City of New Smyrna Beach

July 22, 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, August 1, 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

Regular meeting held July 11, 2011

PUBLIC PARTICIPATION

VISIONING

Flagler Avenue Parking Study

OLD BUSINESS

A. 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.

B. V-7-11: WALLSCHLAEGER / 107 DONLON DRIVE

Glenn D. Storch, P.A., 420 South Nova Road, Daytona Beach, Florida, 32114, applicant on behalf of the property owner, Mark Wallschlaeger, 107 Donlon Drive, New Smyrna Beach, Florida, 32168, requests a 21-foot variance from the minimum required 25-foot upland buffer adjacent to a wetland, to allow primary and accessory structures to be approximately four feet from the wetland line. The subject property is zoned R-1, Single-Family Residential; contains approximately 1.3 acres and is generally located at the east end of Donlon Drive, east of South Riverside Drive and west of the Indian River.

NEW BUSINESS

C. V-8-11: OCEANVIEW CONDO ASSOCIATION / 207 NORTH ATLANTIC AVENUE

James Cummins, 2220 South Andrews, Lake Orion, Michigan, 48362, applicant on behalf of the property owner, Ocean View Condominium COA, 207 North Atlantic Avenue, New Smyrna Beach, Florida, 32169, requests variances to the City's minimum parking requirements, front yard setback requirements, landscape buffer requirements, building coverage requirements, impervious coverage requirements and maximum driveway width requirements, in order to allow construction of a garage building. The subject property is zoned B-4(4), Ocean Commercial; contains approximately 0.5 acres and is generally located southeast of the intersection of North Atlantic Avenue and Esther Street.

D. A-8-11: 1265 BOLTON ROAD / STEWART

Jack A. Stewart, 1265 Bolton Road, New Smyrna Beach, FL, 32168, requests annexation; *Comprehensive Plan Amendment* from County Urban Low Intensity to City Low Density Residential, and rezoning from County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property consists of approximately 0.5 acres and is generally located on the east side of Bolton Road, south of Magnolia Drive.

E. A-9-11: 1251 BOLTON ROAD / WHARTON

Richard B. Wharton, 1251 Bolton Road, New Smyrna Beach, Florida, 32168, applicant and property owner, requests annexation, *Comprehensive Plan* amendment from County Urban Low Intensity to City Low Density Residential; and rezoning from County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property contains approximately 0.45 acres and is generally located on the east side of Bolton Road, south of Magnolia Drive.

F. A-11-11: SCHWOERER/OTTER BLVD.

Gwendolyn Schwoerer, 386 Otter Boulevard, New Smyrna Beach, FL, 32168, applicant, requests annexation, *Comprehensive Plan* amendment from County Urban Medium Intensity to City Low Density Residential, and rezoning from

County R-4, Urban Single-Family Residential to City R-1, Single-Family Residential. The subject property contains approximately 5 acres and is generally located on the west side of Otter Boulevard, south of Pioneer Trail.

G. A-10-11: WEAVER/BOLTON ROAD
Richard A. Weaver, P.O. Box 482, New Smyrna Beach, FL, 32168, applicant, requests annexation, *Comprehensive Plan* amendment from County Urban Low Intensity to City Low Density Residential; and rezoning from County R-4, Urban Single-Family Residential to City R-2, Single-Family Residential. The subject property contains approximately 0.27 acres and is generally located on the west side of Bolton Road, south of Magnolia Drive.

H. PUD-2-11: SOUTH VILLAGE – 1st AMENDMENT
Paul Momberger, RLA, Zev Cohen and Associates, 300 Interchange Boulevard, Ormond Beach, Florida, 32174, applicant on behalf of the property owner, South Village Partners, LLC, 255 Alhambra Circle, Unit 850, Coral Gables Florida, 33134, requests approval of the Amended and Restated South Village Planned Unit Development Master Development Agreement. The subject property consists of approximately 1,363 acres, and is generally located south of State Road 44, west of Interstate 95.

COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

REPORTS AND COMMUNICATIONS BY THE STAFF

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:

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

The Local Planning Agency/Planning and Zoning Board held a regular meeting on Monday, July 11, 2011 in the City Commission Chambers, 210 Sams Avenue, New Smyrna Beach, Florida. Chairperson Jason McGuirk called the meeting to order at 6:30 p.m.

ROLL CALL

The following members answered to roll call:
Jesse Clark
Travous Dever
Kenneth Bohannon
Jason McGuirk
Brooks Casey

Laurene Herwald and Ian Ratliff were absent.

Also present were Planning Manager Gail Henrikson, Planner Marissa Moore, Planner Kevin Jameson; Assistant City Attorney Greg McDole, and members of the public.

APPROVAL OF MINUTES

Mr. Clark made a motion to approve the minutes of the Planning and Zoning Board workshop held May 16, 2011 and the minutes of the regular Planning and Zoning Board meeting held June 6, 2011, seconded by Mr. Dever. Motion passed on a roll-call vote, 5-0.

PUBLIC PARTICIPATION
None.

VISIONING
Volusia County Presentation on Smart Growth

Ms. Henrikson introduced John Thompson and Michelle Lee from Volusia County staff and stated that they had a PowerPoint presentation to present to the Board.

Michelle Lee with Volusia County Growth and Resource Management introduced herself to the Board and presented her PowerPoint presentation. She provided a history of smart growth in Volusia County, stating that it began around 2004. She stated that the City of New Smyrna Beach had adopted a resolution supporting the Map A, or ECO Map.

Ms. Lee discussed the various documents that were developed as a result of the "How Do We Grow" summit. She stated that in 2007, VCOG created a technical advisory committee, which addressed conservation development language and joint planning agreements to implement the recommendations of the smart growth summit. She stated that in 2009, these two subcommittees released the final versions of the documents containing the conservation development language and guidelines for joint planning agreements.

Ms. Lee discussed these documents in further detail. She identified the incentives that were included in the documents to encourage their use. Ms. Lee also discussed the Comprehensive Plan amendments and Land Development Code changes that the County was preparing.

Ms. Lee then discussed the actions that had been taken by New Smyrna Beach. She stated that the City had adopted a resolution in 2006 supporting the ECO map lands. She stated that the City could adopt the ECO map into its Comprehensive Plan. She also discussed changes that could be made to the City's Land Development Regulations.

Mr. McGuirk asked Ms. Lee for clarification about the resolution the City had adopted in 2006. Ms. Lee stated that this only showed support for the process. She stated that the first step the City could take would be to adopt the ECO map into its Comprehensive Plan. She explained the steps the County had taken to implement smart growth.

Ms. Henrikson asked which two cities were currently working with the County to draft joint planning agreements. Ms. Lee stated that they were currently working with DeLand.

Ms. Henrikson also asked for specifics about how the County was amending its code.

Mr. Casey stated that there were no ECO lands within the City limits.

Ms. Lee and Mr. Thompson presented a larger map that showed where the ECO lands were located within the City of New Smyrna Beach. Ms. Henrikson reminded the Board that the Hog Eye Camp Road Square PUD had ECO lands located within its project boundaries.

OLD BUSINESS

A. 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.

Mr. McGuirk announced that staff was requesting that this case be continued.

Mr. Bohannon made the motion to continue until the August 1, 2011 Planning and Zoning Board Meeting, seconded by Mr. Casey. The motion passed unanimously on roll call vote, 5-0.

NEW BUSINESS

B. A-6-11: FREEMAN / CANAL STREET

Diane K. and Thomas E. Freeman, 5954 Raleigh Barrows Court, Port Orange, Florida, 32127, applicants and property owners, request annexation; *Comprehensive Plan* amendment from County Commercial to City Commercial; and rezoning from County B-5, Heavy Commercial to City B-3, Highway Service Business District. The subject property consists of approximately 0.6 acres and is generally located southwest of the intersection of Canal Street and Ingham Road.

Mr. Jameson presented the staff report and stated that staff recommended approval of the annexation, *Comprehensive Plan* amendment, and rezoning.

Mr. Clark asked about annexations on Canal Street. Ms. Henrikson stated that whenever an annexation request was submitted, staff sent letters to adjacent property owners to see if they would also want to annex into the City. She stated that the City Commission had also waived fees for annexations, which was a $1,900 savings.

Ms. Henrikson informed the Board that the property owner had contacted her and said that she would not be able to attend the meeting. Ms. Henrikson stated that the property owner was comfortable having the Board take action on this item even though there was no one there to represent her.

No one from the public spoke for or against this request.

Mr. Bohannon made a motion to recommend that the City Commission approve the requested annexation, *Comprehesnive Plan* amendment and rezoning, seconded by Mr. Dever. The motion passed unanimously on a roll-call vote, 5-0.

C. A-7-11: SALOMONE / 1250 BOLTON ROAD

Fillippa D. Salamone, 1250 Bolton Road, New Smyrna Beach, applicant and property owner, requests annexation, *Comprehensive Plan* amendment from County Urban Low Intensity to City Low Density Residential, and rezoning from County R-4 – Urban Single Family Residential to City R-2 – Single Family Residential. The subject property is approximately 0.387 acres and is generally located north of Eslinger Road and southwest of the intersection of Bolton Road and Magnolia Drive.

Ms. Moore reviewed the staff report with the Board and stated that staff recommended approval of the requested annexation, *Comprehensive Plan* amendment and rezoning.

No one from the public spoke for or against the request.

Mr. Bohannon made a motion to recommend the City Commission approve the requested annexation, *Comprehensive Plan* amendment and rezoning, seconded by Mr. Dever. Motion passed unanimously on a roll-call vote, 5-0.

D. V-6-11: 837 AND 839 EAST 17TH AVENUE

Hal Spence, Esq., 221 North Causeway, New Smyrna Beach, Florida 32169, applicant on behalf of the Estate of Genevieve Zdunowski, 839 East 17th Avenue, New Smyrna Beach, Florida 32169, owner, requests variances to the dimensional requirements to zoning district R-2 Single Family Residential reducing the minimum lot frontage from 75 feet to 49.97 feet, reducing the minimum side yard from 7.5 feet to 4.5 feet, and reducing the minimum lot size from 8,625 square feet to 7,500 square feet.

Mr. McGuirk swore in Mr. Jameson.

Mr. Jameson reviewed the staff report and stated that staff was recommending denial of the request as it did not meet all of the variance criteria. He also stated that if the Board determined the request met the criteria, staff recommended that a condition be placed on the approval stating that the variances would expire if the buildings were ever damaged by more than 50% of their replacement value.

Mr. McGuirk submitted the staff report into the record.

Hal Spence, 221 North Causeway, New Smyrna Beach, addressed the Board. Mr. Spence provided the Board with the history of the two lots. Mr. Spence provided a handout to the Board showing the number of 50-foot wide lots on East 17th Avenue and East 18th Avenue. He stated that a sometime subsequent to the time the homes were built, the zoning on Lot 43 had changed, which made the structure non-conforming. Mr. Spence requested that the Board approve the variance requests.

Mr. Casey asked whether any of the property owners to the west would be infringed upon if the variance requests were approved.

Mr. Spence and Mr. Jameson clarified that the setback variance was required between the two existing homes if Lots 42 and 43 were to be split apart.

Mr. Bohannon asked about the rezoning that Mr. Spence referenced. There was discussion about what the previous regulations might have allowed on these two lots.

Mr. Clark asked whether approving this variance would set a precedent. Ms. Henrikson stated that it would not.

Mr. Dever made a motion to approve the variance request with the condition that at such time as the residences are damaged beyond 50% of their replacement value, all variances relating to the required yards or setbacks are revoked The

motion was seconded by Mr. Casey. The motion passed unanimously on a roll-call vote, 5-0.

E. V-7-11: WALLSCHLAEGER / 107 DONLON DRIVE

Glenn D. Storch, P.A., 420 South Nova Road, Daytona Beach, Florida, 32114, applicant on behalf of the property owner, Mark Wallschlaeger, 107 Donlon Drive, New Smyrna Beach, Florida, 32168, requests a 21-foot variance from the minimum required 25-foot upland buffer adjacent to a wetland, to allow a swimming pool to be approximately four feet from the wetland line. The subject property is zoned R-1, Single-Family Residential; contains approximately 1.3 acres and is generally located at the east end of Donlon Drive, east of South Riverside Drive and west of the Indian River.

Mr. Bohannon made a motion to continue this item until the August 1, 2011 Planning and Zoning Board meeting, seconded by Mr. Clark. Motion passed unanimously on a roll-call vote, 5-0.

F. ZT-9-11: BOAT SLIP ALLOCATIONS

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 establish policies regarding the allocation of boat slips from the City's aggregate slip pool.

Ms. Henrikson reviewed the staff report. She explained why the proposed amendment was coming forward to the Board and how other cities were handling their slip allocations. She provided an overview of the history of manatee protection in Volusia County and detailed the provisions that were included in the proposed amendment. She stated that staff was recommending approval, including the provision that would reserve 50% of the excess slips for City use or as incentives to promote economic development.

There was discussion among the Board members as to whether the City should be allowed to retain a certain amount of boat slips for City projects or as an economic development tool.

There was also discussion among the Board members as to whether City Commission approval should be required to obtain an excess boat slip or whether staff could allocate the slips.

No Public Participation.

Mr. Bohannon made a motion to recommend the City Commission approve the proposed amendments with the following revisions:

1. **The City does not reserve any slips for City use**
2. **Staff and not the City Commission would be the entity responsible for approving boat slip allocations**

The motion was seconded by Mr. Casey. The motion was approved 3-2, with Mr. McGuirk and Mr. Dever dissenting. Mr. McGuirk stated his reason for denial: "No. I want a reserve." Mr. Dever stated that his reason for denial: "No. I want a small reserve."

G. ZT-12-11: SIDEWALK FUND

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 establish a sidewalk fund.

Ms. Henrikson reviewed the staff report with the Board. She explained why the item was coming before the Board and the provisions of the proposed amendments. She stated that staff was recommending approval.

Mr. McGuirk stated that he believed that monies collected in a particular neighborhood should be spent in those neighborhoods. He recommended using the neighborhoods identified in the *Comprehensive Plan*.

Mr. Bohannon asked what the current process was if someone could not build a sidewalk. He also asked how often this occurs.

Ms. Henrikson stated that either they had to obtain a variance or they had to find a way to install the sidewalk. Ms. Henrikson stated that staff encounters this type of issue one to two times per year.

There was discussion about building sidewalks segments that did not connect to other sidewalk segments.

Mr. McGuirk stated that he believed the amendments would save business owners both time and money.

Mr. Casey stated that he did not believe that the City should require anyone to build a sidewalk. He recommended deleting this section from the *Land Development Regulations* completely. He stated that developers will install sidewalks if there is a market demand for them.

No one from the public spoke for or against the request.

No member of the Board made a motion.

Mr. McDole stated that the item would still go the City Commission but, it would not have a recommendation from the Planning and Zoning Board.

H. ZT-13-10: PAIN MANAGEMENT CLINIC MORATORIUM

The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests approval a temporary moratorium on the issuance of business

tax receipts, building permits, development orders and other approvals related to pain clinics and pain management clinics.

Ms. Henrikson summarized the staff report and stated that staff was recommending approval.

No one spoke for or against the request.

Mr. Clark made a motion to recommend the City Commission approve a six-month moratorium on pain management clinics, seconded by Mr. Dever. Motion passed 3-2 with Mr. Bohannon and Mr. Casey dissenting. Mr. Bohannon stated his reason for denial: "No. I think it's involative of the public right to choose its business." Mr. Casey stated his reason for denial: "No. I don't know why we need something more restrictive than the state laws that are in place. And why the police need something more when they can enforce those laws."

I. ZT-14-11: INTERNET CAFÉ MORATORIUM

The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests approval of a temporary moratorium on the issuance of business tax receipts, building permits, development orders and other approvals related to internet cafes.

Ms. Henrikson summarized the staff report and stated that staff was recommending approval.

No one from the public spoke for or against the request.

Mr. Casey stated that the staff report stated that there were no known problems with internet cafes within the City at this time. He questioned why a moratorium was being sought.

Ms. Henrikson stated that it was being brought forward at the request of the City Commission.

Mr. Bohannon made a motion to recommend the City Commission approve a six-month moratorium on internet cafes, seconded by Mr. Casey. Motion failed 1-4, with Mr. Bohannon, Mr. Casey, Mr. Dever, and Mr. Clark dissenting. Mr. Bohannon stated his reason for denial: "No. I think it's too restrictive and there's no public need for it." Mr. Casey stated his reason for denial: "No. For the same reason [as Mr. Bohannon]." Mr. Dever stated his reason for denial: "No. There's no reason for it [the moratorium]." Mr. Clark stated his reason for denial: "No. Because we had looked at this before and there was no reason."

Mr. McGuirk asked Mr. McDole whether he could reopen case ZT-12-11. He stated that they are a Board appointed by the City Commission and there is an obligation to make a recommendation to the Commission on items that come before this Board.

G. ZT-12-11: SIDEWALK FUND

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 establish a sidewalk fund.

Mr. Casey made a motion to recommend the City Commission approve the proposed amendments as presented by staff, seconded by Mr. Bohannon. The motion failed 1-4 on a roll-call vote, with Mr. Bohannon, Mr. Clark, Mr. Dever and Mr. Casey dissenting. Mr. Bohannon stated his reason for denial: "No. I think it's too restrictive and there's a process in place." Mr. Clark stated his reason for denial: "No. Just because I think we need more time to discuss this and go over it." Mr. Dever stated his reason for denial: "No. We already have a variance process." Mr. Casey stated his reason for denial: "No. I'd like to see us come back and talk about removing 604.10A(2)."

REPORTS AND COMMUNICATIONS BY THE BOARD

Mr. Casey asked about the fee that was waived for annexation and why the fee was $1,900. Ms. Henrikson stated that it included a $500 application fee and a $1,400 advertising fee. She explained that the ads include a map, which is required by state law. There was discussion about why the City Commission wanted to encourage annexation.

Mr. Casey also asked about the ordinance regarding docks on vacant lots and whether the City Commission had prohibited them. Ms. Henrikson stated that the Commission did not adopt a provision prohibiting docks on vacant lots.

Mr. McGuirk asked about the recent court ruling regarding the Alexander property on Hill Street. Mr. McDole summarized the Court's findings regarding the rezoning.

REPORTS AND COMMUNICATIONS BY THE STAFF

Ms. Henrikson presented the Board with a brief summary of the changes to the Florida Department of Community Affairs and Florida's Growth Management Laws. She stated that this would be a topic for further discussion at the October workshop. She also reminded the Board of the upcoming August 15th workshop. She stated that the Board would be discussing historic districts and the Arts Overlay district.

ADJOURNMENT

With there being no further business, the meeting was adjourned at 8:30 p.m.

Interoffice Memorandum
City of New Smyrna Beach

To: Planning and Zoning Board Members

From: Gail Henrikson, AICP, Planning Manager

Subject: **V-3-11: 916 SOUTH RIVERSIDE DRIVE / SMITH**

Date: August 1, 2011

The applicant has requested that this item be continued until the October 3, 2011 Planning and Zoning Board meeting. Staff has been working with the applicant to find alternative methods to provide the required number of parking spaces. The applicant has also been working with owners of non-residential properties to find parking lots where off-site valet parking could be provided. Until the parking arrangements are finalized, staff cannot determine what, if any, variances would be required.

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

V-7-11: WALLSCHLAEGER / 107 DONLON DRIVE

AUGUST 1, 2011

I. Summary

A. **Applicant:** Glenn D. Storch, P. A., 420 South Nova Road, Daytona Beach, on behalf of

B. **Property Owner:** Mark Wallschlaeger, 107 Donlon Drive, New Smyrna Beach

C. **Requests:** a 21-foot variance from the minimum required 25-foot upland buffer adjacent to a wetland, to allow primary and accessory structures to be approximately four feet from the wetland line.

D. **Site Information:** The subject property is zoned R-1, Single Family Residential, contains approximately 1.3 acres and is generally located at the east end of Donlon Drive, east of South Riverside Drive. (see Location Map attached as **Exhibit A**).

E. **Tax I.D. Number:** 7449-14-00-0050

II. Findings

A. The subject property contains a single family residence as well as a multi-car garage with an apartment on the second and third stories. The primary building was constructed in 1981 with the garage/apartment structure constructed in 1991. Neither structure meets the minimum 25-foot upland buffer setback from the wetland line. However, the 25-foot upland buffer was adopted as a component of the 1991 Land Development Regulations, and was not applicable to construction of the original structure and may not have been applicable to construction of the garage/apartment structure built in 1991. Please see **Exhibit B** for photos of the structures and their relation to the river. While there is a coquina rock revetment on the slope within the upland buffer, it appears a healthy vegetative system is growing within the subject area (which appears to have been planted by the property owner) and down the slope to the wetlands (which appears to be natural and native vegetation).

B. It should be made clear that the original variance request as submitted to staff was for the construction of the pool. It has since been brought to staff's attention, and was thus readvertised to reflect the additional information, that the property owner is requesting that *all* existing and future structures be allowed to maintain a 4-foot setback from the wetland line (i.e., a 21-foot variance from the required 25-foot wetland buffer). Therefore, staff is separating out the two issues as such:

a. The variance request for *new* construction of the pool and associated structures; and

b. The variance request for *existing* structures so that, should they be damaged beyond 50% of their appraised value, they can maintain a 4-foot setback from the wetland line to reconstruct the structures. Staff will address these issues in order below.

C. The intent of the upland buffer is to provide additional protection to sensitive wetlands. Run-off from properties often include nutrients and/or

pesticides/herbicides that negatively affect the plants and animals that utilize this element of a riparian ecosystem. The buffer provides an area for filtering these harmful elements before they enter into the wetlands. It also serves as an integral component of the riparian ecosystem – the uplands adjacent to wetlands provides a great diversity of vegetation utilized by many animal species that live and eat in these areas. Even though the area has a rather steep and rocky slope (the coquina rocks were placed by the previous property owner), there is a significant amount of soil and vegetation in this area that does capture at least some of the run-off. While a swale system is being proposed in conjunction with the construction of the pool, the overall function of this element of the ecosystem will be reduced by further intruding into what is currently a rather "natural" landscape (removal of existing vegetation – primarily Fackahatchee grass and Indian Hawthorne – both native to this area, but planted by the property owner- is proposed). The City Engineer also questioned how the wetland buffer would be protected from any potential run-off from the pool itself, which would not be natural rainwater (pools can easily overflow during a heavy storm event). Preventing additional impacts to the wetland buffer for the construction of the pool is somewhat difficult to implement in the real-world setting, given the proximity of the coquina slope to the wetland line and the proposed pool location. Construction of a retaining wall along the south edge of the pool area, adjacent to the coquina rock slope, would be required, as it would be in the western side yard. Allowing further impacts to this required wetland buffer impairs the intent of the ordinance, even if portions of the upland buffer have already been impacted.

D. While the two structures have rather large footprints, there is sufficient room on the west side of the property to construct a pool, decking, fencing and install landscaping to create a "customary" pool area typical of structures within this district (Please refer to **Exhibit C** for a copy of the survey). Also, regardless of whether the pool is placed in the requested location or on the west side of the property, a retaining wall would be required.

E. The survey is dated 2002 and does not show the pavers that are located in this area (see photos shown in **Exhibit B**). No city records show a permit was issued for the installation of these pavers, which would also have required a variance, as is being requested for the pool, since they were installed after the adoption of the wetland buffer requirements.

F. Staff has discussed the stormwater flow of this subdivision with the City Engineer. His determination is that as long as the swale is maintained, construction of a pool with a retaining wall within this western area of the property would not affect the overall drainage system within this development. Because there is sufficient area on the property to construct a pool that meets all accessory structure and building setbacks as well as upland buffer requirements, there is no hardship mandating that the pool be constructed where proposed, especially when there is sufficient space

on the property to locate the pool that would be 100% in compliance with the regulations.

G. **Exhibit D** shows the proposed pool layout in between the two existing structures (the single-family residence and the garage with second- and third-story apartment). **Exhibit E** was also submitted by the applicant depicting the general location proposed for the pool and decking.

H. In regards to the request for the existing structures to be "grandfathered" in to be able to maintain their current footprint should the structures be damaged by more than 50% of the appraised value, staff cannot make any findings of fact or recommendations. Staff discussed this issue with the Assistant City Attorney, who is of the opinion that this is a request based on speculation. Without having knowledge of where the wetland line would be after a major event in relation to the existing structures (which may move depending on the severity and type of event – and may even move further into the property than where it currently exists), staff cannot say that there is a hardship. Additionally, there is no need to request a variance at this time as these are existing legally non-conforming structures that require no variance for their existence to continue. Remodeling of the structure without increasing the footprint, but maintaining the existing non-conforming setback from the wetland line would be allowed, so long as the remodeling does not further impact the buffer. In the applicant's letter requesting a continuance of this case (see **Exhibit F**), the applicant references Section 701.11 of the LDR in reference to construction within the buffer that would not have significant adverse impacts on the natural function of the buffer. So long as there is no additional impact to the buffer, and any renovations or remodeling occurs within the existing footprints of the buildings, no additional adverse impacts would occur. Again, in the end, there is no need for a variance for the existing structures at this time.

I. The LDR requires variance requests to meet all of the following criteria. The applicant's letter of response to the variance criteria is attached as **Exhibit G**, with a photo submitted by the applicant shown in **Exhibit H** and the property owner's letter of authorization attached as **Exhibit I**. Staff's responses to the criteria are listed below in **bold**.

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

In regards to the construction of the pool, there is no hardship caused by this buffer requirement. There is significant room to the west of the garage/apartment to construct the proposed pool, decking, fencing and landscaping, which would meet all setbacks and not impact the wetland buffer at all.

This criterion has not been met.

In regards to permanently allowing the current 21-foot encroachment into the required upland buffer, staff cannot provide an accurate evaluation of where the wetland line may be located in the future, and thus cannot provide a recommendation as this is speculative.

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

In regards to the construction of the pool, there is sufficient room to the west of the garage/apartment to construct the pool, which is customary for residences in this neighborhood. Therefore, strictly applying the requirement to maintain a 25-foot upland buffer from the wetlands would not preclude the property owner of reasonable rights. Allowing further impacts to the required buffer, the intent of which is outlined in finding C above, would preclude a benefit to the community that the buffer provides: protecting the sensitive wetlands and riparian zone.

This criterion has not been met.

In regards to permanently allowing the current 21-foot encroachment into the required upland buffer, staff cannot provide an accurate evaluation of where the wetland line may be located in the future, and thus cannot provide a recommendation as this is speculative. Staff did a rough calculation and should the wetland line remain in the same location, and should a replacement structure meet current setbacks, the footprint of the building could be approximately 3,800 square feet. This zoning district allows three stories, so in theory, the structure could be 11,406 square feet.

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

In regards to the construction of the pool, even though the wetland buffer was instituted after construction of the primary and secondary structures, there is sufficient room remaining on the property in which to construct a pool and customary accessory structures, and as stated before, no hardship exists

requiring the pool to be constructed where it is proposed as shown in Exhibits D and E.

This criterion has not been met.

In regards to permanently allowing the current 21-foot encroachment into the required upland buffer, staff cannot provide an accurate evaluation of where the wetland line may be located in the future, and thus cannot provide a recommendation as this is speculative.

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

In regards to the construction of the pool, the granting of this variance would impair the intent of the ordinance, as outlined in finding C above. While the applicant references installation of a swale system, no plans depicting the location and/or size of this system have been presented to staff. Theoretically, it could increase the overall net retention on site, thereby adding additional filtration of water before it enters into the wetlands. Since staff has not seen any plans for this, it is unclear whether this would be a significant improvement in relation to the additional impacts and therefore staff cannot make a determination that this would be a benefit to public welfare.

This criterion has not been met.

In regards to permanently allowing the current 21-foot encroachment into the required upland buffer, staff cannot provide an accurate evaluation of where the wetland line may be located in the future, and thus cannot provide a recommendation as this is speculative.

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

In regards to the construction of the pool, this would be a grant of special privilege as there is adequate space available on the property to construct a pool and still comply with all code requirements.

This criterion has not been met.

In regards to permanently allowing the current 21-foot encroachment into the required upland buffer, staff cannot provide an accurate evaluation of where the wetland line may

be located in the future, and thus cannot provide a recommendation as this is speculative.

III. Recommendation

Because the request to construct a pool in the proposed location does not meet any of the variance criteria, staff recommends **denial** of this variance request.

Because the request to permanently allow the existing structures to maintain a 4-foot setback from the wetland line is based on speculation of potential future circumstances. As advised by the Assistant City Attorney, staff cannot make a recommendation at this time on this matter. The applicant would need to request the variance based on circumstances specific to his property at the time a variance would be needed.

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Exhibit A – Location Map

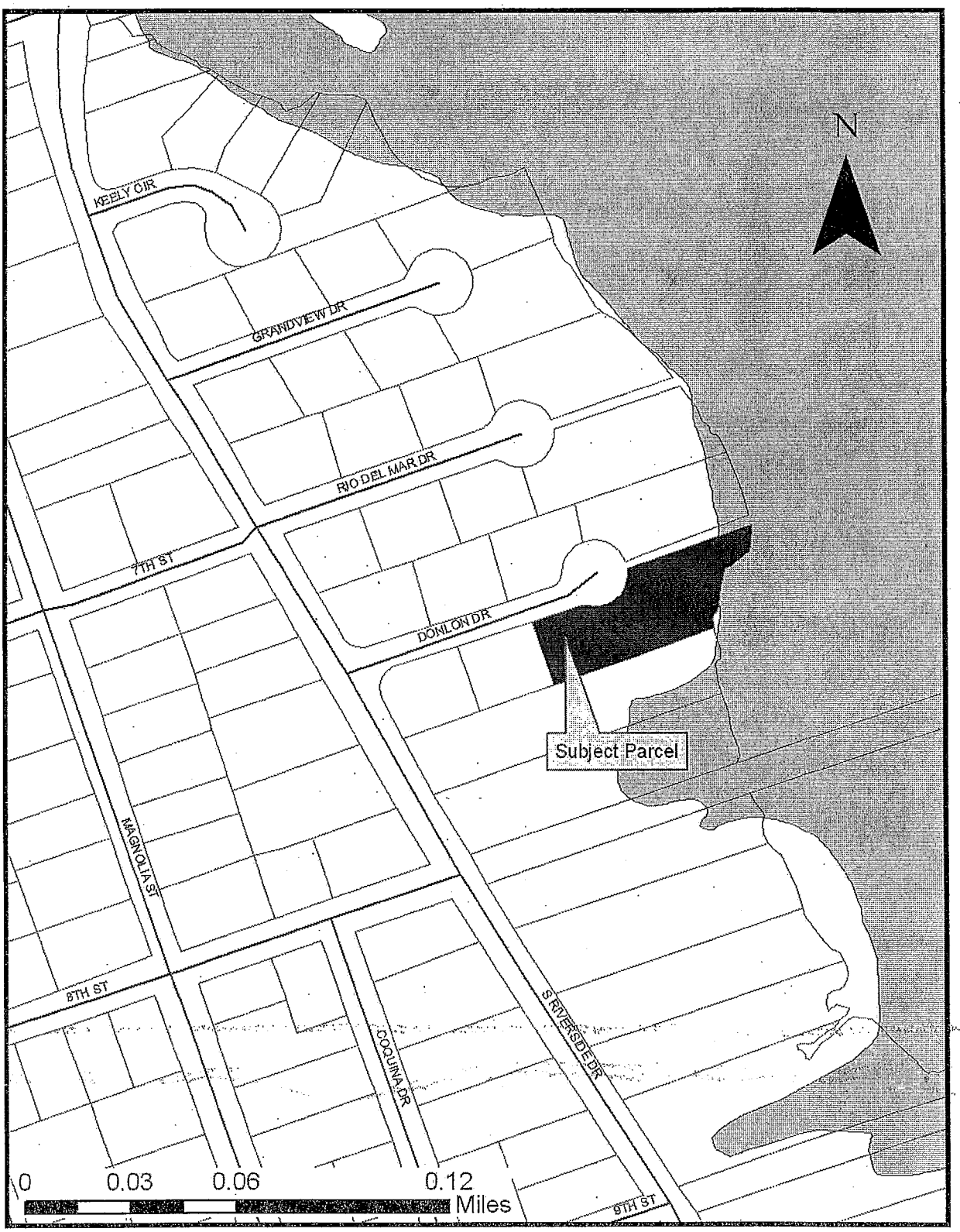

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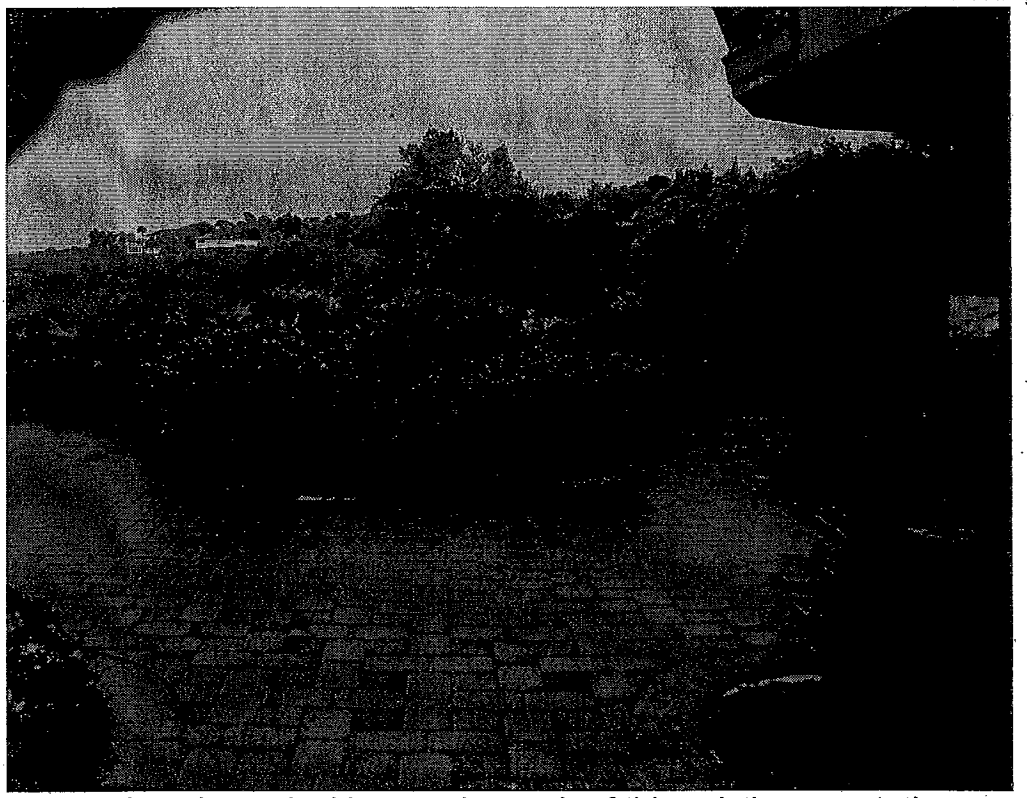
Exhibit B – Photos of subject property and subject tree

Proposed pool area – looking west

Proposed pool area, looking east

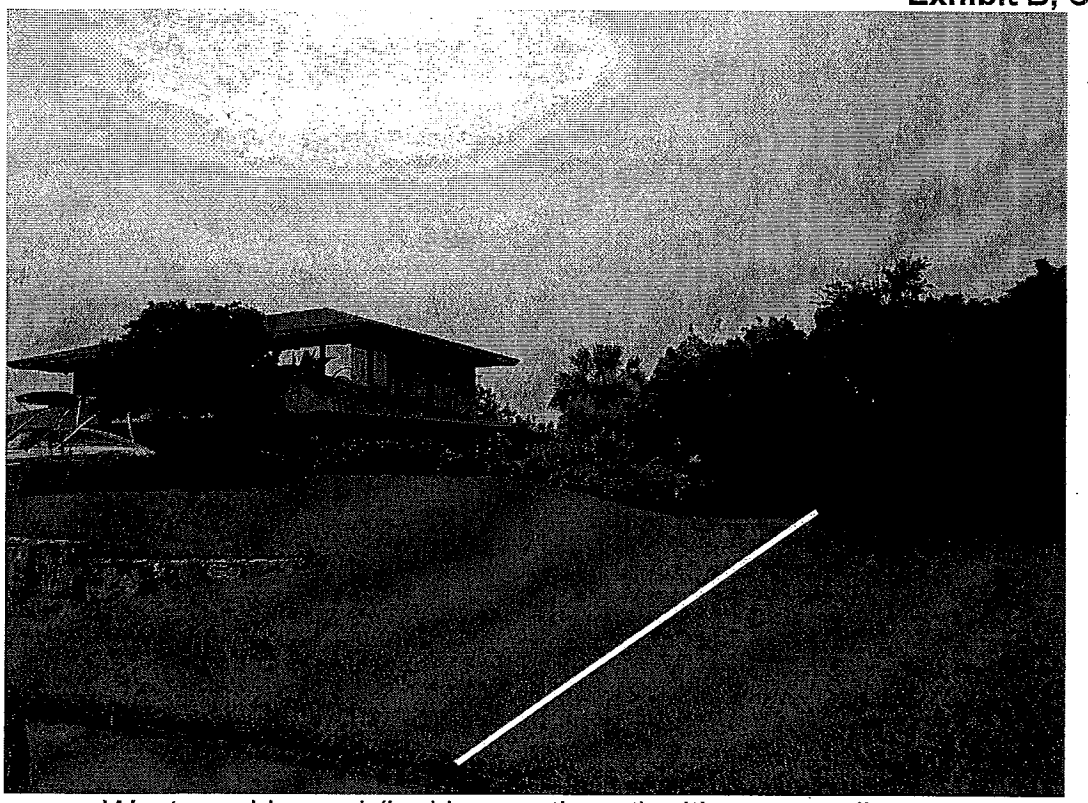
Exhibit B, Cont'd



View of proposed pool area looking south, much of this existing vegetation proposed to be removed

View of proposed pool area looking east, which is heavily vegetated

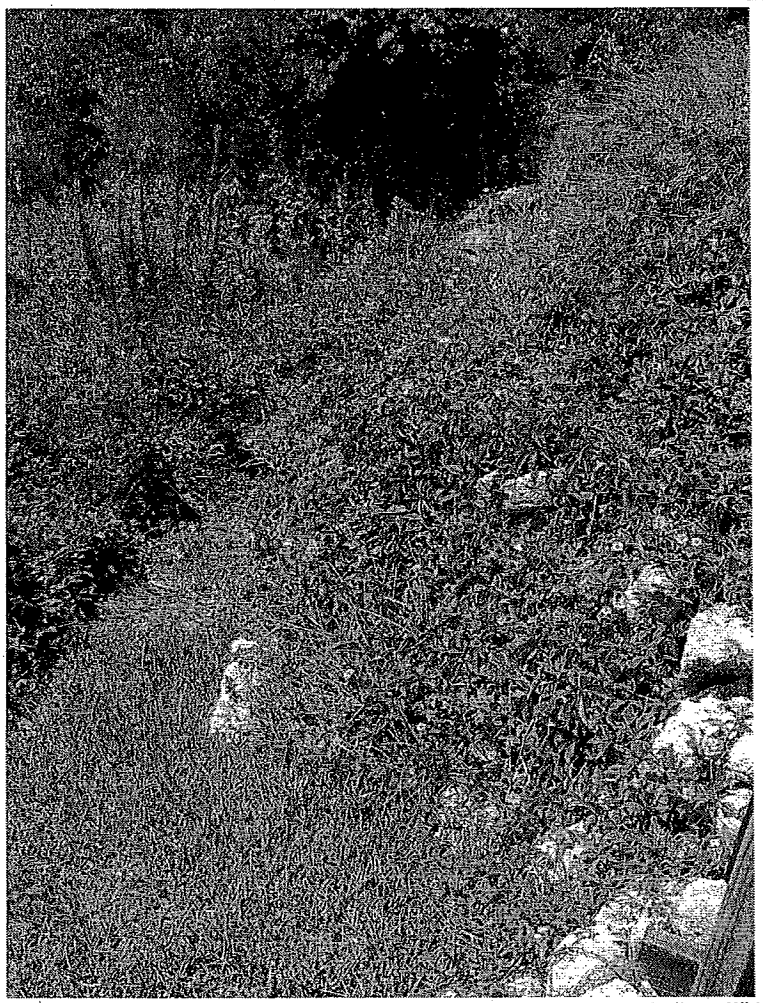
Exhibit B, Cont'd



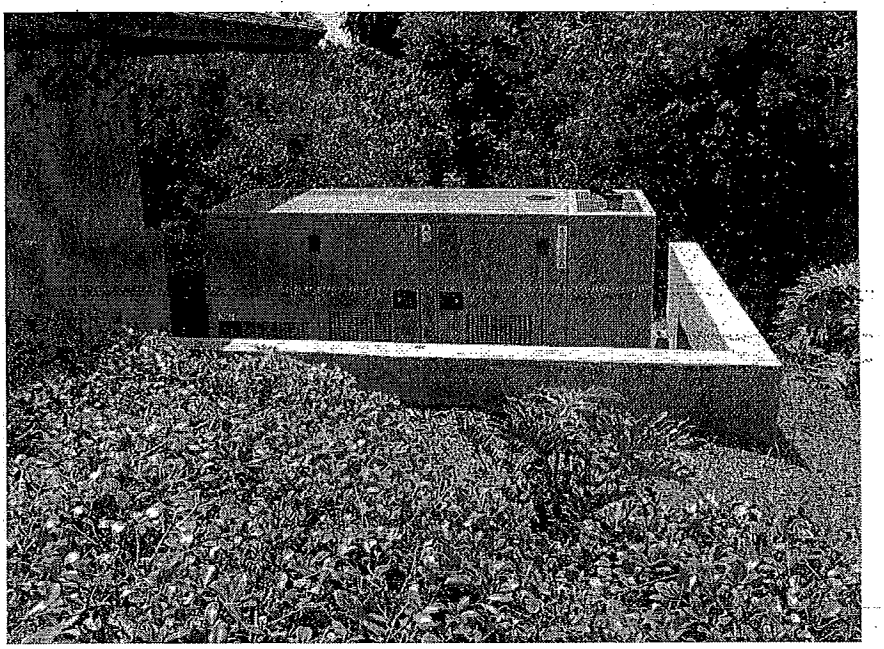
Western side yard (looking southeast) with property line approximated by white line

Additional view of western side yard, looking south

Exhibit B, Cont'd



Looking west and down at the existing coquina rock "wall"/slope



Generator within western side yard

1

Exhibit C – Existing Site Conditions

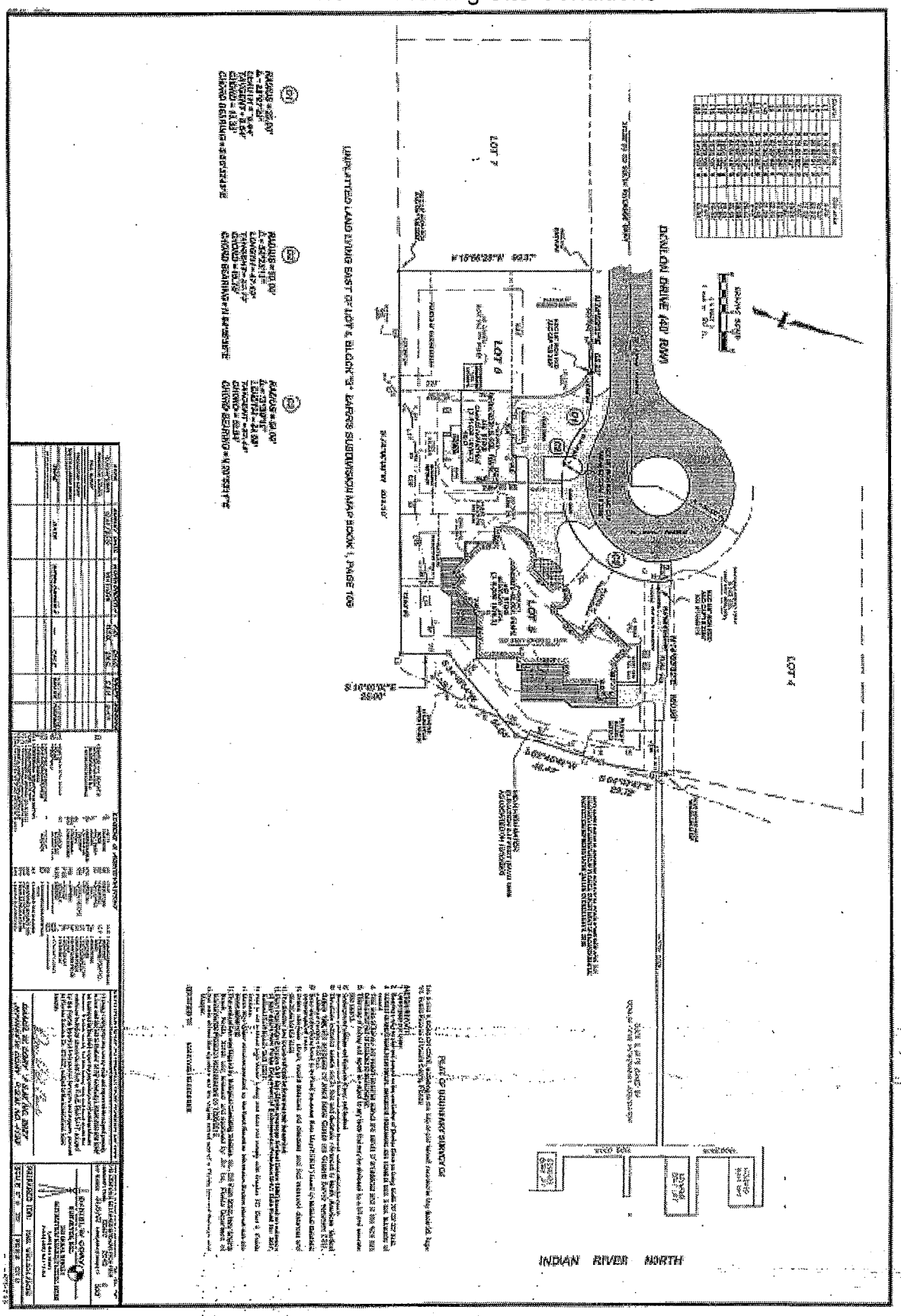


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Exhibit D – Proposed Pool Plan

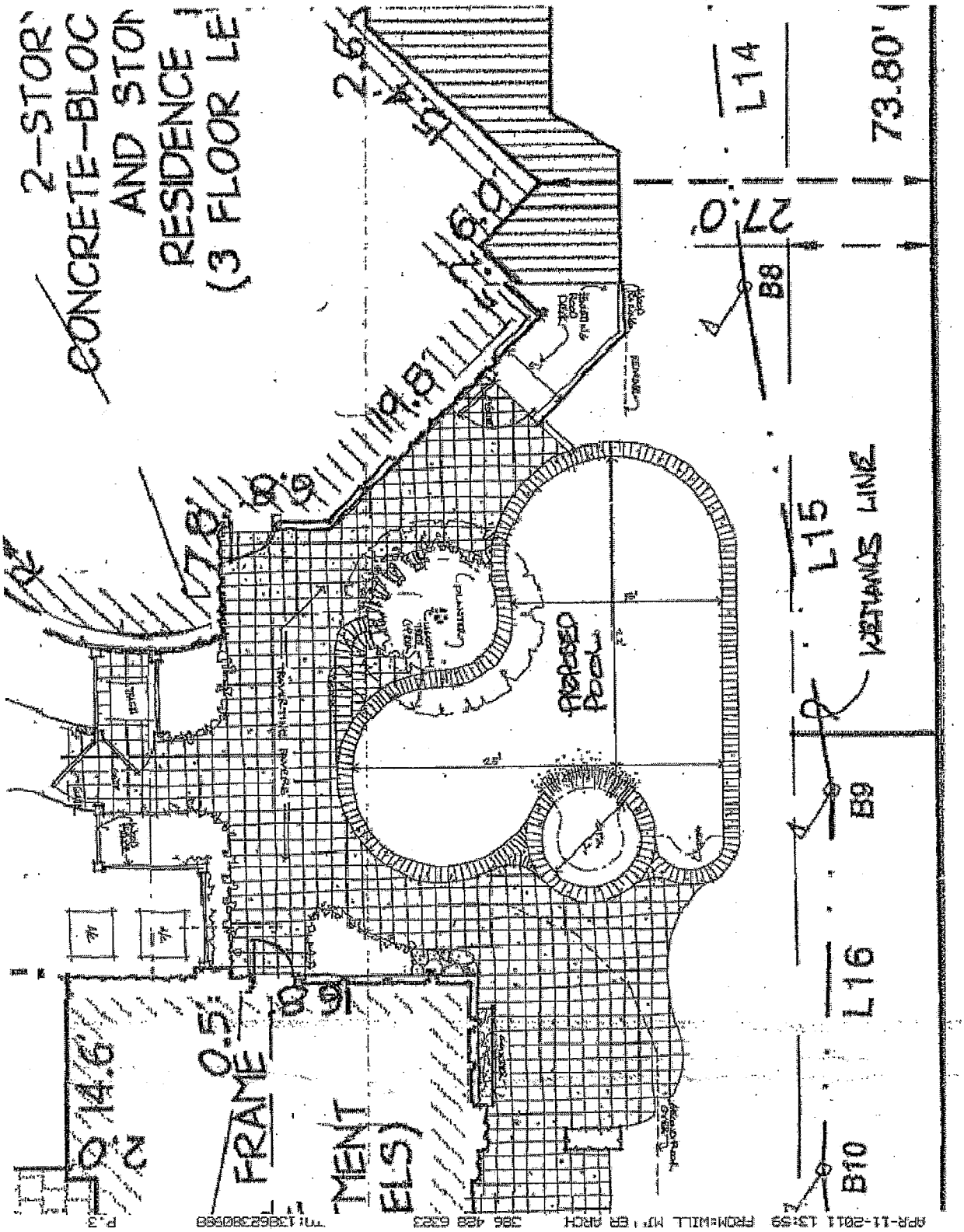

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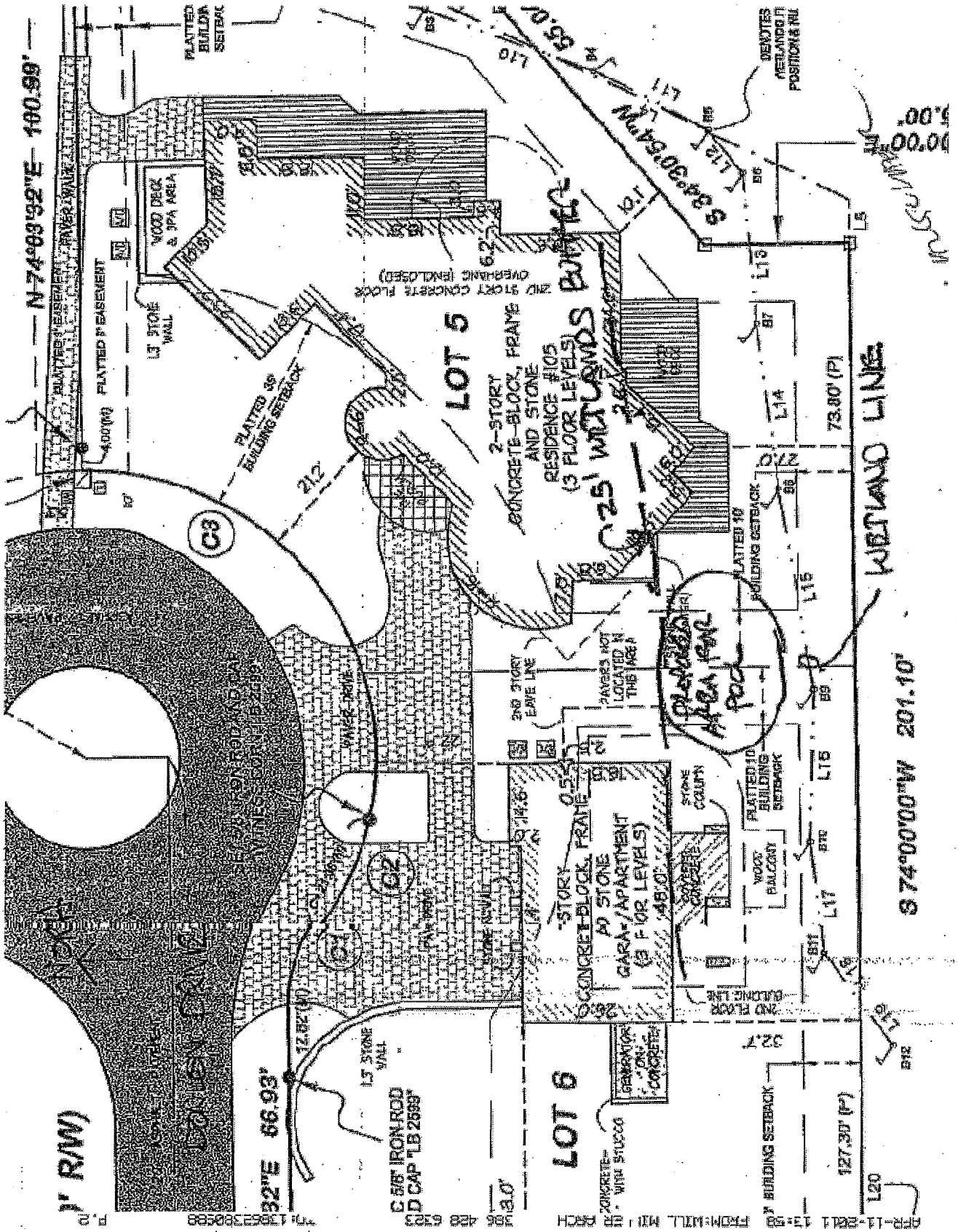
Exhibit E – Proposed pool location (approximate)



2

1 **Exhibit F** – Applicant's Request for Continuance

GLENN D. STORCH, P.A.
ATTORNEY AT LAW

420 South Nova Road
Daytona Beach, FL 32114-4514

(386) 238-8383 Ext. 11
(386) 238-0988 (fax)
glenn@storchlawfirm.com

July 6, 2011

VIA FACSIMILE AND U.S. MAIL

Ms. Gail Henrikson
City of New Smyrna Beach
Planning and Zoning Department
210 Sams Avenue
New Smyrna Beach, FL 32168

Re: Continuance of Variance Request for Mark Wallschleager - 107 Donlon Drive

Dear Gail:

As you know, this firm has the pleasure to represent Mark Wallschleager in connection with the afore-referenced variance request. This letter constitutes our request for a one month continuance of the hearing on this matter given the confusion over public notice for the requested variance. The notice apparently did not accurately reflect the requested variance request.

As stated in our March variance request, the existing wetland buffer line currently traverses the existing home and portions of the property including the existing rock revetment. Our request is a variance to adjust the wetland buffer line to 4 feet rather than the 25 feet set forth in the LDR's. This would allow for the "wetland buffer", which does not permit construction, to be removed from those areas of the site that already have structures or impervious surface areas in place. As you know, it is my client's intent to utilize some of these previously built areas to add construction. To clarify the request, we could alternatively request the wetland buffer line be adjusted to remove all existing structures from the buffer area, including the home, the revetment, porches, balconies, and planters.

The wetland buffer standards were adopted after the existing home and structures were built. Applying the buffer requirements in a manner that does not take into account the existing

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Exhibit F, Cont'd

structures or provide for "grandfathering" of the existing structures and uses and prevents remodeling or reconstruction is contrary to the intent of the LDR's and Florida law. We believe that the granting of the variance will not cause substantial detriment to the public welfare or impair the purposes and intent of the LDR. In fact, since this is a non-functioning wetland buffer, and my client had offered to construct swales to create a method to reduce stormwater flow into the wetland areas adjoining this property, the variance would create public benefit and enhance the purpose of the wetland buffer ordinance. This is how other jurisdictions handle adjustments to the wetland buffer without the requirement for a variance. Reviewing the actual impact to the function of the wetland buffer, and determining appropriate mitigation of that impact, avoids the issue of a taking of private property.

Strict application of the wetland buffer requirements would deprive the property owners of reasonable use of their property which other property owners enjoy. Section 701.11 of the LDR specifically permits activities and /or construction within the wetland buffer area which does not have significant adverse impacts on the natural function of buffer. The existing wetland buffer area, on which construction and structures have been placed, does not function as a wetlands buffer. The strict application of the wetland buffer requirements creates practical difficulty in the reasonable use of the land. Additionally, literal enforcement of the LDR decreases wetland protections because the proposed swale system will improve the functionality of the wetland buffer areas.

For the foregoing reasons, the Applicant respectfully requests that this item be continued to allow appropriate notice of the variance request.

If you have any questions, please do not hesitate to call.

Kindest regards,

Glenn D. Storch

GDS/TY/at
131-28

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Exhibit G – Applicant's Variance Criteria Response Letter

GLENN D. STORCH, P.A.
ATTORNEY AT LAW

420 South Nova Road
Daytona Beach, FL 32114-4514

(386) 238-8383 Ext. 11
(386) 238-0988 (fax)
glenn@storchlawfirm.com

May 25, 2011

VIA HAND DELIVERY
Ms. Gail Henrikson
City of New Smyrna Beach
Planning and Zoning Department
210 Sams Avenue
New Smyrna Beach, FL 32168

Re: Variance Request for Mark Wallschleager - 107 Donlon Drive

Dear Gail:

As you know, this firm has the pleasure to represent Mark Wallschleager in connection with the afore-referenced variance request. The property is a single-family home built prior to wetland buffer standards. This request is submitted on behalf of the owner in order to permit the addition of a swimming pool and to verify an existing home that extends into the wetland buffer. The variance is necessary because the wetland buffer currently crosses the existing home as well as the existing rock revetment. The pool is proposed to be 4 feet from the wetland line at the rock revetment. Accordingly. We are requesting a variance to permit a setback of 4 feet from the wetland buffer where the LDR requires 25 feet. We believe that the granting of the variance will not cause substantial detriment to the public welfare or impair the purposes and intent of the LDR. The LDR sets forth the following criteria for the Planning Manager to consider when recommending approval of a variance request:

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

The property has an existing home which was constructed before the City adopted wetland buffer standards. The location of the home and the physical features of the land dictate the placement of accessory structures- including the proposed pool. Accordingly, there are special circumstances that warrant the requested variance.

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

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Exhibit G, Cont'd

Strict application of the wetland buffer requirements would deprive the property owners of reasonable use of their property which other property owners enjoy. Section 701.11 of the LDR address wetland buffer requirements. Activities and /or construction which do not have significant adverse impacts on the natural function of buffer may be allowed within the buffer. Currently, the wetland buffer slopes steeply toward the wetlands, without any vegetative buffer, so that existing stormwater runoff goes directly to the wetlands. Proposed construction would allow reasonable use of the property and improve current conditions so as to redirect stormwater runoff in the wetlands buffer away from the wetlands by use of swales.

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

The requested variance is not the result from the direct or indirect actions of the current or former property owners. The existing home was built before the City adopted wetland buffer requirements.

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

The variance request does not create a special privilege denied top other property owners in the same district.

The planning and zoning board shall have the power to hear and decide on applications to allow variations from the regulations of this LDR where by reason of unnecessary hardship or practical difficulty the literal enforcement of the requirements of this LDR would not carry out the spirit and purpose of this LDR.

The strict application of the wetland buffer requirements creates practical difficulty in the reasonable use of the land. Additionally, literal enforcement of the LDR decreases wetland protection because the proposed swale system will improve the functionality of the wetland buffer areas.

For the foregoing reasons, the Applicant respectfully request your support of this variance request. If you have any questions, please do not hesitate to call. Thank you for your courtesies.

Kindest regards,

Glenn D. Storch

cc:

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Exhibit H – Photo submitted by applicant showing area of proposed pool

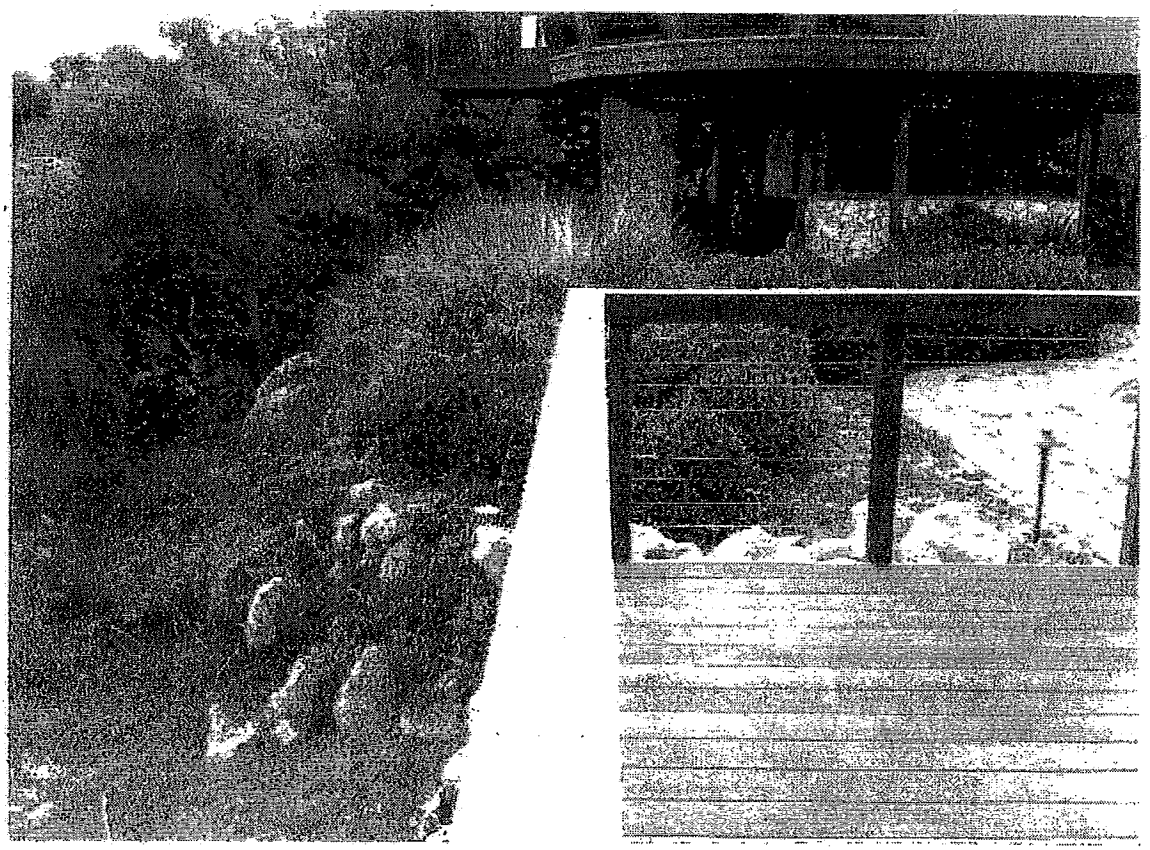

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Exhibit I – Letter of Authorization from Property Owner

MARK WALLSCHLAEGER
107 Donlon Drive
New Smyrna Beach,
Florida 32168

City of New Smyrna Beach
Department of Development Services
210 Sams Avenue
New Smyrna Beach, FL 32168

Re: Authorization of Owners/Variance Request Application

Dear Sir or Madam:

Please let this letter serve as our authorization for our agent, Glenn D. Storch, Esq., of Glenn D. Storch, P.A., to represent us in the annexation of property described as follows:

Lots 4, 5 and 6, Donlon Cove Subdivision, according to the map or plat thereof, as recorded in Plat Book 55, Page 141, Public Records of Volusia County, Florida.

Parcel ID #: 7449-14-00-0040 and 7449-14-00-0050

Respectfully submitted,

Mark Wallschleager

Mark Wallschleager

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 26th day of May, 2011, by MARK WALLSCHLAEGER, who is personally known to me and did not take an oath.

My commission expires:

COLLEEN TYLER
Commission # DD 884399
Expires May 1, 2013
Bonded Thru Troy Fain Insurance 800-385-7019

Type, Print or Stamp Name
My commission expires:

2

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

V-8-11: OCEAN VIEW CONDO / 207 NORTH ATLANTIC AVENUE

AUGUST 1, 2011

I. Summary

A. **Applicant:** James Cummins, 2220 South Andrews, Lake Orion, Michigan, 48362

B. **Property Owner:** Ocean View Condominium COA, 207 North Atlantic Avenue, New Smyrna Beach, Florida, 32169

C. **Requests:**

1) 30-foot front yard setback variance from the minimum required 30-foot front yard setback along Esther Street

D. **Site Information:** The subject property is zoned B-4(4), Ocean Commercial, contains approximately 0.5 acres and is generally located southeast of the intersection of North Atlantic Avenue and Esther Street. (see Location Map attached as **Exhibit A**).

E. **Tax I.D. Number:** 7455-22-00-0001

II. Findings

A. In preparing the advertisement for this case, staff listed several potential areas where variance might be required. These included variance to the City's minimum parking requirements, front yard setback requirements, landscape buffer requirements, building coverage requirements, impervious coverage requirements and maximum driveway width requirements.

B. However, once staff began preparing the written report and reviewing the plans, staff identified only the need for a front yard setback along Esther Street. The excluded items are discussed in further detail below:

1. **Building Coverage:** The maximum allowed building coverage in the B-4(4) zoning district for a four-story building is 30%. The proposed building coverage is 21.6%. Therefore, no variance is required.
2. **Minimum Parking Requirements:** Parking for multi-family units is based upon the number of bedrooms in a unit. The minimum required amount of parking is two spaces for a two bedroom units. As the number of bedrooms increases above two, an extra half-space must be provided for each additional bedroom. Based upon the floor plans provided with the application, a total of 14 parking spaces would be required. A total of 16 parking spaces are proposed. Therefore, no variance is required.
3. **Impervious Coverage:** Maximum allowed impervious coverage in the B-4(4) zoning district is 75%. The proposed impervious coverage is 38.8%. Therefore, no variance is required.
4. **Maximum Driveway Width:** The maximum allowed driveway width is 30 feet. The proposed site plan shows a 44-foot wide driveway. However, in discussions with the representative of the COA, it may be possible to narrow the driveway to 30 feet and provide a back-

up space on-site so that vehicles will not have to back directly into North Atlantic Avenue, which is prohibited by code.

C. The subject property is an approximately 100' x 200' lot that contains a multi-family residential building that contains five units. According to information from the Volusia County Property Appraiser's website, the building was constructed in 1966. A 10' x 12' metal shed is also located on the site. Photos of the subject property and surrounding area are attached as **Exhibit B**. A copy of the survey is attached as **Exhibit C**.

D. The subject property is located southeast of the intersection of North Atlantic Avenue and Esther Street. Access to the property is via Esther Street. Esther Street is a 15-foot wide right-of-way. Although the right-of-way is paved, the pavement is in need of repair.

E. Between March 2007 and August 2008, the City of New Smyrna Beach purchased 4 parcels located west of the Atlantic Ocean, east of North Atlantic Avenue, on both the north and south sides of Esther Street. The City was partially reimbursed for the purchase of these parcels by funds from the Florida Communities Trust (FCT). Additional funding came from the City's Community Redevelopment Agency and a grant from the Florida legislature. The parcels are to be improved as a beachfront park and will include off-beach parking and active and passive recreational features for the public. As part of the proposed park improvements, the City has been working with representatives of the Ocean View Condominium COA to purchase a nine-foot wide strip of their property in order to widen Esther Street to 20 feet. This would allow two-way traffic on Esther Street and will accommodate public safety vehicles.

F. In April 2009, staff met with representatives of the Ocean View COA to discuss proposed improvements to their property (**Exhibit D**). The proposed improvements include adding a second story to the existing building; constructing a 6-car garage building with one additional unit; and landscaping and other site improvements. Access to the proposed garage building would be from both North Atlantic Avenue and from Esther Street. At this meeting, the Fire Marshal expressed concerns about public safety vehicles being able to use Esther Street to access the site due to the width of the roadway.

G. No variances would be required to construct a second story addition onto the existing building. The existing building, which is a legal non-conforming structure, is approximately 5 feet from the side (south) property line. The B-4(4) zoning district requires a minimum 10-foot side yard setback, plus an additional five feet for each story over two stories. The proposed addition, which would result in a two- and three-story building, would require a 15-foot setback if it were new construction. However, Section 505.05(A) of the City's *Land Development Regulations* allows non-conforming structures to be enlarged if the existing non-conforming setback is at least five feet. Therefore, the property owners

could construct the addition without a variance, provided the addition maintained the existing five-foot setback.

H. The B-4(4) zoning district also requires a 30-foot front yard setback from both North Atlantic Avenue and Esther Street. There is no reduction in front yard setbacks for corner lots in this zoning district, although other zoning districts that allow residential development, such as the R-1 Single-Family district reduce the setback on the side street by 50%. The proposed garage building would exceed the required 30-foot setback from North Atlantic Avenue. However, the building as currently proposed, would be only 10 feet from the Esther Street right-of-way.

I. It should be noted that the garage could be rotated to run east-west. This would, in theory, allow the garage to be built, while still meeting all code requirements. However, in order to accomplish this, the building would need to be placed in the existing parking area. The building would then be approximately 14 feet from the existing residential building and would only be six feet from the proposed porch additions. This would block light, visibility and air flow to the residences. Therefore, while theoretically possible, it is not reasonable.

J. Additionally, if the City purchases the 9-foot strip of land for the widening of Esther Street, the proposed garages would only be five feet from the existing building as it currently exists. Running the garage building east-west would also preclude construction of the proposed porches should the City obtain this nine-foot strip as the proposed porches would overlap with the garage footprint.

K. In preparing the staff report, staff surveyed other multi-family projects on the east side of North Atlantic Avenue, between Flagler Avenue and Crawford Road. Staff identified the following multi-family projects, the year built, and whether these projects had garage units for residents. This information is shown in the table below.

PROJECT NAME	YEAR BUILT	GARAGES (Y/N)
Win-San	1969	N
Ocean View	1966	N
La Playa	2007	Y
Watermark	1980	Y
Holiday Cove North	1966	N
Golden Arms	1972	Y
Atlantic Villas	2006	Y
Coronado Tower	1971	N

As shown on the above table, approximately 50% of the multi-family projects within this neighborhood have garages.

L. The LDR requires variance requests to meet all of the following criteria. Staff's responses to the criteria are listed below in **bold**.

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

The special circumstance relates to the size of the property and the placement of the existing multi-family building. The property only contains approximately 0.5 acres. With the exception of the La Playa townhome project immediately north of the subject property, this is the next smallest multi-family parcel between Flagler Avenue and Crawford Road. The existing building is a legal non-conforming structure with regard to the setback from the south property line. However, even with the non-conforming setback, a garage building conforming to all City codes would only be 14 feet from the dwellings, blocking light, visibility and air flow. If the garage were constructed as required by code, and the existing building were destroyed by a storm, the required 10-foot setback for the new building would leave only four feet between the garages and the living units.

This criterion has been met.

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

Strict application of the provisions of the *Land Development Regulations* would deprive the property owners of reasonable rights commonly applicable to other properties within the same district. As shown in the table in Finding H, 50% of the multi-family projects within this neighborhood provide garages for their residents. Although garages were not typically provided for older residential projects, the current market supplies this type of amenity as a matter of course.

This criterion has been met.

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

The special circumstance identified by staff – the size of the property and the location of the existing building – is not related to directly related to actions of the current property owners. The property was originally platted in 1924 as part of Krulders Subdivision. The building, which was constructed in 1966, is a legal non-conforming structure.

This criterion has been met.

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

Granting of the variance would not cause substantial detriment to the public welfare or impair the purposes and intent of the LDR. One of the purposes of setbacks it to maintain a uniform building setback along a particular block face. In this particular case, the Ocean View Condo is the only building located on the south side of Esther Street between North Atlantic Avenue and the ocean.

This criterion has been met.

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

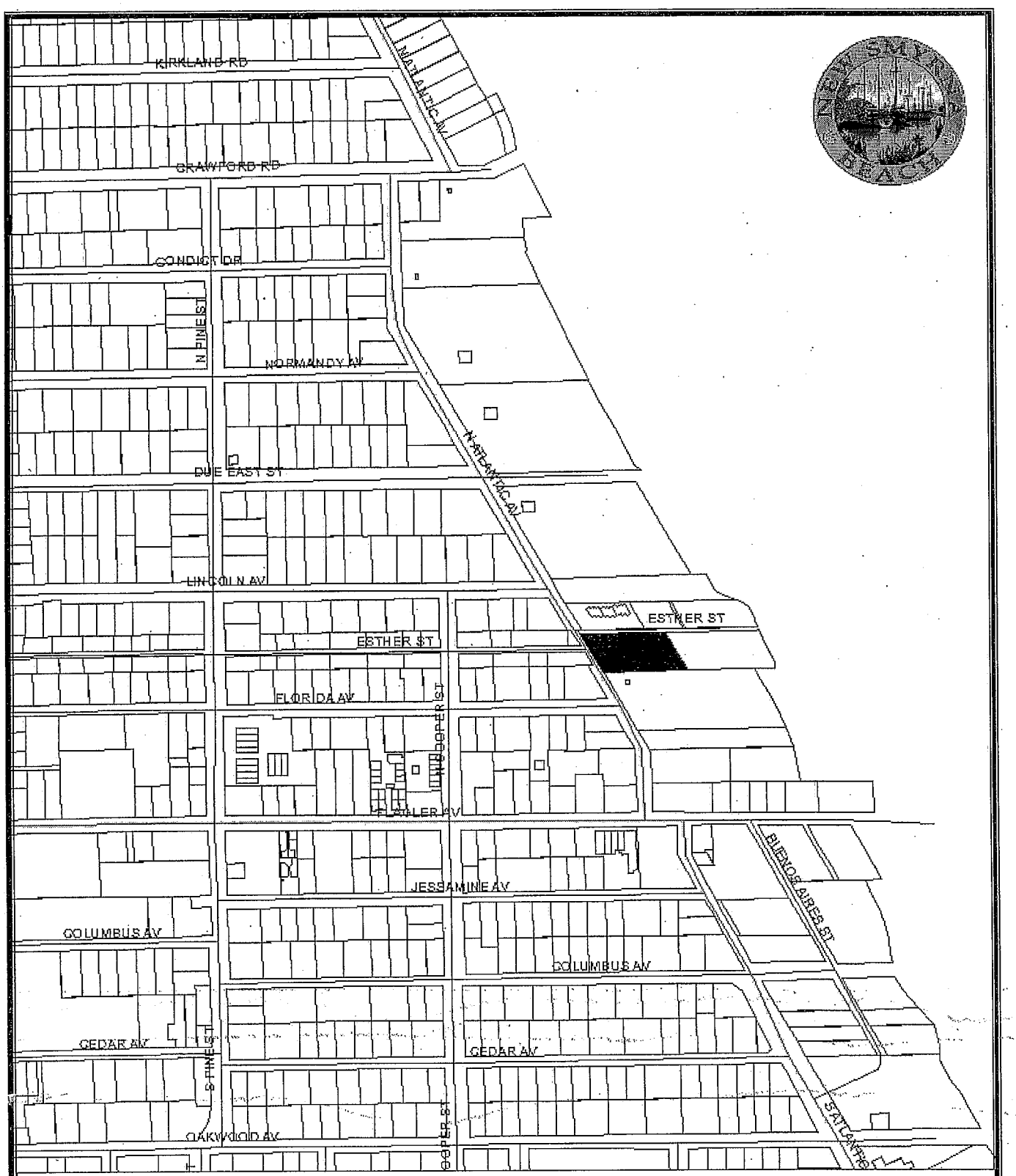
Granting of the variance would not constitute a grant of special privilege that is denied by the LDR to other lands, structures or buildings in the same district. As discussed above, 50% of the existing multi-family dwellings between Flagler Avenue and Crawford Road have garages. This is a common amenity in newer construction and some of the older projects have been retrofitted with garages. The size of the units in the Ocean View Condo range from approximately 850 square feet to 1,322 square feet. The units are not excessively large and because there is only one 10' x 12' storage shed on the property, there is limited on-site storage for unit owners. Additionally, because of the proximity to the ocean and the highly corrosive salt air, providing garages for vehicle storage is more of a necessity than a luxury.

This criterion has been met.

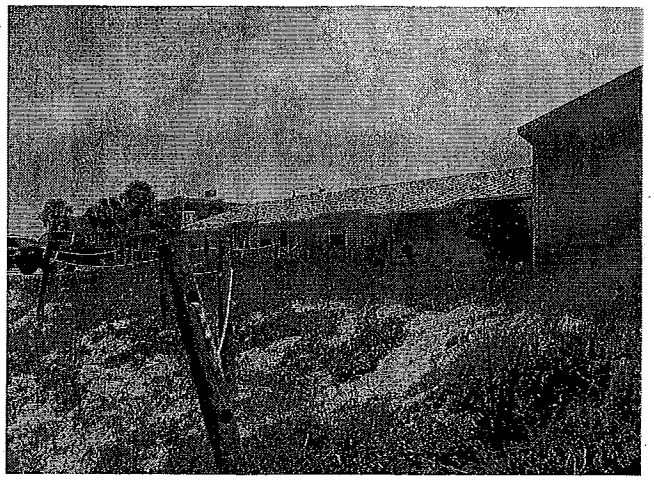
III. Recommendation

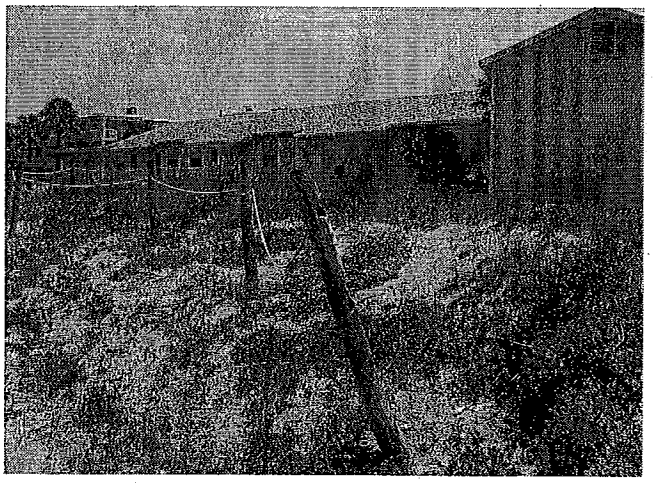
Because the request meets all of the variance criteria, staff recommends **approval** of the following variances:

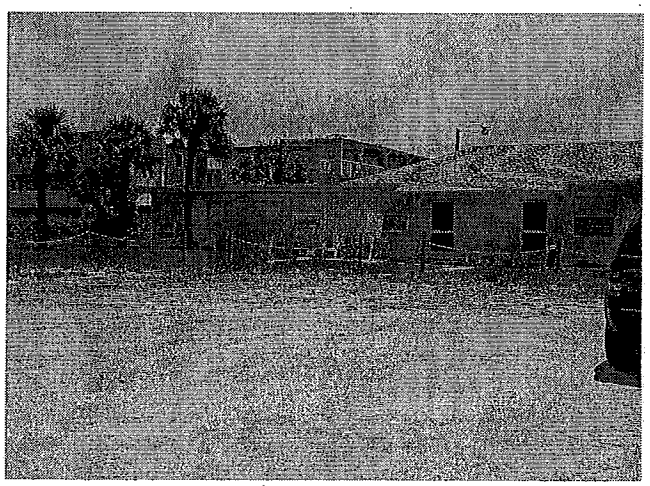
1. Approval of a 30-foot front yard setback variance from the minimum required 30-foot front yard setback along Esther Street, to allow a six-unit garage building with one living unit to be placed zero feet from the north property line.

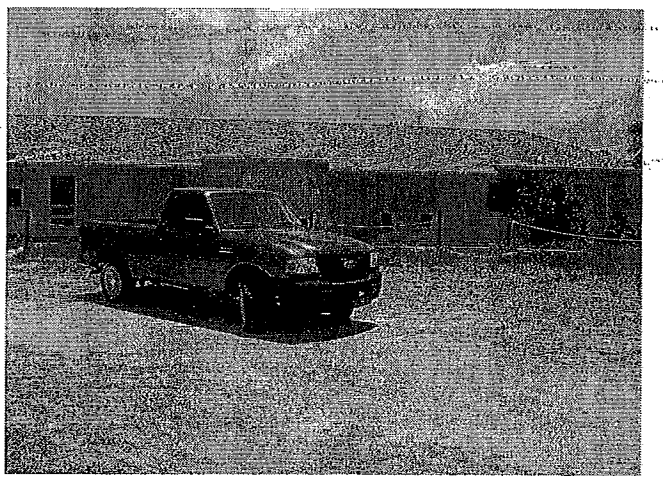


CASE #: V-8-11: OCEANVIEW CONDO / 207 NORTH ATLANTIC AVENUE
PLANNING AND ZONING BOARD MEETING DATE: AUGUST 1, 2011

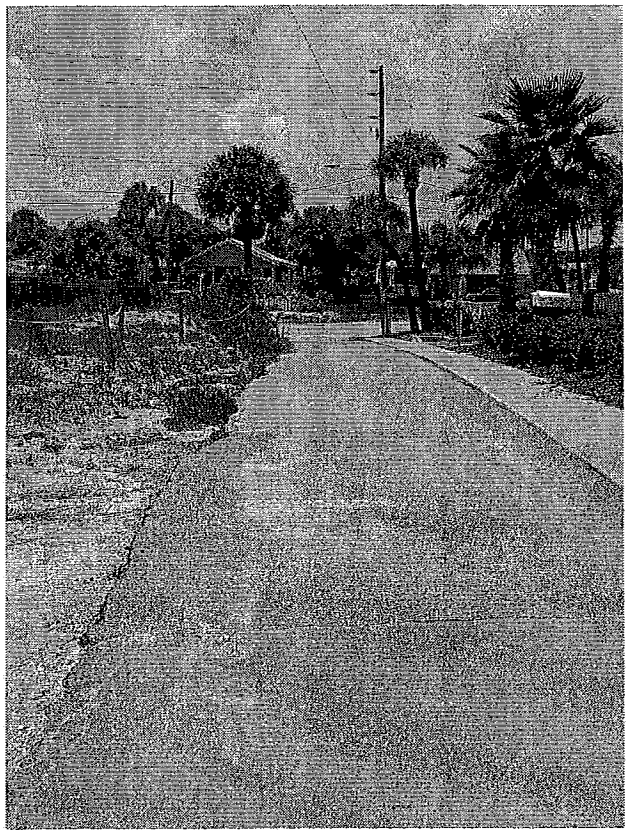








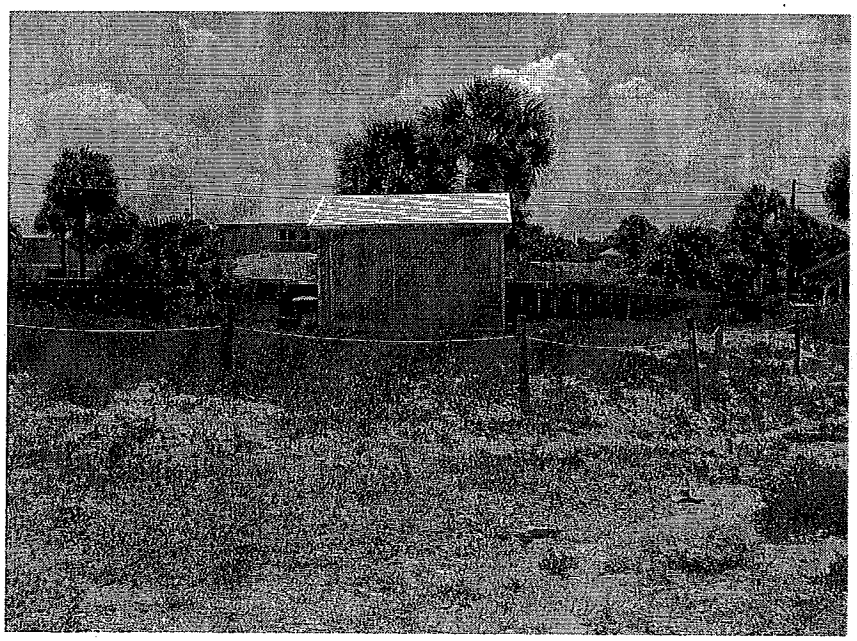
Views of the existing multi-family residential building and existing concrete walls on North Atlantic Avenue

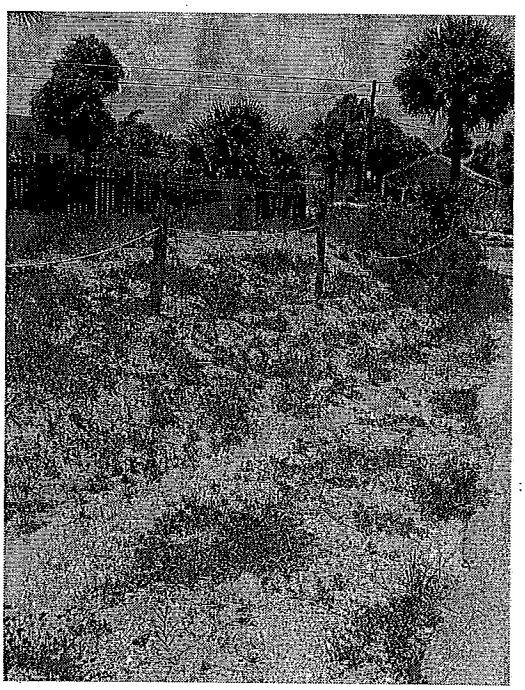


Esther Street, looking west. Subject property on left.

Esther Street, looking east. Subject property on right.

La Playa Townhomes, immediately north of subject property





Proposed garage area

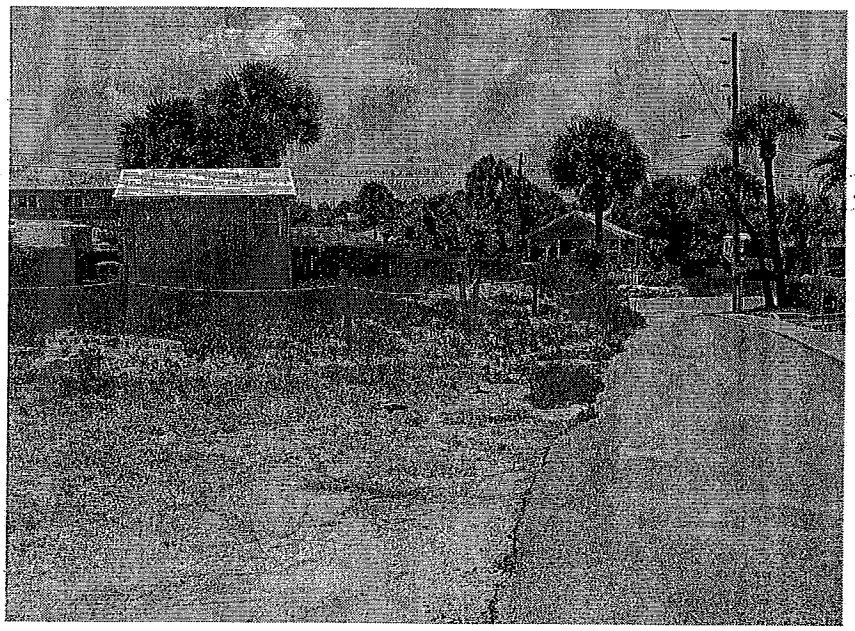
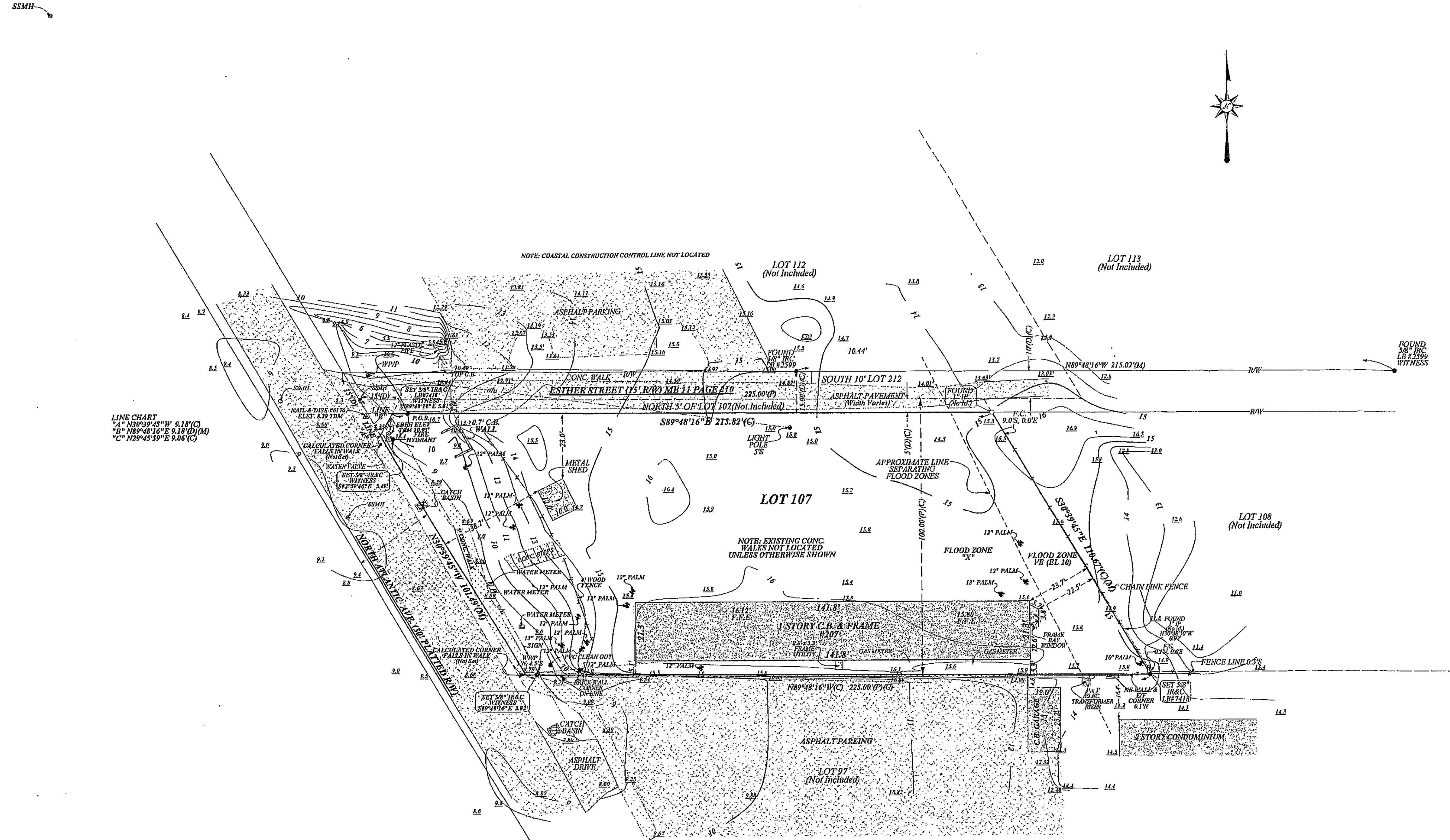


EXHIBIT C

~BOUNDARY SURVEY~NEW SMYRNA BEACH~VOLUSIA COUNTY~FLORIDA~



LEGAL DESCRIPTION:
LOT 107, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, SECTION 55, TOWNSHIP 17 SOUTH, RANGE 34 EAST AS PER MAP IN MAP BOOK 3, PAGE 150, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, EXCEPTING THEREFROM THE NORTHERLY 5 FEET OF SAID LOT 107, ALSO EXCEPTING THE TRIANGLE IN THE NORTHWEST CORNER OF SAID LOT DESCRIBED AS FOLLOWS: BEGINNING AT A POINT FIFTEEN FEET EASTERLY OF THE INTERSECTION OF THE NORTH LINE OF LOT 107 WITH ATLANTIC AVE IN THE CITY OF NEW SMYRNA BEACH, THENCE WESTERLY FIFTEEN FEET TO SAID INTERSECTION; THENCE SOUTHERLY FIFTEEN FEET ALONG ATLANTIC AVENUE AND THE WESTERLY BOUNDARY OF SAID LOT 107, THENCE TO POINT OF BEGINNING.

1" = 20'
GRAPHIC SCALE IN FEET
0' 10' 30'

Note:
The Boundary survey depicted hereon is certified to and prepared for the sole and exclusive benefit of the entities and of individuals shown hereon, valid on the most current date shown hereon, and shall not be relied upon by any other entity or individual whomsoever.

THE SURVEY DEPICTED HEREON IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER

SURVEYORS NOTES: 1) NO INSTRUMENTS OF RECORD DISPLAYING EASEMENTS, RIGHT-OF WAYS AND OR OWNERSHIP WERE FURNISHED TO THIS SURVEYOR EXCEPT WHERE SHOWN. 2) THE SURVEY DEPICTED HEREON IS SUBJECT TO ANY ADDITIONAL RECORDS THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. 3) NO UNDERGROUND INSTALLATIONS, CONCRETE FOOTERS, AND OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT WHERE SHOWN. 4) THE TERM CERTIFIED IS THE PROFESSIONAL OPINION OF THIS SURVEYOR AND DOES NOT CONSTITUTE A GUARANTEE OR WARRANTY EITHER EXPRESSED OR IMPLIED. 5) ADJOINING PROPERTY DESCRIPTIONS WERE NOT FURNISHED TO THIS SURVEYOR EXCEPT WHERE SHOWN. 6) THIS SURVEY IS SUBJECT TO ANY FACTS DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH. THIS SURVEY IS CERTIFIED BASED ON THE SURVEY DATE AND NOT ON THE DATE OF SIGNATURE 7) UTILITY EQUIPMENT OR MACHINERY BOTH ABOVE AND BELOW GROUND NOT LOCATED UNLESS SHOWN. 8) FENCES PHYSICAL RELATION TO PROPERTY LINES AND OR OTHER FEATURES EXAGGERATED FOR CLARITY. 9) THE PROPERTY DEPICTED IN THIS SURVEY IS SUBJECT TO ANY RESTRICTIONS, RESERVATIONS, LIMITATIONS, EASEMENTS AND RIGHT OF WAYS, WHETHER RECORDED OR NOT. 10) IF LOCATION OF EASEMENTS OR RIGHT-OF-WAY OF RECORD, OTHER THAN THOSE ON RECORD PLATS, IS REQUIRED, THIS INFORMATION MUST BE FURNISHED TO THE SURVEYOR AND MAPPER, PER FLORIDA STATUES RULE 61G17-6.0031(4)(c) 11) THIS SURVEYOR OR FIRM, DOES NOT ASSUME RESPONSIBILITY AND SHALL NOT BE LIABLE FOR CLAIMS ARISING FROM ERRONEOUS OR INCORRECT INFORMATION FURNISHED BY THE OWNER, LENDER, OR OWNERS CONTRACTORS OR OTHERS, WHICH IS USED TO FORMULATE THIS SURVEYORS OPINION. THIS SURVEYOR HAS NOT BEEN CONTRACTED TO PERFORM ANY TITLE SEARCH OF PUBLIC RECORDS AND HAS NOT DONE SO. ONLY VISIBLE EVIDENCE OF POSSIBLE EASEMENTS WERE SHOWN UNLESS PROVIDED BY CLIENT OR REPRESENTATIVES OF CLIENT, OR UNLESS SHOWN ON THE PLAT OF RECORD.

SURVEYORS NOTES:
1) DISTANCES REFER TO PLAT OF RECORD AND PROVIDED LEGAL
2) BASIS OF BEARINGS REFER TO THE NORTH R/W LINE OF ESTHER STREET BEING N89°48'16"W
3) ELEVATIONS AND DISTANCES SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF
4) THE CERTIFICATION OF THIS SURVEY REFERS TO THE FIELD SURVEY DATE
5) LEGAL DESCRIPTION PROVIDED BY CLIENT
6) ELEVATIONS REFER TO USC&GS MONUMENT DUSS RM 2 10.69 FEET PUBLISHED ELEVATION

CHECKED BY: BJP
DRAWN BY: BJP
FILED IN: PARTY CHIEF: LBP
SURVEY DATE: 03/10/2009
SHEET 1 OF 1
FORESIGHT FILE:
VECTOR WORKS FILE:
SURVEY TYPE: BOUNDARY AND TOPOGRAPHICAL AND SPECIFIC PURPOSE FLOOD ZONE CLASSIFICATION

SUBJECT AREA LIES IN FLOOD ZONES "X" & VE (EL 10) (AREAS OF MINIMAL FLOODING) PER FEDERAL EMERGENCY MANAGEMENT AGENCY FIRM FLOOD ZONE DETERMINED BY SCALING FROM FLOOD INSURANCE RATE MAPS COMMUNITY # 125132, PANEL #542 SUFFIX G, DATED APRIL 15, 2002. MAP NUMBER 12127C052 G

PREPARED BY:
BERRY JOE PAYNE SURVEYOR, INC.
LB #7418
PROFESSIONAL SURVEYOR AND MAPPER LS #5846
2120 Unit 2A S. Ridgewood Ave., Edgewater, Florida 32141
Phone (386) 409-5388 Fax (386) 409-5443

I THE UNDERSIGNED HEREBY CERTIFY THIS PLAT TO BE A TRUE REPRESENTATION OF A FIELD SURVEY MADE UNDER MY SUPERVISION AND MEETS OR EXCEEDS THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING IN THE STATE OF FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATUTES SUBJECT TO ALL NOTES HEREON.

04-06-2009
BERRY JOE PAYNE LS# 5846 DATE SIGNED

This Plat Is Certified To:
1)

LEGEND AND ABBREVIATIONS DENOTES FENCE -X--X--X- WM - WATER METER AC - AIR CONDITIONER FH - FIRE HYDRANT CATV - CABLE TELEVISION FND - FOUND PI - POINT OF INTERSECTION EF - END OF FENCE CONC - CONCRETE RES - RESIDENCE CW - CONCRETE WALK CB - CONCRETE BLOCK CM - CONCRETE MONUMENT CH- CHORD L/P - LIGHT POLE * - NOT SUBSTANTIATED BY FIELD MEASUREMENT (M) - MEASURED (P) DEED (D) PRM - PERMANENT REFERENCE MONUMENT C/L - CENTERLINE O/U - OVERHEAD UTILITY P/P - POWER POLE FC - FENCE CORNER CLF - CHAIN LINK FENCE IP - IRON PIPE L - LENGTH R - RADIAL (C) - CALCULATED P/L - PROPERTY LINE R/W - RIGHT-OF-WAY ID - IDENTIFICATION FR - FRAME (D) - DEED (PR) or (PRO) - PRO-RATE (NR) - NON RADIAL IR&C - IRON ROD AND CAP PCP - PERMANENT CONTROL POINT NGVD - NATIONAL GEODETIC VERTICAL DATUM USC&GS - UNITED STATES COASTAL AND GEODETIC SURVEY FLDNR or DNR - FLORIDA DEPARTMENT OF NATURAL RESOURCES CCCL - COASTAL ??????????? CONTROL LINE MHW - MEAN HIGH WATER DELTA - Δ MES - MITERED END SECTION INV - INVERT CMP - CORRUGATED METAL PIPE RCP - REINFORCED CONCRETE PIPE TYP - TYPICAL TELE U/G - TELEPHONE UNDERGROUND W/V - WATER VALVE BC - BUILDING CORNER TBM - TEMPORARY BENCHMARK L - LINE PC - POINT OF CURVATURE PT - POINT OF TANGENCY CRD - CHORD EL - ELEVATION RP - RADIUS POINT NRMH - NORTH RIM MANHOLE SRMH - SOUTH RIM MANHOLE MH - MANHOLE GR - GRADE WIT - WITNESS UG - UNDERGROUND NE - NORTHEAST NW - NORTHWEST SW - SOUTHWEST SE - SOUTHEAST N - NORTH S - SOUTH E - EAST W - WEST PALM - PALM TREE CBW - CONCRETE BLOCK WALL OR - OFFICIAL RECORD BOOK MB - MAP BOOK PG - PAGE SUB - SUBDIVISION CD - CONC DRIVE

PROPOSED ADDITION / RENOVATION FOR:

OCEAN VIEW CONDOMINIUMS

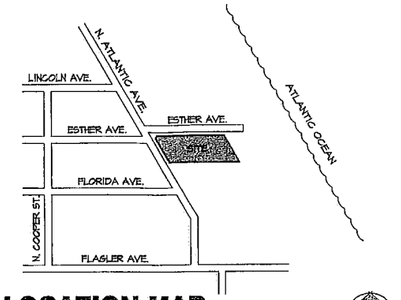
NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA

• ARCHITECT: THE MARKS ARCHITECTURAL GROUP, INC.
JAMES F. CUMMINS, AIA
45136 CASS AVE.
UTICA, MI 48317
(586) 726-0040

• SURVEYOR: BERRY JOE PAYNE SURVEYOR, INC.
BERRY JOE PAYNE
2120 UNIT 2A S. RIDGEWOOD AVE
EDGEWATER, FL 32141
(386) 409-5388

LEGAL DESCRIPTION

LOT 107, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, SECTION 55, TOWNSHIP 17 SOUTH, RANGE 34 EAST AS PER MAP IN MAP BOOK 3, PAGE 150, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, EXPECTING THEREFROM THE NORTHERLY 5 FEET OF SAID LOT 107, ALSO EXPECTING THE TRIANGLE IN THE NORTHWEST CORNER OF SAID LOT DESCRIBED AS FOLLOWS: BEGINNING AT A POINT FIFTEEN FEET EASTERLY OF THE INTERSECTION OF THE NORTH LINE OF LOT 107 WITH ATLANTIC AVENUE IN THE CITY OF NEW SMYRNA BEACH; THENCE WESTERLY FIFTEEN FEET TO SAID INTERSECTION; THENCE SOUTHERLY FIFTEEN FEET ALONG ATLANTIC AVENUE AND THE WESTERLY BOUNDARY OF SAID LOT 7; THENCE TO POINT OF BEGINNING.



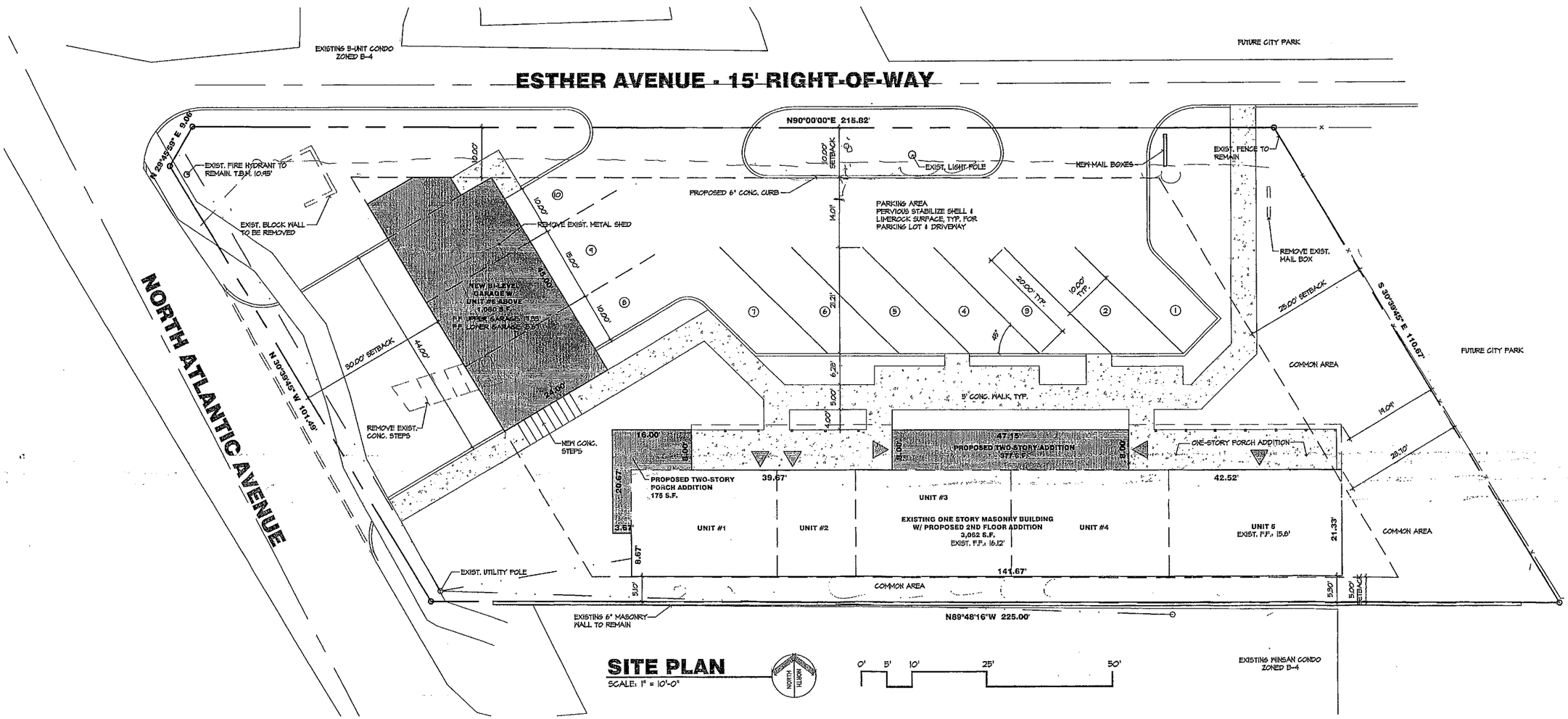
LOCATION MAP
NOT TO SCALE

SITE SUMMARY

BUILDING DATA:		
Existing Building:	3,062 sq. ft.	
Proposed Additions:		
First Floor:	552 sq. ft.	
Second Floor:	3,573 sq. ft.	
Third Floor	475 sq. ft.	
Total Condo Building:	7,662 sq. ft.	
Proposed Garage Building:	1,080x3 = 3,240 sq. ft.	
Total Building Area:	10,902 sq. ft.	
SITE DATA:		
Address:	207 N. Atlantic Ave.	
Use Group:	R-2 Multi-Family Residential	
Zoning District:	B-4 Ocean Commercial District	
Site Area:	21,750.26 sq. ft. (0.50 acres)	
Building Coverage:		
Existing Area:	3,062.00 sq. ft.	
Proposed Area:	1,632.00 sq. ft.	
Total Area:	4,694.00 sq. ft.	21.6%
Impervious Area:	8,437.63 sq. ft.	38.8%
Landscape Area:	8,618.63 sq. ft.	39.6%
1" Rainfall Calculation:	21,750.26 sq.ft.(0.0833) = 1,811.8 cu.ft. required	
Retention Provided:	1,925 cu. ft. in Parking Area	
Number of Units (Existing):	6	
Number of Units (Proposed):	6	
Density per acre:	12 units per acre	
Number of Employees:	0 persons	
Type of Ownership:	Condominiums	
PARKING DATA:		
Parking Required:	2 spaces per dwelling unit =	12 spaces
Parking Provided:		
Surface Spaces:		10 spaces
Garage Spaces:		6 spaces
Total Parking Provided:		16 spaces

SHEET INDEX

C-1	COVER SHEET / SITE PLAN
L-1	LANDSCAPE PLAN
A-1	FIRST AND SECOND FLOOR PLAN
A-2	EXTERIOR ELEVATIONS
A-1	FLOOR PLANS – GARAGE BUILDING
A-2	EXTERIOR ELEVATIONS – GARAGE BUILDING



SITE PLAN
SCALE: 1" = 10'-0"

0' 5' 10' 25' 50'

EXHIBIT D

RE	DATE	DO NOT DUPLICATE THIS DRAWING

THE MARKS ARCHITECTURAL GROUP INC. A.I.A.
architects • planners • project managers
45136 CASS AVE. • UTICA, MICHIGAN 48317 • (586) 726-0040

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SITE PLAN

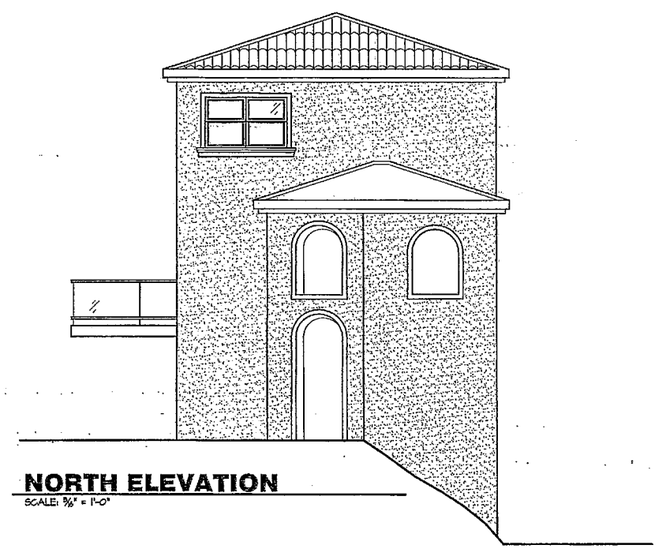
PROPOSED RENOVATION/ADDITION:
OCEAN VIEW CONDOMINIUMS
NEW SYMRNA BEACH, VOLUSIA COUNTY, FLORIDA

JOB NO: 07-1583
DATE: 03-16-09
DRAWN BY: E.K.
APPROVED BY: J.C.
SHEET NUMBER
C1
OF X SHEETS

EXHIBIT D (CONT'D)

WEST ELEVATION
SCALE: 3/16" = 1'-0"

EAST ELEVATION
SCALE: 3/16" = 1'-0"



NORTH ELEVATION
SCALE: 3/16" = 1'-0"

SOUTH ELEVATION
SCALE: 3/16" = 1'-0"

DATE	REVISIONS

THE MARKS ARCHITECTURAL GROUP INC. AIA
architects • planners • project managers
45298 CASS AVE • UTICA, MICHIGAN 48317 • (586) 726-0040

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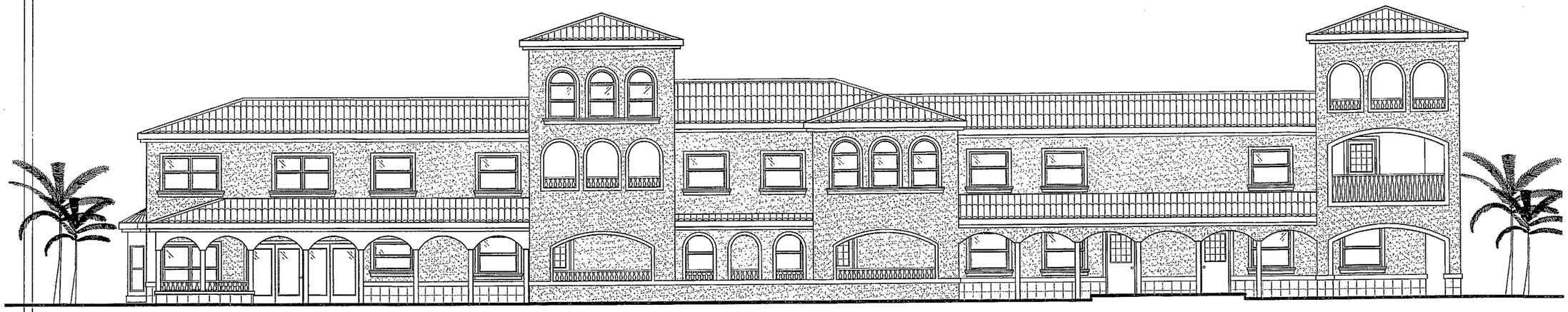
PRELIMINARY ELEVATIONS
GARAGE BUILDING

PROPOSED CONDOMINIUM RENOVATION:
OCEAN VIEW CONDOMINIUMS
NEW SYMRNA BEACH, VOLUSIA COUNTY, FLORIDA

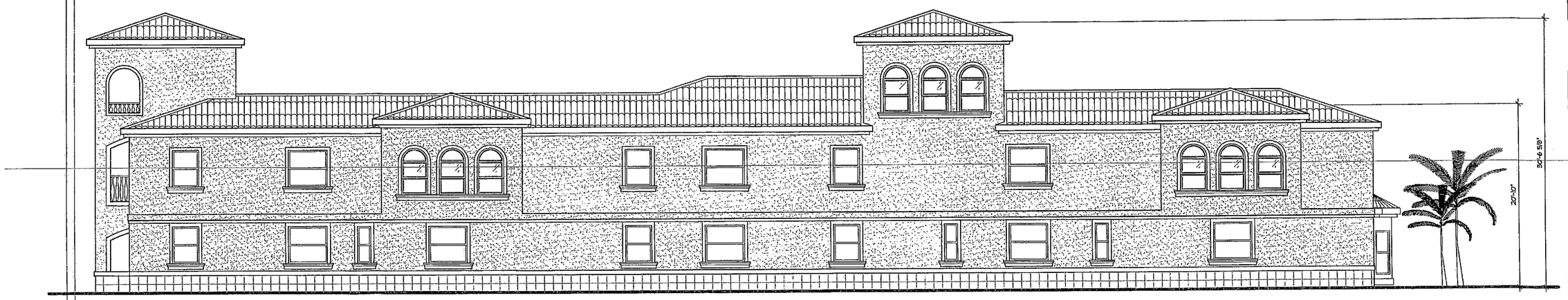
JOB NO: 07-5503
DATE: 10-10-07
DRAWN BY: E.K.
APPROVED BY: J.C.

SHEET NUMBER
A C-13
OF X SHEETS

EXHIBIT D (CONT'D)

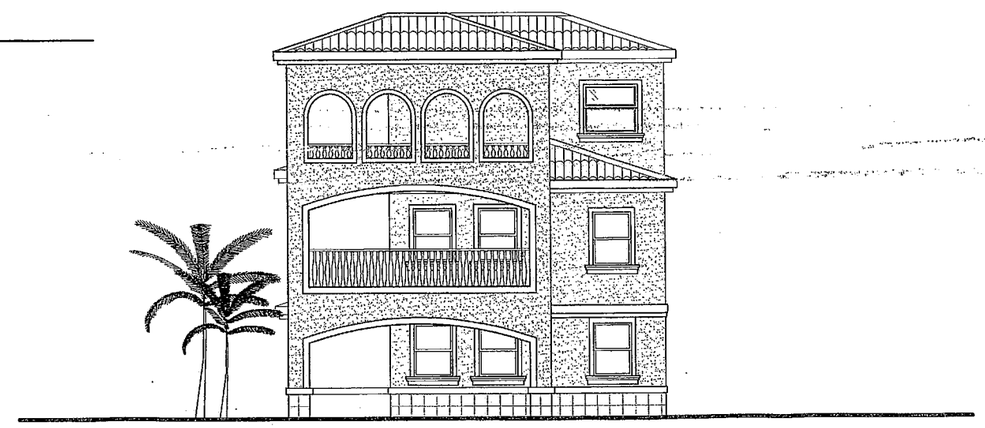


NORTH ELEVATION
SCALE: 3/16" = 1'-0"



SOUTH ELEVATION
SCALE: 3/16" = 1'-0"

EAST ELEVATION
SCALE: 3/16" = 1'-0"



WEST ELEVATION
SCALE: 3/16" = 1'-0"

REVISIONS	
DATE	ITEM

DO NOT SCALE DRAWINGS. USE FINAL DIMENSIONS FOR CONSTRUCTION

45136 CASS AVENUE
UTICA, MICHIGAN 48317
(586) 726-0040
FAX (586) 726-6684

the cummins group A.I.A.
architects ▫ planners ▫ consultants

PRELIMINARY ELEVATIONS

PROPOSED CONDOMINIUM RENOVATION:
OCEAN VIEW CONDOMINIUMS
NEW SYMRNA BEACH, VOLUSIA COUNTY, FLORIDA

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JOB NO. 07-1533
DATE: 10-10-07
DRAWN BY: E.K.
APPROVED BY: J.C.

SHEET NUMBER
A2
OF X SHT

CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-8-11: 1265 BOLTON ROAD / STEWART

AUGUST 1, 2011

I. Background

A. **Applicant and Property Owner:** Jack A. Stewart, 1265 Bolton Road, New Smyrna Beach

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

- **From:** County Future Land Use (FLU) designation of Urban Low Intensity; and County zoning R-4 – Urban Single Family Residential
- **To:** City FLU designation of Low Density Residential; and City zoning R-2, Single-Family Residential

C. **Site Information:**

- **Size:** 0.45 acres
- **Location:** The property is generally located on the east side of Bolton Road, approximately 275 feet south of Magnolia Drive. (see **Exhibit A** for a location map).
- **Tax I.D. Number: 7344-03-00-4600**

II. Findings

A. The subject property is an approximately 0.45-acre site that has been improved with a single family detached residence. A copy of the plat for the subject property is attached as **Exhibit B**. The property currently has a Volusia County Future Land Use (FLU) designation of Urban Low Intensity, which allows 0.2 to 4.0 units per acre. The property is currently zoned Volusia County R-4, Urban Single-Family Residential. The surrounding future land use, existing uses, and zoning are as follows:

North

Future Land Use:	County Urban Low Intensity, application in process for City Low Density Residential
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential, application in process for City R-2, Single-Family Residential

South

Future Land Use:	County Urban Low Intensity
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential

East

Future Land Use:	County Urban Low Intensity
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential

West

Future Land Use:	County Urban Low Intensity, application in process for City Low Density Residential
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential, application in process for City R-2, Single-Family Residential

Maps showing the surrounding Existing Land Uses, Existing Zoning, and Existing Future Land Use Designations are attached (**Exhibits C, D, and E**). Descriptions of the existing Future Land Use and existing Zoning designations on the subject property are attached as **Exhibits F and G**.

B. Previous City Commissions had established a policy that when property is annexed into the City, the City would assign a future land use and zoning designation that would closely match the existing County designations. As discussed above, the existing County FLU and zoning designations are Urban Low Intensity and R-4, Urban Single-Family Residential, respectively. The closest FLU that matches the existing County designation is Low Density Residential, with the County's designation allowing 4 units per acre and the City's allowing 5. Therefore, staff is proposing that the FLU be changed to City Low Density Residential and the zoning be changed to R-2, Single-Family Residential, which would be consistent with adjacent development in the City as well as the existing use. Maps showing the proposed zoning and FLU changes are attached as **Exhibits H and I**. Descriptions of the proposed zoning and FLU designations are attached as **Exhibits J and K.**

C. This parcel meets minimum lot dimensions for County R-4 zoning and for City R-2 zoning. City R-2 zoning requires a lot to have a minimum dimension of 75'x115'. The lot meets minimum square footage for City R-2 zoning.

D. This annexation request is within the City's annexation area and within the City's water and sewer service area. **Exhibit L** A 6" sewer force main is available approximately 450' west of this parcel in Waterford Estates Drive. Properties are required to connect to sewer if it is available within 100'. Water is available in Bolton Road.

E. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater

treatment, solid waste collection, stormwater management, and public school facilities. Because the property is already developed with a single-family residence and the proposed future land use and zoning designations would only allow one single-family residence on this lot, no concurrency impact analysis was completed.

F. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject properties into the *Comprehensive Plan* (see **Exhibits M through Z**). **Exhibit AA** is an aerial photo of the property for informational purposes.

G. The *Comprehensive Plan* provides some guidance on annexations, future land use amendments, and rezonings. The following is a list of objectives in the *Comprehensive Plan* that support this proposal. Following each objective is a comment in ***bold italics***.

- **Future Land Use Element Objective 1:** To ensure that future development will be consistent with adjacent uses, natural limitations such as topography and soil conditions, the needs of the citizens of New Smyrna Beach, the Future Land Use Map, the availability of facilities and services, and the goals, objectives and policies contained within this *Comprehensive Plan*.

  The requested FLU designation for the subject property is consistent with proposed adjacent uses, natural limitations, and the availability of facilities and services. Therefore, it is consistent with the* Comprehensive Plan. *The property is bordered by low density single-family residential lands.

- **Future Land Use Element Objective 2:** To provide adequate services and facilities for future development, at the adopted level-of-service standard. In order to maintain the adopted level-of-service standard, development orders and permits will be conditioned on the availability of the public facilities and services necessary to serve the proposed development.

  ***The proposed future land use amendment will not increase density in this area. The parcel that would allow for a single family residence per County regulations would become a parcel that would allow for a single family residence per City regulations. Therefore, the request is consistent with the* Comprehensive Plan.**

- **Future Land Use Element Objective 7:** To implement land use patterns, utility service extensions, impact fees and an annexation methodology, which provide for orderly development and discourage urban sprawl.

The future land use amendment and assigned zoning district would continue the established City practice and the existing development pattern of the area and are in compliance with the Comprehensive Plan

- **Future Land Use Element Objective 10:** To protect existing desirable neighborhoods from encroaching new development which is incompatible and inconsistent with established character of the neighborhood

The future land use amendment and assigned zoning district would continue the established City practice and the existing development pattern of the area and are in compliance with the Comprehensive Plan

III. Recommendation

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

EXHIBIT A

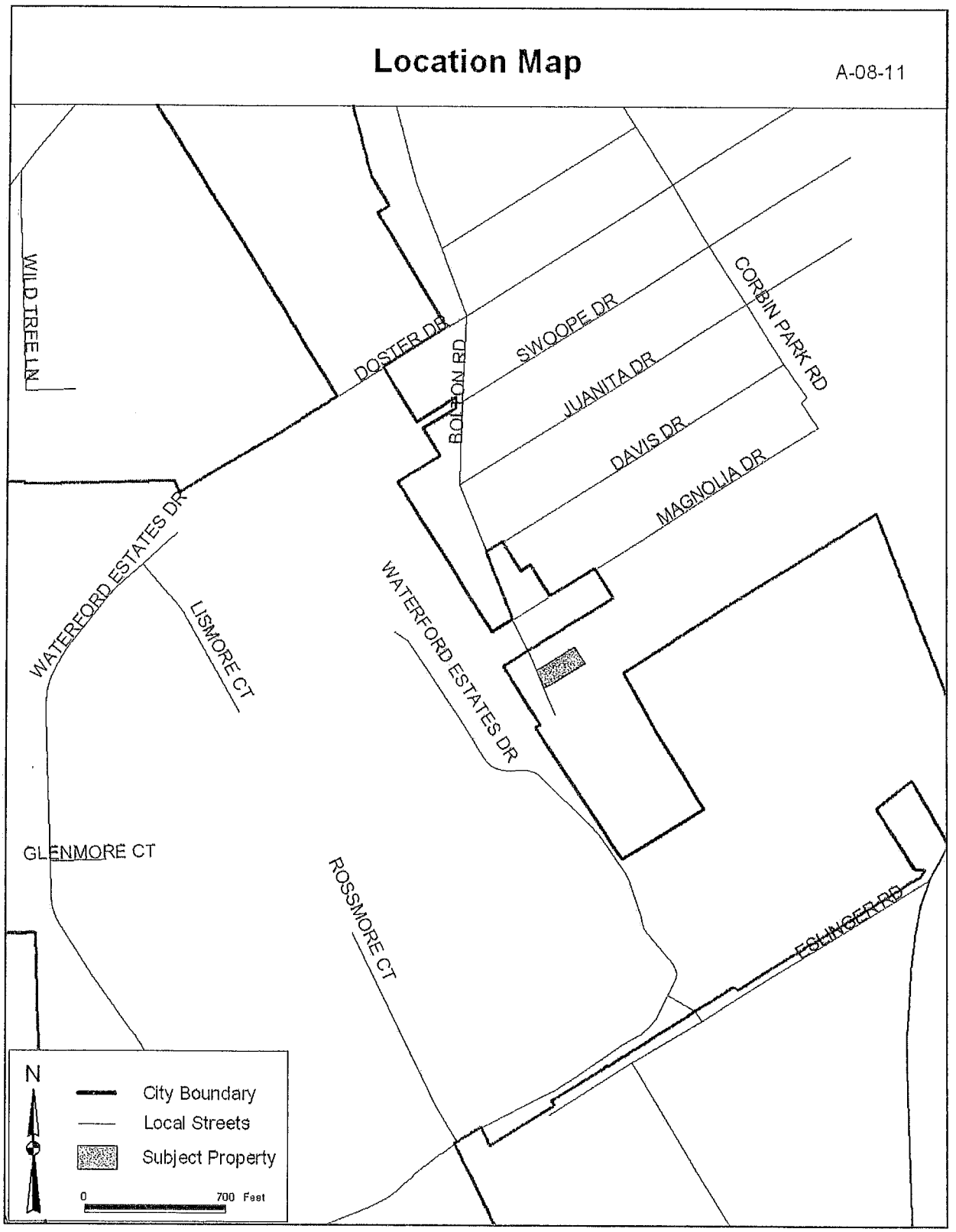

Location Map
A-08-11
WILD TREE LN
DOSTER DR
BOLTON RD
SWOOPE DR
JUANITA DR
DAVIS DR
MAGNOLIA DR
CORBIN PARK RD
WATERFORD ESTATES DR
LISMORE CT
WATERFORD ESTATES DR
GLENMORE CT
ROSSMORE CT
FSLINGER RD
N
City Boundary
Local Streets
Subject Property
0
700 Feet

EXHIBIT B

Subject Parcel

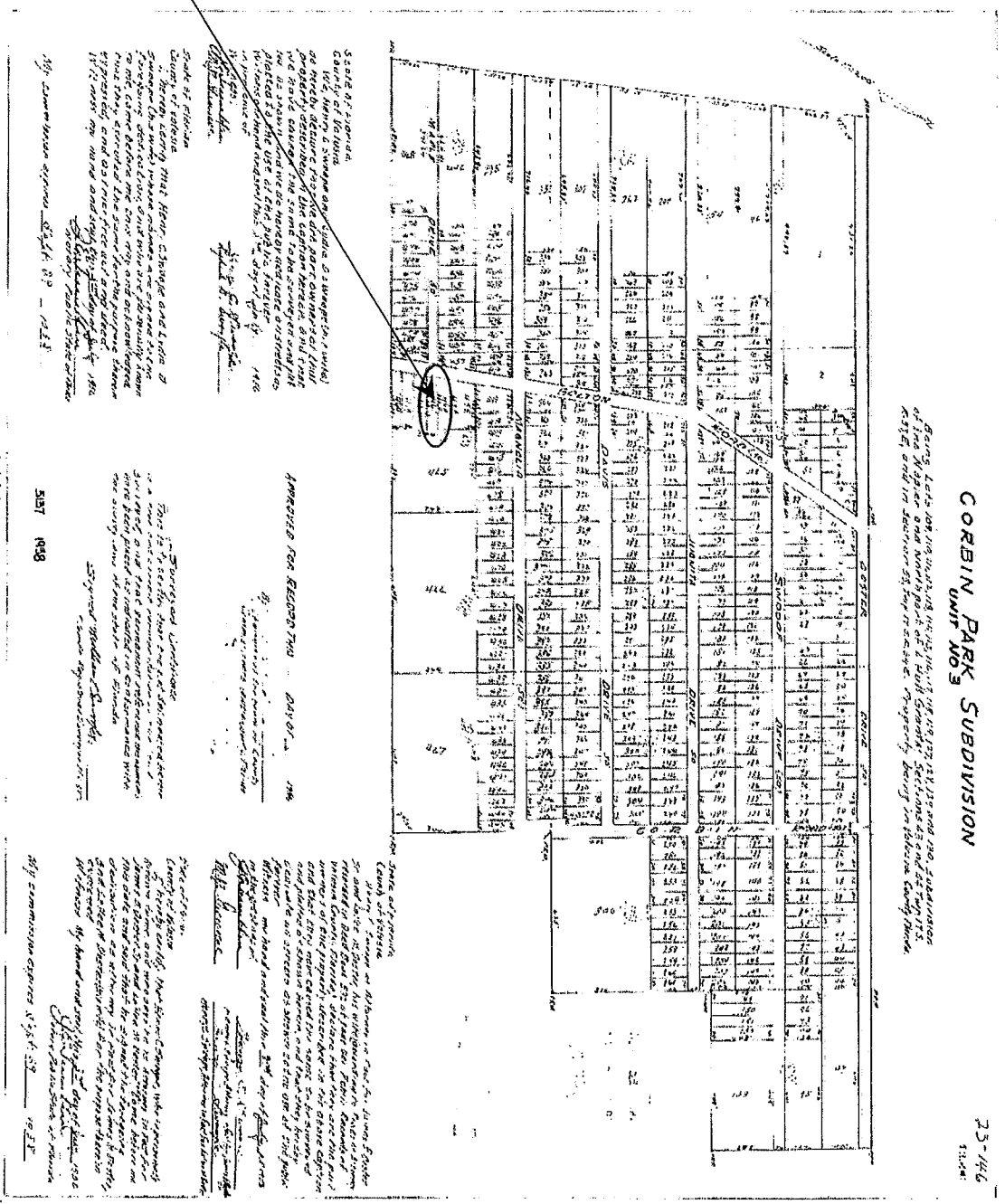


EXHIBIT C – EXISTING USES

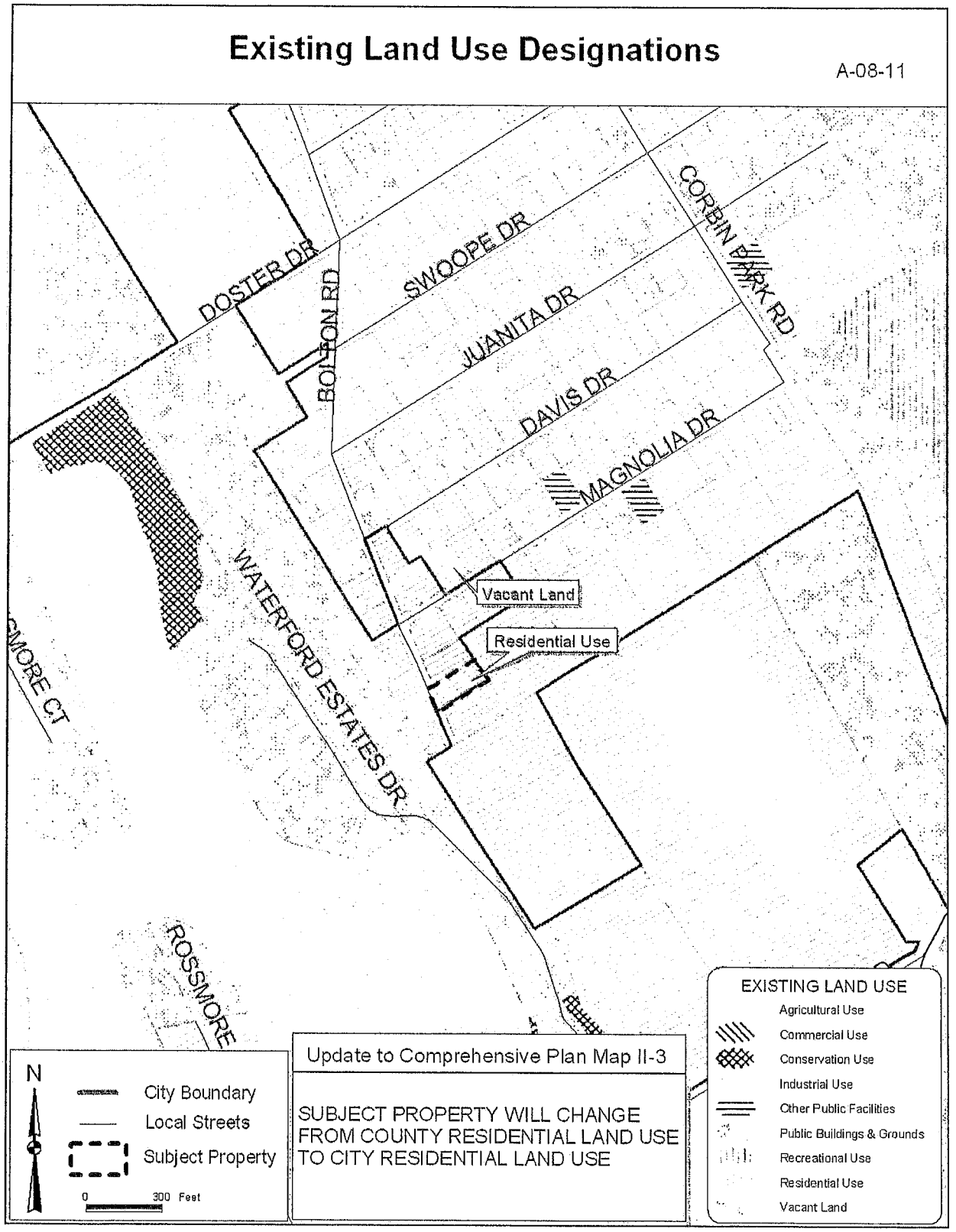


EXHIBIT D – EXISTIING ZONING

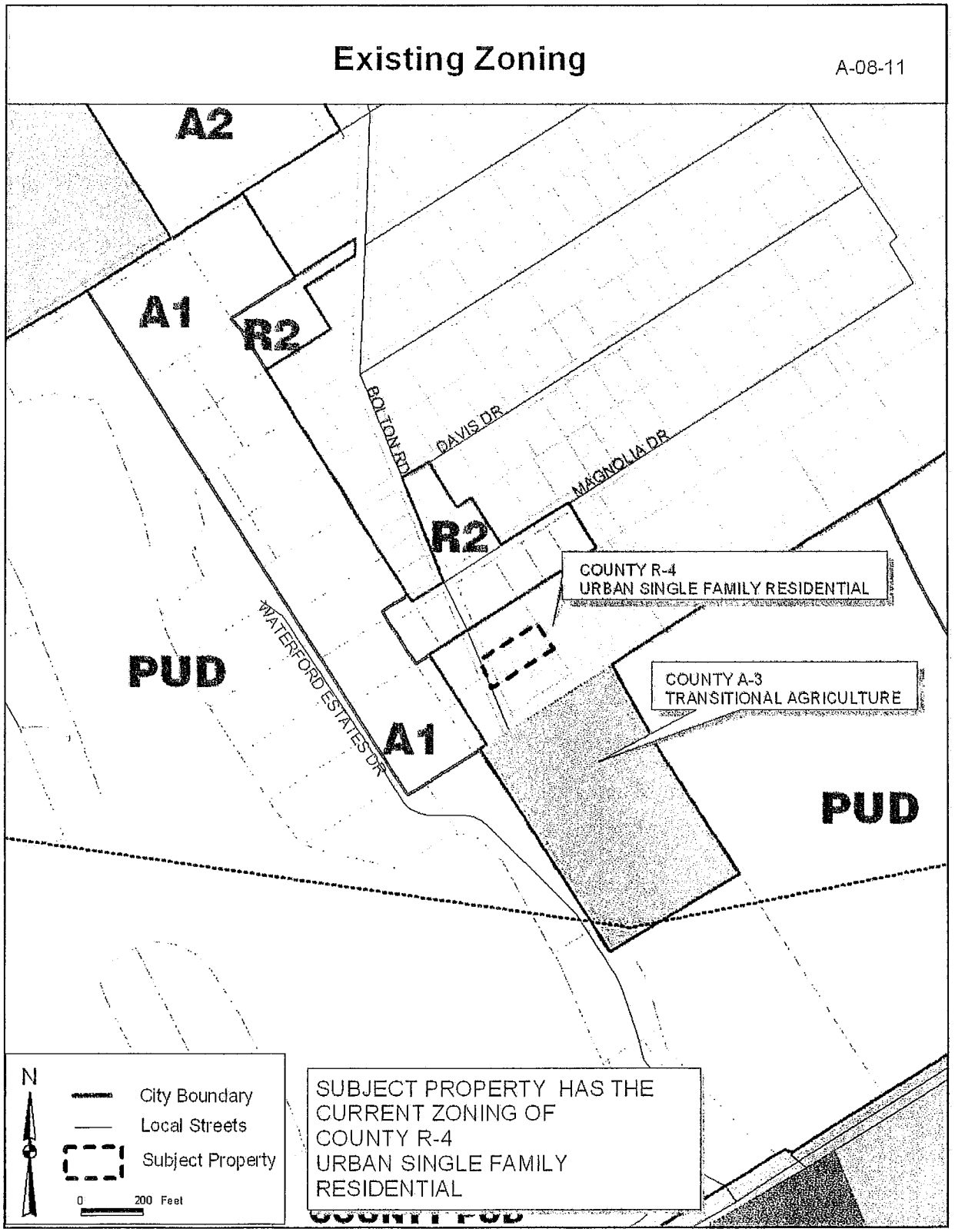
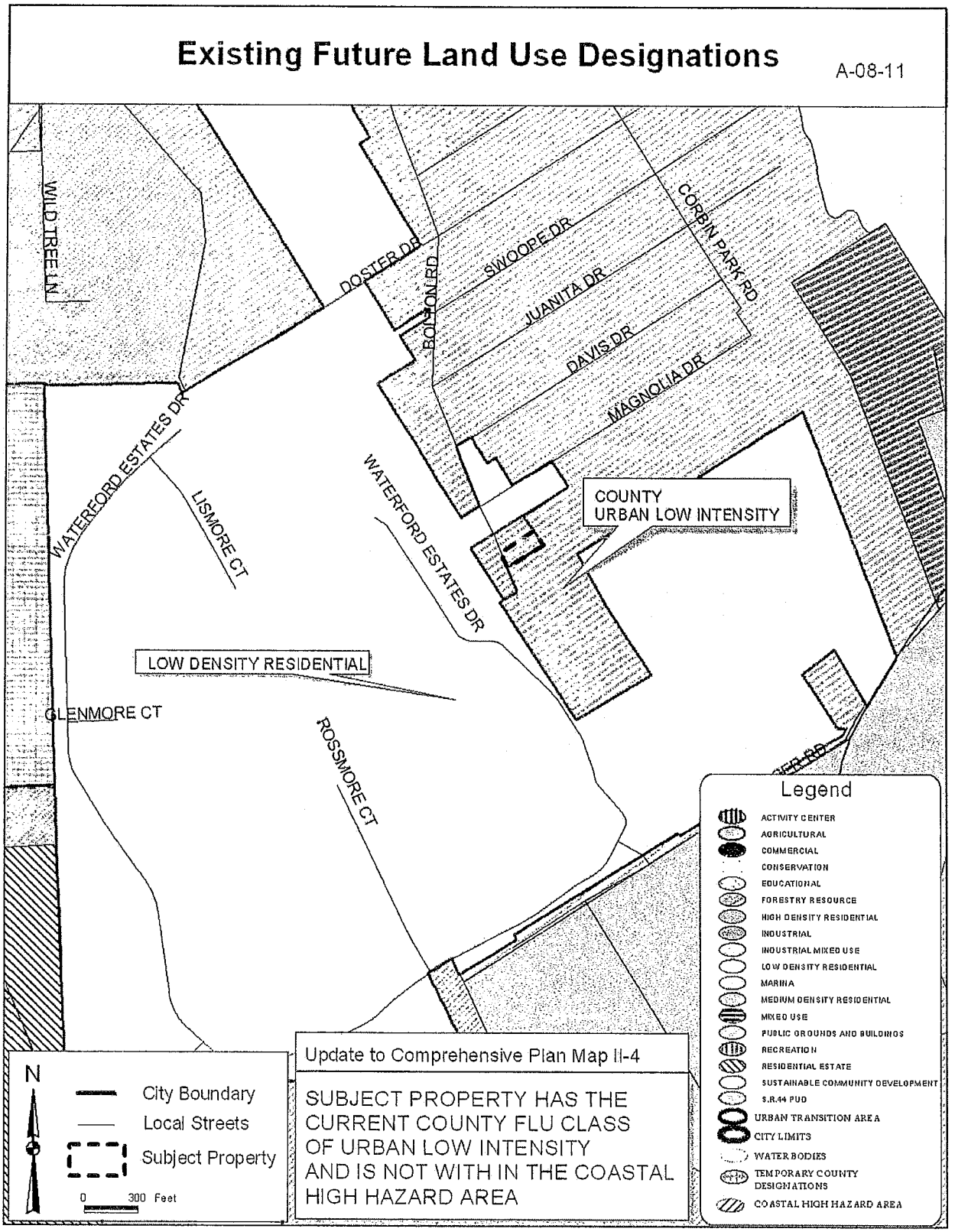


EXHIBIT E – EXISTIING FUTURE LAND USES

175



176

EXHIBIT F – DESCRIPTION OF EXISTING FUTURE LAND USE

Urban Low Intensity (ULI)

Areas for low density residential dwelling units with a range of two-tenths (0.2) to four (4) dwelling units per acre. In reviewing rezoning requests, the specific density will depend on locational factors, particularly compatibility with adjacent uses and availability of public facilities.

This residential designation is generally characterized by single family type housing, e.g., single family detached and attached, cluster and zero lot line. This designation will allow existing agricultural zoning and uses to continue.

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

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

EXHIBIT G – DESCRIPTION OF EXISTING ZONING

R-4 URBAN SINGLE-FAMILY

RESIDENTIAL CLASSIFICATION

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

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

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

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

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

Dimensional requirements:

Minimum lot size:

- Area: 7,500 square feet.

Width: 75 feet. *Minimum yard size:*

EXHIBIT G – DESCRIPTION OF EXISTING ZONING

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

Maximum building height: 35 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 850 square feet.

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

EXHIBIT H- PROPOSED ZONING

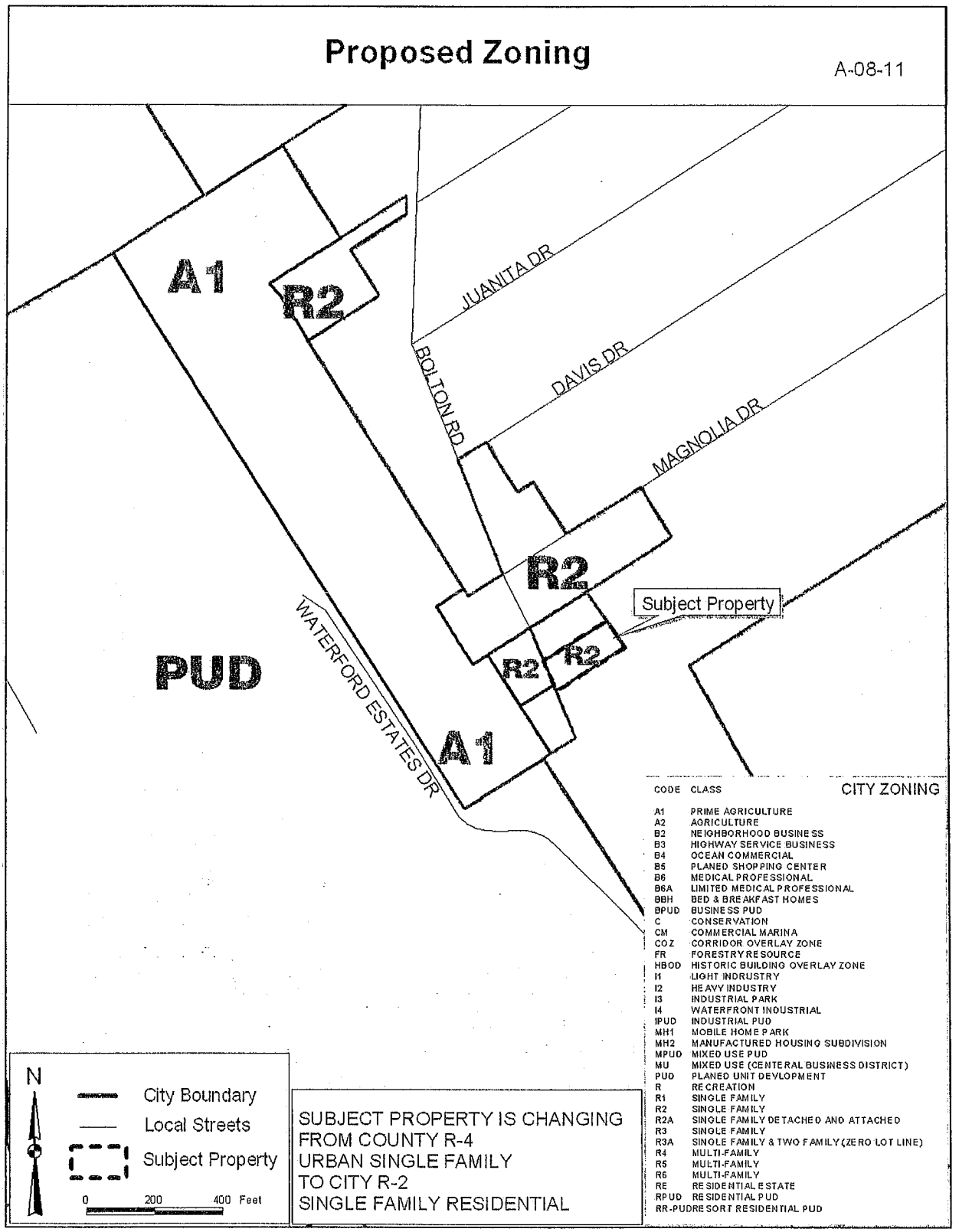


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EXHIBIT I – PROPOSED FUTURE LAND USE DESIGNATION

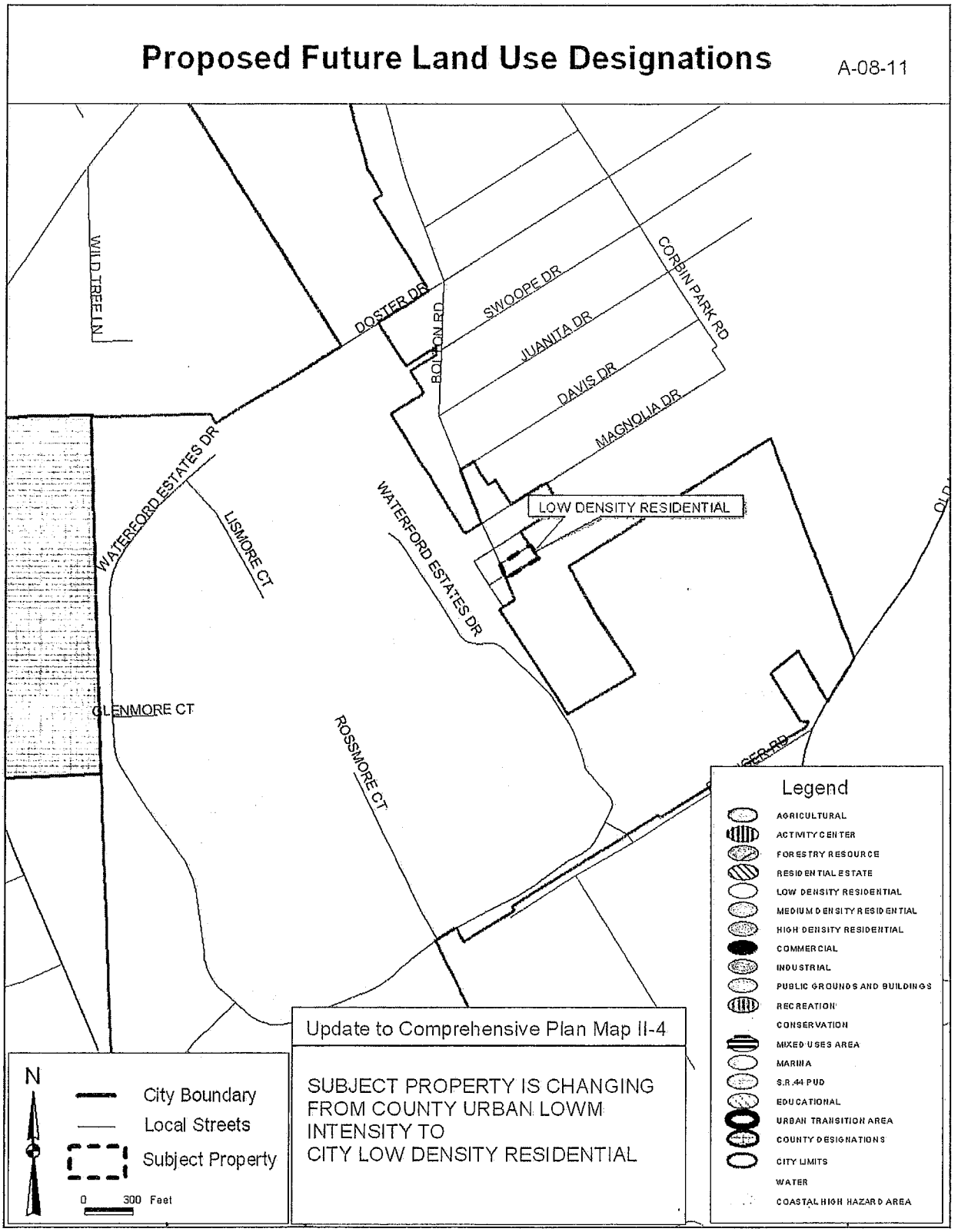

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EXHIBIT J – DESCRIPTION OF PROPOSED ZONING

R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

Intent:

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

Permitted Uses:

Playfields
Playgrounds
Public Parks
Recreation Buildings and Complexes for exclusive use by residents and guests in a residential development
Single Family Dwelling Units

Permitted Accessory Uses:

Garages
Gazebos
Incidental Uses
Permitted Home Occupations
Storage Sheds
Swimming pools, private, provided a principal use exists and the pool is located to the rear of the principal structure and out of required rear and side yards
Uses customarily associated with the permitted principal uses

[Revised 4/9/02]

Special Exceptions:

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

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

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

3. Play areas shall be located within all applicable setback dimensions.

4. The church property shall have a vehicular drop off and pickup area with a minimum 100 feet of drive lane outside of the public right-of-way, or sufficient parking area to provide enough space to fit the required parking and provided space for drop off and pick up. [Ord. No. 4-00]

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

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

EXHIBIT K – DESCRIPTION OF PROPOSED FUTURE LAND USE

Low-Density Residential
Maximum allowed density: Up to five [5] dwelling units per acre
Intent: This use is appropriate where a more suburban development pattern exists or is desired and where urban services are to be kept to a minimum

323

EXHIBIT L - WATER AND SEWER SERVICE AREA

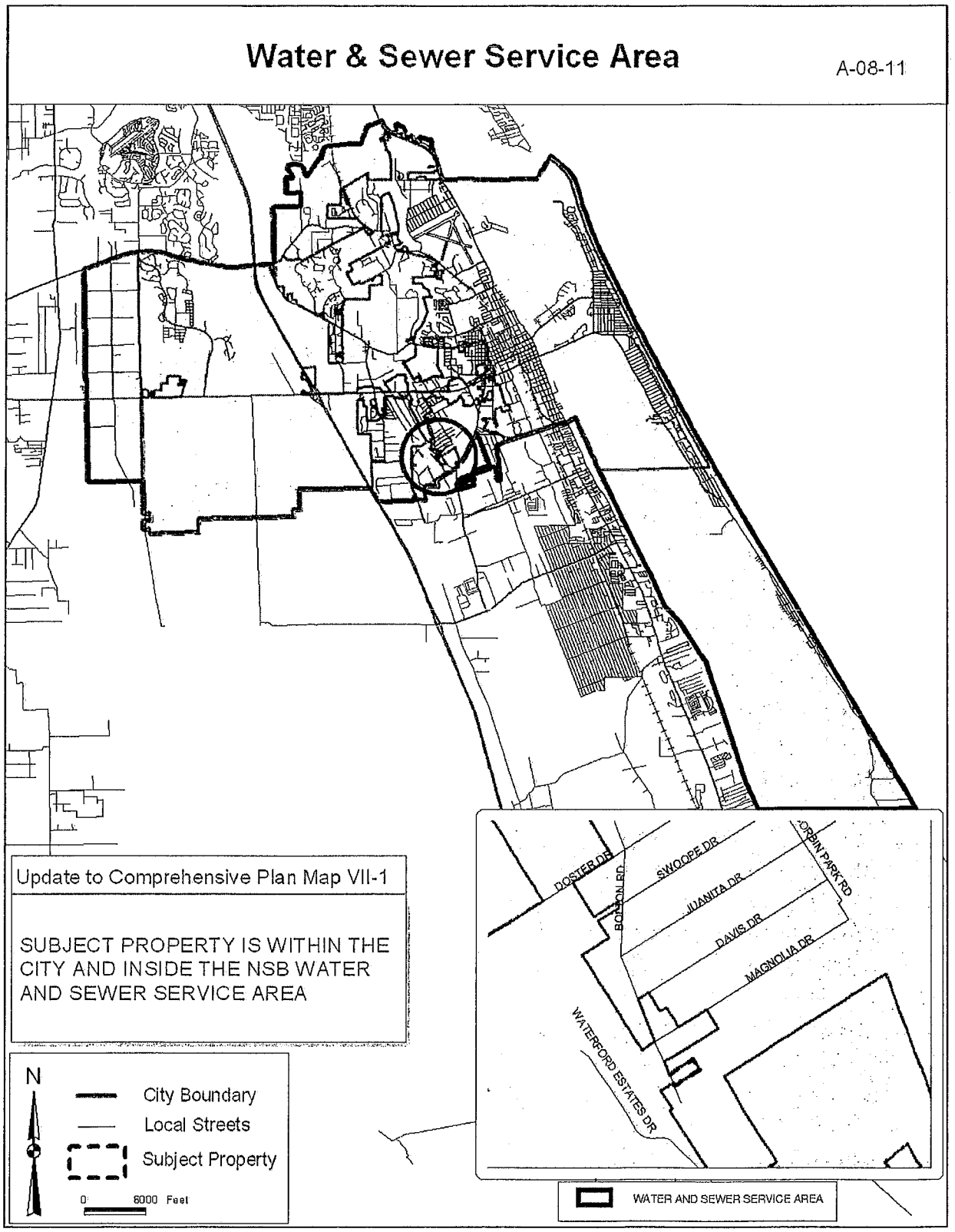
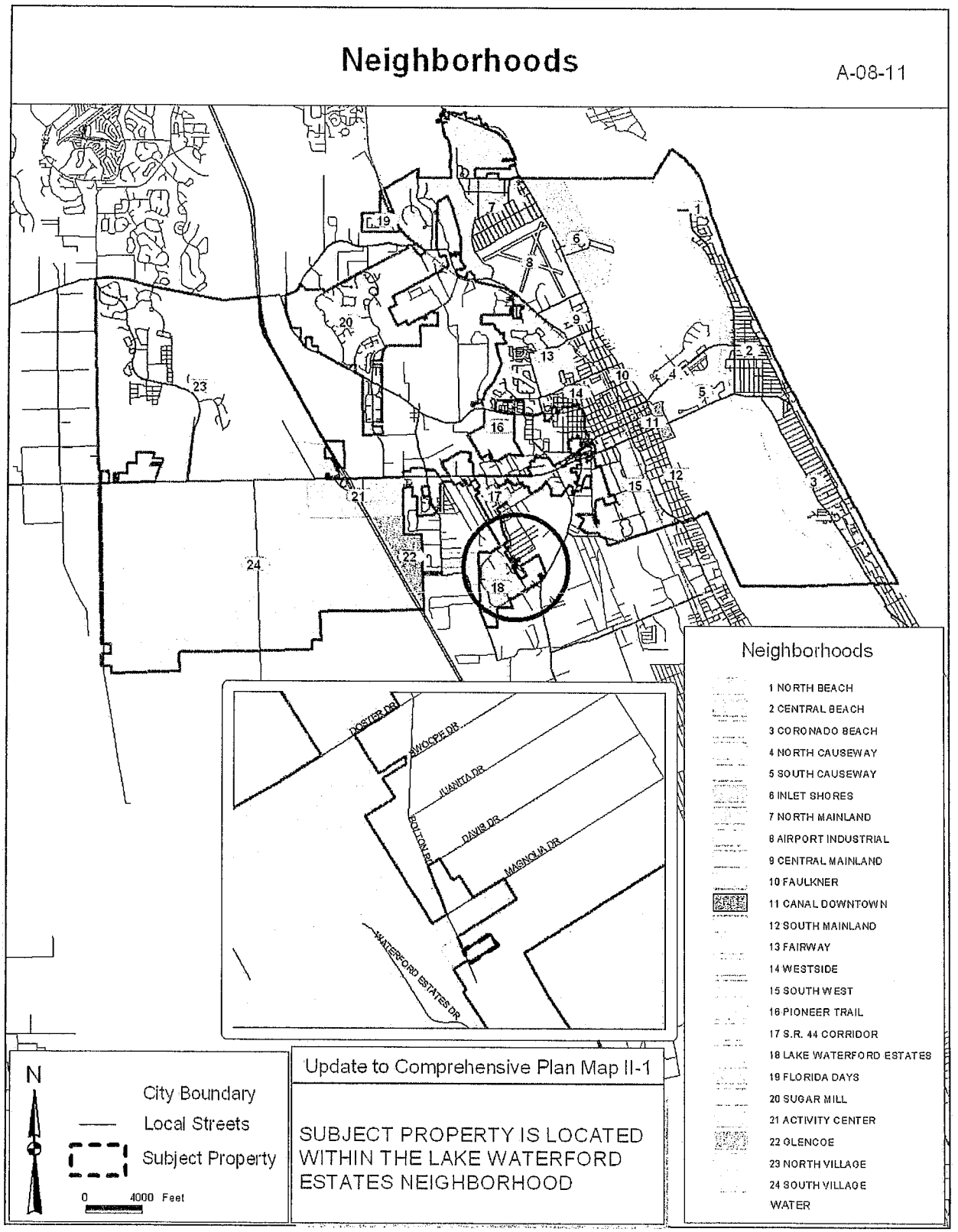


EXHIBIT M- NEIGHBORHOODS



325

EXHIBIT N – FLOOD PRONE AREAS

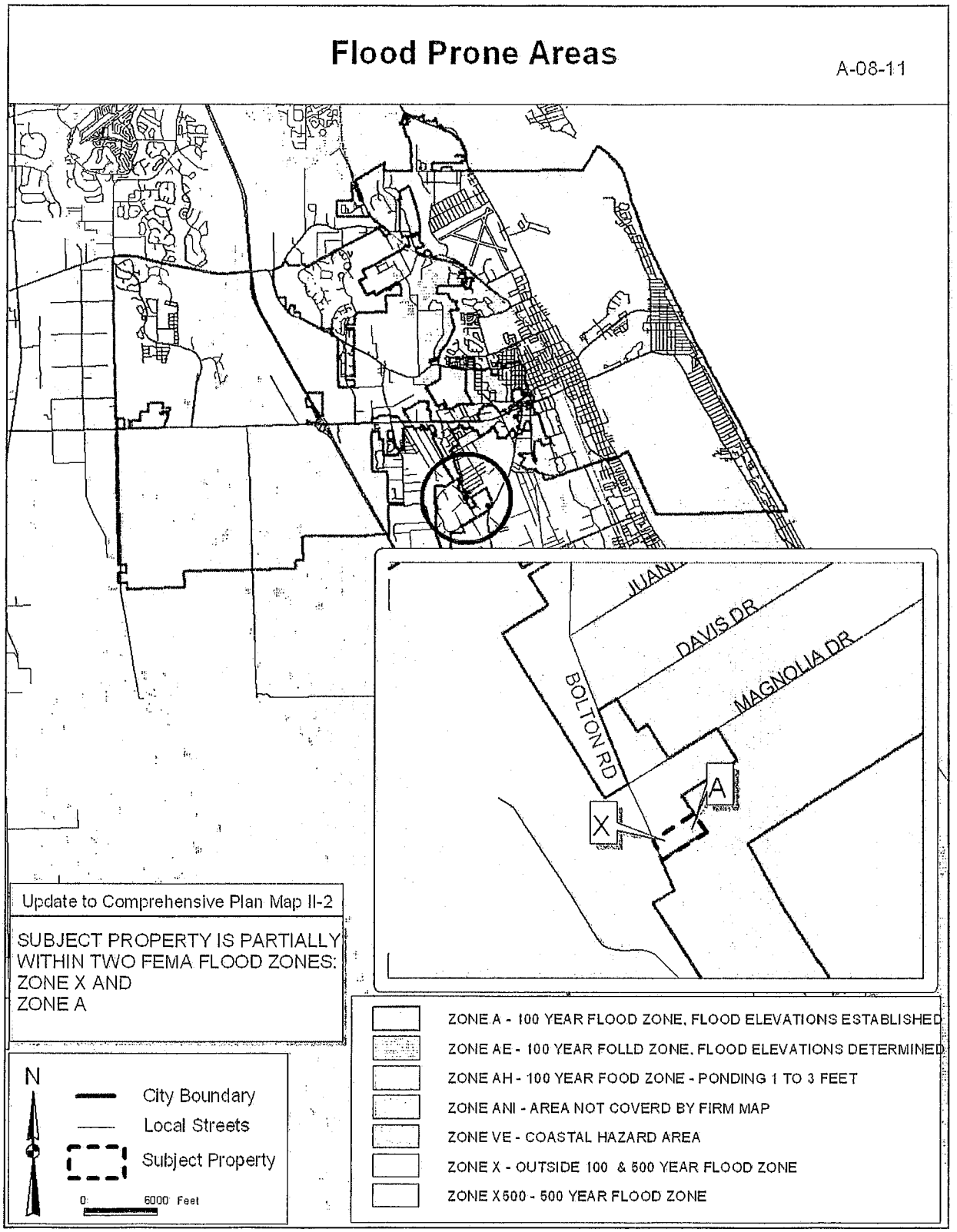


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EXHIBIT O – 2009 EXISTING LEVEL OF SERVICE

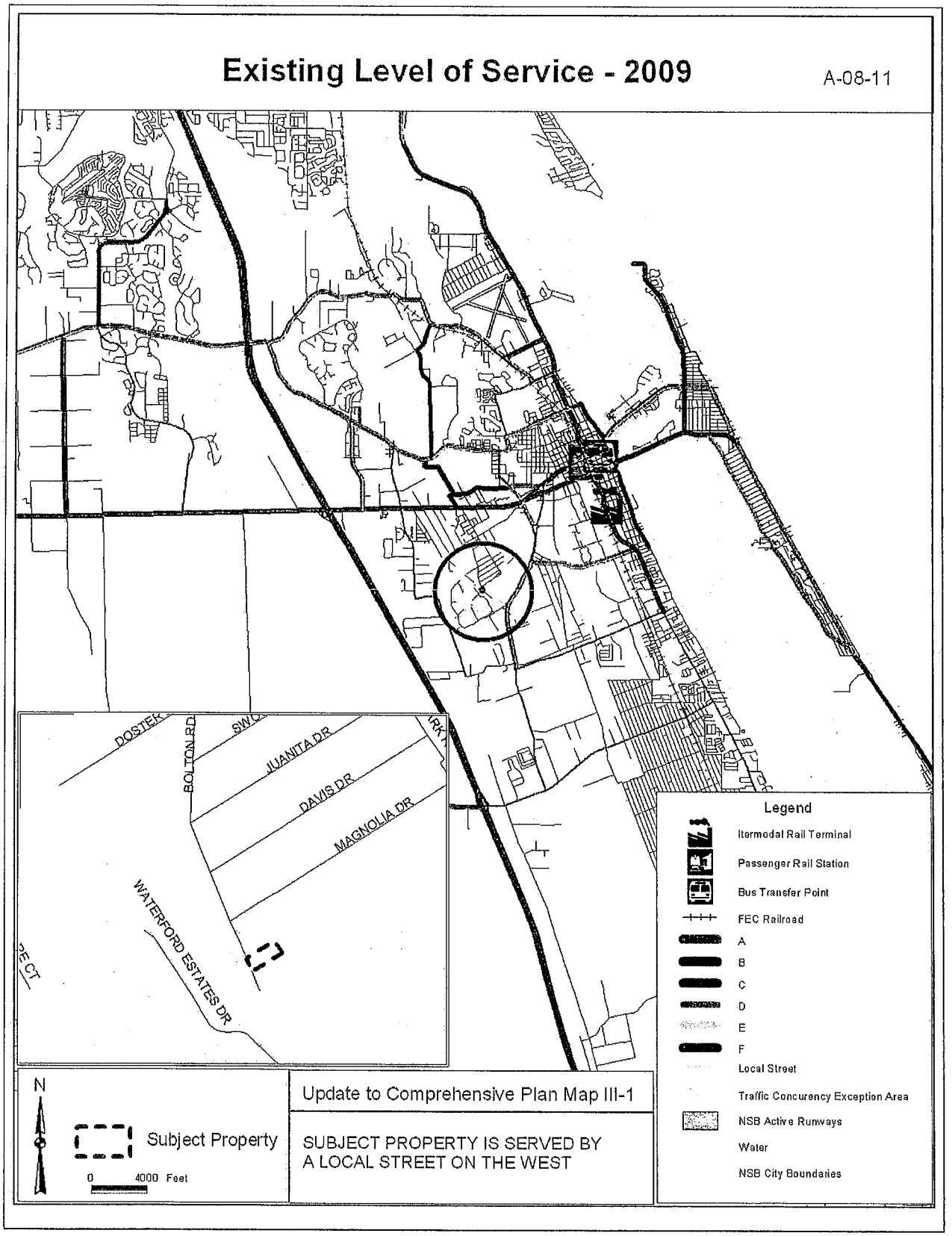

EXHIBIT P – 2009 EXISTING TRAFFIC LANES

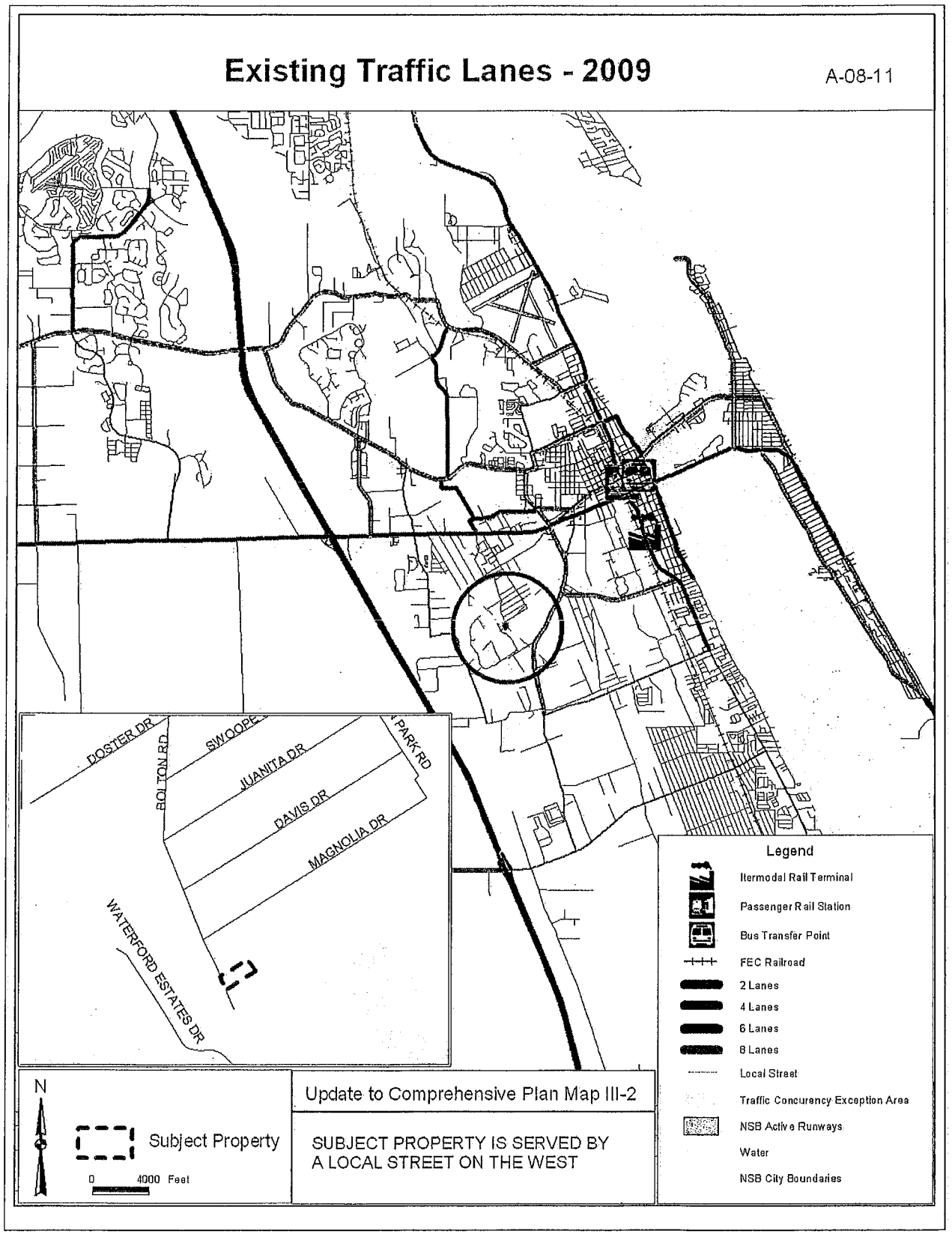

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EXHIBIT Q – PUBLIC TRANSIT ROUTESS

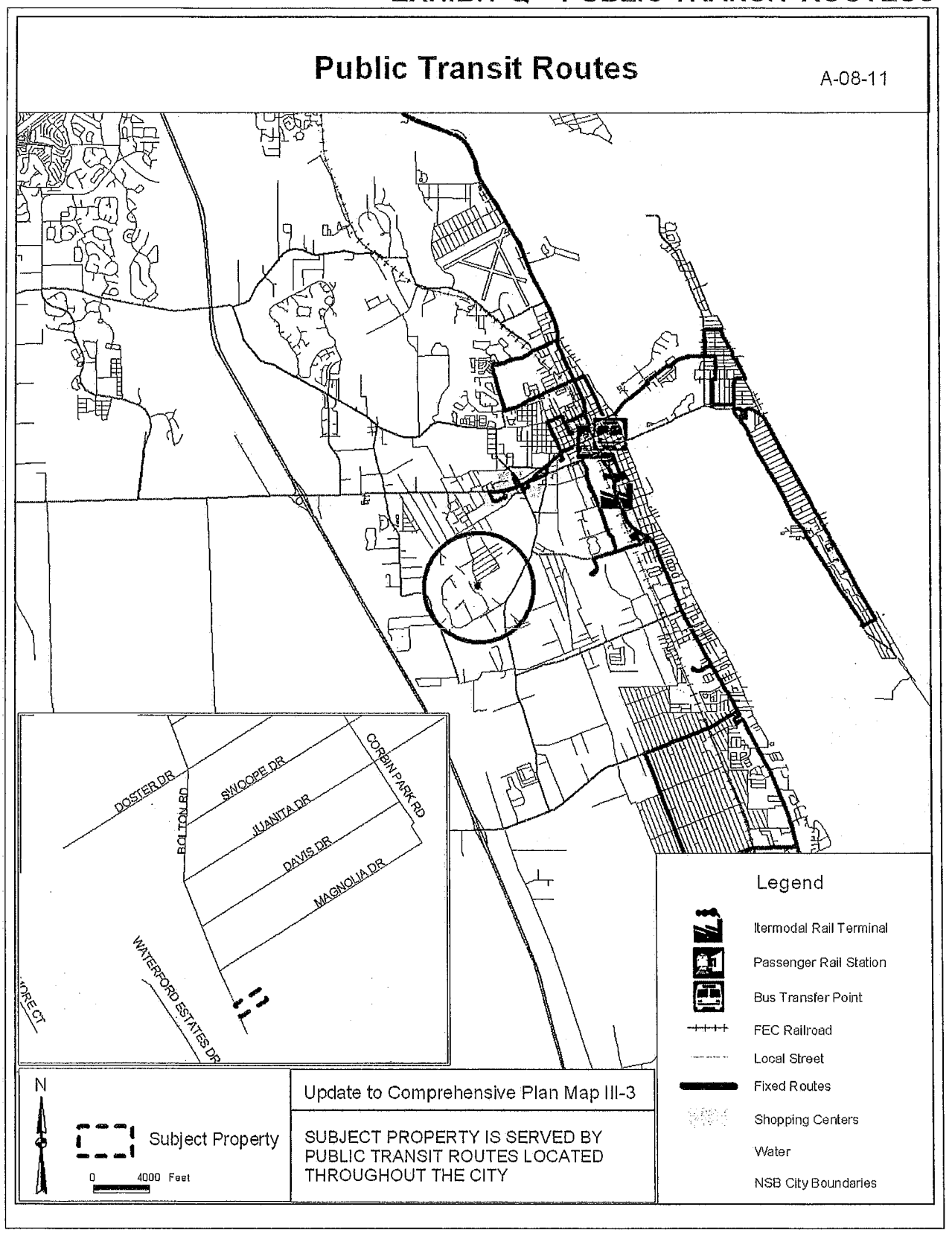

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EXHIBIT R - BICYCLE AND PEDESTRIAN FACILITIES

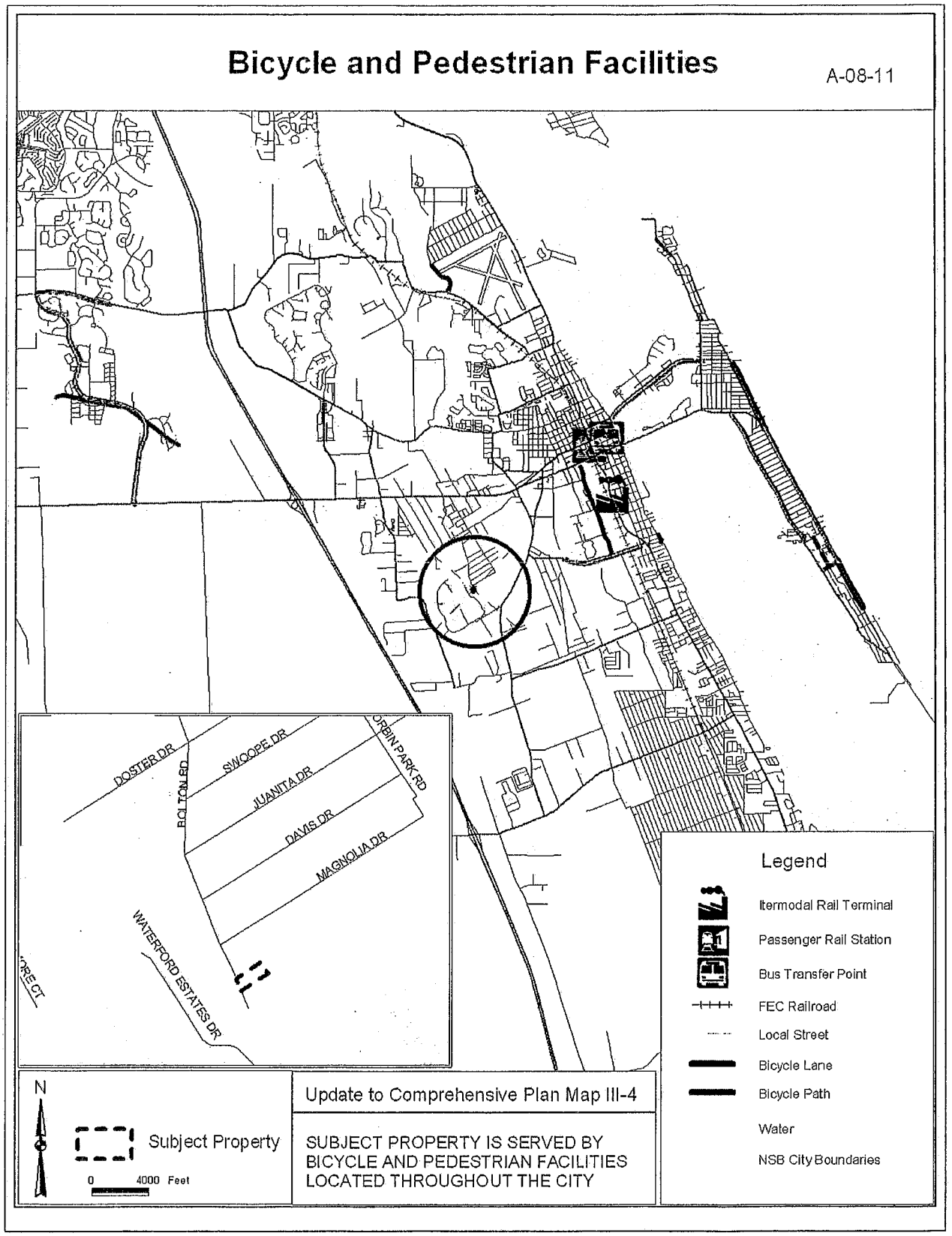

EXHIBIT S - AIRPORT RUNWAY PROTECTION ZONES

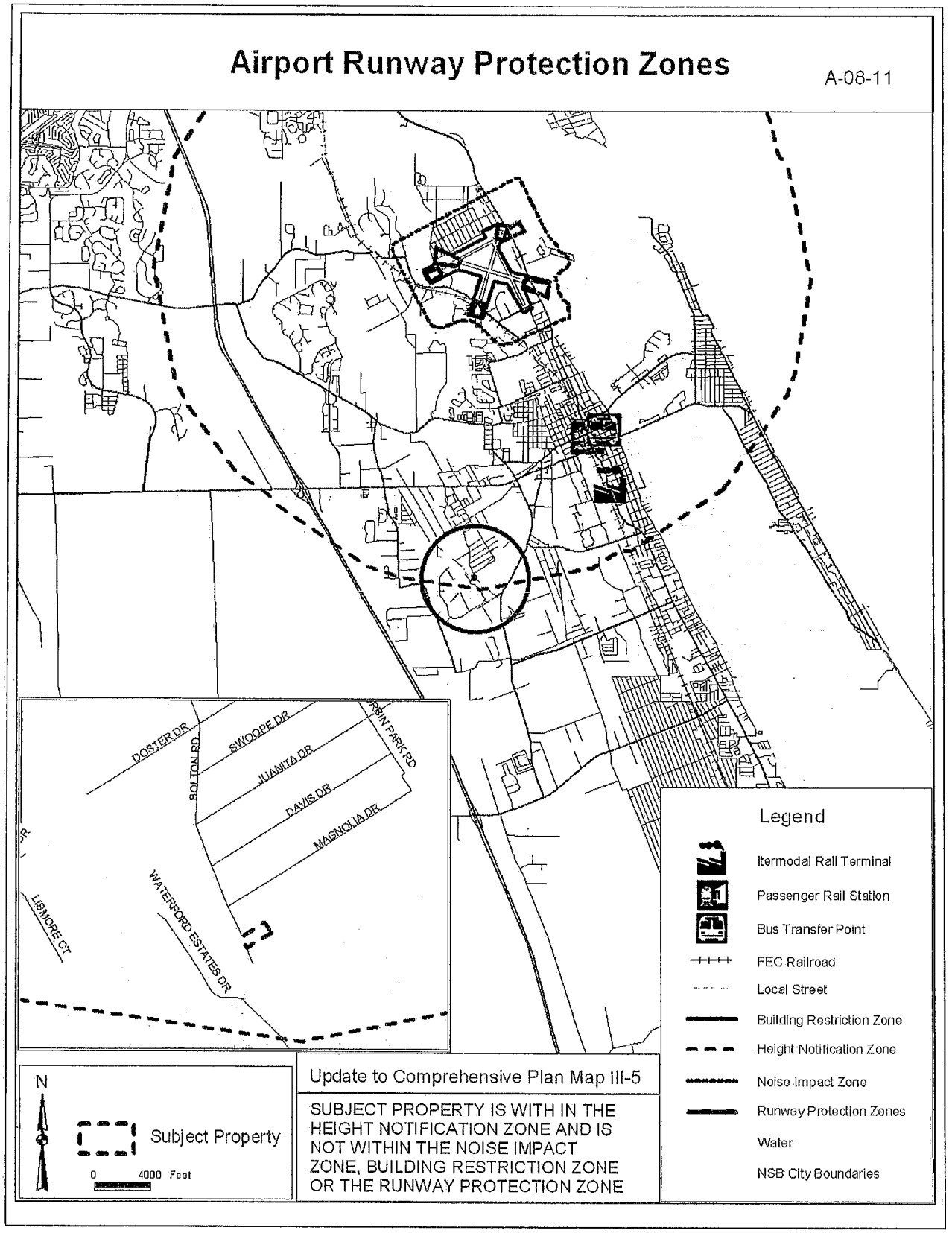

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EXHIBIT T – EVACUATION ROUTES

337

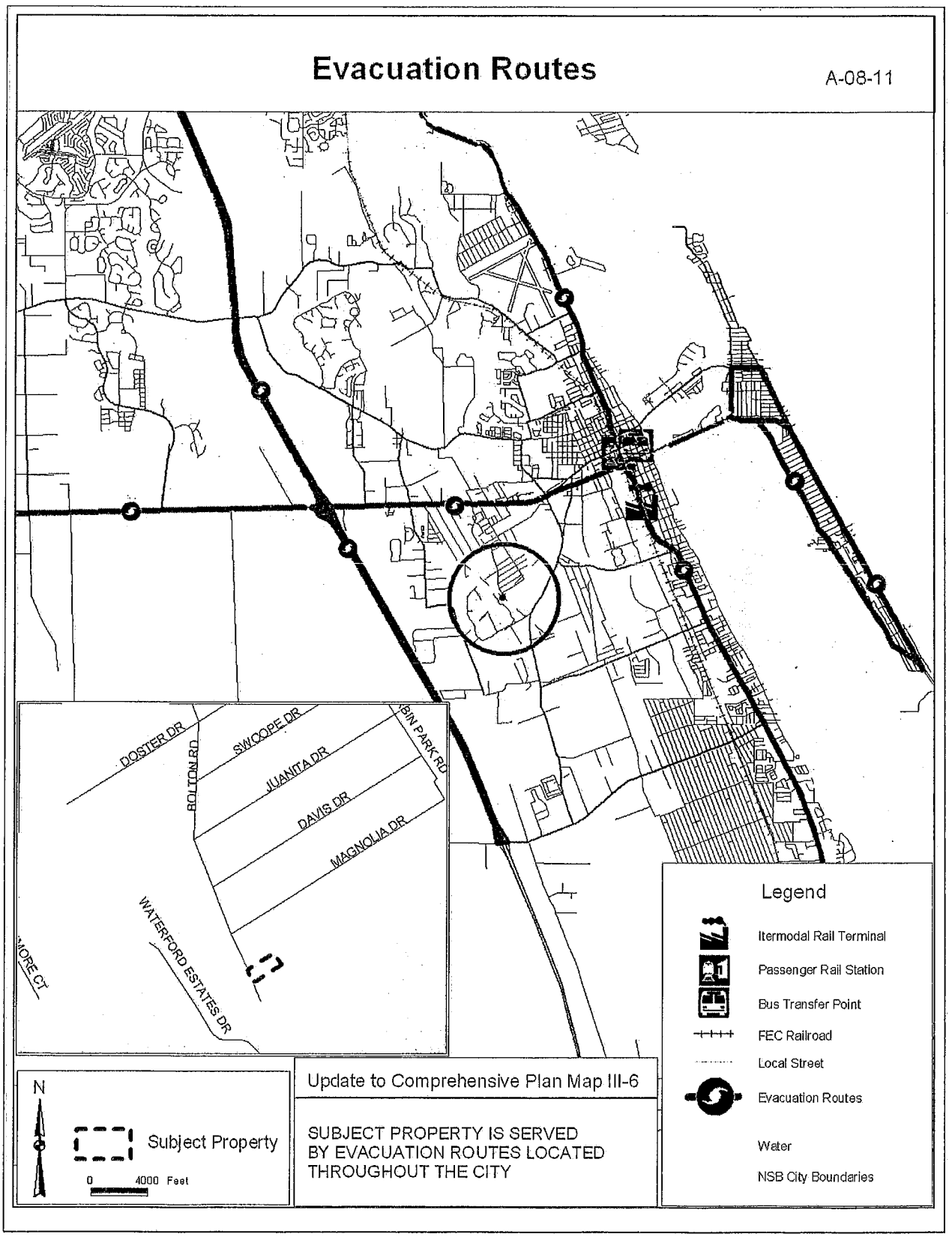

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EXHIBIT U – 2025 LEVEL OF SERVICE

339

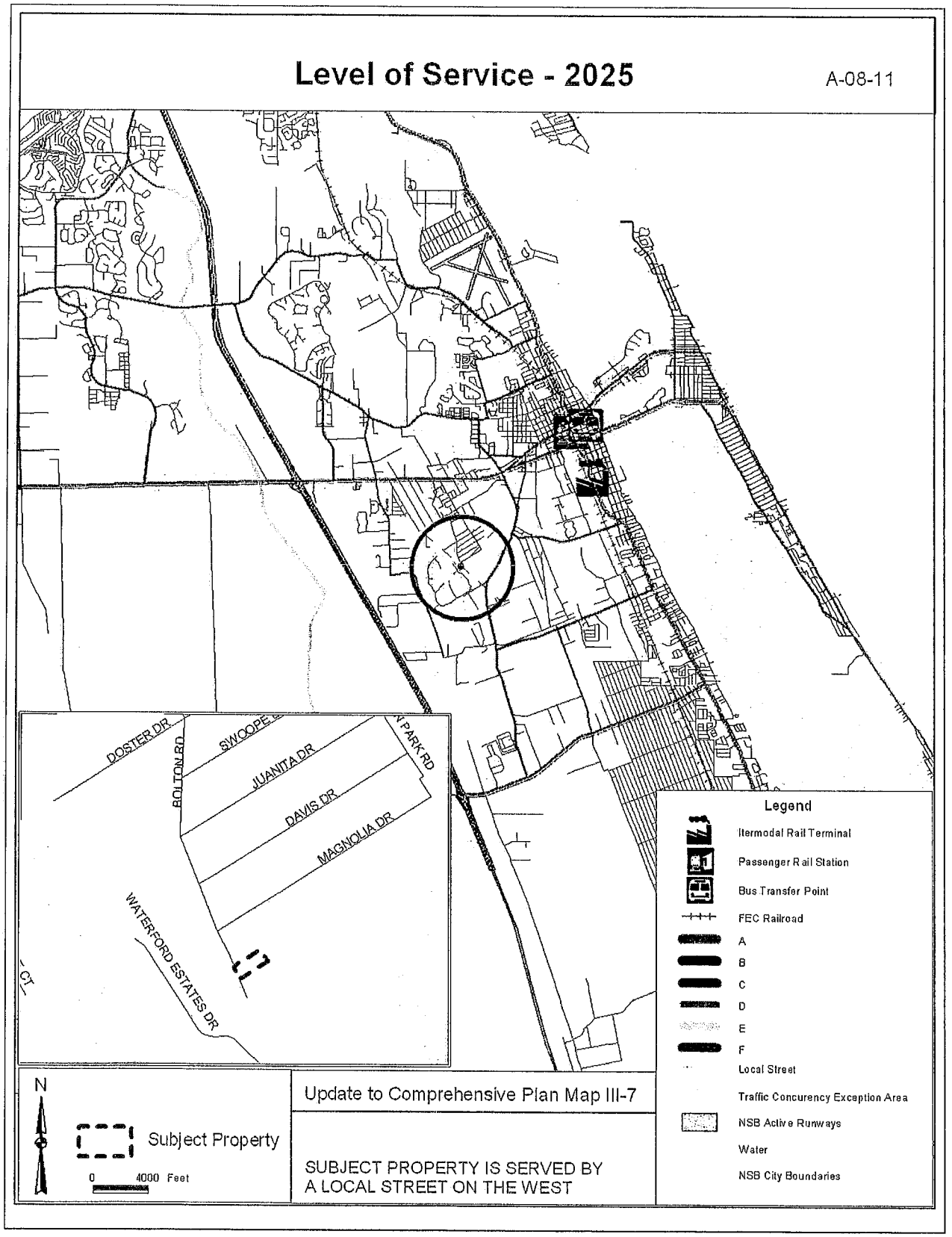

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EXHIBIT V – 2025 NUMBER OF LANES

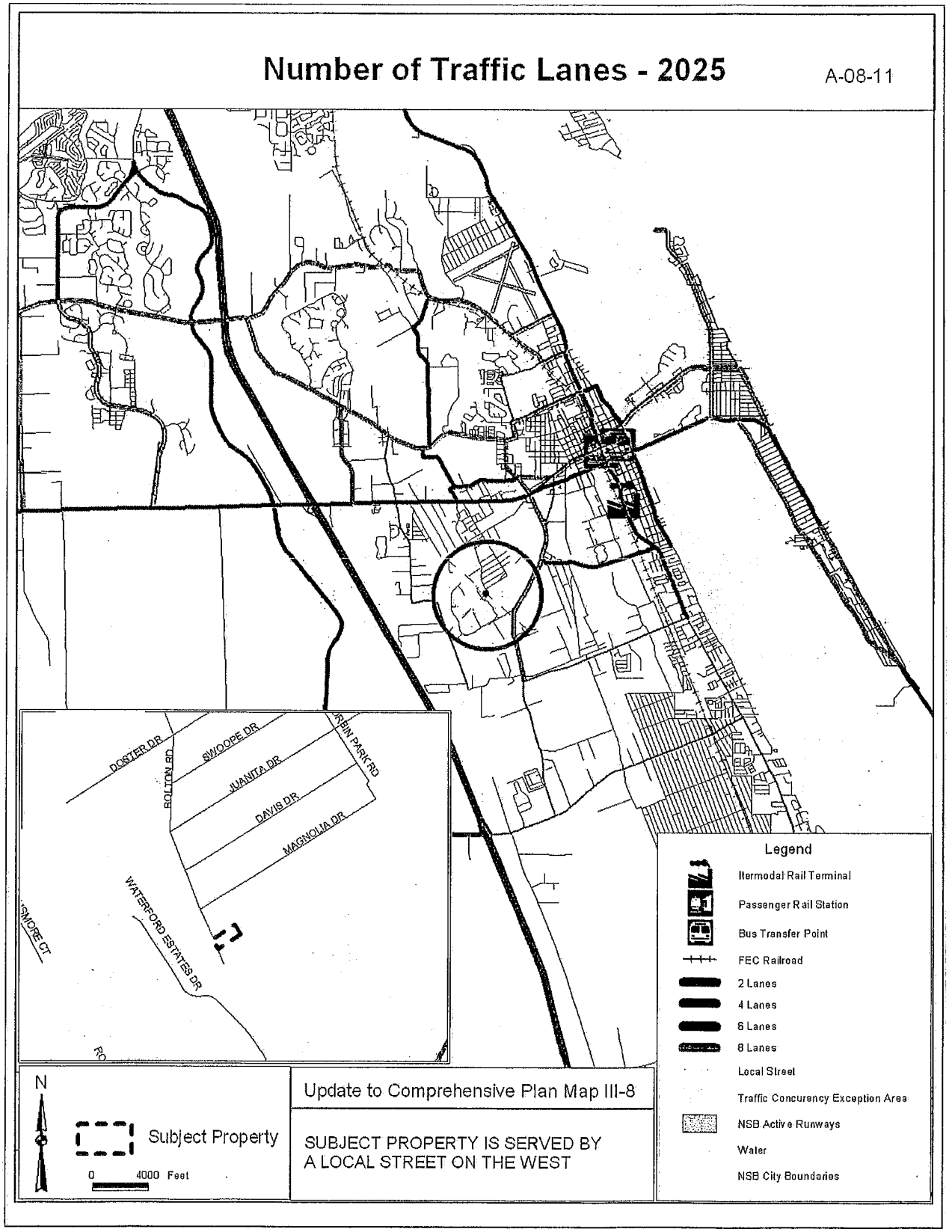

EXHIBIT – W SOIL LIMITATIONS FOR SEPTIC SYSTEMS

344

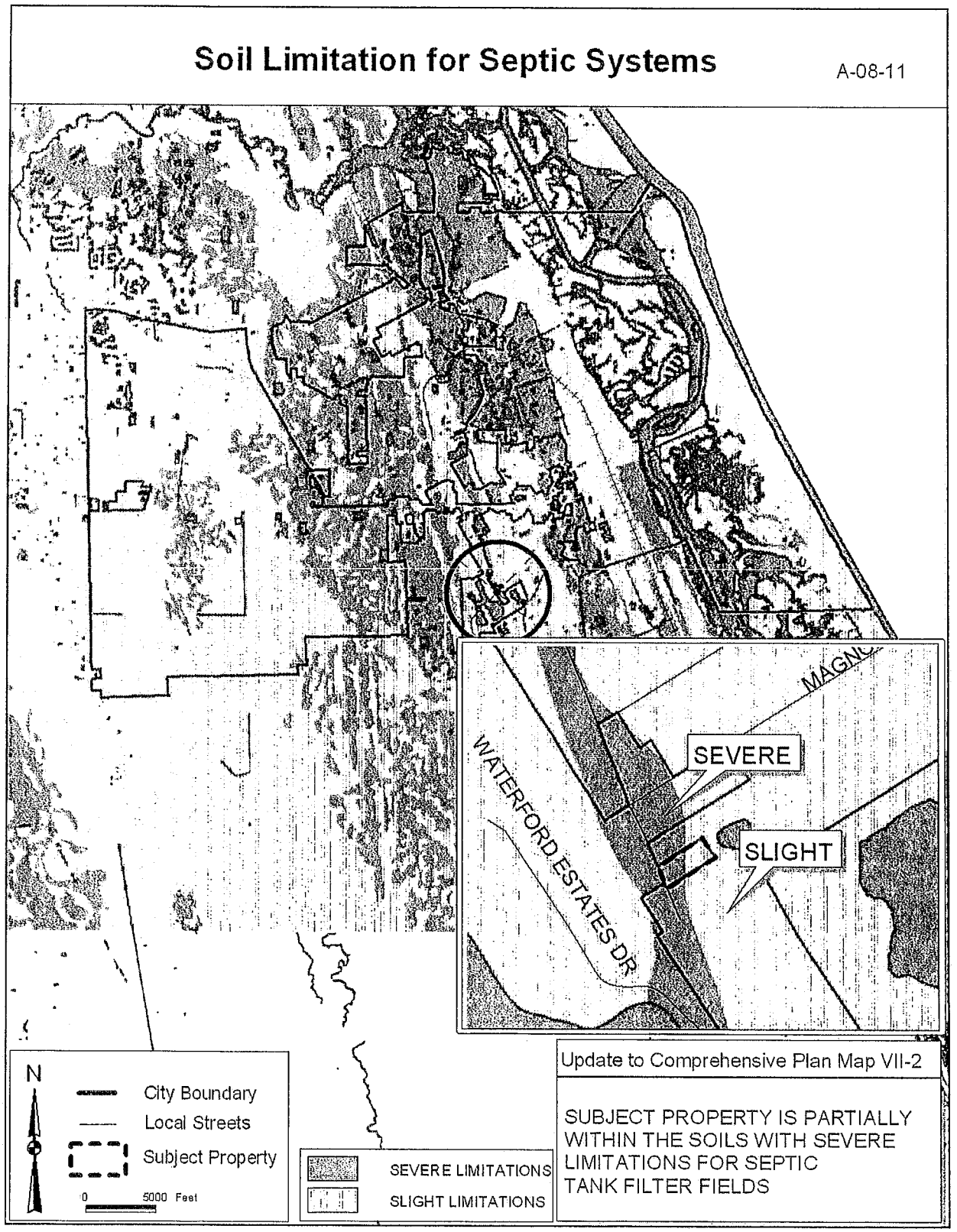

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EXHIBIT X – COASTAL HIGH HAZARD AREAS

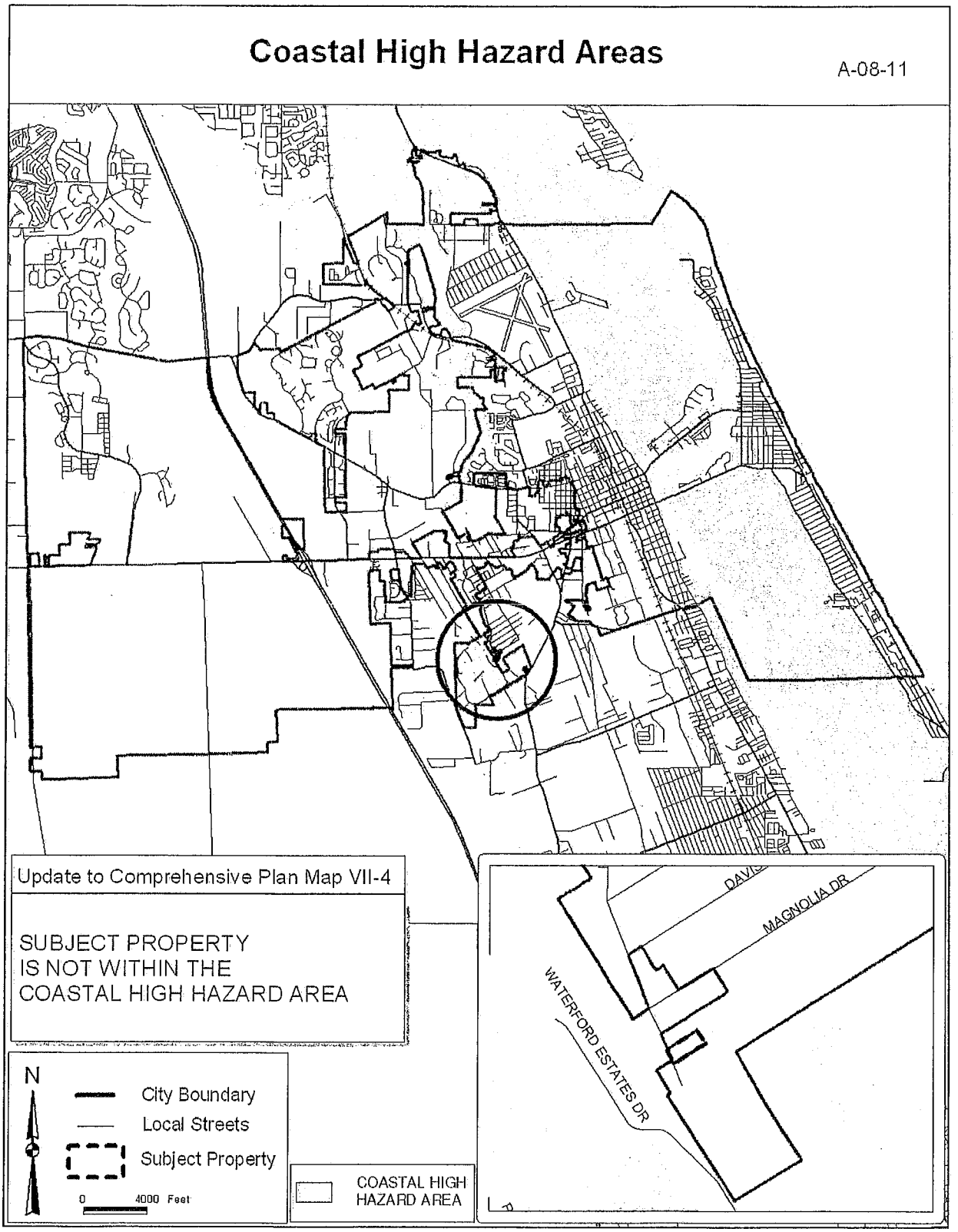

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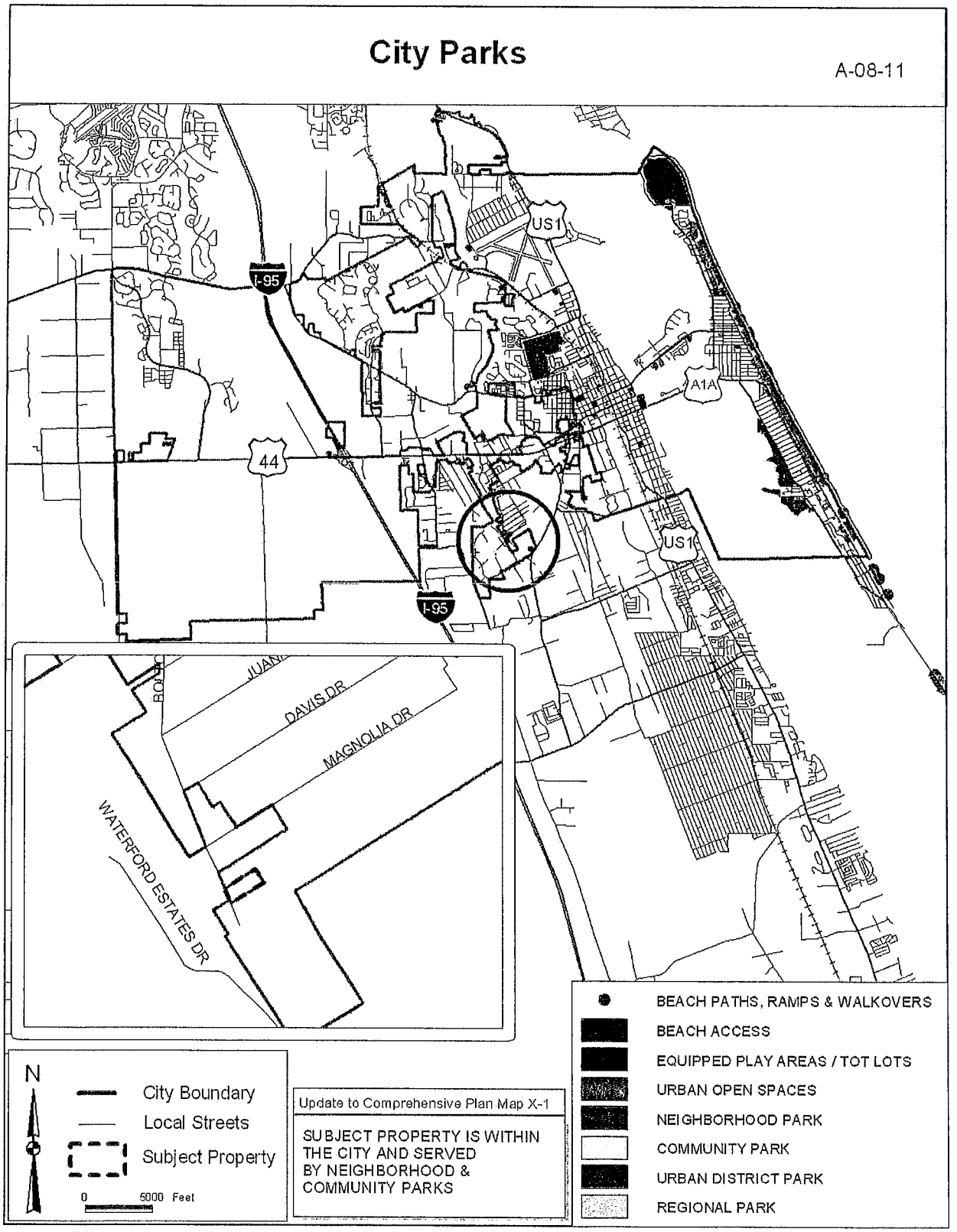
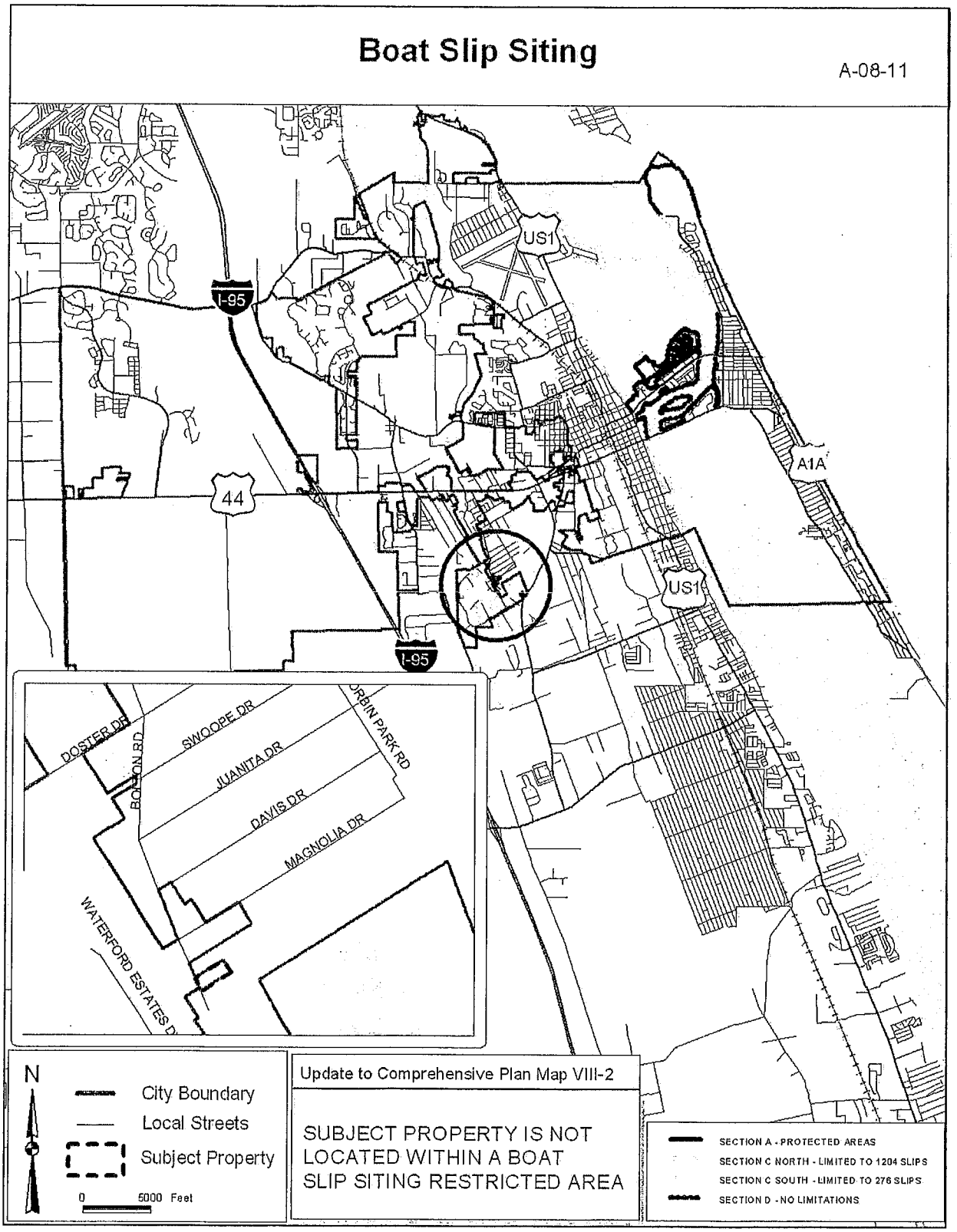
EXHIBIT Y – CITY PARKS



348

EXHIBIT Z – BOAT SLIP SITING



349

EXHIBIT AA – AERIAL OF SUBJECT PROPERTY

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CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-9-11: 1251 BOLTON ROAD / WHARTON

AUGUST 1, 2011

I. Background

A. **Applicant and Property Owner:** Richard B. Wharton, 1251 Bolton Road, New Smyrna Beach

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

- **From:** County Future Land Use (FLU) designation of Urban Low Intensity; and County zoning R-4 – Urban Single Family Residential
- **To:** City FLU designation of Low Density Residential; and City zoning R-2, Single-Family Residential

C. **Site Information:**

- **Size:** 0.42 acres
- **Location:** The property is generally located on the east side of Bolton Road, approximately 175 feet south of Magnolia Drive. (see **Exhibit A** for a location map).
- **Tax I.D. Number: 7344-03-00-4580**

II. Findings

A. The subject property is an approximately 0.42-acre site that has been improved with a single family residence. A copy of the survey for the subject property is attached as **Exhibit B**. The property currently has a Volusia County Future Land Use (FLU) designation of Urban Low Intensity, which allows 0.2 to 4.0 units per acre. The property is currently zoned Volusia County R-4, Urban Single-Family Residential. The surrounding future land use, existing uses, and zoning are as follows:

North

Future Land Use:	City Low Density Residential
Existing Land Use:	Single-Family Residential
Zoning:	City R-2, Single-Family Residential

South

Future Land Use:	County Urban Low Intensity, application in process for City Low Density Residential
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential, application in process for City R-2, Single-Family Residential

East

Future Land Use:	County Urban Low Intensity
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential

West

Future Land Use:	County Urban Low Intensity, application in process for City Low Density Residential
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential, application in process for City R-2, Single-Family Residential

Maps showing the surrounding Existing Land Uses, Existing Zoning, and Existing Future Land Use Designations are attached (**Exhibits C, D, and E**). Descriptions of the existing Future Land Use and existing Zoning designations on the subject property are attached as **Exhibits F and G**.

B. Previous City Commissions had established a policy that when property is annexed into the City, the City would assign a future land use and zoning designation that would closely match the existing County designations. As discussed above, the existing County FLU and zoning designations are Urban Low Intensity and R-4, Urban Single-Family Residential, respectively. The closest FLU that matches the existing County designation is Low Density Residential, with the County's designation allowing 4 units per acre and the City's allowing 5. Therefore, staff is proposing that the FLU be changed to City Low Density Residential and the zoning be changed to R-2, Single-Family Residential, which would be consistent with adjacent development in the City as well as the existing use. Maps showing the proposed zoning and FLU changes are attached as **Exhibits H and I**. Descriptions of the proposed zoning and FLU designations are attached as **Exhibits J and K.**

C. This parcel meets minimum lot dimensions for County R-4 zoning and for City R-2 zoning. City R-2 zoning requires a lot to have a minimum dimension of 75'x115'. The lot meets minimum square footage for City R-2 zoning.

D. This annexation request is within the City's annexation area and within the City's water and sewer service area. **Exhibit L** A 6" sewer force main is available approximately 500' west of this parcel in Waterford Estates Drive. Properties are required to connect to sewer if it is available within 100'. Water is available in Bolton Road.

E. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater

treatment, solid waste collection, stormwater management, and public school facilities. Because the property is already developed with a single-family residence and the proposed future land use and zoning designations would only allow one single-family residence on this lot, no concurrency impact analysis was completed.

F. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject properties into the *Comprehensive Plan* (see **Exhibits M through Z**). **Exhibit AA** is an aerial photo of the property for informational purposes.

G. The *Comprehensive Plan* provides some guidance on annexations, future land use amendments, and rezonings. The following is a list of objectives in the *Comprehensive Plan* that support this proposal. Following each objective is a comment in ***bold italics***.

- **Future Land Use Element Objective 1:** To ensure that future development will be consistent with adjacent uses, natural limitations such as topography and soil conditions, the needs of the citizens of New Smyrna Beach, the Future Land Use Map, the availability of facilities and services, and the goals, objectives and policies contained within this *Comprehensive Plan*.

  The requested FLU designation for the subject property is consistent with proposed adjacent uses, natural limitations, and the availability of facilities and services. Therefore, it is consistent with the* Comprehensive Plan. *The property is bordered by low density single-family residential lands.

- **Future Land Use Element Objective 2:** To provide adequate services and facilities for future development, at the adopted level-of-service standard. In order to maintain the adopted level-of-service standard, development orders and permits will be conditioned on the availability of the public facilities and services necessary to serve the proposed development.

  ***The proposed future land use amendment will not increase density in this area. The parcel that would allow for a single family residence per County regulations would become a parcel that would allow for a single family residence per City regulations. Therefore, the request is consistent with the* Comprehensive Plan.**

- **Future Land Use Element Objective 7:** To implement land use patterns, utility service extensions, impact fees and an annexation methodology, which provide for orderly development and discourage urban sprawl.

The future land use amendment and assigned zoning district would continue the established City practice and the existing development pattern of the area and are in compliance with the Comprehensive Plan

- **Future Land Use Element Objective 10:** To protect existing desirable neighborhoods from encroaching new development which is incompatible and inconsistent with established character of the neighborhood

The future land use amendment and assigned zoning district would continue the established City practice and the existing development pattern of the area and are in compliance with the Comprehensive Plan

III. Recommendation

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

EXHIBIT A

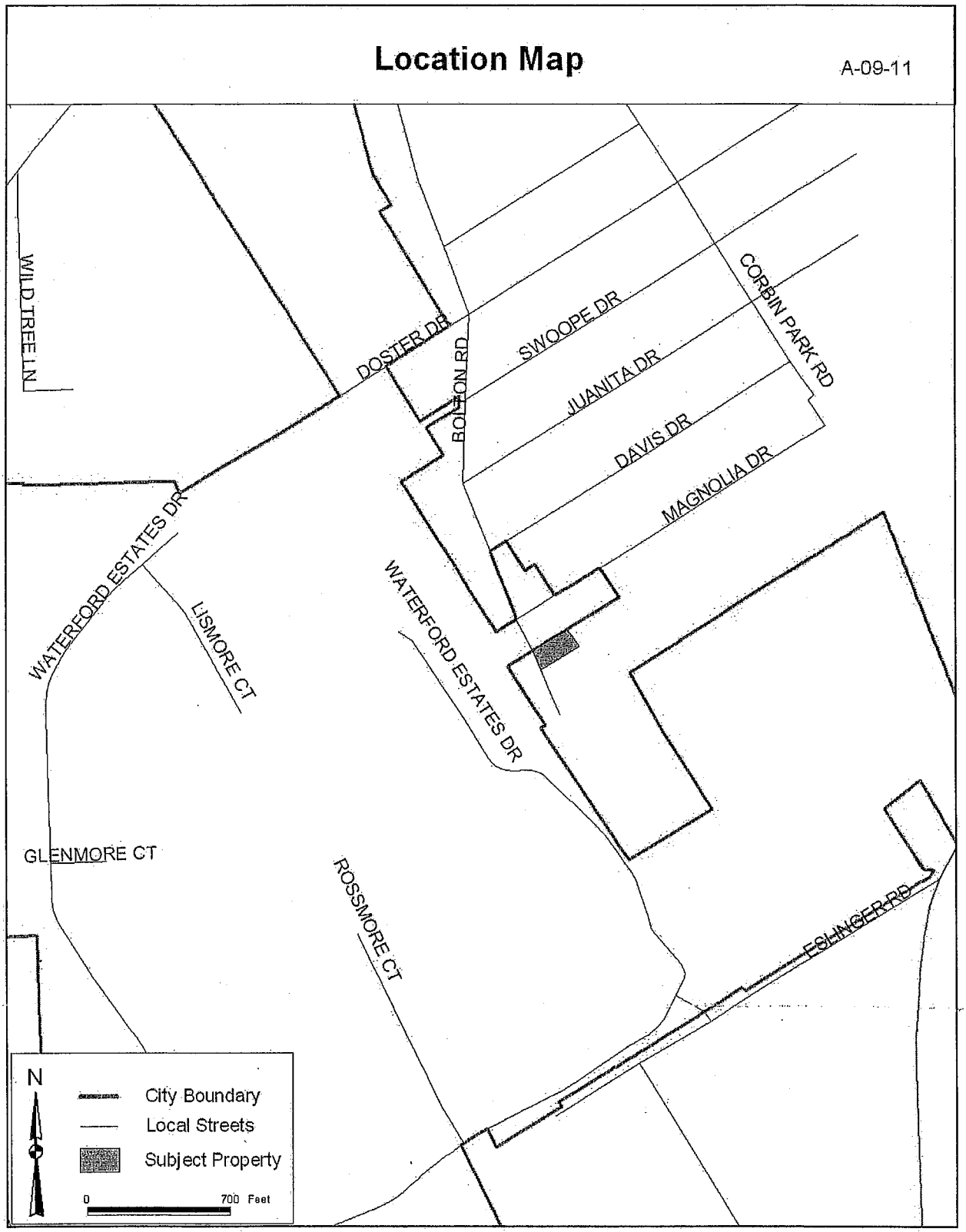
Location Map
A-09-11
WILD TREE LN
DOSTER DR
BOLTON RD
SWOOPE DR
JUANITA DR
DAVIS DR
MAGNOLIA DR
CORBIN PARK RD
WATERFORD ESTATES DR
LISMORE CT
WATERFORD ESTATES DR
GLENMORE CT
ROSSMORE CT
ESLINGER RD
N
City Boundary
Local Streets
Subject Property
0
700 Feet

EXHIBIT B

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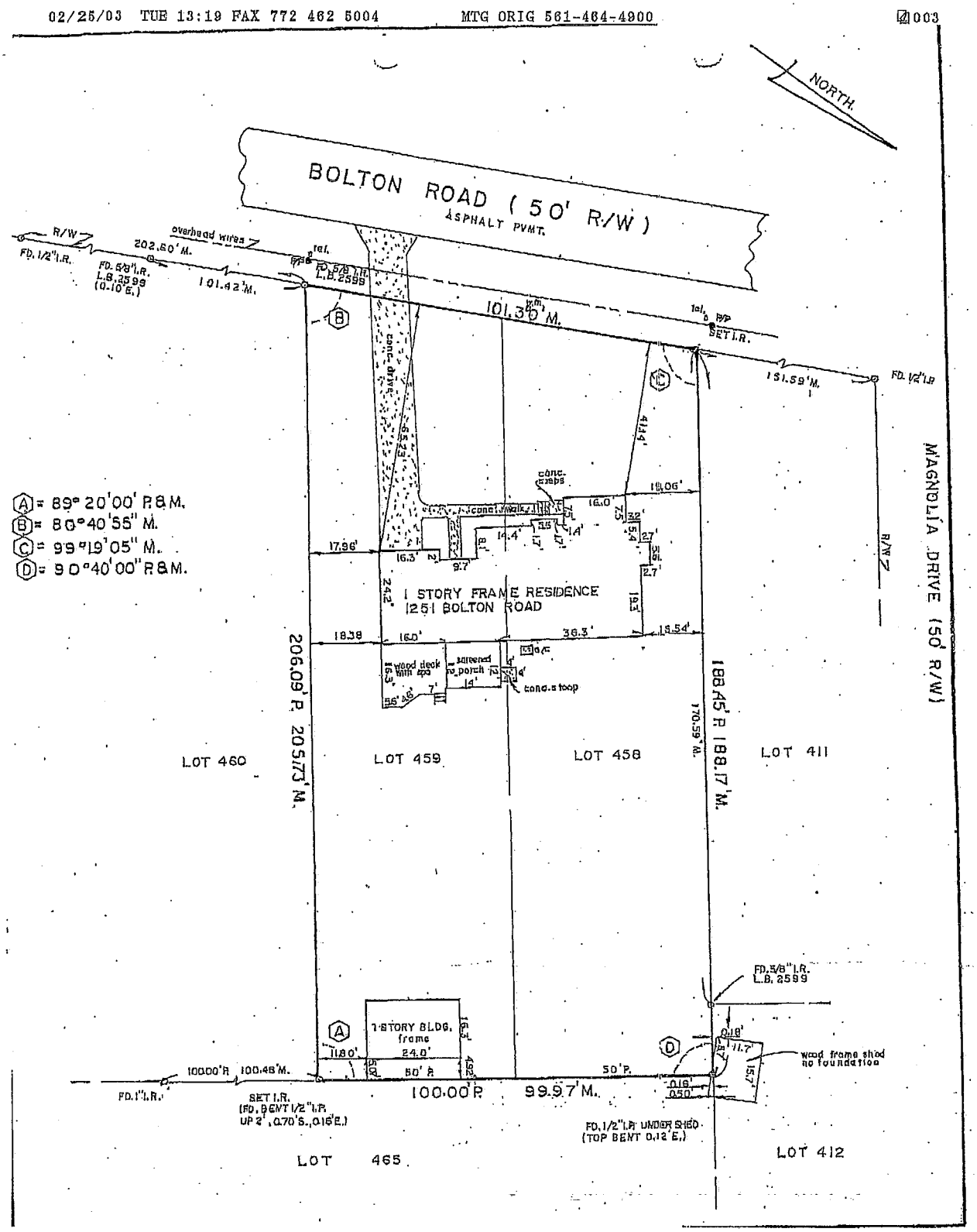

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EXHIBIT C – EXISTING USES

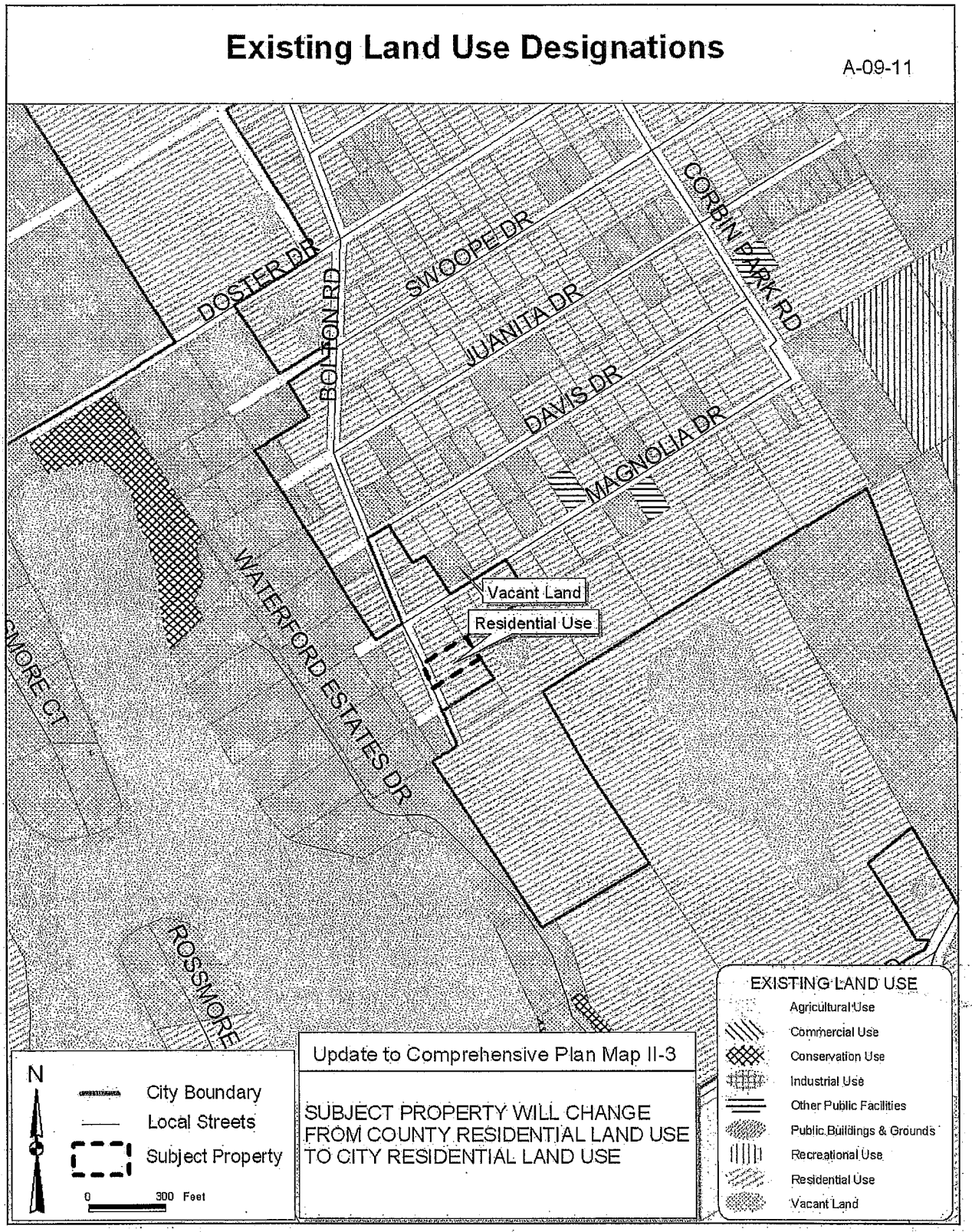

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EXHIBIT D – EXISTIING ZONING

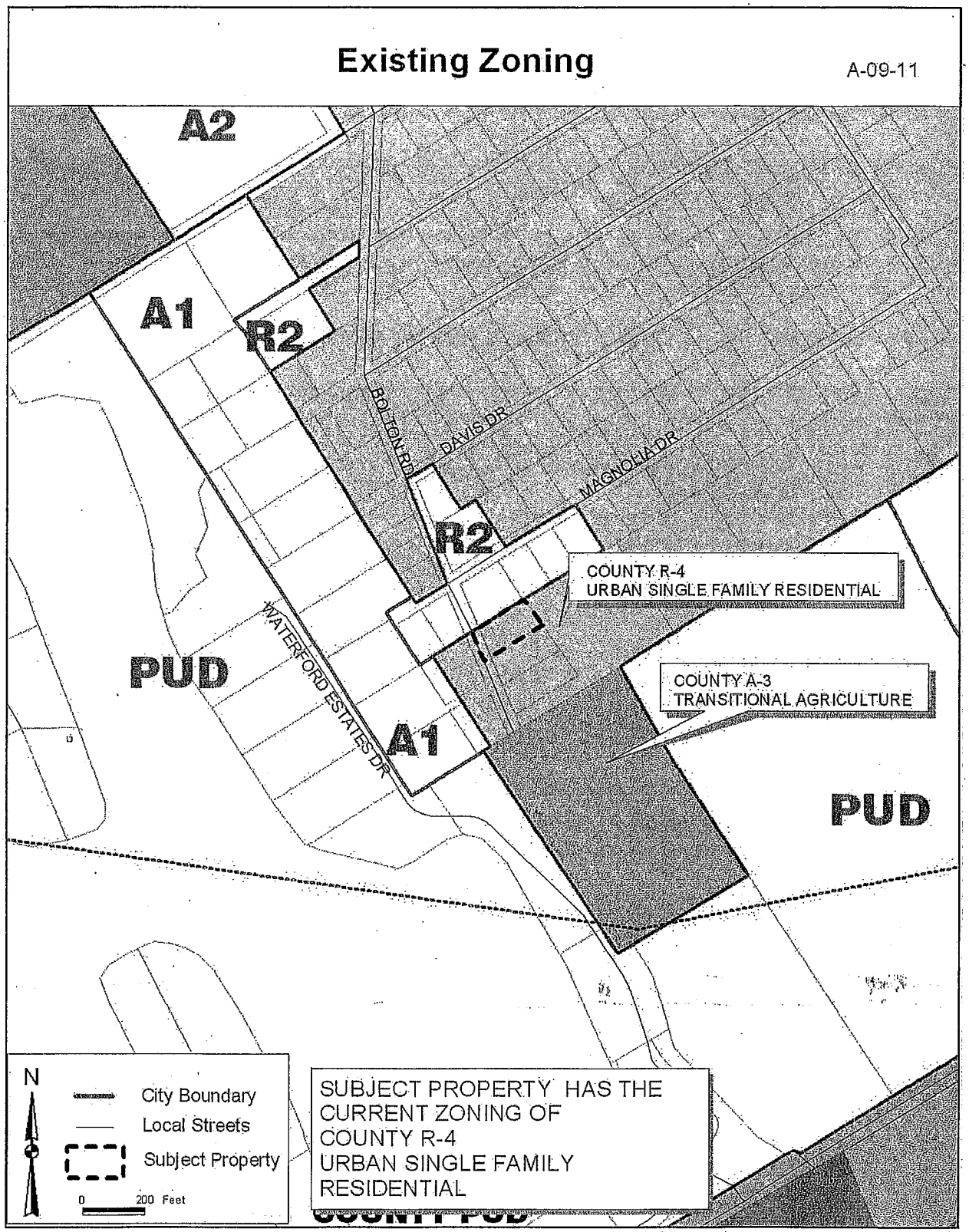

EXHIBIT E – EXISTIING FUTURE LAND USES

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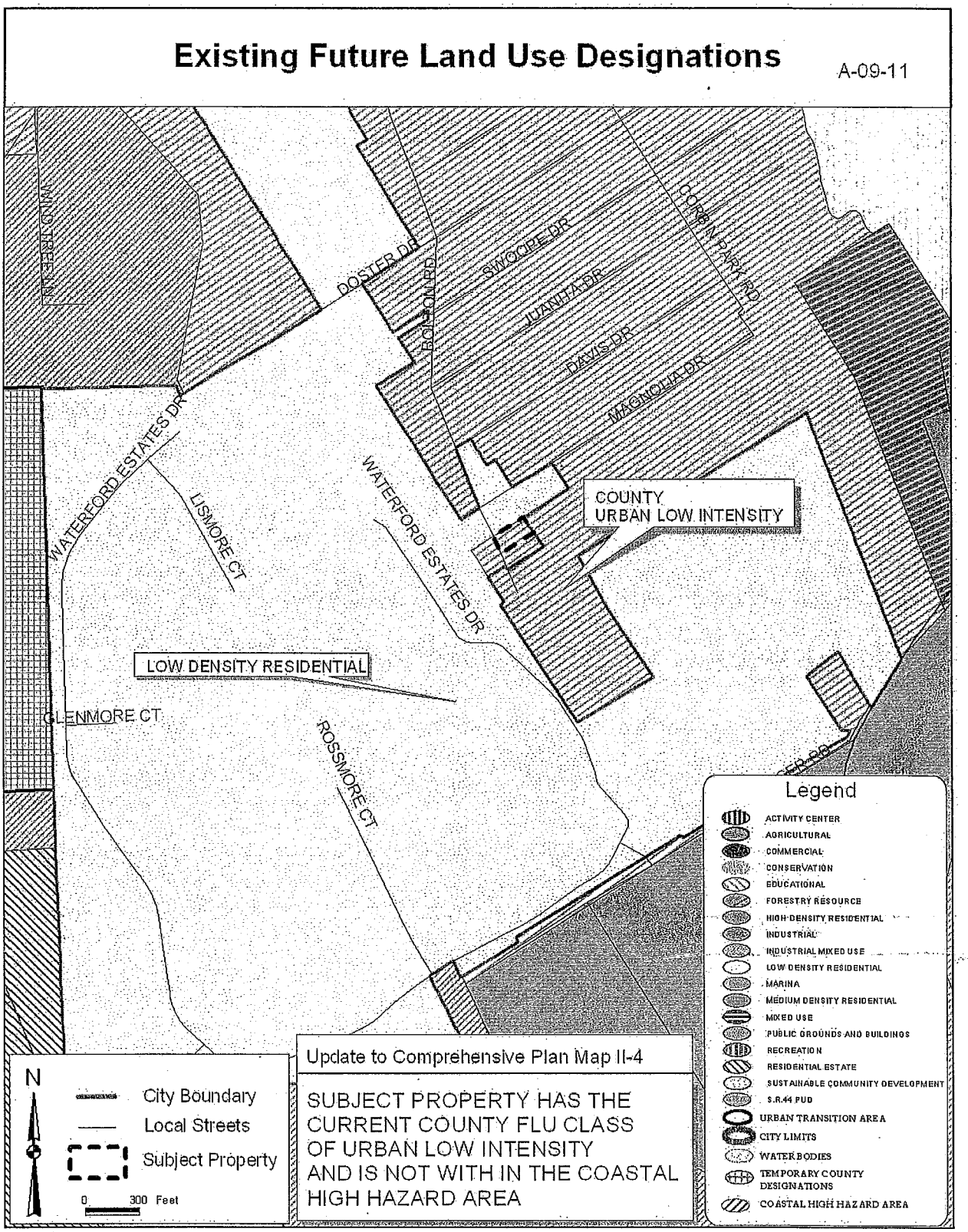

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EXHIBIT F – DESCRIPTION OF EXISTING FUTURE LAND USE

Urban Low Intensity (ULI)

Areas for low density residential dwelling units with a range of two-tenths (0.2) to four (4) dwelling units per acre. In reviewing rezoning requests, the specific density will depend on locational factors, particularly compatibility with adjacent uses and availability of public facilities.

This residential designation is generally characterized by single family type housing, e.g., single family detached and attached, cluster and zero lot line. This designation will allow existing agricultural zoning and uses to continue.

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

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

EXHIBIT G – DESCRIPTION OF EXISTING ZONING

R-4 URBAN SINGLE-FAMILY

RESIDENTIAL CLASSIFICATION

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

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

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

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

- Bed and breakfast (refer to subsection 72-293(19)).
- Cemeteries (refer to subsection 72-293(4)).
- Communication towers exceeding 70 feet in height above ground level.
- Day care centers (refer to subsection 72-293(6)).
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- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).
- Schools, parochial or private (refer to subsection 72-293(4)).

Dimensional requirements:

Minimum lot size:

- Area: 7,500 square feet.

Width: 75 feet. *Minimum yard size:*

EXHIBIT G – DESCRIPTION OF EXISTING ZONING

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

Maximum building height: 35 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 850 square feet.

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

EXHIBIT H- PROPOSED ZONING

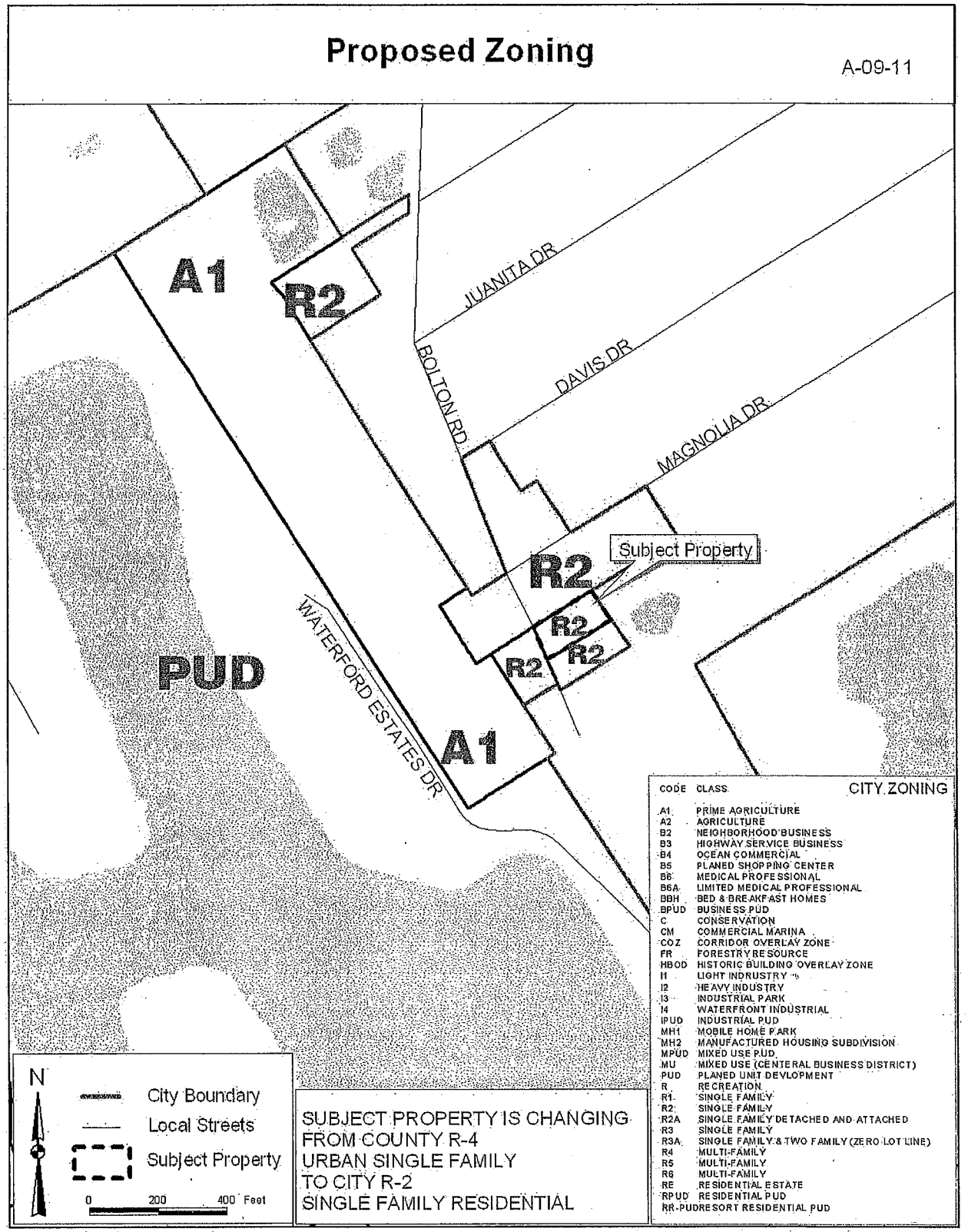

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EXHIBIT I – PROPOSED FUTURE LAND USE DESIGNATION

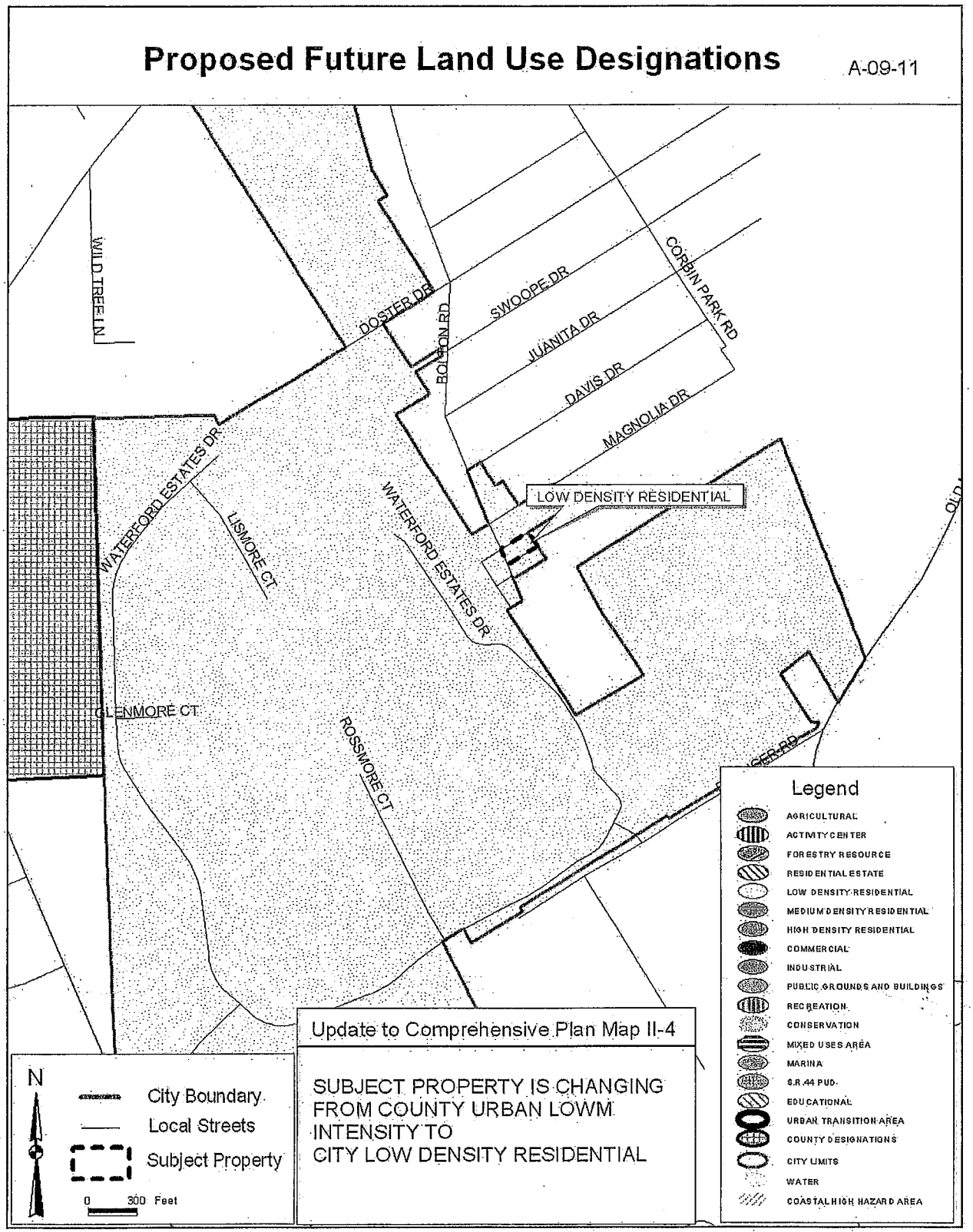

EXHIBIT J – DESCRIPTION OF PROPOSED ZONING

R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

Intent:

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

Permitted Uses:

Playfields
Playgrounds
Public Parks
Recreation Buildings and Complexes for exclusive use by residents and guests in a residential development
Single Family Dwelling Units

Permitted Accessory Uses:

Garages
Gazebos
Incidental Uses
Permitted Home Occupations
Storage Sheds
Swimming pools, private, provided a principal use exists and the pool is located to the rear of the principal structure and out of required rear and side yards
Uses customarily associated with the permitted principal uses

[Revised 4/9/02]

Special Exceptions:

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

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

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

EXHIBIT J – DESCRIPTION OF PROPOSED ZONING

3. Play areas shall be located within all applicable setback dimensions.

4. The church property shall have a vehicular drop off and pickup area with a minimum 100 feet of drive lane outside of the public right-of-way, or sufficient parking area to provide enough space to fit the required parking and provided space for drop off and pick up. [Ord. No. 4-00]

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

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

EXHIBIT K – DESCRIPTION OF PROPOSED FUTURE LAND USE

Low-Density Residential
Maximum allowed density: Up to five [5] dwelling units per acre
Intent: This use is appropriate where a more suburban development pattern exists or is desired and where urban services are to be kept to a minimum

323

EXHIBIT L - WATER AND SEWER SERVICE AREA

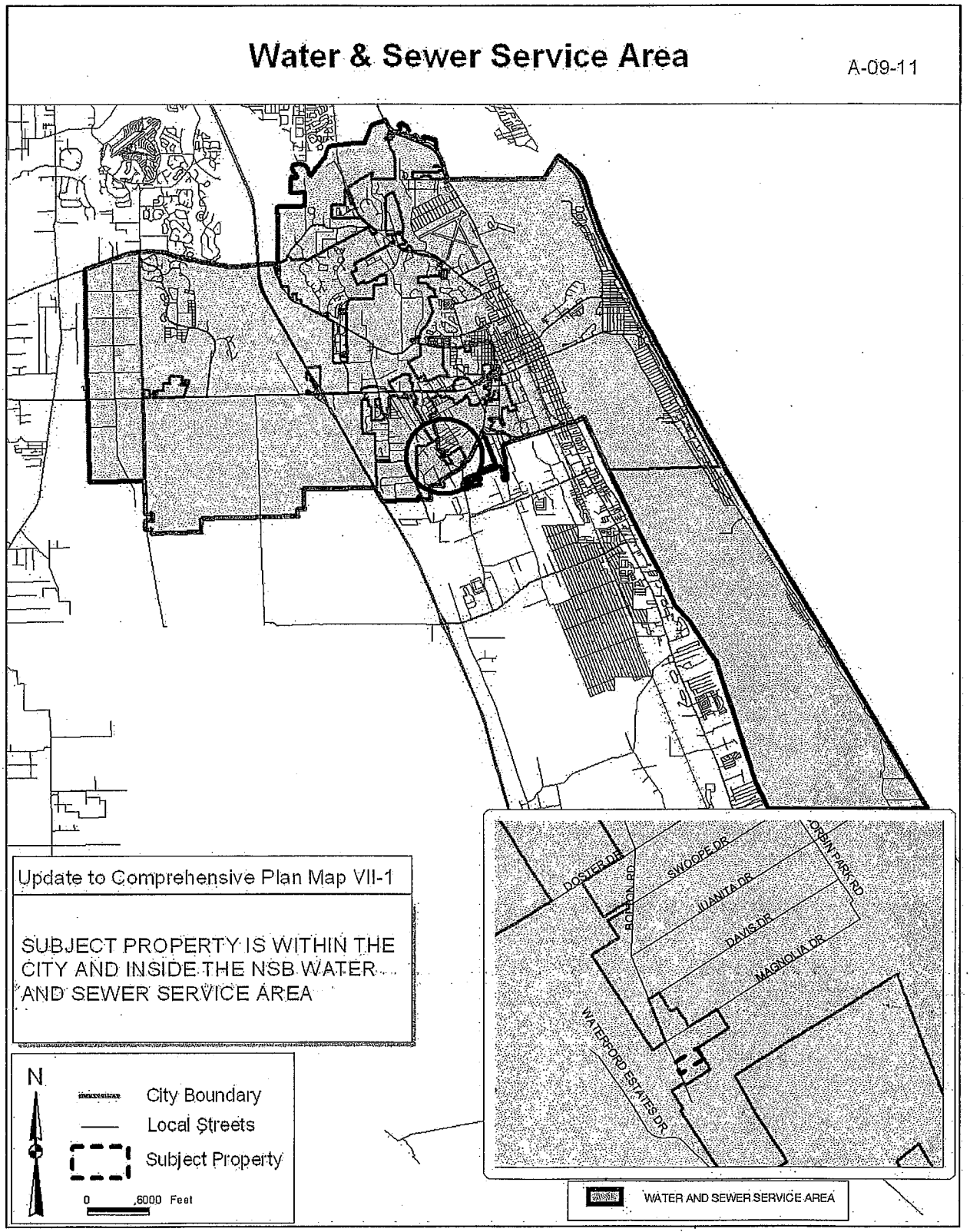

EXHIBIT M- NEIGHBORHOODS

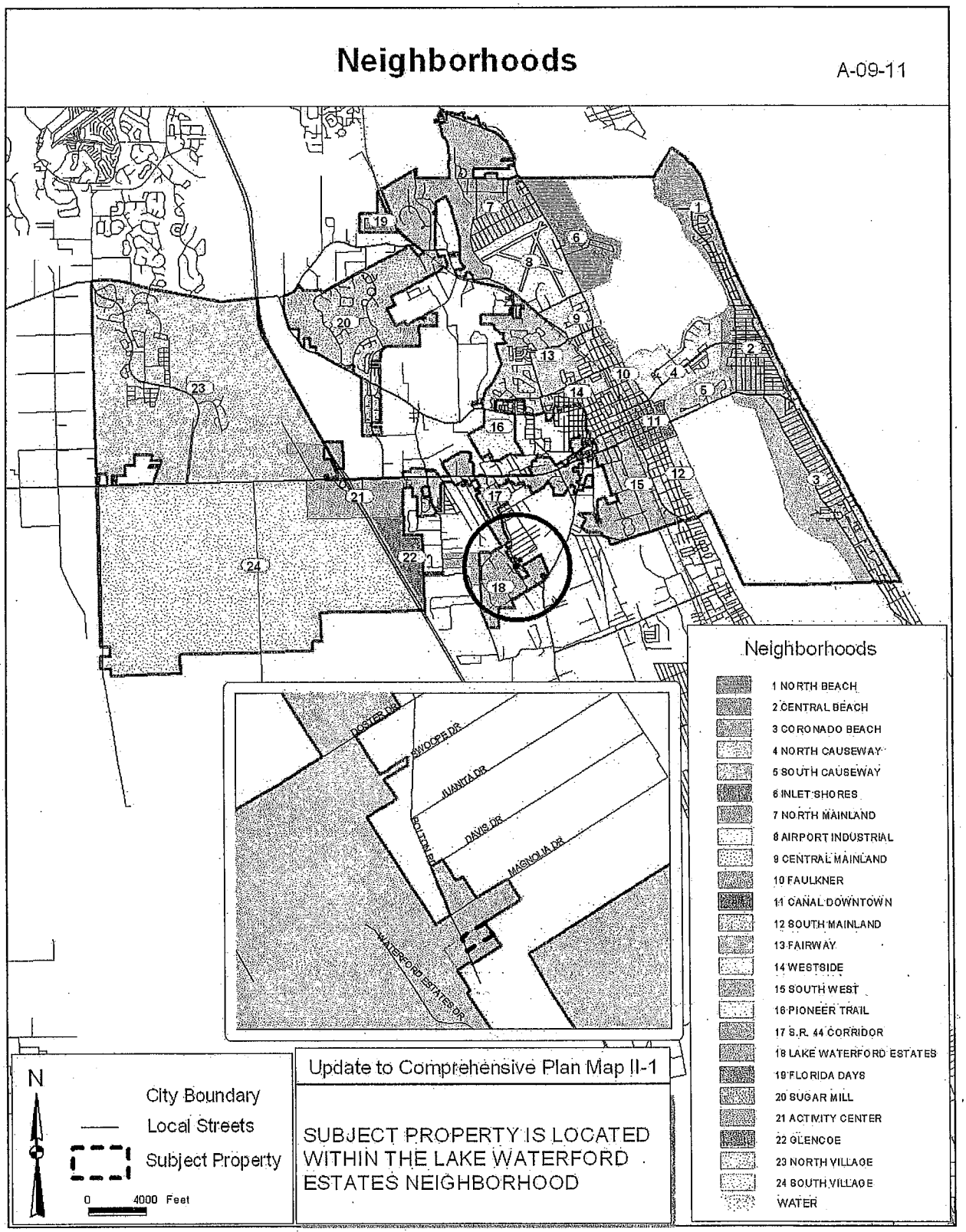

EXHIBIT N – FLOOD PRONE AREAS

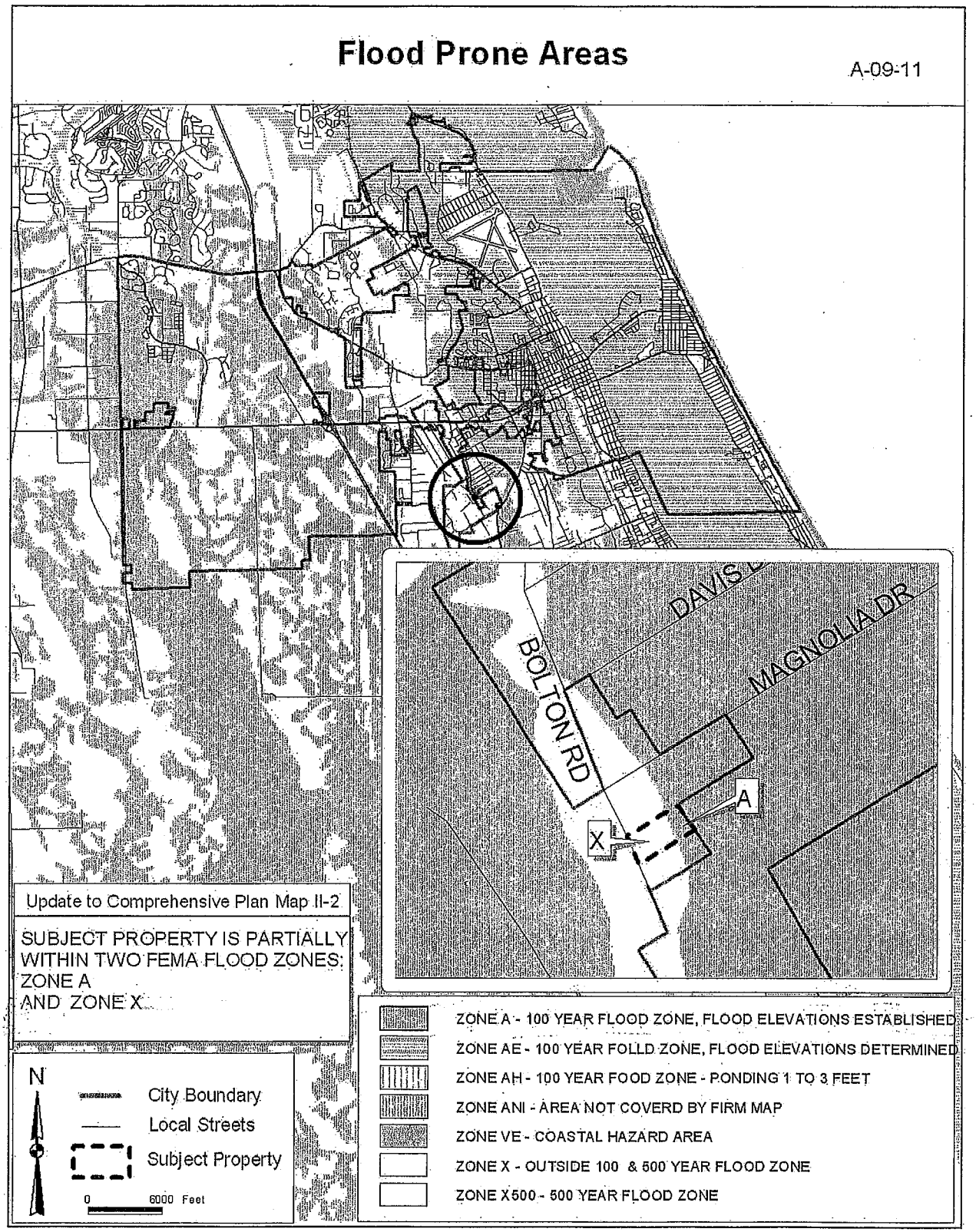

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EXHIBIT O – 2009 EXISTING LEVEL OF SERVICE

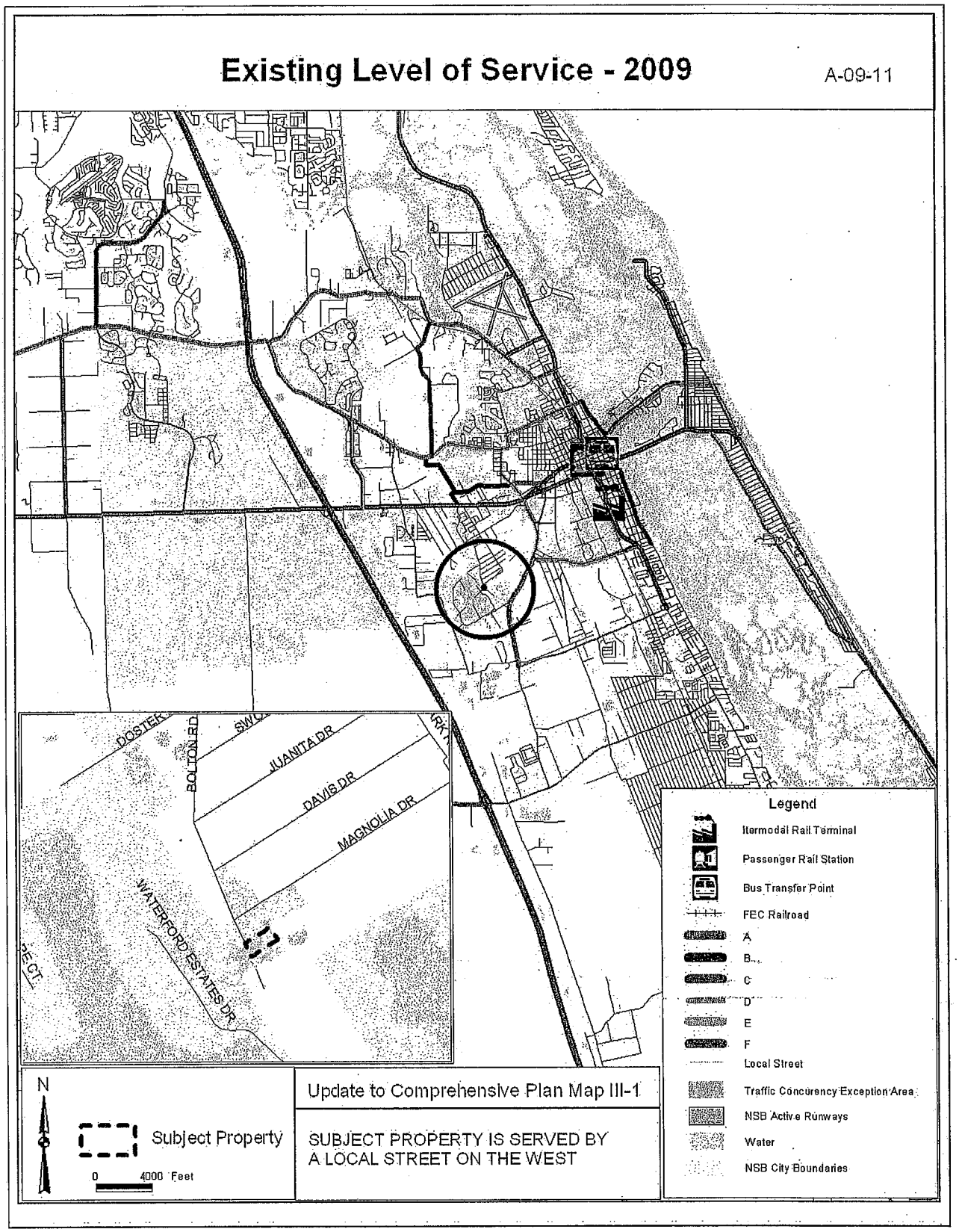

EXHIBIT P – 2009 EXISTING TRAFFIC LANES

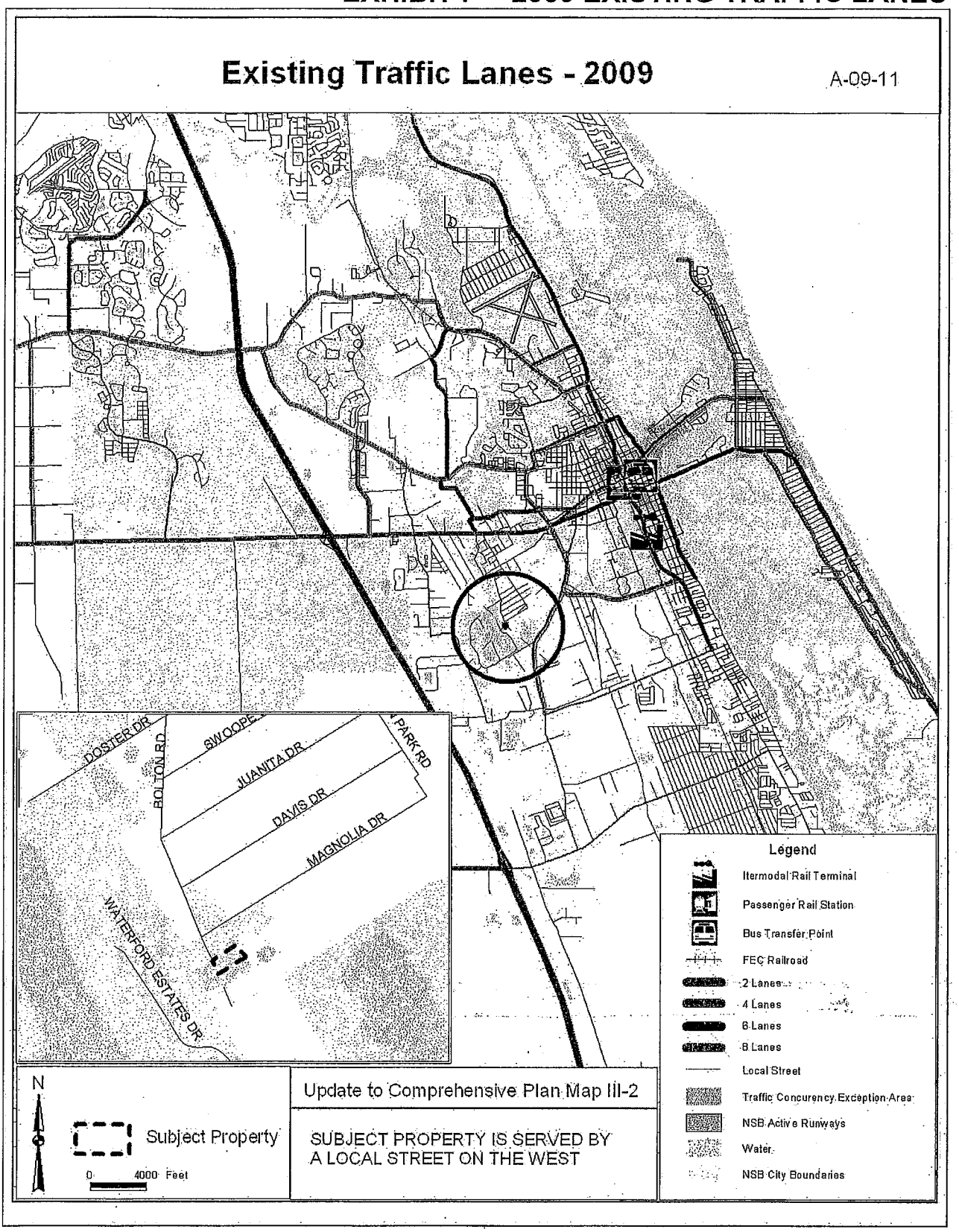

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EXHIBIT Q – PUBLIC TRANSIT ROUTESS

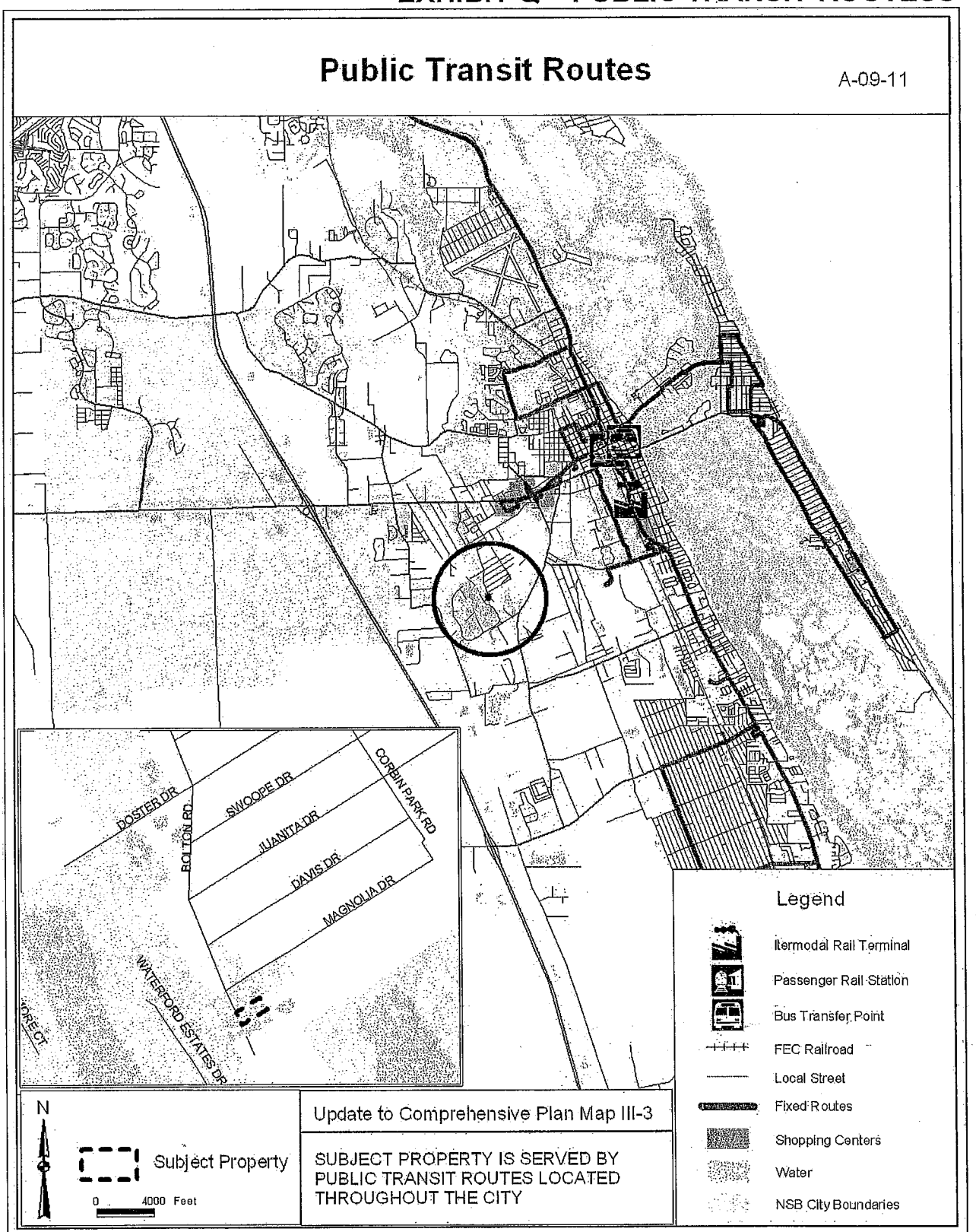

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EXHIBIT R - BICYCLE AND PEDESTRIAN FACILITIES

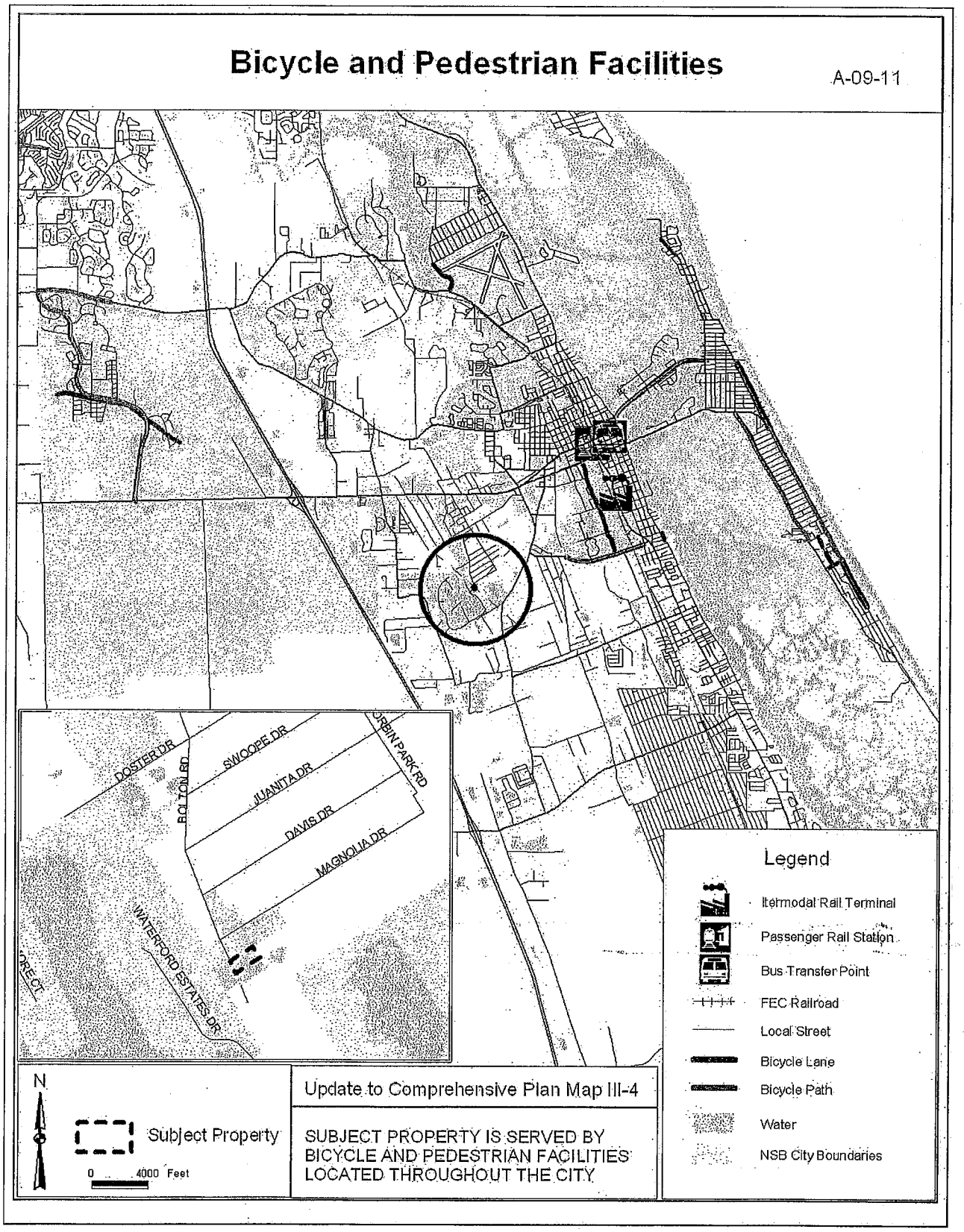

EXHIBIT S - AIRPORT RUNWAY PROTECTION ZONES

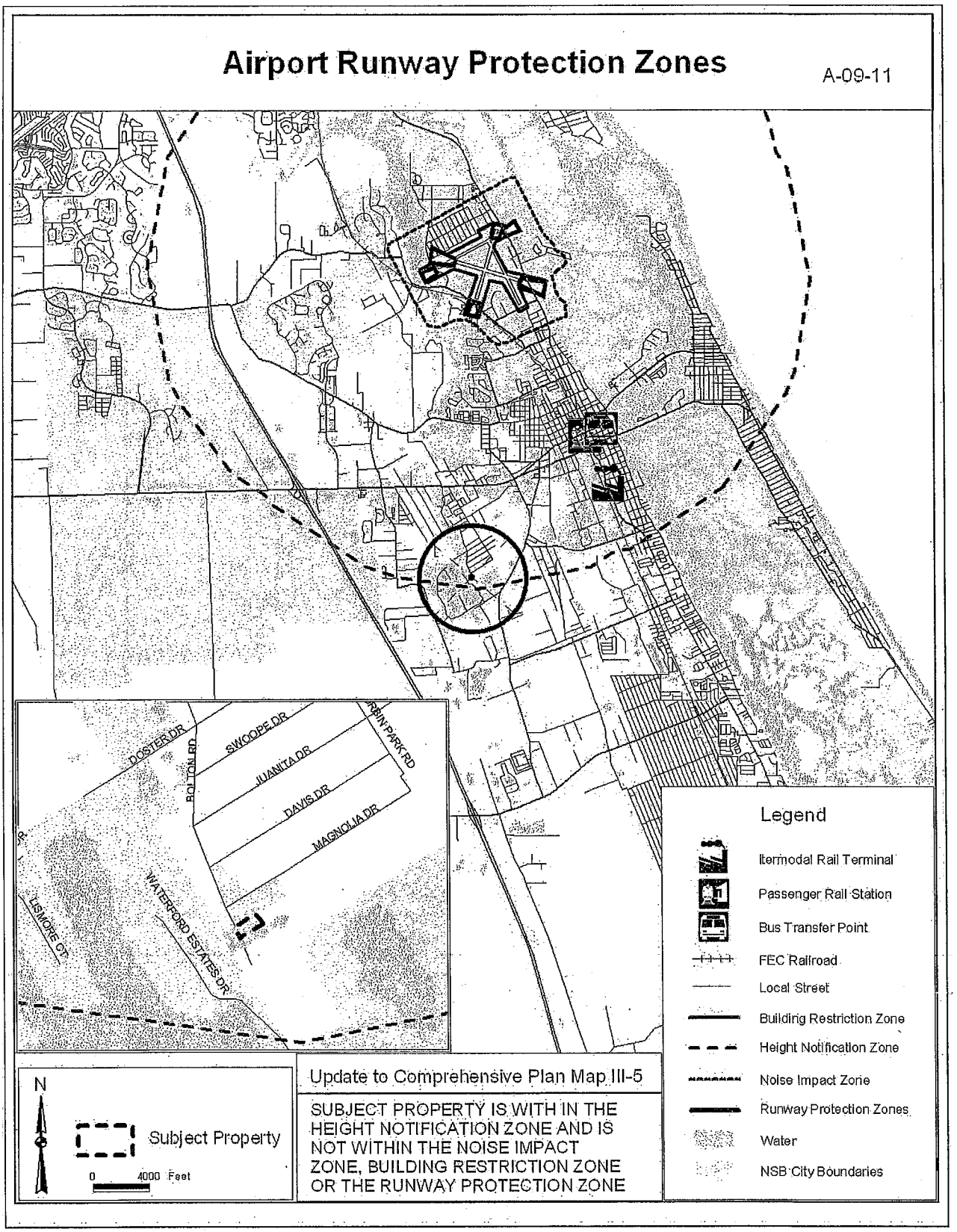

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EXHIBIT T – EVACUATION ROUTES

337

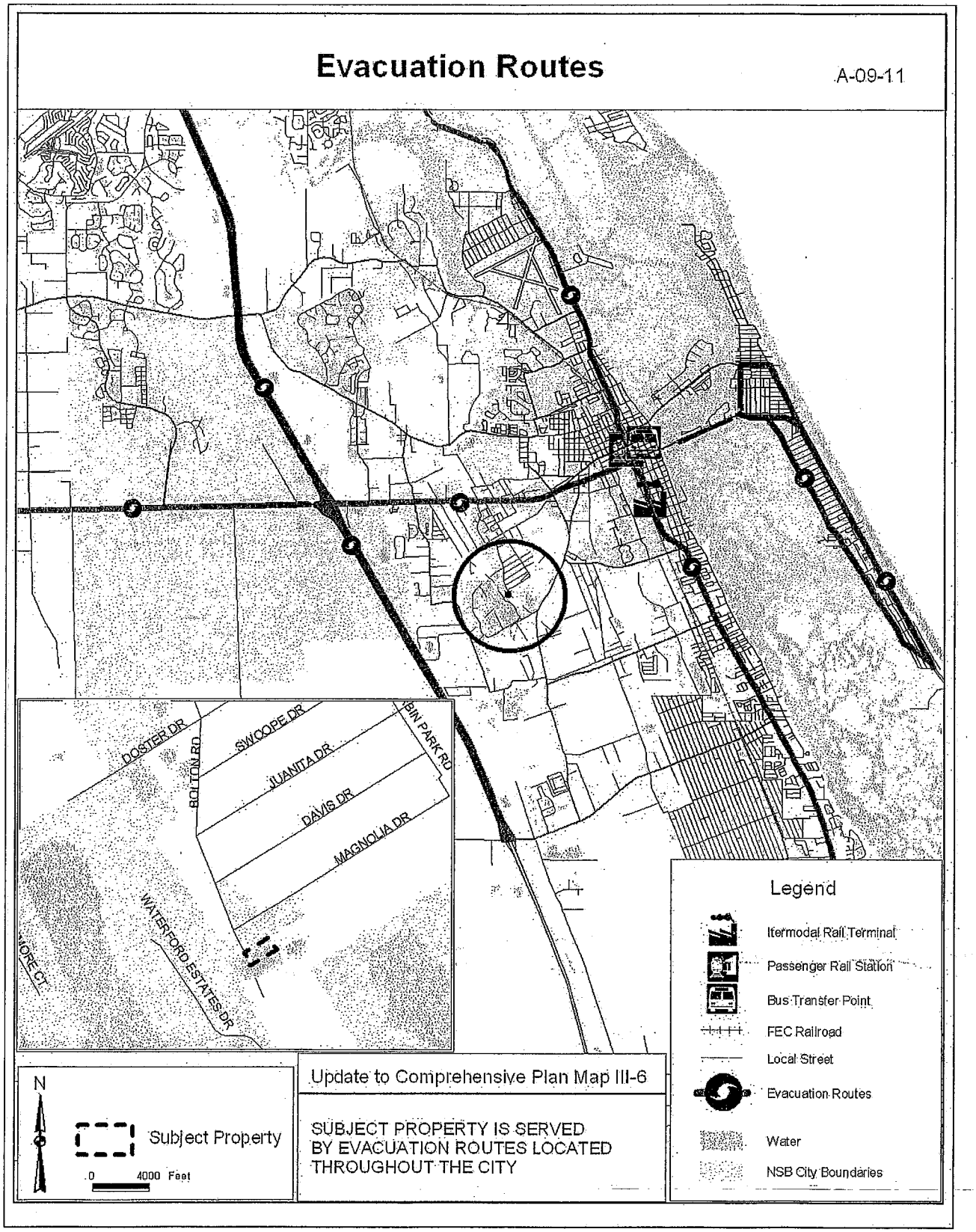

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EXHIBIT U – 2025 LEVEL OF SERVICE

339

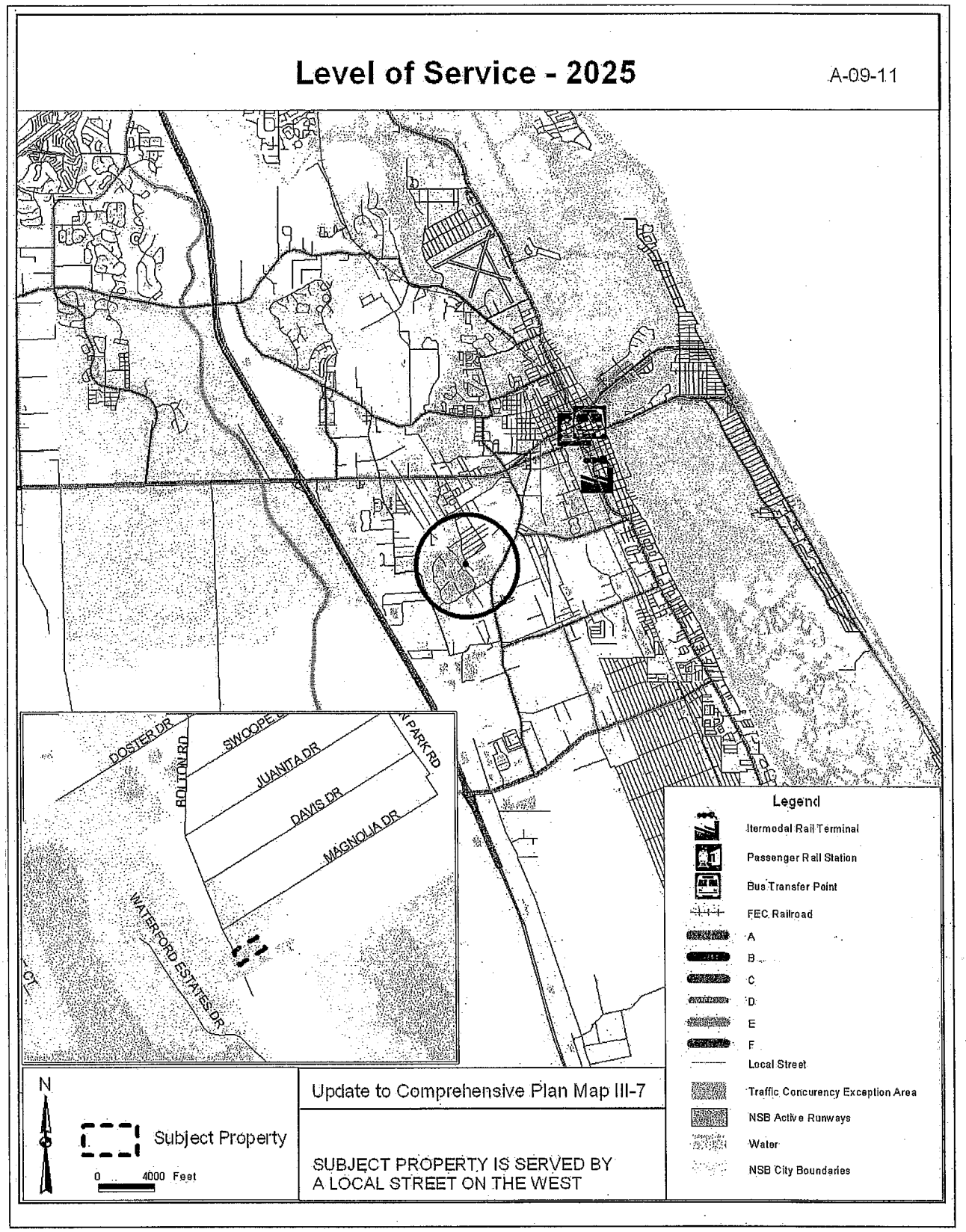

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EXHIBIT V – 2025 NUMBER OF LANES

341

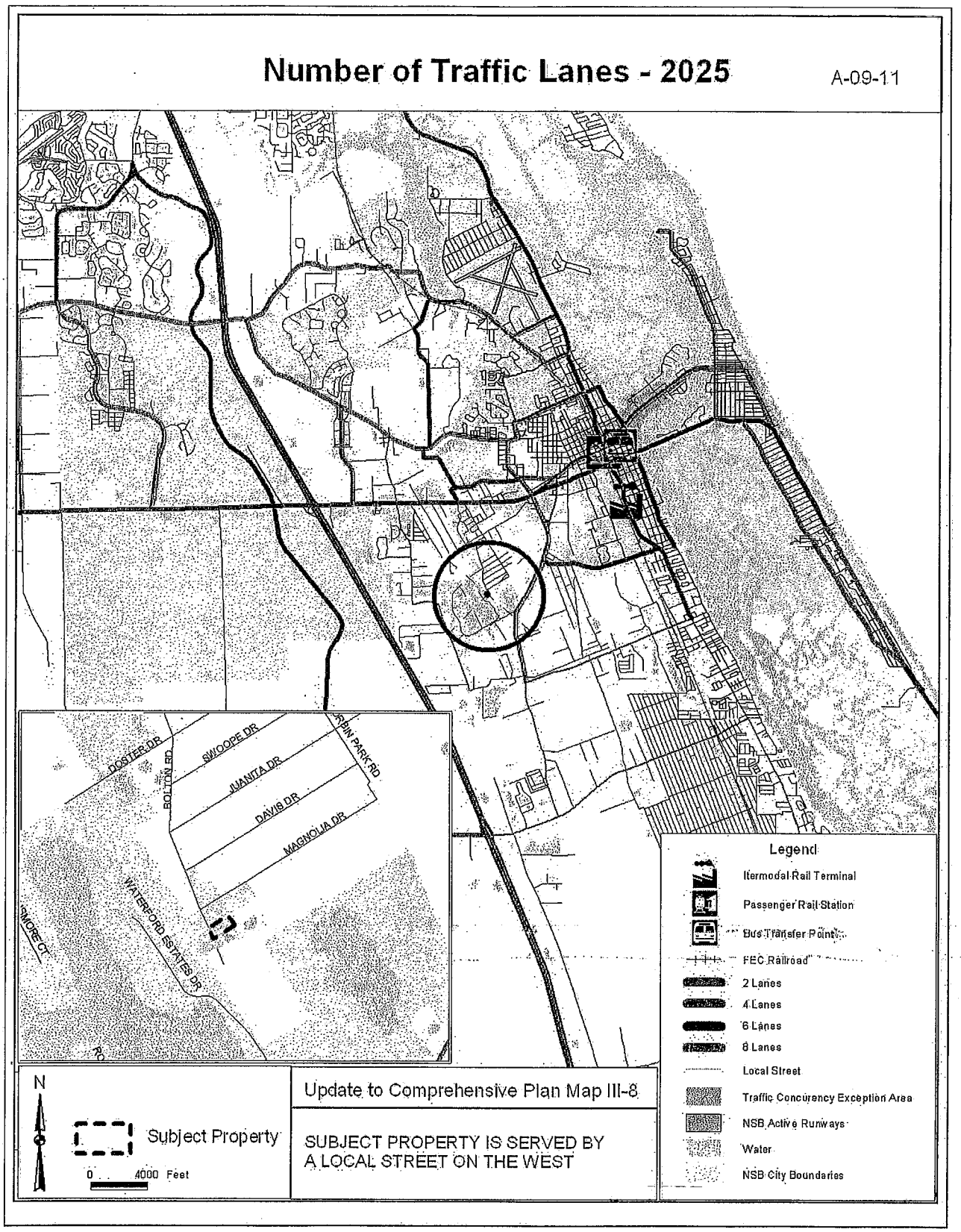

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EXHIBIT – W SOIL LIMITATIONS FOR SEPTIC SYSTEMS

344

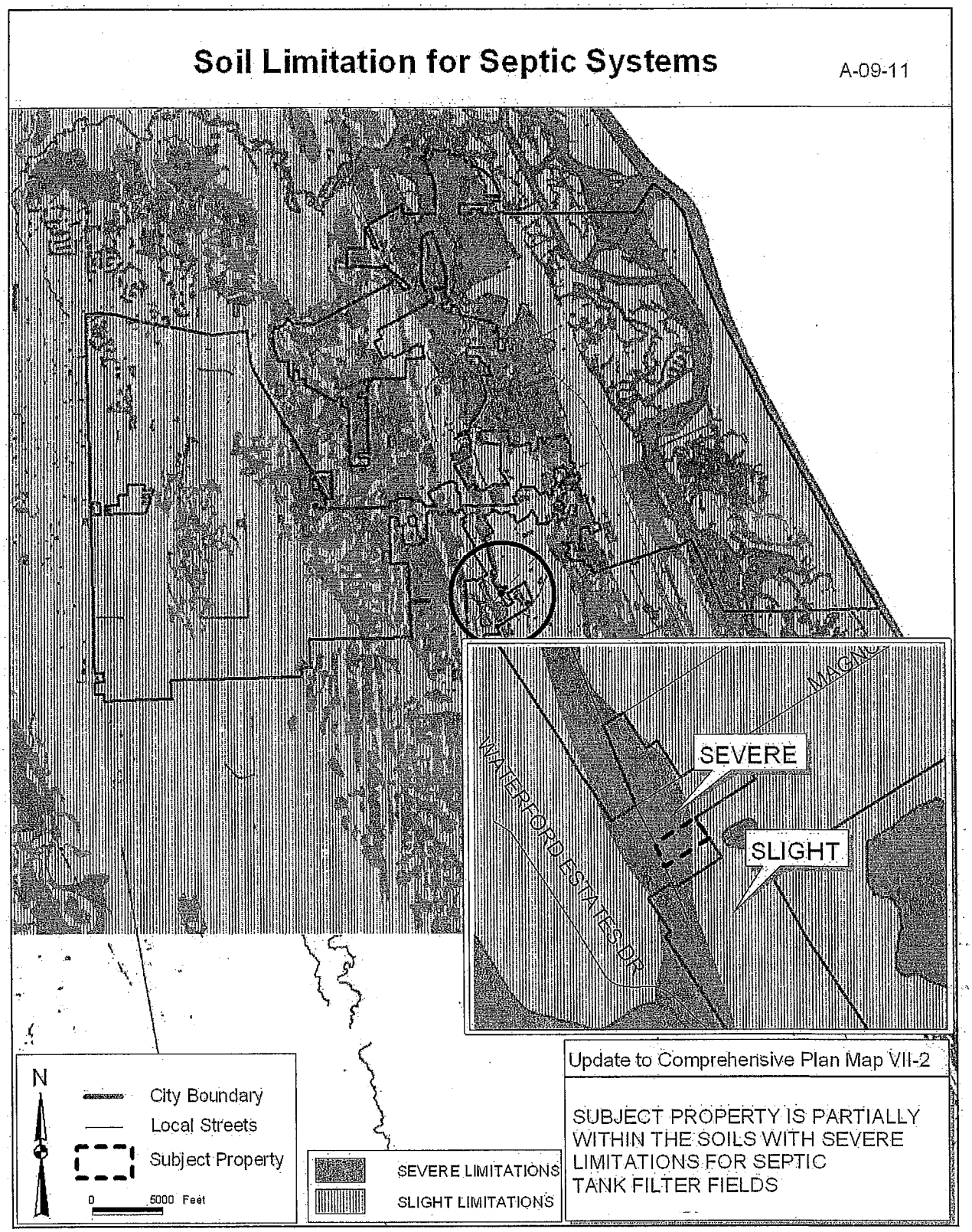

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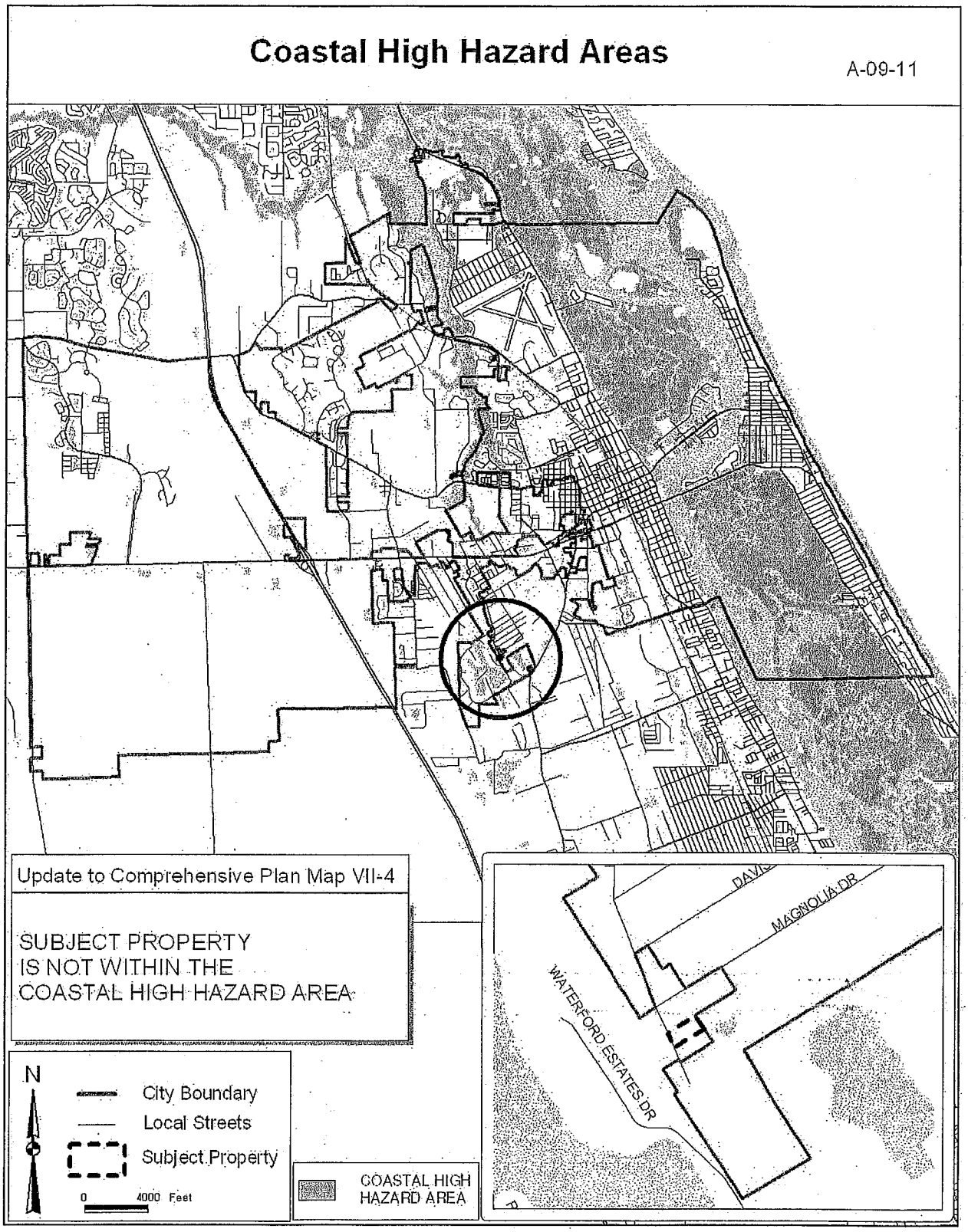
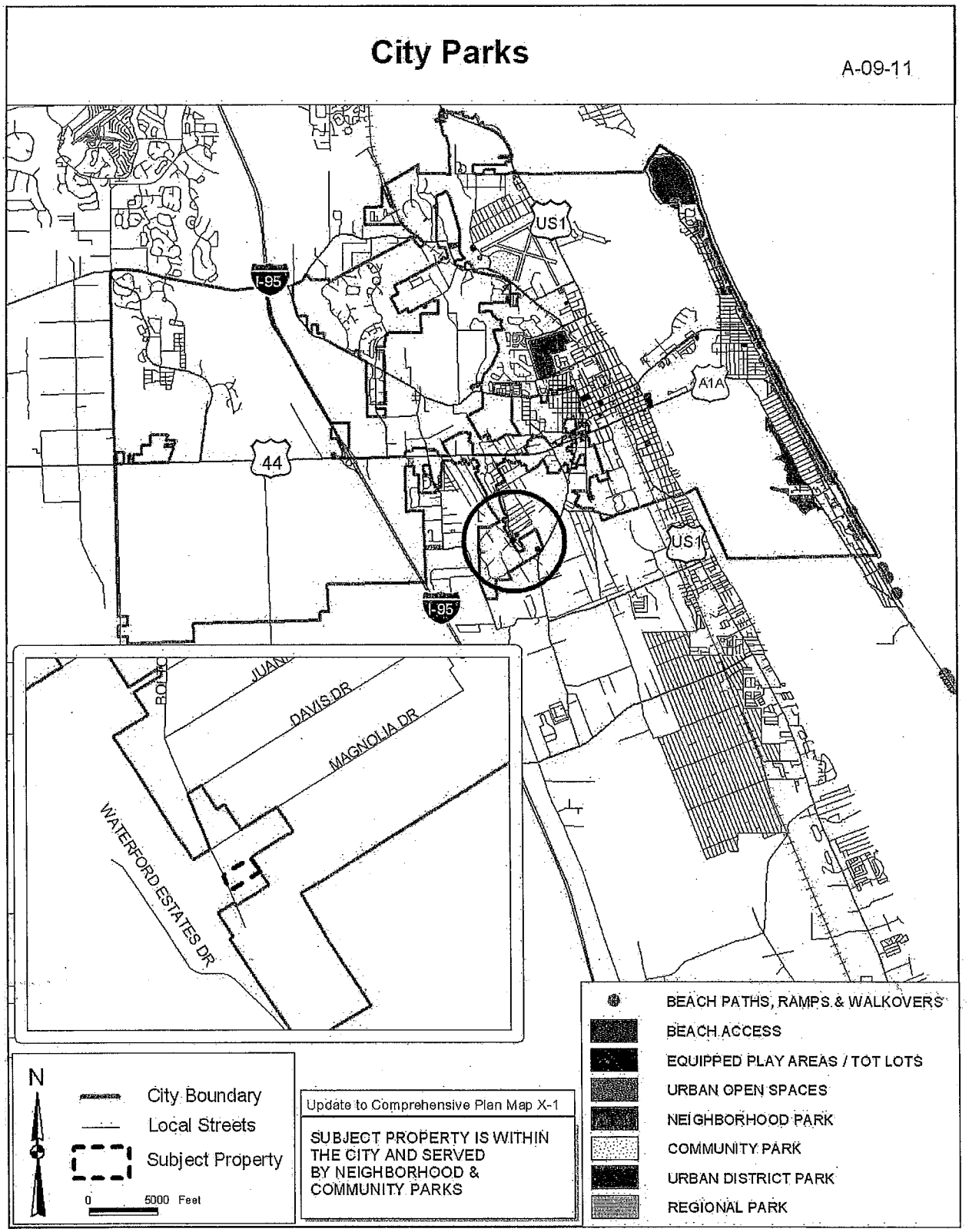
EXHIBIT X – COASTAL HIGH HAZARD AREAS



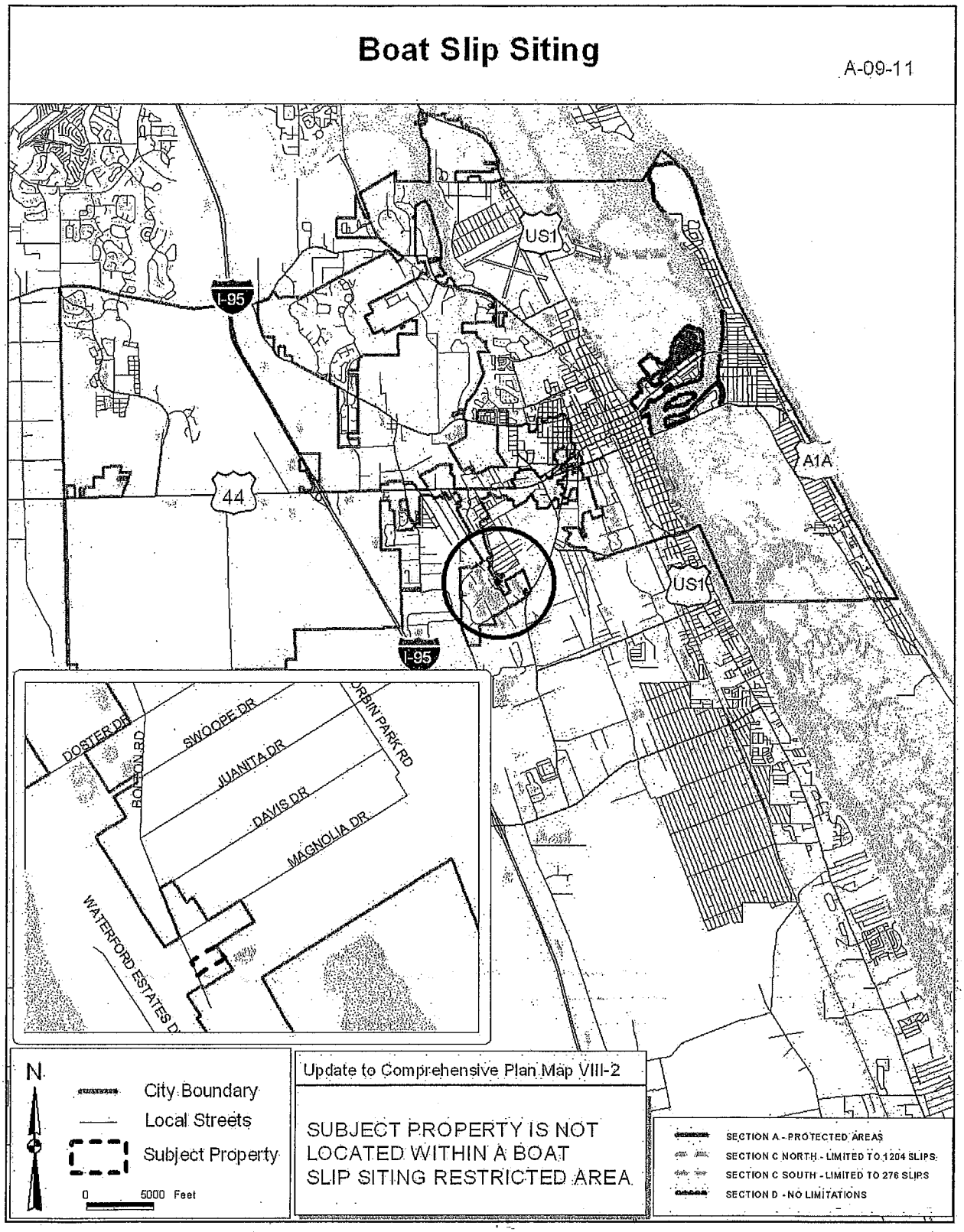
346
347

EXHIBIT Y – CITY PARKS



348

EXHIBIT Z – BOAT SLIP SITING



349

EXHIBIT AA – AERIAL OF SUBJECT PROPERTY

350
351

CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-11-11: SCHWOERER / OTTER BOULEVARD

AUGUST 1, 2011

I. Background

A. **Applicant and Property Owner:** Gwendolyn Schwoerer, 386 Otter Boulevard, New Smyrna Beach, Florida, 32168

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

- **From:** County Future Land Use (FLU) designation of Urban Medium Intensity; and County zoning R-4, Urban Single-Family Residential
- **To:** City FLU designation of Low Density Residential; and City zoning R-1, Single-Family Residential

C. **Site Information:**

- **Size:** 5.0 acres
- **Location:** West side of Otter Boulevard, south of Pioneer Trail and north of State Road 44
- **Tax I.D. Number:** 7343-06-00-0053

II. Findings

A. The subject property is an approximately five-acre vacant site. No improvements are proposed on the property at this time. However, the property owner has indicated that at some point in the future the property may be subdivided into a 2.5-acre parcel and two 1.25-acre parcels. A copy of the survey for the subject property is attached as **Exhibit B**. The property currently has a Volusia County Future Land Use (FLU) designation of Urban Medium Intensity, which allows 4.0 to 8.0 dwelling units per acre. The property is currently zoned Volusia County R-4, Urban Single-Family Residential. The surrounding future land use, existing uses, and zoning are as follows:

North

Future Land Use:	County Urban Low Intensity
Existing Land Use:	Single-Family Residential
Zoning:	County RR, Rural Residential and County A-1, Rural Agriculture

South

Future Land Use:	County Urban Medium Intensity
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential

East

Future Land Use:	City Low Density Residential
Existing Land Use:	Single-Family Residential
Zoning:	City R-1, Single-Family Residential

West

Future Land Use:	County Urban Medium Intensity
Existing Land Use:	Vacant
Zoning:	County R-4, Urban Single-Family Residential

Maps showing the surrounding Existing Land Uses, Existing Zoning, and Existing Future Land Use Designations are attached (**Exhibits C, D, and E**). Descriptions of the existing zoning and Future Land Use designations on the subject property are attached as **Exhibits F and G**.

B. Previous City Commissions had established a policy that when property is annexed into the City, the City would assign a future land use and zoning designation that would closely match the existing County designations. As discussed above, the existing County FLU and zoning designations are Urban Medium Intensity and R-4, Urban Single-Family Residential, respectively. Because property that has been annexed into the City on the east side of Otter Boulevard has a FLU designation of Low Density Residential, staff is recommending that this designation also be applied to the subject property. Staff has spoken with the property owner about this recommendation and the property owner has verbally indicated that she is in agreement with this. Maps showing the proposed FLU and zoning changes are attached as **Exhibits H and I**. Descriptions of the proposed FLU and zoning designations are attached as **Exhibits J and K**.

C. This annexation request is within the City's annexation area and within the City's water and wastewater service area. The property is served by a 6-inch PVC water line located within Otter Boulevard. Sewer service is not currently available to serve the property.

D. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, stormwater management, and public school facilities. A table detailing the potential concurrency impacts under the existing and proposed Future Land Use designations is attached as **Exhibit L**. Because the proposed City FLU designation is less intense than the existing County FLU designation, there is a decrease is potential impacts in all concurrency categories.

E. There are numerous *Comprehensive Plan* maps that must be amended to show the subject property as being incorporated into the municipal boundaries (see **Exhibits M through AA**). **Exhibit BB** is an aerial photo of the property for informational purposes.

F. The *Comprehensive Plan* provides some guidance on annexations, future land use amendments, and rezonings. The following is a list of objectives in the *Comprehensive Plan* that support this proposal. Following each objective is a comment in ***bold italics***.

- **Future Land Use Element Objective 1:** To ensure that future development will be consistent with adjacent uses, natural limitations such as topography and soil conditions, the needs of the citizens of New Smyrna Beach, the Future Land Use Map, the availability of facilities and services, and the goals, objectives and policies contained within this *Comprehensive Plan*.

  The requested FLU designation for the subject property is consistent with proposed adjacent uses, natural limitations, and the availability of facilities and services. Therefore, it is consistent with the* Comprehensive Plan*. The property is bordered by low density single-family residential or vacant land on all sides. When the property is developed in the future, the maximum allowed density and single-family uses would be consistent with surrounding development patterns.

- **Future Land Use Element Objective 2:** To provide adequate services and facilities for future development, at the adopted level-of-service standard. In order to maintain the adopted level-of-service standard, development orders and permits will be conditioned on the availability of the public facilities and services necessary to serve the proposed development.

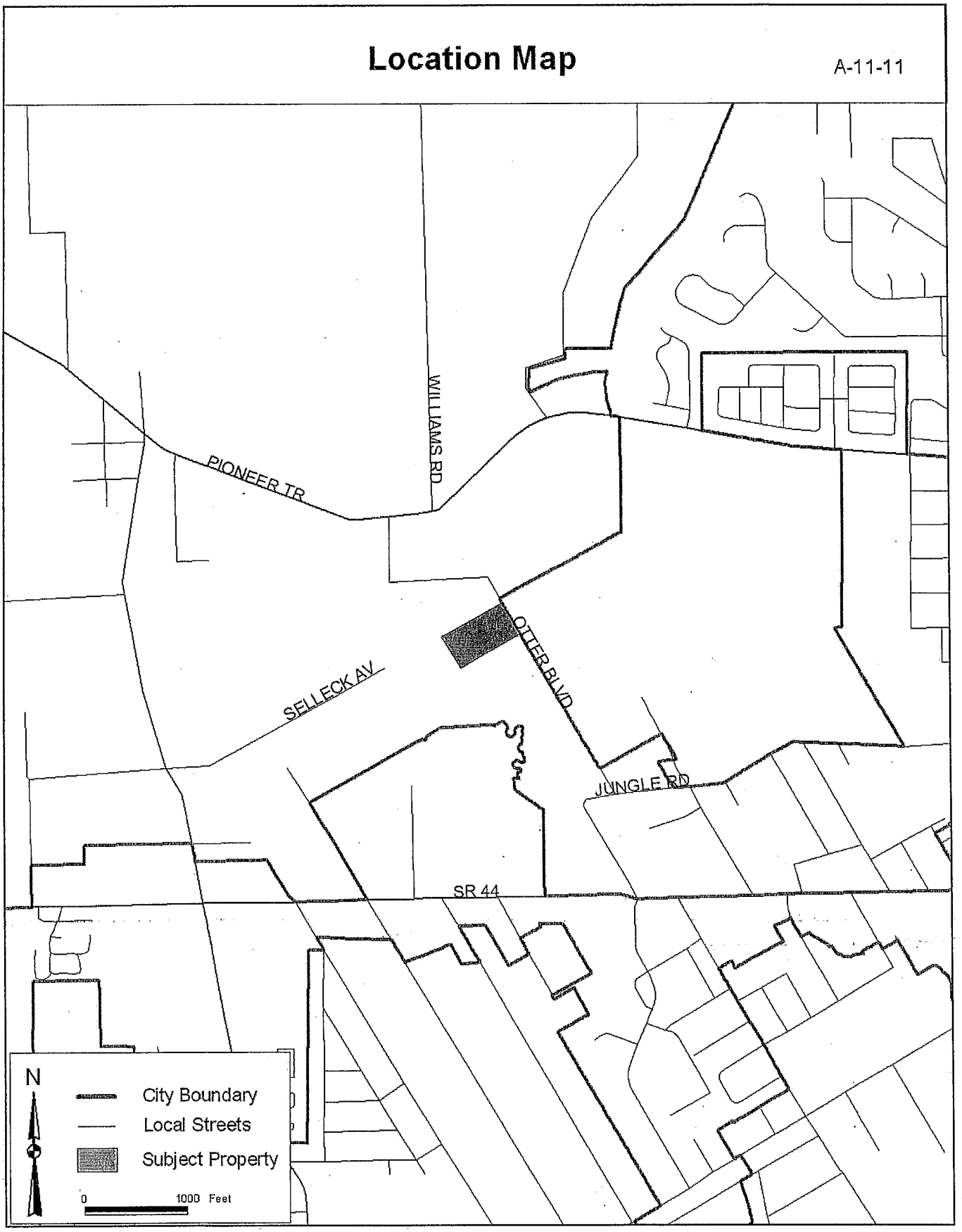
  The proposed future land use amendment will decrease density in this area. There is a 6" water line within the Otter Boulevard right-of-way that is available to service the property. Sewer is not currently available in this area of the City.

- **Future Land Use Element Objective 10:** To protect existing desirable neighborhoods from encroaching new development which is incompatible and inconsistent with established character of the neighborhood.

  The requested FLU and zoning designations are compatible and consistent with the City's surrounding FLU and zoning designations. The property to the east has a FLU designation of Low Density Residential and is zoned R-1, Single-Family Residential.

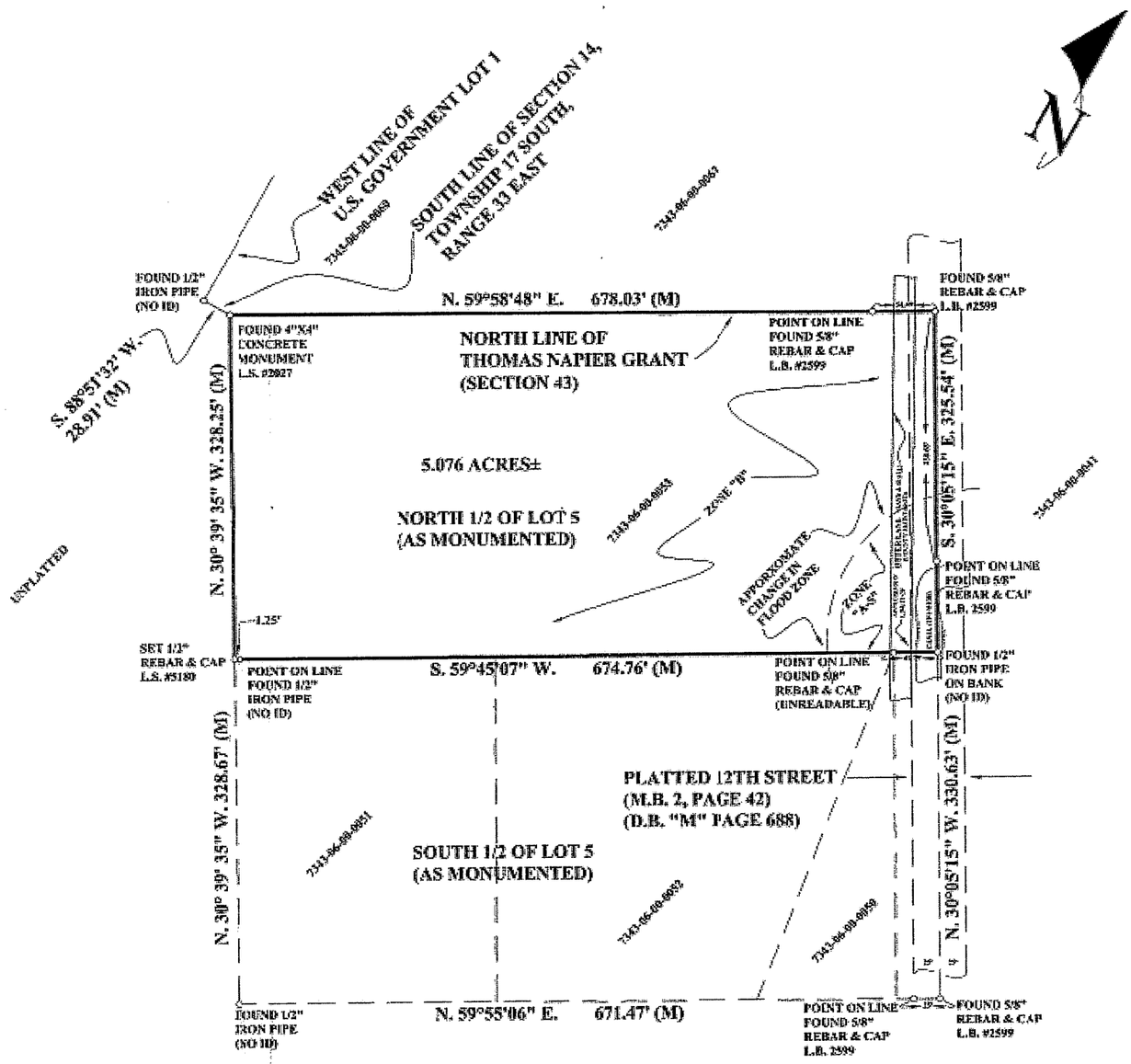
III. Recommendation

Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the annexation, *Comprehensive Plan* amendment to City Low Density Residential, and the rezoning to City zoning district designation R-1, Single-Family Residential.


Location Map
A-11-11
WILLIAMS RD
PIONEER TR
OTTER BLVD
SELLECK AV
JUNGLE RD
SR 44
N
City Boundary
Local Streets
Subject Property
0
1000 Feet

LEGAL DESCRIPTION:

THE NORTH 1/2 OF LOT 5, NAPIER AND HULL GRANTS A/K/A CHARLES DOUGHERTY, ACCORDING TO THE PLAT THEREOF, RECORDED IN DEED BOOK M, PAGE 688 AND IN MAP BOOK 2, PAGE 42 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.



GENERAL NOTES

1. THIS BLACK/WHITE SURVEY WAS COMPLETED ON THE 19 OCT. 2001

2. UNDERGROUND FEATURES AND/OR STRUCTURES HAVE NOT BEEN LOCATED UNLESS OTHERWISE NOTED

3. DESCRIPTION SHOWN AND HAS BEEN FURNISHED BY CLIENT OR REPRESENTATIVES OF CLIENT. NO SEARCH OF PUBLIC RECORDS HAS BEEN DONE BY THIS OFFICE

4. SUBJECT TO ANY EASEMENTS, RESTRICTIONS, RESERVATIONS, RIGHT OF WAYS, EVIDENCE RECORDED, PRIVATE, AND/OR VERBAL.

5. THIS PROPERTY LIES IN ZONE B(SEE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 120290 0010 E DATED 4-1-83)

6. MONUMENTS ACCEPTED AND ESTABLISH THE NORTH LINE OF LOT 5 BEARING N. 59°58'48" E.

7. ENVIRONMENTALLY SENSITIVE AREAS (IF ANY) NOT LOCATED.

PREPARED FOR:
JAMES T. FROST

CERTIFIED TO: JAMES T. FROST
INLET TITLE COMPANY
AMERICAN PIONEER TITLE INSURANCE CO.

SCALE: 1" = 60' FINAL:
DATE: 12/10/2001 REVISED:
FOUNDATION: FILE NUMBER: 3410
RALPH DINARSICO
PROFESSIONAL LAND SURVEYOR AND MAPPER
PHONE: (904) 426-1329, FAX (904) 426-1324
P.O. BOX 70241
NEW SMYRNA BEACH, FLORIDA 32170

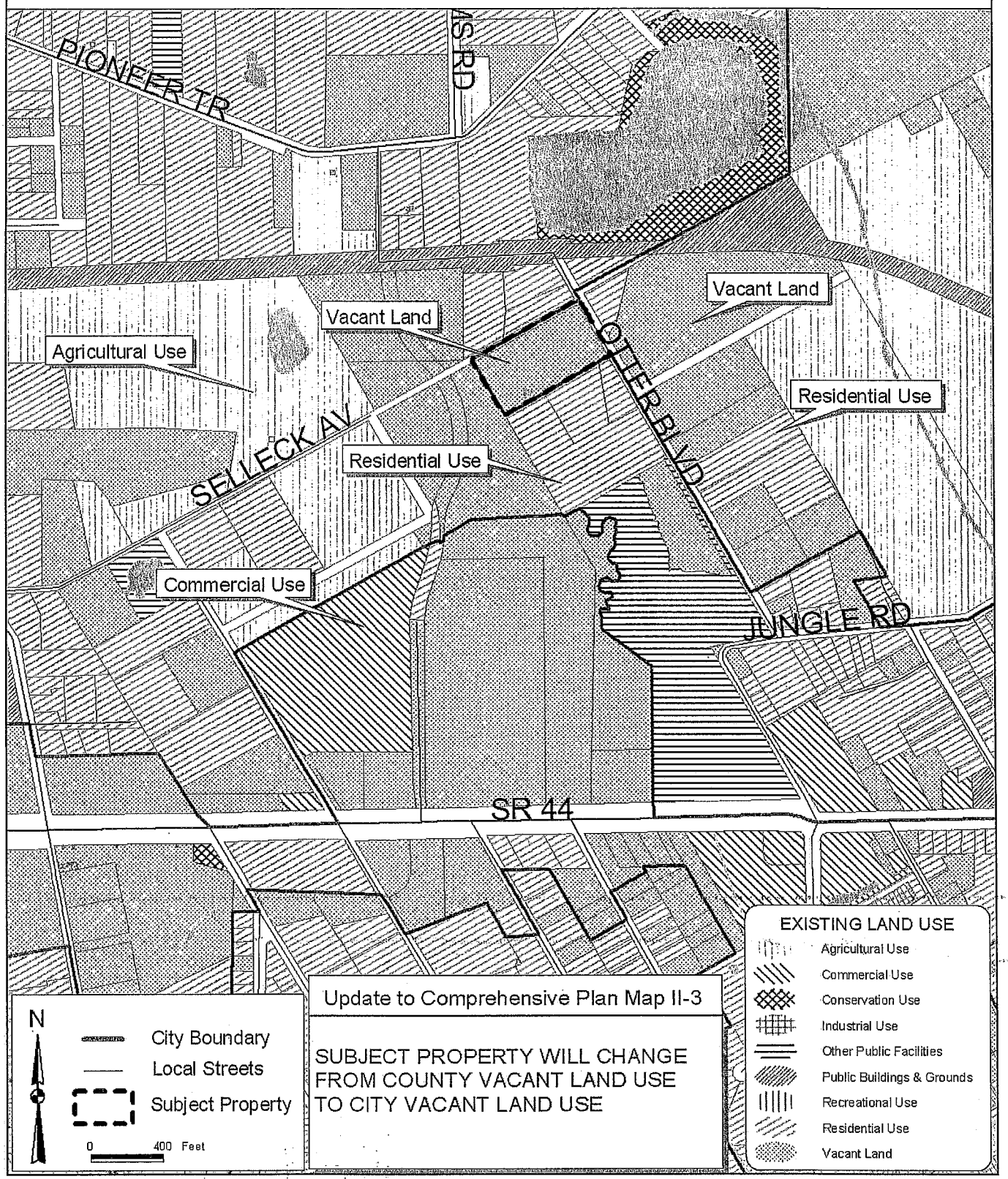
LEGEND

R/W	RIGHT OF WAY	CONC.	CONCRETE
R&C	REBAR AND CAP	A.C.	AIR CONDITIONER
I.P.	IRON PIPE	L	ARC LENGTH
C.M.	CONCRETE MONUMENT	D	DELTA
L.S.	LICENSED SURVEYOR	CH	CHORD LENGTH
L.B.	LICENSED BUSINESS	R	RADIUS
P.C.	POINT OF CURVATURE	R/D	REBAR
P.T.	POINT OF TANGENCY	N/R	NON RADIAL
P.R.C.	PERMANENT CONTROL POINT	U/P	UTILITY POLE
P.R.M.	PERMANENT REFERENCE MONUMENT	O/H	OVERHEAD UTILITIES
		P	PLAT
E/P	EDGE OF PAVEMENT	M	MEASURED
C.L.	CENTER LINE	D.	DESCRIPTION
B/W	BLACK/WHITE	RES.	RESIDENCE
		C.B.	CONCRETE BLOCK

EXHIBIT B

Existing Land Use Designations

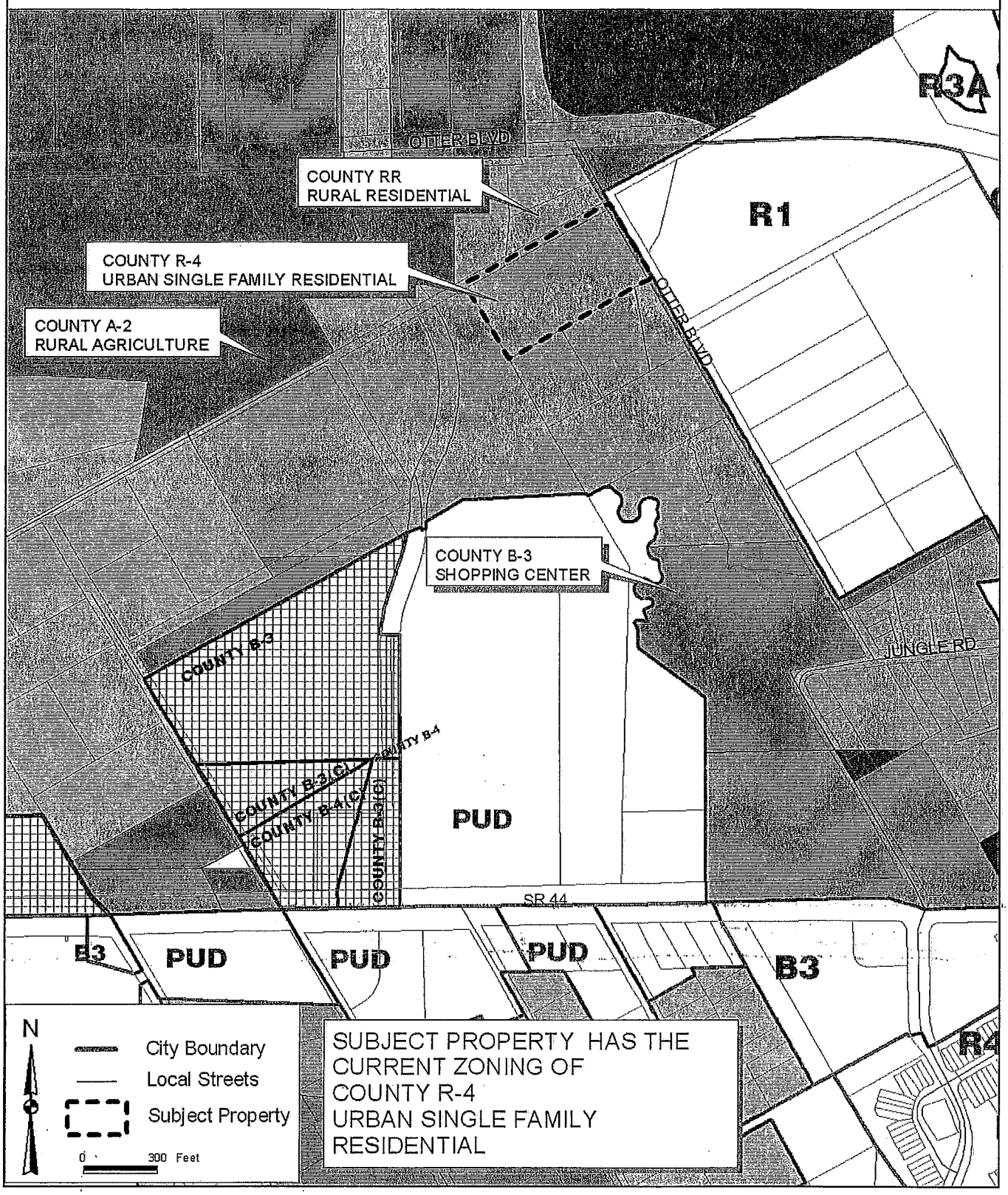
A-11-11



2

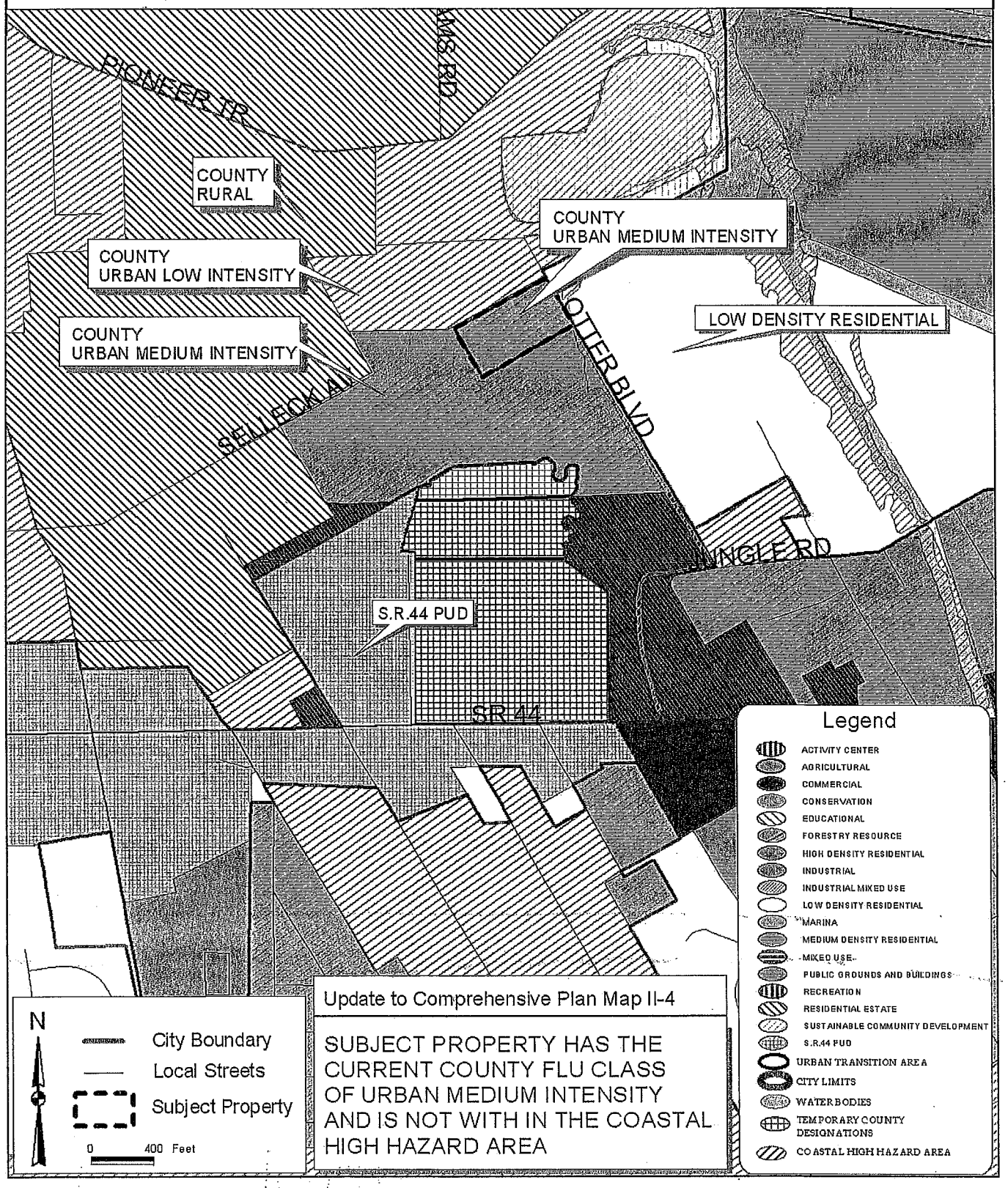
Existing Zoning

A-11-11



Existing Future Land Use Designations

A-11-11



R-4 URBAN SINGLE-FAMILY

RESIDENTIAL CLASSIFICATION

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

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

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

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

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

Dimensional requirements:

Minimum lot size:

- Area: 7,500 square feet.
- Width: 75 feet.

Minimum yard size:

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

Maximum building height: 35 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 850 square feet.

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

DIVISION 16. INDIAN RIVER LAGOON SURFACE WATER IMPROVEMENTS AND MANAGEMENT OVERLAY ZONE

Sec. 72-1096. Purpose and intent.
(a) The purpose of this division is to provide regulations to protect and improve the water quality of the Indian River Lagoon. This water body contains waters designated as class II by the Florida Department of Environmental Protection in accordance with Rule 62-302.400, Florida Administrative Code, and the only waters in Volusia County designated for special protection by Florida legislation pursuant to the Surface Water Improvement and Management Act (SWIM). Additionally, these waters have been designated as an "estuary of national significance" by the U.S. Environmental Protection Agency. Said class II designation authorizes shellfish propagation and harvesting. Said water quality criteria applicable to this class are designed to maintain the minimum conditions necessary to assure the suitability of water for the designated use of the classification. The regulations in this section are designed to reduce the negative impacts of development adjacent to the Indian River Lagoon and to protect this vital natural resource and the shellfish harvesting industry in that area.

(b) Notwithstanding any other provisions of the Land Development Code, Ordinance 88-3, and as amended, to the contrary, these regulations are supplementary thereto.

(c) An overlay zone is hereby established and the regulations hereinafter provided shall apply in said zone and all zoning classifications established in division 7 of the Zoning Ordinance, Ordinance No. 80-8, as amended. The official zoning map shall identify the overlay zone by adding the letter "W" as a suffix to the zoning classifications within the boundaries of said overlay zone.
(Ord. No. 2004-21, 11-4-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1097. Boundaries.
Said boundaries of the zone are as follows: That portion of the unincorporated area of Volusia County, Florida, bounded on the north by the southern city limits of the City of New Smyrna Beach; on the east by the Atlantic Ocean; on the west by U.S. Highway #1; and on the south by the Brevard County line.
(Ord. No. 2004-21, 11-4-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1098. Wetlands preservation.
All wetlands occurring within this overlay zone shall be regulated in accordance with division 11 of this article.

(Ord. No. 2004-21, 11-4-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1099. Shoreline protection.
(a) The construction of vertical seawalls and bulkheads shall be allowed adjacent to artificial waterways in existence prior to June 18, 1987, provided that the design of said seawalls and bulkheads prevents the runoff of stormwater into the artificial waterway. A stormwater management plan is required.
(b) Vertical seawalls and bulkheads are prohibited adjacent to all other watercourses or water bodies except as may be waived by the county council. Hardening of the estuarine shoreline shall be allowed only when erosion is causing a serious threat to life or property.
(c) Other shoreline stabilization methods may be used in lieu of vertical seawalls and bulkheads when hardening of the shorelines is approved.
(Ord. No. 2004-21, 11-4-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1100. Landscaping.
Notwithstanding any other provision of the Zoning Ordinance, Ordinance No. 80-8, as amended, to the contrary, all development shall contain a minimum of 35 percent open space within property boundaries, landscaped with existing native vegetation which is indigenous to this area or planted native species, in accordance to a list of acceptable species available in the zoning office.
(Ord. No. 2004-21, 11-4-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1101. Stormwater controls.
Notwithstanding any other provisions of division 8 of this article, individual single-family and duplex residential dwellings or additions thereto and/or accessory structures containing a total of 250 square feet in size or more, not previously included in a stormwater management plan, shall provide a volume of retention equivalent to one-half-inch of depth over the entire site or lot. Prior to the issuance of a building permit, an application shall be submitted to the environmental management division (EDM) for review. The EDM may approve, modify, or deny the application.
(Ord. No. 2004-21, 11-4-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1102. Wastewater treatment plants and on-site waste disposal systems.
(a) Package wastewater treatment plants may be permitted if the plant is designed to be transformed into a pump station when public central wastewater facilities become available in the area, provided that said availability is to be not more than ten years distant from issuance of a development order. Said package plants are to be dedicated to the entity to be responsible for providing central regional service and are to be constructed to the requirements specified by said entity.

(b) Septic tanks, if permitted for new single-family lots shall be located in compliance with chapters 64E-6 and 62-600 of the Florida Administrative Code. The septic tank system shall be designed to connect to central sewer line when central sewer services become available. The septic tank system and drainfield shall be as far removed as possible from the shoreline of a class II water body or its tributaries.

(c) For that portion of the barrier island falling within the overlay zone, aerobic wastewater treatment units or alternative systems approved by the health department shall be required, until such time as central sewer service becomes available, on lots

that are either within 200 feet of the shoreline of Mosquito Lagoon or consist of one of the following soils:
Canaveral sand
Cassia fine sand
Hydraquents
(d) For that portion of the mainland, east of U.S. Highway #1, which is within the overlay zone, aerobic wastewater treatment units or alternative systems approved by the health department shall be required on lots that are located within 200 feet of the shoreline of Mosquito Lagoon.
(1) These systems are also required for lots which are in excess of 200 feet from the shoreline of Mosquito Lagoon, provided that said lots have less than 10,000 square feet of area and consist of any one or more of the following soils:
Canaveral sand;
Cassia fine sand;
Hydraquents;
Myakka fine sand;
Quartzippamments;
Turnbull muck;
Pompano-Placid complex;
Myakka variant fine sand;
Placid fine sand, depressional;
Basinger fine sand, depressional;
Immokalee sand;
Myakka-St. Johns complex;
Immokalee sand, depressional;
Tuscawilla sand;
Pompano fine sand;
Riviera fine sand;
Wabasso fine sand;
Chobee fine sand.
(2) Any transitional soil with a seasonal high-water table within 12 inches of the soil surface.
(e) On-site waste disposal systems are not permitted where connection to a central system of wastewater collection and treatment is available.
(f) A municipal, county-owned, or investor-owned sewage system shall be deemed available for connection if all of the following criteria are met:
(1) The system is not under a Florida Department of Environmental Regulation moratorium; and
(2) The sewerage system has adequate hydraulic capacity (i.e., complies with the county's adopted level of service standard) to accept the quantity of sewage to be generated by the proposed development; and
(3) For estimated sewage flows of 600 gallons or less per day:
a. A sewer line exists in a public easement or right-of-way which abuts the property; and
b. Gravity flow can be maintained from the building drain to the sewer line.
(4) For estimated sewage flows exceeding 600 gallons per day:
a. A sewer line, force main, or lift station exists in a public easement or right-of-way which abuts the property or is within 100 feet of the property.
(Ord. No. 2004-21, 11-4-04; Ord. No. 2008-25, § III, 12-4-08)

Sec. 72-1103. Removal of vegetation.

The removal or stripping of native vegetative cover from a vacant lot is prohibited unless said action is performed in conjunction with the development of the building premises in a manner consistent with an approved development order or building permit; or upon authorization of the zoning enforcement official for minor landscaping projects.

Volusia County Urban Medium Intensity (UMI)

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

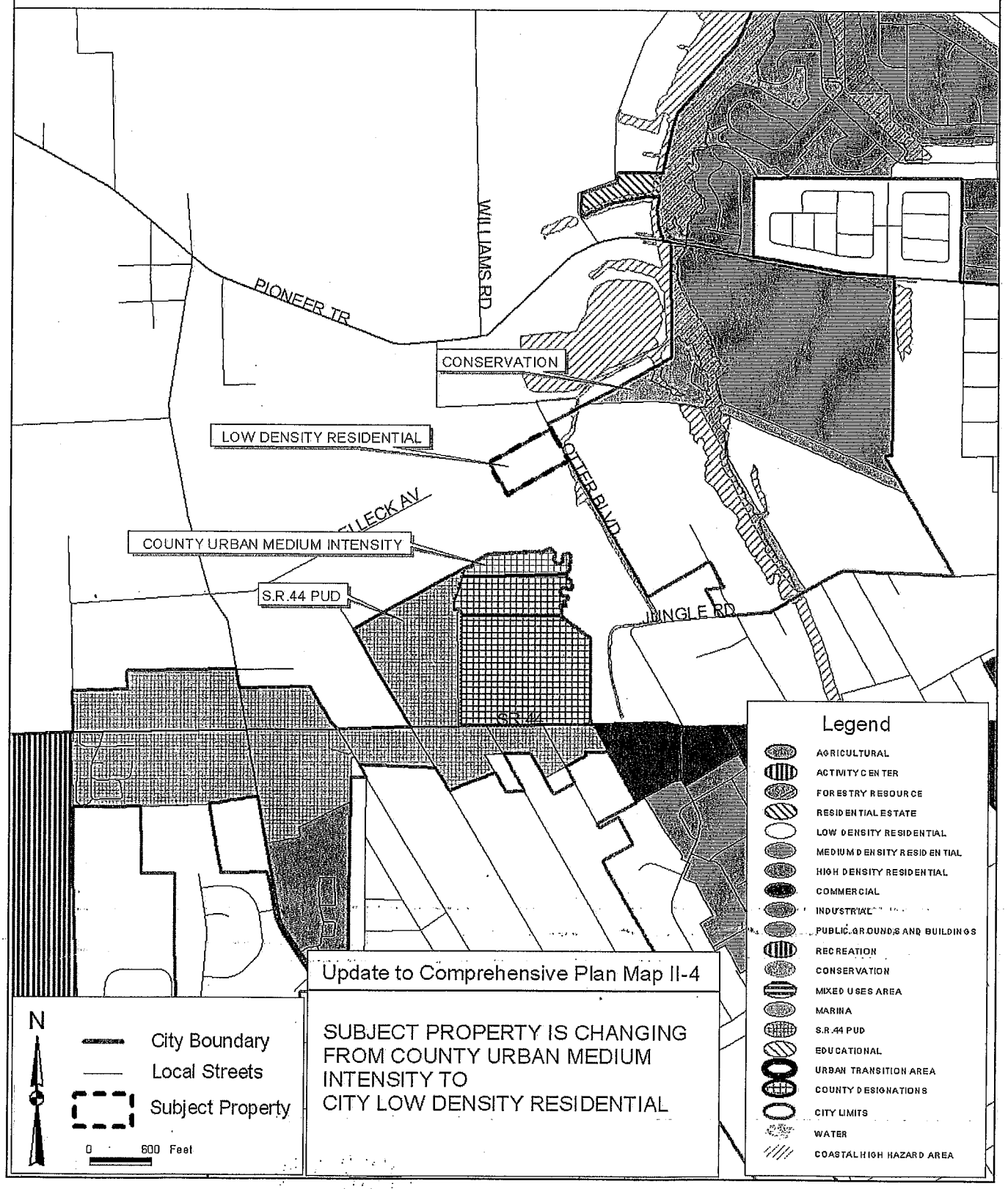
The UMI designation is primarily a residential designation but may allow neighborhood business areas (see Shopping Center definition in Chapter 20) and office development that meet the Comprehensive Plan's location criteria. The commercial intensity shall be no more than a fifty percent Floor Area Ratio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

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

1

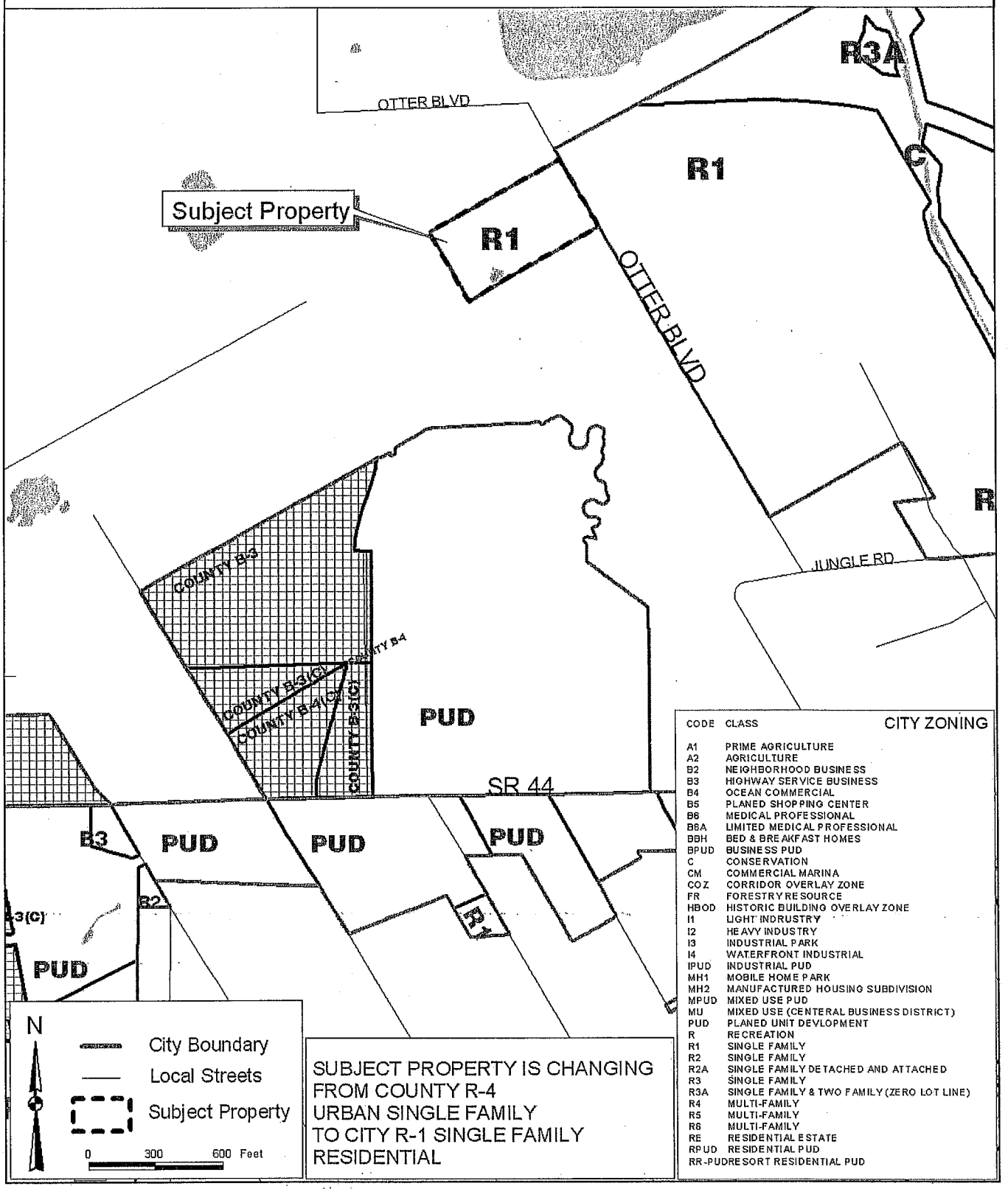
Proposed Future Land Use Designations

A-11-11



Proposed Zoning

A-11-11



Low Density Residential

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

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

R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Intent:

The R-1 district is intended to be a single-family residential district for low population densities. Existing development and usage has resulted which is being preserved in order to stabilize the neighborhood. The nature of the residential use of the property throughout the district will enhance the prospects for orderly future residential development.

Permitted Uses:

- Playfields
- Playgrounds
- Public Parks
- Recreation buildings and complexes intended for exclusive use by residents and guests of a residential development.
- Single Family Dwelling Units

Permitted Accessory Uses:

- Garages
- Gazebos
- Incidental Uses
- Permitted Home Occupations
- Storage Sheds
- Swimming Pools, private, provided a principal use exists and the pool is located to the rear of the principal structure and out of required rear and side yards
- Uses customarily associated with the permitted principal uses

[Revised 4/9/02]

Special Exceptions:

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

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

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

3. Play areas shall be located within all applicable setback dimensions.

4. The church property shall have a vehicular drop off and pickup area with a minimum 100 feet of drive lane outside of the public right-of-way, or sufficient parking area to provide enough space to fit the required parking and provided space for drop off and pick up. [Ord. No. 4-00]

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

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

[Revised 3/27/00]

Dimensional Requirements:

Minimum Lot Size

Area	12,000 feet
Depth	120 feet
Width	100 feet

Minimum Yard Size

Front yard	35 feet, or as required per Section 504.01(M) of this LDR
Rear yard	10 feet
Side yard	20 feet total, no side less than 8 feet

Maximum Building Coverage

The total area covered with buildings on any lot shall not exceed 40% of the total lot area. (Ord. 78-98)

Screen Enclosures:

As an exception to the maximum building coverage provision any parcel may be allowed an additional ten percent (10%) building coverage for only a screen pool enclosure if the following conditions are met:

1. A screen pool enclosure shall only cover the swimming pool and surrounding pool deck and shall have a roof and walls consisting entirely of screening; and

2. There shall be no variances granted to exceed the maximum building coverage or additional coverage allowed for screen enclosures.

Ord. #05-09

Maximum Impervious Lot Coverage:

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

Maximum Principal Building Height

Thirty-five (35) feet.

Three (3) stories.

Minimum Floor Area Requirement

1,200 square feet per dwelling unit.

Off-Street Parking

Off-street parking shall be provided as required in this LDR.

Corner Lots

(1) Parcels which front on two streets shall provide a thirty-five (35) foot front yard on one street frontage and a 17.5 foot front yard on the other street or as required per Section 504.01(M) of this LDR.

(2) Parcels fronting on three streets shall provide two thirty-five (35) foot front yards and a 17.5 foot front yard on the remaining street or as required per Section 504.01(M) in this LDR. [Ord. No. 23-00]

Driveway Access

The minimum driveway length shall be 20 feet (excluding portion of driveway within the public right-of-way). [Ord. No. 23-00]

Through Lots:

Shall provide a thirty-five (35) foot front yard on each street or as required per Section 504.01(M) of this LDR.

Atypical Lot:

Visibility triangles shall be established at the rear corners of an atypical lot. The visibility triangles shall be those areas formed by a line connecting the points thirty (30) feet from the intersection of the side and rear lot line along the side lot line and thirty (30) feet from the intersection of the side and rear lot line along the rear lot line; no principal or accessory structure having a height over 4 feet, except for incidental uses, shall protrude into the area of a visibility triangle.

Building Projections:

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

Visibility at Intersections:

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

Revised 7-3-00]

IMPACT ANALYSIS

Existing County FLU	Acres	Density	Units	Existing County Zoning	Acres
Urban Medium Intensity (UMI)	5.000	8 units/acre	40	R-4 - Urban Single-Ramily Reside	5.000
Total	**5.000**		**40**		**5.000**

Requested City FLU	Acres	Density	Units	Requested City Zoning	
Low Density Residential	5.000	5 units/acre	25	R-1, Single-Family Residential	5.000
Total	**5.000**		25		**5.000**

	Existing FLU	Units	Requested FLU	Units	Increase/ (Decrease)
Dwelling Units	UMI = 8 dwelling units per acre	40	Low Density Residential = 5 dwell	25	(15)
TOTAL DWELLING UNITS		**40**		**25**	(15)

Exsiting FLU		Proposed FLU	
Floor Area Ration (FAR)	Maximum Allowed Non-Residential Building Area (Sq. Ft.)	Floor Area Ration (FAR)	Maximum Allowed Non-Residential Building Area (Sq. Ft.)
UMI = 0.5[1]	108,900	Low Density Residential	0

	Existing FLU		Proposed FLU		Increase/ (Decrease)
Population[2]	2.41 persons/du	96	2.41 persons/du	60	(36)
Students[3]	0.396 students/du	16	0.396 students/du	10	(6)

Trip Generation[4]	Existing Land Use			Proposed Land Use				
	Land Use	Average Daily Trips	PM Peak Hour Trips	Land Use	Average Daily Trips	PM Peak Hour Trips	Average Daily Increase /	PM Peak Increase /
	Single-Family Residential	382.80	40.4	Single-Family Residential	239.25	25.25	(2359.55)	(265.65)
	Specialty Retail	2216.00	250.5					
TOTAL		**2598.80**	**290.90**		239.25	**25.25**	**(2359.55)**	**(265.65)**

IMPACT ANALYSIS (CONT'D)

Parks and Recreation[5]

Existing Requirements (County)			Proposed Requirements (City)							
Facility Type	**Adopted Level of Service Standard**	**Total Required for Population of Subject Property**	Facility Type	Adopted Level of Service Standard		Total Required for Population Before Proposed Annexation	Additional Required for Proposed FLU Population	Total Required after Annexation	Existing	Under / (Deficiency)[5a]
Local Park	0.002 acres per person	0.1928	Beach Access	acres per resident -	0.00025	5.86825	0.0150625	5.8833125	227.19	221.31
District Park	0.005 acres per person	0.482	Urban Open Space	acres per resident -	0.001	23.473	0.06	23.533	33.167	9.63
			Equipped Play Areas	acres per resident -	0.0002	4.6946	0.012	4.7066	12.503	7.80
			Neighborhood Parks	acres per resident -	0.0004	9.3892	0.024	9.4132	29.156	19.74
			Community Parks	acres per resident -	0.001	23.473	0.06	23.533	75.664	52.13
			Regional Parks	acres per resident -	0.02	469.46	1.2	470.66	60314.47	59843.81
			Urban District Parks	acres per resident -	0.005	117.365	0.3	117.665	770.706	653.04
			Baseball/Softball Fields	fields per resident -	0.0001	2.3473	0.006	2.3533	9	6.65
			Basketball Courts	courts per resident -	0.00005	1.17365	0.003	1.17665	10	8.82
			Bicycle Trails	miles per resident -	0.0001	2.3473	0.006	2.3533	46.584	44.23
			Boat Ramps	ramps per resident -	0.00008	1.87784	0.0048	1.88264	8	6.12
			Piers/Catwalks/Jetties	lineal feet per resident -	0.032	751.136	1.92	753.056	4074	3320.94
			Football/Soccer Fields	fields per resident -	0.00004	0.93892	0.0024	0.94132	7	6.06
			Handball/Racquetball Cts.	courts per resident -	0.00005	1.17365	0.003	1.17665	5	3.82
			Shuffleboard Courts	courts per resident -	0.00008	1.87784	0.0048	1.88264	37	35.12
			Tennis Courts	courts per resident -	0.0001	2.3473	0.006	2.3533	9	6.65

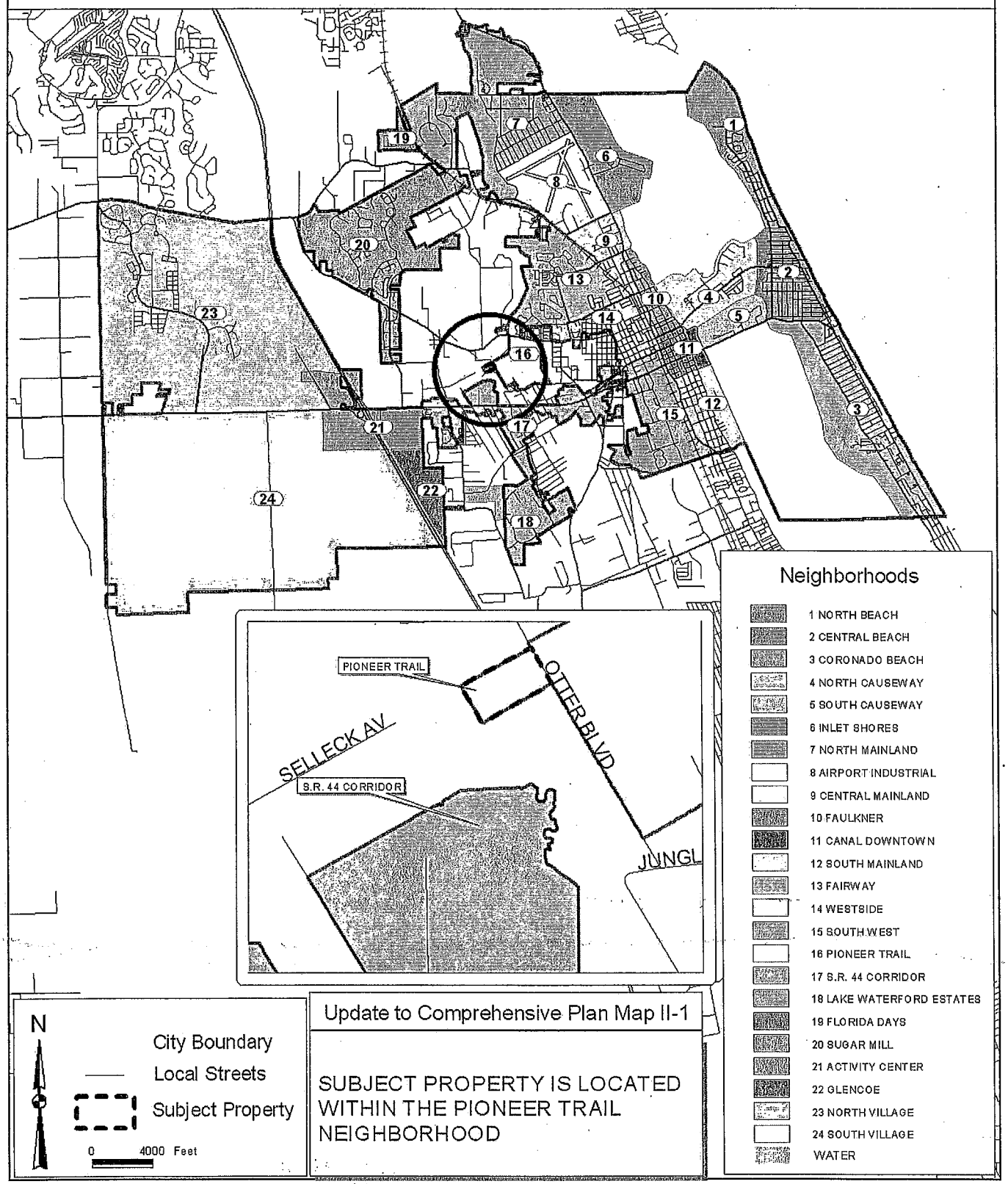
	Existing FLU			Proposed FLU				
	Residential on UMI	Non-Residential	Total	Low Density Residential	Maximum Peak Flow (Million GPD)	Existing Average Daily Flow (Million GPD)	Total Average Daily Flow after Annexation	Remaining Capacity (GPD)
Potable Water[6] (GPD)	8000.00	7500.00	15500.00	6000	7.13	4.60	4,606,000.00	2,524,000.00
Wastewater Treatment[7] (GPD)	7000.00	7500.00	14500.00	5175	7.00	4.09	4,095,175.00	2,904,825.00
Solid Waste[8]	829.04	n/a	829.04	438.6	n/a[8a]	n/a[8a]	n/a[8a]	n/a[8a]
Stormwater[9]	Peak discharge rate and total runoff volume leaving the site for a 25 year storm of 24 hour duration shall be limited to 110 percent of the present discharge rate and total discharge volume.							

Notes:

1. Volusia County Comprehensive Plan, Chapter 20, caps neighborhood commercial development at a maximum of 50,000 SF.
2. Population: 2.41 persons per residential unit or single-family dwelling per 2006-2008 American Community Survey for Volusia County
3. Student population is calculated at a rate of 0.396 students per single-family dwelling unit
4. Source: ITE Trip Generation Manual, 7th Edition
   Specialty Retail = 44.32.01 daily trips/1000 sq. feet gross floor area; 5.02 PM Peak Hour trips / 1000 sq. feet gross floor area peak hour of generator
   Single-Family Residential - Average Daily Trips = 9.57 trips/unit weekday; 1.01 trips/dwelling unit for peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.
5. Because there are different Level of Service Standards for Parks and Open Sapce between the County and the City, it is not feasible to compare before and after annexation figures. However, as is shown on the table, concurrency with City standards is calculated.
6. Potable Water: County = 200 gallons per day(GPD) per ressidential unit; 0.15 GPD per sq. ft. of office bulding area; 0.1 GPD per sq. ft. of retail, institutional & industrial building area. City = 240 gallons per day per residential unit or ERU
7. Sanitary Sewer: County = 175 GPD per residential unit; 0.15 GPD per sq. ft. office building area; 0.10 GPD per sq. ft. retail, institutional & industrial building area. City = 207 gallons per day per residential unit or ERU.
8. Solid Waste: County = 8.6 pounds per day per person. City = 7.3 pounds per person per day. Non-residential waste is included in these figures.

Neighborhoods

A-11-11

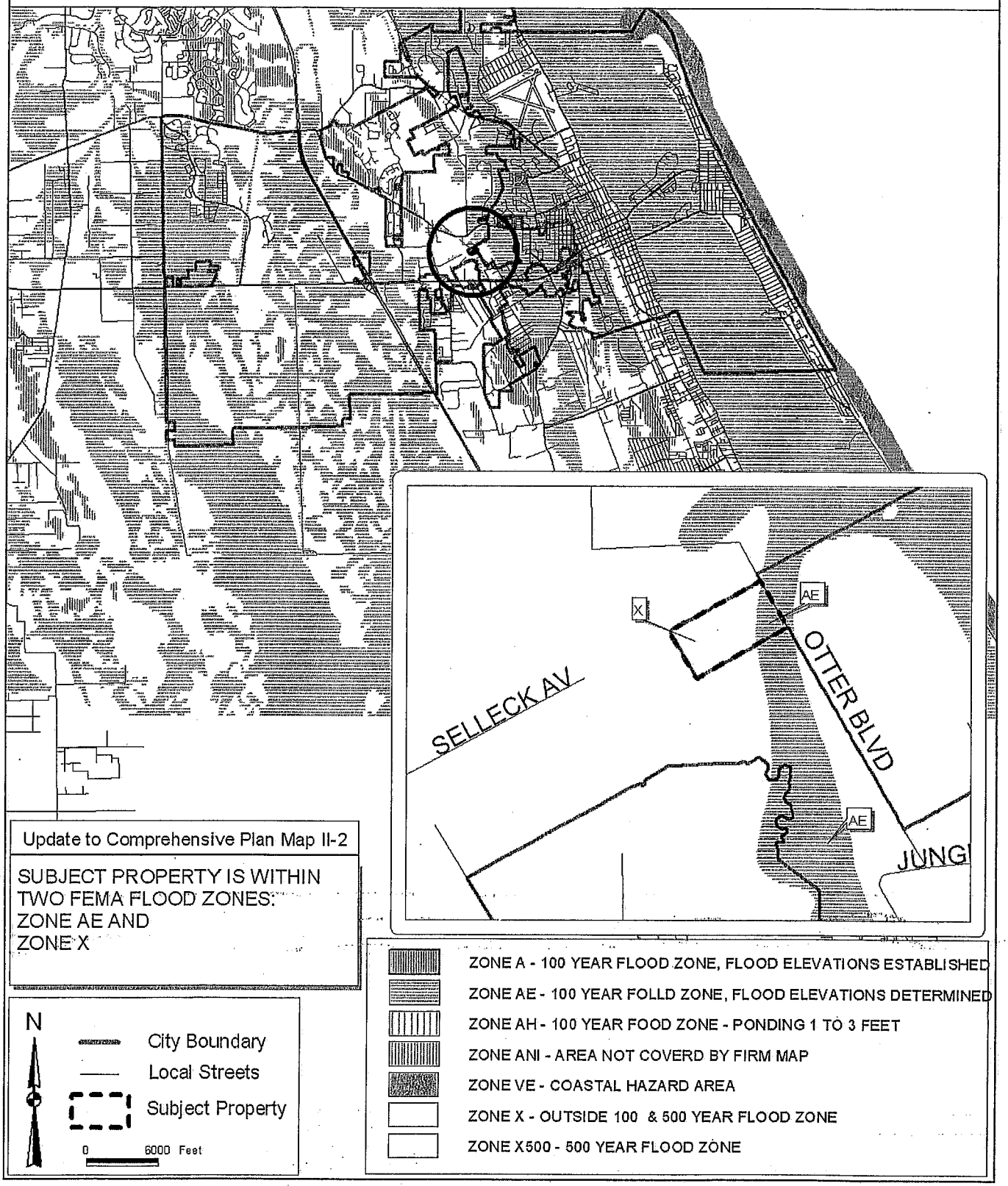


Update to Comprehensive Plan Map II-1

SUBJECT PROPERTY IS LOCATED WITHIN THE PIONEER TRAIL NEIGHBORHOOD

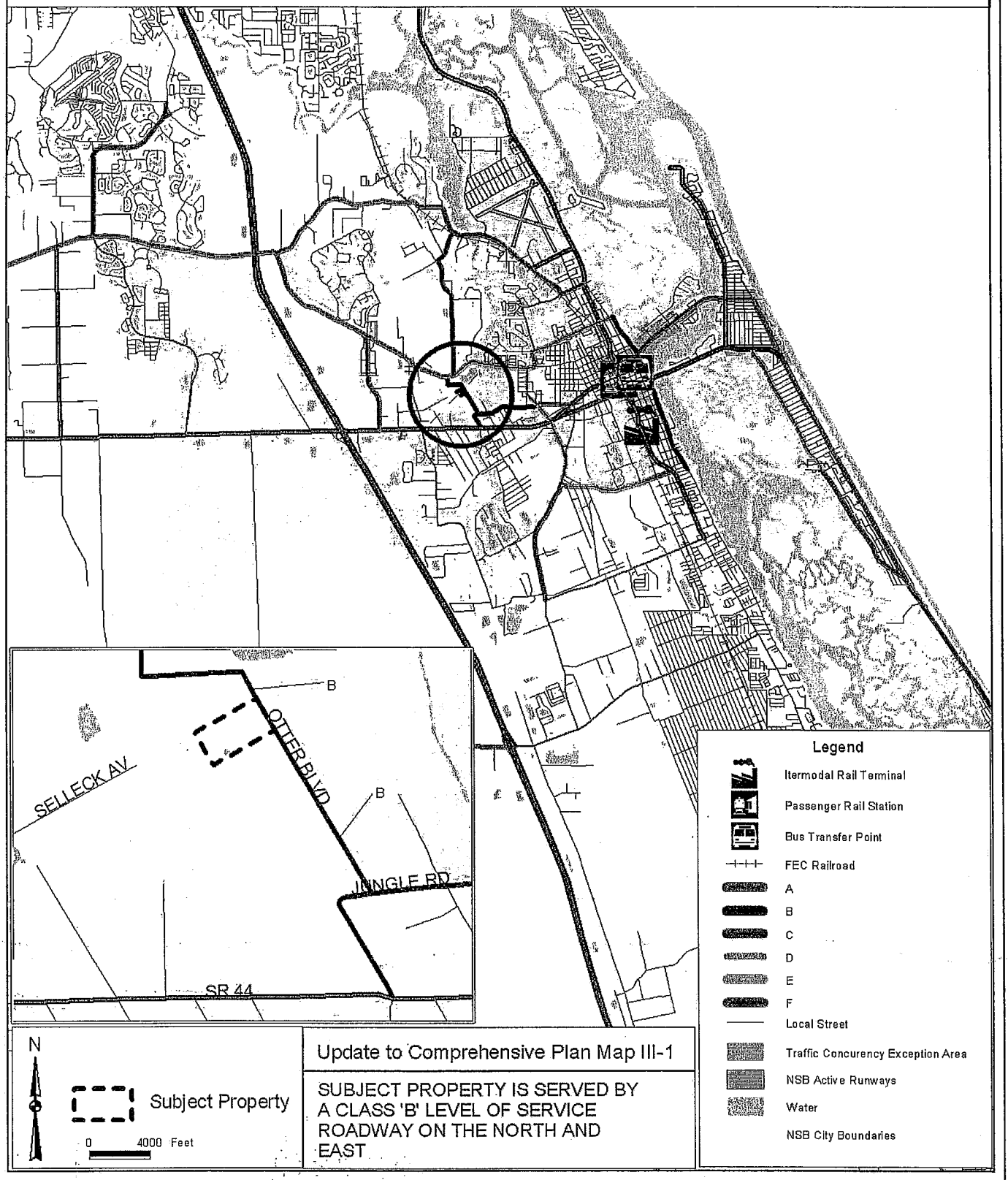
Flood Prone Areas

A-11-11



Existing Level of Service - 2009

A-11-11

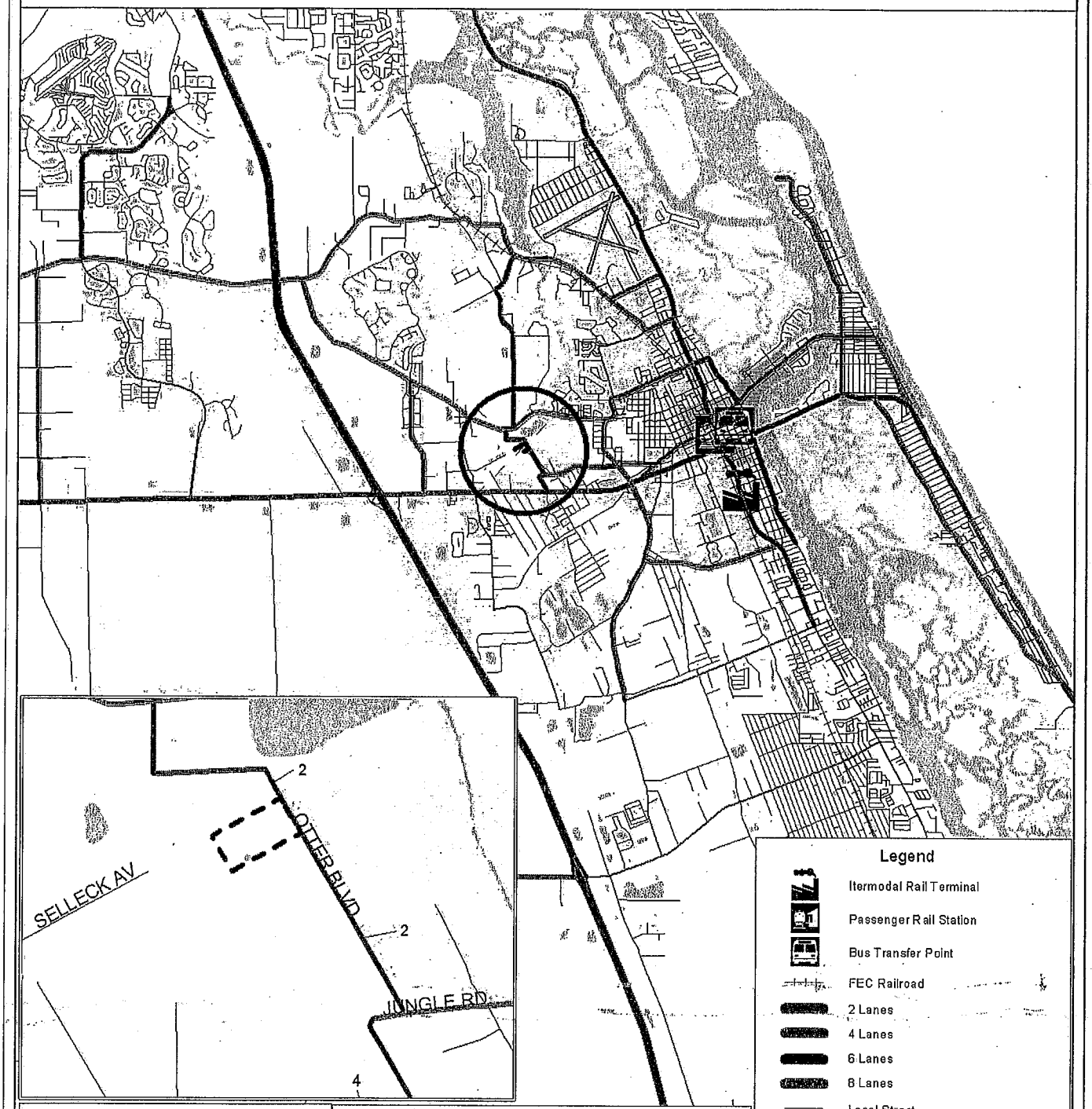


Update to Comprehensive Plan Map III-1

SUBJECT PROPERTY IS SERVED BY A CLASS 'B' LEVEL OF SERVICE ROADWAY ON THE NORTH AND EAST

Existing Traffic Lanes - 2009

A-11-11



N

Subject Property

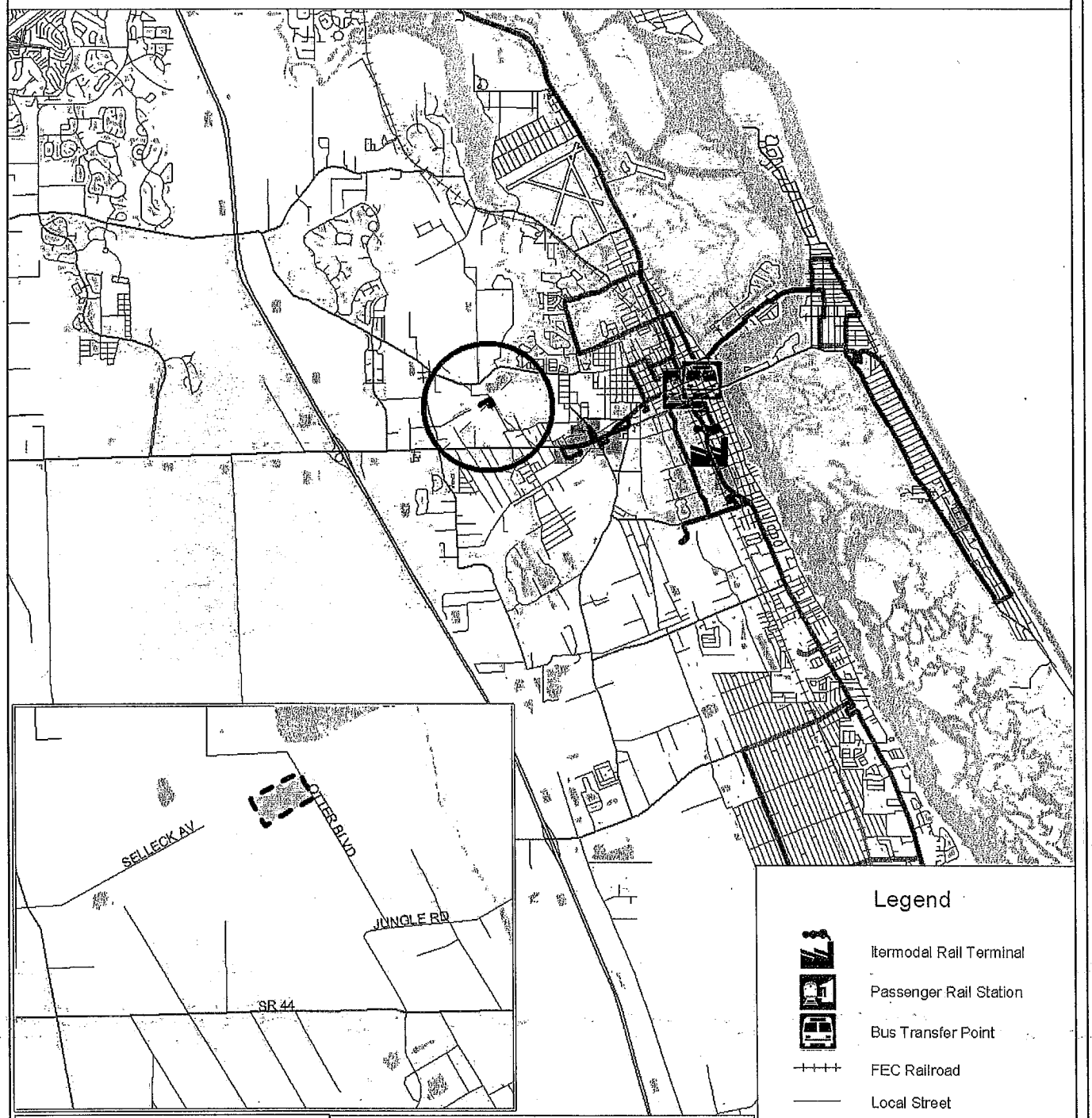
0 4000 Feet

Update to Comprehensive Plan Map III-2

SUBJECT PROPERTY IS SERVED BY
A 2 LANE ROADWAY
ROADWAY ON THE NORTH AND
EAST

Public Transit Routes

A-11-11



N

Subject Property

0 4000 Feet

Update to Comprehensive Plan Map III-3

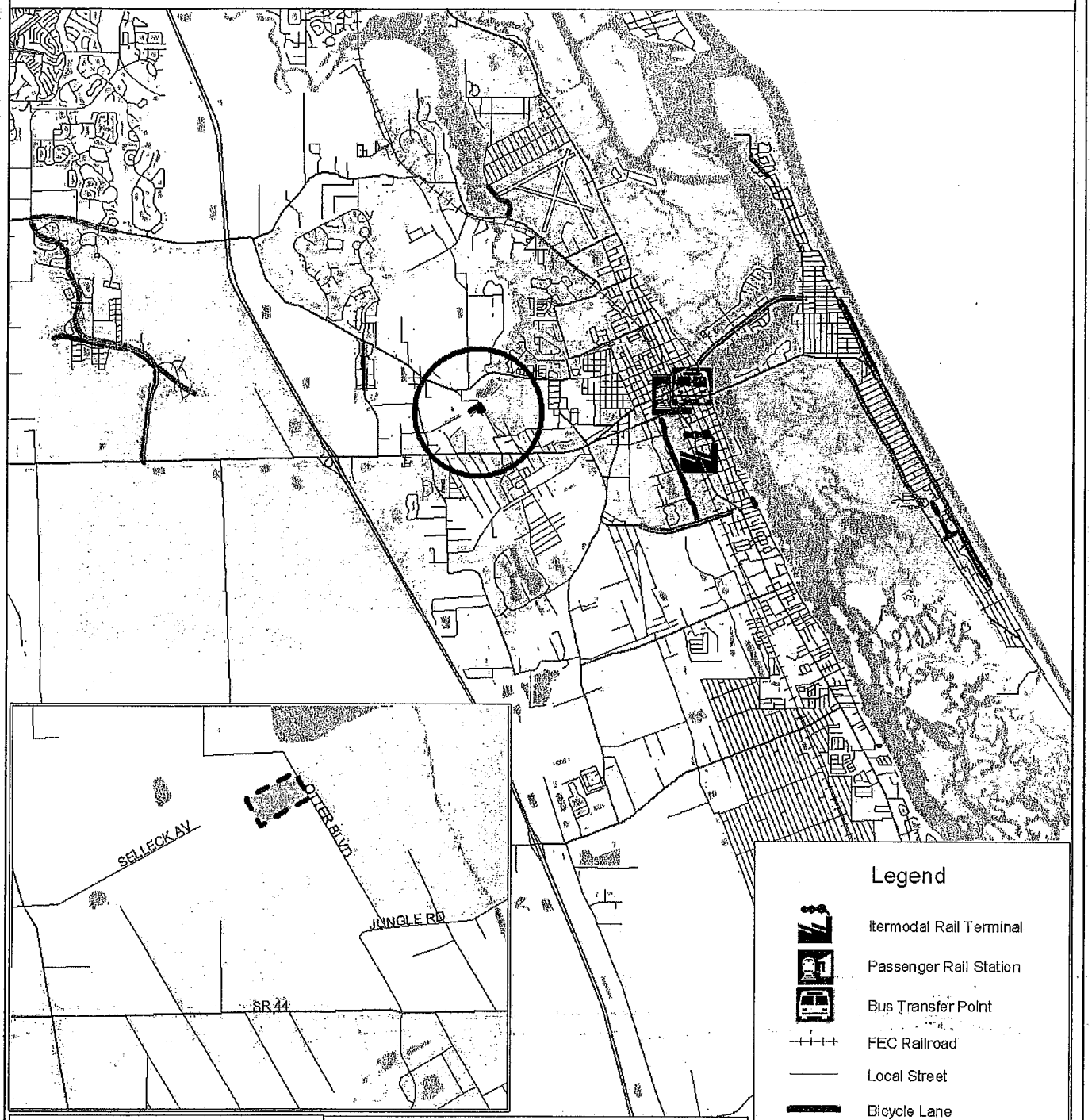
SUBJECT PROPERTY IS SERVED BY PUBLIC TRANSIT ROUTES LOCATED THROUGHOUT THE CITY

Legend

- Itermodal Rail Terminal
- Passenger Rail Station
- Bus Transfer Point
- FEC Railroad
- Local Street
- Fixed Routes
- Shopping Centers
- Water
- NSB City Boundaries

Bicycle and Pedestrian Facilities

A-11-11



N

Subject Property

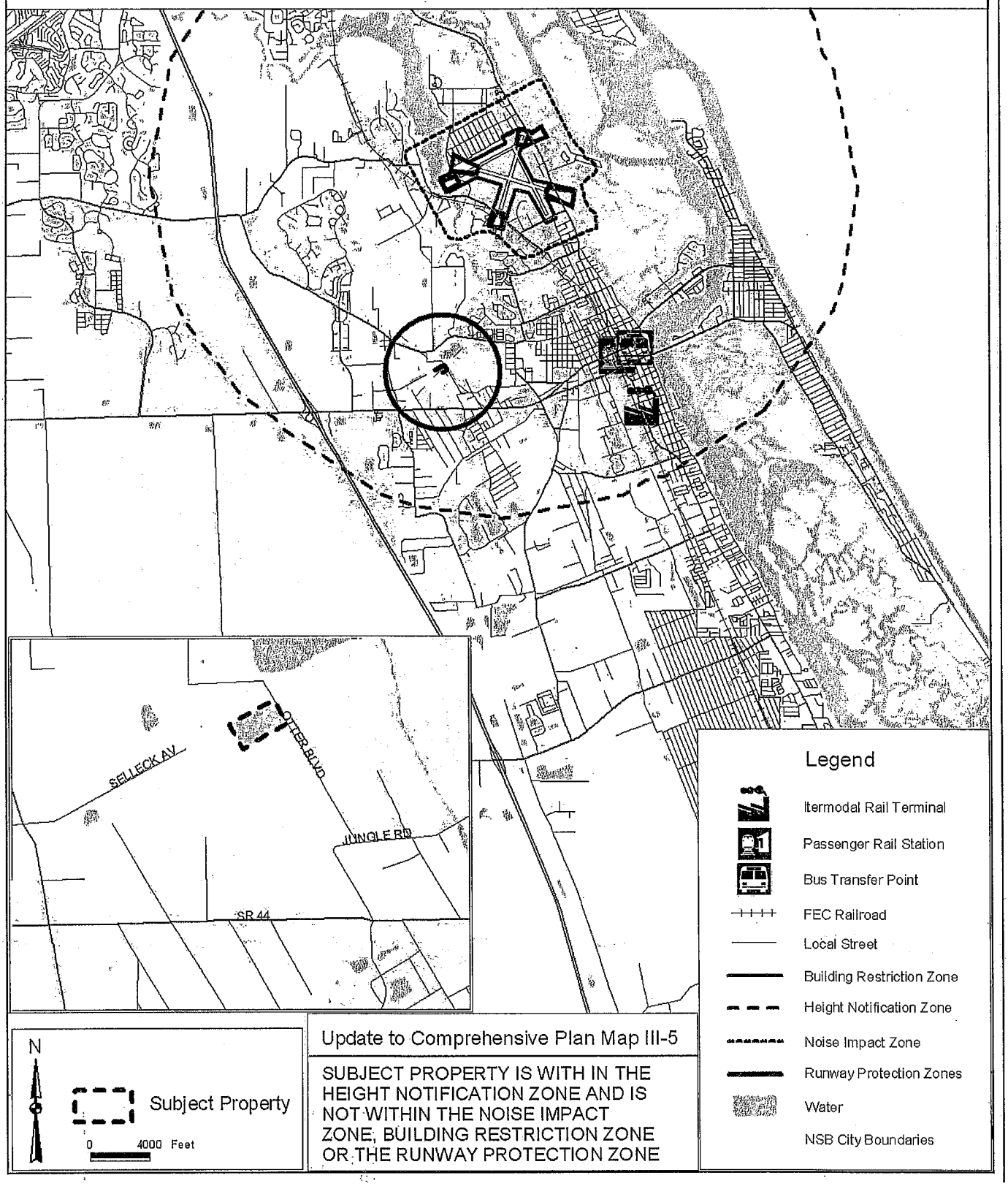
0 4000 Feet

Update to Comprehensive Plan Map III-4

SUBJECT PROPERTY IS SERVED BY BICYCLE AND PEDESTRIAN FACILITIES LOCATED THROUGHOUT THE CITY

Airport Runway Protection Zones

A-11-11

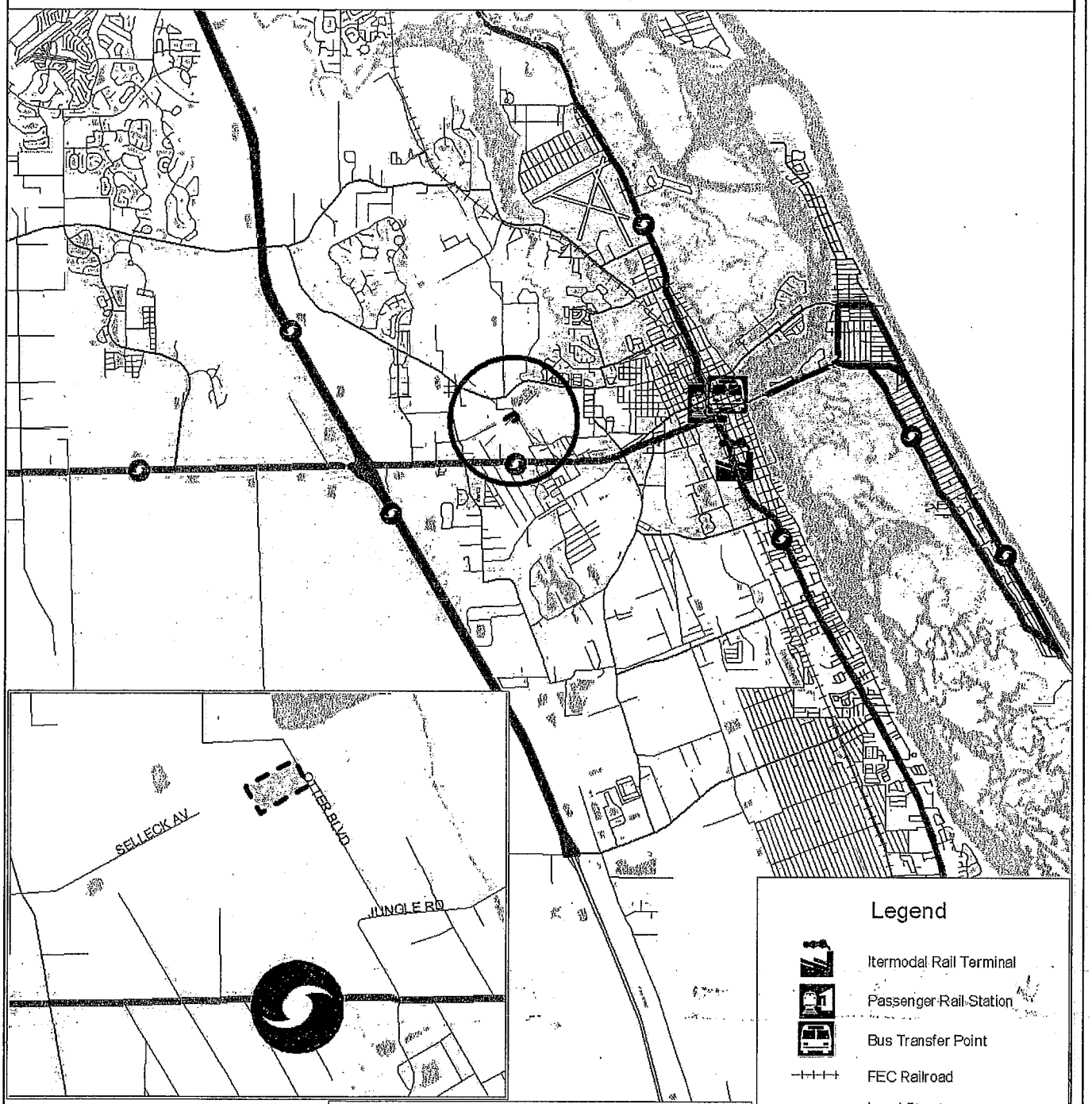


Update to Comprehensive Plan Map III-5

SUBJECT PROPERTY IS WITH IN THE HEIGHT NOTIFICATION ZONE AND IS NOT WITHIN THE NOISE IMPACT ZONE, BUILDING RESTRICTION ZONE OR THE RUNWAY PROTECTION ZONE

Evacuation Routes

A-11-11



Legend

- Intermodal Rail Terminal
- Passenger Rail Station
- Bus Transfer Point
- FEC Railroad
- Local Street
- Evacuation Routes
- Water
- NSB City Boundaries

N

Subject Property

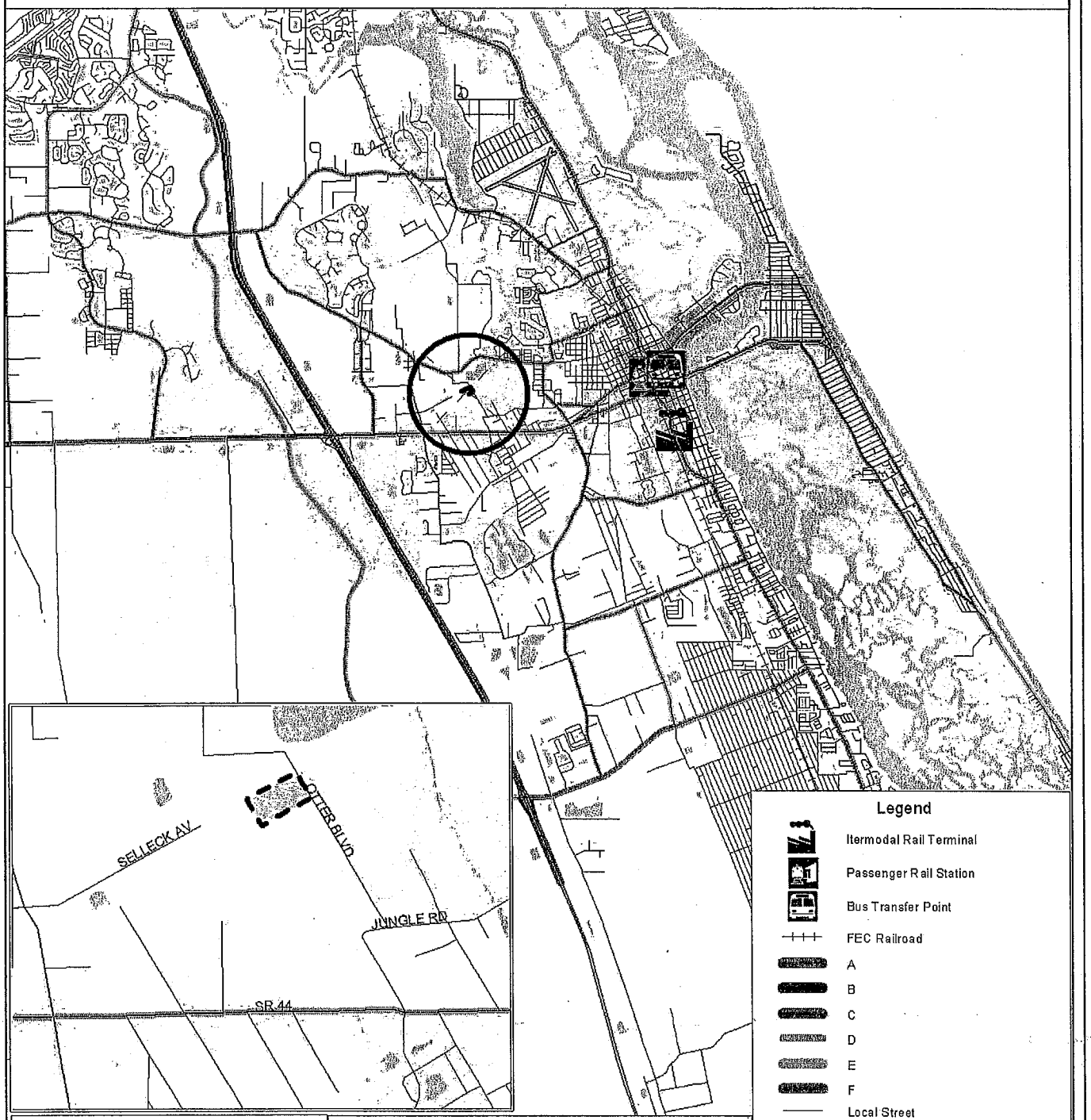
0 4000 Feet

Update to Comprehensive Plan Map III-6

SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

Level of Service - 2025

A-11-11



N

Subject Property

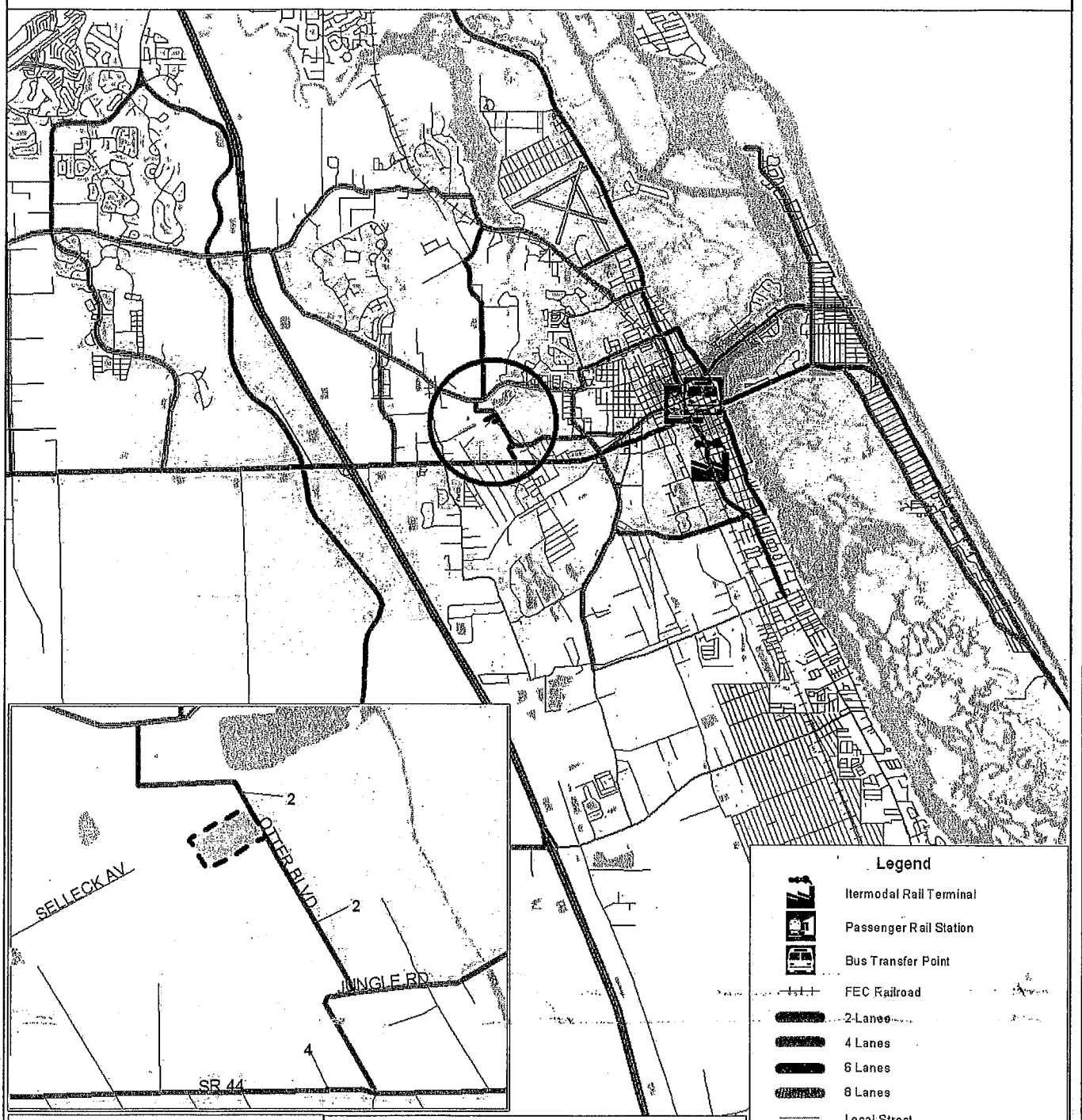
0 4000 Feet

Update to Comprehensive Plan Map III-7

SUBJECT PROPERTY IS SERVED BY A LOCAL STREET ON THE NORTH AND EAST

Number of Traffic Lanes - 2025

A-11-11



N

Subject Property

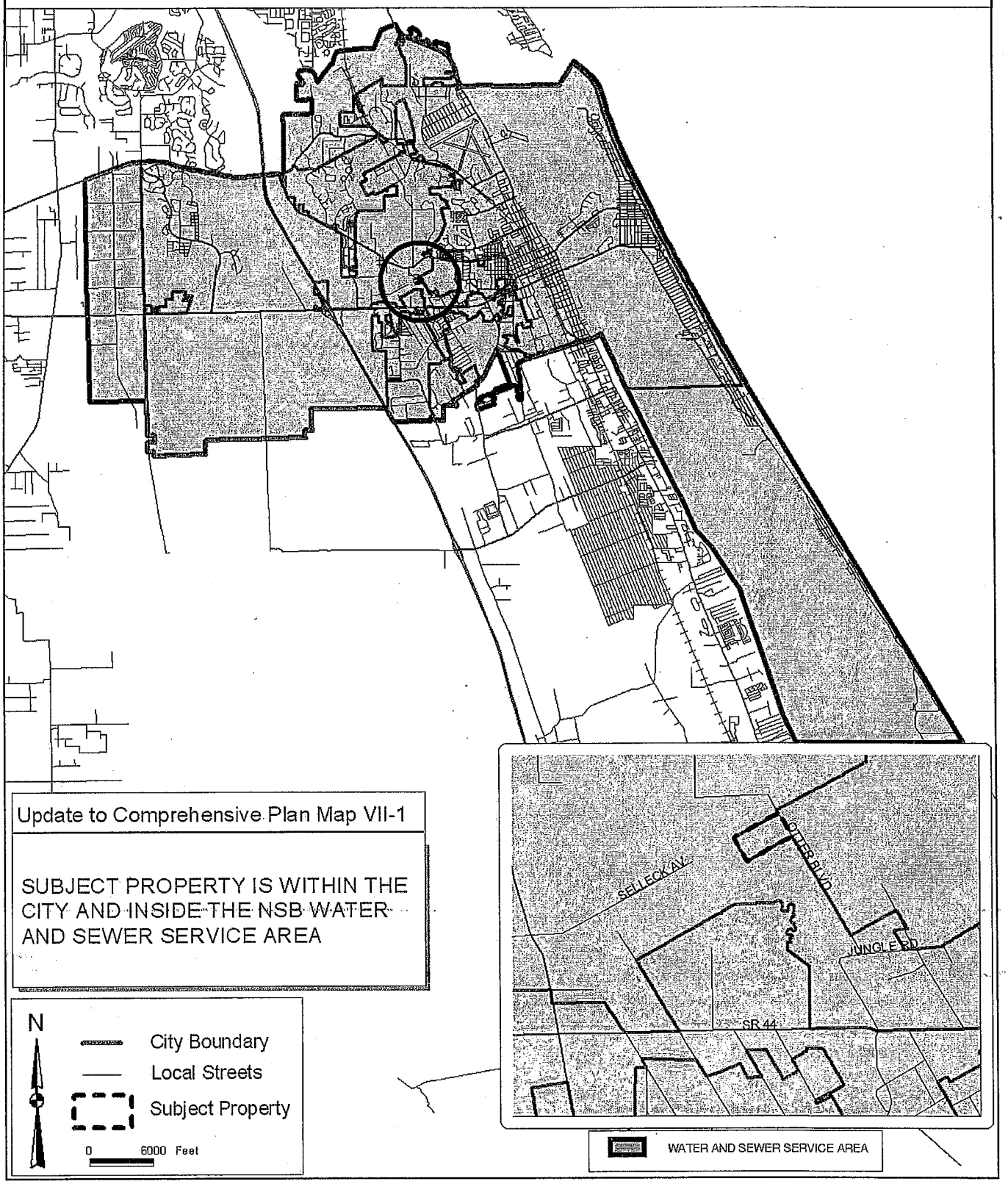
0 4000 Feet

Update to Comprehensive Plan Map III-8

SUBJECT PROPERTY IS SERVED BY
A 2 LANE ROADWAY
ON THE NORTH AND
A LOCAL STREET ON THE WEST

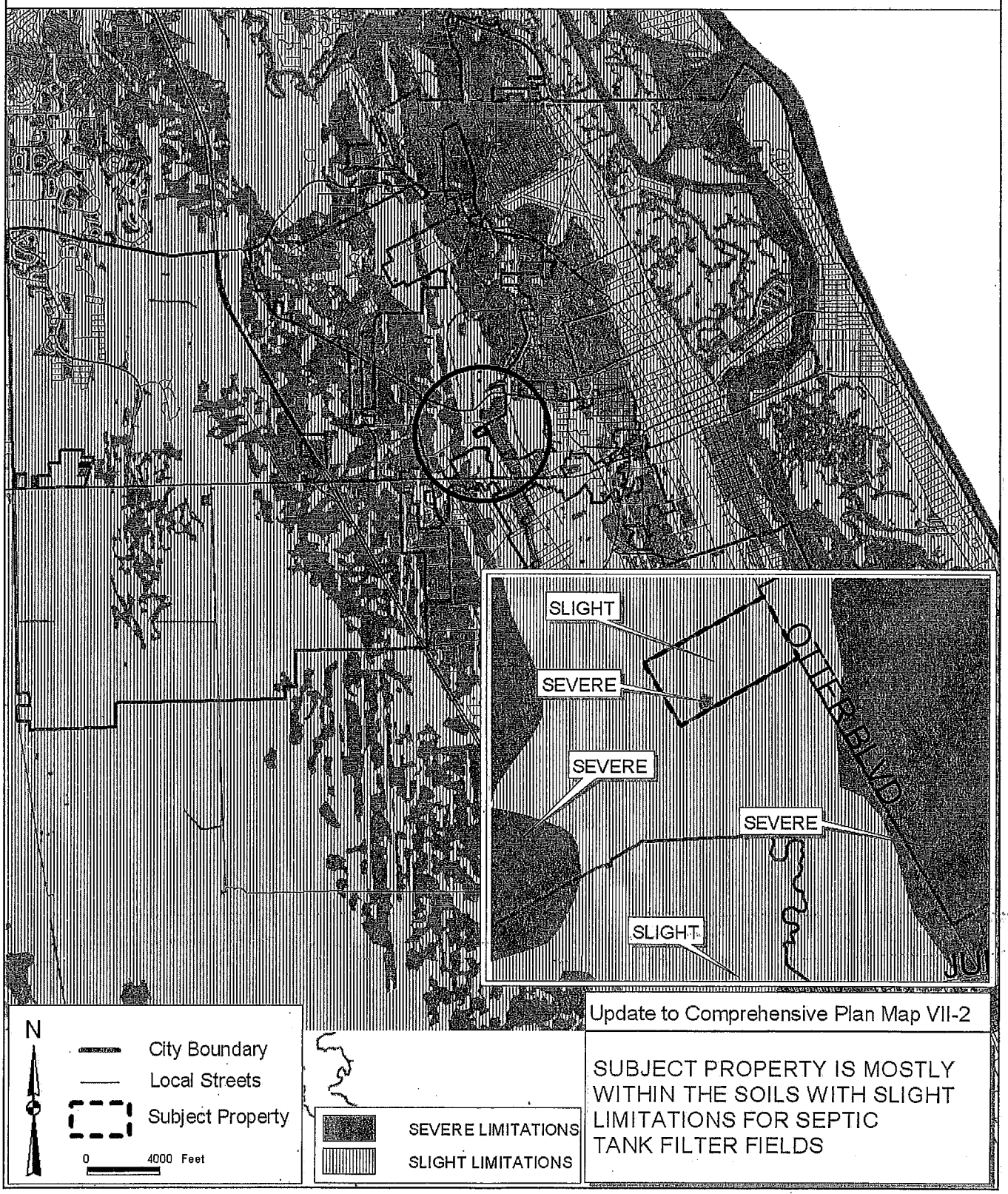
Water & Sewer Service Area

A-11-11



Soil Limitation for Septic Systems

A-11-11

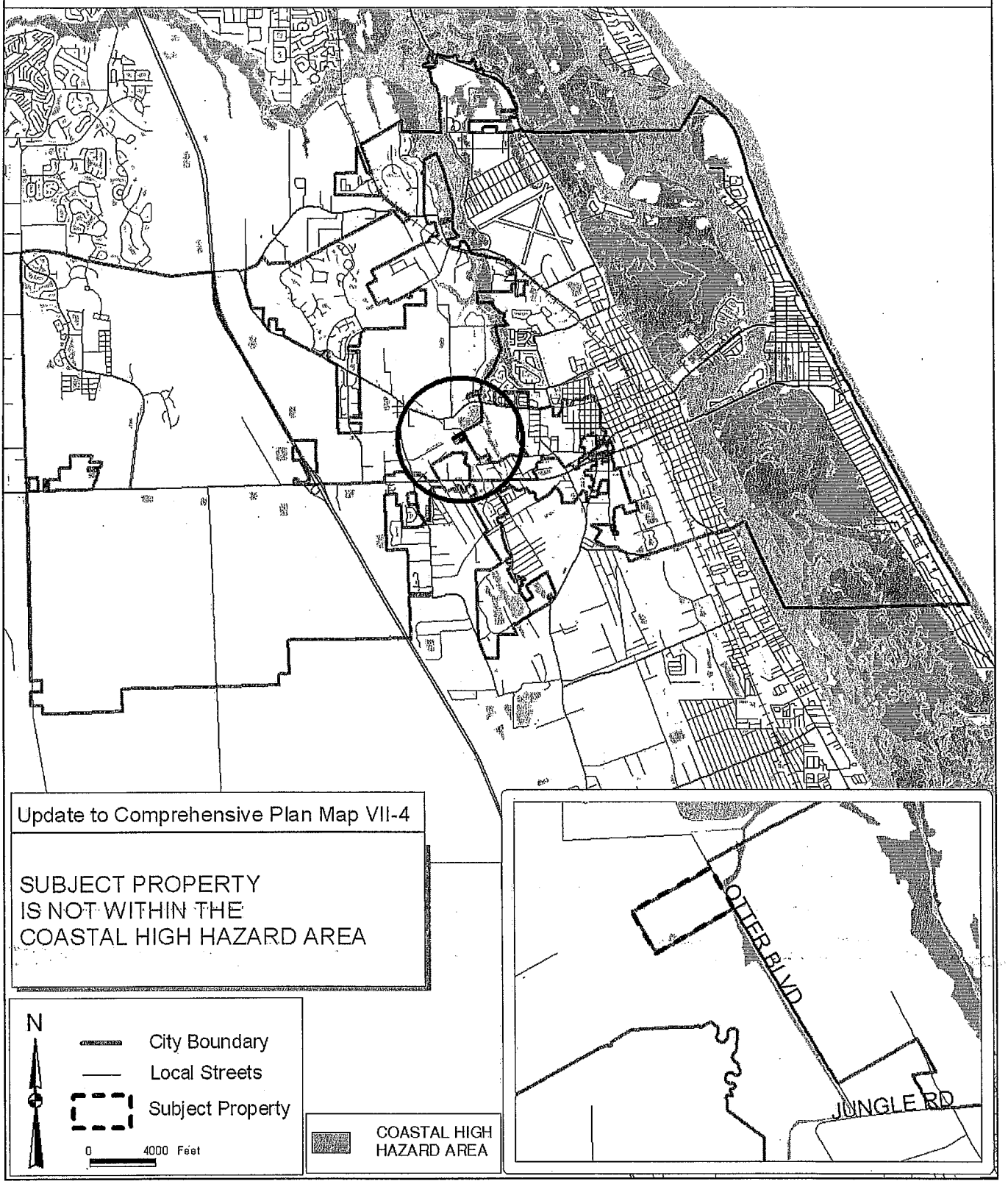


Update to Comprehensive Plan Map VII-2

SUBJECT PROPERTY IS MOSTLY WITHIN THE SOILS WITH SLIGHT LIMITATIONS FOR SEPTIC TANK FILTER FIELDS

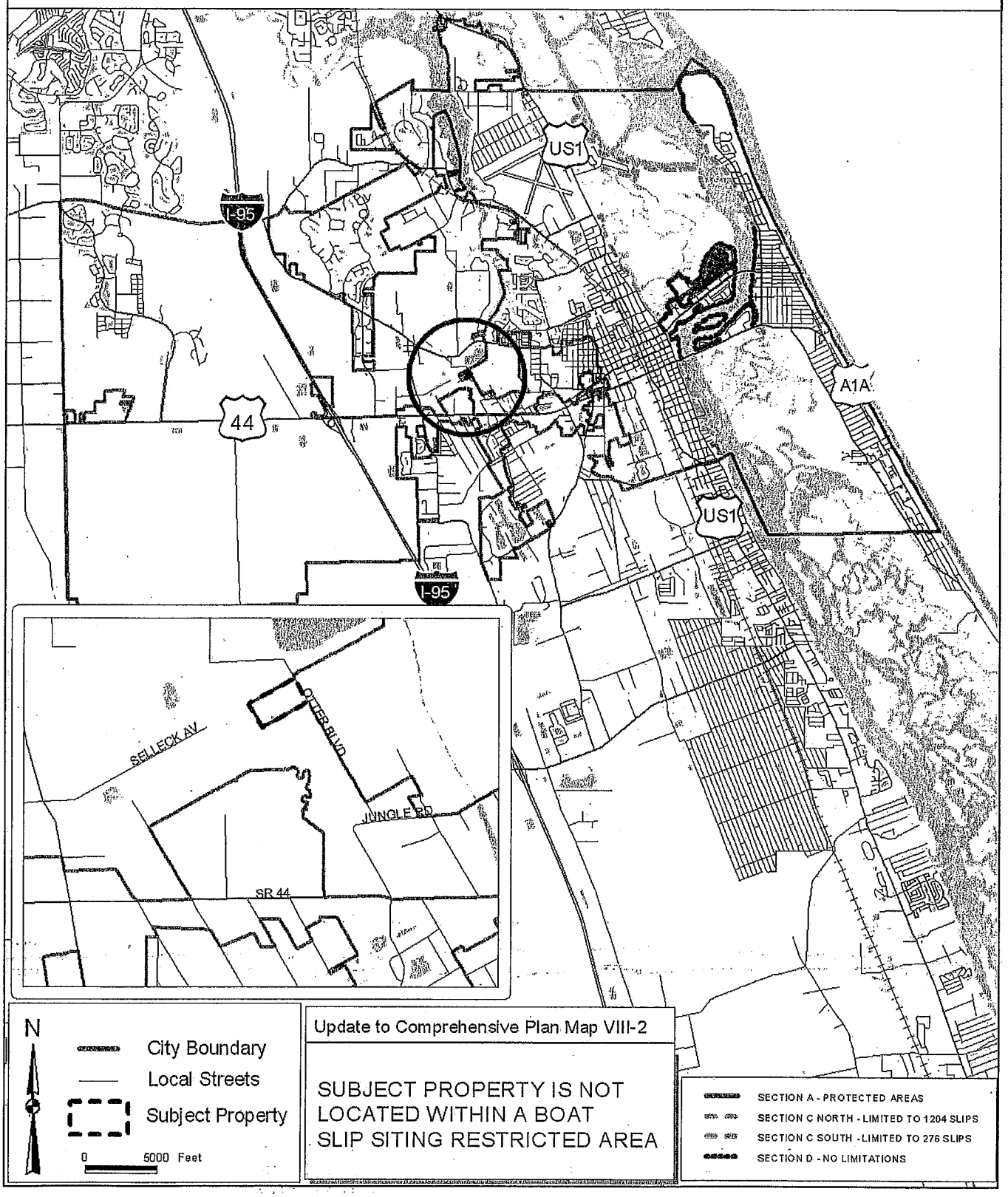
Coastal High Hazard Areas

A-11-11



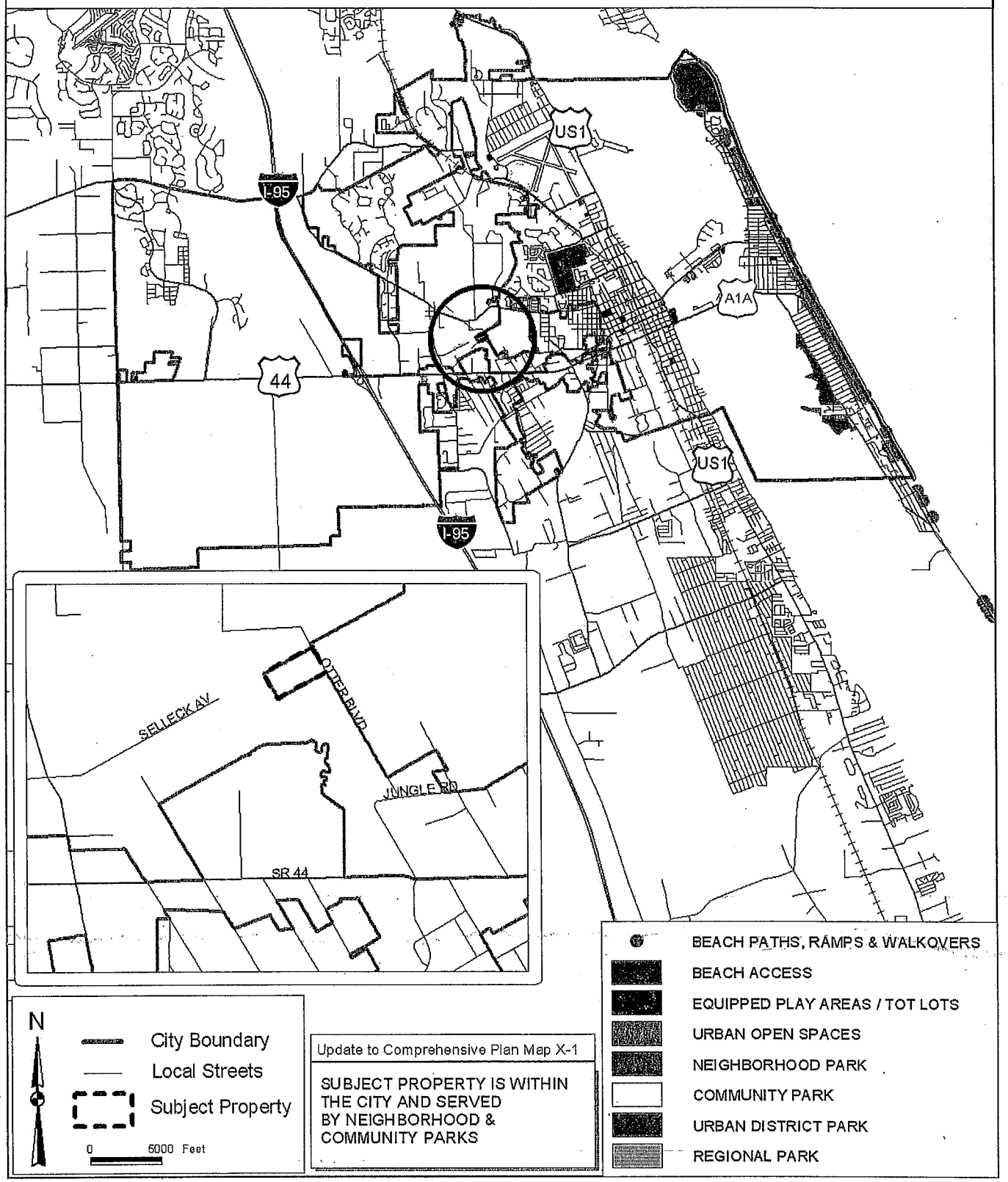
Boat Slip Siting

A-11-11



City Parks

A-11-11



CASE #: A-11-11: SCHWOERER / OTTER BOULEVARD
PLANNING AND ZONING BOARD MEETING DATE: AUGUST 1, 2011

CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-10-11: WEAVER / BOLTON ROAD

AUGUST 1, 2011

I. Background

A. **Applicants and Property Owners:** Richard and Phyliss Weaver, P.O. Box 482, New Smyrna Beach

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

- **From:** County Future Land Use (FLU) designation of Urban Low Intensity; and County zoning R-4 – Urban Single Family Residential
- **To:** City FLU designation of Low Density Residential; and City zoning R-2, Single-Family Residential

C. **Site Information:**

- **Size:** 0.25 acres
- **Location:** The property is generally located on the west side of Bolton Road, approximately 400 feet south of Magnolia Drive, on the platted, but unbuilt southwest corner of Boton Road and Maple Drive. (see **Exhibit A** for a location map).
- **Tax I.D. Number:** 7344-03-00-4800

II. Findings

A. The subject property is an approximately 0.25-acre site that has no improvements on the property at this time. A copy of the survey for the subject property is attached as **Exhibit B**. The property currently has a Volusia County Future Land Use (FLU) designation of Urban Low Intensity, which allows 0.2 to 4.0 units per acre. The property is currently zoned Volusia County R-4, Urban Single-Family Residential. The surrounding future land use, existing uses, and zoning are as follows:

North

Future Land Use:	County Urban Low Intensity, application in process for City Low Density Residential
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential; application in process for City R-2, Single-Family Residential

South

Future Land Use:	County Urban Low Intensity
Existing Land Use:	Residential
Zoning:	County A-3 Transitional Agriculture

East

Future Land Use:	County Urban Low Intensity
Existing Land Use:	Single-Family Residential
Zoning:	County R-4, Urban Single-Family Residential

West

Future Land Use:	City Low Density Residential
Existing Land Use:	Vacant/forest
Zoning:	City A1 – Prime Agriculture

Maps showing the surrounding Existing Land Uses, Existing Zoning, and Existing Future Land Use Designations are attached (**Exhibits C, D, and E**). Descriptions of the existing Future Land Use and existing Zoning designations on the subject property are attached as **Exhibits F and G**.

B. Previous City Commissions had established a policy that when property is annexed into the City, the City would assign a future land use and zoning designation that would closely match the existing County designations. As discussed above, the existing County FLU and zoning designations are Urban Low Intensity and R-4, Urban Single-Family Residential, respectively. The closest FLU that matches the existing County designation is Low Density Residential, with the County's designation allowing 4 units per acre and the City's allowing 5. Therefore, staff is proposing that the FLU be changed to City Low Density Residential and the zoning be changed to R-2, Single-Family Residential, which would be consistent with adjacent development in the City as well as the existing use. Maps showing the proposed zoning and FLU changes are attached as **Exhibits H and I**. Descriptions of the proposed zoning and FLU designations are attached as **Exhibits J and K.**

C. This parcel meets minimum lot dimensions for County R-4 zoning, but does not meet minimum lot dimensions for City R-2 zoning. City R-2 zoning requires a lot to have a minimum dimension of 75'x115'. This lot at its narrowest is approximately 62'x144'. The lot meets minimum square footage for City R-2 zoning. As other nearby parcels being annexed into the City are being assigned City R-2 zoning, assigning a differing zoning district to this parcel could be construed as spot zoning. This lot would be assigned City R-2 zoning as a nonconforming lot. Under City R-2 zoning this parcel could still be developed within a permitted building envelope that would measure approximately 100'x40'.

D. This annexation request is within the City's annexation area and within the City's water and sewer service area **(Exhibit L).** A 6" sewer force main is available approximately 300' west of this parcel in Waterford Estates Drive. Properties are required to connect to sewer if it is available within 100'. Water is available in Bolton Road.

E. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, stormwater management, and public school facilities. A table showing the potential impacts to City infrastructure once the property is developed is attached as **EXHIBIT M.**

F. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject properties into the *Comprehensive Plan* (see **Exhibits N through AA**). **Exhibit BB** is an aerial photo of the property for informational purposes.

G. The *Comprehensive Plan* provides some guidance on annexations, future land use amendments, and rezonings. The following is a list of objectives in the *Comprehensive Plan* that support this proposal. Following each objective is a comment in ***bold italics***.

- **Future Land Use Element Objective 1:** To ensure that future development will be consistent with adjacent uses, natural limitations such as topography and soil conditions, the needs of the citizens of New Smyrna Beach, the Future Land Use Map, the availability of facilities and services, and the goals, objectives and policies contained within this *Comprehensive Plan*.

  The requested FLU designation for the subject property is consistent with proposed adjacent uses, natural limitations, and the availability of facilities and services. Therefore, it is consistent with the* Comprehensive Plan. *The property is bordered by low density single-family residential and undeveloped lands.

- **Future Land Use Element Objective 2:** To provide adequate services and facilities for future development, at the adopted level-of-service standard. In order to maintain the adopted level-of-service standard, development orders and permits will be conditioned on the availability of the public facilities and services necessary to serve the proposed development.

  ***The proposed future land use amendment will not increase density in this area. The parcel that would allow for a single family residence per County regulations would become a parcel that would allow for a single family residence per City regulations. Therefore, the request is consistent with the* Comprehensive Plan.**

- **Future Land Use Element Objective 7:** To implement land use

patterns, utility service extensions, impact fees and an annexation methodology, which provide for orderly development and discourage urban sprawl.

The future land use amendment and assigned zoning district would continue the established City practice and the existing development pattern of the area and are in compliance with the Comprehensive Plan

- **Future Land Use Element Objective 10:** To protect existing desirable neighborhoods from encroaching new development which is incompatible and inconsistent with established character of the neighborhood

The future land use amendment and assigned zoning district would continue the established City practice and the existing development pattern of the area and are in compliance with the Comprehensive Plan

III. Recommendation

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

EXHIBIT A

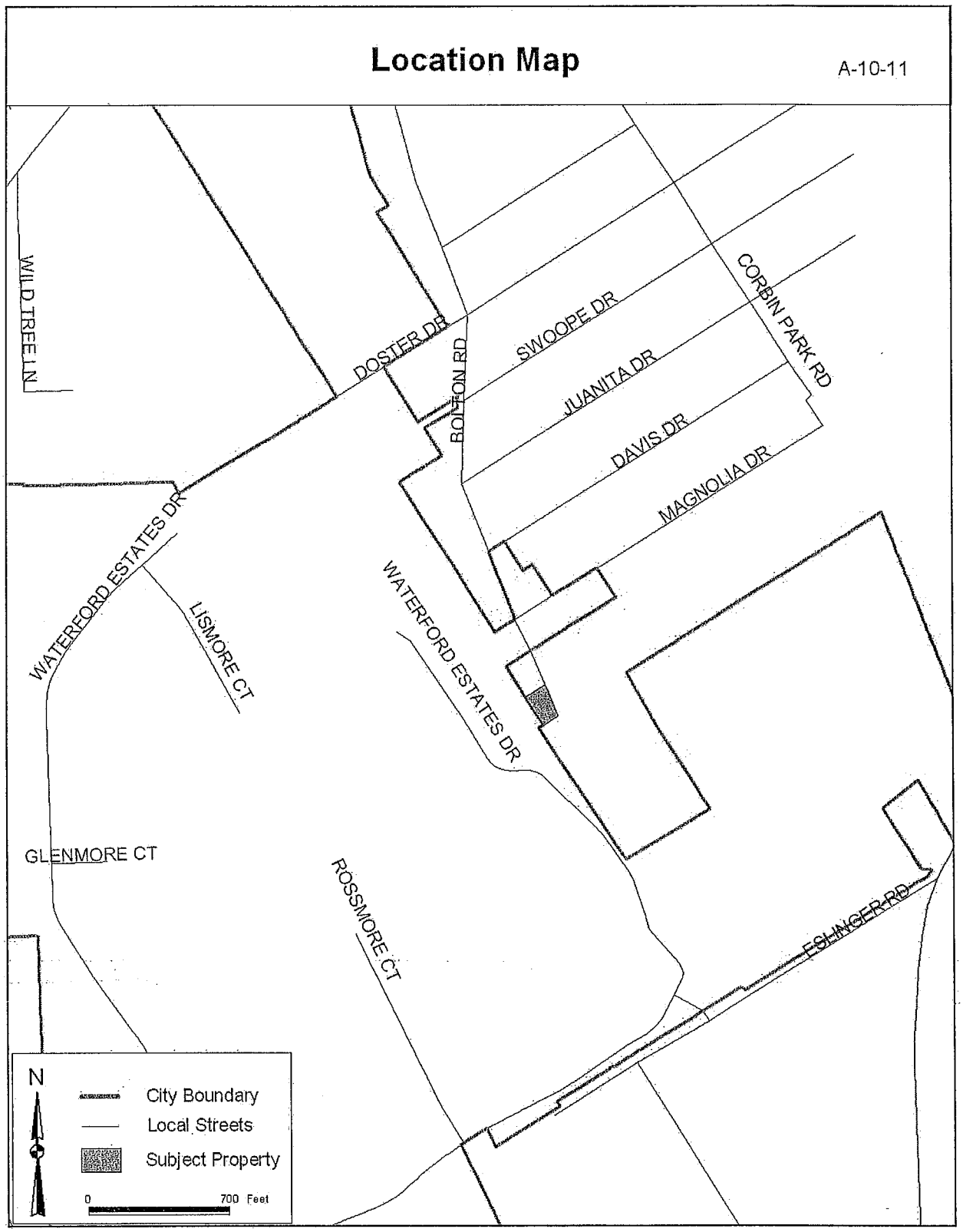
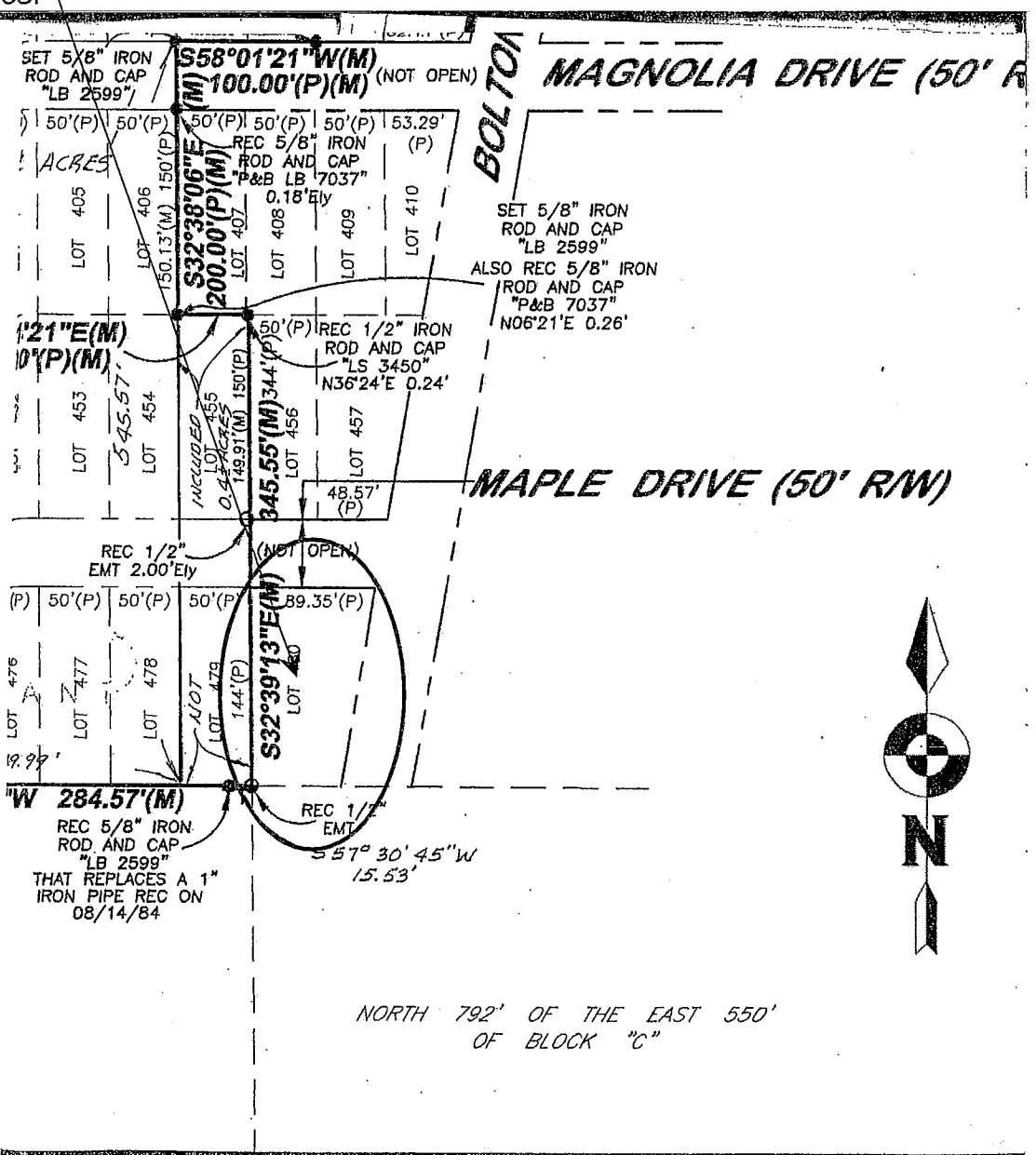

Location Map
A-10-11
WILD TREE LN
DOSTER DR
BOLTON RD
SWOOPE DR
JUANITA DR
DAVIS DR
MAGNOLIA DR
CORBIN PARK RD
WATERFORD ESTATES DR
LISMORE CT
WATERFORD ESTATES DR
GLENMORE CT
ROSSMORE CT
ESLINGER RD
N
City Boundary
Local Streets
Subject Property
0
700 Feet

EXHIBIT B

172 Subject Pacel



VIATIONS

- = PLAT
- = DESCRIPTION
- = MEASURED
- = CALCULATED (CALC)
- = PRORATED
- = GRID
- = OFFICIAL RECORD BOOK
- = MAP BOOK
- = POINT OF BEGINNING
- = POINT OF COMMENCEMENT
- = WATER METER
- = TELECOMMUNICATIONS (TELE) RISER
- = FINISHED FLOOR ELEVATION
- = REINFORCED CONCRETE PIPE
- = CORRUGATED METAL PIPE
- P.R.M. = PERMANENT REFERENCE MONUMENT
- P.C.P. = PERMANENT CONTROL POINT
- = POWER POLE
- = GUY WIRE
- O/U = OVERHEAD UTILITIES
- A/C = AIR CONDITIONER
- CLF = CHAIN-LINK FENCE
- BWF = BARBED WIRE FENCE
- AC. = ACRES
- R/W = RIGHT-OF-WAY
- ℄ = CENTER LINE
- = CONCRETE (CONC)
- = CONCRETE STOOP

CERTIFICATE OF AUTHORIZATION NUMBER LB 2599

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

Daniel W. Cory

DANIEL W. CORY P.S.M. NO. 2027

173

EXHIBIT C – EXISTING USES

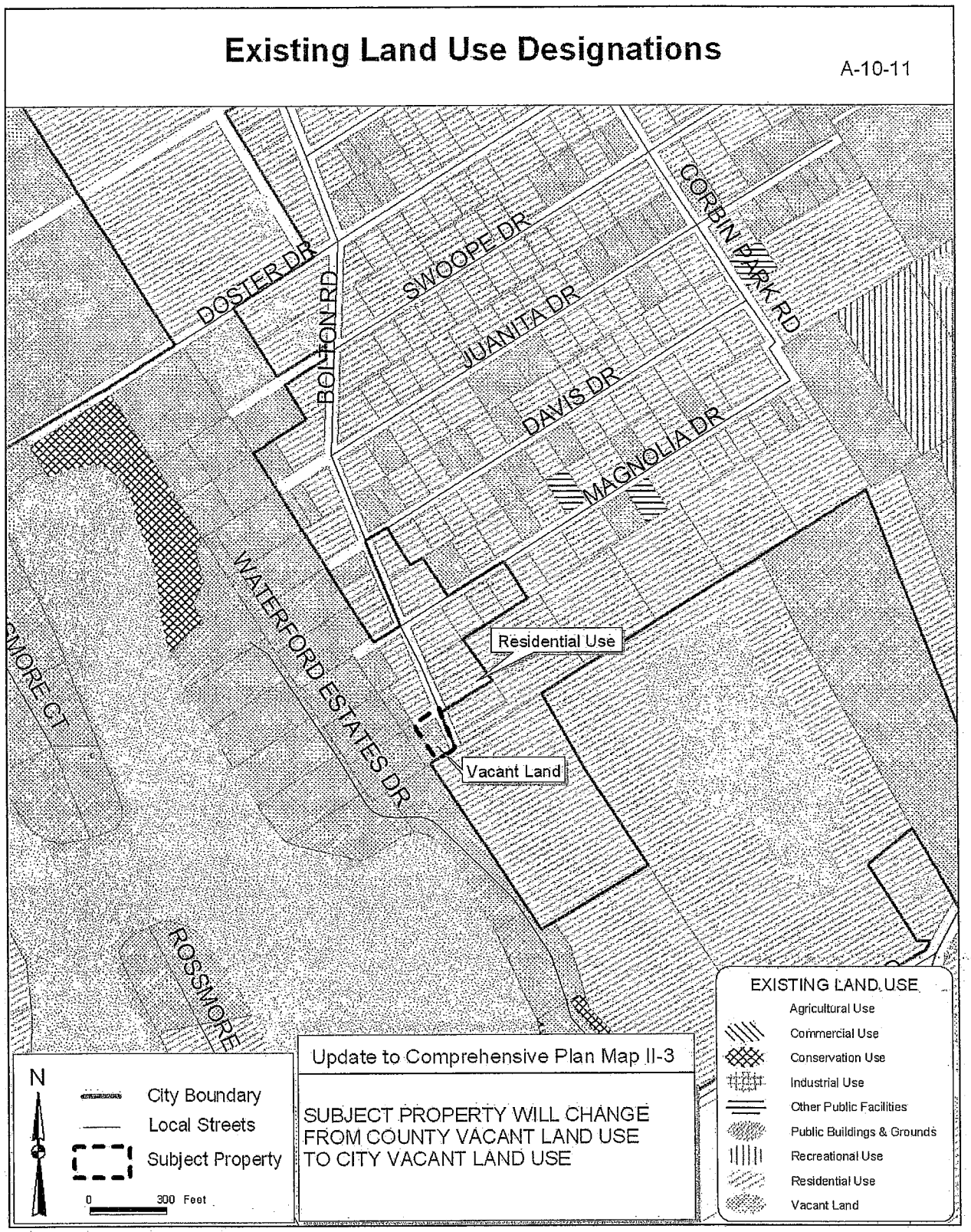


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EXHIBIT D – EXISTIING ZONING

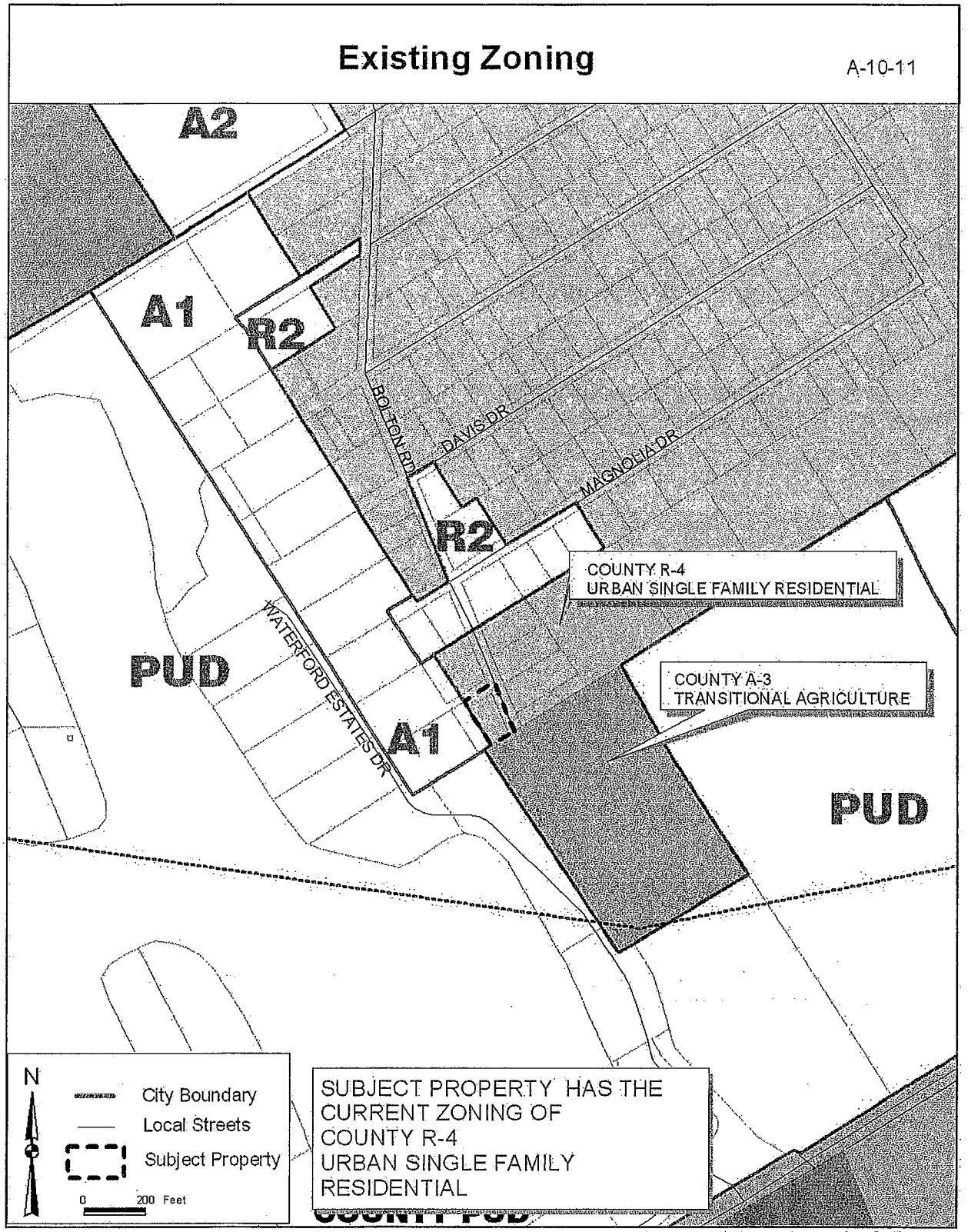
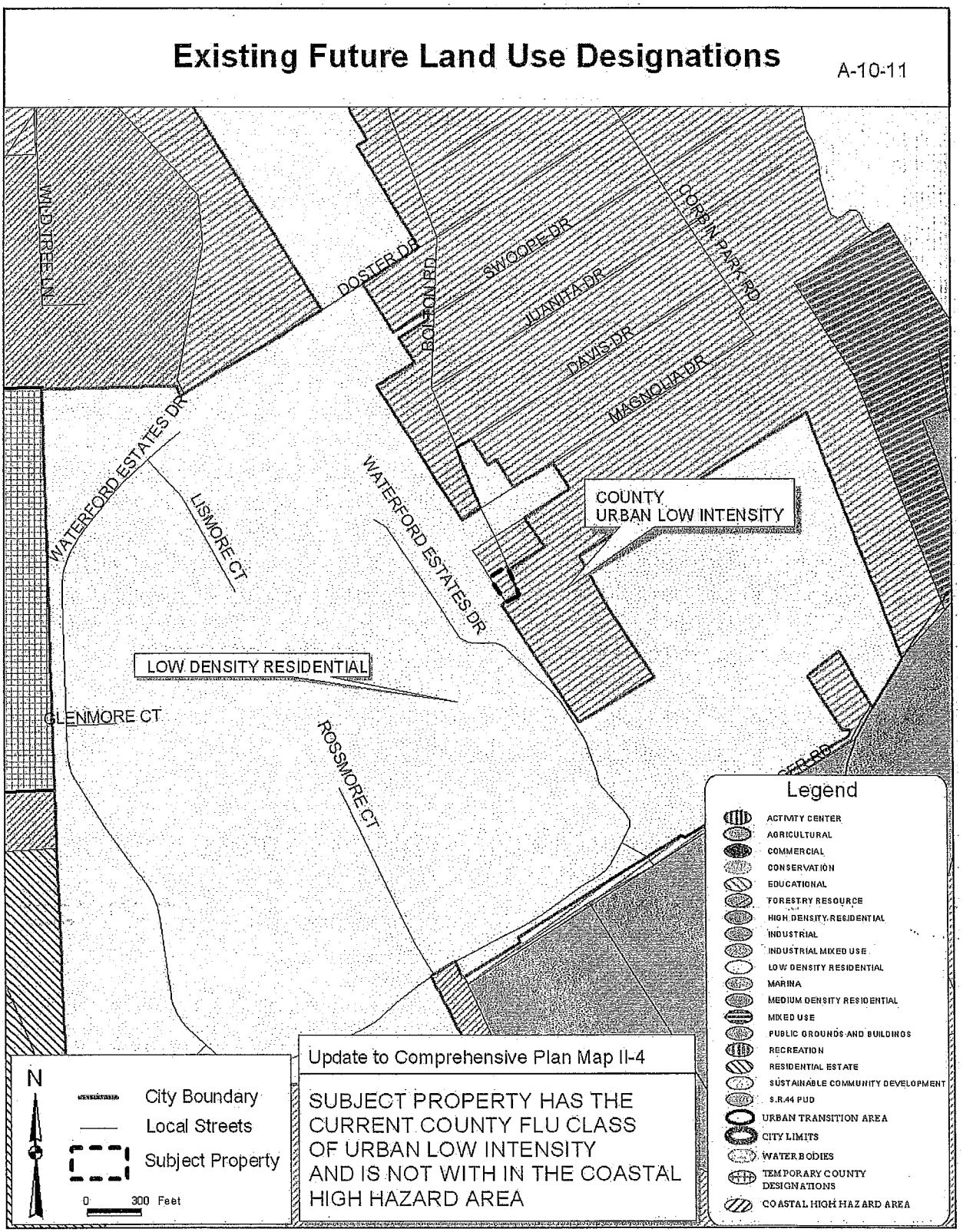


EXHIBIT E – EXISTIING FUTURE LAND USES

174



175

EXHIBIT F – DESCRIPTION OF EXISTING FUTURE LAND USE

Urban Low Intensity (ULI)

Areas for low density residential dwelling units with a range of two-tenths (0.2) to four (4) dwelling units per acre. In reviewing rezoning requests, the specific density will depend on locational factors, particularly compatibility with adjacent uses and availability of public facilities.

This residential designation is generally characterized by single family type housing, e.g., single family detached and attached, cluster and zero lot line. This designation will allow existing agricultural zoning and uses to continue.

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

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

EXHIBIT G – DESCRIPTION OF EXISTING ZONING

R-4 URBAN SINGLE-FAMILY

RESIDENTIAL CLASSIFICATION

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

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

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

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

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

Dimensional requirements:

Minimum lot size:

- Area: 7,500 square feet.

Width: 75 feet. *Minimum yard size:*

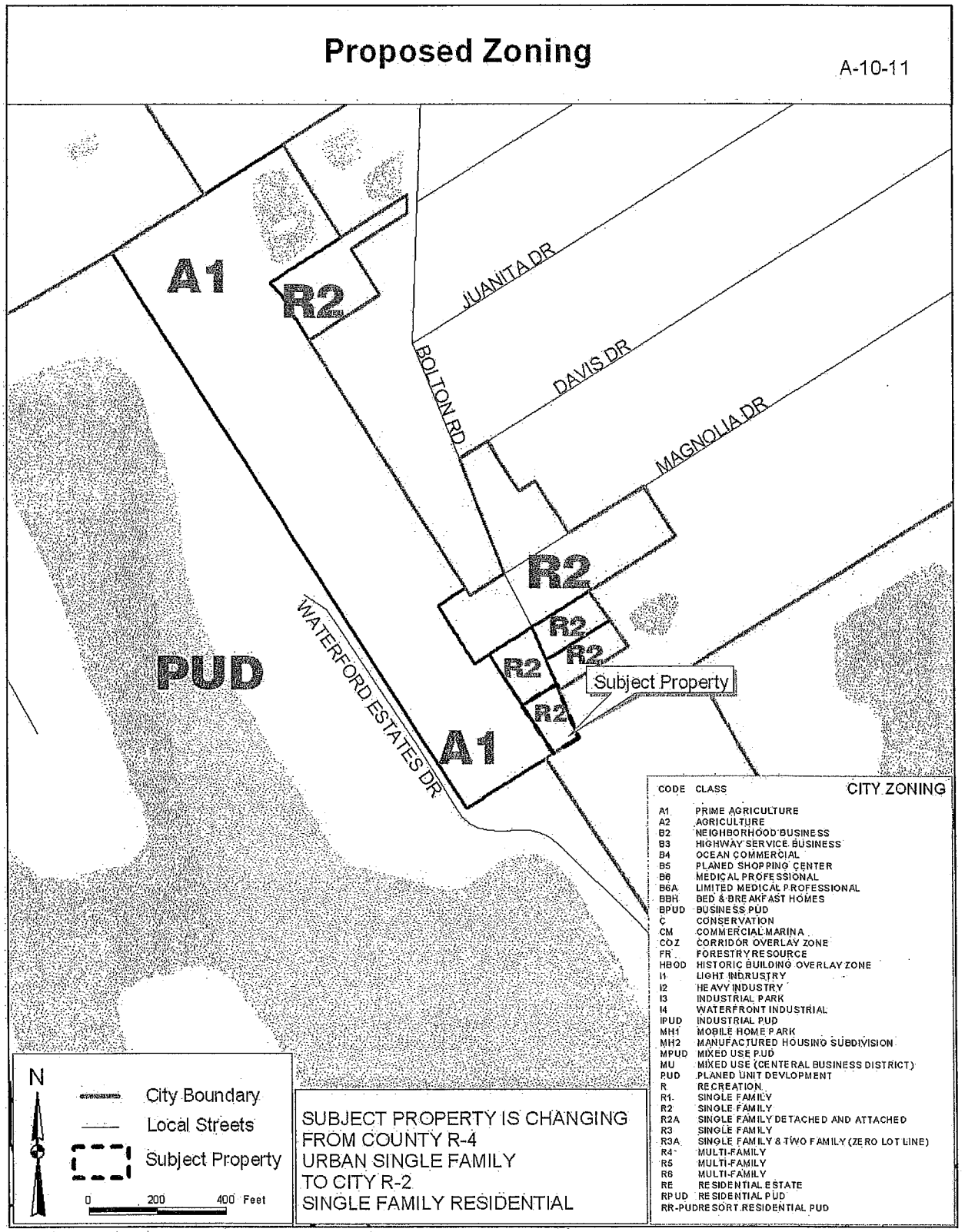
EXHIBIT G – DESCRIPTION OF EXISTING ZONING

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

Maximum building height: 35 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 850 square feet.

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

EXHIBIT H- PROPOSED ZONING



261
262

EXHIBIT I – PROPOSED FUTURE LAND USE DESIGNATION

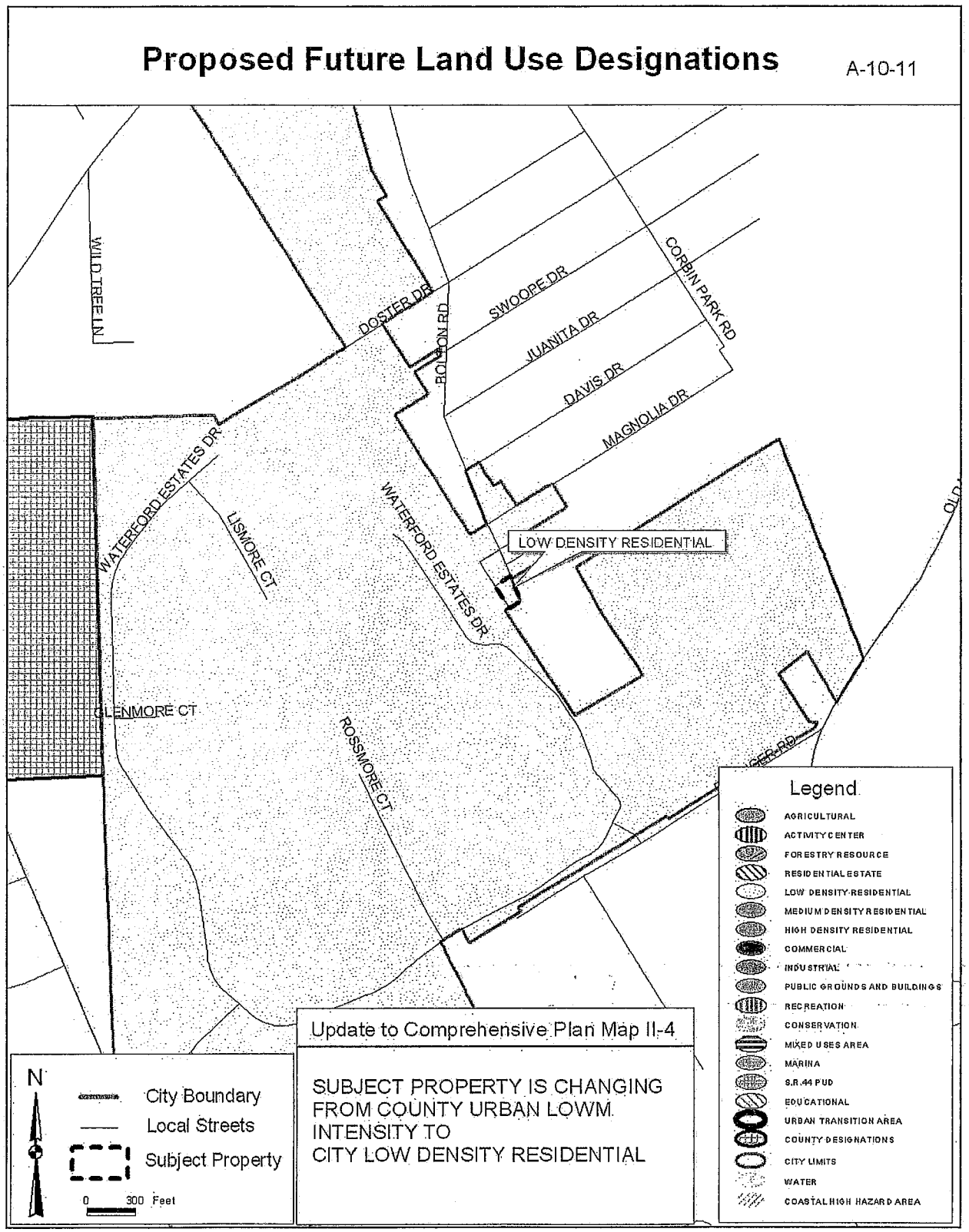


EXHIBIT J – DESCRIPTION OF PROPOSED ZONING

R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

Intent:

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

Permitted Uses:

Playfields
Playgrounds
Public Parks
Recreation Buildings and Complexes for exclusive use by residents and guests in a residential development
Single Family Dwelling Units

Permitted Accessory Uses:

Garages
Gazebos
Incidental Uses
Permitted Home Occupations
Storage Sheds
Swimming pools, private, provided a principal use exists and the pool is located to the rear of the principal structure and out of required rear and side yards
Uses customarily associated with the permitted principal uses

[Revised 4/9/02]

Special Exceptions:

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

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

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

EXHIBIT J – DESCRIPTION OF PROPOSED ZONING

3. Play areas shall be located within all applicable setback dimensions.

4. The church property shall have a vehicular drop off and pickup area with a minimum 100 feet of drive lane outside of the public right-of-way, or sufficient parking area to provide enough space to fit the required parking and provided space for drop off and pick up. [Ord. No. 4-00]

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

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

EXHIBIT K – DESCRIPTION OF PROPOSED FUTURE LAND USE

Low-Density Residential
Maximum allowed density: Up to five [5] dwelling units per acre
Intent: This use is appropriate where a more suburban development pattern exists or is desired and where urban services are to be kept to a minimum

322

EXHIBIT L - WATER AND SEWER SERVICE AREA

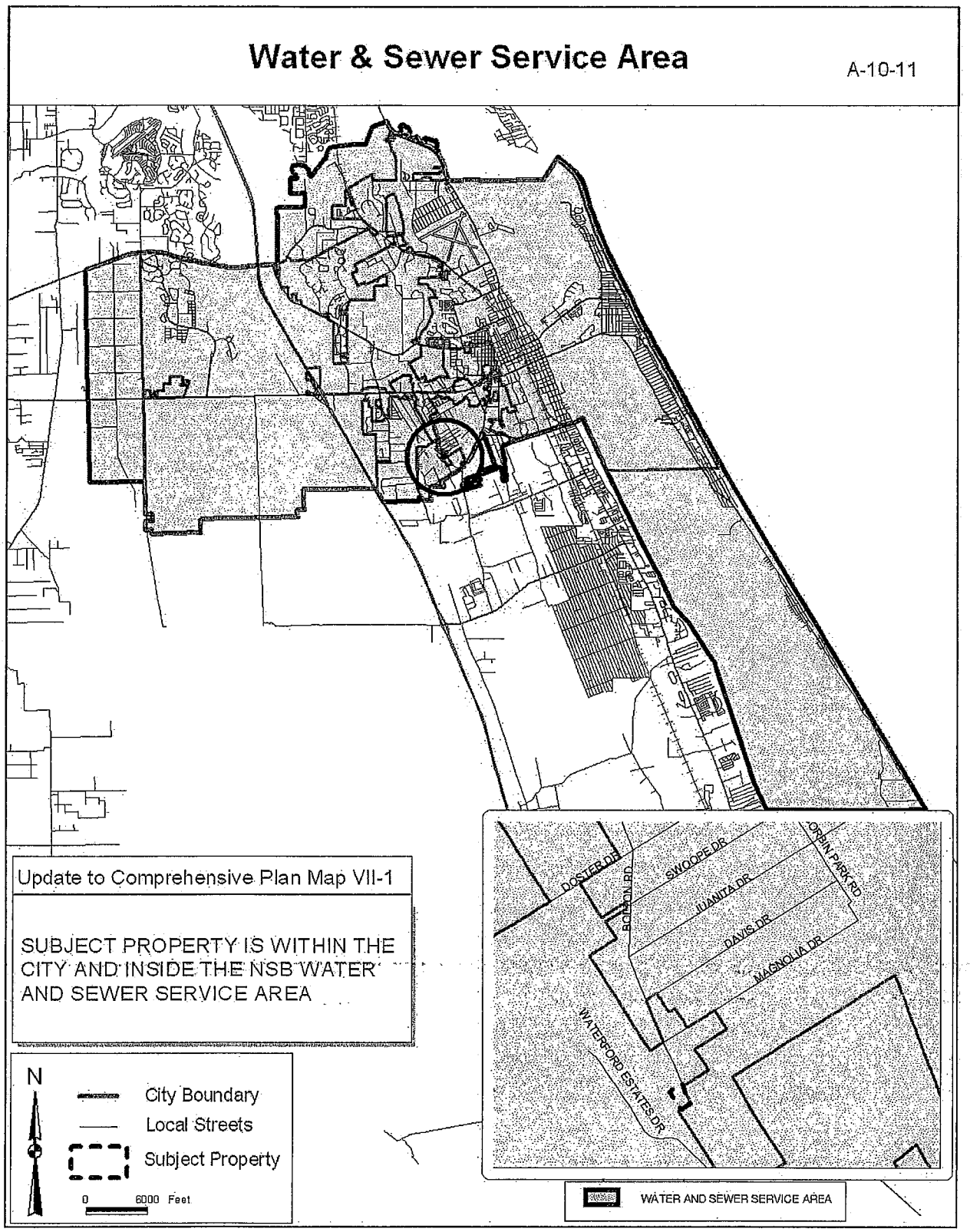


EXHIBIT M – CONCURRENCY TABLE

IMPACT ANALYSIS

Existing County FLU	Acres	Density	Units	Existing County Zoning	Acres
Urban Low Intensity (ULI)	0.250	4 units/acre	1	R-4 - Urban Single-Ramily Residential	0.250
Total	**0.250**		**1**		**0.250**

Requested City FLU	Acres	Density	Units	Requested City Zoning	
Low Density Residential	0.250	5 units/acre	1.25	R-2, Single-Family Residential	0.250
Total	**0.250**		1.25		**0.250**

	Existing FLU	Units	Requested FLU	Units	Increase/ (Decrease)
Dwelling Units	ULI = 4 dwelling units per acre	1	Low Density Residential = 5 dwelling units per acre	1	0
TOTAL DWELLING UNITS		1		1	0

Exsiting FLU		Proposed FLU	
Floor Area Ration (FAR)	Maximum Allowed Non-Residential Building Area (Sq. Ft.)	Floor Area Ration (FAR)	Maximum Allowed Non-Residential Building Area (Sq. Ft.)
ULI = 0.5[1]	5,445	Low Density Residential	0

	Existing FLU		Proposed FLU		Increase/ (Decrease)
Population[2]	2.41 persons/du	2	2.41 persons/du	3	1
Students[3]	0.396 students/du	0	0.396 students/du	0	0

Trip Generation[4]	Existing Land Use			Proposed Land Use				
	Land Use	Average Daily Trips	PM Peak Hour Trips	Land Use	Average Daily Trips	PM Peak Hour Trips	Average Daily Increase / (Decrease)	PM Peak Increase / (Decrease)
	Single-Family Residential	9.57	1.01	Single-Family Residential	11.96	1.26	2.39	0.25
TOTAL	Total	9.57	1.01		11.96	1.26	2.39	0.25

Parks and Recreation[6]									
Existing Requirements (County)				Proposed Requirements (City)					
Facility Type	Adopted Level of Service Standard	Total Required for Population of Subject Property	Facility Type	Adopted Level of Service Standard		Total Required for Population Before Proposed Annexation	Additional Required for Proposed FLU Population	Total Required after Annexation	Existing	Under / (Deficiency)[5a]
Local Park	0.002 acres per person	0.00482	Beach Access	acres per resident -	0.00025	5.86825	0.000753125	5.869003125	227.19	221.32
District Park	0.005 acres per person	0.01205	Urban Open Space	acres per resident -	0.001	23.473	0.06	23.533	33.167	9.63
			Equipped Play Areas	acres per resident -	0.0002	4.6946	0.012	4.7066	12.503	7.80
			Neighborhood Parks	acres per resident -	0.0004	9.3892	0.024	9.4132	29.156	19.74
			Community Parks	acres per resident -	0.001	23.473	0.06	23.533	75.664	52.13
			Regional Parks	acres per resident -	0.02	469.46	1.2	470.66	60314.47	59843.81
			Urban District Parks	acres per resident -	0.005	117.365	0.3	117.665	770.706	653.04
			Baseball/Softball Fields	fields per resident -	0.0001	2.3473	0.006	2.3533	9	6.65
			Basketball Courts	courts per resident -	0.00005	1.17365	0.003	1.17665	10	8.82
			Bicycle Trails	miles per resident -	0.0001	2.3473	0.006	2.3533	46.584	44.23
			Boat Ramps	ramps per resident -	0.00008	1.87784	0.0048	1.88264	8	6.12
			Piers/Catwalks/Jetties	lineal feet per resident -	0.032	751.136	1.92	753.056	4074	3320.94
			Football/Soccer Fields	fields per resident -	0.00004	0.93892	0.0024	0.94132	7	6.06
			Handball/Racquetball Cts.	courts per resident -	0.00005	1.17365	0.003	1.17665	5	3.82
			Shuffleboard Courts	courts per resident -	0.00008	1.87784	0.0048	1.88264	37	35.12
			Tennis Courts	courts per resident -	0.0001	2.3473	0.006	2.3533	9	6.65

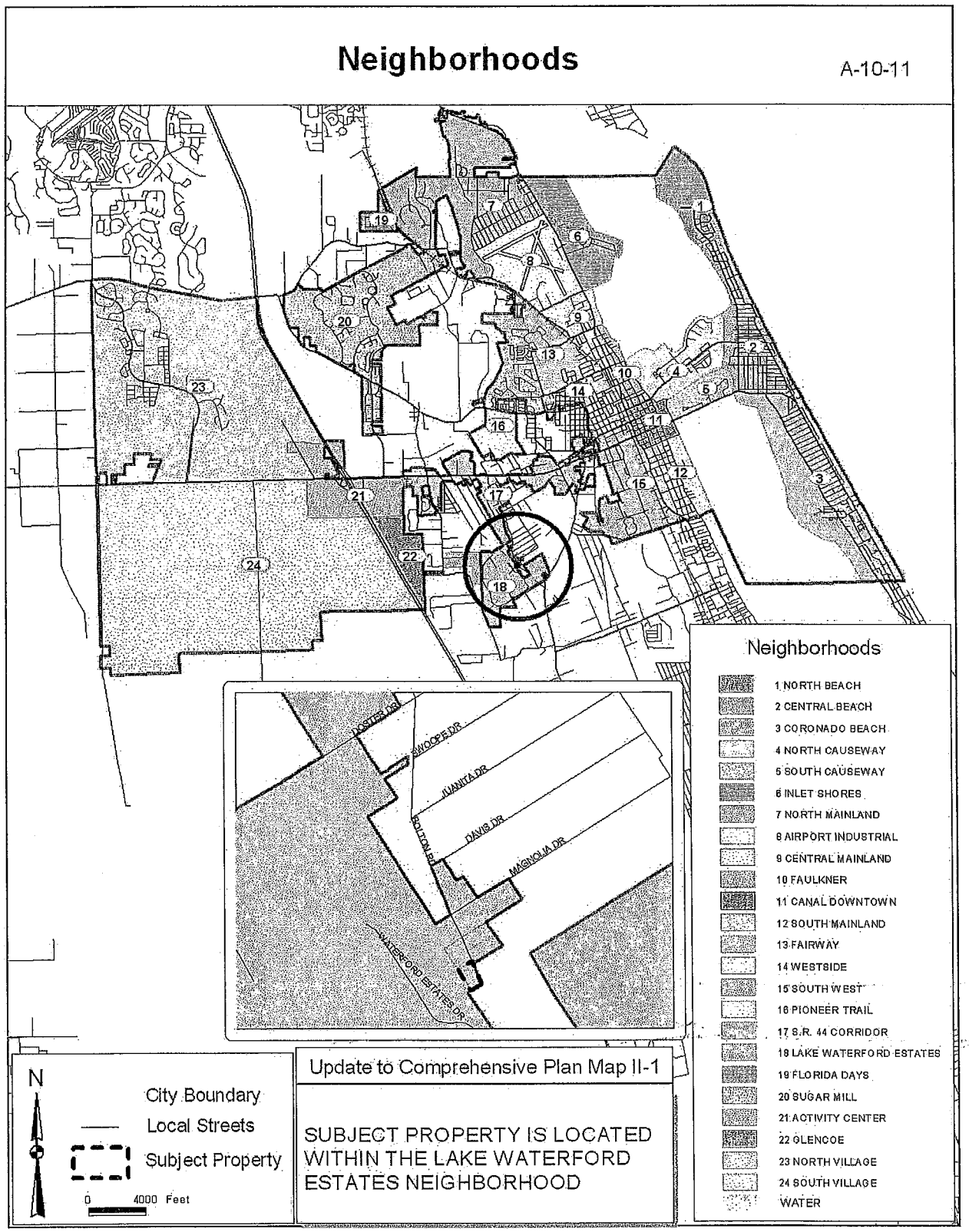
	Existing FLU			Proposed FLU				
	Residential on ULI	Non-Residential	Total	Low Density Residential	Maximum Peak Flow (Million GPD)	Existing Average Daily Flow (Million GPD)	Total Average Daily Flow after Annexation	Remaining Capacity (GPD)
Potable Water[6] (GPD)	200.00		200.00	300	7.13	4.60	4,600,300.00	2,529,700.00
Wastewater Treatment[7] (GPD)	175.00		175.00	258.75	7.00	4.09	4,090,258.75	2,909,741.25
Solid Waste[8]	20.73	n/a	20.73	22.02	n/a[8a]	n/a[8a]	n/a[8a]	n/a[8a]
Stormwater[9]	Peak discharge rate and total runoff volume leaving the site for a 25 year storm of 24 hour duration shall be limited to 110 percent of the present discharge rate and total discharge volume.							

Notes:
1. Volusia County Comprehensive Plan, Chapter 20, caps neighborhood commercial development at a maximum of 50,000 SF.
2. Population: 2.41 persons per residential unit or single-family dwelling per 2006-2008 American Community Survey for Volusia County
3. Student population is calculated at a rate of 0.396 students per single-family dwelling unit
4. Source: ITE Trip Generation Manual, 7th Edition
   Specialty Retail = 44.32.01 daily trips/1000 sq. feet gross floor area; 5.02 PM Peak Hour trips / 1000 sq. feet gross floor area peak hour of generator
   Single-Family Residential - Average Daily Trips = 9.57 trips/unit weekday; 1.01 trips/dwelling unit for peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.

5. Because there are different Level of Service Standards for Parks and Open Sapce between the County and the City, it is not feasible to compare before and after annexation figures. However, as is shown on the table, concurrency with City standards is calculated.
6. Potable Water: County = 200 gallons per day(GPD) per residential unit; 0.15 GPD per sq. ft. of office bulding area; 0.1 GPD per sq. ft. of retail, institutional & industrial building area. City = 240 gallons per day per residential unit or ERU
7. Sanitary Sewer: County = 175 GPD per residential unit; 0.15 GPD per sq. ft. office building area; 0.10 GPD per sq. ft. retail, institutional & industrial building area. City = 207 gallons per day per residential unit or ERU.
8. Solid Waste: County = 8.6 pounds per day per person. City = 7.3 pounds per person per day. Non-residential waste is included in these figures.

4

EXHIBIT N- NEIGHBORHOODS



325

EXHIBIT O – FLOOD PRONE AREAS

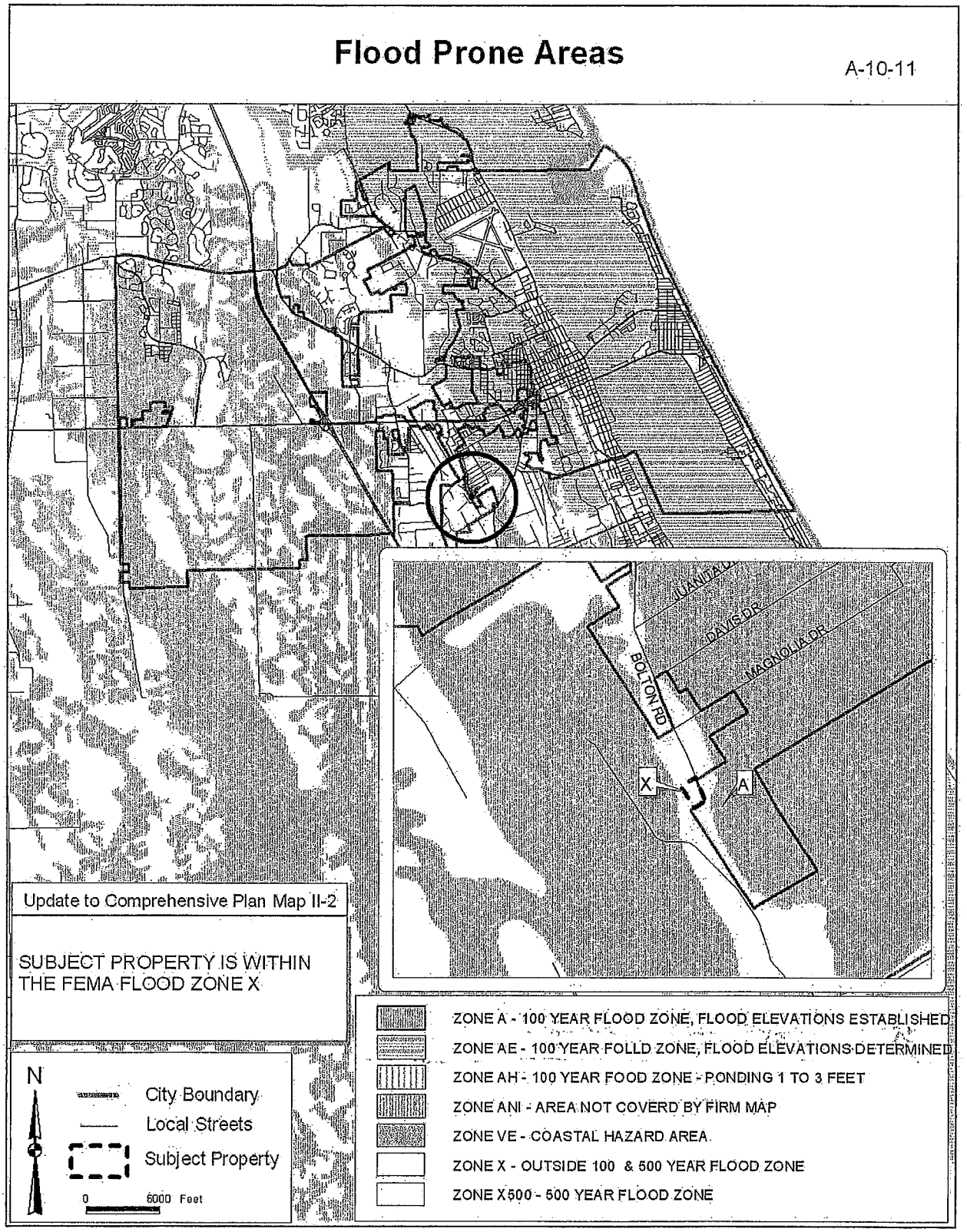


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EXHIBIT P – 2009 EXISTING LEVEL OF SERVICE

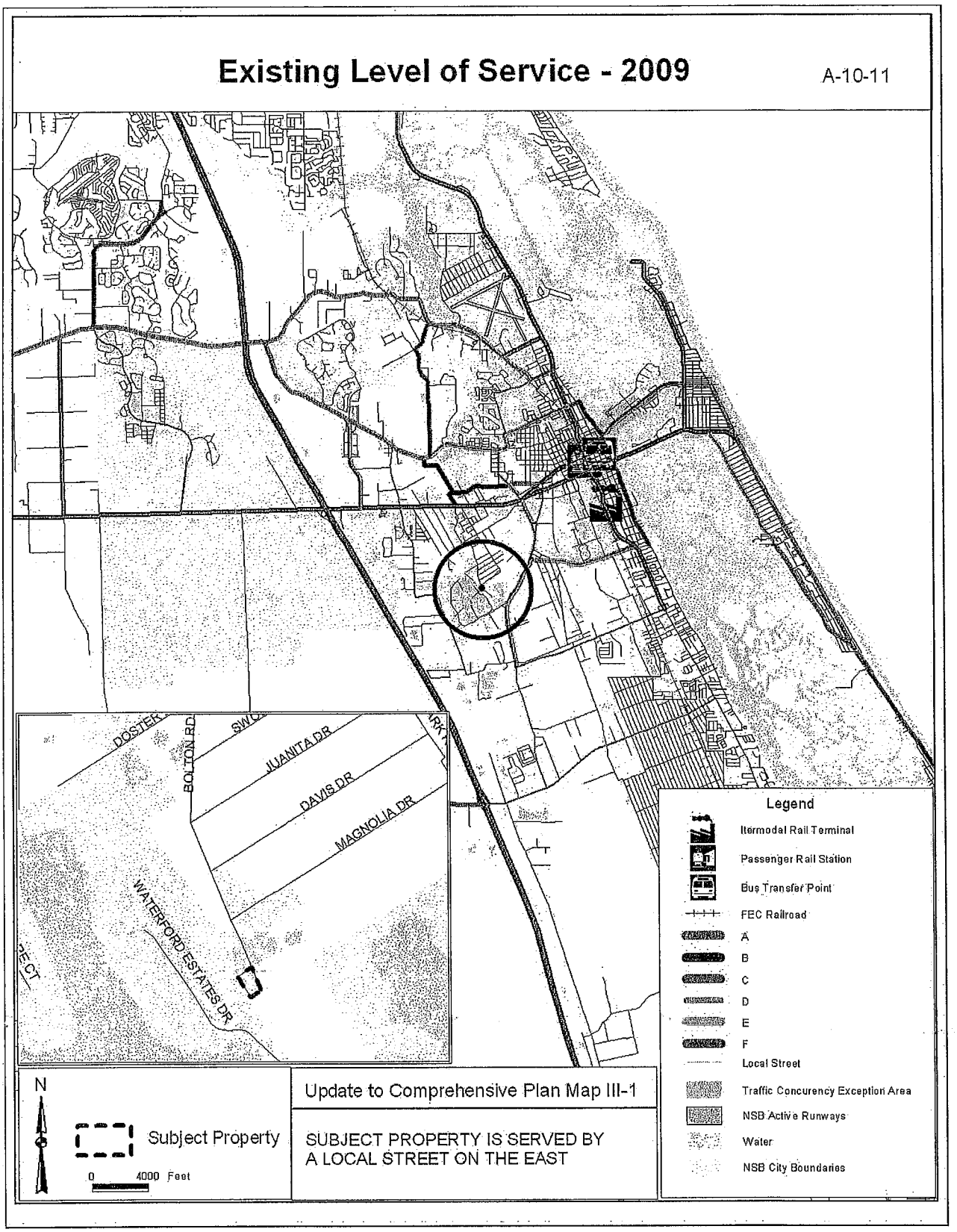
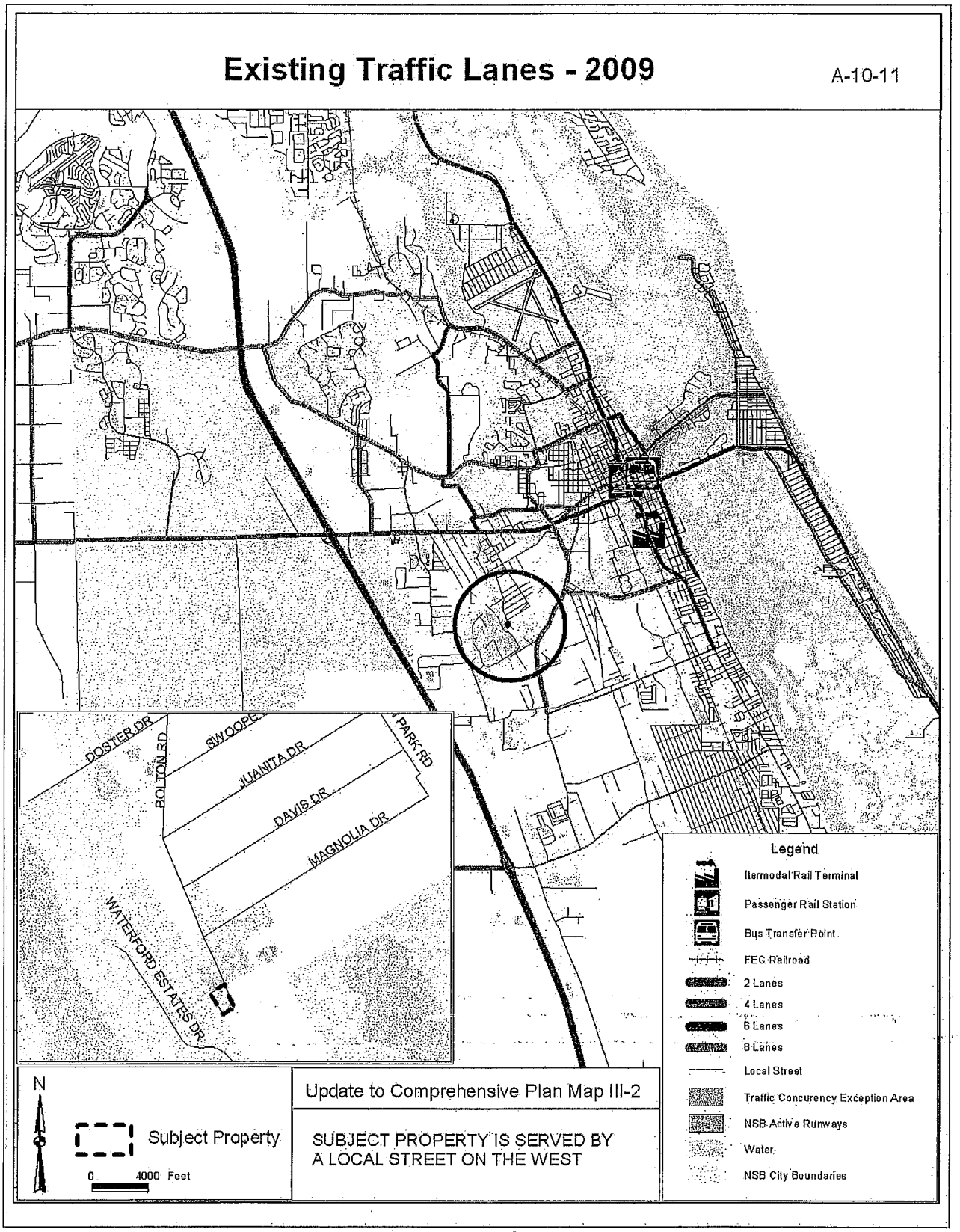


EXHIBIT Q – 2009 EXISTING TRAFFIC LANES



329

EXHIBIT R – PUBLIC TRANSIT ROUTESS

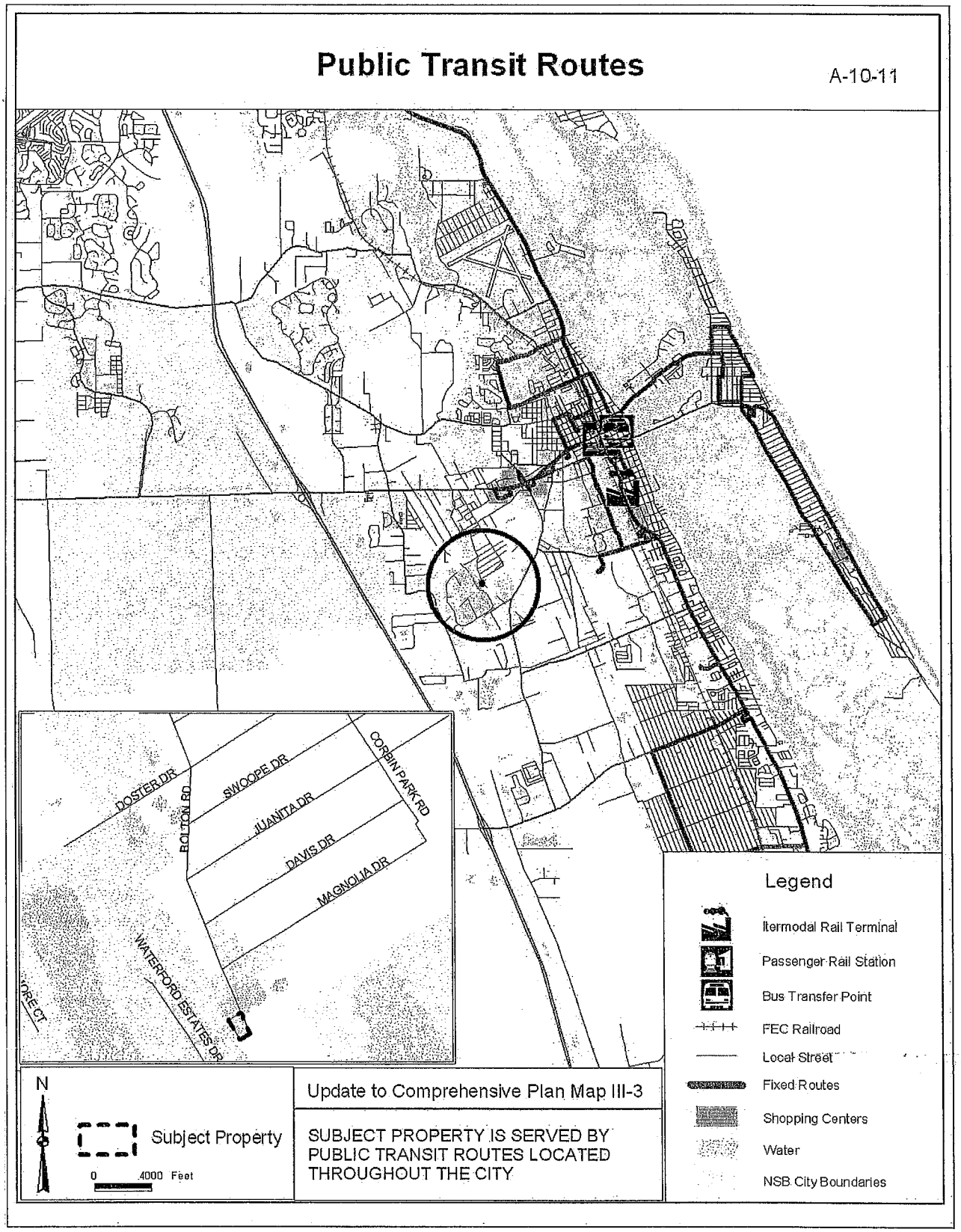


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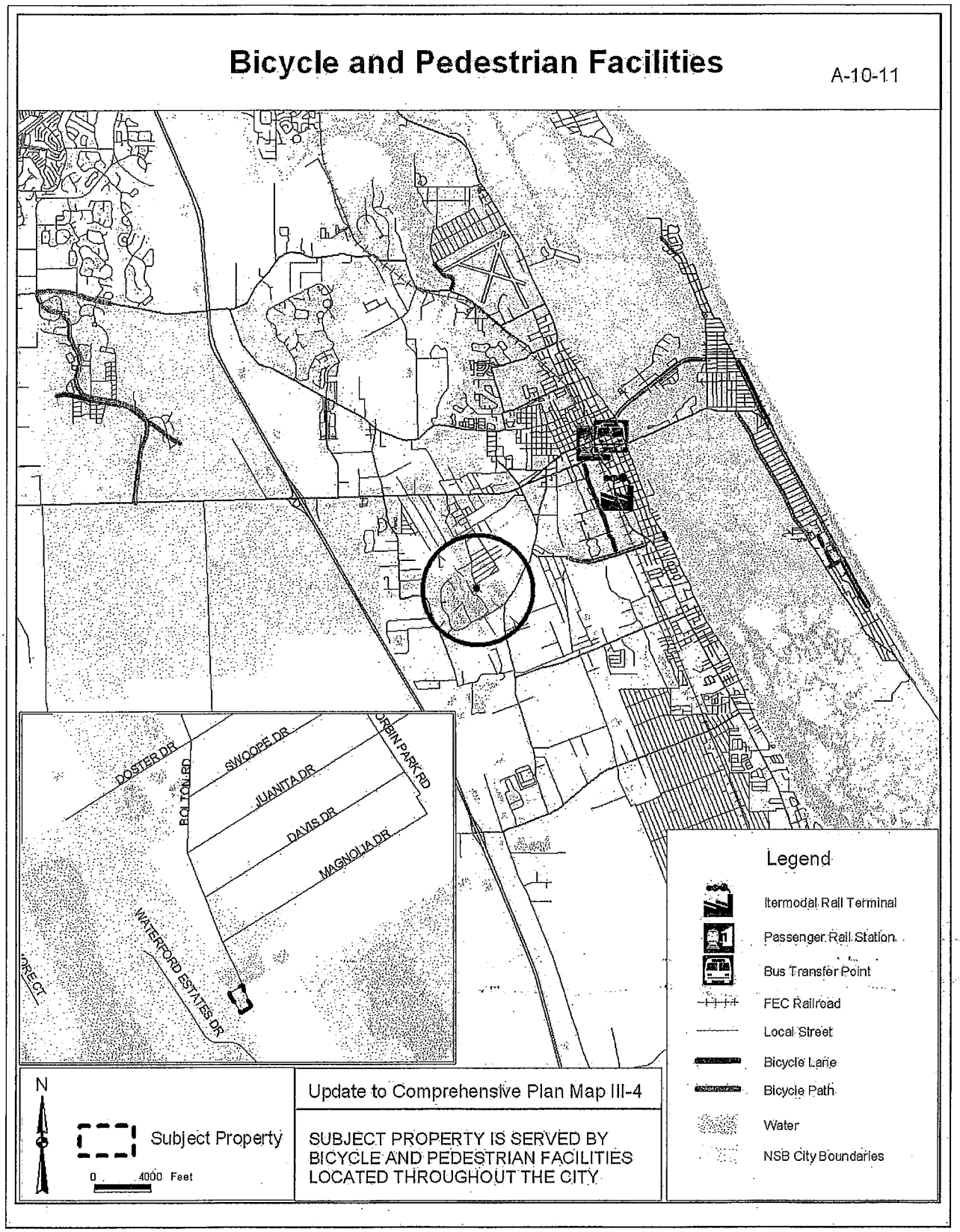
EXHIBIT S - BICYCLE AND PEDESTRIAN FACILITIES

332



333
334

EXHIBIT T - AIRPORT RUNWAY PROTECTION ZONES

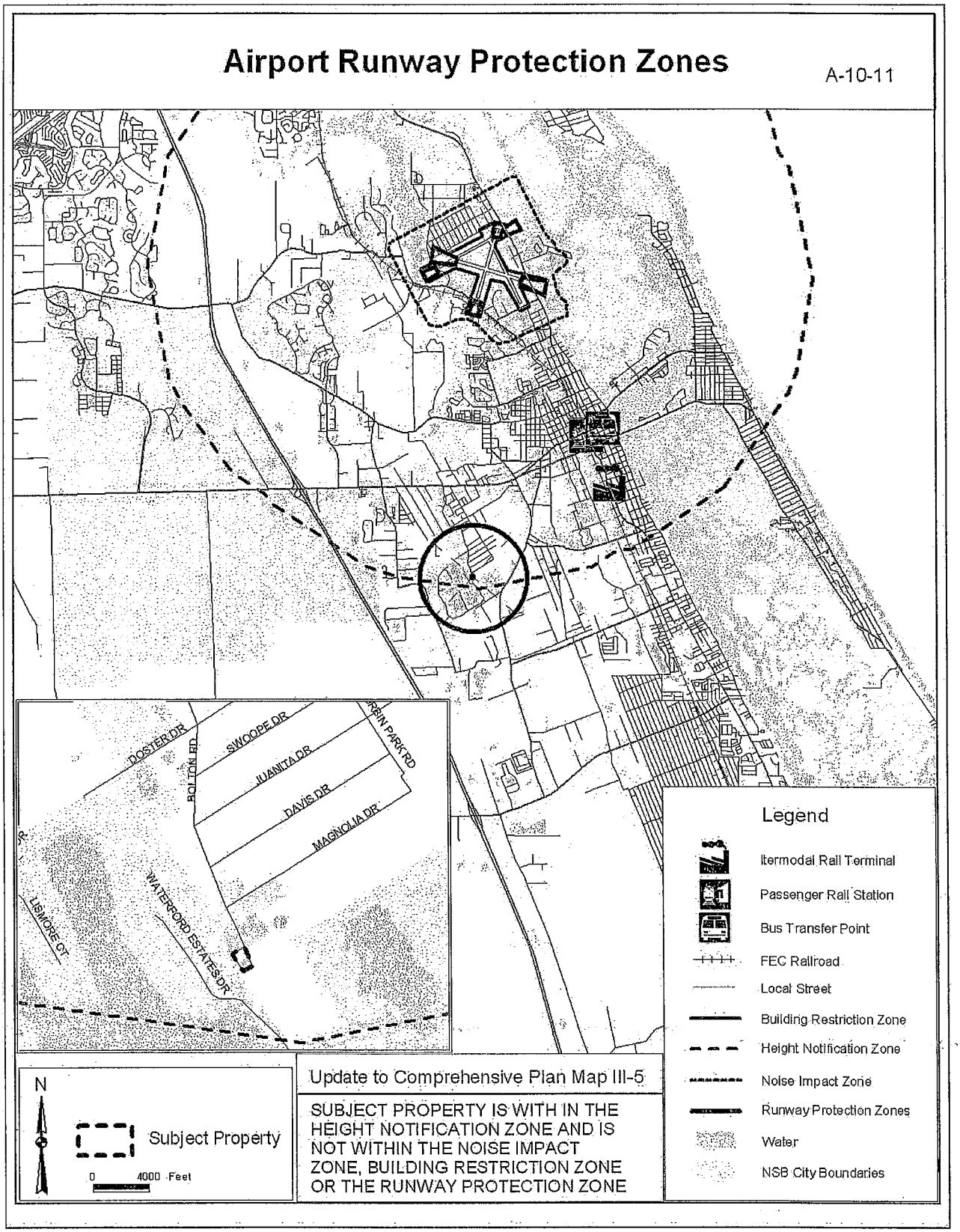


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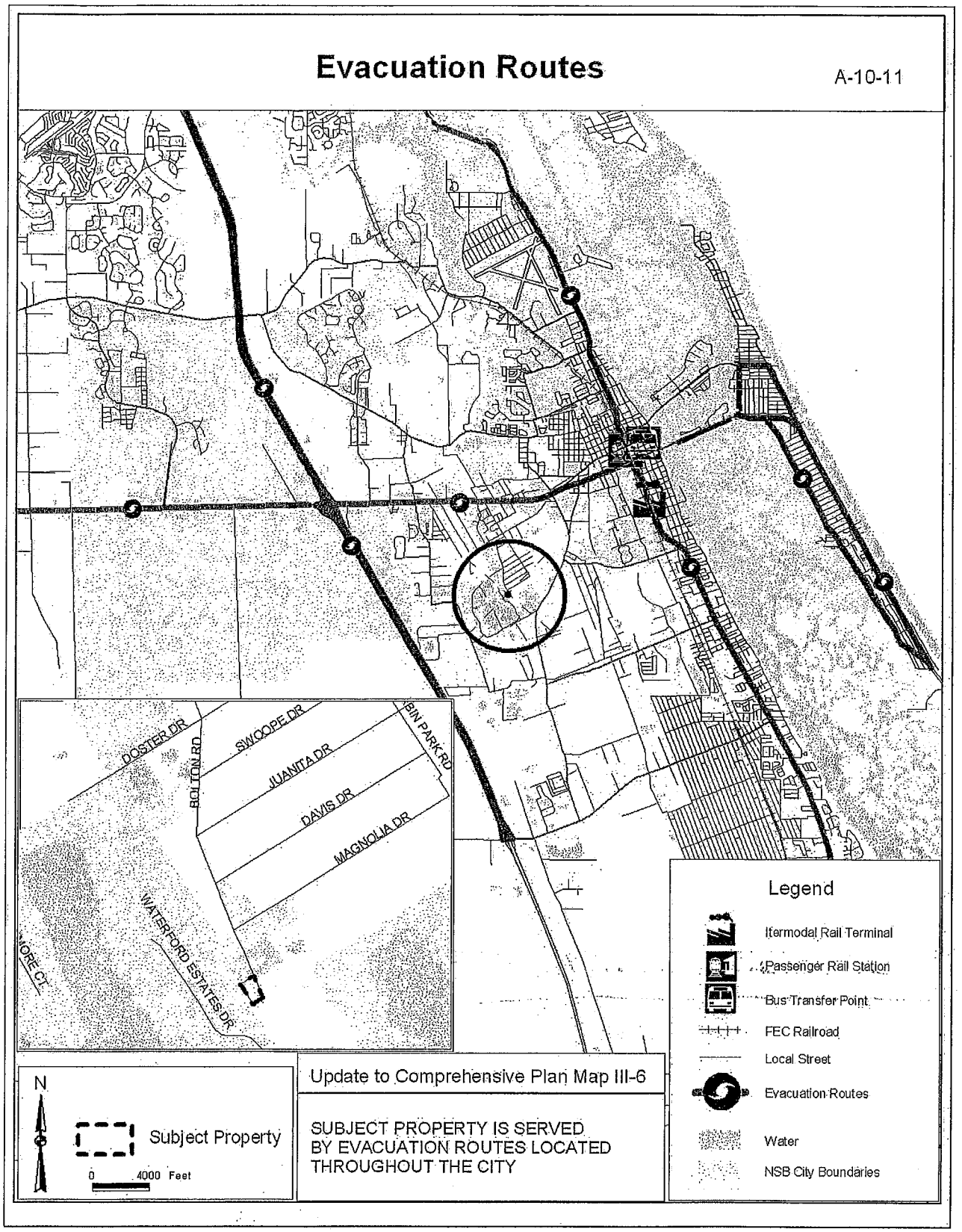
EXHIBIT U – EVACUATION ROUTES

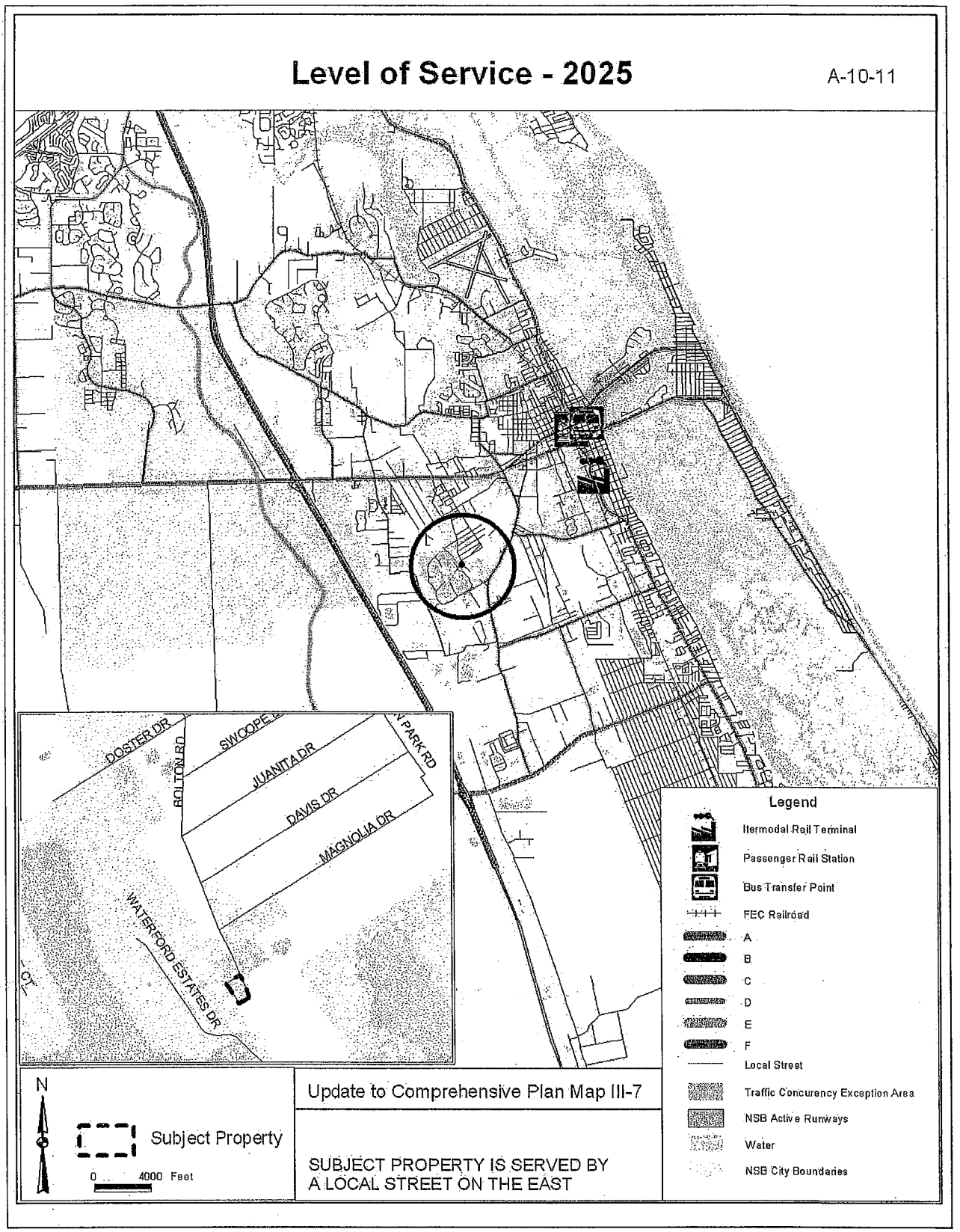
337



338

EXHIBIT V – 2025 LEVEL OF SERVICE

339



340

EXHIBIT W – 2025 NUMBER OF LANES

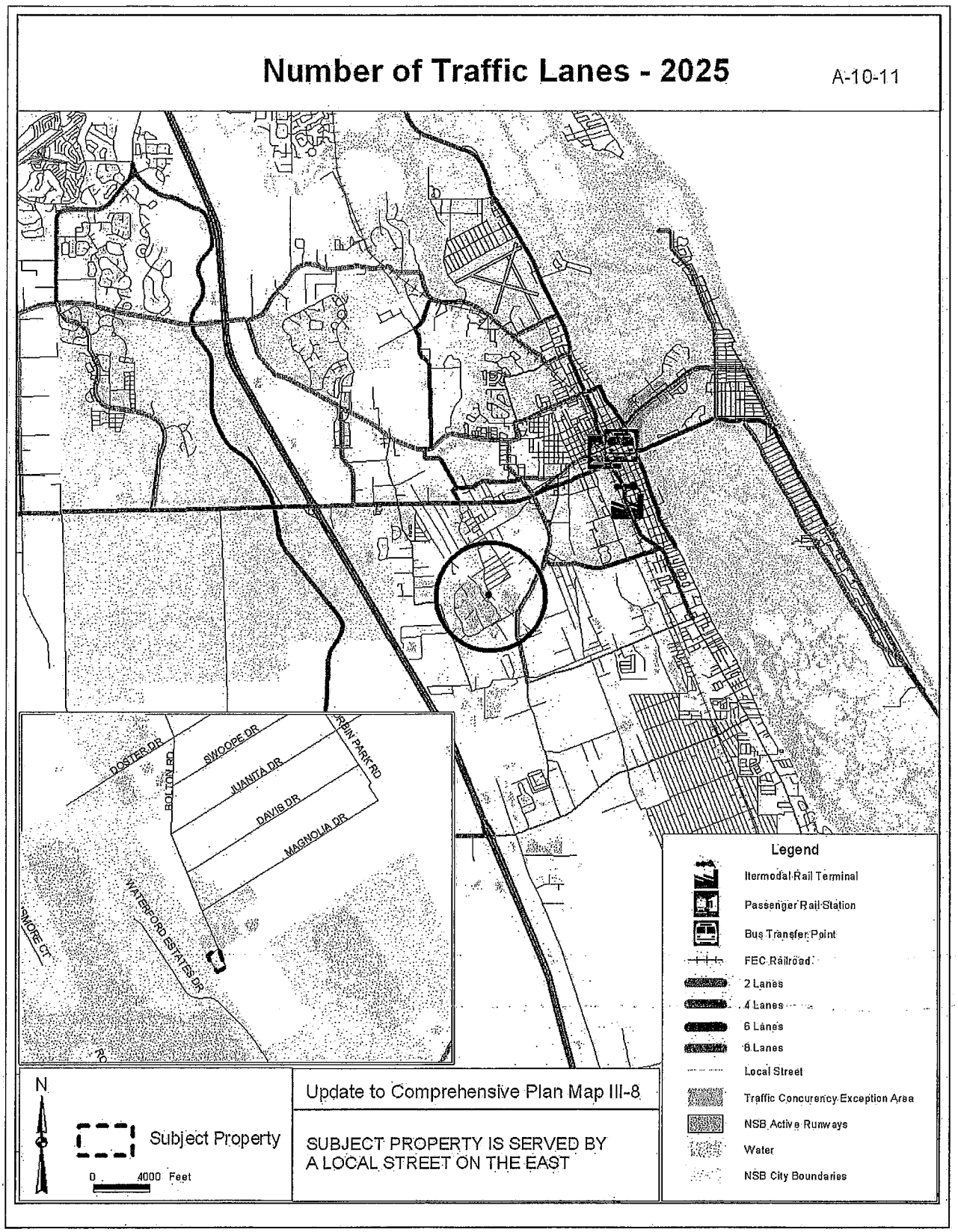
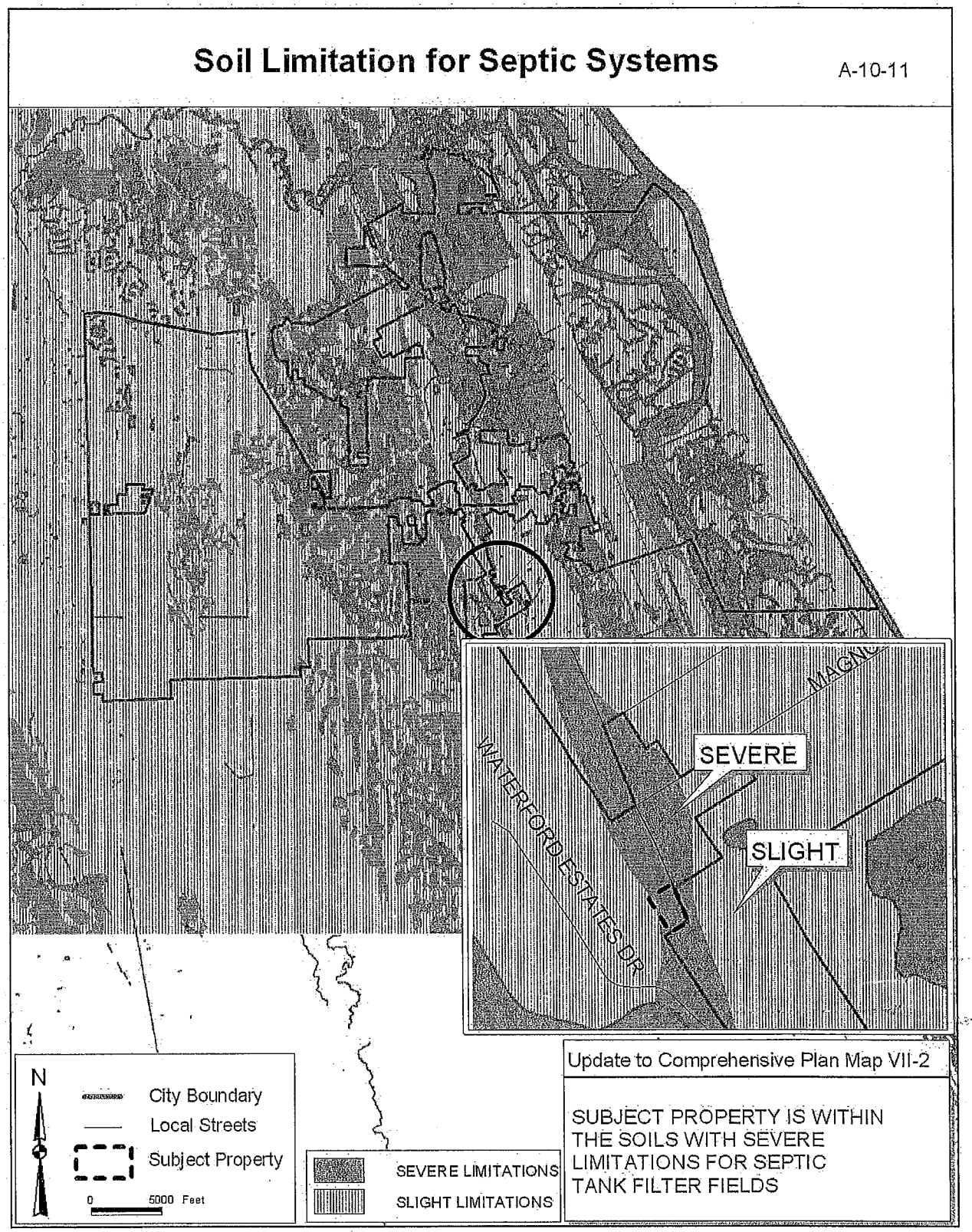


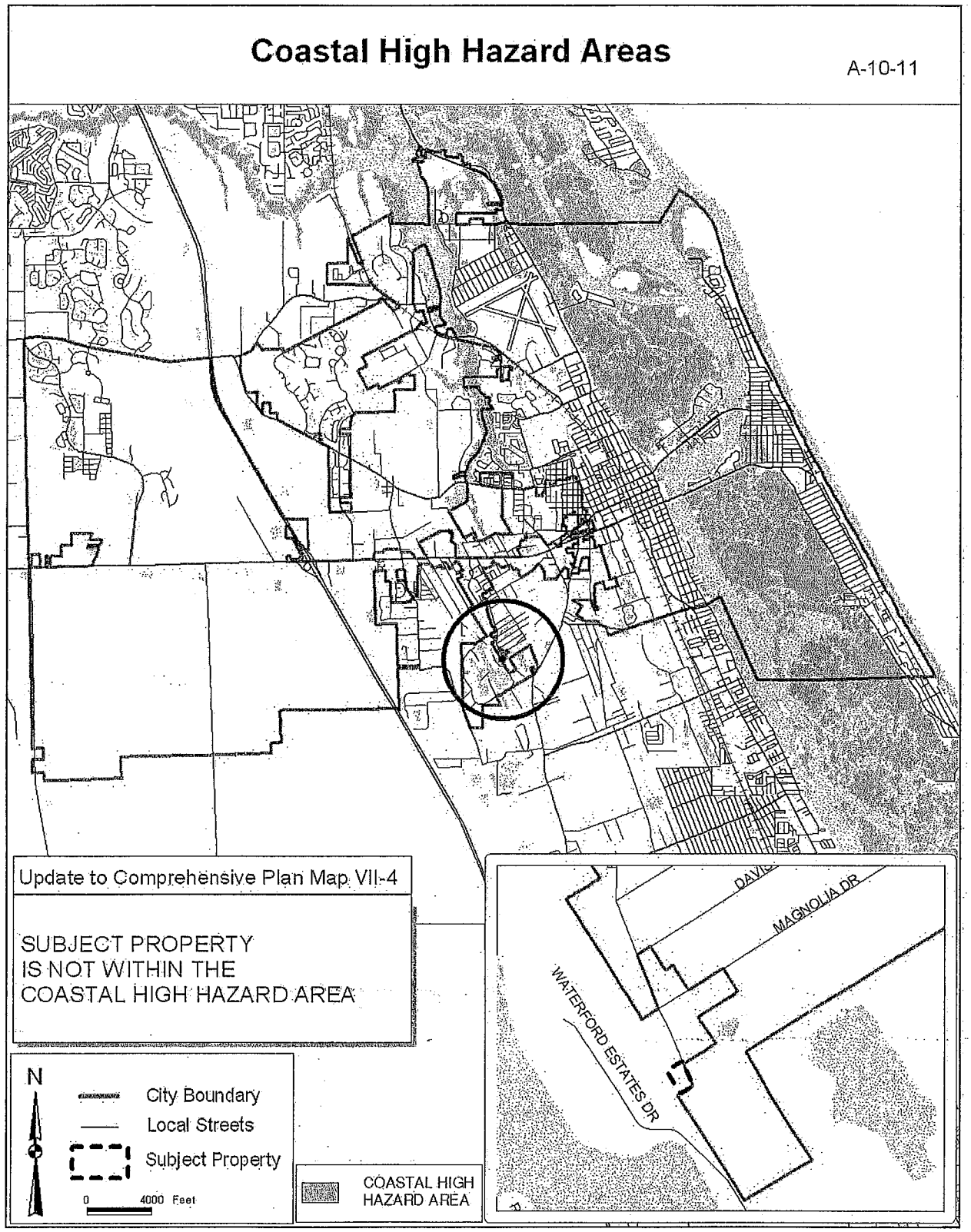
EXHIBIT – X SOIL LIMITATIONS FOR SEPTIC SYSTEMS

344



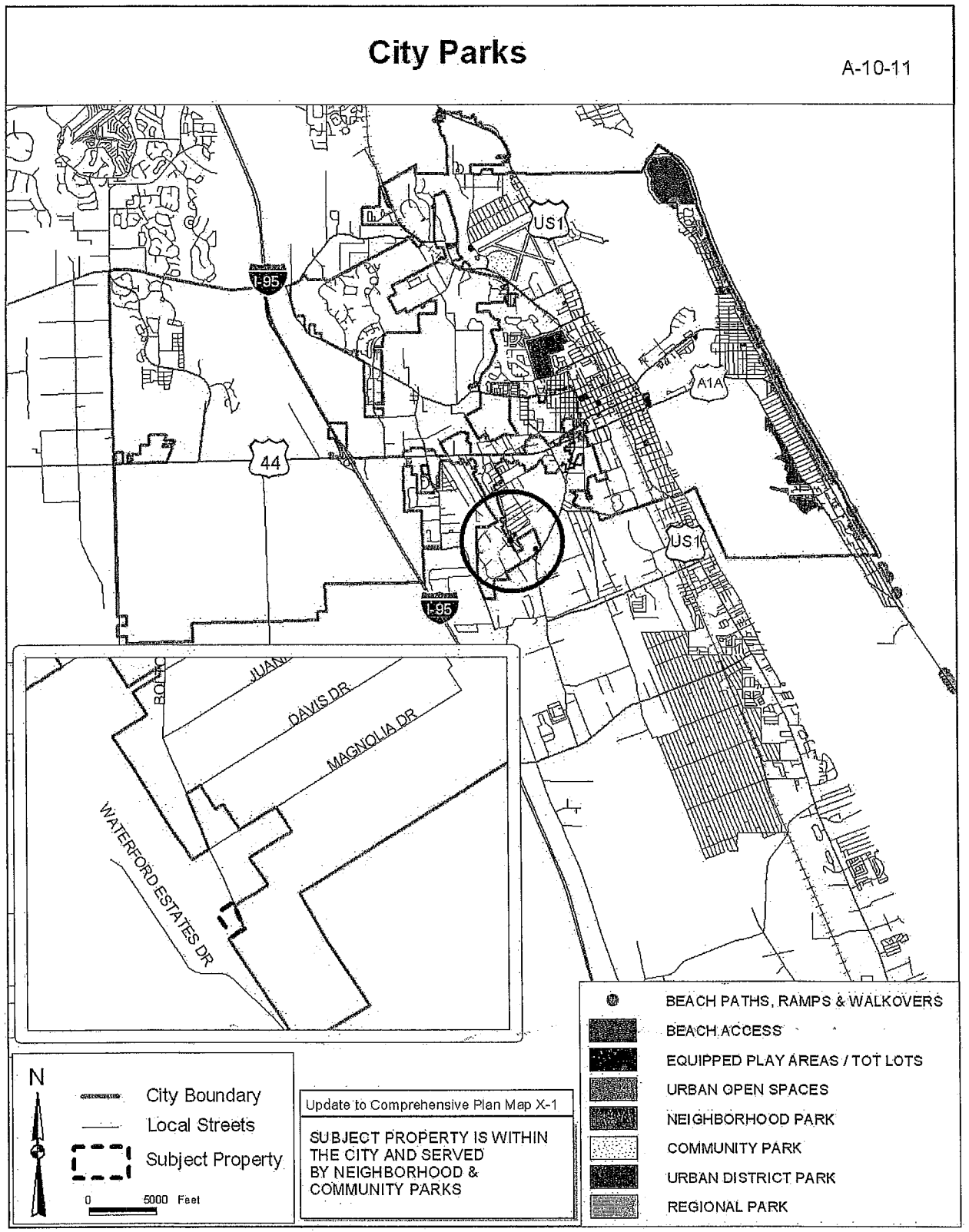
345

EXHIBIT Y – COASTAL HIGH HAZARD AREAS



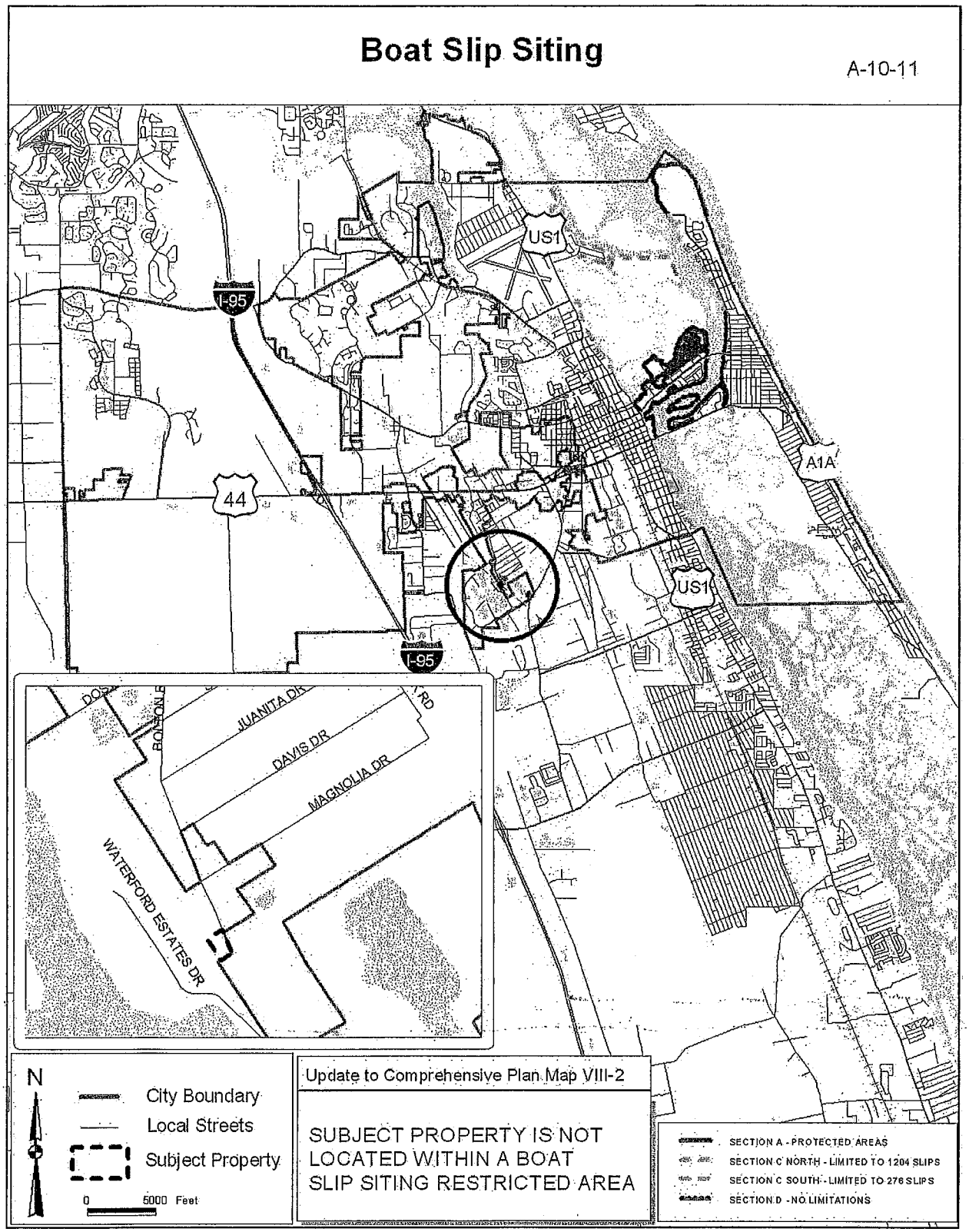
346
347

EXHIBIT Z – CITY PARKS



348

EXHIBIT AA – BOAT SLIP SITING



349

EXHIBIT BB – AERIAL OF SUBJECT PROPERTY

CITY OF NEW SMYRNA BEACH – PLANNING AND ENGINEERING

PUD-2-11: SOUTH VILLAGE PUD – 1ST AMENDMENT

AUGUST 1, 2011

Background

A. **Applicant:** Paul Momberger, RLA, Zev Cohen and Associates, 300 Interchange Boulevard, Ormond Beach, Florida, 32174

B. **Property Owner:** South Village Partners, LLC, 255 Alhambra Circle, Coral Gables, Florida, 33134

C. **Request:** Approval of the Amended and Restated South Village Planned Unit Development (PUD) Master Development Agreement (MDA) and Conceptual Development Plan (CDP). The proposed revisions would constitute the 1st Amendment to the South Village PUD Master Development Agreement.

D. **Site Data:** The subject property consists of approximately 1,363 acres, is zoned PUD, Planned Unit Development, and is generally located on the south side of State Road 44, west of Interstate 95 (see **Exhibit A** for a location map).

Findings

A. The South Village Planned Unit Development (PUD) Master Development Agreement (MDA) was approved by the City Commission on March 21, 2007. The MDA sets the requirements for future development of the property, including permitted uses, density, setbacks and architectural regulations.

B. The subject property is located in what was formerly called the Urban Overlay District. As part of the EAR-Based amendments, which were adopted in 2011, the name of this area was changed to "Sustainable Community Development". The area was established in coordination with Volusia County and the Florida Department of Community Affairs when the City began annexing lands west of Interstate 95 in the late 1990s. The purpose of the Urban Overlay District was provide guidelines and criteria for when land west of Interstate 95 was ready to support urban-style development and how that development would physically occur.

C. The original MDA allows a total of 1,995 residential units. The units include a mix of single-family, two-family and multi-family units. As in Venetian Bay, the project is divided into three distinct residential sub-districts – the Village Center, the Village Urban Neighborhood and the Village Best Practices Neighborhood. The Village Center and Village Urban Neighborhoods are meant to be designed in a denser, traditionally urban character, with an integrated street system and strong pedestrian orientation. The Village Best Practices Neighborhood is intended to be more suburban in character, with cul-de-sacs, larger lots and lower residential density.

D. The original Conceptual Development Plan also contains a Village Center area, similar to the area under construction in Venetian Bay, north of State Road 44. The 60-acre Village Center area includes a mix of high-density residential, commercial and office uses. Construction of the Village Center is tied to the number of residential units constructed, ensuring that the commercial requirements will be met as the residential portions of the project develop.

E. In addition to the above requirements, the property also included the following improvements and amenities:

- A golf course and clubhouse
- Two convenience commercial sites
- A 14-acre elementary school site
- An 80-acre high school site
- A civic site, for potential use as a house of worship

F. Subsequent to the March 2007 City Commission approval, the residential housing market began a downward trend. This, coupled with the overall national economic downturn, resulted in the previous property owner filing for bankruptcy. Ultimately, no development occurred on the property. In 2011, the property was sold to the current owner, South Village Partners, LLC, from Coral Gables.

G. The proposed changes to the South Village MDA and CDP (see items below) represent a substantial change to the approved development plan. These changes are due to many different factors, including changes in the economy and housing market; increased knowledge about the landforms on site and overall changes to the development concepts that have guided development in the areas west of Interstate 95. A copy of the Amended and Restated Master Development Agreement, and accompanying Conceptual Development Plan, are attached to this report as **Exhibit B**. A copy of the original 2007 Conceptual Development Plan is attached as **Exhibit C**.

1. **Density and Intensity:** No changes to the overall number of permitted units (1,995) or the overall non-residential intensity are proposed as part of the revisions.
2. **Conceptual Development Plan:**
   a. Relocates the commercial center to the frontage along State Road 44
   b. Changes the Airport Road alignment from a north/south alignment that would terminate at the south property line to an east/west alignment that creates a half-circle road with two access points on State Road 44
   c. Reconfigures the multi-family residential area and shifts all multi-family development to the west side of Airport Road
   d. Combines the proposed elementary and high school sites into one school site that is located closer to State Road 44, just south of the proposed commercial area
   e. Eliminates the golf course
   f. Eliminates the house of worship site

g. Revises the proposed pedestrian and bicycle paths to correspond with the new street network and identified upland areas
h. Creates an amenity center area along State Road 44 within the northeast quadrant of the property

3. Master Development Agreement:

a. Change the names of the property owners from South Village Developers, LLC to South Village Partners, LLC.
b. Changes the term of the agreement from 20 years to 30 years, with the Amended and Restated Agreement expiring in 2041.
c. Deletes references to "neighborhood-based village development".
d. Deletes commercial and residential design examples as an exhibit to the MDA.
e. Eliminates references to the Village Center, Village Urban Neighborhoods, Village Best Practices Neighborhoods, Storefront Commercial and Convenience Commercial.
f. Creates two new sub-districts: Neighborhood Center and Residential Neighborhoods.
g. Deletes Table 2, outlining the minimum and maximum mix of land uses within the development.
h. Eliminates requirements for timing of commercial development.
i. Includes revised language allowing on-going silviculture activities on the property.
j. Adds language allowing the City to issue permits for clearing, grading and earthwork for portions of the PUD before final construction plans are approved.
k. Adds language to allow temporary uses such as construction trailers, marketing trailers, sales offices and temporary signage until a particular development phase is completed. The agreement would also allow temporary holding tanks for sewage for the temporary trailers until such time as central sewer lines are installed and active.
l. Deletes Table 4, related to density in the Village Center, Village Urban Neighborhoods, and Village Best Practices Neighborhoods.
m. Deletes the requirement that additional units permitted in the Neighborhood Center will count toward minimum density requirements.
n. Deletes the "Life Cycle Housing and Affordable Housing Commitment" section of the MDA.
o. Deletes Section 13 regarding model homes and model centers.
p. Deletes the requirement that a modular or portable sales office be removed once a model home or model center is completed.
q. Creates new sign regulations for the PUD including:
    - Entry features with a maximum height of 50 feet
    - Allows a maximum commercial sign height of 25 feet
    - Allows up to two 25-foot tall ground signs on properties with 100' – 200' of frontage
    - Allows up to three 25-foot tall ground signs on properties with 200' – 500' of frontage

- Allows up to four 25-foot tall ground signs on properties with 500' or more of frontage
- Allows a maximum copy area for ground signs of 100 SF to 150 SF.
- Allows an unlimited number of wall signs on commercial buildings. Signs cannot exceed the height of the building and would be allowed to have a maximum copy area of 200 square feet per business
- Allows 15-foot tall signs for each residential subdivision and multi-family development within the PUD, with a maximum copy area of 32 square feet
- Allows an unlimited number of private directional signs within the PUD. Each sign is limited to a maximum of three square feet of copy area and a maximum height of six feet
- Allows an unlimited number of wayfinding signs within the PUD. Each sign is limited to a maximum copy area of 40 square feet and a maximum height of 10 feet
- Allows primary construction signs of up to 32 square feet in copy area with a maximum height of 25 feet. Each parcel is allowed one primary construction sign
- Allows secondary construction signs of up to 35 feet in height with a maximum copy area of 25 square feet. Each parcel is allowed on secondary construction sign
- Allows murals as public art and exempts murals from needing to obtain sign permits
- Allows Community Real Estate Signs at the entry points of residential or non-residential developments under construction and/or which have units for sale, rent or lease. The maximum allowed sign height is 10 feet and the maximum allowed copy area is 64 square feet
- Allows one real estate sign on each individual lot. The maximum allowed sign height is 10 feet and the maximum allowed copy area is 6 square feet
- Allows open house, seasonal or holiday signs, memorial signs and other temporary signage according to "standards established in the Land Development Code". However, the City's *Land Development Regulations* either do not contain standards for these types of signs or explicitly prohibit them.
- Provides specific regulations regarding banner signs. An unlimited number of banner signs would be permitted in the PUD.
- In addition to the signs specified above, the revisions also allow up to 40 Temporary Marketing and Development signs within the PUD. Each sign is limited to a maximum height of 15 feet and a maximum copy area of 32 square feet. Temporary Market and Development signs must be removed upon construction of permanent signage.

r. Reduces the landscape buffer along State Road 44 from 50 feet to 35 feet. This buffer may overlap by 15 feet with the 25-foot utility easement required by the Utilities Commission.

s. Replaces language regarding reservation of a 14-acre elementary school site and an 80-acre high school site with language reserving a 20-acre school site.

t. Changes the requirements for the upland buffer adjacent to wetlands. The current agreement and City regulations require a *minimum* 25-foot upland buffer. The proposed revisions would require an *average* 25-foot wide buffer with no area less than 15 feet in width.

u. Deletes the design requirements regarding Natural and Man-Made Water Bodies. These requirements address lake size, littoral zone plantings and incorporation of bicycle and pedestrian paths around lakes to provide additional amenities for residents.

v. Eliminates the requirements for vistas to maximize scenic views, including natural areas, water bodies, public amenities and focal elements.

w. Eliminates the following roadway cross-sections:
- Major Collector Boulevard
- Neighborhood Circulator
- Village Commercial Street

x. Adds a cross-section for Pedestrian/Bicycle Pathways

y. Allows residences to be built on roads that have been constructed with one lift of asphalt, provided that a performance bond is provided to the city and the second lift of asphalt is completed within two years after the first certificate of occupancy is obtained.

z. Allows sidewalks to be placed on only one side of local streets and allows collector and arterial roads to be developed with a pedestrian trail on one side of the road in lieu of installing sidewalks on both sides of the street.

aa. Allows on-street parking to be used to meet the minimum parking requirements for single-family and multi-family residences.

bb. Allows fences on commercial properties to be up to 15 feet in height.

cc. The language voiding the Development Agreement for the O'Reilly Property, dated August 11, 1998, has been deleted. The 1998 Development Agreement would have required the City to install the required water and sewer lines to serve the LandMar property. Because the City will not pay to install these utilities to serve a private development, this language must be added back into the Amended and Restated MDA.

dd. Establishes new minimum lot sizes ranging from 33' in width to 100' in width and provides new setbacks, building coverage and building heights.

H. A summary of the rationale behind the proposed changes prepared by the property owner's planning consultant is attached as **Exhibit D**. A checklist of the

Best Development Practices identified in the City's *Comprehensive Plan*, prepared by property owner's consulting team, is attached as **Exhibit E**.

I. As discussed above, the separate reserved school sites for an elementary school and high school are proposed to be replaced with one 20-acre site for a school. The applicant is currently working with the school district staff to finalize the required agreement. The City will also be a party to this agreement, as outlined in the Interlocal Agreement between the City and the Volusia County School District. City staff has been advised by school district staff that the Amended and Restated Master Development Agreement cannot move forward to City Commission until this agreement is finalized.

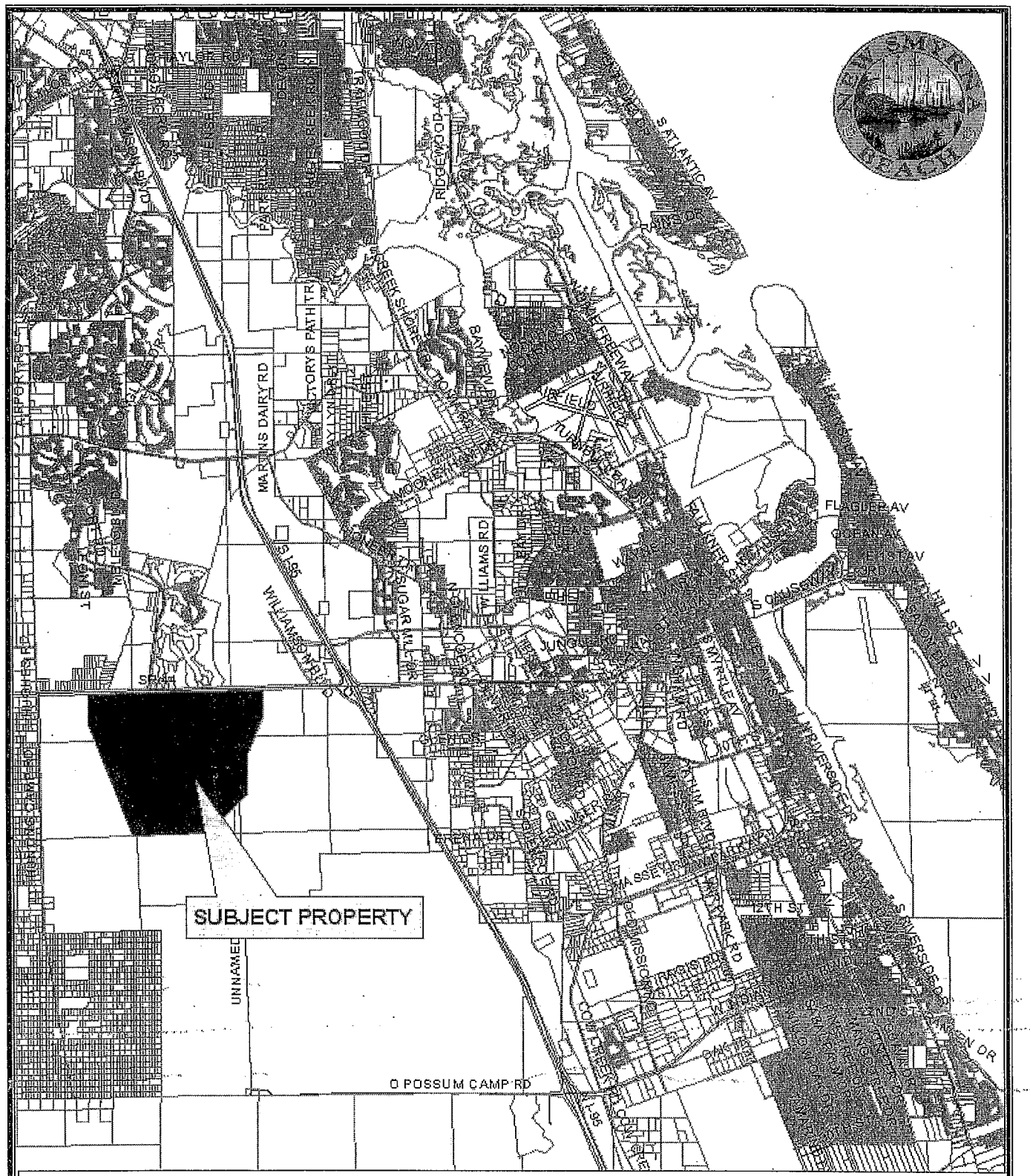
J. Prior to purchasing the property, the prospective buyer met with City staff and elected officials to discuss possible changes to the Master Development Agreement (MDA) and associated Conceptual Development Plan. Staff has reviewed the information provided by the applicant, including the revised Master Development Agreement and Conceptual Development Plan and is generally in agreement with the proposed changes. However, there are a few areas where staff has concerns about the language proposed in the Amended and Restated Agreement. Staff has forwarded a list of these outstanding items to the applicant (**Exhibit F**). This list also includes minor editing corrections to address internal conflicts within the document. Staff recommends that a condition of approval be that all outstanding items in **Exhibit F** are addressed prior to scheduling this item before first reading with the City Commission. Staff has discussed the comments in **Exhibit F** with the applicant. Revised language, acceptable to staff, regarding signage permitted in the PUD was submitted to staff on July 21, 2011 (**Exhibit G**). Additional discussions with the applicant appear to indicate that there is general consensus on the remaining items shown on **Exhibit F**.

K. The North Village (Venetian Bay) began development in 2002. Until the downturn in the residential market, the developer of Venetian Bay adhered to the best management practices and requirements outlined in the City's *Comprehensive Plan.* If the City Commission approves the amended and restated South Village MDA, staff would recommend that a similar opportunity be afforded to the developer of Venetian Bay.

Recommendation

Staff recommends **approval** of the Amended and Restated South Village Planned Unit Development Master Development Agreement and Conceptual Development Plan with the following conditions:

a. The final agreement with the Volusia County School District is received prior to scheduling this item for first reading before the City Commission.
b. All outstanding items in **Exhibit F** are addressed prior to scheduling this item before first reading with the City Commission.



CASE #: PUD-2-11: SOUTH VILLAGE PUD - 1ST AMENDMENT

PLANNING AND ZONING BOARD MEETING DATE: AUGUST 1, 2011

EXHIBIT B

SOUTH VILLAGE PARTNERS, LLC
SOUTH VILLAGE

RESTATED AND AMENDED
MASTER DEVELOPMENT AGREEMENT
PLANNED UNIT DEVELOPMENT AGREEMENT

RESTATED AND AMENDED
SOUTH VILLAGE PARTNERS, LLC
SOUTH VILLAGE
PLANNED UNIT DEVELOPMENT (PUD)
MASTER DEVELOPMENT AGREEMENT (MDA)

The City of New Smyrna Beach, a Florida municipal corporation (the "City"), and SOUTH VILLAGE PARTNERS, LLC, a Florida limited liability company (the "Developer" and "Owner"), hereby covenant and agree, and bind their successors and assigns as follows for the purpose of implementing development of the property shown on Exhibit A and described in Exhibit B subject to this Agreement with Exhibits C through G including the Schematic Development Plan (SDP) as the South Village Planned Unit Development (South Village-PUD) as required by the City's Comprehensive Land Use Plan enacted by New Smyrna Beach, Fla., Ordinance 6-90 (July 6, 1990), and the amendments thereto; and, the Comprehensive Plan Amendment for West New Smyrna Beach which was enacted by City New Smyrna Beach, Fla., Ordinance 64-98 (June 16, 1999) .

1.0 Property.

1.1 The Property, which is subject to this agreement indicated in Exhibit "A" Location Map, and described in the attached Exhibit "B" Legal Description.

2.0 Property Ownership.

2.1 The Property consisting of approximately one thousand three hundred sixty-three (1,363) acres is owned by South Village Partners, LLC.

2.2 Term. The term of this agreement shall be for thirty (30) years expiring on _____ __, 2041.

3.0 Comprehensive Plan Consistency.

3.1 This agreement is consistent with the City of New Smyrna Beach's comprehensive plan.

3.2 The parties agree that the intent of this agreement is to provide development standards which allow the design and construction of a development project in the South Village PUD that complies with the City's Comprehensive Land Use Plan requirements.

4.0 PUD Plan

This agreement is a composite of the following documents, drawings and exhibits which shall be read or reviewed together in order to establish the requirements, purpose and intent of the Plan. The documents, drawing and exhibits which collectively shall be referred to and applied as the Plan are the instruments listed in 4.1 through 4.8 which are by reference incorporated herein.

4.1 South Village Planned Unit Development (PUD) Master Development Agreement (MDA).

4.2 Locator Map, which is attached as Exhibit "A".

4.3 Legal Description, which is attached as Exhibit "B".

4.4 Schematic Development Plan (SDP) which is attached as Composite Exhibit "C"

4.5 Lot and Land Use Standards, which are attached as Composite Exhibit "D".

4.6 Roadway Cross Sections, which is attached as Composite Exhibit "E".

5.0 Definition of Terms.

5.1 Best Development Practices. The terms *best development practices* and all references *best practices* shall refer to those development practices described in:

Reid Ewing, *Best Development Practices, Doing the Right Thing and Making Money the Same Time* (May 1995).

5.2 **City**. The City of New Smyrna Beach, a Florida municipal corporation.

5.3 **Civic Uses (CIV)**: Land uses that serve general community and social activities including but not limited to schools, houses of worship and community centers. Civic uses include public buildings and privately managed buildings that limit access to members of homeowners associations and similar civic groups.

5.4 **Commercial Uses (COM)**: Land uses that encompass commercial development such as general retail, personal and professional services, general offices, restaurants and similar commercial activities. Commercial uses shall not include uses specifically restricted by City land development regulations.

5.5 **Common Facility.** A common facility shall be any facility designated as such by Developer/Owner. Such facilities should include the following facilities, which may be, but shall not be required to be, common facilities:

(1) Stormwater treatment facilities built pursuant to permits issued by the City of New Smyrna Beach and the St. Johns River Water Management District (SJRWMD).

(2) Pedestrian and bike and cart paths not dedicated to a governmental entity.

(3) PUD perimeter edges and buffers or landscaping around interior development within the South Village PUD.

(4) Common open space not dedicated to a governmental entity.

(5) Common recreation facilities not dedicated to a governmental entity.

(6) Such other facilities or areas as Developer/Owner may designate.

5.6 Developer. South Village Partners, LLC, a Florida limited liability company, its successors and/or assigns.

5.7 Master Development Agreement (MDA). The written text of the South Village PUD Agreement setting forth the obligations of the parties to the MDA.

5.8 Land Development Regulations (LDR). Means the Land Development Regulations for the City of New Smyrna Beach adopted by New Smyrna Beach, Fla. Ordinance 1-91 (January 22, 1991) and amendments thereto in effect at the time of approval of this Restated and Amended Master Development Agreement.

5.9 Living Unit, Accessory. A dwelling unit of 450 to 650 square feet that is subordinate to a single-family dwelling and has its own entrance, sleeping and cooking facilities. The term shall include garage apartment.

5.10 Neighborhood Facility. A facility, improvement or area of land which only serves a particular subdivision, portion of a sub-district or a sub-district and it is designated by the Developer as a Neighborhood Facility.

5.11 Plan. The combination of the MDA and SDP and other exhibits referenced in the MDA, which shall be read jointly to determine the requirements for development of the South Village PUD.

5.12 Park, Community. A park area or recreation facility generally of larger size that is designed and intended to serve more than one neighborhood area. Community parks shall include both passive and active recreation uses or may be limited to either type of use depending on the specific circumstances.

5.13 Park, Neighborhood. A park area, of a minimum of 0.25 acres that is intended to serve the needs of the immediate neighborhood. Neighborhood parks shall contain either passive or active recreation uses and will be developed at an intensity that reflects the close association with residential units.

5.14 Property Owners' Association (POA). A Florida non-profit corporation created by Developer for the purpose of maintaining, repairing and replacing improvements which Developer and Owner have conveyed to the POA. It is anticipated that the Developer will employ the South Village PUD Master Property Owners' Association (MPOA) to manage South Village PUD common facilities and various individual property subdivision or sub-district property owner associations which shall be referred to as [Sub-district or Subdivision] Property Owners' Association ([Subdivision or Sub-district] POA). The MPOA and various POA's shall be entitled to exercise all power and authority granted to them by their incorporator and such additional power as the Developer may consent to being exercised by the POA. The transition of control over the POA and the various sub-district or subdivision POA's from the Developer to the members of the POA and to the members of the various sub-district or subdivision POA's shall occur as mandated in the governing documents for the various associations and as required by applicable Florida law, including but not limited to Chapters 718 and 720 Florida Statutes.

5.15 Residential (RES). A housing type constructed for the purpose of providing space for human habitation. A RES unit may be, but shall not be limited to, a unit of single family, multi-family, townhouse or accessory unit housing.

5.16 Schematic Development Plan (SDP). The plan which graphically illustrates the proposed layout of the development.

6.0 <u>South Village PUD.</u>

6.1 Sub-districts and Related Land Use. The development authorized by the South Village PUD is comprised of two sub-districts, which utilize the full range of allowable land uses. The sub-districts and land uses are as follows:

Table 1
Permitted Districts and Land Uses

6.2 Sub-district	(Land Use) Permitted Use
Neighborhood Center	Commercial (COM) Residential (RES)
Residential Neighborhoods	Residential (RES)

Both districts shall allow WB (water body), OS (open space), CIV (civic), REC (recreation) and PK (park) land use designations.

6.3 <u>Sub-district Regulations</u>

6.3.1 The permitted uses in all of the sub-districts are permitted to have normal and customary accessory uses as allowed by the City's adopted Land Development Regulations (LDR).

6.3.2 The requirements for each sub-district are set out in Exhibit "D", Lot and Land Use Standards, which is attached hereto and incorporated herein by reference.

7.0 **Neighborhood Center Focus Commitment.**

7.1 South Village is a new community. In order to ensure the development of a neighborhood center meeting the requirements of the comprehensive plan, at the completion of development of the Property, sixty (60%) percent of the South Village total development shall be located in the neighborhood center and within 3,000 feet of the neighborhood center.

7.2 Commercial uses shall be provided in the Neighborhood Center based on an assumed demand per residential unit located in the South Village-PUD of 125 square feet of commercial floor area per dwelling unit. The "assumed demand" timing shall be subject to confirmation by a market study obtained by the Developer and approved by the City. If the market study demonstrates a lesser ratio than the "assumed demand", the Developer and Owner, its successors or assigns, shall be permitted to delay or limit implementation of the required commercial area of the development to the levels supported by the market study. For purposes of implementing this provision, documented presales/preleasing, and actual sales, may be used by the Developer as evidence of actual market demand supporting a different demand ratio from the "assumed demand" ratio. Prior to issuance of certificates of occupancy for the units located in the final 10% of the final phase of the development, the Developer and Owner, its successors or assigns, shall be required to install the quantity of commercial development required by this paragraph or as market demand will support.

9.0 **Phasing of Development.**

9.1 Development of the property shall be permitted to be done in phases based on the submittal of subdivision plats and/or site plans for specific development areas within the overall project. The specific site plan or plat for the property, or portion thereof, shall be prepared,

reviewed and approved as required by the standard procedures applied by the Land Development Regulations to a site plan or plat. This agreement shall not modify or supersede the Land Development Regulations site plan and plat standards and requirements. Public utilities for the property, or portion thereof, shall be obtained from the New Smyrna Beach Utilities Commission and shall be built to the City's Land Development Regulations and Utility Commission standards. The overall installation of public utilities shall be consistent with the Master Utility Plan and Schematic Design approved by the City. If available, Developer and Owner will provide re-use water within the South Village PUD by connecting to re-use water lines provided at the property lines by the New Smyrna Beach Utilities Commission. The priority for re-use water application shall be the project common areas as first priority and individual residential units as the second priority. Any installation of re-use water lines shall be preceded by a written agreement with the New Smyrna Beach Utilities Commission, committing to supply sufficient quantities of re-use water to support the intended application.

9.2 The project site has been and will continue to be used for silvicultural purposes. Silvicultural harvesting may occur throughout the PUD until the immediate time for development. All silvicultural activities shall comply with State of Florida Division of Forestry Best Management Practices. The City and the developer/owner mutually agree that bona fide agricultural pursuits existing on the property and included within a management plan filed with the St. Johns River Water Management District shall be allowed to continue in operation until such time as the land is converted to urban use in accordance with this development agreement.

9.3 The City may issue permits for clearing, grading and earthwork for portions of the PUD before approving final construction plans; however, all wildlife related permits and other

federal, state and regional permits related to land clearing, grading and earthwork must be obtained.

10.0 **Temporary Uses.** Temporary uses allowed by the Land Development Regulations shall be permitted by right within the PUD. Temporary uses (including but not limited to construction trailers, marketing trailers, sales offices, temporary signage, etc.) shall be allowed to be placed on site and moved throughout the site. Such temporary facilities and uses may be moved throughout the PUD. Temporary uses shall be removed within thirty (30) days after the issuance of a certificate of occupancy for the final building in each phase of development. The Developer shall not be required to register such uses with the City, but shall obtain permits for temporary uses if normally required by the City. Temporary holding tanks may be used to provide sewer service to construction and marketing trailers until central sewer lines are installed.

10.1 Soil removed from the stormwater ponds or wetland creation areas may be used on site. Soil that is excavated or imported may be stockpiled anywhere within the boundaries of the PUD (except the upland buffer, preserved wetland areas) or transported off-site.

10.2 Temporary roads to excavation and stockpile areas are allowable as long as the connection to any paved road is provided with a paved apron to protect the road edge.

10.3 Air curtain incinerators or burn sites may also be located within the project subject to standard city regulations.

10.4 Temporary signage for sales and directional purposes shall be allowed subject to a signage plan approved by the City.

10. 5 Sales offices may be allowed within model homes during the period of construction and sales, beginning at any time after approval of the construction drawings for the area in which the

sales office is to be located. Temporary sales offices shall be permitted in the PUD until all residential lots are sold. Model homes shall provide parking to accommodate the model home and sales office, if applicable. Parking may be provided in the driveway of the model home or within temporary parking areas that may be located within a tract or platted lot. Parking for model homes must be outside the right of way. The parking area shall be stabilized with materials such as mulch, coquina, crushed stone, gravel, concrete, pavers or asphalt, in a manner acceptable to the City. Model home banks may be established such that all model homes allowed within a district may be located in a single defined area, and certificates of occupancy may be issued with or without driveways.

11.0 Density Limits.

11.1 *Accessory Living Units:* Accessory living units, to single-family residences are permitted within all neighborhoods and are not to be counted against the density limit.

11.2 *Transfer of Development Rights:* Owners of contiguous lands not requiring the maximum allowable density may sell or transfer their excess unit counts to the developers within the neighborhood center. Owners of the contiguous lands shall provide written authorization of transfer of units.

12.0 Density Limitation Commitment and Bonus Request.

12.1 The Developer and Owner commit to a net project density, which shall not exceed 1.5 non-bonus housing units per acre. The intended non-bonus project size is one thousand nine hundred and ninety-five units (1,995) as specified in the comprehensive plan approval; and the total of non-bonus and bonus units constructed in the project shall not exceed the applicable Development of Regional Impact threshold.

12.2 Developer and Owner hereby elect to exercise their right to "bonus" housing units. Accordingly, Developer and Owner shall be permitted to develop, at their sole option, any or all of the following "bonus" units.

12.2.1 Accessory living units as part of single-family living units located on an individual single-family lot in all neighborhoods.

12.2.2 For every above ground floor unit provided, an additional unit shall be permitted within the neighborhood center.

12.2.3 Adult Living Facility (ALF) units as part of a life cycle housing program.

12.2.4 Living units associated with civic uses.

12.2.5 Housing units targeted for occupancy as part of a program to provide housing with specific income limitations.

13.0 <u>Signage.</u>

13.1 **General Provisions.** The design intent of residential signage is to ensure adequate means of communication through signage while maintaining the attractive visual appearance within South Village PUD. An architectural feature may be incorporated into project signage features. Any PUD architectural guidelines and standards for the development, covenants, conditions and restrictions regarding signage shall be administered by the Developer and/or CDD/POA. For the purposes of regulation, the "height of the sign" shall be deemed to be the height of the Advertising Display Area ("ADA"). Non-specific repetitive decorative elements and/or logos shall not be considered signage, provided such signs do not advertise a specific product.

13.1.1 Signs may be located without setback to a property line. In no case will signage obstruct the sight triangle at vehicular right-of-way intersections. Signs shall be placed so as

not to interfere with traffic. Signage located within the South Village PUD shall be considered "on-premise" where the sign content is relevant to development within the South Village PUD. No signage shall be permitted to describe development outside of the South Village PUD. The project signage may be lighted or externally/internally illuminated and may be landscaped. All permanent signs permitted within South Village that are monument type or ground signs may be lighted or externally/internally illuminated, may be landscaped and may be incorporated into a wall, fence or other structure.

13.1.2 Signs shall be located to prevent conflict with existing or planned utilities. In the event that signs are located in conflict with existing utilities, the public utility agency will not be responsible for damage or repair to existing signs. Utility sleeves shall be installed as necessary under monument signs to accommodate future utility changes.

13.1.3 Signs within the PUD may be single-sided or multi-sided. The maximum Advertising Display Area ("ADA") for multi-sided signs shall be determined separately for each sign face and not cumulatively.

13.1.4 All signage setbacks are measured from the property line to the base of the sign.

13.1.5 Signs over eight (8) feet in height and greater than sixty-four (64) square feet in ADA may be illuminated using internal lights, external lights, up-lights, or back-lights.

13.1.6 Pursuant to the standards described herein, the following signage shall be permitted in the right-ofway: decorative traffic, directional, and informational signs. No sign shall be erected that will interfere with clear and free visibility from any intersection or other public way or that will be confused in shape, color, or pattern with any authorized traffic sign, signal, or device.

Any signage located within the right-of-way shall be maintained by the Developer, a Property Owner's Association ("POA"), or a Community Development District ("CDD"), as applicable. The Developer, CDD and/or POA shall be responsible for any signage and associated landscaping, lighting and/or decorative hardscape elements that may be located within public rights-of-way.

13.2 Signs Permissible Throughout South Village. The following definitions describe permissible sign types, the maximum number allowed, setbacks, and maximum ADA:

13.2.1 Entry Features. Structures depicting the name and/or the logo for the South Village may be allowed at the PUD's major access points along PUD frontage along SR 44. These features serve as the primary identifiers of South Village. They may constitute a tower building, flanking walls, or a monument, along with appropriate landscaping, gives them visual importance not shared by simply placing a sign in front of the development. The Entry Features may not exceed fifty (50) feet in height, excluding decorative finials, and may have up to one-hundred (100) square feet of ADA. These signs shall be located outside right-of-way and situated so as not to interfere with driver/pedestrian line of sight. There may also be entrance features such as waterfalls, architectural features or landscaped areas at the entrances to the property at external points of entry. If project identification signage is part of a building element, the height of the signage shall be as governed by fascia signage allowances but shall be allowed to be 150 square feet of ADA per allowable sign.

13.2.2 Commercial Ground Sign. Pole, double post, monument, and similar type of signs that denote the name of the business, amenity, or use and include street address. Adjacent on-premises ground signs shall be separated by a distance at least equal to the width of the two signs added together.

1.) Commercial uses with less than 100 feet of street frontage may have one (1) Commercial Ground Sign no more than twenty-five (25) feet in height with a maximum ADA of 150 square feet.

2.) Commercial uses with between 100 and 200 feet of street frontage may have two (2) Commercial Ground Signs no more than twenty-five (25) feet in height with a maximum ADA of 150 square feet each.

3.) Commercial uses with between 200 and 500 feet of street frontage may have three (3) Commercial Ground Signs no more than twenty-five (25) feet in height. One shall be limited to a maximum ADA of 100 square feet and the other two may have a maximum ADA of 150 square feet each.

4.) Commercial uses with more than 500 feet of street frontage may have four (4) Commercial Ground Signs no more than twenty-five (25) feet in height with a maximum ADA of 150 square feet.

13.2.3 Commercial Building Sign. Fascia, marquee, canopy Commercial Building Sign. Fascia, marquee, canopy, ~~roof~~, wall and similar sign structures that denote the name of the business or use. There is no limit to the number of Commercial Building Signs in South Village. These signs shall not be more than the height of the building with a maximum ADA of 1.5 per linear foot of building frontage (maximum 150 square feet per sign, 200 square feet per business).

13.2.4 Residential Community Sign. These monument signs shall denote the name of the residential community and may include the name of the developer or the property management company. They may be located at individual entrances to the community as well as the various community amenities. These signs may be one or two-sided with duplicate facing faces. They may

be incorporated into a wall, fence or other structure, and shall be located no less than five (5) feet from any property line. These signs may be located within a median provided such tract is not a part of public right-of-way. They may be lighted or externally illuminated and shall be landscaped. Each residential neighborhood may have a Residential Community Sign at each entry/egress point to their respective community that is no more than fifteen (15) feet in height with a maximum ADA of thirty-two (32) square feet each.

13.2.5 Multiple-Family Complex Sign. Monument sign that denotes the name of the multiple-family complex and may include the name of the developer or the property management company. May be incorporated into a wall, fence or other structure. These signs may be located within a median provided such tract is not a part of public right-of-way. They may be lighted or externally illuminated and shall be landscaped. Each multiple-family complex may have a Multiple-Family Complex Sign at each entry/egress point to their respective community that is no more than fifteen (15) feet in height with a maximum ADA of thirty-two (32) square feet each.

13.2.6 Private Directional Sign. Each non-residential use shall be allowed a private directional sign at each access drive. Such signage shall depict the name and location of a business or use with arrows. Additional directional signage may be allowed within vehicular use areas to direct motorists and pedestrians to the location of individual entrances, parking and loading areas, and similar traffic flow patterns. These signs cannot be located within the right-of-way. There is no limit to the number of Private Directional Signs in South Village. The maximum ADA shall be three (3) square feet and the maximum height shall be six (6) feet.

13.2.7 Way finding Signs. Both permanent and temporary signs that direct auto and pedestrian traffic within the South Village PUD. These monument and pedestal signs will serve to

help pedestrian and vehicles navigate the PUD safely and effectively. These signs are not associated with a particular parcel, amenity or lot, but rather direct people to locations of several such uses. These signs are supplemental to, and not inclusive of, any and all public signs. Way finding Signs may be located in the right-of-way. Way finding Signs shall be setback at least four (4) feet from the back of any street curb and four (4) feet from any property line in residential districts, and shall not hinder safe automobile or pedestrian visibility. There is no limit to the number of Way finding Signs within South Village. Individual signs must be separated by at least two hundred (200) linear feet. The maximum ADA shall be forty (40) square feet and the maximum height shall be ten (10) feet. Temporary Way finding Signs shall have the same provisions as permanent signs but must be removed at owner's expense within 30 days of completion of construction of permanent Way-finding Signs.

13.2.8 Parcel Construction Signs. Temporary signs that denote the owner, architect, contractor name, lot number, financial institution, general contractor, subcontractors for a parcel. One (1) primary sign and one (1) smaller secondary sign may be displayed for each development parcel. Such signs shall not be installed sooner than thirty (30) days prior to construction and shall be removed within thirty (30) days after completion of the project. These signs shall be set back at least twenty-five (25) feet from the intersection of road rights-of-way. The Primary signs may not exceed twenty-five (25) feet in height and may have up to thirty-two (32) square feet of ADA. The Secondary signs may not exceed thirty-five (35) feet in height and may have up to twenty-five (25) square feet of ADA. These signs shall be located outside right-of-way and situated so as not to interfere with driver/pedestrian line of sight.

13.2.9 Building murals are allowable and are not considered signs. Such murals are

considered public art and will not require sign permitting. Murals shall not contain advertising display or copy.

13.2.10 Community Real Estate Sign. Temporary signs located at the entry/egress point(s) of residential developments under construction and/or which have units for sale, rent or lease. These signs shall display the name of the community, price range, name of the builder, and appropriate contact information (e.g. name, phone, office location). The signs shall be removed within ten (10) days of all of the lots or units being sold. Each new residential community may have a Community Real Estate Sign at each entry/egress point to their respective community that is no more than ten (10) feet in height with a maximum ADA of sixty-four (64) square feet each. These signs shall be located outside right-of-way and situated so as not to interfere with driver/pedestrian line of sight.

13.2.11 Non-Residential Real Estate Sign. Temporary pole, double post, or monument signs with copy on one or both sides located at the entry/egress point(s) of non-residential developments under construction and/or which have space for sale, rent or lease. These signs shall display the name of the project, price range, space remaining, name of the builder, and appropriate contact information (e.g. name, phone, office location). Each new non-residential project may have a Non-Residential Real Estate Sign at each entry/egress point to their respective community that is no more than ten (10) feet in height with a maximum ADA of sixty-four (64) square feet each. These signs shall be located outside right-of-way and situated so as not to interfere with driver/pedestrian line of sight.

13.2.12 Residential Real Estate Sign. Temporary pole, double post, or monument signs with copy on one or both sides for each street frontage of the parcel of property/unit offered

for sale, lease or rent. Signs shall be located on the lot for sale and only one sign per lot is permitted. The signs must be removed within thirty (30) days of closing of a contract on the property. Each lot may have a Residential Real Estate Sign at each entry/egress point to their respective community that is no more than ten (10) feet in height with a maximum ADA of six (6) square feet each.

13.2.13 "Open House" signs, banners, seasonal or holiday signs, memorial signs, and any other temporary sign not listed herein shall conform to the standards established in the Land Development Code.

13.2.14 Banners. Banners shall be permitted as temporary or permanent decorative elements and may be used as signage in addition to other signage allowances. The Neighborhood Center shall be allowed banners as a part of the streetscape and such banners may be located on individual poles, light poles, building facades, or other architectural or streetscape element. Banners may bear the logo of the development, or seasonal or event logo as decorative elements, or messages of public information. Banners may carry sponsors' names in conjunction with special events. Banners shall not be considered signage. There shall be no limit on the number of banners or flags allowed per parcel. Temporary banners may span privately owned streets as long as a minimum vertical clearance of eighteen (18) feet is maintained above vehicular use areas and a minimum vertical clearance of ten (10) feet is maintained above pedestrian use areas.

13.3 Temporary Marketing and Development Signage. The entire PUD is considered a single site and temporary marketing and development signage may be erected anywhere within South Village' boundaries as long as the ADA is relevant to lands within the PUD. A maximum of forty (40) such signs (other than individual residential lot sales signs) shall be allowed at any time. The temporary marketing and development signage shall have a maximum of thirty-two (32) square

feet of ADA and a maximum height of fifteen (15) feet regardless of the surrounding development type. Temporary district, neighborhood subdivision, and/or wayfarer signage is allowed and will be in accordance with permanent signage allowances as provided in the PUD text and may be installed prior to approval of construction plans. Such signage will be removed upon construction of permanent signage.

14.0 Covenants, Restrictions and Property Owner Associations.

14.1 Covenants and restrictions governing lands within the PUD shall be consistent with this agreement, and shall be recorded in the Public Records of Volusia County, Florida. The Developer may create a Florida non-profit corporation to serve as a Master Property Owners Association (MPOA) to enforce the master covenants and restrictions, to conduct architectural review and approval of buildings planned for construction in the PUD, and to assure continued compliance with covenants and restrictions imposed by the various permitting agencies, including but not limited to, the St. Johns River Water Management District (SJRWMD), the U.S. Fish and Wildlife Service (USFWS), the Army Corp of Engineers (ACOE) and the Florida Department of Environmental Protection (FDEP).

14.2 The Developer may, at its option, create neighborhood or subdivision property owners' associations (POA's) for the purpose of maintaining private, non-common facilities within the subdivision described by the covenants and restrictions created and recorded by Developer. As an example, if Developer elected to create a gated subdivision with private streets, the gated area, streets and street lights as well as all facilities particular to the subdivision which would only serve a particular subdivision and thus be "non-common" facilities the Developer could opt to create a subdivision POA to care for and maintain the "non-common" facilities particular to a subdivision.

14.3 The Developer may, at his option, create a community development district (CDD) pursuant to Florida Statutes Chapter 190 or other special taxing or assessment district allowed by Florida law implemented be either the Developer or the City. The Developer may at its option delegate and/or assign to such CDD, special taxing district or assessment district any of the rights and obligations of the MPOA (as defined herein), and POA (as defined herein) or any of the Developer's other rights and obligations set forth in the agreement subject to applicable law.

15.0 Recreation and Open Space.

15.1 Open Space: Required open space for the project shall include environmentally sensitive areas, natural and man-made lakes, required upland buffers, natural areas used as edges, scenic setbacks used as edges, parks and recreation areas, and area-wide trail corridors, but not building setbacks and shall account for a minimum of 50% of the land area.

15.2 Public Realm: Required open space for public uses and gathering places such as community amenity buildings, parks of all types (active, passive and resource based), and neighborhood squares, greens or commons, but not neighborhood edges, trails, wetlands, or environmental systems corridors, shall account for between a minimum 3% and a maximum 8% of the neighborhood area. Therefore, meeting the required minimum square footage per dwelling unit.

15.3 Buffers: A 35-foot landscaped buffer shall be provided along the SR 44 frontage in combination with the 25-foot utility easement required by the City of New Smyrna Beach Utilities Commission. The buffer and easement areas may overlap to the extent permitted by Utilities Commission rules. The landscaped buffer shall not be required in areas where the SR 44 frontage consists of natural areas and preserved areas. Buffers shall be provided along the frontage of man-made lakes in a manner that incorporates the lake as an element of the overall buffer design.

16.0 Civic Use Commitment.

16.1 Lands, designated for civic use are lands that may be owned publicly or privately but they shall be designated to serve the community by providing a designated site or sites as follows:

16.1.1 A public realm civic community site or combination of sites with an area of three hundred (300) square feet of land area multiplied by the total number of non-bonus residential units in the South Village PUD. It is anticipated that the public realm community site or sites will be a South Village PUD common facility; **or**

16.1.2 A twenty (20) acre site which shall be located in the South Village PUD to serve as a school site. If the designated site is not acquired by the School Board of Volusia County under terms of an agreement between the School Board and the Developer, Developer may elect, at its sole discretion, to develop the site for any uses permitted within the Neighborhood Center district. In addition, the Developer agrees to accommodate storm water and compensatory storage areas from the school site at a site other than the designated school site, in the event the School Board of Volusia County and the Developer reach agreement on the terms of the School Board's acquisition of the school site. The Developer and the City recognize that discussions have occurred between the Developer and the School Board and the Developer and City desire that the design of any school constructed on the school site will blend with the neighborhood architectural theme and include a level of design detail that is equivalent to other schools constructed by the District including New Smyrna Beach High School and Mainland High School. The School Board agrees to provide the Developer an opportunity to review the architectural plans, and the Developer will have the opportunity in its sole discretion to enhance the architectural design at the Developer's cost. The

Developer further agrees that if construction of recreational fields such as baseball, soccer and football is contemplated, the Developer will first consider a joint use location at the school site based on site designs jointly agreed to by the Developer and School Board and approved by the City.

16.1.3 Should the School Board purchase the school site and later determine to sell the sites, the City agrees that the design standards as presented in this agreement will be applied to subsequent development of the site.

16.1.4 A neighborhood meeting hall/community center shall be located within the neighborhood center as part of the project amenity area. The neighorhood meeting hall/community center shall be built by Developer and it may be counted toward completion of Developer's requirement toward the option of provision of public realm civic community sites established by Paragraph 16.1.1.

17.0 Wetlands and Preserved Areas.

17.1 Wetlands and preserved areas are designated generally on the master development plan and more specifically in the Army Corps of Engineers and St. Johns River Water Management District permits. Wetlands and preserved areas are deemed to include the fifteen (15%) percent tree protection requirement and shall be considered to be qualified areas to meet tree replacement requirements. The wetlands and preserved areas shall meet the following requirements:

17.1.1 For non-impacted isolated wetlands that are not located in areas used for restoration and enhancement, an average twenty-five (25') upland buffer (15 foot minimum) will be established.

17.1.2 An average twenty-five (25') upland buffer shall be provided adjacent to contiguous wetlands. The averaged upland buffer shall not be less than 15 feet in any area, except in

areas such as road and utility crossings. Buffer areas may be adjusted on construction plans, provided the average upland buffer requirement is not reduced.

17.1.3 Any crossings of roads and utilities shall be located, designed and constructed to minimize impacts.

17.1.4 Mitigation shall be done in accordance with the plans approved by the St Johns River Water Management District if required by the approved plans.

18.0 **Roadway and Path Circulation System.**

18.1 The SDP identifies and/or illustrates a system of interconnected roadways and paths. The purpose of the roadways and paths is to allow circulation of vehicular, pedestrian and bicycle traffic including golf carts and electric vehicles, internally and externally, to the South Village PUD.

18.2 Developer/Owner shall be entitled to all impact fee and mitigation credit (if any), which may be occasioned, by Developer's creation, conveyance or designation of a roadway or pathway.

18.3 **Street connectivity:** A hybrid (a blend of the traditional grid system and the curvilinear street system) street system is utilized within the South Village. Connectivity between phases within the project and contiguous developments shall be required and specific connections are provided.

18.4 Streets located within the South Village PUD shall be organized into a hierarchy as identified in 21.5.1 through 21.5.7 and as illustrated on the SDP. The roadways shall utilize the cross sections illustrated by Composite Exhibit D.

18.4.1 Minor Collector Boulevard or Road

18.4.2 Neighborhood Local Street

18.4.3 Rear Lane Alley

18.4.4 Pedestrian/ Bicycle Pathway

18.4.5 Cul-de-sac Length: Cul-de-sacs may not be permitted to exceed the maximum length of one thousand (1,000') feet allowed by the LDR.

18.5 Street lighting shall be installed along the various roadway types pursuant to a lighting plan submitted by Developer. Lighting fixtures shall be compatible with the design theme of the development or specific neighborhood they are provided for.

18.5.1 Collector and neighborhood streets shall have lighting spaced in a staggered, alternating pattern with lights approximately two hundred (200') feet apart on center (e.g., lights on the same side of the street will be approximately ~~two~~ four hundred (400') apart). Lighting standards shall be a minimum height of fourteen (14') feet. Spacing standards may be modified in order to promote highway safety in accord with good lighting design.

18.5.2 Pathways, where they are not adequately lit by adjacent collector, neighborhood center lighting standards, shall be lit by walk lights which shall have a maximum height of twelve (12') feet and they shall be spaced a maximum of one hundred (100') feet apart. The walk lights may all be placed on one side of the pathway and may be reduced to a minimum height of four (4') feet. Spacing of walk lights below the twelve (12') foot height maximum shall be determined at the time of plat or site plan review and approval.

18.5.3 Lighting Design: lighting fixtures shall be compatible and consistent with the architectural style of the sub-district in which they are placed.

18.5.4 Spacing Adjustments: Minor adjustments for spacing are permitted for dealing with driveways and other features.

18.6 Roadways. Local roads may be constructed with one lift or two lifts of asphalt. Permanent certificates of occupancy for structures abutting such roads may be issued prior to the last lift of asphalt being installed as long as a performance bond is provided for the finishing roadwork. The second lift must be completed within two years after the first certificate of occupancy is obtained. Prior to application of the second lift of asphalt, affected homeowners shall be notified via electronic communication or U.S. mail. This provision does not apply to collector or arterial roads that will be conveyed to Volusia County or the City.

18.6.1 Neighborhood streets, including collectors may use traffic calming design standards to include, but not be limited to, the installation of traffic circles, narrow travel lanes, the installation of sidewalks, and street trees.

18.6.2 Portions of the interior roadway system may remain private, may be conveyed to a CDD, or may be proposed for dedication to Volusia County or the City. The Developer, CDD, or POA will enter into a hold-harmless agreement with the County or City for maintenance of roads and any landscape or hardscaped improvements located within public rights-of-way. There may be private roads and gated subdivisions in selected portions of the project. Gating will not affect the interconnectivity of the trail system.

18.6.3 Roundabouts will be permitted throughout the PUD.

18.6.4 Residential streets may have sidewalks placed on one side of roadway. Collector or arterial roadways may have a pedestrian trail on one side of roadway in lieu of sidewalks.

18.6.5 The main entry road connects the various development parcels to each other and disburses traffic through multiple connections and allowing internal circulation with links to the

regional transportation network. Until total completion of the main entry road, temporary cul-de-sacs or T-intersections may be provided which must have minimum pavement radii of forty (40) feet with the pavement design for the cul-de-sac bulb consistent with the roadway.

18.6.6 Sidewalks shall be constructed only next to final roadway location, and no temporary sidewalks shall be built. Construction of all sidewalks adjacent to individually platted lots or commercial buildings shall be performed concurrently with, and shall not be required in advance of the construction of the residences for a given lot or the adjacent commercial building. No sidewalks shall be required in alleys. All sidewalks and multi-use paths may meander throughout the right-of-way and may cross into adjacent parcels, provided an acceptable easement is provided.

18.6.7 Traffic Calming. Techniques such as horizontal deflections, road narrowing, pavers, central islands, entry or gateway treatments, roundabouts, textured pavement, and other similar treatments are encouraged in appropriate locations subject to approval by the City. Roundabouts and/or traffic circles shall be allowed as an alternative to signalization. All roundabouts shall conform to U.S. Department of Transportation Federal Highway Administration Publication No. FHWA-RD-00-067 standards and criteria. Any deviations may be approved by the City.

18.7 Parking. Parking facilities, including those facilities providing required parking, may be shared regardless of the use that they serve.

18.7.1 *Single-family Homes*. Parking needs shall be supplied through driveways, garages/carports, and on-street parking.

18.7.2 *Multi-family Structures*. Parking areas for multi-family structures shall be allowed at the front, side and rear of buildings, and within garages. On-street parking is limited to

parallel or 45 degree parking spaces.

18.7.3 *Parking Lots.* Parking lots may provide tree planting areas in the form of "diamonds" in lieu of parking lot islands. The "diamond" tree islands will be eight-feet by eight-feet in size to allow for the survival and growth of trees and other vegetation planted therein. The trees within the diamond tree islands must be protected from damage from vehicles by appropriate barriers such as walls, bollards, or wheel stops.

19.0 **Fences, Entry Features and Flags** The Developer, at its option, may erect fences up to ten (10) feet high along all or parts of the perimeter of the property except for conservation areas that are part of a wildlife corridor. Fences may be erected along property lines, but not within any upland buffer. Masonry walls or masonry fences shall not be located within drainage or underground utility easements. Individual lot owners may erect fences but not within any required upland buffer. Maximum allowable residential fence height shall be six (6) feet and in commercial areas a maximum of fifteen (15) feet. Residential fences located in a required front yard may not exceed four (4) feet in height. Entry feature height may not exceed the maximum allowable height by more than thirty (30) percent. Permanent flags may be flown at business sites, office sites, multi-family complexes, and facility sites.

20.0 **Public Realm Street Trees**

20.1 **Incorporation:** Trees shall be incorporated into the design of each street built within the South Village PUD.

20.2 **Street Tree Design:** Street trees shall form a continuous, predictable border, reinforcing the function of a street as a public space and meet the following standards:

20.2.1 *General:* Trees shall be incorporated into every street, planted in straight lines, between the sidewalk and the curb.

20.2.2 *Tree Types:* Durable trees, such as oaks, shall be predominantly used. Only one type of tree shall be placed on both sides of residential streets, in one block.

20.2.3 *Collector Streets:* Plant street trees in staggered rows, at a maximum of fifty (50') foot intervals on center.

20.2.4 *Neighborhood Circulator and Local Streets:* Plant street trees at a maximum of forty (40') foot intervals on center on both sides of the street.

20.2.5 *Neighborhood Center Commercial Streets*: Plant trees at thirty (30') to forty (40') feet on center on each side of the street. Palms may be used in lieu of shade trees at the same spacing along the Neighborhood Center Commercial Street only.

20.2.6 *State and County Roads*: Trees planted on State and County road right-of-way shall conform to the design standards of the managing agency.

20.2.7 *Size:* Street trees shall be a minimum of three (3") inch caliper (six (6") inches above ground) with a six (6') feet clear trunk and an eight (8') feet spread when planted. Container grown live oak trees may be used to replace the standard tree requirement provided the following minimum specifications are met; Trees shall have a minimum size of ten to twelve (10'-12') feet height with four to five (4-5') foot spread and a minimum two (2") inch caliper in a 30 gallon container.

20.2.8 *Spacing Adjustments:* Adjustments for spacing are permitted to deal with driveways and other features within the subdivision that interrupt the spacing pattern.

21.0 <u>Storm water Management Standards</u>

21.1 Design Standards: The PUD shall be served by a well-designed, master stormwater management system as follows:

21.1.1 *Concept:* The design concept is to utilize and enhance natural drainage systems, simulate natural systems in man-made structures, and utilize the following guidelines:

21.1.2 *Integration:* Integrate the man made system into natural systems.

21.1.3 *Water Detention:* Stormwater facilities shall be designed as wet detention where site conditions allow.

21.2 Master Plan: A Master Stormwater Management Plan shall be submitted meeting City and St. John River Water Management District requirements. Minimum stormwater design shall be for a one hundred (100) year three (3) day storm event.

22.0 Standard Site Plan and Plat Procedures. The specific site plan or plat for the Property, or portion thereof, shall be prepared, reviewed and approved as required by the standard procedures applied by the LDR's to a site plan or plat. This Agreement shall not modify or supersede the LDR site plan and plat standards and requirements.

23.0 Water, Sewer, Reuse and Electrical Service. The City of New Smyrna Beach is governed by a City Commission and a Utilities Commission (Utilities Commission). The City Commission is a signatory to this agreement. The Utilities Commission is not. The jurisdiction of the City Commission applies to permitable land use, subdivision of land and aesthetic characteristics of surface development. The Utilities Commission jurisdiction in the City applies to the provision of water, sewer, reuse water and electric utilities. The parties hereto agree that the rules of the City Commission for land use and development as set out in the City Comprehensive Plan and the City Land Development Code shall control the surface development of land. The parties hereto agree that

the lawfully enacted rules and Agreements of the Utilities Commission for water, sewer, reuse water and electrical utility construction shall control the design, installation and extension of central water, wastewater, reuse water and electrical systems built within the Utilities Commission jurisdiction.

The parties hereto agree that public utilities consisting of central water, wastewater, reuse water and electrical systems for the Property or portion thereof and any applicable off-site infrastructure shall be obtained from the Utilities Commission and shall be applied for, built, and conveyed in accordance with the lawfully enacted Utilities Commission rules and regulations, requirements, tariffs, policies, and Agreements prevailing at the time of Developer's requested approval of a Utilities Commission Agreement(s) from the Utilities Commission.

24.0 Amendments.

24.1 Substantive amendments to this agreement shall not be effective unless in writing and signed by the respective parties to this agreement. The owners of all property to which an amendment applies shall be authorized to execute an amendment to this agreement on the Developer's behalf; provided, however, that if the amendment involves more than one (1) lot or parcel and a property owner's association having jurisdiction over the lot is established in accord with this agreement, the association must also execute such amendment for it to be effective. Before amendment of this agreement, the City shall conduct public hearings as required by the City's LDR for a zoning amendment.

24.2 Minor deviations to the approved agreement shall be permitted subject to staff review and without public hearing. A minor deviation shall be a deviation from the Plan which has no substantive effect on the overall goals, purpose and objectives of the Plan. Generally, a minor deviation would be a change which is (a) not in conflict with the requirements adopted as part of the

Plan or (b) not in conflict with any City ordinance or regulation not superseded by the terms of the Plan and exhibits adopted as a part of the Plan. Examples of a minor deviation would include, but not be limited to, the following changes:

i. **i.** Changes in the size or placement of land uses within the neighborhood center or residential neighborhoods excluding additional use not designated as allowable in the neighborhood.

ii. **ii.** Changes in the alignment of a road or path to accommodate sound planning and engineering principles.

iii. **iii.** Realignment of a PUD edge or neighborhood boundary to accommodate site constraints or sound planning and engineering principles.

iv. **iv.** Reallocation of use or unit density within VUN or VBPN neighborhoods but without increasing the allowable residential density or residential unit type.

v. **v.** Other changes which are similar to the changes described above as to their lack of substantive impact on the goals, purpose and objective of the Plan.

24.3 The City's Development Services Director shall determine whether a proposed deviation from the plan is minor or substantive change. If the Development Services Director determines the proposed deviation is minor, the Development Services Director shall authorize the deviation by approving it in writing. The approval may be in the form of a letter. If the deviation is substantive, the procedure set out in Paragraph 23.1 above shall be followed in order for the change to be approved.

25.0 **Conformance with the Laws.**

The Developer agrees:

25.1 To develop the property according to all PUD regulations of the City to the extent those regulations are not inconsistent with the Plan for the property.

25.2 To provide agreements, contracts, deed restrictions, and sureties and other documents required by the City Legal Department for completion of the development or approved development phases, and for the continuing operation and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at public expense, and that the Developer's successors in title will be bound by the Developer's commitments made in this Agreement.

25.3 To comply with all city codes and ordinances not inconsistent with the Plan for the property.

25.4 To comply with the proportionate share program for roadway improvements that are demonstrated to be applicable to this project in accordance with the City's proportionate share program.

26.0 Enforceability.

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

27.0 Prior Agreements.

This MDA represents the complete understandings by and between the parties with respect to the development and continued use of the Property.

28.0 Agreement to Run With the Land.

The terms and provisions of this MDA shall run with the land and inure to the benefit and burden of the Developer, the Owner and their successors and assigns.

29.0 Interpretation.

29.1 This MDA shall be interpreted to fulfill its purpose and intent. The parties agree that all parties have participated in the drafting of this MDA. Therefore, the rule of construing ambiguities of an agreement against the drafter of the document shall not apply.

29.2 In the event of a conflict between the text of this MDA and the exhibits adopted as a part of the Plan, the most restrictive requirement, as established by either the MDA or Exhibits shall apply.

29.3 Words or terms used in the text of this MDA shall be given the meaning set out by the definitions set out in Section 5.0 of this Agreement. If a word or term is not defined in Section 5.0 of this Agreement and the word or term is defined by the LDR the meaning given to the word or term by the LDR shall apply. Words or terms not defined by this Agreement or the LDR shall be given their plain and ordinary meaning.

IN WITNESS WHEREOF, the parties hereto attached their hands and seals this _____ day of _____, 2011.

Signed, sealed and delivered
in the presence of:

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

_____
Witness 1

By:_____
Mayor

_____
Print Name of Witness 1

Attest:

_____
Witness 2

By:_____
City Clerk

_____
Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 200~~5~~6, by _____, Mayor and City Clerk, respectively, of The City of New Smyrna Beach, Florida, a Florida Municipal Corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary: Type, Print or Stamp Name
My commission expires:

SOUTH VILLAGE PARTNERS, LLC

By:
Printed Name:_____
Its:
Date:

_____
Witness 1

_____
Print Name of Witness 1

_____
Witness 2

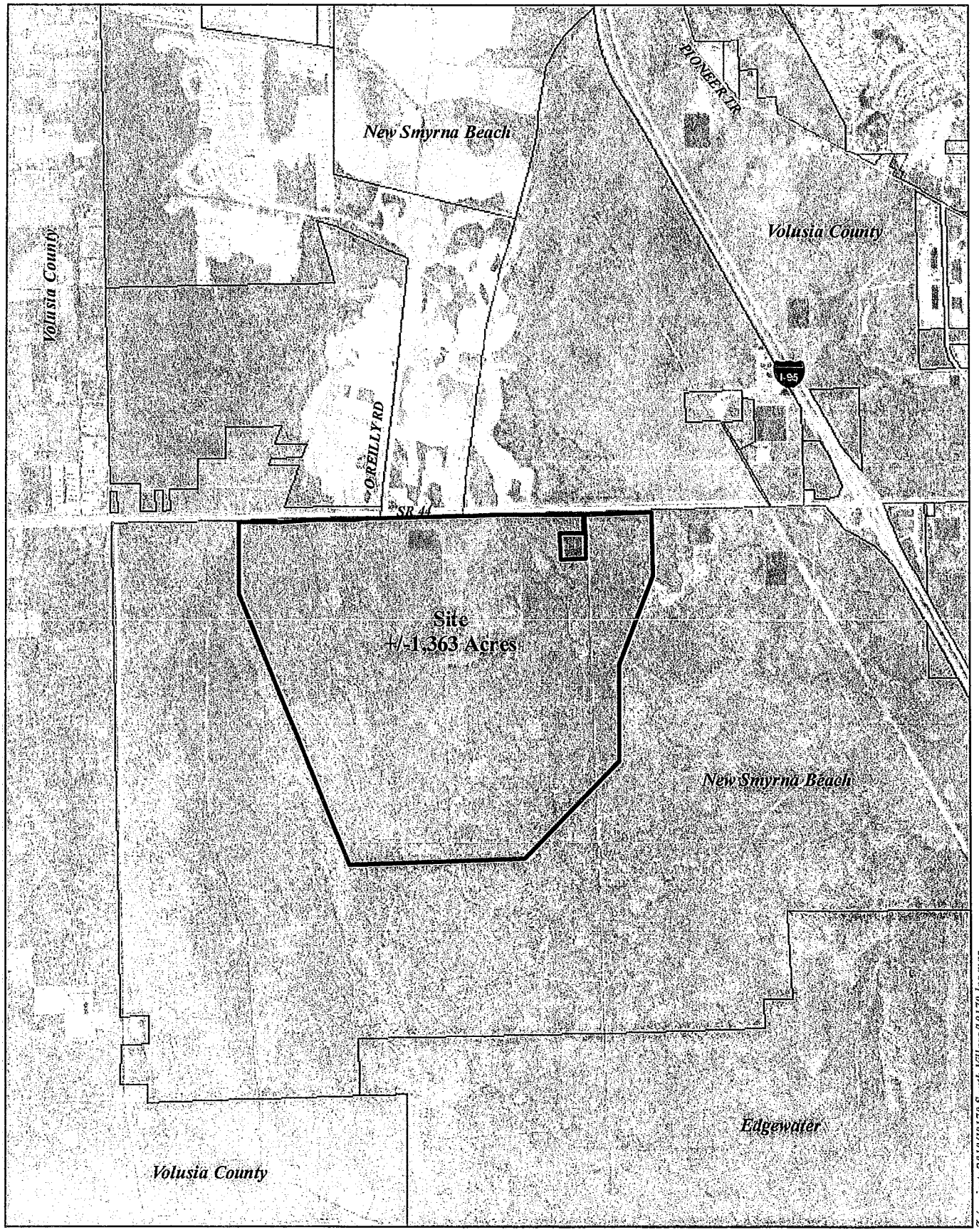
_____
Print Name of Witness 2

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by _____, as _____ of SOUTH VILLAGE PARTNERS, LLC. He is personally known to me or has produced _____ as identification and did not take an oath.

Notary: Type, Print or Stamp Name
My commission expires:

EXHIBIT A
LOCATOR MAP



0 900 1,800 3,600 Feet

General Location Map
Exhibit 'A'

ZEVCOHEN & ASSOCIATES, INC.
Civil Engineering • Landscape Architecture • Planning • Environmental Services

EXHIBIT B
LEGAL DESCRIPTION

LEGAL DESCRIPTION:

BEING A PORTION OF SECTIONS 19, 20, 21, 30, 29 AND 28, TOWNSHIP 17 SOUTH, RANGE 33 EAST LYING SOUTH OF STATE ROAD 44, NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA AND IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

AS A POINT A REFERENCE, COMMENCE AT THE SOUTHEAST SECTION CORNER OF SAID SECTION 29, TOWNSHIP 17 SOUTH, RANGE 33 EAST; THENCE ALONG THE SOUTHERLY LINE OF SAID SECTION 29, S88°02'40"W FOR A DISTANCE OF 1,469.61 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE ALONG SAID SOUTHERLY LINE, S88°02'40"W FOR A DISTANCE OF 3,986.88 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 29; THENCE N22°10'15"W FOR A DISTANCE OF 6,664.97 FEET; THENCE N00°10'39"W FOR A DISTANCE OF 1,615.40 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 44 (A VARIABLE WIDTH RIGHT-OF-WAY); THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, N88°54'19"E FOR A DISTANCE OF 38.20 FEET; THENCE S89°39'45"E FOR A DISTANCE OF 200.06 FEET; THENCE N88°54'19"E FOR A DISTANCE OF 222.53 FEET; THENCE N88°37'05"E FOR A DISTANCE OF 427.97 FEET; THENCE N86°55'58"E FOR A DISTANCE OF 850.37 FEET; THENCE N88°37'05"E FOR A DISTANCE OF 900.00 FEET; THENCE N85°45'21"E FOR A DISTANCE 200.25 FEET; THENCE N88°37'05"E FOR A DISTANCE OF 2,146.38 FEET; THENCE N85°45'21"E FOR A DISTANCE OF 153.87 FEET; THENCE N88°37'05"E FOR A DISTANCE OF 700.00 FEET; THENCE N89°28'39"E FOR A DISTANCE OF 1,000.11 FEET; THENCE N89°11'28"E FOR A DISTANCE OF 500.03 FEET; THENCE N88°37'05"E FOR A DISTANCE OF 300.00 FEET; THENCE S88°31'12"E FOR A DISTANCE OF 100.13 FEET; THENCE N88°37'05"E FOR A DISTANCE OF 1692.00 FEET; THENCE DEPARTING SAID SOUTHERLY RIGHT-OF-WAY LINE, S01°04'21"E FOR A DISTANCE OF 1,438.57 FEET; THENCE S20°54'45"W FOR A DISTANCE OF 2,190.86 FEET; THENCE S00°10'39"E FOR A DISTANCE OF 2,184.36 FEET; THENCE S44°23'28"W FOR A DISTANCE OF 3,107.18 FEET TO THE POINT OF BEGINNING.

CONTAINING WITHIN THESE METES AND BOUNDS, 59,747,332 SQUARE FEET OR 1371.61 ACRES OF LAND, MORE OR LESS

LESS AND EXCEPT:

FDOT WATER RETENTION AREA AS DESCRIBED IN O.R.B. 3948, PAGE 3866-3877. CONTAINING 354,000 SQUARE FEET OR 8.13 ACRES, MORE OR LESS.

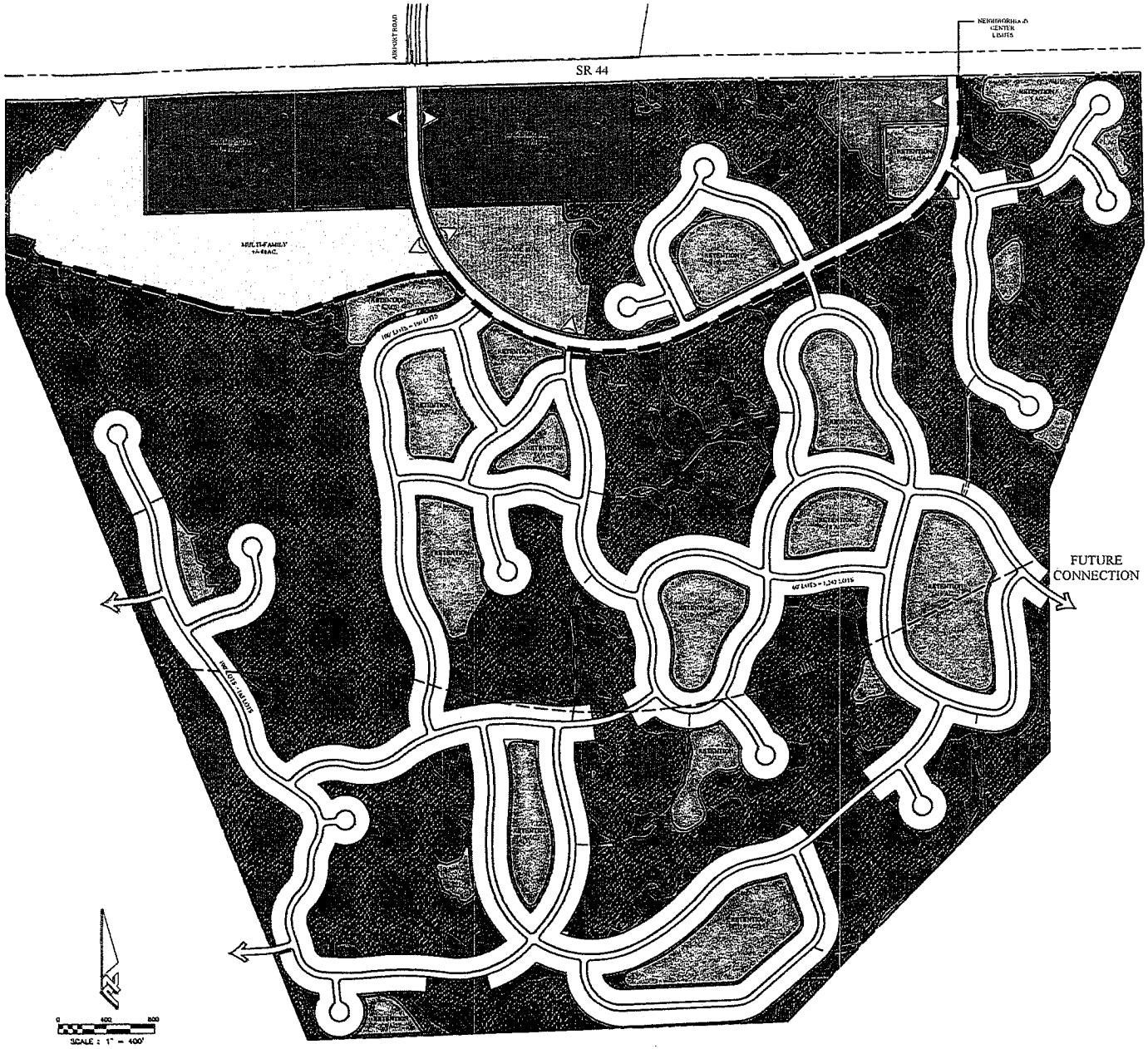
ALSO LESS AND EXCEPT ANY PORTION UNDERLYING STATE ROAD 44 AND/OR HUNTING CAMP ROAD AS ESTABLISHED AND IN USE.

AREA SUMMARY:

GROSS; 59,747,332 SQUARE FEET, OR 1,371.61 ACRES.
F.D.O.T. RETENTION AREA; 354,000 SQUARE FEET, OR 8.13 ACRES.

NET AREA CONTAINING: 59,393,189 SQUARE FEET, OR 1,363.48 ACRES.

COMPOSITE EXHIBIT C
SCHEMATIC DEVELOPMENT PLAN



LEGEND

- SINGLE FAMILY - LOW DENSITY RESIDENTIAL
- MULTI-FAMILY - HIGH / MEDIUM DENSITY RESIDENTIAL
- COMMUNITY RECREATION AMENITY AREA
- COMMERCIAL
- INSTITUTIONAL (SCHOOL SITE)
- WETLAND PRESERVATION
- UPLAND PRESERVATION / OPEN SPACE
- RETENTION AREA
- MULTI-USE TRAILS

PROJECT SITE DATA

PROJECT AREA:	1363 ACRES	
RESIDENTIAL UNITS	1995 UNITS	
RESIDENTIAL AREA	309 ACRES	23 %
COMMERCIAL AREA	88 ACRES	6 %
INSTITUTIONAL AREA (SCHOOL SITE)	20 ACRES	1 %
OPEN SPACE (MINIMUM 50%)	792 ACRES	58 %
- PRESERVATION AREA	649 ACRES	48 %
- STORMWATER AREA	143 ACRES	10 %
ACTIVE RECREATION (MINIMUM 3 - 8%)	41 ACRES	3 %
- COMMUNITY RECREATION AMENITY	10 ACRES	
- PARKS AND TRAILS	31 ACRES	

NEIGHBORHOOD CENTER DEVELOPMENT DATA

DEVELOPMENT WITHIN 3,600':		MAX. 60%
SINGLE FAMILY	190 ACRES	14%
MULTI-FAMILY	61 ACRES	4%
COMMERCIAL USE:	86 ACRES	6%
SCHOOL SITE	20 ACRES	1%
RECREATION:		
-AMMENITY	10 ACRES	1%

EXHIBIT 'C'

ZEV COHEN & ASSOCIATES, INC.
CIVIL ENGINEERS • LANDSCAPE ARCHITECTS

FOR REVIEW ONLY
NOT FOR CONSTRUCTION

REVISIONS

SOUTH VILLAGE
PUD SCHEMATIC PLAN

CITY OF NEW SMYRNA BEACH — VOLUSIA COUNTY, FLORIDA

EXHIBIT B (CONT'D)

SCALE: 1" = 1'
SHEET 1

COMPOSITE EXHIBIT D
LOT AND LAND USE STANDARDS

I. Single Family: 50' – 100' Width

A. Minimum Lot Depth, Without Alley:	125'
B. Minimum Lot Depth, With Alley:	115'
C. Minimum Lot Area:	
50':	5,750 s.f. / 6,250 s.f. without Alley
60':	6,900 s.f. / 7,500 s.f. without Alley
100':	11,500 s.f. / 12,500 s.f. without Alley
D. Minimum Building Setbacks:	
Front:	25'
Interior Side:	5' on each side for single family and duplex lots. 0' and 10' for zero lot line
E. Maximum Building Height:	3 Stories 40'
F. Maximum Impervious Coverage:	75%
G. Minimum Living Area:	
Primary Unit:	1,000 s.f.
Accessory Unit:	450 s.f.
H. Maximum Number of Dwelling Units per lot:	1 excluding accessory units
I. Maximum Lot Combinations:	3
J. Maximum % of Lot Combinations	50%
K. Pool	5'
L. Screen Enclosure	3'

II. Single Family Cottage, Duplex, Zero Lot: 33' – 45' Width

A. Minimum Lot Depth, Without Alley:	100'
B. Minimum Lot Depth, With Alley:	90'
C. Minimum Lot Area:	
33':	2,970 s.f. / 3,300 s.f. without Alley
40':	3,600 s.f. / 4,000 s,f, without Alley
45':	4,050 s.f. / 4,500 s.f. without Alley
D. Minimum Building Setbacks:	
Front:	20'
Street Side:	15'
Interior Side:	A total of 8', with no side less than 3' for single family and duplex lots. 0' and 10' for zero lot line
Rear:	
Primary:	25'
Garage or Accessory:	5'
E. Maximum Building Height:	3 Stories 40'
F. Maximum Impervious Coverage:	75%
G. Minimum Living Area:	
Primary Unit:	1,000 s.f.
Accessory Unit:	450 s.f.
H. Maximum Number of Dwelling Units per lot:	1 excluding accessory units
I. Maximum Lot Combinations:	3

J. Maximum % of Lot Combinations 50%

III. **Townhouse:**

A. Minimum Lot Depth, Without Alley: 110'
B. Minimum Lot Depth, With Alley: 100'
C. Minimum Lot Width: 20'
D. Minimum Lot Area: 2,400 s.f.
E. Minimum Building Setbacks:
Front: 5'
Side: -
Rear: 5'
F. Minimum Building Separation:
Front or Rear: 50'
Side or End Face: 25'
Any Other Face: 40'
Minimum distances shall be increased six inches for each foot of building over 20'
G. Maximum Building Height: 40'
H. Maximum Building Length / Width 200'
I. Maximum Impervious Coverage: 70%
J. Minimum Floor Area:
Primary Unit: 500 s.f.
Accessory Unit: 400 s.f.

IV. **Multi - Family:**

A. Minimum Building Setbacks:
Street, Drive, or Parking Area: 10'
B. Minimum Building Separation:
Front or Rear: 50'
Side or End Face: 25'
Any Other Face: 40'
Minimum distances shall be increased six inches for each foot of building over 20'

C. Maximum Building Height: 60'
D. Maximum Impervious Coverage: 100%
E. Minimum Floor Area:
Studio / Efficiency: 480 s.f.
One Bedroom: 575 s.f.
Each Additional Bedroom: 150 s.f.

V. **Neighborhood Commercial:**

A. Minimum Lot Size: 1 acre
B. Minimum Lot Width 150'
C. Minimum Building Setbacks:
Front: 35'
Side: 10'
Rear: 20'
D. Maximum Building Height: 35'
E. Maximum Impervious Coverage: 35%
F. Maximum Building Area: 5,000 s.f.

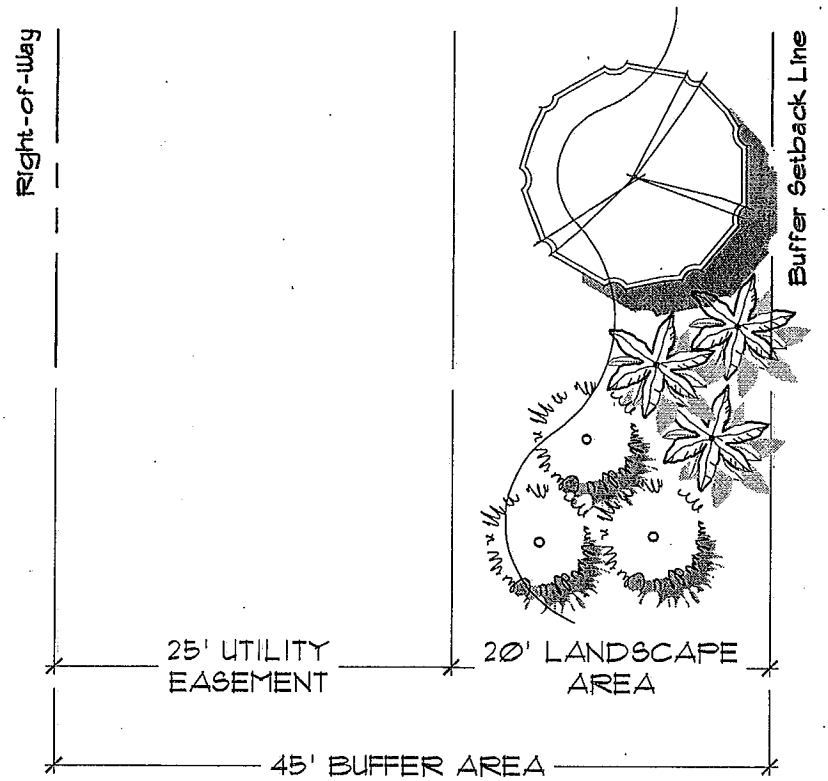
EXHIBIT B (CONT'D)

VI. **Buffers:**

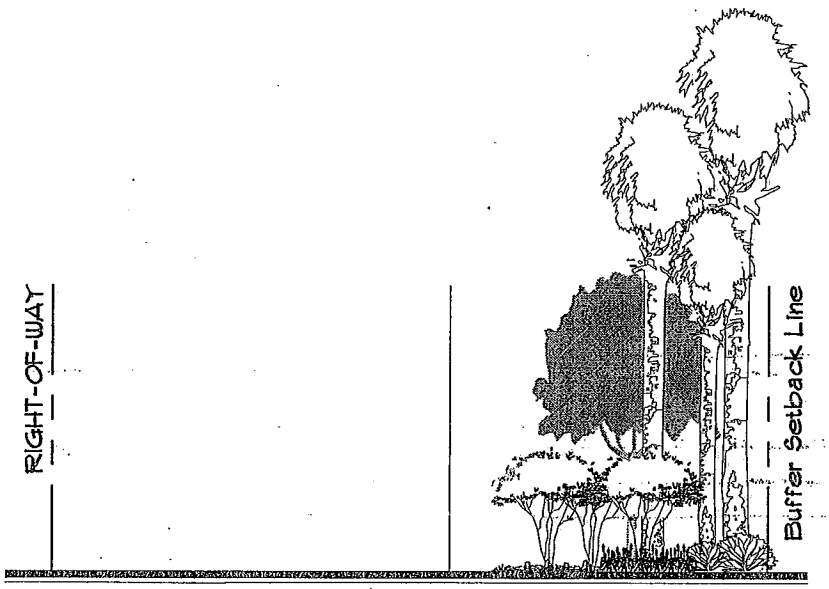
A. Average State Road 44 Buffer:	45'
Utility Easement	25'
Landscape Buffer	20'
B. Minimum Wetland Buffer:	25'

EXHIBIT E
ROADWAY CROSS SECTIONS

EXHIBIT B (CONT'D)



PLAN VIEW

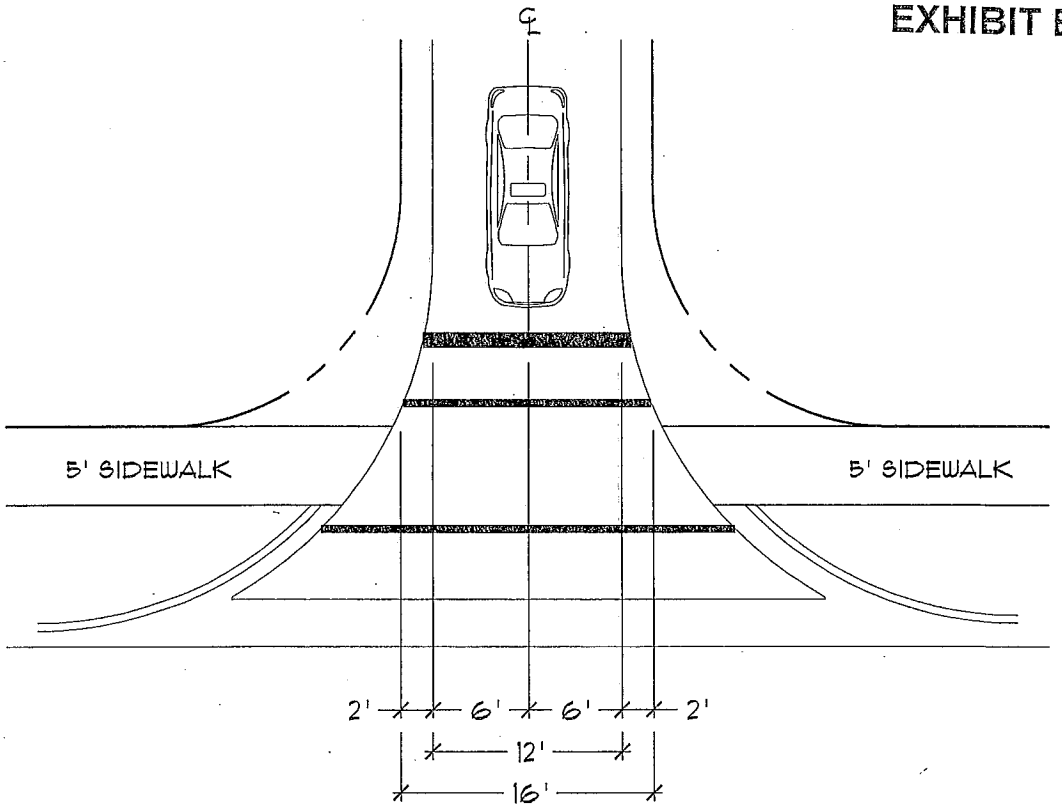


LANDSCAPE AND UTILITY BUFFER AREAS 45'

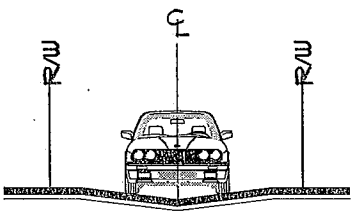
NOT TO SCALE

* LANDSCAPING PER NEW SMYRNA BEACH LAND DEVELOPMENT CODE

EXHIBIT B (CONT'D)



PLAN VIEW

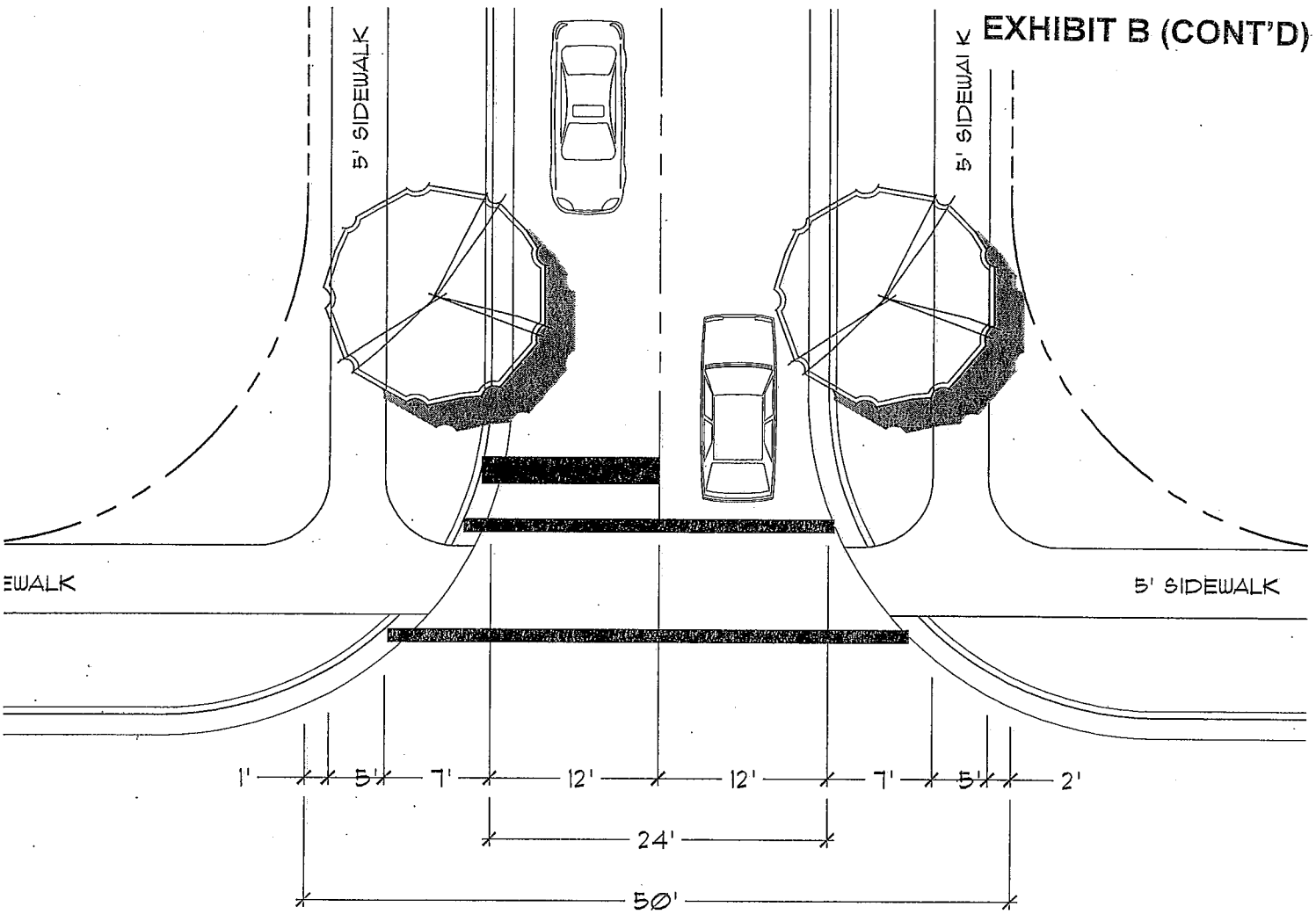


REAR LANE - ALLEY (ONE-WAY, 16' R/W)

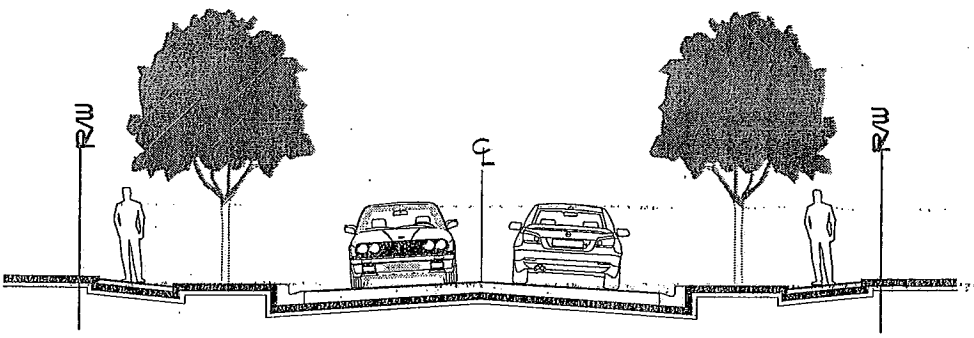
NOT TO SCALE

R.O.W. WIDTH	16'	MEDIAN WIDTH	N/A
FACE OF CURB TO FACE OF CURB	N/A	SIDEWALK WIDTH	N/A
TRAFFIC LANES	1	BIKE LANES	NO
TRAFFIC LANE WIDTH	12'	STRIPING	NO
PARKING	NO	STREET TREE SPACING	N/A
DESIGN SPEED	5 MPH	LIGHTING	15' HEIGHT AT BLOCK ENDS
POSTED SPEED	N/A	STREET TREE OFFSET FROM BACK OF CURB	N/A

EXHIBIT B (CONT'D)



PLAN VIEW

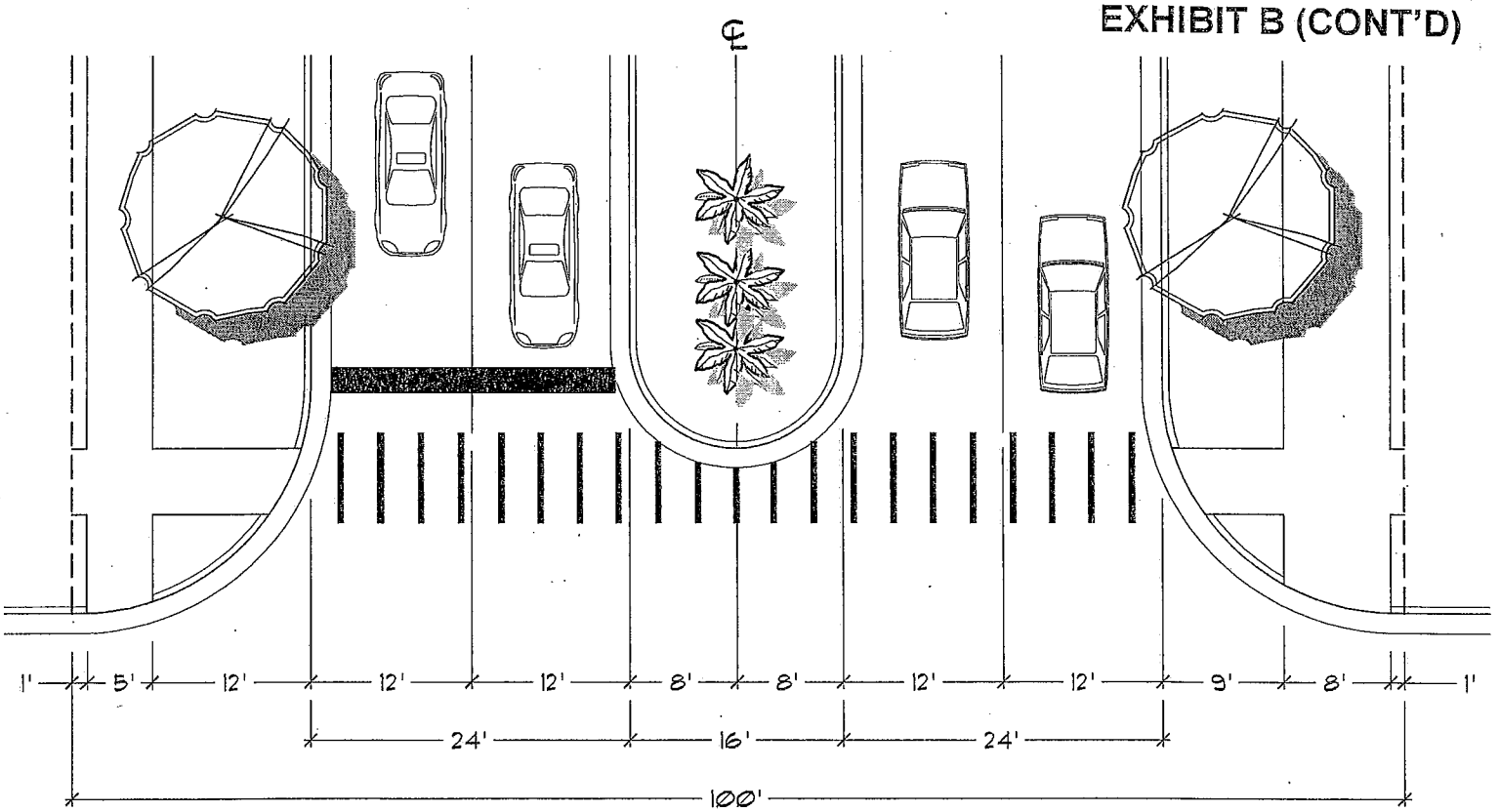


NEIGHBORHOOD LOCAL ROAD (50' R/W)

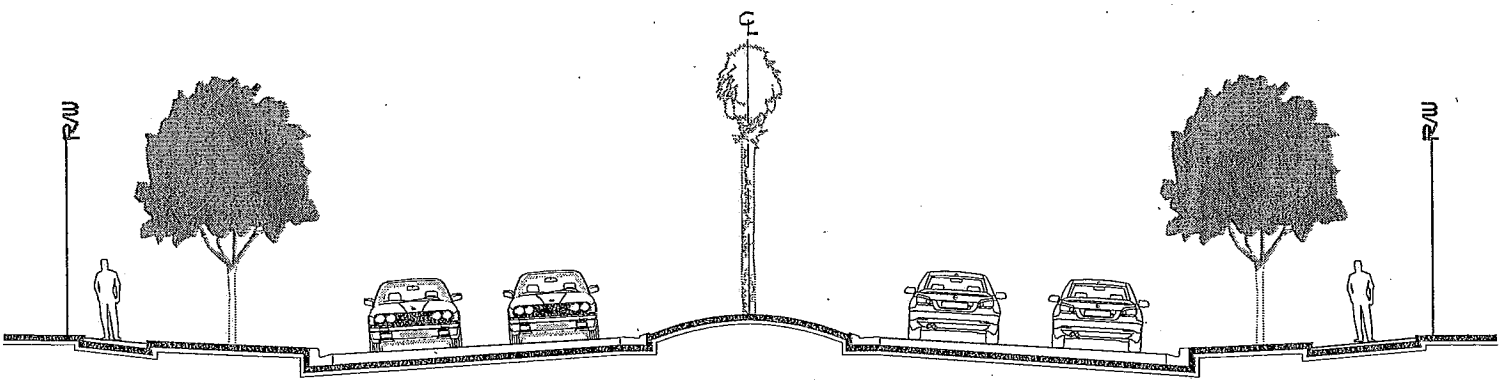
NOT TO SCALE

R.O.W. WIDTH	50'	MEDIAN WIDTH	N/A
FACE OF CURB TO FACE OF CURB	24'	SIDEWALK WIDTH	5'
TRAFFIC LANES	2	BIKE LANES	NO
TRAFFIC LANE WIDTH	12'	STRIPING	YES
PARKING	NO	STREET TREE SPACING	50'
DESIGN SPEED	30 MPH	LIGHTING	100' ALTERNATING, 15' HEIGHT
POSTED SPEED	25 MPH	STREET TREE OFFSET FROM BACK OF CURB	4' MIN.

EXHIBIT B (CONT'D)



PLAN VIEW



MINOR COLLECTOR BOULEVARD (100' R/W)
(2-LANES)
NOT TO SCALE

R.O.W. WIDTH	100'	MEDIAN WIDTH	16'
FACE OF CURB TO FACE OF CURB	24'	SIDEWALK WIDTH	5'
TRAFFIC LANES	4	BIKE LANES	NO
TRAFFIC LANE WIDTH	12'	STRIPING	YES
ON-STREET PARKING	NO	STREET TREE SPACING	50'
DESIGN SPEED	45 MPH	LIGHTING	100' ALTERNATING, 15' HEIGHT
POSTED SPEED	35 MPH	STREET TREE OFFSET FROM BACK OF CURB	4' MIN.

EXHIBIT C

ZEV COHEN & ASSOCIATES, INC.
CIVIL ENGINEERS • LANDSCAPE ARCHITECTS
PLANNERS • TRANSPORTATION • ENVIRONMENTAL
WWW.ZEVCOHEN.COM

PROJECT NO: 0317.0 | DRAWN BY: JD
SCALE DATE: 2/15/03 | CHECKED BY: PM
DESIGNED BY: PM | DRAWING FILE: 0317S02CL
VISUTR: 02-FDOC-CLIP-2

FILE LOCATION 44 - 1

SEAL

NOT VALID WITHOUT EMBOSSED SEAL

SCALE 1" = 400'

SHEET 2 OF 8

REVISIONS

NO.	DATE	REVISION	BY
1		REVISED PER STAFF COMMENTS	JD

DESCRIPTION

FOR REVIEW ONLY
NOT FOR CONSTRUCTION

SOUTH VILLAGE
CONCEPT PLAN

CITY OF NEW SMYRNA BEACH — VOLUSIA COUNTY, FLORIDA

DIAMOND BEACH
55 SEVENTH AVENUE, NEW SMYRNA BEACH, FL 32168
(386) 427-2442 FAX (386) 427-2566

ST. AUGUSTINE
4475 U.S. 1 N. STE 401 ST. AUGUSTINE, FL 32086
(904) 797-9477 FAX (904) 797-9478

AMELIA ISLAND
401 CENTRE ST., STE 5F FERNANDINA BEACH FL 32034
(904) 261-6001 FAX (904) 261-7933

© ZEV COHEN & ASSOCIATES INC. 2

State Road 44
Potential High School Site
Golf Villas
Airport Blvd
Golf Villas
Elementary School
Village Lake
Golf Villas
Golf Villas
Airport Blvd
Church Site
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

EXHIBIT D

SOUTH VILLAGE PARTNERS LLC
DEVELOPMENT AGREEMENT REVISION
JULY, 2011

CITY OF NEW SMYRNA BEACH
COMPREHENSIVE PLAN COMPLIANCE ANALYSIS

Prepared by
TMH Consuling, Inc
97 N. St. Andrews Dr.
Ormond Beach, FL 32174

INTRODUCTION

South Village LLC is the owner of land approved for development under a planned unit development agreement between the City of New Smyrna Beach and South Village Developers LLC for a 1,363 acre tract located south of SR 44 and west of I-95. The new owner is proposing amendments to the approved development agreement including amendments to the conceptual development plan allocating land uses across the site. The new land use arrangement is substantially different that the approved plan due to a number of factors related to the general economy, increased knowledge about the landforms on site, and changes to the overall development concepts that have guided development in the areas of the City west of I-95. Given these factors, this report provides an analysis of the proposed planned unit development in comparison to the guiding policies of the City of New Smyrna Beach comprehensive plan for development in the urban overlay district.

The proposed revisions to the development concept and schematic development plan have been impacted by a number of critical changes that have occurred since the original planned unit development agreement was adopted. These changes include:

Wetland determinations: The property owners have worked closely with staff from the St. Johns River Water Management District to determine final and official wetland locations on site. Wetlands have proven to be more extensive than anticipated at the time the overall planning was done by the City for the areas west of I-95. Not only have wetlands been more extensive, they have been spread over the site in a pattern that leaves relatively small upland areas. As a result of this wetland pattern, the site does not have a central area suitable for the development of a centrally located village center with closely associated urban neighborhoods unless substantial wetland impacts are incurred. The SJRWMD is resistant to the level of impacts needed to support the current development concept and the cost to mitigate these impacts, both on site and off site, is so significant that it raises serious financial feasibility issues in the current development climate.

Airport Road Connection: The original development plan anticipated the extension of Airport Road from SR 44 southward to SR 442. This extension would create an arterial linkage parallel to I-95 that was to serve as a major traffic generator for the planned village center. The approval of the Restoration development project in the City of Edgewater shifted future development well to the east of the planned South Village. This shift eliminated the need and opportunity to extend Airport Road south of the planned South Village. This change eliminated one of the major economic props for the village center development.

City Comprehensive Plan Amendments: The original development concept embodied in the City's comprehensive plan for the trans-I-95 area anticipated two urban style villages (one north and one south of SR 44) and an activity center

based on the I-95 and SR 44 interchange that would serve as an employment generator and economic center for the new mixed use villages and the City as a whole. The activity center was not expected to include large scale retail development in an effort to direct new retail and service use to the planned mixed use villages. The City subsequently amended its comprehensive plan to permit big box retail in the activity center area. A Super Wal-mart has been constructed in the activity center that will absorb much of the commercial demand needed to nurture the mixed use village centers, especially in the critical early years of development.

Over-all Decline in Florida Economy: Everyone is aware of the economic upheaval of the past four years and the limited prospects for recovery over the next several years. These economic conditions have been particularly challenging for cutting edge mixed use developments. These projects require the demand for a variety of land uses including residential, office, and general service commercial uses to mature within a relatively narrow window of time. These conditions existed during the middle portion of the last decade, but no longer are present. In addition, those companies still developing are strongly averse to trying new development models, preferring to stick to development formulae that have proven successful for them in the past.

COMPREHENSIVE PLAN COMPLIANCE

The City of New Smyrna Beach Future Land Use Element, Objective 7, Policy g provides the guidance for development occurring within the urban overlay zone. The revised planned unit development agreement and schematic development plan must meet the criteria set forth in this policy. The development has been annexed into the City, and it has demonstrated that the project can be developed with all city services. These elements were found in compliance when the project was initially approved, and the proposed revision to the development agreement does not modify the approved unit totals and non-residential development options. The required project assessment was approved with the initial development order, and the project continues to use a planned unit development format.

The project continues to comply with the overall transportation plan for the area. The transportation plan includes the extension of Williamson Boulevard and Airport Road from SR 44 to SR 442. As noted earlier, the extension of Airport Road is no longer feasible and the City's plan should be amended in this area. The Williamson Boulevard extension will occur east of the subject property, and the proposed plan calls for a linkage to extend eastward from the subject property to tie into the Williamson Boulevard corridor at a time and location that will be dictated by future development outside the project boundaries. This linkage will provide an alternative route to SR 44 and does provide for the sole element of the overall transportation plan contained within the project site.

The comprehensive plan policy also includes ten design criteria for projects within the urban overall district. The proposed schematic development plan is consistent with these criteria as demonstrated below:

Each project is to contain a compact village or neighborhood center that includes mixed uses (residential, commercial, public, semi-public, recreation) and a mixture of housing types. The size of the village or neighborhood center will be guided by the application of the other design criteria. Once a village center is approved, adjacent projects may develop by integrating themselves into the established village core.

The neighborhood center is defined by the area included within the extension of Airport Road as a collector loop road and the development area along SR 44 that lies west of the Airport Road intersection. This area includes the project's primary amenity area, commercial/mixed use core, public school site, and both higher density and moderate density housing areas. This neighborhood center includes some larger wetland areas and is therefore necessarily larger than it might be in a more upland setting, but designated area meets the criteria expressed in the policy.

Over all project open space shall be 50%. A portion of the open space must be provided in the form of a village green or neighborhood common at a ratio of 200 sq. ft. per dwelling unit. This green/common space may be provided at multiple sites if desired. Overall public open space such as active parks, public plazas and village squares must range between three and eight percent of the total project area.

The project includes 792 acres designated stormwater area and wetland and upland preservation. This area constitutes 58% of the project area.

Overall required public open space is 41 acres based on three percent of the overall project area. The amenity area provides ten acres of public recreation space. The balance of the public open space requirement will be met by the provision of smaller park area of up to one acre located within the residential neighborhoods and public open space areas that will be located within the core commercial/mixed-use area and higher density residential areas.

A minimum of 60% of the project development is to be located within 3,000 feet of the village or neighborhood center. The 60% minimum will be based on a combination of housing, commercial development, community facilities and public open space.

All of the commercial development, all of the civic development, the primarily public open space and a significant portion of the overall residential development is located in the neighborhood center. The plan anticipates 1,134 housing units of the total 1,995 units within the neighborhood center and 3,000 foot radius. In combination these factors comply with the 60% concentration requirement.

Provide for connectivity of pedestrian, bicycle and automobile networks within projects and between projects with the objective of reducing external trips affecting the arterial network.

The plan provides for sidewalks on all roads and a supporting network of pedestrian and bicycle connections as illustrated on Exhibit C & E.

Single family housing is to be constructed on a variety of lot sizes that are intermixed. Projects that provide for similar sized lots throughout are to be discouraged.

Single family housing is projected in sub-development areas with lot sizes ranging from less than 50 feet in width for some cottage style units to 100 feet in width for estate lots. As has been the case with other development in the urban overlay district, similar size lots are expected to be grouped in neighborhood areas, but the overall project will have a variety of lot sizes.

Commercial development is to be designed into the community centers. The ratio of commercial development to housing is 25-50 sq. ft. of retail and 100-250 sq. ft. of office and service commercial development for each dwelling unit.

The overall development plan is providing for commercial development of up to 249,275 based on 125 square feet per unit. If this full level of commercial development is concentrated in the core area at Airport Road and SR 44 the resulting FAR is about 0,3. Given other factors discussed above there is some concern about the ability of the project to sustain this level of commercial development over the life of the project.

Public use sites or civic spaces are to be provided at a ratio of 300 sq. ft. per dwelling unit. These sites can include government offices or services, school sites churches, etc.

The land area required to meet this criteria is 13.7 acres. The proposed school site is approximately 20 acres and meets this requirement.

Stormwater management design is to meet a 100-year three-day storm as the minimum design standard.

The project design has anticipated the 100-year three day design storm. The conceptual engineering for stormwater retention and compensatory storage where required, has been based on this design criterion. Ultimately, the SJRWMD permitting will document compliance with this criterion.

For projects in excess of 500 dwelling units, the project shall include a mix of housing types and cost ranges that provide for moderate and lower income housing sites. It is the intent to allow accessory living units to serve at least some of this function.

The project provides for a mix of housing types and styles as evidenced by the designation of areas for multi-family housing and single-family housing at a variety of lot sizes. The planned unit development agreement provides for housing options including accessory dwelling units, ALF housing, and income directed housing.

The development shall demonstrate that it can meet a minimum of 75% of the best development practices outline in the book Best Development Practices (Ewing).

Confirmation of this analysis will be provided under separate cover.

BEST DEVELOPMENT PRACTICES CHECK LIST

OVERVIEW: The City's Comprehensive Plan requires that all projects within the West New Smyrna Beach Neighborhood shall meet a minimum of 75% of the book "Best Practices". The project incorporates elements from **36 of 43** best practices or about **84%.** The details are as follows:

BEST LAND USE PRACTICES

Practice 1: Does the project design keep vehicle miles of travel (VMT) below the area average? *

Yes. the project includes a mix of land uses including residential, commercial, recreational and educational that allow for increased access to daily needs that require shorter vehicular trips or create opportunities to utilize non-automotive modes including bicycle and pedestrian options. In addition to a fully integrated sidewalk network, the plan includes a path/trail network that provides shorter trip options off of the road network.

Practice 2: Does the project contribute to the areas job housing balance? *

Yes. The project includes a mix of land uses that offers the potential for employment within the project to balance residential land uses. The project is also closely placed to the planned activity center at I-95 and SR 44. As the City of New Smyrna Beach is able to develop this employment center over time, the proposed project offers an opportunity for housing within 1 to 2 miles of the activity center.

Practice 3: Does the project design mix land uses at the finest grain the market will bear and include civic uses in the mix? *

Yes. The project provides for a range of civic uses including a school site and an amenity/community-recreation center. Church uses are also anticipated within the commercial-mixed use area. Land uses are integrated as the project provides for multi-family housing, single-family housing across a range of lot sizes, and accessory dwelling units with single-family homes. The project also provides for vertically integrated residential and non-residential uses as these may be supported by future markets.

Practice 4: Does the design insure that residential is developed in Clusters and the clusters are small?

Yes. The project land form is dominated by extensive wetland areas that severely limit the ability of the site to be developed as a traditional grid street network. However, the

plan does create smaller clustered neighborhoods that are walkable within and linked to other neighborhoods and the neighborhood center by pedestrian/bicycle networks. There are neighborhood level parks proposed that support a larger size amenity center and provide both neighborhood and community level recreation and civic opportunities. The intimate neighborhoods are separated by larger open space areas that include both wetlands and uplands.

Practice 5: Does the project design place higher density and senior housing near commercial centers, transit lines and/or community facilities?

Yes. The project design includes the placement of multi-family housing within the neighborhood center, adjacent to commercial uses. The placement of the neighborhood center on SR 44 maximizes the potential for eventual service by public transit as the project matures and transit demand increases.

Practice 6: Will commercial and recreational facilities be phased to keep pace with housing?

Yes. The market will ultimately determine the timing of residential and non-residential uses, but the plan anticipates the construction of the amenity center/civic facility among the initial phases. The placement of commercial land uses on SR 44 opens the project to external markets and provides the maximum opportunity to introduce non-residential elements in the early development phases. The current market for both residential and non-residential uses is so uncertain that more specific phasing cannot be predicted.

Practice 7: Does the residential design make subdivisions into neighborhoods with well-defined centers and edges.

Yes. The overall land form works to create smaller residential neighborhoods that have natural edges and each neighborhood contains a park area that provides a community focus within the neighborhood. Project edges within the core commercial and multi-family areas of the neighborhood center will be determined at the individual project design level.

Practice 8: Are school sites to be reserved and donated if necessary to attract new schools?

Yes. A 20-acre school site is identified, and the applicant is working with the School Board staff on a development agreement that will govern the terms of conveyance to the school district. The site has been placed so that all residential areas are within the walk-in policy limits of the school board.

Practice 9: Are commercial developments concentrated in compact centers or districts rather than let it spread out in strips?

Yes. Commercial development is concentrated at the SR 44 and Airport Road intersection.

Practice 10: Are shopping centers designed as all-purpose activity centers?

Yes. The commercial core within the neighborhood center provides for a wide range of commercial uses and permits the inclusion of residential, civic and recreational uses. The mix of activities will be determined by future market demand.

Practice 11: Will the design attempt to tame auto-oriented land uses, or at least separate them from pedestrian oriented uses?

NA.

BEST TRANSPORTATION PRACTICES

Practice 1: Will the street network be designed with multiple connections and relatively direct routes?

Yes. The project provides for connections to other areas roadways (east to the future Williamson Blvd.). The environmental land form limits the use of grid networks, but the residential neighborhoods are interconnected (including some non-vehicular connections and most neighborhoods have multiple access points. The connectivity index (links/nodes) for the residential neighborhood is 1.22 which compares favorably to cited projects including Haile Plantation, Blue Water Bay and Hunter's Creek. The addition of the connectivity index for the neighborhood center commercial and multi-family development should raise the overall project index closer to the 1.40 suggested target.

Practice 2: Are through streets no more than a half-mile apart, or the equivalent route density in a curvilinear network?

Yes. The road network does not have parallel collectors due to the base land form, but the project does provide closely spaced alternate routes for most neighborhoods.

Practice 3: Are traffic calming devices used liberally with speed limits must be self imposed through design?

Yes. The development agreement provides for traffic calming features within the neighborhood center. Residential neighborhoods use short segments where stop signs can be employed to reduce traffic speeds and t-intersections dominate (33 of 36 intersections).

Practice 4: Does the design standards keep speeds on local streets down to 20 mph?

Yes. The short road segments and t-intersections will reduce traffic speeds.

Practice 5: Are speeds on arterials and collectors down to 35 mph, at least inside communities?

Yes. No arterial roads are proposed.

Practice 6: Are all streets as narrow as possible, and never more than four traffic lanes wide?

NA. Standard street widths are used.

Practice 7: Are streets aligned to give buildings energy- efficient orientations?

NA.

Practice 8: Does the design avoid using traffic signals wherever possible and always space them for good traffic progression?

Yes. The only traffic signal anticipated is at Airport Road and SR 44. This signal is spaced properly with other SR 44 signals.

Practice 9: Is the proposed networks for pedestrians and bicyclists as good as the network for motorists.

Yes. The same places are reachable by pedestrians and cyclists as for motorists. The road network provides sidewalks on both sides of all roads. A supplemental pedestrian/bicycle network provides additional non-vehicular links that provide short-cuts for pedestrians and cyclists when compared to trips on the road network.

Practice 10: Are pedestrians and bicyclists provided with shortcuts and alternatives to travel along high-volume streets?

Yes. Refer to earlier comments on the bicycle/pedestrian network.

Practice 11: Does the master plan incorporate transit-oriented design features? (Works with practices 1, 2, 9 an 10 and Land Use Practices 3 and 4 and Housing Practice 2)

Yes. Bus transit is the likely mass transit option as the population density in the area matures. The project supports the cited land use and housing practices.

Practice 12: Is a Travel Demand Management (TDM) program established for local employees?

NA.

BEST ENVIRONMENTAL PRACTICES

Practice 1: Does the master plan utilize a systems approach to environmental planning?

Yes. The plan uses an integrated approach to natural systems based on the established watershed and connections to local and regional naturals systems off-site. Wetlands and water body management is integrated and designed to meet SJRWMD requirements.

Practice 2: Does the master plan channel development into areas that are already disturbed?

Yes. The project area has little disturbed land, and most of this has been used for stormwater management. Development is located primarily in upland areas used previously for silvicultural activity to minimize impacts to wetlands and other natural systems.

Practice 3: Are patches of high-quality habitat preserved, as large and circular as possible, feathered at the edges, and connected by wildlife corridors? (Code requirement for environmental systems corridors)

Yes. Extensive areas of natural habitat are preserved. The preserved area, particularly along the western side of the property links to a major north-south wildlife corridor and is preserved and protected by the plan.

Practice 4: Does the master plan design around significant wetlands?

Yes. The overall project is anticipated to impact less than 80 acres or wetlands. The overall project preserves well in excess of 90% of the on-site wetlands.

Practice 5: Are upland buffers established around all retained wetlands and natural water bodies?

Yes. Upland buffers averaging 25 feet with a minimum of 15 feet are required by the development agreement.

Practice 6: Are significant uplands preserved?

Yes. Significant amounts of uplands are preserved within corridors and natural areas. Upland preservation is estimated at 147 acres.

Practice 7: Is there an effort to restore and enhance ecological functions damaged by prior site activities?

Yes. The primary site activity previously established is silvaculture. Existing trails are incorporated into the overall project design, and the project environmental permits will

provide for a management plan to be implemented by future property owner associations for the preserved areas.

Practice 8: Does the master plan minimize runoff by clustering development on the least porous soils and using infiltration facilities? (Works with practice 6)
Yes. BMPS are used in the design of the stormwater system.

Practice 9: Is runoff detained with open, natural drainage systems where possible?

Yes. The stormwater design meets a 100-year three-day storm as the design storm and provides for compensatory storage impact with a system of balanced retention areas.

Practice 10: Are man-made lakes and stormwater ponds designed for maximum environmental value as follows?

NA. These techniques may be employed, but a determination has not been made at this point.

Practice 11: Is reclaimed water and integrated pest management use on large landscaped areas?

Yes. Reclaimed water is required when the Utilities Commission can offer a supply.

Practice 12: Will the project require the use of Xeriscape™ landscaping as follows:

NA. These techniques may be incorporated, but a determination has not been made at this time.

BEST HOUSING PRACTICES (Affordability)

Practice 1: Does the project offer "life cycle" housing?

Yes. The project offers a variety of single-family and multi-family housing areas. The development agreement provides for accessory living units, ALF housing and income assisted housing.

Practice 2: Will the master plan achieve an average net residential density of six to seven units per acre, without the appearance of crowding, and to reduce site development cost and encourage alternate modes of travel?

Yes. The net project housing density is six units per acre (309 acres with 1,995 housing units.)

Practice 3: Will the project use cost-effective site development and construction practices as follows: (works with transportation practice 6 narrow streets and land use practice 4 cluster development)

Yes. The predominant single-family housing lots are 50 to 65 feet but provision is included for lots smaller than 50 feet in width. The development program also includes multi-family housing that may include townhouse units and flats depending on market demand.

Practice 4: Are energy-saving features designed into the project including the following: (works with transportation practice 7 aligning roads for optimum building location)

NA. These techniques may be incorporated, but a determination has not been made at this time.

Practice 5: Will the project supply affordable single-family homes for moderate-income households?

Yes. The project provides for some smaller lot homes that are targeted at a total cost between 120,000 and 200,000 dollars as well as providing for multi-family rental and owner units. Accessory housing unit options are included as are options for income directed housing.

Practice 6: Will the project supply affordable multifamily and accessory housing for low-income households?

Yes. The project provides for multi-family housing meeting market needs and provides density bonus incentives for income directed housing.

Practice 7: Will the project tap government-housing programs to broaden and deepen the housing/income mix, including the following:

Yes. The development agreement provides density bonus incentives for the use of these programs, but funding availability has been severely curtailed by state budget cuts.

Practice 8: Does the master plan mix housing to the extent the market will bear? (works with Land Use Practices 3 and 4.)

Yes. The plan provides for housing clusters of varying lot sizes and multi-family housing of various types and styles.

EXHIBIT F

City of New Smyrna Beach

July 20, 2011

Paul Momberger, RLA
Zev Cohen and Associates
300 Interchange Boulevard
Ormond Beach, Florida 32174

RE: SOUTH VILLAGE PUD AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT – DRAFT 1

Dear Mr. Momberger:

This letter is to follow up on our telephone conversation of this morning. As we discussed, staff's most significant concern relates to the proposed signage regulations contained in the Master Development Agreement (MDA). Additionally, we spoke about several areas of lesser concerns where staff would be providing recommendations on changes to the MDA. Both the signage issue and other identified items are discussed in further detail below.

1. The proposed signage regulations in Section 13.0 significantly exceed the maximum allowed signage anywhere in the City. As proposed, staff cannot recommend approval of this section of the MDA. Please provide a revised signage section that is in compliance with the City's regulations.

2. The original South Village MDA contained graphics illustrating the design standards as an exhibit to the agreement. While staff understands that the developer may not want design standards for the single-family and duplex residential units, design standards should be provided for the multi-family and non-residential buildings. At a minimum, the following language should be added to the agreement:

   A. All buildings and accessory structures on each lot shall be developed in compliance with the requirements of City Development Service staff's recommendation of an "Old Florida" style of development to conform to aspects of the historic buildings within the City.

      (1) All buildings and accessory structures constructed within the Property shall include architectural features associated with the predominant style within the City, such as frame vernacular, bungalow, colonial revival, masonry vernacular or Mediterranean revival. The common architectural theme shall be established by harmoniously coordinating the general appearance of all buildings and accessory structures. For purposes herein, general appearance includes, but is not limited to, exterior wall finishes or materials, roof styles, slopes and materials, colors, and architectural details and

ornamentation. Acceptable roof tiles include metal roof accents, barrel tile, wood shake, etc. Wall siding includes wood simulated shingle, clapboard, weatherboard, drop siding, etc, or coquina siding. Windows musts be casement, double hung, 2/2 lights, etc, and blank walls will not be allowed;

(2) All structures within the Property shall complement one another and shall convey a sense of quality and permanence;

(3) Lower grade exterior wall finishes and roof materials shall be prohibited; and

(4) Corporate prototype design and materials may be permitted provided they comply with the provisions of this Section.

(a) The City reserves the right to review the proposed architectural construction and design of all buildings and structures within the Property, to require the substitution or inclusion of colors, materials, architectural details and ornamentation, and to require or prohibit the use of the same to ensure compliance with the requirements of this section.

(b) No outside display or storage on the Property shall be permitted except during outdoor and sidewalk sales or special events as permitted by the City, of which case will be limited to four (4) times per year.

(1) No vending machines shall be permitted on the outside walkways or other outdoor pedestrian areas of the Property.

(2) No newspaper stands shall be permitted except in areas designated by the Developer and approved by the City.

(3) Any exterior phone booths shall not be visible from public rights-of-way.

(4) Lot function, layout and architectural design of the buildings thereon shall be coordinated, once established by the function and layout of the first of these lots to receive site development plan approval. For purposes herein, lot function and layout includes, but is not limited to, building placement, landscaping layout/design, parking lot layout/design, and access drive layout/design. Architectural design refers to building style and appearance.

(5) All parking lot lighting fixtures shall be consistent with respect to their physical attributes, design and appearance. The specific design shall be established by the type of parking lot lighting fixture constructed or installed in or on the first of these lots to receive site development plan approval. Light to be deflected from residential areas and contained within project.

(6) Elevations shall be provided consistent with these standards during site plan review process.

EXHIBIT F (CONT'D)

3. Section 9.3 states that the City may issue permits for clearing, grading and earthwork for portions of the PUD before approving final construction plans. This wording is ambiguous and has raised concerns among staff. Current City regulations do not allowing clearing and grading activities prior to the issuance of a building permit. Ideally, this section should be revised to match City regulations. At a minimum, language should be added to clarify how far in advance of receiving approval for construction plans clearing and grading activities would be allowed.

4. Section 10.0 of the Amended and Restated MDA discusses regulations for temporary structures. The original MDA included the following provisions for health, safety and public welfare, which should be added back into the agreement:

   - Model homes, model centers and sales offices must provide for fire protection, including testing and approval of the water system by the Florida Department of Environmental Protection (FDEP).
   - Construction of access roads to the model home sites must be completed prior to building permit issuance, to the extent necessary to allow sufficient access by city inspection vehicles.
   - Permanent utility connections cannot be made until the sanitary sewer system has been completed and certified to FDEP.

5. The original MDA included design requirements regarding Natural and Man-Made Water Bodies. Staff understands that the use of the FDOT pond would most likely not meet these requirements and that this situation may have prompted the elimination of the design requirements. However, at a minimum, the requirement for littoral zone plantings and the incorporation of bicycle and pedestrian paths or other amenities around lakes should be included.

6. Section 18.6.3 of the Amended and Restated MDA would allow sidewalks on only one side of the roadway and would allow a pedestrian trail in lieu of sidewalks. This is not consistent with the City's *Land Development Regulations* or with the cross-sections provided. Please revise to state that sidewalks and/or bicycle paths will be required on both sides of the roadways. This will increase compliance with the requirement in the MDA to provide enhanced pedestrian and bicycle circulation within the development.

7. Sections 18.7.1 and 18.7.2 of the Amended and Restated MDA appear to allow on-street parking to be used to meet the minimum parking requirements for residential development. However, none of the cross-sections included space for on-street parking. Of particular concern to staff is that on-street parking in other residential developments has created safety hazards when residents are allowed to park on both sides of a road that was not designed to accommodate on-street parking. Please eliminate the language that would allow on-street parking to

EXHIBIT F (CONT'D)

count towards minimum parking requirements or revise the roadway cross-sections to include on-street parking.

8. Section 27.0 of the Amended and Restated MDA deleted the language in the original MDA that voided the Development Agreement for the O'Reilly Property, dated August 11, 1998. This language must be added back into the Amended and Restated MDA.

9. Please clarify whether any individual business driveways will be permitted on State Road 44, other than access to the multi-family site. Staff does not recommend that individual access points be provided. Please state in the agreement that access to the Commercial area will be provided only from the Airport Road Loop.

10. Please revise the last sentence of Section 10.5 to state "certificates of completion" instead of "certificates of occupancy" as the City would not issue a "certificate of occupancy" for a dwelling unit that does not have a driveway.

11. Section 15.3 states that a 35-foot buffer will be provided along State Road 44. While staff is in agreement with this change, the following items must revised to provide internal consistency within the Amended and Restated MDA and with the City's LDR:

    - Lines 3-4: Change "Utilities Commission rules" to "City's *Land Development Regulations*". The LDR allows a maximum 15-foot overlap with the utility easement and specifies what types of vegetation may be planted in that area.
    - Exhibit D states that a 20-foot buffer is required along State Road 44. Please revise to show that a 35-foot buffer is required and that the buffer may overlap the utility easement by 15 feet.
    - Exhibit E shows a 20-foot landscape area. Please revise to show a 35-foot buffer area that overlaps the utility easement by 15 feet.

12. Please revise Section 18.4 to correctly reference the street hierarchy. The correct reference is 18.4.1 through 18.4.5 and not 21.5.1 through 21.5.7.

13. Section 18.5.1 can be revised to allow streetlights to be placed up to 300 feet apart on center (lights on the same side of the street would be approximately 600 feet apart). The City has approved this in other MDAs and would encourage the use of fewer street lights within the project overall.

14. Section 18.6.5 was slightly unclear as staff was unsure which main entry road connects the various development parcels to each other. The main entry road appears to be the Airport Road Loop, which does not necessarily connect to the all of the residential development to the south. Please revise for clarity or delete.

EXHIBIT F (CONT'D)

15. The "diamond" tree islands proposed in Section 18.7.3 do not meet the minimum landscaping island requirements of the *Land Development Regulations*. The minimum LDR requirement is 75 SF of area with a minimum width of 6 feet.

16. Staff recommends including a provision to reduce parking by 20% for non-residential uses that share parking or that preserve existing trees.

17. Section 20.2.4: Please delete "Neighborhood Circulator" as this street type is no longer proposed.

18. Section 24.2: Please delete subsection iv as it is no longer applicable.

19. Section 24.3 references Section 23.1. The correct section is 24.1. Please revise.

20. Page 35: Please change the date in the notarization block from 2006 to 2011.

21. Exhibit D:
    - Please provide a minimum rear yard setback for single-family lots 50'-100' Width.
    - The minimum required townhome lot area exceeds the area produced by the minimum lot width and depth. Either reduce the minimum lot area to be consistent with minimum width and depth requirements or increase the width and depth requirements to be consistent with the minimum lot area.
    - A maximum building area of 5,000 SF for Neighborhood Commercial uses is not realistic. If the intent is to be able to provide goods and services that will serve both the residents and passers-by, a 5,000 SF cap would exclude drug stores, grocery stores and many other types of retail and office uses. Please increase the maximum building area for the commercial uses. At a minimum 50,000 would be sufficient to allow a grocery store.
    - Section VI of Exhibit D states that the buffer on State Road 44 is an "average" and that the wetland buffer is a "minimum". However, this is opposite of what is stated in the text of the MDA. Please revise to require a "minimum" buffer on State Road 44 and an "average" wetland buffer.

22. Exhibit E:
    - Please revise the cross-section for the Neighborhood Local Road to allow the street lighting at 300' alternating intervals.
    - Please revise the cross-section for the Minor Collector Boulevard as follows:
        - Add the 8' pedestrian path to the sidewalk width in the table
        - Change the street light minimum spacing to 300'

EXHIBIT F (CONT'D)

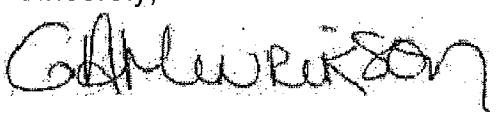
- Change the title of the cross-section to show 4 lanes. The note under the title now states "2-Lanes".
- Please provide a cross-section for the Pedestrian/Bicycle Pathway.

23. **Advisory:** Section 10.0 would allow temporary holding tanks for sewage for the temporary trailers until such time as central sewer lines are installed and active. After discussion with staff from the Utilities Commission, please be advised that the Volusia County Health Department may not permit this arrangement. Staff recommends that this language be removed.

Overall, staff found the analysis completed for the proposed changes to be very thorough and comprehensive. Staff looks forward to your responses and to working with you to move this project forward.

Please feel free to contact me with any questions you might have. I may be reached at (386) 424-2134 or via email (ghenrikson@cityofnsb.com).

Sincerely,



Gail Henrikson, AICP
Planning Manager

Cc: Pam Brangaccio, City Manager (via email)
Frank B. Gummey, III, City Attorney (via email)
Case File #PUD-2-11

13.0 Signage.

13.1 General Provisions. The design intent of residential signage is to ensure adequate means of communication through signage while maintaining the attractive visual appearance within South Village PUD. Signage shall include overall project signage including wayfinding signage; residential and commercial neighborhood signage; individual business signage; temporary marketing signage; and other signage required by city code including but not limited to street signs, street addresses and similar signage. An architectural feature may be incorporated into overall project signage and residential and commercial neighborhood signage. Walls, Architectural icons, water features, landforms, landscaping or other effects which announce and signify arrival are not considered signs. Only the portion of an entry feature containing words or logos shall be considered signs Any PUD architectural guidelines and standards for the development, covenants, conditions and restrictions regarding signage shall be administered by the Developer and/or CDD/POA. Non-specific repetitive decorative elements and/or logos shall not be considered signage, provided such signs do not advertise a specific product.

13.2 Overall Project Signage. Overall project signage identifies the overall development and shall include project identification signage, wayfinding signage and other signage that identifies the project as a whole and provides guidance and direction to and within the project.

13.2.1 Gateway Signage and Entrance Features: Wall signage located at the primary entrances to South Village PUD shall have a maximum height of 10' with a maximum signage area of 120 square feet (s.f.). The primary entrances are at the intersection of project access roads and SR 44 and at the connector road extension to Williamson Boulevard. A maximum of two gateway signs meeting these standards shall be permitted for each entrance. An entrance or

directional feature may be designed in conjunction with the entrance signage or it may occur separately. The entrance feature shall have a maximum height of 18'.

13.2.2 Way finding Signs. Wayfinding signs are permanent signs that direct auto and pedestrian traffic within the South Village PUD. These signs may be monument or pedestal signs that are not associated with a particular parcel, amenity or lot, but rather direct people to locations of several such uses. These signs are supplemental to, and not inclusive of, any and all public signs. Way finding Signs may be located in the right-of-way. Wayfinding Signs shall be setback at least four (4) feet from the back of any street curb and four (4) feet from any property line in residential districts, and shall not hinder safe automobile or pedestrian visibility. There is no limit to the number of Way finding Signs within South Village. Individual signs must be separated by at least two hundred (200) linear feet. The maximum ADA shall be twenty (20) square feet and the maximum height shall be ten (10) feet. Wayfinding signs shall conform to an overall design approved by the City.

13.2.3 Banners. Banners shall be permitted as temporary or permanent decorative elements and may be used as signage in addition to other signage allowances. Banners may be located on individual poles, light poles, or other architectural or streetscape element. Banners may bear the logo of the development, or seasonal or event logo as decorative elements, or messages of public information. Banners may carry sponsors' names in conjunction with special events. Banners shall not be considered signage. There shall be no limit on the number of banners or flags allowed per parcel. Temporary banners may span privately owned streets as long as a minimum vertical clearance of eighteen (18) feet is maintained above vehicular use areas and a minimum vertical clearance of ten (10) feet is maintained above pedestrian use areas.

13.2.4 Other General Project Signage: Pursuant to the standards described herein, the following signage shall be permitted in the right-of-way: decorative traffic, directional, and

informational signs including but not limited to speed limit signs, stop signs, street identification signs and other standard traffic management signage. Any signage located within the right-of-way that contains design elements beyond standard City and FDOT specifications shall be maintained by the Developer, a Property Owner's Association ("POA"), or a Community Development District ("CDD"), as applicable. The Developer, CDD and/or POA shall be responsible for any signage and associated landscaping, lighting and/or decorative hardscape elements that may be located within public rights-of-way.

13.3 Residential and Commercial Neighborhood Signage: Residential and commercial neighborhood signage is general signage intended to identify individual neighborhoods within the overall project, and includes individual development identification of multifamily housing projects as well.

13.3.1 Neighborhood Signage Signage located at the entrances to individual neighborhoods shall have a maximum height of 12' and a maximum signage area of 100 square feet (s.f.). A maximum of two (2) signs meeting the requirements listed above shall be permitted per subdivision entranceway. If only one sign is used, seventy-five percent (75%) of the total square footage allowance for both signs may be utilized within the copy area of the single sign.

13.3.2 Multiple-Family Complex Sign. Multi-family complex signs denote the name of the multiple-family complex and may include the name of the developer or the property management company. These signs may be incorporated into a wall, fence or other structure. These signs may be located within a median provided such tract is not a part of public right-of-way. They may be lighted or externally illuminated and shall be landscaped. Each multiple-family complex may have a Multiple-Family Complex Sign at each entry/egress point to their

respective community that is no more than ten (10) feet in height with a maximum ADA of thirty-two (32) square feet each.

13.4 Individual Business Development Signage: Signage for multi-tenant commercial developments and individual businesses within multi-tenant commercial developments and stand-alone businesses shall be allowed signage as permitted by the City of New Smyrna Beach sign regulations. Freestanding business signs and multi-tenant project signs shall be ground signs and shall be accompanied by a surrounding landscaped area.

13.5 Temporary Marketing Signage: Temporary marketing signage includes banners and other signs of a temporary nature that advertise product for sale and provide directions to sales centers, model homes, open houses and similar destinations and may include:

13.5.1 Parcel Construction Signs. Temporary signs that denote the owner, architect, contractor name, lot number, financial institution, general contractor, subcontractors for a parcel. One (1) primary sign may be displayed for each development parcel. Such signs shall not be installed sooner than thirty (30) days prior to construction and shall be removed within thirty (30) days after completion of the project. The Primary signs may not exceed eight (8) feet in height and may have up to thirty-two (32) square feet of ADA.

13.5.2 Community Real Estate Sign. Temporary signs located at the entry/egress point(s) of residential developments under construction and/or which have units for sale, rent or lease. These signs may display the name of the community, price range, name of the builder, and appropriate contact information (e.g. name, phone, office location). The signs shall be removed within ten (10) days of all of the lots or units being sold. Each new residential community may have a Community Real Estate Sign at each entry/egress point to their respective community that is no more than ten (10) feet in height with a maximum ADA of sixty-four (64) square feet each.

13.5.3 Residential Real Estate Sign. Signs identifying lots for sale shall be located on the lot

for sale and only one sign per lot is permitted. The signs shall conform to city requirements for real estate signs and must be removed within thirty (30) days of closing of a contract on the property.

13.5.4 "Open House" signs, banners, seasonal or holiday signs, memorial signs, and any other temporary sign not listed herein shall conform to the standards established in the Land Development Code.