

April 11, 2011

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, May 2, 2011 at 6:30 P.M., in the City Commission Chambers, 210 Sams Avenue, New Smyrna Beach, Florida, for consideration of the following:

ROLL CALL

APPROVAL OF MINUTES

Workshop held March 21, 2011  
Regular meeting held April 4, 2011

PUBLIC PARTICIPATION

VISIONING

Future Community Redevelopment Agency (CRA) District

OLD BUSINESS

A. ZT-5-11: SUBDIVISION APPROVAL PROCESS

The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests approval of an amendment to the City's *Land Development Regulations* to revise the procedures for review and approval of preliminary and final plats and to eliminate the sketch plat requirement.

NEW BUSINESS

B. V-2-11: 835 EAST 17<sup>TH</sup> AVENUES / RILEY

Gerard J. Pendergast, 120 Canal Street, New Smyrna Beach applicant on behalf of property owners John J. and Susan C. Riley, 835 East 17<sup>th</sup> Avenue, requests a 5-foot front yard setback variance from the required 30-foot front yard setback to preserve existing trees on site. The subject property is zoned R-2, Single Family Residential, contains approximately 0.238 acres and is located on the south side of East 17<sup>th</sup> Avenue between Saxon Drive and South Atlantic Avenue.

C. V-3-11: 916 SOUTH RIVERSIDE DRIVE / SMITH

Scott Smith, 916 South Riverside Drive, applicant and property owner, requests the following variances in order to allow a Bed and Breakfast to operate at 916 South Riverside Drive:

1. Variance to waive the requirement to provide 16 on-site parking spaces;
2. Variance to two signs in lieu of the one sign permitted by code; and
3. Variance to allow a 32-square foot sign in lieu of the maximum 10-square foot sign permitted by code.

The subject property is zoned R-2, Single-Family Residential, contains approximately 0.491 acres and is generally located northwest of the intersection of South Riverside Drive and Second Street.

D. ZT-4-11: DOCK POLICIES

City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, request the approval of an administrative amendment to the City *Land Development Regulations* to establish regulations regarding second story decks over boat slips; covered terminal platforms; and docks on vacant property.

E. ZT-7-11: TATTOO PARLOR REGULATIONS

City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, request the approval of an administrative amendment to the City *Land Development Regulations* to establish regulations regarding the establishment of tattoo parlors within the MU, B-3, and B-5 Zoning Districts.

F. CPA-1-11: ENCLAVES #1, 2 and 3

The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests the following:

1. *Comprehensive Plan* amendment from Volusia County Environmental System Corridor to City Low-Density Residential; and
2. Rezoning from Volusia County Resource Corridor, to City R-1 – Single-Family Residential.

The subject properties were part of the Joint Planning Agreement between Volusia County and the City, to annex enclave areas within the City's boundaries. The subject properties consist of approximately 8.149 acres and are located on the west side of Sundance Trail, north of Art Center Avenue.

G. CPA-2-11: ENCLAVE #5

The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests the following:

3. *Comprehensive Plan* amendment from Volusia County Urban Medium Intensity to City Commercial; and
4. Rezoning from Volusia County B-4(C), General Commercial Development District, to City B-3(C), Highway Service Business District (Corridor Overlay Zone).

The subject properties were part of the Joint Planning Agreement between Volusia County and the City, to annex enclave areas within the City's boundaries. The subject properties consist of approximately 1.216 acres and are located on the north side of State Road 44, between Mission Drive/Wallace Road and Eddie Road.

H. CPA-3-11: ENCLAVE #13

The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests the following:

5. *Comprehensive Plan* amendment from Volusia County Urban Medium Intensity to City Medium Density Residential; and
6. Rezoning from Volusia County R-4, Urban Single-Family Residential, to City R-3B(C), Single Family Residential District (Corridor Overlay Zone).

The subject property was part of the Joint Planning Agreement between Volusia County and the City, to annex enclave areas within the City's boundaries. The subject property consists of approximately 0.261 acres and is located approximately 650 feet west and 150 feet north of the intersection of Findley Street and Old Mission Road.

I. CPA-4-11: ENCLAVE #4

The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests the following:

7. *Comprehensive Plan* amendment from Volusia County Urban Low Intensity to City Low Density Residential; and
8. Rezoning from Volusia County R-1 – Suburban Single-Family Residential and County Rural Residential to City R-1 – Single-Family Residential and City Residential Estate.

The subject properties were part of the Joint Planning Agreement between Volusia County and the City, to annex enclave areas within the City's boundaries. The subject properties consist of approximately 7.231 acres and are located on the west side of South Glencoe Road, between State Road 44 and Wood Creek Lane.

J. CPA-5-11: ENCLAVES #6, 7, 8, 9, 10, 11, 12

The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests the following:

9. *Comprehensive Plan* amendment from Volusia County Low Impact Urban to City Low Density Residential; and
10. Rezoning from Volusia County RPUD, Residential Planned Unit Development, to City PUD, Planned Unit Development.

The subject properties were part of the Joint Planning Agreement between Volusia County and the City, to annex enclave areas within the City's boundaries. The subject properties consist of approximately 22.22 acres and are located within the Waterford Estates subdivision, north and east of South Glencoe Road.

K. ZT-6-11: U. S. 1 DEVELOPMENT REGULATIONS

The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests approval of amendments to the City's *Land Development Regulations*, to revise setback and landscaping requirements along U. S. 1.

COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

REPORTS AND COMMUNICATIONS BY THE STAFF

- May 16<sup>th</sup> Workshop
- EAR-Based Amendments/Water Supply Plan Update

ADJOURNMENT

Respectfully,



Jason McGuirk  
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:

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

1 The Local Planning Agency/Planning and Zoning Board held a workshop on Monday, March 21,  
2 2011 in the City Commission Chambers, 210 Sams Avenue, New Smyrna Beach, Florida.  
3 Chairperson Jason McGuirk called the meeting to order at 6:30 p.m.  
4

#### 5 ROLL CALL

6  
7 The following members answered to roll call:

8 Jesse Clark  
9 Brooks Casey  
10 Kenneth Bohannon  
11 Jason McGuirk  
12 Laurene Herwald  
13

14 Marie Bushey and Travous Dever were absent.  
15

16 Also present were Planning Manager Gail Henrikson; Assistant City Attorney Greg McDole;  
17 Recording Secretary Debbie Jenkins and members of the public.  
18  
19

#### 20 DISCUSSION

21  
22 Ms. Henrikson stated that the workshop was scheduled for the discussion of development along  
23 the US 1 corridor. She stated that she had walked along US1 to take photos and had prepared  
24 a power point presentation of her findings.  
25

26 Ms. Henrikson reviewed the types of businesses that are currently located along US1 and gave  
27 examples of the types of businesses lacking along US1. She presented photos of some of the  
28 vacant buildings that exist and spoke of the lack of maintenance on those properties. She  
29 commented on the signage issues along the corridor. She stated that the value of the majority of  
30 lots along the corridor were low. She stated the lots were small in size and that there were no  
31 incentives to upgrade properties which also contributed to lower values.  
32

33 Ms. Henrikson stated that one of the possible solutions was a new CRA district would allow  
34 flexibility with regards to grant writing. She stated another possible solution would be to rewrite  
35 the *Land Development Regulations* to reduce setbacks and buffers. She commented that  
36 increased Code Enforcement might help as well. She stated forming neighborhood associations  
37 so owners and residents could work together might be a consideration as well.  
38

39 Mr. McGuirk presented a hand out. He stated most of the lots are too small for commercial  
40 purposes and that most of those lots started out as residential lots. Mr. McGuirk explained the  
41 hand out given to board members. He pointed out that a majority of the lots were commercially  
42 zoned adjacent to a residentially zoned lot. He commented on the issue of setbacks and buffers  
43 using the Shan-gri-la Motel as an example of a typically sized commercial lot along US1. Mr.  
44 McGuirk spoke of an incident when he was trying to purchase property a few years back and  
45 the attitude and roadblocks he ran into along the way from the city. Mr. McGuirk suggested that  
46 perhaps easing up on some of the restrictions would help promote redevelopment. Mr. McGuirk  
47 pointed out examples of intersections where there were parcels not being fully utilized. He  
48 stated one of those intersections was at US1 and Wayne Avenue.  
49

50 Ms. Henrikson stated that the owners had previously inquired with the city about a variance and  
51 possibly tearing down the building and building a Dunkin Donuts but nothing has every come of  
52 that.

LPA/PLANNING AND ZONING BOARD

March 21, 2011

MINUTES

1 Mr. McGuirk stated that none of the motels have a viable market. He stated that the market is  
2 made up of primarily problematic people with low incomes. He stated that he had purchased  
3 property where there was drug use and "problem-type" people living there. He stated the city  
4 needs to identify and acknowledge these problem areas then deal with them on a case-by-case  
5 basis.

6  
7 Jim Vandergriff, 210 Orange Street, New Smyrna Beach, FL, stated that in the past the attitude  
8 was that all old properties had to be saved and had to go through the Historic Preservation  
9 Committee to obtain demolition approval. He stated that the process was long and it was hard to  
10 get anything accomplished. He stated that the current setbacks restrict those who may have  
11 interest in developing along US1 from doing so. He agreed with having the City Commission  
12 look at making the US1 corridor part of the CRA district. He suggested that the city consider  
13 eliminating the existing regulations and using the PUD process to develop regulations for  
14 projects on a case-by-case basis. He stated that combining parcels would also be a way to  
15 improve development along the corridor. Mr. Vandergriff stated that Mr. Pappas, owner of the  
16 Lighthouse restaurant had wanted to add a deck to his building and the setbacks make it almost  
17 impossible to do.

18  
19 Ms. Henrikson stated that using the PUD process as a means to promote development would  
20 add more time to the process and more fees but that it is certainly an option to look at.

21  
22 Chris Pappas, owner of the Lighthouse restaurant, 1500 S. Dixie Freeway, New Smyrna Beach,  
23 FL, stated he has been a business owner for 40 years. He commented that he favored doing  
24 business here compared to Greece. He stated that he was trying to improve his property by  
25 adding a deck to the front. He stated he has always kept up the maintenance on his property.  
26 He stated he would like to see restrictions regarding the setbacks lessened. He stated that  
27 Pappas Plaza could use more parking and would like to make improvements to the property in  
28 the future.

29  
30 Mr. Vandergriff asked about the intersection at Canal and US1.

31  
32 Ms. Henrikson stated that the widening project for that intersection was going to take awhile  
33 because there were funding and brownfield issues.

34  
35 Ms. Herwald stated she was happy to see the presentation brought to the board by Ms.  
36 Henrikson. She agreed that the 40-foot setback was extreme and agreed with Ms. Henrikson's  
37 viewpoints. She asked where the boundary of the CRA district ran.

38  
39 Ms. Henrikson stated that the district currently runs up US1 but stops around Mary Avenue. She  
40 stated that expansion of the CRA district is needed.

41  
42 Mr. Bohannon stated that perhaps the city could consider setbacks based on percentage of land  
43 use. He stated that he favored the use of the PUD as a way to improve development.

44  
45 Mr. Clark stated he liked the idea of the PUD because it would give the option of each property  
46 to be handled individually. He was concerned about combining parcels and would like to explore  
47 further how that would be done. He stated that he was concerned someone might just buy up  
48 property just to develop.

49  
50 Mr. McGuirk stated that creating a financial incentive up front would only help initially and that it  
51 has been an issue in the past that after awhile the maintenance to the property slows down to  
52 barely nothing.

LPA/PLANNING AND ZONING BOARD

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MINUTES

1 Mr. Clark stated that some kind of maintenance system needs to be in place to keep up with the  
2 landscaping along US1.

3  
4 Mr. Casey stated that he does not favor any restrictions on property along the US1. He stated  
5 that he did not think that the city would know what is best for the owners' property anymore than  
6 he would and it should be left up to the owner of that property. He stated that he did not favor  
7 the idea of using BPUD because of the possible increase with regards to cost.

8  
9 Mr. McGuirk stated that in the past there was discussion regarding removing the buffers and  
10 everyone complained. He stated there was no difference between having a buffer of 25 feet in  
11 place and having no buffer. He stated he did not understand why the city is reluctant to change  
12 this regulation.

13  
14 Ms. Henrikson stated that she agreed that the buffer does not work but to wave setbacks and  
15 buffers completely would exacerbate the issue and a balance is needed.

16  
17 Mr. McGuirk agreed with Mr. Casey that using the PUD process would increase costs. He  
18 stated change has to start with the attitude from the Planning Department.

19  
20 Mr. Casey stated that when regulations are put in place different people could read the  
21 regulations differently and that has been an issue in the past. He stated that Canal Street and  
22 Flagler Avenue developed with the absence of restrictions and regulations and those areas  
23 have turned out just fine.

24  
25 Mr. Clark asked if he was referring to removal of all regulations.

26  
27 Mr. Casey answered as many as possible, the more the better. Mr. Casey stated that reducing  
28 the setbacks would be a beginning.

29  
30 Mr. McGuirk asked whether the provision to allow contiguous lots for parking is still in the  
31 regulations.

32  
33 Ms. Henrikson stated that was still in the provisions but had been changed to limit it only to  
34 immediately adjacent lots.

35  
36 Mr. McGuirk stated that perhaps a package could be put together to point out possibilities for  
37 incentives to promote development along US1. He gave a list of solutions which included a new  
38 attitude, reduced setbacks and buffers, using the PUD process, increased code enforcement,  
39 and using a percentage of land area for determining setbacks.

40  
41 Mr. Vandergriff stated that he didn't want to wait ten years for funding to come for the  
42 expansion of the CRA district. He stated the city should eliminate setbacks along the corridor all  
43 together and incorporate the percentage system. He stated that from what he has heard the  
44 PUD process was not more expensive to do. He stated while the process may be longer, at  
45 least the developer will be doing what he would like with his property. He stated that the  
46 Walmart Neighborhood Store would be a good possibility for the parcel on US1 and Wayne  
47 Avenue.

48  
49 Mr. McGuirk asked what the next step would be.

50

LPA/PLANNING AND ZONING BOARD

March 21, 2011

MINUTES

1 Ms. Henrikson stated a Vision topic for the May Planning and Zoning Board Meeting with  
2 alternatives for more discussion and a workshop with the City Commission before writing an  
3 ordinance on this.

4  
5 Mr. Vandergriff asked about a workshop with the City Commission for Mr. Pappas' situation or if  
6 it would be on agenda for April.

7  
8 Ms. Henrikson stated it could be a visioning topic for May to just discuss it at this point.

9  
10 Mr. McGuirk asked about bringing it forward as an option to vote on.

11  
12 Ms. Henrikson asked if the board would like to invite the City Commission to attend the May  
13 workshop to discuss this matter with them.

14  
15 Mr. McGuirk stated that a Board discussion and then a recommendation to the City Commission  
16 is fine but if the City Commission would be interested in joining them in May to discuss then that  
17 would be okay too. He stated that the City Commission should decide whether it needed to  
18 meet with the Board before the Board took action on this item.

19  
20 Ms. Henrikson stated she will check to see if there is an interest for the May workshop and if not  
21 then she will place item on the May agenda.

22  
23 ADJOURNMENT

24  
25 With there being no further business, the meeting was adjourned at 8:07 p.m.

1 The Local Planning Agency/Planning and Zoning Board held a regular meeting on  
2 Monday, April 4, 2011 in the City Commission Chambers, 210 Sams Avenue, New  
3 Smyrna Beach, Florida. Chairperson Jason McGuirk called the meeting to order at 6:30  
4 p.m.

## 5 6 ROLL CALL

7  
8 The following members answered to roll call:

9 Jesse Clark  
10 Brooks Casey  
11 Travous Dever  
12 Kenneth Bohannon  
13 Jason McGuirk  
14 Laurene Herwald

15 Marie Bushey was absent.

16  
17 Also present were Planning Manager Gail Henrikson, Planner Kevin Jameson; Assistant  
18 City Attorney Greg McDole; Recording Secretary Debbie Jenkins and members of the  
19 public.

20  
21 Mr. McGuirk introduced and welcomed the new City Planner, Kevin Jameson.

## 22 23 APPROVAL OF MINUTES

24  
25 **Mr. Bohannon made a motion to approve the minutes of the Planning and Zoning**  
26 **Board meeting held March 7, 2011, and the minutes from the Workshop held**  
27 **January 29, 2011, seconded by Mr. Clark. Motion passed on a roll-call vote, 6-0.**

## 28 29 PUBLIC PARTICIPATION

30 None.

## 31 32 VISIONING

### 33 34 Tattoo Parlors

35 Mr. Jameson gave a power point presentation with regard to his findings on tattoo  
36 parlors. He stated that the U.S. Court of Appeals for the Ninth Circuit in California ruled  
37 that an outright ban on tattoo parlors was unconstitutional. He stated that the city needs  
38 to look into regulations for permitting tattoo parlors because the concern is that if  
39 nothing is done and the parlors come into city without some form of regulation it could  
40 produce negative effects. Mr. Jameson presented positive and negative aspects of  
41 tattoo parlors as part of his presentation. Mr. Jameson stated that tattooing has become  
42 more mainstream and acceptable within the last twenty years. His power point  
43 presentation focused on the various examples of tattoo parlor store fronts. He pointed  
44 out visible bars and tinted windows as creating a "fortress" effect rather than having a  
45 clear view into the business and creating an inviting atmosphere for the public. He  
46 pointed out possible issues with outside sitting areas that are commonly found in front of  
47 tattoo parlors.

LPA/PLANNING AND ZONING BOARD  
APRIL 4, 2011  
MINUTES

1 Mr. Jameson stated that staff was looking for a recommendation from the Board with  
2 regards to whether tattoo parlors should be allowed in any commercial district or  
3 whether they should be limited to industrial districts along with other adult entertainment  
4 uses.

5  
6 Mr. Clark asked if the city currently allowed tattoo parlors in industrial districts.  
7

8 Mr. Jameson stated that at this time, the city has an outright ban. He stated that if tattoo  
9 parlors were to be classified as adult entertainment then they would only be allowed in  
10 industrial zones.

11  
12 Mr. Dever stated that he personally sees it as a more mainstream business today. He  
13 stated that he does not see an issue with allowing tattoo parlors in commercial districts  
14 yet still having some regulations to control how many are allowed within the city.  
15

16 Mr. Dever stated that usually adult entertainment is limited to industrial areas and there  
17 are not that many industrial areas, which would make it hard to open up a business. He  
18 stated that he is not offended by tattoo parlors and does not see why they should be  
19 restricted to industrial zones.  
20

21 Mr. Casey stated that they should be allowed in any commercial district and the design  
22 signage, hours of operation, etc, should be same as with any other commercial  
23 business.  
24

25 Mr. McGuirk asked if there was any documented study or historical fact on the history of  
26 problems with this kind of business.  
27

28 Mr. Jameson stated no and that was why he did say that it was the perception issue in  
29 his report because that was all it was.  
30

31 Mr. McGuirk stated that although he did not agree totally with Mr. Casey, he was  
32 inclined to agree on some things such as allowing parlors in general commercial zoning  
33 districts and letting the market determine where and when they come in. He wanted to  
34 have more information to the contrary to support why it should not be allowed before he  
35 would want to "demonize" them.  
36

37 Mr. Dever stated that he agreed that there should be some kind of regulation with  
38 regards to blocked out or tinted windows and the issue of creating an inviting  
39 atmosphere where one could see in.  
40

41 Mr. Clark stated that if the city uses the same regulations as with other commercial  
42 businesses that it should be okay.  
43

44 Mr. McGuirk stated that with regard to the issue of signage and window tinting, those  
45 would need to be addressed in the regulations.  
46

1 Ms. Herwald stated that she tends to be a little more traditional and to allow tattoo  
2 parlors in just any commercial district is more than necessary. She stated that she does  
3 not oppose tattoo parlors coming into the city but would personally see them more as  
4 adult entertainment and as such, they should be limited to the current areas for adult  
5 entertainment.

6  
7 Public Participation

8 Jennifer Arney, 2188 W. Tennessee Street, Tallahassee, Florida  
9

10 Ms. Arney gave a brief history of her experience and stated that she has been in the  
11 business for 5 years and her husband for 15 years. She stated she had been very  
12 successful and participated in giving back to the community during the operation of her  
13 business. She asked the board to consider establishing distance requirements between  
14 tattoo parlors rather than restricting them to one particular zoning district or area of the  
15 city. She stated that she hopes the city would not limit these businesses to the dark  
16 corners of the city when deciding on where they will be permitted. She acknowledged  
17 that, in the past, the perception of tattoo parlors was negative but stated the business of  
18 tattooing has come a long way in the recent years. She stated hopes that the city will  
19 allow her to be a shining example of this. She gave an example of the Daytona Beach  
20 Shores regulations. She explained that her current business has a clean inviting  
21 atmosphere with clear windows. She stated that while the State of Florida does allow  
22 tattooing under the age of 18 with parental permission, their shop does not tattoo  
23 children under 18 and they use discretion when tattooing visible areas on those  
24 between the ages of 18-25 because she feels that this is a life-long decision one would  
25 be making and it is an ethical issue. She stated that her husband is actively on a Board  
26 working with the state health department to set up regulations concerning tattooing.

27  
28 Mr. McGuirk stated he has an issue with establishing distance requirements because  
29 what is essentially being done is limiting the market and giving a monopoly to those who  
30 are already in business.

31  
32 Ms. Herwald stated that she feels a distance requirement from schools should be a  
33 requirement.

34  
35 Mr. McGuirk agreed and asked if she had a suggestion for a distance. Mr. McGuirk  
36 suggested at least a 1,000 feet from a school.

37  
38 Ms. Arney stated that South Daytona currently requires 1,500 feet from a place of  
39 workshop, school or a daycare.

40  
41 The Board had a general discussion as to suggestions for regulating distances.

42  
43 The Board decided that distance requirements should be similar to the requirements for  
44 alcohol restrictions, which would be a distance of 300 feet.

45  
46 Mr. Dever asked if a discussion on hours of operation should take place.  
47

1 Ms. Henrikson stated that the general consensus that she heard from the board is to  
2 follow the regulations pertaining to other commercial zoning districts. She stated that  
3 currently, the city does not have restrictions on hours of operation.

4  
5 Mr. Casey stated he does not support restriction with regard to hours of operation.

6  
7 Mr. McGuirk stated that is why he would like to see if there was further documented  
8 information with regard to the history of problems or issues arising from the operation of  
9 such businesses.

10  
11 Mr. Jameson stated he will further research and bring his findings back to the board.

12  
13 Alcohol Regulations

14 Ms. Henrikson stated that similar to the tattoo topic, staff has been running into issues  
15 regarding the current alcohol regulations. Ms. Henrikson stated that the code, which  
16 was written thirty years or so ago, is now facing issues that did not exist when the code  
17 was originally written. She stated that perhaps the city needs to take a look at those  
18 issues and have a discussion on it. She stated that staff is asking the board whether the  
19 existing alcohol regulations need to be looked at. She stated that she realizes this is a  
20 much bigger discussion that will affect the entire city and, as such, staff was not  
21 prepared to present it as an ordinance. However, staff is requesting whether the board  
22 even sees this as an issue that would require a broader public discussion.

23  
24 Ms. Henrikson gave an example of business owner who wanted to open a wine store  
25 but also wanted to allow patrons to buy and consume wine on-site. However, because  
26 of current regulations, the business owner was prevented from doing so in the location  
27 they wanted to open the business.

28  
29 Mr. McGuirk stated that with regard to Canal, Flagler and 3<sup>rd</sup> Avenue he feels that there  
30 was an issue but that he does not feel it was an issue on US1. He stated that he felt that  
31 there was a need to revamp the regulations.

32  
33 Ms. Henrikson stated that a draft ordinance would be brought back at the June meeting  
34 as a visioning topic for discussion.

35  
36 OLD BUSINESS

37 None.

38  
39 NEW BUSINESS

40 A. A-2-11: COLONY PARK EAST

41 Glenn D. Storch, Esquire, 420 South Nova Road, Daytona Beach Florida, 32114,  
42 applicant on behalf of the property owners, New Smyrna beach Acquisitions, LLC  
43 and Colony Park, LLC, 38068 Daughtery Road, Zephyrhills, Florida, 33540,  
44 requests annexation into the City of New Smyrna Beach

45  
46 The subject property consists of approximately 41.45 acres and is generally  
47 located northeast of the intersection of State Road 44 and Colony Park Road.

1 Ms. Henrikson presented the staff report and its findings. She stated that staff was  
2 recommending approval.

3  
4 No comments or questions from Board.

5  
6 Glenn Storch, 420 S. Nova Road, Daytona Beach, Florida, representing the property  
7 owners, stated that the land was presently zoned commercial in the county but that it  
8 did not necessarily give the applicant the ability to develop the property as they  
9 envisioned the project. He stated that the applicant was also moving forward with a  
10 PUD to design the project. He stated that the staff has worked well with him on this.

11  
12 No questions for applicant.

13  
14 No public participation.

15  
16 **Mr. Dever made the motion to approve the recommendation to City Commission,**  
17 **seconded by Mr. Casey. Motion passed on a roll-call vote, 6-0.**

18  
19 **B. PUD-1-11: COLONY PARK EAST**

20 Glenn D. Storch, Esquire, 420 South Nova Road, Daytona Beach, Florida,  
21 32114, applicant on behalf of the property owners, New Smyrna Beach  
22 Acquisition, LLC and Colony Park, LLC. 38068 Daughtery Road, Zephyrhills,  
23 Florida, 33540, requests rezoning from Volusia County B-3(C), Shopping Center  
24 (Thoroughfare Overlay Zone) and B-3, Shopping Center to City PUD(C), Planned  
25 Unit Development (Corridor Overlay Zone) and approval of the Colony Park PUD  
26 Master Development Agreement and Conceptual Development Plan.

27  
28 The subject property consists of approximately 41.45 acres and is generally  
29 located northeast of the intersection of State Road 44 and Colony Park Road.

30  
31 Ms. Henrikson presented the staff report and pointed out some items to the board. She  
32 stated that one of the proposed permitted uses was automobile repair. She stated that  
33 staff was not opposed to this use but, was requesting that additional language be added  
34 to the Master Development Agreement (MDA) requiring all work be done within an  
35 enclosed building or screened by an opaque wall or fence. She stated the item she  
36 wanted to bring to the Board's attention was the list of outstanding comments on Exhibit  
37 E and interior parking lot landscaping. She stated the final issue was related to the  
38 landscape buffers. She stated that staff was recommending approval with the four  
39 conditions as listed in the staff report.

40  
41 Mr. McGuirk asked about requiring automobile work be to done within an enclosed  
42 building and how would that work.

43  
44 Ms. Henrikson stated that staff is giving them an option to either do the work within a  
45 building or behind an opaque fence or wall. She stated the City's current code was that  
46 one would have to do repairs in a building but the condition proposed would be giving  
47 them an option with the opaque wall or fence.

1 Mr. Bohannon asked about the Colony Park Road Extension.  
2

3 Ms. Henrikson stated the property owners had, as part of the Home Depot  
4 development, dedicated an 80-foot right-of-way to Volusia County. This right-of-way  
5 extends all the way to Otter Boulevard. The city has been having discussions with the  
6 applicant about extending the right-of-way all the way out to Pioneer Trail. She stated  
7 the applicant was agreeing to provide fifty thousand dollars to the city as part of the  
8 agreement.  
9

10 Ms. Henrikson stated that the extension of the road would be sooner than the county's  
11 plans but it has not yet been determine who will be responsible for constructing the road  
12 and when that construction would occur.  
13

14 Mr. Bohannon asked who would decide how to fund the roadway extension.  
15

16 Ms. Henrikson stated that the City Commission would ultimately make the decision to  
17 expend any city funds.  
18

19 Glenn Storch, 420 S. Nova Road, Daytona Beach, Florida, stated the one issue that the  
20 applicant had was with regard to a utility easement along Colony Park Road. He stated  
21 that the property owners had proposed a 10-foot utility easement but that the Utilities  
22 Commission was requesting a 15-foot easement. Because of the additional easement  
23 area required by the Utilities Commission, the property owners had proposed to reduce  
24 the required 25-foot landscape buffer to 15 feet. However, staff had not agreed with this  
25 proposal. He stated that an alternative solution, which staff did not oppose, was to  
26 provide the full 25-foot easement. However, that easement could entirely overlap with  
27 the 15-foot utility easement. In return, the property owners agreed to increase the  
28 amount of plant material in the remaining 10 feet of the buffer that was outside of the  
29 utility easement.  
30

31 Mr. McGuirk asked for clarification with regard to the buffer.  
32

33 Mr. Storch stated that the buffer would be 25 feet, which is the minimum width required.  
34 However, because of limitations of what types of plants can be in the easement,  
35 additional planting material would be added to the 10 ft planting area outside the  
36 easement.  
37

38 Ms. Henrikson stated that the UC has concerns about plantings within the easement  
39 because roots grow into their utilities.  
40

41 **Mr. Bohannon made the motion to approve the recommendation to City**  
42 **Commission, seconded by Mr. Dever. Motion passed on a roll-call vote, 6-0 with**  
43 **the following conditions:**  
44

- 45 **1. Language be added to the MDA that requires all automobile repair,**  
46 **rebuilding and reconditioning work be done within an enclosed**  
47 **building or screened by an opaque wall or fence.**

- 1           **2. All outstanding comments, as shown on Exhibit E, are addressed**
- 2           **prior to scheduling this item for first reading before City**
- 3           **Commission.**
- 4           **3. The minimum required buffer along Colony Park Road is provided.**
- 5           **The buffer may entirely overlap the 15 foot utility easement. The 10**
- 6           **foot buffer area outside the easement shall contain 25% more**
- 7           **vegetation than required by code.**
- 8           **4. Applicant to provide a statistical tree survey.**
- 9

10  
11 **C. A-3-11: 4428 DORIS DRIVE**

12 Duane Meade, 4428 Doris Drive, New Smyrna Beach, Florida, 32169, applicant  
13 and property owner requests the following:

- 14           • Annexation;
- 15           • *Comprehensive Plan* amendment from Volusia County Urban Low  
16 Intensity to City Low Density Residential; and
- 17           • Rezoning from Volusia County R-4(W), Urban Single-Family Residential  
18 (Indian River Lagoon Surface Water Improvements and Management  
19 Overlay Zone) to City R-1, Single-Family Residential.
- 20

21           The subject property consists of approximately 0.236 acres and is located at  
22 4428 Doris Drive, immediately adjacent to the south municipal limit of the City.

23  
24 Ms. Henrikson stated that this was an already developed piece of property. She stated  
25 the request was consistent with the Comprehensive Plan and that staff was  
26 recommending approval.

27  
28 Mr. Bohannon asked if the city could get the neighbors in.

29  
30 Ms. Henrikson stated that letters were sent out but she had not heard back from them.

31  
32 Mr. Dever asked if there were city sewers.

33  
34 Ms. Henrikson stated there were no sewer services but there was water. She stated that  
35 there were no plans at this time to extend the sewer services.

36  
37 No public participation.

38  
39 No further questions from the Board.

40  
41 **Mr. Clark made the motion to approve the recommendation to the City**  
42 **Commission, seconded by Mr. Bohannon. Motion passed on a roll-call vote, 6-0.**

43  
44  
45 **D. ZT-5-11: SUBDIVISION APPROVAL PROCESS**

46 The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida,  
47 32168, requests approval of an amendment to the City's *Land Development*

1           *Regulations* to revise the procedures for review and approval of preliminary and  
2           final plats and to eliminate the sketch plat requirement.  
3

4 Ms. Henrikson stated that staff was requesting continuation until the May meeting.  
5

6 **Mr. Bohannon made the motion to approve that the item be continued until the**  
7 **May Planning and Zoning Board Meeting, seconded by Mr. Dever. Motion passed**  
8 **on a roll-call vote, 6-0.**  
9

10 E.    Z-1-11: FLAGLER AVENUE BOARDWALK

11       The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida,  
12       32168, requests rezoning from B-4(4), Ocean Commercial to R, Recreation. The  
13       subject property consists of approximately 1.8 acres and is generally located  
14       south of Flagler Avenue, west of the Atlantic Ocean, north of Columbus Avenue  
15       and east of South Atlantic Avenue.  
16

17 Ms. Henrikson stated the property had commercial zoning and under the current zoning  
18 designation the existing parking lot and restroom facilities are non-confirming uses. She  
19 stated that the city is preparing to do some improvements and in order to do the  
20 improvements the zoning needs to be changed to Recreation. She stated that staff is  
21 recommending approval.  
22

23 Mr. McGuirk asked if the land use needs to be changed in order to have the  
24 improvements done.  
25

26 Ms. Henrikson stated no, that the existing land use of Public Grounds and Buildings  
27 would be consistent with the proposed zoning.  
28

29 Mr. Clark asked whether the existing uses were non-confirming.  
30

31 Ms. Henrikson stated yes. She stated that because the uses are non-confirming that if  
32 the city were to destroy the buildings by more than 50% of their appraised value, the  
33 buildings could not be rebuilt.  
34

35 Mr. Bohannon asked if a variance could be requested.  
36

37 Ms. Henrikson stated that a variance cannot be requested to allow something that is not  
38 permitted by code.  
39

40 No public participation.  
41

42 Mr. Clark stated that it was an opportunity to make this correct and that the board  
43 should go ahead and make the change.  
44

45 No further comments from the Board.  
46

1 **Mr. Clark made the motion to approve the recommendation to City Commission,**  
2 **seconded by Ms. Herwald. Motion passed on a roll-call vote, 6-0.**  
3

4 REPORTS AND COMMUNICATIONS BY THE BOARD  
5

6 Mr. McGuirk stated that he attended the City Commission Meeting on the 29th and that  
7 they were sending back to the Board the issue regarding covered terminal platforms  
8 and second story decks over covered boat slips. He stated that it will probably be on the  
9 next agenda to discuss and make recommendations.  
10

11 REPORTS AND COMMUNICATIONS BY THE BOARD  
12

13 Ms. Henrikson stated that the agenda for May contains several cases. She stated that  
14 the land use and rezoning for the enclave annexations will be coming.  
15

16 Ms. Henrikson stated that April 6<sup>th</sup> was the next form based workshop and she urged  
17 the board members to go. She also stated that the hearing before the Volusia Growth  
18 Management Commission concerning the EAR-Based Amendments will also be heard  
19 that night in DeLand. The Ear-Based Amendments are scheduled to be adopted on  
20 April 12<sup>th</sup>.  
21

22 ADJOURNMENT  
23

24 With there being no further business, the meeting was adjourned at 7:44 p.m.

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
2 ZT-5-11: LDR AMENDMENT –  
3 SUBDIVISION REGULATIONS  
4 MAY 2, 2011  
5

---

6 **Background**  
7

- 8 A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach,  
9 Florida, 32168  
10  
11 B. **Request:** Approval of an administrative amendment to the City's *Land*  
12 *Development Regulations* to revise the procedures for review and approval of  
13 preliminary and final plats and to eliminate the sketch plat requirement.  
14

15 **Findings**  
16

- 17 A. Sections 303.02 through 303.04 of the City's *Land Development Regulations*  
18 details the requirements for subdividing land within the City. Section 303.02  
19 contains the regulations governing the subdivision of land into three or more lots.  
20 These regulations break the process into three separate steps:  
21  
22
  - Sketch plat
  - Preliminary plat
  - Final plat

23  
24  
25  
26 B. The sketch plat requires review by both the Plan Review Committee (PRC) and  
27 the Planning and Zoning Board. The intent of the sketch plat requirement is to  
28 provide developers with input on their proposed subdivision based upon a  
29 relatively conceptual plan. The developer must then incorporate these changes  
30 into the preliminary plat. By using this process, the developer can obtain a level  
31 of assurance that his or her subdivision plans will meet code requirements, prior  
32 to incurring significant engineering expenses. The sketch plat requirement is  
33 generally not used by most municipalities within Volusia County.  
34  
35 C. Staff is proposing to eliminate the sketch plat requirement. Prior to submitting a  
36 preliminary plat application, the applicant is required to have a pre-application  
37 meeting with all the PRC members. Therefore, many of the issues that could be  
38 identified during sketch plat review, could also be identified during the pre-  
39 application meeting prior to submitting a preliminary plat. Elimination of the  
40 sketch plat requirement would reduce the amount of time required for review and  
41 approval by approximately six weeks.  
42  
43 D. The preliminary plat requires review by both the PRC and Planning and Zoning  
44 Board. Because current regulations vest the project once the preliminary plat is

1 approved, this stage requires complete engineered drawings, in addition to the  
2 plat sheets. Once the preliminary plat is approved, the developer has two  
3 options:

4  
5 **Option 1**

- 6 • Construct all required infrastructure improvements up front (roads, utilities,  
7 common area sidewalk, stormwater, etc....)
- 8 • Once the City inspects and accepts the improvements, the developer can  
9 apply for final plat approval, record the plat and begin selling lots

10  
11 **Option 2**

- 12 • Bond all required infrastructure improvements
- 13 • Once the infrastructure improvements are bonded, the developer can  
14 apply for final plat approval, record the plat and begin selling lots
- 15 • Funds obtained from the sale of the lots can then be used to finance the  
16 installation of the infrastructure improvements

17  
18 E. Generally, allowing the developer to either construct the infrastructure  
19 improvements up front or bond them in order to record the final plat provides  
20 flexibility to the developer. However, any local government that allows a  
21 developer to bond improvements runs the risk that the improvements may never  
22 be installed even though the lots have been platted and sold. This was the case  
23 during the land boom of the 1920s when many subdivisions within the City were  
24 platted but the improvements were never constructed. An example can be found  
25 in the Isleboro subdivision north of the municipal airport. With the economic  
26 downturn, this issue has once again risen to the forefront. While the City of New  
27 Smyrna Beach has not yet encountered this particular situation, it is possible that  
28 it could occur. At the direction of the City Commission (**Exhibit A**), staff has  
29 included language in the LDR to require developers to install all infrastructure  
30 improvements prior to the City Commission approving the final plat. All  
31 infrastructure improvements must be inspected and accepted by the City before  
32 the final plat is approved.

33  
34 F. The final plat must be reviewed by the PRC, Planning and Zoning Board and  
35 approved by the City Commission, before it can be recorded. Once the plat is  
36 recorded, the developer can then begin to sell lots. Staff is proposing to amend  
37 the LDR to require complete engineered drawings at the final plat stage.

38  
39 G. Staff is also proposing to consolidate all regulations pertaining to the subdivision  
40 of land in a new article (Article X) in the LDR. Currently, subdivision regulations  
41 and requirements are located in Articles II, III, IV, and VI. Additionally, because  
42 much of the language in Section 303.02 of the *Land Development Regulations* is  
43 out of date and is difficult to understand, staff has proposed revisions to clarify  
44 and update the regulations.

45

- 1 H. Section 303.03 specifies the requirements for subdividing property into two lots  
2 (minor subdivision). Staff is proposing to delete this section. Language codifying  
3 the processes used for minor subdivisions would instead be added to the  
4 proposed Article X.  
5  
6 I. Section 303.04 lists the penalties for illegally subdividing land. Staff is proposing  
7 to delete this section in its entirety.  
8  
9 J. Other changes include adding an index at the beginning of the new Article X, to  
10 assist readers in finding a pertinent section quickly. Regulations pertaining to  
11 subdivision variances, model homes and subdivision sales offices have also  
12 been added, as these items have not previously been addressed in the LDR.  
13  
14 K. An amendment to Article III is also proposed in order to codify and delineate the  
15 responsibilities and membership of the Plan Review Committee.  
16

17 **Recommendation**

18 Staff recommends **approval** of the proposed changes to the City's *Land Development*  
19 *Regulations*, as shown below (~~strikethroughs~~ are deletions and underlines are  
20 additions).  
21

22 ARTICLE II  
23 DEFINITIONS

24 \*\*\*

25  
26 Administrative official: The municipal official appointed by the city manager to  
27 administer the Land Development Regulations.  
28

29 \*\*\*

30 Structure: A combination of materials to form a construction for use, occupancy, for  
31 ornamentation whether installed on, above, or below the surface of land or water.  
32

33 Subdivider: Any person, group of persons, corporation, or duly authorized agent, who  
34 undertakes the subdivision of land as defined herein.  
35

36 Subdivision: The platting of real property into three or more lots, parcels, tracts, tiers,  
37 blocks, sites, units, or any other division of land; and includes establishment of  
38 new streets and alleys, additions, and resubdivisions; and when appropriate to  
39 the context, relates to the process of subdividing or to the lands or area  
40 subdivided.  
41

42 Subdivision, Minor: The division of real property into two lots, parcels, or tracts which  
43 front on an existing street and has available utilities.  
44

1 ~~Subdivision, Sketch Plat: An illustration, drawn to scale, which shows a conceptual~~  
2 ~~layout of the proposed subdivision.~~

3  
4 Subdivision, Final Plat: The detailed drawing of the property to be divided. This  
5 drawing shall be submitted to the Volusia County Clerk of the Circuit Court for  
6 recording upon approval by the City Commission ~~Planning and Zoning Board~~.

7  
8 Subdivision Plat Construction Drawings: The detailed drawings of the improvements  
9 proposed to be constructed within and in the vicinity of the respective property to  
10 be divided.

11  
12 Subdivision, Preliminary Plat: A preliminary drawing indicating the proposed layout of a  
13 subdivision and containing all the information as required herein.

14  
15 \*\*\*

16  
17 Surveyor: A land surveyor registered with the Florida Department of ~~Professional~~  
18 ~~Regulation~~ Agriculture and Consumer Services as a Professional Land Surveyor  
19 ~~(PLS)~~ and Mapper.

20  
21 \*\*\*

22  
23 ~~To Plat: Hereby defined in whatever tense used, to divide and record property with the~~  
24 ~~Volusia County Clerk of the Circuit Court, according to these regulations.~~

25  
26 \*\*\*

27 ARTICLE III  
28 ADMINISTRATION

29  
30 302.00 City Boards

31  
32 \*\*\*

33 302.01 Planning and Zoning Board

34  
35 A. Responsibilities of the Planning and Zoning Board

36  
37 (1) The Planning and Zoning Board is hereby established to review and  
38 approve unconditionally, approve with conditions or deny;

39  
40 a. Class III Site Plans; Class II Site Plans when referred to by the City  
41 Planner or the applicant ;

42  
43 b. ~~Sketch~~, Preliminary, and Final Subdivision Plats; and  
44

- 1 c. Appeals for a variance from the requirements of the Land  
2 Development Regulations where owing to special conditions the  
3 literal enforcement of the provisions of the Land Development  
4 Regulations would result in unnecessary hardship. **Ord. 59-10**

5 \*\*\*

6 302.03 City Commission

7  
8 The City Manager's interpretation of the Land Development Regulations is  
9 appealable as a matter of right to the City Commission. The City Commission  
10 shall have the authority to affirm, reverse, or modify any final decision of the City  
11 Manager's interpretation of the Land Development Regulations. All decisions of  
12 the City Commission to affirm, reverse, or modify any final decision of the City  
13 Manager's interpretation of the Land Development Regulations shall be made in  
14 accordance with any and all applicable City or County Ordinances, State  
15 Statutes, and Federal Laws. All further appeal shall be to the Circuit Court.

16  
17  
18 302.04 Plan Review Committee

19  
20 A. Responsibilities

21 There is hereby created the staff Plan Review Committee (PRC) to provide  
22 technical review for the following applications and to grant final approval for  
23 development plans when authorized by this code:

- 24  
25 • Site plans  
26 • Preliminary and final subdivision plats  
27 • Planned Unit Development (PUD) Master Development Agreements and  
28 Conceptual Development Plans

29  
30 B. Meetings

31 The PRC shall hold regularly scheduled meetings at least once a month, unless  
32 there are no applications requiring review at that time. A schedule of regular  
33 meetings shall be made available in the Planning and Engineering Department. A  
34 special meeting may be called by the chairperson to allow extra time for the  
35 review of large or complex applications that have been submitted by the  
36 appropriate deadline for the next regularly scheduled meeting. PRC meetings  
37 shall be open to all interested persons, for the review of formal development  
38 applications.

39  
40 C. Membership and organization

41 The PRC shall be composed of representatives from the following city  
42 departments or divisions: building, engineering, planning, fire, police, and public  
43 works. A representative from the Utilities Commission shall also have  
44 membership on the PRC. When deemed appropriate, the PRC may expand to  
45 include review by the city attorney's office. The PRC shall be chaired by the city's

1 administrative official or his/her designated representative. A copy of all plans  
2 reviewed by the PRC shall also be forwarded to the Postmaster for the City of  
3 New Smyrna Beach.

4 \*\*\*

5 ~~303.02 Subdivision Review and Approval~~

6  
7 A. ~~Submission of development plans and general information~~

8  
9 ~~Whenever any subdivision of land is proposed, the owner of land proposed to be~~  
10 ~~subdivided, or his/her authorized agent, shall apply for and secure approval of~~  
11 ~~such proposed subdivision in accordance with the following procedure from the~~  
12 ~~Planning and Zoning Board of the City of New Smyrna Beach.~~

13  
14 B. ~~Subdivision Approval Procedure~~

15  
16 ~~The subdivider of land shall progress through the following procedures prior to~~  
17 ~~the final approval of a subdivision.~~

18  
19 ~~\_\_\_\_\_ - Sketch Plat Review and Approval Process~~

20 ~~\_\_\_\_\_ - Preliminary Plat Review and Approval Process~~

21 ~~\_\_\_\_\_ - Final Plat Review and Approval Process~~

22  
23 ~~A subdivider may apply for preliminary and final plat review and approval~~  
24 ~~simultaneously. A sketch plat must be approved by the Planning and Zoning~~  
25 ~~Board a minimum of 30 days prior to the Planning and Zoning Board reviewing a~~  
26 ~~preliminary plat for the same subdivision.~~

27  
28 (1) ~~Sketch Plat Review and Approval Process~~

29  
30 ~~In order to subdivide a parcel of land, a subdivider must first receive sketch plat~~  
31 ~~approval from the City Planning and Zoning Board. The following are the~~  
32 ~~procedural requirements for sketch plat approval.~~

33  
34 a. ~~Pre-application Procedures~~

35  
36 ~~Prior to the application for sketch plat approval the project applicant shall~~  
37 ~~meet with the City Planner or his/her designee. The purpose of the pre-~~  
38 ~~application conference is to acquaint the City Planner or his/her designee~~  
39 ~~with the proposed subdivision and to acquaint the subdivider with City land~~  
40 ~~development regulations and the requirements for the sketch plat review~~  
41 ~~and approval process.~~

42  
43 b. ~~Sketch Plat Application Procedures~~

1 After the sketch plat pre-application conference, the subdivider shall  
2 submit to the Planning and Zoning Department, at least thirty (30) days  
3 prior to a regularly scheduled meeting of the Planning and Zoning Board,  
4 as indicated on the Planning and Zoning Board Meeting schedule, a  
5 completed sketch plat application form, a receipt of administrative fee  
6 payment, a letter from the owner of the property to be subdivided  
7 authorizing the applicant to represent the owner (if the applicant and  
8 owner are not the same). During sketch plat approval procedures, twelve  
9 (12) copies of the proposed subdivision sketch plat shall be provided and  
10 shall include the information indicated below together with a completed  
11 sketch plat check-off list.  
12

13 The following information shall be included on the sketch plat to be drawn  
14 at a scale no smaller than one hundred (100) feet to one (1) inch.  
15

- 16 1. ~~\_\_\_\_\_~~ Tentative Street Layout
- 17 2. ~~\_\_\_\_\_~~ Approximate Rights-of-Way Widths
- 18 3. ~~\_\_\_\_\_~~ General Lot Arrangements
- 19 4. ~~\_\_\_\_\_~~ Sites for Schools
- 20 5. ~~\_\_\_\_\_~~ Sites for Passive Recreation
- 21 6. ~~\_\_\_\_\_~~ Sites for Active Recreation
- 22 7. ~~\_\_\_\_\_~~ Open Space Area
- 23 8. ~~\_\_\_\_\_~~ Existing Structures
- 24 9. ~~\_\_\_\_\_~~ Contiguous lots and structures on lots
- 25 10. ~~\_\_\_\_\_~~ Waterways on project site and on contiguous lots
- 26 11. ~~\_\_\_\_\_~~ Wooded areas
- 27 12. ~~\_\_\_\_\_~~ Total acreage
- 28 13. ~~\_\_\_\_\_~~ Existing and surrounding zoning
- 29 14. ~~\_\_\_\_\_~~ Water retention and drainage facilities
- 30 15. ~~\_\_\_\_\_~~ Approximate jurisdictional wetlands boundary line
- 31 16. ~~\_\_\_\_\_~~ North arrow, scale (no smaller than 1" = 100'), date and preparer.
- 32 17. ~~\_\_\_\_\_~~ Typical lot layout
- 33 18. ~~\_\_\_\_\_~~ Other appropriate information to make a presentation of the  
34 conceptual development plan.  
35

36 At the time of submission of the sketch plat application the subdivider shall  
37 pay to the City Finance Director a fee for the purpose of administration.  
38 The fee shall be established and adjusted periodically by the City  
39 Commission. A receipt of payment of the administration fee shall  
40 accompany the sketch plat application package.  
41

42 c. ~~\_\_\_\_\_~~ Sketch Plat Review

- 43
- 44 1. ~~\_\_\_\_\_~~ Upon receipt in the Planning and Zoning Department, a completed  
45 Sketch Plat application package, the Planning and Zoning

1 Department shall distribute the blue line prints to the City Engineer,  
2 City Building Inspector, City Fire Marshal, and Utilities Commission  
3 representative. These officials shall review the blue line prints to  
4 determine their consistency with City Comprehensive Plan and  
5 Land Development Regulations and specification.  
6

7 2. Upon completing their review, the officials shall forward a  
8 memorandum to the City Planner indicating that the concept(c)ual  
9 drawing meets all Land Development Regulations or indica(c)ting  
10 which land development regulations the Sketch Plat does not  
11 conform with. This memo shall be forwarded to the City Planner  
12 not more than 10 calendar days from the receipt of the application  
13 package in the Planning and Zoning Department.  
14

15 3. The City Planner or his/her designee shall then make a  
16 recommendation to the City Planning and Zoning Board at the  
17 regularly scheduled meeting of the City Planning and Zoning Board  
18 for which the proposed subdivision has been placed on the agenda.  
19 This recommendation shall be based on the City Planner's review  
20 and the memorandums from the other City staff.  
21

22 4. The City Planning and Zoning Board shall review the sketch plat  
23 and City Planner's, or his/her designee's, recommendation to  
24 determine consistency with the City Comprehensive Plan and Land  
25 Development Regulations. The City Planning and Zoning Board  
26 shall also accept public comment and concerns regarding the  
27 proposed subdivision at the review meeting. Upon completing the  
28 Planning and Zoning Board review and public comment meeting,  
29 the Planning and Zoning Board shall vote to deny, approve subject  
30 to conditions or unconditionally approve the sketch plat application.  
31

32 5. Should the City Planning and Zoning Board deny the sketch plat  
33 application, the reasons for such action shall be stated in writing  
34 and the subdivider shall be notified by mail. With Planning and  
35 Zoning Board denial, the applicant can no longer pursue  
36 subdividing the subject property in the same manner as proposed.  
37

38 6. Should the City Planning and Zoning Board vote to approve the  
39 sketch plat subject to conditions, the conditions shall be stated in  
40 writing and the subdivider shall be notified by mail of the approval  
41 and conditions. The City Planning and Zoning Board shall not  
42 approve any preliminary or final plat for the respective proposed  
43 subdivision until all the conditions of sketch plat approval have been  
44 met.  
45

1           7. ~~Should the City Planning and Zoning Board vote to approve the~~  
2           ~~sketch plat, the subdivider may request to have the City Planning~~  
3           ~~and Zoning Board review the preliminary and final plat for the~~  
4           ~~proposed subdivision no sooner than at the next month's regularly~~  
5           ~~scheduled meeting of the City Planning and Zoning Board provided~~  
6           ~~that the subdivider submits a completed application package prior~~  
7           ~~to the application submittal cut-off time and date as indicated on the~~  
8           ~~official City Planning and Zoning Board Meeting schedule. Upon~~  
9           ~~approval of the sketch plat by the City Planning and Zoning Board,~~  
10          ~~the applicant shall be notified by mail of the action taken.~~

11  
12 ~~(2) Preliminary Plat Review and Approval Process~~

13  
14          ~~Planning and Zoning Board approval of a preliminary plat is required prior to the~~  
15          ~~construction of any required improvements within the proposed subdivision or~~  
16          ~~improvements outside of the proposed subdivision which are required for the~~  
17          ~~proposed subdivision.~~

18          ~~The following are the procedural requirements for preliminary plat review and~~  
19          ~~approval:~~

20  
21          ~~a. Pre-application Procedures~~

22  
23           1. ~~Prior to the application for preliminary plat approval, the project~~  
24           ~~engineer or architect, certified by the Florida Department of~~  
25           ~~Professional Regulation as an engineer or architect, shall meet with~~  
26           ~~the City Planner, City Engineer, City Building Official, City~~  
27           ~~Horticulturist, City Fire Marshal and Utilities Commission~~  
28           ~~representative or their designee. The purpose of the pre-~~  
29           ~~application conference is to acquaint the City land development~~  
30           ~~review agencies with the proposed subdivision and to acquaint the~~  
31           ~~subdivider with City land development regulations and the~~  
32           ~~requirements for the preliminary plat approval process.~~

33  
34           2. ~~Upon completion of each pre-application conference between the~~  
35           ~~project engineer or architect and the City Planner, City Engineer,~~  
36           ~~City Building Official, City Horticulturist, City Fire Marshal and~~  
37           ~~Utilities Commission representative or their designee, a conference~~  
38           ~~verification form shall be signed and dated by the project engineer~~  
39           ~~or architect and the City Planner, City Engineer, City Building~~  
40           ~~Inspector, City Horticulturist, City Fire Marshal and Utilities~~  
41           ~~representative or their designee. The signed conference~~  
42           ~~verification form shall be submitted with the preliminary plat~~  
43           ~~application form and other required documents and exhibits at the~~  
44           ~~time of application for preliminary plat.~~

1           b. ~~Application Procedures~~

2  
3           ~~After the preliminary plat pre-application conference the subdivider shall~~  
4           ~~submit to the Planning and Zoning Department, at least thirty days prior to~~  
5           ~~a regularly scheduled meeting of the Planning and Zoning Board, as~~  
6           ~~indicated on the Official Planning and Zoning Board meeting schedule, a~~  
7           ~~complete preliminary plat application package. The application package~~  
8           ~~shall consist of the following information:~~

- 9  
10          1. ~~one copy of a completed preliminary plat application form;~~  
11  
12          2. ~~a receipt of administration fee payment. The administration fee~~  
13             ~~shall be determined, in resolution form, by the City Commission and~~  
14             ~~periodically adjusted.~~  
15  
16          3. ~~a completed preliminary plat pre-application conference verification~~  
17             ~~form;~~  
18  
19          4. ~~a letter from the owners of the property to be subdivided authorizing~~  
20             ~~the applicant to represent the owner (if the applicant and owner are~~  
21             ~~not the same) during the preliminary plat review and approval~~  
22             ~~procedures;~~  
23  
24          5. ~~one signed statement describing the proposed use of the land;~~  
25  
26          6. ~~copies of permit applications required by the City and other~~  
27             ~~governmental agencies;~~  
28  
29          7. ~~nine sets of preliminary plat blue line prints prepared in accordance~~  
30             ~~with the design standards contained within this Land Development~~  
31             ~~Regulations and shall reflect the sketch plat as approved by the~~  
32             ~~Planning and Zoning Board. The preliminary plat prints shall be~~  
33             ~~signed and sealed by an engineer or architect certified by the~~  
34             ~~Florida Department of Professional Regulation and shall have a~~  
35             ~~scale no smaller than one inch to one hundred feet (1" = 100'). The~~  
36             ~~following information shall be represented on the prints:~~  
37  
38             (a) ~~boundaries of land proposed to be subdivided shown with~~  
39                 ~~bearings, distances, closures and bulkhead lines;~~  
40  
41             (b) ~~locations, width and depth of waterways within fifty (50) feet~~  
42                 ~~of the area to be subdivided;~~  
43  
44             (c) ~~location of the jurisdictional wetlands line in accordance with~~  
45                 ~~Section 701.07 of these regulations;~~

- 1
- 2 ~~(d) — names of adjoining subdivisions and/or property owners;~~
- 3
- 4 ~~(e) — proposed street names, right-of-way and easement widths~~
- 5 ~~and dimensions of any other areas to be dedicated to public~~
- 6 ~~use or sites for other than residential use with notes stating~~
- 7 ~~their purpose and any limitation;~~
- 8 ~~(f) — proposed lot lines, lot and block numbers and dimensions;~~
- 9
- 10 ~~(g) — area to be set aside for Passive Recreation;~~
- 11
- 12 ~~(h) — area to be set aside for Active Recreation;~~
- 13
- 14 ~~(i) — any other open space or common area;~~
- 15
- 16 ~~(j) — sites for schools;~~
- 17
- 18 ~~(k) — title, date, north arrow, graphic and written scale and legend;~~
- 19
- 20 ~~(l) — table of curved property data including curve identifier, delta,~~
- 21 ~~radius, arc length, chord, tangent and chord bearing;~~
- 22
- 23 ~~(m) — acreage in total tract, acreage in public or other land usage,~~
- 24 ~~minimum lot size, total number of lots, proposed lineal feet in~~
- 25 ~~streets;~~
- 26
- 27 ~~(n) — angular and linear error of closure;~~
- 28
- 29 ~~(o) — legal description of the subdivision boundaries with bearings~~
- 30 ~~and distances and with a reference to a subdivision corner~~
- 31 ~~tie as set forth in this ordinance;~~
- 32
- 33 ~~(p) — all dimensions shall be to the nearest one hundredth (1/100)~~
- 34 ~~of a foot and angles to the nearest second of a degree;~~
- 35
- 36 ~~(q) — true north point and accurate location and description of all~~
- 37 ~~monuments and markers;~~
- 38
- 39 ~~(r) — certificates of approval by City Planning and Zoning Board~~
- 40 ~~Chairman, City Commission Chairman (Mayor), City~~
- 41 ~~Manager, City Engineer, and City Attorney;~~
- 42
- 43 ~~(s) — certificate of surveyor, certificate of dedication, certificate of~~
- 44 ~~joinder and consent to dedication and certificate of the Clerk~~
- 45 ~~of the Circuit Court of Volusia County;~~

- 1  
2 (t) ~~block to indicate plat book and page number;~~  
3  
4 (u) ~~section, township and range; and~~  
5  
6 (v) ~~vicinity map showing relationship between area proposed for~~  
7 ~~development and surrounding area for a radius of one (1)~~  
8 ~~mile.~~  
9  
10 8. ~~Nine sets of topographic map blue line prints prepared in~~  
11 ~~accordance with the design standards contained within this Land~~  
12 ~~Development Regulations and shall reflect the sketch plat as~~  
13 ~~approved by the Planning and Zoning Board. The topographic map~~  
14 ~~prints shall be signed and sealed by an engineer or architect~~  
15 ~~certified by the Florida Department of Professional Regulation and~~  
16 ~~shall have a scale no smaller than one hundred feet to one inch (1"~~  
17 ~~= 100'). the following information shall be represented on the~~  
18 ~~prints:~~  
19  
20 (a) ~~the location of existing property lines, streets, buildings,~~  
21 ~~water courses, transmission lines, sewers, bridges, culverts,~~  
22 ~~and drain pipes, water mains, city/county boundary lines,~~  
23 ~~and any easements;~~  
24  
25 (b) ~~wooded areas, marshes, dunes and any other physical~~  
26 ~~conditions affecting the site;~~  
27  
28 (c) ~~contours based on U.S. Coast and Geodetic datum with a~~  
29 ~~minimum contour interval of two (2) feet;~~  
30  
31 (d) ~~location of the jurisdictional wetlands line in accordance with~~  
32 ~~Section 701.07 of these regulations;~~  
33  
34 (e) ~~north arrow, written and graphic scale and legend; and~~  
35  
36 (f) ~~legal description and boundaries of property to be subdivided~~  
37 ~~with distances and bearings.~~  
38  
39 9. ~~Nine sets of improvement construction plan blue line prints~~  
40 ~~prepared in accordance with the design standards contained within~~  
41 ~~this land development regulation and shall reflect the sketch plat as~~  
42 ~~approved by the Planning and Zoning Board. The improvement~~  
43 ~~construction plan prints shall be signed and sealed by an engineer~~  
44 ~~or architect certified by the Florida Department of Professional~~  
45 ~~Regulation and shall have a scale no smaller than one hundred feet~~

- 1                                   to one inch (1" = 100'). The following information shall be  
2                                   represented on the prints:  
3  
4                                   (a) location of existing structures on, or within 100 feet of the  
5                                   site to be subdivided;  
6  
7                                   (b) existing and proposed spot elevations and contours as  
8                                   required by the city engineer or his/her designee;  
9  
10                                  (c) typical cross section of proposed roadways and sidewalks;  
11  
12                                  (d) location and layout of proposed utilities showing connections  
13                                  to existing utility system as required by the City Utilities  
14                                  Commission;  
15  
16                                  (e) details of proposed utilities as required by the City Utilities  
17                                  Commission;  
18  
19                                  (f) stormwater management plan and details as required by the  
20                                  City Engineering Department;  
21  
22                                  (g) proposed roadway, sidewalk, golf cart and bike path layout  
23                                  and associated signage;  
24  
25                                  (h) landscaping plan;  
26  
27                                  (i) common and recreation area treatment and plans;  
28  
29                                  (j) name, address, and phone number of surveyor, engineer,  
30                                  architect, landscape architect and land planner;  
31  
32                                  (k) north arrow, written and graphic scale and legend;  
33  
34                                  (l) cover sheet with title, date, vicinity map and index of  
35                                  contents;  
36  
37                                  (m) consecutive page numbering system;  
38  
39                                  (n) zoning classification for property to be subdivided and  
40                                  surrounding adjacent property;  
41  
42                                  (o) proposed lot lines, lot and block numbers or letters and lot  
43                                  dimensions; and  
44  
45                                  (p) temporary construction erosion control plan.

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~~Construction drawings are not required if all improvements are existing.~~

~~10. The City Planner or his/her designee may, at his/her discretion, accept the application package if one or more of the items are not provided except that items 7, 8, and 9, must be included in the application package prior to accepting said application package. All items must be provided prior to the Planning and Zoning Board review and approval. The Planning and Zoning Board may approve the subdivision preliminary plat subject to the subdivider providing all required information.~~

~~e. Preliminary Plat Review~~

~~1. Upon receipt in the Planning and Zoning Department of a completed preliminary plat application package, the Planning and Zoning Department shall distribute the blue line prints to the City Engineer, City Building Inspector, City Horticulturist, City Fire Marshal, City Public Works Department Director, City Postmaster, City Police Department Representative, and Utilities Commission Representative (hereinafter referred to as the Plan Review Committee). The Plan Review Committee shall review the proposed blue line prints to determine its consistency with the City Comprehensive Plan and Land Development Regulations and specifications.~~

~~2. The Plan Review Committee shall then meet with the project engineer or architect, at the regularly scheduled time and date as indicated on the Planning and Zoning Board meeting schedule, to discuss concerns with the proposed subdivision. During this meeting each Plan Review Committee member shall provide the project engineer or architect, and the City Planner or his/her designee with written comments concerning the proposed sub(c)division.~~

~~3. To meet the minimum time schedule, the project engineer or architect shall then have approximately twelve (12) calendar days, as indicated on the City Planning and Zoning Board meeting schedule, to submit to the Planning and Zoning Department four (4) final sets of proposed blue line prints that are corrected to address all the concerns of the Plan Review Committee. Any member of the Plan Review Committee shall have the right to request the corrected sets of four (4) proposed blue line prints be submitted for inspection not less than seven (7) calendar days after the Plan Review Committee meeting.~~

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- ~~4. The City Planner or his/her designee shall review the four (4) final sets of proposed blue line prints at the time of submittal to the Planning and Zoning Department by the project engineer or architect and shall make a determination as to whether all the comments made at the Plan Review Committee meeting by the City Planner or his/her designee have been properly addressed. Should a determination be made that all the comments made by the City Planner or his/her designee at the Plan Review Committee meeting have been met, then the four (4) final sets of proposed blue line prints shall be accepted by the Planning and Zoning Department and the City Planner shall affix his/her signature on the four (4) final sets of proposed blue line prints. Should a determination be made that all the comments made by the City Planner or his/her designee at the Plan Review Committee meeting have not been met, then the four (4) final sets of proposed blue line prints shall not be accepted by the Planning and Zoning Department and the review process shall cease.~~
  
- ~~5. The remaining Plan Review Committee members shall review the proposed blue line prints, if accepted by the Planning and Zoning Department, to determine whether their comments made during the Plan Review Committee meeting have been properly addressed. Should a determination be made by the remaining Plan Review Committee members that all their comments made at the Plan Review Committee meeting have been properly addressed, then their signature shall be affixed to the four sets of proposed blue line prints and the review process shall continue.~~
  
- ~~6. Should a determination be made by one or more of the remaining Plan Review Committee member(s) that their comments made at the Plan Review Committee meeting have not been properly addressed, then the Plan Review Committee member(s) shall not sign the four (4) sets of blue line prints, plats and shall indicate, in writing to the City Planner, the City Land Development Regulations and specifications that the sub(c)divider did not comply with. The City Planner shall then determine to either discontinue the review process until all plan review committee members have signed the four (4) final sets of blue line prints or forward the proposed blue line prints to the Planning and Zoning Board for review along with the City Planner's recommendation for approval, approval with conditions or denial. Should the City Planner forward the proposed blue line prints to the Planning and Zoning Board without the signatures of all the plan review committee members affixed to the four (4) final sets of blue line prints, the City Planner shall include in~~

1 his/her recommendation, the City Land Development Regulations  
2 and specifications that the applicant did not comply with and  
3 approval of the blue line prints shall be subject to the application  
4 complying with all city Land Development Regulations and  
5 specifications.  
6

7 ~~7. The Planning and Zoning Board shall review the proposed blue line~~  
8 ~~prints at their regularly scheduled meeting to determine the~~  
9 ~~consistency of the proposed blue line prints with the City~~  
10 ~~Comprehensive Plan and land development regulations. The~~  
11 ~~Planning and Zoning Board shall consider the City Planner's~~  
12 ~~recommendation pertaining to the proposed blue line prints at this~~  
13 ~~time. Upon completing its review, the Planning and Zoning Board~~  
14 ~~shall vote to approve subject to conditions, approve unconditionally,~~  
15 ~~or deny the proposed subdivision preliminary plat.~~

16  
17 ~~8. Should the City Planning and Zoning Board approve the~~  
18 ~~pro(c)posed subdivision preliminary plat, the subdivider may~~  
19 ~~choose one of the following options to assure the City that the~~  
20 ~~required improvements associated with the subdivision will be~~  
21 ~~constructed.~~

22  
23 ~~(a) OPTION 1~~

24  
25 ~~After receiving written approval of the preliminary plat and~~  
26 ~~construction plans and specifications for all required improvements~~  
27 ~~from the Planning and Zoning Board chairman, a start-work notice~~  
28 ~~shall be issued by the City Planner or his/her designee. At this time~~  
29 ~~the subdivider is allowed to install all required improvements in~~  
30 ~~accordance with the approved plans and specifications. Once all~~  
31 ~~required improvements are installed and the City Engineer issues a~~  
32 ~~certificate of completion for all improvements, the subdivider may~~  
33 ~~then apply for final plat review and approval.~~

34  
35 ~~(b) OPTION 2~~

36  
37 ~~After receiving written approval of the preliminary plat and~~  
38 ~~construction plans for all subdivision improvements, the subdivider~~  
39 ~~may proceed with final plat review and approval if all subdivision~~  
40 ~~improvement construction is guaranteed by the subdivider by~~  
41 ~~providing the City with adequate sureties.~~

42  
43 ~~9. The Planning and Zoning Board does not have the authority to~~  
44 ~~approve a final plat unless one of the options to provide the~~

1                    ~~necessary improvements as discussed in these regulations has~~  
2                    ~~been fulfilled.~~

3  
4                    ~~10. Approval of the preliminary plat shall not be construed as authority~~  
5                    ~~for filing of the plat with the Volusia County Clerk of the Circuit~~  
6                    ~~Court nor as authority for the sale of lots within the subdivision~~  
7                    ~~which received preliminary plat approval.~~

8  
9                    ~~11. All the work undertaken, regardless of the above option exercised,~~  
10                   ~~shall conform to all city regulations and shall be subject to the~~  
11                   ~~approval of the City officials. All city officials and their staff shall~~  
12                   ~~have the authority to enter property proposed for subdividing to~~  
13                   ~~make inspections from time to time throughout the review and~~  
14                   ~~construction process and may report to the Planning and Zoning~~  
15                   ~~Board on the progress of the subdivision. Should work be~~  
16                   ~~progressing in a fashion contradictory to the city Land Development~~  
17                   ~~Regulations a stop work order may be placed on the property and~~  
18                   ~~corrective action shall be taken through the Code Enforcement~~  
19                   ~~Board.~~

20  
21                   ~~12. Failure to secure final plat approval within two years of the date of~~  
22                   ~~the planning and zoning board approval for a portion or all of the~~  
23                   ~~proposed subdivision which received preliminary plat approval shall~~  
24                   ~~result in revocation of the preliminary plat approval except that a~~  
25                   ~~time extension of up to six months may be granted by the Planning~~  
26                   ~~and Zoning Board upon written request by the subdivider. **Ord. #**~~  
27                   ~~**09-08**~~

28  
29                   ~~(3) Final Plat Review and Approval Process~~

30  
31                   ~~Planning and Zoning Board approval of a final plat is required prior to the~~  
32                   ~~recording of a subdivision with the Clerk of the Circuit Court of Volusia~~  
33                   ~~County and after Planning and Zoning Board approval of the respective~~  
34                   ~~sketch and preliminary plats. No sale of lots shall be consummated and~~  
35                   ~~no street shall be accepted and maintained by the City, nor shall any~~  
36                   ~~permit be issued by an administrative agent or department of the city for~~  
37                   ~~the construction of any building upon land which a plat is required to be~~  
38                   ~~approved unless and until the final plat has been approved by the~~  
39                   ~~Planning and Zoning Board and duly recorded with the Clerk of the Circuit~~  
40                   ~~Court of Volusia County, Florida. The final plat shall constitute only that~~  
41                   ~~portion or all of the approved preliminary plat which the subdivider~~  
42                   ~~proposes to record and develop at the time, provided, how(e)ver, that~~  
43                   ~~such portion or entire final plat conforms to all requirements of this LDR.~~  
44                   ~~The final plat shall be prepared by a surveyor, who shall be qualified by~~

1 law to prepare plats for recording in the public records of Volusia County,  
2 Florida.

3  
4 ~~The following are the procedural requirements for final plat approval:~~

5  
6 a. ~~Pre-application Procedures~~

7  
8 1. ~~Prior to the application for final plat approval, the project~~  
9 ~~engineer or architect, certified by the Florida Department of~~  
10 ~~Professional Regulation as an engineer or architect, shall~~  
11 ~~meet with the City Planner, City Engineer, City Building~~  
12 ~~Official, City Horticulturist, City Fire Marshal, and Utilities~~  
13 ~~Commission Representative or their designee. The purpose~~  
14 ~~of the pre-application conference is to inform the subdivider~~  
15 ~~of the final plat review process and to discuss any changes~~  
16 ~~in the proposed subdivision since preliminary plat approval.~~

17  
18 2. ~~Upon completion of each pre-application conference, a~~  
19 ~~conference verification form shall be signed and dated by the~~  
20 ~~project engineer or architect and the City Planner, City~~  
21 ~~Engineer, City Building Official, City Horticulturist, City Fire~~  
22 ~~Marshal and Utilities Commission representative or their~~  
23 ~~designees. The completed conference verification form shall~~  
24 ~~be submitted with the final plat application package.~~

25  
26  
27 b. ~~Application Procedures~~

28  
29 ~~After the final plat pre-application conference the subdivider shall~~  
30 ~~submit to the Planning and Zoning Department at least thirty (30)~~  
31 ~~days prior to a regularly scheduled meeting of the Planning and~~  
32 ~~Zoning Board, and as indicated on the official Planning and Zoning~~  
33 ~~Board Meeting schedule, a completed final plat application~~  
34 ~~package. The application package shall consist of the following~~  
35 ~~information:~~

36  
37 1. ~~one copy of a completed final plat application form;~~

38  
39 2. ~~a receipt of administration fee payment. The administration~~  
40 ~~fee shall be determined, in resolution form, by the City~~  
41 ~~Commission and periodically adjusted.~~

42  
43 3. ~~a completed final plat pre-application conference verification~~  
44 ~~form;~~





- 1                                    ~~(b) all sidewalks proposed in the final plat of a subdivision~~  
2                                    ~~must be completed within 24 months of the date of~~  
3                                    ~~the certificate of completion for required~~  
4                                    ~~improvements; and~~  
5                                    ~~(c) failure of the subdivider to complete said sidewalks~~  
6                                    ~~within the prescribed period of time shall entitle the~~  
7                                    ~~city to said funds for the purpose of completing the~~  
8                                    ~~sidewalks;~~  
9                                    ~~(d) the subdivider or current owner may extend the period~~  
10                                   ~~of time to complete the sidewalks in a subdivision~~  
11                                   ~~from 24 months to 48 months subject to the following~~  
12                                   ~~conditions: [Ord. No. 53-01]~~  
13 \_\_\_\_\_  
14                                   ~~(i) the subdivider or current owner has made~~  
15                                   ~~application to the Development Services~~  
16                                   ~~Division for an extension in the period of time~~  
17                                   ~~to complete the sidewalks, and~~  
18                                   ~~(ii) at least one *certificate of completion* has been~~  
19                                   ~~issued by the City in the current calendar year~~  
20                                   ~~for a house in the subdivision, and \_\_\_\_\_~~  
21                                   ~~(iii) the subdivider or current owner has had the~~  
22                                   ~~sidewalk bond expiration date extended by the~~  
23                                   ~~bonding agency to cover the additional period~~  
24                                   ~~of time to complete the sidewalks.~~  
25  
26                                   ~~11. nine sets of final plat blue line prints containing the same~~  
27                                   ~~information as required for preliminary plat review and~~  
28                                   ~~approval for the portion of the subdivision proposed for final~~  
29                                   ~~plat approval;~~  
30  
31                                   ~~12. nine sets of final plat topographic map blue line prints~~  
32                                   ~~containing the same information as required for preliminary~~  
33                                   ~~plat review and approval only for the portion of the~~  
34                                   ~~subdivision proposed for final plat approval. This item shall~~  
35                                   ~~not be required if a certificate of completion is provided; and~~  
36  
37                                   ~~13. nine sets of final plat improvement construction plan blue~~  
38                                   ~~line prints containing the same information as required for~~  
39                                   ~~preliminary plat review and approval only for the portion of~~  
40                                   ~~the subdivision proposed for final plat approval. This item~~  
41                                   ~~shall not be required if a certificate of completion is provided~~  
42                                   ~~or if no construction plans were required for a preliminary~~  
43                                   ~~plat;~~

44                                   [Revised 9/27/01]

1                   14. ~~the original and two copies on mylar of the subdivision plat~~  
2                   ~~sheets to be recorded with the Volusia County Clerk of~~  
3                   ~~Circuit Court containing all the information as required in~~  
4                   ~~item 11. The following certificates shall be signed:~~

- 5  
6                   (a) ~~surveyor;~~  
7                   (b) ~~dedication; and~~  
8                   (c) ~~joinder and consent to dedication.~~

9  
10                   ~~The original and one mylar copy of the subdivision plat shall~~  
11                   ~~be reserved for recording with the Volusia County Clerk of~~  
12                   ~~the Circuit Court. One mylar copy of the subdivision plat~~  
13                   ~~shall be retained in the City Planning and Zoning Department~~  
14                   ~~for public record.~~

15  
16                   15. ~~the City Planner may, at his discretion, accept the~~  
17                   ~~application package if one or more of the items are not~~  
18                   ~~provided except that items 11, 12, and 13, must be included~~  
19                   ~~in the application package prior to accepting said application~~  
20                   ~~package. All items must be provided prior to the Planning~~  
21                   ~~and Zoning Board review and approval. The Planning and~~  
22                   ~~Zoning Board may approve the subdivision final plat subject~~  
23                   ~~to the subdivider providing all require information.~~

24  
25                   e. ~~Final plat review~~

26  
27                   1. ~~Upon receipt in the Planning and Zoning Department of a~~  
28                   ~~completed final plat application package, the Planning and~~  
29                   ~~Zoning Department shall distribute the blue line prints to the~~  
30                   ~~City Engineer, City Building Inspector, City Horticulturist, City~~  
31                   ~~Fire Marshal, City Public Works Department Director, City~~  
32                   ~~Postmaster, City Police Department Representative, and~~  
33                   ~~Utilities Commission Representative or their designee~~  
34                   ~~(hereinafter referred to as the Plan Review Committee). The~~  
35                   ~~Plan Review Committee shall review the proposed blue line~~  
36                   ~~prints to determine its consistency with the City~~  
37                   ~~Comprehensive Plan and Land Development Regulations~~  
38                   ~~and specifications.~~

39  
40                   2. ~~The Plan Review Committee shall then meet with the project~~  
41                   ~~engineer or architect, at the regularly scheduled time and~~  
42                   ~~date as indicated on the Planning and Zoning Board Meeting~~  
43                   ~~schedule, to discuss concerns with the proposed subdivision.~~  
44                   ~~During this meeting each Plan Review Committee member~~  
45                   ~~shall provide the project engineer or architect, and the City~~



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- ~~6. Should a determination be made by one or more of the remaining Plan Review Committee member(s) that their comments made at the Plan Review Committee meeting have not been properly addressed, then the Plan Review Committee member shall not sign the four (4) sets of blue line prints and shall indicate, in writing to the City Planner, the City Land Development Regulations and specifications that the subdivider did not comply with. The City Planner shall then determine to either discontinue the review process until all plan review committee members have signed the four (4) final sets of blue line prints or forward the proposed blue line prints to the Planning and Zoning Board for review along with the City Planner's recommendation for approval, approval with conditions or denial. Should the City Planner forward the proposed blue line prints to the Planning and Zoning Board without the signatures of all the plan review committee members affixed to the four (4) final sets of blue line prints, the City Planner shall include in his/her recommendation, the City LDR and specifications that the applicant did not comply with and approval of the blue line prints shall be subject to the application complying with all city Land Development Regulations and specifications.~~
- ~~7. The Planning and Zoning Board shall review the proposed blue line prints at their regularly scheduled meeting to determine the consistency of the prints with the City Comprehensive Plan, Land Development Regulations and approved preliminary plat. The Planning and Zoning Board shall consider the City Planner's recommendation pertaining to the proposed blue line prints at this time. Upon completing its review, the Planning and Zoning Board shall vote to approve subject to conditions, approve unconditionally, or deny the proposed subdivision final plat.~~
- ~~8. Should the Planning and Zoning Board unconditionally approve the proposed subdivision final plat blue line prints, the subdivider shall have 30 days from the date of the Planning and Zoning Board meeting to record the plat with the Volusia County Clerk of the Circuit Court and inform the Planning and Zoning Department of the Map Book and Page number of the subdivision plat.~~
- ~~9. Should the Planning and Zoning Board conditionally approve the subdivision final plat, the subdivider shall have 60 days~~

1 from the date of the Planning and Zoning Board meeting to  
2 properly address the conditions and record the plat with the  
3 Volusia County Clerk of Circuit Court and inform the  
4 Planning and Zoning Department of the Map Book and Page  
5 number of the subdivision plat.  
6

7 10. Should the Planning and Zoning Board deny the subdivision  
8 final plat, the applicant shall be notified in writing of the  
9 reasons for denial. The applicant may then address the  
10 reasons for denial and reapply for final plat review and  
11 approval by the Planning and Zoning Board without paying  
12 an additional administration fee and without additional Plan  
13 Review Committee review.  
14

15 ~~303.03 Approval of Minor Subdivision~~

16  
17 ~~No property may be divided or re-divided into two parcels and sold to any~~  
18 ~~individual or group after the effective date of this ordinance unless properly~~  
19 ~~divided in compliance with this LDR.~~  
20

21 ~~The following are the procedures for applying for reviewing and approving a lot~~  
22 ~~division:~~

23  
24 ~~A. Pre-application Procedures~~

25  
26 ~~Any person wishing to divide a lot into two parcels shall meet with the City~~  
27 ~~Planner or his/her designee to be assured that the proposed division meets the~~  
28 ~~Land Development Regulations.~~  
29

30 ~~B. Application and Approval Procedures~~

31  
32 ~~Any person wishing to divide a lot shall provide a survey of the lot split and shall~~  
33 ~~provide a completed Certificate of Zoning application. Should the survey~~  
34 ~~conform to the Land Development Regulations, a Certificate of Zoning shall be~~  
35 ~~issued and the city plat maps shall be revised to reflect the lot division.~~  
36

37 ~~303.04 Penalties for Illegal Subdivision~~

38  
39 ~~Any person who being the owner or agent of the owner of any land or any~~  
40 ~~government agency or employee who processes the transfer of any land located~~  
41 ~~within the City or within the platting jurisdiction granted to the City, thereafter~~  
42 ~~transfers or sells such land, or any part thereof, by reference to a plat showing a~~  
43 ~~subdivision of such land before such plat has been approved by the Planning~~  
44 ~~Board or City Planner or his/her designee for minor subdivisions and recorded in~~  
45 ~~the office of the clerk of the Circuit Court of Volusia County, Florida, and any~~

1 ~~person to whom such transfer of sale is made, shall be guilty of a misdemeanor~~  
2 ~~and shall be punished accordingly, and the description by metes and bounds in~~  
3 ~~the instrument of transfer or other document used in the process of selling or~~  
4 ~~transferring shall not exempt the transaction from constituting an offense~~  
5 ~~hereunder. The City, through its City Attorney or other official designated by the~~  
6 ~~City Commission, may enjoin such transfer or sale by action for injunction,~~  
7 ~~whether or not the violator has been charged with or found guilty of a violation.~~

8  
9 \*\*\*

10 ARTICLE IV  
11 CONCURRENCY MANAGEMENT SYSTEM

12 \*\*\*

13 401.05 Concurrency/Development Order Review

14  
15 A. Concurrency/Development Order Evaluation Finding of Non-Deficiency

16  
17 A finding of non-deficiency by a concurrency/development order evaluation for  
18 public facilities and services as set forth in this Article shall remain valid until such  
19 time as final action is taken by the Local Planning Agency (LPA) or Plan Review  
20 Committee (PRC) for those projects requiring LPA or PRC action as set forth in  
21 Section 303, Article III. De minimus projects are not subject to LPA or PRC  
22 review and are approved by the City Planner noting that all public facilities and  
23 services are non-deficient. Once a development order has been issued, the  
24 concurrency/development order evaluation finding of non-deficiency shall remain  
25 valid and in force for the following prescribed timeframes:

- 26  
27 (1) ~~for a development order granting approval for a site plan, or subdivision~~  
28 ~~preliminary plat, the finding shall remain valid until the development order~~  
29 ~~expires, except where the intensity or density is increased from that~~  
30 ~~considered as part of the concurrency/development order evaluation. Any~~  
31 ~~increase in intensity or density shall require a new~~  
32 ~~concurrency/development order evaluation for the proposed project.~~

33 \*\*\*

34  
35 ARTICLE VI

36  
37 DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

38  
39 601.00 General

40  
41 ~~No final plat or site plan shall be approved by the Planning and Zoning Board, and/or~~  
42 ~~Plan Review Committee, or Planning and Zoning Department, until the Planning and~~  
43 ~~Zoning Department, Plan Review Committee and/or the Planning and Zoning Board~~  
44 ~~find, after reviewing the blue line prints construction plans, that all plans for the design~~  
45 ~~and improvements of the respective development meet or exceed the minimum~~

1 standards and requirements of this LDR. Additions and alterations to existing structures  
2 shall be required to conform to these requirements unless the improvement is  
3 determined to be unnecessary by the City Planner.

4  
5 602.00 Conformity with the Future Land Use Plan and Thoroughfare Plan

6  
7 The ~~subdividing~~ and development of any areas subject to this LDR shall be in  
8 conformity with:

- 9  
10 - The goals, objectives and policies of the adopted Comprehensive Plan;  
11  
12 - Policies and plans established by the Utilities Commission and City  
13 Commission with respect to water supply, sewerage and solid waste  
14 disposal, and other essential utilities;  
15  
16 - All City land development regulations;  
17  
18 - All County, State and Federal Agency regulations and permitting  
19 requirements, and  
20  
21 - All requirements of the ~~City~~ Plan Review Committee and Planning and  
22 Zoning Board.

23  
24 603.00 Responsible Entity

25  
26 The City Engineer shall be responsible for ensuring that all plans and specifications for  
27 required street, sidewalk, drainage, wetlands protection, ~~landscaping, tree preservation,~~  
28 and water management improvements meet or exceed the minimum City and State  
29 requirements and specifications.

30  
31 The Utilities Commission representative shall be responsible for ensuring that all plans  
32 and specifications for required potable water, sanitary sewer and electrical power  
33 improvements meet or exceed the minimum Utilities Commission, City and State  
34 requirements and specifications.

35  
36 The City Fire Marshal shall be responsible for ensuring that all plans and specifications  
37 for required fire protection, water and building improvements meet or exceed the City,  
38 State and National requirements and specifications.

39  
40 The City Horticulturist shall be responsible for ensuring that all plans and specifications  
41 for required landscaping meet or exceed the minimum City, County or State  
42 requirements and specifications.

43  
44 The City Postmaster shall be responsible for ensuring that all plans and specifications  
45 for postal services meet or exceed the minimum requirements of the Post Office.

1  
2 The City Police Chief shall be responsible for ensuring that all plans and specifications  
3 for required police protection meet or exceed the minimum requirements and  
4 specifications.

5  
6 The City Public Works Director shall be responsible for ensuring that all plans and  
7 specifications for required solid waste management meet or exceed the minimum City  
8 and State requirements and specifications.

9  
10 The ~~City Inspection Department Director~~ Chief Building Official shall be responsible for  
11 ensuring that all plans and specifications for required building improvements meet or  
12 exceed minimum City, State and Federal requirements and specifications.

13  
14 The City Planner shall be responsible for ensuring that all plans and specifications for  
15 required improvements meet or exceed the requirements of this LDR.

16  
17 The entity responsible for ensuring that all plans and specifications for required  
18 improvements meet or exceed minimum City, State, County and Federal requirements  
19 shall also ensure adequate inspection of construction for compliance with the approved  
20 plans and specifications and, if applicable, for issuing a certificate of completion upon  
21 the approved completion of the work subject to the maintenance period provided for.

22  
23 604.00 Required Improvements

24  
25 ~~604.01~~ Right-of-way

26  
27 A. ~~General Requirements~~

28  
29 ~~(1) All right-of-ways shall be designed and constructed to City specifications~~  
30 ~~and may be dedicated to the City after the City Engineer has approved the~~  
31 ~~construction. A surety must be provided by the developer for one (1) year~~  
32 ~~after construction is completed and a certificate of completion is issued to~~  
33 ~~ensure proper maintenance.~~

34  
35 ~~(2) The location of all proposed streets and bridges shall be in conformity with~~  
36 ~~the Comprehensive Plan.~~

37  
38 ~~(3) The proposed street layout shall be integrated with the street system of~~  
39 ~~the surrounding area. Where possible, existing principal streets shall be~~  
40 ~~extended in accordance with the Comprehensive Plan.~~

41 |  
42 ~~(4) Where, in the opinion of the Planning and Zoning Board, it is desirable to~~  
43 ~~provide for street access to an adjoining property, proposed streets may~~  
44 ~~be extended, if required by the Board, by dedication to the boundary of~~  
45 ~~such property and a temporary turnaround may be required.~~

1  
2       ~~(5) In order to maintain capacity and enhance public safety, where a~~  
3       ~~subdivision borders on or contains an arterial street, the subdivider has~~  
4       ~~two (2) alternatives for locating lots along the arterial street. One, front the~~  
5       ~~residential lots along a marginal access street, or two, develop 20%~~  
6       ~~deeper residential lots backing on the arterial street. A buffer screen of~~  
7       ~~decorating masonry or natural plant materials having a minimum width of~~  
8       ~~15 feet shall be required in connection with such subdivision. If no natural~~  
9       ~~plant material exists, then a 15 foot landscaped buffer shall be created.~~

10  
11 ~~B. Grading~~

12  
13       ~~(1) All streets, alleys, and private roads, shall be graded to their full right-of-~~  
14       ~~way width to the cross sections and profiles shown by the roadway plans~~  
15       ~~and as approved by the City Engineer.~~

16  
17       ~~(2) All swales and drainage ditches shall be cleared, graded and grassed as~~  
18       ~~shown on the plans and as approved by the City Engineer.~~

19  
20 ~~C. Subgrade~~

21  
22 ~~A stabilized subgrade to support the pavement base shall be constructed under all~~  
23 ~~streets, alleys, and private roads, as shown on the plans and as approved by the City~~  
24 ~~Engineer.~~

25  
26 ~~D. Pavement base~~

27  
28 ~~A base of the type and compacted thickness approved by the City Engineer shall be~~  
29 ~~constructed on all streets, alleys, and private roads.~~

30  
31 ~~E. Pavement surface~~

32  
33 ~~Asphalt pavement surface of the thickness approved by the City Engineer shall be~~  
34 ~~constructed on all streets, alleys, and private roads. Where portland cement concrete~~  
35 ~~pavements are constructed, the asphalt pavement surface requirement may be waived~~  
36 ~~by the City Engineer. No street shall be opened unless paved.~~

37  
38 ~~F. Curb and gutters~~

39  
40 ~~Portland cement concrete curb and gutters of a type and size approved by the City~~  
41 ~~Engineer shall be constructed along each edge of the street pavement. Where site~~  
42 ~~investigation of soils, groundwater table, slopes, topography and flooding potential~~  
43 ~~demonstrate that right-of-way swale drainage systems will meet the requirements of the~~  
44 ~~city's stormwater management regulations, these systems are encouraged to minimize~~  
45 ~~the impact of surface drainage on the environment. However, curbing shall be required~~

1 ~~to protect the pavement. Stormwater runoff shall be transmitted from the curb and~~  
2 ~~gutter to the swale drainage system in a manner acceptable to the City Engineer.~~

3  
4 ~~G. Sub-surface Drainage~~

5  
6 ~~Where the ground water table is within the stabilized subgrade areas, subsurface drains~~  
7 ~~shall be constructed along such streets. Additional subsurface drains may be required~~  
8 ~~as directed by the City Engineer.~~

9 ~~H Street Signs and Traffic Signs~~

10  
11 ~~Street signs indicating the name of each street shall be installed at all intersections.~~  
12 ~~Street sign design shall be approved by the City Engineer. Traffic signs shall be~~  
13 ~~installed as required by the Chief of Police at the time of final approval. Traffic signs~~  
14 ~~shall conform to the "Manual of Uniform Traffic Control Devices". Traffic control signs~~  
15 ~~and street name signs shall be covered with reflective materials Types II or III as~~  
16 ~~indicated in U.S. Department of Transportation FP-79 Section 633.06 or Types A and B~~  
17 ~~as indicated in Florida Department of Transportation Standard Specifications for Road~~  
18 ~~and Bridge Construction. Signs will be mounted on round steel posts of a minimum of~~  
19 ~~two and three-eighths (2 3/8) inches OD (outside diameter), the heights required in the~~  
20 ~~above references. Posts shall be set in concrete at time of installation. Street signs~~  
21 ~~may be mounted on an alternate type post if the City Engineer certifies that the material~~  
22 ~~is of equal or better strength than the round steel posts.~~

23  
24 ~~I. Outdoor Street Lighting~~

25  
26 ~~Street lighting shall be required in all subdivisions and shall be located at all street~~  
27 ~~intersections and curves, spaced along tangents approximately every 300 feet and shall~~  
28 ~~have shielded non-glare fixtures. Outdoor lighting pole material and style shall be~~  
29 ~~approved by the Planning and Zoning Department. The lighting details, including~~  
30 ~~candlus curves shall be indicated on the construction plans.~~

31  
32 ~~J. Street Names~~

33  
34 ~~Proposed streets, which are obviously in alignment with others existing and named,~~  
35 ~~shall bear the assigned name of the existing streets. In no case, shall the name for a~~  
36 ~~proposed street duplicate or be phonetically similar to existing street names and the fact~~  
37 ~~that the name is sought to be distinguished only by employing a different designation of~~  
38 ~~the type of public way, such as street, avenue, boulevard, drive, place, court, and the~~  
39 ~~like, shall not suffice. Street names shall require approval of the Postmaster of the New~~  
40 ~~Smyrna Beach Post Office and the E911 Coordinator for the City of New Smyrna~~  
41 ~~Beach.~~

42  
43 ~~K. Right-of-Way Typical Sections~~

- 1           ~~(1) All roads within a development shall be constructed to the standards as~~  
2           ~~indicated in Illustrations 604.01K(1)a. - n. unless exempted below. (Ord. #~~  
3           ~~35-10)~~  
4  
5           ~~(2) The City Planning and Zoning Board shall determine which typical section~~  
6           ~~shall be used for a development upon receipt of a recommendation from~~  
7           ~~the City Planner and City Engineer.~~  
8  
9           ~~(3) All new subdivisions shall construct the local roads according to Illustration~~  
10           ~~604.01K(1)c., d., or e. unless exempted below. (Ord. # 35-10) (Ord. # 11-~~  
11           ~~94)~~  
12  
13           ~~(4) All new collector roads shall have a minimum right-of-way of 80 feet.~~  
14  
15           ~~(5) All new arterial roads shall have a minimum right-of-way of 100 feet.~~  
16  
17           ~~(6) All cul-de-sacs shall have a minimum bulb radius of 55 feet and pavement~~  
18           ~~radius of 45 feet.~~  
19  
20           ~~(7) All cul-de-sacs shall have a maximum length of 1000 feet measured from~~  
21           ~~the center of the bulb to the center of the intersecting roadway.~~  
22  
23           ~~(8) Private streets and roads shall be allowed in the City of New Smyrna~~  
24           ~~Beach subject to the following conditions: \_\_\_\_\_ [Ord.~~  
25           ~~No. 52-01]~~  
26  
27           ~~a. All streets must be built and maintained to the applicable City,~~  
28           ~~County and State Standards.~~  
29  
30           ~~b. The owner(s) of any private street, road, or way, must execute an~~  
31           ~~agreement with the City of New Smyrna Beach to maintain the~~  
32           ~~private street, road or way to the applicable City, County and State~~  
33           ~~Standards; and, further provide the City with a Performance Bond,~~  
34           ~~Letter of Credit, or other acceptable security to guarantee~~  
35           ~~performance under said agreement. Any such agreement shall~~  
36           ~~specifically provide that in the event of any default under the~~  
37           ~~agreement the owner(s) shall deed, in fee simple, the street, road,~~  
38           ~~or way, to the City of New Smyrna Beach, and the City of New~~  
39           ~~Smyrna Beach shall be entitled to utilize the Performance Bond,~~  
40           ~~Letter of Credit, or other acceptable security to bring the street,~~  
41           ~~road, or way up to the applicable standards that may be in force at~~  
42           ~~the time of the default. The agreement shall provide that in the~~  
43           ~~event of default the City shall maintain the street, road or way in the~~  
44           ~~normal and customary manner. The City Commission shall~~

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14

~~approve the terms and conditions of the aforesaid agreement and  
the amount of the guarantee.~~

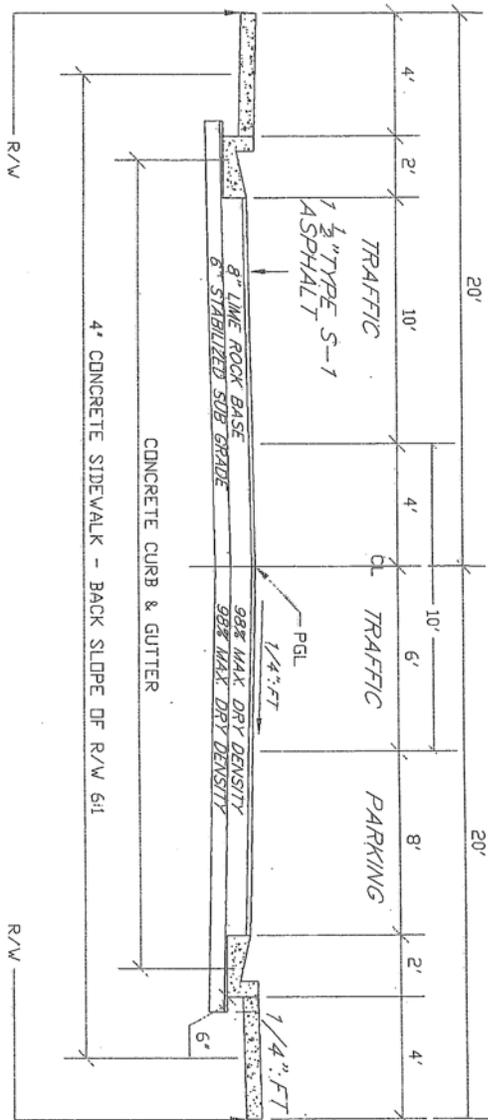
~~c. Reserved.~~

~~(9) Street paving waivers may be approved by the City Commission on a  
case-by-case basis, based upon the merits of the project, the character of  
the surrounding neighborhood, and the estimated City maintenance costs  
over 10 years. Application shall be made using the form prepared by the  
Planning Department and shall be accompanied by a \$250.00 filing fee.~~

~~**(Ord.#35-10)**~~

~~[Revised 3/27/02]~~

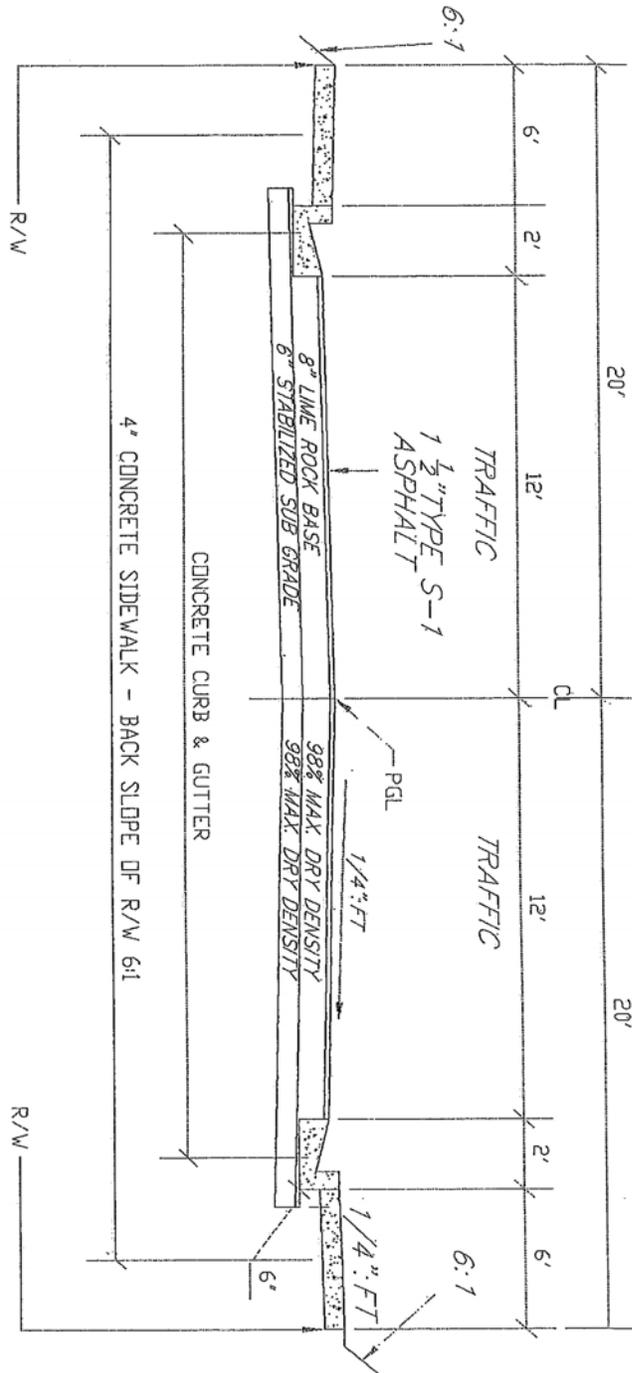
ILLUSTRATION 604.01K(1)A.



40' R/W, 2 TRAFFIC, CURB + GUTTER, PARKING	
CITY OF NEW SMYRNA BEACH FLORIDA	
DEVELOPMENT SERVICES	
SCALE: N.T.S.	Svr Yoss Sections.dwg

This drawing to be deleted

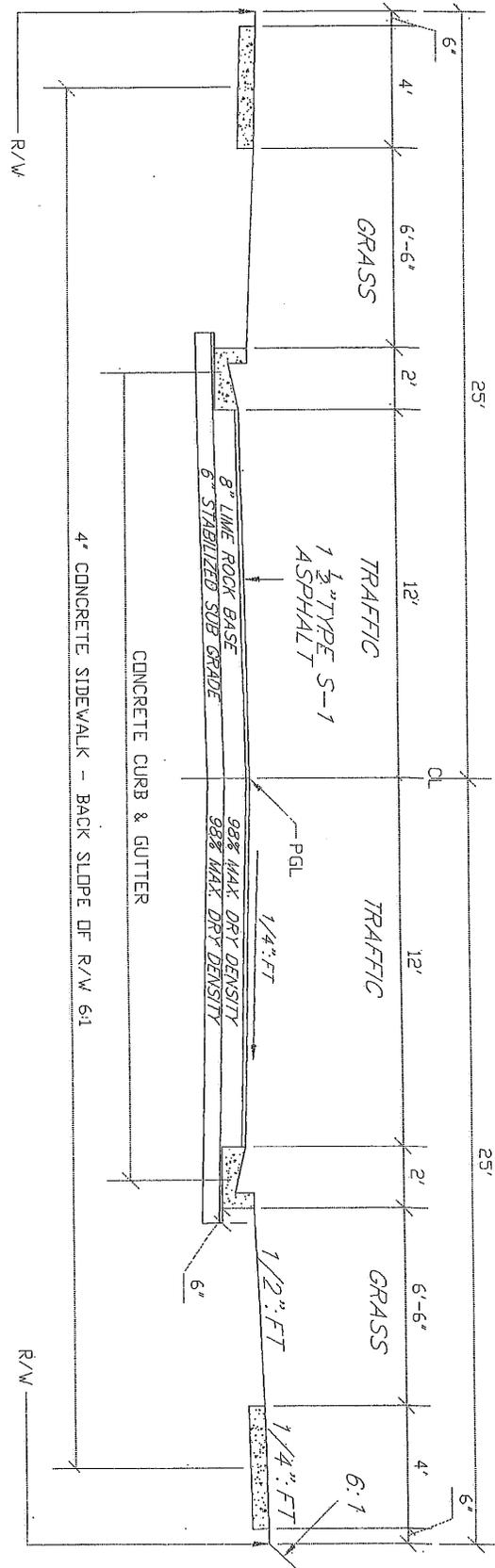
ILLUSTRATION 604.01K(1)B.



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40' R/W, 2 TRAFFIC, CURB + GUTTER, NO PARKING
CITY OF NEW SMYRNA BEACH FLORIDA
DEVELOPMENT SERVICES
SCALE: N.T.S.

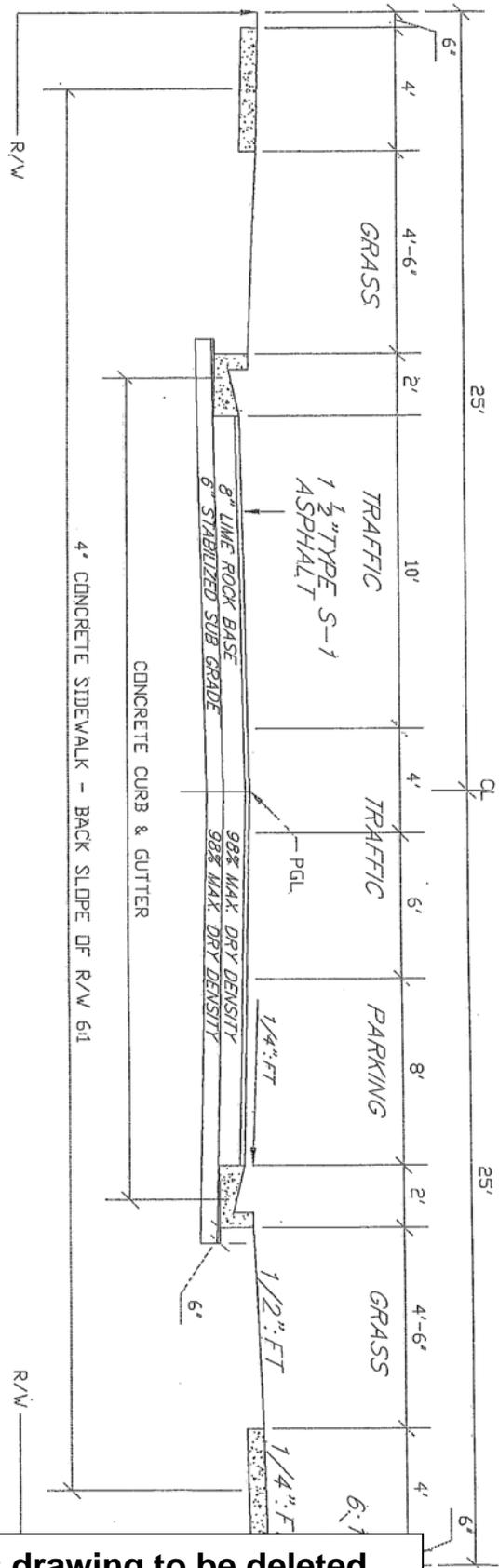
ILLUSTRATION 604.01K(1)C.



50' R/W, 2 TRAFFIC, CURB + GUTTER, NO PARKING
CITY OF NEW SMYRNA BEACH FLORIDA
DEVELOPMENT SERVICES
SCALE: N.T.S.
Str Cross Sections.dwg

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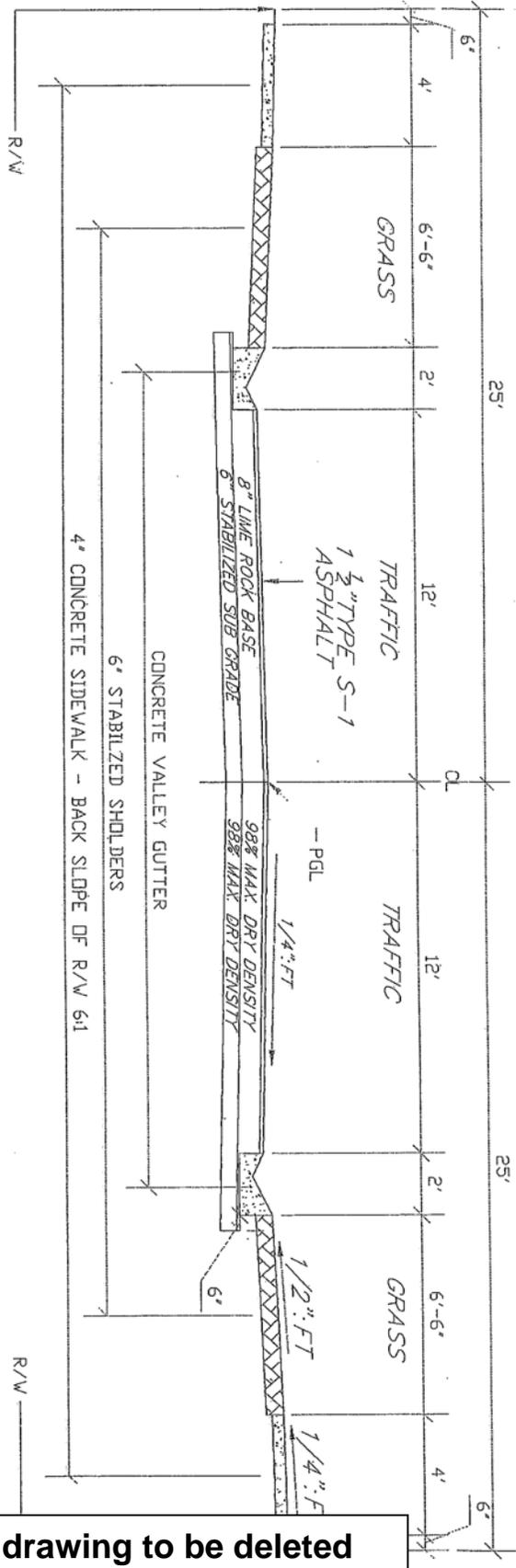
ILLUSTRATION 604.01K(1)D.



**This drawing to be deleted**

50' R/W, 2 TRAFFIC, CURB + GUTTER, PARKING
CITY OF NEW SMYRNA BEACH FLORIDA
DEVELOPMENT SERVICES
SCALE: N.T.S.
Str Cross Sections.dwg

ILLUSTRATION 604.01K(1)E.

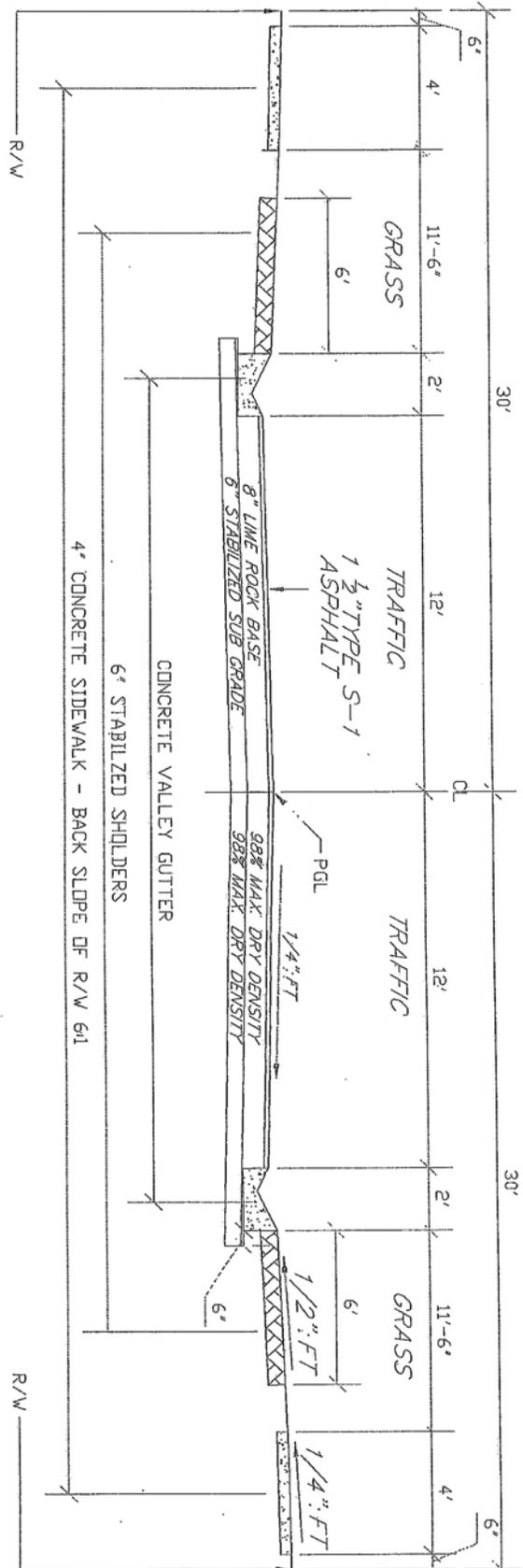


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50' R/W, 2 TRAFFIC, VALLEY GUTTER, NO PARKING
CITY OF NEW SMYRNA BEACH FLORIDA
DEVELOPMENT SERVICES

SCALE: N.T.S.      SHEET: Cross Sections.dwg

ILLUSTRATION 604.01K(1)F.



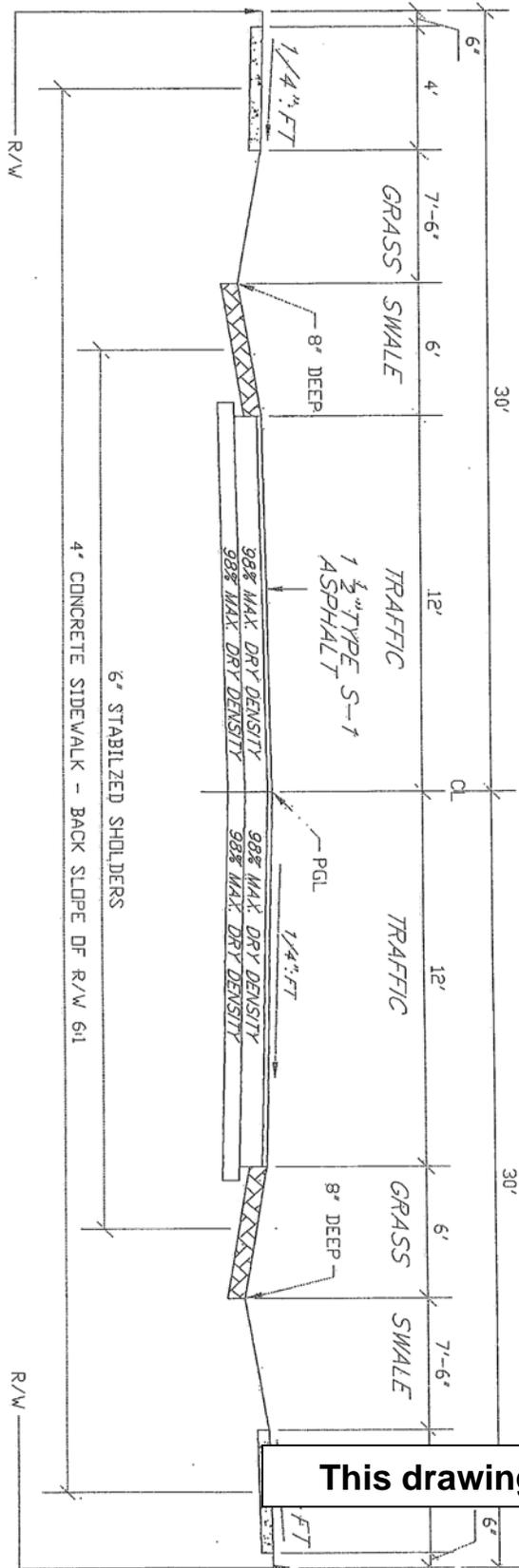
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60' R/W, 2 TRAFFIC, VALLEY GUTTER
CITY OF NEW SMYRNA BEACH FLORIDA
DEVELOPMENT SERVICES

SCALE: N.T.S.

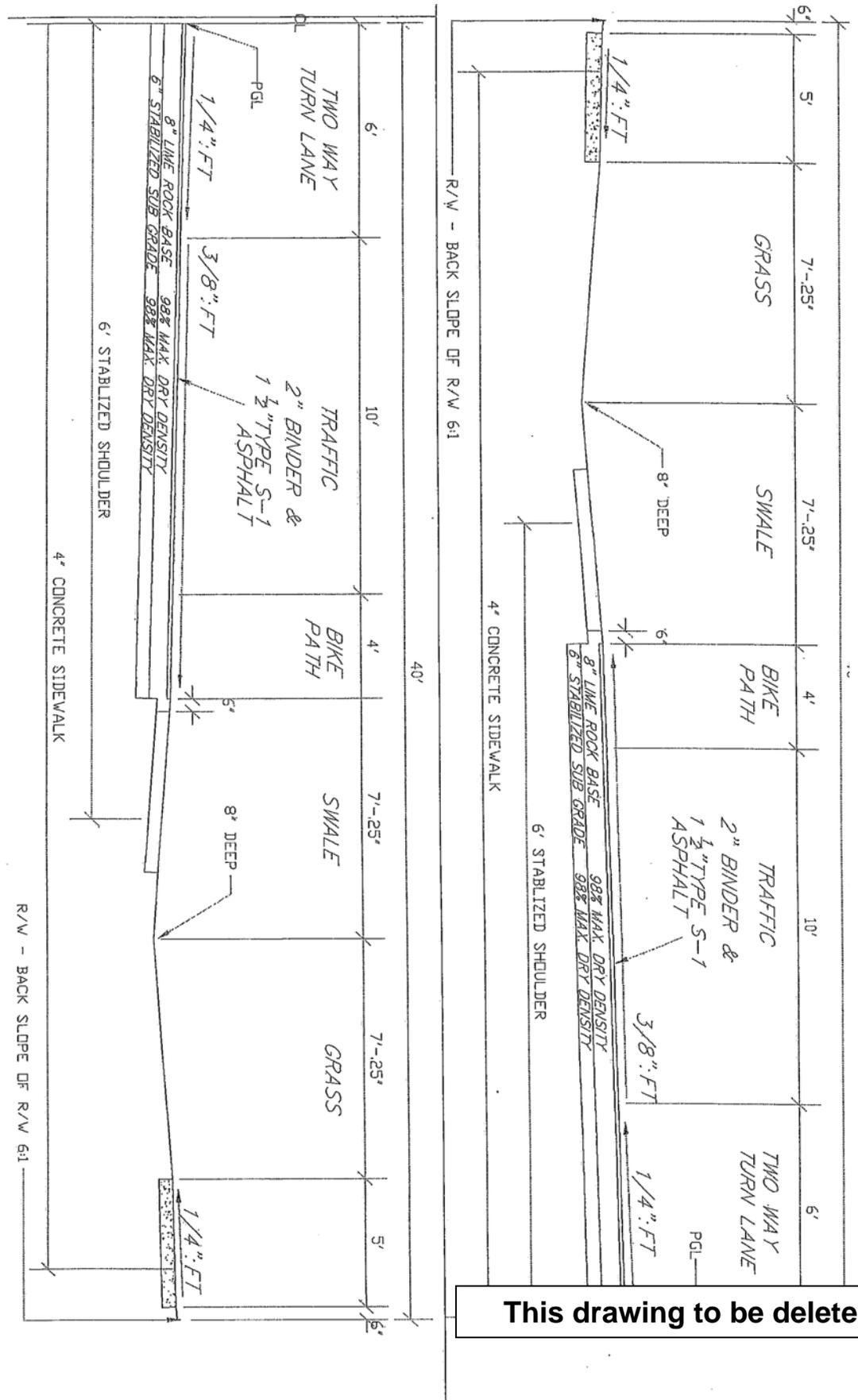
Site - Cross Sections.dwg

ILLUSTRATION 604.01K(1)G.



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60' R/W, 2 TRAFFIC, GRASSSED SWALE
CITY OF NEW SMYRNA BEACH FLORIDA
DEVELOPMENT SERVICES
SCALE: N.T.S.
Site Cross Sections.dwg



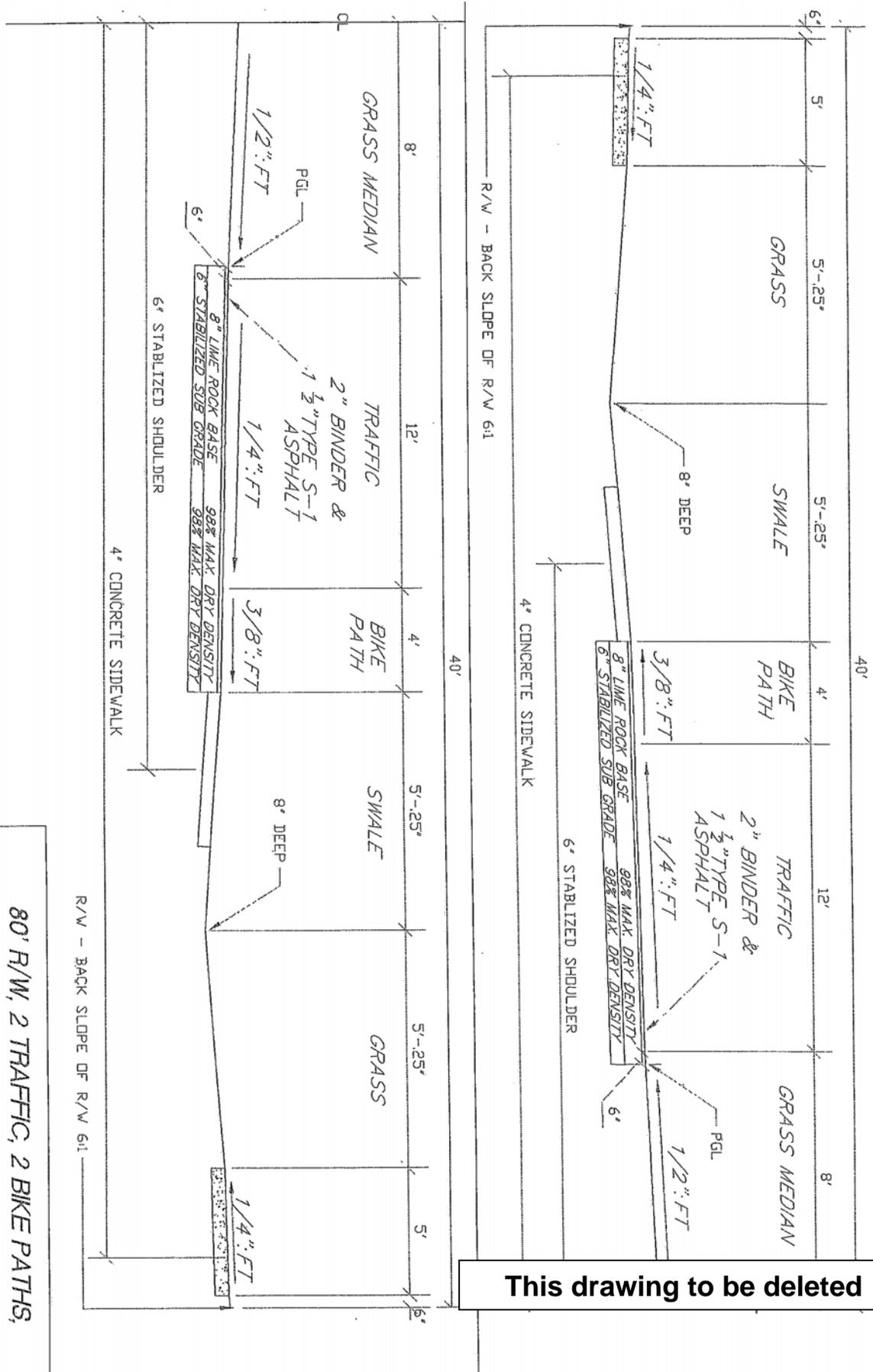
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ILLUSTRATION 604.01K(1)H.

80' R/W, 2 TRAFFIC, 1 TURN LANE, 2 BIKE PATHS + GRASS SWALES  
 CITY OF NEW SMYRNA BEACH  
 FLORIDA  
 DEVELOPMENT SERVICES

SCALE: N.T.S. Street Cross Sections.dwg

ILLUSTRATION 604.01K(1)1.

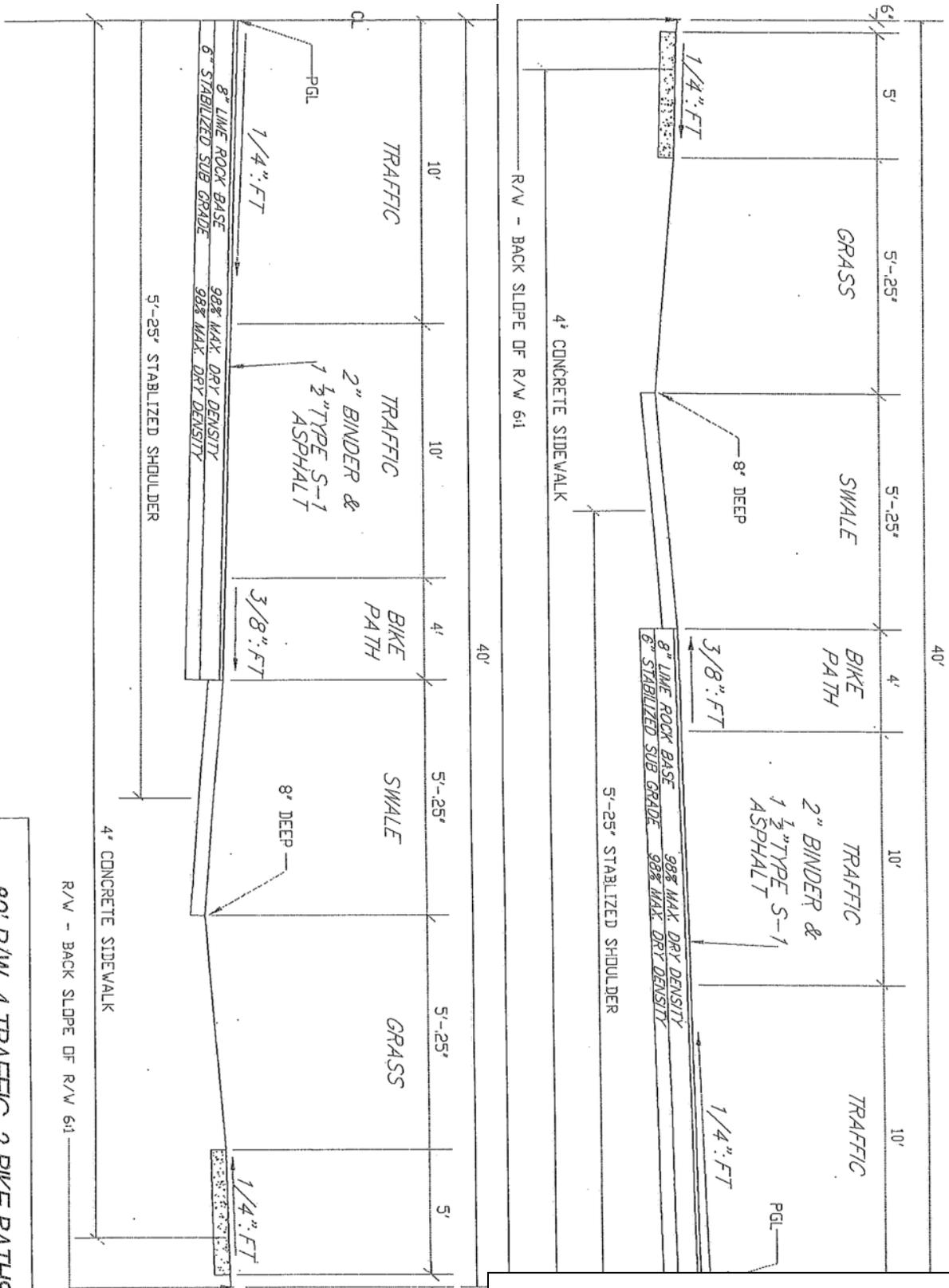


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80' R/W, 2 TRAFFIC, 2 BIKE PATHS,  
 GRASS MEDIAN + GRASS SWALES  
 CITY OF NEW SMYRNA BEACH  
 FLORIDA  
 DEVELOPMENT SERVICES

SCALE: N.T.S.

Site Cross Sections.dwg



**This drawing to be deleted**

*ILLUSTRATION 604.01K(1)J.*

80' R/W, 4 TRAFFIC, 2 BIKE PATHS + GRASS SWALES
CITY OF NEW SMYRNA BEACH FLORIDA
DEVELOPMENT SERVICES
SCALE: N.T.S.
Street Cross Sections.dwg

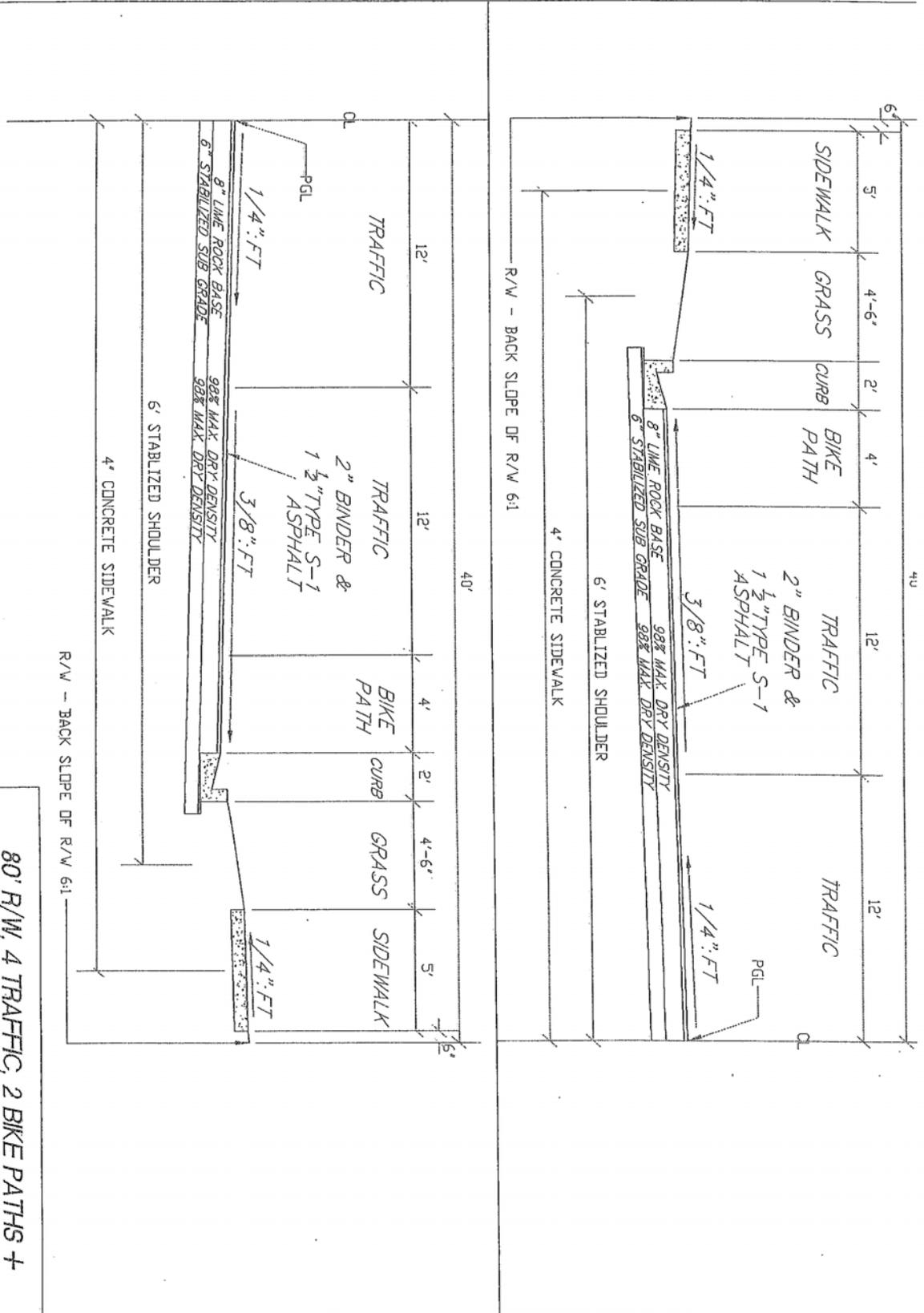
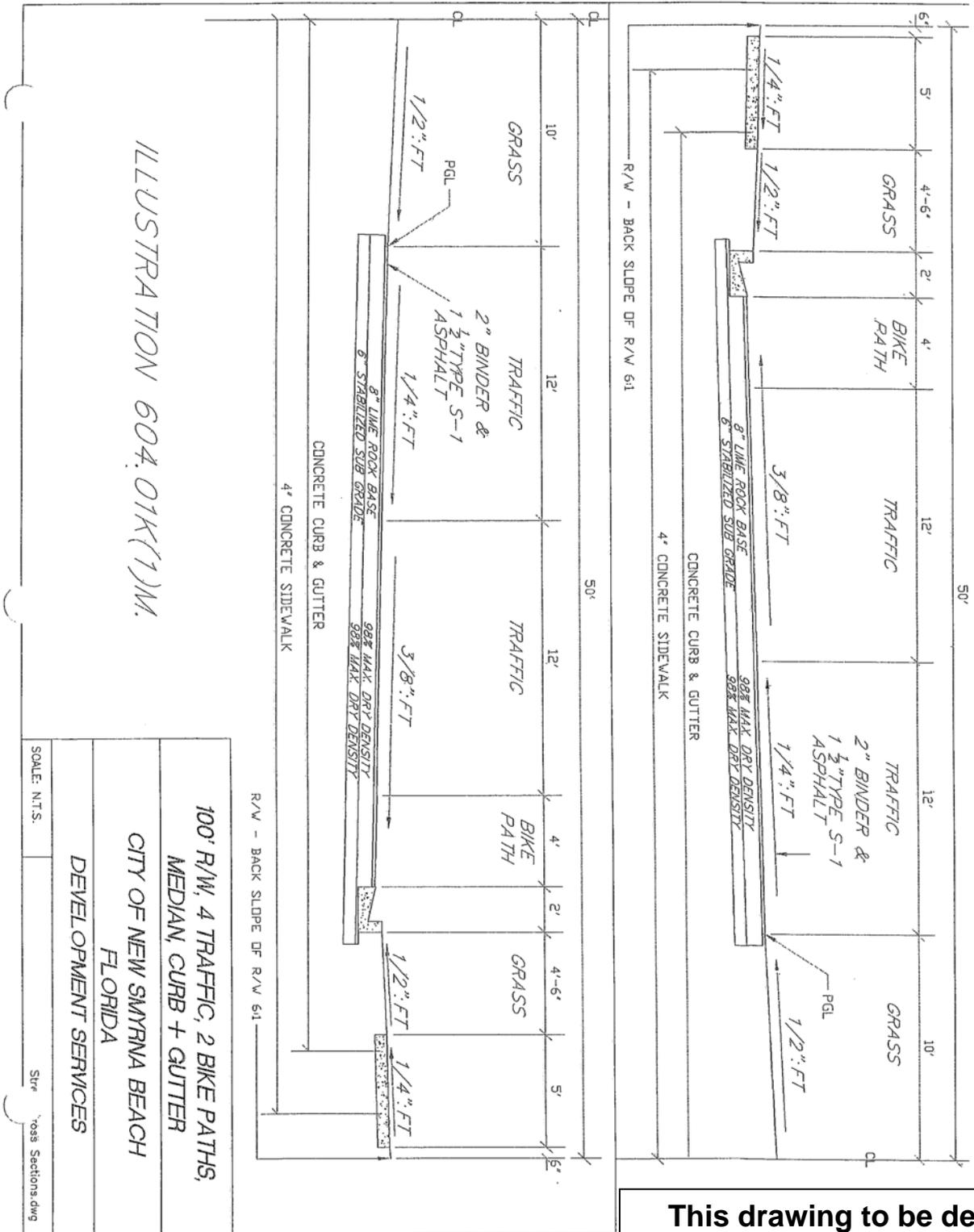


ILLUSTRATION 604.01K(1)K.

80' R/W, 4 TRAFFIC, 2 BIKE PATHS + CURB AND GUTTER
CITY OF NEW SMYRNA BEACH
FLORIDA
DEVELOPMENT SERVICES
SCALE: N.T.S.
Stre Cross Sections.dwg

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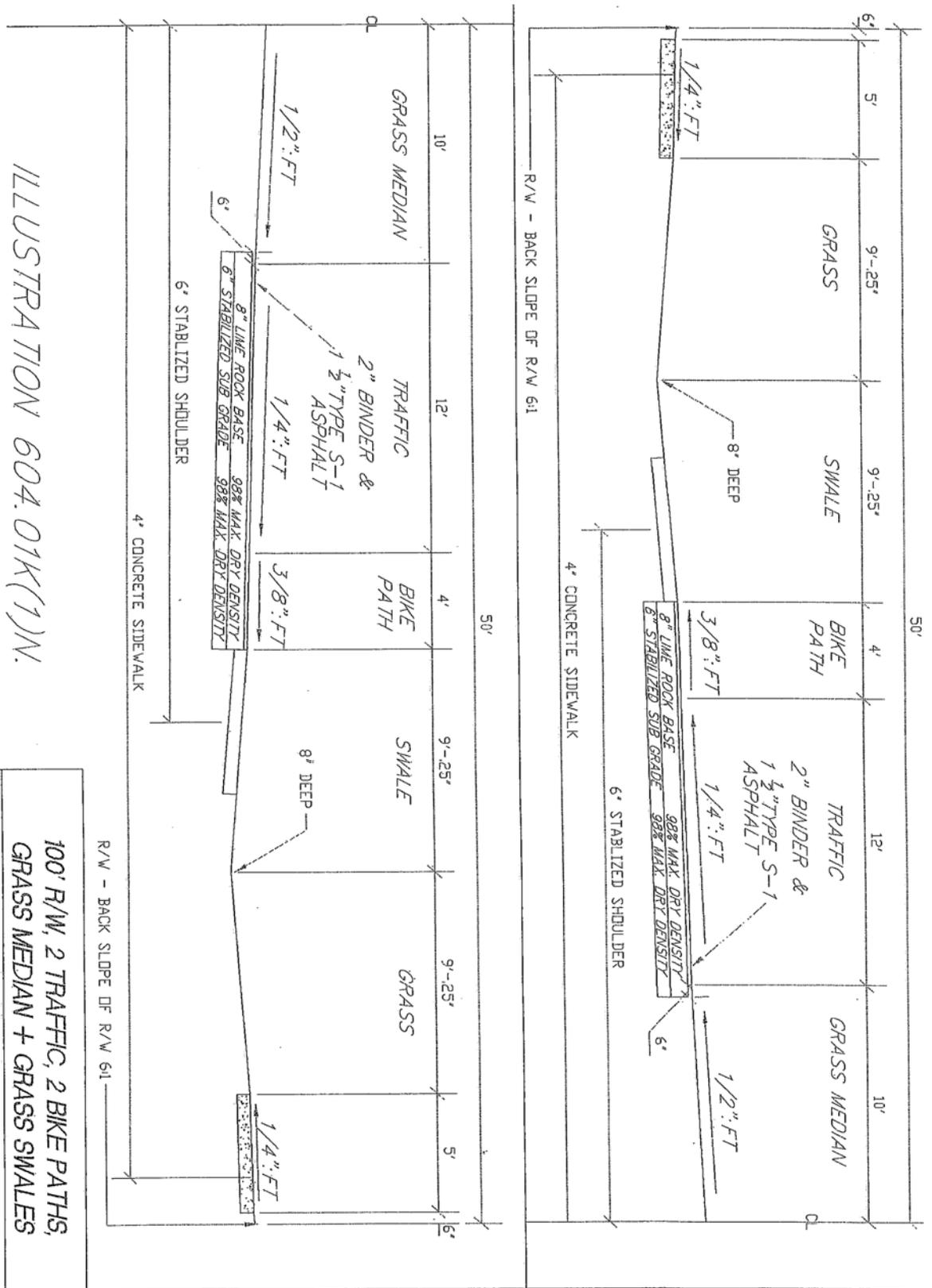


ILLUSTRATION 604.01K(1)N.

100' R/W, 2 TRAFFIC, 2 BIKE PATHS, GRASS MEDIAN + GRASS SWALES
CITY OF NEW SMYRNA BEACH FLORIDA
DEVELOPMENT SERVICES
SCALE: N.T.S.
Str Cross Sections.dwg

This drawing to be deleted

~~604.02~~ 604.01 Stormwater Management and Drainage

A. General Requirements

\*\*\*

~~604.03~~ 604.02 Utilities

A. General Requirements

\*\*\*

~~604.04~~ 604.03 Fire Protection

\*\*\*

~~604.05~~ 604.04 Landscaping Requirements

A. *Shrubs.* Each residential lot within a subdivision developed after the effective date of this ordinance shall have a minimum of ten shrubs preserved or planted on the property. No less than eight of the shrubs shall be located in front of the home. The shrubs shall be a minimum of 18 inches in height. No certificate of occupancy shall be issued until this requirement has been met.

~~B. *Subdivision Entrance.* Subdivisions shall provide a landscaped entrance buffer having minimum dimensions of twenty (20) feet in width, fifty (50) feet in depth and one thousand (1000) square feet in area on both sides of the main vehicular entranceway to the subdivision. The landscaping shall conform to the minimum landscaping requirements contained within these Land Development Regulations. Subdivision identification signage is allowed in this landscaped entranceway.~~

~~C. *Recreation Area Requirements.* All disturbed recreation areas within a subdivision shall be sodded except that recreation areas having trails for walking, jogging or biking in a corridor or lineal type fashion, and having a length of at least 250 feet and a width of at least 15 feet, may be left natural.~~

DB. *Landscape Plan.* A landscape plan, signed and sealed by a landscape architect, shall be submitted with each site plan. The plan shall indicate the type, size, and location of plant materials and shall include plans and specifications for an irrigation system. Two (2) sketch landscape plans shall be prepared at the site by the architect or engineer in collaboration with the City Manager or his designee. One plan is then given to the City Manager or his designee and the other plan is used by the architect or engineer in preparing the final landscape plan to be submitted with the site plans to the Planning Department.

The final landscape plan shall be reviewed by the City Manager or his designee and no building permit shall be issued by the Building Department for any building until the plan is approved and the following steps have been taken: (1) a land clearing permit has been issued by the City Engineer; (2) existing trees and vegetation to remain on the property have been flagged by the developer, or his/her designee, and verified by the City Manager or his designee. A certificate

of occupancy cannot be issued until the City Manager or his designee has verified to the Building Official, in writing, that all landscape and irrigation improvements have been completed in accordance with the approved landscape plan.

The following regulations shall apply to the landscape plans:

- (1) All plant materials shall be Florida No. 1 grade, or better, according to the current "Grades and Standards for Nursery Plants," State of Florida, Department of Agriculture, Tallahassee, except where in the discretion of the City Manager or his designee, natural vegetation is adequate to provide the necessary visual screening.
- (2) Tree species shall be a minimum of nine (9) feet in height and have a minimum caliper of two and one-half (2.5) inches when measured six (6) inches above ground level. Also, trees planted within 12 feet of publicly maintained streets or other improvements shall be selected from a "List of Trees" available at the Parks and Recreation Department or shall be a tree species approved by the City Manager or his designee.
- (3) Shrubs and hedges shall be a minimum of 2 feet in height, immediately after planting. Plants shall be spaced no more than 3 feet apart measured from center to center.
- (4) Ground covers may include any plant materials that reach an average height of not more than 12 inches. They may be used in lieu of grass. Ground covers must present a finished appearance and provide reasonably complete coverage at time of planting.
- (5) Grassed areas shall be planted with any species of grass common to Central Florida. Such areas shall be sodded, plugged, or sprigged. Sod is required in swales or other areas subject to erosion.
- (6) Stone, gravel, cypress mulch, bark, or a mulch approved by the City Manager or his designee shall be used in combination with other plants.

EC. *Landscaped Buffer Requirements.* Where a landscaped buffer area is required, the following regulations shall apply:

- (1) A landscaped buffer area shall be provided in zoning districts as required in Article V. Such buffer shall be not less than seven (7) feet in width unless otherwise specified, measured at right angles to the property line and landscaped with twenty (20) percent trees, sixty (60) percent shrubs and hedges, and twenty (20) percent any combination of materials described in Section 604.05 D.(2), (3), (4), and (6).

(2) When a landscaped buffer area abuts a single family or two-family zoning classification, it shall include a visual screen constructed of materials as described in Section 604.05 E.(3) or a decorative screening wall or fence.

(3) If plant materials are used for screening, they shall be selected and located to provide, within two (2) years, a visual barrier that is three (3) feet to six (6) feet above the average ground level of the buffer area.

(4) If a decorative wall or fence is used for screening, it shall be six (6) feet high with shrubs or vines planted abutting the side of the wall or fence facing the adjoining property or street. Shrubs and vines shall be planted at intervals of no more than ten (10) feet.

(5) Properties with 25-foot utility easements, per Section 604.03 of this LDR, shall have the following landscape buffer requirements:

- a. Properties requiring 35-foot landscape buffers shall overlap the landscape buffer with the utility easement by 15-feet, with the utility easement being adjacent to the right-of-way and the landscape buffer being interior to the utility easement. All required buffer plantings shall be placed outside the easement, with the exception that shrubs and those species of trees that will not exceed 20-feet in height at maturity may be placed within the 15-foot overlap area.
- b. Properties requiring 25-foot landscape buffers shall overlap the landscape buffer with the utility easement by 10-feet, with the utility easement being adjacent to the right-of-way and the landscape buffer being interior to the utility easement. All required buffer plantings shall be placed outside the easement, with the exception that shrubs and those species of trees that will not exceed 20-feet in height at maturity may be placed within the 10-foot overlap area. Permitted trees in the overlap area are listed in Section 604.04.
- c. Properties requiring 20-foot landscape buffers shall overlap the landscape buffer with the utility easement by 5-feet, with the utility easement being adjacent to the right-of-way and the landscape buffer being interior to the utility easement. All required buffer plantings shall be placed outside the easement, with the exception that shrubs and those species of trees that will not exceed 20-feet in height at maturity may be placed within the 5-foot overlap area. Permitted trees in the overlap area are listed in Section 604.04.
- d. Properties zoned PUD-Planned Unit Development-must comply with the minimum 20-foot landscape buffer

requirements provided in item c. above, but may negotiate less of the buffer overlapping the utility easement, thus providing a greater amount of buffer outside of the utility easement area.

- e. Permitted plantings within the landscape buffer-utility easement overlap area are as follows:
- Big leaf snowbell (*Styrax grandifolia*)
  - Bird-of-paradise (*Strelitzia nicolai*)
  - Blackhaw Viburnum (*Viburnum rufidulum*)
  - Bottlebrush Tree (*Calistemon landeolata* or *C. viminalis*)
  - Carolina/sand Holly (*Ilex ambigua*)
  - Chapman Oak (*Quercus chapmanii*)
  - Citrus Trees (e.g., Citrus limon, Citrus paradise, etc.)
  - Devilwood (*Osmanthus aericanus*)
  - Japanese Maples (*Acer palmatum* sp.)
  - Kousa Dogwood (*Cornus kousa*)
  - Little Gem Magnolia (*Magnolia grandiflora* “Little Gem”)
  - May Haw (*Crataegus aestivalis*)
  - Myrtle-leaved Holly (*Ilex cassine myrtifolia*)
  - Red Stopper (*Eugenia rhombea*)
  - Service Berry (*Amelanchier arborea*)
  - Small-leaved Clusia (*Clusia rosea*)
  - Smoketree (*Cotinus coggyria*)
  - Spanish Stopper (*Eugenia foetida*)
  - Summer Haw (*Crataegus flava*)
  - Sweet Acacia (*Acacia farnesiana*)
  - Weeping Yaupon Holly (*Ilex vomitoria* ‘Pendula’)
  - White Cordia (*Cordia boissieri*; which is close to extinction)
  - Yaupon Holly (*Ilex vomitoria*)
  - Any other tree noted to have a mature height of 20 feet or less that can be grown in New Smyrna Beach growing zone-currently 9b)
  - Palms
  - Shrubs
  - Groundcover

Ord. # 37-08

- FD. *Commercial Buffers.* Required off-street parking areas having off-street parking spaces for more than eight (8) vehicles shall have interior landscaped areas covering ten (10) percent of the total off-street parking area; however, shopping centers in the B-5, Planned Shopping Center District, shall have interior landscaped areas covering twenty (20) percent of the total off-street parking area. Interior landscaped areas are exclusive of any required landscaped buffer

areas. No more than twenty-five (25) percent of the required interior landscaped area shall be placed in any one location except as necessary for minimum area requirements. The interior landscaped area shall include a minimum of one (1) tree per one hundred (100) square feet or fraction thereof. Interior landscaped areas shall have a minimum area of seventy-five (75) square feet with no dimensions less than six (6) feet.

Each landscaped area shall include at least one (1) tree. The remaining area shall be landscaped with shrubs (less than 4 feet high), grass, or a ground cover, and all plants shall be mulched.

GE. *Irrigation.* All landscaped areas shall be irrigated with a workable underground irrigation system except that areas left natural do not need to be irrigated.

HE. *Multifamily Irrigation.* All multi-family developments containing more than 10 units shall use a non-potable water irrigation system for watering landscaped areas.

IG. *Failure to Maintain Irrigation System.* All landscaped areas and irrigation systems must be maintained in perpetuity by the property owner, tenant, or agent according to these regulations at a minimum. Any property owner who does not maintain the landscaped areas in a healthy, neat, and orderly fashion, free from refuse and debris, is subject to action from the Code Enforcement Officer and Citizens Code Enforcement Board.

JH. *Common Space Sodding Requirement.* All common space, whether used for water retention or not, shall be sodded and irrigated.

KI. *Residential Sodding within 90 Days.* All residential lots shall be fully landscaped no longer than ninety (90) days after a certification of occupancy has been issued for the dwelling unit.

LJ. *Property Owner's Duty to Sod Right-of-way.* It is the responsibility of the property owner, renter, lessee, or agent, adjacent to the right-of-way to sod all areas within the right-of-way which do not contain the road, curb or sidewalk prior to the City issuing a certificate of occupancy for a home or other building.

MK. *Curb to Protect Landscaping.* All landscaped areas, whether on private property or public right-of-way, shall be curbed to protect the landscaping from traffic. If the elevation of a grassed landscaped area is the same as the surrounding impervious area, than curbing shall be gapped to allow flow of water into and through the grassed landscaped area.

604.051 Tree Preservation

\*\*\*

A. In General – Tree Removal

\*\*\*

~~(4) **Subdivision Regulations.** The following tree regulations shall apply in new subdivisions. This provision shall not apply to the subdivision of less than five residential lots or an acre or less of non-residential development. Properties having made an application for new subdivisions prior to the adoption of this section and active at the time of the adoption of this section shall comply with the tree regulations in force at the time the building or development permit was approved.~~

~~a. **One Tree per Every 2,500 Square Feet of Property.** Each lot shall contain a minimum of one tree for every 2,500 square feet of lot area or portion thereof (rounded to the nearest whole number. [See, §50-170(1) Volusia Code of Ordinances]). If a lot contains an insufficient number of existing trees to meet this requirement, or if the lot has no existing trees to meet this requirement, replacement trees shall be provided.~~

~~b. **15% of Development Set Aside for Trees.** Fifteen percent (15%) of the area of any subdivision shall be designated for the protection of trees. The area required to protect Specimen trees may be included to satisfy this requirement. This required area may be constituted as one or more sub-areas within the development. Said area may include any landscape buffer or other landscape areas required by the Land Development Regulations for a development. Such designated areas shall contain sufficient land area to comply with minimum tree protection standards to adequately protect the trees contained within the areas. A minimum of fifty percent (50%) of the required minimum number of trees as provided in subsection (4)a. above shall consist of existing trees within said area. This requirement does not apply to single-family lots in approved subdivisions or additions, remodeling or similar modification of existing multi-family or non-residential development.~~

~~c. **Specimen Tree Protection.** The following table sets forth the minimum requirements for the protection of Specimen trees:~~

<del>NO. OF SPECIMEN TREE</del>	<del>MINIMUM SPECIMEN TREE PROTECTION REQUIREMENT</del>
<del>Less than 3 per acre or a portion thereof.....</del>	<del>80% of all Specimen trees</del>
<del>3.0 to 5.0 per acre.....</del>	<del>60% of all Specimen trees</del>
<del>5.1 to 8.0 per acre.....</del>	<del>50% of all Specimen trees</del>
<del>8.0 or more per acre.....</del>	<del>4 Specimen trees per acre</del>

~~d. **Legal Mechanism to Protect Specimen Trees.** The developer of a subdivision shall provide legal mechanisms which ensure the protection of Specimen trees after construction has occurred on the development. Such mechanisms may include but shall not be limited to conservation easements, common open space, tree protection easements, deed restrictions and homeowners' association documents. However, the Specimen tree protection on residential lots shall only apply in the designated setback areas. Said legal mechanism shall be reviewed and approved by the City Attorney. The City Commission shall set by resolution a reasonable fee for this review. (See §50-170 of the Volusia County Code of Ordinances.)~~

\*\*\*

0 ~~604.06~~ 604.05 Addressing and Mail Delivery

1

2 \*\*\*

3 ~~604.07~~ 604.06 Police Protection

4

5 \*\*\*

6 ~~604.08~~ 604.07 Solid Waste Management

7

\*\*\*

8 ~~604.09~~ 604.08 Building Improvements

9

\*\*\*

10 ~~604.10~~ 604.09 Off-Street Parking, Loading, and Driveways

11

\*\*\*

12 604.11 Permanent Reference Points

13

14 The following shall be required in all subdivisions:

15

16 A. ~~Subdivision Corner Tie~~

17

18 ~~At least one (1) corner of the subdivision shall be designated by course and~~  
19 ~~distance (tie) from a readily discernible reference marker, such as a U.S.~~  
20 ~~Government marker, section corner or quarter-section corner. When such a~~  
21 ~~monument or station is not available, the tie shall be made to some pertinent and~~  
22 ~~readily recognizable landmark or identifiable point, physical object or structure.~~

23

24 B. ~~Monuments~~

25

1       ~~Within each block of a subdivision at least two (2) monuments designed and~~  
2       ~~designated as control corners shall be installed. The surveyor shall employ~~  
3       ~~additional monuments when required by the City Engineer. All monuments shall~~  
4       ~~be constructed of metal encased in concrete and shall be at least four (4) inches~~  
5       ~~in diameter or square and not less than three (3) feet in length. Each monument~~  
6       ~~shall have embedded its top or attached by a suitable means, a metal plate of~~  
7       ~~non-corrosive material and marked plainly with the point, the surveyor's~~  
8       ~~registration number, the month and year it was installed, and the words~~  
9       ~~"Permanent Reference Monument" or the initials "P.R.M." to designate the same.~~  
10       ~~Monuments shall be set in the ground so that the top is flush with the finish~~  
11       ~~grade.~~

12  
13   C. ~~Property Markers~~

14  
15       ~~Steel or wrought iron pipe or the equivalent not less than three-fourths (3/4) inch~~  
16       ~~in diameter and at least thirty (30) inches in length shall be set at all corners,~~  
17       ~~except those located by monuments. A marker shall also be set at a point of~~  
18       ~~curve, point of intersection, property corner, point of tangency and reference~~  
19       ~~point unless a monument is placed at said points. Additional markers shall be~~  
20       ~~placed where required by the City Engineer.~~

21  
22   D. ~~Accuracy~~

23  
24       ~~The allowable angular and linear error of closure for subdivision surveys shall be~~  
25       ~~as follows:~~

26  
27       ~~(1) Angular error of closure shall not exceed fifteen (15) seconds times the~~  
28       ~~square root of the number of angles turned. Total angular error shall be~~  
29       ~~no greater than forty (40) seconds.~~

30  
31       ~~(2) Linear error of closure shall not exceed one foot per ten thousand~~  
32       ~~(1:10,000) feet.~~

33  
34   ~~604.12~~       604.10 Sidewalks

35  
36   A.   General requirements

37  
38       ~~(1) Sidewalks shall be constructed on both sides of all roadways except~~  
39       ~~where a bike path is provided on one side of the roadway in conformance~~  
40       ~~with the requirements of the Right-of-Way Improvement Design Standards~~  
41       ~~contained within this LDR. The location of the sidewalk within the~~  
42       ~~right-of-way may vary if the alternative location is approved by the City~~  
43       ~~Engineer.~~

44  
45       ~~(21) All developments shall have a sidewalk plan included to enable~~  
46       ~~pedestrians to access the building(s) and parking lot, parking spaces and~~

1 other accessory components of the site without walking through  
2 landscaped areas. The sidewalk plan shall be designed to provide direct  
3 pedestrian traffic, shall assume the pedestrians will take the most direct  
4 path to their destination, and shall assume that reasonable pedestrians  
5 will travel through grass or landscaping, if able to, before walking great  
6 distances to stay on the sidewalk.

7  
8 (32) All developments, whether new or additions, are required to install public  
9 sidewalks along all road frontage in front of their parcel within the  
10 right-of-way six inches from the right-of-way line. This is not required if a  
11 sidewalk exists. If a sidewalk exists but does not meet the width  
12 requirements, the developer shall add the required width. This provision  
13 shall not apply if a bicycle path (not lane) exists in front of the  
14 establishment.

15  
16 (43) The minimum width of sidewalks located along all local streets is four (4)  
17 feet and collectors and arterials shall have 5 feet wide sidewalks.  
18 Sidewalks located in multi-family or duplex developments shall have a  
19 minimum width of thirty (30) inches provided they are used to access ten  
20 (10) or less dwelling units. Sidewalks located within multi-family and  
21 duplex and non-residential developments, where the sidewalk accesses  
22 more than ten (10) dwelling units, shall have a minimum width of four (4)  
23 feet. For the purpose of this section, access to residential development  
24 shall mean the only paved pathway to a building entranceway. All  
25 buildings shall have a sidewalk leading from the city right-of-way, public  
26 walkway or vehicular access way to the building entranceway. Stepping  
27 stones, gravel, or decorative rock shall not constitute a sidewalk.

28  
29 (54) Sidewalks shall be constructed of 3000 psi 28 day concrete with a  
30 minimum thickness of four (4) inches except that a minimum of six (6)  
31 inches is required at driveways. Sidewalks shall be reinforced with 6" X 6"  
32 and 10/10 wire mesh. Wheelchair ramps for the handicapped shall be  
33 provided at all intersections and other points of pedestrian traffic flow.

34  
35 ~~604.13~~ ——— 604.11 Bicycle Facilities

36  
37 \*\*\*

38 ~~604.14~~ 604.12 Signs  
39  
40

1 ~~604.15~~ 604.13 Outdoor Lighting

2 \*\*\*

3 604.14 Street Paving Waivers

4 Street paving waivers may be approved by the City Commission on a case-by-case  
5 basis, based upon the merits of the project, the character of the surrounding  
6 neighborhood, and the estimated City maintenance costs over 10 years. Application  
7 shall be made using the form prepared by the Planning Department and shall be  
8 accompanied by a \$250.00 filing fee.

9  
10 ~~605.00~~ Subdivision Design

11  
12 ~~605.01~~ Blocks

13  
14 A. ~~Length~~

15  
16 ~~— The maximum block length shall be fourteen hundred (1400) feet.~~

17  
18 B. ~~Width~~

19  
20 ~~— The width of any block shall be sufficient to accommodate two (2) tiers of lots~~  
21 ~~except where one (1) tier of lots abuts an area of existing residential~~  
22 ~~development, non-residential development, an arterial or collector street, railroad~~  
23 ~~right-of-way, utility right-of-way, water course or landfill finger.~~

24  
25 C. ~~Non-residential Blocks~~

26  
27 ~~— Within the limits set out in 605.01 A., non-residential blocks shall require a length~~  
28 ~~sufficient to serve the intended use without adversely affecting traffic circulation~~  
29 ~~of existing or proposed surrounding streets. The width shall be sufficient to~~  
30 ~~provide adequate service areas and parking without requiring excessive points of~~  
31 ~~ingress and egress on abutting streets or requiring vehicular maneuvering on~~  
32 ~~public rights-of-way. Lots within such blocks shall require a common vehicular~~  
33 ~~access easement dedicated to the use, maintenance, and benefit of all lots within~~  
34 ~~the block. Alternatively, a marginal access street shall be provided to prevent~~  
35 ~~points of ingress and egress from each lot to the abutting street.~~

36  
37 ~~605.02~~ Lots

38  
39 A. ~~All lots shall front on a public or private street. Double frontage lots are to be~~  
40 ~~avoided.~~

41  
42 B. ~~All lots shall have no less than the minimum width required in the respective~~  
43 ~~zoning district as indicated in the zoning regulation portion of this LDR. Lots~~  
44 ~~fronting on a cul-de-sac shall have a minimum width at the right-of-way line of not~~  
45 ~~less than thirty (30) feet, measured at the chord of the arc. Corner lots shall have~~

1 ~~a minimum width of fifteen (15) percent greater than the minimum lot width~~  
2 ~~required in the respective zoning district.~~

3  
4 ~~C. All lots shall have no less than the minimum depth required in the respective~~  
5 ~~zoning district as indicated in the zoning regulation portion of this LDR. Double~~  
6 ~~frontage lots shall have an additional twenty (20) percent in depth.~~

7 ~~— A fifteen (15) foot landscaped buffer strip is required at the property line located~~  
8 ~~to the rear of the principal structure on a double frontage lot. Access to a double~~  
9 ~~frontage lot shall be from a local or minor collector road only. Utility easements~~  
10 ~~shall be allowed on double frontage lots, however, no depth of the double~~  
11 ~~frontage lot shall be used for drainage purposes or public access.~~

12 ~~D. Every residential lot shall abut a publicly dedicated marginal access, local, or~~  
13 ~~collector street which has a minimum right-of-way of fifty (50) feet unless the City~~  
14 ~~Commission approves a private road. Side lot lines shall be perpendicular or~~  
15 ~~radial to street right-of-way lines except where physical features make such~~  
16 ~~orientation impractical.~~

17  
18 \*\*\*

19 ARTICLE X  
20 SUBDIVISIONS

21  
22 Section 1: In general.

23 Section 2: Jurisdiction.

24 Section 3: Improvements required.

25 Section 4: Paving and drainage improvements.

26 Section 5: Utility improvements.

27 Section 6: Landscaping improvements.

28 Section 7: Plat requirements.

29 Section 8: Preliminary plat and plan approval.

30 Section 9: Final plat and plan approval.

31 Section 10: Variances.

32 Section 11: Issuance of development permits.

33 Section 12: Model homes.

34 Section 13: Subdivision sales offices.

35 Section 14: Inspections and acceptance.

36 Section 15: Minor subdivisions.

37  
38 Section 1: In general.

39 (a) The provisions of this Article shall be in addition to the specific requirements of  
40 Florida Statutes regarding the subdivision of land, and subsequent sale of  
41 subdivided land.

42 (b) When an approved plat is recorded by the owner, all streets, rights-of-way, public  
43 lands, easements and other facilities shall be deemed to have been dedicated to  
44 the parties noted on the plat. However, nothing herein shall be construed as  
45 creating an obligation on the part of any governmental agency to perform any  
46 construction or maintenance except where the obligation is voluntarily assumed.

1 Section 2: Jurisdiction.

2 (a) Subdivision plat required.

3 No real property shall be divided into two or more lots for the purpose of sale or  
4 other transfer of ownership, development plans be approved or permits issued,  
5 without compliance with the requirements of this chapter.

6 (b) Exemptions.

7 The following activities shall be exempt form all of the terms of this chapter,  
8 unless otherwise noted:

9 1. The combination of recombination of previously platted lots or portions of  
10 lots, where the overall number of lots is not increased, and all of the  
11 resultant lots meet or exceed the dimensional standards of this code.

12 2. A minor subdivision shall be exempt form the review and approval of a  
13 plat. However, development plans meeting the requirements of this code  
14 shall be approved as required for a minor development. A minor  
15 subdivision is defined as meeting all of the following criteria:

16 a) An overall tract in single ownership of no more than three acres is  
17 divided into no more than three lots.

18 b) No adjoining lots, tracts, or parcels are in the same ownership.

19 c) No new streets are proposed or required.

20 d) No dedication of right-of-way, drainage areas, conservation areas,  
21 or other publicly maintained property is proposed or required.

22 e) All proposed lots meet or exceed the dimensional requirements of  
23 this code, and required easements for utility, drainage,  
24 conservation, or other purposes are delineated for transfer to the  
25 city as part of the development order.

26 f) Water and sewer services are available to service the property, as  
27 required by Article VI of this code.

28  
29 Section 3: Improvements required.

30 All subdivisions shall provide improvements required in this article. The requirements  
31 and standards of this article shall be considered as the minimum required to meet the  
32 intent of this code.

33 (a) Completion of improvements prior to recording of plat.

34 A final plat shall not be signed by the mayor and city clerk in order to allow it to  
35 be recorded, until required improvements have been accepted by the city.

36 (b) Maintenance sureties.

37 A one year maintenance surety must be provided by the developer after  
38 construction is completed and a letter of completion is issued, to ensure proper  
39 maintenance. The maintenance surety shall be equal to ten percent (10%) of the  
40 construction cost of the improvement.

41 (c) Adoption of standard construction details.

42 1) All construction shall comply with the standard construction details for  
43 roadway cross sections as adopted by the city.

44 2) All construction shall comply with the standard construction details for  
45 utilities as adopted by the Utilities Commission, City of New Smyrna  
46 Beach.

- 1           3) Any deviation from the adopted standards shall be clearly noted as such in  
2 all plans and specifications. If inadvertent deviations in plans are not so  
3 noted, adopted standards shall apply.
- 4 (d) Issuance of building permits and certificates of occupancy.
- 5           1) Building permits shall not be issued for an approved subdivision until the  
6 plat for that subdivision has been recorded, except for model homes,  
7 when approved in accordance with Section 11 of this article, and other  
8 appurtenant features such as walls, fences, and entry signs.
- 9           2) Certificates of occupancy shall not be issued for a recorded subdivision  
10 until all public improvements have been accepted by the city. However,  
11 where existing improvements installed as part of a prior adjacent  
12 subdivision provide all necessary improvements for a lot or lots in a new  
13 subdivision, the administrative official may include authorization to issue  
14 certificates of occupancy for such lot(s) in the development order for the  
15 new subdivision.

16  
17 Section 4: Paving and drainage improvements.

18 The following paving and drainage improvements shall be constructed in all  
19 subdivisions, and shall include the complete clearing and grading of all road rights-of-  
20 way, unless specifically shown otherwise on the approved plans.

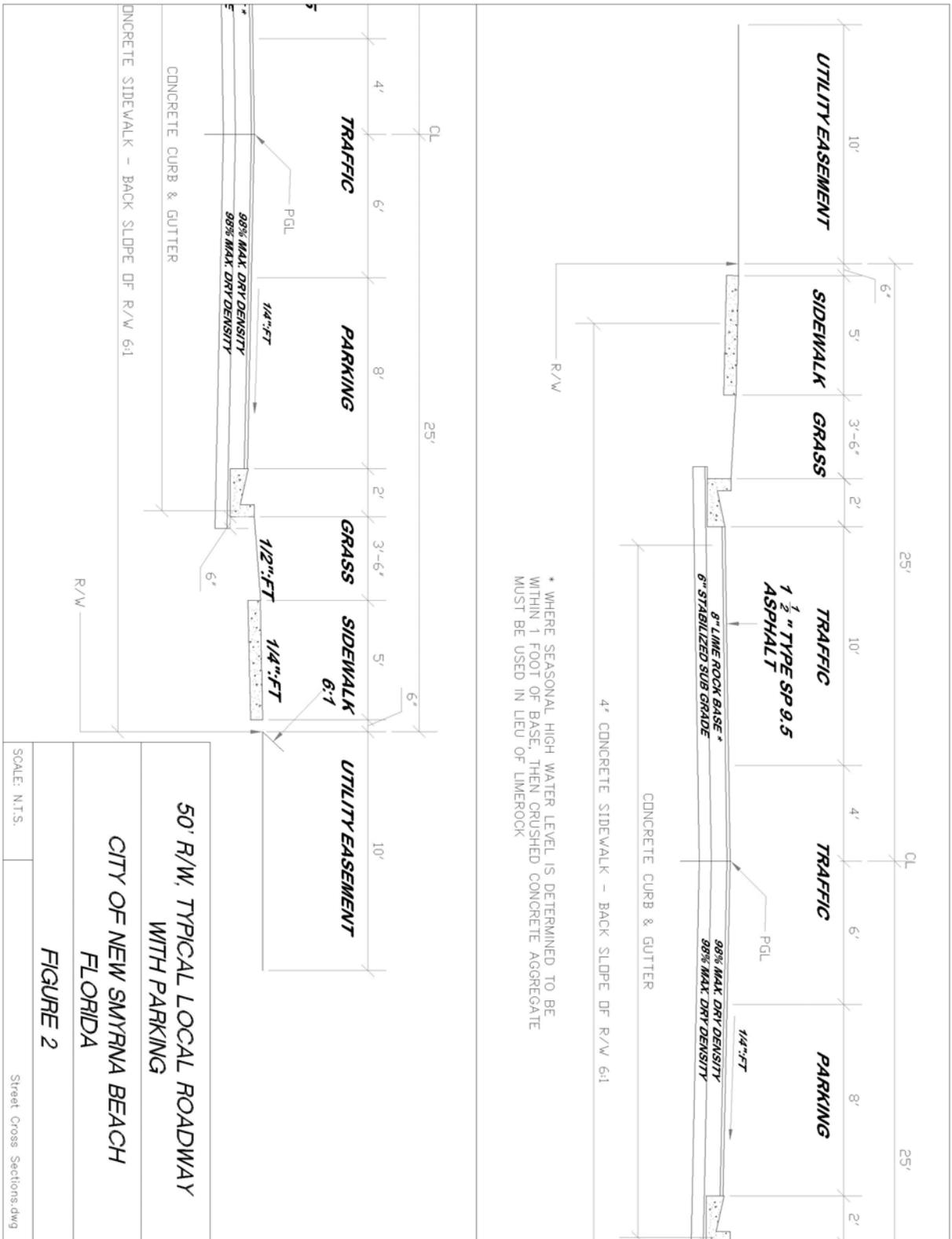
- 21  
22 (a) Roadways and streets. All subdivisions shall construct a system of roadways  
23 and streets to provide access to proposed lots and for the through traffic needs of  
24 the project and area. In addition, any unpaved streets which provide access to  
25 the subdivision shall be improved as required in this section.
- 26           (1) Layout. Streets shall be laid out in consideration of topographic  
27 conditions, existing and previously approved streets, proposed roads as  
28 reflected in the comprehensive plan, the traffic needs for surrounding land  
29 uses, and overall traffic safety. The layout shall specifically be designed  
30 as follows:
- 31           a. Existing streets ending at the project boundary shall be continued into  
32 the project, if otherwise permitted by this code.
- 33           b. Proposed streets shall be designed to provide access to adjoining  
34 unsubdivided tracts at logical locations for future subdivision.
- 35           c. A minimum of two points of access shall be provided into each  
36 subdivision of 25 lots or more. Where adjoining existing development  
37 and code requirements preclude the development of two public street  
38 access points, an unobstructed drivable access way shall be  
39 substituted.
- 40           d. Street jogs with centerline offset shall be prohibited.
- 41           e. All streets that have permanent dead ends shall terminate in a cul-de-  
42 sac.
- 43           f. All new collector roads shall have a minimum right-of-way of 80 feet.
- 44           g. All new arterial roads shall have a minimum right-of-way of 100 feet.
- 45           h. All cul-de-sacs shall have a minimum bulb radius of 55 feet and  
46 pavement radius of 45 feet.

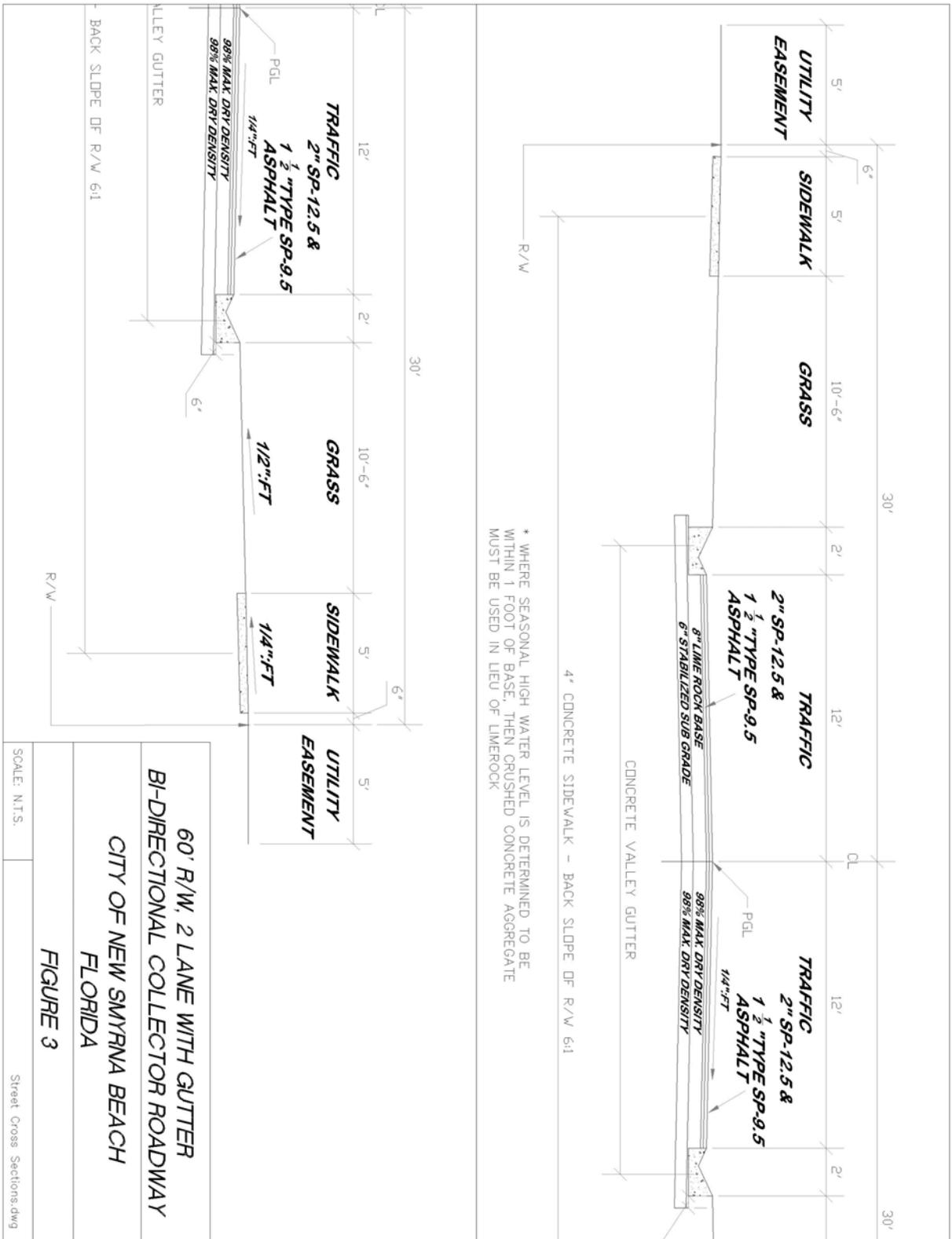
- 1 i. Cul-de-sacs shall not exceed 1,000 feet in length, unless necessitated  
2 by topographic or environmental constraints.  
3 j. Right-of-way line intersections shall be rounded with a minimum radius  
4 of 25 feet. A greater radius may be required on collector or arterial  
5 roads, or where road construction details require.  
6 k. Eyebrow cul-de-sacs shall be designed to accommodate an internal  
7 landscaped island or other aesthetic treatment to reduce the visual  
8 impact of the expanse of paving. Eyebrow cul-de-sacs are prohibited  
9 at intersections.  
10 l. Where a subdivision abuts or includes an arterial or major collector  
11 road, streets and blocks shall be designed so that no lot requires  
12 access from the arterial or major collector road.  
13 m. The minimum centerline elevation of all streets shall meet or exceed  
14 the 100-year flood elevation.  
15 (2) Dimensions. Right-of-way widths, pavement widths, minimum curvature,  
16 intersection spacing and other roadway dimensions shall be as outlined in  
17 the standard construction details.  
18 (3) Construction. Basic construction requirements for roads are as follows.  
19 See standard construction details for detailed specifications (Figures 1-14,  
20 below).  
21 a. All streets, alleys, and private roads, shall be graded to their full  
22 right-of-way width to the cross sections and profiles shown on the  
23 approved roadway plans.  
24 b. All swales and drainage ditches shall be cleared, graded and  
25 grassed as shown on the approved plans.  
26 c. A stabilized subgrade to support the pavement base shall be  
27 constructed under all streets, alleys, and private roads, as shown  
28 on the plans.  
29 d. A base of the type and compacted thickness approved by the City  
30 Engineer shall be constructed on all streets, alleys, and private  
31 roads.  
32 e. Asphalt pavement surface of the thickness approved by the City  
33 Engineer shall be constructed on all streets, alleys, and private  
34 roads. Where portland cement concrete pavements are  
35 constructed, the asphalt pavement surface requirement may be  
36 waived by the City Engineer. No street shall be opened unless  
37 paved or unless the City Commission approves a street paving  
38 waiver.  
39 f. Portland cement concrete curb-and-gutters of a type and size  
40 approved by the City Engineer shall be constructed along each  
41 edge of the street pavement. Where site investigation of soils,  
42 groundwater table, slopes, topography and flooding potential  
43 demonstrate that right-of-way swale drainage systems will meet the  
44 requirements of the city's stormwater management regulations,  
45 these systems are encouraged to minimize the impact of surface  
46 drainage on the environment. However, curbing shall be required

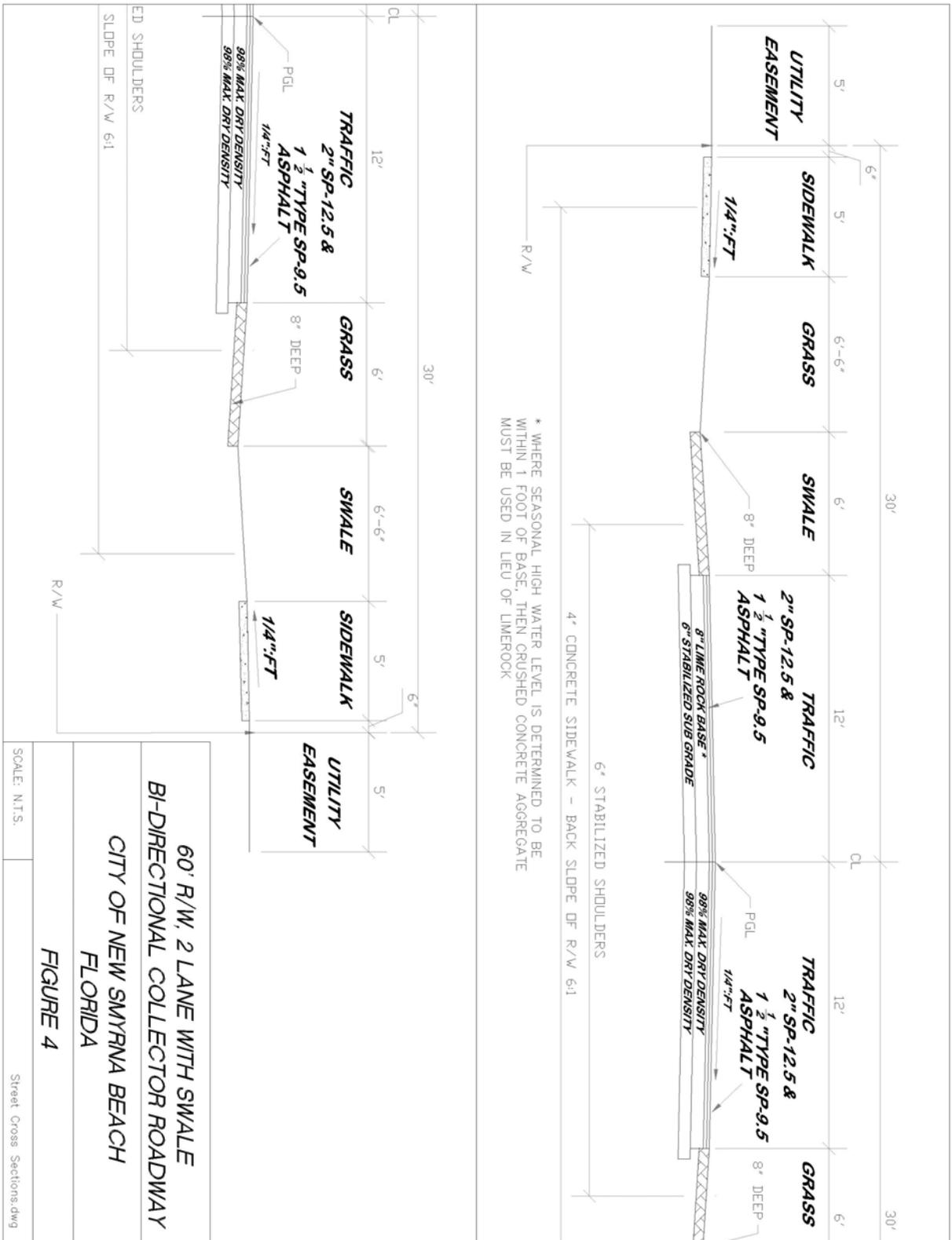
- 1 to protect the pavement. Stormwater runoff shall be transmitted  
2 from the curb and gutter to the swale drainage system in a manner  
3 acceptable to the City Engineer.
- 4 g. Where the ground water table is within the stabilized subgrade  
5 areas, subsurface drains shall be constructed along such streets.  
6 Additional subsurface drains may be required as directed by the  
7 City Engineer.
- 8 h. Street signs indicating the name of each street shall be installed at  
9 all intersections. Traffic signs shall conform to the "Manual of  
10 Uniform Traffic Control Devices", current edition.
- 11 i. Sidewalks shall be constructed on both sides of all roadways  
12 except where a bike path is provided on one side of the roadway.
- 13 j. The minimum width of sidewalks located along local streets is four  
14 (4) feet. The minimum width of sidewalks located along collector  
15 and arterial roads shall be five (5) feet.
- 16 k. An eight-foot wide concrete bike path shall be constructed on one  
17 side of all arterial or collector roads, or at other locations as  
18 designated in the comprehensive plan or this code.
- 19 (4) Private roadways and streets. Private streets and roads shall be allowed  
20 in the City of New Smyrna Beach subject to the following conditions:
- 21 a. All streets must be built and maintained to the applicable City,  
22 County and State Standards.
- 23 b. The owner(s) of any private street or roadway must execute an  
24 agreement with the City of New Smyrna Beach to maintain the  
25 private street, road or way to the applicable City, County and State  
26 Standards.
- 27 c. The owner(s) of any private street or roadway must provide the City  
28 with a Performance Bond, Letter of Credit, or other acceptable  
29 security to guarantee performance under said agreement.
- 30 d. The agreement shall specifically provide that in the event of any  
31 default under the agreement the owner(s) shall deed, in fee simple,  
32 the street or roadway to the City of New Smyrna Beach, and the  
33 City of New Smyrna Beach shall be entitled to utilize the  
34 Performance Bond, Letter of Credit, or other acceptable security to  
35 bring the street or roadway up to the applicable standards that may  
36 be in force at the time of the default. The agreement shall provide  
37 that in the event of default the City shall maintain the street or  
38 roadway in the normal and customary manner.
- 39 e. The City Commission shall approve the terms and conditions of the  
40 agreement and the amount of the guarantee.
- 41
- 42 (b) Stormwater drainage system. All subdivisions shall construct a stormwater  
43 drainage system based on the requirements of Article VI of this code. In  
44 addition, the following design requirements shall apply to new subdivisions:
- 45 1. Stormwater retention area design. Stormwater retention areas shall have  
46 a maximum side slope of four feet of run for every one foot of rise. All side

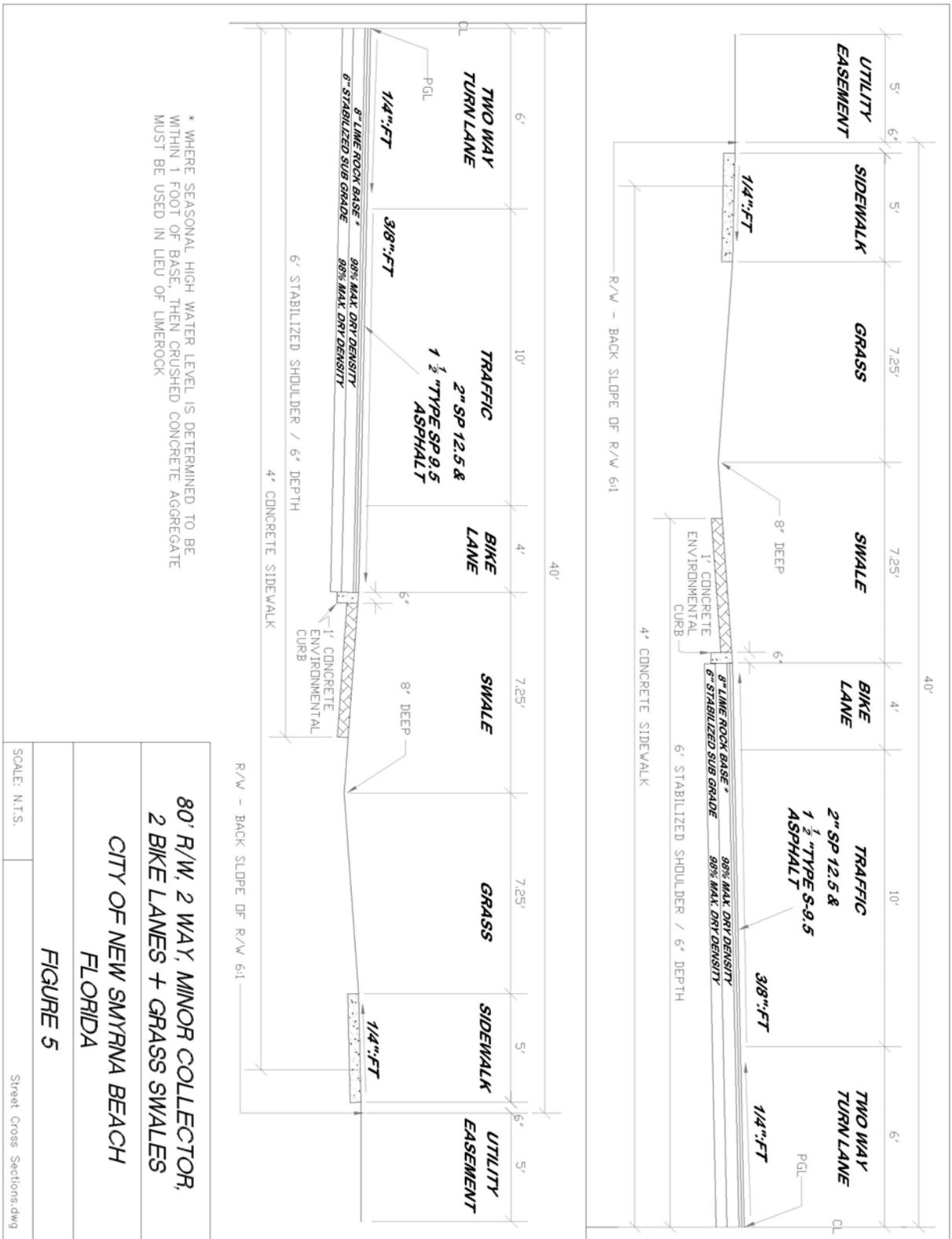
- 1 slopes shall be sodded. However, flat bottom areas may be seeded and  
2 mulched.
- 3 a. Where there are existing or proposed lakes, dry retention areas, or  
4 canals or ditches in a subdivision, property lines shall extend to the  
5 middle of the proposed facility mandating private ownership and  
6 maintenance, or a common area shall be established under a  
7 property owners association charged with the maintenance of the  
8 facility.
- 9 b. Reasonable area for maintenance of retention areas and canals  
10 and ditches shall be provided based on its design and ownership.
- 11 2. Bridge and box culvert design. Bridges, box culverts, or other vehicular  
12 crossing of major waterways or drainage facilities shall be based on the  
13 standards adopted by the Florida Department of Transportation.
- 14 3. Lot grading. A lot grading plan shall be completed for all single-family,  
15 duplex, and other subdivisions that do not require additional development  
16 plan review prior to building construction.
- 17 a. The lot grading plan shall show the estimated floor elevations of  
18 structures, flow patterns for lot drainage, and swales or structures  
19 necessary to drain all lots to the public drainage system.
- 20 b. All structures, and any ditches or swales necessary to drain more  
21 than the immediately adjacent properties, shall be shown for  
22 construction as part of the initial subdivision improvements.
- 23 c. Individual lot grading and minor swales draining only adjacent lots  
24 shall be shown for construction with the attendant structure(s) as  
25 part of the building permit site improvements.

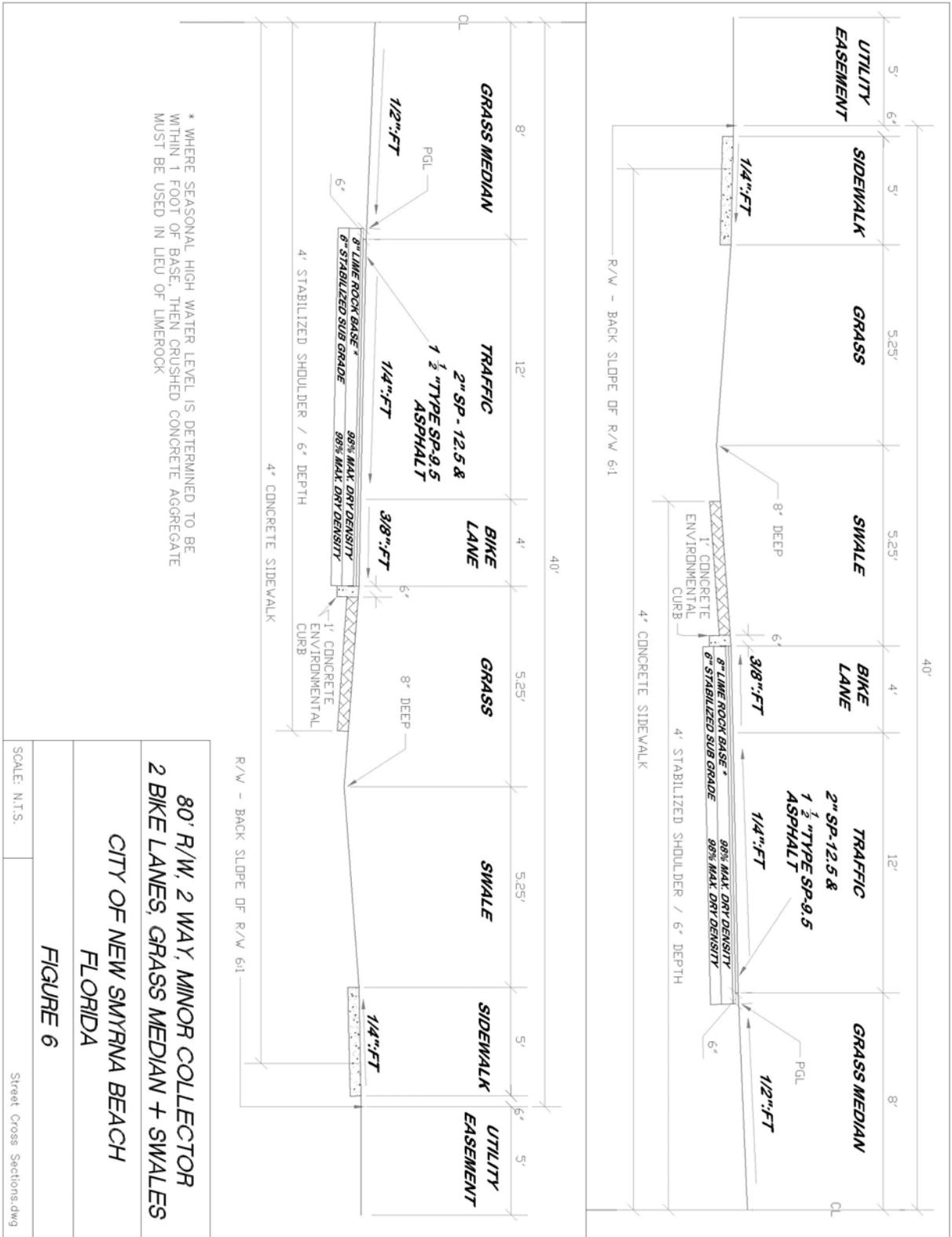




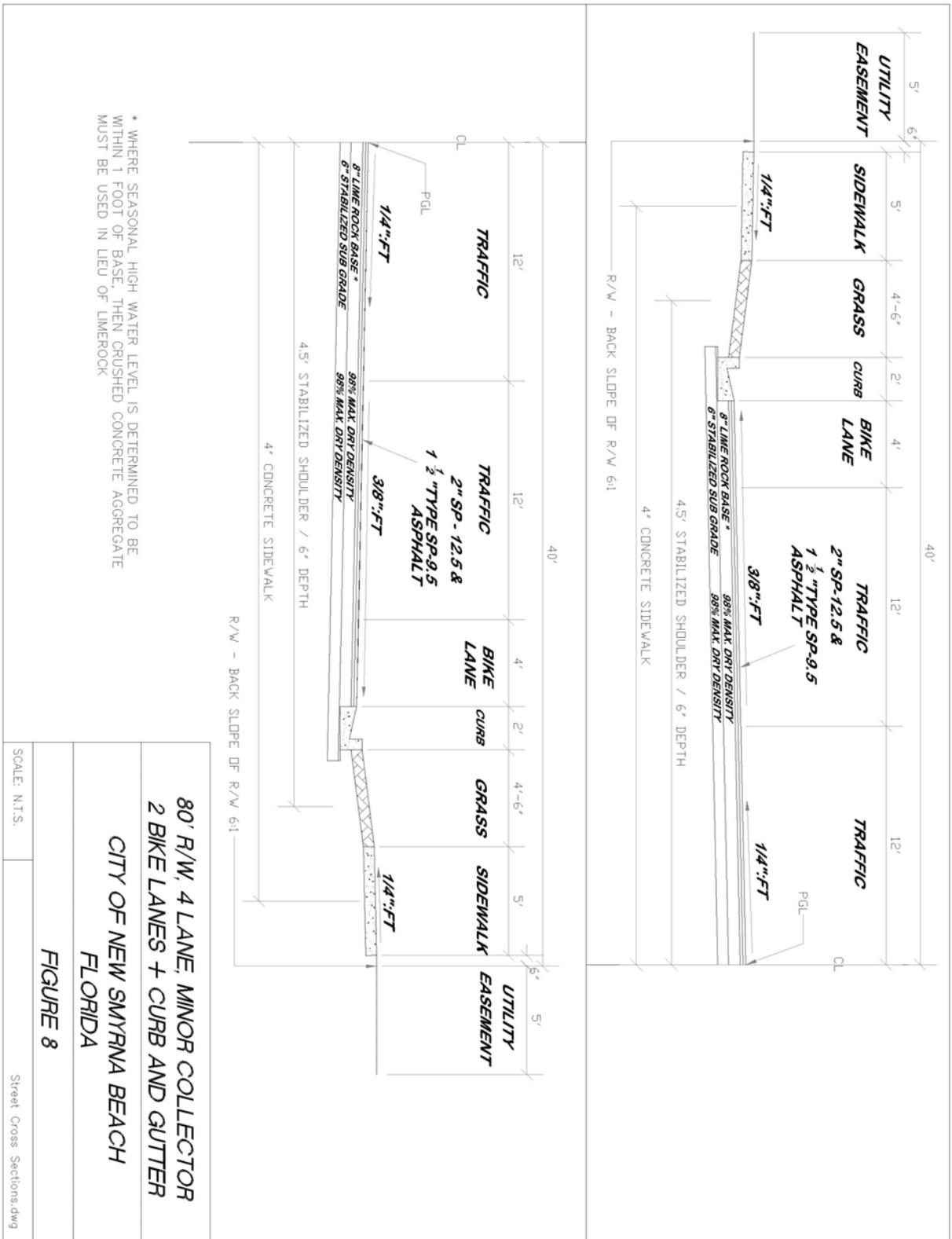


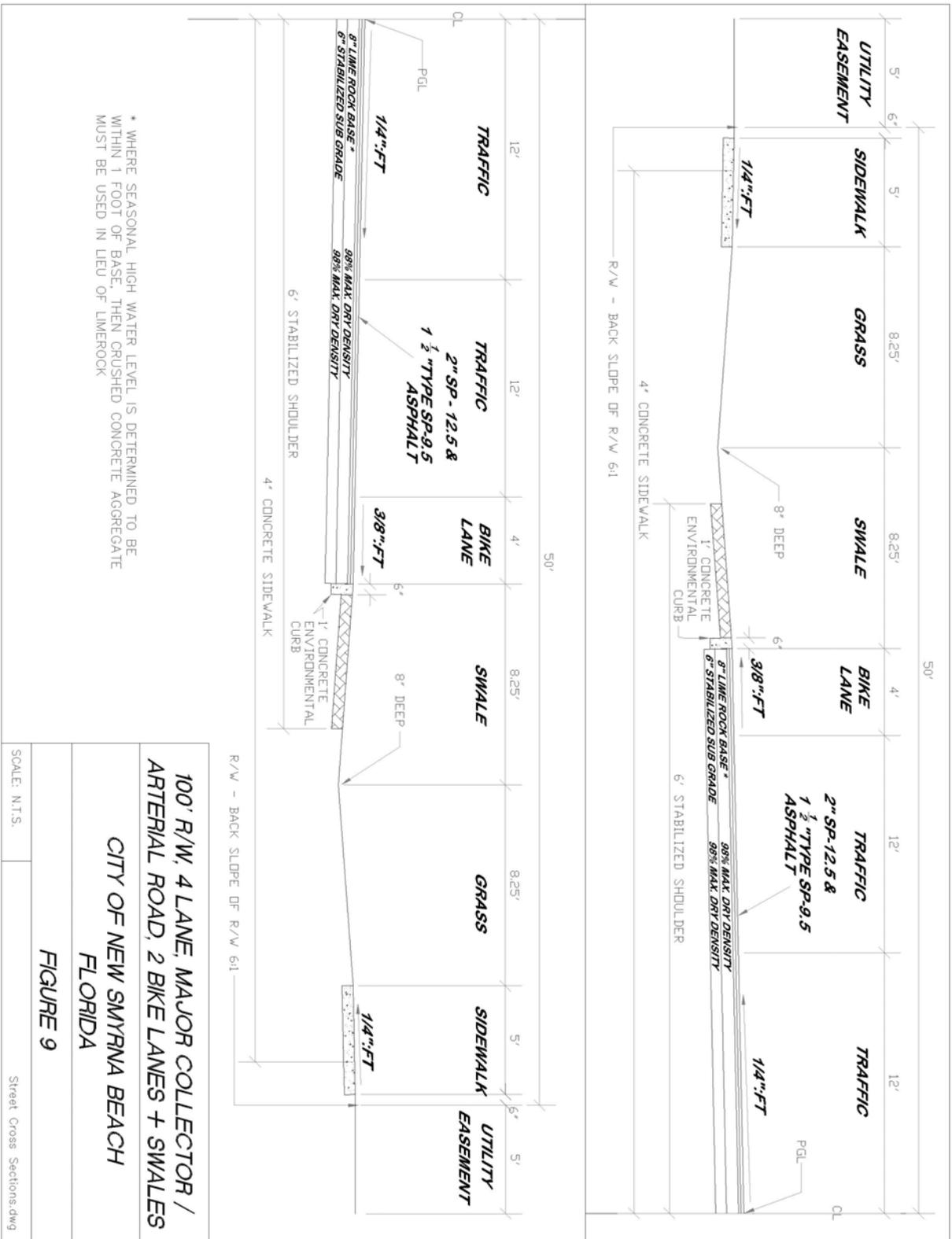






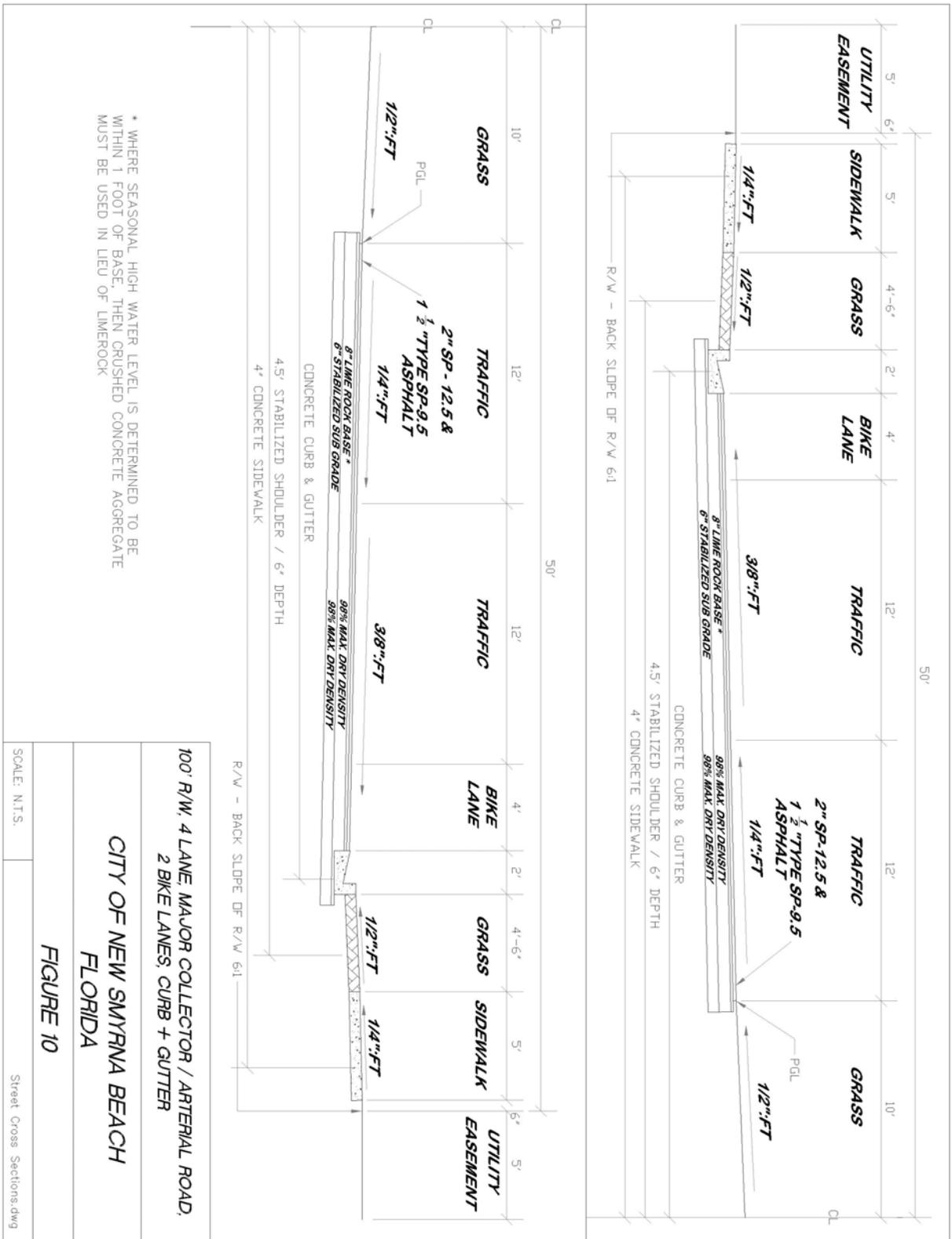






\* WHERE SEASONAL HIGH WATER LEVEL IS DETERMINED TO BE WITHIN 1 FOOT OF BASE, THEN CRUSHED CONCRETE AGGREGATE MUST BE USED IN LIEU OF LIMEROCK

100' R/W, 4 LANE, MAJOR COLLECTOR /  
 ARTERIAL ROAD, 2 BIKE LANES + SWALES  
 CITY OF NEW SMYRNA BEACH  
 FLORIDA  
**FIGURE 9**  
 Street Cross Sections.dwg



\* WHERE SEASONAL HIGH WATER LEVEL IS DETERMINED TO BE WITHIN 1 FOOT OF BASE, THEN CRUSHED CONCRETE AGGREGATE MUST BE USED IN LIEU OF LIMEROCK



Section 5: Utility improvements.

- i. Water and sewer. Water and sewer improvements shall be constructed as outlined in Article VI of this code, and as required by the Utilities Commission, City of New Smyrna Beach. Water and sewer utilities shall include potable water, sanitary sewer and reclaimed water systems.
- ii. Electric. Electric improvements shall be constructed as outlined in Article VI of this code, and as required by the Utilities Commission, City of New Smyrna Beach.
  1. Street lights and walkway lights. The electrical distribution system shall be designed by the Utilities Commission Engineering Department and included with the approved construction plans.
    - a. Street lighting shall be required in all subdivisions and shall be located at all street intersections and curves.
    - b. Street lighting shall be provided at major entry roads into the subdivision.
    - c. Street lighting shall be provided at intervals along each street of between 300 and 400 feet.
    - d. All street lighting shall have shielded non-glare fixtures.
- iii. Telephone, television cable, and other utilities. The developer shall be responsible for the installation of telephone, television cable, and any other utility lines, with all lines to be constructed underground unless otherwise permitted in Article VI of this code.

Section 6: Landscaping improvements.

- (a) Subdivision entrance. Subdivisions shall provide a landscaped entrance buffer having minimum dimensions of twenty (20) feet in width, fifty (50) feet in depth and one thousand (1000) square feet in area on both sides of the main vehicular entranceway to the subdivision. The landscaping shall conform to the minimum landscaping requirements contained within these Land Development Regulations. Subdivision identification signage is allowed in this landscaped entranceway.
- (b) Recreation area requirements. All disturbed recreation areas within a subdivision shall be sodded except that recreation areas having trails for walking, jogging or biking in a corridor or lineal type fashion, and having a length of at least 250 feet and a width of at least 15 feet, may be left natural.
- (c) Tree preservation. The following tree regulations shall apply in new subdivisions. This provision shall not apply to the subdivision of less than five residential lots or an acre or less of non-residential development.
  2. One Tree per Every 2,500 Square Feet of Property. Each lot shall contain a minimum of one tree for every 2,500 square feet of lot area or portion thereof (rounded to the nearest whole number. If a lot contains an insufficient number of existing trees to meet this requirement, or if the lot has no existing trees to meet this requirement, replacement trees shall be provided.
  3. 15% of Development Set Aside for Trees. Fifteen percent (15%) of the area of any subdivision shall be designated for the protection of trees.

The area required to protect Specimen trees may be included to satisfy this requirement. This required area may be constituted as one or more sub-areas within the development. Said area may include any landscape buffer or other landscape areas required by the Land Development Regulations for a development. Such designated areas shall contain sufficient land area to comply with minimum tree protection standards to adequately protect the trees contained within the areas. A minimum of fifty percent (50%) of the required minimum number of trees as provided in subsection (4)a. above shall consist of existing trees within said area. This requirement does not apply to single-family lots in approved subdivisions or additions, remodeling or similar modification of existing multi-family or non-residential development.

4. Specimen Tree Protection. The following table sets forth the minimum requirements for the protection of specimen trees:

<u>NO. OF SPECIMEN TREE</u>	<u>MINIMUM SPECIMEN TREE PROTECTION REQUIREMENT</u>
<u>Less than 3 per acre</u>	<u>80% of all Specimen trees</u>
<u>3.0 to 5.0 per acre</u>	<u>60% of all Specimen trees</u>
<u>5.1 to 8.0 per acre</u>	<u>50% of all Specimen trees</u>
<u>8.0 or more per acre</u>	<u>4 Specimen trees per acre</u>

5. Legal Mechanism to Protect Specimen Trees. The developer of a subdivision shall provide legal mechanisms which ensures the protection of specimen trees after construction has occurred. Such mechanisms may include but shall not be limited to, conservation easements, common open space, tree protection easements, deed restrictions and homeowners' association documents. Specimen tree protection on residential lots shall only apply in the designated setback areas. Said legal mechanism shall be reviewed and approved by the City Attorney.

0 Section 7: Plat requirements.

- 1 (a) Survey accuracy. The allowable angular and linear error of closure for  
 2 subdivision surveys shall be as follows:  
 3 1. Angular error of closure shall not exceed fifteen (15) seconds times the  
 4 square root of the number of angles turned. Total angular error shall be  
 5 no greater than forty (40) seconds.  
 6 2. Linear error of closure shall not exceed one foot per ten thousand  
 7 (1:10,000) feet.  
 8 (b) Monumentation. The developer shall cause a professional land surveyor and  
 9 mapper to install monuments based on the requirements of Chapter 177, Florida  
 10 Statutes. The professional land surveyor and mapper shall establish the  
 11 elevation in feet above National Vertical Geodetic Datum (N.V.G.D.) for at least  
 12 two permanent reference monuments in the subdivision, and show such  
 13 information on the plat.

1 (c) Lot and block layout. All lots shall be designed to meet the minimum dimensional  
2 requirements of their zoning district or any controlling development agreement.  
3 The following additional criteria shall be considered in the layout of proposed  
4 subdivisions:

- 5 1. Maximum block length shall be 1,400 feet, unless longer blocks are  
6 required due to environmental or topographic limitations.
- 7 2. Blocks designed for non-residential uses should provide sufficient length  
8 and width to prevent adverse traffic impacts, while allowing adequate  
9 service areas and parking without requiring excessive points of entry on  
10 abutting streets.
- 11 3. Lots within non-residential blocks shall require a common vehicular access  
12 easement dedicated to the use, maintenance, and benefit of all lots within  
13 the block. Alternatively, a lower functional classified side street may be  
14 used to provide access to the lot.
- 15 4. All lots shall front on a public or private street.
- 16 5. Where a subdivision abuts or includes an arterial or major collector road,  
17 streets and blocks shall be designed so that no lot requires access from  
18 the arterial or major collector road.
- 19 6. Double frontage lots are to be avoided. However, where double frontage  
20 lots are used to meet this requirement, the lot must be 20% deeper. All  
21 double frontage lots shall contain one of the following:
  - 22 a. A decorative masonry wall; or
  - 23 b. A 15-foot landscaped buffer area. If a buffer area is used, this area  
24 must be placed in a conservation easement that is dedicated to the  
25 homeowners association.
- 26 7. Access to a double frontage lot shall be from a local or minor collector  
27 road only.
- 28 8. All corner lots shall be 15% wider than the minimum width required by this  
29 code.
- 30 9. Lots fronting on a cul-de-sac shall have a minimum width at the right-of-  
31 way line of not less than thirty (30) feet, measured at the chord of the arc.
- 32 10. Side lot lines shall be perpendicular or radial to street right-of-way lines  
33 except where physical features make such orientation impractical.

34 (d) Easements and miscellaneous dedications. The following minimum number and  
35 size of easements and dedications shall be reflected on the plat drawing. Larger  
36 easements may be specifically required based on the size, depth, or special  
37 maintenance requirements of a facility. All easements or dedications shall be  
38 graphically depicted unless otherwise noted.

- 39 1. Drainage facilities. A drainage easement shall be granted to the city  
40 where a proposed subdivision is traversed by any existing or proposed  
41 watercourse, canal, ditch, storm sewer, or other drainage way. Minimum  
42 size shall be as follows:
  - 43 a. Lake or retention areas shall be covered by an easement extending  
44 to ten feet beyond the top of bank.
  - 45 b. Canals, water courses, drainage ways, channels or streams shall  
46 be covered by an easement extending to twenty feet beyond the  
47 top of bank on one side, and 20 feet beyond the top of bank on the  
48 other side, if needed.

- 1 c. Swales, or any other facility up to 2 ½ feet deep and with side  
2 slopes no greater than 4:1 shall be covered by an easement  
3 extending to the top of bank.  
4 d. Storm sewer lines shall be covered by an easement of no less than  
5 20 feet, centered on the centerline of the pipe.  
6 e. The city may require the dedication of a drainage right-of-way over  
7 major facilities providing area-wide drainage.  
8 2. Utilities. A utility easement shall be granted to the Utilities Commission,  
9 City of New Smyrna Beach wherever a proposed utility line or other facility  
10 is planned or located on or adjacent to any property not otherwise  
11 dedicated to or owned by the Utilities Commission. The size and location  
12 of such easements shall be determined by the Utilities Commission, City  
13 of New Smyrna Beach.  
14 3. Vehicular access control easements. A one-foot wide vehicular access  
15 control easement, precluding the construction of any accessway to the  
16 property from the adjoining street, shall be granted to the city parallel to  
17 the right-of-way line as follows:  
18 a. On all double frontage (through) lots adjacent to the arterial or  
19 collector road, along the rear or non-local road frontage.  
20 b. On all corner lots adjacent to an arterial or collector road, along the  
21 non-local road frontage.  
22 c. Along any other lot frontage where access must be restricted due to  
23 visibility restrictions or other traffic engineering considerations.  
24 4. Conservation easements. Conservation easements shall be granted to  
25 the city or other appropriate governmental agency as follows:  
26 a. Over all required tree preservation areas.  
27 b. Around all individual specimen trees required to be preserved.  
28 c. Over all wetlands, wetland buffers, and wetland mitigations areas.  
29

30 Section 8: Preliminary plat and plan approval.

31 A preliminary plat must be reviewed and approved prior to the review and approval of  
32 development plans. The requirement for approval of a preliminary plat may be waived  
33 by the administrative official when the proposal is determined to be minor in review or  
34 consistent with the conceptual plan exhibit of a PUD Master Development Agreement.  
35 A preliminary plat approval does not convey any rights of a development order, and  
36 does not result in any reservation of capacity for concurrency management purposes.  
37

- 38 (a) Pre-application conference. Prior to filing for preliminary plat and plan approval,  
39 the developer, or the developer's representative must meet with the Plan Review  
40 Committee (PRC) members in order to discuss potential issues regarding the  
41 proposed subdivision. Comments made at the pre-application meeting are  
42 advisory and intended to provide guidance and are non-binding on the formal  
43 review of the preliminary plat and plans.  
44 (b) Application. Application for preliminary plat and plans approval shall be made to  
45 the Planning and Engineering Department utilizing the form provided by the  
46 department for that purpose, and accompanied by the appropriate review fee as  
47 adopted by resolution of the City Commission. Initial application shall be  
48 accompanied by ten (10) copies of the proposed plat and plans.

- 1           1. Review of application materials. Within two working days of the receipt of  
2           an application, the department shall determine whether the application is  
3           complete. Incomplete applications shall be returned to the application with  
4           the deficiencies noted in writing. Re-application shall be accompanied by  
5           a re-application fee as adopted by resolution of the City Commission.
- 6           2. Initiation of development review. When an application is determined to be  
7           complete, it shall be scheduled in accordance with the adopted submittal  
8           deadline calendar for the corresponding PRC meeting, and the applicant  
9           shall be so notified. All application packages must be submitted by 5:00  
10          p.m. on the deadline date, in order to be scheduled for the next available  
11          PRC meeting.
- 12 (c) Preliminary plat and plans and exhibits. The following information shall be shown  
13          on, or enclosed with, the preliminary plat and plans submitted for approval,  
14          unless specifically waived by the PRC member responsible for review of that  
15          item. The preliminary plat itself shall be drawn at a scale of no smaller than one  
16          inch equal to 100 feet.
  - 17          1. Subdivision name, date, north arrow, and the property's legal description,  
18          boundary dimensions, and area in acres.
  - 19          2. Name and address of owner, surveyor, engineer, and any other  
20          professional consultants involved with the generation of the plan  
21          information. If the property is owned by a corporation or company, the  
22          name and address of its presidents and secretary, and state of  
23          incorporation shall be given.
  - 24          3. A vicinity map drawn to scale, showing the project boundary, the zoning of  
25          the area, and the relationship of the proposed subdivision to surrounding  
26          development.
  - 27          4. Proposed streets, common areas, drainage areas, conservation areas, lot  
28          lines, and their dimensions.
  - 29          5. Proposed street names and lot numbers.
  - 30          6. Acreage in lots, drainage areas, common areas, streets and other uses;  
31          and the minimum lot size, average lot size and total number of lots.
  - 32          7. Existing topography using one-foot contours, and delineation of flood  
33          insurance rate map flood zones.
  - 34          8. Environmental assessment showing all wetlands, delineation of wooded  
35          areas and vegetative communities, and tree survey showing all specimen  
36          trees, with calculations required Article VI of this code.
  - 37          9. All existing buildings, utilities, roads, easements or other improvements on  
38          the property, and all roads and lot lines within 150 feet of the property  
39          boundary.
  - 40          10. A soils report including one percolation test per ten acres with one or more  
41          eight-foot deep soil boring at each percolation test site.
  - 42          11. Proposed utilities layout.
  - 43          12. A tree survey in compliance with Article VI of this code.
  - 44          13. One copy of the computer disk(s) depicting the proposed subdivision  
45          layout, including the streets and lots, for projects prepared on an  
46          appropriate computer-aided drafting (CAD) system.
  - 47          14. A boundary survey certified to the city.
  - 48          15. An opinion of title issued to the city.
- 49 (d) Review process.

- 1           1.     Plan Review Committee (PRC).  
2           i.     All applications shall be reviewed by the PRC and members’  
3           comments shall be delivered and discussed at a regularly  
4           scheduled meeting. Formal comments of the PRC shall be  
5           transmitted in writing to the applicant at the regularly scheduled  
6           meeting.  
7           ii.    Plans must be resubmitted in response to PRC comments no later  
8           than 120 days after the original PRC review.  
9           iii.   Following resubmittal, PRC members shall have 10 working days to  
10          review and approve the revised plat and plans or provide the  
11          administrative official with a list of outstanding comments. Failure  
12          to review and approve, or provide a list of outstanding comments to  
13          the administrative official shall constitute approval on the part of the  
14          PRC member.  
15          2.     Planning and zoning board approval. Only projects with ten or fewer  
16          outstanding technical and procedural comments shall be submitted by the  
17          department to the planning and zoning board for consideration, unless  
18          waived by the planning and zoning board.  
19          i.     Planning and zoning board action. The planning and zoning board  
20          shall consider the preliminary plat and plans at a regularly  
21          scheduled meeting, and determine if they meet the requirements of  
22          this code. The applicant or his/her authorized agent shall be  
23          present at the consideration by the planning and zoning board.  
24          Upon consideration of the comments of the PRC and the public, the  
25          board shall take one of the following actions:  
26                 •    Table the consideration of the project to the next regularly  
27                 scheduled meeting to allow for the resolution of outstanding  
28                 issues.  
29                 •    Disapprove the proposed preliminary plat and plans.  
30                 •    Approve the proposed preliminary plat and plans.  
31                 •    Approval the proposed preliminary plat and plans with  
32                 conditions.  
33          (e)    Appeals. Final planning and zoning board action on a preliminary plat and plans  
34          application may be appealed to the City Commission. Request for appeal must  
35          be filed with the Planning and Engineering Department within 30 days of planning  
36          and zoning board action.  
37          (f)    Failure to provide timely plan resubmission. Failure to meet any of the  
38          resubmission deadlines cited above shall require the applicant to pay late fees or  
39          file a new application, including the appropriate review fees, whichever is  
40          deemed applicable by the administrative official.  
41          1.     Extension of resubmittal deadlines. The administrative official may extend  
42          the resubmission deadlines cited above, when warranted by  
43          unforeseeable events. A request for extension must be filed in writing with  
44          the Planning and Engineering Department explaining the circumstances  
45          justifying the extension and include a resubmittal extension fee as adopted  
46          by resolution of the City Commission.  
47          (g)    Expiration. Preliminary plat and plan approval shall expire one year after the  
48          planning and zoning board approves, or conditionally approves, the preliminary  
49          plat and plans, unless an application for final plat approval is submitted.

1  
2 Section 9: Final plat and development plan approval.  
3 Approval of the final plat and development plans results in the issuance of a  
4 development order.

5 (a) Pre-application conference. Prior to filing for development plan approval, the  
6 developer or the developer's representative shall meet with the Plan Review  
7 Committee (PRC), in order to verify the steps necessary for application and  
8 review, and discuss potential issues regarding the development proposal.  
9 Comments made at the pre-application conference are intended to provide  
10 guidance and are nonbinding on the formal review of the development plans.

11 (b) Application for development plan approval. Application for development plan  
12 approval shall be made to the Planning and Engineering Department utilizing the  
13 form provided by the department for that purpose, and accompanied by the  
14 appropriate review fee. Application shall be accompanied by the ten sets of the  
15 proposed plat and development plans. Plans shall be signed and sealed by a  
16 registered engineer, architect, landscape architect, where required by this code.  
17 Plans shall be prepared according to the standards of this code.

18 1. Review of application materials. Within two working days of the receipt of  
19 an application, the department shall determine whether the application is  
20 complete. Incomplete applications shall be returned to the application with  
21 the deficiencies noted in writing. Re-application shall be accompanied by  
22 a re-application fee as adopted by resolution of the City Commission.

23 2. Initiation of development review. When an application is determined to be  
24 complete, it shall be scheduled in accordance with the adopted submittal  
25 deadline calendar for the corresponding PRC meeting, and the applicant  
26 shall be so notified. All application packages must be submitted by 5:00  
27 p.m. on the deadline date, in order to be scheduled for the next available  
28 PRC meeting.

29 (c) Subdivision plat and development plan exhibits. In addition to the information  
30 listed in subsection 8 of this article, the following information and documentation  
31 shall be shown on or enclosed with the subdivision plat and development plans  
32 submitted for approval. The subdivision plat and development plans shall be  
33 drawn at a scale of no smaller than one inch equal to 100 feet.

34 1. The final plat drawing(s), drafted in compliance with Chapter 177, F.S.,  
35 and including certificates of approval to be signed by the mayor and  
36 attested to by the city clerk.

37 2. Engineering drawings, prepared by an engineer registered in the State of  
38 Florida, showing all required improvements, and including:

39 a. A composite plan drawing which shows all utility and drainage  
40 lines in relationship to each other.

41 b. Individual plan and profile sheets for all roads and sanitary  
42 sewer lines, showing manholes, inlets, and pipe crossings. Plans  
43 and profile sheets shall show sanitary lines and all other buried  
44 utilities that cross sewer lines, and any that parallel and are within  
45 ten feet of sewer lines. This includes, but is not limited to, potable  
46 water lines, reclaimed water lines, storm drainage pipes, and storm  
47 drainage lines and inlets. Plan views shall be drawn at a scale of  
48 one inch equal to 40 feet horizontal. Profiles shall be drawn at one  
49 inch equal to four feet vertical.

- 1 c. Calculations justifying the sizing of utility lines.
- 2 d. A drainage basin map showing the topography and size of
- 3 drainage basins and the specific flows therein.
- 4 e. Drainage calculations demonstrating compliance with this
- 5 code, and justifying the size of all facilities.
- 6 f. The lot grading plan required under subsection 4 of this article.
- 7 g. One copy of the computer disk(s) depicting the final plat, for
- 8 projects prepared on an appropriate computer-aided drafting (CAD)
- 9 system.
- 10 3. A construction cost estimate detailing the tabulation of quantities and
- 11 costs of all proposed improvements including landscaping and irrigation
- 12 signed and sealed by the engineer of record and/or landscape architect,
- 13 as appropriate.
- 14 4. Any and all proposed deed covenants.
- 15 5. Copies of letters notifying all franchised utilities of the size, location, and
- 16 layout of the proposed subdivision.
- 17 6. Letter of approval for street names from Volusia County 9-1-1 coordinator.
- 18 (d) Review process.
- 19 1. Plan Review Committee (PRC).
- 20 a. All applications shall be reviewed by the PRC and members'
- 21 comments shall be delivered and discussed at a regularly
- 22 scheduled meeting. Formal comments of the PRC shall be
- 23 transmitted in writing to the applicant at the regularly scheduled
- 24 meeting.
- 25 b. Plans must be resubmitted in response to PRC comments no later
- 26 than 120 days after the original PRC review.
- 27 c. Following resubmittal, PRC members shall have 10 working days to
- 28 review and approve the revised plat and plans or provide the
- 29 administrative official with a list of outstanding comments. Failure
- 30 to review and approve, or provide a list of outstanding comments to
- 31 the administrative official shall constitute approval on the part of the
- 32 PRC member.
- 33 2. Planning and zoning board review. Only projects with ten or fewer
- 34 outstanding technical and procedural comments shall be submitted by the
- 35 department to the planning and zoning board for consideration, unless
- 36 waived by the planning and zoning board.
- 37 a. Planning and zoning board action. The planning and zoning board
- 38 shall consider the preliminary plat and plans at a regularly
- 39 scheduled meeting, and determine if they meet the requirements of
- 40 this code. The applicant or his/her authorized agent shall be
- 41 present at the consideration by the planning and zoning board.
- 42 Upon consideration of the comments of the PRC and the public, the
- 43 board shall take one of the following actions:
- 44 1. Table the consideration of the project to the next regularly
- 45 scheduled meeting to allow for the resolution of outstanding
- 46 issues.
- 47 2. Disapprove the proposed preliminary plat and plans.
- 48 3. Approve the proposed preliminary plat and plans.



- 1 chapters, shall be considered under the variance procedures applicable to that  
2 chapter.  
3 (b) Procedure.  
4 1. Variance to plat and development plan review process. Application to  
5 waive the plat and development plan review process shall be made to the  
6 planning and engineering department on forms supplied by the  
7 department for this purpose, accompanied by the appropriate review fee.  
8 Variances from the plat and development plan review process may be  
9 granted by the city commission, upon recommendation by the planning  
10 and zoning board.  
11 2. Variance to required improvements or design criteria of this article.  
12 Application to vary required improvements or design criteria shall be noted  
13 on the application form for subdivision conceptual plan or development  
14 plan approval as appropriate. Variances requested shall also be  
15 prominently noted on the submitted plans themselves.  
16 3. Criteria for review of variances from the review process. The following  
17 criteria may be considered as the basis for the approval of variance from  
18 the review process:  
19 a. Required services are already available to proposed lots without the  
20 construction of additional improvements.  
21 b. Levels-of-service can be reasonably provided through the site  
22 development plan review process or residential site plan review  
23 process for individual lots.  
24 c. Other methods can be arranged to assure construction of  
25 improvements, eliminating the need for formal subdivision approval.  
26 d. The granting of a variance is consistent with the overall intent of  
27 this code, and will not be injurious to the surrounding properties or  
28 detrimental to the public welfare.  
29 4. Criteria for review of variances from required improvements or design  
30 criteria. The following criteria may be considered as the basis for the  
31 approval of a variance from required improvements or design criteria, in  
32 addition to those criteria outlined above:  
33 a. Topographic or other physical conditions exist which are peculiar to  
34 the site and not a result of the actions of the applicant.  
35 b. Literal interpretation of this code would result in unnecessary and  
36 undue hardship on the applicant.  
37 c. Variances shall not be granted based upon economic  
38 considerations.  
39 5. Administrative variances to standard construction details. The  
40 administrative official may grant administrative variances to the  
41 requirements of the standard construction details. The administrative  
42 variance may only be granted to allow alternative materials, technologies,  
43 techniques, or other means which are equivalent to the materials,  
44 technologies, techniques, or means specified in the standard construction  
45 details or the standard utility details.  
46

47 Section 11: Issuance of development permits.

48 Once a development order has been issued, the developer may request the issuance of  
49 development permits.

- 1 (a) Pre-construction meeting. A pre-construction meeting is required prior to  
2 commencing any construction activity, including clearing. Failure to begin  
3 construction within 45 days after the pre-construction meeting may require an  
4 additional pre-construction meeting.
- 5 1. Attendance. Upon request of the developer, the planning and engineering  
6 department shall schedule a pre-construction meeting to be attended by  
7 the following individuals or their representatives:
- 8 a. Developer; developer's engineer(s); and developer's landscape  
9 architect(s), appropriate.
- 10 b. All contractors for the construction of the subdivision improvements.
- 11 c. All franchised utility companies.
- 12 d. PRC members and appropriate city and Utilities Commission  
13 inspectors.
- 14 2. Agenda: The meeting shall include discussion of the construction  
15 schedule, construction permit conditions imposed by the city and other  
16 agencies, procedures for inspection and testing, coordination with the  
17 Utilities Commission and private utility companies, maintenance of existing  
18 drainage ways, traffic maintenance, dewatering, access for construction  
19 stockpiling areas, the general construction requirements for site and  
20 subdivision development and other details deemed necessary to assure  
21 safe construction in compliance with this code and with minimum  
22 disturbance to surrounding areas.
- 23 (b) Pre-construction submittals required before scheduling. The following exhibits or  
24 documents shall be submitted to the department one week prior to scheduling  
25 the pre-construction meeting for the issuance of development permits:
- 26 1. Development order.
- 27 2. Copies of all contracts for the construction of the improvements.
- 28 3. Copies of certificates of insurance for all contractors providing workman's  
29 compensation as required by law and comprehensive liability insurance  
30 covering bodily injury, death and property damage, with limits of not less  
31 then \$100,000.00 per person and \$300,000.00 per occurrence, with the  
32 city listed as an additional insured and held harmless, as approved by the  
33 city attorney.
- 34 4. Copies of all applicable federal, state, regional, and county agency permits  
35 for construction.
- 36 (c) Pre-construction submittals required at or before the meeting. The following  
37 exhibits or documents shall be submitted to the department at or prior to the pre-  
38 construction meeting for the issuance of development permits:
- 39 1. Proof that all development order contingencies have been met, if  
40 applicable.
- 41 2. Subdivision inspection fee payment as adopted by the city commission.
- 42 3. Plans for the management of traffic and dewatering activities, if applicable.
- 43 4. Construction schedule.
- 44 (d) Issuance of notice of proceed. Upon receipt of all required documents and  
45 completion of the pre-construction meeting, the City Engineer shall issue a notice  
46 to proceed. The notice to proceed is contingent upon compliance with the  
47 development order. In addition, the city engineer may attach substantive and  
48 procedural contingencies on construction based on the requirements specified at  
49 the pre-construction meeting.

1  
2 Section 12: Model homes.  
3 Model home construction prior to plat recording shall only be allowed upon compliance  
4 with the following requirements:

5 (a) Subdivisions without a recorded plat shall be allowed up to a total of six (6) model  
6 homes subject to the following requirements:

- 7 1. Water meters for the model homes shall not be installed until the  
8 subdivision improvements have been accepted by the city.
- 9 2. Permanent sewer connections shall not be made until the sanitary sewer  
10 system has been completed and certified to FDEP.

11 (b) Model home construction prior to plat recording shall only be allowed upon  
12 compliance with the following requirements:

- 13 1. Provision for fire protection, including testing and approval of the water  
14 system by the Florida Department of Environmental Protection (FDEP), if  
15 on-site hydrants are required to service the area where the proposed  
16 models will be constructed.
- 17 2. Construction of access roads to the model home sites prior to building  
18 permit issuance, to the extent necessary to allow sufficient access by city  
19 inspection vehicles.

20 Additional requirements, restrictions, and conditions may be imposed by the  
21 administrative official to address specific site or project concerns.

22  
23 Section 13: Subdivision sales offices.

24 Two types of sales offices shall be permitted within any new subdivision upon recording  
25 of the plat.

26 (a) Model homes. A model home may be used as a sales office from the time the  
27 plat is recorded until such time as the last lot is developed within the subdivision.

28 (b) Temporary offices. Temporary structures, such as trailers, recreational vehicles,  
29 and the like, may be permitted as a temporary sales office while a model home is  
30 under construction. Such temporary offices shall only be permitted for an interim  
31 period not to exceed 60 days or until completion of the first model home,  
32 whichever occurs first.

33 (c) Permit required. For both subsections (a) and (b), above, building permits are  
34 required. A certificate of completion shall be required for any model home prior  
35 to occupation. All applicable building codes and ADA requirements must be met.

36  
37 Section 14: Inspections and acceptance.

38 (a) Inspections. The city shall inspect construction for conformance with the terms of  
39 the development permit. The city shall have the authority to reject materials or  
40 suspend work when construction is not in conformity with the terms of the  
41 development permit. The developer shall notify the city of the commencement of  
42 major phases of construction as discussed in the pre-construction meeting.

43 (b) Testing. The developer shall provide laboratory tests to verify specifications of  
44 materials as required by this code. The city reserves the right to require  
45 additional testing based on unusual circumstances encountered in the field.

46 (c) Request for final inspection. Final inspection of subdivision improvements shall  
47 be scheduled no more than five working days after receipt of the following  
48 documents, unless a later date is requested by the developer:

- 1           1.     Certification of completion by the engineer of record and/or landscape  
2           architect, as appropriate. Upon completion of the subdivision  
3           improvements, the developer's engineer and/or landscape architect, as  
4           appropriate, shall submit a signed and sealed certificate stating that the  
5           work was constructed under his supervision, and has been completed in  
6           substantial conformance with the approved development plans in  
7           compliance with the requirements of this code.
- 8           2.     As-built drawings.
- 9           3.     Testing reports. Copies of all testing reports shall be submitted.  
10          The planning and engineering department shall determine if the submitted  
11          documents are complete within two working days of the request for final  
12          inspection. Incomplete submittals will be returned to the engineer of record with  
13          the deficiencies explained in writing.
- 14         (d)   Final inspection report. A final inspection report will be issued noting any  
15          discrepancies for the development permit, corrective actions required, and any  
16          subdivision re-inspection fee required. In addition, the report shall review final  
17          documentation required for acceptance of the subdivision improvements once  
18          any necessary corrections are made.
- 19         (e)   Re-inspection. Re-inspection may be requested at any time, subject to  
20          remittance of a subdivision re-inspection fee, when required. Re-inspection will  
21          be scheduled within three working days, and an inspection report issued, if  
22          necessary.
- 23         (f)   Acceptance of subdivision improvements. Upon completion of any corrective  
24          actions required upon inspection, subdivision improvements shall be accepted by  
25          the city upon the receipt of the following:
  - 26               1.     All required certifications of completion under federal, state, regional, and  
27               county agency permits.
  - 28               2.     Improvement warranty in the amount of ten percent of the cost of  
29               construction of the roadway and stormwater management.
  - 30               3.     Sidewalk construction guarantee in the amount of 125 percent of the  
31               estimated construction cost of un-built sidewalks
  - 32               4.     Street tree installation guarantee, if applicable, in the amount of 125  
33               percent of the estimated installation cost of unplanted trees.
  - 34               5.     Copy of receipt for payment of signage and street lighting charges.
  - 35               6.     Full releases of liens from all contractors involved with the improvement  
36               construction.
  - 37               7.     Proof of payment by the developer of all outstanding bills owed to the city  
38               in relation to the subdivision approval process.
  - 39               8.     The improvement warranty period shall commence on the date of  
40               subdivision improvement acceptance.
- 41         (g)   Recording of the final plat. The following information must be provided prior to  
42          the recording of the final plat:
  - 43               1.     A letter from the surveyor verifying that all survey monumentation required  
44               by this code is in place.
  - 45               2.     An opinion of title updated to no more than two weeks prior to the  
46               proposed date for recording.
  - 47               3.     A copy of the computer disk, if the plat was prepared on an appropriate  
48               computer-aided drafting (CAD) system.

- 1           4.     A copy of the recorded articles of incorporation for the property owner's  
2                 association responsible for maintenance of common facilities.  
3           5.     Three mylar copies of the final plat, executed by the developer and entities  
4                 associated with the developer.  
5 (h)     Recorded plat. Upon receipt of all documents listed in subsection (g), above, the  
6             mayor and city clerk shall sign the three mylar copies of the final plat. The city  
7             will keep one set of the mylars and the other two will be returned to the developer  
8             for recording with the Volusia County clerk of court. Recording shall be done at  
9             the developers expense. Once the map book and page number have been  
10            assigned by the clerk, this information shall be provided to the city.  
11

12 Section 15: Minor subdivisions.

- 13 (a)     A minor subdivision is defined as meeting all of the following criteria:  
14           1.     An overall tract in single ownership of no more than three acres is divided  
15                 into no more than three lots.  
16           2.     No adjoining lots, tracts, or parcels are in the same ownership.  
17           3.     No new streets are proposed or required.  
18           4.     No dedication of right-of-way, drainage areas, conservation areas, or other  
19                 publicly maintained property is proposed or required.  
20           5.     All proposed lots meet or exceed the dimensional requirements of this  
21                 code, and required easements for utility, drainage, conservation, or other  
22                 purposes are delineated for transfer to the city as part of the development  
23                 order.  
24           6.     Water and sewer services are available to service the property, as  
25                 required by Article VI of this code.  
26 (b)     Application: Applications for minor subdivisions may be submitted at anytime to  
27             the Planning and Engineering Department. The application package shall consist  
28             of the following:  
29           1.     Application form.  
30           2.     Application processing fee.  
31           3.     Three (3) sets of signed and sealed surveys, including a legal description,  
32                 showing the overall tract.  
33           4.     Three (3) sets of signed and sealed surveys, including a legal description,  
34                 for each new lot.  
35 (c)     Review process. Following submission of an application, staff shall have two  
36             working days to review the application package for completeness. Incomplete  
37             applications shall be returned to the applicant with the deficiencies noted in  
38             writing.  
39           1.     If the application is complete, the administrative official, or his/her  
40                 designee, shall review the application to verify that the following items are  
41                 met:  
42                 i.     The dimensions of all lots meet or exceed the minimum  
43                         dimensional requirements of the zoning district in which the  
44                         property is located.  
45                 ii.    No non-conforming lots and structures will be created as a result of  
46                         the minor subdivision.  
47 (d)     Approval. If the application conforms with the requirements of this code, a  
48             development order shall be issued.  
49

1  
2



## City of New Smyrna Beach

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January 12, 2011

Mayor Lara Bradburn  
City of Brooksville  
201 Howell Avenue  
Brooksville, Florida 34601

Dear Mayor Bradburn:

Thank you for your letter of December 1, 2010 regarding the case that the City of Brooksville is involved in concerning surety bonds. We appreciate you bringing this matter to our attention and will be reviewing and updating our Land Development Regulations to insure that this does not affect future development and growth in our community.

Sincerely,



James Hathaway,  
Vice Mayor

cc: Mayor and Commission  
City Manager  
City Attorney  
Chief Planner

City of Brooksville



(352) 540-3810 Phone  
(352) 544-5424 Fax

December 1, 2010

Dear City Leaders,

Earlier this year, I brought to your attention Brooksville's legal battle to lay claim more than \$25 million in surety bonds.

The case involves a large developer who has filed for bankruptcy protection. Under an existing agreement with the city, the developer was required to secure surety bonds prior to obtaining an approved plat. The bonds were Brooksville's insurance that should the development company default, all infrastructure related to that development would still be built.

This is an active subdivision with homes currently under construction. The bonds would cover the construction of all infrastructure improvements including expansion of our sewage treatment plant, water lines and a sizable connector roadway between two state and federal highways.

As mentioned, collectively these bonds are worth approximately \$25 million to the City of Brooksville which is separated into several individual claims. To date, all bond holders have refused to pay the claims.

Unfortunately, a federal judge has issued a ruling supporting at least one of the bond holders, placing the financial burden on the city. As a result, the city would need to expend all the money for the infrastructure and then seek reimbursement, regardless of terms of the development agreement contract between the developer and the city.

Should our city not prevail in these proceedings, a failed outcome will set a dangerous precedent that surety bonds cannot be relied upon.

Enclosed please find the following attachments:

- **Sample Resolution** – Cities are encouraged to tailor make their resolution to define the potential impacts to their community.
- **White Paper** – summarizing the bond case, its history and its implications.
- **Judicial Ruling** - regarding the initial bond claim amounting to approximately \$5 million.

We appreciate your attention to this very important matter which could adversely affect all of our cities and towns along with the future development and growth of our communities.

Should you have any questions please contact City Manager Jennene Norman-Vacha at 352-540-3810 or City Attorney Jennifer Rey 352-799-8423.

Warm Regards,

*Lara Bradburn*

Lara Bradburn, Mayor  
City of Brooksville

201 Howell Avenue, Brooksville, Florida 34601-2041  
[www.cityofbrooksville.us](http://www.cityofbrooksville.us)



1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
2 V-2-11: 835 EAST 17<sup>TH</sup> AVENUE / RILEY

3 May 2, 2011  
4

---

5 I. Summary

- 6 A. **Applicant:** Gerard J. Pendergast, 120 Canal Street, New Smyrna Beach,  
7 on behalf of  
8 B. **Property Owners:** John J. and Susan C. Riley , 835 East 17<sup>th</sup> Avenue,  
9 New Smyrna Beach  
10 C. **Requests:** a 5-foot front yard setback variance from the required 30-foot  
11 front yard setback to preserve existing trees on site.  
12 D. **Site Information:** The subject property is zoned R-2, Single Family  
13 Residential, contains approximately 0.238 acres and is located on the  
14 south side of East 17<sup>th</sup> Avenue between Saxon Drive and South Atlantic  
15 Avenue. (see Location Map attached as **Exhibit A**).  
16 E. **Tax I.D. Number:** 742201490410  
17

18 II. Findings

- 19 A. The subject property has a single family residence on it. The property  
20 owners want to demolish the house and construct a new residence on the  
21 property. Several trees exist on the lot, most of which the property owner  
22 will be saving. The largest tree is located where the footprint of the house  
23 would be, should the house be constructed without a variance to move the  
24 structure forward five feet. Please see **Exhibit B** for photos of the trees,  
25 the subject trees the owners want to preserve, and the stakes where the  
26 rear of the house would be located if the variance is approved.  
27 B. The City has provisions to allow a reduction in the number of required  
28 parking spaces to preserve trees. However, there are no provisions to  
29 allow a building to be located within a required yard (in this case, the front  
30 yard) without first attaining approval of a variance request. The City's  
31 regulations generally encourage preservation of existing vegetation. For  
32 example, the LDR specifies existing vegetation in required landscape  
33 buffers within certain zoning districts be maintained rather than cleared  
34 and planted with new vegetation. This reduces the amount of irrigation  
35 needed to establish the plantings and typically provides greater canopy  
36 coverage, which assists in a reduction in energy costs by providing  
37 insulation and shade.  
38 C. In addition to insulation/shade that reduces energy costs, trees provide  
39 habitat for birds that aid in keeping insect populations at bay, and they  
40 offer protection from flying debris and reduce wind speeds during wind  
41 storms. They maintain the aesthetics of the community, increase the  
42 production of oxygen, reduce air pollution, reduce soil erosion, abate  
43 noise, and attract other high quality developments to the community.  
44 Maintaining native, established vegetation typically means the plant  
45 materials are adapted to local diseases, pests, soil and climate and are  
46 generally more economical than exotic plants that require pesticide,  
47 fertilizer and water.  
48 D. Staff has discussed with the applicant using cantilevered footers in the  
49 area adjacent to the tree. Trenching to install the footer requires severing  
50 of roots within a couple feet of the trunks of the subject trees. By utilizing a

1 cantilevered footer, the footer would be installed further away from the  
2 trunk. The house is shown to be located approximately 3-feet from the  
3 trunk of the closest tree. Staff is recommending that no roots closer than 4  
4 feet from the tree be cut for construction of the house, including the trench  
5 for the footer. Roots should be cut by hand and treated in an appropriate  
6 way according to standards set forth by the International Society of  
7 Arboriculture. The applicant should have the tree root-pruned a few  
8 months prior to actual construction commencement to allow the tree time  
9 to recuperate from having substantial root structures severed.

10 E. **Exhibit C** shows existing site conditions with the existing structure. Trees  
11 are located and specified and are all located in the southwestern area of  
12 the property.

13 F. **Exhibit D** was submitted by the applicant depicting what is to be  
14 demolished on the property (essentially, all existing structures).

15 G. **Exhibit E** shows the footprint of the proposed structures, as submitted by  
16 the applicant.

17  
18 H. The LDR requires variance requests to meet all of the following criteria.  
19 The applicant's letter of response to the variance criteria is attached as  
20 **Exhibit F**, with photos submitted by the applicant shown in **Exhibit G**.  
21 Staff's responses to the criteria are listed below in **bold**.

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

27  
28 **The special circumstance is the location of the subject tree.**  
29 **While the size of the footprint of the house could be reduced to**  
30 **protect the tree, the size of the proposed residence is typical**  
31 **of homes throughout beachside and the City as a whole.**

32  
33 **This criterion has been met.**

34  
35 (ii) Strict application of the provisions of this LDR would deprive the  
36 subject property owner of reasonable rights commonly applicable to  
37 other properties in the same district or may preclude a benefit to the  
38 community in general.

39  
40 **The benefits provided by the trees would be precluded if the**  
41 **trees are removed. Allowing the structure to be located 5-feet**  
42 **into the required front yard would allow these trees to be**  
43 **saved.**

44  
45 **This criterion has been met.**  
46  
47

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

7 **The subject trees appear to be “volunteer”, meaning they grew**  
8 **naturally on their own in this location, as opposed to being**  
9 **planted. Therefore, the present and past property owners did**  
10 **not cause the hardship, which is the location of the trees and**  
11 **the required front yard setback established in the City’s Land**  
12 **Development Regulations.**

13 **This criterion has been met.**

- 14  
15  
16 (iv) That granting of the variance will not cause substantial detriment to  
17 the public welfare or impair the purposes and intent of this  
18 Ordinance.  
19

20 **The granting of the variance would not cause substantial**  
21 **detriment to the public welfare, and in fact preserving the trees**  
22 **which provide numerous benefits for the community would**  
23 **actually be beneficial to general public welfare. While there is**  
24 **the intent of the ordinance to provide visual continuity and**  
25 **open space along streets by requiring the front yard setbacks,**  
26 **the house being located 5-feet closer to the road than other**  
27 **houses on the street would not create substantial change to**  
28 **the character of the neighborhood. Additionally, there is also**  
29 **the intent of the ordinance to preserve existing established**  
30 **trees, and reductions in parking are allowed and maintaining**  
31 **landscape buffers containing existing vegetation are**  
32 **encouraged to preserve trees. Therefore, granting the variance**  
33 **would not impair the intent of the ordinance.**

34 **This criterion has been met.**

- 35  
36  
37 (v) That granting of the variance will not constitute a grant of special  
38 privilege that is denied by this Ordinance to other lands, structures,  
39 or buildings, in the same district.  
40

41 **Granting of this variance would not constitute a grant of**  
42 **special privilege, as the ordinance gives provisions for**  
43 **preserving trees in other circumstances.**

44 **This criterion has been met.**  
45  
46  
47  
48

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8  
9

**III. Recommendation**

Staff recommends approval of variance request with the following conditions:

1. Roots should be cut by hand and treated in an appropriate way (to include treatment and timeframes) according to standards set forth by the International Society of Arboriculture; and
2. No roots closer than 4 feet from the tree are to be cut for construction of the house, including the trench for the footer.

1

Exhibit A – Location Map



2

1

**Exhibit B – Photos of subject property and subject tree**



Subject property with subject trees

2  
3  
4



Existing trees on the property are located on the western side of the lot to the rear of the house

5  
6  
7

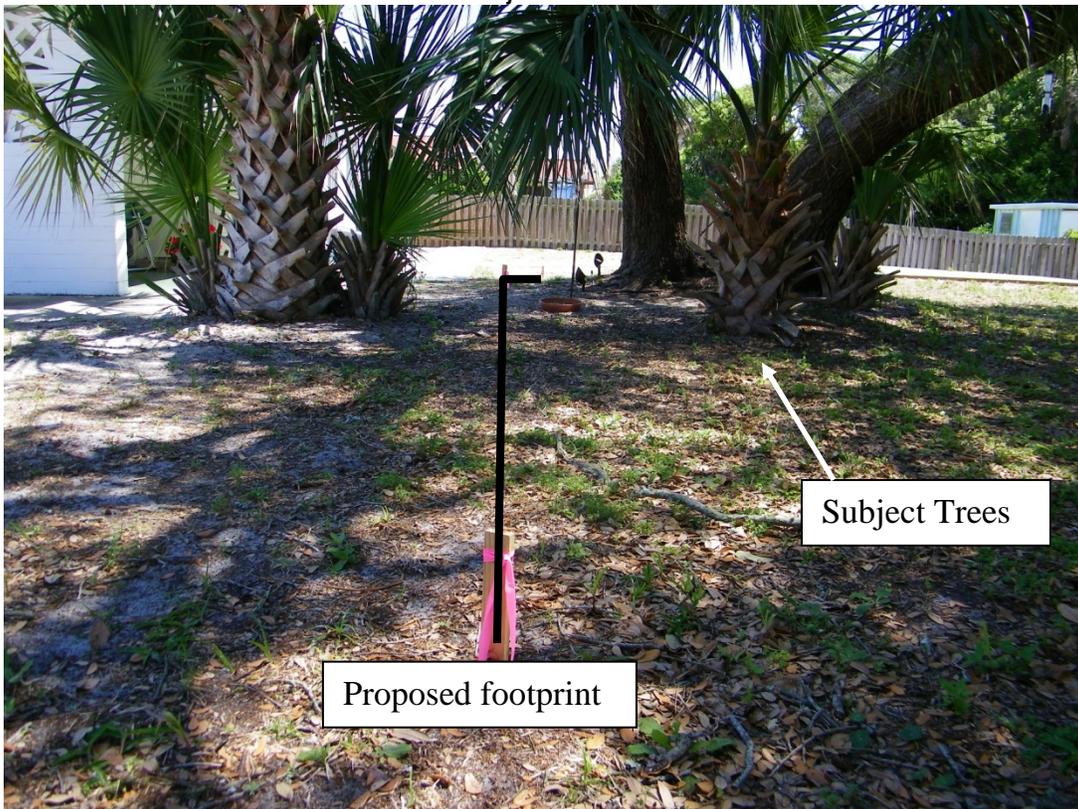
1

Exhibit B cont'd



Subject trees

2  
3



Subject Trees

Proposed footprint

4  
5  
6

Proposed location of rear of new structure's footprint with variance approval in relation to subject trees

1

Exhibit B cont'd



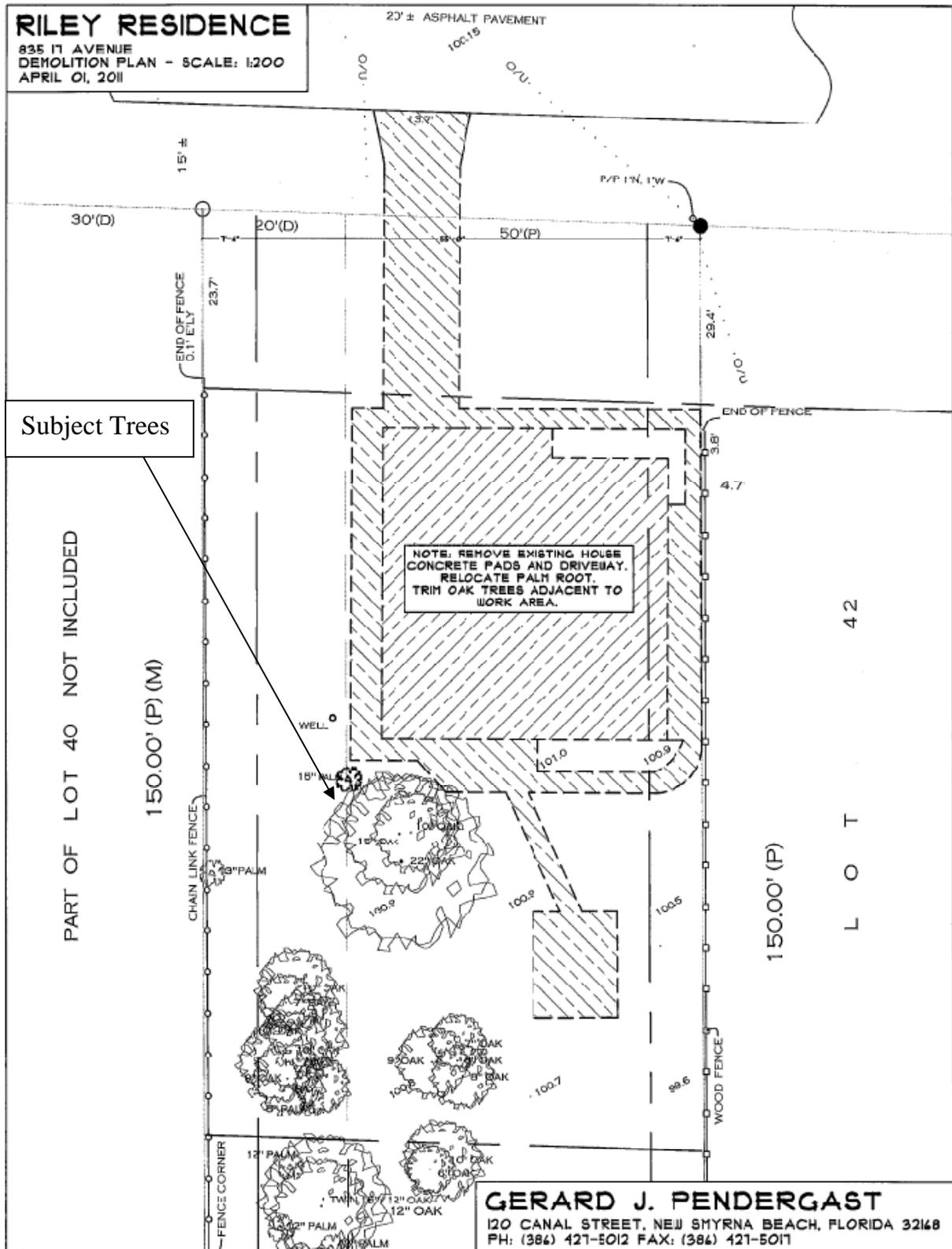
2  
3  
4

Looking west at stakes indicating proposed location of rear of structure in relation to the subject trees



1

Exhibit D – Demolition Plan



2





**Gerard J. Pendergast**  
 120 Canal Street  
 New Smyrna Beach, FL 32168  
 (386) 427-5012

**Project: Riley, John J & Susan C, 835 17th Avenue**  
**Project No: A2011-0512**

This variance is being submitted on behalf of the property owner of record.

1. Special circumstance... We are requesting this variance from 30' required in the front setback to 25' in order to save a cluster of existing mature oak trees on the south west side (rear) of the house.
2. The strict application of the Land Development Regulations would preclude the property owner and the community of the benefit of preserving the established natural vegetation.
3. The hardship exists because of strict interpretation of the LDR of NSB. These trees were not intentionally planted by the present property owners or past property owners.
4. Land Development Regulations encourage preservation of natural mature established vegetation and granting the variance will not cause detriment to the public welfare and is the intent of the LDR.
5. Therefore, granting of this variance will not constitute a grant of special privilege that is denied by the Land Development Regulations to other lands, structures or building in the same district.

**Gerard J. Pendergast, Architect, PLC**  
 April 1, 2011

3/31/2011

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**Exhibit G** – Photos submitted by applicant



2

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
2 **V-3-11: SMITH / 916 SOUTH RIVERSIDE DRIVE**  
3 **MAY 2, 2011**  
4

---

5 **I. Summary**

- 6 A. **Applicant and Property Owner:** Scott Smith, 204 South Street, Brielle,  
7 New Jersey, 08730  
8
- 9 B. **Requests:** Approval the following variances in order to allow a Bed and  
10 Breakfast to operate at 916 South Riverside Drive:  
11 1. Variance to waive the requirement to provide 16 on-site parking  
12 spaces;  
13 2. Variance to two signs in lieu of the one sign permitted by code; and  
14 3. Variance to allow a 32-square foot sign in lieu of the maximum 10-  
15 square foot sign permitted by code.  
16
- 17 C. **Site Information:** The subject property contains approximately 0.421  
18 acres, is zoned R-2, Single-Family Residential, and is generally located  
19 northwest of the intersection of South Riverside Drive and 2<sup>nd</sup> Street. (see  
20 Location Map attached as **Exhibit A**).  
21
- 22 D. **Tax I.D. Number:** 7444-01-00-2960  
23

24 **II. Findings**

- 25 A. The subject property is an approximately 100' x 143' rectangular-shaped  
26 corner lot. The subject property was originally improved with a two-story  
27 single-family home and a detached garage. According to information from  
28 the Volusia County Property Appraiser's Office, the home and garage  
29 were constructed in 1946.  
30
- 31 B. The following approvals have been granted for the property since 2009:  
32 • December 2009: Permit to construct a two-story addition on the  
33 south side of the existing house  
34 • March 2010: Variance approval to allow a swimming pool to be  
35 constructed in the front yard setback, within an existing 7-foot  
36 masonry wall  
37 • June 2010: Permit to construct an in-ground pool (expired  
38 December 2010)  
39 • October 2010:  
40 • City Commission approval of a license agreement to  
41 construct an 8-foot wide circular parking area within the 2<sup>nd</sup>  
42 Street right-of-way  
43 • Permit to demolish 840 SF of the existing house and shore  
44 up the remainder of the structure  
45 • January 2011: Permit to construct a three-story addition to the  
46 residence  
47

48 All permits were submitted as a single-family residence. Because the  
49 permit applications met all requirements for a single-family residence,

1 there was no reason for the City not to approve the permits. Pictures of  
2 the property are attached as **Exhibit B**.

3  
4 C. At the time the permit application was submitted for the two-story addition  
5 in 2009, staff became aware of owner's intent to eventually operate a bed  
6 and breakfast at this location. However, in 2009 the scope of the project  
7 was much smaller. At that time, staff advised the applicant that parking  
8 would be an issue. Staff also advised the property owner to meet with  
9 surrounding residents to let them know what his intent was and to gauge  
10 their support for, or opposition to, the project.

11  
12 D. The subject property is located within the City's bed and breakfast overlay  
13 zone (**Exhibit C**) and would therefore be a permitted use. The intent of  
14 the overlay is to "promote historic preservation and restoration through  
15 providing new uses for old structures and to promote small scale lodging  
16 establishments as an alternative form of resort accommodation". Article II  
17 of the LDR defines "Bed and Breakfast Homes" as:

18  
19 A building, or majority of a building, at least fifty (50) years old; not  
20 including a hotel, motel, lodge, or inn; wherein sleeping  
21 accommodations and meals are provided for lodgers for a daily  
22 charge and which also serves as the residence of the owner or  
23 operator. All establishments using the title "Bed and Breakfast" in  
24 the name of [the] business, on the business' sign or other  
25 advertisements, must be operated out of a building that has been  
26 preserved, restored, and maintained, in a manner to promote the  
27 building's historic ambiance (for the building's original period  
28 architecture).

29  
30 According to information supplied by the applicant, the original house  
31 consisted of 5,583 square feet of area under roof. The new additions will  
32 increase the floor area by 2,956 square feet, resulting in a total area of  
33 8,539 square feet. The subject property is not located within the City's  
34 Mainland National Register Historic District. However, the original 1946  
35 home was identified as a potential contributing structure to any new or  
36 expanded historic district.

37  
38 E. Subsequent to the City issuing the 2009 building permit, the scope of the  
39 proposed bed and breakfast project increased significantly. In March  
40 2011, building and planning staff met with the property owner, project  
41 contractor and project designer to discuss the ultimate scope of the project  
42 and what would be required with regard to building and land development  
43 regulations. At that meeting, staff was informed that the scope of the  
44 project had increased to 14 rooms. Additionally, the driveway along 2<sup>nd</sup>  
45 Street had been removed and the existing wall that was to surround the  
46 pool had also been partially removed.

**OFF-SITE PARKING AND PARKING REDUCTION VARIANCE**

- 1  
2 F. Based upon the ultimate use desired by the property owner (i.e., a 14-  
3 room bed and breakfast), the issue of parking must be addressed.  
4 Section 604.10 of the City's *Land Development Regulations* (LDR),  
5 establishes a parking ratio for bed and breakfast establishments of one  
6 space per room plus two parking spaces for the owner. The proposed 14-  
7 room bed and breakfast would therefore require a total of 16 parking  
8 spaces. Because the property is not located within a special parking  
9 district, the only parking reduction available is a 10% reduction in order to  
10 preserve trees. In this case, the property owner could eliminate two  
11 parking spaces, reducing the total number of required parking spaces to  
12 14.  
13
- 14 G. The applicant is requesting a variance to further reduce the amount of  
15 required parking from 14 spaces to 13 spaces. An additional variance is  
16 being requested to allow all required on-site parking to be provided in the  
17 2<sup>nd</sup> Street right-of-way, adjacent to the subject property (**Exhibit D**).  
18 Second Street was platted as a 60-foot wide right-of-way. However, the  
19 edge of the pavement is only approximately 21 feet from the south edge of  
20 the subject property line (**Exhibit E**). Additionally, there is a 5-foot wide  
21 concrete sidewalk in the right-of-way.  
22
- 23 H. In order to accommodate and formalize the proposed on-site parking, the  
24 applicant would need to relocate the public sidewalk onto the subject  
25 property. Doing so would require the City Commission to approve a  
26 license agreement for the on-street parking improvements and to accept  
27 an easement for the sidewalk on private property.  
28
- 29 I. As an alternative to utilizing the 2<sup>nd</sup> Street right-of-way for parking, the  
30 applicant is permitted by code, to provide off-site parking provided that the  
31 parking is no more than 200 from the bed and breakfast. The applicant  
32 proposed using property he owns at 1010 South Riverside Drive to meet  
33 this requirement. However, the property is zoned R-2, Single-Family  
34 Residential. The R-2 zoning designation does not permit parking lots,  
35 unless the property is immediately adjacent to the business using the  
36 parking. In this case, the property at 1010 South Riverside Drive is not  
37 immediately adjacent to the proposed bed and breakfast at 916 South  
38 Riverside Drive. Additionally, the property at 1010 South Riverside Drive  
39 is already improved with a single-family residence and is surrounded on  
40 both the north and south sides by single-family homes. Therefore, even if  
41 a parking lot were permitted in the R-2 zoning district, it is likely that the  
42 existing improvements would need to be removed in order to construct the  
43 parking lot. Also, even if a parking lot could be constructed at 1010 South  
44 Riverside Drive, it would likely have a significant impact on adjacent  
45 property owners and would destroy the residential and historic character  
46 associated with Riverside Drive.  
47

1 J. Another alternative for the property owner is to provide off-site valet  
2 parking, which could be located within 1,200 feet of the bed and breakfast.  
3 Staff has discussed this option with the applicant and has identified  
4 several possible locations, including the city-owned Parks and Recreation  
5 property, the 1<sup>st</sup> Presbyterian Church and the Newman Building on  
6 Magnolia Street.

7  
8 K. A final alternative open to the property owner is to construct a parking lot  
9 on the subject property, along South Riverside Drive. The 100-foot width  
10 of the property along South Riverside Drive would allow approximately 8-9  
11 parking spaces, once driveway setback and handicapped accessible  
12 parking space dimensions are factored in. However, as discussed in  
13 Finding "H", above, this would have a significant impact on adjacent  
14 property owners and would destroy the residential and historic character  
15 of this area of the City.

16  
17 **SIGNAGE**

18 L. In addition to the parking-related variances, the applicant is also  
19 requesting two variances with regard to signage. Section 604.14(G), LDR,  
20 allows bed and breakfast establishments to have one 10-square foot sign.  
21 If the sign is a pole or monument sign, the maximum height is limited to six  
22 feet. Corner properties are also allowed to have one directional sign on  
23 site. Per code, directional signs may not exceed more than 3 square feet  
24 of copy area and are allowed to have a maximum height of four feet.

25  
26 M. The property owner is requesting a variance to allow two signs on the  
27 property. One of the proposed signs would be a 32-square foot sign that  
28 would most likely be located on South Riverside Drive. The second sign  
29 would be the 10-square foot sign permitted by code. Staff reviewed sign  
30 permits issued for other bed and breakfast businesses within the City.  
31 However, because the majority were opened prior to conversion to the  
32 current software system, most information was unavailable. The Night  
33 Swan bed and breakfast was issued a permit for a 10-square foot sign in  
34 1992. While sign permits have also been issued for the Little River Inn,  
35 Coquina Wharf, Longboard Inn and Nuns and Roses bed and breakfast  
36 establishments, no information was available on the size of the signs

37  
38 N. The LDR requires variance requests to meet all of the following criteria.  
39 The applicant's letter of response to the variance criteria is attached as  
40 **Exhibit F**. Staff's responses to the criteria are listed below in **bold**.

- 41  
42 (i) Special circumstances exist which are peculiar to the subject  
43 property owner's land, structure, or building, and do not generally  
44 apply to the neighboring lands, structures, or buildings, in the same  
45 district or vicinity.

46  
47 **The applicant has not identified any unique circumstances**  
48 **associated with the land or the building. As discussed above,**

1 the applicant does the option to provide off-site or valet  
2 parking. Alternatively, the applicant could construct a parking  
3 lot on-site, along South Riverside Drive. However, even if  
4 aesthetic considerations are removed from the discussion,  
5 there would still not be enough land area available on-site to  
6 accommodate all the parking required to support a 14-room  
7 bed and breakfast.

8  
9 It should be noted that this lack of land area is not necessarily  
10 a justification for granting a variance. The need for additional  
11 land for on-site parking is directly related to the number of bed  
12 and breakfast rooms proposed for the site. This is a business  
13 decision made by the property owner. A smaller bed and  
14 breakfast facility, as originally discussed with staff, could have  
15 been proposed. Additionally, the applicant could still combine  
16 rooms and reduce the amount of required parking.

17  
18 Staff understands that because the subject property is located  
19 within the bed and breakfast overlay, there may be a  
20 perception that opening a bed and breakfast is an implicit  
21 entitlement already granted to the property owner. Even if  
22 such an implicit entitlement existed, that entitlement would not  
23 constitute a special circumstance associated with the land or  
24 the building.

25  
26 With regard to the variance requests for additional signage,  
27 neither staff nor the applicant have identified a special  
28 circumstance that would justify granting these variances.

29  
30 **This criterion has not been met.**

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

36  
37 **Strict application of the provisions of the *Land Development***  
38 ***Regulations* would not deprive the property owner reasonable**  
39 **rights commonly applicable to other properties in the same**  
40 **district. The property owner could still combine rooms,**  
41 **creating a smaller bed and breakfast. This could potentially**  
42 **reduce or eliminate the need for off-site parking variances.**

43  
44 With regard to signage, strict application of the code  
45 provisions would not deny the property owner of reasonable  
46 rights. The owner would still be allowed to install a 10-square  
47 foot sign and could also have a 3-square foot directional sign.

1                   **The size of the proposed signage is compatible with the**  
2                   **neighborhood and consistent with the type of business**  
3                   **proposed. A bed and breakfast facility is not the same as a**  
4                   **hotel along an interstate, where large signs are required to**  
5                   **attract pass-by traffic.**

6  
7                   **The criterion has not been met.**

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

14  
15                   **No special circumstances have been identified by either staff**  
16                   **or the applicant. As discussed above, the primary factor**  
17                   **driving the need for the parking variances is the number of**  
18                   **bed and breakfast rooms proposed by the owner.**

19  
20                   **No special circumstances have been identified by either staff**  
21                   **or the applicant justifying the need for additional signage on-**  
22                   **site.**

23  
24                   **This criterion has not been met.**

- 25  
26                   (iv)   **That granting of the variance will not cause substantial detriment to**  
27                   **the public welfare or impair the purposes and intent of this**  
28                   **Ordinance.**

29  
30                   **Granting the variances would not be detrimental to the public**  
31                   **as a whole. However, granting of the variances could be**  
32                   **potentially detrimental to the immediate neighborhood.**  
33                   **Section 604.10 of the LDR prohibits non-residential uses from**  
34                   **designing parking lots in such a way that the parking spaces**  
35                   **would back directly out into a public right-of-way. However,**  
36                   **no such prohibition exists for on-street parking that is located**  
37                   **within the public right-of-way (for example, the parking spaces**  
38                   **in front of City Hall).**

39  
40                   **If the parking variances are granted, staff has been advised by**  
41                   **the Assistant City Attorney that these spaces cannot be**  
42                   **reserved or signed for use only by the bed and breakfast.**  
43                   **Therefore, even though 13 new formally designated parking**  
44                   **spaces might be created, these spaces would be available to**  
45                   **everyone in the public on a first-come, first-served basis. As a**  
46                   **result, patrons of the bed and breakfast may still be required**  
47                   **to park a block or two away from the bed and breakfast.**

1  
2           **Staff has spoken with the property owners immediately south**  
3           **of the subject property, across 2<sup>nd</sup> Street, as well as to an**  
4           **owner on the 1000 block of South Riverside Drive. These**  
5           **owners have expressed concerns about traffic impacts from**  
6           **the proposed bed and breakfast, concerns regarding visual**  
7           **and aesthetic impacts to the neighborhood and disruption of**  
8           **the general residential character and function of the**  
9           **neighborhood. Letters from surrounding property owners are**  
10           **attached as Exhibit G.**

11  
12           **This criterion has not been met.**

- 13  
14           (v)   That granting of the variance will not constitute a grant of special  
15           privilege that is denied by this Ordinance to other lands, structures,  
16           or buildings, in the same district.

17  
18           **Granting of the variances would constitute a grant of special**  
19           **privilege. All business establishments, including those in the**  
20           **Community Redevelopment Agency boundaries, are required**  
21           **to provide at least 50% of their required parking on-site.**  
22           **Because adequate space might have been available on-site,**  
23           **prior to the additions, to accommodate a lesser number of**  
24           **guest rooms, approving the parking variances would be a**  
25           **grant of special privilege.**

26  
27           **With regard to signage, as discussed above, staff was only**  
28           **able to verify the size of the Night Swan Bed and Breakfast**  
29           **sign. However, allowing increased signage within a residential**  
30           **neighborhood, and allowing more signage than has been**  
31           **permitted for at least one other bed and breakfast facility,**  
32           **would be a grant of special privilege. Neither staff nor the**  
33           **applicant has identified any special circumstances that would**  
34           **justify granting the additional signage.**

35  
36           **This criterion has not been met.**

37  
38   **III. Recommendation**

39  
40           Because the request does not meet any of the variance criteria, staff  
41           recommends **denial**.



**EXHIBIT B**



View of 2<sup>nd</sup> Street right-of-way where 13 off-site parking spaces are proposed.

EXHIBIT B (CONT'D)



View of on-going construction work at 916 South Riverside Drive



**EXHIBIT B (CONT'D)**

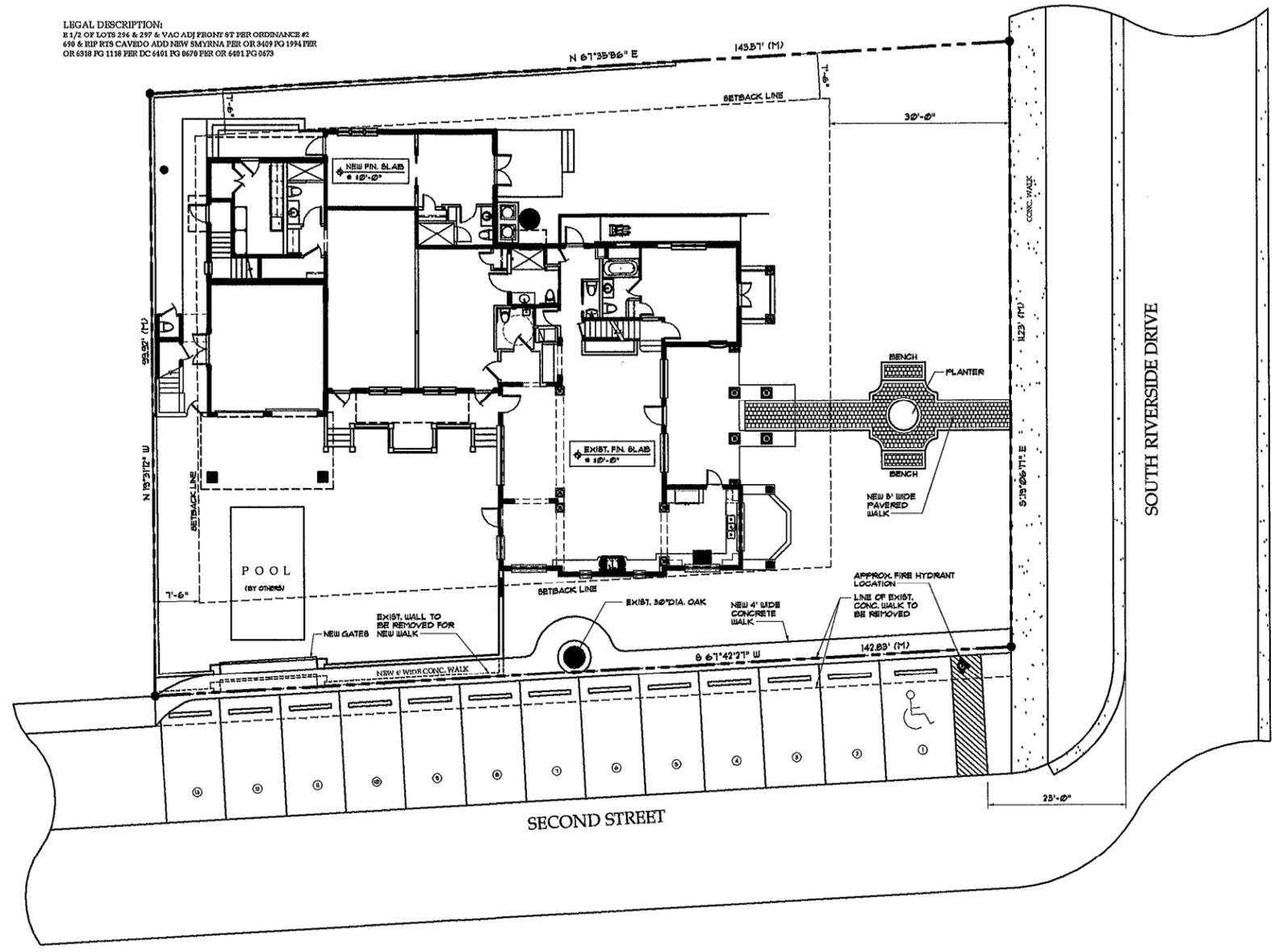


View of property immediately south of subject property on the south side of 2<sup>nd</sup> Street. The proposed off-site parking is immediately across from this home.





LEGAL DESCRIPTION:  
 E 1/2 OF LOTS 236 & 237 & VAC ADJ FRONT ST PER ORDINANCE #  
 680 & RIP RYS CAVEDO ADD NEW SMYRNA PER OR 3409 PG 1994 PER  
 OR 6318 PG 1118 PER DC 6401 PG 6670 PER OR 6481 PG 0573



**AREA SUMMARY**

LOT AREA	14,311 SQ. FT.	100%
BUILDING, STAIRS, PATIOS, WALKS COVERAGE:	6,620 SQ. FT.	46%
TOTAL IMPERVIOUS	6,620 SQ. FT.	46%
TOTAL PERVIOUS	7,711 SQ. FT.	54%

EXISTING BUILDING AREA: 5,583 SQ. FT.

NEW AREA:	
1ST FLOOR	748 SQ. FT.
2ND FLOOR	1,244 SQ. FT.
3RD FLOOR	964 SQ. FT.
TOTAL	2,956 SQ. FT.

**PARKING SUMMARY**

14 GUEST SUITES  
 13 PARKING SPACES PROVIDED

Site Plan  
 Scale: 1"=10'

Charles R. Adams & Associates, Inc.  
 Structural Engineers  
 C.A. #4180  
 80 E. 10th Avenue, New Smyrna Beach, Florida  
 Phone: 386-453-5581  
 FAX: 386-453-5582  
 URS TO CONSTRUCTION  
 1473122011  
 Prepared by:  
**Causeway Design Group**  
 Brian J. Morrell  
 427 Phillips Creek Lane  
 New Smyrna Beach, Florida 32168  
 386-453-7159  
 bjm@cdg.com

ALTERATIONS & ADDITION TO THE  
**SMITH RESIDENCE**  
 916 SOUTH RIVERSIDE DRIVE  
 NEW SMYRNA BEACH, FLORIDA

SITE PLAN

DRAWN BY: B.J.M.  
 CHECKED BY: C.R.A.  
 SCALE AS NOTED  
 DATE 03-31-2011  
 A-1  
 SHEET 1 OF 1



## **Bed & Breakfast Hardship Letter**

### **Introduction:**

We are pleased to have this opportunity to present a “hardship” letter in response to applying for a parking variance for the proposed operation of a Bed & Breakfast business at 916 S. Riverside Drive. This historic property was commissioned to be built by Harold M. Stratton in 1934 who was the co-founder of the Briggs & Stratton Corporation. This century old company was founded in 1908 and is the world’s largest manufacturer of gasoline engines for outdoor power equipment.

### **Property Specifications:**

We acquired this multi-level single family home in the fall of 2009. It resides in the New Smyrna Beach Historic District which is permitted for a bed and breakfast use. The total square footage of the original home is 5568 square feet. The lot measures an aggregate total of 14,311 square feet.

### **Economic Development Benefits**

Our proposed bed and breakfast operation will deliver a multitude of economic and intangible benefits to the city including but not limited to the following:

- New job formation in a challenging employment environment
- Generation of incremental bed taxes to promote local tourism
- Increased property specific ad valorem taxes
- Ancillary revenues generated by guests through the purchase of goods and services from local suppliers
- Additional spending flows through-out various sectors of the local community
- Increased sales and use tax revenues
- Community prestige and pride, quality of life amenities, and indirect job opportunities

Our goal of establishing a bed & breakfast business is in alignment with the goals of the city which is to enhance the quality of life through the creation and preservation of healthy businesses and job growth. Our business initiative is also supported by the Economic Development Board which ranks the “expansion of tourism” as its number one priority.

Page #2

### **Hardship Criteria**

The primary tenet that has guided our adaptive re-use development plan - is the preservation of the historical charm, character, and beauty of the community. In our opinion, practical difficulties or unnecessary hardship will accrue if the strict letter of the parking ordinance is applied resulting in an intangible loss affecting the quality, appeal, and look of the community. Our rationale in support of this conclusion is detailed as follows:

Our proposed bed and breakfast operation resides on a corner lot (S Riverside Dr and 2<sup>nd</sup> Ave) – which frames the southern boundary of the “historic’ district. South Riverside Drive prohibits on- street parking on either the west or east side of the street. The setback lines on the west and north side of the property – combined with the original configuration of the building – allows for approximately 6 parking spaces for the owner-operator and guest vehicles.

The boundary line on the south side of the property on 2<sup>nd</sup> ave, - is north of the sidewalk. Any diagonal parking between the sidewalk and the street, which is city owned property – does not have the depth to accommodate a vehicle. The amalgamation of all these factors will require the vast majority of all our guest vehicles to park on the east side of our property - along S Riverside Drive. **Therein lies our specific hardship – we do not want to compromise the character and charm of the community by parking vehicles in a high visibility area. It will detract from the look, appeal, and image of the neighborhood.**

In response to this compromising condition, we are requesting that the city work with us to exhaust all reasonable alternatives to comply with the parking ordinance. Our variance request seeks to explore the feasibility of parking vehicles on city owned property which frames the south border of our property on 2<sup>nd</sup> ave. This will likely entail the issuance of an easement for the relocation of the sidewalk, removal and or relocation of trees and the property specific privacy wall, and the consummation of a licensing agreement approved by the City Commission for this special use. In addition, further discussion may need to ensue regarding a potential parking use conflict regarding the interpretation of the vehicle right- of -way on a residential street. Other options include entering into a parking lease agreement for city property (public library area) within 1500 ft of our property, off-site self or valet parking, and or a parking lease arrangement with the private sector (Newman building, Presbyterian Church, and Our Accord Christian Fellowship Church).

Page #3

**Bed & Breakfast Eligibility Requirements**

At this juncture, our construction plans that have been submitted for city approval will allow us to qualify for a bed & breakfast use – based on the meeting the following criteria:

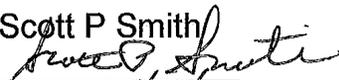
- The property was built in 1943 and is over 50 years old
- Our development plan pays meticulous attention to the historical character and ambiance of the premises
- 50% of the “improved” enclosed space – is 50 years or older
- Provision for a fire suppression system and all related ADA requirements

We feel that this “hardship” instrument is the best way to surface our concerns regarding the parking of vehicles on the east side of the property (along S. Riverside Drive) - in response to seeking other viable parking alternatives with the city.

**Summary**

In closing, we are at the “crossroads” in finalizing our operational plans. The parking component of our proposed business needs to be resolved so that we can complete our business plan. Our vision for the property is to construct, design, and manage a bed and breakfast entity that will rank as the highest quality hospitality operation on the East coast of Florida. We have the management expertise, financial strength, and marketing experience to deliver an outstanding vacation product that will serve to enhance the prestige and reputation of New Smyrna Beach as an appealing, vibrant, and viable tourist destination.

Submitted By:

Scott P Smith  
  
Date/ 4/4/11

Brett P Smith  
  
Date/ 4/4/11

4/21/2011  
James and Amanda Boren  
1000 S. Riverside Dr.  
New Smyrna Beach, Fl. 32168

Attention: Gail Henrikson  
Attention: New Smyrna Beach City Planners  
Ref: Case/File# V-3-11

Dear New Smyrna Beach City Planning Board:

My wife and I have owned the home, at 1000 S. Riverside Dr., for eight years. We did a historic preservation of our property, in keeping with beautiful Riverside Drive. We are currently completing a Sustainable Green Development in Asheville, North Carolina. Our project here helps pay our Volusia county taxes, due to the lack of growth, in our beautiful city, New Smyrna Beach. Having said that, we believe that unsustainable projects, such as the one located at 916 South Riverside Drive, should live within the rules, that our tax money, and your planning board, have established. We have grown tired of being told one thing, and having another occur, at this site. I am sure you can relate. My wife and I are pro-growth, but do not agree with 2<sup>nd</sup> Street being turned into a parking lot, as the Night Swans' neighbors experienced. We are being asked to look at a large sign, instead of the waterway, and listen to car doors slamming and motors starting, at all hours of the morning and night, in a quiet community. We have been told that the parking has always been planned for down the street at the owners' other residence on Magnolia. We have also been notified of a wall, that has been removed, that was not part of the original approved plan. The building department has never allowed this type of side-stepping around the laws.

Please ask yourselves.

Is this hotel now sustainable for your town?

Should a 12 year resident of New Smyrna Beach have their property value diminished further?

If the answer to either of these questions is Yes, then refund us our tax money.

Sincerely,

James and Amanda Boren  
CC/ Sid Peterson, PA  
Adam Barringer, Mayor

## EXHIBIT G (CONT'D)

**From:** [Mary Jane Henderson](#)  
**To:** [Henrikson, Gail](#)  
**Subject:** Objections to 916 South Riverside Drive Variance Request  
**Date:** Friday, April 22, 2011 10:39:29 AM

---

April 22, 2011

Gail A. Henrikson, AICP  
Planning Manager  
City of New Smyrna Beach

Re: 916 South Riverside Drive Variance Request

Dear Gail;

Thank you for speaking to me this morning and providing information regarding the construction project underway at 916 South Riverside Drive and the pending variance request.

It is my understanding that all construction that has been completed and that is still underway has been authorized under a building permit issued under "single family residence" regulations. However, as we all know the current owner has a desire to operate a Bed and Breakfast from that location once construction is completed. Neither my husband nor I are opposed to that. We are, however, opposed to the pending variance requests.

Clay and I own 4 properties within 1 - 2 blocks of 916, specifically the houses at 1016 South Riverside Drive (which we occupy), 1012 South Riverside Drive, 1017 Magnolia Street, and 1018 Magnolia Street (all of which are occupied by tenants). We have resided in this neighborhood for over 27 years. We absolutely love our neighborhood, it's "small town" feeling where kids can ride their bikes around, and the people who live here. We are delighted that someone has been able to purchase the 916 South Riverside Home and has had the financial resources to remodel it.

When construction originally began on this house, it was the understanding of many of us in the neighborhood that the end project was going to be a 6 bedroom structure which could be operated as a B&B because of the age of the home and it being in the B&B overlay zone. Neither Clay nor I had any problem with the size of that "business" being operated one block from our residence. It is now our understanding that the construction project has grown to a size of 14 bedrooms. According to current zoning requirements, I believe that would require 16 on-site parking spaces for the occupational license to be issued. I do not believe that the site is sufficient to accommodate 16 vehicles parked on it. However, it is my understanding that this circumstance would not prevent the issuance of an occupational license as the owner can contract with the city for off-site parking. While this may not be the owner's preference, his need for 16 parking spaces is a direct result of his actions - building a 14 bedroom structure in a single family neighborhood - and not due to any action by the city. The owner went into this project with full knowledge of these regulations and can find a way to live with them.

We are also opposed to the request for 2 signs and for an increase in allowable signage from 10 sq. ft. to 32 sq. ft.. If we look to The Nightswan as an example, I think everyone can conclude that one 10 sq. ft. sign is sufficient. Should this request be granted, you open the door for an argument by other B&B's in the city that a denial of requests by them for the same waivers has resulted in a "special privilege" that this property owner can exercise but no one else can do so. The bottom line is that we do not want more signs that the minimum in either number or square footage in our residential neighborhood.

Thank you again for you time this morning. Please include a printed copy of this email in the package

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
2 ZT-4-11: LDR AMENDMENT –  
3 DOCK POLICIES  
4 MAY 2, 2011  
5

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6 **Background**  
7

- 8 A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach  
9  
10 B. **Request:** Approval of an amendment to the City's Land Development  
11 Regulations to establish regulations regarding second story decks over boat  
12 slips; covered terminal platforms; and docks on vacant property.  
13

14 **Findings**

- 15 A. Section 803.04 of the City's *Land Development Regulations* (LDR) contains  
16 regulations regarding the construction of boat docks. However, this section does  
17 not address the issue of second-story decks over boat slips or covered platforms.  
18 In April 2007, the City issued a building permit to construct a new dock on  
19 Riverside Drive. This dock, which has a second-story deck, raised concerns  
20 from surrounding residents, who questioned the size and appropriateness of this  
21 dock. On September 13, 2007, a meeting was held with the City Manager,  
22 Development Services Director, and representatives of the boat dock building  
23 community. At that meeting, it was determined that roofs would only be allowed  
24 over boat slips. Terminal platforms would not be allowed to be covered by a roof,  
25 unless the platform was adjacent to the boat slip and the total area of the roof did  
26 not exceed the maximum square footage allowed for covered boat slips.  
27 Additionally, it was determined that second-story decks over boat slips would not  
28 be permitted.  
29 B. Subsequent to the September 2007 meeting, dock contractors who were not  
30 involved in this meeting began questioning staff about the new policy and  
31 requested that the policy be changed. Because the LDR is silent on these  
32 issues, staff is recommending regulations to specify what is permitted for second  
33 story decks.  
34 C. **Exhibit A** shows docks with a second story platform. The first picture shows  
35 some form of wire between the posts. Staff is recommending that the "rails"  
36 between the floor and the top railing be constructed of stainless steel cables.  
37 Posts to which the cable is attached shall be no closer than 4-feet apart. The  
38 intent of requiring cable and the spacing of the posts is to allow breezes and  
39 views to pass through the guardrail. Staff is also recommending that the bottom  
40 cable be no more than 2-inches above the floor to assist in preventing cans,  
41 bottles and other debris from rolling off the upper deck into the waterway. The  
42 guardrail should otherwise be in compliance with the current Florida Building  
43 Code concerning "Guards", specifically, the top of the rail must be at least 36-  
44 inches in height as measured from the deck of the second floor. Stairs accessing  
45 the second floor must comply with Florida Building Code concerning "Stairways"  
46 as well. The LDR already restricts maximum-allowed dock height to 15 feet  
47 above the mean high water line. Therefore, any roofs or railings must be at or  
48 below that maximum-allowed height. Additionally, the code requires a minimum  
49 10-foot setback from the extended side property lines. Any covered platforms  
50 would have to comply with that setback requirement.

- 1 D. In addition to the second-story deck over a boat dock, staff recommends a roof  
2 over terminal platforms be permitted. The area under roof should not exceed the  
3 maximum square footage allowed for covered boat slips.  
4 E. Section 803.01 of the LDR states that no accessory structure shall be allowed on  
5 a lot until a principal use exists, with the exception of a boat dock, terminal  
6 platform, a boathouse, and mooring poles for the sole use by the property owner.  
7 One of the City Commissioners has publicly expressed concerns about this and  
8 has requested that staff consider eliminating this exception so that boat docks,  
9 terminal platforms, boathouses, and mooring poles are only allowed on lots that  
10 first have a principal use. This would apply to any and all lots within the City,  
11 regardless of zoning designation.  
12  
13

#### 14 **Recommendation**

15 Staff recommends approval of the following zoning text amendment to the Land  
16 Development Regulations. Staff's proposed language is shown below (additions are  
17 underlined and deletions are ~~struck-through~~):  
18

### 19 ARTICLE VIII

#### 20 SUPPLEMENTARY REGULATIONS

21 \*\*\*

#### 22 **803.01 Accessory buildings and structures shall not:**

23 \*\*\*

- 24 G. Be allowed on a lot until a principal use exists on said lot or parcel, except with  
25 ~~the following exceptions:~~  
26

27  
28 ~~(1) a boat dock and terminal platform, a boathouse, and mooring poles, for the~~  
29 ~~sole use of the property owner, may be constructed on, or adjacent to, a lot~~  
30 ~~prior to the construction of a principal structure; and~~  
31

32 ~~(2) an on-site temporary sales or brokerage office may be located on a lot prior~~  
33 ~~to the construction of a principal structure.~~  
34

\*\*\*

#### 35 **803.04 Regulations pertaining to boats, boat docks, and boat docks with terminal** 36 **platforms, covered boat slips (boat houses), mooring poles, and other boat** 37 **storage and docking facilities.** [Ord. No. 40- 38 99] [Ord. No. 36-01]

- 39  
40 A. Any non-oceanfront waterfront lot within a single and two family residential  
41 zoning district is allowed to erect the following structures in the adjacent  
42 waterway, which would constitute a "standard" facility that can accommodate up  
43 to 4 boats:  
44

45 (1) boat docking, a terminal platform, and a boat lift associated with  
46 either a boathouse or mooring poles;

1  
2 (2) mooring poles accommodating no more than two boats;  
3

4 (3) no more than two boat slips, whether covered (a boathouse) or not  
5 covered. A covered boat slip having no more than 360 square feet of area a  
6 single-slip covered boat slip (boathouse), or no more than 600 square feet  
7 for a two-slip covered boat slip (boathouse); and  
8

9 (4) one boat ramp not exceeding 13 feet in width.  
10

11 B. Any 2 non-oceanfront waterfront lots within a single and two-family residential  
12 zoning district are allowed to erect the following structures in the adjacent  
13 waterway that constitute a “shared” facility that can accommodate up to 8 boats  
14 (but would eliminate the right of either property to construct a “standard” facility):  
15

16 (1) boat docking, a terminal platform, and a boat lift associated with either a  
17 boathouse or mooring poles;  
18

19 (2) mooring poles accommodating no more than two boats;  
20

21 (3) no more than four covered boat slips (two boathouses) having no more than  
22 360 square feet of area for a single-slip boathouse, or no more than 600 square  
23 feet each for a two-slip boathouse; and  
24

25 (4) two boat ramps, no more than one per property, that do not exceed 13 feet  
26 in width.  
27

28 C. Any non-oceanfront waterfront common area within a platted subdivision is  
29 allowed to erect the following “typical” structures in the adjacent waterway:  
30

31 (1) Boat docks, boat lifts, terminal platforms, boathouses, mooring poles access  
32 piers and access walkways;  
33

34 (2) Covered boat slips (a boathouse) none of which exceed 360 square feet;  
35

36 (3) One boat ramp not exceeding 13 feet in width.  
37

38 The number of dock facilities allowed and location of the facilities shall be  
39 approved by the City Commission in a hearing open to the public. The City  
40 Commission shall approve the number of dock facilities and location of the  
41 facilities based on the following criteria:  
42

43 (1) There is adequate maneuvering room for the boats to access the  
44 proposed boat dock facilities;  
45

- 1 (2) The location of the boat dock facilities does not block navigation for  
2 other boaters using the same waterway on adjacent parcels;
- 3
- 4 (3) The subdivision common area shall have direct water frontage;
- 5
- 6 (4) The docks shall be owned and maintained by individual homeowners  
7 within the subdivision;
- 8
- 9 (5) The docks shall not be rented or used by non-residents of the  
10 subdivision;
- 11
- 12 (6) The land used to access the docks shall be owned and maintained by the  
13 homeowners association and shall remain as common area;
- 14
- 15 (7) All setbacks for docks shall be the same as the setbacks applied to other  
16 single-family docks throughout the remainder of the city; and
- 17
- 18 (8) The boat facilities shall conform to all other applicable federal, state,  
19 county or city regulations.

20 **Ord. # 64-08**

21 D. Any non-oceanfront waterfront lot that allows multi-family residential uses and is  
22 accompanied by a multi-family development, ~~and is accompanied by a multi-~~  
23 ~~family development~~, is allowed to erect the following “typical” structures in the  
24 adjacent waterway:

- 25
- 26 (1) Boat docks, boat lifts, terminal platforms, boathouses and mooring poles;
- 27
- 28 (2) Covered boat slips (a boathouse) none of which exceed 300 square feet;
- 29
- 30 (3) One boat ramp not exceeding 13 feet in width.

31

32 E. The following regulations shall apply to all structures permitted pursuant to 803.04  
33 A. , B. , ~~and~~C. and D. above:

- 34
- 35 (1) the maximum allowed height of a structure is 15 feet above the mean  
36 high waterline;
- 37
- 38 (2) no standard structure, including mooring poles, shall be closer than  
39 10 feet from the side lot lines or extensions of side lot lines waterward from  
40 the property water frontage line unless the structure is permitted or required  
41 to be located there as the result of a valid court order equitably prorating a  
42 basin among upland property owners.
- 43
- 44 (3) a second story deck is allowed so long as (1) and (2) above are met,  
45 the second story does not exceed the maximum allowed square footage for

- 1                   covered boat slips as outlined in A., B., C., and D. above, a guardrail  
2                   complying with the current approved edition of the Florida building Code is  
3                   provided with the following additional requirements:  
4                   \_\_\_\_\_(a) “rails” between the floor and the top railing are to be constructed  
5                   of stainless steel cables;  
6                   \_\_\_\_\_(b) posts to which the cable is attached shall be no closer than 4-feet  
7                   \_\_\_\_\_apart;  
8                   \_\_\_\_\_(c) the bottom cable shall be no more than 2-inches above the floor;  
9                   \_\_\_\_\_(d) the guardrail shall be in compliance with the current Florida  
10                  Building Code concerning “Guards”, to include the requirement that the  
11                  top of the rail must be at least 36-inches in height as measured from the  
12                  deck of the second floor;  
13                  \_\_\_\_\_(e) stairs accessing the second floor shall comply with Florida  
14                  Building Code concerning “Stairways”.  
15                  (4) terminal platforms may be covered by a roof so long as the area  
16                  under the roof does not exceed the maximum allowed square footage for  
17                  covered boat slips as outlined in A., B., C., and D., above.  
18  
19

1  
2

Exhibit A – Photos of docks with second stories



3  
4



5  
6  
7  
8

LPA/PLANNING AND ZONING BOARD  
ZT-4-11: LDR AMENDMENT –DOCK POLICIES  
MAY 2, 2011



1  
2



3

1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING  
2 ZT-6-11: U. S. 1 DEVELOPMENT REGULATIONS  
3 MAY 2, 2011  
4  
5

---

6 I. Background  
7

8 **Applicant:** The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna  
9 Beach, FL

10  
11 **Request:** Approval of amendments to the City's *Land Development Regulations*,  
12 to revise setback, landscaping and other development requirements along U. S.  
13 1.  
14

15 II. Findings

16 A. On January 29, 2011 and March 21, 2011, the Planning and Zoning held two  
17 workshops related to development along U.S. 1. The January 29<sup>th</sup> workshop was  
18 a mobile workshop to Ormond Beach, Daytona Beach and South Daytona, to see  
19 existing developments along U. S. 1 and to discuss regulatory issues with staff  
20 from those cities. The March 21<sup>st</sup> workshop consisted of a discussion among the  
21 Board members regarding existing strengths and weaknesses along the U. S. 1  
22 corridor in New Smyrna Beach. At the March 21<sup>st</sup> workshop, the Board identified  
23 potential items that staff should consider revising in the *Land Development*  
24 *Regulations* in order to promote new development, redevelopment of existing  
25 properties and aesthetic upgrades to properties.  
26

27 B. The majority of the properties along U.S. 1 are zoned B-3, Highway Service  
28 Business District. Two of the primary areas of concern identified by the Board  
29 and staff related to the setback and landscaping requirements in the B-3 zoning  
30 district. The existing zoning regulations require a 40-foot front yard setback and  
31 a 25-foot landscape buffer when the property abuts residentially-zoned  
32 properties.  
33

34 C. U.S. 1 was originally developed as a primarily residential area. This is evidenced  
35 by the number of remaining homes that are still used for residential purposes, or  
36 which have been converted to businesses. However, when U.S. 1 was  
37 realigned, many of these residences lost property to the road widening and  
38 realignment and the area began to develop a more commercial character. Many  
39 of the existing businesses along U.S. 1 were developed prior to the adoption of  
40 the current zoning regulations and are placed in close proximity to the right-of-  
41 way. Additionally, because of the realignment and widening of U.S. 1, many lots  
42 now lack the required depth to accommodate both a 40-foot setback and a 25-  
43 foot landscape buffer. Therefore, the current development pattern and lot sizes  
44 are not consistent with the current zoning regulations.  
45

46 D. Over the past 20 years, U.S. 1 has seen little redevelopment or new  
47 development. A significant reason for this stagnation is likely due to existing  
48 regulations, which make it almost impossible to develop or improve a parcel  
49 without needing to apply for variances. Another potential reason contributing to

1 the decline of U.S. 1 is the availability of cheaper vacant land west of the  
2 traditional downtown area, along State Road 44. Vacant sites are generally  
3 easier and less costly to develop and usually do not require variances, because  
4 developers are, in essence, starting with a clean canvass on which to design  
5 their projects.

6  
7 E. At the March 21<sup>st</sup> workshop, the Board discussed the possibility of requiring  
8 developments along U.S. 1 to develop using the Planned Unit Development  
9 (PUD) format. The PUD format would require each new project to negotiate an  
10 agreement with the City. The agreement would specify setbacks, landscaping  
11 requirements and permitted uses for each particular project. Staff considered  
12 this idea and agrees that the PUD format would provide significant flexibility to  
13 property owners along U.S. 1. However, staff also weighed this flexibility against  
14 the potential time and additional cost to the developer. Even if the PUD process  
15 were simplified to a one-page fill-in-the-black worksheet, it would still need to be  
16 reviewed by the Plan Review Committee, Planning and Zoning and City  
17 Commission. This would potentially add two to three months onto the  
18 development process. Additionally, because each project has unique issues, a  
19 one-size fits all agreement would be difficult to draft without making the process  
20 overly complicated.

21  
22 F. Instead of opting for a PUD format, staff is proposing changes to the B-3 zoning  
23 district that would apply to properties along U.S. 1. Currently, the majority of  
24 properties zoned B-3 are located along U.S. 1, Canal Street and State Road 44,  
25 east of Corbin Park Road. Because the properties on Canal Street and State  
26 Road 44 do not have the same lot depth issues as properties along U.S. 1, staff  
27 did not identify a need to change the regulations district wide. Additionally,  
28 properties along Canal Street should more properly be zoned MU, Mixed Use.

29  
30 G. The following changes are being proposed by staff. The intent is not to eliminate  
31 all standards for development along U.S. 1 but to provide standards that can  
32 realistically be attained, given the size of the properties within the corridor.  
33 Additionally, because many of the properties along U.S. 1 back up to  
34 residentially-zoned properties, it is important to continue to provide some  
35 protection for residents from noise and visual impacts. Even though many of the  
36 businesses and residences have co-existed for decades, residents may have the  
37 expectation that new development will provide a 25-foot buffer. Therefore,  
38 eliminating any buffer requirement in situations where a commercial property  
39 abuts a residential property may be detrimental to those property owners. The  
40 changes proposed by staff are detailed below:

41  
42 **Setbacks**

- 43 ○ Eliminate the front yard setback (along U.S. 1)
- 44 ○ Reduce side setbacks from 10 feet to 5 feet (minimum separation required  
45 between buildings under Florida Building Code)
- 46 ○ Eliminate side corner setback

47 **Buffers**

- 48 ○ Reduce front yard buffer from 7 feet to 5 feet

- 1           ○ Reduce side and rear buffer requirements when adjacent to non-  
2           residentially zoned properties from 7 feet to 3 feet
- 3           ○ Reduce buffer requirement adjacent to residential uses from 25 feet to a  
4           minimum of 5 feet. The reduction would also require a 6-foot tall fence to  
5           be installed by the business. An additional provision would also allow staff  
6           to require an additional 5-feet of buffer area adjacent to residential  
7           properties for certain types of uses, such as taverns, outdoor seating at  
8           restaurants and Type “B” Service Stations, which typically generate higher  
9           levels of noise.

10           **Maximum Impervious Lot Coverage**

- 11           ○ Increase the maximum allowed impervious coverage from 75% to 80%.

12           **Permitted Uses**

- 13           ○ Revise the list of permitted uses by eliminating the listing of specific types  
14           of retail sales and services such as “gift shops” and “video tape rental”.  
15           Some of the listed uses no longer exist in society and all should be  
16           included in the generic “retail sales and services” category, which is  
17           already defined in Article II of the LDR.
- 18           ○ Add a definition of “personal services” to Article II and to add this category  
19           to the B-3 zoning district. This would allow specific uses such as “barber  
20           shops” and “beauty salons” to be eliminated and replaced with this  
21           category.
- 22           ○ Uses that require more parking than standard retail sales and services will  
23           continue to be called out separately in the list of permitted uses.
- 24           ○ Allow “theaters” as a permitted use instead of a special exception use.
- 25           ○ Add a definition of “Sports facility” to Article II and to add this category to  
26           the B-3 zoning district. This would allow specific uses such as “skating  
27           rinks” and “boxing arenas” to be eliminated and replaced with this  
28           category.

29           **Parking**

- 30           ○ Reduce parking ratios by 50%, as was recently done for the Mainland  
31           area of the Community Redevelopment Agency. For example, a retail  
32           building that now requires 1 parking space for every 300 square feet of  
33           floor area would now only have to provide 1 parking space for every 600  
34           square feet of floor area.
- 35           ○ Provide a parking ratio for “Sporting Facilities”.

36           **Conversion of residential structures to non-residential uses**

- 37           ○ Currently, the LDR does not contain any language that specifies the  
38           process a business owner must use when converting a residence to a  
39           non-residential use for the first time. Staff has previously required  
40           conversion projects to obtain Class II site plan approval. However, this is  
41           often an expensive, timely and onerous process and discourages  
42           conversions which could potentially benefit the City as a whole. However,  
43           a higher level of review is needed beyond just applying for building  
44           permits, in order to ensure that adequate parking, stormwater retention,  
45           and life safety issues are addressed and that the property is brought up to  
46           commercial standards as much as possible. To achieve that end, staff is  
47           proposing to add additional language to Section 303.01 of the LDR that  
48           would require residential-to-non-residential conversions to go through a  
49           major Class I site plan review process.

1           **Upgrades to existing non-residential properties**

- 2           ○ In addition to specifying the process and requirements for converting a  
3           residential structure to a non-residential use, staff is also proposing  
4           changes to Sections 303.01 and 505.00 of the LDR. The additional  
5           language in Section 303.01 would require businesses that go through a  
6           change of use to go through the major Class I site plan process. Section  
7           505.00 details regulations for non-conforming lots of records, structures  
8           and uses. Staff is proposing to add language specifying what types of  
9           activities will require upgrades to existing developments and what  
10          upgrades might be required. A definition of “Change of Use” would also  
11          be added to Article II.

12  
13 H. In addition to the proposed changes relating specifically to development in the  
14 U.S. 1 corridor, staff is also proposing to revise section 303.01(A)(1)(k) of the  
15 LDR to increase the threshold between Class I and Class II site plans. The  
16 current regulations state that when the area of a non-residential or multi-family  
17 addition or accessory structure exceeds 10% of the existing floor or 500 feet,  
18 whichever is less (emphasis added), the applicant must submit for Class II site  
19 plan review. For example, if the existing building is 1000 square feet, the largest  
20 addition that could be constructed is 100 square feet. If the addition were larger  
21 than 100 square feet, the applicant would be required to go through the Class II  
22 site plan review process. This has resulted in many small projects, such as the  
23 addition of a walk-in beer cooler, having to apply for Class II site plan review.  
24 Staff is proposing to change the word “less” to “greater”, which will reduce the  
25 number of projects that would require Class II site plan review. Under the new  
26 regulations, the same 1000-square foot building would be able to build up to a  
27 500-square foot addition without having to apply for Class II site plan review.

28  
29 I. The intent of these revisions is to ease development regulations along U.S. 1  
30 without sacrificing the community’s desire to see aesthetic enhancements in the  
31 corridor. The amendments are intended to provide increased flexibility to  
32 developers while still providing staff with the tools needed to bring about the  
33 desired changes and to protect existing residential development from commercial  
34 encroachment.

35  
36 **III. Recommendation**

37 Staff recommends **approval** of the proposed changes to the City’s *Land Development*  
38 *Regulations*, as shown below (~~strikethroughs~~ are deletions and underlines are  
39 additions).

40  
41 **ARTICLE II**  
42 **DEFINITIONS**

43 \*\*\*

44 Automobile Sales Area: An area other than a public right-of-way used for display, sale  
45 or the rental of new or used motor vehicles in operable conditions, and where no repair  
46 work is done.

47  
48 Bank or Lending Institution: ~~An establishment for the custody, loan, exchange, or issue~~  
49 ~~of money, for the extension of credit, and for facilitating the transmission of funds.~~ A

1 business establishment in which money is kept for savings or commercial purposes, or  
2 is invested, supplied for loans, or exchanged. This term shall include credit unions and  
3 similar establishments which typically include automatic teller machines (ATMs) and  
4 drive-through facilities.

5  
6 Ballpark: A field with or without spectator seats or player seats in which baseball,  
7 softball, football, soccer, rugby, lacrosse, polo, field hockey, or any other field sport is  
8 played.

9  
10 \*\*\*

11  
12 Change of Occupancy: the term “change of occupancy” shall mean a discontinuance of  
13 an existing use and the substitution, ~~therefore~~ of a use of a different kind or class.  
14 “Change in occupancy” is not intended to include a change in tenants, or  
15 proprietors, unless accompanied by a change of use.

16  
17 Change in Use: The term “change of use” shall mean a change of use as described by  
18 the building code, the Standard Industrial Classification Manual or when  
19 determined to be a change of use by the administrative official.

20  
21 Charter Boat: A watercraft which is hired by a party for a specific purpose such as  
22 fishing and which is operated by an employee of the company which owns or  
23 leases the watercraft.

24  
25 \*\*\*

26  
27 Family: One or more persons related by blood, marriage, adoption, or guardianship, or  
28 not more than four persons not so related, living in one household.

29  
30 Financial Services: An establishment engaged in the management of money and credit,  
31 and may include, but not be limited to, accounting, bookkeeping, investment  
32 securities, money transfer, mortgage loans, pension plans, stock and bond  
33 brokerage, and tax planning. This term would not include the term bank.

34  
35 Flag: Any material, usually made of fabric, which usually contains a symbol (such as a  
36 business or jurisdiction).

37  
38 \*\*\*

39  
40 Personal Enrichment Establishments: Businesses which are neither retail sales nor  
41 retail services but are engaged in bettering one’s ability in a specialized field such as  
42 health clubs, martial arts studios, aerobics or jazzercise studios, dance studios or  
43 businesses which teach a specialized trade or art such as computer operation, musical  
44 instrument lessons, typing lessons or similar businesses.

45  
46 Personnel Services: An establishment which provides for the care of a person or a  
47 person's apparel, and may include, but not be limited to, beauty/barber shop, nail salon,  
48 tanning salon, laundry, dry cleaning (retail store), garment service, and shoe repair.

49

1 Planning and Zoning Board: Planning and Zoning Board shall mean the New Smyrna  
2 Beach Planning and Zoning Board.

3  
4 \*\*\*

5 Specified Sexual Activities: Any one or more of the following: (1) depiction of human  
6 genitals in a state of sexual stimulation, around, or turgidity; (2) acts of human  
7 anilingus, bestiality, buffery, cunnilingus, coprophilia, fellatio, flagellation, masochism,  
8 masturbation, necrophilia, pederasty, sadism, sadomasochism, sapphism, sexual  
9 intercourse and sodomy; (3) fondling or other erotic touching of human genitals, pubic  
10 region, buttock or female breasts; (4) excretory functions as part of, or in connection  
11 with, any of the activities set forth in (1) through (3) above.

12  
13 Sports Facility: A public or private facility used for sporting activities such as archery  
14 ranges, golf driving ranges, boxing, batting cages, skating rinks and other similar  
15 activities. This term does not include ballparks, bowling centers, golf courses or  
16 stadiums.

17  
18 Stadium: A ballpark having tiered seats or bleachers ~~for~~on which spectators sit.

19 \*\*\*

20  
21 ARTICLE III  
22 ADMINISTRATION AND ENFORCEMENT

23 \*\*\*

24 303.00 PROCEDURE FOR REVIEWING AND APPROVING DEVELOPMENTS

25  
26 303.01 Site Plan Review and Approval

27  
28 Prior to issuing a building, water management, or land clearing, permit, a site plan  
29 drawn to a scale no smaller than 1" = 50' must be submitted to, ~~and coordinated by, the~~  
30 ~~Development Services~~ and approved by the reviewing entity as indicated below.

31  
32 There shall be three categories of site plans to be reviewed: Class I site plans; Class II  
33 site plans; and Class III site plans. The description of each class of site plan and the  
34 entity responsible for reviewing and approving the site plan is contained below. No  
35 development shall be allowed within the City until a Class I, II, or III site plan has been  
36 approved. All development requiring a Class I, Class II or Class III site plan review shall  
37 comply with the ~~Community Design Standards~~ standards outlined in ~~Article X~~ of this  
38 LDR. The ~~Development Services Director, or his/her designee,~~ administrative official  
39 shall determine which site plan review and approval is required in case it is not evident  
40 which review and approval procedure is appropriate for a development.

41  
42 A. Site Plan Classification and Approval Responsibility

43  
44 1) Class I Site Plan

45  
46 A minor Class I site plan is required for the following development:

- 47  
48 a. erection of sign(s);  
49 b. erection of fence(s);

- c. construction of single-family residences;
- d. construction of duplex residences;
- e. interior remodeling to single-family and duplex residences;
- f. structures accessory to single-family residences and duplexes;
- g. driveways and sidewalks for single-family and duplex residences;
- h. additions to single-family and duplex residences;
- i. parking lots containing less than 8 automobile parking spaces that are not associated with a structure requiring Class II or III site plan review and approval;
- j. interior and exterior remodeling to existing non-residential or multi-family residential structures; and
- k. additions or structures accessory to existing non-residential or multi-family residential structures provided said addition or accessory structure does not exceed 10 percent of the existing first floor building area or 500 square feet, whichever is ~~less~~ greater.

The ~~Development Services Department~~ Planning and Engineering Department shall be the entity responsible for reviewing and approving minor Class I site plans.

A major Class I site plan is required for the following development:

a. Conversion of a residential unit to a non-residential use.

1. Pre-application meeting. Prior to submitting an application for a building permit for work to convert a residence to a non-residential use, the developer or the developer's representative shall meet with the Plan Review Committee (PRC), in order to verify the steps necessary for application and review, and discuss potential issues regarding the conversion. Within five (5) business days of the meeting, staff shall forward to the developer a written list of items that must be addressed either as part of the building permit or prior to receiving a Certificate of Occupancy for the building. No Certificate of Occupancy and/or business tax receipt shall be issued for the property until all items included in the written letter are addressed.
2. Application and fee. Application for a major Class I site plan review shall be on the form prepared by the City for such development and shall be accompanied by the fee established by the City Commission.

b. Change in use.

1. Pre-application meeting. If a change in use, as defined in Article II of this code, is proposed, the applicant shall schedule a pre-application meeting with the PRC members, prior to submitting an application for a building permit or an application for a business tax receipt. The purpose of the pre-application meeting is to verify the steps necessary for

1                   application and review, and discuss potential issues  
2                   regarding the change in use. Within five (5) business days of  
3                   the meeting, staff shall forward to the developer a written list  
4                   of items that must be addressed either as part of the building  
5                   permit or prior to receiving a Certificate of Occupancy for the  
6                   building. No Certificate of Occupancy and/or business tax  
7                   receipt shall be issued for the property until all items  
8                   included in the written letter are addressed.

9                   2.   Application and fee.   Application for a major Class I site  
10                   plan review shall be on the form prepared by the City for  
11                   such development and shall be accompanied by the fee  
12                   established by the City Commission.

13  
14   \*\*\*

15  
16   ARTICLE V  
17   ZONING DISTRICTS

18   \*\*\*

19   B-3 HIGHWAY SERVICE BUSINESS DISTRICT

20  
21   Intent:

22  
23           The Highway Service Business District is intended for application along highways  
24           carrying large volumes of traffic where establishments may locate to serve large  
25           sections of the City and the persons traveling in vehicles.

26  
27   Permitted Uses:

- 28  
29           Adult Congregate Living Facility  
30           Ambulance Service  
31           Animal Clinics (outpatient care only and no overnight boarding)  
32           ~~Archery Range~~  
33           Armory  
34           Attached Dwellings  
35           Automobile Sales, New & Used  
36           Bakeries  
37           Banks  
38           ~~Barber Shops~~  
39           ~~Barricade Rental, Storage, and Sales~~  
40           ~~Beauty Shops~~  
41           Boat, Motor, and Boat Trailer Sales & Service  
42           Bowling Alley  
43           ~~Boxing or Sports Arena~~  
44           Business and Communications Systems  
45           Bus Station  
46           Car Rental & Leasing  
47           Car Washes  
48           ~~Carpet & Rug Cleaning~~  
49           ~~Ceramic Shops~~

- 1 Club, Semi-Public
- 2 College Level & Adult Educational Facilities
- 3 Convenience Stores with Gas Pumps
- 4 Financial Services
- 5 ~~Fruit Stands~~
- 6 Funeral Homes
- 7 Furniture Showrooms
- 8 ~~Gift Shops~~
- 9 ~~Golf Driving Range~~
- 10 Government Buildings and Offices [Ord. 56-96]
- 11 ~~Greenhouses & Nurseries~~
- 12 Grocery Stores [Revised 1-27-98]
- 13 ~~Health Center~~
- 14 ~~Hobby Craft Shops~~
- 15 Hospitals
- 16 ~~Income Tax Services~~
- 17 ~~Laundry & Dry Cleaning Establishments~~
- 18 ~~Lending Agencies~~
- 19 ~~Liquor Stores~~
- 20 ~~Lodges~~
- 21 ~~Miniature or Par 3 Golf Course~~
- 22 Mobile Home Sales
- 23 Multi-Family dwelling units **Ord.#18-97, Ord.#72-08**
- 24 Offices, General, Professional and Real Estate
- 25 Offices, Medical
- 26 Parking Lots
- 27 Pawn Shops
- 28 Personal Enrichment Establishments
- 29 Personal Services
- 30 ~~Pest Control Agencies~~
- 31 ~~Printing Shops~~
- 32 ~~Professional Office, including Accounts, Architects, Consultants, Dentists,~~
- 33 ~~Engineers, Financial, Insurance, Lawyers, Medical, and Stockbrokers~~
- 34 ~~Radio, Television, and Phonograph Repair~~
- 35 ~~Real Estate Brokers~~
- 36 Restaurants, Types "A", "B", "C", and "D"
- 37 ~~Retail and Wholesale Parts Sales~~
- 38 ~~Retail Plumbing and Electrical Fixtures~~
- 39 Retail Sales and Services
- 40 Service Stations, Types "A" and "B"
- 41 ~~Sharpening and Grinding Shops~~
- 42 ~~Sign Painting Shops~~
- 43 ~~Skating Rink~~
- 44 ~~Solar Window Tinting Shops~~
- 45 Sport Facilities
- 46 ~~Swimming Pool Supply/Equipment/Service Business~~
- 47 Taverns
- 48 Taxi-Cab Stands
- 49 Theaters

- 1 ~~Tire and Battery Service~~  
2 Transient lodging:  
3 -“Transient lodging rooms, standard,” as defined by this LDR, shall be a  
4 maximum of 500 square feet.  
5 -“Transient lodging rooms, deluxe,” as defined by this LDR, shall be a  
6 maximum of 750 square feet.  
7 - The maximum room size does not include any balcony, porch or deck  
8 area connected to the unit.  
9 - No more than 30 percent of the units may be deluxe. **Ord. #72-08**

10 ~~Travel Agencies~~

11 Truck and Trailer Rentals (for properties in the district that front along U. S.  
12 Highway 1 and meet the conditions in §801.18) **Ord. # 9-98**

13 ~~Upholstery Shops~~

14 ~~Video Tape Rental~~

15

16 Permitted Accessory Uses

17

18 Any accessory use customarily incidental to a permitted principal use. [Revised  
19 2-25-98]

20

21 Special Exceptions

22

23 Building Material Sales and/or Building Material Yards, provided all building  
24 materials that are stored shall be buffered by a screen designed to block  
25 the view of the building materials. The screen may include fences, walls,  
26 or vegetative landscaping. Building materials shall not project higher than  
27 the screen. Walls that are part of a building structure may substitute for  
28 the screen buffer.

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

30 (1) The property shall be located within 500 feet of an arterial or  
31 collector roadway.

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

36 (3) Play areas shall be located outside all applicable setback  
37 dimensions.

38 (4) The property shall have a separate vehicular drop off and pickup  
39 area with a minimum 100 foot long drive lane outside of the public  
40 right-of-way, or sufficient parking area to provide enough space to  
41 fit the required parking and provided space for drop off and pick up.  
42 [Ord. No. 4-00]

43 (5) Play areas shall be located to the side or rear of the building,  
44 outside of the required setbacks. (Ord, # 61-07)

45 Churches

46 Mini-Warehouse Storage Facilities, when constructed a distance of one (1)  
47 platted lot depth or 100 feet, whichever is greater, from state and federal  
48 highway right-of-ways; 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 (6) feet high, the bottom four (4) feet being solid and the top two (2) feet being open. Operative automobiles and mobile homes for sale shall be exempt from this requirement.

Theaters

Waterfront Dining and Entertainment Establishments [Ord. 21-98]

## Dimension Requirements

### Minimum Yard Size (Properties along Canal Street and State Road 44):

Front yard:	40 feet or as required per Section 504.01(M). of this LDR
Side yard:	10 feet
Rear yard:	10 feet

### Corner Lots (32-91)

- (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 US 1 Corridor):

<u>Front yard:</u>	<u>0 feet</u>
<u>Side yard:</u>	<u>5 feet</u>
<u>Rear yard:</u>	<u>10 feet</u>

### Maximum Principal Building Height:

Thirty-five (35) feet.

### Maximum Building Coverage:

The total area covered with buildings shall not exceed thirty-five (35) percent of the total lot area.

### Maximum Impervious Lot Coverage (Properties along Canal Street and State Road 44):

1 The total area of the lot that may be covered with impervious material is  
2 75 percent (75%).  
3

4 Maximum Impervious Lot Coverage (Properties along US 1 Corridor):

5 The total area of the lot that may be covered with impervious material is  
6 80 percent (80%).  
7

8 Buffers: (Ord. 31-91)  
9

10 Properties along Canal Street and State Road 44

11 Landscaped buffer area(s) as defined in this LDR shall be required at property  
12 lines of non-residential developments as follows:  
13

- 14 (1) all front property lines;
- 15
- 16 (2) along side or rear lot line abutting a residentially zoned lot, the  
17 buffer shall be twenty-five (25) feet wide; and
- 18
- 19 (3) along side and rear lot lines not abutting residentially zoned lots,  
20 the buffer shall be seven (7) feet wide.  
21

22 Landscaped or natural vegetative buffers for multi-family development shall be  
23 provided as indicated in Section 604.05 B. and as follows:  
24

- 25 (1) along front, rear, and side lot lines where off-street parking areas  
26 are located, the buffer shall be a minimum of seven (7) feet wide;  
27 and
- 28
- 29 (2) adjacent to or facing a single-family residential district or use, the  
30 buffer shall be a minimum of twenty (20) feet wide from the property  
31 line.  
32

33 Properties within US 1 Corridor

34 Landscaped buffer area(s) as defined in this LDR shall be required at property  
35 lines of multi-family and non-residential developments as follows:  
36

- 37 (1) Front property lines: 5 feet
- 38
- 39 (2) Side and rear property lines (not adjacent to residentially-zoned  
40 properties): 3 feet
- 41
- 42 (3) Side and rear property lines (adjacent to residentially-zoned  
43 properties): 5 feet. A 10-foot wide buffer will be required for  
44 taverns, outdoor seating areas and Type "B" Service Stations.  
45

46 The landscape buffer adjacent to residentially-zoned property must  
47 include a 6-foot tall masonry wall or fence.  
48

49 Visibility at Intersections:

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4  
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49

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

**Landscaping:**

~~A landscaping plan is required as described in this LDR.~~

**Off-Street Parking and Loading:**

~~Off-street parking and loading space shall be provided as required in this LDR.~~

**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.

**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% 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% of the total linear footage of shoreline available to the property

All other future land use designations permitting transient lodging units: Twenty-four (24) units per acre. **Ord.# 10-11**

**Maximum Dwelling Unit Density**

Twelve (12) dwelling units per acre beachside and eighteen (18) units per acre mainland. No less than 3,630 square feet of lot area for each beachside dwelling unit and 2,420 square feet of lot area for each mainland dwelling unit.

**Multi-Family Residential Standards** [Ord. No. 18-97]

**Minimum Floor Area**

- 450 square feet of livable area for a one (1) bedroom unit
- 550 square feet of livable area for a two (2) bedroom unit
- 700 square feet of livable area for a three (3) bedroom unit

**Maximum Building Length and Width**

1 Building facades parallel to the street upon which the building fronts or  
2 parallel to a waterfront shall not exceed 150 feet. No building constructed  
3 after the effective date of the LDR shall have a dimension that exceeds  
4 200 feet.

5  
6  
7 **Minimum Building Separation**

8  
9 Where two or more multi-family dwellings, single-family dwellings attached  
10 or detached, duplexes, apartments, condominiums, or townhouses are  
11 built on one parcel, there shall be a separation of at least 20 feet between  
12 the buildings plus 1.5 additional feet for each 5 feet of building height over  
13 20 feet. When buildings vary in height, said distance is to be based on the  
14 highest building. (For example: The distance between a 20-foot tall  
15 building and a 25-foot tall building shall be 21.5 feet.)

16  
17 **Minimum Requirements for Townhouses and Townhouse Lots** [Ord. No. 18-  
18 97]

19  
20 All lots shall be adjacent to a public right-of-way or common area.  
21 Lots shall have a minimum width of 20 feet where a living unit is to be located.  
22 Lot frontage along a right-of-way or common area shall be a minimum of 10 feet.  
23 Front setbacks shall be 20 feet or as required per Section 504.01 (M) of this LDR.  
24 Side setbacks shall be 0 feet.  
25 Rear setbacks shall be 20 feet except if there is a landscaped common area behind the  
26 townhome and there is a minimum distance of 20 feet from the project boundary line  
27 and the dwelling unit or accessory structures.

28  
29 [Revised 1-27-98]

30  
31 \*\*\*

32  
33 **505.06 Change in Use**

34  
35 Non-conforming Uses

36 If no structural alterations are made, any non-conforming use of a structure, or of a  
37 structure and premises in combination, may be changed to another non-conforming use  
38 of the same character, or to a more restrictive but non-conforming use, provided the  
39 Planning and Zoning Board shall find, after public notice and hearing, that the proposed  
40 use is equal or more appropriate to the district properties, is such that adverse effects  
41 on occupants and neighboring properties will not be greater than if the existing non-  
42 conformity use is continued. In permitting such change, the Planning and Zoning Board  
43 may require appropriate conditions and safeguards in accordance with the intent and  
44 purpose of this LDR.

45  
46 Upgrade of site improvements for existing development.

47  
48 The following activities shall require the upgrade of existing site improvements to satisfy  
49 current code requirements. Such upgrade shall include, but not be limited to, the

1 provision of paved, curbed and expanded parking facilities, stormwater retention,  
2 landscaping and buffers, irrigation, signage and architectural design as prescribed by  
3 this code. The administrative official may waive some or all of these required  
4 improvements based upon the extent of the proposed activity and the condition of the  
5 existing site development.

6 (1) Change of use as described by the building code, the Standard Industrial  
7 Classification Manual or when determined to be of significance by the  
8 administrative official.

9 (2) Re-use of any site development which has been abandoned as described by this  
10 code.

11 (3) Substantial improvement to the property which require Class II or Class III site  
12 plan approval.

13 (4) As a condition for granting approval of a special exception, variance, or change  
14 of one non-conforming use to another non-conforming for existing site  
15 developments, when appropriate.

16  
17 \*\*\*

## 19 **604.10 Off-Street Parking, Loading, and Driveways**

### 21 A. General Requirements

22  
23 \*\*\*

### 25 F. Minimum Number of Parking Spaces Required

26  
27 Every land use shall have the following number of parking spaces. When the  
28 total number of required spaces calculates to include a fraction of one-half (.5) or  
29 greater, the required number of spaces shall be rounded up to the nearest whole  
30 number. For example, if the spaces required calculates to 3.5, four (4) spaces  
31 shall be required; if the spaces required calculates to 3.49, three (3) spaces shall  
32 be required. If a land use is proposed and is not listed below, the City Planner  
33 administrative official shall assign the number of parking spaces based on a  
34 closely related land use that is listed below. Under no circumstances shall any  
35 land use be permitted without a reasonable number of parking spaces just  
36 because it is not specifically listed below.

37  
38 \*\*\*

#### 40 Retail/Supermarket:

41  
42 Three and one-half (3.5) parking spaces for each one-thousand (1000) square  
43 feet of gross leasable area.

44

1 ~~Roller/Ice Skating Rink:~~

2  
3 ~~Six (6) parking spaces for every one thousand (1000) square feet of gross~~  
4 ~~leasable are.~~

5  
6 School, Elementary:

7  
8 Two (2) parking spaces for each classroom and ten (10) bicycle parking spaces  
9 per classroom.

10  
11 Sports Bar and/or Tavern:

12  
13 One (1) parking space for each two (2) seats in the bar room and one (1) parking  
14 space for every three (3) seats allowed by the City Fire Marshal in the restaurant  
15 area.

16  
17 Sports Facility:

18  
19 Four parking spaces for every 1,000 square feet of gross leasable area.

20  
21 Theaters, Auditoriums or Other Places of Assembly Not Listed:

22  
23 One (1) parking space for every four (4) seats or every seventy-two (72) lineal  
24 inches of seating area.

25  
26 \*\*\*

27  
28 K. U.S. Corridor Special Parking District

29  
30 1. District Boundaries:

31  
32 Special parking regulations shall apply within the area shown on the map  
33 entitled U.S. Corridor Special Parking District Map. The off-street parking  
34 and loading regulations within Section 604.10 shall apply within the U.S. 1  
35 Corridor Special Parking District except as set forth below:

36  
37 2. Minimum Number of Parking Spaces:

38  
39 A. Exempt Additions.

40 Additions to existing structures of less than five hundred square  
41 feet (500') in total area and requiring less than two (2) additional  
42 off-street parking spaces shall not be required to provide additional  
43 off street parking. This exemption from the parking requirements  
44 may only be used once for each existing individual business  
45 premise.

46  
47 B. For new construction and non-exempt additions to existing  
48 buildings, off-street parking shall be provided at a rate that is 50%  
49 of the parking ratios established in this article. Nonconforming or

1 grandfathered parking conditions may not be used to meet  
2 requirements of this subsection.

3  
4 C. For new construction and non-exempt additions to existing  
5 buildings, at least 50% of the off-street parking requirement must  
6 be provided on-site. The balance of the required off-street parking  
7 may be provided by a lease agreement, joint-use agreement, or  
8 other method allowed by the Land Development Regulations.

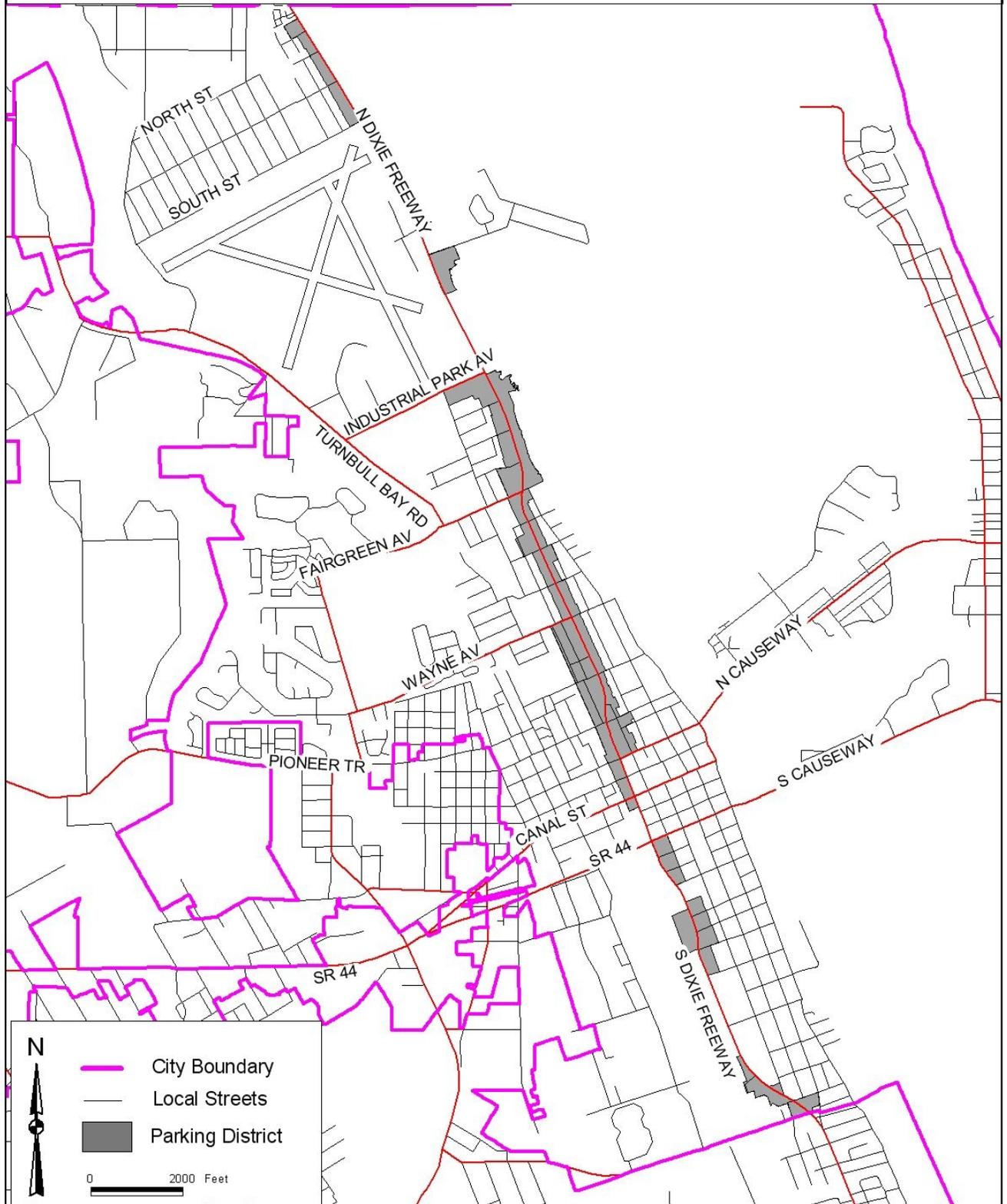
9  
10 D. For expansion of a business or change in use where no addition is  
11 proposed, off-street parking shall be provided at a rate that is 50%  
12 of the parking ratios established in this article. Credit shall be  
13 allowed for the amount of parking required for the previous use.  
14 This credit shall be calculated at a rate that is 50% of the parking  
15 ratios established in this article. Off-street parking required by this  
16 subsection may be provided on-site or by any other method allowed  
17 by this code.

18  
19 ~~KL~~. Valet Parking (Ord. No. 4-96, February 1996)

20  
21 \*\*\*

22  
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29

## U.S. 1 Corridor Special Parking District Map



1  
2  
3

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

2 CPA-1-11:

3 ENCLAVES #1, 2, 3

4 MAY 2, 2011

---

5  
6 I. Background

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

9  
10 B. **Property Owners:**

- 11 • Thomas Draus, 1318 North Atlantic Avenue, New Smyrna Beach,  
12 Florida, 32169
- 13 • Doug and Joyce MacLean, 532 North Riverside Drive, New Smyrna  
14 Beach, Florida, 32168
- 15 • John and Helen Churi, 3140 Sundance Trail, New Smyrna Beach,  
16 Florida, 32168
- 17 • Robert Breckenridge, 9552 Poudre Canyon Road, Bellvue,  
18 Colorado, 80512
- 19 • Keith Molton and Melany Crobaugh, 3132 Sundance Trail, New  
20 Smyrna Beach, Florida, 32168
- 21 • Jack and Verdie Golden, 3116 Sundance Trail, New Smyrna  
22 Beach, Florida, 32168
- 23 • Carlos and Deborah Fernandez, 720 Wren Avenue, Miami, Florida,  
24 33166
- 25 • J. Pelham and Sandra O’Neal, 3112 Sundance Trail, New Smyrna  
26 Beach, Florida, 32168
- 27 • Elizabeth Hansard, 3108 Sundance Trail, New Smyrna Beach,  
28 Florida, 32168

29  
30 C. **Request:** *Comprehensive Plan* amendment and rezoning

- 31 • **From** Future Land Use (FLU) designation of County Environmental  
32 System Corridor and zoning designation of County RC – Resource  
33 Corridor
- 34 • **To** FLU designation of City Low Density Residential and zoning  
35 designation of City R1 – Single-family Residential

36  
37 D. **Site Information:** The subject properties consists of approximately 8.149  
38 acres and are located on Sundance Trail, north of Art Center Avenue (see  
39 Location Map attached as **Exhibit A**)

40  
41 E. **Alternate Key Numbers:** 3672356, 3672348, 3672364, 3672399,  
42 3672381, 3672429, 3672411, 3672437, 3672453

43  
44 II. Findings

45 A. On March 17, 2011, the Volusia County Council approved a Joint Planning  
46 Agreement (JPA) with the City of New Smyrna Beach. The JPA annexed  
47 13 enclaves, consisting of 28 parcels, into the City. The JPA annexing the  
48 subject properties is permitted by Chapter 171, Florida Statutes. In order  
49 to qualify for annexation through the JPA process, the enclaves had to be

50 less than 10 acres in size, be surrounding by incorporated areas and  
51 either be developed or be located in an area that is currently serviced by  
52 water and sewer.

53  
54 B. The subject properties consist of nine (9) individual lots along the west  
55 side of Sundance Trail. Together, the nine enclaves areas consist of  
56 approximately 8.149 acres. All but two of the lots have been developed  
57 with a single-family residence. One remains vacant and one has a boat  
58 dock but no other structures.

59  
60 C. The subject parcels are currently zoned County RC, Resource Corridor  
61 and have a future land use designation of County Environmental Systems  
62 Corridor. The surrounding future land uses, existing uses, and zoning are  
63 as follows:

64 **North**

65 Future Land Use: City Low Density Residential and City Conservation  
66 Existing Land Use: Residential, Conservation  
67 Zoning: City Conservation and City R-1 – Single-family  
68 Residential

69 **South**

70 Future Land Use: City Low Density Residential  
71 Existing Land Use: Residential  
72 Zoning: City R-1 – Single-family Residential

73  
74 **East**

75 Future Land Use: City Medium Density Residential  
76 Existing Land Use: Vacant  
77 Zoning: City PUD and City R3A – Single- and Two-family  
78 Residential

79 **West**

80 Future Land Use: County Water  
81 Existing Land Use: Water  
82 Zoning: County RC – Resource Corridor

83  
84 Maps of surrounding Existing Land Use Designations, Existing Zoning  
85 Districts, and Existing Future Land Use Designations are attached (see  
86 **Exhibits B, C, and D**). Maps showing the proposed Future Land Use and  
87 Zoning Designations are attached as **Exhibits E and F**.

88  
89 D. The *Land Development Regulations* requires any proposed development  
90 to conform to the Concurrency Management System. That system  
91 includes traffic, parks and recreation, potable water, wastewater  
92 treatment, solid waste collection, stormwater management, and public  
93 school facilities. A table comparing the potential impacts from  
94 development allowed under the existing County Environmental Systems  
95 Corridor future land use and the proposed City Low Density Residential  
96 future land use designation is attached as **Exhibit G**. Because most of  
97 these properties are developed with single-family residences, and

98 because current and proposed future land use and zoning limits  
99 development on these lots to residential uses, no significant new  
100 development or redevelopment is anticipated.

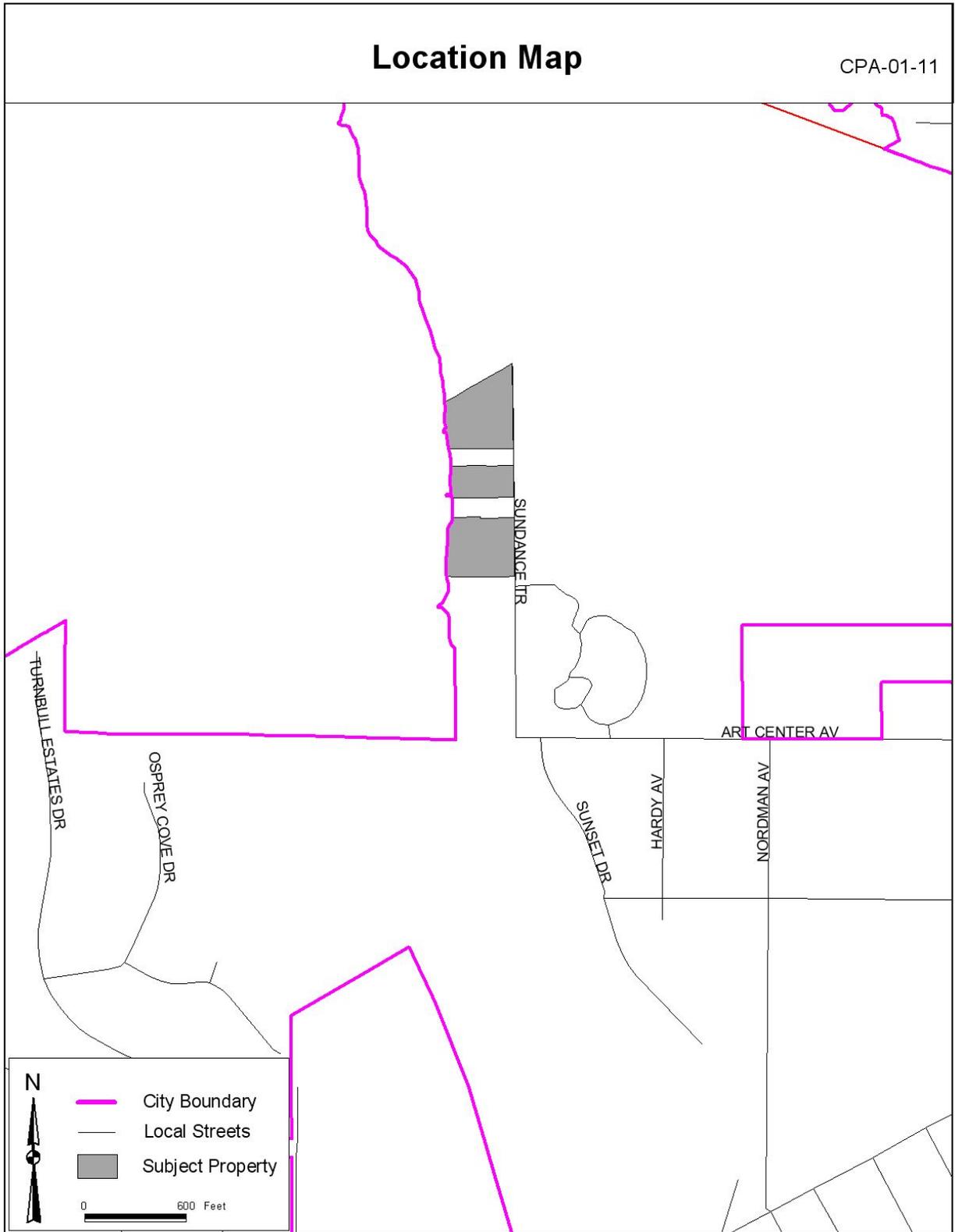
101  
102 E. The *Comprehensive Plan* provides some guidance on future land use  
103 amendments and rezonings. The following is a list of objectives in the  
104 *Comprehensive Plan* that support this proposal.

- 105  
106 • **Future Land Use Element Objective 1, Policy e:** By 2000, create  
107 an Interlocal agreement between the city and Volusia County for  
108 unincorporated future growth areas that assumes land use  
109 locations and the city's ability to apply development controls prior to  
110 development, consistent with the standards in effect in the City of  
111 New Smyrna Beach.
- 112 • **Future Land Use Element Objective 7, Policy m:** Annexations  
113 will be used to provide for the orderly, cost-effective and  
114 concurrency-based extension of services; to direct infill  
115 development; to protect those arterial, collector and local access  
116 roads leading to the city through the adoption and/or  
117 implementation of existing adopted regulations in accordance with  
118 policies identified in this plan; and to secure existing urban  
119 development areas in the service area which sue and impact the  
120 level-of-service of municipal facilities without providing for economic  
121 support to maintain the level-of-service identified in this plan.

122  
123 **III. Recommendation**

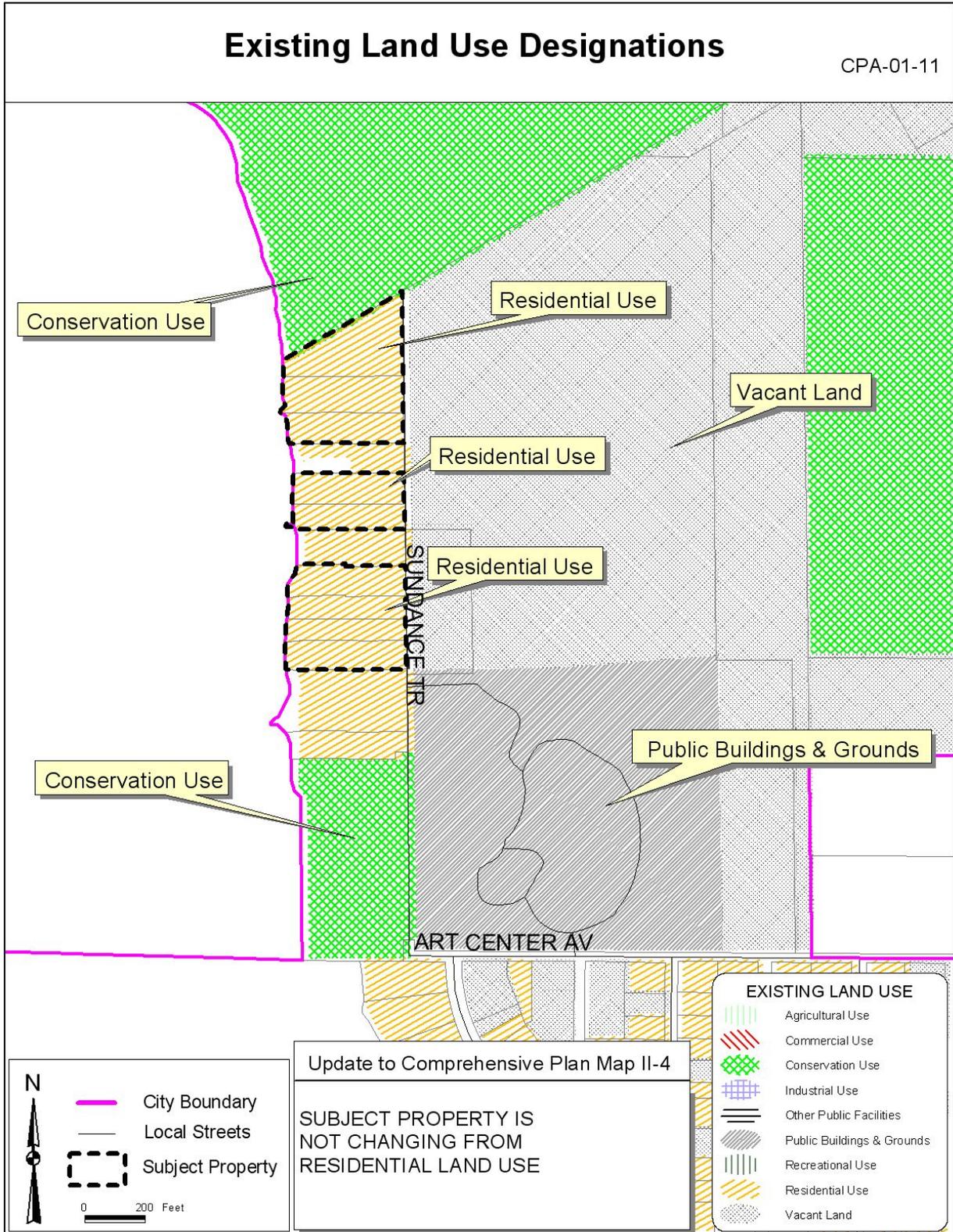
124 Staff recommends that the Planning and Zoning Board recommend to the City  
125 Commission the following:

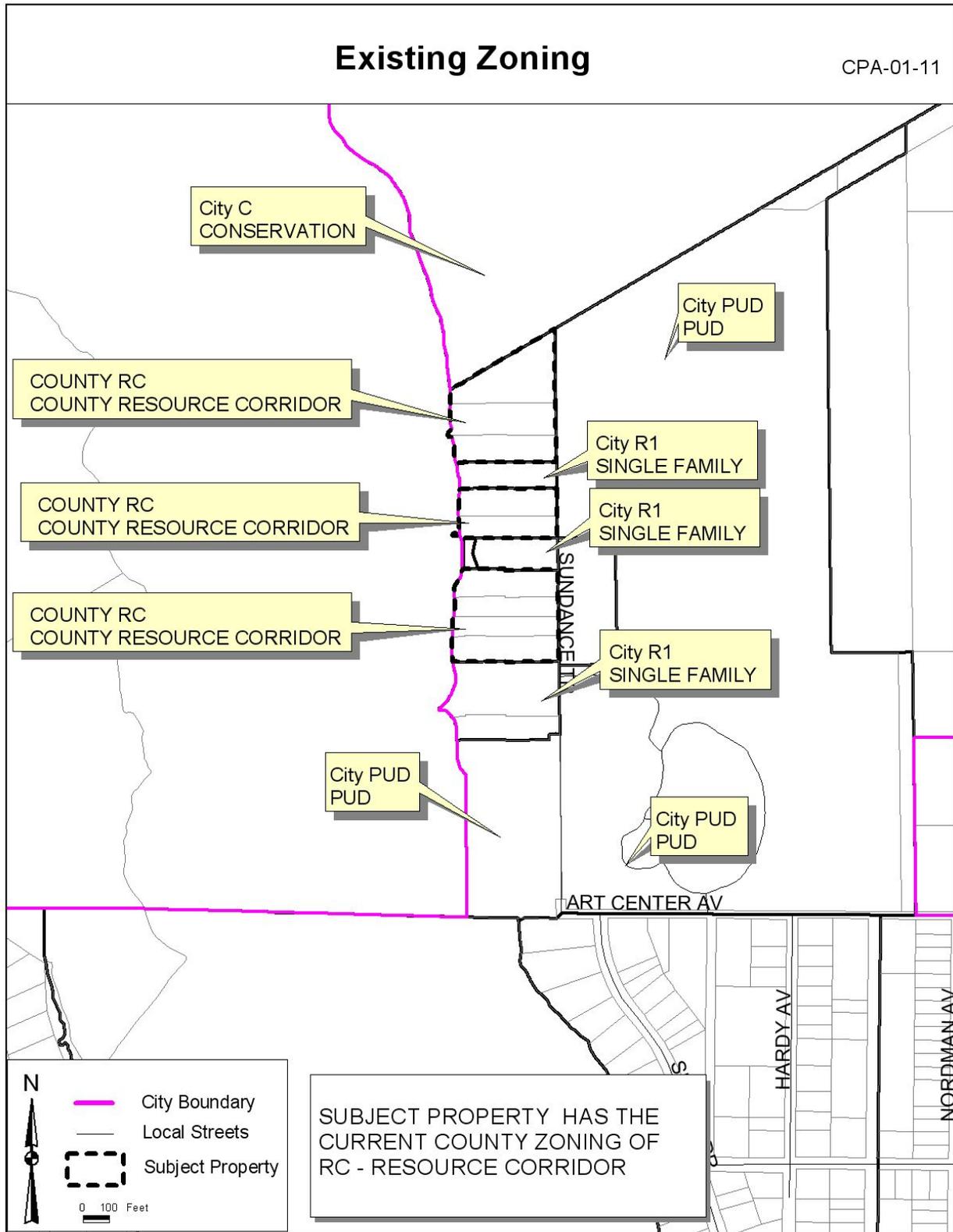
- 126 1. Approval of the request to change the Future Land Use designation of the  
127 subject properties from Volusia County Environmental Systems Corridor to  
128 City Low Density Residential
- 129 2. Approval of the request to change the zoning of the subject properties  
130 from County Resource Corridor to City R-1 – Single-Family Residential.



# Existing Land Use Designations

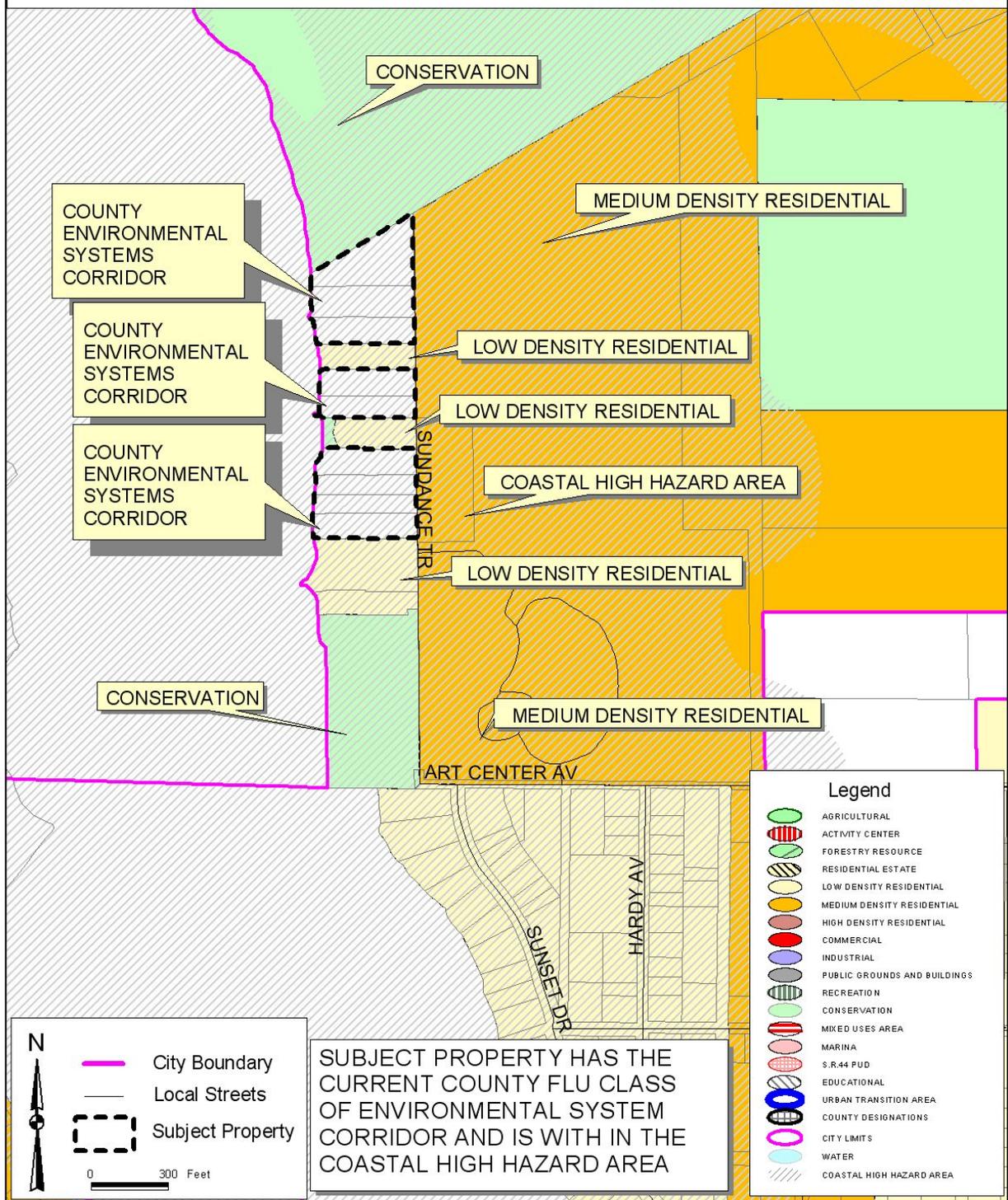
CPA-01-11

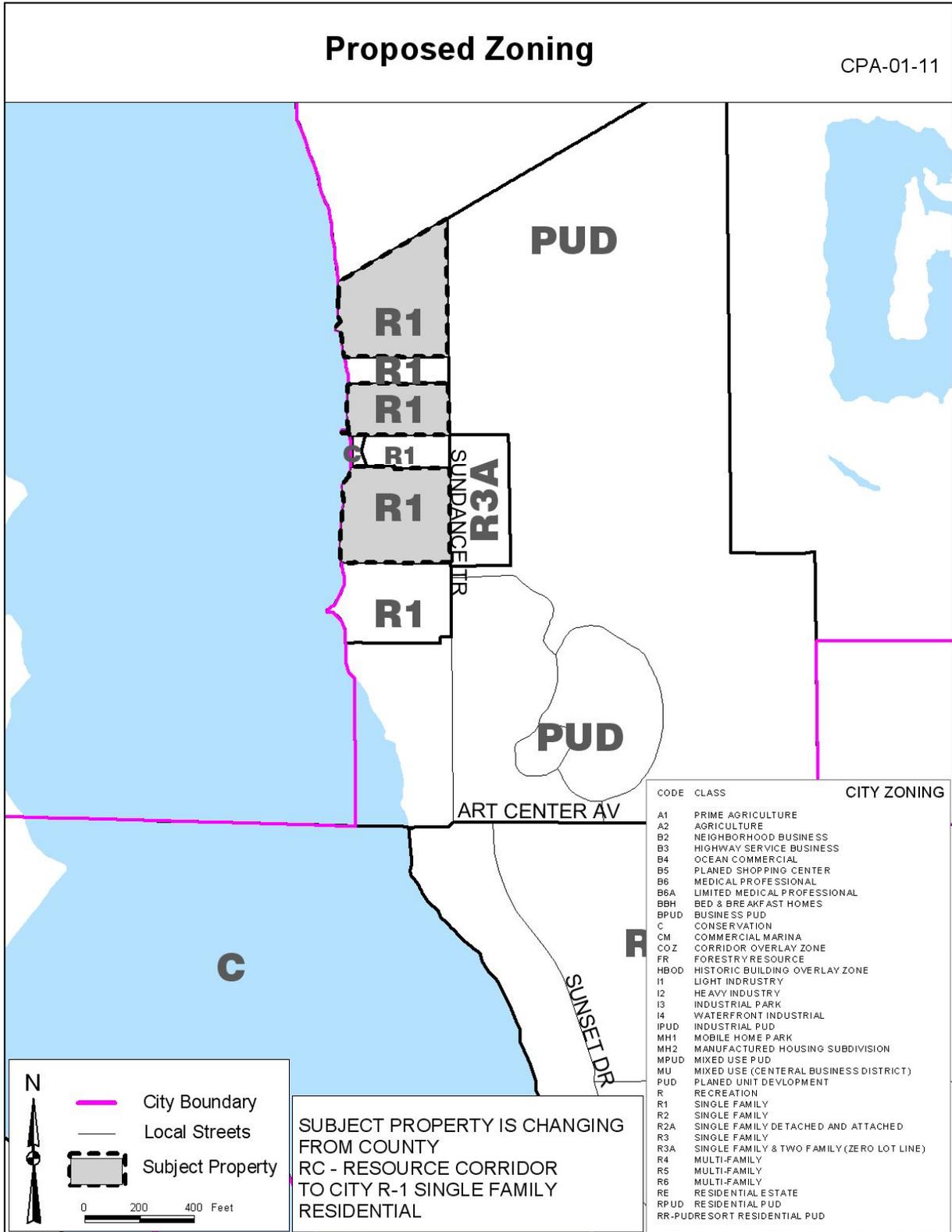




# Existing Future Land Use Designations

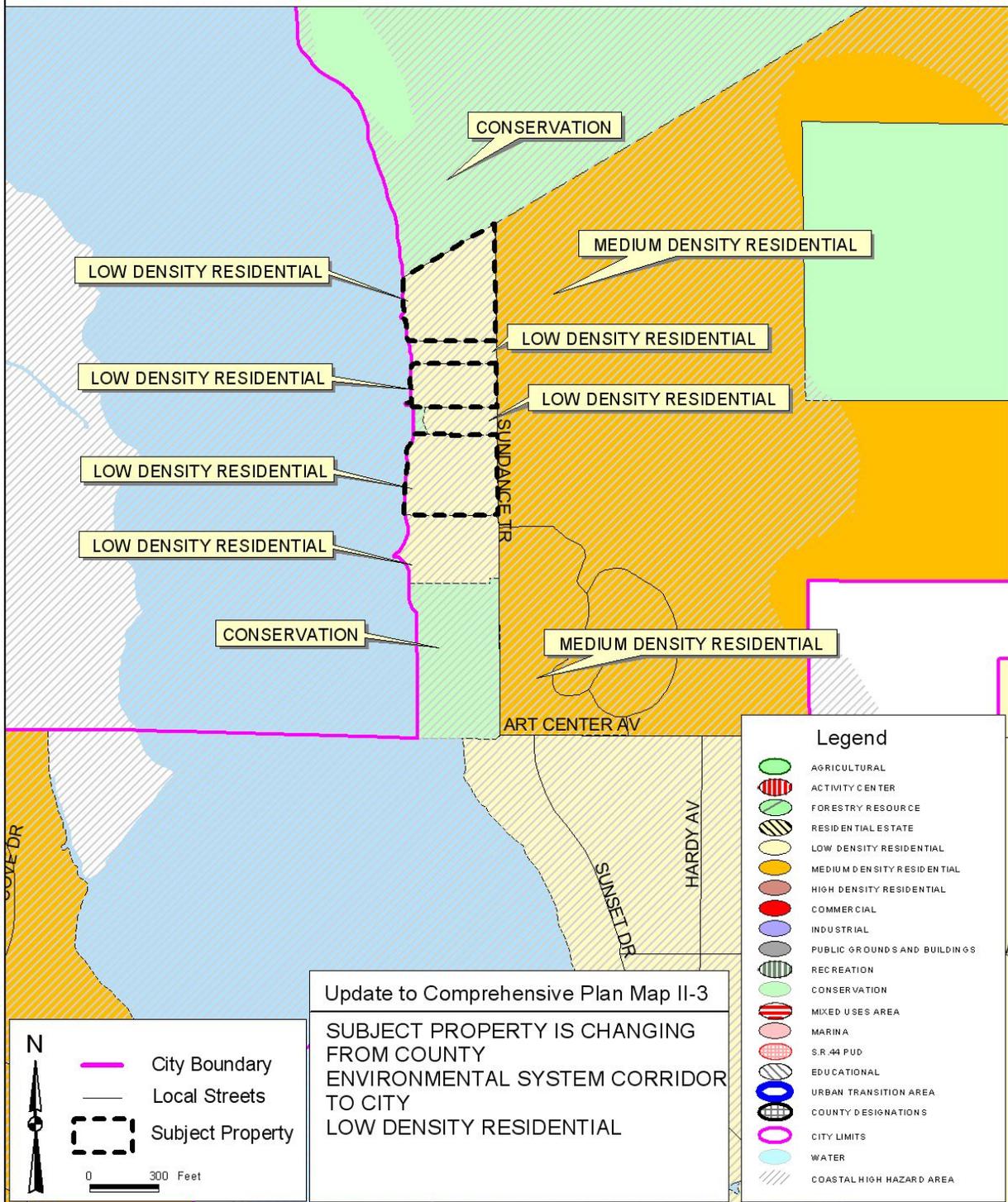
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# Proposed Future Land Use Designations

CPA-01-11



**IMPACT ANALYSIS TABLE  
ENCLAVES 1, 2 AND 3**

DEVELOPMENT VARIABLE	EXISTING FLU (COUNTY ENVIRONMENTAL SYSTEMS CORRIDOR)	PROPOSED FLU (CITY LOW DENSITY RESIDENTIAL)
Number of Units/ERUs	9	9
Population <sup>1</sup>	21.69	21.69
Transportation <sup>2</sup>		
A.M. Peak Hour Trips	6.75	6.75
P.M. Peak Hour Trips	9.09	9.09
Weekday Trips	86.13	86.13
Sanitary Sewer (gallons/day) <sup>3</sup>	1,575	2,250
Potable Water (gallons/day) <sup>4</sup>	1,800	2,700
Solid Waste (Lbs/person/day) <sup>5</sup>	186.534	158.337
Recreation/Open Space <sup>6</sup>		
Local Park (acres)	0.04338	N/A
District Park (acres)	0.10845	N/A
Neighborhood Park (acres)	N/A	0.02169
Community Park (acres)	N/A	0.0249435
Regional Park (acres)	N/A	0.4338
Tennis Courts	N/A	0.02169
Softball/Baseball Fields	N/A	0.0071577
Swimming Pools	N/A	0.0008676
Handball/Racquetball Courts	N/A	0.002169
Boat Ramps	N/A	0.0062901
18-Hole Golf Courses	N/A	0.0008676
Stormwater Drainage <sup>7</sup>	25-Yr/ 24-Hour Storm	25-Yr/ 24-Hour Storm
Student Generation <sup>8</sup>	3.564	3.564

Notes:

- Population: 2.41 persons per residential unit for single-family dwelling
- Transportation: Single-Family Residential:  
 AM – 0.75 trips/unit for weekday peak hour of adjacent street traffic, between 7 a.m. and 9 a.m.  
 PM – 1.01 trips/unit for weekday peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.  
 Weekday – 9.57 trips/unit for weekday trips
- Sanitary Sewer: County: 175 gallons per day per Equivalent Residential Unit  
 City: 250 gallons per day per Equivalent Residential Unit
- Potable Water: County: 200 gallons per day per Equivalent Residential Unit  
 City: 300 gallons per day per Equivalent Residential Unit
- Solid Waste: County: 8.6 pounds per person per day (non-residential waste is included in this figure)  
 City: 7.3 pounds per person per day (non-residential waste is included in this figure)
- Recreation & Open Space:

COUNTY LEVELS-OF-SERVICE		CITY LEVELS-OF-SERVICE			
Local Park	0.002 acres/person	Neighborhood Park	0.001 acres/person	Swimming Pools	0.00004 pools/person
District Park	0.005 acres/person	Community Park	0.00115 acres/person	Handball/Racquetball Courts	0.00010 courts/person
		Regional Park	0.02 acres/person	Boat Ramps	0.00029 ramps/person
		Tennis Courts	0.00100 court/person	18 Hole Golf Courses	0.00004 courses/person
		Softball/ Baseball Fields	0.00033 fields/person		

- Storm water Drainage: LOS standard = 25 year, 24 hour event.
- Student Generation: Single-Family Residential: 0.396 students/unit (includes townhomes)

Sources: ITE Trip Generation Manual, 7<sup>th</sup> Edition;  
 1996 New Smyrna Beach Comprehensive Plan

1                   **CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES**  
2                                   **CPA-2-11:**  
3                                   **ENCLAVE #5**  
4                                   **MAY 2, 2011**

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5  
6   **I.     Background**

- 7   **A.     Applicant:** City of New Smyrna Beach, 210 Sams Ave., New Smyrna  
8                   Beach, Florida, 32168  
9
- 10   **B.     Property Owner:** New Smyrna Realty Holdings LLC, 1889 SR44, New  
11                   Smyrna Beach, Florida, 32168  
12
- 13   **C.     Request:** *Comprehensive Plan* amendment and rezoning
- 14       •     **From** County Future Land Use (FLU) designation of Urban Medium  
15             Intensity and County zoning B-4(C), General Commercial  
16             (Thoroughfare Overlay Zone)
  - 17       •     **To** City FLU designation of Commercial and City zoning of B-3(C),  
18             Highway Services Business District (Corridor Overlay Zone)  
19
- 20   **D.     Site Information:** The subject property contains approximately 1.216  
21             acres contained in 2 contiguous parcels under the same ownership, and is  
22             generally located on the north side of SR44, 1100 feet west of the  
23             SR44/Mission Dr./Wallace Rd. intersection at 1889 State Road 44 (see  
24             Location Map attached as **Exhibit A**).  
25
- 26   **E.     Alternate Key Numbers:** 3714814 and 3714890  
27

28   **II.    Findings**

- 29   **A.**     On March 17, 2011, the Volusia County Council approved a Joint Planning  
30             Agreement (JPA) with the City of New Smyrna Beach. The JPA annexed  
31             13 enclaves, consisting of 28 parcels, into the City. The JPA annexing the  
32             subject properties is permitted by Chapter 171, Florida Statutes. In order  
33             to qualify for annexation through the JPA process, the enclaves had to be  
34             less than 10 acres in size, be surrounding by incorporated areas and  
35             either be developed or be located in an area that is currently serviced by  
36             water and sewer..  
37
- 38   **B.**     The subject properties consist of approximately 1.216 acres on two  
39             adjoining parcels under a single ownership. The site is used for  
40             commercial purposes as allowed under the County FLU and zoning  
41             district.  
42
- 43   **C.**     The subject property is an approximately 1.216-acre site consisting of two  
44             parcels. The property currently has a Volusia County Future Land Use  
45             (FLU) designation of Urban Medium Intensity, which is primarily a  
46             residential designation but may allow neighborhood business areas and  
47             office development. The property is currently zoned Volusia County B-  
48             4(C), General Commercial (Thoroughfare Overlay Zone). The site is  
49             surrounded on all sides by commercial activities. The surrounding future

50 land use, existing uses, and zoning are as follows:

51 **North**

52 Future Land Use: City Commercial  
53 Existing Land Use: Shopping Center,  
54 Zoning: City PUD(C), Planned Unit Development (Corridor  
55 Overlay Zone) & B-3(C) Highway Service Business  
56 District (Corridor Overlay Zone)  
57

58 **South**

59 Future Land Use: City Commercial  
60 Existing Land Use: Shopping Center  
61 Zoning: City B-5(C) Planned Shopping Center (Corridor  
62 Overlay Zone)  
63

64 **East**

65 Future Land Use: City Commercial  
66 Existing Land Use: Stand alone commercial  
67 Zoning: City B-3(C), Highway Services Business District  
68 (Corridor Overlay Zone)  
69

70 **West**

71 Future Land Use: City Commercial  
72 Existing Land Use: Motorcycle dealer  
73 Zoning: City B-3(C), Highway Services Business District,  
74 (Corridor Overlay Zone)  
75

76 Maps showing the surrounding Existing Land Uses, Existing Zoning, and  
77 Existing Future Land Use Designations are attached **Exhibits B,C, & D**.  
78 Maps showing Future Land Use and Zoning designations on the subject  
79 property are attached as **Exhibits E and F**.  
80

81 D. The *Land Development Regulations* requires any proposed development  
82 to conform to the Concurrency Management System. That system  
83 includes traffic, parks and recreation, potable water, wastewater  
84 treatment, solid waste collection, stormwater management, and public  
85 school facilities. A table comparing the potential impacts from  
86 development allowed under the existing County Urban Medium Intensity  
87 future land use and the proposed City Commercial future land use  
88 designation is attached as **Exhibit G**.  
89

90 E. The *Comprehensive Plan* provides some guidance on future land use  
91 amendments and rezonings. The following is a list of objectives in the  
92 *Comprehensive Plan* that support this proposal.  
93

- 94 • **Future Land Use Element Objective 1, Policy e:** By 2000, create  
95 an Interlocal agreement between the city and Volusia County for  
96 unincorporated future growth areas that assumes land use  
97 locations and the city's ability to apply development controls prior to  
98 development, consistent with the standards in effect in the City of

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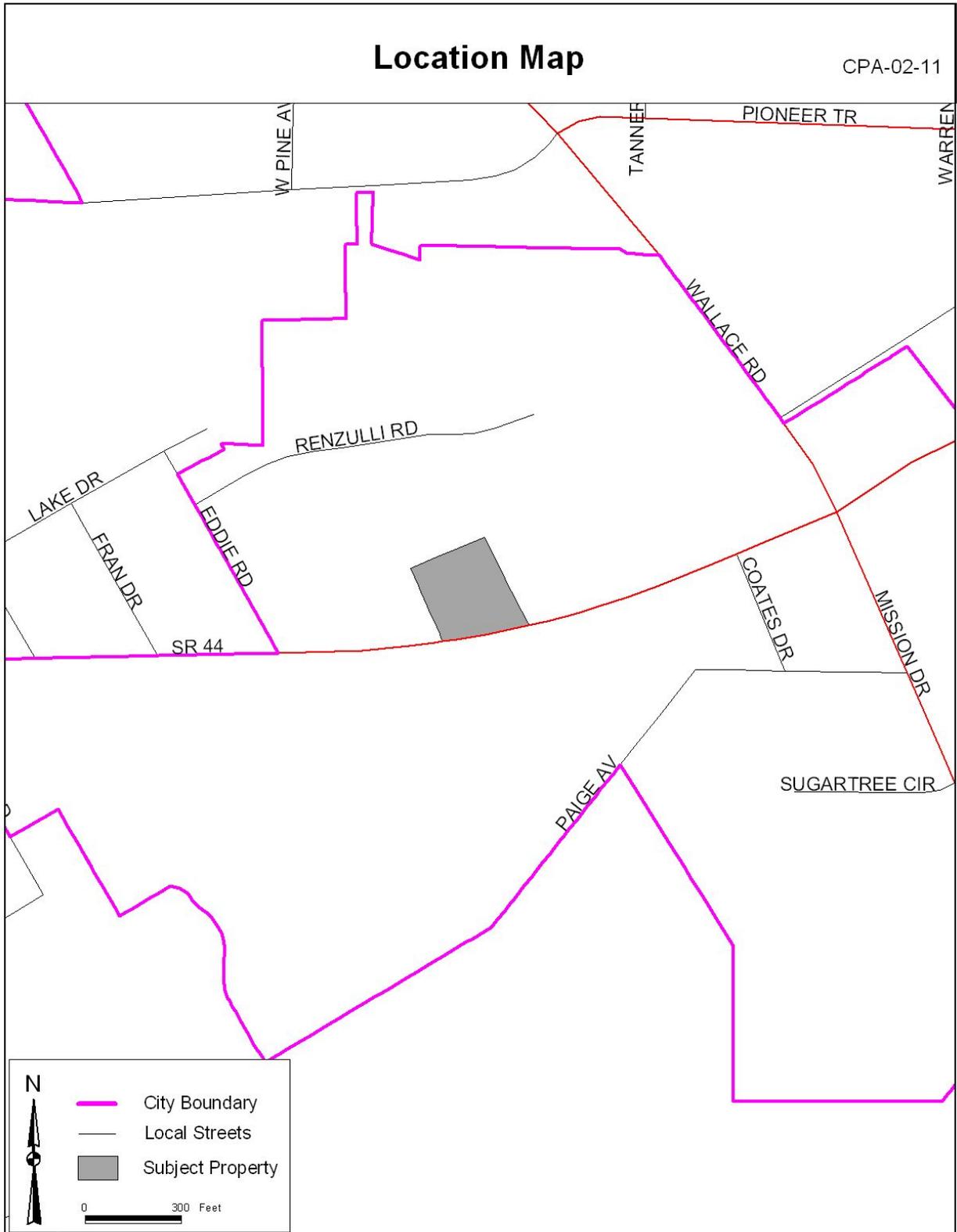
New Smyrna Beach.

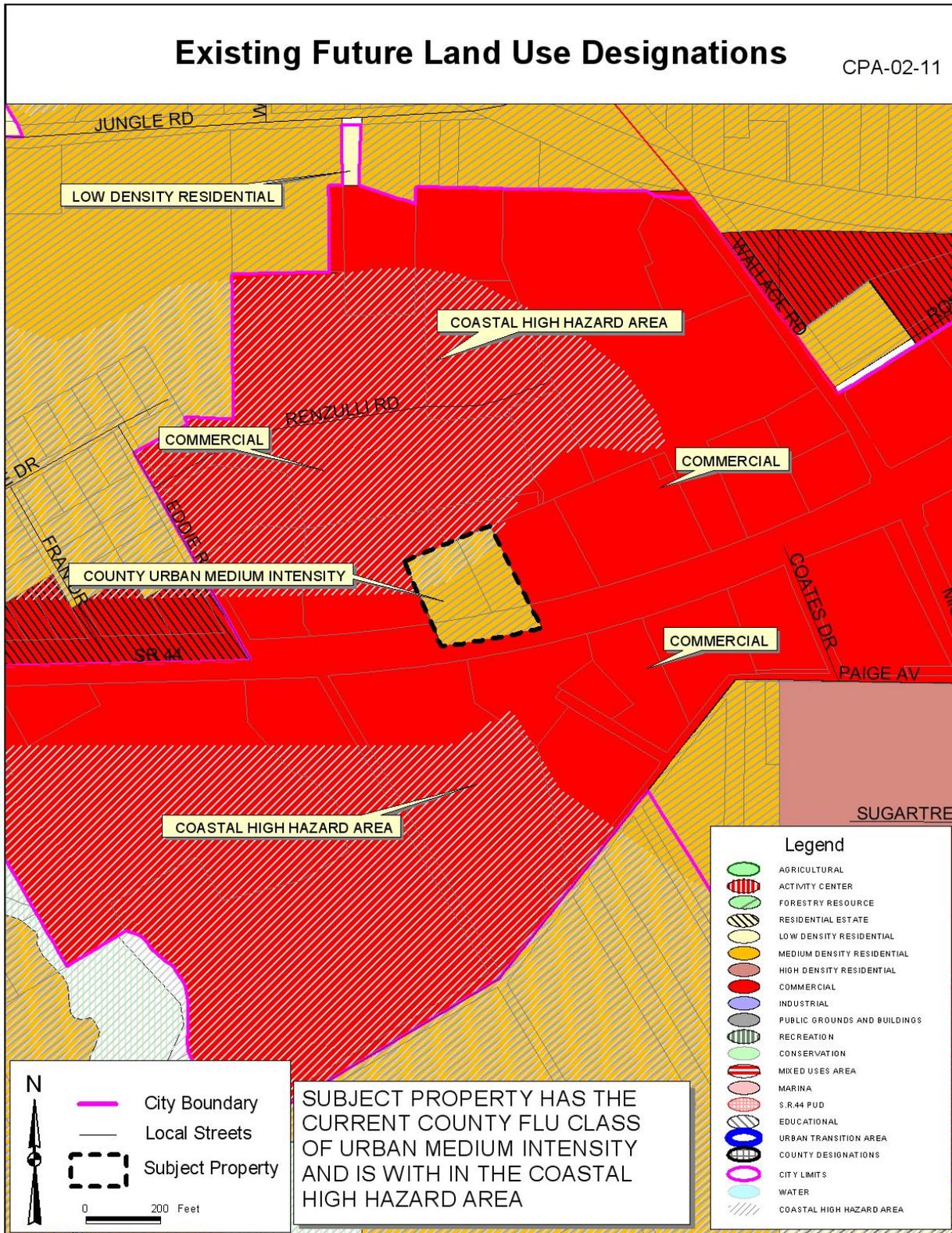
- **Future Land Use Element Objective 7, Policy m:** Annexations will be used to provide for the orderly, cost-effective and concurrency-based extension of services; to direct infill development; to protect those arterial, collector and local access roads leading to the city through the adoption and/or implementation of existing adopted regulations in accordance with policies identified in this plan; and to secure existing urban development areas in the service area which use and impact the level-of-service of municipal facilities without providing for economic support to maintain the level-of-service identified in this plan.

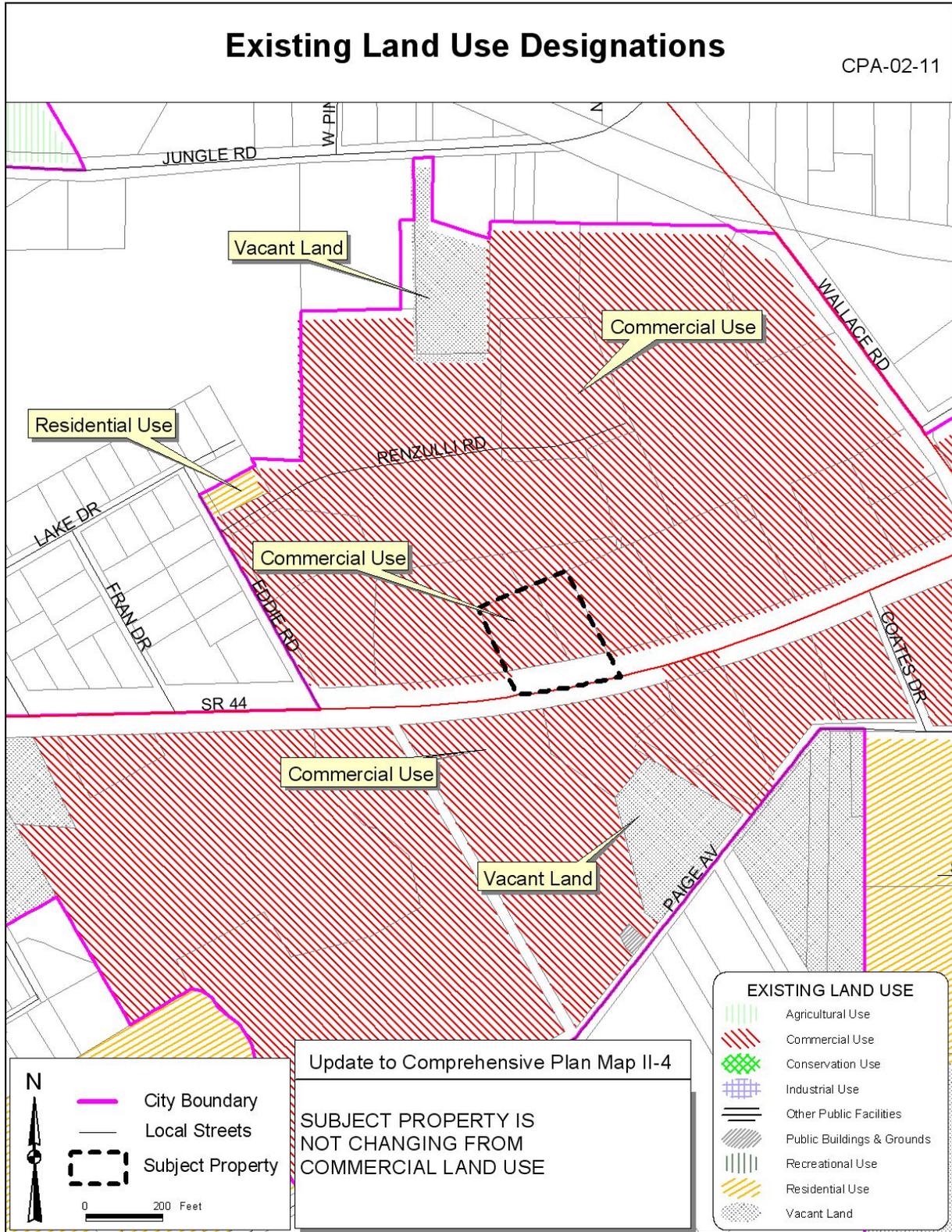
**III. Recommendation**

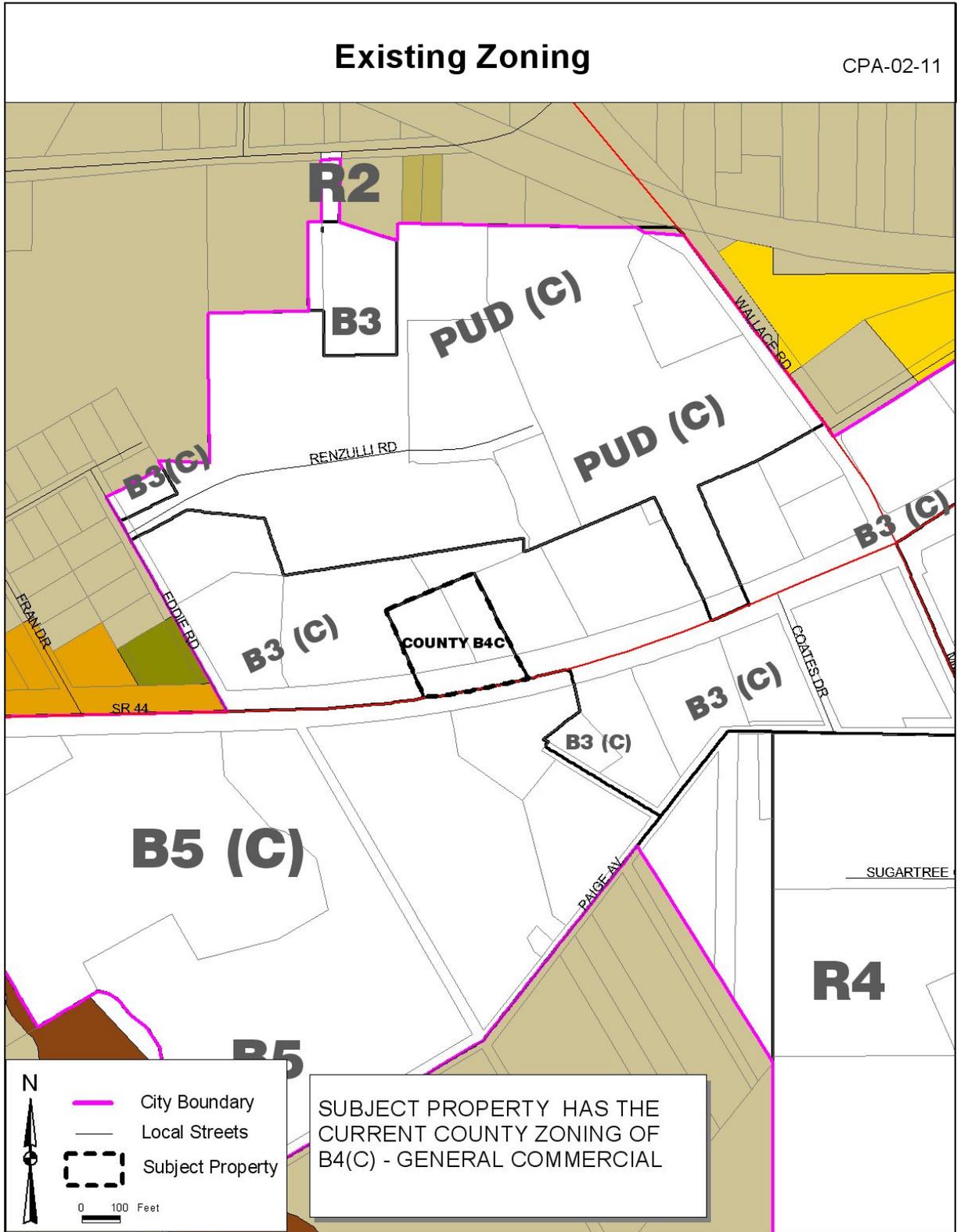
Staff recommends that the Planning and Zoning Board recommend to the City Commission the following:

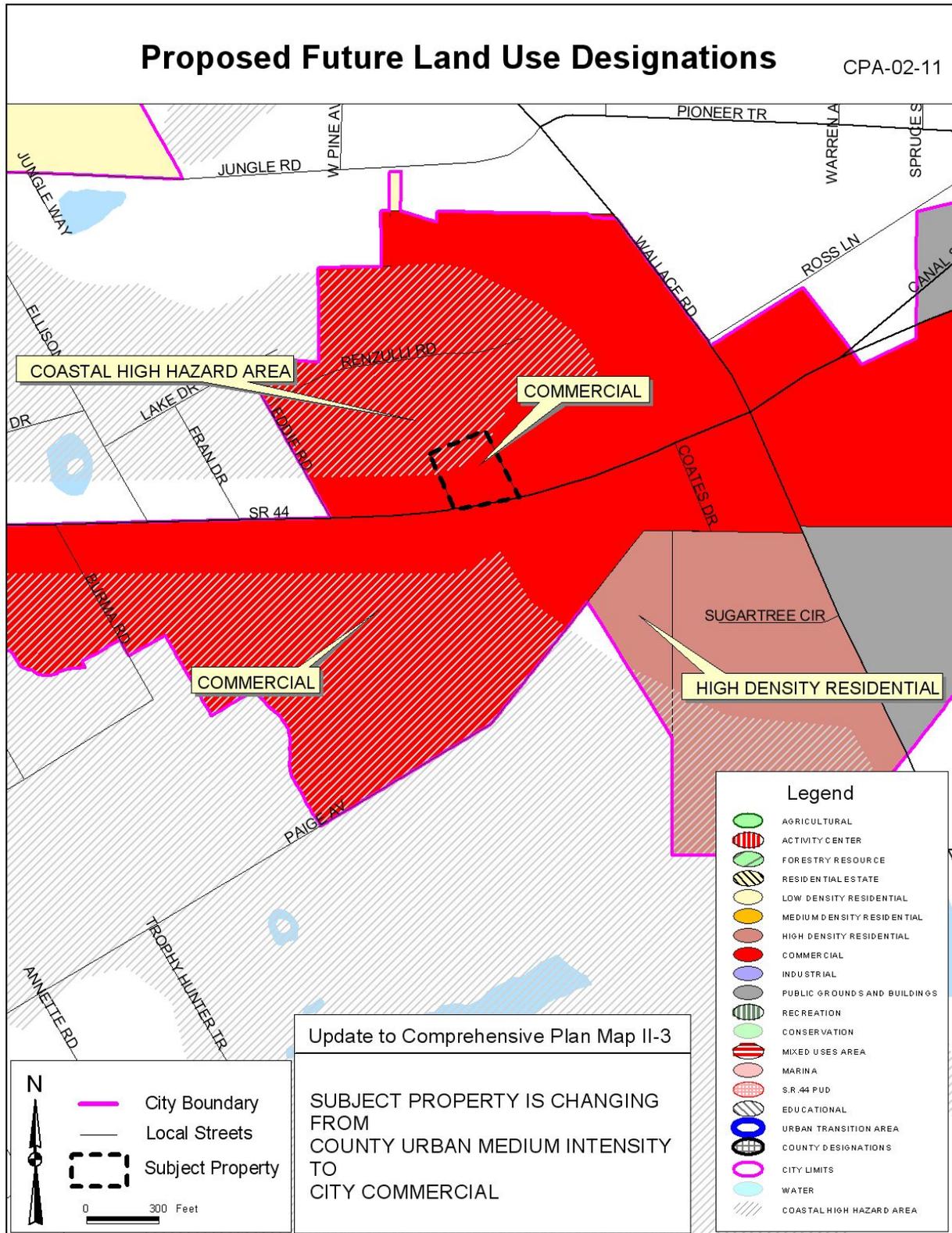
1. Approval of the request to change the Future Land Use designation of the subject properties from County Future Land Use (FLU) Urban Medium Intensity to City FLU designation of Commercial.
2. Approval of the request to change the zoning of the subject properties from County zoning B-4(C), General Commercial (Thoroughfare Overlay Zone) to City B-3(C), Highway Services Business District.

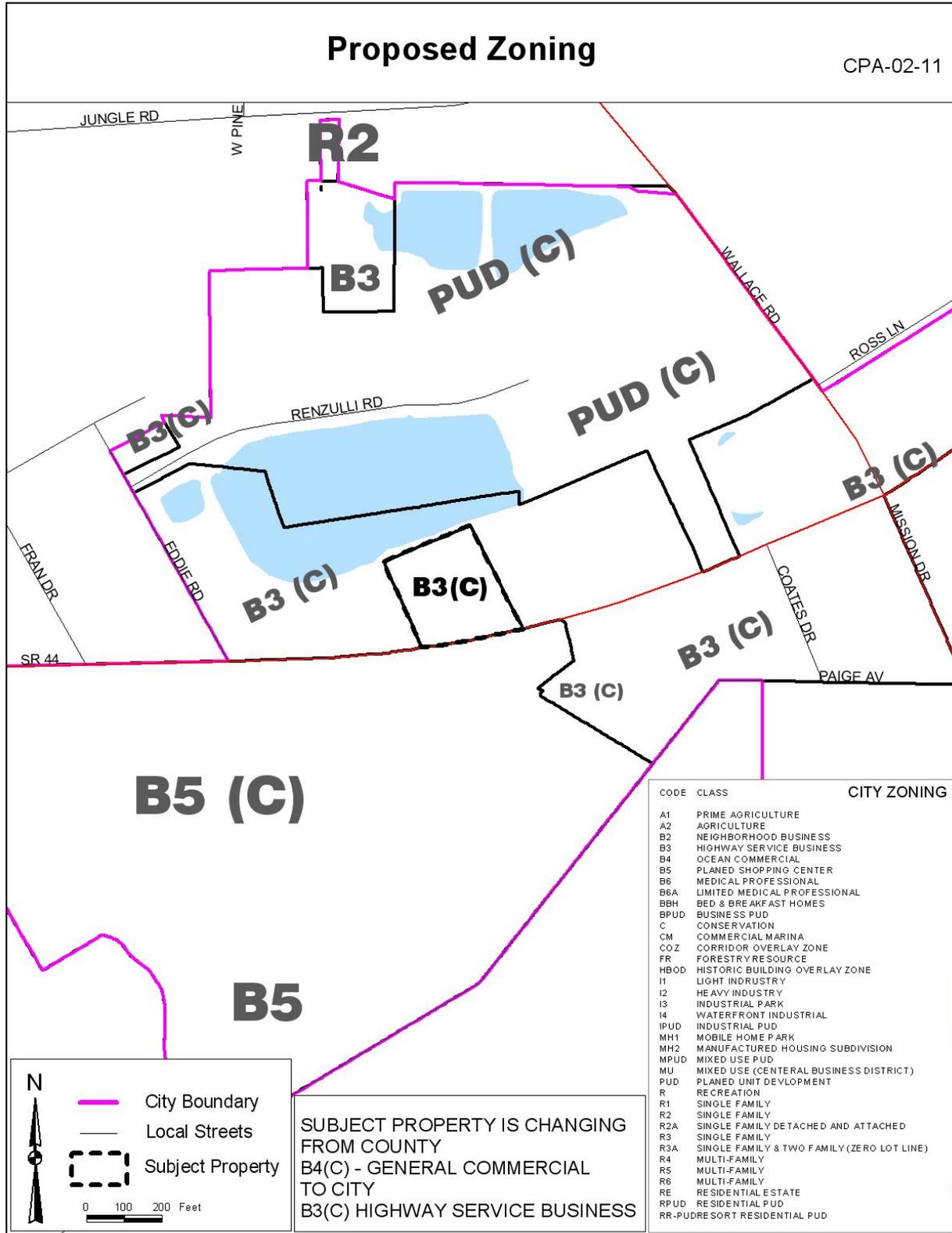












**IMPACT ANALYSIS TABLE  
 ENCLAVE 5**

DEVELOPMENT VARIABLE	THEORETICAL MAXIMUM DENSITY COUNTY	THEORETICAL MAXIMUM DENSITY CITY
Maximum F.A.R.	.5	2
Acreage	1.216	1.216
Number of Units/ERUs	26.48	105.94
Population <sup>1</sup>	0	0
Transportation <sup>2</sup>		
P.M. Peak Hour Trips	71,76	287.10
Weekday Trips	1,173.59	4,695.26
Sanitary Sewer (gallons/day) <sup>3</sup>	4,634	26,485
Potable Water (gallons/day) <sup>4</sup>	5,296	31,782
Solid Waste (Lbs/person/day) <sup>5</sup>	N/A	N/A
Recreation/Open Space (acres) <sup>6</sup>	N/A	N/A
Neighborhood/Local Park (acres)	N/A	N/A
Community Park (acres)	N/A	N/A
Regional/ District Park (acres)	N/A	N/A
Stormwater Drainage <sup>7</sup>	25-Yr/ 24-Hour Storm	25-Yr/ 24-Hour Storm
Schools <sup>8</sup>	N/A	N/A

Notes:

1. Population: 2.41 persons per residential unit for single-family dwelling
2. Transportation: Specialty Retail:  
 PM – 2.71 trips/1000 SF gross leasable area; peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.  
 Weekday – 44.32 trips/1000 SF gross leasable area
4. Sanitary Sewer: County: 175 gallons per day per Equivalent Residential Unit  
 City: 250 gallons per day per Equivalent Residential Unit
5. Potable Water: County: 200 gallons per day per Equivalent Residential Unit  
 City: 300 gallons per day per Equivalent Residential Unit
6. Solid Waste: County: 8.6 pounds per person per day (non-residential waste is included in this figure)  
 City: 7.3 pounds per person per day (non-residential waste is included in this figure)
7. Recreation & Open Space:

COUNTY LEVELS-OF-SERVICE		CITY LEVELS-OF-SERVICE	
Local Park	0.002 acres/person	Neighborhood Park	0.001 acres/person
District Park	0.005 acres/person	Community Park	0.00115 acres/person
		Regional Park	0.02 acres/person

8. Storm water Drainage: LOS standard = 25 year, 24 hour event.
9. Student Generation: Single-Family Residential: 0.396 students/unit (includes townhomes)

Sources: ITE Trip Generation Manual, 7<sup>th</sup> Edition;  
 1996 New Smyrna Beach Comprehensive Plan  
 2008 Volusia County Comprehensive Plan

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

2 CPA-3-11:

3 ENCLAVE #13

4 MAY 2, 2011

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5  
6 I. Background

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

9  
10 B. **Property Owners:**

- 11 • Evelyn Pope, 1400 Findley Street, New Smyrna Beach, Florida  
12 32168

13  
14 C. **Request:** *Comprehensive Plan* amendment and rezoning

- 15 • **From** Future Land Use (FLU) designation of County Urban Medium  
16 Intensity and zoning designation of County R-4 Urban Single-  
17 Family Residential  
18 • **To** FLU designation of City Medium Density Residential and zoning  
19 designation of City R-3B(C) Single Family Residential (Corridor  
20 Overlay Zone)

21  
22 D. **Site Information:** The subject property consists of approximately .261  
23 acres and is located 650 feet west and 140 feet north of the intersection of  
24 Old Mission Road and Findley Street (see Location Map attached as  
25 **Exhibit A**)

26  
27 E. **Alternate Key Number:** 3811399

28  
29 II. Findings

30 A. On March 17, 2011, the Volusia County Council approved a Joint Planning  
31 Agreement (JPA) with the City of New Smyrna Beach. The JPA annexed  
32 13 enclaves, consisting of 28 parcels, into the City. The JPA annexing the  
33 subject properties is permitted by Chapter 171, Florida Statutes. In order  
34 to qualify for annexation through the JPA process, the enclaves had to be  
35 less than 10 acres in size, be surrounding by incorporated areas and  
36 either be developed or be located in an area that is currently serviced by  
37 water and sewer.

38  
39 B. The subject property consists of 1 individual lot consisting of  
40 approximately 0.261 acres. The lot has been developed with a single-  
41 family residence.

42  
43 C. The subject parcel is currently zoned County R-4, Urban Single-Family  
44 Residential, and has a future land use designation of County Urban  
45 Medium Intensity. The surrounding future land uses, existing uses, and  
46 zoning are as follows:



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- **Future Land Use Element Objective 7, Policy m:** Annexations will be used to provide for the orderly, cost-effective and concurrency-based extension of services; to direct infill development; to protect those arterial, collector and local access roads leading to the city through the adoption and/or implementation of existing adopted regulations in accordance with policies identified in this plan; and to secure existing urban development areas in the service area which use and impact the level-of-service of municipal facilities without providing for economic support to maintain the level-of-service identified in this plan.

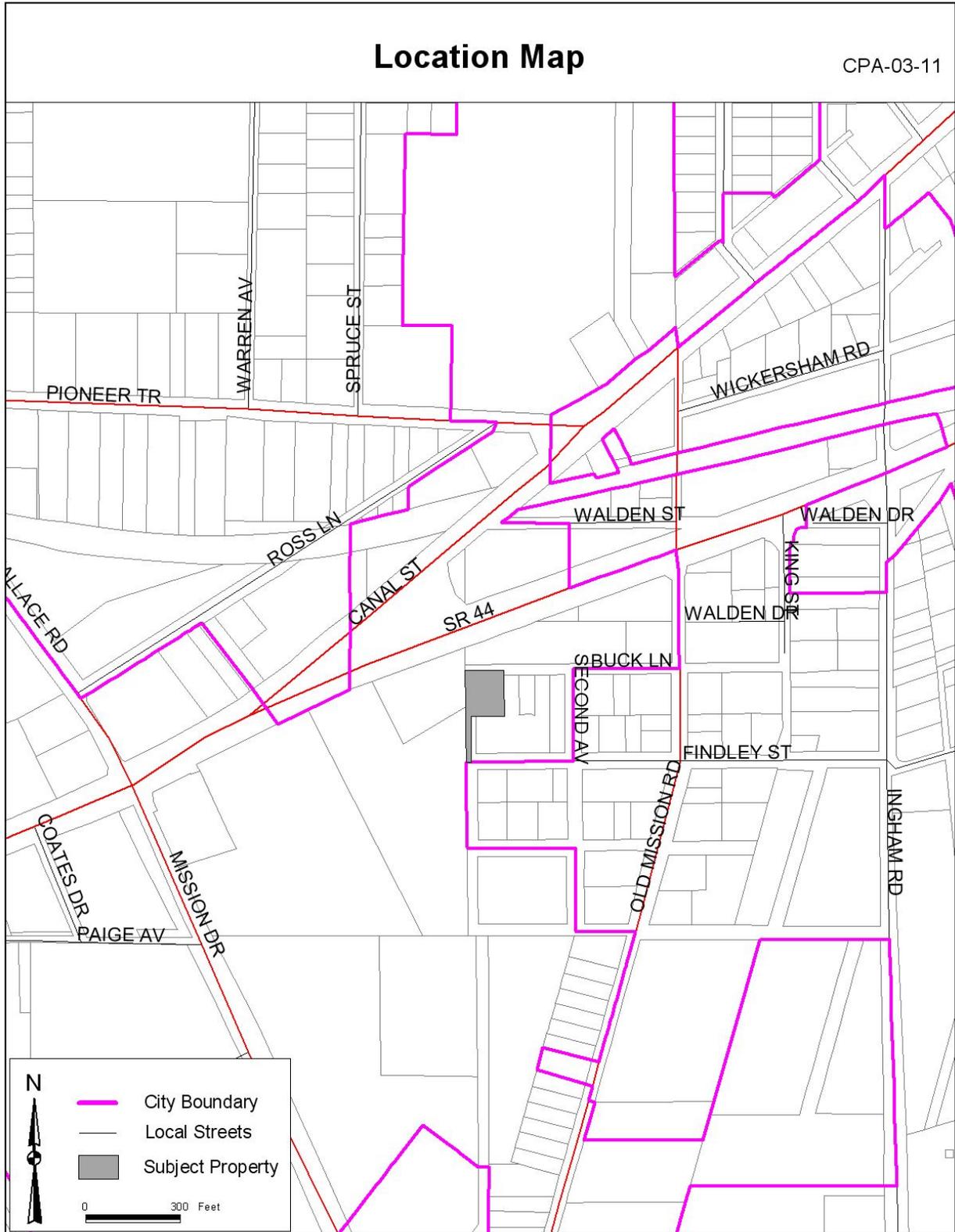
**III. Recommendation**

Staff recommends that the Planning and Zoning Board recommend to the City Commission the following:

1. Approval of the request to change the Future Land Use designation of the subject property from Volusia County Urban Medium Intensity to City Medium Density Residential.
2. Approval of the request to change the zoning of the subject property from County R-4 Urban Single-Family Residential to City R-3B(C) Single Family Residential (Corridor Overlay Zone.)

119  
120

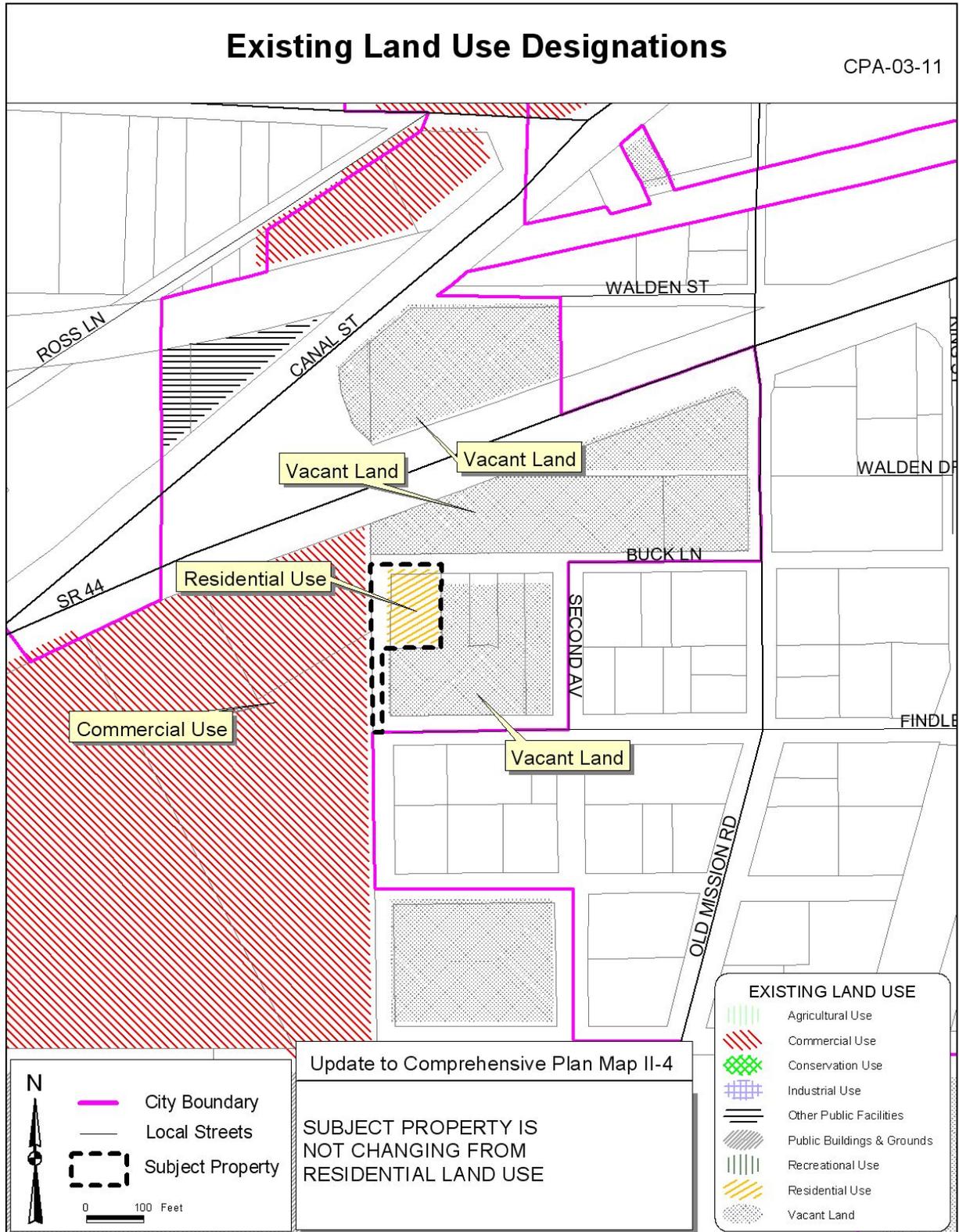
**Exhibit A**



121

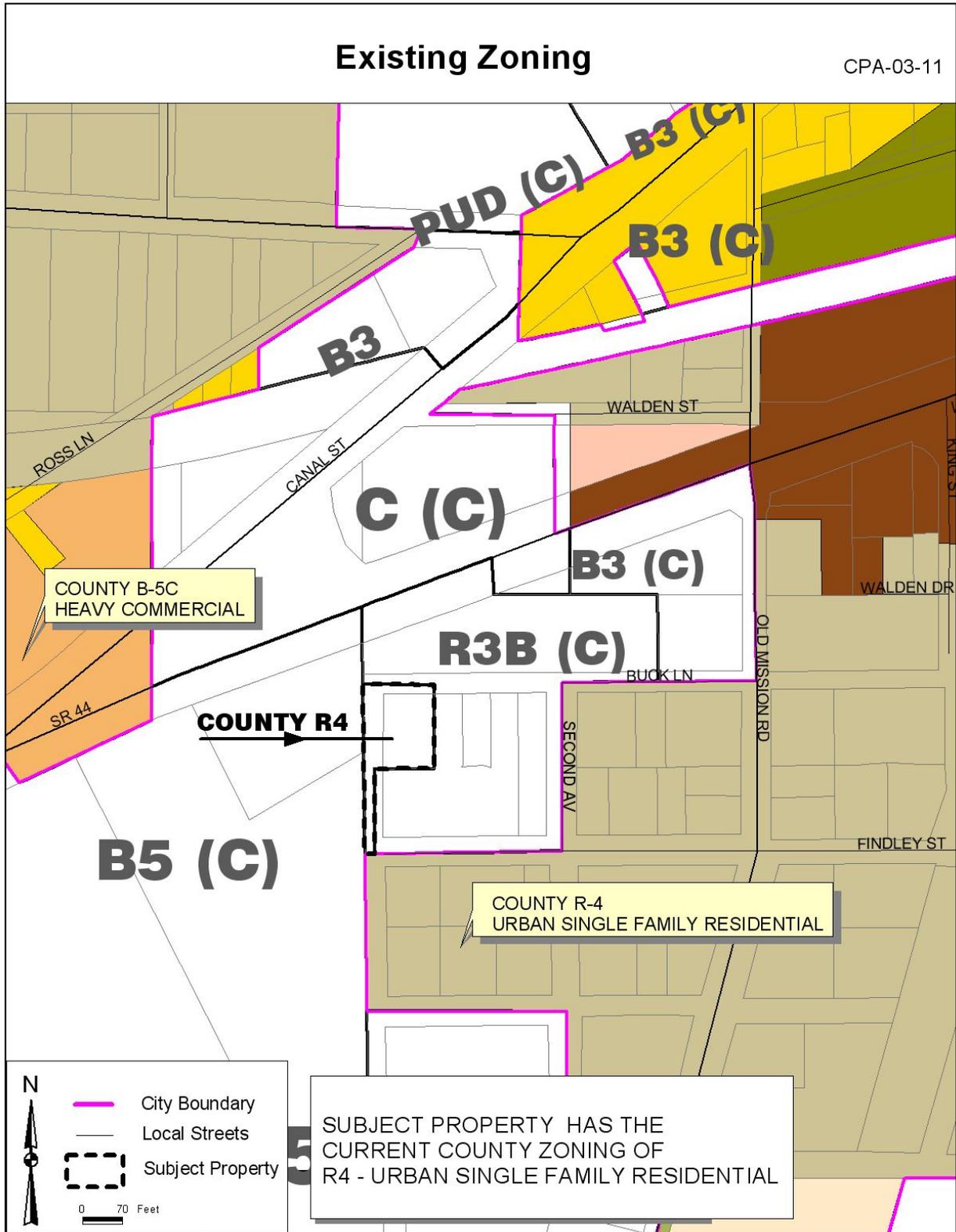
# Existing Land Use Designations

CPA-03-11



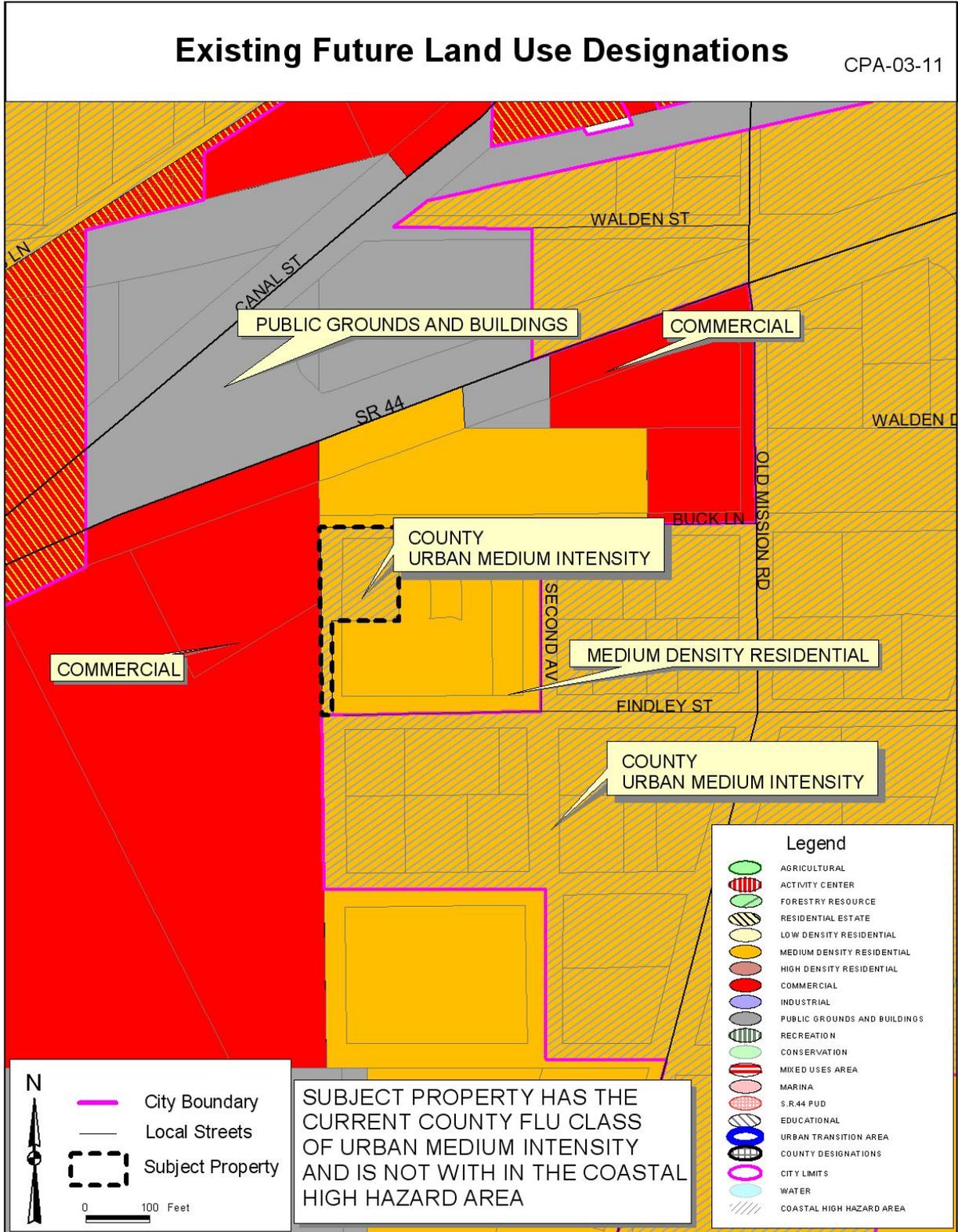
Existing Zoning

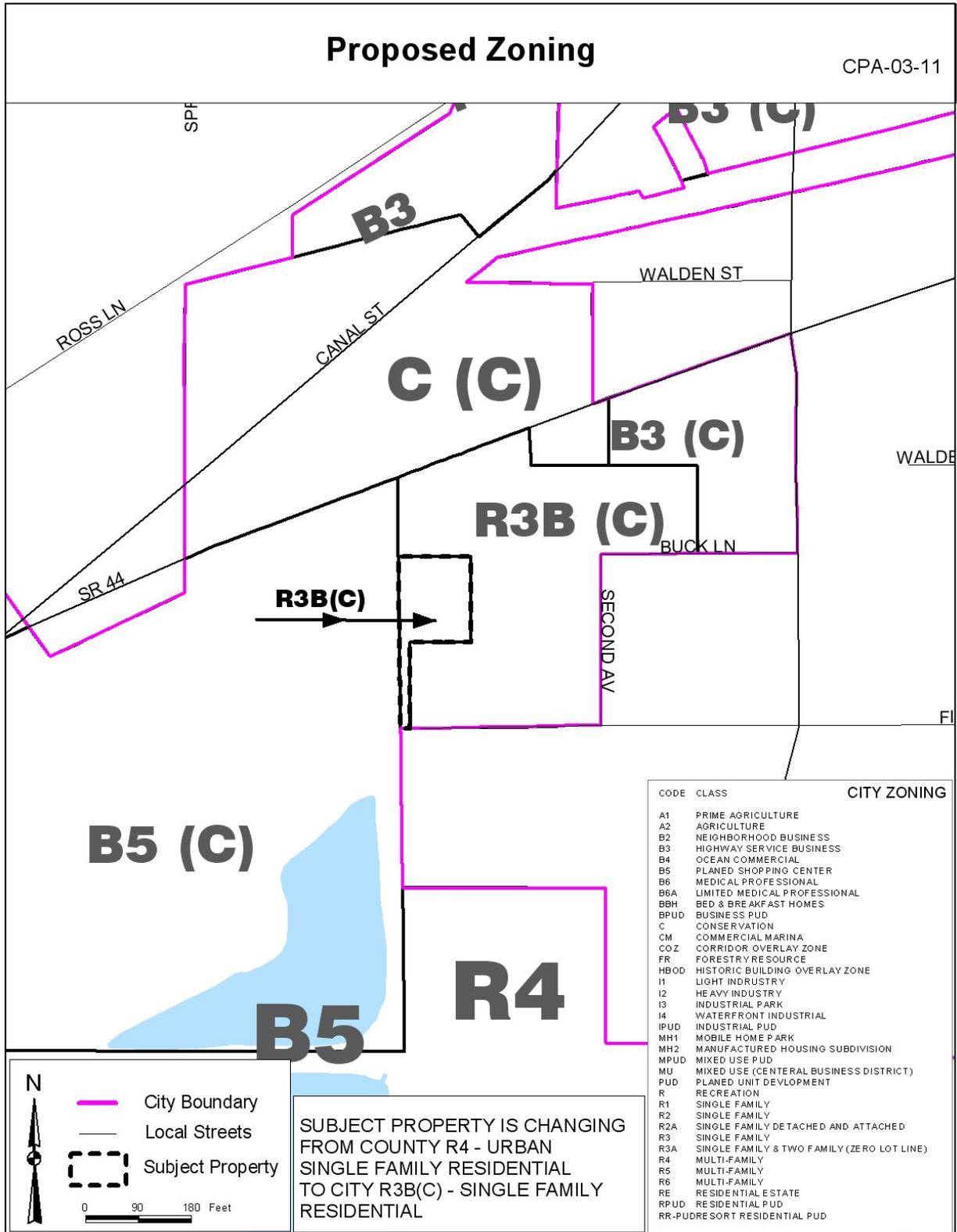
CPA-03-11



# Existing Future Land Use Designations

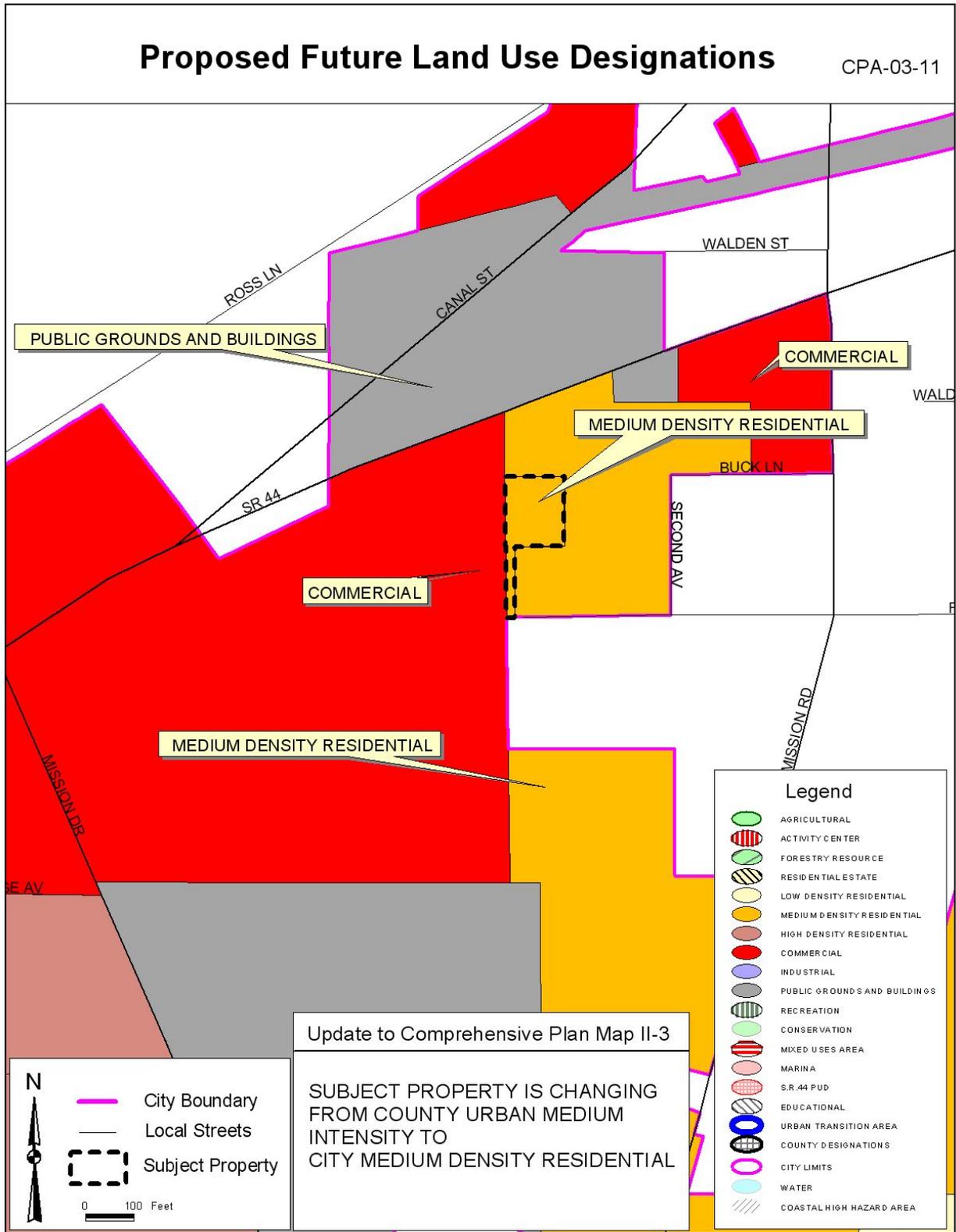
CPA-03-11





Proposed Future Land Use Designations

CPA-03-11



Update to Comprehensive Plan Map II-3

SUBJECT PROPERTY IS CHANGING FROM COUNTY URBAN MEDIUM INTENSITY TO CITY MEDIUM DENSITY RESIDENTIAL

- Legend**
- AGRICULTURAL
  - ACTIVITY CENTER
  - FORESTRY RESOURCE
  - RESIDENTIAL ESTATE
  - LOW DENSITY RESIDENTIAL
  - MEDIUM DENSITY RESIDENTIAL
  - HIGH DENSITY RESIDENTIAL
  - COMMERCIAL
  - INDUSTRIAL
  - PUBLIC GROUNDS AND BUILDINGS
  - RECREATION
  - CONSERVATION
  - MIXED USES AREA
  - MARINA
  - S.R. 44 PUD
  - EDUCATIONAL
  - URBAN TRANSITION AREA
  - COUNTY DESIGNATIONS
  - CITY LIMITS
  - WATER
  - COASTAL HIGH HAZARD AREA

**IMPACT ANALYSIS TABLE  
ENCLAVES 13**

DEVELOPMENT VARIABLE	EXISTING FLU (COUNTY MEDIUM IMPACT URBAN)	PROPOSED FLU (CITY MEDIUM DENSITY RESIDENTIAL)
Number of Units/ERUs	1	1
Population <sup>1</sup>	2.41	2.41
Transportation <sup>2</sup>		
A.M. Peak Hour Trips	.75	.75
P.M. Peak Hour Trips	1.01	1.01
Weekday Trips	9.57	9.57
Sanitary Sewer (gallons/day) <sup>3</sup>	175	250
Potable Water (gallons/day) <sup>4</sup>	200	300
Solid Waste (Lbs/person/day) <sup>5</sup>	20.7	17.6
Recreation/Open Space <sup>6</sup>		
Local Park (acres)	0.005	N/A
District Park (acres)	0.012	N/A
Neighborhood Park (acres)	N/A	.00241
Community Park (acres)	N/A	0.00277
Regional Park (acres)	N/A	0.48
Tennis Courts	N/A	0.00241
Softball/Baseball Fields	N/A	0.0008
Swimming Pools	N/A	0.000096
Handball/Racquetball Courts	N/A	0.000241
Boat Ramps	N/A	0.0007
18-Hole Golf Courses	N/A	0.000096
Stormwater Drainage <sup>7</sup>	25-Yr/ 24-Hour Storm	25-Yr/ 24-Hour Storm
Student Generation <sup>8</sup>	.396	.396

**Notes:**

- Population: 2.41 persons per residential unit for single-family dwelling
- Transportation: Single-Family Residential:  
 AM – 0.75 trips/unit for weekday peak hour of adjacent street traffic, between 7 a.m. and 9 a.m.  
 PM – 1.01 trips/unit for weekday peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.  
 Weekday – 9.57 trips/unit for weekday trips
- Sanitary Sewer: County: 175 gallons per day per Equivalent Residential Unit  
 City: 250 gallons per day per Equivalent Residential Unit
- Potable Water: County: 200 gallons per day per Equivalent Residential Unit  
 City: 300 gallons per day per Equivalent Residential Unit
- Solid Waste: County: 8.6 pounds per person per day (non-residential waste is included in this figure)  
 City: 7.3 pounds per person per day (non-residential waste is included in this figure)
- Recreation & Open Space:

COUNTY LEVELS-OF-SERVICE		CITY LEVELS-OF-SERVICE			
Local Park	0.002 acres/person	Neighborhood Park	0.001 acres/person	Swimming Pools	0.00004 pools/person
District Park	0.005 acres/person	Community Park	0.00115 acres/person	Handball/Racquetball Courts	0.00010 courts/person
		Regional Park	0.02 acres/person	Boat Ramps	0.00029 ramps/person
		Tennis Courts	0.00100 court/person	18 Hole Golf Courses	0.00004 courses/person
		Softball/ Baseball Fields	0.00033 fields/person		

- Storm water Drainage: LOS standard = 25 year, 24 hour event.
- Student Generation: Single-Family Residential: 0.396 students/unit (includes townhomes)

Sources: ITE Trip Generation Manual, 7<sup>th</sup> Edition; 1996 New Smyrna Beach Comprehensive Plan

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

2 CPA-4-11:

3 ENCLAVE #4

4 MAY 2, 2011

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5  
6 I. Background

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

9  
10 B. **Property Owners:**

- 11 • Brandon Ferri, 333 South Glencoe Raod, New Smyrna Beach,  
12 Florida, 32168
- 13 • Steven and Cynthia Thomas, 325 South Glencoe Raod, New  
14 Smyrna Beach, Florida, 32168
- 15 • Donald Smith and James Smith III, 411 South Glencoe Raod, New  
16 Smyrna Beach, Florida, 32168
- 17 • Glen and Rosemary Hyser, 415 South Glencoe Raod, New Smyrna  
18 Beach, Florida, 32168

19  
20 C. **Request:** *Comprehensive Plan* amendment and rezoning

- 21 • **From** Future Land Use (FLU) designation of County Urban Low  
22 Intensity and zoning designation of County RR – Rural Residential  
23 and County R1 – Suburban Single-Family Residential
- 24 • **To** FLU designation of City Low Density Residential and zoning  
25 designation of City R1 – Single-family Residential and RE –  
26 Residential Estate

27  
28 D. **Site Information:** The subject properties consists of approximately 7.231  
29 acres and are located on the west side of South Glencoe Road, between  
30 State Road 44 and Wood Creek Lane (see Location Map attached as  
31 **Exhibit A**)

32  
33 E. **Alternate Key Numbers:** 5475174, 3713265, 3713281, 3713290

34  
35 II. Findings

36 A. On March 17, 2011, the Volusia County Council approved a Joint Planning  
37 Agreement (JPA) with the City of New Smyrna Beach. The JPA annexed  
38 13 enclaves, consisting of 28 parcels, into the City. The JPA annexing the  
39 subject properties is permitted by Chapter 171, Florida Statutes. In order  
40 to qualify for annexation through the JPA process, the enclaves had to be  
41 less than 10 acres in size, be surrounding by incorporated areas and  
42 either be developed or be located in an area that is currently serviced by  
43 water and sewer.

44  
45 B. The subject properties consist of four (4) individual lots. Together, the four  
46 enclave areas consist of approximately 7.231 acres. All of the lots have  
47 been developed with a single-family residence.

48  
49 C. The subject parcels are currently zoned County RR – Rural Residential  
50 and R-1 – Suburban Single-Family Residential and have a future land use

51 designation of County Urban Low Intensity Residential. The surrounding  
52 future land uses, existing uses, and zoning are as follows:

53 **North**

54 Future Land Use: City State Road 44 Planned Unit Development

55 Existing Land Use: Vacant

56 Zoning: City PUD, Planned Unit Development

57 **South**

58 Future Land Use: City Low Density Residential

59 Existing Land Use: Residential

60 Zoning: City PUD, Planned Unit Development

61

62 **East**

63 Future Land Use: City State Road 44 Planned Unit Development and  
64 City High Density Residential

65 Existing Land Use: Residential and vacant

66 Zoning: City R-4 – Multi-Family Residential and County R-3 –  
67 Urban Single-Family Residential

68 **West**

69 Future Land Use: City Low Density Residential

70 Existing Land Use: Vacant

71 Zoning: City R-1 – Single-Family Residential

72

73 Maps of surrounding Existing Land Use Designations, Existing Zoning  
74 Districts, and Existing Future Land Use Designations are attached (see  
75 **Exhibits B, C, and D**). Maps showing the proposed Future Land Use and  
76 Zoning Designations are attached as **Exhibits E and F**.

77

78 D. The *Land Development Regulations* requires any proposed development  
79 to conform to the Concurrency Management System. That system  
80 includes traffic, parks and recreation, potable water, wastewater  
81 treatment, solid waste collection, stormwater management, and public  
82 school facilities. A table comparing the potential impacts from  
83 development allowed under the existing County Urban Low Intensity future  
84 land use and the proposed City Low Density Residential future land use  
85 designation is attached as **Exhibit G**. Because these parcels are already  
86 built-out and because the existing and proposed zoning regulations limit  
87 development on these parcels to single-family residential uses, no  
88 significant new development or redevelopment is anticipated.

89

90 E. Staff is proposing that the three northern parcels be rezoned to R-1 –  
91 Single-Family Residential and the southern-most parcel be rezoned to RE  
92 – Residential Estate. These zoning designations are the closest matching  
93 City designations to the current County designations.

94

95 F. The *Comprehensive Plan* provides some guidance on future land use  
96 amendments and rezonings. The following is a list of objectives in the  
97 *Comprehensive Plan* that support this proposal.

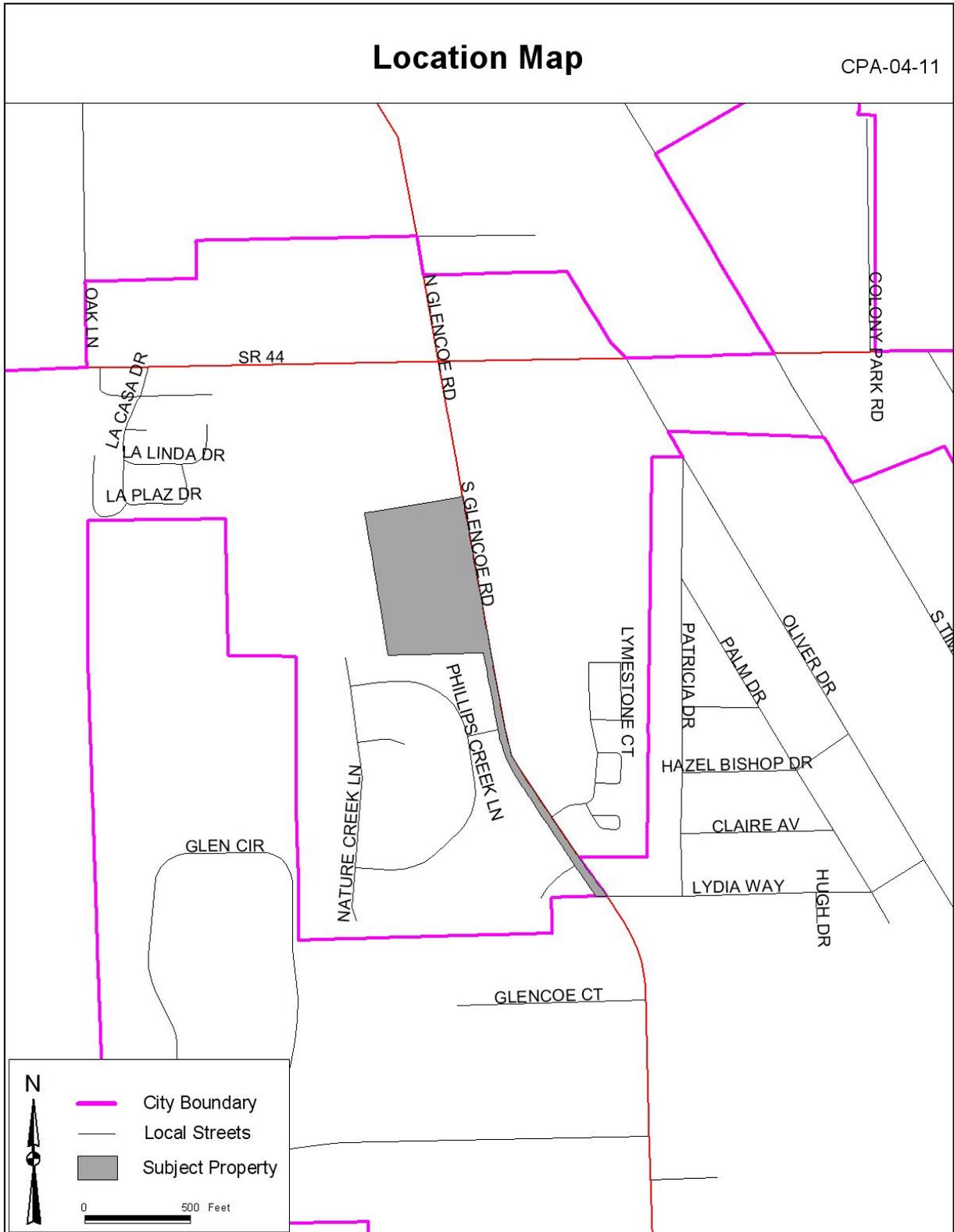
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- **Future Land Use Element Objective 1, Policy e:** By 2000, create an Interlocal agreement between the city and Volusia County for unincorporated future growth areas that assumes land use locations and the city’s ability to apply development controls prior to development, consistent with the standards in effect in the City of New Smyrna Beach.
- **Future Land Use Element Objective 7, Policy m:** Annexations will be used to provide for the orderly, cost-effective and concurrency-based extension of services; to direct infill development; to protect those arterial, collector and local access roads leading to the city through the adoption and/or implementation of existing adopted regulations in accordance with policies identified in this plan; and to secure existing urban development areas in the service area which use and impact the level-of-service of municipal facilities without providing for economic support to maintain the level-of-service identified in this plan.

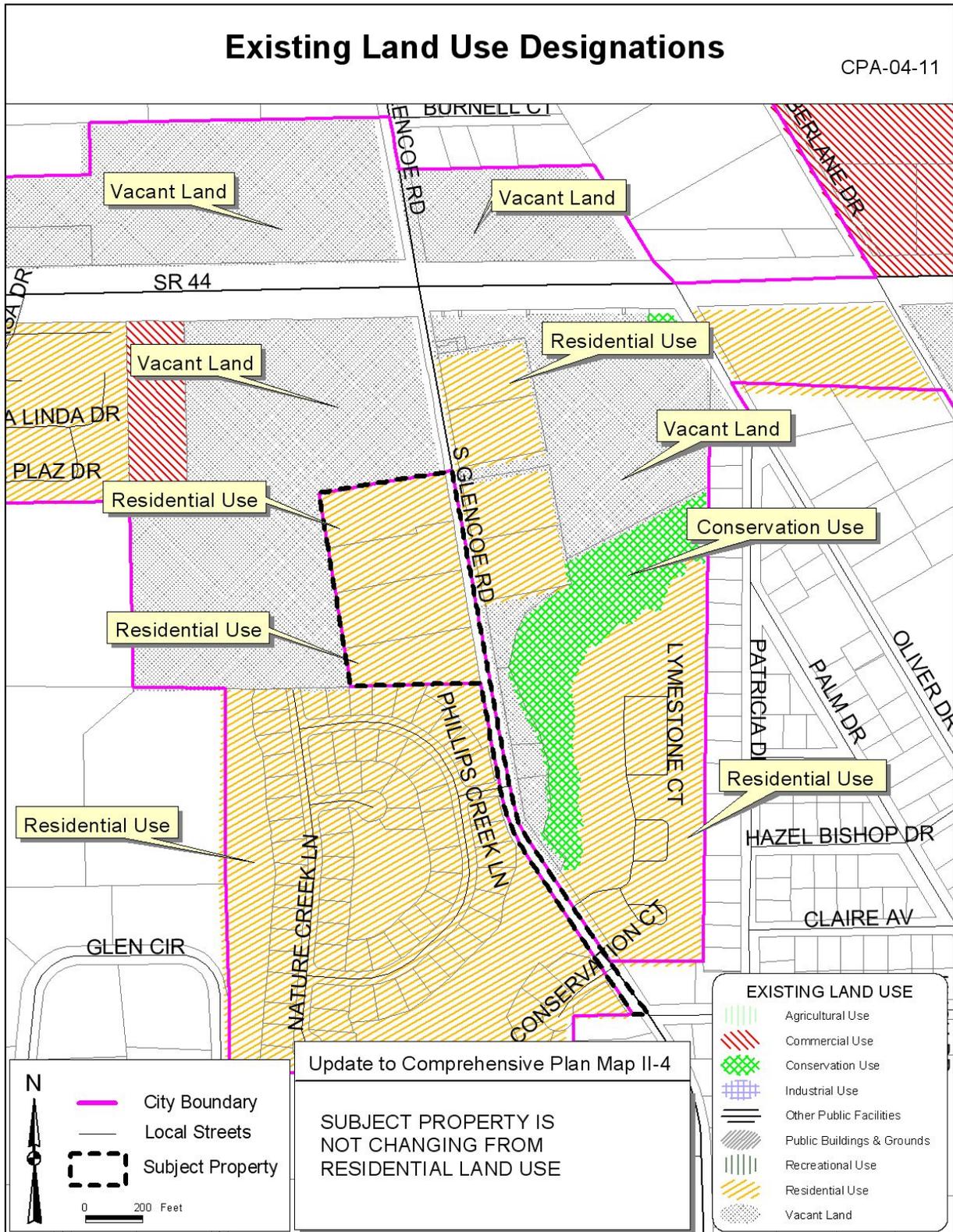
**III. Recommendation**

- Staff recommends that the Planning and Zoning Board recommend to the City Commission the following:
1. Approval of the request to change the Future Land Use designation of the subject properties from Volusia County Urban Low Intensity to City Low Density Residential
  2. Approval of the request to change the zoning of the subject properties from County RR – Rural Residential and County R-1 – Suburban Single-Family Residential to City R1 – Single-Family Residential and City RE – Residential Estate.



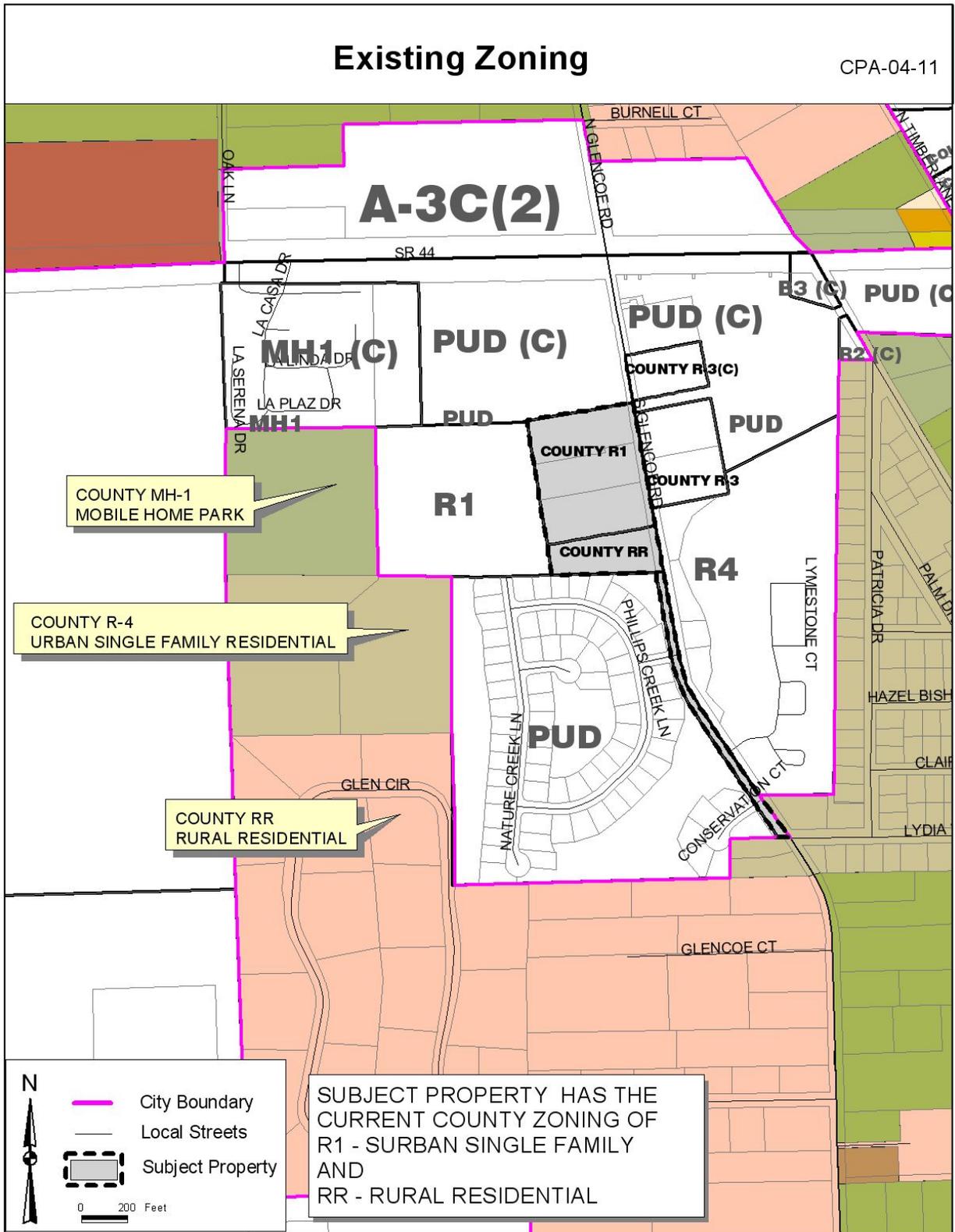
# Existing Land Use Designations

CPA-04-11



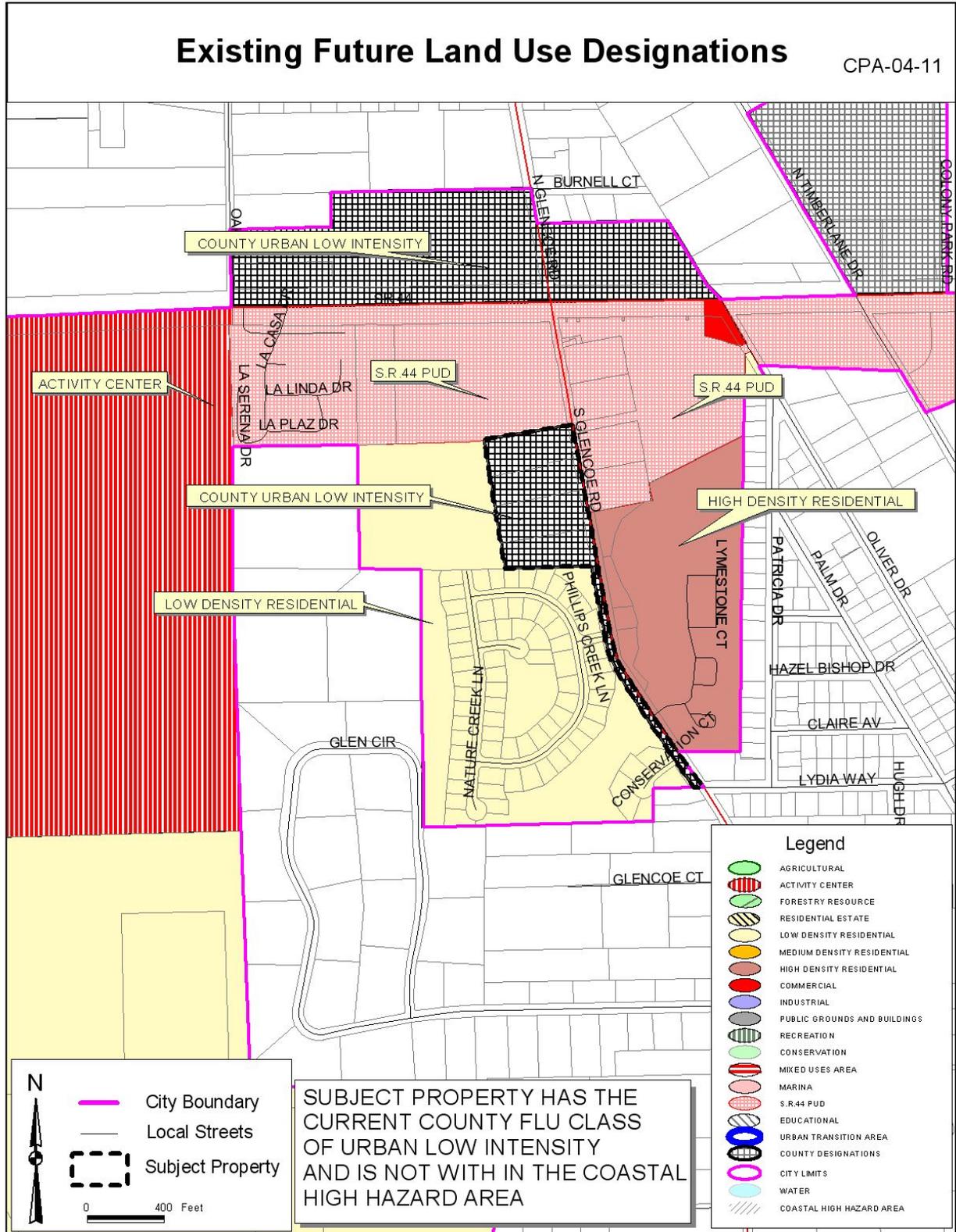
# Existing Zoning

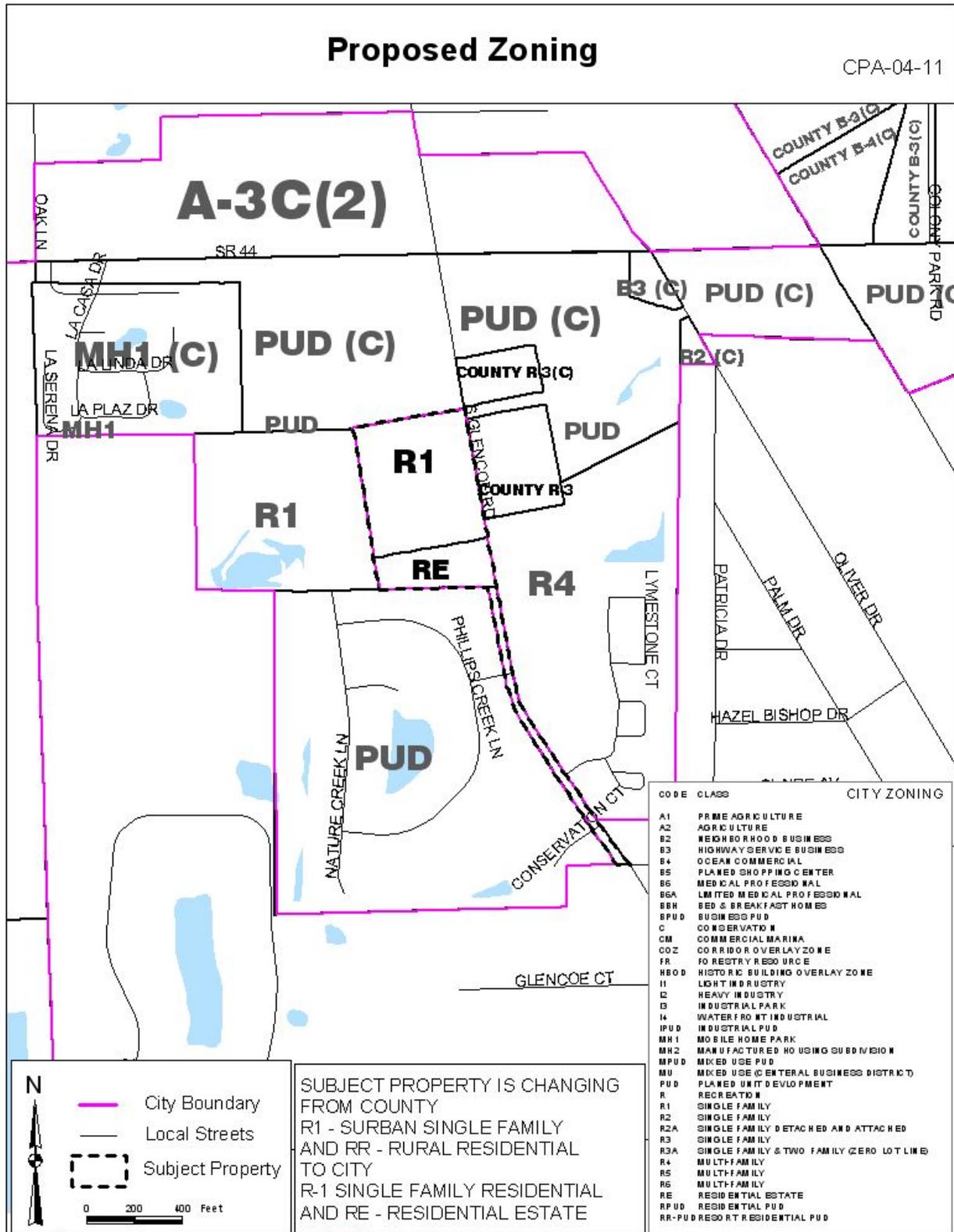
CPA-04-11



# Existing Future Land Use Designations

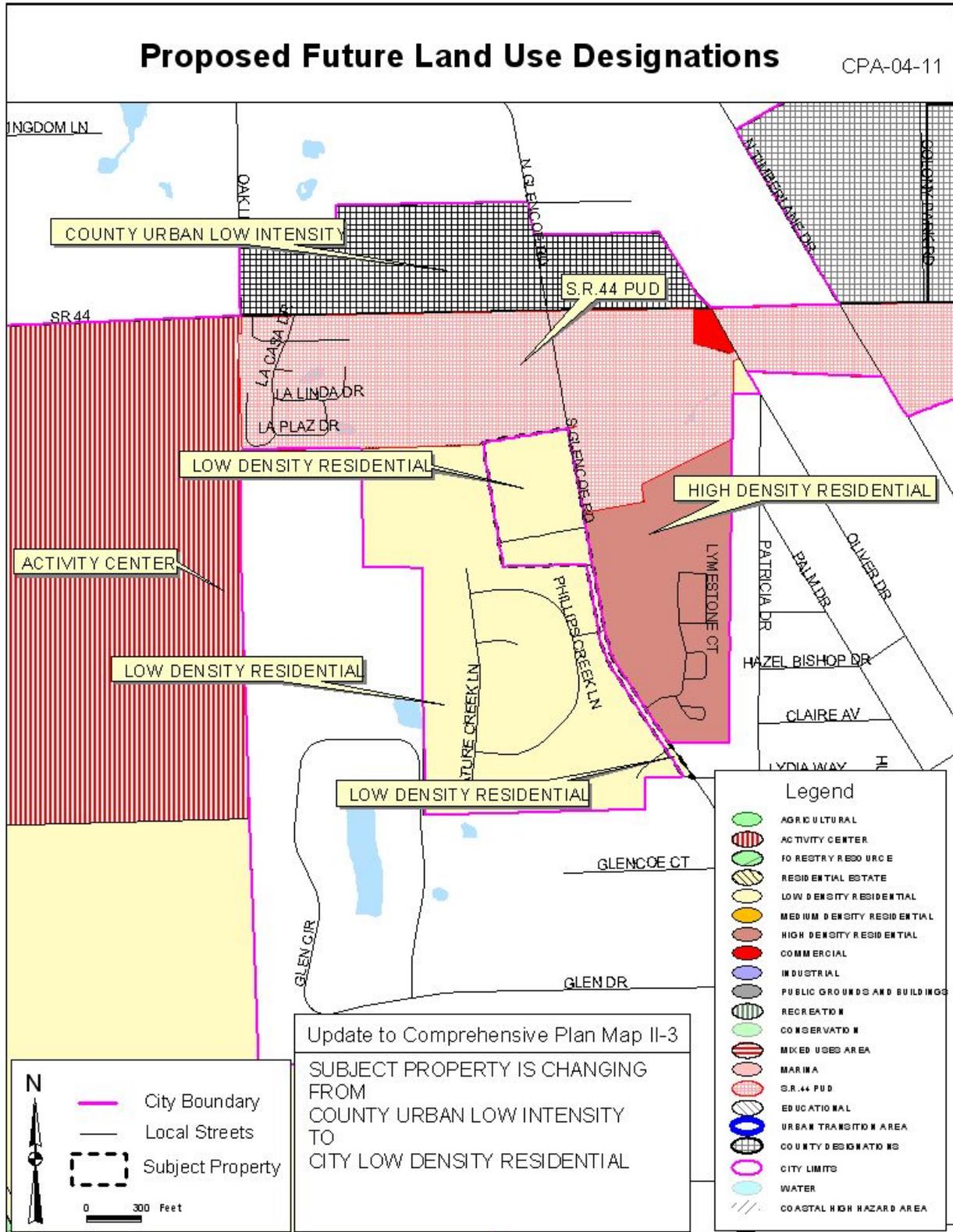
CPA-04-11





# Proposed Future Land Use Designations

CPA-04-11



**IMPACT ANALYSIS TABLE  
ENCLAVES 6, 7, 8, 9, 10, 11 AND 12**

DEVELOPMENT VARIABLE	EXISTING FLU (COUNTY ENVIRONMENTAL SYSTEMS CORRIDOR)	PROPOSED FLU (CITY LOW DENSITY RESIDENTIAL)
Number of Units/ERUs	4	4
Population <sup>1</sup>	9.64	9.64
Transportation <sup>2</sup>		
A.M. Peak Hour Trips	3	3
P.M. Peak Hour Trips	4.04	4.04
Weekday Trips	38.28	38.28
Sanitary Sewer (gallons/day) <sup>3</sup>	700	1,000
Potable Water (gallons/day) <sup>4</sup>	800	1,200
Solid Waste (Lbs/person/day) <sup>5</sup>	82.904	70.372
Recreation/Open Space <sup>6</sup>		
Local Park (acres)	0.01928	N/A
District Park (acres)	0.0482	N/A
Neighborhood Park (acres)	N/A	0.00964
Community Park (acres)	N/A	0.011086
Regional Park (acres)	N/A	0.1928
Tennis Courts	N/A	0.00964
Softball/Baseball Fields	N/A	0.0031812
Swimming Pools	N/A	0.0003856
Handball/Racquetball Courts	N/A	0.000964
Boat Ramps	N/A	0.0027956
18-Hole Golf Courses	N/A	0.0003856
Stormwater Drainage <sup>7</sup>	25-Yr/ 24-Hour Storm	25-Yr/ 24-Hour Storm
Student Generation <sup>8</sup>	1.584	1.584

**Notes:**

1. Population: 2.41 persons per residential unit for single-family dwelling
2. Transportation: Single-Family Residential:  
 AM – 0.75 trips/unit for weekday peak hour of adjacent street traffic, between 7 a.m. and 9 a.m.  
 PM – 1.01 trips/unit for weekday peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.  
 Weekday – 9.57 trips/unit for weekday trips
4. Sanitary Sewer: County: 175 gallons per day per Equivalent Residential Unit  
 City: 250 gallons per day per Equivalent Residential Unit
5. Potable Water: County: 200 gallons per day per Equivalent Residential Unit  
 City: 300 gallons per day per Equivalent Residential Unit
6. Solid Waste: County: 8.6 pounds per person per day (non-residential waste is included in this figure)  
 City: 7.3 pounds per person per day (non-residential waste is included in this figure)
7. Recreation & Open Space:

COUNTY LEVELS-OF-SERVICE		CITY LEVELS-OF-SERVICE			
Local Park	0.002 acres/person	Neighborhood Park	0.001 acres/person	Swimming Pools	0.00004 pools/person
District Park	0.005 acres/person	Community Park	0.00115 acres/person	Handball/Racquetball Courts	0.00010 courts/person
		Regional Park	0.02 acres/person	Boat Ramps	0.00029 ramps/person
		Tennis Courts	0.00100 court/person	18 Hole Golf Courses	0.00004 courses/person
		Softball/ Baseball Fields	0.00033 fields/person		

8. Storm water Drainage: LOS standard = 25 year, 24 hour event.
9. Student Generation: Single-Family Residential: 0.396 students/unit (includes townhomes)

Sources: ITE Trip Generation Manual, 7<sup>th</sup> Edition;  
 1996 New Smyrna Beach Comprehensive Plan

1                   **CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES**  
2                                   **CPA-5-11:**  
3                                   **ENCLAVES #6, 7, 8, 9, 10, 11, 12**  
4                                   **MAY 2, 2011**

---

5  
6   **I.     Background**

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

9  
10       **B.     Property Owners:**

- 11           •     James E. and Kathryn Musante, 1981 Waterford Estates Drive,  
12                   New Smyrna Beach, Florida, 32168
- 13           •     Tracy and Lucy Weiner, 1971 Waterford Estates Drive, New  
14                   Smyrna Beach, Florida, 32168
- 15           •     Confidential listing, 1960 Waterford Estates Drive, New Smyrna  
16                   Beach, Florida, 32168
- 17           •     Mark and Mildred Hoffman, 1990 Waterford Estates Drive, New  
18                   Smyrna Beach, Florida, 32168
- 19           •     Myron and Diane Hammond, 1980 Waterford Estates Drive, New  
20                   Smyrna Beach, Florida, 32168
- 21           •     Doreen Coln, 1970 Waterford Estates Drive, New Smyrna Beach,  
22                   Florida, 32168
- 23           •     Timothy W. Pacini and Karla Pacini, 1941 Waterford Estates Drive,  
24                   New Smyrna Beach, Florida, 32168
- 25           •     Mark and Mary Steele, 1931 Waterford Estates Drive, New Smyrna  
26                   Beach, Florida, 32168
- 27           •     Joel and Wendy Mitchell, 2020 Waterford Estates Drive, New  
28                   Smyrna Beach, Florida, 32168
- 29           •     Shawn Lane, 2411 Glenmore Court, New Smyrna Beach, Florida,  
30                   32168
- 31           •     Calvin and Norma Leiter, 2051 Waterford Estates Drive, New  
32                   Smyrna Beach, Florida, 32168
- 33           •     Lester Grooms – Trustee, 2576 Christopher Drive, Titusville,  
34                   Florida, 32780

35  
36       **C.     Request:** *Comprehensive Plan* amendment and rezoning

- 37           •     **From** Future Land Use (FLU) designation of County Low Impact  
38                   Urban and zoning designation of County RPUD, Residential  
39                   Planned Unit Development
- 40           •     **To** FLU designation of City Low Density Residential and zoning  
41                   designation of City PUD, Planned Unit Development

42  
43       **D.     Site Information:** The subject properties consists of approximately 22.22  
44                   acres and are located within the Waterford Estates subdivision, north and  
45                   east of South Glencoe Road (see Location Map attached as **Exhibit A**)

46  
47       **E.     Alternate Key Numbers:** 5283909, 5283895, 5283950, 5283984,  
48                   5283976, 5283968, 5283861, 5283852, 5284051, 6075310, 5632334, and  
49                   6120439

50 **II. Findings**

51 A. On March 17, 2011, the Volusia County Council approved a Joint Planning  
52 Agreement (JPA) with the City of New Smyrna Beach. The JPA annexed  
53 13 enclaves, consisting of 28 parcels, into the City. The JPA annexing the  
54 subject properties is permitted by Chapter 171, Florida Statutes. In order  
55 to qualify for annexation through the JPA process, the enclaves had to be  
56 less than 10 acres in size, be surrounding by incorporated areas and  
57 either be developed or be located in an area that is currently serviced by  
58 water and sewer.

59  
60 B. The subject properties consist of 12 individual lots within the Waterford  
61 Estates PUD. Together, the seven enclaves areas consist of  
62 approximately 22.22 acres. All but one of the 12 lots have been  
63 developed with a single-family residence. All of the properties are  
64 controlled by the Waterford Estates PUD Master Development Agreement.  
65 The City adopted the Waterford Estates Master Development Agreement  
66 when the bulk of the subdivision was annexed into the City in 2004.

67  
68 C. The subject parcels are currently zoned County RPUD, Residential  
69 Planned Unit Development and have a future land use designation of  
70 County Low Impact Urban. The surrounding future land uses, existing  
71 uses, and zoning are as follows:

72 **North**

73 Future Land Use: City Low Density Residential  
74 Existing Land Use: Residential  
75 Zoning: City PUD, Planned Unit Development

76  
77 **South**

78 Future Land Use: City Low Density Residential  
79 Existing Land Use: Residential  
80 Zoning: City PUD, Planned Unit Development

81  
82 **East**

83 Future Land Use: City Low Density Residential and County Low Impact  
84 Urban  
85 Existing Land Use: Residential and agricultural  
86 Zoning: City PUD, Planned Unit Development, County RPUD,  
87 Residential Planned Unit Development and County A-  
88 3(1), Transitional Agriculture

89  
90 **West**

91 Future Land Use: City Low Density Residential and County Rural  
92 Existing Land Use: Residential  
93 Zoning: City PUD, Planned Unit Development and County A-  
94 3, Transitional Agriculture

95  
96 Maps of surrounding Existing Land Use Designations, Existing Zoning  
97 Districts, and Existing Future Land Use Designations are attached (see

98                   **Exhibits B, C, and D).** Maps showing the proposed Future Land Use and  
99                   Zoning Designations are attached as **Exhibits E and F.**

100  
101           D.     The *Land Development Regulations* requires any proposed development  
102           to conform to the Concurrency Management System. That system  
103           includes traffic, parks and recreation, potable water, wastewater  
104           treatment, solid waste collection, stormwater management, and public  
105           school facilities. A table comparing the potential impacts from  
106           development allowed under the existing County Low Impact Urban future  
107           land use and the proposed City Low Density Residential future land use  
108           designation is attached as **Exhibit G.** Because Waterford Lakes is  
109           substantially built-out and because the Master Development Agreement  
110           limits development within the PUD to residential uses, no significant new  
111           development or redevelopment is anticipated.

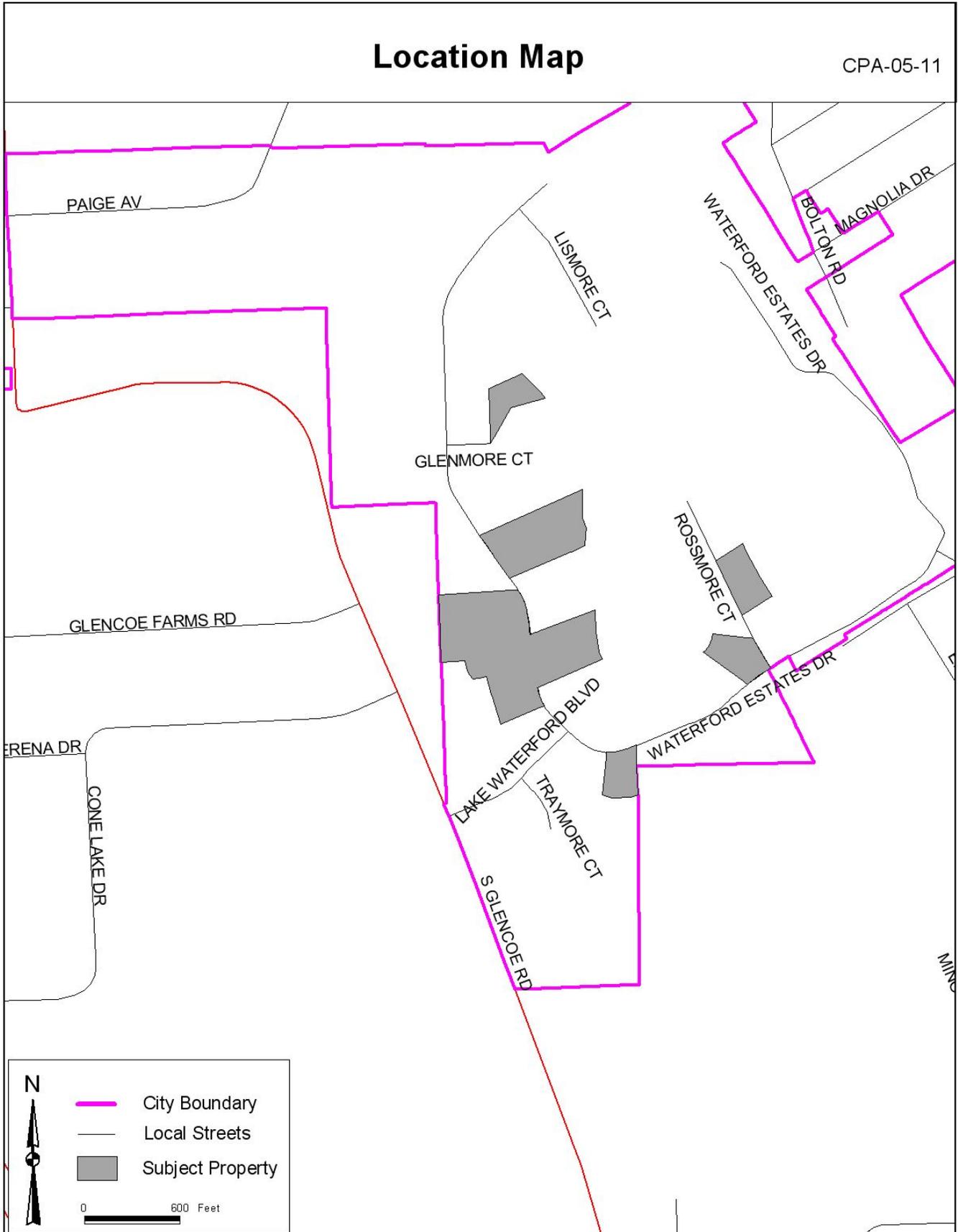
112  
113           E.     The *Comprehensive Plan* provides some guidance on future land use  
114           amendments and rezonings. The following is a list of objectives in the  
115           *Comprehensive Plan* that support this proposal.

- 116  
117           •     **Future Land Use Element Objective 1, Policy e:** By 2000, create  
118           an Interlocal agreement between the city and Volusia County for  
119           unincorporated future growth areas that assumes land use  
120           locations and the city’s ability to apply development controls prior to  
121           development, consistent with the standards in effect in the City of  
122           New Smyrna Beach.
- 123           •     **Future Land Use Element Objective 7, Policy m:** Annexations  
124           will be used to provide for the orderly, cost-effective and  
125           concurrency-based extension of services; to direct infill  
126           development; to protect those arterial, collector and local access  
127           roads leading to the city through the adoption and/or  
128           implementation of existing adopted regulations in accordance with  
129           policies identified in this plan; and to secure existing urban  
130           development areas in the service area which sue and impact the  
131           level-of-service of municipal facilities without providing for economic  
132           support to maintain the level-of-service identified in this plan.

133  
134   **III. Recommendation**

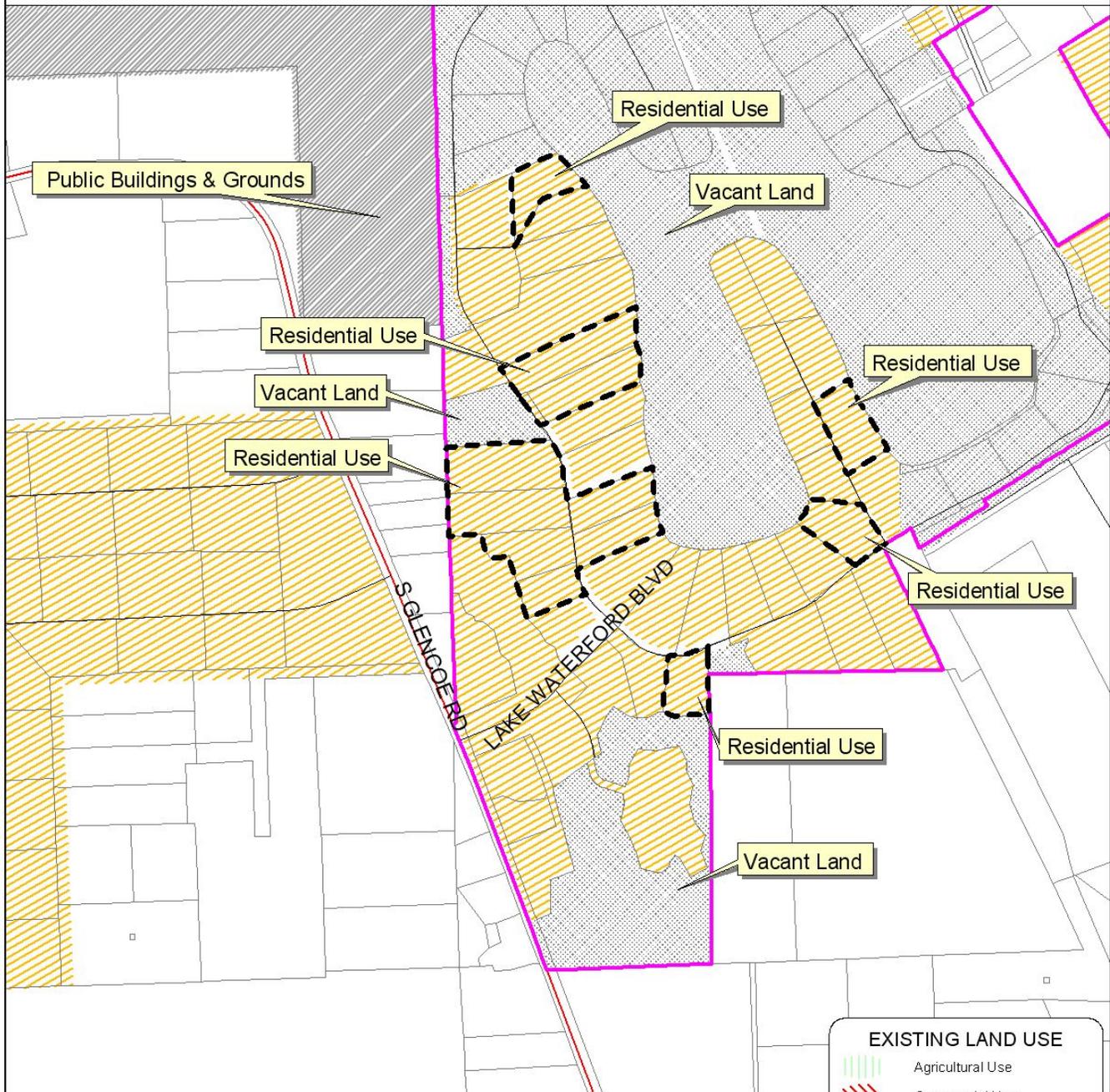
135   Staff recommends that the Planning and Zoning Board recommend to the City  
136   Commission the following:

- 137   1.   Approval of the request to change the Future Land Use designation of the  
138       subject properties from Volusia County Low Impact Urban to City Low  
139       Density Residential
- 140   2.   Approval of the request to change the zoning of the subject properties  
141       from County RPUD, Residential Planned Unit Development to City PUD,  
142       Planned Unit Development.



# Existing Land Use Designations

CPA-05-11



**N**

— City Boundary  
 — Local Streets  
 - - - Subject Property

0 400 Feet

Update to Comprehensive Plan Map II-4

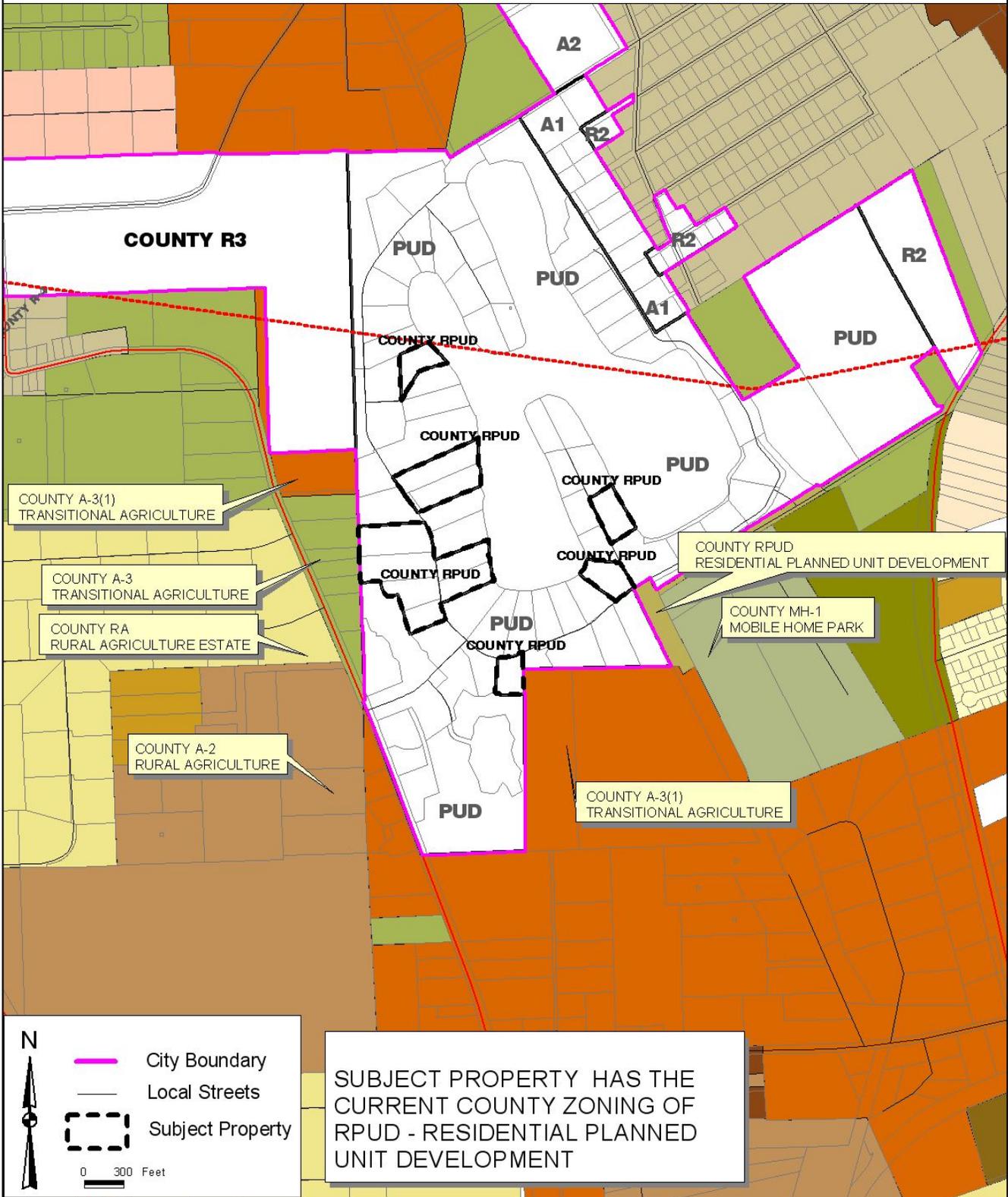
**SUBJECT PROPERTY IS NOT CHANGING FROM RESIDENTIAL LAND USE**

**EXISTING LAND USE**

- Agricultural Use
- Commercial Use
- Conservation Use
- Industrial Use
- Other Public Facilities
- Public Buildings & Grounds
- Recreational Use
- Residential Use
- Vacant Land

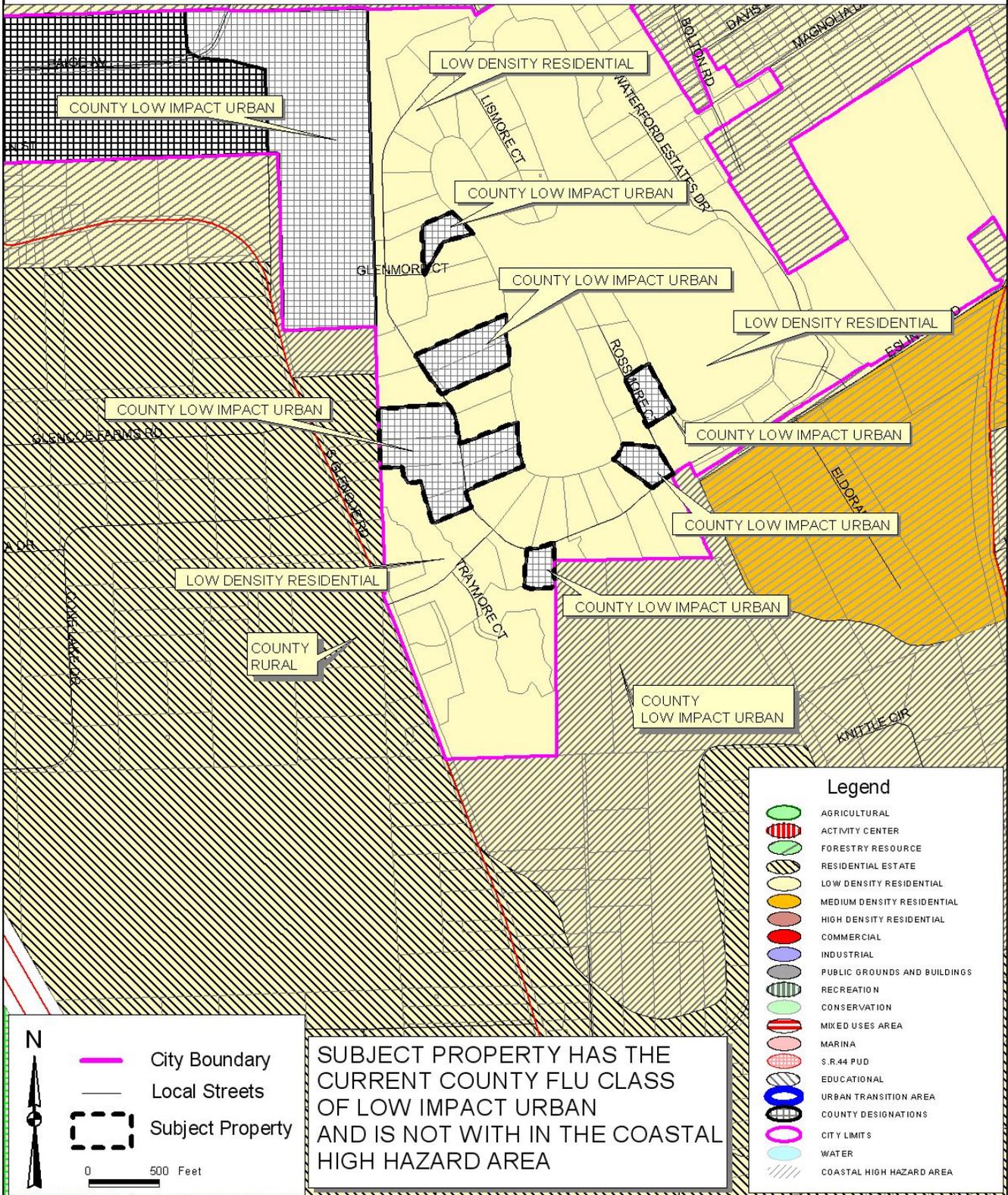
# Existing Zoning

CPA-05-11



# Existing Future Land Use Designations

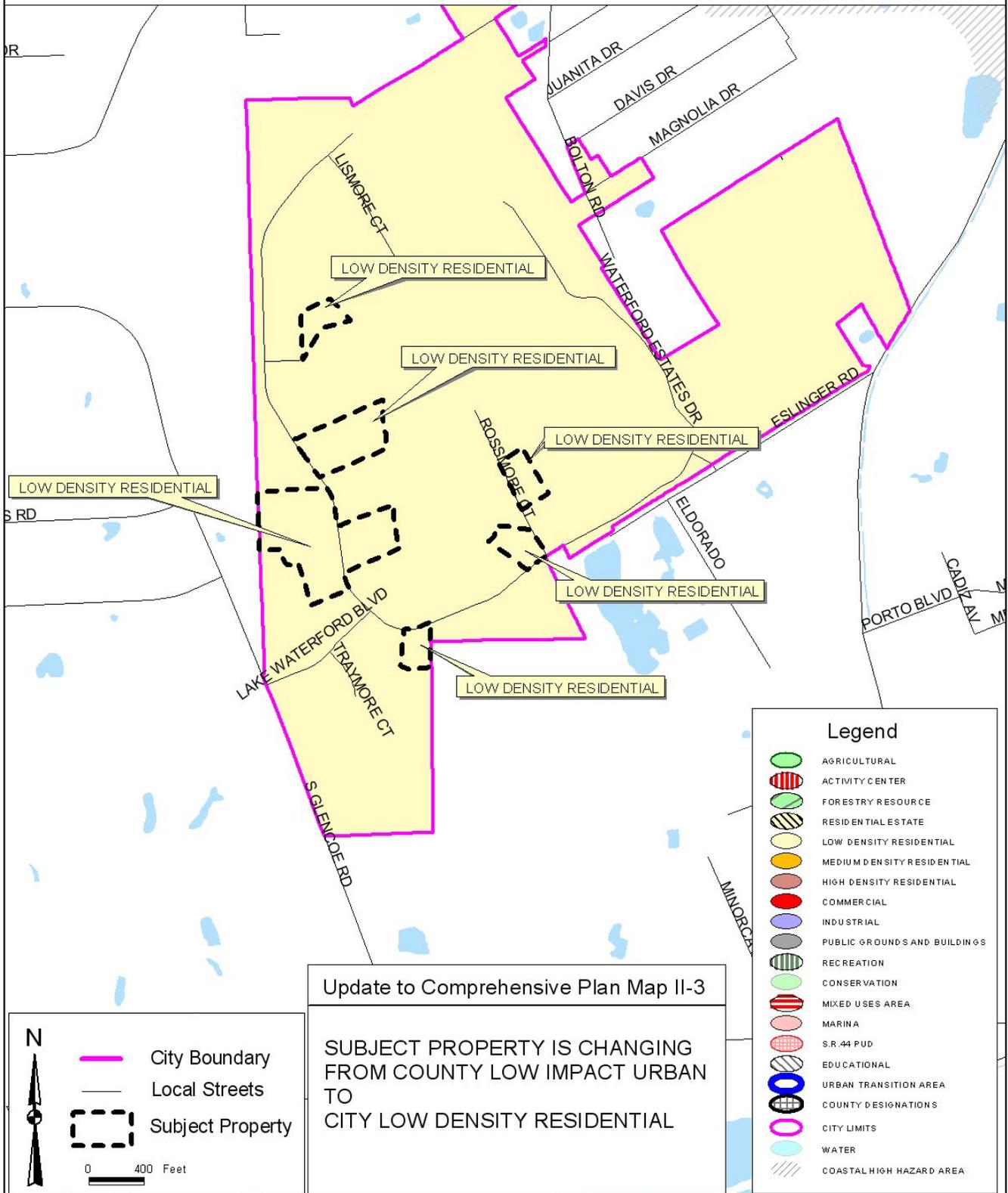
CPA-05-11



SUBJECT PROPERTY HAS THE CURRENT COUNTY FLU CLASS OF LOW IMPACT URBAN AND IS NOT WITH IN THE COASTAL HIGH HAZARD AREA

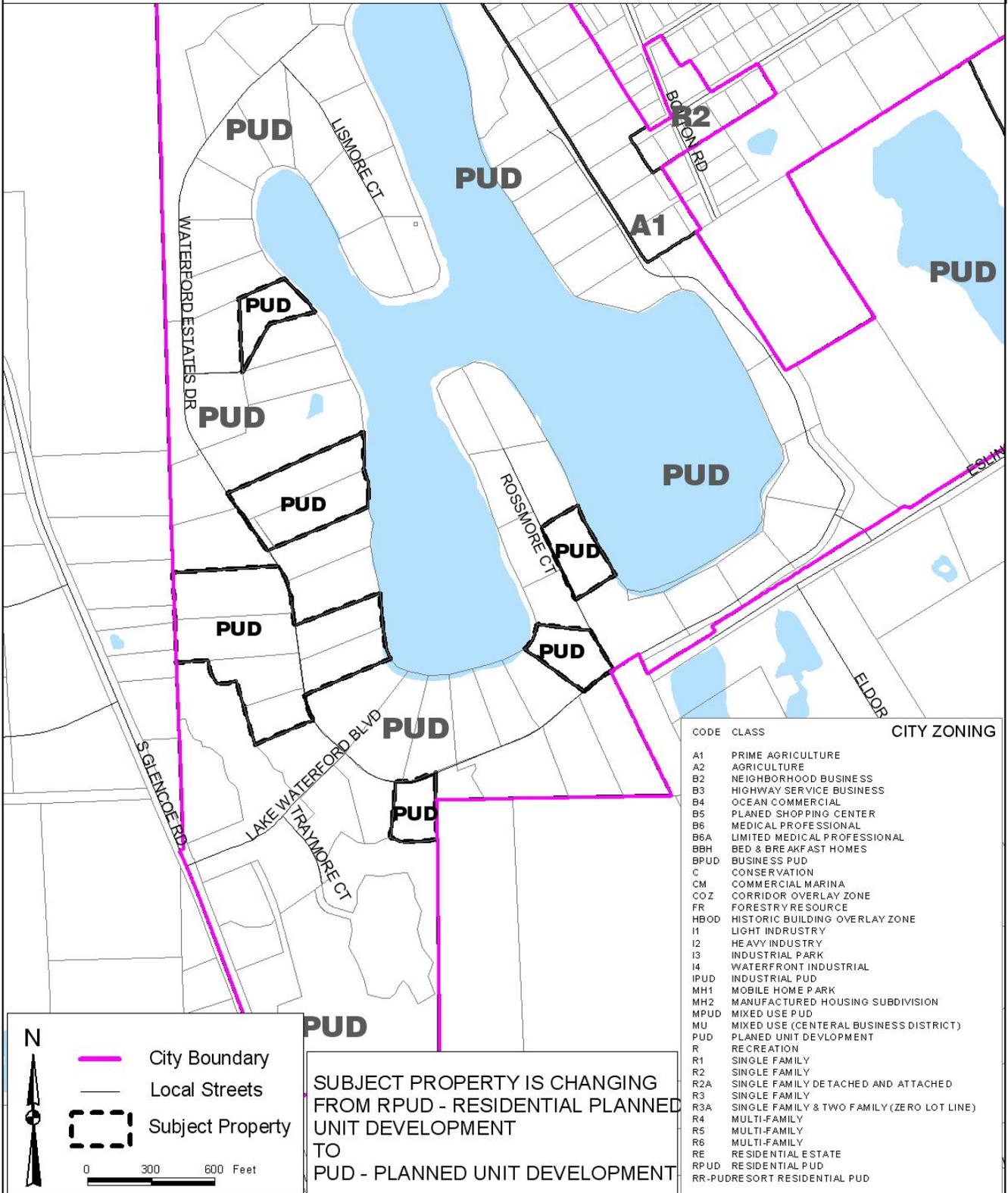
# Proposed Future Land Use Designations

CPA-05-11



# Proposed Zoning

CPA-05-11



**IMPACT ANALYSIS TABLE  
ENCLAVES 6, 7, 8, 9, 10, 11 AND 12**

DEVELOPMENT VARIABLE	EXISTING FLU (COUNTY LOW IMPACT URBAN)	PROPOSED FLU (CITY LOW DENSITY RESIDENTIAL)
Number of Units/ERUs	12	12
Population <sup>1</sup>	29	29
Transportation <sup>2</sup>		
A.M. Peak Hour Trips	9	9
P.M. Peak Hour Trips	12.12	12.12
Weekday Trips	114.84	114.84
Sanitary Sewer (gallons/day) <sup>3</sup>	2,100	3,000
Potable Water (gallons/day) <sup>4</sup>	2,400	3,600
Solid Waste (Lbs/person/day) <sup>5</sup>	249.4	211.7
Recreation/Open Space <sup>6</sup>		
Local Park (acres)	0.058	N/A
District Park (acres)	0.145	N/A
Neighborhood Park (acres)	N/A	0.029
Community Park (acres)	N/A	0.033
Regional Park (acres)	N/A	0.58
Tennis Courts	N/A	0.029
Softball/Baseball Fields	N/A	0.010
Swimming Pools	N/A	0.001
Handball/Racquetball Courts	N/A	0.003
Boat Ramps	N/A	0.008
18-Hole Golf Courses	N/A	0.001
Stormwater Drainage <sup>7</sup>	25-Yr/ 24-Hour Storm	25-Yr/ 24-Hour Storm
Student Generation <sup>8</sup>	5	5

Notes:

1. Population: 2.41 persons per residential unit for single-family dwelling
2. Transportation: Single-Family Residential:  
 AM – 0.75 trips/unit for weekday peak hour of adjacent street traffic, between 7 a.m. and 9 a.m.  
 PM – 1.01 trips/unit for weekday peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.  
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4. Sanitary Sewer: County: 175 gallons per day per Equivalent Residential Unit  
 City: 250 gallons per day per Equivalent Residential Unit
5. Potable Water: County: 200 gallons per day per Equivalent Residential Unit  
 City: 300 gallons per day per Equivalent Residential Unit
6. Solid Waste: County: 8.6 pounds per person per day (non-residential waste is included in this figure)  
 City: 7.3 pounds per person per day (non-residential waste is included in this figure)
7. Recreation & Open Space:

COUNTY LEVELS-OF-SERVICE		CITY LEVELS-OF-SERVICE			
Local Park	0.002 acres/person	Neighborhood Park	0.001 acres/person	Swimming Pools	0.00004 pools/person
District Park	0.005 acres/person	Community Park	0.00115 acres/person	Handball/Racquetball Courts	0.00010 courts/person
		Regional Park	0.02 acres/person	Boat Ramps	0.00029 ramps/person
		Tennis Courts	0.00100 court/person	18 Hole Golf Courses	0.00004 courses/person
		Softball/ Baseball Fields	0.00033 fields/person		

8. Storm water Drainage: LOS standard = 25 year, 24 hour event.
9. Student Generation: Single-Family Residential: 0.396 students/unit (includes townhomes)

Sources: ITE Trip Generation Manual, 7<sup>th</sup> Edition;  
 1996 New Smyrna Beach Comprehensive Plan

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES  
2 **ZT-7-11: LDR AMENDMENT**  
3 **Tattoo Parlors within the MU – Mixed Use District,**  
4 **B-3 Highway Service Business District, and B-5**  
5 **Planned Shopping Center District.**

6  
7 **May 2, 2011**  
8

---

9 **Background**

- 10  
11 A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach,  
12 FL  
13 B. **Request:** Approval of an amendment to the City's Land Development  
14 Regulations to allow tattoo parlors within the MU – Mixed Use District, B-3  
15 Highway Service Business District, and B-5 Planned Shopping Center District.  
16

17 **Findings**

- 18  
19 A. The City of New Smyrna Beach has recently had several persons request to  
20 operate tattoo parlors within the City.  
21  
22 B. Currently the City's Land Development Regulations do not contain a zoning  
23 district in which tattoo parlors are listed as a permitted use, conditional use, or  
24 use with a special exception. This, in effect, bans tattoo parlors from operation  
25 within the City.  
26  
27 C. On 9 September 2010 the United States Court of Appeals for the Ninth Circuit  
28 ruled that "We hold that tattooing is purely expressive activity fully protected by  
29 the First Amendment, and that a total ban on such activity is not a reasonable  
30 "time, place, or manner" restriction."  
31  
32  
33 D. Unregulated uses are generally seen to have negative effects upon the  
34 community. Therefore, staff presented a vision item to the Planning and Zoning  
35 Board on April 4, 2011 to obtain input from the Board regarding Tattoo Parlors.  
36 The consensus of the Board was that tattoo parlors should be treated much as  
37 any other commercial use and should be allowed in appropriate zoning districts  
38 with some limited conditions for approval.  
39  
40

41 **Recommendation**

42 Staff recommends **approval** of the proposed changes to the City's *Land Development*  
43 *Regulations*, as shown below (~~striketroughs~~ are deletions and underlines are  
44 additions).  
45  
46

MAY 20, 2011

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

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

10 *Permitted uses.*

11 \*\*\*

12

13 *Conditional uses.*

14 Farmers markets, subject to the following conditions:

15 (1) The development services director determines that adequate parking is available.

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

19 (3) Vendors shall not block pedestrian ways.

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

21 a. Fresh fruits and vegetables.

22 b. Herbs and spices.

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

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

26 e. Dried flowers or plants.

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

29 g. Prepared food and beverages.

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

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

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

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

36 *Tattoo Parlor, subject to the following conditions:*

37 (1) *May not be established within 300 feet of an operating church, private school, or*  
38 *public school.*

39 (2) *The business tax receipt will establish a maximum number of tattoo chairs. Any*  
40 *increase in the maximum number of chairs will require a revision of the business*  
41 *tax receipt and may result in additional parking requirements and/or additional*  
42 *impact fees.*

43 (3) *Minors shall not be permitted inside the Tattoo Parlor during hours of operation.*

44 (4) *Tattooing area shall not be visible from the public right of way.*

45

46 *Approval of a conditional use.* At the time the applicant applies for a business tax  
47 receipt with the city, the applicant shall also submit a conceptual plan to the  
48 development services department. The conceptual plan shall show the general location

1 of the vendor stalls on the site. Based upon the criteria listed above, the development  
2 services director, or his/her designee, shall approve or deny the application for a  
3 conditional use.

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

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

11 *Special exceptions.*

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15 B-3, HIGHWAY SERVICE BUSINESS DISTRICT

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

19 *Permitted uses.*

20 Adult congregate living facility

21 \*\*\*

22 *Conditional uses.*

23 *Tattoo Parlor, subject to the following conditions:*

24 (1) *May not be established within 300 feet of an operating church, private school, or*  
25 *public school.*

26 (2) *The business tax receipt will establish a maximum number of tattoo chairs. Any*  
27 *increase in the maximum number of chairs will require a revision of the business*  
28 *tax receipt and may result in additional parking requirements and/or additional*  
29 *impact fees.*

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35 *development services department. The conceptual plan shall show the general location*  
36 *of the vendor stalls on the site. Based upon the criteria listed above, the development*  
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40 *specific location and are assigned to the property. If the location of the use is changed,*  
41 *new conditional use approval must be obtained.*

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

46 *Special exceptions.*

47 \*\*\*

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3 B-5, PLANNED SHOPPING CENTER DISTRICT

4 *Intent.* The B-5, Planned Shopping Center District is intended for the establishment of  
5 retail shopping facilities which will provide goods and services for the people to be  
6 served, minimize traffic congestion on thoroughfares and public streets in its vicinity,  
7 and shall conform to the policies of the New Smyrna Beach land use map.

8 *Permitted uses.*

9 Antique shops

10 \*\*\*

11 *Conditional uses.*

12 Farmers markets, subject to the following conditions:

13 (1) The development services director determines that adequate parking is available.

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

17 (3) Vendors shall not block pedestrian ways.

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

19 a. Fresh fruits and vegetables.

20 b. Herbs and spices.

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

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

24 e. Dried flowers or plants.

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

27 g. Prepared food and beverages.

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

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

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

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

34 Tattoo Parlor, subject to the following conditions:

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36 public school.

37 (2) The business tax receipt will establish a maximum number of tattoo chairs. Any  
38 increase in the maximum number of chairs will require a revision of the business  
39 tax receipt and may result in additional parking requirements and/or additional  
40 impact fees.

41 (3) Minors shall not be permitted inside the Tattoo Parlor during hours of operation.

42 (4) Tattooing area shall not be visible from the public right of way.

43 *Approval of a conditional use.* At the time the applicant applies for a business tax  
44 receipt with the city, the applicant shall also submit a conceptual plan to the  
45 development services department. The conceptual plan shall show the general location  
46 of the vendor stalls on the site. Based upon the criteria listed above, the development  
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2 specific location and are assigned to the property. If the location of the use is changed,  
3 new conditional use approval must be obtained.

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

8 *Special exceptions.*

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13 **201.00. General definitions.**

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17 *Surveyor.* A land surveyor registered with the Florida Department of Professional  
18 Regulation as a professional land surveyor (PLS).

19 *Swimming pool, private.* Any pool or open tank, not located within a completely  
20 enclosed building, and containing or capable of containing, water to a depth at any point of  
21 greater than 1 1/2 feet. The sundeck area if above grade, diving boards, slides, and other  
22 related types of swimming pool equipment, and all appurtenances thereto, are included as a  
23 part of a private swimming pool.

24 *Tattoo Parlor – A business engaged in any method of placing designs, letters, scrolls,*  
25 *figures, symbols or any other marks under the skin of a person with pigment, ink or color by the*  
26 *aid of needles or other instruments. An establishment providing for the application of only*  
27 *permanent makeup either as an accessory use or as a primary use shall not be considered a*  
28 *tattoo parlor.*

29 *Theater.* A structure that is used for dramatic, motion pictures, or other performances for  
30 admission to which entrance money is collected.

31 *Timeshare unit.* An accommodation of a timeshare plan which is divided into timeshare  
32 periods. A room or rooms in any timeshare unit in which a door or doors connecting two or more  
33 separate rooms are capable of being locked to create two or more private dwellings shall each  
34 constitute a timeshare unit for purposes of this Code.

35 *To plat.* Hereby defined in whatever tense used, to divide and record property with the  
36 Volusia County clerk of the circuit court, according to these regulations.

37 *Tour boats.* A watercraft used for the specific purpose of entertaining people with  
38 leisurely cruises and sight-seeing.

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