

December 14, 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, JANUARY 9, 2012 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 December 5, 2011

PUBLIC PARTICIPATION

VISIONING

None

OLD BUSINESS

A. 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 rezoning from Volusia County RA, Rural Agriculture Estate to City RA, Rural Agriculture Estate. The subject property consists of approximately 3.3 acres and is located south of Turnbull Bay Road at 1576 Lewis Lane.

B. A-17-11: NELLIS / 2800 CONWAY ROAD

Renee M. Nellis, 2800 Conway Road, New Smyrna Beach, Florida, 32168, applicant and property owner, requests rezoning from Volusia County RA, Rural Agriculture Estate to City RA, Rural Agriculture Estate. The subject property consists of approximately 2.5 acres and is located south of Turnbull Bay Road at 2800 Conway Road.

NEW BUSINESS

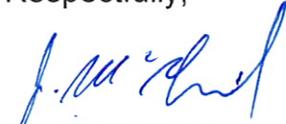
- C. A-14-11: STRAHMAN/1569 LEWIS LANE
Peggy A. Strahman, applicant and property owner, requests rezoning from Volusia County A-2, Rural Agriculture to City A-2, Agriculture District. The subject property consists of approximately 5.32 acres and is located south of Turnbull Bay Road at 1569 Lewis Lane.
- D. V-13-11: KENCO SIGNS / 2240 STATE ROAD 44
Raymond Webb, Kenco Signs, 1539 Garden Avenue, Holly Hill, Florida, 32117, applicant on behalf of the property owner, Sand Capital IV, LLC, 5725 North Scottsdale Road, Suite 195, Scottsdale, Arizona, 85250, requests a variance to allow a 98.22-square foot sign in lieu of the 62-square foot sign permitted by code. The subject property is zoned B-3(C), Highway Service Business District (Corridor Overlay Zone), contains approximately 5.4 acres, and is generally located on the south side of State Road 44, at 2240 State Road 44.
- E. A-21-11: KRUCK / STATE ROAD 44
Donald Kruck, 445 Bouchelle Drive, Unit 205, New Smyrna Beach, Florida, 32169, applicant and property owner, requests 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 5.0 acres and is generally located northeast of the intersection of State Road 44 and Hughes Road.
- F. SV-1-11: PESCADO STREET
Tony Otte, Community Redevelopment Agency Director, City of New Smyrna Beach, 201 Sams Avenue, New Smyrna Beach, Florida, 32168, applicant on behalf of the property owner, City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests vacation of a portion of the platted but unopened Pescado Street right-of-way. The subject property consists of approximately 1.4 acres and is generally located south of the North Causeway on property addressed as 160 North Causeway.
- G. ZT-18-11: RA, RURAL AGRICULTURE ESTATE ZONING CLASSIFICATION
The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168, requests approval of an amendment to the City's *Land Development Regulations* to create a new zoning classification – RA, Rural Agriculture Estate.

COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

REPORTS AND COMMUNICATIONS BY THE STAFF

ADJOURNMENT

Respectfully,



Jason McGuirk
Chairperson

cc: Mayor and City Commissioners
City Manager
City Clerk
City Attorney
Planning Manager
Planners
Members of the Press

Pursuant to Florida Statutes 286.01015, if an individual decides to appeal any decision made by the Planning & Zoning Board with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the Board Secretary listed below prior to the meeting:

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

1 The Local Planning Agency/Planning and Zoning Board held a regular meeting on
2 Monday, December 5, 2011 in the City Commission Chambers, 210 Sams Avenue,
3 New Smyrna Beach, Florida. Chairperson Jason McGuirk called the meeting to order at
4 6:30 p.m.

5 ROLL CALL

6
7 The following members answered to roll call:

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

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

17
18 **APPROVAL OF MINUTES**

19 **Mr. Casey stated that he had a change to page 9 of the minutes, line 16. Mr.**
20 **Casey clarified his statement made at the October meeting. Mr. Clark made a**
21 **motion to approve the minutes of the regular Planning and Zoning Board meeting**
22 **held November 7, 2011, as amended, seconded by Mr. Casey. Motion passed**
23 **unanimously on a roll-call vote, 6-0.**

24
25 **PUBLIC PARTICIPATION**

26 Mary Louise McDonald, 1560 Lewis Lane. Ms. McDonald stated that she received
27 notification from Volusia County on Friday evening regarding the proposed rezoning that
28 were on that night's agenda. Ms. McDonald stated that she had also received a notice
29 for a rezoning that the Board had reviewed in November.

30
31 Ms. Henrikson explained that the notices were not sent because Ms. McDonald's
32 property record was confidential and there was no address information that staff could
33 use to mail notices to her. Ms. Henrikson stated that staff later learned that the Property
34 Appraiser's office would mail the notices for the City but that they would not provide the
35 City with contact information for the property owner.

36
37 Ms. Henrikson stated that the rezoning requests for McCallister, Nellis and Strahman
38 would come back before the Planning and Zoning Board on January 9, 2012. Ms.
39 Henrikson also stated that the annexation and *Comprehensive Plan* amendments for
40 each of those cases would move forward to City Commission as those types of requests
41 did not have the same notification requirements as the rezoning requests.

42
43 There was general discussion about the notification requirements for the rezoning and
44 the timing for the Strahman annexation request.

45
46 Mr. McGuirk advised Ms. McDonald to contact Ms. Henrikson to meet to discuss this
47 issue further.
48

1 **VISIONING**

2 None.

3
4 **OLD BUSINESS**

5 None.

6
7 **NEW BUSINESS**

8
9 A. **A-15-11: BROWNSON / 3050 TURNBULL BAY ROAD**

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

17
18 Mr. Jameson addressed the Board, reviewed staff's findings and stated that staff
19 recommended approval of the requests.

20
21 Mark Rakowski, 822 East 8th Avenue, New Smyrna Beach, addressed the Board. He
22 stated that he was the authorized representative of the property owner. He stated that
23 he was in agreement with staff's recommendation and would be able to answer any
24 questions the Board might have.

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

27
28 **Mr. Bohannon made a motion to recommend the City Commission approve the**
29 **requested annexation, *Comprehensive Plan* amendment and rezoning, seconded**
30 **by Mr. Dever. Motion passed unanimously on a roll call vote, 6-0.**

31
32 B. **A-16-11: McCALLISTER / 1576 LEWIS LANE**

33 David and Stacy McCallister, Jr., 1576 Lewis Lane, New Smyrna Beach, Florida,
34 32168, applicants and property owners, request annexation; *Comprehensive*
35 *Plan* amendment from Volusia County Rural to City Rural; and rezoning from
36 Volusia County RA, Rural Agriculture Estate to City RE, Residential Estate. The
37 subject property consists of approximately 3.3 acres and is located south of
38 Turnbull Bay Road at 1576 Lewis Lane.

39
40 Ms. Henrikson addressed the Board, reviewed staff's findings and stated that staff
41 recommended approval of the annexation and comprehensive plan amendment. Ms.
42 Henrikson reminded the Board that the rezoning request would be brought back before
43 the Board at its January 9, 2012 meeting. Ms. Henrikson also informed the Board that
44 the property owner was unable to attend the meeting that evening.

45
46 Don Knapp, 1634 White Street, New Smyrna Beach, addressed the Board. Mr. Knapp
47 stated that he had the same questions as Ms. McDonald. He asked what the proposed

LPA/PLANNING AND ZONING BOARD
DECEMBER 5, 2011
MINUTES

1 changes would mean to the neighborhood. He stated that he was concerned about
2 congestion.

3
4 Mr. Knapp stated that he was specifically concerned about the zoning change.

5
6 Mr. McGuirk and Ms. Henrikson addressed the differences between the annexation
7 request, the amendment to the future land use designation and the requested rezoning.

8
9 Mr. Knapp asked about whether the City could annex strings of property one parcel at a
10 time.

11
12 Ms. Henrikson stated that it could be done but what the City could not do was create an
13 enclave.

14
15 Mr. Knapp asked whether property owners could continue to keep animals if they are
16 annexed into the City.

17
18 Ms. Henrikson stated that they could continue to have animals and could replace them if
19 they died. She stated that it was not the City's intent to change the character of the
20 neighborhood and that staff was very aware of the concerns of the neighborhood
21 regarding encroaching urban development in the area.

22
23 Ms. McDonald addressed the Board. She asked about the change to property taxes if
24 the zoning is changed to Residential Estate.

25
26 Ms. Henrikson stated that property taxes were established by the Volusia County
27 Property Appraiser and she was not qualified to address that issue.

28
29 Ms. McDonald asked whether the City could eventually annex all of the properties within
30 the area, even if those property owners did not want to be annexed. She asked if there
31 was a minimum acreage that would prevent the City from annexing them.

32
33 Ms. Henrikson stated that if the City eventually annexed all of the land in the area and
34 Ms. McDonald's property was an enclave, the City could annex it through an agreement
35 with the County only if it was less than 10 acres.

36
37 Ms. McDonald asked whether all the fees had been waived for these annexations.

38
39 Ms. Henrikson stated that the fees had been waived.

40
41 Mr. McGuirk again advised Ms. McDonald to set up a meeting with Ms. Henrikson to
42 discuss these concerns.

43
44 **Mr. Bohannon made a motion to approve the requested annexation and**
45 ***Comprehensive Plan* amendment and to continue the rezoning request to the**
46 **January 9, 2012 Board meeting, seconded by Mr. Dever. Motion passed**
47 **unanimously on a roll call vote, 6-0.**

1
2 C. A-17-11: NELLIS / 2800 CONWAY ROAD

3 Renee M. Nellis, 2800 Conway Road, New Smyrna Beach, Florida, 32168,
4 applicant and property owner, requests annexation; *Comprehensive Plan*
5 amendment from Volusia County Rural to City Rural; and rezoning from Volusia
6 County RA, Rural Agriculture Estate to City RE, Residential Estate. The subject
7 property consists of approximately 2.5 acres and is located south of Turnbull Bay
8 Road at 2800 Conway Road.

9
10 Ms. Henrikson addressed the Board, reviewed staff's findings and stated that staff
11 recommended approval of the annexation and *Comprehensive Plan* amendment
12 requests. Ms. Henrikson reminded the Board that the rezoning request would be
13 brought back before the Board at its January 9, 2012 meeting.

14
15 Renee Nellis, 2800 Conway Road addressed the Board. She stated that she wants to
16 maintain the character of the neighborhood and wants to also be part of the City.

17
18 Mr. McGuirk stated that he did not see any significant changes between what was
19 permitted in the County and what the City was proposing.

20
21 No one from the public spoke for or against the request.

22
23 **Motion by Mr. Bohannon, seconded by Mr. Dever, to recommend the City**
24 **Commission approve the annexation and *Comprehensive Plan* amendment and**
25 **continue the rezoning request to the January 9, 2012 meeting. Motion passed**
26 **unanimously on a roll call vote, 6-0.**

27
28 D. A-18-11: KOPP / 2091 MARSH HARBOUR BOULEVARD

29 Eugene J. Kopp, 2091 Marsh Harbour Drive, New Smyrna Beach, Florida,
30 32168, applicant on behalf of the property owners, Eugene J. and Elizabeth
31 Kopp, 2091 Marsh Harbour Drive, New Smyrna Beach, Florida, 32168, requests
32 annexation, *Comprehensive Plan* amendment from Volusia County Rural,
33 Environmental Systems Corridor and Water to City Conservation and
34 Agricultural; and rezoning from Volusia County RA, Rural Agriculture Estate,
35 Volusia County RC, Resource Corridor and Volusia County MH-4, Rural Mobile
36 Home to City A-2, Agriculture District. The subject property consists of
37 approximately 10.2 acres and is generally located south of Turnbull Bay Road,
38 west of Malonee Road.

39
40 Ms. Henrikson addressed the Board, reviewed staff's findings and stated that staff
41 recommended approval of the requests.

42
43 Mr. Eugene Kopp, 2091 Marsh Harbour Drive, New Smyrna Beach, Florida, addressed
44 the Board. Mr. Kopp stated that he was looking forward to being annexed into the City.
45 He stated that he believed he would receive better service as a City resident.

1 **Motion by Mr. Bohannon, seconded by Mr. Dever, to recommend the City**
2 **Commission approve the requested annexation, *Comprehensive Plan* amendment**
3 **and rezoning. Motion passed unanimously on a roll call vote, 6-0.**
4

5 E. SE-3-11: A PIRATE'S ISLE / 313 JULIA STREET

6 William Arney, 110 Bay Street, New Smyrna Beach, Florida, 32168, applicant on
7 behalf of the property owner, Susan Rittger, 508 North Riverside Drive, New
8 Smyrna Beach, Florida, 32168, requests special exception approval to operate a
9 tattoo parlor in the MU, Mixed Use zoning district. The subject property consists
10 of approximately 0.2 acres and is located at 313 Julia Street.
11

12 Mr. Jameson addressed the Board, reviewed staff's findings and stated that staff
13 recommended approval of the request, with conditions.
14

15 Jen Arney, 110 Bay Street, New Smyrna Beach, addressed the Board. She discussed
16 the history of how this project had come forward to the Board that evening. She stated
17 that her business is more than just a "tattoo parlor". She stated that it was an art studio
18 in which she and her husband are trying to provide another service. Ms. Arney thanked
19 staff for their work on this issue.
20

21 No one from the public spoke for or against the request.
22

23 **Motion by Mr. Dever, to approve the request with staff's conditions. The motion**
24 **was seconded by Mr. Bohannon. The motion passed unanimously on a roll call**
25 **vote, 6-0.**
26

27 F. A-19-11: ARMITAGE / STATE ROAD 44

28 Charles and Jill Armitage, 381 Treasure Cove, New Smyrna Beach, Florida,
29 32168, applicants and property owners, request annexation, *Comprehensive*
30 *Plan* amendment from Volusia County Environmental Systems Corridor to City
31 Agricultural; and rezoning from Volusia County RC(C), Resource Corridor
32 (Thoroughfare Overlay Zone) and Volusia County RC, Resource Corridor to City
33 A-2, Agriculture District. The subject property consists of approximately 2.0
34 acres and is generally located northeast of the intersection of State Road 44 and
35 Hughes Road.
36

37 Ms. Henrikson addressed the Board, reviewed staff's findings and stated that staff
38 recommended approval of the request.
39

40 The applicant was not present to address the Board.
41

42 No one from the public spoke for or against the request.
43

44 Mr. Dever asked what the minimum lot size on the proposed A-2 zoning district was.
45

46 Ms. Henrikson stated that the minimum lot size is five acres. However, the property
47 owners would still be able to construct one single-family home on the lot.
48

1 **Motion by Mr. Bohannon, seconded by Mr. Dever, to recommend the City**
2 **Commission approve the requested annexation, *Comprehensive Plan* amendment**
3 **and rezoning. Motion passed unanimously on a roll call vote, 6-0.**
4

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

6 The City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida,
7 32168, applicant and property owner, requests annexation; *Comprehensive Plan*
8 amendment from Volusia County Water, Volusia County Environmental Systems
9 Corridor and Volusia County Rural to City Agriculture; and rezoning from Volusia
10 County RA, Rural Agriculture Estate, Volusia County RC, Resource Corridor and
11 Volusia County MH-4, Rural Mobile Home to City A-2, Agriculture District. The
12 subject property consists of approximately 4.1 acres and is generally located on
13 the south side of Turnbull Bay Road, west of Malonee Road.
14

15 Ms. Henrikson addressed the Board, reviewed staff's findings and stated that staff
16 recommended approval of the request.
17

18 No one from the public spoke for or against the request.
19

20 **Motion by Mr. Bohannon, seconded by Mr. Dever, to recommend the City**
21 **Commission approve the requested annexation, *Comprehensive Plan* amendment**
22 **and rezoning. Motion passed unanimously on a roll call vote, 6-0.**
23

24 H. V-12-11: FERBER / 725 EAST 3RD AVENUE

25 Paul S. Ferber, 151 Sawgrass Corners Drive, Suite 202, Ponte Vedra Beach,
26 Florida, 32082, applicant on behalf of the property owner, Morse Realtor, Inc.
27 861 West Morse Boulevard, Suite 250, Winter Park, FL 32789, requests a
28 variance to reduce the required side yard setback along the east property line.
29 The subject property is zoned B-5, Planned Shopping Center District, contains
30 approximately 0.6 acres and is located at 725 East 3rd Avenue.
31

32 Mr. McGuirk swore in Mr. Jameson and qualified him as an expert witness in the field of
33 planning and zoning.
34

35 Mr. Jameson addressed the Board, reviewed staff's findings and stated that staff
36 recommended approval of the request.
37

38 Mr. McGuirk asked why a 25-foot setback was required for commercial property
39 adjacent to commercial property.
40

41 Both Mr. Jameson and Ms. Henrikson stated that they were not aware of the rationale
42 behind the requirement.
43

44 Mr. Bohannon asked whether this could be amended in the future.
45

46 Ms. Henrikson stated that it could be.
47

1 Kevin Hebert, project engineer, stated that he was available to address questions from
2 the Board.

3

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

5

6 **Motion by Mr. Bohannon, seconded by Mr. Dever, to approve the request to**
7 **reduce the required side yard setback along the east property line from 25 feet to**
8 **5 feet. Motion passed unanimously on a roll call vote, 6-0.**

9

10 REPORTS AND COMMUNICATIONS BY THE BOARD

11 Mr. Clark announced that the Florida Planning and Zoning Association would be
12 presenting an award to the City for the Historic Westside Neighborhood Plan. He stated
13 that the award would be presented on Friday evening at the Venetian Bay Clubhouse.

14

15 Mr. Casey stated that he was sorry to hear that Ms. Herwald was leaving the Board.

16

17 Mr. Bohannon asked if the issue of increasing density in the Canal Street area could be
18 covered as an upcoming visioning topic.

19

20 Mr. Dever asked about the status of the Arts Overlay District.

21

22 Ms. Henrikson stated that public workshops would occur in January. She stated that
23 because the business owners are focused on running their businesses during the
24 holidays, staff wanted to wait until they would be free to focus on the Arts District.

25

26 Mr. McGuirk thanked Ms. Herwald for her service on the Board.

27

28 REPORTS AND COMMUNICATIONS BY THE STAFF

29 None.

30

31 ADJOURNMENT

32 With there being no further business, the meeting was adjourned at 7:22 p.m.

1 CITY OF NEW SMYRNA BEACH – CITY COMMISSION
2 **A-16-11: MCCALLISTER / 1576 LEWIS LANE**
3 **JANUARY 9, 2012**
4

5 **I. Background**
6

7 **A. Applicant and Property Owners:** David and Stacy McCallister, Jr., 1576
8 Lewis Lane, New Smyrna Beach, Florida, 32168
9

- 10 • **Request:** Rezoning from Volusia County RA, Rural Agriculture
11 Estate to City RA, Rural Agriculture Estate
12

13 **B. Site Information:**

- 14 • **Size:** 3.3 acres
- 15 • **Location:** The subject property is located south of Turnbull Bay
16 Road at 1576 Lewis Lane. (see **Exhibit A** for a location map).
- 17 • **Tax I.D. Number:** 7303-00-02-0025
18

19 **II. Findings**
20

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

28 **North**

29 Future Land Use: County Rural
30 Existing Land Use: Residential
31 Zoning: County RA, Rural Agriculture Estate
32

33 **South**

34 Future Land Use: County Rural
35 Existing Land Use: Residential
36 Zoning: County A-2, Rural Agriculture Estate
37

38 **East**

39 Future Land Use: County Rural
40 Existing Land Use: Residential
41 Zoning: County RA, Rural Agriculture Estate
42

43 **West**

44 Future Land Use: County Rural
45 Existing Land Use: Vacant
46 Zoning: County RA, Rural Agriculture Estate
47
48

49 Maps showing the surrounding Existing Land Uses, Existing Future Land
50 use, and Existing Zoning Designations are attached (**Exhibits B, C, and**
51 **D**). A description of the existing zoning designation on the subject
52 property is attached as **Exhibit E**.
53

54 B. At its December 5, 2011 meeting, the Planning and Zoning Board voted
55 unanimously to recommend the City Commission approve the annexation
56 request and Future Land Use amendment. The Board also voted
57 unanimously to continue the rezoning request to the January 2012
58 meeting. The continuation was required due to a notification issue
59 involving a confidential property record. While the owner of the property
60 did receive a notice, it did not meet the 10-day required notification.
61

62 C. Following the December 5th Planning and Zoning Board meeting, staff met
63 with adjacent property owners, including the owner of the property with the
64 confidential property record to discuss their concerns. As a result of those
65 discussions, staff has revised this rezoning request to recommend that the
66 subject property be rezoned to a new proposed zoning category of RA,
67 Rural Agriculture Estate. This new City zoning classification would be
68 identical to the existing County RA zoning designation. The amendment
69 to the *Land Development Regulations* that would create the new City RA
70 zoning classification is also scheduled for the January 9, 2012 Planning
71 and Zoning Board meeting. A map showing the proposed zoning change
72 is attached as **Exhibit F**. A description of the proposed zoning
73 designation is attached as **Exhibit G**.
74

75 D. The *Land Development Regulations* requires any proposed development
76 to conform to the Concurrency Management System. That system
77 includes traffic, parks and recreation, potable water, wastewater
78 treatment, solid waste collection, stormwater management, and public
79 school facilities. Because the property is already developed with a single-
80 family residence and the proposed future land use and zoning
81 designations would only allow one single-family residence on this lot, no
82 concurrency impact analysis was completed.
83

84 E. The *Comprehensive Plan* provides some guidance on annexations, future
85 land use amendments, and rezoning requests. The following is a list of
86 objectives in the *Comprehensive Plan* that support this proposal.
87 Following each objective is a comment in ***bold italics***.
88

- 89 • **Future Land Use Element Objective 1:** To ensure that future
90 development will be consistent with adjacent uses, natural
91 limitations such as topography and soil conditions, the needs of the
92 citizens of New Smyrna Beach, the Future Land Use Map, the
93 availability of facilities and services, and the goals, objectives and
94 policies contained within this *Comprehensive Plan*.
95

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

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

109 *The proposed future land use amendment and zoning change*
110 *will not increase density in this area. The parcel that would*
111 *allow for a single family residence on 2.5 acres per County*
112 *regulations would become a parcel that would allow for a*
113 *single family residence on 2.5 acres per City regulations.*
114 *Therefore, the request is consistent with the Comprehensive*
115 *Plan.*

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

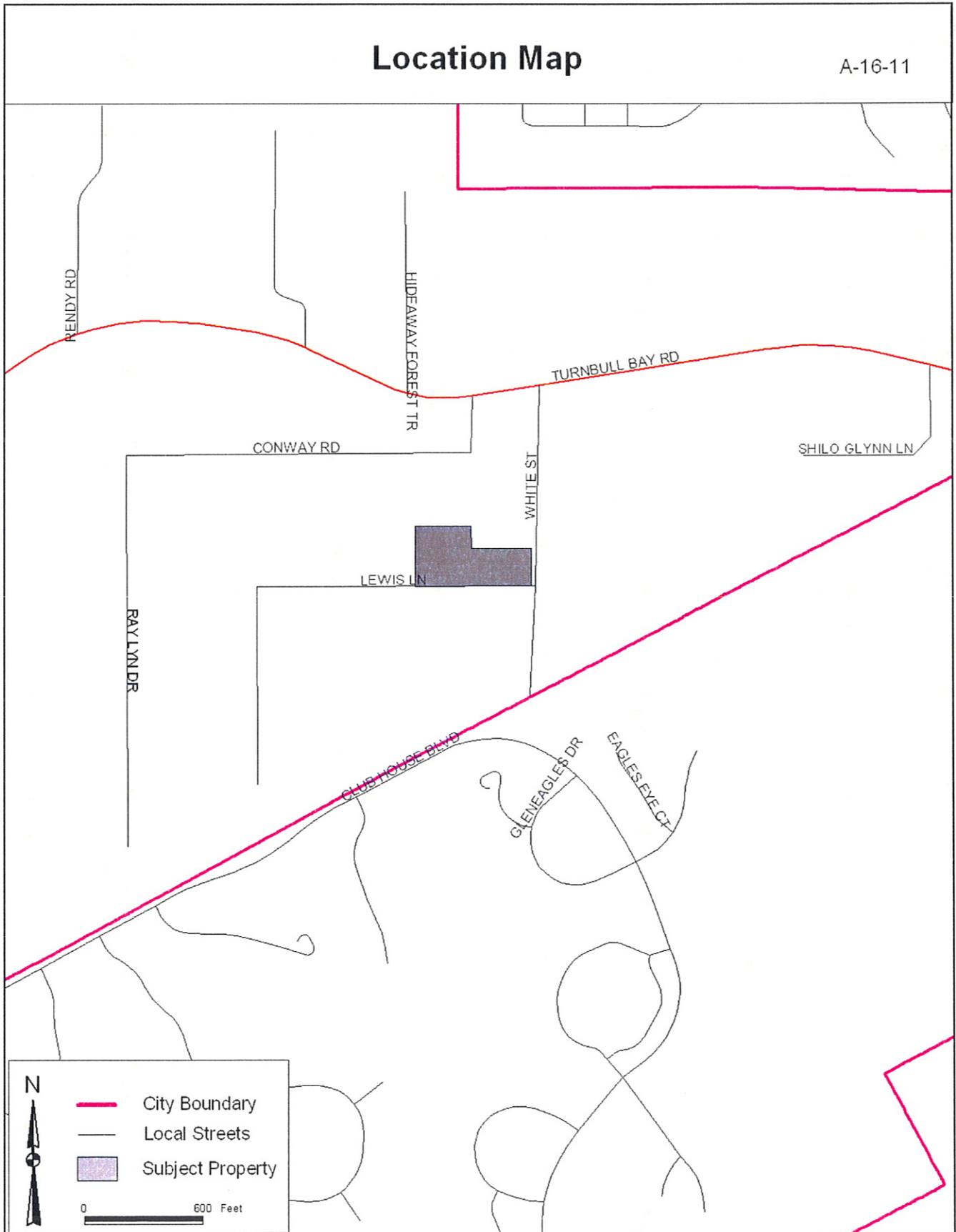
122 *The future land use amendment and assigned zoning district*
123 *would continue the established City practice and the existing*
124 *development pattern of the area and are in compliance with*
125 *the Comprehensive Plan*

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

132 *The proposed City future land use and zoning designations*
133 *would continue the established City practice and the existing*
134 *development pattern of the area and are in compliance with*
135 *the Comprehensive Plan*

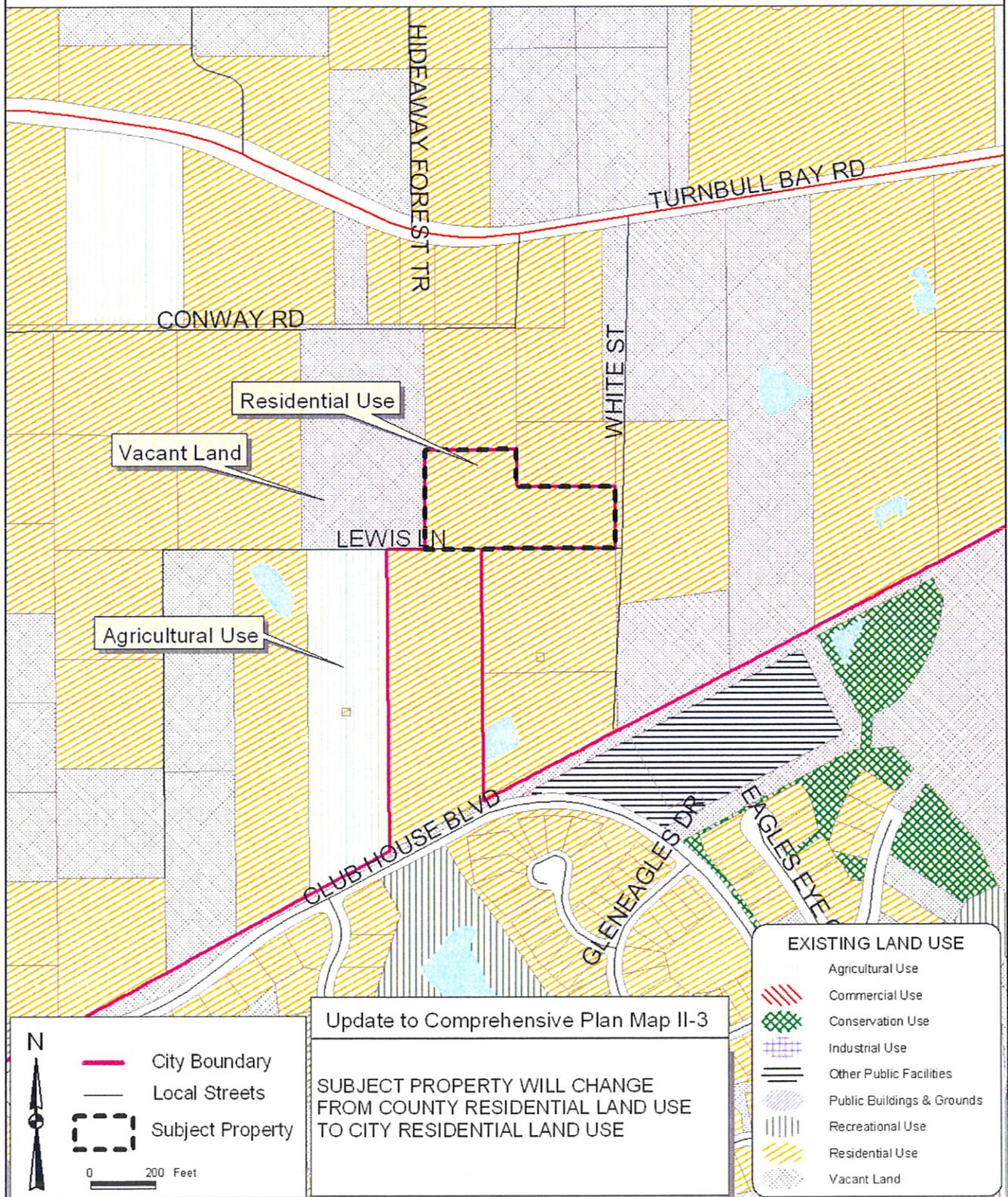
137 III. Recommendation

138
139 Staff recommends that the Planning and Zoning Board recommend the City
140 Commission **approve** the rezoning to City zoning district designation RA, Rural
141 Agriculture Estate.



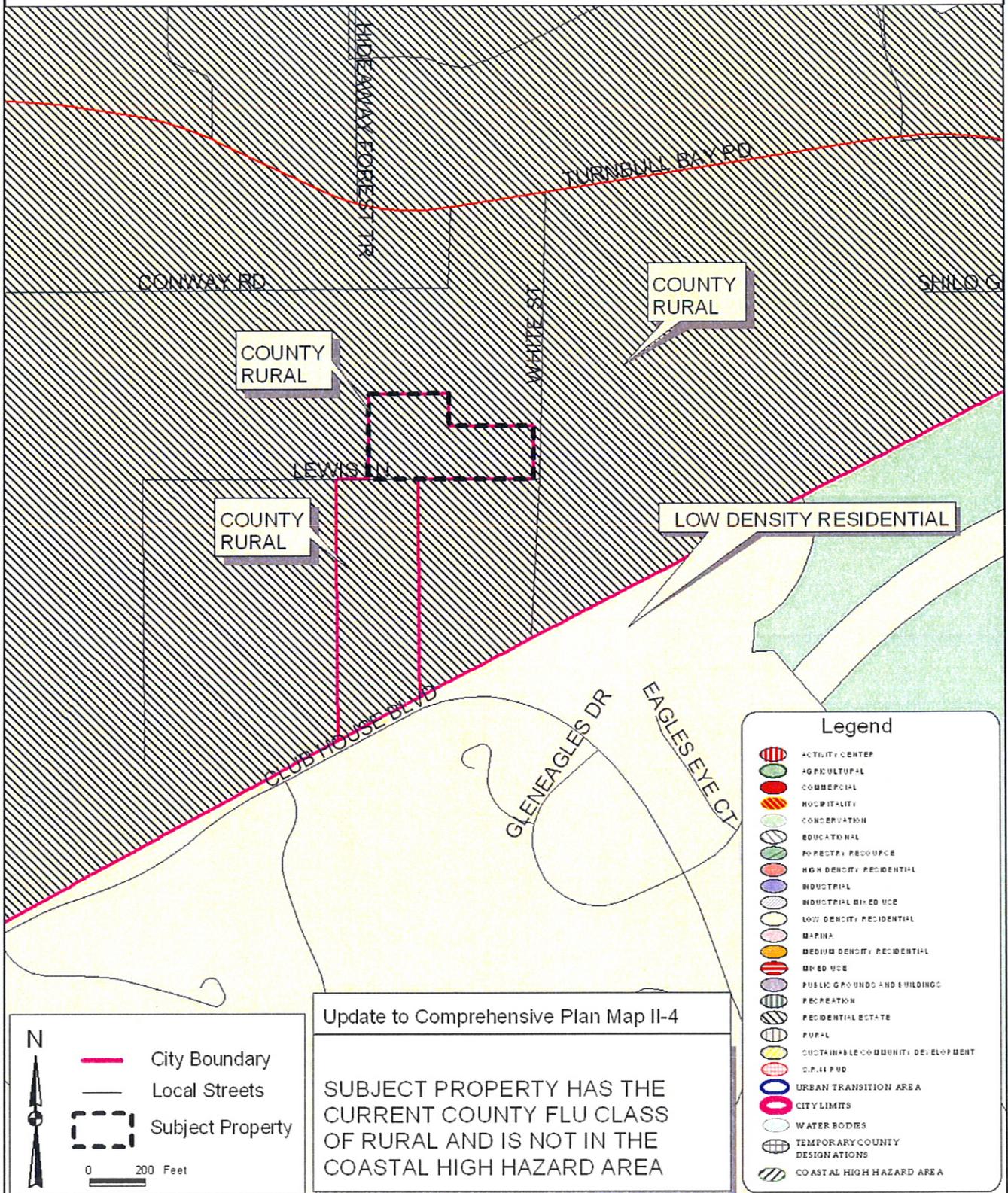
Existing Land Use Designations

A-16-11



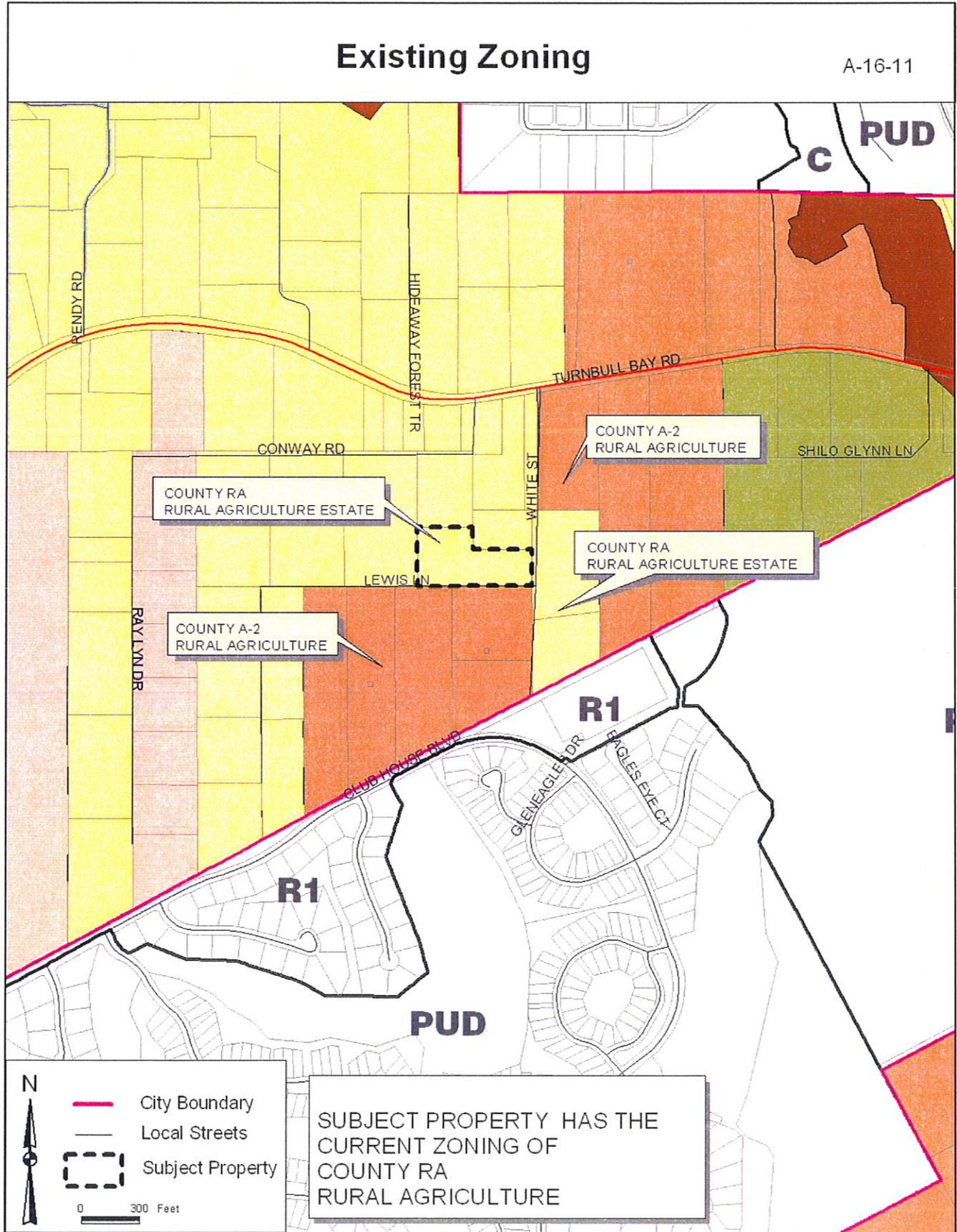
Existing Future Land Use Designations

A-16-11



Update to Comprehensive Plan Map II-4

SUBJECT PROPERTY HAS THE CURRENT COUNTY FLU CLASS OF RURAL AND IS NOT IN THE COASTAL HIGH HAZARD AREA



COUNTY RA RURAL AGRICULTURAL ESTATE
CLASSIFICATION

148
149
150 *Purpose and intent:* The purpose and intent of the RA Rural Agricultural Estate
151 Classification is to provide for low density development, personal agricultural production
152 consistent with the comprehensive plan, in rural areas of the county.

153
154 *Permitted principal uses and structures:* In the RA Rural Agricultural Estate
155 Classification, no premises shall be used except for the following uses and their
156 customary accessory uses or structures:

- 157 • Communication towers not exceeding 70 feet in height above ground level.
- 158 • Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with
159 division 8 of the Land Development Code of Volusia County [article III] and/or final
160 site plan review procedures of this article.
- 161 • Exempt landfills (refer to subsection 72-293(16)).
- 162 • Essential utility services.
- 163 • Fire stations.
- 164 • Hobby breeder.
- 165 • Home occupations, class A (refer to section 72-283).
- 166 • Houses of worship.
- 167 • Parks and recreation areas accessory to residential developments.
- 168 • Public schools.
- 169 • Publicly owned parks and recreational areas.
- 170 • Publicly owned or regulated water supply wells.
- 171 • Raising of crops and keeping of animals, including aviaries, pisciculture, apiaries
172 and worm raising for personal use (not for resale), accessory to a single-family
173 dwelling. The personal use restriction is not intended to apply to 4-H, FFA or similar
174 educational projects.
- 175 • Single-family standard or manufactured modular dwelling.

176
177 *Permitted special exceptions:* Additional regulations/requirements governing permitted
178 special exceptions are located in sections 72-293 and 72-415 of this article.

- 179 • Animal shelters.
- 180 • Bed and breakfast (refer to subsection 72-293(19)).
- 181 • Cemeteries (refer to subsection 72-293(4)).
- 182 • Communication towers exceeding 70 feet in height above ground level.
- 183 • Day care center (refer to subsection 72-293(6)).
- 184 • Dogs and cats boarded as personal pets exceeding the number permitted in
185 subsection 72-306(a).
- 186 • Excavations only for stormwater retention ponds for which a permit is required by
187 this article.
- 188 • Garage apartments.
- 189 • Group home (refer to subsection 72-293(12)).
- 190 • Home occupations, class B (refer to section 72-283).
- 191 • Kennels.
- 192 • Off-street parking areas (refer to subsection 72-293(14)).
- 193 • Public uses not listed as a permitted principal use.
- 194 • Public utility uses and structures (refer to subsection 72-293(1)).
- 195 • Recreational areas (refer to subsection 72-293(3)).

- 196 • Schools, parochial or private (refer to subsection 72-293(4)).
197

198 *Dimensional requirements:*

199 *Minimum lot size:*

200 Area: Two and one-half acres.

201 Width: 150 feet.

202 *Minimum yard size:*

203 Front yard: 45 feet.

204 Rear yard: 45 feet.

205 Side yard: 25 feet.

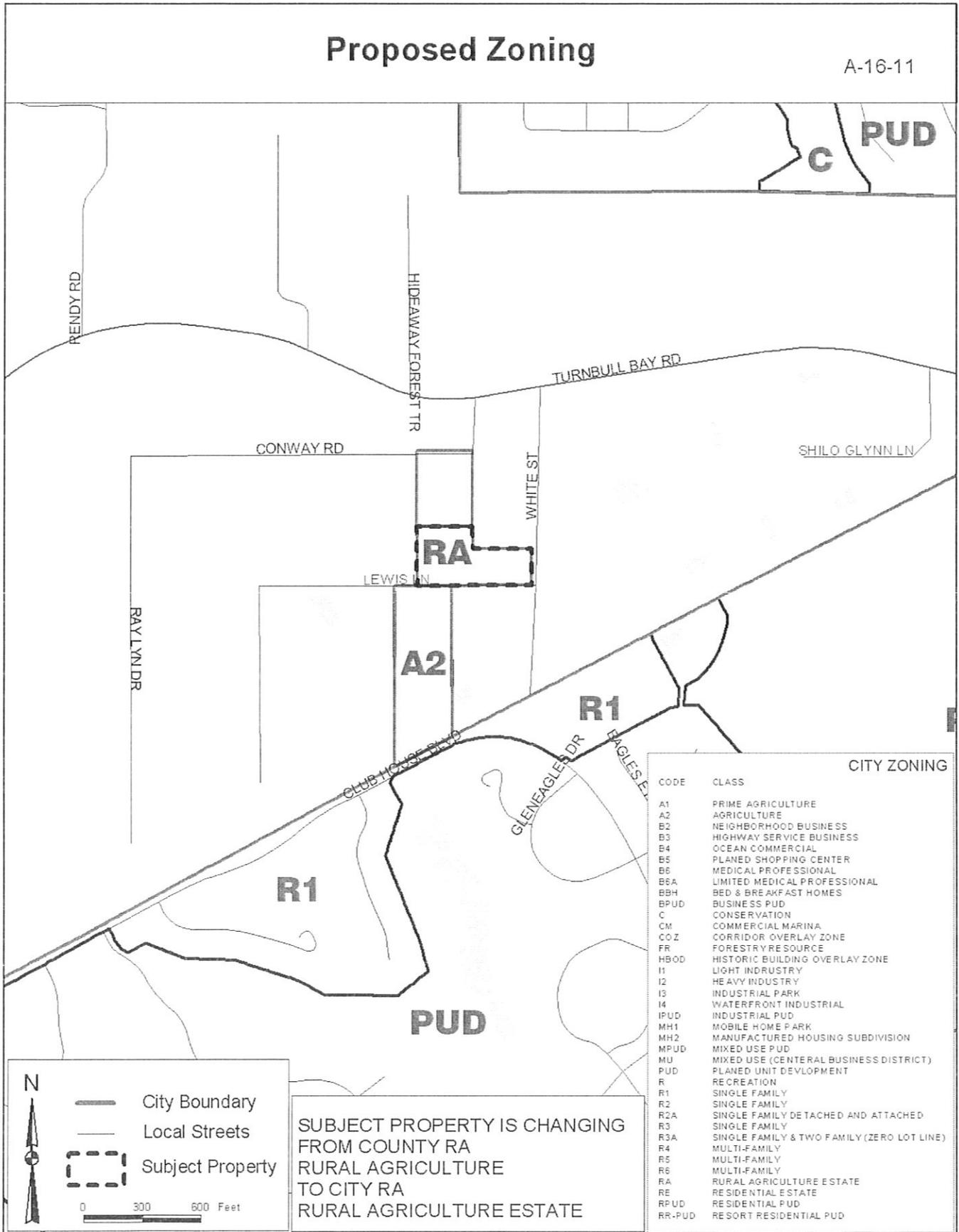
206 Waterfront yard: 45 feet.

207 *Maximum building height:* 35 feet.

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

210 *Minimum floor area:* 1,000 square feet.

211
212 *Off-street parking and loading requirements:* Off-street parking and loading areas
213 meeting the requirements of sections 72-286 and 72-287 shall be constructed.



CITY 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 city.

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
- Excavations (refer to subsection 801.15 of this LDR)
- Exempt landfills (refer to subsection 801.20 of this LDR)
- Essential utility services
- Fire stations
- Hobby breeder
- Home occupations
- 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 subsections 801.21 through 801.27 of this LDR.

- Animal shelters
- Bed and breakfast (refer to subsection 801.21)
- Cemeteries (refer to subsection 801.22)
- Communication towers exceeding 70 feet in height above ground level
- Day care center (refer to subsection 801.23)
- Excavations only for stormwater retention ponds for which a permit is required by this LDR
- Garage apartments
- Group home (refer to subsection 801.24)
- Kennels
- Off-street parking areas (refer to subsection 801.25)
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 801.26)
- Recreational areas (refer to subsection 081.27)
- Schools, parochial or private (refer to subsection 801.22).

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 subsection 604.10 of this LDR shall be constructed.

1 CITY OF NEW SMYRNA BEACH – CITY COMMISSION
2 **A-17-11: NELLIS / 2800 CONWAY ROAD**
3 **JANUARY 9, 2012**
4

5 **I. Background**
6

- 7 A. **Applicant and Property Owner:** Renee M. Nellis, 2800 Conway Road,
8 New Smyrna Beach, Florida, 32168
9
- 10 B. **Request:** Rezoning from Volusia County RA, Rural Agriculture Estate to
11 City RA, Rural Agriculture Estate
12
- 13 C. **Site Information:**
- 14 • **Size:** 2.5 acres
 - 15 • **Location:** The subject property is located south of Turnbull Bay
16 Road at 2800 Conway Road. (see **Exhibit A** for a location map).
 - 17 • **Tax I.D. Number:** 7303-00-02-0029
18

19 **II. Findings**
20

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

28 **North**

29 Future Land Use: County Rural
30 Existing Land Use: Residential
31 Zoning: County RA, Rural Agriculture Estate
32

33 **South**

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

38 **East**

39 Future Land Use: County Rural
40 Existing Land Use: Residential
41 Zoning: County RA, Rural Agriculture Estate
42

43 **West**

44 Future Land Use: County Rural
45 Existing Land Use: Vacant
46 Zoning: County RA, Rural Agriculture Estate
47
48

49 Maps showing the surrounding Existing Land Uses, Existing Future Land
50 use, and Existing Zoning Designations are attached (**Exhibits C, D, and**
51 **E**). A description of the existing zoning designation on the subject
52 property is attached as **Exhibit F**.
53

54 B. At its December 5, 2011 meeting, the Planning and Zoning Board voted
55 unanimously to recommend the City Commission approve the annexation
56 request and Future Land Use amendment. The Board also voted
57 unanimously to continue the rezoning request to the January 2012
58 meeting. The continuation was required due to a notification issue
59 involving a confidential property record. While the owner of the property
60 did receive a notice, it did not meet the 10-day required notification.
61

62 C. Following the December 5th Planning and Zoning Board meeting, staff met
63 with adjacent property owners, including the owner of the property with the
64 confidential property record to discuss their concerns. As a result of those
65 discussions, staff has revised this rezoning request to recommend that the
66 subject property be rezoned to a new proposed zoning category of RA,
67 Rural Agriculture Estate. This new City zoning classification would be
68 identical to the existing County RA zoning designation. The amendment
69 to the *Land Development Regulations* that would create the new City RA
70 zoning classification is also scheduled for the January 9, 2012 Planning
71 and Zoning Board meeting. A map showing the proposed zoning change
72 is attached as **Exhibit G**. A description of the proposed zoning
73 designation is attached as **Exhibit H**.
74

75 D. The *Land Development Regulations* requires any proposed development
76 to conform to the Concurrency Management System. That system
77 includes traffic, parks and recreation, potable water, wastewater
78 treatment, solid waste collection, stormwater management, and public
79 school facilities. Because the property is already developed with a single-
80 family residence and the proposed future land use and zoning
81 designations would only allow one single-family residence on this lot, no
82 concurrency impact analysis was completed.
83

84 E. The *Comprehensive Plan* provides some guidance on annexations, future
85 land use amendments, and rezoning requests. The following is a list of
86 objectives in the *Comprehensive Plan* that support this proposal.
87 Following each objective is a comment in ***bold italics***.
88

- 89 • **Future Land Use Element Objective 1:** To ensure that future
90 development will be consistent with adjacent uses, natural
91 limitations such as topography and soil conditions, the needs of the
92 citizens of New Smyrna Beach, the Future Land Use Map, the
93 availability of facilities and services, and the goals, objectives and
94 policies contained within this *Comprehensive Plan*.
95

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

- 101
- 102 • **Future Land Use Element Objective 2:** To provide adequate
103 services and facilities for future development, at the adopted level-
104 of-service standard. In order to maintain the adopted level-of-
105 service standard, development orders and permits will be
106 conditioned on the availability of the public facilities and services
107 necessary to serve the proposed development.

109 *The proposed future land use amendment and zoning change*
110 *will not increase density in this area. The parcel that would*
111 *allow for a single family residence on 2.5 acres per County*
112 *regulations would become a parcel that would allow for a*
113 *single family residence on 2.5 acres per City regulations.*
114 *Therefore, the request is consistent with the Comprehensive*
115 *Plan.*

- 116
- 117 • **Future Land Use Element Objective 7:** To implement land use
118 patterns, utility service extensions, impact fees and an annexation
119 methodology, which provide for orderly development and
120 discourage urban sprawl.

121

122 *The proposed future land use and zoning designations would*
123 *continue the established City practice and the existing*
124 *development pattern of the area and are in compliance with*
125 *the Comprehensive Plan*

- 126
- 127 • **Future Land Use Element Objective 10:** To protect existing
128 desirable neighborhoods from encroaching new development which
129 is incompatible and inconsistent with established character of the
130 neighborhood

131

132 *The proposed future land use and zoning designations would*
133 *continue the established City practice and the existing*
134 *development pattern of the area and are in compliance with*
135 *the Comprehensive Plan*

136

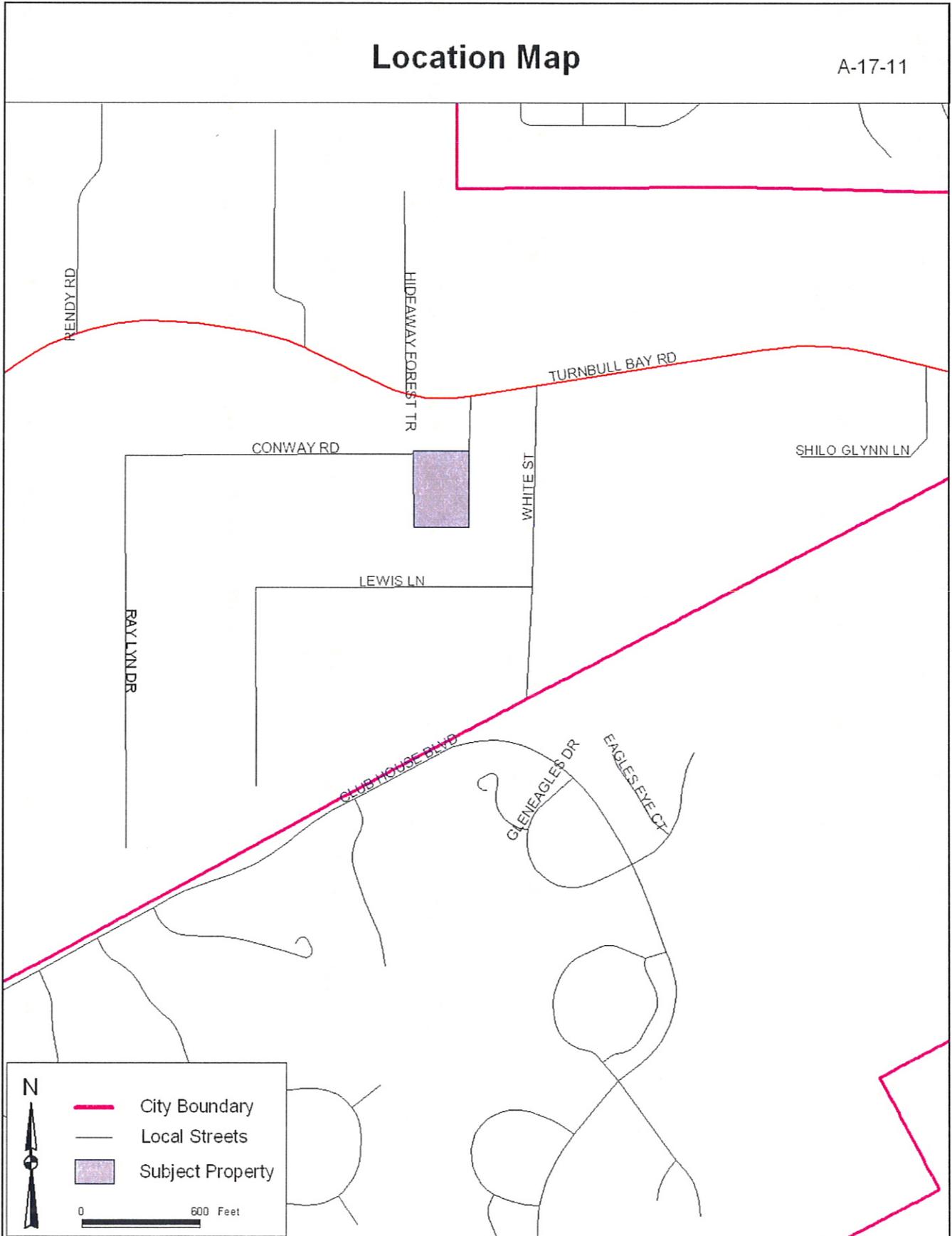
137 **III. Recommendation**

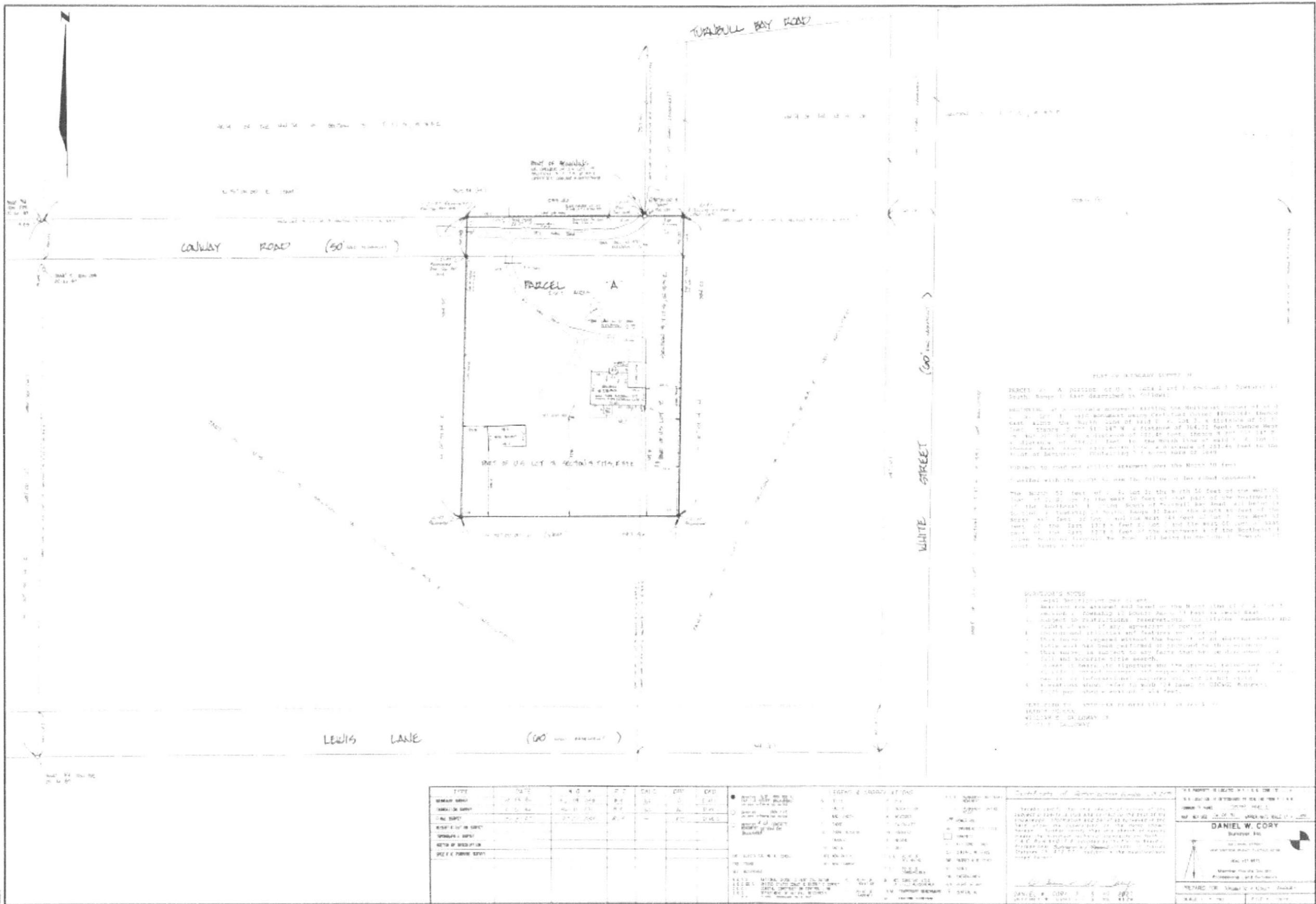
138

139 Staff recommends that the Planning and Zoning Board recommend the City
140 Commission **approve** the rezoning to City zoning district designation RA, Rural
141 Agriculture Estate.

142

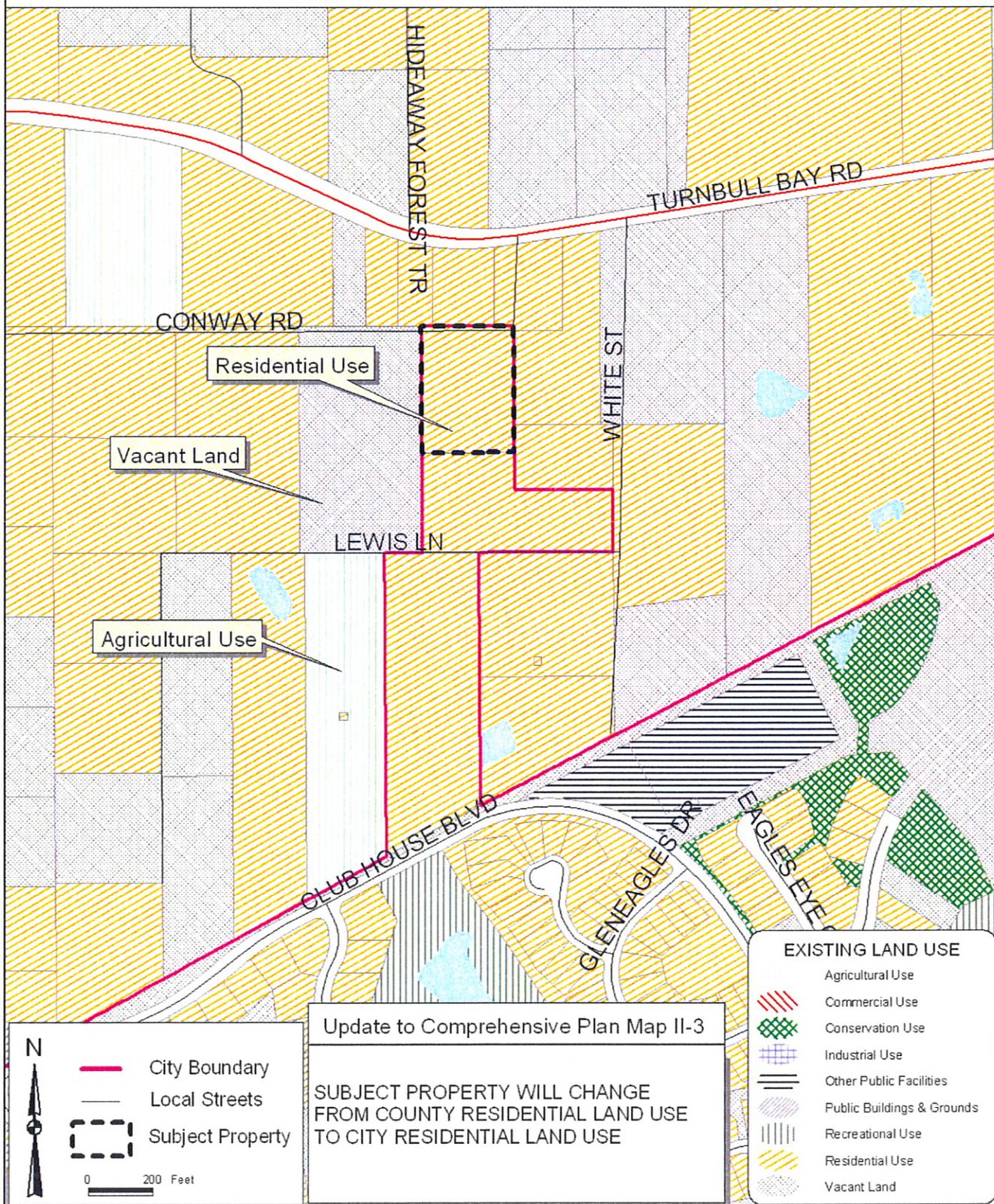
143





Existing Land Use Designations

A-17-11

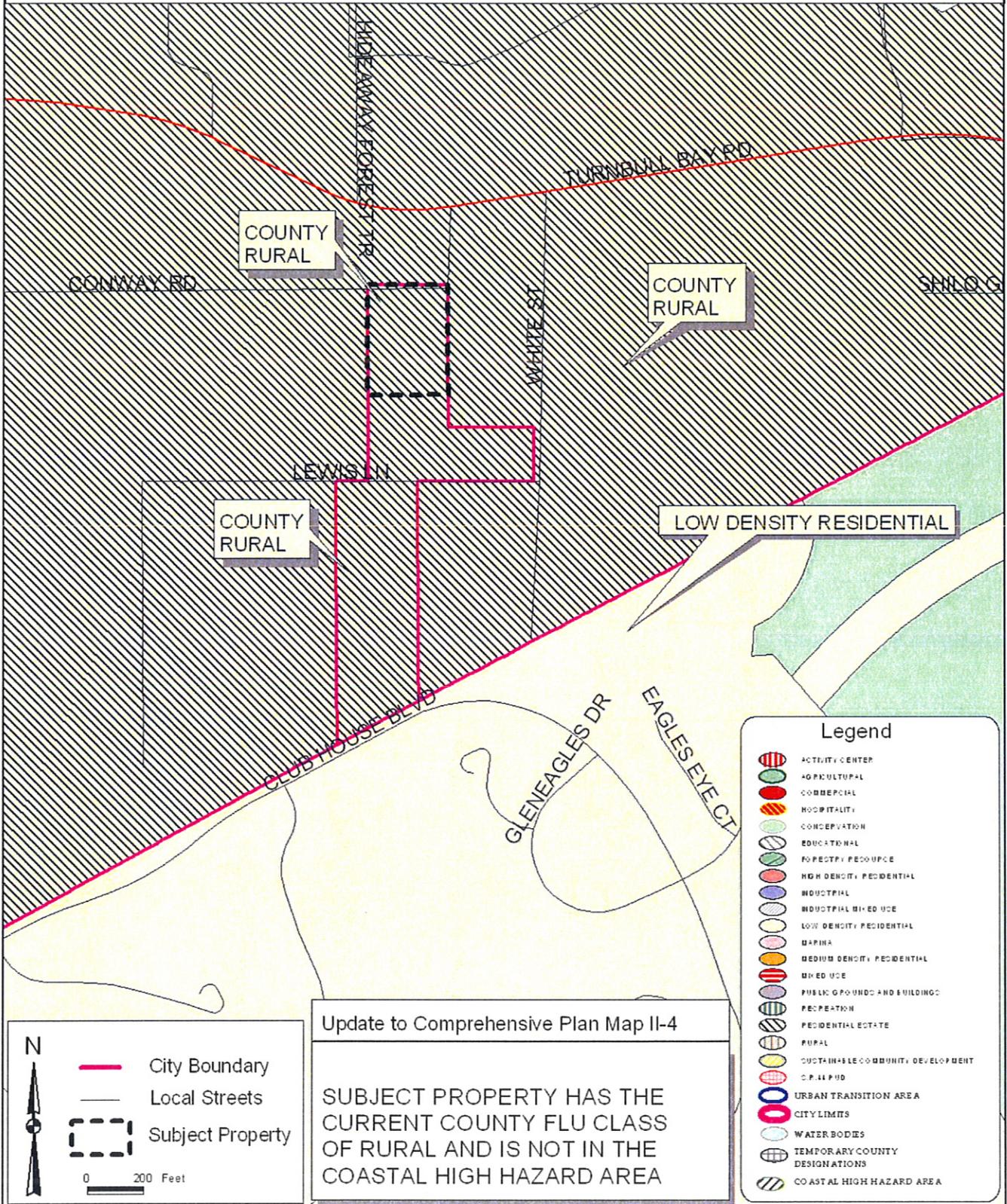


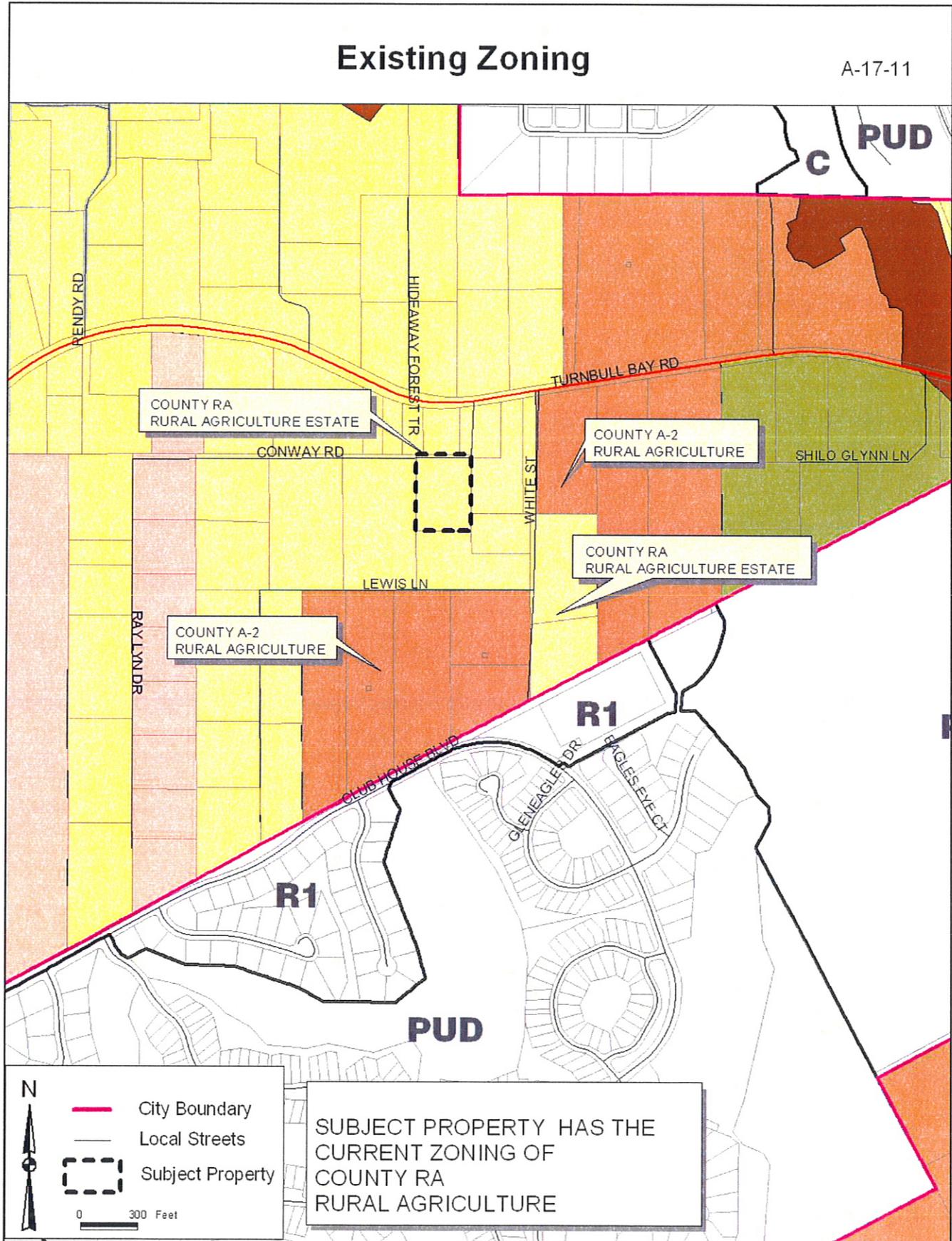
Update to Comprehensive Plan Map II-3

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

Existing Future Land Use Designations

A-17-11





COUNTY RA RURAL AGRICULTURAL ESTATE
CLASSIFICATION

149
150
151 *Purpose and intent:* The purpose and intent of the RA Rural Agricultural Estate
152 Classification is to provide for low density development, personal agricultural production
153 consistent with the comprehensive plan, in rural areas of the county.
154

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

- 158 • Communication towers not exceeding 70 feet in height above ground level.
- 159 • Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with
160 division 8 of the Land Development Code of Volusia County [article III] and/or final
161 site plan review procedures of this article.
- 162 • Exempt landfills (refer to subsection 72-293(16)).
- 163 • Essential utility services.
- 164 • Fire stations.
- 165 • Hobby breeder.
- 166 • Home occupations, class A (refer to section 72-283).
- 167 • Houses of worship.
- 168 • Parks and recreation areas accessory to residential developments.
- 169 • Public schools.
- 170 • Publicly owned parks and recreational areas.
- 171 • Publicly owned or regulated water supply wells.
- 172 • Raising of crops and keeping of animals, including aviaries, pisciculture, apiaries
173 and worm raising for personal use (not for resale), accessory to a single-family
174 dwelling. The personal use restriction is not intended to apply to 4-H, FFA or similar
175 educational projects.
- 176 • Single-family standard or manufactured modular dwelling.

177
178 *Permitted special exceptions:* Additional regulations/requirements governing permitted
179 special exceptions are located in sections 72-293 and 72-415 of this article.

- 180 • Animal shelters.
- 181 • Bed and breakfast (refer to subsection 72-293(19)).
- 182 • Cemeteries (refer to subsection 72-293(4)).
- 183 • Communication towers exceeding 70 feet in height above ground level.
- 184 • Day care center (refer to subsection 72-293(6)).
- 185 • Dogs and cats boarded as personal pets exceeding the number permitted in
186 subsection 72-306(a).
- 187 • Excavations only for stormwater retention ponds for which a permit is required by
188 this article.
- 189 • Garage apartments.
- 190 • Group home (refer to subsection 72-293(12)).
- 191 • Home occupations, class B (refer to section 72-283).
- 192 • Kennels.
- 193 • Off-street parking areas (refer to subsection 72-293(14)).
- 194 • Public uses not listed as a permitted principal use.
- 195 • Public utility uses and structures (refer to subsection 72-293(1)).
- 196 • Recreational areas (refer to subsection 72-293(3)).

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

198

199 *Dimensional requirements:*

200 *Minimum lot size:*

201 Area: Two and one-half acres.

202 Width: 150 feet.

203 *Minimum yard size:*

204 Front yard: 45 feet.

205 Rear yard: 45 feet.

206 Side yard: 25 feet.

207 Waterfront yard: 45 feet.

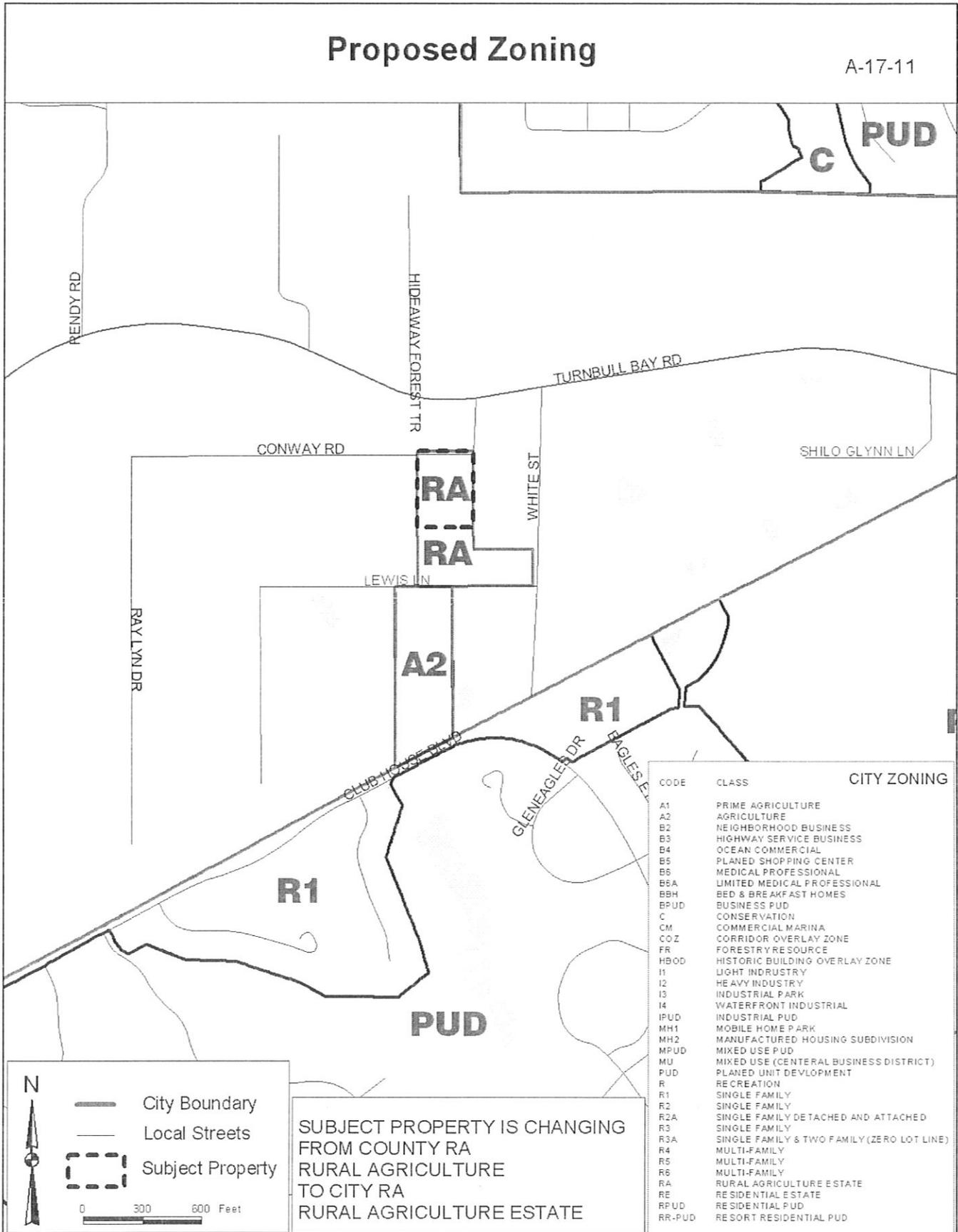
208 *Maximum building height:* 35 feet.

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

211 *Minimum floor area:* 1,000 square feet.

212

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



CITY 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 city.

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
- Excavations (refer to subsection 801.15 of this LDR)
- Exempt landfills (refer to subsection 801.20 of this LDR)
- Essential utility services
- Fire stations
- Hobby breeder
- Home occupations
- 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 subsections 801.21 through 801.27 of this LDR.

- Animal shelters
- Bed and breakfast (refer to subsection 801.21)
- Cemeteries (refer to subsection 801.22)
- Communication towers exceeding 70 feet in height above ground level
- Day care center (refer to subsection 801.23)
- Excavations only for stormwater retention ponds for which a permit is required by this LDR
- Garage apartments
- Group home (refer to subsection 801.24)
- Kennels
- Off-street parking areas (refer to subsection 801.25)
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 801.26)
- Recreational areas (refer to subsection 081.27)
- Schools, parochial or private (refer to subsection 801.22).

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 subsection 604.10 of this LDR shall be constructed.

1 CITY OF NEW SMYRNA BEACH – CITY COMMISSION
2 **A-14-11: STRAHMAN / 1569 LEWIS LANE**
3 **JANUARY 9, 2012**
4

5 **I. Background**
6

7 A. **Applicant and Property Owner:** Peggy A. Strahman, 1569 Lewis Lane,
8 New Smyrna Beach
9

10 B. **Request:** Rezoning from Volusia County A-2, Rural Agriculture to City A-
11 2, Agriculture.
12

13 B. **Site Information:**

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

20 **II. Findings**

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

28 **North**

29 Future Land Use: County Rural
30 Existing Land Use: Single-Family Residential
31 Zoning: County RA, Rural Agriculture Estate
32

33 **South**

34 Future Land Use: City Low Density Residential
35 Existing Land Use: Single-Family Residential and Recreational
36 Zoning: City PUD, Planned Unit Development
37

38 **East**

39 Future Land Use: County Rural
40 Existing Land Use: Single-Family Residential
41 Zoning: County A-2, Rural Agriculture
42

43 **West**

44 Future Land Use: County Rural
45 Existing Land Use: Agriculture
46 Zoning: County A-2, Rural Agriculture
47

48 Maps showing the surrounding Existing Land Uses, Existing Zoning, and

49 Existing Future Land Use Designations are attached (**Exhibits C, D, and**
50 **E**). A description of the existing zoning designation on the subject
51 property is attached as **Exhibit F**.
52

53 B. At its December 5, 2011 meeting, the Planning and Zoning Board heard
54 concerns raised by a neighboring property owner regarding a notification
55 issue involving a confidential property record. While the owner of the
56 property did receive a notice, it did not meet the 10-day required
57 notification. In order to ensure that the notification requirements are met,
58 staff is bringing the rezoning portion of this annexation request back to the
59 Planning and Zoning Board. A map showing the proposed zoning change
60 is attached as **Exhibit G**. A description of the proposed zoning
61 designation is attached as **Exhibit H**. This parcel meets minimum lot
62 dimensions for County A-2 zoning and for City A-2 zoning.
63

64 C. The *Land Development Regulations* requires any proposed development
65 to conform to the Concurrency Management System. That system
66 includes traffic, parks and recreation, potable water, wastewater
67 treatment, solid waste collection, stormwater management, and public
68 school facilities. Because the property is already developed with a single-
69 family residence and the proposed future land use and zoning
70 designations would only allow one single-family residence on this lot, no
71 concurrency impact analysis was completed.
72

73 D. The *Comprehensive Plan* provides some guidance on annexations, future
74 land use amendments, and rezonings. The following is a list of objectives
75 in the *Comprehensive Plan* that support this proposal. Following each
76 objective is a comment in ***bold italics***.
77

78 • **Future Land Use Element Objective 1:** To ensure that future
79 development will be consistent with adjacent uses, natural
80 limitations such as topography and soil conditions, the needs of the
81 citizens of New Smyrna Beach, the Future Land Use Map, the
82 availability of facilities and services, and the goals, objectives and
83 policies contained within this *Comprehensive Plan*.
84

85 ***The requested zoning designation for the subject property is***
86 ***consistent with proposed adjacent uses, natural limitations,***
87 ***and the availability of facilities and services. Therefore, it is***
88 ***consistent with the Comprehensive Plan. The property is***
89 ***bordered by low density single-family residential lands and***
90 ***single family residential lands on large lots with livestock such***
91 ***as horses.***
92

93 • **Future Land Use Element Objective 2:** To provide adequate
94 services and facilities for future development, at the adopted level-
95 of-service standard. In order to maintain the adopted level-of-
96 service standard, development orders and permits will be

97 conditioned on the availability of the public facilities and services
98 necessary to serve the proposed development.
99

100 *The proposed future land use amendment and zoning change*
101 *will not increase density in this area. The parcel would allow*
102 *for a single family residence on five acres per County*
103 *regulations and would become a parcel that would allow for a*
104 *single family residence on five acres per City regulations.*
105 *Therefore, the request is consistent with the Comprehensive*
106 *Plan.*
107

- 108 • **Future Land Use Element Objective 7:** To implement land use
109 patterns, utility service extensions, impact fees and an annexation
110 methodology, which provide for orderly development and
111 discourage urban sprawl.
112

113 *The proposed future land use and zoning designations would*
114 *continue the established City practice and the existing*
115 *development pattern of the area and are in compliance with*
116 *the Comprehensive Plan.*
117

- 118 • **Future Land Use Element Objective 10:** To protect existing
119 desirable neighborhoods from encroaching new development which
120 is incompatible and inconsistent with established character of the
121 neighborhood
122

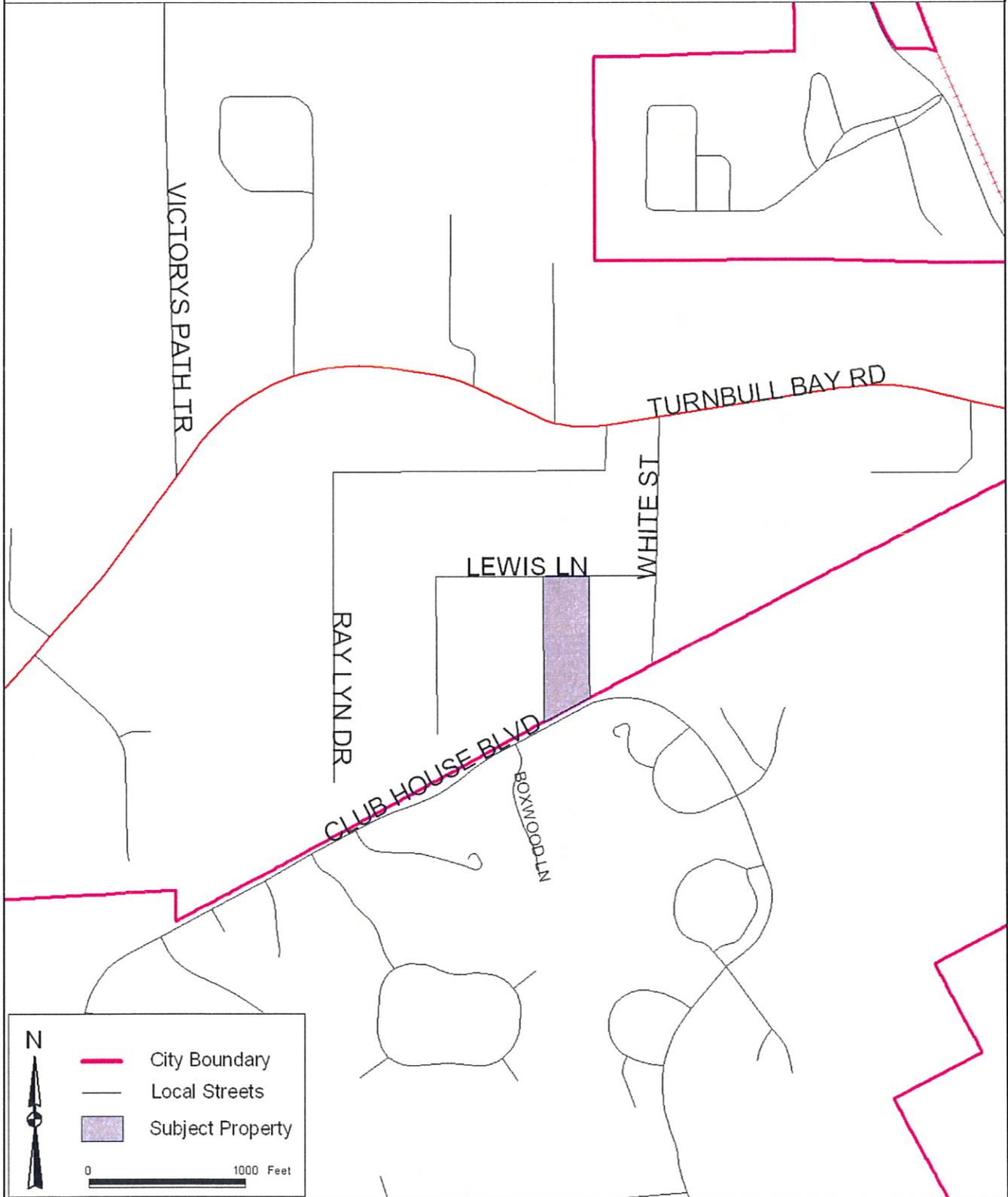
123 *The proposed future land use and zoning designations would*
124 *be compatible with the existing development pattern of the*
125 *area and are in compliance with the Comprehensive Plan.*
126

127 III. Recommendation

128
129 Staff recommends that the Planning and Zoning Board recommend the City
130 Commission **approve** the rezoning to City zoning district designation A-2,
131 Agriculture.
132

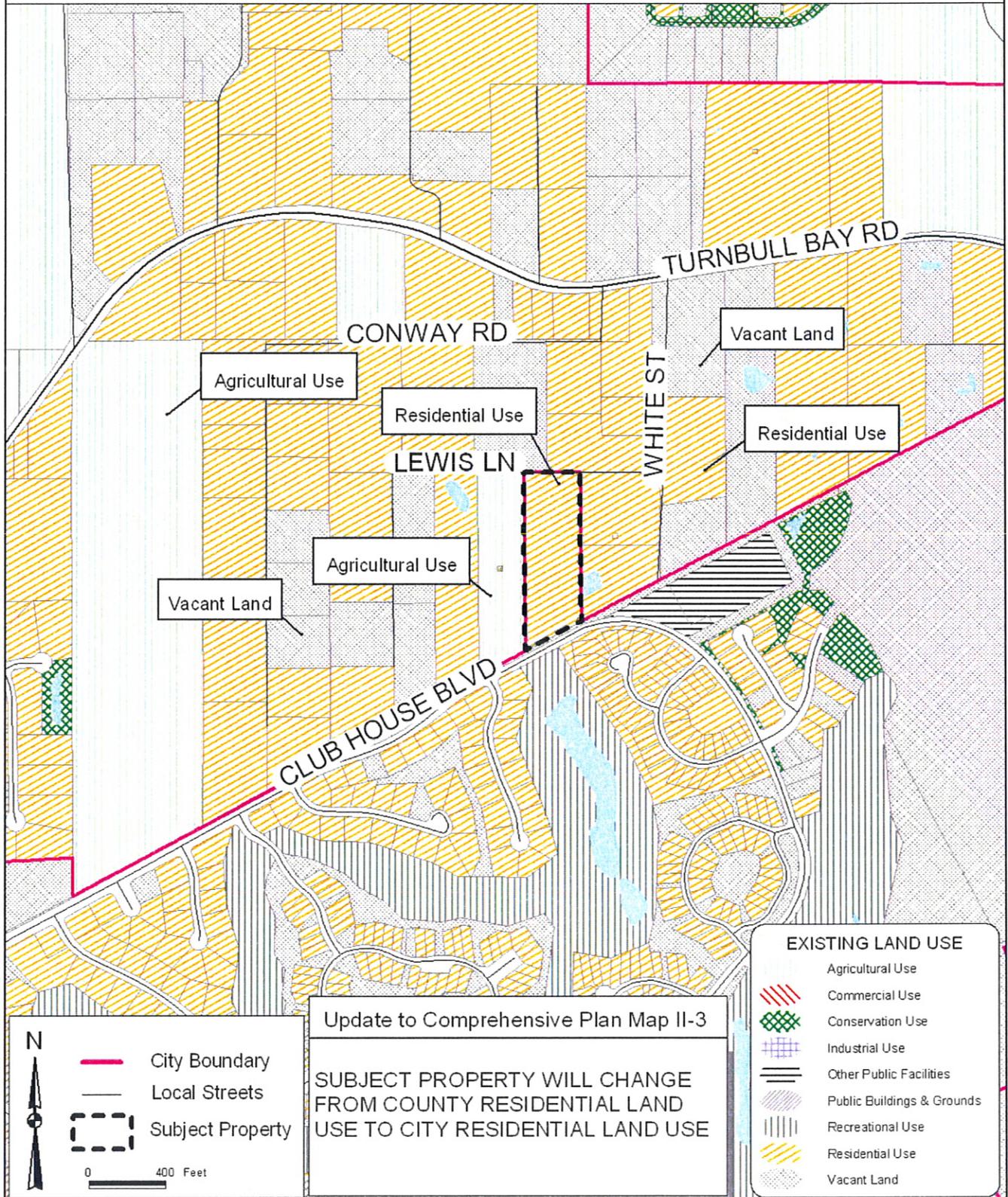
Location Map

A-14-11



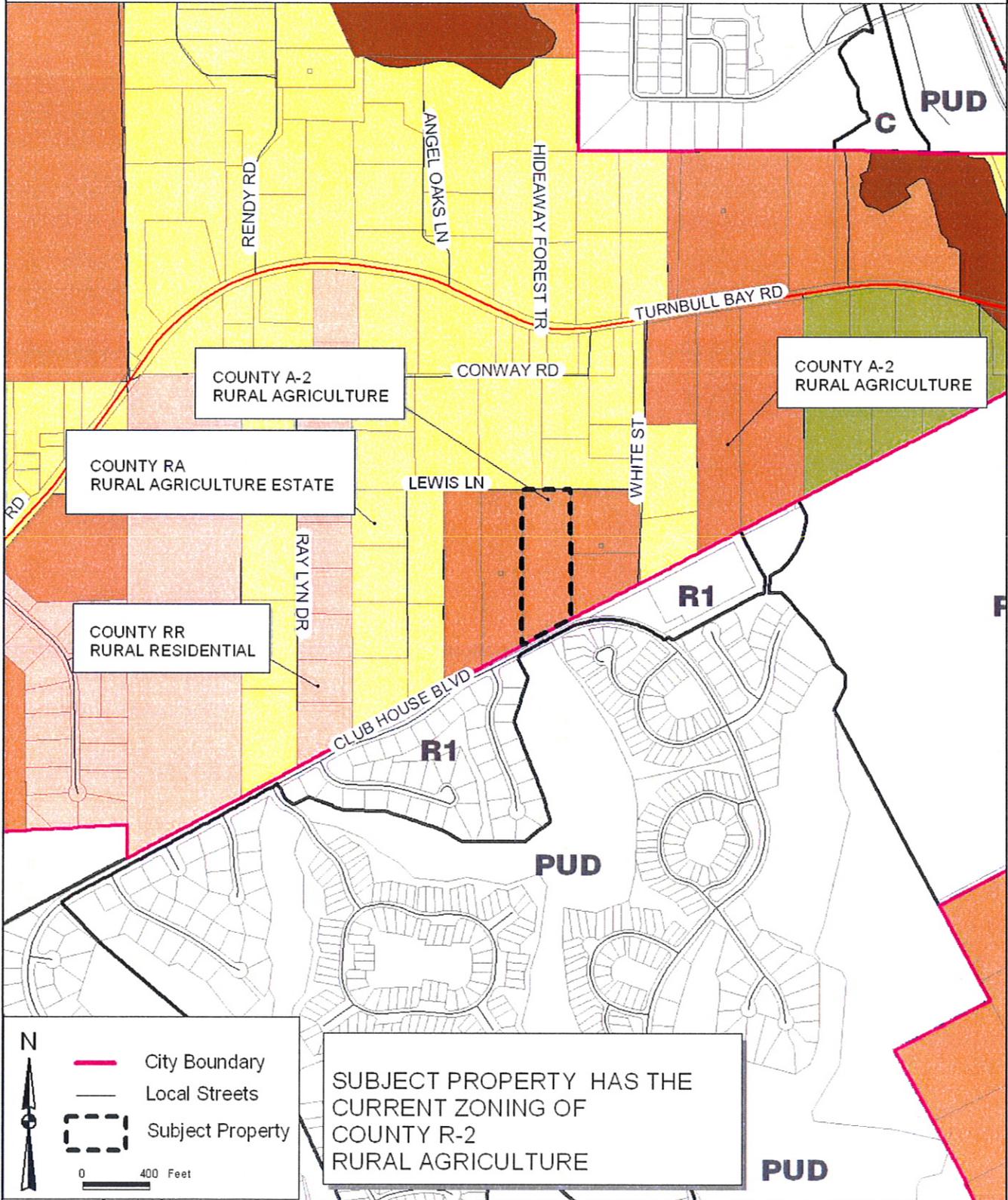
Existing Land Use Designations

A-14-11



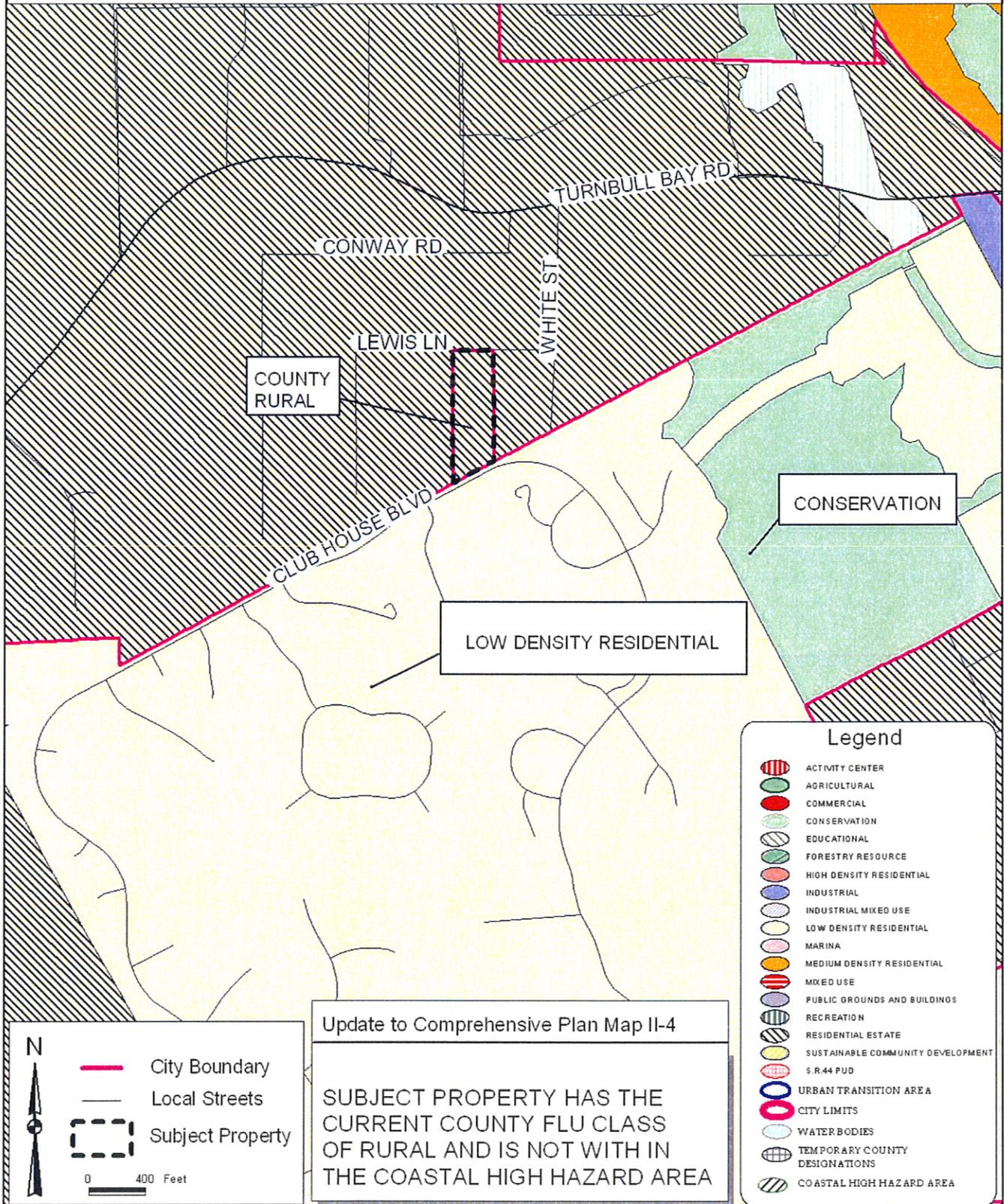
Existing Zoning

A-14-11



Existing Future Land Use Designations

A-14-11



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.

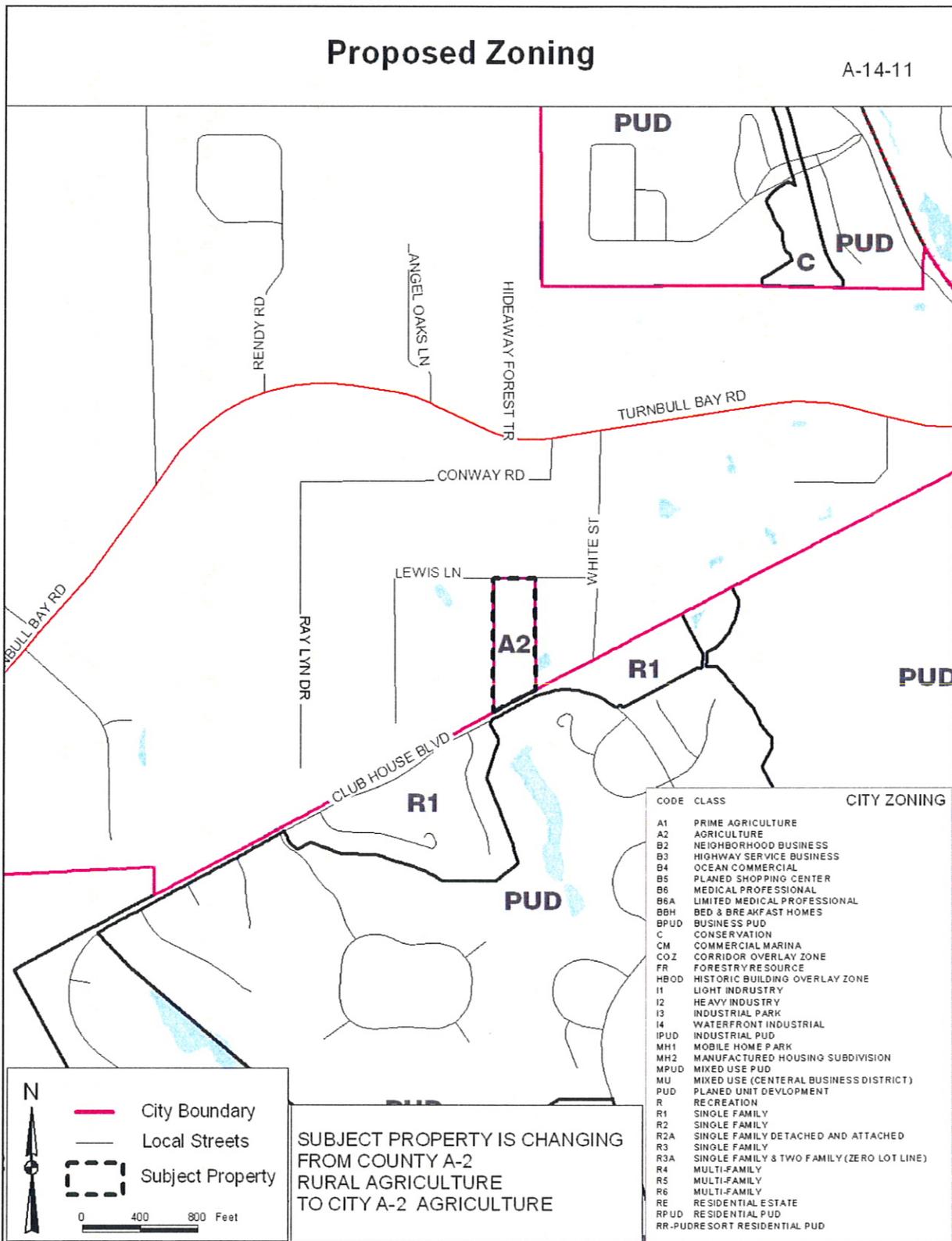
Maximum building height: 45 feet.

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.



1 A-2, AGRICULTURE DISTRICT

2
3 Intent. The purpose and intent of the A-2, Agriculture District, is to preserve and
4 protect rural areas of the city that have some agricultural value, but which
5 are also suitable for rural single-family living.
6

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

10
11 Apiaries

12 Essential utility service

13 Fire stations

14 Fish, hunting, or nonprofit organization camps

15 Hobby breeder

16 Home occupation

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

19 Parks and recreation areas

20 Pisciculture

21 Public uses not listed as a permitted principal use

22 Public utility uses and structures

23 Single family standard or manufactured dwelling

24 Riding stables (minimum parcel size requirement of five acres)

25 Wormraising

26 Permitted accessory uses.

27 Fruit and vegetable stands

28 Garages

29 Gazebos

30 Incidental uses

31 Nonresidential agricultural buildings and recreation facilities related to the
32 permitted use

33 Storage sheds

34 Permitted special exceptions.

35 Animal hospitals, veterinary clinics

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

37 Farm supply stores

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

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

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

42 (c) No dwelling used as a farmworker living facility shall be closer than
43 100 feet to any property line of the premises on which it is placed.

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

EXHIBIT H (CONT'D)

- 48 (e) Potable water and sewage disposal facilities shall be in compliance
- 49 with all applicable provisions of Florida law and the city's
- 50 comprehensive plan.
- 51 (f) The area between the ground and the floor of a mobile home dwelling
- 52 used as a farmworker living facility shall be enclosed with skirting.
- 53 (g) No subsequent expansion of a farmworker living facility as shown on
- 54 the approved site plan for the special exception shall be allowed
- 55 unless another special exception for the expansion is approved.
- 56 However, subsequent decrease of the approved sites is permitted.
- 57 (h) The applicant shall provide information to the enforcement official as
- 58 to the kind of agricultural operation existing on the premises at the
- 59 time of application for the farmworker living facility.
- 60 (i) Dwellings may be arranged in a cluster fashion on the premises. The
- 61 maximum number of dwellings authorized will be based on the size of
- 62 the premises, as follows:

63	Size of Premises Maximum	
64	Dwelling	
65	Units	
66	Allowed	
67	5 or more acres but less than 20 acres	1
68	20 or more acres but less than 30 acres	2
69	30 or more acres but less than 40 acres	3
70	40 or more acres but less than 50 acres	4
71	50 or more acres but less than 60 acres	5
72	60 or more acres but less than 70 acres	6
73	70 or more acres but less than 80 acres	7
74	80 or more acres	8

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

77 Humane Society/animal shelters provided that no building is located closer than
 78 50 feet from the property line.

79 Kennels

80 Sawmills and planing mills

81 Dimensional requirements.

82 Minimum lot size.

83 Area: 5 acres

84 Width: 150 feet

85 Minimum yard size.

86 Front: 50 feet

87 Rear yard: 50 feet

88 Side yard: 25 feet

89 Waterfront yard: 50 feet

90 Maximum building height. 95 feet

91

EXHIBIT H (CONT'D)

- 97 Screen enclosures. As an exception to the maximum building coverage provision
98 any parcel may be allowed an additional ten percent building coverage for
99 only a screen pool enclosure if the following conditions are met:
100
- 101 1. A screen pool enclosure shall only cover the swimming pool and surrounding
102 pool deck and shall have a roof and walls consisting entirely of screening; and
103
 - 104 2. There shall be no variances granted to exceed the maximum building
105 coverage or additional coverage allowed for screen enclosures.
106
- 107 Maximum lot coverage. The total lot area covered with principal and accessory
108 buildings shall not exceed 35 percent.
109
- 110 Minimum floor area. 750 square feet of livable area
111
- 112 Off-street parking and loading requirements. Off-street parking shall be provided
113 as required in this part.
114
- 115 Skirting requirements for mobile home dwelling. The area between the ground
116 and floor of the mobile home dwelling shall be enclosed with skirting.
117
118
119
120

Interoffice Memorandum City of New Smyrna Beach

To: Planning and Zoning Board Members
From: Gail Henrikson, AICP, Planning Manager *GAIL*
Subject: V-13-11: KENCO SIGNS / 2240 STATE ROAD 44
Date: December 15, 2011

Planning staff met with the property owner and sign contractor on Wednesday, December 14th. At that meeting, it revisions were made to the proposed sign, which would necessitate revisions to the variance request. This would necessitate re-advertising the request for the February 2012 Planning and Zoning Board meeting and re-sending notices to all property owners within 150 feet.

In order to re-advertise and re-notice the revised variance, the property owner is requesting that this item be continued to the February 6, 2012 Planning and Zoning Board meeting.

1 CITY OF NEW SMYRNA BEACH – CITY COMMISSION
2 **A-21-11: KRUCK / STATE ROAD 44**
3 **JANUARY 9, 2012**
4

5 **I. Background**
6

- 7 A. **Applicant and Property Owner:** Donald Kruck, 445 Bouchelle Drive,
8 Unit 205, New Smyrna Beach, Florida, 32169
9
- 10 B. **Request:** Voluntary annexation , *Comprehensive Plan* amendment, and
11 rezoning
12
- 13 • **From:** County Future Land Use (FLU) designation of
14 Environmental Systems Corridor; and County zoning designations
15 of RC(C), Resource Corridor (Thoroughfare Overlay Zone) and
16 Volusia County RC, Resource Corridor
 - 17 • **To:** City FLU designation of Agriculture; and City zoning A-2,
18 Agriculture District
19
- 20 C. **Site Information:**
- 21 • **Size:** 5.0 acres
 - 22 • **Location:** The subject property is generally located northeast of
23 the intersection of State Road 44 and Hughes Road. (see **Exhibit**
24 **A** for a location map).
 - 25 • **Tax I.D. Numbers:** 7318-01-00-0270 and 7318-01-00-0310
26

27 **II. Findings**
28

- 29 A. The subject properties are approximately 5.0 acres and are vacant
30 (**Exhibit B**). The properties currently have a Volusia County Future Land
31 Use (FLU) designation of Environmental Systems Corridor, which permits
32 up to one dwelling unit per 25 acres. The properties are currently zoned
33 Volusia County RC(C), Resource Corridor (Thoroughfare Overlay Zone)
34 and Volusia County RC, Resource Corridor. The surrounding future land
35 use, existing uses, and zoning are as follows:

36 **North**

37 Future Land Use: City Conservation
38 Existing Land Use: Vacant
39 Zoning: City Conservation
40

41 **South**

42 Future Land Use: City Conservation
43 Existing Land Use: Agriculture
44 Zoning: City Conservation
45

46 **East**

47 Future Land Use: City Conservation
48 Existing Land Use: Vacant

49 Zoning: City Conservation

50

51 **West**

52 Future Land Use: County Environmental Systems Corridor

53 Existing Land Use: Vacant

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

56

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

61

62 B. The subject property is within the area proposed as part of an Interlocal
63 Service Boundary Agreement (ISBA) with Volusia County. Previous City
64 Commissions have established a policy that when property is annexed
65 into the City, the City would assign a future land use and zoning
66 designation that would closely match the existing County designations.
67 However, per language proposed in the draft ISBA, the properties within
68 this area of the City, including the subject property, can be assigned one
69 of the following Future Land Use designations:

70

- 71 • Conservation
- 72 • Forestry Resource
- 73 • Public Grounds and Buildings
- 74 • Agriculture
- 75 • Rural
- 76 • Recreation

76

77 The property owner has requested a City designation of Agriculture and a
78 City zoning classification of A-2, Agriculture, both of which would be
79 consistent with the draft Interlocal Service Boundary Agreement. Maps
80 showing the proposed FLU and zoning changes are attached as **Exhibits**
81 **H and I**. Descriptions of the proposed FLU and zoning designations are
82 attached as **Exhibits J and K**.

83

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

87

88 D. The *Land Development Regulations* requires any proposed development
89 to conform to the Concurrency Management System. That system
90 includes traffic, parks and recreation, potable water, wastewater
91 treatment, solid waste collection, stormwater management, and public
92 school facilities. Under the current FLU designation, one single-family
93 home could be constructed. Under the proposed Agriculture FLU, two
94 dwelling units could theoretically be constructed. However, because the
95 minimum required lot size for the A-2 zoning district is 5 acres, and
96 because the property is only 5.0 acres in size, only one dwelling unit could

97 be constructed. No concurrency failures are anticipated as a result of the
98 proposed future land use amendment or rezoning.
99

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

104 F. The *Comprehensive Plan* provides some guidance on annexations, future
105 land use amendments, and rezoning requests. The following is a list of
106 objectives in the *Comprehensive Plan* that support this proposal.
107 Following each objective is a comment in ***bold italics***.
108

- 109 • **Future Land Use Element Objective 1:** To ensure that future
110 development will be consistent with adjacent uses, natural
111 limitations such as topography and soil conditions, the needs of the
112 citizens of New Smyrna Beach, the Future Land Use Map, the
113 availability of facilities and services, and the goals, objectives and
114 policies contained within this *Comprehensive Plan*.
115

116 ***The requested FLU designation for the subject property is***
117 ***consistent with proposed adjacent uses, natural limitations,***
118 ***and the availability of facilities and services. It is also***
119 ***consistent with the Interlocal Service Boundary Agreement***
120 ***that the City is drafting with Volusia County. Therefore, it is***
121 ***consistent with the Comprehensive Plan. The property is***
122 ***bordered by low intensity land uses.***
123

- 124 • **Future Land Use Element Objective 2:** To provide adequate
125 services and facilities for future development, at the adopted level-
126 of-service standard. In order to maintain the adopted level-of-
127 service standard, development orders and permits will be
128 conditioned on the availability of the public facilities and services
129 necessary to serve the proposed development.
130

131 ***The proposed future land use amendment would allow***
132 ***possible theoretical future development of a maximum of two***
133 ***single-family residences. However, the minimum lot size***
134 ***required by the proposed A-2 zoning designation would only***
135 ***allow one single-family home. Therefore, the request is***
136 ***consistent with the Comprehensive Plan.***
137

- 138 • **Future Land Use Element Objective 7:** To implement land use
139 patterns, utility service extensions, impact fees and an annexation
140 methodology, which provide for orderly development and
141 discourage urban sprawl.
142
143

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

148
149 • **Future Land Use Element Objective 10:** To protect existing
150 desirable neighborhoods from encroaching new development which
151 is incompatible and inconsistent with established character of the
152 neighborhood

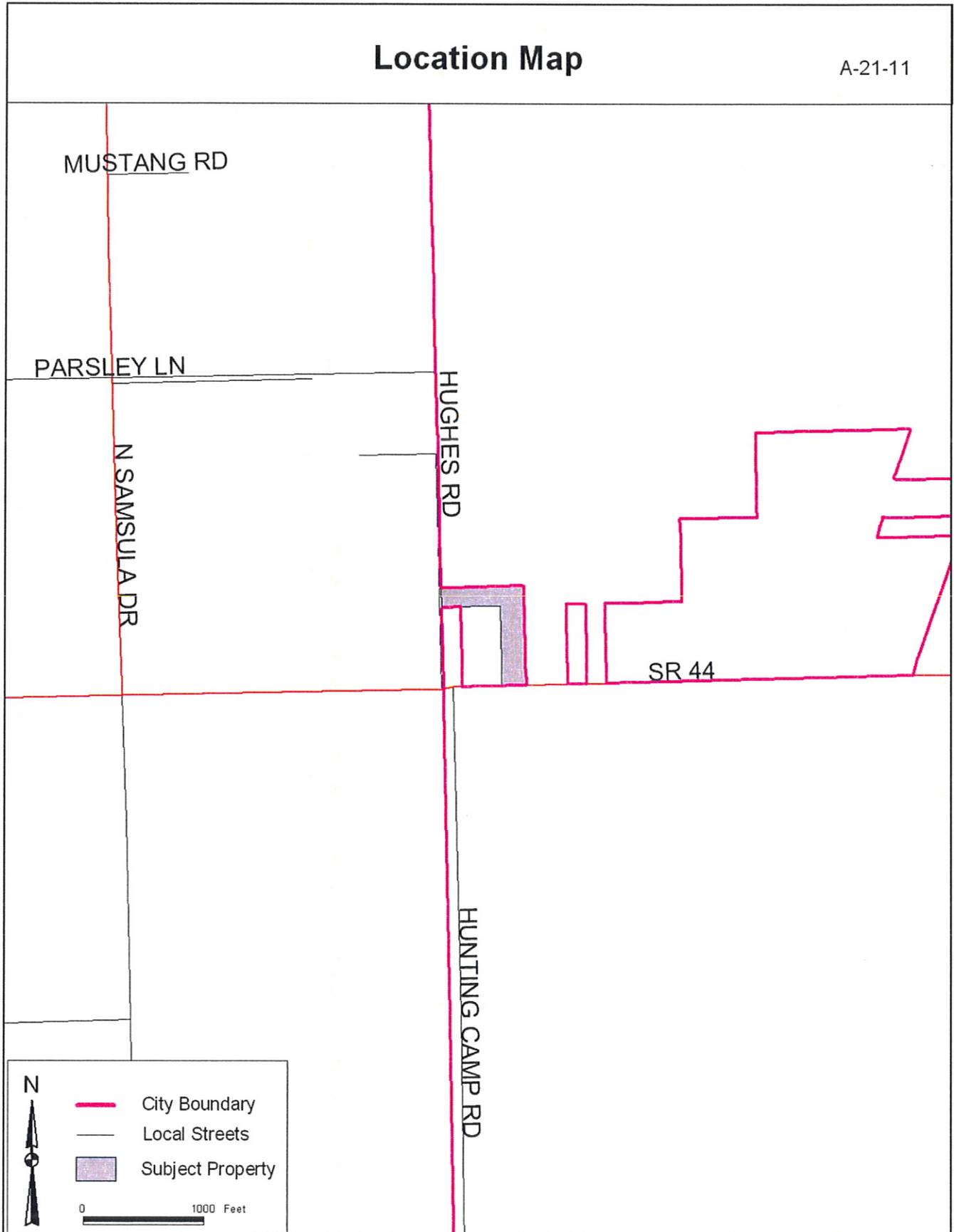
153
154 *The future land use amendment and assigned zoning district*
155 *would continue the established City practice and the existing*
156 *development pattern of the area and are in compliance with*
157 *the Comprehensive Plan*

158

159 **III. Recommendation**

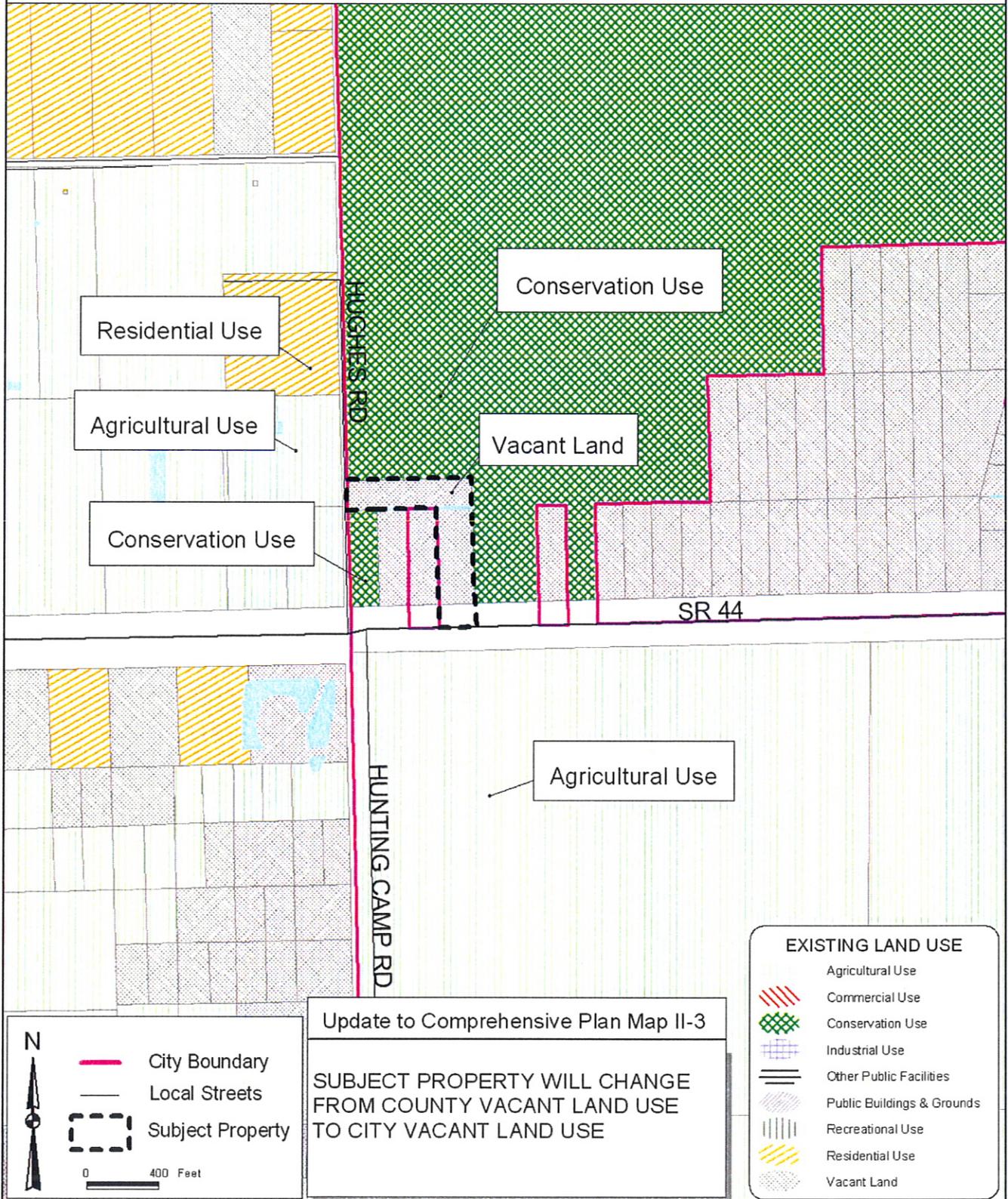
160
161 Staff recommends that the Planning and Zoning Board recommend the City
162 Commission **approve** the annexation, *Comprehensive Plan* amendment to City
163 Agriculture, and the rezoning to City zoning district designation A-2, Agriculture
164 District.

165
166



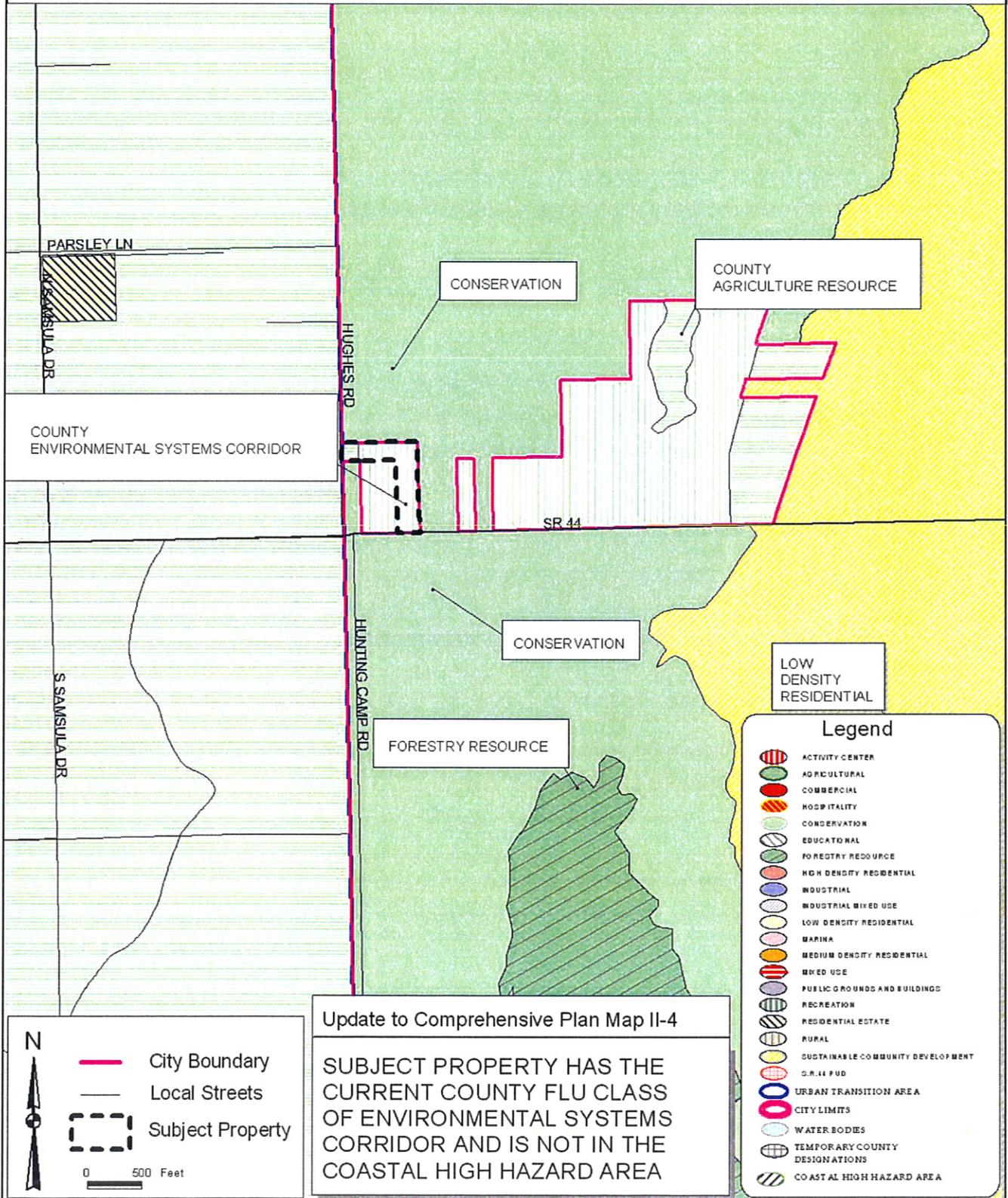
Existing Land Use Designations

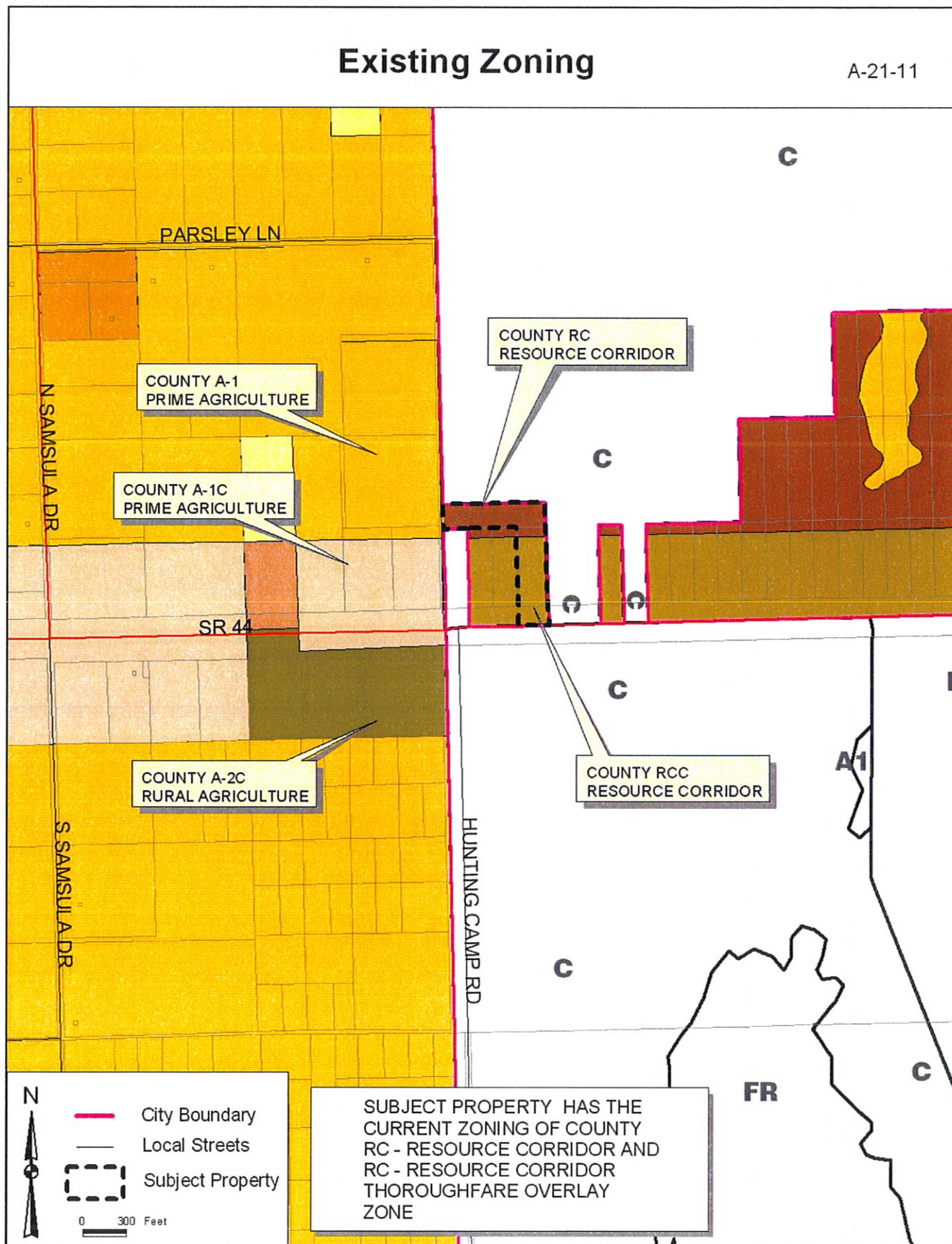
A-21-11



Existing Future Land Use Designations

A-21-11





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

178
179 ESC's shall include significant interconnected natural systems of environmentally sensitive
180 lands, connecting to and including conservation areas where possible. The ESC's are not
181 intended to include pre-existing improved, cultivated, or developed lands unless such lands
182 contain unique or exceptional ecological value. Conservation and silviculture, utilizing Best
183 Management Practices (BMP's), will be the preferred use, however, other compatible passive
184 agricultural activities may also be permitted such as unimproved pasture. The primary
185 consideration of compatible agriculture should be potential adverse impacts to the short and
186 long term ecological stability of the system, as well as adjacent lands and waterways.

187
188 The Environmental System Corridor configuration displayed on the Future Land Use Map is
189 intended to show a generalized location for the corridor. The actual boundaries will be
190 established based upon site specific information and features.

191
192 (1) The maximum residential density shall not exceed one (1) dwelling unit per twenty-five
193 (25) acres.

194
195 (2) The maximum Floor Area Ratio shall not exceed ten percent (0.10 FAR).

196
197

198
199

RC RESOURCE CORRIDOR
CLASSIFICATION

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

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

- 209 • Apiaries; provided, however, that the RC classified area does not comprise part of a
210 lot classified for residential, commercial or industrial use.
- 211 • Aquatic preserves (state or federal designated).
- 212 • Aviaries; provided, however, that the RC classified area does not comprise part of a
213 lot classified for residential, commercial or industrial use.
- 214 • Docks in accordance with section 72-278.
- 215 • Communication towers not exceeding 70 feet in height above ground level.
- 216 • Essential utility services.
- 217 • Exempt excavations (refer to subsection 72-293(15)) and/or those which comply with
218 division 3 of the Land Development Code of Volusia County [article III] and/or final
219 plan review procedures of this article.
- 220 • Fire stations.
- 221 • Fishing, hunting and wildlife management areas.
- 222 • Historical or archeological sites.
- 223 • Hobby breeder.
- 224 • Home occupations, class A (refer to section 72-283).
- 225 • Pasture for the grazing, boarding or raising of livestock, subject to the maximum lot
226 coverage requirements below.
- 227 • Publicly owned parks and recreational areas.
- 228 • Publicly owned or regulated water supply wells.
- 229 • Silvicultural operations, which follow the most up to date state-prescribed best
230 management practices.
- 231 • Single-family standard or manufactured modular dwelling.
- 232 • Worm raising, provided, however, that the RC classified area does not comprise part
233 of a lot classified for residential, commercial or industrial use.

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

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

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

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

255 *Minimum lot sizes:*

- 256 Area: 25 acres.
- 257 Width: 150 feet.

258 *Minimum yard size:*

- 260 Front yard: 50 feet.
- 261 Rear yard: 50 feet.
- 262 Side yard: 50 feet.
- 263 Waterfront yard: 75 feet.

264 *Maximum building height: 45 feet.*

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

267 *Minimum floor area: 750 square feet.*

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

278 *Minimum lot size:*

- 279 Area: No minimum for the portion of the lot classified as RC, providing that the
- 280 minimum area requirement for the portion of the lot classified other than RC is met.
- 281 Width: No minimum for the portion of the lot classified as RC, providing that the
- 282 minimum width requirement for the portion of the lot classified other than RC is met.

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

284 *Maximum building height:* 45 feet.

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

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

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

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

295

296

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

298 (a) *Purpose and intent:*

- 299 (1) The purpose of this section is to provide regulations to ensure safe ingress to
 300 and egress from proposed development along thoroughfares, to maintain
 301 adequate highway capacity, eliminate hazardous traffic conditions, lessen or
 302 prevent traffic congestion, establish a high standard for development, including
 303 additional sign regulations and create a more attractive streetscape. Commercial
 304 development typically expands along thoroughfares as population and traffic
 305 volumes increase in the vicinity of and along the thoroughfare. Eventually,
 306 conflicts result between the thoroughfare's function and its ability to move high
 307 volumes of traffic through an area.
- 308 (2) This congestion is intensified when commercial growth increases along the entire
 309 length of the thoroughfare.
- 310 (3) The increased commercial growth also changes the public's image of the
 311 thoroughfare. What was once considered an attractive tree-lined thoroughfare
 312 gradually and often rapidly begins to exhibit characteristics of uncontrolled strip
 313 commercial development. Once this pattern has been established, it is difficult to
 314 establish alternative types of development (e.g. residential) along these
 315 thoroughfares. Therefore, these regulations apply to thoroughfares which; (1)
 316 move large volumes of through traffic in addition to significant volumes of
 317 everyday local traffic; and (2) do not contain significant amounts of strip
 318 commercial development. These thoroughfare overlay zone regulations are
 319 intended to supplement all of the regulations of the existing zoning classifications
 320 except for permitted uses and special exceptions. The type of permitted uses or
 321 special exceptions allowed would be determined according to the existing zoning
 322 classification and the site design, signage, building location and the dimensional
 323 requirements would be regulated by these overlay zone regulations.

324

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

331 (1) *North coastal area:*

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

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

335 (2) *South coastal area:*

336 *State Road #44:* New Smyrna Beach city limit west to Tomoka Farms Road (CR
 337 415).

338 (3) *West Volusia area:*

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

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

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

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

346 State Road #44: Western boundary line of Section 14, Township 17 South,
 347 Range 29 East, to East boundary line of Section 17, Township 17 South, Range
 348 31 East.

349 West Volusia Beltline: State Road #44, to North boundary line of Section 13,
 350 Township 18 South, Range 30 East. (Ord. No. 85-24, § XVII, 10-10-85; Ord. No.
 351 86-16, § XXXII, 10-23-86; Ord. No. 88-2, § XXI, 1-19-88)
 352 (Ord. No. 84-25, § XXV, 10-10-84; Ord. No. 88-2, § XXII, 1-19-88; Ord. No. 02-
 353 07, § I, 3-7-02)

354

355 (c) *Dimensional requirements:*

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

359

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

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

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

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

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

372

373 (d) *Off-street parking and loading requirements:* Off-street parking and loading space
 374 shall meet the requirements of [section 72-286](#) and in addition shall meet the
 375 following:

376

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

385

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

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

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

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

- 396 such other treatment which would remove or harm existing trees within the
 397 required front yard.
- 398 (4) A landscaped buffer area shall be provided along the perimeter of the property.
 399 The width of the buffer shall be determined by the requirements in subsection 72-
 400 284(2) unless the site is located on a thoroughfare, then the front buffer shall be
 401 a minimum of 35 feet. If the thoroughfare right-of-way is less than 140 feet, then
 402 the buffer area will start at a point 70 feet from the centerline of the thoroughfare.
 403
- 404 (f) *Final site plan requirements:* In addition to meeting the final site plan requirements in
 405 division 3 of the Land Development Code [article III], the following requirements shall
 406 be met:
 407
- 408 All site plans, reports and general information will be submitted to the development
 409 review committee to ensure compliance and consistency for all developments along
 410 the thoroughfare.
 411
- 412 (g) *Service road requirement:* All premises fronting thoroughfares upon which the
 413 thoroughfare overlay zone regulations have been applied shall be provided access
 414 via a service road, unless as otherwise specified herein. The service road may either
 415 be in the front or rear of the project site depending on the location of any existing
 416 service road.
 417
- 418 (h) *Transportation impact analysis report; purpose:* The transportation impact analysis
 419 report is designed to identify the transportation impacts and problems which are
 420 likely to be generated by a proposed use because of the size, density, traffic
 421 generation rates or location. The report will also identify all improvements required to
 422 ensure safe ingress and egress from a proposed development, maintenance of
 423 adequate street capacity, and elimination of hazardous conditions and
 424 improvements necessary for immediately surrounding roadways and intersections as
 425 a result of the proposed development.
- 426 (1) *Threshold for traffic impact analysis report:* A transportation impact analysis
 427 report shall be required, unless waived by the county traffic engineer, for all uses
 428 which meet or exceed any one or more of the following thresholds:
 429 a. Any development which proposes to have direct access to any roadway
 430 designated in subsection (b) of this section.
 431 b. Any use which, according to the Institute of Transportation Engineers Trip
 432 Generation Manual, latest edition, rates published by the Florida Department
 433 of Transportation, or rates documented by study as agreed prior to use by the
 434 Volusia County Traffic Engineer will generate in excess of 1,000 trips per day.
- 435 (2) *Contents of transportation impact analysis report:* The transportation impact
 436 analysis report shall include the following:
 437 a. *General site description:* A detailed description of the highway network within
 438 a radius as determined by the county traffic engineer of the site, a description
 439 of the proposed project, the anticipated stages of construction, and the
 440 anticipated completion date of the proposed land development. This
 441 description, which may be in the form of a map, shall include the following
 442 items:
 443 1. All major intersections;
 444 2. All proposed and existing ingress and egress locations;
 445 3. All existing roadway widths and rights-of-way;
 446 4. All existing traffic signals and regulatory signage;

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

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

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

467 d. *Determination of roadway service level—Calculate service volumes:*
468 Roadway service volumes shall be calculated at the level of service for the
469 thoroughfare which is specified in the comprehensive plan. Data and
470 procedures contained in the Highway Capacity Manual, Special Report, 209,
471 1985, published by the transportation research board shall be utilized in
472 deriving the information required by the transportation impact analysis report.

473 e. *Determination of intersection service level:*
474 1. Data and procedures in the Highway Capacity Manual, Special Report,
475 209, 1985, published by the transportation research board shall be utilized
476 in determining intersection service levels.
477 2. The post-developing level of service for all intersections shall be in
478 accordance with the comprehensive plan.
479 3. Determine the existing level of service of all intersections within one-half
480 mile of the proposed development using the critical movement analysis
481 techniques provided in subsection e.1., above.

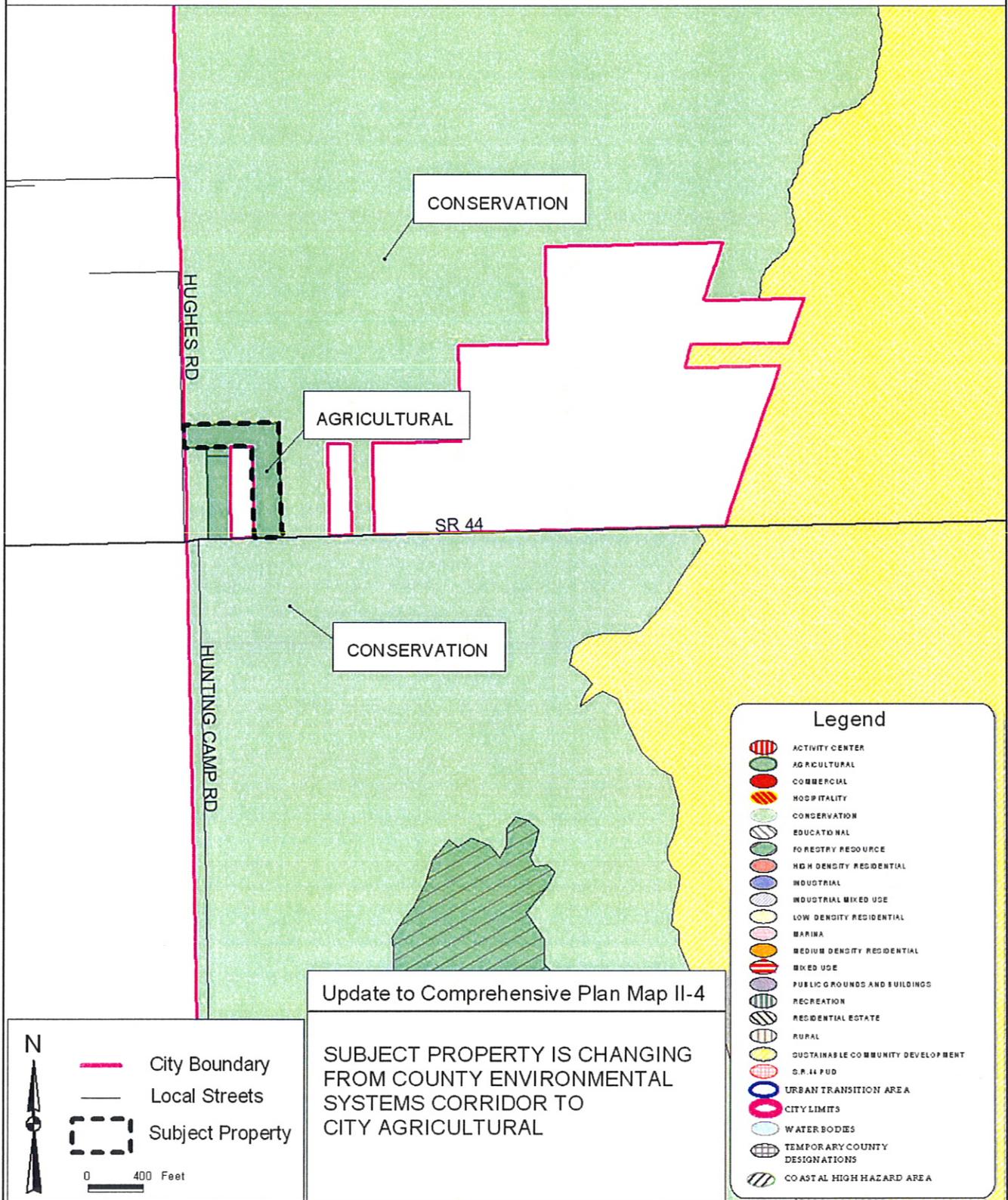
482 f. *Analysis of transportation impact:* An analysis shall be undertaken to
483 determine if roadways and intersections will operate at the level of service
484 specified by the comprehensive plan following completion of the development
485 given the future peak hour traffic that will be generated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

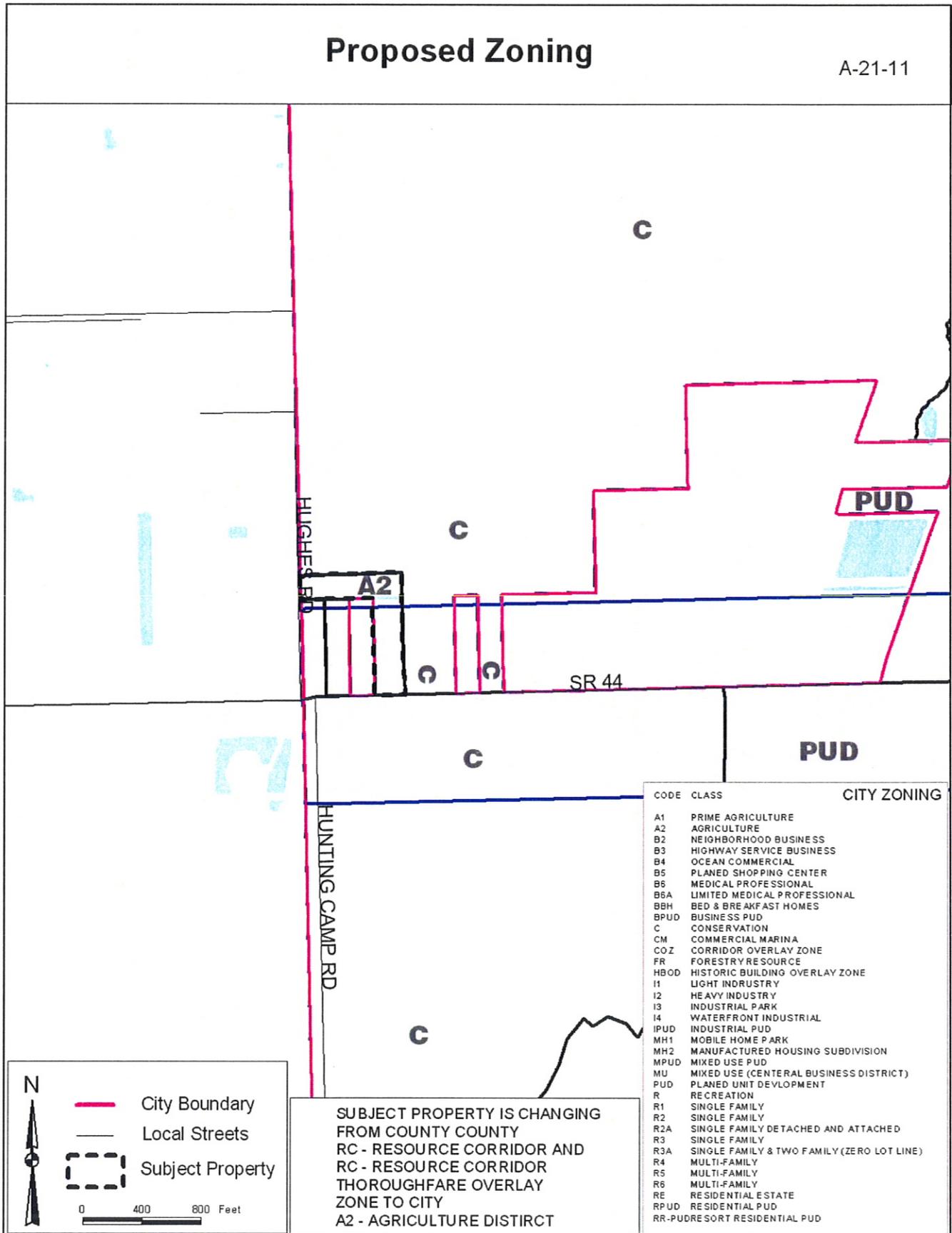
492
493 *Maintenance of levels of service.* Whenever level of service is determined to
494 be below the level specified by the comprehensive plan, development is not
495 permitted unless the developer makes the roadway or other improvements
496 necessary to maintain the specified level of service.

- 497 (3) *Traffic-control devices*: Whenever, as a result of additional traffic generated by a
498 proposed development, the manual on uniform traffic control devices determines
499 the need for a traffic signal or regulatory sign, the developer shall be responsible
500 for installing all said devices and signs.
- 501 (4) *Large developments*: [Large developments] (over 250 vehicle trips generated per
502 one hour during 3:00 p.m. and 6:00 p.m.) shall also include the following:
- 503 a. The impact report for developments which will generate between 250 and
504 1,000 trips during the peak hour shall involve an analysis of all arterials and
505 all intersections within one mile of the proposed project.
- 506 b. Except for developments of regional impact as defined by F.S. § 380.06, the
507 impact report for developments which will generate over 100 trips during the
508 peak hour shall involve an analysis of all arterial and collector roadways and
509 all intersections within three miles of the proposed project.
- 510
- 511 (i) *Temporary access*: No developer shall be denied a rezoning or building permit for
512 the sole reason that the parcel for which it is sought cannot physically accommodate
513 the requirements of this classification because adjoining segments of service roads
514 or public roadways are not yet constructed. In such an event, a temporary access
515 permit will be issued which shall expire when the proposed access becomes
516 available to the parcel.
- 517
- 518 (j) *Sign regulations*: The sign regulations established in section 72-298 et seq. shall
519 also apply in any thoroughfare overlay zone; provided, however, the maximum
520 permissible height for any ground sign is eight feet, and the maximum permissible
521 copy area for any ground sign is 40 square feet.

Proposed Future Land Use Designations

A-21-11





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.

EXHIBIT K (CONT'D)

- (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:

<u>Size of Premises</u>	<u>Maximum Dwelling Units Allowed</u>
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:

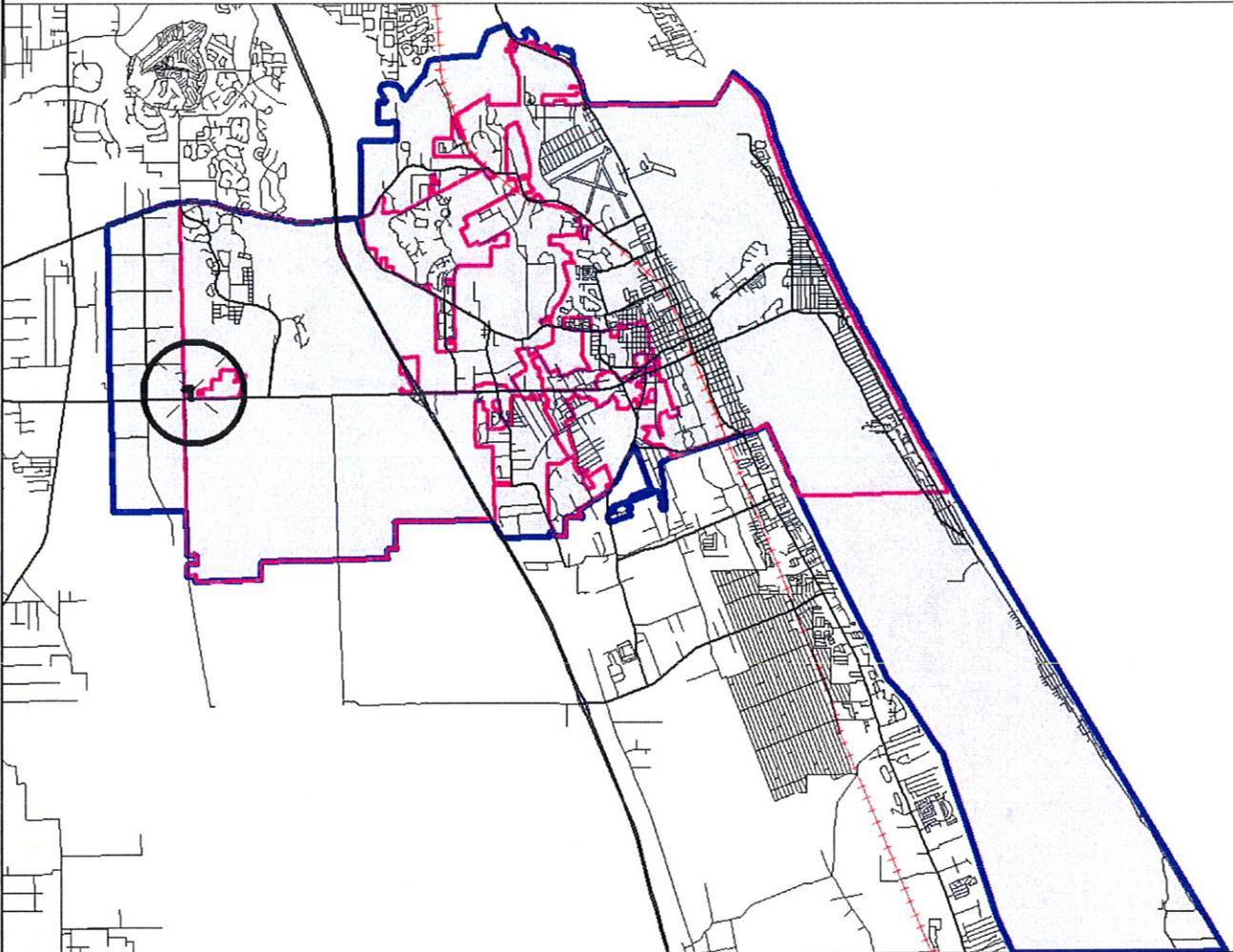
Off-street parking shall be provided as required in this LDR.

Skirting Requirements for Mobile Home Dwelling:

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

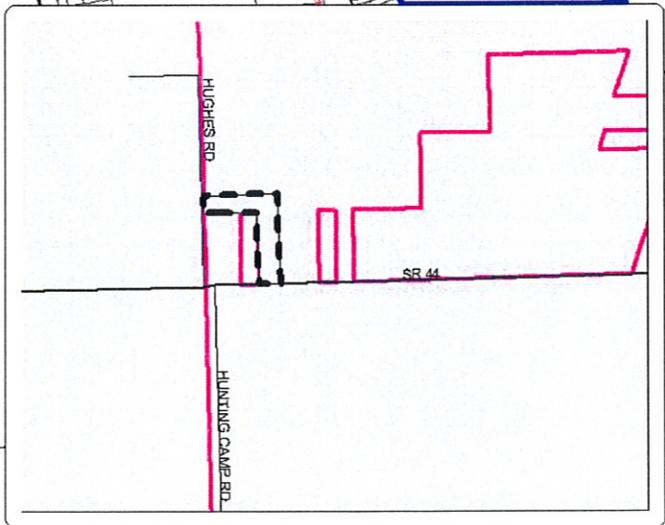
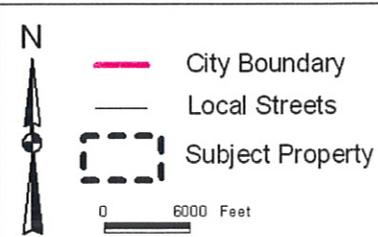
Water & Sewer Service Area

A-21-11



Update to Comprehensive Plan Map VII-1

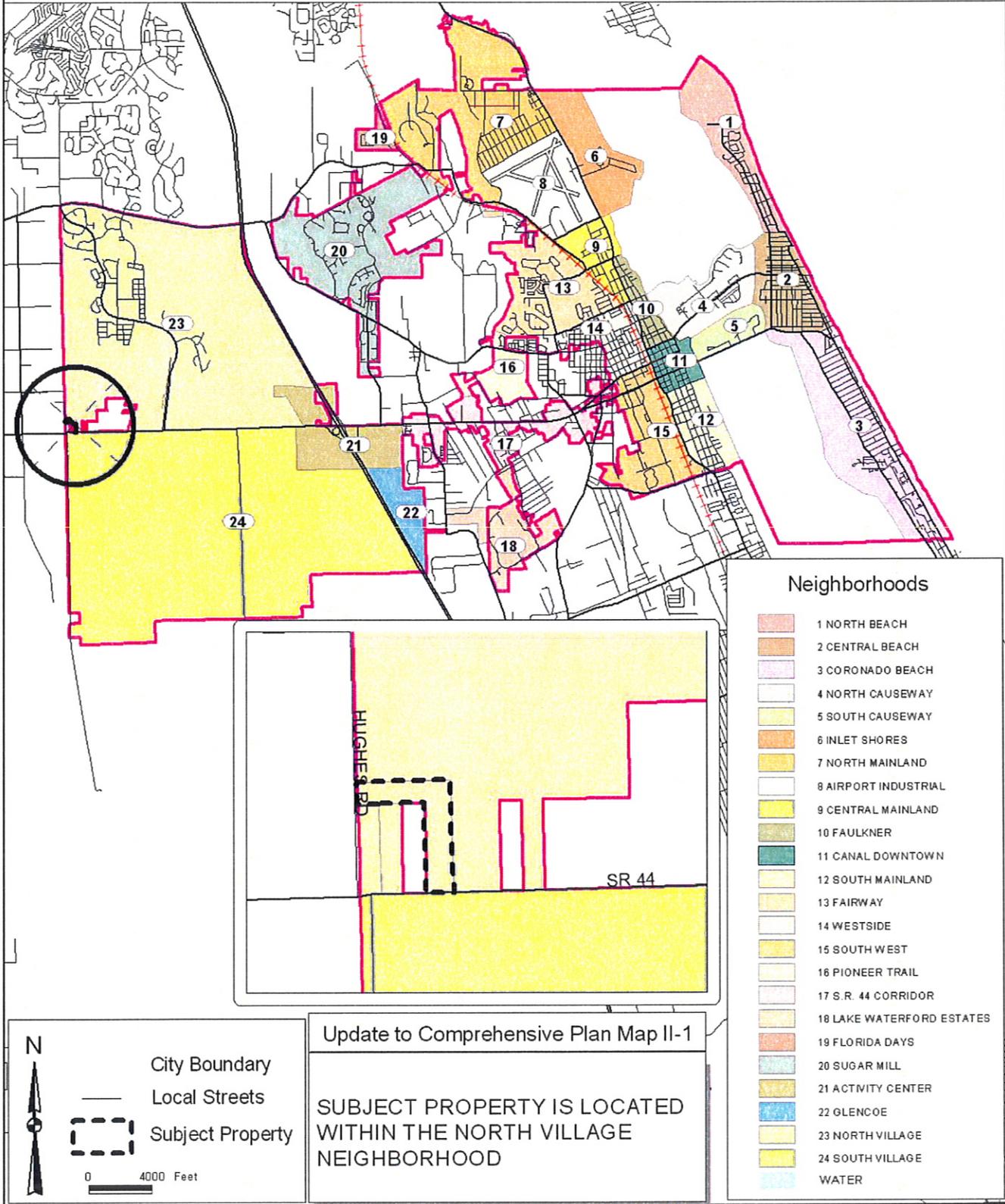
SUBJECT PROPERTY IS WITHIN THE CITY AND INSIDE THE NSB WATER AND SEWER SERVICE AREA



 WATER AND SEWER SERVICE AREA

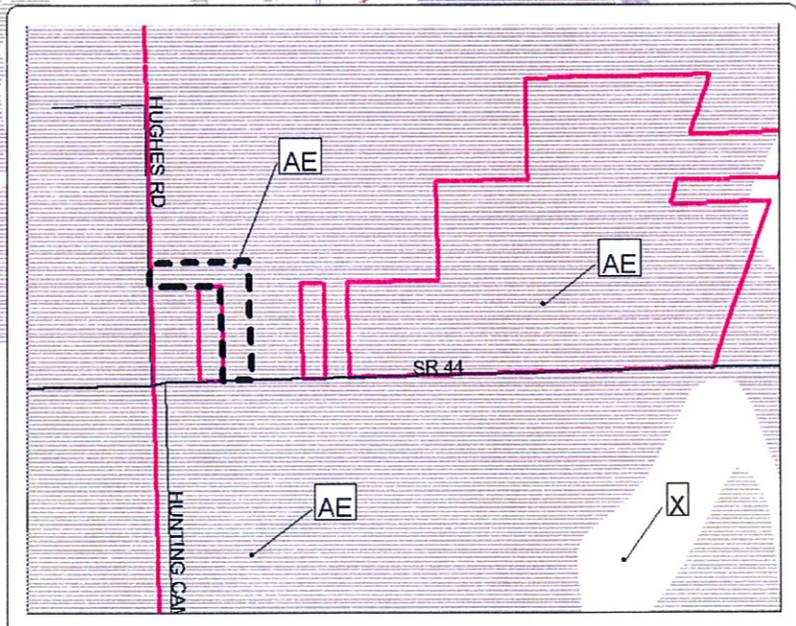
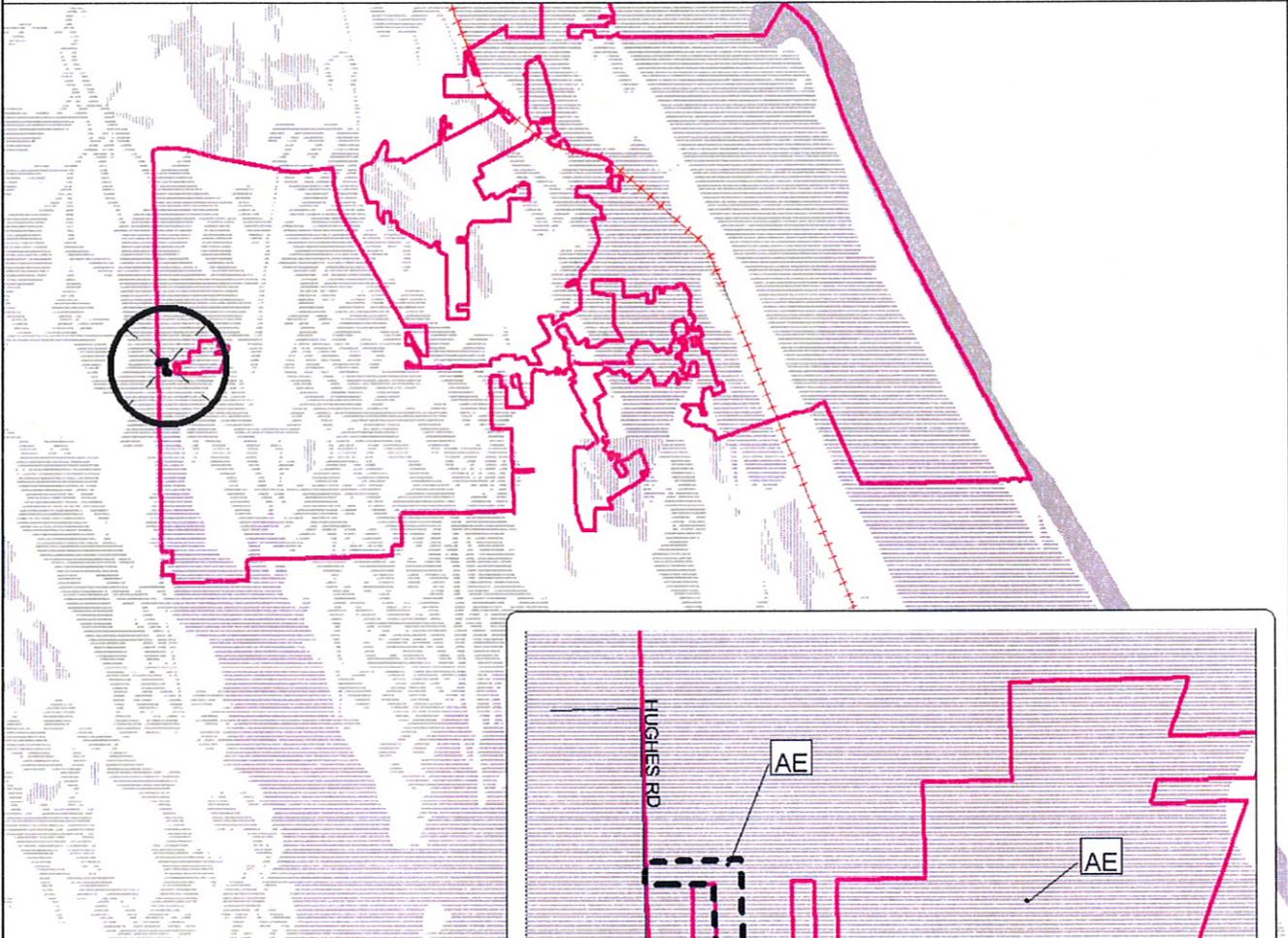
Neighborhoods

A-21-11



Flood Prone Areas

A-21-11



Update to Comprehensive Plan Map II-2

SUBJECT PROPERTY IS WITHIN THE FEMA FLOOD ZONE AE

N

— City Boundary

— Local Streets

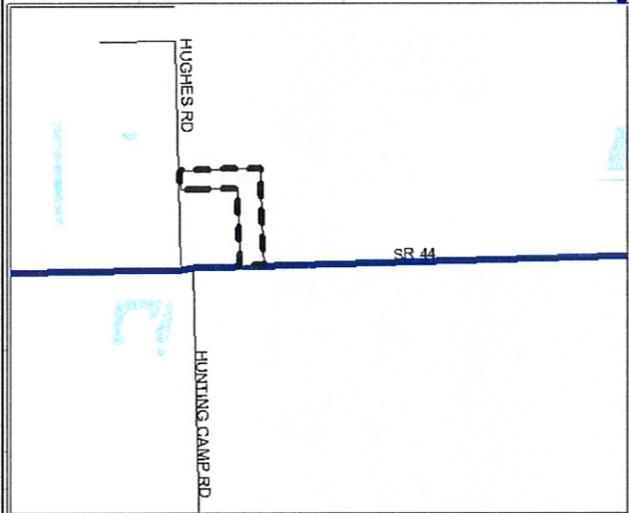
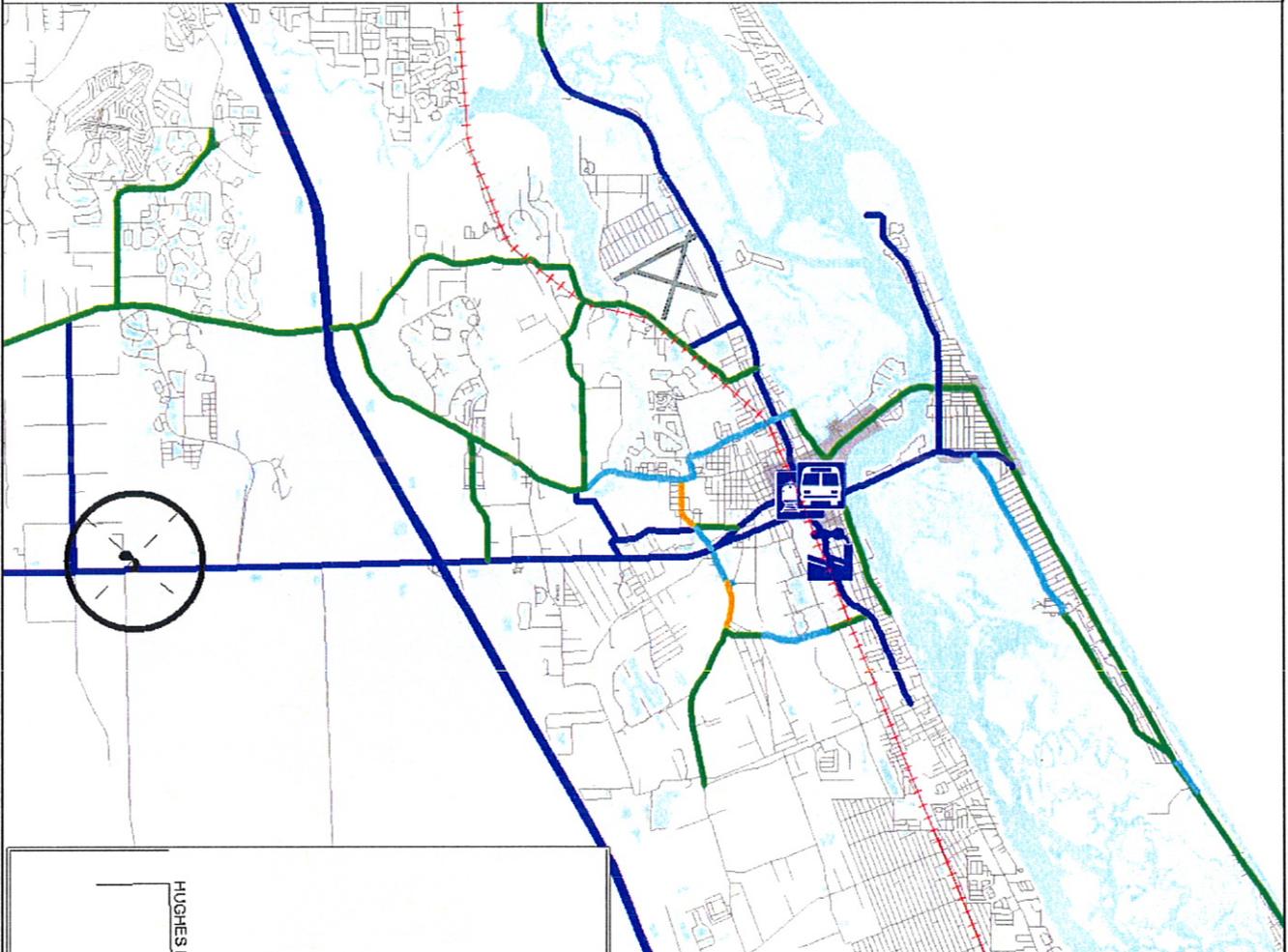
- - - Subject Property

0 6000 Feet

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

Existing Level of Service - 2009

A-21-11



Legend

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

N

0 4000 Feet

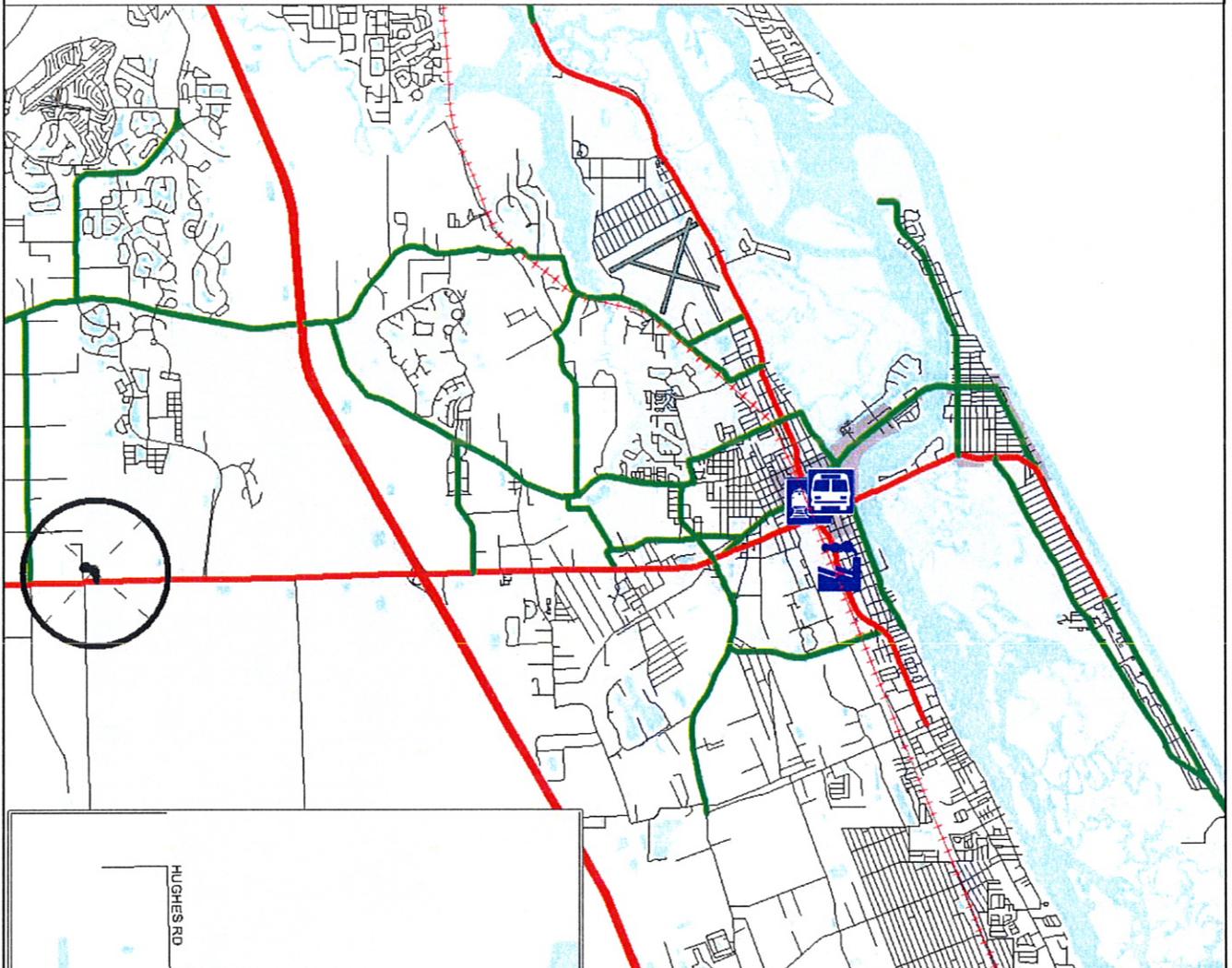
Subject Property

Update to Comprehensive Plan Map III-1

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

Existing Traffic Lanes - 2009

A-21-11



Legend

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

N

Subject Property

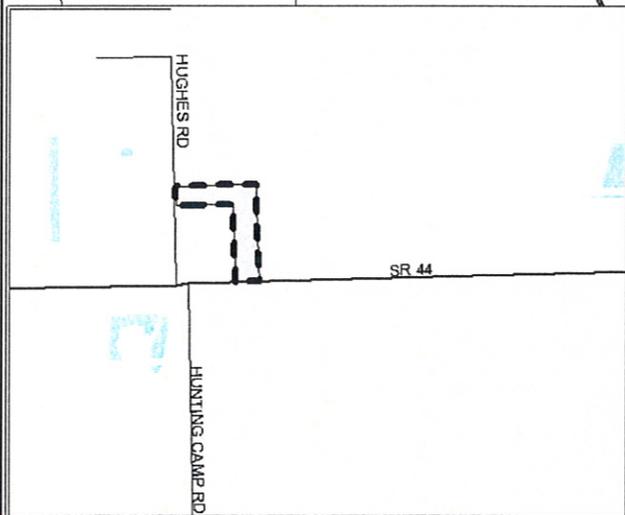
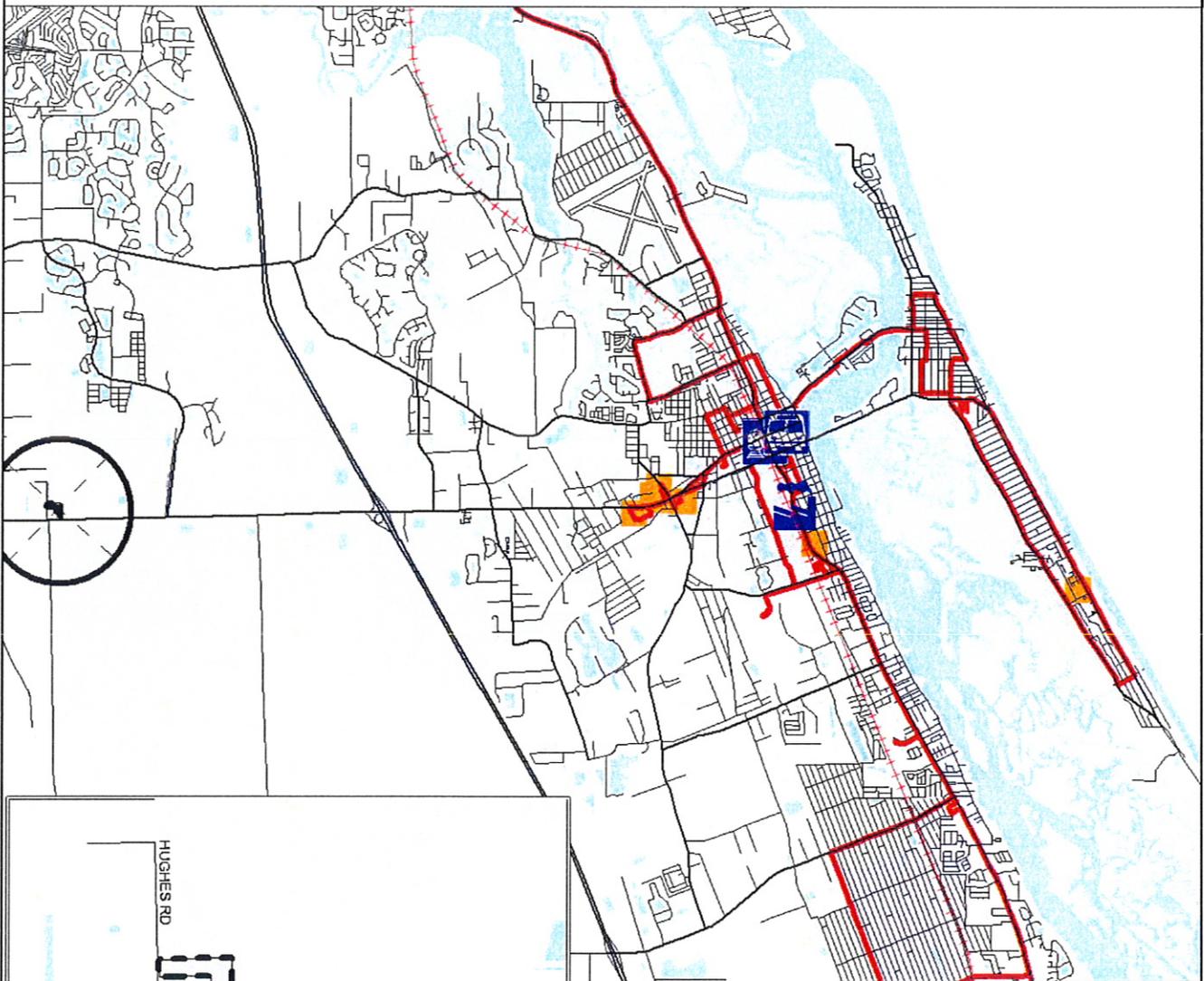
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Update to Comprehensive Plan Map III-2

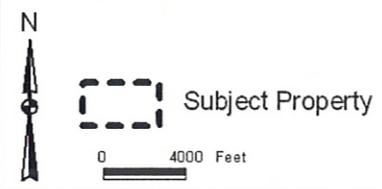
SUBJECT PROPERTY IS SERVED BY A FOUR (4) LANE ROADWAY ROADWAY ON THE SOUTH

Public Transit Routes

A-21-11



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

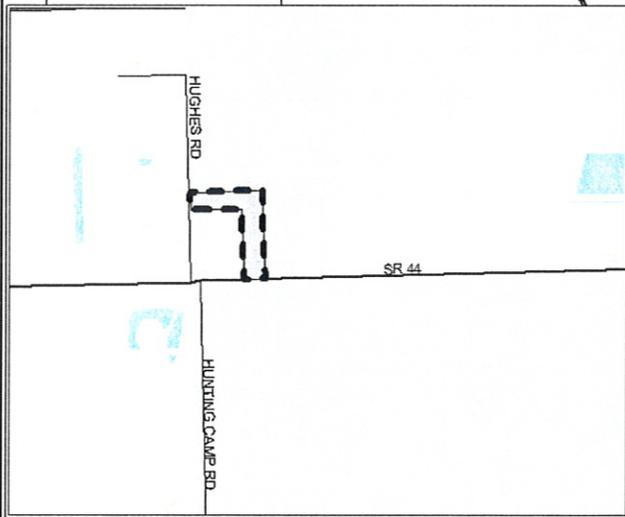
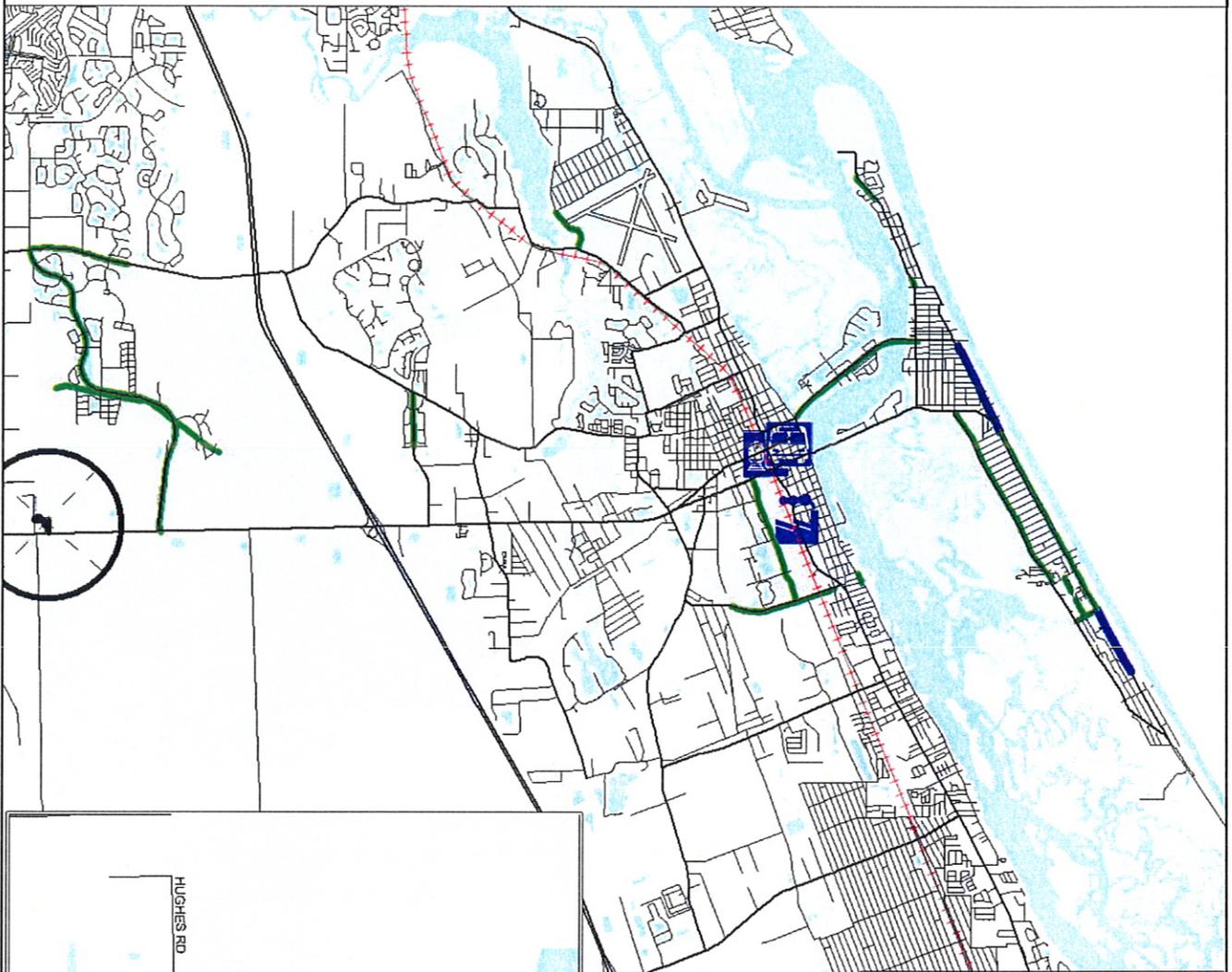


Update to Comprehensive Plan Map III-3

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

Bicycle and Pedestrian Facilities

A-21-11



Legend

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

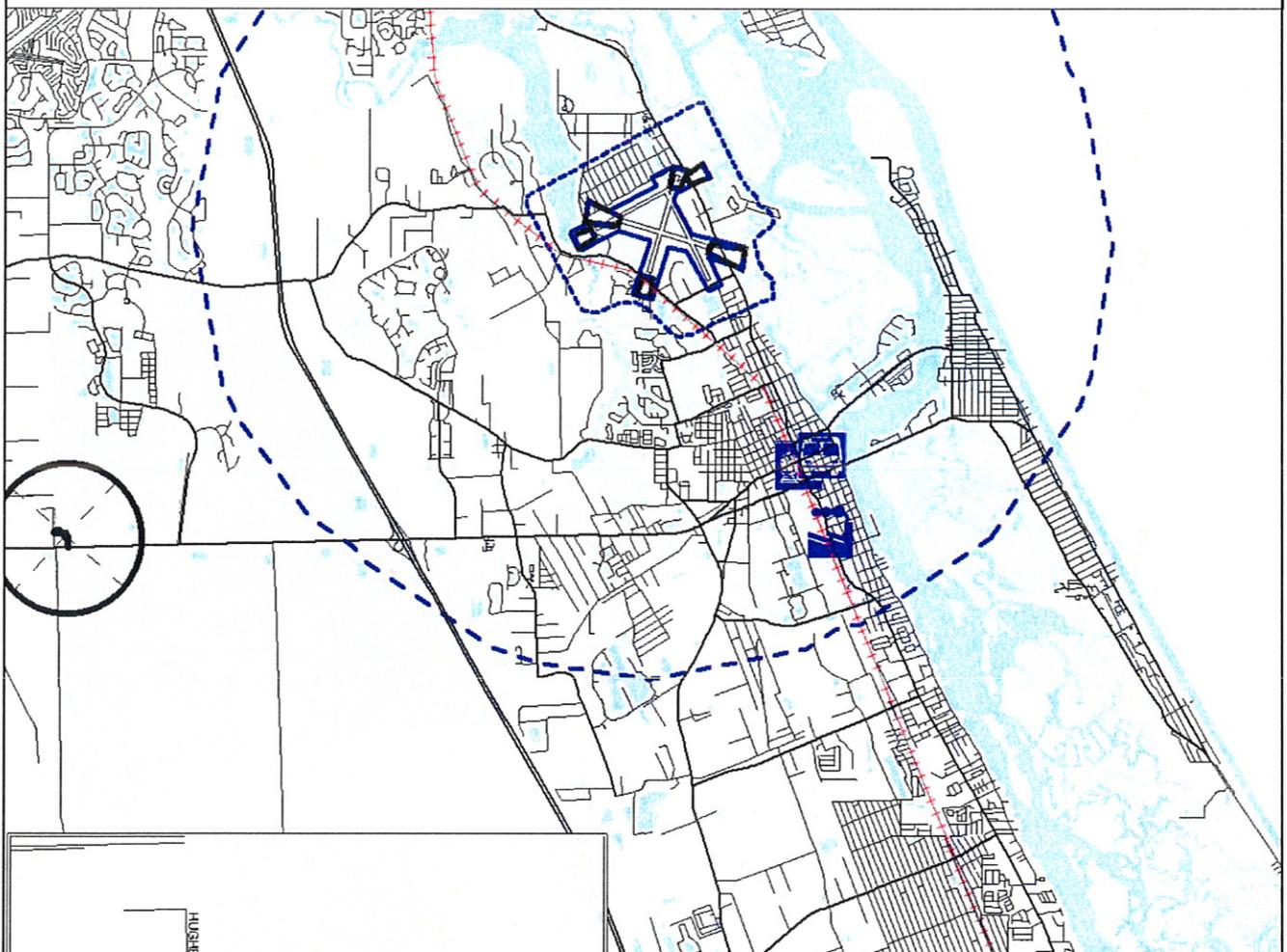


Update to Comprehensive Plan Map III-4

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

Airport Runway Protection Zones

A-21-11



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

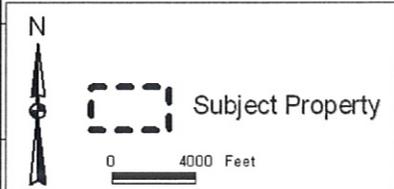
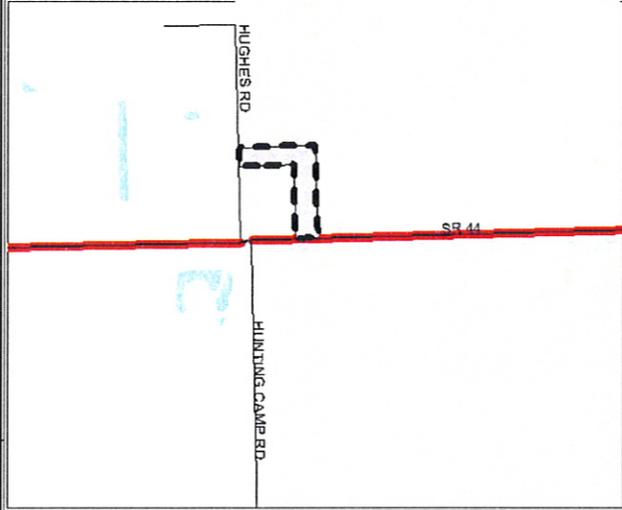
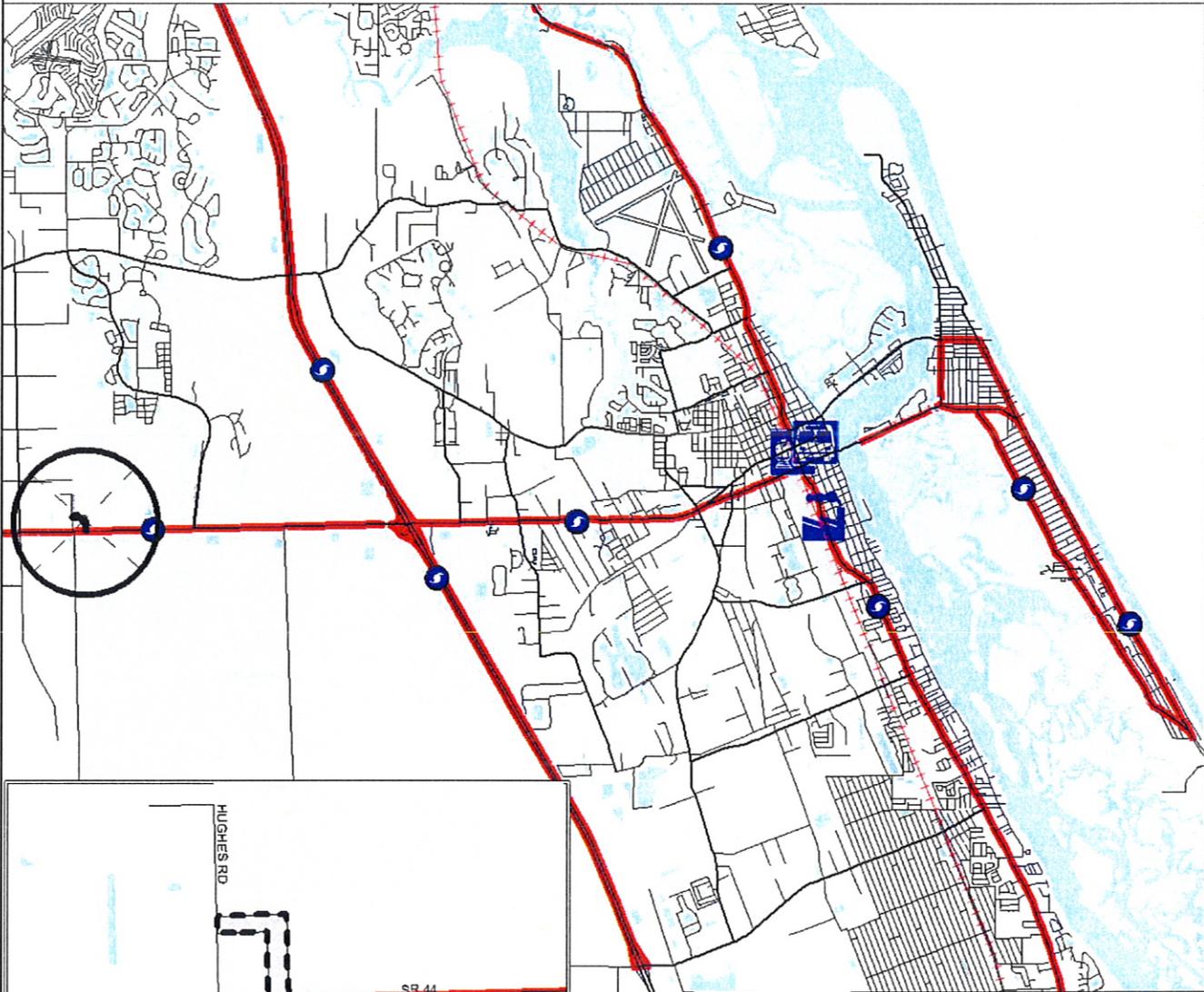
0 4000 Feet

Update to Comprehensive Plan III-5

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

Evacuation Routes

A-21-11



Subject Property

Update to Comprehensive Plan Map III-6

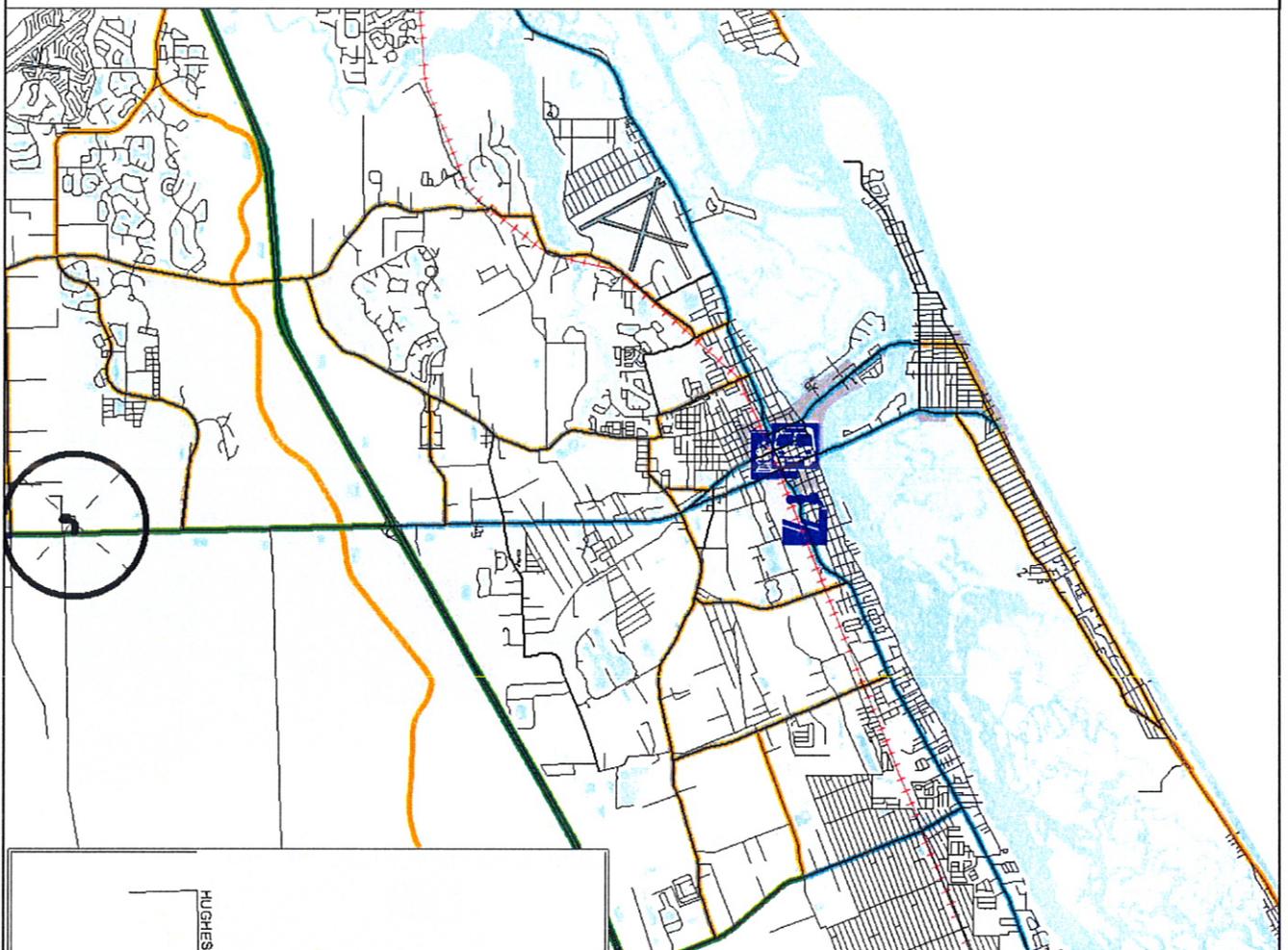
SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

Legend

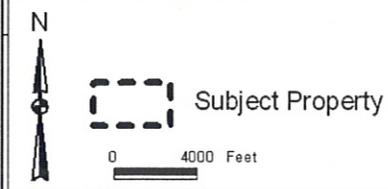
-  Intermodal Rail Terminal
-  Passenger Rail Station
-  Bus Transfer Point
-  FEC Railroad
-  Local Street
-  Evacuation Routes
-  Water
-  NSB City Boundaries

Level of Service - 2025

A-21-11



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

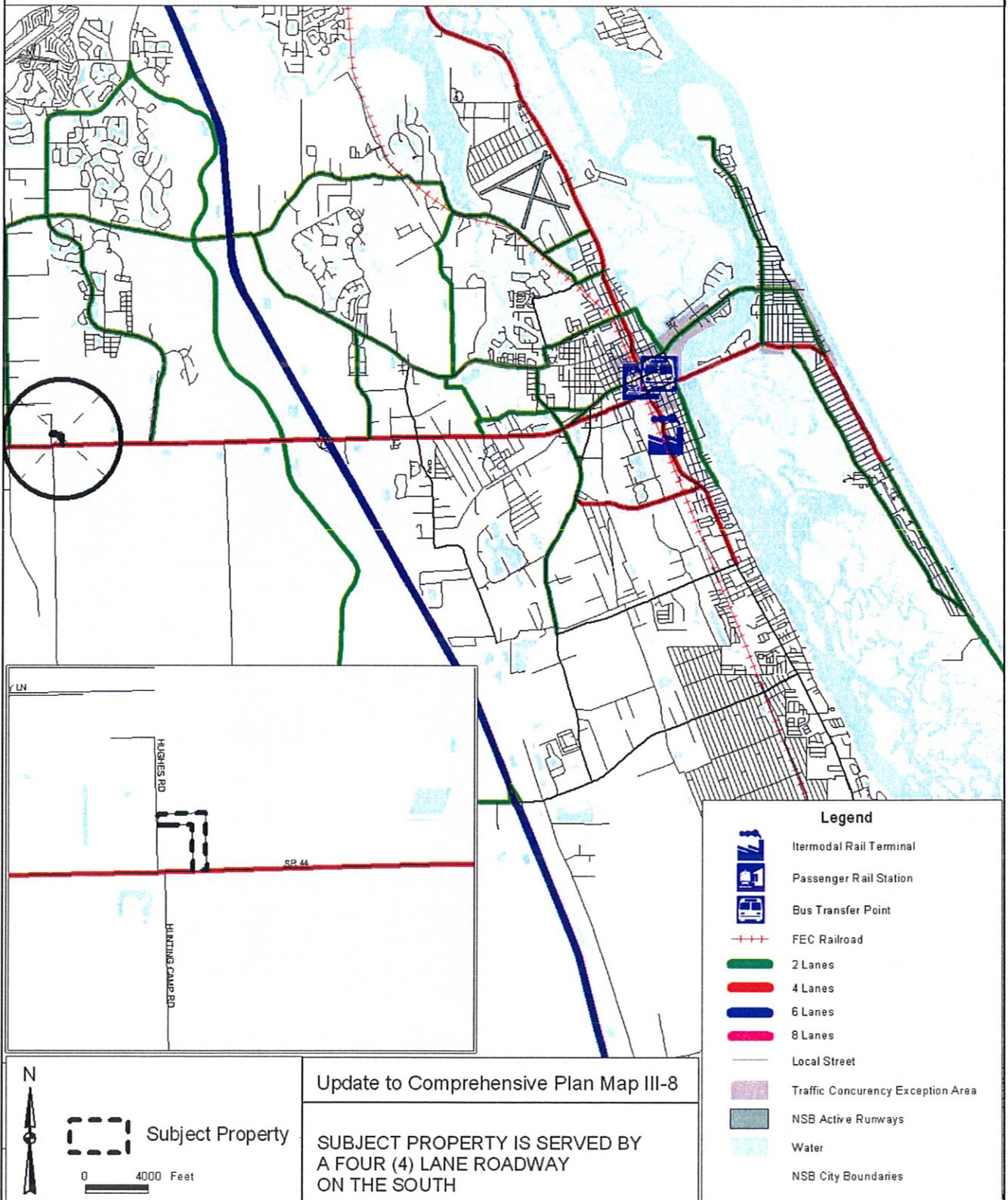


Update to Comprehensive Plan Map III-7

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

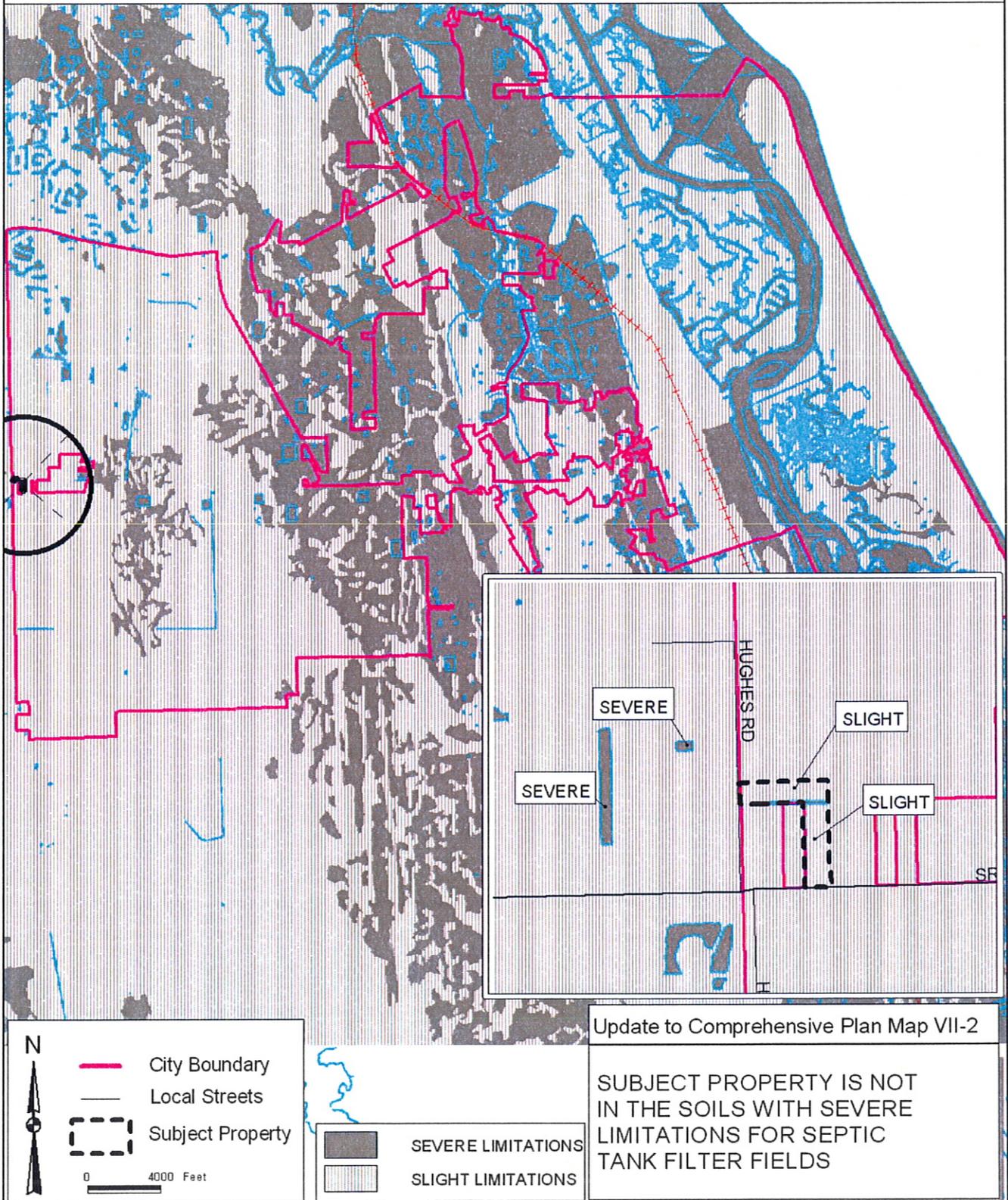
Number of Traffic Lanes - 2025

A-21-11



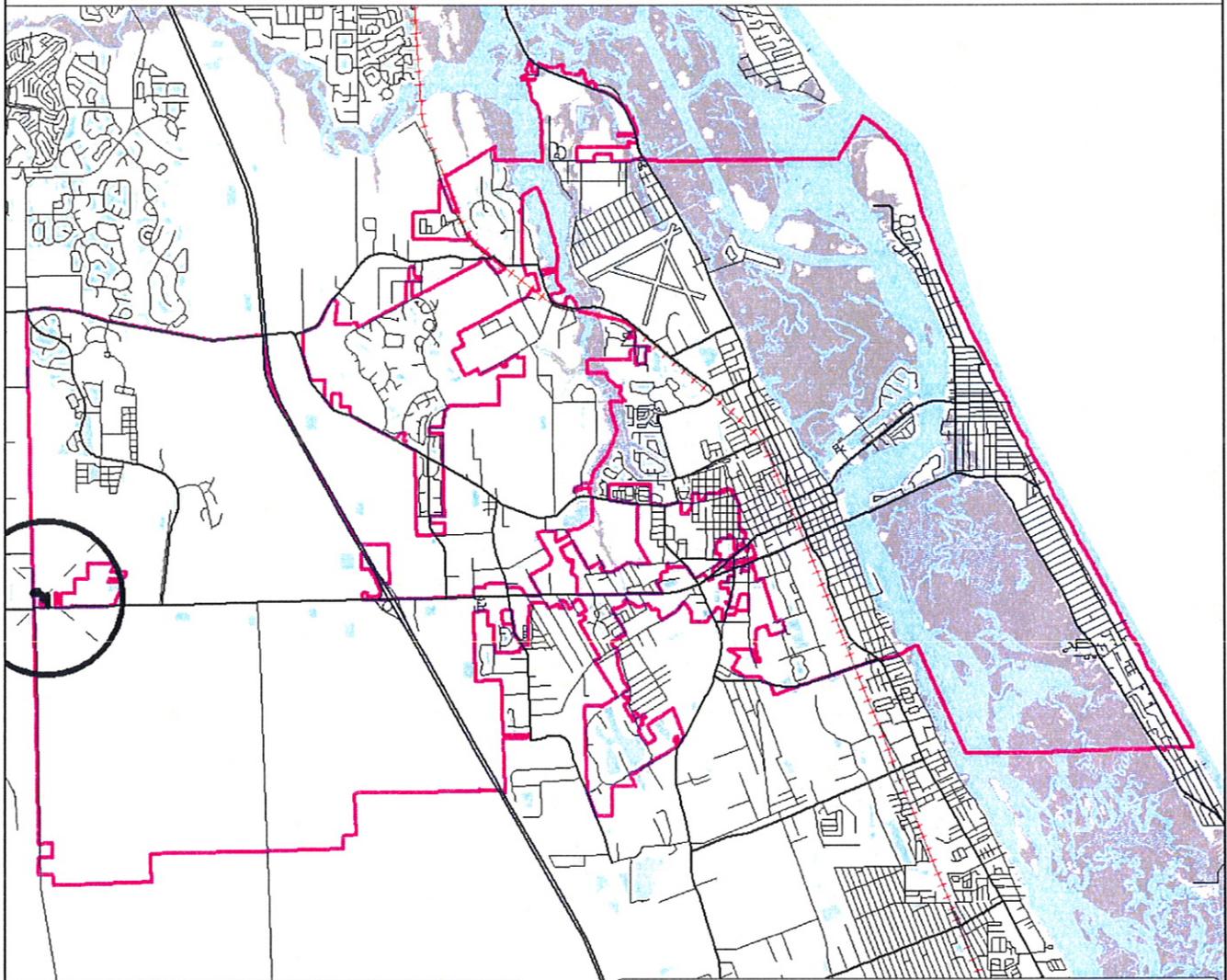
Soil Limitation for Septic Systems

A-21-11



Coastal High Hazard Areas

A-21-11



Update to Comprehensive Plan Map VII-4

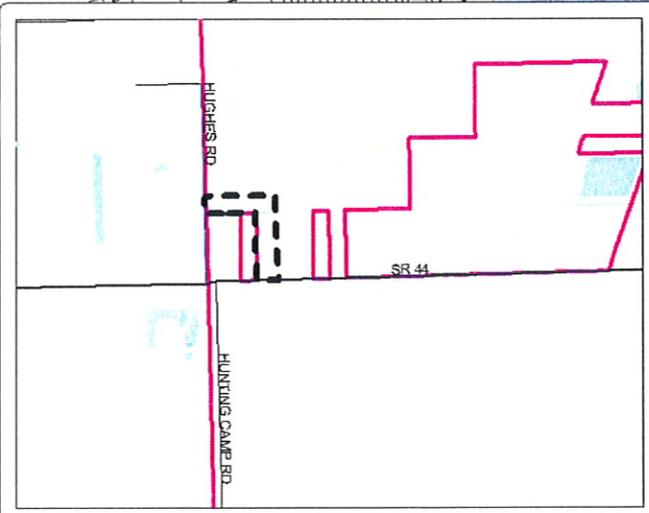
SUBJECT PROPERTY
IS NOT WITHIN THE
COASTAL HIGH HAZARD AREA



-  City Boundary
-  Local Streets
-  Subject Property

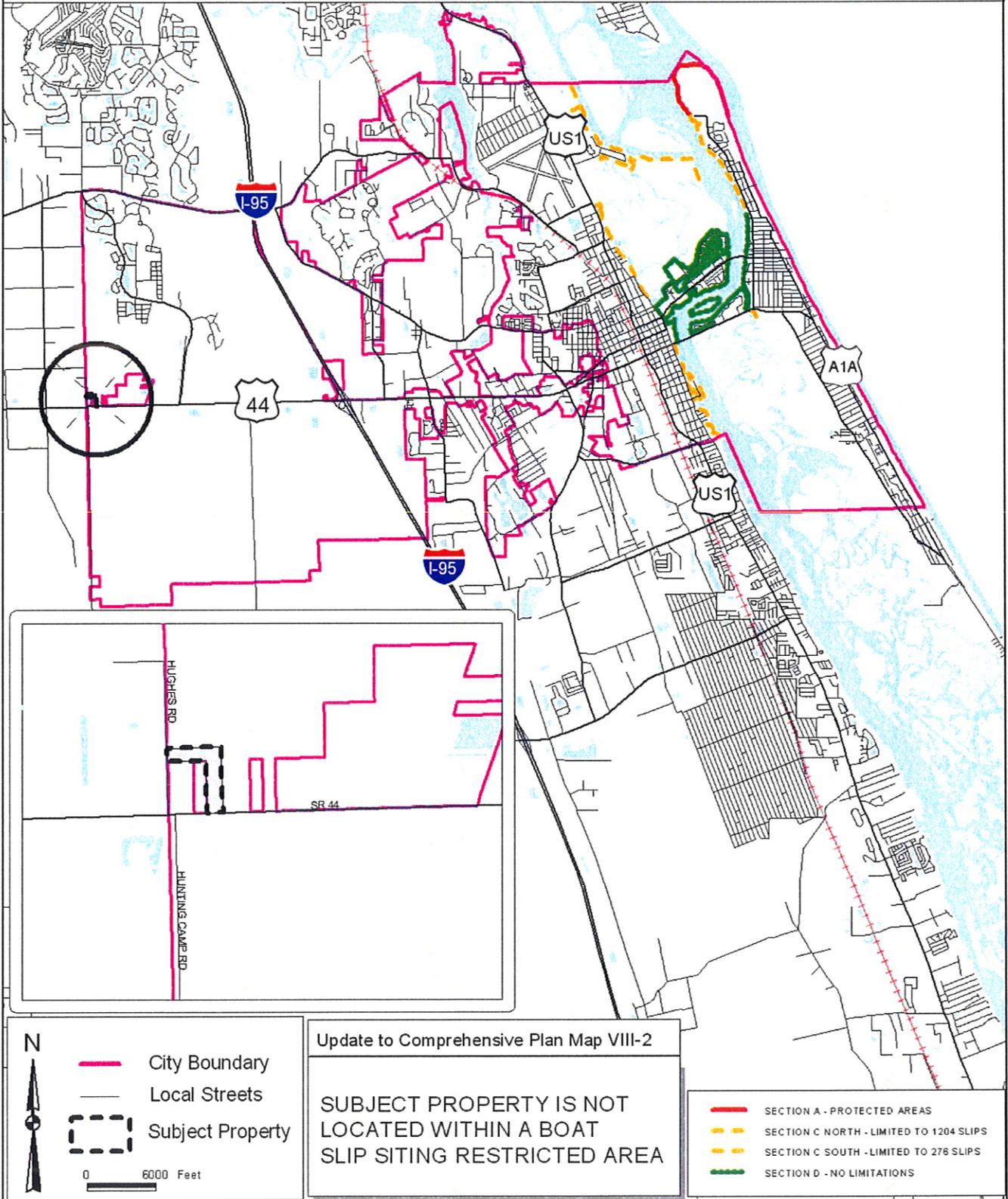
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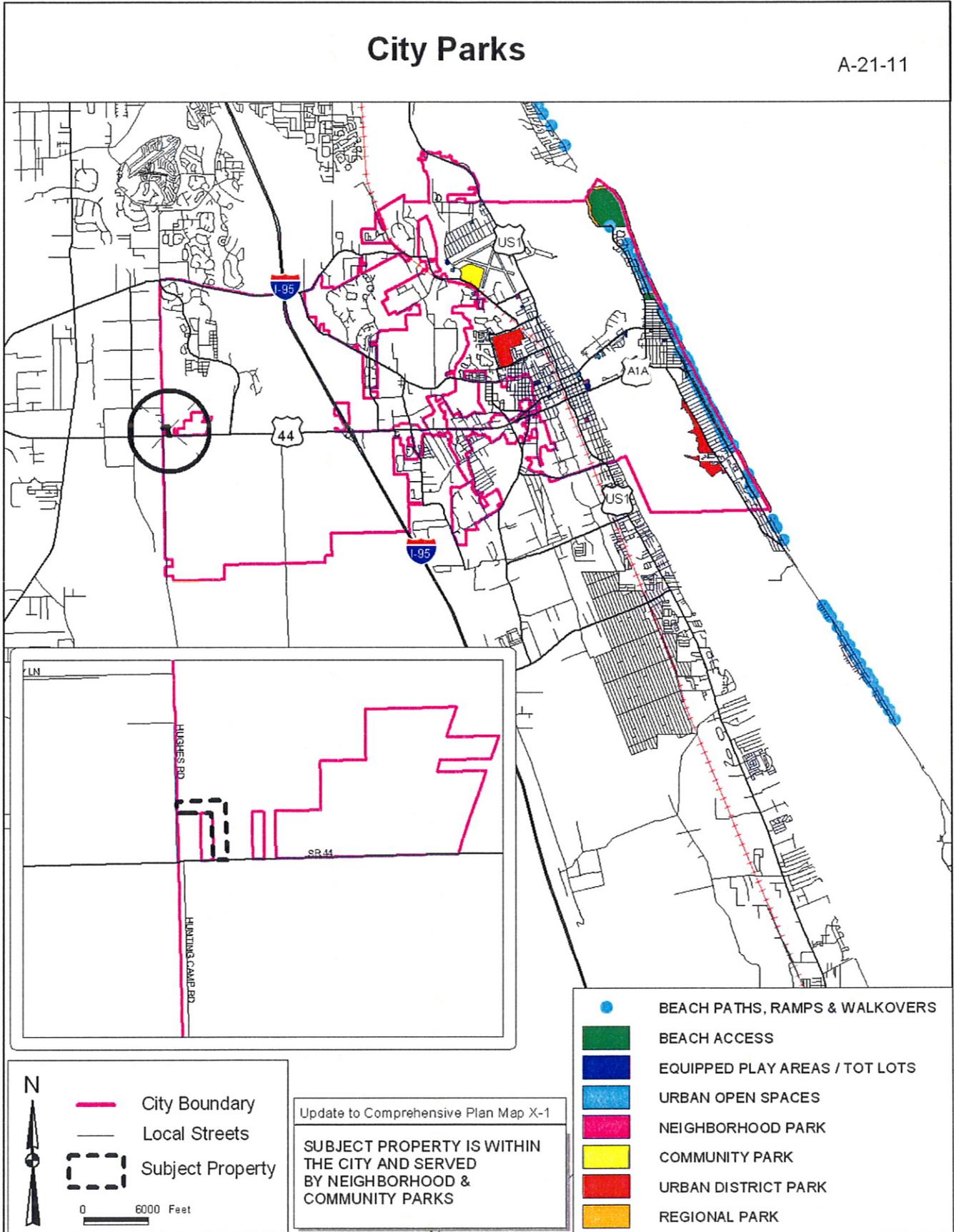
 COASTAL HIGH HAZARD AREA

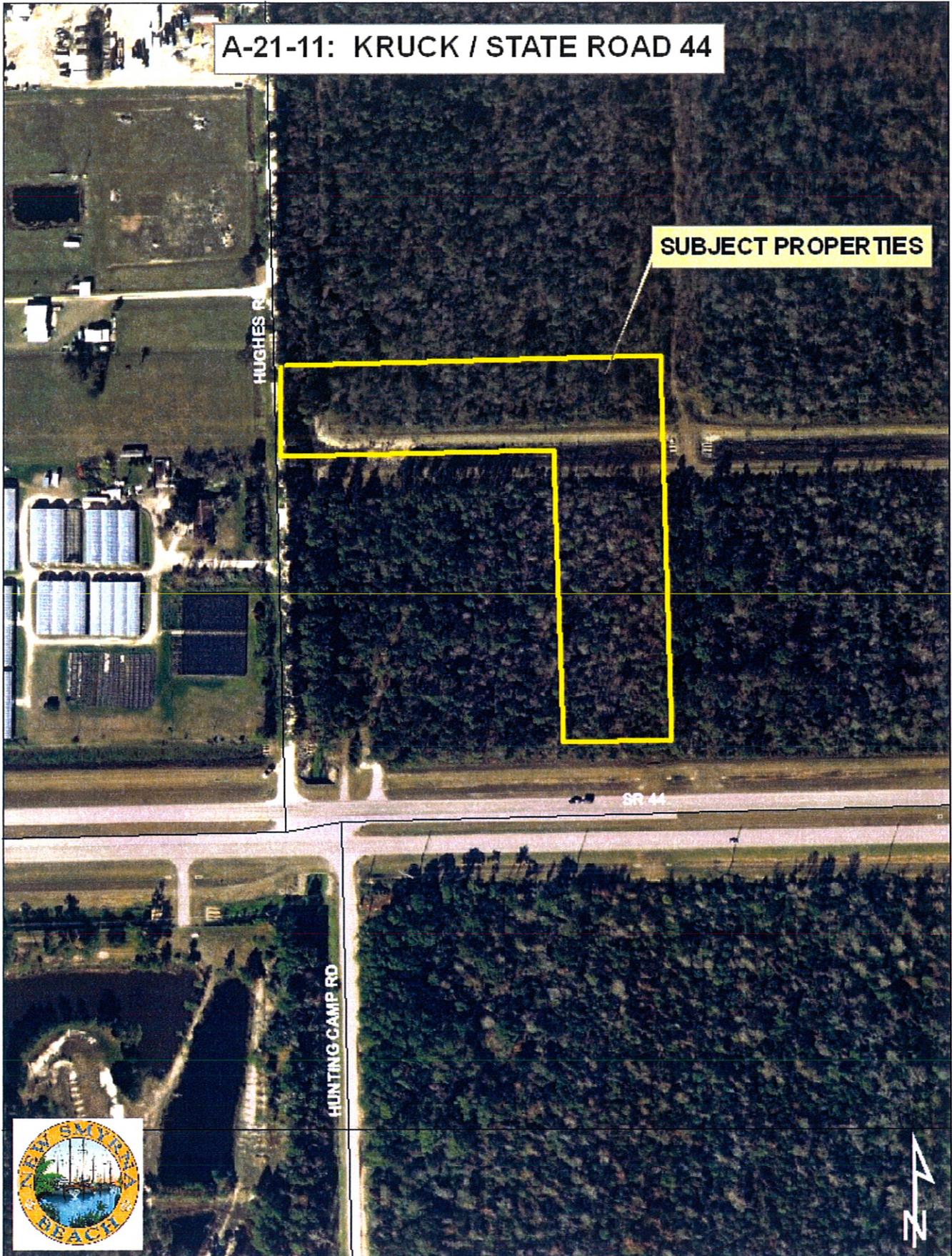


Boat Slip Siting

A-21-11







1 CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
2 **SV-1-11: PESCADO STREET/STREET VACATION**

3 January 9, 2012
4

5 **I. Background**

- 6 **A. Applicant:** Tony Otte, Community Redevelopment Agency Director, City
7 of New Smyrna Beach, 201 Sams Avenue, New Smyrna Beach, Florida,
8 32168
- 9 **B. Property Owner:** City of New Smyrna Beach, 210 Sams Avenue, New
10 Smyrna Beach, Florida, 32168
- 11 **C. Request:** Vacation of a portion of the platted but unopened Pescado
12 Street right-of-way.
- 13 **D. Right-of-Way Information:**
- 14 • **Size:** approximately 1.4 acres
 - 15 • **Location:** The subject property is generally located south of the
16 North Causeway on property addressed as 160 North Causeway.
17 **(Exhibit A)**

18 **II. Findings**

- 19 **A.** In 1949, Pescado Street was platted as a 100-foot wide right-of-way
20 (ROW) in the North Causeway Subdivision **(Exhibit B)**.
- 21 **B.** This site has previously been used for the City sewer treatment plant, the
22 City Administrative Office Building and the Marine Discovery Center.
- 23 **C.** A 2011 survey of the site **(Exhibit C)** shows the ROW of Pescado Street
24 includes the shelter at the boat dock, a parking lot, much of the AOB
25 building, a retention pond, a shed, and a greenhouse.
- 26 **D.** The City has expressed a desire to have a portion of the site at 160 North
27 Causeway developed by the private sector. The vacation of Pescado
28 Street in that area would make the development of the site easier.
29 **Exhibit D** details that portion of Pescado Street to be vacated.
- 30 **E.** The City owns all of the surrounding property to the Pescado Street ROW.
- 31 **F.** The action is only intended to vacate the right-of-way and is not intended
32 to vacate any underlying easements.
- 33 **G.** The City requested that the Utilities Commission of New Smyrna Beach
34 review the proposed vacation. The Utilities Commission has provided a
35 letter of no objection and a description of the existing utilities easement on
36 the property. **(Exhibits E & F)**.

37 **III. Recommendation**

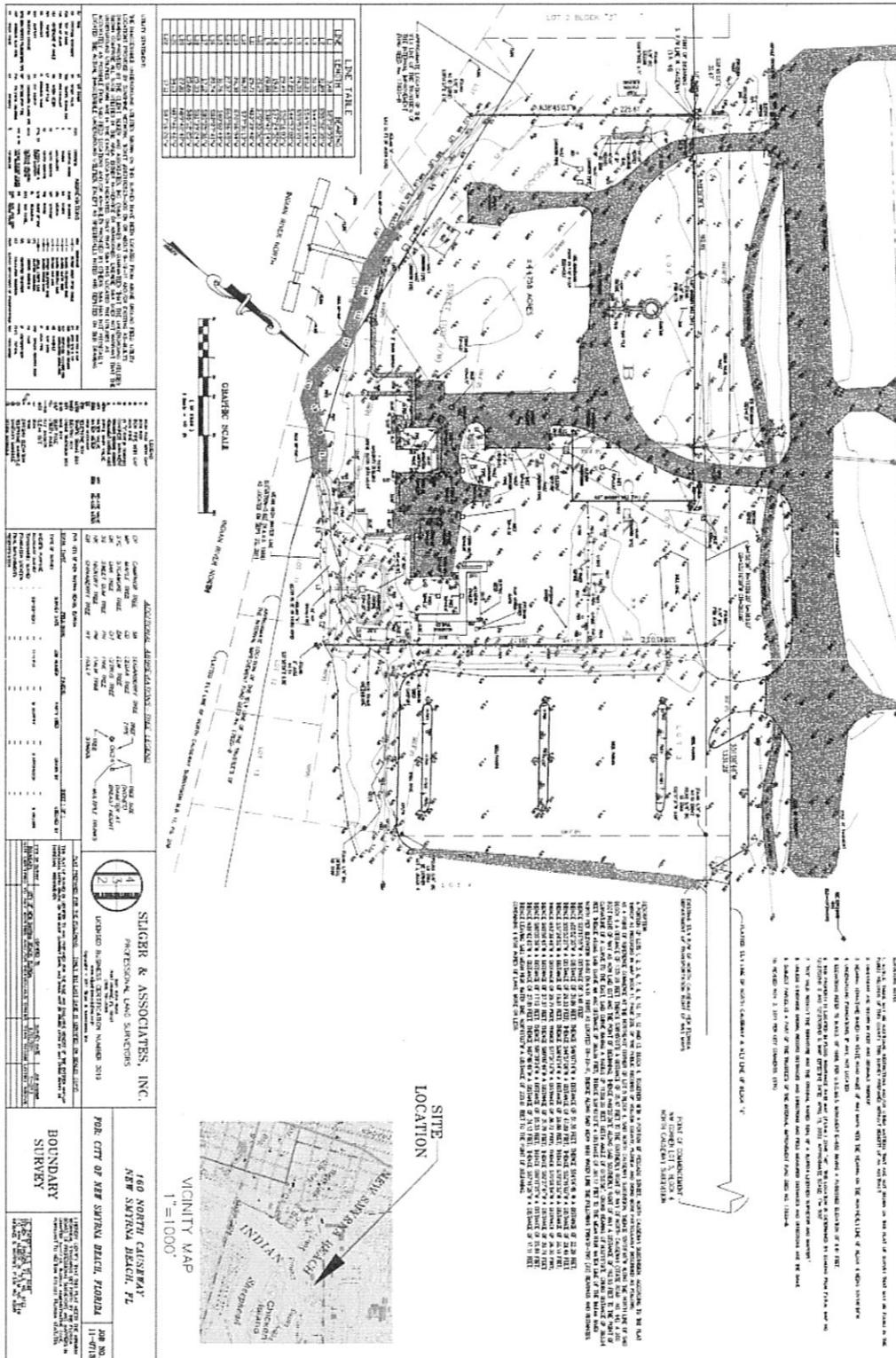
38 Staff recommends that the Planning and Zoning Board recommend to the City
39 Commission approval of the right-of-way vacation as described in **Exhibit D** with
40 the condition that the existing utilities easement be maintained as described in
41 **Exhibit F** by the Utilities Commission.

Exhibit A – Location Map.



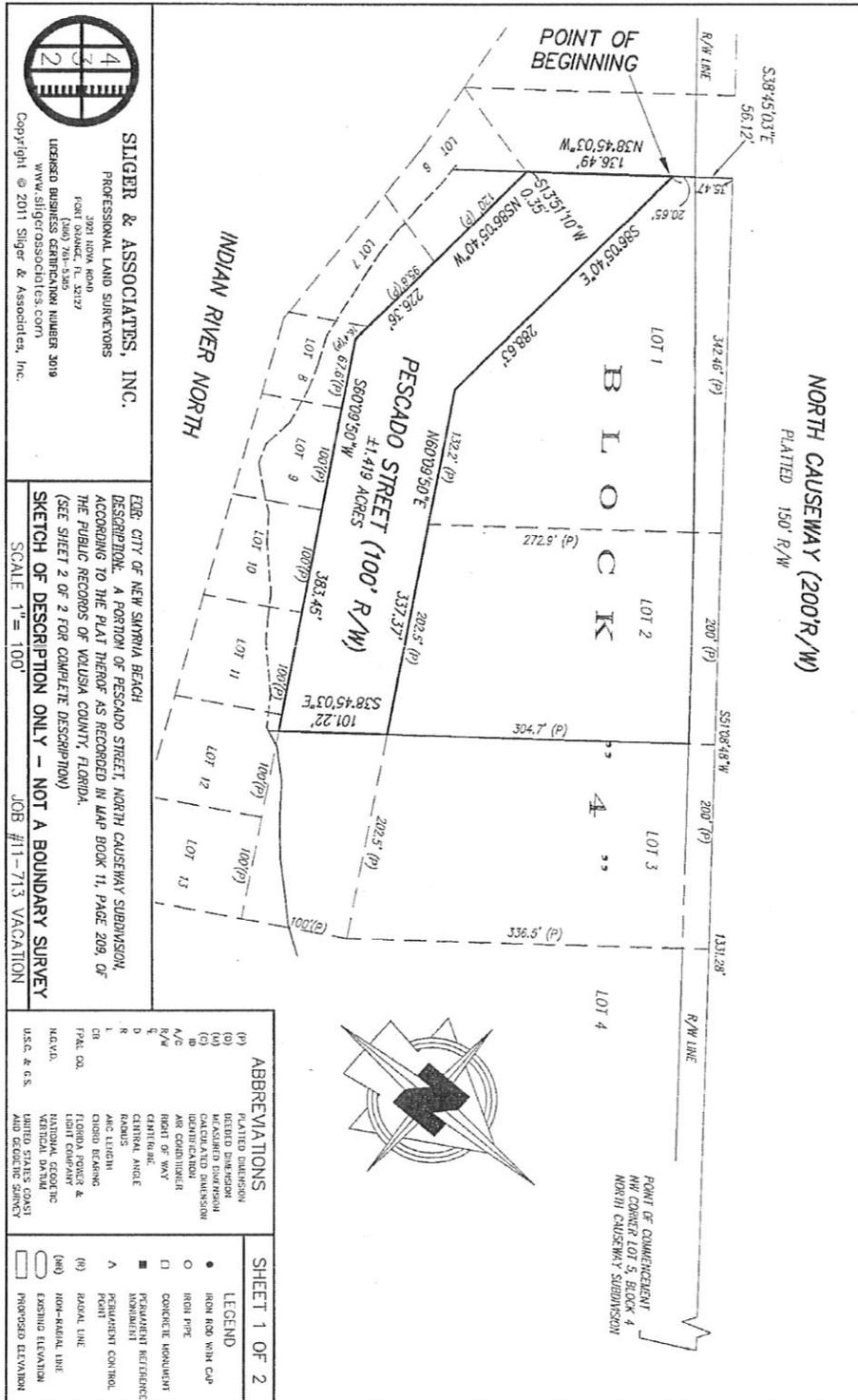
49
 50

Exhibit C – Survey



51
 52
 53
 54
 55

Exhibit D Detail and Legal Description of Area to be Vacated



56
 57
 58
 59

Exhibit D Continued

	<p>SLIGER & ASSOCIATES, INC. PROFESSIONAL LAND SURVEYORS LICENSED BUSINESS CERTIFICATION NO. 3019</p> <p style="font-size: small;">3921 NOVA ROAD PORT ORANGE, FL 32127 (386) 761-5385</p> <p style="font-size: x-small;">www.sligerassociates.com</p>				
Copyright © 2011 Sliger & Associates, Inc.					
<p>SURVEYORS NOTES</p> <ol style="list-style-type: none"> 1. NOTICE: 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. THIS SURVEY PREPARED WITHOUT BENEFIT OF AN ABSTRACT. 2. DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF. 3. BEARING STRUCTURE BASED ON STATE ROAD RIGHT OF WAY MAPS WITH THE BEARING ON THE NORTHERLY LINE OF BLOCK 4 BEING S51°08'48"W. 4. *NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.* 5. UNLESS OTHERWISE SHOWN, RECORD DISTANCES AND DIRECTIONS AND FIELD MEASURED DISTANCES AND DIRECTIONS ARE THE SAME. 6. DESCRIPTION PREPARED BY SLIGER & ASSOCIATES, INC. 					
<p>REFERENCE: PART OF BLOCK 4, NORTH CAUSEWAY SUBDIVISION PLAT PREPARED FOR THE FOLLOWING: (ONLY THE LAST DATE IS CERTIFIED ON SEALED COPY)</p>					
<p>THIS PLAT OF SURVEY IS CERTIFIED TO AND PREPARED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE ENTITIES AND/OR INDIVIDUALS LISTED BELOW, ON THE MOST CURRENT DATE, AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL WHOMSOEVER.</p>					
TYPE OF SURVEY	CERTIFIED TO	DATE	JOB NUMBER		
SKETCH OF DESCRIPTION	CITY OF NEW SMYRNA BEACH	09/22/2011	11-0713		
	NOT CERTIFIED TO ANY ENTITIES AND/OR INDIVIDUALS				
	OTHER THAN THOSE LISTED ABOVE.				
<p>DESCRIPTION:</p> <p>A PORTION OF PESCADO STREET, A 100 FOOT WIDE RIGHT-OF-WAY, AS SHOWN ON THE PLAT OF NORTH CAUSEWAY SUBDIVISION AS RECORDED IN MAP BOOK 11, PAGE 209, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: AS A POINT OF REFERENCE COMMENCE AT THE NORTHEAST CORNER OF LOT 5 BLOCK 4, SAID NORTH CAUSEWAY SUBDIVISION; THENCE S51°08'48"W ALONG THE NORTH LINE OF SAID BLOCK 4 A DISTANCE OF 1331.28 FEET TO THE NORTHWEST CORNER OF LOT 1, BLOCK 4, SAID NORTH CAUSEWAY SUBDIVISION AND THE EASTERLY RIGHT-OF-WAY LINE OF SAID PESCADO STREET; THENCE S38°45'03"E, ALONG SAID EASTERLY LINE AND ALONG THE WEST LINE OF SAID LOT 1, BLOCK 4, A DISTANCE OF 58.12 TO THE SOUTHWESTERLY CORNER OF SAID LOT 1, BLOCK 4 AND THE POINT OF BEGINNING. FROM THE POINT OF BEGINNING, RUN S86°05'40"E, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID PESCADO STREET, A DISTANCE OF 288.63 FEET; THENCE, CONTINUING ALONG SAID LINE, N60°09'50"E, A DISTANCE OF 337.37 FEET TO THE SOUTHEAST CORNER OF LOT 2, BLOCK 4, SAID NORTH CAUSEWAY SUBDIVISION; THENCE, ALONG A SOUTHERLY EXTENSION OF THE EASTERLY LINE OF SAID LOT 2, BLOCK 4, S38°45'03"E, A DISTANCE OF 101.22 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID PESCADO STREET; THENCE S60°09'50"W, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 383.45 FEET; THENCE ALONG SAID SOUTHERLY LINE, N86°05'40"W, A DISTANCE OF 226.36 FEET; THENCE, CONTINUING ALONG SAID SOUTHERLY LINE, S13°51'10"W, A DISTANCE OF 0.35 FEET TO THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 1, BLOCK 4; THENCE N38°45'03"W, ALONG SAID SOUTHERLY EXTENSION, A DISTANCE OF 136.49 FEET TO THE POINT OF BEGINNING. CONTAINING 61,818 SQUARE FEET OR 1.419 ACRES, MORE OR LESS.</p>					
SHEET 2 OF 2		VALID WITH SIGNATURE & EMBOSSED SEAL, ONLY			
FOR CITY OF NEW SMYRNA BEACH					
SKETCH OF DESCRIPTION	DATE	JOB NO.	P.C.	DRW.	CHECKED BY
BOUNDARY SURVEY	09/22/2011	11-0713	MM	SK	SK
TOPOGRAPHIC SURVEY					
FOUNDATION LOCATED					
FINAL IMPROVEMENTS					
RE-CERTIFICATION					
PROPOSED HOUSE LOCATION					
<p>I HEREBY CERTIFY THAT THIS PLAT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 34-17.06, FLORIDA ADMINISTRATIVE CODE/PURSUANT TO SECTION 472.026, FLORIDA STATUTES.</p> <p style="font-size: x-small;">J.E. ZAPERT, P.C.S./NO. 4048 STEVEN T. KRUGER, P.L.S./NO. 4722 C.O. VAN KLEECK, JR., P.S.M. NO. 6149 MICHAEL S. MURPHY, P.S.M. NO. 6208</p>					

60 **Exhibit E – Request from Applicant and Response from**
61 **Utilities Commission to Vacate ROW**



City of New Smyrna Beach

Randy Walter
Utilities Commission, City of New Smyrna Beach, Florida
Post Office Box 100
New Smyrna Beach, Florida 32170

RE: SV-1-11 Pescado Street Vacation

Mr. Walter,

The City of New Smyrna Beach has requested the vacation of the Pescado Street at 160 North Causeway, also known as the AOB site. The request is for the vacation of right-of-way and it does not vacate any other easements upon the property.

Please review the submitted documentation for the proposed vacation and, based upon your findings, provide a letter of no objection to the vacation or detail what conditions should be included for a recommendation of approval. Please provide a response by December 19, 2011.

With Regards,


Kevin Jameson, Planner
City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, FL 32168

Phone: (386) 424-2138
E-mail: kjameson@cityofnsb.com

210 Sams Avenue, New Smyrna Beach, FL 32168-9985

Exhibit E Continued

UTILITIES COMMISSION,
CITY OF NEW SMYRNA BEACH, FLORIDA
200 Canal Street
New Smyrna Beach, Florida 32168
386-427-1361



Mailing Address:
Post Office Box 100
New Smyrna Beach, FL 32170

December 14, 2011

Kevin Jameson, Planner
City of New Smyrna Beach
210 Sams Avenue
New Smyrna Beach, Florida 32168

RE: SV-1-11 Pescado Street Vacation

Dear Mr. Jameson:

The Utilities Commission interposes no objection to the platted right-of-way vacation of Pescado Street as depicted on said Sketch of Description by Sliger Associates, Inc. for City of New Smyrna Beach, Job Number 11-713 and Dated 09-22-2011.

The Utilities Commission has an existing 20" outfall main along with a recorded easement (attached) which crosses Pescado Street near the northern end.

There is no electric, water or sanitary sewer mains in the proposed vacation owned or maintained by the Utilities Commission, only the 20" outfall main referenced in the recorded easement.

Please do not hesitate to contact me at 386-424-3026 if you have any questions or require additional information.

Sincerely,


Randy L. Walter
New Business Representative

"Connecting You With Quality"

Exhibit F – Existing Utility Easement

10/24/2008 09:10 AM
Instrument# 2008-209751 # 1
Book : 6289
Page : 1432

Prepared by and return to:

William T. Preston, P.A.
143 Canal Street
New Smyrna Beach, FL 32168
386-424-9200

[Space Above This Line For Recording Data]

EASEMENT DEED

This Easement Deed (the "Deed") is made and entered into this 17th day of October, 2008 by and between the, **City of New Smyrna Beach, Florida**, 210 Sams Avenue, New Smyrna Beach, Florida (hereinafter referred to as "Grantor") and **Utilities Commission, City of New Smyrna Beach**, 200 Canal Street, New Smyrna Beach, Florida 32168 (hereinafter referred to as "Grantee"), with reference to the following:

RECITALS:

- A. Grantor is the owner of certain real property located at 120 N. Causeway Drive, New Smyrna Beach, Florida.
- B. Grantee is the utilities entity which provides services on and over the property located at 120 N. Causeway Drive, New Smyrna Beach, Florida.
- C. Grantor desires to grant to Grantee a perpetual non-exclusive easement and right of way for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation and inspection of drainage and general utility facilities which shall run with the land for each authority, commission, corporation, municipality or other agency supplying facilities or providing utility service, and their respective successors and assigns. Additional utility easements are reserved as shown by legend on the plat, together with the right of ingress and egress for the purpose of constructing, maintaining, using, repairing, replacing, reconstructing, inspecting and removing the line used for the outfall discharge.

NOW, THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

RECORD:
RETURN:
\$54.50
William T. Preston, Esq.
143 Canal St., NSB, FL 32168

70
71

Exhibit F Continued

Instrument# 2008-209751 # 2
Book : 6289
Page : 1433

1. Grant of Easement.

1.1 Grantor hereby grants to Grantee a perpetual, nonexclusive easement and right of way over, across, under and along the Property more particularly described for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation and inspection of drainage and general utility facilities.

The Easement description of the subject property is attached hereto in the Surveyor's "Report of Sketch of Descriptions" from Daniel W. Cory Surveyor, Inc., File #1537, September 29, 2008.

1.2 Grantor hereby further grant to Grantee a perpetual non-exclusive easement and right of way for ingress and egress on, over, across and along the described easement, with the right of ingress and egress for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation and inspection of the reclaimed water outfall facilities and general utility facilities.

1.3 Grantor agrees for itself, successor(s) and assigns, neither to erect, place or maintain, nor to permit the erection, placement or maintenance, of any building, cement slab or other structure(s) except walls, fences, shrubbery and other plant life on the above-described Easement. The Grantee, and its contractors, agents, and employees, shall have the right to trim or cut tree roots that may endanger or interfere with the sewer line and shall have free access to the sewer line and every part of it at all times, for the purpose of exercising the rights herein granted.

2. Miscellaneous.

2.1 Any breach of the terms, conditions, covenants, or restrictions of this Deed shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but such term, condition, covenant or restriction shall be binding upon and effective against any person who acquires title to the property or any portion thereof by foreclosure, trustee's sale or otherwise.

2.2 If any term, provision or condition contained in this Deed, shall be invalid or unenforceable, to any extent, then the remainder of this Deed (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision or condition of this Deed, unless specifically conditioned upon such invalid or unenforceable provision, shall be valid and enforceable to the fullest extent permitted by law.

2.3 Each covenant, condition or restriction contained in this Deed shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, personal representatives, and other successors-in-interest.

72

Exhibit F Continued

Instrument# 2008-209751 # 3
Book : 6289
Page : 1434

2.4 If any action or proceeding is commenced in order to enforce any of the provisions of this Deed, the prevailing party in any such action shall be entitled to recover all costs and expenses incurred in connection therewith, including reasonable attorneys' fees.

2.5 The obligations contained in this Easement Deed shall run with the land and any portion thereof, and each person or entity which succeeds to an interest therein or any portion thereof. Except as otherwise expressly provided in this Easement Deed, a reference to Grantee shall include any successor-in-interest to Grantee' rights in or ownership of the Property, and any reference to Grantor shall include any person or entity succeeding to Grantor' rights in or ownership of all or any portion of the Property.

2.6 This Deed may be executed in one or more counterparts, each of which shall be deemed an original, but all of which counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the said Grantor has hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered in Our Presence:

CITY OF NEW SMYRNA BEACH, FLORIDA,
a Municipal Corporation

Barbara Bellings
Witness
Print Name: Barbara Bellings

Sally Mackay
Sally Mackay Mayor

Johnny Bledsoe
Witness
Print Name: Johnny Bledsoe

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 17th day of October, 2008, by Sally Mackay Mayor, to me personally known or who have provided the following identification, N/A who did take an oath.

Johnny Bledsoe

Notary Public, State of Florida
JOHNNY RAY BLEDSOE
My Commission Expires: Comm# DD0673951
Expires 8/13/2011
Florida Notary Assn., Inc

Exhibit F Continued

Instrument# 2008-209751 # 4
Book : 6289
Page : 1435

EXHIBIT A

LEGAL DESCRIPTION OF EASEMENT AREA

Exhibit F Continued

Instrument# 2008-209751 # 5
Book : 6289
Page : 1436

REPORT OF SKETCH OF DESCRIPTIONS

EASEMENT "A" and EASEMENT "B"

Work Order # 08-09-023 - September 29, 2008

Sketch of Description:

See Sketch of Descriptions, Easement "A" and Easement "B", Work Order #08-09-023, dated September 29, 2008. This report of sketch of description and attached sketch is not valid without the signature and original raised seal of a Florida licensed surveyor and mapper, which can be found at the end of this report. The sketch and report are not full and complete without the other. The sketch is not an actual Boundary Survey.

Descriptions:

EASEMENT "A" - A portion of Lots 1, 6, 7, 8 and 9, Block "4" and a portion of Pescado Street, NORTH CAUSEWAY SUBDIVISION, according to the map or plat thereof, recorded in Map Book 11, Page 209, of the Public Records of Volusia County, Florida, lying 12.50 feet on each side of the following described line: Commence at the northeast corner of Lot 5, said Block "4"; thence South 51° 08' 48" West, along the northerly line of said Block "4", a distance of 1331.28 feet; thence South 38° 45' 03" East, a distance of 35.47 feet to the existing southerly right of way of the North Causeway; thence North 49° 18' 34" East, along said existing southerly right of way, a distance of 18.36 feet for the Point of Beginning; thence South 41° 05' 22" East, a distance of 157.63 feet; thence South 30° 05' 15" East, a distance of 10.52 feet; thence South 39° 28' 14" East, a distance of 42.38 feet; thence North 89° 07' 40" East, a distance of 173.55 feet; thence North 63° 56' 27" East, a distance of 46.69 feet; thence North 54° 05' 22" East, a distance of 62.56 feet; thence South 38° 02' 45" East, a distance of 62 feet more or less to the Mean High Water Elevation of the Indian River North and for a Point of Termination.

AND

A portion of Lot 6, Block "4" and a portion of Pescado Street, NORTH CAUSEWAY SUBDIVISION, according to the map or plat thereof, recorded in Map Book 11, Page 209, of the Public Records of Volusia County, Florida, described as follows: Commence at the northeast corner of Lot 5, said Block "4"; thence South 51° 08' 48" West, along the northerly line of said Block "4", a distance of 1331.28 feet; thence South 38° 45' 03" East, a distance of 35.47 feet to the existing southerly right of way of the North Causeway; thence continue South 38° 45' 03" East, a distance of 151.63 feet for the Point of Beginning; thence North 58° 43' 30" East, a distance of 12.23 feet; thence South 41° 05' 22" East, a distance of 2.97 feet; thence South 30° 05' 15" East, a distance of 10.34 feet; thence South 39° 28' 14" East, a distance of 11.85 feet; thence South 58° 43' 30" West, a distance of 10.93 feet; thence North 38° 45' 03" West, a distance of 25.21 feet to the Point of Beginning.

AND

A portion of Pescado Street, NORTH CAUSEWAY SUBDIVISION, according to the map or plat thereof, recorded in Map Book 11, Page 209, of the Public Records of Volusia County, Florida, described as follows: Commence at the northeast corner of Lot 5, said Block "4"; thence South 51° 08' 48" West, along the northerly line of said Block "4", a distance of 1331.28 feet; thence South 38° 45' 03" East, a distance of 35.47 feet to the existing southerly right of way of the North Causeway; thence continue South 38° 45' 03" East, a distance of 50.55 feet for the Point of Beginning; thence North 51° 14' 57" East, a distance of 7.93 feet; thence South 41° 05' 22" East, a distance of 29.26 feet; thence South 51° 14' 57" West, a distance of 9.13 feet; thence North 38° 45' 03" West, a distance of 29.23 feet to the Point of Beginning.

EASEMENT "B" - A portion of Lot 2, Block "3", a portion of Lot 6, Block "4" and a portion of Pescado Street, NORTH CAUSEWAY SUBDIVISION, according to the map or plat thereof, recorded in Map Book 11, Page 209, of the Public Records of Volusia County, Florida, described as follows: Commence at the northeast corner of Lot 5, said Block "4"; thence South 51° 08' 48" West, along the northerly line of said Block "4", a distance of 1331.28 feet; thence South 38° 45' 03" East, a distance of 35.47 feet to the existing southerly right of way of the North Causeway and for the Point of Beginning; thence continue South 38° 45' 03" East, a distance of 176.84 feet; thence South 58° 43' 30" West, a distance of 25.21 feet; thence North 38° 45' 03" West, a distance of 48.98 feet; thence South 51° 14' 57" West, a distance of 33.69 feet; thence North 40° 41' 04" West, a distance of 55.44 feet; thence North 78° 33' 41" West, a distance of 20.06 feet; thence North 59° 58' 51" West, a distance of 38.42 feet; thence South 49° 18' 34" West, a distance of 12.63 feet; thence North 38° 45' 03" West, a distance of 15.00 feet to the southerly right of way of the North Causeway; thence North 49° 18' 34" East, along said southerly right of way, a distance of 100.00 feet to the point of Beginning.

REPORT:

1. Description prepared by the undersigned at the request of the client.
2. Bearings refer to an assumed datum and based on the westerly line of Lot 2, Block "3", said North Causeway Subdivision as being South 38° 26' 30" East.
3. Subject to restrictions, reservations, limitations, easements and rights of way, if any, appearing of record.
4. This sketch prepared without the benefit of an abstract and no title work has been performed or provided.
5. This sketch is subject to any facts that may be disclosed by a full and accurate title search.
6. Underground utilities and features not located.
7. Dimensions indicated hereon are in feet and decimals thereof, unless otherwise noted.

Prepared for: Utilities Commission, City of New Smyrna Beach

Surveyor and Mapper in Responsible Charge:

Daniel W. Cory, Professional Surveyor and Mapper License Number 2027

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

Signed: _____

Daniel W. Cory

Daniel W. Cory Surveyor, Inc.
Certificate of Authorization Number LB 2599
300 Canal Street
New Smyrna Beach, Florida 32168
(386) 427-9575

Seal:

FILE # 1537
North Causeway Subdivision
Blocks "3" & "4"
(NSB UTILITIES COMMISSION)
SHEET 1 of 2

CITY OF NEW SMYRNA BEACH – DEVELOPMENT SERVICES
**ZT-18-11: LDR AMENDMENT –
RA, RURAL AGRICULTURE ESTATE
ZONING CLASSIFICATION**
JANUARY 9, 2012

Background

- A. **Applicant:** City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida, 32168
- B. **Request:** Approval of an amendment to the City's *Land Development Regulations* to create a new zoning classification – RA, Rural Agriculture Estate.

Findings

- A. For the past year, City and County staff have been drafting an Interlocal Service Boundary Agreement (ISBA) to address annexation and development of property between Interstate 95 and US 1. The agreement, once approved, will allow the City to annex non-contiguous lands within the agreed to annexation area, and will give the City jurisdiction over land use matters in this area, regardless of whether a property is within the City or within unincorporated Volusia County.
- B. Recently, the City has received several voluntary annexation applications from residents in the White Lane, Lewis Lane, Conway Road area, south of Turnbull Bay Road. These properties, which are rural in character, have a Volusia County Future Land Use designation of Rural and a Volusia County zoning classification of RA, Rural Agriculture Estate.
- C. The established policy of the City Commission is to match the existing Future Land Use and zoning classifications of properties that annex into the City. However, while the City has a Rural Future Land Use designation that closely matches the County category, the City does not have a zoning classification that is similar to the County's RA, Rural Agriculture Estate category.
- D. In order to address this deficiency, and to continue to protect the rural character of this area, staff is requesting an administrative amendment to the City's *Land Development Regulations* to create a new City zoning classification – RA, Rural Agriculture Estate – which would be identical to the County's RA zoning classification. A description of the County's RA, Rural Agriculture Estate zoning classification is attached as **Exhibit A**.
- E. In addition to amending Article V of the *Land Development Regulations* to establish the RA zoning category, staff is also proposing amendments to Article VI to address specific requirements regarding signs in the RA zoning district. Staff is also proposing amendments to Article VIII to detail conditions that must be met for landfills, bed and breakfast homes, cemeteries, day care centers, group homes, and off-street parking areas. All of these uses are currently allowed as special exception uses under the County's RA zoning classification.

However, Staff also did not include language allowing private package sewage treatment plants, as these are not permitted by the Utilities Commission.

- F. Staff also removed the special exception requirement for property owners wishing to exceed the County's limits on the number of personal pets. This requirement was removed as the City does not have a limit on the number of pets permitted per household elsewhere in the City.

Recommendation

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

ARTICLE V ZONING DISTRICTS

The City of New Smyrna Beach, Florida, is divided into the following districts within which the uses of land are regulated as provided by this LDR. Each district is listed below with its accompanying abbreviation:

A-1	Prime Agriculture
A-2	Agriculture
FR	Forestry Resource
C	Conservation
RA	<u>Rural Agriculture Estate</u>
RE	Residential Estate

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 city.

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
- Excavations (refer to subsection 801.15 of this LDR)
- Exempt landfills (refer to subsection 801.20 of this LDR)
- Essential utility services
- Fire stations
- Hobby breeder
- Home occupations
- 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 subsections 801.21 through 801.27 of this LDR.

- Animal shelters
- Bed and breakfast (refer to subsection 801.21)
- Cemeteries (refer to subsection 801.22)
- Communication towers exceeding 70 feet in height above ground level
- Day care center (refer to subsection 801.23)
- Excavations only for stormwater retention ponds for which a permit is required by this LDR
- Garage apartments
- Group home (refer to subsection 801.24)
- Kennels
- Off-street parking areas (refer to subsection 801.25)
- Public uses not listed as a permitted principal use.
- Public utility uses and structures (refer to subsection 801.26)
- Recreational areas (refer to subsection 081.27)
- Schools, parochial or private (refer to subsection 801.22).

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 subsection 604.10 of this LDR shall be constructed.

DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

604.14 Signs

G. Sign Standards

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

- (7) Signs Located at Bed and Breakfast Homes, Adult Living Facilities, Nursing Homes, Public and Private Schools, and Private and Semi-Public Clubs Located Within Residentially-Zoned Areas and Non-Residential Uses Within the RA Zoning District.
 - a. Ground signs:
 - i. Maximum copy area: 32 square feet
 - ii. Maximum height: 8 feet
 - iii. Materials and illumination:
 - iv. Must utilize indirect lighting to illuminate the sign face only;

ARTICLE VIII

SUPPLEMENTARY REGULATIONS

801.20 Landfills, construction and demolition debris disposal facility, materials recovery facility, recovered materials facility or off-site disposal of land clearing debris facility.

A. No special exception for the deposition of material is required by this article for the following activities provided that the activity does not violate any federal or state laws, rules, regulations or orders:

1. Normal farming operations/agricultural use.
2. Grading, filling and moving of earth in conjunction with commercial, industrial or subdivision construction provided a development order or permit has been obtained.

3. Foundations and building pads for any building or structure, provided that a valid building permit has been issued by the growth management department.
 4. Minor landscaping projects provided they do not encroach in flood-prone areas as depicted on the flood insurance rate maps, promulgated by the Federal Emergency Management Agency, or change the natural drainage pattern of the ground surface at the property line.
 5. Exemptions contained in Rule 62-701.320(2), F.A.C.
- B. The following requirements and conditions shall be met for landfills or other facilities as provided herein, subject to Florida Department of Environmental Protection permit approval:
1. Each application for a special exception shall be accompanied by plans, drawings, and information prepared by a Florida registered engineer depicting, at a minimum:
 - i. Existing and proposed topography at one-foot contour intervals. Such topography shall extend a minimum of 150 feet beyond the toe of slope of the landfill or facility.
 - ii. Wet and dry season water elevations and the existing surface drainage pattern.
 - iii. Notwithstanding any other minimum yard size requirements of this article, the sides of a landfill or facility shall be set back the following minimum distances:
 - a. One hundred twenty-five feet from the right-of-way of any public street, road or highway.
 - b. One hundred twenty-five from abutting residential or mobile home classified property.
 - c. One hundred twenty-five from any other abutting property.
 - d. One hundred twenty-five from any natural surface water body, watercourse or wetlands.
 - iv. Perimeter landscape buffers shall be established prior to initiation of the activity and shall be a minimum of 50 feet adjacent to all boundaries .
 - v. A description of the area and volume of material to be filled.
 - vi. A description of the time, duration, planning and proposed work schedule of the project.
 - vii. A detailed reclamation plan, and program to be performed upon completion of the project. As a minimum, the plan of reclamation shall include:
 - a. Time, duration, phasing and proposed work schedule.
 - b. Depiction of finished, stabilized sides.
 - c. Landscape plan for portion of property disturbed by landfill and associated activities, including an inventory of plant/tree species.

The reclamation plan must be approved by the development review committee.
 - viii. The proposed location of access roads to the sites and proposed haul routes for material to be deposited. Vehicular access to and

- from the landfill or facility shall be designated by the county council at the time of approval of the special exception.
- ix. Proposed plans for fencing and signs. All proposed signs shall be consistent with subsection 604.14 of this LDR. All proposed fencing shall be consistent with subsection 803.03 of this LDR.
 - x. A report prepared by a qualified engineer of the proposed landfill or facility site. Such a report shall at a minimum provide a detailed discussion of the environmental impacts of the proposed landfill or facility and a recommendation of the necessity to install monitoring wells.
 - xi. Evidence that the applicant has contacted the Florida Department of Environmental Protection, by certified mail with a copy of the return receipt to the growth management services group, and all other appropriate state and substate agencies, for the requisite permit. Such a landfill or other facility, as a condition of approval of the special exception, shall obtain a permit from the Florida Department of Environmental Protection.
2. Whenever the city engineer determines that the use of any public right-of-way designated by the applicant for ingress and egress to and from the site will be subject to excessive deterioration resulting in the breakdown of the subsurface and base of such right-of-way, the applicant may be required to provide the city with funds in the amount necessary to mitigate the adverse impact upon the right-of-way which is caused by the operation and to ensure that said roadway is maintained in a satisfactory condition. In furtherance of this agreement, the operator may be required by the city commission to post an acceptable performance bond, irrevocable letter of credit, or funds in escrow, in the amount up to 100 percent of the estimated reconditioning costs, as estimated by the city engineer.
 3. If upon completion of the public hearings the special exception is approved, final site plan approval, as specified by Article III of the Land Development Regulations is required.
 4. The city commission as a condition of the approved special exception may further limit the types of materials that may be deposited in a landfill or facility.
 5. Notwithstanding anything to the contrary within this article, no landfill or facility shall exceed 25 feet in height above existing grade.

801.21 Bed and Breakfast Homes (RA Zoning District)

- A. Maximum number of guest rooms for bed and breakfast use in the home: Five.
- B. Owner must reside in the building.
- C. Separate cooking facilities are not permitted in the guest room.
- D. Each guest room shall have private toilet and shower facilities, except where the building is designated as historically significant by the city or is listed on the National Register of Historic Places, in which cases a minimum of one bathroom shall be provided exclusively for use by the guests.
- E. Minimum bedroom area shall be 150 square feet.

801.22 Cemeteries, parochial or private schools

Cemeteries, parochial or private schools are permitted, provided:

- A. No principal or accessory building shall be located less than 50 feet from any property line.
- B. Off-street parking areas meeting the requirements of subsection 604.10 and landscaped buffer areas meeting the requirements of subsections 604.05 and 604.051 shall be constructed. Off-street parking and loading areas shall be surfaced with brick, asphalt, bituminous, concrete or packed shall or marl material and shall be maintained in a smooth, well-graded condition.
- C. Cemeteries shall comply with F.S. ch. 497, including the minimum acreage requirements and any other applicable governmental regulations.
- D. All schools must meet the requirements of F.S. § 333.3(3) or obtain a variance under Article III of this article.

801.23 Day Care Centers

Day care centers designed and constructed according to the applicable state standards and the following:

The intensity of the facility (e.g. number of residents) shall be compatible with the density and character of the surrounding residential area.

801.24 Group homes and nursing homes, boarding houses

- A. The scale of the facility (e.g. number of residents) shall be compatible with the density and character of the surrounding residential area.
- B. No principal or accessory building shall be located less than 45 feet from any property line.
- C. Unless waived by the city commission, off-street parking and loading areas meeting the requirements of subsection 604.10 and landscaped buffer areas meeting the requirements of subsection 604.05 and 604.051 shall be constructed.

801.25 Off-street Parking Areas

Off-street parking areas are permitted as indicated in the zoning classification as a special exception on vacant lots that are contiguous to or lie directly across the street from lots zoned commercial, providing the following conditions are met:

- A. The off-street parking area shall be used to serve only an existing conforming commercial use.
- B. The off-street parking area shall be used exclusively for additional off-street parking spaces that exceed the minimum off-street parking space requirements of subsection 604.10 of this LDR. Access to the off-street parking area shall comply with the requirements of the Land Development Regulations.
- C. If the off-street parking area is contiguous to the premises on which the principal commercial use is located, motor vehicles shall only enter or exit the parking area through that premises.
- D. If the off-street parking area is across the street from the premises on which the principal commercial use is located, all entrance and exit drives shall be located directly across from that premises.
- E. The parking area shall meet the requirements for materials, lighting, landscaping and stormwater retention outlined in this LDR.
- F. Each application for a special exception shall be accompanied by a parking plan meeting the requirements of the Land Development Regulations and a

landscape plan that meets the criteria of subsections 604.05, 604.051 and 604.10(A)(9) of this LDR.

- G. A landscape plan meeting the following requirements shall be submitted:
 - 1. The parking lot shall be planned and designed to retain the maximum amount of natural vegetation and shade trees. In the event that natural vegetation cannot be used, supplemental plant material shall be provided.
 - 2. All buffers and screening shall be provided in accordance with subsections 604.05, 604.051 and 604.10(A)(9) of this LDR. The screening shall be erected within five feet of the off-street parking area and be maintained in a neat and orderly manner at all times. Landscaped berms may be used in place of a fence. The berms shall be constructed to a height of four feet with inside slopes not exceeding a three to one ratio. Plant material shall be planted on top of the berm and shall be a minimum of two feet in height with a planting interval of at least three feet on center.
- H. A workable underground irrigation system shall be installed in order to provide the means to water any planted landscape materials.
- I. All landscaping shall be maintained in accordance with subsection 604.05(l) of this LDR.
- J. The parking area shall not be used until the parking area has been constructed in accordance with the plans approved pursuant to the special exception.

801.26 Public Utility Uses and Structures

- A. Unless waived by the city commission, a landscape buffer meeting the requirements of subsections 604.05 and 604.051 is required.
- B. A final site plan meeting the requirements of article III of the Land Development Regulations is required.

801.27 Recreational Areas

Golf courses, country clubs, swim clubs, tennis clubs, and similar uses are permitted, provided:

- A. The total lot area covered with principal and accessory buildings shall not exceed 15 percent.
- B. No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman or caretaker. Those living quarters, if any, shall be constructed as part of the principal building.
- C. No principal or accessory building, swimming pool or tennis court shall be located less than 50 feet from any lot line.
- D. No outdoor loudspeaker or call system shall be audible on adjoining property.
- E. All artificial lights shall be directed away from adjoining properties.
- F. Unless waived by the city commission, off-street parking areas meeting the requirements of subsection 604.10 and landscaped buffer areas meeting the requirements of subsections 604.05 and 604.051 shall be constructed.

1 RA RURAL AGRICULTURAL ESTATE
2 CLASSIFICATION

3 *Purpose and intent:* The purpose and intent of the RA Rural Agricultural Estate
4 Classification is to provide for low density development, personal agricultural production
5 consistent with the comprehensive plan, in rural areas of the county.
6

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

- 10 • Communication towers not exceeding 70 feet in height above ground level.
- 11 • Exempt excavations (refer to subsection 72-293(15)) and/or those which comply
12 with division 8 of the Land Development Code of Volusia County [article III] and/or
13 final site plan review procedures of this article.
- 14 • Exempt landfills (refer to subsection 72-293(16)).
- 15 • Essential utility services.
- 16 • Fire stations.
- 17 • Hobby breeder.
- 18 • Home occupations, class A (refer to section 72-283).
- 19 • Houses of worship.
- 20 • Parks and recreation areas accessory to residential developments.
- 21 • Public schools.
- 22 • Publicly owned parks and recreational areas.
- 23 • Publicly owned or regulated water supply wells.
- 24 • Raising of crops and keeping of animals, including aviaries, pisciculture, apiaries
25 and worm raising for personal use (not for resale), accessory to a single-family
26 dwelling. The personal use restriction is not intended to apply to 4-H, FFA or similar
27 educational projects.
- 28 • Single-family standard or manufactured modular dwelling.

29
30 *Permitted special exceptions:* Additional regulations/requirements governing permitted
31 special exceptions are located in sections 72-293 and 72-415 of this article.

- 32 • Animal shelters.
- 33 • Bed and breakfast (refer to subsection 72-293(19)).
- 34 • Cemeteries (refer to subsection 72-293(4)).
- 35 • Communication towers exceeding 70 feet in height above ground level.
- 36 • Day care center (refer to subsection 72-293(6)).
- 37 • Dogs and cats boarded as personal pets exceeding the number permitted in
38 subsection 72-306(a).
- 39 • Excavations only for stormwater retention ponds for which a permit is required by
40 this article.
- 41 • Garage apartments.
- 42 • Group home (refer to subsection 72-293(12)).
- 43 • Home occupations, class B (refer to section 72-283).
- 44 • Kennels.
- 45 • Off-street parking areas (refer to subsection 72-293(14)).
- 46 • Public uses not listed as a permitted principal use.
- 47 • Public utility uses and structures (refer to subsection 72-293(1)).
- 48 • 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.