Planning & Zoning Board
Monday, January 6, 2025 at 5:30 PM

City Commission Chambers
214 Sams Avenue, New Smyrna Beach, Florida 32168

1. CALL TO ORDER

A. Roll Call

2. APPROVAL OF MINUTES

2.A Consider the Approval of the Planning and Zoning Board September 9, 2024, November 4, 2024 and December 2, 2024 Regular Meeting Minutes.

3. PUBLIC PARTICIPATION

4. OLD BUSINESS

5. NEW BUSINESS

5.A ZT-6-24: Text Amendment to Article VI of the Land Development Regulations.

5.B V-20-24: Review a request, for an after-the-fact variance, to allow an accessory structure to be taller than the primary structure, and for it to be over 60% of the size of the primary structure at 1076 Dillon Circle.

5.C V-24-24: 2500 S. Atlantic Avenue, a variance request to allow a new house to encroach into the secondary front yard setback, on a corner lot.

5.D Selection of the 2025 Chairperson and Vice Chairperson

6. COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

7. REPORTS AND COMMUNICATION BY THE STAFF

7.A January 2025 Development Activity Report

8. ADJOURNMENT

Pursuant to Florida Statutes 286.0105, if an individual decides to appeal any decision made by the board, agency or commission of the City of New Smyrna Beach 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 City Clerk's office in person or by mail at 210 Sams Avenue, New Smyrna Beach, Florida 32168, (386) 410-2630, prior to the meeting.

THE CITY OF NEW SMYRNA BEACH - PLANNING DEPARTMENT

CONSIDER THE APPROVAL OF THE PLANNING AND ZONING BOARD SEPTEMBER 9, 2024, NOVEMBER 4, 2024 AND DECEMBER 2, 2024 REGULAR MEETING MINUTES.

January 6, 2025

Background:
Florida Statutes require that minutes be prepared and approved for all meetings of the Planning and Zoning Board.

Findings:
Staff recommends the Planning and Zoning Board approve the minutes of the regular Planning and Zoning Board meeting held on September 9, 2024 and November 4, 2024 Regular Meeting Minutes.

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Stephanie Ferrara - Development Services Coordinator

THE CITY OF NEW SMYRNA BEACH - DEVELOPMENTAL SERVICES

ZT-6-24: TEXT AMENDMENT TO ARTICLE VI OF THE LAND DEVELOPMENT REGULATIONS.

January 6, 2025

Background:

The City of New Smyrna Beach Stormwater Land Development Regulation (LDR) code update began in May 2022 with consultant, Parker Mynchenberg & Associates. The consultant's LDR update work continued through June 2024 along with staff input. On June 20, 2024, city staff and consultant presented the LDR, Section 604.01, Stormwater Management and Drainage amendments at a City Commission Workshop. After the workshop the LDR update was further revised with additional input from the workshop Q & A session with Commissioners.

There are several reasons for the needs to update the stormwater LDR. First, Hurricane Ian in September 2022 resulted in over 1,000 homes flooded within the city. Then in October 2024, Hurricane Milton resulted in over 30 homes flooded and major arterial, collector, and local roads being inundated for weeks. These events show that global climate changes, higher intensity storm events, and sea level rise are impacting developments within the city. More stringent stormwater criteria and design standards are needed to protect public and private properties and its infrastructure.

Exhibit A: Proposed stormwater update with text color changes.

Findings:

Some of the major LDR changes include requiring future developments to design for today's higher rainfall intensity storm events (i.e. 25yr-24hr, 100yr-24hr, and 100yr-72hr storm events) which will increase the stormwater management system Level of Service (LOS). Other changes include requiring retention & detention ponds and conveyance swales & ditches to provide minimum freeboard (clearance) above the design storm peak stages which also increases the LOS. There are also roadway design standards for flood protection up to the 10yr-24hr storm event and Best Management Practices (BMP) for infill lots and residential lot grading. Lastly, the code updates allow the city engineer to increase development design standards in those areas where there are known reported flooding or restricted downstream conveyance systems. These LDR revisions will

enhance the land development code resiliency and increase the stormwater design standards within the city.

Staff recommends approval of the LDR Section 604.01, Stormwater and Drainage code updates.

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Shane Corbin - Developmental Services Director

Attachments:

Section 604.01. STORMWATER LDR UPDATE - DRAFT VERSION #2 with COLOR CHANGES (12_27_24).docx

Black – Existing regulation

Blue – Proposed Revisions

Red – Delete

604.00. Required improvements.

604.01. *Stormwater management and drainage.*

Definitions

Addition or *alteration:* Any work beyond routine maintenance or repair of a drainage system, which alters the existing system capacities or locations different from those originally approved or constructed, and result in changes to the rate, volume, or timing of discharges.

Adverse impacts: Any modifications or effects on the stormwater management systems or facilities, water bodies, groundwater and surface waters, which are, or potentially may be, harmful or injurious to human health, welfare, safety or property, or which unreasonably interfere with the enjoyment of life or property, or cause damage to adjacent property owners, due to development or other construction activities. The term includes secondary and cumulative as well as direct impacts.

Attenuation: The reduction of stormwater discharge through retention or detention storage volume, which minimizes off-site and downstream impacts.

Base Flood: A flood having a one-percent chance of being equaled or exceeded in any given year. The base flood is commonly referred to as the 100-year flood elevation.

Base Flow: Surface water recharge, which originates from ground water seepage during low flow conditions.

Best Management Practices (BMP): Practices and methods to manage stormwater runoff by controlling peak runoff rates and volumes to improve water quality, prevent erosion, and reduce the amount of pollutant generated by non-point source.

Capacity: The limiting flow rate or volume that the drainage system can receive, without causing adverse impact to the surrounding areas, public or private.

Closed Basin (Land-locked): A basin that drains to a depression or receiving water body in which water can only discharge through percolation or evaporation. Or the receiving waters in such drainage basins are considered "volume sensitive" in capacity.

Compensation Storage: Constructed or otherwise provided additional storage volume to offset or compensate the storage lost due to filling within the 100-year floodplain. The compensation volume is provided between the seasonal high-water table and 100-year flood elevation.

Control Elevation: The lowest elevation at which stormwater can be discharged through a control device to meet attenuation and treatment requirements.

Design High Water (DHW): The peak water surface elevation of the stormwater management facility, conveyance system, or water body, which is determined by the design storm event flow conditions.

Design Storm: An adopted rainfall amount corresponding to the storm intensity, duration, and frequency used as the basis of the stormwater management facility design.

Detention: To temporary hold back or store stormwater to control the rate of discharge with subsequent gradual release of the volume over a specific time and usually not greater than the pre-development rate.

Development project: Any manmade change to property or improvement to land, which increases the amount of impervious coverage, changes the land topography and drainage patterns, or impact the existing stormwater systems. A development project shall include but not be limited to residential lots, subdivision, commercial, and industrial, and other site plan approval under the City's land development regulations.

Directly Connected Impervious Area (DCIA): Impervious coverages such as building, impermeable pavement surface, and/or other impervious surfaces, which drain directly into the stormwater management system without first flowing across open space or pervious areas to allow infiltration into the groundwater.

Discharge: The outflow of water from a project site that can be quantified as discharge rate or volume release from the drainage system or stormwater management facility.

Disturbed area: Area where construction activity is currently occurring and includes but is not limited to clearing, grubbing, grading, excavating, stockpiling, landscaping, placement of fill, paving, installation of drainage systems or utilities, and construction of buildings or structures that result in soil disturbance.

Drainage basin: The surface area delineated by topographic boundaries that direct stormwater runoff to a common point or receiving water body and can be part of a larger watershed.

Drainage divide: The physical boundary (commonly the high-point or ridge) which separates two drainage basins, and from which stormwater flows on either side of the basin.

Drainage system (artificial): Any canal, ditch, culvert, dike, storm sewer or other man-made facility which can be used to control stormwater surface flow.

Drainage system (natural): Surface streams, rivers, wetlands, or marshes which convey stormwater to the natural downstream points of drainage system.

Drawdown: Lowering the surface water level, water table or piezometric surface as result of changes to the outflow system.

Duration: Time from the beginning to end of a storm event used to perform runoff calculations.

Easement: An interest in the land owned by another that entitles its holder to a specific limited use and purpose.

Elevation: Height in feet expressed in relation to mean sea level and referenced to the 1929 National Geodetic Vertical Datum (NGVD) or 1988 National Vertical America Datum (NAVD).

Encroachment (floodplain): Infringement into the floodplain or floodway by development which causes a reduction in flood storage volume and/or conveyance capacity.

Erosion: The general process whereby soils and sediments are transport by moving water, wind, ice, climate conditions, or land-disturbing activities.

Exfiltration system: A subsurface drainage facility consisting of a conduit, such as perforated pipe, surrounded by natural or artificial aggregate that temporary stores and filters stormwater into the underlying soil through filtration.

First flush (treatment volume): The initial volume from a storm event that contains the majority concentration of contaminants and pollutants, which are directed into the drainage system for treatment.

Flooding: A general inundation of land by water to depths greater than typically occur during the normal wet season.

Flood insurance rate map (FIRM): An official map of a community which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS): The official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Floodplain: Land area subject to inundation by flood waters from a natural or man-made watercourse or water body by a storm event, including but not limited to the 100-year storm.

Flood zone: Special Flood Hazard Area (SFHA) shown on the FEMA FIRM map, typically Zone A or Zone AE.

Floodway: The conveyance portion of a watercourse (channel) and its adjacent floodplain areas that must remain unobstructed to convey the regulatory flood discharge for the 100-year storm event without raising the flood elevations above specified levels.

Freeboard: A vertical distance between the Design High Water (DHW) or Hydraulic Grade Line (Line) elevation to the pond top of berm or edge of pavement grade, to provide a safety factor.

Groundwater recharge: Additional water into the surface drainage system from the subsurface flow, or by surface water infiltration, percolation or seepage through naturally and/or artificial means.

Head loss: Loss of energy in fluid flows caused by friction, obstacles, eddies, tailwater, and changes in velocity and direction of flow.

Hydraulic Grade Line (HGL): In open channel flow, it is the water surface along the watercourse. In pressure or pipe flow, it is the theoretical line representing the pressure or piezometric head along the pipe or closed conduit.

Hydrograph: A graph of the time distribution of runoff (expressed as flow rate) from a watershed.

Hydroperiod: The duration and range of elevation of inundation in a wetland system.

Impervious surface: A surface which is highly resistant to infiltration by water. It includes surfaces such as compacted base material, as well as pavement surfaced streets, roofs, sidewalks, porous and nonporous parking lots and other similar surfaces.

Infiltration: The gradual downward flow of water from the ground surface through the soil layers and eventually to the water table reservoirs.

Level of service (LOS): The performance and capacity of the stormwater management system in terms of level of protection provided, such as the 25-year/24-hour storm event.

Low Impact Development (LID): Stormwater management systems that incorporate one or more of the following components such as bioretention swales, rain gardens, pervious pavement, planter boxes, and disconnected impervious areas (i.e. impervious area where runoff is directed over pervious open space prior to discharge into the stormwater pond).

Lowest finished floor: The top surface of the lowest area within the inside perimeter of the exterior walls of a building. For slab-on-grade type buildings or buildings with basements the top surface of the slab or basement floor would constitute the lowest floor. For footing, foundation walls, or pile type buildings with crawl spaces under the building without basements, the top surface of the finished flooring above the horizontal joist, beam or other supporting member would constitute the lowest floor.

Normal Water Level (NWL): The typical water level within a pond, lake, or other type of impoundment, natural or man-made at the elevation of the orifice outflow or spillway or permanent pool volume.

Peak discharge: The maximum flow rate of water passing a given point during or after a storm event.

Positive outfall: The ability to discharge freely and directly into naturally or man-made channel, water body, pipe or drainage system, which is part of receiving waters and has adequate capacity to receive the water.

Retention: To retain stormwater and prevent any surface water discharge. The retained stormwater is either infiltrated into the ground or evaporated.

Retention pond: A pond designed to collect and temporary store stormwater volume for infiltration into the ground and recovers the volume within a specific time.

Runoff: The portion of rainfall that is not evaporated, transported, infiltrated, intercepted, or retained in water body.

Scouring: The abrasive action of water flowing through soils causing sediments to displace from its existing location. Scouring can occur within natural and man-made watercourse, water body or through pipes and structures.

Sediment: Fine particulate material, whether mineral or organic, that is in suspension or has settled in a water body or has been deposited by moving water, wind, or other sources.

Seasonal high ground water table (SHGWT): Elevation of groundwater when soils are most saturated during a normal wet season with average rainfall.

Sheet flow: Overland flow of water consisting of a uniform shallow or thin layer of water across sloping ground or other surfaces.

Storm frequency: A statistical, long-term average number of years within which a particular storm event of specific magnitude will be equaled or exceeded (i.e. 25-year/24-hour storm).

Stormwater management system: A surface or subsurface system to collect, store, control or remove excess water on the land, including both natural and man-made systems. The system may include ditches, box culverts, channels, pipes, inlets, structures, ponds, exfiltration system, swales, or a combination thereof, and may be designed and constructed in phases.

Surcharge: Flow conditions which occurs in a closed conduit when the hydraulic grade line (HGL) is above the crown of the pipe or inlet structure.

Time of concentration: Time it takes a drop of water falling from the hydraulically most remote point in the watershed to travel to the outlet or discharge point of the watershed.

Tailwater: The water surface elevation at the downstream end of a drainage system usually at the outfall location.

Treatment: Typically refers to the stormwater management practices improving the quality of stormwater discharged.

Underdrain: A system of perforated pipes below the pond or roadway that are designed to lower the groundwater table to facilitate pond volume recovery or protect the road base. It can be used to filter stormwater runoff prior to discharge.

Water body: Any natural or artificial pond, lake, reservoir or other area which ordinarily or intermittently contains water, and which has a discernible shoreline.

Watercourse: Any natural or artificial channel, ditch, canal, stream, river, creek, waterway or wetland which flows either continuously or intermittently, and which has a definite channel, bed, banks or other discernible boundary.

Watershed: A drainage basin or area contributing to the flow of water directly or indirectly into receiving waters.

Wet detention pond: A pond designed to collect and temporary store stormwater runoff in a permanent wet impoundment and provides treatment through physical, chemical, and biological processes and subsequence gradual release of the stormwater.

Wetland: Wetlands shall be defined based on hydrology as well as hydric soil and wetland vegetation. Wetlands shall include those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do, or would support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland boundaries shall be made in accordance with the requirements of the Florida Department of Environmental Protection, St. Johns River Water Management District, and the U.S. Army Corps of Engineers and shall include the largest or most inclusive area whether isolated or contiguous with a natural or artificial water body.

A. *General requirements.*

(1) All development shall provide stormwater management systems which conform to F.A.C. ch. 40C-42, Stormwater Discharge Rule-SJRWMD [St. John's River Water Management District]. Florida water quality standards found in chapter 62-302, Florida Administrative Code. This Section is intended to be the minimum stormwater management standards and criteria. In some cases, other regulatory agencies requirements may conflict with these City standards and criteria. In those case with conflicting criteria, it is the intent of this Article to use the most stringent regulations governing the stormwater management system unless otherwise determined by the city engineer.

(2) All development within a closed basin shall ~~that utilizes a central lake or series of lakes for water retention/detention, must~~ provide protection against flooding for the 100-year, three-day storm; and if the development is located within a FEMA flood hazard zone, the FEMA 100-year flood elevation cannot be increased.

(3) Easements shall be granted as follows:

a. Drainage easements shall be provided where deemed necessary by the city engineer and shall be granted at no cost to the city.

b. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided an easement for such drainage facility. Such an easement shall be of sufficient width to adequately provide for such watercourse, drainage way, channel or stream, and access to maintain said easement shall be a minimum of 20 feet wide on one side, for channels up to 16 ft wide and both sides for channels wider than 16ft. ~~or both sides, if needed.~~

c. Closed Drainage Easement (storm sewer / outfall pipe). The minimum easement is (Outside pipe diameter + 4 feet + 2 x D), where D = depth to pipe invert in feet. The min. pipe easement width is 12 feet wide.

(4) Systems constructed within the 100-year floodplain have the potential to increase flood stages on adjacent property. A system must not cause a net

reduction in flood storage within the 100-year floodplain. Compensatory storage shall be in accordance with City Ordinance 109-20.

~~(4) All stormwater drainage which is proposed to enter a wet retention area or retention pond by overland flow shall, prior to entering the wet retention area or retention pond, first be filtered through a vegetative buffer having a minimum width of 20 feet and shall not be directly discharged into the water.~~

~~(5) All construction projects shall be required to use erosion control devices during construction and shall provide an erosion control plan.~~

(5) [*Erosion and sediment control measures*] shall be utilized to safeguard persons, protect property, and limit damage to the environment within the city. To achieve these goals, the following soil conservation measures and procedures shall be undertaken on all sites:

a. *During construction.* Standard best management practices (BMPs) and details specifically approved by the city shall be used to prevent erosion and the depositing of soil on or off-site. This shall include the protection of bare soils from wind forces, moving water, climate conditions, and land-disturbing activities.

b. *Permits.*

1. All construction activities within the city shall follow the rules and regulations outlined by the National Pollutant Discharge Elimination System (NPDES) generic permit requirements for phase II municipal separate storm sewer systems (MS4s), pursuant to chapters 62-620 and 62-621, Florida Administrative Code, and F.S. § 403.0885.

2. Any land activity or permit application where 0.5 acres (21,780 square feet) or more of soil will be disturbed shall also provide an erosion and sediment control plan (ESCP) or Stormwater Pollution Prevention Plan (SWPPP).

3. An erosion and sediment control plan is not required for any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(6) All property owners must maintain stormwater management systems as approved by the city engineering department.

B. [*Conformance to regulations.*] All development shall provide stormwater management systems which conform to the stormwater management and conservation regulations as follows:

(1) [*Activities requiring permit.*] No person may subdivide or make any changes in the use of land or construct or reconstruct a structure or change the size of a

structure, except as hereinafter exempted, without first obtaining a permit from the city engineer's office as provided herein. For the purposes of this article, the following activities may potentially alter or disrupt existing stormwater runoff patterns, and as such, will require a permit prior to the initiation of any project:

a. Clearing and/or drainage of land;

b. Converting agricultural lands to nonagricultural uses;

c. Subdividing land;

d. Replatting recorded subdivisions and the development of recorded and unrecorded subdivisions;

e. Changing the use of land and/or the construction of a structure or a change in the size of one or more structures; and

f. Altering the shoreline or bank of any surface water body.

(2) [*Exempted activities.*] For the purpose of this section, the following activities shall be exempt from the formal permitting procedures of the section:

a. Existing bona fide agricultural pursuit;

b. Maintenance work on utility or transportation systems, if performed on established rights-of-way or easements; provided such maintenance work does not alter the purposes and intent of the system as constructed;

c. Maintenance work performed on existing mosquito control drainage canals for the purpose of public health and welfare;

d. Any maintenance, alteration, renewal, use or improvement to any existing structure not changing or affecting the rate or volume of runoff as determined by the methods defined in [sub]section 604.01B.(3);

e. The acceptance of a plat by the city commission in accordance with the subdivision regulations, within this LDR as amended, or approval of a site plan by the planning board in accordance with this LDR, as amended, shall be construed as a permit and a separate permit under this article is not required, but compliance herewith shall be demonstrated as a part of the review procedure pursuant to said LDR. Subsequent changes or additions not reflected by the accepted plat or site plan, however, shall be subject to the terms of this section;

f. For the purposes of this provision, a temporary parking lot shall be defined as a parking lot to be used for a period less than one calendar year. City commission approval shall be required to allow an exemption under this provision. The city commission may subject the issuance of an exemption under the provision to reasonable terms and conditions. Applications for a temporary parking lot exemption shall be made to the city engineer. All

temporary parking lots shall be constructed and maintained in accordance with the following specifications:

1. That bumper stops to be placed to indicate the location of the parking stalls.
2. The proper signs be installed to direct the flow of traffic.
3. That a device approved by the city engineer be placed at the entrance and egress of the parking lot to prevent stormwater and surface materials being washed or carried into the street. A one-year extension may be granted by the city commission.
4. Temporary parking lot must accommodate fire rescue truck and H-20 loading requirements.

~~g. New building additions to existing single-family and duplex homes, including storage sheds, driveways, patios, garages, carports, concrete slabs or pools. This exemption shall apply to additions up to 500 square feet. The owner shall comply with the stormwater requirements for the portion of the addition in excess of 500 square feet.~~

~~h. Increased impervious area of 2,500 square feet or less to an existing commercial structure including related site improvements.~~

~~i. Driveways to new single-family homes.~~

g. Bona fide agricultural pursuits including forestry, except where an artificial drainage system will be used to increase the flow of surface water from the applicant's land.

h. Maintenance or renewal of existing pavement or buildings.

C. Requirements and Standards

(1) The hydrologic requirements mandated by this article shall be developed in accordance with the latest releases and revisions of the U.S. Department of Agriculture, Soil Conservation Service's Technical Release No. 55, entitled "Urban Hydrology for Small Watersheds," except that the 100-year storm requirements shall not be required. Alternate methods may be used if, in the opinion of the city engineer, similar results are produced. Innovative approaches to stormwater management shall be encouraged and the concurrent control of erosion, sedimentation and flooding shall be mandatory. Stormwater management and conservation control strategies shall meet the following performance standards and requirements:

a. Design storms shall be SCS Type II Florida Modified Rainfall Distribution with rainfall amounts for the 25-year 24-hour storm shall be 9.5 inches, or as amended, but shall not be less than 9.5 inches; rainfall amounts for the 100-

year 24-hour storm shall be 13.0 inches, or as amended, but shall not be less than 13.0 inches; rainfall amounts for the 100-year 72-hour (3 days) storm shall be 16.2 inches per NOAA, Atlas 14 rainfall data for New Smyrna Beach.

b. On-site retention shall be provided ~~for no less than one and one-half inch of runoff from all roofed paved, and other impervious areas caused by or resulting from the project.~~ as required in the stormwater management plan section.

c. For a 25-year storm of 24 hours duration, the peak discharge rate and the total runoff volume leaving the developed or redeveloped site shall be limited to ~~the~~ 100 percent of the peak discharge rate and the total runoff volume prior to development or redevelopment.

d. Stormwater runoff shall be subject to best management practice prior to discharge into natural or artificial drainage systems. Best management practice shall mean a practice or combination of practices determined by the city engineer to be the most effective practical means of preventing or limiting the pollution generated by the project to a level compatible with Florida water quality standards found in F.A.C. ch. 17-3.

e. Runoff computation shall be based on the most critical situation and conform to acceptable engineering practices using rainfall data and other local information applicable to the affected area.

f. No site alteration shall cause siltation of wetlands, pollution of downstream wetlands, or reduce the natural retention or filtering capabilities of wetlands or lowering of the existing water table.

g. No site alteration shall allow water to become a health hazard or contribute to the breeding of mosquitoes.

h. All site alteration activities shall provide for water retention and settling structures and flow attenuation devices as may be necessary to ensure the foregoing standards and requirements are met.

i. Design of water retention or detention structures and flow attenuation devices shall be subject to the approval of the city engineer.

j. In subdivisions and on parcels where stormwater retention meeting current standards is not provided, filling of low lots shall not be allowed within required yard areas except that a minimum amount of fill may be allowed for: (1) a driveway and up to five feet on either side of the driveway; and (2) no more than six inches of fill may be allowed within the required yard areas provided an adequate drainage scheme is constructed to not allow

stormwater onto adjacent lots. Construction techniques allowed to elevate the first floor of a structure include use of stem wall and pier foundations.

Table 1: Design Storm Events and Peak Discharges

Stormwater Facility	Design Storms and Discharge Requirements	Rainfall Amount
Retention or Detention Ponds		Per IDF Curves
Ponds with Positive Outfall	Post-Development less than Pre-Development Discharge of Peak Rate and Volume for 25-year, 24-hour Storm (SCS Type II or Florida Modified Rainfall Distribution)	9.5 inches
Discharge to Closed Basin (Land-locked) without Positive Outfall*	Post-Development less than Pre-Development Discharge of Peak Rate and Volume for 100-year, 72-hour (3 Days) Storm (SCS Type II or Florida Modified Rainfall Distribution)	16.2 inches
Sites with known flooding issues or with restricted downstream outfall system**	Post-Development less than Pre-Development Discharge of Peak Rate for 100-year, 24-hour Storm (SCS Type II or Florida Modified Rainfall Distribution)	13.0 inches
Conveyance Systems		
Storm Sewers	10-year, 24-hour Storm (Peak Discharge from Rational Equation)	7.5 inches
Roadside Swales	10-year, 24-hour Storm	7.5 inches
Major Conveyance Canal or Ditch	25-Year, 24-hour Storm	9.5 inches
Major Bridge or Box Culvert	100-year, 24-hour Storm	13.0 inches

Note: Above storm design frequency or duration may be increased if deemed necessary by the city engineer to prevent flooding and protect properties.

*In addition to SJRWMD closed basin (land-locked) criteria.

** As determined by the city engineer.

Table 2: Minimum Freeboard Protection and Hydraulic Grade Line (HGL)

Stormwater Conveyance System	Minimum Freeboard
Retention & Detention Ponds	12 inches above Design High Water (DHW)
Roadside Swales	6 inches above Design High Water (DHW)
Canal & Ditches (Major Conveyance System)	12 inches above Design High Water (DHW)
Storm Sewers	6 inches above Hydraulic Grade Line (HGL)

Table 3: Minimum Easements and Maintenance Berms for Drainage Systems

Drainage System	Easements and Berms Width
Closed Drainage System (Storm Sewers)	(Outside pipe diameter + 4 feet + 2 x D) where D = depth to pipe invert (Min. 12 feet width)
Open Drainage (Canal & Ditch)	
Channel Top Width 16' or less	20 feet (on one side)
Channel Top Width greater than 16'	20 feet (on both sides)

Note: Easements may be increased if deemed necessary by the city engineer for public safety and constructability.

Table 4: Stormwater Management System Side Slopes

Open Drainage Conveyance	Maximum Side Slopes
Swale, Ditch or Canal (including swales on single residential lot)	4:1 (Horizontal to Vertical)
Dry Bottom System	
Retention, Detention, and Compensation Ponds	4:1 (Horizontal to Vertical)
Wet Bottom System	
Wet Detention Pond	4:1 (Horizontal to Vertical) to 2 feet below the Normal Water Level (NWL) or control elevation then 2:1 (Horizontal to Vertical) to pond bottom

Table 5: Tailwater for Design

Conveyance Type	Design Tailwater
Storm Sewers	Crown of Pipe or HGL Elevation
Stormwater Ponds	Design High Water (DHW)
Lakes and Rivers	Normal High-Water Line
Ditches and Canals	Normal Depth for Design Storm
Wetlands and Depressions	Seasonal High-Water Table (SHWT)

Note: Above tailwater requirements may be increased if deemed necessary by the city engineer to prevent flooding and protect properties.

Roadway and Streets Drainage Design Standards

A. *Public and Private Roads.* All city roads must provide adequate drainage to properly collect and remove excess runoff during and after storm events. This is accomplished through proper drainage design, pavement cross-slopes and gutter grades, curbing, and inlet locations to minimize spread onto the travel lanes. Proper roadway drainage extends the life of the pavement and reduces maintenance.

B. Hydraulic Grade Line (HGL) Analysis. Roadway design must include calculations to demonstrate that the Hydraulic Grade Line (HGL) of the storm sewer system is minimum six inches (6") below gutter or inlet elevation

for the 10year-24hour storm with minor and major head losses included. Please use Rational Equation Method and Rainfall Intensity Duration Frequency (IDF) curves for Zone 7.

C. Minimum Separation between the Seasonal High-Water Table (SHWT) and Roadway Base. All roads shall be designed to provide minimum clearance of one foot between the bottom of the road base and estimated seasonal high-water table (SHWT) or the water table set by proposed underdrain or exfiltration system.

D. Underdrains or French Drains. Roads with underdrain or French drain system must include the contributing flows into the stormwater management system design.

E. Minimum Cross-slope and Gutter Grade. All roads shall be designed to provide minimum 2.0 percent (1/4 inch per foot slope) pavement cross-slope and minimum 0.30 percent gutter grade for positive drainage.

F. Stormwater Spread into Traveled Lane. A rainfall intensity of 4.0 inches per hour must be used for the spread analysis and maximum allowable spread as follow.

Table 6: Maximum Allowable Roadway Spread

Roadway Facility Types	Design Speed (mph)	Allowable Spread (feet)
Local Roads	Design speed < 35 mph	Below the crown of the roadway
Local Collector Roads	35 mph < Design Speed < 45 mph	Keep one-half of the travel lane clear
Turn Lanes and Auxiliary Lanes	All Design Speeds	Keep one-half of the travel lane clear
Collector or Arterial Roads	Design Speed > 45 mph	Keep 8 feet of the travel lane clear

G. Storm Inlets. All inlets shall be designed for heavy duty traffic loading (H-20) and placed at all low-points, streets intersection, and along continuous grades to collect runoff and prevent spread into the travel lane. Inlet types are based on FDOT Standard Plans Index.

a. Curb inlets shall not be constructed within the curb radius returns.

b. Inlet grates shall be designed to minimize clogging from debris such as leaves and sediments.

c. Wherever possible, curb inlets shall be placed in front of lot lines to minimize conflicts with driveway aprons.

d. Top of all inlets shall be flushed with contiguous sidewalks and pavements.

e. Multiple inlets may be required at low points to provide a safety factor in case one inlet becomes non-functional due to siltation or clogging.

Table 7: Maximum Inlet Interception Rates

Inlet Types	Maximum Intake Capacity (CFS)
Curb Inlet Type 1	4.1
Curb Inlet Type 2	9.0
Curb Inlet Type 3	1.9
Curb Inlet Type 4	6.5
Curb Inlet Type 5	3.1
Curb Inlet Type 6	7.5
Ditch Bottom Inlet Type C	4.0
Ditch Bottom Inlet Type D and E	6.0
Ditch Bottom Inlet Type H	7.0
Gutter Inlet Type S	4.0
Gutter Inlet Type V	5.0

H. Storm Sewers. The minimum storm pipe is 15-inches diameter. However, outfall pipe for weir and control structures can be smaller than 15-inch to meet Pre versus Post discharge requirements. Storm sewer shall have minimum one foot of cover or meet latest FDOT Drainage Manual Appendix 'C' Cover Height Tables, whichever is greater. The following are acceptable pipe material.

a. Class III Reinforced Concrete Pipe (RCP).
b. Class HE-III Elliptical Reinforced Concrete Pipe (ERCP)
c. High Density Polyethylene (HDPE)
d. High-Performance Polypropylene (HP Storm)
e. Polyvinyl Chloride (PVC)

Table 8: Maximum Pipe Lengths without Structure for Maintenance and Access

Pipe Size (inside diameter)	Maximum Pipe Length
15-inch	200 feet
18-inch	300 feet
24-inch to 36-inch	400 feet
42-inch and Larger Pipes	500 feet

Table 9: Minimum and Maximum Pipe Velocities

Conveyance Type	Allowable Velocities
Storm Sewers (Flowing full)	Min. 2.5 feet per sec
	Max. 12 feet per sec
Max. Outlet Velocity without Energy Dissipator	4.0 feet per sec

Open Drainage Conveyance Systems Requirements

A. *Open Drainage.* Drainage systems that are man-made consisting of grassed swales, ditches, and canals to convey stormwater runoff for a design storm event. Open drainage systems are acceptable only within areas that do not contain poorly drained soils and the water table shall be below the bottom elevation.

B. Longitudinal Slopes and Velocities. All open drainage systems shall be designed with a minimum longitudinal slope of 0.05 percent (0.0005 ft/ft). Maximum allowable velocities for different lining types are provided below.

Table 10: Maximum Allowable Velocities for Open Conveyance Systems

Open Drainage System	Allowable Velocities
Bare soil with seed & mulch	Max. 1.5 feet per sec
Sod	Max. 4 feet per sec
Rip-rap rubble (Ditch Lining)	Max. 6 feet per sec
Rigid Concrete Lining	Max. 10 feet per sec
Outlet Point Requiring Energy Dissipation Device	Greater than 4 feet per sec

C. Separation from Seasonal High-Water Table. Open drainage systems shall have a minimum one-foot separation between the bottom and estimated seasonal high-water table. Swale treatment volume shall percolate and recovery within 72 hours after a storm event.

D. Dimensions. Open drainage systems shall have a minimum bottom width of 4-feet for maintenance. Swales less than 12-inches deep may have V-bottom or triangular cross-section. The maximum side slopes for all open drainage systems are 4:1 (horizontal to vertical).

E. Setbacks. Swales berm shall be setback minimum 5-feet from the property line. Canals and ditches berm shall be setback from property line at a distance to meet the required maintenance berms.

Best Management Practices and Stormwater Pollution Prevention Plan (SWPPP)

A. *Erosion Control Plan.* Erosion control plan and SWPPP are required to control erosion and limit the transport of sediments outside the project construction limits. This pre-construction condition shall be satisfied for the entire construction duration and is the contractor or owner responsibility. Please refer to FDEP Florida Stormwater Erosion and Sedimentation Control Inspector's Manual for additional state-wide requirements.

B. Stockpiling Material. Excavated material shall not be stockpiled in manner which can discharge offsite and impact adjacent drainage systems, water bodies, and properties. Dust control shall be provided to prevent airborne particles leaving the site. A stockpile plan prepared by a licensed engineer may be required for project in which fill material is excavated and stored on-site for future phases and uses. The City shall review and approve such plan prior to construction.

C. Inlet Protection. All inlets and catch basins shall be protected from sediment runoff during construction until the completion of all construction operations that contribute flows to the inlets.

D. Temporary Seeding. Exposed areas due to construction operation that are not expected to be sodded within thirty (30) days shall be seeded with hydroseed or quick growing grass species to prevent erosion and sediment runoff. Hydroseed should be used only when the land slope is less than 5% and flow velocities are less than 3 feet per second otherwise the exposed areas shall be sodded.

E. Re-grassing. All grassed areas shall be maintained and inspected during construction to ensure sufficient ground coverage to minimize erosion and sediment runoff. If after sixty (60) days the ground coverage is not established, then the area shall be re-grassed by the contractor or owner.

E. De-watering. Dewatering must meet SJRWMD or FDEP permit requirements for turbidity and water quality prior to discharge off-site. Dewatering shall not impact existing drainage systems, water bodies, rivers, wetlands, or adjacent properties.

Residential Lot Grading (Plot Plan)

A. *Finished Floor Elevation (FFE).* The minimum Finished Floor Elevation (FFE) shall be based on the following criteria and shall be the most stringent.

a. Min. one foot (12 inches) above the lowest crown elevation of any adjacent streets or roads in FEMA Zone 'X'.
b. Min. two-foot (24 inches) above the FEMA FIRM Map 100-year flood elevation.
c. Min. two-foot (24 inches) above the stormwater management pond 100-year 24-hour storm Design High Water (DHW).

B. Lot Grading. All residential lots shall be per standard FHA Lot Grading Type A, B, C or Modified Type A, B, C. Positive drainage shall be provided. Drainage swales may be required to prevent flooding and impact to adjacent properties. Swale if required will be minimum one-foot deep, side slopes not greater than 4:1 (horizontal to vertical), and minimum one-percent conveyance slopes and shall be sodded.

C. Adjacent Lots FFE. Proposed FFE shall be the averages of the surrounding developed lots FFE on each side and rear of the lot. Proposed FFE shall not impede existing drainage flows or patterns.

D. Driveways. All driveways shall be located minimum 5 feet from the property line and slope toward the streets whenever possible. Driveways shall not block or impede drainage flows within the public right-of-way and shall be ADA compliant. Maximum residential driveway slopes shall be less than 10%, unless waived by the city engineer.

E. Erosion Protection. All lots grading shall have sediment control silt fence installed and maintained during the entire construction. Maximum tie-down slope to existing adjacent grades is 4:1 (horizontal to vertical) to minimize erosion.

F. Retaining Wall. All retaining walls over two (2) feet high measured from the bottom to top of wall shall be designed by a licensed professional engineer. Retaining walls over 2.5 feet (30 inches) high shall have safety fence or railing for protection. A soil stability analysis may be required by a licensed engineer to support the retaining wall design.

(2) Stormwater Management Plan Requirements.

a. General Notes

1. The following activities may potentially alter or disrupt existing runoff patterns. Prior to undertaking any such activity, a stormwater management plan shall be submitted and approved:

   i. Clearing, draining, compacting, filling, changing grade, or excavating of land or otherwise altering the natural flow pattern.

   ii. Converting agricultural lands to nonagricultural uses.

   iii. Subdividing land or replatting recorded subdivisions.

   iv. Development of recorded and unrecorded subdivisions.

   v. Construction of a structure or change in the size of one or more structures.

   vi. Changing the use of land.

   vii. Altering the shoreline or bank of any surface water body or watercourse.

2. These requirements shall not be construed to prevent the doing of any act necessary to prevent material harm to or destruction of real or personal property as a result of a present emergency, including but not limited to fire and hazards resulting from violent storms or hurricanes or when the property is in imminent peril and obtaining a permit is impractical. A report of any emergency action shall be made by the owner or person in control of the property on which the emergency action was taken as soon as practicable, but no more than ten days following such action. Remedial action may be required.

3. A Certificate of Occupancy for any development shall be denied if construction is not completed consistent with the certifications contained in the stormwater management plan.

b. Construction of or addition to any existing structure or paved area not exceeding 500 square feet of impervious area, the following requirements shall be met:

1. For construction of single-family and duplex residences and minor commercial development, including accessory structures, on existing lots of record, the stormwater management plan requirement may be satisfied by filing a plan as described herein with the Building Permit or Site Plan application, and adhering to the plan.

i. The increase in impervious surface shall not exceed 500 square feet.

ii. The proposed development does not change the existing grades on the site.

iii. The proposed development does not alter any existing stormwater management system, change the existing drainage patterns of the site, nor impede existing drainage patterns of adjacent properties.

2. The stormwater management plan for development described herein shall include:

i. The names, addresses, and telephone numbers of the developer and owners.

ii. The street address and legal description of the development and a description of the improvement.

iii. The owner or developer shall certify that the development as constructed will operate as follows:

(a) Not obstruct the natural flow of stormwater runoff.

(b) Not increase stormwater runoff to adjacent lands.

(c) Not concentrate the discharge of runoff onto adjacent lands in such a manner as to present a flooding hazard or cause soil erosion.

(d) Not adversely affect adjacent lands and structures.

(e) Provide a positive drainage outlet from the site.

(f) Not adversely impact adjacent wetlands or watercourses.

(g) Employ measures to control soil erosion on the site.

(h) Provide positive conveyance away from the foundation of the structure.

iv. Additional information may be required if necessary to evaluate the effect of the development.

c. Construction of or addition to any existing structure or paved area not exceeding 2,500 square feet of impervious area, the following performance criteria shall be met:

1. The volume of retention provided shall be equivalent to one and one-half inch of depth over the impervious area. For certain soil conditions or groundwater table conditions which do not permit the percolation of this volume within the five days following a storm event, detention with filtration systems in lieu of retention may be approved.

2. A positive drainage system shall be provided which will not adversely impact downstream owners or adjacent lands.

3. Where possible, natural vegetation shall be used as a component of the drainage system. The water table should not be manipulated in a manner which endangers natural vegetation and is beneficial to water quality.

4. Runoff from higher adjacent lands shall be considered and provisions for conveyance of such runoff (off-site flow) shall be included in the drainage plan.

5. No site alteration shall allow water to become a health hazard or contribute to the breeding of mosquitoes.

6. Stormwater runoff shall be subjected to best management practices to prevent or reduce the amount of soil erosion and pollution caused by the project.

7. Water retention structures shall be constructed subject to approval.

8. Runoff shall be treated to remove oil and floatable solids before discharge from the site.

d. Development or redevelopment with more than 2,500 square feet of impervious area, or any development not otherwise provided for, the performance criteria for stormwater management shall be as follows:

1. These development sites shall prepare a stormwater management plan and supporting stormwater calculations. Site plan application and an Environmental Resource Permit (ERP) will be required by the city.

a. The more stringent of any site design criteria outlined herein or the State or FDEP/SJRWMD requirements shall be met.

b. Development sites that discharge to a State designated OFW shall require a 50% increase in required stormwater treatment volume.

c. Development sites that have an ultimate receiving waterbody that is listed as impaired for nutrients shall be subject to nutrient removal criteria in the stormwater treatment system per the latest Environmental Resource Permit (ERP) Stormwater Quality Applicant's Handbook.

2. As a minimum, the runoff from the first one inch of rainfall from each storm over the developed or redeveloped portion of the site or one and one-quarter inch over the impervious area, whichever is greater, plus one-half inch over the entire site, shall be retained on the site except in cases where soil or groundwater table conditions are not conducive to such practice, in which case the first inch shall be detained and released over a period of 24 to 72 hours.

3. The cumulative impact of the discharge from the site on downstream flow shall be considered in analyzing discharge from the site. Detention structures shall be designed to release runoff to the downstream drainage system over a period so as not to exceed the capacity of the existing downstream drainage system. The peak rate of discharge from a site after development or redevelopment shall not exceed the peak rate of discharge from the site prior to development or redevelopment as computed for the Mean Annual Storm (2.33-year 24-hour), 25-year 24-hour and/or the 100-year 24-hour storms, with runoff rates in excess of 100 percent of the predevelopment rate accommodated in an approved manner on site.

4. The volume of runoff from a site after development or redevelopment shall not exceed the volume of runoff from the site prior to development or redevelopment and shall not exceed the latter for a 25-year 24-hour storm unless the intent of this recharge provision will be met through detention of the difference between said volumes, in which case said volume difference may be released over not less than a 24-hour nor greater than a 72-hour period of time. This requirement may be waived by the city engineer for sites consisting predominantly of poorly drained soils having permanently and naturally impaired recharge potentials.

5. Where possible, natural vegetation shall be used as a component of drainage design. The manipulation of the water table should not be so drastic as to endanger the natural vegetation beneficial to water quality.

6. Runoff from higher adjacent or upstream lands shall be considered and provision for conveyance of such runoff (off-site flow) shall be included in the drainage plan.
7. No site alteration shall allow water to become a health hazard or contribute to the breeding of mosquitoes.
8. No site alteration shall cause siltation of wetlands, pollution of downstream wetlands or reduce the natural retention or filtering capabilities of wetlands.
9. Stormwater runoff shall be subjected to best management practices prior to discharge into natural or artificial drainage systems. Best management practices shall mean a practice or combination of practices determined by the city to be the most effective and practical means of preventing or reducing the amount of siltation and pollution generated by the project.
10. All site alteration activities shall provide for such water retention and settling structures and flow attenuation devices as may be necessary to ensure that foregoing standards and requirements are met.
11. Design of water retention structures and flow attenuation devices shall be subject to approval of the city.
12. Runoff shall be treated to remove oil and floatable solids before discharge from the site in a manner approved by the city.

e. For this article, it is presumed that the lowering of the water table for the purpose of constructing detention/retention basins and for the purpose of permanently protecting road construction does not conflict with the stated objectives of this article if all of the following are met:

1. The development site is not in an area known to the city, based on data collected and interpreted by the U.S. Geological Survey, the St. Johns River Water Management District, the city and other professional investigators, as important to recharge or to prevention of discharge to the Floridan aquifer.
2. The proposed lowering of the water table shall be over no more than 15 percent of the site to a depth of five feet below the surface of the existing undisturbed ground, or an equivalent volume, said area to be measured at the overflow elevation of the retention area(s).
3. If ditches, underdrains or similar devices are used to lower the water table, the lateral volumetric effect will be calculated, and the volume will be deducted from that allowed for retention areas.

4. The high-water table may be lowered up to two feet below the undisturbed ground in the vicinity of roads for the purpose of protecting the sub-base and base of the roadway and/or for the purpose of preventing mosquito breeding in the roadside swales.
5. The lowering of the water table has no adverse effect on wetlands as defined herein.
6. The lowering of the water table does not increase flows to the detriment of neighboring lands.

f. Review.

1. To expedite review of large or complex projects, the applicant may authorize the city to retain a professional consultant paid for by the applicant to evaluate the design.
2. In approving or denying an application, the following factors shall be considered:
    i. The characteristics and limitations of the soil at the proposed site with respect to percolation and infiltration.
    ii. The existing topography of the site and the extent of topographical changes after development.
    iii. The existing vegetation of the site and the extent of vegetational changes after development.
    iv. The water quality and quantity calculations with any accessory drainage calculations.
    v. The plans and specifications of structures or devices the applicant intends to employ for on-site stormwater retention/detention with filtration, erosion control and flow attenuation.
    vi. The impact the proposed project will have on the natural recharge capabilities of the site.
    vii. The impact the proposed project will have on downstream water quantity and quality and specifically the potential for downstream flooding conditions.
    viii. The continuity of phased projects. Projects to be developed in phases require the submission of an overall plan for the applicant's total land holdings.
    ix. The effectiveness of erosion control measures during construction.

x. Permits required by any governmental jurisdiction to be obtained prior to the issuance of a permit under the LDC.

xi. The effect the proposed water management will have upon mosquito breeding habitat.

xii. The adequacy of easements for drainage systems in terms of both runoff conveyance and maintenance.

xiii. The method of handling upland flow which presently discharges through the site.

xiv. The maintenance entity responsible for upkeep of the system upon its completion.

xv. Acceptable hydrology and hydraulics calculations for flood plain impacts and compensation approved by FEMA.

(3) Low Impact Development.

a. Applicability. The inclusion of low impact development (LID) techniques, in whole or in part, in the planning, design, construction, and operation of a site within the city is fully elective on the behalf of the developer. Any developer may choose to include the integrated management practices (IMPs) closely associated with LID in a site with regards to stormwater management. The requirements for stormwater management outlined in this subsection shall supersede all other requirements for stormwater management otherwise stated in this USEPA Green Streets Handbook for those projects, that are determined to be in full compliance of the LID principles set forth by this subsection. Compliance with the standards set forth in this subsection or elsewhere in this Land Development Code does not necessarily imply compliance with the requirements of jurisdictions other than the city. It is the responsibility of the developer to meet the requirements of the St. Johns River Water Management District, Florida Department of Environmental Protection, Florida Department of Transportation, and any other applicable jurisdiction.

b. Objective. The provisions of this subsection contain standards and requirements for construction activities and facility operations of development and redevelopment projects that elect to integrate LID practices and standards for the mitigation of stormwater pollution by maximizing open, green and pervious space, taking the necessary steps to maintain the hydrology of the undeveloped property upon development of the site. These developments and redevelopment projects shall occur in a

manner consistent with the city's landscape ordinance and other related requirements as established in the USEPA Green Streets Handbook.

c. Scope. This subsection contains requirements for projects electing to implement LID stormwater pollution control measures in development and redevelopment projects and authorizes the city to further define and adopt stormwater pollution control measures, develop LID principles and requirements, including, but not limited to, the objectives and specifications for integration of LID strategies. It shall also provide the authority to the city to collect or waive best management practices compliance plan check fees, collect funds for projects that are granted waivers, conduct inspections, cite violators for infractions, and impose fines.

d. LID requirements. Development or redevelopment projects considering the use of LID shall be planned and designed to manage and capture stormwater runoff, to the maximum extent feasible, in a manner that maintains the predevelopment hydrology of the site through the use of integrated management practices (IMPs). Proper selection of IMPs well suited to an individual site, can achieve this goal by increasing time of concentration, provide disconnection of runoff sources, preservation of natural vegetation, limiting clearing and compaction, and the best use of native soils, slopes, and drainage patterns inherent to a site. In most situations where LID is adopted for use, the treatment and management of stormwater will require the use of multiple IMPs creating a treatment "train." For review, construction, and future management of these systems, a LID plan shall be prepared to comply with the following:

1. Stormwater runoff will be managed by IMPs that infiltrate, provide for evapotranspiration, capture and use, treatment through on-site high-efficiency removal devices, and through stormwater management techniques that comply with the provisions of the USEPA Green Streets Handbook. To the maximum extent feasible, onsite stormwater management techniques must be properly sized, resulting in a net reduction in runoff leaving the site.

   For purposes of compliance with the stormwater and LID requirements, credit may be considered on a case-by-case basis, at the discretion of the administrator of Land Development Code for runoff from the water quality design storm event that has been treated through an on-site high removal efficiency biofiltration/biotreatment system. It shall be the burden of the applicant to demonstrate the treatment efficiency of these devices; instances that can successfully exhibit sufficient treatment efficiency may be exempt from the runoff volume requirements of this article.

2. Pollutants shall be prevented from leaving the site for a water quality design storm event unless it has been treated through an onsite high removal efficiency biofiltration/biotreatment system.

e. The use of LID shall be permitted only in those instances where the onsite LID requirements are technically feasible, partially or fully, as defined in the USEPA Green Streets Handbook. Final determination of the feasibility of use shall be made by the city engineer or their designee upon review for consistency of the submitted LID Plan with city requirements. A pre-application meeting shall be conducted to establish the use of LID on a particular site. Technical infeasibility may result from conditions that may include, but are not limited to:

1. Locations where seasonal high groundwater is within close proximity to surface grade;
2. Locations within 100 feet of a groundwater well used for drinking water;
3. Brownfield development sites or other locations where pollutant mobilization is a documented concern;
4. Locations with potential geotechnical hazards;
5. Locations with impermeable soil type as indicated in applicable soils and geotechnical reports; and
6. Other site or implementation constraints identified in the Development Best Management Practices Handbook.

f. Any development or redevelopment that wishes to incorporate the LID requirements set forth herein into the project shall have all fees associated with conceptual plan review waived and all LID related plan check processes shall be expedited.

(4) [*Application procedures.*] The following are the application procedures:

a. *Preliminary application.* Any person proposing to make any change in the arrangement or size of any structure, except as exempted in [sub]section 604.01B.(2) above, when in doubt as to whether a standard permit application is necessary, may furnish completed preliminary application form to the city engineer. The preliminary application shall be filed by the owner/applicant in duplicate and shall contain the following elements:

1. A location map;
2. A statement expressing the intent and scope of the proposed project; and

3. A schedule of proposed improvements.

b. *Review procedure for preliminary application.* The preliminary application shall be reviewed by the city engineer in order to determine whether a standard permit application shall be required. Within ten working days after submission of the preliminary application, the city engineer will notify the applicant that the project either is approved, is exempt or that a standard permit application must be filed for the project.

c. *Standard permit application procedure.* If a standard permit application is required for the project, the applicant shall furnish the following information to the city engineer together with the completed standard permit application form:

1. The detailed site plan prepared by a professional engineer or architect registered in the State of Florida;
2. Topographic maps of the site before and after the proposed alteration, as prepared by a professional engineer or land surveyor registered in the State of Florida;
3. General vegetation maps of the site before and after the proposed alteration; and
4. Construction plans, specifications, computations and hydrographs necessary to indicate compliance with the requirements of this article, as prepared by a professional engineer registered in the State of Florida. Exception: The water management plan for a single-family home may be prepared by either the homeowner or a licensed contractor.
5. A subsoil report shall be prepared by a geotechnical engineer, licensed in the State of Florida and experienced in the preparation of this type of report. The contents of the subsoil report will be in accordance with the requirements of this Code. A minimum of one (1) boring will be taken per retention/detention area. Soil borings in dry retention areas shall include permeability test results. All soil borings must include the groundwater encountered and estimated seasonal high-water table (SHWT).

d. *Review procedure for standard application.* The city engineer shall review the application with the following considerations as listed in subsection (e) below.

e. *Considerations.* The city engineer in approving or denying a permit application shall consider, as a minimum, the following factors as they may

apply to the stormwater management performance standards as set forth previously:

1. The characteristics and limitations of the soil at the proposed site, with respect to percolation and infiltration;
2. The existing topography of the proposed site and the extent of topographical changes after development;
3. The existing vegetation of the proposed site and the extent of vegetational changes after development;
4. The impact the proposed project will have on the natural recharge capabilities of the site;
5. The impact the proposed project will have on upstream and downstream water quantity and quality and, specifically, the potential for upstream and downstream flooding conditions;
6. The impact of future sea level rise could have on the proposed project;
7. The plans and specifications of structures or devices the applicant intends to employ for on-site water retention, detention, erosion control and flow attenuation;
8. The effect the proposed water retention or detention structures will have upon mosquito breeding habitat;
9. The continuity of phased projects (projects that are to be developed in phases will require the submission of an overall plan for the applicant's total land holdings); and
10. The adequacy of easements for a drainage system in terms of both runoff conveyance and maintenance. Within 15 days after submission of the completed permit application package, the city engineer shall approve with specified conditions or modifications or reject the proposed plan and shall notify the applicant accordingly. If the engineer has not rendered a decision within 15 working days after plan submission, he must inform the applicant of the status of the review process and the anticipated completion date. If the plan is rejected or modified, the city engineer shall state the reason for rejection or modification or delay. If the applicant feels aggrieved due to rejection, modification, or delay, he may appeal the city engineer's decision to the city manager. If the applicant feels aggrieved due to the city manager's decision, then the applicant may appeal the city manager's decision to the city commission. The city manager and city commission may affirm, reverse, or modify previous decisions and grant equitable and other

relief in accordance with the Land Development Code, and to the extent allowed by law.

(5) *Permit fees.* A permit fee shall be collected at the time the standard application package is submitted and will reflect the cost of administration and management of the permitting process. The fee schedule may be amended from time to time by the commission by resolution. Notice of said resolution shall be published no less than 15 days prior to adoption.

(6) *Plan adherence.* After approval of the preliminary or standard permit application, the applicant shall be required to adhere strictly to the plan as approved. Any change or amendments to the plan must be approved by the city engineer in accordance with the procedures set forth in [sub]section 604.01B.(4) above. After the completion of the project, the city engineer may require as-built plans from the owner/applicant if the completed project appears to deviate from the approved plan. enforcement officials shall be granted inspection rights and right-of-entry privileges in order to ensure compliance with the requirements of this section.

(7) Final as-builts shall be provided in electronic and hard copy signed and sealed by professional surveyor. All elevations shall be provided in NAVD 88 vertical datum. The electronic submittal shall include AutoCAD or GIS files in FL83-EF (NAD83 Florida State Plane Coordinates, East Zone, US Foot) and shall be able to be inserted into the city's overall GIS system.

(8) *Maintenance.* The installed systems required by this section shall be maintained by the owner except that the city may accept certain systems for city maintenance.

a. The selection of critical areas and/or structures to be maintained by the city engineer shall be determined after receipt of comments from the appropriate officials. All areas and or structures to be maintained by the city must be dedicated to the city by plat or separate instrument and accepted by the city commission.

b. The systems to be maintained by the owner shall have adequate easements to permit the city to inspect and, if necessary, to take corrective action should the owner fail to properly maintain the systems. Should the owner fail to properly maintain the systems, the city engineer shall give such owner written notice of the nature of the corrective action. Should the owner fail, within 30 days from the date of the notice to take, or commence taking, corrective action to the satisfaction of the city engineer, the city may enter upon lands, take corrective action and place a lien on the property of the owner for costs thereof.

c. Plat notes shall include the city's right to access stormwater conveyance and treatment systems for maintenance, if needed.

(9) *Enforcement.* If the enforcement official determines that the project is not being carried out in accordance with the approved plans or if any project subject to this section is being carried out without a permit, the city is authorized to:

a. Issue written notice to the applicant specifying the nature and location of the alleged noncompliance, with a description of the remedial actions necessary to bring the project into compliance within a reasonable specified time; or

b. Issue a stop-work order directing the applicant or person in possession to cease and desist all or any portion of the work which violates the provisions of this section, if the remedial work is not completed within the specified time. The applicant shall then bring the project into compliance or be subject to immediate revocation of his permit and to the penalties in [sub]section 604.01B.(9).

(10) *Penalties.* Any person who violates or causes to be violated any provision of this section or permits any such violations or fails to comply with any of the requirements hereof shall be punished by a fine not to exceed $500.00 or by imprisonment for a period not to exceed 60 days, or by both such fine and imprisonment. Each day upon which such violation occurs shall constitute a separate offense. In addition to any other remedies, whether civil or criminal, the violation of this section may be restrained by injunction, including a mandatory injunction and otherwise abated in any manner provided by law.

(11) *Variance procedure.* Upon request by any person required to obtain a permit hereunder and where it may be shown that an increase or decrease in the rate of surface runoff shall not be harmful to the water resources of New Smyrna Beach, the city commission, after recommendations by the city engineer, may grant or deny a variance to this section. The city engineer shall make recommendations within ten working days after notification.

(12) *Emergency exemption.* This section shall not be construed to prevent the doing of any act necessary to prevent material harm to or destruction of real or personal property as a result of a present emergency, including but not limited to fire, infestation by pests, or hazards resulting from violent storms or hurricanes or when the property is in imminent peril and the necessity of obtaining a permit is impractical and would cause undue hardship in the protection of the property. A report of any such emergency action shall be made to the city engineer by the owner or person in control of the property upon which emergency action was taken as soon as practicable, but not more than ten days following such action.

At the discretion of the city engineer, remedial action may be required to conform with the intent of this section.

(13) *Vested rights.* This section shall not in any way limit or modify the vested rights of any person to complete any development or improvements to lands based upon prior law or previous permit or authorization granted as a result of compliance with the New Smyrna Beach ~~subdivision regulations~~ Land Development Regulations or by a building permit or other authorization on which there has been reliance and change of position and which authorization or permit was issued prior to the effective date hereof. Any person whose rights may have vested through reliance on prior law or prior authorization may seek a determination of such rights from the city commission within one year from the date thereof.

(14) *Conflict with other regulation and codes.* In case of conflict between this section or any part thereof, and the whole or part of any other existing or future ordinance or LDR, the most restrictive in each case shall apply.

C. *Illicit connections and discharges to the city's municipal separate storm sewer system (MS4).*

(1) *Purpose and intent.* The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the City of New Smyrna Beach through the regulation of non-stormwater connections and discharges to the city's separate storm sewer system, also known as the MS4, to the maximum extent practicable, as required by federal and state law. This section establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this section are:

a. To regulate the contribution of pollutants to the MS4 from stormwater discharges by any user;

b. To prohibit illegal connections and discharges to the MS4; and

c. To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this section.

(2) *Applicability.* This section shall apply to all water entering the MS4 generated on any developed and undeveloped premises, unless expressly exempted by the city.

(3) *Responsibility for administration.* The city shall administer, implement and enforce the provisions of this section.

(4) *Discharge and connections prohibitions and exemptions.*

a. *Illicit discharges.* No person shall throw, drain or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge into the MS4 any pollutants or water containing any pollutants other than stormwater to the maximum extent practicable.

b. *Exemptions.* The commencement, conduct or continuance of any illicit discharge to the MS4 shall be illegal except as exempted below:

i. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water discharges from potable water sources, foundation drains, air conditioning condensation, ~~irrigation water~~, springs, water from crawl space pumps, footing drains, ~~lawn watering,~~ individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, house washing, driveway cleaning and street wash water.

ii. Discharges or flow from firefighting, and other discharges specified in writing by the City of New Smyrna Beach as being necessary to protect public health and safety.

iii. Discharges associated with dye testing; however, this activity requires a verbal notification to the City of New Smyrna Beach prior to the time of the test.

iv. Discharges associated with dumpster waste, provided that the discharge has been pre-treated. Pre-treatment methods will be reviewed and approved as part of the site plan review process.

v. Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Florida Department of Environmental Protection (FDEP), provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

c. *Illicit connections.* No person shall construct, use, maintain, or continue the existence of an illegal connection to the city's MS4. This prohibition expressly includes but is not limited to illegal connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

i. A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

ii. Improper connections in violation of this section must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or the sanitary sewer system upon approval of the ~~Utilities Commission, City of~~ New Smyrna Beach Utilities.

iii. Any drain or conveyance that has not been documented in plans, plats, maps or their equivalent, and which may be connected to the MS4, shall be located by the owner or occupant of that property on revised plans, plats, maps or their equivalent, upon receipt of written notice of violation from the City of New Smyrna Beach. Such notice of violation shall specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified and illustrated, and that the outfall location or point of connection to the MS4, the sanitary sewer system or other discharge point be identified and illustrated, all on revised plans, plats, map, or their equivalent. The owner or occupant shall provide written documentation to the city as to how the drain or conveyance and outfall were located.

(5) *Watercourse protection.* Every person owning or leasing property through which a watercourse passes shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, such that those structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(6) *Industrial or construction activity discharges.*

a. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the city prior to discharging into the MS4.

b. The operator of a facility, including construction~~s~~ sites, required to have an NPDES permit to discharge stormwater associated with industrial activity shall submit a copy of the notice of intent (NOI) to the City of New Smyrna Beach at the same time the operator submits the original NOI to the FDEP.

c. The copy of the NOI shall be delivered to the City of New Smyrna Beach city engineer.

d. A person commits an offense under this section if the person operates a facility that is discharging stormwater associated with industrial activity without first having submitted a copy of the NOI to the City of New Smyrna Beach.

(7) *Compliance monitoring; inspection and sampling.*

a. Pursuant to sub-paragraph (d) below, the city's duly authorized enforcement agent(s) shall at any reasonable time enter and inspect any property, premises or place that is subject to compliance under this section, except a private residence, for the purpose of ascertaining the state of compliance with this section, an NPDES permit, state or federal law, rules or regulations. This includes premises where records are kept that are required under the ordinance, the entity's NPDES permit, or by other laws and regulations.

b. Pursuant to sub-paragraph (d) below, the city's duly authorized enforcement agent(s) shall at all reasonable times have access to and authority to copy any records required under this section, under an NPDES permit, or as required by other laws and regulations. The agent(s) may also inspect any monitoring equipment or method; sample for any pollutants; and obtain any other information necessary to determine compliance with permit conditions, the requirements of this section, or with other laws and regulations.

c. No person shall refuse reasonable entry or access to any duly authorized enforcement agent of the city who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

d. An inspection pursuant to subsections (a) and (b) above shall be conducted after:

i. Consent for the inspection is received from the owner, operator, or person in charge; or

ii. An appropriate inspection warrant is issued in accordance with Florida law.

(8) *Requirement to prevent, control and reduce stormwater pollutants using best management practices.* The city shall adopt requirements identifying best management practices that can be implemented on a case-by-case basis, as it

relates to the violating property for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, watercourses and receiving waters. The owner or operator of such activity, operation, or facility shall provide, at his or her own expense, reasonable protection from accidental discharge of illicit materials or other wastes into the MS4 or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premises that is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4, watercourses, and receiving waters. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the maximum extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

(9) *Notification of spills.*

a. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation thereof, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharge or pollutants discharging into stormwater, the MS4, watercourses, or receiving waters, said person shall take all necessary steps to ensure the discovery, containment and clean-up of such release.

b. In the event of a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.

c. In the event of a release of non-hazardous materials, the person shall notify the city engineer in person or by phone, facsimile or e-mail no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the city engineer within three business days of the verbal notice.

d. If the discharge of illicit materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least ten years.

e. Failure to provide notification of a release as provided above is a violation of this section.

(10) *Violations, enforcement and penalties.*

a. *Violations.* It shall be unlawful for any person to violate any provision of this section or fail to comply with any of the requirements of this section. Any person who has violated or continues to violate the provisions of this section shall be subject to appropriate enforcement actions consistent with the ordinances of the City of New Smyrna Beach and all other applicable laws, rules and regulations.

b. *Notice of violation.* Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this section, the city shall order compliance by written notice of violation to the responsible person.

The notice of violation shall contain:

i. The name and address of the alleged violator;

ii. The address, when available, or a description of the building, structure or land upon which the violation is occurring or has occurred;

iii. A statement specifying the nature of the violation;

iv. A description of the remedial measures necessary to restore compliance with this section and a time schedule for the completion of such remedial action;

v. A statement of the penalty or penalties that shall be assessed against the person to whom the notice of violation is directed;

vi. A statement that the determination of violation may be appealed to the city by filing a written notice of appeal to the city's code enforcement board within seven days of service of notice of violation; and

vii. A statement specifying that should the violator fail to restore compliance within the established time schedule, the city may undertake either or both of the following steps:

(a) Disconnect the premises from the MS4;

(b) With the written permission of the property owner, or upon a lawful order, direct city personnel or a licensed contractor hired by the city to enter upon the premises, undertake the required work, and charge the expenses thereof to the violator.

Such notice of violation shall require, without limitation, one or more of the following:

i. The performance of monitoring, analyses and reporting;

ii. The elimination of illicit connections or discharges;

iii. The ceasing and desisting of all violating discharges, practices or operation;

iv. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

v. Payment of a fine to cover administrative and remediation costs, with a lien placed against the violator's premises should the fine go unpaid after 30 days; and

vi. The implementation of source control or treatment BMPs.

c. *Emergency cease and desist orders.* When the city determines that any person has violated or continues to violate any provision of this section or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has or have caused or contributed to an actual or threatened discharge to the MS4, watercourses or receiving waters which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the city shall issue an order to the violator directing the violator to immediately cease and desist all such violations and directing the violator to:

i. Immediately comply with all permits, ordinance and other requirements of law; and

ii. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to him or her under this subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the city shall take such steps as deemed necessary to prevent or minimize harm to the MS4, watercourses, or receiving waters, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The city may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this section. A person that is responsible in whole or in part for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful discharge and the

measures taken to prevent any future occurrence, to the city within three days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against or a prerequisite for taking any other action against the violator.

d. *Immediate suspension due to illicit discharges in emergency situations.* The city shall, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment or to the health or welfare of persons, or to the MS4, watercourses, or receiving waters. If the violator fails to comply with a suspension order issued in an emergency, the City of New Smyrna Beach shall take such further steps as deemed necessary to prevent or minimize damage to the MS4, watercourses or receiving waters, or to minimize danger to persons, with all costs and expenses thereof borne by the violator.

e. *Civil penalties, costs.* In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within the time set forth in the notice, and either fails to appeal or is unsuccessful on appeal, the city may impose a penalty not to exceed $250.00. Repeat violations shall carry a fine not to exceed $500.00. For the purposes of this section, each day shall constitute a separate violation for each day the violation remains unremediated after receipt of the notice of violation. In addition to such civil penalties, the city shall have the authority to assess against the violator the actual costs incurred by the city to correct violations of this section with the right to lien the violator's premises for any unpaid costs.

(11) *Appeal of notice of violation.* Any person receiving a notice of violation may appeal the determination of the violation to the city's code enforcement board. The notice of appeal must be received within seven days from the date of service of the notice of violation. Hearing on the appeal before the code enforcement board shall take place within 30 days from the date of receipt of the notice of appeal. The decision of the board shall be final.

(12) *Enforcement measures after appeal.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or in the event of an appeal, within seven days of the decision of the code enforcement board upholding the decision of the city, then the city shall undertake those actions pursuant to subsection (10)b.vii. above, take corrective action and place a lien on the property of the owner for the costs and expenses thereof. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow duly authorized enforcement agents of the city or its designated

contractor to enter upon the premises for the purposes set forth herein. Pursuant to subsection (15) below, these remedies are not exclusive of any other remedies available under any applicable federal, state or local laws.

(13) *Violations deemed a public nuisance.* In addition to the enforcement processes and penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is a threat to public health, safety, and welfare, and is declared and deemed to be a public nuisance, and such condition may be summarily abated or restored at the violator's expense, or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be undertaken.

(14) *Ultimate responsibility.* The standards set forth herein and promulgated pursuant to this section are minimum standards; therefore, this section does not intend nor does it imply that compliance by any person will ensure that there will be no contamination, pollution or unauthorized discharge of pollutants. Every person bears ultimate responsibility for any contamination or pollution discharged in the MS4, the waters of the United States or other watercourses within the city.

(15) *Compatibility with other regulations.* This section is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this section are in addition to the requirements of any other ordinance, rule, regulations or other provisions of law, and where any provision of this section imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes high protective standards for human health or the environment shall control.

(16) *Remedies not exclusive.* The remedies provided for in this section are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the city to seek cumulative remedies. The city may recover all attorney fees, court costs, costs of remediation, administration, and other expenses associated with enforcement of this section, including sampling and monitoring expenses, with interest. The city shall have the right to establish a lien against the violator's premises for all unpaid expenses incurred in remedying violations of this section and may utilize any other method or procedure provided by law or ordinance for imposition and collection of the lien.

Editor's note(s)—Ord. No. 35-11, § 1, adopted June 28, 2011, repealed subsection 604.01, which pertained to rights-of-way. Additionally, § 5 of said ordinance renumbered former subsection 604.02 as subsection 604.01, as set out herein.

THE CITY OF NEW SMYRNA BEACH - PLANNING DEPARTMENT

V-20-24: REVIEW A REQUEST, FOR AN AFTER-THE-FACT VARIANCE, TO ALLOW AN ACCESSORY STRUCTURE TO BE TALLER THAN THE PRIMARY STRUCTURE, AND FOR IT TO BE OVER 60% OF THE SIZE OF THE PRIMARY STRUCTURE AT 1076 DILLON CIRCLE.

January 6, 2025

Background:

A. Applicant and Property Owner: Brad Maher, 1076 Dillon Circle, New Smyrna Beach, FL 32168

B. Request: After-the-fact variances exempting the property owner from Sections 803.01.B. and 803.01.C. of the Land Development Regulations (LDR), allowing an accessory structure to exceed the height of the principal structure, and to be greater than 60% of the primary structure on a parcel under 2.5 acres in size.

C. Site Information: The subject property is located east of Williams Road, off Bay Drive, on Dillon Circle. The zoning is RA, Rural Agriculture Estate

D. Tax I.D. Number: 7311-00-00-0147

E. Exhibits:

Exhibit A: Location Map

Exhibit B: Aerial Map

Exhibit C: Site Plan

Exhibit D: Photos

Exhibit E: Supporters of Variance

Findings:

A. This is an after-the-fact variance request to allow an accessory structure, a pole barn, to be taller than the primary structure, and for it to be over 60% of the size of the primary structure.

B. Per Section 803.01.B. and 803.01.C. of the LDR, parcels over 2.5 acres in size are exempt from the regulation that requires accessory structures to be no taller than the

primary structure and no more than 60% the size of the primary structure. The subject parcel is 2.29 acres. This variance request would allow the subject parcel to be exempt just as a 2.50 acre or greater would be.

C. Land Development Regulation Section 803.01.B. states that accessory buildings and structures shall not "exceed the height of a conforming principal building or 25 feet, whichever is less in height. However, parcels or lots that are two and a half acres in size or greater may have accessory structures that exceed 25 feet in height, provided the side and rear building setbacks are doubled if the proposed accessory structure is taller than the primary structure."

D. Section 803.01.C. notes that accessory structure shall not "exceed 60 percent of the area of the principal building or maximum lot coverage, wherever is less. This includes all accessory buildings on a lot. Parcels or lots that are two and one-half acres in size or greater are exempt from the 60 percent area limitation but must still meet required maximum lot coverage." Thus, if the parcel was another 0.21 acres in size larger, they would have been exempt from this requirement.

E. The subject parcel is in the RA, Rural Agriculture Estate zoning district. The intent of the zoning district "is provide for low density development, personal agricultural production consistent with the comprehensive plan in rural areas of the city.

F. A 2.5-acre lot contains 108,900 square feet. The subject parcel is 2.29 acres, or 99,316.8 acres, a difference of 9,583.2 square feet. Thus, the lot is 91.2% of the required lot size to be exempt from the 803.01.B.

G. The primary structure (the house) is 13'-6" tall and the accessory structure (the pole barn) is 22-8" tall, a difference of 9'-2". The accessory structure is 4,900 square feet in size (98' X 50'), and the primary structure is 2,676 square feet in size, per the Volusia County Appraiser's page. Thus, the accessory structure is 183% larger than the primary structure.

H. There are 14 parcels on Dillon Circle. Ten of the parcels are in unincorporated Volusia County and four are in New Smyrna Beach. In sum, five are less than 2.5 acres in size and nine are larger than 2.5 acres. Two of the four smaller lots are less than 2.5 acres, thus two of the four New Smyrna Beach parcels are undersized for the zoning district. The minimum required lot size for the County parcels is also 2.5 acres.

I. The total lot coverage allowed is not to exceed 35%. The setbacks are 25' from the side property lines, and 45' from the front and rear property lines. The pole barn does not encroach into any setbacks, or exceed the lot coverage maximum of 35%.

J. The LDR requires variance requests to meet all of the following criteria. The applicant's responses are *italicized,* Staff's responses are in **bold,** following each criterion.

Applying for a variance to allow a +/-2.29-acre lot to be exempt from the less than 2.50 acre lot requirement. This is about 91% of the required lot size. I live in a rural area where most of the properties are over the 2.50 acre size. I believed I was building this to meet the legal requirements for my property according to my research, I should have done more research and fallowed the permit process. I was under the assumption that it could not be over 25 feet tall and including all structures could not take over more than 30 percent of the property. I was informed of the minimum setbacks and I met these requirements. I did not know about any of the other requirements including the lot size restrictions and the size compared to the permanent structure size. The size of the pole barn was necessary for me to fit all of my belongings, trailers, farm equipment, campers, boats and high storage personal belongings to protect from the outdoor elements. It was built to engineered approved drawings. Every step during construction was documented with photos.

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

There is nothing particularly special about the property, other than it is *close* to the

2.5-acre size (91.8%) to be exempt from requiring an accessory structure being smaller and shorter than the primary structure. As noted above, 10 of the 14 parcels on Dillon Circle meet the 2.5-acre size. Thus the circumstances do apply to other properties in the vicinity. This criterion has been met.

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

There are seven parcels on Dillon Circle that are not waterfront, the subject parcel being one of them. All of the non-waterfront parcels have large accessory structures, including the two that are not 2.5 acres in size.

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

The applicant constructed the pole barn without a permit, thus the present owner created the hardship. Further, the pole barn would not have been permitted as it does not meet the zoning regulations. This criterion has *not* been met.

d. That granting of the variance(s) will not cause substantial detriment to the public welfare or impair the purposes and intent of the Land Development Regulations.

Being that this is an a relatively rural area and the immediate neighbors have similar accessory structures, the pole barn will not cause detriment to the public welfare. That being said, doing unpermitted construction does impair the purposes and intent of the LDR. Part of this criterion has been met.

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

There are several other similar accessory structures in the immediate vicinity, with one in New Smyrna Beach and the other in unincorporated Volusia County. This criterion has been met.

Recommendation:

Staff cannot recommend approval of the variance request as the hardship is created by the applicant. That being said, the pole barn does fit in with the character of the community.

Fiscal Analysis:
N/A

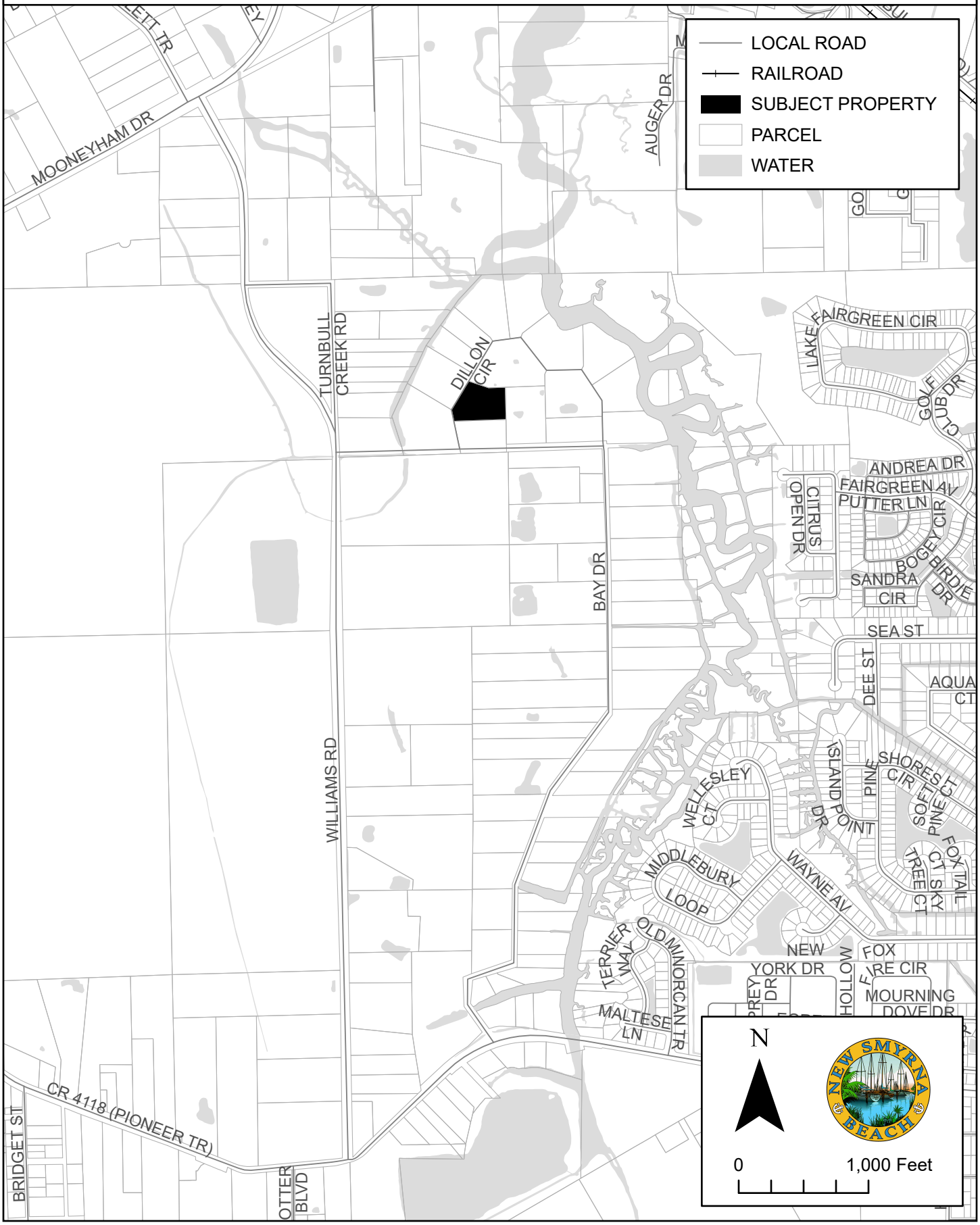
Strategic Plan Item:
No

Staff Report Created By: Jake Baker - Senior Planner

Attachments:

Exhibit A Location Map.pdf
Exhibit B Aerial Map.pdf
Exhibit C Site Plan.pdf
Exhibit D Photos.pdf
Exhibit E Supporters of Variance.pdf

V-20-24: 1076 DILLON CIRCLE
PARCEL: 7311-00-00-0147 LOCATION MAP

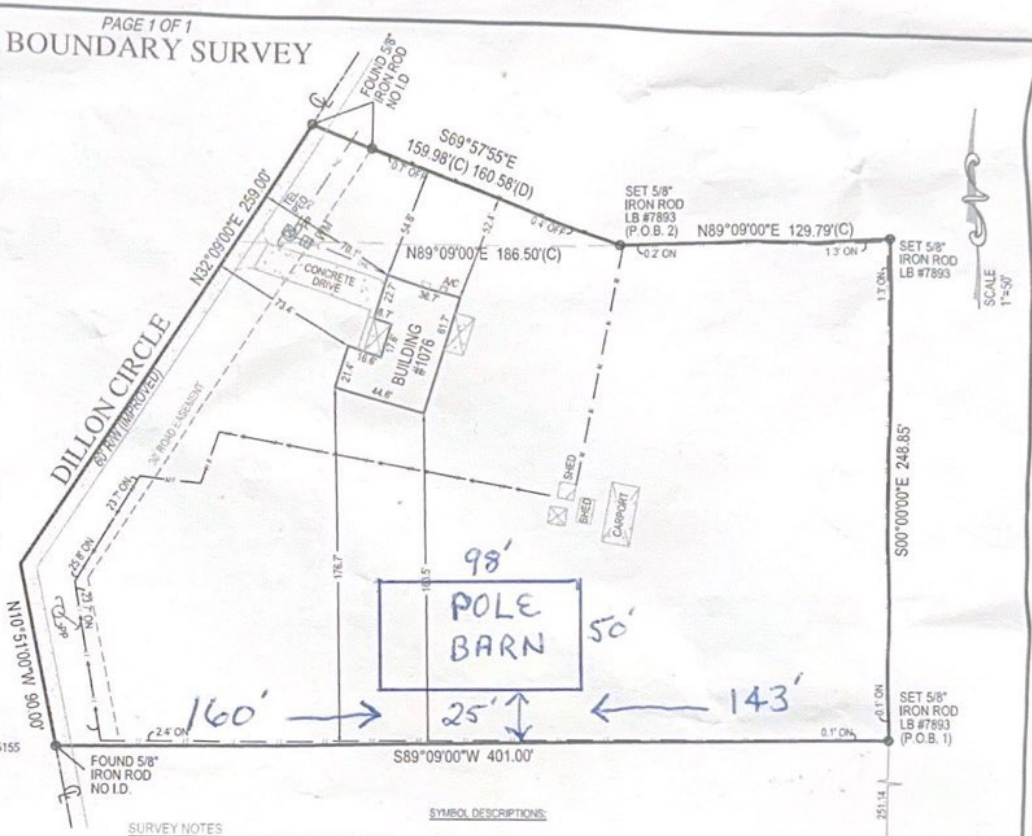


V-20-24: 1076 DILLON CIRCLE
PARCEL: 7311-00-00-0147 AERIAL MAP



PAGE 1 OF 1

BOUNDARY SURVEY



LEGAL DESCRIPTION:

PROPERTY IN THE NE 1/4 OF THE SE 1/4 OF SECTION 11; TOWNSHIP 17 SOUTH; RANGE 33 EAST DESCRIBED AS FOLLOWS: BEGIN AT A POINT ON THE EAST LINE OF SAID NE 1/4 OF SE 1/4 SAID POINT BEING 251.14 FEET NORTH OF THE SOUTHEAST CORNER OF SAID NE 1/4 OF SE 1/4; THENCE S 89°09' WEST 401 FEET: THENCE N. 10°51' W. 90 FEET; THENCE N 32°09' E. 191 FEET; THENCE N 89°09' E. 316.29 FEET TO THE EAST LINE OF SAID NE 1/4 OF SE 1/4; THENCE SOUTH ALONG THE SAID EAST LINE 248.86 FEET TO THE POINT OF BEGINNING, SUBJECT TO A 30 FOOT ROAD AND UTILITY EASEMENT OVER THE WESTERLY 30 FEET THEREOF, CONTAINING 2.17 ACRES MORE OR LESS.

PLUS

A PARCEL OF LAND BEING A PORTION OF LOT 13 OF WATSON'S UNRECORDED SUBDIVISION, PROPERTY IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 11 AND BEING A PORTION OF THAT CERTAIN LEGAL DESCRIPTION AS DESCRIBED IN OFFICIAL RECORDS BOOK 4068, PAGE 2034 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 17 SOUTH, RANGE 33 EAST; THENCE NORTH A DISTANCE OF 500.00 FEET; THENCE S 89°13'00" W ALONG THE SOUTHERLY LINE OF SAID LOT 13 OF WATSON'S UNRECORDED SUBDIVISION A DISTANCE OF 128.74 FEET FOR THE POINT OF BEGINNING:
THENCE S 89°12'59" W A DISTANCE OF 187.07 FEET TO A POINT IN THE CENTERLINE OF DILLON CIRCLE, A 60 FOOT ROAD EASEMENT AS NOW LAID OUT AND MONUMENTED; THENCE N 32°09'00" E ALONG SAID CENTERLINE A DISTANCE OF 68.00 FEET; THENCE S 69°57'55" E A DISTANCE OF 160.58 FEET TO THE POINT OF BEGINNING. CONTAINING 5,338 SQUARE FEET/ 0.123 ACRES MORE OR LESS.

THE WESTERLY 30 FEET SUBJECT TO A 60 FOOT EASEMENT FOR ROAD, DRAINAGE, UTILITIES, ACCESS, INGRESS AND EGRESS AS RECORDED IN OFFICIAL RECORDS BOOK 2047, PAGE 1454 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

CERTIFIED TO:
BRAD MAHER, A SINGLE MAN; INLET TITLE COMPANY; MOVEMENT MORTGAGE, LLC; CHICAGO

ABBREVIATION DESCRIPTION:

A/C	AIR CONDITIONER
℄	CENTERLINE
Δ	CENTRAL / DELTA ANGLE
I.D.	IDENTIFICATION
L	LENGTH
LB	LICENSED BUSINESS
N.A.V.D.	NORTH AMERICAN VERTICAL DATUM
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM
OHL	OVERHEAD UTILITIES
P.C.	POINT OF CURVATURE
P.C.C.	POINT OF COMPOUND CURVE
P.K.	PARKER KYLON NAIL
P.R.C.	POINT OF REVERSE CURVE
PSM	PROFESSIONAL SURVEYOR, MAPPER
P.T.	POINT OF TANGENCY
R	RADIAL / RADIUS
R/W	RIGHT OF WAY

COMMUNITY NUMBER: 125155
PANEL: 12127C0540
SUFFIX: AE
F.I.R.M. DATE: 9/29/2017
FLOOD ZONE: AE
FIELD WORK: 2/4/2021

PROPERTY ADDRESS:
1076 DILLON CIRCLE
NEW SMYRNA BEACH, FLORIDA 32168

SURVEY NUMBER: 462453
CLIENT FILE NUMBER: S-21324

SURVEY NOTES
CONCRETE DRIVE CROSSING INTO 30' ROAD EASEMENT ON NORTH WESTERLY SIDE OF LOT.

THERE ARE FENCES NEAR THE BOUNDARY OF THE PROPERTY AND CROSS INTO THE 30' ROAD EASEMENT AT NORTH WESTERLY SIDE OF PROPERTY.

SYMBOL DESCRIPTIONS:

- = CATCH BASIN
- = CENTERLINE ROAD
- = COVERED AREA
- = EXISTING ELEVATION
- = HYDRANT
- = MANHOLE
- = METAL FENCE
- = MISC. FENCE
- = PROPERTY CORNER
- = UTILITY BOX
- = UTILITY POLE
- = WATER METER
- = WELL
- = WOOD FENCE

LB #7893
SERVING FLORIDA
6250 N. MILITARY TRAIL, SUITE 102
WEST PALM BEACH, FL 33407
PHONE (561) 640-4800
STATEWIDE PHONE (800) 226-4827
STATEWIDE FACSIMILE (800) 741-0576
WEBSITE: http://targetsurveying.net

TARGET SURVEYING, LLC

SURVEYORS CERTIFICATE:
I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PREPARED UNDER MY DIRECTION, NOT VALID WITHOUT A RAISED EMBOSSED SEAL AND SIGNATURE.

(SIGNED) Kenneth Osborne
Digitally signed by Kenneth Osborne
Date: 2021.02.08 14:18:59 -05'00'

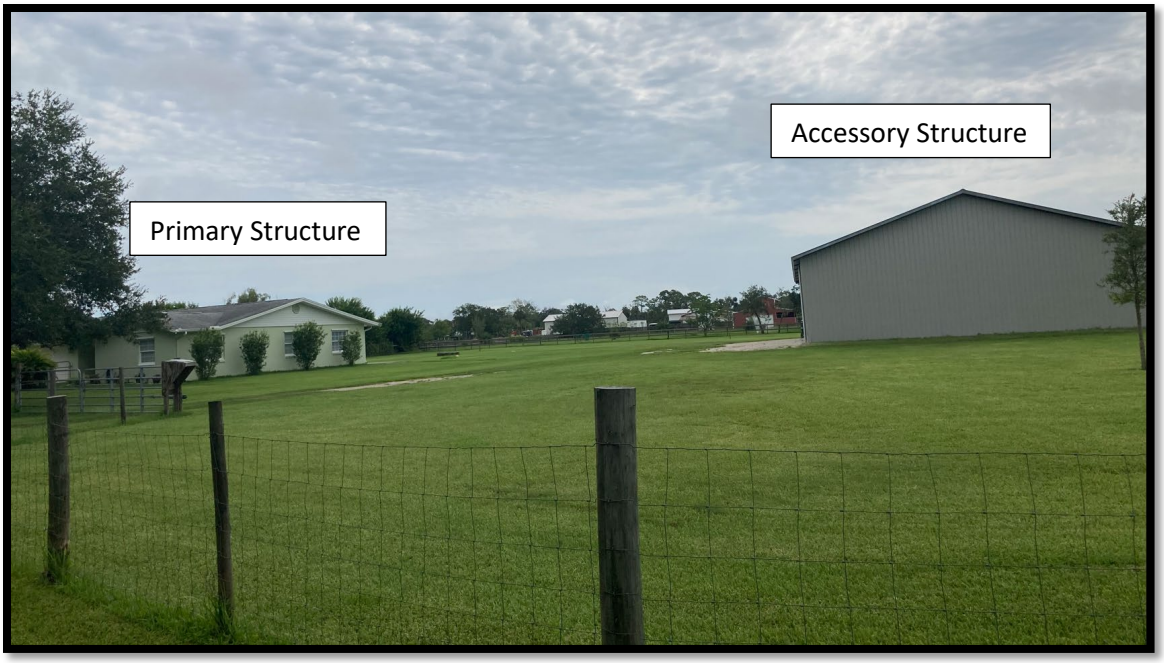
KENNETH J OSBORNE
PROFESSIONAL SURVEYOR AND MAPPER #6415

GENERAL NOTES:

1) LEGAL DESCRIPTION PROVIDED BY OTHERS
2) THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR EASEMENTS OR OTHER RECORDED ENCUMBRANCES NOT SHOWN ON THE PLAT.
3) UNDERGROUND PORTIONS OF FOOTINGS, FOUNDATIONS OR OTHER IMPROVEMENTS WERE NOT LOCATED.
4) WALL TIES ARE TO THE FACE OF THE WALL AND ARE NOT TO BE USED TO RECONSTRUCT BOUNDARY LINES.
5) ONLY VISIBLE ENCROACHMENTS ARE LOCATED.
6) DIMENSIONS SHOWN HEREON ARE PLAT AND MEASURED UNLESS OTHERWISE NOTED
7) FENCE OWNERSHIP NOT DETERMINED
8) ELEVATIONS, IF SHOWN, ARE BASED ON N.G.V.D. 1929 DATUM, UNLESS OTHERWISE NOTED.
9) IN SOME INSTANCES, GRAPHIC REPRESENTATION HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE RELATIONSHIPS BETWEEN PHYSICAL IMPROVEMENTS AND/OR LOT LINES. IN ALL CASES, DIMENSIONS SHALL CONTROL THE LOCATION OF THE IMPROVEMENTS OVER SCALED POSITIONS.

REVISIONS:

Exhibit D


Accessory Structure
Primary Structure


Accessory Structure


BAY DR
DILLON CIR
DILLON CIR
1091 BAY DR
1076 DILLON CIR
NSB
BAY DR
1061 BAY DR

Certified Surrounding Owners Request

VOLUSIA COUNTY PROPERTY APPRAISER — LARRY BARTLETT — We Value Volusia

DISCLAIMER: Surrounding Owners Request Prepared by Volusia County Property Appraisers OfficeThe Volusia County Property Appraiser and staff are constantly working to provide and publish the most current and accurate information possible. No warranties, expressed or implied are provided for the data herein, its use, or its interpretation. Additionally, the Appraiser's data is not as current as the Clerk of the Court data causing mismatches - which are beyond our control Again, one must remember that the primary use of the assessment data contained is for the preparation of the current year tax roll. No responsibility or liability is assumed for inaccuracies or errors.

Yellow Highlighted Information is redacted pursuant to Florida Statute 119.071. Please provide a copy of the documents being mailed to our office at 123 W. Indiana Ave., Room 102, DeLand, FL 32720. We will mail the information to this property owner for you. If you have any questions, please call 386-822-5717.

Printed Date: 09/04/2024
W.O. Number: 5240077

Search Type: 150' Radius

Subject Parcel ID or Road Name:
7311-00-00-0147
(IF ROAD)
From:
To:

Customer Name:Brad Maher
Company Name:

PID	OWNER1	MAILADDR1	MAILADDR2	MAILADDR3	MAILCITY	MAILSTATE	MAILZIP	POSTALCODE	MAILCOUNTRY
731100000134	LECLAIR CATHY TR	1133 BAY DR			NEW SMYRNA BEACH	FL	32168		
731100000135	BURNETTE DANIEL	1089 DILLON CIR			NEW SMYRNA BEACH	FL	32168		
731100000136	RATTE RICHARD E	1079 DILLON CIR			NEW SMYRNA BEACH	FL	32168		
~~731100000145~~	~~SWAIN DEV CARMEN~~	~~117 TUSCANY VILLAS DR~~			~~ENGLEWOOD~~	~~FL~~	~~34223~~		
731100000146	SUTTER JUDITH ANNE	1091 BAY DR			NEW SMYRNA BEACH	FL	32168		
731100000147	MAHER BRAD	1076 DILLON CIR			NEW SMYRNA BEACH	FL	32168		
731200000147	COAKLEY BETH A	1061 BAY DR			NEW SMYRNA BEACH	FL	32168		

Approval for the existing pole barn and sizè at 1076, Dillon Circle, New Smyrna Beach, Fl, 32168, Brad Maher

Beth Coakley - Beth Coakley

Richard Ratte - Richard Ratte

Daniel Burnette -

Cathy Leclair - Cathy Leclair

Judith Sutter JS

THE CITY OF NEW SMYRNA BEACH - PLANNING DEPARTMENT

V-24-24: 2500 S. ATLANTIC AVENUE, A VARIANCE REQUEST TO ALLOW A NEW HOUSE TO ENCROACH INTO THE SECONDARY FRONT YARD SETBACK, ON A CORNER LOT.

January 6, 2025

Background:

A. Applicant and Property Owner: Bret and Clifford Glowth, 4611 Tiffany Woods Circle, Oviedo, FL 32765

B. Request: A 5.0' variance to allow a new house to be located 10.0' from the secondary front property line.

C. Site Information: The subject property is located at the northwest corner of S. Atlantic Avenue and E. 15th The parcel is zoned R-2, Single-Family Residential.

D. Tax I.D. Number: 7422-01-47-0010

E. Exhibits:

Exhibit A: Location Map

Exhibit B: Aerial Map

Exhibit C: Current and Proposed House Depictions

Exhibit D: Photos

Exhibit E: Depiction of House Size Difference

Exhibit F: Letters of Support

Findings:

A. This variance request involves razing an existing house and replacing it with a new house. The existing house is approximately 5.3' from the secondary front property line (north), an encroachment of 9.7'. The proposed new house would encroach 5.0' into the setback, thus 10.0' from the secondary front property line. This is actually a reduction of

4.7’ less than the existing house. The existing property also encroaches 3’ into the side yard setback to the south. The proposed house meets the south (side) property line setback requirement. Thus, the encroachments are reduced a total of 7.7’ less with the proposed house.

B. In addition to responses to the variance criteria, the applicants has provided a letter detailing their reason for the variance request. See below:

Dear Board Members:

We are considering whether to rehabilitate the current structures or rebuild new structures on our parcel at 2500 S. Atlantic Avenue, New Smyrna Beach, FL. The nonconforming lot in the R-2 zoning district contains a nonconforming 40-foot-wide house and 25-foot-wide garage that are both almost 10 feet over the secondary setback on the north, and the house is about 3 feet over the south side yard setback. Rehabilitating the current structure is not without its challenges as it has deteriorated over time requiring some foundation and wall reinforcement. Rehabilitation would leave it at the current elevation whereas rebuilding new would elevate a new structure more above grade. We prefer to raze and rebuild if we can get a 5-foot variance to the secondary setback.

Strict adherence to the LDR for a rebuild reduces the buildable area of the lot to a 27.5-foot-wide home. If variances are approved, we propose building a 32.5-foot-wide home. The variance we are requesting is equal to the secondary setback for R-4 zoned homes to our near left and right from 8th Avenue, south to 23rd Avenue. Approving such variances would not be visually different than the properties already in the area and will improve the public easement distances of the existing structures on this parcel.

C. The LDR requires variance requests to meet all of the following criteria. The applicant’s responses are *italicized,* Staff’s responses are in **bold,** following each criterion.

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

This property as platted is a nonconforming lot that is 33% smaller than the required size of an R-2 zoned lot. Enforcing the R-2 required zoning to the secondary setback would limit the building of a new home to only 27.5 feet in width, considerably smaller than a conforming lot. Conforming Corner lots in the district could build a 52.5 feet wide home. Requesting a variance of 5 feet to the secondary yard setback and building a 32.5-foot-wide home is a modest request enabling a more functional and modern design.

While there is nothing particular about the lot itself, the R-2 zoning minimum requirements for new lots is 75' X 115'. The subject parcel is a platted 50' X 150'. Corner lots are considered to have two front yards, with the primary front yard having a 30' front yard (S. Atlantic Avenue), and the secondary front yard having a 15' front yard (E. 15th Avenue). The other two sides have a 7.5' setback. Thus, the maximum width of a structure on this corner lot is 27.5'. If the lot were the standard 75' width, a structure could be 52.5' wide. This, while not particularly "special," meeting the R-2 setback requirements on corner lots does prove to be an issue fairly regularly.

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

Strict application of the provisions of this LDR deprives this property owner of reasonable rights compared with conforming R-2 properties in the same district. Conforming properties in the district can build a considerably wider home than this variance request is asking for.

The existing nonconforming 40 feet wide structure encroaches almost 10 feet across the current R-2 secondary setback and about 3 feet on the south side-yard setback. Rebuilding a new structure with the requested variance improves the north secondary set back and brings the south side yard setback into full compliance. Improving the south side setback is of particular importance to create more space between homes and improve

current impacts of stormwater runoff between the homes.

Being that the existing house encroaches a total of approximately 13' into the north and south setbacks together, and there would now be a driveway that meets the required 20' depth, this would be a benefit to the community in general. This criterion has been met.

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

This property was developed prior to establishment of zoning districts and is being re-built as a retirement home for the owners to live the remainder of their lives. The nature of the lot, a corner lot measuring 50 feet by 150 feet, dictates that the home must be narrow. Approving 5- foot of width may seem trivial but it enables a couple of extra feet in each room which allows more space to move around without squeezing around furnishings. This is something of importance as we age. While we all hope to remain fully mobile, nature does get a vote. Not only do structures deteriorate over time, so do we. We are simply trying to consider our future and rebuild a home that is well above grade, meets current wind loads, and has the room for assisted mobility in our later years.

While corner lots within the R-2 zoning setback requirements are occasionally developed to meet the setback requirements, given the proposed structure reduces the existing setback, the applicant *could* build a house that conforms to the setback requirements. This criterion has not been entirely met, although it is an improvement over the existing situation.

d. That granting of the variance(s) will not cause substantial detriment to the public welfare or impair the purposes and intent of the Land Development Regulations.

Granting of this variance will not cause substantial detriment to the public welfare or impair the purpose and intent of the Land development Regulations. Granting the

variance actually recovers setback and space to the public easements consistent with other conforming properties in the area.

The variance will result in the replacement structure being further away than the current one. While the intent of the LDR is to have new construction meet the setback requirements, this would be an improvement over the existing situation, and the driveway will meet the required 20' length. This criterion has not been entirely met.

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

This property is a nonconforming lot, with a nonconforming structure, built in 1957. The property is 33% more narrow than the minimum conforming lot requirement for R-2 zoned properties. Contrary to granting a special privilege, approving this variance allows the property owner to enjoy the same rights and privileges conforming parcels in the district enjoy.

There are other properties- including the current house on the subject parcel- that encroach into the setbacks, therefore the approving the variance would not be a grant of special privilege. This criterion has been met.

Recommendation:

Because the applicant *could* meet the setbacks, staff cannot recommend approval of the variance request. That being said, the proposed house would lessen the current encroachments into the setbacks.

Fiscal Analysis:

N/A

Strategic Plan Item:

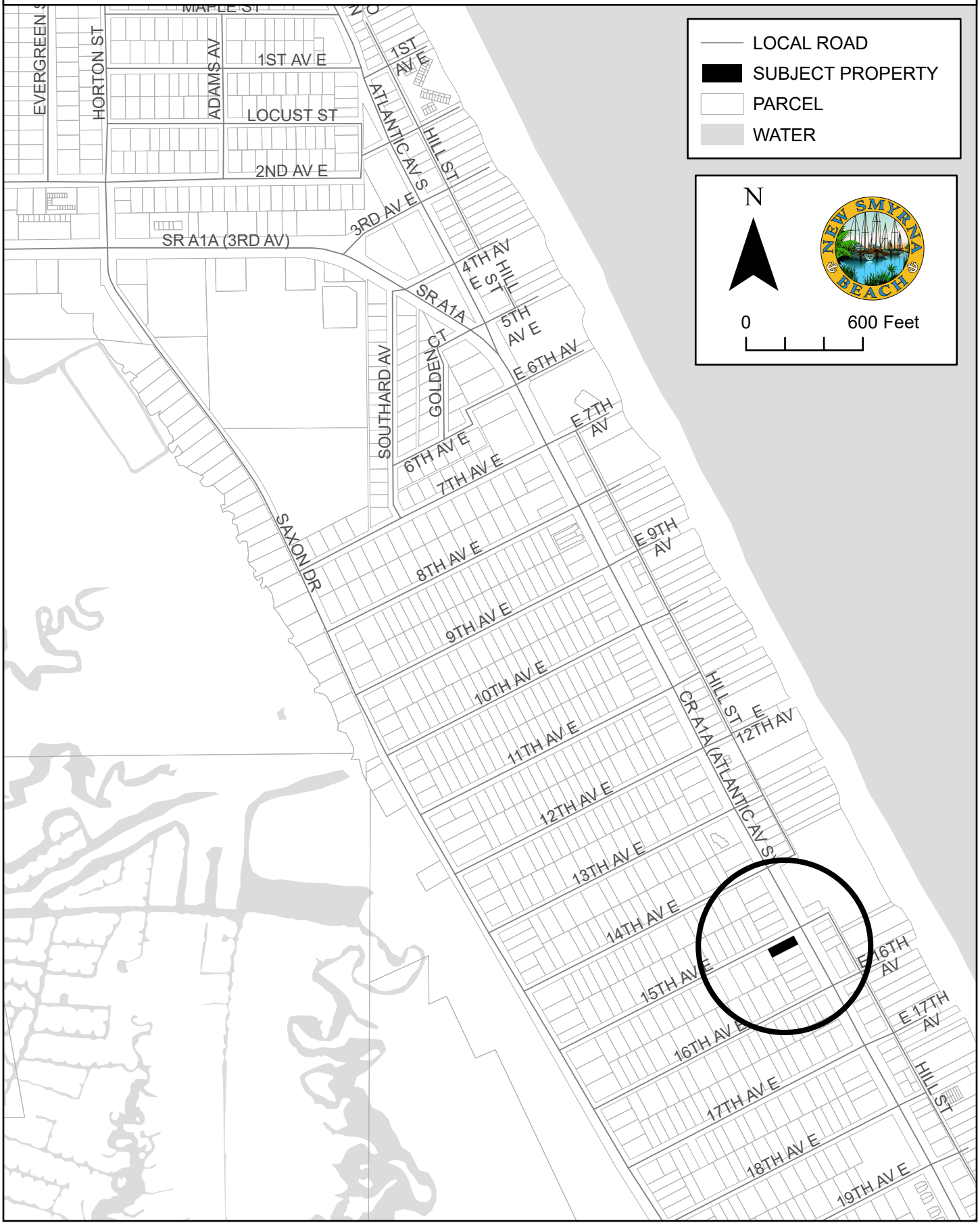
No

Staff Report Created By: Jake Baker - Senior Planner

Attachments:

Exhibit A Location Map.pdf
Exhibit B Aerial Map.pdf
Exhibit C Current and Proposed Houses.pdf
Exhibit D Photos.pdf
Exhibit E Depiction of house size difference.pdf
Exhibit F Letters of Support.pdf

V-24-24: 2500 S. ATLANTIC AVENUE
PARCEL: 7422-01-47-0010 LOCATION MAP



V-24-24: 2500 S. ATLANTIC AVENUE
PARCEL: 7422-01-47-0010 AERIAL MAP



Concept Structure in relation to streets.



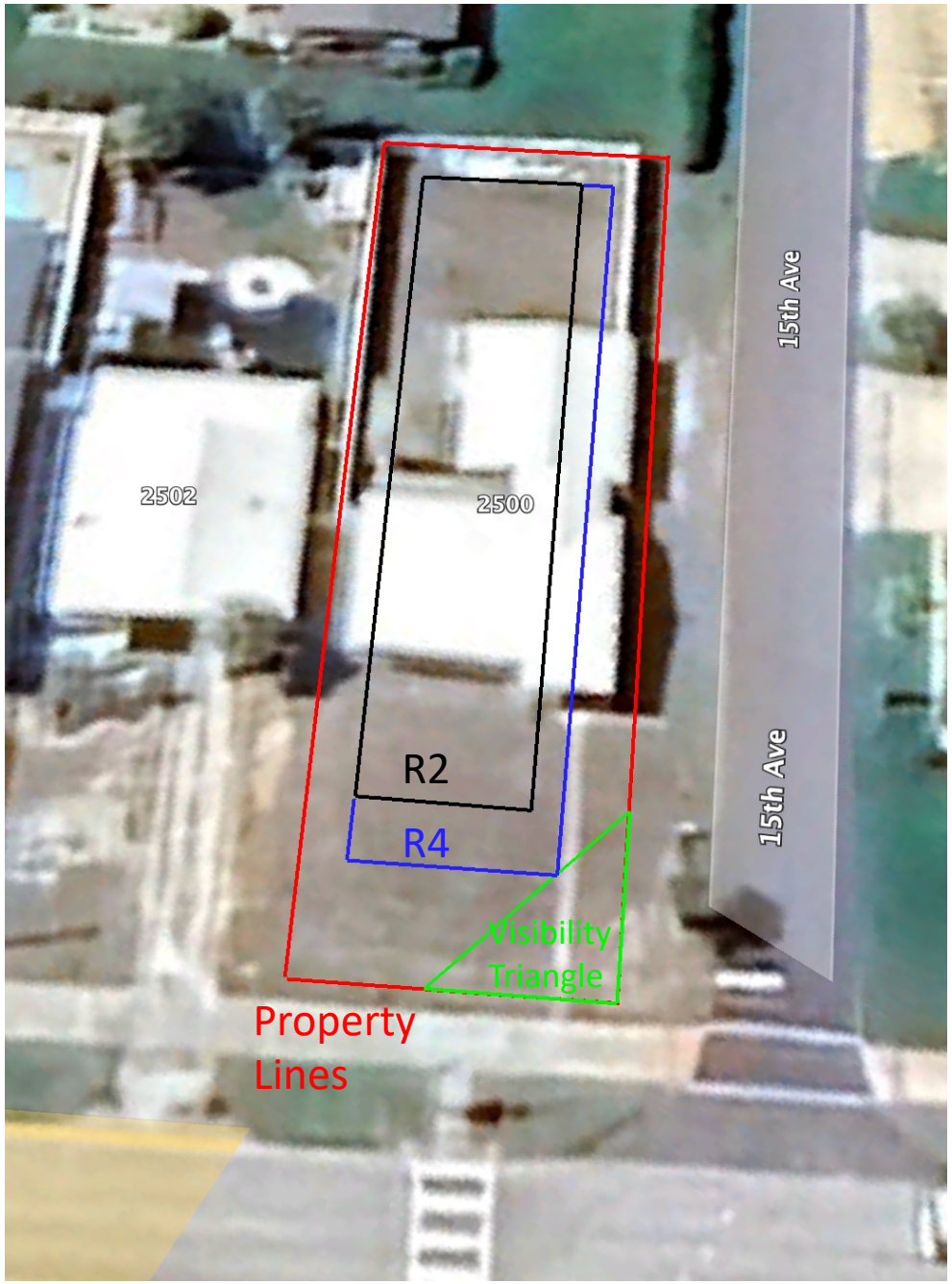
Rendering of concept compared with existing structure



Exhibit D


2506 S ATLANTIC AV
2504 S ATLANTIC AV
2502 S ATLANTIC AV
NSB
2500 S ATLANTIC AV
E 15TH AV





Red Lines = Property Lines

Black Lines = Buildable area with R2 Setbacks

Blue Lines = Additional Buildable area with R4 Setbacks

Green Lines = Visibility Triangle

Re: Variance Support Letter for a 5-Foot variance at 2500 S. Atlantic Avenue

From: Elisa Todd (etodd@live.com)

To: glowthb1@yahoo.com

Date: Wednesday, December 4, 2024 at 05:40 PM EST

Yes, we support this variance request for 2500 S. Atlantic Avenue.
Douglas and Elisa Todd
2410 s Atlantic Avenue
New Smyrna beach, Florida 32169

Get Outlook for iOS

From: Bret Glowth <glowthb1@yahoo.com>
Sent: Wednesday, December 4, 2024 5:31:57 PM
To: etodd@live.com <etodd@live.com>
Subject: Variance Support Letter for a 5-Foot variance at 2500 S. Atlantic Avenue

Hello Elisa and Doug. We are asking for your support.

We plan to tear down our house at 2500 S. Atlantic Avenue and rebuild. This will cause us to have to build a new house to the current setbacks limiting a new house to 27.5 feet wide facing A1A. Our current house is 40 feet wide. We are asking New Smyrna Beach to allow a variance of 5 feet along the 15th Avenue set back to build a new home that is 32.5 feet wide facing A1A. As part of the application process the city of New Smyrna Beach requests input from neighbors, whether they support or oppose granting the variance.

I attached an image that represents the setbacks and how they would look compared to the current house.

Please reply to this Email with a copy and pasted of one of the following:

Yes, we support this variance request for 2500 S. Atlantic Avenue.

Or

No, we oppose this variance request for 2500 S. Atlantic Avenue.

Thank you for your support. If you have any questions, please give us a call.

Bret and Cissy Glowth

TO: June Huntley-Davis, Owner of 2502 and 2504 S. Atlantic Avenue, New Smyrna Beach, FL 32169

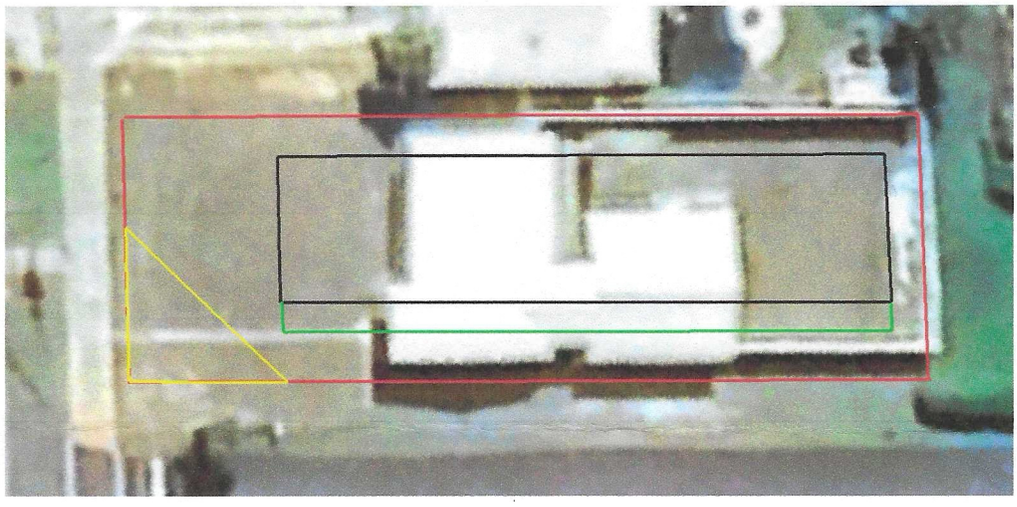
Good morning. We are asking for your support.

X Yes, I support this variance request for 2500 S. Atlantic Avenue. June C. Davis

_____ No, I oppose this variance request for 2500 S. Atlantic Avenue. _____

We plan to tear down our house at 2500 S. Atlantic Avenue and rebuild. This will cause us to have to build a new house to the current setbacks limiting a new house to 27.5 feet wide facing A1A. Our current house is 40 feet wide. We are asking NSB for a variance of 5 feet to build a new home that is 32.5 feet wide. As part of the application process the city of New Smyrna Beach requests input from neighbors, whether they support or oppose granting the variance.

In the below image the black lines indicate the new buildable zoning setbacks. The green line represents the 5-foot variance we are seeking for additional buildable area. As you can see the new setbacks in black shrink our footprint dramatically. The additional 5-foot in width allows a more modern functional home and is visually more balanced on the overall corner lot.



Thank you for your support.

Bret and Cissy Glowth

Re: Variance Support Letter for a 5-Foot variance at 2500 S. Atlantic Avenue

From: Anthony Armesto (aarmesto88@gmail.com)

To: glowthb1@yahoo.com

Date: Wednesday, December 4, 2024 at 08:00 PM EST

Yes, we support this variance request for 2500 S. Atlantic Avenue.

> On Wed, Dec 4, 2024 at 5:26 PM Bret Glowth <glowthb1@yahoo.com> wrote:
>
> > Hello Anthony and Jeanine. We are asking for your support.
> >
> > We plan to tear down our house at 2500 S. Atlantic Avenue and rebuild. This will cause us to have to build a new house to the current setbacks limiting a new house to 27.5 feet wide facing A1A. Our current house is 40 feet wide. We are asking New Smyrna Beach to allow a variance of 5 feet along the 15th Avenue set back to build a new home that is 32.5 feet wide facing A1A. As part of the application process the city of New Smyrna Beach requests input from neighbors, whether they support or oppose granting the variance.
> >
> > I attached an image that represents the setbacks and how they would look compared to the current house.
> >
> > **Please reply to this Email with a copy and pasted of one of the following:**
> >
> > Yes, we support this variance request for 2500 S. Atlantic Avenue.
> >
> > Or
> >
> > No, we oppose this variance request for 2500 S. Atlantic Avenue.
> >
> > Thank you for your support. If you have any questions, please give us a call.
> >
> > Bret and Cissy Glowth

THE CITY OF NEW SMYRNA BEACH - PLANNING DEPARTMENT

SELECTION OF THE 2025 CHAIRPERSON AND VICE CHAIRPERSON

January 6, 2025

Background:

Conduct the nomination and election for the 2025 Planning and Zoning Board Chairperson and Vice Chairperson.

Fiscal Analysis:

N/A

Strategic Plan Item:

No

Staff Report Created By: Stephanie Ferrara - Development Services Coordinator

THE CITY OF NEW SMYRNA BEACH - PLANNING DEPARTMENT

JANUARY 2025 DEVELOPMENT ACTIVITY REPORT

January 6, 2025

Background:
January 2025 Development Activity Report

Fiscal Analysis:
N/A

Strategic Plan Item:
No

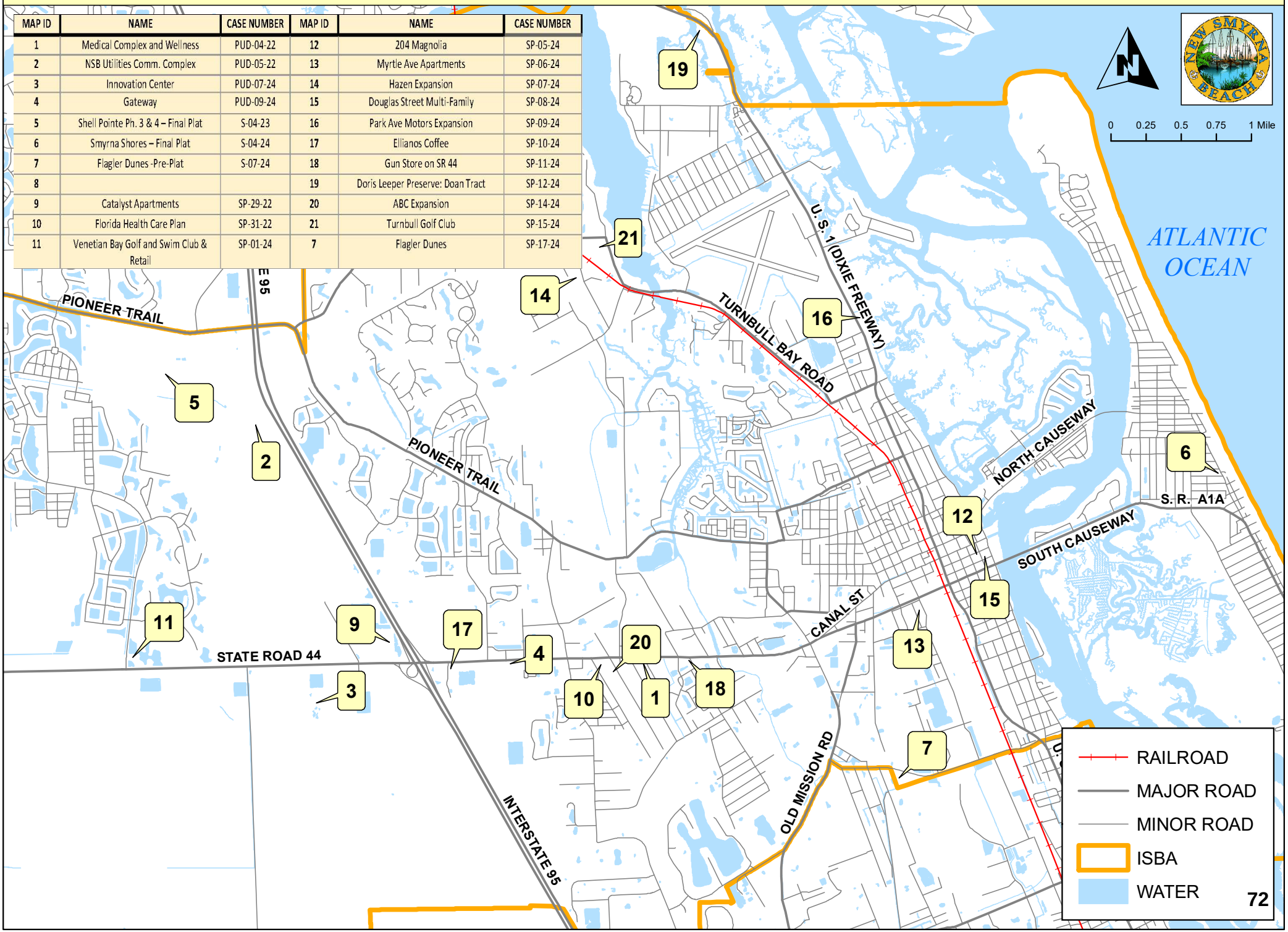
Staff Report Created By: Stephanie Ferrara - Development Services Coordinator

Attachments:

JAN 2025 DAR - UNDER REVIEW DAR.pdf
Jan. 2025 - Approved or Under Construction DAR 1.pdf

JANUARY 2025 DEVELOPMENT ACTIVITY REPORT MAP

MAP ID	NAME	CASE NUMBER	MAP ID	NAME	CASE NUMBER
1	Medical Complex and Wellness	PUD-04-22	12	204 Magnolia	SP-05-24
2	NSB Utilities Comm. Complex	PUD-05-22	13	Myrtle Ave Apartments	SP-06-24
3	Innovation Center	PUD-07-24	14	Hazen Expansion	SP-07-24
4	Gateway	PUD-09-24	15	Douglas Street Multi-Family	SP-08-24
5	Shell Pointe Ph. 3 & 4 – Final Plat	S-04-23	16	Park Ave Motors Expansion	SP-09-24
6	Smyrna Shores – Final Plat	S-04-24	17	Ellianos Coffee	SP-10-24
7	Flagler Dunes -Pre-Plat	S-07-24	18	Gun Store on SR 44	SP-11-24
8			19	Doris Leeper Preserve: Doan Tract	SP-12-24
9	Catalyst Apartments	SP-29-22	20	ABC Expansion	SP-14-24
10	Florida Health Care Plan	SP-31-22	21	Turnbull Golf Club	SP-15-24
11	Venetian Bay Golf and Swim Club & Retail	SP-01-24	7	Flagler Dunes	SP-17-24



January 2025 Development Activity Report

****Contact Planning Department at (386) 410-2830 with any questions regarding the DAR*****

Map ID#	Project Name	Project Number	Location	Description	Final Approval By	Current Status	Next Step
1	Medical Complex and Wellness Center	PUD-0004-2022	190 S. Wild Orange Dr.	Medical Office	Future City Commission Meeting	Staff Comments Issued	Applicant to Resubmit
2	New Smyrna Beach Utilities Commission	PUD-0005-2022	Intersection of S.R. 44 and Interstate 95	Commercial/Utility Uses	Future City Commission Meeting	Staff Comments Issued	Applicant to Resubmit
3	Innovation Center	PUD-0007-2024	West of I-95 and South of SR 44	New Mixed-Use with retail, commercial, hotel, restaurant, light industrial, residential	City Commission Meeting 01/28/2025	Staff preparing for CC agenda	Staff drafting staff report
4	Gateway	PUD-0009-2024	SR 44, East of I-95	New Mixed-Use with retail, commercial, office, restaurant and Gestation	Future City Commission Meeting	Submitted for Staff Review	Staff to Issue Comments
5	Shell Pointe Phase 3&4 - Final Plat	S-0004-2023	3350 Pioneer Trail	385 Residential Units	Future City Commission Meeting	Submitted for Staff Review	Staff to Issue Comments
6	Smyrna Shores - Final Plat	S-0004-2024	S. Atlantic Avenue and Maralyn Avenue	Proposed 7 single-family residential lots	Future City Commission Meeting	Staff Comments Issued	Applicant to Resubmit
7	Flagler Dunes - Pre-Plat	S-0007-2024	West of S. Myrtle Avenue and South Side of 10th Street	79 Unit Multifamily Townhomes	City Staff	Staff Comments Issued	Applicant to Resubmit
9	Catalyst Apartments	SP-0029-2022	Regency/Walmart PUD - SR 44	279 Multifamily Units with 558 parking spaces	Future City Commission Meeting	Staff Comments Issued	Applicant to Resubmit
10	Florida Health Care Plan	SP-0031-2022	Timberlane/ SR44 & Oliver Drive	12,713 SF Medical Office and Pharmacy Building	City Staff	Staff Comments Issued	Applicant to Resubmit
11	Venetian Bay Golf and Swim Club & Retail	SP-0001-2024	State Road 44 and Airport Road	Two 2-Story Commercial Buildings	City Staff	Staff Comments Issued	Applicant to Resubmit
12	204 Magnolia	SP-0005-2024	Southwest Corner of Downing Street and Magnolia Street.	Construct and stripe additional on-site parking and landscaping	City Staff	Staff Comments Issued	Applicant to Resubmit
13	Myrtle Ave Apartments	SP-0006-2024	Between S. Duss Street and S. Myrtle Ave.	2 proposed 3 story (12) unit apartment building	City Staff	Submitted for Staff Review	Staff to Issue Comments

SP - Site Plan, S - Subdivision,
PUD - Planned Unit Development

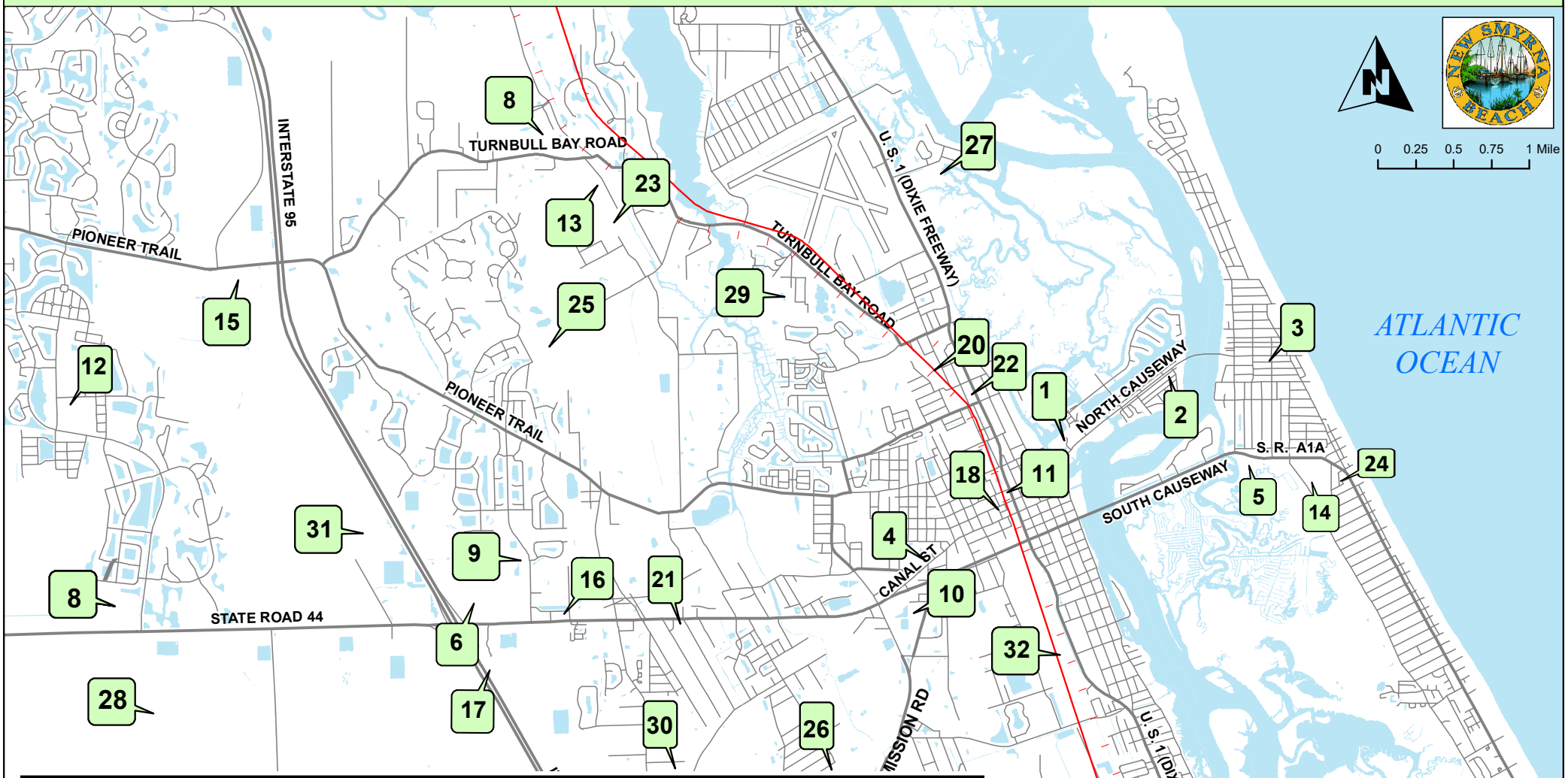
January 2025 Development Activity Report

****Contact Planning Department at (386) 410-2830 with any questions regarding the DAR*****

Map ID#	Project Name	Project Number	Location	Description	Final Approval By	Current Status	Next Step
14	Hazen Expansion	SP-0007-2024	1599 Tionia Road	Proposed 2 office/industrial building	City Staff	Submitted for Staff Review	Staff to Issue Comments
15	Douglas Street Multi-family	SP-0008-2024	118 Douglas Street	Proposed 6 story 8 unit residential condos	City Staff	Submitted for Staff Review	Staff to Issue Comments
16	Park Ave Motors Expansion	SP-0009-2024	1313 N. Dixie Freeway	2 proposed commercial buildings	City Staff	Staff Comments Issued	Applicant to Resubmit
17	Ellianos Coffee	SP-0010-2024	110 Florida Memorial Pkwy	800 sf Coffee Restaurant with Drive-thru	City Staff	Submitted for Staff Review	Staff to Issue Comments
18	Gun Store on SR 44	SP-0011-2024	176 Corbin Park Rd	9,598 sf 2 Story Commercial Retail Building	City Staff	Staff Comments Issued	Applicant to Resubmit
19	Doris Leeper Preserve: Doan Tract	SP-0012-2024	3234 N Dixie Freeway	Additional Amenities and Entranceways at existing nature preserve	City Staff	Submitted for Staff Review	Staff to Issue Comments
20	ABC Expansion	SP-0014-2024	2630 State Road 44	Expand existing building 6,420 SF with additional parking	City Staff	Staff Comments Issued	Applicant to Resubmit
21	Turnbull Bay Golf Club	SP-0015-2024	2600 Turnbull Estates Drive	Proposed Restaurant, Office Retail Shop	City Staff	Staff Comments Issued	Applicant to Resubmit
7	Flagler Dunes	SP-0017-2024	West of S. Myrtle Avenue and South Side of 10th Street	79 Unit Multifamily Townhomes	Planning and Zoning	Submitted for Staff Review	Staff to Issue Comments

SP - Site Plan, S - Subdivision,
PUD - Planned Unit Development

JANUARY 2025 PROJECTS APPROVED AND/OR UNDER CONSTRUCTION MAP



MAP ID	NAME	CASE NUMBER	MAP ID	NAME	CASE NUMBER
1	Riverwalk Ph. 3	SP-03-18	18	FOA Medical Plaza	SP-03-23
2	North Causeway Townhomes	S-05-18	19	Seaview Terrace	SP-01-23
3	300 Jessamine Ave	SP-27-18	20	707 Cheston Street	SP-15-23
4	Donatti Boat Storage	SP-05-20	21	Village Square MDA/PUD	PUD-03-21
5	Hyatt Place Hotel	SP-30-18	22	Davis Bros Warehouse	SP-24-22
6	Advent Health	PUD-2-20	23	Tionia Warehouse	SP-19-23
7	The Palms Phase 6	S-05-21	24	Bless Gas Station	SP-33-21
8	Florida Days Ph 4	S-04-21	25	Rolling Hills	S-10-18
9	The Cove	SP-25-21	26	Reserve at Lake Waterford	S-01-18
10	St. James Estates	SP-11-22	27	Inlet Sound	S-03-24
11	218 N. Dixie Freeway	SP-26-22	28	South Village	S-01-23
12	Cordova	SP-04-23	29	Hidden Lakes	S-03-23
13	Tionia Storage	SP-29-23	10	St. James Estates – Final Plat	S-04-24
14	Oakwiler Townhomes	SP-23-22	30	Paige Ave. Pickle Ball Facility	SP-16-24
15	Shell Pointe Phase 1&2	S-03-22	31	NSBU Dewatering System Improv.	SP-22-24
16	Del Taco	SP-06-23	32	Blue Dolphin Boat and RV	SP-03-24
17	Medical City Park	SP-05-22			

JANUARY 2025 PROJECTS APPROVED AND/OR UNDER CONSTRUCTION MAP

Map ID #	Project Name	Project Number	Location	Description	Final Approval Date	Final Approval By	Current Status
1	Riverwalk Ph. 3	SP-03-18	99 N Causeway	Residential Condo 112 units	December 3, 2018	Planning and Zoning	Under Construction
2	North Causeway Townhomes	S-05-18	N Causeway and Desoto Drive	Residential Townhomes 2 building with 14 units	June 11, 2019	City Commission	Under Construction
3	300 Jessamine Ave	SP-27-18	300 Jessamine Ave	36 seat Restaurant	November 4, 2019	Staff Approval	Under Construction
4	Donatti Boat Storage	SP-05-20	1245 Canal Street	10 mini-warehouse building and 1 office building	December 8, 2020	Planning and Zoning	Under Construction
5	Hyatt Place Hotel	SP-30-18	SR A1A and 3rd Ave	114 room hotel facility, one 4 story building and 8,550 SF one story restaurant with 278 seats	February 7, 2022	Planning and Zoning	Not Under Construction
6	Advent Health	PUD-02-20	NE Corner of SR & I-95	New Medical Center	February 8, 2022	City Commission	Waiting for Site Plan to be submitted
7	The Palms Phase 6	S-05-21	The Palms Subdivision on Airport Rd	209 Single Family Lots	March 8, 2022	City Commission	Under Construction
8	Florida Days Ph 4	S-01-21	Turnbull Bay Rd. and Creek Shore Trail	307 Single Family Residential Lots	September 13, 2022	City Commission	Not Under Construction
9	The Cove	SP-25-21	306 Sugar Mill Drive	47 Quadplexes of 188 dwellings	October 3, 2022	Planning and Zoning	Under Construction
10	St. James Estates	SP-11-22	West of First Street and Mission Drive	36 Townhomes Units	March 8, 2023	Planning and Zoning	Not Under Construction
11	218 N. Dixie Fwy.	SP-26-22	218 N. Dixie Freeway	Commercial business	May 3, 2023	Staff Approval	Not Under Construction
12	Cordova (Village Center East	SP-4-23	419 Luna Bella Lane	322 unit apartment complex	May 16, 2023	City Commission Approved	Under Construction
13	Tionia Storage	SP-29-21	1674 Tionia Road	Boat and RV Storage Facility	June 5, 2023	Planning and Zoning	Not Under Construction
14	Oakwiler Townhomes	SP-23-22	Saxon Drive North of 7th Ave	77 Town houses units	June 27, 2023	City Commission Approval	Not Under Construction
15	Shell Pointe Phase 1 &2	S-03-22	3350 Pioneer Trail	Commercial and Residential	June 27, 2023	City Commission	Under Construction

16	Del Taco	SP-06-23	2669 State Road 44	Restaurant with double Drive Thru	August 21, 2023	Staff Approval	Not Under Construction
17	Medical City Park	SP-05-22	South of SR 44 and East of I-95	Mixed Use Medical Office and hotel facility	September 5, 2023	Planning and Zoning	Not Under Construction
18	FOA Medical Plaza	SP-03-23	617 Canal Street	3,834 SF medical building	September 22, 2023	Staff Approval	Not Under Construction
19	Seaview Terrace	SP-01-23	4430 S. Atlantic Avenue	5 Condominium	October 26, 2023	Staff Approval	Not Under Construction
20	707 Cheston Street	SP-15-23	707 Canal Street	2240 sq ft office and Warehouse	October 31, 2023	Staff Approval	Under Construction
21	Village Square MDA/PUD	PUD-03-21	2360 State Road 44	Retail/Office/ Restaurant	November 28, 2023	City Commission	Waiting for Site Plan to be submitted
22	Davis Bros Warehouse	SP-24-22	708 N. Dixie Freeway	6,267 SF Warehouse	January 1, 2024	Staff Approval	Under Construction
23	Tiona Warehouse	SP-19-23	1674 Tionia Road	4,800 SF Office and Warehouse	January 9, 2024	Staff Approval	Not Under Construction
24	Bless Gas Station & Convenience Store	SP-23-21	1650 S. Atlantic Ave	Convenience Store and Gas Station	April 2, 2024	Staff Approval	Not Under Construction
25	Rolling Hills	S-10-18	Sugar Mill Drive	194 lot subdivision	May 14, 2024	City Commission	Not Under Construction
26	Reserve at Lake Waterford	S-01-18	Eslinger Road	45 lot subdivision	June 25, 2024	City Commission	Not Under Construction
27	Inlet Sound - Pre Plat	S-03-24	N. Dixie Freeway and Inlet Shores Drive	Proposed 3 residential lots	August 20, 2024	Staff Approval	Needs to submit Final Plat
28	South Village - Pre Plat	S-01-23	State Road 44	Commercial and Residential	October 23, 2024	Staff Approval	Needs to submit Final Plat
29	Hidden Lakes - Pre Plat	S-03-23	Turnbull Bay Rd. and Whispering Pines Drive	132 Residential Units	December 2, 2024	Staff Approval	Needs to submit Final Plat
10	St. James Estates - Final Plat	S-08-24	West of First Street and Mission Drive	36 Townhomes Units	December 10, 2024	City Commission	Not Under Construction
30	Paige Ave Pickle Ball Facility	SP-16-24	Paige Ave and S. Glencoe Rd.	Pickleball Courts and Facility	December 16, 2024	Staff Approval	Not Under Construction
31	NSBU Dewatering System Improvements	SP-22-24	3119 State Road 44	Dewatering System Improvements at the NSBU water reclamation facility	December 20, 2024	Staff Approval	Not Under Construction
32	Blue Dolphin Boat and RV Storage	SP-03-24	S. of 3rd Street extended West of S. Dixie Freeway	150 Boat/RV Storage Space	December 27, 2024	Staff Approval	Not Under Construction

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