



City of New Smyrna Beach

February 25, 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, March 7, 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 February 1, 2016
Special Meetings of February 4, 2016 and February 25, 2016

PUBLIC PARTICIPATION

OLD BUSINESS

None

NEW BUSINESS

A. A-9-16: 1959 SR 44 / 105 FRAN DRIVE / 109 FRAN DRIVE / 242 OAK LANE / 2576 SELLECK AVENUE / 2586 SELLECK AVENUE

- 1) Steve Sather, 806 14th Avenue, New Smyrna Beach, Florida 32169, applicant for Douglas C. Bowdoin, 255 South Orange Avenue, Orlando, Florida 32801, property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County Commercial, to City Commercial, and rezoning from Volusia County B-4, General Commercial and B-2, Neighborhood Commercial to City B-3, Highway Business District. The subject property consists of approximately 0.60 acres, and is generally located north of SR 44 and west of Eddie Road at 1959 SR 44. (VCPA# 7343-02-02-0020)
- 2) Steve Sather, 806 14th Avenue, New Smyrna Beach, Florida 32169, applicant for Bourne Management LLC, 1520 Livingston Street, Orlando, Florida 32803, property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia UMI, Urban Medium Intensity, to City MDR, Medium Density Residential, and rezoning from Volusia County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property consists of approximately 0.25 acres, and is generally

located north of SR 44 and west of Eddie Road at 105 Fran Drive. (VCPA# 7343-02-02-0070)

- 3) Steve Sather, 806 14th Avenue, New Smyrna Beach, Florida 32169, applicant for Bourne Management LLC, 1520 Livingston Street, Orlando, Florida 32803, property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia UMI, Urban Medium Intensity, to City MDR, Medium Density Residential, and rezoning from Volusia County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property consists of approximately 0.25 acres, and is generally located north of SR 44 and west of Eddie Road at 109 Fran Drive. (VCPA# 7343-02-02-0080)
- 4) Harry Kinney, 242 Oak Lane, New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia ULI, Urban Low Intensity, to City LDR, Low Density Residential, and rezoning from Volusia County A-3, Transitional Agriculture to City A-3, Transitional Agriculture. The subject property consists of approximately 10 acres, and is generally located north of SR 44 and east of I-95 at 242 Oak Lane. (VCPA# 7322-00-00-0120)
- 5) Norbert & Tammy Schroeder, 2576 Selleck Avenue, New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia ULI, Urban Low Intensity, to City LDR, Low Density Residential, and rezoning from Volusia County R-3, Urban Single-Family Residential to City R-3CO, Urban Single-Family Residential. The subject property consists of approximately 0.85 acres, and is generally located north of SR 44 and east of I-95 at 2576 Selleck Avenue. (VCPA# 7323-02-01-0090)
- 6) Norbert & Tammy Schroeder, 2576 Selleck Avenue, New Smyrna Beach, Florida 32168, applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia ULI, Urban Low Intensity, to City LDR, Low Density Residential, and rezoning from Volusia County R-3, Urban Single-Family Residential to City R-3CO, Urban Single-Family Residential. The subject property consists of approximately 0.69 acres, and is generally located north of SR 44 and east of I-95 at 2586 Selleck Avenue. (VCPA# 7323-02-01-0011)

B. V-6-16: 313 JESSAMINE AVE / FERNANDEZ

David Fernandez, 317 Flagler Ave, New Smyrna Beach, FL 32169, requests approval of a variance to increase the maximum permitted driveway width from 30 feet to 69 feet.

The subject property is zoned R-3A Single-Family and Two-Family (Zero Lot Line) Residential, consists of approximately 0.17 acres, and is generally located south of Jessamine Avenue and east of Pine Street, and is addressed as 313 Jessamine Ave. (VCPA # 7409-06-02-0130)

C. PUD-10-15 1ST AMENDMENT TO PUD ORDINANCE # 108-06 (PUD-4-06 / RUBIN / EAST & WEST ACTIVITY CENTER) - FOR EAST SIDE ONLY

James Stowers, Esquire, 424 Luna Bella Lane, New Smyrna Beach, Florida 32168, legal representative of the property owner, Geosam Capital US (Venetian Bay) LP, 424 Luna Bella Lane, New Smyrna Beach, Florida 32168, requests approval of amendments to an existing Planned Unit Development (PUD) Master Development Agreement (MDA)

established in 2006, as City Ordinance # 108-06, for modifications within the east area only, for:

- 1) Extension of the MDA term life to perpetuity,
- 2) Allowing for new permitted uses of excavations and communication towers,
- 3) Removing the existing requirement for a multi-purpose trail,
- 4) Modifying signage requirements for an existing billboard to remain in place, from its current requirement for it to be removed in 2014.

The subject property consists of approximately 25 acres and is generally located north of State Road 44 and fronting on the east side of Interstate 95. (VCPA PID # 7322-00-00-0040)

D. PUD-1-16: NEW SMYRNA BEACH CHRYSLER-PLYMOUTH-JEEP-RAM / STORCH

Glenn D. Storch, 420 South Nova Road, Daytona Beach, FL 32114, applicant on behalf of property owner Mitchell Equity Group LLLP, P O Box 2180, New Smyrna Beach, Florida 32170, requests rezoning from Volusia County A-3, Transitional Agriculture (C-Thoroughfare Overlay Zone), to City PUD, Planned Unit Development, and approval of the New Smyrna Beach Chrysler-Plymouth-Jeep-RAM PUD Master Development Agreement (MDA) & Conceptual Development Plan (CDP). The subject property consists of approximately 12.0 acres and is generally located at the northwest corner of SR-44 and North Glencoe Road. (VCPA # 7323-02-01-0080, eastern and major portion of parcel)

COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

REPORTS AND COMMUNICATIONS BY THE STAFF

- March 2016 Development Activity Report

ADJOURNMENT

Respectfully,

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

LPA / PLANNING AND ZONING BOARD
MINUTES
FEBRUARY 25, 2016

The Local Planning Agency / Planning and Zoning Board held a regular meeting on Thursday, February 25, 2016 in the City Commission Chambers, 210 Sams Avenue, New Smyrna Beach, Florida. Chairperson Steven Casserly called the meeting to order at 6:30p.m.

ROLL CALL

The following members were present:

Steven Casserly
Ian Ratliff
Travous Dever
Kelly Azzinaro
Jamie Calkins
Pat Arvidson

Stephen Sather was absent. Also present were Planning and Zoning Manager Amye King; Chief Planner Jeff Gove; Planner Robert Mathen; Planner Steve Bapp; Assistant City Attorney Greg McDole; Board Secretary Tammy Dickerson and members of the public.

PUD-11-15: AUTOZONE PUD / SR 44 & WALKER DRIVE

Glenn D. Storch, 420 South Nova Road, Daytona Beach, FL 32114, applicant on behalf of Auto Zone LLC (Contract Purchaser) and property owners Mary K. Whitehouse, 2248 Grand Ave, Deland FL 32720 and Doyle Kennedy, 2642 Sunset Dr. New Smyrna Beach, FL 32168, requests approval of a PUD Master Development Agreement to accompany an existing site zoning of PUD, Planned Unit Development. The subject property is in the SR 44 Corridor Overlay Zone (COZ), contains approximately 2.12 acres, and is generally located at the southwest corner of State Road (SR) 44 and South Walker Drive, with an existing residence on the property addressed as 124 South Walker Drive. (VCPA # 7343-06-00-0521 and 7343-06-00-0511/portion thereof).

Mr. Gove reviewed staffs' findings and stated that staff recommends the Board recommend to the City Commission to approve the PUD with the condition that all outstanding staff comments be addressed and those remaining Plan Review Committee member signatures be obtained, with this to be completed prior to City Commission review and approval.

Joey Posey, 420 South Nova Road, of Storch and Associates, stated his name then addressed the Board. He handed to the Board conditions that the applicant was willing to do to in order to work with the residents request in the neighborhood. The applicant is willing to add the following conditions to the approval:

1. The applicant will construct a buffer and fence along the south property line in the manner shown on the attached revised plan, including all plant materials;
2. Site access onto Walker Drive shall be restricted to left turn only out of the project. Right turns will not be permitted;
3. Applicant will request the County to allow the placement of a traffic calming raised area (i.e. speed bump) for Walker Drive a location to be selected by the neighborhood. The applicant agrees to pay for the construction of said traffic calming raised area; and
4. The septic tank and drain field shall be constructed pursuant to 2016 State of Florida Department of Health Standards.

Jary Hustead, 166 South Walker Street, stated his name then addressed the Board. He stated that this property is adjacent to his back yard and he is concerned about the runoff water on this property coming on to his property. He stated that he is on a septic tank and we already have problems with stormwater now.

Shaun Swivel, 336 South Walker Drive, stated his name then addressed the Board. He stated that he was concerned about the traffic and not being able to get on to SR44 from Walker Street. He stated that there are a lot other places this development could go on SR44.

Robbie Hollister, 244 South Walker Drive, stated his name then addressed the Board. He stated that he was concerned about this development bringing down the property values in the neighborhood. He is concerned about the stormwater drainage in the area. He stated that there are plenty of areas where this can be developed.

Randy Herman, 108 Esther Street, was sworn in to testify then addressed the Board. He asked why there was a special meeting for this case.

Mr. Gove stated that due to errors in the calendar for submittal dates there wasn't enough time to send out public notices so therefore staff decided to include this case with the special meeting already scheduled due to the city's error on the calendar.

Nancy Hout, 265 South Walker Drive, stated her name then addressed the Board. She stated that she is concerned about how this area will look after Auto Zone comes in and also concerned that this area will start looking like US1 with businesses closing up. She wanted to know if she will be able to still go east and west on SR44 from Walker Drive.

Linda Stagman, 2126 SR44, stated her name then addressed the Board. She stated that her son owned the property at this address. She stated that she was concerned about how the delivery trucks will be accessing the property.

David Hout, 265 South Walker Drive, stated his name then addressed the Board. He stated that the more dirt that is piled in the worse the flooding will get this is the wrong place for this development.

Dennis Muller, 244 South Walker Drive, stated his name then addressed the Board. He stated that there is a creek across the street from this development and with the tides

the water table goes up and down. He asked if anyone had done any studies on the movement of the water during the tide changes. He stated that with them being on a septic tank that will affect the neighbors in the area. He asked what's going to happen if Auto Zone floods out the neighbors. He asked if the lighting will be buffered from the neighbors and what hours will they be operating.

Mr. Husted stated that water is an issue and if we didn't tell you this you wouldn't know about it.

Heather Smith-Knuth, 235 South Walker Drive, stated her name then addressed the Board. She stated that she had to replace her septic drain field a few years ago and to bring it up to code the drain field had to be elevated but it created issues for the neighbors across the street because she is higher now than her neighbors. She stated that the same thing will happen with this project when this is built up higher than the residents in the neighborhood.

Joe Teehan, 2072 Burma Road, stated his name then addressed the Board. He stated that after it rains he has standing water for 2-3 days on his property.

Glenda Snell, 2025 Burma Road, stated her name then addressed the Board. She stated that she has problems with flooding, the traffic issues coming out of Walker Drive on to SR44 already and we all have the same problems in this area.

Steve and Wendy Payne, 144 South Walker, stated her name then addressed the Board. Mr. Payne stated that they are adjacent to this project and they are worried about water coming off the property on to their property. He stated that the attorney for the project told them they were going to build a swale but he didn't know if that would be enough to keep the water off their property. Ms. Payne asked if the property had to sit vacant for a while before it turns commercial that the house has been occupied for a while now and still is occupied.

Mr. Dever stated that if it is zoned commercial it can be changed at any time.

Mr. Hollister stated that zoning is supposed to protect you how many auto part stores do you need in an area.

Chairman Casserly stated that this isn't a zoning case the commercial zoning is already in place on this property. He stated that the resident's issues can be worked out before the project is built.

Mr. Dever stated that this is a highway zoned commercial property and this is inevitable but the Board has to do the best they can do with the proposal that has been brought before them. He stated that the project has to be built at this level it's not a requirement of Auto Zone it's the requirements of other agencies. He stated that he has to trust that St Johns Water Management District (SJWMD) and the city engineer will make sure the water is contained on this property.

Mr. Hout stated that they have to contain their water runoff but they aren't containing the creek water. He asked if they had to put up a retaining wall on the property.

Kyle Ratchford, 2000 Burma Road, stated his name then addressed the Board. He stated that he deals with SJWMD all the time with his job and they don't always get it right. He stated that he is concerned about the property being raised and his property being flooded.

Mr. Posey stated that they are trying to work out any issues with the neighbors that they can. He stated that Mr. Storch has met with several of the neighbors to address their issues. He stated that this is a PUD zoned property and there will be a commercial property there and we are trying to put the best commercial use on the property that can be there. He stated that some of the other issues will need to be addressed by the project engineer. He stated that he will be here after the meeting for any concerns the residents have and want to ask him.

John Nevin, 1916 Crossing Court St Augustine, stated his name then addressed the Board. He stated that we did meet with the public and then modified the plan to include a nice 8-foot tall vinyl fence with lattice on top where we would grow jasmine and bamboo on the one side for the adjacent owner and on the other side would be the required landscaping. He stated that there will be two stormwater systems on the property. He stated that one will be contain the properties run off in the front of the property and the other in the rear of the property which will be for anything we fill on the site and will be dredged to the rear of the property so there won't be a net loss of the flood plain and that is a state law. He stated that we can't fill to the 100 flood plain without compensating on the property it can't flood any worse than it already did but we are not going to fix the flooding issues in the area.

Mr. Ratliff asked at what elevation is the compensating storage on the back of the property now.

Mr. Nevin stated that it is well above the flood plain.

Mr. Ratliff asked if the actual site of the storage is below the flood plain.

Mr. Nevin stated that some of it is above flood plain and some of it is above ground water. He stated that it is going to drain down the swale and in to a bulk head and we are going to create a more defined bulk head so it doesn't drain on to the adjacent property and that is going to connect to our flood plain compensation area so when the creek rises it will collect there.

Mr. Ratliff asked where the swale goes to.

Mr. Nevin stated that it goes to the creek across the street. He stated that Mr. Storch agreed to look in to getting the creek cleaned out due to the garbage and trees that are in it.

Mr. Posey stated that Mr. Storch is going to look in that situation. He stated that we are going to continue to take input and improve the project during the process of site plan approval also.

Mr. Ratliff asked if the land development regulations (LDR) allows an 8 foot fence.

Mr. Gove stated that it does not 6 foot is maximum.

Mr. Posey stated that we will do what the LDR requires.

Mr. Ratliff asked what the status was on the traffic study.

Mr. Gove stated that he thought it was completed, but would need to check on that.

Mr. Ratliff asked if it met all the requirements.

Mr. Gove stated that as far as he knew, it did, but again would need to check with the City's consultant on that.

Ms. Arvidson stated that they said the semi-trucks would be accessing the property from SR44 and then exiting on South Walker and wanted to know if the road was wide enough on South Walker Drive to handle that.

Mr. Gove stated that they have showed by auto turn that it can accommodate a semi-truck leaving the property.

Mr. Nevin stated that we are widening the area up to 24 foot so there will be room for a semi-truck to exit the property.

Ms. Arvidson stated that she had a problem with semi-trucks exiting on a residential road.

Motion by Mr. Dever, seconded by Ms. Azzinaro, to recommend the City Commission approve the requested Planned Unit Development with the condition that all outstanding staff comments be addressed and those remaining Plan Review Committee member signatures be obtained, with this to be completed prior to City Commission review and approval and the following conditions recommended by the applicant as long as they are able to receive approval from Volusia County and the City of New Smyrna Beach:

- 1. The applicant will construct a buffer and fence along the south property line in the manner shown on the attached revised plan, including all plant materials;**
- 2. Site access onto Walker Drive shall be restricted to left turn only out of the project. Right turns will not be permitted;**
- 3. Applicant will request the County to allow the placement of a traffic calming raised area (i.e. speed bump) for Walker Drive a location to be**

- selected by the neighborhood. The applicant agrees to pay for the construction of said traffic calming raised area; and
4. The septic tank and drain field shall be constructed pursuant to 2016 State of Florida Department of Health Standards.

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

WORKSHOP SESSION IMMEDIATELY FOLLOWING SPECIAL MEETING ITEM ABOVE

DISCUSSION AS REQUESTED BY BOARD MEMBERS, concerning:

- PUD (Planned Unit Development zoning),
- COZ (Corridor Overlay Zone regulations), and
- Variances

(LDR sections re above, etc. are provided as separate attachments)

Ms. King stated that staff had some background material for the Board but didn't have plans to do a full presentation because the City Commission would like to have a joint meeting with the Board on these topics.

The Board agreed they would come up with their recommendation and then share it at the joint meeting with the City Commission.

Mr. Bapp discussed background information on the topics.

Ms. King stated that staff prepared 10 years of requested variances for the Board to view the previous requests that were submitted for approval. She then discussed the workshop that the Board had in 2012 that staff had requested changes at that time where no changes were done after the workshop.

Mr. Bapp stated that we did change the build to line after that workshop. He stated that we need to continue with the landscaping buffer, limit the cuts on to SR44 and lot sizes are always a concern also.

Mr. Dever stated that what concerns him is the lack of the ability for the city to work with the developer. He stated that this is what creates the variance requests. He asked how do we create some flexibility for staff and the City Commission to work with a developer so we aren't seeing endless variances up and down SR44. He stated that he thinks that SR44 is over regulated just like it is on US1 and we will continue to have dilapidated buildings just like on US1. He stated that 3rd Avenue is over regulated also.

Mr. Ratliff stated that the Board has only had 9-10 variances over the last 10 years.

Mr. Dever stated that SR44 is just now starting to be developed.

Mr. Calkins asked why can't we rely on staff to make these decisions instead of having the variance requests come before the Board.

Mr. Ratliff asked if it was the same problem every time or are they all different.

Ms. Arvidson stated that her problem is that these developers want to build what they want to build not what the land allows. She stated that she doesn't think that the city is over regulated she thinks that the developer has in their minds they want to build what they want to build and then apply for variances to get it.

Mr. Calkins stated that he isn't saying there shouldn't be any regulations he is saying there should be ranges on the regulations because sometimes it makes sense to deviate from what is required. He stated that each development is unique in its own way. He stated that the Board is more lenient with the criteria than they should be sometimes. He stated that maybe the PUD should be a little bit more lax than it should be rather than go through a variance process every time. He stated that he would like to see less variances request especially the ones that make sense.

Chairman Casserly stated that the COZ was placed in there to have bigger developments on SR44 and there are going to have to be variances for those properties being joined together.

Mr. Dever stated that there have only been a handful of developments on SR44 and they have all needed a variance and there will be more. He stated that we need to look at this so the requests aren't needed every time.

Mr. Calkins stated that the area is changing and when it does regulations need to change.

Chairman Casserly asked what kind of change Mr. Calkins is suggesting.

Mr. Calkins stated that he thought setbacks and more landscaping requirements.

Mr. Ratliff stated that the intent of the COZ is traffic management and to create an attractive entrance in to the city and if those are the goals it has been a miserable failure.

Mr. Dever asked where the failure was at.

Mr. Ratliff stated that we do have a traffic problem on SR44.

Mr. Calkins stated that the traffic problem is created by the people coming from out of town to visit the beach.

Mr. Dever stated that the developments aren't causing the traffic problems.

Mr. Ratliff stated that if something is built it will create more traffic on the road and loosening the regulations isn't going to make it better.

Mr. Dever stated that the only things that looks good on SR44 are these new developments.

Mr. Calkins stated that we have these abandoned buildings on SR44 with no landscaping compared to new developments with landscaping that look good.

Mr. Ratliff stated that some people don't see buildings instead of trees looking better.

Mr. Calkins stated that these people have property rights and it isn't just going to stay green out there.

Mr. Ratliff stated that he agrees with that but we need to be smart about the development that is going there when loosening up the regulations.

Mr. Calkins stated that he didn't believe it should be loosened up just that staff could negotiate some things without a need for a variance.

Ms. Arvidson stated that she was in Port Orange with the landscaping in front of the developments and we have failed miserably with these developments.

Mr. Ratliff stated that our corridor doesn't look good it looks like all the rest of them if we are going to make changes we need to do it intelligently. He stated that we have all these small parcels left and what do you do with those sites.

Mr. Dever stated that we need to give staff the ability to make intelligent decisions instead of the variances requests that are coming before this Board.

Mr. Ratliff stated that we would need to look at it parcel by parcel to see what has the FLU category on it.

Mr. Dever stated that we can't go parcel by parcel there needs to be a PUD which gives staff and the City Commission the flexibility they need to make those decisions.

Mr. Ratliff stated that it needs to be for the smaller parcels that the city is willing to give on this if we can get a real nice landscaping buffer in the COZ and it could be different for the larger parcels.

Ms. King stated that when it comes to non-safety issues there is a small administrative variance that could be written in to the LDR that allows the Planning Manager or City Manager to make the change. She stated that landscaping could be adjusted by 15% and other less significant variances could come through staff for approval. She stated that they would still come before the Planning and Zoning Board but that would get staff a point of negotiation on some issues. She stated that would give the Board more time to deal with the bigger issues. She stated that if the Board agrees staff could look at this and give the Board the percentages that they would recommend.

Chairman Casserly asked if she meant to re-write the LDR.

Ms. King stated that it would reduce the number of variances. She stated that maybe reduce the lot minimum from 2 acres also.

Jack Holcomb, US1, stated his name then addressed the Board. He stated that with the regulations on US1 we couldn't build there so now we migrated to SR44 and his Chevy business has increased by 30%. He stated that there were people wanting to build on US1 but the city was too strict for someone to build there. He stated that he is now moving his Chrysler dealership to SR44 and he will lose 25% on the property due to the restrictions on US1. He stated that the problem is that the city was unwilling to work with developers. He stated that we have an imbalance tax base of what we have with residential and commercial. He stated that it needs to be flexible and we need to hire good people to make it flexible.

Glenn Storch, 420 South Nova Road, stated his name then addressed the Board. He stated that the decision needs to be made on what the city is trying to accomplish and then back away from all the additional things that create an impossibility to get a reasonable use from a property. He stated that we need to look at what the landscaping looks like on SR44 and no one sees the landscaping on the back of the property so it doesn't matter. He stated that we need look at how to create the boulevard for SR44. He stated that is what we should be concentrating on the gateway to our city. He stated that we should be working on creating a landscaping buffer on SR44. He stated that Utilities Commission has created this problem not the developers by making developers take all the landscaping out and then they won't let them replant in those areas on SR44. He stated that we need to look at what accomplishes our goal of the gateway to the City of New Smyrna Beach. He stated that every project on SR44 has needed variances and it doesn't make sense.

James Stowers, Geosam Capital, stated his name then addressed the Board. He stated that the commitment to start these projects financially on top of owner's restrictions it's a challenge. He stated that there are things that occur where you need the flexibility on a piece of property. He stated that you either meet the PUD requirements or you apply for a variance. He stated that there needs to be more flexibility with landscaping and open space because you can't predict what the needs will be for each development. He stated that there definitely is a need with flexibility with the PUD process.

Mr. Herman stated that he agrees that Mr. Holcomb has a commitment to the community but he doesn't have that same faith in all developers and it worries him when the Board talks about loosening up the PUD regulations. He stated that not all the developers coming in to the city are going to have the same commitment to a beautiful SR44. He stated that these developers coming from out of state won't have that commitment. He asked who makes sure the PUD's stick to the commitments they have agreed to. He asked if we are prepared to loosen up the PUD regulations and not have the management to manage that.

Mr. Dever stated that we have really good people on how to control what is being built. He stated that we can give the staff and the City Commission the flexibility to be able to make some changes to see what they want to see on SR44. He stated that he believes the items that are put in to the PUD agreement are enforceable.

Ms. King stated that they are enforceable by the Code Enforcement Department.

Mr. Calkins stated that maybe we should look at being flexible with the build to lines and the landscaping buffers for corridor and transitional zonings and stricter for the zonings that abut different zonings.

Mr. Dever stated that staff needs to be able to have flexibility with the variance request and create percentages for the different zonings and also the non-safety issues.

Mr. Ratliff stated that we need a clear picture of what SR44 needs to look like.

Mr. Mathen stated that the build to line has already changed are we looking for more flexibility there.

Mr. Calkins stated that he forgot that had already been changed.

Mr. Dever stated that all these small parcels don't need to be pushed up on to residential it doesn't have to flow up and down the street.

Mr. Mathen asked if the Board is wanting to reduce the build to line on SR44.

Mr. Dever stated that on some parcels staff needs that flexibility.

Mr. Storch stated that the bigger picture needs to be looked at and why do you need the build to line. He stated that we can do things to encourage consistent landscaping along SR44. He stated that open space needs to be phased out and concentrate on intense landscaping.

Ms. King stated that staff is recommending that we go back to those regulations that were recommended in 2012 and take a look at administrative variances. She stated that we will then look at what is being regulated that isn't for the sake of esthetics, safety, quality of life, character or the charm of New Smyrna Beach. She stated that we can prepare an outline of these regulations and bring them back to the Board at the meeting in April before the joint City Commission and Planning and Zoning workshop in May.

The Board agreed that would work for them.

ADJOURNMENT

With there being no further business, the meeting was adjourned at 8:46pm.

1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING BOARD /
2 LOCAL PLANNING AGENCY

3 A-9-16: 1959 SR 44 / 105 FRAN DRIVE / 109 FRAN
4 DRIVE / 242 OAK LANE / 2576 SELLECK AVENUE /
5 2586 SELLECK AVENUE

6 MARCH 7, 2016

7
8 I. Background

9 A. Applicant and Property Owners:

- 10
- 11 • Steve Sather, 806 14th Avenue, New Smyrna Beach, Florida 32169,
12 Applicant for property owner Douglas C. Bowdoin, 255 South Orange
13 Avenue, Orlando, Florida, 32801
 - 14 • Steve Sather, 806 14th Avenue, New Smyrna Beach, Florida 32169,
15 for property owner Bourne Management LLC, 1520 Livingston Street,
16 Orlando, Florida, 32803
 - 17 • Harry Kinney, 242 Oak Lane, New Smyrna Beach, Florida, 32168
 - 18 • Norbert and Tammy Schroeder, 2576 Selleck Avenue, New Smyrna
19 Beach, Florida 32168

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

- 22 • **From:** Volusia County Future Land Use (FLU) designations of
23 Commercial, UMI, Urban Medium Intensity, and ULI, Urban Low
24 Intensity and Volusia County zoning designations of B-4, General
25 Commercial, B-2, Neighborhood Commercial, R-4, Urban Single-
26 Family Residential, A-3, Transitional Agriculture, and R-3, Urban
27 Single-Family Residential.
- 28 • **To:** City FLU designations of Commercial, MDR, Medium Density
29 Residential, ULI, Urban Low Intensity and City zoning designations
30 of B-3, Highway Service District R-2, Single-Family Residential, A-3,
31 Transitional Agriculture, and R-3CO, Urban Single-Family
32 Residential.

33 C. Site Information:

- 34 • **Size:** 12.64 acres
- 35 • **Location:** Northside of SR 44, west of Eddie Road at 1959 SR 44
36 (0.6 acres), 105 Fran Drive (0.25 acres), 109 Fran Drive (0.25 acres),
37 242 Oak Lane (10 acres), 2576 Selleck Avenue (0.85 acres), and
38 2586 Selleck Avenue (0.69 acres). See **Exhibit A** for a location map.
- 39 • **Tax I.D. Number:** 7343-02-02-0020 & 7343-02-02-0070 & 7343-
40 02-02-0080 & 7322-00-00-0120 & 7323-02-01-0090 & 7323-02-01-
0011

1 **II. Findings**

2
3 A. On April 23, 2013, the City Commission adopted an Interlocal Service
4 Boundary Agreement (ISBA). The ISBA, which is permitted under Chapter
5 171, Part II, Florida Statutes, allows the City to annex any parcels that are
6 within the designated annexation area, even if they are not contiguous to
7 the current municipal boundaries. The agreement, which is between the
8 County of Volusia and the City, was also approved by the County on May
9 2, 2013.

10
11 B. The subject properties are within the annexation area designated in the
12 ISBA. The properties at 105 Fran Drive, 109 Fran Drive, 242 Oak Lane,
13 2576 Selleck Avenue and 2586 Selleck Avenue are developed with single-
14 family residences and associated accessory uses. The property at 1959 SR
15 44 is vacant. An aerial view/map of the subject properties and surrounding
16 area is attached as **Exhibit B**.

17
18 C. The existing Volusia County Future Land Use (FLU) and zoning
19 designations of the subject properties are shown on the following table.
20 Maps showing the surrounding Future Land Use and Zoning designations
21 are attached (as **Exhibits C and D** respectively). The text description of the
22 existing Future Land Use designations for the subject properties are
23 attached as **Exhibit E**. The associated current zoning text descriptions for
24 the subject properties are attached as **Exhibit F**.

25

Property Location	Volusia County FLU Designation	Volusia County Zoning Designation
1959 SR 44	Commercial	B-4, General Commercial & B-2, Neighborhood Commercial
105 Fran Drive	UMI, Urban Medium Intensity	R-4, Urban Single-Family
109 Fran Drive	UMI, Urban Medium Intensity	R-4, Urban Single-Family
242 Oak Lane	ULI, Urban Low Intensity	A-3, Transitional Agriculture
2576 Selleck Avenue	ULI, Urban Low Intensity	R-3, Urban Single-Family
2586 Selleck Avenue	ULI, urban Low Intensity	R-3, Urban Single-Family

26
27
28 D. Existing land use is shown on the map attached as **Exhibit G**. The future
29 land use and zoning designations for those properties surrounding the
30 subject properties are as follows:
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34

PLANNING AND ZONING BOARD/LAND PLANNING AGENCY
A-9-16: 1959 SR 44 / 105 FRAN DRIVE / 109 FRAN DRIVE / 242 OAK LANE / 2576
SELLECK AVENUE / 2586 SELLECK AVENUE
MARCH 7, 2016
www.cityofnsb.com

	North	East	South	West
1959 SR 44				
Future Land Use	County UMI, Urban Medium Intensity	County UMI, Urban Medium Intensity & County Commercial	City Commercial	County Commercial
Existing Land Use	Residential	Commercial	Commercial	Residential
Zoning	County R-4, Urban Single-Family	County B-2, Neighborhood Commercial	City B-5, Planned Shopping Center	County B-4, General Commercial
105 Fran Drive				
Future Land Use	County UMI, Urban Medium Intensity	County UMI, Urban Medium Intensity	County Commercial	County UMI, Urban Medium Intensity
Existing Land Use	Residential	Residential	Vacant	Residential
Zoning	County R-4, Urban Single-Family	County R-4, Urban Single-Family	County B-4, General Commercial & B-2, Neighborhood Commercial	County R-4, Urban Single-Family
109 Fran Drive				
Future Land Use	County UMI, Urban Medium Intensity	County UMI, Urban Medium Intensity	County UMI, Urban Medium Intensity	County UMI, Urban Medium Intensity
Existing Land Use	Residential	Residential	Residential	Residential
Zoning	County R-4, Urban Single-Family	County R-4, Urban Single-Family	County R-4, Urban Single-Family	County R-4, Urban Single-Family
242 Oak Lane				
Future Land Use	County ULI, Urban Low Intensity	County ULI, Urban Low Intensity	County ULI, Urban Low Intensity	County ULI, Urban Low Intensity
Existing Land Use	Vacant	Residential	Residential	Residential
Zoning	County A-3, Transitional Agriculture	County R-4, Urban Single-Family	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture
2576 Selleck Avenue				
Future Land Use	County ULI, Urban Low Intensity	County ULI, Urban Low Intensity	County ULI, Urban Low Intensity	County ULI, Urban Low Intensity
Existing Land Use	Residential	Residential	Residential	Residential

Zoning	R-4, Urban Single-Family	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture
2586 Selleck Avenue				
Future Land Use	County ULI, Urban Low Intensity	County ULI, Urban Low Intensity	County ULI, Urban Low Intensity	County ULI, Urban Low Intensity
Existing Land Use	Residential	Residential	Residential	Residential
Zoning	R-4, Urban Single-Family	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture	County A-3, Transitional Agriculture

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E. The established City Commission policy is that when property is annexed into the City, the City will assign future land use and zoning designations that would be as similar as possible to existing County designations. As discussed above, the existing County FLU designations are Commercial, UMI, Urban Medium Intensity, and ULI, Urban Low Intensity. The existing County zoning designations are B-4, General Commercial, B-2 Neighborhood Commercial, R-4, Urban Single-Family, A-3, Transitional Agriculture, and R-3, Urban Single-Family Residential. The proposed City FLU designations are Commercial, MDR, Medium Density Residential, and LDR, Low Density Residential. The proposed City equivalent zoning designations to the County B-4, General Commercial and B-2, Neighborhood Commercial designation is City B-3, Highway Service District. The proposed City equivalent zoning designations to the County A-3, Transitional Agriculture is City A-3, Transitional and County R-3, Urban Single-Family Residential to City R-3CO, Urban Single-Family Residential. The text descriptions of the proposed City Commercial, MDR, Medium Density Residential, and LDR, Low Density Residential FLU designations are attached as **Exhibit H**, with a map of this proposed changes also attached as **Exhibit I**. The text descriptions of the proposed City B-3, Highway Service Business District, R-2, Single-Family Residential, A-3, Transitional Agriculture, and R-3CO, Urban Single-Family Residential zoning designations, and a map of these proposed changes, 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
1959 SR 44	2” line / Fran Dr. ROW	Not Available	Not Available

105 Fran Drive	2" line / Fran Dr. ROW	Not Available	Not Available
109 Fran Drive	2" line / Fran Dr. ROW	Not Available	Not Available
242 Oak Lane	Not Available	Not Available	Not Available
2576 Selleck Avenue	Not Available	Not Available	Not Available
2586 Selleck Avenue	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 five of the properties are already developed with a single family house and accessory structures and because no increased density is proposed for the properties including the vacant parcel at 1959 SR 44, staff did not prepare a concurrency analysis table for this case.

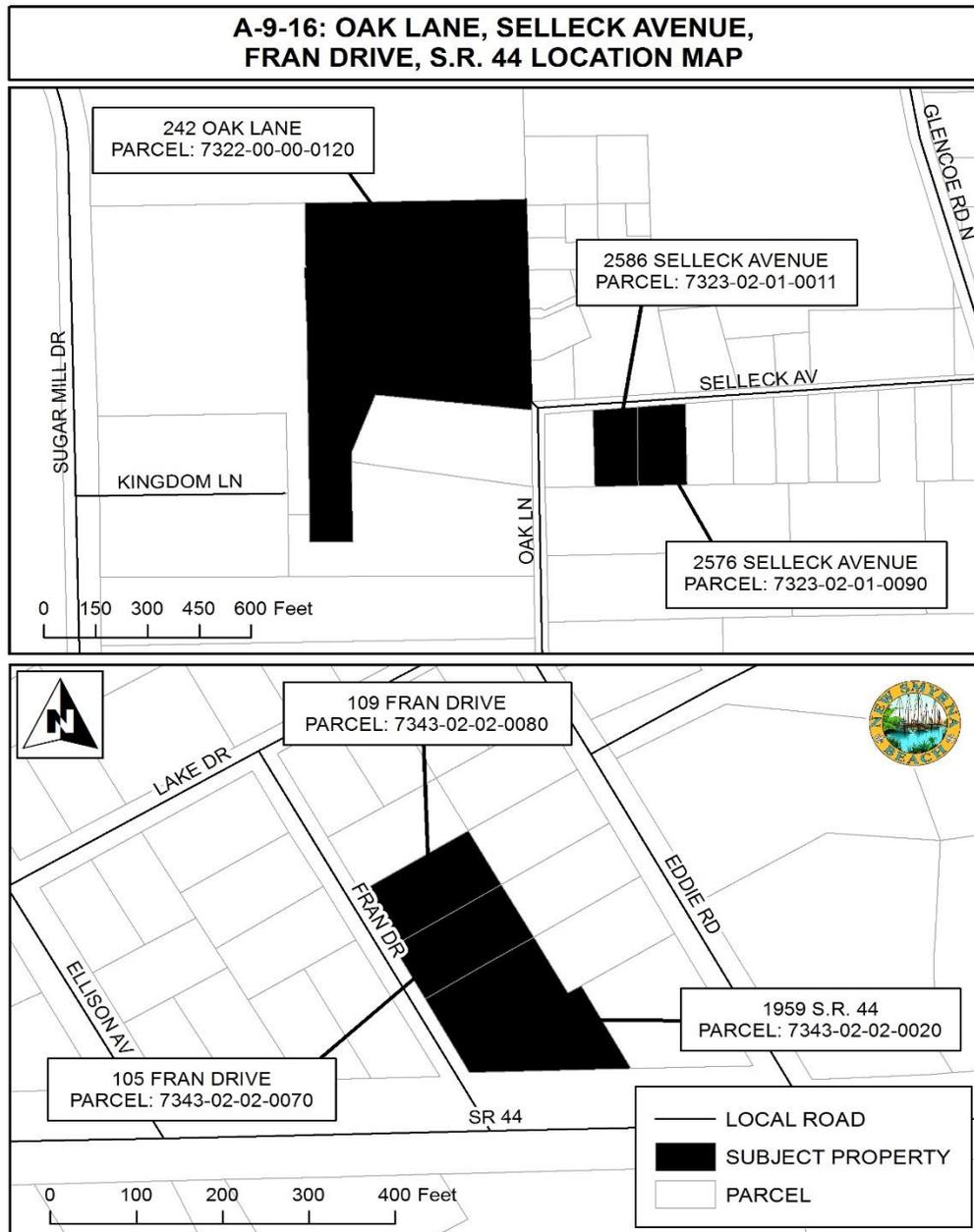
H. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject property into the *Comprehensive Plan* (see **Exhibits N through Z**). A map showing the properties located in City Commission Zone 4 is attached as **Exhibit AA**.

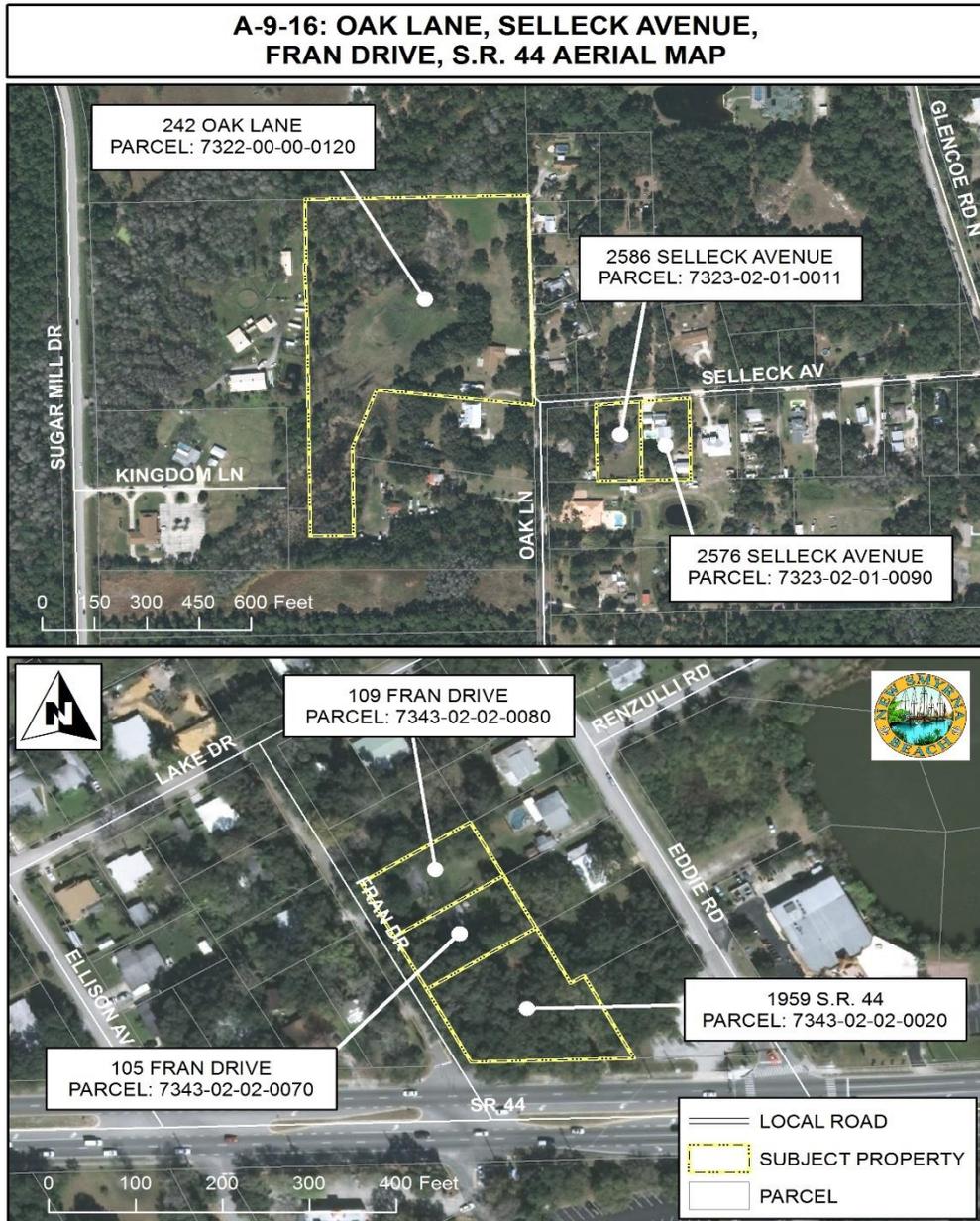
I. The *Comprehensive Plan* provides guidance on annexations, future land use amendments, and re-zonings. The following is a list of objectives in the *Comprehensive Plan* that support this proposal:

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

III. Recommendation

Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the requested annexations, *Comprehensive Plan* amendments to City Commercial, MDR, Medium Density Residential, and LDR, Low Density Residential and re-zonings to City B-3, Highway Service District, R-2, Single-Family Residential, A-3, Transitional Agriculture, and R-3CO, Urban Single-Family Residential.





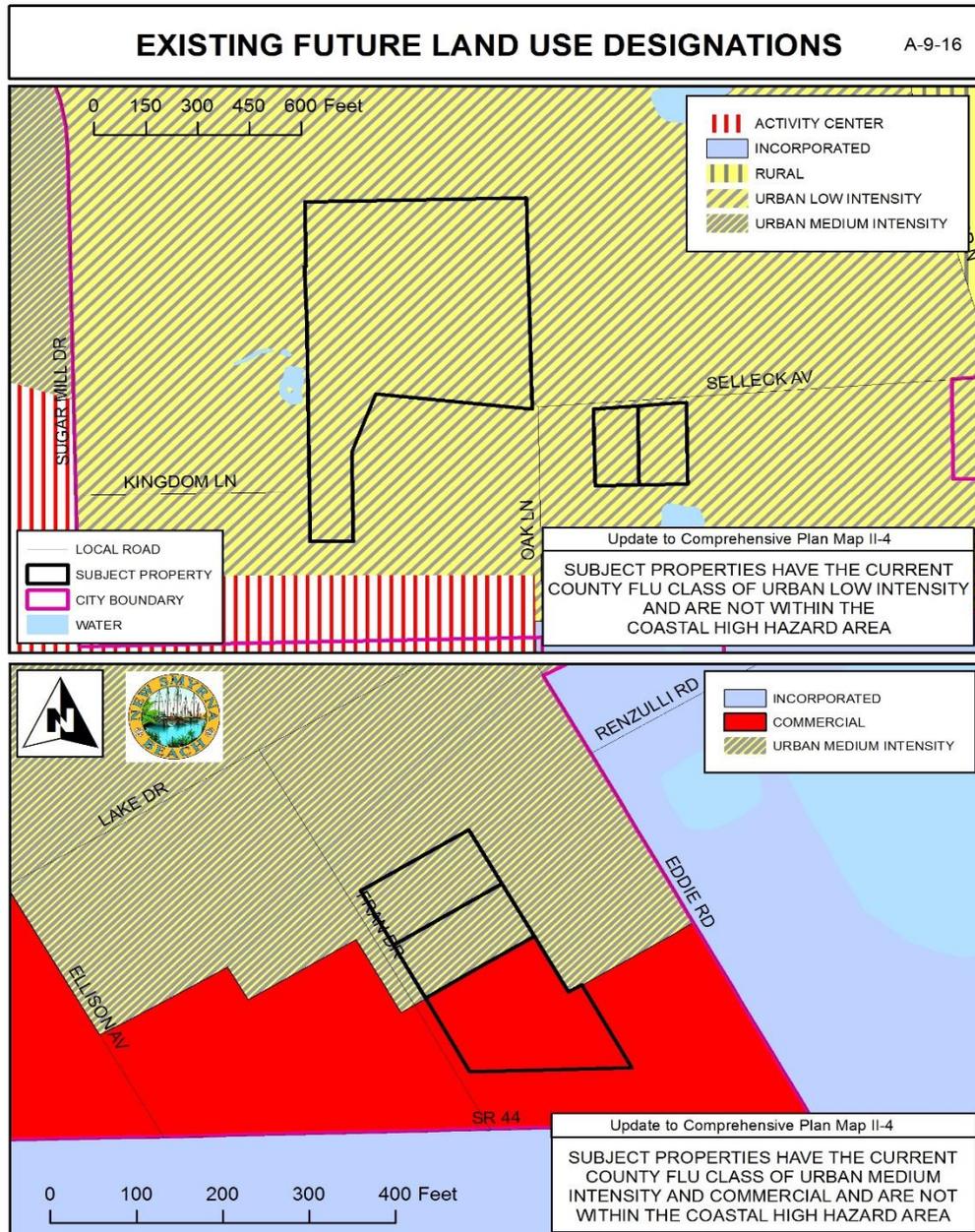




Exhibit E

Commercial (C) –

This designation accommodates the full range of sales and service activities. These uses may occur in self-contained centers, multi-story structures, campus parks, municipal central business districts, or along arterial highways. In reviewing zoning requests or site plans, the specific intensity and range of uses, and design will depend on locational factors, particularly compatibility with adjacent uses, availability of highway capacity, ease of access and availability of other public services and facilities. Uses should be located to protect adjacent residential use from such impacts as noise or traffic. In well field protection areas uses are prohibited that involve the use, handling, storage, generation or disposal of hazardous or toxic material or waste or petroleum products. Intensity shall be no more than a fifty-five percent Floor Area Ratio (0.55 FAR) consistent with the applicable underlying zoning classification standards and land development regulations.

Commercial development in newly developing areas is designated in nodes at major thoroughfare intersections. Primarily new development should be designed to utilize the shopping center concept and not designed to encourage strip style commercial development. The various types of shopping centers are described in Chapter 20, Definitions under Shopping Centers.

However, the Plan recognizes existing strip commercial development along many arterial roadways may remain. These areas are identified on the Future Land Use Map and if the designation is shown on only one side of a roadway, this specifically provides that particular side is intended for commercial use and is not to suggest that the opposite side is also included. Future extension of the strip commercial beyond that shown on the Plan Map shall require a Plan amendment. Existing commercial uses not indicated on the Future Land Use Map may be consistent with the Plan if they comply with Number 16 of the Interpretation Section.

Exhibit E (cont'd)

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Urban Medium Intensity (UMI) –

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

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

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

Exhibit E (cont'd)

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2 **Urban Low Intensity (ULI)** – Areas for low density residential dwelling units with a
3 range of two-tenths (0.2) to four (4) dwelling units per acre. In reviewing rezoning
4 requests, the specific density will depend on locational factors, particularly compatibility
5 with adjacent uses and availability of public facilities. This residential designation is
6 generally characterized by single family type housing, e.g., single family detached and
7 attached, cluster and zero lot line. This designation will allow existing agricultural zoning
8 and uses to continue.
9

10 The ULI designation is primarily a residential designation but may also allow
11 neighborhood convenience uses (see Shopping Center definition in Chapter 20) and
12 individual office buildings as transitional uses that meet the Comprehensive Plan's
13 location criteria. The commercial intensity shall be limited to no more than a fifty percent
14 Floor Area Ratio (0.50 FAR) and in a manner to be compatible with the allowable
15 residential density. In order to be considered compatible, the commercial development
16 should be oriented to serve adjacent neighborhoods, reflect comparable traffic
17 generation, similar traffic patterns, building scale, landscaping and open space and
18 buffers. Due to the nature of some of the commercial uses, additional landscaping and
19 visual screening shall be provided through the BPUD process when adjacent to low
20 density residential in order to preserve the character of the neighborhood. More intensive
21 neighborhood commercial use shall be reserved to areas designated for Commercial.
22

23 All requests for nonresidential uses within one-quarter ($\frac{1}{4}$) mile of another jurisdiction
24 shall require notification to that jurisdiction.
25
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Exhibit F

B-4 GENERAL COMMERCIAL CLASSIFICATION

- 1
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3
4 Purpose and intent: The purpose and intent of the B-4 General Commercial Classification is to
5 encourage the development of intensive commercial areas providing a wide range of goods and services,
6 and located adjoining at least one major collector or arterial road. The B-4 classification is intended to be
7 applied to existing or developing strip retail areas which, because of the nature of existing development,
8 are not appropriate for inclusion in the B-3 Shopping Center Classification.
- 9 Permitted principal uses and structures: In the B-4 General Commercial Classification, no premises
10 shall be used except for the following uses and their customary accessory uses or structures:
- 11 Art, dance, modeling and music schools.
- 12 Auction parlors.
- 13 Automobile, bicycle, boat, mobile home, motorcycle, recreational vehicle, trailer and light truck sales or
14 rental establishments and the service thereof, when said service is performed as an accessory use to the
15 principal use of sales or rental. (Ord. No. 98-25, § VII, 12-17-98)
- 16 Automobile driving schools.
- 17 Automobile service station, types A and C. (Ord. No. 84-1, § XXXI, 3-8-84)
- 18 Barber and beauty shops.
- 19 Bars and liquor stores.
- 20 Bowling alleys.
- 21 Catering services.
- 22 Communication towers not exceeding 70 feet in height above ground level. (Ord. No. 97-19, § II, 8-7-97)
- 23 Convenience stores with more than eight vehicular service positions per fuel dispenser island. (Ord. No.
24 2004-20, § V, 12-16-04)
- 25 Cultural art centers. (Ord. No. 92-6, § XXXVI, 6-4-92)
- 26 Day care centers (refer to subsection 72-293(6)). (Ord. No. 2004-20, § V, 12-16-04)
- 27 Dental laboratories. (Ord. No. 90-34, § 33, 9-27-90)
- 28 Employment agencies.
- 29 Essential utility services. (Ord. No. 84-1, § III, 3-8-84)
- 30 Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land
31 Development Code of Volusia County [article III] and/or final site plan review procedures of this article.
32 (Ord. No. 84-1, § III, 3-8-84; Ord. No. 89-20, § VI, 6-20-89; Ord. No. 90-34, § 33, 9-27-90)
- 33 Exempt landfills (refer to subsection 72-293(16)). (Ord. No. 89-20, § VI, 6-20-89; Ord. No. 90-34, § 33, 9-
34 27-90)

Exhibit F (cont'd)

- 1
- 2 Financial institutions.
- 3 Fire stations. (Ord. No. 92-6, § XXXVI, 6-4-92)
- 4 Funeral homes.
- 5 Game rooms or arcades for pool, billiards, pinball machines, jukeboxes or other coin-operated
- 6 amusements.
- 7 General offices. (Ord. No. 82-20, § VIII, 12-9-82; Ord. No. 84-1, § XXVI, 3-8-84)
- 8 Government-sponsored civic centers. (Ord. No. 92-6, § XXXVI, 6-4-92)
- 9 Hardware/home improvement retail center. (Ord. No. 98-25, § VII, 12-17-98; Ord. No. 2004-20, § V, 12-16-
- 10 04)
- 11 Health clubs or spas. (Ord. No. 2004-20, § V, 12-16-04)
- 12 Home occupations, class A (refer to section 72-283). (Ord. No. 86-16, § X, 10-23-86)
- 13 Household moving center. (Ord. No. 90-34, § 33, 9-27-90)
- 14 Houses of worship. (Ord. No. 2004-20, § V, 12-16-04)
- 15 Laundry and dry-cleaning establishments.
- 16 Libraries. (Ord. No. 92-6, § XXXVI, 6-4-92)
- 17 Medical and dental clinics. (Ord. No. 2004-20, § V, 12-16-04)
- 18 Museums. (Ord. No. 92-6, § XXXVI, 6-4-92)
- 19 Nightclubs.
- 20 Outdoor entertainment event (refer to section 10-31 et seq., article II, Code of Ordinances of the County of
- 21 Volusia). (Ord. No. 94-4, § XXXVIII, 5-5-94; Ord. No. 2002-22, § IX, 11-7-02)
- 22 Pawnshops.
- 23 Pest exterminators.
- 24 Private clubs. (Ord. No. 84-1, § XXXI, 3-8-84)
- 25 Public schools. (Ord. No. 92-6, § XXXVI, 6-4-92)
- 26 Publicly owned parks and recreational areas. (Ord. No. 92-6, § XXXVI, 6-4-92)
- 27 Publicly owned or regulated water supply wells. (Ord. No. 92-6, § XXXVI, 6-4-92)
- 28 Recycling collection center. (Ord. No. 90-34, § 33, 9-27-90)
- 29 Restaurants, types A and B. (Ord. No. 84-1, § XXXI, 3-8-84)

Exhibit F (cont'd)

- 1
- 2 Retail plant nursery. (Ord. No. 84-1, § XXXI, 3-8-84)
- 3 Retail sales and services. (Ord. No. 84-1, § XXXI, 3-8-84)
- 4 Retail specialty shops.
- 5 Sweepstakes centers (refer to subsection 72-290(12)). (Ord. No. 2011-06, § II, 3-17-11)
- 6 Tailors.
- 7 Taxicab stands.
- 8 Theaters.
- 9 Travel agencies.
- 10 Veterinary clinics.
- 11 (Ord. No. 84-1, § XXXI, 3-8-84; Ord. No. 87-14, § V, 6-18-87; Ord. No. 98-25, § VII, 12-17-98)
- 12 Permitted special exceptions: Additional regulations/requirements governing permitted special
- 13 exceptions are located in sections 72-293 and 72-415 of this article. (Ord. No. 90-34, § 33, 9-27-90)
- 14 Communication towers exceeding 70 feet in height above ground level. (Ord. No. 97-19, § II, 8-7-97)
- 15 Cemeteries (refer to subsection 72-293(4)). (Ord. No. 2004-20, § V, 12-16-04)
- 16 Bicycle motorcross tracks.
- 17 Bus stations.
- 18 Car washes.
- 19 Curb market. (Ord. No. 84-1, § XXXI, 3-8-84)
- 20 Excavations only for stormwater retention ponds for which a permit is required by this article. (Ord. No. 84-
- 21 1, § VII, 3-8-84; Ord. No. 89-20, § VII, 6-20-89)
- 22 Group homes (refer to subsection 72-293(12)). (Ord. No. 90-34, § 33, 9-27-90)
- 23 Hotel/motel. (Ord. No. 84-1, § XXXI, 3-8-84)
- 24 Mini-warehouses (refer to subsection 72-293(5)).
- 25 Nursing homes, boardinghouses approved by the appropriate state agency (refer to subsection 72-
- 26 293(12)). (Ord. No. 84-1, § XXXI, 3-8-84; Ord. No. 90-34, § 33, 9-27-90)
- 27 Outdoor entertainment and recreational uses and structures. (Ord. No. 92-6, § XXXVI, 6-4-92)
- 28 Professional or trade schools related to permitted uses (refer to section 817.00(b)).
- 29 Public uses not listed as a permitted principal use. (Ord. No. 92-6, § XXXVI, 6-4-92)

Exhibit F (cont'd)

- 1
- 2 Public utility uses and structures (refer to subsection 72-293(1)). (Ord. No. 84-1, § III, 3-8-84)
- 3 Schools, parochial or private (refer to subsection 72-293(4)).
- 4 Only one single-family dwelling for the owner or manager of an existing permitted principal use. (Ord. No.
- 5 84-1, §§ XXX, XXXI, 3-8-84)
- 6 (Ord. No. 2004-20, § V, 12-16-04)
- 7 Dimensional requirements:
- 8 Minimum lot size:
- 9 Area: One acre. (Ord. No. 90-34, § 33, 9-27-90; Ord. No. 2004-20, § V, 12-16-04)
- 10 Width: 150 feet. (Ord. No. 90-34, § 33, 9-27-90; Ord. No. 2004-20, § V, 12-16-04)
- 11 Minimum yard size:
- 12 Front yard: 35 feet.
- 13 Side and rear yard: Ten feet unless abutting an agricultural, residential or mobile home zoned property,
- 14 then 35 feet. (Ord. No. 98-25, § VII, 12-17-98)
- 15 Waterfront yard: 25 feet. (Ord. No. 82-20, § XIII, 12-9-82; Ord. No. 90-34, § 33, 9-27-90; Ord. No. 94-4, §
- 16 XXXVIII, 5-5-94)
- 17 Maximum building height: 45 feet.
- 18 Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed
- 19 35 percent.
- 20 Off-street parking and loading requirements: Off-street parking and loading areas meeting the
- 21 requirements of section 72-286 shall be constructed. (Ord. No. 90-34, § 33, 9-27-90)
- 22 Landscape buffer requirements: Landscaped buffer areas meeting the requirements of section 72-284
- 23 shall be constructed.
- 24 Final site plan requirements: Final site plan approval meeting the requirements of division 3 of the
- 25 Land Development Code [article III] is required. (Ord. No. 82-20, § X, 12-9-82; Ord. No. 88-2, § IV, 1-19-
- 26 88)
- 27 (Ord. No. 2004-20, § V, 12-16-04)
- 28
- 29

Exhibit F (cont'd)

**B-2 NEIGHBORHOOD COMMERCIAL
CLASSIFICATION**

Purpose and intent: The purpose and intent of the B-2 Neighborhood Commercial Classification is to provide a limited commercial convenience facility, servicing nearby residential neighborhoods, planned and developed as an integral unit. No single permitted use listed hereunder shall exceed 5,000 square feet of building area. (Ord. No. 98-25, § VII, 12-17-98)

Permitted principal uses and structures: In the B-2 Neighborhood Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

Bakeries, retail (including preparation of products for sale on the premises).

Barbershops, beauty shops, shoe repair shops.

Book and stationery stores.

Communication towers not exceeding 70 feet in height above ground level. (Ord. No. 97-19, § II, 8-7-97)

Confectioners, retail (including preparation of products for sale on the premises).

Convenience stores with or without fuel dispensers. (Excluding the sale of distilled spirits with a higher alcoholic content than malt beverages or fermented wines) No more than eight vehicular service positions per fuel dispenser island. Maximum of four fuel dispenser islands. (Ord. No. 84-1, § XXVIII, 3-8-84; Ord. No. 98-25, § VII, 12-17-98)

Day care center (refer to subsection [72-293\(6\)](#)). (Ord. No. 2004-20, § V, 12-16-04)

Essential utility services. (Ord. No. 84-1, § III, 3-8-84)

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. (Ord. No. 84-1, § III, 3-8-84; Ord. No. 89-20, § VI, 6-20-89; Ord. No. 90-34, § 31, 9-27-90)

Exempt landfills (refer to subsection [72-293\(16\)](#)). (Ord. No. 89-20, § VI, 6-20-89; Ord. No. 90-34, § 31, 9-27-90)

Fire stations. (Ord. No. 92-6, § XXXIV, 6-4-92)

General offices. (Ord. No. 82-20, § VIII, 12-9-82; Ord. No. 84-1, § XXVI, 3-8-84)

Government-sponsored civic centers. (Ord. No. 92-6, § XXXIV, 6-4-92)

Hardware/home improvement retail center. (Ord. No. 2004-20, § V, 12-16-04)

Home occupations, class A (refer to [section 72-283](#)). (Ord. No. 86-16, § X, 10-23-86)

Houses of worship. (Ord. No. 2004-20, § V, 12-16-04)

Laundry and dry-cleaning pickup stations.

Laundry and dry-cleaning self-service establishments.

Exhibit F (cont'd)

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- Libraries. (Ord. No. 92-6, § XXXIV, 6-4-92)
- Medical and dental clinics. (Ord. No. 2004-20, § V, 12-16-04)
- Newsstands.
- Pharmacies.
- Public schools. (Ord. No. 92-6, § XXXIV, 6-4-92)
- Publicly owned parks and recreational areas. (Ord. No. 92-6, § XXXIV, 6-4-92)
- Publicly owned or regulated water supply wells. (Ord. No. 92-6, § XXXIV, 6-4-92)
- Restaurants, type B, when accessory and subordinate to the convenience store use excludes a single-use, free-standing restaurant. (Ord. No. 90-34, § 31, 9-27-90; Ord. No. 98-25, § VII, 12-17-98)
- Permitted special exceptions:* Additional regulations/requirements governing permitted special exceptions are located in sections [72-293](#) and [72-415](#) of this article. (Ord. No. 90-34, § 31, 9-27-90)
- Communication towers exceeding 70 feet in height above ground level. (Ord. No. 97-19, § II, 8-7-97)
- Cemeteries (refer to subsection [72-293\(4\)](#)). (Ord. No. 2004-20, § V, 12-16-04)
- Convenience stores with more than eight vehicular service positions per fuel dispenser island. (Ord. No. 98-25, § VII, 12-17-98)
- Day care center (refer to subsection [72-293\(6\)](#)). (Ord. No. 90-34, § 31, 9-27-90)
- Excavations only for stormwater retention ponds for which a permit is required by this article. (Ord. No. 84-1, § VII, 3-8-84; Ord. No. 89-20, § VII, 6-20-89)
- Financial institutions.
- Only one single-family dwelling unit for the owner or manager of an existing permitted principal use. (Ord. No. 84-1, § XXVIII, 3-8-84)
- Public uses not listed as a permitted principal use. (Ord. No. 92-6, § XXXIV, 6-4-92)
- Public utility uses and structures (refer to subsection [72-293\(1\)](#)). (Ord. No. 84-1, § III, 3-8-84)
- Schools, parochial or private (refer to subsection [72-293\(4\)](#)).
(Ord. No. 2004-20, § V, 12-16-04)
- Dimensional requirements:*
- Minimum project size:*
- Area: One acre. (Ord. No. 2004-20, § V, 12-16-04)
- Width: 150 feet. (Ord. No. 2004-20, § V, 12-16-04)
- Minimum yard size:*
- Front yard: 35 feet.

Exhibit F (cont'd)

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Rear yard: 20 feet, unless abutting an agricultural, residential or mobile home zoned property, then 35 feet. (Ord. No. 98-25, § VII, 12-17-98; Ord. No. 2004-20, § V, 12-16-04)

Side yard: Ten feet, unless abutting an agricultural, residential or mobile home zoned property, then 35 feet. (Ord. No. 81-39, § XXIII, 11-19-81; Ord. No. 98-25, § VII, 12-17-98; Ord. No. 2004-20, § V, 12-16-04)

Waterfront yard: 25 feet. (Ord. No. 82-20, § XIII, 12-9-82; Ord. No. 90-34, § 31, 9-27-90; Ord. No. 94-4, § XXXVI, 5-5-94)

Maximum building area: No single permitted use listed hereunder shall exceed 5,000 square feet of building area. (Ord. No. 2004-20, § V, 12-16-04)

Maximum building height: 35 feet.

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

Lighting requirements:

Light shield to deflect light from adjoining properties to prevent spillover light. (Ord. No. 98-25, § VII, 12-17-98)

Off-street parking and loading requirements: Off-street parking and loading areas meeting the requirements of [section 72-286](#) shall be constructed. (Ord. No. 90-34, § 31, 9-27-90)

Landscape buffer requirements: A landscaped buffer area meeting the requirements of [section 72-284](#) shall be constructed.

Final site plan requirements: Final site plan approval meeting the requirements of division 3 of the Land Development Code [article III] is required. (Ord. No. 88-2, § IV, 1-19-88)

(Ord. No. 2004-20, § V, 12-16-04)

Exhibit F (cont'd)

**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)).

Exhibit F (cont'd)

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

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 F (cont'd)

**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.

Exhibit F (cont'd)

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

Exhibit F (cont'd)

- 1
- 2 Livestock feed lots (minimum parcel size requirement of five acres).
- 3 Off-street parking areas (refer to subsection 72-293(14)).
- 4 Poultry farms (minimum parcel size requirement of 2.5 acres).
- 5 Processing, packaging, storage, retail or wholesale sales of agricultural products
- 6 not raised on the premises.
- 7 Public uses not listed as a permitted principal use.
- 8 Public utility uses and structures (refer to subsection 72-293(1)).
- 9 Recreational areas (refer to subsection 72-293(3)).
- 10 Riding stables.
- 11 Schools, parochial and private (refer to subsection 72-293(4)).
- 12 Single-family mobile home dwelling with a minimum floor area of 480 square feet
- 13 as a temporary residence while building a standard or manufactured dwelling
- 14 (maximum duration of 18 months).
- 15 Temporary campsites for three days before, during and three days after any
- 16 regularly scheduled racing event at the Daytona Beach International Speedway
- 17 for Speedweeks, Biketoberfest, the Pepsi 400, and Bike Week, on condition that
- 18 security, portable toilets, garbage disposal and potable water facilities sufficient
- 19 to accommodate all occupants and other relevant conditions are provided.
- 20 Related special events and sales are allowed, if approved as part of the special
- 21 exception.
- 22 Wholesale or retail fertilizer sales.
- 23 *Dimensional requirements:*
- 24 *Minimum lot size:*
- 25 Area: One acre.
- 26 Width: 150 feet.
- 27 *Minimum yard size:*
- 28 Front yard: 40 feet.
- 29 Rear yard: 40 feet.
- 30 Side yard: 25 feet.
- 31 Waterfront yard: 40 feet.
- 32 *Maximum building height: 55 feet.*
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Exhibit F (cont'd)

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

Minimum floor area: 1,000 square feet.

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

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

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

Exhibit F (cont'd)

**R-3 URBAN SINGLE-FAMILY
RESIDENTIAL CLASSIFICATION**

Purpose and intent: The purpose and intent of the R-3 Urban Single-Family Residential Classification, is to provide medium-low-density residential developments, preserving the character of existing or proposed residential neighborhoods.

Permitted principal uses and structure: In the R-3 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 section 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)).

Exhibit F (cont'd)

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

Dimensional requirements:

Minimum lot size:

Area: 10,000 square feet.

Width: 85 feet.

Minimum yard size:

Front yard: 30 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: 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.

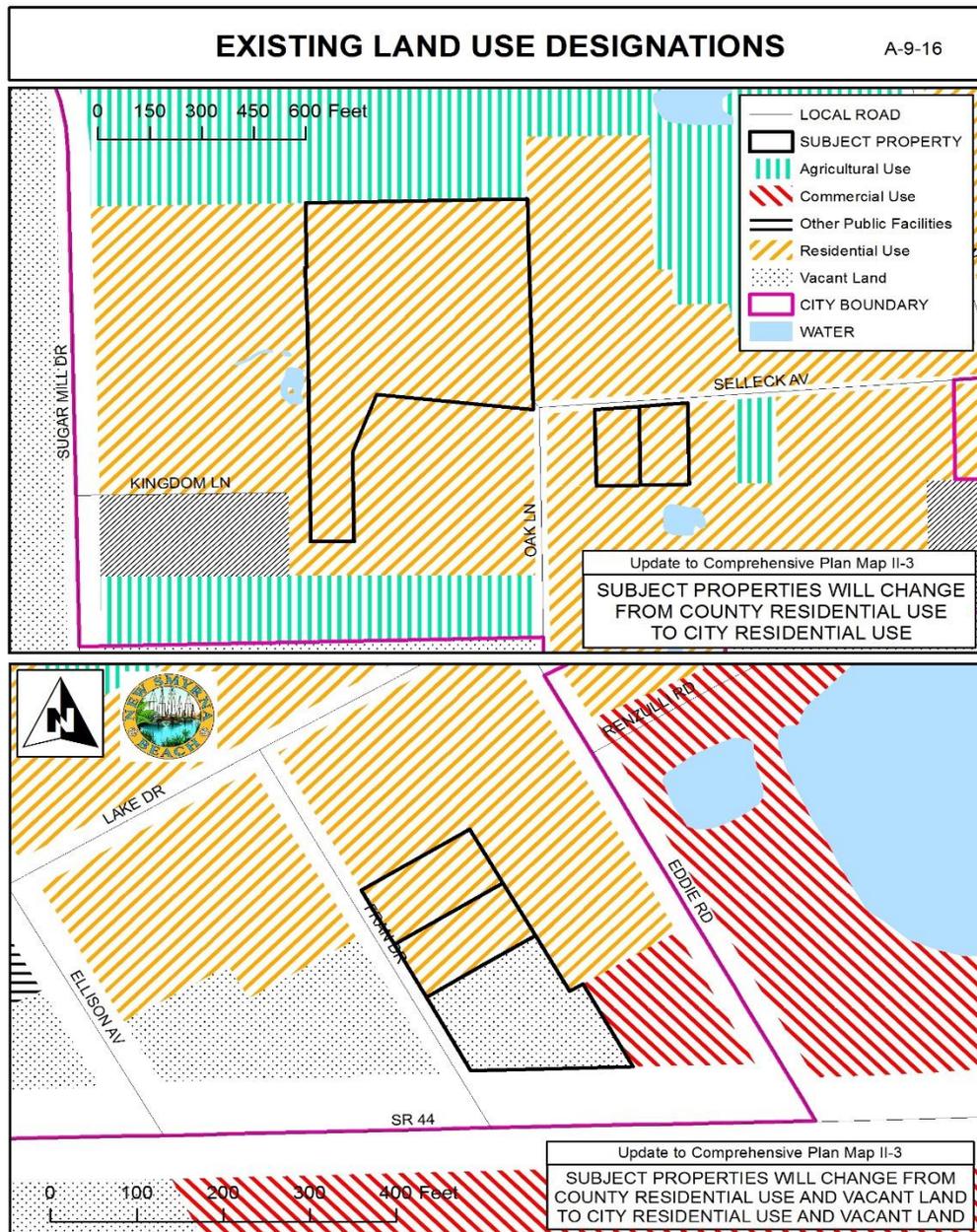


Exhibit H

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COMMERCIAL

Maximum allowed density:
8.01 to 12 dwelling units per acre on the barrier island
8.01 to 18 dwelling units per acre on the mainland
Up to 24 transient lodging units per acre
Maximum allowed Floor Area Ratio (FAR): 2.0
Maximum Allowable Percentage of Uses for Developments Using the Planned Unit
Development Format:
Retail: 100%
Office: 100%
Residential: 25%
Industrial: 0%
Intent: This category is intended for the development of high quality business activities,
including retail, hotel, office, financial institutions, and high-density residential. They
should be confined to certain arterial and collector roads, and to the Flagler Avenue
districts.
The State Road 44 corridor, particularly the undeveloped areas west of Old Mission
Road, should be developed in a manner to protect adjacent residential neighborhoods
from adverse impacts of unbridled commercial development. All properties along the
north side of State Road 44, west of Eddie Road, and all properties along the south side
of State Road 44, west of Hidden Pines Boulevard, shall be developed or redeveloped
using the planned unit development format

MEDIUM-DENSITY RESIDENTIAL

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

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

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.

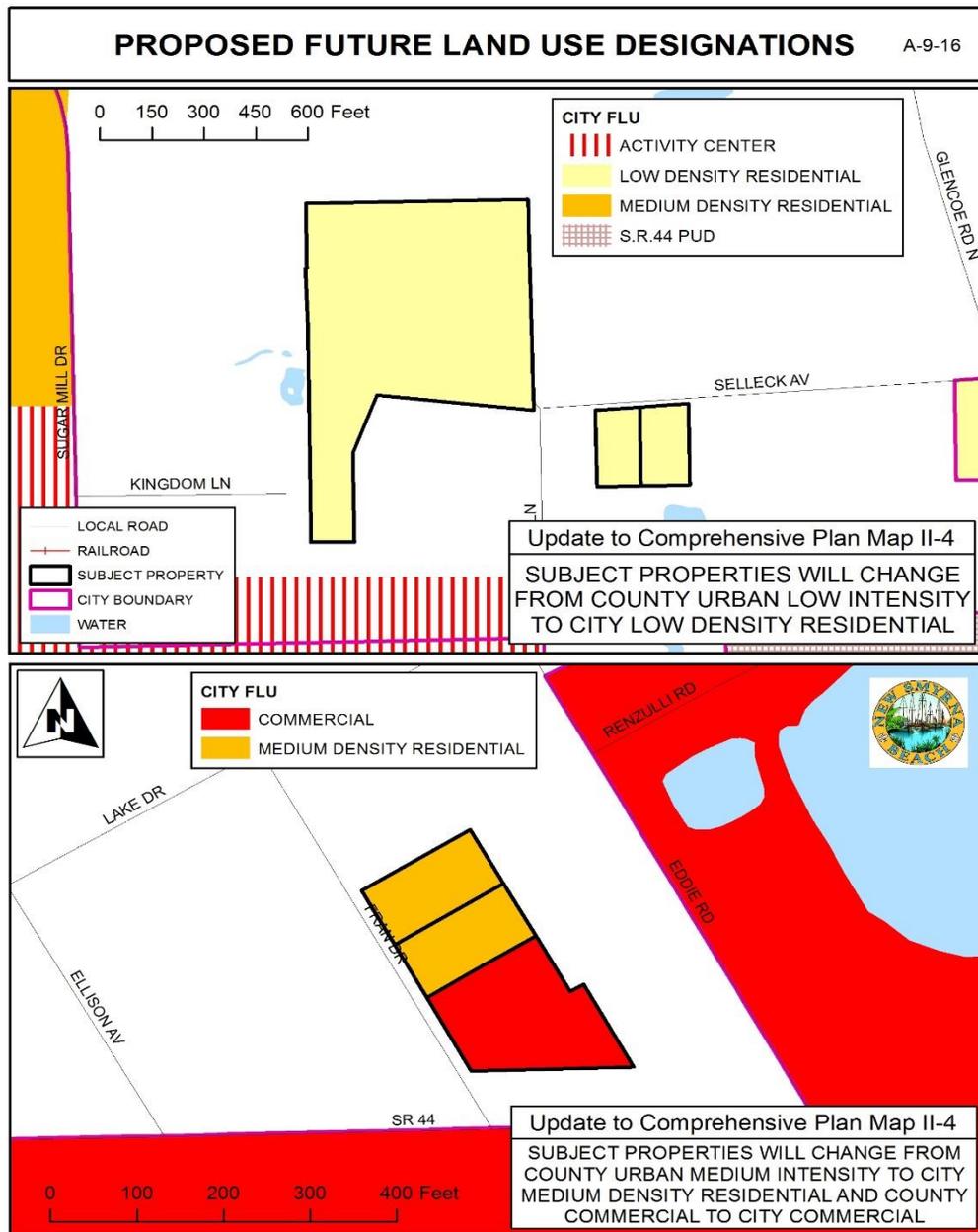


Exhibit J

B-3, HIGHWAY SERVICE BUSINESS DISTRICT

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

Permitted uses.

Adult congregate living facility

Ambulance service

Animal clinics (outpatient care only and no overnight boarding)

Attached dwellings

Automobile sales, new and used

Bakeries

Banks

Boat, motor, and boat trailer sales and service

Bowling alley

Business and communications systems

Bus station

Car rental and leasing

Carwashes

Club, semi-public

College level and adult educational facilities

Convenience stores with gas pumps

Exhibit J (cont'd)

- 1
- 2 Financial services
- 3 Funeral homes
- 4 Furniture showrooms
- 5 Government buildings and offices
- 6 Grocery stores
- 7 Hospitals
- 8 Mobile home sales
- 9 Multi-family dwelling units
- 10 Offices, general, professional and real estate
- 11 Offices, medical
- 12 Parking lots
- 13 Pawn shops
- 14 Personal enrichment establishments
- 15 Personal services
- 16 Restaurants, types "A," "B," "C," and "D"
- 17 Retail sales and services
- 18 Service stations, types "A" and "B"
- 19 Sport facilities
- 20 Taverns
- 21 Taxicab stands
- 22 Theaters

Exhibit J (cont'd)

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Transient lodging:

- "Transient lodging rooms, standard," as defined by this LDR, shall be a maximum of 500 square feet.
- "Transient lodging rooms, deluxe," as defined by this LDR, shall be a maximum of 750 square feet.
- The maximum room size does not include any balcony, porch or deck area connected to the unit.
- No more than 30 percent of the units may be deluxe.

Truck and trailer rentals (for properties in the district that front along U.S. Highway 1 and meet the conditions in [sub]section 801.18)

Permitted accessory uses. Any accessory use customarily incidental to a permitted principal use.

Special exceptions.

Building material sales and/or building material yards, provided all building materials that are stored shall be buffered by a screen designed to block the view of the building materials. The screen may include fences, walls, or vegetative landscaping. Building materials shall not project higher than the screen. Walls that are part of a building structure may substitute for the screen buffer.

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

(1)

The property shall be located within 500 feet of an arterial or collector roadway.

(2)

Play areas shall be fenced and landscaped. The landscaping shall have a vegetative hedge that will reach four feet in height within two years. The hedge plants must be planted three feet apart, on center.

Exhibit J (cont'd)

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(3)

Play areas shall be located outside all applicable setback dimensions.

(4)

The property shall have a separate vehicular drop off and pickup areas with a minimum 100-foot long drive lane outside of the public right-of-way, or sufficient parking area to provide enough space for drop off and pick up.

(5)

Play areas shall be located to the side or rear of the building, outside of the required setbacks.

Churches

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

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

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

Tattoo parlor, subject to the following conditions:

(1)

Shall not operate on any parcel with frontage on the following streets:

a.

Flagler Avenue

Exhibit J (cont'd)

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- b. 3rd Avenue
 - c. Canal Street
 - d. U.S. 1
- (2) Shall not operate on any parcel adjacent to or across the street from a single-family residential zoning district.
- (3) Shall not operate between the hours of 12:00 a.m. and 8:00 a.m.
- (4) Shall not be established within 300 feet of a church, daycare, private school, or public school.
- (5) Shall not be established within 1,000 feet of an existing tattoo parlor.
- (6) The business shall be subject to all requirements of Chapter 877, Florida Statutes.
- (7) Tattooing areas shall not be visible from the public right-of-way.
- (8) Windows shall maintain a minimum transparent area of 65 percent.
- Waterfront dining and entertainment establishments
- Dimension requirements.*
- Minimum yard size.* (Properties along Canal Street and State Road 44)

Exhibit J (cont'd)

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

Side yard: Ten feet

Rear yard: Ten feet

Corner lots.

(1)

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

(2)

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

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

Front yard: Five feet

Side yard: Five feet

Rear yard: Ten feet

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

Maximum principal building height. 35 feet.

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

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

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

4 *Buffers.*

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

8 (1)

9 All front property lines;

10 (2)

11 Along side or rear lot line abutting a residentially
12 zoned lot, the buffer shall be 25 feet wide; and

13 (3)

14 Along side and rear lot lines not abutting residentially
15 zoned lots, the buffer shall be seven feet wide.

16 Landscaped or natural vegetative buffers for multifamily
17 development shall be provided as indicated in [sub]section
18 605.05 and as follows:

19 (1)

20 Along front, rear, and side lot lines where off-street
21 parking areas are located, the buffer shall be a
22 minimum of seven feet wide; and

23 (2)

24 Adjacent to or facing a single-family residential district
25 or use, the buffer shall be a minimum of 20 feet wide
26 from the property line.

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

30 (1)

31 Front property lines: Five feet
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Exhibit J (cont'd)

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(2)

Side and rear property lines (not adjacent to residentially-zoned properties): Three feet

(3)

Side and rear property lines (adjacent to residentially-zoned properties): Five feet. A ten-foot wide buffer will be required for taverns, outdoor seating areas and type "B" service stations.

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

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.

Maximum unit density for transient lodging units.

Hospitality future land use designation: 75 units per acre.

Activity center future land use designation: 40 units per acre.

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

(1)

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

(2)

The public use area shall comprise at least 40 percent of the total linear footage of shoreline available to the property

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

Exhibit J (cont'd)

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

6 *Multifamily residential standards.*

7 *Minimum floor area.*

8 450 square feet of livable area for a one-bedroom unit

9 550 square feet of livable area for a two-bedroom unit

10 700 square feet of livable area for a three-bedroom unit

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

15 *Minimum building separation.* Where two or more multifamily
16 dwellings, single-family dwellings attached or detached, duplexes,
17 apartments, condominiums, or townhouses are built on one parcel, there
18 shall be a separation of at least 20 feet between the buildings plus 1.5
19 additional feet for each five feet of building height over 20 feet. When
20 buildings vary in height, said distance is to be based on the highest
21 building. (For example: The distance between a 20-foot tall building and a
22 25-foot tall building shall be 21.5 feet.)

23 *Minimum requirements for townhouses and townhouse lots.*

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

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

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

Exhibit J (cont'd)

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

Side setbacks shall be zero feet.

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

Exhibit J (cont'd)

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.

Exhibit J (cont'd)

Uses customarily associated with the permitted principal uses

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

Exhibit J (cont'd)

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Width: 75 feet

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.

Exhibit J (cont'd)

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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.
- (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.

Exhibit J (cont'd)

**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.

Exhibit J (cont'd)

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

Exhibit J (cont'd)

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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 this LDR shall be constructed.

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

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

2 **R-3CO URBAN SINGLE-FAMILY**
3 **RESIDENTIAL CLASSIFICATION**

4 *Purpose and intent:* The purpose and intent of the R-3CO Urban Single-
5 Family Residential Classification, is to provide medium-low-density residential
6 developments, preserving the character of existing or proposed residential
7 neighborhoods.

8 *Permitted principal uses and structures:* In the R-3CO Urban Single-
9 Family Residential Classification, no premises shall be used except for the
10 following uses and their customary accessory uses or structures:

- 11 Cluster and zero lot line subdivisions.
- 12 Communication towers not exceeding 70 feet in height above ground level.
- 13 Essential utility services.
- 14 Exempt excavations.
- 15 Exempt landfills.
- 16 Fire stations.
- 17 Home occupations.
- 18 Parks and recreational areas accessory to residential developments.
- 19 Public schools.
- 20 Publicly owned parks and recreational areas.
- 21 Publicly owned or regulated water supply wells.
- 22 Single-family standard or manufactured modular dwelling.

23
24 *Permitted special exceptions:*

- 25 Cemeteries.
- 26 Communication towers exceeding 70 feet in height above ground level.
- 27 Day care centers.
- 28 Excavations only for stormwater retention ponds for which a permit is required by this
29 article.
- 30 Garage apartments.
- 31 Houses of worship.
- 32 Off-street parking areas.
- 33 Public uses not listed as a permitted principal use.
- 34 Public utility uses and structures.

Exhibit J (cont'd)

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Recreational areas.
Schools, parochial or private.

Dimensional requirements:

Minimum lot size:

Area: 10,000 square feet.
Width: 85 feet.

Minimum yard size:

Front yard: 30 feet.
Rear yard: 20 feet.
Side yard: 20 feet combined, minimum of eight feet on any one side.
Waterfront yard: 25 feet.

Corner Lots:

- (1) Parcels which front on two streets shall provide a 30 foot front yard on the street frontage with driveway access and a 15 foot front yard on the other street or as required per Section 504.01(N) of this LDR.
- (2) Parcels fronting on three streets shall provide a 30 foot front yard on the street frontage with driveway access and a 15 foot front yard on the remaining streets, or as required per Section 504.01(N) of this LDR.

Maximum building height: Three (3) stories, 35 feet.

Maximum building coverage: The total lot area covered with principal and accessory buildings shall not exceed 40 percent.

Screen enclosures:

As an exception to the maximum building coverage provision any parcel may be allowed an additional ten percent (10%) 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:

Exhibit J (cont'd)

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

Through lots:

Through lots shall provide a 30 foot front yard on each street, or as required per Section 504.01(N) of this LDR.

Minimum floor area: 1,000 square feet.

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

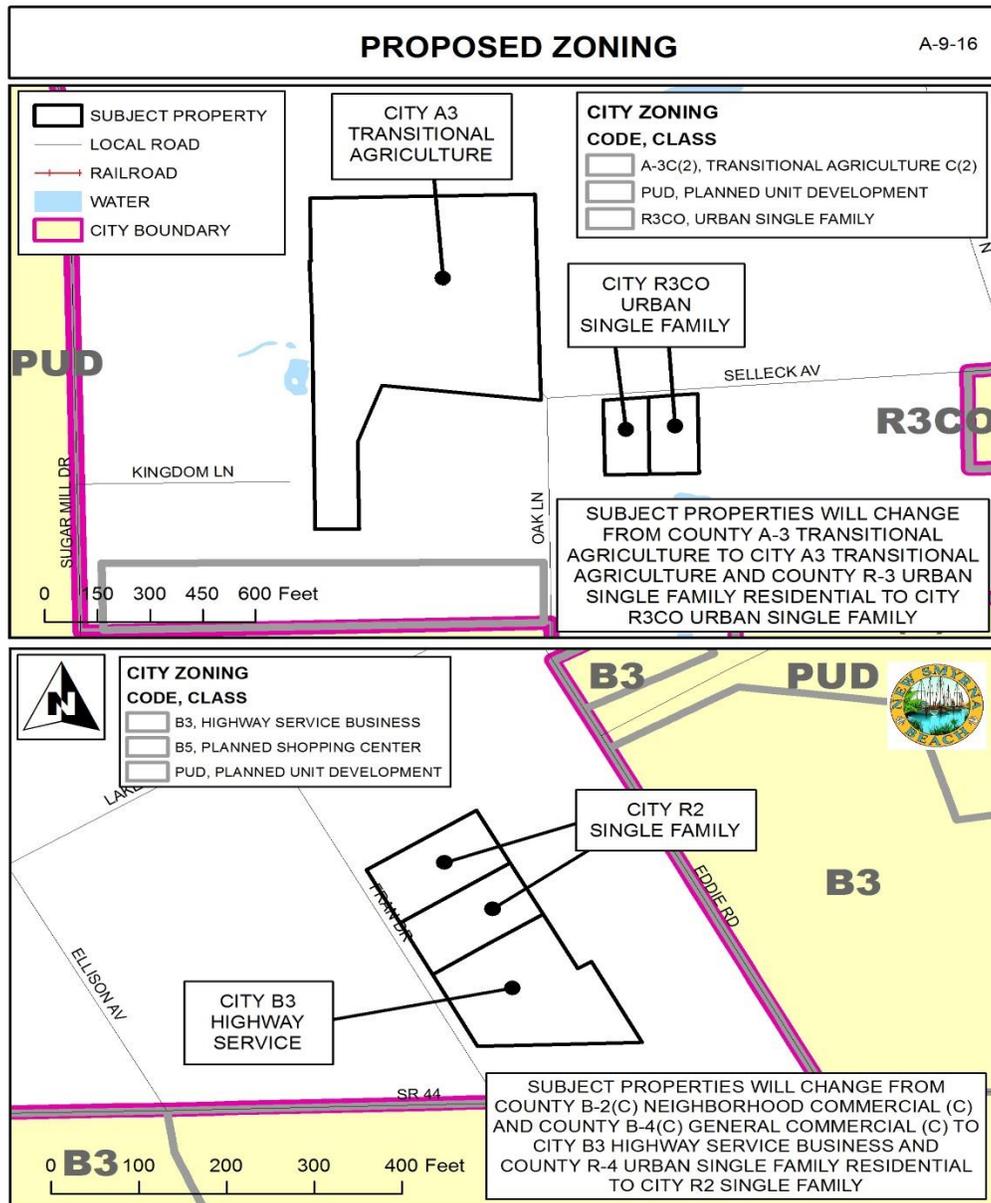
30 feet from the intersection of the side and rear lot line; no principal or accessory structure having a height over 4 feet, except for incidental uses, shall protrude into the area of a visibility triangle.

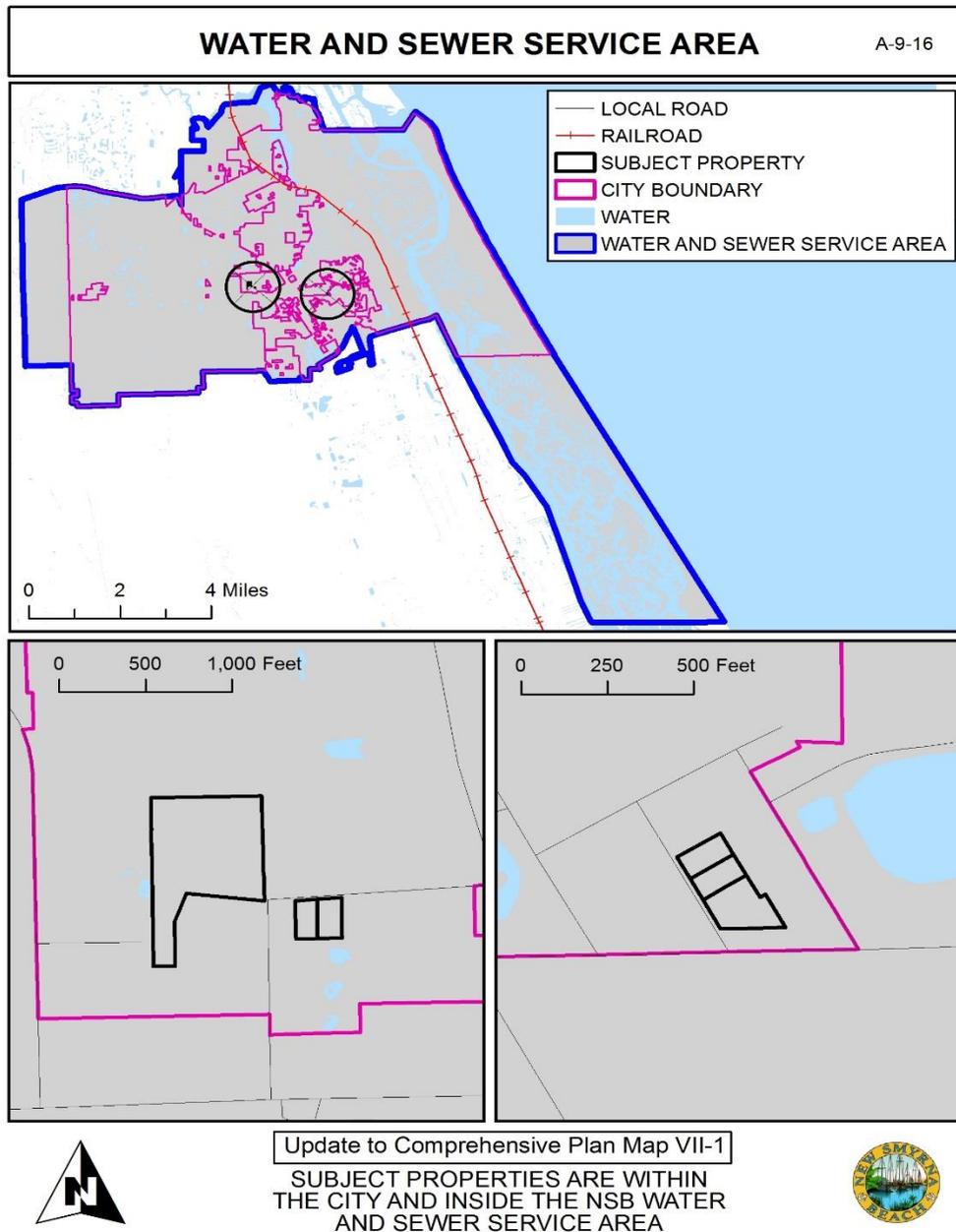
Building projections:

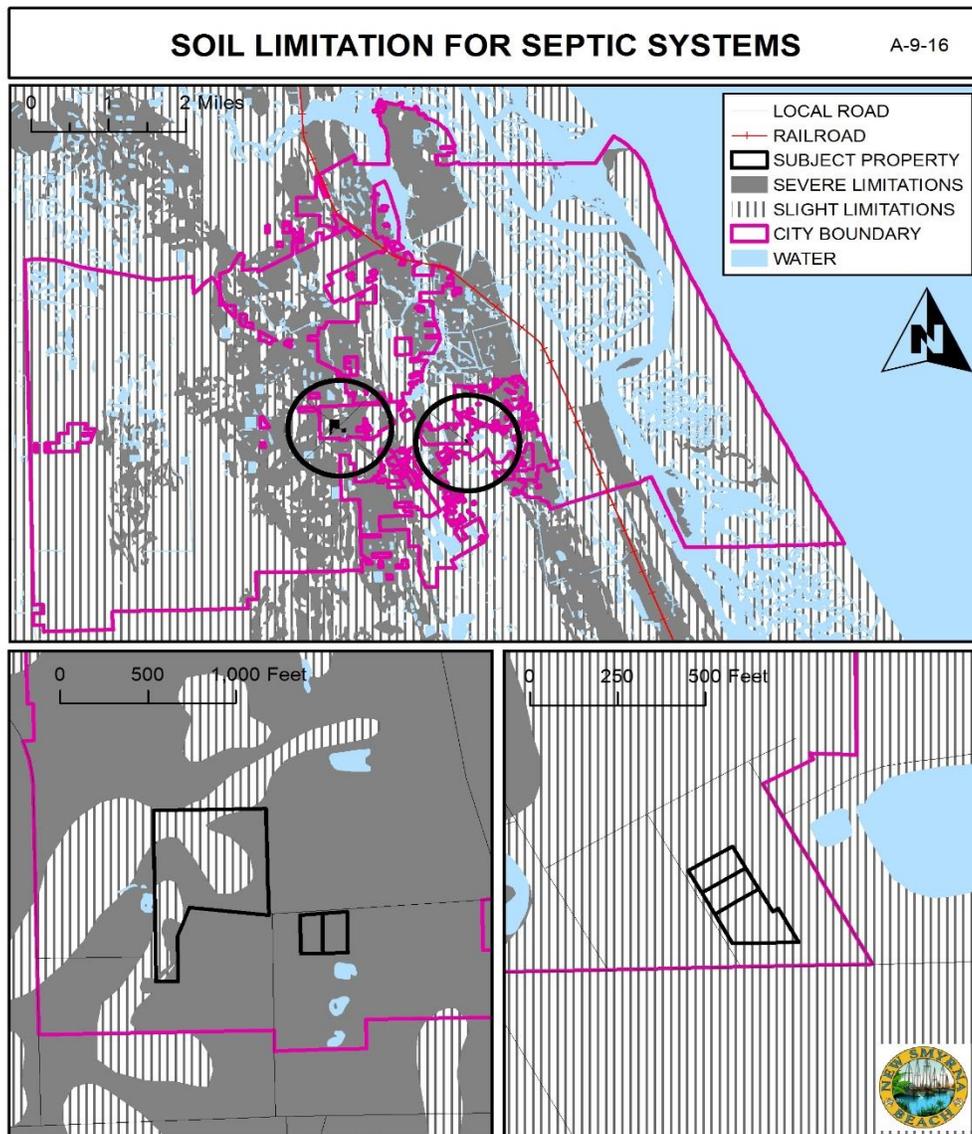
There shall be no building projections into any required yard except for eaves with a maximum projection of 42 inches, but no closer than 5 feet to a property line; and those structures allowed in Section 804.03.

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

Off-street parking and loading requirements: Off-street parking shall be provided as required in this LDR.





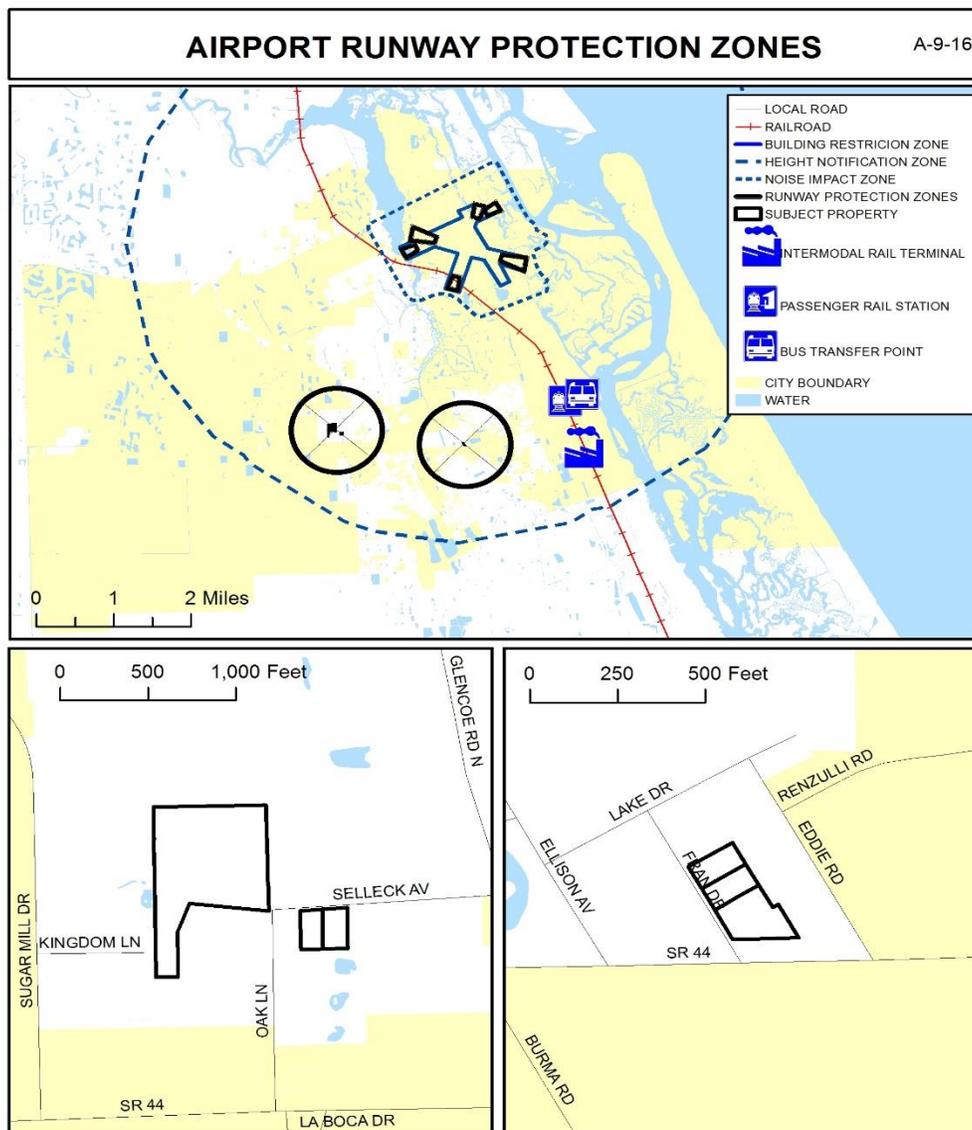


Update to Comprehensive Map VII-2

SUBJECT PROPERTIES ARE WITHIN THE SOILS WITH SEVERE AND SLIGHT LIMITATIONS

Update to Comprehensive Map VII-2

SUBJECT PROPERTIES ARE WITHIN THE SOILS WITH SLIGHT LIMITATIONS

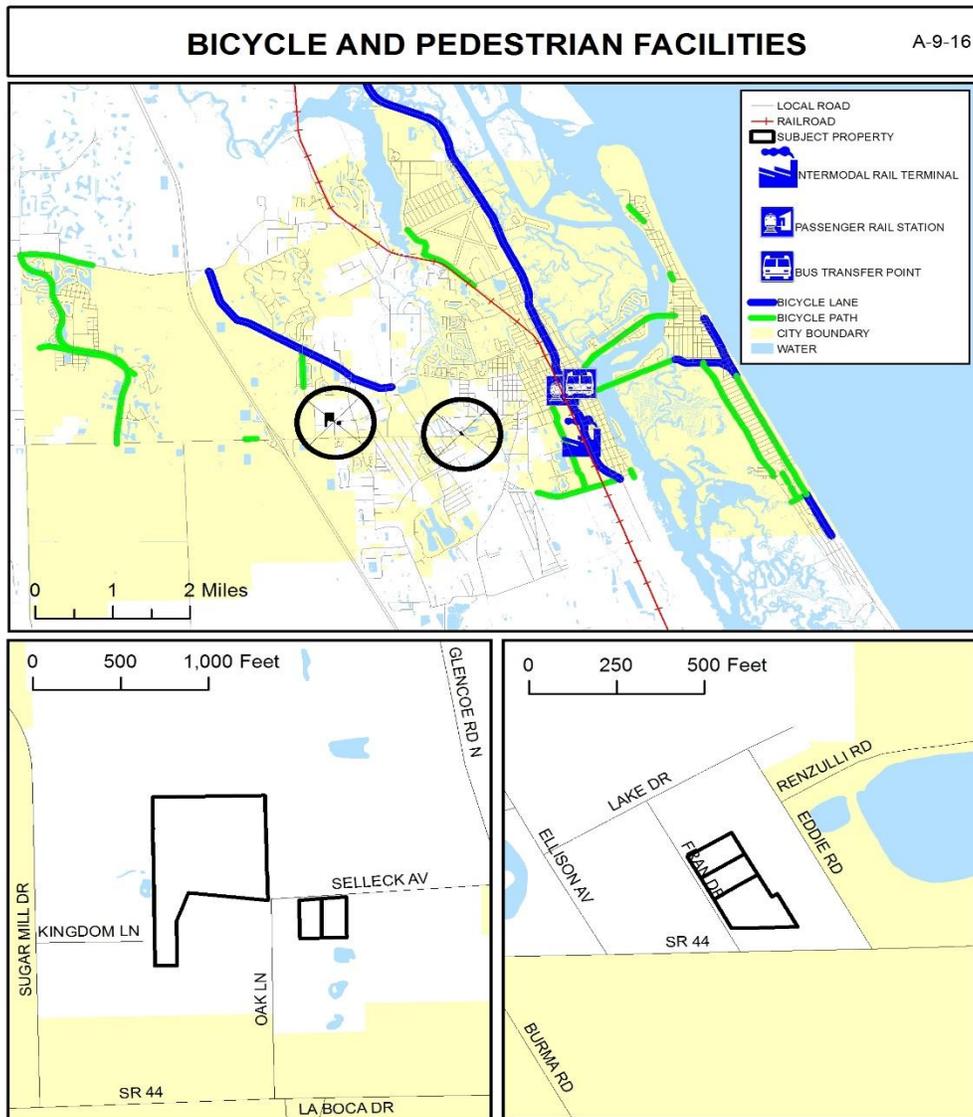


Update to Comprehensive Plan Map III-5



SUBJECT PROPERTIES ARE WITHIN THE HEIGHT NOTIFICATION ZONE. THEY ARE NOT WITHIN THE NOISE IMPACT ZONE, THE BUILDING RESTRICTION ZONE, OR THE RUNWAY PROTECTION ZONES.



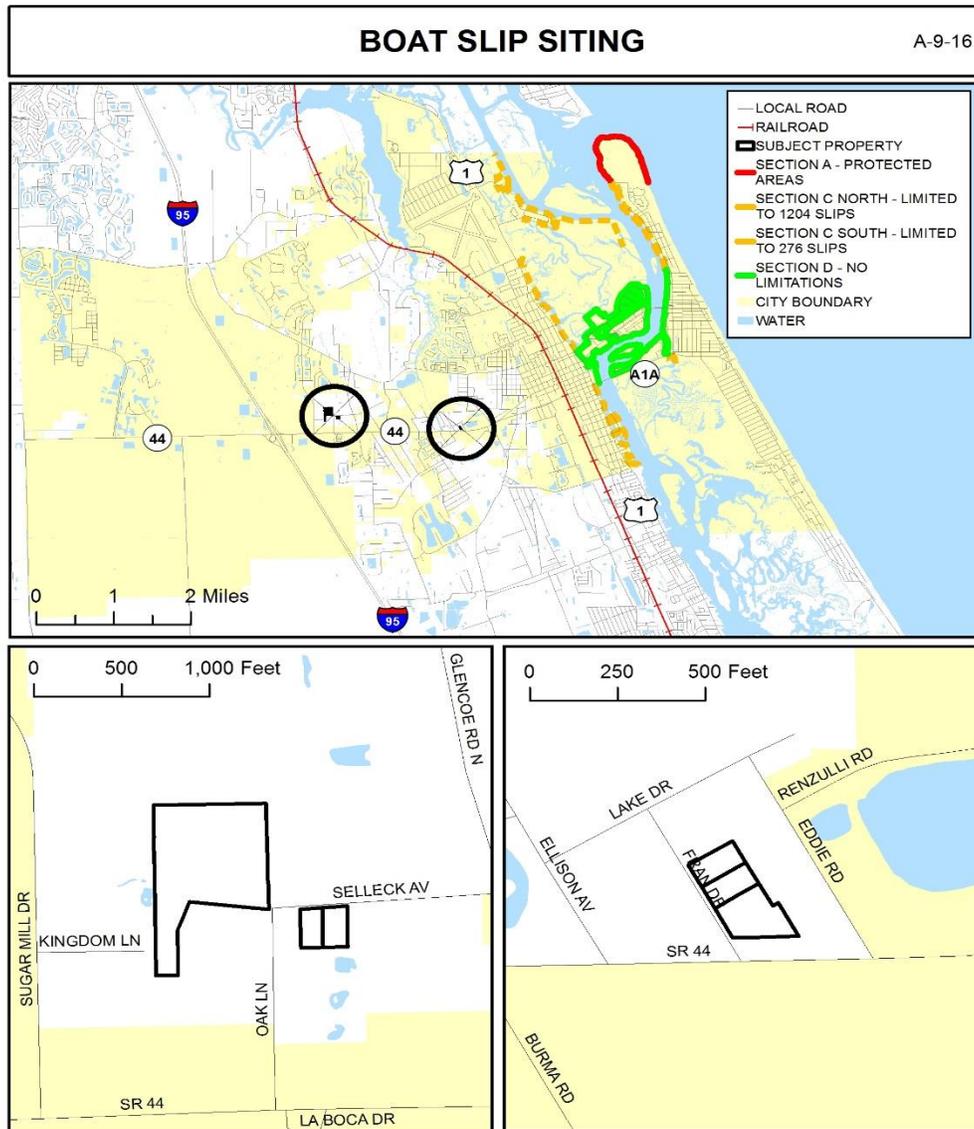


Update to Comprehensive Plan Map III-4



SUBJECT PROPERTIES ARE SERVED BY BICYCLE AND PEDESTRIAN FACILITIES LOCATED THROUGHOUT THE CITY

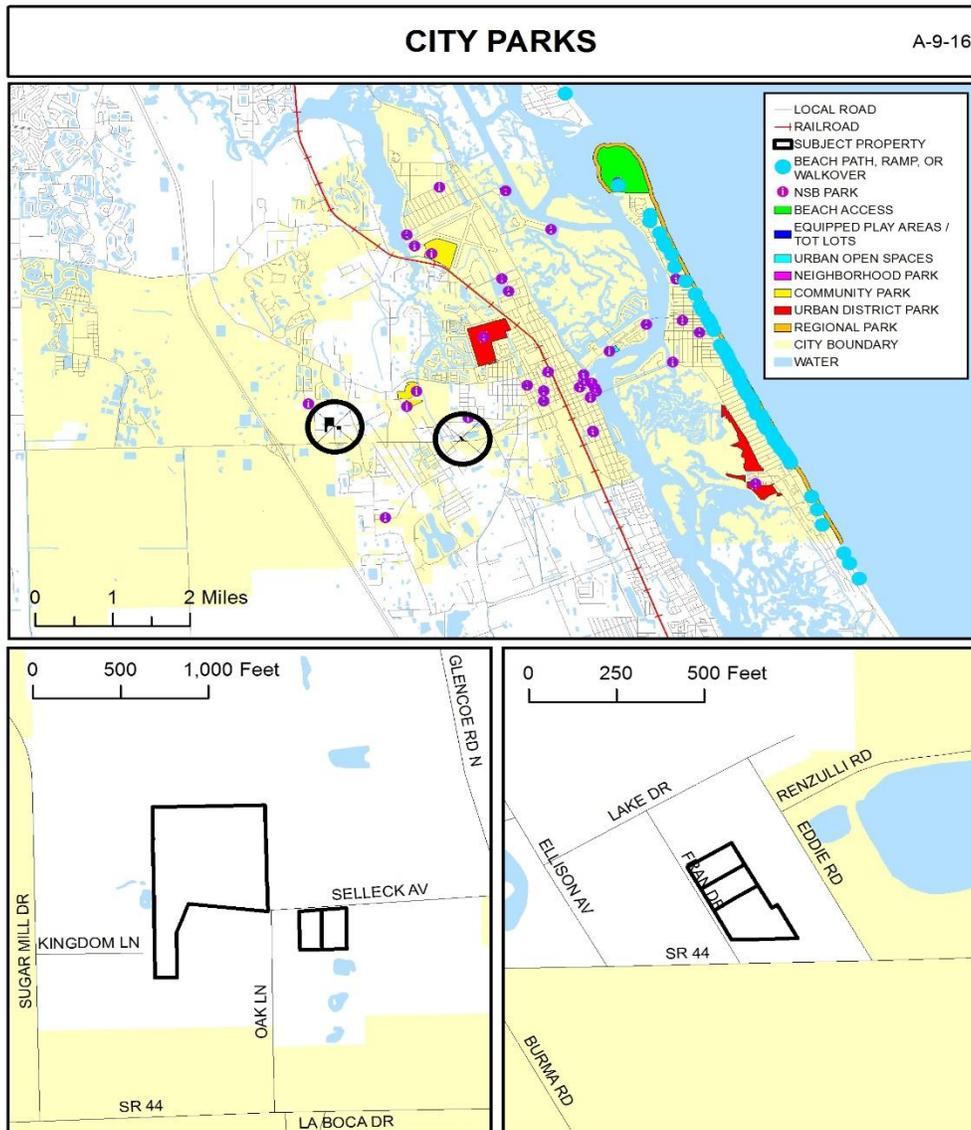




Update to Comprehensive Plan Map VIII-2

SUBJECT PROPERTIES ARE NOT LOCATED WITHIN
 A BOAT SLIP SITING RESTRICTED ZONE

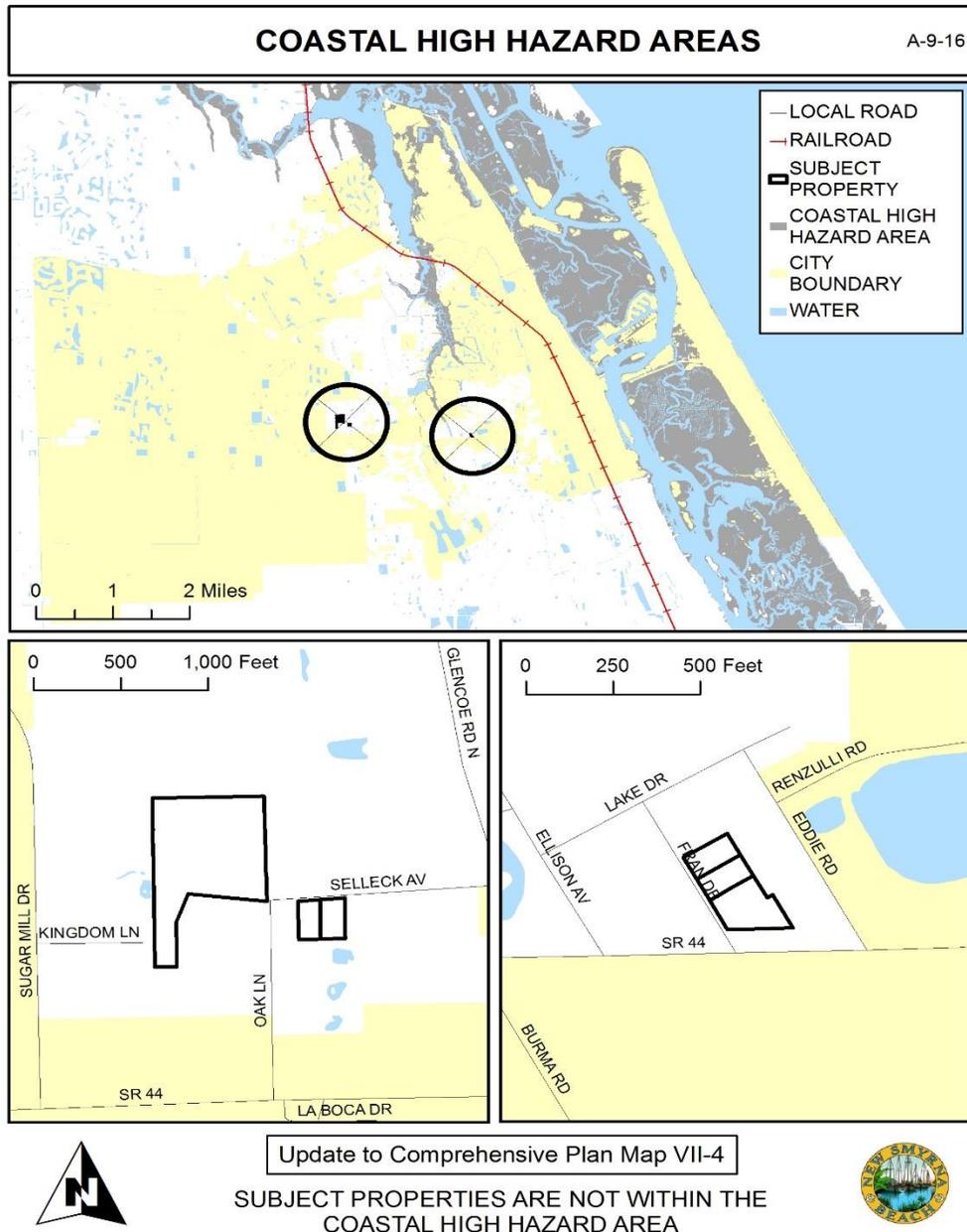


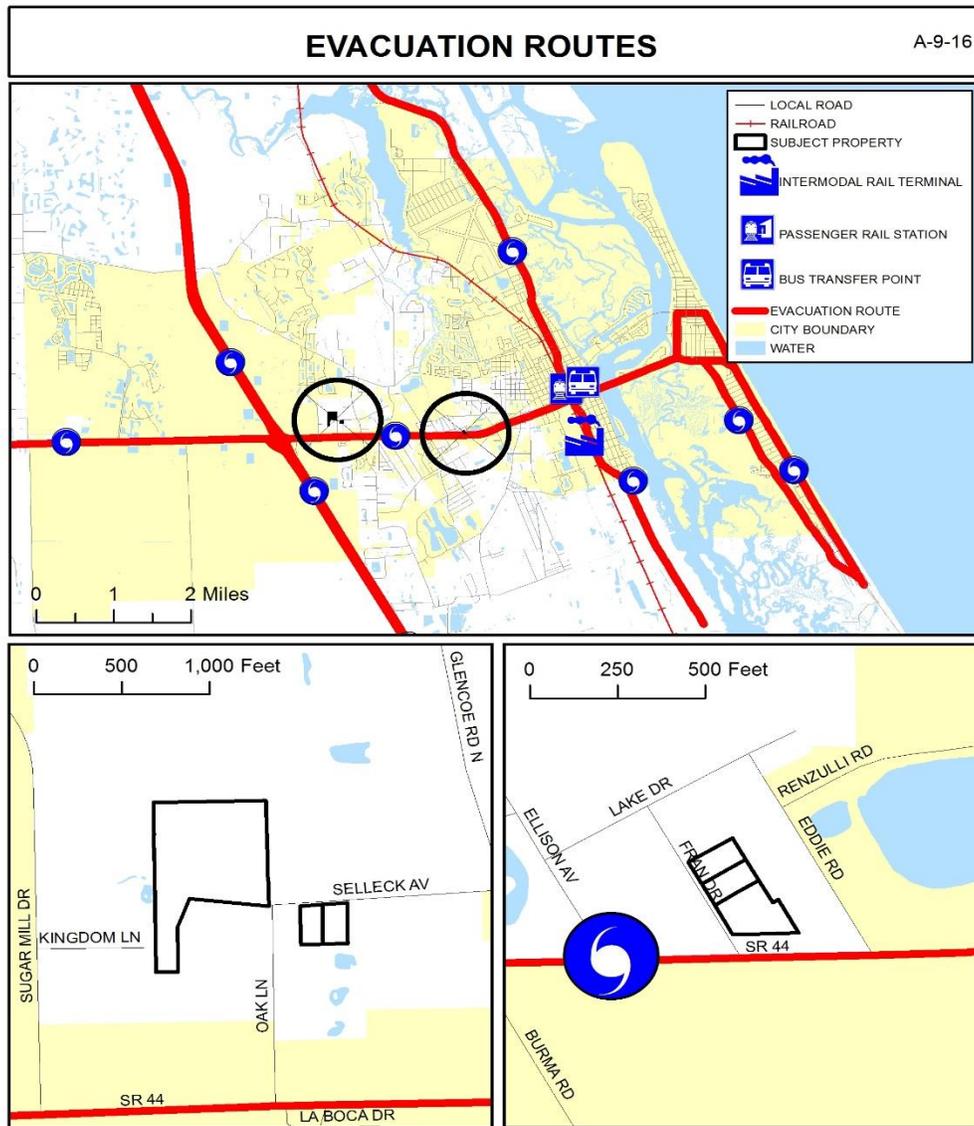


Update to Comprehensive Plan Map X-1

SUBJECT PROPERTIES ARE WITHIN THE CITY AND SERVED BY NEIGHBORHOOD AND COMMUNITY PARKS



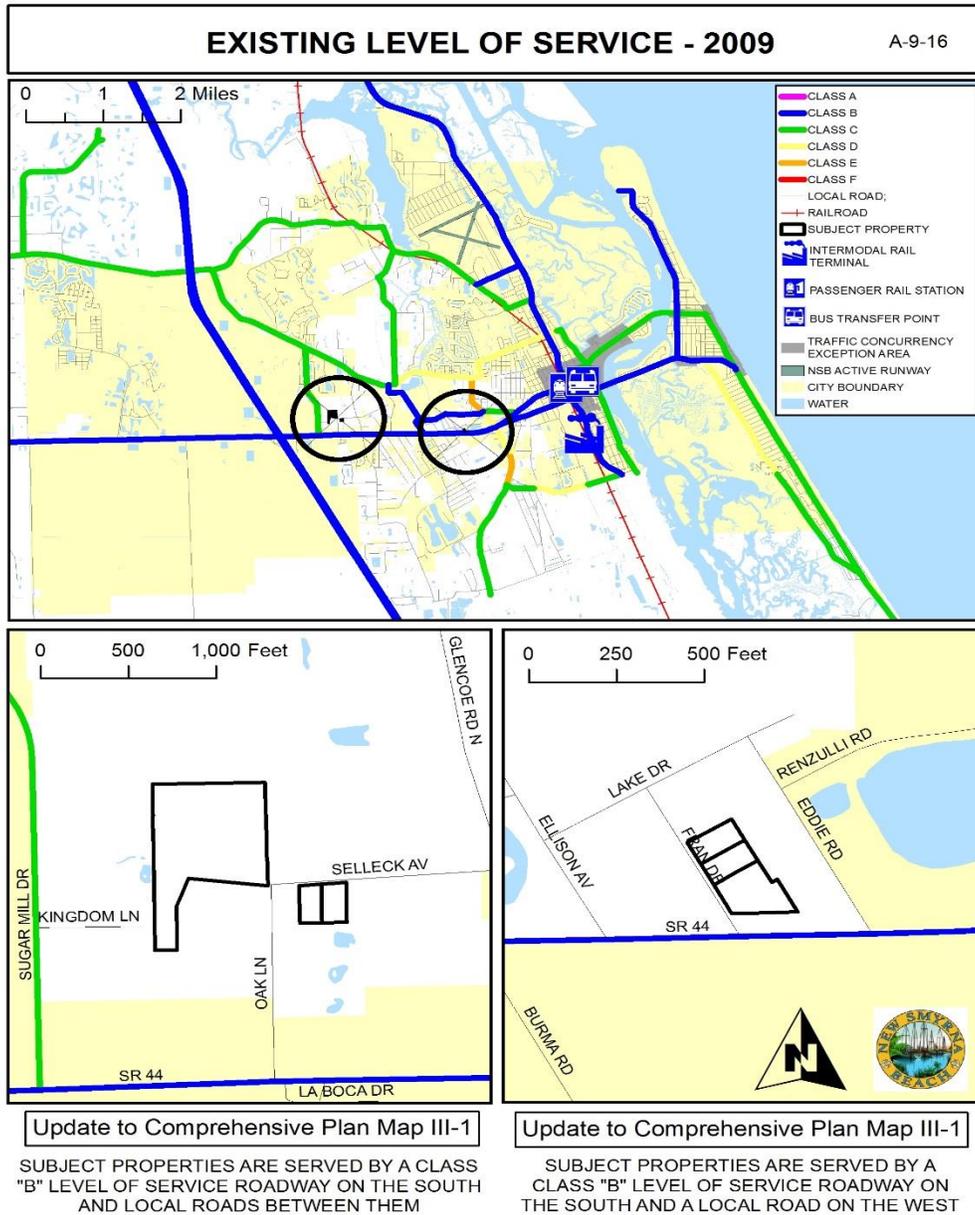


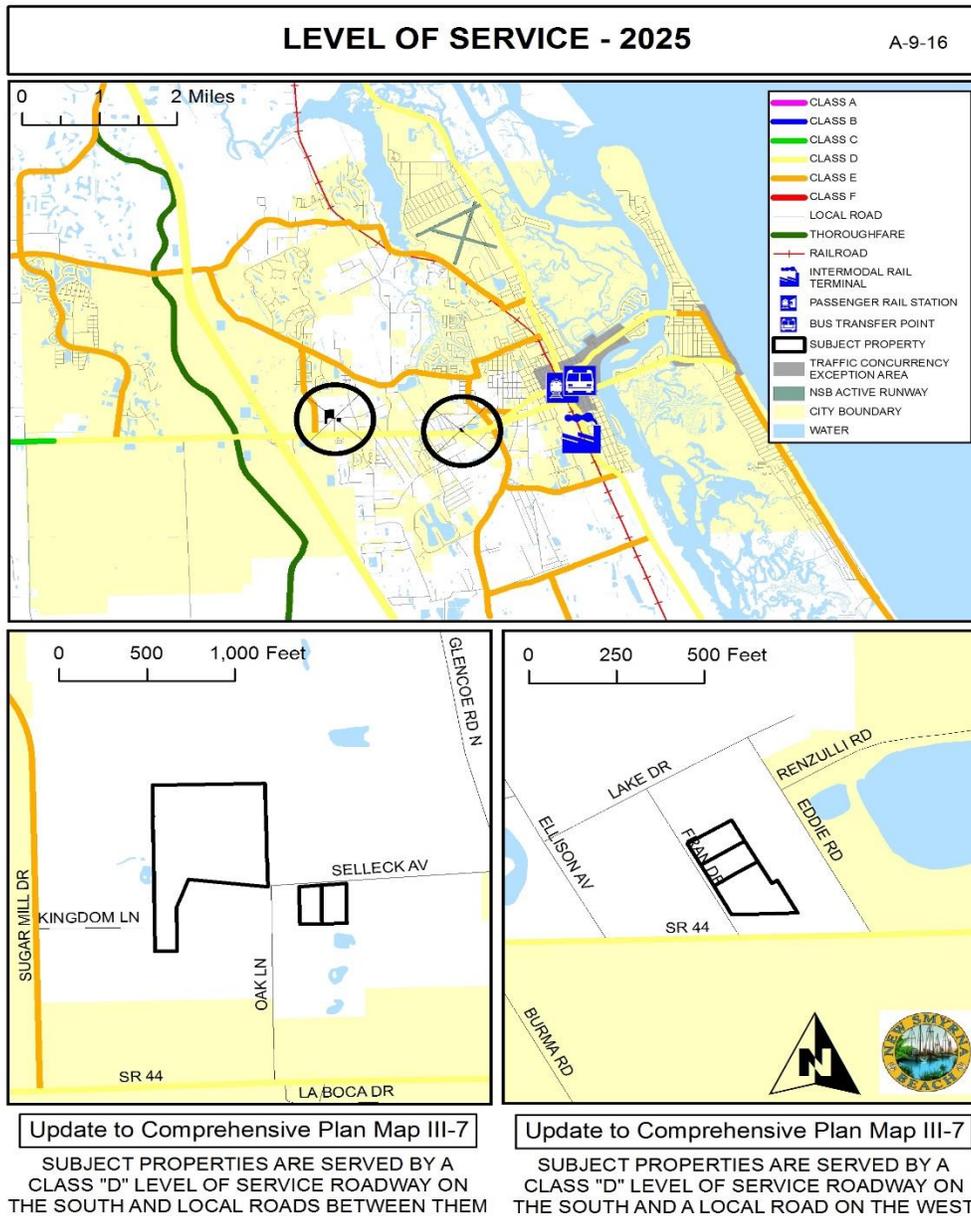


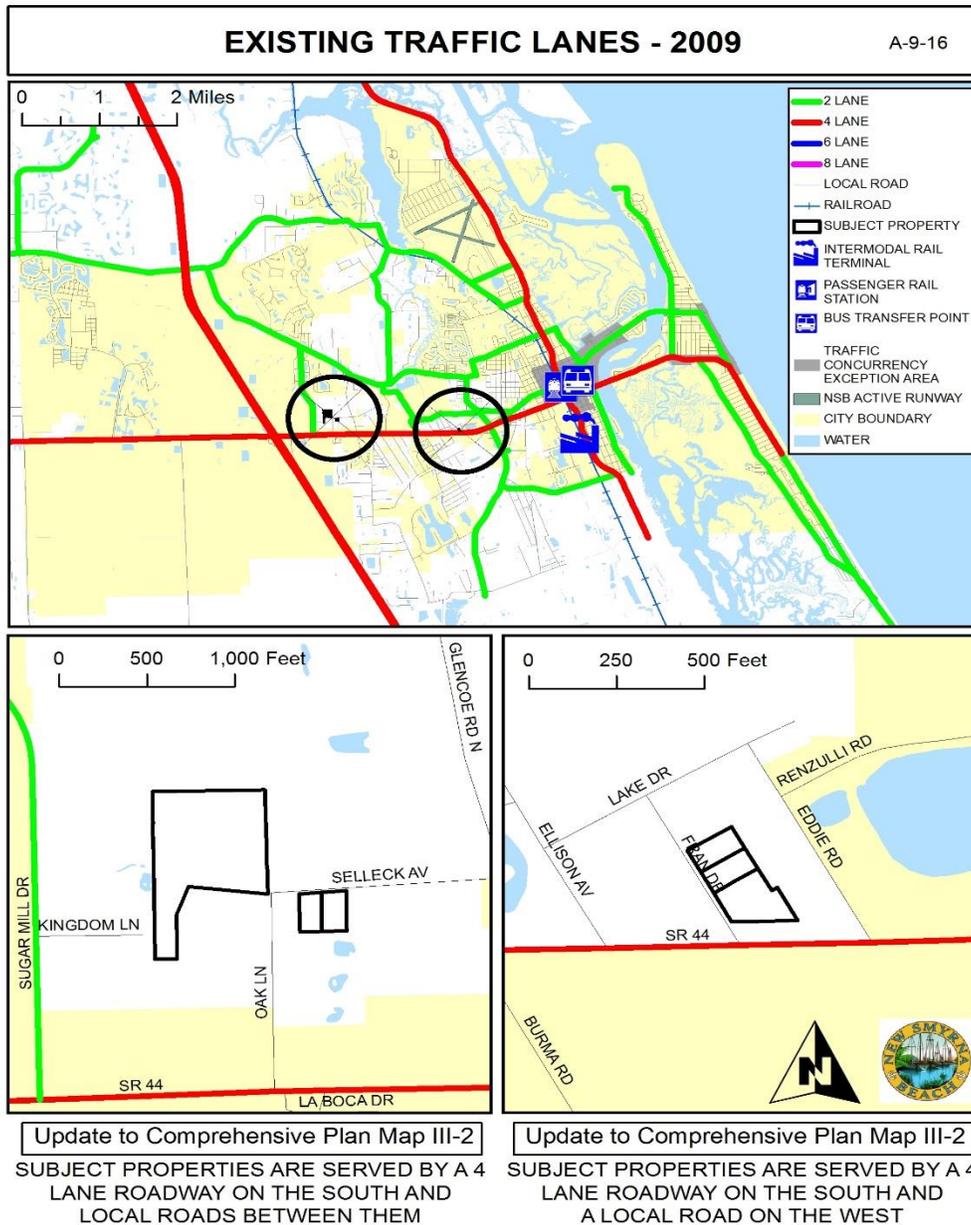
Update to Comprehensive Plan Map III-6

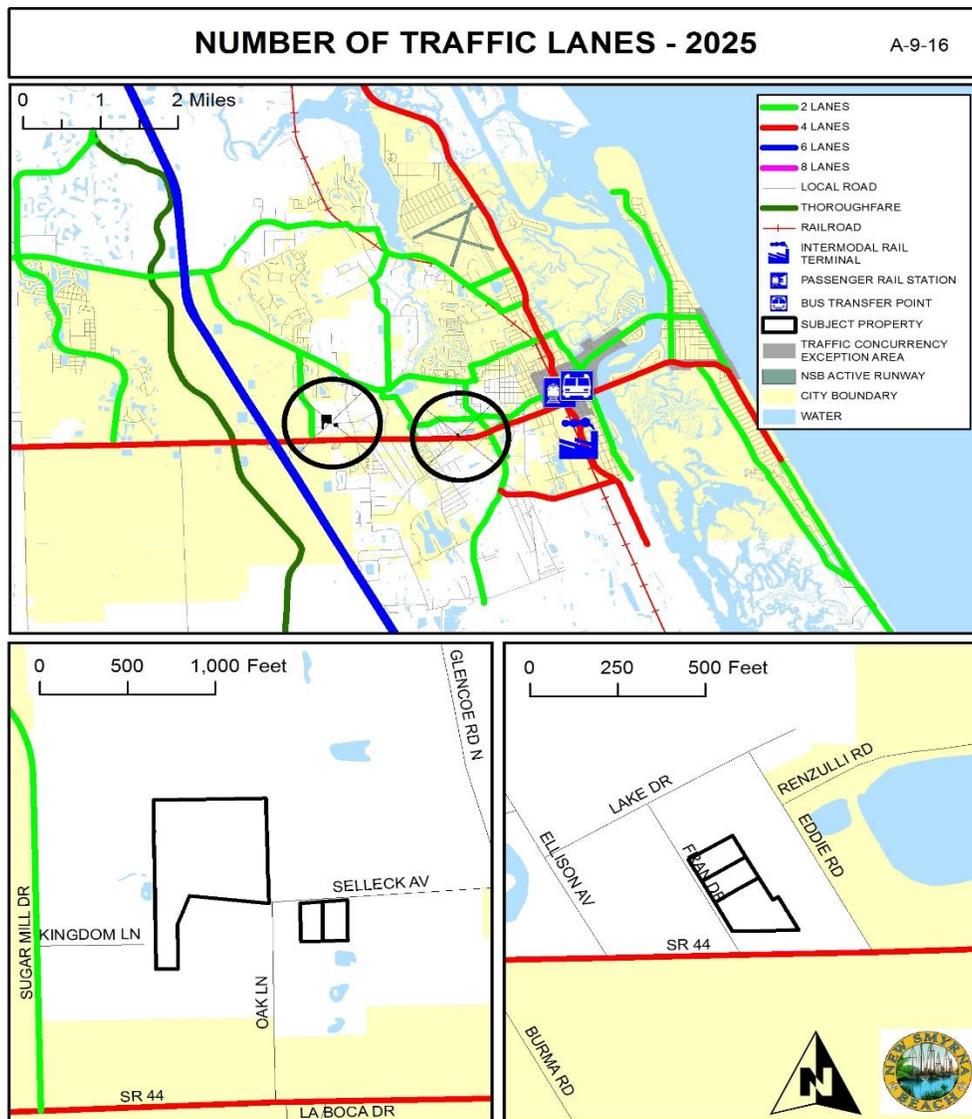
SUBJECT PROPERTIES ARE SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY









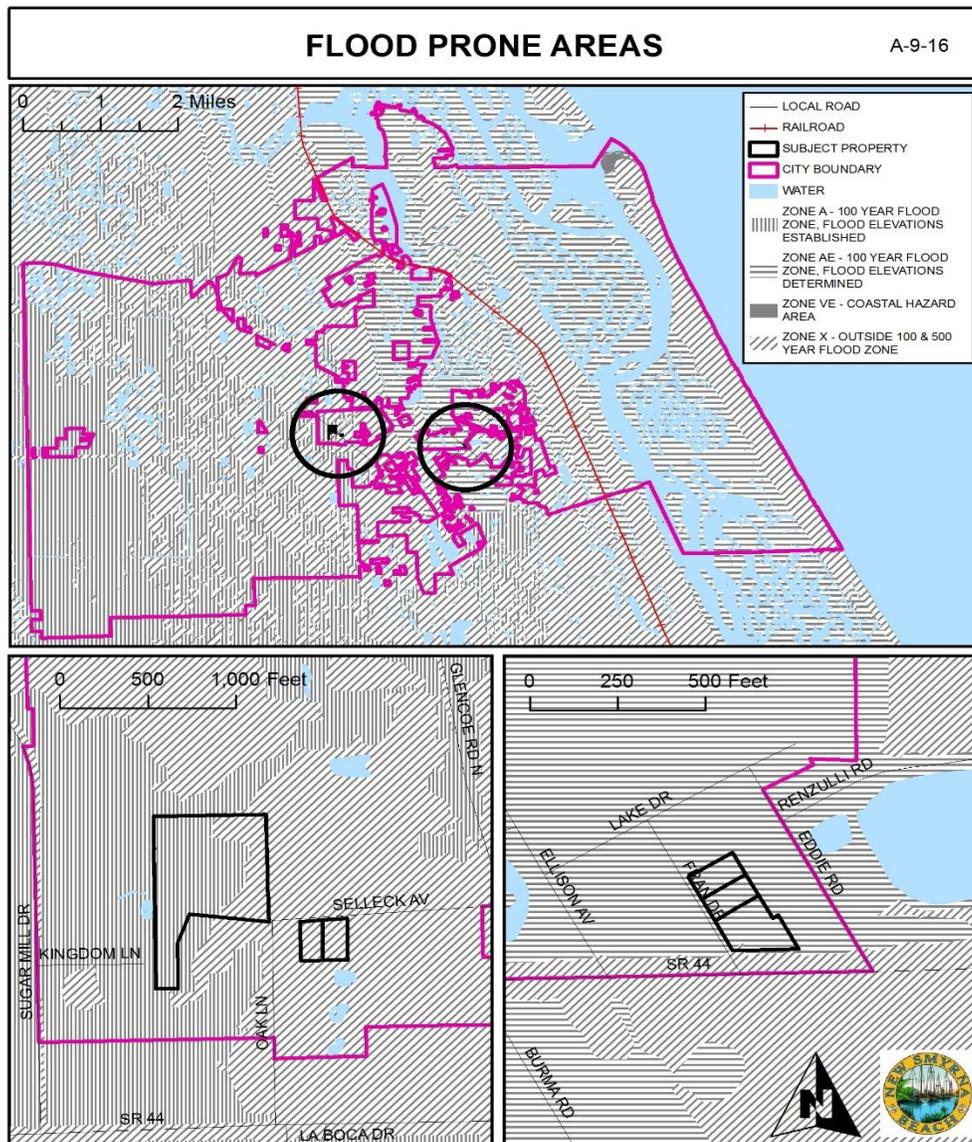


Update to Comprehensive Plan Map III-8

SUBJECT PROPERTIES ARE SERVED BY A 4 LANE ROADWAY ON THE SOUTH AND LOCAL ROADS BETWEEN THEM

Update to Comprehensive Plan Map III-8

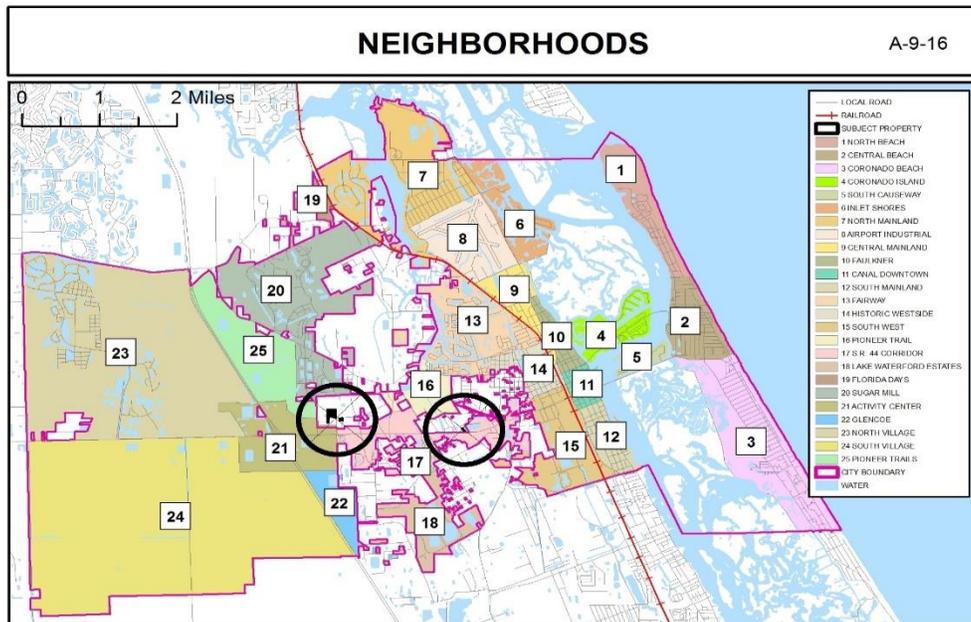
SUBJECT PROPERTIES ARE SERVED BY A 4 LANE ROADWAY ON THE SOUTH AND A LOCAL ROAD ON THE WEST



Update to Comprehensive Plan Map II-2
 SUBJECT PROPERTIES ARE
 WITHIN THE FEMA FLOOD ZONES A & X

Update to Comprehensive Plan Map II-2
 SUBJECT PROPERTIES ARE
 WITHIN THE FEMA FLOOD ZONE AE

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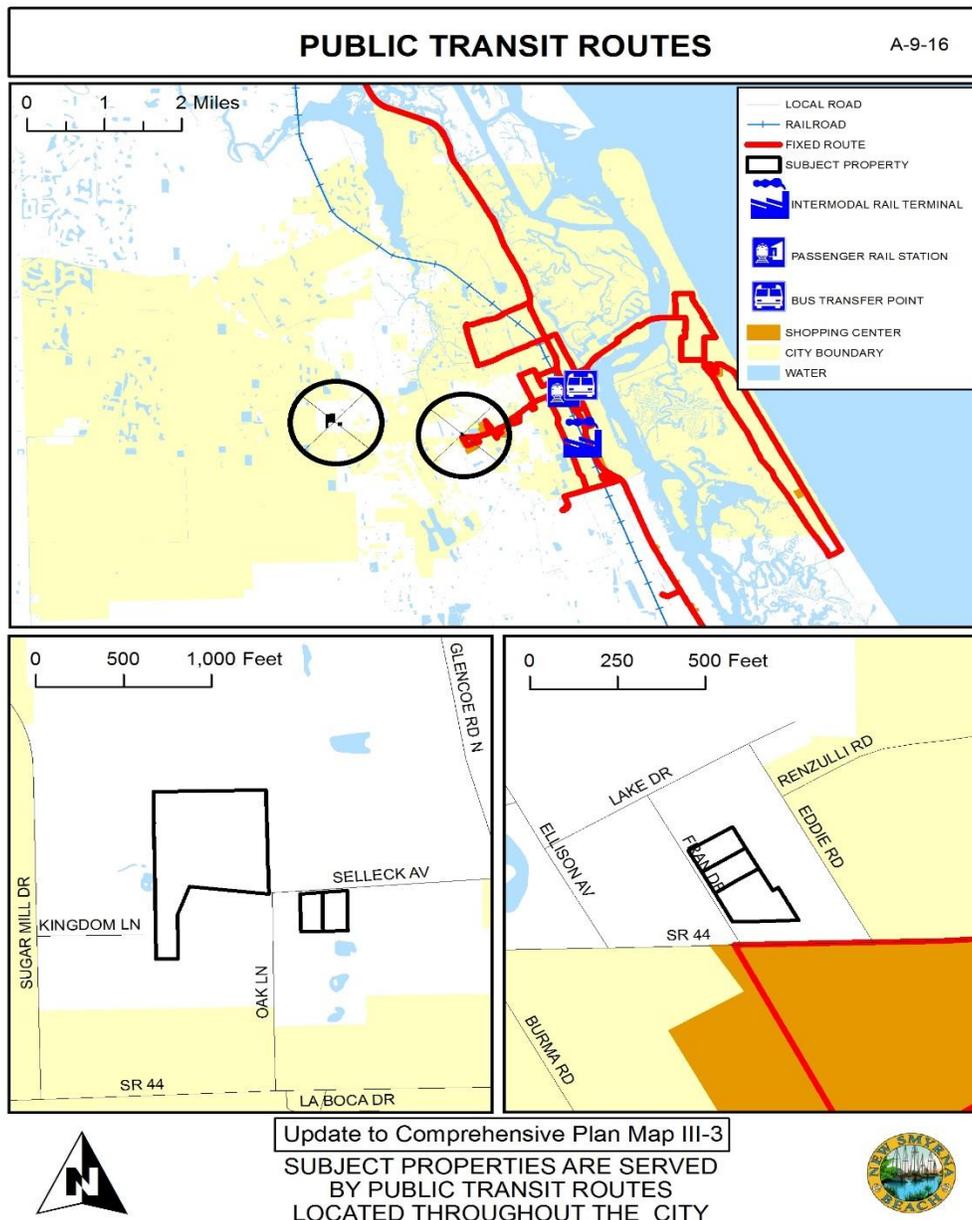


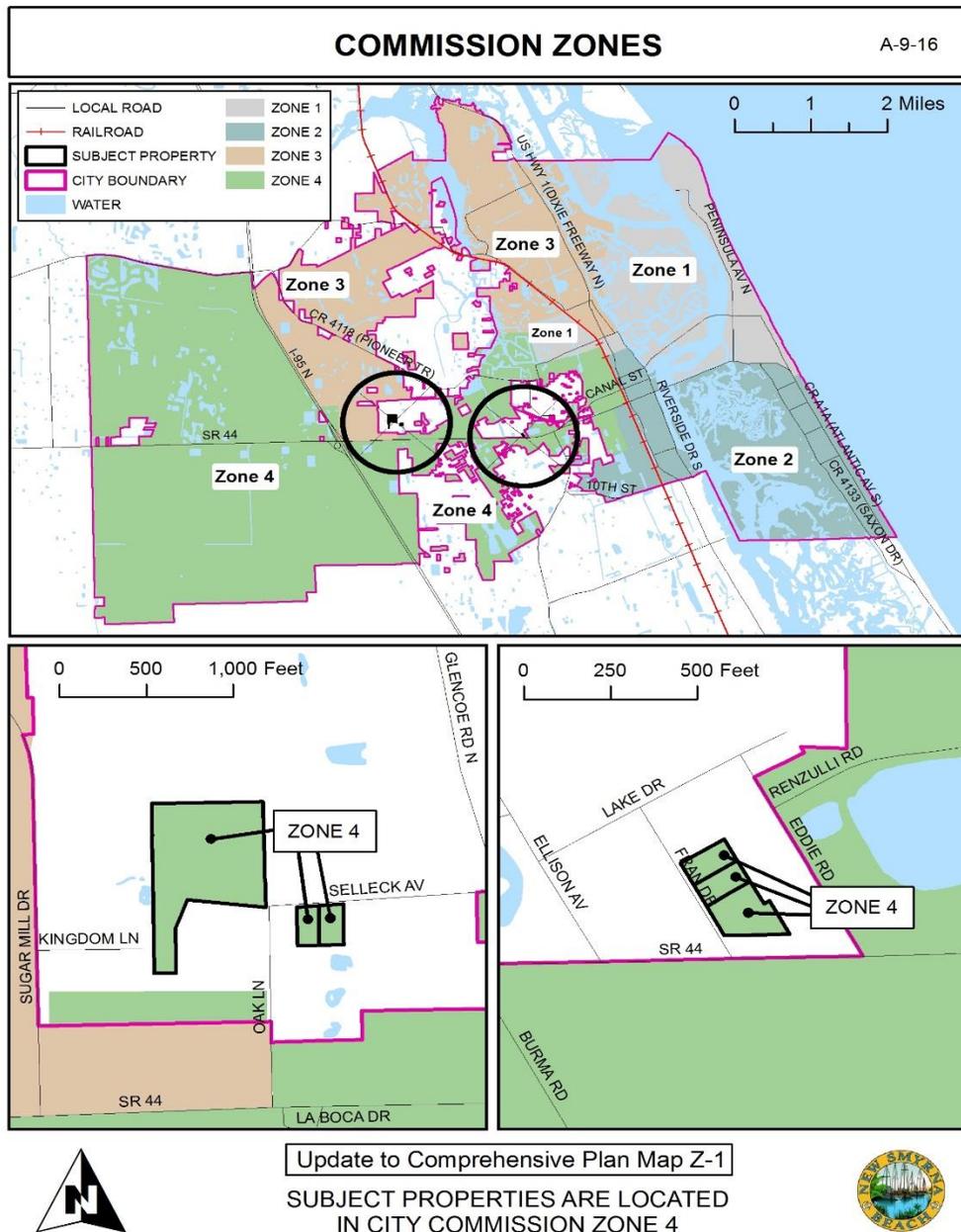
Update to Comprehensive Map II-1
 SUBJECT PROPERTIES ARE LOCATED
 WITHIN THE S.R. 44 CORRIDOR
 NEIGHBORHOOD



Update to Comprehensive Map II-1
 SUBJECT PROPERTIES ARE LOCATED
 WITHIN THE S.R. 44 CORRIDOR
 NEIGHBORHOOD

3





CITY OF NEW SMYRNA BEACH – PLANNING AND ENGINEERING
V-6-16: 313 Jessamine Ave / Fernandez
March 7, 2016

I. Summary

- A. **Applicant:** David Fernandez, 317 Flagler Ave, New Smyrna Beach, FL 32169.
- B. **Property Owner:** David Fernandez, 317 Flagler Ave, New Smyrna Beach, FL 32169.
- C. **Request:** approval of a variance to increase the maximum permitted driveway width from 30 feet to 69 feet.
- D. **Site Information:** The subject property is zoned R-3A Single-Family and Two-Family (Zero Lot Line) Residential. It is an improved 75x100 foot lot with a duplex. The subject property consists of approximately 0.17 acres, and is generally located south of Jessamine Avenue and East of Pine Street, and is addressed as 313 Jessamine Ave. A location map is found in **Exhibit A** and an aerial photo is found in **Exhibit B**.
- E. **Tax I.D. Number:** 7409-06-02-0130

II. Findings

- A. Existing site conditions are illustrated in **Exhibit C – Photos**. The property survey is found in **Exhibit D – Survey**.
- B. The Land Development Regulations, Section 803.03 B, Single-family and two-family residential driveways specifies the following:
 - 1. Width. Single-family and two-family residential driveways shall have a minimum width of eight feet and a maximum width of 40 percent of the lot width measured at the front yard setback line. The maximum width of a driveway measured along the property line is 30 feet.
 - 2. Material type. Both pervious and impervious driveway surfaces shall be considered in calculating whether the foregoing standard has been exceeded.
 - 3. Front yard coverage. Driveway and parking coverage within the front yard shall be limited to the area of the front yard which is directly in front of the garage or in the side yard.
 - 4. Location. Driveways shall not be located closer than three feet to side lot lines except where neighboring properties are to share a driveway.

- C. The applicant is requesting a variance for driveway pavers, currently installed on his property. These pavers extend 69 feet in width, and the entire front yard area from the building front to the street. A general sketch of the area is found in **Exhibit E**.
- D. In or about March 2014 the applicant installed pavers beyond the maximum permitted width of the driveway. Initially, pavers had extended to the full front yard area as illustrated in **Exhibit F**. The applicant has removed 3 feet of the paved area along each property line since the initial installation.
- E. The City Code Enforcement Department cited the applicant for installing the pavers without a permit. The City could not issue a permit after-the-fact, as the applicant would require a license agreement from the city. The applicant has not obtained a license agreement.
- F. The property owner has provided a letter of response in support of this variance. The letter of response is found in **Exhibit G**.
- G. The LDR requires variance requests to meet all of the following criteria. , **staff's responses are in bold.**
 - (i) Special circumstances exist which are peculiar to the subject property owner's land, structure, or building, and do not generally apply to the neighboring lands, structures, or buildings, in the same district or vicinity.

Staff determines that no special circumstances exist peculiar to the subject property that do not generally apply to other lots in the same district or vicinity. Staff has reviewed lot sizes, shapes and configurations in the zoning district, and determined this particular lot is not significantly smaller, odd shaped or restrictive in nature.

The criterion has not been met.

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

Strict applications of the provisions of the LDR would not deprive the subject property owner of reasonable rights commonly applicable to other properties in the same district.

The property owner could design a driveway that was compliant with City Land Development Regulations.

The criterion has not been met.

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

The present property owner has created this condition.

This criterion has not been met.

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

Granting the variance would impair the purpose and intent of the LDR, by giving the applicant a driveway width over two times the maximum permitted driveway width.

This criterion has not been met.

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

Granting the variance would constitute a grant of special privilege that is denied by other lands, structures or buildings in the same district.

This criterion has not been met.

III. Recommendation

This application meets none of the 5 evaluation criteria thus, staff recommends **denial** of this variance request.

EXHIBIT A – Location Map



EXHIBIT B – Aerial Photo Map



EXHIBIT C – Site Photos



Oblique view of subject property

EXHIBIT C (Cont.)



Eastern Property Line – grassy area is on subject property

EXHIBIT C (Cont.)



Western Property Line – grassy area is on subject property

EXHIBIT C (Cont.)



Northeast corner of property looking west across property

EXHIBIT C (Cont.)



Adjacent property to the east

EXHIBIT C (Cont.)



Looking west from subject property along Jessamine Ave

EXHIBIT C (Cont.)



Looking east from subject property along Jessamine Ave

EXHIBIT D – Current Survey

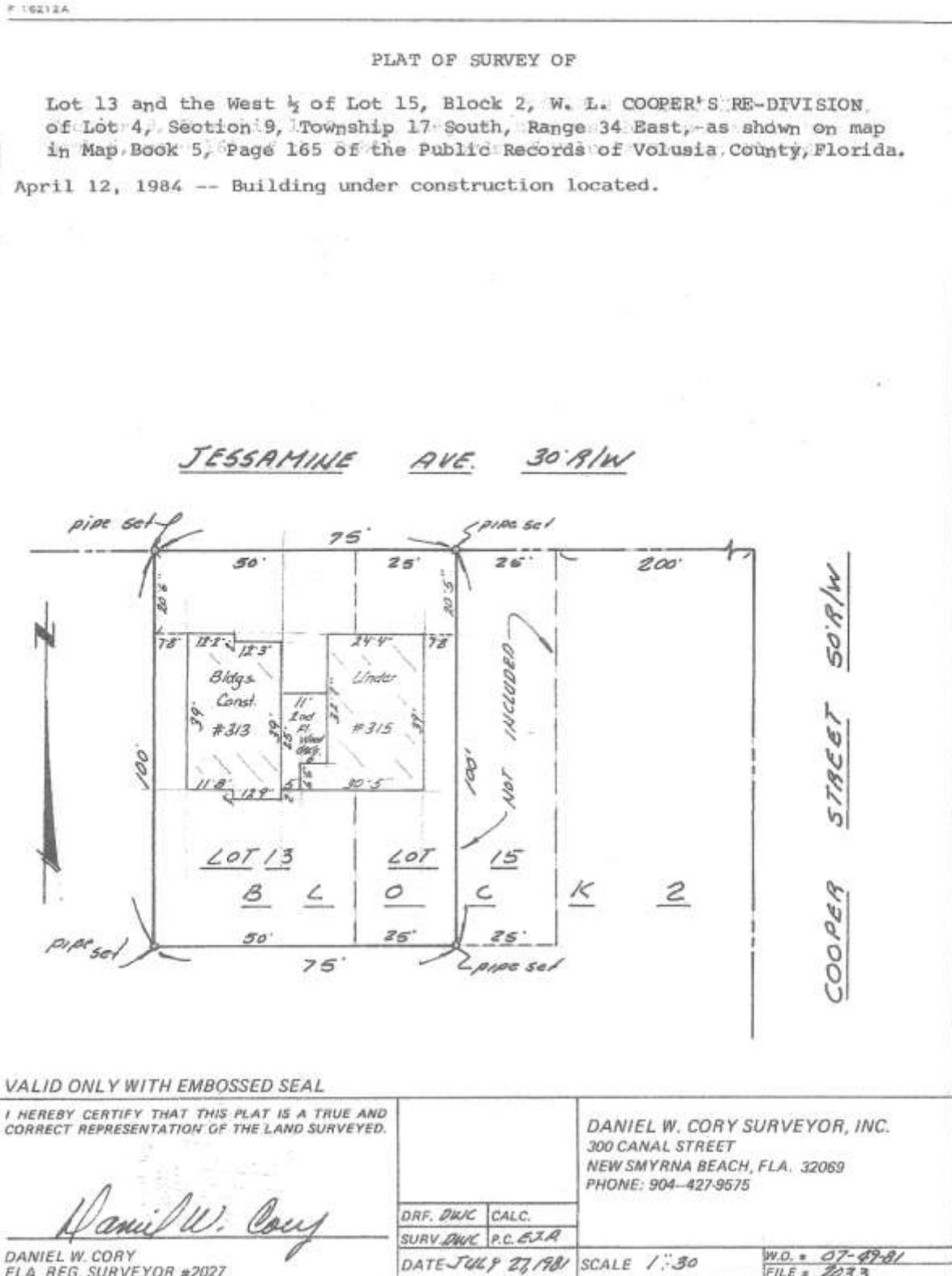


EXHIBIT E –Sketch of Conditions and proposed variance

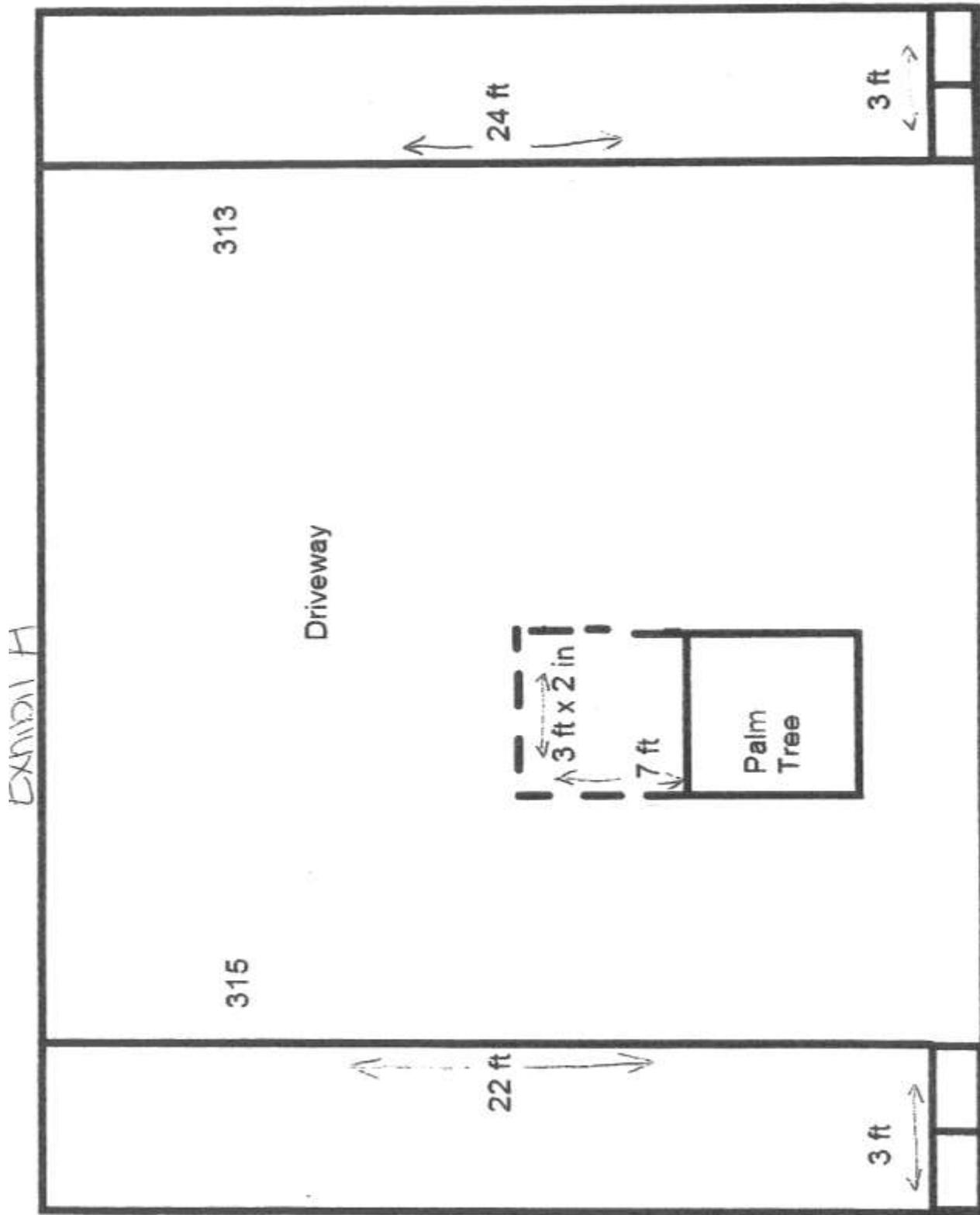


Exhibit F – Initial paver condition





EXHIBIT G – Applicant Response Letter

Due to circumstances with false permitting, we are trying to keep pavers in place due to parking issues on Jessamine Avenue. These are two, two bedroom units which keeps vehicles off the street for safety reasons. Where pavers have been removed, grass was installed for run off according to Kyle Fegley's advisement.

Remove 3 Ft of pavers adjacent to each property line. Create a 6" swale to collect runoff. Fill with grass.

Remove 3 Ft x 7 Ft pavers by palm tree.
Create 6" swale.

OK
KLF
9/11/15

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
2 **PUD-10-15: 1ST AMENDMENT TO ORD. # 108-06**
3 **(PUD-4-06 - RUBIN /EAST & WEST ACTIVITY**
4 **CENTER - FOR EAST SIDE ONLY)**

5 MARCH 7, 2016
6

7 **I. Background**
8

- 9 A. **Applicant:** James Stowers, Esquire, 424 Luna Bella Lane, New Smyrna
10 Beach, Florida 32168
11
- 12 B. **Property Owner:** Geosam Capital US (Venetian Bay) LP, 424 Luna Bella
13 Lane, New Smyrna Beach, Florida 32168
14
- 15 C. **Request:** Approval of amendments to a previously approved Planned Unit
16 Development (PUD) Master Development Agreement (MDA) that was
17 established in 2006 as City Ordinance # 108-06, for modifications within the
18 east parcel area only, for:
19 1) Extension of the MDA term life to perpetuity,
20 2) Allowing for new permitted uses of excavations and communication
21 towers,
22 3) Removing the existing requirement for a multi-purpose trail,
23 4) Modifying signage requirements for an existing billboard to remain in
24 place, from its current requirement for it to be removed in 2014.
25 If approved, the request would constitute the first amendment to the east
26 portion of the approved development agreement.
27
- 28 D. **Site Data:** The subject property consists of approximately 25 acres, is
29 zoned PUD, Planned Unit Development, and is generally located north of
30 State Road 44 and fronting the east side of Interstate 95.
31
- 32 E. **Maps and Attachments:** A Location Map is attached as **Exhibit A** and an
33 aerial map is attached as **Exhibit B**. The existing Ord. # 108-06 PUD Master
34 Development Agreement and Conceptual Development Plan (CDP) is
35 attached as **Exhibit C** (without the 27 page Design Guidebook exhibit). The
36 proposed PUD MDA revisions to those portions of that attached existing
37 Exhibit C MDA is included as **Exhibit D**, along with the applicant's cover
38 letter accompanying that resubmittal attached as **Exhibit E**. Finally, a copy
39 of a site plan for a proposed borrow pit that is currently permitted through
40 the St. Johns River Water Management District (SJRWMD) is attached as
41 **Exhibit F**, and photographs of the billboard in question are attached as
42 **Exhibit G**.
43
- 44 F. **TAX ID #:** 7322-00-00-0040
45

46 **II. Findings**
47

- 48 A. The subject property is an approximately 25 acre east portion of an existing
49 larger PUD MDA that consists of two parcels, bisected by Interstate 95. The

1 west parcel/portion of this MDA agreement is partially developed, with the
2 existing Wal-Mart, McDonald's, etc. at the northwest intersection of I-95 and
3 SR 44, and remains in separate ownership from this subject parcel, and
4 thus not a part of this application. The subject east portion/parcel of this
5 MDA is currently undeveloped, and does not front on any open and/or
6 platted roads and rights-of-way. This 25 acre parcel is itself further bisected
7 by a separate parcel owned by the Utilities Commission, City of New
8 Smyrna Beach (UCNSB), which is an abandoned railroad right-of-way and
9 also not included as part of the subject property and the PUD. An
10 approximately five (5) acre portion of the subject property is north of and
11 separated from the south 20 acres of the PUD, by this UCNSB linear
12 property dividing the parcel. That north 5 acre portion is almost exclusively
13 wetlands, and has never been approved for any future development as part
14 of this existing PUD.

15 B. The property currently has a Future Land Use (FLU) designation of Activity
16 Center and is zoned PUD, Planned Unit Development. To the west of the
17 subject property is Interstate 95, for a distance of approximately 2,250 linear
18 feet.

19 C. The owner recently purchased this entire 25 acre east portion of the PUD,
20 which is adjacent to the recently annexed \pm 850 acre Coastal
21 Woods/Pioneer Trails PUD immediately north, east, and south of the
22 subject 25 acres, which is also under their same ownership.

23 D. The applicant submitted these proposed PUD MDA revisions to the City for
24 review and approval in November 2015. These proposed revisions were
25 then reviewed by the City Plan Review Committee (PRC) at their regular
26 December 4, 2015 meeting. The applicant resubmitted a revised version of
27 the proposed PUD MDA revisions (Exhibit D) in February 2016. A copy of
28 the applicant's February 5, 2016 cover letter accompanying that resubmittal
29 is attached as **Exhibit E**, with that letter containing both the December 2015
30 PRC member comments and the applicant's response to each.

31 E. Each of the proposed MDA amendments shown on the applicant's
32 submitted Exhibit D would modify, and for simple purposes separate, the
33 existing MDA that was approved in 2006, to apply for to this 25 acre east
34 parcel area only. Each of the proposed amendments are discussed
35 separately in following paragraphs below.

36 F. The **proposed amendment to Subsection A.3**, shown on Exhibit D Page
37 2, would allow for construction of the almost 16 acre borrow pit shown on
38 **Exhibit F** (approved under an existing excavation permit issued by the
39 SJRWMD in 2014) to be exempt from all typical City review and approval
40 processes of subdivision, site plan, construction permitting, etc. That
41 proposed borrow pit site plan was never approved by the City, and no
42 application for its construction was ever submitted to the City.

43 That existing SJRWMD permit and plan fails to comply with Section 801.15
44 of the City LDR (for excavations) in many aspects, and was never reviewed
45 by the City for compliance with those Section 801.15 requirements. One
46 striking and obvious example of this SJRWMD permit and plan being in

1 direct conflict with minimum LDR requirements is its location shown as 55'
2 from the Interstate 95 right-of-way line, while the LDR requirement is for a
3 minimum 150' setback from that federal highway. That alone would require
4 a variance approval by the City.

5 In addition, there appear to be other requirements of the City LDR section
6 regarding excavations which apparently were never applied in connection
7 with the current SJRWMD excavation permit the applicant is now seeking
8 to make exempt from City review and permitting. **Accordingly, staff**
9 **cannot recommend approval of this requested MDA revision to**
10 **Subsection A.3.**

- 11 G. The **proposed amendment to Section C.1**, shown on Exhibit D Page 2,
12 would allow for the addition of two new Permitted Uses to those already
13 listed as being permitted within the East Parcel of the PUD, as shown on
14 **Exhibit C**. That list of currently Permitted Uses starts on Exhibit C Page 3
15 and extends to the bottom of Page 5, containing 56 varying types of
16 currently Permitted Uses. The two uses proposed to be added as Permitted
17 are Excavations of various types and Communication Towers not
18 exceeding 70' in height.

19 One aspect of this requested addition for Excavations as a Permitted Use
20 relates to the above detailed proposed amendment to Subsection A.3, to
21 make exempt from all City permitting processes for construction of the
22 almost 16 acre borrow pit under an existing SJRWMD excavation permit.
23 The addition of this use in the MDA would allow for that borrow pit permitted
24 by SJRWMD in 2014 to then be a Permitted Use under City regulations, but
25 that use would still require compliance with all City LDR requirements of the
26 specific LDR Section 801.15 re Excavations.

27 Staff could support the addition of these proposed Permitted Uses, but has
28 reservations about the ability of the subject property to accommodate a
29 "borrow pit" type excavation for off-site transport, primarily due to the
30 property being "land-locked" and with no apparent means of a roadway
31 network for transport off-site. The current SJRWMD permit is limited in this
32 aspect, as it only allows for a driveway connection and transport via I-95,
33 "to provide fill for a highway expansion project" of I-95, which is now largely
34 complete. Any other proposed off-site transport proposals and/or routes
35 would seem to require a significantly greater review and approval process,
36 in terms of impacts to the surrounding neighborhood and road networks.

- 37 H. The **proposed amendment to Section D.1**, shown on Exhibit D Page 2,
38 would completely eliminate the current MDA requirement for the subject
39 property owner to construct a multi-purpose trail within the UCNSB property
40 that bisects the East Parcel. No other explanation is provided by the
41 applicant as to this request, and as to why the City would wish to eliminate
42 this previous and long-standing commitment that was obtained in 2006 as
43 part of the PUD rezoning and MDA.

44 The City recently constructed a similar multi-purpose trail that terminates at
45 Sugar Mill Drive to the east, and has made application for grant funding to
46 connect that trail with a similar one that would extend south to SR 44 and

1 the same multi-purpose trails anticipated on the north side of that SR 44
2 roadway. Thus any action by the City to completely eliminate a commitment
3 to construct an additional connection to and/or segment of this multi-
4 purpose trail system would seem both illogical and not in the City's interest.
5 **Accordingly, staff cannot recommend approval of this requested MDA**
6 **revision to Section D.1.**

7 I. The **proposed amendment to Section E.4**, shown on Exhibit D Page 2,
8 would allow for an existing billboard within the subject property to remain in
9 perpetuity, rather than the current MDA requirement for it to be removed in
10 2014, when "the billboard lease expires." That billboard is located in the
11 northwest corner of the parcel, according to the site survey within the
12 attached **Exhibit C** existing MDA (as its internal Exhibit 2), and is also
13 shown in photos attached as **Exhibit G** of this report. According to the
14 applicant, and as stated in the applicant's **Exhibit E** cover letter (Item # 4,
15 on Page 2 of 4), this required billboard removal is beyond the applicant's
16 control, due to the terms of its current lease agreement. The applicant was
17 requested at the December PRC meeting to provide evidence of that, as
18 that billboard lease is publicly recorded. The applicant has since provided
19 that recording information, and at this time, the City Attorney's office is
20 reviewing that lease document to establish if and/or when the billboard
21 lease would allow for it to be removed, in conformance with the current MDA
22 text. **Accordingly, staff cannot recommend approval of this requested**
23 **MDA revision to Section D.1 until this legal status is defined more**
24 **clearly by the applicant and/or City Attorney's office.**

25 J. The **proposed amendment to Section E.8**, shown on Exhibit D Pgs. 2 &
26 3, is for a text addition specifying that if the East Parcel is used solely for
27 excavation and/or water retention, then no Traffic Impact Study shall be
28 required. Should any future excavation of the parcel be proposed to
29 transport the excavated materials off-site by using adjacent public
30 roadways, some level of analysis would seem to be required for those traffic
31 impacts in regard to safety and/or maintenance concerns, even if the
32 associated proposed increase in traffic volume would be minimal. **This**
33 **associated factor needs to be reviewed and examined in more detail**
34 **before staff can recommend for this proposed MDA revision.**

35 K. The **proposed amendment to Section H**, shown on Exhibit D Page 3,
36 would specify this MDA amendment, which appears intended to pertain to
37 the currently undeveloped East Parcel only, would hereafter be considered
38 to have already been extended in perpetuity. As the proposed additional
39 MDA text indicates, the MDA has already been made valid for both East
40 and West Parcels, by the previous development that has occurred within
41 the West Parcel. Consequently, this added MDA text would simply clarify
42 that status for the East Parcel. **Staff can support the addition of this**
43 **proposed Section H text.**

44 L. It seems a generally accepted concept that the establishment of a Planned
45 Unit Development MDA is a negotiated process for land use and
46 development between the applicant and local zoning authorities, in which
47 both parties gain what should be equivalent benefits. Given that premise, it

1 is not clear how some of the above proposed revisions requested by the
2 applicant offer and/or provide any value to the City and its residents, and
3 instead seem to be a request to expand current and future uses without any
4 equal benefit to the public.

5 **III. Recommendation**

6
7 Staff recommends the Planning and Zoning Board similarly recommend to the City
8 Commission **approval of** the following sections of the requested 1st Amendment to the
9 PUD Master Development Agreement (MDA):

- 10 1) Section C.1 (re new Permitted Uses), as detailed in Finding G above, and
11 2) Section E.8 (re Expiration), as detailed in Finding K above.

12
13 Staff recommends the Planning and Zoning Board **deny** and recommend to the City
14 Commission **denial of** the following sections of the requested 1st Amendment to the PUD
15 Master Development Agreement (MDA), as currently written and proposed:

- 16 3) Subsection A.3 (re SJRWMD permit), as detailed in Finding F above,
17 4) Section D.1 (re Multi-Purpose Trail), as detailed in Finding H above,
18 5) Section E.4 (re existing Billboard), as detailed in Finding I above, and
19 6) Section E.8 (re Traffic Impact Study), as detailed in Finding J above.

EXHIBIT A

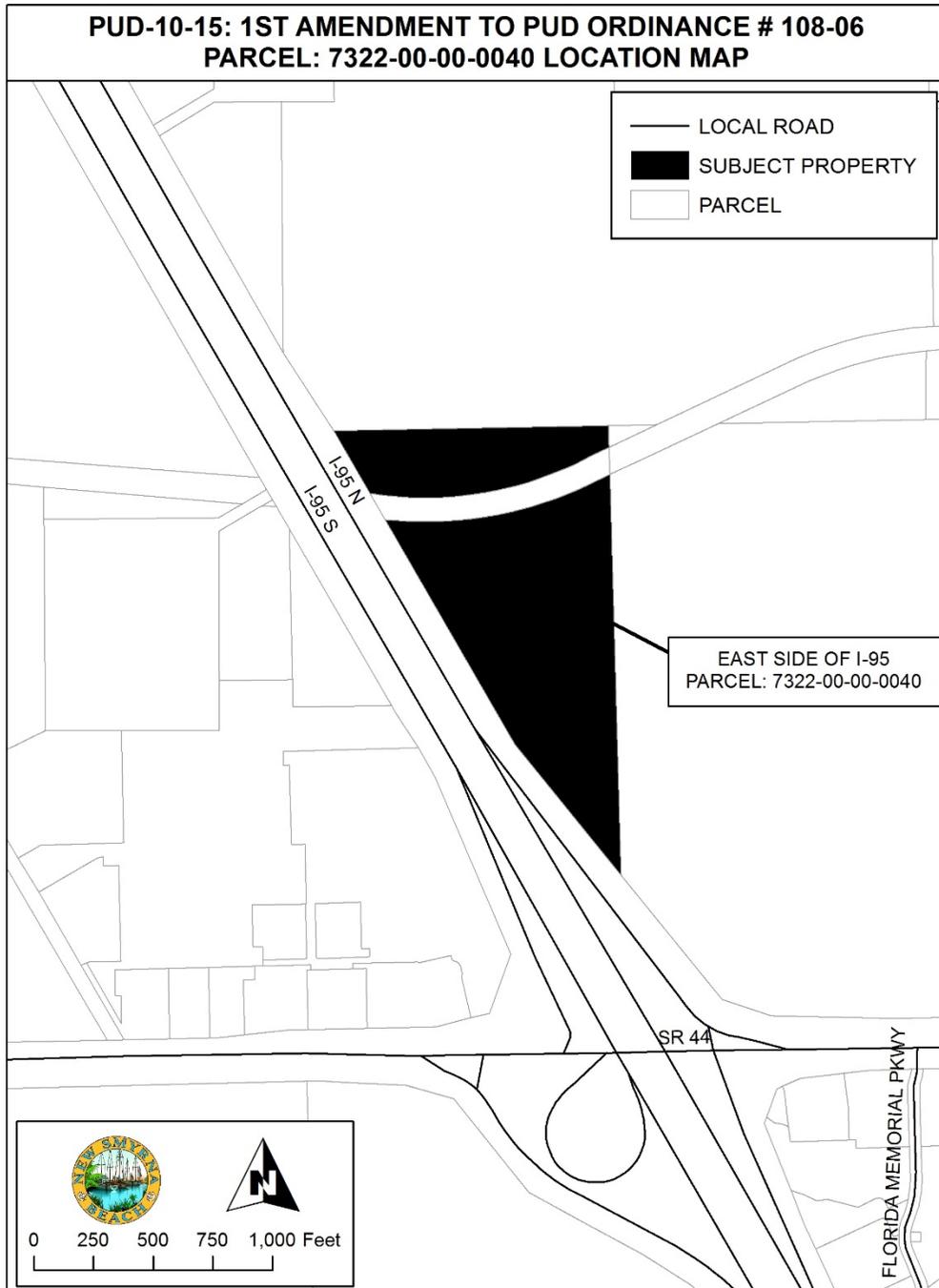


EXHIBIT B



EXHIBIT C

**Existing
And
Original
Recorded
PUD
MDA
(Ordinance 108-06)
Recorded 01/03/2007**

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MASTER PLANNED UNIT DEVELOPMENT AGREEMENT (MDA)
WITH THE CITY COMMISSION OF THE
CITY OF NEW SMYRNA BEACH, FLORIDA

IN RE: Application of Sheldon Rubin, Trustee

ORDINANCE # 108-06

GRANTING A REQUEST FOR AN MDA CONSISTING OF A PUD REZONING

The application of Sheldon Rubin, Trustee for rezoning was heard by and before the New Smyrna Beach City Commission, New Smyrna Beach, Florida, on DECEMBER 13, 2006. Based upon the verified application and other supporting documents, maps, charts, overlays and other evidence and instruments; the advice, report and recommendations of the Development Services Department, Legal Department and other departments and agencies of City of New Smyrna Beach and the testimony adduced and evidence received at the Public Hearing on this application by the Planning and Zoning Board on October 2, 2006, and otherwise being fully advised, the New Smyrna Beach City Commission does hereby find and determine as follows:

GENERAL FINDINGS

- A. That the application of Sheldon Rubin, Trustee (herein after called the ("Applicant")) was duly and properly filed herein on June 23, 2006, as required by law.
- B. That all fees and costs, which are by law, regulation or ordinance required to be borne and paid by the Applicant have been paid.
- C. That the Applicant is the owner of approximately 72.4 acres, consisting of two parcels separated by Interstate 95 that are 47.2 acres and 25.2 acres respectively. These parcels are situated in the City of New Smyrna Beach and are described more particularly in the surveys and legal descriptions, true copies of which are attached hereto as Exhibit 1 (herein after called the "west parcel") and Exhibit 2 (herein after called the "east parcel").
- D. That the Applicant has held a pre-application meeting as required by the City's Land Development Regulations (LDR), Ordinance No. 1-91, as amended.
- E. That the Applicant has complied with the "Due Public Notice" requirements of the City of New Smyrna Beach.

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FINDINGS REGARDING REZONING

- A. The Applicant has applied for a rezoning to a PUD District for the west and east parcels.
- B. That this rezoning is consistent with both the New Smyrna Beach Comprehensive Plan, Ordinance No. 6-90, as amended, and the intent and purpose of the City's LDR, Ordinance No. 1-91, as amended, and does promote the public health, safety, morals, general welfare and orderly growth of the area affected by the rezoning request.

NOW, THEREFORE, BE IT ORDERED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA, IN OPEN MEETING DULY ADVERTISED ON THIS 13TH DAY OF DECEMBER, 2006, AS FOLLOWS:

- A. That the application of Sheldon Rubin, Trustee for the rezoning of the subject parcels is hereby granted.
- B. That the zoning districts for the subject parcels as described in Exhibits 1 and 2 attached hereto are hereby amended from A-1(C), BPUD and BPUD(C) to PUD as described in Article V of the New Smyrna Beach LDR, Ordinance No. 1-91, as amended.
- C. That the Official Zoning Map of the City of New Smyrna Beach is hereby amended to incorporate the PUD rezoning.
- D. That the City's LDR, Ordinance No. 1-91, as amended, is consistent with the provisions of this MDA as hereinafter set forth in this Order. Ordinance No. 1-91, as amended, shall govern with respect to any matter not covered by this MDA. The City of New Smyrna Beach Development Services Director shall ensure overall compliance with this Order.
- E. Timing and review procedures contained in this Order may be modified to comply with the New Smyrna Beach LDR Ordinance No. 1-91, as amended. Further, nothing in this MDA is intended to abridge the requirements of Ordinance No. 1-91, as amended, and any other City ordinances.

DEVELOPMENT AGREEMENT

- A. Development Concept.
The parcels shall be developed substantially in accordance with this MDA which includes the Overall Development Plans for each parcel. The MDA shall govern the development of the parcels as a PUD and shall regulate the future land uses of the parcels. The development of the parcels consists of a multi-use development with two or more land uses and will not exceed the Development of Regional Impact (DRI)

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threshold for a multi-use development with two or more uses as specified in Chapter 380, F.S. The MDA shall be filed and retained for public inspection in the Development Services Department and it shall constitute a supplement to the Official Zoning Map of the City of New Smyrna Beach.

1. Overall Development Plans.

The Overall Development Plans for the west parcel and east parcel are hereby approved and incorporated in this MDA by reference as Exhibits 3 and 4, respectively.

2. Amendments.

All amendments to this MDA, other than those deemed to be minor amendments as part of the site plan review process, shall be considered major amendments. All major amendments shall comply with the rezoning procedures of LDR Ordinance No. 1-91, as amended, and no major amendment shall be effective unless it is approved by the City Commission.

The parties hereto acknowledge that minor amendments can be approved during the site plan review process for reductions to density and/or intensity; reshaping, combining and/or making minor adjustments to the building footprints, location and size; parking areas; project access drives from SR 44 and Williamson Boulevard extension; roadway layout/configuration; the location and design of the stormwater and utility systems. All minor amendments shall be subject to the minor amendment procedures of the PUD zoning district subsection 4(e).

3. Subdivision/Site Plan Approval.

After the MDA is recorded, and prior to issuance of any permits for construction, including construction related to clearing and landfill, a subdivision plat and/or site plan, shall be submitted for review and approval to the City of New Smyrna Beach in the manner required by LDR Ordinance No. 1-91, as amended.

B. Phases of Development.

The parcels shall be developed either as a single phase or in phases consistent with the parcel's Overall Development Plans.

C. Permitted Uses and Structures.

1. East Parcel Permitted Uses and Structures.

The following permitted principal uses and structures are allowed along with their customary accessory uses and structures. All industrial uses shall comply with the performance standards of the city's I-2 Heavy Industrial zoning district. If a use or structure is not listed as permitted, the Development Services Director may permit said use or structure upon a determination that said use or structure is similar to the uses or structures otherwise permitted.

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Administrative and executive offices
Agricultural uses such as field crops, grazing land, grass land and pastures
prior to site development
Animal clinics (outpatient care only and no overnight boarding)
Automotive parts sales within an enclosed building, no junkyards
Auction parlors, indoor
Bakeries
Banks
Business and communications systems
Bus stop
Carpet and rug cleaning
Ceramic shops
Corporate offices
Data processing
Dental and medical clinics
Dry cleaning facilities (no on-site processing)
Electrical component manufacturers
Employment agencies
Essential utility services
Excavations, incidental to development
Floor covering shops
Forestry management and silviculture activities prior to site development
conducted in accord with the Department of Environmental Protection
Silvicultural Best Management Practices Manual, latest edition, upon
submission to the Development Services Director of a description of the
activity and a map of the activity location on the parcel together with any
necessary final approval for the activity from any agency with jurisdiction
over the activity
Garden supplies and equipment stores
General offices
Government buildings and offices
Health care, walk-in
Hotels and motels
Industrial vocational training school
Key and lock shops
Laboratories, research and/or testing
Light industrial uses and offices such as:
 Computer and office equipment
 Durable and non-durable goods
 Electronic equipment
 Instruments (measuring, analyzing and controlling)
 Precision instruments and machinery
Laundry establishments

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Mini-warehouse storage facilities with contractor's/business front office, no other commercial use or business shall be permitted within the facility, and a landscaped buffer shall be provided on all boundaries facing a residential district

Movie Theatres

Multi-family residential dwellings, including townhouses

Office supplies and business machines

Optical equipment

Paint stores

Pharmaceutical products and drugs

Photographic equipment and supplies

Plumbing supply (retail only)

Precision instruments and machinery

Professional office, including accountants, architects, consultants, dentists, engineers, financial, insurance, lawyers, medical, and stockbrokers

Professional or trade schools related to permitted uses

Public uses

Public utility uses and structures

Radio, television, and electronics repair

Restaurants

Retail sales

Retail plumbing and electrical fixtures

Scale and vault manufacturers

Service stations, class "A" only

Sharpening and grinding shops

Specialty retail

Solar window tinting shops

Swimming pool supply/equipment/service business (retail only)

Upholstery shops

2. West Parcel Permitted Uses and Structures.

The following permitted principal uses and structures are allowed along with their customary accessory uses and structures. If a use or structure is not listed as permitted, the Development Services Director may permit said use or structure upon a determination that said use or structure is similar to the uses or structures otherwise permitted.

Agricultural uses such as field crops, grazing land, grass land and pastures prior to site development

Antique shops

Apparel shops

Art galleries

Automotive parts sales

Barber shops

Bars

Beauty shops

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Big boxes which may have drive-up loading areas provided the building is located a minimum of 660 feet from the SR 44 right- of-way line

- Book stores
- Bowling alleys
- Branch banks
- Business offices
- Cafeterias
- Camera supply and photography shops
- Catalog stores
- Coin/gold and silver exchange
- College-level and adult education facilities
- Convenience food stores, including the sale of gasoline
- Cosmetic shops
- Delicatessens
- Dental and medical clinics
- Department stores
- Drugstores
- Dry cleaning establishments (limited only to pickup stations)
- Fabric and sewing supply shops
- Financial institutions with or without drive thrus
- Floor covering shops
- Florist shops
- Forestry management and silviculture activities prior to site development conducted in accord with the Department of Environmental Protection Silvicultural Best Management Practices Manual, latest edition, upon submission to the Development Services Director of a description of the activity and a map of the activity location on the parcel together with any necessary final approval for the activity from any agency with jurisdiction over the activity
- Furniture and appliances
- Garden supplies and equipment stores
- General offices
- Gift stores
- Hobby stores
- Home improvement supply stores (no outside storage)
- Hotels and motels
- Ice cream and/or yogurt shops
- Interior decoration shops
- Jewelry stores
- Key and lock shops
- Liquor stores
- Laundries (coin operated)
- Movie Theatres
- Multi-family residential dwellings
- Music supply stores
- Nightclubs

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Office supplies and business machines
Paint stores
Pastry stores
Personal enrichment establishments
Pet shop
Pharmacies
Professional offices, including accountants, architects, consultants, dentists,
engineers, financial, insurance, lawyers, medical, real estate, and
stockbrokers
Public uses
Restaurants, type "A," "B," and "D" with or without drive thrus
Retail sales and services
Retail specialty shops
Service stations, class "A" and "B" only
Shoe repair shops
Shoe stores
Specialty food shops
Sporting goods stores
Stationary shops
Supermarkets
Theaters
Tobacco shops
Travel agencies
Variety stores
Videotape rental shops

D. Development Standards.

1. East Parcel Development Standards.

Maximum FAR:	Townhouse 2.0, all other uses 0.50
Minimum lot size:	Townhouse lots 1,000 square feet, all other uses 10,890 square feet
Minimum lot width:	Townhouse lots 20 feet, all other uses 75 feet
Maximum multi-family density:	18 units per acre
Project perimeter building setback:	30 feet
Minimum yard setbacks:	
From internal roads	10 feet
Rear	20 feet
Side	10 feet
Maximum single use building size:	80,000 square feet or less
Minimum building spacing:	20 feet
Maximum building coverage:	Townhouses 100%, all other uses 50%
Maximum impervious surface	Townhouses 100%, all other uses 85%
Maximum building height:	60 feet not to exceed five stories

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Landscape buffer requirements: 15 feet around project perimeter and five feet for individual parcels. If multi-family residential units are proposed the multi-family project area shall be buffered from any industrial uses with a minimum 30 foot landscaped buffer

Building Appearance/Site Design:
All buildings shall comply with the building appearance standards section of the New Smyrna Beach I-95 & SR 44 Activity Center Design Guidebook (Exhibit 5) unless the MDA has specific and/or more stringent standards. Exhibit 6 provides a typical illustration of the industrial building elevation.

Multi-Purpose Trail Standards:
The Applicant shall be required to construct a multi-purpose trail within that portion of the New Smyrna Beach Utilities Commission right-of-way immediately north of the east parcel. The design and location of the trail shall be consistent with the existing feasibility study.

2. West Parcel Development Standards.

Maximum FAR:	Townhouse 2.0, all other uses 0.50
Minimum lot size:	Townhouse lots 1,000 square feet, all other uses 0.75 acres
Minimum lot width:	Townhouse lots 20 feet, all other uses 90 feet
Maximum multi-family density:	18 units per acre
Project perimeter building setback:	30 feet
Minimum Yard Setbacks:	
From internal access drives	10 feet
Rear	20 feet
Side	10 feet
Out parcel front setback	Minimum of 35 feet, maximum 50 feet
Minimum building spacing:	20 feet
Maximum building coverage:	Townhouses 100%, all other uses 50%
Maximum impervious surface	Townhouses 100%, all other uses 85%
Maximum building height:	60 feet not to exceed five stories
Landscape buffer requirements:	15 feet on the project perimeter east, north and west property lines and 35 feet on the project perimeter south property line along SR 44. Out parcels without shared parking shall have a 7 foot buffer abutting access drives. Out parcels that do not front on an access drive shall have a ten foot front yard buffer. If

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multi-family residential units are proposed the multi-family project area shall be buffered from any retail uses with a minimum 30 foot landscaped buffer.

3. Other Standards:

- a. Development of the west parcel shall comply with all applicable provisions of the New Smyrna Beach I-95 & SR 44 Activity Center Design Guidebook unless the MDA has specific and/or more stringent standards. Exhibit 7 provides typical illustrations of the big box building elevations.
- b. One-way drive aisles not exceeding 14 feet in width may be located on the street side of all outparcels that front on SR 44 and Williamson Boulevard extension. However, if the Williamson Boulevard extension is not within or adjacent to the west parcel then parking and drives aisles may be located west of buildings on the west side of the parcel.
- c. Out parcels along SR 44 shall be limited to three building drive through facilities. These drive through facilities shall be oriented to be parallel with SR 44 and shall be screened to minimize their visibility from SR 44. Access drives to the out parcels cannot be located in the required 35 foot landscaped buffer along SR 44.
- d. All buildings shall comply with the building appearance standards section of the New Smyrna Beach I-95 & SR 44 Activity Center Design Guidebook unless the MDA has specific and/or more stringent standards. The big box buildings shall be designed to be consistent with the attached building elevations that are incorporated in this Order by reference as Exhibit 7. A segment of the access drive extending from S.R. 44 and the S.R. 44 frontage shall have buildings that are designed, arranged and constructed to give a main street appearance.
- e. The Applicant shall construct a ten foot wide sidewalk along the parcel's frontage on SR 44 and a five foot wide sidewalk along the parcel's west property line.

E. Requirements Applicable to Both Parcels.

1. Open Space Requirements.

The amount of required open space shall be a minimum of 65 percent on the east parcel and a minimum of 35 percent on the west parcel for a combined overall minimum total on both parcels of 50 percent which equates to a total of 36.5 acres. If the current LDR requirement of 50 percent open space is

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amended to a lesser percent, the open space percentage will be revised to comply with the new standard during the site plan review process without an amendment to this MDA.

2. Landscape Requirements.

All landscaping shall comply with the landscape regulations as set forth in Section 604.05 of the City's LDR, Ordinance 1-91, as amended.

3. Off-Street Parking Requirements.

All off-street parking shall comply with the off-street parking regulations as set forth in Section 604.10 of the City's LDR, Ordinance No. 1-91, as amended, except that the number of required spaces may be reduced by up to 20 percent to account for shared parking, building locations and treatments that provide a main street appearance.

4. Signage Requirements.

All entrance identification signs shall comply with the provisions of the LDR PUD sign regulations. All other signs, with the exception of the existing billboard, shall comply with the New Smyrna Beach 1-95 & SR 44 Activity Center Design Guidebook. The existing billboard may remain on the east parcel until the billboard lease expires in 2014 at which time the Applicant agrees to remove the billboard. Additionally, the west parcel is subject to a sign easement for the benefit of the adjoining owner, and any sign existing or erected pursuant to that easement is the property of the adjoining owner and not subject to this MDA.

5. Environmental Requirements.

Wetlands shall be preserved in a manner that is consistent with the requirements of the Saint Johns River Water Management District, Florida Department of Environmental Protection, U. S. Army Corps of Engineers and City's Comprehensive Plan and LDR, Ordinance No. 1-91, as amended. A 25 foot upland buffer shall be provided around all preserved wetlands. No development shall be permitted in the buffer area except as allowed by the LDR, Ordinance No. 1-91, as amended.

Wetland impacts may be allowed with appropriate permitting and mitigation. Any loss of wetland areas will be mitigated in accordance with the St. John's River Water Management District requirements and/or any other applicable agency regulations. The Applicant has received permits from the Saint Johns River Water Management District and the U. S. Army Corps of Engineers to fill wetlands on the west parcel and has paid mitigation fees to compensate for filling the wetlands.

Prior to the submittal of a site plan and/or subdivision application, the west parcel will be surveyed for listed species and other wildlife and the east parcel will be surveyed for wetlands and wildlife/listed species. A copy of the

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wetlands and wildlife/listed species report shall be submitted to the Development Services Department as part of the site plan and/or subdivision application.

The handling and storage of hazardous materials shall be in compliance with all applicable Federal, State, County and City regulations.

6. Utilities/Public Facilities Requirements.

The Applicant shall provide a connection to the City's public potable water and sewer system based on the Utility Commission's extension policy and participate in any applicable Utilities Commission proportionate fair share program. The Applicant shall provide extensions to the City's water and sewer system and shall provide the onsite distribution and collection connection in accordance with policies set forth by the Utility Commission. The Applicant shall provide onsite connections to the potable water and sewage collection system and any reuse system along SR 44 parcel during the duration of this MDA.

7. Stormwater Drainage Requirements.

Both the parcel on the east side of I-95, as well as the parcel on the west side of I-95, shall have their own master stormwater drainage plans. The Applicant may design the west parcel stormwater drainage plans to accommodate stormwater runoff from SR 44 and Williamson Boulevard. The master stormwater drainage plans shall provide adequate area for onsite retention. Retention areas shall be sized to retain increased post development onsite runoff caused by site development in accordance with the St. Johns River Water Management District's rules. The storage volume and discharge rate will be in accordance with the requirements published by the City. Water control structures shall be designed to meet the requirements of the City and the St. John's River Water Management District.

8. Transportation Improvements Requirements.

Access for the east parcel shall be provided through the adjacent parcel to the east with the road alignment to be in accordance with the Miller Sellen SR 44 & I-95 Activity Center Development Guideline Report's proposed road alignment, or as amended. The road alignment shall be finalized prior to site plan approval. Roadway stubouts may be provided to the south side of the utility easement that extends through the northern portion of the parcel if deemed necessary during the site plan review process. Internal roadways shall be dedicated to the City as public rights-of-way.

Access for the west parcel shall be provided from State Road 44 and the proposed extension of Williamson Boulevard or an access drive along the west side of the parcel as generally depicted in Exhibit 8. If the proposed extension of Williamson Boulevard is used in lieu of the access drive then the Applicant shall construct that portion of the Williamson Boulevard

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extension to the parcel's most northern access drive and the Applicant shall receive full impact fee credit for the improvement costs of said extension. The access locations shown on the Overall Development Plan and Exhibit 8 are conceptual and subject to change as a result of more detailed traffic studies that will be reviewed by the City, County and Florida Department of Transportation. Specific access locations and access drive designs will be determined during the site plan review process. Any changes made to the conceptual access locations and access drive designs during the site plan review process shall be considered a minor amendment to this MDA.

All transportation improvements shall be in accordance with the regulations set forth by the City's Comprehensive Plan and LDR, Ordinance No. 1-91, as amended. Exhibit 9 is the traffic impact study related to the proposed rezoning. Any improvements recommended in the study will be subject to further review and must be addressed during the subdivision or site plan review process, whichever comes first.

As part of the subdivision or site plan application, the Applicant shall provide the City with a Traffic Impact Study that is consistent with Section 402.22 of the City's LDR, Ordinance No. 1-91, as amended. If the Traffic Impact Study analysis results in a determination that the thoroughfare road level of service (LOS) standards are below the City's minimum adopted LOS standards, a final development order shall not be issued unless the Applicant has demonstrated that adequate capacity exists or will be provided consistent with the applicable transportation concurrency requirements of the City's Comprehensive Plan and the LDR, Ordinance No. 1-91, as amended.

Additionally, the Applicant may satisfy the concurrency requirements by making a proportionate fair share payment if required pursuant to the applicable provisions of Chapter 163.3180, F.S., and the City's LDR, Ordinance No.1-91, as amended, Said payment may be used to mitigate the development related traffic impacts identified on thoroughfare roads within the City's small area traffic study area.

9. Building or Property Owners Association Requirements.

The Applicant shall create a property owner's association for maintenance of the common areas. The articles of incorporation and by-laws of said association and any other agreements, covenants, easements or restrictions shall be furnished to the Development Services Department as part of the site plan and/or subdivision preliminary plat application. The Applicant shall be responsible for recording said information in the Public Records of Volusia County, Florida. Also, the Applicant shall bear and pay all costs for recording all of the aforementioned documents.

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F. Consistency of Development.

The City shall permit the development of the parcels in the manner consistent with this MDA, the attached referenced exhibits and the applicable City regulations not contrary to the terms of this MDA.

G. Binding Effect and Recording.

The provisions of this MDA, including any and all supplementary orders and resolutions, and the Overall Development Plans shall bind and inure to the benefit of the Applicant or his successor in title and interest. The provisions of this MDA and the Overall Development Plans shall run with the land and shall be administered in a manner consistent with the City's LDR, Ordinance No. 1-91, as amended.

This Order and all subsequent Orders shall be filed with the Clerk of the Court and recorded within 45 days following execution of the document by the New Smyrna Beach City Commission, in the Official Records of Volusia County, Florida. One copy of the document, bearing the book and page number of the Official Record in which the document was recorded, shall be submitted to the Development Services Department. The date of receipt of this document by the Development Services Department shall constitute the effective date of the MDA or its subsequent amendments. The Applicant shall pay all filing costs for recording documents.

H. Expiration. This MDA shall be valid in perpetuity unless development has not commenced on the property within ten years from the date of execution. If, after ten years the owner or owner's successor in title or interest does not commence construction of the property according to this MDA, the property shall require approval of a new MDA prior to development and shall be developed only in accordance with the new MDA.

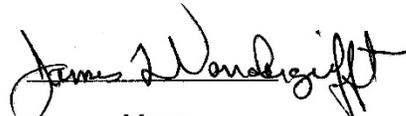
I. Appeals.

The Applicant may appeal any adverse decision by any City official to the City Manager within 30 days of filing the appeal or the City Manager's decision, whichever comes first and subsequently take the appeal to the City Commission.

DONE and ORDERED by the City Commission of New Smyrna Beach, Florida, this
28th day of December, 2006.

NEW SMYRNA BEACH CITY COMMISSION
ATTEST:


City Manager


Mayor

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STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 28th day of December, 2006, by JAMES L. VANDELORIFF and JOHN E. HAGEDO, as Mayor, New Smyrna Beach City Commission, and City Manager, respectively, on behalf of the City of New Smyrna Beach.

Janice R. Lowry
NOTARY PUBLIC, STATE OF FLORIDA
Type or Print Name: _____

Commission No.: _____  **Janice R. Lowry**
Commission # DD545166
Expires January 25, 2010
My Commission Expires: _____
Bonded Troy Fair - Insurance, Inc. 800-385-7019

APPROVED AS TO FORM AND CORRECTNESS:

WITNESSES AS TO CITY:

Shamuldas
Janice Robert

Frank B. Gumme
Frank B. Gumme, III, City Attorney
Date: 12/29/06

Sheldon W. Rubin
Owner of Property

WITNESSES AS TO OWNER:

Carol S. Gardner
Umar n. van

The foregoing instrument was acknowledged before me this 18th day of December, 2006, by Sheldon W. Rubin as Trustee

Carol S. Gardner
NOTARY PUBLIC, STATE OF FLORIDA
Type or Print Name: Carol S. Gardner
Commission No.: DD218107
My Commission Expires: 6/10/07



Carol S. Gardner
MY COMMISSION # DD218107 EXPIRES
June 10, 2007
BONDED THRU TROY FAIR INSURANCE, INC.

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No. 1191 P. 2

Instrument# 2007-001353 # 16

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DESCRIPTION (OVERALL)

A PORTION OF SECTIONS 21 AND 22, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 22, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, RUN S01°25'17"E ALONG THE WEST LINE OF THE NORTHWEST ¼ OF SAID SECTION 22 A DISTANCE OF 402.57 FEET TO THE EXISTING WESTERLY LIMITED ACCESS RIGHT OF WAY LINE OF INTERSTATE 95 AS SHOWN ON STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION NO. 79070-2545; THENCE CONTINUE S01°25'17"E, ALONG SAID WEST LINE OF THE NW ¼ A DISTANCE OF 720.00 FEET; THENCE N88°34'43"E 390.22 FEET RETURNING TO SAID WESTERLY RIGHT OF WAY LINE AND THE POINT OF BEGINNING. SAID POINT BEING THE SOUTHEAST CORNER OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 3850, PAGE 4704 OF THE PUBLIC RECORDS OF SAID VOLUSIA COUNTY.

FROM THE POINT OF BEGINNING RUN S29°53'20"E, ALONG SAID WESTERLY RIGHT OF WAY LINE AND ALONG THE EASTERLY LINE OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 4366, PAGE 4709 OF SAID PUBLIC RECORDS, A DISTANCE OF 355.07 FEET; THENCE, CONTINUING ALONG SAID WESTERLY RIGHT OF WAY LINE AND ALONG SAID EASTERLY PROPERTY LINE THE FOLLOWING FOUR (4) COURSES:

THENCE S23°07'00"E, A DISTANCE OF 805.66 FEET; THENCE S19°37'47"W, A DISTANCE OF 264.39 FEET; THENCE S77°17'34"W, A DISTANCE OF 254.95 FEET; THENCE S88°36'10"W, A DISTANCE OF 262.17 FEET; THENCE N01°25'42"W, AND DEPARTING SAID LIMITED ACCESS RIGHT OF WAY LINE, A DISTANCE OF 250.00 FEET; THENCE S88°36'10"W, A DISTANCE OF 250.00 FEET; THENCE S01°25'42"E, A DISTANCE OF 250.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 44, AS SHOWN ON STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION NO. 79070-2545; THENCE, S88°36'11"W, ALONG SAID NORTHERLY RIGHT OF WAY LINE A DISTANCE OF 87.83 FEET; THENCE, CONTINUING ALONG SAID NORTHERLY RIGHT OF WAY LINE, S83°50'22"W, A DISTANCE OF 301.04 FEET; THENCE, CONTINUING ALONG SAID NORTHERLY RIGHT OF WAY LINE, S88°39'36"W, A DISTANCE OF 385.35 FEET TO THE INTERSECTION OF SAID NORTHERLY RIGHT OF WAY LINE AND THE EAST LINE OF A 60 FOOT WIDE PARCEL DESCRIBED IN OFFICIAL RECORD BOOK 1845, PAGE 0101 OF SAID PUBLIC RECORDS; THENCE N29°54'18"W, ALONG SAID EAST LINE A DISTANCE OF 871.09 FEET; THENCE, DEPARTING SAID EAST LINE, N60°03'53"E, A DISTANCE OF 133.63 FEET; THENCE N88°34'04"E, A DISTANCE OF 347.80 FEET; THENCE N01°26'46"W, A DISTANCE OF 460.09 FEET TO A POINT ON THE SOUTH LINE OF A WET WEATHER STORAGE POND AS DESCRIBED IN OFFICIAL RECORD BOOK 4634, PAGE 2674 OF SAID PUBLIC RECORDS; THENCE N87°16'47"E, ALONG SAID SOUTH LINE

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No. 1191 P. 3

A DISTANCE OF 412.58 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE N00°42'36"E, ALONG THE EAST LINE OF SAID POND, A DISTANCE OF 197.31 FEET; THENCE, DEPARTING SAID EAST LINE, N88°34'01"E, A DISTANCE OF 303.75 FEET TO A POINT ON THE EAST LINE OF THE AFOREMENTIONED SECTION 21; THENCE S01°26'15"E, ALONG SAID EAST LINE, A DISTANCE OF 114.89 FEET TO THE SOUTHWEST CORNER OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 3850, PAGE 4704 OF SAID PUBLIC RECORDS; THENCE N88°33'34"E, ALONG THE SOUTH LINE OF SAID PROPERTY, A DISTANCE OF 390.09 FEET TO THE POINT OF BEGINNING; CONTAINING 47.3659 ACRES, MORE OR LESS.

DESCRIPTION (PARCEL A)

A PORTION OF SECTION 21, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 21, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, RUN S01°25'17"E ALONG THE EAST LINE OF THE NORTHEAST ¼ OF SAID SECTION 21 A DISTANCE OF 402.57 FEET TO AN IRON ROD AND CAP STAMPED "FL DOT" LYING ON THE EXISTING WESTERLY LIMITED ACCESS RIGHT OF WAY LINE OF INTERSTATE 95 AS SHOWN ON STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION NO. 79070-2545; THENCE CONTINUE S01°25'17"E, ALONG SAID EAST LINE OF THE NE ¼ A DISTANCE OF 605.11 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID SECTION LINE AND ALONG THE WEST LINE OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 4366, PAGE 4709 OF THE PUBLIC RECORDS OF SAID VOLUSIA COUNTY, S01°25'17"E A DISTANCE OF 114.89 FEET TO AN IRON ROD AND CAP STAMPED "FL DOT" MARKING THE SOUTHWEST CORNER OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 3850, PAGE 4704, SAID PUBLIC RECORDS; THENCE CONTINUE S01°25'17"E, ALONG THE SAID EAST LINE, A DISTANCE OF 1107.02 FEET TO AN IRON ROD AND CAP STAMPED "FL DOT" MARKING THE NORTHWEST CORNER OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 3742, PAGE 3608, SAID PUBLIC RECORDS; THENCE CONTINUE S01°25'17"E, ALONG THE SAID EAST LINE AND ALONG THE WEST LINE OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 3742, PAGE 3608, SAID PUBLIC RECORDS A DISTANCE OF 250.00 FEET TO AN IRON ROD AND CAP STAMPED "FL DOT" AND A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF STATE ROAD 44, A 200 FOOT WIDE RIGHT OF WAY PER THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION 79070-2545 REVISED DEC. 3, 1992; THENCE S88°36'11"W, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 87.83 FEET TO AN IRON ROD AND CAP STAMPED "FL DOT"; THENCE, CONTINUING ALONG SAID RIGHT OF WAY LINE, S83°50'22"W A DISTANCE OF 301.04 FEET TO AN IRON

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No. 1191 P. 4

ROD AND CAP STAMPED "FL DOT"; THENCE, CONTINUING ALONG SAID RIGHT OF WAY LINE, S88°39'36"W A DISTANCE OF 385.35 FEET TO AN IRON ROD AND CAP STAMPED "LB 3019" AT THE INTERSECTION OF SAID NORTHERLY RIGHT OF WAY LINE AND THE EASTERLY LINE OF THAT 60 FOOT WIDE PARCEL DESCRIBED IN OFFICIAL RECORD BOOK 1845, PAGE 0101 OF SAID PUBLIC RECORDS; THENCE N29°54'18"W, ALONG SAID EASTERLY LINE, A DISTANCE OF 871.09 FEET TO AN IRON ROD AND CAP STAMPED "LB 2599"; THENCE, DEPARTING SAID LINE, N60°03'53"E A DISTANCE OF 133.63 FEET TO AN IRON ROD AND CAP STAMPED "LB 2599"; THENCE N88°34'04"E A DISTANCE OF 347.80 FEET TO AN IRON ROD AND CAP STAMPED "LB 2599"; THENCE N01°26'47"W A DISTANCE OF 460.09 FEET TO AN IRON ROD AND CAP STAMPED "LB 2599"; THENCE N87°16'47"E A DISTANCE OF 412.98 FEET TO AN IRON ROD AND CAP STAMPED "LB 3019"; THENCE N00°42'36"E A DISTANCE OF 197.31 FEET TO AN IRON ROD AND CAP STAMPED "LB 3019"; THENCE N88°34'01"E A DISTANCE OF 303.75 TO THE POINT OF BEGINNING.

CONTAINING 27.9130 ACRES OF LAND MORE OR LESS.
DESCRIPTION PARCEL (B):

THE WEST ½ OF THE NW ¼ OF SECTION 22, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT:

- (1) THE RIGHT OF WAY FOR INTERSTATE NO. 95;
- (2) THE RIGHT OF WAY FOR STATE ROAD NO. 44;
- (3) THE SOUTHERLY 250 FEET OF THE WESTERLY 250 FEET LYING NORTHERLY OF THE RIGHT OF WAY OF STATE ROAD NO. 44, SUCH PARCEL BEING MORE PARTICULARLY DESCRIBED IN THE WARRANTY DEED RECORDED IN O.R. BOOK 1008, PAGE 95, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA;
- (4) THAT PART OF THE ABANDONED A.AND W.F.B.C. RAILWAY BRANCH LINE (A 100 FOOT RIGHT OF WAY) LYING WITHIN THE WEST ½ OF THE NW ¼ OF SECTION 22, TOWNSHIP 17 SOUTH, RANGE 33 EAST, EXCEPT THAT PART LYING WITHIN INTERSTATE ROAD NO. 95, TAKEN BY UTILITIES COMMISSION OF THE CITY OF NEW SMYRNA BEACH UNDER THE ORDER OF TAKING IN CASE NO. 76-17770-01, DIVISION E, CIRCUIT COURT OF VOLUSIA COUNTY, FLORIDA;
- (5) THAT CERTAIN PARCEL CONVEYED TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION DESCRIBED AS PARCEL 178, SECTION 79070-2545 PARTICULARLY DESCRIBED AS: COMMENCE AT THE NORTHWEST CORNER OF SECTION 22, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA: THENCE S01°25'17"E ALONG THE WEST LINE OF THE NW ¼ OF SAID SECTION 22 A DISTANCE 402.57 FEET TO THE EXISTING WESTERLY LIMITED ACCESS RIGHT OF WAY LINE OF INTERSTATE 95 AS SHOWN ON STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP SECTION NO. 79070-2545 FOR THE POINT OF BEGINNING; THENCE CONTINUE S01°25'17"E ALONG SAID WEST LINE OF THE NW ¼ A DISTANCE OF 720.00 FEET; THENCE N88°34'43"E 390.22

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No. 1191 P. 5

FEET RETURNING TO SAID WESTERLY RIGHT OF WAY LINE; THENCE
N29°52'41"W ALONG SAID RIGHT OF WAY LINE 818.94 FEET TO THE POINT
OF BEGINNING.

(6) TOGETHER WITH A COMMON USE EASEMENT FOR INGRESS AND
EGRESS OVER AND UPON THE WESTERLY 40 FEET OF THE SOUTHERLY 250
FEET OF THE WESTERLY 250 FEET AND NON-EXCLUSIVE RIGHT TO ERECT
AND MAINTAIN SIGNS WITHIN THE WESTERLY 5 FEET OF SUCH EASEMENT
AREA UPON CERTAIN CONDITIONS ALL AS SET FORTH IN WARRANTY
DEED RECORDED IN O.R. BOOK 1108, PAGE 95, PUBLIC RECORDS OF
VOLUSIA COUNTY, FLORIDA.

(7) TOGETHER WITH EASEMENT FROM UTILITIES COMMISSION OF THE
CITY OF NEW SMYRNA BEACH, FLORIDA RECORDED IN O.R. BOOK 2363,
PAGE 1956, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

(8) SUBJECT TO CERTAIN RIGHTS GIVEN TO THE STATE OF FLORIDA BY
DEED RECORDED IN O.R. BOOK 971, PAGE 647, AND CORRECTIVE DEED
RECORDED IN O.R. BOOK 997, PAGE 560, PUBLIC RECORDS OF VOLUSIA
COUNTY, FLORIDA.

(9) SUBJECT TO PERPETUAL EASEMENT GIVEN TO THE STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH PARCEL 832,
PROJECT NO. 79070-2545.

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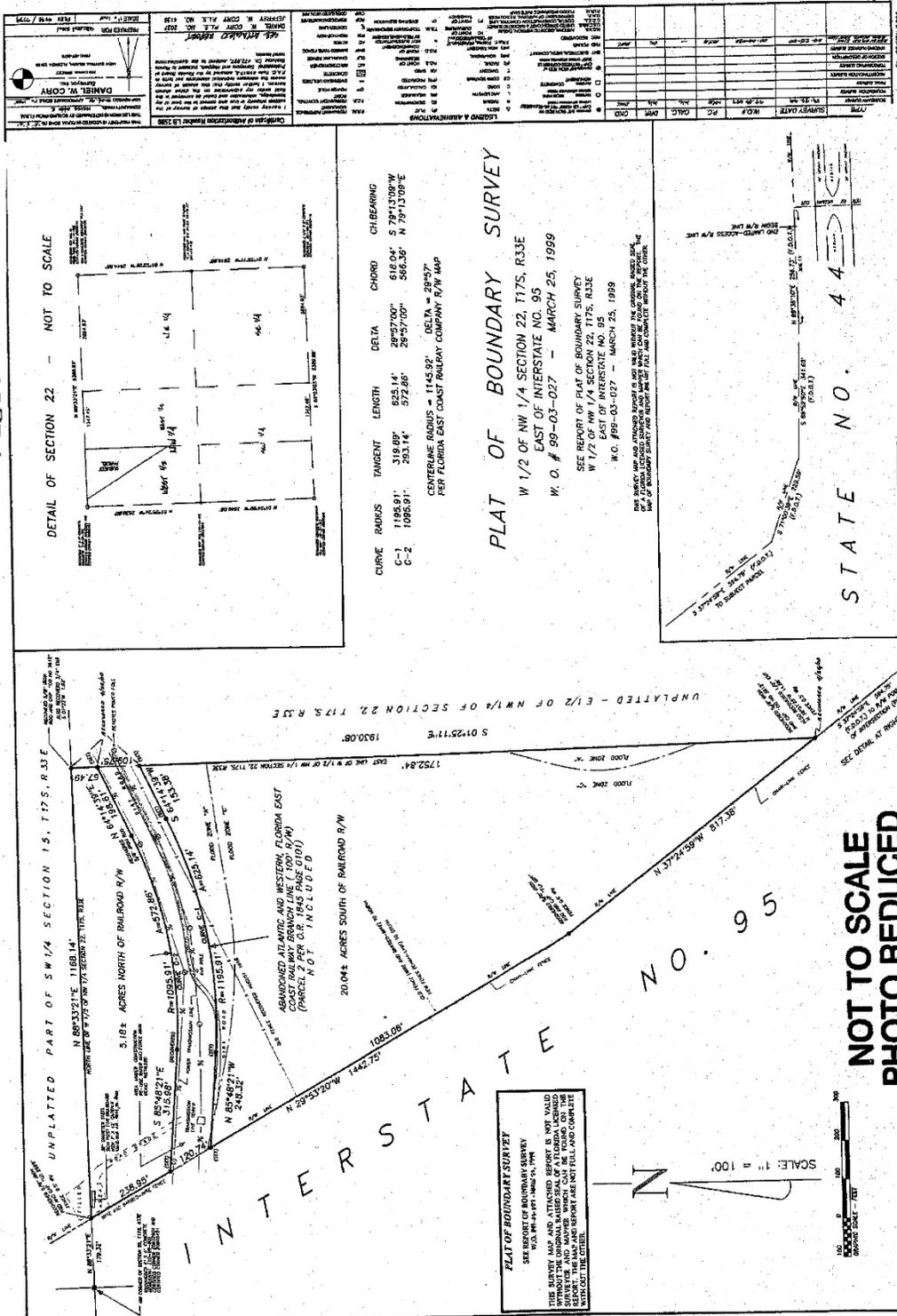


EXHIBIT 2

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Instrument# 2007-001353 # 21
Book : 5983
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*Daniel W. Cory Surveyor, Inc.
Certificate of Authorization Number LB 2599
300 Canal Street
New Smyrna Beach, Florida 32168*

**REPORT OF BOUNDARY SURVEY
W ½ OF NW ¼ SECTION 22, T 17S, R33E
EAST OF INTERSTATE NO. 95
W.O.# 99-03-027 - March 25, 1999**

Plat of Boundary Survey:

See Plat of Boundary Survey (W.O. #99-03-027) dated 03-25-99. This survey map and report is not valid without the signature and original raised seal of a Florida licensed surveyor and mapper which can be found at the end of this report. The map and report are not full and complete without the other.

Description:

The West ½ of the NW ¼ of Section 22, Township 17 South, Range 33 East, Volusia County, Florida lying easterly of Interstate No. 95 as it is now constructed; except that part of the abandoned Atlantic and Western, Florida East Coast Railway Branch line, a 100 foot right of way, taken by Utilities Commission of the City of New Smyrna Beach under the Order of Taking in Case No. 76-1770-01, Division E, Circuit Court of Volusia County, Florida as recorded in Official Records Book 1845, Page 0101, Public Records of Volusia County, Florida.

TOGETHER with Easement from Utilities Commission of the City of New Smyrna Beach, Florida, recorded in Official Records Book 2363, Page 1956, Public Records of Volusia County, Florida.

SUBJECT TO terms and conditions of that certain sign easement recorded in Official Records Book 1008, Page 95, Public Records of Volusia County, Florida.

SUBJECT TO terms and conditions of that certain Lease recorded in Official Records Book 4074, Page 4910, Public Records of Volusia County, Florida.

Description Lineage:

Legal description prepared by the undersigned at the request of the client.

Bearing Reference:

Bearings refer to Florida State Plane Coordinate System – East Zone, N.A.D. 1983.

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Instrument# 2007-001353 # 22
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*Report of Boundary Survey
W1/2 of NW1/4 Section 22, T17S, R33E East of I-95
W.O. 99-03-027 - March 25, 1999
Page 2 of 3*

Limitations:

1. Subject to restrictions, reservations, limitations, easements and rights of way, if any, appearing of record.
2. This map of survey and report prepared without the benefit of an abstract and no title work has been performed or provided to this surveyor.
3. This map of survey and report is subject to any facts that may be disclosed by a full and accurate title search.
4. Underground utilities and features not located.
5. Drawing distance between the fences and the property line may be exaggerated for clarity.
6. Environmentally Sensitive areas (wetlands) not located.
7. There is **no** recorded or dedicated access to the subject parcel.

Survey Methodology:

Information from Florida East Coast Railway Company Right of Way Map, Sheet No. 2 of V. 2a, dated June 30, 1916, was used to calculate the curve data for the said abandoned Atlantic and Western, Florida East Coast Railway Branch line right of way. Since the existing poles for the original transmission line appear to have been placed along the old railroad grade, the said 100 foot right of way was monumented using a centerline that was "fitted" through the existing poles, together with information shown on an undated survey of the said Atlantic and Western, Florida East Coast Railway Branch line by William E. Swoope, Jr., Florida Registered Surveyor #417.

Easements and Restrictions:

The Easement from Utilities Commission of the City of New Smyrna Beach, Florida, recorded in Official Records Book 2363, Page 1956, Public Records of Volusia County, Florida provides access across the abandoned Atlantic and Western, Florida East Coast Railway Branch line right of way to the portion of the subject parcel north of said railroad right of way.

That certain sign easement recorded in Official Records Book 1008, Page 95, Public Records of Volusia County, Florida is ambiguous in defining the location of said signs.

That certain Lease recorded in Official Records Book 4074, Page 4910, Public Records of Volusia County, Florida is for the existing billboard at the northwest corner of the subject property, however access to the said billboard, now through the Utilities Commission right of way, could be restricted or denied.

Access:

There is **no** recorded or dedicated access to the subject parcel. The median cut on State Road No. 44, lying easterly of the "Limited-Access R/W", was located per request of Zev Cohen & Associates, Inc. for the purpose of designing an access easement.

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*Report of Boundary Survey
W1/2 of NW1/4 Section 22, T17S, R33E East of I-95
W.O. 99-03-027 - March 25, 1999
Page 3 of 3*

Prepared for:
Sheldon Rubin

Certified to:
SHELDON RUBIN

Surveyor and Mapper in Responsible Charge:
Daniel W. Cory
Professional Surveyor and Mapper
License Number 2027

I hereby certify that this survey map and report of the subject property is true and correct to the best of my knowledge, information and belief as surveyed in the field under my supervision on the dates shown thereon. I further certify that this survey map and report meets the minimum technical standards set forth in F.A.C. Rule 61G17-6, adopted by the Florida Board of Professional Surveyors and Mappers, pursuant to Florida Statutes Ch. 472.027, subject to the qualifications noted hereon.

Signed: _____ Seal: _____
**COURTESY COPY
FOR INFORMATION
PURPOSE ONLY**

EXHIBIT D
Proposed MDA text revisions – 4 pgs.

**FIRST AMENDMENT TO
MASTER PLANNED UNIT DEVELOPMENT AGREEMENT
ORDINANCE #108-06**

ORDINANCE # _____

WHEREAS, the CITY OF NEW SMYRNA BEACH, a Florida municipal corporation organized and existing under the laws of the State of Florida (“City”), and Sheldon Rubin, Trustee previously entered into an agreement and covenant to bind their successors and assigns to the terms and provisions of a master development agreement recorded in Official Records Book 5983, Page 1168, Public Records of Volusia County, Florida (hereinafter referred to as the “MDA”); and

WHEREAS, the MDA addresses the development of approximately 72.4 acres, consisting of two parcels separated by Interstate 95 that are 47.2 acres (hereinafter called the “west parcel”) and 25.2 acres (hereinafter called the “east parcel”) respectively, and bifurcates the development into separate development concepts, each with its own set of land development regulations and provisions; and

WHEREAS, GEOSAM CAPITAL US (VENETIAN BAY) I.P, a Delaware limited liability company (“Developer”) purchased the east parcel from New Smyrna East, LLC, a Florida limited liability company, by virtue of that Special Warranty Deed dated September 11, 2015 and recorded on September 15, 2015 in Official Records Book 7162, Page 4625, Public Records of Volusia County, Florida; and

WHEREAS, this First Amendment to the MDA shall only impact the 25.2 acres in the east parcel (the “Property”); and

WHEREAS, Developer is the successor in interest to the Property; and

WHEREAS, City and Developer wish to amend the MDA as detailed herein.

NOW, THEREFORE, the parties agree as follows:

1. Subsection A.3. is amended as detailed herein:
 - A.3. Subdivisions/ Site Plan Approval.
After the MDA is recorded, and prior to issuance of any permits for construction, including construction related to clearing and landfill, a subdivision plat and/or

EXHIBIT D
Proposed MDA text revisions – 4 pgs.

site plan, shall be submitted for review and approval to the City of New Smyrna Beach in a manner required by LDR Ordinance No. 1-91, as amended.

The East Parcel shall be exempt from the foregoing if clearing and/or excavations are conducted in a manner consistent with an authorized excavation permit and/or with Permit Number IND-127-135737-1 issued by the St. Johns River Water Management District.

2. Section C.1. is hereby amended to add the following permitted uses and structures:

C.1. East Parcel Permitted Uses and Structures.

Excavations

Exempt excavations (as limited by City LDR Section 801.15(D)(1-9))

Excavations for lakes or stormwater retention ponds for which a permit is required

Communication towers not exceeding 70 feet in height above ground level (as limited by City LDR Section 801.13)

3. Section D.1. is hereby amended to remove the previously referenced Multi-Purpose Trail Standard due to an update to the Trail Feasibility Study in 2009 that shows Phase I beginning at Sugar Mill Drive and ending east at the County Fire Station. As previously contemplated, the trail would cover a small area between I-95 and the eastern edge of the MDA property.

Multi Purpose Trail Standards:

~~The Applicant shall be required to construct a multi purpose trail within that portion of the New Smyrna Beach Utilities Commission right-of-way immediately north of the east parcel. The design and location of the trail shall be consistent with the existing feasibility study.~~

4. Section E.4. is hereby amended as detailed herein:

E.4. Signage Requirements.

All entrance identification signs shall comply with the provisions of the LDR PUD sign regulations. All other signs, with the exception of the existing billboard, shall comply with the New Smyrna Beach I-95 & SR 44 Activity Center Design Guidebook. The existing billboard may remain on the east parcel ~~until the billboard lease expires in 2014 at which time the Applicant agrees to remove the billboard.~~ Additionally, the west parcel is subject to a sign easement for the benefit of the adjoining owner, and any sign existing or erected pursuant to that easement is the property of the adjoining owner and not subject to this MDA.

5. Section E.8 is hereby amended to add the following provision:

EXHIBIT D
Proposed MDA text revisions – 4 pgs.

In the event the East Parcel is utilized solely for excavation, or for water retention related to and otherwise incidental to development of the adjacent property also owned by Developer, no Traffic Impact Study shall be required.

6. Section H. is hereby deleted in its entirety and amended as detailed herein:

H. Expiration. This MDA originally provided that it extended in perpetuity unless development had not commenced on the property within ten years from the date of execution. Due to the commencement of construction on the property (west parcel) within the ten year timeframe, this MDA shall be deemed valid in perpetuity for both the west and east parcels.

IN WITNESS WHEREOF, the parties hereto attached their hands and seals this ____ day of ____, 2016.

Signed, sealed and delivered
in the presence of:

**THE CITY OF NEW SMYRNA BEACH,
FLORIDA, a Florida municipal
corporation**

By: _____
Jim Hathaway, Mayor

Witness 1

Print Name of Witness 1

Attest:
By: _____
Johnny Bledsoe, City Clerk

Witness 2

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of ____, 2016, by Jim Hathaway and Johnny Bledsoe, Mayor and City Clerk, respectively, of the City of New Smyrna Beach, Florida, a Florida Municipal Corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary: Type, Print or Stamp Name

My Commission Expires:

EXHIBIT D
Proposed MDA text revisions – 4 pgs.

GEOSAM CAPITAL US (VENETIAN BAY) LP, a Delaware limited partnership
By: Geosam Capital US GP LLC, a Delaware limited liability company, its General Partner

Witness 1

By: _____
Martin Pham, Manager

Print Name of Witness 1

Witness 2

By: _____
_____, Manager

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2016, by Martin Pham and _____, as Managers of Geosam Capital US GP LLC, a Delaware limited liability company and General Partner of Geosam Capital US (Venetian Bay) LP, a Delaware limited partnership. They are [] personally known to me or produced _____ as identification and did not take an oath.

Notary: Type, Print or Stamp Name

My Commission Expires:

APPROVED AS TO FORM AND CORRECTNESS

Frank B. Gummey, III
City Attorney

Date: _____

EXHIBIT E
Applicant's resubmittal letter

Geosam

Geosam Capital US (Venetian Bay) LP
424 Luna Bella Lane, Suite 122
New Smyrna Beach, FL 32168
t. (386) 424-8448
f. (386) 424-5860

February 5, 2016

VIA HAND DELIVERY

Ms. Amye King
Planning Director
City of New Smyrna Beach
2650 N. Dixie Freeway
New Smyrna Beach, FL 32168

Re: PUD-10-15: Geosam / 1st Amendment to Rubin PUD Ord. #108-06

Dear Ms. King:

This letter will serve as a follow up to Mr. Gove's recent e-mail dated Monday, January 11, 2016 at 1:04 p.m. In the interest of moving the process forward, we are providing this correspondence in response to his letter dated December 4, 2015 addressing the Plan Review Committee's comments and questions regarding the First Amendment to the Rubin PUD.

PLANNING AND LANDSCAPING (Jeff Gove – jgove@cityofnsb.com / 386-424-2015)

1. The proposed MDA revisions regarding excavation are uncertain and in need of more definition. In addition, it's not certain how those proposed revisions expanding excavations from its current limited permitted use correlate with the existing City LDR Section 801.15 regarding excavations, particularly as to whether these proposed MDA revisions would then use the provisions of that LDR Section 801.15 and/or require any variances from that. Some specific questions regarding the proposed excavation changes are:

RESPONSE: As stated at the December 4, 2016 PRC meeting (the "PRC Meeting"), we know that the City Attorney's position on MDA modifications is that no modification may alter a City LDR threshold without a variance.

- a. The three different types of proposed excavations, none of which appear to be defined. That includes the question of which excavations would be considered "exempt". Would the proposed permitted use additions allow for a borrow pit, with excavated materials to be transported off-site?

RESPONSE: As stated at the PRC Meeting, the reference to exempt excavations was included to provide clarity related to the exceptions listed in City LDR Section 801.15(D). Per the attached update, we have included an explicit reference to the City LDR Section to provide clarity on what the exempt excavations includes. We are not asking for anything that is not already clearly spelled out in the LDR Section referenced.

- b. City LDR Section 801.15 also has specific setbacks for excavations, including being minimums of 150' from any federal/state right-of-way and/or any residentially zoned

property, and 50' from any other property lines. Those minimum setbacks appear to be more than what the current MDA listed use of "excavations, incidental to development" requires, which may be just the currently required 15' wide perimeter landscape buffer in the existing MDA text.

RESPONSE: We understand that becoming an "Excavator" as defined in City LDR Section 801.15(B)(4) will trigger the provisions of LDR Section 801.15(G). We are also aware, as stated at the PRC Meeting, that the reduction of LDR thresholds would require a variance process.

2. The proposed MDA revisions to add communication towers not exceeding 70' as a permitted use also is uncertain, as to how that proposed addition would correlate with the existing City LDR Section 801.13 regarding communication towers, and particularly as to whether this proposed new permitted use would then use the provisions of that LDR Section 801.13 and/or require any variances from that.

RESPONSE: As stated at the PRC Meeting, we are aware that the MDA may not alter a permitting or setback threshold otherwise addressed by the City's LDR. As I stated to Mr. Fegley, Geosam is aware that a communication tower use listed in an MDA does not give the applicant a right to that use without the necessary permits also being secured separately through the City. This is a somewhat confusing comment, as it would be the same as suggesting that the applicant thinks they could build a home on PUD property without any building permits because the PUD lists single-family homes as a permitted use. The permitting requirements and applicable setbacks of the LDR will still apply.

3. Our Department is uncertain about the effects of the request to eliminate the currently required multi-purpose trail within the site (and specifically within the UCNSB right-of-way), and will need more details from other City staff, etc. as to the impacts of this proposed trail section being removed from City Trail Master Plans, etc.

RESPONSE: As stated at the PRC Meeting, we made the request because it does not appear to be financially feasible or generally practicable to place a multi-purpose trail in the section of UCNSB right-of-way within the specific area listed (eastern property boundary of this PUD property and I-95). As also stated at the PRC Meeting, the applicant understands the possibility that this request would not be supported by staff.

4. Regarding the existing billboard within the site that is now proposed to remain instead of being removed in 2014, as the current recorded MDA requires, we have been informed that this required billboard removal is beyond the applicant's control due to the terms of its current lease agreement. Please provide evidence of that for our records and to confirm that status. This billboard lease apparently has already been publicly recorded, according to survey notes contained within the recorded MDA document.

RESPONSE: As stated at the PRC Meeting, the recorded lease includes extensions that the applicant does not have authority to deny. The lease can be found at Book 4074, Page 4910, Official Records of Volusia County.

5. In regard to the proposed Section E.8 revision, please add the word *solely* where noted in the proposed sentence text "...is utilized *solely* for excavation..."

RESPONSE: Modification added as requested.

6. The existing MDA (Pg. 11, Sec. 8) states internal roadways are to be dedicated to City as public rights-of-way. How would that requirement relate and/or apply to the proposed additional uses for excavation and/or communication tower?

RESPONSE: In the event internal roadways are constructed, we anticipate the same being dedicated as public rights-of-way as detailed in the existing MDA. We see no relationship between the proposed additional uses and the separate existing language. If the question is related to temporary trails or paths to remove dirt if the PUD property is used for excavation, we would not characterize a temporary trail or path through this or our adjacent property as an “internal roadway” for purposes of right-of-way dedication.

ENGINEERING (Kyle Fegley – kfegley@cityofnsb.com / 424-2168)

1. Should some form of excavation be approved for the east parcel, how would the material be exported? Note: Traversing the parcel perimeter would entail impacting the upland and potentially the wetland buffer.

RESPONSE: As stated at the PRC Meeting, we understand there are subsequent processes once the MDA is modified to permit excavations. To date, we have not committed further resources to this element (i.e., **attempt** to work with UCNSB for temporary easement over their property or traversing south and parallel to I-95 over the Coastal Woods property) until we have clarity on the use being permitted within the MDA.

2. Past practices allowing construction of communication towers require the Property Owner/Developer to provide a bond (or form of security) sufficient for demolition and removal of such tower and components at such time it becomes obsolete or abandoned for the intended use (reference LDR Section 801.13). Please include some type of security within the MDA language to this effect.

RESPONSE: A reference to compliance with City LDR Section 801.13 has been added to ensure clarity on LDR compliance.

3. It appears the intended MDA modification for the requested uses would only apply to the parcel south of the abandoned FEC railway/UCNSB utility corridor (i.e. ±20.04 acres) as the parcel north of the corridor (i.e.±5.18 acres) is primarily unmitigated wetlands. Please confirm and revise the amendment language accordingly.

RESPONSE: There is no current plan for impacts to the unmitigated wetlands.

ADMINISTRATIVE (Ursula Moccia / umoccia@cityofnsb.com / 386-424-2132)

1. **This PUD application must be heard at a future Planning & Zoning Board meeting, with that meeting date based on dates of future resubmittals and reviews, and with two City Commission meetings to follow for further action. In order to be scheduled for the February 1, 2016 Planning and Zoning Board meeting, which is the soonest this case could be heard, a complete resubmittal package must be received by 5:00 p.m. on Friday, January 8, 2016.**

RESPONSE: Please proceed to the soonest Planning & Zoning Board meeting based upon this response letter.

2. Staff suggests contacting and/or meeting with Plan Review Committee members prior to resubmittal to be sure all comments are adequately addressed prior to making all the required copies.

RESPONSE: Noted.

3. Five sets of the application materials revised to meet all Plan Review Committee comments must be submitted for review and approval. **Incomplete resubmittal packages will not be accepted.**

RESPONSE: Noted.

4. A letter addressing specifically **where** and **how** all plan review committee comments are addressed must accompany any resubmittal.

RESPONSE: Included.

5. **A meeting must be scheduled with staff in order to resubmit the revised site plan. Please contact Jeff Gove to schedule. Contact information is provided above.**

RESPONSE: By copy of this response letter, we are requesting a meeting with staff.

Should you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,



James Stowers, Esquire

T: (386) 428-8448

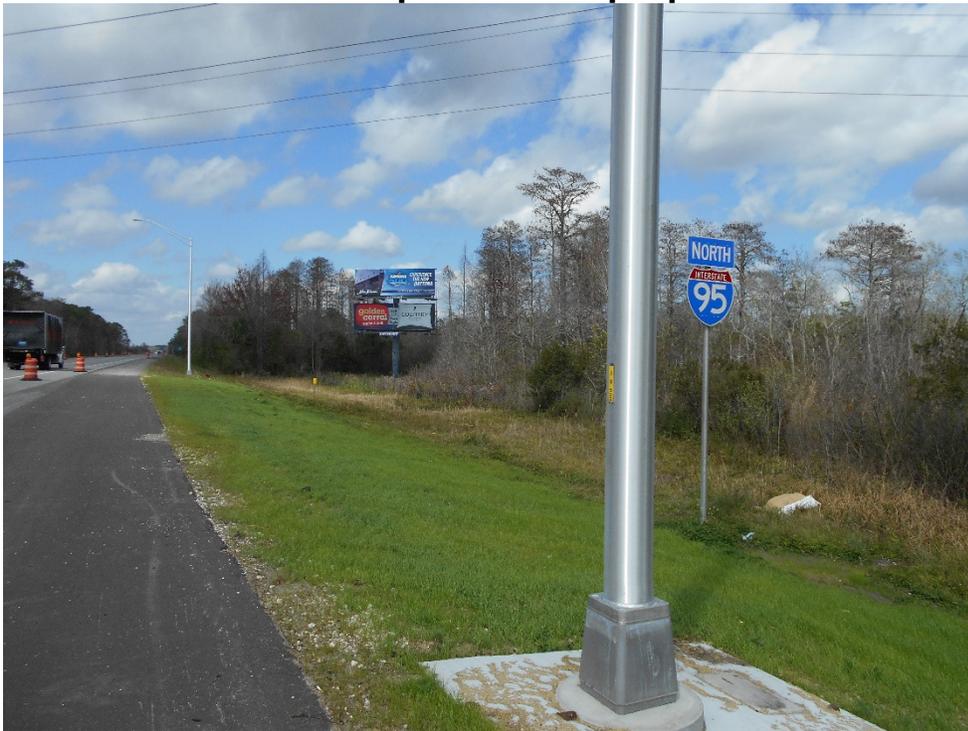
Email: jstowers@geosam.ca

424 Luna Bella Lane, Suite 122

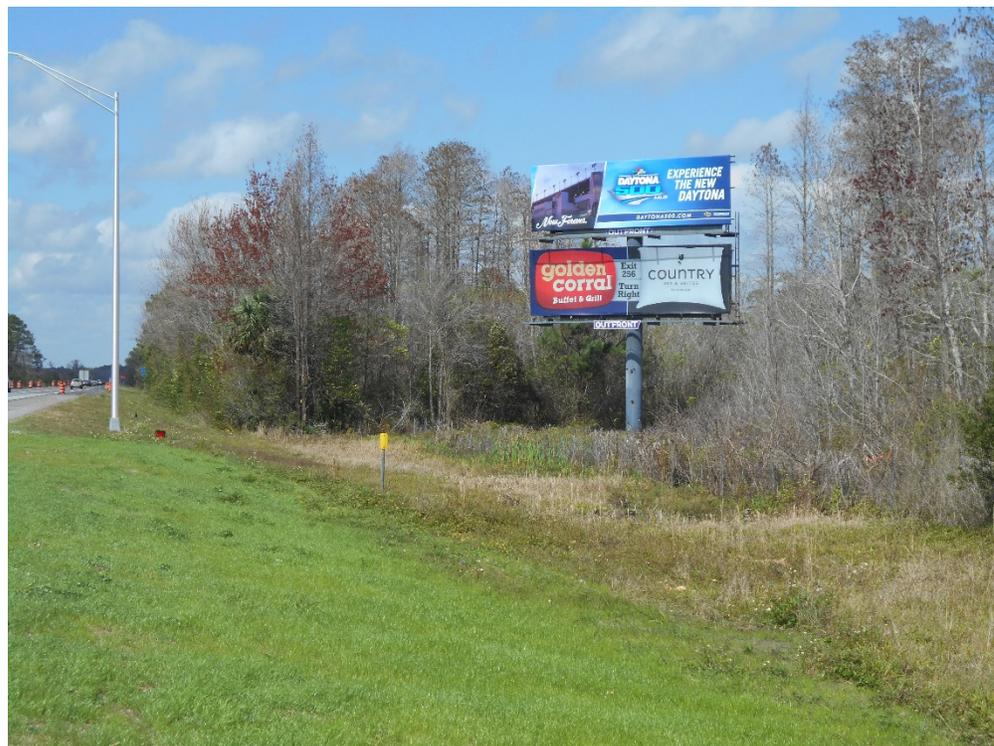
New Smyrna Beach, FL 32168

EXHIBIT G

Billboard photos – re proposed MDA Section E.4. revision



View of Billboard structure within NW corner of site, from northbound outer lane



View of Billboard structure, from closer location on east shoulder

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
**PUD-1-16: NEW SMYRNA CHRYSLER -
PLYMOUTH – JEEP - RAM PUD**

MARCH 7, 2016

I. Background

- A. **Applicant:** Glenn D. Storch, Esquire, 420 South Nova Road, Daytona Beach, Florida, 32114
- B. **Property Owner:** Mitchell Equity Group LLLP, P O Box 2180, New Smyrna Beach, Florida 32170
- C. **Request:** Rezoning from Volusia County A-3(C), Transitional Agriculture (Thoroughfare Overlay Zone) to City PUD, Planned Unit Development and approval of the New Smyrna Beach Chrysler – Plymouth – Jeep – Ram PUD Master Development Agreement (MDA) and Conceptual Development Plan (CDP)
- D. **Site Data:** The subject property consists of approximately 12.0 acres and is generally located northwest of the intersection of State Road (SR) 44 and North Glencoe Road, on the north side of SR 44.
- E. **Maps and Attachments:** A Location Map is attached as **Exhibit A** and an aerial map is attached as **Exhibit B**. The proposed PUD Master Development Agreement and Conceptual Development Plan are attached as **Exhibit C**. The proposed CDP site plan exhibits submitted by the applicant are attached as internal exhibits to that **Exhibit C**, and include a Concept Plan, Specimen Tree Plan, and Existing Site Conditions. Also attached as **Exhibit D** is a copy of the February 16, 2016 Rendition Letter from the City pertaining to a number of variance requests the applicant submitted, which were addressed as Case V-5-16 at a prior (February 4, 2016) meeting of the Planning and Zoning Board. A 2015 City Ordinance (#29-15) is attached as **Exhibit E**, which allows for the building setback from SR 44 shown and used for this MDA plan, with the required condition that increased landscaping areas be provided between the roadway and the building. Finally, an attached **Exhibit F** is the PUD CDP for a similar PUD approved in 2013 (as Case PUD-5-13), for the nearby New Smyrna Chevrolet dealership.
- F. **Tax I.D. Number:** 7323-02-01-0080 (primary portion thereof, with westernmost lot, # 10, not included)

II. Findings

- A. The subject property is an approximately 12 acre rectangular site with the longer portion (1066') fronting State Road (SR) 44 and a much lesser depth, averaging just over 500' and with 514' frontage along North

Glencoe Road to the east. That section of North Glencoe Road is a 20' two lane local road within a 40' right-of-way, with the west edge of that existing road pavement close to and even concurrent with the east property line of the subject parcel. SR 44 is a four lane arterial roadway with a grassed median, and an existing traffic signal that was recently installed at this Glencoe Road intersection.

- B. The subject property is undeveloped at this time, and has an existing 1.4 acre wetland slough running through its center from north to south, bisecting separate uplands in the east and west portions of the site. These topographic and wetland conditions are noted on the Exhibit C Existing Site Conditions exhibit attached, with those wetlands found within the onsite soils area numbered # 56, Samsula Muck. In addition, the recent installation of utility lines within a 25' wide easement fronting SR 44 removed all trees from that lot frontage area, which is over 1000' long and 25' deep within the front of the site.
- C. The subject property was annexed into the City over ten years ago, and while the future land use (FLU) designation was then changed to City State Road (SR) 44 PUD, it retained its previous Volusia County zoning of Volusia County, A-3C(2), Transitional Agriculture, Corridor Overlay Zone (COZ) on City zoning maps. It's uncertain why this County zoning was retained at that time, and/or what the (2) suffix on those maps refers to. An inquiry was made to Volusia County staff regarding that (2) suffix and their response was that it meant the property was within an area designated as Activity Center by the Volusia County Comprehensive Plan, which on SR 44 would have been the Southeast Activity Center located around the SR 44/I-95 interchange area. That explanation for the (2) suffix is not currently plausible as the Activity Center FLU was never applied to areas this far east of that interchange. This would be a moot point due to the currently pending request for the subject property to be rezoned to PUD.
- D. The surrounding future land use, existing uses, and zoning are as follows:
- North**
Future Land Use: Volusia County Urban Low Intensity (ULI)
Existing Land Use: single family residential (large lot)
Zoning: County R3, Urban Single Family Residential
- South (Across State Road 44)**
Future Land Use: City SR 44 PUD
Existing Land Use: vacant for east portion, mobile home residences within western portion (Sugar Mill Mobile Home Park)
Zoning: City PUD for east portion; MH1 for west portion
- East (Across North Glencoe Road)**
Future Land Use: City SR 44 PUD for south portion; County Rural for north portion
Existing Land Use: vacant for south portion; single family residential for

north portion
Zoning: County A-3(C)(2) for south portion; County RR, Rural Residential for north portion

West (East of Oak Lane)

Future Land Use: City SR 44 PUD for south portion; County AC, Activity Center for north portion

Existing Land Use: vacant

Zoning: County A-3(C)(2) for south portion; County R3, Urban Single Family Residential for north portion

- E. The contract purchaser of the subject property is proposing to construct an automobile dealership on the site. In conjunction with this application to rezone the property to PUD, Planned Unit Development, the applicant also submitted an application for a number of variance requests. That variance application was heard by the Planning and Zoning Board, at a prior (February 4, 2016) meeting as Case V-5-16. The applicant requested nine (9) variances in that single application, which were approved subject to fifteen (15) listed conditions of approval. The rendition letter for those variance requests is attached as **Exhibit D** of this report. The applicant then submitted the **Exhibit C** revised MDA to include the nine requested variances and fifteen associated conditions where appropriate. Staff is recommending the **Exhibit D** variance rendition letter be included as an additional exhibit to the revised MDA, to serve as background information regarding the variance approvals and to resolve any possible future conflicts that could occur in interpretation of the fifteen variance approval conditions.
- F. This PUD application was submitted on December 18, 2015 and reviewed at the January 8, 2016 Plan Review Committee (PRC) meeting, with comments then provided to the applicant relating to those PUD documents, including the fact that a number of variances would be necessary in conjunction with that PUD plan. The applicant submitted the variance application by the submittal deadline that same day (1/8/16), for the Board to consider and act upon at the February 4, 2016 meeting. The pending PUD application was then resubmitted the following day, on February 5, 2016, to address the January PRC meeting review and comments and include the approved variances, and to be scheduled for this Planning & Zoning Board and future City Commission review and action.
- G. The subject property has a Future Land Use (FLU) designation of State Road 44 PUD. The intent of this FLU category is to “foster high quality business activities, office, financial institutions, and housing of a density up to 18 units per acre, as well as other uses, which are compatible with the surrounding area. *Land Development Regulations* (including planned unit development zoning), as well as the site plan review process, will determine whether a proposed use is suitable for a particular parcel.”

- H. Goal 5, Objective 4, of the Future Land Use Element of the City's *Comprehensive Plan* states that the City should "guide and enhance future economic development and redevelopment of US Highway 1 and State Road 44 by creating scenic parkways that efficiently move traffic and present an attractive, aesthetically pleasing appearance".
- I. Additionally, the *Comprehensive Plan* lists the following policies that the City must implement along State Road 44 in order to achieve that objective:
- a. The City shall continue to monitor and refine the Arterial Corridor Regulations adopted for State Road 44 in order to:
 - Ensure safe ingress to and egress from proposed development
 - Reduce the number of indiscriminate driveways
 - Control signage
 - Provide landscape requirements, and
 - Encourage development in the form of large planned unit developments and discourage the development of small individual lots.
 - b. Require new developments to provide buffering and reasonable transitions to adjacent, lower-density residential areas.
 - c. Require new developments and redevelopments to provide landscaping and other improvements, in order to present a pleasant aesthetic appearance along these parkways that is consistent with the charm of the City.
 - d. Implement State Road 44 corridor regulations along undeveloped portions of the highway as they are annexed into the City.
- J. As discussed above, the City's *Comprehensive Plan* requires the property to be rezoned to PUD, Planned Unit Development, with the Master Development Agreement and Conceptual Development Plan attached as **Exhibit C**. In addition to the requirements of the PUD zoning designation, the property is also subject to the City's Corridor Overlay Zone (COZ) regulations.
- K. The intent of the City's COZ regulations, which were established in the early 1990s is:
- ...to provide regulations to ensure safe ingress to and egress from proposed development along arterial transportation corridors by reducing the number of indiscriminate driveways, maintaining the integrity of the corridor by assuring that traffic generation is consistent with the corridor's designed capacity; lessening the possibility of hazardous traffic conditions and traffic congestion; establishing development requirements, including additional sign regulations that will create an attractive corridor entrance into the City. Commercial development typically expands along arterial transportation corridors as population and traffic volumes increase in the vicinity of and along the corridor. Eventually, conflicts result*

between the corridor's function and its ability to move high volumes of traffic through an area. This congestion is intensified where commercial growth is permitted to increase adjacent to the corridor disproportionate to the corridor's designed limitations.

The increased commercial growth also changes the public's image of the transportation corridor. What was once considered an attractive tree-lined corridor gradually and often rapidly begins to exhibit characteristics of uncontrolled strip commercial development. Once this pattern has been established, it is difficult to establish alternative types of development (e.g. residential) along these corridors. Therefore, these regulations apply to arterial corridors which (1) move large volumes of through traffic in addition to significant volumes of everyday local traffic, and (2) do not contain significant amounts of strip commercial development. These arterial corridor regulations are intended to supplement all of the zoning classifications located within the arterial corridor overlay zone. The type of permitted uses or special exceptions allowed would be determined according to the existing zoning classification and the site design, signage, building location, and the dimensional requirements would be regulated by these arterial corridor regulations.

- L. The subject property is located within the State Road 44 Corridor Neighborhood, as established in the Future Land Use Element of the City's *Comprehensive Plan*. The existing conditions (as of 2010) in the State Road 44 Corridor Neighborhood are described below:

The State Road 44 corridor is a collection of annexed land parcels containing vacant land, single-family dwelling units and a variety of commercial business establishments. Development is most heavily concentrated at the Mission Drive and Wallace Road intersections. Existing commercial uses include two (2) major shopping centers. Of these two shopping centers, one is displaying signs of decline, although exterior renovations were recently completed on a portion of the building. The second shopping center, which is located further west along State Road 44 is currently thriving. However, the proposed construction of a Super Wal-Mart store west of Interstate 95 will have significant impacts on the vitality of this center, which includes a smaller Wal-Mart store that will close once construction of the new building is complete. Wal-Mart, as well as a Publix supermarket, are the two anchors of this shopping center. No plan has been developed to address the issue of what will occur with the space within the shopping center that will be vacated by the existing Wal-Mart store.

A narrow piece of land, which was formerly a Florida East Coast Railway right-of-way, but which is currently owned by the Utilities Commission, City of New Smyrna Beach, is occupied by electric transmission lines and encroaches on the neighborhood.

Mission Drive was widened from two (2) lanes to four (4) lanes in 1998. This improvement extended from State Road 44 southward to intersect with Old Mission Road and continued to Josephine Street. Eventually, Josephine Street and 10th Street will be completely widened to four (4) lanes providing a four (4) lane improvement from Josephine Street easterly to intersect with US Highway 1. Thus, traffic will be able to move more freely to uses concentrated at the State Road 44 corridor. This is particularly important as the State Road 44 corridor experiences significant traffic congestion from out-of-town beach-goers, particularly during weekends and holidays.

Clustering commercial uses at this intersection of arterial and collector roads is preferable to strip commercial development because it shortens travel distances, reduces the number of driveways and turning movements, and increases shopping opportunities.

There is a considerable amount of property adjacent to the State Road 44 corridor with dense vegetation and trees that lends itself to natural landscaping. A primary consideration is to foster development that will be compatible with the existing four (4) lane facility and create an aesthetically desirable entrance into New Smyrna Beach. The City has adopted arterial corridor regulations for State Road 44.

Anticipated future conditions (as of 2010) in the State Road 44 Corridor Neighborhood are also described below:

The State Road 44 corridor is primarily a collection of commercial and other high intensity land uses that have been annexed into the City during the past several years. This trend will continue as more pressure is exerted for additional commercial development along major arterials within the area. Given the buildout characteristics of US Highway 1, and the high volumes of traffic on State Road 44, major commercial development will likely continue to expand along the State Road 44 corridor.

Since the majority of State Road 44 lies within Volusia County, and is under the jurisdiction of the County Council,

close coordination with the County is necessary to ensure that future growth on State Road 44 is consistent and compatible with the desires of the New Smyrna Beach community.

There is a considerable amount of property adjacent to the State Road 44 corridor with dense vegetation and trees that lends it to natural landscaping. A primary consideration is to foster development that will be compatible with the existing four (4) lane facility and create an aesthetically desirable entrance into New Smyrna Beach. The City has adopted Arterial Corridor Regulations, which govern development along State Road 44. These regulations were enacted to:

- ensure safe ingress to and egress from proposed development;*
- reduce the number of indiscriminate driveways;*
- control signage;*
- provide landscape requirements; and*
- control site development.*

In addition, in order to manage the impacts of development on the pristine western gateway to the City of New Smyrna Beach, all land uses within the State Road 44 corridor, or within parcels that are partially within the corridor, shall be implemented by the use of planned unit development.

Although proper planning and growth patterns would ensure that much of the State Road 44 corridor would develop in a commercial manner via planned unit developments, retail uses should be clustered at intersections of arterial and collector roads to shorten travel distances, reduce the number of driveways and turning movements, and increase shopping opportunities. It is the intention to locate residential or office developments between retail clusters, in the event such are appropriate for the particular parcel.

The Commercial Future Land Use designation is somewhat a misnomer, because the intent within these areas should foster high quality business activities, including offices, banks, and housing. Housing should be allowed a specific place that is deep enough to make certain that the dwellings are set back far enough from State Road 44. Although, from a planning standpoint, any use submitted in the Commercial Land Use designation theoretically is allowable, the site plan review process will determine whether a proposed use is approved for a particular parcel.

OVERALL DEVELOPMENT PLAN AND PERMITTED USES

- M. The Master Development Agreement (MDA) would allow the properties to be developed as an automobile dealership. According to the MDA CDP exhibit, the site will contain 741 inventory parking spaces, 47 customer parking spaces, an approximately 46,500 square foot dealership showroom and service garage area, and associated site and infrastructure improvements.
- N. In order for the MDA to be compliant with the City's *Land Development Regulations* (LDR), the Planning and Zoning Board must approve any requested variances. Per Florida Statutes, and information provided by the City Attorney, a development agreement cannot be used to circumvent or waive requirements of the LDR. Therefore, the applicant submitted variance requests for the following, which again were all approved:
- i. A variance for the minimum open space requirement to be 25 % in lieu of 50 %;
 - ii. A variance for the natural vegetation requirement to be 15 % in lieu of 30 %;
 - iii. A variance for the maximum building height to be 45 feet in lieu of 35 feet;
 - iv. A variance for the required customer on-site parking to be 43 spaces in lieu of 147 spaces
 - v. A variance for a second permitted monument sign to be 48 square feet in lieu of 24 square feet;
 - vi. A variance to require no more than thirty-six (36) 2 ½ inch caliper replacement hardwood trees per acre, in lieu of the requirements of the LDR;
 - vii. A variance to allow preservation of 15 Specimen Trees in lieu of 16;
 - viii. A variance for tree mitigation costs to be determined based on the actual cost of purchasing, planting and maintaining an approved species of 2 ½ inch caliper replacement hardwood tree, in lieu of \$500.00 per 2 ½ inch caliper hardwood; and
 - ix. In the event a build-to line is required for the east property line along Glencoe Road, a variance for said east build-to line to be 25 – 850 feet in lieu of 25 feet.

These variance requests were approved as Case V-5-15, subject to 15 listed conditions of approval. These 15 conditions were a combination of some suggested by staff, some offered by the applicant, and others added by the Planning and Zoning Board, and are:

1. The requested building height of 45' be limited to the specific area shown on the Exhibit E building rendering, and that more detailed information be provided to document this limitation beyond that color rendering.
2. Should the Board determine that any variance requests for landscape/open space areas meet all of the criteria for approval, a condition of that approval should be that larger-sized plants be used in order to enhance any reduced areas and amount of landscape

- materials and/or open space, including a minimum of 4" cal. for all trees to be installed as replacement trees.
3. If the developer is permitted to pay actual replacement costs into the City tree mitigation fund instead of the amount defined in the LDR, those costs shall be fully documented and certified when submitted for City review and approval, with that to occur prior to the issuance of any temporary and/or permanent Certificate of Occupancy (CO) for the subject property.
 4. The applicant revises the pending PUD Master Development Agreement to include any new or amended language based on approval or denial of these requested variances, and that such changes are submitted prior to the PUD rezoning request being scheduled for any future public hearings.
 5. Any approved variances expire two years from the date of Planning and Zoning Board approval if a building permit for this proposed project (as shown on Exhibit C) is not issued by the City Building Department.
 6. Frontage landscaping required by the City LDR shall be upgraded to minimum 4" caliper DBH oak and magnolia trees. Landscaping shall also be enhanced in front of the building area, but any tree location issues shall be addressed as part of the PUD process.
 7. Customer parking areas shall be clearly identified on the proposed site plan and PUD concept plan. Customers display areas shall be clearly delineated as separate from customer parking areas.
 8. Building height increase to 45' shall only be permitted within the single vehicle display area as provided on the concept plan elevation. Said area shall not be considered habitable, air conditioned space, and shall only be used for a single vehicle display.
 9. Applicant has demonstrated that 37 customer parking spaces meets and / or exceeds the parking determined to be necessary for the total inventory parking requirement. The City LDR requires 37 customer parking spaces for the proposed inventory parking, and 113 parking spaces for the proposed maintenance stalls; however, applicant represents that only 6 spaces are required for the proposed maintenance stalls based on a forthcoming business plan. Applicant shall submit said business plan to justify the reduction for maintenance stall parking prior to site plan approval.
 10. Biologist / Arborist shall conduct quality review of specimen trees, especially specimen bay trees, and determine viability of same. If one or more trees scheduled for removal is determined to be not viable, then such specimen tree variance shall not be necessary. In the event all 20 specimen trees are determined to be viable, then applicant is permitted to relocate one specimen tree to a preservation or buffer area rather than remove said tree.
 11. Applicant shall provide tree survey to staff indicating tree density.
 12. Applicant shall provide actual tree costs (per 2 and ½ inch caliper DBH) within 30 days of site plan approval to determine additional tree mitigation cost.

- 13.75% of visibility density in the east and north buffers with no less than 6 foot in height.
 14. All lights on property shall be shielded from residents.
 15. There shall be no outdoor sound system.
- O. Following the approval of the above nine variance requests, the applicant resubmitted a revised Master Development Agreement (attached as Exhibit C) that was intended to include new or amended language based on the approved nine variances and the 15 associated conditions of approval. Again, staff is recommending the **Exhibit D** variance rendition letter be included as an additional exhibit to the revised MDA to serve as background information regarding the variance approvals, and to resolve any possible future conflicts that could occur in interpretation of the various approval conditions.
- P. Since that resubmittal, the applicant contacted staff about an error they had made regarding Section E. 6. of the current MDA text they requested be corrected. This correction would provide for the requirements of Variance Conditions # 6 & 13, regarding minimum 4” caliber trees in the SR 44 frontage and 6’ minimum height for planting/screening materials in the east and north buffers, and would be revised as part of any future MDA revisions and resubmittal.
- Q. A review comment provided to the applicant at the January PRC meeting was that “no vehicle access connection is shown to the adjoining property to the west, which is a common practice in this area of SR 44 to allow for better and safer access to those adjoining properties and side streets which then connect to SR 44 at signalized intersections. A vehicle access easement connection to the neighboring west parcel (which is under the same current ownership) would assure this neighboring parcel access to both SR 44 and its side street of Oak Lane. This practice also reduces access connections to SR 44 and prevent slowdowns in highway traffic, and is a definite objective and policy listed in the Comprehensive Plan for this area”, as shown in the following:

Future Land Use Element, Goal 1 Sustainability, Objective 3. Coordinating Land Use and Transportation, Policy b.: The City shall, through enforcement of its Land Development Regulations, continue to ensure that the transportation facilities function safely and effectively by...Limiting curb cuts on arterial roads, providing for common access points, and ensuring safe and convenient on-site and inter-parcel circulation.

Future Land Use Element, Goal 4 Commercial/ Industrial Development, Objective 4. Design of Commercial and Industrial Developments, Policy a.: Traffic flows within commercial areas shall be designed with internal access, limited curb cuts, and interconnections between various sites to minimize impacts on the thoroughfare network; and adequate parking and safe and

convenient traffic flow shall be required on all sites based on Code requirements and best design practices.

Future Land Use Element, Goal 4 Commercial/ Industrial Development, Objective 7, Policy a.: The City will, through the Land Development Regulations, implement a program of compact commercial growth (activity centers) along arterial roads. These commercial nodes will provide for the concentration of high intensity generating commercial development in clearly defined geographic areas at major transportation corridors, which will reduce the occurrence and frequency of access points and curb cuts, and which will provide for limited and controlled ingress and egress points to and from arterials.

Future Land Use Element, Goal 4 Commercial/ Industrial Development, Objective 7, Policy b.: In areas along arterial corridors, between compact commercial growth areas (activity centers), where urban development has occurred in a leap frog and sporadic manner which has left isolated vacant small parcels of land which front on an arterial, the City will provide for less intense, highly restricted commercial professional office and/or residential development through the implementation of business planned unit development provisions of the Land Development Regulations. Such development will be further regulated by the adoption of corridor regulations, as has been adopted for State Road 44. These regulations will limit curb cuts and access points by requiring shared access drives and access to intersection roadways from corner lots. Large tracts of land will be required to provide for lateral access points and limited curb cuts. In addition, planned unit development regulations will be utilized on tracts of land with acreage, as determined by the Land Development Regulations.

The applicant and contract purchaser for this PUD followed the above Comprehensive Plan policies for interconnections with adjacent parcels, in a recent similar development and PUD for the New Smyrna Chevrolet facility (PUD-5-13) just slightly east of this subject property. That recorded PUD document states the following (in Section 6.D.):

the Developer has provided a vehicular access to the west property line to allow for a vehicular access easement to and from Glencoe Road with future development across the adjoining parcel, and said vehicular access easement to the adjoining parcel will be provided as part of the site plan submittal.

In addition, that shared driveway connection and 24' wide internal drive is shown on the PUD CDP for the New Smyrna Chevrolet facility, which is attached as **Exhibit F**, and labeled there as "24' Access Drive to West Property."

Despite the above, the applicant/contract purchaser have made a deliberate decision to disregard the above Comprehensive Plan policies for a similar shared and internal driveway access within this car dealership

facility PUD, even though he did so previously for the preceding similar one in 2013. In addition, the current owner of this subject property is the same owner of the adjacent west property, and also that property west of and served by the shared internal driveway at the New Smyrna Chevrolet PUD and facility. Staff continues to believe the above review comment first provided to the applicant at the January 2016 PRC meeting remains relevant to this PUD and the resultant impacts to surrounding properties and public roadways, and cannot recommend approval based on this failure to conform to Comprehensive Plan policies.

- R. In reviewing the resubmitted **Exhibit C** MDA and CDP, it appears both the Concept Plan and the MDA text have been revised to severely reduce and/or eliminate trees from being located in the parking area between the proposed building and SR 44. The current MDA Section 6.E.7. (on MDA Page 6 of 15) and the CDP Concept Plan are both inconsistent with the current LDR requirement when the building setback is greater than 65' as proposed by this plan, for increased parking lot landscaping to then be provided. This recent zoning text amendment to the LDR was approved in 2015 and is attached as **Exhibit E**. This proposal and plan to reduce and/or eliminate trees between the building and SR 44 would have an even greater visual impact in terms of trees not being provided within that SR 44 frontage area, due to recent clearing of all trees within the 25' utility easement along SR 44 and the UCNSB's policy of not allowing any large trees to be replanted within that area.

The attached Exhibit E ordinance (#29-15) allows for the building setback shown and used in this MDA plan, but only with the required condition that increased landscaping areas be provided between the roadway and the building, and "evenly spaced in the area between the building and State Road 44". As that Ordinance notes (on Page 1 of 5), this LDR amendment was approved using the above text that was then added by the Planning and Zoning Board at the February 4, 2015 meeting. In addition, the applicant for that LDR setback revision is the same applicant as for this PUD rezoning request, who was then agreeable to that landscape requirement addition by the Board, and thus withdrew a concurrent variance request for this same purpose once the LDR text amendments for increased setbacks and associated landscape areas were suggested and approved.

Staff cannot recommend approval of the MDA with this inconsistency, and believes this resubmitted MDA and CDP Concept Plan should be revised to comply with the requirements of the Exhibit E Ordinance (#29-15) regarding placement of landscape materials. Failing that revision, it appears either the building setback from SR 44 would need to be reduced to 65', or an additional variance would need to be applied for and granted by the Planning and Zoning Board. Should the CDP Concept Plan be revised for the landscape area placement required by this LDR section, staff would see no need for that variance requirement.

- S. A generally accepted concept is that the establishment of a Planned Unit Development MDA is a negotiated process for land use and development between the applicant and local zoning authorities, in which both parties gain what should be equivalent benefits. Given that premise, and the nine variances approvals that were required for the development proposed by this PUD rezoning application, along with the 15 conditions required and associated with those nine variance approvals, it appears the proposed site is not suitable for the proposed PUD intent and plan. While those variances and conditions are now approved, there remain a number of Comprehensive Plan Goals, Objectives, and Policies that appear to be in conflict with what is currently presented. It also remains unclear how the proposed PUD request of the applicant offers and/or provides equivalent value to the City and its residents, and instead seems to be more of a request for a proposed future use within a proposed site that cannot otherwise accommodate it, without providing the typical equal benefit to the public.

Recommendation

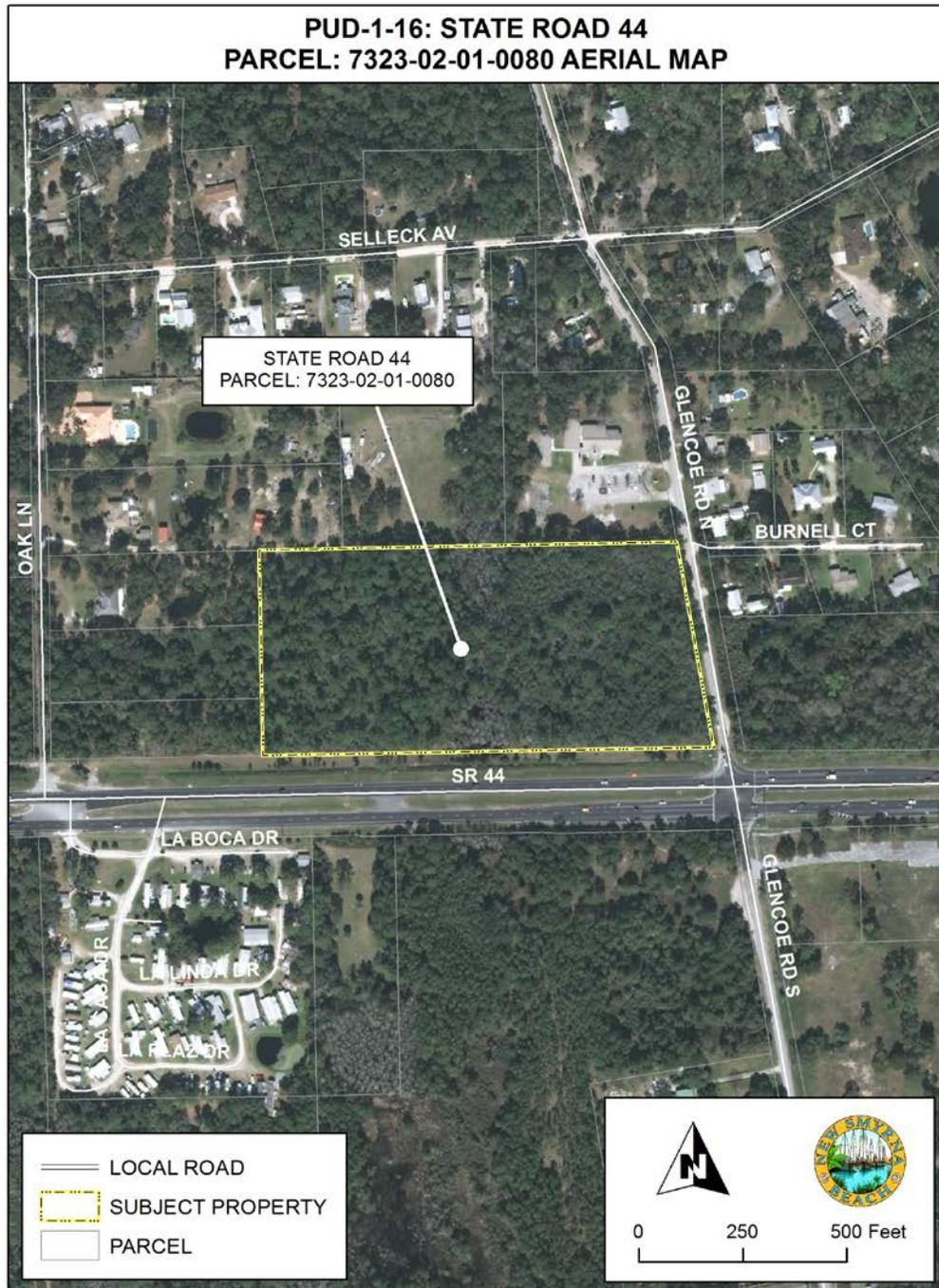
As currently submitted, staff believes the Master Development Agreement and Conceptual Development Plan do not comply with various sections of the *Land Development Regulations* and the *Comprehensive Plan*, as listed above.

However, should the Board determine that the PUD rezoning request should be recommended for approval to the City Commission, staff recommends the Board include the following conditions to that recommendation of approval:

1. A shared driveway connection and 24' wide internal drive be noted in the MDA text and shown on the PUD CDP, similar to the as "24' Access Drive to West Property" located within the New Smyrna Chevrolet PUD and facility (attached as **Exhibit F**).
2. This currently submitted MDA and CDP Concept Plan should be revised to comply with the requirements of Ordinance # 29-15, regarding placement of landscape materials "*evenly spaced in the area between the building and State Road 44*". Failing that revision, either the building setback from SR 44 would be required to be reduced to 65' or an additional variance would need to be applied for and granted by the Planning and Zoning Board.
3. The **Exhibit D** variance rendition letter be included as an additional exhibit to the revised MDA to serve as background information regarding the variance approvals and to resolve any possible future conflicts that could occur in interpretation of the various approval conditions.
4. The applicant's error regarding Section E. 6. of the current MDA text should be corrected in provide for Variance Conditions # 6 & 13 regarding minimum 4" caliber trees in the SR 44 frontage and 6' minimum height for planting/screening materials in the east and north buffers.
5. The recently revised Traffic Impact Analysis must be approved by the City's traffic consultant before scheduling this item for City Commission final action.
6. Any outstanding staff comments be addressed and all Plan Review Committee members sign off on the MDA prior to scheduling this item for City Commission final action.

EXHIBIT A





Document Prepared By:
Glenn D. Storch, Esquire
GLENN D. STORCH, P.A.
420 South Nova Road
Daytona Beach, FL 32114

Return recorded document to:
City of New Smyrna Beach Records Clerk
210 Sams Avenue
New Smyrna Beach, FL 32168

**MASTER DEVELOPMENT AGREEMENT FOR
NEW SMYRNA CHRYSLER DODGE JEEP RAM**

The **CITY OF NEW SMYRNA BEACH, FLORIDA**, a chartered municipal corporation located in Volusia County, Florida (the "City"), **TT OF NEW SMYRNA, LLC**, a Florida limited liability company, ("Developer"), and **MITCHELL EQUITY GROUP, LLLP**, the current property owner, hereby agree and covenant, and bind their heirs, successors and assigns, as follows:

1. OWNERSHIP OF THE PROPERTY

The property that is subject to this Agreement consists of approximately 12.02 +/- acres of real property (hereinafter "the Property") and is described in Exhibit "A" attached hereto and by reference made a part hereof. The Developer intends to subject the Property to the conditions and restrictions of this Agreement and the City intends to permit development of the Property in accordance with the terms of this Agreement. The Property is under the sole ownership of Mitchell Equity Group, LLLP, who has entered into a contract to sell said Property to TT OF NEW SMYRNA, LLC.

2. DEVELOPMENT PLAN

- A.** Development of the Property shall be controlled by the terms of this Agreement and, to the extent not in conflict with this Agreement, the New Smyrna Beach Land Development Regulations, including the regulations contained therein. The Developer has designated the Property as "NEW SMYRNA CHRYSLER DODGE JEEP RAM".
- B.** The Property shall be developed as an automobile dealership (including automobile sales and service) as shown on the Conceptual Development Plan which is attached hereto and

incorporated herein as Exhibit “B”. The City and the Developer acknowledge the importance of developing the property as part of a significant commercial corridor along S.R. 44. The Property shall generally be developed as depicted on the Conceptual Development Plan. In case of conflict between any textual provision of this Agreement and the Conceptual Development Plan, the textual provision shall govern. If this Agreement or the Conceptual Development Plan fails to address a particular subject or requirement, the requirements of the applicable City ordinance(s) in effect at the time of development plan approval shall control. Failure of either to address a particular permit, condition, term or restriction shall not relieve the Developer of the necessity of complying with the law governing said permitting requirement, condition, term or restriction. The Conceptual Development Plan is conceptual only and the plan may be adjusted by the Developer, in cooperation with Staff, as the parties proceed through final Site Plan approval. Site data will be provided in the Conceptual Development Plan, provided the same complies with the below site data:

Minimum Open Space: 25%

A variance has been approved by the City’s Planning and Zoning Board to permit a minimum open space requirement of 25%. In addition, the Customer Display Plaza has been identified on the CDP.

Maximum Building Height: 35 feet

A variance has been approved by the City’s Planning and Zoning Board to permit a single vehicle display area to have a maximum height of 45 feet, as shown on the exterior building elevation attached hereto as Exhibit “C”. Said area shall not be considered habitable, air conditioned space and shall only be used for a single vehicle display.

Maximum Impervious Lot Coverage: 75%

Maximum Building Coverage: 35%

Project Landscape Buffers:

Front (South): 35 ft.

Side (West): 25 ft.

Side (East): 25 ft.

Rear (North): 25 ft.

Minimum Building Setbacks:

Rear yard: 25 ft.

Side yard (West): 25 ft.

Front yard build-to line: 45' – 150'

Side yard (Glencoe Rd.): 25'

Natural Vegetation Requirement: 15%

A variance has been approved by the City's Planning and Zoning Board to permit a minimum natural vegetation requirement of 15%; however, Developer shall enhance project landscaping as provided herein.

Minimum Interior Landscaping: 20%

- C. The parties acknowledge that compliance with the New Smyrna Beach Land Development Regulations may necessitate modification of the Conceptual Development Plan, which is attached hereto as Exhibit "B". Any minor modifications to the Conceptual Development Plan which are not in conflict with the textual provisions of this Agreement and do not increase the size, density or intensity of the use by more than 10% of the building's square footage in the Conceptual Development Plan, and do not conflict with any City ordinances not superseded by this Agreement, shall be deemed "minor" and may be approved without formal amendment of this Agreement. Minor amendments may include revisions to the Conceptual Development Plan that may reconfigure the Property, phase and/or building layout so long as the modified Conceptual Development Plan does not exceed, by more than 10%, the building coverage depicted on the Conceptual Development Plan attached hereto as Exhibit "B". Such modifications shall require the City Administrative Official's written approval; however, this does not permit a complete redrawing of the Conceptual Development Plan that substantially reconfigures the entire layout of the development, which shall not be deemed a "minor" amendment and shall require formal amendment of this Agreement. If the Developer is not satisfied with resolution of any problem or decision by the City Administrative Official regarding such modification, the Developer

may appeal the decision to the City Manager. Upon completion of construction on the Property and approval of said construction by City staff, Developer shall provide the City with “as-built” drawings of the development on the Property, which shall include all improvements thereon and shall be considered the Final Construction Record Plan.

D. Developer shall provide any appropriate performance and maintenance guarantees.

3. CONFORMANCE WITH COMPREHENSIVE PLAN

The City has determined that the Property is suitable in size, location and character for the uses proposed, that the uses proposed meet the needs of the City and that the uses proposed are consistent with the City of New Smyrna Beach’s Comprehensive Plan.

4. PERMITTED USES

Automobile Sales, new and used, with accessory uses and outdoor display area
Automobile Service Centers

The total acreage of the Property shall be devoted to Automobile Sales and Service Uses.

5. PUD INFRASTRUCTURE/TRANSPORTATION

A. Access easements and utility easements for utilities within the Development shall be owned by the Developer, its successors and assigns, subject to dedications of easement and rights of ingress and egress in favor of the Utilities Commission, City of New Smyrna Beach for the purpose of owning and maintaining utilities located within the Property. The access easements shall be constructed to Utilities Commission standards. The Developer acknowledges for itself, its successors and assigns, that the access easements are private and shall be a private responsibility without recourse to the Utilities Commission. The exception to this limitation shall be when the Utilities Commission, through its agents, designees or assigns, shall damage facilities, including pavement, within the Property in the course of repairing, replacing or enlarging Utilities Commission owned or dedicated utility lines. In that event, the Utilities Commission shall repair the area in a workmanlike fashion.

B. The Developer will build or provide for the construction of stormwater and electric infrastructure, as well as water, sewer and reuse waterlines to City and/or Utilities

Commission specifications, and upon acceptance by the Utilities Commission, the electric, water, sewer and reuse lines shall be dedicated to the Utilities Commission together with all easements and licenses necessary for the Utilities Commission to maintain and operate the utility systems located on the Property, all pursuant to the Development Agreement with the Utilities Commission, City of New Smyrna Beach. The water, sewer and reuse waterlines (if reuse service is available) shall be located and built as provided on the attached Conceptual Development Plan.

- C. Stormwater drainage will be constructed for the development within the Property. The stormwater retention and drainage facilities will be maintained by the Developer at a level consistent with the standards and permit conditions of the St. Johns River Water Management District (SJRWMD). Collection and transmission facilities on the Property shall be located pursuant to site development plan approval for the Property and structures located thereon. Developer agrees to pay any non-ad valorem stormwater assessments.
- D. The Developer agrees to participate in any proportionate fair share program and the development will be subject to transportation impact fees.

6. ARCHITECTURAL/DESIGN STANDARDS

The following guidelines shall apply to the development of the Property except where they are superseded or conflict with the Conceptual Development Plan, Exterior Elevations, or other sections of this Agreement:

- A. **Applicability.** These design standards shall apply to all uses provided herein.
- B. **Site Plan Design Standards.** Site layout, including building orientation, location and parking area layout, shall be as shown in the Conceptual Development Plan attached hereto as Exhibit “B”.
- C. **Architectural Design Standards.** All buildings and accessory structures shall be developed in compliance with the Exterior Elevations, which are attached hereto and incorporated herein as Exhibit “C”.
- D. **Site Circulation and Access.** Safe, comfortable and consistent pedestrian connections are encouraged to optimize site circulation and access.
- E. **Landscaping and Buffer Requirements.**

- 1) Landscaping and landscape buffers shall be as provided on the Conceptual Development Plan, attached hereto as Exhibit "B".
- 2) Landscaping shall provide a suitable setting for the development architecture and also shall serve to create a unified urban look, to define outdoor spaces, to buffer from sound and weather, to screen from view and to accentuate building elements.
- 3) Landscaping and grading shall be designed to enhance the presence of each building.
- 4) Whenever possible, utility easements shall be located away from historic trees, which must be saved as provided in Section 7B herein below.
- 5) Landscaping is required to soften the visual appearance of pond edges; however, the retention ponds on the subject property will be dry retention in order to meet the applicable requirements for nitrogen and phosphorous removal.
- 6) Landscape buffers shall require 1 tree (2 inch caliper) for every 100 square feet of buffer area; however, Developer may increase the caliper size of said trees and reduce the total number of trees required in the landscape buffers by an appropriate ratio. Along the SR 44 frontage, said tree size shall be at least 4" caliper DBH and 6' in height, as provided herein.
- 7) The area of the subject property adjacent to SR 44 between the east and west corners of the sales building shall be consistent with the CDP. Those areas between SR 44 and the inventory parking areas shall have a series of tree groupings.
- 8) The east and north landscape buffers shall be required to have an opacity of 75%.

F. Architectural Consistency.

- 1) All structures within the development shall complement one another and shall convey a sense of quality.
- 2) No vending machines shall be permitted on the outside walkways or other outdoor pedestrian areas of the Property.
- 3) No newspaper stands shall be permitted except in areas designed by the Developer and approved by the City.
- 4) Function, layout and architectural design and size of buildings within the development shall be coordinated to receive site development plan approval. For purposes herein, function and layout includes, but is not limited to, building placement, landscaping

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- 4) Function, layout and architectural design and size of buildings within the development shall be coordinated to receive site development plan approval. For purposes herein, function and layout includes, but is not limited to, building placement, landscaping

layout/design, parking lot layout/design and access drive layout/design. Architectural design refers to building style and appearance.

- 5) All parking lot lighting fixtures shall be consistent with respect to their physical attributes, design and appearance. The mounting height for pole lights shall be limited to a maximum of 24 feet, and all lights will be shielded, non-glare fixtures. The specific design shall be established by the type of parking lot lighting fixture to receive site development plan approval. Light shall be contained within the project and deflected from abutting residential areas.
- 6) No outdoor speakers shall be permitted on the Property.

G. Parking Standards. Parking will be as provided on the Conceptual Development Plan attached hereto as Exhibit “B”. A variance has been approved by the Planning and Zoning Board to permit 43 customer/maintenance parking spaces total on the property, in lieu of the 153 spaces required by the LDR. Developer shall submit a business plan to justify the reduction for maintenance stall parking prior to site plan approval.

7. NATURAL VEGETATION PRESERVATION

- A.** Natural vegetation preservation shall be as provided in the Conceptual Development Plan attached hereto as Exhibit “B”. All natural areas and vegetation shall be cleaned by hand or brush cutter including the removal of dead trees, limbs and any vines. No removal of small trees, palmetto bushes or other under brushing, except for removal of invasive species, will be done. Buffers shall also be as provided in the Conceptual Development Plan and shall be used to meet the required natural vegetation preservation requirements. Areas replanted with natural vegetation species shall also count toward the square footage required for natural vegetation preservation. Prior to beginning of land clearing, all areas to be preserved shall be marked by the Developer and inspected by City.
- B.** Tree preservation shall be provided for in the Conceptual Development Plan, attached as Exhibit “B”, which identifies those areas where trees shall be cleared for development and the areas dedicated to conservation where trees will be preserved. A variance has been approved by the Planning and Zoning Board to require no more than thirty-six (36) 2 ½ inch caliper replacement hardwood trees per acre for purposes of tree mitigation, in lieu of the requirements of the LDR. As a condition of said variance approval, frontage

landscaping along SR 44 shall be upgraded to minimum 4" caliper DBH Oak and Magnolia trees. Landscaping shall also be enhanced in front of the building area. Developer shall receive credit towards the tree mitigation requirements based on the cross-sectional area of said minimum 4" caliper trees.

- C. A variance has also been approved by the Planning and Zoning Board to permit the preservation of 15 specimen trees, in lieu of 16, with the condition that a biologist / arborist shall conduct quality review of specimen trees, especially Bay trees, and determine the viability of same. In the event all 20 specimen trees are determined to be viable, then Developer is permitted to relocate one specimen tree to a preservation or buffer area rather than remove said tree.
- D. An additional variance has been approved to permit Developer to pay into the City's tree mitigation fund the actual costs of purchasing, planting and maintaining approved species of 2 ½ inch caliper replacement hardwood trees, in lieu of the \$500 per tree stated in the LDR. Said costs shall be fully documented and certified when submitted for City review and approval, with that to occur prior to the issuance of any temporary and/or permanent Certificate of Occupancy for the subject property.

8. ENVIRONMENTAL CONSIDERATION

Both during and after construction, the Developer will use reasonable efforts to preserve trees and natural vegetation within the Property consistent with the Conceptual Development Plan and maximize protection of natural drainage pathways. The Developer shall comply with all rules, statutes, laws and regulations pertaining to protected wildlife species, including, but not limited to, the rules and permitting requirements of the Florida Game and Freshwater Fish Commission concerning gopher tortoises. An endangered species survey will be done for the site and submitted to staff with the first site plan. An Environmental Biologist will be required to perform a wetland determination and any impacts shall be assessed using the Unified Wetland Method Assessment methodology.

9. UTILITY MASTER PLAN

Public utilities consisting of electric, water, wastewater and reuse water for the Property or portion thereof and any applicable off-site infrastructure shall be obtained from the Utilities

Commission, City of New Smyrna Beach (“UC”), and shall be applied for, built and conveyed in accordance with UC rules and standards, requirements, tariffs, policies and agreements prevailing at the time of Developer’s requested approval of a utilities agreement(s) from the UC. Other utilities not provided by the UC shall be built in accordance with and consistent with the City of New Smyrna Beach Land Development Regulations.

10. SIGNAGE

The PUD Development shall have a uniform sign program. Two (2) monument signs shall be permitted for the Property, each with 48 square feet of copy area and consistent with the Monument Signage Elevation attached hereto as Exhibit “D”. A maximum of six (6) wall signs with a combined total of 400 square feet shall be permitted, consistent with the Exterior Elevations, attached hereto as Exhibit “C”. Directional and other supplemental signage is also permitted, including an “Automobile Dealerships Informational/Directional” sign with a copy area of 75 square feet that can only read “Service” and cannot have any advertising logos. The pedestal of each monument sign shall be constructed of the same materials as the walls of the buildings within the development. The colors of the sign face shall complement and coordinate with the appearance of the automobile dealership. However, corporate logos and colors are permitted. Outdoor automobile display areas such as rocks or other raised platforms or pedestals shall be considered outdoor display areas and not signs for purposes of this Agreement.

11. PROJECT DEVELOPMENT CRITERIA

The terms of this Agreement shall be superior to the terms of the New Smyrna Beach Land Development Regulations, and conflicting zoning or overlay regulations, unless otherwise specifically provided herein. In the event a subject is not addressed in this Agreement, the Land Development Regulations shall control.

12. COSTS

No costs of development of the Property, hereunder, shall be borne by the City unless the City specifically agrees in writing to assume such cost.

13. EFFECTIVE DATE AND EXPIRATION

- A.** This Agreement shall be effective upon approval by the City Commission. The Developer will be required to record this Agreement in the Public Records of Volusia County, Florida and provide a copy to the City Clerk and Planning and Engineering Division within sixty (60) calendar days of the City Commission adoption date. The restrictions on use and development imposed by this Agreement shall be binding upon all successors in interest in the Property, unless and until the City alters or eliminates such restrictions in the course of the City's actions as zoning authority or until this Agreement Expires.
- B.** The duration of this Agreement shall not exceed ten (10) years from the date of its execution. This Agreement may be extended for an additional 5-year term by mutual consent of the Developer and the City, subject to a public hearing.
- C.** The term "development" shall mean that the Developer, his successors or assigns, shall actively be in pursuit of installation of improvements, permits for installation of improvements, or installation of improvements over a portion or all of the Property.
- D.** If the City does not approve this Agreement, it shall be null, void and without further effect. In addition, if the Developer is a contract purchaser of the PUD Property and fails to acquire title to the PUD Property within 90 days of approval, then the City or the Developer shall each have the option to terminate this Agreement, exercised by providing written notice to the other parties hereto, after which this Agreement shall be null, void and without further effect. Neither the City nor the Developer shall acquire any enforceable rights or claims against each other with respect hereto in the event this Agreement becomes null and void under this paragraph.

14. AMENDMENTS

- A.** Amendments to this Agreement, other than minor modifications to the Conceptual Development Plan, shall not be effective unless in writing and signed by all record title property owners of the land for which the amendment is to be applied and the City.
- B.** Before amending this Agreement, the City shall conduct two or more public hearings. At the City's option, one of these public hearings may be held by the Planning and Zoning Board.

- 1) Notice of intent to consider an amendment to this Agreement shall be published by the City, at the property owner's cost, in a newspaper of general circulation and readership in Volusia County, Florida.
- 2) If applicable, notice of intent to consider an amendment shall comply with the requirements of Section 166.041(3)(c), Florida Statutes (2012), as amended from time to time.
- 3) The day, time and place at which the second public hearing, if any, will be held shall be announced at the first public hearing.
- 4) The notices required above shall specify the location of the Property, the location of that portion of the Property subject to the proposed amendment, the nature of the proposed amendment, and the following information to the extent applicable:
 - a. Changes in permitted and/or conditional uses;
 - b. Changes in building intensities and/or height proposed; and
 - c. Specific deviations from the Conceptual Plan.
- 5) All notices shall specify a place where a copy of the proposed amendment can be obtained prior to the public hearing.

15. PUBLIC RECORD

The parties agree this Agreement shall be recorded in the Public Records of Volusia County, Florida, at the Developer's expense. The provision of this Agreement shall constitute covenants running with the land applicable to the entire subject Property described herein or any portion thereof. The restrictions on use and development imposed by this Agreement shall be binding upon all successors in interest in the Property, unless and until the City alters or eliminates such restrictions in the course of the City's actions as zoning authority.

16. SEVERABILITY

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or otherwise unenforceable, such holding shall not affect the validity or enforceability of any other provision of this Agreement unless the holding so states.

17. POLICE POWER AND SOVEREIGN IMMUNITY NOT WAIVED

Nothing contained in this Agreement shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the City as it now or hereafter exists under applicable laws, rules and regulations. Further, nothing contained in this Agreement shall be construed as a waiver of or attempted waiver by the City of its sovereign immunity under the constitution and laws of the State of Florida.

18. COMPLETE AGREEMENT

This Agreement represents the complete understanding by and between the parties with respect to the development and continued use of the subject Property. Any and all prior agreements between the parties with respect to any subject comprehended by this Agreement is hereby voided and superseded by this Agreement. Any amendment to this Agreement shall be in writing and signed by the City and the property owner.

IN WITNESS WHEREOF, the parties hereto attached their hands and seals on the dates set forth below.

[Signatures on following pages.]

Signed, sealed and delivered
in the presence of:

**CITY OF NEW SMYRNA BEACH,
a Florida Municipal Corporation**

Witness 1

By: _____
James Hathaway, Mayor

Print Name of Witness 1

Attest:

Witness 2

By: _____
Johnny Bledsoe, City Clerk

Print Name of Witness 2

Dated: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by **JAMES HATHAWAY and JOHNNY BLEDSOE, Mayor and City Clerk**,
respectively, of The City of New Smyrna Beach, Florida, a chartered municipal corporation, on
behalf of the City. They are personally known to me and did not take an oath.

(Seal)

Notary Public

APPROVED AS TO FORM AND CORRECTNESS
As Attested to

By: _____
City Attorney, Frank B. Gummey, III

Dated: _____

Signed, sealed and delivered
in the presence of:

**DEVELOPER – TT OF NEW SMYRNA,
LLC, a Florida limited liability company**

Witness 1

By: _____

Print Name of Witness 1

Print Name: _____

Witness 2

As: _____

Print Name of Witness 2

Dated: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____ as _____ of TT OF NEW
SMYRNA, LLC, a Florida limited liability company, who [] is personally known to me or [] has
produced _____ as identification.

(Seal)

Notary Public

Signed, sealed and delivered
in the presence of:

**MITCHELL EQUITY GROUP, LLLP –
current property owner**

Witness 1

By: _____
Stewart B. Mitchell, General Partner

Print Name of Witness 1

Dated: _____

Witness 2

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by Stewart B. Mitchell, as General Partner of MITCHELL EQUITY GROUP, LLLP, a
Florida limited liability limited partnership, who [] is personally known to me or [] has produced
_____ as identification.

(Seal)

Notary Public

EXHIBIT C

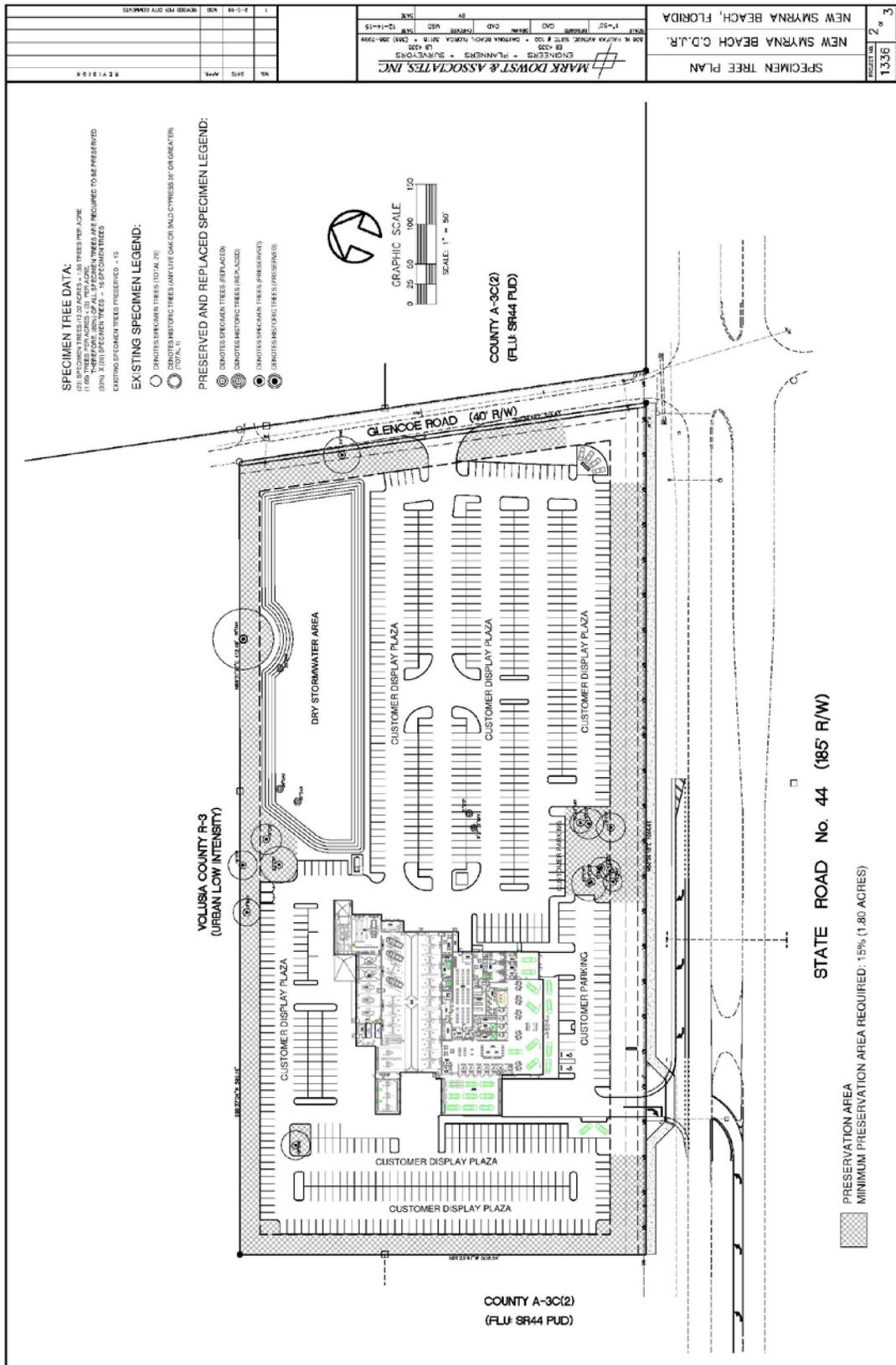


EXHIBIT C

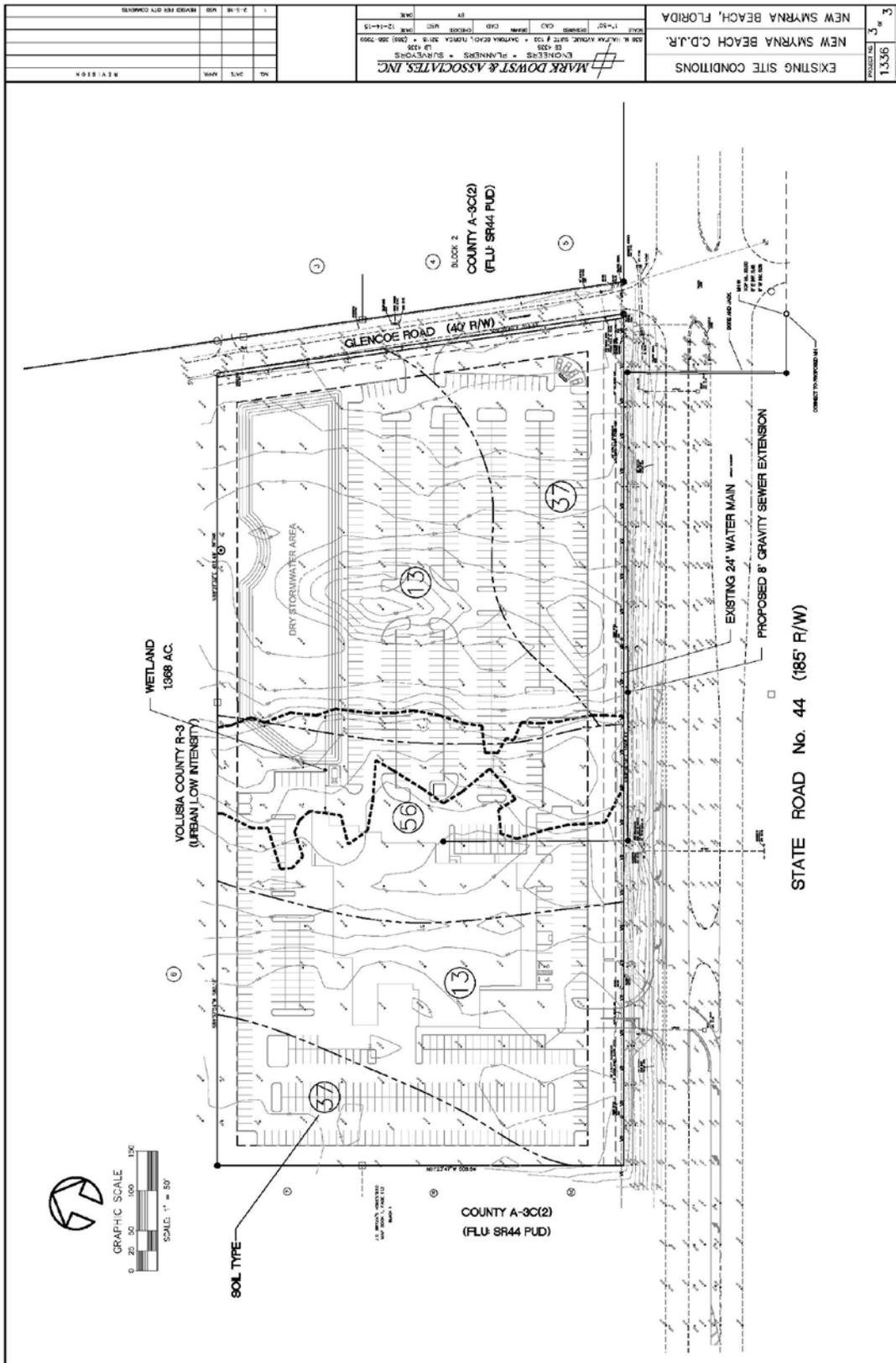


EXHIBIT D

Marked 2/16/16



City of New Smyrna Beach

February 16, 2016

Glenn D. Storch
420 South Nova Road
Daytona Beach, Florida 32114

RE: V-5-16: NEW SMYRNA CHRYSLER – DODGE – JEEP – RAM / SR 44

Dear Mr. Storch:

The Planning and Zoning Board met in a regular meeting on Thursday, February 4, 2016, to consider your request for variances to construct a new commercial building or an automotive dealership as follows:

1. A variance for the minimum open space requirement to be 25 % in lieu of 50 %;
2. A variance for the natural vegetation requirement to be 15 % in lieu of 30 %;
3. A variance for the maximum building height to be 45 feet in lieu of 35 feet;
4. A variance for the required on-site parking to be 43 spaces in lieu of 147 spaces;
5. A variance for a the second permitted monument sign to be 48 square feet in lieu of 24 square feet;
6. A variance to require no more than thirty-six (36) 2 ½ inch caliper replacement hardwood trees per acre, in lieu of the requirements of the LDR;
7. A variance to allow preservation of 15 specimen trees in lieu of 16;
8. A variance for tree mitigation costs to be determined based on the actual cost of purchasing, planting and maintaining an approved species of 2 ½ inch caliper replacement hardwood tree, in lieu of \$500.00 per 2 ½ inch caliper hardwood; and
9. In the event a build-to line is required for the east property line along Glencoe Road, a variance for said east build-to line to be 25 – 850 feet in lieu of 25 feet.

The Board voted 3-1, to approve the requested variance. The Board's recommendation of approval was conditioned upon the following:

1. The requested building height of 45' be limited to the specific area shown on the Exhibit E building rendering, and that more detailed information be provided to document this limitation beyond that color rendering.
2. Should the Board determine that any variance requests for landscape/open space areas meet all of the criteria for approval, a condition of that approval should be that larger-sized plants

EXHIBIT D

be used in order to enhance any reduced areas and amount of landscape materials and/or open space, including a minimum of 4" cal. for all trees to be installed as replacement trees.

3. If the developer is permitted to pay actual replacement costs into the City tree mitigation fund instead of the amount defined in the LDR, those costs shall be fully documented and certified when submitted for City review and approval, with that to occur prior to the issuance of any temporary and/or permanent Certificate of Occupancy (CO) for the subject property.
4. The applicant revises the pending PUD Master Development Agreement to include any new or amended language based on approval or denial of these requested variances, and that such changes are submitted prior to the PUD rezoning request being scheduled for any future public hearings.
5. Any approved variances expire two years from the date of Planning and Zoning Board approval if a building permit for this proposed project (as shown on Exhibit C) is not issued by the City Building Department.
6. Frontage landscaping required by the City LDR shall be upgraded to minimum 4" caliper DBH oak and magnolia trees. Landscaping shall also be enhanced in front of the building area, but any tree location issues shall be addressed as part of the PUD process.
7. Customer parking areas shall be clearly identified on the proposed site plan and PUD concept plan. Customer display areas shall be clearly delineated as separate from customer parking areas.
8. Building height increase to 45' shall only be permitted within the single vehicle display area as provided on the concept plan elevation. Said area shall not be considered habitable, air conditioned space, and shall only be used for a single vehicle display.
9. Applicant has demonstrated that 37 customer parking spaces meets and / or exceeds the parking determined to be necessary for the total inventory parking requirement. The City LDR requires 37 customer parking spaces for the proposed inventory parking, and 113 parking spaces for the proposed maintenance stalls; however, applicant represents that only 6 spaces are required for the proposed maintenance stalls based on a forthcoming business plan. Applicant shall submit said business plan to justify the reduction for maintenance stall parking prior to site plan approval.
10. Biologist / Arborist shall conduct quality review of specimen trees, especially specimen bay trees, and determine viability of same. If one or more trees scheduled for removal is determined to be not viable, then such specimen tree variance shall not be necessary. In the event all 20 specimen trees are determined to be viable, then applicant is permitted to relocate one specimen tree to a preservation or buffer area rather than remove said tree.
11. Applicant shall provide tree survey to staff indicating tree density.

EXHIBIT D

12. Applicant shall provide actual tree costs (per 2 and ½ inch caliper DBH) within 30 days of site plan approval to determine additional tree mitigation cost.
13. 75% of visibility density in the east and north buffers with no less than 6 foot in height.
14. All lights on property shall be shielded from residents.
15. There shall be no outdoor sound system.

If you have any further questions or concerns, please do not hesitate to contact our office at (386) 410-2830.

Sincerely,



Jeff Gove, AICP
Chief Planner

cc: Case file #V-5-16

EXHIBIT E

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ORDINANCE NO. 29-15

AN ORDINANCE AMENDING THE LAND DEVELOPMENT REGULATIONS, SECTION 504.02, BY CHANGING THE REQUIRED FRONT BUILD-TO LINE IN THE CORRIDOR OVERLAY ZONE ALONG SR 44; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Glenn D. Storch, Esquire, 420 South Nova Road, Daytona Beach, Florida, applicant, has requested an amendment to Ordinance No. 1-91, New Smyrna Beach Land Development Regulations, Article V, Zoning Districts, Section 504.02, Specific Regulations by District, to change the required front build-to line in the Corridor Overlay Zone along SR 44, from 45'-60' to 45'-150'; and

WHEREAS, the Planning and Zoning Board, at its meeting February 4, 2015, by a vote of 7-0 recommended to the City Commission that the requested amendment be *approved* with the staff-suggested modification regarding the specific locations of those currently existing interior landscaping areas within paved parking areas, and the condition that an additional sentence be added to the "Purpose and Intent" section of the Corridor Overlay Zone further specifying the location of landscaping in those parking areas between a building and SR 44; and

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

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

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

38 ARTICLE V. - ZONING DISTRICTS
39 ...
40 504.00. - District regulations and requirements.
41 ...
42 *504.02. Specific regulations by district.* The regulations for
43 each zoning district are set forth in the following schedule. No
44 lot shall be developed except to conform to the respective district
45 requirements unless a variance has been granted in conformance with
46 this LDR.
47 ...
48 COZ, CORRIDOR OVERLAY ZONE
49 *Purpose and intent.* The purpose of this section is to provide
50 regulations to ensure safe ingress to and egress from proposed
51 development along arterial transportation corridors by reducing the
52 number of indiscriminate driveways, maintaining the integrity of
53 the corridor by assuring that traffic generation is consistent with
54 the corridor's designed capacity; lessening the possibility of
55 hazardous traffic conditions and traffic congestion; establishing
56 development requirements, including additional sign regulations
57 that will create an attractive corridor entrance into the city.
58 Commercial development typically expands along arterial
59 transportation corridors as population and traffic volumes increase
60 in the vicinity of and along the corridor. Eventually, conflicts
61 result between the corridor's function and its ability to move high
62 volumes of traffic through an area. This congestion is intensified
63 where commercial growth is permitted to increase adjacent to the
64 corridor disproportionate to the corridor's designed limitations.
65 The increased commercial growth also changes the public's image of
66 the transportation corridor. What was once considered an attractive
67 tree-lined corridor gradually and often rapidly begins to exhibit

68 characteristics of uncontrolled strip commercial development. Once
69 this pattern has been established, it is difficult to establish
70 alternative types of development (e.g. residential) along these
71 corridors. Therefore, these regulations apply to arterial corridors
72 which (1) move large volumes of through traffic in addition to
73 significant volumes of everyday local traffic, and (2) do not
74 contain significant amounts of strip commercial development. These
75 arterial corridor regulations are intended to supplement all of the
76 zoning classifications located within the arterial corridor overlay
77 zone. The type of permitted uses or special exceptions allowed
78 would be determined according to the existing zoning classification
79 and the site design, signage, building location, and the
80 dimensional requirements would be regulated by these arterial
81 corridor regulations. Landscaping shall be evenly spaced in the
82 area between the building and State Road 44.

83 *Dimensional requirements.*

84 *Minimum lot width.* No premise shall be divided for the
85 purposes of development or sale such that the width of each,
86 or any premise, is less than 300 feet measured along the
87 right-of-way line, except as follows: If vehicle access to any
88 premise is provided by means other than directly onto an
89 arterial, then the minimum lot width requirement may be
90 reduced to 150 feet, and direct vehicle access to a major
91 arterial shall be prohibited.

92 *Minimum yard size.*

93 Front yard: Build-to-line of 45-65 feet (along U.S.
94 1) and 45-150 feet (along SR 44)
95 (All sites with building setbacks greater than 65
96 feet which contain vehicle access and parking areas
97 between the building and SR 44 shall provide 30% of
98 interior landscaping within those same paved
99 vehicle areas, with the overall site interior
100 landscaping total percentage to be 20%)

PAGE 3 OF 5

SR 44 Corridor Overlay Zone Build-to Line
- Land Development Regulations Amendment
First Reading February 24, 2015
Public Hearing March 10, 2015
February 11, 2015
2:00 pm

101 Rear yard: 25 feet
102 Side yard: 25 feet
103 Corner lots:
104 1) Parcels which front on two streets shall provide
105 ~~a 65-foot~~ the above Build-to line for the front
106 yard on corridor frontage and a 25-foot front yard
107 on the other street or as required per [sub]section
108 504.01M. of this LDR.
109 2) Parcels fronting on three streets shall provide
110 ~~a 65-~~ the above Build-to line for the front yard on
111 corridor frontage and a 25-foot front yard on the
112 remaining streets or as required per [sub]section
113 504.01M. of this LDR.
114 ...
115 **SECTION 2:** *Codification.* Following adoption of this ordinance,
116 the City Attorney shall transmit a copy of this ordinance to
117 Municipal Code Corporation of Tallahassee, Florida, to be codified
118 into the City's Code of Ordinances. Municipal Code Corporation's
119 usual and customary fee for said codification service is hereby
120 approved.
121 **SECTION 3:** *Public Hearing.* That a public hearing considering
122 the adoption of this ordinance held March 10, 2015, in the City
123 Commission Chambers at City Hall, 210 Sams Avenue (south entrance
124 on Julia Street), New Smyrna Beach, Florida, after notice
125 published, is found to comply with §166.041(3)(a), F.S.
126 **SECTION 4:** *Conflicting Ordinances.* That all ordinances or
127 parts thereof that are in conflict with this ordinance shall be and
128 the same are hereby rescinded and repealed.

PAGE 4 OF 5

SR 44 Corridor Overlay Zone Build-to Line
- Land Development Regulations Amendment
First Reading February 24, 2015
Public Hearing March 10, 2015
February 11, 2015
2:00 pm

129 **SECTION 5:** *Severability.* That if any section, sentence, clause
130 or phrase of this ordinance is held invalid or unconstitutional by
131 any court of competent jurisdiction, then said holding shall in no
132 way affect the validity of the remaining portions of this
133 ordinance.

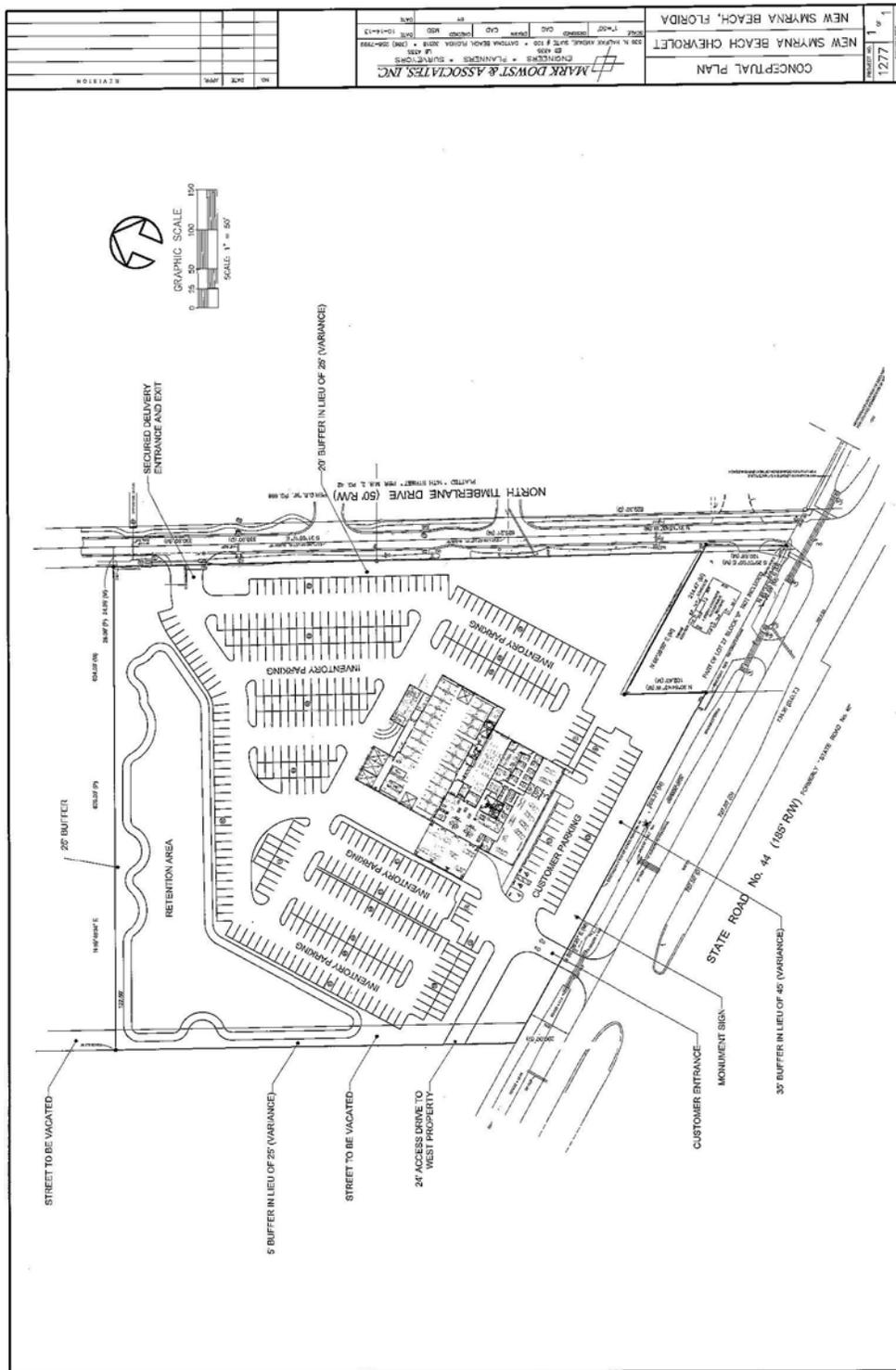
134 **SECTION 6:** *Effective Date.* That this ordinance shall take
135 effect immediately upon its final adoption.

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

137 
138 FRANK B. GUMMEY, III
139 City Attorney

140 DATE: 2/11/15

EXHIBIT F

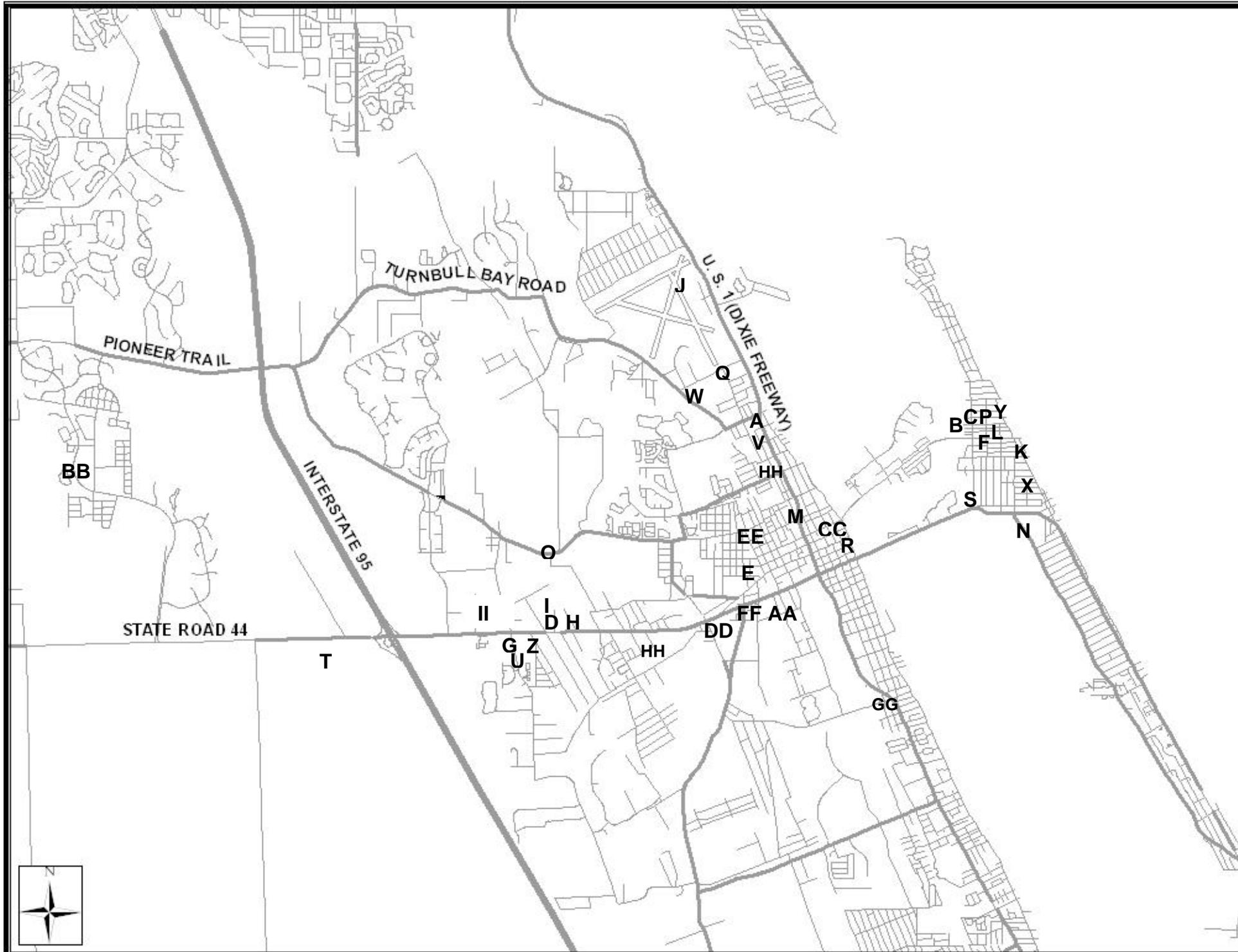


CITY OF NEW SMYRNA BEACH DEVELOPMENT ACTIVITY REPORT



MARCH 2016

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



NON-RESIDENTIAL PROJECTS MARCH 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. PPC 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

NON-RESIDENTIAL DEVELOPMENT PROJECTS MARCH 2016

= addition to the development activity report
 = change of status to a particular project
 = currently active projects

MAP ID	Project	Location	Description	Status						Vested (Y/N)/Date Vesting Expires	Comments	Case #	PRC Meeting Date	Date Plan/Plat App'd	Plan/Plat Expiration
				Under staff review	Approved site plan/plc	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	X	X			VESTED site plan expires 9/1/2017	UNDER CONSTRUCTION	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				VESTED site plan expires 12/23/16	APPROVED	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 2/2/2016	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/plc	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	X	X					VESTED final plat expires 8/25/17	APPROVED	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								NOT VESTED 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	X	X					VESTED	APPROVED	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					VESTED site plan expires 12/29/16	UNDER CONSTRUCTION	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							VESTED site plan expires 2/12/17	APPROVED 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							ZONNG APPROVED - NOT VESTED FOR CONCURRENENCY	APPROVED 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								NOT VESTED 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	X	X			VESTED	CONSTRUCTION COMPLETED	SP-1-15	03/06/15	04/10/15	04/10/17

NON-RESIDENTIAL DEVELOPMENT PROJECTS MARCH 2016

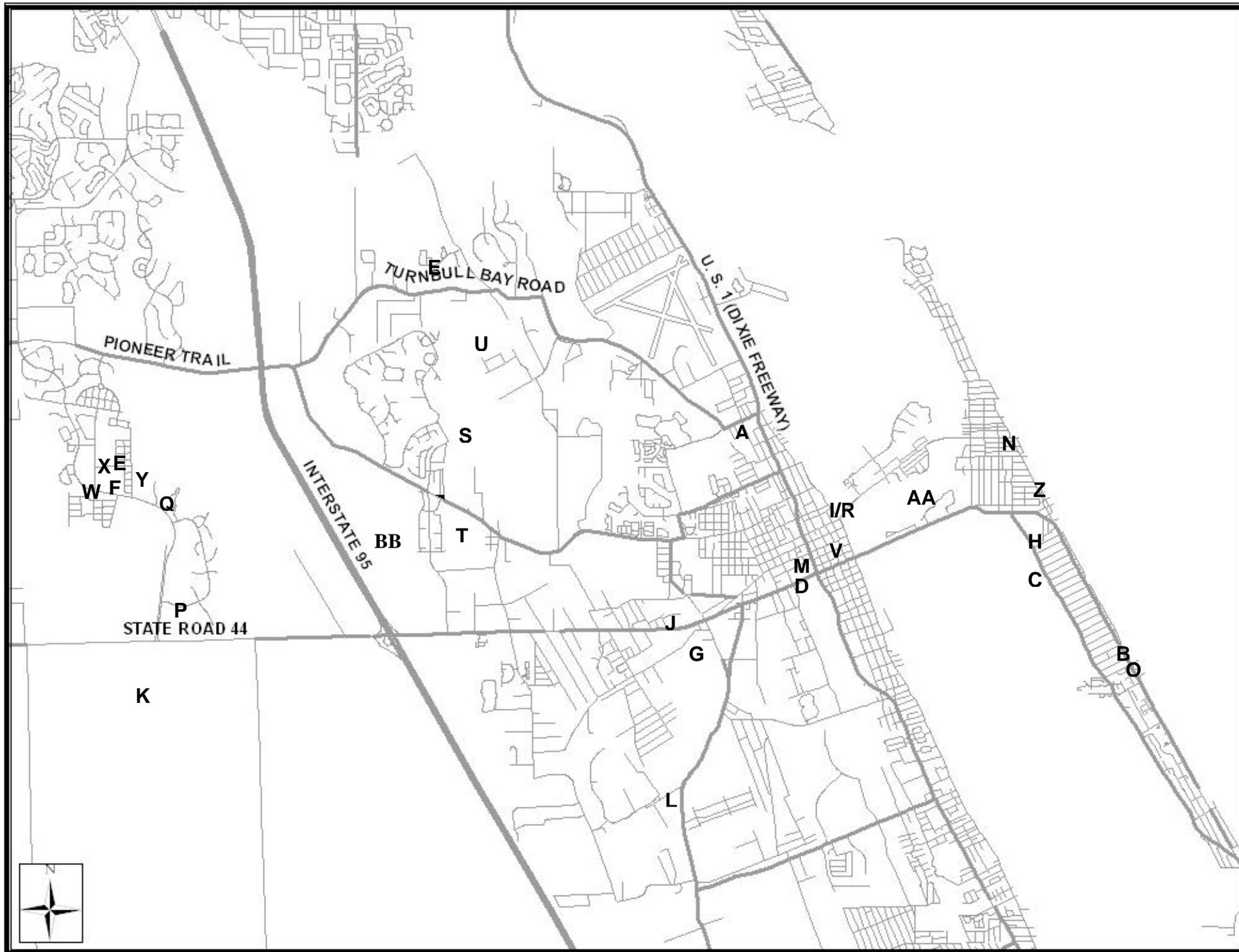
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				Under staff review	Approved site plan/plc	Pre-con meeting	Under construction	Final inspection	C.O. issued								
Q	New Smyrna Beach Chrysler Expansion	1300 North Dixie Freeway	18,865 SF automobile dealership expansion, with associated infrastructure 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 2nd Avenue	884 SF tiki hut, with associated site improvements	X	X	X	X	X	X			VESTED	CONSTRUCTION COMPLETED	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							VESTED subdivision plat	PRC meeting for subdivision plat held 9/4/2015	PUD-9-14 S-7-15	10/3/2014 09/04/2015	1/12/2016	
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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				Under staff review	Approved site plan/plc	Pre-con meeting	Under construction	Final inspection	C.O. issued						
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 shelters 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 improvements	X	X	X	X			VESTED	UNDER CONSTRUCTION	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		



RESIDENTIAL PROJECTS MARCH 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
- BB. Coastal Woods

RESIDENTIAL DEVELOPMENT PROJECTS MARCH 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	649-699 North Dixie Freeway	40-room, three-story, assisted living facility, with associated infrastructure and landscaping improvements	X	X	X	X				VESTED site plan expires 1/7/18	UNDER CONSTRUCTION	SP-8-15	06/05/15	01/07/16	01/07/18
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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				Under staff review	App'd site plan/plat	Pre-construction meeting	Under construction	Final inspection	C.O. issued							
G	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	X	X	X	VESTED site plan expires 11/14/16	UNDER CONSTRUCTION	SP-7-14	09/05/14	11/15/14	11/14/16
H	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						ZONING APPROVED - NOT VESTED FOR CONCURRENCY	APPROVED 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
I	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				VESTED site plan expires 11/30/16	UNDER CONSTRUCTION	SP-20-13	06/06/14	12/01/14	11/30/16
J	Kenwood Place PUD	1964 Jungle Road	rezoning request to allow 72 multi-family senior housing units, with associated infrastructure and site improvements	X							NOT VESTED	PRC meeting held 8/1/14	PUD-5-14	08/01/14		
K	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						ZONING APPROVED - NOT VESTED FOR CONCURRENCY	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
L	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						NOT VESTED	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	
M	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						VESTED site plan expires 7/15/17	APPROVED building permits under review	SP-7-15	06/05/15	07/15/15	07/15/17
N	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						VESTED site plan expires 7/10/17	APPROVED building permit issued	SP-6-15	04/06/15	07/10/15	07/10/17
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		

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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					VESTED 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						NOT VESTED 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			VESTED site plan expires 11/30/2016	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					NOT VESTED	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			VESTED	UNDER CONSTRUCTION	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					ZONING APPROVED - NOT VESTED FOR CONCURRENCY	APPROVED 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					VESTED final plat approved, not recorded	UNDER CONSTRUCTION	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					VESTED 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							VESTED site plan expires 7/16/17	APPROVED 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						NOT VESTED	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					VESTED 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		