



City of New Smyrna Beach

October 28, 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, NOVEMBER 7, 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 October 3, 2011
Workshop held October 17, 2011

APPROVAL OF 2012 SUBMITTAL CALENDARS

PUBLIC PARTICIPATION

VISIONING

Off-Street Parking at Beach Ends

OLD BUSINESS

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

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

1. 7.5-foot front yard setback variance from the minimum required 15-foot front yard setback;
2. Variance to allow a swimming pool to be between a public street and the principal structure; and
3. Variance to exceed the maximum allowed 60% impervious area.

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

- B. V-10-11: JENNINGS/351 GRANADA STREET
William L. Jennings, 351 Granada Street, New Smyrna Beach, Florida, 32169, applicant and property owner, requests a variance to the maximum allowed height of an accessory building to allow an accessory structure to exceed the height of the existing residence. The subject property is zoned R-2 Single Family Residential, contains approximately 0.22 acres and is located between Causeway Drive and Granada Street, at 351 Granada Street

NEW BUSINESS

- C. V-9-11: 4105 SAXON DRIVE / GEHRIS
Jeff Gehris, 208 Canova Drive, New Smyrna Beach, Florida, 32169, applicant and property owner, requests a variance to the maximum allowed fence height to allow a fence taller than four feet in height in the required front yard setback. The subject property is zoned R-1, Single-Family Residential; contains approximately 0.4 acres and is generally located on the east side of Saxon Drive, south of Saxon Palm Court.
- D. V-11-11: DAHL / VICS WAY
Robert J. Dahl, 802 Magnolia Street, New Smyrna Beach, Florida, 32168, applicant on behalf of the property owner, Lakeview East, 802 Magnolia Street, New Smyrna Beach, Florida 32168, requests the following variances:
1. Variance to the maximum allowed fence height to allow a fence taller than four feet in height in the required front yard setback; and
 2. Variance to reduce the number of required on-site parking spaces from 44 spaces to 30 spaces

The subject property contains approximately 3.0 acres, is zoned R-4, Multi-Family Residential, and is generally located on the south side of Vics way, west of Mission Road.

- E. A-14-11: STRAHMAN / 1569 LEWIS LANE
Peggy A. Strahman, applicant and property owner, requests annexation; *Comprehensive Plan* amendment from Volusia County Rural to City Rural; and rezoning from Volusia County A-2, Rural Agriculture to City A-2, Agriculture District. The subject property consists of approximately 5.32 acres and is located south of Turnbull Bay Road at 1569 Lewis Lane.
- F. PD-1-11: SCHWOERER / OTTER BOULEVARD
Gwendolyn Schwoerer, 386 Otter Boulevard, New Smyrna Beach, property owner and applicant, requests approval of a 30-foot wide access easement across the north ½ of Lot 5, Napier and Hull Grant, in order to provide access to a proposed 2.5-acre parcel. The subject property is zoned R-1, Single-Family Residential., contains approximately 5.0 acres and is generally located on the west side of Otter Boulevard, south of Pioneer Trail.
- G. SE-2-11: COLUMBUS AVENUE PARKING LOT
The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, applicant and property owner, requests special exception approval to allow

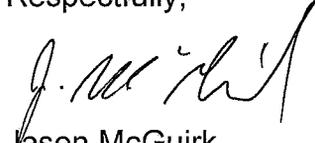
public parking on City owned parcels in a residential zoning district. The subject properties contain approximately 0.66 acres; are zoned R-3A, Single-Family and Two-Family Residential, and are generally located at 305 Columbus Avenue.

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, October 3, 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 ROLL CALL

6
7 The following members answered to roll call:

8 Laurene Herwald

9 Ian Ratliff

10 Travous Dever

11 Kenneth Bohannon

12 Jason McGuirk

13 Jessie Clark

14 Brooks Casey

15
16 Also present were Planning Manager Gail Henrikson, Planner Kevin Jameson; and
17 members of the public.

18 APPROVAL OF MINUTES

19
20
21 **Mr. Bohannon made a motion to approve the minutes of the regular Planning and**
22 **Zoning Board meeting held September 12, 2011, seconded by Mr. Dever. Motion**
23 **passed unanimously on a roll-call vote, 7-0.**

24 PUBLIC PARTICIPATION

25 None.

26 VISIONING

27
28 Ms. Henrikson addressed the Board. She stated that staff was requesting direction
29 from the Board as to whether the City should begin a city-wide discussion about
30 eliminating or reducing transportation concurrency and recreation and open space
31 concurrency requirements.
32

33
34 She discussed the potential positive and negative impacts that might occur if
35 concurrency regulations for these two types of facilities are eliminated completely. She
36 explained that the City would not be able to collect fair-share payments for roads that
37 are already back-logged. She also explained the role of parks and open space in the
38 over quality of life of the City.

39
40 Ms. Henrikson explained that even though the legislature had also provided cities with
41 the option of eliminating school concurrency requirements, the City could not choose
42 this as an option because of the Volusia County Charter amendment, which also
43 required school concurrency.

44
45 Mr. McGuirk opened up discussion on this item to the Board.

46
47 Laurene Herwald stated that she had no comments on this item.

LPA/PLANNING AND ZONING BOARD
OCTOBER 3, 2011
MINUTES

1 Mr. Bohannon asked whether this was a one-time option and, if the City choose to
2 eliminate certain concurrency requirements, could it then go back at a later date and
3 reinstate concurrency requirements?
4

5 Ms. Henrikson stated that the City could reinstate concurrency requirements in the
6 future. However, she explained that if failures occurred on the roads during the time
7 there were no concurrency requirements, the City could not then require new
8 development to pay for those deficiencies.
9

10 Mr. Bohannon stated that it was something that may encourage growth in the next three
11 to five years.
12

13 Mr. Clark asked about fees associated with concurrency transportation.
14

15 Ms. Henrikson stated that there are no fees for transportation concurrency.
16

17 Mr. Bohannon asked about ABC Liquor and whether they were absorbing the fees or
18 potential impacts as a result of their building.
19

20 Ms. Henrikson stated that the PUD in which ABC Liquor will be built was required to
21 contribute a proportionate fair share towards the signal at Glencoe Road. Any other
22 improvements, such as deceleration lanes would be constructed and paid for by the
23 developer of the overall PUD.
24

25 Mr. Clark asked if the concurrency requirements had created problems in the past.
26

27 Ms. Henrikson stated that there are currently no deficiencies that have triggered
28 concurrency requirements. She stated that the City has been collecting for signalization
29 improvements at State Road 44 and Sugar Mill Drive, Glencoe Road and Airport Road.
30 She stated that she didn't see the elimination of transportation concurrency increasing
31 development within the City. She stated that there was currently enough capacity on the
32 roads. However, she stated that the concern was how would the City pay for road
33 improvements that became gridlocked or backlogged over the next 10 or 15 years if
34 concurrency requirements are eliminated.
35

36 Mr. Clark stated that it wouldn't take much to make State Road 44 gridlocked.
37

38 Mr. Bohannon asked whether it would be possible to waive proportionate fair share
39 payments or concurrency requirements as part of the PUD negotiations.
40

41 Mr. McDole stated that if the ordinance allowed that, it could be done.
42

43 Ms. Henrikson presented a scenario where new development on State Road 44 would
44 become exempt from proportionate fair share payments but similar developments on
45 US 1 would be still be subject to those fees, unless they paid \$8,500 to rezone to PUD.
46

LPA/PLANNING AND ZONING BOARD
OCTOBER 3, 2011
MINUTES

1 Mr. Ratliff stated that generally speaking, he thought it would be sending the wrong
2 message by saying that we have no levels of service in the City. He stated that he
3 didn't think that represented what residents and business owners would want and that it
4 might not be fair.

5
6 Mr. Dever stated that his view was opposite that of Mr. Ratliff. Mr. Dever stated that he
7 was in favor of analyzing this further. He stated that this might help speed up
8 development along State Road 44. He stated that many residents are looking for
9 economic development and jobs. He stated that beginning those discussions would not
10 harm anything.

11
12 Mr. Casey stated that he would be in favor of eliminating the concurrency requirements
13 for both transportation and recreation and open space. He stated that de-restricting it
14 now would make development more affordable. He stated that he also agreed with Mr.
15 Bohannon's suggestion that concurrency be waived if negotiated as part of a PUD
16 agreement.

17
18 Mr. Clark stated he would not be in favor of eliminating concurrency completely.

19
20 Mr. McGuirk stated that his personal experience was that the transportation impact fees
21 would cost him approximately \$22,000. He stated that other agencies also required
22 fees, which might double the cost. He stated that one of the concerns is that his
23 particular property was in an already developed area and the roads were not failing. He
24 stated that was an area where the transportation element had a problem.

25
26 Conversely, he stated that having grown up in South Florida, he had seen what
27 happened when new development occurred without proper planning for the roads. He
28 stated that large residential projects or large commercial nodes will affect the traffic on
29 the roads. He stated that small infill businesses were not the problem.

30
31 Ms. Henrikson clarified that the transportation impact fees were completely separate
32 from the transportation concurrency requirements. Ms. Henrikson suggested that
33 perhaps transportation impact fees could be reduced or waived in targeted infill areas.
34 She also stated that the City Commission had just waived the transportation impact fees
35 through December 31, 2012.

36
37 Glenn Storch, 420 South Nova Road, Daytona Beach, Florida, addressed the Board.
38 He stated that proportionate fair share payments were overall a good thing. He stated
39 that businesses don't want to come into an area where there are recurring traffic jams.
40 However, he stated that he has also seen proportionate fair share used in ways that
41 harm small businesses. He cited an example from Port Orange, where there was no
42 flexibility in the ordinance and the impacts that had on a business that was attempting to
43 relocate in the City.

44
45 He stated that the problem with concurrency was that it did not require payment for
46 failing roads until the last developer came in. He stated that he also agreed with Mr.
47 Bohannon's suggestion about handling fair share payments in the PUD agreements.

1 He stated that the City could waive fair share payment requirements for smaller
2 businesses. He stated that there should also be impact fee credits for proportionate
3 fair-share payments.

4
5 Mr. Storch stated that he has used New Smyrna Beach as a model for economic
6 development over the past year.

7
8 Mr. McGuirk summarized the discussion of the Board, which was to further discuss this
9 with the City Commission and the community.

10
11 **CONSENSUS to move forward with a community wide discussion to determine**
12 **whether transportation concurrency requirements should be reduced or**
13 **eliminated within the City. While no vote was taken, five of the Board members**
14 **supported moving further with a larger discussion, one Board member (Ian**
15 **Ratliff) was opposed, and one Board member (Laurene Herwald), did not express**
16 **an opinion for or against.**

17
18 **CONSENSUS to move forward with a community wide discussion to determine**
19 **whether recreation and open space concurrency requirements should be reduced**
20 **or eliminated within the City. While no vote was taken, four of the Board**
21 **members supported moving further with a larger discussion, two Board members**
22 **(Ian Ratliff and Jason McGuirk) were opposed, and one Board member (Laurene**
23 **Herwald), did not express an opinion for or against.**

24
25 **OLD BUSINESS**

26
27 A. **V-3-11: 916 SOUTH RIVERSIDE DRIVE / SMITH**

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

- 31
32 1. Variance to waive the requirement to provide 16 on-site parking spaces;
33 2. Variance to two signs in lieu of the one sign permitted by code; and
34 3. Variance to allow a 32-square foot sign in lieu of the maximum 10-square
35 foot sign permitted by code.

36
37 The subject property is zoned R-2, Single-Family Residential, contains
38 approximately 0.491 acres and is generally located northwest of the intersection
39 of South Riverside Drive and Second Street.

40
41 Mr. McGuirk announced that staff was requesting that this case be continued
42 until the November 7, 2011 meeting.

43
44 **Mr. Ratliff made the motion to continue until the November 7, 2011 Planning and**
45 **Zoning Board Meeting, seconded by Mr. Bohannon. The motion passed**
46 **unanimously on roll call vote, 7-0.**

1 **NEW BUSINESS**

2
3 B. **V-10-11: JENNINGS/351 GRANADA STREET**

4 William L. Jennings, 351 Granada Street, New Smyrna Beach, Florida, 32169,
5 applicant and property owner, requests a variance to the maximum allowed
6 height of an accessory building to allow an accessory structure to exceed the
7 height of the existing residence. The subject property is zoned R-2 Single Family
8 Residential, contains approximately 0.22 acres and is located between
9 Causeway Drive and Granada Street, at 351 Granada Street

10
11 **Mr. Ratliff made a motion to continue this item to the November 7, 2011 Planning**
12 **and Zoning Board meeting, seconded by Mr. Bohannon. Motion passed**
13 **unanimously on a roll call vote 7-0.**

14
15 C. **CPA-7-11 Colony Park East**

16 Glenn D. Storch, Esquire, 420 South Nova Road, Daytona Beach, Florida,
17 32114, applicant on behalf of the property owners, Colony Park, LLC and New
18 Smyrna Beach Acquisitions, 411 Commercial Court, Venice, Florida, 32127,
19 requests approval of a Comprehensive Plan amendment to change the future
20 land use designation of the subject property from County Commercial and
21 County Urban Medium Intensity to City State Road 44 PUD. The subject
22 property consists of approximately 41.45 acres, is zoned PUD, Planned Unit
23 Development, and is generally located on the north side of State Road 44, east
24 of Colony Park Road.

25
26 Ms. Henrikson addressed the Board, reviewed staff's findings and stated that staff
27 recommended approval of the request.

28
29 Glenn Storch addressed the Board. He stated that the PUD was also consistent with
30 the existing County land use designation of Commercial.

31
32 Phil Wassum, 205 North Timberlane Drive, New Smyrna Beach, addressed the Board.
33 He asked whether there was any development planned at this point.

34
35 Mr. Storch stated that the PUD agreement allows shopping centers and many other
36 uses. He stated that the auto dealership would most likely be the first project. He
37 stated that he believed a closing was scheduled on the dealership property sometime in
38 October.

39
40 **Mr. Bohannon made a motion to recommend the City Commission approve the**
41 **requested *Comprehensive Plan* amendment, seconded by Mr. Dever. Motion**
42 **passed unanimously on a roll call vote, 7-0.**

43
44 **REPORTS AND COMMUNICATIONS BY THE BOARD**

45 None.

46
47 **REPORTS AND COMMUNICATIONS BY THE STAFF**

LPA/PLANNING AND ZONING BOARD
OCTOBER 3, 2011
MINUTES

1 Ms. Henrikson informed the Board that the Mayor would be reading a proclamation for
2 National Community Planning Month at the October 11th City Commission meeting.
3 She stated that the purpose of National Community Planning Month is to recognize
4 volunteer board members and citizen advocates. She stated that she hoped all of the
5 Board members would be able to attend.

6
7 Ms. Henrikson also reminded the Board of the upcoming October 17th Planning and
8 Zoning Board workshop. She stated that staff's revisions to the Arts District would be
9 discussed at this workshop.

10
11 There was discussion about which Board members would be available on October 11th
12 to attend the City Commission meeting.

13
14 ADJOURNMENT

15 With there being no further business, the meeting was adjourned at 6:59 p.m.

1 The Local Planning Agency/Planning and Zoning Board held a workshop on Monday,
2 October 17, 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 Jason McGuirk

12
13 Laurene Herwald, Brooks Casey and Kenneth Bohannon were absent.

14
15 Also present were Planning Manager Gail Henrikson; and members of the press and
16 public.

17
18 **DISCUSSION**

19
20 Ms. Henrikson addressed the Board and presented a brief PowerPoint presentation.
21 She provided the history of what actions had occurred to date in working to create an
22 Arts Overlay District. She stated that originally, the Board had been presented with two
23 models. The Bradenton model focused its arts district on a blighted residential
24 neighborhood. The Eau Gallie model focused on an existing commercial area, which
25 was in need of revitalization. She stated that when staff began the process of trying to
26 create an arts district in New Smyrna Beach, the initial intent was to create something
27 closer to the Bradenton model.

28
29 Ms. Henrikson stated, however, that over time, that initial thought had changed. She
30 stated that when staff has presented information to the Planning and Zoning Board,
31 Historic New Smyrna Beach Preservation Commission, and Community Redevelopment
32 Agency board, there did not appear to be consensus about where the boundaries
33 should be drawn, how parking should be addressed and there were numerous concerns
34 raised about the potential impacts on residents if neighborhoods were opened up to
35 commercial development.

36
37 Ms. Henrikson stated that the current staff recommendation being presented to the
38 Board would create a Phase I of the arts district and would be centered around the
39 existing commercial area around Canal Street. She stated that this would expand upon
40 the existing art events already occurring on a regular basis within the area. She stated
41 that the proposed revisions would eliminate on-site parking requirements for arts
42 businesses, or businesses that supported an arts culture. She stated the revisions
43 would also waive the distance requirement between businesses selling alcohol for
44 consumption on premises.

45
46 Mr. McGuirk opened public participation.
47

LPA/PLANNING AND ZONING BOARD WORKSHOP
OCTOBER 17, 2011
MINUTES

1 John Green, 213 Washington Street, New Smyrna Beach, addressed the Board. He
2 stated that an arts district would be good to encourage people to come to Canal Street
3 and the surrounding area. He cited an example of an arts district in Gulfport that had
4 successfully revitalized that town.

5
6 Mr. Green stated that the area around Alma Court and Rush Street was full of houses
7 that people would like to convert to businesses.

8
9 Mr. McGuirk asked whether the Gulfport arts district was created in an existing
10 residential or commercial area.

11
12 Mr. Green stated that the area close to the shore had always been a commercial area.
13 However, he stated that he was not certain whether the remainder of the area had
14 originally been residential or commercial.

15
16 Tony Otte, Community Redevelopment Agency (CRA) Director addressed the Board.
17 He stated that an arts overlay district is a worthwhile project and he encouraged the
18 Board to support it.

19
20 Mr. McGuirk closed public participation. He asked each of the Board members to
21 present their thoughts and concerns about the proposed district.

22
23 Mr. Ratliff stated that the proposed district was very walkable. However, he questioned
24 whether the proposed boundaries extended far enough and recommended that the
25 boundaries be expanded. He asked staff whether uses such as coffee shops and cafes
26 would be required to have an arts component, for example, displaying works by local
27 artists or having poetry readings. Mr. Ratliff stated that he agreed with waiving the
28 parking requirements and the distance requirements between businesses selling
29 alcohol. He asked staff how art-related activities such as metal welding and pottery
30 kilns would be addressed. He also asked how the City would market the district.

31
32 Ms. Henrikson stated that the CRA has hired a marketing person, who might also be
33 used to market the district.

34
35 Mr. Dever stated that he believed the proposed revisions were a good start. He stated
36 that he agreed with the proposed waivers regarding parking and alcohol sales.
37 However, he stated that there might be some push-back by the local churches. He
38 stated that using the commercial area as a test case was a good idea. He stated that
39 he did have concerns about requiring cafes and restaurants to display arts, as it might
40 discourage an otherwise viable business from locating in the area.

41
42 Mr. Clark stated that he liked the proposed district but that he also had concerns about
43 requiring all the eligible businesses to have an arts component. He agreed that
44 concentrating on the commercial area made sense as a first phase. Mr. Clark stated
45 that he agreed with the proposed parking and alcohol sales waivers. He suggested that
46 the name of the district be kept simple.

LPA/PLANNING AND ZONING BOARD WORKSHOP
OCTOBER 17, 2011
MINUTES

1 Mr. McGuirk stated that he generally liked what was being proposed. He stated that the
2 proposed regulations would work well in the commercial area but would not work if the
3 district were expanded into the residential areas. He stated that he agreed with the
4 proposed waivers. He stated that when the City expands the district, it should consider
5 expansion further to the north, to capture the area between Faulkner Street and US 1.

6
7 There was general discussion about the characteristics of the neighborhood and homes
8 north of Washington Street. There was also general discussion about the location of
9 the CRA boundaries and the grant programs available through the CRA.

10
11 It was suggested that the district be named the "Smyrna Arts Renaissance District".

12
13 REPORTS AND COMMUNICATIONS BY THE BOARD

14 None.

15
16 REPORTS AND COMMUNICATIONS BY THE STAFF

17 None.

18
19 ADJOURNMENT

20 With there being no further business, the workshop was adjourned at 7:12 p.m.

**PLANNING AND ZONING BOARD
2012 MEETING SCHEDULE**

MEETING DATES

Planning and Zoning Board: 1st Monday of each month at 6:30 p.m. (unless otherwise indicated)

MEETING LOCATION

City Commission Chambers, 210 Sams Avenue, New Smyrna Beach

PLANNING AND ZONING BOARD SUBMITTAL DEADLINE	PLANNING AND ZONING BOARD MEETING DATE
Dec. 9, 2011+	Jan. 9, 2012
Jan. 6, 2012	Feb. 6, 2012
Feb. 3, 2012	Mar. 5, 2012
Mar. 2, 2012	April 2, 2012
Apr. 6, 2012	May 7, 2012
May 4, 2012++	June 4, 2012
June 1, 2012	July 2, 2012
July 6, 2012	Aug. 6, 2012
Aug. 10, 2012	Sept. 10, 2012*
Aug. 31, 2012	Oct. 1, 2012
Oct. 7, 2012	Nov. 5, 2012
Nov. 2, 2012	Dec. 3, 2012
Dec. 7, 2012+++	Jan. 7, 2013
Jan. 4, 2013	Feb. 4, 2013
Feb. 1, 2013	Mar. 4, 2013

PLANNING AND ZONING BOARD: For use in determining application/meeting dates for annexations, land use amendments, Land Development Regulation text amendments, special exceptions, street vacations, and rezonings. Site plans, subdivision plats and PUD rezoning shall use the 2012 Plan Review Committee (PRC) Calendar.

*2nd Monday of the Month, due to Holiday

+ Deadline to submit for 1st 2012 Large-Scale Transmittal

++ Deadline to submit for 2nd 2012 Large-Scale Transmittal

+++ Deadline to submit for 1st 2013 Large-Scale Transmittal

**ALL DEADLINES ARE SUBJECT TO CHANGE
DEPENDENT UPON STAFF WORKLOAD AND PROJECT
COMPLEXITY.**

PLAN REVIEW COMMITTEE (PRC) 2012 MEETING SCHEDULE

MEETING DATES

PRC: 1st Friday of each month at 9:00 a.m.

PLANNING AND ZONING BOARD: 1st Monday of each month at 6:30 p.m., unless otherwise indicated

MEETING LOCATION

City Commission Chambers, 210 Sams Avenue, New Smyrna Beach

PRC SUBMITTAL DEADLINE	PRC MEETING DATE	RESUBMITTAL DEADLINE	PLANNING AND ZONING BOARD MEETING DATE
Nov. 11, 2011	Dec. 2, 2011	Jan. 7, 2012	Feb. 6, 2012
Dec. 16, 2011	Jan. 6, 2012	Feb. 4, 2012	Mar. 5, 2012
Jan. 13, 2012	Feb. 3, 2012	Mar. 4, 2012	April 2, 2012
Feb. 10, 2012	Mar. 2, 2012	Apr. 1, 2012	May 7, 2012
Mar. 16, 2012	Apr. 6, 2012	May 6, 2012	June 4, 2012
Apr. 13, 2012	May 4, 2012	June 10, 2012	July 2, 2012*
May 11, 2012	June 1, 2012	July 1, 2012	Aug. 6, 2012
June 13, 2012	July 6, 2012	Aug. 12, 2012	Sept. 10, 2012*
July 13, 2012	Aug. 3, 2012	Sept. 2, 2012	Oct. 1, 2012
Aug. 17, 2012	Sept. 7, 2012	Oct. 7, 2012	Nov. 5, 2012
Sept. 14, 2012	Oct. 5, 2012	Nov. 4, 2012	Dec. 3, 2012
Oct. 12, 2012	Nov. 2, 2012	Dec. 9, 2012	Jan. 7, 2013
Nov. 16, 2012	Dec. 7, 2012	Jan. 6, 2013	Feb. 4, 2013
Dec. 14, 2012	Jan. 4, 2013	Feb. 3, 2013	Mar. 4, 2013
Jan. 11, 2013	Feb. 1, 2013	Mar. 1, 2013	Apr. 1, 2013

ONLY COMPLETE APPLICATION PACKAGES WILL BE ACCEPTED. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT.

All final subdivision plats, Class III site plans and PUD rezonings must be reviewed and approved by the Planning and Zoning Board.

*2nd Monday of the month, due to holiday

**ALL DEADLINES ARE SUBJECT TO CHANGE
DEPENDENT UPON STAFF WORKLOAD AND PROJECT
COMPLEXITY.**

Interoffice Memorandum City of New Smyrna Beach

To: Planning and Zoning Board Members
From: Gail Henrikson, AICP, Planning Manager *GPH*
Subject: **VISIONING TOPICS**
Date: November 7, 2011

For the past several years, the Planning and Zoning Board agendas have included a visioning topic. The topic is to give the Board and the public a chance to comment on specific items and provide direction to staff. The visioning topic of the November 7, 2011 Board meeting was to have been the subject of improving the street ends at the ocean and river.

However, the City Commission will be holding their annual retreat on December 7, 2011, to discuss upcoming goals for 2012. One of the items of discussion will be constructing a framework for a community-wide visioning process. Pending finalization of the topics that will be part of the 2012 Visioning Process with the City Commission, staff will not be presenting any visioning items to the Planning and Zoning Board in November and December 2011.

Once the City Commission has identified its goals for 2012, staff will prepare information for the visioning topics that correspond with those goals.

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
V-3-11: SMITH / 916 SOUTH RIVERSIDE DRIVE
NOVEMBER 7, 2011

I. **Summary**

- A. **Applicant and Property Owner:** Scott Smith, 204 South Street, Brielle, New Jersey, 08730
- B. **Requests:** Approval the following variances in order to construct a commercial swimming pool:
1. 7.5-foot front yard setback variance from the minimum required 15-foot front yard setback;
 2. Variance to allow a swimming pool to be between a public street and the principal structure; and
 3. Variance to exceed the maximum allowed 60% impervious area.
- C. **Site Information:** The subject property contains approximately 0.421 acres, is zoned R-2, Single-Family Residential, and is generally located northwest of the intersection of South Riverside Drive and 2nd Street. (see Location Map attached as **Exhibit A**).
- D. **Tax I.D. Number:** 7444-01-00-2960

II. **Findings**

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

All permits were submitted as a single-family residence. However, in September 2011, the property owner's contractor submitted revisions to

1 the building permits to change the permits from residential to commercial.
2 These revisions have not yet been approved by Planning staff. Pictures
3 of the property are attached as **Exhibit B**.
4

5 C. At the time the permit application was submitted for the two-story addition
6 in 2009, staff became aware of owner's intent to eventually operate a bed
7 and breakfast at this location. However, in 2009 the scope of the project
8 was much smaller. At that time, staff advised the applicant that parking
9 would be an issue. Staff also advised the property owner to meet with
10 surrounding residents to let them know what his intent was and to gauge
11 their support for, or opposition to, the project.
12

13 D. The subject property is located within the City's bed and breakfast overlay
14 zone (**Exhibit C**) and would therefore be a permitted use. The intent of
15 the overlay is to "promote historic preservation and restoration through
16 providing new uses for old structures and to promote small scale lodging
17 establishments as an alternative form of resort accommodation". Article II
18 of the LDR defines "Bed and Breakfast Homes" as:
19

20 A building, or majority of a building, at least fifty (50) years old; not
21 including a hotel, motel, lodge, or inn; wherein sleeping
22 accommodations and meals are provided for lodgers for a daily
23 charge and which also serves as the residence of the owner or
24 operator. All establishments using the title "Bed and Breakfast" in
25 the name of [the] business, on the business' sign or other
26 advertisements, must be operated out of a building that has been
27 preserved, restored, and maintained, in a manner to promote the
28 building's historic ambiance (for the building's original period
29 architecture).
30

31 According to information supplied by the applicant, the original house
32 consisted of 5,583 square feet of area under roof. The new additions will
33 increase the floor area by 2,956 square feet, resulting in a total area of
34 8,539 square feet. The subject property is not located within the City's
35 Mainland National Register Historic District. However, the original 1946
36 home was identified as a potential contributing structure to any new or
37 expanded historic district.
38

39 E. Subsequent to the City issuing the 2009 building permit, the scope of the
40 proposed bed and breakfast project increased significantly. In 2010, the
41 Board of Adjustment approved a variance to allow what was then a
42 residential swimming pool, to be constructed in front of the existing house
43 along Second Street. At that time, the pool was shown as being
44 constructed towards the center of the yard and within an existing 7-foot
45 tall masonry wall (**Exhibit D**). However, as the scope of the project
46 increased, the pool was shifted further to the west property line and closer
47 to the residence to the west (**Exhibit E**).
48

1 F. The LDR requires variance requests to meet all of the following criteria.
2 The applicant's letter of response to the variance criteria is attached as
3 **Exhibit F**. Staff's responses to the criteria are listed below in **bold**.

- 4
5 (i) Special circumstances exist which are peculiar to the subject
6 property owner's land, structure, or building, and do not generally
7 apply to the neighboring lands, structures, or buildings, in the same
8 district or vicinity.

9
10 **In his response letter, the property owner states that the**
11 **special circumstance relates to the placement of the buildings**
12 **on the lot. The home and garage, both of which were**
13 **constructed in 1946, were built prior to the current regulations,**
14 **which require a pool to be to the rear or side of the house. As**
15 **shown on the survey attached as Exhibit D, there is not**
16 **sufficient space to the west or the north of the house in which**
17 **to construct a pool.**

18
19 **However, prior to construction of the new additions, there was**
20 **approximately 21-23 feet between the north side of the house**
21 **and the required 7.5-foot side yard setback in which to**
22 **construct a swimming pool. If four feet of decking was**
23 **provided around the outside of the pool, a 13-15 foot wide pool**
24 **could have been constructed on the north side of the house.**
25 **Because the new addition is built at the 7.5-foot side yard**
26 **setback line, it is now physically impossible to construct a**
27 **pool in this area.**

28
29 **While the location of the historic structure constructed in 1946**
30 **prohibited construction of a pool on the west side of the**
31 **property, the recent additions to the north side of the house**
32 **have eliminated a viable alternative location for the pool. The**
33 **new additions do not constitute a special circumstance that**
34 **would justify granting the variance.**

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

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

42
43 **Strict application of the provisions of the *Land Development***
44 ***Regulations* would not deprive the property owner reasonable**
45 **rights commonly applicable to other properties in the same**
46 **district. While there are other swimming pools within the**
47 **neighborhood, there are no other commercial pools, with the**

1 **exception of the Smyrna Yacht Club, within a three-block**
2 **radius.**

3
4 **Additionally, a swimming pool is not necessarily an expected**
5 **amenity at a bed and breakfast. Of the three other bed and**
6 **breakfasts in the City, none of them have swimming pools.**
7 **While staff understands that this is intended to be a higher-**
8 **end bed and breakfast facility than the others within the City, a**
9 **swimming pool is not required for the operation of a bed and**
10 **breakfast and often cannot be provided in historic areas where**
11 **lots are small.**

12 **The criterion has not been met.**

- 13
14
15 (iii) **The special circumstances and conditions that exist do not result**
16 **from the direct or indirect actions of the present property owner(s)**
17 **or past property owner(s). This criterion shall not be satisfied if the**
18 **present or past property owner created, to any degree, the**
19 **hardship that is the subject of the variance request.**

20
21 **The special circumstance identified by the applicant (i.e., the**
22 **location of the buildings on the property), is not a result of**
23 **actions taken by the applicant. However, the addition built on**
24 **the north side of the property, which eliminated an area for a**
25 **pool that complied with City regulations, is a direct result of**
26 **actions taken by the current property owner.**

27
28 **This criterion has not been met.**

- 29
30 (iv) **That granting of the variance will not cause substantial detriment to**
31 **the public welfare or impair the purposes and intent of this**
32 **Ordinance.**

33
34 **Granting the variance would not be detrimental to the public**
35 **as a whole but, may be detrimental to the surrounding**
36 **residents. Because the pool will be totally enclosed by an**
37 **approximately 7-foot tall opaque wall, visual and acoustic**
38 **impacts should be minimized more than if the pool were**
39 **simply enclosed with a four-foot tall fence or a screen**
40 **enclosure. However, the pool will now be used for a**
41 **commercial purpose, and that commercial use has**
42 **significantly increased in scope beyond what was originally**
43 **presented to staff when the swimming pool variance was**
44 **applied for in 2010. Therefore, there is the possibility that**
45 **noise impacts will be substantially more than what was**
46 **originally anticipated.**

47

1 **This criterion has not been met.**
2

- 3 (v) That granting of the variance will not constitute a grant of special
4 privilege that is denied by this Ordinance to other lands, structures,
5 or buildings, in the same district.
6

7 **Granting the variance would constitute a grant of special**
8 **privilege. The purpose of limiting pools to the rear of the**
9 **home is to keep pool-related activity out of the public eye as**
10 **much as possible. This provides privacy for those in the pool**
11 **area and protects the neighborhood from any negative**
12 **impacts associated with pool use. In this particular case,**
13 **while the pool will be enclosed within an approximately 7-foot**
14 **tall wall it will also be used for a commercial purpose. This**
15 **commercial use, although allowed by the City's *Land***
16 ***Development Regulations*, is located in the middle of a**
17 **residential neighborhood.**
18

19 **This criterion has not been met.**
20

21 **III. Recommendation**
22

23 Because the request does not meet any of the variance criteria, staff
24 recommends **denial**.
25
26





View of on-going construction work and location of proposed pool

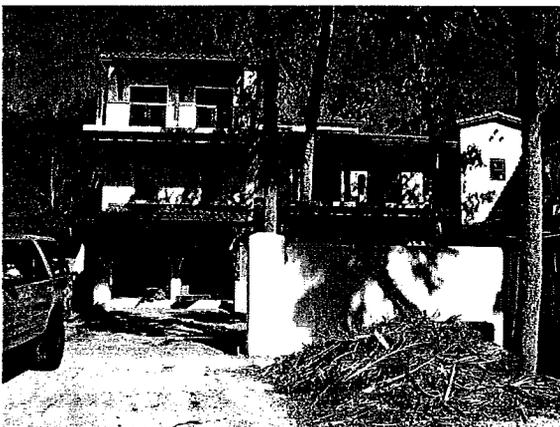
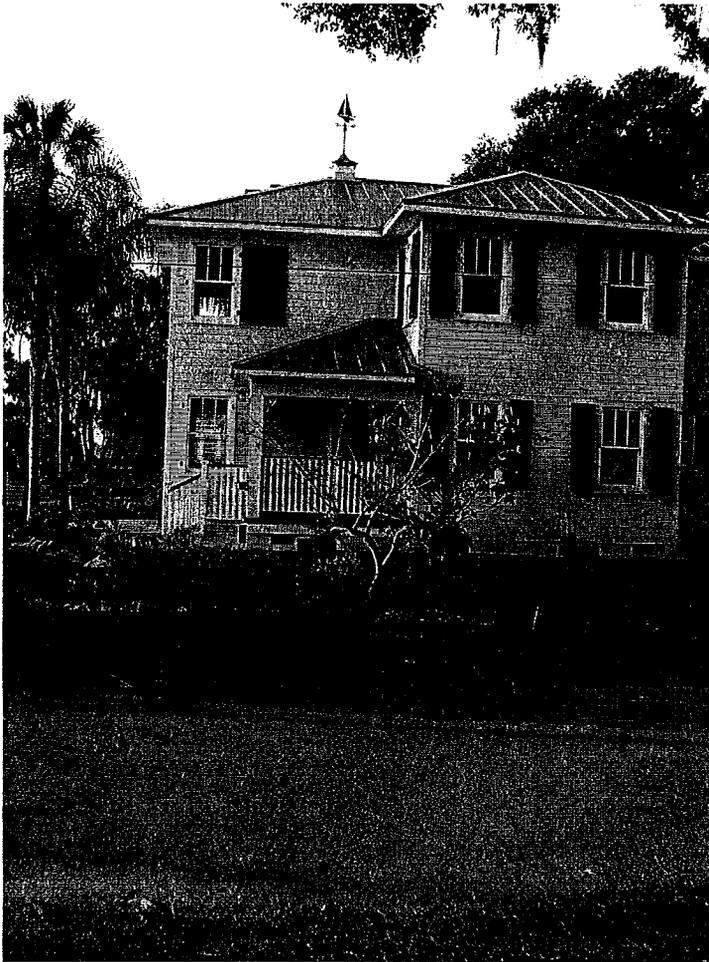
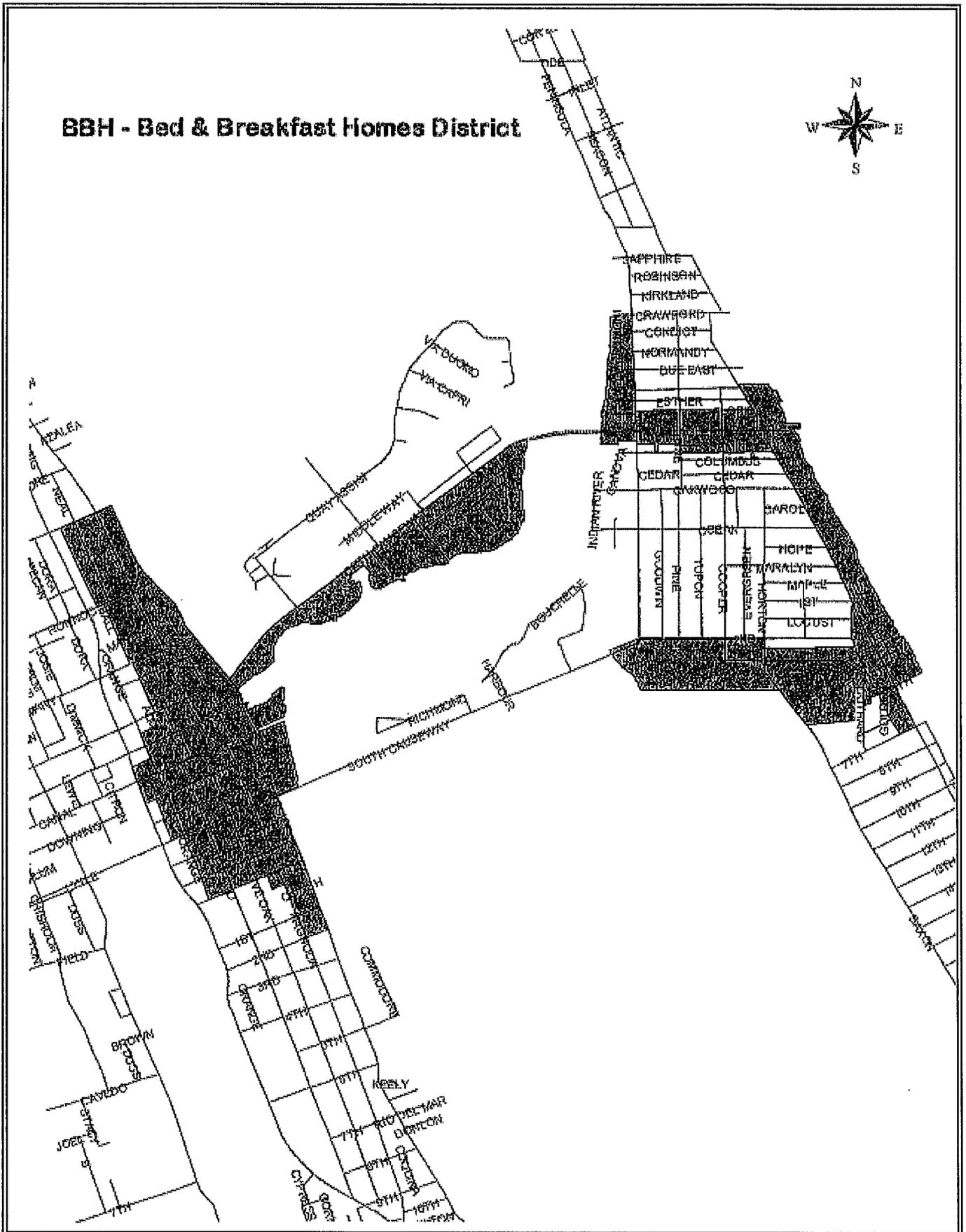


EXHIBIT B (CONT'D)



View of property
immediately south of
subject property on the
south side of 2nd Street.





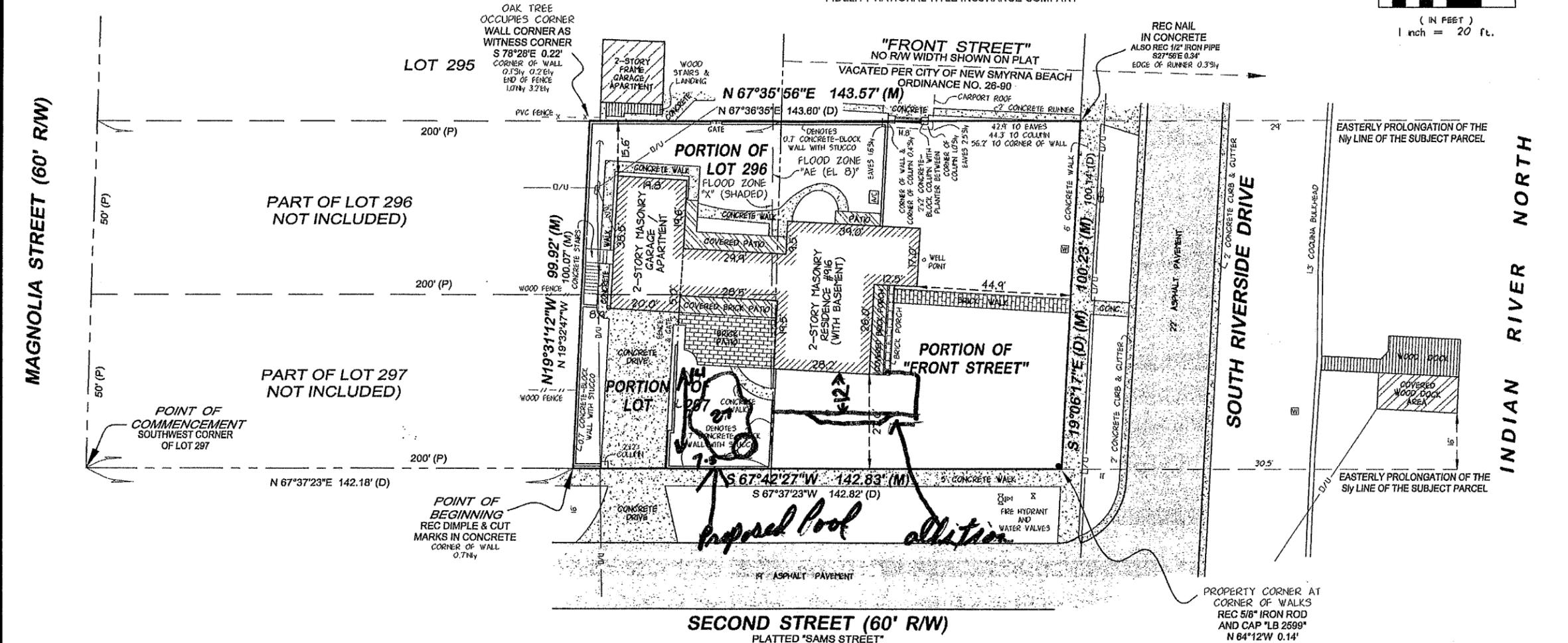
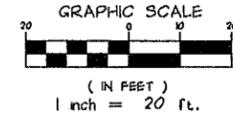
PLAT OF BOUNDARY SURVEY OF

A portion of Lots 296 and 297, together with a portion of Front Street, Cavado Addition, New Smyrna Beach, as per map thereof recorded in Map Book 2, Page 168 of the Public Records of Volusia County, Florida and being more particularly described as follows: As a point of reference commence at the Southwest corner of said Lot 297; thence N 67 degrees 37' 23" E along the Southerly line of said Lot 297, a distance of 142.18 feet for the Point of Beginning; thence N 19 degrees 32' 47" W, a distance of 100.07 feet to the North line of Lot 296, thence N 67 degrees 36' 35" E along the Northerly line of said Lot 296 and its Easterly prolongation thereof, a distance of 143.60 feet to the Westerly line of South Riverside Drive as now occupied and maintained by the City of New Smyrna Beach; thence S 19 degrees 06' 17" E along said Westerly line of South Riverside Drive, a distance of 100.14 feet to the intersection of the Easterly prolongation of the Southerly line of said Lot 297; thence S 67 degrees 37' 23" W, a distance of 142.82 feet to the Point of Beginning.

SURVEY REPORT:

1. Description per Title Insurance Commitment No. FT15-17955 dated August 13, 2009.
2. Bearings refer to description and based on the easterly line of the subject parcel as being South 19° 06' 17" East.
3. Subject to restrictions, reservations, limitations, easements and rights of way, if any, appearing of record.
4. This map of survey and report prepared without the benefit of an abstract.
5. This map of survey and report is subject to any facts that may be disclosed by a full and accurate title search.
6. Underground utilities and features, if any, not located.
7. Dimensions indicated hereon are in feet and decimals thereof, unless otherwise noted.
8. Unless otherwise noted, the monumentation has no identification number or name.
9. Drawing distance between features and property line may be exaggerated for clarity.
10. Features shown by symbol as indicated are not to scale.
11. The ownership of land lying easterly of South Riverside Drive was not determined.
12. The direction and location of riparian lines, if applicable, was not determined.
13. A Mean High Water elevation that complies with Chapter 177, Part II, Florida Statutes was not located.
14. The easterly right of way of South Riverside Drive was not determined and not shown.
15. Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

CERTIFIED TO: SCOTT P. SMITH
BRANCH BANKING AND TRUST COMPANY
FIDELITY NATIONAL TITLE INSURANCE COMPANY



TYPE	SURVEY DATE	WORK ORDER #	P.C.	CALC.	DRAFT	CHECKED
BOUNDARY SURVEY	04/14/2009	09-08-034	M.T.Q.	J.W.C.	J.W.C.	D.W.C.
FOUNDATION LOCATION						
FINAL SURVEY						
RE-CERTIFICATION SURVEY						
TOPOGRAPHIC SURVEY						
SPECIFIC PURPOSE SURVEY						
TYPE	DATE	WORK ORDER #		CALC.	DRAFT	CHECKED
SKETCH OF DESCRIPTION						

LEGEND & ABBREVIATIONS

● = DENOTES 5/8" IRON ROD W/ CAP "LB 42599" UNLESS OTHERWISE NOTED	Δ = DELTA	(P) = PLAT	P.R.M. = PERMANENT REFERENCE MONUMENT
○ = DENOTES IRON PIPE UNLESS OTHERWISE NOTED	R = RADIUS OR RANGE	(D) = DESCRIPTION	P.C.P. = PERMANENT CONTROL POINT
□ = DENOTES CONCRETE MONUMENT UNLESS OTHERWISE NOTED	L = ARC LENGTH	(M) = MEASURED	CO = CEMENT
EMT = ELECTRICAL METAL TUBING	CB = CHORD	(CALC) = CALCULATED	GU = GUY WIRE
FND = FOUND	CB = CHORD BEARING	(PR) = PRORATED	OU = OVERHEAD UTILITIES
REC = RECOVERED	T = TANGENT OR TOWNSHIP	(GR) = GRID	AC = AIR CONDITIONER
NY = NORTHING COORDINATE VALUE	(R) = RADIAL	OR = OFFICIAL RECORD BOOK	CLF = CHAINLINK FENCE
EX = EASTING COORDINATE VALUE	(NR) = NON-RADIAL	M.B. = MAP BOOK	BWF = BARBED WIRE FENCE
LB = LICENSED BUSINESS	(NT) = NON-TANGENT	P.O.B. = POINT OF BEGINNING	AC = ACRES
P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER	PC = POINT OF CURVATURE OR PARTY CHIEF	P.O.C. = POINT OF COMMENCEMENT	R/W = RIGHT-OF-WAY
F.I.R.M. = FLOOD INSURANCE RATE MAP	PT = POINT OF TANGENCY	W.M. = WATER METER	C = CENTERLINE
N.A.V.D. = NORTH AMERICAN VERTICAL DATUM		TC = TELECOMMUNICATIONS (TELE) RISER	CONC = CONCRETE (CONC)
N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM		FF = FINISHED FLOOR ELEVATION	CS = CONCRETE STOOP
C.C.C.L. = COASTAL CONSTRUCTION CONTROL LINE		RCP = REINFORCED CONCRETE PIPE	
U.S.C. & G.S. = UNITED STATES COAST & GEODETIC SURVEY		CMP = CORRUGATED METAL PIPE	
		CP = CORRUGATED PLASTIC PIPE	
		EE = EXISTING ELEVATION (ELEV)	

CERTIFICATE OF AUTHORIZATION NUMBER LB 2599

I hereby certify that this survey map and report of the subject property is true and correct to the best of my knowledge, information and belief as surveyed in the field under my supervision on the dates shown hereon. I further certify that this survey map and report meets the minimum technical standards set forth in F.A.C. Rule 61G-17.6, adopted by the Florida Board of Professional Surveyors and Mappers, pursuant to Florida Statutes Ch. 472.027, subject to the qualifications noted hereon.

Daniel W. Cory
DANIEL W. CORY P.S.M. NO. 2027
JEFFREY W. GORY P.S.M. NO. 4139

THIS PROPERTY IS LOCATED IN F.I.R.M. ZONE(S) "X" (SHADED) & "AE (EL 8)"

THIS LOCATION IS DETERMINED BY SCALING FROM F.I.R.M. COMMUNITY PANEL 125132 0543 G

MAP REVISED 04/15/02 APPROXIMATE SCALE 1" = 500'

DANIEL W. CORY
SURVEYOR, INC.
300 CANAL STREET
NEW SMYRNA BEACH, FLORIDA 32168
(386) 427-9575
FAX (386) 427-1783

PREPARED FOR: SCOTT SMITH

SCALE 1" = 20' FILE # 1522

PART OF LOTS 296 & 297

January 19, 2010

Scott Smith
916 S Riverside Drive
New Smyrna Beach, FL
32168

Re: Variance

The special circumstances that exist for the variance is that there is no room on the rear of the property as this is a corner lot. All other adjacent properties have room in the rear of their properties, but this house was built in 1947, and at that time there were no rules governing this type of construction or setbacks.

We are requesting this variance based upon current zoning rules that prohibit pools from being built on the side of the house even though there is an existing concrete block fence from 1947 and in addition to the current structure will block all viable evidence of the pool from both Riverside Drive and 2nd Street.

I believe that granting of this variance will not cause substantial detriment to the public welfare nor impair the purposes and intent of the Land Development regulations.

All Renovations and remodeling will be in keeping with the attempt to keep all historical, architectural and structural character of this home.

Thank You,



Scott Smith

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
2 **V-10-11: JENNINGS / 351 GRANADA STREET**

3 November 7, 2011
4

5 **I. Summary**

- 6 A. **Applicant:** William L. Jennings, P.O. Box 250, New Smyrna Beach,
7 Florida 32170
8
9 B. **Property Owners:** William L. Jennings & Katherine H. H. & W. , P.O. Box
10 250, New Smyrna Beach, Florida 32170
11
12 C. **Request:** Variance to the maximum allowed height of an accessory
13 building to allow an accessory structure to exceed the height of the
14 existing residence.
15
16 D. **Site Information:** The subject property is zoned R-2 Single Family
17 Residential, contains approximately 0.22 acres and is located between
18 Causeway Drive and Granada Street, at 351 Granada Street. (see
19 Location Map attached as **Exhibit A**).
20
21 E. **Tax I.D. Number:** 7417-02-00-0270
22

23 **II. Findings**

- 24
25 A. The applicant is requesting a variance to allow for the construction of a
26 garage of 22 feet in height. The applicant's house is 14 feet in height.
27 Section 803.01.B of the Land Development Regulations states that
28 accessory buildings shall not "Exceed the height of a conforming principal
29 building or 25 feet, whichever is less in height." This prevents the
30 applicant from constructing a garage in excess of 14 feet in height.
31
32 B. Causeway Drive along the north side of the property has a platted width of
33 25 feet and a paved width of 14 feet and provides access to the rear of the
34 lots fronting Granada Street and North Causeway. Causeway Drive
35 therefore conforms to the definition of an alley in the LDR. The property at
36 351 Granada Street is not a through lot and standard required yards for
37 the R-2 District are in force. Those required yards are 30 feet in the front,
38 7.5 feet on the sides and 7.5 feet in the rear.
39
40 C. The maximum permitted building coverage in the R-2 zoning district is
41 40% of the lot size and the maximum impervious coverage may not
42 exceed 60% of the lot size. The addition of the proposed garage will not
43 exceed either standard.
44
45 D. The LDR requires variance requests to meet all of the following criteria.
46 The applicant's letter of response to the variance criteria is attached as
47 **Exhibit B**, with photos of the site shown in **Exhibit C**. Staff's responses
48 to the criteria are listed below in **bold**.
49

- 1 (i) Special circumstances exist which are peculiar to the subject
2 property owner's land, structure, or building, and do not generally
3 apply to the neighboring lands, structures, or buildings, in the same
4 district or vicinity.
5

6 **There are no special circumstances that prevent the continued**
7 **use of this property as developed. Staff observed only one**
8 **other structure of more than one story on the lots fronting the**
9 **north side of Granada Street.**

10 **This criterion has not been met.**

- 11
12
13 (ii) Strict application of the provisions of this LDR would deprive the
14 subject property owner of reasonable rights commonly applicable to
15 other properties in the same district or may preclude a benefit to the
16 community in general.
17

18 **Strict interpretation of the LDR does not deprive the owner of**
19 **reasonable use of the property. A garage of 14 in height could**
20 **be constructed or an RV of less than 35 feet in length could be**
21 **stored outside in the back yard.**

22 **This criterion has not been met.**

- 23
24
25 (iii) The special circumstances and conditions that exist do not result
26 from the direct or indirect actions of the present property owner(s)
27 or past property owner(s). This criterion shall not be satisfied if the
28 present or past property owner created, to any degree, the hardship
29 that is the subject of the variance request.
30

31 **The condition of the house being 14 feet in height is the result**
32 **of the current or previous owner of the parcel.**

33 **This criterion has not been met.**

- 34
35
36 (iv) That granting of the variance will not cause substantial detriment to
37 the public welfare or impair the purposes and intent of this
38 Ordinance.
39

40 **The granting of this variance would cause little detriment to**
41 **the public welfare, but may impact adjacent property owners.**
42 **Staff has received a letter of objection from the property owner**
43 **to the west (EXHIBIT D) regarding impacts to her property.**
44

1 **With regard to the intent of the LDR, this would not be**
2 **impaired if the proposed variance were approved. The garage**
3 **as proposed would meet all required setback standards of the**
4 **R-2 zoning district and would be less than the 25 foot height**
5 **maximum for accessory buildings that would be allowed if the**
6 **house had a height greater than 25 feet. (EXHIBIT E)**

7
8 **This criterion has not been met.**
9

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

13
14 **The granting of this variance will constitute a grant of special**
15 **privilege that is not granted to other lots within the R-2 Single**
16 **Family Residential zoning district that have primary structures**
17 **of less than 25 feet in height.**

18
19 **This criterion has not been met.**
20

- 21 E. This case was continued from the October 3, 2011 Planning and Zoning
22 Board meeting. A neighboring property owner had appealed staff's
23 interpretation that the second driveway access proposed on the alley was
24 not required to meet the minimum 20-foot driveway length required in the
25 LDR. Historically, staff had not required a secondary driveway to comply
26 with the 20-foot length requirement if there was already a driveway on-site
27 that met that requirement. The City Manager upheld staff's interpretation.
28 The City Manager's decision may be appealed to the City Commission
29 within 60 days of the October 5, 2011 decision.

30
31 **III. Recommendation**
32

33 Staff recommends **denial** of variance request as none of the five required criteria for
34 approval have been met.

35
36
37 Should the Planning and Zoning Board determine that the request meets all of the
38 variance criteria and should be approved, staff recommends that the Board place the
39 following conditions upon that approval:

- 40 a. The garage may not exceed 22 feet in height.
41 b. The garage must be constructed so that no additional storm water runs off
42 onto abutting properties.
43
44

1

EXHIBIT A – Location Map



2
3

EXHIBIT B – Letter from Applicant

Mr. Jameson: regarding the variance request for Mr. Bill Jennings, please note the following:

- 1. The special circumstance that may not apply to the neighboring property is that this house is a single story structure with a low sloped roof. The home was constructed in the 1960's. The approximate height of the roof ridge is 14' above grade. However, the neighboring property owner (west) has a two story house that is approximately 22' above grade. Base on the LDC requirements for accessory buildings, the neighboring property could build a taller accessory structure (up to 22').**
- 2. Strict application of the requirement that the accessory building cannot be taller than 14' (for this owner) would not be required for the neighboring property. Since the adjacent residence is two stories, they could construct a taller accessory building than this property is allowed.**
- 3. The past or present owner has not created this hardship.**
- 4. In my opinion, the granting of this variance will not cause substantial detriment to the public welfare or impair the purposes and intent of the LDR since the maximum building height in this neighborhood is 35'. Every house in this neighborhood could eventually be rebuilt to a maximum 35' tall w/ 25' tall accessory buildings. Th proposed accessory structure is significantly less high.**
- 5. In my opinion, the granting of the variance will not constitute a grant of special privilege that is denied by the LDR to other lands, structures or buildings since the allowable building height in this neighborhood is 35'. And as noted earlier, the adjacent residence to the west is a two story structure.**

Scott Waldroff
Principal Architect



SCHWEIZER•WALDROFF ARCHITECTS, INC.
124 Canal Street
New Smyrna Beach, FL
32168

1
2

EXHIBIT C – Existing Site Conditions



3
4



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6
7

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EXHIBIT C continued



1
2
3

EXHIBIT D – Letter of Opposition

September 21, 2011

Debra Fernandez
341 Granada Street
New Smyrna Beach, FL 32169

Gail Henrikson, Planning Manager
City of New Smyrna Beach Development Services
210 Sams Avenue
New Smyrna Beach, FL 32168-7040

Dear Ms. Henrikson,

I am writing to protest the variance my neighbor, Mr. William Jennings @ 351 Granada Street is requesting so he can build a 20 ft high RV garage in his backyard. This structure would sit 7.6 ft from my property line with dimensions of 24 ft width by 34 feet length. With the height of the building at 20 feet, this would essentially be like having a 2 story commercial storage unit sitting adjacent to my property. Having something so large and so close to my backyard area would be an eyesore which ultimately would result in my property losing value.

Also, I am very concerned that the flat slant roof in the plan will reflect the afternoon sun producing daily glare onto my property. I have lived in my house since 1994 and built the pool in 2001 and my children and I utilize and enjoy our pool and backyard daily.

Having this large structure would be detrimental to the neighborhood because it could set a precedent and possibly lead to others requesting variances to build similar structures. Then each yard could essentially become boxed in by 20 foot walled structures thus changing the appearance and desirability of the neighborhood.

This is a residential area of mostly single story homes with the exception of mine which has a second story over the garage that we added in 2006. The addition was built within the footprints of the original structure so impact was minimal to the neighbors yards or views.

1
2
3

EXHIBIT D Continued

I am enclosing two photos. One is of my backyard now. I leaned a ladder against the palm tree to show how high a twenty foot wall would be. My fence is 6ft high and the red cloth at the top of the ladder is approximately 20 ft. The second photo is of a similar structure Mr. Jennings wants to build to illustrate the size, location and impact this structure would have on my property.

Please consider my request and forward this letter on to the Zoning board so that they may know my concerns. Thank you for your time.

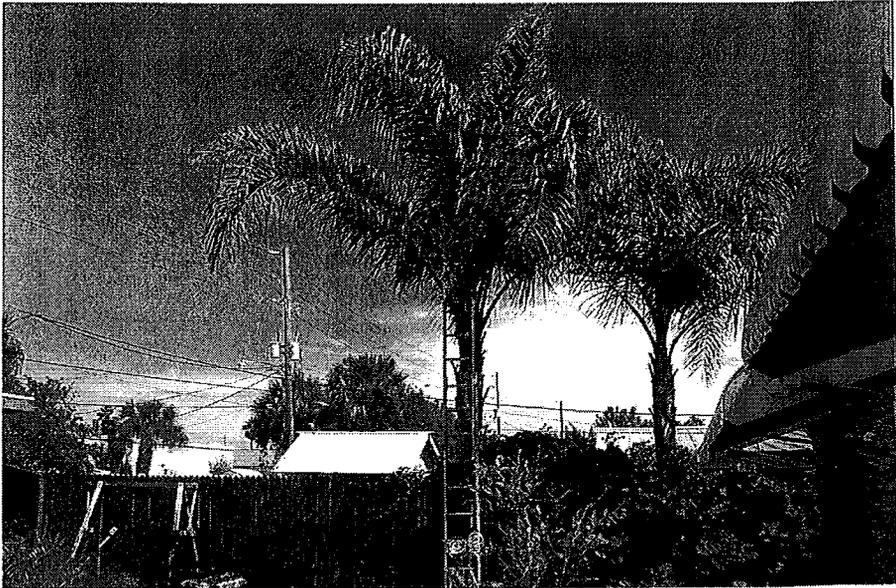
Sincerely,



Debra Fernandez

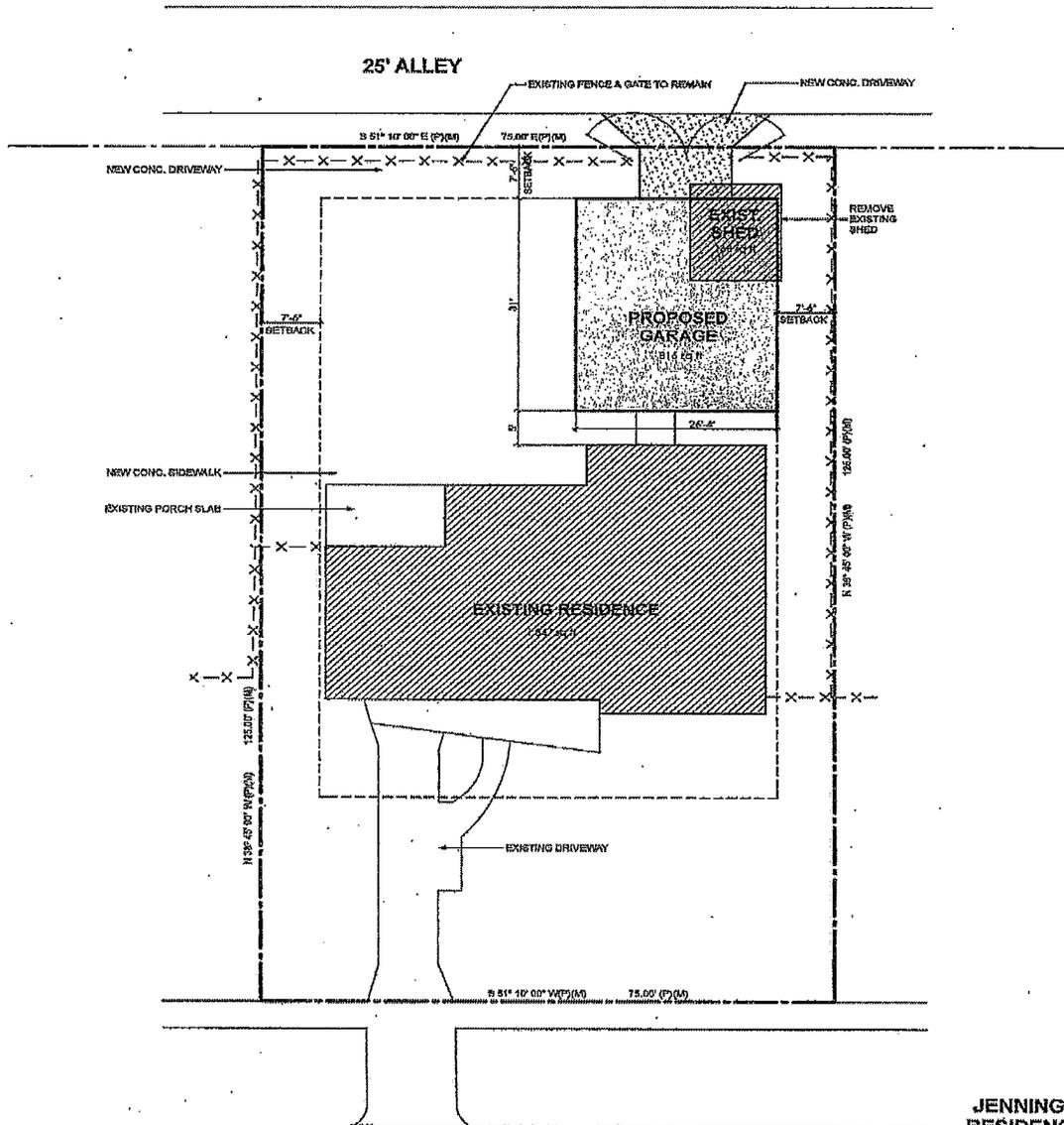
1
2

EXHIBIT D Continued



1
2
3
4
5
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7

EXHIBIT E Site With Proposed Garage



MAXIMUM BUILDING COVERAGE 40%

TOTAL SITE AREA 9,375 SF x .40 = 3,750 MAX BUILDING COVERAGE ALLOWED

TOTAL BUILDING COVERAGE	EXISTING HOUSE	1,847 sf
	EXISTING SHED	188 sf
	NEW GARAGE	816 sf
	TOTAL	2,695 sf IS LESS THAN 3,750

MAXIMUM IMPERVIOUS COVERAGE 60%

TOTAL SITE AREA 9,375 SF x .60 = 5,625 MAX IMPERVIOUS COVERAGE ALLOWED

TOTAL IMPERVIOUS COVERAGE	EXISTING HOUSE	1,847 sf
	EXISTING SHED	188 sf
	NEW GARAGE	816 sf
	EXISTING DRIVEWAY/SLABS	739 sf
	NEW DRIVEWAY/SLABS	122 sf
	TOTAL	3,692 sf IS LESS THAN 5,625

SWA
 Aug. 29, 2011

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

2 V-9-11: 4105 SAXON DRIVE / GEHRIS

3 November 7, 2011

4
5 I. Summary

- 6 A. **Applicant:** Jeff Gehris, 208 Canova Drive, New Smyrna Beach, Florida
7 32169
- 8
- 9 B. **Property Owners:** Jeff & Paige Gehris, 208 Canova Drive, New Smyrna
10 Beach, Florida 32169
- 11
- 12 C. **Request:** Variance to the maximum allowed fence height to allow a fence
13 taller than four feet in height in the required front yard setback.
- 14
- 15 D. **Site Information:** The subject property is zoned R-1, Single-Family
16 Residential; contains approximately 0.4 acres and is generally located on
17 the east side of Saxon Drive, south of Saxon Palm Court. (see Location
18 Map attached as **Exhibit A**).
- 19
- 20 E. **Tax I.D. Number:** 7427-01-11-0061

21
22 II. Findings

- 23
- 24 A. The applicant is requesting a variance to allow a six-foot tall fence in the
25 required 35-foot front yard setback. Section 803.03(1) of the Land
26 Development Regulations states that the maximum height of fences in the
27 required front yard setback is four feet. The constructed fence is within
28 the 35 foot required front yard of the R-1 zoning district and exceeds the
29 maximum height restriction of four feet.
- 30
- 31 B. The existing house is approximately 27.75 feet from Saxon Drive, which
32 does not meet the required 35 foot front yard for R-1 zoning. The home,
33 which the applicant states was constructed in 1921 and which the property
34 appraiser shows as being constructed in 1951, is closer to Saxon Drive
35 than the more recently constructed homes to the north. The house is a
36 non-conforming structure and may be continued to be used unless
37 damaged beyond 50 percent of the appraised value. At that time the
38 house must be replaced with a structure that meets all LDR requirements.
- 39
- 40 C. Mr. Gehris was issued building permit 2011-0783 on April 5, 2011. The
41 permit was for a covered entryway and a six-foot high fence. The
42 screening fence as depicted on the permit is only for the north side of the
43 property and does not include areas in the required front yard of the
44 property. The six-foot high fence as depicted on the permit application
45 would meet the requirements of the LDR as it is not shown in the required
46 front yard. (**Exhibit B**) The six foot-high fence in the front yard is not
47 depicted on the permit and therefore was not approved with the issued
48 building permit. If the Board approves the variance, a permit for the fence
49 in the front yard will be required and the fee will be doubled as the fence
50 was installed without a permit.

1
2 D. The LDR requires variance requests to meet all of the following criteria.
3 The applicant's letter of response to the variance criteria is attached as
4 **Exhibit C**, with photos of the site shown in **Exhibit D**. Staff's responses
5 to the criteria are listed below in **bold**.

6
7 (i) Special circumstances exist which are peculiar to the subject
8 property owner's land, structure, or building, and do not generally
9 apply to the neighboring lands, structures, or buildings, in the same
10 district or vicinity.

11
12 **In his response letter, the applicant states that the house pre-**
13 **dates the location of the road and sidewalk that existing today.**
14 **Saxon Drive is not a platted right-of-way, but has been**
15 **established by proscriptive easement and use over time. The**
16 **proscriptive nature of the Saxon Drive right-of way coupled to**
17 **the age of the house has created a situation that is unique to**
18 **this area.**

19
20 **This criterion has been met.**

21
22 (ii) Strict application of the provisions of this LDR would deprive the
23 subject property owner of reasonable rights commonly applicable to
24 other properties in the same district or may preclude a benefit to the
25 community in general.

26
27 **While property owners have entitled to an expectation of**
28 **privacy and quiet enjoyment of their property, strict**
29 **interpretation of the LDR does not deprive the owner of**
30 **reasonable use of the property. The owner has options other**
31 **than installing a six foot high fence, such as planting**
32 **landscaping or the use of opaque window treatments.**

33
34 **This criterion has not been met.**

35
36 (iii) The special circumstances and conditions that exist do not result
37 from the direct or indirect actions of the present property owner(s)
38 or past property owner(s). This criterion shall not be satisfied if the
39 present or past property owner created, to any degree, the hardship
40 that is the subject of the variance request.

41
42 **The special circumstance described in the applicant's letter of**
43 **response is that of a two-lane street with a sidewalk along the**
44 **front of the property. This property consists of a portion of Lot**
45 **6 of the 1888 Algernon S. Brown Subdivision. The east end of**
46 **Lot 6 was immediately adjacent to a platted street, 3rd Avenue.**
47 **The subject property, however, appears to be in the middle of**
48 **the originally platted Lot 6, meaning that it would not have had**

1 **direct access to the 3rd Avenue right-of-way. Additionally,**
2 **Saxon Drive, which is a proscriptive easement, bisects the**
3 **original Lot 6. The location of Saxon Drive, even if it were**
4 **placed there by the previous owner of Lot 6, cannot be**
5 **documented.**

6
7 **This criterion has been met.**

8
9 (iv) That granting of the variance will not cause substantial detriment to
10 the public welfare or impair the purposes and intent of this
11 Ordinance.

12
13 **The allowing of six foot high lattice fence on this location**
14 **would cause little harm to the public welfare. However, if six**
15 **foot high opaque fences in required front yards were to be**
16 **continued along the street there could be harm to the public**
17 **welfare, as the visual aesthetics of the street would be**
18 **diminished.**

19
20 **This criterion has been met.**

21
22 (v) That granting of the variance will not constitute a grant of special
23 privilege that is denied by this Ordinance to other lands, structures,
24 or buildings, in the same district.

25
26 **The granting of this variance would constitute a grant of**
27 **special privilege that is not granted to other lots within the R-1,**
28 **Single-Family Residential zoning district that have fences that**
29 **conform to the requirements of the LDR. Additionally, as**
30 **discussed above the property owner has other alternatives to**
31 **provide the desired privacy while still meeting the**
32 **requirements of the code.**

33
34 **This criterion has not been met.**

35
36 **III. Recommendation**

37
38 Staff recommends **denial** of variance request as only three of the five required criteria
39 for approval have been met.

40
41 If the Board chooses to approve the variance, staff makes the following
42 recommendations:

- 43 1) The fence may only be constructed of lattice.
44 2) If the house is damaged beyond 50% of the appraised value and must be rebuilt
45 to current LDR standards, the fence variance would be revoked.
46
47

1

EXHIBIT A – Location Map



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EXHIBIT B – Building Permit

	City of New Smyrna Beach	City of New Smyrna Beach 210 Sams Avenue New Smyrna Beach, Florida 32188 Building Dept: (386) 424-2140 Inspection Line: (386) 424-2274 Fax: (386) 424-2143	
Inspections			
Location			
Address:	4105 SAXON DR	Unit: PID: 742701110061 Owner: GEHRIS JEFF & PAIGE	
Building Permit			
Application Number	A2011-0783	Date: 03/25/2011	
Issued	04/05/2011	Tax Parcel #: 742701110061	
Expires	10/04/2011	Status: Finaled	
Address	4105 SAXON DR	Unit:	
Job Name: INSTALL COVERED ENTRY WAY AND 6' HIGH FENCE			
Builder	OWNER/BUILDER		
Plumber			
Electrician			
Mechanical			
Inspections			
Engineering Inspection Required?	No	Elevation Certificate Required?	
		No	
Date Const. Elevation Certificate Received			
Date Final Elevation Certificate Received			
Type	Final Building	Date of Scheduled Inspection	
Inspector	PHIL RYAN	06/24/2011	
Category	Building	Date Called	
		06/24/2011	
		Time	
		Inspection Number	
		Date Inspection Done	
		06/24/2011	
		Pass Inspection? <input checked="" type="checkbox"/>	
Type	Date of Scheduled Inspection	Date Called	Additional Inspection Directions for Inspectors
FINAL BUILDING	06/24/2011	06/24/2011	
ROOF SHEATHING	04/06/2011	04/06/2011	
Inspection Comments			
Inspection Call Log			
Date Called	Employee Taking Call	Reason for Call & Comments	

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EXHIBIT B – Building Permit Continued

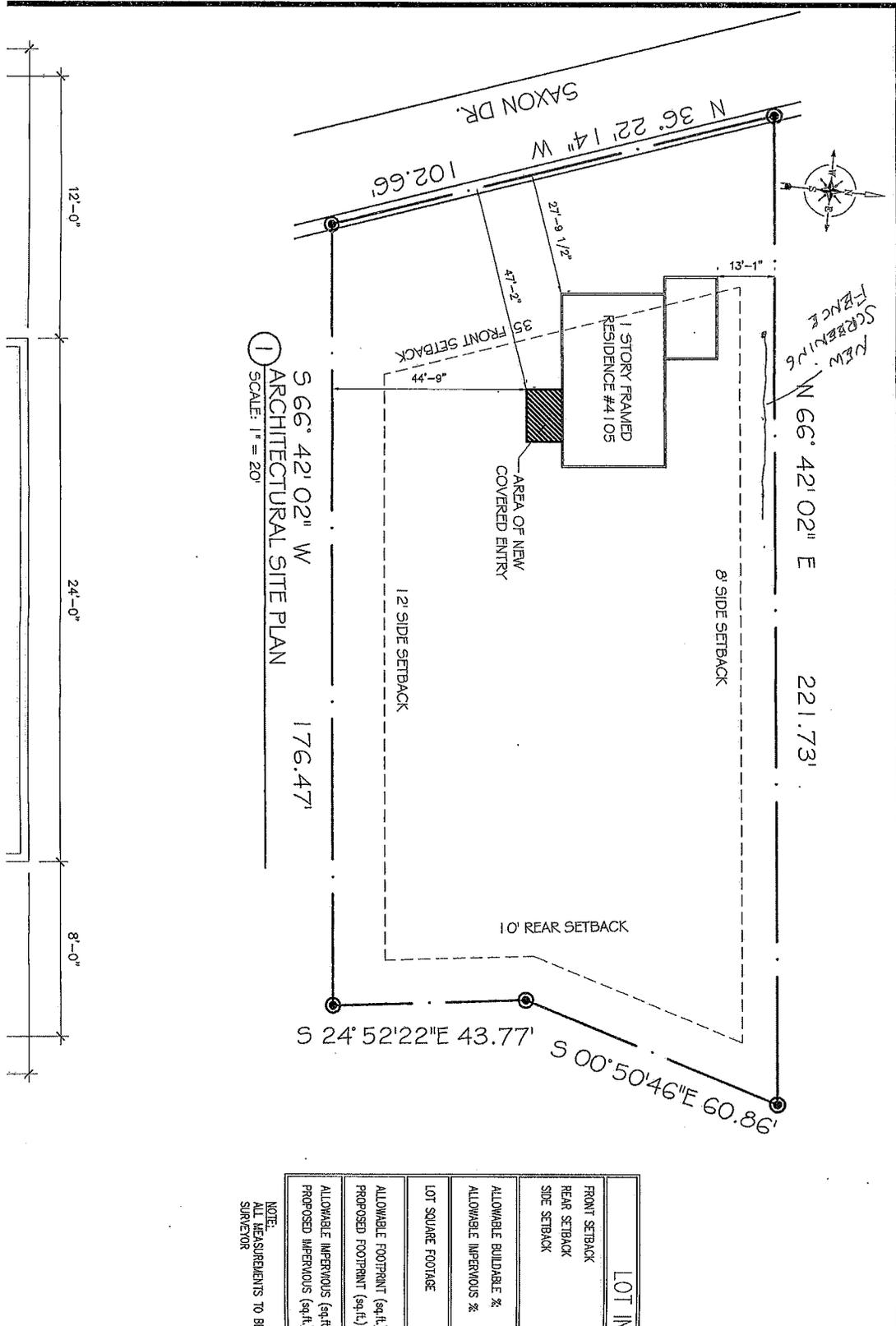
		City of New Smyrna Beach		City of New Smyrna Beach 210 Sams Avenue New Smyrna Beach, Florida 32168 Building Dept: (386) 424-2140 Inspection Line: (386) 424-2274 Fax: (386) 424-2143	
		Building Permit Application			
Location					
Address: 4105 SAXON DR		PID: 74270110061		Owner: GEHRIS JEFF & PAIGE	
Job Information					
Application Number: A2010-3002		Address: 4105 SAXON DR		Permit No.: 2011-0783	
A2011-0276		Job Name: INSTALL COVERED ENTRY WAY AND 6' HIGH FENCE		Issued Date: 04/05/2011	
A2011-0783		Tax Parcel #: 74270110061		Classification: Residential	
		Application Date: 03/25/2011		Status: Finalized	
		Start Before Permit: Natural Disaster			
Construction Company					
Contractor Code: 04087					
Name: OWNER/BUILDER		Qualifier: OWNER/BUILDER			
Address: _____ Unit: _____		License #: _____		Plan Review ONLY? _____	
City / St. / Zip: _____		Phone: () - _____		Fax: () - _____	
Applicant					
Applicant Type: Owner		Owner:			
Name: GEHRIS JEFF & PAIGE		Name: GEHRIS JEFF & PAIGE			
Address: 208 SAXON DR		Address: 208 CANOVA DR			
City / St. / Zip: NEW SMYRNA BEACH FL 321693852		City / St. / Zip: NEW SMYRNA BEACH FL 321693852			
Phone: (386) 314-3755		Phone: () - _____			
Building					
Permit Type: Alteration/Addition to SFD		Type of Work: Other		Engineering Inspection Required? _____	
IN HOUSE REVIEW		If 'Other' _____		Elevation Certificate Required? _____	
		# of Units: _____			
		# of Stories: _____			
		SQ. FT. Living: _____		Est. Construction Cost: \$ 450.00	
		SQ. FT. Other: _____		Review Required? <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
		Total: 0.00 SqFt		Total Fees - All Building Permits: \$30.00	
Electrical					
Contractor Code: _____		State License No.: _____			
Type of Work: _____		Other: _____			
New Units: <input checked="" type="checkbox"/> _____		Per Unit = _____		# Sub Panels: _____ X \$10.00 = _____	
Service Size: _____		.50 Per AMP = _____		# Inspections: _____ X \$10.00 = _____	
Miscellaneous: _____		Permit Fee \$20.00			
		Review Required? <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Mechanical					
Contractor Code: _____		State License No.: _____			
Type of Work: _____		Air Cond (Tons): _____		SEER: _____	
Notes: _____		COP: _____		Heat-Gas: _____	
		Electrical: _____		BTU/HR: _____	
		Oil: _____		KW: _____	
Make & Model: _____		Permit Fee \$20.00			
		Review Required? <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Plumbing					
Contractor Code: _____		State License No.: _____			
Type of Work: _____		Other: _____			
		No. of New Residential Units: _____		X _____ Per Unit = _____	
Urinal: _____		Solar: _____		Lawn Sprinklers: _____	
Septic Tank: _____		Back Flow: _____		Sewer: _____	
Hose Bibs: _____		Shower: _____		Sink: _____	
Wash. Machine: _____		Dish Washer: _____		Water Heater: _____	
Miscellaneous: _____		Lavatory: _____		Ice Maker: _____	
		Bath Tub: _____		# Fixtures: _____	
		Drains: _____		Fixt. Fee: _____	
		Water Closet: _____		Permit Fee \$20.00	
		Review Required? <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
Gas					
Contractor Code: _____		State License No.: _____			
Contractor: _____		# Appliances: _____			
		Appliances Fee - 1st at \$10.00, each additional at \$3.00			
		Permit Fee \$20.00			
		Review Required? <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
		State Fee: \$ 4.00			
		(1 + 2 + 3 + 4 + 5 + 6) \$ 34.00			
		TOTAL FEES: _____		TOTAL PAID: _____	
				BALANCE DUE: \$ 0.00	
General Description of Work Being Done:					
INSTALL 8' X 12' COVERED ENTRYWAY AND 60LF OF 6' HIGH FENCE. 2007 FBC. (IHR PAID \$10.00) (STAF FEE \$1.50 & TECH FEE \$3.00)					
Review Required? <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>					
State Fee: \$ 4.00					
(1 + 2 + 3 + 4 + 5 + 6) \$ 34.00					
TOTAL PAID: _____ BALANCE DUE: \$ 0.00					
Architect					
Architect Code: _____		Engineer Code: _____			
Name: _____		Name: _____			
Address: _____ Unit: _____		Address: _____ Unit: _____			
City/State/Zip: _____		City/State/Zip: _____			
Phone: () - _____ License #: _____		Phone: () - _____ License #: _____			

NOTICE: The penalty for commencing work before a permit is issued shall be 200% of the normal permit fee plus \$50.00; except that during or following a natural disaster the penalty shall be 200% of the normal permit fee plus \$100.00. REINSPECTION FEES: for any failed inspection there will be a fee of \$25.00. Application is hereby made to obtain a permit to do the work and installations as indicated. I certify that no work or installation has commenced prior to the issuance of a permit and that all work will be performed to meet the standards of the Florida Building Code 2004 in Effect at the Date of this Application. I understand that a separate permit may be required for ELECTRICAL WORK, PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS, TANKS, and AIR CONDITIONERS, FENCES, ETC. OWNERS AFFIDAVIT: I certify that all the foregoing information is accurate and that all work will be done in compliance with all applicable laws regarding construction and zoning. WARNINGS TO OWNERS: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT. In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county, and there may be additional permits required from other governmental entities such as water management districts, state agencies, or federal agencies.

SIGNATURE _____ OWNER OR AGENT SIGNATURE _____ CONTRACTOR
 DATE _____ DATE _____
 NOTARY AS TO _____ NOTARY AS TO _____
 OWNER OR AGENT CONTRACTOR
 MY COMMISSION EXPIRES _____ MY COMMISSION EXPIRES _____
 APPLICATION APPROVED BY _____ BUILDING OFFICIAL _____
 RECEIPT NUMBER _____

EXHIBIT B – Building Permit Continued

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EXHIBIT C – Applicant Response Letter

Jeff Gehris
208 Canova Drive
New Smyrna, FL 32169

July 11, 2011

City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, FL 32168

RE: Letter of Response to Variance Request

To Whom It May Concern:

Following is a summary of the issues at hand:

1) The special circumstance which exists that are peculiar to my property have existed since 1921 and in fact pre-date the current road and sidewalk that exist today. The modern close proximity of both Saxon Drive and the sidewalk create a privacy problem that simply did not exist when the home was built in 1921.

The location of both the bedroom and bathroom windows make the interior of these rooms easily visible from people passing by in vehicles and especially visible by people on bicycle or walking on the sidewalk.

2) A strict application of the Land Development Regulations will result in a degradation of privacy one usually enjoys in one's home bedroom and bathroom.

3) The special conditions resulting in this variance request exist not as a result of any action by the property owner but rather the development and widening of Saxon Drive and accompanying sidewalk.

4) The granting of this variance request will in no way cause any detriment to the public welfare or impair the purposes and intent of Land Development Regulations. In fact the addition of 24 inches to the height of my lattice separation is ascetically superior to the limit imposed by the code.

5) Granting of this request will not create a special privilege denied to other properties. Instead it will afford the house a level of privacy expected from private home ownership.

Thank you for your consideration.

Jeff Gehris

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EXHIBIT D Existing Site Conditions



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EXHIBIT D Continued



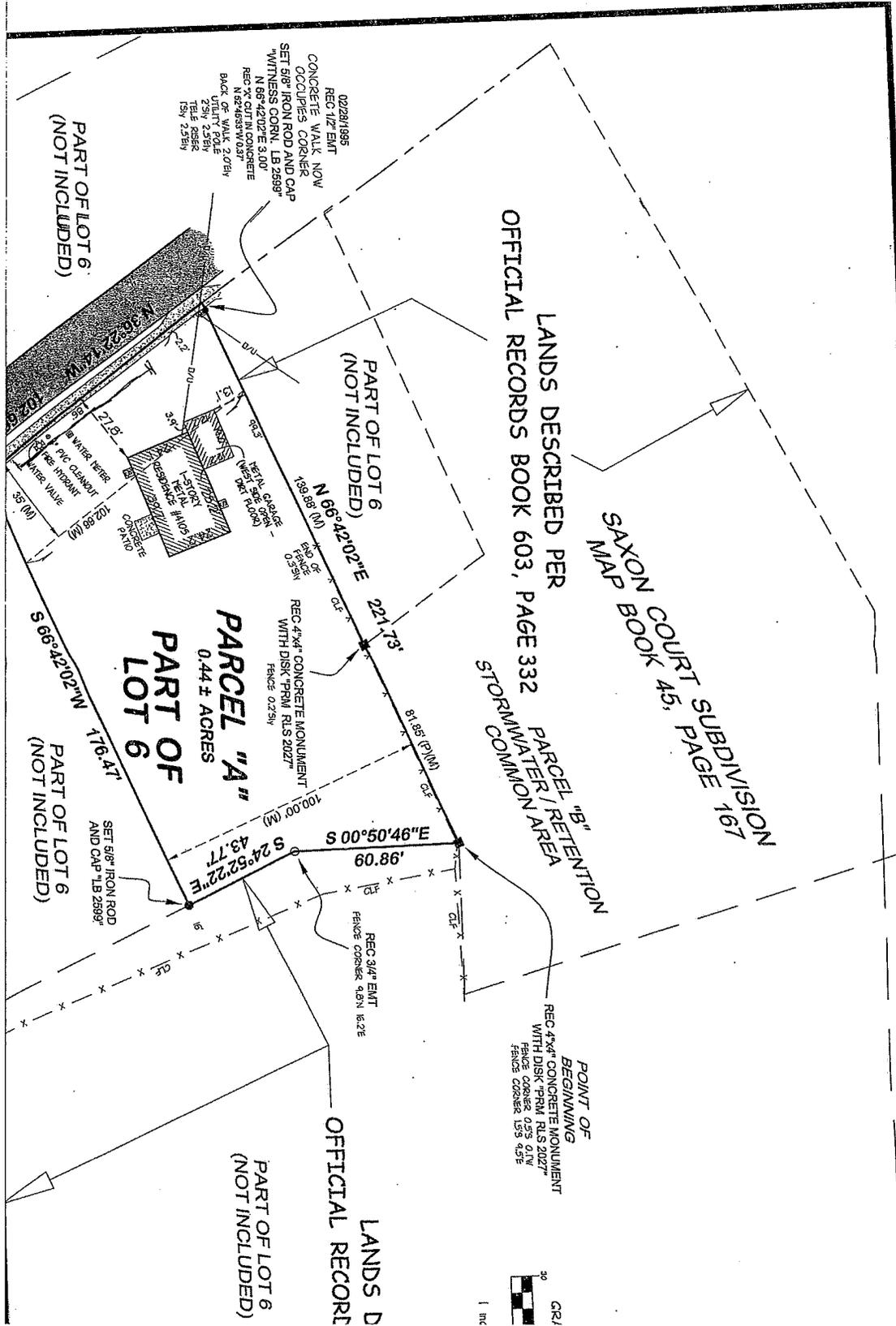
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EXHIBIT E Site With Fence Location

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CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
V-11-11: DAHL / VICS WAY
NOVEMBER 7, 2011

I. **Summary**

- A. **Applicant:** Robert J. Dahl, 802 Magnolia Street, New Smyrna Beach, Florida 32168
- B. **Property Owner:** Lakeview East, 802 Magnolia Street, New Smyrna Beach, Florida 32168
- C. **Requests:**
 - 1) Variance to the maximum allowed fence height to allow a fence taller than four feet in height in the required front yard setback; and
 - 2) Variance to reduce the number of required on-site parking spaces from 44 spaces to 30 spaces
- D. **Site Information:** The subject property is zoned R-4, Multi-Family Residential, contains approximately 3 acres and is generally located on the south side of Paige Avenue, west of Mission Drive. (see Location Map attached as **Exhibit A**).
- E. **Tax I.D. Numbers:** 7324-14-01-0010 and 7324-14-01-0011

II. **Findings**

- A. The subject property is an approximately 3-acre site consisting of two parcels. Photos of the subject property are attached as **Exhibit B**. To the north of the subject property is the New Smyrna Beach Regional Shopping Center and several stand-alone commercial establishments. To the west of the property are the Sugartree Apartments. To the south of the subject property are the Sugar Mill Ruins, which can be accessed from Mission Road. The property, which is currently vacant, has a significant amount of wetlands on the south half of the site. The site is also heavily wooded and contains several historic trees and numerous specimen trees.
- B. The applicant has submitted a site plan to construct 22 senior apartment units on the subject property (**Exhibit C**). In conjunction with the request for site plan approval, the applicant is also requesting variances to allow a six-foot tall fence in the front yard setback and to reduce the number of required on-site parking spaces from 44 to 30.
- C. Per the City's *Land Development Regulations*, a minimum of two parking spaces are required per multi-family residential unit. This is the minimum parking requirement for multi-family housing and is based on two-bedroom unit. The City's code does not differentiate between different types of multi-family housing, such as townhomes, apartment or senior housing. The Institute for Transportation Engineers *Parking Manual, 4th Edition*, shows that senior housing generates approximately 0.59 vehicles per unit during the average peak parking period. Throughout the day, the demand for parking and senior adult housing facilities ranges from 0.45 to 0.67 vehicles per unit. The 30 parking spaces proposed by the applicant would equate to 1.4 parking spaces per unit.

1 D. As discussed above, the subject property is immediately to the west of the
2 existing Sugartree Apartments. The Sugartree Apartment complex
3 currently has a six-foot tall fence within the front yard setback along Vics
4 Way. That fence, which has been poorly maintained, is considered to be
5 a legal non-conforming structure. However, should that fence be
6 destroyed by more than 50% of its appraised value, it could only be
7 replaced with a four-foot tall fence.
8

9 E. The City, with financial assistance from Volusia County, recently
10 completed the paving of Vics Way (formerly known as Paige Avenue),
11 from Mission Road to the entrance to the New Smyrna Regional Shopping
12 Center. As a result, vehicular speeds along the road have increased,
13 which required the City to lower the posted speed limit on this road.
14

15 F. The LDR requires variance requests to meet all of the following criteria.
16 The response letter from the applicant is attached as **Exhibit D**. Staff's
17 responses to the criteria are listed below in **bold**.
18

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

24 **The special circumstances identified by the applicant in his**
25 **response letter relate to the need to preserve wetlands and**
26 **historic trees and the need for security.**
27

28 **Based upon data from the Institute of Transportation**
29 **Engineers, it would appear that less parking is required for**
30 **senior housing than what the City requires for general multi-**
31 **family housing. Staff concurs that it is likely that many of the**
32 **parking spaces would remain unused and that wetlands and**
33 **historic trees would be impacted to accommodate this**
34 **additional parking.**
35

36 **With regard to the fence height variance request, the need for**
37 **security, is not necessarily related to the land or the building**
38 **but is related to the use – senior housing. No gate is currently**
39 **proposed at the driveway to this development and, the fence**
40 **will not encompass the entire perimeter of the property.**
41 **Therefore, it appears that the fence height is more decorative**
42 **in nature, than functioning as a security feature.**
43

44 **This criterion has been met for the parking reduction request.**
45

46 **This criterion has not been met for the fence height request.**
47

- 48 (ii) Strict application of the provisions of this LDR would deprive the
49 subject property owner of reasonable rights commonly applicable to

1 other properties in the same district or may preclude a benefit to the
2 community in general.

3
4 **Strict application of the provisions of the *Land Development***
5 ***Regulations* would not deprive the property owners of**
6 **reasonable rights commonly applicable to other properties**
7 **within the same district. Without the requested parking**
8 **variance, the property owner still has the ability to construct**
9 **the required number of on-site parking spaces, and had**
10 **previously submitted a site plan application that showed more**
11 **than 30 parking spaces for two previously planned buildings.**
12 **However, requiring the applicant to meet the City's parking**
13 **requirements would likely preclude a benefit to the**
14 **community. If the full number of required on-site parking**
15 **spaces are provided, there will be a significant impact to the**
16 **wetlands and associated upland buffer. Additionally, the**
17 **applicant would need to remove several specimen trees and**
18 **possibly historic trees to provide these spaces.**

19
20 **With regard to the fence height variance request, strict**
21 **application of the provisions of the LDR would deprive the**
22 **property owner of reasonable rights. Multi-family dwellings,**
23 **although serving as residences for the people living there,**
24 **often function more like commercial uses than residential**
25 **uses. If this property had been zoned commercial, as are the**
26 **properties across Vics Way, the applicant could have**
27 **constructed a six-foot tall fence in the front yard setback**
28 **without a variance.**

29
30 **This criterion has been met for both the parking reduction**
31 **request and the fence height request.**

- 32
33 (iii) The special circumstances and conditions that exist do not result
34 from the direct or indirect actions of the present property owner(s)
35 or past property owner(s). This criterion shall not be satisfied if the
36 present or past property owner created, to any degree, the hardship
37 that is the subject of the variance request.

38
39 **The special circumstance related to the location of wetlands**
40 **and historic and specimen trees on the subject property is not**
41 **directly related to actions of the current property owners.**

42
43 **However, the desire for enhanced security is not directly**
44 **related to the land or the buildings and therefore no special**
45 **circumstance exists.**

46
47 **This criterion has been met for the parking reduction request.**

48
49 **This criterion has not been met for the fence height request.**

- 1
2 (iv) That granting of the variance will not cause substantial detriment to
3 the public welfare or impair the purposes and intent of this
4 Ordinance.
5

6 **Granting of the variance would not cause substantial**
7 **detriment to the public welfare or impair the purposes and**
8 **intent of the LDR. The possible removal of wetlands and**
9 **specimen and historic trees in order to construct parking**
10 **spaces that will rarely, if ever, be utilized, is not sound**
11 **planning, environmental or economic practice.**
12

13 **With regard to the request for a six-foot tall fence, as**
14 **discussed above, the fence would be an open metal fence,**
15 **which would allow visibility into and out of the site. Part of the**
16 **intent of allowing only four-foot tall fences within the front**
17 **yard setback is to prevent a blank wall of fences or walls from**
18 **becoming the primary view along the street. A series of blank**
19 **walls or opaque fences creates an uninviting atmosphere and**
20 **may actually allow crime to increase, as the residents behind**
21 **the fences cannot see what is happening on the street.**
22

23 **This criterion has been met for both the parking reduction**
24 **request and the fence height request.**
25

- 26 (v) That granting of the variance will not constitute a grant of special
27 privilege that is denied by this Ordinance to other lands, structures,
28 or buildings, in the same district.
29

30 **Granting of the parking variance would not constitute a grant**
31 **of special privilege that is denied by the LDR to other lands,**
32 **structures or buildings in the same district. The City's codes**
33 **do not differentiate between various types of multi-family**
34 **housing. While the adjacent Sugartree Apartments provide**
35 **housing to a variety of age groups, the residential units on the**
36 **subject property will be restricted to residents aged 55 and**
37 **over. Professional studies have shown that this type of use**
38 **does not require the same amount of parking as a standard**
39 **multi-family residential complex.**
40

41 **With regard to the request to allow a six-foot tall fence,**
42 **granting of the variance would not constitute a grant of special**
43 **privilege. As discussed above, multi-family complexes tend to**
44 **function more like commercial sites than single-family**
45 **residential sites. Had the property been zoned commercial, as**
46 **are the properties across Vics Way, a six-foot tall fence could**
47 **be constructed in the front yard setback without a variance.**
48

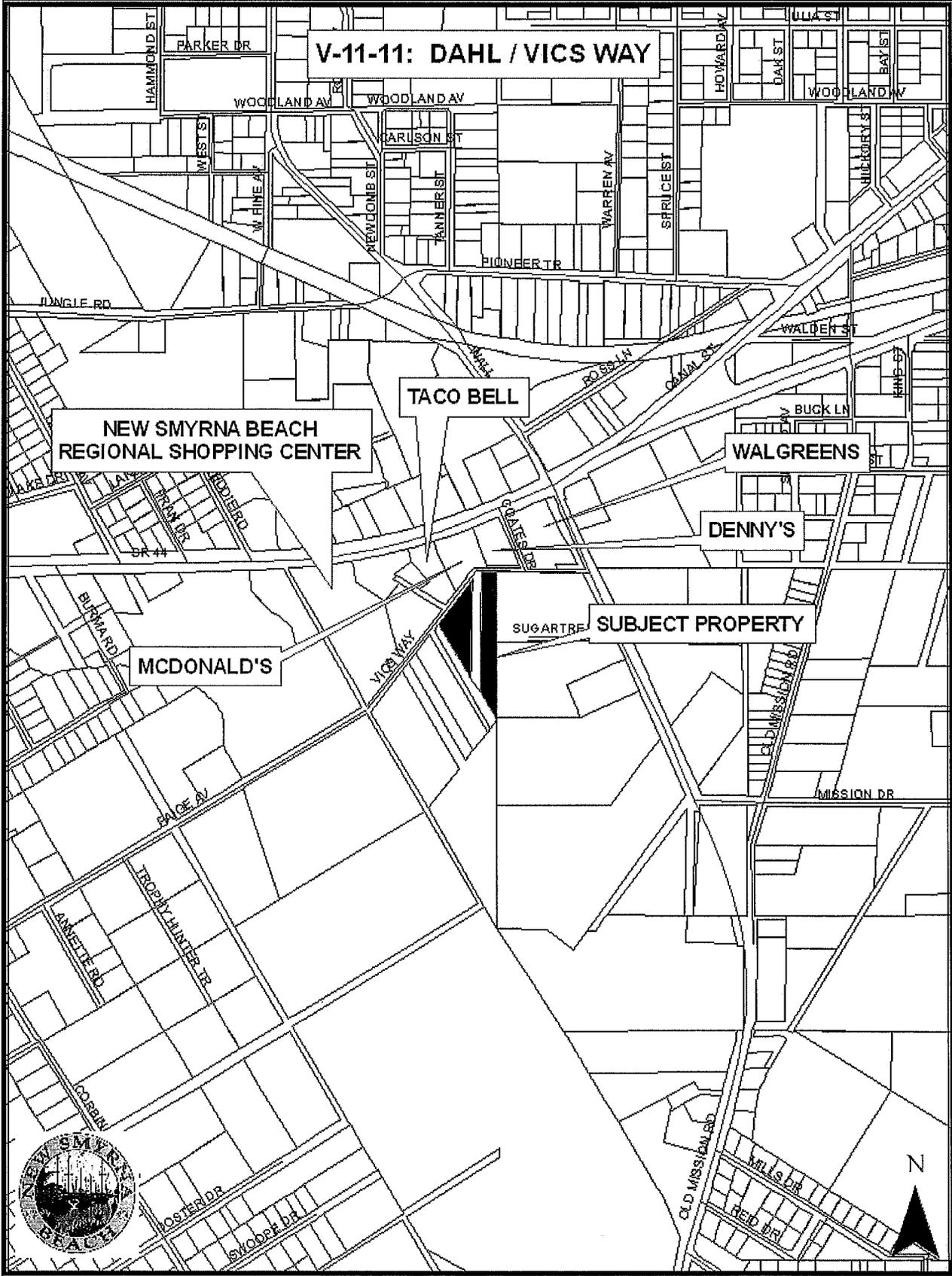


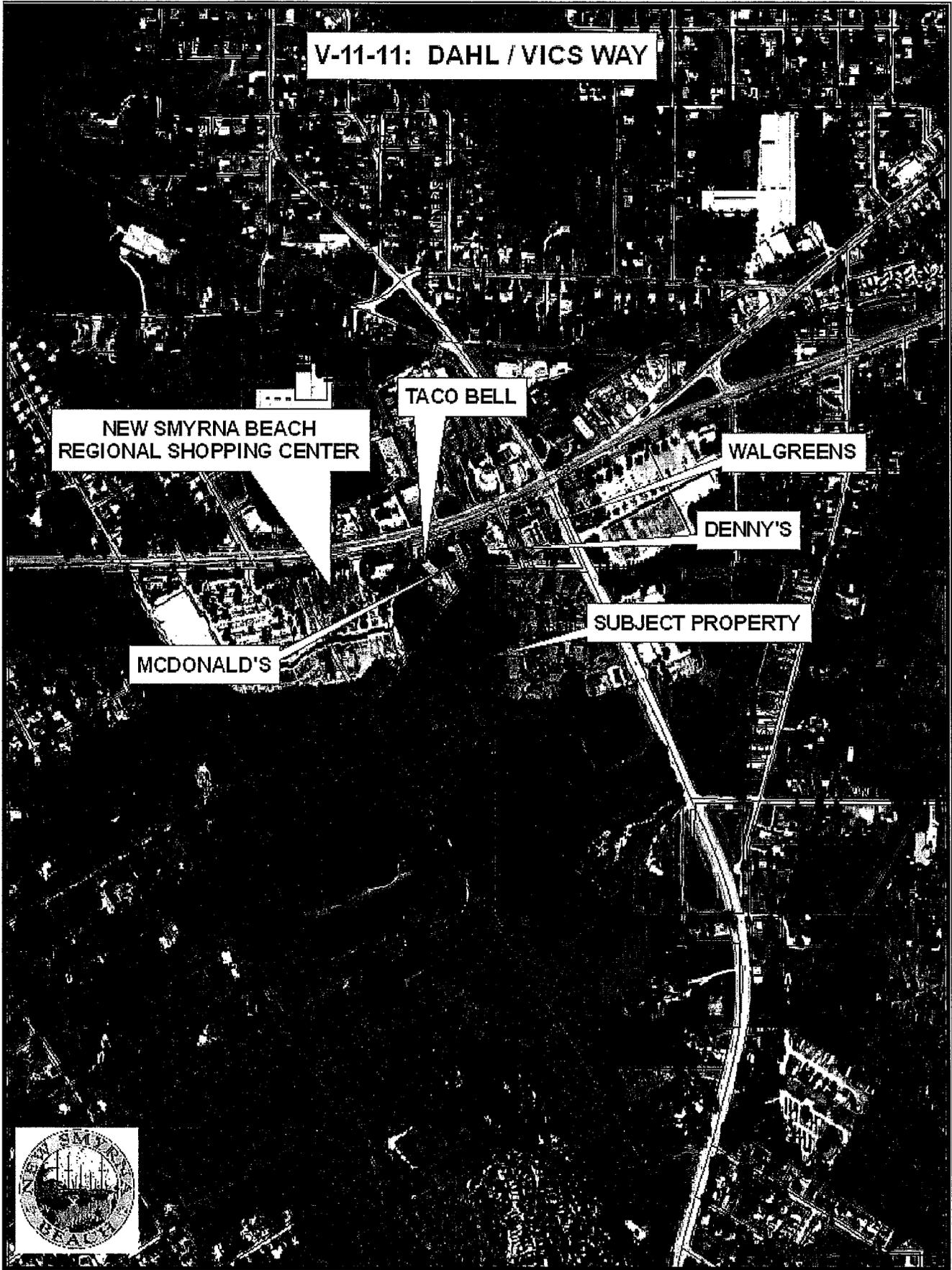
EXHIBIT B



The subject property (top left) is currently vacant. Views looking east (middle left) and west (above) along Vics Way



The properties on the north side of Vics Way are developed with commercial uses, with the exception of one commercial property that is currently vacant and which is currently for sale.



Robert J. Dahl
Lakeview East Inc.
802 Magnolia St.
New Smyrna Beach, Fl 32168

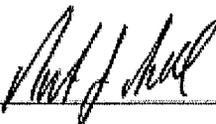
City of New Smyrna Beach,

I am requesting a variance to allow reduced parking and a 6' fence within the front yard setback. The special circumstances that exist on my property are that I am proposing to build senior housing, per information from the Institute of Transportation Engineers Parking Manual, not more than 1 space per unit would be required. I am proposing 1.4 spaces per unit. To increase security for the residents, a 6' fence along the front yard is necessary. This would be a wrought iron type fence that you can see through with shrubbery accents so it would remain visually pleasing.

Strict application of the provisions of the Land Development Regulations would require construction of parking spaces that would not be used. To build these spaces, historic oaks would have to be removed and wetlands would be impacted. To reduce the height of the fence to 4' the security of the residents would be compromised.

The special circumstances for reduced parking are from the use of the residences by senior citizens and an established need for less parking spaces. The special circumstances for a 6' fence in the front yard is due to the high volume of both vehicle and pedestrian traffic on the street, a 6' fence would contribute to their security.

Granting of this variance would not cause substantial detriment to the public welfare or impair the purposes and intent of the Land Development Regulations. The property will be visually pleasing and an asset to the community.



Robert J. Dahl
President
Lakeview East Inc.

1 CITY OF NEW SMYRNA BEACH – CITY COMMISSION
2 **A-14-11: STRAHMAN / 1569 LEWIS LANE**
3 **NOVEMBER 7, 2011**
4

5 I. **Background**

6
7 A. **Applicant and Property Owner:** Peggy A. Strahman, 1569 Lewis Lane,
8 New Smyrna Beach

9
10 B. **Request:** Voluntary annexation , *Comprehensive Plan* amendment, and
11 rezoning

- 12
13 • **From:** County Future Land Use (FLU) designation of Rural; and
14 County zoning A-2, Rural Agriculture.
15 • **To:** City FLU designation of Rural; and City zoning A-2, Agriculture.
16

17 C. **Site Information:**

- 18 • **Size:** 5.32 acres
19 • **Location:** The property is generally located on the south side of
20 Lewis Lane between Raylyn Drive and White Street at 1569 Lewis
21 Lane. (see **Exhibit A** for a location map).
22 • **Tax I.D. Number:** 7303-00-03-0030
23

24 II. **Findings**

25
26 A. The subject property is an approximately 5.32 acre site that has been
27 improved with a single family detached residence and stable. A copy of
28 the survey for the subject property is attached as **Exhibit B**. The property
29 currently has a Volusia County Future Land Use (FLU) designation of
30 Rural, which allows one dwelling unit per five acres. The property is
31 currently zoned Volusia County A-2 – Rural Agriculture. The surrounding
32 future land use, existing uses, and zoning are as follows:

33 **North**

34 Future Land Use: County Rural
35 Existing Land Use: Single-Family Residential
36 Zoning: County RA, Rural Agriculture Estate
37

38 **South**

39 Future Land Use: City Low Density Residential
40 Existing Land Use: Single-Family Residential and Recreational
41 Zoning: City PUD, Planned Unit Development
42

43 **East**

44 Future Land Use: County Rural
45 Existing Land Use: Single-Family Residential
46 Zoning: County A-2, Rural Agriculture
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West
Future Land Use: County Rural
Existing Land Use: Agriculture
Zoning: County A-2, Rural Agriculture

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

- B. Previous City Commissions had established a policy that when property is annexed into the City, the City would assign a future land use and zoning designation that would closely match the existing County designations. As discussed above, the existing County FLU and zoning designations are Rural and A-2, Rural Agriculture, respectively. The closest FLU that matches the existing County designation of Rural is the City Rural designation. The County's designation allows one unit per five acres. The City's FLU does not have a minimum acreage, but designates that the parcels should be agricultural, undeveloped, or developed large lot residential uses. The City zoning district A-2 has a minimum lot size of 5 acres and is intended for agriculture and single family residential uses. Therefore, staff is proposing that the FLU be changed to City Rural and the zoning be changed to A-2, Agriculture, which would be consistent with adjacent development in the City, adjacent development in the County, and the existing use. Maps showing the proposed zoning and FLU changes are attached as **Exhibits H and I**. Descriptions of the proposed zoning and FLU designations are attached as **Exhibits J and K**.
- C. This parcel meets minimum lot dimensions for County A-2 zoning and for City A-2 zoning.
- D. This annexation request is within the City's annexation area and within the City's water and sewer service area (**Exhibit L**). A sewer line is located at the rear of the parcel in Club House Blvd. This is approximately 530 feet from the residence, which does not meet the 100-foot maximum distance requirement for sewer service to be considered "available". Water is available in Lewis Lane.
- E. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, stormwater management, and public school facilities. Because the property is already developed with a single-family residence and the proposed future land use and zoning designations would only allow one single-family residence on this lot, no concurrency impact analysis was completed.
- F. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject properties into the *Comprehensive Plan* (see

98 **Exhibits M through Z). Exhibit AA** is an aerial photo of the property for
99 informational purposes.

100
101 G. The *Comprehensive Plan* provides some guidance on annexations, future
102 land use amendments, and rezonings. The following is a list of objectives
103 in the *Comprehensive Plan* that support this proposal. Following each
104 objective is a comment in ***bold italics***.

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

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

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

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

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

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

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- **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 proposed future land use designation and zoning district would be compatible with the existing development pattern of the area and are in compliance with the Comprehensive Plan.

III. Recommendation

Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the annexation, *Comprehensive Plan* amendment to City Rural, and the rezoning to City zoning district designation A-2, Agriculture.

EXHIBIT A – LOCATION MAP

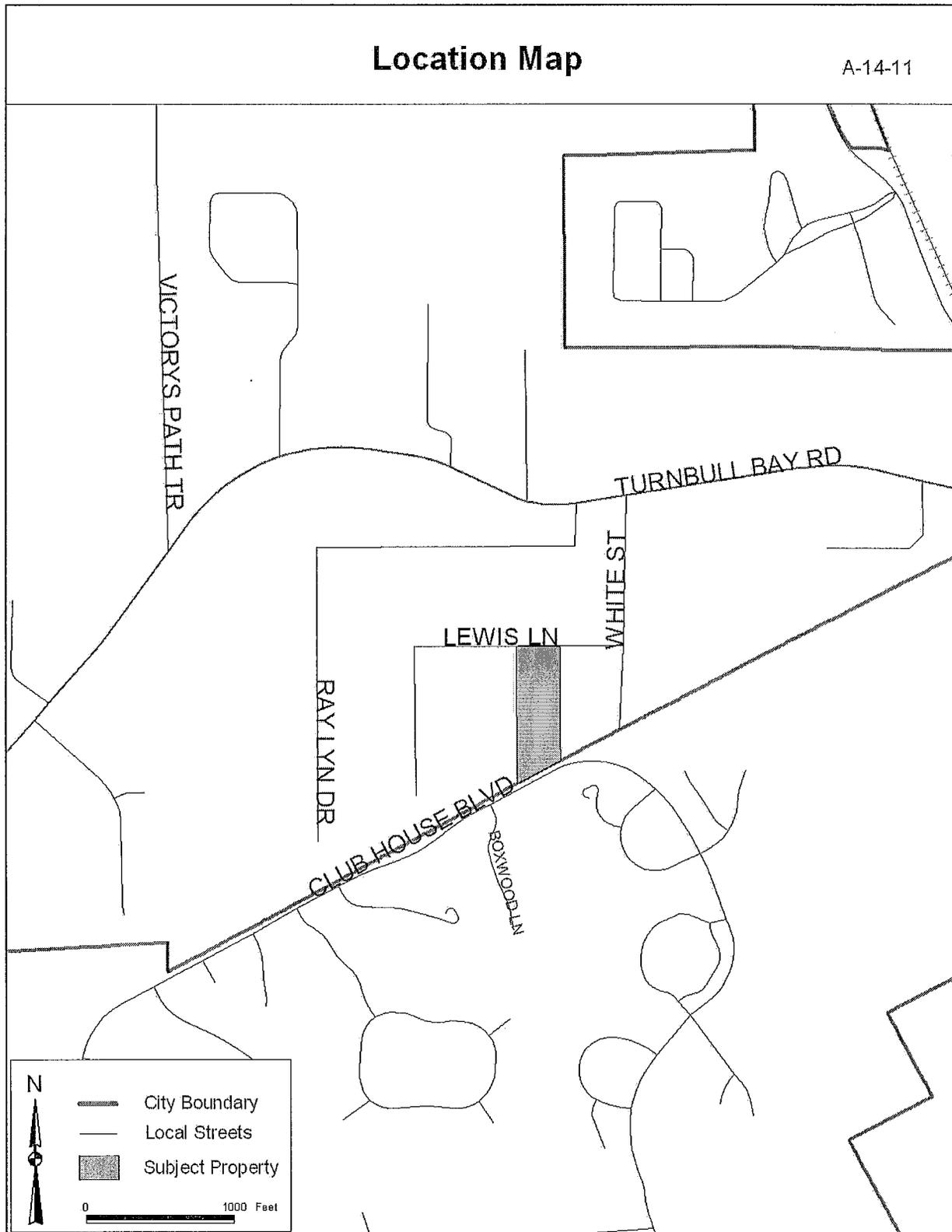


EXHIBIT C – EXISTING USES

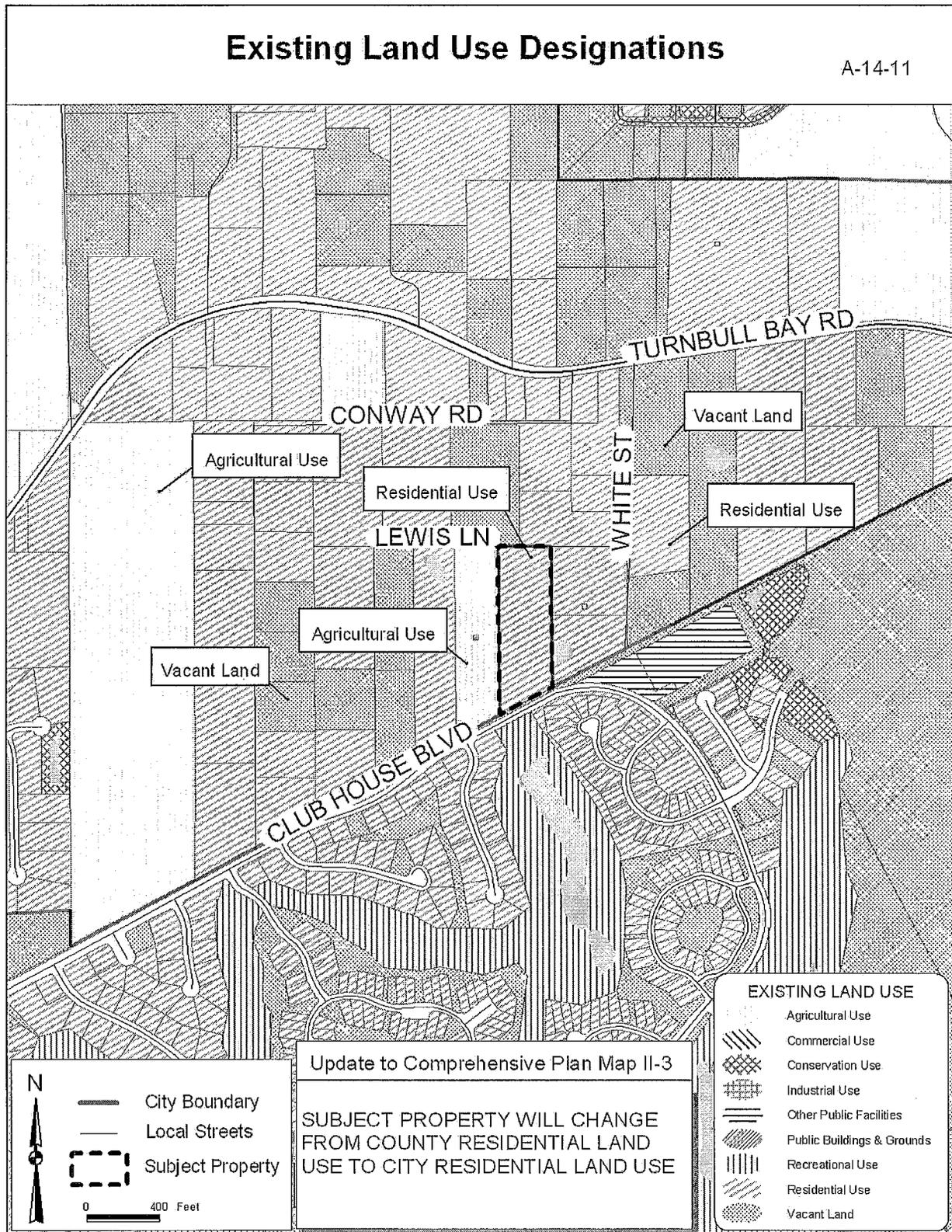


EXHIBIT D – EXISTIING ZONING

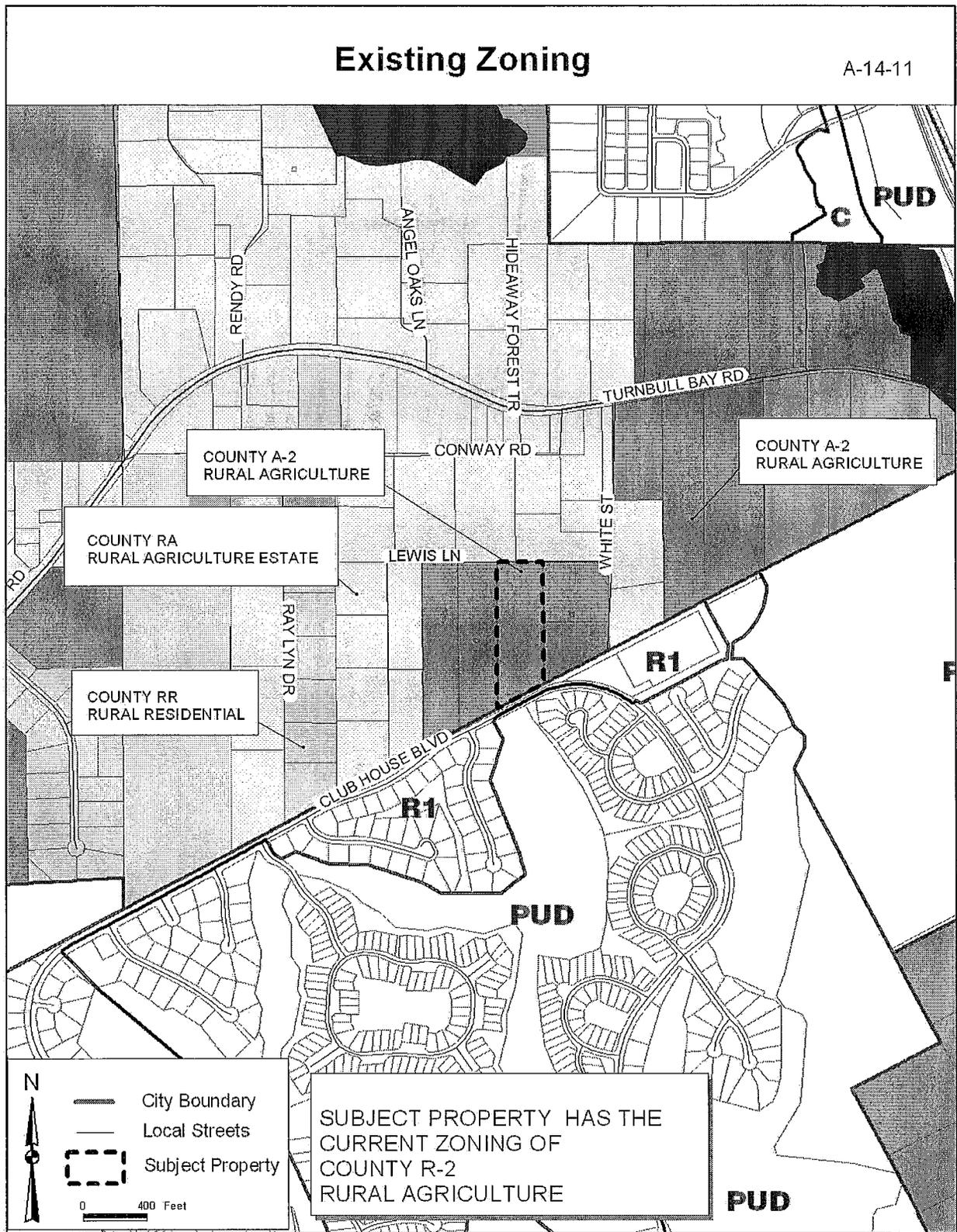


EXHIBIT E – EXISTIING FUTURE LAND USES

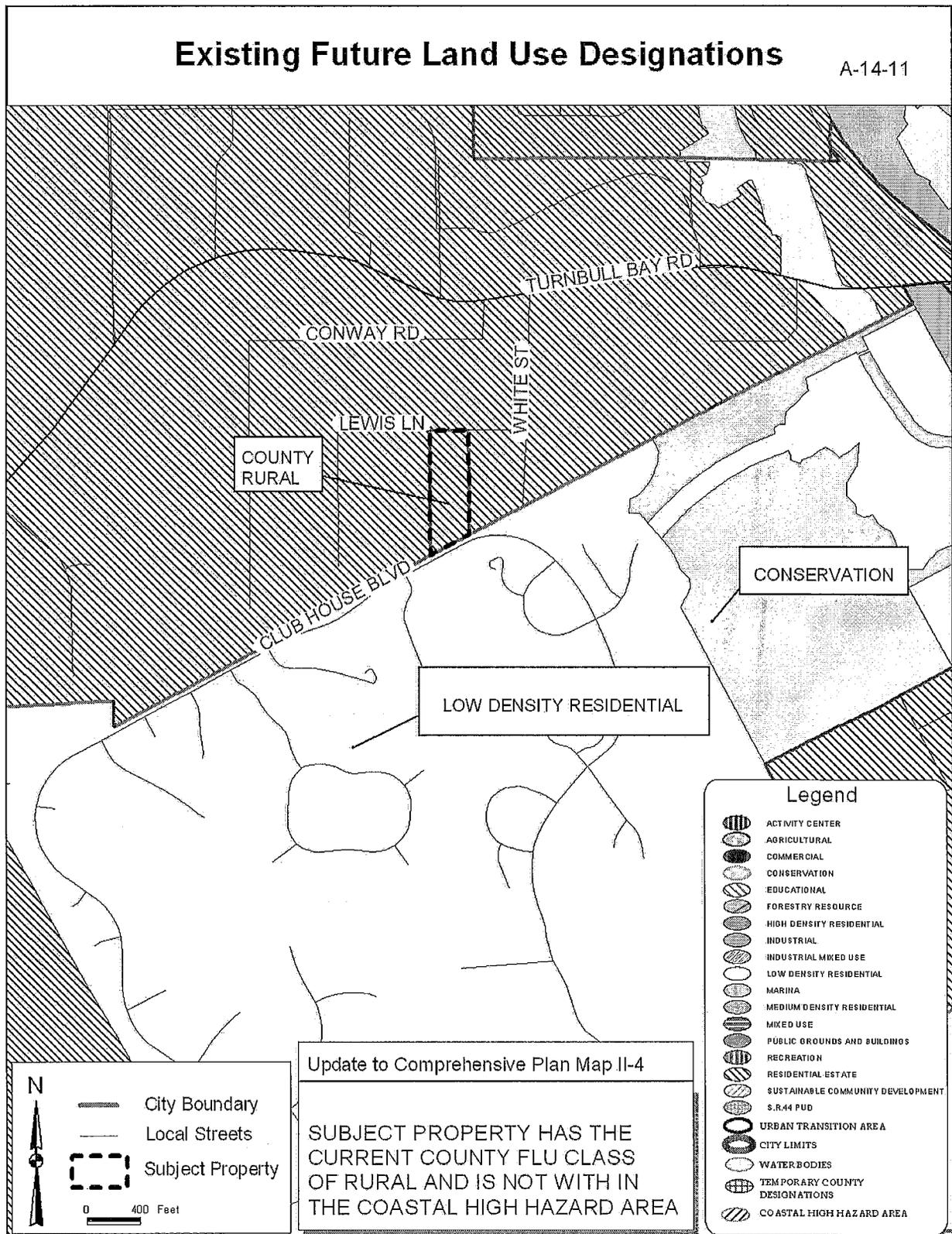


EXHIBIT F – DESCRIPTION OF EXISTING FUTURE LAND USE

166 RURAL (R)

167 Rural (R) - This designation consists of areas which are a mixture of agriculture
168 and low density residential development. Rural areas provide two functions, the
169 first being a transitional use between the agricultural and urban uses and the
170 second would be a rural community which serves as the economic focal point of
171 a small region. Rural areas should be developed in a manner consistent with the
172 retention of agriculture and the protection of environmentally sensitive areas.
173 Strict limitation of development in rural areas contributes to the efficient growth
174 and operation of public services and facilities, thus ensuring the most effective
175 use of public resources. The natural features and constraints will be the primary
176 determinants in deciding whether or not an area is suitable for rural type
177 development.

178 (1) Lands designated as rural shall be developed at a density of one (1)
179 dwelling unit per five (5) acres.

180 This density allowance may be increased under specific conditions as
181 follows:

182 (a) The subject parcel is within six-hundred-and-sixty feet (660') of
183 an existing subdivision with a density less than one (1) dwelling unit
184 per five (5) acres. In this case the Rural land may be developed at a
185 similar density not to exceed one (1) dwelling unit per one (1) acre
186 and with lot sizes similar and compatible with said qualifying
187 subdivision.

188 (b) The subject parcel is adjacent to an urban land use. In this case
189 the Rural land may develop at a similar density not to exceed one (1)
190 dwelling unit per one (1) acre, or intensity not to exceed a maximum
191 Floor Area Ratio of twenty-five percent (0.25 FAR).

192 (c) In addition to the above conditions, the appropriateness of
193 allowing densities less than one (1) dwelling unit per five (5) acres
194 will also be subject to the following:

195 i. Compatibility of the proposed development in the context of
196 existing uses, including the proximity of agricultural uses;

197 ii. Public facility capacity in the area, including the availability
198 of paved public roads;

199 iii. Suitability for wells and septic tank usage (i.e. existence of
200 hydric soils);

201 iv. The natural features of the subject parcel such as soils,
202 vegetation, wildlife habitat and flood plain; and,

203 v. If applicable, consistency with Local Plans associated with
204 this Element.

205

EXHIBIT F – DESCRIPTION OF EXISTING FUTURE LAND USE

206 (2) There are two subcategories of the rural designation that address past
207 development decisions. These subcategories are Rural Community and
208 Rural Recreation. They are identified on the Special Rural Areas Map
209 Series, presented in Appendix 1. These areas of intense or potentially
210 intense development provide the mixed use concept to the rural areas.
211 They help limit urban sprawl by providing services not necessarily found in
212 remote rural areas thus reducing the number of trips out of these rural
213 areas. Also allowing some limited urban type of development may help
214 promote economic growth in the rural areas as well.

215 In designated Rural Communities and Rural Recreation areas where densities
216 are greater than one (1) unit per acre, existing platted lots, undeveloped
217 subdivisions, or other pre-existing developments shall be permitted subject to
218 zoning requirements. However, any new development or subdivision of land shall
219 have to comply with current County regulations.

220 (a) Rural Community - A rural community is characterized by a
221 concentration of a permanent population, sometimes reaching over one-
222 thousand (1,000) persons. These communities serve as the focal point for
223 a specific neighborhood and generally contain existing lots less than one
224 (1) acre in size. There may be commercial uses at a level to serve the
225 immediate population. Commercial, retail and personal services may be
226 allowed within the lower end of the range of what is can commonly be
227 referred to as a neighborhood business (30,000 to 50,000 sq. ft. of gross
228 leasable area) and shall not exceed a thirty-five percent Floor Area Ratio
229 (0.35 FAR). The community commonly extends between one-half (½) to
230 one (1) mile from the focal point which is usually the intersection of two
231 rural roads.

232 A rural community may retain the zoning classifications that exist at the
233 time of adoption of the Comprehensive Plan. A change in zoning must be
234 consistent with the overlying land use designation, however, if existing
235 zoning is more intense than the land use designation, a change to a
236 similar intensity zoning classification may be permitted (e.g., small lot
237 single family residential to small lot mobile home). Existing agricultural
238 operations shall be allowed even if currently zoned for nonagricultural
239 uses.

240 The following areas are considered Rural Communities:

- 241 i Seville
- 242 ii Barberville
- 243 iii Volusia
- 244 iv Cassadaga
- 245 v DeLeon Springs
- 246 vi Emporia

247 (b) Rural Recreation - Limited areas of intense use located in remote rural
248 areas along the St. Johns River. These areas are used for launching
249 and/or storing boats with areas available for camping (RV sites are
250 included). These areas may also contain single and multi-family dwelling

EXHIBIT F – DESCRIPTION OF EXISTING FUTURE LAND USE

251 units, hotels, bait shops, restaurants, and gas stations. Many of them are
252 commonly referred to as fish camps.
253 This designation is intended to be treated in a similar manner as the Rural
254 Community in that the existing zoning (at the time of the effective date of
255 the Comprehensive Plan) may remain and be developed consistent with
256 current land development regulations. New requests for zoning changes
257 must be consistent with the Comprehensive Plan, as stated under Rural
258 Community.
259 The following areas are considered Rural Recreation areas:
260 i Pine Island
261 ii Shell Harbor Estates
262 iii Volusia Bar
263 iv South Moon
264 v Paramore
265 vi Highland Park
266 vii Daisy Lake
267 viii Crows Bluff
268 ix St. Johns River Acres
269 x Lemon Bluff
270 xi Baxter Point
271 xii Lakeview
272 xiii St. Johns Gardens

EXHIBIT G – DESCRIPTION OF EXISTING ZONING

A-2 RURAL AGRICULTURE CLASSIFICATION [85]

Purpose and intent: The purpose and intent of the A-2 Rural Agriculture Classification is to preserve and protect rural areas of the county that have some agricultural value, but which are also suitable for rural estate living.

In order to ensure the long term vitality of agricultural uses and natural resources, all agricultural uses are encouraged to utilize the natural resource conservation service (formerly the soil conservation service) best management techniques and other agricultural best management practices.

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

Except for those permitted special exceptions listed hereunder, all agricultural pursuits, including the processing, packaging, storage and sale of agriculture products which are raised on the premises.

Apiaries.

Aquaculture operations in which there are no associated excavations.

Aviaries.

Docks in accordance with section 72-278.

Communication towers not exceeding 70 feet in height above ground level.

Essential utility services.

Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with division 8 of the Land Development Code of Volusia County [article III] and/or final site plan review procedures of this article.

Exempt landfills (refer to subsection 72-293(16)).

Fire stations.

Hobby breeder.

Home occupations, class A (refer to section 72-283).

Houses of worship.

Parks and recreation areas accessory to residential developments.

Public schools.

Publicly owned parks and recreational areas.

Publicly owned or regulated water supply wells.

Silvicultural operations which follow the most up to date state-prescribed best management practices.

Single-family standard or manufactured modular dwelling.

Tailwater recovery systems.

Worm raising.

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

Air curtain incinerators (refer to subsection 72-293(17)).

EXHIBIT G – DESCRIPTION OF EXISTING ZONING

Animal hospitals.

Animal shelters.

Aquaculture operations in which there are nonexempt excavations (refer to subsection 72-293(15)).

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).

Equestrian/livestock event facility.

Farm worker living facility (refer to subsection 72-293(11)).

Fish, hunting or nonprofit organization camps.

Fixed-wing aircraft landing fields and helipads.

Garage apartments.

Gas and oil wells.

Group home (refer to subsection 72-293(12)).

Hog and poultry farms.

Home occupations, class B (refer to section 72-283).

Junkyards (refer to subsection 72-293(10)).

Kennels.

Livestock feed lots.

Mobile home dwelling as a temporary residence while building a standard or manufactured dwelling (maximum duration of 18 months).

Nonexempt excavations (refer to subsection 72-293(15)).

Off-street parking areas (refer to subsection 72-293(14)).

Processing, packaging, storage, retail or wholesale sales of agricultural products not raised on the premises.

Public uses not listed as a permitted principal use.

Public utility uses and structures (refer to subsection 72-293(1)).

Railroad yards, sidings and terminals.

Recreational areas (refer to subsection 72-293(3)).

Riding stables.

Sawmills and planing mills.

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

Speedways, racetracks and motorized vehicle, motorcross courses.

Temporary campsites for three days before, during and three days after any regularly scheduled racing event at the Daytona Beach International Speedway for Speedweeks, Biketoberfest, the Pepsi 400, and Bike Week, on condition that security, portable toilets, garbage disposal and potable water facilities sufficient to accommodate all occupants and other relevant conditions are provided. Related special events and sales are allowed, if approved as part of the special exception.

Veterinary clinics.

Wholesale or retail fertilizer sales.

EXHIBIT G – DESCRIPTION OF EXISTING ZONING

Dimensional requirements:

Minimum lot size:

Area: Five acres.

Width: 150 feet.

Minimum yard size:

Front yard: 50 feet.

Rear yard: 50 feet.

Side yard: 25 feet.

Waterfront yard: 50 feet.

Maximum building height: 45 feet.

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

Minimum floor area: 750 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.

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

EXHIBIT H- PROPOSED ZONING

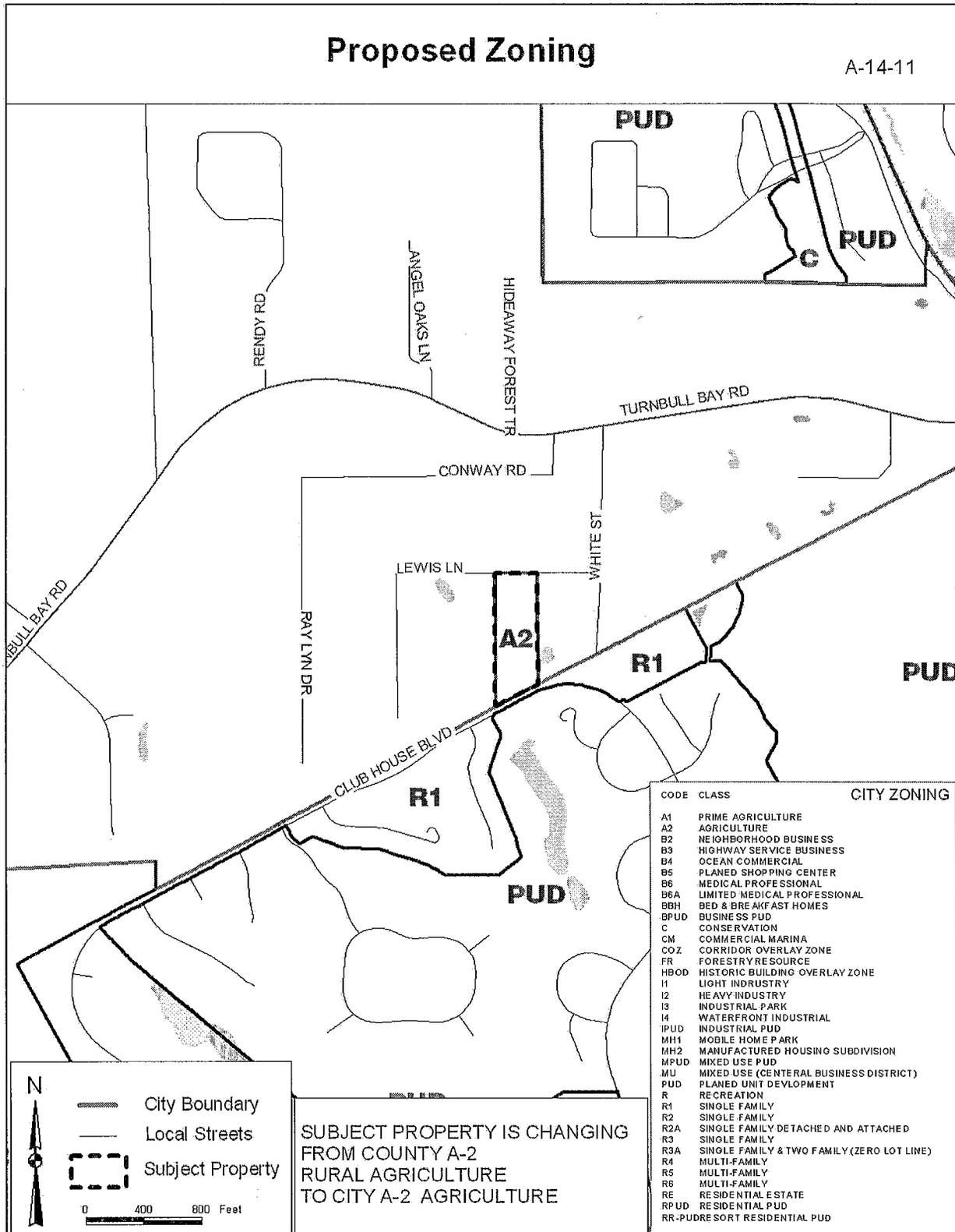
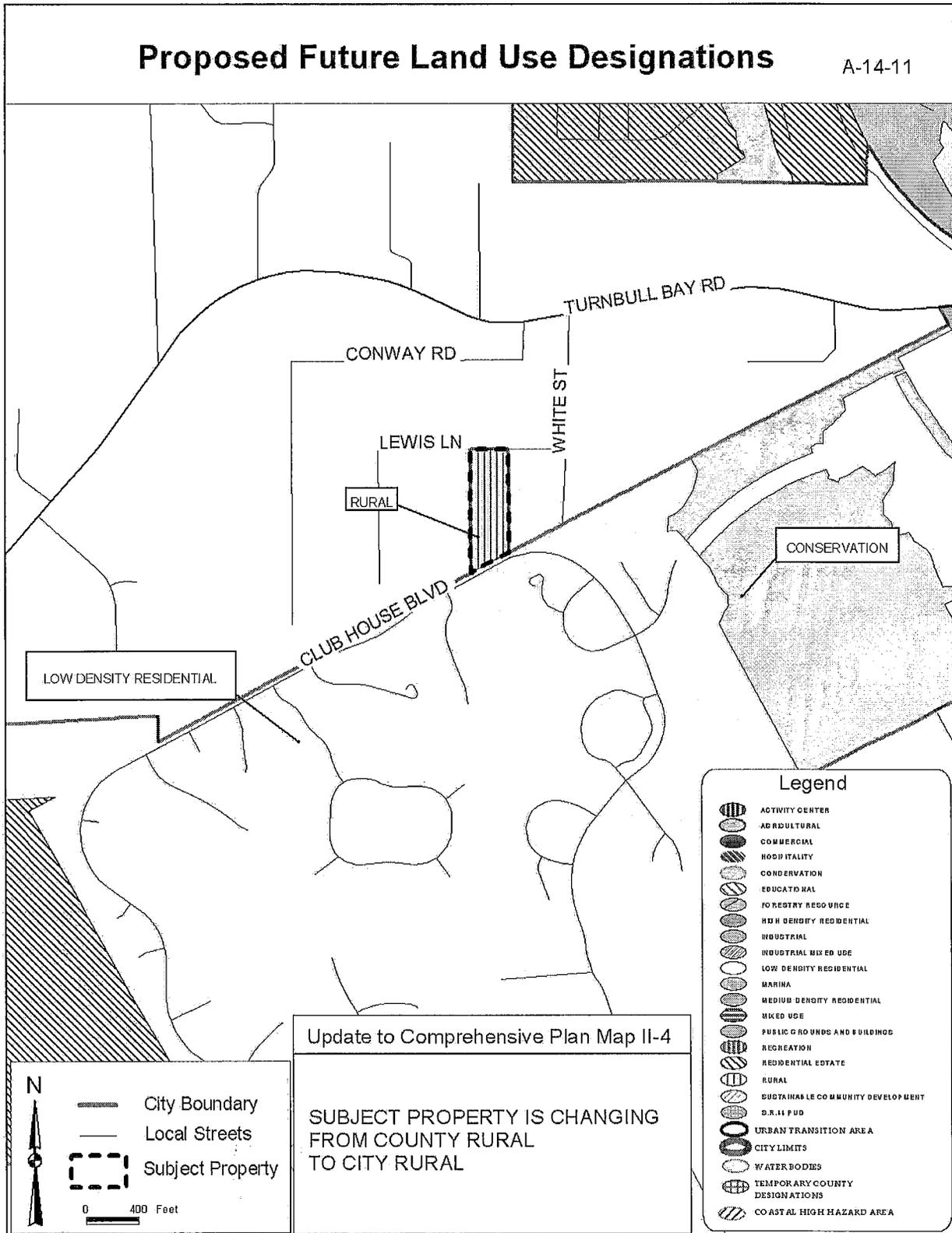


EXHIBIT I – PROPOSED FUTURE LAND USE DESIGNATION



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EXHIBIT J – DESCRIPTION OF PROPOSED ZONING

- 279 A-2, AGRICULTURE DISTRICT
280
281 Intent. The purpose and intent of the A-2, Agriculture District, is to preserve and
282 protect rural areas of the city that have some agricultural value, but which
283 are also suitable for rural single-family living.
284
285 Permitted principal uses and structures. In the A-2, Agriculture District, no
286 premises shall be used except for the following uses and their customary
287 accessory uses or structures:
288
289 Apiaries
290 Essential utility service
291 Fire stations
292 Fish, hunting, or nonprofit organization camps
293 Hobby breeder
294 Home occupation
295 Open agricultural uses such as field crops, tree crops, fern crops, grazing land,
296 grass land, and pastures
297 Parks and recreation areas
298 Pisciculture
299 Public uses not listed as a permitted principal use
300 Public utility uses and structures
301 Single family standard or manufactured dwelling
302 Riding stables (minimum parcel size requirement of five acres)
303 Wormraising
304 Permitted accessory uses.
305 Fruit and vegetable stands
306 Garages
307 Gazebos
308 Incidental uses
309 Nonresidential agricultural buildings and recreation facilities related to the
310 permitted use
311 Storage sheds
312 Permitted special exceptions.
313 Animal hospitals, veterinary clinics
314 Excavations (See [sub]section 801.15 of this part)
315 Farm supply stores
316 Farmworker living facility associated with a bona fide agricultural use provided:
317 (a) The minimum floor area per dwelling shall be 720 square feet.
318 (b) No detached dwelling used in the farmworker living facility shall be
319 closer than 50 feet to any other detached dwelling.
320 (c) No dwelling used as a farmworker living facility shall be closer than
321 100 feet to any property line of the premises on which it is placed.
322 (d) If not already in existence, a visual screen of natural plant materials
323 meeting the requirements of [sub]section 604.05E.(1) located
324 between the dwellings and all adjoining property lines, shall be
325 constructed and maintained.

EXHIBIT J – DESCRIPTION OF PROPOSED ZONING

- 326 (e) Potable water and sewage disposal facilities shall be in compliance
- 327 with all applicable provisions of Florida law and the city's
- 328 comprehensive plan.
- 329 (f) The area between the ground and the floor of a mobile home dwelling
- 330 used as a farmworker living facility shall be enclosed with skirting.
- 331 (g) No subsequent expansion of a farmworker living facility as shown on
- 332 the approved site plan for the special exception shall be allowed
- 333 unless another special exception for the expansion is approved.
- 334 However, subsequent decrease of the approved sites is permitted.
- 335 (h) The applicant shall provide information to the enforcement official as
- 336 to the kind of agricultural operation existing on the premises at the
- 337 time of application for the farmworker living facility.
- 338 (i) Dwellings may be arranged in a cluster fashion on the premises. The
- 339 maximum number of dwellings authorized will be based on the size of
- 340 the premises, as follows:

Size of Premises	Maximum
Dwelling	
Units	
Allowed	
5 or more acres but less than 20 acres	1
20 or more acres but less than 30 acres	2
30 or more acres but less than 40 acres	3
40 or more acres but less than 50 acres	4
50 or more acres but less than 60 acres	5
60 or more acres but less than 70 acres	6
70 or more acres but less than 80 acres	7
80 or more acres	8

- 354
- 355 Houses of worship and cemeteries provided no principal or accessory building
- 356 shall be located less than 50 feet from any property line.
- 357 Humane Society/animal shelters provided that no building is located closer than
- 358 50 feet from the property line.
- 359 Kennels
- 360 Sawmills and planing mills
- 361
- 362 Dimensional requirements.
- 363
- 364 Minimum lot size.
- 365 Area: 5 acres
- 366 Width: 150 feet
- 367
- 368

EXHIBIT J – DESCRIPTION OF PROPOSED ZONING

- 369 Minimum yard size.
370 Front: 50 feet
371 Rear yard: 50 feet
372 Side yard: 25 feet
373 Waterfront yard: 50 feet
374 Maximum building height. 95 feet
375
376 Screen enclosures. As an exception to the maximum building coverage provision
377 any parcel may be allowed an additional ten percent building coverage for
378 only a screen pool enclosure if the following conditions are met:
379
380 1. A screen pool enclosure shall only cover the swimming pool and surrounding
381 pool deck and shall have a roof and walls consisting entirely of screening; and
382
383 2. There shall be no variances granted to exceed the maximum building
384 coverage or additional coverage allowed for screen enclosures.
385
386 Maximum lot coverage. The total lot area covered with principal and accessory
387 buildings shall not exceed 35 percent.
388
389 Minimum floor area. 750 square feet of livable area
390
391 Off-street parking and loading requirements. Off-street parking shall be provided
392 as required in this part.
393
394 Skirting requirements for mobile home dwelling. The area between the ground
395 and floor of the mobile home dwelling shall be enclosed with skirting.
396

EXHIBIT K – DESCRIPTION OF PROPOSED FUTURE LAND USE

397 Rural

398
399 This category includes areas that may consist of agriculture land, undeveloped rural
400 land and large parcels of developed residential land. Areas designated with a Rural FLU
401 category should be developed in a manner consistent with the retention of agriculture
402 and rural lands, low density residential and the protection of environmentally sensitive
403 areas. Strict limitation of development in rural areas contributes to the efficient growth
404 and operation of public services and facilities, thus ensuring the most effective use of
405 public resources. The natural features and constraints will be the primary determinants
406 in deciding whether or not an area is suitable for rural type development.
407

EXHIBIT L - WATER AND SEWER SERVICE AREA

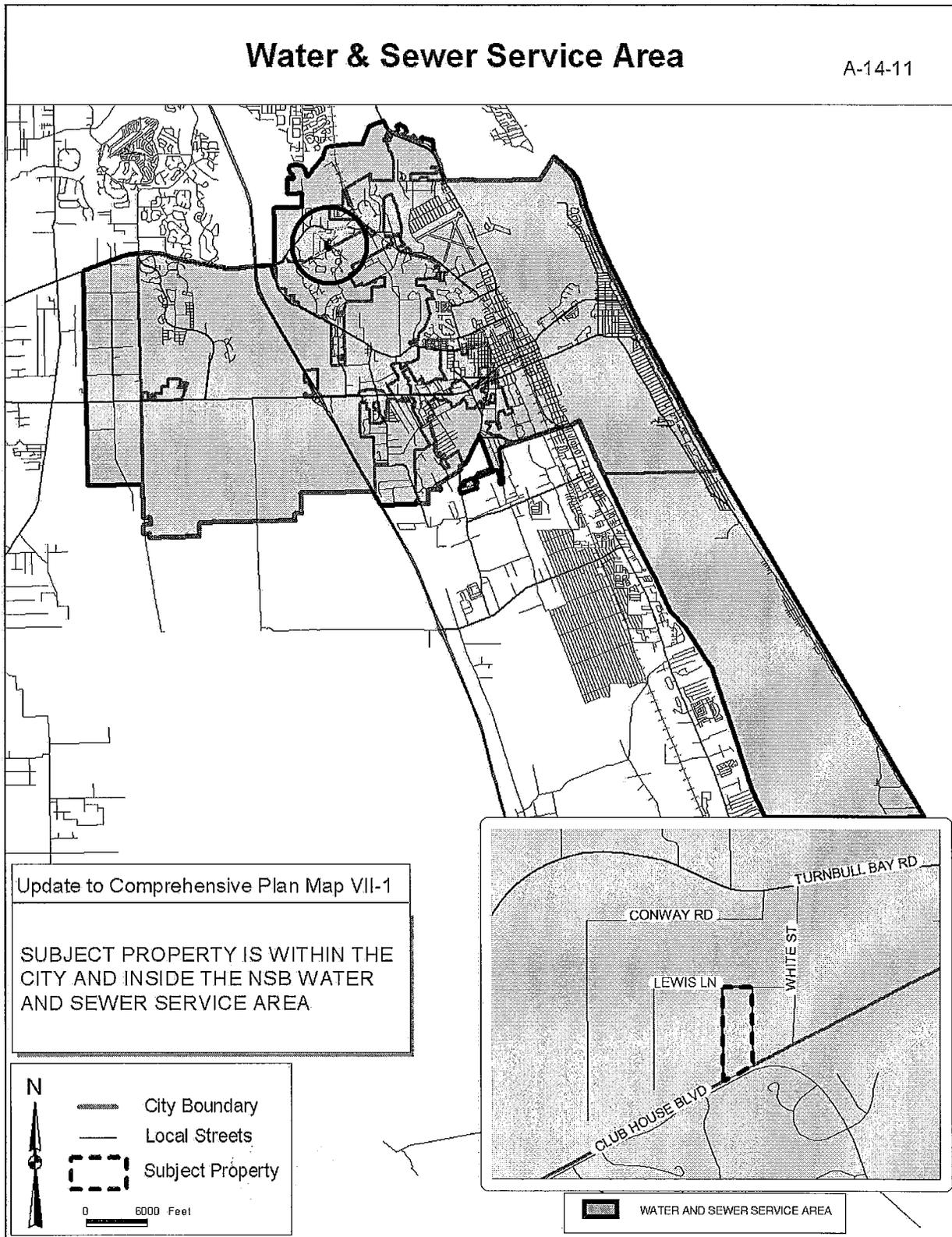


EXHIBIT M- NEIGHBORHOODS

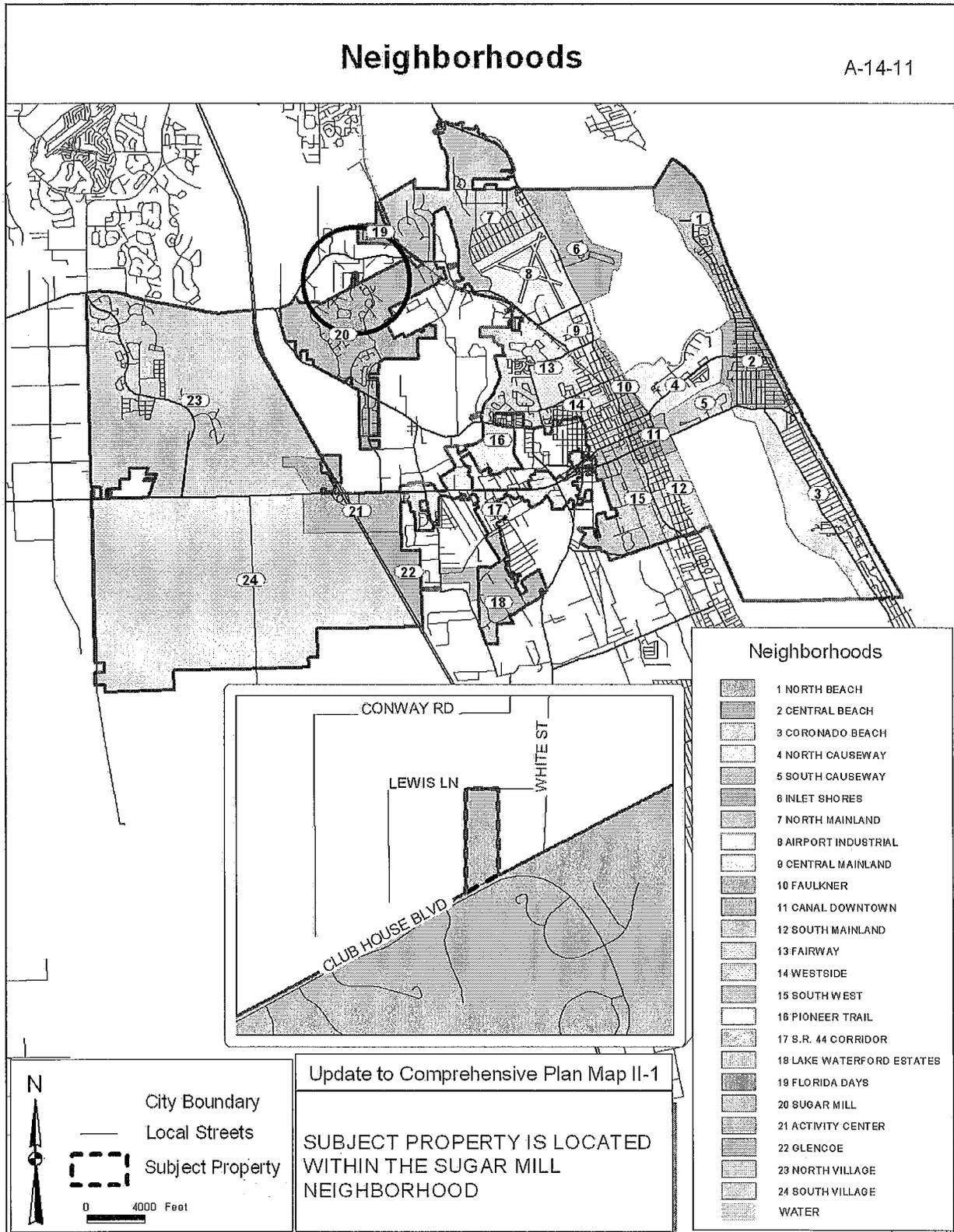
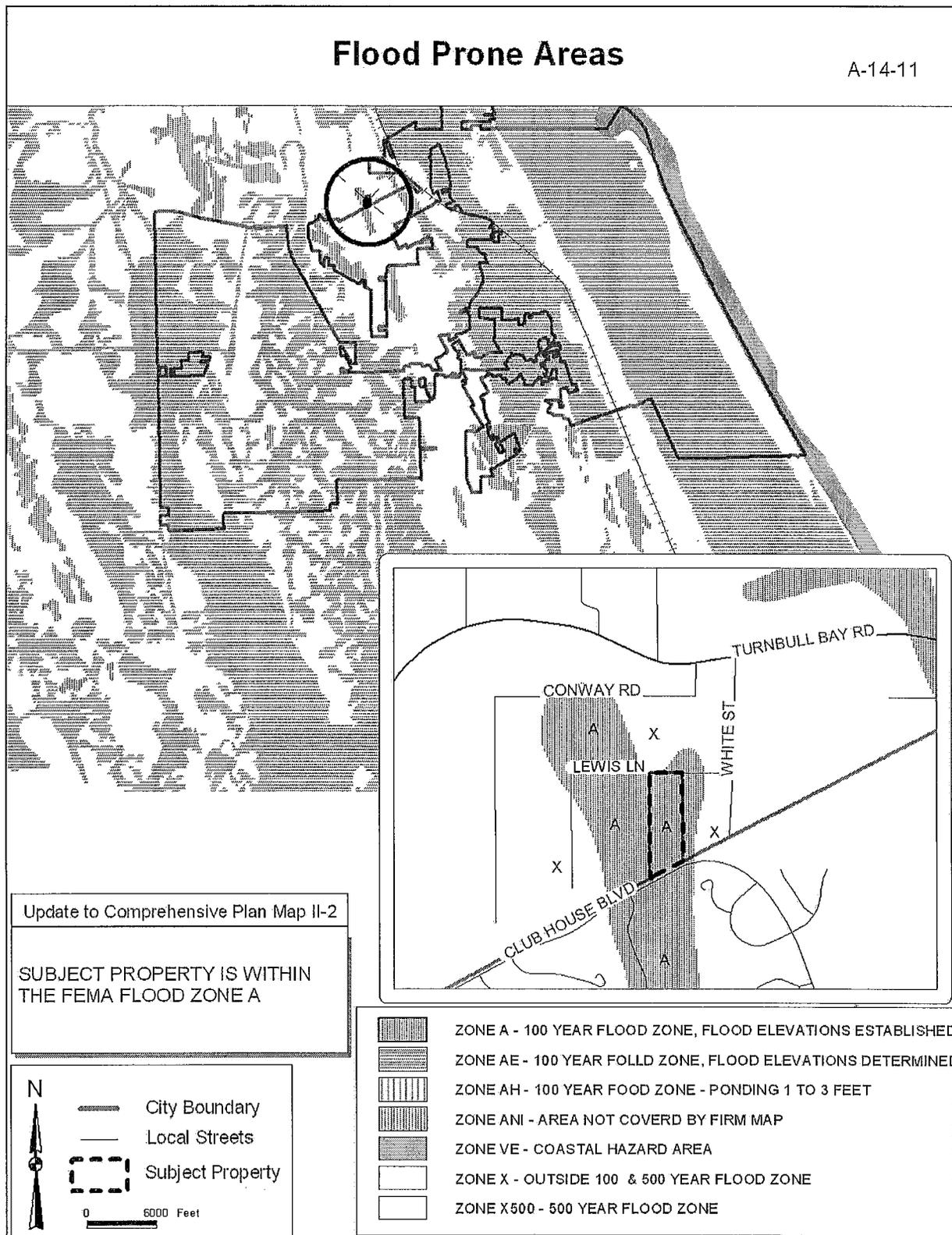


EXHIBIT N – FLOOD PRONE AREAS



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EXHIBIT O – 2009 EXISTING LEVEL OF SERVICE

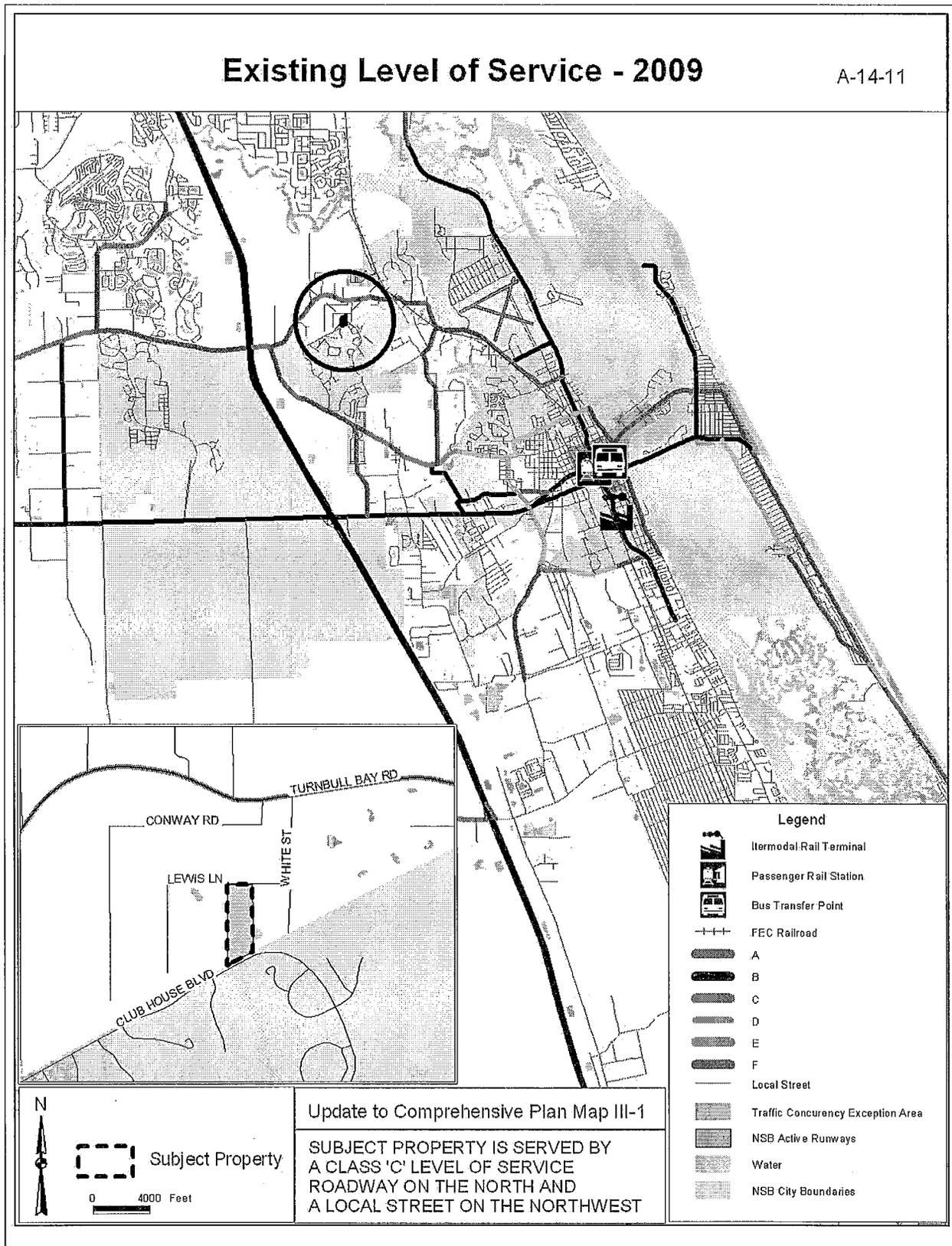


EXHIBIT P – 2009 EXISTING TRAFFIC LANES

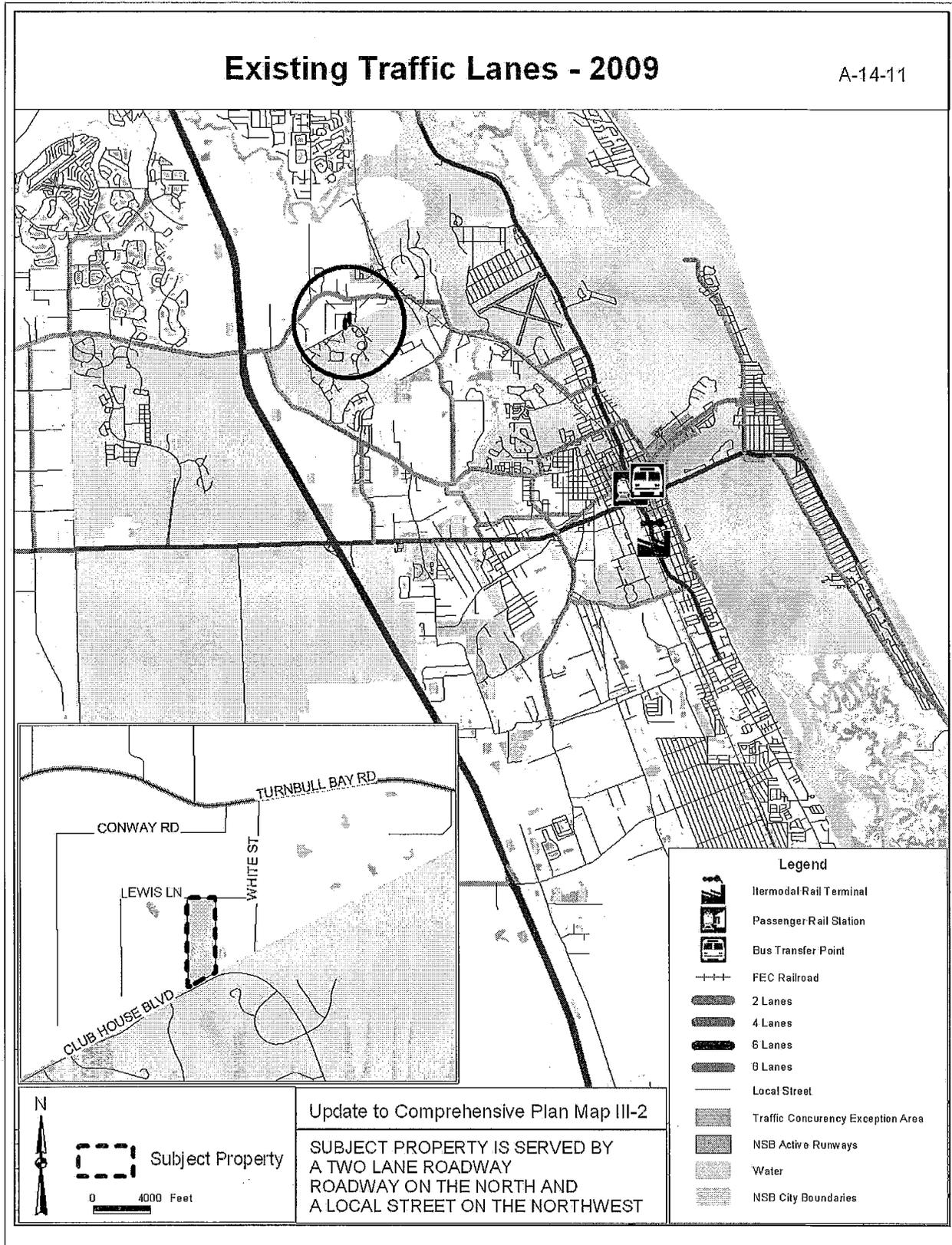
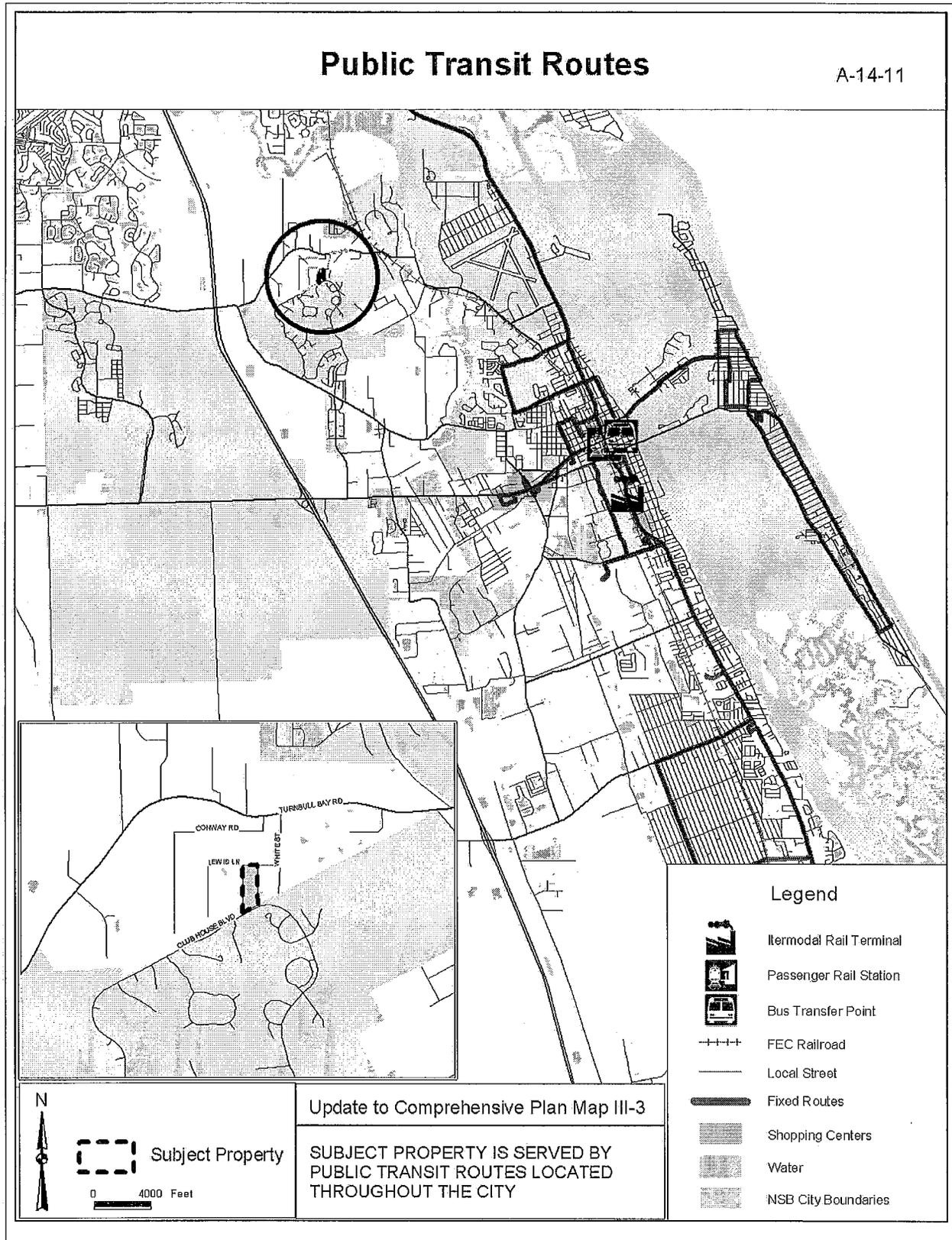


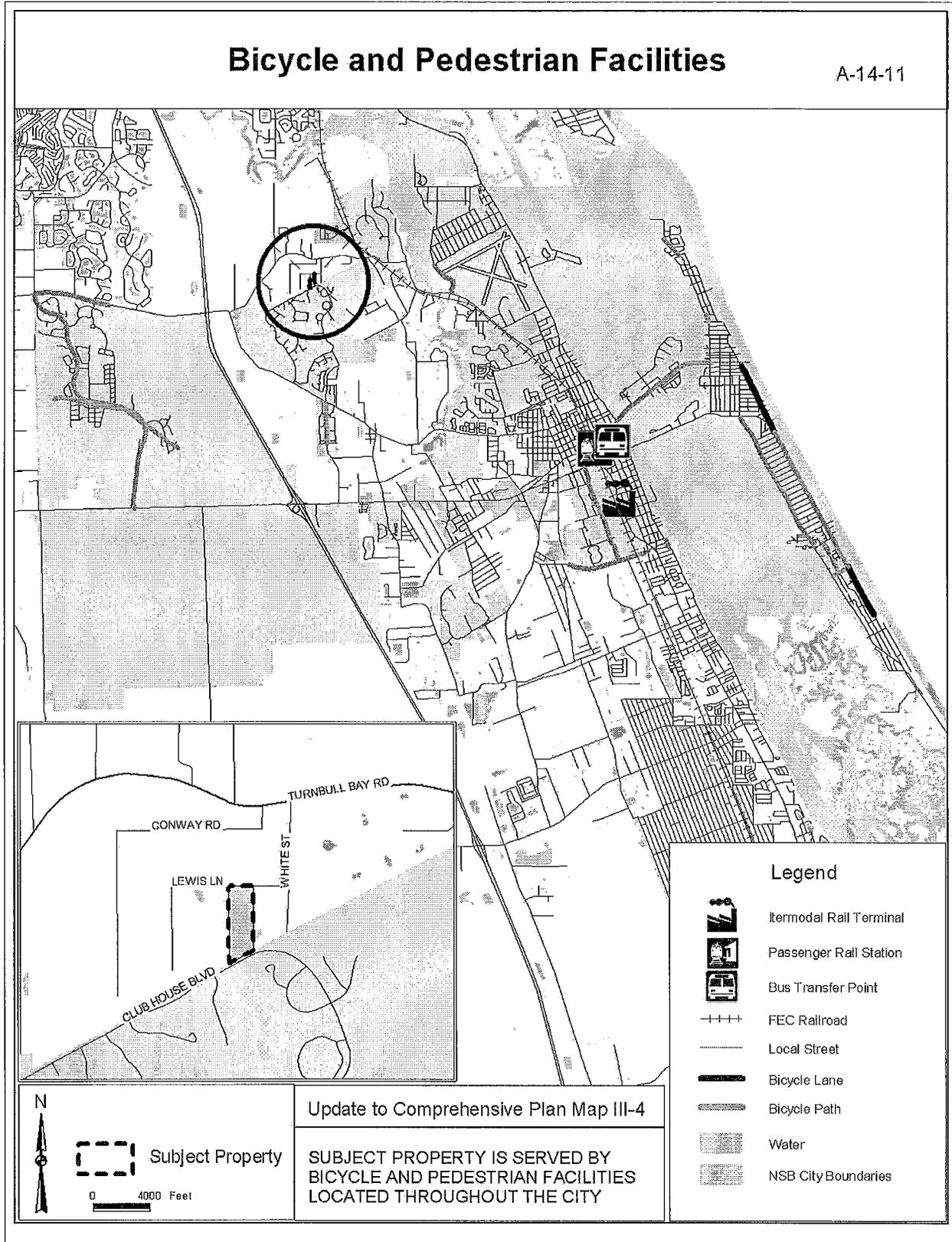
EXHIBIT Q – PUBLIC TRANSIT ROUTESS



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EXHIBIT R - BICYCLE AND PEDESTRIAN FACILITIES

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EXHIBIT S - AIRPORT RUNWAY PROTECTION ZONES

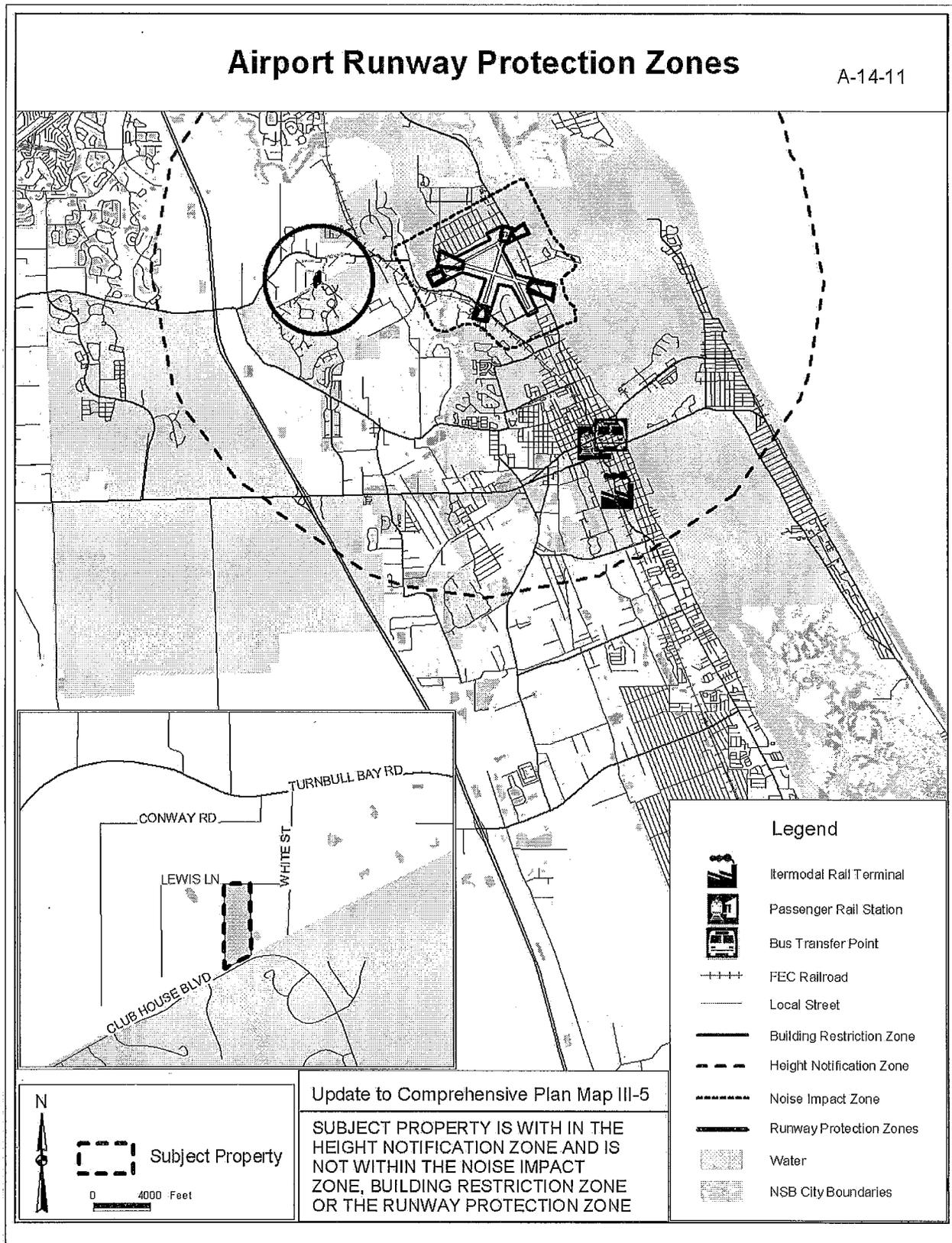
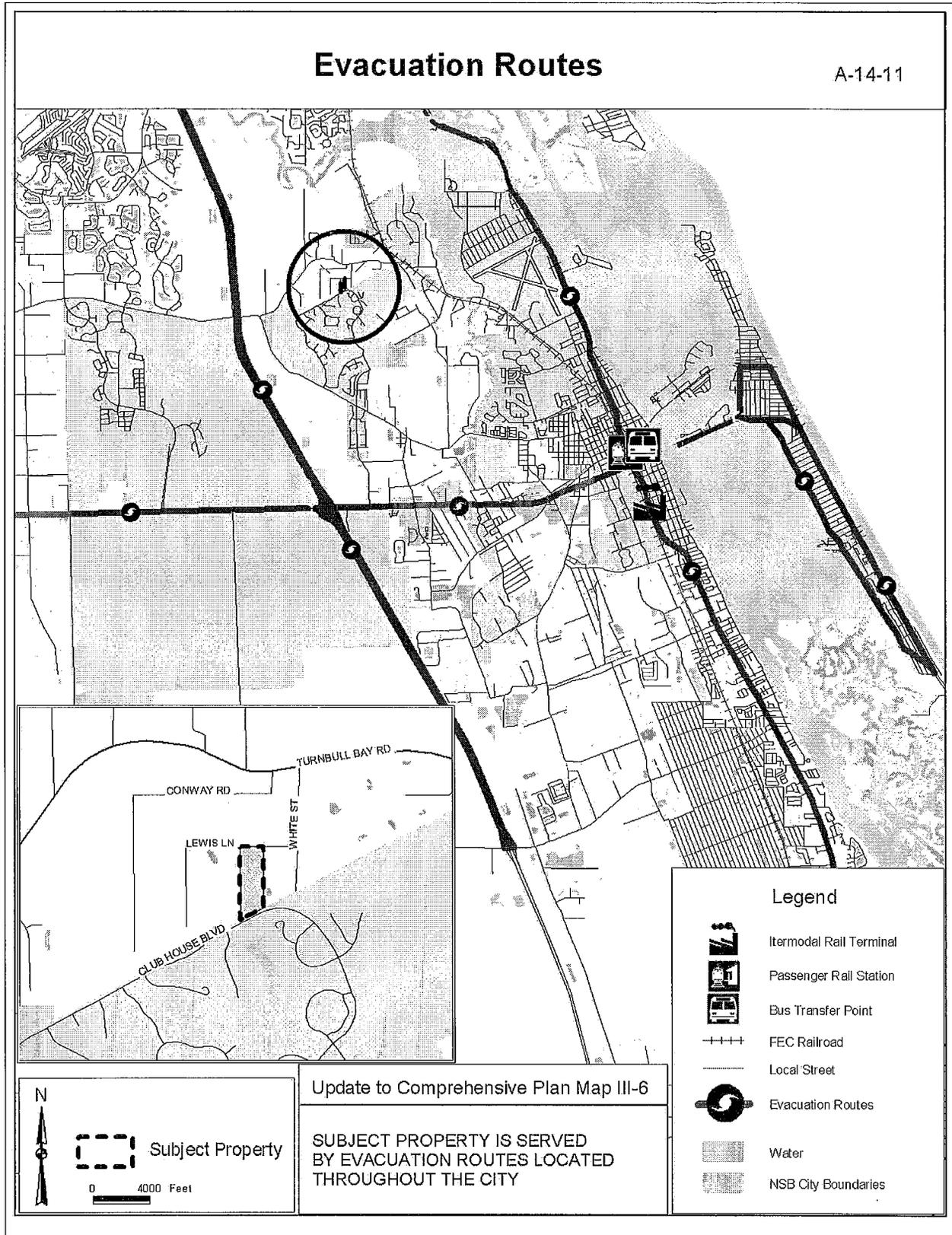


EXHIBIT T – EVACUATION ROUTES

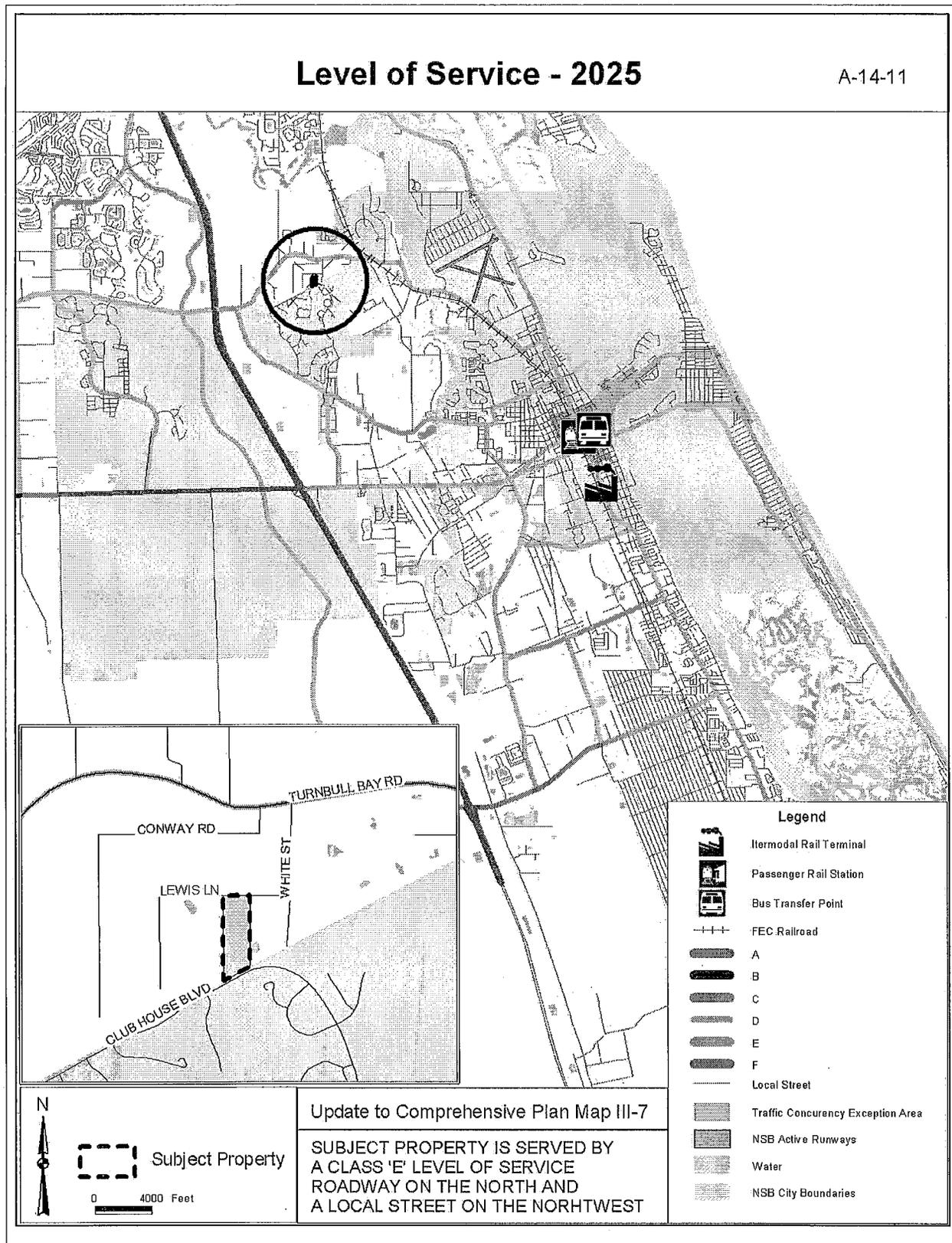
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EXHIBIT U – 2025 LEVEL OF SERVICE

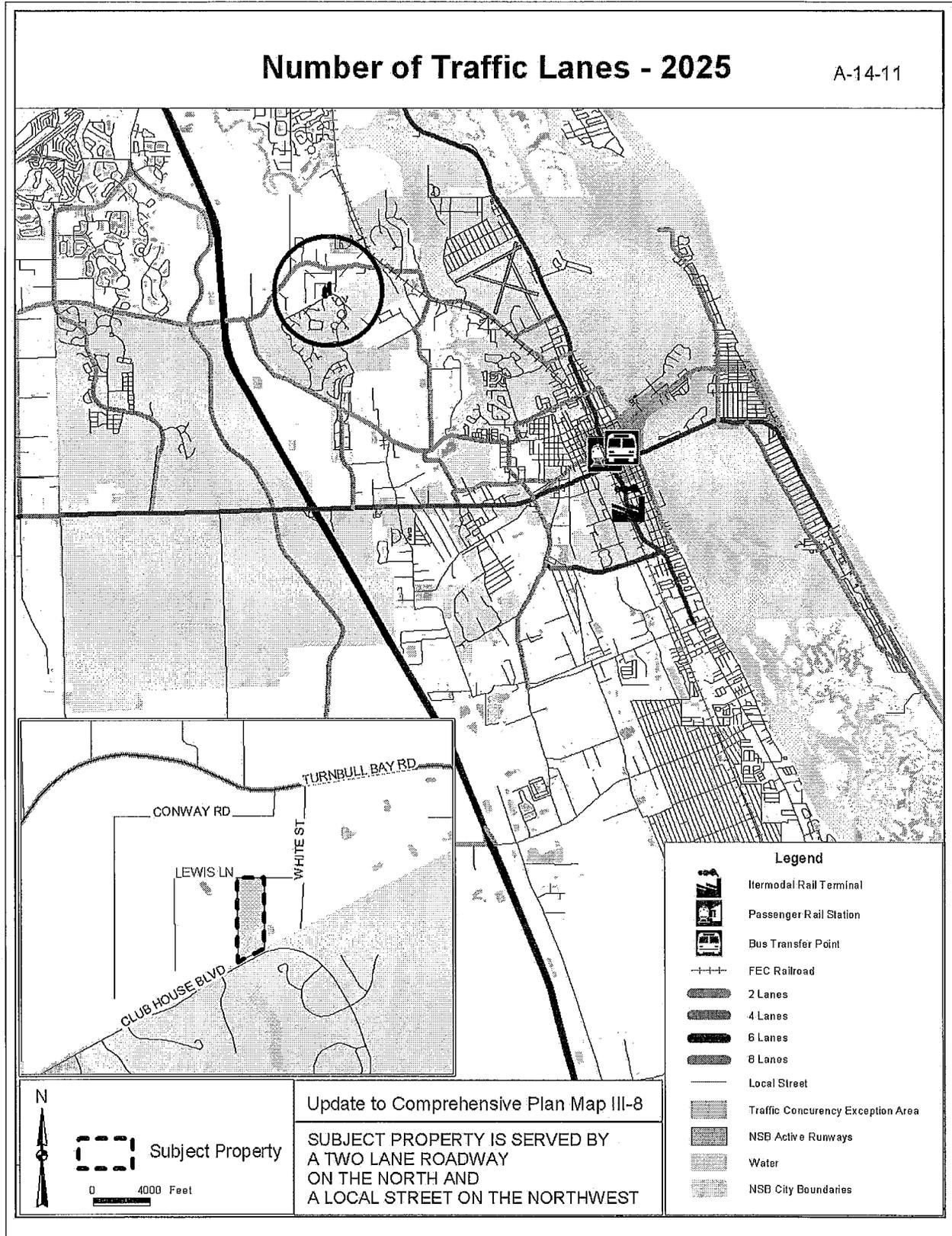
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EXHIBIT V – 2025 NUMBER OF LANES

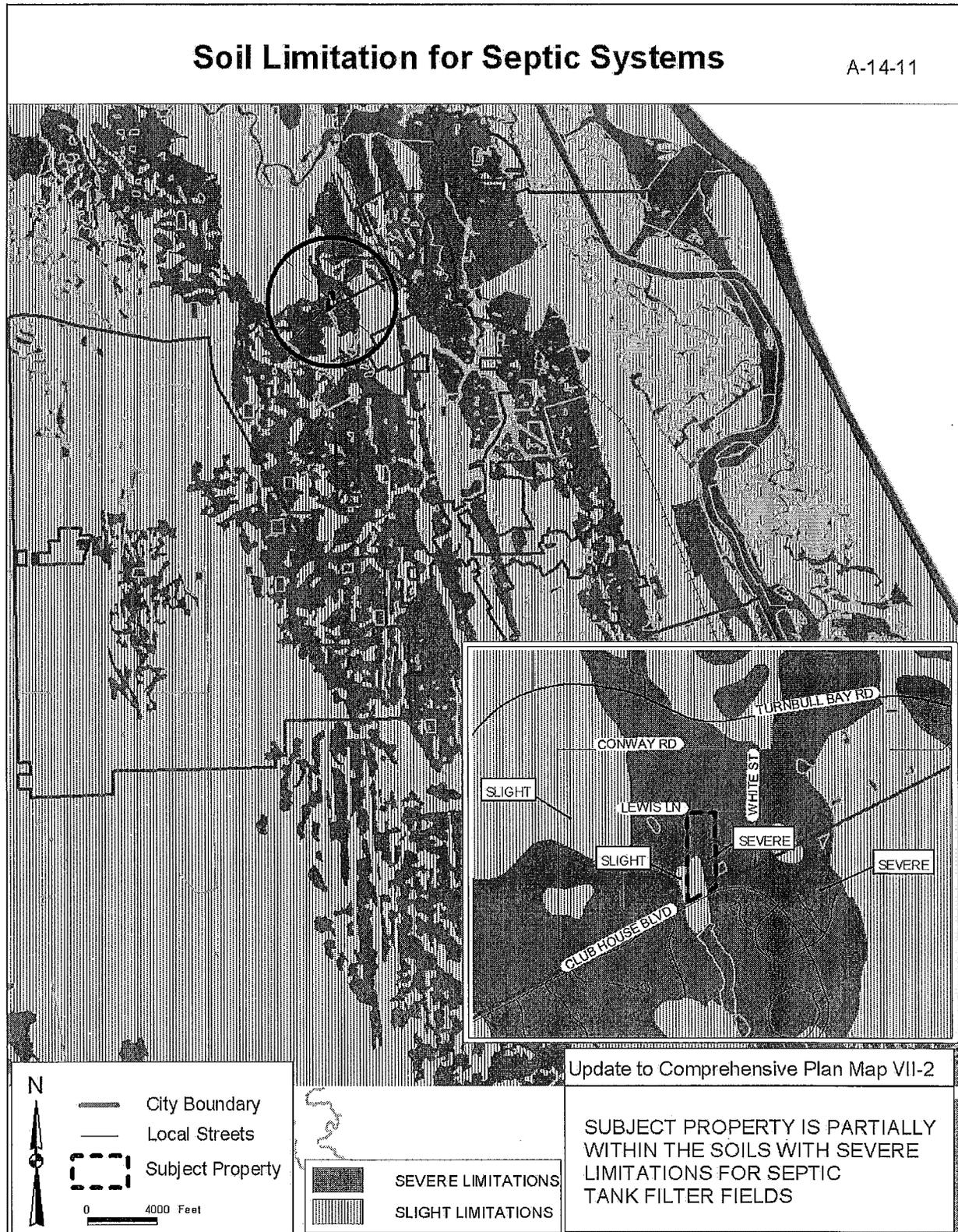
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426
427

EXHIBIT – W SOIL LIMITATIONS FOR SEPTIC SYSTEMS

428



429

EXHIBIT X – COASTAL HIGH HAZARD AREAS

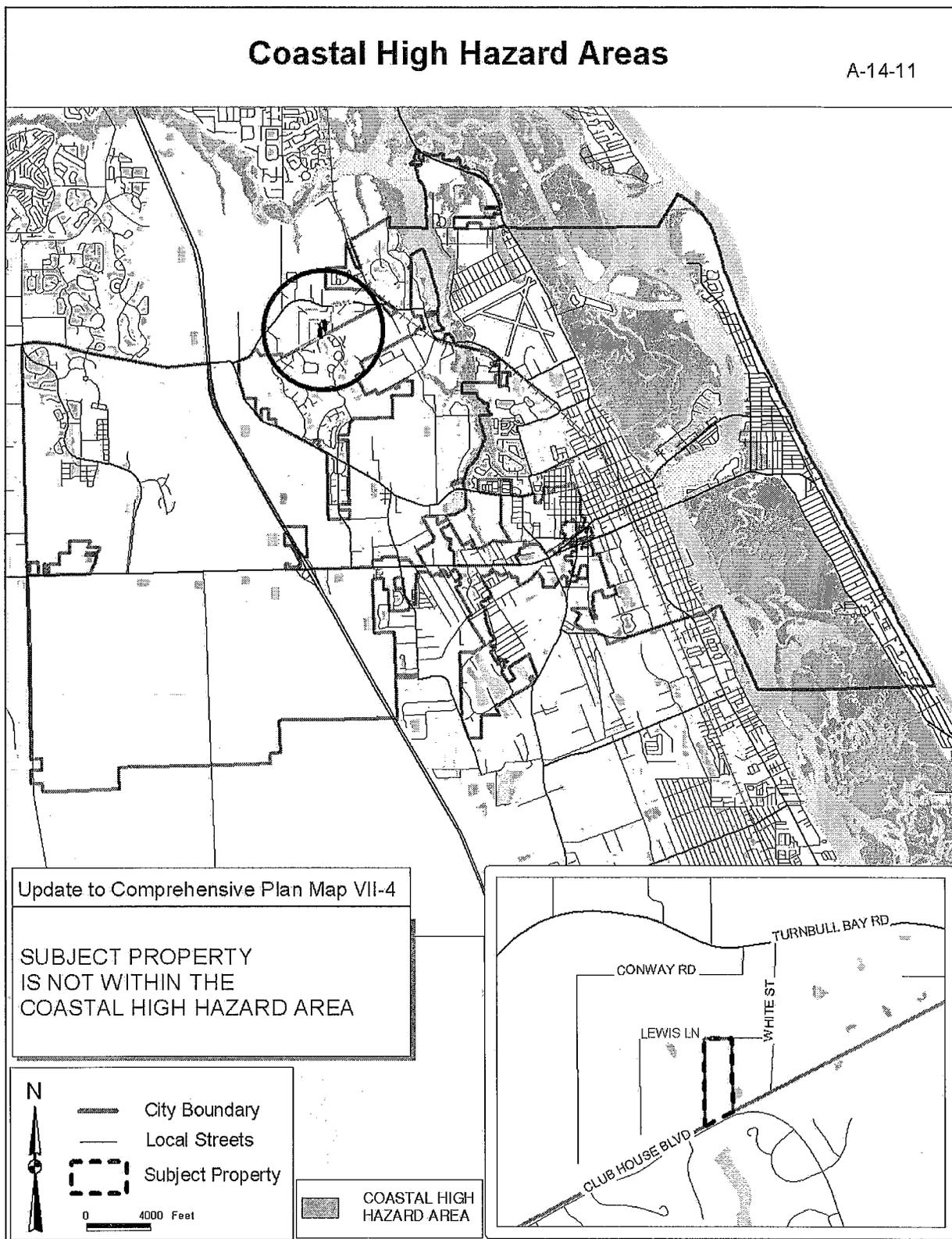


EXHIBIT Y – CITY PARKS

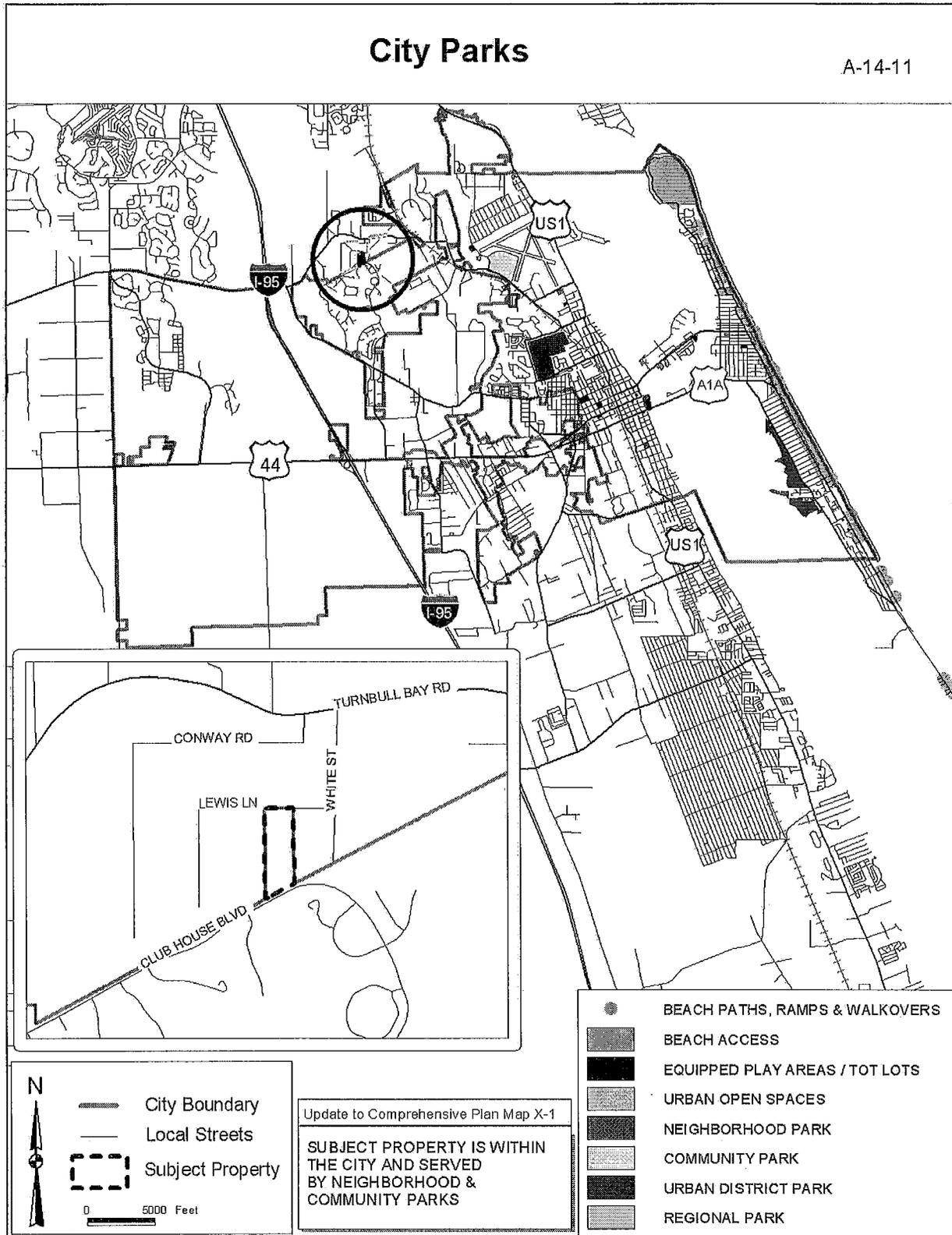


EXHIBIT Z – BOAT SLIP SITING

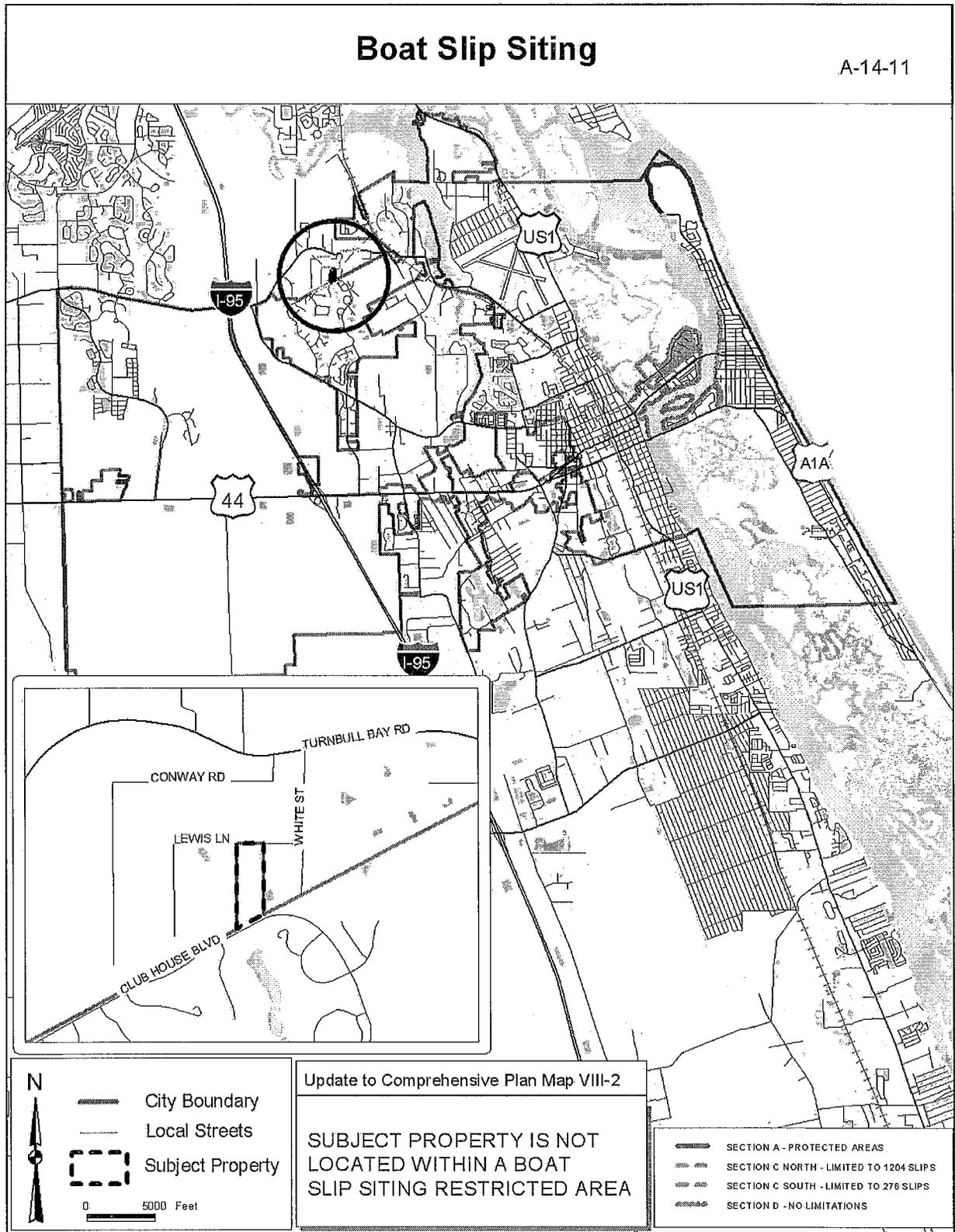


EXHIBIT AA – AERIAL OF SUBJECT PROPERTY



434
435

1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
2 **CASE PD-1-11 SCHWOERER / OTTER BOULEVARD**
3 **NOVEMBER 7, 2011**
4

5 **Summary**
6

- 7 1. **Applicant and Property Owner:** Gwendolyn Schwoerer, 386 Otter Boulevard,
8 New Smyrna Beach
9
- 10 2. **Request:** Approval of a 30-foot wide access easement across the north ½ of Lot
11 5, Napier and Hull Grant, in order to provide access to a proposed 2.5-acre
12 parcel.
13
- 14 3. **Subject Area:** The subject property is zoned R-1, Single-Family Residential.,
15 contains approximately 5.0 acres and is generally located on the west side of
16 Otter Boulevard, south of Pioneer Trail. **(see location map attached as Exhibit**
17 **A).**
18
- 19 4. **Parcel I.D. Number:** 7343-06-00-0053
20

21 **Findings**

- 22 1. The subject property was annexed into the City on September 13, 2011. The
23 owner is proposing to divide the approximately five-acre property into two 1.25 -
24 acre lots and one 2.5-acre lot. However, in order to provide access to the back
25 lot, a right-of-way, constructed according to City standards must either be built or
26 the applicant must receive approval to construct a private drive. The applicant
27 has therefore submitted an application to receive approval for a 30-foot wide
28 access easement, in order to allow access to the proposed lot on the west end of
29 the property **(Exhibit B)**.
30
- 31 2. The subject property is zoned R-1, Single-Family Residential. Each of the
32 proposed lots will exceed the minimum required 12,000-square foot lot size. No
33 development is proposed on the lots at this time.
34
- 35 3. Section 605.03(F) of the City's Land Development Regulations (LDR) states that
36 "no lot shall be developed" unless one of the following criteria is met:
37
- 38 (A) The lot has direct access and is adjacent to a right-of-way containing a
39 paved city street conforming to city engineering standards unless the
40 proposed development is single-family or duplex residential on an
41 unpaved street which was officially opened by the city prior to the effective
42 date of this LDR;
43
- 44 (B) The lot has direct access and is adjacent to a right-of-way containing a
45 paved roadway meeting County and State specifications and maintained
46 by the County or State or a prescriptive rights paved roadway maintained
47 by the County or State.
48

1 (C) The lot has direct access and is adjacent to an access drive having a
2 minimum width of 20 feet and approved by the Planning and Zoning Board
3 of New Smyrna Beach, but has not been accepted for maintenance by the
4 City and is not available for public uses.
5

6 4. As shown on the survey attached as **Exhibit B**, Otter Boulevard is located to the
7 east of the subject property. A platted but unopened 25-foot wide right-of-way
8 (1st Street) is to the north of the subject property. The property owner intends to
9 exercise Option C, as described above, in order to open up the west portion of
10 parcel to development. While the LDR provides for private drive approval, staff
11 has a concern about how setbacks will be established for future development
12 that may occur on the 2.5-acre parcel.
13

14 5. Setbacks are typically measured from the lot lines, with setback areas being
15 labeled as either a "front", "side" or "rear" yard setback. Article II of the LDR
16 defines a front yard as a "space extending the full width of the lot between any
17 building and the front lot line, and measured perpendicular to the building at the
18 closest point to the front lot line. Article II defines a front lot line as the "lot line
19 separating a lot from a street way". Because there would not be a public or
20 private right-of-way adjacent to the 2.5-acre lot, any house constructed on the lot
21 would not be required to have a front yard setback. Therefore, if the Planning
22 and Zoning Board determines that the private drive request should be approved,
23 staff recommends that the Board establish the following setbacks for the 2.5-
24 acre parcel as a condition of approval (**Exhibit C**):
25

26 Front setback (east property line): 35 feet

27 Rear setback (west property line): 10 feet

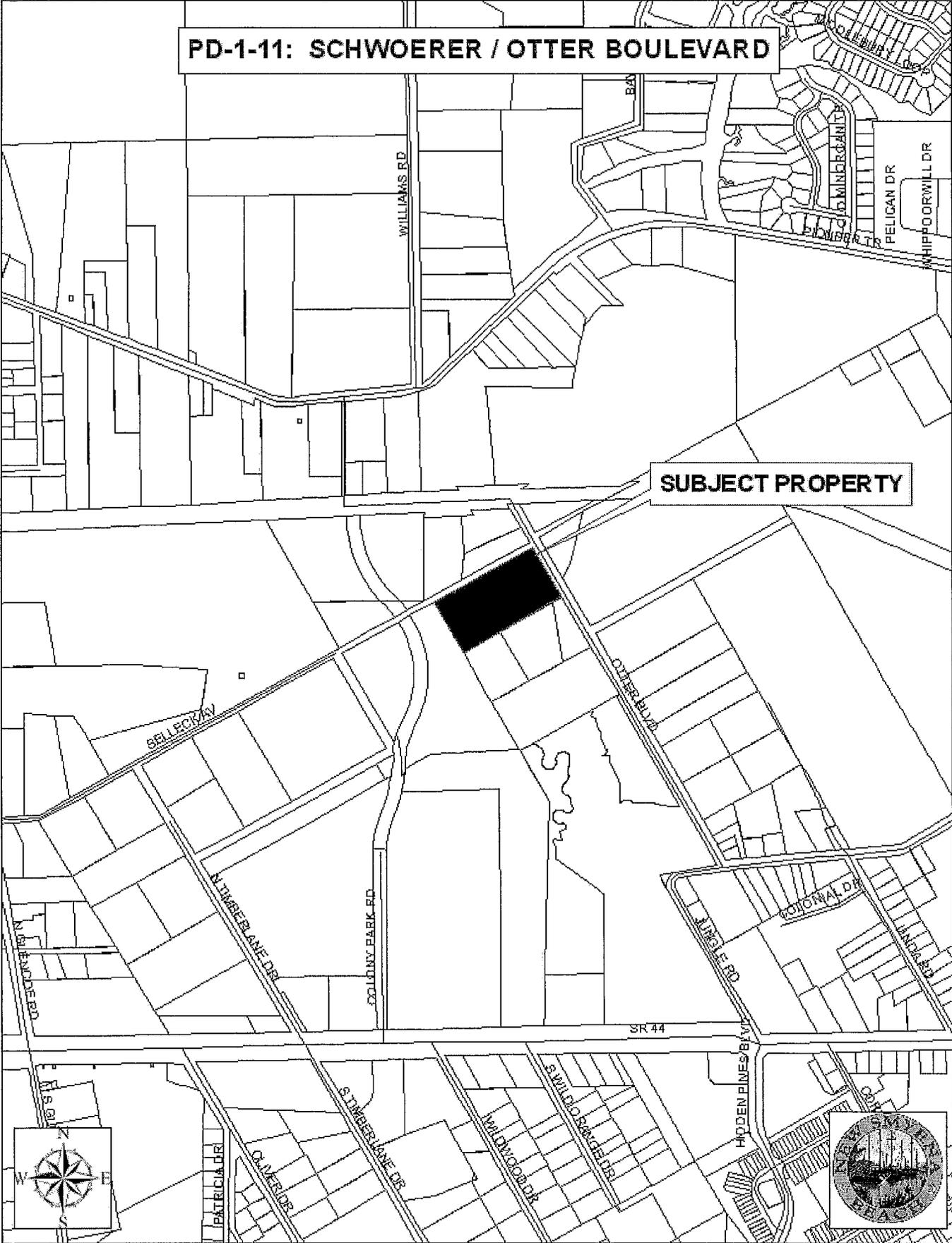
28 Side setbacks (north and south property lines): 20 feet total, no side less than 8
29 feet
30

31 Recommendation
32

33 Staff recommends approval of the request to allow a 30-foot wide access easement
34 across the north ½ of Lot 5, Napier and Hull Grant, in order to provide access to a
35 proposed 2.5-acre parcel, with the condition that setbacks are established for the 2.5-
36 acre parcel, as shown on **Exhibit C**.

PD-1-11: SCHWOERER / OTTER BOULEVARD

SUBJECT PROPERTY



1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
2 SE-2-11: COLUMBUS AVENUE PARKING LOT
3 November 7, 2011
4

5 I. Summary
6

- 7 A. **Applicant and Property Owner:** The City of New Smyrna Beach, 210
8 Sams Avenue, New Smyrna Beach, Florida, 32168
9
- 10 B. **Request:** Special exception approval to allow public parking on City
11 owned parcels in a residential zoning district
12
- 13 C. **Subject Area:** The subject properties consist of approximately .66 acres,
14 are zoned R-3A, Single-Family and Two Family Residential, and are
15 generally located at 305 Columbus Avenue.(location map **Exhibit A**)
16
- 17 D. **Parcel ID:** 7409-16-03-0050 & 7409-06-03-0110
18

19 II. Findings
20

- 21 1. At the September 2011 Planning and Zoning Board meeting staff
22 presented the Flagler Avenue Parking Study as a visioning topic. This
23 was in response to a City Commission 2011 goal. Staff found that there is
24 a deficiency in parking with the Flagler Avenue area. One of the solutions
25 proposed was the use of currently vacant properties in the area for
26 surface parking lots. The two City-owned parcels at 305 Columbus were
27 recommended as a location where a parking lot could be cost effectively
28 located.
29
- 30 2. These parcels are within the R-3A, Single-Family and Two Family
31 Residential zoning district and previously housed the City's beachside fire
32 station. Prior to its use as a fire station, the town hall for the Coronado
33 Beach was located on this site. Facilities owned and/or operated by the
34 federal, state, county or municipal government except county clubs and
35 golf courses are permitted by special exception in this zoning district.
36
- 37 3. Staff has created a concept sketch for a parking lot on the site. (**Exhibit**
38 **B**) Care has been taken to avoid the historic marker, the Volusia County
39 Turtle Group storage shed, and the two historic cisterns that are on the
40 site. Staff also has avoided the stand of trees on the east side of the site.
41 With these constraints, staff has proposed a shell lot of 26 parking
42 spaces, with two paved handicapped parking spaces for a total of 28
43 parking spaces.
44
- 45 4. Though the parking lot would be open to the public seven days a week,
46 staff anticipates that the primary users of the lot would be employees of
47 the Flagler Avenue businesses and people attending Flagler Avenue
48 special events.
49

- 1 5. Staff recommends that overnight parking be prohibited. While the site is
2 close to Flagler Avenue, this site is still located in a residential area. This
3 is considered to be a reasonable restriction to provide some protection to
4 the neighboring residents.
5
6 6. There are two historic cisterns on the site. The concept plan for the
7 parking lot avoids the cisterns. Staff recommends that the areas with the
8 cisterns be covered with a minimum of four inches of fill material to
9 prevent access to the cisterns. However, should the City choose to allow
10 parking or driving over the cisterns, a minimum of six (6) inches of fill
11 should be provided.
12
13 7. Photos showing current site conditions are shown in **Exhibit C**.

14
15
16 **III. Recommendation**

- 17 A. Staff recommends **approval** of the special exception request with the
18 following conditions:
19 • Overnight parking is prohibited.
20 • The area with the cisterns must be covered with a minimum of four
21 inches of fill material if no parking or driving will be permitted in those
22 areas. However, should parking and driving be permitted over the
23 cisterns, a minimum of six (6) inches of fill should be provided.
24

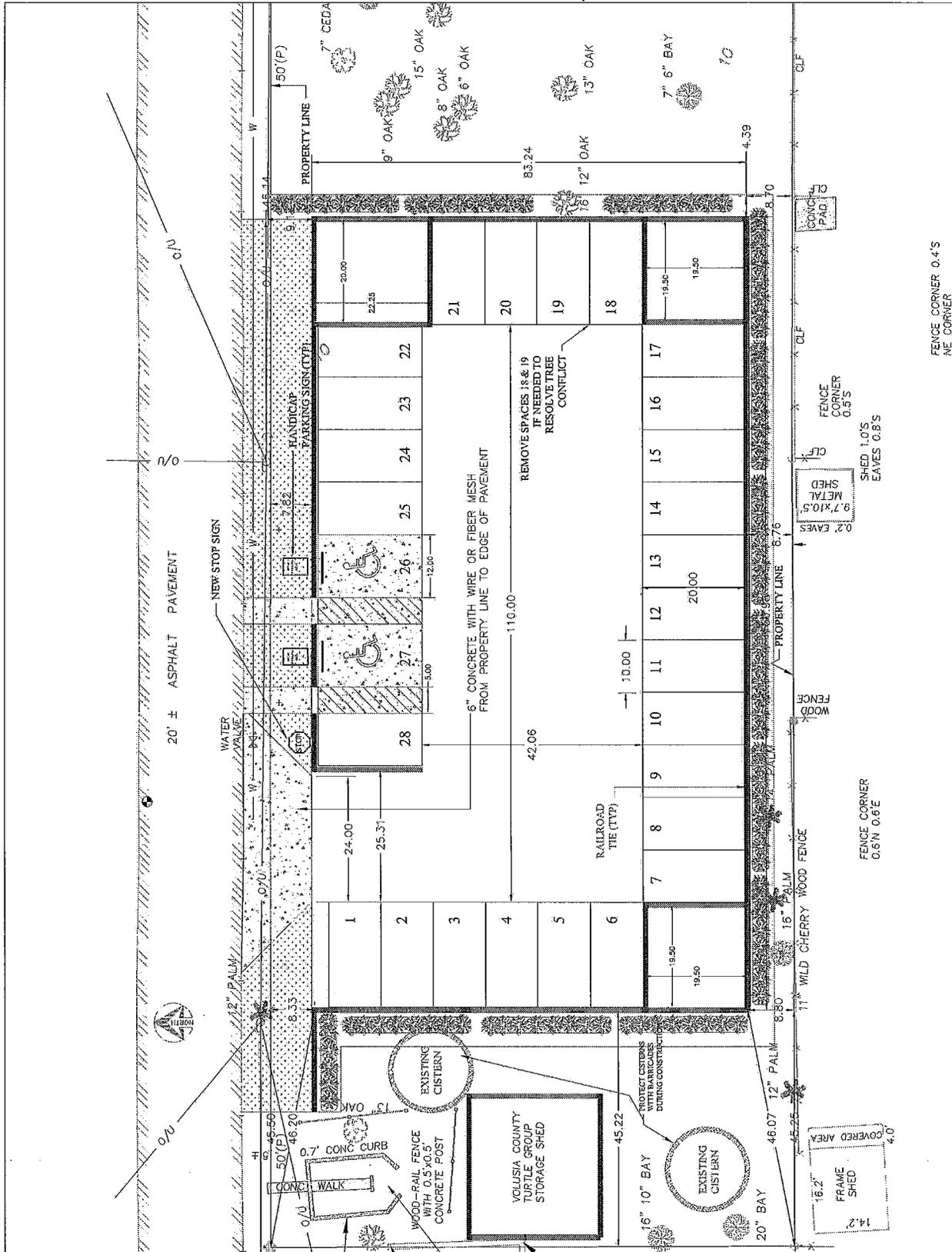
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EXHIBIT A – Location Map



EXHIBIT B – Concept Sketch

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 2



1

EXHIBIT C – Current Site Conditions



2
3



4