



City of New Smyrna Beach

August 26, 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, September 12, 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 August 1, 2011
Workshop held August 15, 2011

PUBLIC PARTICIPATION

VISIONING

Flagler Avenue Parking Study

OLD BUSINESS

A. 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.

NEW BUSINESS

B. A-12-11: OTTER CREEK PROPERTIES/NORTH OF STATE ROAD 44

Glenn D. Storch, Esquire, 420 South Nova Road, Daytona Beach, Florida 32114, applicant on behalf of the property owner, Otter Park Properties, LLC, 3806 Daughtery Road, Zephyrhills, Florida, 33540, requests voluntary annexation,

Comprehensive Plan amendment from County Urban Low Intensity and County Urban Medium Intensity to City Medium Density Residential, and rezoning from County R-1, Suburban Single-Family Residential and County R-4, Urban Single-Family Residential to City R-4, Multi-Family Residential. The subject property consists of approximately 26.19 acres and is generally located north of State Road 44 and south of Pioneer Trail.

C. A-13-11: HALL/389 OTTER BOULEVARD

John L. Hall, 389 Otter Boulevard, New Smyrna Beach, FL, 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-1, Suburban Single-Family Residential to City R-1, Single-Family Residential. The subject property contains approximately 0.843 acres and is generally located on the east side of Otter Boulevard, south of Pioneer Trail.

D. PUD-3-11: REGENCY PUD-2ND AMENDMENT

Kai Burk, P.E., 445 24th Street, Vero Beach, FL, 32960, applicant on behalf of property owner, New Smyrna Regency, LLC, One Independent Drive, Unit 114, Jacksonville, FL 32202, requests approval of the 2nd amendment to amend the Regency Planned Unit Development Master Development Agreement to modify signage, architectural and landscaping requirements for Future Development Parcels H & I. The subject property consists of approximately 42.7 acres, is zoned PUD, Planned Unit Development, and is generally located northwest of the intersection of Interstate 95 and State Road 44.

E. ZT-11-11: SIGN REGULATIONS

City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, FL, requests approval of amendments to the City's *Land Development Regulations* to amend established policies regarding to signage.

F. ZT-13-11: PAIN MANAGEMENT CLINICS

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 regulations relating to pain clinics and pain management clinics.

G. ZT-14-11: INTERNET CAFES

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 regulations regarding the operation of internet cafes.

H. ZT-16-11: MAXIMUM DISTANCE FOR OFF-SITE PARKING

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

Regulations to revise the regulations relating to the maximum allowed distance for off-site parking in the MU, Mixed-Use District.

I. ZT-17-11: WATER/SEWER LOS

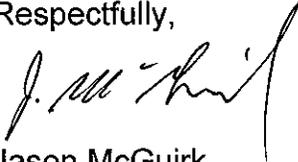
The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, requests approval of amendments to the City Land Development Regulations to revise the water and sewer level of service standards.

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:

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

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

5
6 **ROLL CALL**

7
8 The following members answered to roll call:

- 9 Laurene Herwald
- 10 Ian Ratliff
- 11 Travous Dever
- 12 Kenneth Bohannon
- 13 Jason McGuirk
- 14 Brooks Casey

15
16 Jessie Clark was absent.

17
18 Also present were Planning Manager Gail Henrikson, Planner Marissa Moore, Planner
19 Kevin Jameson; Assistant City Attorney Greg McDole, and members of the public.

20
21 **APPROVAL OF MINUTES**

22
23 **Mr. Ratliff made a motion to approve the minutes of the Planning and Zoning**
24 **Board meeting held July 11, 2011, seconded by Mr. Bohannon. Motion passed on**
25 **a roll-call vote, 5-0. Laurene Herwald abstained as she was not present at the**
26 **meeting.**

27
28 **PUBLIC PARTICIPATION**

29 None.

30
31 Ms. Henrikson informed the Chairperson that there were two cases that were requesting
32 continuances and asked if the Chairperson would like to announce those before
33 proceeding to the visioning section of the agenda.

34
35 Mr. McGuirk announced the two cases that were requesting continuances.

36
37 **OLD BUSINESS**

38
39 **A. V-3-11: 916 SOUTH RIVERSIDE DRIVE / SMITH**
40 **Scott Smith, 916 South Riverside Drive, applicant and property owner, requests**
41 **the following variances in order to allow a Bed and Breakfast to operate at 916**
42 **South Riverside Drive:**

- 43
- 44 1. Variance to waive the requirement to provide 16 on-site parking spaces;
- 45 2. Variance to two signs in lieu of the one sign permitted by code; and
- 46 3. Variance to allow a 32-square foot sign in lieu of the maximum 10-square
- 47 foot sign permitted by code.
- 48

1 The subject property is zoned R-2, Single-Family Residential, contains
2 approximately 0.491 acres and is generally located northwest of the intersection
3 of South Riverside Drive and Second Street.
4

5 Mr. McGuirk announced that staff was requesting that this case be continued until the
6 October 3, 2011 meeting.
7

8 **Mr. Dever made the motion to continue until the October 3, 2011 Planning and**
9 **Zoning Board Meeting, seconded by Mr. Bohannon. The motion passed**
10 **unanimously on roll call vote, 6-0.**
11

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

14 James Cummins, 2220 South Andrews, Lake Orion, Michigan, 48362, applicant
15 on behalf of the property owner, Ocean View Condominium COA, 207 North
16 Atlantic Avenue, New Smyrna Beach, Florida, 32169, requests variances to the
17 City's minimum parking requirements, front yard setback requirements,
18 landscape buffer requirements, building coverage requirements, impervious
19 coverage requirements and maximum driveway width requirements, in order to
20 allow construction of a garage building. The subject property is zoned B-4(4),
21 Ocean Commercial; contains approximately 0.5 acres and is generally located
22 southeast of the intersection of North Atlantic Avenue and Esther Street.
23

24 Mr. McGuirk announced that staff was requesting that this case be continued until the
25 September 12, 2011 meeting.
26

27 **Mr. Bohannon made the motion to continue until the September 12, 2011 Planning**
28 **and Zoning Board Meeting, seconded by Mr. Dever. The motion passed**
29 **unanimously on roll call vote, 6-0.**
30

31 VISIONING

32
33 Flagler Avenue Parking Study

34
35 Ms. Henrikson addressed the Board and stated the reasons why the parking study had
36 been drafted. She stated that staff had identified three different types of users that were
37 impacting parking within the Flagler Avenue area. She also discussed some of the
38 recommendations that were included in the study and some of the parking
39 improvements that are already under design.
40

41 Mr. McGuirk opened the discussion to the public.
42

43 Adele Aletti, Flagler Avenue, addressed the Board. She stated that the Flagler Avenue
44 area desperately needed parking. She stated that the merchants have been working
45 with Coronado Methodist Church to provide parking for special events.
46

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1 Ms. Aletti discussed beach traffic and the impacts on parking. She stated that opening
2 up the Crawford Road beach ramp would help tremendously.

3
4 Ms. Aletti stated that she did not agree with leasing parking lots and did not agree with
5 the City or CRA spending money to improve lots to create parking, as this was only a
6 temporary solution.

7
8 Ms. Aletti discussed the parking reduction. She stated that it was originally intended for
9 expansions to existing businesses only. It was never intended for new construction.
10 She stated that using the old fire station site on Columbus Avenue was not a realistic
11 solution as no one would use that parking lot. She recommended purchasing the lots
12 on Jessamine Avenue, east of Pine Street, which would connect to the existing CRA
13 parking lot.

14
15 Mr. McGuirk closed public participation.

16
17 Ms. Herwald asked whether the proposed improvements to the Flagler Avenue
18 Boardwalk parking lot would reduce capacity.

19
20 Ms. Henrikson stated that there would be over 100 spaces in the lot after the
21 improvements are completed. She stated that because there is no formalized parking
22 there now, it is difficult to get an accurate count of how many existing parking places are
23 there.

24
25 Mr. Casey stated that he did not receive a parking study. The other Board members
26 also stated that they had not received the study.

27
28 Mr. Casey stated that he was not in favor of spending money to construct parking lots
29 for private businesses. He stated that the parking lot on Buenos Aries is usually not
30 filled to capacity on weekends. He stated that because there was so little room for
31 expansion on Flagler Avenue, he was not sure how much additional parking would be
32 required in the future. He stated that he agreed that the County should open the
33 Crawford Road beach ramp on weekends.

34
35 Mr. Ratliff stated that he was in favor of continuing the 50% parking reduction. He also
36 stated that he would be in favor of waiving parking requirements completely if there
37 were some sort of in-lieu of payment program in place. He stated that he was not
38 opposed to the City constructing or leasing parking lots.

39
40 Mr. Bohannon stated that he would like to read the study before providing comments.

41
42 Mr. Dever stated that the parking congestion typically occurs in the evening or late
43 night. He stated that he believed that people using the restaurants would not mind
44 walking a couple of blocks. He said that because the City already owned the fire station
45 site, it made sense to use it as a parking lot.

1 Mr. Casey expressed concern about using the fire station lots as it was in the middle of
2 a residential neighborhood.

3
4 Mr. McGuirk requested that the study be brought back in September so Board members
5 would have a chance to review the document and provide additional comments. Mr.
6 McGuirk stated that there should be a public-private partnership to provide parking lots.
7 He stated that the City should begin identifying potential sites for parking lots.

8
9 **OLD BUSINESS**

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

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

19
20 Mr. McGuirk swore in everyone who would be providing testimony in the case.

21
22 Ms. Moore stated her qualifications and addressed the Board. Ms. Moore presented
23 staff's findings and stated that staff recommended denial of the requests.

24
25 Glenn Storch, 420 South Nova Road, Daytona Beach, counsel for the property owner,
26 addressed staff. He asked Ms. Moore whether the property owner would be able to
27 rebuild his home if it were destroyed by more than 50% of its value.

28
29 Ms. Moore stated that the property owner would not be allowed to reconstruct the home
30 in the wetland buffer. However, at that point, the property owner could apply for a
31 variance, based on the actual location of the wetland buffer at that time.

32
33 Mr. Storch stated that the area where the property owner wants to construct the pool is
34 already disturbed and contains pavers and planted vegetation. He stated that it is not a
35 natural undisturbed area. Mr. Storch explained the purpose of the wetland buffer. Mr.
36 Storch also explained the differences in how the County would process this request and
37 how the City is processing this request.

38
39 Mr. Storch stated that the existing buildings on the site were constructed prior to the
40 City's adoption of the wetland buffer. He also stated that other improvements have
41 been permitted by the City within the wetland buffer area since the adoption of the
42 buffer requirement.

43
44 Tom Donatti, 1860 Needle Palm Drive, Edgewater, addressed the Board. Mr. Donatti
45 stated that he was the contractor that had pulled the permits for the renovation work in
46 2009. He stated that the City inspected and approved the improvements. He stated

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1 that the pavers in the area where the pool is proposed were already in place at that
2 time.

3
4 Will Miller, 100 South Riverside Drive, New Smyrna Beach, addressed the Board. Mr.
5 Miller stated that he was the architect of record for the original house and the
6 renovations. Mr. Miller stated that he was not required to obtain variance approval for
7 the renovations. Mr. Miller stated that the pool was proposed between the two buildings
8 in order to provide ease of use for the property owners. He stated that placing the pool
9 on the west side of the house would not be reasonable, even though it could be done.

10
11 Mark Wallschlaeger, 107 Donlon Drive, New Smyrna Beach, addressed the Board. Mr.
12 Wallschlaeger stated that he was not the owner of the property when the buildings were
13 constructed. He stated that he was concerned about being able to sell his property in
14 the future, given the buffer requirements and the impact on his property. Mr.
15 Wallschlaeger stated that he had safety concerns about placing the pool on the west
16 side of the property.

17
18 Mr. Storch addressed the five variance criteria. Mr. Storch also showed pictures of the
19 subject property and proposed pool site to the Board. Mr. Storch stated that he was
20 requesting that the Board approve the variance requests.

21
22 There was discussion about whether this property had received a variance in the past.

23
24 There was discussion about the proposed swale.

25
26 No one from the public spoke for or against the request.

27
28 **Mr. Casey made a motion to approve the variance requests with the condition that**
29 **a swale be installed around the perimeter of the property, as agreed to be the**
30 **applicant and property. Motion seconded by Mr. Dever. Motion passed on a roll**
31 **call vote 4-1, with Mr. Ratliff dissenting. Mr. Ratliff stated his reason: "I believe**
32 **that the applicant has met the criteria for conditions two through five, but I don't**
33 **believe he met the requirement for number one." Ms. Herwald abstained due to a**
34 **conflict of interest.**

35
36 Mr. McGuirk opened cases D, E and G.

37
38 **NEW BUSINESS**

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

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

1 Mr. Jameson addressed the Board and presented staff's findings for the three cases.
2 He stated that staff recommended approval of all the requests.

3
4 No members of the public spoke for or against the requests.

5
6 **Mr. Bohannon made a motion to recommend the City Commission approve the**
7 **requested annexation, *Comprehensive Plan* amendment and rezoning, seconded**
8 **by Mr. Dever. Motion passed unanimously on a roll call vote, 6-0.**

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

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

18
19 **Mr. Bohannon made a motion to recommend the City Commission approve the**
20 **requested annexation, *Comprehensive Plan* amendment and rezoning, seconded**
21 **by Mr. Ratliff. Motion passed unanimously on a roll call vote, 6-0.**

22
23 G. A-10-11: WEAVER/BOLTON ROAD

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

30
31 **Mr. Bohannon made a motion to recommend the City Commission approve the**
32 **requested annexation, *Comprehensive Plan* amendment and rezoning, seconded**
33 **by Mr. Ratliff. Motion passed unanimously on a roll call vote, 6-0.**

34
35 F. A-11-11: SCHWOERER/OTTER BLVD.

36 Gwendolyn Schworer, 386 Otter Boulevard, New Smyrna Beach, FL, 32168,
37 applicant, requests annexation, *Comprehensive Plan* amendment from County
38 Urban Medium Intensity to City Low Density Residential, and rezoning from
39 County R-4, Urban Single-Family Residential to City R-1, Single-Family
40 Residential. The subject property contains approximately 5 acres and is
41 generally located on the west side of Otter Boulevard, south of Pioneer Trail.

42
43 Ms. Henrikson addressed the Board and reviewed staff's findings. She stated that staff
44 recommended approval of the requests.

45
46 No one from the public spoke for or against the requests.

1 **Mr. Casey made a motion to recommend the City Commission approve the**
2 **requested annexation, *Comprehensive Plan* amendment and rezoning, seconded**
3 **by Mr. Dever. Motion passed unanimously on a roll call vote, 6-0.**

4
5 **H. PUD-2-11: SOUTH VILLAGE – 1st AMENDMENT**

6 Paul Momberger, RLA, Zev Cohen and Associates, 300 Interchange Boulevard,
7 Ormond Beach, Florida, 32174, applicant on behalf of the property owner, South
8 Village Partners, LLC, 255 Alhambra Circle, Unit 850, Coral Gables Florida,
9 33134, requests approval of the Amended and Restated South Village Planned
10 Unit Development Master Development Agreement. The subject property
11 consists of approximately 1,363 acres, and is generally located south of State
12 Road 44, west of Interstate 95.

13
14 Ms. Henrikson addressed the Board and reviewed staff's findings. She stated that staff
15 recommended approval of the requests.

16
17 James S. Morris, 420 South Nova Road, Daytona Beach, attorney for the property
18 owner, addressed the Board. He discussed the proposed changes in the Master
19 Development Agreement.

20
21 **Mr. Ratliff made a motion to recommend the City Commission approve the**
22 **requested 1st amendment to the South Village PUD Master Development**
23 **Agreement, with the condition that all outstanding comments listed in Exhibit F**
24 **are addressed. Motion was seconded by Mr. Bohannon. Motion passed**
25 **unanimously on a roll call vote, 6-0.**

26
27 **REPORTS AND COMMUNICATIONS BY THE BOARD**

28 Ms. Herwald stated she would not be present at the August 15, 2011, workshop.

29
30 **REPORTS AND COMMUNICATIONS BY THE STAFF**

31 Ms. Henrikson stated that there had been a closing on the hotel property. She stated
32 that the building permit was approved but had not yet been issued.

33
34 **ADJOURNMENT**

35 With there being no further business, the meeting was adjourned at 7:56 p.m.

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME HERWARD, LAURENE	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE P&Z
MAILING ADDRESS 2801 Sunset Trce	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY NSB, FL VOLUSIA	NAME OF POLITICAL SUBDIVISION: CITY NSB
DATE ON WHICH VOTE OCCURRED 8-1-2011	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

- In addition to abstaining from voting in the situations described above, you must disclose the conflict:
- PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*
 - WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, L. LAURENE HERWARD, hereby disclose that on 8-1-2011, 20 :

(a) A measure came or will come before my agency which (check one)

- Inured to my special private gain or loss;
- Inured to the special gain or loss of my business associate, _____;
- Inured to the special gain or loss of my relative, _____;
- Inured to the special gain or loss of _____, by whom I am retained; or
- Inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The Architect representing case V-7-11 had retained my services on behalf of the property owner, specific to the property which was before the Planning & Zoning board for a variance request.

The nature of my business relationship with both the Architect & property owner, was as an Energy Calculations preparer.

8-29-2011

Date Filed


Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

1 The Local Planning Agency/Planning and Zoning Board held a workshop on Monday,
2 August 15, 2011 in the City Commission Chambers, 210 Sams Avenue, New Smyrna
3 Beach, Florida. Chairperson Jason McGuirk called the meeting to order at 6:30 p.m.

4
5 **ROLL CALL**

6
7 The following members answered to roll call:

8 Jessie Clark
9 Ian Ratliff
10 Travous Dever
11 Kenneth Bohannon
12 Jason McGuirk
13 Brooks Casey

14
15 Laurene Herwald was absent.

16
17 Also present were Planning Manager Gail Henrikson; Pat Tyjeski, Littlejohn
18 Engineering, Inc.; Jessica Sheng, Littlejohn Engineering, Inc. and members of the
19 public.

20
21 **DISCUSSION**

22
23 Ms. Henrikson addressed the Board and provided the history of why the City had hired
24 a consultant to prepare a form-based code for the Mainland downtown area. Ms.
25 Henrikson introduced Pat Tyjeski and Jessica Sheng from Littlejohn Engineering, Inc.
26 and stated that Ms. Tyjeski would be presented the draft code to the Board.

27
28 Ms. Tyjeski addressed the Board. She described the study area that was selected by
29 the City. She stated that a small area was chosen by the City initially. She detailed the
30 data collection and analysis that was preformed as part of the study.

31
32 Ms. Tyjeski discussed the three different public workshops that were conducted. The
33 first workshop created a consensus for the various character districts. She described
34 these different character districts or sub-areas. The second workshop covered
35 preferred densities and intensities within the various character districts. The third
36 workshop addressed density and intensity in further detail and various architectural
37 styles.

38
39 Ms. Tyjeski showed the Board several graphics that illustrated the concept of Floor Area
40 Ratio (FAR). She also showed graphics regarding building placement on the lot, bulk
41 and mass requirements, architectural detailing, parking, landscaping and stormwater
42 retention.

43
44 Ms. Tyjeski discussed the upcoming schedule for the remaining steps in the process.
45 She stated that there is one more public meeting, which would be followed by the
46 adoption hearings. She stated that the goal is to adopt the code by the end of the
47 calendar year.

LPA/PLANNING AND ZONING BOARD WORKSHOP
AUGUST 15, 2011
MINUTES

1 Mr. McGuirk opened discussion with the Board.

2
3 Mr. Bohannon stated that he had not yet made up his mind about the form-based code.

4
5 Mr. Ratliff stated that he believed a form-based code was a good thing. He stated that it
6 provided certainty to developers, especially those that were not familiar with City codes.
7 He asked about parking and how this was addressed in the form-based code.

8
9 There was general discussion about recently adopted and proposed changes to the
10 City's parking regulations.

11
12 Mr. Ratliff also discussed the recommendation for a master stormwater plan.

13
14 Mr. Casey stated while he liked the presentation and the concept of buildings fronting
15 on the street, he expressed concern about creating a standard that must be adhered to.
16 He stated that he was concerned that the requirements of the form-based code may be
17 too onerous for the small business owners within the City. He stated that there may be
18 a minimal return for the time and effort spent on this, as the City is unlikely to have a
19 large chain store looking to locate in downtown. He asked whether the consultant was
20 aware of whether a form-based code had spurred development in other cities.

21
22 Ms. Tyjeski stated that other economic development incentives were required to spur
23 development.

24
25 Mr. Casey expressed concerns about how the requirements would affect property
26 owners if their businesses were demolished by more than 50% of the value.

27
28 Ms. Tyjeski explained that there are ways to meet the code requirements to bring the
29 building more into compliance without completing removing and rebuilding the structure.

30
31 There was general discussion about how specific properties on Canal Street might be
32 affected by the form-based code. There was also general discussion about non-
33 conforming structures and how new regulations might generally affect non-conforming
34 properties.

35
36 Mr. Casey asked about the size of the boundaries for the form-based code area and
37 whether this was a typical size. Ms. Tyjeski stated that some form-based codes are
38 citywide.

39
40 There was discussion between Mr. Casey and Ms. Tyjeski as to how the form-based
41 code would be applied to residential structures and whether it was appropriate to apply
42 design standards to residences.

43
44 Mr. Casey asked about permitted uses within the form-based code area. He stated that
45 the felt the proposed list of uses was restrictive. He stated that his understanding was
46 that a form-based code placed more emphasis on how the building fit into the
47 neighborhood and less on what type of use was in the building.

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1 Ms. Henrikson stated that the list of uses was actually intended to be very broad. She
2 stated that rather than trying to list each possible type of non-residential use that would
3 be permitted, general categories such as "retail sales and services" or "personal
4 services" were used. It would then be determined by staff whether a specific type fell
5 within one of those general categories.

6
7 There was more general discussion about types of uses that would be permitted within
8 the form-based code area.

9
10 Mr. Casey asked about the block size requirements and when this might apply.

11
12 There was discussion about the recommended building materials and why cedar
13 shakes were not recommended as a permitted material.

14
15 Mr. Dever stated that he generally agreed with the concerns raised by Mr. Casey.
16 However, he stated that it will be years before the City knows whether a form-based
17 code will help or hinder development. He stated that what the City currently has in
18 place is probably not working.

19
20 There was general discussion about whether the form-based code would streamline the
21 process or place additional regulations on property owners that would hinder
22 development.

23
24 Jessie Clark stated that he liked the concept of a form-based code. He stated that this
25 might provide additional flexibility for developers and help stimulate economic
26 development.

27
28 Mr. McGuirk expressed concerns about how this might impact small local business
29 owners. He stated that he also believed that the City needed some sort of basic design
30 guidelines.

31
32 Mr. Casey introduced James Stowers to the Board.

33
34 James Stowers, 805 Candlewood Circle, Ormond Beach, addressed the Board. Mr.
35 Stowers described his experiences in Ormond Beach with drafting a form-based code.
36 He stated that Ormond Beach's code had only been in place for about eight months,
37 therefore, he could not gauge what impacts, if any, it had had on economic
38 development in the redevelopment area.

39
40 Mr. Stowers discussed the concerns that were raised by the Board regarding non-
41 conforming structures. He stated that Ormond Beach had added a provision that
42 allowed property owners to rebuild in the same footprint or to bring the property entirely
43 up to code if the building were destroyed by an act of god.

44
45 He stated that he was in favor of form-based codes to an extent. However, he said that
46 he personally had concerns about whether Ormond Beach was pricing itself out of the
47 market. He stated that Ormond Beach was not a Winter Park or a Baldwin Park. He

LPA/PLANNING AND ZONING BOARD WORKSHOP
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1 stated that he was concerned that the desired outcome of the form-based code may not
2 be feasible and that the City may end up with no redevelopment over the long-term.

3
4 There was generally discussion about the Ormond Beach code and what experiences
5 the City has had with it.

6
7 Tony Otte, Community Redevelopment Agency Director, addressed the Board. He
8 discussed how the form-based code was intended to decrease the time needed for
9 developers to obtain approvals from the City.

10
11 There was additional discussion about when sites would need to be brought up to code.

12
13 There was general discussion about how to stimulate economic development and how
14 much regulation should be applied to properties.

15
16 Ms. Henrikson informed the Board that the workshop was to present the draft for
17 informational purposes only. She stated that staff anticipated a final version of the code
18 coming back before the Board in October or November for an official recommendation
19 to the City Commission.

20
21 REPORTS AND COMMUNICATIONS BY THE BOARD

22 None.

23
24 REPORTS AND COMMUNICATIONS BY THE STAFF

25 None.

26
27 ADJOURNMENT

28 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 *GH*
Subject: **V-8-11: OCEAN VIEW CONDO / 207 NORTH ATLANTIC AVENUE**
Date: September 12, 2011

Staff had processed the variance request on behalf of the property owners based upon discussions regarding potential development plans. When staff requested a continuance at the August 2011 meeting, the property owners indicated that they would be submitting revised plans to staff. To date, this has not occurred.

Additionally, at the August 9, 2011 City Commission meeting, the Commission directed staff to proceed with the Esther Street Beachfront Park improvements utilizing the existing 15-foot wide Esther Street right-of-way. Therefore, because the City would no longer require an additional nine feet of right-of-way from the Ocean View Condo Association, the special circumstances identified in the staff report are no longer applicable.

Therefore, staff is requesting that this item be withdrawn from consideration.

1 CITY OF NEW SMYRNA BEACH – CITY COMMISSION
2 **A-12-11: OTTER PARK PROPERTIES**
3 **SEPTEMBER 12, 2011**
4

5 **I. Background**
6

- 7 A. **Applicant:** Glenn D. Storch, Esquire, 420 South Nova Road, Daytona
8 Beach, Florida, 32114
9
- 10 B. **Property Owner:** Otter Park Properties, LLC, 38068 Daughtery Road,
11 Zephyrhills, Florida, 33540
12
- 13 C. **Request:** Voluntary annexation , *Comprehensive Plan* amendment, and
14 rezoning
15
- 16 • **From:** County Future Land Use (FLU) designations of Urban Low
17 Intensity and Urban Medium Intensity; and County zoning
18 designations of R-1, Suburban Single-Family Residential and R-4,
19 Urban Single-Family Residential
 - 20 • **To:** City FLU designation of Medium Density Residential; and City
21 zoning designation of R-4, Multi-Family Residential
22
- 23 D. **Site Information:**
- 24 • **Size:** 26.2 acres
 - 25 • **Location:** West side of Otter Boulevard, south of Pioneer Trail
26 and north of State Road 44
 - 27 • **Tax I.D. Numbers:** 7314-00-00-0320 and 7343-06-00-0060
28

29 **II. Findings**
30

- 31 A. The subject property is an approximately twenty-six-acre vacant site,
32 consisting of two parcels. No improvements are proposed on the property
33 at this time. A copy of the survey for the subject property is attached as
34 **Exhibit B**. The property currently has Volusia County Future Land Use
35 (FLU) designations of Urban Low Intensity (0.2 to 4.0 dwelling units per
36 acre) and Urban Medium Intensity (4.0 to 8.0 dwelling units per acre).
37 The property is currently zoned Volusia County R-1, Suburban Single-
38 Family Residential and Volusia County R-4, Urban Single-Family
39 Residential. The surrounding future land use, existing uses, and zoning
40 are as follows:

41 **North**

- 42 Future Land Use: County Urban Low Intensity and County Rural
43 Existing Land Use: Utilities Commission Corridor
44 Zoning: County R-4, Single-Family Residential and County A-
45 3, Transitional Agriculture
46
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South

Future Land Use: County Urban Medium Intensity
Existing Land Use: Vacant
Zoning: City PUD, Planned Unit Development

East

Future Land Use: County Urban Low Intensity and County Urban
Medium Intensity
Existing Land Use: Single-Family Residential and vacant
Zoning: County RR, Rural Residential and County R-4,
Single-Family Residential

West

Future Land Use: County Urban Medium Intensity and County Rural
Existing Land Use: Agricultural
Zoning: County R-1, Suburban Single-Family Residential and
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 designations are Urban Low Intensity and Urban Medium Intensity. The existing County zoning designations are R-1, Suburban Single-Family Residential and R-4, Urban Single-Family Residential. Given the properties location as a transitional area between higher intensity non-residential uses to the south and west and lower density residential uses to the north and east, staff is recommending that a designation of Medium Density Residential be applied to the entire subject property. 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, east of the subject properties. Additionally, a 12-inch PVC water line is stubbed out in the Colony Park Road right-of-way, south of the subject properties. A 6-inch PVC sanitary sewer force main is located immediately west of the subject properties. An 8-inch PVC sewer line is also located within the Colony Park Road right-of-way.

95 D. The subject properties are bisected by the 80-foot wide deeded, but
96 unopened, Colony Park Road right-of-way. Both the traffic signal at State
97 Road 44 and Colony Park Road and the existing portion of Colony Park
98 Road were installed when the Home Depot was constructed. Additionally,
99 the properties owners deeded and sold the remaining right-of-way for the
100 Colony Park Road extension to Volusia County. As a result, Colony Park
101 Road will, in the future, connect to Pioneer Trail via Otter Boulevard.
102

103 The Colony Park East PUD (south of the subject properties) includes
104 language that would require the developer to contribute \$50,000 towards
105 the design of the Colony Park Road extension. The Volusia County long-
106 range transportation plan currently shows Colony Park Road being
107 extended to Pioneer Trail sometime between 2025-2030. Extending this
108 road sooner than 2025 would potentially reduce traffic impacts on State
109 Road 44. The extension would allow residents on the north side of the
110 City to be able to use Pioneer Trail as an alternate route to State Road 44
111 in order to shop at the Home Depot or any new businesses on the
112 proposed PUD. At this time, it has not yet been determined whether the
113 City or the developer would be responsible for construction of the roadway
114 extension and when construction of the extension would occur.
115

116 E. The *Land Development Regulations* requires any proposed development
117 to conform to the Concurrency Management System. That system
118 includes traffic, parks and recreation, potable water, wastewater
119 treatment, solid waste collection, stormwater management, and public
120 school facilities. A table detailing the potential concurrency impacts under
121 the existing and proposed Future Land Use designations is attached as
122 **Exhibit L**. No infrastructure deficiencies were projected as a result of the
123 proposed future land use amendment.
124

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

129 G. The *Comprehensive Plan* provides some guidance on annexations, future
130 land use amendments, and rezonings. The following is a list of objectives
131 in the *Comprehensive Plan* that support this proposal. Following each
132 objective is a comment in **bold**.
133

- 134
- 135 • **Future Land Use Element Objective 1:** To ensure that future
136 development will be consistent with adjacent uses, natural
137 limitations such as topography and soil conditions, the needs of the
138 citizens of New Smyrna Beach, the Future Land Use Map, the
139 availability of facilities and services, and the goals, objectives and
140 policies contained within this *Comprehensive Plan*.
141

142 The requested FLU designation for the subject property is
143 consistent with proposed adjacent uses, natural limitations,
144 and the availability of facilities and services. Therefore, it is
145 consistent with the Comprehensive Plan. The subject property
146 is positioned to act as a transition area between higher
147 intensity non-residential land uses to the south and west and
148 lower density residential land uses to the north and east. The
149 proposed zoning would allow for a mix of single-family, duplex
150 and multi-family residential units at a maximum density of
151 eight units per acre.

- 152
- 153 • **Future Land Use Element Objective 2:** To provide adequate
154 services and facilities for future development, at the adopted level-
155 of-service standard. In order to maintain the adopted level-of-
156 service standard, development orders and permits will be
157 conditioned on the availability of the public facilities and services
158 necessary to serve the proposed development.
- 159

160 The proposed future land use amendment will result in a
161 theoretical decrease of vehicular trips and student generation.
162 In order for the property to be developed, water and sewer
163 service would need to be extended to serve the property.
164 Currently, water and sewer lines are located within the
165 improved portion of the Colony Park Road right-of-way,
166 immediately east of Home Depot. No concurrency failures are
167 projected as a result of the proposed land use amendment.

- 168
- 169 • **Future Land Use Element Objective 10:** To protect existing
170 desirable neighborhoods from encroaching new development which
171 is incompatible and inconsistent with established character of the
172 neighborhood.
- 173

174 The subject property is positioned to act as a transition area
175 between higher intensity non-residential land uses to the
176 south and west and lower density residential land uses to the
177 north and east. The proposed zoning would allow for a mix of
178 single-family, duplex and multi-family residential units at a
179 maximum density of eight units per acre.

180

181

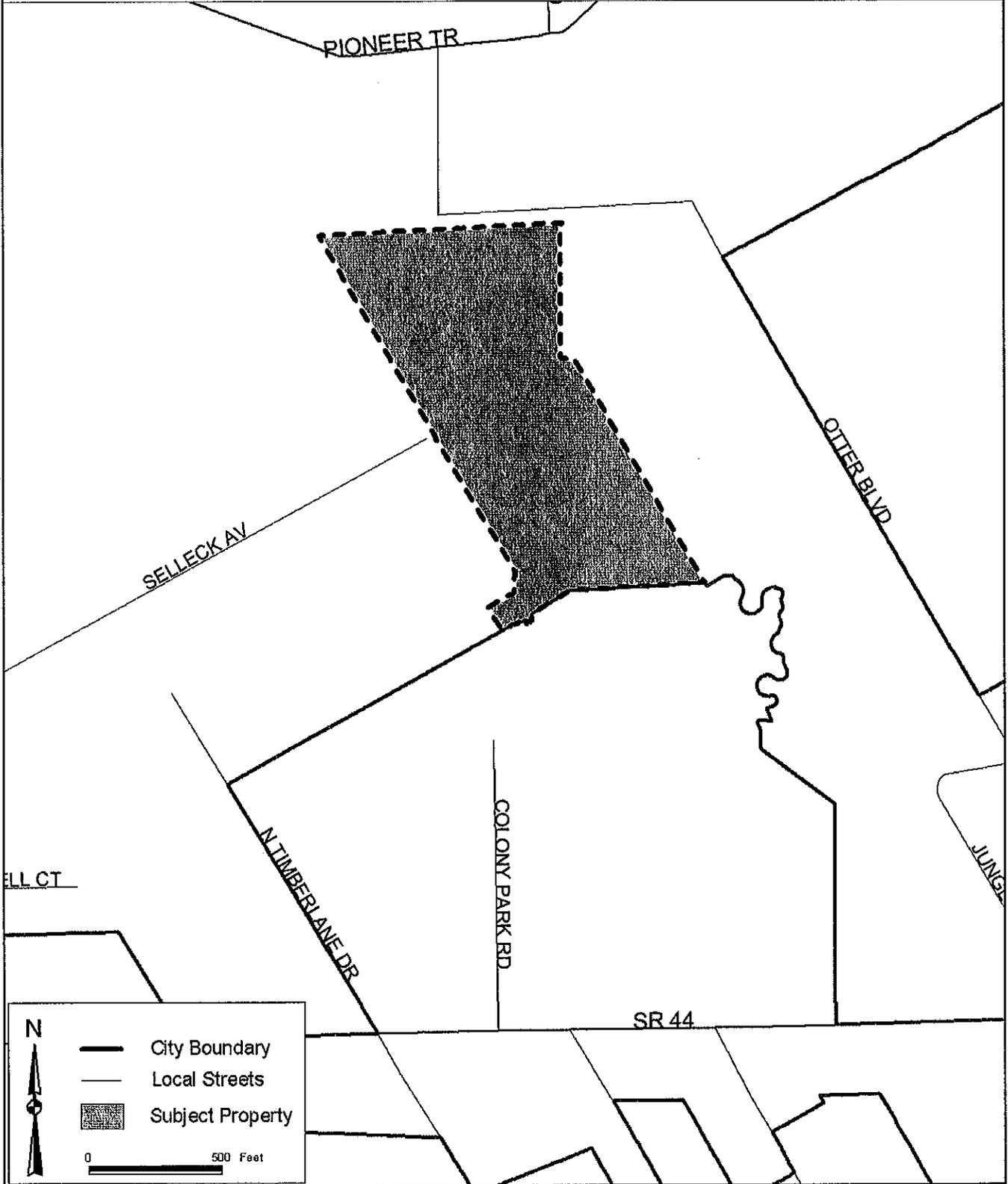
182 **III. Recommendation**

183

184 Staff recommends that the Planning and Zoning Board recommend the City
185 Commission **approve** the annexation, *Comprehensive Plan* amendment to City
186 Medium Density Residential, and the rezoning to City zoning district designation
187 R-4, Multi-Family Residential.

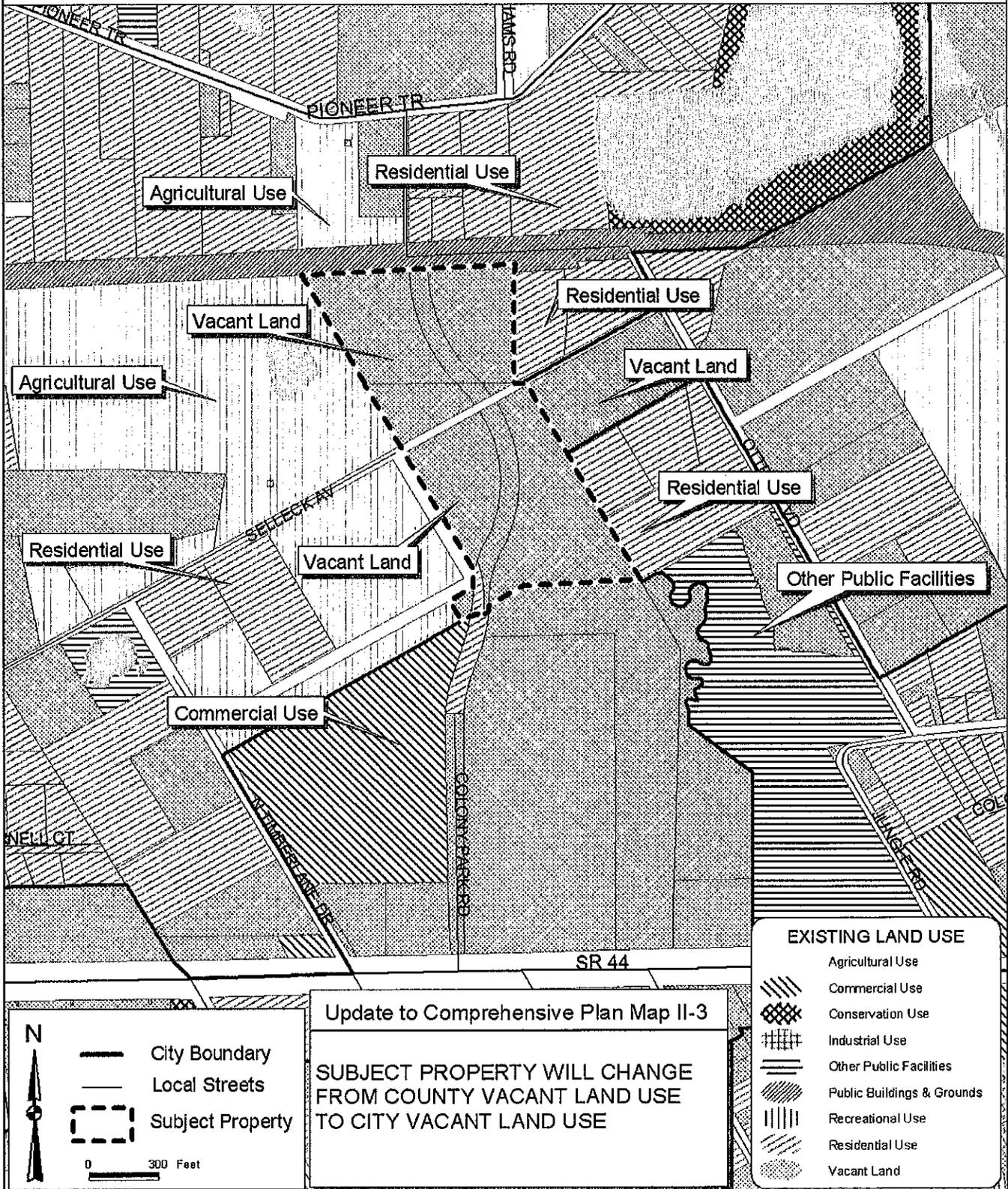
Location Map

A-12-11



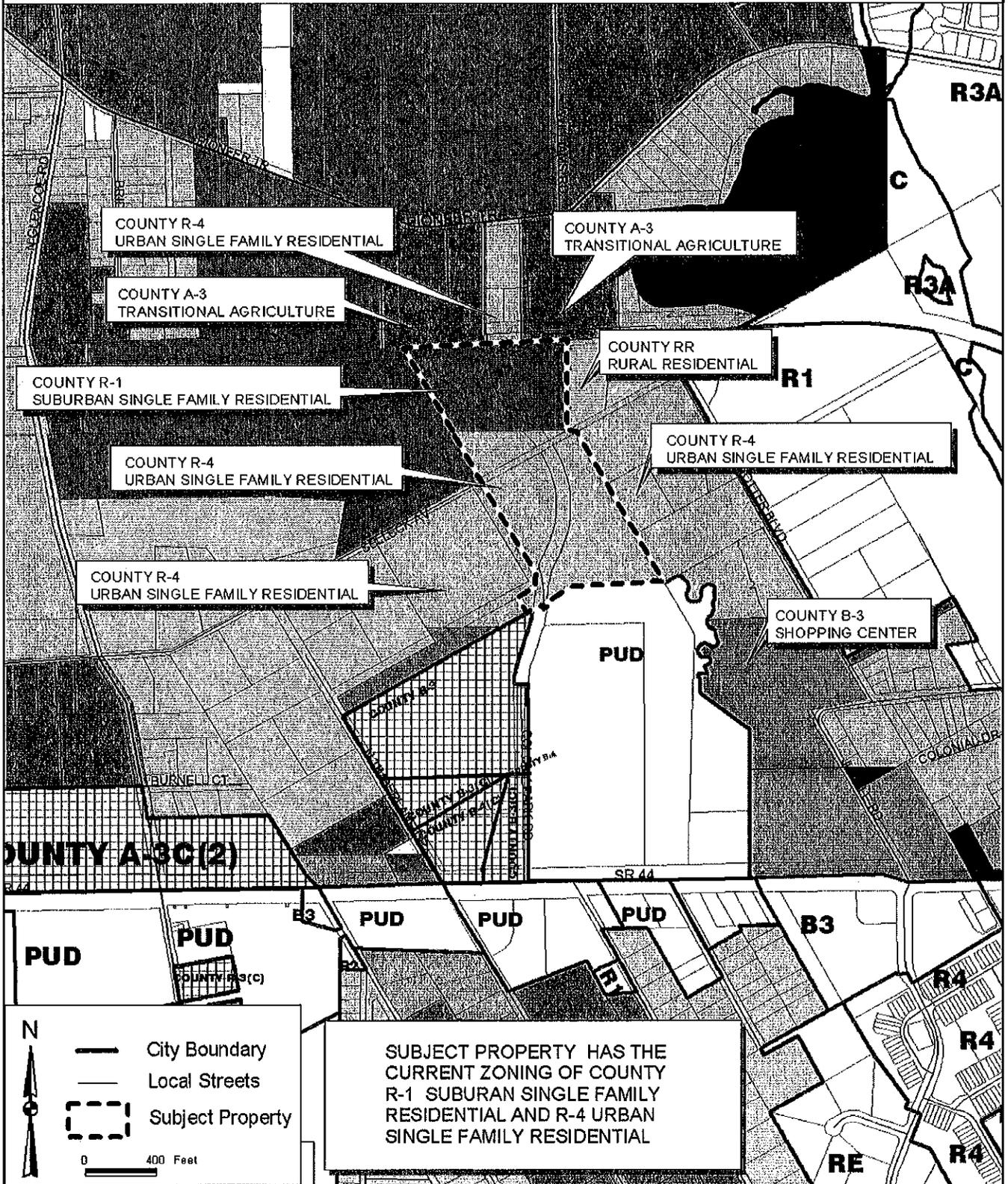
Existing Land Use Designations

A-12-11



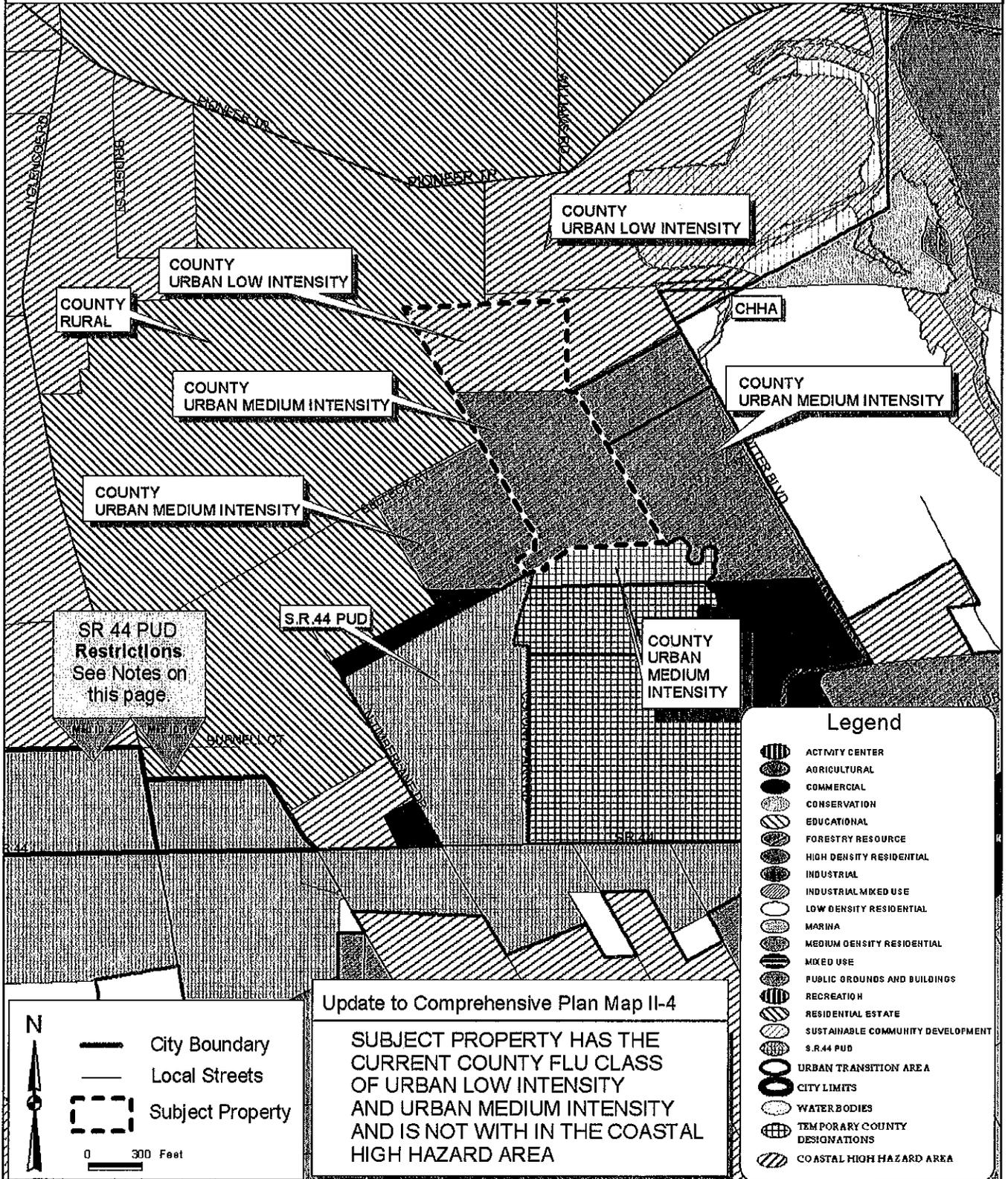
Existing Zoning

A-12-11



Existing Future Land Use Designations

A-12-11



R-1 URBAN SINGLE-FAMILY RESIDENTIAL CLASSIFICATION

Purpose and intent: The purpose and intent of the R-1 Urban Single-Family Residential Classification is to provide low-density residential developments, preserving the character of existing or proposed residential neighborhoods.

Permitted principal uses and structures: In the R-1 Urban Single-Family Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Cluster and zero lot line subdivisions (refer to section 72-304).
- Communication towers not exceeding 70 feet in height above ground level.
- Essential utility services.
- Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.
- Exempt landfills (refer to subsection 72-293(16)).
- Fire stations.
- Home occupations, class A (refer to section 72-283).
- Houses of worship.
- Parks and recreation 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 permitted principal uses.
- 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: 20,000 square feet.
- Width: 100 feet.

Minimum yard size:

- Front yard: 30 feet.

Rear yard: 20 feet.

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

Waterfront yard: 25 feet.

Maximum building height: 35 feet.

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

Minimum floor area: 1,500 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.

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)).

EXHIBIT F (CONT'D)

- 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.

Volusia County 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 ($\frac{1}{4}$) mile of another jurisdiction shall require notification to that jurisdiction.

Volusia County Urban Medium Intensity (UMI)

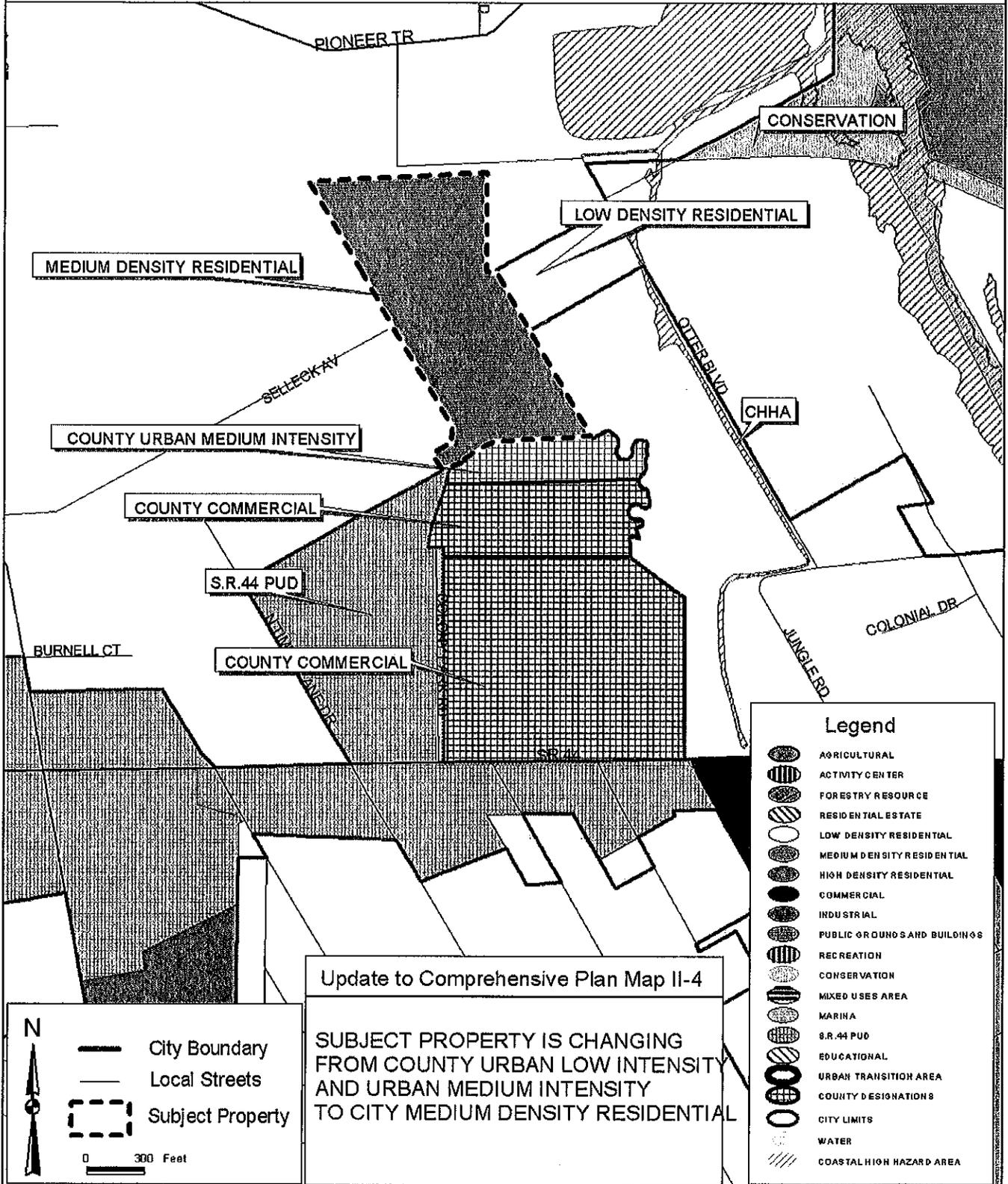
Urban Medium Intensity (UMI) - Areas that contain residential development at a range of greater than four (4) to eight (8) dwelling units per acre. The types of housing typically found in areas designated urban medium intensity include single family homes, townhouses and low-rise apartments.

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 ($\frac{1}{4}$) mile of another jurisdiction shall require notification to that jurisdiction.

Proposed Future Land Use Designations

A-12-11

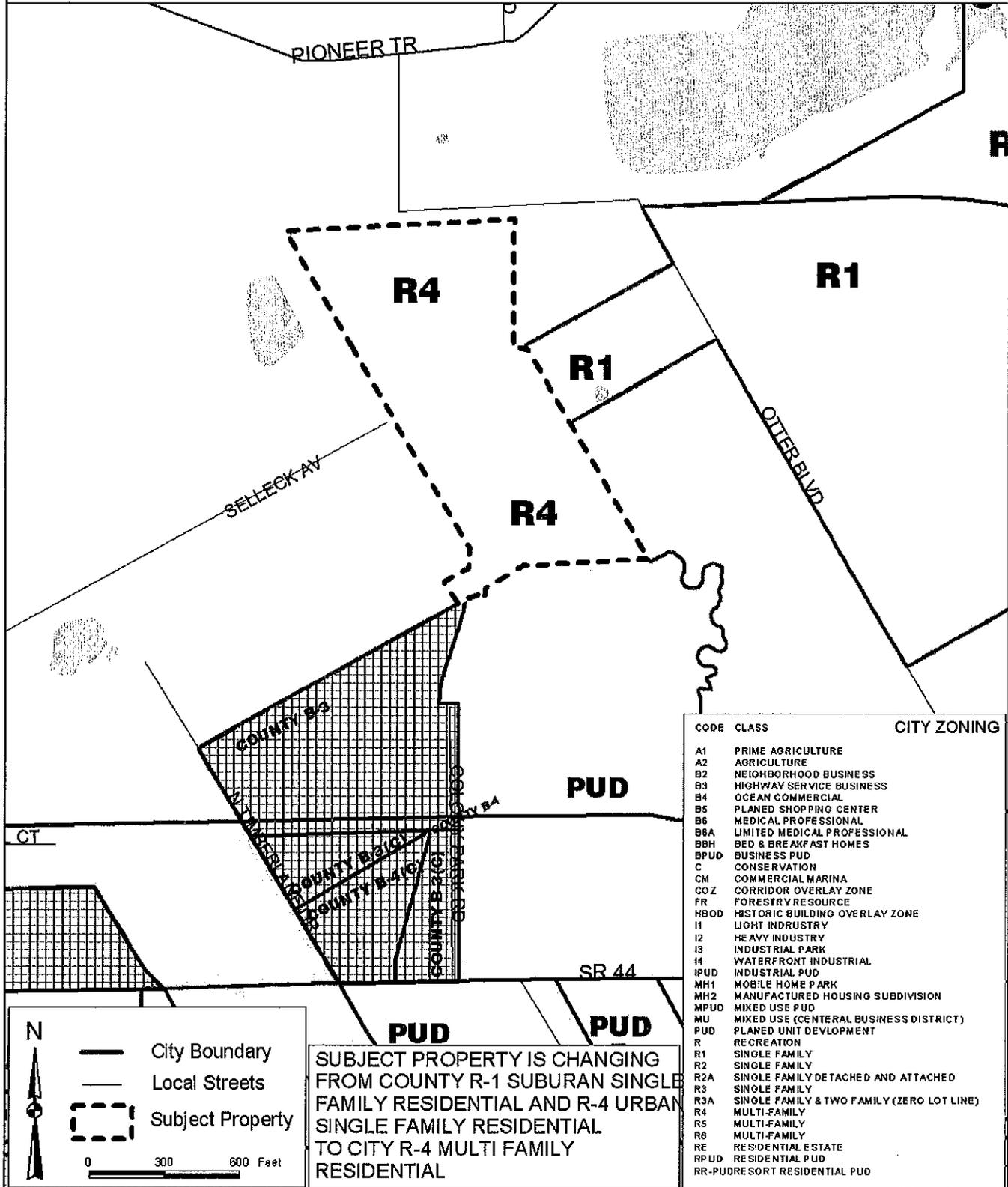


Update to Comprehensive Plan Map II-4

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

Proposed Zoning

A-12-11



MEDIUM-DENSITY RESIDENTIAL

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

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

1 R-4 MULTI-FAMILY RESIDENTIAL DISTRICT

2
3 Intent:

4 The R-4 district is a high density multiple-family residential district that permits
5 mixed housing and encourages new development concepts. It is appropriate for
6 developing large and small land parcels and as a buffer between single family
7 and business districts. Building height limitations are imposed to preserve lower
8 building profiles in outlying residential areas.
9

10 Permitted Uses:

11 Playfields
12 Playgrounds
13 Public Parks
14 Recreation Buildings and Complexes for residents and guests in a residential
15 development
16 Single Family Dwellings detached and attached
17 Duplex and Multi-Family Dwellings including townhouses, apartments and
18 condominiums
19
20

21 Permitted Accessory Uses:

22 Attached Dwelling
23 Garages
24 Gazebos
25 Incidental Uses
26 On-Site Rental or Manager's Office for Community Association Members'
27 Properties. "Community Association" means a residential homeowners
28 association in which membership is a condition of ownership of a unit in a
29 Planned Unit Development, or of a lot for a home or mobile home, or of a
30 townhouse, villa, condominium, cooperative, or other residential unit which
31 is part of a residential development scheme and which is authorized to
32 impose a fee which may become a lien on the parcel. The following
33 limitations shall be placed on the aforesaid rental or manager's office:
34 (1) said rental or manager's office may not be used in any way to promote
35 the rental of or conduct transactions for the rental of Non-Community
36 Association Members' Properties; (2) the aforesaid rental or manager's
37 office may only be used to rent or manage Community Association
38 Members' Properties that are located on the same site that the rental or
39 manager's office is located; (3) said rental or manager's office staffing be
40 limited to two (2) persons either working full or part time to handle rental
41 of Association Members' Properties and one (1) person working full or
42 part time to act as clerical assistant; (4) said rental or manager's office
43 shall be allowed to erect a sign to comply with Section 475.22, Fla. Stat.
44 (1989). (Ord. 8-91)
45
46

47 On-Site Temporary Sales and Brokerage Offices and Display Models for
48 residential dwelling units that are newly constructed, that have never been
49 occupied for residential purposes, and have never been sold.

50 On-Site Temporary Sales and Brokerage Structures to be used as a sales office
51 for dwelling units planned to be constructed or under construction.

52 The following limitations and regulations shall be placed on the
53 aforescribed On-Site Sales and Brokerage Offices and
54 Temporary Sales and Brokerage Structures:

55 (1) Said Sales and Brokerage Offices shall only be used to
56 promote the sales of newly constructed dwelling units (to wit:
57 units that have never previously been occupied for
58 residential purposes or never sold by the developer) and
59 part of an approved site plan located on the same site as the
60 office; and

61 (2) said Sales and Brokerage Offices shall only be used to
62 sell residential dwelling units located on the same site as the
63 sales office; and

64 (3) said Sales and Brokerage Offices shall only have ONE
65 sign not to exceed TEN (10) square feet in area in addition
66 to the allowable signs indicated in Section 604.14 of this
67 LDR; and

68 (4) said Sales and Brokerage Offices shall be allowed within
69 a development upon issuance of a Certificate of Occupancy
70 for the offices by the Development Division Director or
71 his/her designee and said sales office must be removed
72 from the site upon the issuance of a Certificate of
73 Occupancy for the last building to be constructed within a
74 development; and

75 (5) the following additional limitations and regulations shall
76 be placed on the aforescribed On-site Temporary Sales
77 and Brokerage Structures:

78 (a) said Sales and Brokerage Structures shall have a
79 minimum floor area of THREE HUNDRED (300) square feet
80 and shall not have been formerly a travel trailer, camper,
81 recreational vehicle or tractor trailer-trailer; and

82 (b) the perimeter of the area between the ground and floor
83 level of the Sales and Brokerage Structures shall be
84 enclosed with ornamental skirting; and

85 (c) said Sales and Brokerage Structures must be located on
86 the site such that it meets the minimum setback
87 requirements; and

88 (d) a minimum of THREE (3) parking spaces must be
89 provided for the Sales and Brokerage Structures or the
90 minimum number of parking spaces required for an office,
91 whichever is greater. Said parking spaces and access aisle
92 must meet the requirements of Section 604.10 within this
93 LDR except an alternate surfacing agent, such as shell or
94 mulch, may be used; and

95

96 (e) a minimum TEN foot (10') wide and SIX foot (6') high
 97 natural vegetative buffer shall be maintained along the front,
 98 side and rear of the Sales and Brokerage Structure, parking
 99 area and any accessory structures. Should no buffer exist,
 100 a TEN foot (10') wide buffer, meeting the requirements of
 101 Section 604.05 E. (1) must be planted along the front, sides
 102 and rear of the Sales and Brokerage Structure, parking area
 103 and accessory structures. Buffer areas are not required to
 104 be irrigated with an underground automatic system but must
 105 be regularly irrigated to maintain the vegetation; and
 106 (f) no Sales and Brokerage Structure shall be allowed on a
 107 site until all permits as required by all Federal, State, and
 108 County agencies have been secured; and the site plan for
 109 the proposed permanent use has been approved; and a
 110 Class I Site Plan has been approved for the use of a
 111 temporary sales and brokerage structure; (Ord. 74-91) and
 112 (g) said Sales and Brokerage Structures shall not remain on
 113 a site longer than ONE (1) year from the date a Certificate of
 114 Occupancy is issued for said sales office or until a
 115 Certificate of Occupancy is issued for the first building within
 116 the development, whichever comes first. Upon removal of
 117 the Sales and Brokerage Structure, the developer may
 118 maintain an On-Site Temporary Sales and Brokerage Office
 119 within the dwelling unit(s). (Ord. 58-91)

120 Permitted Home Occupations

121 Storage Sheds

122 Swimming pools, private, provided a principal structure exists and the pool is
 123 located behind the front plane of the principal structure. Corner lots will
 124 be considered to have two front planes, one on each street. If a structure
 125 is not constructed squarely on a parcel, the swimming pool must be
 126 located at or behind the most restrictive front plane of the principal
 127 structure. **Ord. # 30-10**

128 Uses customarily associated with the permitted principal uses

129 [Revised 4/9/02]

130
131 Special Exceptions:

132
133 Special exception uses shall be located at least twenty-five (25) feet from all property
134 lines, and off-street parking areas abutting residential property, shall be screened by a
135 buffer meeting the requirements of this LDR.

136
137 Adult Congregate Living Facilities

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

- 139 1. The church property shall be located on and be accessible by an arterial
140 or collector roadway.
- 141 2. Play areas shall be fenced and landscaped. The landscaping shall have a
142 vegetative hedge that will reach six feet in height within two years that is
143 planted a minimum of three feet on center.
144
145

- 146
- 147 3. Play areas shall be located within all applicable setback dimensions.
- 148
- 149 4. The church property shall have a vehicular drop off and pickup area with a
- 150 minimum 100 feet of drive lane outside of the public right-of-way, or
- 151 sufficient parking area to provide enough space to fit the required parking
- 152 and provided space for drop off and pick up. [Ord. No. 4-00]
- 153

154 [Revised 3/27/00]

- 155
- 156 Churches
- 157 Day Care Centers subject to compliance with Florida Administrative Code Child
- 158 Care Standards and any amendments adopted thereto
- 159 Facilities owned and/or operated by federal, state, county, or municipal
- 160 government, except country clubs and golf courses
- 161 Nursing Homes
- 162 Public and Private Schools
- 163 Semi-Public and Public Clubs including halls and lodges
- 164

165 Dimensional Requirements:

166

167 Single-Family Dwellings Detached and Duplexes

168

169 Minimum Lot Size:

170

171 Single-Family Dwellings Detached

172		
173	Area	5000 square feet
174	Depth	100 feet
175	Width	50 feet

176

177 Duplex

178		
179	Area	7500 square feet
180	Depth	100 feet
181	Width	75 feet

182

183 Minimum Yard Size:

184		
185	Front yard	20 feet or as required per Section 504.01(M) of this LDR
186	Rear yard	7.5 feet
187	Side yard	7.5 feet

188

189 Corner Lots:

- 190
- 191 (1) Parcels which front on two streets shall provide a 20 foot front yard on the street
- 192 frontage with driveway access and a 10 foot front yard on the other street, or as
- 193 required per Section 504.01(M) of this LDR.
- 194

195 (2) Parcels fronting on three streets shall provide a 20 foot front yard on the street
196 frontage with driveway access and a 10 foot front yard on the remaining streets,
197 or as required per Section 504.01(M) of this LDR.
198

199 Minimum Floor Area:

200
201 600 square feet of livable area for one and two-bedroom dwelling units; 1200
202 square feet of livable area for a three-bedroom dwelling unit; and 1300 square
203 feet of livable area for a four-bedroom dwelling unit. [Revised 7/1/03]
204

205 Maximum Principal Building Height:

206
207 Three (3) stories.
208 Maximum height - 35 feet.
209

210 Maximum Building Coverage:

211
212 The total area covered with buildings on any lot shall not exceed 40% of the total
213 lot area. (Ord. 78-98)
214

215 Screen Enclosures:

216
217 As an exception to the maximum building coverage provision any parcel may be
218 allowed an additional ten percent (10%) building coverage for only a screen pool
219 enclosure if the following conditions are met:
220

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

227 **Ord. #05-09**

228 Maximum Impervious Lot Coverage:

229
230 The total area of the lot that may be covered with impervious material is sixty
231 percent (60%).
232

233 Multi-Family Dwellings:

234
235 Minimum Project Site Dimensions

236		
237	Width	100 feet
238	Depth	100 feet
239		

240 Maximum Dwelling Unit Density for All Dwelling Units:

241
242 Twelve (12) dwelling units per acre beachside and eighteen (18) units per acre
243 mainland. No less than 3,630 square feet of lot area for each Beach-side
244 dwelling unit and 2,420 square feet of lot area for each mainland dwelling unit.

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Minimum Building Separation:

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

Streets

Public and private streets shall be constructed in accordance with City Subdivision Regulations and design standards.

[Revised 1/28/99]

Minimum Yard Requirements:

Front	20 feet, plus 1.5 feet for each 5 feet over 30 feet in building height, or as required per Section 504.01(M) of this LDR
Rear	20 feet, plus 1.5 feet for each 5 feet for over 30 feet in building height
Side	(1) For projects with 6 or fewer units, the minimum side setback shall be 10 feet on each side, plus 1.5 feet for each 5 feet over 30 feet in building height; (2) For projects with more than 6 units but fewer than 12, the minimum side setback shall be 15 feet on each side, plus 1.5 feet for each 5 feet over 30 feet in building height; and (3) For projects with 12 or more units, the minimum side setback shall be 20 feet on each side, plus 1.5 feet for each 5 feet over 30 feet in building height. (Ord. 41-96)
Waterfront	20 feet on river or canal measured from bulkhead or mean high water line
Any Yard in or as Project Over 10 Acres	25 feet plus 1.5 feet for each 5 feet over 30 feet in building height required per Section 504.01(M) of this LDR.

Minimum Requirements for Townhouses and Townhouse Lots:

1. All lots shall be adjacent to a public right-of-way or common area.
2. Lots shall have a minimum width of 20 feet where a living unit is to be located.

- 295
- 296 3. Lot frontage along a right-of-way or common area shall be a minimum of
- 297 10 feet.
- 298 4. Front setback shall be 20 feet or as required per Section 504.01(M) of this
- 299 LDR.
- 300
- 301 5. Side setbacks shall be 0 feet.
- 302
- 303 6. Rear setbacks shall be 20 feet except if there is a landscaped common
- 304 area behind the townhome and there is a minimum distance of 20 feet
- 305 from the project boundary line and the dwelling unit or accessory
- 306 structures.
- 307

308 [Revised 2/28/97]

309
310 Minimum Floor Area for All Dwelling Units Subject to Multi- Family Development
311 Requirements:

312
313 Single family dwellings detached

314
315 600 square feet of liveable area.

316
317 Duplexes (combined units)

318
319 1100 square feet of liveable area.

320
321 Townhouses, Apartments, and Condominiums

322
323 450 square feet of liveable area for a one (1) bedroom unit;
324 550 square feet of liveable area for a two (2) bedroom unit; and
325 700 square feet of liveable area for a three (3) bedroom unit.

326
327 Maximum Building Length and Width:

328
329 Building facades parallel to the street upon which the building fronts, or parallel to the
330 oceanfront, shall not exceed 150 feet in length. No building constructed after the
331 effective date of this LDR shall have a dimension that exceeds 200 feet.

332
333 Maximum Principal Building Height:

334
335 Single-Family Dwellings Detached and Attached and Duplexes:

336
337 Three (3) stories.
338 Maximum height - 35 feet.

339
340 Multi-Family Dwellings:

341
342 Four (4) stories.
343 Maximum height - 45 feet.

344

345 Maximum Lot Coverage by All Buildings:

346

347 The coverage of a lot or total project by all principal and accessory buildings
348 shall not exceed thirty-five (35) percent.

349

350 Maximum Impervious Lot Coverage:

351

352 The total area of the property that may be covered with impervious material is 60
353 percent (60%).

354

355 Through Lots:

356

357 Through lots shall provide a 20 foot front yard on each street or as required per
358 Section 504.01(M) of this LDR.

359

360 Atypical Lots:

361

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

368

369 Building Projections:

370

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

374

375 Off-Street Parking:

376

377 Multi-family projects which include different zoning districts, and where the
378 multi-family portion of the development constitutes the principal use of the
379 over-all project, may utilize property in the non-multi-family zoning district for
380 accessory major recreational equipment parking, as long as such property is
381 located within the project boundaries.

382

383 The parking shall be developed in accordance with all applicable requirements of
384 the Land Development Regulations.

385

386 Covered Off-Street Garage Parking:

387

388 Covered off-street garage parking may be provided either within or outside of the
389 principal building(s). If the entire first story of the principal building(s) is used
390 only for covered off-street garage parking, the principal building(s) may be four
391 (4) stories, but shall not exceed a maximum building height of forty-five (45) feet.

392

393 If covered off-street garage parking is provided outside the outer walls of the
394 principal building(s), it may be considered open landscaped area if it has a

395 landscaped periphery and the roof is used for recreation purposes. Covered
396 off-street garage parking located outside the principal building(s) and considered
397 open landscaped area, is not included in the maximum percentage lot coverage
398 calculation for solid roofed areas. Landscaping shall be provided as required in
399 this LDR.

400
401 Visibility at Intersections:

402
403 Visibility at intersections shall be provided as required in this LDR.

404
405 Buffers for Multi-Family Development:

406
407 Landscaped or natural vegetative buffers shall be provided as indicated in
408 Section 604.05 and as follows:

- 409
- 410 (1) along front, rear, and side lot lines where off-street parking areas are located,
411 the buffer shall be a minimum of seven (7) feet wide; and
- 412
- 413 (2) adjacent to or facing a single-family residential district or use, the buffer shall
414 be a minimum of 20 feet wide from the property line.
- 415

416 Landscaping:

417
418 A landscape plan is required as described in this LDR.

419
420 Deed Covenants:

421
422 The developer shall supply in writing all covenants and restrictions that will
423 govern the maintenance of the common open space and other aspects of the
424 project that are necessary for welfare of the project and consistent with the best
425 interest of New Smyrna Beach. Such legal instruments shall be submitted with
426 the site plan and approved by the City Legal Department prior to the issuance of
427 a building permit by the Chief Building Official.

428
429 Use of Recreational Amenities and/or Commonly-Owned Facilities Incidental to
430 Commercial and Residential Living Accommodations:

431
432 Use of all recreational amenities and/or commonly-owned facilities by the owner,
433 the owner's guests, leases, or invitees, shall be limited to that period of time
434 concurrent with the owner's exclusive right of use, possession and occupancy of
435 the residential unit.

436
437 It shall be unlawful for any person to represent by contract for purchase,
438 promotional material, advertising or any other public statement, that amenities
439 and/or commonly-owned facilities may be used contrary to the requirements of
440 the New Smyrna Beach Land Development Regulations.

441 This subsection does not prohibit the establishment of permitted accessory uses
442 at commonly-owned facilities if such uses are in compliance with all the other
443 requisites required by the New Smyrna Beach Land Development Regulations.

444

IMPACT ANALYSIS (CONT'D)

Parks and Recreation		Existing Requirements (County)		Proposed Requirements (City)					Under / (Deficiency) ⁵	
Facility Type	Adopted Level of Service Standard	Total Required for Population of Subject Property	Facility Type	Adopted Level of Service Standard	Total Required for Proposed Annexation	Additional Required for Proposed FLU Population	Total Required after Annexation	Existing	Under / (Deficiency) ⁵	
Local Park	0.002 acres per person	0.7240	Beach Access	acres per resident -	0.00025	5.667	0.11175	5,77875	227.19	221.41
District Park	0.005 acres per person	1.8100	Urban Open Space	acres per resident -	0.001	22.668	0.447	23.115	33.167	10.05
			Equipped Play Areas	acres per resident -	0.0002	4.623	0.0894	4.712	12.503	7.88
			Neighborhood Parks	acres per resident -	0.0004	9.0872	0.1788	9.246	29.156	19.91
			Community Parks	acres per resident -	0.001	22.668	0.447	23.115	75.964	52.55
			Regional Parks	acres per resident -	0.02	453.36	8.94	462.3	60314.47	59852.17
			Urban District Parks	acres per resident -	0.005	113.34	2.235	115.575	770.706	655.13
			Baseball/Soccer Fields	acres per resident -	0.0001	2.2668	0.0447	2.3115	9	6.69
			Basketball Courts	fields per resident -	0.00005	1.1334	0.02235	1.15575	10	8.84
			Bicycle Trails	courts per resident -	0.0001	2.2668	0.0447	2.3115	46.584	44.27
			Boat Ramps	miles per resident -	0.00008	1.81344	0.03576	1.8492	8	6.15
			Piers/Catwalks/Jetties	ramps per resident -	0.032	725.376	14.304	739.68	4074	3334.32
			Football/Soccer Fields	lineal feet per resident -	0.00004	0.90672	0.01788	0.9246	7	6.08
			Handball/Racquetball Cts.	fields per resident -	0.00005	1.1334	0.02235	1.15575	5	3.84
			Shuffleboard Courts	courts per resident -	0.00008	1.81344	0.03576	1.8492	37	35.15
			Tennis Courts	courts per resident -	0.0001	2.2668	0.0447	2.3115	9	6.69

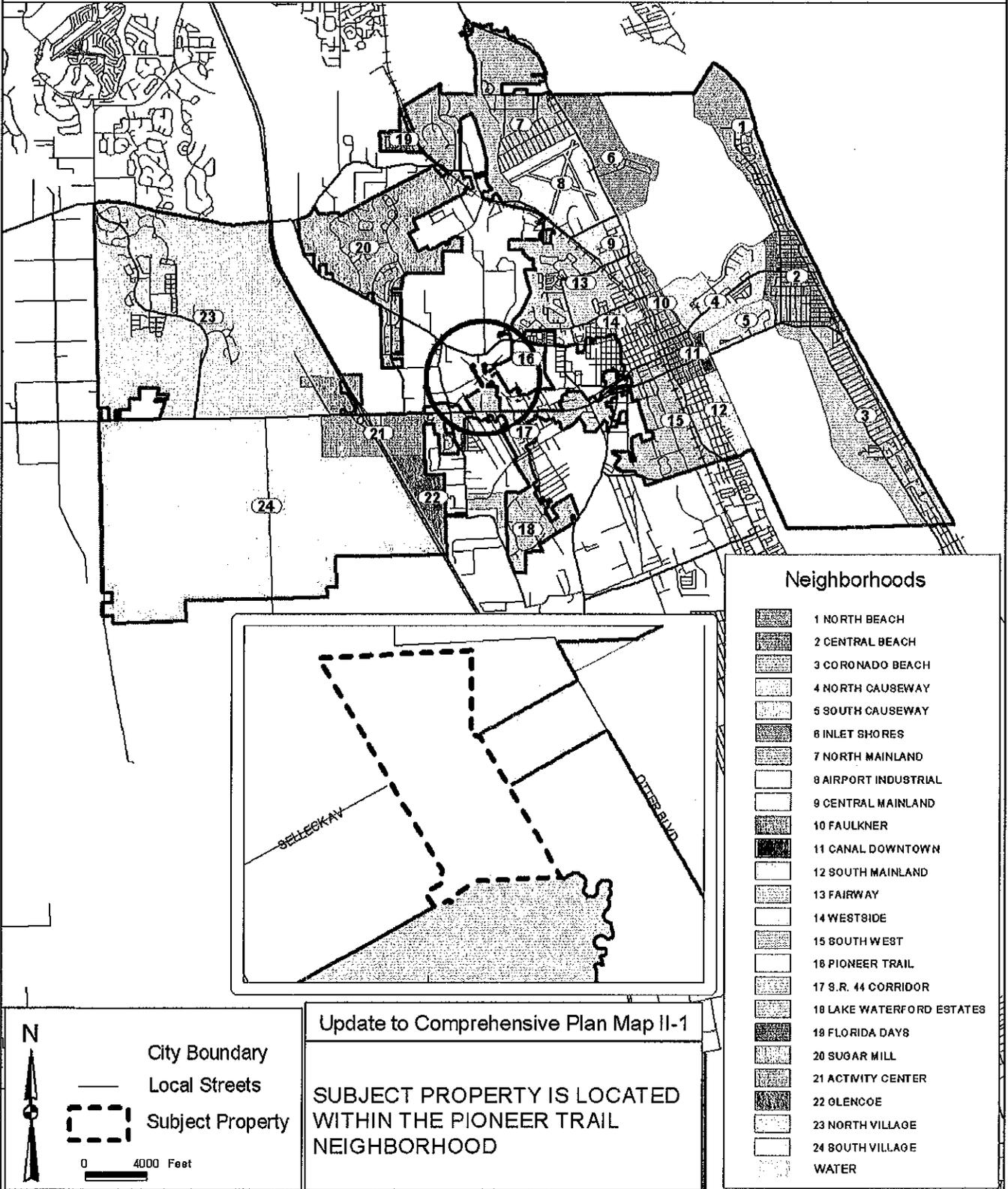
Existing FLU		Proposed FLU		Remaining Capacity (GPD)	
Residential	Non-Residential	Medium Density Residential	Existing Average Daily Flow (Million GPD)	Total Average Daily Flow after Annexation	n/a ^{3a}
31,040.00	15,000.00	44,505.60	4.60	4,644,505.60	2,485,494.40
27,160.00	15,000.00	38,386.08	4.09	4,128,386.08	2,871,613.92
3,113.20	n/a	3,263.10	n/a ^{3a}	n/a ^{3a}	n/a ^{3a}
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:

- Volusia County Comprehensive Plan, Chapter 20, calls neighborhood commercial development at a maximum of 50,000 SF.
- Population: 2.4 persons per residential unit or high-density dwelling per 2008-2008 American Community Survey for Volusia County.
- Student population is calculated at a rate of 0.0001 students per single-family dwelling unit.
- Source: County of Volusia, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 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2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2744, 2745, 2746, 2747, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2755, 2756, 2757, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 2765, 2766, 2767, 2768, 2769, 2770, 2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789, 2790, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 2832, 2833, 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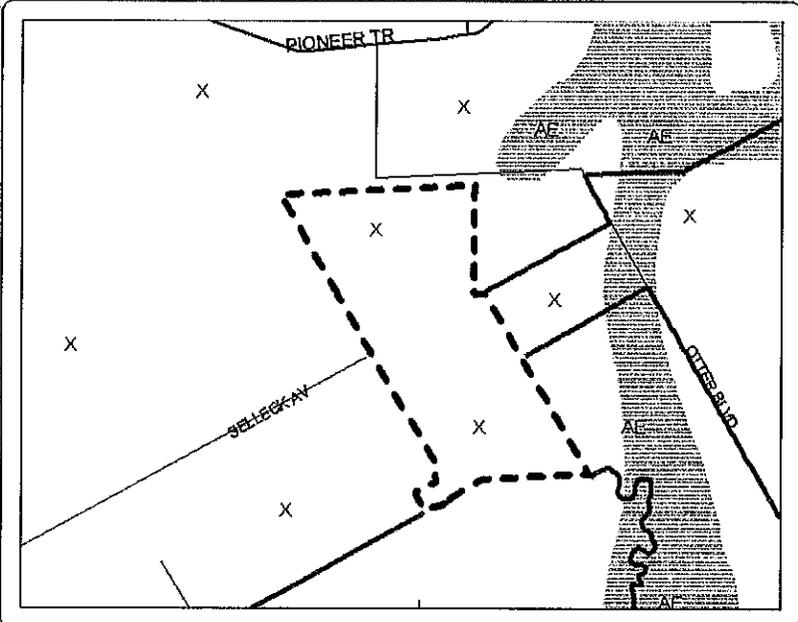
Neighborhoods

A-12-11



Flood Prone Areas

A-12-11



Update to Comprehensive Plan Map II-2

SUBJECT PROPERTY IS WITHIN THE FEMA FLOOD ZONE X

N

— City Boundary

— Local Streets

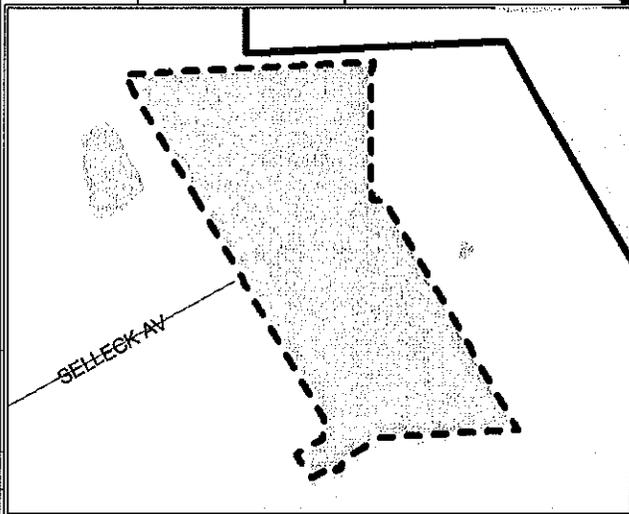
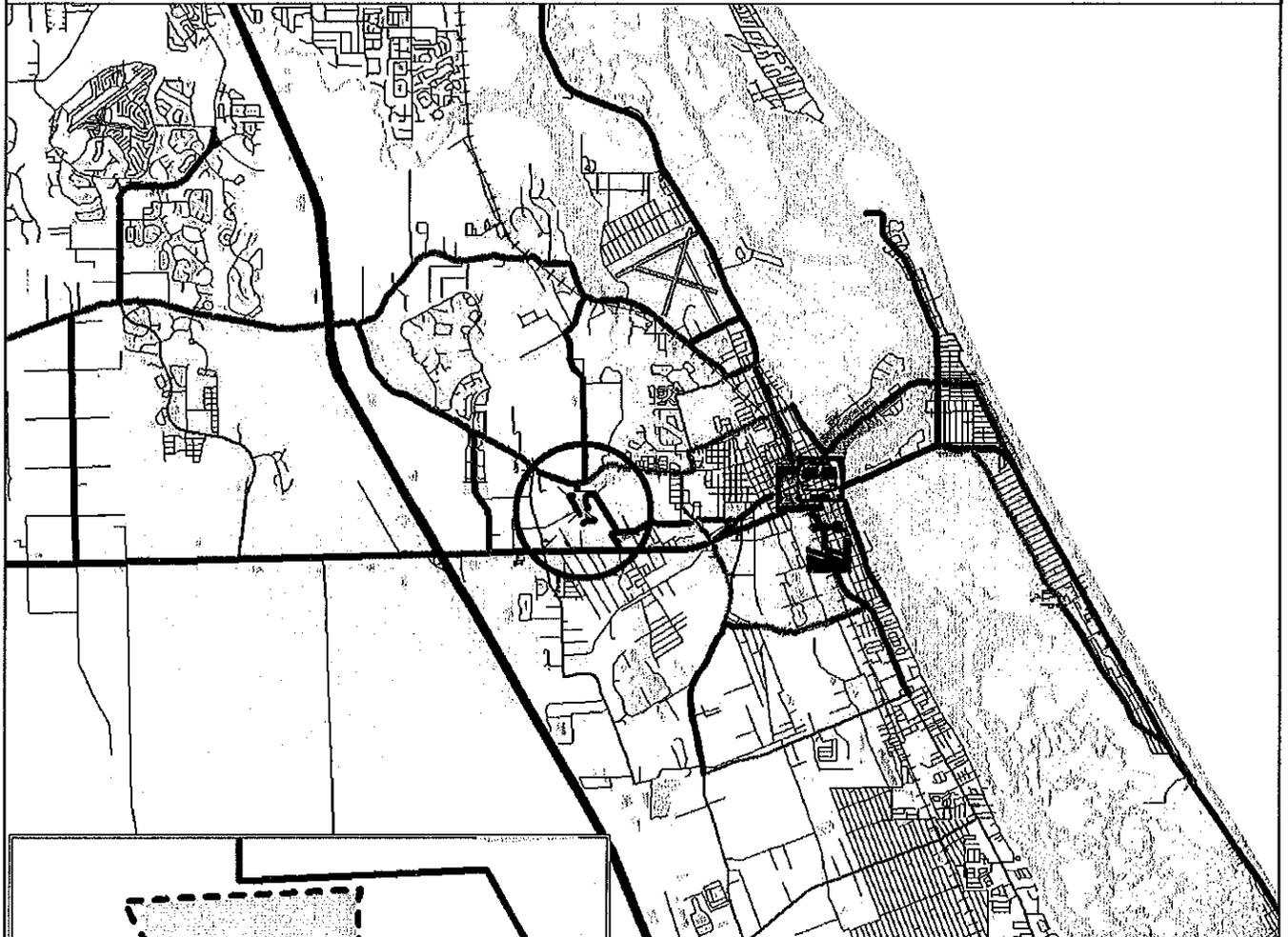
- - - Subject Property

0 6000 Feet

-  ZONE A - 100 YEAR FLOOD ZONE, FLOOD ELEVATIONS ESTABLISHED
-  ZONE AE - 100 YEAR FLOOD ZONE, FLOOD ELEVATIONS DETERMINED
-  ZONE AH - 100 YEAR FLOOD ZONE - PONDING 1 TO 3 FEET
-  ZONE ANI - AREA NOT COVERED BY FIRM MAP
-  ZONE VE - COASTAL HAZARD AREA
-  ZONE X - OUTSIDE 100 & 500 YEAR FLOOD ZONE
-  ZONE X500 - 500 YEAR FLOOD ZONE

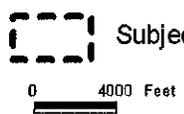
Existing Level of Service - 2009

A-12-11



Legend

- Intermodal Rail Terminal
- Passenger Rail Station
- Bus Transfer Point
- FEC Railroad
- A
- B
- C
- D
- E
- F
- Local Street
- Traffic Concurrence Exception Area
- NSB Active Runways
- Water
- NSB City Boundaries

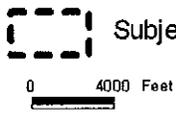
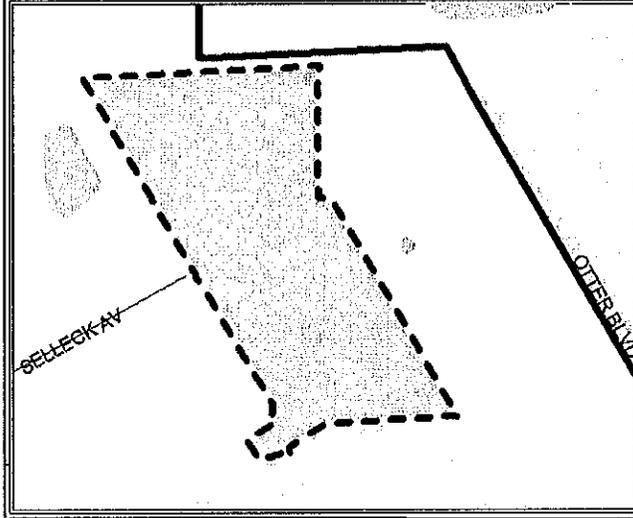
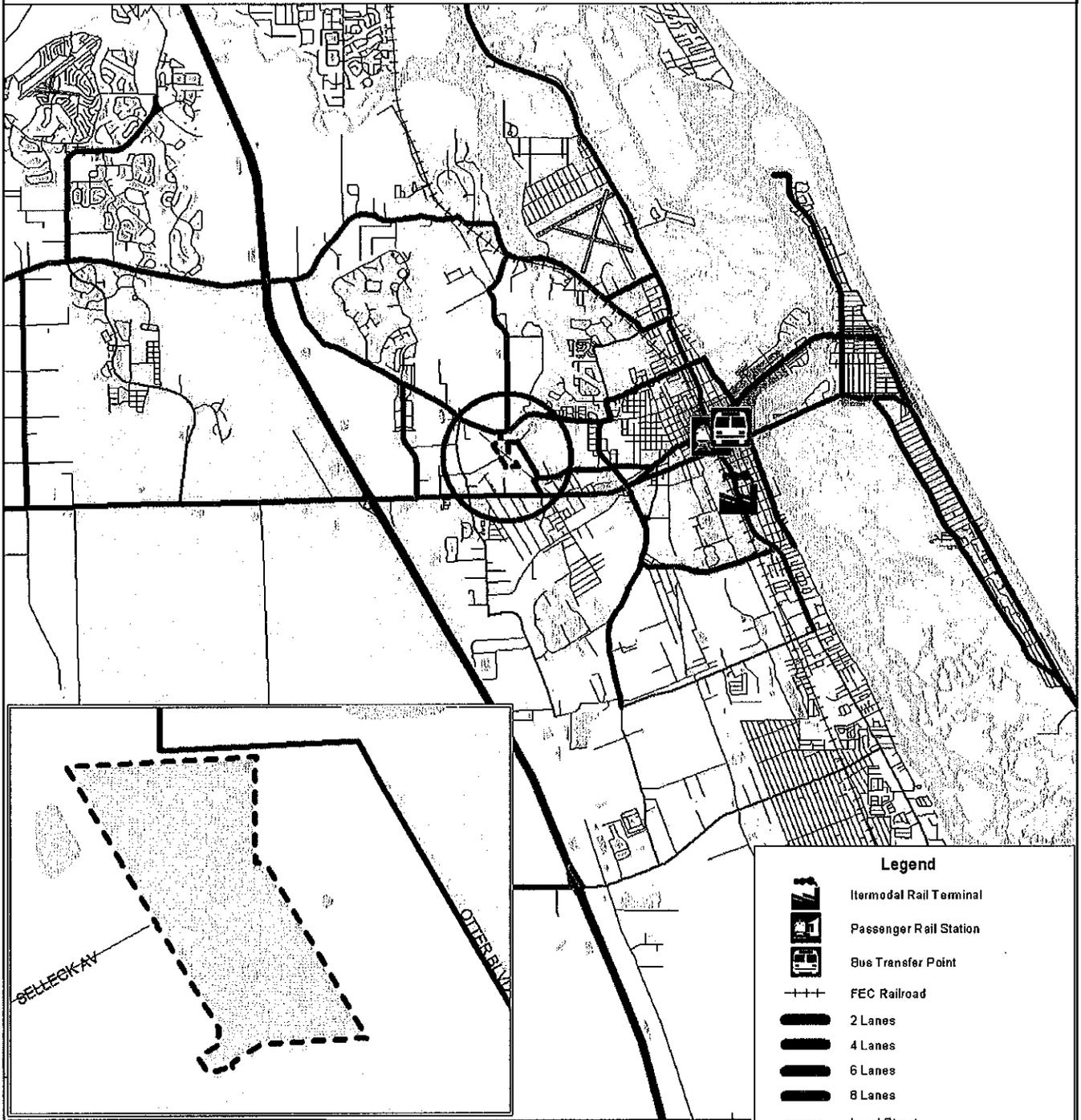


Update to Comprehensive Plan Map III-1

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

Existing Traffic Lanes - 2009

A-12-11



 Subject Property

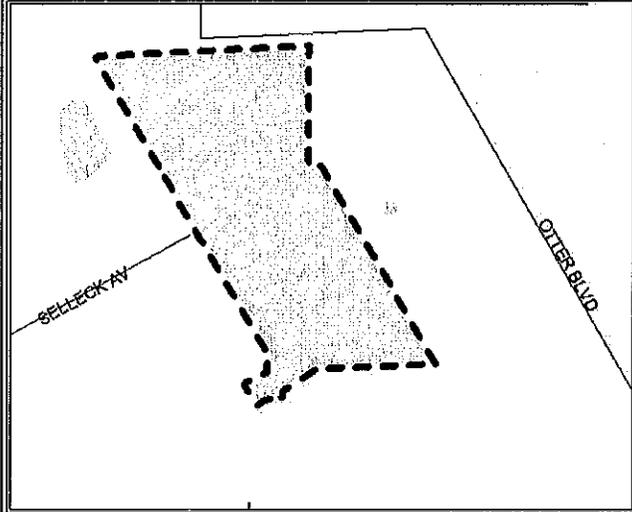
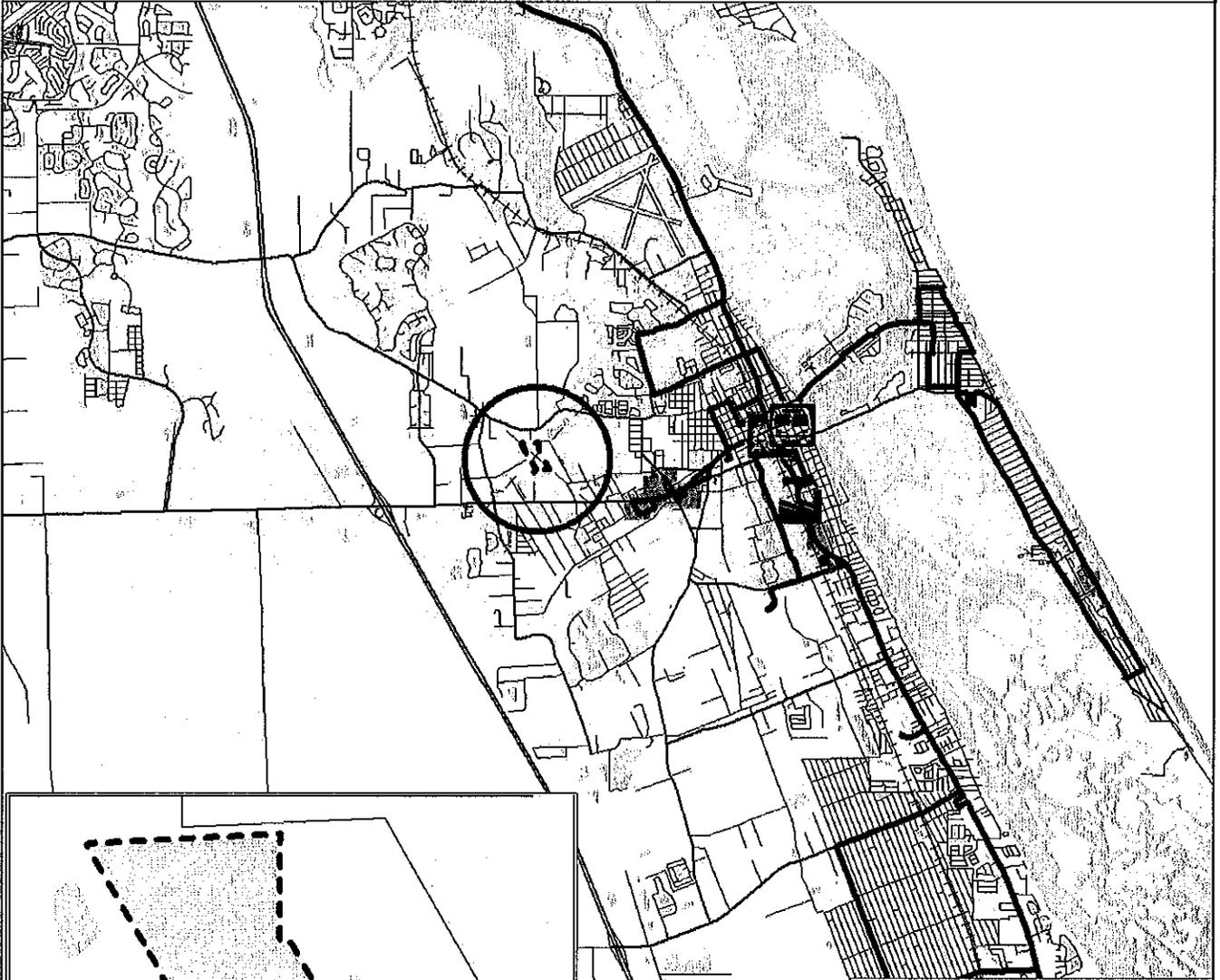
Update to Comprehensive Plan Map III-2

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

Legend	
	Intermodal Rail Terminal
	Passenger Rail Station
	Bus Transfer Point
	FEC Railroad
	2 Lanes
	4 Lanes
	6 Lanes
	8 Lanes
	Local Street
	Traffic Concurrence Exception Area
	NSB Active Runways
	Water
	NSB City Boundaries

Public Transit Routes

A-12-11



Legend

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

N



 Subject Property

0 4000 Feet

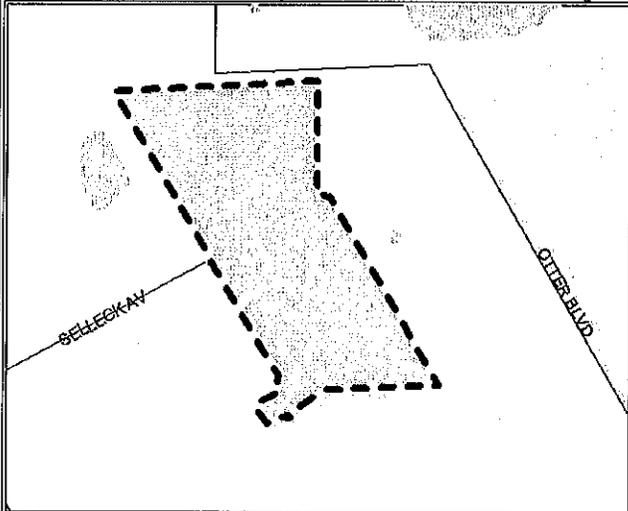
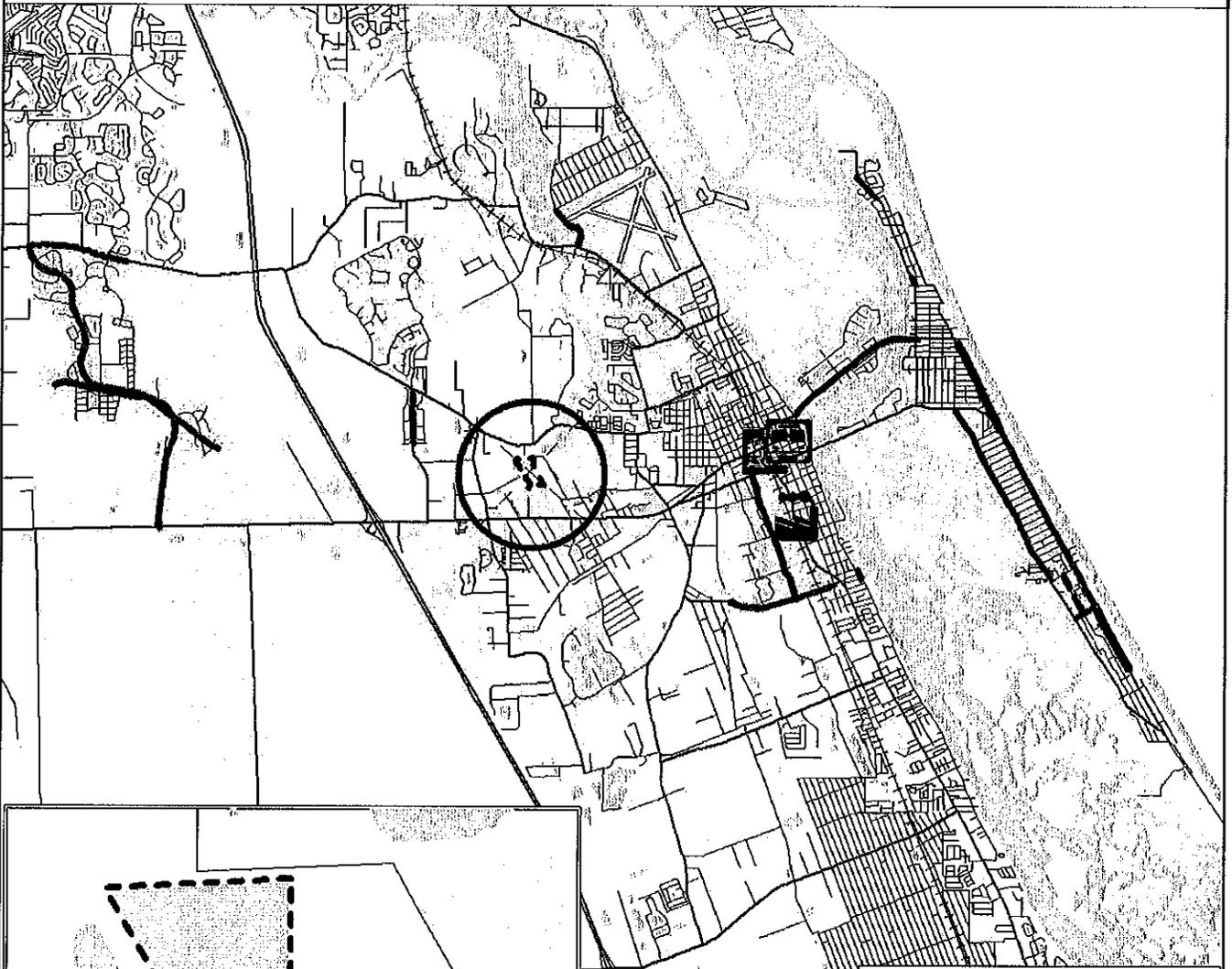


Update to Comprehensive Plan Map III-3

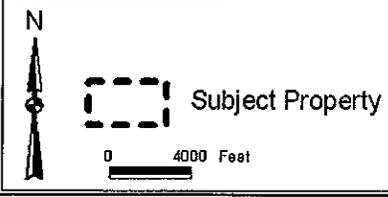
SUBJECT PROPERTY IS SERVED BY PUBLIC TRANSIT ROUTES LOCATED THROUGHOUT THE CITY

Bicycle and Pedestrian Facilities

A-12-11



Legend	
	Intermodal Rail Terminal
	Passenger Rail Station
	Bus Transfer Point
	FEC Railroad
	Local Street
	Bicycle Lane
	Bicycle Path
	Water
	NSB City Boundaries

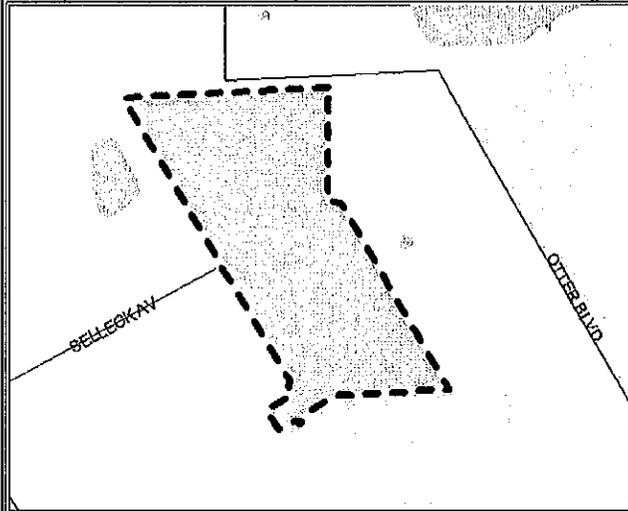
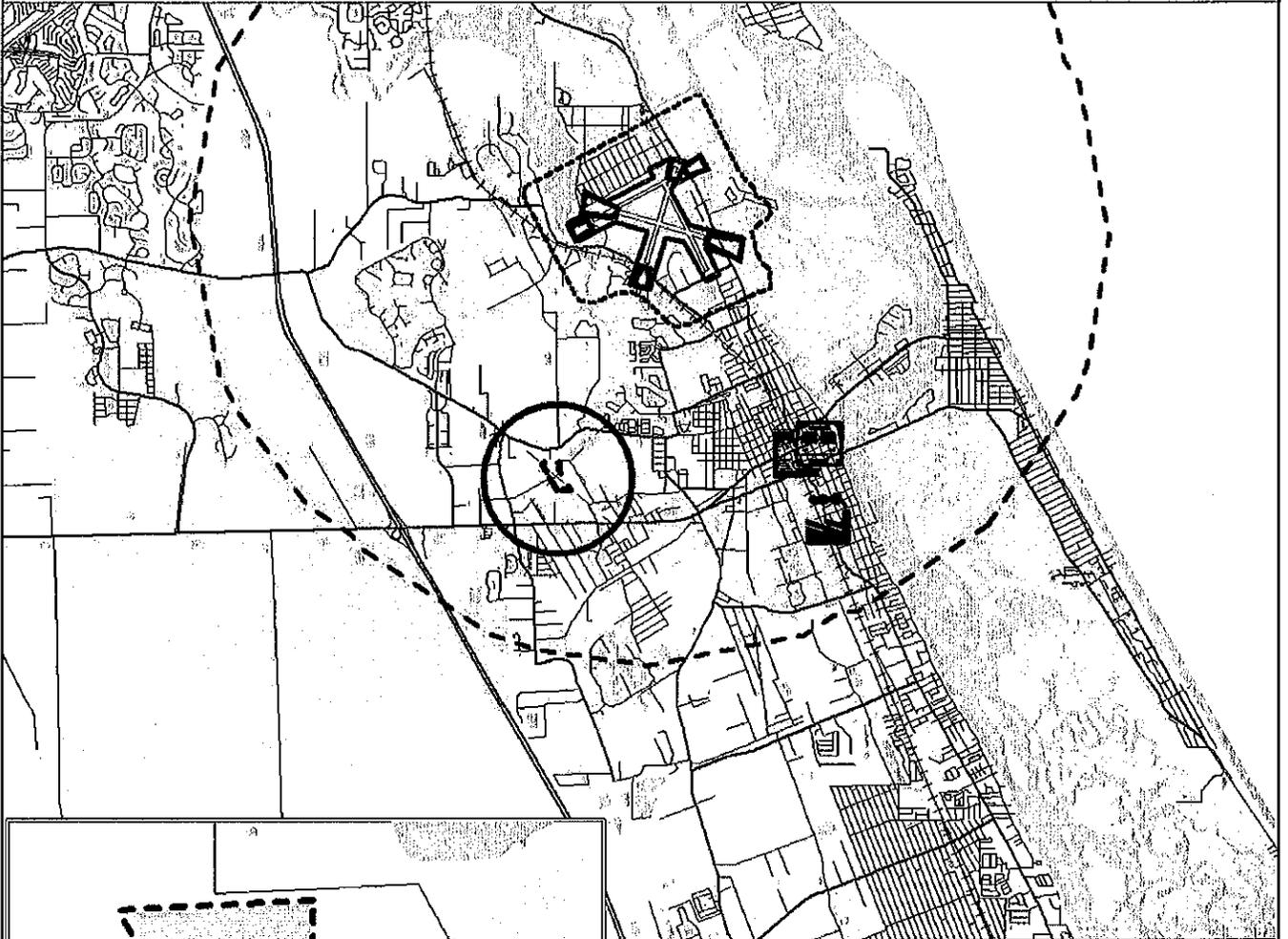


Update to Comprehensive Plan Map III-4

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

Airport Runway Protection Zones

A-12-11



Legend

- Intermodal Rail Terminal
- Passenger Rail Station
- Bus Transfer Point
- FEC Railroad
- Local Street
- Building Restriction Zone
- Height Notification Zone
- Noise Impact Zone
- Runway Protection Zones
- Water
- NSB City Boundaries

N

Subject Property

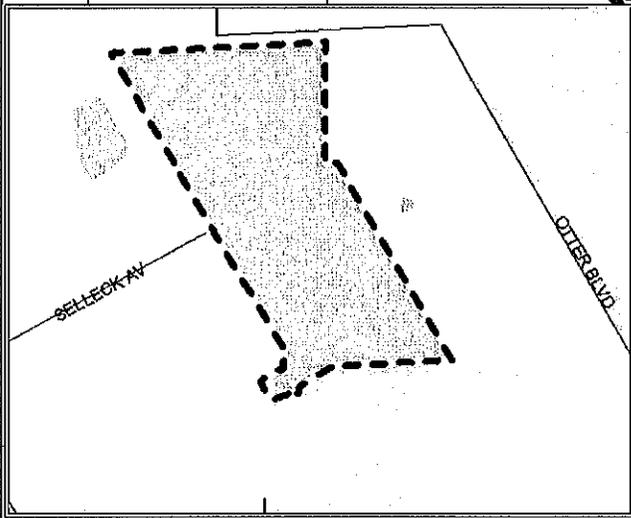
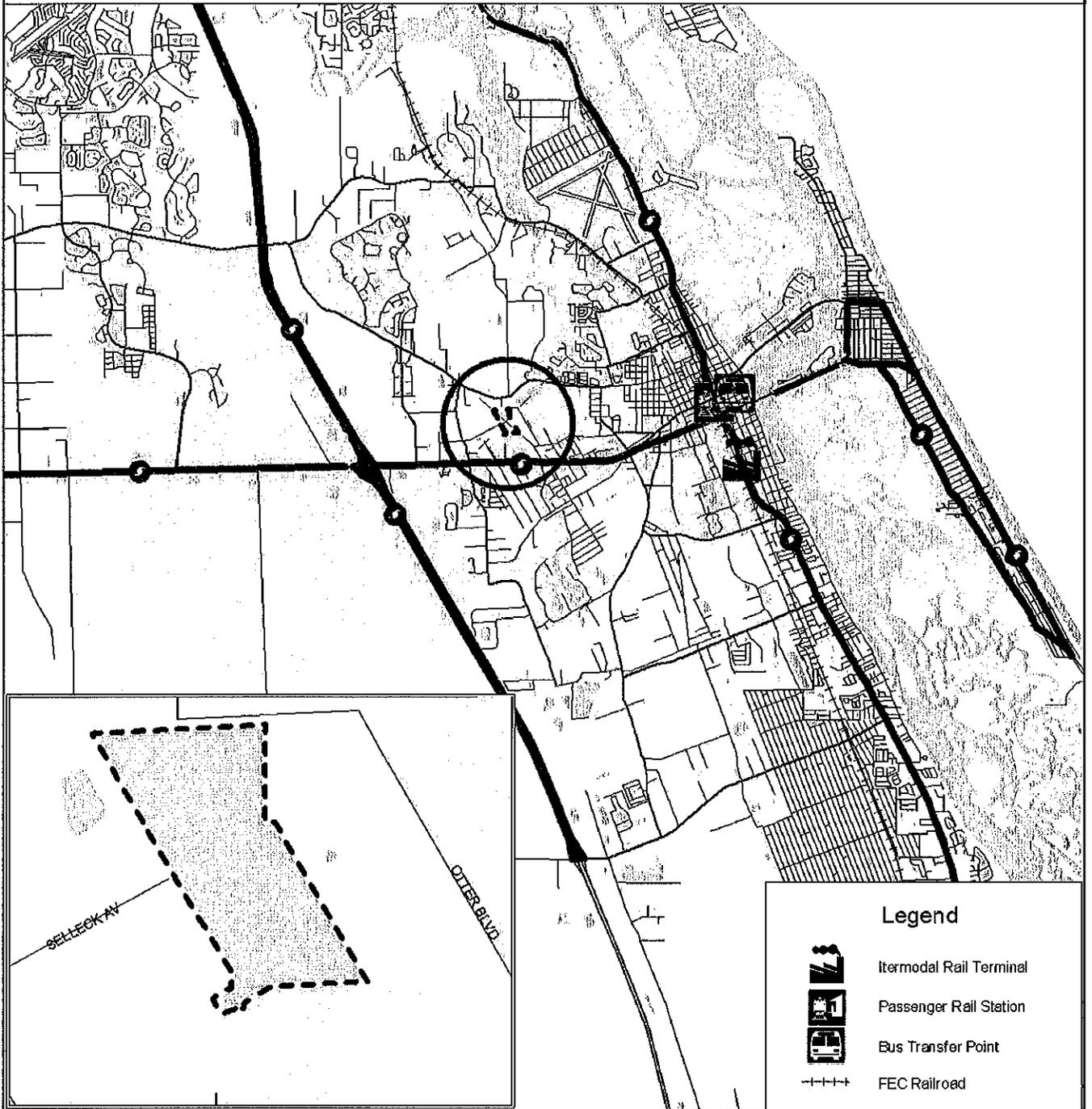
0 4000 Feet

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-12-11



Legend

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

N

Subject Property

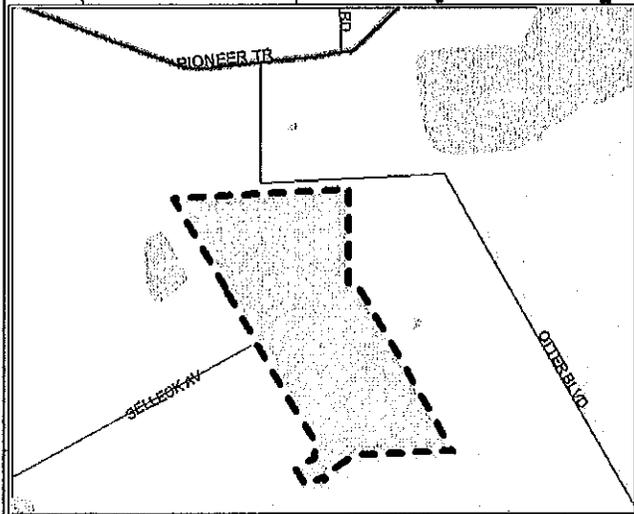
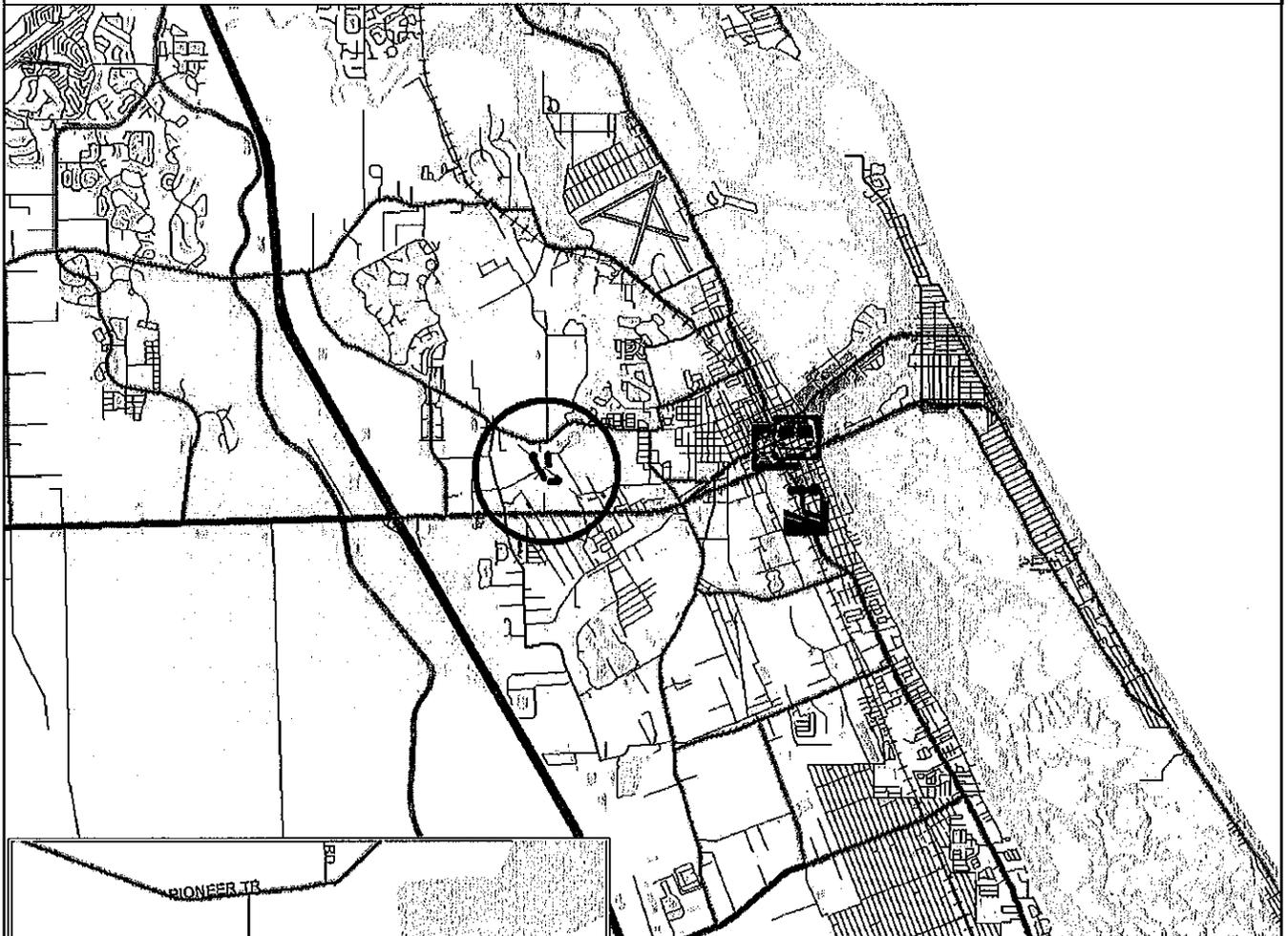
0 4000 Feet

Update to Comprehensive Plan Map III-6

SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

Level of Service - 2025

A-12-11



Legend

- Intermodal Rail Terminal
- Passenger Rail Station
- Bus Transfer Point
- FEC Railroad
- A
- B
- C
- D
- E
- F
- Local Street
- Traffic Concurrence Exception Area
- NSB Active Runways
- Water
- NSB City Boundaries



Subject Property

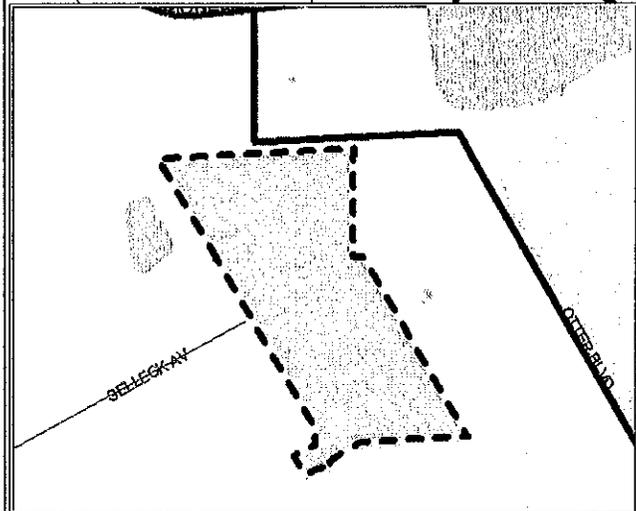
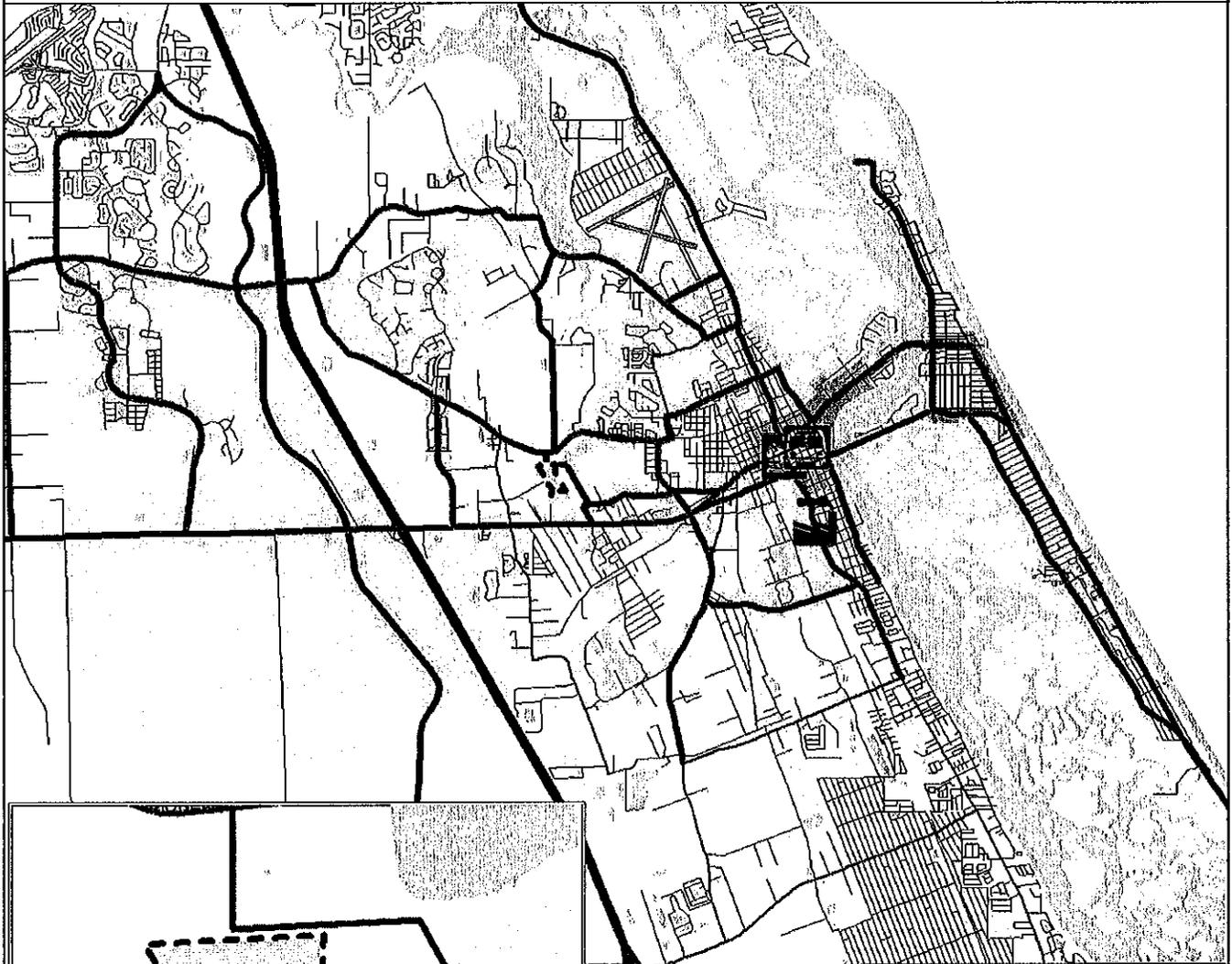
0 4000 Feet

Update to Comprehensive Plan Map III-7

SUBJECT PROPERTY IS SERVED BY A CLASS 'E' LEVEL OF SERVICE ROADWAY ON THE NORTH AND A LOCAL STREET ON THE WEST

Number of Traffic Lanes - 2025

A-12-11



Legend

- Intermodal Rail Terminal
- Passenger Rail Station
- Bus Transfer Point
- FEC Railroad
- 2 Lanes
- 4 Lanes
- 6 Lanes
- 8 Lanes
- Local Street
- Traffic Concurrence Exception Area
- NSB Active Runways
- Water
- NSB City Boundaries

N

Subject Property

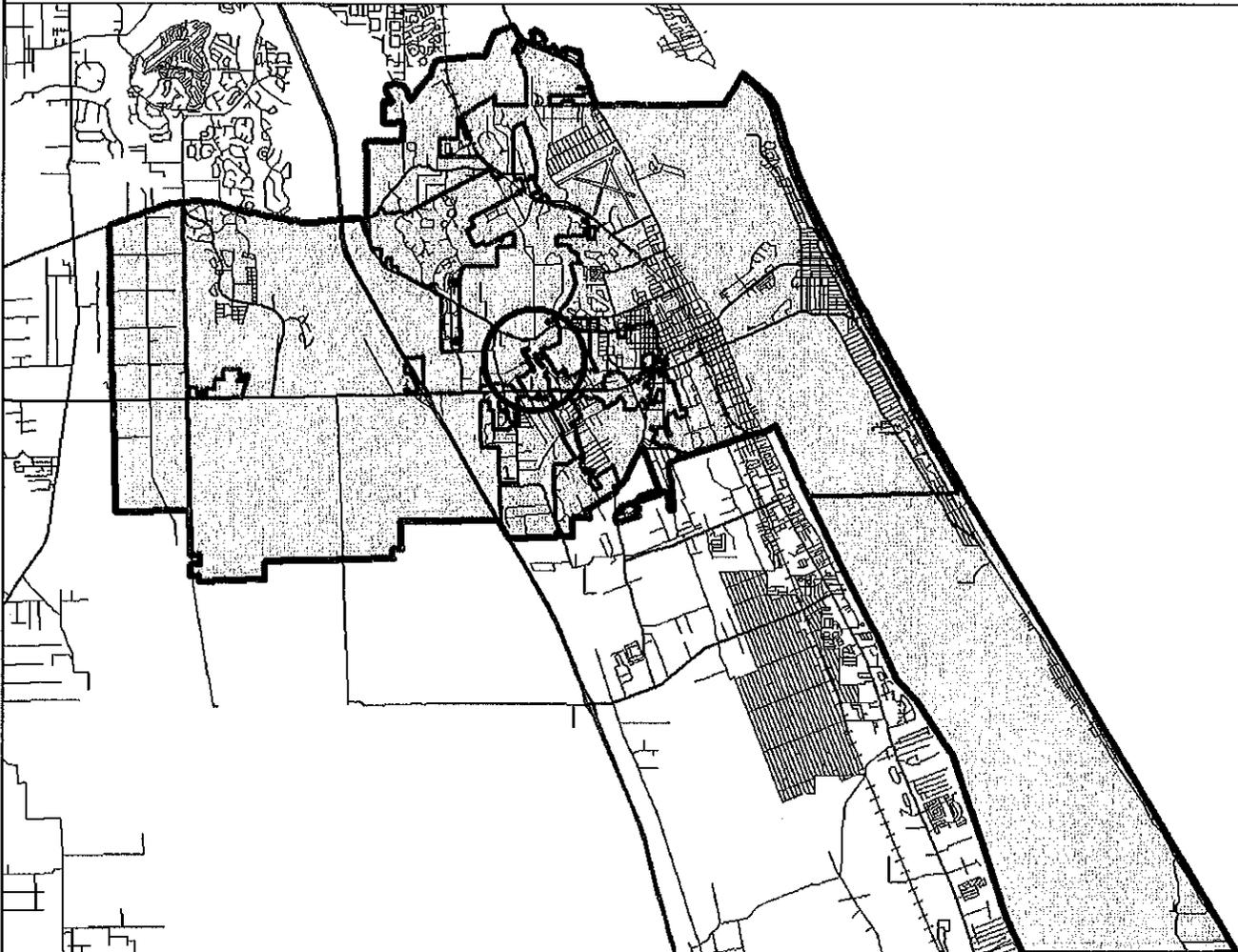
0 4000 Feet

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

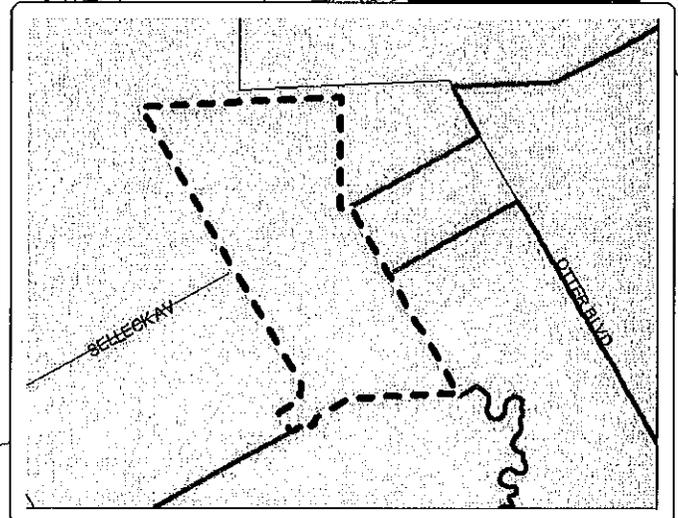
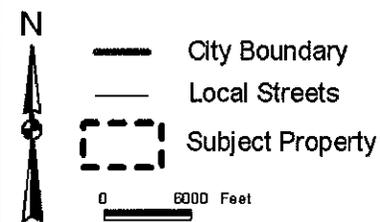
Water & Sewer Service Area

A-12-11



Update to Comprehensive Plan Map VII-1

SUBJECT PROPERTY IS WITHIN THE CITY AND INSIDE THE NSB WATER AND SEWER SERVICE AREA



 WATER AND SEWER SERVICE AREA

Soil Limitation for Septic Systems

A-12-11



N

— City Boundary

— Local Streets

- - - Subject Property

0 4000 Feet

SEVERE LIMITATIONS

SLIGHT LIMITATIONS

Update to Comprehensive Plan Map VII-2

SUBJECT PROPERTY IS PARTIALLY WITHIN THE SOILS WITH SEVERE LIMITATIONS FOR SEPTIC TANK FILTER FIELDS

Coastal High Hazard Areas

A-12-11



Update to Comprehensive Plan Map VII-4

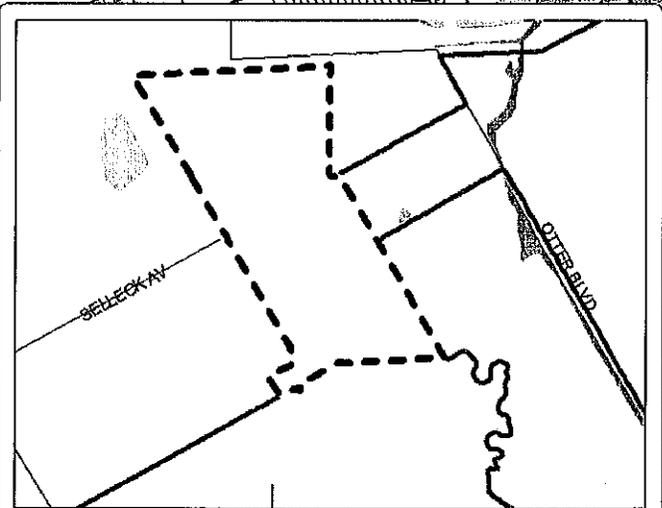
SUBJECT PROPERTY
IS NOT WITHIN THE
COASTAL HIGH HAZARD AREA



- City Boundary
- Local Streets
- - - Subject Property

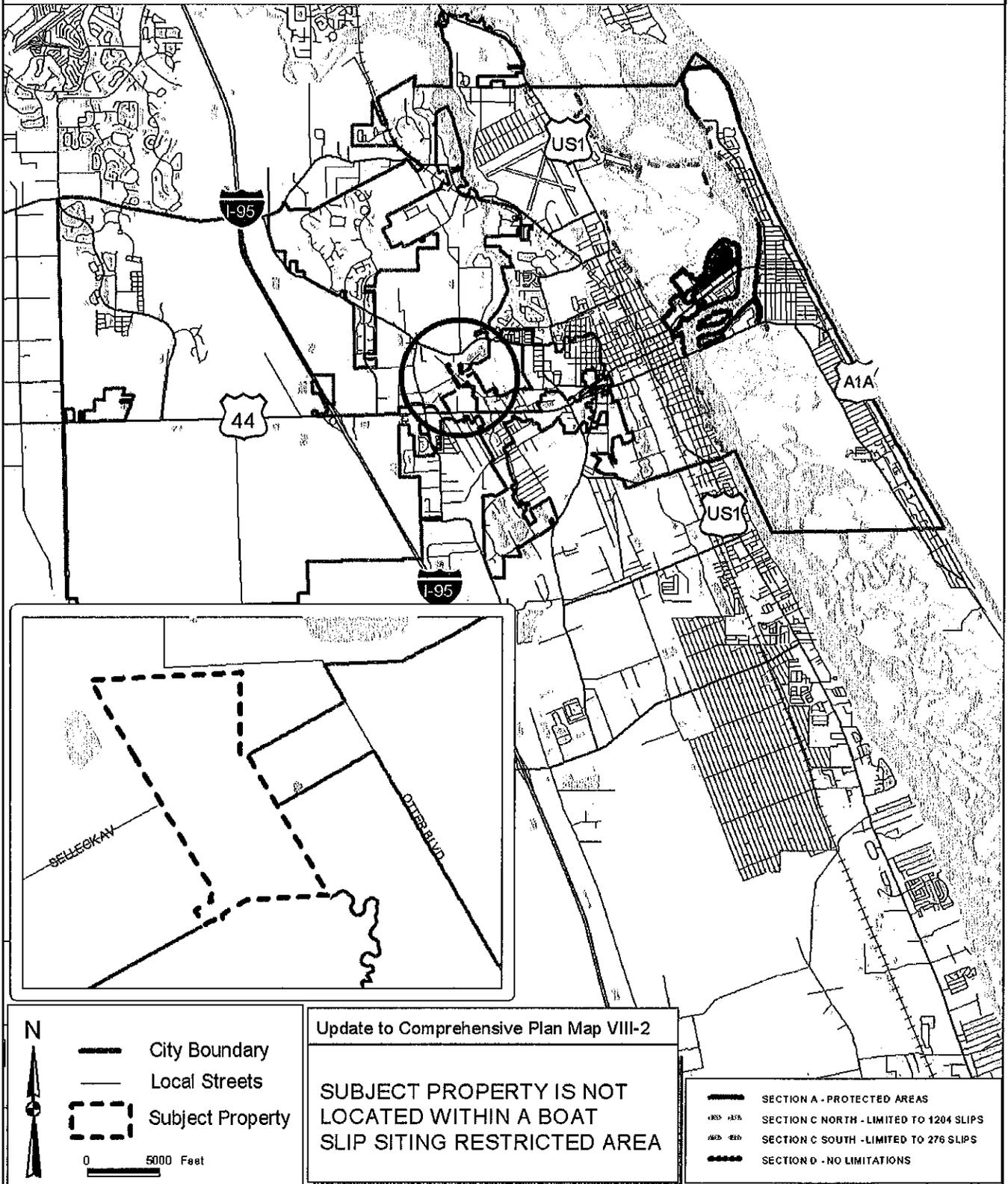
0 4000 Feet

COASTAL HIGH HAZARD AREA



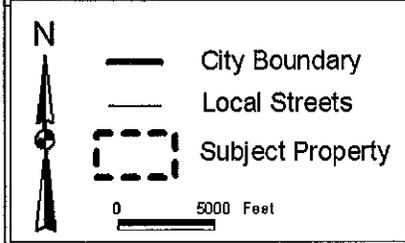
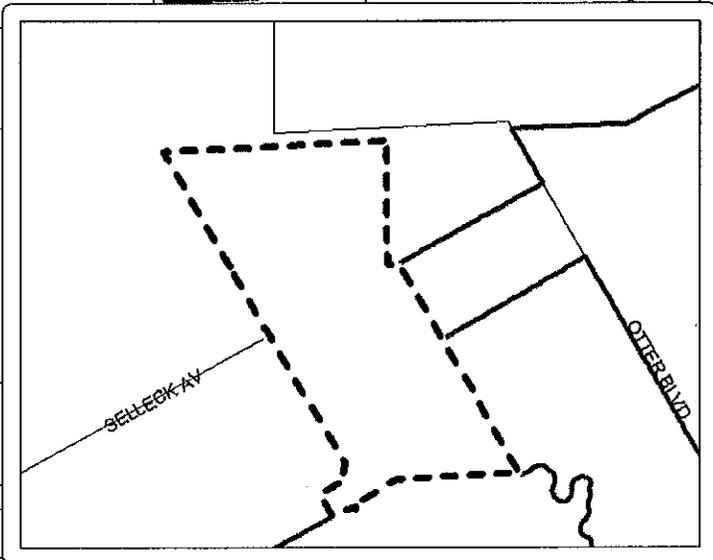
Boat Slip Siting

A-12-11



City Parks

A-12-11

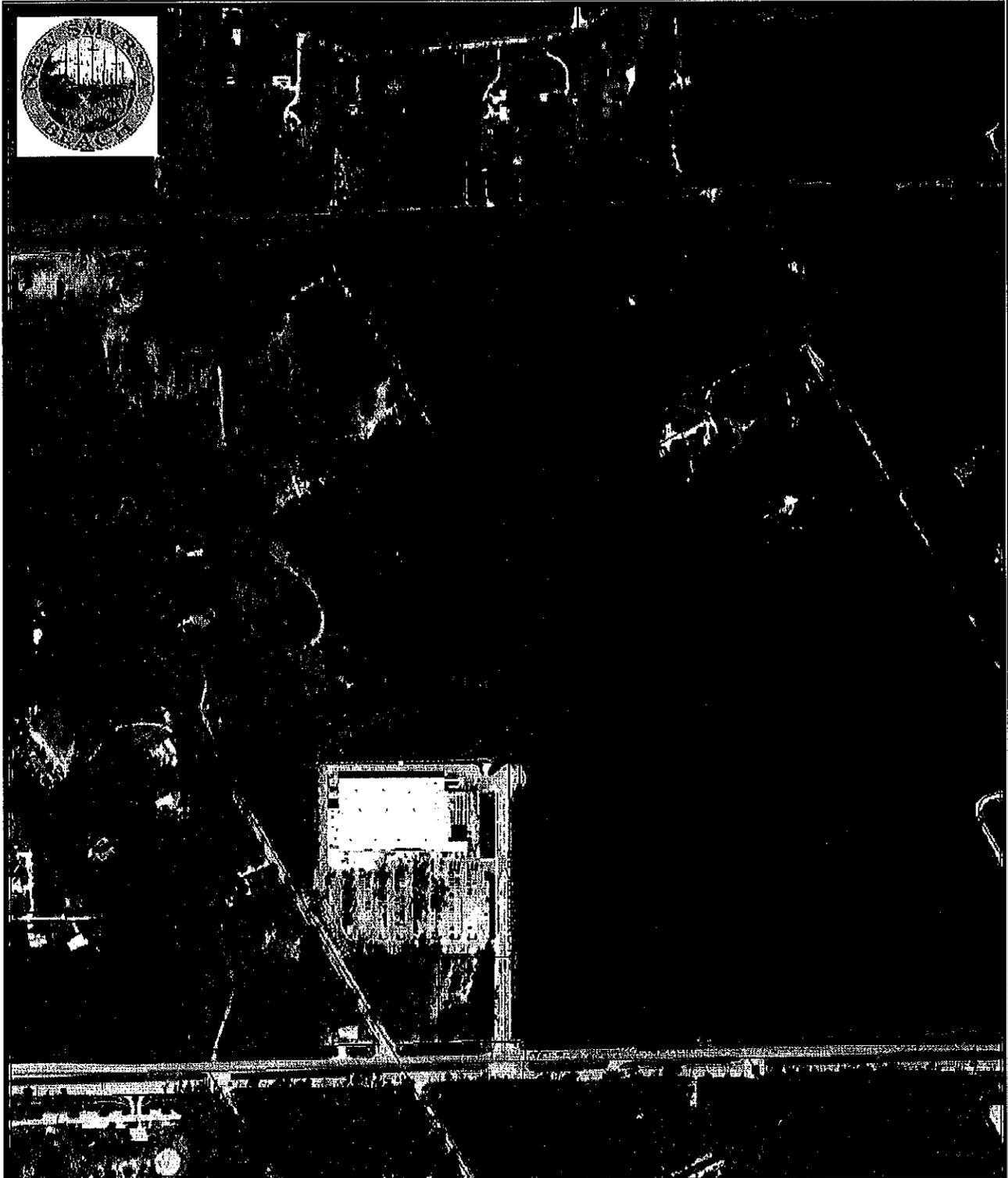


- City Boundary
- Local Streets
- Subject Property

Update to Comprehensive Plan Map X-1

SUBJECT PROPERTY IS WITHIN THE CITY AND SERVED BY NEIGHBORHOOD & COMMUNITY PARKS

- BEACH PATHS, RAMPS & WALKOVERS
- BEACH ACCESS
- EQUIPPED PLAY AREAS / TOT LOTS
- URBAN OPEN SPACES
- NEIGHBORHOOD PARK
- COMMUNITY PARK
- URBAN DISTRICT PARK
- REGIONAL PARK



CASE #: A-12-11: OTTER PARK PROPERTIES
PLANNING AND ZONING BOARD MEETING DATE: SEPTEMBER 12, 2011



1 CITY OF NEW SMYRNA BEACH – CITY COMMISSION
2 **A-13-11: HALL / 389 OTTER BOULEVARD**
3 **SEPTEMBER 12, 2011**
4

5 **I. Background**
6

- 7 A. **Applicant and Property Owner:** John L. Hall, 389 Otter Boulevard, New
8 Smyrna Beach, Florida, 32168
9
- 10 B. **Request:** Voluntary annexation , *Comprehensive Plan* amendment, and
11 rezoning
12
- 13 • **From:** County Future Land Use (FLU) designation of Urban Low
14 Intensity; and County zoning R-1, Suburban Single-Family
15 Residential
 - 16 • **To:** City FLU designation of Low Density Residential; and City
17 zoning R-1, Single-Family Residential
18
- 19 C. **Site Information:**
- 20 • **Size:** 0.83 acres
 - 21 • **Location:** East side of Otter Boulevard, south of Pioneer Trail and
22 north of State Road 44 (See **Exhibit A** for a location map)
 - 23 • **Tax I.D. Number:** 7314-05-00-0050
24

25 **II. Findings**
26

- 27 A. The subject property is an approximately 0.83-acre vacant site. The
28 property is developed with a single-family residence and associated
29 accessory structures. A copy of the survey for the subject property is
30 attached as **Exhibit B**. The property currently has a Volusia County
31 Future Land Use (FLU) designation of Urban Low Intensity, which allows
32 0.2 to 4.0 dwelling units per acre. The property is currently zoned Volusia
33 County R-1, Suburban Single-Family Residential. The surrounding future
34 land use, existing uses, and zoning are as follows:

35 **North**

36 Future Land Use: County Urban Low Intensity
37 Existing Land Use: Public Grounds and Buildings (ROW, Utilities
38 Corridor)
39 Zoning: County R4, Urban Single Family Residential
40

41 **South**

42 Future Land Use: City Low Density Residential
43 Existing Land Use: Single-Family Residential
44 Zoning: R-1, Single-Family Residential
45

46 **East**

47 Future Land Use: County Urban Low Intensity and Conservation
48 Existing Land Use: Public Grounds and Buildings (Utilities Corridor)

49 Zoning: C, Conservation

50

51 **West**

52 Future Land Use: County Urban Low Intensity

53 Existing Land Use: Single-Family Residential

54 Zoning: County RR, Rural Residential

55

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

60

61 B. Previous City Commissions had established a policy that when property is
62 annexed into the City, the City would assign a future land use and zoning
63 designation that would closely match the existing County designations. As
64 discussed above, the existing County FLU and zoning designations are
65 Urban Low Intensity and R-1, Suburban Single-Family Residential,
66 respectively. Because property that has been annexed into the City on
67 the east side of Otter Boulevard has a FLU designation of Low Density
68 Residential, staff is recommending that this designation also be applied to
69 the subject property. Maps showing the proposed FLU and zoning
70 changes are attached as **Exhibits H and I**. Descriptions of the proposed
71 FLU and zoning designations are attached as **Exhibits J and K**.

72

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

77

78 D. The *Land Development Regulations* requires any proposed development
79 to conform to the Concurrency Management System. That system
80 includes traffic, parks and recreation, potable water, wastewater
81 treatment, solid waste collection, stormwater management, and public
82 school facilities. A table detailing the potential concurrency impacts under
83 the existing and proposed Future Land Use designations is attached as
84 **Exhibit L**. There is sufficient capacity available by incorporating this
85 parcel into the city for all City services and no deficiencies would be
86 created.

87

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

92

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

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- **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, public grounds (right-of-way and utilities corridor) or vacant land on all sides. The property is already developed in concordance with the proposed future land use and zoning designations and therefore is 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 increase density in this area by one (1) unit per acre, which for this sized property would equate to a maximum allowed increase based on the underlying FLU of one (1) unit. This increase, should it occur, still allows the City to provide services at the adopted LOS standards. 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 and County's existing surrounding FLU and zoning designations. The properties to the west and south have FLU designations of Low Density Residential and are zoned R-1, Single-Family Residential.

145 **III. Recommendation**

146

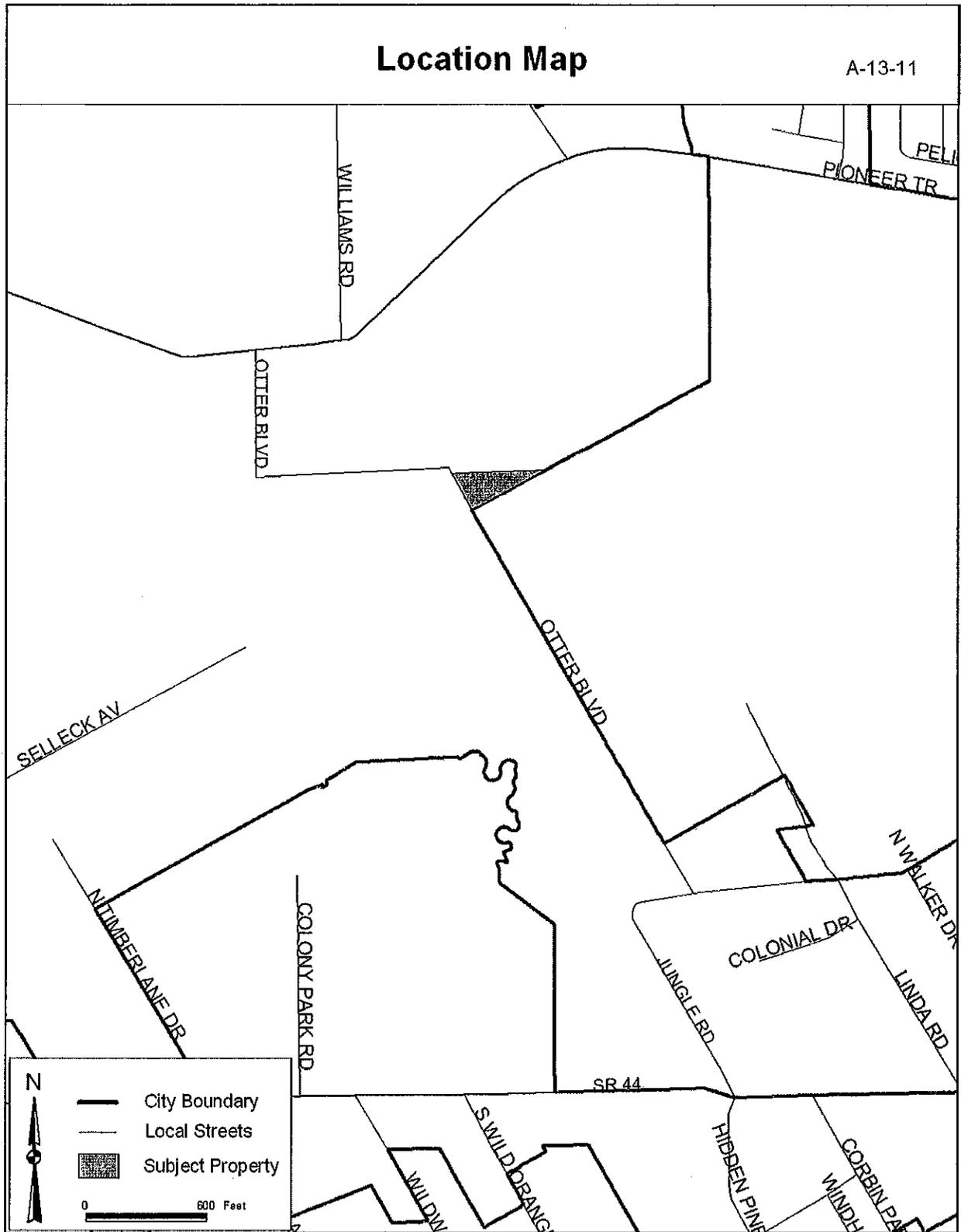
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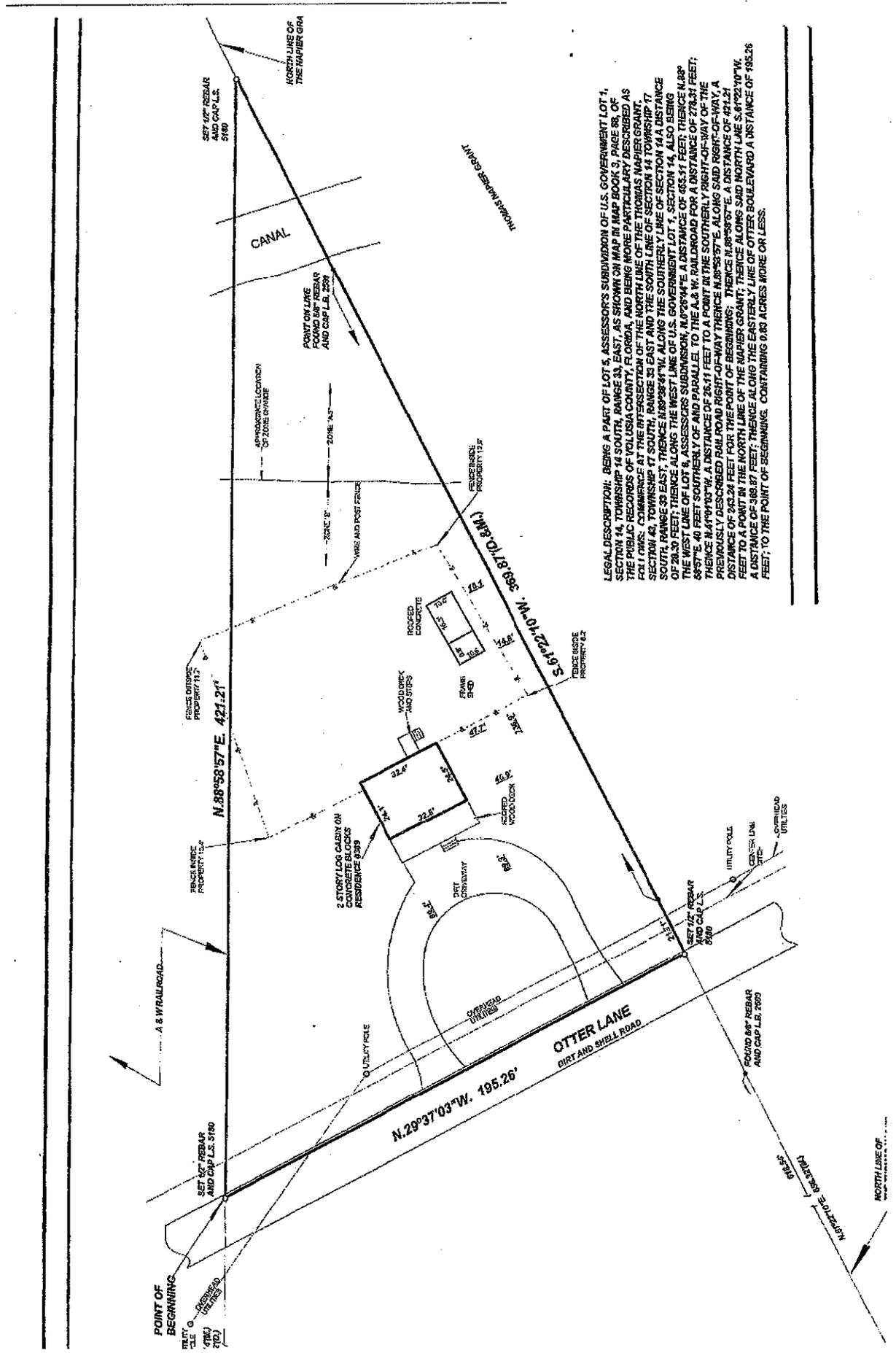
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Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the annexation, *Comprehensive Plan* amendment to City Low Density Residential, and the rezoning to City zoning district designation R-1, Single-Family Residential.

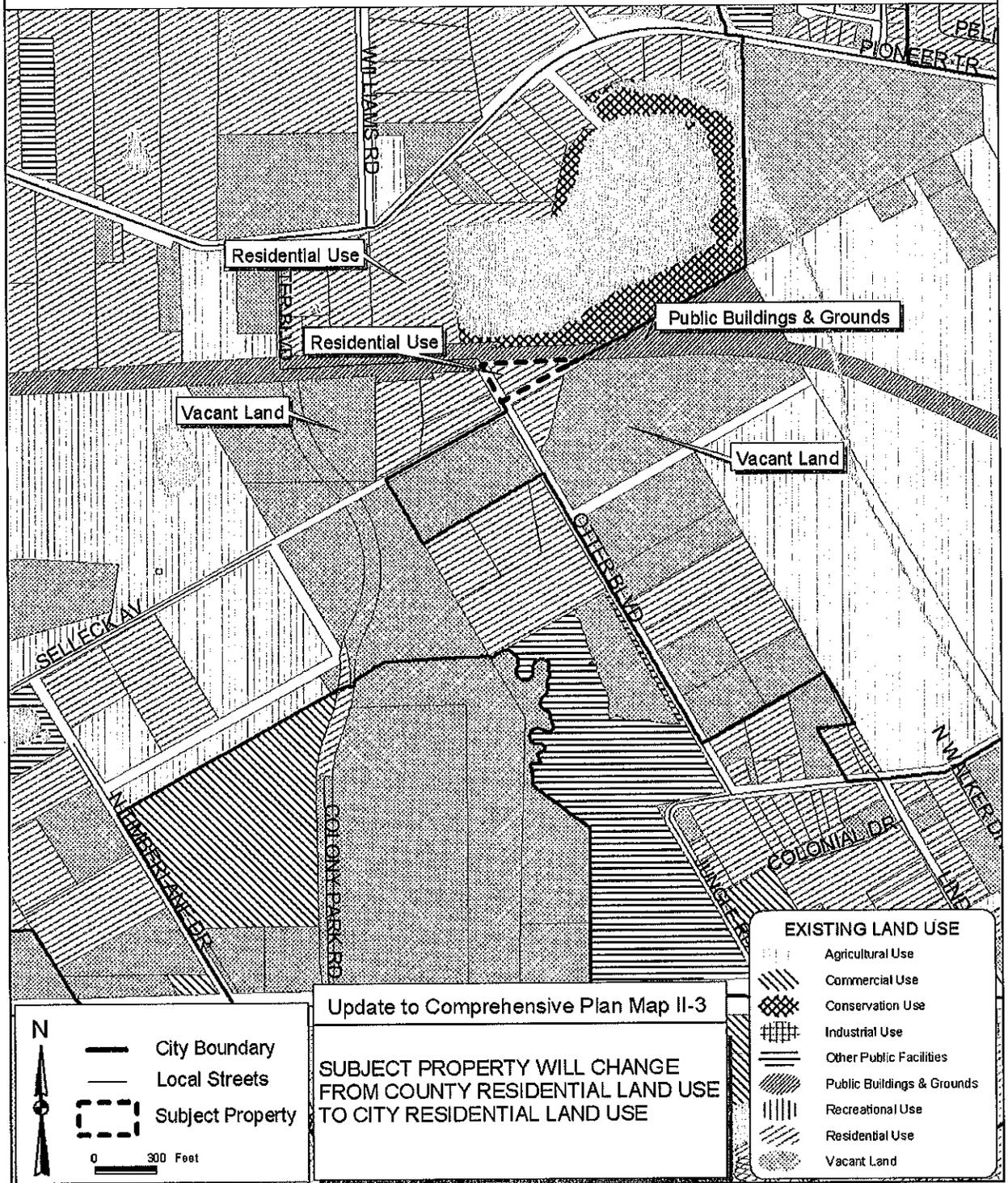




LEGAL DESCRIPTION: BEING A PART OF LOT 5, ASSESSOR'S SUBDIVISION OF U.S. GOVERNMENT LOT 1, SECTION 14, TOWNSHIP 14 SOUTH, RANGE 33, EAST, AS SHOWN ON MAP IN MAP BOOK 3, PAGE 98, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE NORTH LINE OF THE THOMAS NAHNER GRANT, SECTION 42, TOWNSHIP 17 SOUTH, RANGE 33 EAST AND THE SOUTH LINE OF SECTION 14 TOWNSHIP 17 SOUTH, RANGE 33 EAST; THENCE N. 89° 28' 41\"/>

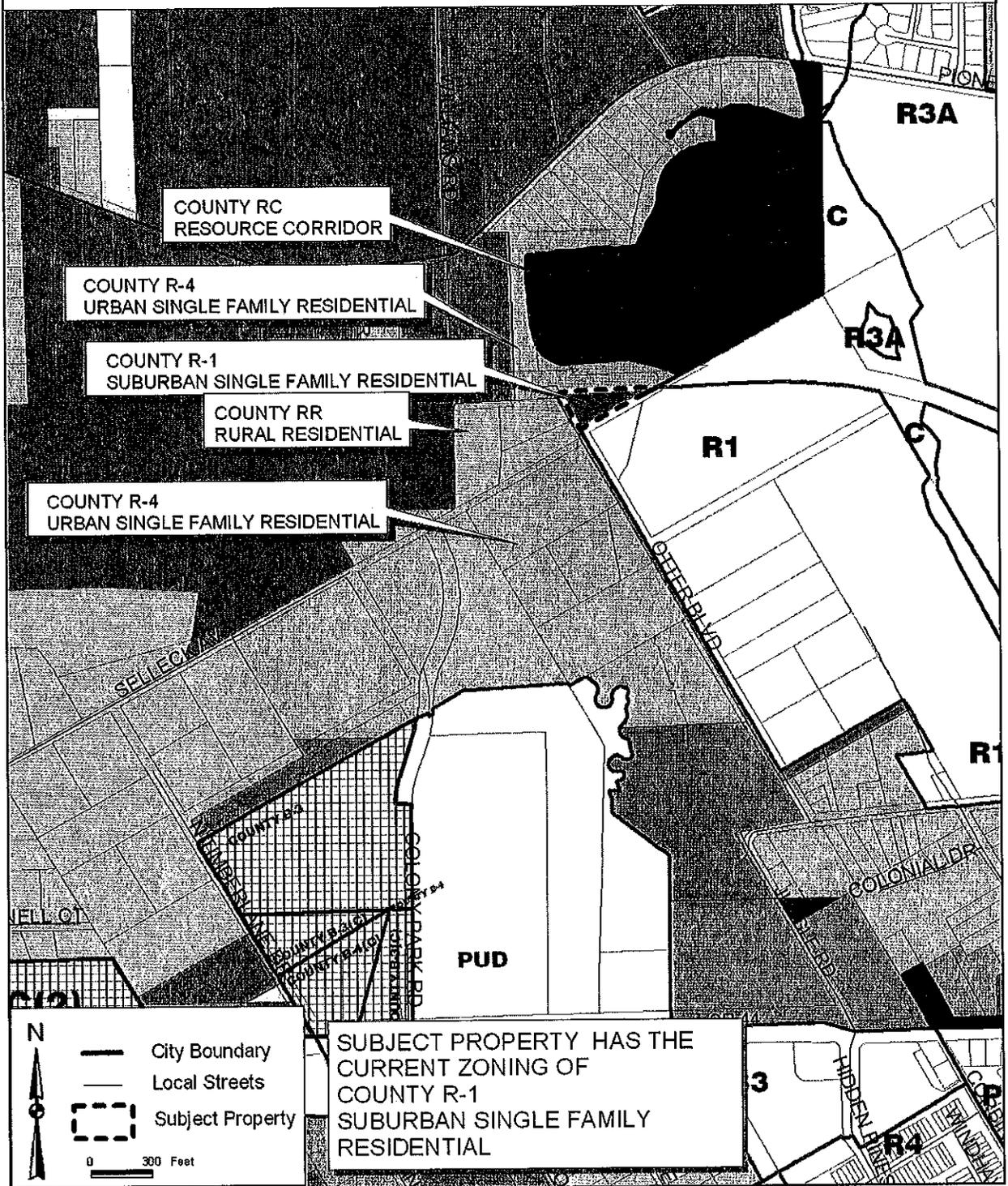
Existing Land Use Designations

A-13-11



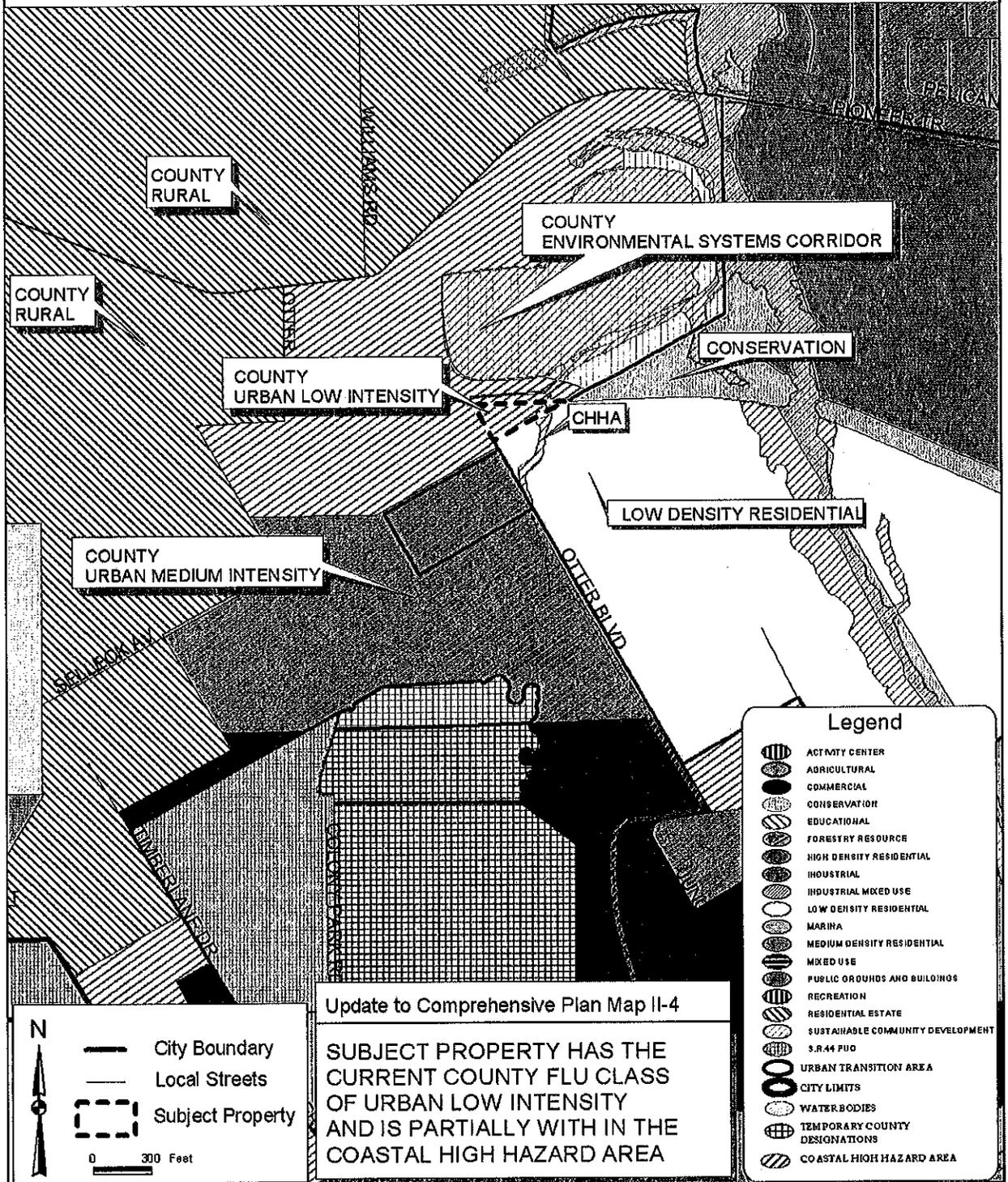
Existing Zoning

A-13-11



Existing Future Land Use Designations

A-13-11



**R-1 URBAN SINGLE-FAMILY
RESIDENTIAL CLASSIFICATION** ^[90]

Purpose and intent: The purpose and intent of the R-1 Urban Single-Family Residential Classification is to provide low-density residential developments, preserving the character of existing or proposed residential neighborhoods.

Permitted principal uses and structures: In the R-1 Urban Single-Family Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Cluster and zero lot line subdivisions (refer to section 72-304).
- Communication towers not exceeding 70 feet in height above ground level.
- Essential utility services.
- Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.
- Exempt landfills (refer to subsection 72-293(16)).
- Fire stations.
- Home occupations, class A (refer to section 72-283).
- Houses of worship.
- Parks and recreation 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 permitted principal uses.
- 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: 20,000 square feet.

Width: 100 feet.

Minimum yard size:

Front yard: 30 feet.

Rear yard: 20 feet.

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

Waterfront yard: 25 feet.

Maximum building height: 35 feet.

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

Minimum floor area: 1,500 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.

Volusia County Urban Low Intensity (ULI)

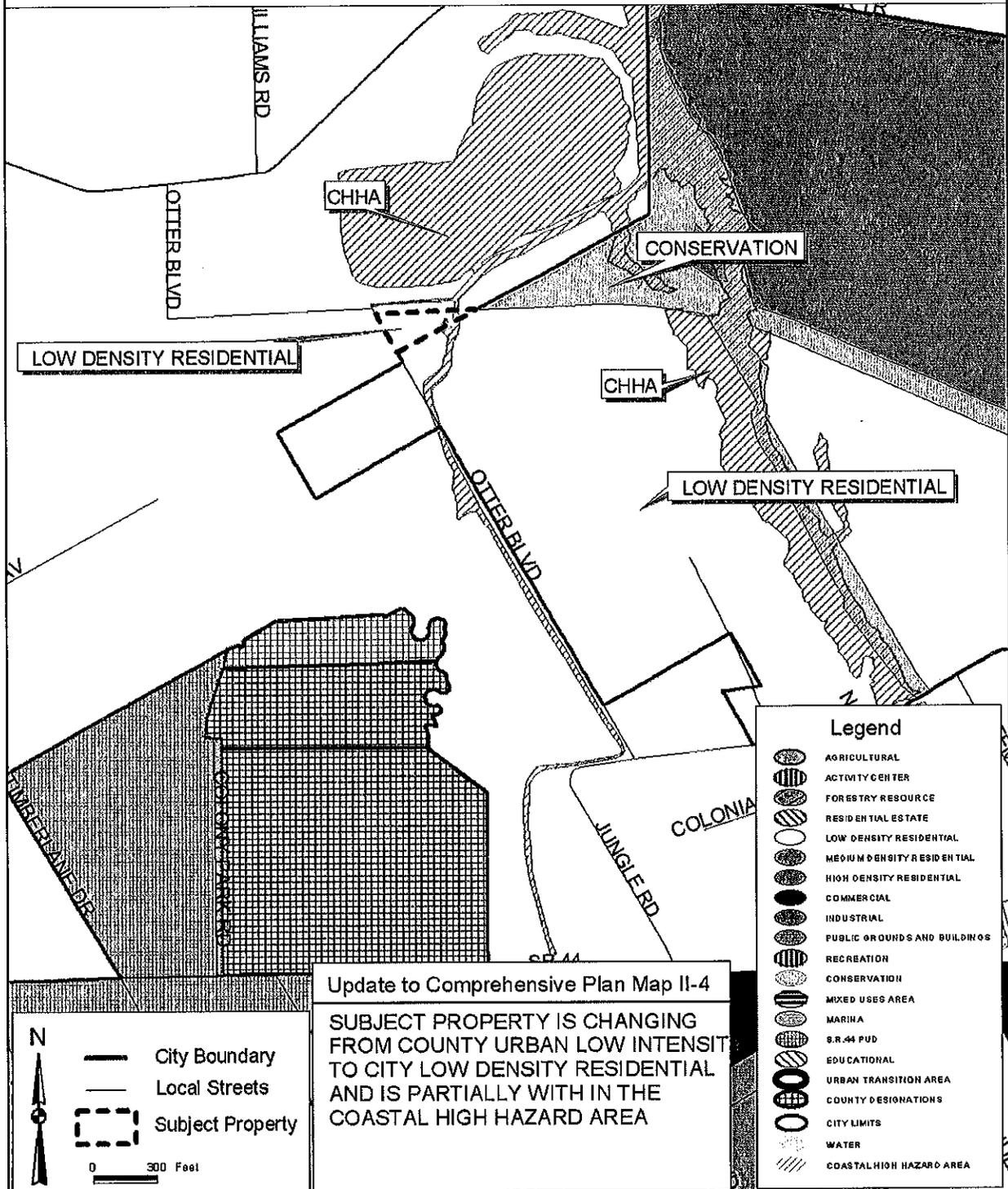
Urban Low Intensity (ULI) – Areas for low density residential dwelling units with a range of two-tenths (0.2) to four (4) dwelling units per acre. In reviewing rezoning requests, the specific density will depend on locational factors, particularly compatibility with adjacent uses and availability of 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 ($\frac{1}{4}$) mile of another jurisdiction shall require notification to that jurisdiction.

Proposed Future Land Use Designations

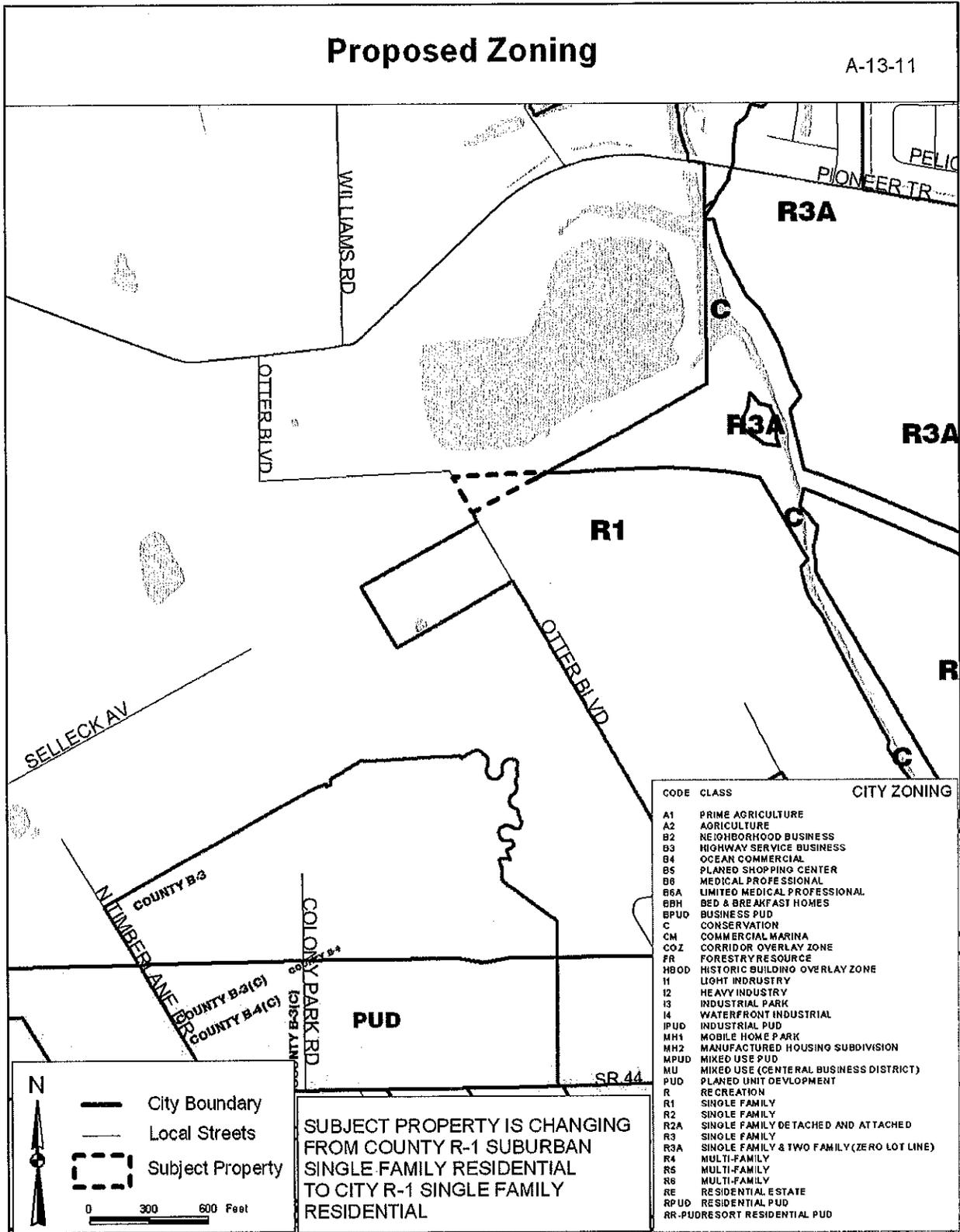
A-13-11



Update to Comprehensive Plan Map II-4
 SUBJECT PROPERTY IS CHANGING FROM COUNTY URBAN LOW INTENSIVE TO CITY LOW DENSITY RESIDENTIAL AND IS PARTIALLY WITH IN THE COASTAL HIGH HAZARD AREA

Proposed Zoning

A-13-11



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.

1 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

2

3 Intent:

4

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

10

11 Permitted Uses:

12

13 Playfields

14 Playgrounds

15 Public Parks

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

18 Single Family Dwelling Units

19

20 Permitted Accessory Uses:

21

22 Garages

23 Gazebos

24 Incidental Uses

25 Permitted Home Occupations

26 Storage Sheds

27 Swimming Pools, private, provided a principal use exists and the pool is located to
28 the rear of the principal structure and out of required rear and side yards

29 Uses customarily associated with the permitted principal uses

30 [Revised 4/9/02]

31

32 Special Exceptions:

33

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

35

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

38

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

42

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

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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

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

89 Ord. #05-09

90 Maximum Impervious Lot Coverage:

91
92 The total area of the lot that may be covered with impervious material is
93 sixty percent (60%).

94 Maximum Principal Building Height

95 Thirty-five (35) feet.
96 Three (3) stories.

97
98 Minimum Floor Area Requirement

99 1,200 square feet per dwelling unit.

100
101 Off-Street Parking

102
103 Off-street parking shall be provided as required in this LDR.

104
105 Corner Lots

- 106
- 107 (1) Parcels which front on two streets shall provide a thirty-five (35) foot front
- 108 yard on one street frontage and a 17.5 foot front yard on the other street or
- 109 as required per Section 504.01(M) of this LDR.
- 110
- 111 (2) Parcels fronting on three streets shall provide two thirty-five (35) foot front
- 112 yards and a 17.5 foot front yard on the remaining street or as required per
- 113 Section 504.01(M) in this LDR. [Ord. No. 23-00]

114
115 Driveway Access

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

118
119 Through Lots:

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

122
123 Atypical Lot:

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

IMPACT ANALYSIS

Existing County FLU	Acres	Density	Units	Existing County Zoning	Acres
Urban Medium Intensity (UMI)	0.830	4 units/acre	3.32	R-1 - Urban Single-Family Res	0.830
Total	0.830		3.32		0.830

Requested City FLU	Acres	Density	Units	Requested City Zoning	Acres
Low Density Residential	0.830	5 units/acre	4.15	R-1, Single-Family Residential	0.830
Total	0.830		4.15		0.830

Existing FLU	Units	Requested FLU	Units	Increase/ (Decrease)
Dwelling Units	UMI = 4 dwelling units per acre	Low Density Residential = 5 dw	4.15	1
TOTAL DWELLING UNITS			3	4.15

Existing FLU	Proposed FLU
Maximum Allowed Non-Residential Building Area (Sq. Ft.)	Maximum Allowed Non-Residential Building Area (Sq. Ft.)
18,077	0

Existing FLU	Proposed FLU	Increase/ (Decrease)
Population ²	82.41 persons/du	10
Students ³	10.396 students/du	2

Trip Generation ⁴	Existing Land Use		Proposed Land Use	
	Land Use	Average Daily Trips	Land Use	Average Daily Trips
Single-Family Residential	31.77	3,353	Single-Family Residential	39,715
TOTAL	31.77	3,353	Single-Family Residential	39,715
			PM Peak Hour Trips	4,191
			Average Daily Increase /	7.94
			PM Peak Increase /	0.84

IMPACT ANALYSIS (CONT'D)

Existing Requirements (County)		Proposed Requirements (City)					Under / (Deficiency) ⁸
Facility Type	Adopted Level of Service Standard	Total Required for Population of Subject Property	Adopted Level of Service Standard	Total Required for Population Before Annexation	Additional Required for Proposed FLU Population	Total Required after Annexation	
Local Park	0.002 acres per person	0.1928	acres per resident -	5.667	0.0150025	227.19	221.51
District Park	0.005 acres per person	0.482	acres per resident -	22.668	0.06	33.167	10.44
			Urban Open Space	4.5336	0.012	12.503	7.96
			Equipped Play Areas	9.0672	0.024	29.156	20.06
			Neighborhood Parks	22.668	0.06	75.664	52.94
			Community Parks	453.36	1.2	60314.47	59859.91
			Regional Parks	113.34	0.3	770.706	657.07
			Urban District Parks	2.2668	0.006	9	6.73
			Baseball/Softball Fields	0.0001	0.003	10	8.86
			Basketball Courts	0.00005	0.006	46.584	44.31
			Bicycle Trails	0.0001	0.0048	8	6.18
			Boat Ramps	0.00008	0.0048	4074	3346.70
			Piers/Catwalks/Jetties	0.032	1.92	727.296	694.56
			Football/Soccer Fields	0.00004	0.0024	9.0912	7.09
			Handball/Racquetball Cts.	0.00005	0.003	1.1364	0.86
			Shuffleboard Courts	0.00008	0.0048	1.81824	1.36
			Tennis Courts	0.0001	0.006	2.2728	1.73

Existing FLU		Proposed FLU		
Residential on UMI	Non-Residential	Low Density Residential	Maximum Peak Flow (Million GPD)	Existing Average Daily Flow (Million GPD)
8000.00	7500.00	6000	7.13	4.60
7000.00	7500.00	5175	7.00	4.09
829.04 n/a	829.04	438.6 n/a ^{3a}	n/a ^{3a}	n/a ^{3a}
	Total	15500.00		4.606,000.00
		14500.00		4,095,175.00
		829.04		2,524,000.00
				2,904,825.00

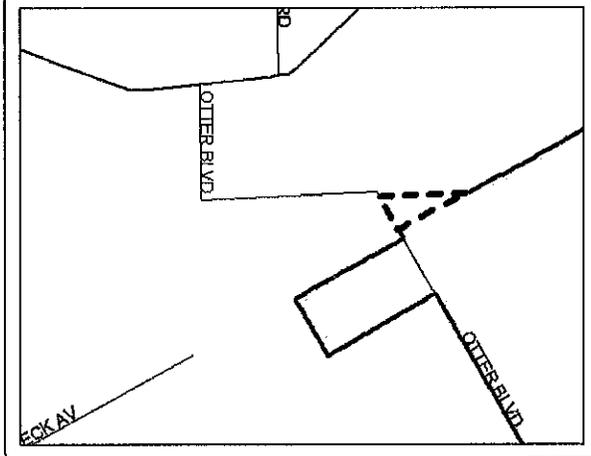
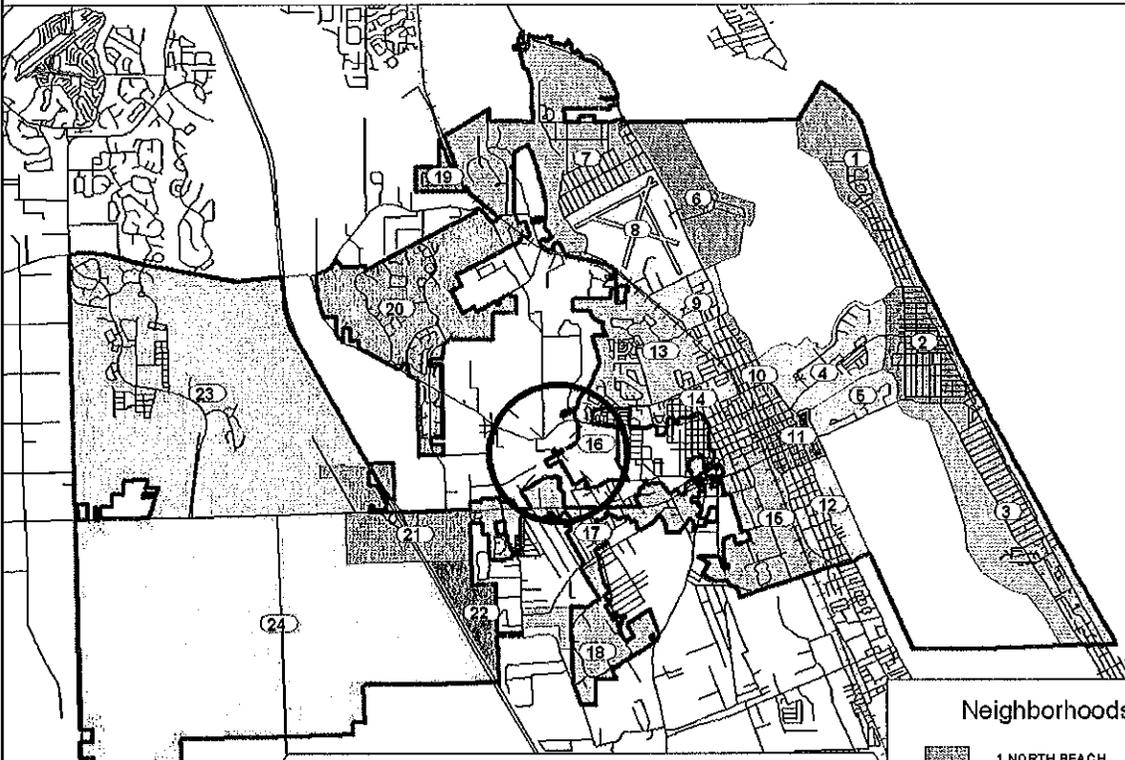
Peak discharge rate and total runoff volume leaving the site for a 25 year storm of 24 hour duration shall be limited to 110 percent of the present discharge rate and total discharge volume.

Notes:

- Volusia County Comprehensive Plan, Chapter 20, caps neighborhood commercial development at a maximum of 50,000 SF.
- Population: 2.41 persons per residential unit or single-family dwelling per 2008-2008 American Community Survey for Volusia County.
- Student population is calculated at a rate of 0.366 students per single-family dwelling unit.
- Source: ITE Trip Generation Manual, 7th Edition.
- Specialty Retail = 44,321.01 daily trips/1000 sq. feet gross floor area; 5.03 PM Peak Hour trips / 1000 sq. feet gross floor area peak hour of generator.
- Single-Family Residential Average Daily Flow = 1.01 trips/dwelling unit for peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.
- Because of the County's Open Spaces and Open Spaces 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.
- Population: County = 200 persons per day (GPD) per residential unit, 0.15 GPD per sq. ft. of office building area; 0.1 GPD per sq. ft. of retail, institutional & industrial building area. City = 240 gallons per day per residential unit or ERU.
- Sanitary Sewer: County = 175 GPD per residential unit, 0.15 GPD per sq. ft. of office building area; 0.10 GPD per sq. ft. of retail, institutional & industrial building area. City = 207 gallons per day per residential unit or ERU.
- 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-13-11



Neighborhoods

- 1 NORTH BEACH
- 2 CENTRAL BEACH
- 3 CORONADO BEACH
- 4 NORTH CAUSEWAY
- 5 SOUTH CAUSEWAY
- 6 INLET SHORES
- 7 NORTH MAINLAND
- 8 AIRPORT INDUSTRIAL
- 9 CENTRAL MAINLAND
- 10 FAULKNER
- 11 CANAL DOWNTOWN
- 12 SOUTH MAINLAND
- 13 FAIRWAY
- 14 WESTSIDE
- 15 SOUTH WEST
- 16 PIONEER TRAIL
- 17 S.R. 44 CORRIDOR
- 18 LAKE WATERFORD ESTATES
- 19 FLORIDA DAYS
- 20 SUGAR MILL
- 21 ACTIVITY CENTER
- 22 OLENOE
- 23 NORTH VILLAGE
- 24 SOUTH VILLAGE
- WATER



City Boundary
 Local Streets
 Subject Property

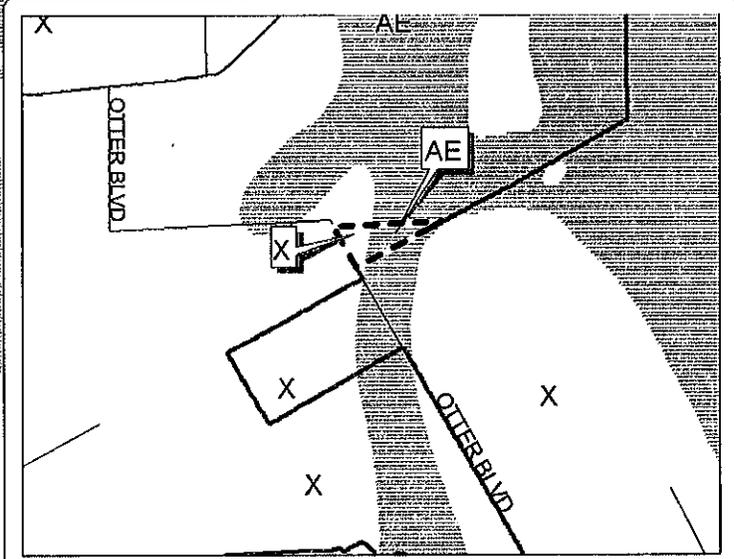
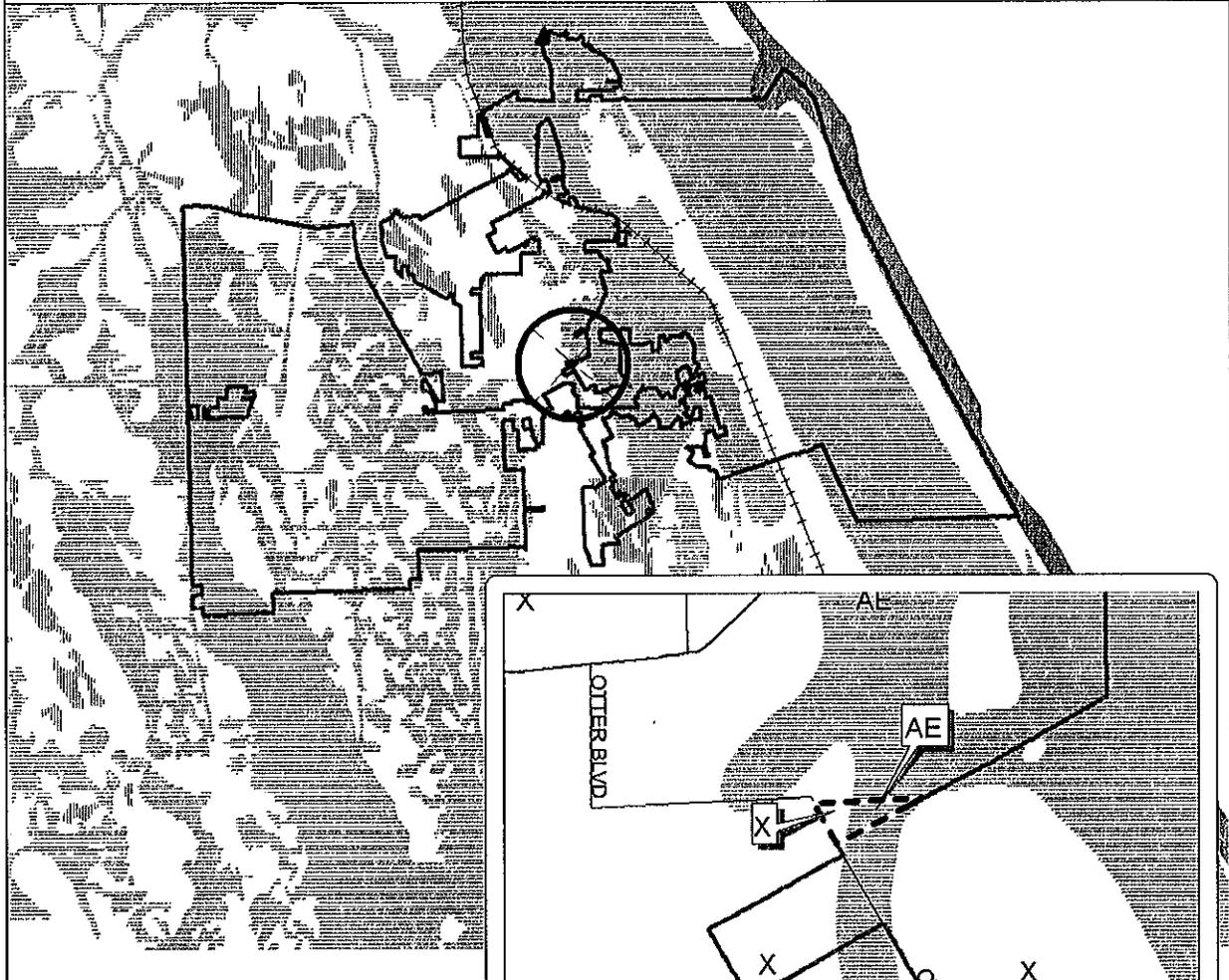
0 4000 Feet

Update to Comprehensive Plan Map II-1

**SUBJECT PROPERTY IS LOCATED
 WITHIN THE PIONEER TRAIL
 NEIGHBORHOOD**

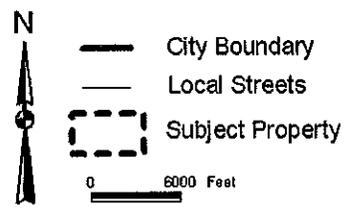
Flood Prone Areas

A-13-11



Update to Comprehensive Plan Map II-2

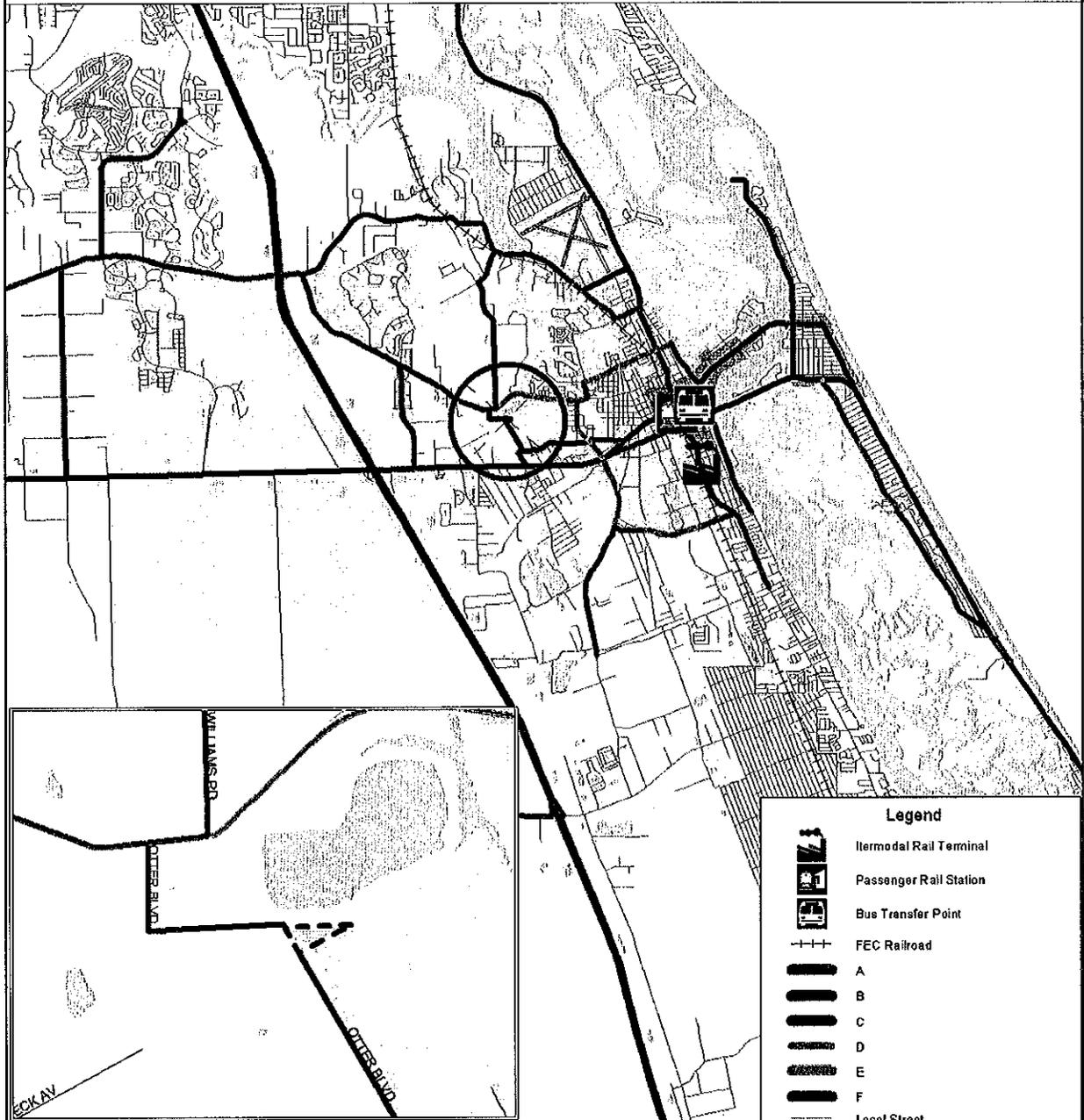
SUBJECT PROPERTY IS WITHIN THE FEMA FLOOD ZONES X AND AE



-  ZONE A - 100 YEAR FLOOD ZONE, FLOOD ELEVATIONS ESTABLISHED
-  ZONE AE - 100 YEAR FOLLD ZONE, FLOOD ELEVATIONS DETERMINED
-  ZONE AH - 100 YEAR FOOD ZONE - PONDING 1 TO 3 FEET
-  ZONE ANI - AREA NOT COVERED BY FIRM MAP
-  ZONE VE - COASTAL HAZARD AREA
-  ZONE X - OUTSIDE 100 & 500 YEAR FLOOD ZONE
-  ZONE X500 - 500 YEAR FLOOD ZONE

Existing Level of Service - 2009

A-13-11



N

0 4000 Feet

Subject Property

Update to Comprehensive Plan Map III-1

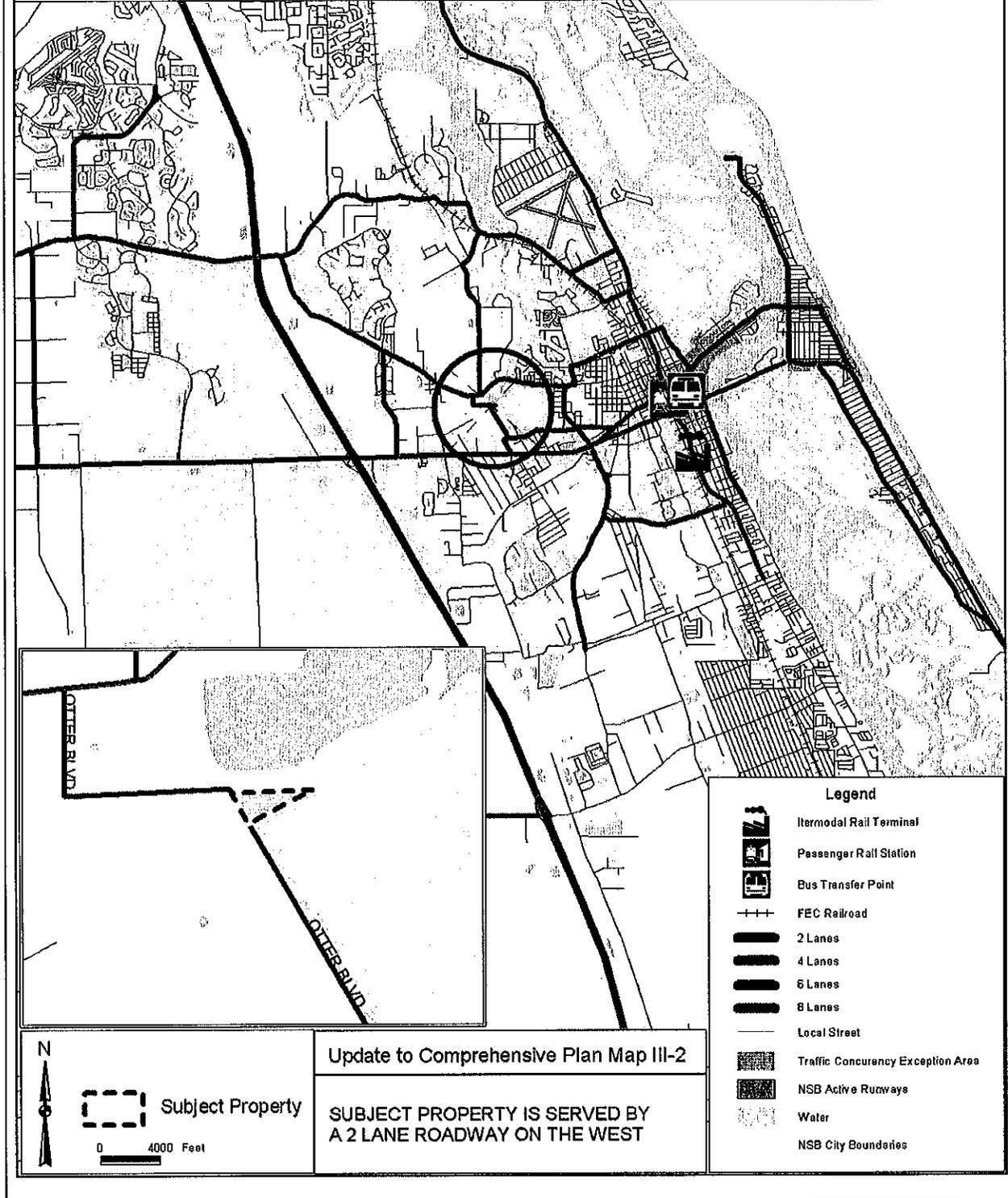
SUBJECT PROPERTY IS SERVED BY A CLASS 'B' LEVEL OF SERVICE ROADWAY ON THE WEST

Legend

- Intermodal Rail Terminal
- Passenger Rail Station
- Bus Transfer Point
- FEC Railroad
- A
- B
- C
- D
- E
- F
- Local Street
- Traffic Concurrence Exception Area
- NSB Active Runways
- Water
- NSB City Boundaries

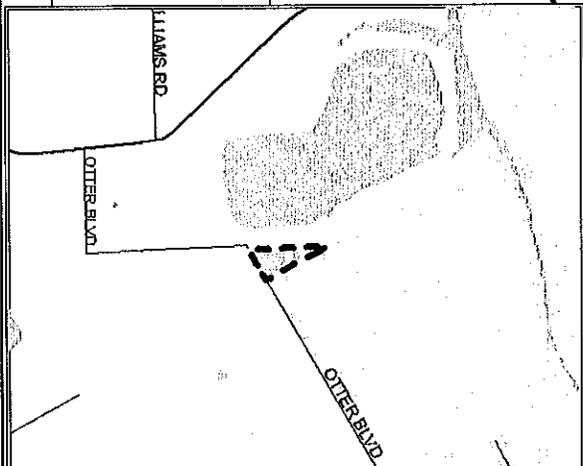
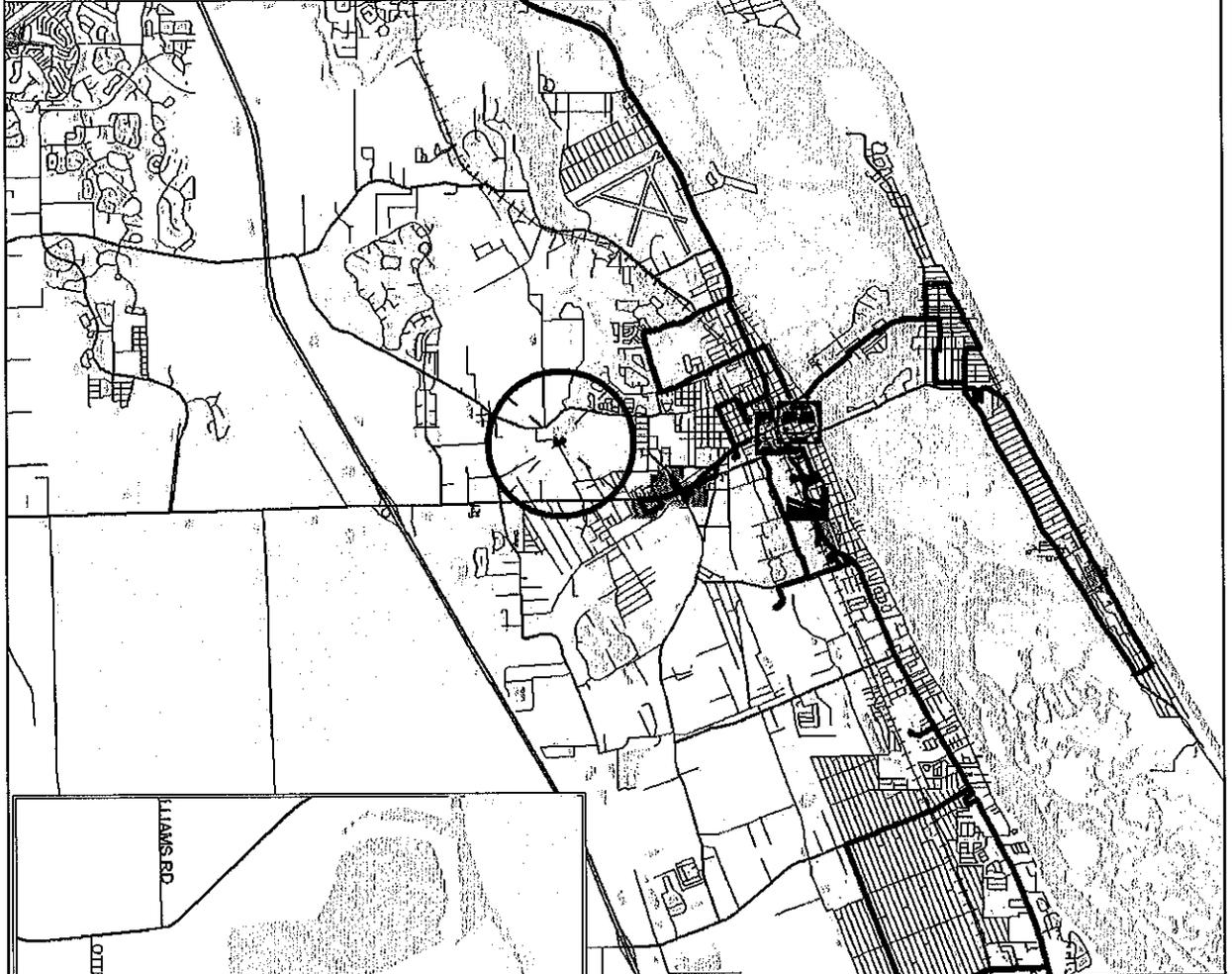
Existing Traffic Lanes - 2009

A-13-11



Public Transit Routes

A-13-11



Legend

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

N



 Subject Property

0 4000 Feet

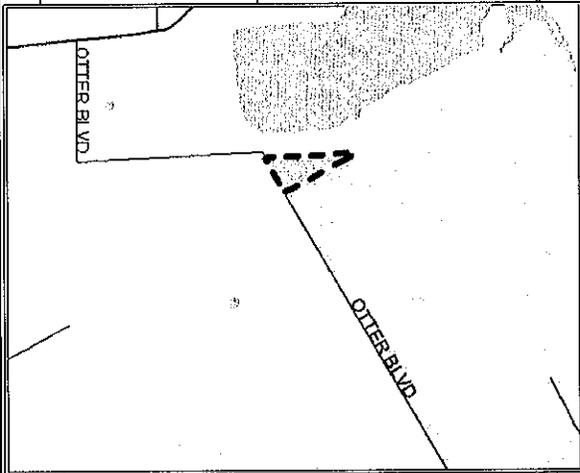
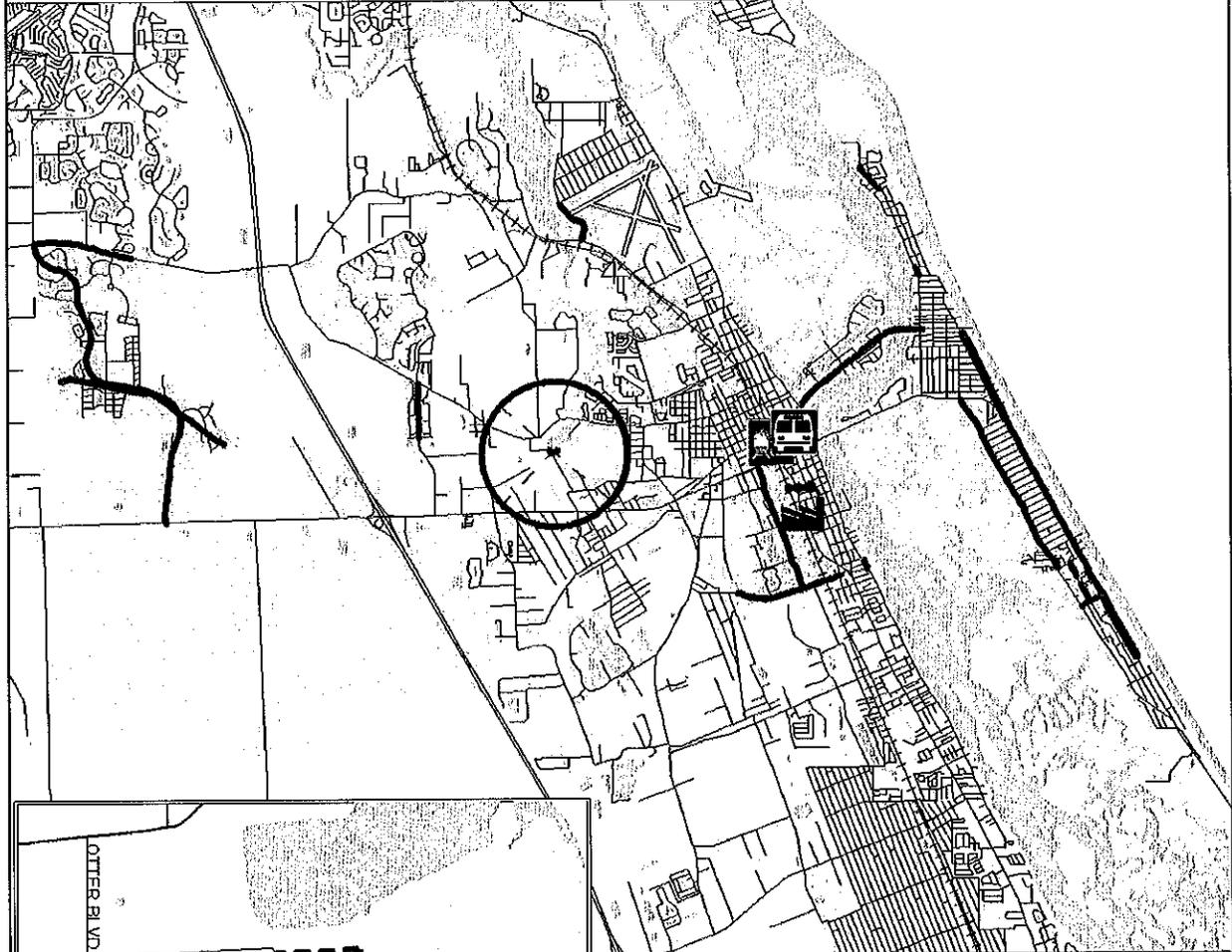


Update to Comprehensive Plan Map III-3

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

Bicycle and Pedestrian Facilities

A-13-11



Legend

-  Intermodal Rail Terminal
-  Passenger Rail Station
-  Bus Transfer Point
-  FEC Railroad
-  Local Street
-  Bicycle Lane
-  Bicycle Path
-  Water
-  NSB City Boundaries

N



 Subject Property

0 4000 Feet

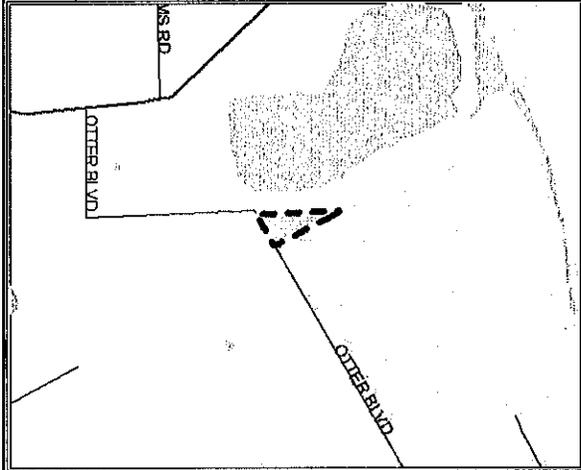
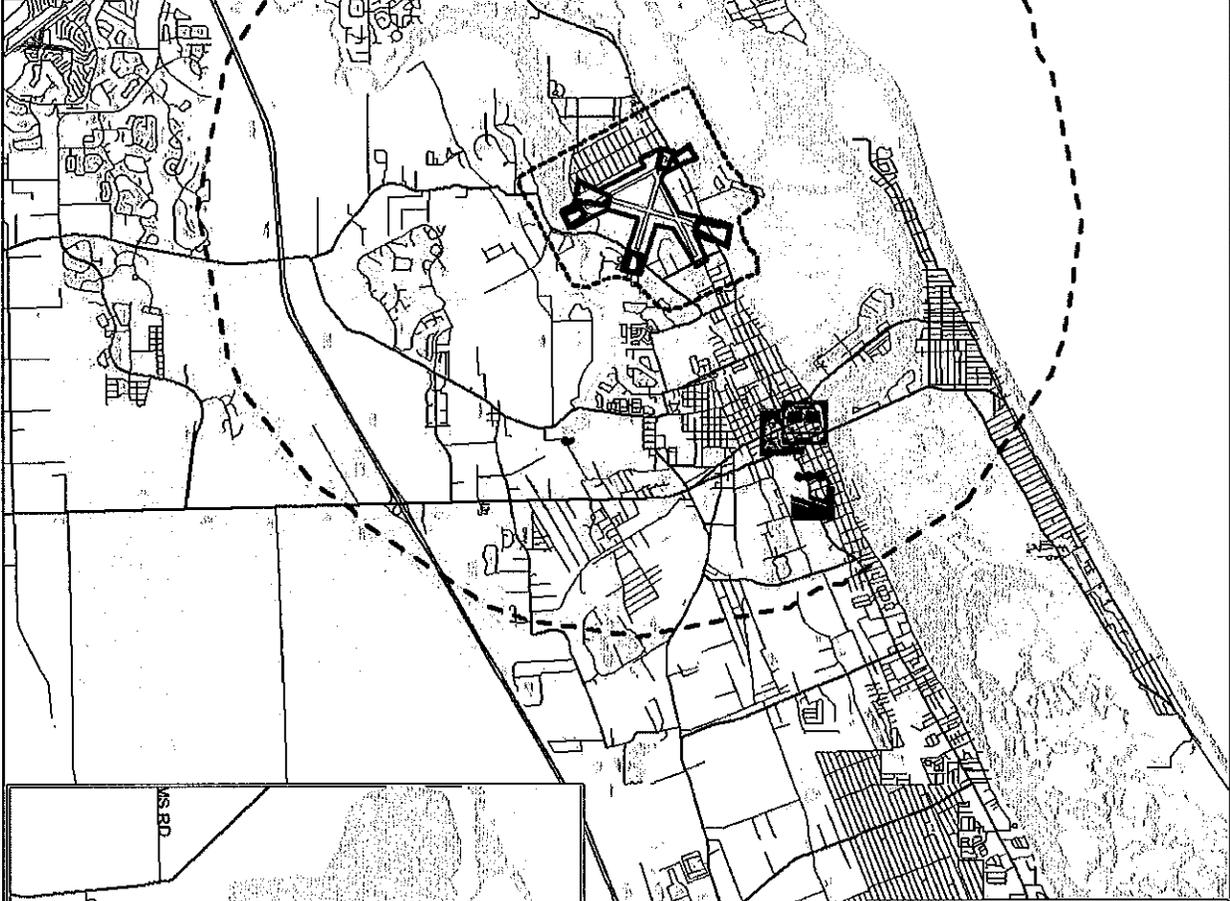


Update to Comprehensive Plan Map III-4

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

Airport Runway Protection Zones

A-13-11



Legend

-  Intermodal Rail Terminal
-  Passenger Rail Station
-  Bus Transfer Point
-  FEC Railroad
-  Local Street
-  Building Restriction Zone
-  Height Notification Zone
-  Noise Impact Zone
-  Runway Protection Zones
-  Water
-  NSB City Boundaries

N



 Subject Property

0 4000 Feet

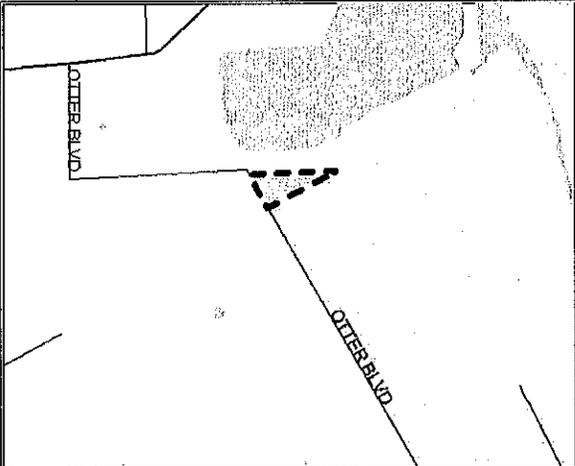
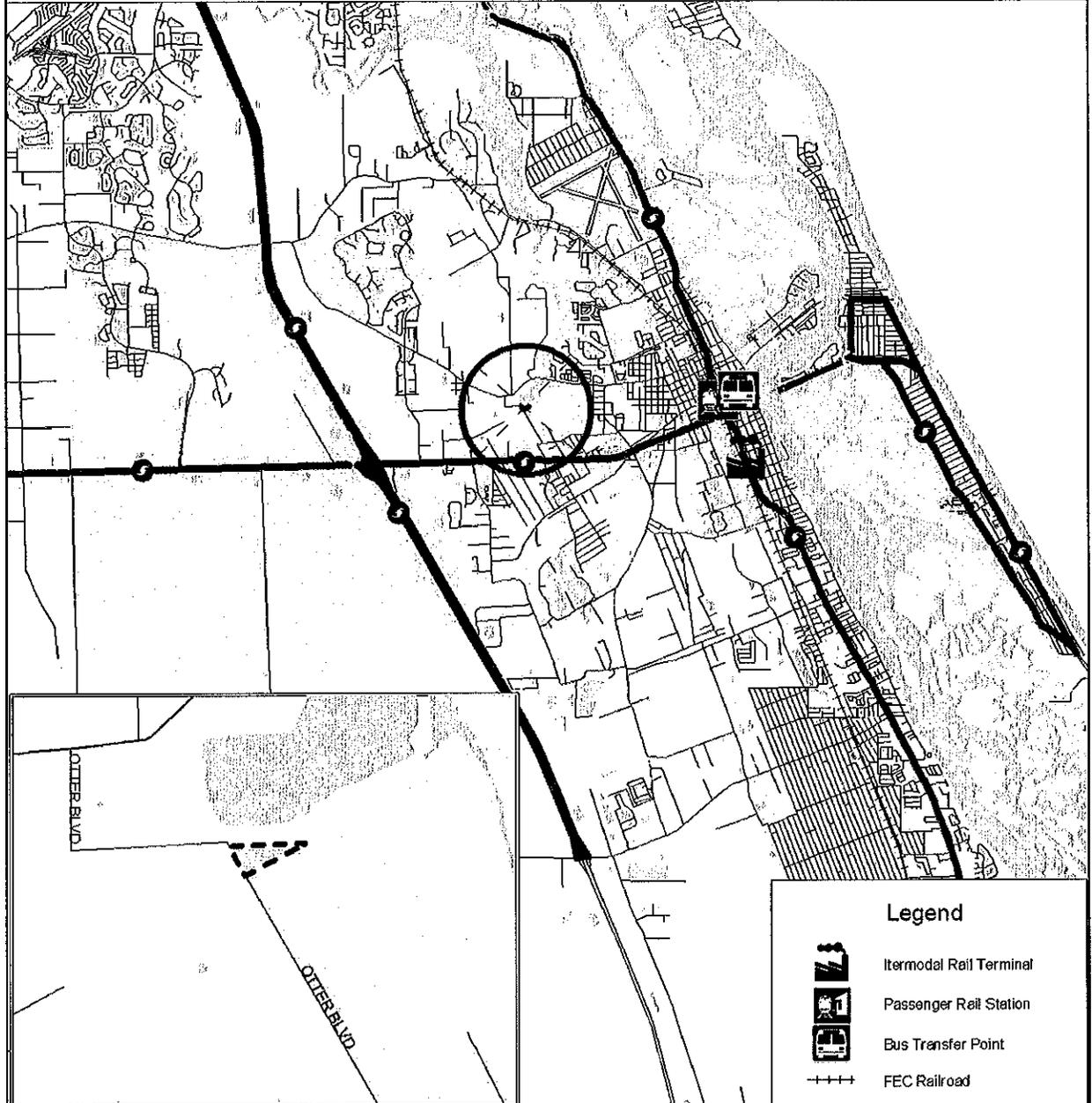


Update to Comprehensive Plan Map III-5

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-13-11



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

N

Subject Property

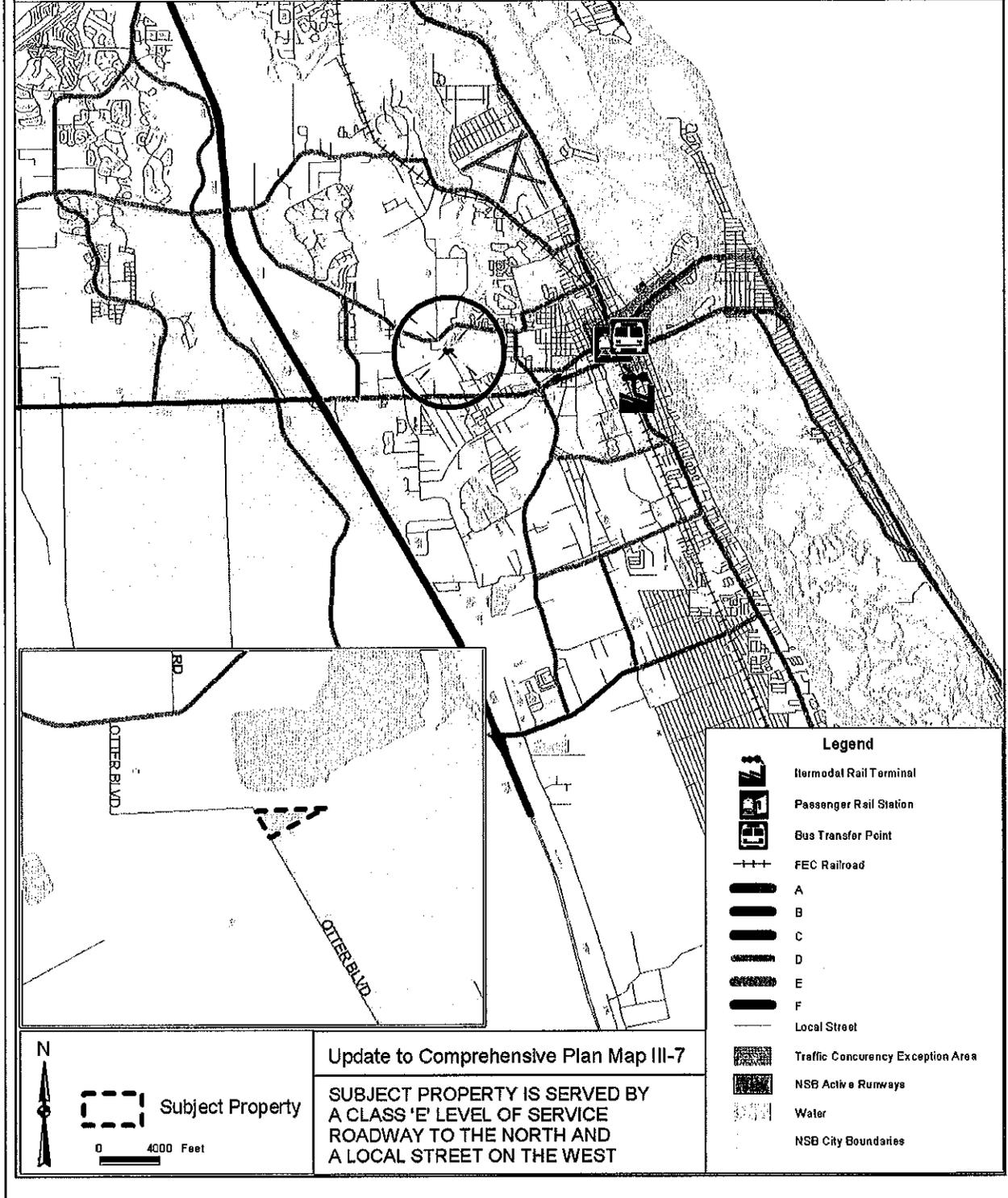
0 4000 Feet

Update to Comprehensive Plan Map III-6

SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

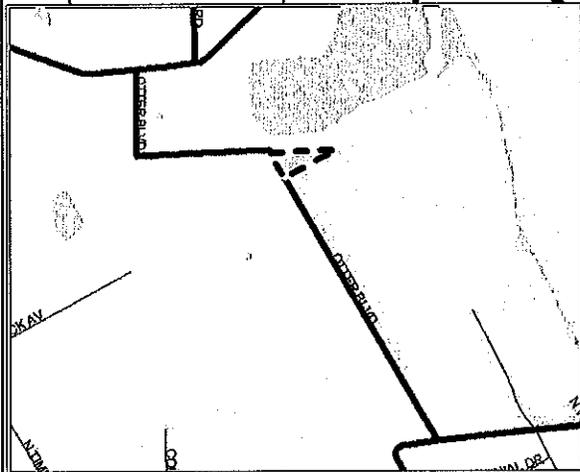
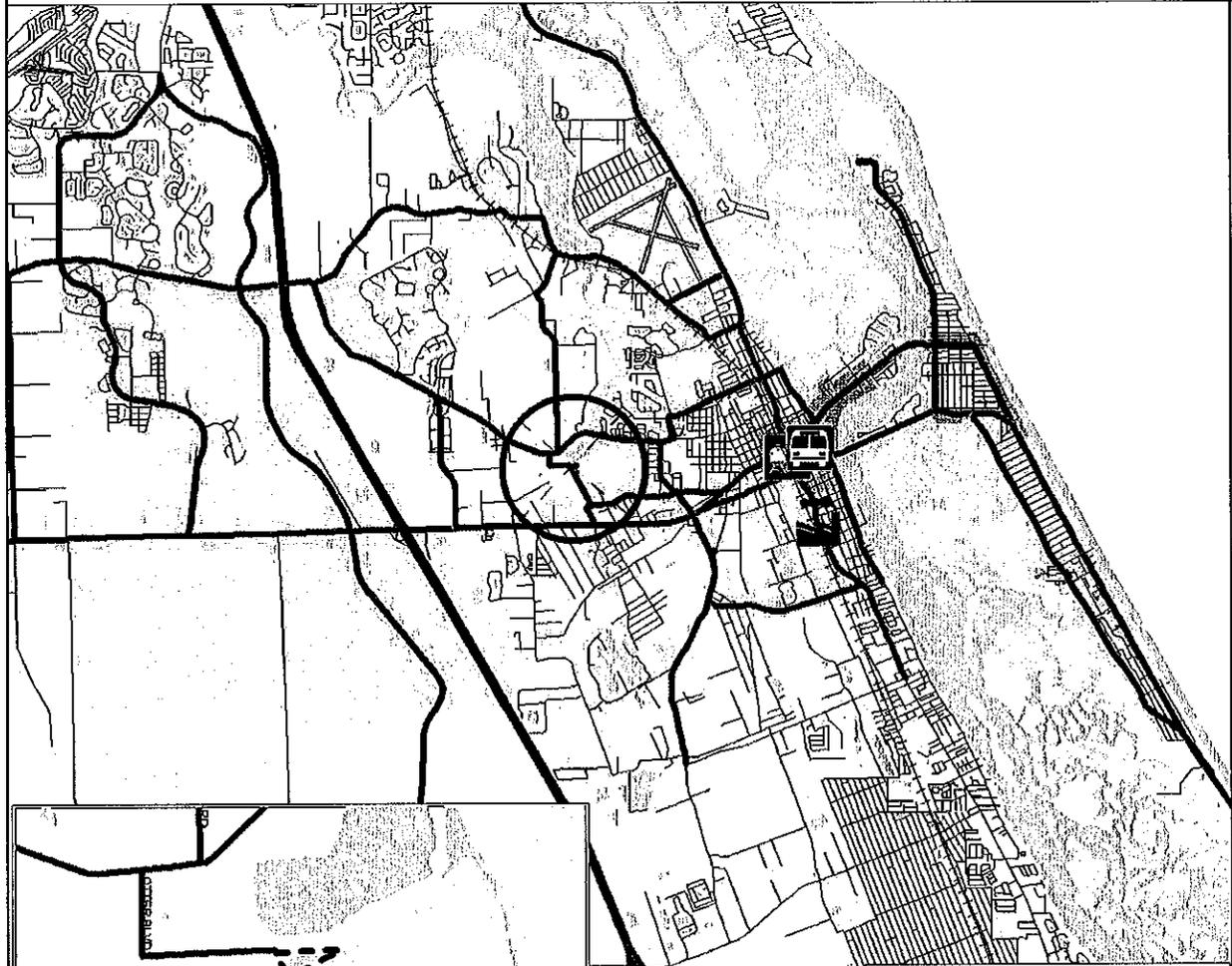
Level of Service - 2025

A-13-11



Number of Traffic Lanes - 2025

A-13-11



0 4000 Feet

Update to Comprehensive Plan Map III-8

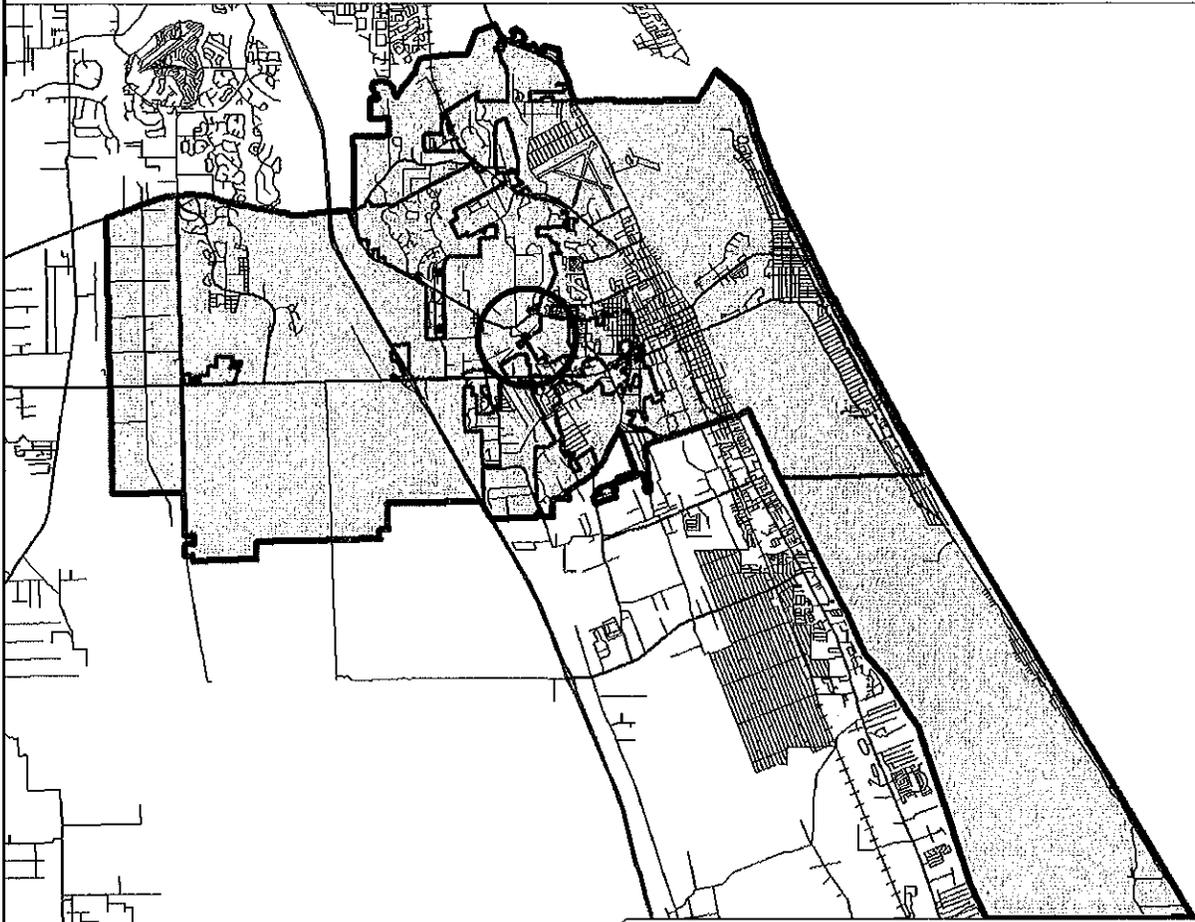
**SUBJECT PROPERTY IS SERVED BY
A 2 LANE ROADWAY
ON THE WEST**

Legend

- Intermodal Rail Terminal
- Passenger Rail Station
- Bus Transfer Point
- FEC Railroad
- 2 Lanes
- 4 Lanes
- 6 Lanes
- 8 Lanes
- Local Street
- Traffic Concurrence Exception Area
- NSB Active Runways
- Water
- NSB City Boundaries

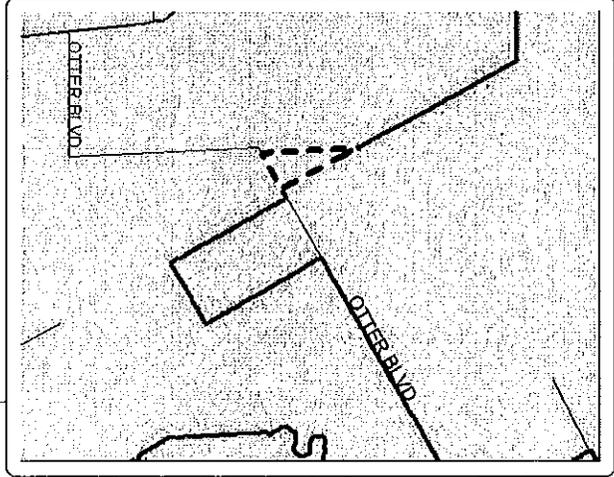
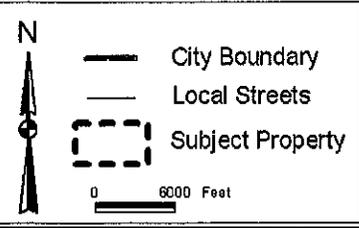
Water & Sewer Service Area

A-13-11



Update to Comprehensive Plan Map VII-1

SUBJECT PROPERTY IS WITHIN THE CITY AND INSIDE THE NSB WATER AND SEWER SERVICE AREA



WATER AND SEWER SERVICE AREA

Soil Limitation for Septic Systems

A-13-11



N

— City Boundary
— Local Streets
- - - Subject Property

0 4000 Feet

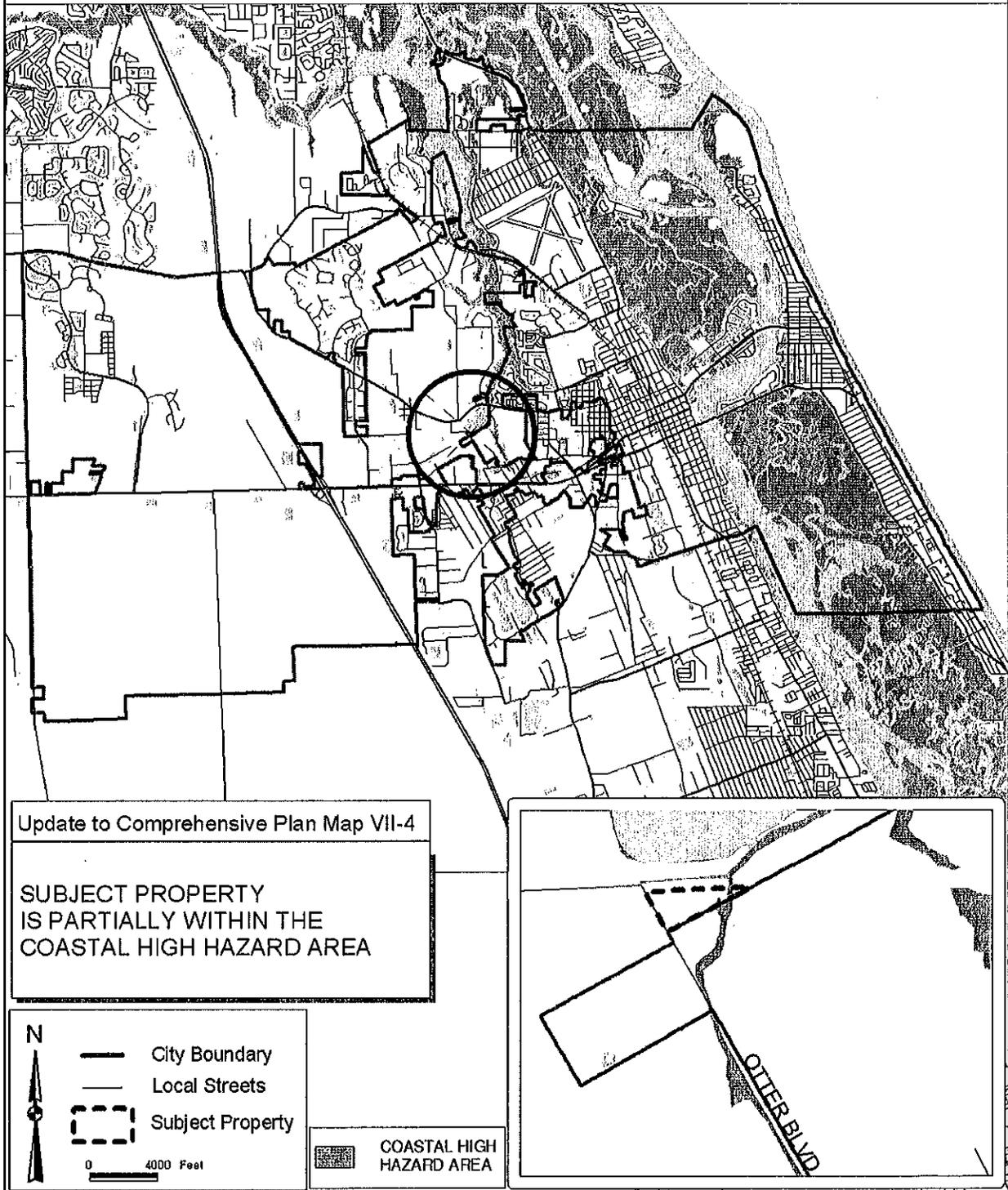
SEVERE LIMITATIONS
SLIGHT LIMITATIONS

Update to Comprehensive Plan Map VII-2

SUBJECT PROPERTY IS NOT WITHIN THE SOILS WITH SEVERE LIMITATIONS FOR SEPTIC TANK FILTER FIELDS

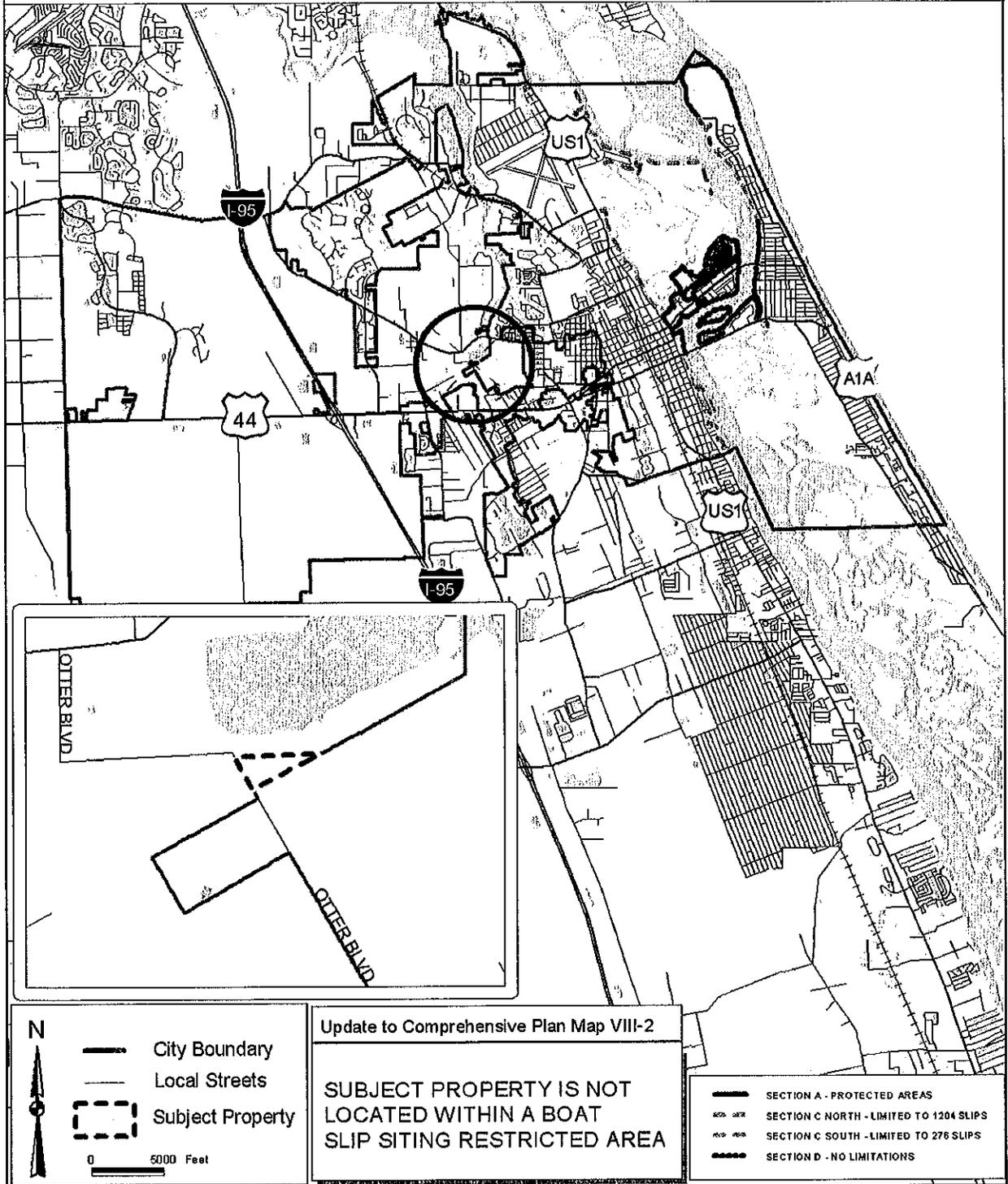
Coastal High Hazard Areas

A-13-11



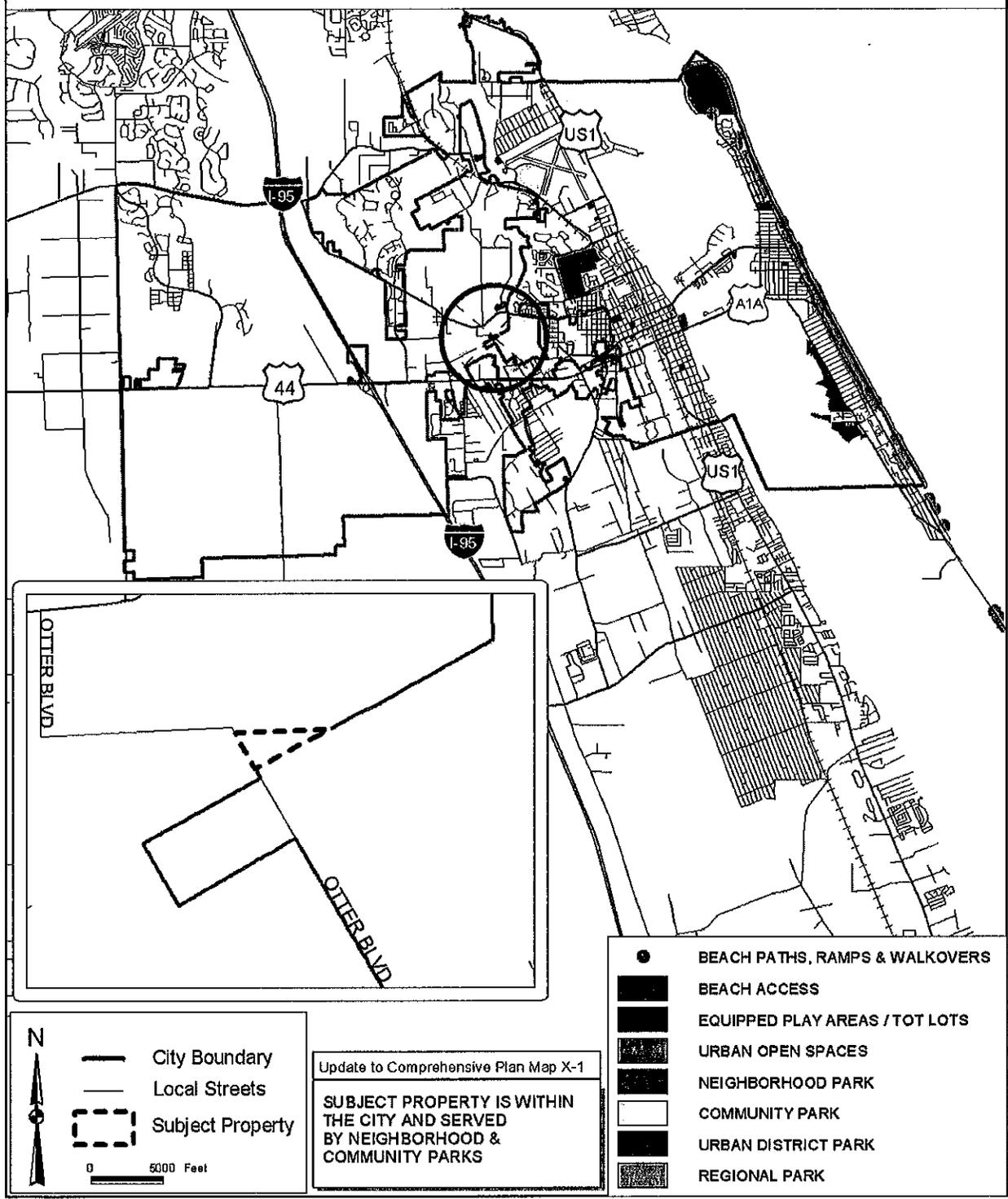
Boat Slip Siting

A-13-11



City Parks

A-13-11





Case A-13-11: HALL / 389 OTTER BOULEVARD
PLANNING AND ZONING BOARD MEETING: SEPTEMBER 12, 2011



2 **PUD-3-11: REGENCY PUD –**
3 **2ND AMENDMENT**

4 **SEPTEMBER 12, 2011**

5
6 **Background**

- 7
- 8 A. **Applicant:** Kai Burk, P.E., 445 24th Street, Vero Beach, FL, 32960
- 9
- 10 B. **Property Owner:** New Smyrna Regency, LLC, One Independent Drive, Unit
- 11 114, Jacksonville, FL 32202
- 12
- 13 C. **Request:** Approval of the 2nd amendment to the Regency Planned Unit
- 14 Development (PUD) Master Development Agreement (MDA) to modify signage,
- 15 architectural and landscaping requirements for Future Development Parcels H
- 16 and I.
- 17
- 18 D. **Site Data:** The subject property consists of approximately 42.7 acres, is zoned
- 19 PUD, Planned Unit Development, and is generally located northwest of the
- 20 intersection of Interstate 95 and State Road 44 (see **Exhibit A** for a location
- 21 map).

22 **Findings**

- 23 A. The Regency Planned Unit Development (PUD) Master Development Agreement
- 24 (MDA) was approved by the City Commission on December 13, 2006. The MDA
- 25 sets the requirements for future development of the property, including permitted
- 26 uses, density, setbacks and architectural regulations. The MDA originally
- 27 covered property on both the east and west sides of Interstate 95.
- 28
- 29 B. Subsequent to City Commission approval of the rezoning in 2006, the parcel on
- 30 the west side of Interstate 95 was sold New Smyrna Regency, LLC in 2007.
- 31 Regency subsequently obtained site plan approval for a big-box retail store and
- 32 sold a portion of this western parcel to Wal-Mart in 2010.
- 33
- 34 C. On February 8, 2011 the City Commission approved the 1st Amendment to the
- 35 Regency PUD MDA. The first amendment established a separate MDA for the
- 36 property west of Interstate 95 (the Regency property), while allowing the original
- 37 MDA to remain in place for the property east of Interstate 95 (the Rubin
- 38 property). The 1st Amendment also revised development standards for signs,
- 39 drive-thru facilities and frontage road widths.
- 40
- 41 D. On May 19, 2011, City staff met with a representative from Cracker Barrel to
- 42 discuss the proposed construction of a restaurant on Parcels H and I in the
- 43 Regency PUD. Based on discussions at that meeting, along with follow-up
- 44 conversations with other representatives of Cracker Barrel, staff identified three
- 45 areas where the Regency MDA would need to be modified in order to allow the
- 46 proposed restaurant to be constructed:
- 47
- 48 1. Section D.3.d, detailing architectural standards;

- 1 2. Section E.3, requiring additional parking lot landscaping for businesses
- 2 that exceed the minimum number of required parking spaces by more
- 3 than 120%; and
- 4 3. Section E.4, outlining signage requirements

5
6 A copy of the proposed 2nd Amendment revisions is attached as **Exhibit B**.

- 7
8 E. These proposed changes are discussed in further detail below. The revisions
- 9 would apply only to the two parcels where the Cracker Barrel is proposed.

- 10
11 1. **Architectural Requirements:** The subject property is located within the
- 12 Southeast Volusia Activity Center. When the original MDA and
- 13 subsequent 1st Amendment were approved, these documents included
- 14 the Activity Center Design Guidelines. The Activity Center Design
- 15 Guidelines include detailed recommendations for landscaping and
- 16 hardscaping features; parking design and architectural requirements. The
- 17 prototypical Cracker Barrel restaurant would not be able to comply with
- 18 these architectural design guidelines. A copy of the proposed Cracker
- 19 Barrel building elevation drawings is attached as **Exhibit C**.

20
21 Staff has discussed with Cracker Barrel representatives some

22 modifications that could be made to the building to help bring the

23 restaurant as much into compliance as possible with the Design

24 Guidelines. These modifications include such changes as adding

25 trellises, dormers and roofed wood storage areas, and using false

26 windows to break up blank space on the building. However, even with

27 these changes, the building would not completely comply with the

28 requirements to vary the roof pitches and horizontal planes. Therefore,

29 the proposed 2nd Amendment would waive those architectural

30 requirements that could not be met after the additional modifications are

31 made.

- 32
33 2. **Interior parking lot landscaping:** The MDA does not contain specific
- 34 requirements for parking lot interior landscaping. Therefore, the parking
- 35 lot landscaping requirements default back to the regulations contained in
- 36 the LDR. Section 604.10(G) of the City's *Land Development Regulations*
- 37 states that developments that exceed the minimum parking requirements
- 38 by more than 120% are required to double the interior parking lot
- 39 landscaping. In this particular case, the proposed Cracker Barrel would
- 40 contain approximately 177 seats and 3,160 square feet of retail space,
- 41 which would require a total of 70 parking spaces. However, the proposed
- 42 site plan would include 114 parking spaces, thus triggering the additional
- 43 interior landscaping requirement. A copy of the conceptual site plan is
- 44 attached as **Exhibit D**.

45
46 Although the number of parking spaces has been reduced and more

47 interior landscaping added since staff first met with the project

48 representative, the number of provided parking spaces will still exceed

1 120% of the minimum requirement. Outparcels H and I, are located in the
2 southeast corner of the Regency PUD, immediately adjacent to State
3 Road 44 and Interstate 95. Adjacent to the east side of the property is a
4 landscaped stormwater retention pond on common area. The area south
5 of Parcels H and I contains a landscaped buffer area with a 10-foot
6 bicycle path along State Road 44. To the west of the property will be a
7 minimum required perimeter landscape buffer.

8
9 The intent of requiring increased interior landscaping for larger parking
10 lots is to avoid massive areas of asphalt or concrete. Parking lot
11 landscaping acts not only as a visual amenity for the development but,
12 provides shades for patrons, reduces the “heat island” affect associated
13 with urban areas, and provides habitat for birds.

14
15 In this particular case, Cracker Barrel theoretically has the option to
16 purchase additional land to the east. However, this would include part of
17 the landscaped retention pond which is currently intended to be under
18 common ownership maintenance. This may potentially create long-term
19 maintenance issues. The property to the west is under separate
20 ownership and is already developed with a gas station. Purchasing
21 additional property to the north would interfere with the access drive
22 configuration and would also require an amendment to the MDA as well.
23 Therefore, the property owner is proposing to amend the MDA, to require
24 only 10% interior landscaping on Parcels H and I.

- 25
26 3. **Signage:** The 1st Amendment to the Regency MDA included a sign
27 program that established sign design requirements for the big box stores,
28 multi-tenant buildings and stand-alone outparcels. The sign program
29 requires wall signs on stand-alone outparcels to be channel letter signs,
30 meaning that each letter is an individual entity. Individual letter height is
31 limited to a maximum of 42”. The prototypical Cracker Barrel sign is a 66”
32 tall, enameled steel face sign with external illumination, which does not
33 meet the sign program requirements (see **Exhibit B**). The proposed
34 monument sign will conform to all requirements of the sign program.

35
36 F. The stated intent of the Activity Center Design Guidelines is:

- 37
38 • To promote appearance and site design standards that establishes the
39 Activity Center as an introductory gateway to the City.
40 • To promote compatibility and consistency between the mix of uses.
41 • To promote connectivity in a pedestrian friendly environment.
42 • To coordinate between public and private improvements.
43 • To create a place that is unique to New Smyrna Beach and not just
44 another I-95 Interchange.

45
46 This intent was carried forward in the Regency Master Development Agreement
47 and applies to all parcels within the PUD. The location of Parcels H and I, in the
48 southeast corner of the PUD, would likely have limited pedestrian activity,

1 regardless of any changes proposed by Cracker Barrel. Certain pedestrian
2 features, such as a sidewalk connection from the bicycle path along State Road
3 44 into the restaurant site would continue to be provided. Additionally, although
4 the 2nd Amendment would reduce the architectural requirements for the building,
5 there are still minor modifications that can be made, as discussed above, that
6 would comply with the overall intent of the Activity Center Design Guidelines.
7

8 **Recommendation**

9 Staff recommends **approval** of the 2nd Amendment to the Regency Planned Unit
10 Development Master Development Agreement and Conceptual Development Plan with
11 the condition that minor modifications, as discussed in Finding “E”, are incorporated into
12 the final design of the building, the maximum extent possible.

**SECOND AMENDMENT TO THE
REGENCY / WAL-MART PLANNED UNIT DEVELOPMENT
MASTER DEVELOPMENT AGREEMENT (MDA)**

ORDINANCE # _____

WHEREAS, The CITY OF NEW SMYRNA BEACH, a Florida Municipal Corporation (the "City"), and New Smyrna Regency, LLC, a Florida limited liability company and Wal-Mart Stores East, L.P. (collectively the "Owners") previously entered into an agreement and covenant to bind their successors and assigns to the terms and provisions of a development agreement entitled "Regency/Wal-Mart Amended and Restated Master Planned Unit Development Agreement", (hereinafter referred to as "Agreement"), relating to property described therein (hereinafter referred to as the "Property"); and

WHEREAS, the City and Developer wish to amend the Regency/Wal-Mart Master Development Agreement.

Now, therefore, the parties agree as follows:

DEVELOPMENT AGREEMENT

A. Development Concept.

D. Development Standards.

3. Other Standards:

- a. Development of the parcel shall comply with all applicable provisions of the New Smyrna Beach 1-95 & SR 44 Activity Center Design Guidebook unless the MDA has specific and/or more stringent standards. Exhibit 7E provides typical illustrations of the big box building elevations.
- b. Two-way drive aisles not exceeding 24 feet in width may be located on the street side of all outparcels that front on SR 44 and Williamson Boulevard extension. However, if the Williamson Boulevard extension is not within or adjacent to the west parcel then parking and drives aisles may be located west of buildings on the west side of the parcel. Special intersection treatments will be provided as indicated on Exhibit "B" in an effort to provide for traffic calming along the proposed 2-way drive, and to provide for pedestrian connectivity from SR 44 to the development.

- c. Out parcels along SR 44 shall be limited to three building drive through facilities. The drive through windows can be located on the north, east or west side of the buildings with the menu boards being located along the north sides of the building, and shall be screened to minimize, their visibility from SR 44 Access drives to the out parcels cannot be located in the required 35 foot landscaped buffer along SR 44.
- d. All buildings shall comply with the building appearance standards section of the New Smyrna Beach I-95 & SR 44 Activity Center Design Guidebook unless the MDA has specific and/or more stringent standards. The big box buildings shall be designed to be consistent with the attached building elevations that are incorporated in this Order by reference as Exhibit 7F. A segment of the access drive extending from S.R. 44 and the S.R. 44 frontage shall have buildings that are designed, arranged and constructed to give a main street appearance. (See Exhibit "F" for building elevations) Parcels H and I shall be exempt from the building appearance standards section of the Activity Center Design Guidebook.
- e. The Applicant shall construct a ten foot wide sidewalk along the parcel's frontage on SR 44 and a five foot wide sidewalk along the parcel's west property line.

B. Requirements Applicable to the Parcel.

1. Open Space Requirements.

The amount of required open space shall be a minimum of 30 percent. If the LDR requirement for percent of open space is amended to a lesser percent, the open space percentage of this MDA will be revised to comply with the new standard without an amendment to this MDA.

2. Landscape Requirements.

All landscaping shall comply with the landscape regulations as set forth in Section 604.05 of the City's LDR, Ordinance 1-91, as amended. Parcels H and I shall only be required to provide 10% interior parking lot landscaping, regardless of the number of on-site parking spaces provided.

3. Off-Street Parking Requirements.

All off-street parking shall comply with the off-street parking regulations as set forth in Section 604.10 of the City's LDR, Ordinance No. 1-91, as amended, except that the number of

required spaces may be reduced by up to 20 percent to account for shared parking, building locations and treatments that provide a main street appearance.

4. Signage Requirements.

"All entrance identification signs and building wall signs shall comply with the Shoppes at Coronado Comprehensive Sign Plan attached as Exhibit "D". Signs on Parcels H and I shall comply with the designs shown in Exhibit "E". This will include the ability to construct the overall Shopping Center Monument sign and one Anchor Tenant Monument sign with the issuance of the first Anchor Tenant Building permit. All other signs shall comply with the New Smyrna Beach I-95 & SR 44 Activity Center Design Guidebook. Additionally, the parcel is subject to a sign easement for the benefit of the adjoining owner, and any sign existing or erected pursuant to that easement is the property of the adjoining owner and not subject to this MDA."

DONE and ORDERED by the City Commission of New Smyrna Beach, Florida this _____ day of _____, 2011.

WITNESSES:

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

Witness 1 By: _____
Adam Barringer, Mayor

Print Name of Witness 1 Attest:

Witness 2 By: _____
Johnny Bledose, City Clerk

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

EXHIBIT B (CONT'D)

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by Adam Barringer and Johnny Bledose, as Mayor and City Clerk, respectively, of the City of New Smyrna Beach, Florida, a Florida Municipal Corporation, on behalf of the City of New Smyrna Beach. They are personally known to me and did not take an oath.

Notary Public, State of Florida
Type or Print Name: _____
Commission No. _____
My Commission Expires: _____

**NEW SMYRNA REGENCY, L.L.C., a
Florida limited liability corporation**

WITNESSES:

Witness 1
By: _____
Printed Name:

Title: _____
Print Name of Witness 1
Date: _____

Witness 2

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2011, by _____, as _____ of New Smyrna Regency, L.L.C, a Florida limited liability corporation, on behalf of the company. He/she is personally known to me or has produced _____ as identification and did not take an oath.

Notary Public, State of Florida
Type or Print Name: _____
Commission No. _____
My Commission Expires: _____

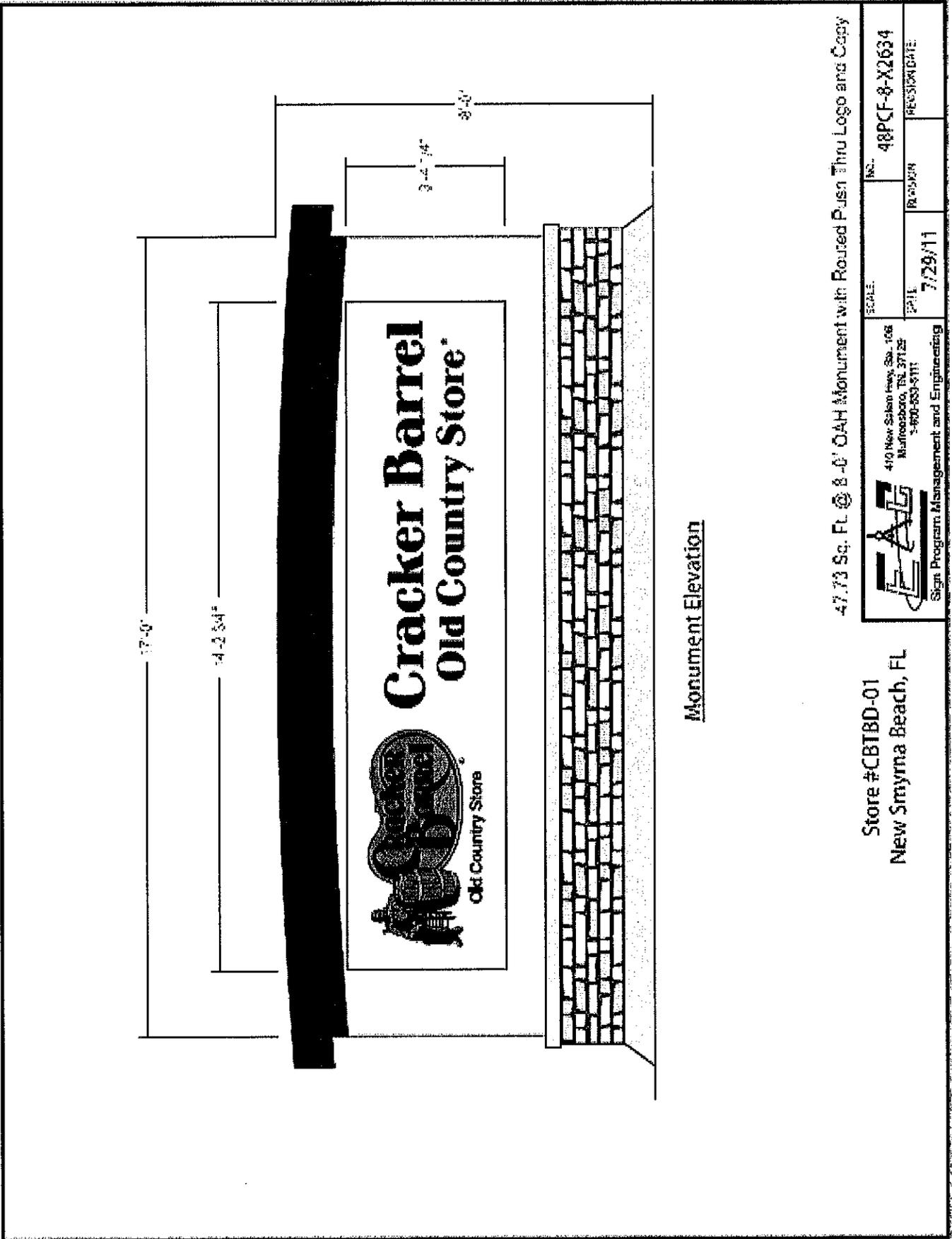
APPROVED AS TO FORM AND CORRECTNESS

FRANK B. GUMMEY, III
City Attorney

Date: _____

Exhibit "B"
Conceptual Development Plan

Exhibit "E"
Parcels H and I Sign Design



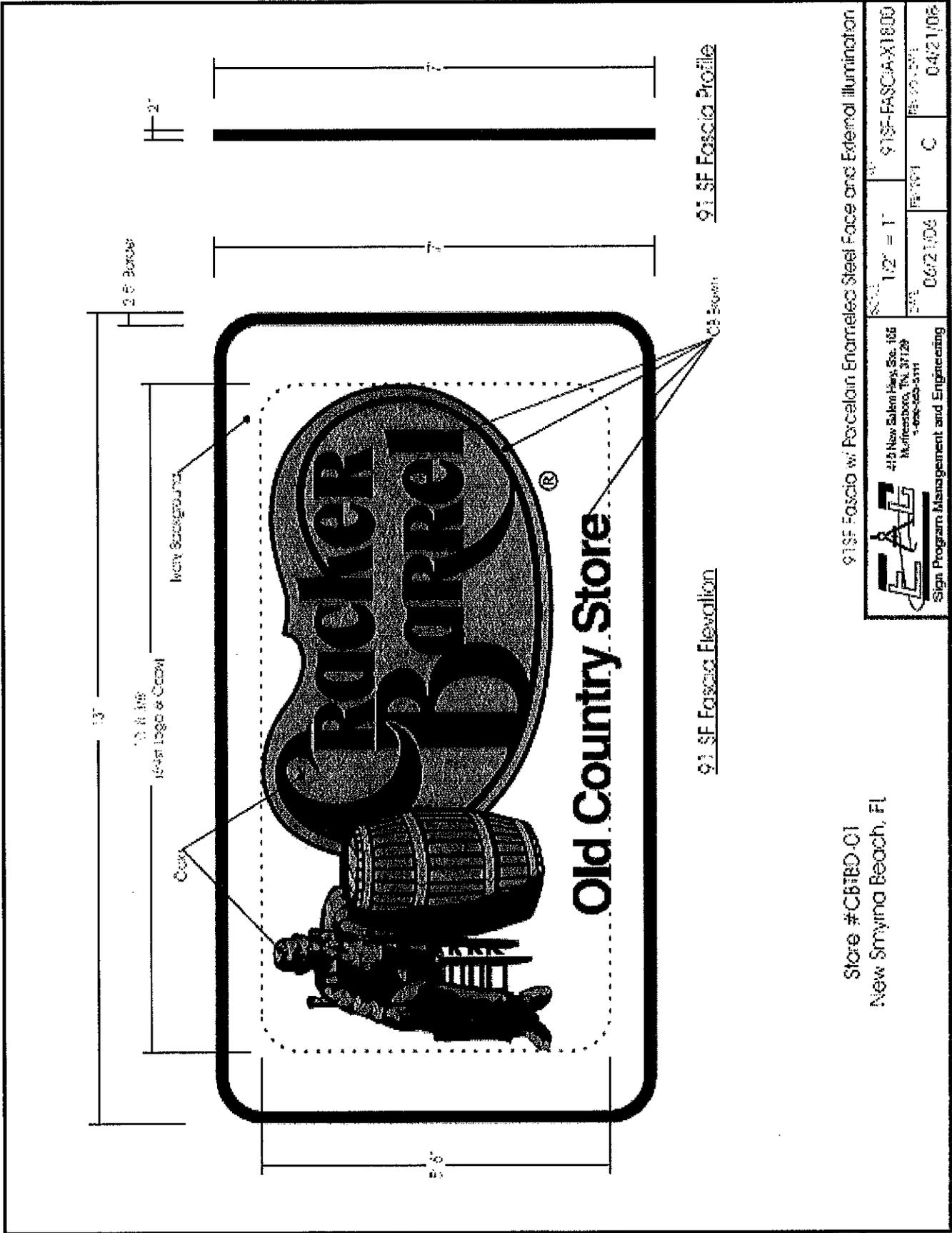
Monument Elevation

47.73 Sq. Ft. @ 8'-0" OAH Monument with Routed Push Thru Logo and Copy

Store #CBTBD-01
New Smyrna Beach, FL

410 New Salem Hwy., Ste. 108
Maitland, FL 32751
3400-883-9111
Sign Programs Management and Engineering

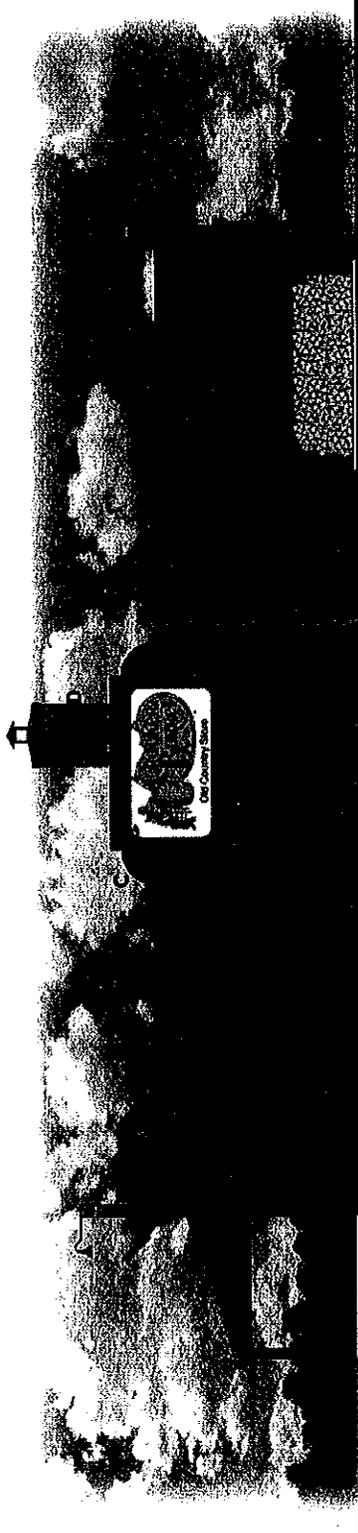
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2"=1'	48PCF-8-X2634	
	REVISION	
	7/29/11	



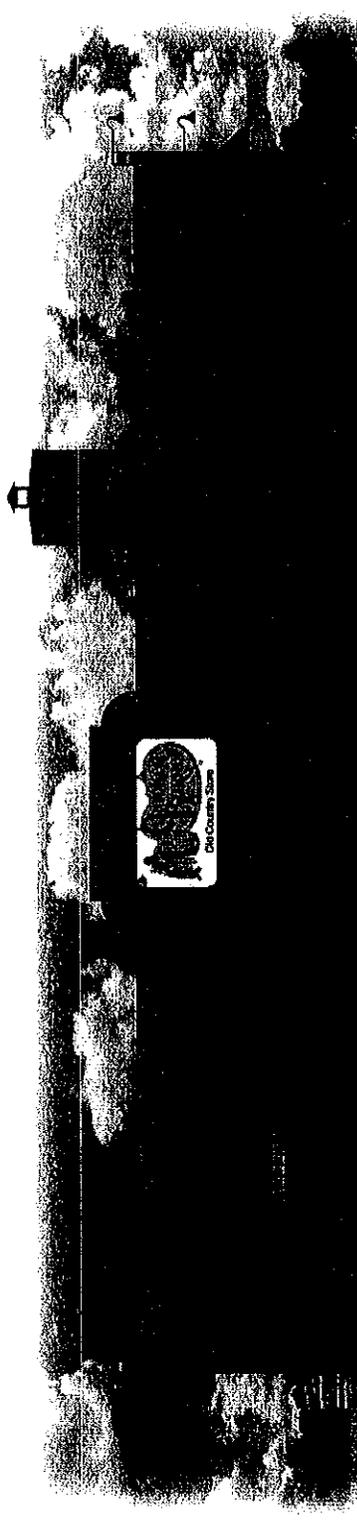
Store #CBTBD-01
 New Smyrna Beach, FL

91SF Fascia w/ Porcelain Enamelled Steel Face and External Illumination

 #15 New Salem Hwy. Ste. 105 Melbourne, FL 32929 1-888-468-3111	Scale	1/2" = 1'	91SF-FASCIA-X1800
	Date	06/21/06	REV: 001 C
Sign Programs Management and Engineering			04/21/06



RIGHT ELEVATION



REAR ELEVATION

DIMENSIONAL INFORMATION

BUILDING SIZE:
 -LENGTH/WIDTH OF BUILDING:
 85'-4" x 105'-0" W
 -LENGTH/WIDTH OF PORCH:
 12'-4" x 105'-0" W
 -SQUARE FOOTAGE OF BUILDING:
 8,960 sf
 -SQUARE FOOTAGE OF PORCH:
 1,284 sf
 -TOTAL FOOTPRINT:
 10,244 sf

BUILDING HEIGHTS:
 -HEIGHT OF FRONT WALL PARAPET:
 19'-0" H
 -HEIGHT OF SIDE & REAR PARAPETS:
 10'-10 1/2" H
 -TOP OF SIGN PARAPETS:
 FRONT: 23'-0" H,
 RIGHT: 20'-10 1/2" H,
 LEFT: 20'-10 1/2" H,
 REAR: 20'-10 1/2" H
 -HEIGHT OF CHIMNEY ABOVE FINISH FLOOR: 30'-0" +/-
 -ROOF SLOPES FRONT TO REAR:
 -MAX HEIGHT ABOVE FINISH FLOOR:
 INSIDE FRONT PARAPET WALL: 13'-0" H
 -MAX HEIGHT ABOVE FINISH FLOOR:
 INSIDE REAR PARAPET WALL: 11'-0" H

WALL SIGNAGE

-HEIGHT/WIDTH OF ALL SIGNS:
 FRONT, RIGHT, LEFT, & REAR:
 7h x 12'w (91 sf)

D DESIGN
 and
ENGINEERING
PINC

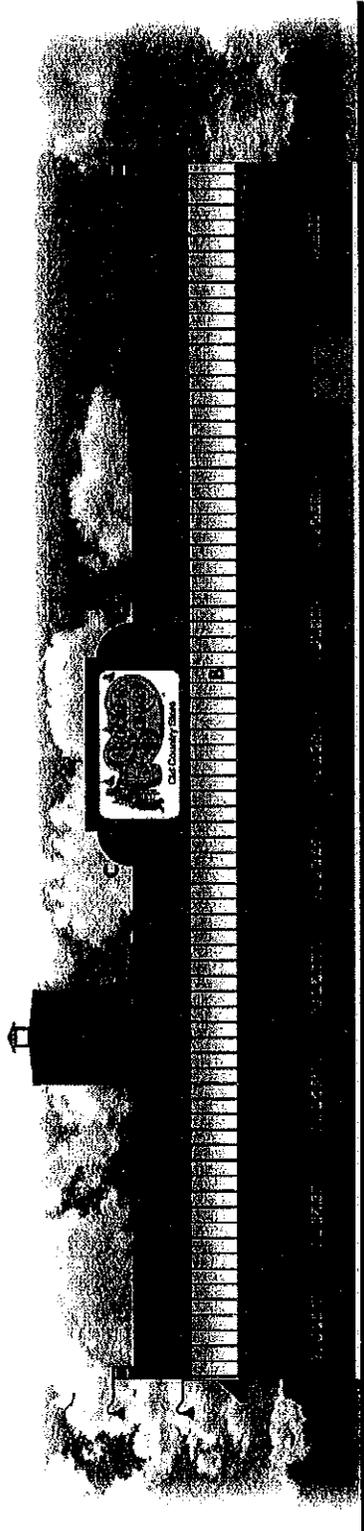
STANDARD 177-11

- EXTERIOR MATERIALS LEGEND**
- A CERTAINEED SIDING & AIRTEC BATTENS, PAINTED "CRACKER BARREL BROWN"
 - B BERRIDGE STANDING-SEAM METAL ROOF, GALVALUME FINISH
 - C PAC-CLAD METAL COPING, DARK BRONZE FINISH
 - D SMOOTH-FACED CMU CHIMNEY, PAINTED "CRACKER BARREL BROWN"

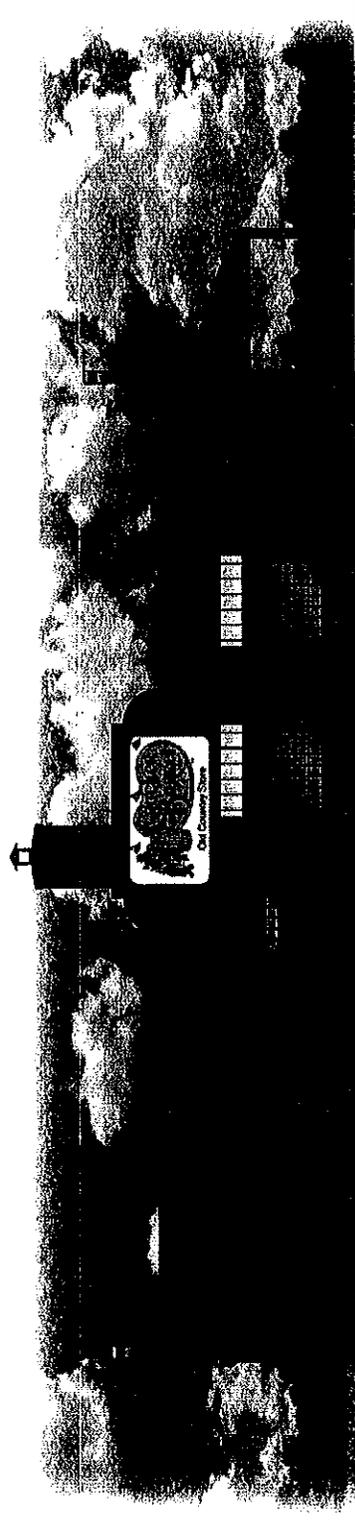


Old Country Store
 07-28-10
 2 of 2

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FRONT ELEVATION



LEFT ELEVATION

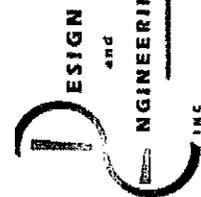
DIMENSIONAL INFORMATION

BUILDING SIZE:
 -LENGTH/WIDTH OF BUILDING: 85'-4" L x 105'-0" W
 -LENGTH/WIDTH OF PORCH: 12'-4" L x 105'-0" W
 -SQUARE FOOTAGE OF BUILDING: 8,960 SF
 -SQUARE FOOTAGE OF PORCH: 1,284 SF
 -TOTAL FOOTPRINT: 10,244 SF

BUILDING HEIGHTS:
 -HEIGHT OF FRONT WALL PARAPET: 19'-0" H
 -HEIGHT OF SIDE & REAR PARAPETS: 16'-10 1/2" H
 -TOP OF SIGN PARAPETS:
 FRONT: 20'-0" H
 RIGHT: 20'-10 1/2" H
 LEFT: 20'-10 1/2" H
 REAR: 20'-10 1/2" H
 -HEIGHT OF CHIMNEY ABOVE FINISH FLOOR: 30'-0" +/-

ROOF SLOPES FRONT TO REAR:
 -MAX. HEIGHT ABOVE FINISH FLOOR: INSIDE FRONT PARAPET WALL: 13'-0" H
 INSIDE REAR PARAPET WALL: 11'-0" H
 INSIDE REAR PARAPET WALL: 11'-0" H

WALL SIGNAGE:
 -HEIGHT/WIDTH OF ALL SIGNS: FRONT, RIGHT, LEFT, & REAR: 7' H x 13' W (91 H)



EXTERIOR MATERIALS LEGEND
 A. CERTAINTED SIDING & MIRATEC BATTENS, PAINTED "CRACKER BARREL BROWN"
 B. BRIDGE STANDING-SEAM METAL ROOF, GALVALUME FINISH
 C. PAC-CLAD METAL COPING, DARK BRONZE FINISH
 D. SMOOTH-FACED CMU CHIMNEY, PAINTED "CRACKER BARREL BROWN"

THIS IS AN ARTISTIC RENDERING OF THE PROPOSED EXTERIOR ELEVATIONS AND THEREFORE SHOULD NOT BE USED FOR ANY PURPOSES OTHER THAN ILLUSTRATION. PLEASE REFER TO THE ARCHITECTURAL DRAWINGS FOR ALL DIMENSIONS AND MATERIALS SPECIFICATIONS.



Old Country Store
 07.28.10
 1 of 2

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
2 ZT-11-11: LDR AMENDMENT –
3 SIGNS
4 SEPTEMBER 12, 2011
5

6 **Background**

- 7
- 8 A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach
- 9
- 10 B. **Request:** Approval of an amendment to the City's Land Development
- 11 Regulations to update the Sign Ordinance.
- 12

13 **Findings**

- 14 A. Sections 205.00 and 604.14 of the City's *Land Development Regulations* (LDR)
- 15 contain definitions and regulations regarding Signage. Over the past few years,
- 16 staff has received varied feedback from citizens, business owners, and sign
- 17 contractors regarding the sign regulations. This feedback ranged from
- 18 expressions of over-restrictive regulations, requests that certain signs are
- 19 allowed, to requests that certain signs be prohibited and an amortization
- 20 schedule for these signs be created.
- 21 B. In an effort to rectify this, staff established a sign committee, consisting of
- 22 Planning Department staff, code Enforcement staff, several sign contractors,
- 23 local business owners, and a representative from the Historic New Smyrna
- 24 Beach Preservation Commission. This committee met twice in person and
- 25 communicated several times via e-mail regarding what should be changed,
- 26 added and/or removed from the regulations to make them more user-friendly and
- 27 to cater to the community's desires as to what is wanted and unwanted.
- 28 C. Specific changes were made to include regulations for sandwich-board signs,
- 29 provisions for larger signs for multi-family structures, regulations for special event
- 30 signage, and flags. Additionally, changes were made to prohibit new pole signs
- 31 and provide a 10-year amortization schedule for these signs, with the intent to
- 32 encourage monument and ground signs. Trailer/mobile signs were included in
- 33 the "prohibited signs" list, too. Other changes were mostly in formatting to make
- 34 the ordinance clearer and easier to read. Definitions for flags, trailer/mobile signs,
- 35 pole signs, monument signs, and ground signs were drafted. Home occupation
- 36 signs were added as permitted signage, and therefore the regulations pertaining
- 37 to home occupations (Section 801.06 of the LDR) were amended to reflect this
- 38 change.
- 39 D. After edits recommended by the sign committee were drafted, staff posted the
- 40 draft ordinance on the City's website for several weeks, and forwarded a copy of
- 41 it for general disbursement to members of the Southeast Volusia Chamber of
- 42 Commerce and the Volusia County Association for Responsible Development.
- 43 Staff incorporated additional feedback from the members of these entities,
- 44 resulting in the attached amended Sign regulations.
- 45

46 **Recommendation**

- 47 A. Staff recommends approval of the following zoning text amendment to the Land
- 48 Development Regulations. Section 205.00 and 801.06 show omissions as
- 49 strikethroughs and additions as underlined. Because of the large amount of
- 50 editing done to Section 604.14, staff is recommending, for ease of review, that

1 the entire existing ordinance be shown as ~~stricken~~ followed by the revised entire
2 ordinance as underlined :

3
4 205.00 Sign Regulations Definitions

5
6 The following definitions shall apply to Section 604.14 of this LDR.

7
8 **Altering:** Changing a sign to the extent that the structural components of the pole or
9 copy area is replaced, repaired, or changed so that the shape, size, or
10 appearance of the sign is different than previously. Painting a sign, rearranging
11 letters or replacing the plastic copy area without any structural or frame changes
12 shall not constitute altering.

13
14 **Anchor Store:** the major tenant within a shopping center used to draw patrons to the
15 shopping center and containing at least 25,000 square feet of gross leasable
16 area.

17
18 **Chief Building Official:** The City Official designated as the Chief Building Official for the
19 City of New Smyrna Beach. The Chief Building Official shall have the
20 responsibility and authority to enforce these sign regulations.

21
22 **Copy Area:** Surface area encompassed within any regular geometric figure which forms
23 the informational component of a sign, when such sign is viewed from one
24 direction on the adjacent right-of-way. The frame which decorates or structurally
25 supports the copy area shall be included when calculating area. The pole
26 associated with a pole sign shall not be included when calculating copy area.
27 The entire area of a ground sign shall be used in calculating the area of a ground
28 sign.

29
30 ~~Electronic Message Center: A variable message sign that utilizes computer-generated~~
31 ~~messages or some other electronic means of changing copy. These signs~~
32 ~~include displays using incandescent lamps, LEDs, LCDs or a flipper~~
33 ~~matrix. Ord. # 45-08~~

34
35 **Erect:** To build, construct, attach, hang, place, suspend or affix, and shall include the
36 painting of wall signs.

37
38 **Location:** Any lot, premises, building, structure, wall, or any place whatsoever upon
39 which a sign is located.

40
41 **Person:** Any persons, firm, partnership, association, corporation, company, or
42 organization, singular or plural, of any kind.

43
44 **Premises:** A parcel or lot of property, or any combination of parcels or lots; except that
45 in the case of a business having in excess of two hundred and fifty (250) feet of
46 continuous road frontage in which such case each two hundred and fifty (250)
47 feet of road frontage shall constitute one (1) premise for the purpose of this

1 Ordinance. For example: a new car dealership with five hundred (500) feet of
2 road frontage would constitute two (2) premises for the purpose of this LDR.
3

4 Public Body: Any government or governmental agency of the City of New Smyrna
5 Beach, Volusia County, the State of Florida, or the United States.

6 Residential Development: Any housing project that is approved by the Planning and
7 Zoning Board. Phasing of a project shall not constitute a separate residential
8 development for the purpose of Sign Standards, unless the phase shall bear a
9 separate name.

10
11 Roof Line: The juncture of the roof and the perimeter wall of the structure.
12

13 Semi-Public Body: Any organization operating as a non-profit activity and serving a
14 public purpose or service including such organizations as non-commercial clubs,
15 lodges, theater groups, recreational and neighborhood associations, cultural
16 organizations, schools and churches.
17

18 Sign: Any surface, fabric, device or display, designed to advertise, inform, identify, or to
19 attract the attention of persons not on the premises on which the device or
20 display is located.

21 **(Ord. # 17-01)**
22

23 A sign shall be construed to be a single display surface or device containing
24 elements organized, related, and composed to form a single unit. In cases
25 where material is displayed in a random or unconnected manner, or where there
26 is reasonable doubt as to the intended relationship of such components, without
27 organized relationship of such components, each component or element shall be
28 considered to be a single sign.
29

30 A projecting or ground sign with sign surface on both sides of such sign shall be
31 construed as a single sign, and the total area of such sign shall be the area
32 computed on a single sign.

33 **(Revised 4-19-01)**
34

35 For purposes of this LDR, the term "sign" shall include all structural members. Signs
36 shall not be subject to setback requirements. However, the sign face and all related
37 structural members shall have a minimum setback of 5 feet from any property line. UA
38 sign shall be construed to be a display surface or device containing organized and
39 related elements composed to form a single unit. This definition shall not include
40 bumper stickers on cars.
41

42 Within the sign definition are the following signs:
43

44 (a) Awning Sign: a sign located on the vertical face of an awning.
45

46 (b) Banner Signs: any sign intended to be hung either with or without frames,
47 possessing characters, letters, illustrations or ornamentations applied to
48 paper, plastic or fabric of any kind, including such signs stretched across

1 or hung over any public right-of-way. National flags, flags of political
2 subdivisions and symbolic flags of any institution or business shall not be
3 considered banners for the purpose of the article.
4

5 (c) Beacon Light Sign: any sign or device which includes any light with one or
6 more beams, capable of being directed in any direction or directions, or
7 capable of being revolved automatically.
8

9 (d) Bench Signs: a sign located on any part of the surface of a bench or seat
10 placed on or in a close proximity to a public right-of-way or other public
11 area.
12

13 (e) Billboard: any notice or advertisement, pictorial or otherwise, giving
14 information regarding any business, organization, event, person, product,
15 place, or thing of any kind located on a premises other than that on which
16 the advertised product or service is offered for sale, except off-site signs,
17 and which is intended for use for the display of advertising material.
18

19 (f) ~~Bus Signs: any sign affixed to the interior or exterior of a public bus~~
20 ~~operated by the Smyrna Transit System, its agent, or successors.~~
21 Bunting. A temporary sign made of gathered cloth, canvas, light fabric or
22 plastic exhibiting the color or colors of a flag of a government or
23 governmental agency or any patriotic, religious, charitable, civic,
24 educational or fraternal organization
25

26 (g) Changeable Copy Sign: a sign that is designed so that characters, letters
27 or illustrations can be changed or rearranged either manually or
28 mechanically.
29

30 (h) Construction Sign: any sign giving the name or names of principal
31 contractors, architects and lending institutions responsible for construction
32 on the site where the sign is placed, together with other relevant
33 information regarding such contractors, architects or lending institutions.
34

35 (i) Development Sign: a sign designed and intended to advertise and
36 promote the sale of buildings or subdivided lots on the same premises.
37

38 (j) ~~Directional Sign, Off-Site: a sign not exceeding thirty-two (32) square feet~~
39 ~~bearing directions and/or instructions indicating the direction to the~~
40 ~~premises to which the sign relates. Said "Directional Sign, Off-Site" may~~
41 ~~include the name of the firm, major enterprise or products offered for sale~~
42 ~~on the premises to which the sign is directing, or with any other~~
43 ~~information relevant to such business, services, or products.~~
44

45 (k) ~~Directional Sign, On-Site: a sign not exceeding three (3) square feet~~
46 ~~bearing only directions and/or instructions of the premises. This includes,~~
47 ~~but is not limited to, stop, one-way, speed limit, no left or right turn signs,~~
48 ~~or any other traffic signs; signs which identify a building section, such as:~~

1 service department, lounge, kitchen, dining room or menu. On-site
2 directional signs shall not be included when determining the number of
3 signs allowed nor in the total amount of copy area of signs permitted on
4 the premises.

5
6 (l) Directory Sign: a sign on which the names and locations or occupants or
7 the use of a building is given. This shall include office building and church
8 directories.

9
10 (m) Electronic Message Center: A variable message sign that utilizes
11 computer-generated messages or some other electronic means of
12 changing copy. These signs include displays using incandescent lamps,
13 LEDs, LCDs or a flipper matrix. Ord. # 45-08

14
15
16 (n) Flag: Any fabric, banner, or bunting containing distinctive colors, patterns,
17 or symbols, used as a symbol. Regulations herein do not apply to flags
18 denoting nations, government, or noncommercial organizations

19
20 (~~mo~~) Flashing Sign: any sign with a lighting device or devices which go on and
21 off alternately, not including signs giving time and temperature.

22
23 (~~np~~) ~~Ground and/or Pole Sign or "Free-Standing Sign": any sign which is~~
24 ~~supported by structures or supports in or upon the ground and~~
25 ~~independent of support from any building. A sign where the foundation~~
26 ~~and supporting structure are visually an integral part of the sign creating a~~
27 ~~continuous form from the ground to the top of the sign.~~

28
29 (eg) Illuminated Sign: any sign illuminated in any manner by an artificial light
30 source.

31
32 (~~pr~~) Informational Sign: any sign providing information to assist persons
33 entering a premises. The following signs are included: no vacancy, credit
34 card acceptance, cable TV, open and closed, wet paint, time and
35 temperature, etc. Each premises shall be limited to three such signs and
36 no informational sign shall exceed two square feet. Informational signs
37 shall not be included in determining the number of signs allowed nor in the
38 total amount of copy area of signs permitted on the premises.

39
40 (qs) Integral Sign: memorial signs or tablets, names of buildings and date of
41 erection when cut into any masonry surface or when constructed of
42 bronze or other non-combustible materials in the form of a plaque
43 mounted on the side or face of a building, bench, or other permanent
44 structure.

45
46 (rt) Marquee Sign: any projecting sign attached to and made a part of a
47 marquee. A marquee is defined as a permanent roof-like or awning type
48 structure projecting beyond and supported by a building wall at an

entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

(su) Moving Sign: a fluttering sign or a balloon type sign that is filled with a lighter than air gas, including wind operated devices. All balloons (including all inflatables), dirigibles, airships, and kites located on, or tethered to, commercial property, or for the purpose of advertising a business or profession, shall be *moving signs* within the meaning of the Land Development Regulations. The items enumerated in the preceding sentence shall be *moving signs* even if no advertising appears on the item. Specifically excluded from the definition of *moving signs* are all balloons, dirigibles, airships, and kites for purposes of political activities, weddings, birthday parties, anniversary parties and other similar non-commercial purposes. Dirigibles and airships at airports shall not be *moving signs* within the meaning of the Land Development Regulations. **(Ord. # 17-01)**

(tv) Non-Conforming Sign: any sign which does not conform to the regulations of this Ordinance.

(uw) Occupant Identification: a sign that is used to indicate to the public the legal or exact firm name and/or the character of the business or profession conducted on the premises.

(vx) Off-Site Sign or Non-Point-of-Sale Sign: any sign located on property other than the premises to which the sign relates that does not conform to the definition of "Directional Sign, Off-Site".

(wy) Pennants: shall include the terms "ribbons" and "streamers" and shall mean pieces of cloth, flexible plastic, or other flexible material, intended to attract attention because of their bright colors and/or flapping caused by action of the wind, commonly strung in series along a line. This definition shall include a single pennant, ribbon, or streamer, or a series of such pennants, ribbons, or streamers, but shall not include "flags" as defined herein.

(xz) Point of Sale Sign: any sign which carries the name of the firm, major enterprise or products offered for sale on the premises on which the sign is located, together with any other information relevant to such business, service, or products.

(yaa) Pole Sign: any freestanding sign that does not meet the definition of ground or portable sign. These signs are composed of the sign cabinet or base and the sign pole or pylon by which it connects to the ground.

(ybb) Political Sign or Political Campaign Sign: a sign relating to any persons, political party, or matter to be voted upon at public election.

1
2 (zcc) Portable Sign: a sign that is mounted on a trailer or trailer-like chassis
3 which is capable of being moved on wheels, legs, or skids as an entire
4 unit but is placed temporarily in one location as outlined in Section 604.14.
5 Signs pulled behind a vehicle for the purpose of mobile advertising are not
6 considered “portable signs” (see “trailer signs”).
7

8 (aadd) Professional Sign: a sign designating the office of a professional practice,
9 indicating the names of the professionals and the profession.

10 **(Revised 4-19-01)**

11 (bbe) Project Sign: any sign designed as a permanent structure containing only
12 the name of a development and possibly the address and not used for
13 promotional purposes.
14

15 (eeff) Projecting Sign: any sign other than a wall sign affixed to any building or
16 wall, any edge of which, extends more than 12 inches beyond such
17 building or wall.
18

19 (edgg) Real Estate Sign: any sign which is used to offer for sale, lease, or rent,
20 the property upon which the sign is placed.
21

22 (eehh) Roof Sign: any sign erected or constructed wholly upon and over the roof
23 of any building and supported solely on the roof structure.
24

25 (ffii) Shingle Sign: a projecting or wall sign not over one and one-half (1-1/2)
26 square feet in area.
27

28 (ggjj) Snipe Sign: any sign of any material whatsoever that is attached in any
29 way to a utility pole, tree, or any object located or situated on public or
30 private property.
31

32 (hhkk) Subdivision Sign: a sign designed as a permanent structure containing
33 only the name of a subdivision or multi-family development and not used
34 for promotional purposes.
35

36 (hlll) Temporary Sign: any sign or advertising display intended for use for a
37 period of time not to exceed twenty-four (24) days and designed and
38 constructed in accordance with this intention.
39

40 (mm) Trailer/Mobile Sign: Any sign placed on a vehicle or on a trailer attached to
41 a vehicle that projects more than one (1) inch and that is displayed on
42 public rights-of-way as a mobile sign, not intended to be permanent and
43 not in compliance with the definition of “portable sign” or “temporary sign”.
44

45 (jloo) Traveling Lights Sign: any sign which includes a series of lights, or
46 lighting device, which appears to move or travel in automatic sequence
47 on the display surface of the sign.
48

1 (pp) Vintage Sign: Any sign 30 years old or older that is designated as such by
2 the Historic New Smyrna Beach Preservation Commission

3
4 (kkgg) Wall Sign: any sign containing one advertising surface other than a
5 projecting sign that is attached to and erected parallel with the face of any
6 building wall, any edge of which extends beyond such building wall.

7
8 (lrr) Window Sign: any sign placed inside or upon a window facing the outside
9 and which is intended to be seen from the exterior.

10
11 (mmss) Informational Sign: any sign providing information to assist persons
12 entering a premises. The following signs are included: no vacancy, credit
13 card acceptance, cable TV, open and closed, wet paint, time and
14 temperature, etc. Each premises hall be limited to three such signs and
15 no informational sign shall exceed two square feet. Informational signs
16 shall not be included in determining the number of signs allowed nor in the
17 total amount of copy area of signs permitted on the premises.

18
19
20 ***

21 ~~604.14~~ **Signs**

22
23 ~~A.~~ **Purposes, Intent, and Scope**

24
25 ~~The purpose of these sign regulations is to protect, preserve, and improve the~~
26 ~~character and appearance of the City of New Smyrna Beach; to provide ample~~
27 ~~opportunity to advertise in commercial and industrial areas while preventing~~
28 ~~excessive advertising which would have a detrimental effect on the character and~~
29 ~~appearance of those areas; and to limit signs in non-commercial and~~
30 ~~non-industrial areas to essential signs, primarily for the purpose of identification~~
31 ~~and information, in order to protect the residential character and appearance of~~
32 ~~those areas. These regulations shall be the minimum requirements necessary to~~
33 ~~accomplish these purposes, and therefore, to protect the public health, safety,~~
34 ~~and general welfare.~~

35
36 ~~It is intended that signs placed on land or on a building for the purpose of~~
37 ~~identification, or for advertising use conducted on that land, or in that building,~~
38 ~~shall be deemed to be accessory and incidental to the land, building, or use.~~

39
40 ~~With respect to signs advertising business uses, it is specifically intended, among~~
41 ~~other things, to avoid excessive competition and clutter among sign display in the~~
42 ~~demand for public attention. Therefore, the display of signs should be~~
43 ~~appropriate to the land, building or use to which they are appurtenant and be~~
44 ~~adequate, but not excessive, for the intended purpose of identification or~~
45 ~~advertisement.~~

46
47 ~~Signs commonly referred to as billboards, outdoor advertising or poster panels,~~
48 ~~which advertise products or businesses not connected with the site on which they~~

1 are located, are prohibited in accordance with the predominantly residential
2 atmosphere of the community, such signs being most appropriate on open
3 highways and roads where they do not detract from community character.
4

5 It is also intended that all temporary signs erected for directional purposes, public
6 information, or to direct attention to special events, shall be confined to those that
7 are of a general public interest, and that such signs shall be limited to the giving
8 of information.
9

10 B. ~~Prohibited Signs~~

11
12 The following signs are prohibited in the City of New Smyrna Beach:

13
14 Beacon Light Signs

15 Billboards

16 Flashing Signs except Time and Temperature Signs ~~Ord. #42-05, Ord.~~
17 ~~#45-08~~

18 Moving Signs ~~Ord. #42-05, Ord. #45-08~~

19 Off-Site Signs except those off-site signs which for limited specific
20 purposes are expressly permitted by the terms of this LDR, including but
21 not limited to, banner signs, bench signs, bus signs, political signs, real
22 estate signs*, and excluding off-site directional signs.

23 Roof Signs

24 Snipe Signs

25 Traveling Light Signs

26
27 Signs which in any way simulate or appear to simulate emergency
28 vehicles, traffic control signs, or devices, or directional, informational or
29 warning signs, erected or maintained by any public body, or any railroad,
30 public utility, or similar body.

31
32 Private signs placed on public property, except as expressly permitted by
33 the appropriate public body.

34
35 Signs containing any statements, words or pictures of an obscene nature,
36 that is, which are utterly without redeeming social value as determined by
37 the community standard prevailing in New Smyrna Beach and the
38 immediate surrounding area.

39
40 Signs attached to passenger vehicles (automobile) except signs not
41 exceeding three (3) square feet on the sides of such vehicles operated
42 during the normal course of business, and identifying only the business, its
43 principal products or services, address, and/or a phone number.

44
45 Signs which in any way obstruct, cover, or block, any fire escape, window,
46 or door, or which are attached to any fire escape or ventilation device.
47

1 ~~Construction Signs for one or two unit residential construction projects provided~~
2 ~~that only one such sign not exceeding five and one half (5 1/2) square feet for~~
3 ~~each such project may be erected.~~

4
5 ~~Integral Signs, provided the individual letters or numerals of such sign do not~~
6 ~~exceed two (2) inches in height, and provided the sign itself does not exceed~~
7 ~~three (3) square feet of display area.~~

8
9 ~~Legal Notices – Political Signs.~~

10
11 ~~Neon light or other type of light sign hung inside the window of an establishment~~
12 ~~and intended to be seen from the outside provided: (1) no more than five (5) are~~
13 ~~exempt; (2) the sign advertises a product sold at the establishment; and (3) the~~
14 ~~energy sources is by plug into an existing wall outlet.~~

15 ~~No trespassing, warning, or similar signs of not more than two (2) square feet~~
16 ~~where such signs are reasonably necessary to notify the public of the matters~~
17 ~~contained in the signs.~~

18
19 ~~One sign not exceeding three (3) square feet in area per premises, bearing only~~
20 ~~property numbers, post office numbers, and names of occupants of such~~
21 ~~premises, for identification purposes only.~~

22
23 ~~One sign not exceeding six square feet in area may be erected for each street~~
24 ~~and/or water frontage adjoining the parcel of property offered for sale, lease, or~~
25 ~~rent. A maximum of three “add-on” or “rider” signs shall be permitted for each~~
26 ~~exempt real estate sign, provided the total area of all “add-on” or “rider” signs~~
27 ~~does not exceed five square feet and provided that no “add-on” or “rider” sign~~
28 ~~exceeds the width of the exempt real estate sign. Real estate signs shall be~~
29 ~~located a minimum of ten feet from side property lines and a minimum of two feet~~
30 ~~from the public right-of-way lines. Real estate signs shall be located outside the~~
31 ~~required visibility areas at the intersections of rights-of-way. Real estate signs~~
32 ~~shall be located outside the required visibility areas on waterfront parcels with the~~
33 ~~exception that when the visibility areas on a waterfront parcel overlap due to the~~
34 ~~width of the parcel, either one exempt real estate sign or one non-exempt real~~
35 ~~estate sign may be placed at the approximate mid-point of the water frontage.~~

36 ~~—————~~ **Ord. #29-10**

37
38 ~~Signs attached to passenger vehicles (automobiles) not exceeding three (3)~~
39 ~~square feet on the sides of vehicles operated during the normal course of a~~
40 ~~business and identifying only the business, its principal products or services, a~~
41 ~~phone number, and an address.~~

42
43 ~~Signs erected by, and on the premises of, any church, identifying the church, the~~
44 ~~pastor, minister, priest, etc., and giving a schedule of services, and any other~~
45 ~~information pertinent to the operation of the church not exceeding twenty (20)~~
46 ~~square feet in display area.~~

47
48 ~~Signs erected by any public body.~~

1
2 ~~Signs located on soda, candy, or food dispensing machines.~~

3
4 ~~Signs required by any professional licensing body of the State of Florida provided~~
5 ~~that such signs do not exceed the state minimum requirements imposed by such~~
6 ~~body in any respect.~~

7
8 ~~Window Signs per Section 604.14 G. (1)d.5.~~

9
10 ~~D. Permits~~

11
12 ~~No person shall erect, alter, repair, or relocate any non-exempt sign without first~~
13 ~~obtaining a permit for such work from the Building Official of the City of New~~
14 ~~Smyrna Beach. No permit shall be issued until the City Planner and Chief~~
15 ~~Building Official have determined that such work is in accordance with this LDR~~
16 ~~and all other LDRs and ordinances of the City of New Smyrna Beach and a~~
17 ~~certificate of zoning has been issued.~~

18
19 ~~(1) Application for a sign permit shall be on forms provided for that purpose by~~
20 ~~the Chief Building Official which forms may be included in the form for~~
21 ~~application for a building permit or any other form in the discretion of the~~
22 ~~Chief Building Official, and shall contain the following information:~~

23
24 ~~a. the name, address, and telephone number of the applicant, the~~
25 ~~owner of the sign and the owner of the property on which the sign is~~
26 ~~to be located;~~

27
28 ~~b. the address, if any, and legal description of the premises on which~~
29 ~~the sign is to be located;~~

30
31 ~~c. a drawing to scale, in duplicate, showing the size, height, structural~~
32 ~~details, and dimensions of the sign and sign structure;~~

33
34 ~~d. a drawing to scale, in duplicate, showing the position of the sign,~~
35 ~~and any other existing advertising structures, in relation to the~~
36 ~~buildings or structures on the premises and to the boundaries of the~~
37 ~~property;~~

38
39 ~~e. the signatures of the applicant and the owner of the property; or in~~
40 ~~the event the owner is not available, written evidence of the owner's~~
41 ~~permission for the erection of the sign;~~

42
43 ~~f. any electrical and/or plumbing permit required for the sign; and~~

44
45 ~~g. for projecting signs, ground or pole signs, exceeding 32 square feet~~
46 ~~of surface area or 10 feet above grade level or any other sign which~~
47 ~~the Chief Building Official determines may reasonably be subject to~~
48 ~~dead load, wind, or other physical stress, engineering drawings~~

1 showing display area, support structure above and below ground,
2 wind pressure specifications and method of installation, signed and
3 sealed by a registered engineer or architect licensed by the State of
4 Florida in that profession.
5

6 ~~(2) The Chief Building Official shall establish a procedure and form for~~
7 ~~applications for sign permits and for the permits themselves, which are~~
8 ~~reasonably calculated to avoid unnecessary duplication of administrative~~
9 ~~procedures. For example, where a sign permit is sought in conjunction~~
10 ~~with a new building or addition, the Chief Building Official may include~~
11 ~~necessary information for the sign permit in the application for a building~~
12 ~~permit, and may include the sign permit as part of the building permit.~~

13
14 ~~E. Schedule of Fees~~

15
16 ~~The schedule of fees for sign permits shall be established, and periodically~~
17 ~~adjusted by City Commission Resolution.~~

18
19 ~~F. General Provisions~~

20
21 ~~The following provisions shall apply to every sign erected in the City of New~~
22 ~~Smyrna Beach, including exempt signs:~~

23
24 ~~(1) The name and address of the company or person installing any sign and the~~
25 ~~name and address of the company or persons maintaining any sign, the date of~~
26 ~~erection and the voltage of any electrical apparatus shall be painted or printed~~
27 ~~conspicuously on every sign erected.~~

28
29 ~~(2) Any light from any illuminated sign shall be shaded, shielded or directed~~
30 ~~so that the light intensity or brightness shall not affect adversely the vision~~
31 ~~for operation of vehicles in any public or private road, highway, driveway,~~
32 ~~or parking area. Such light shall not shine directly on or into any~~
33 ~~residential structure or directly onto approaching traffic.~~

34
35 ~~(3) All signs shall be designed and constructed to withstand a wind pressure~~
36 ~~as required by the Standard Building Code.~~

37
38 ~~(4) Vegetation shall be kept cut in front of, behind, and beneath, the base of~~
39 ~~any ground sign for a distance of fifteen (15) feet from any portion of such~~
40 ~~sign touching the ground, and the area around such sign shall be kept free~~
41 ~~of any rubbish or other material that might constitute a fire or health~~
42 ~~hazard.~~

43
44 ~~(5) All signs shall be erected, altered, operated, maintained in good repair and~~
45 ~~working order, and kept free of any foreign matter, and in addition, shall be~~
46 ~~designed and installed in compliance with the requirements of the building~~
47 ~~and electrical codes of the City of New Smyrna Beach.~~

1 ~~(6) Copy area of a sign shall be based upon the surface area encompassed~~
2 ~~within any regular geometric figure which forms the information~~
3 ~~component of a sign when such sign is viewed from one direction on the~~
4 ~~adjacent right-of-way. The frame which decorates or structurally supports~~
5 ~~the copy area shall be included when calculating area. The pole~~
6 ~~associated with a pole sign shall not be included when calculating copy~~
7 ~~area. The entire area of a ground sign shall be used in calculating the~~
8 ~~area of a ground sign. **Ord. #29-10**~~
9

10 ~~(7) A projecting or ground sign with sign surface on both sides of such sign~~
11 ~~shall be construed as a single sign, and the total area of such sign shall be~~
12 ~~the area computed on a single sign. The faces of ground signs may be~~
13 ~~separated, and will be construed as a single sign, provided that the angle~~
14 ~~of separation does not exceed forty five degrees. **Ord. #29-10**~~
15

16
17 ~~G. Sign Standards~~

18
19 ~~The following sign standards shall apply in the respective zoning districts as~~
20 ~~indicated below unless more stringent regulations are included within the Land~~
21 ~~Development Regulations. No sign shall be permitted except as provided herein:~~
22

23 ~~(1) Signs on property zoned commercial or industrial except property zoned~~
24 ~~B-5, COZ and PUD.~~

25
26 ~~Signs erected upon property zoned for commercial or industrial use and~~
27 ~~designated as MU, B-2, B-3, B-4, B-6, B-6A, CM, I-1, I-2, I-3, and I-4,~~
28 ~~zoning districts shall conform to the following:~~

29
30 ~~a. Maximum Allowable Ground, Pole, or Projecting Sign Copy Area:~~
31 ~~Unless otherwise specified, a total copy area of four (4) square feet~~
32 ~~for each lineal foot of building structure frontage shall be allowed. If~~
33 ~~the building has frontage on more than one street or highway, an~~
34 ~~additional two (2) square feet of copy area shall be allowed for each~~
35 ~~additional lineal foot of frontage. The total area of all signs erected~~
36 ~~shall be within the allowable square footage. Where there is~~
37 ~~multiple frontage, the amount of copy area attributable to each~~
38 ~~frontage may be applied only to signs erected in the yard area~~
39 ~~adjacent to such frontage. In computing the allowable copy area,~~
40 ~~only the faces of signs visible from any one direction on the~~
41 ~~adjoining street or highway shall be used. In no event, shall more~~
42 ~~than a total of one hundred (100) square feet of copy area be~~
43 ~~allowed for each building frontage. The copy area of any~~
44 ~~directional signs shall not be included for purposes of computing~~
45 ~~maximum allowable advertising copy area for point of sale signs.~~
46

1 ~~b. Maximum Allowable Wall Sign Copy Area: The total copy area of~~
2 ~~any and all wall signs shall not exceed 100 square feet per~~
3 ~~premises.~~

4
5 ~~c. Maximum Number of Signs Per Premises: No more than a total of~~
6 ~~three (3) signs, excluding On-Site Directional Signs, shall be~~
7 ~~erected or maintained per premises. The signs may be~~
8 ~~apportioned between any allowable type of sign in the commercial~~
9 ~~or industrial district so long as the total copy area (excluding on-site~~
10 ~~directional signs) does not exceed the maximum permissible area~~
11 ~~provided herein.~~

12
13 ~~d. Sign Type, Height, and Location: Only the following sign types,~~
14 ~~heights, and location shall be permitted in the commercial and~~
15 ~~industrial districts indicated in (1) above.~~

16
17 ~~1. Ground or Pole Signs. A ground or pole sign shall be~~
18 ~~permitted only when the premises upon which it is to be~~
19 ~~placed has a minimum of fifty (50) lineal feet of frontage. No~~
20 ~~ground or pole sign shall be erected within fifty (50) feet of~~
21 ~~any other ground or pole sign on the same premises. No~~
22 ~~such sign shall extend more than thirty (30) feet above~~
23 ~~ground level.~~

24
25 ~~2. Marquee signs. A permitted sign may be placed on the~~
26 ~~vertical faces of a marquee provided that such sign does not~~
27 ~~project more than 1 foot below the bottom or above the top~~
28 ~~of the vertical face of the marquee and there is a clearance~~
29 ~~of at least 8 feet from the walkway grade. A permitted sign~~
30 ~~may be attached to the bottom of a marquee at a business~~
31 ~~entrance, provided the sign does not extend beyond the~~
32 ~~perimeter of the marquee, does not exceed three (3) square~~
33 ~~feet total copy area and does not extend below an eight (8)~~
34 ~~foot clearance measured from the sidewalk grade to the~~
35 ~~bottom edge of the sign. If the Marquee Sign extends over~~
36 ~~public property, it shall have a minimum clearance of nine (9)~~
37 ~~feet from the walkway grade to the bottom edge of the sign~~
38 ~~and shall require approval from the jurisdictional authority~~
39 ~~that has the maintenance responsibility for the affected~~
40 ~~public property.~~

41
42 ~~3. Projecting signs. Projecting signs shall be permitted~~
43 ~~provided that no part of any such sign projects more than~~
44 ~~thirty six (36) inches from the wall of a building. No such~~
45 ~~sign shall physically cover, block, or obstruct any window or~~
46 ~~part of a window, nor obstruct window light and vision. No~~
47 ~~projecting sign shall extend above the top of a parapet wall.~~
48 ~~A projecting sign may project over a public right-of-way only~~

1 where the required building setback has been met, or there
2 is no such setback required, and then only to a distance of
3 two-thirds of the width of the sidewalk over which the sign
4 hangs or 6 feet if no sidewalk exists. But in no event, shall a
5 sign projecting over a public right of way project to within
6 less than two (2) feet of the curb line, nor have a clearance
7 above the sidewalk grade of less than nine (9) feet, or less
8 than fourteen (14) feet above the grade of the road,
9 driveway, or alley.

10
11 4. ~~Wall signs.~~ Wall signs shall be permitted provided that no
12 such sign projects more than one (1) foot from any wall of a
13 building, and provided that no such sign projects above the
14 roof line or parapet, whichever is higher. Wall signs shall not
15 cover, block, or obstruct, any part of a window, including any
16 part of a window within the sign perimeter, or obstruct
17 window light or vision.

18
19 5. ~~Window signs.~~ Window signs shall be permitted. There
20 shall be no limit to the number of such signs provided that
21 the total area of all signs does not exceed thirty five (35)
22 percent of the total glass area of the window containing the
23 display. Window signs shall conform to Section 801.12 B. of
24 this LDR.

25
26 6. ~~Portable or moveable signs.~~ One (1) portable sign shall be
27 permitted one time for a new business, a business in a new
28 location, or for a shopping center, whose allowable
29 freestanding sign has not yet been erected. Such sign shall
30 be permitted for a period of not more than thirty (30) days or
31 until installation of the allowable freestanding sign,
32 whichever shall occur first.

33
34 ~~Portable temporary signs shall conform to all City codes and criteria,~~
35 ~~including but not limited to, those cited or set forth below:~~

36
37 (a) ~~Securely anchored in accordance with the Standard~~
38 ~~Building Code.~~

39
40 (b) ~~Electrical system shall be in compliance with the~~
41 ~~National Electrical Code.~~

42
43 (c) ~~Maximum size of sign face area (one side) shall be~~
44 ~~thirty two (32) square feet.~~

45
46 (d) ~~No more than one (1) such sign shall be permitted for~~
47 ~~each lot or parcel.~~
48

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~~(e) Copy on signs shall be maintained in an intelligible condition.~~

~~(f) No flashing lights of any kind permitted. External illumination confined to sign face area.~~

~~(g) Portable signs shall be used on-site only.~~

~~(h) A new permit must be obtained for each period of use of a portable temporary sign. Application for a permit for a portable temporary sign shall include:~~

~~i. A diagram indicating the manner in which the sign will be anchored to meet the specifications outlined above;~~

~~ii. A plot plan showing that the proposed location~~

is:

~~in accordance with intersection visibility standards outlined in the City of New Smyrna Beach Land Development Regulations;~~

~~illuminated signs shall be connected to a ground fault interrupter circuit receptacle. The use of extension cords for the power supply to the sign shall be prohibited; and~~

~~not in a required parking space.~~

~~7. Banner signs. Each premises shall be permitted one banner sign for a period of time not to exceed one month for a grand opening of a business. Also, banner signs shall be permitted on the premises of a public or semi-public body to advertise a special event or function intended for the general public. The location of the sign shall not interfere in any way with the traffic or public safety of the citizens of the City, and the sign shall not violate any other applicable provisions of this LDR. Banner signs shall be temporary signs, and as such, shall not be considered in the computation for the number of signs allowed or the maximum allowable display area for a premises. (Ord. 4-97)~~

~~8. Bench signs. Bench signs shall be permitted only in accordance with the written authorization of the City Commission. If authorized, bench signs shall be erected~~

1 only in accordance with all applicable provisions of this LDR.
2 Integral signs erected on benches shall be exempt from the
3 permitting requirements of this LDR in accordance with
4 Section 604.14C.
5

6 ~~9. Construction signs. One construction sign shall be allowed~~
7 ~~for each commercial or industrial project where a building~~
8 ~~permit has been obtained for the project. Such signs shall~~
9 ~~be removed within fifteen (15) days after substantial~~
10 ~~construction operations have ceased, and in no event, later~~
11 ~~than the date of issuance of a certificate of occupancy. No~~
12 ~~such sign shall exceed thirty two (32) square feet in area.~~

13
14 ~~10. Development signs. One development sign for each~~
15 ~~development that fronts on a public right of way shall be~~
16 ~~permitted provided such development has been approved~~
17 ~~and is undergoing active construction and/or sale. Such~~
18 ~~signs shall not exceed thirty two (32) square feet of display~~
19 ~~area, shall not extend higher than ten (10) feet above ground~~
20 ~~level, and shall be removed when all units are sold.~~

21
22 ~~11. Subdivision signs. One sign per vehicular entrance to a~~
23 ~~commercial or industrial subdivision shall be permitted~~
24 ~~provided that no such sign shall exceed forty (40) square~~
25 ~~feet of copy area nor extend higher than four (4) feet above~~
26 ~~ground level.~~

27
28 ~~12. Directory Signs and Nameplates; Professional Office.~~
29 ~~Professional offices and businesses existing in accordance~~
30 ~~with local ordinances in any zone may erect directory signs~~
31 ~~or nameplates containing only the name, address, and~~
32 ~~nature of business of the occupant(s). For each office~~
33 ~~building or group of attached offices or businesses, an~~
34 ~~identification sign (name plate) not exceeding four (4)~~
35 ~~square feet shall be permitted for each office, and for office~~
36 ~~buildings or groupings of offices of two or more offices an~~
37 ~~additional directory sign for the entire office building or~~
38 ~~grouping not exceeding thirty (30) square feet of copy area~~
39 ~~will be permitted.~~

40
41 ~~13. Identification signs. One sign per premises containing the~~
42 ~~name, address, and services of a public or semi-public body,~~
43 ~~or the office of such body, shall be permitted. Such signs~~
44 ~~shall not exceed twenty (20) square feet of display area, and~~
45 ~~may not extend higher than six (6) feet above the ground.~~

46
47 ~~14. Directional Signs, Off-Site. For each premises, no more than~~
48 ~~one off-site directional sign shall be allowed. The off-site~~

1 directional sign shall be counted as one of the signs allowed
2 on the premises which said off-site directional sign is
3 located. Also, copy area of said off-site directional sign shall
4 be included in the calculation for allowable copy area for the
5 premise which the sign is located.
6

7 ~~15. Directional Signs, On-Site. There shall be no limit to the~~
8 ~~number of on-site directional signs. However, no on-site~~
9 ~~directional sign shall exceed 3 square feet of copy area,~~
10 ~~include any advertising except what is required to~~
11 ~~adequately guide a person into the correct location and~~
12 ~~exceed the height of 48 inches above the center line grade~~
13 ~~of the adjacent street right-of-way.~~

14
15 ~~16. Awning Sign. One awning sign shall be allowed for each~~
16 ~~business. Said sign shall contain the name of the business~~
17 ~~or type of business and may contain the business logo or~~
18 ~~address. Awning signs shall be no more than one square~~
19 ~~foot per lineal foot of business unit frontage and shall not be~~
20 ~~greater than 50 square feet. Awning signs shall not extend~~
21 ~~above or below the face of the awning.~~
22

23 ~~(2) Signs Located in the B-5 Planned Shopping Center District and Building(s)~~
24 ~~Containing Two (2) or More Units. (Ord. 14-91)~~
25

26 Signs erected shall conform to the following regulations:

27
28 a. ~~Shopping Centers shall be allowed one free-standing ground or~~
29 ~~pole sign containing one hundred (100) square feet or less copy~~
30 ~~area. (Ord. 14-91)~~
31

32 b. ~~Individual businesses, excluding anchor store and businesses~~
33 ~~located on an outparcel which are otherwise provided for in the~~
34 ~~LDR, shall be allowed additional signs as follows: (Ord. 67-94)~~
35

36 1.a. ~~One (1) wall sign not to exceed four (4) square feet of sign area~~
37 ~~per one (1) lineal foot of store frontage. No~~
38 ~~wall sign shall exceed 100 square feet. (Ord.~~
39 ~~14-91) (Ord. 67-94)~~
40

41 b. ~~An individual business in the B-5 zoning district with~~
42 ~~two (2) or more storefronts shall be allowed up to two (2)~~
43 ~~wall signs. The area of the allowable wall signage is four (4)~~
44 ~~square feet of sign area per one (1) lineal foot of store~~
45 ~~frontage up to a maximum sign area of 100 square feet for~~
46 ~~one (1) sign and 150 square feet for two (2) signs. (Ord.~~
47 ~~67-94)~~
48

1 ~~2. One (1) sign hanging below the marquee not to exceed three~~
2 ~~(3) square feet of copy area having a clearance of eight (8)~~
3 ~~feet.~~

4
5 ~~3. Any number of window signs provided no more than~~
6 ~~thirty five (35) percent of the total window area contains~~
7 ~~window signs.~~

8
9 ~~e. Individual businesses located on an outparcel shall be allowed any~~
10 ~~combination of signs as indicated in 604.14G.(1) above. (Ord.~~
11 ~~14-91)~~

12
13 ~~d. Freestanding pole or ground signs shall have a maximum height of~~
14 ~~thirty (30) feet. (Ord. 14-91)~~

15
16 ~~e. Individual anchor stores shall be allowed additional signs as~~

17 follows:

18
19 ~~1. One wall sign not to exceed four (4) square feet of copy area~~
20 ~~per one (1) lineal foot of store unit frontage but shall not~~
21 ~~exceed 300 square feet of copy area; (Ord. 14-91)~~

22
23 ~~2. Two (2) wall signs not to exceed two (2) square foot of copy~~
24 ~~area per one (1) lineal foot of store unit frontage but shall not~~
25 ~~exceed 150 square feet of copy area each; (Ord. 14-91)~~

26
27 ~~3. Two (2) wall signs or signs hanging below the marquee not~~
28 ~~to exceed three (3) square feet of copy area and having a~~
29 ~~clearance of eight (8) feet if hanging below the marquee.~~
30 ~~These signs shall be classified as directional signs, shall~~
31 ~~contain the establishment name and logo and shall not be~~
32 ~~calculated as any of the allowable number of signs.~~

33
34 ~~4. Any number of window signs provided no more than~~
35 ~~thirty five (35) percent of the total window area contains~~
36 ~~signs. These signs shall not be calculated as any of the~~
37 ~~allowable number of signs.~~

38
39 ~~(3) Signs Located in Office or Industrial Parks~~

40
41 ~~Signs erected within office or industrial parks shall conform to the following~~
42 ~~regulations unless more stringent regulations are included in any other~~
43 ~~portion of the LDR. The more stringent regulations shall apply.~~

44
45 ~~a. Office or industrial parks having less than fifty (50) total acres shall~~
46 ~~be allowed one (1) freestanding ground or pole sign having forty~~
47 ~~(40) square feet of copy area identifying the park name and~~
48 ~~business names and addresses within the park.~~

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- ~~b. Office or industrial parks having fifty to one hundred total acres shall be allowed one (1) freestanding ground or pole sign having sixty (60) square feet of copy area identifying the park name and business names and addresses within the park.~~
- ~~e. Office or industrial parks having more than one hundred total acres shall be allowed one (1) free standing ground or pole sign having eighty (80) square feet of copy area identifying the park name and business names and addresses within the park.~~
- ~~d. Freestanding ground or pole signs within an office or industrial park which identify the park and businesses within the park shall not exceed six (6) feet in height and shall be located a minimum of five (5) feet from any right of way line.~~
- ~~e. Individual businesses within an office or industrial park shall comply with the sign regulations as indicated in 604.14 G.(1) above.~~

~~(4) Signs Located on Residentially Zoned Property~~

- ~~a. All subdivided residential developments are allowed to have one subdivision sign per main vehicular access to the subdivision. The subdivision sign shall not exceed four (4) feet in height above the nearest adjacent road grade or sixty (60) square feet in area.~~
- ~~b. All multi family residential developments are allowed one ground sign for each street frontage. Said sign shall not exceed a height of four (4) feet above the nearest adjacent road grade or an area of twenty (20) square feet.~~
- ~~c. All residential developments are allowed one off site directional sign.~~
- ~~d. All residential developments are allowed one construction sign which must be removed upon completion of the project.~~
- ~~e. All residential developments are allowed one development sign not to exceed 32 square feet in area.~~
- ~~f. Any church or church related property is allowed to have one freestanding sign not to exceed 32 square feet in copy area and not to exceed 6 feet in height. As an alternative, one wall sign not to exceed 32 square feet in copy area may be allowed.~~

~~(5) Signs located within property designated as Corridor Overlay Zone (COZ)~~

1 ~~_____ The sign regulations established in Section 604.14, et seq, shall~~
2 ~~also apply in any corridor zone, provided however, that sign~~
3 ~~regulations presented herein shall supersede where they are more~~
4 ~~stringent.~~

5
6 ~~_____ a. Standard Requirement~~

7
8 ~~1. If a site is below grade, sign height is measured from the~~
9 ~~adjacent road elevation taken at the edge of the pavement~~
10 ~~nearest the affected property line.~~

11
12 ~~2. Freestanding signs are permitted only adjacent to the arterial~~
13 ~~right-of-way frontage line.~~

14
15 ~~_____ b. Business Uses~~

16
17 ~~1. Freestanding Sign. One (1) freestanding sign per parcel~~
18 ~~with arterial right of way frontage shall be permitted with~~
19 ~~forty eight (48) square feet of copy area if under eight (8)~~
20 ~~feet in height or thirty two (32) square feet of copy area~~
21 ~~between eight (8) and fifteen (15) feet high.~~

22
23 ~~2. Wall Signs. Two (2) square feet of sign area for each~~
24 ~~building front foot, up to two hundred (200) square feet.~~

25
26 ~~3. Height and Setback Requirements for Free Standing Signs.~~
27 ~~Minimum sign setback from the arterial right of way frontage~~
28 ~~line and side lot lines shall be five (5) feet.~~

29
30 ~~_____ c. Shopping Center~~

31
32 ~~_____ 1. Freestanding Signs~~

33
34 ~~(a) Centers under seventy five thousand (75,000) square~~
35 ~~feet. One (1) freestanding sign of sixty two (62)~~
36 ~~square feet, or less, containing two (2) sign panels.~~
37 ~~One sign panel for a major tenant of thirty two (32)~~
38 ~~square feet and one sign panel of thirty (30) additional~~
39 ~~square feet of sign area for individual tenant listings~~
40 ~~with letter and character sizes not less than six inches~~
41 ~~(6") in height. [Ord. No. 03-01]~~

42
43 ~~(b) Centers of seventy five thousand (75,000) square feet~~
44 ~~to two hundred and fifty thousand (250,000) square~~
45 ~~feet. One (1) freestanding sign of forty eight (48)~~
46 ~~square feet or less that contains three (3) additional~~
47 ~~sign panels for three (3) major tenant signs, with~~
48 ~~fifteen (15) square feet or less for each panel.~~

1
2 ~~(c) Centers of over two hundred and fifty thousand~~
3 ~~square feet. One (1) freestanding sign for sixty four~~
4 ~~(64) square feet or less that contains four (4)~~
5 ~~additional sign panels for four (4) major tenant signs,~~
6 ~~with fifteen (15) square feet or less for each panel.~~
7 ~~[Revised 2/27/01]~~
8

9 ~~2. Wall Signs. Wall signage for individual businesses in the~~
10 ~~shopping center shall be permitted to contain up to two (2)~~
11 ~~square feet for each building front foot. Front feet shall be~~
12 ~~measured along the entrance side of individual stores. In~~
13 ~~the case of corner stores, additional signage may be allowed~~
14 ~~only when the same or similar facade treatment is used on~~
15 ~~both front and side. Sign area is not transferable between~~
16 ~~facades.~~
17

18 ~~3. Height, Setback, and Spacing Requirements for~~
19 ~~Freestanding Signs.~~
20

21 ~~(a) Freestanding signs shall be placed only adjacent to~~
22 ~~the arterial right-of-way frontage line.~~
23

24 ~~(b) Minimum sign setback from the arterial right-of-way~~
25 ~~frontage line shall be five (5) feet.~~
26

27 ~~(c) Maximum height shall be fifteen (15) feet.~~
28

29 ~~(d) Freestanding signs shall be setback a minimum of~~
30 ~~fifty (50) feet from side lot lines.~~
31

32 ~~(e) Freestanding sign structures on the same ownership~~
33 ~~parcel shall be a minimum of seven hundred (700)~~
34 ~~feet apart.~~
35

36 ~~d. Office Buildings~~
37

38 ~~1. Sign Area and Use~~
39

40 ~~(a) One freestanding sign per parcel located adjacent to~~
41 ~~the arterial right-of-way frontage line shall be~~
42 ~~permitted with thirty (30) square feet of copy area;~~
43

44 ~~(b) One wall directory sign located at the building~~
45 ~~entrance of up to eight (8) square feet; and~~
46

47 ~~(c) Wall signs to identify individual offices not to exceed~~
48 ~~two (2) square feet each.~~

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~~2. Height and Setback Requirements for Free-standing Signs.~~

~~(a) Maximum height shall be eight (8) feet.~~

~~(b) Freestanding signs shall be setback a maximum of twenty-five (25) feet from side-lot lines.~~

~~(c) Minimum sign setback from the arterial right-of-way frontage line shall be five (5) feet.~~

~~e. Residential Uses~~

~~1. Freestanding Sign. One (1) freestanding sign adjacent to the arterial right of way frontage line shall be permitted as follows:~~

~~(a) Sixteen (16) square feet of copy area for multi-family uses where the project contains twelve (12) units or less; nursery schools; and day care centers.~~

~~(b) Thirty two (32) square feet of copy area for multi-family uses where the project contains thirteen (13) or more units; adult congregate living facilities; nursing homes; public and private schools; churches; and semi-public and public clubs including halls and lodges.~~

~~(c) Wall Signs. One (1) wall sign is permitted in lieu of a freestanding sign of maximum size above. No projecting or roof signs are allowed.~~

~~2. Height and Setback Requirements for Free-standing Signs.~~

~~(a) Maximum height shall be (8) feet.~~

~~(b) Minimum sign setback from the arterial right-of-way frontage line and side lot lines shall be ten (10) feet.~~

~~3. Subdivision Signs. Signage shall be provided as set forth in Section 604.14.~~

~~f. Portable Temporary Sign.~~

~~1. One (1) portable sign shall be permitted for a new business, a business in a new location, or for a shopping center, whose allowable freestanding sign has not yet been erected. Such sign shall be permitted for a period of not more than~~

1 ~~thirty (30) days or until installation of the allowable~~
2 ~~freestanding sign, whichever shall occur first.~~

3
4 ~~2. Portable temporary signs shall conform to all City codes and~~
5 ~~criteria, including but not limited to, those cited or set forth~~
6 ~~below:~~

7
8 ~~(a) Securely anchored in accordance with the Standard~~
9 ~~Building Code.~~

10
11 ~~(b) Electrical system shall be in compliance with the~~
12 ~~National Electrical Code.~~

13
14 ~~(c) Maximum size of sign face (one side) shall be thirty-~~
15 ~~two (32) square feet.~~

16
17 ~~(d) No more than one (1) such sign shall be permitted for~~
18 ~~each lot or parcel.~~

19
20 ~~(e) Copy on signs shall be maintained in an intelligible~~
21 ~~condition.~~

22
23 ~~(f) No flashing lights of any kind permitted. External~~
24 ~~illumination confined to sign face area.~~

25
26 ~~(g) Portable signs shall be used on-site only.~~

27
28 ~~3. A new permit must be obtained for each period of use of a~~
29 ~~portable temporary sign. Application for a permit for a portable~~
30 ~~temporary sign shall include:~~

31
32 ~~(a) a diagram indicating the manner in which the sign will~~
33 ~~be anchored to meet the specifications outlined~~
34 ~~above.~~

35 ~~(b) a plot plan showing that the proposed location is:~~

36 ~~— In accordance with intersection visibility~~
37 ~~standards outlined in the City of New Smyrna~~
38 ~~Beach's LDR;~~

39 ~~— Illuminated signs shall be connected to a~~
40 ~~ground fault interrupter circuit receptacle. The~~
41 ~~use of extension cords for the power supply to~~
42 ~~the sign shall be prohibited; and~~
43 ~~— Not in a required parking space.~~

44
45 ~~g. Political Campaign Signs~~

46
47 ~~1. Temporary political campaign signs or posters shall be~~
48 ~~permitted subject to the following restrictions, limitations, and~~

1 requirements, and any other applicable requirements set
2 forth in this sign regulation.

3
4 ~~2. Setback shall be five (5) feet from public rights-of way lines.~~

5
6 ~~3. Setback shall be twenty five feet from side property lines.~~

7
8 ~~4. The maximum height shall be ten (10) feet.~~

9
10 ~~5. The maximum sign size shall be sixteen (16) square feet per~~
11 ~~sign and thirty two (32) square feet per premises.~~

12
13 ~~6. Political campaign signs shall be erected not more than sixty~~
14 ~~(60) days prior to an election and shall be removed within~~
15 ~~ten (10) days after the election or after the campaign issue~~
16 ~~has been decided.~~

17
18 ~~7. The erection and removal of all political signs shall be the~~
19 ~~joint responsibility of the owner of property upon which the~~
20 ~~sign is placed, the owner of such sign, and the candidate for~~
21 ~~whom such sign was placed. Each such person shall be~~
22 ~~jointly and severably liable for a violation of the terms and~~
23 ~~conditions of this sign regulation.~~

24
25 ~~8. It shall be unlawful for any candidate for an elected office to~~
26 ~~post any signs, billboards or posters, within the corridor~~
27 ~~unless such candidate or his campaign manager shall first~~
28 ~~obtain a permit from the City Clerk and post a good and~~
29 ~~sufficient surety bond or cash bond in an amount of not less~~
30 ~~than two hundred and fifty (\$250.00) dollars conditioned~~
31 ~~upon the removal of such signs, billboards and posters,~~
32 ~~within ten (10) days after the election in which the candidate~~
33 ~~is eliminated or elected or the campaign issue is decided.~~

34
35 ~~Should the candidate fail or refuse to remove said signs,~~
36 ~~billboards or posters, within fifteen (15) days after such~~
37 ~~election, the City shall have the authority to remove such~~
38 ~~signs, billboards or posters, and dispose thereof and charge~~
39 ~~the cost of such removal and disposition against the bond~~
40 ~~posted by the candidate. In the event a cash bond is posted,~~
41 ~~any sums remaining in the hands of the City after the cost of~~
42 ~~such removal has been deducted, shall be remitted to the~~
43 ~~candidate.~~

44
45 ~~(6) Signs located within property designed as Planned Unit Development~~
46 ~~(PUD)~~

1 ~~_____~~ The sign regulations shall apply as in Section 604.14 of this LDR except
2 that the following shall supercede:
3

4 ~~_____~~ a. ~~_____~~ Business Uses
5

6 ~~_____~~ 1. ~~_____~~ Freestanding Signs
7

8 One freestanding pole or ground sign shall be allowed per
9 parcel with no more than forty eight (48) square feet of copy
10 area if under eight (8) feet in height or thirty two (32) square
11 feet of copy area between eight (8) and fifteen (15) feet high.
12 No sign shall be allowed with a height greater than 15 feet.
13

14 Minimum freestanding sign setback from front lot lines shall
15 be five (5) feet and side lot lines shall be twenty five (25)
16 feet.
17

18 ~~_____~~ 2. ~~_____~~ Wall Signs
19

20 ~~_____~~ No more than two (2) wall signs are permitted per parcel with
21 a maximum of two (2) square feet of sign area for each foot
22 of building front. Total wall sign area shall not be greater
23 than 200 square feet.
24

25 ~~_____~~ b. ~~_____~~ Shopping Centers
26

27 ~~_____~~ 1. ~~_____~~ Freestanding Signs
28

29 (a) ~~_____~~ Centers under 75,000 square feet of gross leasable
30 area. One (1) freestanding sign of thirty two (32)
31 square feet or less that contains two (2) additional
32 sign panels for two (2) major tenant signs, with fifteen
33 (15) square feet or less for each panel.
34

35 (b) ~~_____~~ Centers of 75,000 square feet to 250,000 square feet
36 of gross leasable area. One (1) freestanding sign of
37 forty eight (48) square feet or less that contains three
38 (3) additional sign panels for three (3) major tenant
39 signs, with fifteen (15) square feet or less for each
40 panel.
41

42 (c) ~~_____~~ Centers of over 250,000 square feet gross leasable
43 area. One (1) freestanding sign of sixty four (64)
44 square feet or less that contains four (4) additional
45 sign panels for four (4) major tenant signs, with fifteen
46 (15) square feet or less for each panel.
47

48 ~~_____~~ 2. ~~_____~~ Wall Signs

1
2 ~~Wall signage for individual businesses in the shopping~~
3 ~~center shall be permitted to contain up to two (2) square feet~~
4 ~~for each building front foot. Front feet shall be measured~~
5 ~~along the entrance side of individual stores. In the case of~~
6 ~~corner stores, additional signage may be allowed only when~~
7 ~~the same or similar facade treatment is used on both front~~
8 ~~and side. Sign area is not transferable between facades.~~

9
10 ~~3. Marquee Sign~~

11
12 ~~Each individual unit within the shopping center is allowed~~
13 ~~one sign which hangs below the marquee provided the sign~~
14 ~~does not exceed three (3) square feet and does not extend~~
15 ~~below an eight (8) foot clearance measured from the~~
16 ~~sidewalk grade to the bottom edge of the sign.~~

17
18 ~~c. Office Buildings~~

19
20 ~~1. Sign Area and Use~~

21
22 ~~(a) One (1) freestanding sign shall be allowed per parcel~~
23 ~~with a copy area no greater than thirty (30) square~~
24 ~~feet looking from one direction;~~

25
26 ~~(b) One (1) wall directory sign located at the building~~
27 ~~entrance of up to eight (8) square feet; and~~

28
29 ~~(c) Wall signs to identify individual offices not to exceed~~
30 ~~two (2) square feet each.~~

31
32 ~~2. Height and Setback Requirements for Free standing Signs:~~

33
34 ~~(a) Maximum height shall be eight (8) feet.~~

35
36
37 ~~(b) Freestanding signs shall be set back a minimum~~
38 ~~distance of twenty five (25) feet from side lot lines and~~
39 ~~five (5) feet from front lot lines.~~

40
41 ~~d. Residential Uses~~

42
43 ~~1. Freestanding Sign~~

44
45 ~~One (1) freestanding ground sign identifying the~~
46 ~~development may be allowed for each residential~~
47 ~~development according to the following size regulations:~~
48

1 ~~(a) Sixteen (16) square feet of copy area for residential~~
2 ~~developments having twelve (12) dwelling units or~~
3 ~~less.~~

4
5 ~~(b) Thirty two (32) square feet of copy area for residential~~
6 ~~developments having 13 or more dwelling units.~~

7
8 ~~2. Freestanding Sign Height and Setback Requirements.~~

9
10 ~~(a) Freestanding signs shall be setback a minimum of~~
11 ~~five (5) feet from the front property line and ten (10)~~
12 ~~feet from the side property line.~~

13
14 ~~(b) Freestanding signs shall have a maximum height of~~
15 ~~four (4) feet or less measured from the normal grade~~
16 ~~level to the highest portion of the sign.~~

17
18 ~~3. Exception to Freestanding Signs~~

19
20 ~~One (1) wall sign is permitted in lieu of a freestanding sign~~
21 ~~and shall conform to the same size requirements as a~~
22 ~~freestanding sign as indicated above except the maximum~~
23 ~~height above normal grade is 12 feet.~~

24
25 ~~e. Portable Temporary Signs~~

26
27 ~~One (1) portable sign shall be permitted for a new business, a~~
28 ~~business in a new location, or for a shopping center, whose~~
29 ~~allowable freestanding sign has not yet been erected. Such sign~~
30 ~~shall be permitted for a period of not more than thirty (30) days or~~
31 ~~until installation of the allowable freestanding sign, whichever shall~~
32 ~~occur first.~~

33
34 ~~Portable temporary signs shall conform to all City codes and~~
35 ~~criteria, including but not limited to, those cited or set forth below:~~

36
37 ~~1. Securely anchored in accordance with the Standard Building~~
38 ~~Code.~~

39
40 ~~2. Electrical system shall be in compliance with the National~~
41 ~~Electrical Code.~~

42
43 ~~3. Maximum size of sign face area (one side) shall be thirty two~~
44 ~~(32) square feet.~~

45
46 ~~4. No more than one (1) such sign shall be permitted for each~~
47 ~~lot or parcel.~~

1 ~~5. Copy on signs shall be maintained in an intelligible condition.~~

2
3 ~~6. No flashing lights of any kind permitted. External illumination~~
4 ~~confined to sign face area.~~

5
6 ~~7. Portable signs shall be used on site only.~~

7
8 ~~8. A new permit must be obtained for each period of use of a~~
9 ~~portable temporary sign. Application for a permit for a~~
10 ~~portable temporary sign shall include:~~

11
12 ~~(a) a diagram indicating the manner in which the sign will~~
13 ~~be anchored to meet the specifications out-lined~~
14 ~~above;~~

15
16 ~~(b) a plot plan showing that the proposed location is:~~

17
18 ~~in accordance with intersection visibility~~
19 ~~standards outlined in the City of New Smyrna~~
20 ~~Beach~~
21 ~~Land Development Regulations;~~

22
23 ~~illuminated signs shall be connected to a~~
24 ~~ground fault interrupter circuit receptacle. The~~
25 ~~use of extension cords for the power supply to~~
26 ~~the sign shall be prohibited; and~~

27
28 ~~not in a required parking space.~~

29 ~~f. Signs in the Visibility Triangle~~

30
31 ~~1. Ground Signs~~

32
33 ~~Ground signs shall have a maximum height of 3.5 feet to~~
34 ~~allow for proper visibility.~~

35
36 ~~2. Pole Signs~~

37
38 ~~Pole signs shall have a minimum clearance of 8 feet~~
39 ~~measured from the bottom of the sign to the crown of the~~
40 ~~nearest, highest, adjacent roadway. In addition, the pole~~
41 ~~shall have a maximum width of 8 inches and the base shall~~
42 ~~have a maximum height of 3.5 feet.~~

43
44 ~~(7) Signs Located at Bed and Breakfast Homes~~

45
46 ~~Point of sale sign, either mounted on the building or on the ground or a~~
47 ~~pole, not exceeding ten (10) square feet in total sign area, and subject to~~
48 ~~the conditions that if mounted on the building, the sign may not be located~~

1 above the roof line; if mounted on the ground or a pole, the sign may not
2 exceed six (6) feet in height at any point, must be constructed of natural
3 materials consistent with the architectural style and historic ambiance of
4 the building; may utilize indirect lighting to illuminate the sign face only;
5 may be double facing if on a ground or a pole sign; one (1) sign per
6 premises only, except double frontage lots may utilize a directional sign on
7 the site.

8
9 (8) ~~Electronic Message Centers~~

10
11 ~~Electronic message centers shall only be allowed in the B-3 and B-5~~
12 ~~zoning districts. Electronic message center signs shall be prohibited east~~
13 ~~of U.S.1, except for properties with direct frontage on the east side of~~
14 ~~U.S.1, regardless of zoning. Additionally, electronic message centers~~
15 ~~shall conform with the following requirements:~~

16
17 ~~a. Minimum separation between electronic message~~
18 ~~center signs is 600', unless approved by the~~
19 ~~Development Services Director based on visibility~~
20 ~~needs.~~

21
22 ~~b. Electronic message center signs must not face~~
23 ~~property zoned for single family residential uses.~~

24
25 ~~c. Electronic message center signs shall be prohibited~~
26 ~~within historic districts or facing a historic district if the~~
27 ~~electronic message center sign will be within 200 feet~~
28 ~~of the historic district.~~

29 ~~d. The maximum light emanation from an electronic~~
30 ~~message center sign shall be no greater than .3 foot-~~
31 ~~candles, measured 200 feet from the sign.~~

32
33 ~~e. Every electronic message center shall be equipped~~
34 ~~with an automatic dimmer device.~~

35
36 ~~f. All electronic message centers shall comply with the~~
37 ~~appropriate City sign and other regulations.~~

38
39 ~~g. Any malfunctioning electronic message centers must~~
40 ~~be turned off or display a blank screen until repaired.~~

41
42 ~~h. All electrical equipment shall be UL listed.~~

43 ~~i. All power to an electronic message center shall be~~
44 ~~supplied via underground carrier, inside approved~~
45 ~~conduit, and shall be installed according to the City~~
46 ~~electrical requirements.~~
47

1 ~~_____ j. All electronic message centers shall be kept in good~~
2 ~~operating condition and maintained with good external~~
3 ~~appearance. _____ Ord. #45-~~
4 ~~08~~
5

6 (9) ~~Real estate signs.~~
7

8 ~~_____ a. Exempt real estate signs: The following real estate signs~~
9 ~~conforming to the following criteria shall not require a permit:~~
10

11 ~~_____ 1. Maximum size and number of signs: One sign not exceeding~~
12 ~~six square feet in area may be erected for each street and/or~~
13 ~~water frontage adjoining the parcel of property offered for~~
14 ~~sale, lease, or rent.~~
15

16 ~~_____ 2. A maximum of three "add-on" or "rider" signs shall be~~
17 ~~permitted for each exempt real estate sign, provided the total~~
18 ~~area for all "add-on" or "rider" signs does not exceed five~~
19 ~~square feet and provided that no "add-on" or "rider" sign~~
20 ~~exceeds the width of the exempt real estate sign.~~
21

22 ~~_____ 3. Minimum setbacks: Ten feet from side property lines and two~~
23 ~~feet from public right-of-way lines.~~
24

25 ~~_____ b. Non exempt real estate signs on property zoned C, RC, FR, R, A-1,~~
26 ~~A-2, MU, B-2, B-3, B-4, B-6, B-6A, CM, I-1, I-2, I-3, I-4, PUD and~~
27 ~~COZ, shall require a permit and shall conform to the following:~~
28

29 ~~_____ 1. Maximum size: 32 square feet.~~

30 ~~_____ 2. Maximum number of signs: One per each street and/or~~
31 ~~water frontage for each premises.~~
32

33 ~~_____ 3. Minimum setbacks: Five feet from any adjacent right-of-way,~~
34 ~~except where the applicant demonstrates that existing~~
35 ~~vegetation or other obstructions would preclude compliance~~
36 ~~with the five-foot setback.~~
37

38 ~~_____ c. Non exempt real estate signs on property zoned RE, R-1, R-2, R-3,~~
39 ~~R-4, R-5, R-6, MH-1, and MH-2, shall require a permit and shall~~
40 ~~conform to the following:~~
41

42 ~~_____ 1. Maximum size: 16 square feet.~~
43

44 ~~_____ 2. Maximum number of signs: One per each street and/or water~~
45 ~~frontage for each premises.~~
46

47 ~~_____ 3. Minimum setbacks: Five feet from all property lines.~~
48

1 ~~_____ d. Visibility requirements. All real estate signs shall be located outside~~
2 ~~the required visibility areas at the intersections of rights-of-way. All~~
3 ~~real estate signs shall be located outside the required visibility~~
4 ~~areas on waterfront parcels with the exception that when the~~
5 ~~visibility areas on a waterfront parcel overlap due to the width of the~~
6 ~~parcel, either one exempt real estate sign or one non-exempt real~~
7 ~~estate sign may be placed at the approximate mid-point of the~~
8 ~~water frontage. **Ord. #29-10**~~

9
10 ~~H. Non-Conforming Signs~~

11
12 ~~(1) Amortization of Non-Conforming Signs~~

13
14 ~~_____ Any existing sign which is in violation of this LDR, after the effective date~~
15 ~~of this LDR shall be deemed a non-conforming sign. Such signs may be~~
16 ~~continued subject to the following requirements:~~

17
18 ~~a. No non-conforming sign shall be altered, moved, or changed in any~~
19 ~~way except in full compliance with the terms of this LDR. This~~
20 ~~provision shall not apply to the changing of temporary copy on~~
21 ~~changeable copy signs or the painting or altering of copy area to~~
22 ~~restore the original sign appearance. Although repair of sign~~
23 ~~requires a permit in accordance with the LDR, this non-conforming~~
24 ~~sign provision shall not apply to repairs necessary to maintain the~~
25 ~~structural integrity or safety of a sign so long as the cost of such~~
26 ~~repairs does not exceed twenty five (25) percent of the cost of~~
27 ~~materials which would be necessary to construct, an in all other~~
28 ~~respects, identical conforming sign on the same site, such costs to~~
29 ~~be determined by the Chief Building Official. **Ord. #42-05, Ord.**~~
30 ~~**#45-08**~~

31 ~~b. Non-conforming signs shall be removed or made to conform with~~
32 ~~this LDR within the time periods set out below or upon deterioration~~
33 ~~to the point specified below:~~

34
35 ~~1. The following types of signs shall be removed or made to~~
36 ~~conform within sixty (60) days after the effective date of this~~
37 ~~LDR:~~

- 38
39 ~~_____ Beacon Light Signs~~
40 ~~_____ Flashing Signs~~
41 ~~_____ Moving Signs~~
42 ~~_____ Snipe Signs~~
43 ~~_____ Traveling Light Signs~~

44
45 ~~_____ Signs, which in any way simulate or appear to simulate,~~
46 ~~emergency vehicles, traffic control signs, or devices or~~
47 ~~directional, informational or warning signs erected or~~

1 maintained by any public body or any railroad, public utility,
2 or similar body.

3
4 ~~Private Signs placed on public property, except as expressly~~
5 ~~permitted by the appropriate public body.~~

6
7 ~~Signs containing any statements, words, or pictures of an~~
8 ~~obscene nature, that is, which are utterly without redeeming~~
9 ~~social value as determined by the community standard~~
10 ~~prevailing in New Smyrna Beach and the immediately~~
11 ~~surrounding area.~~

12
13 ~~Signs attached to passenger vehicles (automobile) except~~
14 ~~signs not exceeding three (3) square feet on the sides of~~
15 ~~such vehicles operated during the normal course of~~
16 ~~business, and identifying only the business, its principal~~
17 ~~products of services, address, and/or phone number.~~

18
19 ~~Signs which, in any way, obstruct or block any fire escape,~~
20 ~~window or door, or which are attached to any fire escape or~~
21 ~~ventilation device.~~

22
23 ~~Signs designed to be visible from any part of the Atlantic~~
24 ~~Ocean beach area, or from any waterway within the city~~
25 ~~limits, with the following exceptions: 1) approved wall signs~~
26 ~~in MU, B-2, B-3, B-4, or CM zoning districts; 2) signs~~
27 ~~complying with the exemption provision of this LDR; and 3)~~
28 ~~real estate signs complying with the provisions of this LDR.~~

29 ~~Ord. #29-10~~

30
31 2. ~~The following types of signs prohibited by this LDR shall be~~
32 ~~removed within one (1) year after the effective date of this~~
33 ~~LDR:~~

34
35 ~~Billboards~~

36 ~~Ord. #42-05, Ord. #45-08~~

37 ~~Off site signs, unless said sign is an off site~~
38 ~~directional sign as defined herein.~~

39
40 3. ~~Notwithstanding the time periods for amortization of non-~~
41 ~~conforming signs set out in paragraphs (a) and (b) above, no~~
42 ~~non-conforming sign of any kind or type shall be allowed to~~
43 ~~remain where the sign has deteriorated to a point that the~~
44 ~~cost of repairing the sign to a safe, structurally sound~~
45 ~~condition, exceeds twenty five (25) percent of the cost of~~
46 ~~materials which would be necessary to construct, an in all~~
47 ~~other respects, identical conforming sign on the same site,~~
48 ~~such costs to be determined by the Chief Building Official.~~

1
2 4. ~~Notwithstanding any other provision in this LDR, if a sign is~~
3 ~~more than fifty (50) percent destroyed through an accident,~~
4 ~~act of God, or intentional act not caused by the person~~
5 ~~responsible for said sign, then the sign may be reconstructed~~
6 ~~and rebuilt and utilized for the balance of the amortization~~
7 ~~period then left.~~

8
9 ~~(2) Removal of Signs:~~

10
11 ~~The Chief Building Official shall have the responsibility to enforce the~~
12 ~~provisions of this LDR.~~

13
14 a. ~~If any property owner fails to comply with this LDR by failing to~~
15 ~~remove an unlawful sign, a sign for which the amortization period~~
16 ~~applicable to the sign has lapsed or a sign which has deteriorated~~
17 ~~beyond the point set forth in 1.(4) above, the Enforcement Official~~
18 ~~shall send a notice of violation by certified mail, return receipt~~
19 ~~requested, to the owner of the property at the address shown on~~
20 ~~the latest consolidated county tax rolls. If the notice is returned~~
21 ~~unclaimed or otherwise undelivered, a true copy of such notice~~
22 ~~shall be posted on the property involved for ten (10) consecutive~~
23 ~~days. The notice shall contain the name and address of the owner~~
24 ~~as shown on the tax rolls, the legal description of the property, the~~
25 ~~time in which the owner shall abate the nuisance, not less than~~
26 ~~thirty (30) days, and have attached a photocopy of the relevant~~
27 ~~provisions of this LDR.~~

28
29 b. ~~Any owner aggrieved by any action taken by the City under this~~
30 ~~LDR may appeal such action to the City Commission.~~

31
32 c. ~~If no action has been taken regarding a notice of violation by the~~
33 ~~owner of the property involved within sixty (60) days after service of~~
34 ~~the notice, or the last day of posting on the property, and no appeal~~
35 ~~has been taken, the Enforcement Official shall request approval of~~
36 ~~the LDR Enforcement Board to remove the sign and after obtaining~~
37 ~~such approval shall cause the sign to be removed. The reasonable~~
38 ~~cost of such removal is hereby assessed against the property~~
39 ~~involved and declared to be a lien on such land in accordance with~~
40 ~~state law. Such liens may be foreclosed by the City as provided by~~
41 ~~law.~~

42
43 ~~I. Signs Visible from Interstate or Federal Aid Primary Highway System; Harmony~~
44 ~~of Regulations.~~

45
46 ~~(1) The removal provisions of this LDR shall not apply in the case of outdoor~~
47 ~~advertisements or advertising structures visible from roads or highway~~
48 ~~systems to the extent that such removal is preempted by the State. This~~

1 shall not affect the duty of sign owners to remove signs under this LDR
2 nor shall it affect the authority and responsibility of the City to enforce this
3 LDR through other appropriate means, including referral for criminal
4 prosecution.
5

6 (2) This LDR shall be construed to be in harmony with Florida Statutes,
7 Chapter 479 and 23 USC, S131, and any succeeding versions of those
8 statutes. In cases where local authority is preempted by the State, or
9 where a question arises regarding such preemption, it shall be the
10 responsibility of the Chief Building Official to coordinate with the State to
11 insure that State regulation and enforcement is pursued to the fullest
12 extent.
13

14 ~~J. Variances~~

15
16 ~~Variances to the strict requirements of this LDR may be granted by the Planning
17 and Zoning Board only where a literal enforcement of the provisions of this LDR
18 would result in substantial practical difficulty or unnecessary hardship or difficulty
19 which might be suffered by the owners of that property. Variances shall be
20 granted only in accordance with the procedures and criteria set out in the City
21 Land Development Regulations.~~

22 ~~Ord. #59-10~~

23
24 ~~K. Penalties~~

25
26 ~~Any person, organization, or corporation, violating the provisions of this LDR
27 shall, upon conviction, be subject to the penalties provided for in Section 1-8 of
28 the Code of Ordinances of the City of New Smyrna Beach, Florida.~~

29
30 ***

31 **604.14 Signs**

32
33 **A. Purposes, Intent, and Scope**

34
35 The purpose of these sign regulations is to protect, preserve, and improve
36 the character and appearance of the City of New Smyrna Beach; to
37 provide ample opportunity to advertise in commercial and industrial areas
38 while preventing excessive advertising which would have a detrimental
39 effect on the character and appearance of those areas; and to limit signs in
40 non-commercial and non-industrial areas to essential signs, primarily for
41 the purpose of identification and information, in order to protect the
42 residential character and appearance of those areas. These regulations
43 shall be the minimum requirements necessary to accomplish these
44 purposes, and therefore, to protect the public health, safety, and general
45 welfare.
46

1 It is intended that signs placed on land or on a building for the purpose of
2 identification, or for advertising use conducted on that land, or in that
3 building, shall be deemed to be accessory and incidental to the land,
4 building, or use.

5
6 With respect to signs advertising business uses, it is specifically intended,
7 among other things, to avoid excessive competition and clutter among sign
8 display in the demand for public attention. Therefore, the display of signs
9 should be appropriate to the land, building or use to which they are
10 appurtenant and be adequate, but not excessive, for the intended purpose
11 of identification or advertisement.

12
13 Signs commonly referred to as billboards, outdoor advertising or poster
14 panels, which advertise products or businesses not connected with the site
15 on which they are located, are prohibited in accordance with the
16 predominantly residential atmosphere of the community, such signs being
17 most appropriate on open highways and roads where they do not detract
18 from community character.

19
20 It is also intended that all temporary signs erected for directional purposes,
21 public information, or to direct attention to special events, shall be confined
22 to those that are of a general public interest, and that such signs shall be
23 limited to the giving of information.

24
25 B. Prohibited Signs

26
27 The following signs are prohibited in the City of New Smyrna Beach:

28
29 Beacon Light Signs
30 Billboards

31 Flashing Signs except Time and Temperature
32 Signs Ord. #42-05, Ord. #45-08
33 Moving Signs Ord. #42-05, Ord. #45-08
34 Off-Site Signs except those off-site signs which
35 for limited specific purposes are expressly
36 permitted by the terms of this LDR, including
37 but not limited to, banner signs, bench signs,
38 bus signs, political signs, real estate signs, and
39 excluding off-site directional signs.

40 Pole Signs
41 Roof Signs
42 Snipe Signs
43 Trailer/Mobile Sign
44 Traveling Light Signs
45

1 Signs which in any way simulate or appear to simulate emergency
2 vehicles, traffic control signs, or devices, or directional, informational
3 or warning signs, erected or maintained by any public body, or any
4 railroad, public utility, or similar body.

5
6 Private signs placed on public property, except as expressly
7 permitted by the appropriate public body.

8
9 Signs containing any statements, words or pictures of an obscene
10 nature, that is, which are utterly without redeeming social value as
11 determined by the community standard prevailing in New Smyrna
12 Beach and the immediate surrounding area.

13
14 Signs attached to passenger vehicles exceeding three (3) square
15 feet.

16
17 Signs which in any way obstruct, cover, or block, any fire escape,
18 window, or door, or which are attached to any fire escape or
19 ventilation device.

20
21 Signs which include pennants, ribbons, streamers, spinners, or
22 wind-operated devices, except as provided herein. Flags of the
23 United States, the State of Florida or the City of New Smyrna Beach
24 are exempt from this prohibition.

25
26 Signs designed to be visible from any part of the Atlantic Ocean
27 beach area, or from any waterway within the City limits, with the
28 following exceptions: 1) approved wall signs in MU, B-2, B-3, B-4, or
29 CM zoning districts, 2) signs complying with the exemption provision
30 of this LDR; and 3) real estate signs complying with the provisions of
31 this LDR. **Ord. #29-10**

32
33 Commercial signs that are carried, waved, or otherwise displayed by
34 persons ("sign walkers", "sign spinners", or "commercial mascots")
35 either on public rights-of-way or in a manner visible from public
36 rights-of-way. This provision is directed toward such displays
37 intended to draw attention for a commercial purpose, and is not
38 intended to limit the display of placards, banners, flags, or other
39 signage by persons participating in demonstrations, political rallies,
40 or otherwise exercising their valid First Amendment rights. Signs
41 containing a portion of a message where some other portion is
42 contained on another sign, thereby creating a series of advertising
43 messages along a street or highway.

1 Signs located in the visibility triangle of any corner lot, except as
2 provided herein. The visibility triangle shall be drawn using the street
3 right-of-way lines and a line connecting them at points twenty-five
4 (25) feet from the intersection formed by such right-of-way lines, or
5 signs which otherwise obstruct the view in any direction at a street
6 intersection.

7
8 C. Exemptions

9
10 The following signs shall be exempt from the permitting requirements of
11 this LDR:

12
13 Automobile Dealerships Informational/Directional Service sign provided the
14 dealership contains over 40,000 square feet of lot area, the sign only reads
15 "service", has no advertising or logo, and has a copy area of 75 square
16 feet or less.

17
18 Bench Signs approved by the City Commission.

19
20 Construction Signs for one or two unit residential construction projects
21 provided that only one such sign not exceeding five and one-half (5-1/2)
22 square feet for each such project may be erected.

23
24 Integral Signs, provided the individual letters or numerals of such sign do
25 not exceed two (2) inches in height, and provided the sign itself does not
26 exceed three (3) square feet of display area.

27
28 Legal Notices.

29
30 Neon light or other type of light sign hung inside the window of an
31 establishment and intended to be seen from the outside provided: (1) no
32 more than five (5) are exempt; (2) the sign advertises a product sold at the
33 establishment; and (3) the energy sources is by plug into an existing wall
34 outlet.

35
36 No trespassing, warning, or similar signs of not more than two (2) square
37 feet where such signs are reasonably necessary to notify the public of the
38 matters contained in the signs.

39
40 One sign not exceeding three (3) square feet in area per premises, bearing
41 only property numbers, post office numbers, and names of occupants of
42 such premises, for identification purposes only.

43
44 Political Signs not exceeding six (6) square feet in area.
45

1 Real Estate signs provided that only one such sign not exceeding five and
2 one-half (5-1/2) square feet in area may be erected for each street
3 frontage adjoining the parcel of property offered for sale, lease, or rent,
4 and provided further that no such signs shall be erected on the subject
5 property adjacent to the Atlantic Ocean beach. "Add-on" signs (warranty,
6 multiple listing, sold, by appointment, etc.) not exceeding one square foot
7 may be attached to permissible real estate signs. Real estate signs shall
8 be located a minimum of fifteen (15) feet from side property lines and a
9 minimum of two (2) feet from the public right-of-way lines. Real estate
10 signs shall be located outside the required visibility areas on waterfront
11 parcels with the exception that when the visibility areas on a waterfront
12 parcel overlap due to the width of the parcel, either one exempt real estate
13 sign or one non-exempt real estate sign may be placed at the approximate
14 mid-point of the water frontage. **Ord. #29-10**

15
16 Signs attached to passenger vehicles that do not exceed three (3) square
17 feet in copy area .

18
19 Signs erected by any public body.

20
21 Signs located on soda, candy, or food dispensing machines.

22
23 Signs required by any professional licensing body of the State of Florida
24 provided that such signs do not exceed the state minimum requirements
25 imposed by such body in any respect.

26
27 Window Signs, provided that the total area of all signs does not exceed
28 thirty-five percent (35%) of the total glass area of the window containing
29 the display.

30
31 D. Permits

32
33 No person shall erect, alter, repair, or relocate any non-exempt sign
34 without first obtaining a permit for such work from the Building Official of
35 the City of New Smyrna Beach. No permit shall be issued until the
36 Planning Manager and Chief Building Official, or designees, have
37 determined that such work is in accordance with this LDR and all other
38 ordinances of the City of New Smyrna Beach and a certificate of zoning
39 has been issued.

40
41 (1) Application for a permanent sign permit shall be on forms provided
42 for that purpose by the Chief Building Official, and shall contain the
43 following information:

- 1 a. the name, address, and telephone number of the applicant,
2 the owner of the sign and the owner of the property on which
3 the sign is to be located;
- 4
- 5 b. the address, if any, and legal description of the premises on
6 which the sign is to be located;
- 7
- 8 c. a drawing to scale, in duplicate, showing the size, height,
9 structural details, and dimensions of the sign and sign
10 structure;
- 11
- 12 d. a drawing to scale, in duplicate, showing the position of the
13 sign, and any other existing advertising structures, in relation
14 to the buildings or structures on the premises and to the
15 boundaries of the property;
- 16
- 17 e. the signatures of the applicant and the owner of the property;
18 or in the event the owner is not available, written evidence of
19 the owner's permission for the erection of the sign;
- 20
- 21 f. any electrical and/or plumbing permit required for the sign;
- 22 and
- 23
- 24 g. for projecting signs or ground signs, exceeding 32 square feet
25 of surface area or 10 feet above grade level or any other sign
26 which the Chief Building Official determines may reasonably
27 be subject to dead load, wind, or other physical stress,
28 engineering drawings showing display area, support structure
29 above and below ground, wind pressure specifications and
30 method of installation, signed and sealed by a registered
31 engineer or architect licensed by the State of Florida in that
32 profession.
- 33
- 34 h. Signs in the Visibility Triangle shall have a maximum height of 3.0
35 feet to allow for proper visibility.
- 36

37

38 E. Schedule of Fees

39

40 The schedule of fees for sign permits shall be established, and periodically
41 adjusted by City Commission Resolution.

42

43 F. General Provisions

44 The following provisions shall apply to every sign erected in the City of
45 New Smyrna Beach, including exempt signs:

- 1 (1) The name and address of the company or person installing any sign and
2 the name and address of the company or persons maintaining any sign,
3 the date of erection and the voltage of any electrical apparatus shall be
4 painted or printed conspicuously on every sign erected.
- 5 (2) Any light from any illuminated sign shall be shaded, shielded or directed
6 so that the light intensity or brightness shall not affect adversely the vision
7 for operation of vehicles in any public or private road, highway, driveway,
8 or parking area. Such light shall not shine directly on or into any
9 residential structure or directly onto approaching traffic. Such light shall
10 not be visible from the public beach during sea turtle season (May 1-
11 November 1 annually) per Volusia County Code of Ordinances, Chapter
12 72, Division 12 Sea Turtle Protection.
- 13 (3) All signs shall be designed and constructed to withstand a wind pressure
14 as required by the Florida Building Code.
- 15 (4) The area around the base of any ground sign shall be kept free of any
16 rubbish or other material that might constitute a fire or health hazard.
17 Appropriate landscaping, monument architectural detailing and/or pole
18 skirts around the base of signs is required.
- 19 (5) Square footage of copy area determined by lineal feet of frontage shall be
20 determined by measuring along the entrance side of individual stores; in
21 the case of corner stores, additional signage may be allowed only when
22 the same of similar façade treatment is used on both front and side; sign
23 area is not transferable between facades.
- 24 (6) Copy area of a sign shall be based upon the surface area encompassed
25 within any regular geometric figure which forms the information
26 component of a sign when such sign is viewed from one direction on the
27 adjacent right-of-way. The frame which decorates or structurally supports
28 the copy area shall be included when calculating area. The pole
29 associated with a pole sign shall not be included when calculating copy
30 area. The entire area of a ground sign shall be used in calculating the
31 area of a ground sign. **Ord. #29-10**
- 32 (7) A projecting or ground sign with sign surface on both sides of such sign
33 shall be construed as a single sign, and the total area of such sign shall be
34 the area computed on a single sign. The faces of ground signs may be
35 separated, and will be construed as a single sign, provided that the angle
36 of separation does not exceed forty-five degrees. **Ord. #29-10**
- 37 (8) Unless specifically specified otherwise, no more than a total of three (3)
38 signs shall be erected or maintained per premises. The signs may be
39 apportioned between any allowable type of sign in the district so long as
40 the total copy area (excluding on-site directional signs) does not exceed
41 the maximum permissible area provided herein.
- 42 (9) All signs shall be erected, altered, operated, maintained in good repair and
43 working order, and kept free of any foreign matter, and in addition, shall be
44 designed and installed in compliance with the requirements of the building
45 and electrical codes of the City of New Smyrna Beach.
- 46 (10) Vintage signs that do not comply with sign regulations as outlined in this
47 section, may be removed and replaced, provided approval is attained from
48 the Historic New Smyrna Beach Preservation Commission.

1 (11) All signs shall be set back a minimum of 5 feet from the front property line,
2 unless specifically noted otherwise below.

3 G. Sign Standards

4
5 The following sign standards shall apply in the respective zoning districts
6 as indicated below unless more stringent regulations are included within
7 the Land Development Regulations. No sign shall be permitted except as
8 provided herein:

9
10 (1) Signs erected upon property zoned for commercial or industrial use and
11 designated as MU, B-2, B-3, B-4, B-6, B-6A, CM, I-1, I-2, I-3, and I-4, and
12 Corridor Overlay Zone (COZ) zoning districts shall conform to the
13 following:

14 a. Ground Signs.

15 i. Maximum copy area: Four (4) square feet for each lineal
16 foot of building structure frontage, not to exceed 48 square
17 feet.

18
19 ii. If the building has frontage on more than one right-of-way,
20 an additional two (2) square feet of copy area shall be
21 allowed for each additional lineal foot of frontage. Maximum
22 copy area not to exceed 24 square feet.

23 iii. No ground sign shall be erected within fifty (50) feet of any
24 other ground sign on the same premises. No such sign shall
25 extend more than ten (10) feet above ground level. Existing
26 pole signs are considered non-conforming and are to be
27 amortized in accordance with subsection H below.

28
29 b. Wall Signs.

30 i. Maximum copy area: 100 square feet per premises.

31 ii. Wall signs shall not project more than one (1) foot from any
32 wall of a building, and no such sign shall project above the
33 roof line or parapet, whichever is higher.

34 iii. Wall signs shall not cover, block, or obstruct, any part of a
35 window, including any part of a window within the sign
36 perimeter, or obstruct window light or vision.

37
38 c. Marquee signs.

39 i. Shall not project more than 1 foot below the bottom or above
40 the top of the vertical face of the marquee

41 ii. At least 8 feet of clearance from the walkway grade to the
42 bottom of the sign must be maintained.

43 iii. May be attached underneath a marquee at a business
44 entrance, provided the sign:

45 1. does not extend beyond the perimeter of the
46 marquee,

47 2. does not exceed three (3) square feet total copy area
48 and

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- 3. does not extend below an eight (8) foot clearance measured from the sidewalk grade to the bottom edge of the sign.
 - iv. If the Marquee Sign extends over public property, it shall have a minimum clearance of nine (9) feet from the walkway grade to the bottom edge of the sign and shall require approval from the jurisdictional authority that has the maintenance responsibility for the affected public property.
 - d. Projecting signs.
 - i. No part of any such sign shall project more than thirty-six (36) inches from the wall of a building.
 - ii. No such sign shall physically cover, block, or obstruct any window or part of a window, nor obstruct window light and vision.
 - iii. No projecting sign shall extend above the top of a parapet wall.
 - iv. A projecting sign may project over a public right-of-way a distance of two-thirds of the width of the sidewalk over which the sign hangs, or 6 feet if no sidewalk exists.
 - v. In no event, shall a sign projecting over a public right-of-way project to within less than two (2) feet of the curb line.
 - vi. Signs shall have a clearance above the sidewalk grade of at least nine (9) feet, or at least fourteen (14) feet above the grade of the road, driveway, or alley.
 - e. Portable or moveable signs. One (1) portable sign shall be permitted one time for a new business, a business in a new location, or for a shopping center, whose allowable freestanding sign has not yet been erected. Such sign shall be permitted for a period of not more than thirty (30) days or until installation of the allowable freestanding sign, whichever shall occur first. Portable temporary signs shall conform to all City codes and criteria, including but not limited to:
 - i. Maximum copy area: Thirty-two (32) square feet.
 - ii. No more than one (1) such sign shall be permitted for each lot or parcel.
 - iii. Copy on signs shall be maintained in a legible condition.
 - iv. No flashing lights of any kind permitted. External illumination confined to sign face area.
 - v. Portable signs shall be used on-site only.
 - vi. A new permit must be obtained for each period of use of a portable temporary sign. Application for a permit for a portable temporary sign shall include:
 - (a) A diagram indicating the manner in which the sign will be anchored to meet the specifications outlined above;
 - (b) Plot plan showing that the proposed location is:

1. in accordance with intersection visibility standards outlined in this code;
2. illuminated signs shall be connected to a ground fault interrupter circuit receptacle. The use of extension cords for the power supply to the sign shall be prohibited; and
3. not in a required parking space.

f. Banner signs/temporary exterior wall signs. Each premises shall be permitted one banner sign under the following conditions:

- i. In conjunction with a grand opening for a new use in a nonresidential zoning district, for a period of time not to exceed 30 consecutive days and utilized within the first three months of business for the use.
- ii. Maximum copy area: 32 square feet;
- iii. The location of the sign shall not interfere in any way with the traffic or public safety of the citizens of the City, and the sign shall not violate any other applicable provisions of this LDR. Banner signs shall not be considered in the computation for the number of signs allowed or the maximum allowable display area for a premises. (Ord. 4-97)
- iv. Banner signs erected to advertise a special event or function intended for the general public must attain approval through the Special Events Committee as outlined in below

g. Construction signs.

- i. One construction sign shall be allowed for each commercial or industrial project where a building permit has been obtained for the project.
- ii. Such signs shall be removed within fifteen (15) days after substantial construction operations have ceased, and in no event, later than the date of issuance of a certificate of occupancy.
- iii. Maximum copy area: 32 square feet.

h. Development signs.

- i. One development sign for each street frontage, provided such development has been approved and is undergoing active construction and/or sale.
- ii. Maximum copy area: 32 square feet.
- iii. Maximum height: 10 feet above
- iv. All signs shall be removed when all units are sold.

i. Non-residential subdivision signs.

- i. One sign per vehicular entrance
- ii. Maximum copy area: 40 square feet
- iii. Maximum height: 4 feet above grade

- 1
2 j. Directory Signs and Nameplates.
3 i. Directory signs or nameplates shall contain only the name,
4 address, and nature of business of the occupant(s).
5 ii. Maximum copy area:
6 (a) Identification sign (nameplate): 4 square feet for each
7 office
8 (b) Office buildings or groupings of offices of two or more
9 offices: One additional directory sign for the entire
10 office building or grouping not exceeding 30 square
11 feet of copy area.
12
13 k. Directional Signs, Off-Site.
14 i. One off-site directional sign shall be allowed per premises.
15 ii. The off-site directional sign shall be counted as one of the
16 signs allowed on the premises on which said off-site
17 directional sign is located.
18 iii. Copy area of the off-site directional sign shall be included in
19 the calculation for allowable copy area for the premise on
20 which the sign is located.
21
22 l. Directional Signs, On-Site.
23 i. There shall be no limit to the number of on-site directional
24 signs.
25 ii. Maximum copy area: 3 square feet.
26 iii. Maximum height: 48 inches above the center-line grade of
27 the adjacent street right-of-way.
28
29 m. Awning Sign.
30 i. One awning sign shall be allowed for each business.
31 ii. Maximum copy area: One square foot per lineal foot of
32 business unit frontage, not to exceed 50 square feet.
33

34 (2) Signs Located in the B-5 Planned Shopping Center District and Building(s)
35 Containing Two (2) or More Units. (Ord. 14-91)

- 36 a. Freestanding ground signs:
37 i. Maximum height: 15 feet;
38 ii. Maximum copy area:
39 a) Shopping centers under 75,000 square feet: 62
40 square feet
41 i. The sign may consist of the following:
42 • One sign panel for a major tenant;
43 maximum 32 square feet; and
44 • One sign panel for individual tenant
45 listings with letter and character sizes
46 not less than six inches (6") in height;
47 maximum 30 square feet.

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- b) Shopping centers of 75,000 square feet to 250,000 square feet:
 - i. The sign may consist of the following:
 - Plaza identification panel; maximum 48 square feet;
 - One sign panel for a major tenant; maximum 48 square feet; and
 - One sign panel listing up to three major tenants; maximum 15 square feet for each tenant listing;
 - c) Shopping centers over 250,000 square feet:
 - i. The sign may consist of the following:
 - Plaza identification sign; maximum 64 square feet;
 - One sign panel for a major tenant; maximum 48 square feet; and
 - One sign panel listing up to three major tenants; maximum 15 square feet for each tenant listing.
 - iii. Shall be placed only adjacent to the arterial right-of-way frontage line;
 - iv. Minimum setbacks:
 - a. 5 feet from the arterial right-of-way line;
 - b. 50 feet from side lot lines.
- b. Individual anchor stores shall be allowed additional signs as follows:
 - i. Wall signs:
 - 1. Maximum number: 2
 - 2. Maximum copy area: 2 square feet of copy area per one (1) lineal foot of store unit frontage, not to exceed 200 square feet;
 - ii. Two signs hanging below the marquee, not to exceed 3 square feet of copy area and having a clearance of eight (8) feet if hanging below the marquee. These signs shall be classified as directional signs, shall contain the establishment name and logo and shall not be calculated as any of the allowable number of signs.
- c. Individual tenants in a shopping center or multi-tenant building, excluding anchor stores and businesses located on an outparcel, shall be allowed additional signs as follows: (Ord. 67-94)
 - i. One wall sign not to exceed four (4) square feet of sign area per one (1) lineal foot of store frontage, not to exceed 100 square feet.
 - ii. One (1) sign hanging below the marquee not to exceed three (3) square feet of copy area and having a clearance of eight (8) feet.

- 1 d. Individual businesses located on an outparcel shall be allowed any
2 combination of signs as indicated in 604.14G.(1) above. (Ord.
3 14-91)

4
5 (3) Signs Located in Office or Industrial Parks

6 Office and/or industrial parks shall be allowed one freestanding sign as
7 detailed below:

- 8 i. Office or industrial parks having less than 50 acres:
9 a. Maximum copy area: 40 square feet
10 b. Maximum height: 8 feet
11 ii. Office or industrial parks having 50 to 100 acres:
12 a. Maximum copy area: 60 square feet
13 b. Maximum height: 10 feet
14 iii. Office or industrial parks having more than 100 acres:
15 a. Maximum copy area: 80 square feet
16 b. Maximum height: 10 feet identifying the park name and
17 business names and addresses within the park.
18 iv. Signs shall only identify the park name and business names and
19 addresses within the park.
20 v. Individual businesses within an office or industrial park shall comply
21 with the sign regulations as indicated in 604.14 G.(1) above.
22

23 (4) Signs Located on Residentially Zoned Property

24 a. Subdivisions:

- 25 i. One subdivision sign per main vehicular access to the
26 subdivision;
27 ii. Maximum copy area: 60 square feet
28 iii. Maximum height: Four (4) feet above the nearest adjacent
29 road grade

30 b. Multi-family residential developments:

31 Ground signs:

- 32 i. One ground sign for each street frontage
33 ii. Maximum copy area: 32 square feet
34 iii. Maximum height: 8 feet above the nearest adjacent road
35 grade.

36 Wall signs:

- 37 i. One wall sign consisting of individual channel letters shall be
38 permitted on one of the buildings located within a multi-
39 family development.
40 ii. Maximum copy area: one (1) square foot per each foot of
41 building height, or one square foot per each unit, whichever
42 is less. Maximum sign area not to exceed 100 square feet.
43 iii. Maximum height of the channel letters is two (2) feet.

44 c. d. All residential developments are allowed one off-site
45 directional sign.

46 e. All residential developments are allowed one construction sign not
47 to exceed 32 square feet, which must be removed upon completion
48 of the project.

1 f. All residential developments are allowed one development sign not
2 to exceed 32 square feet in area.

3
4 (5) Houses of Worship.

5 a. Any house of worship or related property is allowed the following
6 signage:

7 i. One freestanding sign

8 1. Maximum copy area: 32 square feet

9 2. Maximum height: 6 feet above grade

10
11 ii. One wall sign

12 1. Maximum copy area: 32 square feet

13
14 (6) Political Campaign Signs

15 Temporary political campaign signs or posters, exceeding six (6) square
16 feet in area, shall be permitted subject to the following restrictions, and
17 any other applicable requirements set forth in this sign regulation.

18 a. Minimum setbacks:

19 i. Front property line(s): 5 feet

20 ii. Side property lines: 25 feet

21 b. Maximum height 10 feet.

22 c. Maximum copy area: 32 square feet

23 d. Maximum number of signs per parcel: One

24 e. Political campaign signs shall not be erected not more than sixty
25 (60) days prior to an election and shall be removed within ten (10)
26 days after the election or after the campaign issue has been
27 decided.

28 f. The erection and removal of all political signs shall be the joint
29 responsibility of the owner of property upon which the sign is
30 placed, the owner of such sign, and the candidate for whom such
31 sign was placed. Each such person shall be jointly and severably
32 liable for a violation of the terms and conditions of this sign
33 regulation.

34 g. All persons seeking to install non-exempt political signs must
35 comply with the following:

36 i. Obtain a permit from the City Clerk

37 ii. Post a surety bond or cash bond in the amount of \$250.00
38 dollars conditioned upon the removal of such signs,
39 billboards and posters, within ten (10) days after the election
40 in which the candidate is eliminated or elected or the
41 campaign issue is decided.

42 iii. Should the candidate fail or refuse to remove said signs,
43 billboards or posters, within fifteen (15) days after such
44 election, the City shall have the authority to remove such
45 signs, billboards or posters, and dispose thereof and charge
46 the cost of such removal and disposition against the bond
47 posted by the candidate.

- 1 iv. In the event a cash bond is posted, any sums remaining in
2 the hands of the City after the cost of such removal has been
3 deducted, shall be remitted to the candidate.
4

5 (7) Signs Located at Bed and Breakfast Homes, Adult Living Facilities,
6 Nursing Homes, Public and Private Schools, and Semi-Public
7 Clubs Located Within Residentially-Zoned Areas.
8

9 a. Ground signs:

- 10 i. Maximum copy area: 32 square feet
11 ii. Maximum height: 8 feet
12 iii. Materials and illumination:
13 iv. Must utilize indirect lighting to illuminate the sign face only;
14

15 (8) Electronic Message Centers

16 Electronic message centers shall only be allowed in the B-3 and B-5
17 zoning districts. Electronic message center signs shall be prohibited
18 east of U.S. 1, except for properties with direct frontage on the ease
19 side of U.S. 1, regardless of zoning. Additionally, electronic message
20 centers shall conform with the following requirements:
21

- 22 a. Minimum separation between electronic message center signs is
23 600', unless approved by the Development Services Director based
24 on visibility needs.
25 b. Electronic message center signs must not face property zoned for
26 single-family residential uses.
27 c. Electronic message center signs shall be prohibited within historic
28 districts or facing a historic district if the electronic message center
29 sign will be within 200 feet of the historic district.
30 d. The maximum light emanation from an electronic message center
31 sign shall be no greater than .3 foot-candles, measured 200 feet
32 from the sign.
33 e. Every electronic message center shall be equipped with an
34 automatic dimmer device.
35 f. All electronic message centers shall comply with the appropriate
36 City sign and other regulations.
37 g. Any malfunctioning electronic message centers must be turned off
38 or display a blank screen until repaired.
39 h. All electrical equipment shall be UL listed.
40 i. All power to an electronic message center shall be supplied via
41 underground carrier, inside approved conduit, and shall be installed
42 according to the City electrical requirements.
43 j. All electronic message centers shall be kept in good operating
44 condition and maintained with good external appearance.
45

46 Ord. #45-08

47 (9) Real estate signs.

- 1 a. Exempt real estate signs: The following real estate signs
2 conforming to the following criteria shall not require a permit:
3 i. Maximum size and number of signs: One sign not
4 exceeding six square feet in area may be erected for
5 each street and/or water frontage adjoining the parcel of
6 property offered for sale, lease, or rent.
7 ii. A maximum of three “add-on” or “rider” signs shall be
8 permitted for each exempt real estate sign, provided the
9 total area for all “add-on” or “rider” signs does not
10 exceed five square feet and provided that no “add-on”
11 or “rider” sign exceeds the width of the exempt real
12 estate sign.
13 iii. Minimum setbacks: Ten feet from side property lines
14 and two feet from public right-of-way lines.
15
16 b. Non-exempt real estate signs on property zoned C, RC, FR,
17 R, A-1, A-2, MU, B-2, B-3, B-4, B-6, B-6A, CM, I-1, I-2, I-3, I-4,
18 PUD and COZ, shall require a permit and shall conform to the
19 following:
20 i. Maximum size: 32 square feet.
21 ii. Maximum number of signs: One per each street and/or
22 water frontage for each premises.
23 iii. Minimum setbacks: Five feet from any adjacent right-of-
24 way, except where the applicant demonstrates that
25 existing vegetation or other obstructions would preclude
26 compliance with the five-foot setback.
27
28 c. Non-exempt real estate signs on property zoned RE, R-1, R-2,
29 R-3, R-4, R-5, R-6, MH-1, and MH-2, shall require a permit
30 and shall conform to the following:
31 i. Maximum size: 16 square feet.
32 ii. Maximum number of signs: One per each street and/or
33 water frontage for each premises.
34 iii. Minimum setbacks: Five feet from all property lines.
35
36 d. Visibility requirements. All real estate signs shall be located
37 outside the required visibility areas at the intersections of
38 rights-of-way. All real estate signs shall be located outside the
39 required visibility areas on waterfront parcels with the
40 exception that when the visibility areas on a waterfront parcel
41 overlap due to the width of the parcel, either one exempt real
42 estate sign or one non-exempt real estate sign may be placed
43 at the approximate mid-point of the water frontage. **Ord. #29-**
44 **10**
45

1
2 (10) Special Event Signs.

3 For the purpose of this section, "special event" means any public or
4 private nonprofit event of limited duration in which the general public is
5 invited to participate, and other event of limited duration that is otherwise
6 unrelated to the primary use of the property. The following regulations
7 apply to special event signage:

8 a. Prohibited signs. It shall be unlawful to erect, cause to be erected,
9 maintain or cause to be maintained any sign described in Section
10 604.14B of the Land Development Regulations unless or except as
11 follows:

12 i. Maximum number of off-site signs: 3

13 ii. No sign prohibited in section (a) of this section shall be
14 authorized under this section as a special event sign.

15 iii. No special event sign shall be placed so as to obscure
16 visibility of any permanent freestanding sign, unless such
17 placement has been approved in writing and filed with the
18 City Clerk by the property owner whose freestanding sign is
19 obscured.

20 iv. No special event sign shall be placed on lots or parcels of
21 any privately owned, undeveloped property without written
22 authorization of the property owner. Such authorization shall
23 be filed with the city clerk prior to posting any sign on the
24 undeveloped property.

25 v. The erection and removal of all special event signs shall be
26 the responsibility of the person sponsoring the special event,
27 except for political campaign signs which shall be the
28 responsibility of the candidate for whom the sign was placed
29 and as described in section 604.14G(6), above.

30 vi. Special event signs shall be erected not more than 14 days
31 prior to a major special event and not more than 48 hours
32 prior to a minor special event. All special event signs shall be
33 removed within 48 hours after the special event (major or
34 minor) for which the sign was authorized.

35 vii. Bond requirements:

36 • A surety bond or cash bond in an amount of \$250.00
37 shall be posted a minimum of 48 hours prior to
38 installation of the signs

39 • The bond shall be to ensure the removal of such
40 signs, billboards and posters within 48 hours of the
41 special event (major or minor) for which the signs
42 were posted.

43 • Should the person who posted the bond for such
44 signs fail or refuse to remove said signs, billboards or
45 posters within the specified time frames after the
46 special event, the city shall have the authority to
47 remove such signs, billboards and posters and

1 dispose thereof and charge the cost of such removal
2 and disposition against the bond posted.

- 3 • In the event a cash bond is posted, any funds
4 remaining in the hands of the city after the cost of
5 such removal has been deducted shall be remitted to
6 the person who posted the bond.

7 (11) Flags.

8 a. Maximum number: Two (2) flags per premises.

9 a. Flags shall be mounted on a single flag pole or separate flag poles
10 installed either on the building or adjacent to the building to.

11 b. No single flag shall exceed forty (40) square feet in area, and the
12 aggregate size of all flags shall not exceed seventy-two (72) square
13 feet.

14 c. For the purpose of determining the size of a flag, only one side of the
15 flag shall be counted as display surface.

16
17 (12) Home Occupational Signage.

18 Businesses with an approved and current business tax receipt for a home
19 occupation as outlined in section 801.06 of this LDR may request a permit
20 to install one (1) sign not to exceed four (4) square feet in copy area and
21 not to exceed 5 ½ feet in height.

22
23 (13) Sandwich Boards.

24 Sandwich board sign are permitted within the Mixed Use Mixed Use
25 Zoning Districts only. Sandwich board signs must comply with the
26 following regulations:

27 a. One (1) sandwich board sign may only be located in front of each
28 non-residential property or tenant space .

29 b. Sandwich board signs may be placed on a public sidewalk no
30 closer than one (1) foot inside the curb, and must maintain a
31 minimum of 36-inches of clear sidewalk space.

32 c. Maximum sign size: Forty-two (42) inches in height and thirty-six
33 (36) inches in width.

34 d. The sign shall only be placed on the sidewalk during business
35 hours.

36 e. The sign shall be located in front of the specific business advertised
37 on the sign, and not at another location. If the business is a corner
38 property, the sign may only be placed in one location.

39
40 (H) Non-Conforming Signs

41 (1) Amortization of Non-Conforming Signs: Any existing sign which is in
42 violation of this LDR, after the effective date of this LDR shall be deemed
43 a non-conforming sign. Such signs may be continued subject to the
44 following requirements:

45 a. No non-conforming sign shall be altered, moved, or changed in any
46 way except in full compliance with the terms of this LDR. This
47 provision shall not apply to the changing of temporary copy on

1 changeable copy signs or the painting or altering of copy area to
2 restore the original sign appearance. Ord. # 42-05, Ord. #45-08.

3 b. This non-conforming sign provision shall not apply to repairs
4 necessary to maintain the structural integrity or safety of a sign,
5 provided the cost of such repairs does not exceed twenty-five (25)
6 percent of the cost of materials which would be necessary to
7 construct, in all other respects, an identical conforming sign on the
8 same site. Such costs shall be determined by the Chief Building
9 Official.

10 c. Pole signs shall be amortized within ten (10) years of the effective
11 date of this ordinance. No new pole signs shall be permitted after
12 the effective date of this ordinance. Face change-outs for pole
13 signs shall be permitted, provided the replacement complies with
14 subsection d below and provided the pole sign is replaced with a
15 conforming sign by the end of the amortization time.

16 d. Notwithstanding the time periods for amortization of non-
17 conforming signs set out above, no non-conforming sign of any kind
18 or type shall be allowed to remain when the sign has deteriorated to
19 a point that the cost of repairing the sign to a safe, structurally
20 sound condition, exceeds twenty-five (25) percent of the cost of
21 materials which would be necessary to construct, in all other
22 respects, an identical conforming sign on the same site. Such
23 costs shall be determined by the Chief Building Official.

24 e. Notwithstanding any other provision in this LDR, if a sign is
25 destroyed through an accident, act of God, or intentional act not
26 caused by the person responsible for said sign, by more than 50%
27 of its replacement value, then the sign may be reconstructed and
28 rebuilt and utilized for the balance of the amortization period then
29 left.

30
31 (2) Non-conforming signs shall be removed or made to conform with this LDR
32 within the time periods set out below or upon deterioration to the point
33 specified below:

34
35 a. The following types of signs shall be removed or made to conform
36 within sixty (60) days after the effective date of this LDR:

37
38 Beacon Light Signs

39 Flashing Signs

40 Moving Signs

41 Snipe Signs

42 Trailer/Mobile Signs

43 Traveling Light Signs

44
45 Signs, which in any way simulate or appear to simulate, emergency
46 vehicles, traffic control signs, or devices or directional, informational
47 or warning signs erected or maintained by any public body or any
48 railroad, public utility, or similar body.

1
2 Private Signs placed on public property, except as expressly
3 permitted by the appropriate public body.

4
5 Signs containing any statements, words, or pictures of an obscene
6 nature, that is, which are utterly without redeeming social value as
7 determined by the community standard prevailing in New Smyrna
8 Beach and the immediately surrounding area.

9
10 Signs attached to passenger vehicles exceeding three (3) square
11 feet.

12
13 Signs which, in any way, obstruct or block any fire escape, window
14 or door, or which are attached to any fire escape or ventilation
15 device.

16
17 Signs designed to be visible from any part of the Atlantic
18 Ocean beach area, or from any waterway within the city limits,
19 with the following exceptions: 1) approved wall signs in MU, B-
20 2, B-3, B-4, or CM zoning districts; 2) signs complying with the
21 exemption provision of this LDR; and 3) real estate signs
22 complying with the provisions of this LDR.

23 **Ord. #29-10**

24
25 b. The following types of signs prohibited by this LDR shall be
26 removed within one (1) year after the effective date of this LDR:

27
28 Billboards **Ord. #42-05, Ord. #45-08**

29 Off-site signs, unless said sign is an off-site directional sign as
30 defined herein.

31
32 (3) **Removal of Signs.**

33 The Chief Building Official shall have the responsibility to enforce the
34 provisions of this LDR.

35 a. If any property owner fails to comply with this LDR by failing to
36 remove an unlawful sign, a sign for which the amortization period
37 applicable to the sign has lapsed or a sign which has deteriorated
38 beyond the point set forth in subsection, (1)d., above, the Code
39 Enforcement Officer shall send a notice of violation by certified
40 mail, return receipt requested, to the owner of the property at the
41 address shown on the latest consolidated county tax rolls. If the
42 notice is returned unclaimed or otherwise undelivered, a true copy
43 of such notice shall be posted on the subject property for ten (10)
44 consecutive days. The notice shall contain the name and address
45 of the owner as shown on the tax rolls, the legal description of the
46 property, the time in which the owner shall abate the nuisance, not
47 less than thirty (30) days, and have attached a photocopy of the
48 relevant provisions of this LDR.

- 1 b. Any owner aggrieved by any action taken by the City under this
2 LDR may appeal such action to the City Commission.
3 c. If no action has been taken regarding a notice of violation by the
4 owner of the property involved within sixty (60) days after service of
5 the notice, or the last day of posting on the property, and no appeal
6 has been taken, the Code Enforcement Officer shall request
7 approval of the Code Enforcement Board to remove the sign and,
8 after obtaining such approval, shall remove the sign. The
9 reasonable cost of such removal is hereby assessed against the
10 property involved and declared to be a lien on such land in
11 accordance with state law. Such liens may be foreclosed by the
12 City as provided by law.

13
14 (4) Signs Visible from Interstate or Federal Aid Primary Highway System;
15 Harmony of Regulations.

- 16 a. The removal provisions of this LDR shall not apply in the case of
17 outdoor advertisements or advertising structures visible from roads
18 or highway systems to the extent that such removal is preempted
19 by the State. This shall not affect the duty of sign owners to
20 remove signs under this LDR nor shall it affect the authority and
21 responsibility of the City to enforce this LDR through other
22 appropriate means, including referral for criminal prosecution.
23 b. This LDR shall be construed to be in harmony with Florida Statutes.
24 In cases where local authority is preempted by the State, or where
25 a question arises regarding such preemption, it shall be the
26 responsibility of the Chief Building Official to coordinate with the
27 State to insure that State regulation and enforcement is pursued to
28 the fullest extent.

29
30 I. Variances

31 Variances to the requirements of this LDR may be granted by the Planning and
32 Zoning Board only where a literal enforcement of the provisions of this LDR
33 would result in substantial practical difficulty or unnecessary hardship or difficulty
34 which might be suffered by the owners of that property. Variances shall be
35 granted only in accordance with the procedures and criteria set out in the City
36 Land Development Regulations.

37
38 J. Penalties

39 Violations occurring on public property shall be issued a trespassing citation,
40 finer for which are set by Ordinance 70-102 of the City Code of Ordinances.
41 Violations occurring on private property may be issued a code citation per
42 Chapter 162 of the Code of Ordinances and may be cited to appear before the
43 Code Enforcement Board; additionally, violations must come into compliance as
44 determined by the Code Enforcement Officer.

45
46 ***

47 ARTICLE VIII

SUPPLEMENTARY REGULATIONS

801.06 Home Occupations

A. A home occupation shall be permitted as an accessory use in all residential districts, provided that:

(1) such occupation shall be conducted entirely within the dwelling unit used as the residence and shall not occupy more than twenty (20) percent of the cumulative floor area;

(2) no persons other than members of the household shall be engaged in such occupation;

(3) the use of the dwelling unit for the home occupation shall be clearly incidental and secondary to the use of the dwelling for residential purposes, and such use shall not change the residential character thereof;

(4) there shall be no structural additions, enlargements or exterior alterations to the residence or premises, signs, or other visible evidence of such home occupation;

(5) no additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation;

~~(6) no advertisement directs consumers to the home or is located at the home;~~

~~(76) the home occupation shall not generate the visitation by clients, customers, salesmen, suppliers or any other persons to the premises which results in vehicular traffic generation of more than one vehicle at any one time, or of more than a total of twelve vehicles per day;~~

Ord. #53-00

~~(87) no provision for off-street parking or loading facilities, other than the requirements of the residential district in which the use is located, shall be permitted; no part of a required yard shall be used for such off-street parking or loading purposes; and no additional driveways to serve such home occupation shall be permitted;~~

~~(98) no equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference outside the dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises;~~

1 (10) no home occupation shall interfere with the residential uses of adjoining
2 property;

3
4 (11) a home occupation shall be required to have a City Occupational License.

[Revised

5
6 **5/2/01]**

7 ***
8

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
ZT-13-11: PAIN MANAGEMENT CLINICS
SEPTEMBER 12, 2011

Background

- A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168
- B. **Request:** Approval of amendments to the City's *Land Development Regulations* to establish regulations relating to pain clinics and pain management clinics.

Findings

- A. Over the past year, many cities within the State of Florida have established moratoriums on the application of new pain management clinics within their jurisdictions. Pain management clinics in other cities have often become locations for criminal activity. At these clinics, doctors prescribe and dispense painkillers such as oxycodone, which has been proven to be addictive and cause habitual abuse and drug-seeking behavior. According to the 2010 Florida Medical Examiners Commission Drug Report, in the year 2009, oxycodone was the cause of 1,185 deaths in Florida. In an additional 763 deaths, oxycodone was found within the decedent. Between 2008 and 2009, deaths involving oxycodone increased by 23.8%. Thirty-nine of the 2009 oxycodone deaths were in Volusia County. Within New Smyrna Beach, 10 deaths have been attributed to drug overdoses during the past two years.
- B. The first State law (SB 462) requiring the registry of pain management clinics with the State Health Department became effective July 1, 2009, but the creation of the database was unfunded and was not expected to be in service until December 1, 2010. In June 2010, then-Governor Charlie Christ signed combined Senate Bill 2272, which contained regulations regarding pain management clinics. The bill was to take effect on October 1, 2010. Following the November 2010 election and subsequent installation of the new governor, implementation of the bill was placed on hold while the regulations were reviewed to determine their impact on the businesses that would be regulated and the privacy of persons using prescription drugs. In May 2011, the Legislature passed House Bill 7095. This new bill makes failure to comply with requirements of Chapter 456.44, F.S., grounds for disciplinary action; provides mandatory administrative penalties for certain violations related to prescribing; requires prescriptions for controlled substances to be written on counterfeit-resistant pads produced by an approved vendor or electronically prescribed; provides conditions for being an approved vendor; requires certain physicians to designate themselves as controlled substance prescribing practitioners on their practitioner profiles, etc. This bill was approved by Governor Scott on June 3, 2011.

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C. Despite the new legislation, the New Smyrna Beach Police Department has expressed concern about the possibility of pain management clinics seeking to operate in New Smyrna Beach due to the current lack of more restrictive requirements than are established in other surrounding cities. There are pain management clinics already established within the city that have acquired business tax receipts for the operation of their businesses as a "medical office". Currently, medical offices are permitted within the following zoning districts:

- Mixed-Use (MU)
- Neighborhood Business (B-2)
- Highway Service Business (B-3)
- Planned Shopping Center (B-5),
- Medical Profession (B-6)
- Limited Medical Professional (B-6A)
- Light Industrial (I-1)
- Heavy Industrial (I-2)
- Industrial Park (I-3)
- Planned Unit Development (PUD)
- Corridor Overlay Zone (COZ)

D. The concern with pain management clinics relates specifically to other activities (commonly referred to as "secondary effects"), which have been observed around pain clinics in other cities. These secondary effects also impact surrounding properties, business owners and residents. For example, it has been observed in South Florida and the Tampa area that the operation of pain clinics without restrictions may expose the surrounding neighborhood to illegal, unsafe or unhealthy activities such as the sale and possession of controlled substances, panhandling, loitering, solicitation, and violent crimes against persons and property. The operation of such businesses may also blight neighborhoods; adversely affect neighboring businesses and lower real property values. Per Sgt. Eugene Griffith of New Smyrna Beach Police Department, along with the increased drug abuse, crime in the city has increased as well within the past two years. He stated that the police have seen 58 robberies and over 1,000 burglaries within the last six months. He also stated that there have been 88 daytime residential or car burglaries.

E. As discussed above, pain management clinics, though a type of medical clinic, have been demonstrated to be a more intense and a more noxious use than the normal medical clinic. Even with the new State regulations this situation could continue to some degree. With that in mind, staff recommends that pain management clinics be approved only as special exception uses and only within the following zoning districts:

- Medical Profession (B-6)
- Limited Medical Professional (B-6A)
- Planned Unit Development (PUD)

- F. In discussions about zoning and the form based code, it has been proposed to create an employment district around the Bert Fish Medical Center. Therefore, medical uses, including legitimate pain management clinics, should be encouraged to cluster in that area.
- G. The proposed definition for "pain management clinics" was derived from Florida House Bill 7095 that was approved by Governor Rick Scott on June 3, 2011.
- H. In attempting to differentiate legitimate pain management physician clinics from the "Pill Mill" operations, staff has drafted conditions for the approval of pain management clinics as special exceptions. The conditions are based on Florida House Bill 7095 that was approved by Governor Rick Scott on June 3, 2011.

Recommendation

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

201.00. - General definitions.

Package store. A place of business where at least 51 percent of the gross revenue is derived from the sale of alcoholic beverages sold only in sealed containers for consumption off the premises. For the purposes of this definition, a place of business that sells only beer and/or wine shall not be considered a package store.

Pain Management Clinic. Any publicly or privately owned facility:

- (I) That advertises in any medium for any type of pain-management services; or
- (II) Where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

Expressly exempted from this definition are hospitals, nursing homes, ambulatory surgical care centers, hospice or intermediate care facilities for the disabled, and clinics which are affiliated with an accredited medical school at which training is provided for medical students, residents and/or fellows.

Parking lot. A lot where motor vehicles are parked or stored temporarily but not including the wrecking of automobiles or storage of new or used cars for sale, services, rental, or any other purpose other than specified.

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ZT-13-11: PAIN MANAGEMENT CLINICS
SEPTEMBER 12, 2011

504.02. Specific regulations by district.

B-6, MEDICAL-PROFESSIONAL DISTRICT

Special exceptions.

Day care centers, subject to compliance with the F.A.C. Child Care Standards and any amendments adopted thereto

Pain Management Clinic. subject to the following conditions:

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

Travel agents, provided the following criteria is complied with:

B-6A, LIMITED MEDICAL-PROFESSIONAL DISTRICT

Special exceptions.

Churches

Pain Management Clinic. subject to the following conditions:

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

Travel agents, provided, the following criteria is complied with: Window signs shall be prohibited.

PUD, PLANNED UNIT DEVELOPMENT

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

Special exceptions.

Pain Management Clinic. subject to the following conditions:

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

Dimensional requirements.

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

ZT-14-11: INTERNET CAFES

SEPTEMBER 12, 2011

Background

- A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168
- B. **Request:** Approval of amendments to the City's *Land Development Regulations* to establish regulations relating to internet cafes.

Findings

- A. The City Commission has expressed concern with the operation of internet cafes within the City of New Smyrna Beach. The City's *Land Development Regulations* (LDR) does not currently define or specifically establish standards for internet cafes. Because the business typically operates by selling phone cards or internet time on a computer, staff has classified these types of businesses as retail. To date, staff is aware of four business tax receipts that have been submitted to operate an internet café within the City.
- B. Currently, internet cafes are permitted within the following zoning districts:
- Mixed-Use (MU)
 - Neighborhood Business (B-2)
 - Highway Service Business (B-3)
 - Planned Shopping Center (B-5),
 - Planned Unit Development (PUD)
 - Corridor Overlay Zone (COZ)
- C. Originally, internet cafes developed as businesses that provided computers for public use to conduct personal or professional business while users were away from their home or work computers. Internet cafes gained popularity in the mid-1990's as the world wide web and instant messaging became available. Internet cafes operate by selling internet time or phone cards, or a similar device. A customer can then use the PIN number on the card to access the machine for internet use.
- D. As technology has evolved, internet cafes have declined in relevance. According to Neilson, approximately 80% of households in the United States have home computers and approximately 92% of those with home computers have internet access. In recent years, email and internet service has become available directly to mobile phones. As the need to cater to basic internet access services has declined, internet café businesses have restructured themselves to cater more toward other services such as internet gaming. A customer still purchases a pass for internet time but, they are also awarded for their purchase of internet time by being provided a chance at a sweepstakes game. Many of these internet sweepstakes games are programmed to have the look and feel of a

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Vegas style slot machine. However, winnings are predetermined and there is no skill involved with winning a prize, as opposed to a traditional arcade game such as ski-ball or pinball. These types of games may or may not operate within the limitations of current state statutes.

- E. Gambling in the State of Florida is governed by Chapter 849 of Florida Statutes. Chapter 849.094, Florida Statutes specifically exempts game promotions in connection with the sale of consumer products or services from being considered a gambling activity. If the total announced value of the prizes awarded is more than \$5,000, the business offering the prizes must register with the State Department of Agriculture and establish a trust fund with a balance sufficient to pay for the announced prizes.
- F. As discussed above, to date, four business tax receipts have been issued for internet cafes within the City. Any applicant wishing to open an "internet café" within the City must sign a letter agreeing to abide by all regulations contained in Chapter 849, Florida Statutes. To date, no significant problems or issues have been identified related to these types of facilities. However, other cities within Central Florida have experienced issues related to secondary effects generated by the operation of internet cafes. The most prominent example is the recent shooting of a robbery suspect by an internet café security guard in the Orlando area. Other potential secondary impacts may include exposing the surrounding businesses and residents to illegal, unsafe or unhealthy activities such as panhandling, loitering, solicitation, and violent crimes against persons and property. The operation of such businesses may also blight neighborhoods, adversely affect neighboring businesses, and lower real property values.
- G. In December 2009, a Florida circuit court judge dismissed charges against an Ocala businessman who operated an internet café. The judge stated that the evidence presented against the business owner was "weak" and the business was allowed to reopen. However, there are additional cases pending throughout the state that may prohibit these types of businesses or create new requirements for how they are operated. To date, no official opinion from the State's Attorney General has been issued on this subject.
- H. Staff researched various ordinances to determine how to differentiate internet cafés from other businesses and from other entities providing computers with internet access. After reviewing the regulations of several other communities, staff concluded that the definition should include the renting of computers and internet access and should exempt educational and employment entities.
- I. Based upon research and observations of the existing internet cafés within the City, staff has not determined a need to further restrict the zoning districts in which these types of uses are allowed to operate. Furthermore, while these establishments may sometimes be more noxious use than a typical retail use, this has not been the case so far in New Smyrna Beach. Therefore staff is of the opinion that an internet café use does not reach the threshold that would require special exception approval from the City Commission. However, staff has

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concluded that there is sufficient evidence that the internet café use may warrant conditional use approval and that conditions for approval should be provided in the LDR.

- J. While the City has not experienced crime issues associated with internet cafes, on April 18, 2011, a robbery and shoot out occurred in Orlando at the Allied Veterans Internet Café. Based upon information for 2010 from the Florida Department of Law Enforcement, there were 17 murders in Volusia County, a decrease of 10.5% from 2009. Robberies and burglaries were also down 29.9% and 0.9% respectively from 2011.
- K. An informal internet search for robbery targets indicated that banks, gas stations, convenience stores and pharmacies are more likely to be targets of robberies or other violent crimes than internet cafes.

Recommendation

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

201.00. - General definitions.

Intermediate care facility. A facility designed to care for persons often nonambulatory and/or mentally or physically handicapped. Said facility must be licensed by the department of health.

Internet Café – An establishment that provides internet access to patrons for a fee or which allows patrons to purchase a phone card or similar device that may be used to access the internet while on-site. Internet cafes may or may not serve as a regular cafe as well, with food and nonalcoholic beverages being served.

Expressly exempted from this definition are schools, libraries, tutoring centers, and employment centers.

Intoxicating beverage. Any alcoholic beverage, including beer and wine, containing more than 3.2 percent of alcohol by weight.

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504.02. Specific regulations by district.

MU, MIXED USE DISTRICT

Conditional Use

Farmers markets, subject to the following conditions:

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

Internet Cafe – subject to the following conditions:

- (1) Shall not operate on any parcel adjacent to or across the street from a residential zoning district.
- (2) Shall not operate between the hours of 12:00 A.M. and 8:00 A.M.
- (3) Windows shall maintain a minimum transparent area of 65%.
- (4) Minors under the age of 18 may not be admitted.
- (5) Sale or consumption of alcohol on premises shall be prohibited.
- (6) Provide documentation that the operation will comply with Chapter 849 of Florida Statutes. If prizes in excess of \$5,000 are to be awarded this includes registration with the Florida Department of Agriculture and the establishment of the required trust fund.

~~Approval of a conditional use. At the time the applicant applies for a business tax receipt with the City, the applicant shall also submit a conceptual plan to the~~

PLANNING AND ZONING BOARD
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~~Development Services Department. The conceptual plan shall show the general location of the vendor stalls on the site. Based upon the criteria listed above, the Development Services Director, or his/her designee, shall approve or deny the application for a conditional use. Approval of a conditional use. At the time the applicant applies for a business tax receipt with the city, the applicant shall also submit all required documentation. Based upon the criteria listed above, the planning manager, or designee, shall approve or deny the application for a conditional use.~~

B-2, NEIGHBORHOOD BUSINESS DISTRICT

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

Conditional Use

Internet Cafe – subject to the following conditions:

- (1) Shall not operate on any parcel adjacent to or across the street from a residential zoning district.
- (2) Shall not operate between the hours of 12:00 A.M. and 8:00 A.M
- (3) Windows shall maintain a minimum transparent area of 65%.
- (4) Minors under the age of 18 may not be admitted.
- (5) Sale or consumption of alcohol on premises shall be prohibited.
- (6) Provide documentation that the operation will comply with Chapter 849 of Florida Statutes. If prizes in excess of \$5,000 are to be awarded this includes registration with the Florida Department of Agriculture and the establishment of the required trust fund.

Approval of a conditional use. At the time the applicant applies for a business tax receipt with the city, the applicant shall also submit all required documentation. Based upon the criteria listed above, the planning manager, or designee, shall approve or deny the application for a conditional use.

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

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

Special exceptions.

B-3, HIGHWAY SERVICE BUSINESS DISTRICT

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

Conditional Use

Internet Cafe – subject to the following conditions:

- (1) Shall not operate on any parcel adjacent to or across the street from a residential zoning district.
- (2) Shall not operate between the hours of 12:00 A.M. and 8:00 A.M
- (3) Windows shall maintain a minimum transparent area of 65%.
- (4) Minors under the age of 18 may not be admitted.
- (5) Sale or consumption of alcohol on premises shall be prohibited.
- (6) Provide documentation that the operation will comply with Chapter 849 of Florida Statutes. If prizes in excess of \$5,000 are to be awarded this includes registration with the Florida Department of Agriculture and the establishment of the required trust fund.

Approval of a conditional use. At the time the applicant applies for a business tax receipt with the city, the applicant shall also submit all required documentation. Based upon the criteria listed above, the planning manager, or designee, shall approve or deny the application for a conditional use.

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

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

Special exceptions.

PLANNING AND ZONING BOARD
ZT-14-11: INTERNET CAFES
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B-5, PLANNED SHOPPING CENTER DISTRICT

Conditional Use

Farmers markets, subject to the following conditions:

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

Internet Cafe – subject to the following conditions:

- (1) Shall not operate on any parcel adjacent to or across the street from a residential zoning district.
- (2) Shall not operate between the hours of 12:00 A.M. and 8:00 A.M
- (3) Windows shall maintain a minimum transparent area of 65%.
- (4) Minors under the age of 18 may not be admitted.
- (5) Sale or consumption of alcohol on premises shall be prohibited.
- (6) Provide documentation that the operation will comply with Chapter 849 of Florida Statutes. If prizes in excess of \$5,000 are to be awarded this includes registration with the Florida Department of Agriculture and the establishment of the required trust fund.

~~Approval of a conditional use. At the time the applicant applies for a business tax receipt with the City, the applicant shall also submit a conceptual plan to the Development Services Department. The conceptual plan shall show the general location of the vendor stalls on the site. Based upon the criteria listed above, the~~

PLANNING AND ZONING BOARD
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SEPTEMBER 12, 2011

~~Development Services Director, or his/her designee, shall approve or deny the application for a conditional use. Approval of a conditional use. At the time the applicant applies for a business tax receipt with the city, the applicant shall also submit all required documentation. Based upon the criteria listed above, the planning manager, or designee, shall approve or deny the application for a conditional use.~~

PUD, PLANNED UNIT DEVELOPMENT

Conditional Use

Farmers markets, subject to the following conditions:

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

Internet Cafe – subject to the following conditions:

- (1) Shall not operate on any parcel adjacent to or across the street from a residential zoning district.
- (2) Shall not operate between the hours of 12:00 A.M. and 8:00 A.M.
- (3) Shall not be established within 300 feet of an operating church, daycare, private school, or public school.
- (4) Shall not be established within 1,000 feet of an existing internet café.
- (5) Windows shall maintain a minimum transparent area of 65%.

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- (6) Minors under the age of 18 may not be admitted.
- (7) Sale or consumption of alcohol on premises shall be prohibited.
- (8) Provide documentation that the operation will comply with Chapter 849 of Florida Statutes. If prizes in excess of \$5,000 are to be awarded this includes registration with the Florida Department of Agriculture and the establishment of the required trust fund.

~~Approval of a conditional use. At the time the applicant applies for a business tax receipt with the City, the applicant shall also submit a conceptual plan to the Development Services Department. The conceptual plan shall show the general location of the vendor stalls on the site. Based upon the criteria listed above, the Development Services Director, or his/her designee, shall approve or deny the application for a conditional use.~~ Approval of a conditional use. At the time the applicant applies for a business tax receipt with the city, the applicant shall also submit all required documentation. Based upon the criteria listed above, the planning manager, or designee, shall approve or deny the application for a conditional use.

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
2 ZT-16-11: LDR AMENDMENT –
3 MAXIMUM DISTANCE FOR OFF-SITE PARKING
4 SEPTEMBER 12, 2011
5

6 **Background**
7

- 8 A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach
9
10 B. **Request:** Approval of an amendment to the City's Land Development
11 Regulations to increase the maximum allowed distance for off-site parking in the
12 MU zoning district from 1000 feet to 1500 feet.
13

14 **Findings**

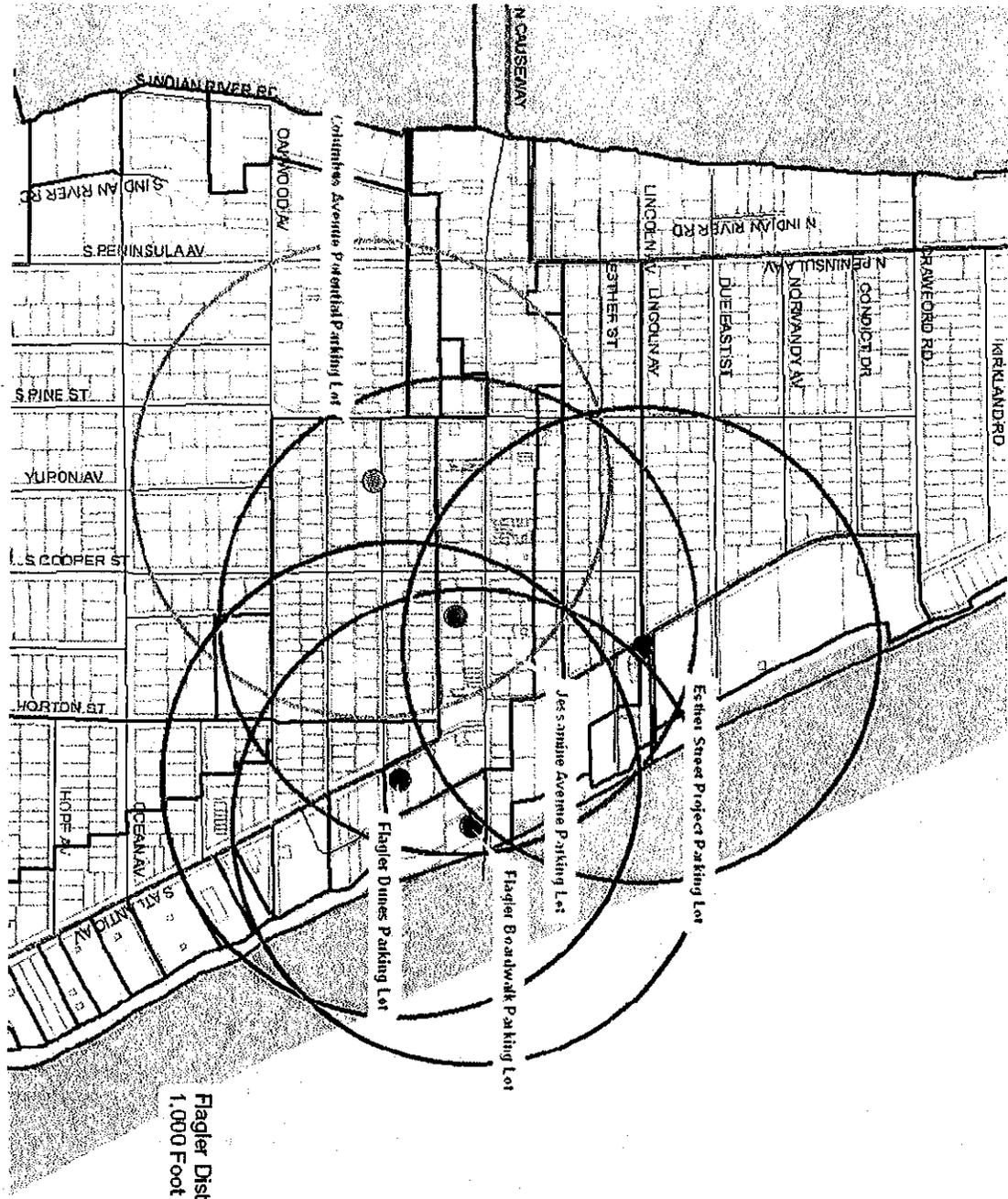
- 15 A. Section 604.10.A.8 of the City's *Land Development Regulations* (LDR) contains
16 regulations regarding off-street parking. The current standard allows for off-site
17 parking to be a distance of 1,000 feet from sites in the MU Mixed Use zoning
18 district and 200 feet from the site in all other non-residential districts.
19
20 B. The City and Community Redevelopment Agency (CRA) staff are currently
21 working with owners of properties in the Flagler Avenue area to encourage
22 economic development in the district. Many uses are permitted in the MU, Mixed
23 Use Zoning District, and as new businesses move into the area an issue of
24 concern regarding how parking can be provided for new businesses has arisen.
25
26 C. The City's *Land Development Regulations* (LDR) contain provisions that allow
27 reduced parking ratios and reduced parking space sizes within the Community
28 Redevelopment Agency (CRA) District. The LDR also allows businesses to
29 share parking or to provide off-site parking. The purpose behind these
30 provisions is to encourage redevelopment of properties within the older areas of
31 the City, where lots are smaller and buildings often cover a larger percentage of
32 the lot. It was also intended to serve as an incentive to preserve and reuse
33 historic buildings rather than razing them to put in parking lots.
34
35 D. As part of the on-going discussions with the property owners in the CRA, the
36 City's CRA Director has requested an amendment to the City's *Land*
37 *Development Regulations*, to increase the maximum-allowed distance for off-site
38 parking in the MU zoning district from 1,000 feet to 1,500 feet.
39
40 E. The CRA leases parking spaces in public parking lots to businesses in an effort
41 to assist them in meeting the requirements of the LDR. At this time 38 parking
42 spaces are leased to 5 businesses within the Flagler Avenue area and 3 parking
43 spaces are leased to 1 business in the Canal Street area.
44

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- a. Except in the Canal Street and Flagler Avenue special parking districts, leased off-site parking may not be used as required parking to support new construction or an addition to a building or structure; or
- b. Where leased off-site parking is used to meet the minimum parking requirements, the use to the extent it is dependent upon leased off-site parking must be terminated in the event the lease is terminated.

1
2

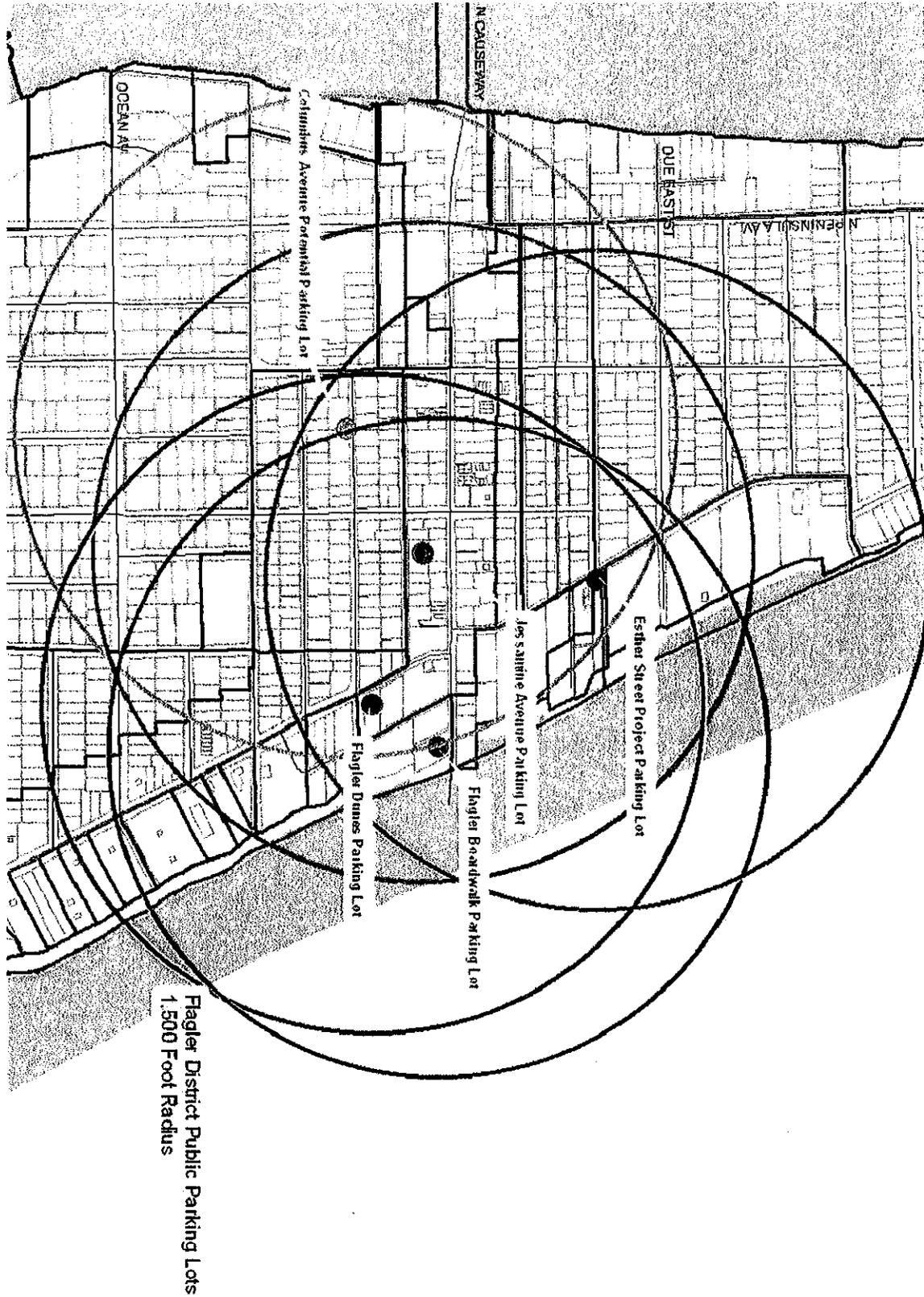
EXHIBIT B



Flagler District Public Parking Lots
1,000 Foot Radius

1
2

EXHIBIT D



1 CITY OF NEW SMYRNA BEACH – PLANNING AND ZONING
2 ZT-17-11: WATER & SEWER LOS
3 12 SEPTEMBER 2011
4

5
6 I. Background

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

10
11 **Request:** Approval of amendments to the City's *Land Development Regulations*,
12 to revise level-of-service standards established in the *Comprehensive Plan*, for
13 water and sewer service.
14

15 II. Findings

16 A. On July 1, 2011, the City received approval of the Evaluation and Appraisal
17 Report-based amendments to the *Comprehensive Plan*. These amendments
18 included changes to the level of service (LOS) standards for potable water and
19 sanitary sewer services. These standards were changed based on actual
20 consumption and use data provided by the Utilities Commission, New Smyrna
21 Beach.
22

23 B. The Land Development Regulations outline these LOS standards in Article IV
24 Concurrency Management Systems. To maintain consistency between the LDR
25 and the underlying *Comprehensive Plan*, amendments to the LDR need to be
26 made.
27

28 III. Recommendation

29 Staff recommends **approval** of the proposed changes to the City's *Land Development*
30 *Regulations*, as shown below (~~strikethroughs~~ are deletions and underlines are
31 additions).
32

33 ARTICLE IV

34
35 CONCURRENCY MANAGEMENT SYSTEM

36 ***

37 **403.00 Sanitary Sewer Concurrency**

38
39 **403.01 Standard**

40
41 A. Generally

42
43 All wastewater treatment facilities serving development projects within the City shall
44 comply with the sanitary sewer concurrency standard presented in the comprehensive
45 plan and in this section. Except as specifically provided in this Article, no development
46 order shall be issued for a proposed project which would violate this standard.
47 Establishment of concurrency shall be ascertained by determining the capacity of the
48 wastewater treatment facilities which shall be determined by utilizing the existing
49 capacity available to serve proposed projects. The existing capacity shall be determined

1 by computing the total of the committed flow to other proposed projects plus present
2 average daily flow of the wastewater treatment facility to be impacted by a proposed
3 project, as reasonably determined by the Utilities Commission using accepted
4 engineering principles. This gallonage figure shall be subtracted from the design
5 capacity of the wastewater treatment facilities, thereby yielding the wastewater treatment
6 facility capacity that can be supplied to the proposed project.

7 The capacity needed by the proposed project shall be determined by utilizing the level of
8 service standard of ~~250~~ 207 gallons per day per equivalent residential unit calculated by
9 use of the formula set forth in Table 3 below.

10 ***

11 **404.00 Potable Water Facility Concurrency**

12
13 **404.01 Standard**

14
15 A. Generally

16
17 All potable water supply facilities serving development projects within the City shall
18 comply with the potable water concurrency standard presented in the comprehensive plan
19 and in this section. Except as specifically provided in this Article, no development order
20 shall be issued for a proposed project which would violate this standard. Establishment
21 of concurrency shall be ascertained by determining the capacity for potable water supply
22 facilities which shall be determined by utilizing the existing capacity. The existing
23 capacity shall be determined by computing the total of the committed flow to other
24 proposed projects plus present average daily flow of the potable water supply facility to
25 be impacted by a proposed project, as reasonably determined by the Utilities Commission
26 using accepted engineering principles. This gallonage figure shall be subtracted from the
27 design capacity of the potable water supply facilities, thereby yielding the available
28 potable water supply facilities capacity that can be supplied to the proposed project. The
29 capacity needed by the proposed project shall be determined utilizing the potable water
30 level of service standard of ~~300~~ 240 gallons per day per equivalent residential unit
31 calculated by use of the formula set forth in Table 4 below.
32
33
34