential (5.01 to 8 dwelling units per acre)
- 10 High-Density Residential (8.01 to 12 dwelling units per acre on the barrier island; 8.01 to 18
- 11 dwelling units per acre on the mainland)
- 12 Mixed Use (8.01 to 12 dwelling units per acre on the barrier island; 8.01 to 18 dwelling units per
- 13 acre on the mainland)
- 14 Commercial (8.01 to 12 dwelling units per acre on the barrier island; 8.01 to 18 dwelling units per
- 15 acre on the mainland; up to 24 transient lodging units per acre)
- 16 Hospitality (up to ~~48~~ 75 transient lodging units per acre; ~~up to 12 dwelling units per acres on the~~
- 17 ~~barrier island; up to 18 dwelling units per acre on the mainland~~)
- 18 Industrial
- 19 Industrial Mixed Use (up to 40 units per acre; up to 75 transient lodging units per acre)
- 20 Southeast Volusia Activity Center (up to 18 dwelling units per acre; up to ~~60~~ 40 transient lodging
- 21 units per acre,)
- 22 Marina (up to 24 transient lodging units per acre, which may be increased through a conditional
- 23 density bonus of up to 100%); up to 8.0 dwelling units per acre
- 24 Recreation
- 25 Public Grounds and Buildings
- 26 Educational
- 27 Sustainable
- 28

1 Future Land Use Goal, Objective, Policy 2.1.g.

2  
3 Residential and hotel/motel densities shall be allowed as follows:

4 i. Districts allowing high-density, multi-family residential developments may have up to 18  
5 dwelling units per acre on the mainland (west of the U.S. Army Corps of Engineers  
6 Intracoastal Waterway) and up to 12 units per acre on the beachside (east of the U.S.  
7 Army Corps of Engineers Intracoastal Waterway);

8 ii. Districts allowing medium-density residential developments may have up to 8 dwelling units  
9 per acre;

10 iii. Districts allowing low-density residential developments may have up to 5 dwelling units per  
11 acre;

12 iv. Districts allowing transient lodging uses, excluding the Southeast Volusia Activity Center and  
13 the Hospitality future land use designations, may have up to 24 transient lodging units  
14 per acre;

15 v. Within the Southeast Volusia Activity Center transient lodging uses may be allowed up to 60 40  
16 transient lodging units per acre;

17 vi. The Hospitality future land use designation may allow up to 48 75 transient lodging units per  
18 acre only when the following conditions are met:

- 19 • Amend the Future Land Use Map to designate an area Hospitality meeting the following criteria:
- 20 • present Future Land Use is not residential;
- 21 • As an exception, the Hospitality Future Land Use designation may be applied to oceanfront
- 22 parcels provided the parcel is located between Esther Street and East 8th Avenue;
- 23 • within or adjacent to an existing business district;
- 24 • located along an arterial or collector roadway;
- 25 • business district must include such amenities as retail shopping, restaurants, entertainment
- 26 venues, sporting venues, and other similar uses; and
- 27 • ~~availability of shared parking~~
- 28 • Hotel / hotel conference center shall be designed to meet the typical size standard of a
- 29 “Transient Rental Accommodation” and limited to thirty percent (30%) of the total number of
- 30 allowed hotel rooms for specialty rooms that may be oversized or deluxe units for marketing
- 31 purposes.
- 32 • The proposed project must commit to development using a planned unit development zoning
- 33 format.
- 34 • Maximum allowed height limit for the PUD zoning:
- 35 Maximum Building Height 60 feet
- 36 • 100% of parking to be provided on-site for all projects
- 37 • Design standards will be adopted in the LDR

- 1 Future Land Use Goal, Objective, Policy 2.1.i.  
2  
3 Establish and maintain *Land Development Regulations* that use a combination of maximum building  
4 coverage and maximum building height to establish a maximum floor area ratio (FAR) envelope for non-  
5 residential land use classifications. The equivalent floor area ratio requirements are as follows:  
6 Land Use Classification Maximum FAR  
7 Commercial 2.00  
8 Industrial 2.00  
9 Industrial Mixed Use 6.50  
10 Hospitality (~~Transient Lodging~~) 3.00  
11 ~~Hospitality (Non-residential other 2.00~~  
12 ~~than transient lodging)~~  
13 ~~Mixed Uses Beachside 3.00~~  
14 ~~Mixed Uses Mainland 6.50~~  
15 Marina 1.50  
16 Public Grounds and Buildings 1.00  
17 Educational 0.25  
18 Agriculture 0.10  
19 Recreation 0.50  
20 Conservation 0.10  
21  
22

1 CITY OF NEW SMYRNA BEACH – PLANNING AND ENGINEERING  
2 ZT-2-16: LDR AMENDMENT – MU, B-3, B-4, AND PUD  
3 ZONING DISTRICTS

4 February 1, 2016

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5  
6 I. Background

7  
8 A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna  
9 Beach, FL 32168

10  
11 B. **Request:** Approval of amendments to Article V Section 504.00, MU Mixed  
12 Use District (Central Business District); B-3 Highway Service Commercial  
13 District, B-4 Ocean Commercial District, and the PUD Planned Unit  
14 Development District of the City's Land Development Regulations.

15  
16 II. Findings

17  
18 A. The purpose of ZT-2-16 is two-fold. First, it will make Land Development  
19 Regulations consistent with proposed Comprehensive Plan Amendments  
20 (CPA-1-16). Secondly, it will make correct inconsistencies between the  
21 Land Development Regulation and the existing Comprehensive Plan that  
22 staff discovered during its review.

23  
24 B. ZT-2-16 will modify the Land Development Regulations Section 504.00 MU,  
25 Mixed Use District (Central Business District) as follows:

- 26 i. Reducing the permitted height from 80 feet to 50 feet plus an  
27 additional 12 feet, if architectural features are added to the building,  
28 ii. Reducing the maximum density for transient lodging units in the  
29 Hospitality Future Land Use designation from 75 to 48 units per acre,  
30 iii. Adding the words Southeast Volusia to the term Activity Center to be  
31 consistent with Comprehensive Plan text,  
32 iv. Changing the maximum unit density for transient lodging units in the  
33 Southeast Volusia Activity Center Future Land Use designation from  
34 40 to 60 units per acre, to be consistent with Comprehensive Plan  
35 text.

36  
37 C. ZT-2-16 will modify the Land Development Regulations Section 504.00 B-3  
38 Highway Service Business District as follows:

- 39 i. Reducing the maximum density for transient lodging units in the  
40 Hospitality Future Land Use designation from 75 to 48 units per acre,  
41 ii. Adding the words Southeast Volusia to the term Activity Center to be  
42 consistent with Comprehensive Plan text,  
43 iii. Changing the maximum unit density for transient lodging units in the  
44 Southeast Volusia Activity Center Future Land Use designation from

- 1                   40 to 60 units per acre, to be consistent with Comprehensive Plan  
2                   text,  
3                   iv. Removing zoning requirements for the Marina Future Land Use  
4                   designation.  
5  
6           D.       ZT-2-16 will modify the Land Development Regulations Section 504.00 B-4  
7           Ocean Commercial District as follows:  
8                i. Reducing the maximum density for transient lodging units in the  
9                Hospitality Future Land Use designation from 75 to 48 units per acre,  
10              ii. Adding the words Southeast Volusia to the term Activity Center to be  
11              consistent with Comprehensive Plan text,  
12              iii. Changing the maximum unit density for transient lodging units in the  
13              Southeast Volusia Activity Center Future Land Use designation from  
14              40 to 60 units per acre, to be consistent with Comprehensive Plan  
15              text,  
16              iv. Removing zoning requirements for the Marina Future Land Use  
17              designation.  
18  
19           E.       ZT-2-16 will modify the Land Development Regulations Section 504.00  
20           PUD Planned Unit Development District as follows:  
21                i. Reducing the maximum density for transient lodging units in the  
22                Hospitality Future Land Use designation from 75 to 48 units per acre,  
23                ii. Adding the words Southeast Volusia to the term Activity Center to be  
24                consistent with Comprehensive Plan text,  
25                iii. Changing the maximum unit density for transient lodging units in the  
26                Southeast Volusia Activity Center Future Land Use designation from  
27                40 to 60 units per acre, to be consistent with Comprehensive Plan  
28                text.  
29  
30

### 31       **III. Recommendations**

32  
33       Staff recommends **approval** of the proposed changes to the LDR, as shown in  
34       **Exhibit A**. Underlines are additions and deletions are ~~struck through~~. All changes  
35       are also **highlighted in yellow**.

- 1• MU, MIXED USE DISTRICT
- 2 (CENTRAL BUSINESS DISTRICT)

3 *Intent.* The MU, Mixed Use District forms the metropolitan center for commercial, financial,  
4 professional, governmental, and cultural activities. Uses are permitted which require a central location  
5 convenient to the general citizenry and provide a supportive relationship to each other. Retail goods and  
6 services together with accommodations for tourists, transients, and permanent guests or tenants are permitted.  
7 Intermixing of business, professional, and multifamily for new residential uses permit people to live and work  
8 in or near the downtown area if they so desire.

9 *Permitted uses.*

- 10 Advertising companies
- 11 Art studios
- 12 Assisted living facilities
- 13 Automobile sales and services, new and used permitted west of Riverside Drive only, except on
- 14 Canal Street between Riverside Drive and the FEC railroad tracks where the use is prohibited
- 15 Bakeries, nonmanufacturing
- 16 Bed and breakfast homes
- 17 Billiard halls
- 18 Charter boat business
- 19 Club, sports or health
- 20 College level and adult educational facilities
- 21 Communication facilities, such as radio, television, telephone, and telegraph buildings
- 22 Convenience market with or without gas pumps
- 23 Dancing establishments
- 24 Day care centers, adult
- 25 Delicatessens
- 26 Funeral homes
- 27 Government buildings and offices
- 28 Grocery stores
- 29 Laboratories
- 30 Newspaper offices and printing shops

- 1 Night clubs
- 2 Offices, general, professional and real estate
- 3 Package stores
- 4 Parking lots
- 5 Pawn shops
- 6 Personal services
- 7 Recreational buildings and complexes
- 8 Residential, attached dwelling unit
- 9 Residential, duplex
- 10 Residential, multi-family
- 11 Residential, single-family
- 12 Restaurants, type "A," "B," and "D"
- 13 Retail sales and services
- 14 Rooming houses
- 15 Schools with no more than 250 students
- 16 Service stations, types "A" and "B"
- 17 Taverns
- 18 Taxicab and bus stands and terminals
- 19 Theaters
- 20 Tour boat business
- 21 Transient lodging:
  - 22 • "Transient lodging rooms, standard," as defined by this LDR, shall be a maximum of 500 square feet.
  - 23 • "Transient lodging rooms, deluxe," as defined by this LDR, shall be a maximum of 750 square feet.
  - 24 • The maximum room size does not include any balcony, porch or deck area connected to the unit.
  - 25 • No more than 30 percent of the units may be deluxe.
- 26 Truck and trailer rentals (for properties in the district that front along U.S. Highway 1 and meet the
- 27 conditions in [sub]section 801.18.

1        *Permitted accessory uses.*

2            All those uses customarily associated with the permitted principal uses.

3            Attached dwelling units that are structurally part of the principal commercial use.

4            Sidewalk cafes that comply with [sub]section 801.14 of the LDR.

5            Swimming pool, private, in conjunction with apartments, condominiums, hotels, motels, residential  
6            developments, bed and breakfast homes, and recreational buildings and complexes subject to  
7            the following:

8            (1) It is located in the yard area between the rear wall of the residential structure and the rear lot line;  
9            or

10           (2) It is located at the front or side of the building, but not in required yards, and a six-foot high solid  
11           opaque wall or fence totally encloses the pool area.

12        *Conditional uses.*

13           Farmers markets, subject to the following conditions:

14           (1) The planning manager or designee determines that adequate parking is available.

15           (2) There is adequate space on-site to accommodate all vendors without utilizing public rights-of-  
16           way unless city commission approval has been received to utilize the public rights-of-way.

17           (3) Vendors shall not block pedestrian ways.

18           (4) Products offered for sale shall be limited to the following:

19                a. Fresh fruits and vegetables.

20                b. Herbs and spices.

21                c. Farmstead products including but not limited to cheese, meats, fish/seafood, poultry, eggs,  
22                baked goods, canned goods, honey, maple syrup and preserves.

23                d. Bedding plants, hanging and potted plants, and cut flowers.

24                e. Dried flowers or plants.

25                f. A maximum of 50 percent of the total area used for the market shall be allowed for  
26                handicrafts.

27                g. Prepared food and beverages.

28                h. Flea market and yard sale items are prohibited.

29           (5) The farmers market organization must obtain a business tax receipt from Volusia County and  
30           from the City of New Smyrna Beach.

31           (6) Each vendor operating within the farmers market must obtain a business tax receipt from Volusia  
32           County and from the City of New Smyrna Beach.

33           (7) Informational booths for 501(c)3 non-profit organizations shall be permitted.

34           Outdoor displays, subject to the following conditions:

35           (1) Any outdoor display must maintain the Americans with Disabilities Act (ADA) continuous three  
36           feet of clear sidewalk width. This clear area of three feet in width must also be maintained to  
37           building entries. If this standard cannot be met, outdoor display for the business is prohibited.

38           (2) No outdoor display of merchandise is permitted unless there is a permitted principal development  
39           on the parcel, located in full compliance with all standards and requirements of this chapter.  
40           Merchandise is limited to products sold in the primary business.

- 1 (3) Vehicles for rent, scooters, low speed vehicles, bicycles, shall not be considered outdoor display  
2 if:
  - 3 a. All vehicles are stored or displayed solely on the private property associated with the  
4 business.
  - 5 b. Vehicles for rent are not stored or displayed in required parking spaces.
  - 6 c. Vehicles for rent do not impede Americans with Disabilities Act access along the public way  
7 or to the business.
- 8 (4) All outdoor business displays shall be temporary and easily moved. The displays shall be placed  
9 outside only while the primary business is open.
- 10 (5) All outdoor displays shall be located in a manner which does not cause an obstruction for sight  
11 distance problems for vehicles.
- 12 (6) Hanging displays over the pedestrian right-of-way are prohibited.
- 13 (7) Wind drive or motion devices, such as flags beyond those permitted by the sign ordinance or  
14 pinwheels that may impede or strike pedestrians are prohibited.
- 15 (8) The outdoor business display shall be placed adjacent to and parallel to the subject business  
16 storefront. These displays shall not be placed adjacent to the street curb or perpendicular to the  
17 subject business building. An outdoor business display shall not encroach upon the building  
18 frontage of an adjacent business.
- 19 (9) The outdoor display area may be calculated at a rate of one-half (0.5) linear foot of outdoor  
20 display area per linear foot of storefront to a maximum of 50 linear feet of outdoor display area.  
21 The outdoor display area may be broken into clusters so long as the total length of all outdoor  
22 business display areas does not exceed permitted maximum as measured in linear feet. The total  
23 display area may be as much as five feet in length when 50 percent of the storefront would be  
24 less than five feet.
- 25 (10) The outdoor displays may not exceed five feet in height.
- 26 (11) The outdoor display area may not extend beyond the front of the building by more than three  
27 feet.
- 28 (12) The outdoor business displays must be stable and constructed to withstand overturning by wind  
29 or contact. The display shall not be permanently affixed to any object, structure or the ground.
- 30 (13) All outdoor business displays shall be continuously maintained in a state of order, security,  
31 safety and repair.
- 32 (14) All outdoor business displays shall be neat, orderly and otherwise conducive to creating a top-  
33 quality shopping environment. No display shall contain obscene, indecent or immoral matter.
- 34 (15) These business displays shall not contain any information which would routinely be placed on a  
35 business sign located on the building such as the name or type of business, hours of business  
36 operation, business logo, brand name information, etc.
- 37 (16) If a business has a sandwich board sign in front of the business, the outdoor display area shall be  
38 reduced in size equal to the size of the sandwich board sign.
- 39 (17) Nothing herein is intended to be an abandonment of any dedicated or prescriptive sidewalk or  
40 rights-of-way and the temporary displays on the public sidewalk or right-of-way may be  
41 removed at the discretion of the city manager or designee if determined that the display  
42 interferes with pedestrian traffic or otherwise determines that the display creates a safety hazard.

43 *Approval of a conditional use.* At the time the applicant applies for a business tax receipt with the city,  
44 the applicant shall also submit a conceptual plan to the planning department. The conceptual plan shall show  
45 the general location of the vendor stalls on the site. Based upon the criteria listed above, the planning manager  
46 or designee shall approve or deny the application for a conditional use.

1           *Transfer or abandonment of a conditional use.* Conditional uses are approved for a specific location and  
2 are assigned to the property. If the location of the use is changed, new conditional use approval must be  
3 obtained.

4           *Violation of conditional use terms or conditions.* It is a violation of this Code for any person to violate or  
5 to refuse or fail to comply with any term or condition of a conditional use. Violations may be prosecuted or  
6 enforced as provided by law for prosecution or enforcement of municipal ordinances.

7           *Special exceptions.*

8           Arcades, subject to the following conditions:

- 9           (1) The city commission shall specify the hours of operation to ensure that the operation does not  
10           interfere with the operation of an adjacent business or businesses;  
11           (2) Smoking shall be prohibited within the establishment and an interior "No Smoking" sign shall be  
12           posted in a conspicuous area within the establishment;  
13           (3) Consumption of alcoholic beverages shall be prohibited within the establishment and an interior  
14           "No Consumption of Alcoholic Beverages" sign shall be posted in a conspicuous area within the  
15           establishment; and  
16           (4) The establishment shall be attended by an adult employee during the hours of operation.  
17           Beach concession vehicles parked at a business, beachside only. See [sub]section 801.10.

18           Beach concession vehicle parking lots. See subsection 801.09.

19           Day care center, child, subject to the following additional conditions:

- 20           (1) The child day care center shall be located on and be accessible by an arterial or collector  
21           roadway.  
22           (2) Play areas shall be fenced and landscaped. The landscaping shall have a vegetative hedge that  
23           will reach six feet in height within two years that is planted a minimum of three feet on center.  
24           (3) Play areas shall be located within all applicable setback dimensions.  
25           (4) The child day care center property shall have a vehicular drop off and pickup area with a  
26           minimum [of] 100 feet of drive lane outside of the public right-of-way, or sufficient parking area  
27           to provide enough space to fit the required parking and provided space for drop off and pick up.

28           Horse drawn carriage tour operations, subject to the following conditions:

- 29           (1) Overnight boarding of horses used to pull the carriages is prohibited within the city limits;  
30           (2) Hours of operation shall be limited from 9:00 a.m. to 10:00 p.m. on weekdays and 9:00 a.m. to  
31           11:00 p.m. on weekends;  
32           (3) All horses used to pull the carriages shall be bagged or diapered to prevent animal waste from  
33           littering the public rights-of-way;  
34           (4) All horses used to pull the carriages shall be fully attended at all times unless confined within a  
35           stable;  
36           (5) All carriages must be equipped with an operating rear flashing red light and reflective decals  
37           must be placed on all remaining sides of the horse and carriage when on the public rights-of-  
38           way;  
39           (6) The base of operation shall be cleaned of all animal waste at the close of each business day to the  
40           extent that any offensive odor will not create a recognizable nuisance to neighboring properties;

1 (7) Any stable or animal storage area that is outside of a building must be screened by a six-foot high  
2 opaque fence; and

3 (8) All tour routes and customer pick up and drop off locations shall require city commission  
4 approval based upon compatibility with neighborhoods and safety for other vehicles and the  
5 horse and carriage operation.

6 In order to obtain an occupational license, all horse drawn carriage tour operations must provide proof of the  
7 following:

8 (1) A veterinarian certification for all horses to be used in the business operations. The certification  
9 shall be based on a treatment for internal parasites and an inspection of teeth, hoofs, shoes and  
10 any other indicators of general physical condition.

11 (2) Proof of liability insurance with a minimum value of \$1,000,000.00.  
12 Houses of worship

13 Tattoo parlor, subject to the following conditions:

14 (1) Shall not operate on any parcel with frontage on the following streets:

- 15 a. Flagler Avenue
- 16 b. 3rd Avenue
- 17 c. Canal Street
- 18 d. U.S. 1

19 (2) Shall not operate on any parcel adjacent to or across the street from a single-family residential  
20 zoning district.

21 (3) Shall not operate between the hours of 12:00 a.m. and 8:00 a.m.

22 (4) Shall not be established within 300 feet of a church, daycare, private school, or public school.

23 (5) Shall not be established within 1,000 feet of an existing tattoo parlor.

24 (6) The business shall be subject to all requirements of F.S. ch. 877.

25 (7) Tattooing areas shall not be visible from the public right-of-way.

26 (8) Windows shall maintain a minimum transparent area of 65 percent.

27 Waterfront dining and entertainment establishments

28 *Prohibited uses.* The following uses shall be prohibited throughout the entire mixed use zoning district:

29 Outdoor storage (except operable vehicles, solid waste in an enclosed structure and propane gas  
30 tanks to the rear of a principal structure).

31 Uses not listed in permitted uses.

32 The following uses shall be prohibited in the Historic Westside Neighborhood:

33 Package stores

34 Nightclubs

35 Taverns

36 *Dimensional requirements.*

37 *Minimum lot size.*

1 Area: None

2 Depth: None

3 Width: 50 feet

4 *Minimum yard size.*

5 Front yard build-to lines:

6 Washington Street and intersecting streets one block north & south: 10—15 feet.

7 Canal Street and intersecting streets one block north and south: 0—5 feet.

8 Flagler Avenue: 2—10 feet. Streets intersecting with Flagler Avenue within one block north and  
9 south of Flagler Avenue excluding corner lots fronting on the street parallel to Flagler  
10 Avenue: 2—10 feet. Streets intersecting Flagler Avenue where lot also fronts on the street  
11 parallel to Flagler Avenue: 7—12 feet.

12 Other streets: 0—20 feet based on the average setback of buildings that were constructed before  
13 1950 on both sides of the street in the same block. The build-to line may exceed 20 feet but  
14 may be no greater than the average setbacks of existing principal pre-1950 buildings within  
15 the block on both sides of the street.

16 Side yard setback: Washington Street: Four feet if access is provided by a rear alley or from a side  
17 street; or a total of ten feet combined if a driveway is required to access rear parking.

18 Canal Street: None.

19 Flagler Avenue: Three feet if access is provided by a rear alley or from a side street; or a total of  
20 ten feet combined if a driveway is required to access rear parking.

21 Other streets: Five feet if access is provided by a rear alley or from a side street; or a total of ten  
22 feet combined if a driveway is required to access rear parking.

23 Rear yard setback: Ten feet

24 *Encroachment into required yards.*

25 There shall be no encroachment into required front yard areas except for the following accessory  
26 structures:

27 Eaves, sidewalk/patios/decks at adjacent public sidewalk elevation, planters, signs conforming to city  
28 regulations, benches/tables/chairs, other incidental uses may be located up to the front property  
29 line. Balconies, awnings, canopies and hanging signs may encroach upon the right-of-way provided  
30 there is a minimum vertical clearance of eight feet and a minimum horizontal setback of two feet  
31 from the face of the curb or if no curb exists, four feet from the edge of street pavement.

32 There shall be no encroachment into required side and rear yard areas except eaves may encroach a  
33 maximum of 18 inches into the side yard and 42 inches into the rear yard.

34 *Visibility triangle for corner lots.*

35 A visibility triangle shall remain clear of any obstructions on corner lots. The visibility triangle  
36 shall be measured as follows:

1 Commence at the point of two intersecting curbs, or if no curbs exist at the point of two intersection  
2 edges of pavement and measure 20 feet in each direction and connect the points with a line.

3 *Maximum principal building height.*

4 Beachside: Three stories or 42 feet maximum

5 Mainland: Seven stories or 82 feet maximum 50 feet, plus an additional 12 feet, if architectural  
6 features are added to the building

7 *Minimum residential building separation.* Where two or more residential buildings are built on one  
8 parcel, there shall be a separation of at least 20 feet between the buildings, plus 1.5 additional feet for  
9 each five feet of building height over 20 feet. When buildings vary in height, said distance to be based on  
10 the tallest building. (Example: If there is a 20-foot-tall building and a 25-foot-tall building, the separation  
11 must be 21.5 feet.)

12 *Maximum building coverage.* None.

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

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

20 *Minimum floor area.* Minimum floor area of an apartment dwelling unit or attached dwelling unit  
21 shall be:

22 450 square feet of livable area for a one-bedroom unit;

23 550 square feet of livable area for a two-bedroom unit;

24 700 square feet of livable area for a three-bedroom unit.

25 *Minimum floor area.* Minimum floor area of a rented sleeping room in a hotel, motel, or rooming  
26 house shall be 150 square feet.

27 *Buffers.* Landscaped buffer area shall be required as follows:

- 28 (1) As defined in this LDR at property lines abutting or facing a residentially zoned lot; and  
29 (2) A minimum width of five feet at property lines of off-street parking areas, whether requiring class II or  
30 III site plan approval or not (new construction expansion or replacement only).

31 *Off-street parking and loading.* Off-street parking and loading shall be provided as required in this LDR.

32 *Maximum unit density for all dwelling units.* 12 units per acre beachside, 18 units per acre mainland. No  
33 less than 3,630 square feet of lot area for each beachside dwelling unit. 2,420 square feet of lot area for each  
34 mainland dwelling unit.

35 *Maximum unit density for transient lodging units.*

- 1 Hospitality future land use designation: ~~75~~ 48 units per acre.
- 2 Southeast Volusia Activity Center future land use designation: ~~40~~ 60 units per acre.
- 3 Marina future land use designation: 24 units per acre. Density may be increased up to 48 units per  
4 acre if the following conditions are met:
- 5 (1) A minimum of 20 percent of the total usable land area is preserved by deed or easement for  
6 public access and/or public recreation; and
- 7 (2) The public use area shall comprise at least 40 percent of the total linear footage of shoreline  
8 available to the property.
- 9 All other future land use designations permitting transient lodging units: 24 units per acre.
- 10 *Minimum requirements for townhouses and townhouse lots.*
- 11 All lots shall be adjacent to a public right-of-way or common area.
- 12 Lots shall have a minimum width of 20 feet where a living unit is to be located.
- 13 Lot frontage along a right-of-way or common area shall be a minimum of ten feet.
- 14 Front setbacks shall be 20 feet or as required per [sub]section 504.01M. of this LDR.
- 15 Side setbacks shall be zero feet.
- 16 Rear setbacks shall be 20 feet except if there is a landscaped common area behind the townhome  
17 and there is a minimum distance of 20 feet from the project boundary line and the dwelling  
18 unit or accessory structures.

1• B-3, HIGHWAY SERVICE BUSINESS DISTRICT

2           *Intent.* The B-3, Highway Service Business District is intended for application along highways carrying  
3 large volumes of traffic where establishments may locate to serve large sections of the city and the persons  
4 traveling in vehicles.

5           *Permitted uses.*

- 6           Adult congregate living facility
- 7           Ambulance service
- 8           Animal clinics (outpatient care only and no overnight boarding)
- 9           Attached dwellings
- 10          Automobile sales, new and used
- 11          Bakeries
- 12          Banks
- 13          Boat, motor, and boat trailer sales and service
- 14          Bowling alley
- 15          Business and communications systems
- 16          Bus station
- 17          Car rental and leasing
- 18          Carwashes
- 19          Club, semi-public
- 20          College level and adult educational facilities
- 21          Convenience stores with gas pumps
- 22          Financial services
- 23          Funeral homes
- 24          Furniture showrooms
- 25          Government buildings and offices
- 26          Grocery stores
- 27          Hospitals

- 1 Mobile home sales
- 2 Multi-family dwelling units
- 3 Offices, general, professional and real estate
- 4 Offices, medical
- 5 Parking lots
- 6 Pawn shops
- 7 Personal enrichment establishments
- 8 Personal services
- 9 Restaurants, types "A," "B," "C," and "D"
- 10 Retail sales and services
- 11 Service stations, types "A" and "B"
- 12 Sport facilities
- 13 Taverns
- 14 Taxicab stands
- 15 Theaters
- 16 Transient lodging:
- 17 • "Transient lodging rooms, standard," as defined by this LDR, shall be a maximum of 500 square feet.
- 18 • "Transient lodging rooms, deluxe," as defined by this LDR, shall be a maximum of 750 square feet.
- 19 • The maximum room size does not include any balcony, porch or deck area connected to the unit.
- 20 • No more than 30 percent of the units may be deluxe.
- 21 Truck and trailer rentals (for properties in the district that front along U.S. Highway 1 and meet the
- 22 conditions in [sub]section 801.18)
- 23 *Permitted accessory uses.* Any accessory use customarily incidental to a permitted principal use.
- 24 *Special exceptions.*
- 25 Building material sales and/or building material yards, provided all building materials that are
- 26 stored shall be buffered by a screen designed to block the view of the building materials. The
- 27 screen may include fences, walls, or vegetative landscaping. Building materials shall not
- 28 project higher than the screen. Walls that are part of a building structure may substitute for
- 29 the screen buffer.

1 Child day care facilities, subject to the following additional conditions:

- 2 (1) The property shall be located within 500 feet of an arterial or collector roadway.  
3 (2) Play areas shall be fenced and landscaped. The landscaping shall have a vegetative hedge that will  
4 reach four feet in height within two years. The hedge plants must be planted three feet apart, on center.  
5 (3) Play areas shall be located outside all applicable setback dimensions.  
6 (4) The property shall have a separate vehicular drop off and pickup areas with a minimum 100-foot long  
7 drive lane outside of the public right-of-way, or sufficient parking area to provide enough space for  
8 drop off and pick up.  
9 (5) Play areas shall be located to the side or rear of the building, outside of the required setbacks.

10 Churches

11 Fortune telling, subject to the following condition: Shall not be established within 500 feet of an  
12 existing fortune telling establishment.

13 Miniwarehouse storage facilities, when constructed a distance of one platted lot depth or 100 feet,  
14 whichever is greater, from state and federal highway rights-of-way; no other commercial use  
15 or business shall be permitted with the facility, and a landscaped buffer area shall be provided  
16 on all boundaries facing a residential district.

17 Outdoor display, storage, or sale of vehicles, or other equipment or material, provided that in the  
18 interest of safety to children and adjacent property, outdoor storage areas will be  
19 encompassed by a fence or wall at least six feet high, the bottom four feet being solid and the  
20 top two feet being open. Operative automobiles and mobile homes for sale shall be exempt  
21 from this requirement.

22 Tattoo parlor, subject to the following conditions:

- 23 (1) Shall not operate on any parcel with frontage on the following streets:  
24 a. Flagler Avenue  
25 b. 3rd Avenue  
26 c. Canal Street  
27 d. U.S. 1  
28 (2) Shall not operate on any parcel adjacent to or across the street from a single-family residential  
29 zoning district.  
30 (3) Shall not operate between the hours of 12:00 a.m. and 8:00 a.m.  
31 (4) Shall not be established within 300 feet of a church, daycare, private school, or public school.  
32 (5) Shall not be established within 1,000 feet of an existing tattoo parlor.  
33 (6) The business shall be subject to all requirements of Chapter 877, Florida Statutes.  
34 (7) Tattooing areas shall not be visible from the public right-of-way.  
35 (8) Windows shall maintain a minimum transparent area of 65 percent.

36 Waterfront dining and entertainment establishments

37 *Dimension requirements.*

38 *Minimum yard size.* (Properties along Canal Street and State Road 44)

39 Front yard: 40 feet or as required per [sub]section 504.01M. of this LDR

1 Side yard: Ten feet

2 Rear yard: Ten feet

3 *Corner lots.*

4 (1) Parcels which front on two streets shall provide a 40-foot front yard on one street and a 20-foot  
5 front yard on the other street. The 40-foot front yard shall be adjacent to the major or most  
6 traveled roadway.

7 (2) Parcels which front on three streets shall provide a 40-foot front yard on one street and a 20-foot  
8 front yard on the other two streets. The 40-foot front yard shall be adjacent to the major or most  
9 traveled roadway.

10 *Minimum yard size.* (Properties within U.S. 1 Corridor)

11 Front yard: Five feet

12 Side yard: Five feet

13 Rear yard: Ten feet

14 *Corner lots.* Parcels which front on two or more streets shall provide a minimum five-foot front  
15 yard along each street frontage.

16 *Maximum principal building height.* 35 feet.

17 *Maximum building coverage.* The total area covered with buildings shall not exceed 35 percent of  
18 the total lot area.

19 *Maximum impervious lot coverage* (Properties along Canal Street and State Road 44). The total  
20 area of the lot that may be covered with impervious material is 75 percent.

21 *Maximum impervious lot coverage* (Properties along U.S. 1 Corridor). The total area of the lot that  
22 may be covered with impervious material is 80 percent.

23 *Buffers.*

24 Properties along Canal Street and State Road 44. Landscaped buffer area(s) as defined in this LDR  
25 shall be required at property lines of nonresidential developments as follows:

26 (1) All front property lines;

27 (2) Along side or rear lot line abutting a residentially zoned lot, the buffer shall be 25 feet  
28 wide; and

29 (3) Along side and rear lot lines not abutting residentially zoned lots, the buffer shall be seven  
30 feet wide.

31 Landscaped or natural vegetative buffers for multifamily development shall be provided as  
32 indicated in [sub]section 605.05 and as follows:

33 (1) Along front, rear, and side lot lines where off-street parking areas are located, the buffer  
34 shall be a minimum of seven feet wide; and

35 (2) Adjacent to or facing a single-family residential district or use, the buffer shall be a  
36 minimum of 20 feet wide from the property line.

1 Properties within U.S. 1 Corridor. Landscaped buffer area(s) as defined in this LDR shall be  
2 required at property lines of multi-family and non-residential developments as follows:

- 3 (1) Front property lines: Five feet  
4 (2) Side and rear property lines (not adjacent to residentially-zoned properties): Three feet  
5 (3) Side and rear property lines (adjacent to residentially-zoned properties): Five feet. A ten-  
6 foot wide buffer will be required for taverns, outdoor seating areas and type "B" service  
7 stations.

8 The landscape buffer adjacent to residentially-zoned property must include a six-foot tall masonry  
9 wall or fence.

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

13 *Maximum unit density for transient lodging units.*

14 Hospitality future land use designation: ~~75~~ 48 units per acre.

15 Southeast Volusia Activity Center future land use designation: ~~40~~ 60 units per acre.

16 ~~Marina future land use designation: 24 units per acre. Density may be increased up to 48 units per~~  
17 ~~acre if the following conditions are met:~~

18 ~~(1) A minimum of 20 percent of the total usable land area is preserved by deed or easement for~~  
19 ~~public access and/or public recreation; and~~

20 ~~(2) The public use area shall comprise at least 40 percent of the total linear footage of shoreline~~  
21 ~~available to the property~~

22 ~~All other future land use designations permitting transient lodging units: 24 units per acre.~~

23 *Maximum dwelling unit density.* 12 dwelling units per acre beachside and 18 units per acre mainland. No  
24 less than 3,630 square feet of lot area for each beachside dwelling unit and 2,420 square feet of lot area for  
25 each mainland dwelling unit.

26 *Multifamily residential standards.*

27 *Minimum floor area.*

28 450 square feet of livable area for a one-bedroom unit

29 550 square feet of livable area for a two-bedroom unit

30 700 square feet of livable area for a three-bedroom unit

31 *Maximum building length and width.* Building facades parallel to the street upon which the building  
32 fronts or parallel to a waterfront shall not exceed 150 feet. No building constructed after the effective  
33 date of the LDR shall have a dimension that exceeds 200 feet.

34 *Minimum building separation.* Where two or more multifamily dwellings, single-family dwellings  
35 attached or detached, duplexes, apartments, condominiums, or townhouses are built on one parcel, there  
36 shall be a separation of at least 20 feet between the buildings plus 1.5 additional feet for each five feet of

1 building height over 20 feet. When buildings vary in height, said distance is to be based on the highest  
2 building. (For example: The distance between a 20-foot tall building and a 25-foot tall building shall be  
3 21.5 feet.)

4 *Minimum requirements for townhouses and townhouse lots.*

5 All lots shall be adjacent to a public right-of-way or common area.

6 Lots shall have a minimum width of 20 feet where a living unit is to be located.

7 Lot frontage along a right-of-way or common area shall be a minimum of ten feet.

8 Front setbacks shall be 20 feet or as required per [sub]section 504.01M. of this LDR.

9 Side setbacks shall be zero feet.

10 Rear setbacks shall be 20 feet except if there is a landscaped common area behind the townhome  
11 and there is a minimum distance of 20 feet from the project boundary line and the dwelling  
12 unit or accessory structures.

1• B-4, OCEAN COMMERCIAL DISTRICT

2           *Intent.* The B-4, Ocean Commercial District provides oceanfront living accommodations and related uses  
3 for visitors and permanent residents.

4           *Permitted uses.*

5           Multi-family dwelling units

6           Parking garages

7           Parking lots

8           Real estate offices

9           Restaurants, type "A," "B," "C" and "D"

10          Transient lodging:

- 11          • Maximum size 1,200 square feet of interior living space.

12          *Permitted accessory uses.*

13                 All those uses customarily associated with the permitted principal uses, including but not limited to  
14                         central and sales offices, confectionery shops, gift shops, newsstands, nightclubs with bars, or  
15                         bars separately, and snack bars designed to serve guests of the hotel or motel when accessible  
16                         only from an interior court lobby, or corridor.

17                 On-site temporary sales and brokerage offices and display models for residential dwelling units that  
18                         are newly constructed, that have never been occupied for residential purposes, and have never  
19                         been sold.

20                 On-site temporary sales and brokerage structures to be used as a sales office for dwelling units  
21                         planned to be constructed or under construction.

22                 The following limitations and regulations shall be placed on the aforescribed on-site sales and  
23                         brokerage offices and temporary sales and brokerage structures:

24                 (1) Said sales and brokerage offices shall only be used to promote the sales of newly constructed  
25                         dwelling units (to wit. units that have never previously been occupied for residential purposes or  
26                         never sold by the developer) and part of an approved site plan located on the same site as the  
27                         office;

28                 (2) Said sales and brokerage offices shall only be used to sell residential dwelling units located on  
29                         the same site as the sales office;

30                 (3) Said sales and brokerage offices may only have one sign not to exceed ten square feet in area in  
31                         addition to the allowable signs indicated in [sub]section 604.14 of this LDR;

32                 (4) Said sales and brokerage offices shall be allowed within a development upon issuance of a  
33                         certificate of occupancy for the offices by the development division director or his/her designee  
34                         and said sales office must be removed from the site upon the issuance of a certificate of  
35                         occupancy for the last building to be constructed within a development; and

36                 (5) The following additional limitations and regulations shall be placed on the aforescribed on-site  
37                         temporary sales and brokerage structures:

- 1 (a) Said sales and brokerage structures shall have a minimum floor area of 300 square feet and  
2 shall not have been formerly a travel trailer, camper, recreational vehicle or tractor-trailer  
3 trailer;
- 4 (b) The perimeter of the area between the ground and floor level of the sales and brokerage  
5 structures shall be enclosed with ornamental skirting;
- 6 (c) Said sales and brokerage structures must be located on the site such that it meets the  
7 minimum setback; and
- 8 (d) A minimum of three parking spaces must be provided for the sales and brokerage structures  
9 or the minimum number of parking spaces required for an office, whichever is greater.  
10 Said parking spaces and access aisle must meet the requirements of [sub]section 604.10  
11 within this LDR except an alternate surfacing agent, such as shell or mulch, may be used;
- 12 (e) A minimum ten-foot-wide and six-foot-high natural vegetative buffer shall be maintained  
13 along the front, side and rear of the sales and brokerage structure, parking area and any  
14 accessory structures. Should no buffer exist, a ten-foot-wide buffer, meeting the  
15 requirements of [sub]section 604.05 E.(1) must be planted along the front, sides and rear of  
16 the sales and brokerage structure, parking area and accessory structures. Buffer areas are  
17 not required to be irrigated with an underground automatic system but must be regularly  
18 irrigated to maintain the vegetation;
- 19 (f) No sales and brokerage structure shall be allowed on a site until all permits as required by  
20 all federal, state, and county agencies have been secured; and the site plan for the proposed  
21 permanent use has been approved; and a class I site plan has been approved for the use of a  
22 temporary sales and brokerage structure; and
- 23 (g) Said sales and brokerage structures shall not remain on a site longer than one year from the  
24 date a certificate of occupancy is issued for said sales office or until a certificate of  
25 occupancy is issued for the first building within the development, whichever comes first.  
26 Upon removal of the sales and brokerage structure, the developer may maintain an on-site  
27 temporary sales and brokerage office within the dwelling unit(s).

28 *Special exceptions.* Barber and beauty shops

29 *Dimensional requirements.*

30 *Minimum lot size.*

31 Area: 5,000 feet

32 Depth: 100 feet

33 Width: 50 feet

34 *Minimum building separation.* Where two or more buildings are built on one parcel, there shall be a  
35 separation of at least 20 feet between the buildings, plus 1.5 additional feet for each five feet of building  
36 height over 20 feet. When buildings vary in height, said distance to be based on the tallest building.  
37 (Example: if there is a 20-foot-tall building and a 25-foot-tall building, the separation must be 21.5 feet.)

38 *Minimum yard size.*

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

40 Side yard: Lots with a street frontage of 100 feet or less, the side yard shall be ten feet plus three  
41 additional feet for each story over two stories. Lots with a street frontage of over 100 feet, the

1 side yard shall be ten feet plus five additional feet for each story over two stories. In no event,  
2 shall a side yard be required to exceed 45 feet.

3 Rear yard: 25 feet, plus three additional feet for each story over two stories.

4 *Minimum floor area.* Minimum floor area of an apartment or condominium dwelling unit shall be:

5 450 square feet of livable area for a one-bedroom unit;

6 550 square feet of livable area for a two-bedroom unit;

7 700 square feet of livable area for a three-bedroom unit;

8 Minimum floor area of a rented sleeping room in a hotel, motel, or rooming house, shall be 150  
9 square feet.

10 *Maximum unit density for all dwelling units.* 12 units per acre. No less than 3,630 square feet of lot area  
11 for each dwelling unit.

12 *Maximum unit density for transient lodging.*

13 Hospitality future land use designation: ~~75~~ 48 units per acre.

14 ~~Activity Center future land use designation: 40 units per acre.~~

15 ~~Marina future land use designation: 24 units per acre. Density may be increased up to 48 units per~~  
16 ~~acre if the following conditions are met:~~

17 ~~(1) A minimum of 20 percent of the total usable land area is preserved by deed or easement for~~  
18 ~~public access and/or public recreation; and~~

19 ~~(2) The public use area shall comprise at least 40 percent of the total linear footage of shoreline~~  
20 ~~available to the property.~~

21 ~~All other future land use designations permitting transient lodging units: 24 units per acre.~~

22 *Maximum building length and width.* Building facades parallel to the street upon which the building  
23 fronts, or parallel to the oceanfront, shall not exceed 150 feet in length. Also, no building, constructed after the  
24 effective date of this LDR, shall have a dimension which exceeds 200 feet in length or width.

25 *Maximum principal building height.*

26 Four (4) stories.

27 Maximum building height: 45 feet, or 52 feet if a pitched roof or other architectural features are  
28 used to articulate the roof line of the building. Habitable space cannot extend more than 45  
29 feet in height.

30 Building heights on properties already developed with a building taller than four stories in height at  
31 the effective date of this ordinance shall be allowed to rebuild at the same number of stories  
32 and building height as the previously existing building. This shall be designated by affixing a  
33 number after the zoning classification, which will indicate the maximum number of stories  
34 allowed. These designations shall be as follows:

- 1 B-4(5): Five stories—55 feet
- 2 B-4(6): Six stories—66 feet
- 3 B-4(7): Seven stories—77 feet
- 4 B-4(8): Eight stories—88 feet
- 5 B-4(9): Nine stories, provided all of the first story of the building, or that portion of the first story
- 6 of a building containing nine stories, is used for off-street parking, excluding elevator shafts;
- 7 maintenance, and utility equipment rooms; laundry rooms; and storage rooms restricted to
- 8 owner or tenant usage. Maximum building height with garage parking: 95 feet.

9 *Maximum lot coverage by all buildings.*

Height of Building (stories)	Maximum Percentage of Coverage (includes all solid roofed areas)
1	40
2	40
3	35
4	30
5	30
6	21
7	18
8	15
9	15

10  
 11 *Maximum impervious lot coverage.* The total area of the property that may be covered with impervious  
 12 material is 75 percent.

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

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

1           *Off-street parking and loading.* Off-street parking and loading space shall be provided as required in this  
2 LDR. Off-street parking areas may be located within ten feet of a side or front lot line where such lot lines are  
3 landscaped to screen the vehicles as required in this LDR and the parking lot is landscaped as required in this  
4 LDR.

5           *Covered off-street garage parking.* Covered off-street garage parking may be provided either within or  
6 outside of the principal building(s). If the entire first story of the principal building(s) is used only for covered  
7 off-street garage parking, the principal building(s) may be five stories but shall not exceed a maximum  
8 building height of 60 feet. If covered off-street garage parking is provided outside of the principal building(s),  
9 it may be considered open landscaped area if it has a landscaped periphery and the roof is used for recreation  
10 purposes. Covered off-street garage parking located outside the outer wall of the principal building(s) and  
11 considered open landscaped area is not included in the maximum percentage lot coverage calculation for solid  
12 roof areas. Landscaping shall be provided as required in this LDR.

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

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

17           *Buffers.* Landscaped buffer area(s) as defined in this LDR, shall be required at property lines as follows:

- 18           (1 All front property lines; and  
19           (2) Along side or rear lot line abutting a residentially zoned lot.

20           *Landscaping.* A landscaping plan is required as described in this LDR.

21           *Deed covenants.* The developer shall supply in writing all covenants and restrictions that will govern the  
22 maintenance of the open space and other aspects of the project that are necessary for welfare of the project and  
23 consistent with the best interest of New Smyrna Beach. Such legal instruments shall be submitted with the site  
24 plan and approved by the city legal department prior to issuance of a building permit by the chief building  
25 official.

26           *Use of recreational amenities and/or owned facilities incidental to commercial and residential living*  
27 *accommodations.* Use of all recreational amenities and/or commonly-owned facilities by the owner, the  
28 owner's guests, lessees or invitees, shall be limited to that period of time concurrent with the owner's exclusive  
29 right of use, possession and occupancy of the residential unit. It shall be unlawful for any person to represent  
30 by contract for purchase, promotional material, advertising or any other public statement that amenities and/or  
31 commonly owned facilities may be used contrary to the requirements of the New Smyrna Beach land  
32 development regulations. This subsection does not prohibit the establishment of permitted accessory uses at  
33 commonly owned facilities if such uses are in compliance with all the other requisites required by the New  
34 Smyrna Beach land development regulations.

35

1 PUD, PLANNED UNIT DEVELOPMENT

2 Purpose and intent. The purpose of the PUD zoning classification is to provide for the flexible  
3 development of integrated retail, office, and/or residential developments that provide high-quality  
4 development for the city and that would otherwise not be permitted by this Code. Notwithstanding the  
5 specific criteria identified herein, proposals should accomplish the following purposes to the greatest extent  
6 possible:

- 7 (1) Provide a variety of housing types with a broad range of housing costs allowing for the integration  
8 of differing age groups and socioeconomic classes;
- 9 (2) Promote innovative site and building design, including traditional neighborhood developments;
- 10 (3) Provide efficient location and utilization of infrastructure through orderly and economical  
11 development, including a fully integrated network of streets and pedestrian/bicycle facilities;
- 12 (4) Establish open areas set aside for the preservation of natural resources, significant natural  
13 features and vistas, and listed species habitats;
- 14 (5) Create usable and suitably located civic spaces, recreational facilities, open spaces and scenic  
15 areas;
- 16 (6) Provide for a coherent and visually attractive physical environment through the creation of focal  
17 points and vistas, as well as coordination and consistency of architectural styles, landscaping  
18 designs and other elements of the built environment;
- 19 (7) Provide for other limitations, restrictions and requirements as deemed necessary by the city to  
20 ensure compatibility with adjacent neighborhoods and effectively reduce potential adverse  
21 impacts;
- 22 (8) Provide for mixed use residential, commercial, office and/or industrial development such as  
23 commercial nodes, town centers, office parks, and industrial parks; and
- 24 (9) Promote innovative site and building design.

25 Permitted principal uses and structures. The following land uses and their customary accessory uses  
26 and structures shall be allowed in the PUD zoning districts except in the Corridor Overlay Zone.

- 27 Art, dance, modeling, music, etiquette, or any other personal enrichment schools or studios having  
28 scheduling or costs associated which are not typically found in a public or private elementary or  
29 high school curriculum
- 30 Auction parlors, indoor
- 31 Automobile service station, type A, B, or C
- 32 Bars and liquor stores
- 33 Beauty shops, barbershops
- 34 Bowling alleys
- 35 Cafeterias
- 36 Child care centers
- 37 Employment agencies
- 38 Entertainment and recreational uses and structures
- 39 Essential utility services
- 40 Excavations only for lakes or stormwater retention ponds
- 41 Exercise and health spas

- 1 Financial institutions
- 2 Game rooms or arcades for pool, billiards, pinball machines, juke boxes or other coin-operated
- 3 amusements
- 4 General offices
- 5 Home occupations
- 6 Hospitals
- 7 Houses of worship and cemeteries
- 8 Laundry and dry cleaning establishments
- 9 Medical and dental clinics
- 10 Multiple-family and single-family standard or manufactured dwellings
- 11 Nightclubs
- 12 Nursing homes, assisted living facilities, and adult congregate living facilities approved and licensed
- 13 by the appropriate state agency
- 14 Pharmacies
- 15 Printing and publishing establishments
- 16 Professional or trade schools related to permitted uses
- 17 Public uses
- 18 Public utility uses and structures
- 19 Recovery homes
- 20 Restaurants, type A, B, C, and D
- 21 Retail sales and services
- 22 Retail specialty shops
- 23 Schools, parochial and private
- 24 Tailor shops
- 25 Taxicab stands
- 26 Theaters
- 27 Transient lodging:
  - 28 • Maximum size 1,200 square feet of interior living space.
- 29 Travel agencies
- 30 Other uses approved by the city commission
- 31 Permitted principal uses and structures in the corridor overlay zone. The following land uses and their
- 32 customary accessory uses and structures shall be allowed in the PUD Corridor Overlay Zone zoning district.
- 33 [The following are permitted uses.]
- 34 Art, dance, modeling, and music schools
- 35 Beauty shops, barber shops
- 36 Child care facilities
- 37 Essential utility services

- 1 Exercise and health spas
- 2 Financial institutions
- 3 Funeral homes
- 4 General offices
- 5 Hospitals, nursing homes, adult congregate living facilities, assisted living facilities
- 6 Houses of worship
- 7 Laundry and dry cleaning establishments (no coin operation)
- 8 Medical and dental clinics
- 9 Multiple-family standard dwellings, provided the following requirements are met:
  - 10 (1) Sixty percent of the commercial development must be completed prior to the start of
  - 11 residential construction, unless an alternate phasing plan is approved; and
  - 12 (2) The maximum permitted density will be 18 units per acre.
- 13 Pharmacies
- 14 Public uses
- 15 Restaurants (class "A")
- 16 Retail printing shops
- 17 Retail specialty shops
- 18 Schools, parochial and private
- 19 Single-family residences
- 20 Tailor shops
- 21 Taxicab stands
- 22 Theaters (no drive-ins)
- 23 Transient lodging:
  - 24 • Maximum size 1,200 square feet of interior living space.
- 25 Travel agencies
- 26 Two-family residences
- 27 Other uses and structures of a nature similar to those listed, after determination by the city
- 28 commission at the time of overall development plan approval that such uses and structures are
- 29 compatible with the PUD development and the surrounding area.
- 30 Permitted principal uses and structures within the activity center and west of Interstate 95. Permitted
- 31 uses of land and their customary accessory uses and structures shall be as allowed in the written
- 32 development agreement approved by the city commission.
- 33 Permitted accessory uses.
  - 34 On-site temporary sales and brokerage offices and display models for residential dwelling units that
  - 35 are newly constructed, that have never been occupied for residential purposes, and have never
  - 36 been sold.
  - 37 On-site temporary sales and brokerage structures to be used as a sales office for dwelling units
  - 38 planned to be constructed or under construction.

- 1 The following limitations and regulations shall be placed on the aforescribed on-site sales and  
2 brokerage offices and temporary sales and brokerage structures:
- 3 (1) Said sales and brokerage offices shall only be used to promote the sales of newly  
4 constructed dwelling units (to wit: units that have never previously been occupied for  
5 residential purposes or never sold by the developer) and part of an approved site plan  
6 located on the same site as the office;
- 7 (2) Said sales and brokerage offices shall only be used to sell residential dwelling units located  
8 on the same site as the sales office;
- 9 (3) Said sales and brokerage offices may only have one sign not to exceed ten square feet in  
10 area in addition to the allowable signs indicated in [sub]section 604.14 of this LDR;
- 11 (4) Said sales and brokerage offices shall be allowed within a development upon issuance of a  
12 certificate of occupancy for the offices by the development division director or his/her  
13 designee and said sales office must be removed from the site upon the issuance of a  
14 certificate of occupancy for the last building to be constructed within a development; and
- 15 (5) The following additional limitations and regulations shall be placed on the aforescribed on-  
16 site temporary sales and brokerage structures:
- 17 (a) Said sales and brokerage structures shall have a minimum floor area of 300 square feet  
18 and shall not have been formerly a travel trailer, camper, recreational vehicle or tractor  
19 trailer;
- 20 (b) The perimeter of the area between the ground and floor level of the sales and brokerage  
21 structures shall be enclosed with ornamental skirting;
- 22 (c) Said sales and brokerage structures must be located on the site such that it meets the  
23 minimum setback requirements;
- 24 (d) A minimum of three parking spaces must be provided for the sales and brokerage  
25 structures or the minimum number of parking spaces required for an office, whichever  
26 is greater. Said parking spaces and access aisle must meet the requirements of  
27 [sub]section 604.10 within this LDR except an alternate surfacing agent, such as shell  
28 or mulch, may be used;
- 29 (e) A minimum ten-foot-wide and six-foot-high natural vegetative buffer shall be maintained  
30 along the front, side and rear of the sales and brokerage structure, parking area and  
31 any accessory structures. Should no buffer exist, a ten-foot-wide buffer, meeting the  
32 requirements of [sub]section 604.05 E.(1) must be planted along the front, sides and  
33 rear of the sales and brokerage structure, parking area and accessory structures. Buffer  
34 areas are not required to be irrigated with an underground automatic system but must  
35 be regularly irrigated to maintain the vegetation;
- 36 (f) No sales and brokerage structure shall be allowed on a site until all permits as required  
37 by all federal, state, and county agencies have been secured; and the site plan for the  
38 proposed permanent use has been approved; and a class I site plan has been approved  
39 for the use of a temporary sales and brokerage structure; and
- 40 (g) Said sales and brokerage structures shall not remain on a site longer than one year  
41 from the date a certificate of occupancy is issued for said sales office or until a certificate  
42 of occupancy is issued for the first building within the development, whichever comes  
43 first. Upon removal of the sales and brokerage structure, the developer may maintain  
44 an on-site temporary sales and brokerage office within the dwelling unit(s).

45 Conditional uses.

46 Farmers markets, subject to the following conditions:

- 1 (1) The development services director determines that adequate parking is available.
- 2 (2) The farmers market is located in the business portion of the PUD.
- 3 (3) There is adequate space on-site to accommodate all vendors without utilizing public rights-of-way unless city commission approval has been received to utilize the public rights-of-way.
- 4
- 5 (4) Vendors shall not block pedestrian ways.
- 6 (5) Products offered for sale shall be limited to the following:
  - 7 a. Fresh fruits and vegetables.
  - 8 b. Herbs and spices.
  - 9 c. Farmstead products including but not limited to cheese, meats, fish/seafood, poultry, eggs, baked goods, canned goods, honey, maple syrup and preserves.
  - 10
  - 11 d. Bedding plants, hanging and potted plants, and cut flowers.
  - 12 e. Dried flowers or plants.
  - 13 f. A maximum of 50 percent of the total area used for the market shall be allowed for handicrafts.
  - 14
  - 15 g. Prepared food and beverages.
  - 16 h. Flea market and yard sale items are prohibited.
- 17 (6) The farmers market organization must obtain a business tax receipt from Volusia County and from the City of New Smyrna Beach.
- 18
- 19 (7) Each vendor operating within the farmers market must obtain a business tax receipt from Volusia County and from the City of New Smyrna Beach.
- 20
- 21 (8) Informational booths for 501(c)3 non-profit organizations shall be permitted.

22 Approval of a conditional use. At the time the applicant applies for a business tax receipt with the city, the applicant shall also submit a conceptual plan to the development services department. The conceptual plan shall show the general location of the vendor stalls on the site. Based upon the criteria listed above, the development services director, or his/her designee, shall approve or deny the application for a conditional use.

27 Transfer or abandonment of a conditional use. Conditional uses are approved for a specific location and are assigned to the property. If the location of the use is changed, new conditional use approval must be obtained.

30 Violation of conditional use terms or conditions. It is a violation of this Code for any person to violate or to refuse or fail to comply with any term or condition of a conditional use. Violations may be prosecuted or enforced as provided by law for prosecution or enforcement of municipal ordinances.

33 Special exceptions.

34 Pain management clinics, subject to the following conditions:

- 35 (a) Have a reception and waiting area.
- 36 (b) Have an administrative area, including room for storage of medical records, supplies and equipment.
- 37
- 38 (c) Have private patient examination rooms.
- 39 (d) Have treatment rooms, if treatment is being provided to the patients.
- 40 (e) Provide documentation that the business is registered with the Florida Department of Health or documentation that the business is exempt from registering with the Florida Department of Health.
- 41

1 Dimensional requirements.

2 Minimum PUD parcel size—Traditional City Area (excluding properties within the Corridor Overlay  
3 Zone): 0.75 acres. At the discretion of the city commission, the size of the parcel may be reduced if the  
4 project involves work force housing or preservation of a historic building(s).

5 Minimum PUD parcel size—All other areas (including properties within the Corridor Overlay Zone):

Residential	5.0 acres
Non-residential	2.0 acres

6

7 A PUD shall be considered residential if 50 percent or more of developed land or 50 percent or more  
8 of the proposed building square footage is designated for residential uses. Residential uses include,  
9 but are not limited to single-family, duplex, multi-family (including townhomes, apartments,  
10 condominiums), and live-work units.

11 The Traditional City Area shall be as defined in article II of this LDR.

12 Minimum lot size. If all or a portion of the PUD is subdivided, the minimum lot size shall be described  
13 in the proposed master planned unit development agreement.

14 Minimum yard size. Minimum yard size shall be described in the proposed master planned unit  
15 development agreement. In determining yard size, the city commission shall consider whether or not the  
16 proposed PUD will have adverse effects upon adjoining properties.

17 Off-street parking and loading requirements. Off-street parking and loading spaces shall be required  
18 as indicated in [sub]section 604.10 of this LDR and in addition shall meet the following: off-street parking  
19 and loading areas shall not be permitted in any required landscaped buffer area. All parking areas shall  
20 contain a minimum of 20 percent interior landscaping excluding any required landscaped buffer areas.

21 Transportation impact analysis. The contents of the transportation impact analysis shall meet the  
22 requirements of [sub]section 402.02.

23 Density. The maximum residential density allowed in a PUD is 18 units per acre on the mainland and  
24 12 units per acre on beachside. The maximum transient lodging density allowed is:

25 Hospitality future land use designation: ~~75~~ 48 units per acre.

26 Southeast Volusia Activity center future land use designation: ~~40~~ 60 units per acre.

27 Marina future land use designation: 24 units per acre. Density may be increased up to 48 units per  
28 acre if the following conditions are met:

29 (1) A minimum of 20 percent of the total usable land area is preserved by deed or easement for  
30 public access and/or public recreation; and

31 (2) The public use area shall comprise at least 40 percent of the total linear footage of shoreline  
32 available to the property.

33 All other future land use designations permitting transient lodging units: 24 units per acre.

34 Landscape buffer requirements—Traditional City Area.

35 Requirements presented in [sub]section 604.05 shall apply except that more stringent  
36 requirements described for landscape buffering shall supersede.

1 A minimum 5-foot wide landscaping buffer is required around the perimeter of all parking areas.  
2 Only driveways may be located within this buffer.

3 Except for access driveways, it is intended that development shall be designed to prevent the  
4 need for fill material or such other treatment which would remove or harm existing trees within required  
5 yards or buffers.

6 Existing trees shall remain in low areas and may be included in stormwater retention areas  
7 because they are accustomed to an environment where their root system is periodically inundated.

8 Existing trees with a minimum height of nine feet and diameter of two inches when measured four  
9 feet above ground level shall remain in landscaped buffer areas. If a tree is dead, dying, or is diseased  
10 to the extent it cannot be saved, it may be removed if any one of these conditions is verified by a  
11 horticulturist with credentials approved by the development services director or his/her designee.

12 Required buffers that contain dense vegetation with existing trees shall be left natural and shall  
13 not be required to be irrigated if undisturbed.

14 Required landscape buffers shall contain the following number of plantings for every 100 linear  
15 feet of the buffer:

Canopy Trees	Understory Trees	Shrubs
2	2	20

16  
17 When natural vegetation is disturbed, the buffer shall be irrigated as required in [sub]section  
18 604.05 of this LDR.

19 Landscape buffer requirements—All other areas.

20 Requirements presented in [sub]section 604.05 shall apply except that more stringent  
21 requirements described for landscape buffering herein shall supersede.

22 A minimum of 20-foot wide landscaping buffer is required around the perimeter of the project site  
23 except where a larger landscaped buffer is required within this LDR. Only driveways, sidewalks and  
24 bike paths may be located within this buffer.

25 Properties required to provide a 25-foot utility easement per [sub]section 604.03 of this LDR shall  
26 overlap the landscape buffer with the utility easement by ten feet, with the utility easement being  
27 adjacent to the right-of-way and the landscape buffer being interior to the utility easement. All required  
28 buffer plantings shall be placed outside the easement, with the exception that those species of trees  
29 that will not exceed 20 feet in height at maturity may be placed within the ten-foot overlap area.  
30 Permitted trees in the overlap area are listed in [sub]section 604.04. Properties must comply with the  
31 minimum 20-foot landscape buffer requirements as provided in this paragraph, but may negotiate less  
32 of the buffer overlapping the utilities easement, thus providing a greater amount of buffer outside of  
33 the utilities easement area.

34 A minimum of 30 percent of the area of the site shall be covered by existing dense vegetation  
35 with trees or by additional shrubs and trees as referenced herein (for buffers) to create dense  
36 vegetative growth.

37 Except for access driveways, it is intended that development shall be designed to prevent the  
38 need for fill material or such other treatment which would remove or harm existing trees within required  
39 front and corner yards.

1 Existing trees shall remain in low areas and may be include in stormwater retention areas  
2 because they are accustomed to an environment where their root system is periodically inundated.

3 Existing trees with a minimum height of nine feet and diameter of two inches when measured four  
4 feet above ground level, shall remain in landscaped buffer areas. If a tree is dead, dying, or is diseased  
5 to the extent it cannot be saved, it may be removed if any one of these conditions is verified by a  
6 horticulturist with credentials approved by the development services director or his/her designee.

7 Required buffers that contain dense vegetation with existing trees shall be left natural and shall  
8 not be required to be irrigated if undisturbed.

9 If the buffer area has sparse vegetative growth, or is devoid of significant vegetation and trees,  
10 additional shrubs and trees shall be planted as noted thereafter.

11 Shrubs. Plants shall be placed no more than three feet apart measured from center to center and  
12 a minimum of two feet in height, immediately after planting.

13 Trees. One tree shall be provided for each 100 square feet thereof. Tree species shall be a  
14 minimum of nine feet in height and have a minimum diameter of two inches when measured four feet  
15 above ground level. Also, trees planted within 12 feet of publicly maintained streets or other  
16 improvements shall be selected from the New Smyrna Beach Tree List that can be obtained from the  
17 city horticulturist.

18 When natural vegetation is disturbed, the buffer shall be irrigated as required in [sub]section  
19 604.05 of this LDR.

20 Supplementary regulations. The following regulations apply to all PUD zoning classifications unless a  
21 specific classification is referenced:

22 (1) Unified ownership. All land within the PUD shall be under the ownership of one person, either by  
23 deed, agreement for deed, or contract for purchase. PUD applicants shall present either an  
24 opinion of title by an attorney licensed in Florida, or a certification by an abstractor or a title  
25 company, authorized to do business in Florida, that, at the time of application, unified ownership  
26 of the entire area within the proposed PUD is in the applicant, or contract seller. Unified ownership  
27 shall thereafter be maintained until after the recording of the overall development plan or final  
28 plat.

29 (2) Retail uses within a PUD with more than one use. When retail uses or structures are approved  
30 as part of a PUD containing more than one type of use, the retail operation shall not begin until  
31 certificates of occupancy have been issued for all residential, industrial and/or office units in the  
32 total project, unless otherwise provided in the development agreement.

33 (3) Utility system. All utilities within a PUD shall be located underground. However, appurtenances  
34 requiring above ground installations may be exempted by a majority vote of the city commission  
35 if the location and approximate size of the appurtenances requiring an above ground location is  
36 specified on sketch plans.

37 (4) Open space requirements.

38 a. Property designated on the city's comprehensive plan future land use map as activity center  
39 shall have a minimum open space requirement of 40 percent for a residential PUD project  
40 and 30 percent for a non-residential or mixed-use PUD project;

41 b. Property in the Traditional City Area (east of the Turnbull Bay/Turnbull Creek waterway, north  
42 of State Road 44 and east of Mission Road, south of State Road 44 and excluding properties  
43 in the Corridor Overlay Zone) shall have a minimum open space requirement of 30 percent  
44 for a residential PUD project and 20 percent for a non-residential or mixed-use PUD project;

45 c. Property located west of Interstate 95, within the West New Smyrna Beach Urban Overlay  
46 Zone, shall have a minimum open space requirement of 50 percent for all PUDs;

- 1 d. Property east of Interstate 95 and west of the Traditional City Area (east of the Turnbull  
2 Bay/Turnbull Creek waterway north of State Road 44 and east of Mission Road south of  
3 state Road 44) and within the city's Corridor Overlay Zone (COZ), but excluding property  
4 located in the activity center, shall have a minimum open space requirement of 60 percent  
5 for a residential PUD project and 50 percent of a non-residential or mixed-use PUD project.
- 6 A minimum of 35 percent of the open space shall be designated as common open space for a  
7 residential PUD. Common open space shall meet the following standards:
- 8 a. It shall be accessible to and usable by all residents of the PUD;
- 9 b. Its location, shape, size, character and use shall be illustrated on the overall development  
10 plan; and
- 11 c. Maintenance guarantees shall be approved by the city commission.
- 12 Procedure for rezoning to PUD.
- 13 (1) Preapplication stage. A pre-application meeting with the development services director or his/her  
14 designee is required before a PUD rezoning application can be accepted. This meeting is  
15 intended to provide an opportunity for an informational exchange between the applicant and the  
16 planning staff. During this meeting the applicant shall provide a conceptual plan indicating the  
17 layout and land uses within the proposed PUD. No fee shall be charged for this meeting.
- 18 (2) Application stage. The applicant may submit an application package to the development services  
19 department at any time. Applications for PUD rezonings will be reviewed in the order in which  
20 received. The application package shall consist of the following items:
- 21 a. Completed application form;
- 22 b. Application administration fee as approved by the city commission;
- 23 c. Two copies of a plat of survey indicating property boundaries, legal description, acreage,  
24 and limits of the jurisdictional wetlands;
- 25 d. Names and addresses of property owners within 150 feet of the affected property. This  
26 distance shall be measured in an air line at the closest points between two properties;
- 27 e. Certification from landowner of record that applicant has authorization to make application  
28 for the requested zoning action;
- 29 f. Two copies of the traffic impact analysis;
- 30 g. Boundary survey and legal description;
- 31 h. Opinion of title;
- 32 i. Eleven paper copies and one electronic version of the written development agreement; and
- 33 j. Eleven paper sets and one electronic version of the conceptual development plans of the  
34 area to be rezoned at a scale no smaller than one inch equals 200 feet indicating the  
35 following:
- 36 1. Adjoining land uses and zoning classifications;
- 37 2. Locations and dimensions of proposed land uses;
- 38 3. Location of proposed buildings and off-street parking lots;
- 39 4. Density of residential dwellings;
- 40 5. Total acreage and location of open space by type;
- 41 6. Total acreage and location of common open space by type;

- 1                   7. Proposed right-of-way width and layout;
- 2                   8. Proposed front, side, and rear setbacks;
- 3                   9. Locations, dimensions, and contents of buffer areas;
- 4                   10. Locations, dimensions, and types of existing easements;
- 5                   11. Proposed phasing of the development;
- 6                   12. Location of surrounding streets, driveway, rights-of-way, walkways, water courses, and  
7 buildings on adjacent property within 75 feet perpendicular to subject property lines;
- 8                   13. Proposed lot sizes and arrangement;
- 9                   14. Sites for schools;
- 10                  15. Location, width, and approximate depth of waterways within the project site;
- 11                  16. Proposed number of lots by size;
- 12                  17. Existing character of the land (e.g. wooded, marsh);
- 13                  18. Title, date, north arrow, scale and legend;
- 14                  19. Any other additional information requested by development services department or  
15 other reviewing agencies deemed necessary to adequately review the proposal;
- 16                  20. General feasibility plans for potable water, sewage disposal, stormwater drainage, and  
17 solid waste management;
- 18                  21. General plans for stormwater drainage and solid waste management;
- 19                  22. General topography at two-foot contours;
- 20                  23. General soil and vegetation types;
- 21                  24. Natural drainage patterns; and
- 22                  25. List of threatened or endangered species.
- 23                  k. Such additional materials, maps, studies, or reports subsequently deemed necessary by any  
24 reviewing department or agency.
- 25                  (3) Written development agreement. A written development agreement shall be prepared by the  
26 developer or his/her authorized representative. The contents of the development agreement shall  
27 conform to the conditions of approval of the city commission. The development agreement, along  
28 with the conceptual development plan, shall govern the development of the PUD and shall  
29 regulate the future use of the land. However, site plan and/or platting of subdivided land shall also  
30 be required prior to developing any land. The development agreement shall include the following:
  - 31                   a. Evidence of unified ownership and control;
  - 32                   b. Statement agreeing to:
    - 33                       1. Proceed with the proposed development according to all regulations;
    - 34                       2. Provide appropriate performance and maintenance guarantees; and
    - 35                       3. Follow all other provisions of this ordinance to the extent not expressly inconsistent with  
36 the master planned unit development agreement, and bind the applicant's successors  
37 in title to his commitments;
  - 38                   c. The acreage and percentage of total land area devoted to each of the proposed land uses;
  - 39                   d. Maximum density for each type of dwelling;
  - 40                   e. Maximum building heights;

- 1 f. Minimum building spacing and floor areas;
- 2 g. Lot sizes, yard areas, percentage of interior landscaping in the parking lot and buffer areas,  
3 including perimeter buffers;
- 4 h. Statement regarding the disposition of sewage and stormwater, and arrangements for  
5 potable water;
- 6 i. When the PUD is planned for phase development, a schedule of the phases;
- 7 j. The proposed language of any covenants, easements, or other restrictions;
- 8 k. Any additional information or statements subsequently deemed necessary by any reviewing  
9 department or agency;
- 10 l. A copy of the conceptual development plan as an appendix.
- 11 (4) Review procedure.
- 12 a. Staff review. The plan review committee (PRC) members shall review the proposed rezoning  
13 to PUD upon receipt of a completed application package. The PRC members shall review  
14 the application at a regularly scheduled meeting. At the PRC meeting, the PRC members  
15 shall provide the applicant with written and verbal comments about the written development  
16 agreement and conceptual development plan, including any actions required to conform the  
17 plan to city code and any actions that might be taken to improve the quality of the proposed  
18 development.
- 19 b. Proposal revisions. After receiving comments from the plan review committee, the applicant  
20 shall then revise the proposed agreement and support documents and submit revised  
21 documents to the development services department. The PRC members shall review the  
22 revised documents to ensure that all comments have been addressed. If all of the comments  
23 have not been addressed, staff shall submit a list of remaining outstanding comments to the  
24 applicant. The applicant shall then revise the agreement to address all staff comments.
- 25 If all comments have been addressed, the item shall be scheduled for the next available  
26 planning and zoning board meeting. Development services staff shall then prepare a written  
27 report and recommendation to the planning and zoning board. Said recommendation shall  
28 be either denial, approval, or approval with conditions.
- 29 c. Planning and zoning board review. Upon receipt of the development services department  
30 staff recommendation, the planning and zoning board, at a regularly scheduled meeting,  
31 shall review and make a recommendation to the city commission pertaining to the proposed  
32 zone change. Said recommendation shall be either denial, approval, or approval with  
33 conditions.
- 34 d. City commission review. Upon receipt of the planning and zoning board recommendation,  
35 the city commission, at a regularly scheduled meeting, shall review and either deny, approve,  
36 or approve with conditions, the proposed zone change.
- 37 Should the city commission deny the request, the developer shall not pursue developing the  
38 subject property in the proposed manner for a minimum of one calendar year. Should the  
39 city commission approve the zone change, the official zoning map shall then be changed to  
40 reflect the rezoning and the developer may proceed with subdivision or site plan review.  
41 Should the city commission approve the zone change with conditions, the official zoning map  
42 change and subdivision or site plan review can commence once the conditions have been  
43 met.
- 44 All planned unit developments shall be approved by the city commission by ordinance  
45 approving the PUD in the same manner as required for a rezoning and in accordance with  
46 the procedures set forth in this section.

- 1 e. Subdivision and/or site plan review. No property zoned PUD shall be developed without site  
2 plan and/or subdivision review and approval with the exception of developing single-family  
3 and two-family dwellings on individual lots previously and properly subdivided. An applicant  
4 may request a PUD rezoning concurrently with subdivision and/or site plan review and  
5 approval. Should an applicant request concurrent PUD rezoning and subdivision and/or site  
6 plan review and approval, the site plan and/or subdivision, which obtains final approval by  
7 the planning and zoning board, is automatically made contingent upon any conditions the  
8 city commission makes. The applicant hereby assumes the risk of receiving concurrent PUD  
9 rezoning approval and subdivision and/or site plan approval. All site plans and subdivisions  
10 must be consistent with approved PUD rezonings.
- 11 f. Amendments to PUD site plans and subdivision proposals after PUD rezoning approval. No  
12 site plan or subdivision may deviate from approved PUD rezoning without another  
13 development services department staff and planning and zoning board review and  
14 recommendation and city commission review and approval. An exception to the above is  
15 minor changes such as the location of buildings, drainage systems, and parking lots, and  
16 the lowering of densities, intensities and impacts of the development may be approved by  
17 the planning and zoning board during subdivision or site plan review and approval.
- 18 g. Issuing building permits. Building permits shall be issued on any PUD zoned land with an  
19 approved site plan or subdivision and a certificate of zoning prior to the beginning of  
20 construction.
- 21 (5) Non-delegation of police powers and legislative authority.
- 22 a. The entry into a master planned unit development (PUD) development agreement  
23 (MDA) by the city shall in no way whatsoever limit or modify any legislative power by  
24 the city to adopt ordinances, resolutions, regulations, or to make executive,  
25 administrative or legislative decisions of any kind which it had the power to make prior  
26 to the entry of such master planned unit development (PUD).
- 27 b. The submission of a request for consideration of a master planned unit development  
28 (PUD) development agreement (MDA), the city commission's willingness to pursue  
29 discussions, the resultant negotiations regarding a master planned unit development  
30 (PUD) development agreement (MDA), the payment of any application fees for the  
31 submission of any applications, engineering plans, surveys, and any other expenditures  
32 or efforts in prosecution of the master planned unit development (PUD) development  
33 agreement (MDA) provided for herein by a parcel of land owner, shall not vest any rights  
34 whatsoever in any zoning or land use designation in such parcel of land owner, or other  
35 individual, nor shall it in any manner whatsoever limit the city commission from  
36 undertaking any zoning or land use plan amendments that it would otherwise legally be  
37 entitled to undertake.
- 38 c. To the extent that any provision of any development agreement shall be inconsistent  
39 with the city's vested right's ordinance, the city's vested rights ordinance shall control  
40 over the inconsistent provision in the development agreement. See, New Smyrna  
41 Beach, Fla., Ordinance 36-96 (January 8, 1997).
- 42 d. To the extent that any provision of any development agreement shall be inconsistent  
43 with the city's adopted comprehensive plan that was in force at the time the  
44 development agreement was approved, the city's adopted comprehensive plan that was  
45 in force at the time the development agreement was approved shall control over the  
46 inconsistent provision in the development agreement.
- 47 e. The city shall take into account before approving any amendment to any development  
48 agreement any and all changes in conditions that have occurred on the subject property  
49 and surrounding area between the time the agreement was first approved and time the

ZT-1-16 LDR AMENDMENT – MU B-3 B-4 PUD ZONING DISTRICTS  
PLANNING AND ZONING BOARD/LPA  
FEBRUARY 1, 2015

EXHIBIT A

1 amendment has been requested. See generally, City of New Smyrna Beach v. Andover  
2 Development Corp., 672 So.2d 618 (5th DCA 1996).

3

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
2 **ZT-3-16: LDR AMENDMENT – WETLAND BUFFER**  
3 **REGULATIONS**  
4 **FEBRUARY 1, 2016**

---

5  
6 **I. Background**

- 7  
8 A. **Applicant:** James Stowers Esq., 424 Luna Bella Lane, Unit 122, New  
9 Smyrna Beach, Florida 32168  
10  
11 B. **Request:** Approval of amendments to the City's *Land Development*  
12 *Regulations*, Section 701.11 (A), regarding requirements related to wetland  
13 buffers.  
14

15 **II. Findings**

- 16  
17 A. The applicant has requested a text amendment to the City *Land*  
18 *Development Regulation*, Section 701.11 (A), which will modify the current  
19 requirement for a minimum wetland buffer of 25 feet wide to permit instead  
20 an average wetland buffer of 25 feet wide and a minimum of 15 feet wide,  
21 in order to be consistent with State of Florida, St Johns River Water  
22 Management District upland buffer regulations.  
23  
24 B. The LDR currently requires a minimum upland buffer of 25 feet from any  
25 wetland line flagged on a wetland survey. This buffer was set in place to  
26 protect any current wetlands on a property by creating a 25 foot buffer to  
27 filter the wetlands. Staff has attached the proposed change in the text with  
28 underlines are additions and deletions are struck through as **Exhibit A**. A  
29 clean copy of the proposed Zoning Text amendment is attached as **Exhibit**  
30 **B**.  
31  
32 C. The City Engineering Department has reviewed this application to change  
33 the Land Development Regulation Section 701-11 (A), and has submitted  
34 the following Comments:  
35  
36 1. Review of the reduced minimum wetland buffer depth of 15' –  
37 perpendicular to the wetland line this practice is indeed accepted and  
38 defined within St. Johns River Water Management Handbook as well  
39 as FAC/FAR Chapter 62-330. The State's Regulatory Scientists and  
40 Biologists through research and application have found secondary  
41 impacts to the habitat functions of wetlands associated with upland  
42 activities will not be considered adverse if buffers, with a minimum of  
43 15' and an average of 25' are provided abutting those wetlands that  
44 will remain under the permitted design.  
45

ZT-3-16 LDR AMENDMENT – WETLAND BUFFER  
PLANNING AND ZONING BOARD/LPA  
FEBRUARY 1, 2015

- 1                   2. The quality of wetlands being protected may require additional  
2                   plantings (i.e. spartina/cordgrass), fencing or other conservation  
3                   measures when reduced to the minimum width, which will be  
4                   determined on a case by case basis, and will also be subject to State  
5                   regulations.  
6
- 7                   3. The intent of the rule remains to protect the wetlands and surface  
8                   water functions and not simply allow an extended length of 15' along  
9                   platted lots in combination with an extended depth adjacent to a  
10                  common/environmental area (i.e. to acquire an average depth of 25'),  
11                  but to allow the reduced width only where it is reasonable to account  
12                  for a “non-linear” wetland off-set that substantially affects the required  
13                  lot dimensions.  
14
- 15                  4. The Engineering Department understands the need to be pliable and  
16                  certainly have no issues with adopting SJRWMD guidelines as a  
17                  condition of our LDR.  
18

19  
20 **III. Recommendations**

21  
22 Staff recommends **approval** of the proposed changes to the LDR, as shown below.  
23 Underlines are additions and deletions are ~~struck through~~.  
24  
25  
26

# CITY OF NEW SMYRNA BEACH DEVELOPMENT ACTIVITY REPORT

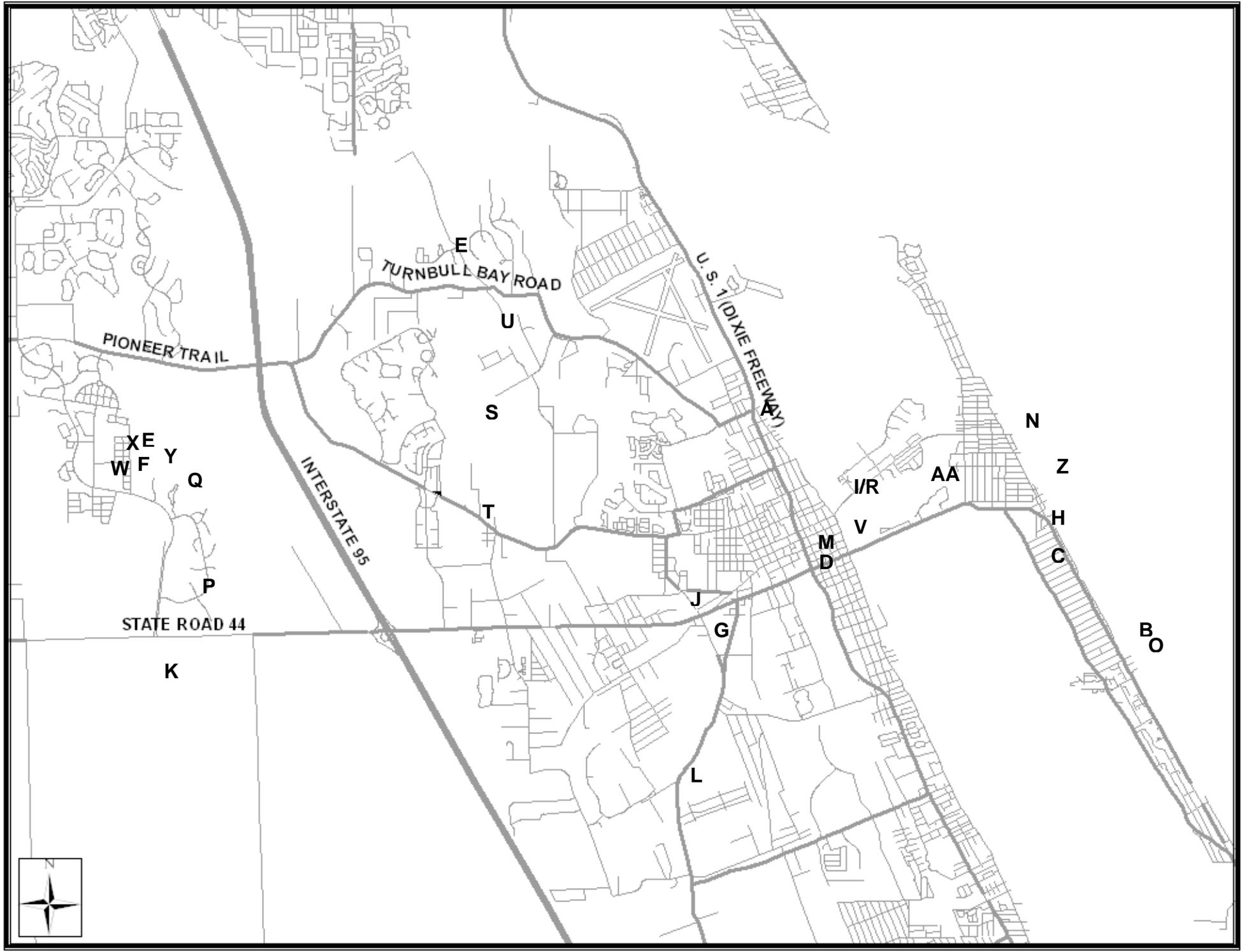


**FEBRUARY 2016**

<http://www.cityofnsb.com/264/Development-Activity-Reports>

## RESIDENTIAL PROJECTS FEBRUARY 2016

- A. Brilliance ALF
- B. Buena Ventura Condominium
- C. Callalisa Creek Vistas, Phases 1 & 2
- D. Concordis ALF
- E. Fountains East Townhomes, Phase 1
- F. Fountains East Townhomes, Phase 2
- G. Grand Oaks Apartments
- H. Hog Eye Camp Road Square PUD
- I. Isola Bella Condo
- J. Kenwood Place PUD
- K. Landmar/South Village
- L. Mission Bay
- M. New Smyrna Beach Housing Authority / Railroad Street
- N. Ocean View Condo Garage
- O. Penthouse Condominium
- P. Portofino Estates, Phase II
- Q. Resplendent
- R. Riverwalk Condo at Coronado Island
- S. Rolling Hills
- T. Sabal Lakes PUD
- U. Sugar Mill Estates II PUD
- V. Tabby House PUD
- W. Venetian Bay Town Center, Building 2
- X. Venetian Bay Town Center Multi-Family
- Y. Verano at Venetian Bay PUD
- Z. Waterford Condominium
- AA. Callalisa Preserve



# RESIDENTIAL DEVELOPMENT PROJECTS

# FEBRUARY 2016

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MAP ID	Project	Location	Description	Status						Vested (Y/N) Vesting Expiration Date	Comments	Case #	PRC Meeting Date	Date Plan/Plat App'd	Plan/Plat Expiration
				Under staff review	App'd site plan/plat	Pre-construction meeting	Under construction	Final inspection	C.O. issued						
A	Brilliance ALF	64j9-699 North Dixie Freeway	40-room, three-story, assisted living facility, with associated infrastructure and landscaping improvements	X	X	X	X			NOT VESTED site plan application expires 11/1/15	PRC meeting held 6/5/15	SP-8-15	06/05/15		
B	Buena Ventura Condominium	southeast of the intersection of East 23rd Avenue and Hill Street	seven-story, 15-unit multi-family residential condominium building containing one level of parking, five levels of habitable space, one story of recreational facilities, a rooftop deck and associated infrastructure improvements	X						NOT VESTED site plan expired 02/02/08	in litigation	SP-2-07	02/02/07		
C	Callalisa Creek Vistas, Phase I and Phases 2A-2C	west side of Saxon Drive, between East 7th Avenue and East 9th Avenue and the north side of East 7th Avenue, east of Saxon Drive	PHASE 1: 7-lot single-family detached subdivision, with associated infrastructure improvements  PHASES 2A and 2B: 18-lot single-family detached subdivision, with associated infrastructure on the west side of Saxon Drive  PHASE 2C: 5-lot single-family detached subdivision on the north side of East 7th Avenue, west of Saxon Drive, with associated infrastructure	X	X	X	X			PHASE I VESTED final plat recorded - no expiration  PHASES 2A-2C NOT VESTED subdivision plat application expires 11/10/15	PHASE I UNDER CONSTRUCTION  PRC meeting for Phase 2A-2C Preliminary and final plats held 3/6/15  second PRC meeting for Phase 2A-2C Preliminary and final plats held 7/10/15	S-1-10 S-3-15	6/4/2010 3/6/2015	04/26/11	N/A
D	Concordis ALF	northeast corner of State Road 44 and South Myrtle Avenue	Two-story assisted living facility and memory treatment facility, containing 115 beds, with associated infrastructure and site improvements	X	X	X	X			VESTED site plan expires 4/10/2017	BUILDING PERMITS UNDER REVIEW	SP-2-15	03/06/15		
E	Fountains East Townhomes, Phase 1	Luna Bella Lane and Gallia Street	55 townhomes, with associated infrastructure and site improvements	X						NOT VESTED preliminary plat, final plat, and site plan applications expire 11/10/15	PRC meeting held 7/10/15 PZ approved site plan 9/15/15	S-6-16 SP-13-15	07/10/2015 07/10/2015		
F	Fountains East Townhomes, Phase 2	south side of Medici Boulevard, east of Luna Bella Lane and west of Gallia Street	26 townhomes, with associated infrastructure and site improvements	X	X					NOT VESTED preliminary plat, final plat, and site plan applications expire 1/4/16	PRC meeting held 9/4/2015	S-8-15	09/04/15		

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<b>G</b>	Grand Oaks Apartments (formerly Lakeview East Apartments)	1800 Vics Way	24-unit multi-family residential units, with associated infrastructure and site improvements	X	X	X	X				<b>VESTED</b> site plan expires 11/14/16	<b>UNDER CONSTRUCTION</b>	SP-7-14	09/05/14	11/15/14	11/14/16
<b>H</b>	Hog Eye Camp Road Square PUD	east and west sides of Saxon Drive, between East 3rd Avenue and East 9th Avenue	34 single-family lots, 150 multi-family residential units and 16,420 SF of commercial space, with associated infrastructure and site improvements	X	X						<b>ZONING APPROVED - NOT VESTED FOR CONCURRENCY</b>	<b>APPROVED</b> applicant has not yet submitted site plan application for multi-family and commercial buildings	PUD-4-09	09/04/09	04/26/11	N/A
<b>I</b>	Isola Bella Condo (NAME CHANGE TO RIVERWALK CONDOS AT CORONADO ISLAND)	north side of the North Causeway, west of Quay Assisi	36 multi-family residential units, clubhouse, and sales building, with associated infrastructure and site improvements	X	X	X	X				<b>VESTED</b> site plan expires 11/30/16	<b>UNDER CONSTRUCTION</b>	SP-20-13	06/06/14	12/01/14	11/30/16
<b>J</b>	Kenwood Place PUD	1964 Jungle Road	rezoning request to allow 72 multi-family senior housing units, with associated infrastructure and site improvements	X							<b>NOT VESTED</b>	PRC meeting held 8/1/14	PUD-5-14	08/01/14		
<b>K</b>	Landmar/South Village PUD	south of State Road 44, west of Interstate 95	1,999 single-family and multi-family units, with associated infrastructure and site improvements	X	X						<b>ZONING APPROVED - NOT VESTED FOR CONCURRENCY</b>	amended and restated MDA approved by City Commission 10/11/11	PUD-02-06 PUD-2-11	N/A N/A	03/21/07	N/A
<b>L</b>	Mission Bay (formerly Peterson Groves)	40 single-family lots with associated infrastructure improvements	north side of Eslinger Road, immediately east of Lake Waterford Estates subdivision and west of Old Mission Road	X	X						<b>NOT VESTED</b>	Sketch plat approved by P/Z 5/1/06	S-02-06 S-12-06	03/31/06 9/1/2006	05/01/06 10/02/06	
<b>M</b>	New Smyrna Beach Housing Authority / Railroad Street	northeast of the intersection of Dimmick Street and Railroad Street	four duplex units in two buildings, and two single-family detached units, with associated infrastructure and site improvements	X	X						<b>VESTED</b> site plan expires 7/15/17	<b>APPROVED</b> building permits under review	SP-7-15	06/05/15	07/15/15	07/15/17
<b>N</b>	Ocean View Condo Garage	207 North Atlantic Avenue	two-story additional to an existing condominium, containing approximately 793 SF of garage area on the first floor; 222 SF of storage area on the second floor and 571 SF of open patio area on the second floor, with associated infrastructure and landscaping improvements	X	X						<b>VESTED</b> site plan expires 7/10/17	<b>APPROVED</b> building permit issued	SP-6-15	04/06/15	07/10/15	07/10/17

# RESIDENTIAL DEVELOPMENT PROJECTS

# FEBRUARY 2016

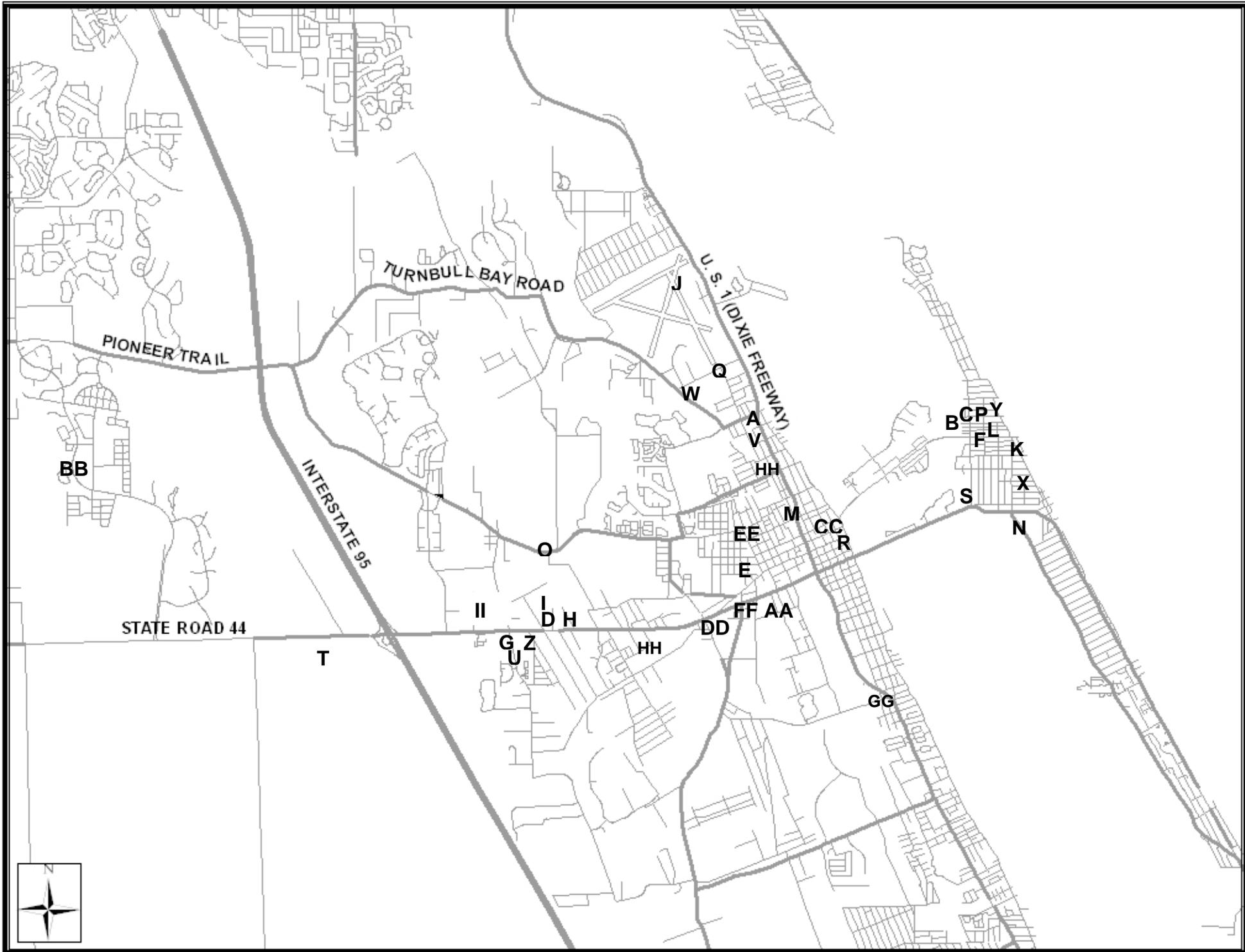
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				Under staff review	App'd site plan/plat	Pre-construction meeting	Under construction	Final inspection	C.O. issued						
O	Penthouse Condominium	east side of South Atlantic Avenue, south of East 24th Avenue	9-story multi-family residential building containing 8 units, with associated infrastructure and site improvements	X							Settlement agreement approved Rezoning approved 4/9/13 Applicant to submit new site plan application	SP-24-07	10/05/07		
P	Portofino Estates, Phase II	east of Airport Road and north of State Road 44	111 single-family residential lots, with associated infrastructure and site improvements	X	X						<b>VESTED</b> final plat approved  final plat approved by City Commission 12/9/2014  City Commission approved easement vacation on 2/10/15	S-1-14	02/07/14		
Q	Resplendent Multi-Family	north of Portofino Boulevard and east of Airport Road, within Venetian Bay	267 multi-family units, with associated infrastructure and site improvements	X							<b>NOT VESTED</b> site plan application expires 2/2/16  PRC meeting scheduled for 10/2/15	SP-19-15	10/02/15		
R	Riverwalk Condos at Coronado Island PUD (NAME CHANGED FROM ISOLA BELLA CONDOS)	north side of the North Causeway, west of Quay Assisi	36 multi-family residential units, clubhouse, and sales building, with associated infrastructure and site improvements	X	X	X	X				<b>VESTED</b> site plan expires 11/30/2016  <b>UNDER CONSTRUCTION</b>  PUD rezoning request reviewed at 2/6/15 PRC meeting  PUD reviewed at 7/6/15 PZ meeting	SP-20-13 PUD-2-15	6/6/2014 2/6/2015	12/01/14	11/30/16
S	Rolling Hills	south side of Mooneyham Drive, southwest of the intersection of Mooneyham Drive and Williams Road	102 single-family lots, with associated infrastructure improvements	X	X						<b>NOT VESTED</b>  PRC meeting held 1/3/14 for MDA  P/Z approved sketch plat 1/9/06 - applicant has not submitted preliminary plat application	PUD-7-13	01/03/14		
T	Sabal Lakes PUD	south side of Pioneer Trail, east of Sugar Mill Drive	196 single-family lots, on 87.57 acres, with associated infrastructure improvements	X	X	X	X				<b>VESTED</b>  <b>UNDER CONSTRUCTION</b>	S-2-15	02/06/15		
U	Sugar Mill Estates II PUD	south of Turnbull Bay Road, west of Tionia Road	PUD rezoning to allow up to 104 single-family residences or 170 multi-family unit, with associated infrastructure and site improvements	X	X						<b>ZONING APPROVED</b> - <b>NOT VESTED FOR CONCURRENCY</b>  <b>APPROVED</b> City Commission approved on 1/11/11 - applicant has not yet submitted for plat review	PUD-1-09	04/03/09	01/11/11	N/A

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				Under staff review	App'd site plan/plat	Pre-construction meeting	Under construction	Final inspection	C.O. issued						
V	Tabby House PUD	south side of Julia Street, between Sams Avenue and Faulkner Street	PUD rezoning and preliminary plat to 18 single-family detached homes, with associated infrastructure and site improvements	X	X	X	X			<b>VESTED</b> final plat approved, not recorded	<b>UNDER CONSTRUCTION</b>	PUD-8-14 S-4-14 S-1-15	10/3/2014 11/7/2014 2/6/2015	12/09/14	
W	Venetian Bay Town Center, Building 2	northeast of Airport Road, south of Pioneer Trail, north of State Road 44	78 multi-family units in a 4-story mixed-use building	X	X	X	X			<b>VESTED</b> Phase I completed - no expiration	Beach Club portion built. No permits issued for mixed use building	SP-3-06	N/A		
X	Venetian Bay Town Center Multi-Family	northeast and southeast of the intersection of Luna Bella Lane and Medici Boulevard	144 multi-family units in two or more phases, with associated infrastructure and site improvements	X	X					<b>VESTED</b> site plan expires 7/16/17	<b>APPROVED</b> applicant has not yet submitted for building permits	SP-4-15	04/03/15	07/16/15	07/16/17
Y	Verano at Venetian Bay PUD	east side of Medici Boulevard, south of Pioneer Trail and north of State Road 44	final plat for 191-lot single-family subdivision, with associated infrastructure and site improvements	X	X	X				<b>NOT VESTED</b>	PRC meeting held 3/6/2015  1st amendment to Verano PUD MDA scheduled for 6/1/15 PZ meeting	S-4-15	03/06/15		
Z	Waterford Condominium (formerly Vizcaya Condo and Barcelona Condo-Hotel)	807 South Atlantic Avenue	19 multi-family units with associated site improvements and parking	X	X	X	X			<b>VESTED</b> under construction - site plan and building permit expire 12/31/14	under construction - last inspection 7/30/13; site plan change order approved 8/5/13; building permit extended to 6/30/15	SP-7-05			
AA	Callalisa Preserve	East side of North Pensinsula Avenue north of 3rd Avenue	5 Single-family units and 3 Duplex units	X	X							S-9-15	11/13/2015		



**NON-RESIDENTIAL PROJECTS  
FEBRUARY 2016**

- A. 1014 Faulkner Street
- B. 204 Flagler Avenue Restaurant
- C. 314 Flagler Avenue
- D. ALDI Supermarket
- E. Canal Street Professional Offices
- F. Chug-a-Mug
- G. Circle K
- H. Colony Park Offices
- I. Colony Park Place
- J. DC-7 Grille
- K. Flagler Avenue Lifeguard Station
- L. Flagler Tavern Expansion
- M. Gulfstream Glass
- N. Hog Eye Camp Road Square PUD
- O. Holland Park
- P. Jewelry of Joy
- Q. New Smyrna Beach Chrysler Addition
- R. New Smyrna Beach Civic Center
- S. Norwood's Tiki Hut
- T. Ocean Gate Commerce Center PUD
- U. Ocean Way Village PUD
- V. PPPC of Volusia Parking Lot
- W. Ram-Air Expansion
- X. South Atlantic Beach Park
- Y. SpringHill Suites PUD
- Z. Timberlane Retail PUD
- AA. Utilities Commission Storage Building
- BB. Venetian Bay Town Center, Building 2
- CC. VOTRAN Transfer Station
- DD. Wawa PUD
- EE. Wynn Funeral Home
- FF. WaWa
- GG. St. Paul's Episcopal Church Parking Lot
- HH. Autozone
- II. New Smyrna Chrysler / Dodge / Jeep / Ram - new location

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				Under staff review	Approved site plan/pla	Pre-con meeting	Under construction	Final inspection	C.O. issued						
A	1014 Faulkner Street Temporary Parking Lot	1014 Faulkner Street	Temporary shell parking lot, containing 8 parking spaces, with associated infrastructure and landscaping improvements	X	X					VESTED site plan expires 10/16/15	APPROVED applicant has not yet submitted for building permits	SP-10-13	09/06/13	10/17/13	10/16/15
B	204 Flagler Avenue Restaurant	204 Flagler Avenue	612 SF addition for outdoor seating to convert an existing office and former coffee shop to a restaurant	X	X	X	X			VESTED Phase 1 completed no expiration for site plan	PHASE 1 COMPLETED  PHASE 2 UNDER CONSTRUCTION	SP-2-14	03/07/14	05/07/14	05/06/16
C	314 Flagler Avenue	314 Flagler Avenue	2,575 SF retail building, with two residential units on the second floor, with associated infrastructure and site improvements	X						NOT VESTED site plan application expires 12/7/2015	PRC meeting held 8/7/2015	SP-15-15	08/07/15		
D	ALDI Supermarket	2335 State Road 44	17,018 SF grocery store, with associated infrastructure and landscaping improvements	X	X					VESTED site plan expires 9/1/2017	APPROVED building permits ready to be issued	SP-17-14	1/9/2015 4/6/2015	09/01/15	09/01/17
E	Canal Street Professional Offices	northeast corner of Canal Street and North Duss Street	4,006 SF and 3,522 SF office buildings, with associated parking, landscaping and infrastructure improvements	X	X					VESTED site plan expires 2/13/16	APPROVED applicant has not yet submitted for building permits	SP-18-13	01/03/14	02/14/14	02/13/16
F	Chug-a-Mug	300 Jessamine Avenue	renovation of an existing 297 SF building and construction of a new 1,600 SF aluminum canopy for use as a restaurant and bar, with associated infrastructure and site improvements	X	X	X	X			VESTED site plan expires 12/23/16	UNDER CONSTRUCTION	SP-14-14	11/07/14	12/23/14	12/23/16
G	Circle K	southeast of the intersection of State Road 44 and South Glencoe Road	4,400 SF convenience store with gas pumps, with associated infrastructure and site improvements	X						NOT VESTED site plan application expires 12/7/2015	PRC meeting held 8/7/2015 second PRC meeting scheduled for 10/2/15	SP-14-15	8/7/2015 10/2/2015		
H	Colony Park Offices	151 Colony Park Road	4,785 SF and 5,915 SF office buildings, with associated infrastructure and site improvements	X	X	X	X			VESTED site plan expires 6/26/16	UNDER CONSTRUCTION	SP-19-13	1/3/2014 06/06/2014	06/27/14	06/26/16

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				Under staff review	Approved site plan/pla	Pre-con meeting	Under construction	Final inspection	C.O. issued							
I	Colony Park Place	northeast of the intersection of State Road 44 and Colony Park Road	three-lot commercial subdivision with associated infrastructure and site improvements	X	X						<b>VESTED</b> final plat expires 8/25/17	<b>APPROVED</b>	S-5-15	04/06/15	08/25/15	02/25/17
J	D-C7 Grille	west side of U.S. 1, north of Industrial Park Avenue, on Aero Circle	conversion of a D-C7 airplane to a 26-seat, 2,250 SF restaurant, with associated infrastructure and site improvements	X							<b>NOT VESTED</b> site plan application expires 12/7/2015	PRC meeting held 8/7/2015	SP-6-13 SP-16-15	6/7/2013 8/7/2015	07/09/13	07/18/15
K	Flagler Avenue Lifeguard Station	east of South Atlantic Avenue in the Columbus Avenue right-of-way	1,900 SF lifeguard station, with associated infrastructure and landscaping improvements	X	X						<b>VESTED</b> site plan expires 1/13/16	<b>APPROVED</b> applicant has not yet submitted for building permits	SP-4-13	04/05/13	01/14/14	01/13/16
L	Flagler Tavern Expansion	414 Flagler Avenue	338 SF elevated first floor wood deck and porch expansion; conversion of second floor to bar; new 623 SF second story covered porch, with associated infrastructure and site improvements	X	X	X	X				<b>VESTED</b> site plan expires 12/29/16	<b>UNDER CONSTRUCTION</b>	SP-10-14	10/03/14	12/29/14	12/29/16
M	Gulfstream Glass	312 North Orange Street	8,611 SF warehouse and office building, with associated infrastructure and site improvements	X	X						<b>VESTED</b> site plan expires 2/12/17	<b>APPROVED</b> applicant has not yet submitted for building permits	SP-11-14	11/07/14	02/13/15	02/12/17
N	Hog Eye Camp Road Square PUD	east and west sides of Saxon Drive, between East 3rd Avenue and East 9th Avenue	34 single-family lots, 150 multi-family residential units and 16,420 SF of commercial space, with associated infrastructure and site improvements	X	X						<b>ZONNG APPROVED - NOT VESTED FOR CONCURRENCY</b>	<b>APPROVED</b> applicant has not yet submitted for site plan approval	PUD-4-09	09/04/09	04/26/11	N/A
O	Holland Park	south of Pioneer Trail and east of Otter Boulevard	40-acre municipal park, with associated infrastructure and site improvements	X							<b>NOT VESTED</b> site plan application expires 11/10/15	PRC meeting held 7/17/2015	SP-11-15	7/17/2015 & 01-08-2016		
P	Jewelry of Joy	406 Flagler Avenue	4,308 SF two-story retail building with a second floor residence and associated site improvements	X	X	X	X				<b>VESTED</b> site plan expires 4/10/17	<b>UNDER CONSTRUCTION</b>	SP-1-15	03/06/15	04/10/15	04/10/17

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Q	New Smyrna Beach Chrysler Expansion	1300 North Dixie Freeway	18,865 SF automobile dealership expansion, with associated infrastructure and landscaping improvements	X							NOT VESTED site plan application expires 11/10/15	PRC meeting held 7/10/15	SP-12-15	07/10/15		
R	New Smyrna Beach Civic Center	105 South Riverside Drive	demolition of existing Brannon Center and construction of a 13,900 SF civic center, with associated infrastructure and site improvements	X	X	X	X				VESTED site plan expires 4/14/17	UNDER CONSTRUCTION	SP-15-14	12/05/14	04/14/15	04/14/17
S	Norwood's Tiki Hut	400 East 3rd Avenue	884 SF tiki hut, with associated site improvements	X	X	X	X				VESTED site plan expires 8/18/16	UNDER CONSTRUCTION	SP-5-14	06/06/14	08/19/14	08/18/16
T	Ocean Gate Commerce Center PUD	southwest quadrant of Interstate 95 and State Road 44	PUD rezoning for 188 acres, to allow approximately 975,000 SF of commercial and industrial uses	X	X						ZONING APPROVED - NOT VESTED FOR CONCURRENCY	APPROVED applicant has not yet submitted for building permits	PUD-3-12	09/07/12		
U	Ocean Way Village PUD Preliminary and Final Plats	southeast quadrant of State Road 44 and South Glencoe Road	subdivision plat to create 6 commercial lots, with associated infrastructure improvements	X	X						NOT VESTED subdivision plat applications expire 01/04/2016	PRC meeting for subdivision plat held 9/4/2015	PUD-9-14 S-7-15	10/3/2014 09/04/2015		
V	PPPC of Volusia, LLC Parking Lot	1055 North Dixie Freeway	40-space parking lot to serve an existing medical building, with associated infrastructure, landscaping and site improvements	X							NOT VESTED site plan application expires 11/1/15	PRC meeting held 6/5/15	SP-9-15	06/05/15		
W	Ram-Air Expansion	1236 Turnbull Bay Road	4,500 SF addition to existing industrial building, with associated infrastructure and landscaping improvements	X	X						VESTED site plan expires 10/29/15	APPROVED applicant has not yet submitted for building permits	SP-13-13	10/04/13	10/30/13	10/29/15

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X	South Atlantic Beach Park	east side of South Atlantic Avenue, north of Lazy Sago Lane	70 off-beach parking facilities, restroom facilities, and associated infrastructure and landscaping improvements	X							NOT VESTED site plan application expires 11/10/15	PRC meeting held 7/17/2015 PZ approved site plan 09/15/2015	SP-10-15	07/17/15		
Y	SpringHill Suites PUD	east side of North Atlantic Avenue, south of Esther Street and north of Flagler Avenue	PUD rezoning and site plan to allow construction of a 146-room hotel, with associated infrastructure and site improvements	X	X						NOT VESTED site plan application expires 8/4/15	PRC meeting held 4/3/15 PRC meeting held 6/5/15	PUD-7-14 SP-9-14 SP-3-15	10/3/2014 4/3/2015 6/5/15		
Z	Timberlane Retail PUD	southwest corner of State Road 44 and Timberlane Drive	PUD rezoning to subdivide the property into three commercial lots, with associated infrastructure and site improvements	X							NOT VESTED	PRC meeting held 9/4/2015	PUD-8-15	09/04/15		
AA	Utilities Commission Storage Building	350 Slatton Street	3,360 SF storage building with associated infrastructure and site improvements	X	X						VESTED site plan expires 5/14/17	APPROVED applicant has not yet submitted for building permits	SP-5-15	04/03/15	05/14/15	05/14/17
BB	Venetian Bay Town Center, Building 2	east side of Airport Road, between Pioneer Trail and State Road 44	four-story mixed-use building containing approximately 51,333 square feet of commercial space on the first floor	X	X	X	X				VESTED under construction - no expiration	Beach Club portion built. No permits issued for mixed use building	SP-3-06	02/03/06	04/03/06	N/A
CC	VOTRAN Transfer Station	east side of Airport Road, between Pioneer Trail and State Road 44	construct two new bus stop shelts and 20 parking spaces, with associated infrastructure and site improvements	X	X						VESTED site plan expires 7/27/17	APPROVED applicant has not yet submitted for building permits	SP-12-14	11/07/14		
DD	Wawa PUD	southeast of the intersection of State Road 44 and Mission Road	PUD rezoning to allow construction of a convenience store with gas pumps	X	X						NOT VESTED	PRC meeting held 9/4/2015	PUD-7-15	09/04/15		
EE	Wynn Funeral Home	520 Washington Street	renovation of an existing funeral home, with associated infrastructure and site improvemetns	X	X						VESTED site plan expires 3/17/17	APPROVED applicant has not yet submitted for building permits	SP-13-14	11/07/14		
FF	WaWa Site Plan	southeast of the intersection of State Road 44 and Mission Road	construction of a convenience store with gas pumps	X									SP-21-15	11/13/2015		



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.

11

## 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
- 18 a. Class III site plans; class II site plans when referred to by the  
19 city planner or the applicant;
- 20
- 21 b. Appeals for a variance from the requirements of the Land  
22 Development Regulations, where owing to special  
23 conditions, the literal enforcement of the provisions of the  
24 Land Development Regulations would result in unnecessary  
25 hardship.
- 26
- 27 (2) Review and make recommendations to the City Commission on:
- 28
- 29 a. Rezoning requests;
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- 31 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  
8  
9 Date Fourth Amended: December 8, 1986  
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11 Date Fifth Amended: January 9, 1989  
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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