City of New Smyrna Beach

November 23, 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, DECEMBER 5, 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 November 7, 2011

PUBLIC PARTICIPATION

VISIONING

None

OLD BUSINESS

None

NEW BUSINESS

A. A-15-11: BROWNSON/3050 TURNBULL BAY ROAD
Noreen Brownson and Darleen Rogove, 3050 Turnbull Bay Road, New Smyrna Beach, Florida, 32168, applicants and property owners, requests annexation; *Comprehensive Plan* amendment from Volusia County Rural to City Rural; and rezoning from Volusia County A-2, Rural Agriculture and Volusia County A-3, Transitional Agriculture to City A-2, Agriculture. The subject property consists of approximately 11.0 acres and is generally located on the south side of Turnbull Bay Road, west of Shadow Pines Drive.

B. A-16-11: McCALLISTER / 1576 LEWIS LANE
David and Stacy McCallister, Jr., 1576 Lewis Lane, New Smyrna Beach, Florida, 32168, applicants and property owners, request annexation; *Comprehensive Plan* amendment from Volusia County Rural to City Rural; and rezoning from Volusia County RA, Rural Agriculture Estate to City RE, Residential Estate. The subject property consists of approximately 3.3 acres and is located south of Turnbull Bay Road at 1576 Lewis Lane.

C. A-17-11: NELLIS / 2800 CONWAY ROAD
Renee M. Nellis, 2800 Conway Road, New Smyrna Beach, Florida, 32168, applicant and property owner, requests annexation; *Comprehensive Plan* amendment from Volusia County Rural to City Rural; and rezoning from Volusia County RA, Rural Agriculture Estate to City RE, Residential Estate. The subject property consists of approximately 2.5 acres and is located south of Turnbull Bay Road at 2800 Conway Road.

D. A-18-11: KOPP / 2091 MARSH HARBOUR DRIVE
Eugene J. Kopp, 2091 Marsh Harbour Drive, New Smyrna Beach, Florida, 32168, applicant on behalf of the property owners, Eugene J. and Elizabeth Kopp, 2091 Marsh Harbour Drive, New Smyrna Beach, Florida, 32168, requests annexation, *Comprehensive Plan* amendment from Volusia County Rural, Environmental Systems Corridor and Water to City Conservation and Agricultural; and rezoning from Volusia County RA, Rural Agriculture Estate, Volusia County RC, Resource Corridor and Volusia County MH-4, Rural Mobile Home to City A-2, Agriculture District. The subject property consists of approximately 10.2 acres and is generally located south of Turnbull Bay Road, west of Malonee Road.

E. SE-3-11: A PIRATE'S ISLE / 313 JULIA STREET
William Arney, 110 Bay Street, New Smyrna Beach, Florida, 32168, applicant on behalf of the property owner, Susan Rittger, 508 North Riverside Drive, New Smyrna Beach, Florida, 32168, requests special exception approval to operate a tattoo parlor in the MU, Mixed Use zoning district. The subject property consists of approximately 0.2 acres and is located at 313 Julia Street.

F. A-19-11: ARMITAGE / STATE ROAD 44
Charles and Jill Armitage, 381 Treasure Cove, New Smyrna Beach, Florida, 32168, applicants and property owners, request annexation, *Comprehensive Plan* amendment from Volusia County Environmental Systems Corridor to City Agricultural; and rezoning from Volusia County RC(C), Resource Corridor (Thoroughfare Overlay Zone) and Volusia County RC, Resource Corridor to City A-2, Agriculture District. The subject property consists of approximately 2.0 acres and is generally located northeast of the intersection of State Road 44 and Hughes Road.

G. A-20-11: CITY OF NEW SMYRNA BEACH / TURNBULL BAY ROAD
The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, applicant and property owner, requests annexation; *Comprehensive Plan* amendment from Volusia County Water, Volusia County Environmental Systems Corridor and Volusia County Rural to City Agriculture; and rezoning from Volusia County RA, Rural Agriculture Estate, Volusia County RC, Resource Corridor and Volusia County MH-4, Rural Mobile Home to City A-2, Agriculture District. The subject property consists of approximately 4.1 acres and is generally located on the south side of Turnbull Bay Road, west of Malonee Road.

H. V-12-11: FERBER / 725 EAST 3RD AVENUE
Paul S. Ferber, 151 Sawgrass Corners Drive, Suite 202, Ponte Vedra Beach, Florida, 32082, applicant on behalf of the property owner, Morse Realtor, Inc. 861 West Morse Boulevard, Suite 250, Winter Park, FL 32789, requests a variance to reduce the required side yard setback along the east property line. The subject property is zoned B-5, Planned Shopping Center District, contains approximately 0.6 acres and is located at 725 East 3rd 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 Engineering Administrative Specialist
City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, FL 32168
(386) 424-2132

The Local Planning Agency/Planning and Zoning Board held a regular meeting on Monday, November 7, 2011 in the City Commission Chambers, 210 Sams Avenue, New Smyrna Beach, Florida. Chairperson Jason McGuirk called the meeting to order at 6:30 p.m.

ROLL CALL

The following members answered to roll call:
Laurene Herwald
Ian Ratliff
Travous Dever
Jason McGuirk
Jessie Clark
Brooks Casey

Kenneth Bohannon was absent. Also present were Planning Manager Gail Henrikson, Planner Kevin Jameson; and members of the public.

Mr. McGuirk announced that Item A, Case V-3-11: 916 South Riverside Drive, had been withdrawn at the request of the applicant.

APPROVAL OF MINUTES

Mr. Clark made a motion to approve the minutes of the regular Planning and Zoning Board meeting held October 3, 2011, and the Planning and Zoning Board workshop held October 17, 2011, seconded by Mr. Dever. Motion passed unanimously on a roll-call vote, 6-0.

APPROVAL OF 2012 CALENDARS

Ms. Henrikson explained that the Board must approve the calendars each year. The calendars establish the meeting dates and submittal deadlines for the Planning and Zoning Board and Plan Review Committee.

Mr. Ratliff made a motion to approve the 2012 calendars, seconded by Ms. Herwald. Motion passed unanimously, 6-0, on a roll call vote.

PUBLIC PARTICIPATION

None.

VISIONING

Ms. Henrikson addressed the Board. She stated that staff was requesting that the Visioning item be temporarily suspended until after the City Commission's retreat on December 7, 2011. She stated that the Commission will be setting the 2012 goals for the City at that retreat and that Board's visioning items should tie into those goals. She stated that the visioning items would continue after the new year.

OLD BUSINESS

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.

Mr. McGuirk swore in Kevin Jameson and Gail Henrikson and qualified them as expert witnesses. Mr. McGuirk entered the staff report into the record.

Kevin Jameson addressed the Board, reviewed staff's findings and stated that staff recommended denial of the variance request. However, Mr. Jameson stated that if the Board determined that the variance met all the criteria and should be approved, staff recommended that the approval be conditioned upon the garage being limited to 22 feet in height and adequate stormwater retention be provided to prevent runoff onto adjacent properties.

Mr. Casey asked whether the applicant could build a taller accessory structure if it was attached to the building.

Mr. Jameson stated that that was correct.

William Jennings, 351 Granada Street, was sworn in and addressed the Board. He stated that there were other such structures within the subdivision. He stated that the building was being designed by an architect and shouldn't be offensive to anyone.

Mr. Clark asked for clarification about the other accessory structures in the neighborhood.

Mr. Jennings clarified that one of those structures was a two-story residence that was next door to his property.

Mr. Ratliff whether the structure could be attached to the existing house and what modifications would need to be made to the residence's roofline to accommodate that.

Mr. Casey asked about the height of the two story residence next door.

Mr. Dever asked whether a breezeway between the garage and the house would mean that the garage was attached to the house.

Ms. Henrikson stated that that interpretation had been made in the past.

Ms. Herwald asked whether if a cupola were added to the house, if that would increase the overall height of the house.

Ms. Henrikson stated that it would not, because cupolas and other architectural features were exempt from the City's height limitations.

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.

Mr. McGuirk reminded Mr. Jameson that he was still under oath. He entered the staff report into the record.

Mr. Jameson addressed the Board, reviewed staff's findings and stated that staff recommended denial of the request. However, Mr. Jameson stated that if the Board determined that the variance met all the criteria and should be approved, staff recommended that the approval be conditioned upon the fence being constructed of lattice and that the variance for the fence would expire should the house be damaged beyond 50% of its appraised value.

Mr. Ratliff asked if there was another driveway besides the one off of Saxon Drive.

Mr. Jameson stated that there is a driveway on the north side of the property, which is visible in the photos included in the staff report. He stated that there is also a parking area on the south side of the property.

Mr. Gehris, 208 Canova Drive, was sworn in and addressed the Board. Mr. Gehris stated that the pictures included in the staff report were taken a few days after a wedding was held on the property. He stated that the opaque fencing shown in the photos was temporary and was used to screen the port-a-lets for the wedding. Mr. Gehris distributed pictures to the Board. He stated that the solid fencing had been removed.

Mr. Gehris stated that the biggest hardship is the fact that the house was built in 1921. He stated it was originally used for honey processing. He stated that in 1951, a portion of the structure was converted to a residence. He stated that the house pre-dates Saxon Drive. He stated that the privacy the house originally had had been destroyed.

Mr. Gehris stated that because the house pre-dates the code, it should not be required to adhere to any of the City's codes.

Mr. Gehris stated that the staff report says he could install landscaping or opaque treatments on the windows. However, he stated that he did not know why he would be required to do that when the house was constructed prior to the current fence height regulations.

Mr. McGuirk opened the case to public participation.

Debbie Fernandez, 341 Granada Street was sworn in and addressed the Board. She stated that she was to the west of the property and that she was opposed to the variance. She stated that it would be the equivalent of having a two-story storage facility facing her house. She stated that she has lived in the neighborhood since 1993 and she has a pool in the back yard. She believes that the proposed building would block light into her yard and would increase glare because of the proposed metal roof. She stated that the proposed garage would box in her yard and if this were allowed to occur everywhere, it would change the character of the neighborhood.

Ms. Fernandez also presented a petition to the Board members with 10 signatures from property owners within the neighborhood.

There were no further comments from the public.

Ms. Herwald stated that the applicant did not seem to meet any of the criteria but, if he had a taller house, he would not be faced with this dilemma.

Mr. Jennings addressed the Board. He provided the Board with a history of the project and his discussion with Ms. Fernandez.

Mr. Casey stated that the neighborhood was right behind his office. He said that the houses all backed up onto an alley and people stored their boats and other recreational equipment in that area. He stated that it was unfair that someone could build a two-story home but couldn't build a two-story garage. He stated that he didn't think the request was unreasonable.

Mr. Dever stated that if the two buildings were connected by a breezeway, the variance wouldn't even be needed. He stated that he didn't see the problem with the garage because he could attach it to the building and go up to 35 feet in height.

Mr. Ratliff stated that he didn't see how the applicant met any of the criteria for a variance. He stated that the applicant has the ability to connect the two buildings with a breezeway, which would eliminate the need for a variance.

Mr. Casey made the motion to approve the variance requests with the conditions contained in the staff report, seconded by Mr. Dever. The motion failed on a roll call vote, 2-4, with Ms. Herwald, Mr. McGuirk, Mr. Clark and Mr. Ratliff dissenting. Mr. McGuirk: "Unfortunately, Mr. Jennings does not meet the criteria for a variance." Ms. Herwald: "The same that you [Mr. McGuirk] said. I don't see how he meets the criteria." Mr. Clark: "No, for the same reason." Mr. Ratliff: "No, for the same reasons I stated earlier."

Mr. McGuirk stated that the variance was not granted. He stated that Mr. Jennings still had other viable alternatives available to him.

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.

Ms. Henrikson addressed the Board, reviewed staff's findings and stated that staff recommended approval of the request to reduce the required on-site parking. She stated that staff recommended denial of the fence height variance request.

Robert Dahl, 802 Magnolia Street was sworn in and addressed the Board. He addressed the reasons for the additional height for the fence. He stated that he had planned on installing a six-foot decorative fence with landscaping, and installing cameras at the entrance. He stated that there would not be a gate at the entrance. He stated that there is dense vegetation around the perimeter of the property.

Mr. Dahl commented on the commercial nature of the surrounding area.

Mr. Clark asked why the fence would need to be six feet tall.

Mr. Dahl stated that it was for visual security.

Mr. McGuirk about the materials of the fence.

Mr. Dahl stated that it would be aluminum but made to resemble wrought iron.

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

Mr. Dever asked about the six-foot tall fence at the Sugar Creek apartments to the east.

Ms. Henrikson stated that the apartment fence was considered to be a legal non-conforming structure. She stated that if it were ever destroyed by more than 50% of its appraised value, it would need to be replaced according to current code requirements.

Mr. McGuirk stated that he disagreed with staff's findings on criteria one and three. He explained why he disagreed with the findings.

Mr. Ratliff stated that he agreed with Mr. McGuirk's assessment.

Edna King, 701 Saxon Palm Court, was sworn in and addressed the Board. She stated that she lived next to the property and commended Mr. Gehris on the fine job he had done to clean up the property. She stated that she did not have an objection to the fence.

There were no further comments from the public.

Mr. Dever stated that he had seen the work that had occurred on the property. He stated that the fence would be covered with vegetation and the additional height would not be noticeable.

Mr. Clark stated that the Board needs to address the variance criteria overall.

Mr. McGuirk asked about how approval of the request would provide special privilege to the property owner. He stated that there are several properties within the surrounding neighborhoods that have six-foot tall fences.

Ms. Henrikson asked him whether those properties had received building permits.

Mr. McGuirk stated that he had not verified that information.

Mr. Jameson stated that the properties to the north also had a different zoning classification, which meant they had smaller front yard setbacks, which meant that a six-foot tall fence could be closer to the road than it could on the subject property.

Mr. Ratliff stated that he believed the variance met all of the criteria.

Mr. Casey stated that he agreed with Mr. Ratliff. He stated that if he were representing Mr. Gehris, he would take exception with the two criteria staff has stated are not met. Mr. Casey stated that his business partner had dealings with Mr. Gehris, therefore, Mr. Casey would have to abstain from voting.

Ms. Herwald asked how tall the fence is. She stated that the picture makes it appear that the fence is taller than eight feet in height.

Mr. Dever made a motion to approve the requests with the following conditions:

1. **The fence is limited to six (6) feet in height;**
2. **The fence may only be constructed of lattice;**
3. **If the house is damaged beyond 50% of the appraised value and must be rebuilt to current LDR standards, the fence variance would be revoked**

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

Mr. Casey stated that he had a conflict of interest and would have to abstain from voting.

Ms. Herwald stated that she also agreed with Mr. McGuirk's assessment of the variance criteria.

Mr. Ratliff made a motion to approve both variance requests, with the condition that the fence be limited to six (6) feet in height and that the fence be a decorative fence, as described by the applicant. The motion was seconded by Mr. Clark. The motion passed unanimously on a roll call vote, 5-0, with Mr. Casey abstaining.

E. A-14-11: STRAHMAN / 1569 LEWIS LANE

Peggy A. Strahman, 1569 Lewis Lane, New Smyrna Beach, Florida, 32168, 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.

Mr. Jameson addressed the Board, reviewed staff's findings and stated that staff recommended approval of the requests.

Peggy Strahman, 1569 Lewis Lane, addressed the Board. She stated that she had been coming to New Smyrna Beach for several years and had owned the property since 2003. She stated that she felt that she would have more representation by annexing into the City.

Ms. Strahman stated that she and her neighbors had questions about the annexation and utilities service. She stated that she and all of her neighbors were currently operating on septic systems and she asked whether they would now be required to connect to sanitary sewer.

Ms. Henrikson stated that she is not aware of any plans to extend sewer service to this area.

Ms. Strahman asked whether there were any limitations on the number of horses that could be kept.

Ms. Henrikson stated that she was not aware of any limitations.

No one spoke for or against the request.

Motion by Mr. Clark, seconded by Mr. Dever, to recommend the City Commission approve the annexation, *Comprehensive Plan* amendment and rezoning. Motion passed unanimously on a roll call vote, 6-0.

F. PD-1-11: SCHWOERER / OTTER BOULEVARD

Gwendolyn Schwoerer, 386 Otter Boulevard, New Smyrna Beach, Florida, 32168, property owner and applicant, requests approval of a 30-foot wide access easement acrossw 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 Bouelvard, south of Pioneer Trail.

Ms. Henrikson addressed the Board, reviewed staff's findings and stated that staff recommended approval of the request, with the condition that the setbacks for the 2.5-acre parcel are established as shown in Exhibit C of the staff report.

Greg McDole, Assistant City Attorney, stated that the easement should be a non-exclusive easement.

Gwendolyn Schwoerer, 386 Otter Boulevard, was present but chose not to address the Board.

Motion by Mr. Dever, seconded by Mr. Clark, to approve the request for a private drive, with the condition that the setbacks be established for the 2.5-acre parcel, as shown on Exhibit C of the staff report, and that the easement by non-exclusive. Motion passed unanimously on a roll call vote, 6-0.

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 to 305 Columbus Avenue.

Mr. Jameson addressed the Board, reviewed staff's findings and stated that staff recommended approval of the request, with the conditions that a minimum of four inches of fill be placed over the historic cisterns and that no overnight parking be permitted.

Mr. McGuirk asked how the neighborhood felt about the proposed parking lot.

Mr. Jameson stated that he and the Assistant City Manager had spent several hours knocking on doors in the neighborhood and informing residents about the City's proposed plans. He stated that most of the residents were neutral about the proposal.

Ms. Henrikson stated that one of the residents was in the audience that evening and she had been working closely with Dot Moore regarding the history of the site.

Mr. Ratliff asked whether there would be enhanced landscaping or whether it would just meet minimum code requires. He also asked about lighting.

Ms. Henrikson stated that the landscaping would meet the minimum requirements. She stated that with regard to lighting, the City was in the process of preparing the site plan and would address the lighting issue at that time.

Mr. Ratliff suggested using bollard-style lighting, if lighting was required.

Mr. Ratliff asked how the City would encourage employees to use the parking lot to free up parking on Flagler Avenue.

Ms. Henrikson stated that there had not been much enthusiasm from business owners for using the lot for employee parking.

There was general discussion about how to encourage employees to use the parking lot.

Mr. Casey stated that from a planning stand point it was a good idea. However, from a taxpayer stand point, he saw it as a total waste of money.

Mr. Ratliff stated that the City had considered these lots for residential development at some point in the past. He stated that the proposed parking lot would not prevent that in the future.

Mr. Clark asked about other properties in the area that the City owns that could be used for parking.

Ms. Henrikson stated that the City currently does not own any other property in the area.

Mr. Jameson stated that the City had considered using the AOB site on the North Causeway for special event parking.

Mr. Clark stated that he was asking because perhaps the City could deal with all these properties at the same time, instead of working on each one individually.

Marion Riensma, 301 South Pine Street, addressed the Board. She discussed the cisterns that had been located on site. She also stated that she had been caring for the monument since the Men's Garden Club had stopped maintaining it. She stated that the proposed landscaping would encroach upon the cisterns and may need to be shifted to prevent damage to the cisterns.

Ms. Riensma stated that there may also be a sidewalk along Columbus Avenue in front of the monument. She discussed the history of the coast watcher's with the Board.

Ms. Riensma stated that she would be happy with a parking lot, as people are parking there now. She stated that she hoped there would be increased police presence once it officially becomes a parking lot.

Motion by Mr. Ratliff, to approve the request with staff's conditions. The motion was seconded by Ms. Herwald. The motion passed unanimously on a roll call vote, 6-0.

REPORTS AND COMMUNICATIONS BY THE BOARD

Mr. Dever asked how the variance criteria were developed.

Ms. Henrikson reminded the Board that the variance process is to be the process of last resort. She stated that it was to be used to give relief to property owners when because of the City's regulations, and something unique about their land or building, they were denied reasonable use of the property. She stated that if there was a problem with the regulation, the regulation should be changed.

Mr. McDole stated that they had evolved over the years based on case law. He stated that the City could adopt different criteria but he cautioned the Board that their decisions would still have to be defensible in court.

Mr. Clark asked how Board members should weigh the merits of the project versus the letter of the criteria.

Mr. McDole replied that it is a factual determination that each Board member has to make.

Mr. McGuirk stated that he thought the variance process was fantastic and that it's great that the City has a relief mechanism.

Ms. Herwald stated that it's better to request a variance during the planning stages of a project, rather than after the fact.

Mr. Casey stated that the City's regulations are too strict. He stated that if the City's codes were reviewed and streamlined, applicants would not need to pay $700 to go through the variance process.

REPORTS AND COMMUNICATIONS BY THE STAFF

None.

ADJOURNMENT

With there being no further business, the meeting was adjourned at 7:51 p.m.

CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-15-11: BROWNSON/3050 TURNBULL BAY ROAD

DECEMBER 5, 2011

I. Background

A. **Applicant and Property Owner:** Noreen Brownson & Darleen Rogove - Lannon, 3050 Turnbull Bay Road, New Smyrna Beach, Florida, 32168

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

- **From:** County Future Land Use (FLU) designation of Rural; and County zoning A-2, Rural Agriculture & A-3, Transitional Agriculture.
- **To:** City FLU designation of Rural; and City zoning A-2, Agriculture.

C. **Site Information:**

- **Size:** 10.375 acres
- **Location:** Southeast side of Turnbull Bay Road, approximately .4 mile northeast of the intersection of Pioneer Trail & Turnbull Bay Road. (See **Exhibit A** for a location map)
- **Tax I.D. Number:** 7304-00-00-0130

II. Findings

A. The subject property is an approximately 10.375-acre site. The property is developed with a single-family residence, converted carriage house, stable, and associated accessory structures. Copies of the surveys for the subject property are attached as **Exhibit B**. The property currently has a Volusia County Future Land Use (FLU) designation Rural, which allows one dwelling unit five acres. The property is currently zoned Volusia County A-2, Rural Agriculture & A-3, Transitional Agriculture. The surrounding future land use, existing uses, and zoning are as follows:

North
Future Land Use: County Rural
Existing Land Use: Single-Family Residential
Zoning: County RA, Rural Agricultural Estate

South
Future Land Use: City Low Density Residential
Existing Land Use: Vacant
Zoning: County A-3, Transitional Agriculture

East
Future Land Use: County Rural
Existing Land Use: Single-Family Residential
Zoning: County A-2, Rural Agriculture

West
Future Land Use: County Rural
Existing Land Use: Agriculture & Single-Family Residential
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 zoning and Future Land Use designations on the subject property are attached as **Exhibits F and G**.

B. Previous City Commissions had established a policy that when property is annexed into the City, the City would assign a future land use and zoning designation that would closely match the existing County designations. As discussed above, the existing County FLU and zoning designations are Rural and A-2, Rural Agriculture & A-3, Transitional Agriculture respectively. Because properties on three sides of the site have a FLU designation of County Rural, staff is recommending that the closest City designation, City Future Land Use of Rural, and City zoning district A-2, Agriculture be applied to the subject property. Maps showing the proposed FLU and zoning changes are attached as **Exhibits H and I**. Descriptions of the proposed FLU and zoning designations are attached as **Exhibits J and K**.

C. This annexation request is within the City's annexation area and within the City's water and wastewater service area. Water service is not currently available to serve the property. The closest water service is 3300 feet from the house, 1600 feet away from the nearest point on the parcel, in Club House Boulevard. Sewer service is not currently available to serve the property. The closest sewer service is 3300 feet from the house, 1600 feet away from the nearest point on the parcel, in Club House Boulevard.

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

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

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

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

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

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

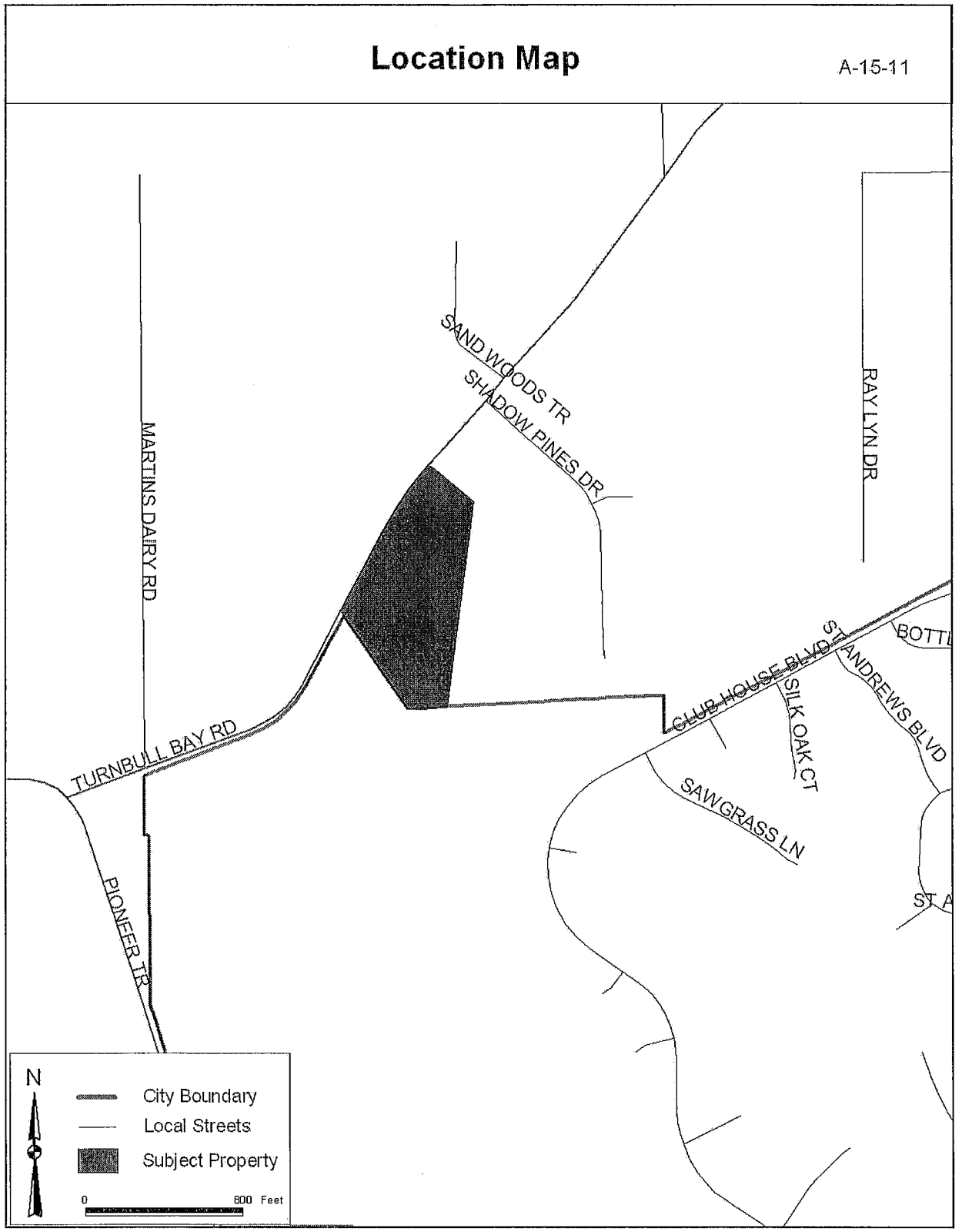
  The proposed future land use amendment will maintain the density in this area of one unit per five acres. No additional infrastructure will be required to maintain the levels of service currently available in the area. Water and sewer are not currently available in this area of the City.

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

  The requested FLU and zoning designations are compatible and consistent with the City's and County's existing surrounding FLU and zoning designations. The property to the south has FLU designation of City Low Density Residential and is zoned County A-3, Transitional Agriculture. The other properties surrounding this site have a County FLU of Rural and are zoned County A-2, Rural Agriculture or County R-A, Rural Estate.

III. Recommendation

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

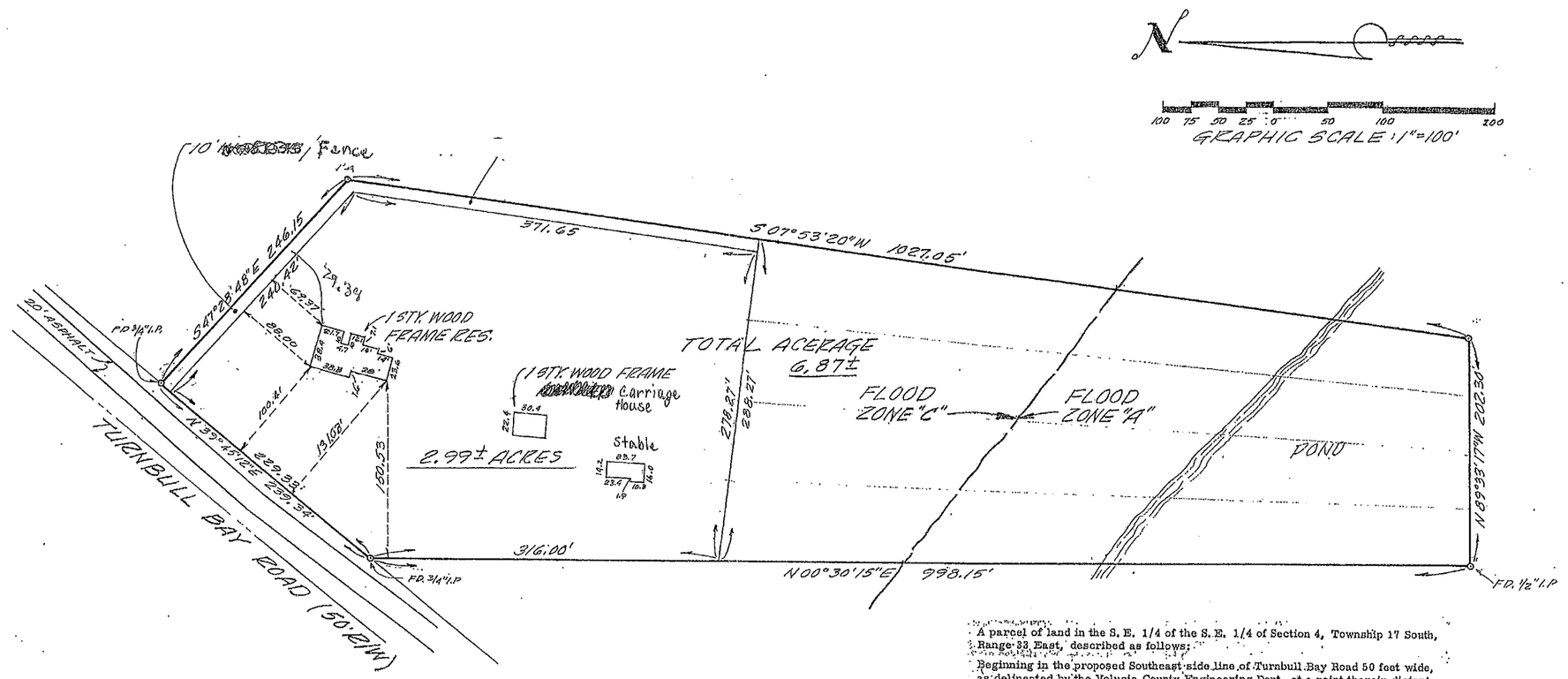

Location Map
A-15-11
SAND WOODS TR
SHADOW PINES DR
MARTINS DAIRY RD
RAY LYN DR
CLUB HOUSE BLVD
ST ANDREWS BLVD
SILK OAK CT
SAWGRASS LN
TURNBULL BAY RD
PIONEER TR
N
City Boundary
Local Streets
Subject Property
0
800 Feet

151

LEGEND: N DENOTES NORTH | S DENOTES SOUTH | E DENOTES EAST | W DENOTES WEST | FM DENOTES FIELD MEASURES | D DENOTES DEED | P DENOTES PLAT | R/W DENOTES RIGHT-OF-WAY | I.P. DENOTES IRON PIPE | CM DENOTES CONCRETE MONUMENT | ○ DENOTES SET IRON PIPE | ● DENOTES FOUND IRON PIPE | □ DENOTES SET CONCRETE MONUMENT | ■ DENOTES FOUND CONCRETE MONUMENT | ( ) DENOTES ELEVATION | —E— DENOTES POWER LINE | —W— DENOTES WATER LINE | —S— DENOTES SEWER | —X—X— DENOTES FENCE | DENOTES FIRE HYDRANT | DENOTES WATER VALVE | BM DENOTES BENCH MARK | WM DENOTES WATER METER | CLF DENOTES CHAIN LINK FENCE

SUBJECT LIES IN FLOOD ZONE "C" & "A" PER PLOT OF SUBJECT (AS SCALED) ON FIRM COMMUNITY PANEL NUMBER 125155 0440 C DATED 4/9/83 | PUBLISHED BASE FLOOD ELEVATION ____ COMMUNITY ESTIMATED BASE FLOOD ELEVATION ____ | BEARING STRUCTURE PER PLAT OF ASSUMED FOR CALC. ONLY | ELEVATIONS BASED ON ____ PUBLISHED ELEVATION ____ BM DESCRIPTION ____

VOLUSIA COUNTY, FLORIDA



NOTE: THIS PLAT DOES NOT REPRESENT A FIELD SURVEY BY THIS FIRM AT THIS DATE.

A parcel of land in the S. E. 1/4 of the S. E. 1/4 of Section 4, Township 17 South, Range 33 East, described as follows:

Beginning in the proposed Southeast side line of Turnbull Bay Road 50 feet wide, as delineated by the Volusia County Engineering Dept. at a point therein distant South 42 degrees, 31 minutes, 20 seconds West 536.5 feet from dividing line between lands of the party of the first part and lands of John B. Miller and wife, as defined and established by a Property Line Agreement between the said parties as recorded in O. R. Book 1040, Page 557-559; running thence (1) South 47 degrees, 28 minutes, 40 seconds East 246.2 feet; thence (2) South 7 degrees 53 minutes, 20 seconds West 1027.05 feet more or less to the South line of Section 4; thence (3) along the same North 89 degrees, 33 minutes, 40 seconds West 200.65 feet more or less to the West line of the S. E. 1/4 of S. E. 1/4 of said Section 4; thence (4) along the same North 0 degrees, 31 minutes, 20 seconds East 1000 feet more or less to aforesaid line of Turnbull Bay Road; thence (5) Northeasterly along the same to the Point and Place of Beginning.

GENERAL NOTES:
NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHT-OF-WAY AND OR OWNERSHIP WERE FURNISHED THIS SURVEYOR, EXCEPT AS SHOWN. THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS SHOWN.

THE TERM CERTIFIED AS USED IN THIS STATEMENT, IS UNDERSTOOD TO BE THE PROFESSIONAL OPINION OF THIS SURVEYOR AND FIRM WHICH IS FORMULATED ON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, AND AS SUCH, IT DOES NOT CONSTITUTE A GUARANTEE OR WARRANTY, EITHER EXPRESSED OR IMPLIED. FURTHERMORE, THIS SURVEYOR AND FIRM DOES NOT ASSUME RESPONSIBILITY AND SHALL NOT BE LIABLE FOR CLAIMS ARISING FROM ERRONEOUS OR INCORRECT INFORMATION FURNISHED BY THE OWNER, LENDER, OR OWNER'S CONTRACTORS OR OTHERS, WHICH IS USED AS A BASIS TO FORMULATE THIS SURVEYORS OPINION.

PREPARED BY
PHILLIPS SURVEYING, INC.
PROFESSIONAL LAND SURVEYORS
834 CARSWELL AVENUE
HOLLY HILL, FLORIDA 32117
904-255-1095
SERVING VOLUSIA AND FLAGLER COUNTY SINCE 1945
JAMES E. PHILLIPS, PRESIDENT LAWRENCE E. POWERS, VICE PRESIDENT

I HERBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAT TO BE TRUE REPRESENTATION OF A FIELD SURVEY MADE UNDER MY DIRECTION AND SUPERVISION AND MEETS THE MINIMUM TECHINAL STANDARDS FOR SURVEYING IN THE STATE OF FLORIDA AS PER CHAPTER 21 HH-6, FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATUTES. SUBJECT TO ALL NOTES AND NOTATIONS SHOWN HEREON. VALID ONLY WITH EMBOSSED SEAL.

JAMES E. PHILLIPS, P.L.S. No. 2048

TYPE OF SURVEY: PRELIMINARY SKETCH (PLAT ONLY)
PREPARED FOR: NOREEN BROWNSON
THIS PLAT IS HEREBY CERTIFIED TO:
A)
B)
C)

PARTY CHIEF	DRAWN BY: F.L.W. DATE: 2/2/90	CHECKED BY	FIELD BOOK
U.M.			

PROJECT NO. 89841
DATE FIELD SURVEYED 12/3/89
SCALE 1"=100'
SHEET 1 OF 1

VOLUSIA COUNTY, FLORIDA

POINT OF REFERENCE

POINT OF BEGINNING

S00°49'34"E 284.64(M)
S00°54'27"E 284.27(M)

WETLANDS

N38°38'49"E

S38°46'49"E

N38°38'49"E 25.40(M)
N38°38'49"E 25.40(M)

N38°38'49"W 518.28(M)
N38°38'49"W 518.28(M)

Tomoka Bay Road (66 R/W)

LEGAL DESCRIPTION

A PORTION OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 17 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, LYING NORTHERLY OF TOMOKA BAY ROAD BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: AS A POINT OF REFERENCE, COMMENCE AT THE CONCRETE MONUMENT MARKING THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 4, THENCE NORTH 00 DEGREES 36 MINUTES 31 SECONDS WEST (ASSUMED BEARING) ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 4 AND TO THE POINT OF BEGINNING, THENCE NORTH 38 DEGREES 11 MINUTES 21 SECONDS WEST, 518.28 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF TOMOKA BAY ROAD, THENCE LEAVING SAID SOUTHERLY RIGHT OF WAY LINE, SOUTH 84 DEGREES 29 MINUTES 42 SECONDS EAST, 151.11 FEET TO THE SOUTHEASTERLY LINE OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 4, THENCE SOUTH 38 DEGREES 51 MINUTES 27 SECONDS EAST ALONG THE SAID EASTERLY LINE, 284.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.85 ACRES, MORE OR LESS

PHILLIPS SURVEYING, INC.

8/23/00	COTCA	PSA	DM	EW			

PREPARED FOR

PATRICK BERNICKA

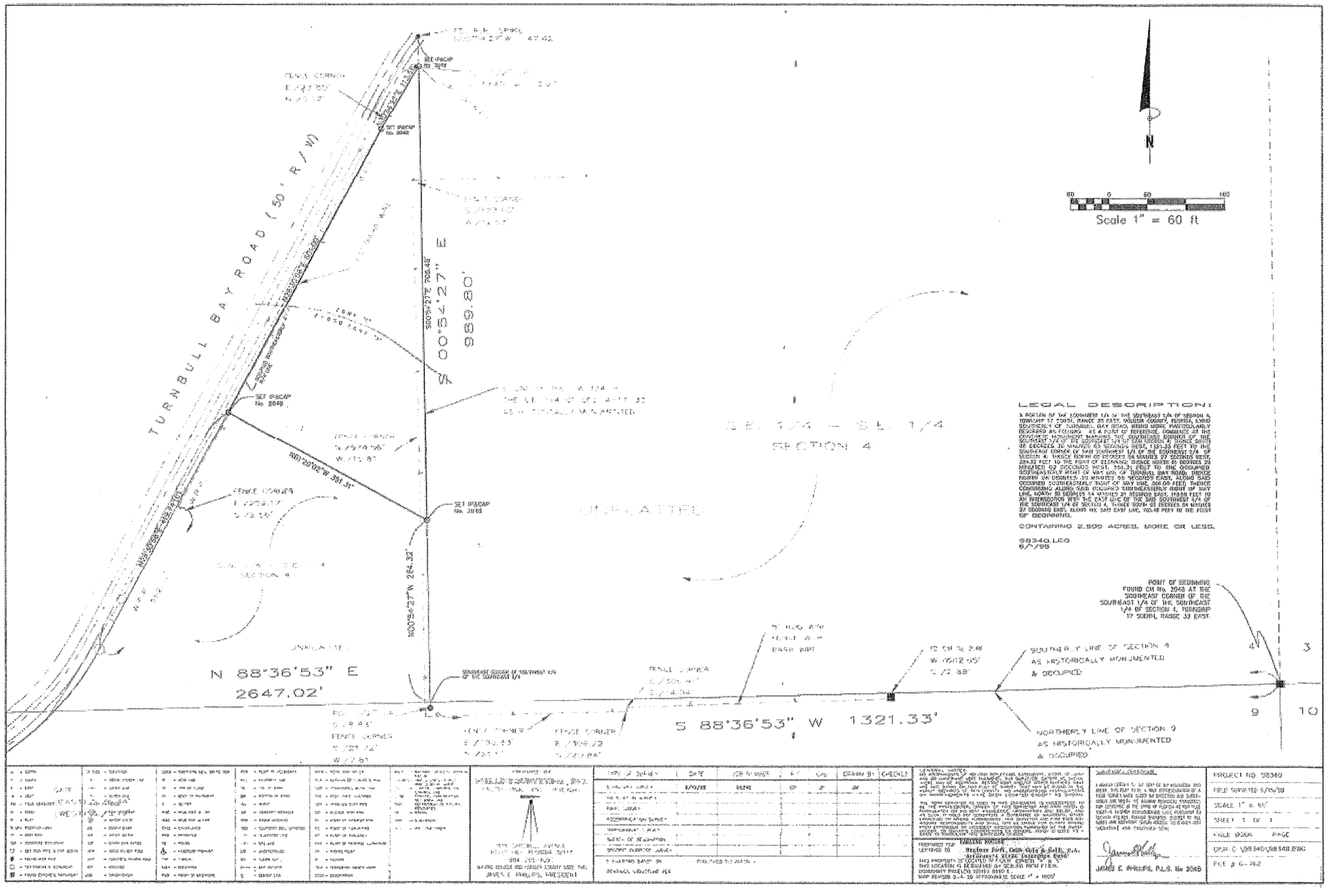
DATE OF FIELD WORK 11/29/00

SCALE 1" = 50'

SHEET 1 OF 1

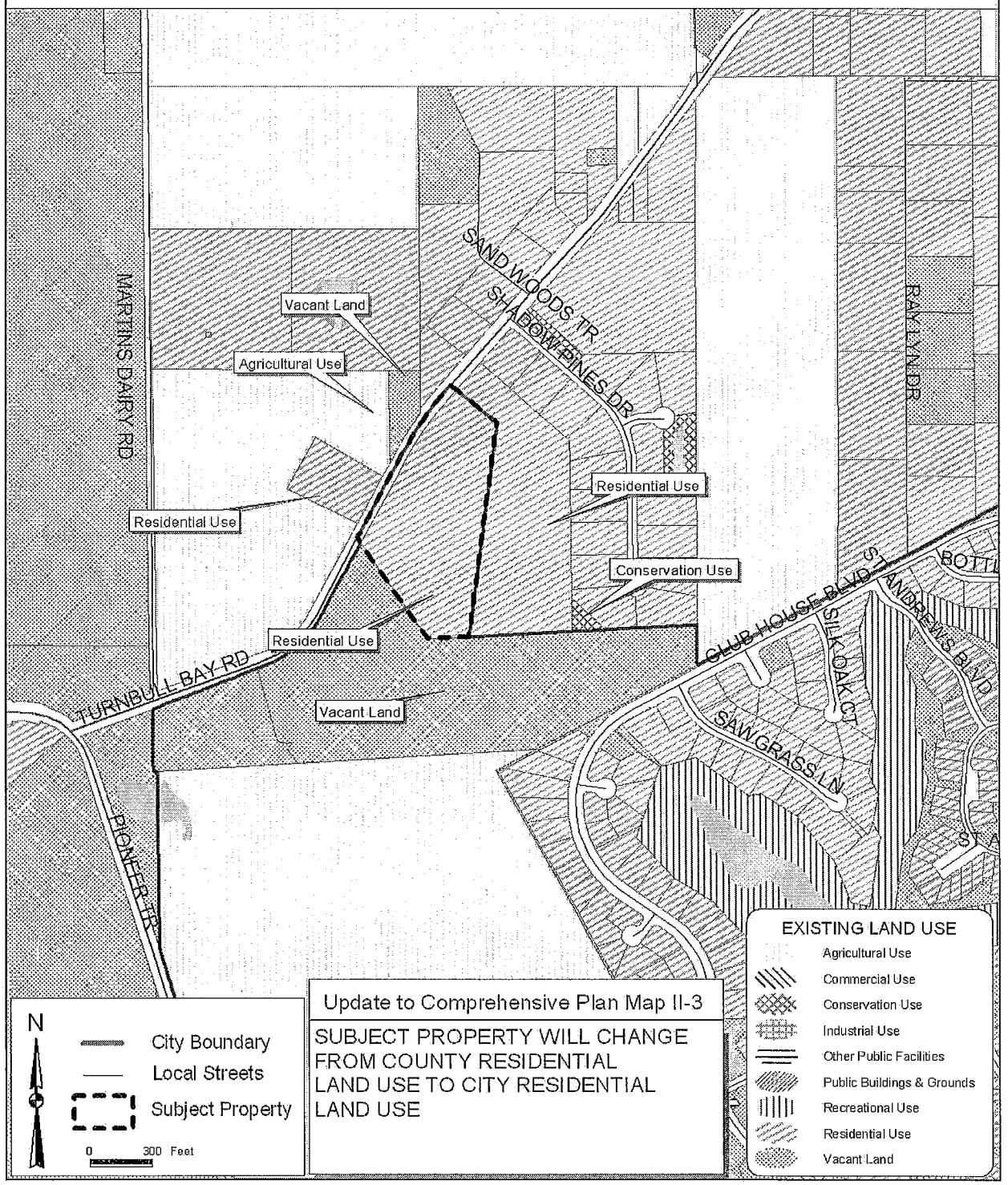
FB: 2 PGS 393 PAGE 4-5

JOB NO. 0-762


N
Scale 1" = 60 ft
TURNBULL BAY ROAD (50' R/W)
S 00°54'27" E
989.80'
N00°54'27"W 284.32'
N 88°36'53" E
2647.02'
S 88°36'53" W 1321.33'
SE 1/4 — SW 1/4
SECTION 4
UNPLATTED
LEGAL DESCRIPTION:
CONTAINING 2.809 ACRES, MORE OR LESS.
29340.LEG
6/7/99
POINT OF BEGINNING
FOUND CM No. 2048 AT THE
SOUTHEAST CORNER OF THE
SOUTHEAST 1/4 OF THE SOUTHEAST
1/4 OF SECTION 4, TOWNSHIP
17 SOUTH, RANGE 33 EAST.
SOUTHERLY LINE OF SECTION 4
AS HISTORICALLY MONUMENTED
& OCCUPIED
NORTHERLY LINE OF SECTION 9
AS HISTORICALLY MONUMENTED
& OCCUPIED
SOUTHEAST CORNER OF SECTION 4
OF THE SOUTHEAST 1/4
SET PIECAP
No. 2048
FENCE CORNER
3
9
10
PROJECT NO 29340
FIELD SURVEY 6/15/99
SCALE 1" = 60'
SHEET 1 OF 1
FILE BOOK PAGE
DWG C:\29340\29340.DWG
FIELD BOOK
JAMES E. SHELTON, P.L.S. No 2048

Existing Land Use Designations

A-15-11



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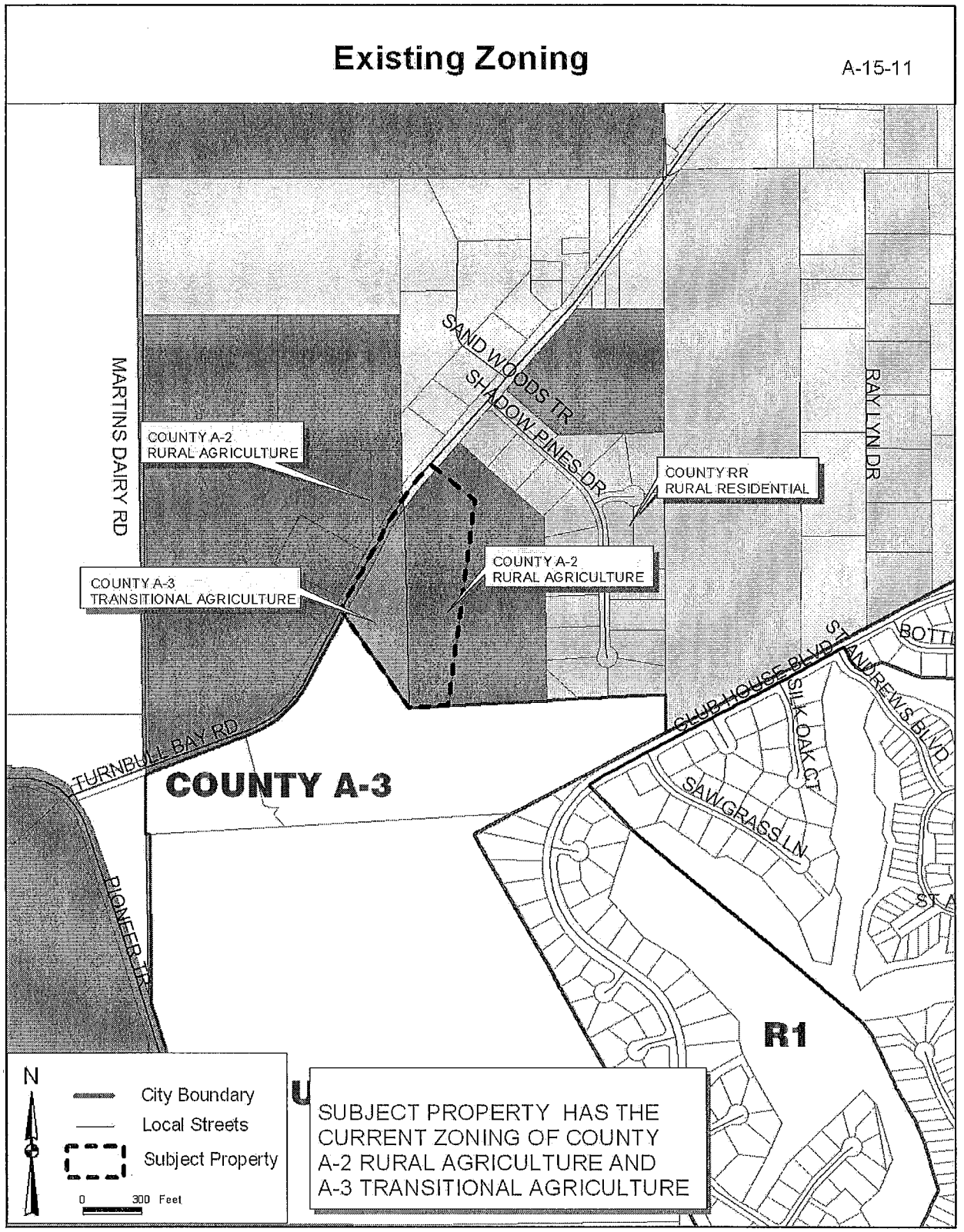
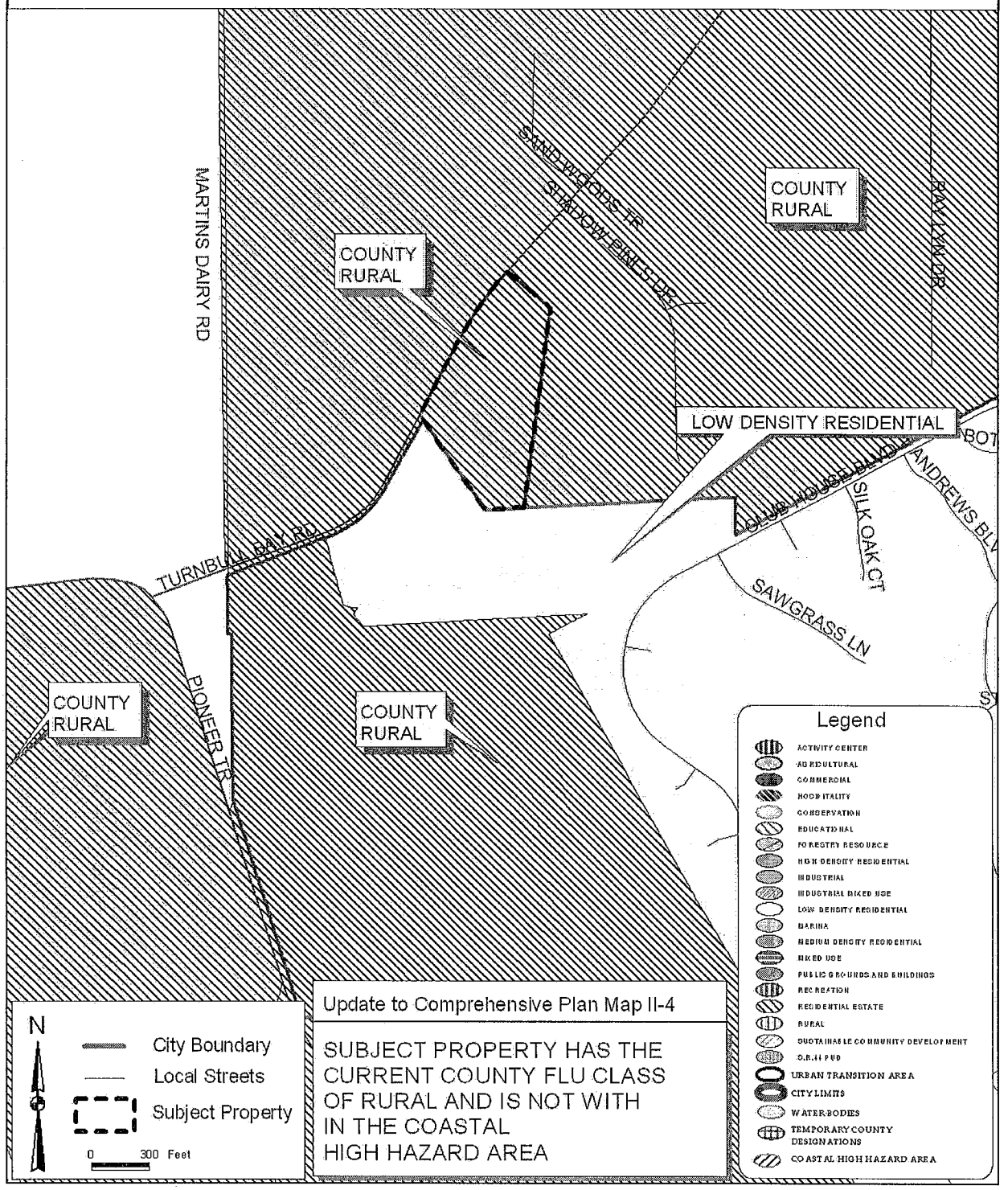

Existing Zoning
A-15-11
MARTINS DAIRY RD
SAND WOODS TR
SHADOW PINES DR
RAY LYN DR
COUNTY A-2
RURAL AGRICULTURE
COUNTY RR
RURAL RESIDENTIAL
COUNTY A-2
RURAL AGRICULTURE
COUNTY A-3
TRANSITIONAL AGRICULTURE
CLUBHOUSE BLVD
ST ANDREWS BLVD
SILK OAK CT
SAWGRASS LN
TURNBULL BAY RD
COUNTY A-3
PIONEER TR
R1
N
City Boundary
Local Streets
Subject Property
0
300 Feet
SUBJECT PROPERTY HAS THE CURRENT ZONING OF COUNTY A-2 RURAL AGRICULTURE AND A-3 TRANSITIONAL AGRICULTURE

2

Existing Future Land Use Designations

A-15-11



VOLUSIA COUNTY 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)).

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.
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.
(Ord. No. 81-39, § VI, 11-19-81; Ord. No. 82-20, § V, XIII, 12-9-82; Ord. No. 84-1, §§ III, V, 3-8-84; Ord. No. 85-2, § I, 3-14-85; Ord. No. 87-14, § II, 6-18-87; Ord. No. 89-20, §§ VI, VIII, 6-20-89; Ord. No. 90-34, § 10, 9-27-90; Ord. No. 92-6, § XII, 6-4-92; Ord. No. 94-4, § XIV, 5-5-94; Ord. No. 97-19, § II, 8-7-97; Ord. No. 98-25, § VII, 12-17-98; Ord. No. 00-30, § 2, 10-5-00; Ord. No. 2004-20, § V, 12-16-04; Ord. No. 2009-17, § III, 5-21-09; Ord. No. 2010-19, § II, 12-16-10)

VOLUSIA COUNTY A-3 TRANSITIONAL AGRICULTURE CLASSIFICATION [86]

Purpose and intent: The purpose and intent of the A-3 Transitional Agriculture Classification is to preserve and protect small farms for personal and limited agricultural production or to provide a transitional agricultural zone between more intensive agricultural use areas and residential areas. It is intended that this classification be applied to properties which are within a designated rural community, to preserve existing agricultural uses in urban areas as depicted by the comprehensive plan, or to properties so as to coincide with the existing character of an area in a manner consistent with the comprehensive plan.

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

Permitted principal uses and structures: In the A-3 Transitional Agriculture Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

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

Apiaries.

Aquaculture operations in which there are no associated excavations.

Aviaries.

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

Essential utility services.

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

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

Fire stations.

Hobby breeder.

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.

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.
Dairies and dairy products (minimum parcel size requirement of five acres).
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.
Excavations only for stormwater retention ponds for which a permit is required by this article.
Garage apartments.
Group home (refer to subsection 72-293(12)).
Hog farms (minimum parcel size requirement of 2.5 acres).
Home occupations, class B (refer to section 72-283).
Kennels.
Livestock feed lots (minimum parcel size requirement of five acres).
Off-street parking areas (refer to subsection 72-293(14)).
Poultry farms (minimum parcel size requirement of 2.5 acres).
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)).
Recreational areas (refer to subsection 72-293(3)).
Riding stables.
Schools, parochial and private (refer to subsection 72-293(4)).
Single-family mobile home dwelling with a minimum floor area of 480 square feet as a temporary residence while building a standard or manufactured dwelling (maximum duration of 18 months).
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.
Wholesale or retail fertilizer sales.
Dimensional requirements:
Minimum lot size:
Area: One acre.
Width: 150 feet.
Minimum yard size:
Front yard: 40 feet.
Rear yard: 40 feet.
Side yard: 25 feet.
Waterfront yard: 40 feet.
Maximum building height: 55 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 1,000 square feet.
Off-street parking and loading requirement: Off-street parking and loading areas meeting the requirements of sections 72-286 and 72-287 shall be constructed.
Skirting requirement for mobile home dwelling: The area between the ground and

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

Volusia County Urban RURAL

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

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

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

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

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

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

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

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

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

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

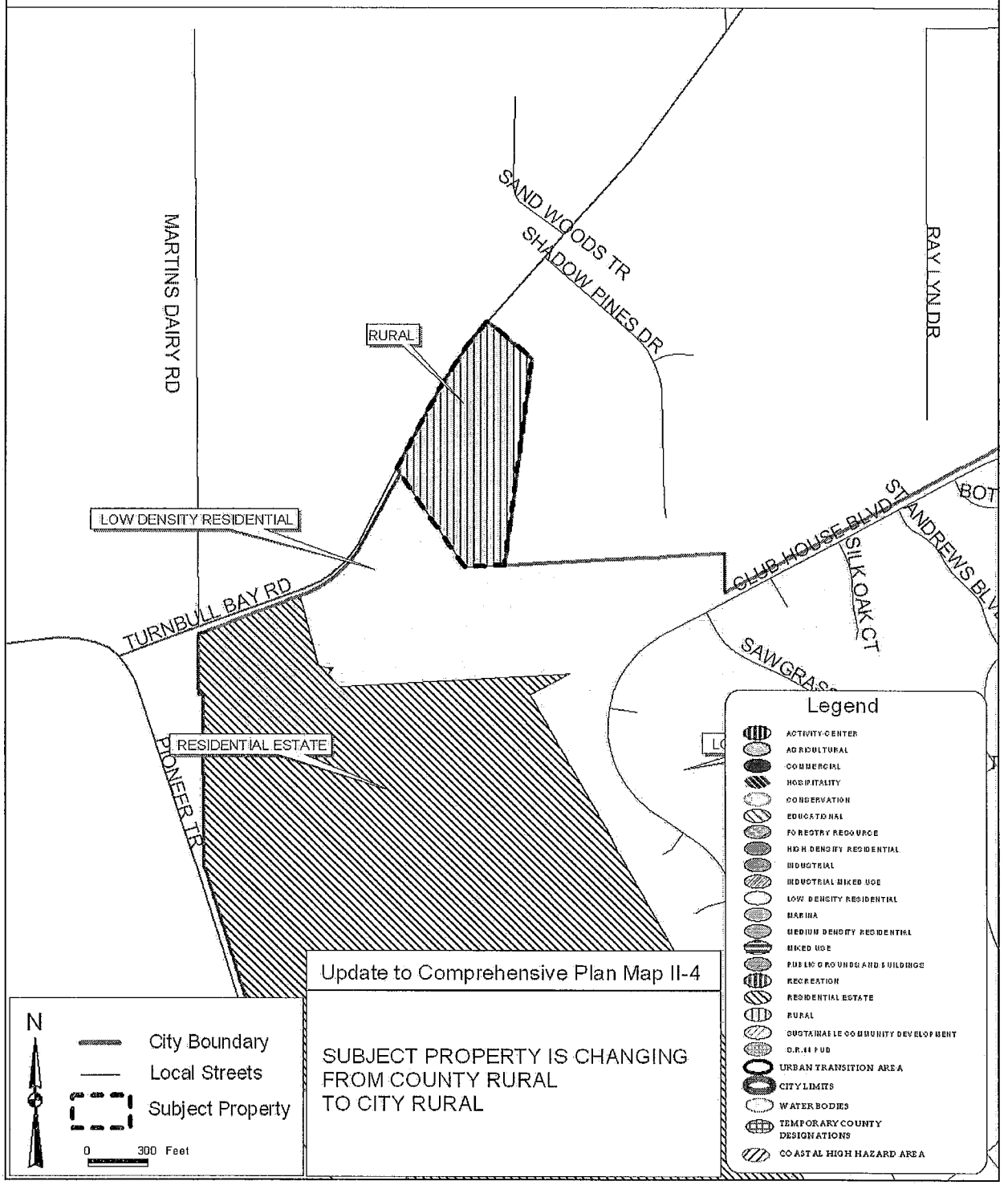
v. If applicable, consistency with Local Plans associated with this Element.

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

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

Proposed Future Land Use Designations

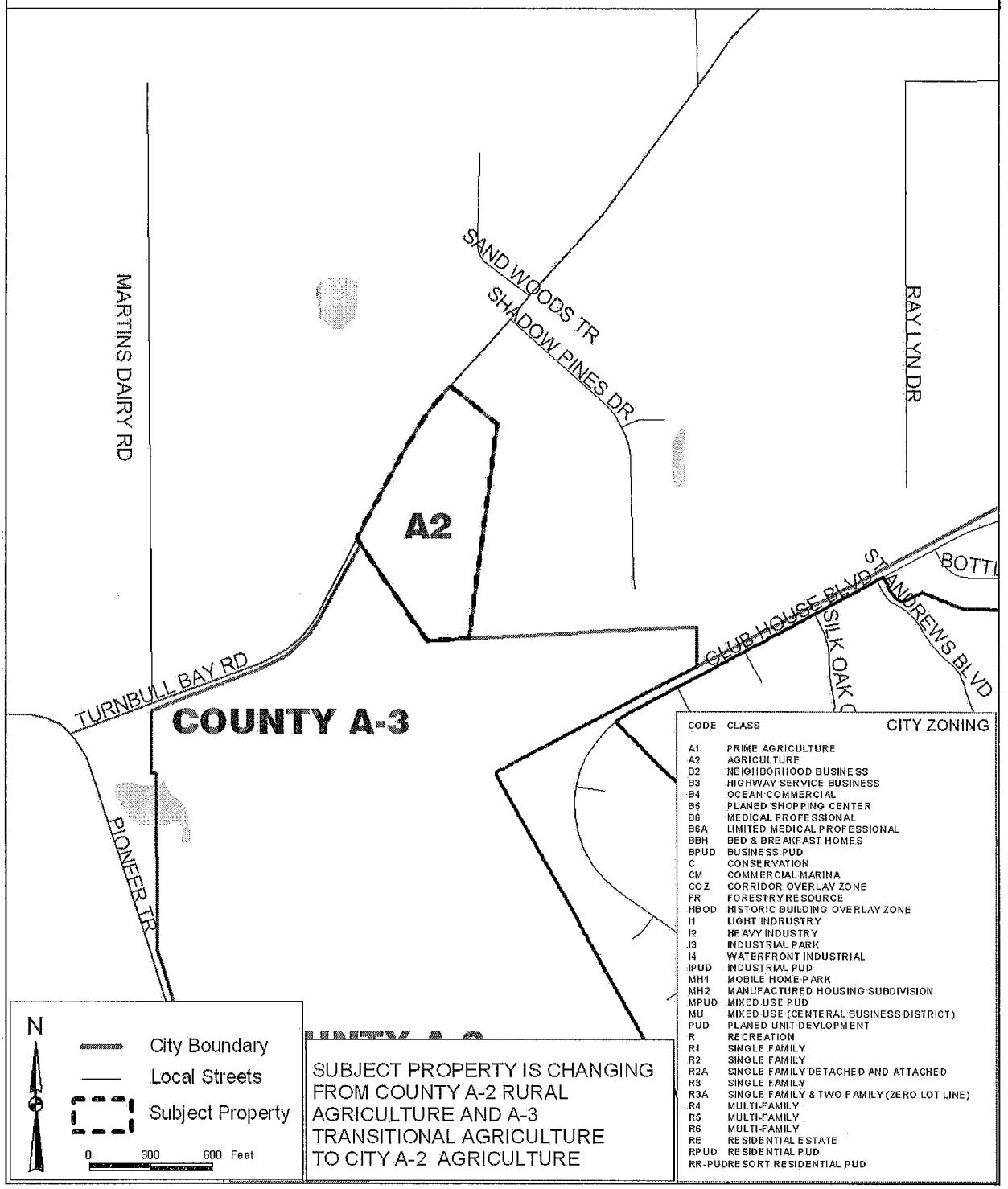
A-15-11



1

Proposed Zoning

A-15-11



CITY OF NEW SMYRNA BEACH RURAL FLU

(up to one [1] dwelling unit per five [5] acres or up to one [1] dwelling unit per acre)

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

The Rural FLU designation may allow smaller lot sizes in clusters to protect environmentally sensitive land and upland buffers but shall not allow increase in density. Smaller cluster lots shall be allowed provided the clusters have large perimeter buffers to give the appearance of rural land from adjacent parcels and there is legal assurance that the property not included in the fee simple cluster lots are owned in common by the fee simple lot owners and will not be subsequently developed.

The density shall be determined as follows: Vacant parcels of land in the vicinity of existing exempt or approved platted subdivisions on or before April 3, 1990, with lot sizes from 1 unit per acre to 1 unit per 5 acres or vacant parcels of land immediately adjacent to an urban FLU category may be developed with similar density or lot sizes but not less than one (1) unit per acre. Only that portion of a parcel(s) that is within 660 feet from the above described existing exempt or approved subdivision or urban FLU category boundary, as of the adoption date of the Rural FLU category, is considered "in the vicinity." Note: If a parcel that is "in the vicinity" is covered by more than fifty percent (50%) of the 660 feet extension, then the remaining portion of that parcel which is 10 acres or less is eligible for increased density.

Although the adjacency to the conditions described above allows for the potential of subdivisions with lots less than 5 acres in size, the actual lot size will be dependent upon the following: Compatibility of the proposed development will be viewed within the context of existing uses, public facility capacity in the area, suitability for wells and septic tank usage, and the natural features of the parcel in question, such as soils, vegetation, and floodplain. Vacant parcels or tracts of land that do not meet the preceding criteria or are in areas which have not been previously platted with lots less than 5 acres in size shall only be developed with lot sizes that are 5 acres or greater or in cluster developments at a density of no greater than one (1) unit per five (5) acres.

A-2, AGRICULTURE DISTRICT

Intent. The purpose and intent of the A-2, Agriculture District, is to preserve and protect rural areas of the city that have some agricultural value, but which are also suitable for rural single-family living.

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

Apiaries

Essential utility service

Fire stations

Fish, hunting, or nonprofit organization camps

Hobby breeder

Home occupation

Open agricultural uses such as field crops, tree crops, fern crops, grazing land, grass land, and pastures

Parks and recreation areas

Pisciculture

Public uses not listed as a permitted principal use

Public utility uses and structures

Single family standard or manufactured dwelling

Riding stables (minimum parcel size requirement of five acres)

Wormraising

Permitted accessory uses.

Fruit and vegetable stands

Garages

Gazebos

Incidental uses

Nonresidential agricultural buildings and recreation facilities related to the permitted use

Storage sheds

Permitted special exceptions.

Animal hospitals, veterinary clinics

Excavations (See [sub]section 801.15 of this part)

Farm supply stores

Farmworker living facility associated with a bona fide agricultural use provided:

(a) The minimum floor area per dwelling shall be 720 square feet.

(b) No detached dwelling used in the farmworker living facility shall be closer than 50 feet to any other detached dwelling.

(c) No dwelling used as a farmworker living facility shall be closer than 100 feet to any property line of the premises on which it is placed.

(d) If not already in existence, a visual screen of natural plant materials meeting the requirements of [sub]section 604.05E.(1) located between the dwellings and all adjoining property lines, shall be constructed and maintained.

(e) Potable water and sewage disposal facilities shall be in compliance with all applicable provisions of Florida law and the city's comprehensive plan.

(f) The area between the ground and the floor of a mobile home dwelling used as a farmworker living facility shall be enclosed with skirting.

(g) No subsequent expansion of a farmworker living facility as shown on the approved site plan for the special exception shall be allowed unless another special exception for the expansion is approved. However, subsequent decrease of the approved sites is permitted.

(h) The applicant shall provide information to the enforcement official as to the kind of agricultural operation existing on the premises at the time of application for the farmworker living facility.

(i) Dwellings may be arranged in a cluster fashion on the premises. The maximum number of dwellings authorized will be based on the size of 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

Houses of worship and cemeteries provided no principal or accessory building shall be located less than 50 feet from any property line.

Humane Society/animal shelters provided that no building is located closer than 50 feet from the property line.

Kennels

Sawmills and planing mills

Dimensional requirements.

Minimum lot size.

Area: 5 acres

Width: 150 feet

Minimum yard size.

Front: 50 feet

Rear yard: 50 feet

Side yard: 25 feet

Waterfront yard: 50 feet

Maximum building height. 95 feet

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

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

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

Minimum floor area. 750 square feet of livable area

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

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

IMPACT ANALYSIS

Existing County FLU	Acres	Density	Units	Existing County Zoning	Acres
Rural	10.375	1 unit / 5 acres	2	A-2 & A-3, Rural Agriculture and Transitional Agriculture	10.375
Total	**10.375**		**2**		**10.375**

Requested City FLU	Acres	Density	Units	Requested City Zoning	
Rural	10.375	1 unit / 5 acres	2	A-2, Agriculture	10.375
Total	**10.375**		2		**10.375**

	Existing FLU	Units	Requested FLU	Units	Increase/ (Decrease)
Dwelling Units	Rural = 1 unit / 5 acres	2	Rural = 1 unit / 5 acres	2	0
TOTAL DWELLING UNITS		**2**		**2**	0

	Existing FLU		Proposed FLU		Increase/ (Decrease)
Population[1]	2.41 persons/du	5	2.41 persons/du	5	0
Students[2]	0.396 students/du	1	0.396 students/du	1	0

Trip Generation[3]	Existing Land Use			Proposed Land Use				
	Land Use	Average Daily Trips	PM Peak Hour Trips	Land Use	Average Daily Trips	PM Peak Hour Trips	Average Daily Increase / (Decrease)	PM Peak Increase / (Decrease)
	Single-Family Residential	19.14	2.02	Single-Family Residential	19.14	2.02	0.00	0.00
TOTAL		**19.14**	**2.02**		**19.14**	**2.02**	**0.00**	**0.00**

Parks and Recreation[4]

Existing Requirements (County)			Proposed Requirements (City)							
Facility Type	**Adopted Level of Service Standard**	**Total Required for Population of Subject Property**	Facility Type	Adopted Level of Service Standard		Total Required for Population Before Proposed Annexation	Additional Required for Proposed FLU Population	Total Required after Annexation	Existing	Under / (Deficiency)[5a]
Local Park	0.002 acres per person	0.00964	Beach Access	acres per resident -	0.00025	5.667	0.001205	5.668205	227.19	221.52
District Park	0.005 acres per person	0.0241	Urban Open Space	acres per resident -	0.001	22.668	0.00482	22.67282	33.167	10.49
			Equipped Play Areas	acres per resident -	0.0002	4.5336	0.000964	4.534564	12.503	7.97
			Neighborhood Parks	acres per resident -	0.0004	9.0672	0.001928	9.069128	29.156	20.09
			Community Parks	acres per resident -	0.001	22.668	0.00482	22.67282	75.664	52.99
			Regional Parks	acres per resident -	0.02	453.36	0.0964	453.4564	60314.47	59861.01
			Urban District Parks	acres per resident -	0.005	113.34	0.0241	113.3641	770.706	657.34
			Baseball/Softball Fields	fields per resident -	0.0001	2.2668	0.000482	2.267282	9	6.73
			Basketball Courts	courts per resident -	0.00005	1.1334	0.000241	1.133641	10	8.87
			Bicycle Trails	miles per resident -	0.0001	2.2668	0.000482	2.267282	46.584	44.32
			Boat Ramps	ramps per resident -	0.00008	1.81344	0.0003856	1.8138256	8	6.19
			Piers/Catwalks/Jetties	lineal feet per resident -	0.032	725.376	0.15424	725.53024	4074	3348.47
			Football/Soccer Fields	fields per resident -	0.00004	0.90672	0.0001928	0.9069128	7	6.09
			Handball/Racquetball Cts.	courts per resident -	0.00005	1.1334	0.000241	1.133641	5	3.87
			Shuffleboard Courts	courts per resident -	0.00008	1.81344	0.0003856	1.8138256	37	35.19
			Tennis Courts	courts per resident -	0.0001	2.2668	0.000482	2.267282	9	6.73

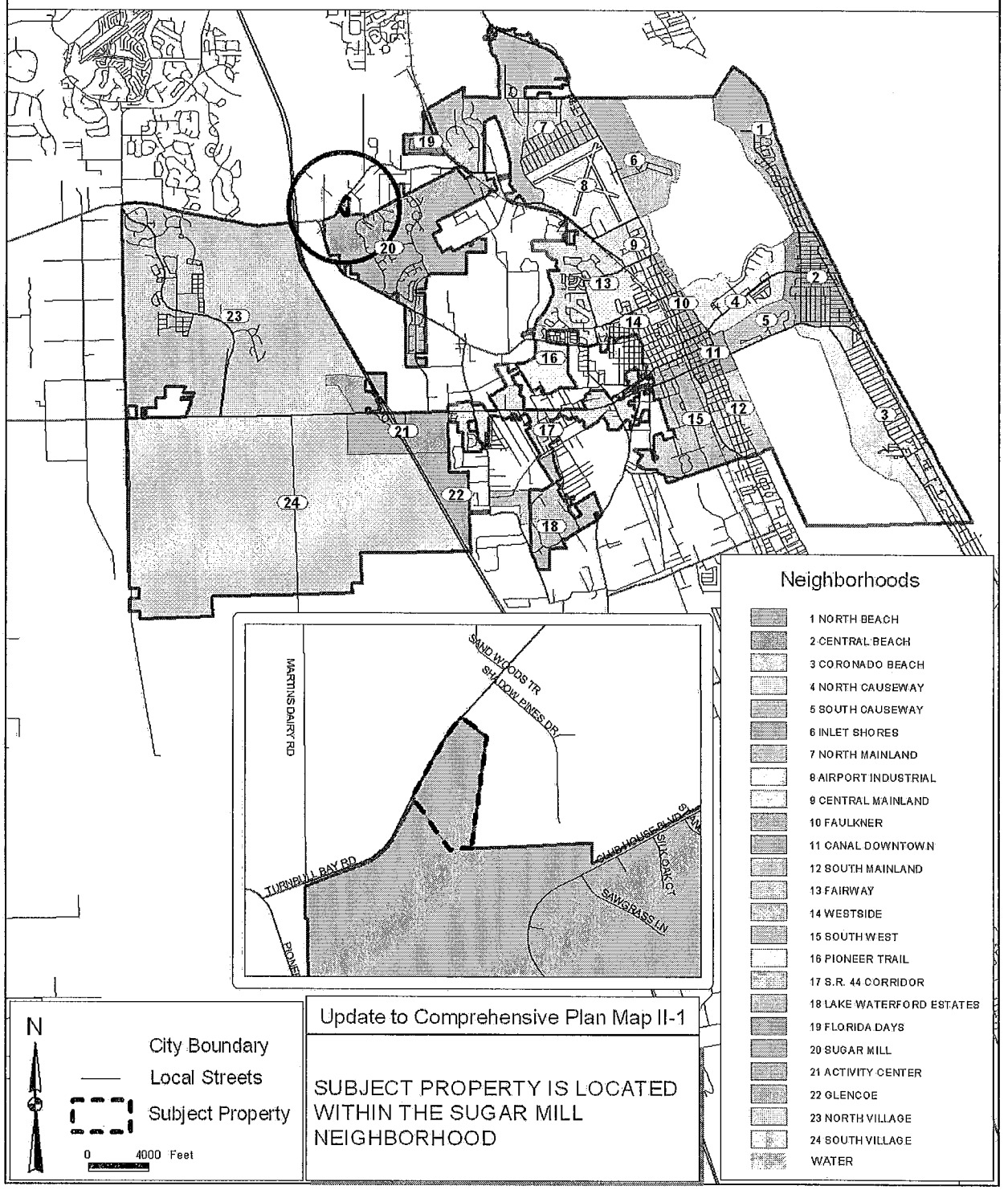
	Existing FLU			Proposed FLU				
	Rural	Non-Residential	Total	Rural	Maximum Peak Flow (Million GPD)	Existing Average Daily Flow (Million GPD)	Total Average Daily Flow after Annexation	Remaining Capacity (GPD)
Potable Water[5] (GPD)	400.00		400.00	480	7.13	4.60	4,600,480.00	2,529,520.00
Sanitary Sewer[6] (GPD)	350.00		350.00	414	7.00	4.09	4,090,414.00	2,909,586.00
Solid Waste[7]	41.45	n/a	41.45	35.23	n/a[7a]	n/a[7a]	n/a[7a]	n/a[7a]
Stormwater[8]	Peak discharge rate and total runoff volume leaving the site for a 25 year storm of 24 hour duration shall be limited to 110 percent of the present discharge rate and total discharge volume.							

Notes:

1. Population: 2.41 persons per residential unit or single-family dwelling per 2006-2008 American Community Survey for Volusia County
2. Student population is calculated at a rate of 0.396 students per single-family dwelling unit
3. Source: ITE Trip Generation Manual, 7th Edition
   Single-Family Residential - Average Daily Trips = 9.57 trips/unit weekday; 1.01 trips/dwelling unit for peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.
4. Because there are different Level of Service Standards for Parks and Open Sapce between the County and the City, it is not feasible to compare before and after annexation figures. However, as is shown on the table, concurrency with City standards is calculated.
5. Potable Water: County = 200 gallons per day(GPD) per ressidential unit; 0.15 GPD per sq. ft. of office bulding area; 0.1 GPD per sq. ft. of retail, institutional & industrial building area. City = 240 gallons per day per residential unit or ERU
6. Sanitary Sewer: County = 175 GPD per residential unit; 0.15 GPD per sq. ft. office building area; 0.10 GPD per sq. ft. retail, institutional & industrial building area. City = 207 gallons per day per residential unit or ERU.
7. Solid Waste: County = 8.6 pounds per day per person. City = 7.3 pounds per person per day. Non-residential waste is included in these figures. Solid Waste is transported to the Tomoka Land Fill, which has a 40-year projected lifespan before reaching capacity and is therefore not affected by the proposed FLU changes
8. Stormwater Drainage: LOS standard = 25 year, 24 hour event. Drainage system will be designed to meet the requirements contained in the Land Development Regulations.

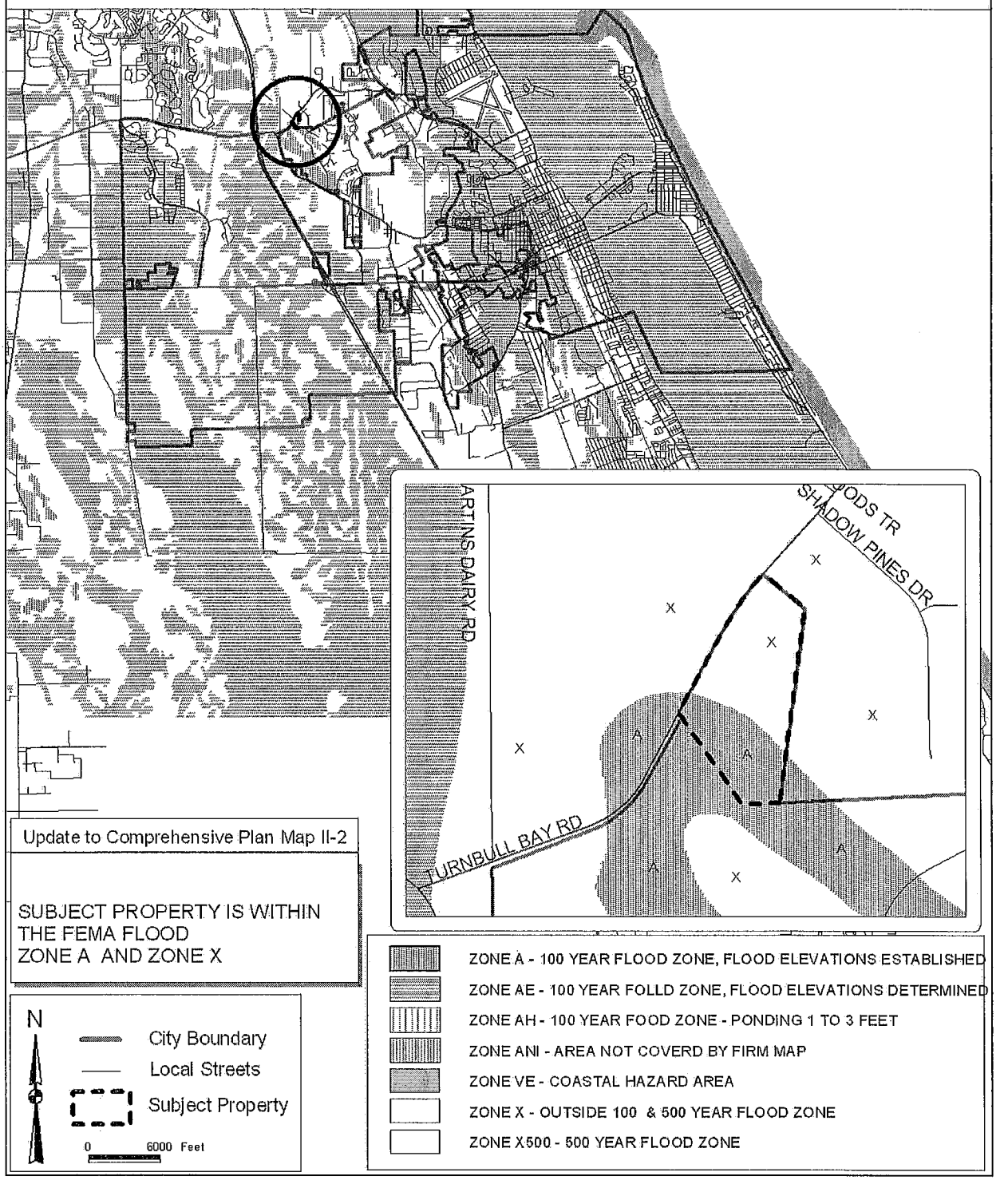
Neighborhoods

A-15-11



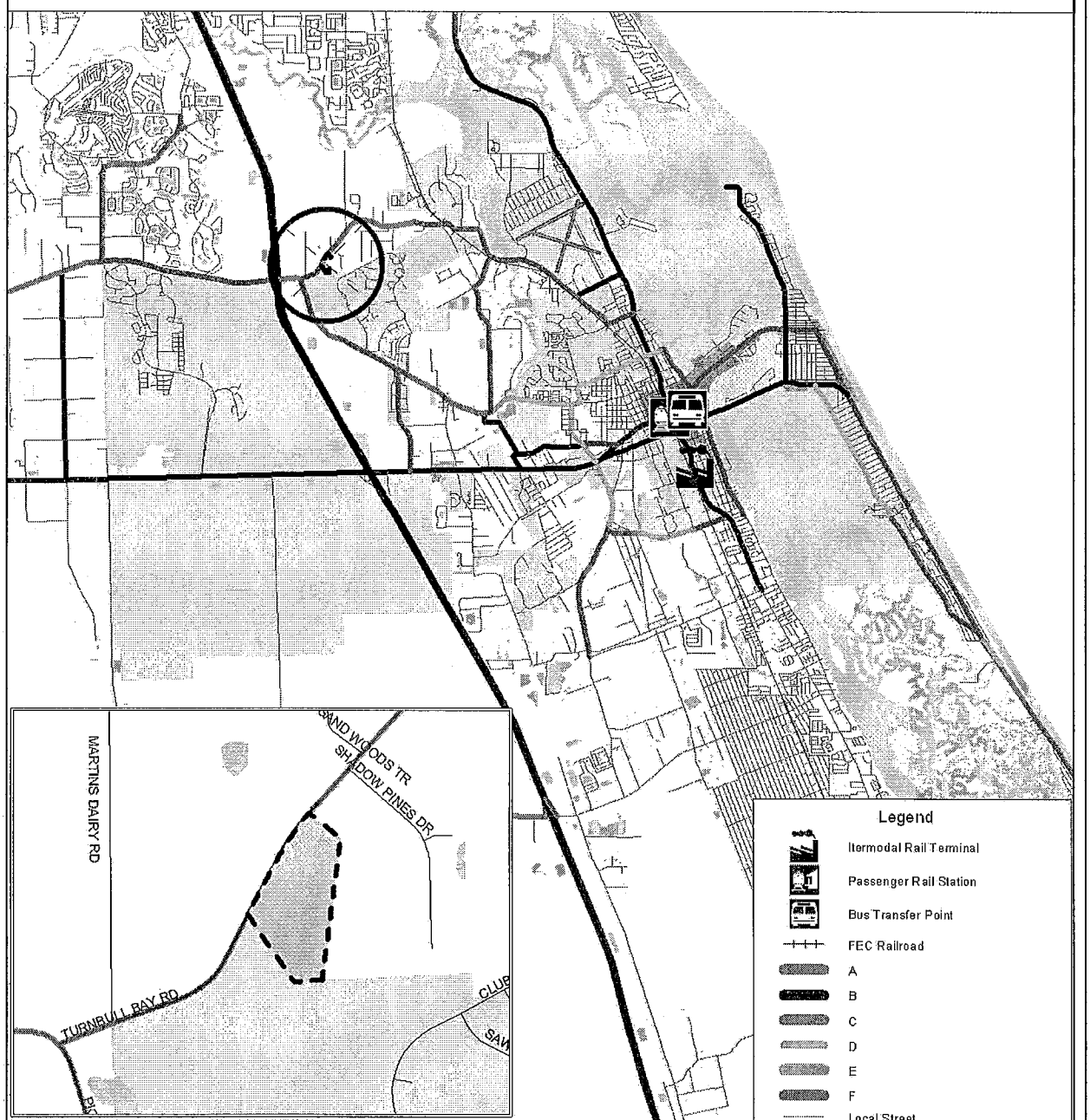
Flood Prone Areas

A-15-11



Existing Level of Service - 2009

A-15-11



N

Subject Property

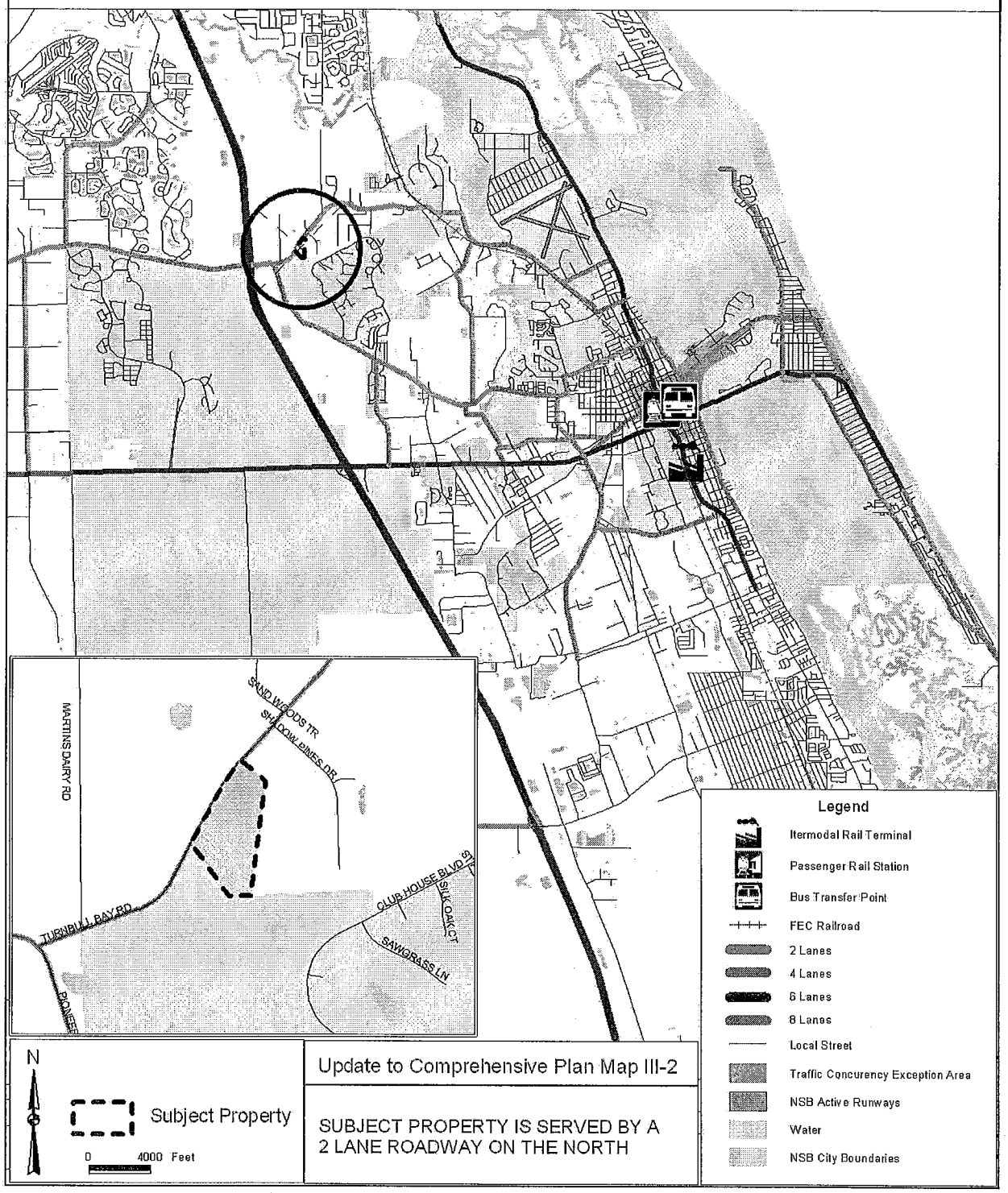
0 4000 Feet

Update to Comprehensive Plan Map III-1

SUBJECT PROPERTY IS SERVED BY A CLASS 'C' LEVEL OF SERVICE ROADWAY ON THE NORTH

Existing Traffic Lanes - 2009

A-15-11

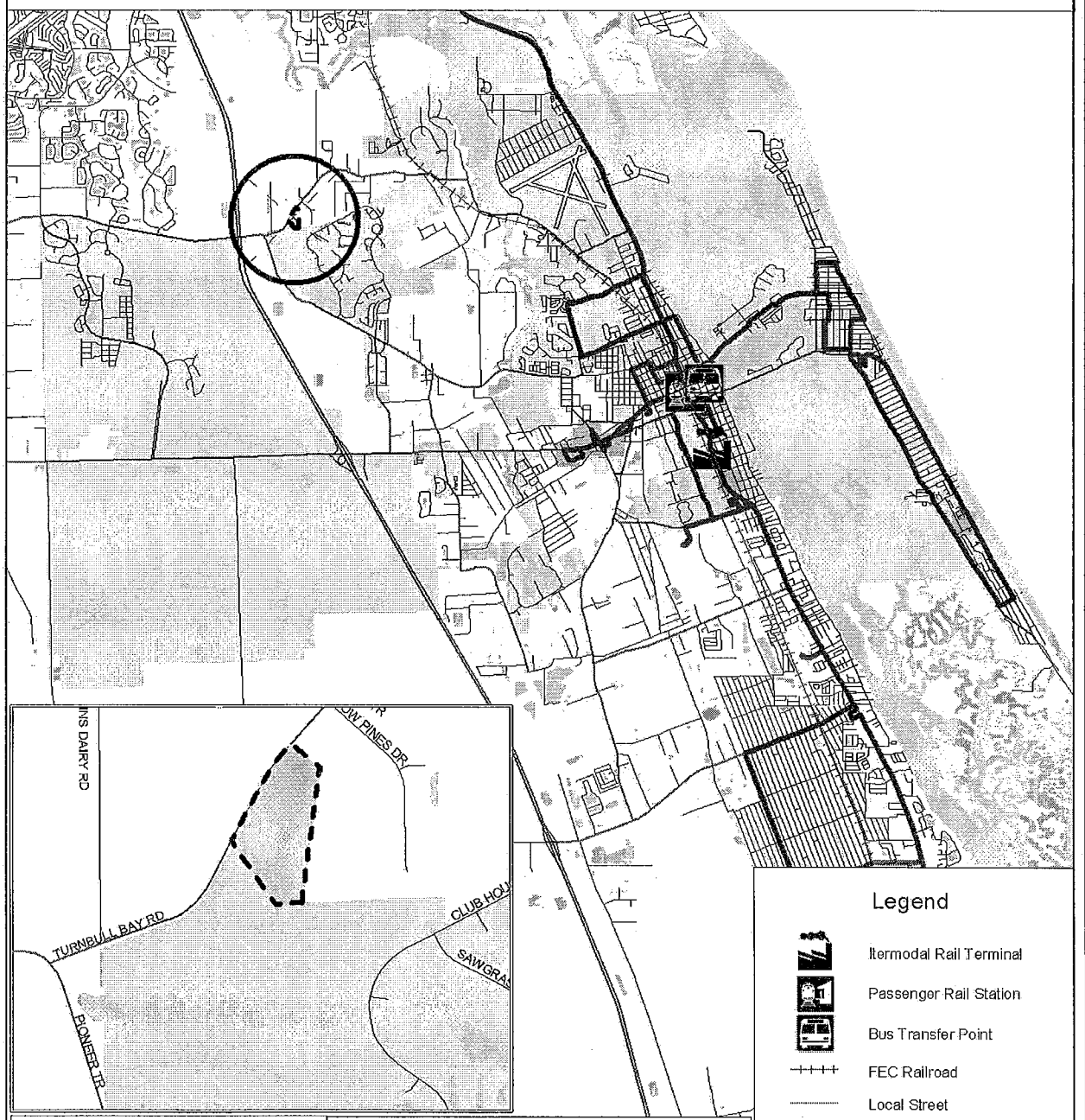


Update to Comprehensive Plan Map III-2

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

Public Transit Routes

A-15-11

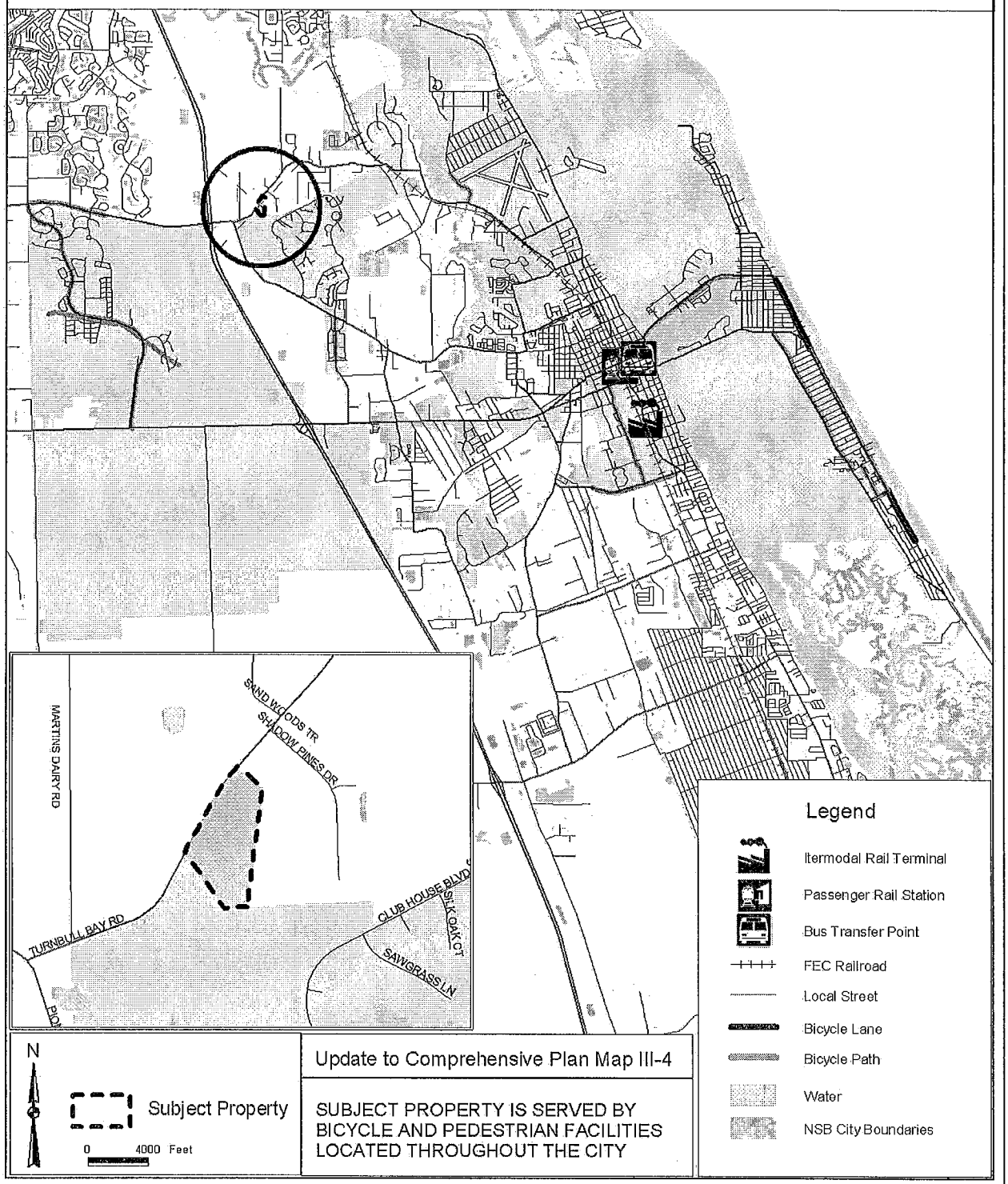


Update to Comprehensive Plan Map III-3

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

Bicycle and Pedestrian Facilities

A-15-11

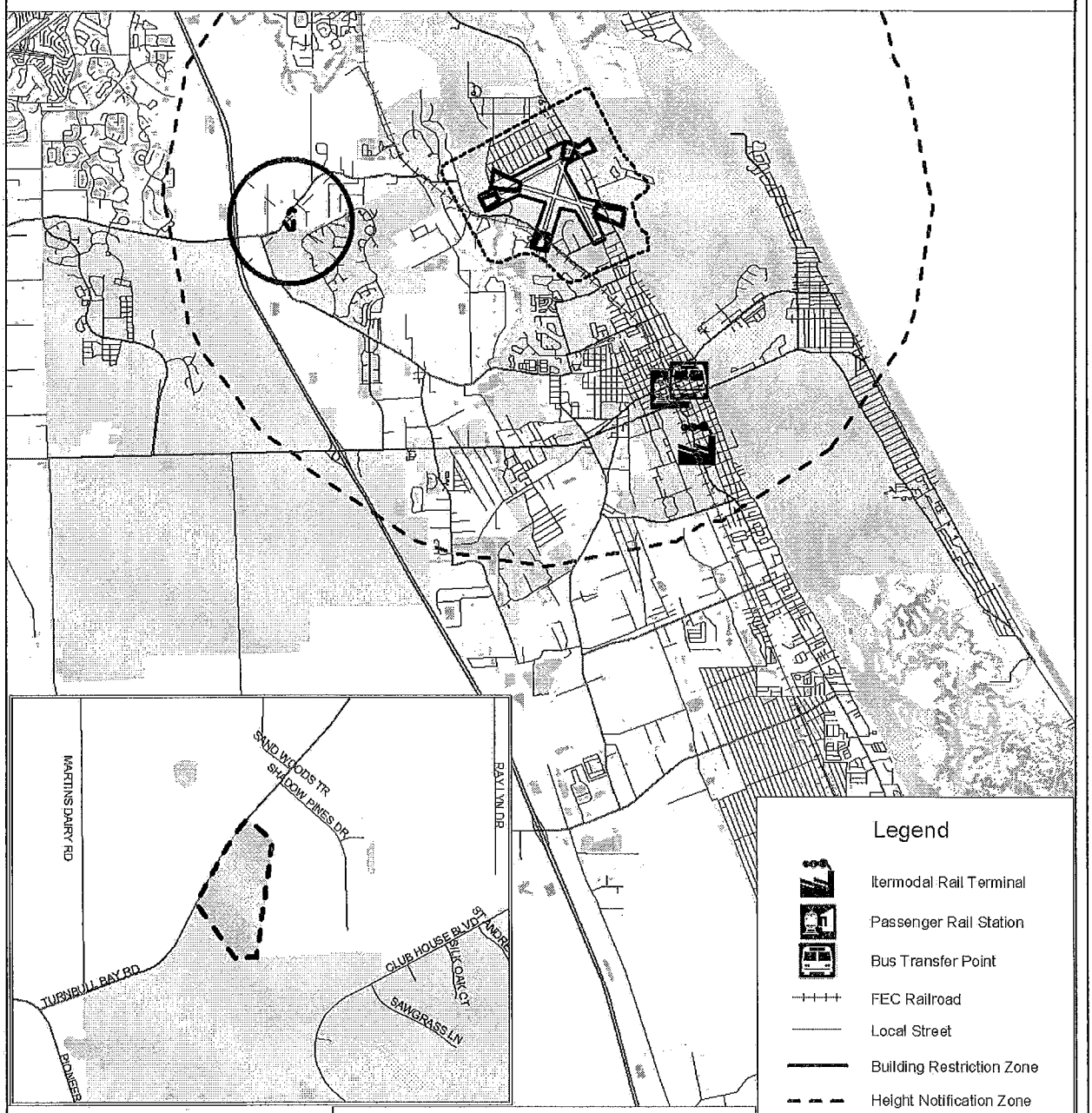


Update to Comprehensive Plan Map III-4

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

Airport Runway Protection Zones

A-15-11



Legend

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

N

Subject Property

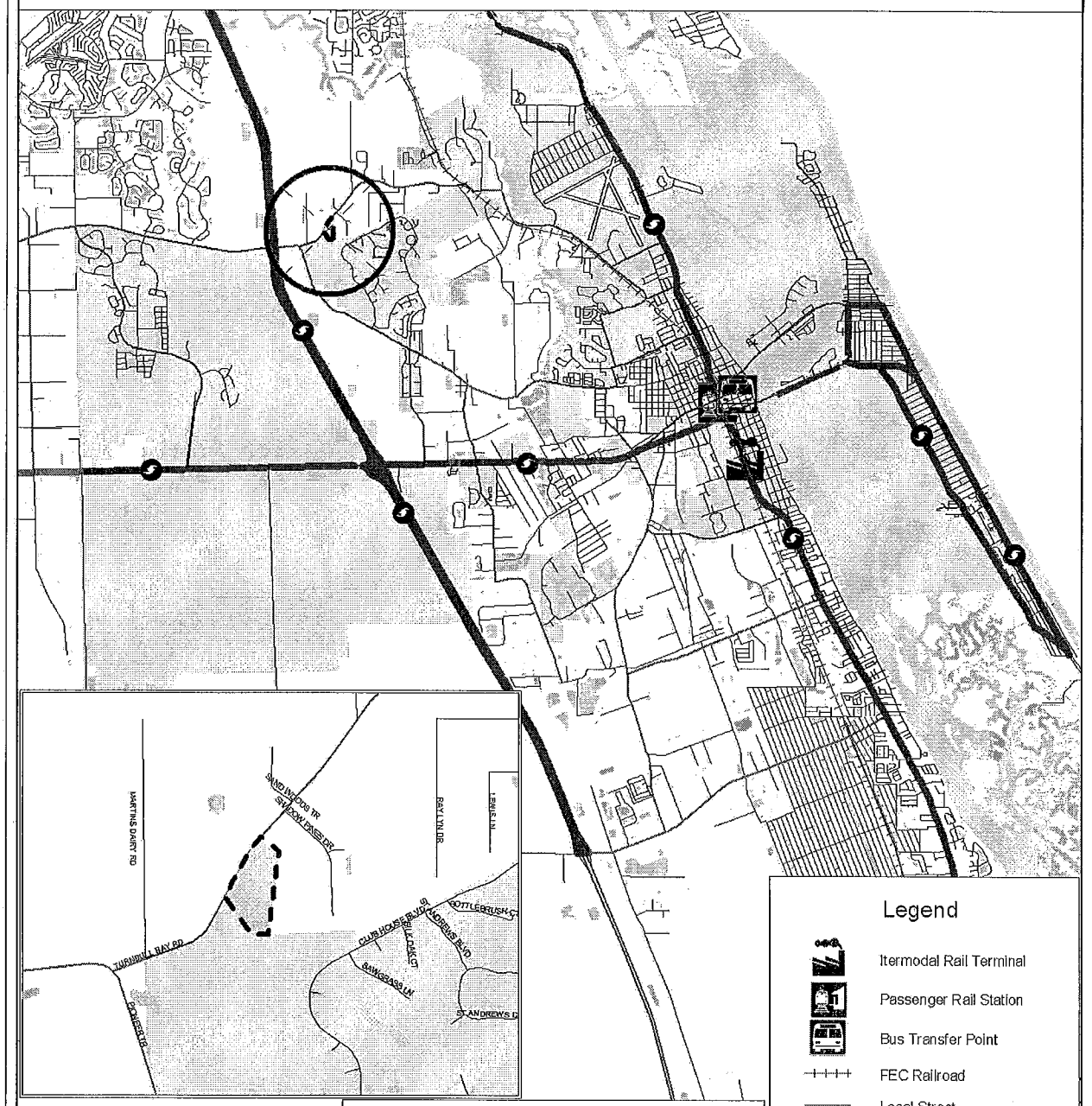
0 4000 Feet

Update to Comprehensive Plan Map III-5

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

Evacuation Routes

A-15-11



N

Subject Property

0 4000 Feet

Update to Comprehensive Plan Map III-6

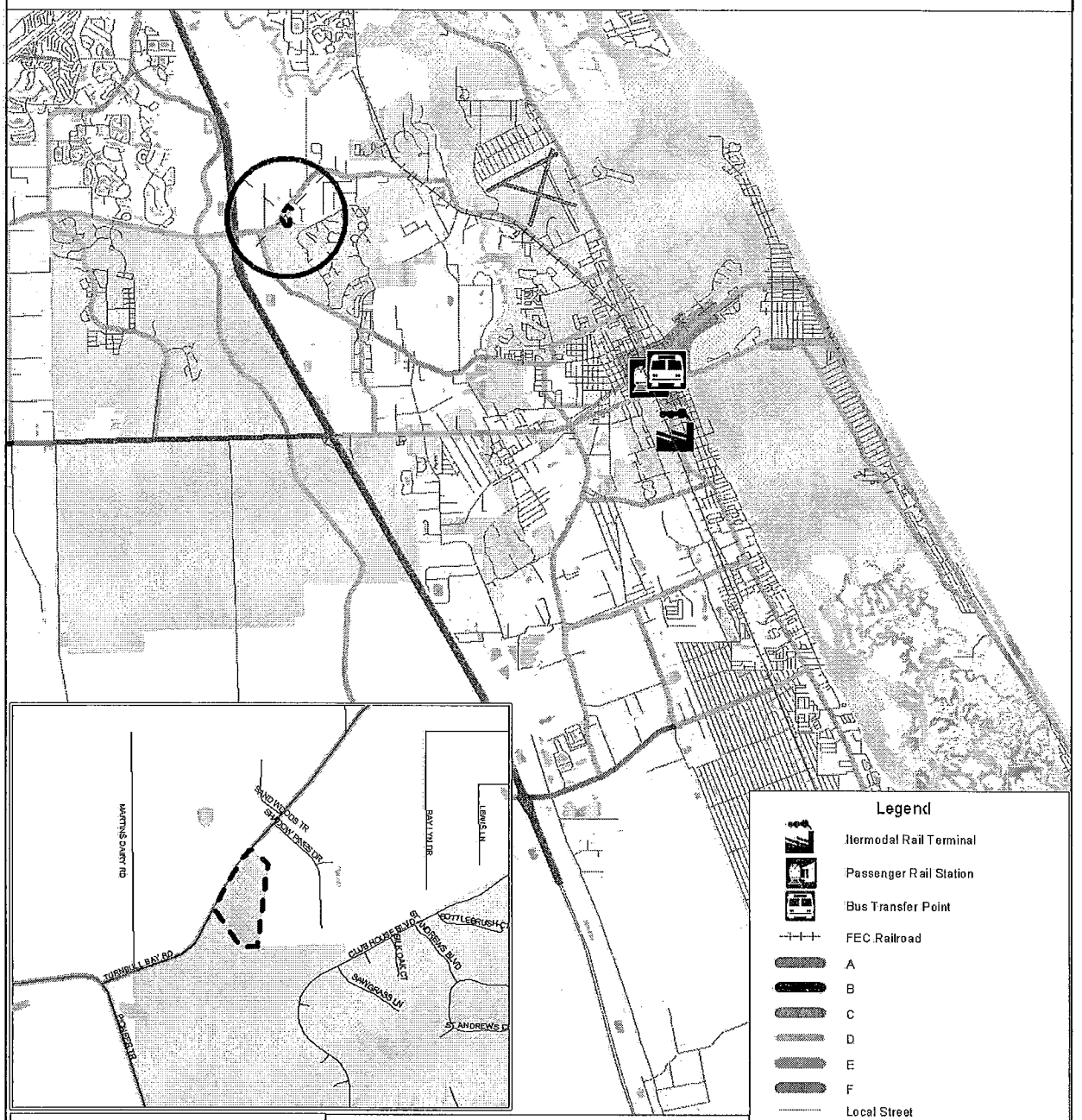
SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

Legend

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

Level of Service - 2025

A-15-11

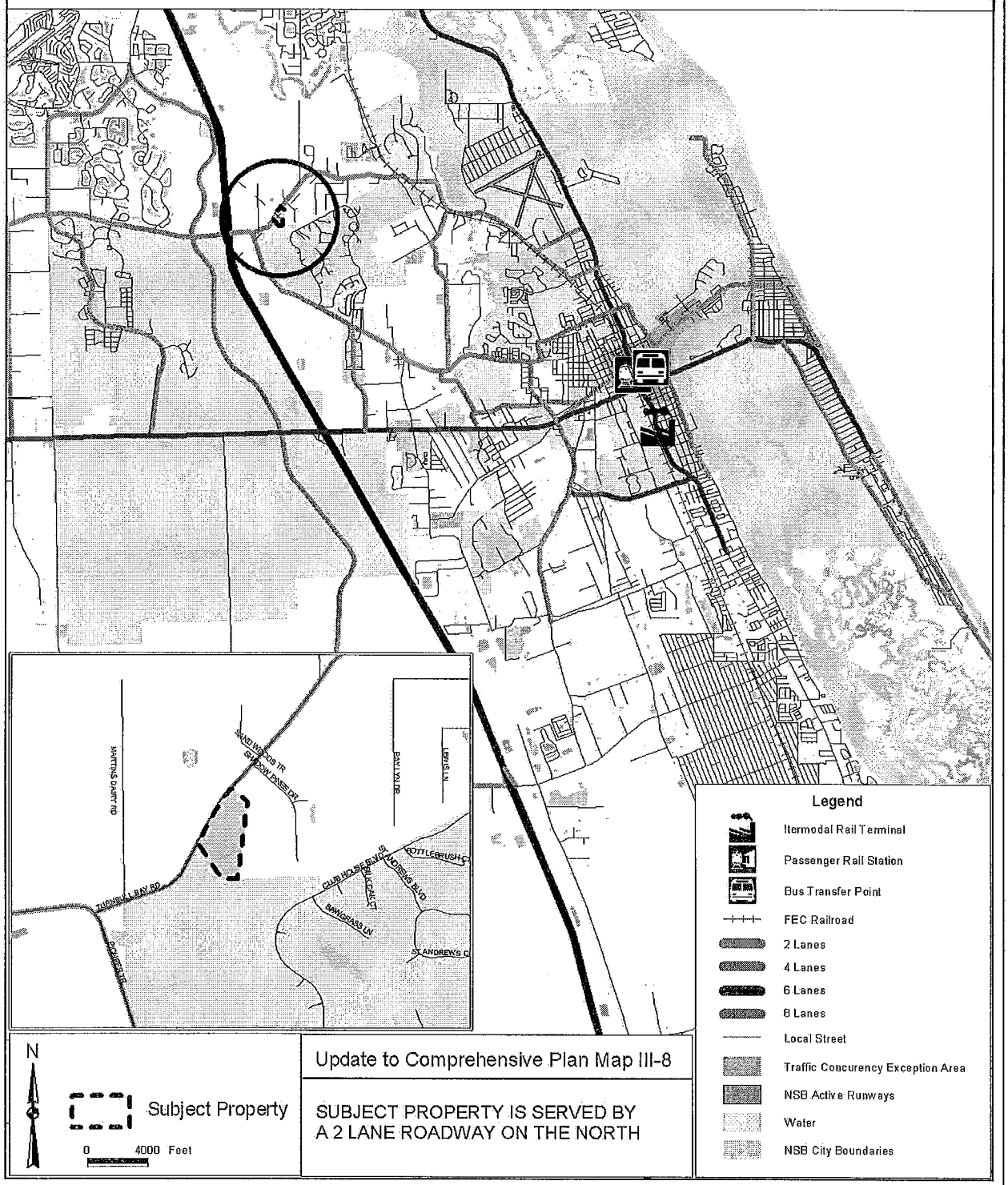


Update to Comprehensive Plan Map III-7

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

Number of Traffic Lanes - 2025

A-15-11

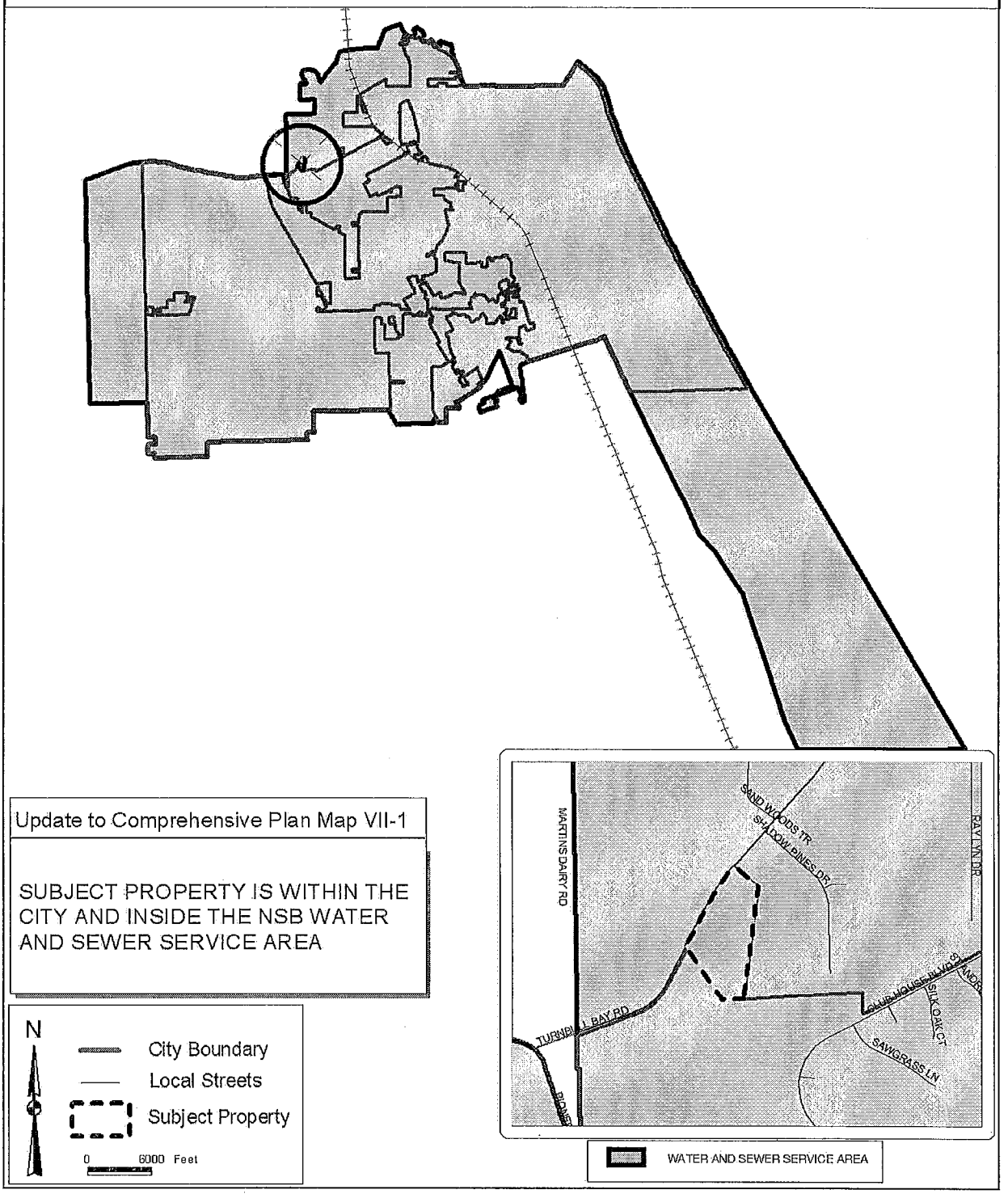


Update to Comprehensive Plan Map III-8

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

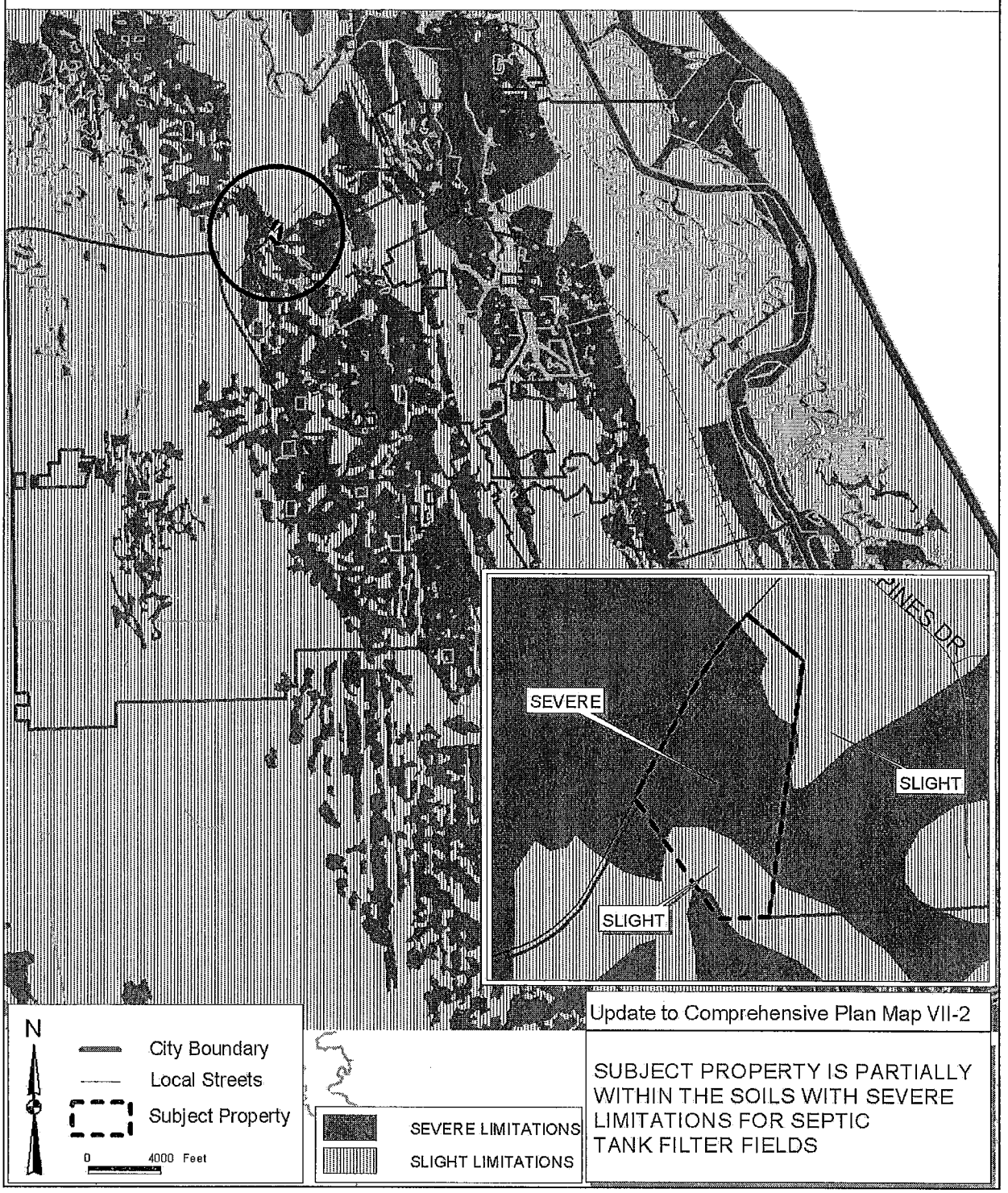
Water & Sewer Service Area

A-15-11



Soil Limitation for Septic Systems

A-15-11

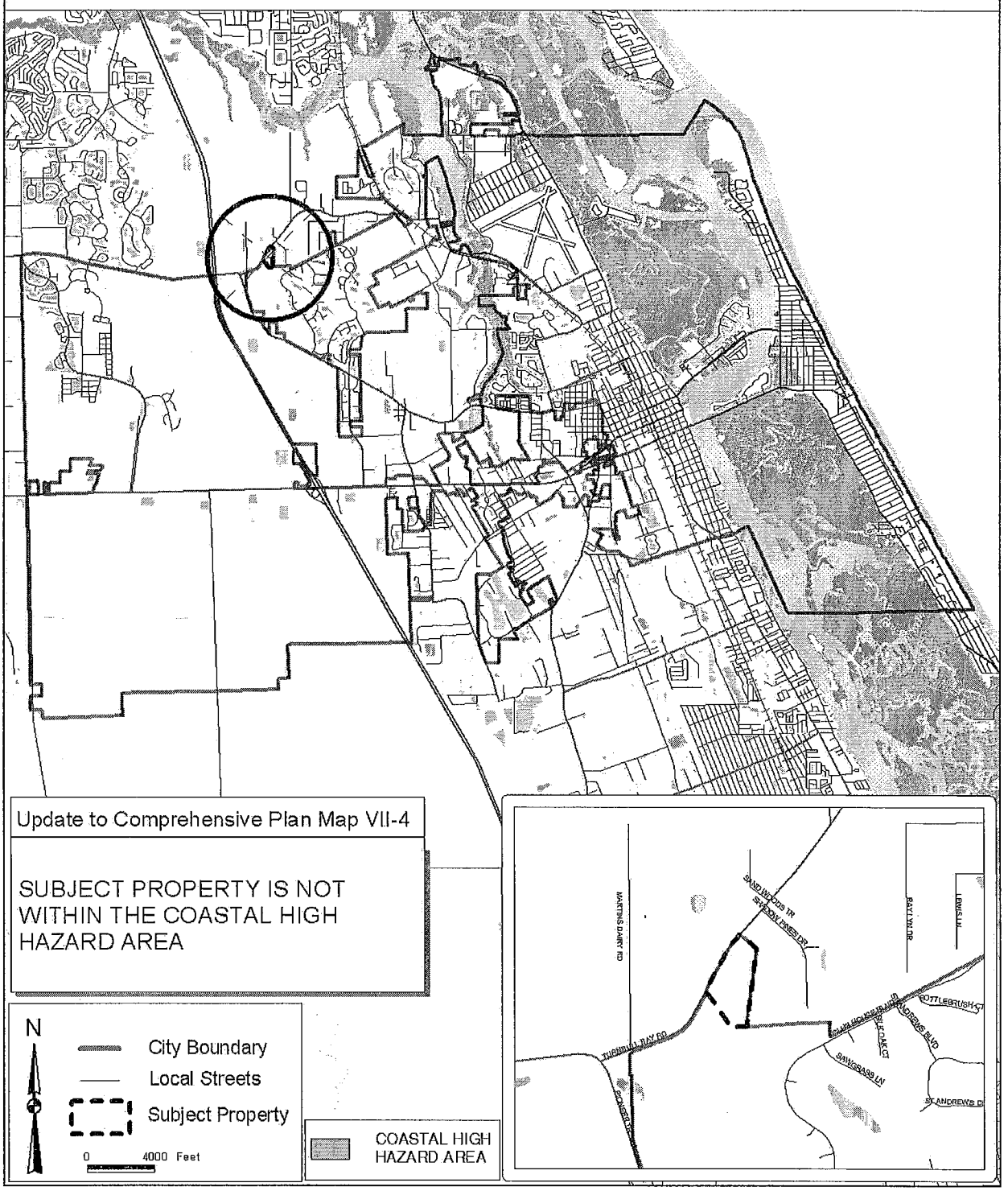


Update to Comprehensive Plan Map VII-2

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

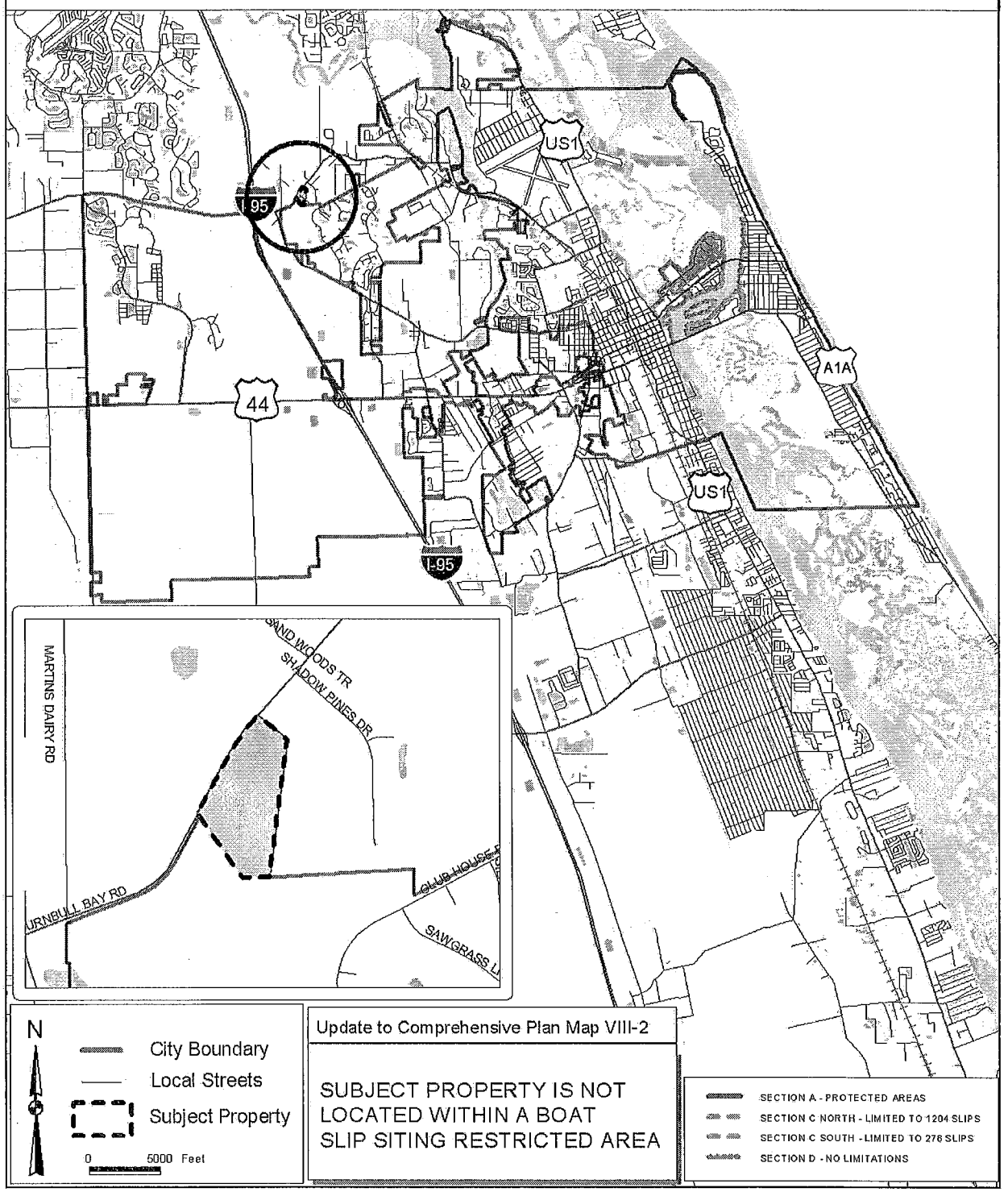
Coastal High Hazard Areas

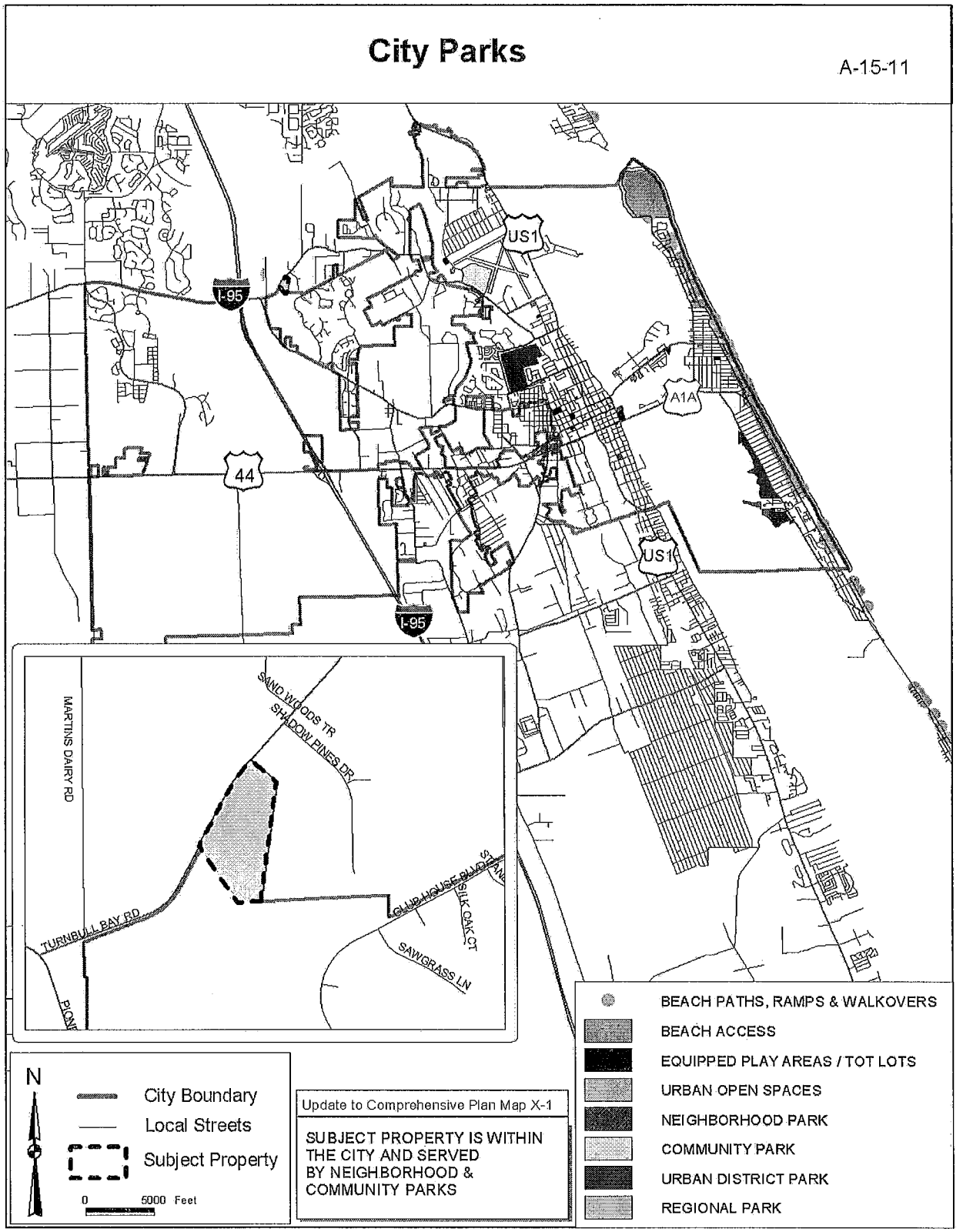
A-15-11



Boat Slip Siting

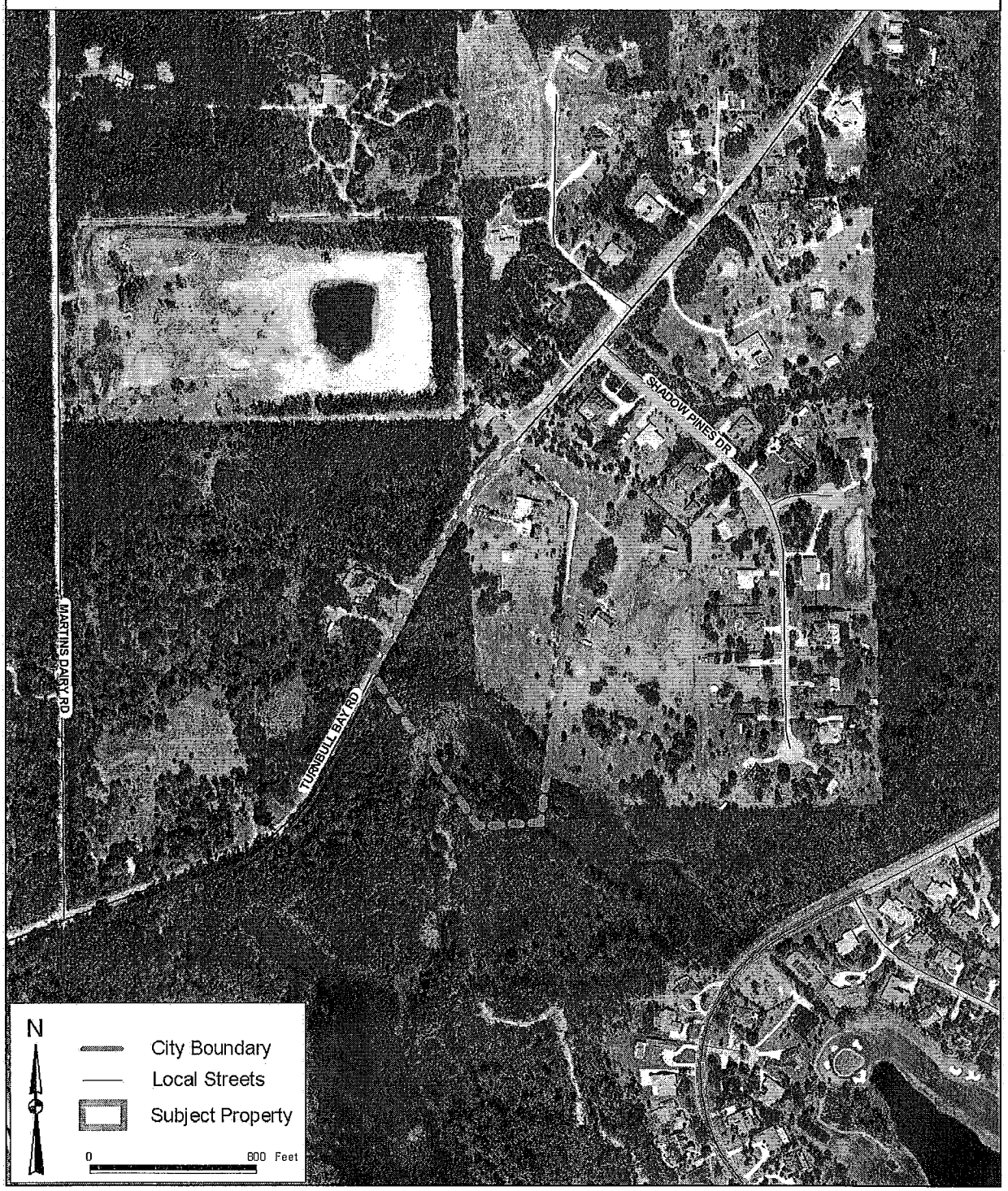
A-15-11




City Parks
A-15-11
US1
I-95
A1A
44
US1
I-95
SAND WOODS TR
SHADOW PINES DR
MARTINS DAIRY RD
TURNBULL BAY RD
CLUBHOUSE BLVD
SILK OAK CT
SAWGRASS LN
N
City Boundary
Local Streets
Subject Property
0 5000 Feet
Update to Comprehensive Plan Map X-1
SUBJECT PROPERTY IS WITHIN THE CITY AND SERVED BY NEIGHBORHOOD & COMMUNITY PARKS
BEACH PATHS, RAMPS & WALKOVERS
BEACH ACCESS
EQUIPPED PLAY AREAS / TOT LOTS
URBAN OPEN SPACES
NEIGHBORHOOD PARK
COMMUNITY PARK
URBAN DISTRICT PARK
REGIONAL PARK

Location Map

A-15-11



CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-16-11: MCCALLISTER / 1576 LEWIS LANE

DECEMBER 5, 2011

I. Background

A. **Applicant and Property Owners:** David and Stacy McCallister, Jr., 1576 Lewis Lane, New Smyrna Beach, Florida, 32168

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

- **From:** County Future Land Use (FLU) designation of Rural; and County zoning RA, Rural Agriculture Estate
- **To:** City FLU designation of Rural; and City zoning RE, Residential Estate

C. **Site Information:**

- **Size:** 3.3 acres
- **Location:** The subject property is located south of Turnbull Bay Road at 1576 Lewis Lane. (see **Exhibit A** for a location map).
- **Tax I.D. Number:** 7303-00-02-0025

II. Findings

A. The subject property is an approximately 3.3-acre site that has been improved with a single family detached residence. The property currently has a Volusia County Future Land Use (FLU) designation of Rural, which allows one dwelling unit per five acres. The property is currently zoned Volusia County RA, Rural Agriculture Estate, which requires a minimum lot size of 2.5 acres. The surrounding future land use, existing uses, and zoning are as follows:

North
Future Land Use: County Rural
Existing Land Use: Residential
Zoning: County RA, Rural Agriculture Estate

South
Future Land Use: County Rural
Existing Land Use: Residential
Zoning: County A-2, Rural Agriculture Estate

East
Future Land Use: County Rural
Existing Land Use: Residential
Zoning: County RA, Rural Agriculture Estate

West
Future Land Use: County Rural
Existing Land Use: Vacant
Zoning: County RA, Rural Agriculture Estate

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

B. Previous City Commissions have 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 RA, Rural Agriculture Estate, respectively. The closest City FLU designation that matches the existing County designation is also Rural, with both designations allowing one unit per five acres. However, the City does not have a 2.5-acre zoning designation similar to the County's RA, Rural Agriculture Estate. The City either has an A-2, Agriculture zoning district, which requires a minimum lot size of five acres, or an RE, Rural Estate zoning designation, which requires a minimum lot size of one acre. Because it is undesirable from a land use perspective to intentionally create a non-conforming lot, staff is recommending the RE, Residential Estate zoning classification. Maps showing the proposed FLU and zoning changes are attached as **Exhibits G and H**. Descriptions of the proposed FLU and zoning designations are attached as **Exhibits I and J.**

C. This annexation request is within the City's annexation area and within the City's water and sewer service area. **Exhibit K** A 6" sewer force main is available immediately east of this parcel in the White Street right-of-way. However, properties typically do not connect directly to the force main. Therefore, the property owner would not be required to connect to sanitary sewer until such time as the Utilities Commission extends a gravity main with a sanitary sewer service to the adjacent properties. The property is served by an 8" PVC water line in the White Street right-of-way.

D. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, stormwater management, and public school facilities. 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.

E. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject properties into the *Comprehensive Plan* (see

Exhibits L through Y). **Exhibit Z** is an aerial photo of the property for informational purposes.

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

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

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

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

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

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

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

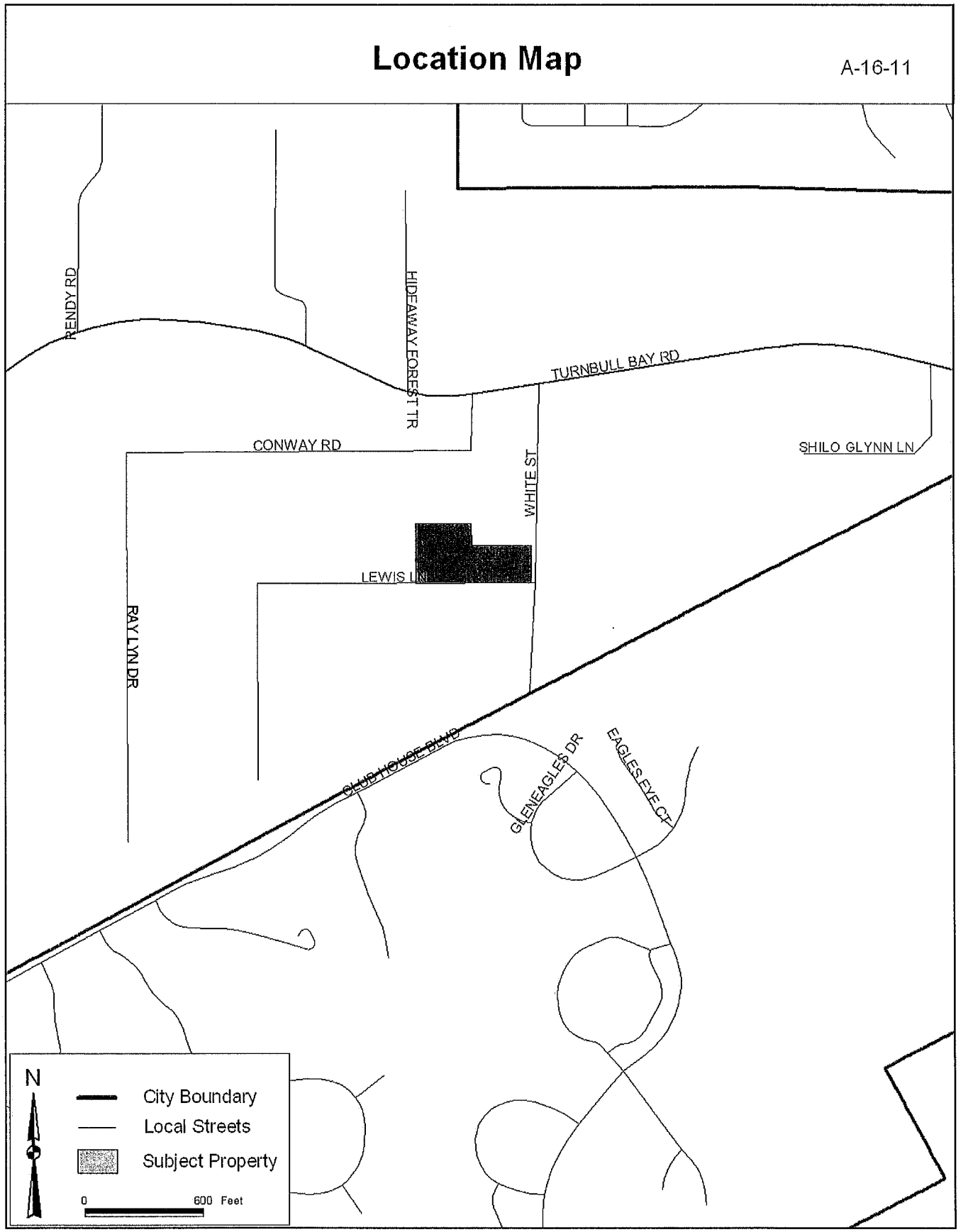
- **Future Land Use Element Objective 10:** To protect existing desirable neighborhoods from encroaching new development which

is incompatible and inconsistent with established character of the neighborhood

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

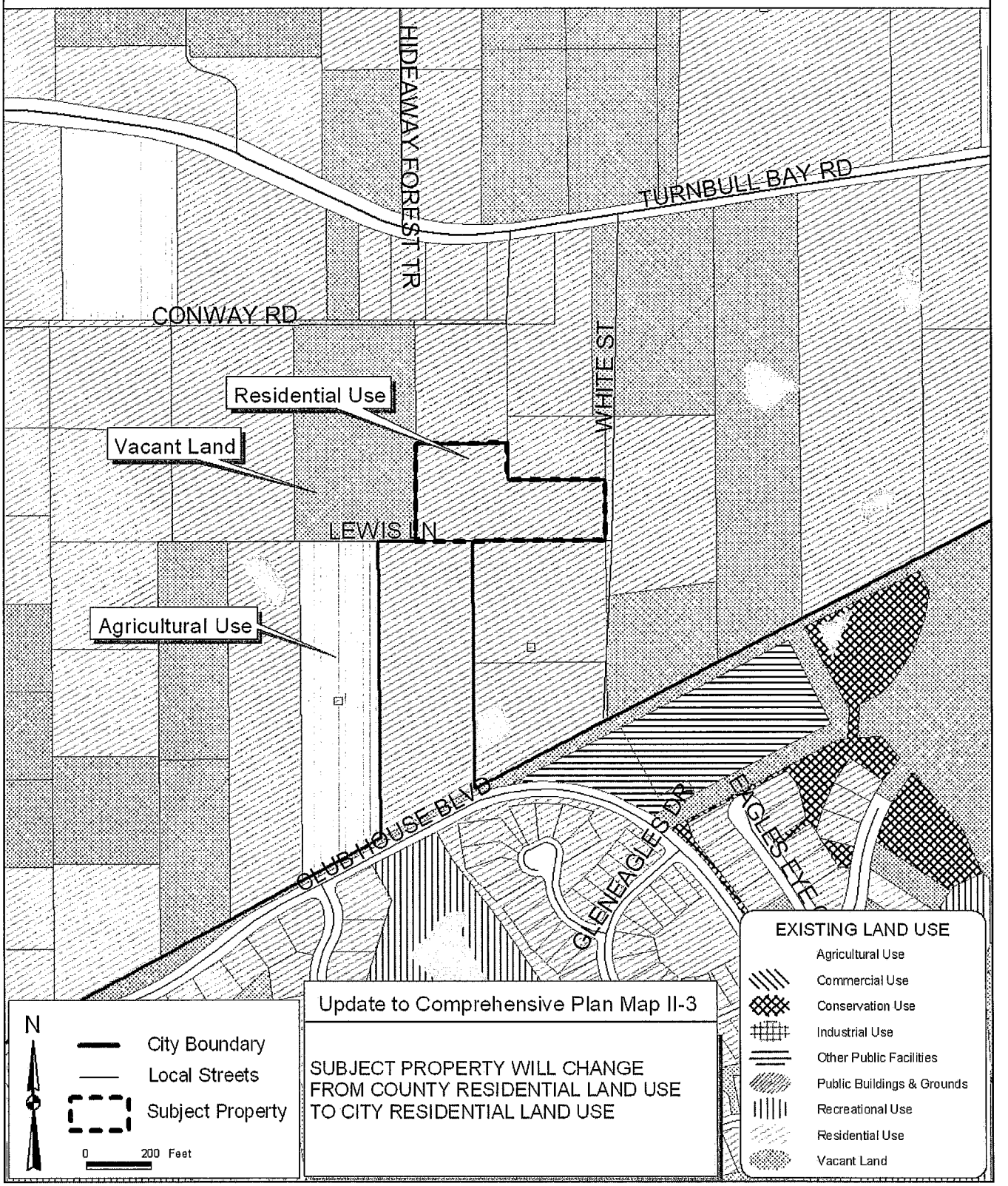
III. Recommendation

Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the annexation, *Comprehensive Plan* amendment to City Rural, and the rezoning to City zoning district designation RE, Residential Estate.


Location Map
A-16-11
RENDY RD
HIDEAWAY FOREST TR
TURNBULL BAY RD
CONWAY RD
WHITE ST
SHILO GLYNN LN
LEWIS LN
RAY LYN DR
CLUB HOUSE BLVD
GLENEAGLES DR
EAGLES EYE CT
N
City Boundary
Local Streets
Subject Property
0
600 Feet

Existing Land Use Designations

A-16-11

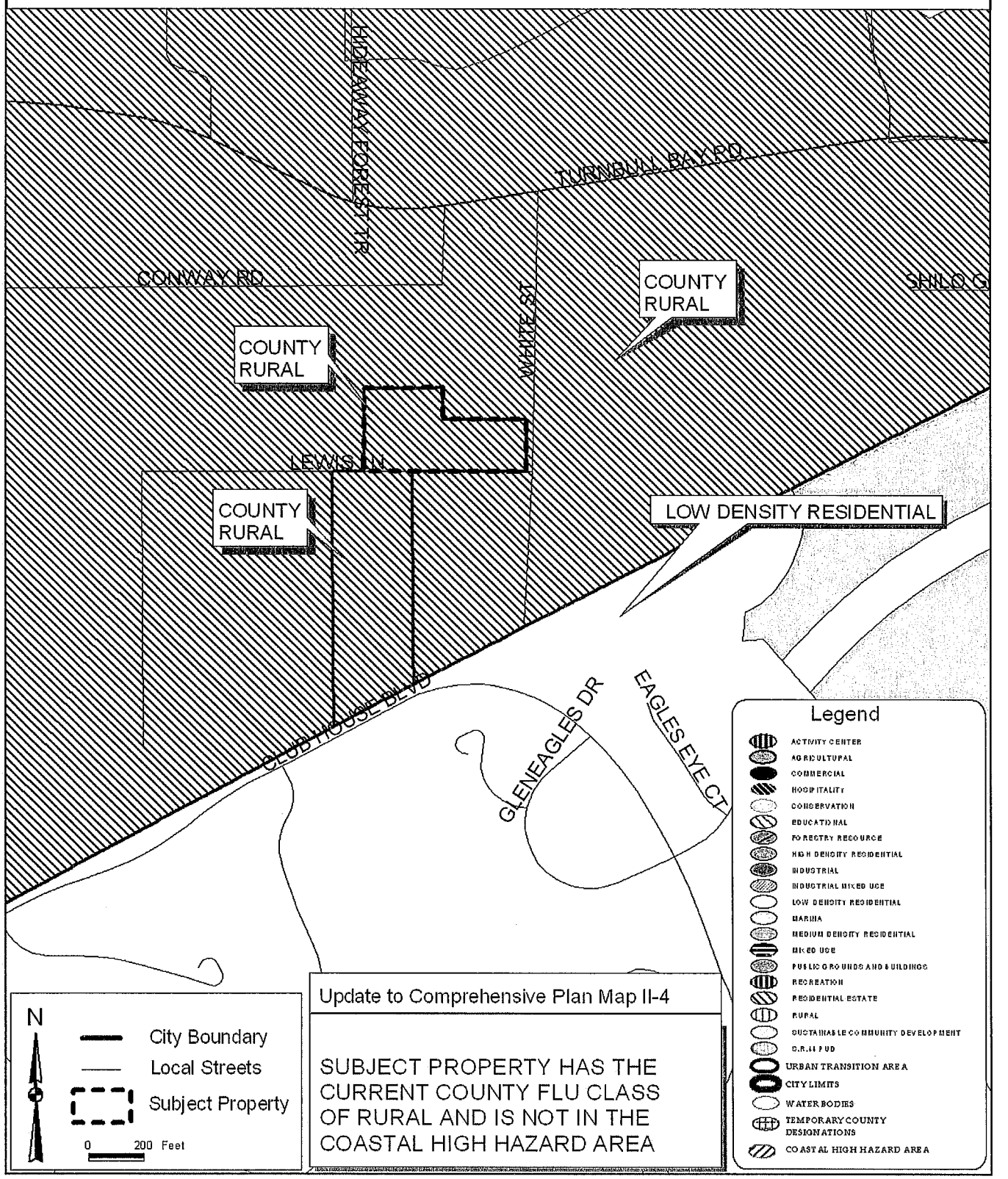


Update to Comprehensive Plan Map II-3

SUBJECT PROPERTY WILL CHANGE FROM COUNTY RESIDENTIAL LAND USE TO CITY RESIDENTIAL LAND USE

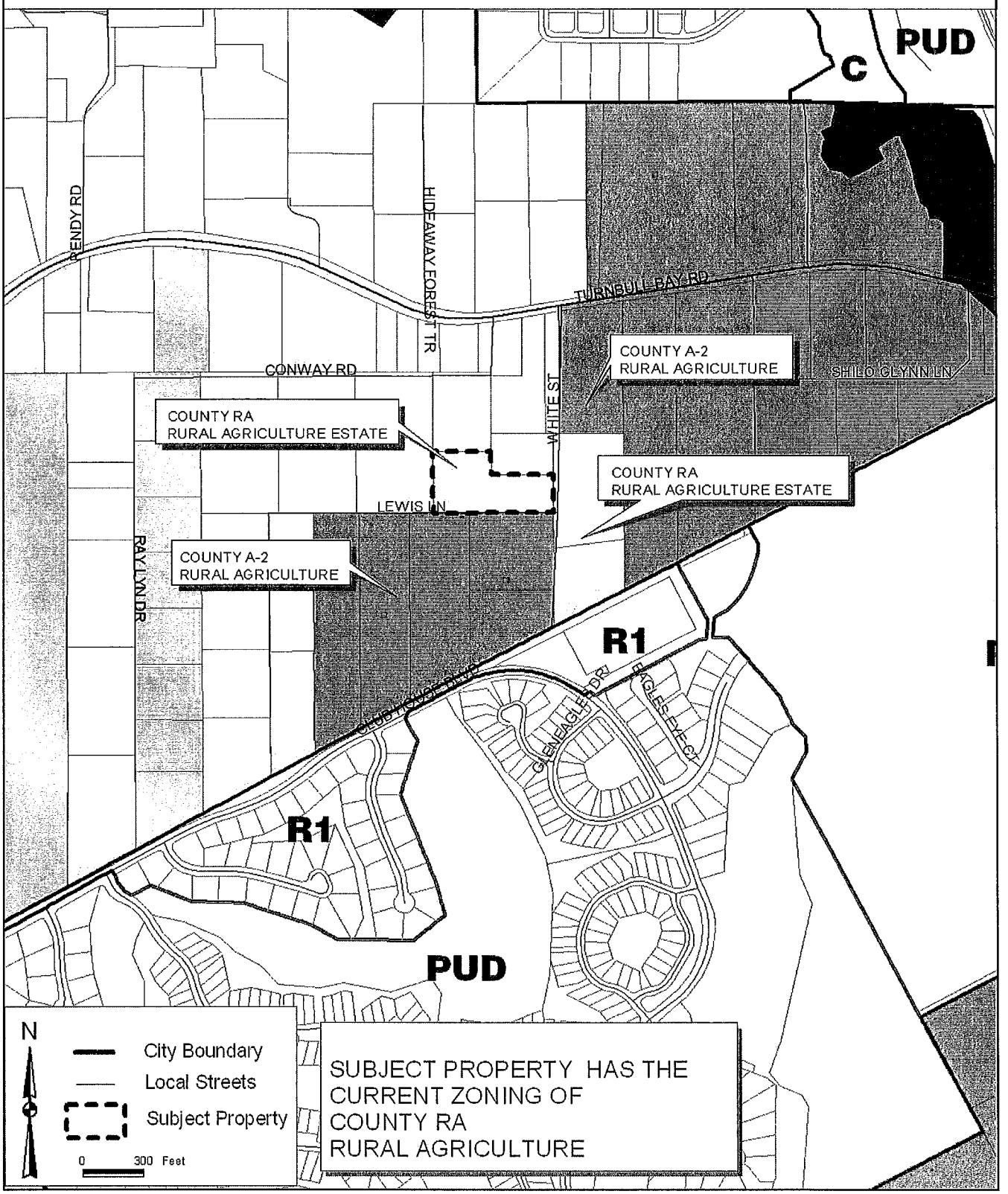
Existing Future Land Use Designations

A-16-11



Existing Zoning

A-16-11



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

(1) Lands designated as rural shall be developed at a density of one (1) dwelling unit per five (5) acres. This density allowance may be increased under specific conditions as follows:

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

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

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

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

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

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

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

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

(2) There are two subcategories of the rural designation that address past development decisions. These subcategories are Rural Community and Rural Recreation. They are identified on the Special Rural Areas Map Series, presented in Appendix 1. These areas of intense or potentially intense development provide the mixed use concept to the rural areas. They help limit urban sprawl by providing services not necessarily found in remote rural areas thus reducing the number of trips out of these rural areas. Also allowing some limited urban type of development may help promote economic growth in the rural areas as well. In designated Rural Communities and Rural Recreation areas where densities are greater than one (1) unit per acre, existing platted lots, undeveloped subdivisions, or other pre-existing developments shall be permitted subject to zoning requirements. However, any new development or subdivision of land shall have to comply with current County regulations.

RA RURAL AGRICULTURAL ESTATE
CLASSIFICATION

Purpose and intent: The purpose and intent of the RA Rural Agricultural Estate Classification is to provide for low density development, personal agricultural production consistent with the comprehensive plan, in rural areas of the county.

Permitted principal uses and structures: In the RA Rural Agricultural Estate Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Communication towers not exceeding 70 feet in height above ground level.
- 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)).
- Essential utility services.
- 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.
- Raising of crops and keeping of animals, including aviaries, pisciculture, apiaries and worm raising for personal use (not for resale), accessory to a single-family dwelling. The personal use restriction is not intended to apply to 4-H, FFA or similar educational projects.
- Single-family standard or manufactured modular dwelling.

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

- Animal shelters.
- 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 center (refer to subsection 72-293(6)).
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).
- Excavations only for stormwater retention ponds for which a permit is required by this article.
- Garage apartments.
- Group home (refer to subsection 72-293(12)).
- Home occupations, class B (refer to section 72-283).
- Kennels.
- Off-street parking areas (refer to subsection 72-293(14)).
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).

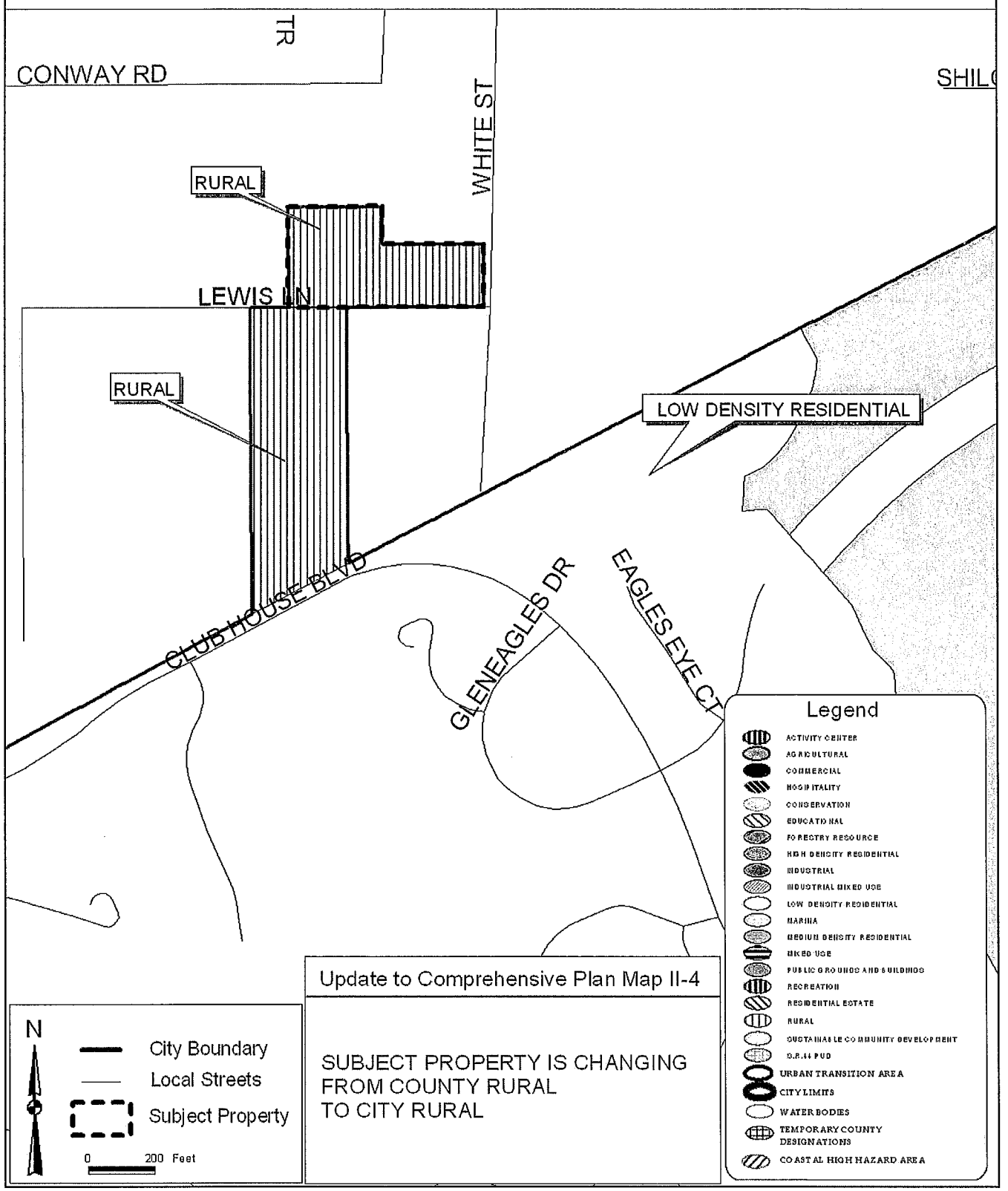
- Schools, parochial or private (refer to subsection 72-293(4)).

Dimensional requirements:
Minimum lot size:
Area: Two and one-half acres.
Width: 150 feet.
Minimum yard size:
Front yard: 45 feet.
Rear yard: 45 feet.
Side yard: 25 feet.
Waterfront yard: 45 feet.
Maximum building height: 35 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 1,000 square feet.

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

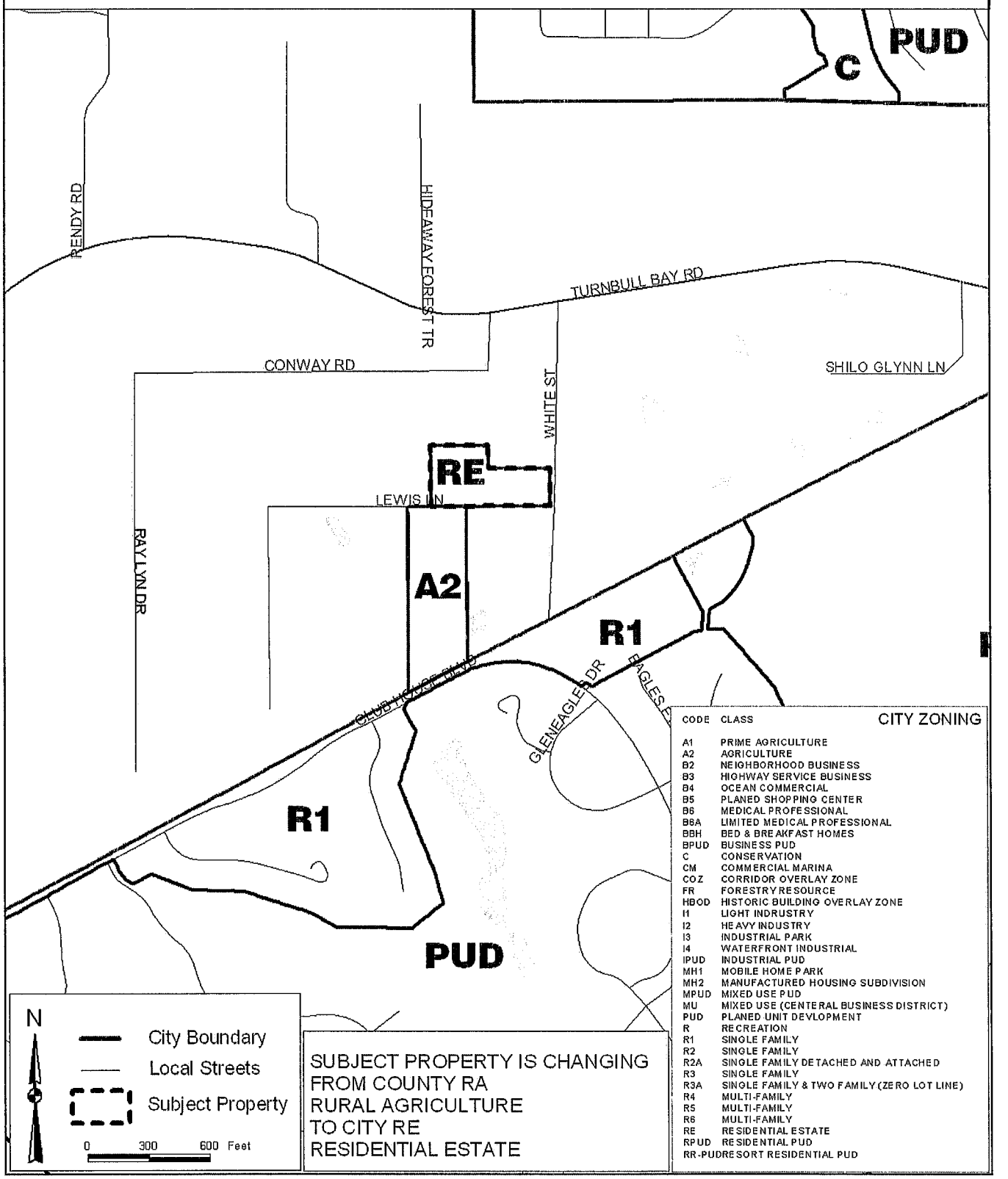
Proposed Future Land Use Designations

A-16-11



Proposed Zoning

A-16-11



RURAL

(up to one [1] dwelling unit per five [5] acres or up to one [1] dwelling unit per acre) This category includes areas that may consist of agriculture land, undeveloped rural land, and large parcels of developed residential land. Areas designated with a Rural FLU category should be developed in a manner consistent with the retention of agriculture and rural lands, low-density residential and the protection of environmentally sensitive areas. Strict limitation of development in rural areas contributes to the efficient growth and operation of public services and facilities, thus ensuring the most effective use of public resources. The natural features and constraints will be the primary determinants in deciding whether or not an area is suitable for rural type development.

The Rural FLU designation may allow smaller lot sizes in clusters to protect environmentally sensitive land and upland buffers but shall not allow increase in density. Smaller cluster lots shall be allowed provided the clusters have large perimeter buffers to give the appearance of rural land from adjacent parcels and there is legal assurance that the property not included in the fee simple cluster lots are owned in common by the fee simple lot owners and will not be subsequently developed.

The density shall be determined as follows: Vacant parcels of land in the vicinity of existing exempt or approved platted subdivisions on or before April 3, 1990, with lot sizes from 1 unit per acre to 1 unit per 5 acres or vacant parcels of land immediately adjacent to an urban FLU category may be developed with similar density or lot sizes but not less than one (1) unit per acre. Only that portion of a parcel(s) that is within 660 feet from the above described existing exempt or approved subdivision or urban FLU category boundary, as of the adoption date of the Rural FLU category, is considered "in the vicinity." Note: If a parcel that is "in the vicinity" is covered by more than fifty percent (50%) of the 660 feet extension, then the remaining portion of that parcel which is 10 acres or less is eligible for increased density.

Although the adjacency to the conditions described above allows for the potential of subdivisions with lots less than 5 acres in size, the actual lot size will be dependent upon the following: Compatibility of the proposed development will be viewed within the context of existing uses, public facility capacity in the area, suitability for wells and septic tank usage, and the natural features of the parcel in question, such as soils, vegetation, and floodplain. Vacant parcels or tracts of land that do not meet the preceding criteria or are in areas which have not been previously platted with lots less than 5 acres in size shall only be developed with lot sizes that are 5 acres or greater or in cluster developments at a density of no greater than one (1) unit per five (5) acres.

RE RESIDENTIAL ESTATE

Intent:
The Residential Estate District is intended to be a single-family residential district for low population densities and relatively large homes.

Permitted Principal Uses:
- Single-Family Dwelling Units
- Recreation buildings and complexes for exclusive use by residents and guests of a residential development.

Permitted Accessory Uses:
- Gazebos
- Garages
- Incidental Uses
- Permitted Home Occupations
- Storage Sheds
- Swimming pools, private, provided a principal structure exists and the pool is located behind the front plane of the principal structure. Corner lots will be considered to have two front planes, one on each street. If a structure is not constructed squarely on a parcel, the swimming pool must be located at or behind the most restrictive front plane of the principal structure. **Ord. #30-10**
- Uses customarily associated with the permitted uses

Prohibited Uses:
- Businesses (except home occupations)
- Manufacturing Facility
- Offices (except home occupations)
- Restaurants
- Retail Activity

Special Exceptions:
- Country Clubs and Golf Courses
- Schools and Churches provided all structures are located at least forty-five (45) feet from all property lines and off-street parking areas abutting residential property are screened by a buffer meeting the requirements of this LDR except that the buffer shall be a minimum of fifteen (15) feet in width

Dimensional Requirements:

Minimum Lot Size:

Area	40,000 Square Feet*
Width	100 Feet [Ord. No. 65-92]
Depth	150 Feet

*Minimum lot depth multiplied by minimum lot width does not equal the minimum required lot area.

Minimum Yard Size:

Front	45 Feet or as required per Section 504.01(M) of this LDR
Rear	40 Feet

Side 15 Feet

Maximum Building Coverage:

The total area covered with buildings on any lot shall not exceed twenty percent (20%) of the total lot area.

Screen Enclosures:

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

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

Ord. #05-09

Maximum Impervious Coverage:

The total area covered with impervious ground cover shall not exceed forty percent (40%) of the total lot area.

Maximum Principal Building Height:

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

Minimum Floor Area Requirements:

1700 square feet of livable area per dwelling unit

Off-Street Parking:

Parking shall be required entirely on the lot for a minimum of two (2) automobiles. There is no required back-up area.

Corner Lots

(1) Parcels which front on two streets shall provide a forty-five (45) foot front yard on street frontage with driveway access and a 22.5 foot front yard on the other street, or as required per Section 504.01(M) of this LDR.

(2) Parcels fronting on three streets shall provide two 45 foot front yards including one with driveway access and a 22.5 foot front yard on the remaining street, or as required per Section 504.01(M) in this LDR.

Through Lots

Shall provide a forty-five (45) foot front yard on each street, or as required per Section 504.01(M) of this LDR.

Atypical Lot:

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

Building Projections:

Except for eaves with a maximum projection of 36", there shall be no building projections into any required yard.

Visibility at Intersections:

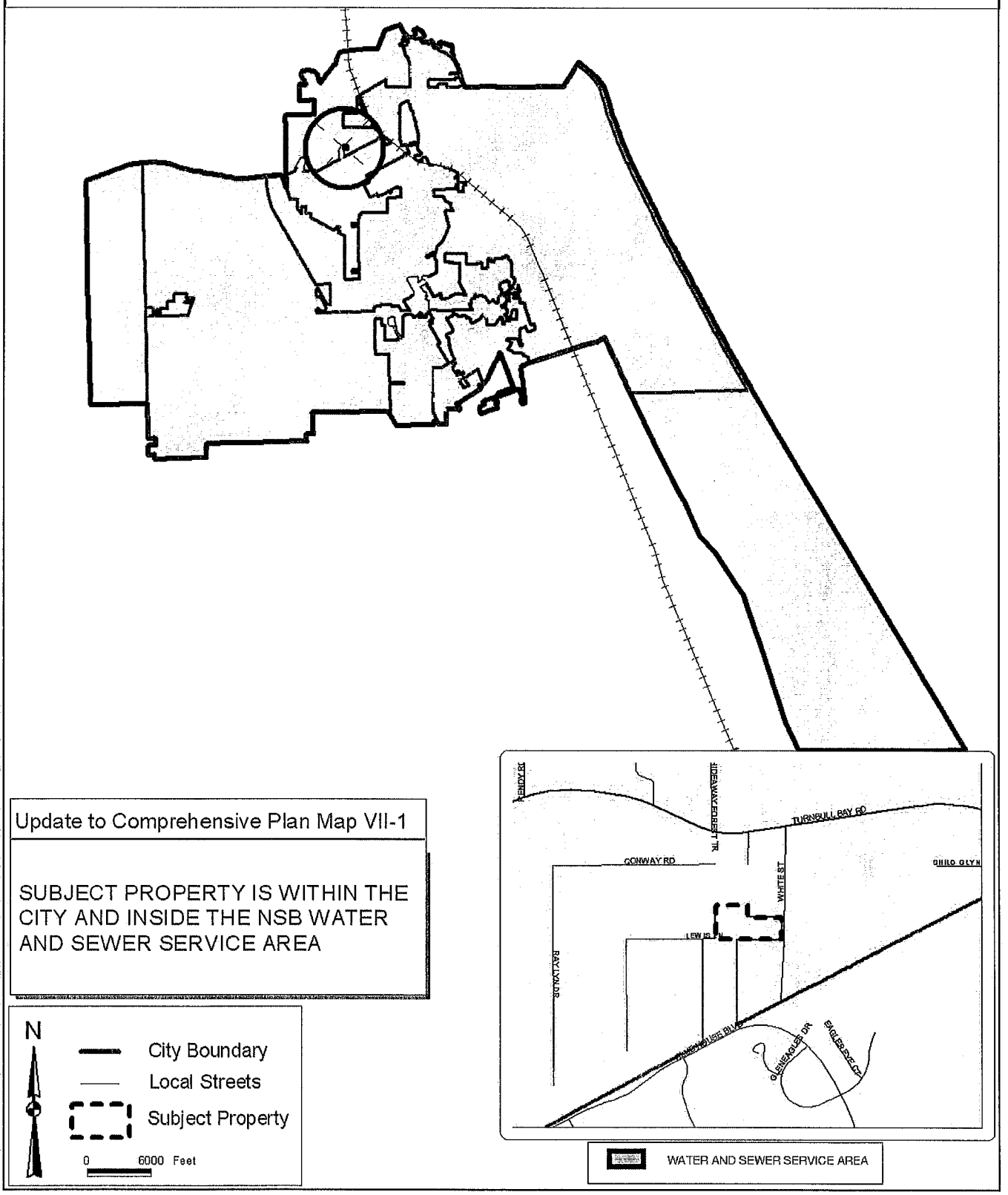
Visibility at intersections shall be provided as required in this LDR.

Site Plan Approval for Special Exceptions:

Site plans approval for Special Exceptions is required.

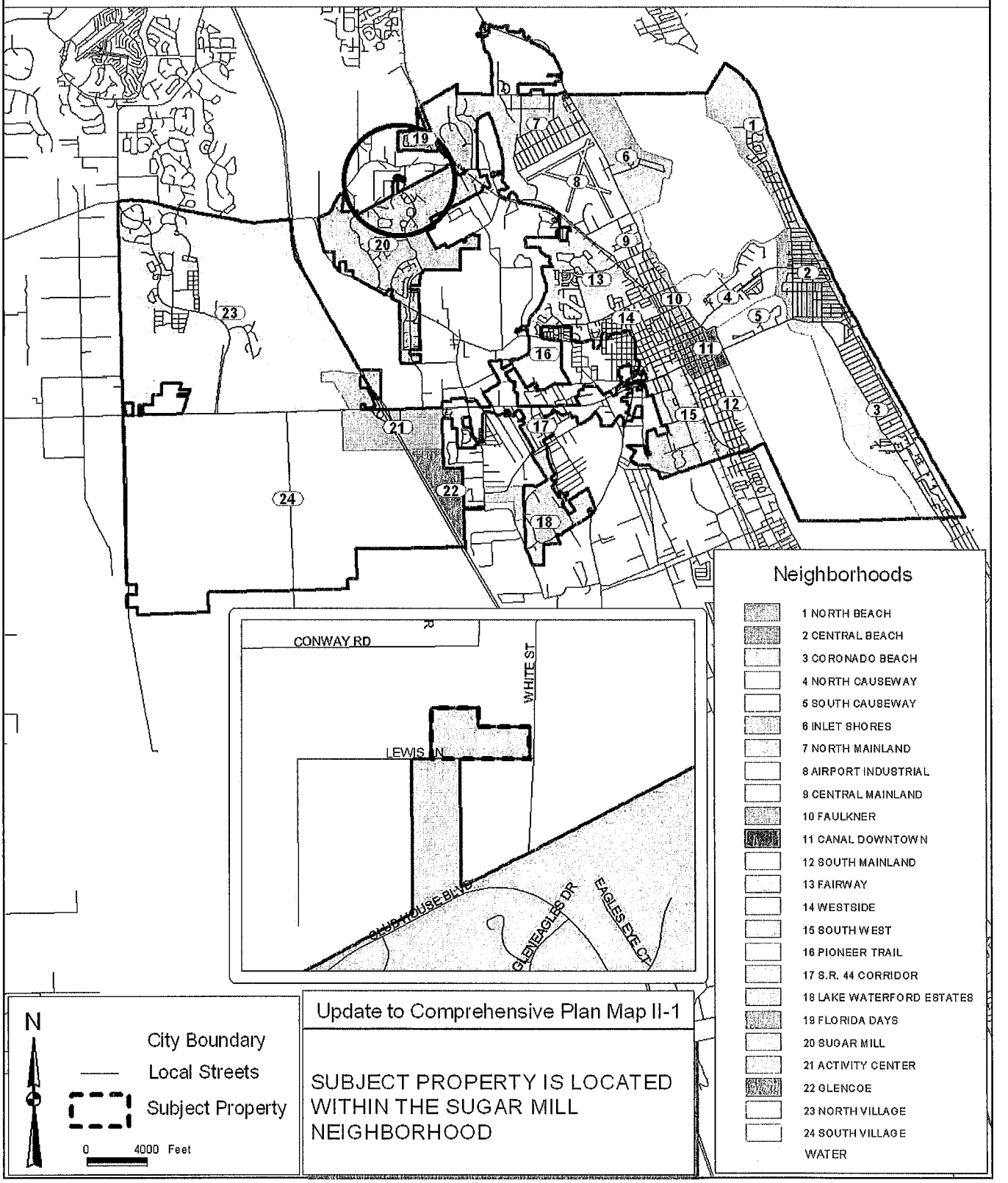
Water & Sewer Service Area

A-16-11



Neighborhoods

A-16-11

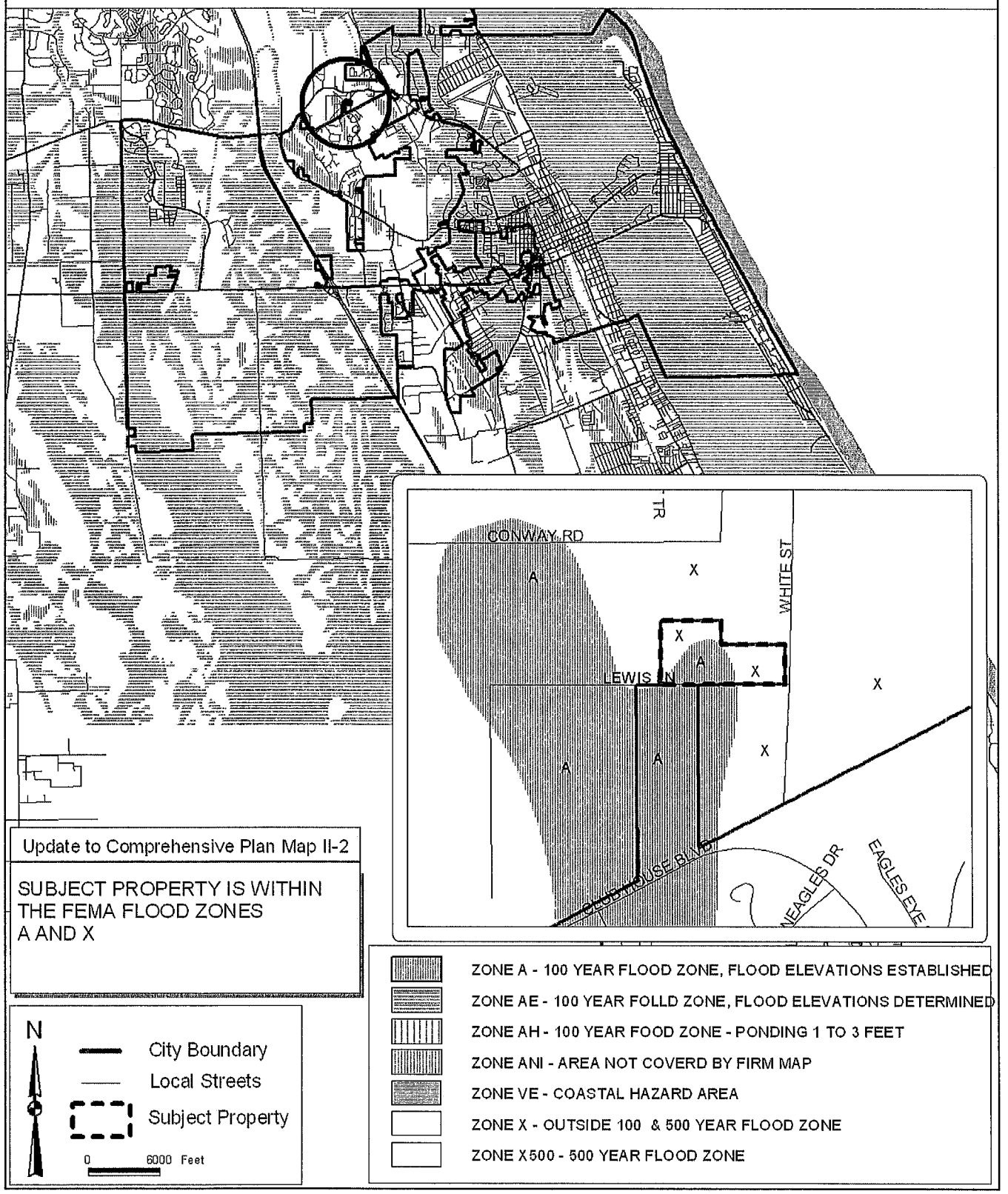


Update to Comprehensive Plan Map II-1

SUBJECT PROPERTY IS LOCATED WITHIN THE SUGAR MILL NEIGHBORHOOD

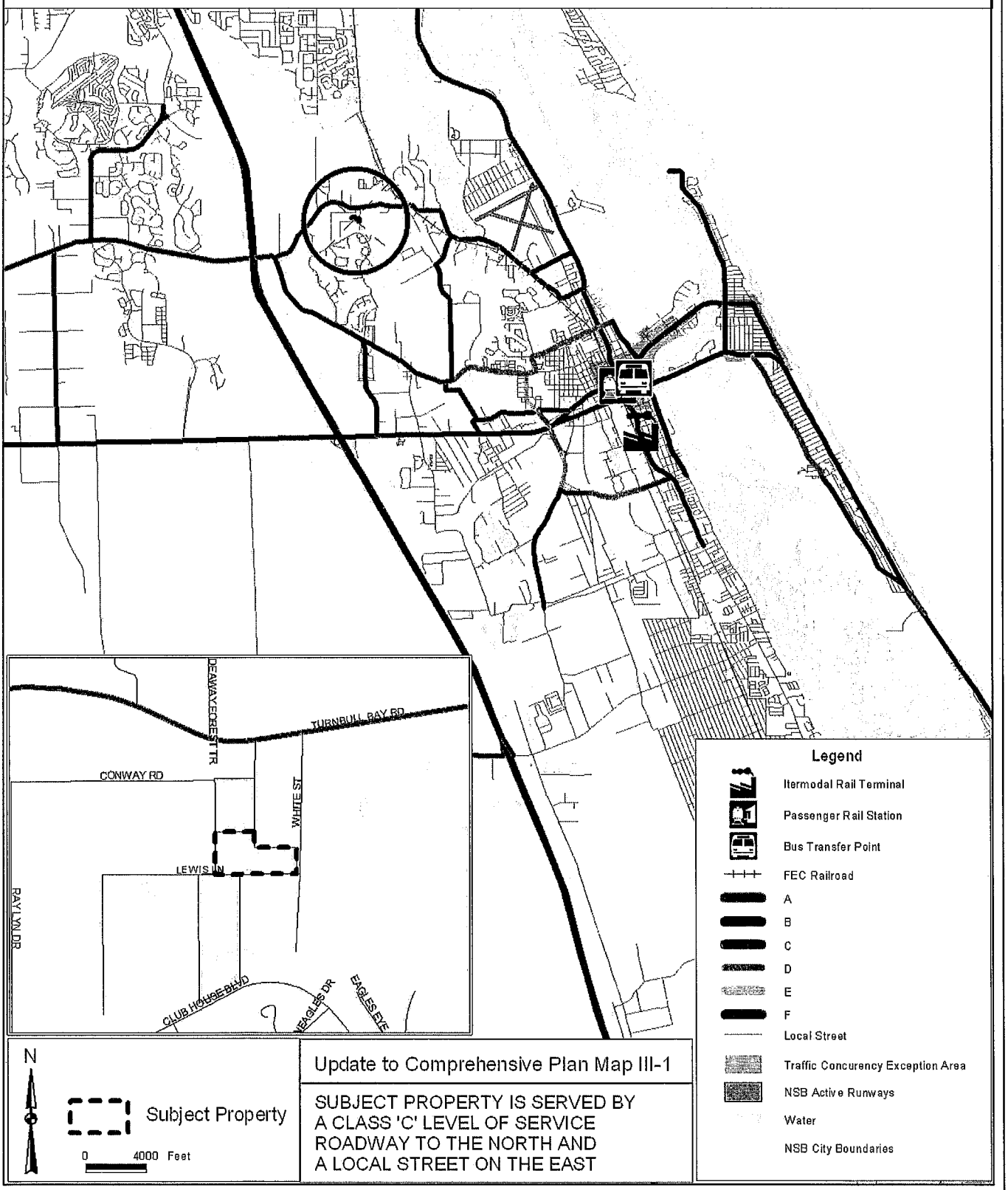
Flood Prone Areas

A-16-11



Existing Level of Service - 2009

A-16-11

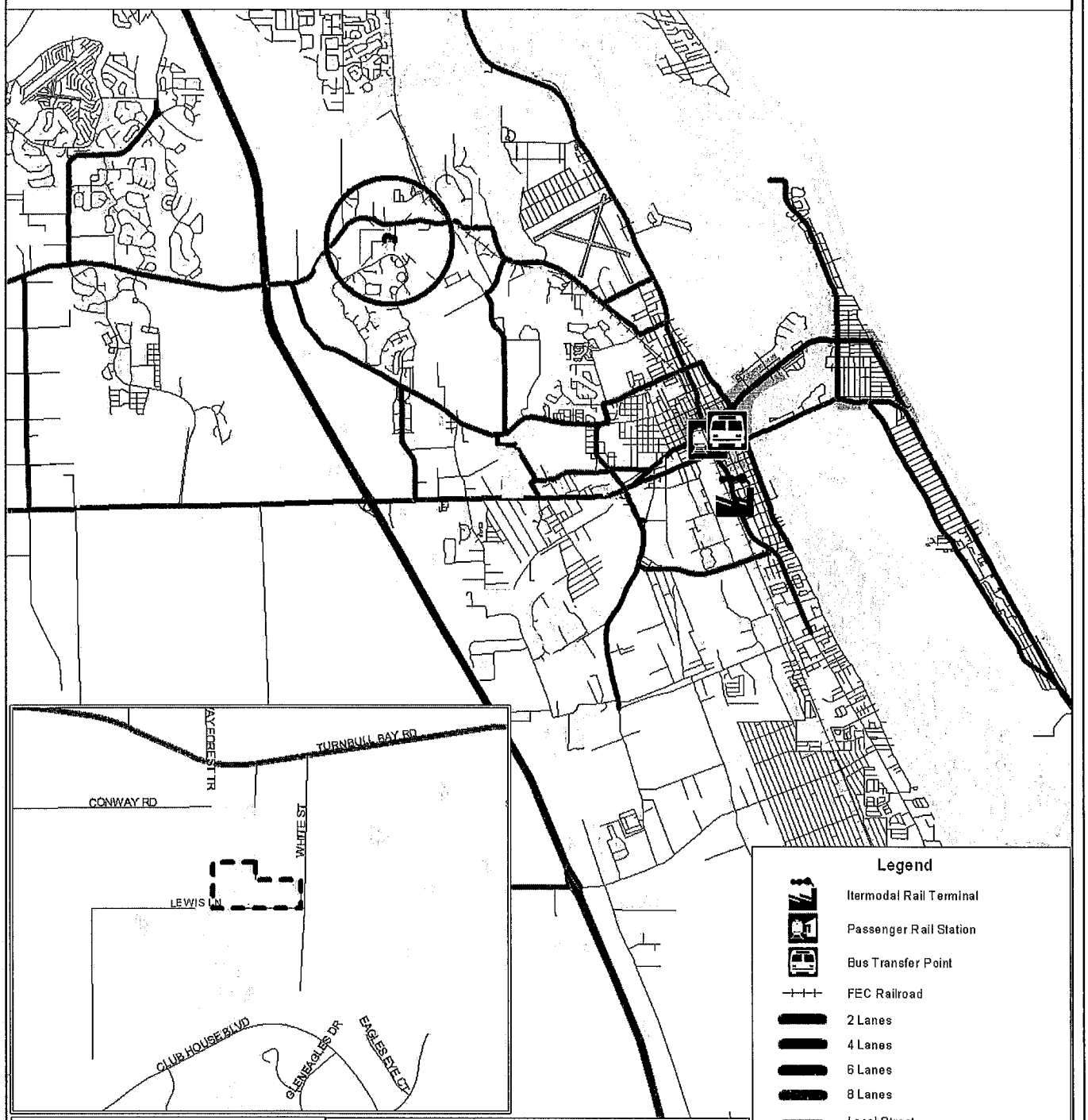


Update to Comprehensive Plan Map III-1

SUBJECT PROPERTY IS SERVED BY A CLASS 'C' LEVEL OF SERVICE ROADWAY TO THE NORTH AND A LOCAL STREET ON THE EAST

Existing Traffic Lanes - 2009

A-16-11

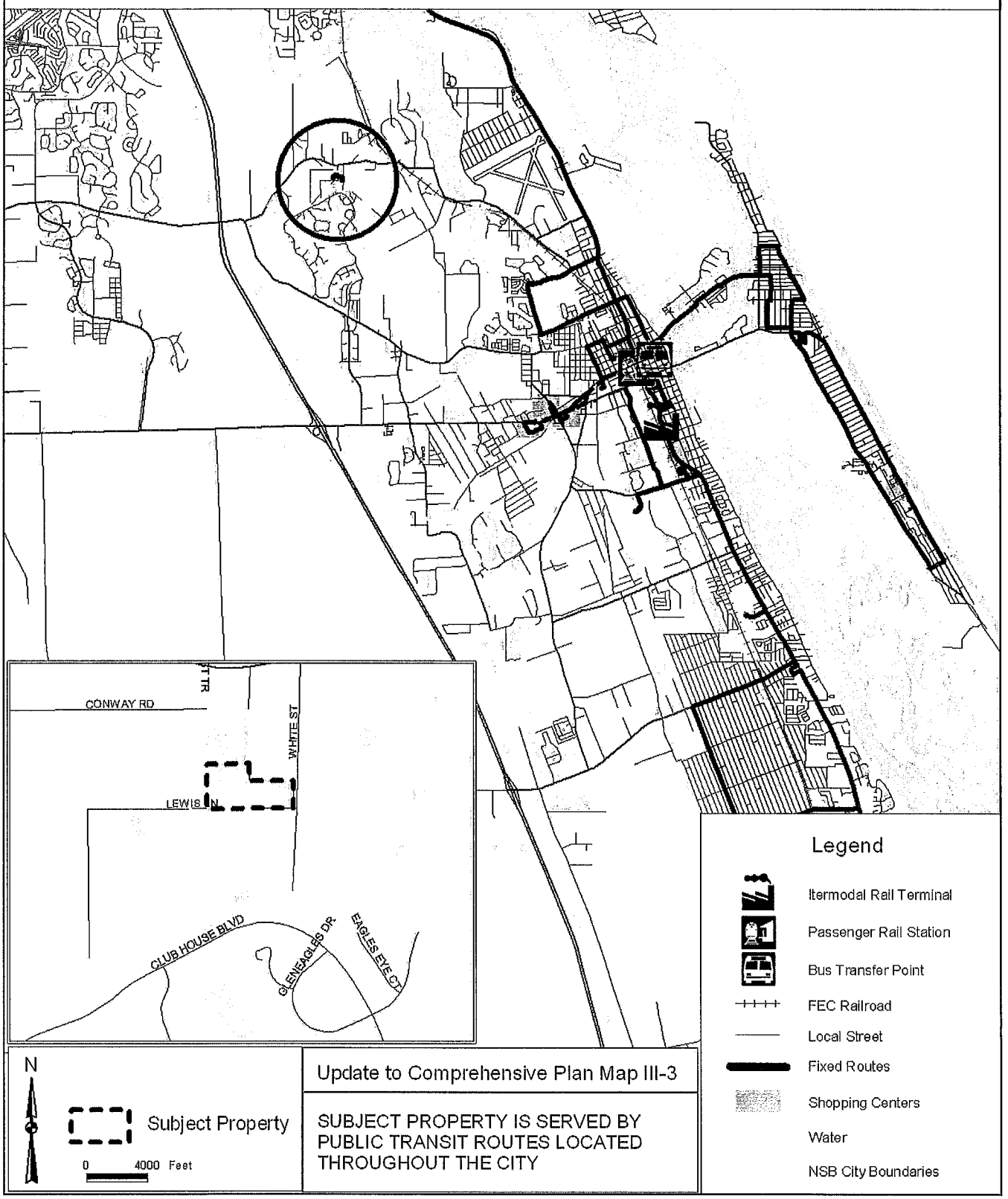


Update to Comprehensive Plan Map III-2

SUBJECT PROPERTY IS SERVED BY A TWO (2) LANE ROADWAY ROADWAY TO THE NORTH AND A LOCAL STREET ON THE EAST

Public Transit Routes

A-16-11

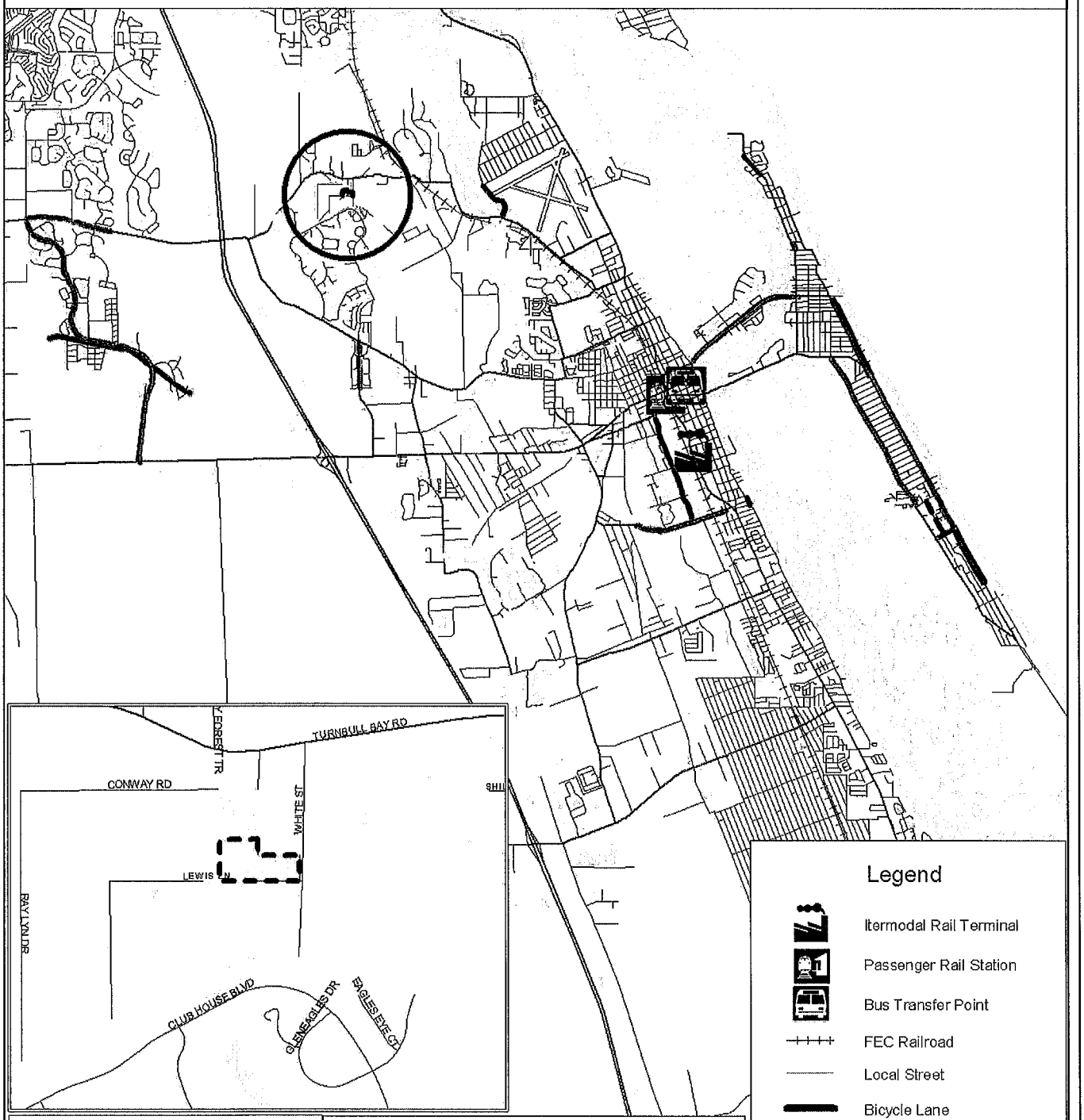


Update to Comprehensive Plan Map III-3

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

Bicycle and Pedestrian Facilities

A-16-11

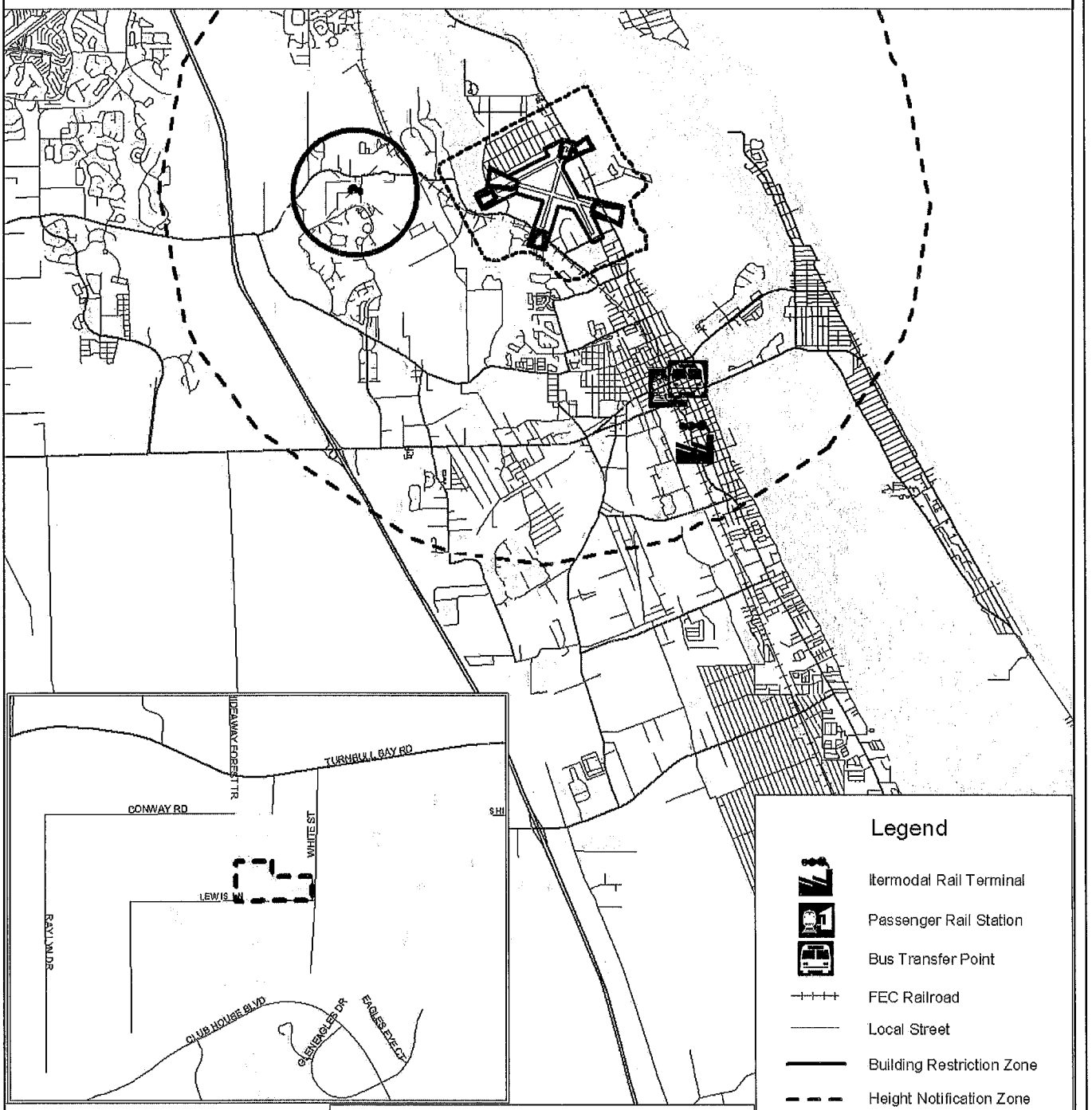


Update to Comprehensive Plan Map III-4

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

Airport Runway Protection Zones

A-16-11



Legend

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

N

Subject Property

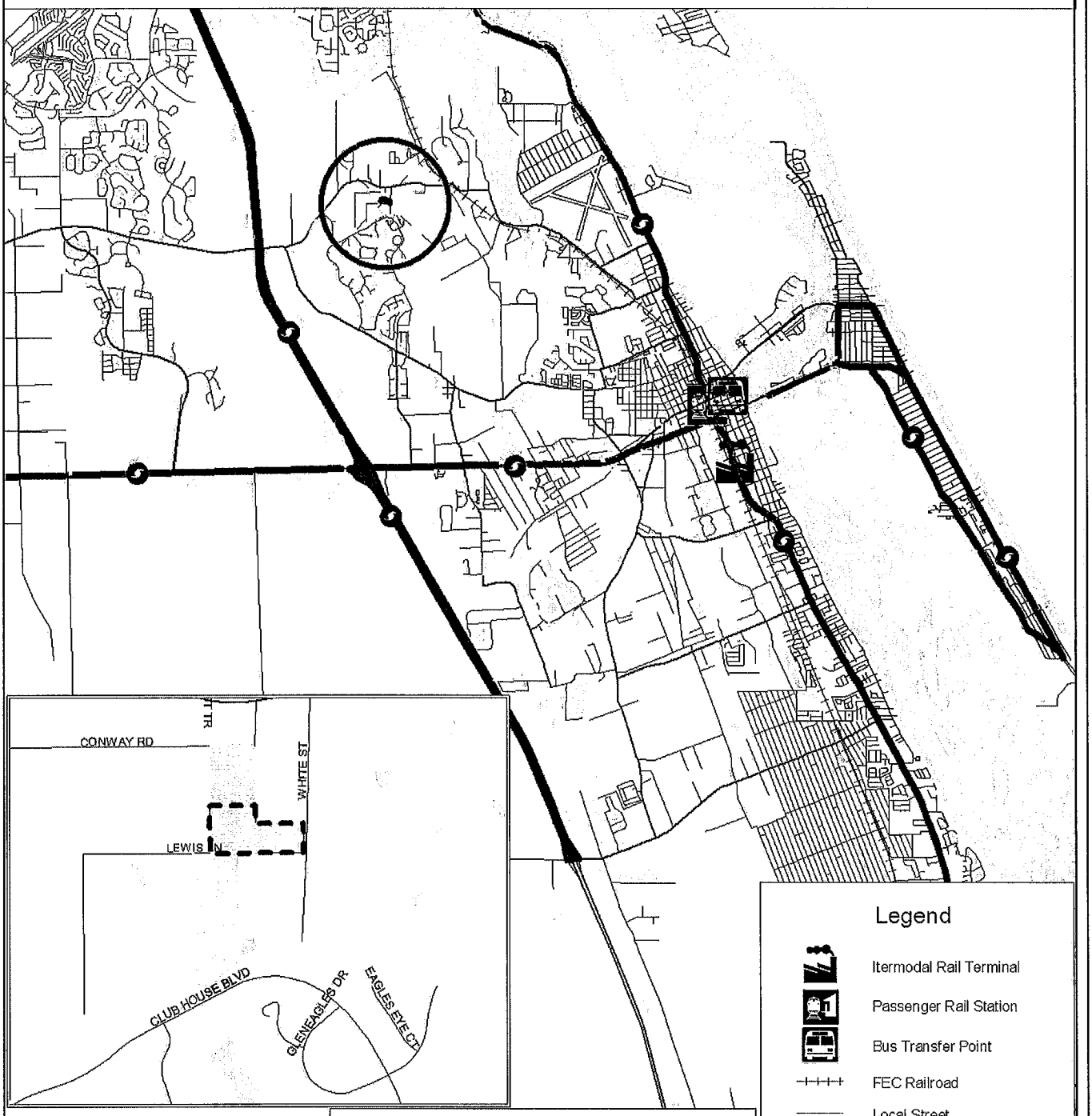
0 4000 Feet

Update to Comprehensive Plan Map III-5

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

Evacuation Routes

A-16-11

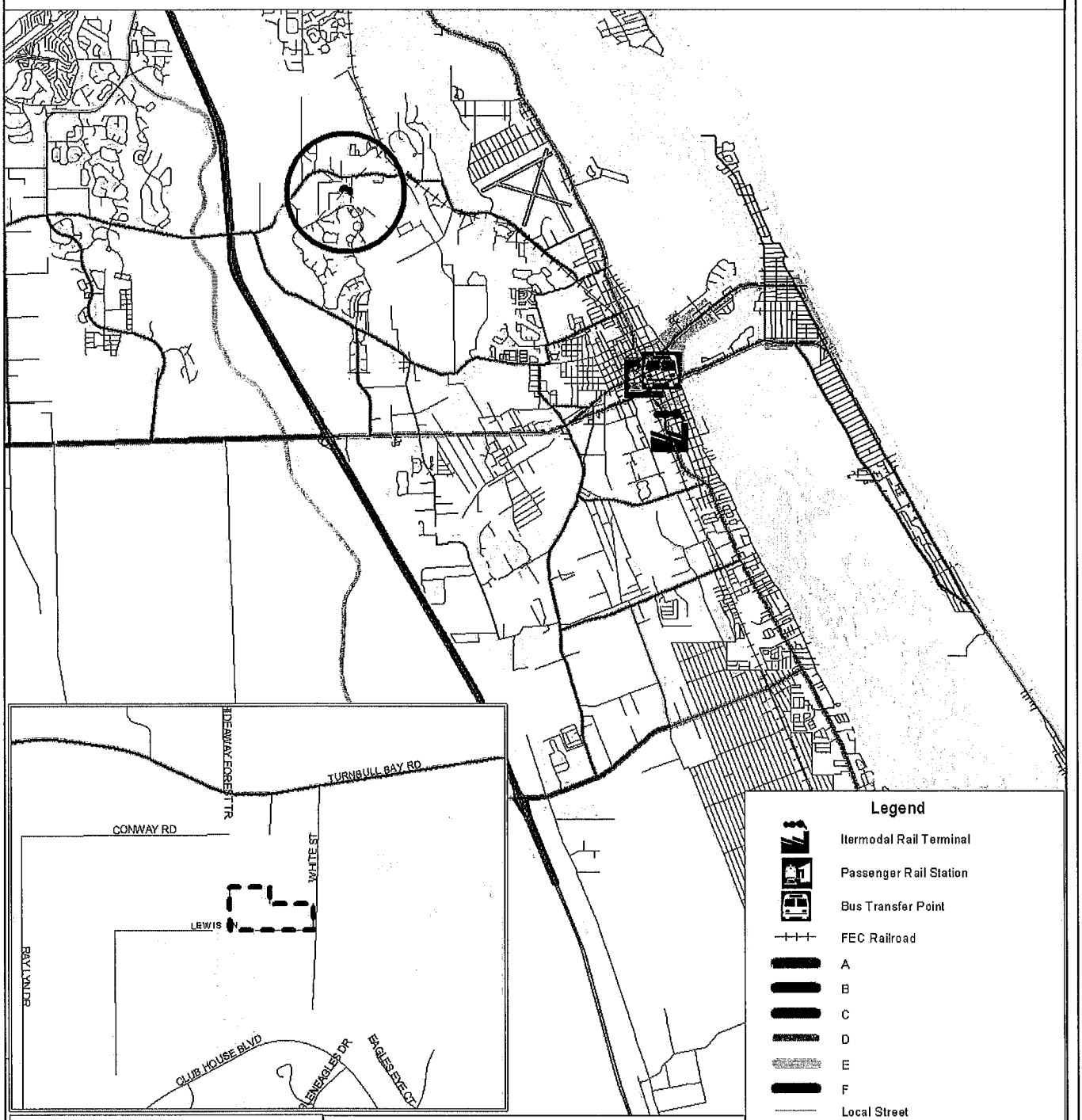


Update to Comprehensive Plan Map III-6

SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

Level of Service - 2025

A-16-11

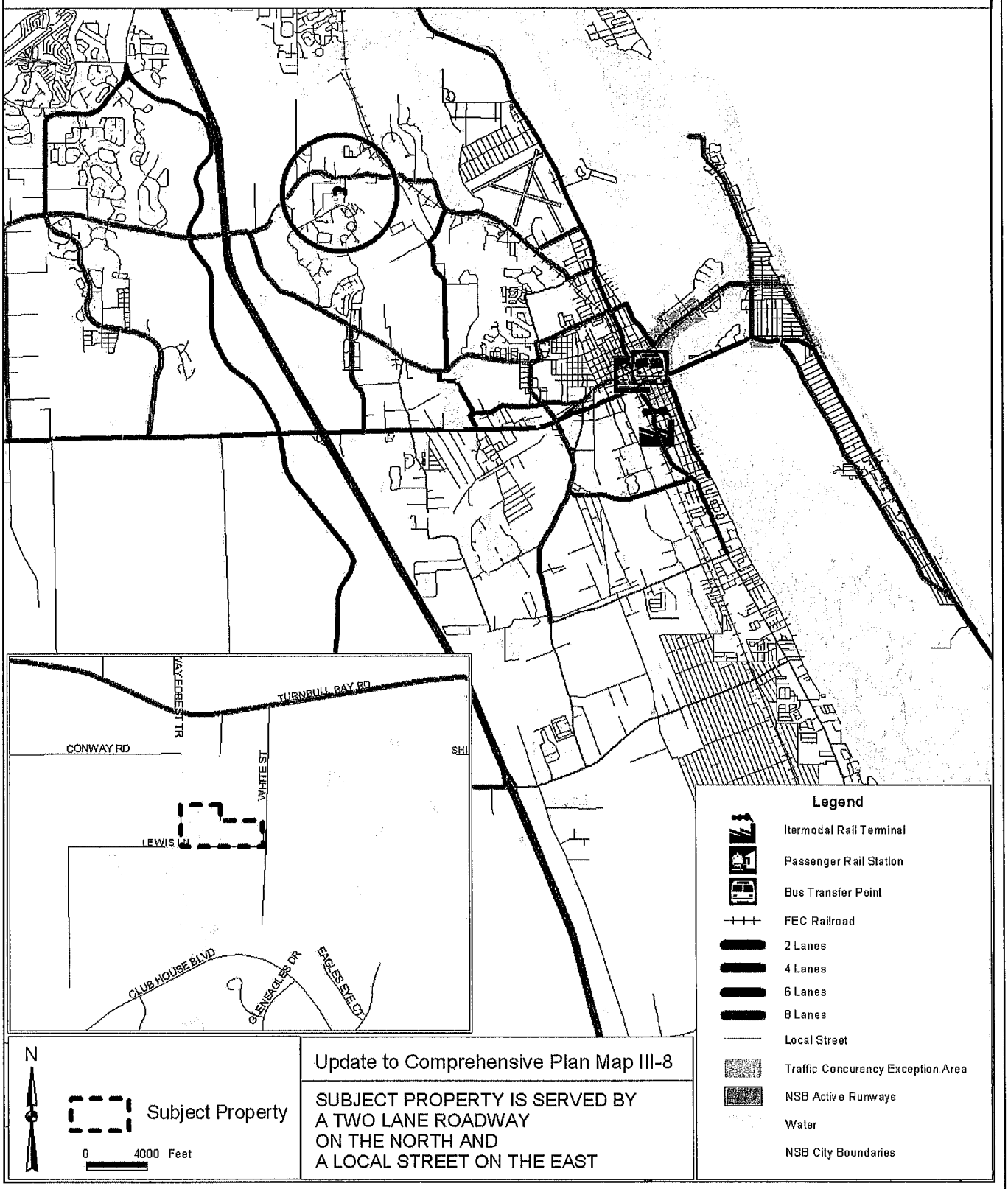


Update to Comprehensive Plan Map III-7

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

Number of Traffic Lanes - 2025

A-16-11

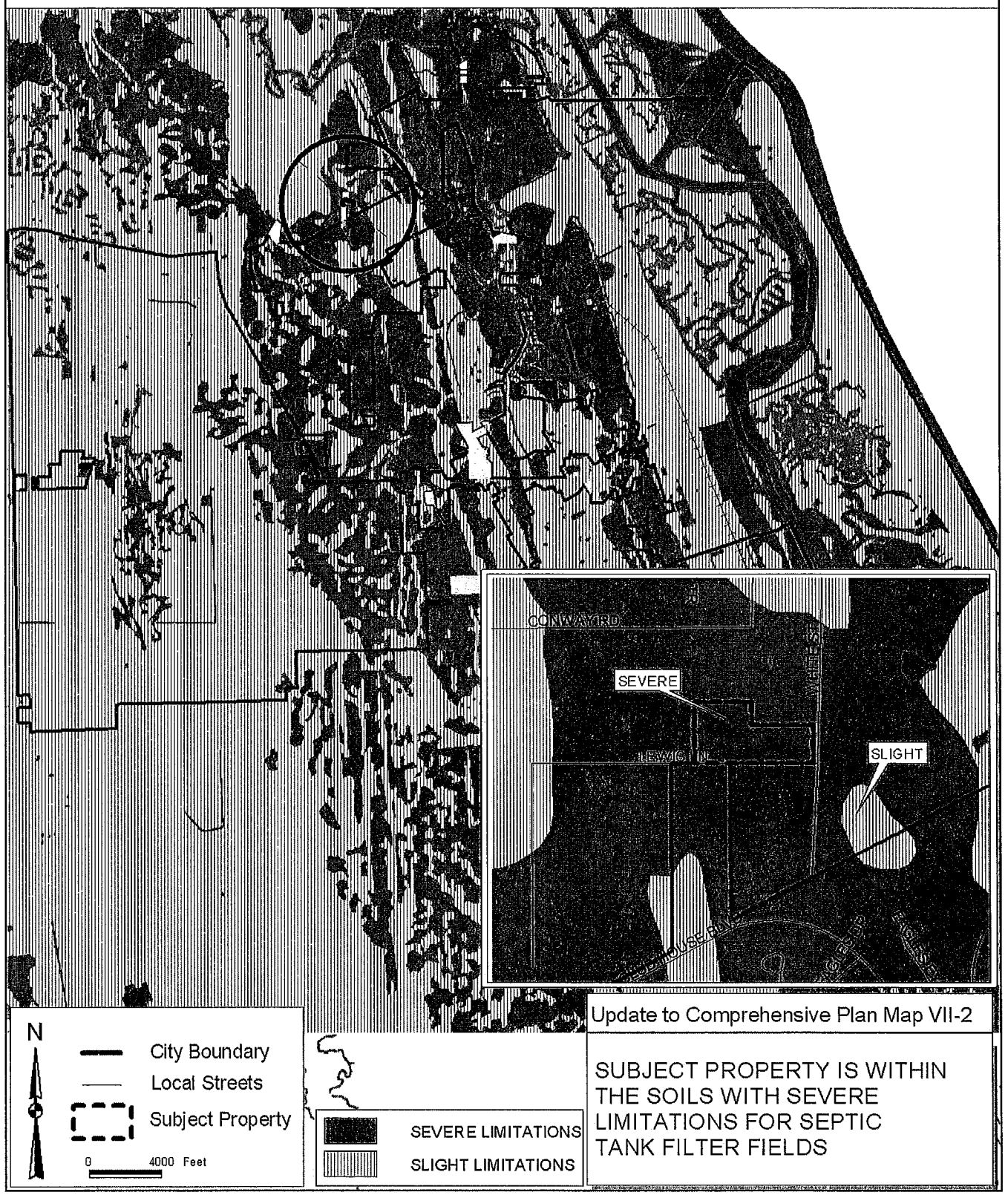


Update to Comprehensive Plan Map III-8

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

Soil Limitation for Septic Systems

A-16-11

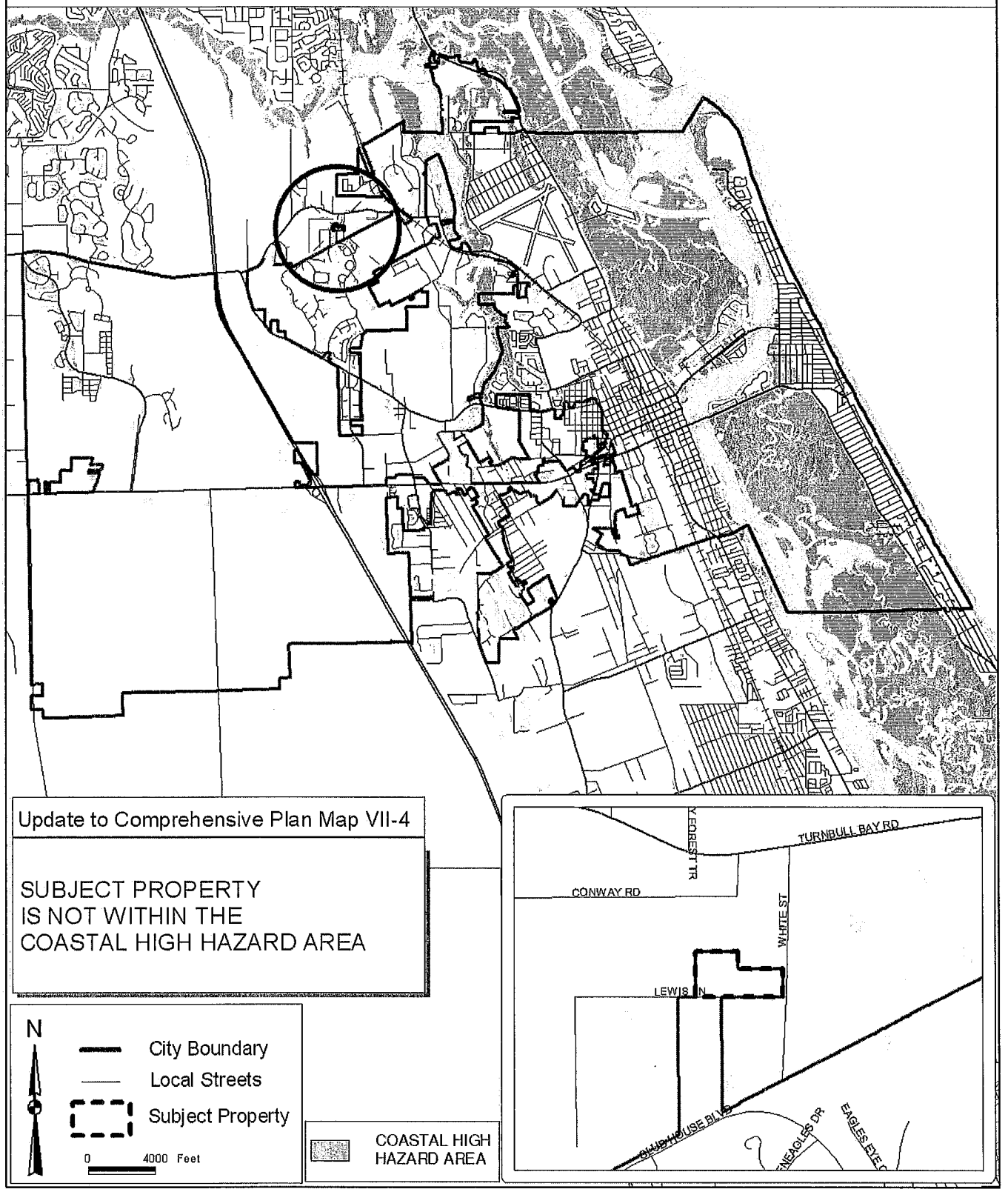


Update to Comprehensive Plan Map VII-2

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

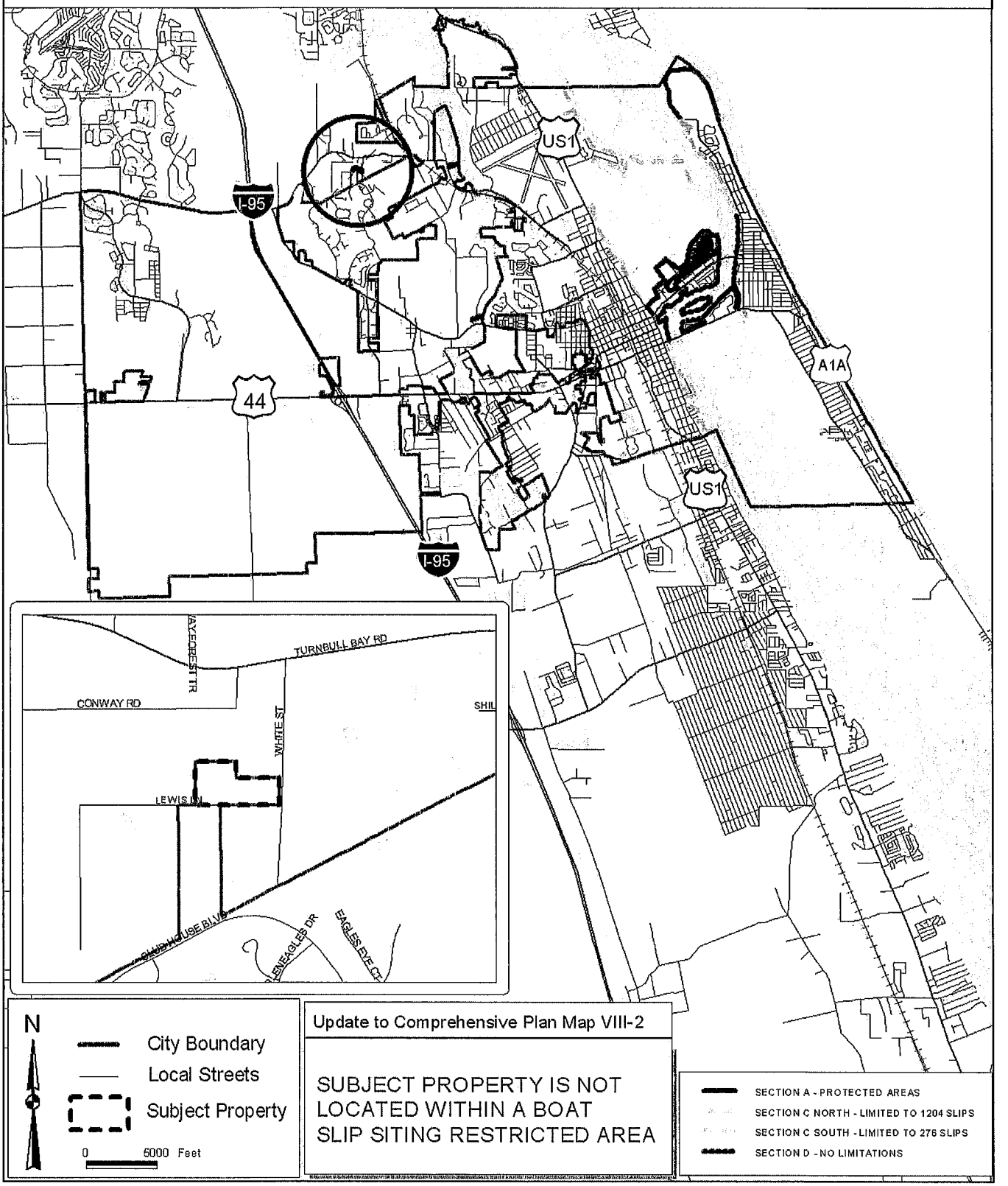
Coastal High Hazard Areas

A-16-11



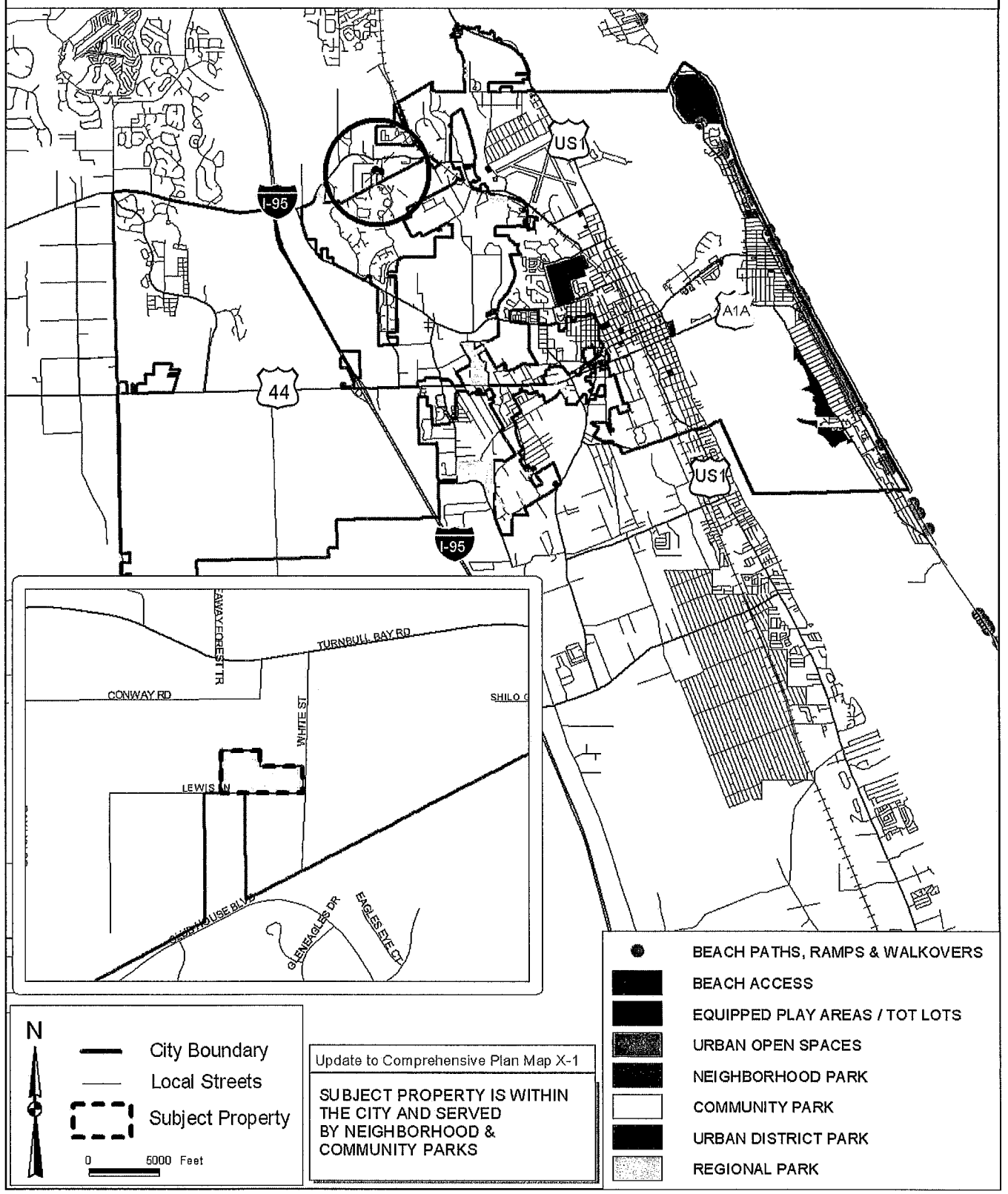
Boat Slip Siting

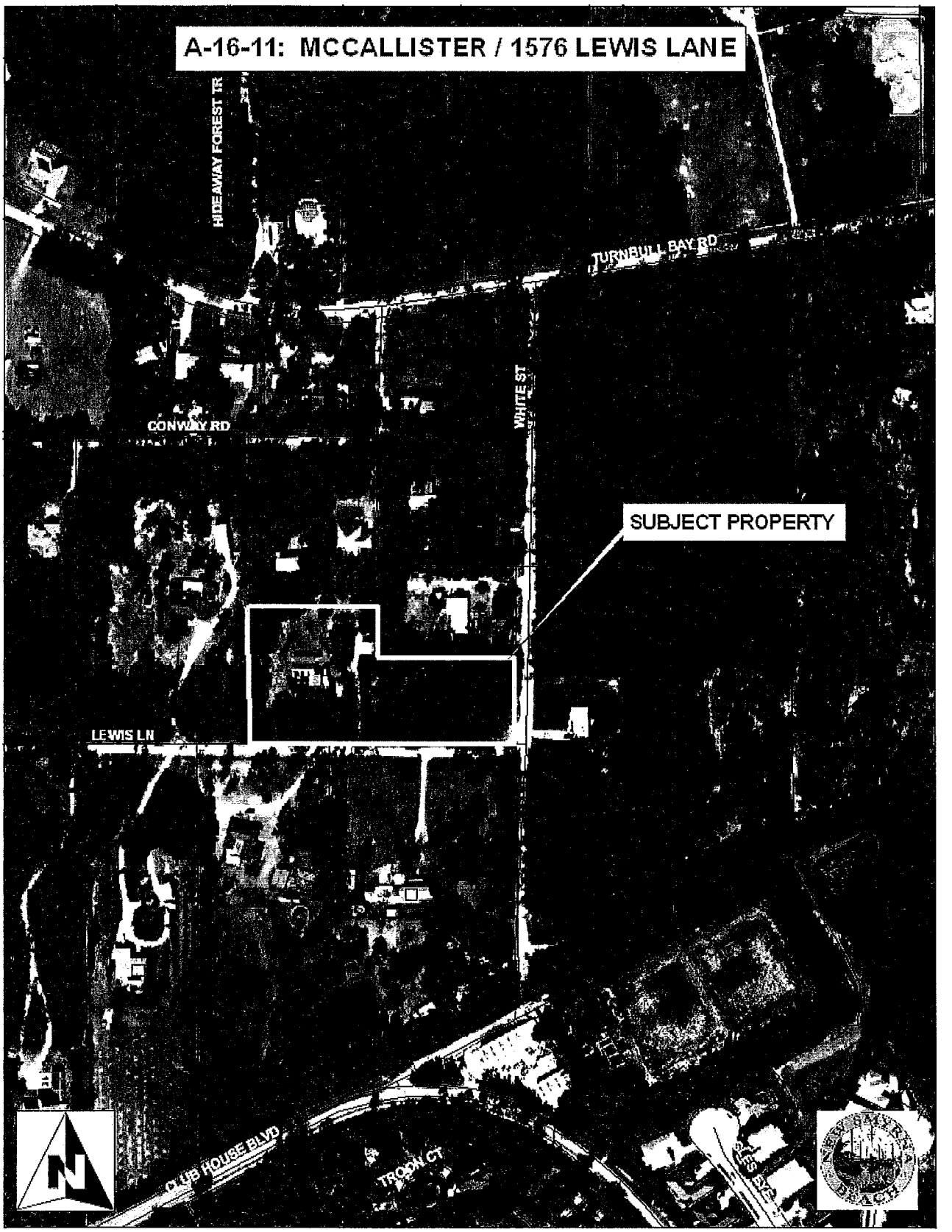
A-16-11



City Parks

A-16-11




A-16-11: MCCALLISTER / 1576 LEWIS LANE
HIDEAWAY FOREST TR
TURNBULL BAY RD
WHITE ST
CONWAY RD
SUBJECT PROPERTY
LEWIS LN
CLUB HOUSE BLVD
TROON CT

CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-17-11: NELLIS / 2800 CONWAY ROAD

DECEMBER 5, 2011

I. Background

A. **Applicant and Property Owner:** Renee M. Nellis, 2800 Conway Road, New Smyrna Beach, Florida, 32168

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

- **From:** County Future Land Use (FLU) designation of Rural; and County zoning RA, Rural Agriculture Estate
- **To:** City FLU designation of Rural; and City zoning RE, Residential Estate

C. **Site Information:**

- **Size:** 2.5 acres
- **Location:** The subject property is located south of Turnbull Bay Road at 2800 Conway Road. (see **Exhibit A** for a location map).
- **Tax I.D. Number:** 7303-00-02-0029

II. Findings

A. The subject property is an approximately 2.5-acre site that has been improved with a single family detached residence and a metal building (**Exhibit B**). The property currently has a Volusia County Future Land Use (FLU) designation of Rural, which allows one dwelling unit per five acres. The property is currently zoned Volusia County RA, Rural Agriculture Estate, which requires a minimum lot size of 2.5 acres. The surrounding future land use, existing uses, and zoning are as follows:

North
Future Land Use: County Rural
Existing Land Use: Residential
Zoning: County RA, Rural Agriculture Estate

South
Future Land Use: County Rural
Existing Land Use: Residential
Zoning: County RA, Rural Agriculture Estate

East
Future Land Use: County Rural
Existing Land Use: Residential
Zoning: County RA, Rural Agriculture Estate

West
Future Land Use: County Rural
Existing Land Use: Vacant
Zoning: County RA, Rural Agriculture Estate

Maps showing the surrounding Existing Land Uses, Existing Future Land use, and Existing Zoning 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 have 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 RA, Rural Agriculture Estate, respectively. The closest City FLU designation that matches the existing County designation is also Rural, with both designations allowing one unit per five acres. However, the City does not have a 2.5-acre zoning designation similar to the County's RA, Rural Agriculture Estate. The City either has an A-2, Agriculture zoning district, which requires a minimum lot size of five acres, or an RE, Rural Estate zoning designation, which requires a minimum lot size of one acre. Because it is undesirable from a land use perspective to intentionally create a non-conforming lot, staff is recommending the RE, Residential Estate zoning classification. Maps showing the proposed FLU and zoning changes are attached as **Exhibits H and I**. Descriptions of the proposed FLU and zoning designations are attached as **Exhibits J and K.**

C. This annexation request is within the City's annexation area and within the City's water and sewer service area. **Exhibit L** A 6" sewer force main is located approximately 340 feet east of this parcel in the White Street right-of-way. However, properties typically do not connect directly to the force main. Therefore, the property owner would not be required to connect to sanitary sewer until such time as the Utilities Commission extends a gravity main with a sanitary sewer service to the adjacent properties. The property is served by a 6" PVC water line in the Conway Road right-of-way.

D. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, stormwater management, and public school facilities. 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.

E. There are numerous *Comprehensive Plan* maps that must be amended to

incorporate the subject properties into the *Comprehensive Plan* (see **Exhibits M through Z**). **Exhibit AA** is an aerial photo of the property for informational purposes.

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

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

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

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

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

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

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

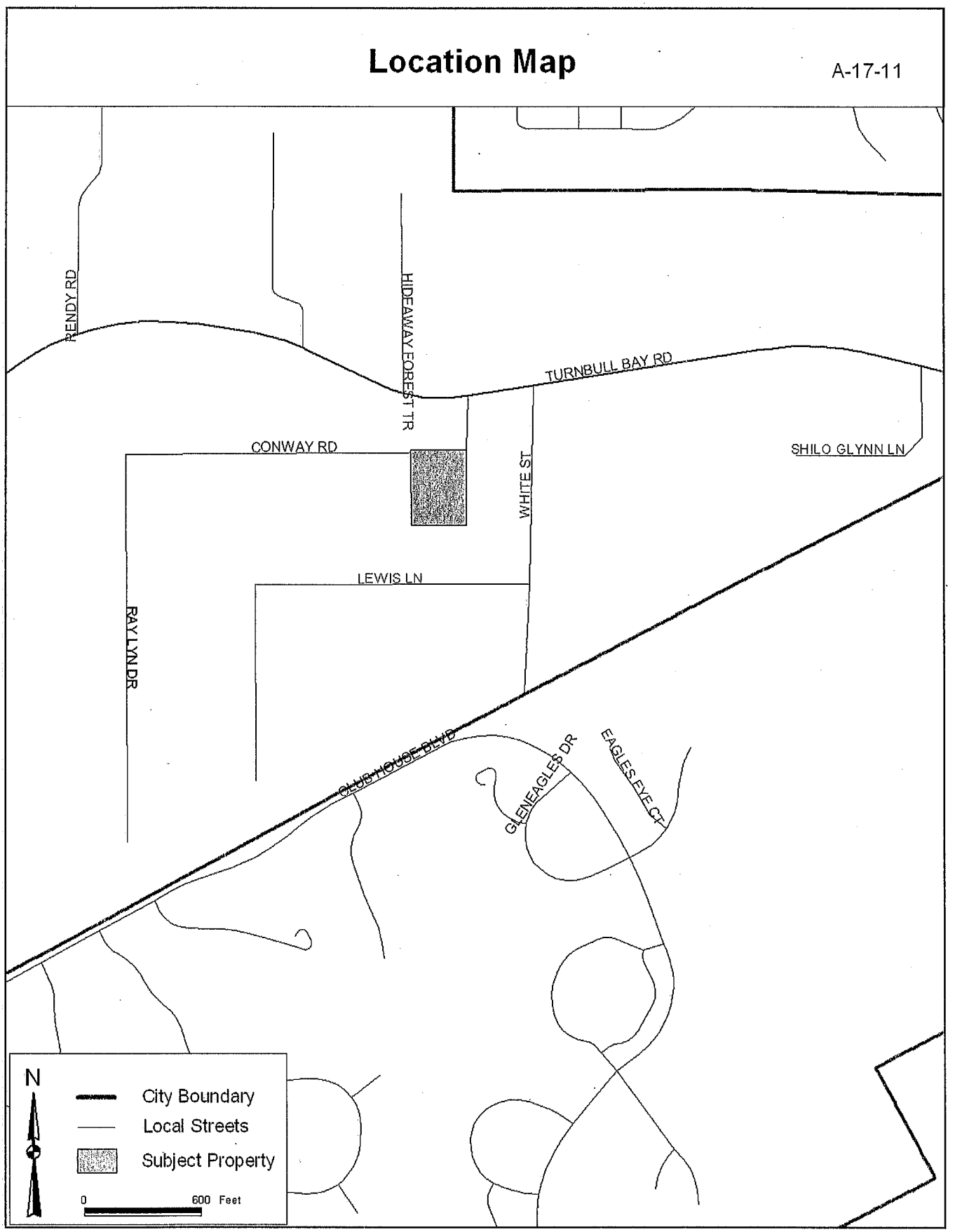
- **Future Land Use Element Objective 10:** To protect existing

desirable neighborhoods from encroaching new development which is incompatible and inconsistent with established character of the neighborhood

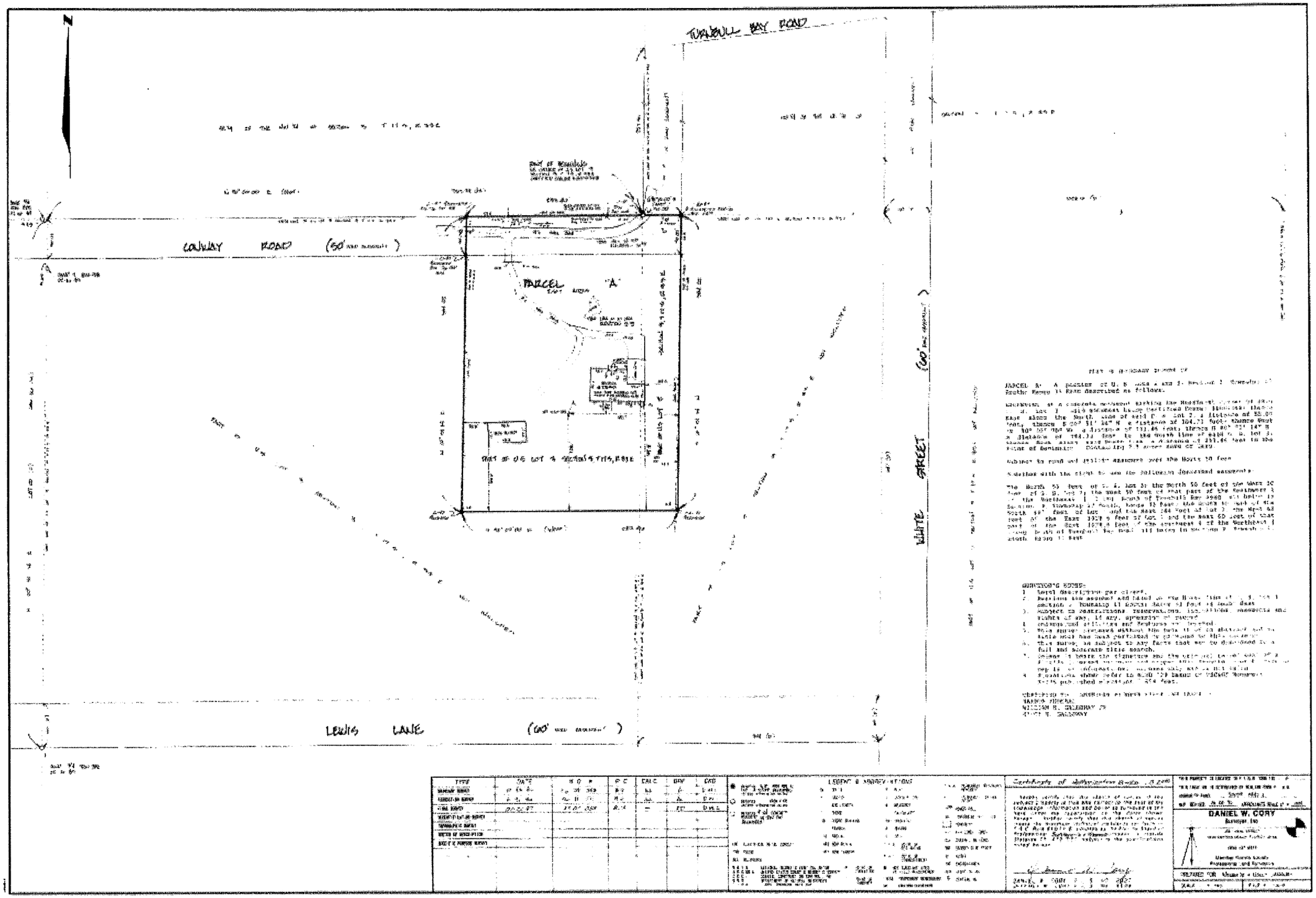
The future land use amendment and assigned zoning district would continue the established City practice and the existing development pattern of the area and are in compliance with the Comprehensive Plan

III. Recommendation

Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the annexation, *Comprehensive Plan* amendment to City Rural, and the rezoning to City zoning district designation RE, Residential Estate.

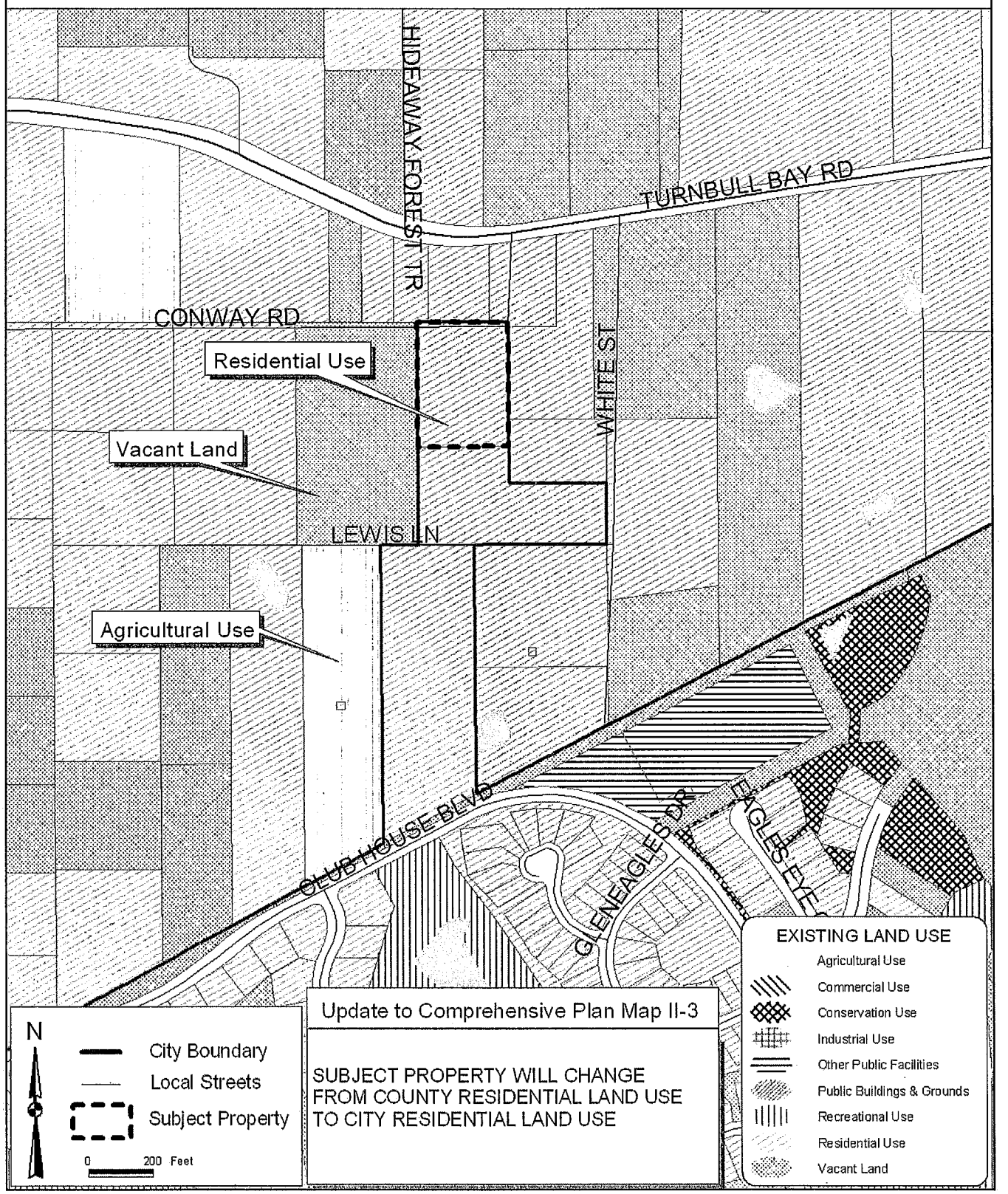

Location Map
A-17-11
RENDY RD
HIDEAWAY FOREST TR
TURNBULL BAY RD
CONWAY RD
WHITE ST
SHILO GLYNN LN
LEWIS LN
RAY LYN DR
CLUBHOUSE BLVD
GLENEAGLES DR
EAGLES EYE CT
N
City Boundary
Local Streets
Subject Property
0
600 Feet

1



Existing Land Use Designations

A-17-11

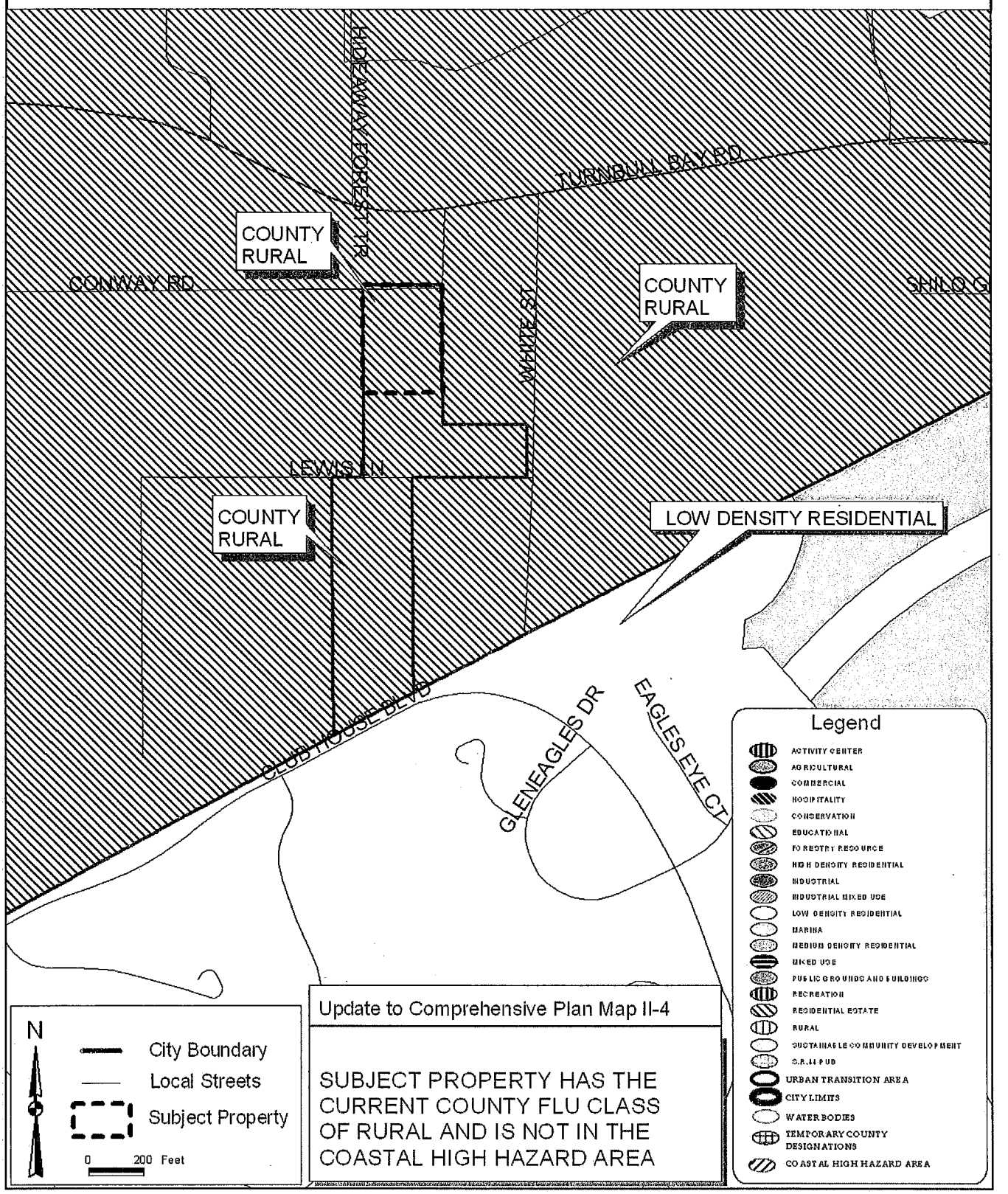


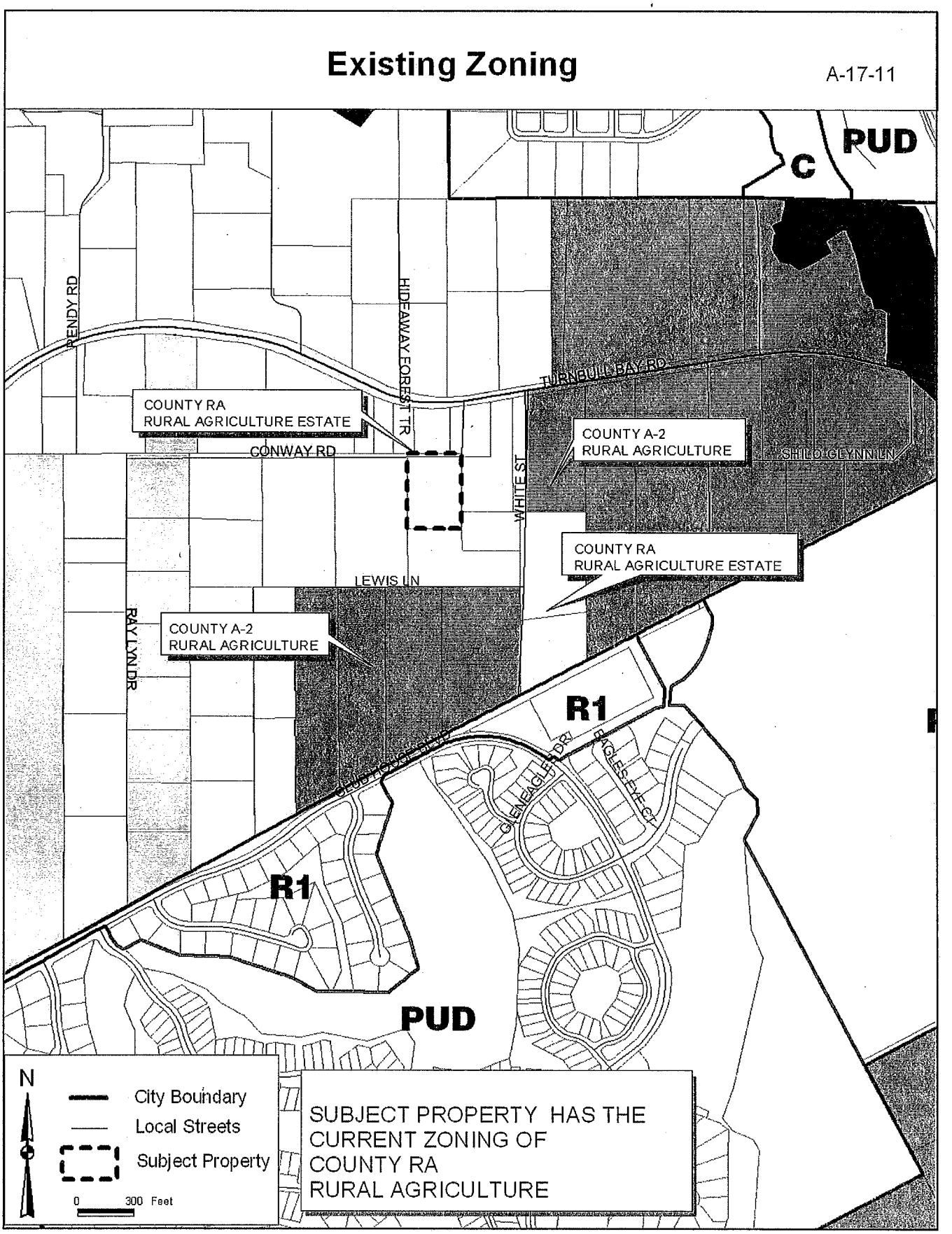
Update to Comprehensive Plan Map II-3

SUBJECT PROPERTY WILL CHANGE FROM COUNTY RESIDENTIAL LAND USE TO CITY RESIDENTIAL LAND USE

Existing Future Land Use Designations

A-17-11




Existing Zoning
A-17-11
PUD
C
RENDY RD
HIDEAWAY FOREST TR
TURNBULL BAY RD
COUNTY RA
RURAL AGRICULTURE ESTATE
CONWAY RD
COUNTY A-2
RURAL AGRICULTURE
SHILO GLYNN LN
WHITE ST
COUNTY RA
RURAL AGRICULTURE ESTATE
LEWIS LN
RAY LYN DR
COUNTY A-2
RURAL AGRICULTURE
R1
GLENEAGLE DR
EAGLES EYE CT
R1
PUD
N
City Boundary
Local Streets
Subject Property
0
300 Feet
SUBJECT PROPERTY HAS THE
CURRENT ZONING OF
COUNTY RA
RURAL AGRICULTURE

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

(1) Lands designated as rural shall be developed at a density of one (1) dwelling unit per five (5) acres. This density allowance may be increased under specific conditions as follows:

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

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

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

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

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

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

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

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

(2) There are two subcategories of the rural designation that address past development decisions. These subcategories are Rural Community and Rural Recreation. They are identified on the Special Rural Areas Map Series, presented in Appendix 1. These areas of intense or potentially intense development provide the mixed use concept to the rural areas. They help limit urban sprawl by providing services not necessarily found in remote rural areas thus reducing the number of trips out of these rural areas. Also allowing some limited urban type of development may help promote economic growth in the rural areas as well. In designated Rural Communities and Rural Recreation areas where densities are greater than one (1) unit per acre, existing platted lots, undeveloped subdivisions, or other pre-existing developments shall be permitted subject to zoning requirements. However, any new development or subdivision of land shall have to comply with current County regulations.

RA RURAL AGRICULTURAL ESTATE CLASSIFICATION

Purpose and intent: The purpose and intent of the RA Rural Agricultural Estate Classification is to provide for low density development, personal agricultural production consistent with the comprehensive plan, in rural areas of the county.

Permitted principal uses and structures: In the RA Rural Agricultural Estate Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Communication towers not exceeding 70 feet in height above ground level.
- 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)).
- Essential utility services.
- 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.
- Raising of crops and keeping of animals, including aviaries, pisciculture, apiaries and worm raising for personal use (not for resale), accessory to a single-family dwelling. The personal use restriction is not intended to apply to 4-H, FFA or similar educational projects.
- Single-family standard or manufactured modular dwelling.

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

- Animal shelters.
- 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 center (refer to subsection 72-293(6)).
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).
- Excavations only for stormwater retention ponds for which a permit is required by this article.
- Garage apartments.
- Group home (refer to subsection 72-293(12)).
- Home occupations, class B (refer to section 72-283).
- Kennels.
- Off-street parking areas (refer to subsection 72-293(14)).
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).

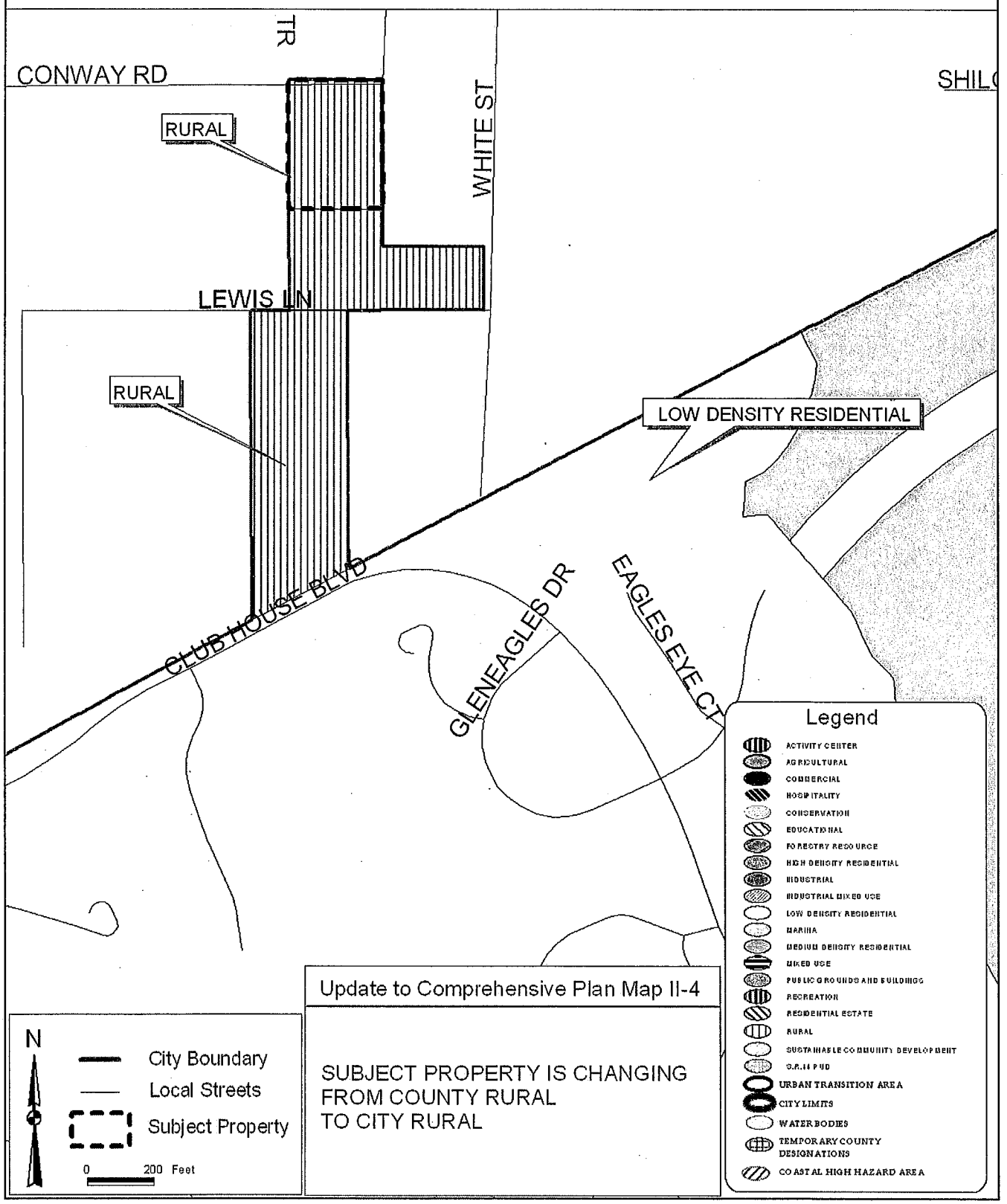
- Schools, parochial or private (refer to subsection 72-293(4)).

Dimensional requirements:
Minimum lot size:
Area: Two and one-half acres.
Width: 150 feet.
Minimum yard size:
Front yard: 45 feet.
Rear yard: 45 feet.
Side yard: 25 feet.
Waterfront yard: 45 feet.
Maximum building height: 35 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 1,000 square feet.

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

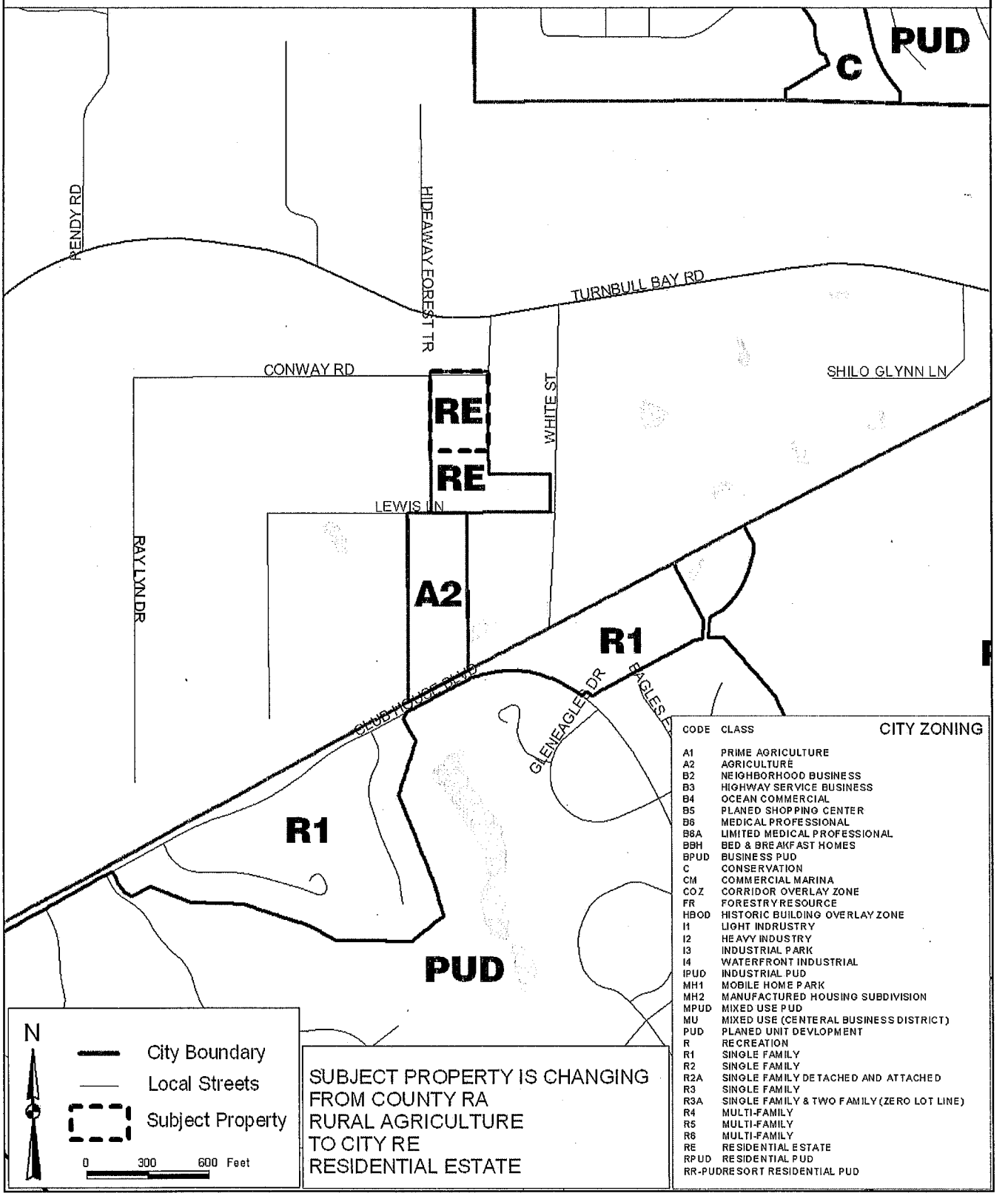
Proposed Future Land Use Designations

A-17-11



Proposed Zoning

A-17-11



RURAL

(up to one [1] dwelling unit per five [5] acres or up to one [1] dwelling unit per acre) This category includes areas that may consist of agriculture land, undeveloped rural land, and large parcels of developed residential land. Areas designated with a Rural FLU category should be developed in a manner consistent with the retention of agriculture and rural lands, low-density residential and the protection of environmentally sensitive areas. Strict limitation of development in rural areas contributes to the efficient growth and operation of public services and facilities, thus ensuring the most effective use of public resources. The natural features and constraints will be the primary determinants in deciding whether or not an area is suitable for rural type development.

The Rural FLU designation may allow smaller lot sizes in clusters to protect environmentally sensitive land and upland buffers but shall not allow increase in density. Smaller cluster lots shall be allowed provided the clusters have large perimeter buffers to give the appearance of rural land from adjacent parcels and there is legal assurance that the property not included in the fee simple cluster lots are owned in common by the fee simple lot owners and will not be subsequently developed.

The density shall be determined as follows: Vacant parcels of land in the vicinity of existing exempt or approved platted subdivisions on or before April 3, 1990, with lot sizes from 1 unit per acre to 1 unit per 5 acres or vacant parcels of land immediately adjacent to an urban FLU category may be developed with similar density or lot sizes but not less than one (1) unit per acre. Only that portion of a parcel(s) that is within 660 feet from the above described existing exempt or approved subdivision or urban FLU category boundary, as of the adoption date of the Rural FLU category, is considered "in the vicinity." Note: If a parcel that is "in the vicinity" is covered by more than fifty percent (50%) of the 660 feet extension, then the remaining portion of that parcel which is 10 acres or less is eligible for increased density.

Although the adjacency to the conditions described above allows for the potential of subdivisions with lots less than 5 acres in size, the actual lot size will be dependent upon the following: Compatibility of the proposed development will be viewed within the context of existing uses, public facility capacity in the area, suitability for wells and septic tank usage, and the natural features of the parcel in question, such as soils, vegetation, and floodplain. Vacant parcels or tracts of land that do not meet the preceding criteria or are in areas which have not been previously platted with lots less than 5 acres in size shall only be developed with lot sizes that are 5 acres or greater or in cluster developments at a density of no greater than one (1) unit per five (5) acres.

RE RESIDENTIAL ESTATE

Intent:
The Residential Estate District is intended to be a single-family residential district for low population densities and relatively large homes.

Permitted Principal Uses:
- Single-Family Dwelling Units
- Recreation buildings and complexes for exclusive use by residents and guests of a residential development.

Permitted Accessory Uses:
- Gazebos
- Garages
- Incidental Uses
- Permitted Home Occupations
- Storage Sheds
- Swimming pools, private, provided a principal structure exists and the pool is located behind the front plane of the principal structure. Corner lots will be considered to have two front planes, one on each street. If a structure is not constructed squarely on a parcel, the swimming pool must be located at or behind the most restrictive front plane of the principal structure. **Ord. #30-10**
- Uses customarily associated with the permitted uses

Prohibited Uses:
- Businesses (except home occupations)
- Manufacturing Facility
- Offices (except home occupations)
- Restaurants
- Retail Activity

Special Exceptions:
- Country Clubs and Golf Courses
- Schools and Churches provided all structures are located at least forty-five (45) feet from all property lines and off-street parking areas abutting residential property are screened by a buffer meeting the requirements of this LDR except that the buffer shall be a minimum of fifteen (15) feet in width

Dimensional Requirements:

Minimum Lot Size:

Area	40,000 Square Feet*
Width	100 Feet [Ord. No. 65-92]
Depth	150 Feet

*Minimum lot depth multiplied by minimum lot width does not equal the minimum required lot area.

Minimum Yard Size:

Front	45 Feet or as required per Section 504.01(M) of this LDR
Rear	40 Feet

Side 15 Feet

Maximum Building Coverage:

The total area covered with buildings on any lot shall not exceed twenty percent (20%) of the total lot area.

Screen Enclosures:

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

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

Ord. #05-09

Maximum Impervious Coverage:

The total area covered with impervious ground cover shall not exceed forty percent (40%) of the total lot area.

Maximum Principal Building Height:

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

Minimum Floor Area Requirements:

1700 square feet of livable area per dwelling unit

Off-Street Parking:

Parking shall be required entirely on the lot for a minimum of two (2) automobiles. There is no required back-up area.

Corner Lots

(1) Parcels which front on two streets shall provide a forty-five (45) foot front yard on street frontage with driveway access and a 22.5 foot front yard on the other street, or as required per Section 504.01(M) of this LDR.

(2) Parcels fronting on three streets shall provide two 45 foot front yards including one with driveway access and a 22.5 foot front yard on the remaining street, or as required per Section 504.01(M) in this LDR.

Through Lots

Shall provide a forty-five (45) foot front yard on each street, or as required per Section 504.01(M) of this LDR.

Atypical Lot:

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

Building Projections:

Except for eaves with a maximum projection of 36", there shall be no building projections into any required yard.

Visibility at Intersections:

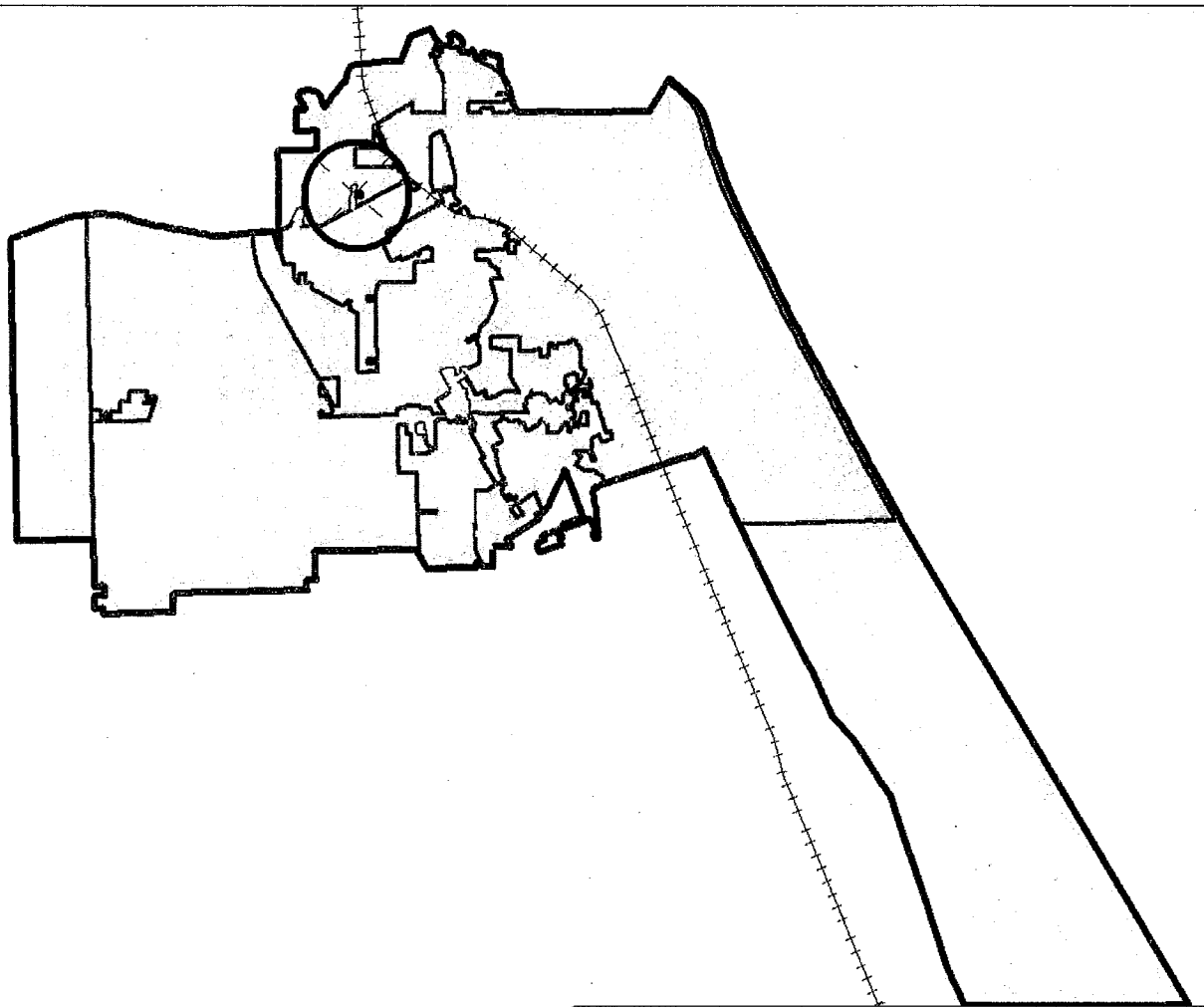
Visibility at intersections shall be provided as required in this LDR.

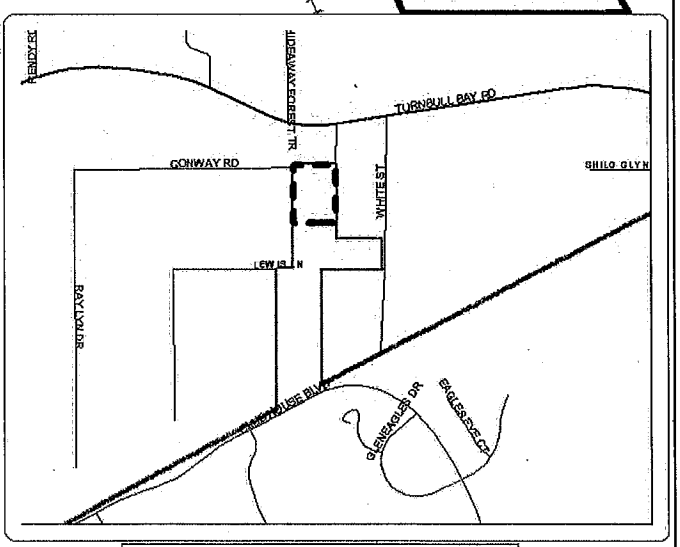
Site Plan Approval for Special Exceptions:

Site plans approval for Special Exceptions is required.

Water & Sewer Service Area

A-17-11





WATER AND SEWER SERVICE AREA

Update to Comprehensive Plan Map VII-1

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

N

City Boundary

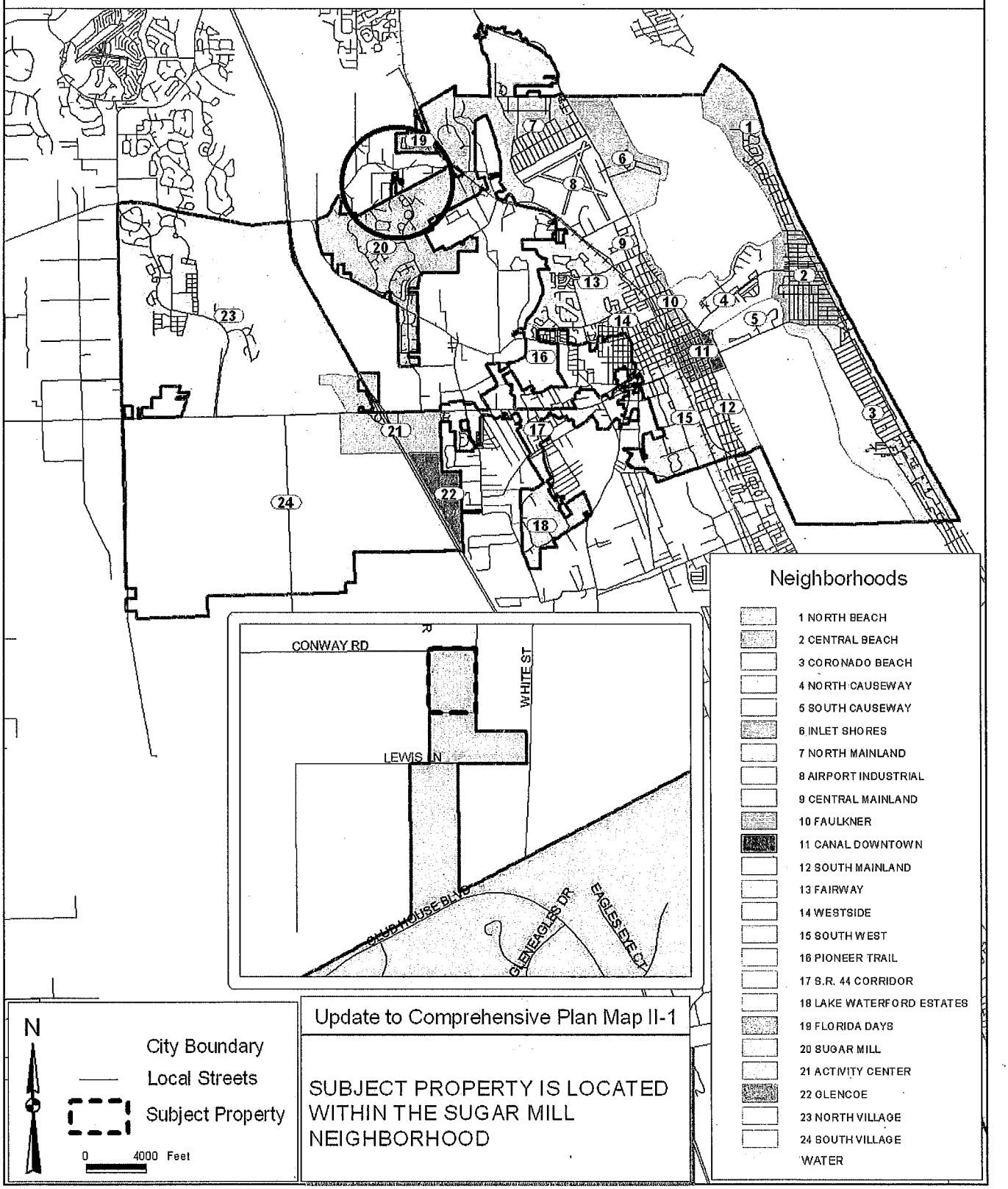
Local Streets

Subject Property

0 6000 Feet

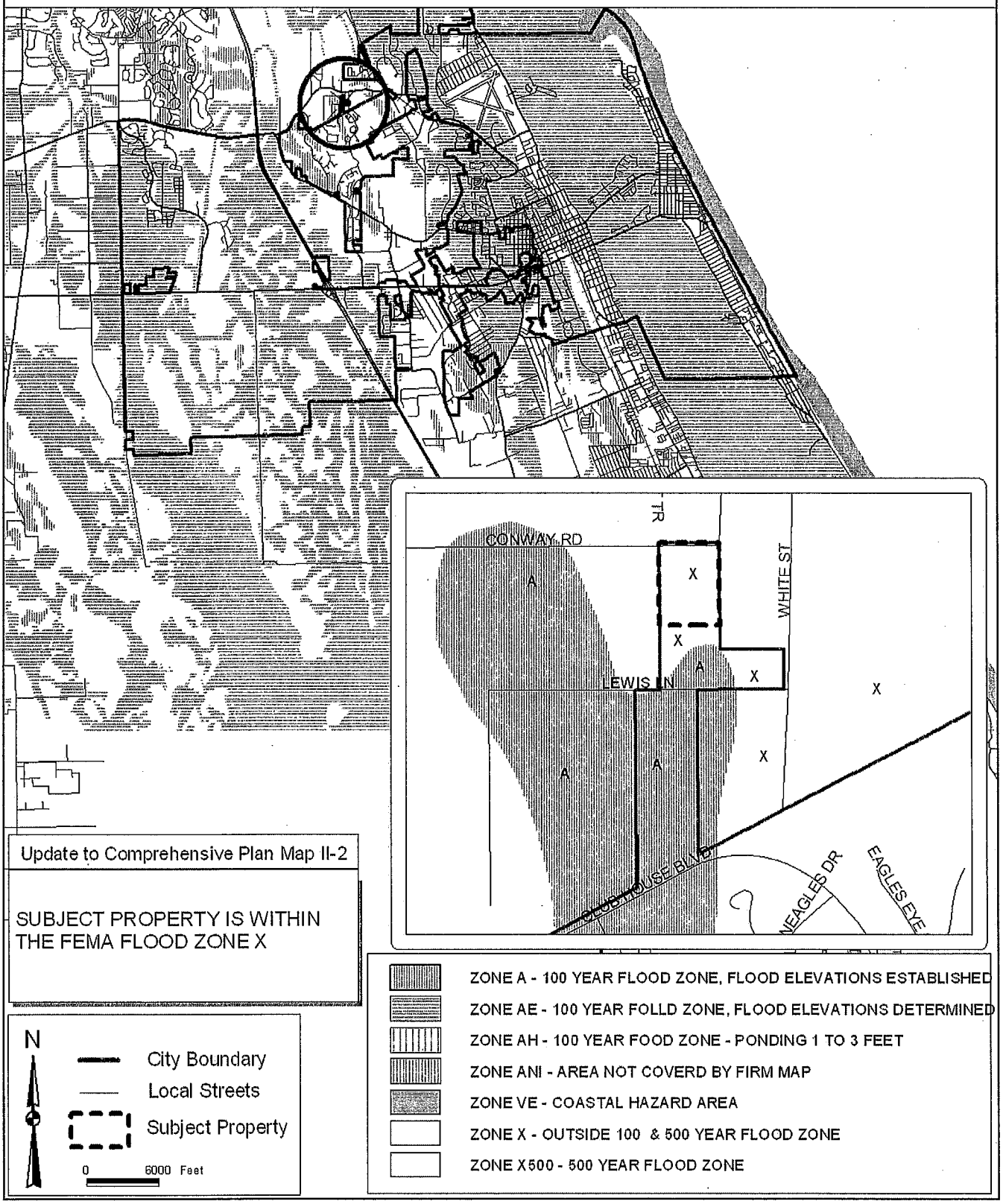
Neighborhoods

A-17-11



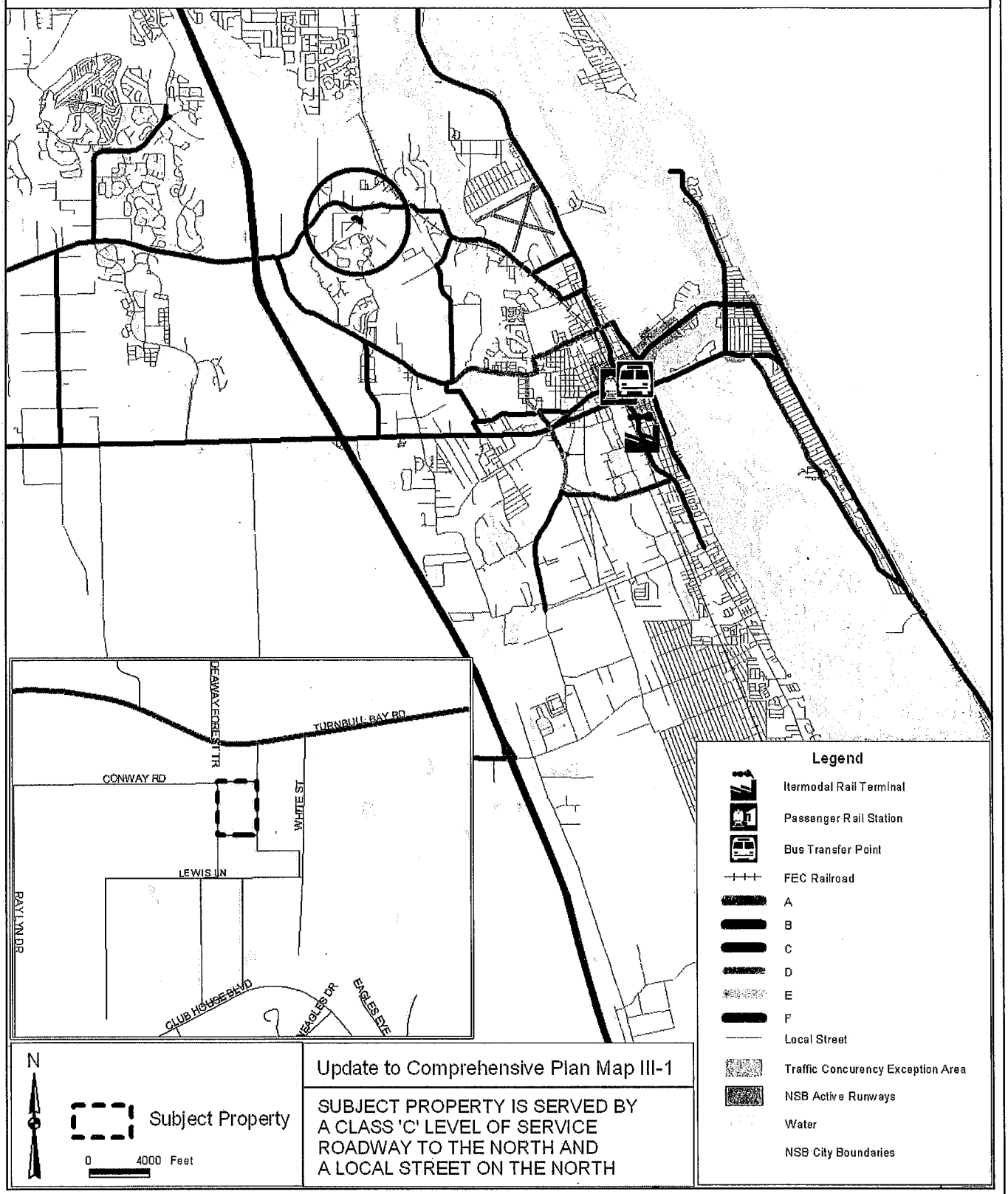
Flood Prone Areas

A-17-11



Existing Level of Service - 2009

A-17-11

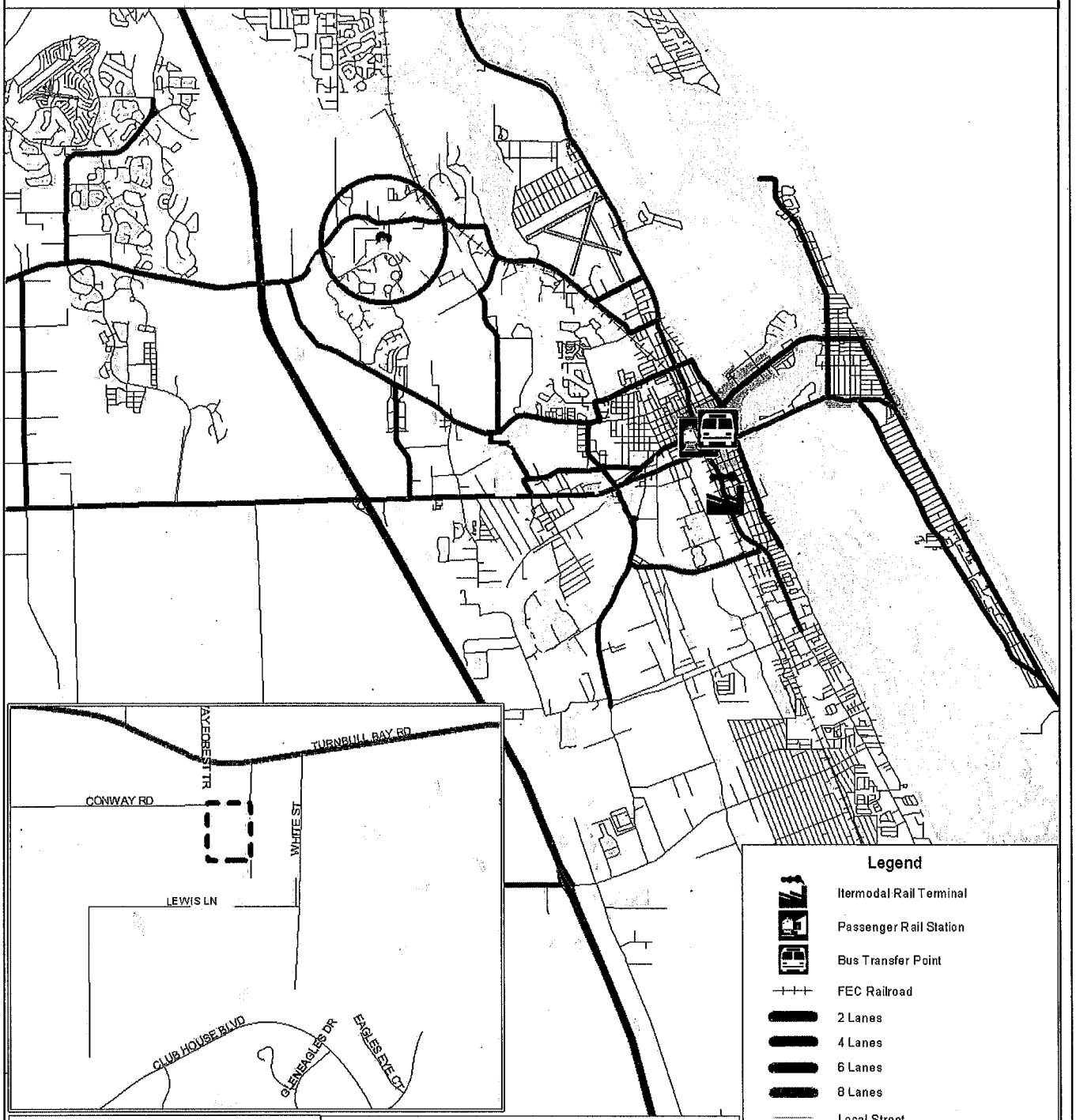


Update to Comprehensive Plan Map III-1

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

Existing Traffic Lanes - 2009

A-17-11

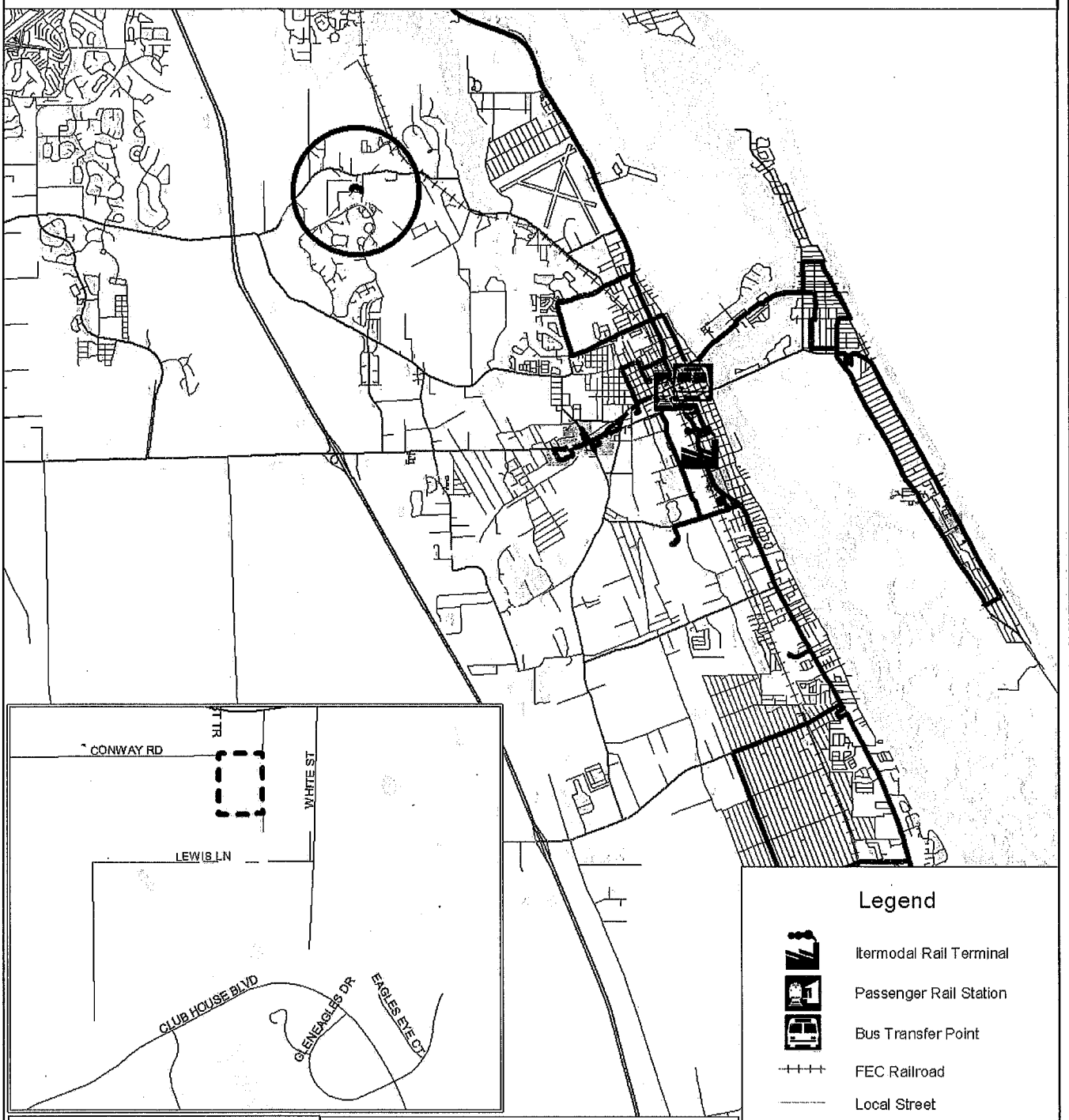


Update to Comprehensive Plan Map III-2

SUBJECT PROPERTY IS SERVED BY
A TWO (2) LANE ROADWAY
ROADWAY TO THE NORTH AND
A LOCAL STREET ON THE NORTH

Public Transit Routes

A-17-11

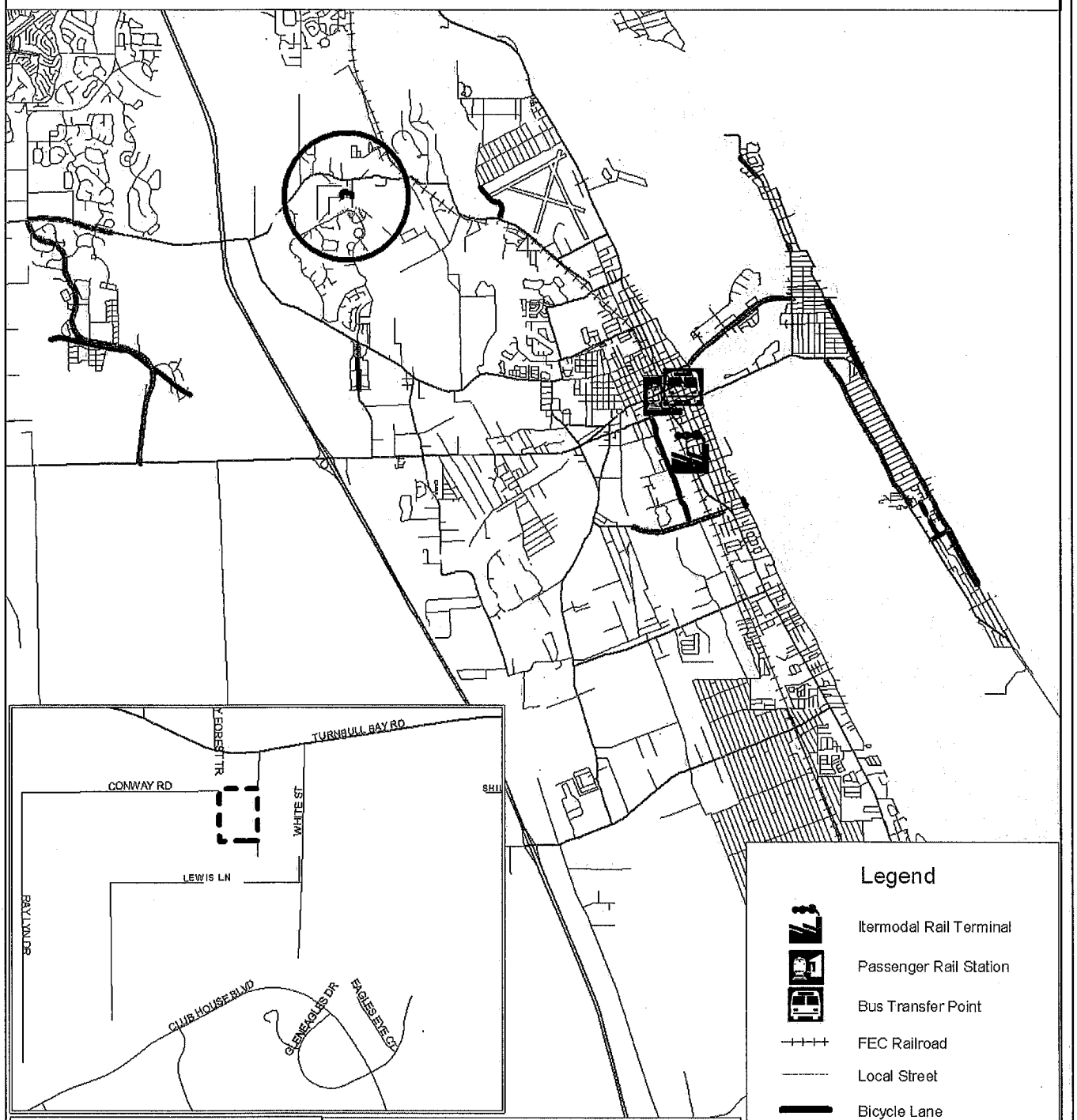


Update to Comprehensive Plan Map III-3

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

Bicycle and Pedestrian Facilities

A-17-11

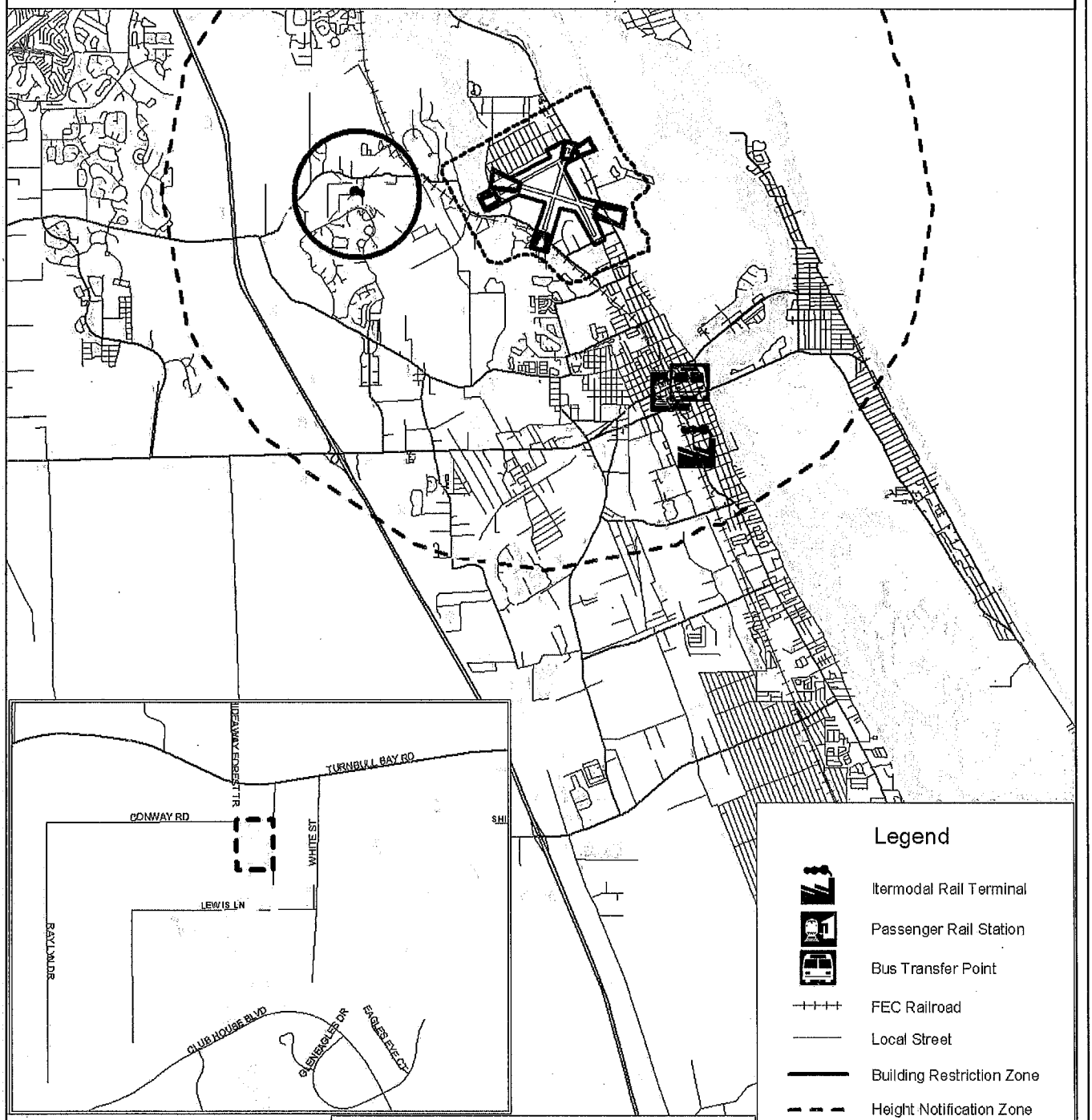


Update to Comprehensive Plan Map III-4

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

Airport Runway Protection Zones

A-17-11

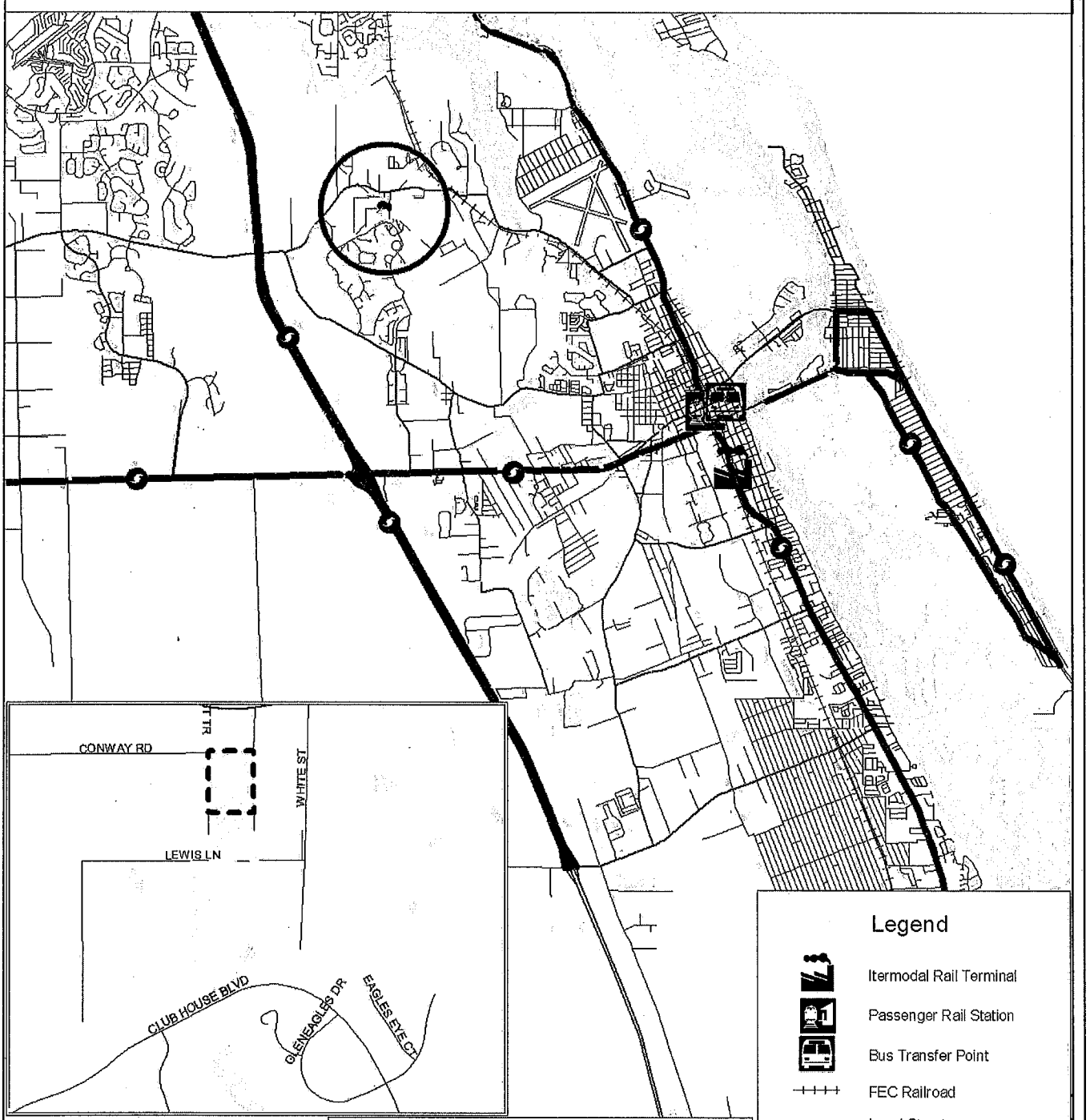


Update to Comprehensive Plan Map III-5

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

Evacuation Routes

A-17-11

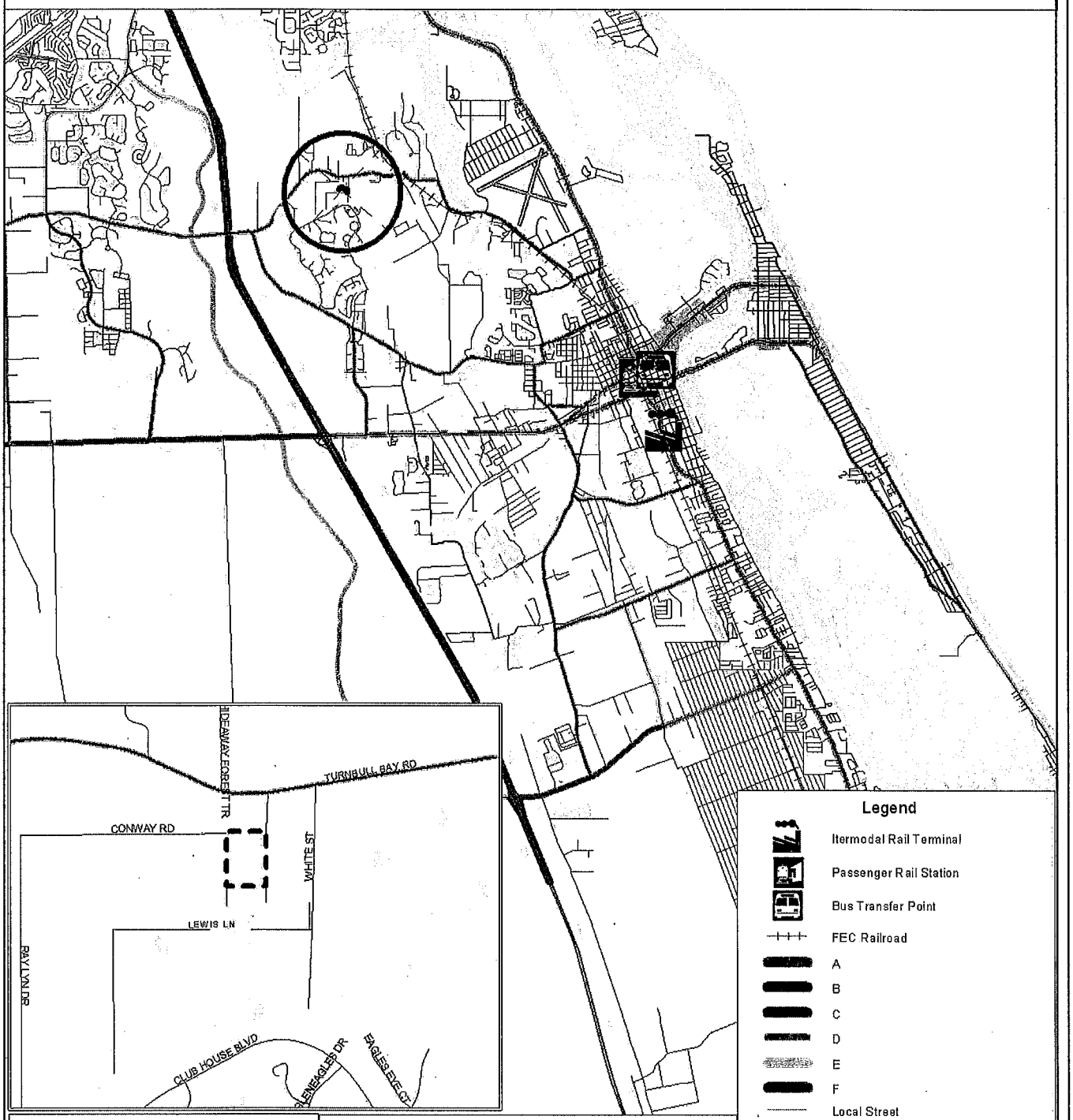


Update to Comprehensive Plan Map III-6

SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

Level of Service - 2025

A-17-11



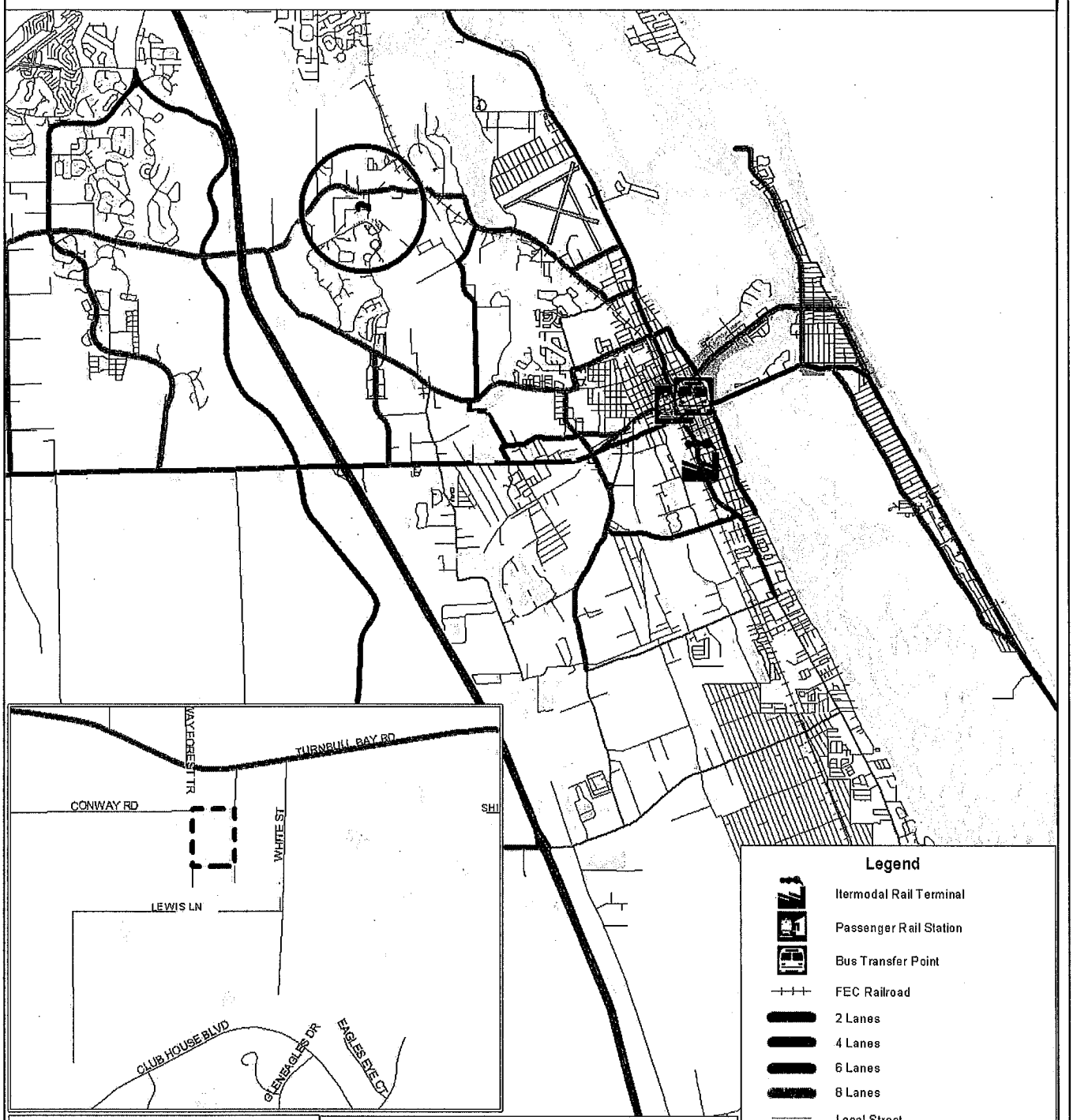
Update to Comprehensive Plan Map III-7

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

455

Number of Traffic Lanes - 2025

A-17-11

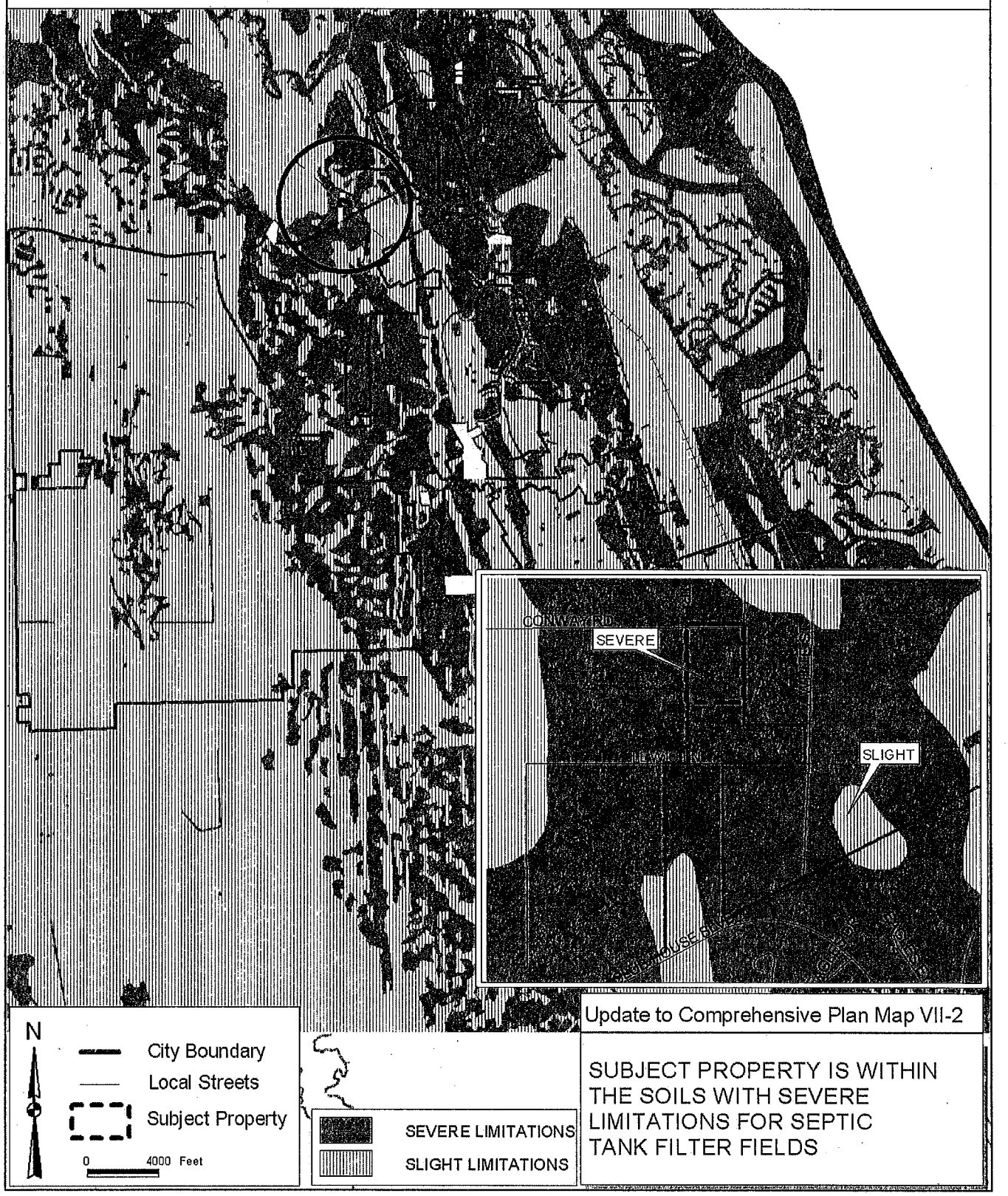


Update to Comprehensive Plan Map III-8

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

Soil Limitation for Septic Systems

A-17-11

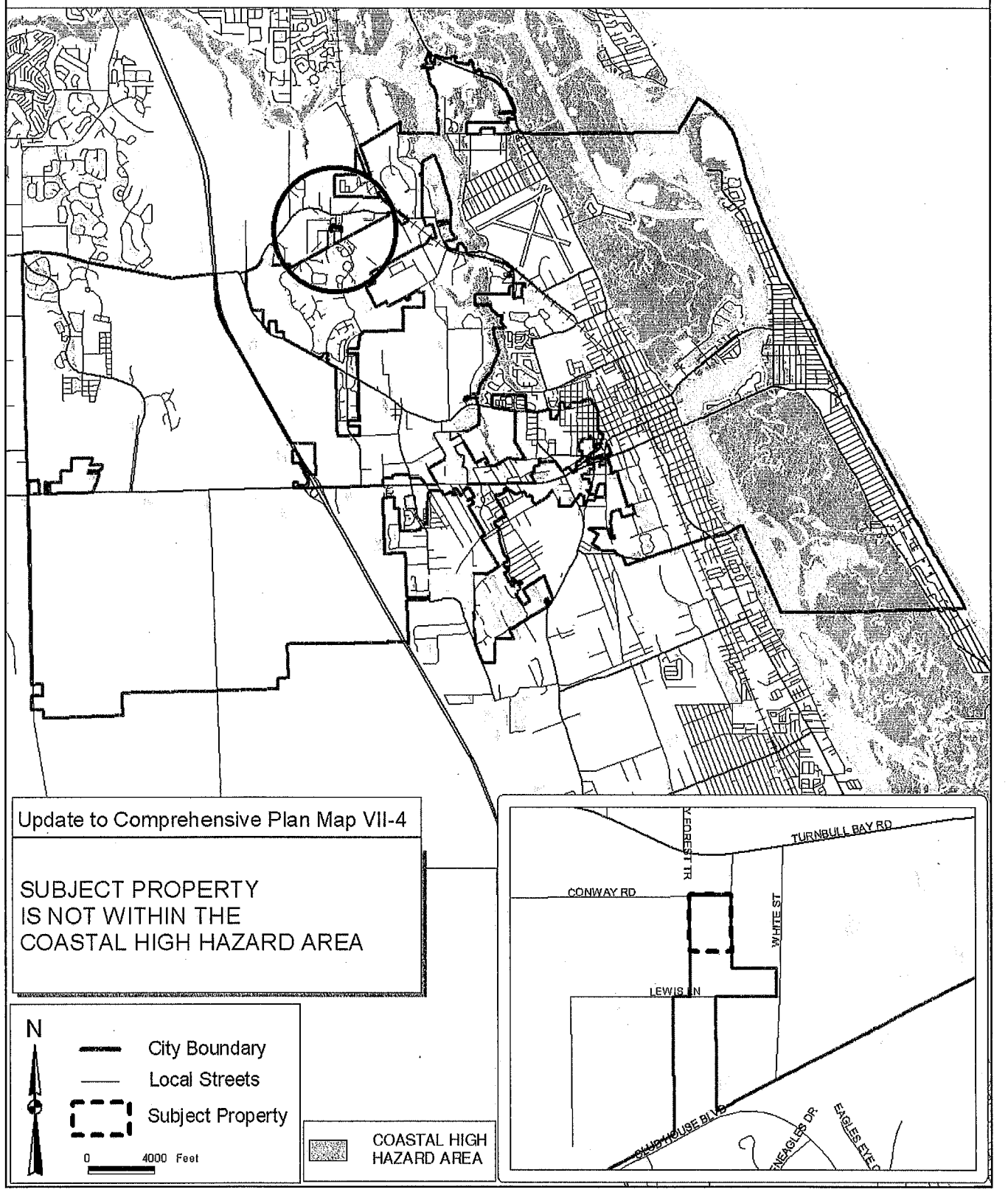


Update to Comprehensive Plan Map VII-2

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

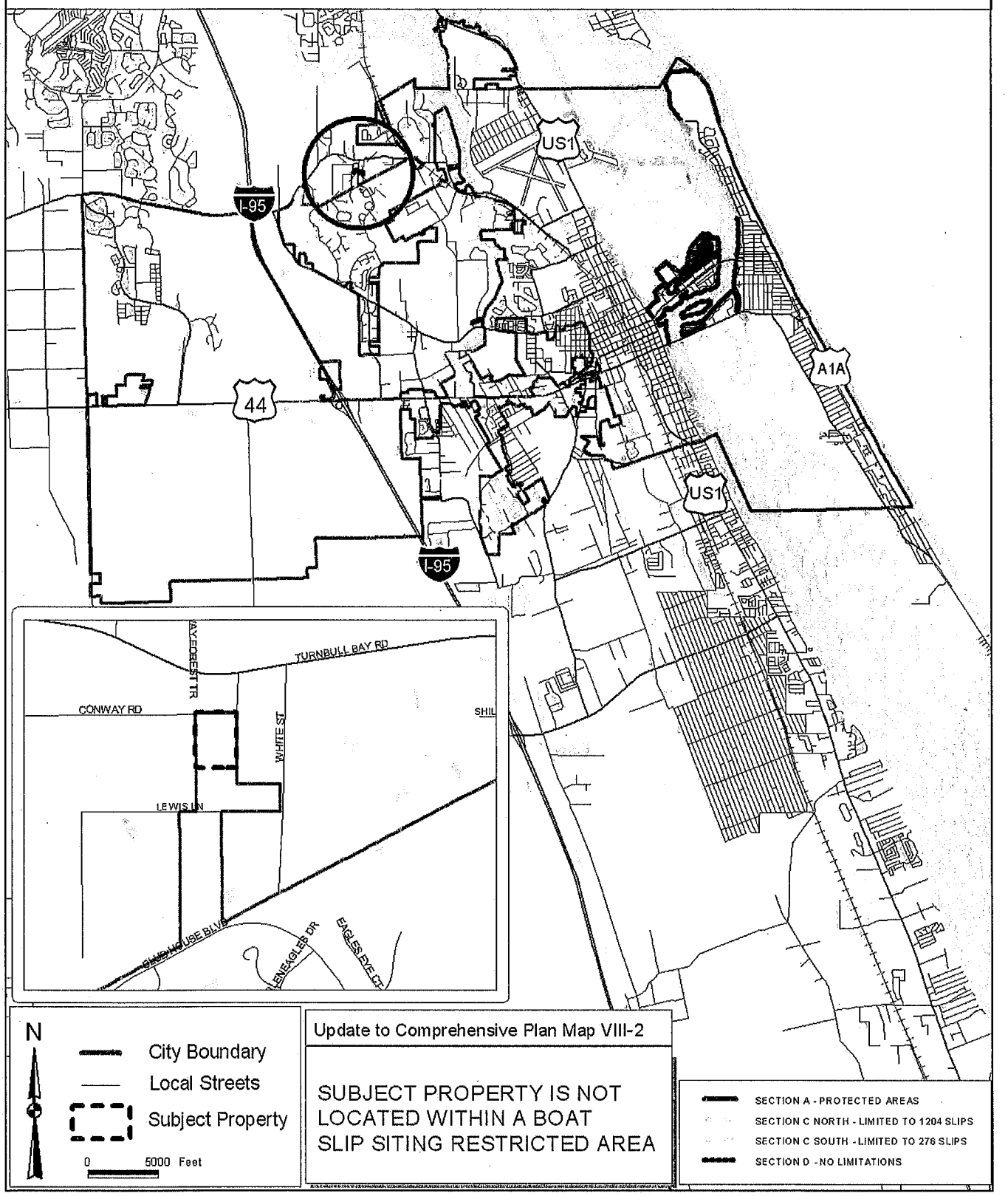
Coastal High Hazard Areas

A-17-11



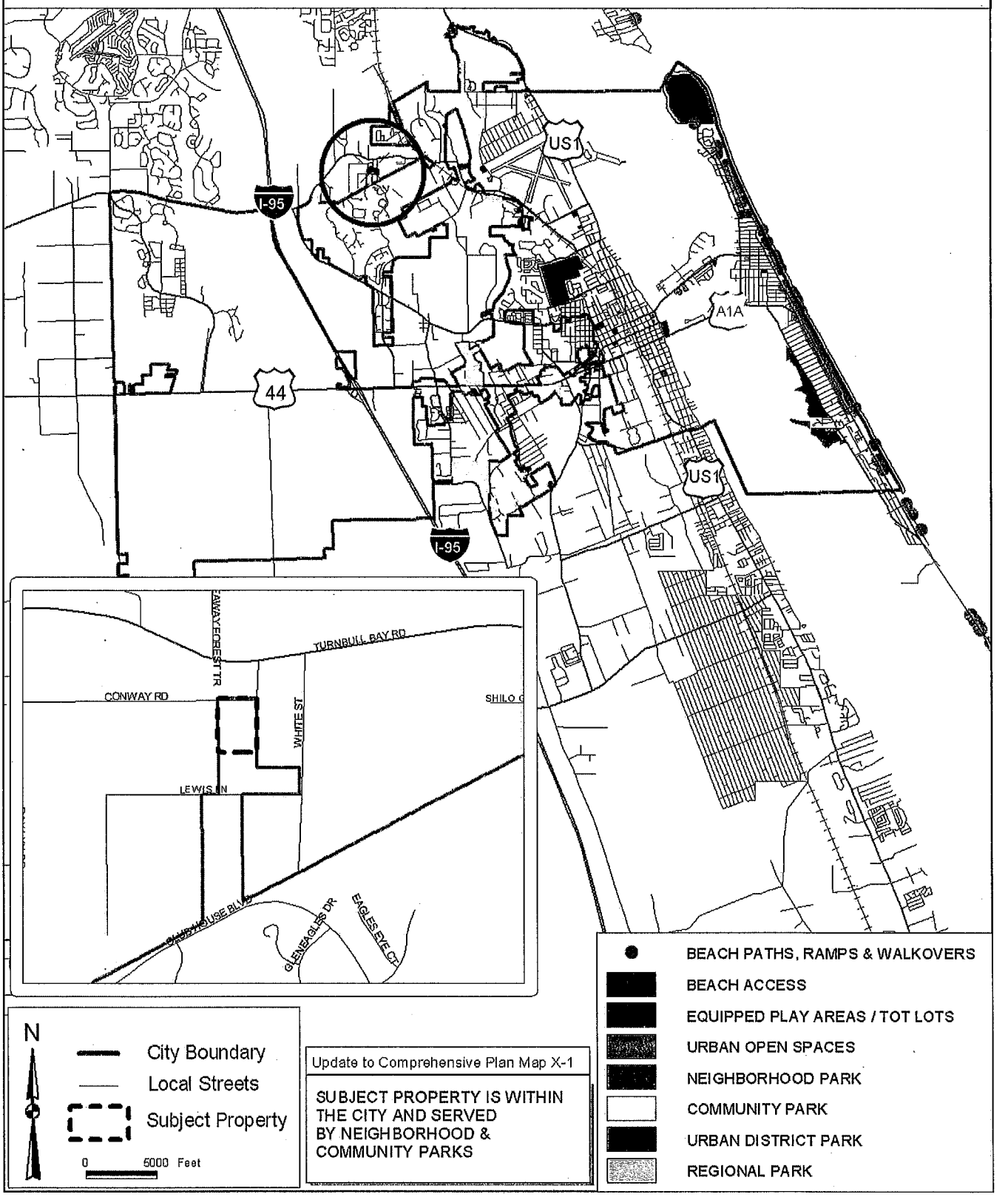
Boat Slip Siting

A-17-11



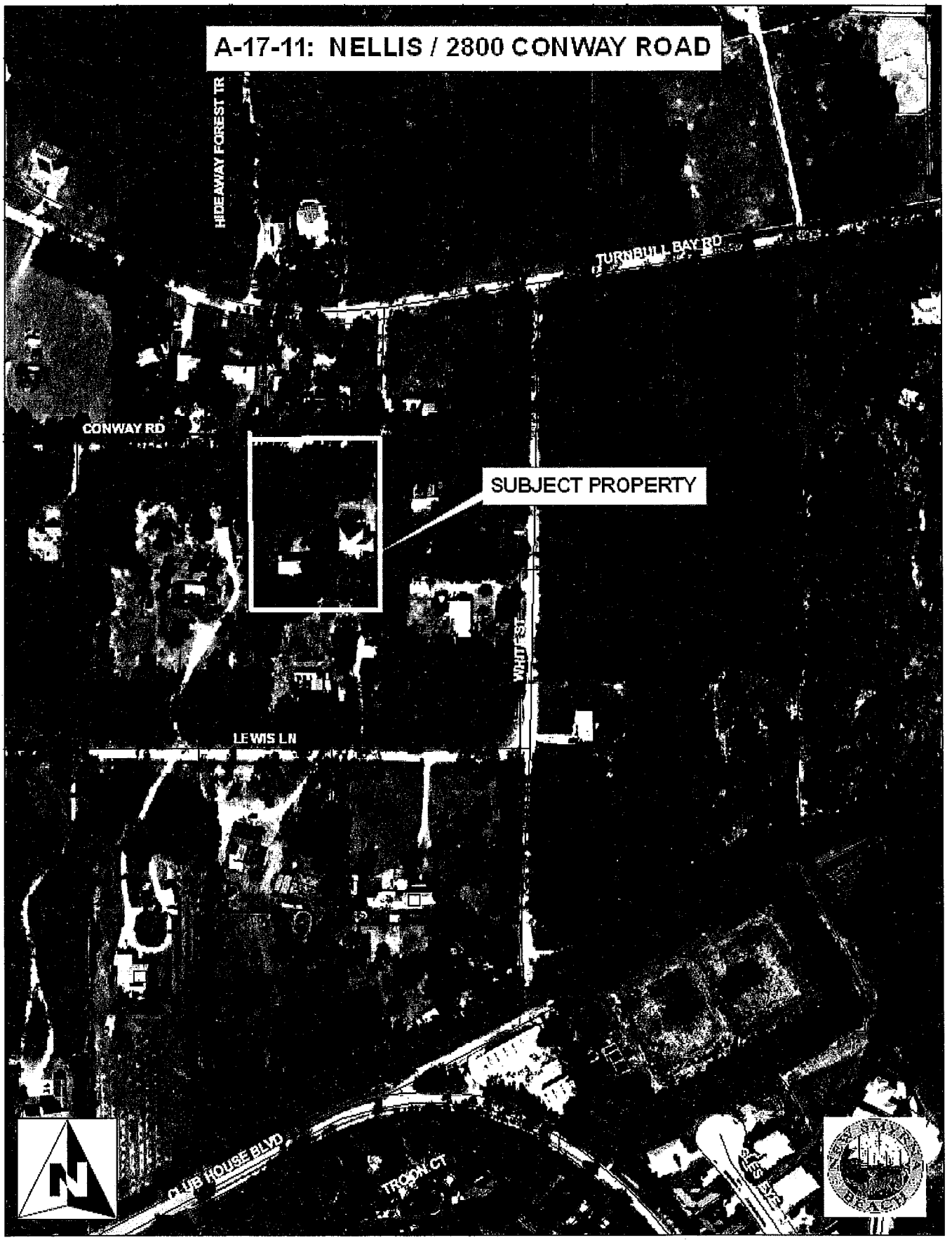
City Parks

A-17-11



Update to Comprehensive Plan Map X-1

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


A-17-11: NELLIS / 2800 CONWAY ROAD
HIDEAWAY FOREST TR
TURNBULL BAY RD
CONWAY RD
SUBJECT PROPERTY
WRIGHT ST
LEWIS LN
CLUB HOUSE BLVD
TROON CT

CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-18-11: KOPP / 2091 MARSH HARBOUR DRIVE

DECEMBER 5, 2011

I. Background

A. **Applicant:** Eugene J. Kopp, 2091 Marsh Harbour Drive, New Smyrna Beach, Florida, 32168

B. **Property Owners:** Eugene J. and Elizabeth Kopp, 2091 Marsh Harbour Drive, New Smyrna Beach, Florida, 32168

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

- **From:** County Future Land Use (FLU) designations of Rural, Environmental Systems Corridor and Water; and County zoning designations of RA, Rural Agriculture Estate, RC, Resource Corridor and MH-4, Rural Mobile Home
- **To:** City FLU designations of Conservation and Agricultural; and City zoning A-2, Agriculture District

D. **Site Information:**

- **Size:** 10.2 acres
- **Location:** The subject property is generally located south of Turnbull Bay Road, west of Malonee Road. (see **Exhibit A** for a location map).
- **Tax I.D. Number:** 7312-00-00-0165

II. Findings

A. The subject property is an approximately 10.2-acre site that has been improved with a single family detached residence constructed in 2001 (**Exhibit B**). The property currently has three Volusia County Future Land Use (FLU) designations – Rural, Environmental Systems Corridor and Water. The Rural FLU designation permits up to one dwelling unit per 5 acres. The Environmental Systems Corridor Designation permits up to one dwelling unit per 25 acres. No dwelling units are permitted in the Water designation. The property is currently zoned Volusia County RA, Rural Agriculture Estate, which requires a minimum lot size of 2.5 acres, and County MH-4, Rural Mobile Home, which requires a minimum lot size of one acre. The RC, Resource Corridor Zoning requires a minimum lot size of 25 acres. The surrounding future land use, existing uses, and zoning are as follows:

North

Future Land Use: County Rural and County Environmental Systems Corridor

Existing Land Use: Vacant, Residential, Water, Industrial

Zoning:	County RA, Rural Agriculture Estate, County RC, Resource Corridor, and County MH-4, Rural Mobile Home

South

Future Land Use:	County Rural and County Environmental Systems Corridor
Existing Land Use:	Residential and Water
Zoning:	County RA, Rural Agriculture Estate, County RC, Resource Corridor, and County MH-4, Rural Mobile Home

East

Future Land Use:	County Rural
Existing Land Use:	Agriculture and Residential
Zoning:	County MH-4, Rural Mobile Home

West

Future Land Use:	County Rural and County Environmental Systems Corridor
Existing Land Use:	Agriculture
Zoning:	County RA, Rural Agriculture Estate

Maps showing the surrounding Existing Land Uses, Existing Future Land use, and Existing Zoning 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 have established a policy that when property is annexed into the City, the City would assign a future land use and zoning designation that would closely match the existing County designations. As discussed above, the existing County FLU designations are Rural, Environmental Systems Corridor and Water. The County zoning designations are RA, Rural Agriculture Estate, RC, Resource Corridor, and MH-4, Rural Mobile Home. The closest City FLU designation that matches the existing County Environmental Systems Corridor is the Conservation. While the City also has a Rural designation, staff is recommending that the City's Agriculture FLU designation be applied. This is based upon discussions with the property owner, who indicated to staff that he did not desire to have the eastern portion of his property continued to be zoned for mobile home. The City's Agriculture FLU designation allows for both agricultural uses and low-intensity uses such as large-lot single-family residential development and recreational uses.

C. With regard to zoning classifications, the County currently has zoned the property RA, Rural Agriculture Estate, RC, Resource Corridor and MH-4, Rural Mobile Home. In order to provide consistency between the Future

Land Use designation of Agriculture and the zoning, staff is recommending that the property be rezoned to city A-2, Agriculture District. The A-2 designation requires a minimum lot size of five acres. Maps showing the proposed FLU and zoning changes are attached as **Exhibits H and I**. Descriptions of the proposed FLU and zoning designations are attached as **Exhibits J and K.**

D. This annexation request is within the City's annexation area and within the City's water and sewer service area. **Exhibit L** There is no water or sanitary sewer service available to the subject property at this time.

E. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, stormwater management, and public school facilities. A concurrency analysis is attached as **Exhibit M**. No concurrency failures were identified as a result of the proposed future land use amendment or rezoning.

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

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

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

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

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

The proposed future land use amendment would allow possible theoretical future development of a maximum of 10 single-family residences. However, as shown on the survey attached as Exhibit B, approximately eight acres of the site contain surface water or marsh lands. It appears that only the easternmost two acres are developable. While the Agriculture FLU designation would theoretically allow two single-family residences on this upland area, the proposed A-2 zoning designation would only allow one single-family home, due to the minimum five-acre lot size. Therefore, the request is consistent with the **Comprehensive Plan.**

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

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

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

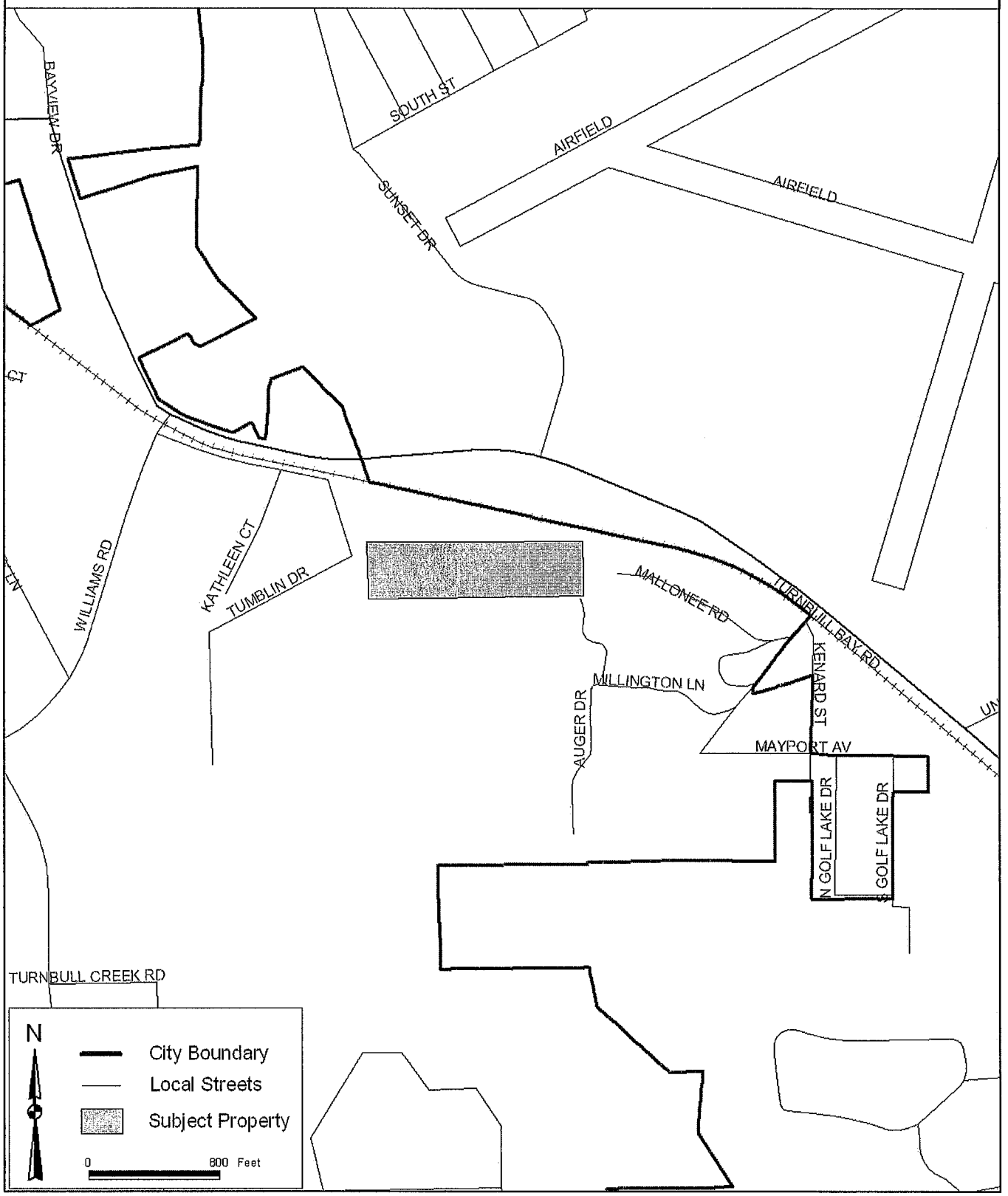
  The future land use amendment and assigned zoning district would continue the established City practice and the existing development pattern of the area and are in compliance with the Comprehensive Plan

III. Recommendation

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

Location Map

A-18-11



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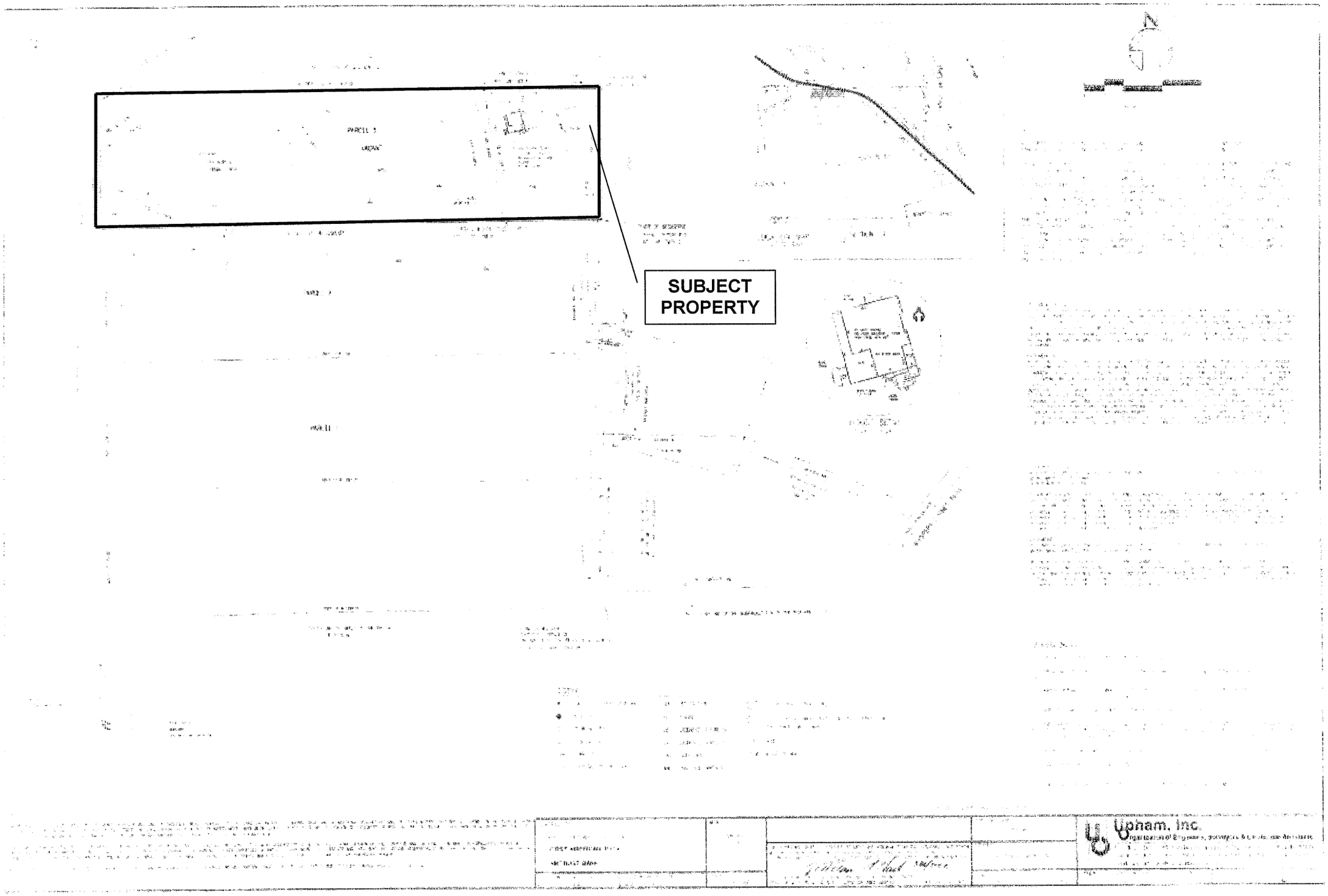
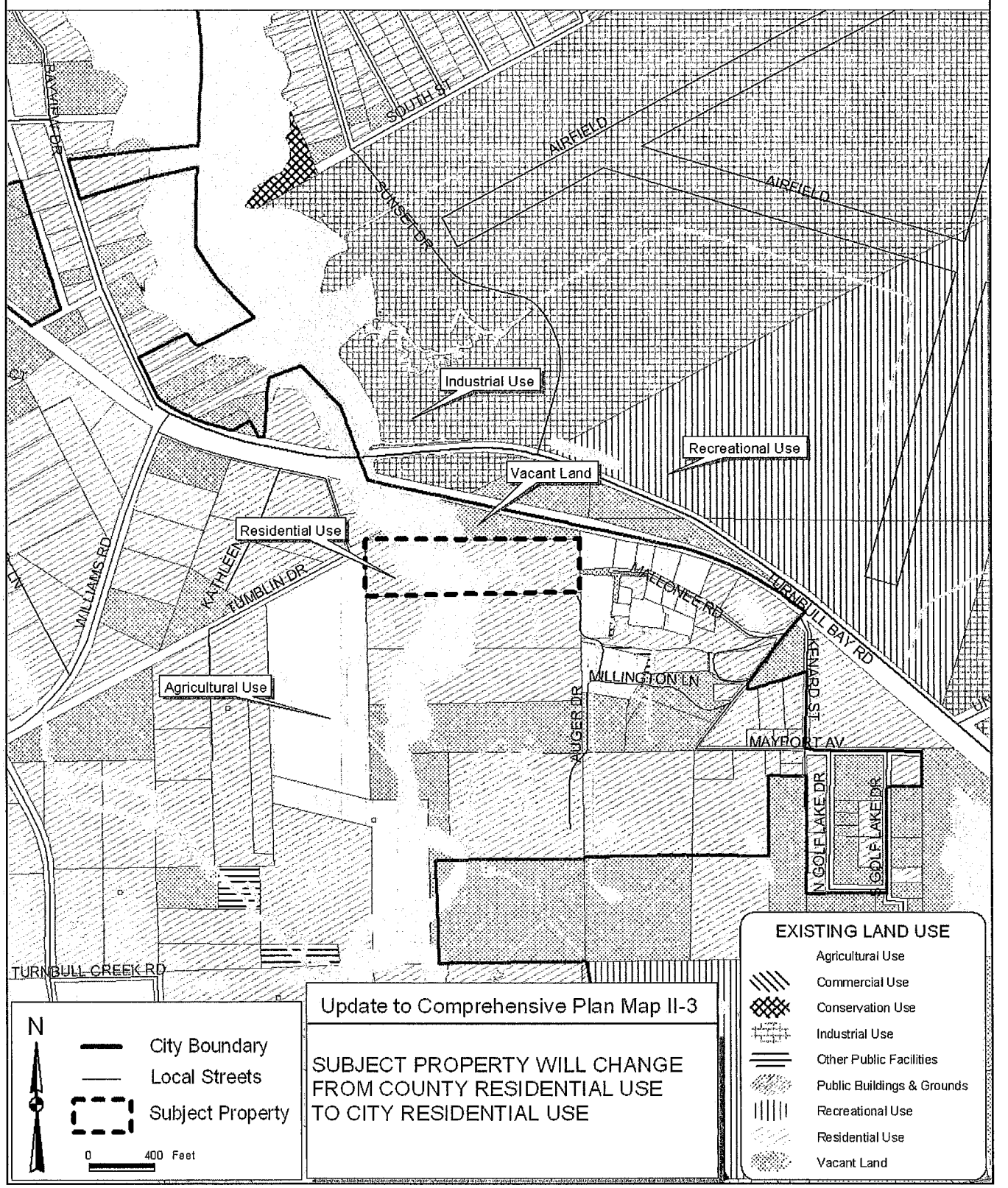


Existing Land Use Designations

A-18-11

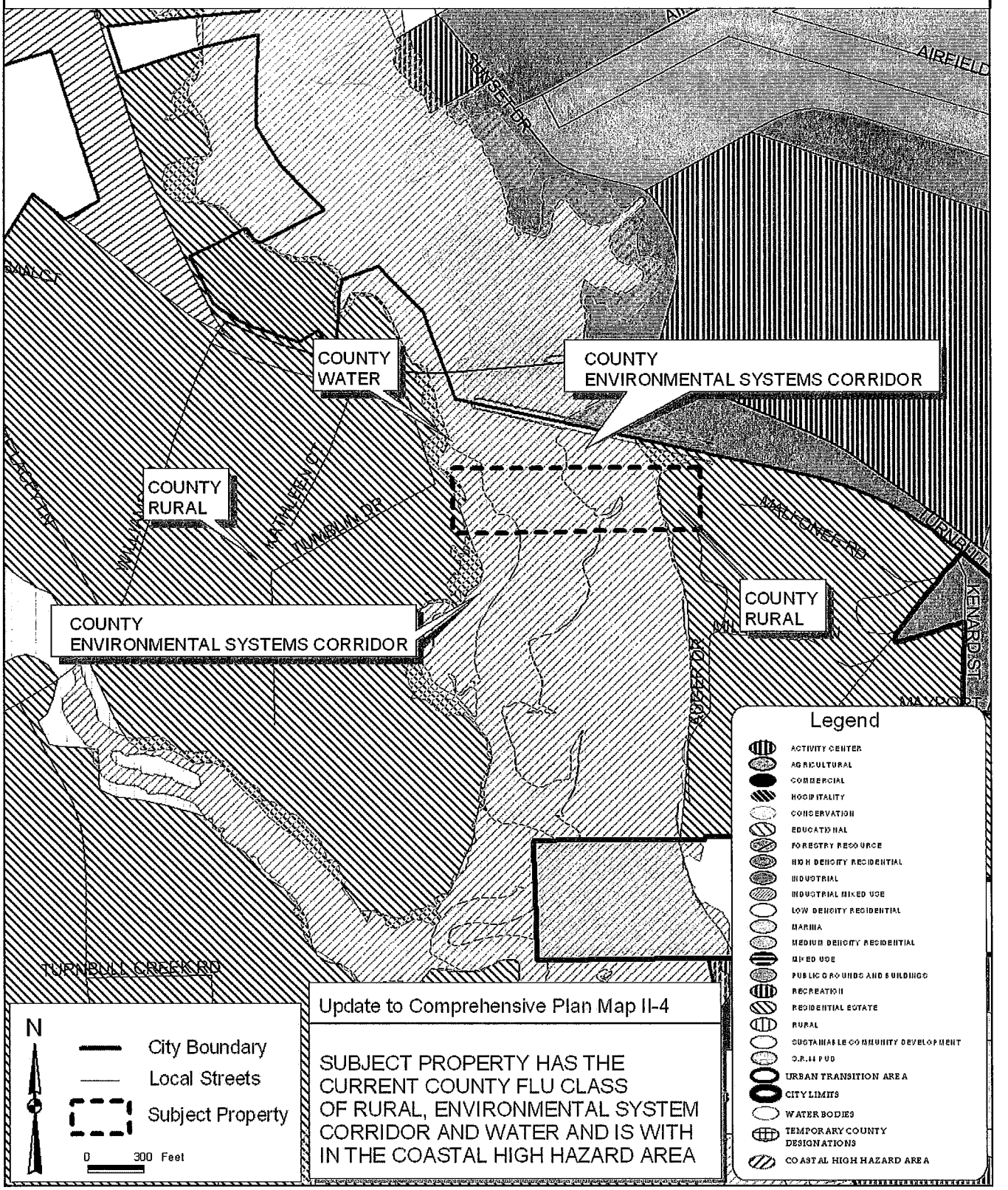


Update to Comprehensive Plan Map II-3

SUBJECT PROPERTY WILL CHANGE FROM COUNTY RESIDENTIAL USE TO CITY RESIDENTIAL USE

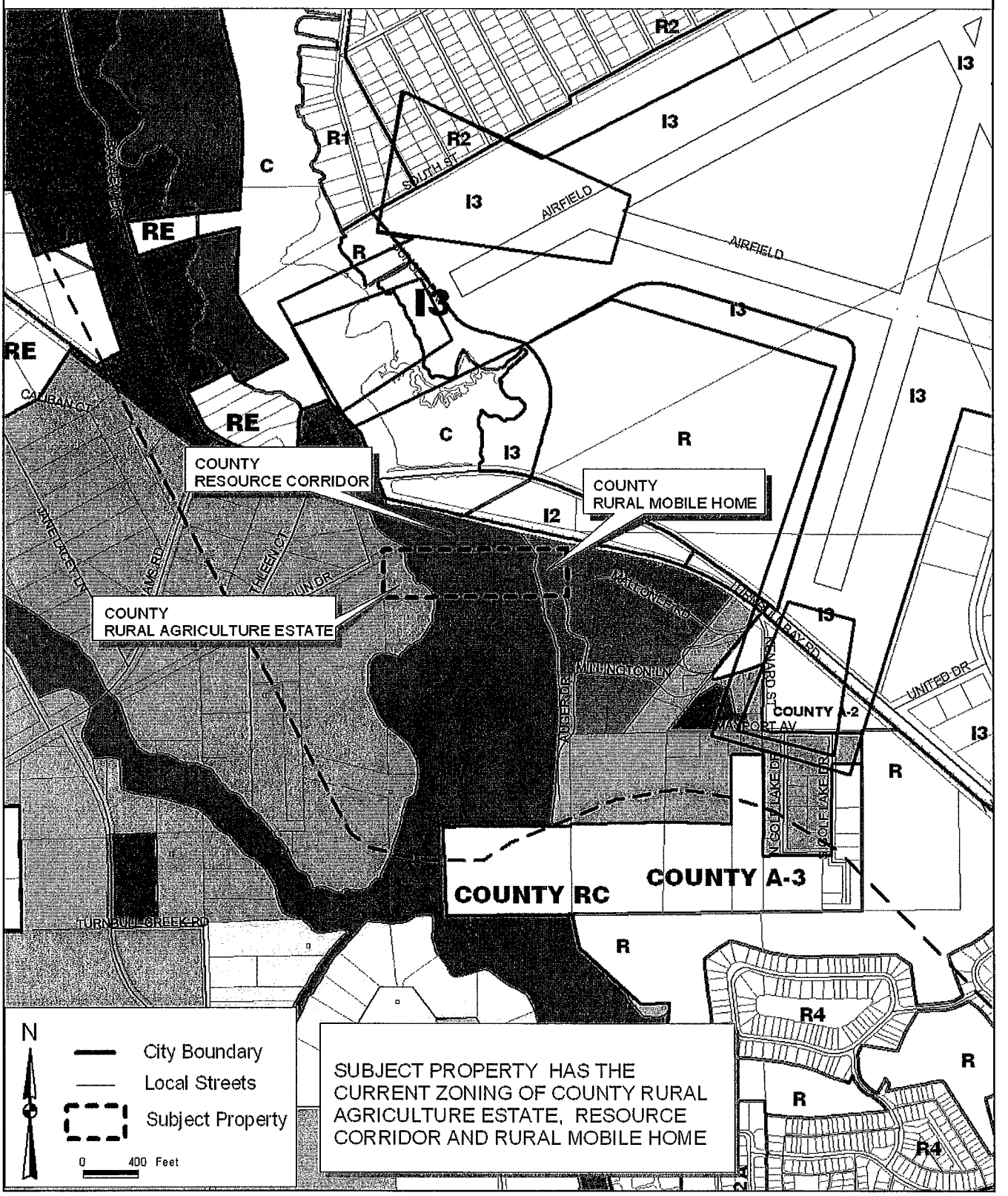
Existing Future Land Use Designations

A-18-11



Existing Zoning

A-18-11



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

(1) Lands designated as rural shall be developed at a density of one (1) dwelling unit per five (5) acres. This density allowance may be increased under specific conditions as follows:

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

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

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

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

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

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

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

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

(2) There are two subcategories of the rural designation that address past development decisions. These subcategories are Rural Community and Rural Recreation. They are identified on the Special Rural Areas Map Series, presented in Appendix 1. These areas of intense or potentially intense development provide the mixed use concept to the rural areas. They help limit urban sprawl by providing services not necessarily found in remote rural areas thus reducing the number of trips out of these rural areas. Also allowing some limited urban type of development may help promote economic growth in the rural areas as well. In designated Rural Communities and Rural Recreation areas where densities are greater than one (1) unit per acre, existing platted lots, undeveloped subdivisions, or other pre-existing developments shall be permitted subject to zoning requirements. However, any new development or subdivision of land shall have to comply with current County regulations.

Environmental System Corridor (ESC) - This designation consists of important ecological corridors comprised of environmentally sensitive and ecologically significant lands. Land use activities occurring within these corridors shall not degrade these natural functions and connections. The intention is to provide protected, natural pathways which connect to other protected areas such as parks, conservation lands and water bodies. This inter-connection helps maintain the ecological integrity and ecodiversity of the County's vast natural resources.

ESC's shall include significant interconnected natural systems of environmentally sensitive lands, connecting to and including conservation areas where possible. The ESC's are not intended to include pre-existing improved, cultivated, or developed lands unless such lands contain unique or exceptional ecological value. Conservation and silviculture, utilizing Best Management Practices (BMP's), will be the preferred use, however, other compatible passive agricultural activities may also be permitted such as unimproved pasture. The primary consideration of compatible agriculture should be potential adverse impacts to the short and long term ecological stability of the system, as well as adjacent lands and waterways.

The Environmental System Corridor configuration displayed on the Future Land Use Map is intended to show a generalized location for the corridor. The actual boundaries will be established based upon site specific information and features.

(1) The maximum residential density shall not exceed one (1) dwelling unit per twenty-five (25) acres.

(2) The maximum Floor Area Ratio shall not exceed ten percent (0.10 FAR).

RA RURAL AGRICULTURAL ESTATE
CLASSIFICATION

Purpose and intent: The purpose and intent of the RA Rural Agricultural Estate Classification is to provide for low density development, personal agricultural production consistent with the comprehensive plan, in rural areas of the county.

Permitted principal uses and structures: In the RA Rural Agricultural Estate Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Communication towers not exceeding 70 feet in height above ground level.
- 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)).
- Essential utility services.
- 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.
- Raising of crops and keeping of animals, including aviaries, pisciculture, apiaries and worm raising for personal use (not for resale), accessory to a single-family dwelling. The personal use restriction is not intended to apply to 4-H, FFA or similar educational projects.
- Single-family standard or manufactured modular dwelling.

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

- Animal shelters.
- 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 center (refer to subsection 72-293(6)).
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).
- Excavations only for stormwater retention ponds for which a permit is required by this article.
- Garage apartments.
- Group home (refer to subsection 72-293(12)).
- Home occupations, class B (refer to section 72-283).
- Kennels.
- Off-street parking areas (refer to subsection 72-293(14)).
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).

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

Dimensional requirements:
Minimum lot size:
Area: Two and one-half acres.
Width: 150 feet.
Minimum yard size:
Front yard: 45 feet.
Rear yard: 45 feet.
Side yard: 25 feet.
Waterfront yard: 45 feet.
Maximum building height: 35 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 1,000 square feet.

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

RC RESOURCE CORRIDOR CLASSIFICATION

Purpose and intent: The purpose and intent of the RC Resource Corridor Classification is to provide protected, natural corridors consisting of environmentally sensitive and ecologically significant lands which connect to other protected areas such as parks and water bodies. The corridor shall provide a contiguous hydroecological pathway, where the wetlands and uplands are integrated and conducive to the maintenance and perpetuation of the system.

Permitted principal uses and structures: In the RC Resource Corridor Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Apiaries; provided, however, that the RC classified area does not comprise part of a lot classified for residential, commercial or industrial use.
- Aquatic preserves (state or federal designated).
- Aviaries; provided, however, that the RC classified area does not comprise part of a lot classified for residential, commercial or industrial use.
- 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 3 of the Land Development Code of Volusia County [article III] and/or final plan review procedures of this article.
- Fire stations.
- Fishing, hunting and wildlife management areas.
- Historical or archeological sites.
- Hobby breeder.
- Home occupations, class A (refer to section 72-283).
- Pasture for the grazing, boarding or raising of livestock, subject to the maximum lot coverage requirements below.
- 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.
- Worm raising, provided, however, that the RC classified area does not comprise part of a lot classified for residential, commercial or industrial use.

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

- Animal shelters.
- Communication towers exceeding 70 feet in height above ground level.
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).

- Except for those permitted principal uses and special exceptions listed hereunder, all agricultural pursuits, including the processing, packaging, storage and sale of agriculture products which are raised on the premises; provided however, that the total land area devoted to agricultural uses, including improved pasture, does not exceed 20 percent of the total lot area zoned RC and further provided that the RC classified area does not comprise part of a lot classified for residential commercial or industrial use.
- Hunting camps.
- Kennels.
- Mobile home dwelling.
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to section 72-293(1)).
- Riding stables.

Dimensional requirements for lots, parcels and tracts of land zoned in its entirety as resource corridor.

Minimum lot sizes:
Area: 25 acres.
Width: 150 feet.

Minimum yard size:
Front yard: 50 feet.
Rear yard: 50 feet.
Side yard: 50 feet.
Waterfront yard: 75 feet.

Maximum building height: 45 feet.

Maximum lot clearance and coverage: Lot clearance can not exceed 20 percent. The area covered with principal and accessory buildings shall not exceed ten percent.

Minimum floor area: 750 square feet.

Dimensional requirements for lots, parcels or other tracts of land which are zoned a mixture of RC and another zone classification: In instances where Resource Corridor boundaries split existing lots parcels or tracts of land, the subject property may be subdivided into lots meeting the minimum lot area and width requirements of the zoning classification of the property not classified as Resource Corridor, providing that Resource Corridor classified lands are not counted as meeting part of the minimum lot area or lot width requirements of the other zone classification. In such instances, there shall be no minimum area or width requirements for the portion of the lot classified as RC. Development of lots classified as a mixture of RC and another zone classification shall be subject to the provisions of subsection 72-136(10) of this article.

Minimum lot size:
Area: No minimum for the portion of the lot classified as RC, providing that the minimum area requirement for the portion of the lot classified other than RC is met.
Width: No minimum for the portion of the lot classified as RC, providing that the minimum with requirement for the portion of the lot classified other than RC is met.

Minimum yard sizes: As provided for under subsection 72-136(10) of this article.

Maximum building height: 45 feet.

Maximum lot coverage: Lot clearance on the portion of the lot classified as RC cannot exceed 20 percent, and no more than ten percent of the portion of the lot classified as RC may be covered with principal and accessory buildings. The portion of the lot classified other than RC shall be subject to the maximum lot coverage requirements of that zone classification.

Minimum floor area: As required for the portion of the lot not classified as RC.

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

MH-4 RURAL MOBILE HOME CLASSIFICATION

Purpose and intent: The purpose and intent of the MH-4 Rural Mobile Home Classification is to provide for development, in a manner which is consistent with the comprehensive plan, in rural areas of the county and to accommodate existing areas that are predominantly a mixture of single-family and mobile home dwellings.

Permitted principal uses and structures: In the MH-4 Rural Mobile Home Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- 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.
- Raising of crops and keeping of animals, including aviaries, apiaries, pisciculture and worm raising for personal use (not for resale), accessory to a single-family dwelling. The personal use restriction is not intended to apply to 4-H, FFA or similar educational projects.
- Single-family standard, manufactured or mobile home dwelling.

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

- Animal shelters.
- Cemeteries (refer to subsection 72-293(4)).
- Communication towers exceeding 70 feet in height above ground level.
- Day care center (refer to subsection 72-293(6)).
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).
- Excavations only for stormwater retention ponds for which a permit is required by this article.
- Garage apartments.
- Home occupations, class B (refer to section 72-283).
- Kennels.
- Off-street parking areas (refer to subsection 72-293(14)).
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).

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

Dimensional requirements:

Minimum lot size:
Area: One acre.
Width: 100 feet.

Minimum yard requirements:
Front yard: 40 feet.
Rear yard: 40 feet.
Side yard: 15 feet.
Waterfront yard: 40 feet.

Maximum building height: 35 feet.

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

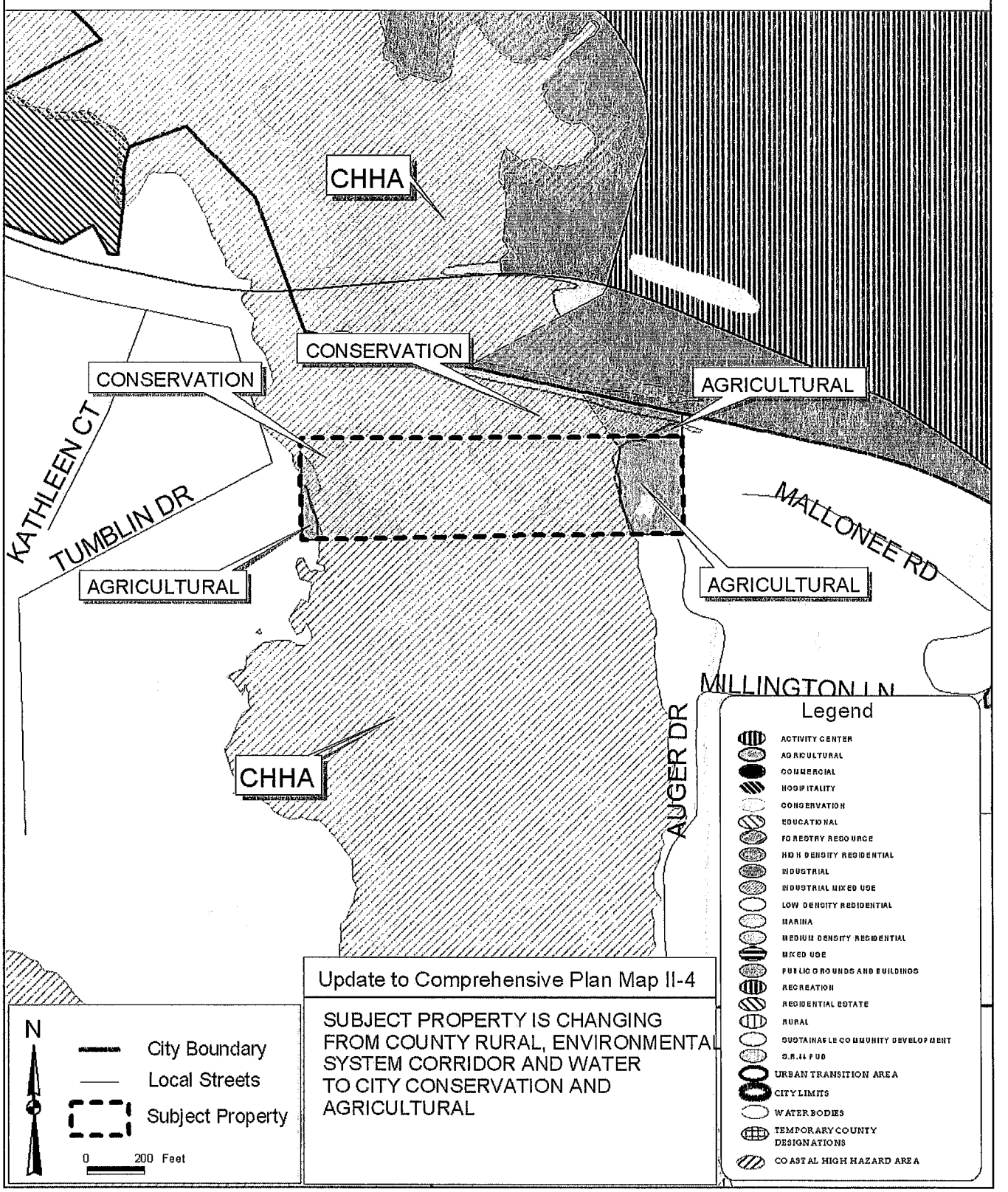
Minimum floor area:
720 square feet.

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: The area between the ground and floor level of the mobile home dwelling shall be enclosed with block or decorative skirting.

Proposed Future Land Use Designations

A-18-11

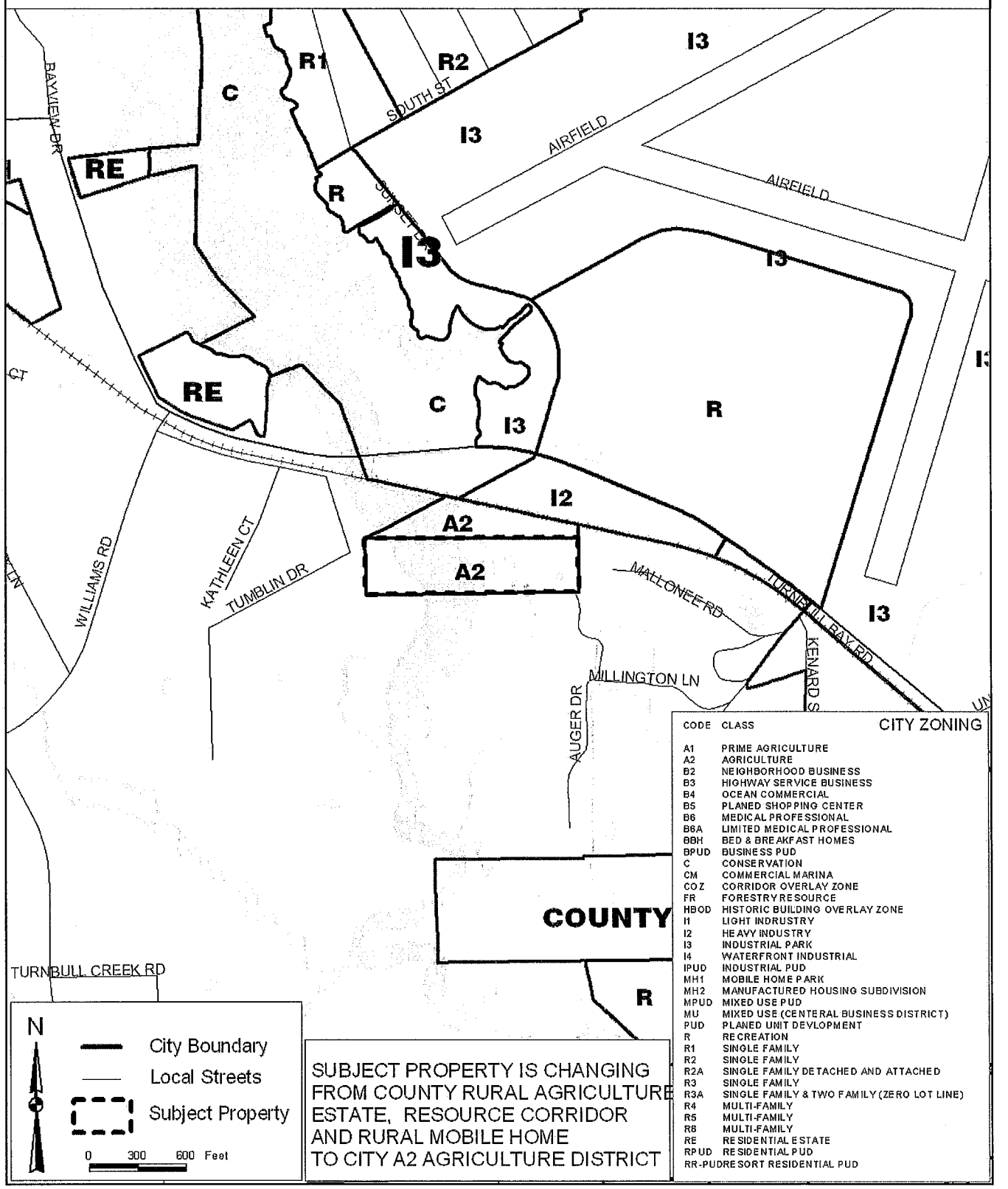


Update to Comprehensive Plan Map II-4

SUBJECT PROPERTY IS CHANGING FROM COUNTY RURAL, ENVIRONMENTAL SYSTEM CORRIDOR AND WATER TO CITY CONSERVATION AND AGRICULTURAL

Proposed Zoning

A-18-11



CONSERVATION
Maximum allowed Floor Area Ratio (FAR): 0.10

The general boundaries of those areas known to require environmental protection from development have been designated as conservation on the Future Land Use Map. Designations are based on the best information available. Owners of lands designated as conservation on the Future Land Use Map may petition the City to adjust the boundaries of the conservation zone based upon a qualified biologist's determination of the boundaries made in accordance with §701.07 of the *Land Development Regulations*. The Planning and Zoning Department shall review the owner's petition and automatically adjust the Future Land Use Map to correctly represent said area and upland buffer. The Local Planning Agency's approval shall be required if the area to be changed is greater than five (5) acres. Environmentally sensitive areas shall include, but not be limited to, jurisdictional wetlands, wetland buffers, uplands included as part of designated environmental corridors, and public beaches.

AGRICULTURE
Maximum allowed density: Up to one (1) dwelling unit per acre
Maximum allowed Floor Area Ratio (FAR): 0.10

Intent: This category includes those lands used for crop or livestock production or other uses of the natural resources such as excavation. This category shall also include low-intensity uses such as a large-lot single-family residential development and recreational uses.

EXHIBIT K

A-2, AGRICULTURE DISTRICT **Ord. #24-00**

Intent:

The purpose and intent of the A-2, Agriculture District, is to preserve and protect rural areas of the City that have some agricultural value, but which are also suitable for rural single-family living.

Permitted Principal Uses and Structures:

In the A-2, Agriculture District, no premise shall be used except for the following uses and their customary accessory uses or structures:

Apiaries
Essential Utility service
Fire Stations
Fish, Hunting, or Non-Profit Organization Camps
Hobby Breeder
Home Occupation
Open agricultural uses such as field crops, tree crops, fern crops, grazing land, grass land, and pastures
Parks and Recreation Areas
Pisciculture
Public Uses not listed as a permitted principal use
Public Utility Uses and Structures
Single Family Standard or Manufactured Dwelling
Riding Stables (minimum parcel size requirement of 5 acres)
Wormraising

Permitted Accessory Uses:

Fruit and Vegetable Stands
Garages
Gazebos
Incidental Uses
Non-residential agricultural buildings and recreation facilities related to the permitted use
Storage Sheds

Permitted Special Exceptions:

Animal Hospitals, Veterinary Clinics
Excavations (See Section 801.15 of this LDR)
Farm Supply Stores
Farmworker Living Facility associated with a bona fide agricultural use provided:
(a) The minimum floor area per dwelling shall be 720 square feet.
(b) No detached dwelling used in the farmworker living facility shall be closer than 50 feet to any other detached dwelling.

(c) No dwelling used as a farmworker living facility shall be closer than 100 feet to any property line of the premises on which it is placed.

(d) If not already in existence, a visual screen of natural plant materials meeting the requirements of Section 604.05 F. located between the dwellings and all adjoining property lines, shall be constructed and maintained.

(e) Potable water and sewage disposal facilities shall be in compliance with all applicable provisions of Florida law and the City's comprehensive plan.

(f) The area between the ground and the floor of a mobile home dwelling used as a farmworker living facility shall be enclosed with skirting.

(g) No subsequent expansion of a farmworker living facility as shown on the approved site plan for the special exception for shall be allowed unless another special exception for the expansion is approved. However, subsequent decrease of the approved sites are permitted.

(h) The applicant shall provide information to the enforcement official as to the kind of agricultural operation existing on the premises at the time of application for the farmworker living facility.

(i) Dwellings may be arranged in a cluster fashion on the premises. The maximum number of dwellings authorized will be based on the size of 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

Houses of Worship and Cemeteries provided no principal or accessory building shall be located less than 50 feet from any property line.

Humane Society/animal shelters provided that no building is located closer than 50 feet from the property line.

Kennels

Sawmills and Planing Mills

Dimensional Requirements:

Minimum Lot Size:

Area	5 acres
Width	150 feet

Minimum Yard Size:

Front	50 feet
Rear Yard	50 feet
Side Yard	25 feet
Waterfront Yard	50 feet

Maximum Building Height:

Ninety-five (95) feet

Maximum Lot Coverage:

The total lot area covered with principal and accessory buildings shall not exceed 35%

Screen Enclosures

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

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

Ord. #21-09

Minimum Floor Area:

750 square feet of livable area

Off-Street Parking and Loading Requirements:

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

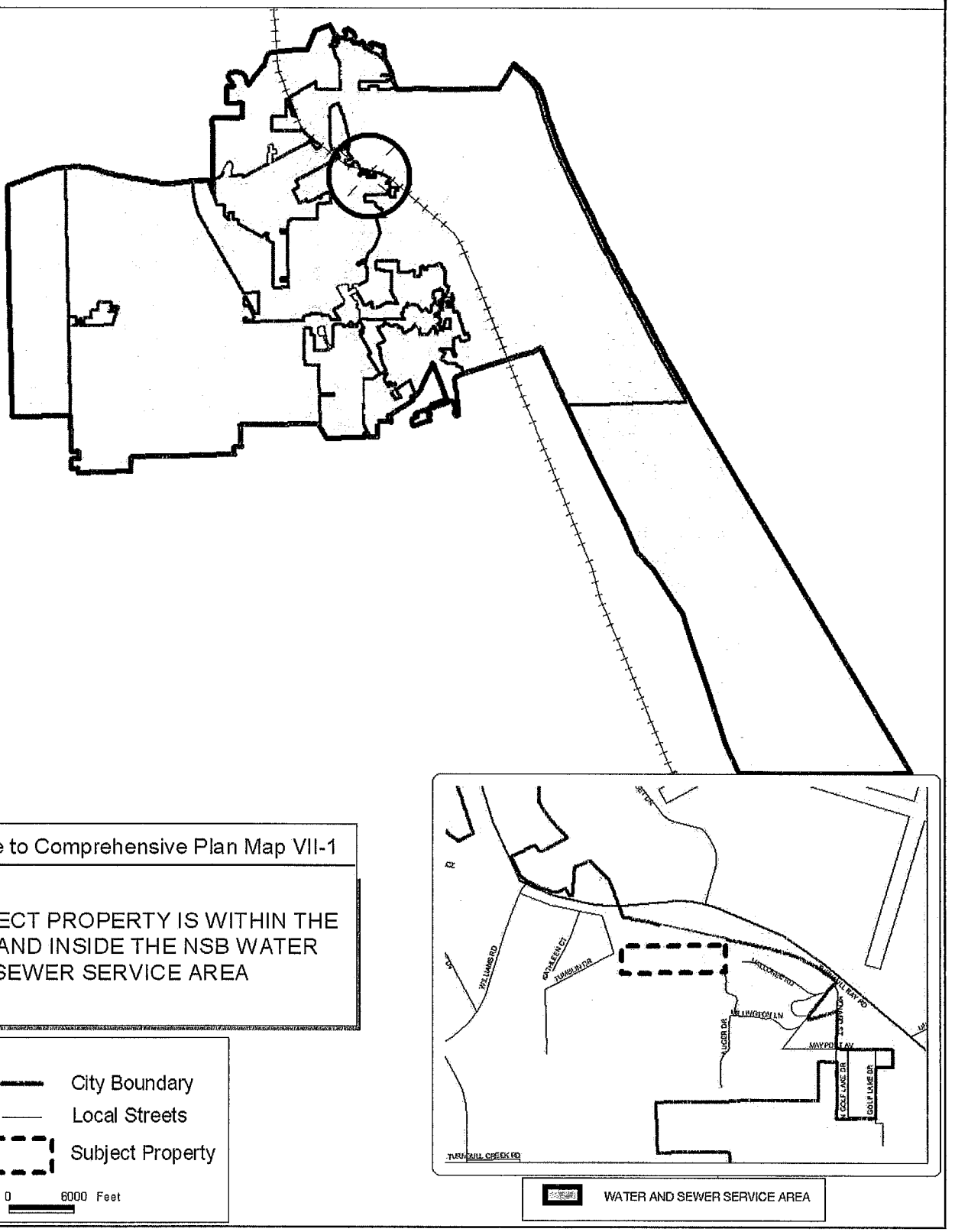
Skirting Requirements for Mobile Home Dwelling:

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

1

Water & Sewer Service Area

A-18-11



Update to Comprehensive Plan Map VII-1

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

N

City Boundary

Local Streets

Subject Property

0 6000 Feet

IMPACT ANALYSIS

Existing County FLU	Acres	Density	Units	Existing County Zoning	Acres
Rural	1.970	1 unit / 5 acres	1	RA, Rural Agriculture Estates	1.810
Environmental Systems Corridor	4.500	1 unit / 25 acres	1	MH-4, Rural Mobile Home	1.590
Water	3.730	0	0	RC, Resource Corridor (WATER)	6.800
Total	**10.200**		**2**		**10.200**

Requested City FLU	Acres	Density	Units	Requested City Zoning	
Agriculture	10.200	1 unit / acre	10	A-2, Agriculture	10.200
Total	**10.200**		10		**10.200**

	Existing FLU	Units	Requested FLU	Units	Increase/ (Decrease)
Dwelling Units	Rural = 1 unit / 5 acres ESC = 1 unit / 25 acres Water = 0 units	2	Agriculture = 1 unit / acre	10	8
TOTAL DWELLING UNITS		**2**		**10**	8

	Existing FLU		Proposed FLU		Increase/ (Decrease)
Population[1]	2.41 persons/du	5	2.41 persons/du	24	19
Students[2]	0.396 students/du	1	0.396 students/du	4	3

Trip Generation[3]	Existing Land Use			Proposed Land Use				
	Land Use	Average Daily Trips	PM Peak Hour Trips	Land Use	Average Daily Trips	PM Peak Hour Trips	Average Daily Increase / (Decrease)	PM Peak Increase / (Decrease)
	Single-Family Residential	19.14	2.02	Single-Family Residential	95.7	10.1	76.56	8.08
TOTAL		**19.14**	**2.02**		**95.70**	**10.10**	**76.56**	**8.08**

Parks and Recreation[4]	
Existing Requirements (County)	**Proposed Requirements (City)**

Facility Type	**Adopted Level of Service Standard**	**Total Required for Population of Subject Property**	Facility Type	Adopted Level of Service Standard		Total Required for Population Before Proposed Annexation	Additional Required for Proposed FLU Population	Total Required after Annexation	Existing	Under / (Deficiency)[5a]
Local Park	0.002 acres per person	0.00964	Beach Access	acres per resident -	0.00025	5.667	0.006025	5.673025	227.19	221.52
District Park	0.005 acres per person	0.0241	Urban Open Space	acres per resident -	0.001	22.668	0.0241	22.6921	33.17	10.47
			Equipped Play Areas	acres per resident -	0.0002	4.5336	0.00482	4.53842	12.50	7.96
			Neighborhood Parks	acres per resident -	0.0004	9.0672	0.0096	9.0768	29.16	20.08
			Community Parks	acres per resident -	0.001	22.668	0.024	22.692	75.66	52.97
			Regional Parks	acres per resident -	0.02	453.36	0.48	453.84	60,314.47	59,860.63
			Urban District Parks	acres per resident -	0.005	113.34	0.12	113.46	770.71	657.25
			Baseball/Softball Fields	fields per resident -	0.0001	2.2668	0.0024	2.2692	9.00	6.73
			Basketball Courts	courts per resident -	0.00005	1.1334	0.0012	1.1346	10.00	8.87
			Bicycle Trails	miles per resident -	0.0001	2.2668	0.0024	2.2692	46.58	44.31
			Boat Ramps	ramps per resident -	0.00008	1.81344	0.00192	1.81536	8.00	6.18
			Piers/Catwalks/Jetties	lineal feet per resident -	0.032	725.376	0.768	726.144	4,074.00	3,347.86
			Football/Soccer Fields	fields per resident -	0.00004	0.90672	0.00096	0.90768	7.00	6.09
			Handball/Racquetball Cts.	courts per resident -	0.00005	1.1334	0.0012	1.1346	5.00	3.87
			Shuffleboard Courts	courts per resident -	0.00008	1.81344	0.00192	1.81536	37.00	35.18
			Tennis Courts	courts per resident -	0.0001	2.2668	0.0024	2.2692	9.00	6.73

	Existing FLU			**Proposed FLU**				
	Rural	ESC	Total	Agriculture	Maximum Peak Flow (Million GPD)	Existing Average Daily Flow (Million GPD)	Total Average Daily Flow after Annexation	Remaining Capacity (GPD)
Potable Water[5] (GPD)	200	200	400	2,400	7.13	4.60	4,602,400.00	2,527,600.00
Wastewater Treatment[6] (GPD)	175	175	350	2,070	7.00	4.09	4,092,070.00	2,907,930.00
Solid Waste[7]	43	n/a	43	176	n/a[7a]	n/a[7a]	n/a[7a]	n/a[7a]
Stormwater[8]	Peak discharge rate and total runoff volume leaving the site for a 25 year storm of 24 hour duration shall be limited to 110 percent of the present discharge rate and total discharge volume.							

Notes:

1. Population: 2.41 persons per residential unit or single-family dwelling per 2006-2008 American Community Survey for Volusia County
2. Student population is calculated at a rate of 0.396 students per single-family dwelling unit
3. Source: ITE Trip Generation Manual, 7th Edition
   Single-Family Residential - Average Daily Trips = 9.57 trips/unit weekday; 1.01 trips/dwelling unit for peak hour of adjacent street traffic, between 4 p.m. and 6 p.m.

4. Because there are different Level of Service Standards for Parks and Open Sapce between the County and the City, it is not feasible to compare before and after annexation figures. However, as is shown on the table, concurrency with City standards is calculated.

5. Potable Water: County = 200 gallons per day(GPD) per ressidential unit; 0.15 GPD per sq. ft. of office bulding area; 0.1 GPD per sq. ft. of retail, institutional & industrial building area. City = 240 gallons per day per residential unit or ERU

6. Sanitary Sewer: County = 175 GPD per residential unit; 0.15 GPD per sq. ft. office building area; 0.10 GPD per sq. ft. retail, institutional & industrial building area. City = 207 gallons per day per residential unit or ERU.

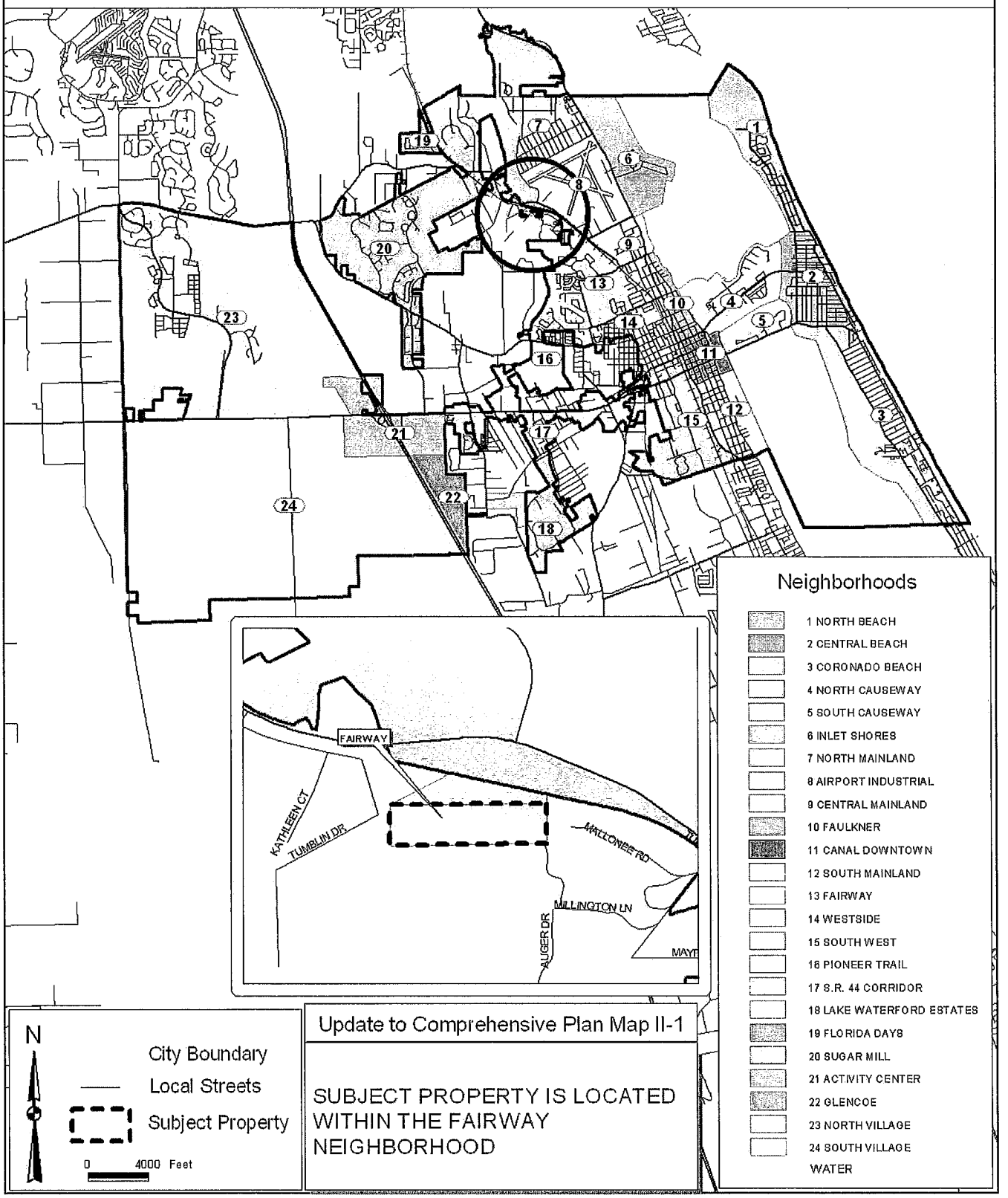
7. Solid Waste: County = 8.6 pounds per day per person. City = 7.3 pounds per person per day. Non-residential waste is included in these figures. Solid Waste is transported to the Tomoka Land Fill, which has a 40-year projected lifespan before reaching capacity and is therefore not affected by the proposed FLU changes

8. Stormwater Drainage: LOS standard = 25 year, 24 hour event. Drainage system will be designed to meet the requirements contained in the Land Development Regulations.

2

Neighborhoods

A-18-11



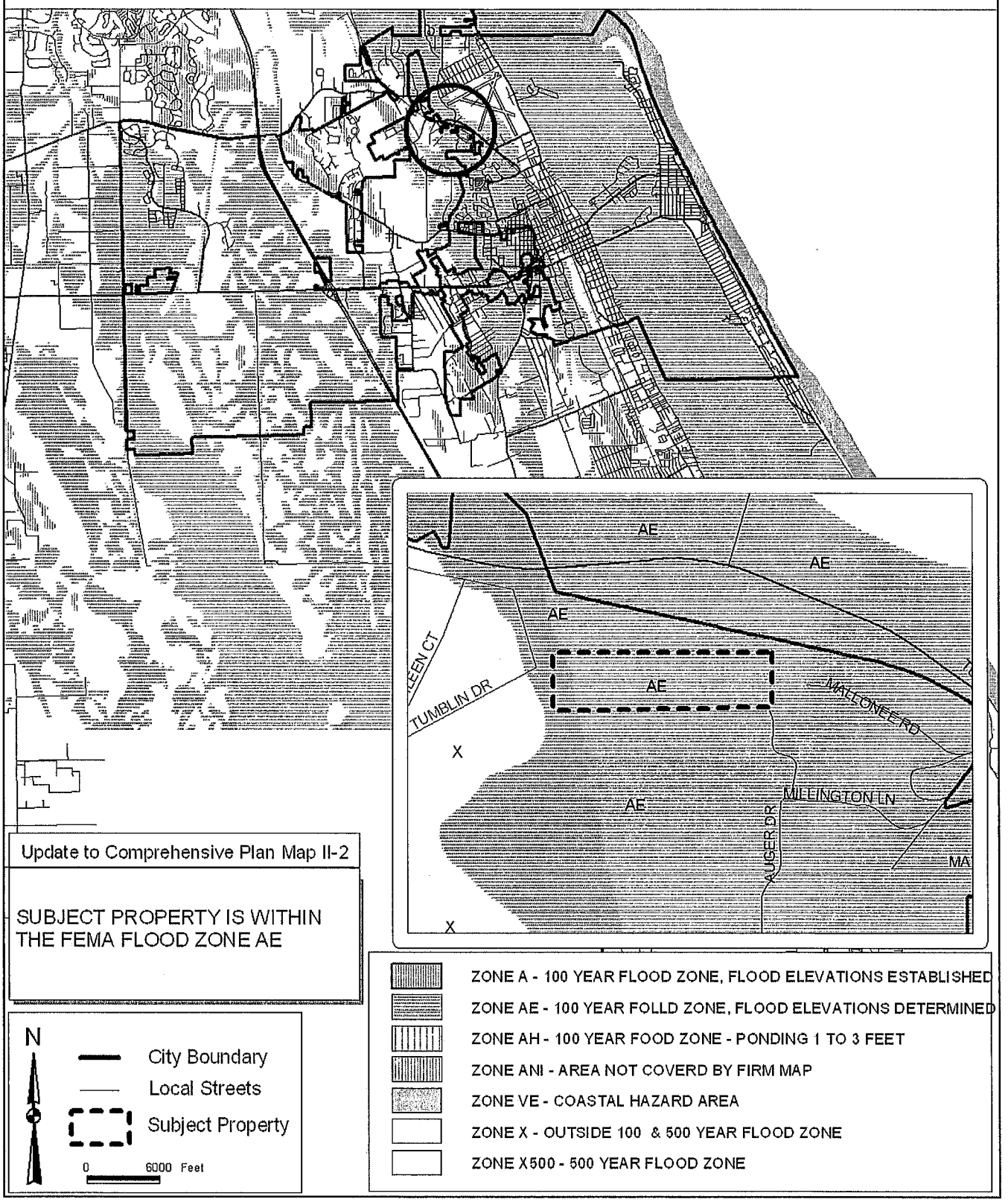
Update to Comprehensive Plan Map II-1

SUBJECT PROPERTY IS LOCATED WITHIN THE FAIRWAY NEIGHBORHOOD

3

Flood Prone Areas

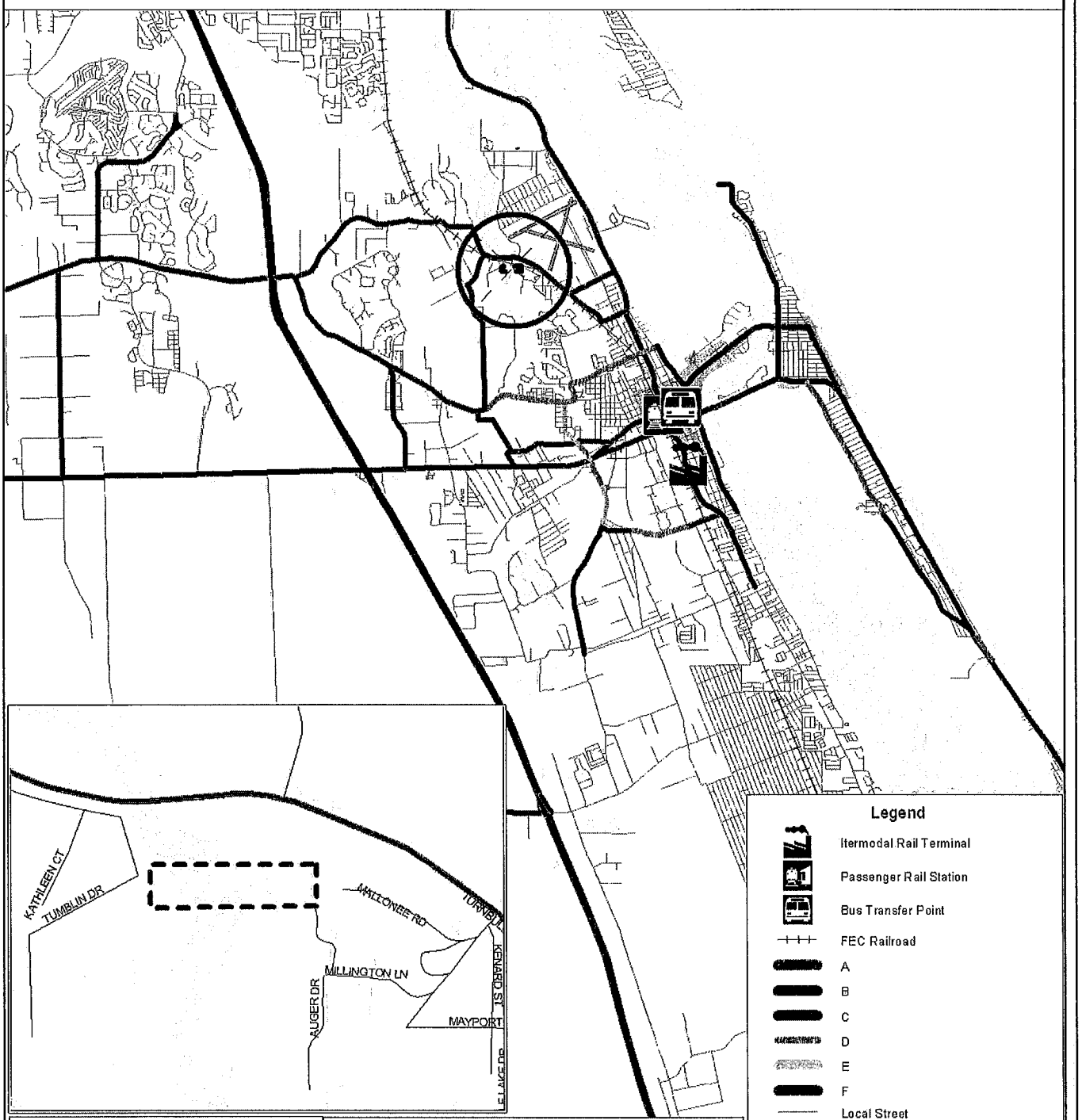
A-18-11



4

Existing Level of Service - 2009

A-18-11



N

Subject Property

0 4000 Feet

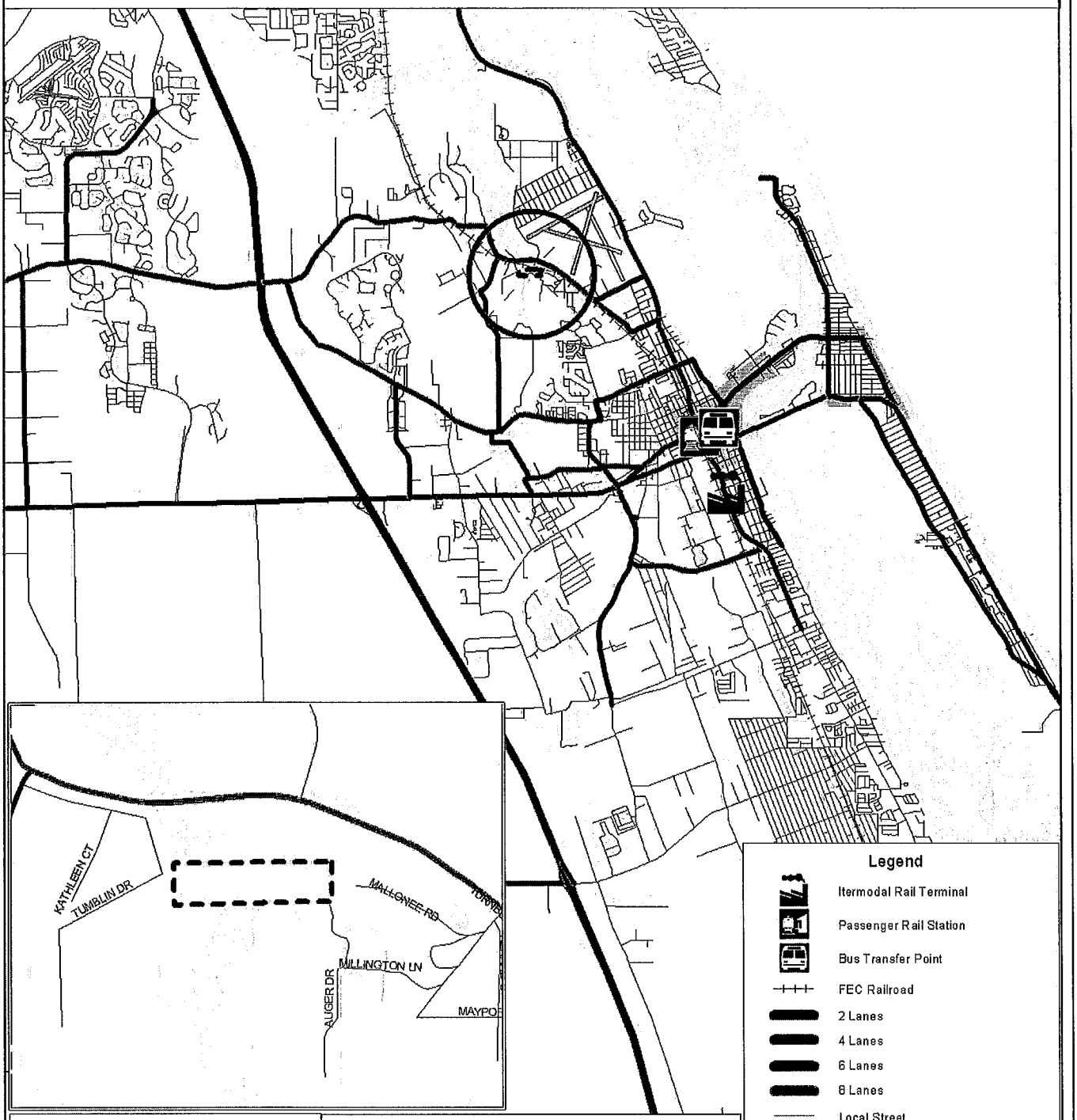
Update to Comprehensive Plan Map III-1

SUBJECT PROPERTY IS SERVED BY A LOCAL STREET ON THE EAST

5

Existing Traffic Lanes - 2009

A-18-11



N

Subject Property

0 4000 Feet

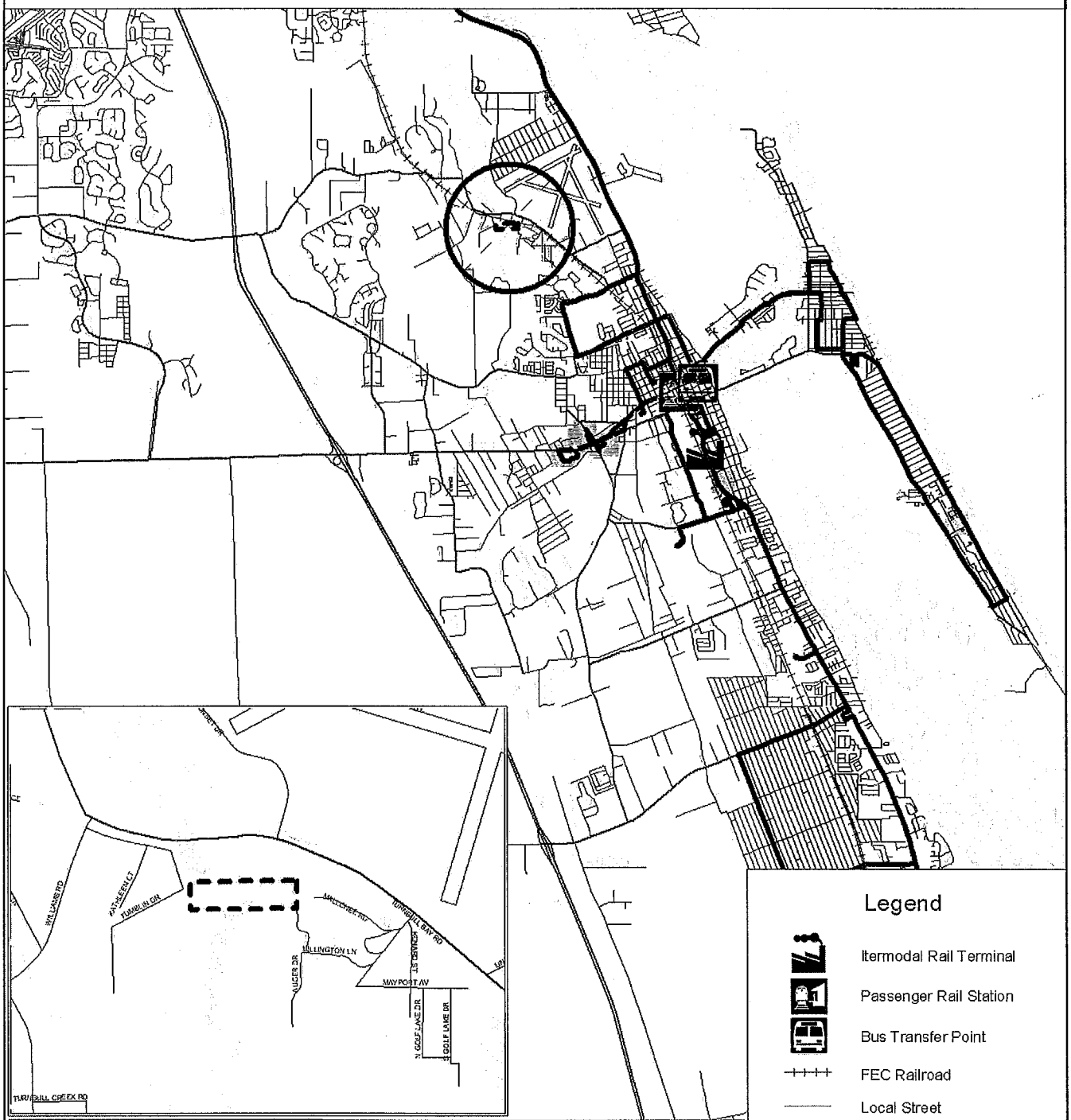
Update to Comprehensive Plan Map III-2

SUBJECT PROPERTY IS SERVED BY
A TWO LANE LOCAL STREET
ON THE EAST

6

Public Transit Routes

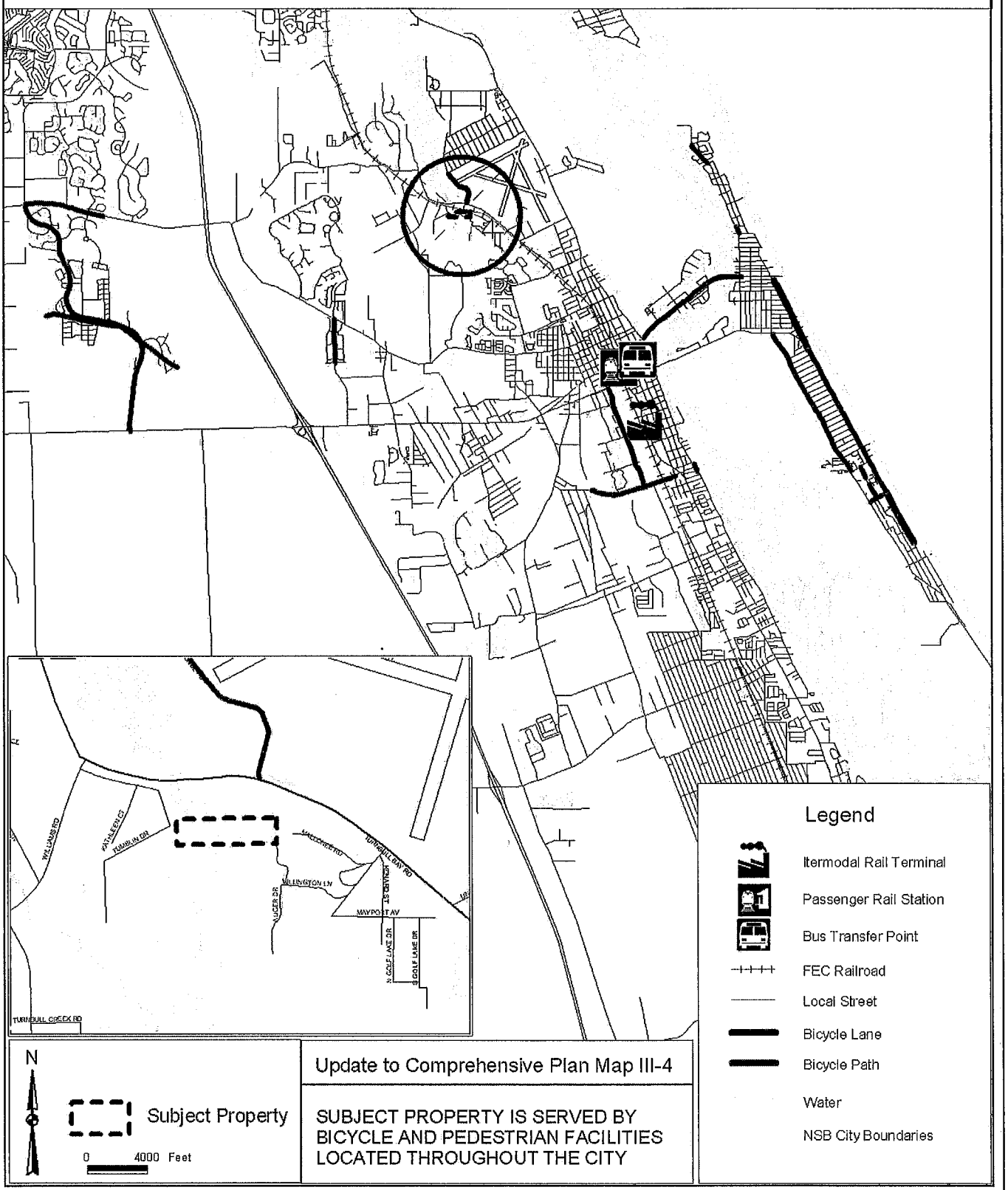
A-18-11



7

Bicycle and Pedestrian Facilities

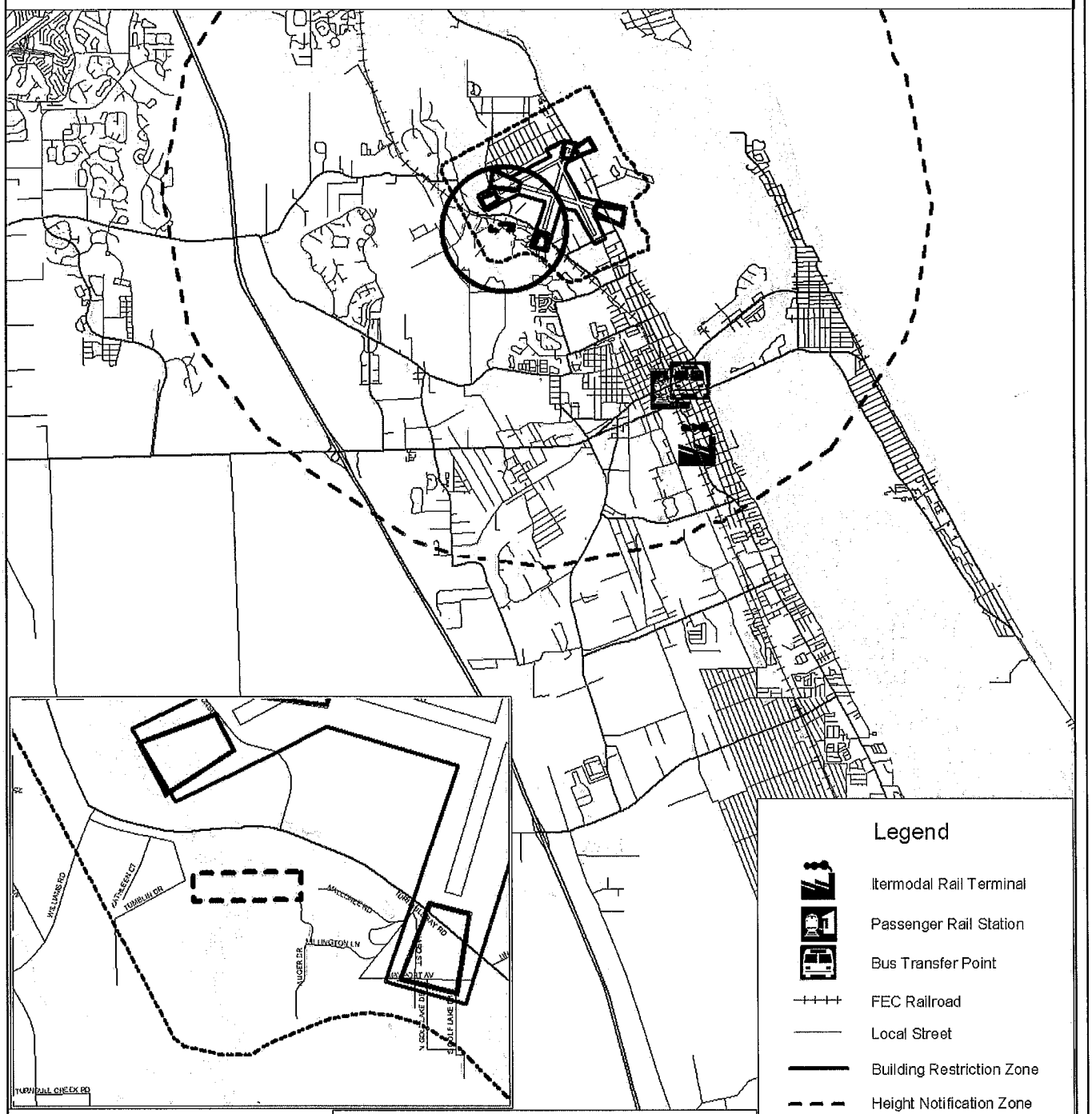
A-18-11



8

Airport Runway Protection Zones

A-18-11



N

Subject Property

0 4000 Feet

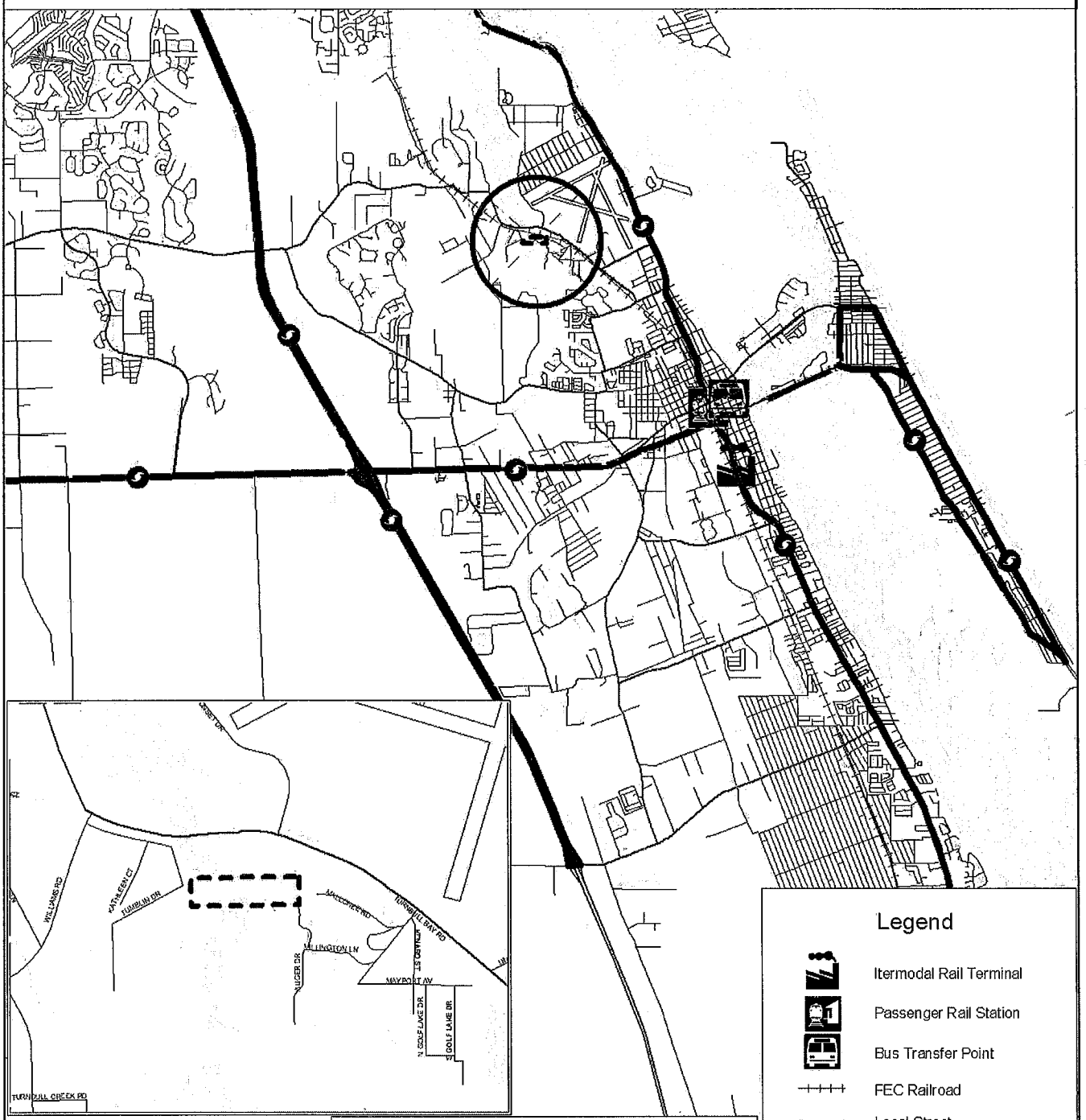
Update to Comprehensive Plan Map III-5

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

9

Evacuation Routes

A-18-11



N

Subject Property

0 4000 Feet

Update to Comprehensive Plan Map III-6

SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

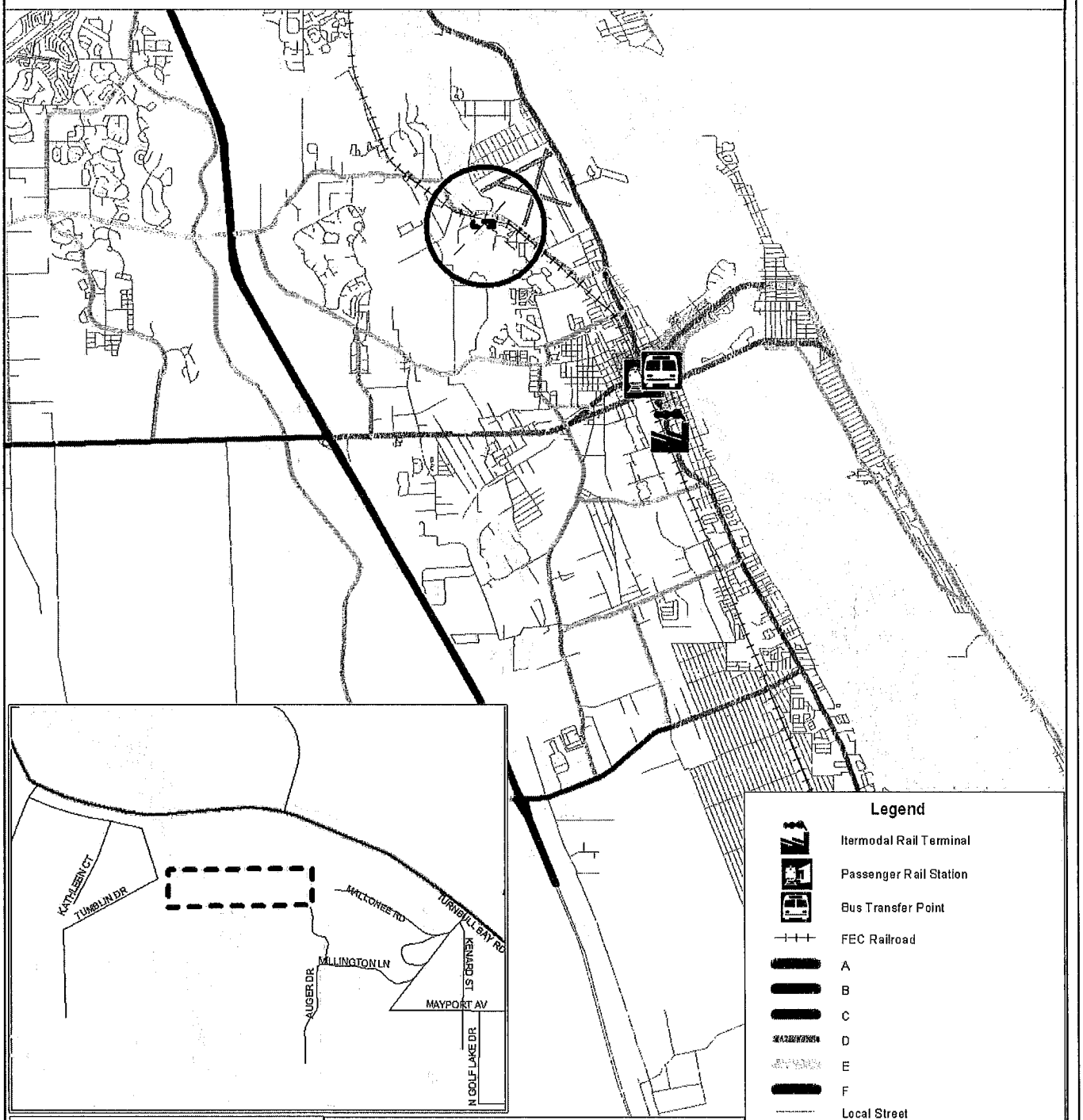
Legend

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

10

Level of Service - 2025

A-18-11



N

Subject Property

0 4000 Feet

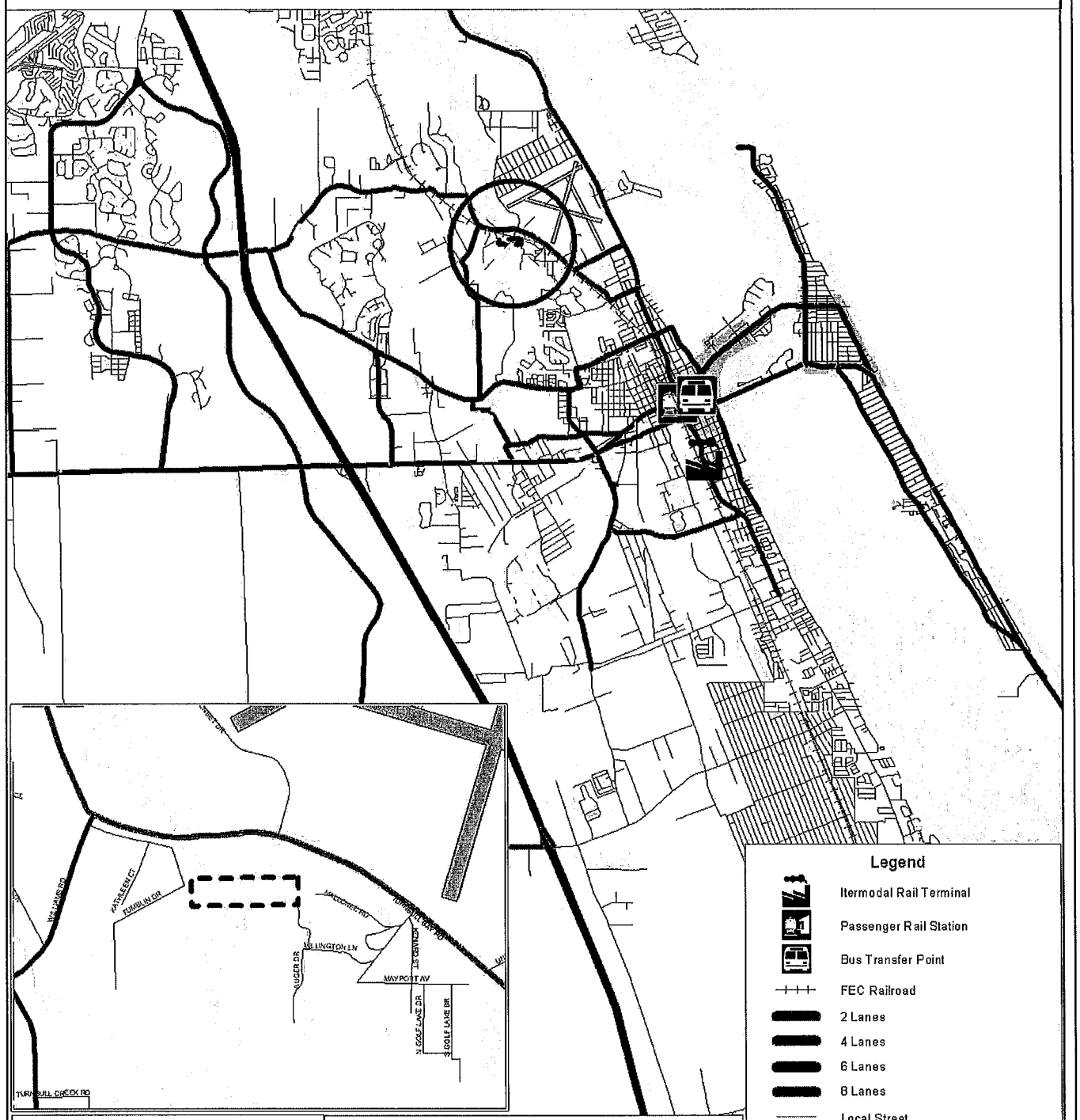
Update to Comprehensive Plan Map III-7

SUBJECT PROPERTY IS SERVED BY A LOCAL STREET ON THE EAST

11

Number of Traffic Lanes - 2025

A-18-11



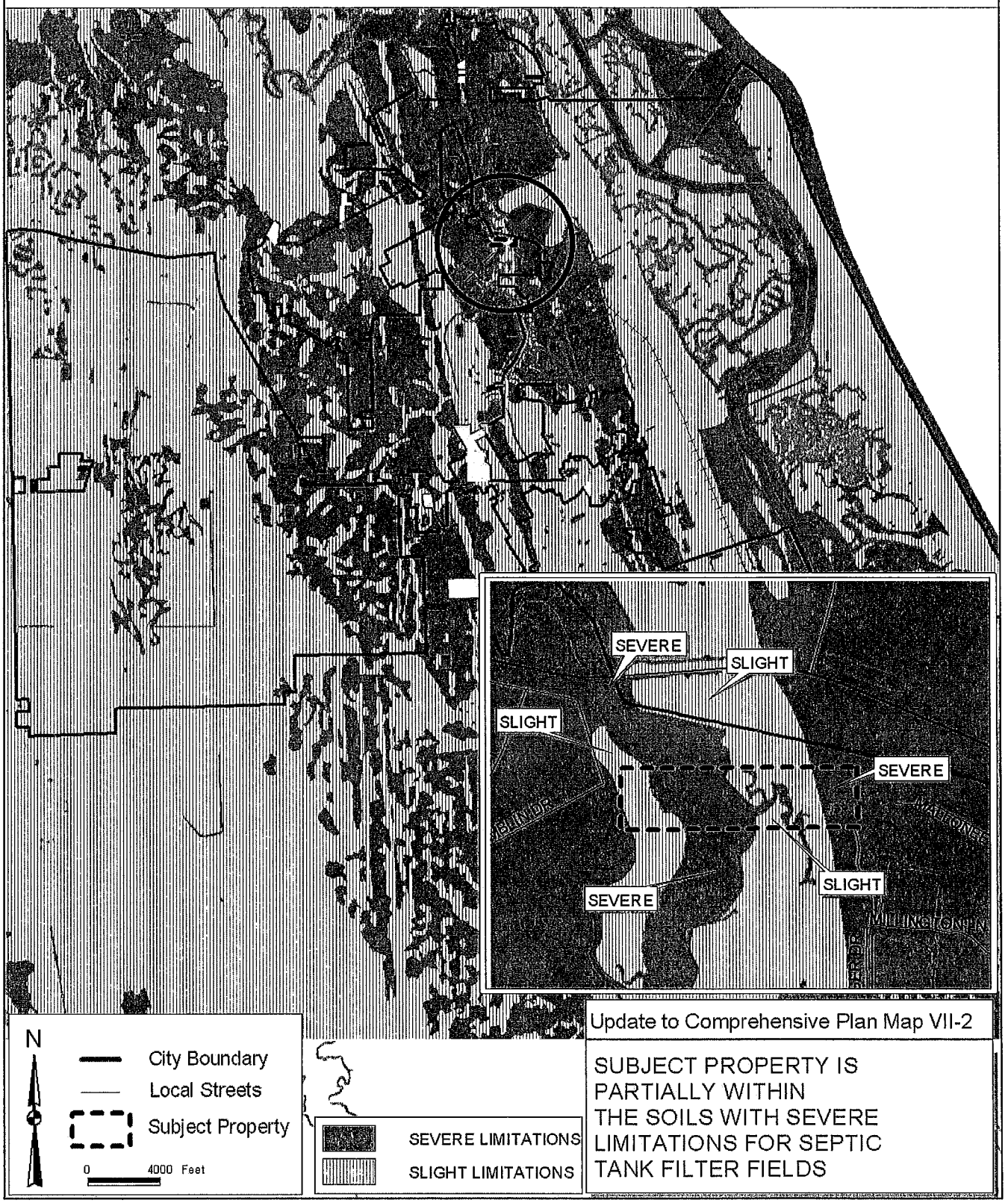
Update to Comprehensive Plan Map III-8

SUBJECT PROPERTY IS SERVED BY
A TWO LANE LOCAL STREET
ON THE EAST

12

Soil Limitation for Septic Systems

A-18-11



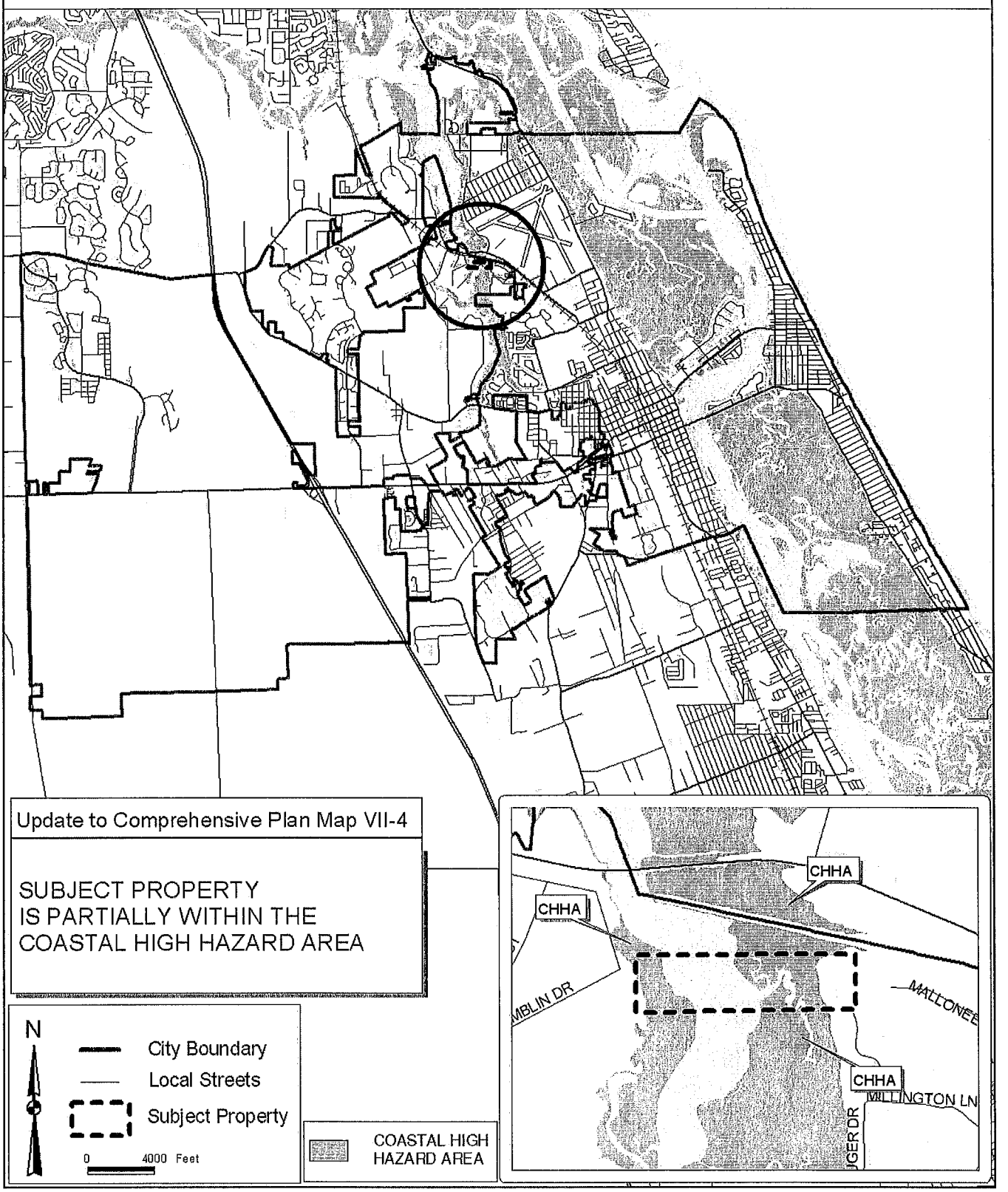
Update to Comprehensive Plan Map VII-2

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

13

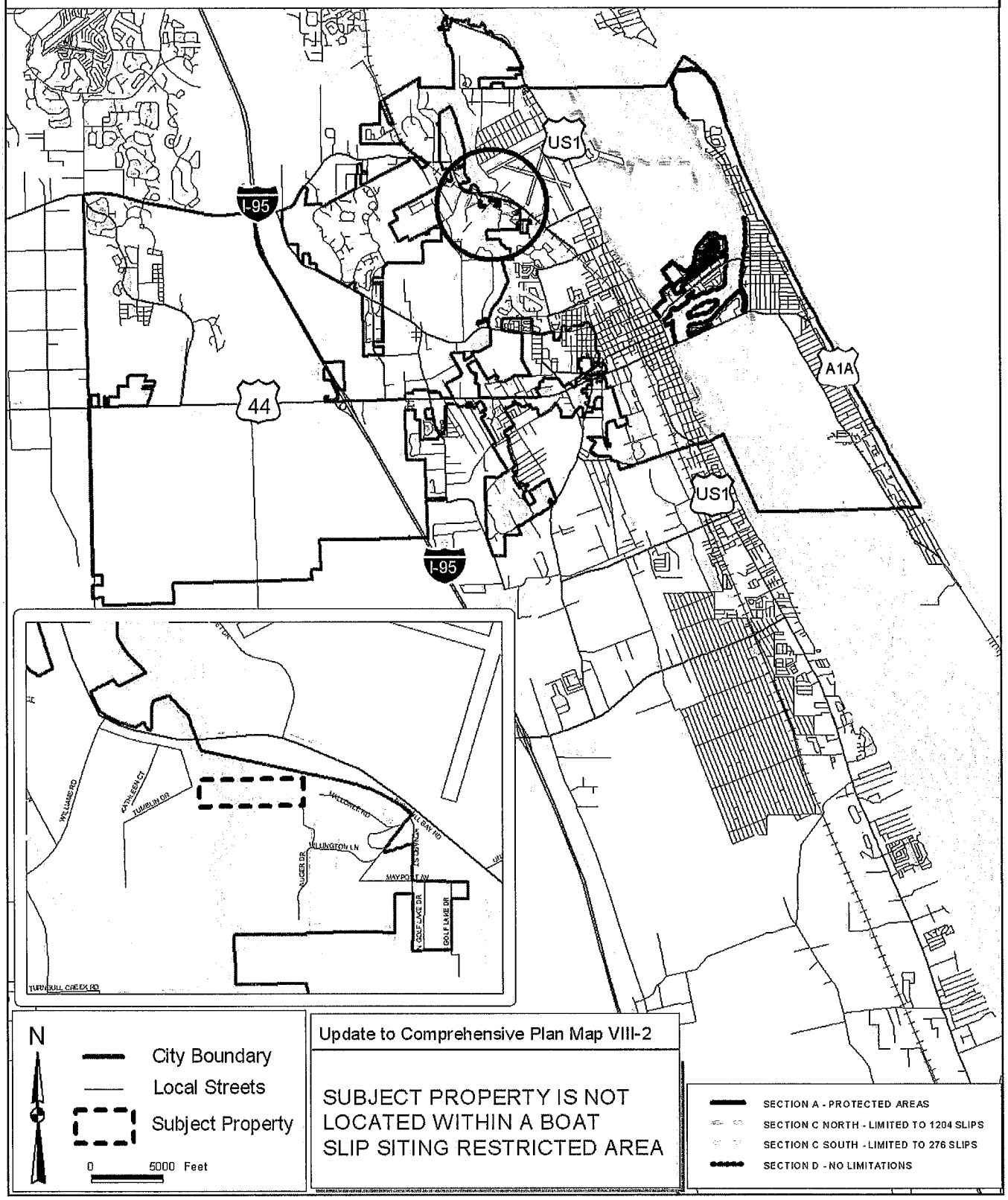
Coastal High Hazard Areas

A-18-11



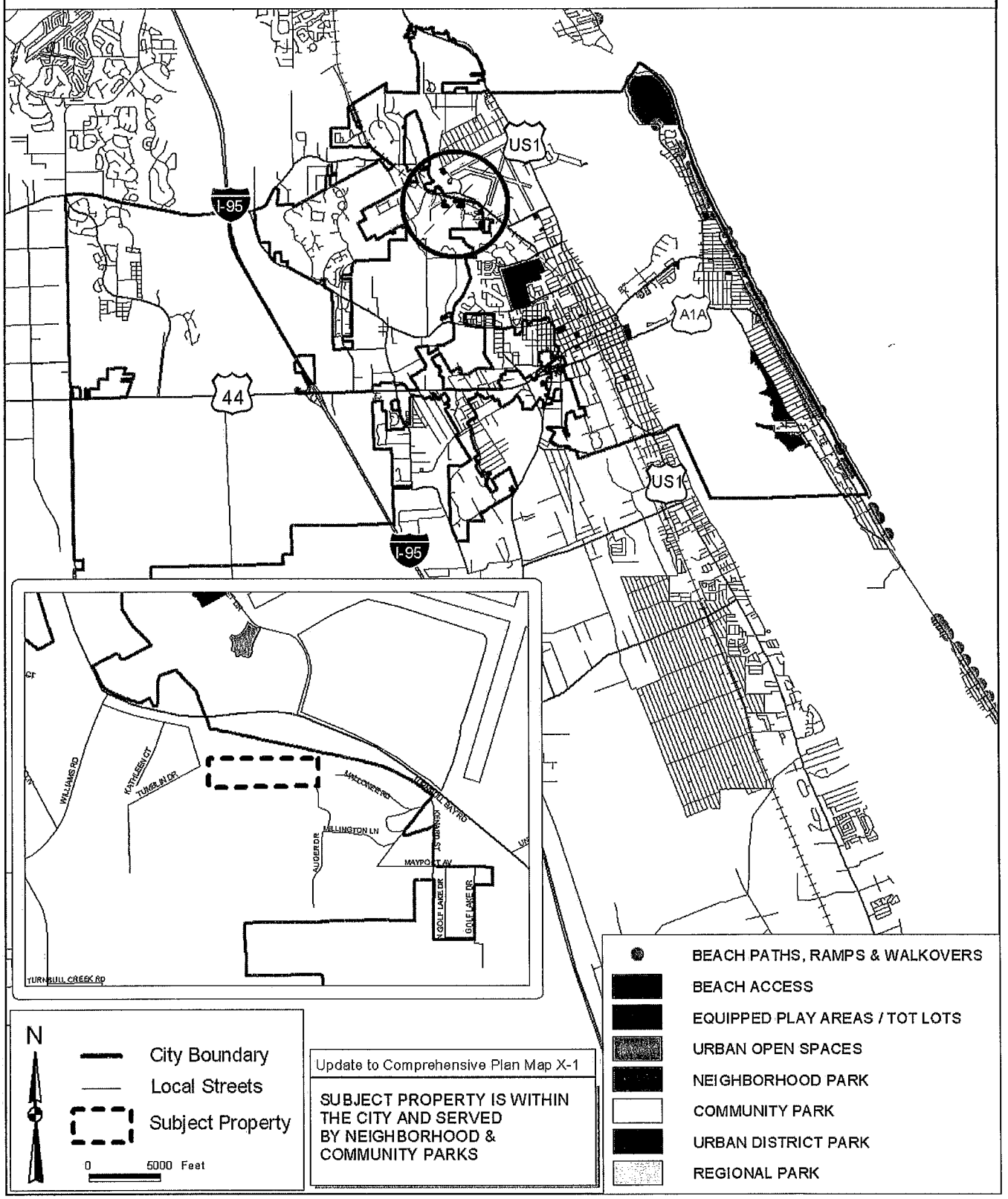
Boat Slip Siting

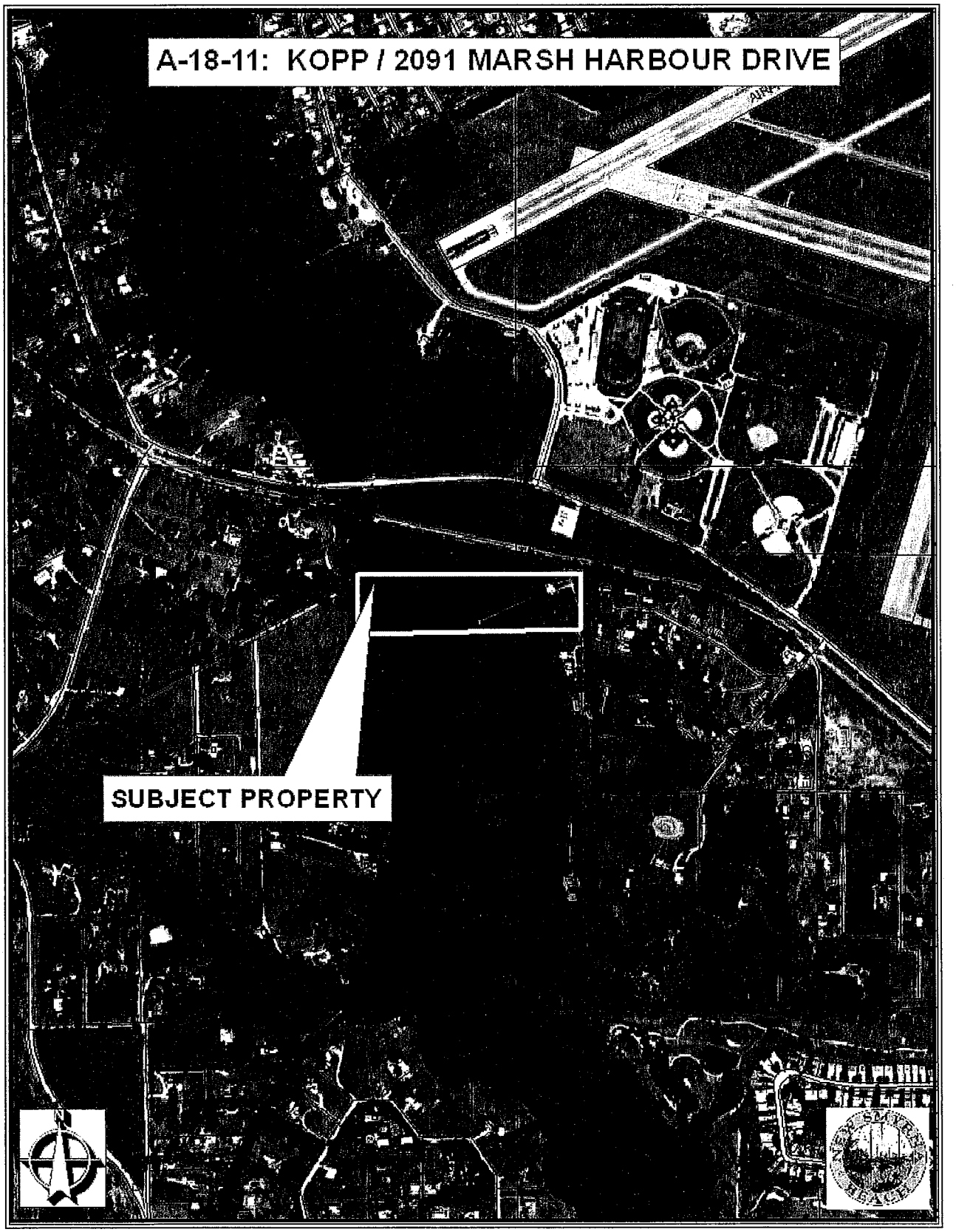
A-18-11



City Parks

A-18-11




A-18-11: KOPP / 2091 MARSH HARBOUR DRIVE
SUBJECT PROPERTY

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

SE-03-11: A PIRATE'S ISLE / 313 JULIA STREET

DECEMBER 5, 2011

I. BACKGROUND

A. **Applicant:** William Arney, 313 Julia Street, New Smyrna Beach, FL, 32168

B. **Property Owner:** Susan Rittger, 508 South Riverside Drive, New Smyrna Beach, FL, 32168

C. **Request:** Special exception approval to allow the establishment of a tattoo parlor at 313 Julia Street.

D. **Subject Area:** The subject area consists of approximately 0.22 acres, is zoned MU, Mixed Use District, and is located on the north side of Julia Street, between Orange Street and Rush Street. (**Exhibit A**).

E. **Tax ID #:** 7441-14-01-0140

II. FINDINGS

A. On October 11, 2011 the New Smyrna Beach City Commission approved Ordinance No. 68-11 / Tattoo Parlors. This ordinance set forth regulations and conditions by which a person could apply for special exception approval for the establishment of a tattoo parlor within the MU, Mixed Use zoning district.

B. The special exception regulations for the establishment of a tattoo parlor within the MU zoning district specify the following conditions:
Staff responses are in bold.

1. Shall not operate on any parcel with frontage on the following streets:
   a) Flagler Avenue
   b) 3rd Avenue
   c) Canal Street
   d) US-1

   313 Julia Street does not front any of the prohibited streets.

2. Shall not operate on any parcel adjacent to or across the street from a single family residential zoning district.
   313 Julia Street is within the MU zoning district and is not adjacent to or across the street from a single family residential zoning district. (Exhibit B)

3. Shall not operate between the hours of 12:00 A.M. and 8:00 A.M
   This is listed as a condition of approval.

4. Shall not be established within 300 feet of a church, daycare, private school, or public school.
   There are no known churches, schools, or daycares within 300 feet of the site.

   Distances to nearest churches, schools and daycares were measured straight line, shortest distance, property line to property line.

   The nearest church is the First Baptist Church of New Smyrna Beach at 214 Sams Avenue. The Church is 675 feet from the site.

   The nearest school is Faith Christian Academy at 215 South Orange Street. The school is 1,100 feet from the site.

   The nearest daycare is First Friend Child Care at 115 South Orange Street. The daycare is 670 feet from the site.

5. Shall not be established within 1,000 feet of an existing tattoo parlor.
   This is the first special exception application to establish a tattoo parlor in New Smyrna Beach. There are no existing tattoo parlors within 1,000 feet of the parcel.

6. The business shall be subject to all requirements of Chapter 877.04, Florida Statutes, regarding tattooing of minors.
   This is listed as a condition of approval.

7. Tattooing areas shall not be visible from the public right of way.
   The tattooing area is in a separate room apart from the front waiting room with a curtain across the doorway to prevent viewing of the tattoo area. (Exhibit C)

8. Windows shall maintain a minimum transparent area of 65%.
   The total glass area of the building is being maintained at a level of more than 65% transparent area. (Exhibit D)

C. Special exception requests must go before the City Commission, with a recommendation from the Planning and Zoning Board, to determine consistency with the City's *Land Development Regulations* and Comprehensive Plan and to ensure compatibility with the surrounding neighborhood. As part of the review process, the City Commission has the ability to require additional conditions of approval, in order to minimize potential negative impacts to the surrounding neighborhood.

D. Section 305.04(C) of the Land Development Regulations requires the special exception request to meet the following general criteria (staff response is in **bold**):

- The requested use is listed among the special exceptions permitted in the district for which the application is made;

  Tattoo Parlor is listed as a special exception use in the MU, Mixed Use District with conditions as noted in finding B.

- The requested use will not impair the character of the surrounding or adjoining district, nor be detrimental to the public health, morals, or welfare; and,

  The site is surrounded by two residences, a glass company, a pawn shop, two hair salons, a City parking lot, a retention pond, and the New Smyrna Beach Chamber of Commerce. The proposed use will not impair the character of the surrounding district, and will not be detrimental to the public health, morals, or welfare. (Exhibit E)

- Adequate utilities, access roads, drainage, sanitation, and/or other necessary services and facilities are, or will be, available or provided for the proposed use.

  This area has been developed for many years, and has the necessary infrastructure to support the proposed business.

E. For the calculation of required parking, the previous use of graphic design and printing falls under the classification of Retail Business and Service Establishments – Other. The proposed use for the site of graphic design and tattoo parlor would also fall under the classification of Retail Business and Service Establishments – Other. No additional parking is required.

III. Recommendation

Staff recommends **approval** of the request for Special Exception Approval to establish a tattoo parlor in the MU, Mixed Use zoning district at 313 Julia Street with the following conditions:

1. The tattoo parlor shall not operate between the hours of 12:00 A.M. and 8:00 A.M.
2. The tattoo parlor shall be subject to all requirements of Chapter 877.04, Florida Statutes, regarding tattooing of minors.

Exhibit A - Location Map

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
SE-03-11: A PIRATE'S ISLE / 313 JULIA STREET
DECEMBER 5, 2011

Exhibit B – Zoning Map

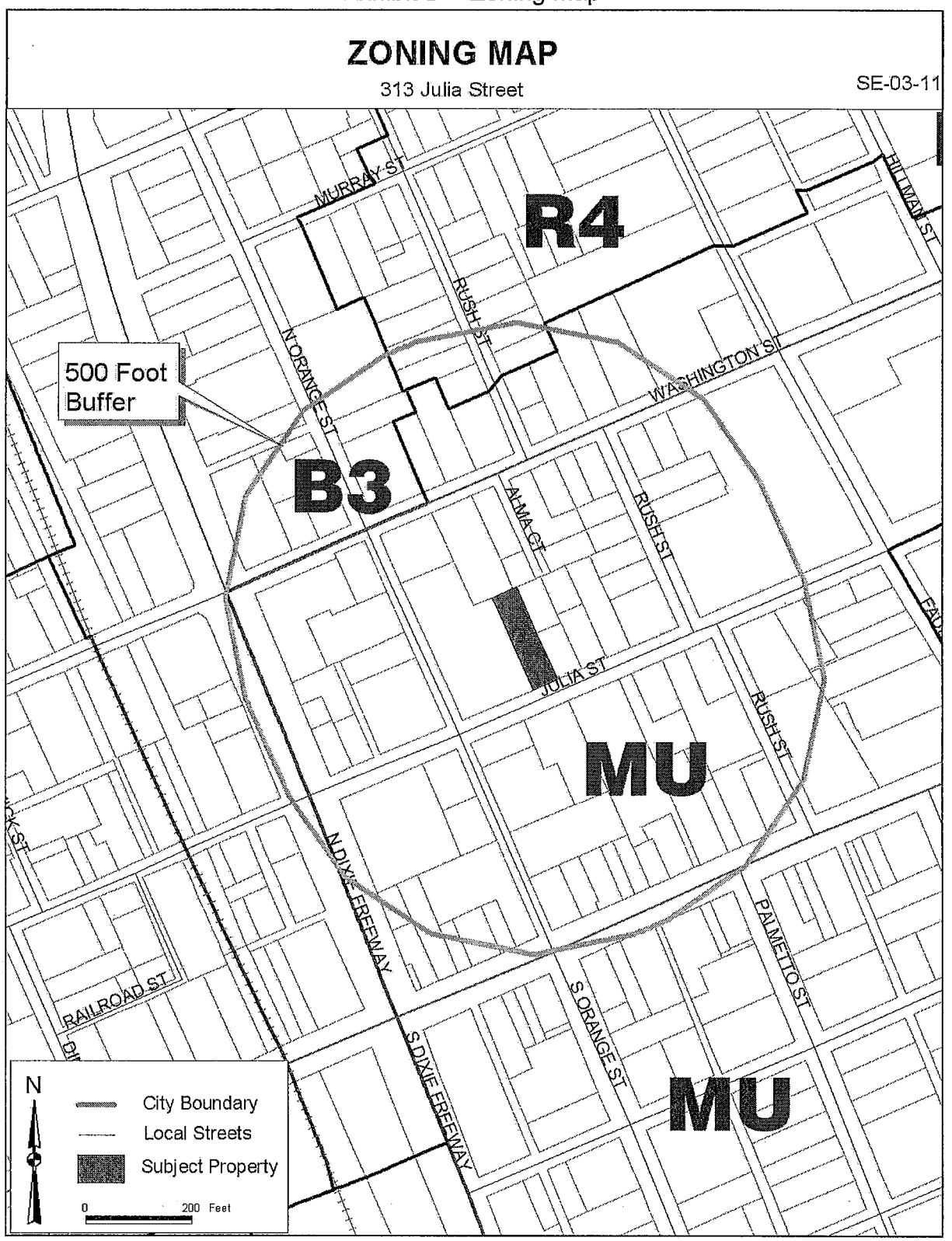


Exhibit C – Tattooing Area

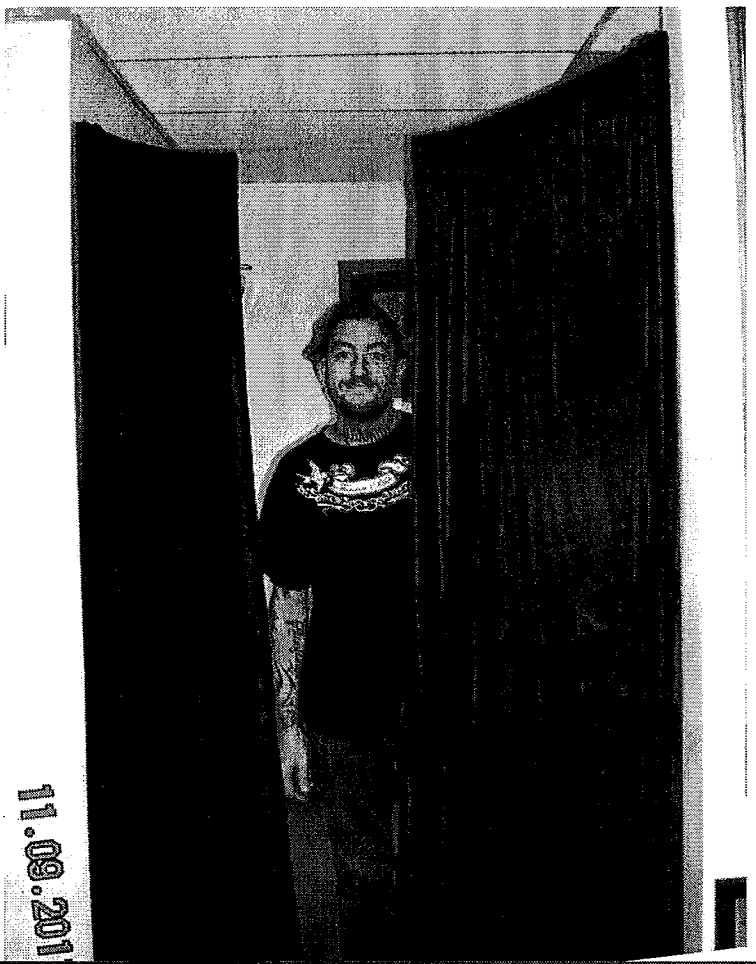


Exhibit D – Building Front, Windows and Doors

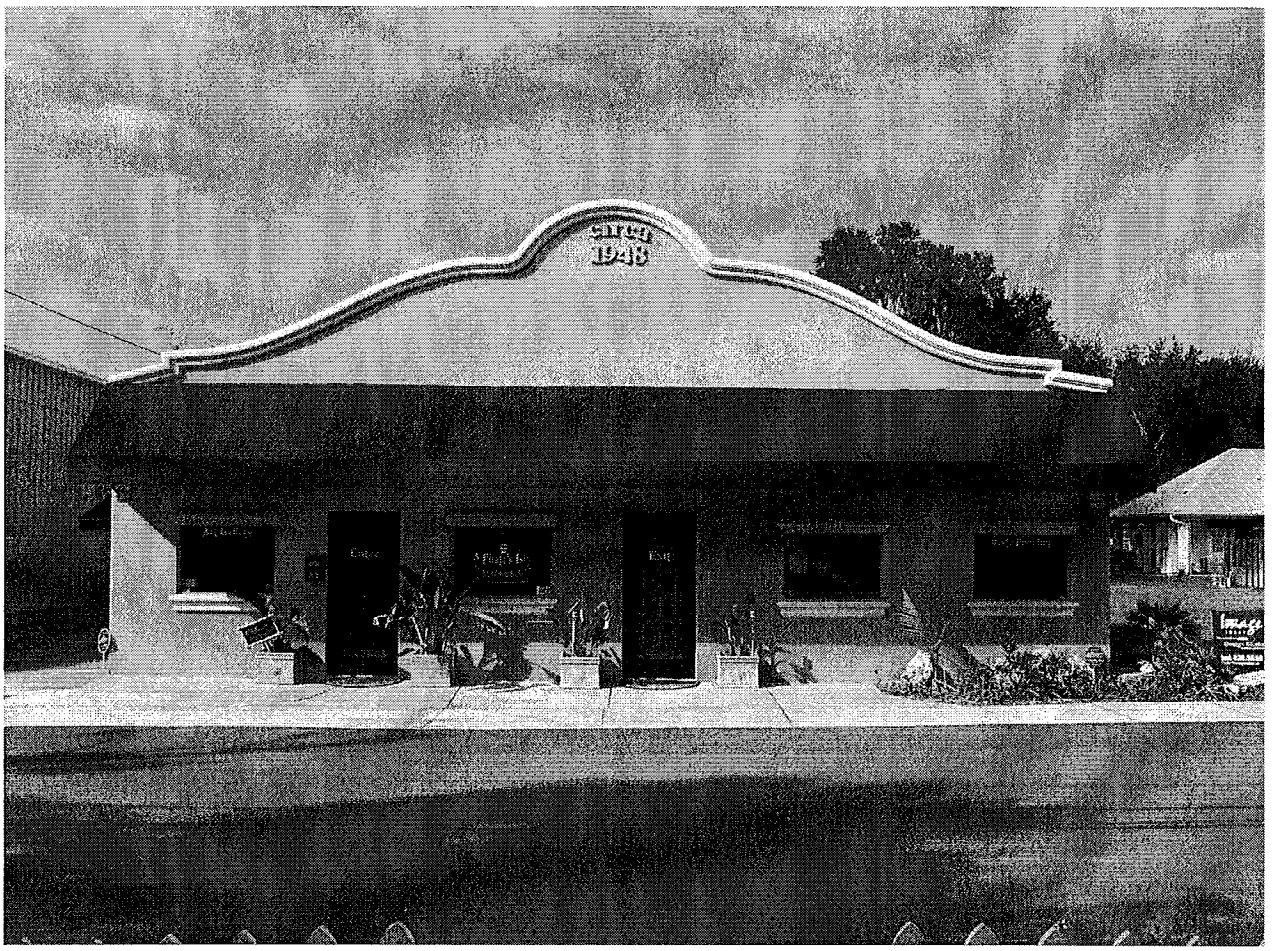
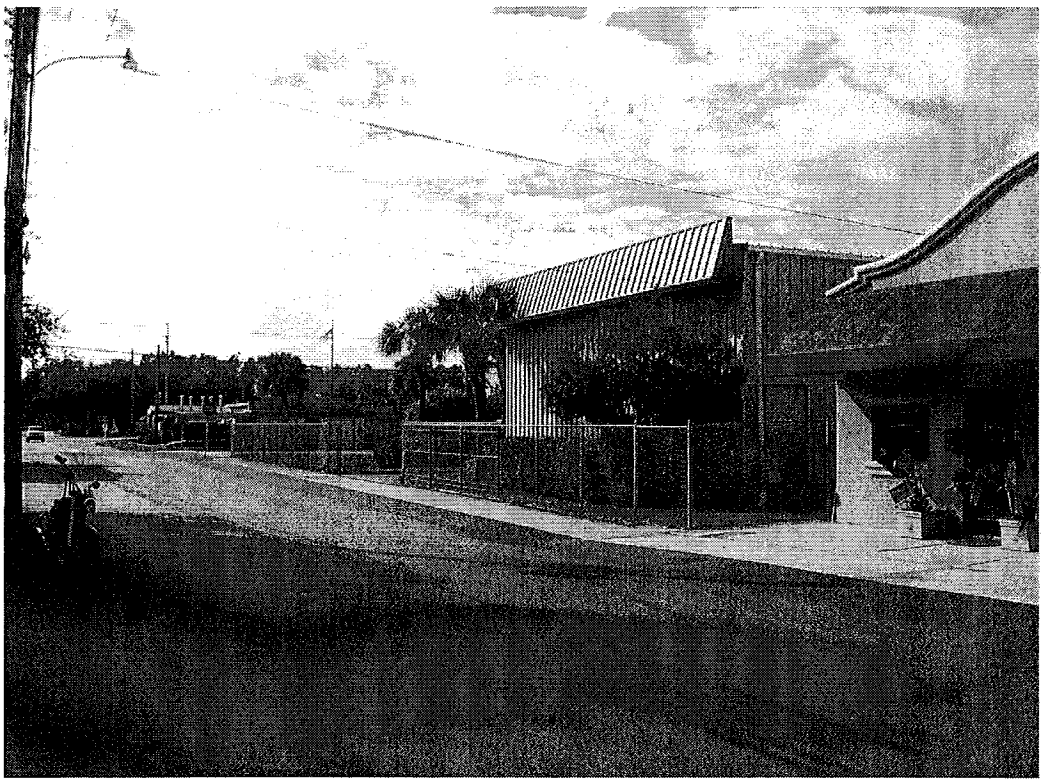
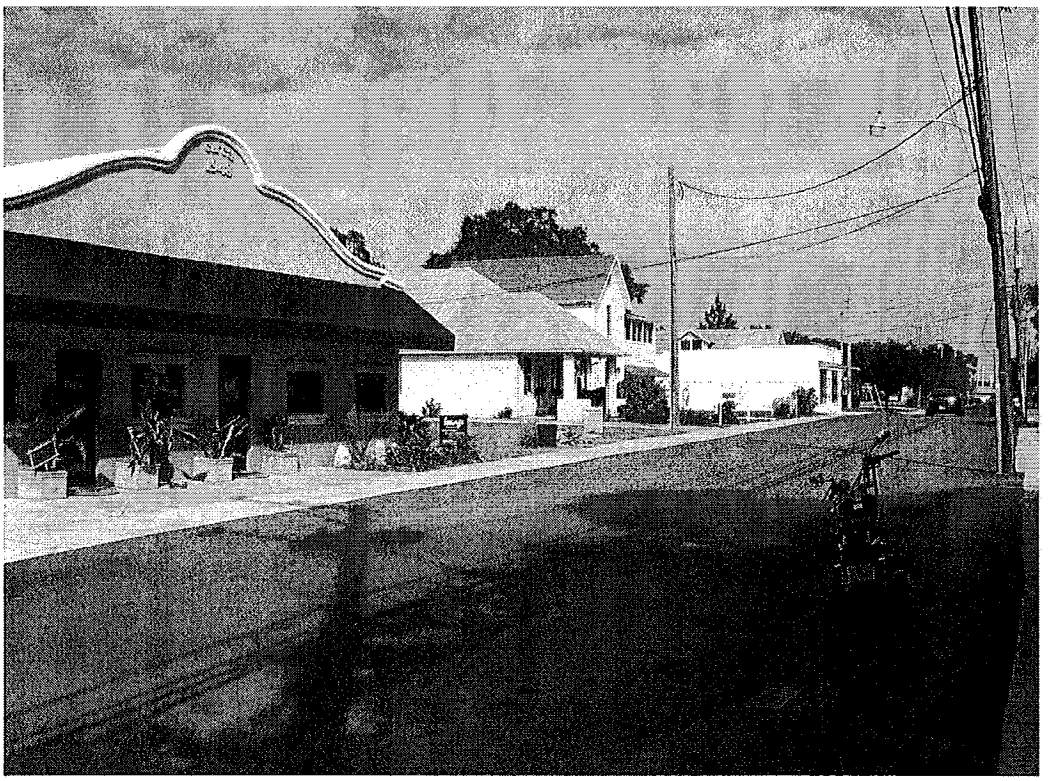


Exhibit E – Location Photos

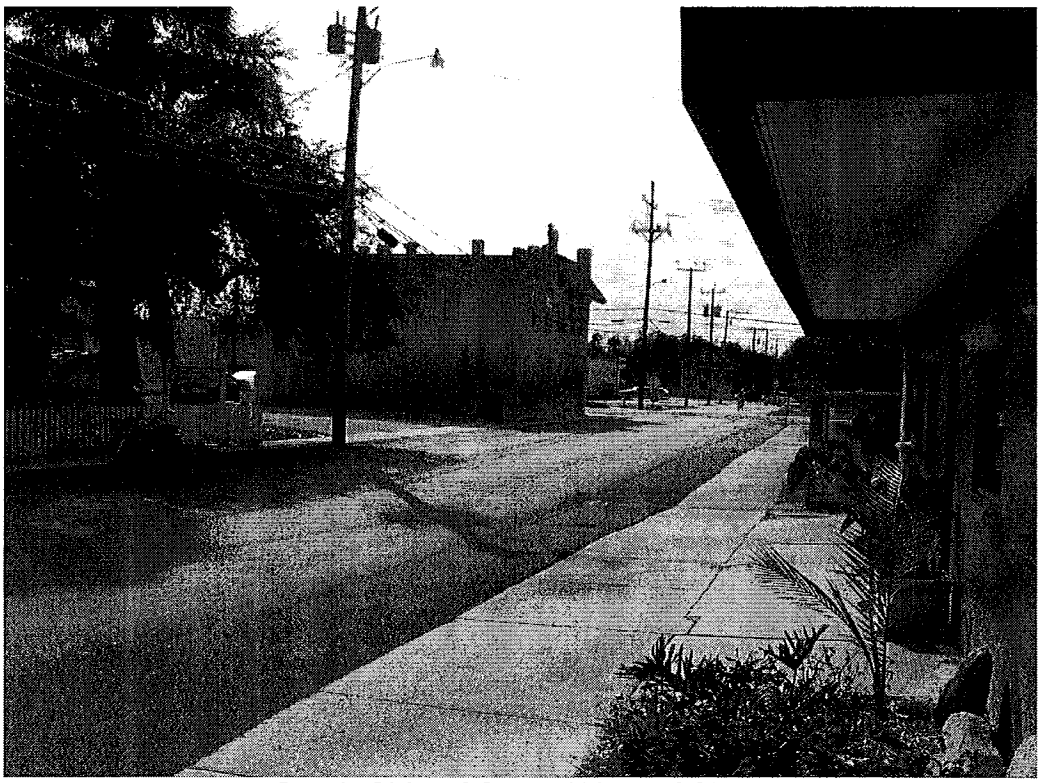


North Side of Street, West of Site

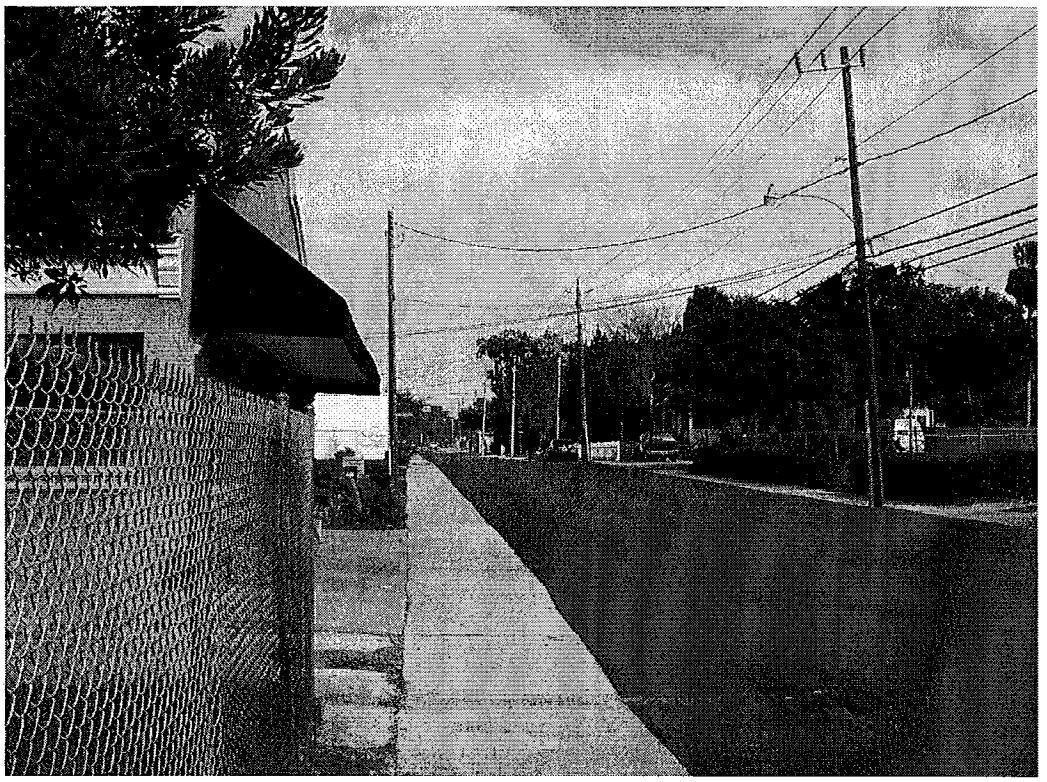


North Side of Street, East of Site

Exhibit E – Location Photos



South Side of Street West of Site



South Side of Street East of Site

CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-19-11: ARMITAGE / STATE ROAD 44

DECEMBER 5, 2011

I. Background

A. **Applicants and Property Owners:** Charles and Jill Armitage, 381 Treasure Cove, New Smyrna Beach, Florida, 32168

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

- **From:** County Future Land Use (FLU) designation of Environmental Systems Corridor; and County zoning designations of RC(C), Resource Corridor (Thoroughfare Overlay Zone) and Volusia County RC, Resource Corridor
- **To:** City FLU designation of Agriculture; and City zoning A-2, Agriculture District

C. **Site Information:**

- **Size:** 2.0 acres
- **Location:** The subject property is generally located northeast of the intersection of State Road 44 and Hughes Road. (see **Exhibit A** for a location map).
- **Tax I.D. Number:** 7318-01-00-0290

II. Findings

A. The subject property is an approximately 2.0-acre vacant parcel (**Exhibit B**). The property currently has a Volusia County Future Land Use (FLU) designation of Environmental Systems Corridor. Which permits up to one dwelling unit per 25 acres. The property is currently zoned Volusia County RC(C), Resource Corridor (Thoroughfare Overlay Zone) and Volusia County RC, Resource Corridor. The surrounding future land use, existing uses, and zoning are as follows:

North
Future Land Use: County Environmental Systems Corridor
Existing Land Use: Vacant
Zoning: County RC, Resource Corridor

South
Future Land Use: City Conservation
Existing Land Use: Agriculture
Zoning: City Conservation

East
Future Land Use: County Environmental Systems Corridor
Existing Land Use: Vacant

Zoning:	County RC(C), Resource Corridor (Thoroughfare Overlay Zone and County RC, Resource Corridor

West

Future Land Use:	City Conservation
Existing Land Use:	Conservation
Zoning:	County RC(C), Resource Corridor (Thoroughfare Overlay Zone and County RC, Resource Corridor

Maps showing the surrounding Existing Land Uses, Existing Future Land use, and Existing Zoning 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. The subject property is within the area proposed as part of an Interlocal Service Boundary Agreement (ISBA) with Volusia County. Previous City Commissions have 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. However, per language proposed in the draft ISBA, the properties within this area of the City, including the subject property, can be assigned one of the following Future Land Use designations:

- Conservation
- Forestry Resource
- Public Grounds and Buildings
- Agriculture
- Rural
- Recreation

The property owners have requested a City designation of Agriculture and a City zoning classification of A-2, Agriculture, both of which would be consistent with the Interlocal Service Boundary Agreement. Maps showing the proposed FLU and zoning changes are attached as **Exhibits H and I**. Descriptions of the proposed FLU and zoning designations are attached as **Exhibits J and K.**

C. This annexation request is within the City's annexation area and within the City's water and sewer service area. **Exhibit L** There is no water or sanitary sewer service available to the subject property at this time.

D. The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, stormwater management, and public school facilities. Under the current FLU designation, one single-family home could be constructed. Under the proposed Agriculture FLU, two dwelling units could theoretically be constructed. However, because the minimum required lot size for the A-2 zoning district is 5 acres, and

because the property is only 2.0 acres in size, only one dwelling unit could be constructed. No concurrency failures are anticipated as a result of the proposed future land use amendment or rezoning.

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

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

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

  The requested FLU designation for the subject property is consistent with proposed adjacent uses, natural limitations, and the availability of facilities and services. It is also consistent with the Interlocal Service Boundary Agreement that the City is drafting with Volusia County. Therefore, it is consistent with the* Comprehensive Plan. *The property is bordered by low intensity land uses.

- **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 would allow possible theoretical future development of a maximum of two single-family residences. However, the proposed A-2 zoning designation would only allow one single-family home. Therefore, the request is consistent with the* Comprehensive Plan.**

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

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

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

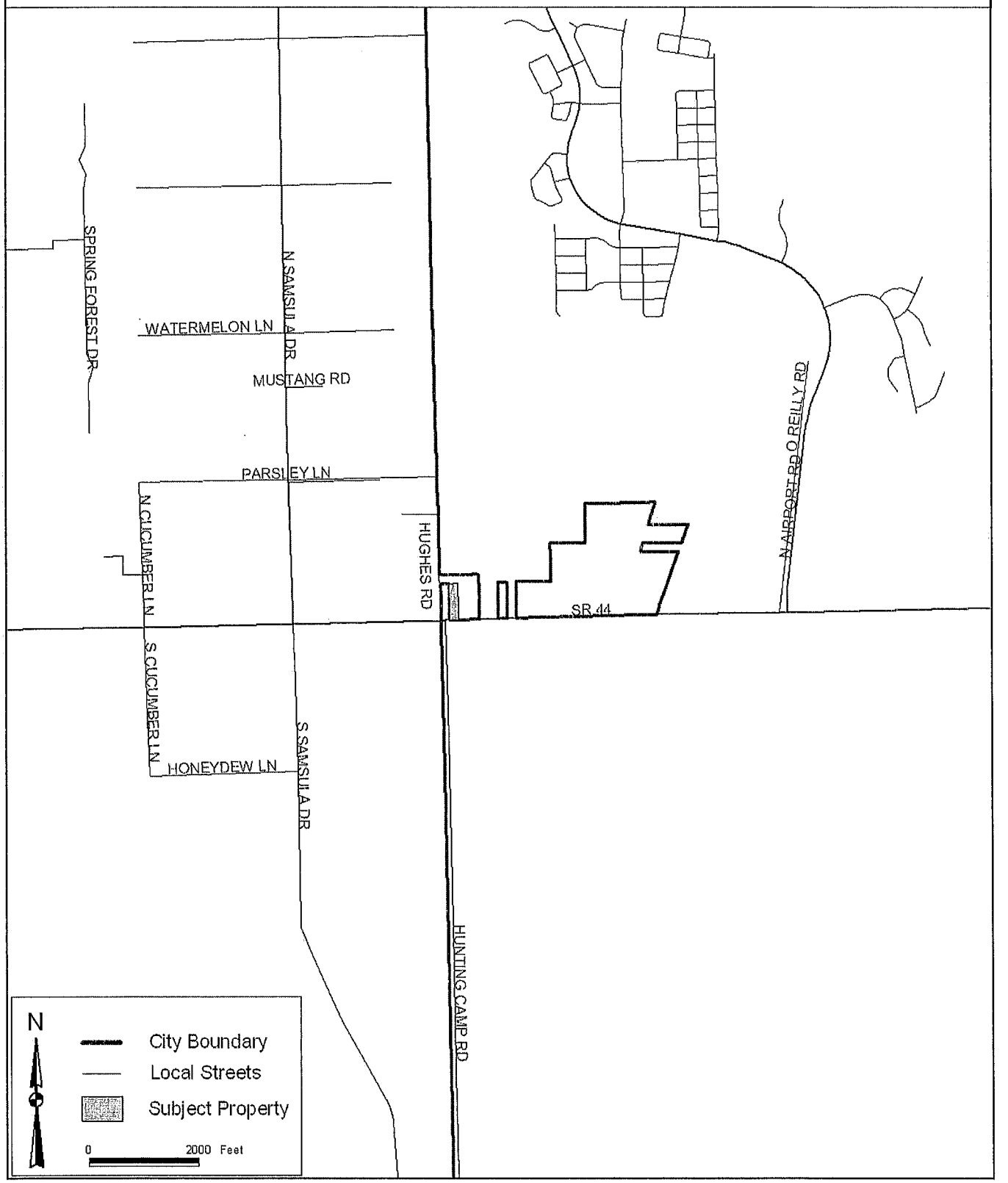
The future land use amendment and assigned zoning district would continue the established City practice and the existing development pattern of the area and are in compliance with the Comprehensive Plan

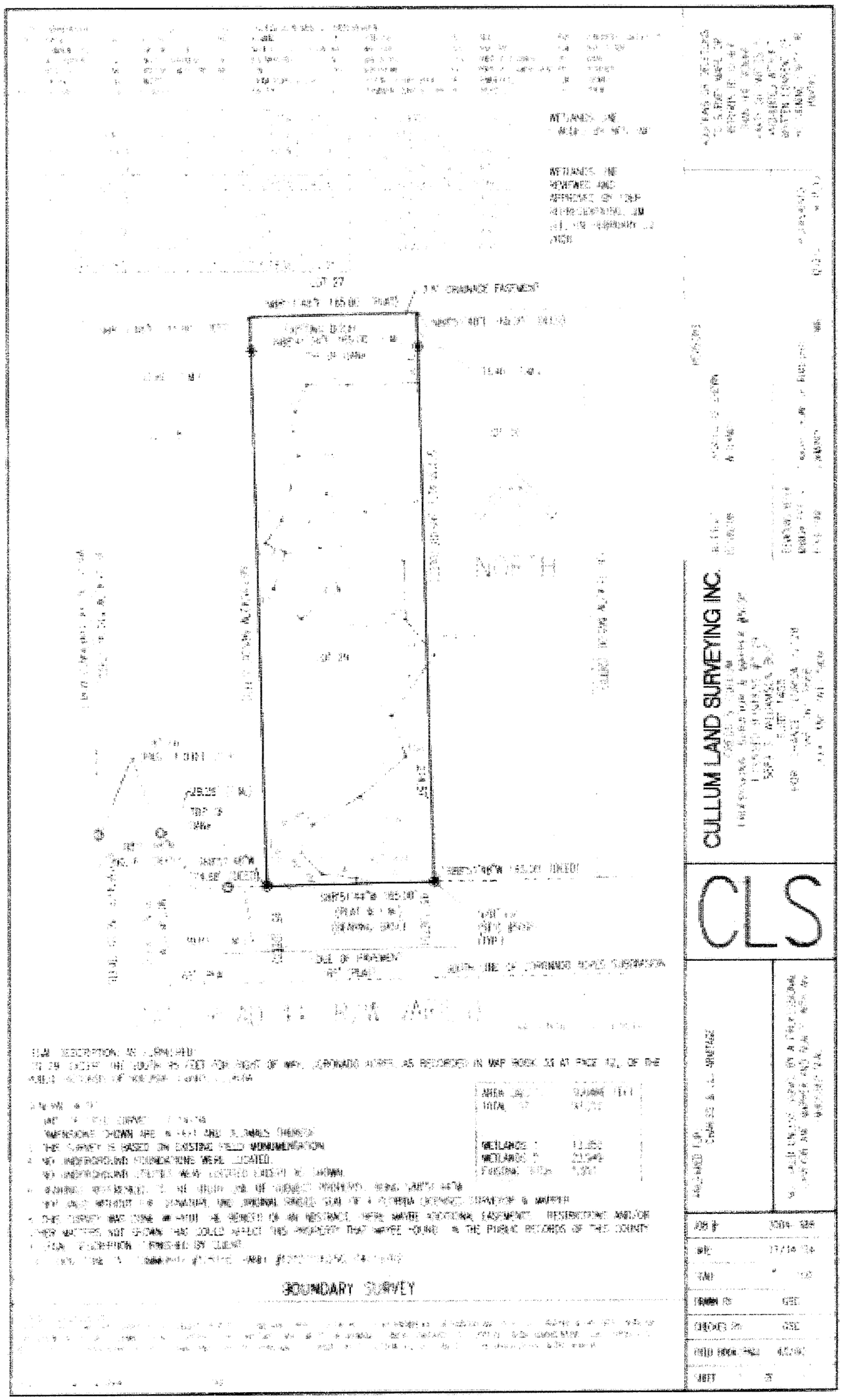
III. Recommendation

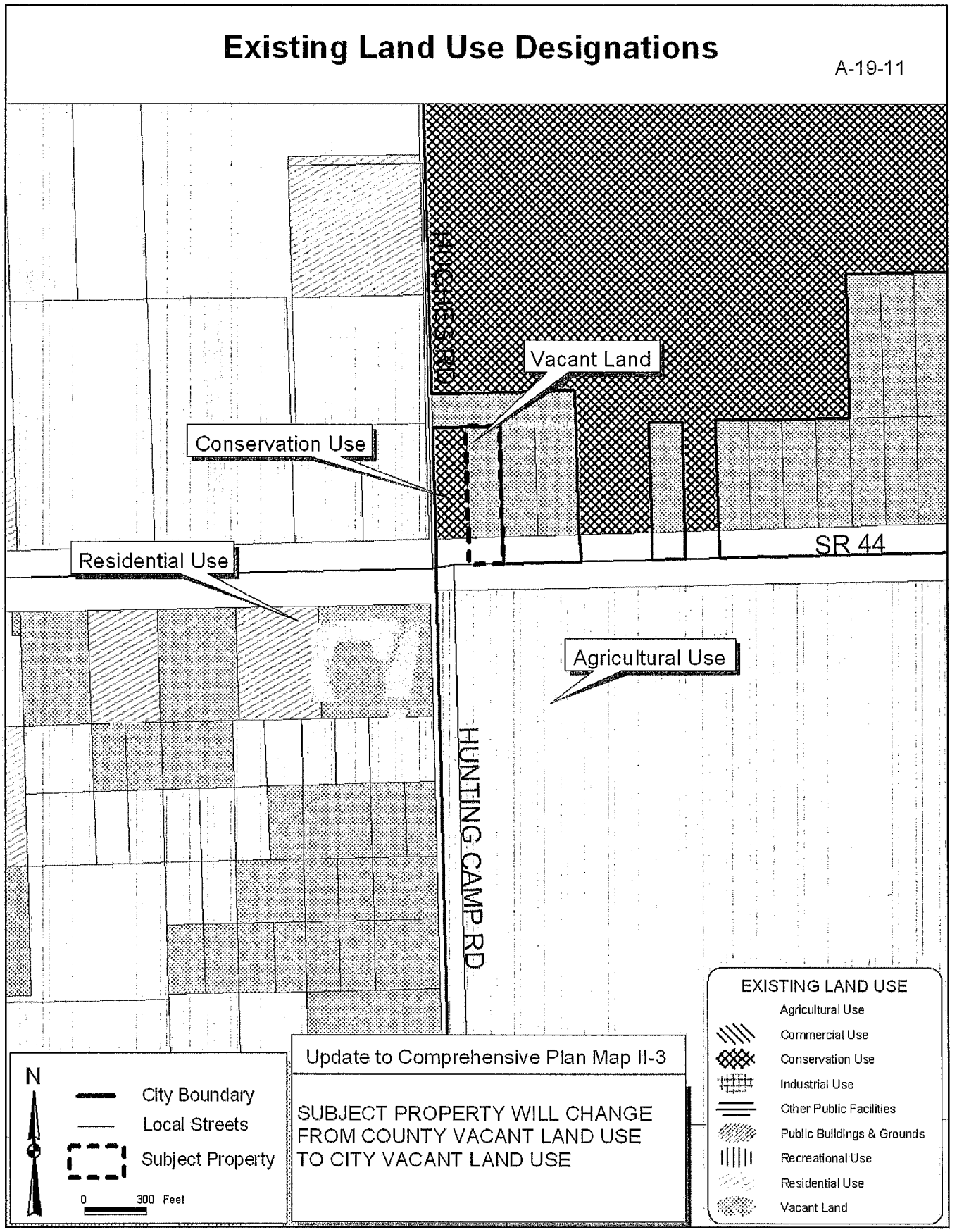
Staff recommends that the Planning and Zoning Board recommend the City Commission **approve** the annexation, *Comprehensive Plan* amendment to City Agriculture, and the rezoning to City zoning district designation A-2, Agriculture District.

Location Map

A-19-11

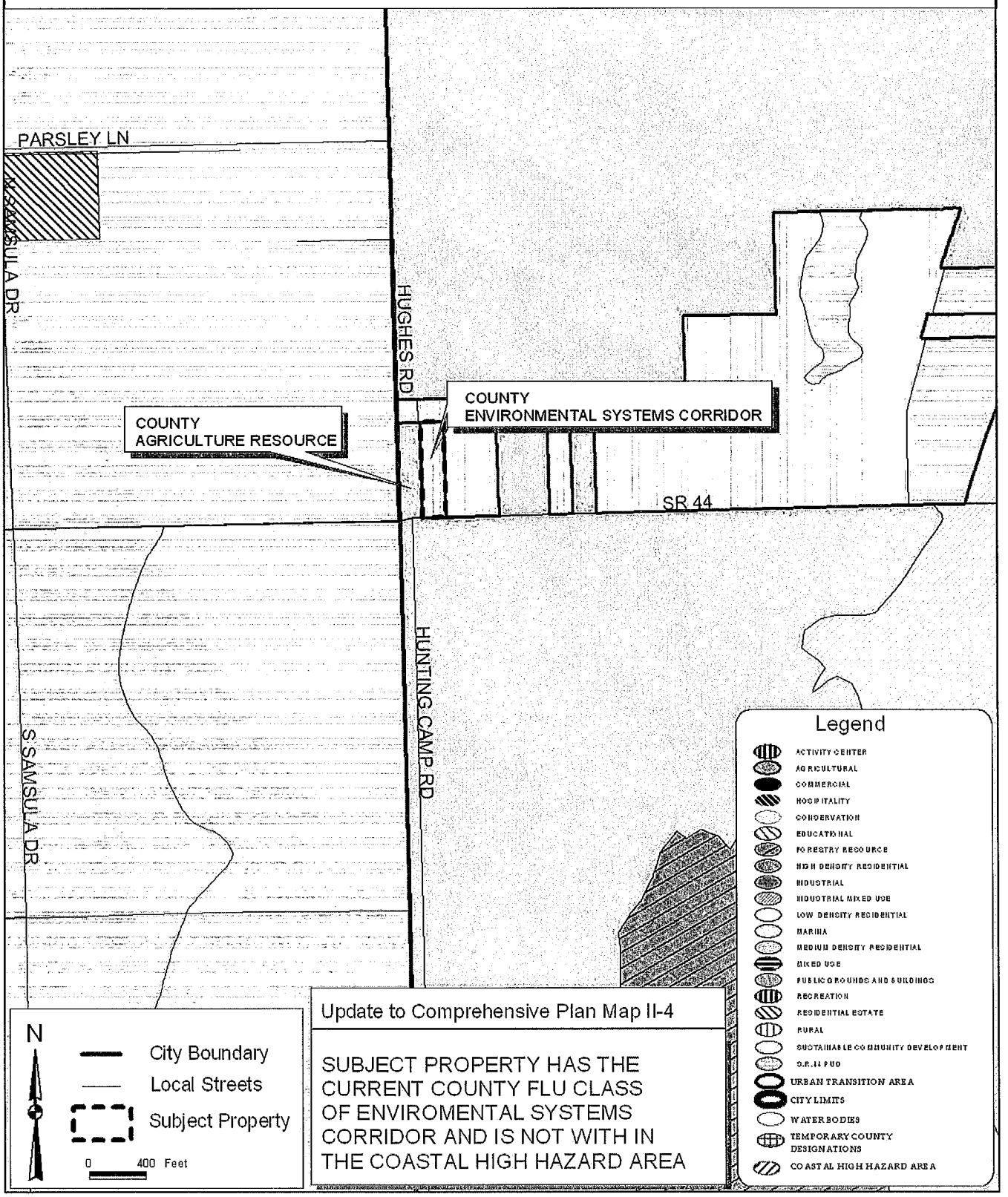



CULLUM LAND SURVEYING INC.
CLS
BOUNDARY SURVEY


Existing Land Use Designations
A-19-11
Vacant Land
Conservation Use
Residential Use
Agricultural Use
SR 44
HUNTING CAMP RD
EXISTING LAND USE
Agricultural Use
Commercial Use
Conservation Use
Industrial Use
Other Public Facilities
Public Buildings & Grounds
Recreational Use
Residential Use
Vacant Land
N
City Boundary
Local Streets
Subject Property
0
300 Feet
Update to Comprehensive Plan Map II-3
SUBJECT PROPERTY WILL CHANGE FROM COUNTY VACANT LAND USE TO CITY VACANT LAND USE

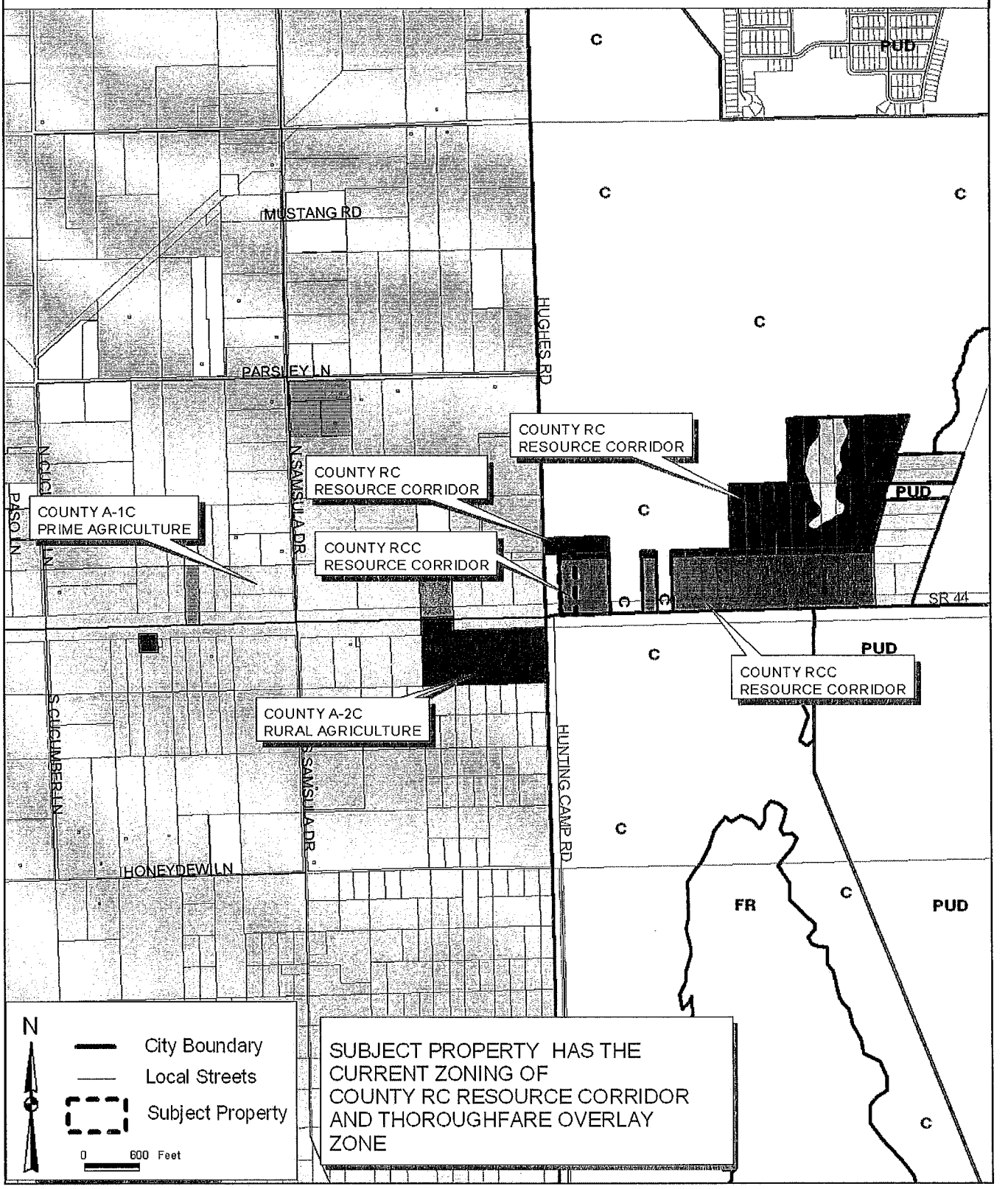
Existing Future Land Use Designations

A-19-11



Existing Zoning

A-19-11



Environmental System Corridor (ESC) - This designation consists of important ecological corridors comprised of environmentally sensitive and ecologically significant lands. Land use activities occurring within these corridors shall not degrade these natural functions and connections. The intention is to provide protected, natural pathways which connect to other protected areas such as parks, conservation lands and water bodies. This inter-connection helps maintain the ecological integrity and ecodiversity of the County's vast natural resources.

ESC's shall include significant interconnected natural systems of environmentally sensitive lands, connecting to and including conservation areas where possible. The ESC's are not intended to include pre-existing improved, cultivated, or developed lands unless such lands contain unique or exceptional ecological value. Conservation and silviculture, utilizing Best Management Practices (BMP's), will be the preferred use, however, other compatible passive agricultural activities may also be permitted such as unimproved pasture. The primary consideration of compatible agriculture should be potential adverse impacts to the short and long term ecological stability of the system, as well as adjacent lands and waterways.

The Environmental System Corridor configuration displayed on the Future Land Use Map is intended to show a generalized location for the corridor. The actual boundaries will be established based upon site specific information and features.

(1) The maximum residential density shall not exceed one (1) dwelling unit per twenty-five (25) acres.

(2) The maximum Floor Area Ratio shall not exceed ten percent (0.10 FAR).

RC RESOURCE CORRIDOR CLASSIFICATION

Purpose and intent: The purpose and intent of the RC Resource Corridor Classification is to provide protected, natural corridors consisting of environmentally sensitive and ecologically significant lands which connect to other protected areas such as parks and water bodies. The corridor shall provide a contiguous hydroecological pathway, where the wetlands and uplands are integrated and conducive to the maintenance and perpetuation of the system.

Permitted principal uses and structures: In the RC Resource Corridor Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- Apiaries; provided, however, that the RC classified area does not comprise part of a lot classified for residential, commercial or industrial use.
- Aquatic preserves (state or federal designated).
- Aviaries; provided, however, that the RC classified area does not comprise part of a lot classified for residential, commercial or industrial use.
- 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 3 of the Land Development Code of Volusia County [article III] and/or final plan review procedures of this article.
- Fire stations.
- Fishing, hunting and wildlife management areas.
- Historical or archeological sites.
- Hobby breeder.
- Home occupations, class A (refer to section 72-283).
- Pasture for the grazing, boarding or raising of livestock, subject to the maximum lot coverage requirements below.
- 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.
- Worm raising, provided, however, that the RC classified area does not comprise part of a lot classified for residential, commercial or industrial use.

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

- Animal shelters.
- Communication towers exceeding 70 feet in height above ground level.
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).

- Except for those permitted principal uses and special exceptions listed hereunder, all agricultural pursuits, including the processing, packaging, storage and sale of agriculture products which are raised on the premises; provided however, that the total land area devoted to agricultural uses, including improved pasture, does not exceed 20 percent of the total lot area zoned RC and further provided that the RC classified area does not comprise part of a lot classified for residential commercial or industrial use.
- Hunting camps.
- Kennels.
- Mobile home dwelling.
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to section 72-293(1)).
- Riding stables.

Dimensional requirements for lots, parcels and tracts of land zoned in its entirety as resource corridor.

Minimum lot sizes:
Area: 25 acres.
Width: 150 feet.

Minimum yard size:
Front yard: 50 feet.
Rear yard: 50 feet.
Side yard: 50 feet.
Waterfront yard: 75 feet.

Maximum building height: 45 feet.

Maximum lot clearance and coverage: Lot clearance can not exceed 20 percent. The area covered with principal and accessory buildings shall not exceed ten percent.

Minimum floor area: 750 square feet.

Dimensional requirements for lots, parcels or other tracts of land which are zoned a mixture of RC and another zone classification: In instances where Resource Corridor boundaries split existing lots parcels or tracts of land, the subject property may be subdivided into lots meeting the minimum lot area and width requirements of the zoning classification of the property not classified as Resource Corridor, providing that Resource Corridor classified lands are not counted as meeting part of the minimum lot area or lot width requirements of the other zone classification. In such instances, there shall be no minimum area or width requirements for the portion of the lot classified as RC. Development of lots classified as a mixture of RC and another zone classification shall be subject to the provisions of subsection 72-136(10) of this article.

Minimum lot size:
Area: No minimum for the portion of the lot classified as RC, providing that the minimum area requirement for the portion of the lot classified other than RC is met.
Width: No minimum for the portion of the lot classified as RC, providing that the minimum with requirement for the portion of the lot classified other than RC is met.

Minimum yard sizes: As provided for under subsection 72-136(10) of this article.

Maximum building height: 45 feet.

Maximum lot coverage: Lot clearance on the portion of the lot classified as RC cannot exceed 20 percent, and no more than ten percent of the portion of the lot classified as RC may be covered with principal and accessory buildings. The portion of the lot classified other than RC shall be subject to the maximum lot coverage requirements of that zone classification.

Minimum floor area: As required for the portion of the lot not classified as RC.

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

Sec. 72-297. - Thoroughfare overlay zone regulations.

(a) *Purpose and intent:*

(1) The purpose of this section is to provide regulations to ensure safe ingress to and egress from proposed development along thoroughfares, to maintain adequate highway capacity, eliminate hazardous traffic conditions, lessen or prevent traffic congestion, establish a high standard for development, including additional sign regulations and create a more attractive streetscape. Commercial development typically expands along thoroughfares as population and traffic volumes increase in the vicinity of and along the thoroughfare. Eventually, conflicts result between the thoroughfare's function and its ability to move high volumes of traffic through an area.

(2) This congestion is intensified when commercial growth increases along the entire length of the thoroughfare.

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

(b) *[Thoroughfare overlay zone:]* A thoroughfare overlay zone is hereby established, and the regulations of this section shall apply in said zone. Said zone shall apply to all zoning classifications established in division 7 of this article, and the official zoning map shall identify said overlay zone by adding the letter "C" as a suffix to the existing zoning classification that currently exists on said maps. The thoroughfares, or portions thereof, to which these regulations apply are as follows:

(1) *North coastal area:*

State Road #40: Western boundary lines of Section 26, Township 14 South, Range 31 East to Ormond Beach west city limits.

U.S. #92: Indian Lake Road east to Daytona Beach west city limit.

(2) *South coastal area:*

State Road #44: New Smyrna Beach city limit west to Tomoka Farms Road (CR 415).

(3) *West Volusia area:*

U.S. #92: Eastern boundary line of Section 25, Township 16 South, Range 30 East, to State Road 15-A.

State Road 15-A: U.S. #17 South to U.S. #17-92.

U.S. #17: Eastern boundary of Section 39, Township 16 South, Range 30 East, to South boundary line of Section 4, Township 17 South, Range 30 East.

U.S. #17-92: North Line of Section 21, Township 17 South, Range 30 East, to South line of Section 33, Township 17 South, Range 30 East.

State Road #44: Western boundary line of Section 14, Township 17 South, Range 29 East, to East boundary line of Section 17, Township 17 South, Range 31 East.

West Volusia Beltline: State Road #44, to North boundary line of Section 13, Township 18 South, Range 30 East. (Ord. No. 85-24, § XVII, 10-10-85; Ord. No. 86-16, § XXXII, 10-23-86; Ord. No. 88-2, § XXI, 1-19-88)

(Ord. No. 84-25, § XXV, 10-10-84; Ord. No. 88-2, § XXII, 1-19-88; Ord. No. 02-07, § I, 3-7-02)

(c) *Dimensional requirements:*

(1) *Minimum lot width:* No premises shall be divided for the purpose of development of sale such that the width of each or any premises is less than 300 feet measured along the right-of-way line, except as follows:

If vehicle access to any premises is provided by means other than directly onto an arterial, then the minimum lot width requirement may be reduced to 150 feet, and direct vehicle access to a major arterial shall be prohibited.

(2) *Minimum yard size:* Front yard: 75 feet.

(3) *Maximum building height:* Three stories, not to exceed 35 feet.

(4) *Maximum lot coverage:* Total coverage of principal and accessory buildings shall not exceed 30 percent.

(5) *Thoroughfare overlay zone depth:* The thoroughfare overlay zone requirements shall be applied to all premises that front onto or have access to the thoroughfare to a distance equal to the depth of the rear property line, but not to exceed a depth of 660 feet as measured perpendicular from the centerline of the thoroughfare right-of-way.

(d) *Off-street parking and loading requirements:* Off-street parking and loading space shall meet the requirements of section 72-286 and in addition shall meet the following:

Off-street parking and loading areas shall be permitted in the front yard or the side yard that is adjacent to a thoroughfare as long as the off-street parking and loading areas are designed outside the 35-foot wide landscaped buffer area along the project perimeter adjacent to thoroughfares. Said area shall contain landscaped fences, walls or berms of sufficient heights and opacity to generally obscure parked vehicles from view of the traveling public. All parking areas shall contain a minimum of 20 percent interior landscaping, excluding any required landscaped buffer area as provided in subsection (e), below.

(e) *Landscaping buffer requirements:* In addition to meeting the landscape buffer requirements in section 72-284, the following requirements shall also be met:

(1) A landscape plan shall be provided identifying the quantity, botanical and common name, size and location of plant material, including those existing plant materials to be retained. Plans and specifications for an underground irrigation system are required for any landscaped area.

(2) A minimum of 30 percent of the area of the site shall be covered by landscape materials as specified in subsection 72-284(1) of this article.

(3) Except for access driveways, it is intended that development along the thoroughfare corridor shall be designed to prevent the need for fill material or

such other treatment which would remove or harm existing trees within the required front yard.

(4) A landscaped buffer area shall be provided along the perimeter of the property. The width of the buffer shall be determined by the requirements in subsection 72-284(2) unless the site is located on a thoroughfare, then the front buffer shall be a minimum of 35 feet. If the thoroughfare right-of-way is less than 140 feet, then the buffer area will start at a point 70 feet from the centerline of the thoroughfare.

(f) *Final site plan requirements:* In addition to meeting the final site plan requirements in division 3 of the Land Development Code [article III], the following requirements shall be met:

All site plans, reports and general information will be submitted to the development review committee to ensure compliance and consistency for all developments along the thoroughfare.

(g) *Service road requirement:* All premises fronting thoroughfares upon which the thoroughfare overlay zone regulations have been applied shall be provided access via a service road, unless as otherwise specified herein. The service road may either be in the front or rear of the project site depending on the location of any existing service road.

(h) *Transportation impact analysis report; purpose:* The transportation impact analysis report is designed to identify the transportation impacts and problems which are likely to be generated by a proposed use because of the size, density, traffic generation rates or location. The report will also identify all improvements required to ensure safe ingress and egress from a proposed development, maintenance of adequate street capacity, and elimination of hazardous conditions and improvements necessary for immediately surrounding roadways and intersections as a result of the proposed development.

(1) *Threshold for traffic impact analysis report:* A transportation impact analysis report shall be required, unless waived by the county traffic engineer, for all uses which meet or exceed any one or more of the following thresholds:

a. Any development which proposes to have direct access to any roadway designated in subsection (b) of this section.

b. Any use which, according to the Institute of Transportation Engineers Trip Generation Manual, latest edition, rates published by the Florida Department of Transportation, or rates documented by study as agreed prior to use by the Volusia County Traffic Engineer will generate in excess of 1,000 trips per day.

(2) *Contents of transportation impact analysis report:* The transportation impact analysis report shall include the following:

a. *General site description:* A detailed description of the highway network within a radius as determined by the county traffic engineer of the site, a description of the proposed project, the anticipated stages of construction, and the anticipated completion date of the proposed land development. This description, which may be in the form of a map, shall include the following items:

1. All major intersections;
2. All proposed and existing ingress and egress locations;
3. All existing roadway widths and rights-of-way;
4. All existing traffic signals and regulatory signage;

5. All existing and proposed public transportation services and facilities within the above-determined radius of the site.

b. *Description of existing traffic conditions:* A 24-hour traffic count shall be conducted for a typical weekday on all roadways which have direct access to a proposed development site. The existing average daily traffic volume, and the highest average peak hour volume for any weekday hour between 3:00 p.m. and 6:00 p.m. shall be recorded. These traffic volumes shall be averaged to determine the average hourly peak traffic volume for a weekday. The methodology used to calculate existing traffic conditions and use of traffic counts and data other than those described above to represent existing traffic conditions shall be subject to the approval of the county traffic engineer.

c. *Transportation impact of the development.* A report shall be made detailing the nature and extent of the trip generation expected to result from the proposed development. Trip generation analysis shall include an estimate of internal/external split, if applicable, and a determination of what characteristics of the development will yield such a split. The source of all trip generation rates shall be according to the Institute of Transportation Engineers Trip Generation Manual, latest edition, rates published by the Florida Department of Transportation, or rates documented by study and agreed to prior to use by the Volusia County Traffic Engineer.

d. *Determination of roadway service level—Calculate service volumes:* Roadway service volumes shall be calculated at the level of service for the thoroughfare which is specified in the comprehensive plan. Data and procedures contained in the Highway Capacity Manual, Special Report, 209, 1985, published by the transportation research board shall be utilized in deriving the information required by the transportation impact analysis report.

e. *Determination of intersection service level:*
   1. Data and procedures in the Highway Capacity Manual, Special Report, 209, 1985, published by the transportation research board shall be utilized in determining intersection service levels.
   2. The post-developing level of service for all intersections shall be in accordance with the comprehensive plan.
   3. Determine the existing level of service of all intersections within one-half mile of the proposed development using the critical movement analysis techniques provided in subsection e.1., above.

f. *Analysis of transportation impact:* An analysis shall be undertaken to determine if roadways and intersections will operate at the level of service specified by the comprehensive plan following completion of the development given the future peak hour traffic that will be generated by the proposed development. This analysis shall consist of a comparison of the total future peak hour roadway traffic demand with the plan's mandated level of service standard and a critical movement analysis for intersections to determine the impact of total future peak hour traffic on intersection level of service. All roadways and intersections that would operate below the required level of service following completion of the development shall be considered deficient.

Maintenance of levels of service. Whenever level of service is determined to be below the level specified by the comprehensive plan, development is not permitted unless the developer makes the roadway or other improvements necessary to maintain the specified level of service.

(3) *Traffic-control devices:* Whenever, as a result of additional traffic generated by a proposed development, the manual on uniform traffic control devices determines the need for a traffic signal or regulatory sign, the developer shall be responsible for installing all said devices and signs.

(4) *Large developments:* [Large developments] (over 250 vehicle trips generated per one hour during 3:00 p.m. and 6:00 p.m.) shall also include the following:

a. The impact report for developments which will generate between 250 and 1,000 trips during the peak hour shall involve an analysis of all arterials and all intersections within one mile of the proposed project.

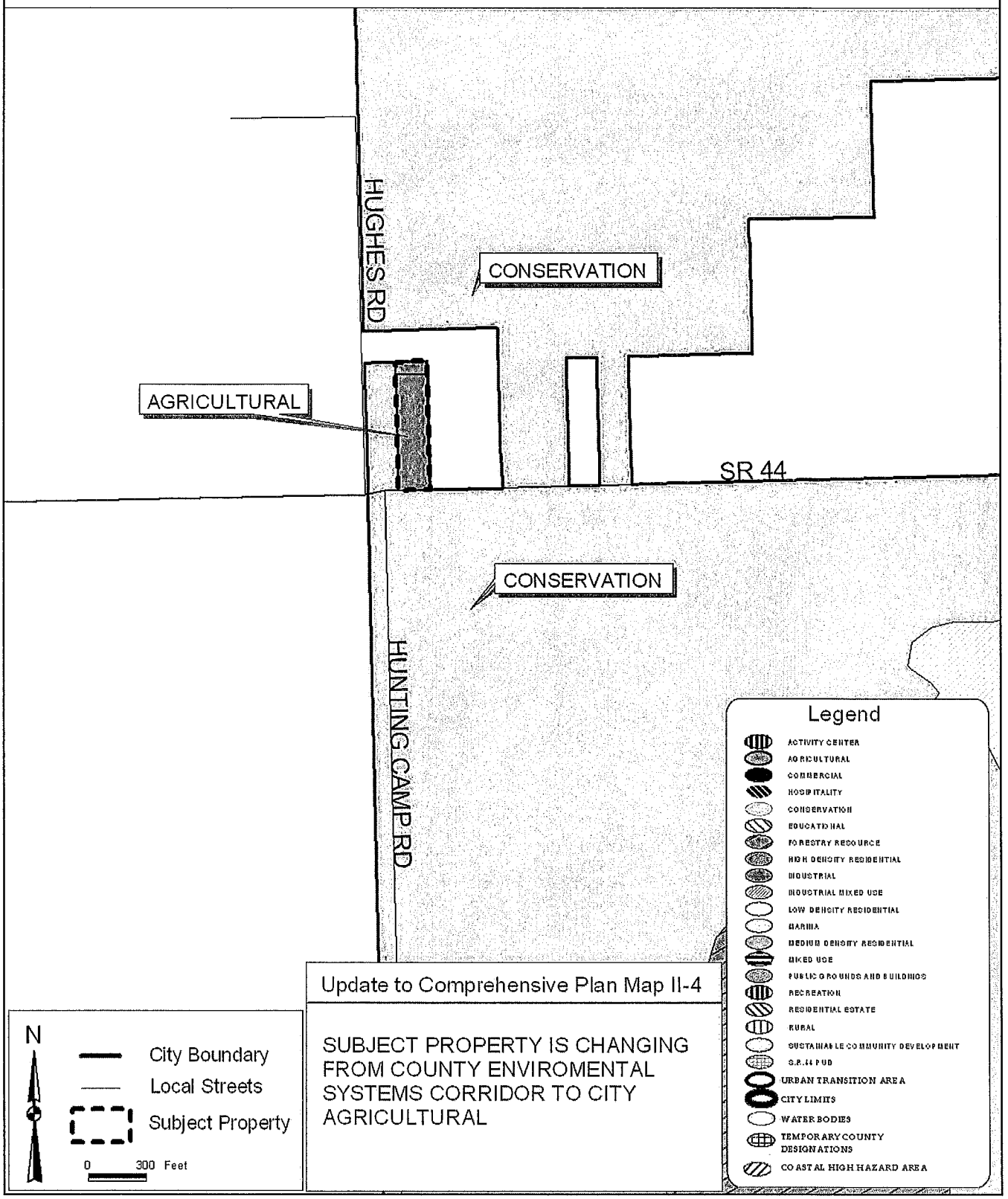
b. Except for developments of regional impact as defined by F.S. § 380.06, the impact report for developments which will generate over 100 trips during the peak hour shall involve an analysis of all arterial and collector roadways and all intersections within three miles of the proposed project.

(i) *Temporary access:* No developer shall be denied a rezoning or building permit for the sole reason that the parcel for which it is sought cannot physically accommodate the requirements of this classification because adjoining segments of service roads or public roadways are not yet constructed. In such an event, a temporary access permit will be issued which shall expire when the proposed access becomes available to the parcel.

(j) *Sign regulations:* The sign regulations established in section 72-298 et seq. shall also apply in any thoroughfare overlay zone; provided, however, the maximum permissible height for any ground sign is eight feet, and the maximum permissible copy area for any ground sign is 40 square feet.

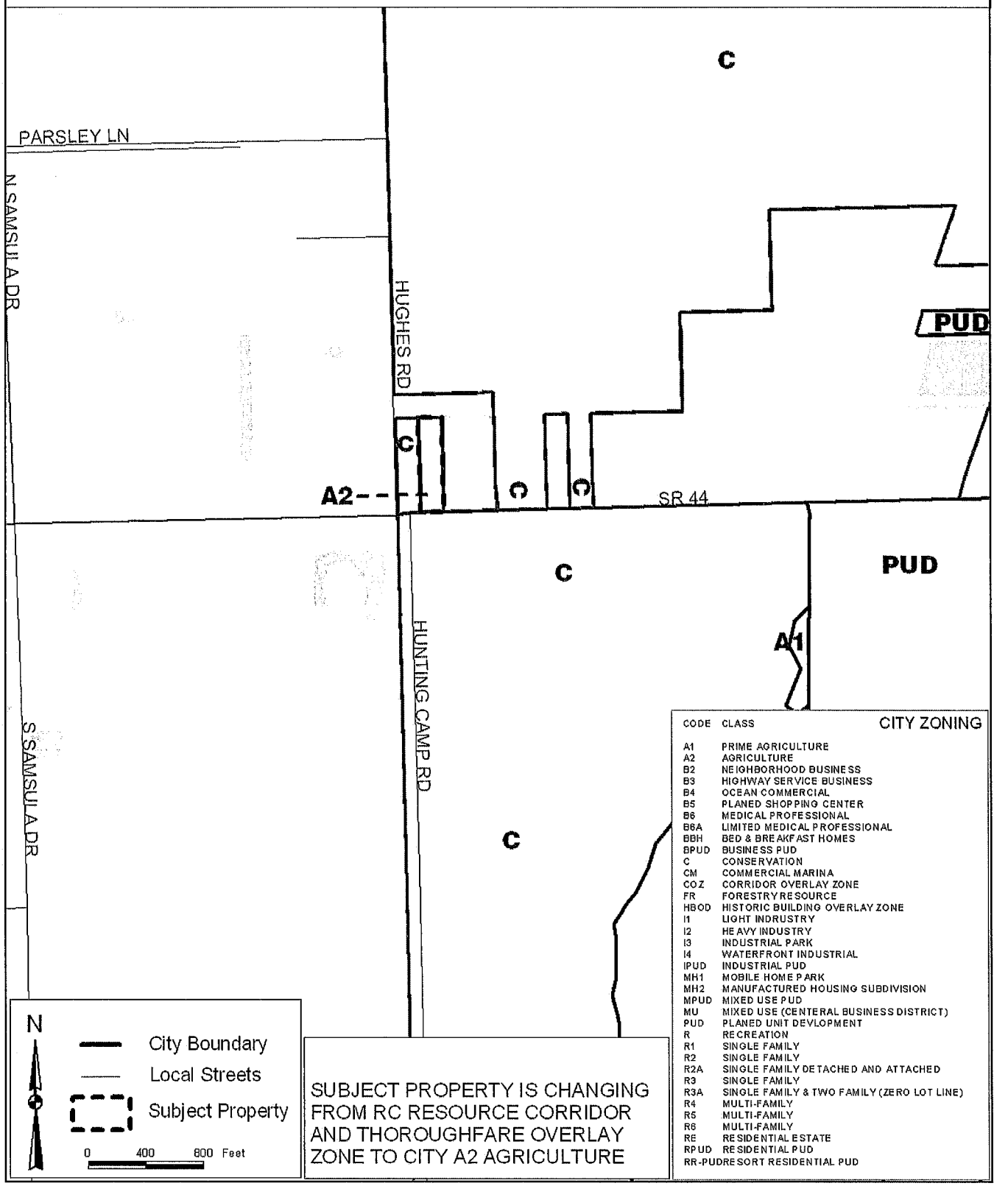
Proposed Future Land Use Designations

A-19-11



Proposed Zoning

A-19-11



AGRICULTURE
Maximum allowed density: Up to one (1) dwelling unit per acre
Maximum allowed Floor Area Ratio (FAR): 0.10

Intent: This category includes those lands used for crop or livestock production or other uses of the natural resources such as excavation. This category shall also include low-intensity uses such as a large-lot single-family residential development and recreational uses.

A-2, AGRICULTURE DISTRICT **Ord. #24-00**

Intent:

The purpose and intent of the A-2, Agriculture District, is to preserve and protect rural areas of the City that have some agricultural value, but which are also suitable for rural single-family living.

Permitted Principal Uses and Structures:

In the A-2, Agriculture District, no premise shall be used except for the following uses and their customary accessory uses or structures:

Apiaries
Essential Utility service
Fire Stations
Fish, Hunting, or Non-Profit Organization Camps
Hobby Breeder
Home Occupation
Open agricultural uses such as field crops, tree crops, fern crops, grazing land, grass land, and pastures
Parks and Recreation Areas
Pisciculture
Public Uses not listed as a permitted principal use
Public Utility Uses and Structures
Single Family Standard or Manufactured Dwelling
Riding Stables (minimum parcel size requirement of 5 acres)
Wormraising

Permitted Accessory Uses:

Fruit and Vegetable Stands
Garages
Gazebos
Incidental Uses
Non-residential agricultural buildings and recreation facilities related to the permitted use
Storage Sheds

Permitted Special Exceptions:

Animal Hospitals, Veterinary Clinics
Excavations (See Section 801.15 of this LDR)
Farm Supply Stores
Farmworker Living Facility associated with a bona fide agricultural use provided:
(a) The minimum floor area per dwelling shall be 720 square feet.
(b) No detached dwelling used in the farmworker living facility shall be closer than 50 feet to any other detached dwelling.
(c) No dwelling used as a farmworker living facility shall be closer than 100 feet to any property line of the premises on which it is placed.

(d) If not already in existence, a visual screen of natural plant materials meeting the requirements of Section 604.05 F. located between the dwellings and all adjoining property lines, shall be constructed and maintained.

(e) Potable water and sewage disposal facilities shall be in compliance with all applicable provisions of Florida law and the City's comprehensive plan.

(f) The area between the ground and the floor of a mobile home dwelling used as a farmworker living facility shall be enclosed with skirting.

(g) No subsequent expansion of a farmworker living facility as shown on the approved site plan for the special exception for shall be allowed unless another special exception for the expansion is approved. However, subsequent decrease of the approved sites are permitted.

(h) The applicant shall provide information to the enforcement official as to the kind of agricultural operation existing on the premises at the time of application for the farmworker living facility.

(i) Dwellings may be arranged in a cluster fashion on the premises. The maximum number of dwellings authorized will be based on the size of 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

Houses of Worship and Cemeteries provided no principal or accessory building shall be located less than 50 feet from any property line.

Humane Society/animal shelters provided that no building is located closer than 50 feet from the property line.

Kennels

Sawmills and Planing Mills

Dimensional Requirements:

Minimum Lot Size:

Area	5 acres
Width	150 feet

Minimum Yard Size:

Front	50 feet
Rear Yard	50 feet
Side Yard	25 feet
Waterfront Yard	50 feet

Maximum Building Height:

Ninety-five (95) feet

Maximum Lot Coverage:

The total lot area covered with principal and accessory buildings shall not exceed 35%

Screen Enclosures

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

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

Ord. #21-09

Minimum Floor Area:

750 square feet of livable area

Off-Street Parking and Loading Requirements:

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

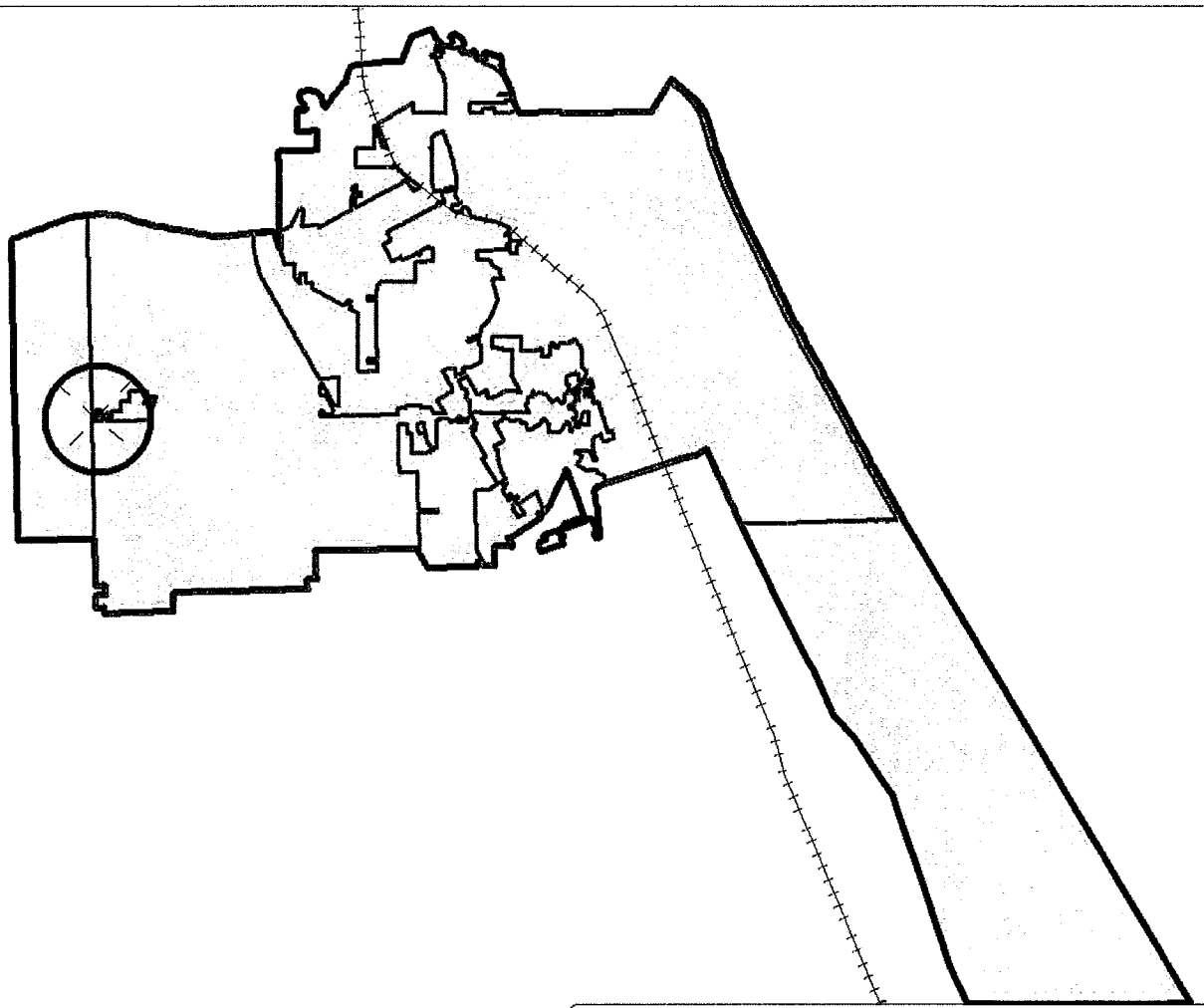
Skirting Requirements for Mobile Home Dwelling:

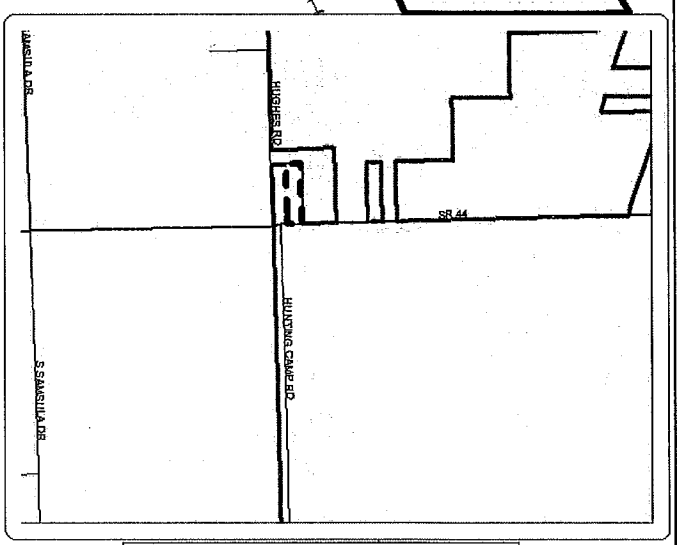
The area between the ground and floor of the mobile home dwelling shall be enclosed with skirting.

1

Water & Sewer Service Area

A-19-11





Update to Comprehensive Plan Map VII-1

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

N

City Boundary

Local Streets

Subject Property

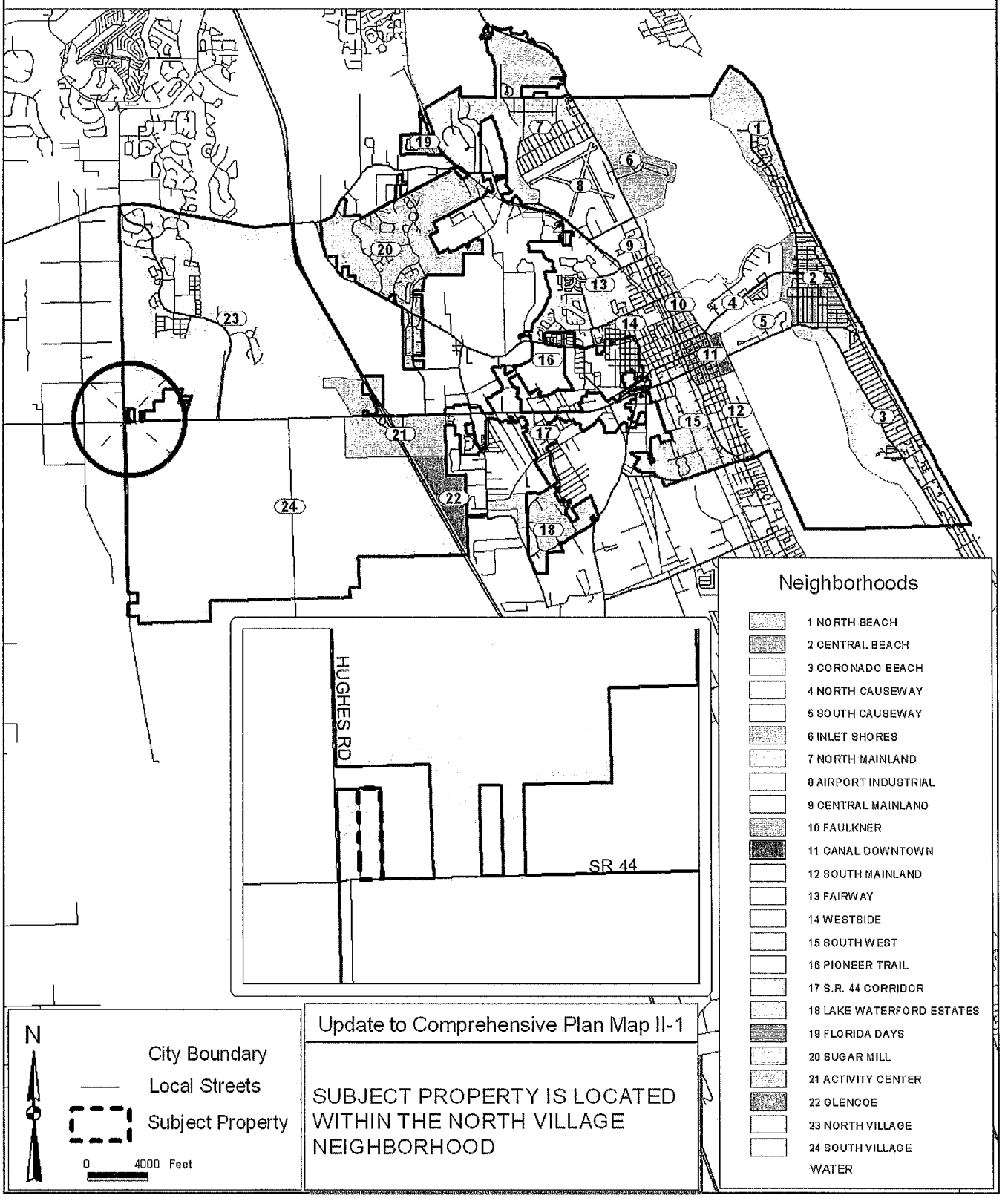
0 6000 Feet

WATER AND SEWER SERVICE AREA

2

Neighborhoods

A-19-11



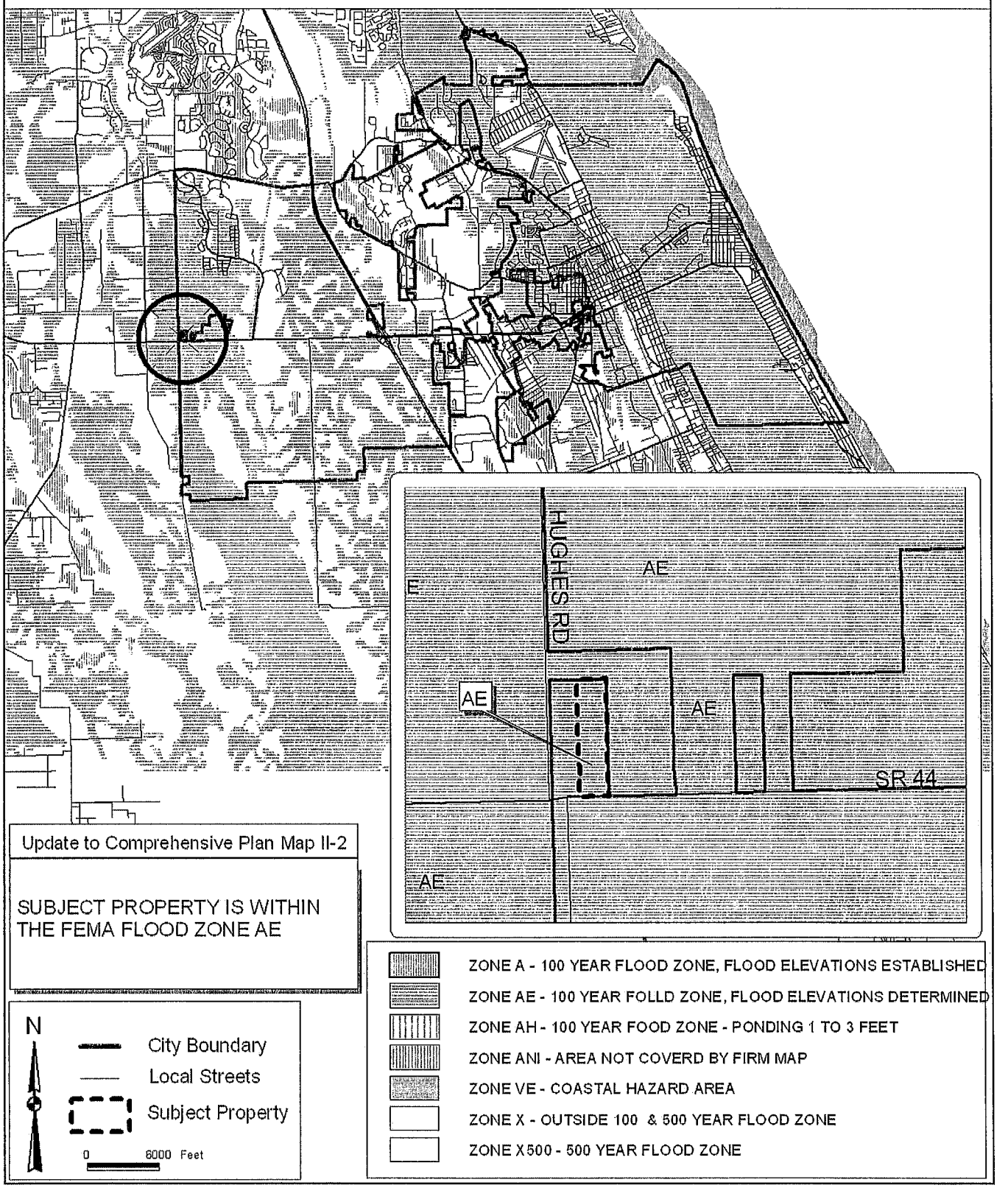
Update to Comprehensive Plan Map II-1

SUBJECT PROPERTY IS LOCATED WITHIN THE NORTH VILLAGE NEIGHBORHOOD

3

Flood Prone Areas

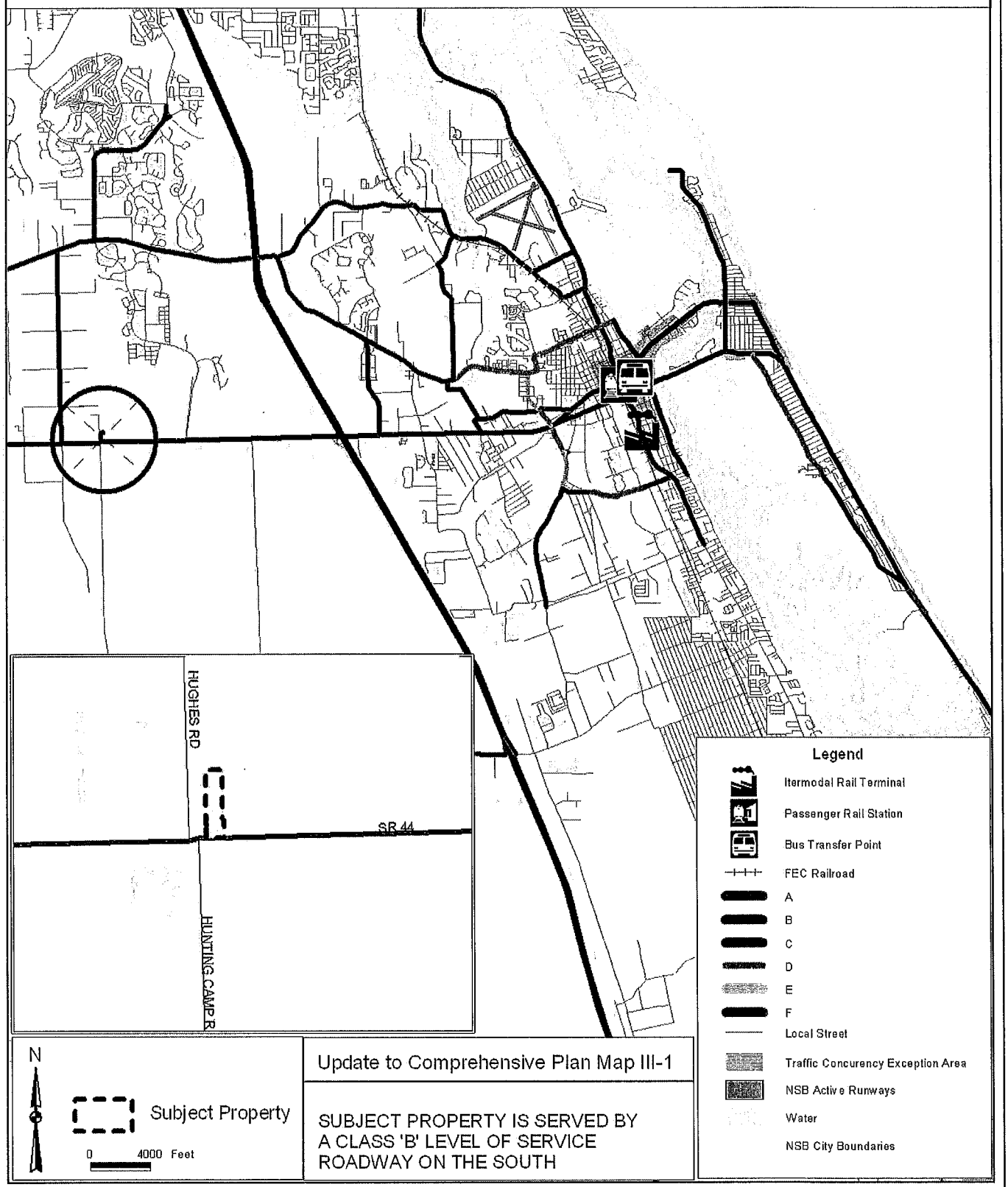
A-19-11



4

Existing Level of Service - 2009

A-19-11



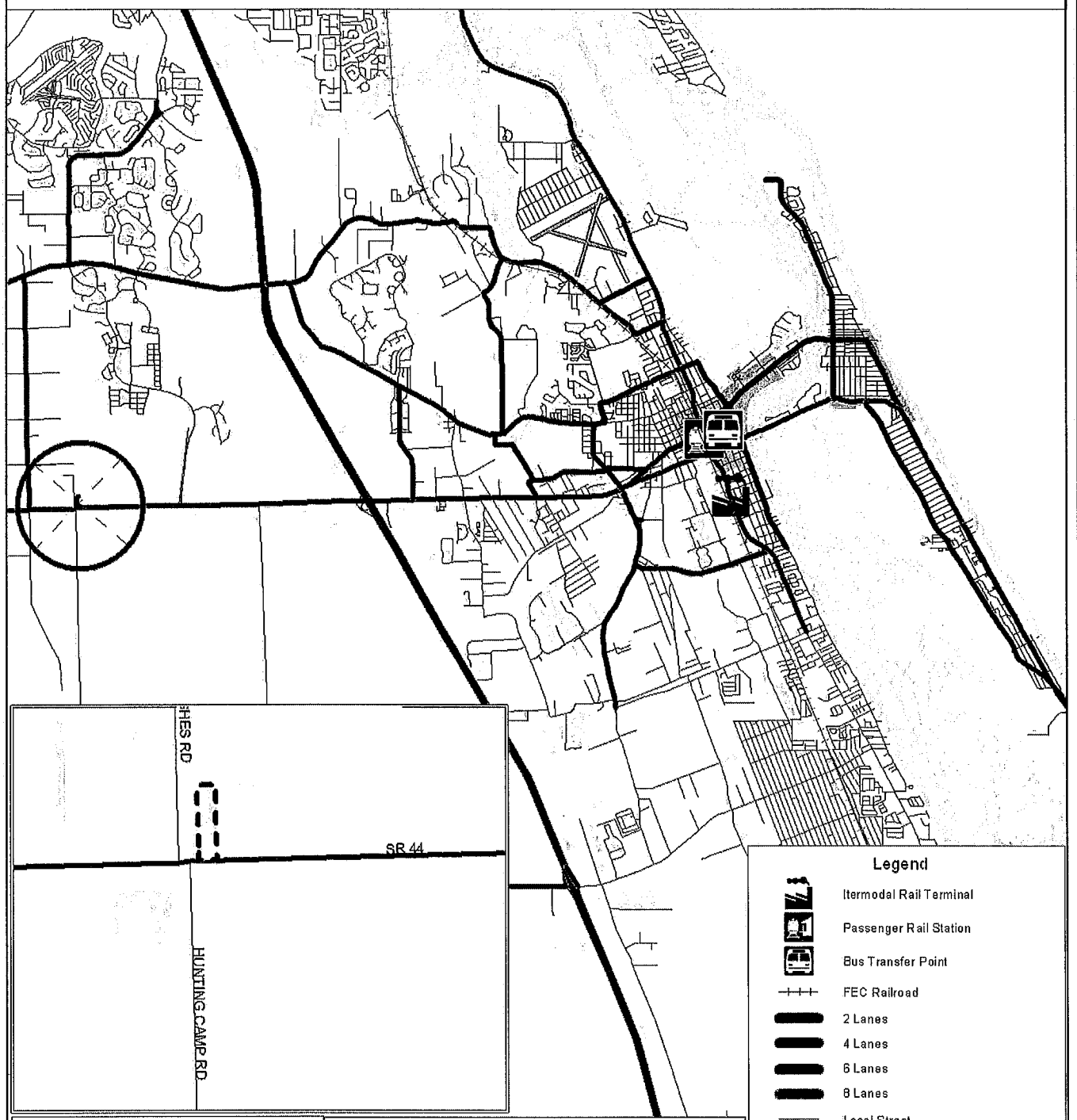
Update to Comprehensive Plan Map III-1

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

5

Existing Traffic Lanes - 2009

A-19-11



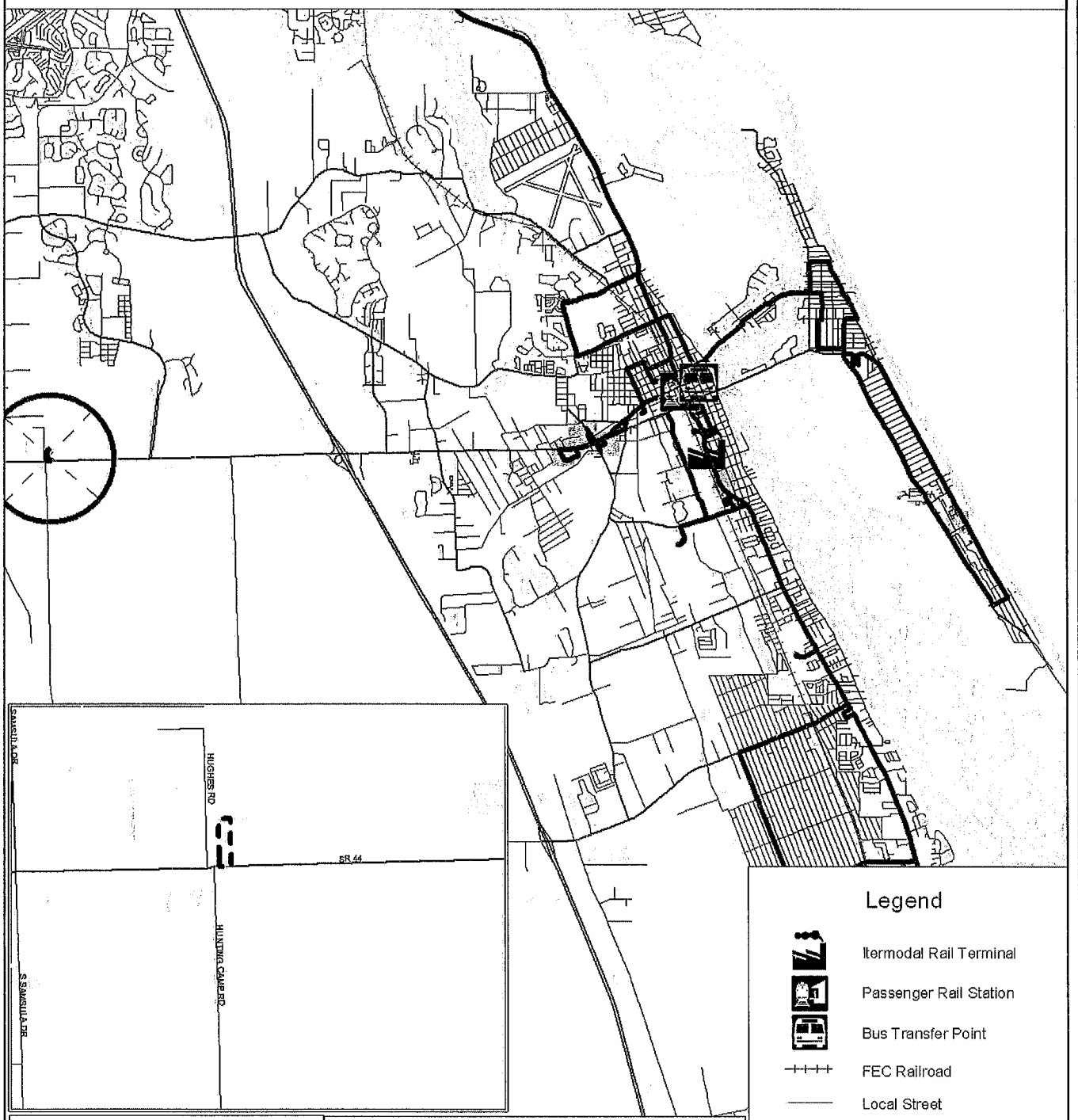
Update to Comprehensive Plan Map III-2

SUBJECT PROPERTY IS SERVED BY
A FOUR (4) LANE ROADWAY
ROADWAY ON THE SOUTH

6

Public Transit Routes

A-19-11



N

Subject Property

0 4000 Feet

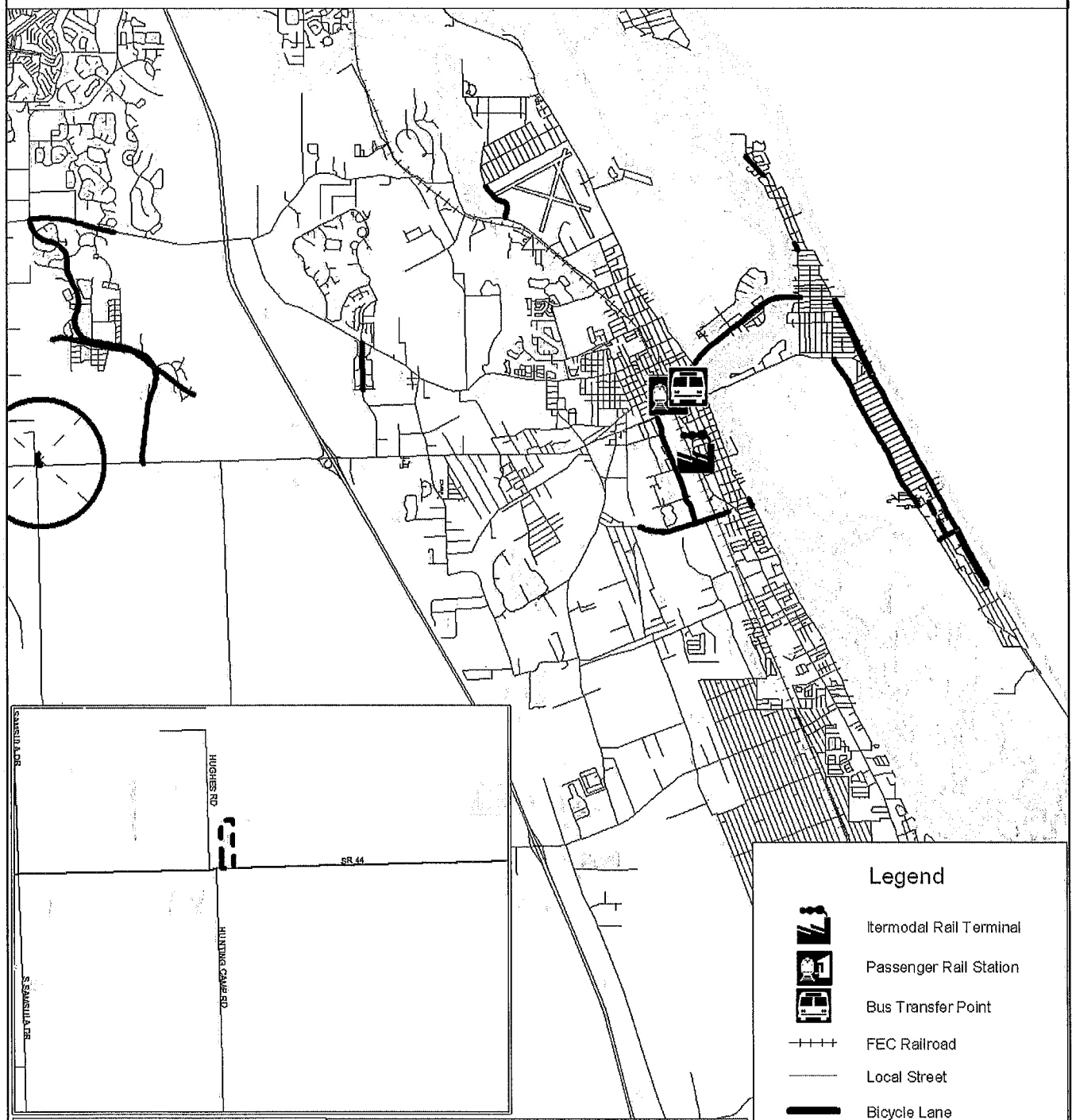
Update to Comprehensive Plan Map III-3

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

7

Bicycle and Pedestrian Facilities

A-19-11



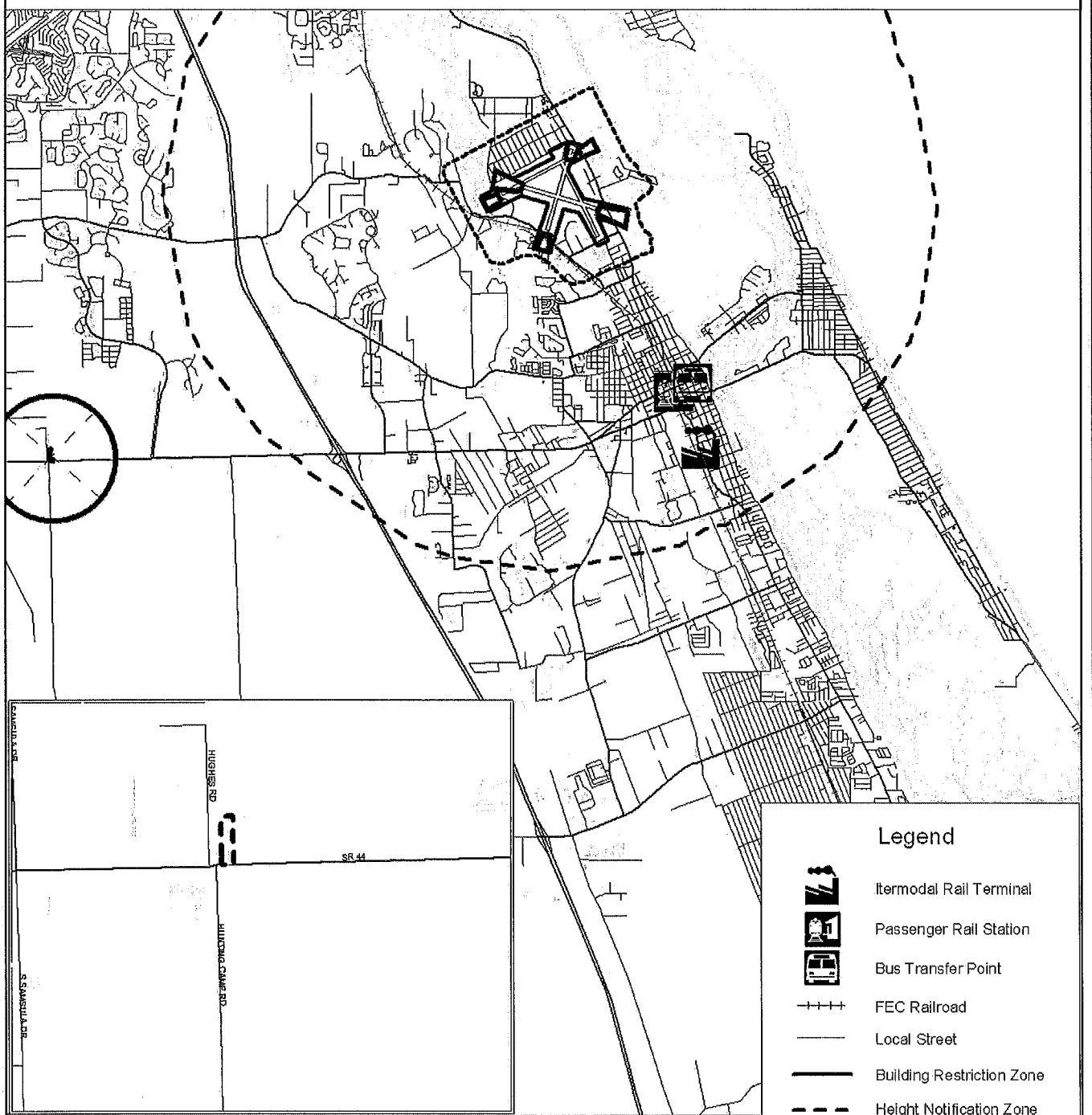
Update to Comprehensive Plan Map III-4

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

8

Airport Runway Protection Zones

A-19-11



N

Subject Property

0 4000 Feet

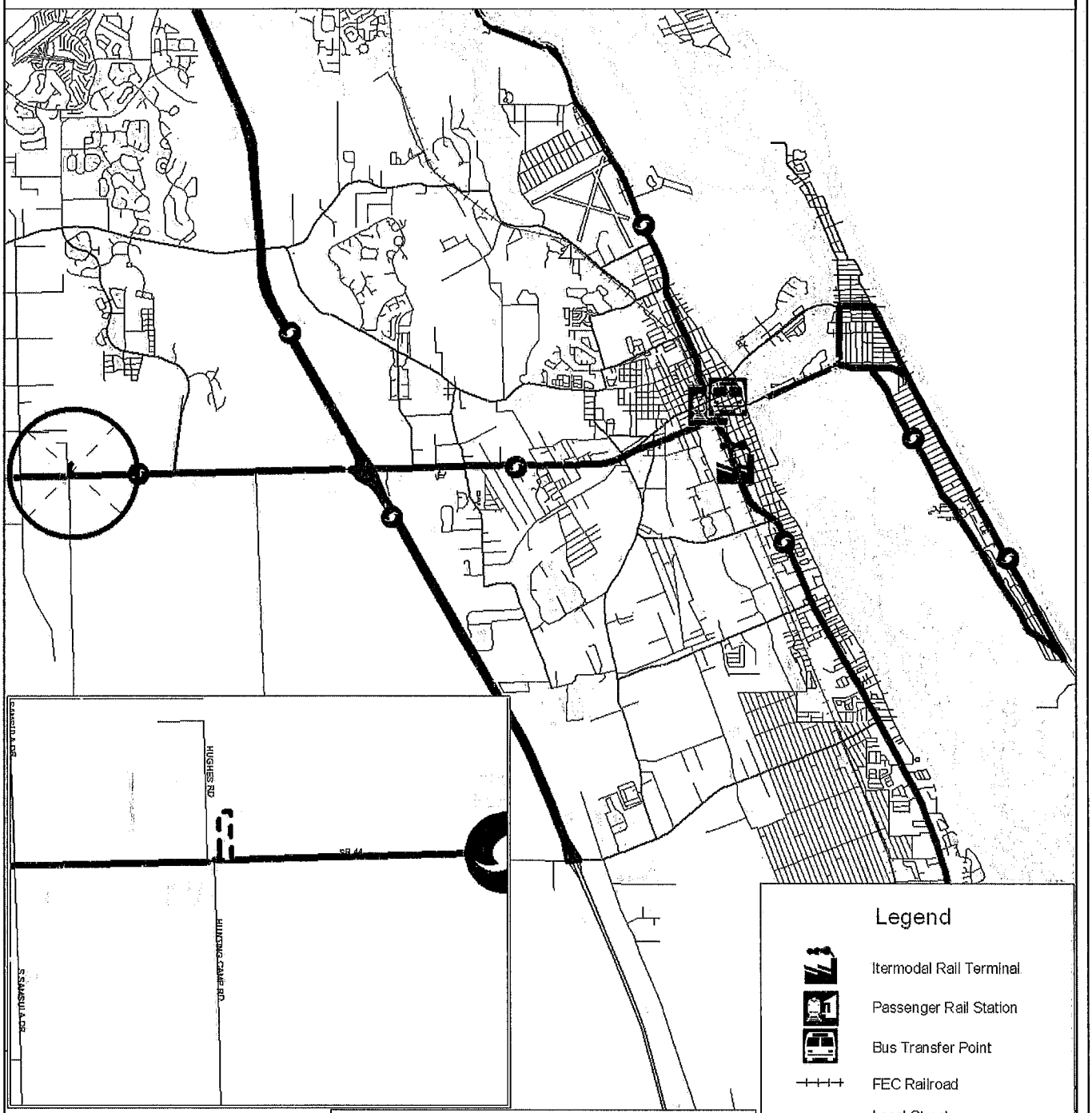
Update to Comprehensive Plan Map III-5

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

9

Evacuation Routes

A-19-11



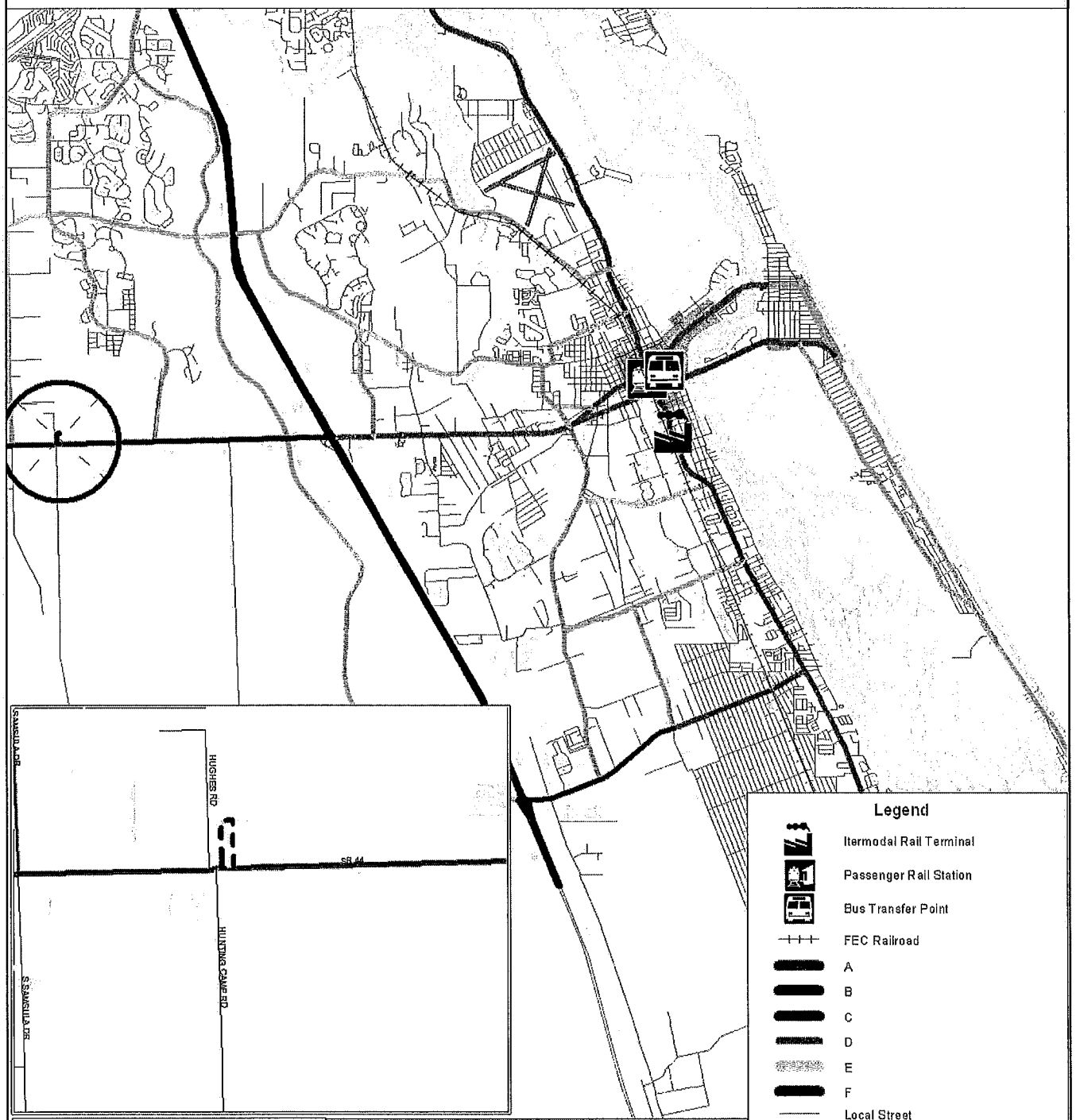
Update to Comprehensive Plan Map III-6

SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

10

Level of Service - 2025

A-19-11



N

Subject Property

0 4000 Feet

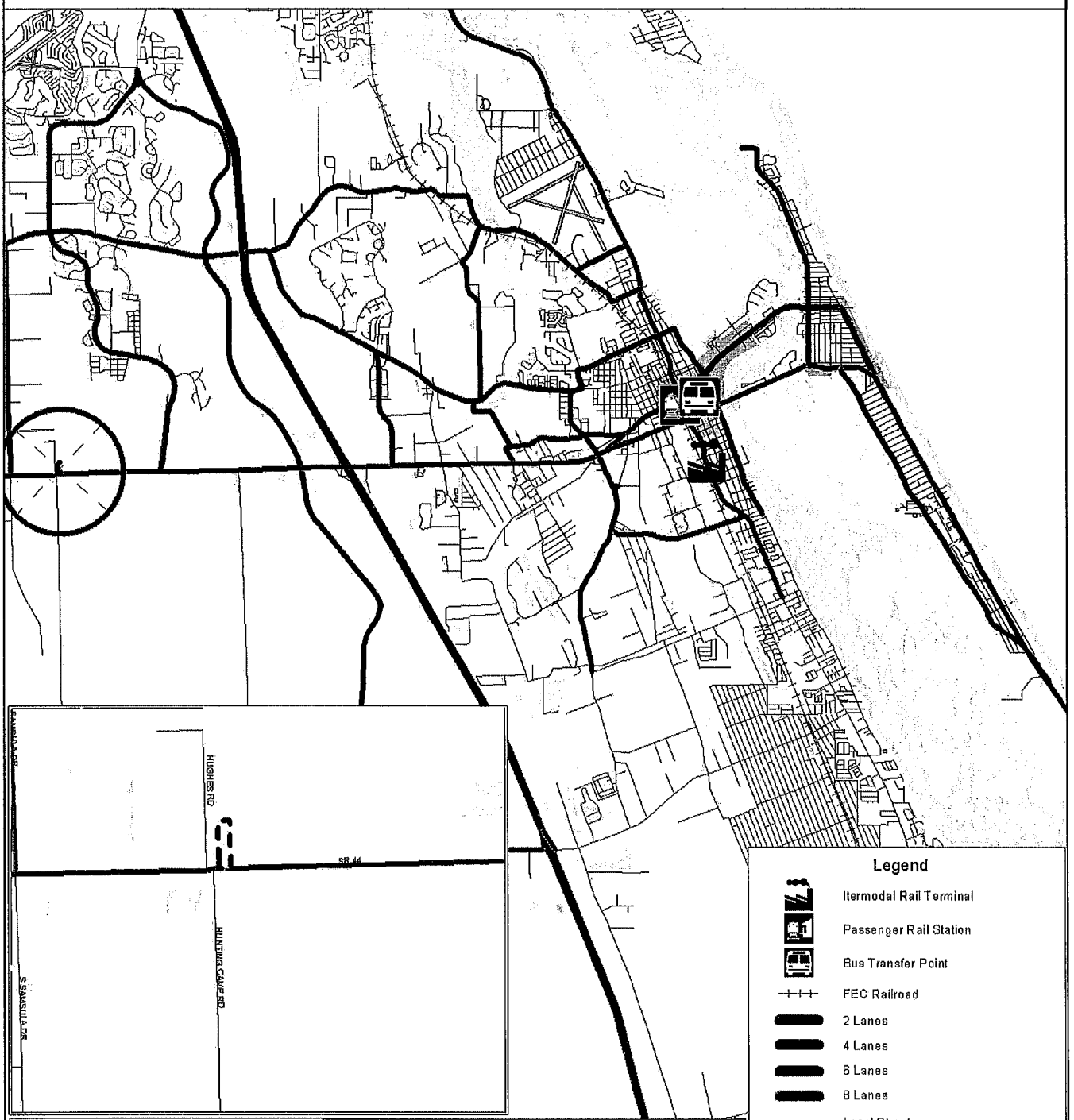
Update to Comprehensive Plan Map III-7

SUBJECT PROPERTY IS SERVED BY A CLASS 'C' LEVEL OF SERVICE ROADWAY ON THE SOUTH

11

Number of Traffic Lanes - 2025

A-19-11



N

Subject Property

0 4000 Feet

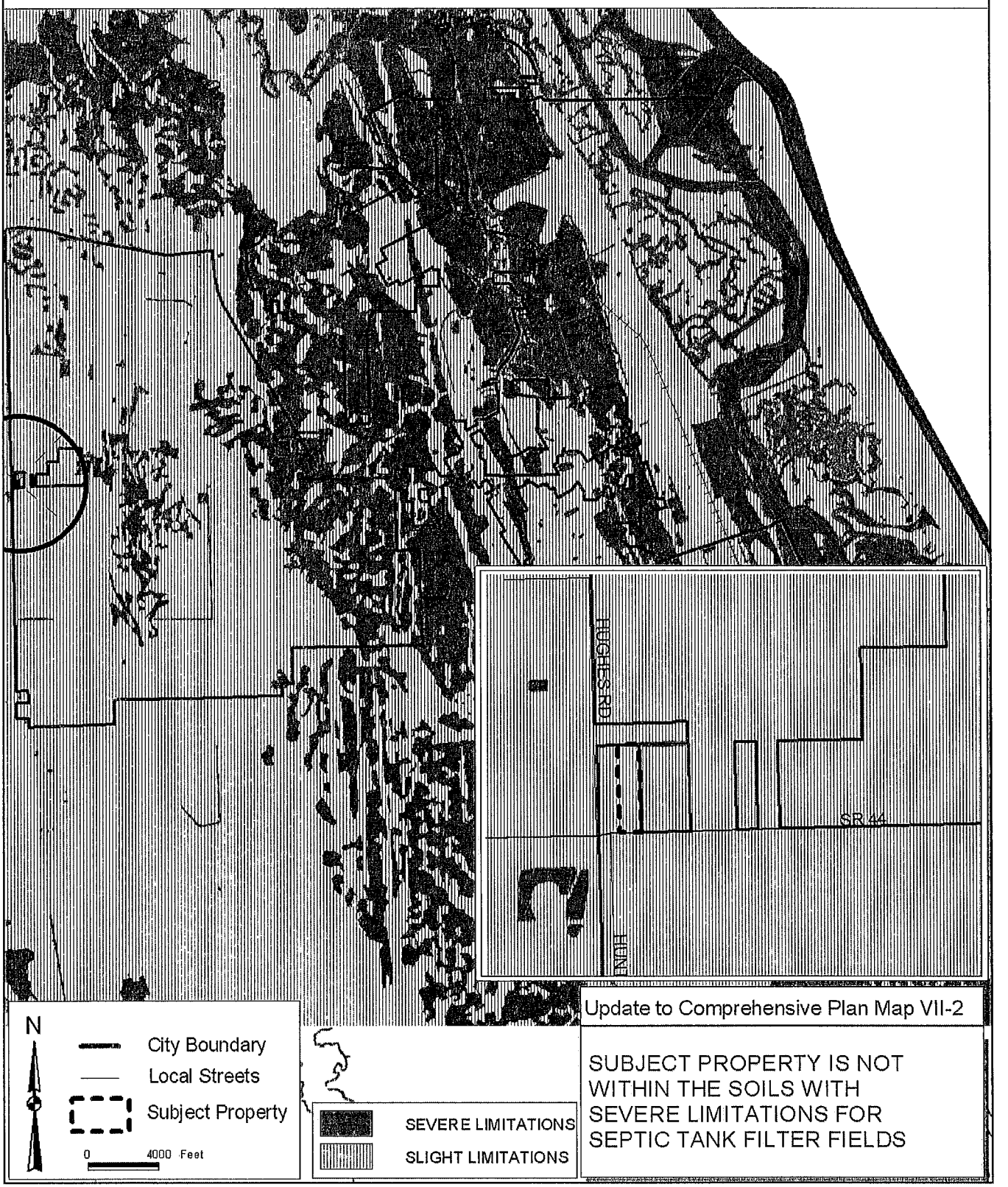
Update to Comprehensive Plan Map III-8

SUBJECT PROPERTY IS SERVED BY
A FOUR (4) LANE ROADWAY
ON THE SOUTH

12

Soil Limitation for Septic Systems

A-19-11



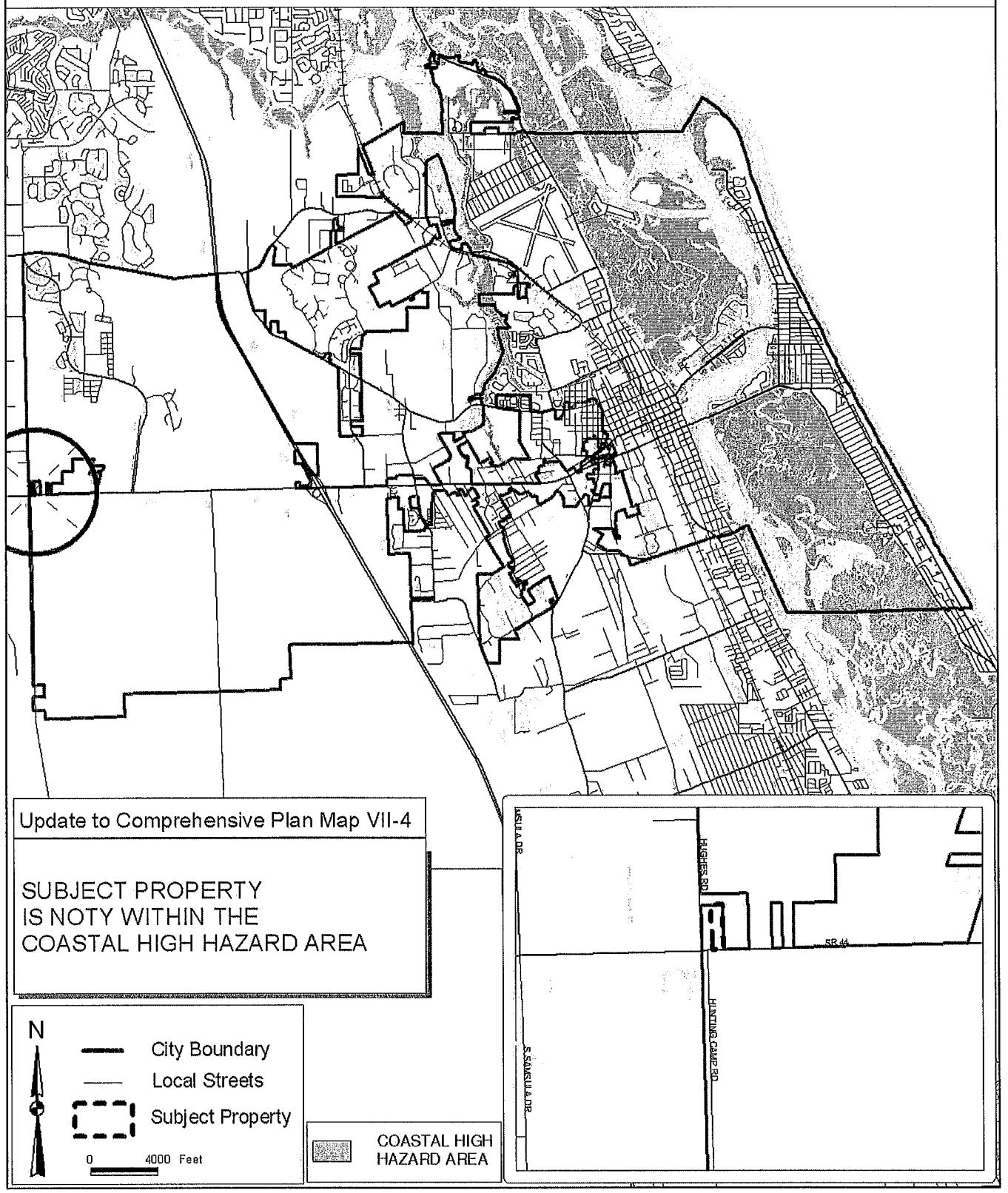
Update to Comprehensive Plan Map VII-2

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

13

Coastal High Hazard Areas

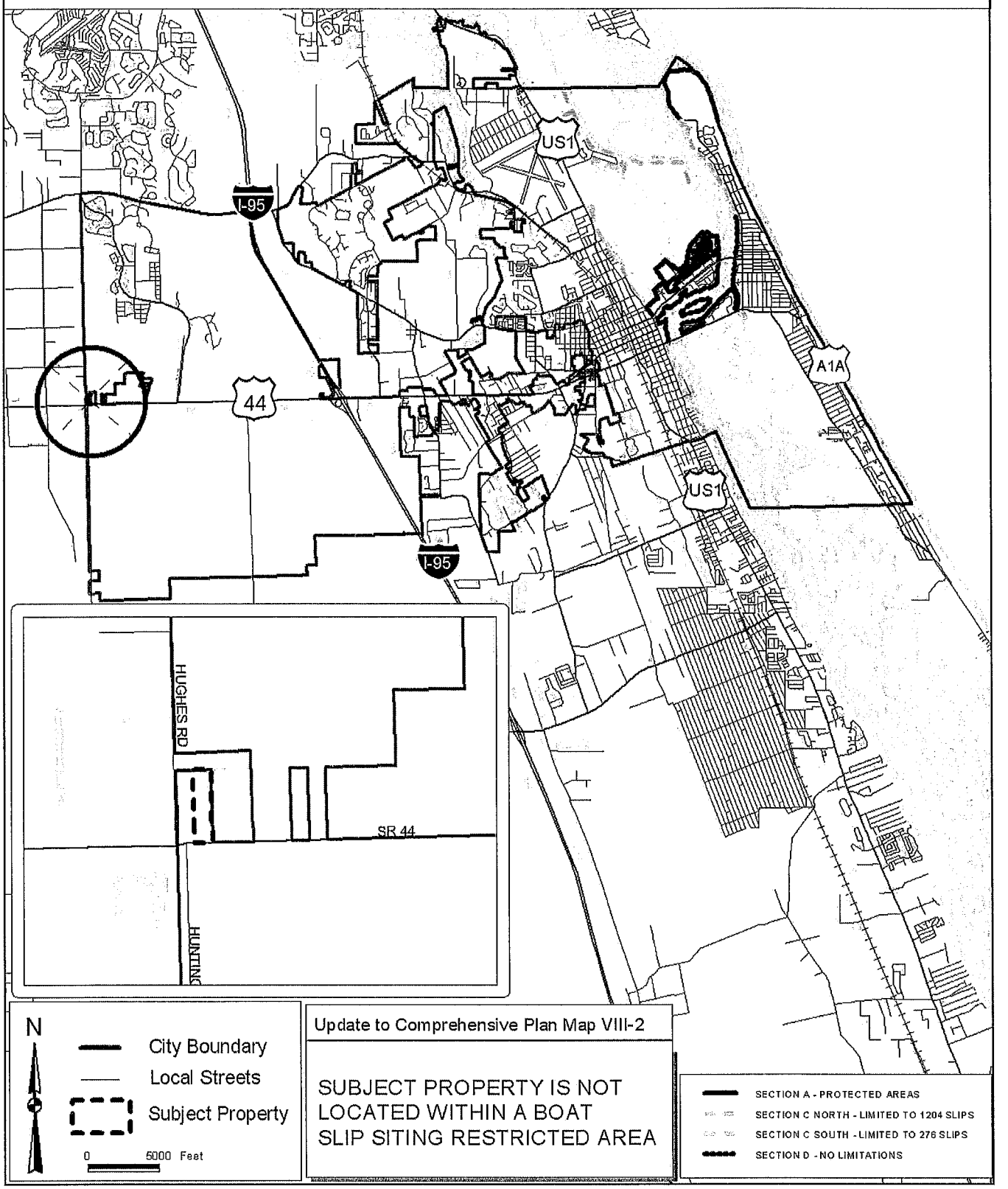
A-19-11



14

Boat Slip Siting

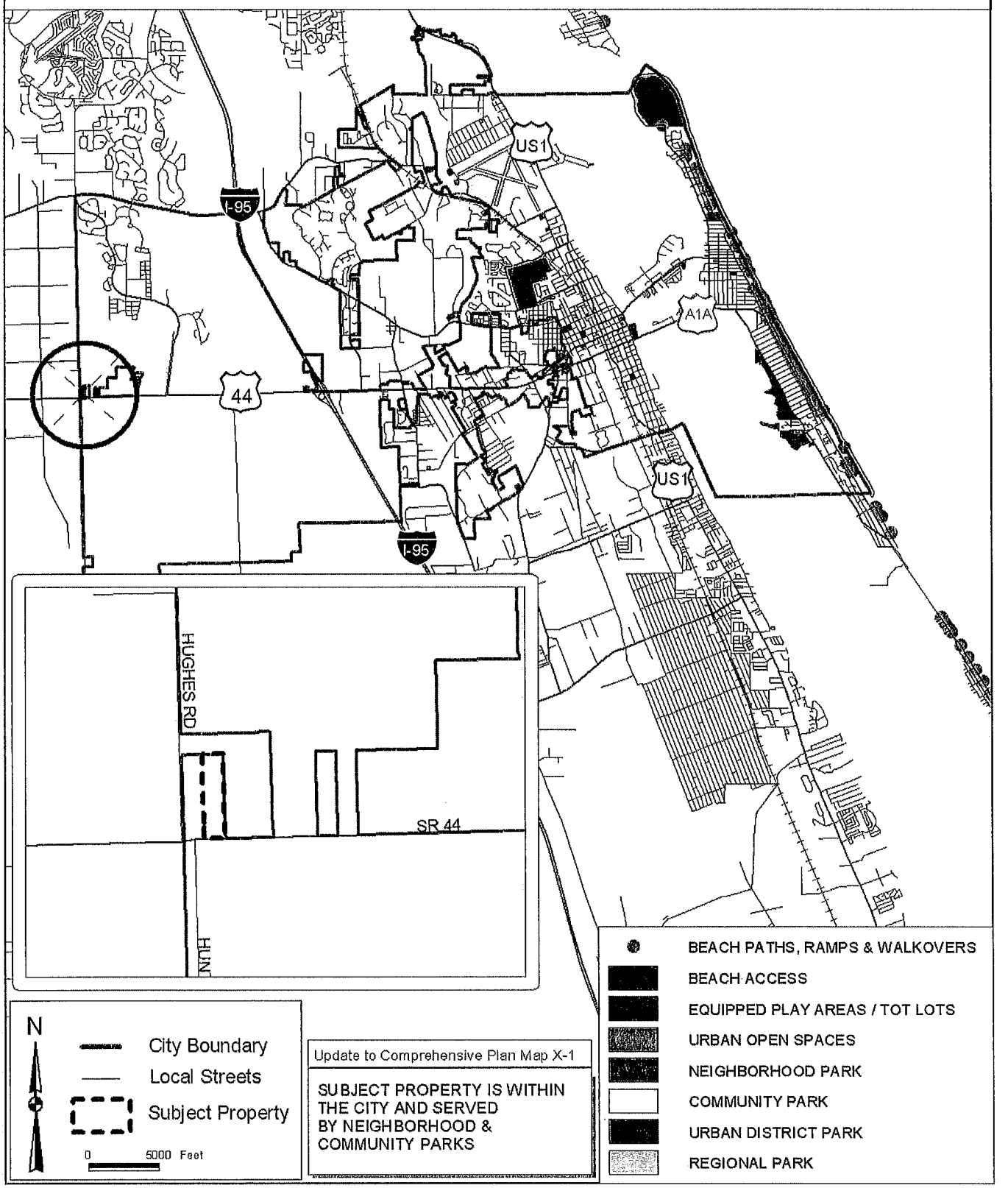
A-19-11



15

City Parks

A-19-11



A-19-11: ARMITAGE / STATE ROAD 44
HUGHES RD
SUBJECT PROPERTY
SR 44
HUNTING CAMP RD
N

CITY OF NEW SMYRNA BEACH – CITY COMMISSION

A-20-11: CITY OF NEW SMYRNA BEACH / TURNBULL BAY ROAD

DECEMBER 5, 2011

I. Background

A. **Applicant and Property Owner:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168

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

- **From:** County Future Land Use (FLU) designations of Conservation, Environmental Systems Corridor and Water; and County zoning designations of RA, Rural Agriculture Estate and MH-4, Rural Mobile Home
- **To:** City FLU designation of Agriculture; and City zoning A-2, Agriculture District

C. **Site Information:**

- **Size:** 4.1 acres
- **Location:** The subject property is generally located on the south side of Turnbull Bay Road, west of Malonee Road. (see **Exhibit A** for a location map).
- **Tax I.D. Number:** 7301-00-00-0020

II. Findings

A. The subject property is an approximately 4.1-acre vacant parcel. The parcel is part of a larger parcel, the northern portion of which has already been annexed into the City (**Exhibit B**). The property currently has three Volusia County Future Land Use (FLU) designations – Rural, Environmental Systems Corridor and Water. The Rural FLU designation permits up to one dwelling unit per 5 acres. The Environmental Systems Corridor Designation permits up to one dwelling unit per 25 acres. No dwelling units are permitted in the Water designation. The property is currently zoned Volusia County RA, Rural Agriculture Estate, which requires a minimum lot size of 2.5 acres, and County MH-4, Rural Mobile Home, which requires a minimum lot size of one acre. The surrounding future land use, existing uses, and zoning are as follows:

North

Future Land Use:	City Industrial, City Conservation and Water
Existing Land Use:	Vacant, Residential, Water, Industrial
Zoning:	City Conservation and City I-2, Heavy Industrial

Maps showing the proposed FLU and zoning changes are attached as **Exhibits H and I**. Descriptions of the proposed FLU and zoning designations are attached as **Exhibits J and K.**

D. This annexation request is within the City's annexation area and within the City's water and sewer service area. **Exhibit L** There is no water or sanitary sewer service available to the subject property at this time.

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 City owns the property and has no plans to develop the site, a concurrency analysis was not prepared. No concurrency failures are anticipated as a result of the proposed future land use amendment or rezoning.

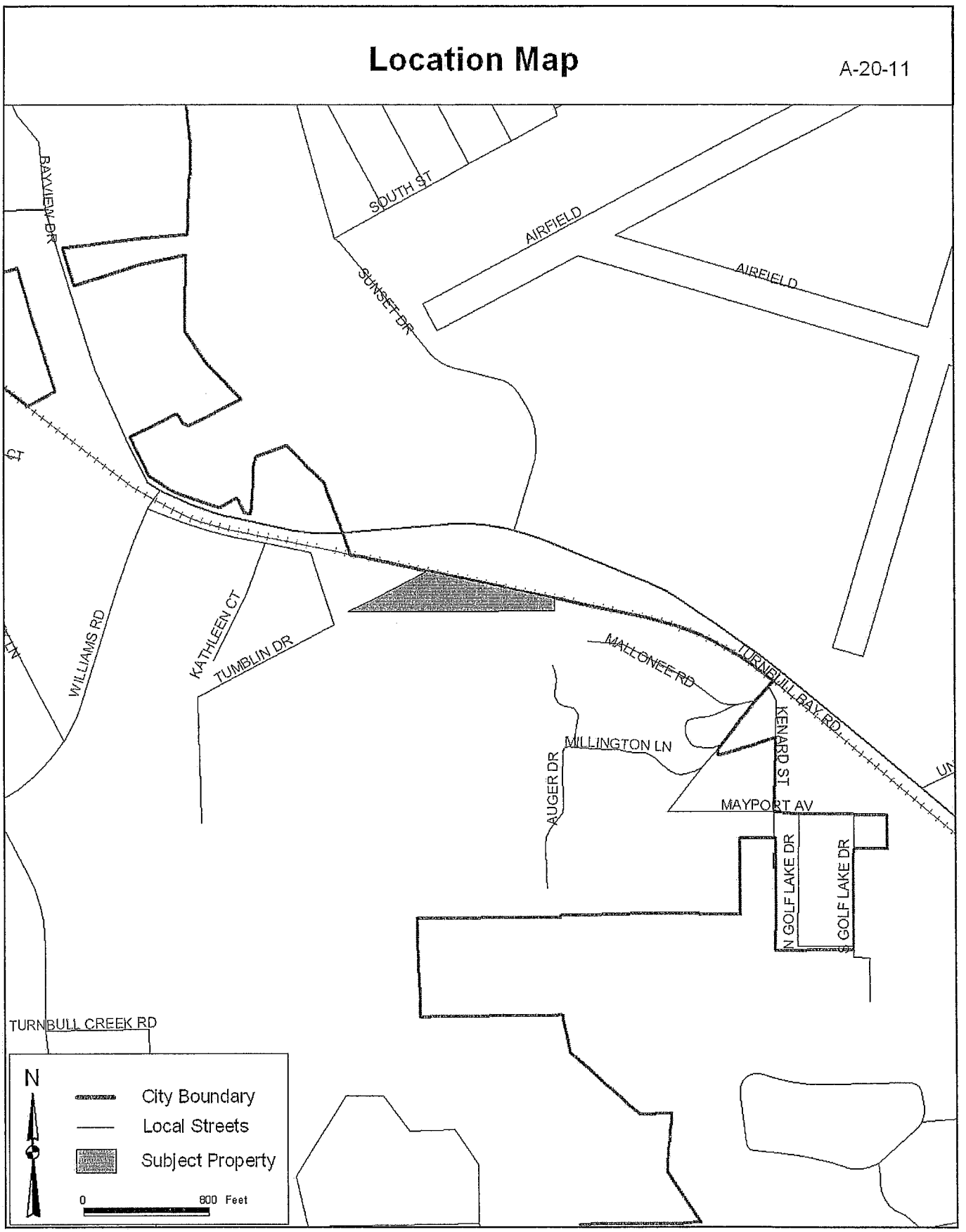
F. There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject properties into the *Comprehensive Plan* (see **Exhibits M through Z**). **Exhibit AA** is an aerial photo of the property for informational purposes.

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

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

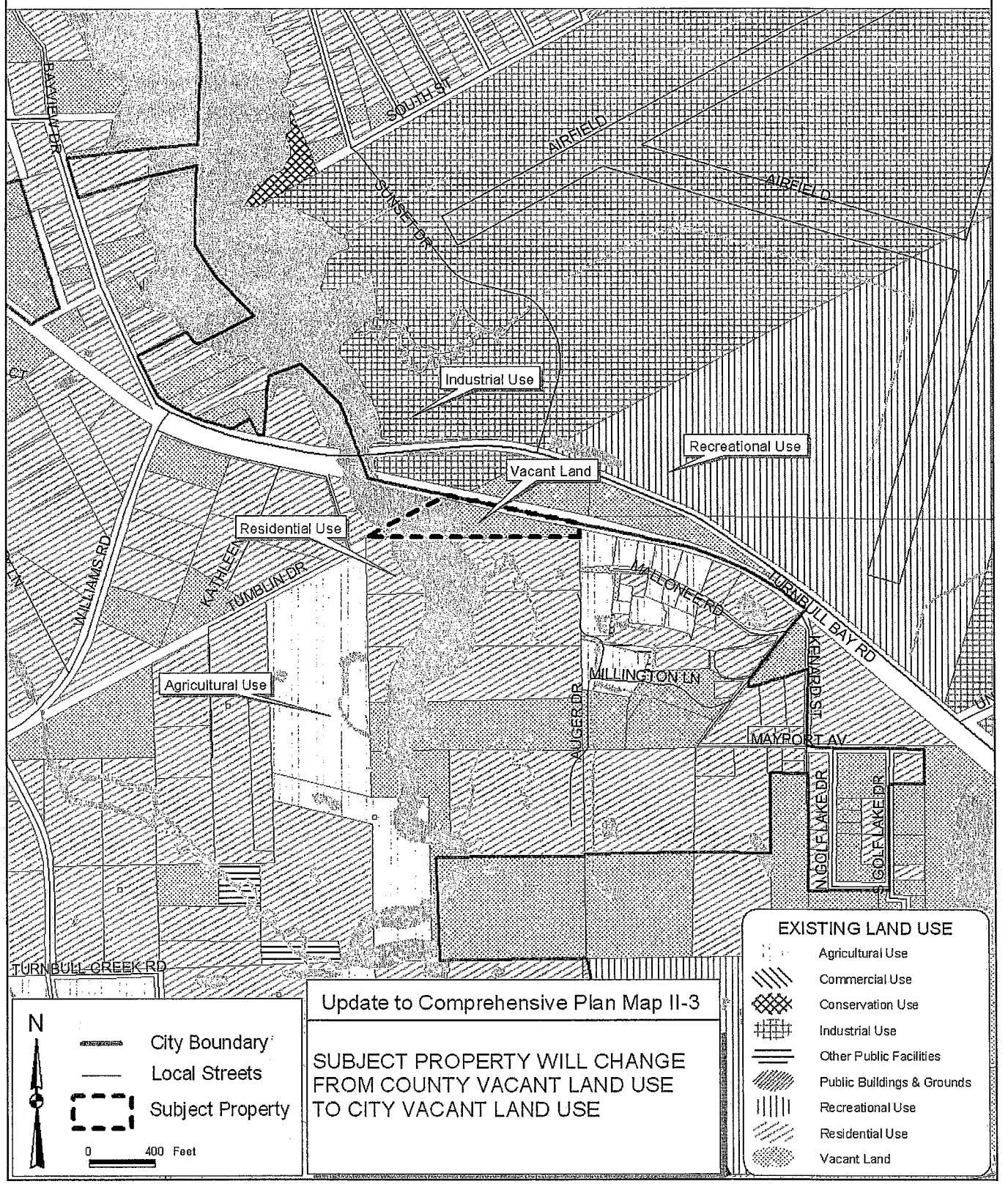
  The requested FLU designation for the subject property is consistent with proposed adjacent uses, natural limitations, and the availability of facilities and services. Therefore, it is consistent with the* Comprehensive Plan. *The property is bordered by low density single-family residential lands.

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


Location Map
A-20-11
BAYVIEW DR
SOUTH ST
AIRFIELD
AIRFIELD
SUNSET DR
WILLIAMS RD
KATHLEEN CT
TUMBLIN DR
MALONEE RD
TURNBULL BAY RD
MILLINGTON LN
AUGER DR
KENARD ST
MAYPORT AV
N GOLF LAKE DR
GOLF LAKE DR
TURNBULL CREEK RD
N
City Boundary
Local Streets
Subject Property
0
800 Feet

Existing Land Use Designations

A-20-11

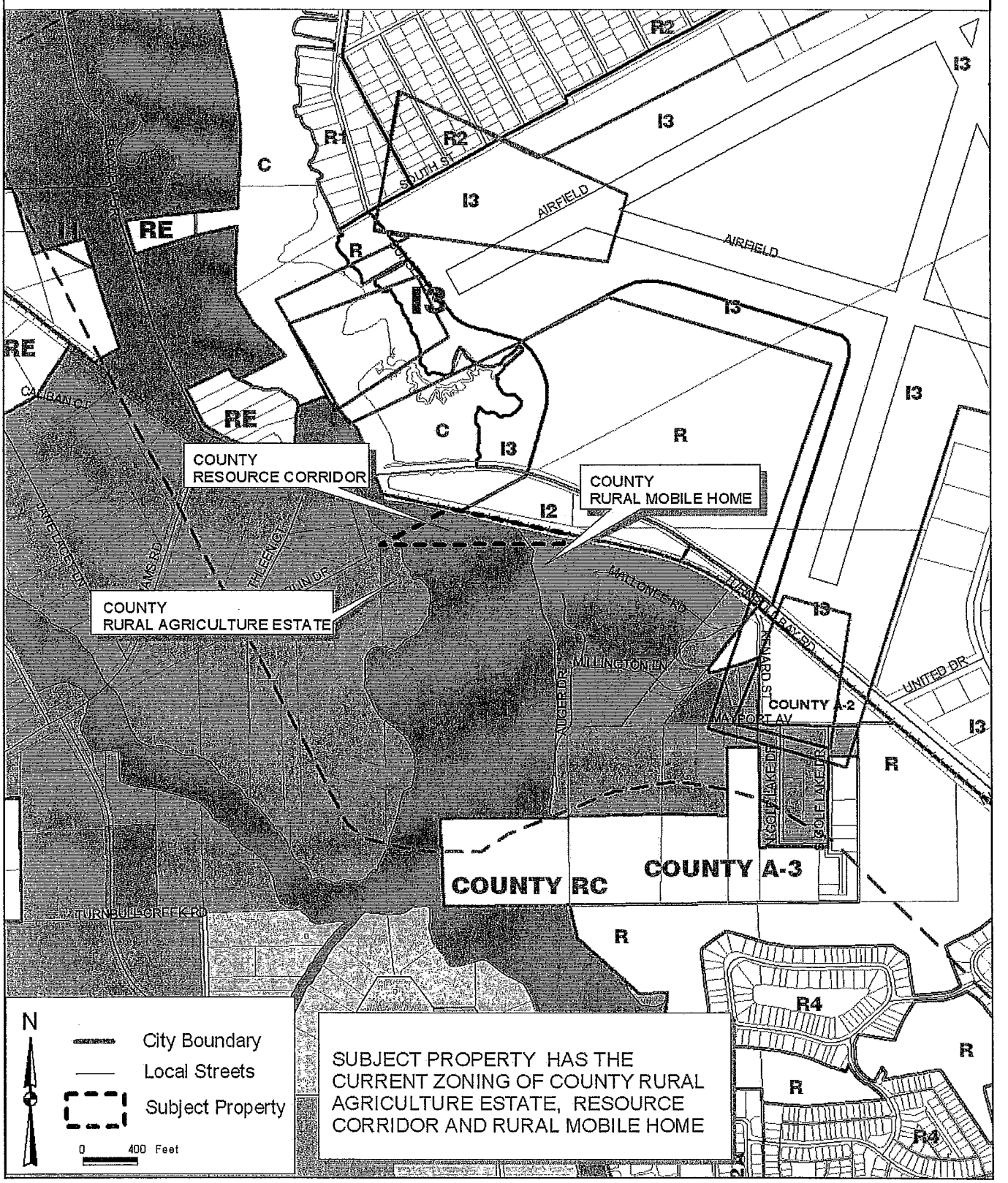


Update to Comprehensive Plan Map II-3

SUBJECT PROPERTY WILL CHANGE FROM COUNTY VACANT LAND USE TO CITY VACANT LAND USE

Existing Zoning

A-20-11



Environmental System Corridor (ESC) - This designation consists of important ecological corridors comprised of environmentally sensitive and ecologically significant lands. Land use activities occurring within these corridors shall not degrade these natural functions and connections. The intention is to provide protected, natural pathways which connect to other protected areas such as parks, conservation lands and water bodies. This inter-connection helps maintain the ecological integrity and ecodiversity of the County's vast natural resources.

ESC's shall include significant interconnected natural systems of environmentally sensitive lands, connecting to and including conservation areas where possible. The ESC's are not intended to include pre-existing improved, cultivated, or developed lands unless such lands contain unique or exceptional ecological value. Conservation and silviculture, utilizing Best Management Practices (BMP's), will be the preferred use, however, other compatible passive agricultural activities may also be permitted such as unimproved pasture. The primary consideration of compatible agriculture should be potential adverse impacts to the short and long term ecological stability of the system, as well as adjacent lands and waterways.

The Environmental System Corridor configuration displayed on the Future Land Use Map is intended to show a generalized location for the corridor. The actual boundaries will be established based upon site specific information and features.

(1) The maximum residential density shall not exceed one (1) dwelling unit per twenty-five (25) acres.

(2) The maximum Floor Area Ratio shall not exceed ten percent (0.10 FAR).

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

Dimensional requirements:
Minimum lot size:
Area: Two and one-half acres.
Width: 150 feet.
Minimum yard size:
Front yard: 45 feet.
Rear yard: 45 feet.
Side yard: 25 feet.
Waterfront yard: 45 feet.
Maximum building height: 35 feet.
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.
Minimum floor area: 1,000 square feet.

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

- Except for those permitted principal uses and special exceptions listed hereunder, all agricultural pursuits, including the processing, packaging, storage and sale of agriculture products which are raised on the premises; provided however, that the total land area devoted to agricultural uses, including improved pasture, does not exceed 20 percent of the total lot area zoned RC and further provided that the RC classified area does not comprise part of a lot classified for residential commercial or industrial use.
- Hunting camps.
- Kennels.
- Mobile home dwelling.
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to section 72-293(1)).
- Riding stables.

Dimensional requirements for lots, parcels and tracts of land zoned in its entirety as resource corridor.

Minimum lot sizes:
Area: 25 acres.
Width: 150 feet.

Minimum yard size:
Front yard: 50 feet.
Rear yard: 50 feet.
Side yard: 50 feet.
Waterfront yard: 75 feet.

Maximum building height: 45 feet.

Maximum lot clearance and coverage: Lot clearance can not exceed 20 percent. The area covered with principal and accessory buildings shall not exceed ten percent.

Minimum floor area: 750 square feet.

Dimensional requirements for lots, parcels or other tracts of land which are zoned a mixture of RC and another zone classification: In instances where Resource Corridor boundaries split existing lots parcels or tracts of land, the subject property may be subdivided into lots meeting the minimum lot area and width requirements of the zoning classification of the property not classified as Resource Corridor, providing that Resource Corridor classified lands are not counted as meeting part of the minimum lot area or lot width requirements of the other zone classification. In such instances, there shall be no minimum area or width requirements for the portion of the lot classified as RC. Development of lots classified as a mixture of RC and another zone classification shall be subject to the provisions of subsection 72-136(10) of this article.

Minimum lot size:
Area: No minimum for the portion of the lot classified as RC, providing that the minimum area requirement for the portion of the lot classified other than RC is met.
Width: No minimum for the portion of the lot classified as RC, providing that the minimum with requirement for the portion of the lot classified other than RC is met.

MH-4 RURAL MOBILE HOME CLASSIFICATION

Purpose and intent: The purpose and intent of the MH-4 Rural Mobile Home Classification is to provide for development, in a manner which is consistent with the comprehensive plan, in rural areas of the county and to accommodate existing areas that are predominantly a mixture of single-family and mobile home dwellings.

Permitted principal uses and structures: In the MH-4 Rural Mobile Home Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

- 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.
- Raising of crops and keeping of animals, including aviaries, apiaries, pisciculture and worm raising for personal use (not for resale), accessory to a single-family dwelling. The personal use restriction is not intended to apply to 4-H, FFA or similar educational projects.
- Single-family standard, manufactured or mobile home dwelling.

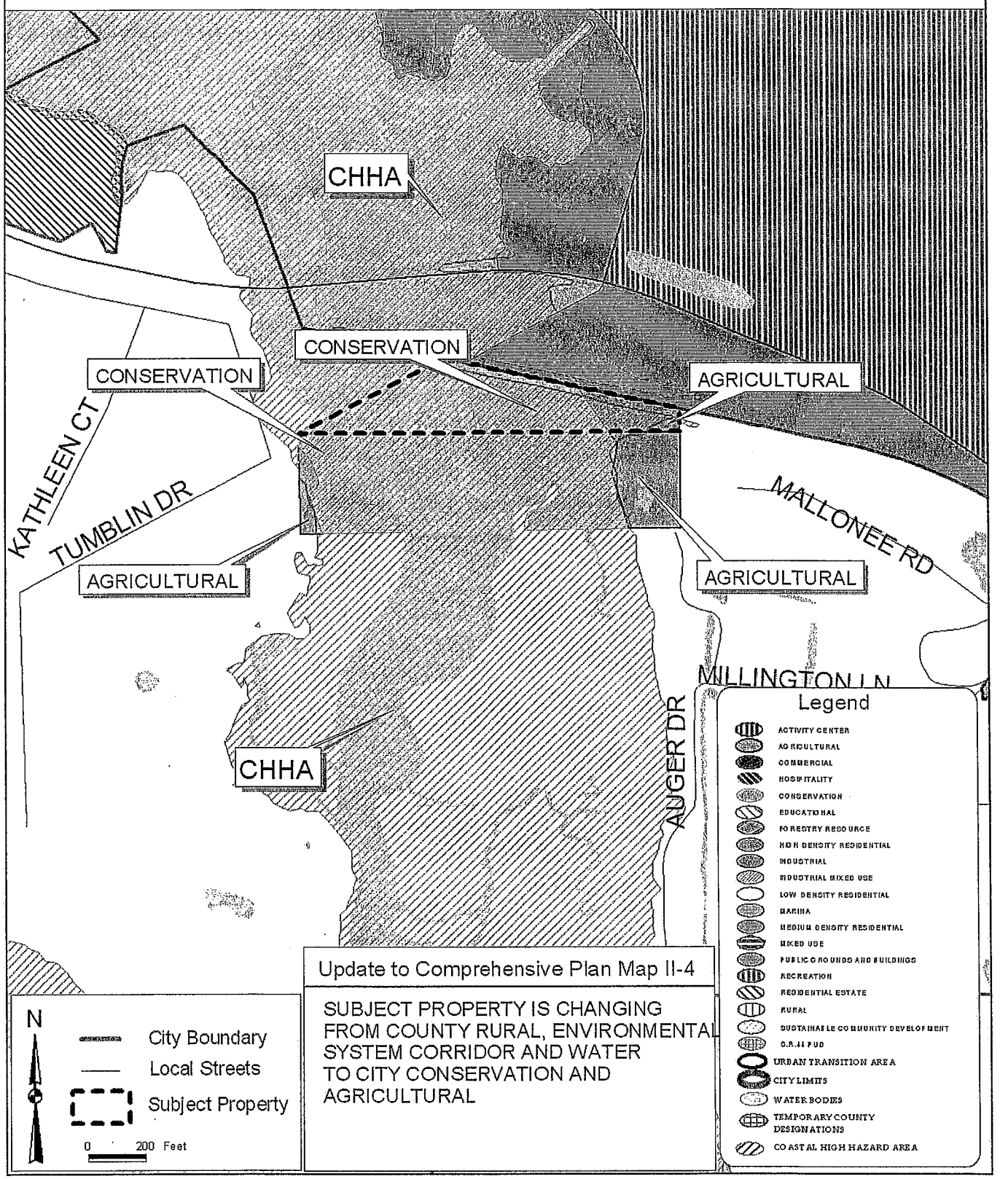
Permitted special exceptions: Additional regulations/requirements governing permitted special exceptions are located in sections 72-293 and 72-415 of this article.

- Animal shelters.
- Cemeteries (refer to subsection 72-293(4)).
- Communication towers exceeding 70 feet in height above ground level.
- Day care center (refer to subsection 72-293(6)).
- Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).
- Excavations only for stormwater retention ponds for which a permit is required by this article.
- Garage apartments.
- Home occupations, class B (refer to section 72-283).
- Kennels.
- Off-street parking areas (refer to subsection 72-293(14)).
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 72-293(1)).
- Recreational areas (refer to subsection 72-293(3)).

501

Proposed Future Land Use Designations

A-20-11



Update to Comprehensive Plan Map II-4

SUBJECT PROPERTY IS CHANGING FROM COUNTY RURAL, ENVIRONMENTAL SYSTEM CORRIDOR AND WATER TO CITY CONSERVATION AND AGRICULTURAL

CONSERVATION
Maximum allowed Floor Area Ratio (FAR): 0.10

The general boundaries of those areas known to require environmental protection from development have been designated as conservation on the Future Land Use Map. Designations are based on the best information available. Owners of lands designated as conservation on the Future Land Use Map may petition the City to adjust the boundaries of the conservation zone based upon a qualified biologist's determination of the boundaries made in accordance with §701.07 of the *Land Development Regulations*. The Planning and Zoning Department shall review the owner's petition and automatically adjust the Future Land Use Map to correctly represent said area and upland buffer. The Local Planning Agency's approval shall be required if the area to be changed is greater than five (5) acres. Environmentally sensitive areas shall include, but not be limited to, jurisdictional wetlands, wetland buffers, uplands included as part of designated environmental corridors, and public beaches.

AGRICULTURE
Maximum allowed density: Up to one (1) dwelling unit per acre
Maximum allowed Floor Area Ratio (FAR): 0.10

Intent: This category includes those lands used for crop or livestock production or other uses of the natural resources such as excavation. This category shall also include low-intensity uses such as a large-lot single-family residential development and recreational uses.

(c) No dwelling used as a farmworker living facility shall be closer than 100 feet to any property line of the premises on which it is placed.

(d) If not already in existence, a visual screen of natural plant materials meeting the requirements of Section 604.05 F. located between the dwellings and all adjoining property lines, shall be constructed and maintained.

(e) Potable water and sewage disposal facilities shall be in compliance with all applicable provisions of Florida law and the City's comprehensive plan.

(f) The area between the ground and the floor of a mobile home dwelling used as a farmworker living facility shall be enclosed with skirting.

(g) No subsequent expansion of a farmworker living facility as shown on the approved site plan for the special exception for shall be allowed unless another special exception for the expansion is approved. However, subsequent decrease of the approved sites are permitted.

(h) The applicant shall provide information to the enforcement official as to the kind of agricultural operation existing on the premises at the time of application for the farmworker living facility.

(i) Dwellings may be arranged in a cluster fashion on the premises. The maximum number of dwellings authorized will be based on the size of 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

Houses of Worship and Cemeteries provided no principal or accessory building shall be located less than 50 feet from any property line.

Humane Society/animal shelters provided that no building is located closer than 50 feet from the property line.

Kennels

Sawmills and Planing Mills

Dimensional Requirements:

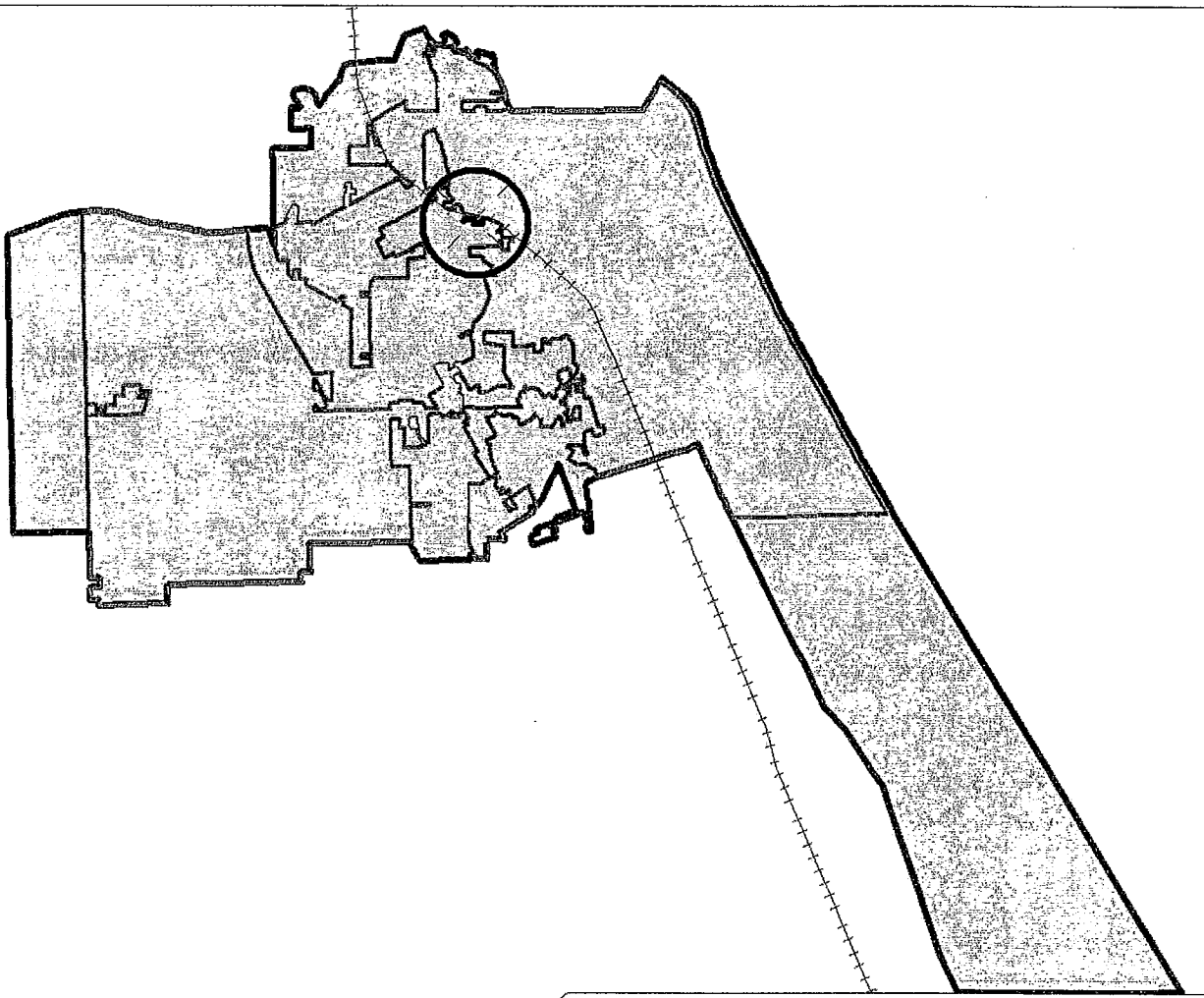
Minimum Lot Size:

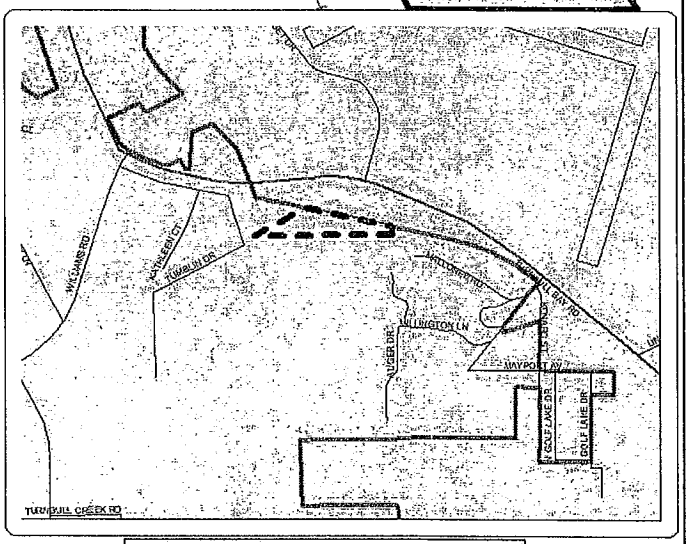
Area	5 acres
Width	150 feet

1

Water & Sewer Service Area

A-20-11





WATER AND SEWER SERVICE AREA

Update to Comprehensive Plan Map VII-1

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

N

City Boundary

Local Streets

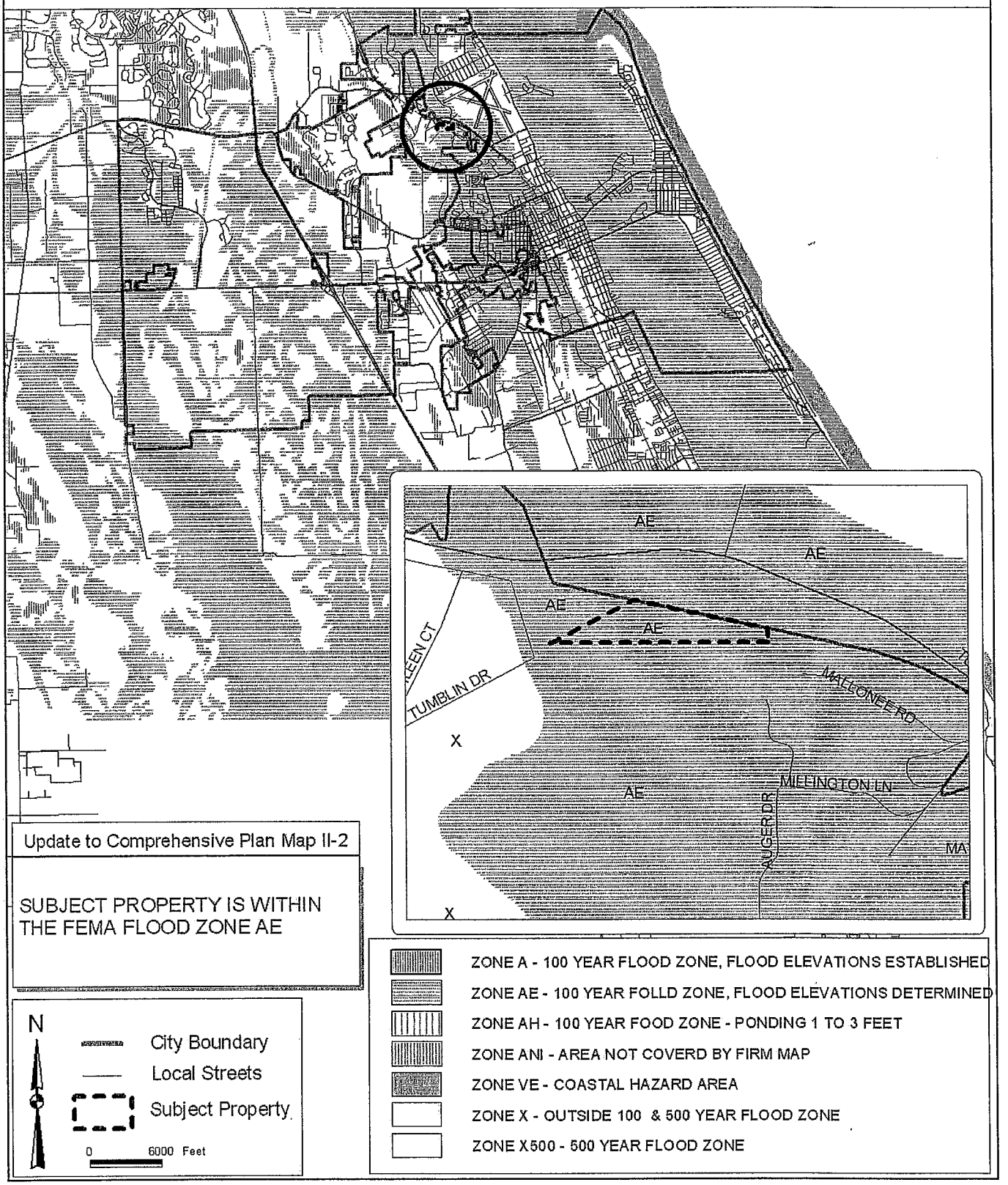
Subject Property

0 6000 Feet

3

Flood Prone Areas

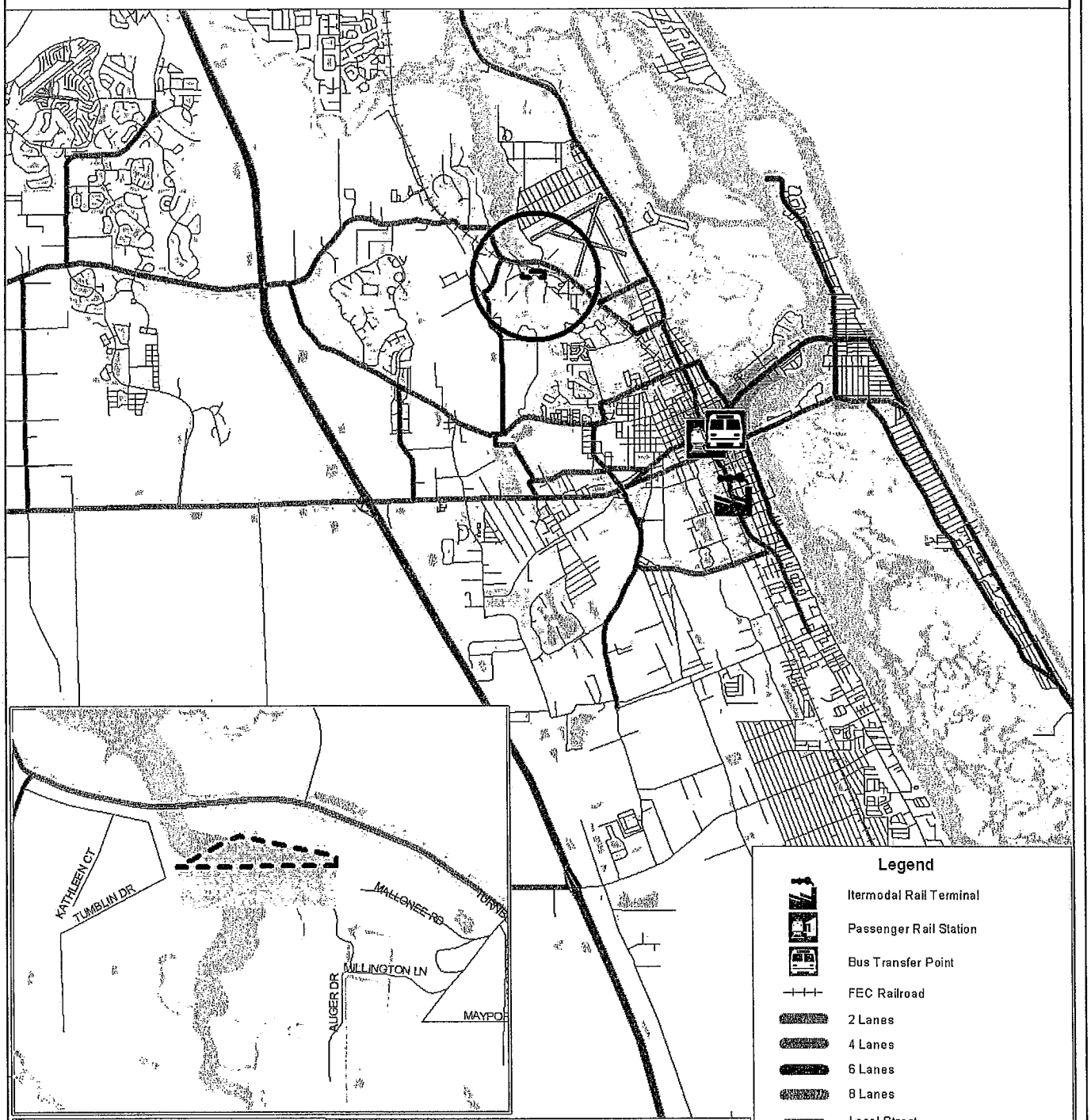
A-20-11



5

Existing Traffic Lanes - 2009

A-20-11



N

Subject Property

0 4000 Feet

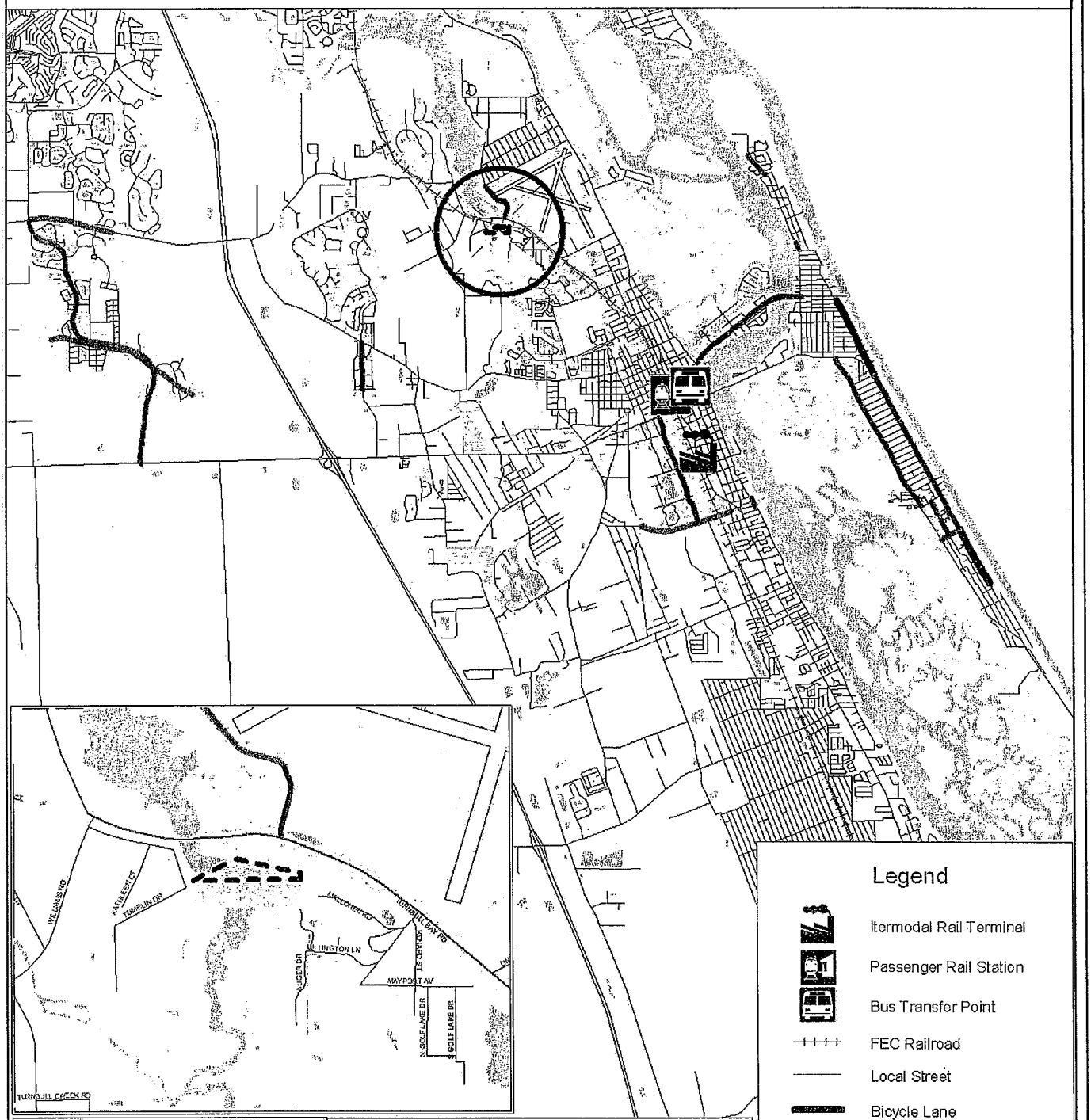
Update to Comprehensive Plan Map III-2

SUBJECT PROPERTY IS SERVED BY
A TWO LANE LOCAL STREET
ON THE NORTH

7

Bicycle and Pedestrian Facilities

A-20-11



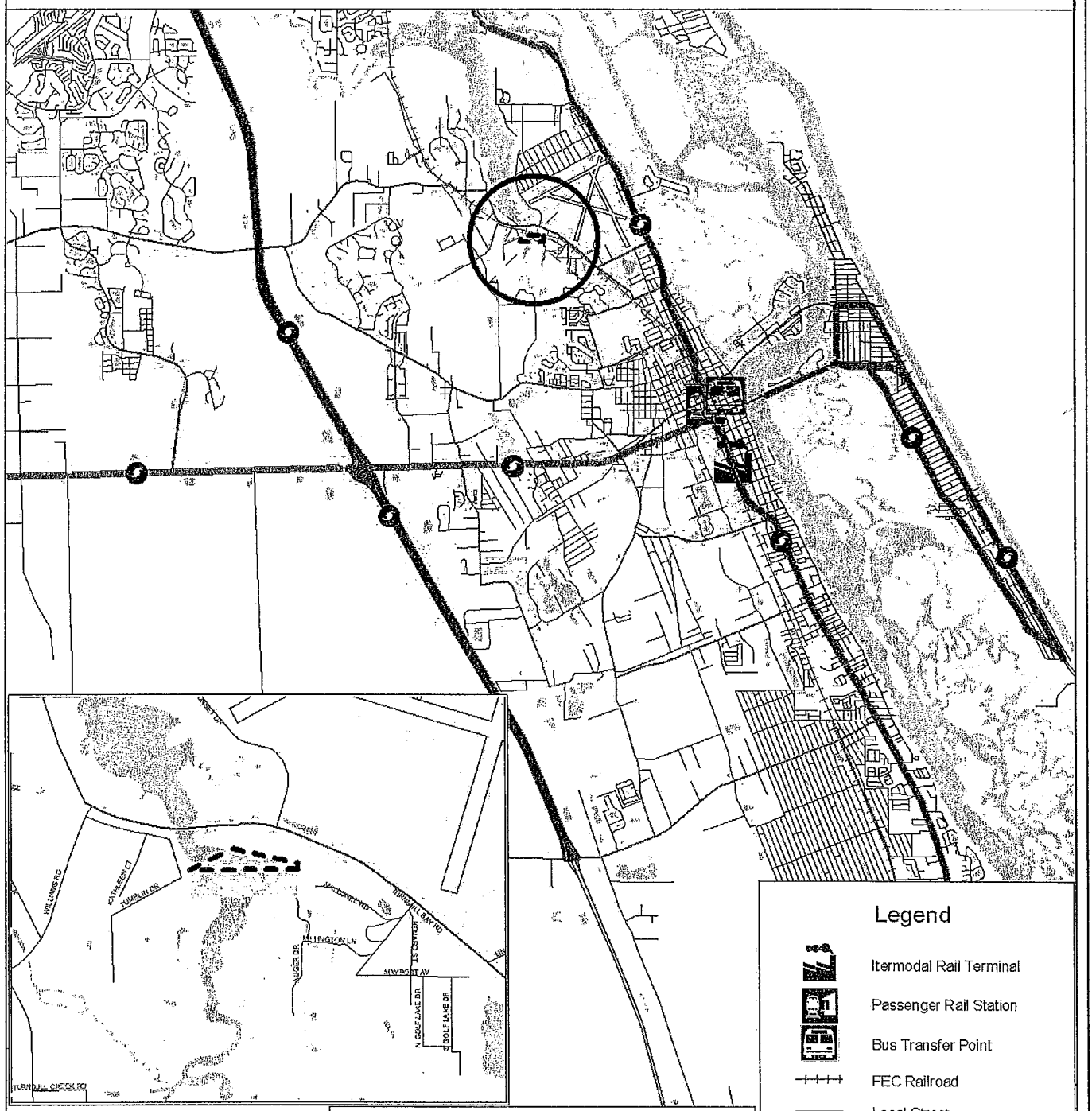
Update to Comprehensive Plan Map III-4

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

9

Evacuation Routes

A-20-11



Legend

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

N

Subject Property

0 4000 Feet

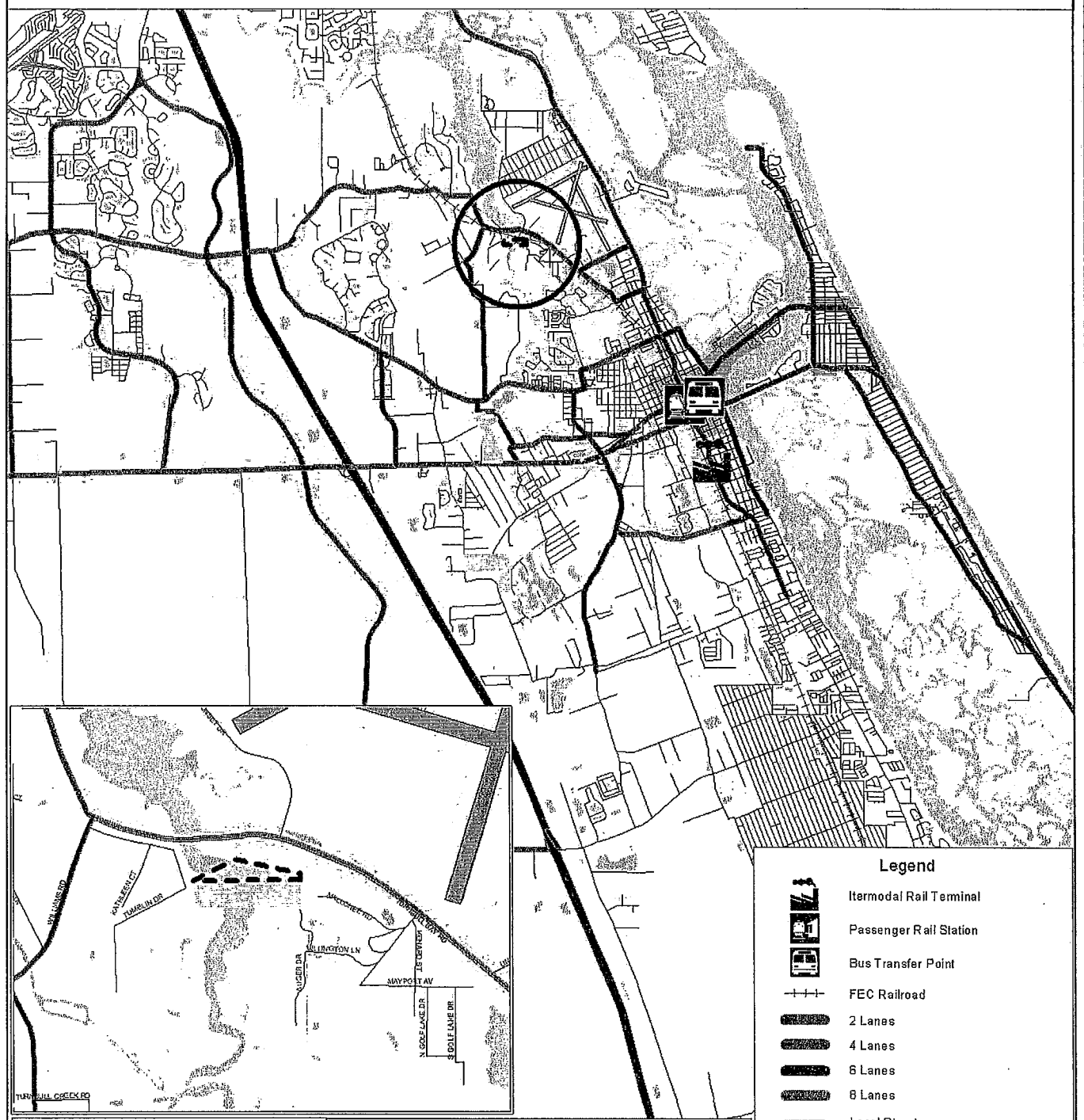
Update to Comprehensive Plan Map III-6

SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

11

Number of Traffic Lanes - 2025

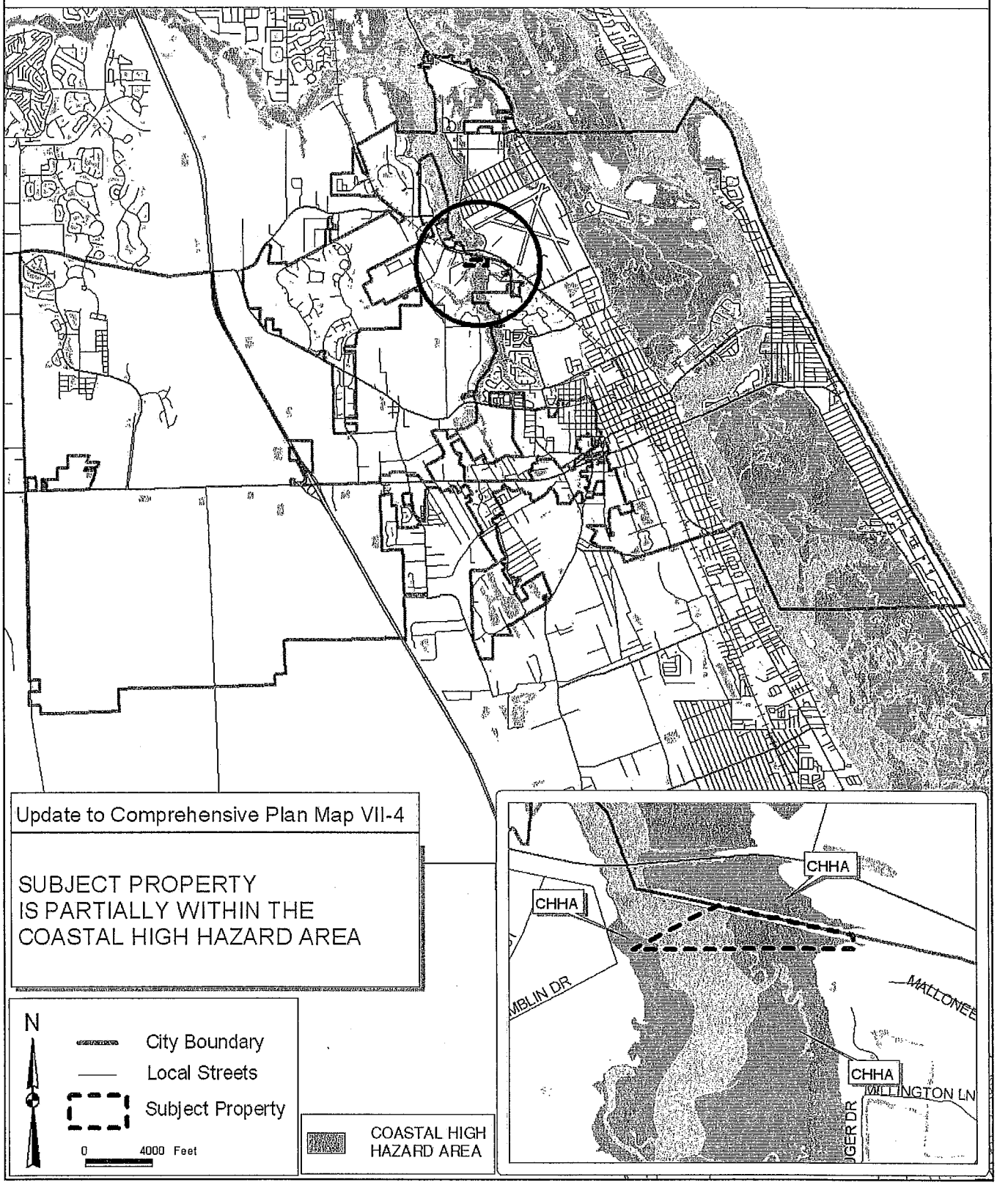
A-20-11



13

Coastal High Hazard Areas

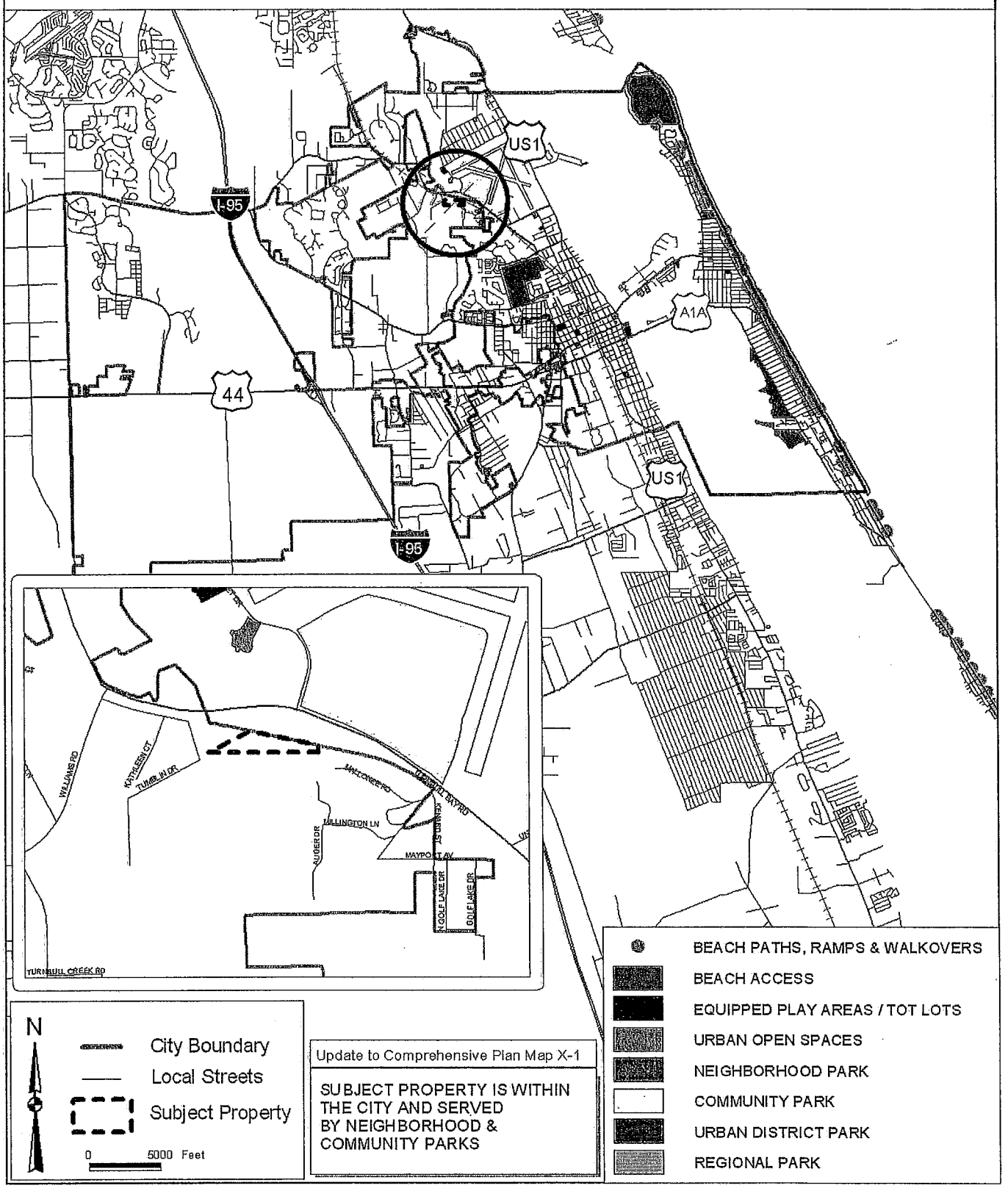
A-20-11



15

City Parks

A-20-11



CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES

V-12-11: FERBER / 735 3RD AVENUE

December 5, 2011

I. Summary

A. **Applicant:** Paul S. Ferber, 151 Sawgrass Corners Drive, Unit 202, Ponte Vedra Beach, Florida 32082

B. **Property Owner:** Morse Realtor Inc, 861 West Morse Boulevard, Unit 250, Winter Park, Florida 32789

C. **Requests:**

1) A variance to reduce the required side yard setback along the east property line from 25 feet to 5 feet.

D. **Site Information:** The subject property is zoned B-5, Planned Shopping Center District, contains approximately 0.6 acres and is generally located on the south side of Third Avenue, between Saxon Drive and State Road A1A. (see Location Map attached as **Exhibit A**).

E. **Tax I.D. Numbers:** 7416-05-28-0130

II. Findings

A. The subject property is an approximately 0.6-acre site. To the north of the subject property is the New Smyrna Beach Little Theater and a Utilities Commission water storage tank. The other three sides are surrounded by the Indian River Shopping Center. The site is fully developed and currently contains a restaurant.

B. The applicant has submitted site plans for the existing site and for a proposed bank with three drive through lanes on the site. (**Exhibits B & C**).

C. Per the City's *Land Development Regulations,* buildings in the B-5 zoning district must be setback 25 feet from the property line shared with any non-residential property and a minimum of 50 feet from the right-of-way.

D. The applicant requests a variance to the 25 foot minimum setback to construct a building with a 5 foot setback from the east property line. The property to the east is part of the site plan, but is under separate ownership from the building site. The property to the east would be leased to provide parking for the bank. The existing restaurant also leases this area for parking.

E. The existing building on the site is located six inches or less from the east property line.

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

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

The special circumstances for this site are that the site has been designed and functions as a single site; however the building and the parking are under separate ownerships.

Also, the parcel where the building is located contains approximately 27,000 square feet of area. The LDR currently requires that outparcels contain a minimum of 40,000 square feet of lot area. Staff attempted to research when this requirement was added to the LDR but was unsuccessful. As of 1977, the minimum required lot size in the B-5 zoning district was two acres. There were no provisions at that time for smaller outparcels.

Also, prior to 1973, the platted lots along East 3rd Avenue, including a portion of the subject parcel, were zoned B-1. The B-1 zoning district in 1973 did not have a minimum lot size requirement. The property to the south of the platted lots, including the south portion of the subject property and the existing shopping center, were previously zoned for residential use. At some point in time, a portion of this residential property was incorporated into the subject property and assigned a commercial zoning.

Given that a building permit was issued for the restaurant, it would appear that the lot at one point in time either conformed to the City's dimensional requirements or was a legal lot of record created prior to November 1971, and which was subsequently grandfathered in. Regardless of the origins of the lot, the parcel size is not sufficient to accommodate required setbacks, parking lot dimensions, and other customary amenities, such as drive-thru lanes, while still accommodating a building of reasonable size.

In this case, once the setbacks and one row of parking around the building is subtracted from the property dimensions, the property owner would be left with a building footprint of approximately 48' x 110', or 5,280 square feet.

This site, as seen in the existing plans (EXHIBITS B & C) and photos (EXHIBIT E), is intended for a single user. There is no

benefit to be gained with this variance that would not be allowed to a similar site in the same zoning district under a single ownership.

This criterion has been met.

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

The strict application of the provisions of the *Development Regulations* would make it very difficult to locate a building on the site with regulation automobile circulation, parking, and landscape buffering.

This criterion has been met.

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

As discussed in finding (i) above, it appears that at some point in time, the portion of the subject property that was formerly zoned B-1, was combined with residentially zoned property to the south and given a commercial zoning designation. As of 1973, there was no minimum size requirement for parcels in the B-1 zoning district.

Additionally, because no minimum lot size was originally required, the parcel, when first created, may have been of sufficient size to accommodate commercial uses typical at the time. However, with the continued move towards automobile-dominated uses, these older parcels are not able to accommodate the drive-thru facilities that have become customary to certain types of uses such as banks, fast food restaurants and pharmacies. This is not a result of any actions taken by the applicant but by market-driven forces outside the control of the property owner.

This criterion has been met.

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

Granting of the variance would not cause substantial detriment to the public welfare or impair the purposes and intent of the LDR. The existing building on the site is six inches or less from the east property line. Allowing the building to be constructed five feet from the east property line is an improvement from the current situation.

This criterion has been met.

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

By referencing the current site plan and photos the conclusion can be drawn that, though under multiple owners, this was intended to be a single business site. Other businesses within the B-5 zoning district are not required to separate their parking areas from the buildings by twenty-five feet. Granting a variance to allow this site to function in the same way as other sites within the B-5 zoning district does not grant a special privilege.

This criterion has been met.

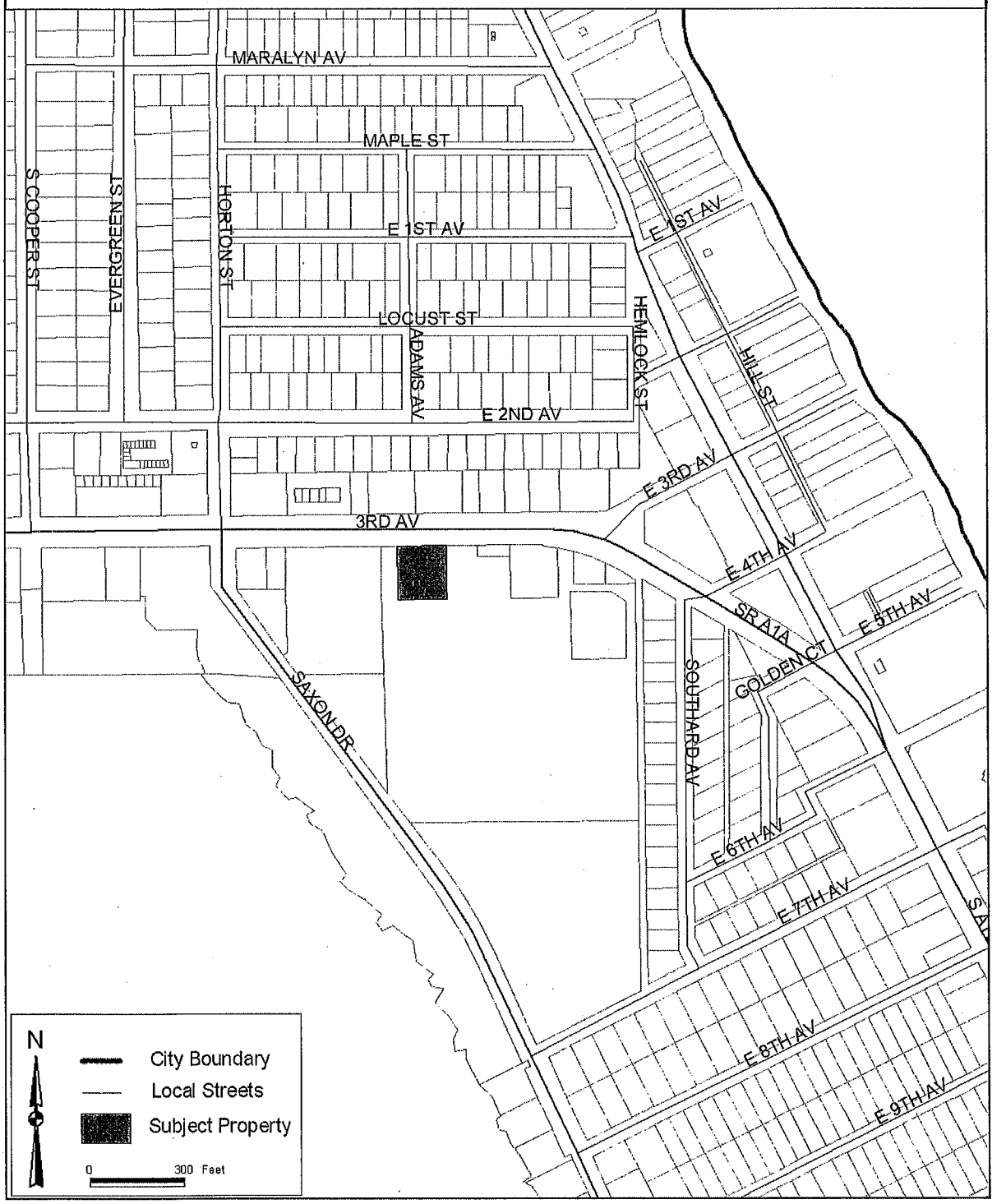
III. Recommendation

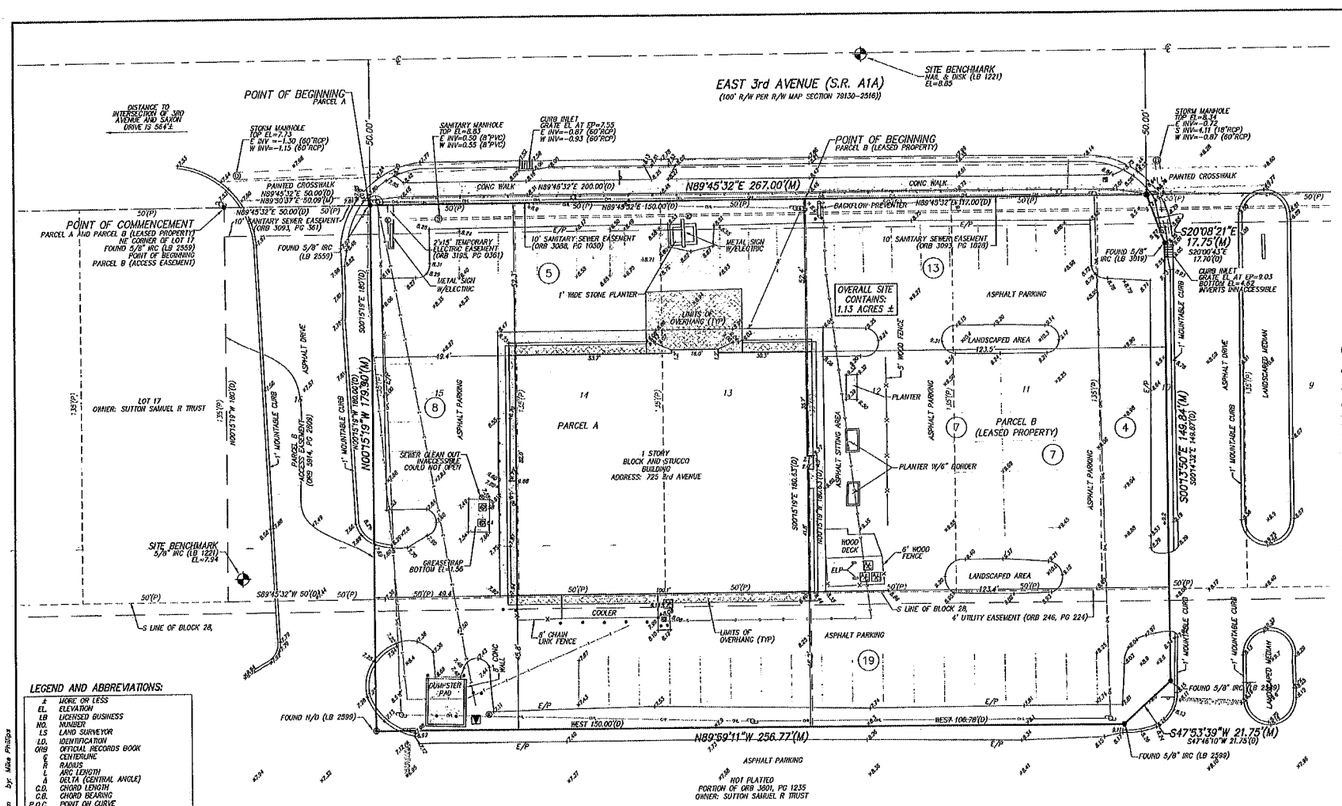
Because the request meets all of the variance criteria, staff recommends **approval** of the variance request to reduce the setback along the east property line from 25 feet to 5 feet.

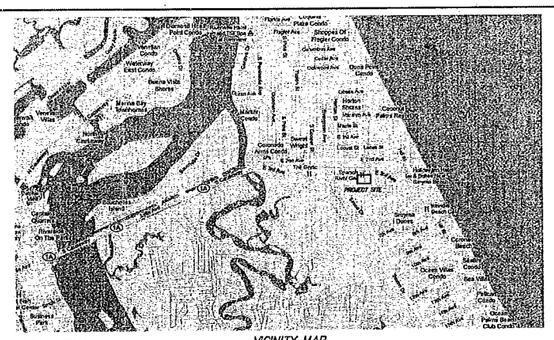
EXHIBIT A

LOCATION MAP

V-12-11







VICINITY MAP
NOT TO SCALE

LEGAL DESCRIPTION:

PARCEL A: FEE PROPERTY

A PORTION OF SECTION 16, TOWNSHIP 17 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY, MORE PARTICULARLY DESCRIBED AS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 17, BLOCK 28, OF THE FIRST ADDITION TO J.Y. DETHLEFS SUBDIVISION OF NEW SMYRNA BEACH, ACCORDING TO THE PLAT THEREOF RECORDED IN MAP BOOK 7, PAGE 85, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, THENCE NORTH 89°45'32" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF 3RD STREET, A 100 FOOT RIGHT OF WAY AS SHOWN ON SAID PLAT, FOR A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING, THENCE CONTINUE NORTH 89°45'32" EAST ALONG SAID SOUTH RIGHT OF WAY LINE FOR A DISTANCE OF 150.00 FEET; THENCE SOUTH 0°15'19" EAST FOR A DISTANCE OF 180.63 FEET; THENCE WEST FOR A DISTANCE OF 150.00 FEET; THENCE NORTH 0°15'19" WEST FOR A DISTANCE OF 180.00 FEET TO THE POINT OF BEGINNING.

PARCEL B: ACCESS EASEMENT

TOGETHER WITH THAT CERTAIN NON-EXCLUSIVE ACCESS EASEMENT FOR PEDESTRIAN AND VEHICULAR ACCESS, INGRESS AND EGRESS OVER, ACROSS OR ON THE PROPERTY AS SHOWN IN THE ACCESS EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 5914, PAGE 2809, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PARCEL B: LEASED PROPERTY

A PORTION OF SECTION 16, TOWNSHIP 17 SOUTH, RANGE 35 EAST, VOLUSIA COUNTY, MORE PARTICULARLY DESCRIBED AS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 17, BLOCK 28, OF THE FIRST ADDITION TO J.Y. DETHLEFS SUBDIVISION OF NEW SMYRNA BEACH, ACCORDING TO THE PLAT THEREOF RECORDED IN MAP BOOK 7, PAGE 85, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA THENCE NORTH 89°45'32" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF 3RD STREET, A 100-FOOT RIGHT-OF-WAY AS SHOWN ON SAID PLAT, FOR A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING, THENCE CONTINUE NORTH 89°45'32" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR A DISTANCE OF 117.00 FEET; THENCE SOUTH 20°20'41" EAST FOR A DISTANCE OF 17.70 FEET; THENCE SOUTH 0°14'32" EAST FOR A DISTANCE OF 149.87 FEET; THENCE SOUTH 47°46'16" WEST FOR A DISTANCE OF 21.75 FEET; THENCE WEST FOR A DISTANCE OF 106.78 FEET; THENCE NORTH 0°15'19" WEST FOR A DISTANCE OF 180.63 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ANY AND ALL EASEMENTS AS CONTAINED IN THAT CERTAIN LEASE FROM LIBERTY LIFE INSURANCE COMPANY TO SAM FERNANDEZ, RECORDED IN OFFICIAL RECORDS BOOK 2133, PAGE 89; AS ASSIGNED BY VIRTUE OF ASSIGNMENTS RECORDED IN OFFICIAL RECORDS BOOK 2133, PAGE 110 AND OFFICIAL RECORDS BOOK 2133, PAGE 113, LEASE MODIFICATION AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 3390, PAGE 1020, AND AS ASSIGNED FROM GRIFFIN FUNDING (LESSEE/ASSIGNOR) TO JAMES SAKS, (LESSEE), BY OFFICIAL RECORDS BOOK 3390, PAGE 1023 AND AS ASSIGNED FROM JAMES SAKS, (LESSEE/ASSIGNOR) TO SHELLS OF NEW SMYRNA BEACH, INC., A FLORIDA CORPORATION (LESSEE) BY ASSIGNMENT AND ASSUMPTION OF LEASE RECORDED IN OFFICIAL RECORDS BOOK 4434, PAGE 2920.

SURVEY NOTES:

1. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON SOUTH RIGHT OF WAY LINE OF EAST 3RD AVENUE (S.R. A1A), AS BEING N89°45'32"E.
2. ACCORDING TO FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD INSURANCE RATE MAP (1984) MAP NO. 1212720544 G, VOLUSIA COUNTY, FLORIDA, EFFECTIVE DATE OF APRIL 15, 2002, THE PROPERTY DESCRIBED HEREON LIES WITHIN ZONE(S) "X" AND DOES NOT LIE WITHIN A 100 YEAR FLOOD AREA.
3. UNDERGROUND FOUNDATION NOT LOCATED AS PART OF THIS SURVEY.
4. UNDERGROUND UTILITIES LOCATED FROM ABOVE GROUND EVIDENCE AS WELL AS STRUCTURES AND MANHOLE LOCATIONS. OTHER BURIED FACILITIES MAY EXIST THAT WERE NOT LOCATED AS PART OF THIS SURVEY.
5. THIS SURVEY WAS PREPARED WITH THE BENEFIT OF A TITLE REPORT PREPARED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY, FILE NO. 5699-101, DATED SEPTEMBER 7, 2011.
6. NORTH-SOUTH AND EAST-WEST TIES TO FOUND MONUMENTATION AND IMPROVEMENTS ARE BASED ON CARDINAL DIRECTION.
7. WETLAND AREAS, IF ANY, WERE NOT ADDRESSED AS A PART OF THIS SURVEY.
8. THE ACCURACY OF THE SURVEY MEASUREMENTS USED FOR THIS SURVEY MEETS OR EXCEEDS THE EXPECTED USE OF THE PROPERTY DESCRIBED HEREON. (COMMERCIAL/HIGH RISK); 1 FOOT IN 10,000 FEET.
9. ELEVATIONS SHOWN HEREON ARE BASED ON VOLUSIA COUNTY DATUM, AS DERIVED BY FROM BENCHMARK TBM13, DESCRIBED AS PK DISK AT THE NORTHEAST CORNER OF HILL STREET AND 3RD AVENUE, HAVING AN ELEVATION OF 15.33 (NGVD 29), CONVERTED TO NAVD 88 BY USE OF CORPSCON SOFTWARE HAVING AN ELEVATION OF 14.11 (NAVD 88)

LEGEND AND ABBREVIATIONS:

- \+ MORE OR LESS
- EL. ELEVATION
- LB LICENSED BUSINESS
- NO. NUMBER
- LS LAND SURVEYOR
- I.D. IDENTIFICATION
- ORB OFFICIAL RECORDS BOOK
- ℄ CENTERLINE
- R RADIUS
- L ARC LENGTH
- Δ DELTA (CENTRAL ANGLE)
- C.D. CHORD LENGTH
- C.B. CHORD BEARING
- P.O.C. POINT ON CURVE
- P.O.L. POINT ON LINE
- P.C.C. POINT OF COMPOUND CURVATURE
- P.R.C. POINT OF REVERSE CURVATURE
- P.C. POINT OF CURVATURE
- P.T. POINT OF TANGENCY
- P.I. POINT OF INTERSECTION
- H/C HANDICAP ACCESSIBLE
- NAVD NORTH AMERICAN VERTICAL DATUM
- NGVD NATIONAL GEODETIC VERTICAL DATUM
- (D) DEED MEASUREMENT
- (M) FIELD MEASUREMENT
- E.P. ELECTRIC PANEL
- FOUND NAIL & DISK (LB 1221) UNLESS OTHERWISE NOTED
- SET NAIL & DISK (LB 1221)
- FOUND IRON ROD & CAP AS NOTED UNLESS OTHERWISE NOTED
- FOUND IRON ROD AS NOTED
- SET 5/8" IRON ROD & CAP (LB 1221)
- CONTROL/BENCHMARK AS DESCRIBED
- CURB INLET GRATE
- CATCH BASIN
- STORM MANHOLE
- SANITARY MANHOLE
- SANITARY CLEANOUT
- ELECTRIC MANHOLE
- ELECTRIC METER
- ELECTRIC RISER BOX
- CABLE TELEVISION RISER BOX
- TELEPHONE RISER BOX
- AIR CONDITIONER PAD
- GAS VALVE
- GAS METER
- GAS LINE MARKER
- WOOD UTILITY POLE
- LIGHT POLE
- ELECTRIC TRANSFORMER
- SIGN
- BOLLARD
- EXISTING ELEVATION
- GREASE TRAP
- WIRE PULLBOX
- LINE BREAK
- FENCE LINE AS NOTED
- OVERHEAD UTILITY LINE
- BURIED ELECTRIC
- BURIED GAS
- BURIED TELEPHONE
- BURIED WATER

SCHEDULE B EXCEPTIONS (TITLE COMMITMENT FILE NO. 5699-101)

6. EASEMENT RESERVED IN DEED RECORDED IN DEED BOOK 246, PAGE 224 (AS TO BOTH PARCELS) [AFFECTS - PLOTTED HEREON]
7. RESTRICTIONS AS CONTAINED IN WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2016, PAGE 942. (AS TO PARCEL A) [AFFECTS - NOT PLOTTABLE]
8. EASEMENT DEED RECORDED IN OFFICIAL RECORDS BOOK 3088, PAGE 1050. (AS TO PARCEL A) [AFFECTS - PLOTTED HEREON]
9. EASEMENT DEED RECORDED IN OFFICIAL RECORDS BOOK 3093, PAGE 1825. (AS TO PARCEL B) [DOES NOT AFFECT]
10. EASEMENT DEED RECORDED IN OFFICIAL RECORDS BOOK 3185, PAGE 361. (AS TO PARCEL A) [AFFECTS - PLOTTED HEREON]
11. EASEMENT DEED RECORDED IN OFFICIAL RECORDS BOOK 3093, PAGE 1828. (AS TO PARCEL B) [AFFECTS - PLOTTED HEREON]
12. TERMS AND CONDITIONS OF THAT CERTAIN UNRECORDED LEASE FROM COMMUNITY CENTERS CORPORATION TO ECKERD'S NEW SMYRNA, INC. DATED OCTOBER 17, 1975; ASSIGNMENT OF LEASE AND ASSUMPTION AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 1827, PAGE 1682; ASSIGNMENT OF LEASES RECORDED IN OFFICIAL RECORDS BOOK 1953, PAGE 352 AND FIRST AMENDMENT TO LEASE RECORDED IN OFFICIAL RECORDS BOOK 2016, PAGE 928. (AS TO PARCEL B) [AFFECTS - NOT PLOTTABLE]
13. TERMS AND CONDITIONS OF THE UNRECORDED LEASE FROM COMMUNITY CENTERS CORPORATION TO BEALL'S DEPARTMENT STORE, INC., DATED NOVEMBER 13, 1975; ASSIGNMENT OF LEASE AND ASSUMPTION AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 1827, PAGE 1684; ASSIGNMENT OF LEASES RECORDED IN OFFICIAL RECORDS BOOK 1953, PAGE 352; CONFIRMATION OF LEASE TERM AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 4076, PAGE 2208; SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 5153, PAGE 971 AND IN OFFICIAL RECORDS BOOK 5153, PAGE 976. (AS TO PARCEL B) [AFFECTS - NOT PLOTTABLE]
14. TERMS AND CONDITIONS OF THE LEASE FROM LIBERTY LIFE INSURANCE COMPANY TO SAM FERNANDEZ RECORDED IN OFFICIAL RECORDS BOOK 2133, PAGE 89; AS ASSIGNED BY VIRTUE OF ASSIGNMENTS RECORDED IN OFFICIAL RECORDS BOOK 2133, PAGE 110; OFFICIAL RECORDS BOOK 2133, PAGE 113; LEASE MODIFICATION AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 3390, PAGE 1023; AND AS ASSIGNED BY ASSIGNMENT OF LEASE BY LESSOR RECORDED IN OFFICIAL RECORDS BOOK 4434, PAGE 2920. (AS TO PARCEL B)
15. TERMS AND CONDITIONS OF THE LEASE AGREEMENT FROM COMMUNITY CENTERS CORPORATION TO PUBLIX SUPER MARKETS, INC., RECORDED IN OFFICIAL RECORDS BOOK1805, PAGE 640; ASSIGNMENT OF LEASE AND ASSUMPTION AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 1827, PAGE 1689; ASSIGNMENT OF LEASES RECORDED IN OFFICIAL RECORDS BOOK 1953, PAGE 352; AMENDMENTS TO LEASE RECORDED IN OFFICIAL RECORDS BOOK 2016, PAGE 930 AND OFFICIAL RECORDS BOOK 2016, PAGE 936; FIRST ADDENDUM TO MEMORANDUM OF LEASE RECORDED IN OFFICIAL RECORDS BOOK 4257 PAGE 4696; MEMORANDUM OF LEASE RECORDED IN OFFICIAL RECORDS BOOK 4876, PAGE 2185; SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 5158, PAGE 2601. (AS TO PARCEL B)
16. UTILITIES EASEMENT AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 2429, PAGE 239. (AS TO PARCEL B) [COULD NOT DETERMINE - ILLEGIBLE]
17. EASEMENT AS CONTAINED IN WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2408, PAGE 1065. (AS TO PARCEL B) [DOES NOT AFFECT]
18. EASEMENT DEED RECORDED IN OFFICIAL RECORDS BOOK 3093, PAGE 1826. (AS TO PARCEL B) [DOES NOT AFFECT]
19. EASEMENT DEED RECORDED IN OFFICIAL RECORDS BOOK 5024, PAGE 3839. (AS TO PARCEL B) [DOES NOT AFFECT]
20. TERMS AND CONDITIONS OF ACCESS EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 5914, PAGE 2809. (AS TO PARCEL B) AFFECTS - PLOTTED HEREON]
21. TERMS, CONDITIONS, AND PROVISIONS OF THE LEASE DATED OCTOBER 27, 2006, BETWEEN FIH FISH, LLC, A DELAWARE LIMITED LIABILITY COMPANY AND SHELLS OF NEW SMYRNA BEACH, INC., A FLORIDA CORPORATION, AS EVIDENCED BY MEMORANDUM OF LEASE RECORDED SEPTEMBER 26, 2008, IN OFFICIAL RECORDS BOOK 6280, PAGE 1782, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. [AFFECT - NOT PLOTTABLE]
22. RIGHTS OF TENANTS OCCUPYING ALL OR PART OF THE INSURED LAND UNDER LEASES OR RENTAL AGREEMENTS, AS TENANTS ONLY. [AFFECTS - NOT PLOTTABLE]
23. THE EFFECT OF ANY FAILURE TO COMPLY WITH THE TERMS, COVENANTS, CONDITIONS AND PROVISIONS OF THE LEASE, BEING THE BASIS OF THE LEASEHOLD DESCRIBED IN SCHEDULE A. [AFFECTS - NOT PLOTTABLE]
24. THE TERMS, COVENANTS, CONDITIONS AND PROVISIONS OF THE LEASE, BEING THE BASIS OF THE LEASEHOLD DESCRIBED IN SCHEDULE A. [AFFECTS - NOT PLOTTABLE]

0' 10 20 40
1 INCH = 20 FEET

CERTIFIED TO:

FERBER CONSTRUCTION MANAGEMENT, LLC
JP MORGAN CHASE, N.A.
FIDELITY NATIONAL TITLE INSURANCE COMPANY

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY SUPERVISION IN ACCORDANCE WITH THE "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALT/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 2005 AND INCLUDES ITEMS 1, 2, 3, 4, 6a, 7a, 7b1, 7c, 8, 9, 11a, 13, 14, 16, 17 AND 18 OF TABLE A THEREOF AND TO THE EXTENT POSSIBLE, SHOWS THE LOCATION OF ALL SETBACK LINES LISTED PURSUANT TO ITEM 6 OF TABLE A. PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA AND NSPS AND IN EFFECT THE DATE OF THIS CERTIFICATION, UNDERSIGNED FURTHER CERTIFIES THAT IN MY PROFESSIONAL OPINION, AS A LAND SURVEYOR REGISTERED IN THE STATE OF FLORIDA THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN".

WILLIAM D. DONLEY
FLORIDA LICENSED SURVEYOR & MAPPER NO. 5381

DATE

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

REVISIONS

FB/PG	DATE	DRAWN	REVISION	CKD

BOWYER SINGLETON
LAND DEVELOPMENT & TRANSPORTATION ENGINEERING
PLANNING | SURVEYING & MAPPING
7320 FAHRNALL WAY, SUITE 200
JACKSONVILLE, FLORIDA 32256
PHONE: 904.940.9460 FAX: 904.940.9453
BSA-CINL.COM
CERTIFICATE OF AUTHORIZATION No. LB 1221

A PORTION OF
SECTION 16, TOWNSHIP 17
SOUTH, RANGE 34 EAST
VOLUSIA COUNTY, FLORIDA

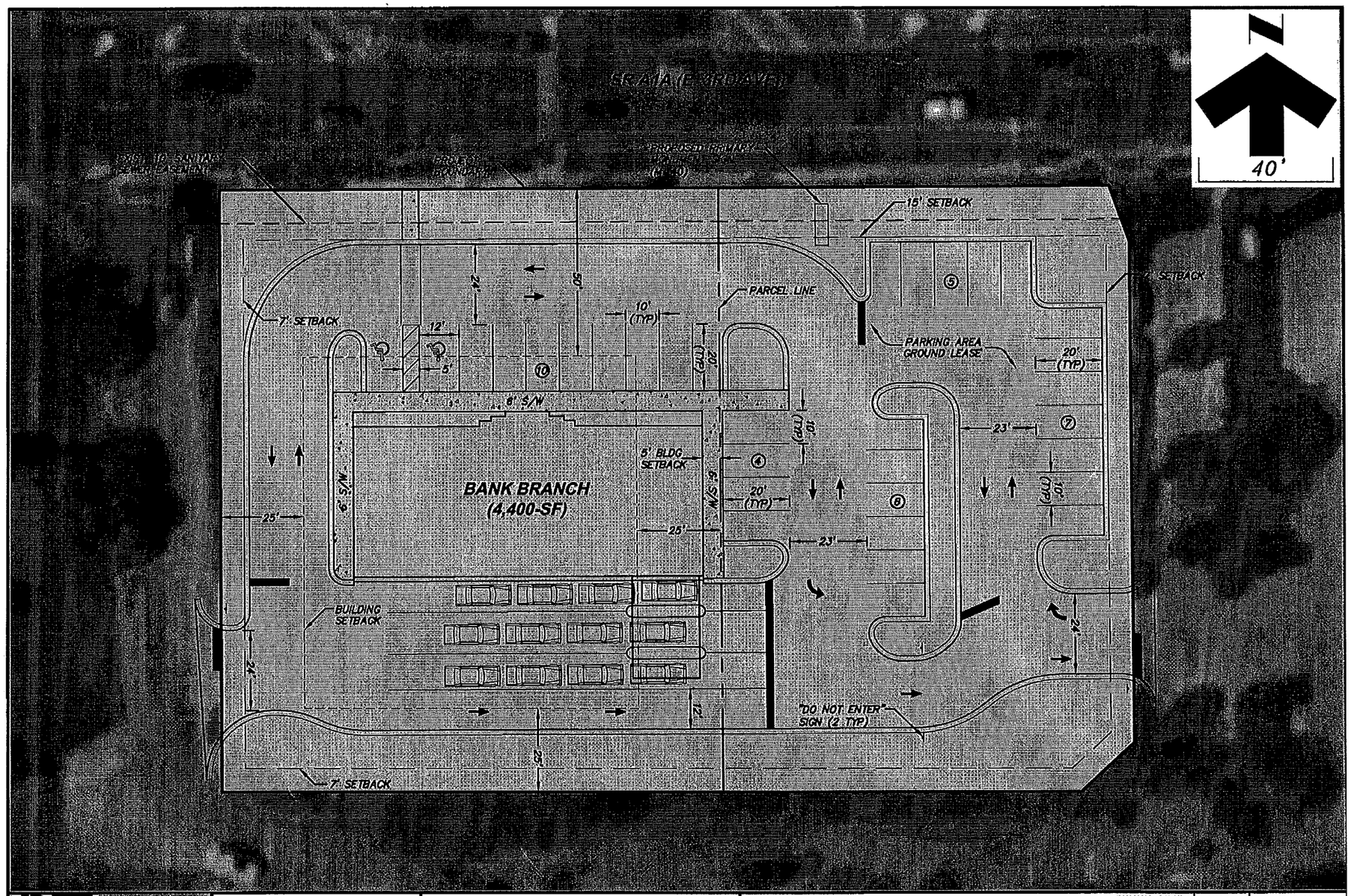
ALTA/ACSM LAND TITLE SURVEY
BOUNDARY & TOPOGRAPHIC SURVEY
– FOR –
FERBER CONSTRUCTION MANAGEMENT, LLC

FB/PG	FIELD DATE	PROJECT NO.
16-17-34 / 4-8	10/13/11	4CHS-J4
DRAWING DATE	BY	APPROVED
10/19/11	MRP	WOD

SCALE 1" = 20'

1 OF 1

Drawing name: E:\Orlando\Survey_Jobs\4CHS\J4 New Smyrna Beach\DWG-Land\T\4CHSJ4_survey.dwg ALTA survey Oct 31, 2011 12:28pm by: Mike Phillips



BOWYER SINGLETON
LAND DEVELOPMENT & TRANSPORTATION ENGINEERING
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7220 FINANCIAL WAY, SUITE 200 • JACKSONVILLE, FLORIDA 32256
PHONE (904) 333-9601 • FAX (904) 333-9633
WWW.BS-CIVIL.COM • ENGINEERING BUSINESS #7231

THE FERBER COMPANY, INC
REAL ESTATE – DEVELOPMENT/MANAGEMENT – SINCE 1907
101 SAWGRASS CORNERS DR, SUITE 200
PONTE VEDRA BEACH, FLORIDA 32082
PHONE NUMBER (904) 285-7500 FAX NUMBER (904) 200-0443

FILE: V:\Projects\Jobs\4CHS\04 FSU\ENG\Design\Base\DRC_4CHS-04.dwg
PRINTED: 9/29/2006

NEW SMYRNA BEACH, FLORIDA — VOLUSIA COUNTY

BANK SITE

SR A1A (E. 3RD AVE.) AND SAXON DRIVE

BUILDING SETBACK VARIANCE EXHIBIT

REVISIONS

DATE	11/3/2011
DESIGNED	KSH
CHECKED	KSH
SCALE	SEE PLAN
PROJECT	4CHS-04
FILE NAME	DRC_4CHS-04
SHEET NO.	1

EXHIBIT D

Sent via Hand Delivery

File No.: 4CHS-04

November 4, 2011

Ms. Gail Henrickson, AICP
Planning Manager
City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, Florida 32168

Subject: **Chase Bank New Smyrna Beach**
SR A1A (E. 3rd Ave.) and Saxon Drive
Variance Application – Proposed Building Setbacks

Dear Ms. Henrickson:

This letter is written to supplement the attached Variance Application for a building setback to the proposed Chase Bank project located at 725 3rd Ave. (Indian River Village Shopping Center). The project site consists of two parcels currently serving an existing restaurant use with adjacent parking. The project site is currently zoned B5 (Planned Shopping Center). The existing on-site improvements will be demolished and a proposed Chase Bank with adjacent parking will be constructed.

The existing improvements are currently under ground leases with their respective landowners. The proposed project will also continue with ground leases with same landowners. The existing structure is located approximately 6-in from its eastern parcel line. This eastern parcel line is also the common parcel line between the restaurant use and the adjacent parking area. The city's Land Development Code (LDC) requires building setbacks of 50-ft (front) and 25-ft (side and rear). The proposed building satisfies LDC criteria along the front, west, and rear. The eastern building setback is proposed at 5-ft to accommodate the project site layout and functionality.

We are requesting an eastern building setback variance / reduction to 5-ft (hard exterior wall) from the 25-ft LDC setback. The current building setbacks if applied to all sides of the parcel would not allow the bank to be built and would prevent vehicular circulation / movement around the structure that is necessary for financial uses with drive-thru. We believe that the proposed project with this approved variance adheres to the purposes and intent of the city's LDC and is not a grant of special privilege.

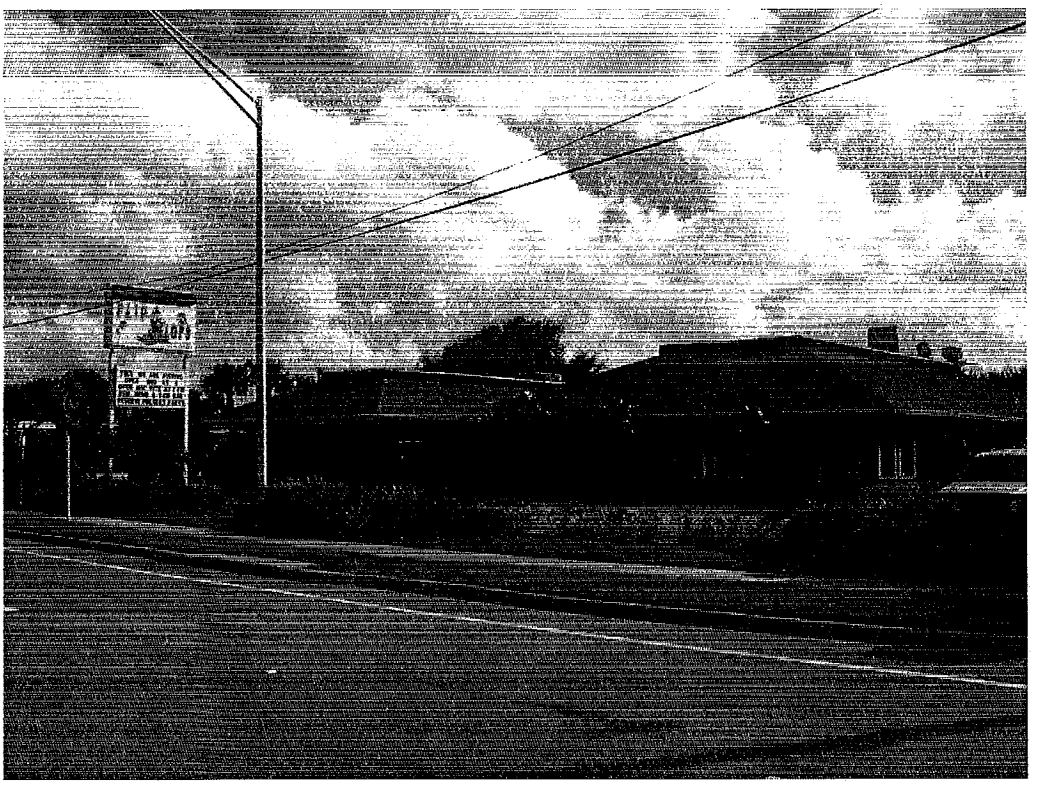
I trust this variance submittal application to be complete and sufficiently prepared. Should you have any questions, please do not hesitate to contact me directly at 904-332-8601. Thank you in advance for your time in this matter.

Sincerely,

BOWYER SINGLETON

Kevin S. Hebert, PE
Regional Office Manager

c: Jason Crews, Ferber Construction Management, LLC
File



North side of site looking to the southeast.

North side of site, looking south along east property line.

Looking northwest from the southeast corner of the adjoining parking lot.

South side of site, looking north along the east property line.