Planning & Zoning Board
Monday, June 1, 2026 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 May 4, 2026, Regular Meeting Minutes.

3. PUBLIC PARTICIPATION

4. OLD BUSINESS

5. NEW BUSINESS

5.A A-0001-2026: Conduct a review and give a recommendation on an overall annexation application for 2264 Doster Drive.

5.B V-0006-2026: Conduct a review of a variance to allow a three (3) foot tall fence to be located on top of a retaining wall.

6. COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

7. REPORTS AND COMMUNICATION BY THE STAFF

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 MAY 4, 2026, REGULAR MEETING MINUTES.

June 1, 2026

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 May 4, 2026 Regular Meeting Minutes.

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Stephanie Ferrara - Development Services Coordinator

Attachments:

FULL MEETING MINUTES.pdf

Planning and Zoning Regular Meeting
Monday, May 4, 2026, at 5:30 PM
MINUTES

1. CALL TO ORDER

Having been duly advertised as required by law, the regular meeting of the Planning and Zoning Board of the City of New Smyrna Beach, Florida, was held on Monday, May 4, 2026, at the City Commission Chambers, 214 Sams Avenue, New Smyrna Beach, Florida 32168.

Larry Wheatcraft called the meeting to order at 5:30 PM.

Roll Call

Attendee Name	Title	Status	Arrived
Jesse Thompson	Non-Member	Absent	5:30 PM
Terry Corbett	Member	Present	5:30 PM
David McKenna	Vice-Chair	Present	5:30 PM
John Causey	Member	Present	5:30 PM
Thomas Bien	Member	Present	5:30 PM
Jon Hall	Member	Absent	----------
Stephen Yates	Chair	Present	5:30 PM

Also present were Stephanie Doster, Planning Manager, Jake Baker and Robert Mathen, Senior Planners, City Assistant Attorney Shay McCurdy, and Board Secretary Stephanie Ferrara.

Chair Yates asked City Staff if there were any changes to the agenda. Stephanie Doster stated that there were no changes to the agenda. Ms. Doster welcomed our newest board member, Terry Corbett.

2. APPROVAL OF MINUTES

2.A Consider the Approval of the minutes from the Planning and Zoning Board regular meeting held on April 6, 2026.

Chair Yates asked the Board if they had any additional questions or comments.

Correction in the meeting minutes changing Vice Mayor to Vice Chair.

Motion:

Vice-Chair McKenna moved to approve the minutes of the Planning and Zoning Board regular meeting held on Monday, April 6, 2026, with changes and as submitted. Member Bien seconded the motion, and the motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	McKenna
SECONDER:	Bien
AYES:	Corbett, McKenna, Causey, Bien, Yates

3. PUBLIC PARTICIPATION

Chair Yates opened Public Participation. As no citizens wished to speak, Chair Yates closed Public Participation.

4. OLD BUSINESS

4.A NONE

5. NEW BUSINESS

5.A V-04-26: 1800 Turnbull Bay Road

Robert Mathen, Senior Planner, outlined the Applicant's request for a variance to allow for three (3) electric message reader board signs in the B-3 and B-5 zoning districts.

Chair Yates asked if the Applicant would like to speak.

Rob Salazar, Leisure Services Director, explains that installing electronic marquees would help their department promote city and high school activities more effectively. They highlight recent updates, including the soccer club's rebranding to Shark Coast and efforts to bring a collegiate summer baseball team to the complex. With increased activity, the marquees would improve visibility and help engage the community.

Member Bien asked whether the existing identification signs would be removed if the variance was approved and the new electronic reader boards are installed. Mr. Salzar confirmed that yes, the new boards would replace the existing signs.

Member Causey asked if three signs would be sufficient given the level of activity at the complex. Mr. Salzar responded that three signs should be adequate, as they would be strategically placed at key intersections and entrances. He also noted a desire to avoid overuse of signage and explained that the number was determined in coordination with the planning department. Additionally, the signs would be installed gradually over multiple years as funding became available in the city's budget.

Chair Yates opened Public Participation. As no citizens wished to speak, Chair Yates closed Public Participation.

Chair Yates asked the Board if they had any additional questions or comments.

Motion:
Member Causey moved to approve V-04-26: 1800 Turnbull Bay Road, as submitted. Member Corbett seconded the motion, and the motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Causey
SECONDER:	Corbett
AYES:	Corbett, McKenna, Causey, Bien, Yates

5.B SE-02-26: 1313 N Dixie Freeway

Jake Baker, Senior Planner, outlined the Applicant's request for a special exception to allow an existing car dealership and repair shop to expand their existing operation at 1313 North Dixie Freeway.

Member Bien asked whether the proposed 8,800-square-foot development would meet City Land Development Regulations if it were a new request on an empty lot. Mr. Baker confirmed that it would comply, noting the site could

actually accommodate additional building space within the 35% lot coverage limit. He also confirmed that the setbacks would meet current regulations.

Member Causey asked about the use of gravel or rock in two display areas and whether the loss of permeable surface would be addressed in the final site plan. Mr. Baker confirmed that it would be considered, noting that the site is still well below the allowed impervious surface limit of 75–80%.

Chair Yates asked if the Applicant would like to speak.

Chris Casey, the engineer of record, introduced himself and expressed appreciation for the thorough site review and presentation. He stated that he was available to answer any questions from the board.

Member Causey complimented the project renderings and asked whether the applicant would be willing to collaborate with the City on potential exterior design restrictions to better align with a cohesive architectural vision. He noted that current development lacks consistency and emphasized the opportunity to improve the area's overall character. Mr. Casey responded that while he would defer to the owner, they are open to considering the City's input and are generally supportive of working collaboratively moving forward.

Mr. Baker explained that upgraded development standards would prohibit raw corrugated metal exterior buildings. He added that there are general expectations for appearance, such as color schemes.

Vice-Chair McKenna agreed with Member Causey and noted the discussion relates to topics raised at the previous meeting. However, Ms. McCurdy interrupted to suggest staying focused on the current special exception request and the motion at hand, recommending that broader discussion about design and vision be addressed later in the meeting.

Chair Yates opened Public Participation. As no citizens wished to speak, Chair Yates closed Public Participation.

Chair Yates asked the Board if they had any additional questions or comments.

Motion:

Member Bien moved to recommend approval SE-02-26: 1313 N Dixie Freeway, as submitted. Vice-Chair McKenna seconded the motion, and the motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Bien
SECONDER:	McKenna
AYES:	Corbett, McKenna, Causey, Bien, Yates

5.C V-05-26: 2503 Nordman Ave.

Robert Mathen, Senior Planner, outlined the Applicant's request for a Variance to allow an accessory structure to be located less than five (5) feet from a primary structure and less than 7 ½ feet from the side property line.

Chair Yates asked if the Applicant would like to speak.

Vice-Chair McKenna asked about the use and history of the adjacent building.

Applicant and Property Owners, James and Debra Allen, explained that it is primarily a hobby shop used for storing Jeeps and motorcycles, along with blacksmithing and light machine work. He stated the structure was built in 2022 but described issues with the original contractor, who falsely claimed to handle permitting and mismanaged funds, resulting in delays, multiple subcontractors, and an unexpected additional payment request from the building supplier.

Member Bien asked about the details of the contractor agreement, including whether it was a lump-sum contract or if the owners purchased the building separately. Mr. Allen clarified that the contractor was responsible for supplying everything. He also confirmed the building size as 20 X 30 feet.

Member Bien further inquired about handwritten notes on the plans regarding setbacks. Ms. Allen explained that those notes were already on the plans they received when they learned a permit was required, indicating they were added by someone other than the property owners, such as the engineer or contractor.

Ms. McCurdy clarified that while staff indicated the building could potentially be relocated, financial hardship is not a valid consideration when evaluating a variance request. She noted that cost concerns may affect the applicant personally, but they cannot be used by the board as a justification in its decision-making.

Chair Yates opened Public Participation. As no citizens wished to speak, Chair Yates closed Public Participation.

Chair Yates asked the Board if they had any additional questions or comments.

Motion:

Vice-Chair Mckenna moved to approve V-05-26: 2503 Nordman Ave, as submitted. Member Bien seconded the motion, and the motion carried with a 3-2 vote. Member Causey and Chair Yates voting no.

RESULT:	**ADOPTED [3-2 Vote]**
MOVER:	McKenna
SECONDER:	Bien
AYES:	Corbett, McKenna, Bien
NAYS:	Causey, Yates

6. COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

The board discussed the need for a clearer, citywide vision for development and design standards. Vice-Chair McKenna and others emphasized that while current projects may be well-designed, the overall look of the city lacks consistency, with a mix of styles along corridors like US-1.

Chair Yates and several members supported holding a workshop to define a shared vision and improve communication with the public, noting that decisions should be guided by an established plan rather than personal preferences.

Members also acknowledged challenges, including balancing aesthetic standards with property rights and developer expectations, particularly for commercial projects and national brands. Overall, there was consensus that a workshop would help guide future growth while allowing flexibility across different areas of the city.

7. REPORTS AND COMMUNICATIONS BY THE STAFF

Ms. Doster reminded the board that a comprehensive plan workshop is scheduled for Thursday at 5:30 p.m. in the Commission Chambers and encouraged members to attend. She reiterated the time when asked for confirmation.

8. ADJOURNMENT

As there was no other business to discuss, Chair Yates declared the meeting adjourned at 6:31 P.M.

THE CITY OF NEW SMYRNA BEACH - PLANNING DEPARTMENT

A-0001-2026: CONDUCT A REVIEW AND GIVE A RECOMMENDATION ON AN OVERALL ANNEXATION APPLICATION FOR 2264 DOSTER DRIVE.

June 1, 2026

Background:

Applicant and Property Owners: Brian P. and Raquel Health, 2264 Doster Drive, New Smyrna Beach, Florida 32168.

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

- **From:** Volusia County Future Land Use (FLU) category of Urban Low Intensity, and Volusia County zoning designation of R-4, Urban Single Family Residential with an "A" attached for Airport Height Notification Zone.
- **To:** City Future Land Use category of Low Density Residential and City zoning designation of R-2, Single Family Residential with an "A" attached for Airport Height Notification Zone.

Site Information:

- **Size:** 0.34 ± acres.
- **Location:** Southeast corner of Doster Drive and Bolton Road.

Tax I.D. Number: 7344-03-00-0110

Findings:

On April 23, 2013, the City Commission adopted an Interlocal Service Boundary Agreement (ISBA). The ISBA, which is permitted under Chapter 171, Part II, Florida Statutes, allows the City of New Smyrna Beach to annex any parcels that are within the designated annexation area, even if they are not contiguous to the current municipal boundaries. The agreement, which is between the County of Volusia and the City of New Smyrna Beach, was also approved by the County on May 2, 2013. A new agreement was approved on May 2, 2022.

The subject property is within the annexation area designated in the ISBA. The subject property addressed as 2264 Doster Drive is developed with a single-family house. A location map is attached as **Exhibit A** and an aerial map is attached as **Exhibit B**.

The existing Volusia County Future Land Use (FLU) category and zoning designation of the subject property is shown on the following maps as **Exhibits C and D**. The text description of the existing Future Land Use category for the subject property is attached as **Exhibit E**. The associated current zoning text description for the subject property is attached as **Exhibit F**. Existing land uses are shown on the map attached as **Exhibit G**.

The established City Commission policy is that when properties are annexed into the City, the City will assign future land use categories and zoning designations that would be as similar as possible to existing County categories and designations. As discussed above, the existing County FLU category is Urban Low Intensity. The existing County zoning designation is R-4, Urban Single Family Residential. The proposed City FLU category is Low Density Residential. The proposed City zoning designation is R-2, Single Family Residential. A text description of the proposed City Low Density Residential Future Land Use category is attached as **Exhibit H**, with a map of this proposed change also attached as **Exhibit I**. A text description of the proposed City R-2, Single Family Residential zoning designation, and a map of the proposed changes are similarly attached as **Exhibits J** and **K**.

This annexation request is within the City's annexation area and within the City's water and sewer service area **(Exhibit L).** The parcel located at 2264 Doster Drive has a 6-inch PVC water line in the Doster Drive right-of-way, but central sewer and reclaim services are not available. A map of the soil limitations for septic systems is attached as **Exhibit M**.

The *Land Development Regulations* requires any proposed development to conform to the Concurrency Management System. That system includes traffic, parks and recreation, potable water, wastewater treatment, solid waste collection, storm-water management, and public-school facilities. The subject property addressed as 2264 Doster Drive is developed with a single-family house with no increased density proposed for this property. Therefore, staff did not prepare a concurrency analysis table for this case.

There are numerous *Comprehensive Plan* maps that must be amended to incorporate the subject property into the *Comprehensive Plan* (see **Exhibits N through Z)**. A map showing the subject properties incorporated into Commission Zone 4 is attached as **Exhibit AA**. The ISBA map is attached as **Exhibit BB**. The legal description and Warranty Deed are attached as **Exhibits CC** and **DD**.

Recommendation:

The Planning Department recommends that the Planning and Zoning Board to give a positive recommendation to the City Commission to **approve** the requested annexation,

Small-Scale *Comprehensive Plan* amendment amending the Future Land Use to City Medium Density Residential and rezoning to City R-2, Single Family Residential with an "A" attached for Airport Height Notification Zone.

Fiscal Analysis:
N/A

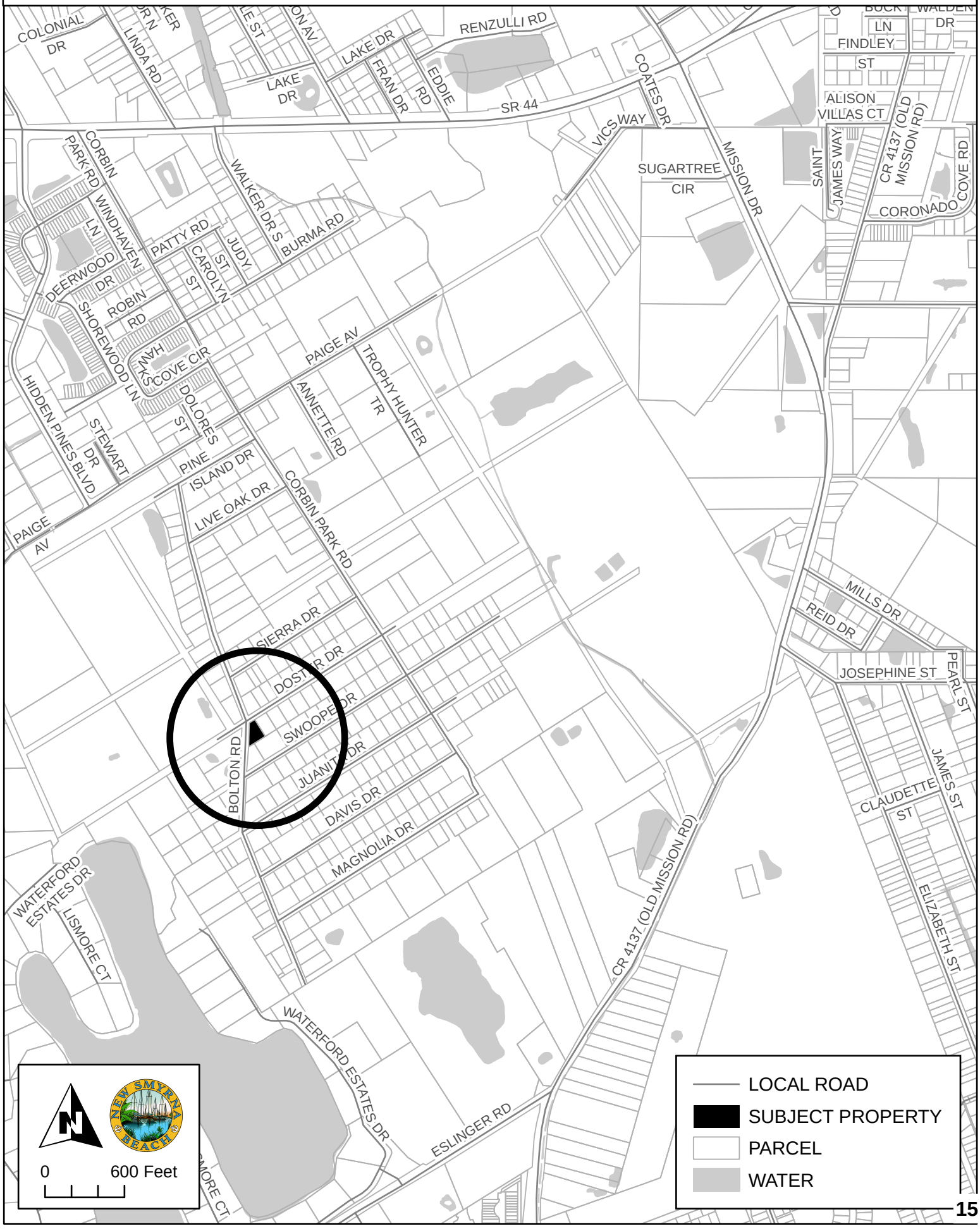
Strategic Plan Item:
No

Staff Report Created By: Robert Mathen - Senior Planner

Attachments:

Exhibit A Location Map.pdf
Exhibit B Aerial Map.pdf
Exhibit C Existing FLU Map.pdf
Exhibit D Existing Zoning Map.pdf
Exhibit E County Urban Low Intensity FLU Text.pdf
Exhibit F County R-4 Zoning Text.pdf
Exhibit G Existing Land Use Map.pdf
Exhibit H City Low-Density Residential FLU Text.pdf
Exhibit I Proposed FLU Map.pdf
Exhibit J City R-2 Zoning Text.pdf
Exhibit K Proposed Zoning Map.pdf
Exhibit L Water and Sewer Service Area.pdf
Exhibit M Soil Limitation for Septic Systems.pdf
Exhibit N Airport Runway Protection Zones.pdf
Exhibit O Bicycle and Pedestrian Facilities.pdf
Exhibit P Boat Slip Siting.pdf
Exhibit Q City Parks.pdf
Exhibit R Coastal High Hazard Areas.pdf
Exhibit S Evacuation Routes.pdf
Exhibit T Existing Traffic Lanes - 2009.pdf
Exhibit U Number of Traffic Lanes - 2025.pdf
Exhibit V Existing Level of Service - 2009.pdf
Exhibit W Level of Service - 2025.pdf
Exhibit X Flood Prone Areas.pdf
Exhibit Y Neighborhood Map.pdf
Exhibit Z Public Transit Routes.pdf
Exhibit AA Commission Zones Map.pdf
Exhibit BB Interlocal Service Boundary Agreement Map.pdf
Exhibit CC Legal Description.pdf
Exhibit DD Warranty Deed.pdf

A-1-26: 2264 DOSTER DRIVE
PARCEL: 7344-03-00-0110 LOCATION MAP

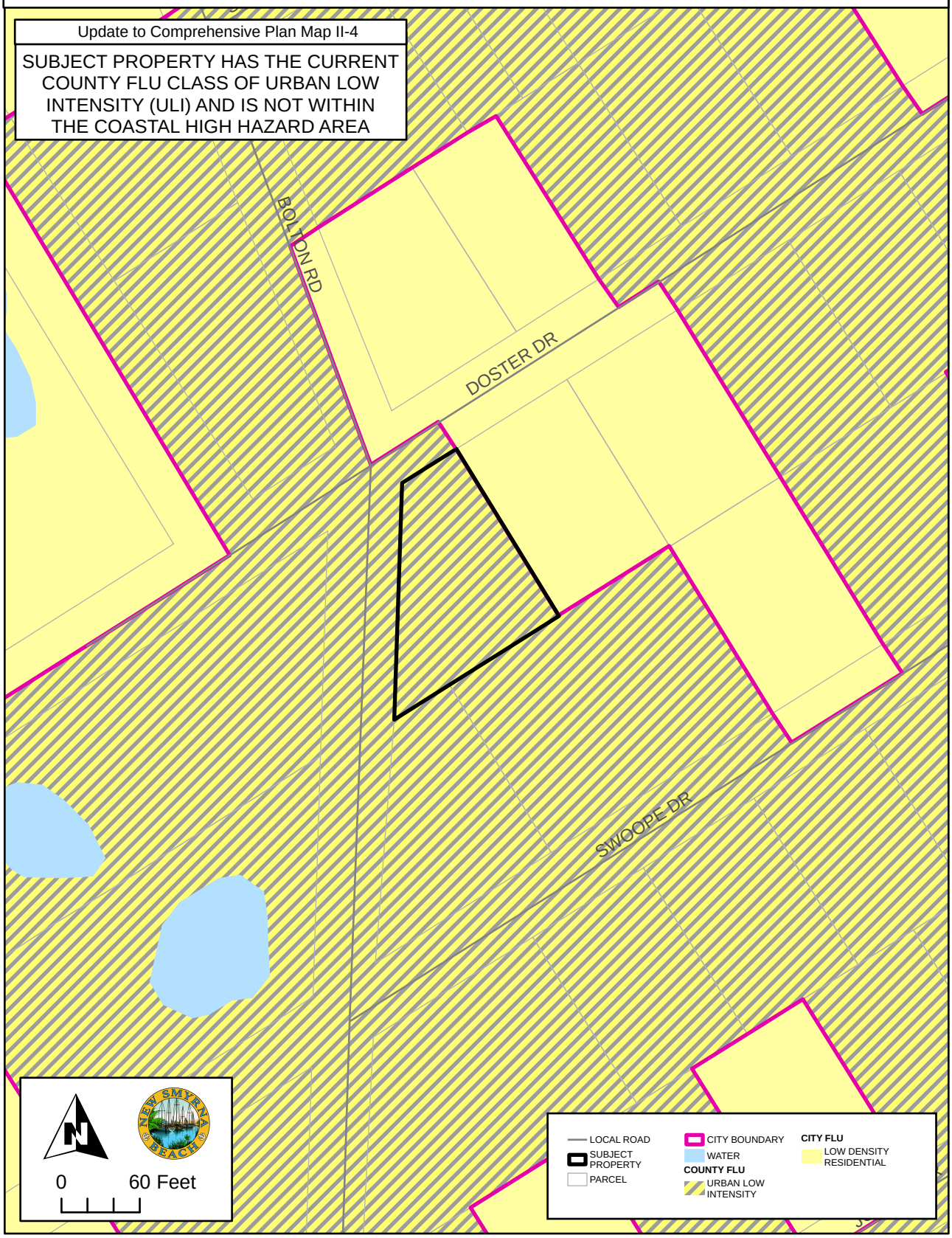


A-1-26: 2264 DOSTER DRIVE
PARCEL: 7344-03-00-0110 AERIAL MAP



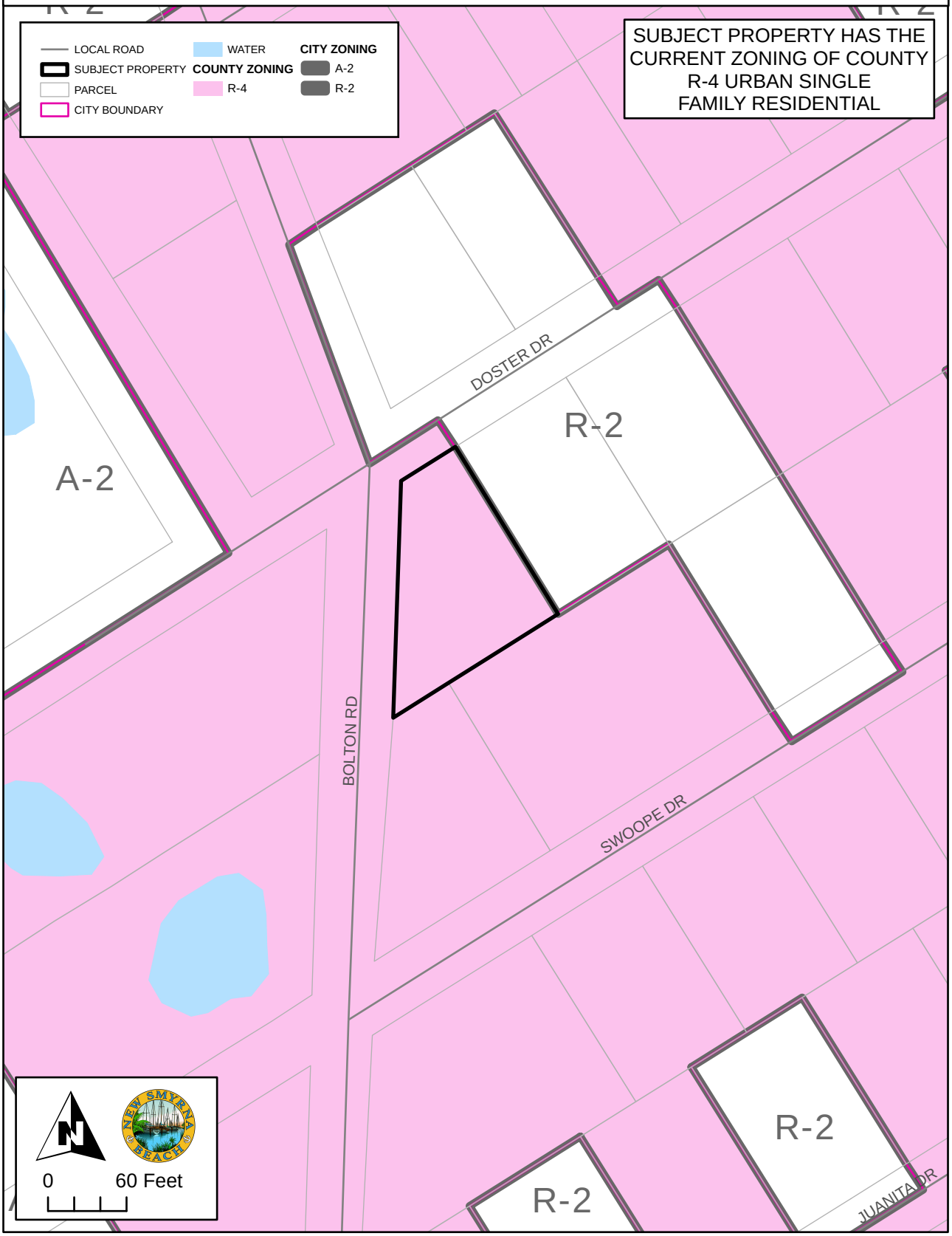
EXISTING FUTURE LAND USE DESIGNATIONS

A-1-26



EXISTING ZONING

A-1-26



Urban Low Intensity (ULI) – Areas for low density residential dwelling units of up to four (4) dwelling units per acre. In reviewing rezoning requests, the specific density will depend on locational factors, particularly compatibility with adjacent uses and availability of public facilities. This residential designation is generally characterized by single family type housing, e.g., single family detached and attached, cluster and zero lot line. This designation will allow existing agricultural zoning and uses to continue.

The ULI designation is primarily a residential designation but may also allow neighborhood convenience uses (see Shopping Center definition in Chapter 20) and individual office buildings as transitional uses that meet the Comprehensive Plan's location criteria. The commercial intensity shall be limited to no more than a fifty percent Floor Area Ratio (0.50 FAR) and in a manner to be compatible with the allowable residential density. In order to be considered compatible, the commercial development should be oriented to serve adjacent neighborhoods, reflect comparable traffic generation, similar traffic patterns, building scale, landscaping and open space and buffers. Due to the nature of some of the commercial uses, additional landscaping and visual screening shall be provided through the BPUD process when adjacent to low density residential in order to preserve the character of the neighborhood. More intensive neighborhood commercial use shall be reserved to areas designated for Commercial.

All requests for nonresidential uses within one-quarter (¼) mile of another jurisdiction shall require notification to that jurisdiction.

R-4 URBAN SINGLE-FAMILY RESIDENTIAL CLASSIFICATION

Purpose and intent: The purpose and intent of the R-4 Urban Single-Family Residential Classification is to provide medium-density residential developments, preserving the character of existing or proposed residential neighborhoods.

Permitted principal uses and structures: In the R-4 Urban Single-Family Residential Classification, no premises shall be used except for the following uses and their customary accessory uses or structures:

Cluster and zero lot line subdivisions (refer to subsection 72-304).

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

Essential utility services.

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

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

Fire stations.

Home-based business (refer to section 72-283).

Houses of worship.

Parks and recreational areas accessory to residential developments.

Public schools.

Publicly owned parks and recreational areas.

Publicly owned or regulated water supply wells.

Single-family standard or modular dwelling.

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

Bed and breakfast (refer to subsection 72-293(19)).

Cemeteries (refer to subsection 72-293(4)).

Communication towers exceeding 70 feet in height above ground level.

Day care centers (refer to subsection 72-293(6)).

Dogs and cats boarded as personal pets exceeding the number permitted in subsection 72-306(a).

Excavations only for stormwater retention ponds for which a permit is required by this article.

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

Public uses not listed as a permitted principal use.

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

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

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

Dimensional requirements:

Minimum lot size:

Area: 7,500 square feet.

Width: 75 feet.

Minimum yard size:

Front yard: 25 feet.

Rear yard: 20 feet.

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

Waterfront yard: 25 feet.

Maximum building height: 35 feet.

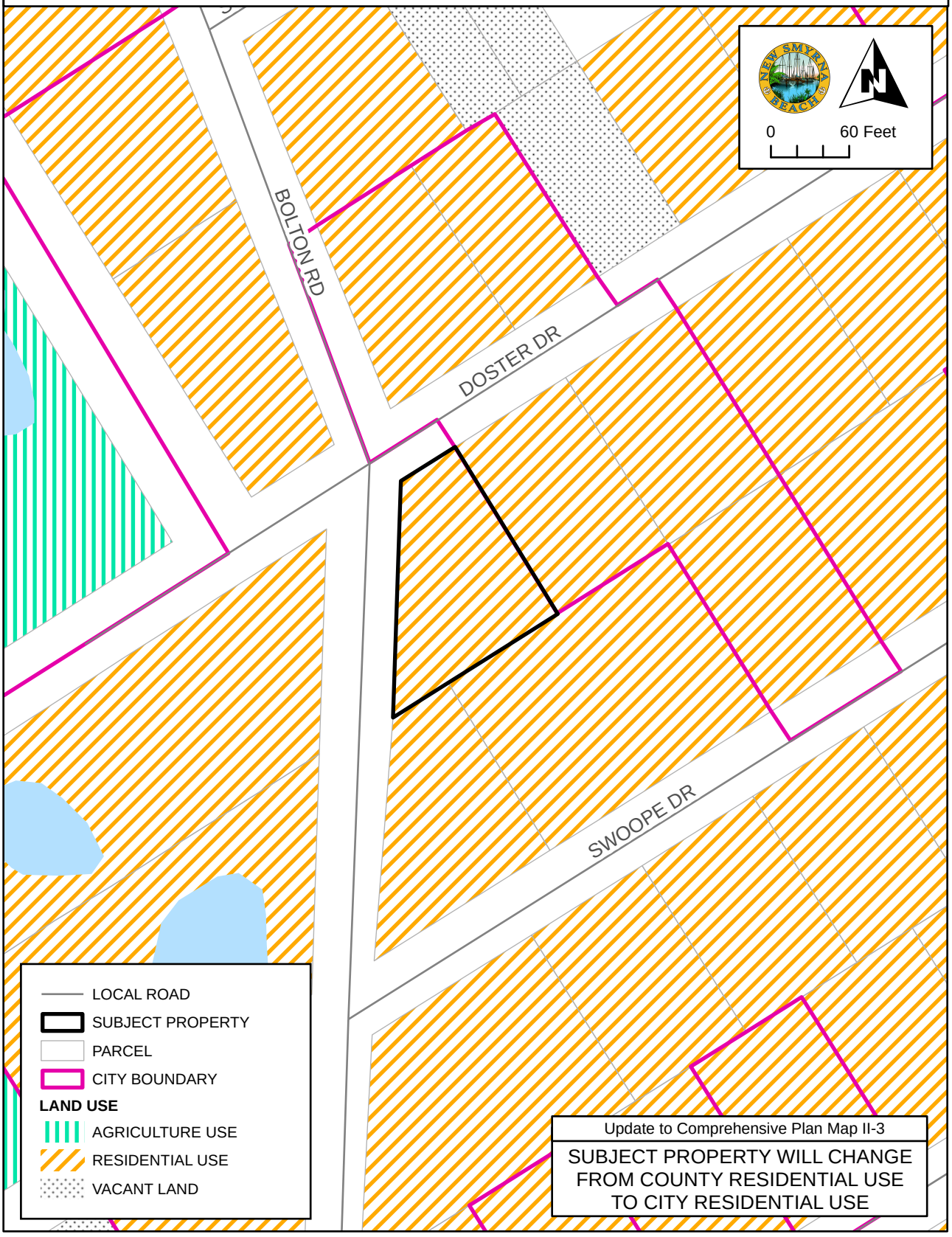
Maximum lot coverage: The total lot area covered with principal and accessory buildings shall not exceed 35 percent.

Minimum floor area: 850 square feet.

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

EXISTING LAND USE DESIGNATIONS

A-1-26



FUTURE LAND USE

LOW-DENSITY RESIDENTIAL

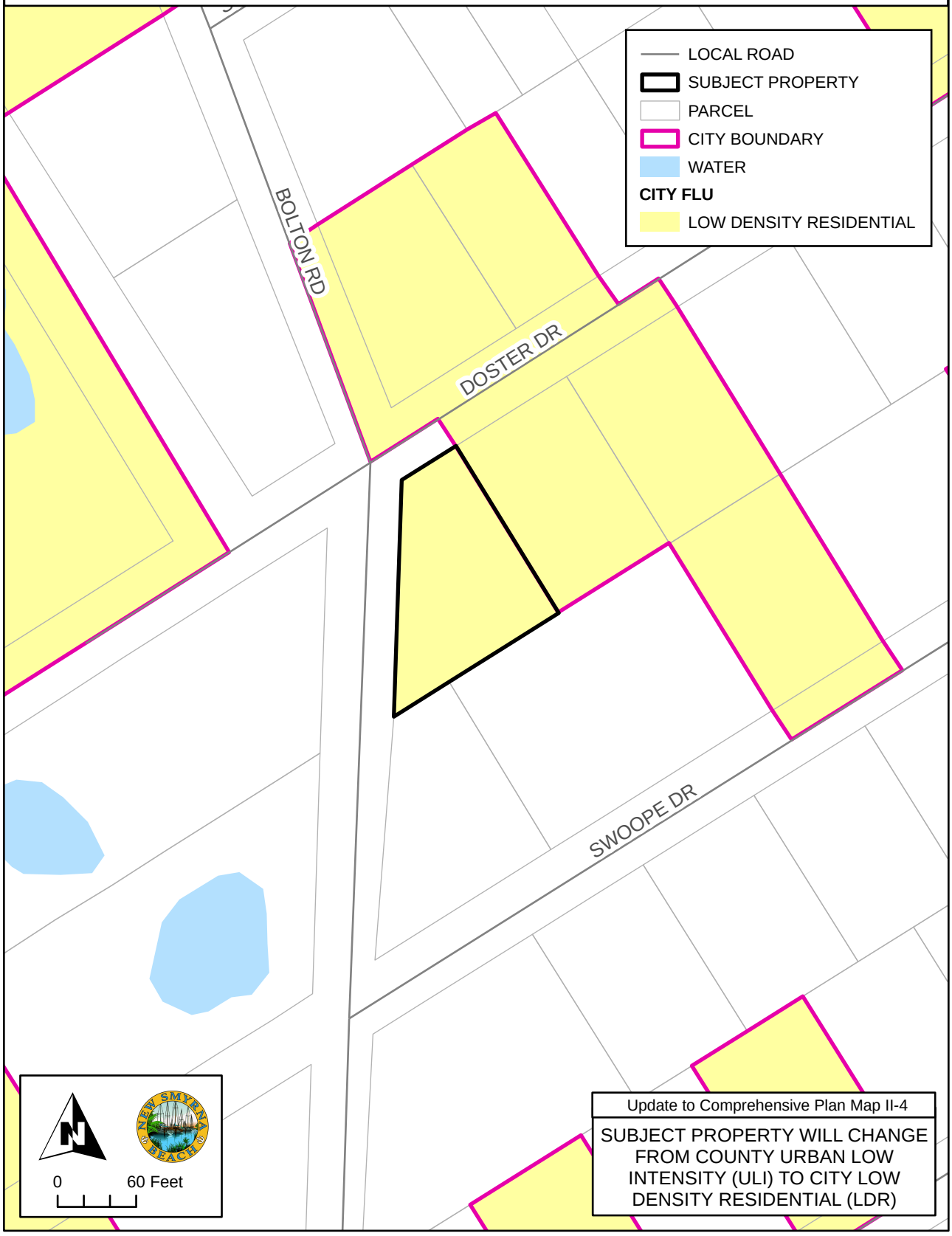
Maximum allowed density: Up to five [5] dwelling units per acre

Non-residential development permitted by special exception shall be at a maximum Floor Area Ratio (FAR) of 0.5.

Intent:
This use is appropriate where a more suburban development pattern exists or is desired and where urban services are to be kept to a minimum.

PROPOSED FUTURE LAND USE DESIGNATIONS

A-1-26



R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

Intent:

The R-2 district is intended to be a single-family residential district for low population densities. Existing development and usage has resulted which is being preserved in order to stabilize the neighborhood. The nature of the residential use of the property throughout the district will enhance the prospects for orderly future residential development.

Permitted Uses:

Playfields
Playgrounds
Public Parks
Recreation Buildings and Complexes for exclusive use by residents and guests in a residential development
Single Family Dwelling Units

Permitted Accessory Uses:

Garages
Gazebos
Incidental Uses
Permitted Home Occupations
Storage Sheds
Swimming pools, private, provided a principal structure exists and the pool is located behind the front plane of the principal structure. Corner lots will be considered to have two front planes, one on each street. If a structure is not constructed squarely on a parcel, the swimming pool must be located at or behind the most restrictive front plane of the principal structure. **Ord. #30-10**
Open Front Porches, up to 10 feet into the front yard setback, subject to the following conditions:
Open Front Porch shall not be enclosed in any manner,
Open Front Porch must be open wall construction without screen,
Open Front Porch shall have a similar roofing material as the primary structure,
Open Front Porch front building line shall be measured from the vertical support column. **Ord. #75-16**

Uses customarily associated with the permitted principal uses

Special Exceptions:

Child day care on a house of worship property, subject to the following additional conditions:

1. The house of worship property shall be located on and be accessible by an arterial or collector roadway.

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

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

4. The house of worship property shall have a vehicular drop off and pickup area with a minimum 100 feet of drive lane outside of the public right-of-way, or sufficient parking area to provide enough space to fit the required parking and provided space for drop off and pick up. **Ord. #04-00**

Facilities owned and/or operated by federal, state, county or municipal government except country clubs and golf courses

Schools and or a house of worship provided all structures are located at least thirty-five (35) feet from all side or rear property lines and off-street parking areas abutting residential property are screened by a buffer meeting the requirements of this LDR. **[Revised 3/27/00]**

Dimensional Requirements:

Minimum Lot Size:

Area	8,625 square feet
Depth	115 feet
Width	75 feet

Minimum Yard Size:

Front yard	30 feet or as required per Section 504.01(M) of this LDR
Rear yard	7.5 feet
Side yard	7.5 feet

Maximum Building Coverage:

The total area covered with buildings on any lot shall not exceed 40% of the total lot area. **Ord. #78-98**

Screen Enclosures:

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

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

Ord. #05-09

Maximum Impervious Lot Coverage:

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

Maximum Principal Building Height:

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

Minimum Floor Area Requirements:

750 square feet of livable area for one and two-bedroom dwelling units; 1200 square feet of livable area for a three-bedroom dwelling unit; and 1300 square feet livable area for a four-bedroom dwelling unit. **[Revised 7-1-03]**

Corner Lots:

(1) Parcels which front on two streets shall provide a thirty (30) foot front yard on one street frontage and a 15 foot half depth front yard on the other street, or as required per Section 504.01(M) of this LDR.

(2) Parcels fronting on three streets shall provide two thirty (30) foot front yards and a 15 foot half depth front yard on the remaining street or as required per Section 504.01(M) of this LDR. **Ord. #23-00**

Driveway Access

The minimum driveway length shall be 20 feet (excluding portion of a driveway within the public right-of-way). **Ord. #23-00**

Through Lots:

Through lots shall provide a 30-foot front yard on each street, or as required per Section 504.01(M) of this LDR.

Atypical Lots:

Visibility triangles shall be established at the rear corners of an atypical lot. The visibility triangles shall be those areas formed by a line connecting the points 30 feet from the intersection of the side and rear lot line along the side lot line and 30 feet from the intersection of the side and rear lot line along the rear lot line; no principal or accessory

structure having a height over 4 feet, except for incidental uses, shall protrude into the area of a visibility triangle.

Building Projections:

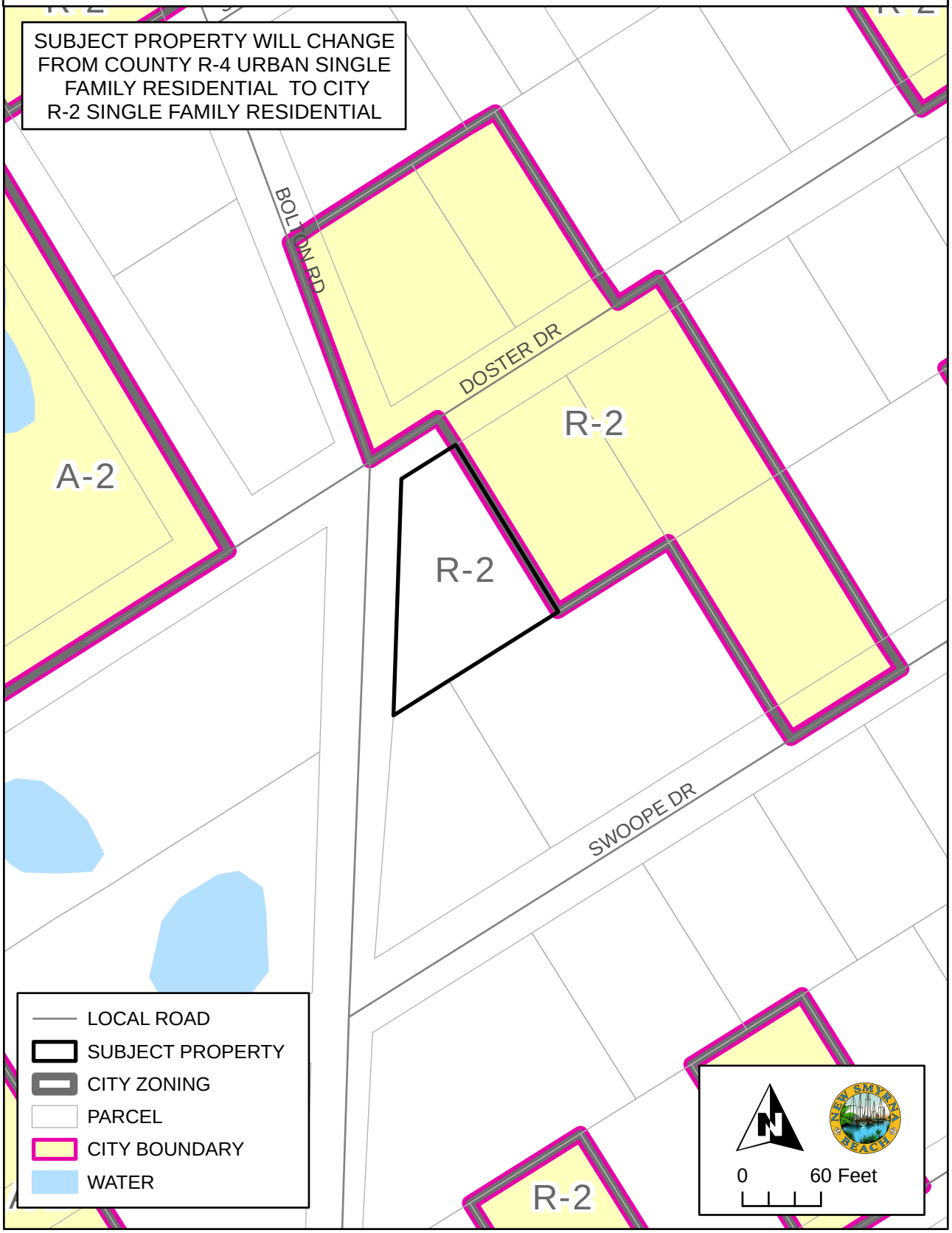
There shall be no building projections into any required yard except for eaves with a maximum projection of 42 inches, but no closer than 5 feet to a property line; and those structures allowed in Section 804.03.

Visibility at Intersections:

Visibility at intersections shall be provided as required in this LDR. **[Revised 12-18-92]**

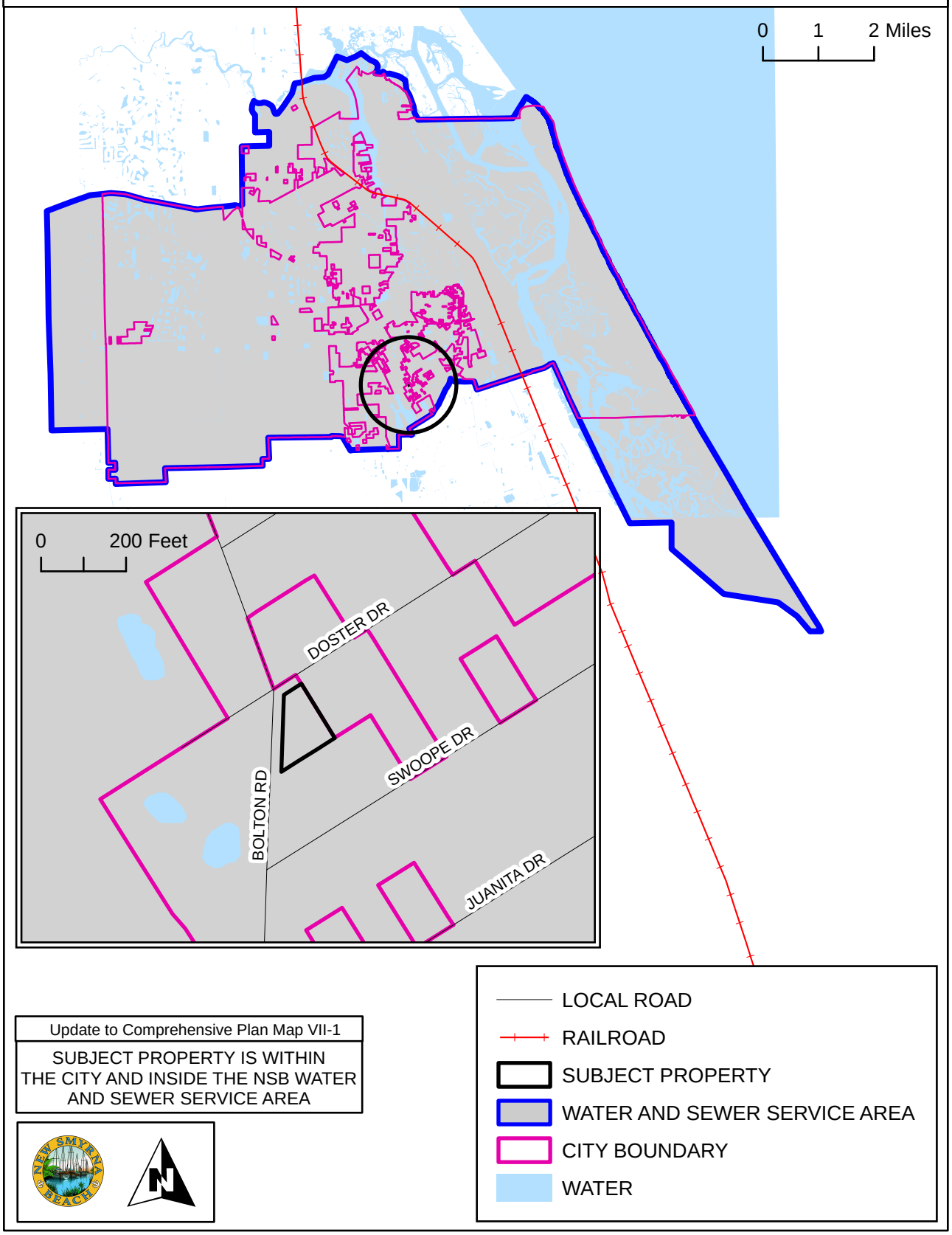
PROPOSED ZONING

A-1-26



WATER AND SEWER SERVICE AREA

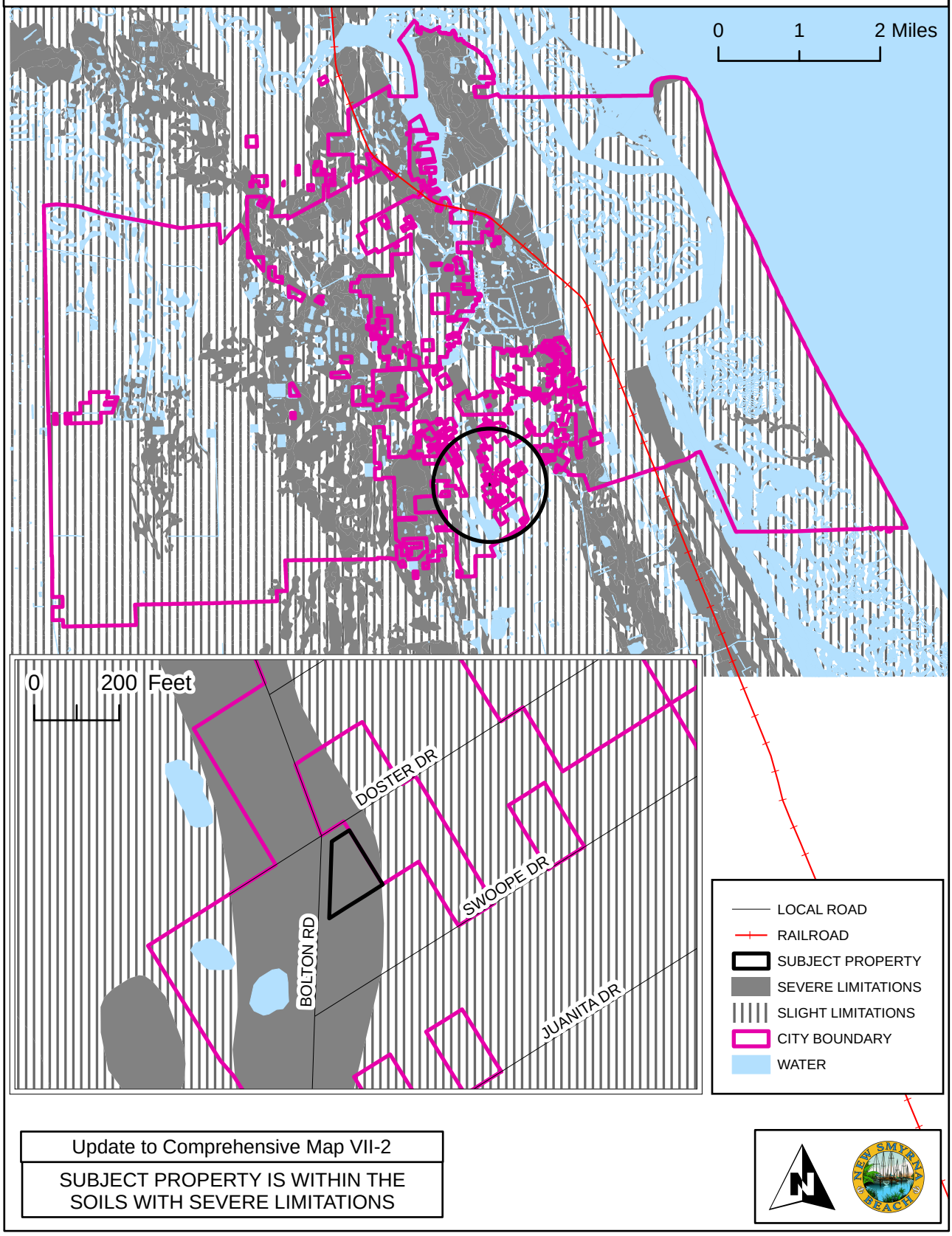
A-1-26



Update to Comprehensive Plan Map VII-1
SUBJECT PROPERTY IS WITHIN THE CITY AND INSIDE THE NSB WATER AND SEWER SERVICE AREA

SOIL LIMITATION FOR SEPTIC SYSTEMS

A-1-26

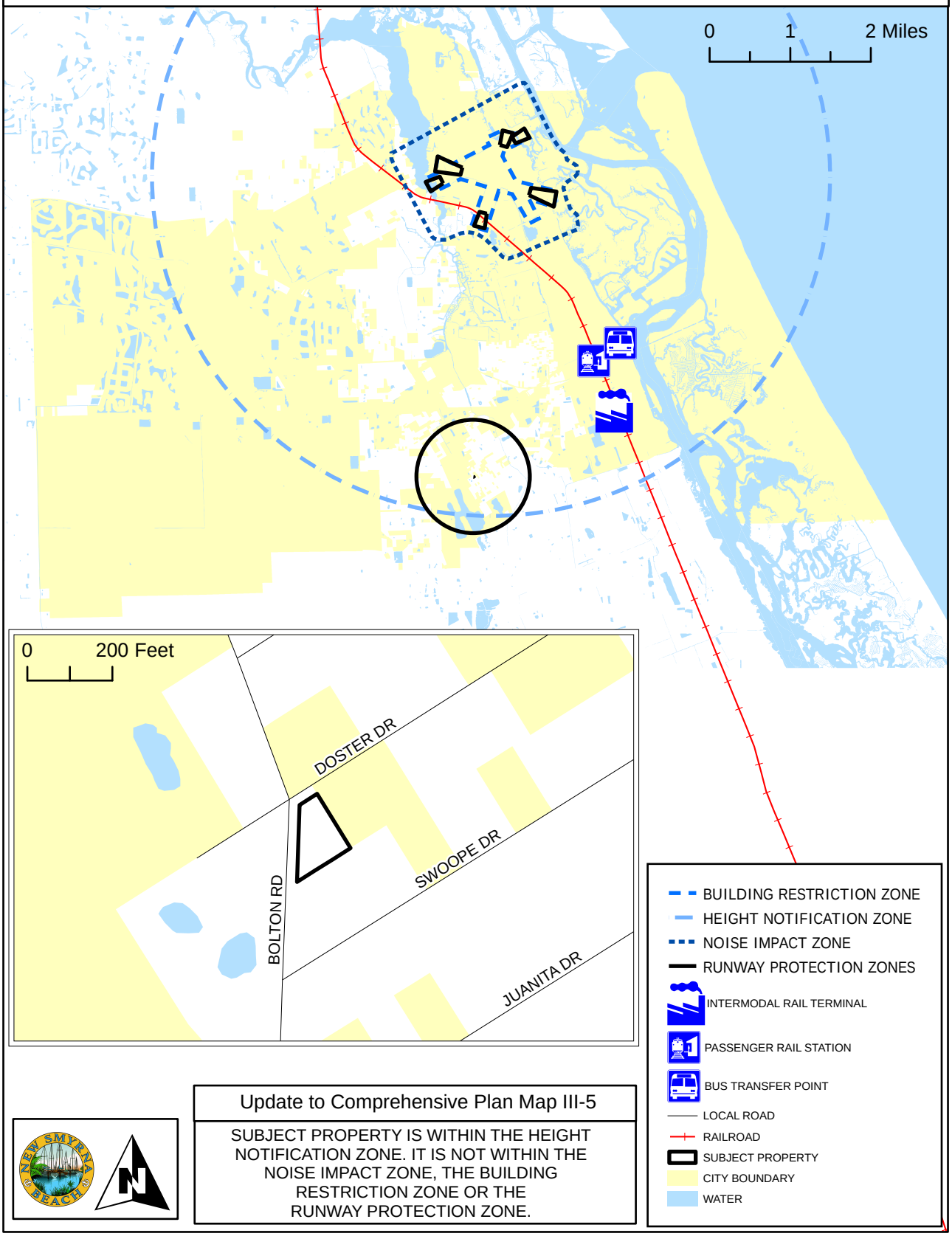


Update to Comprehensive Map VII-2

SUBJECT PROPERTY IS WITHIN THE SOILS WITH SEVERE LIMITATIONS

AIRPORT RUNWAY PROTECTION ZONES

A-1-26

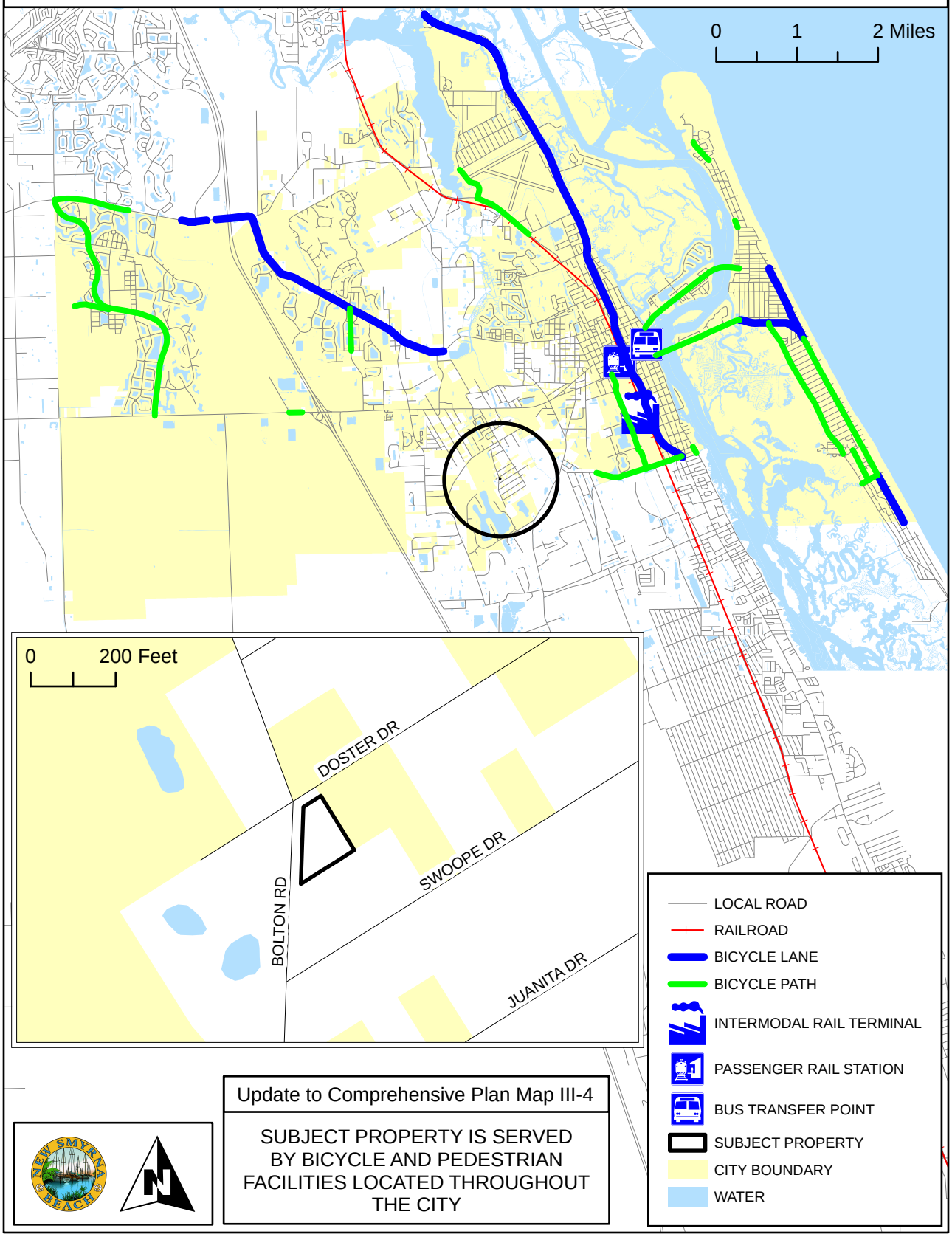


Update to Comprehensive Plan Map III-5

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

BICYCLE AND PEDESTRIAN FACILITIES

A-1-26

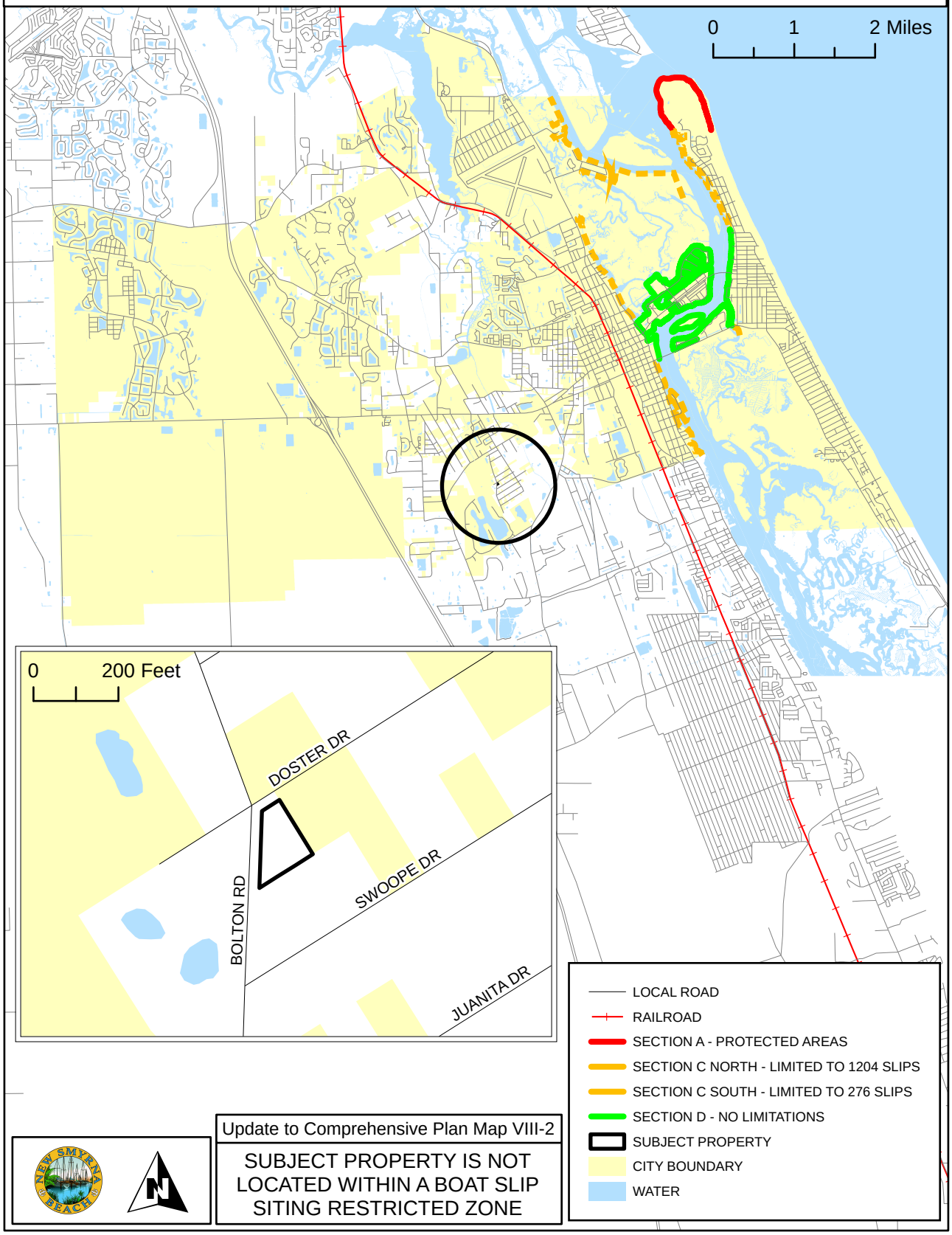


Update to Comprehensive Plan Map III-4

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

BOAT SLIP SITING

A-1-26

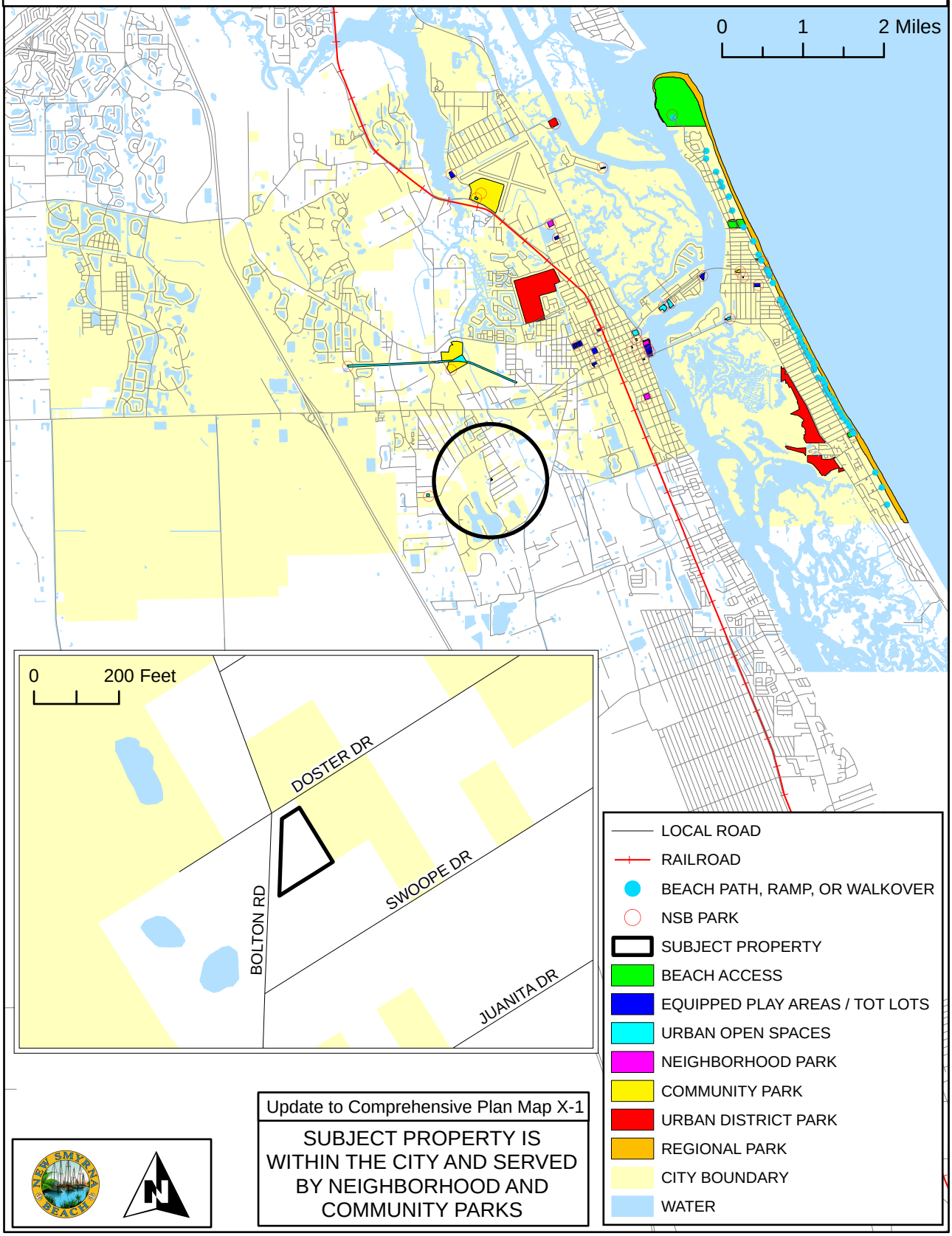


Update to Comprehensive Plan Map VIII-2

SUBJECT PROPERTY IS NOT LOCATED WITHIN A BOAT SLIP SITING RESTRICTED ZONE

CITY PARKS

A-1-26

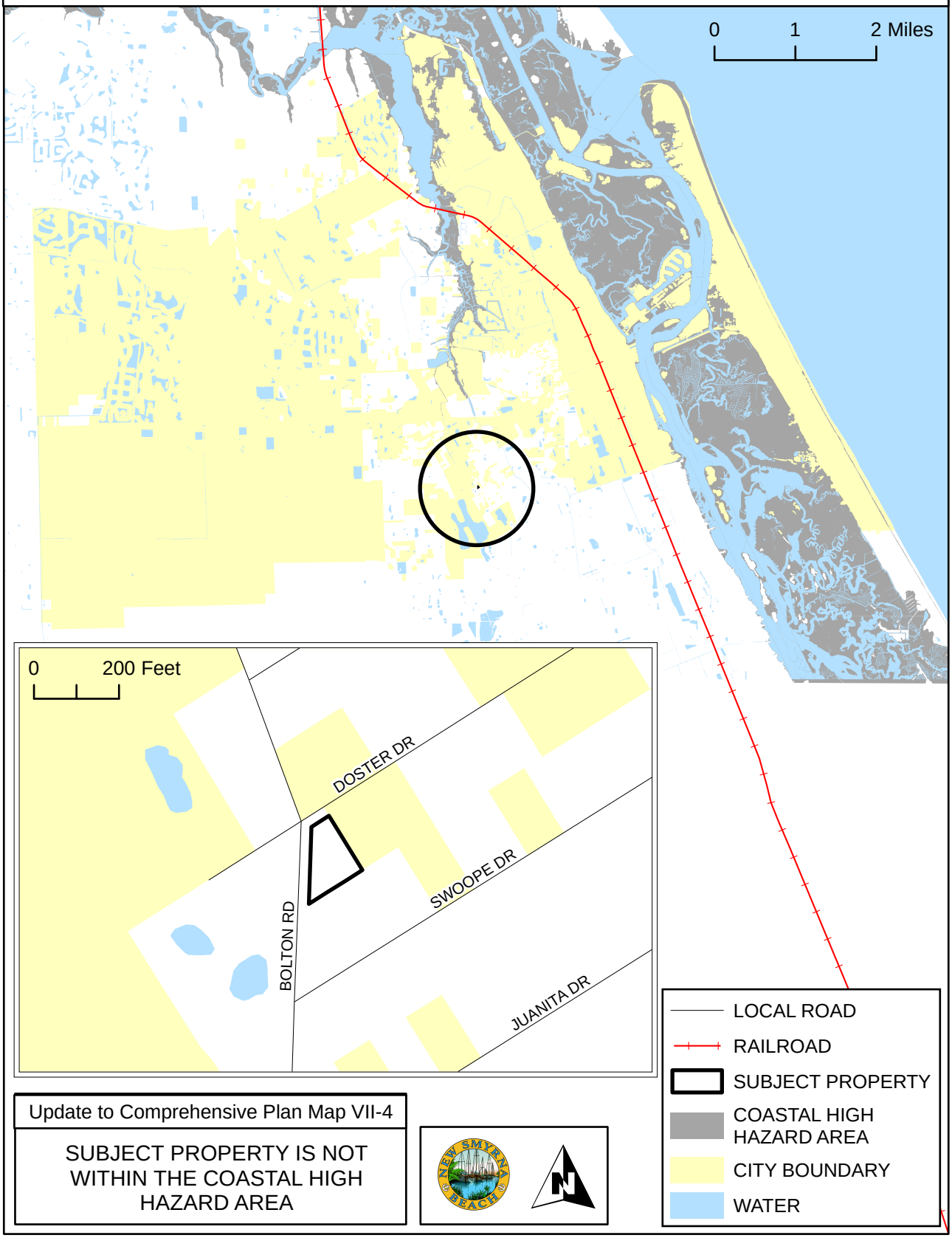


Update to Comprehensive Plan Map X-1

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

COASTAL HIGH HAZARD AREAS

A-1-26

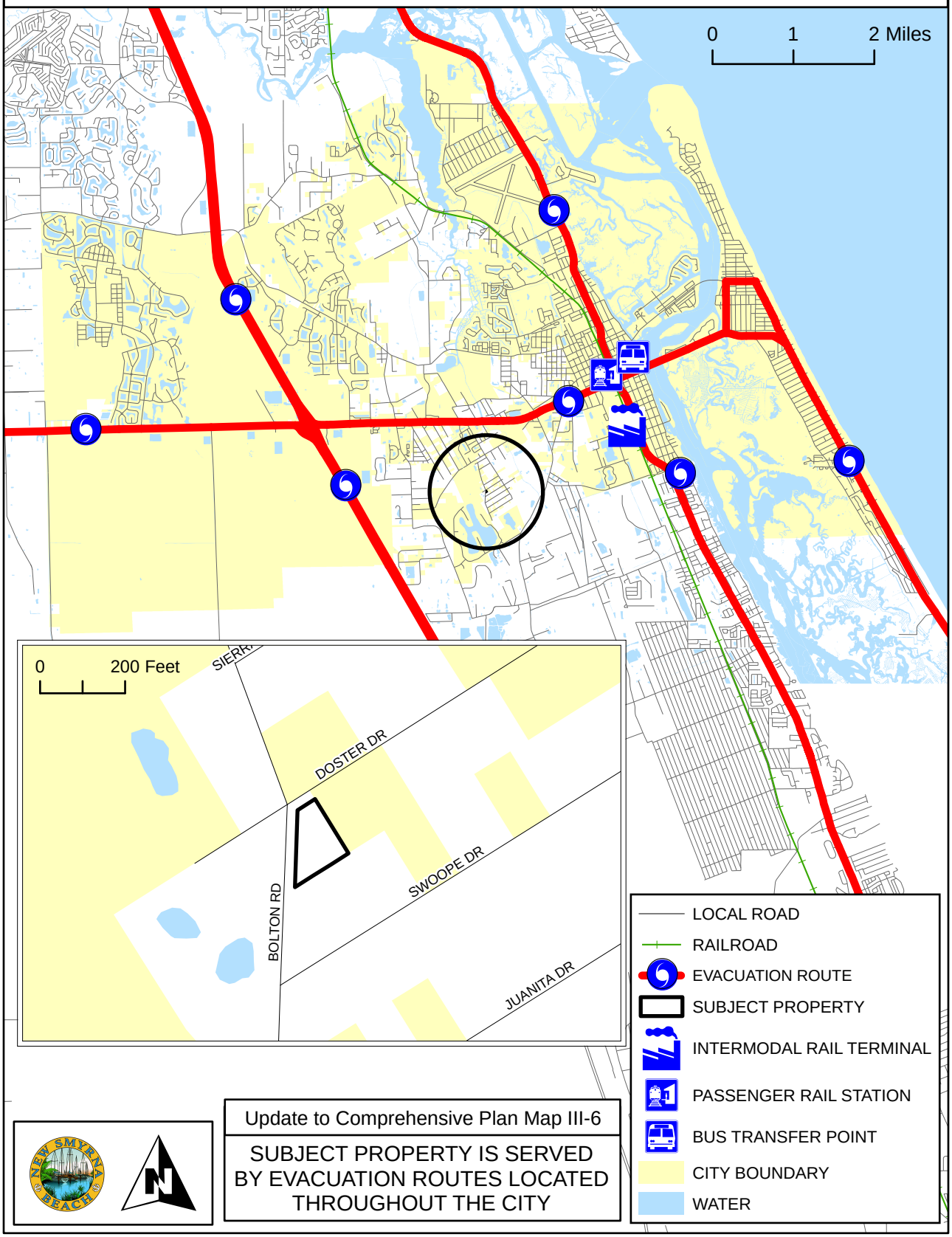


Update to Comprehensive Plan Map VII-4

SUBJECT PROPERTY IS NOT WITHIN THE COASTAL HIGH HAZARD AREA

EVACUATION ROUTES

A-1-26

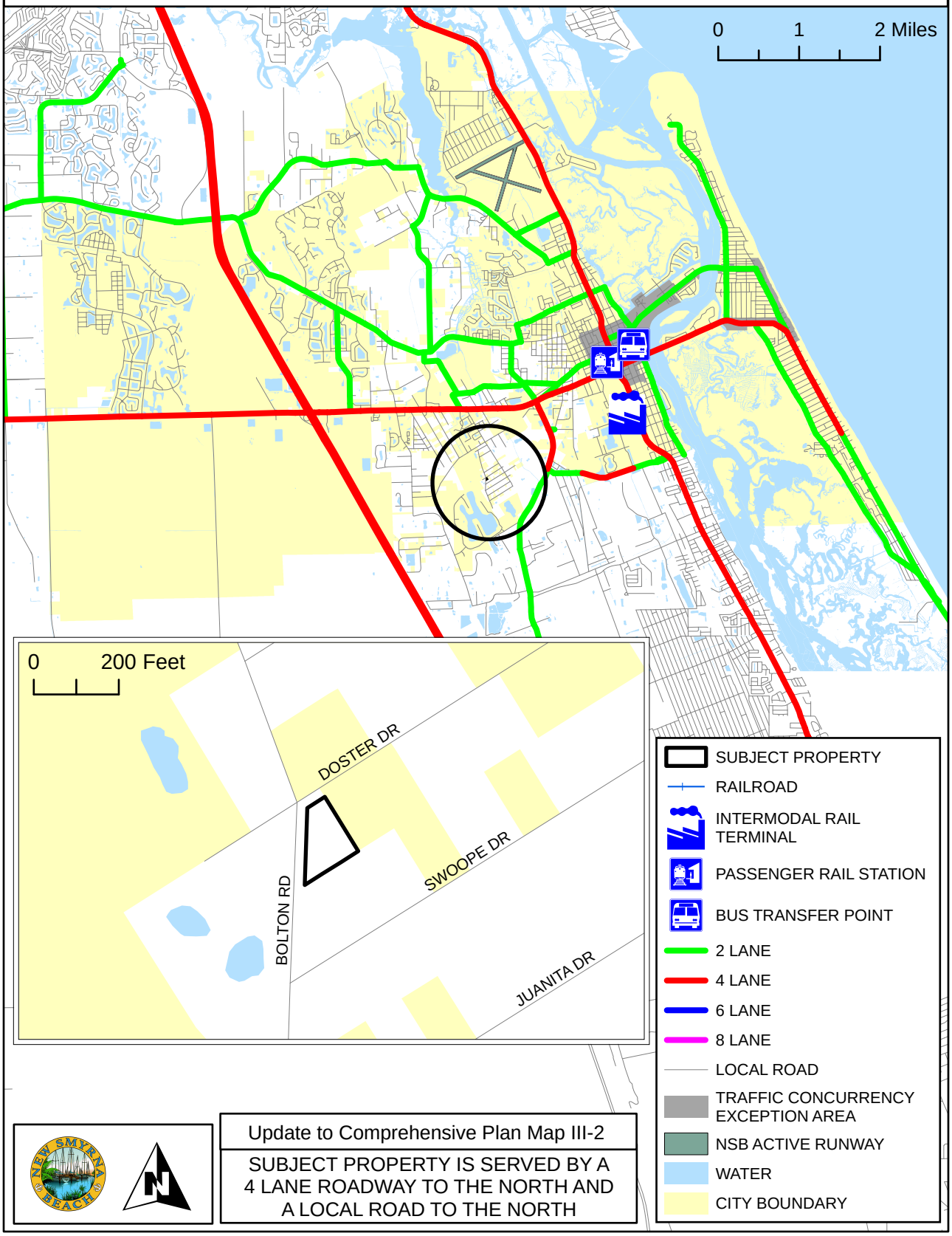


Update to Comprehensive Plan Map III-6

SUBJECT PROPERTY IS SERVED BY EVACUATION ROUTES LOCATED THROUGHOUT THE CITY

EXISTING TRAFFIC LANES - 2009

A-1-26

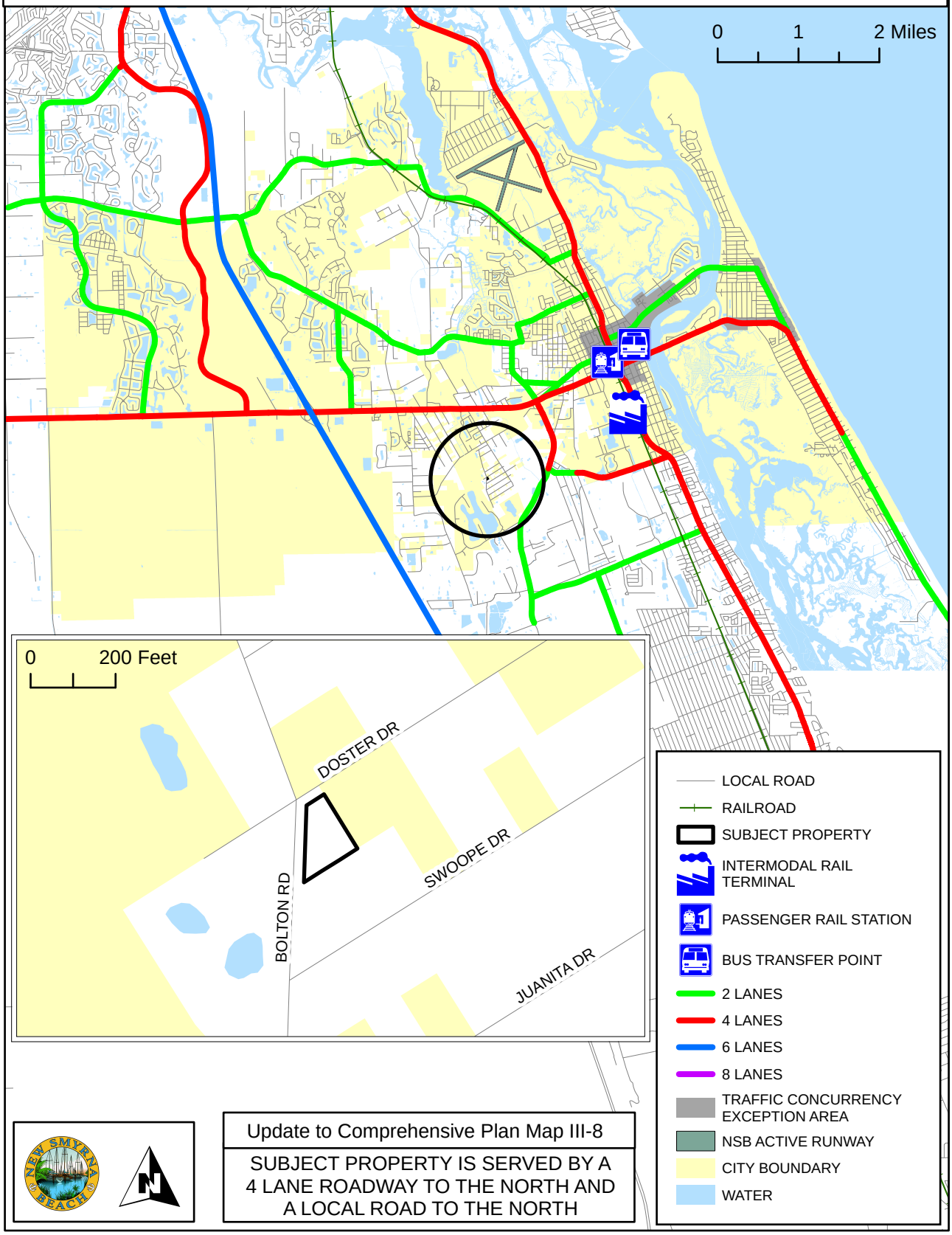


Update to Comprehensive Plan Map III-2

SUBJECT PROPERTY IS SERVED BY A 4 LANE ROADWAY TO THE NORTH AND A LOCAL ROAD TO THE NORTH

NUMBER OF TRAFFIC LANES - 2025

A-1-26

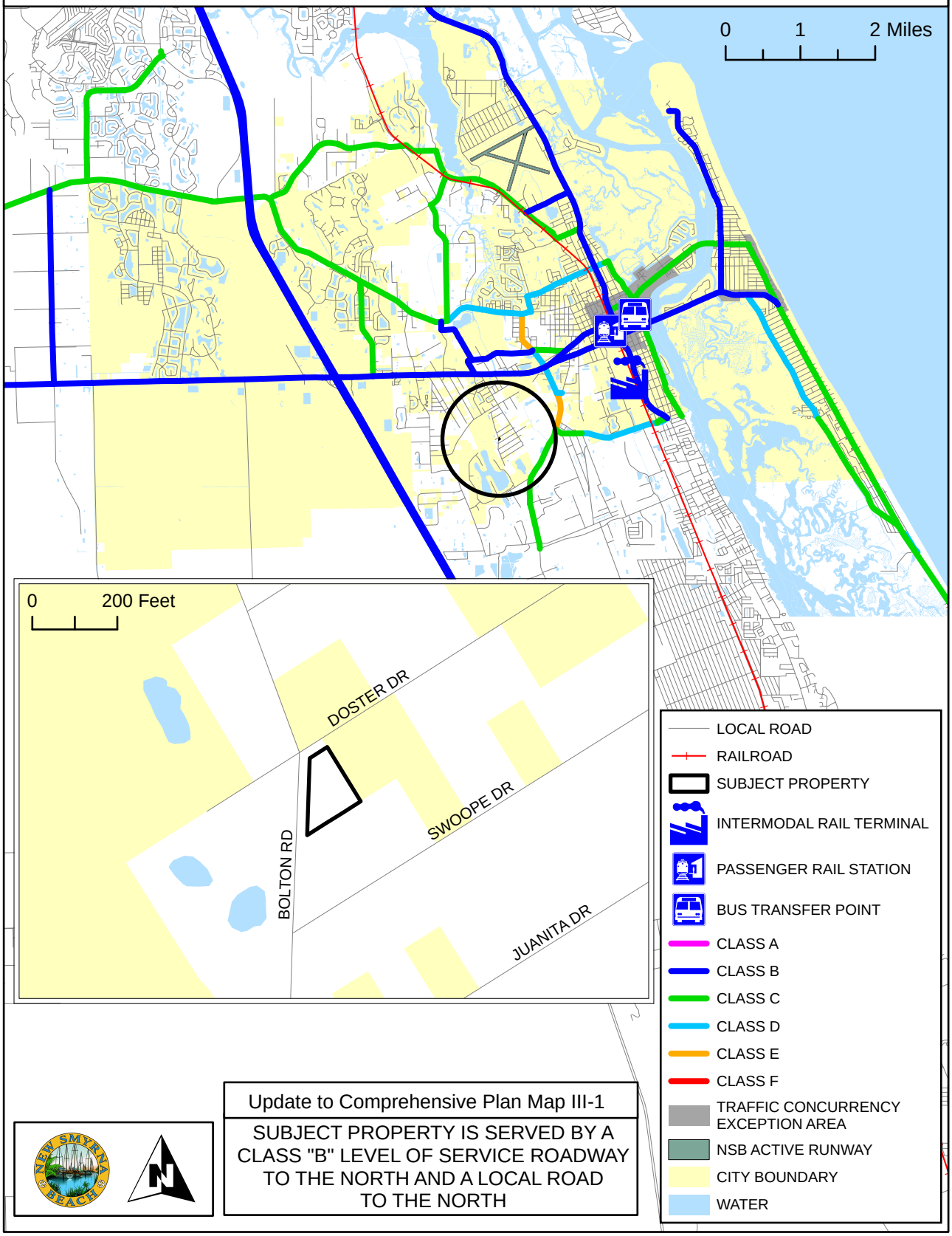


Update to Comprehensive Plan Map III-8

SUBJECT PROPERTY IS SERVED BY A 4 LANE ROADWAY TO THE NORTH AND A LOCAL ROAD TO THE NORTH

EXISTING LEVEL OF SERVICE - 2009

A-1-26

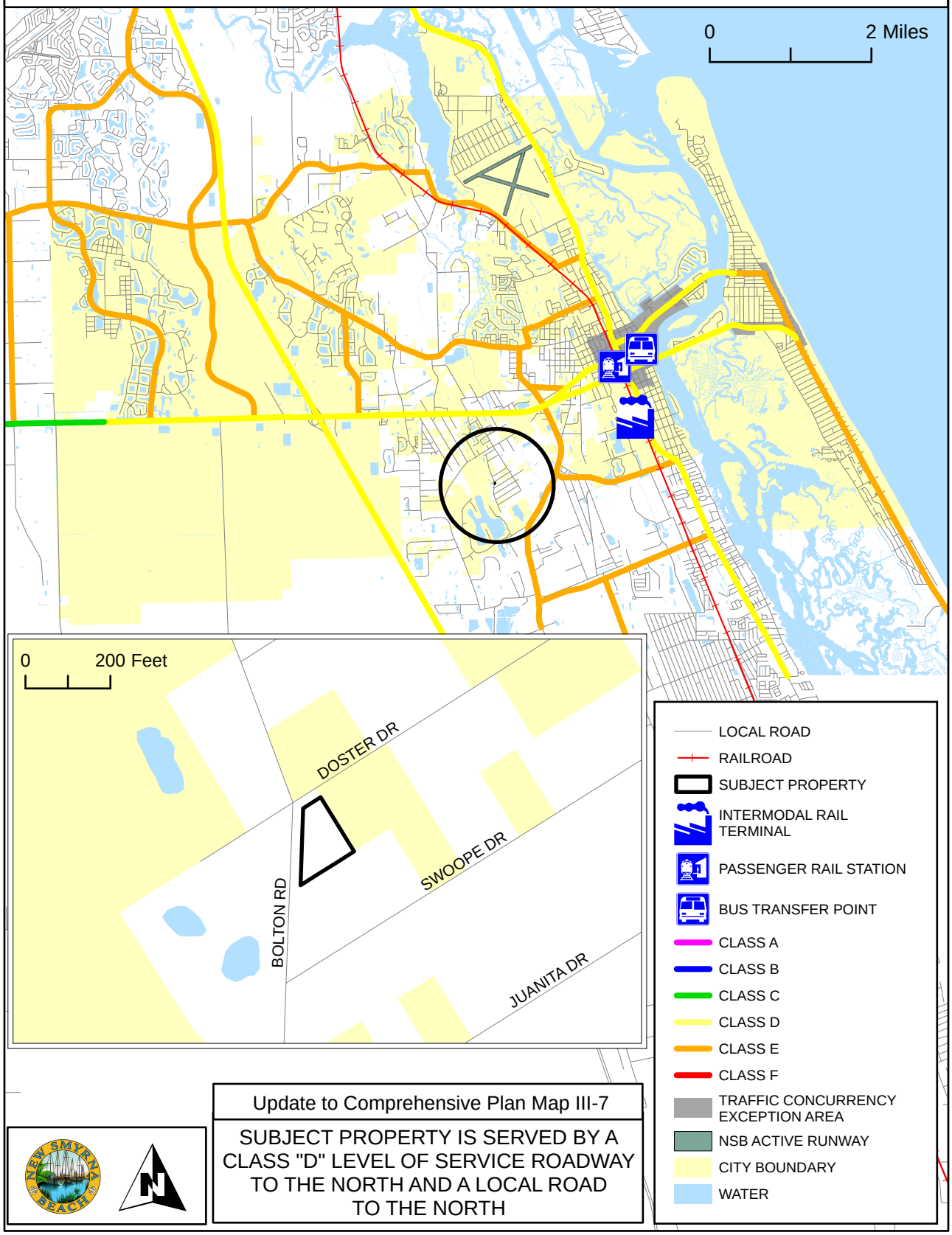


Update to Comprehensive Plan Map III-1

SUBJECT PROPERTY IS SERVED BY A CLASS "B" LEVEL OF SERVICE ROADWAY TO THE NORTH AND A LOCAL ROAD TO THE NORTH

LEVEL OF SERVICE - 2025

A-1-26

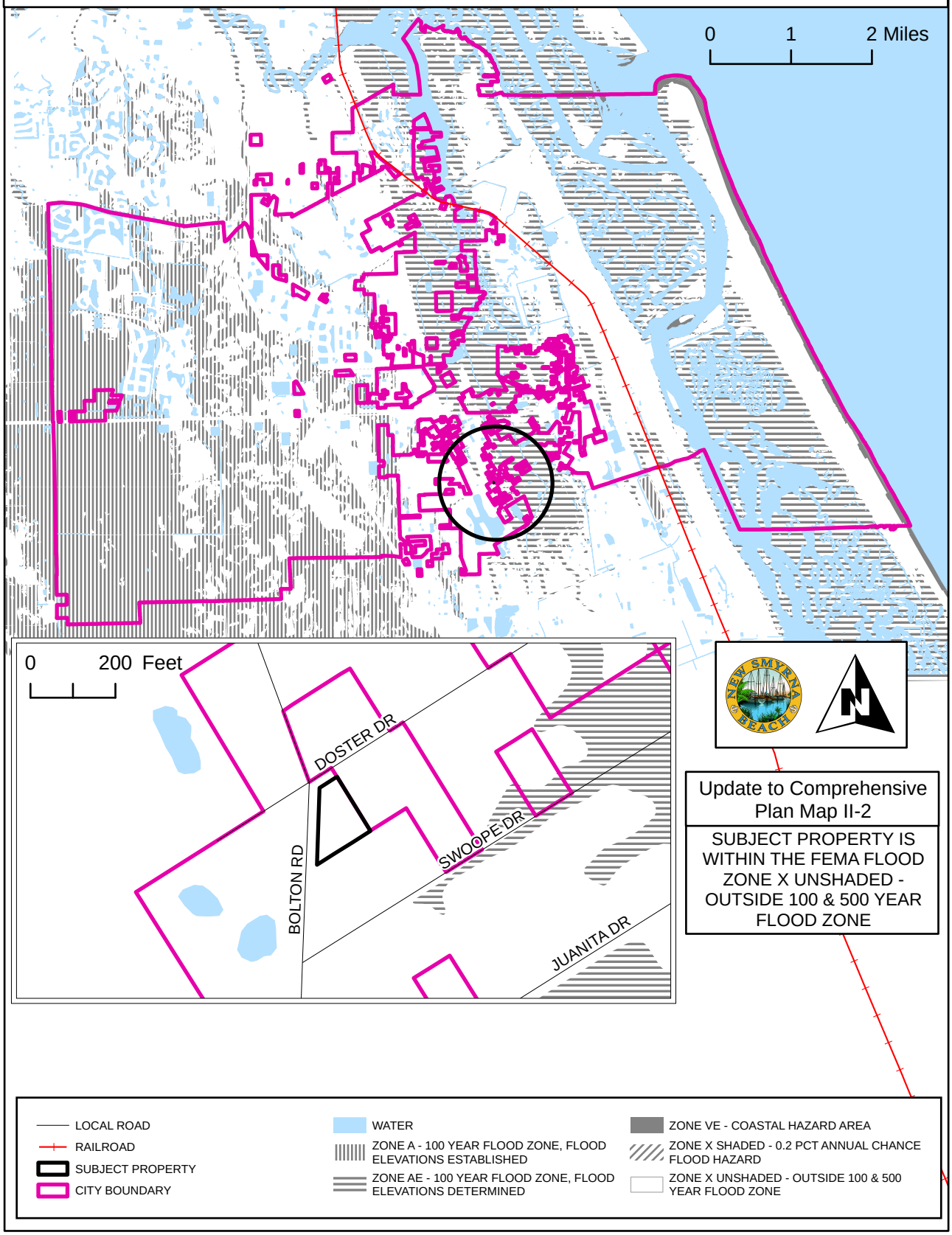


Update to Comprehensive Plan Map III-7

SUBJECT PROPERTY IS SERVED BY A CLASS "D" LEVEL OF SERVICE ROADWAY TO THE NORTH AND A LOCAL ROAD TO THE NORTH

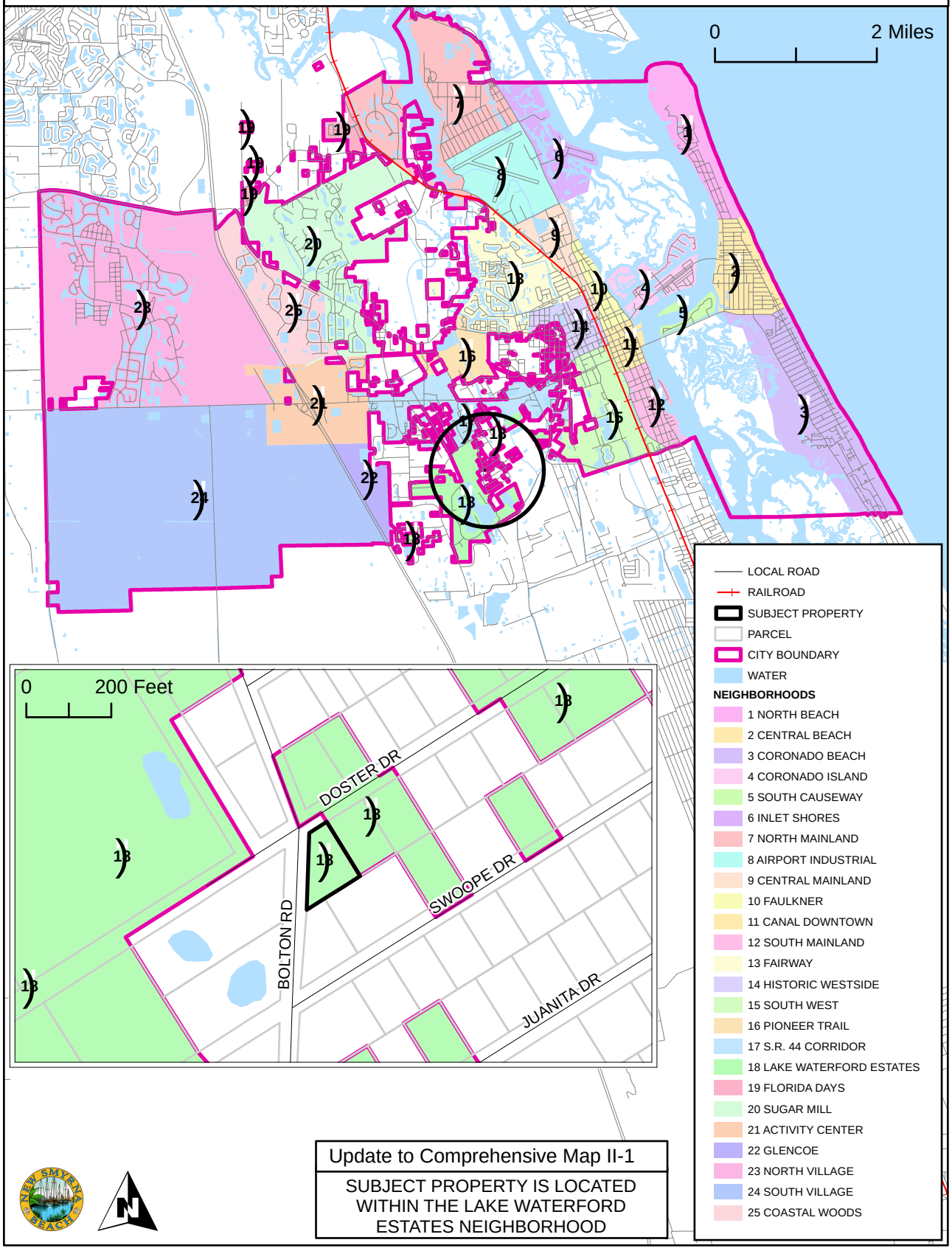
FLOOD PRONE AREAS

A-1-26



NEIGHBORHOODS

A-1-26

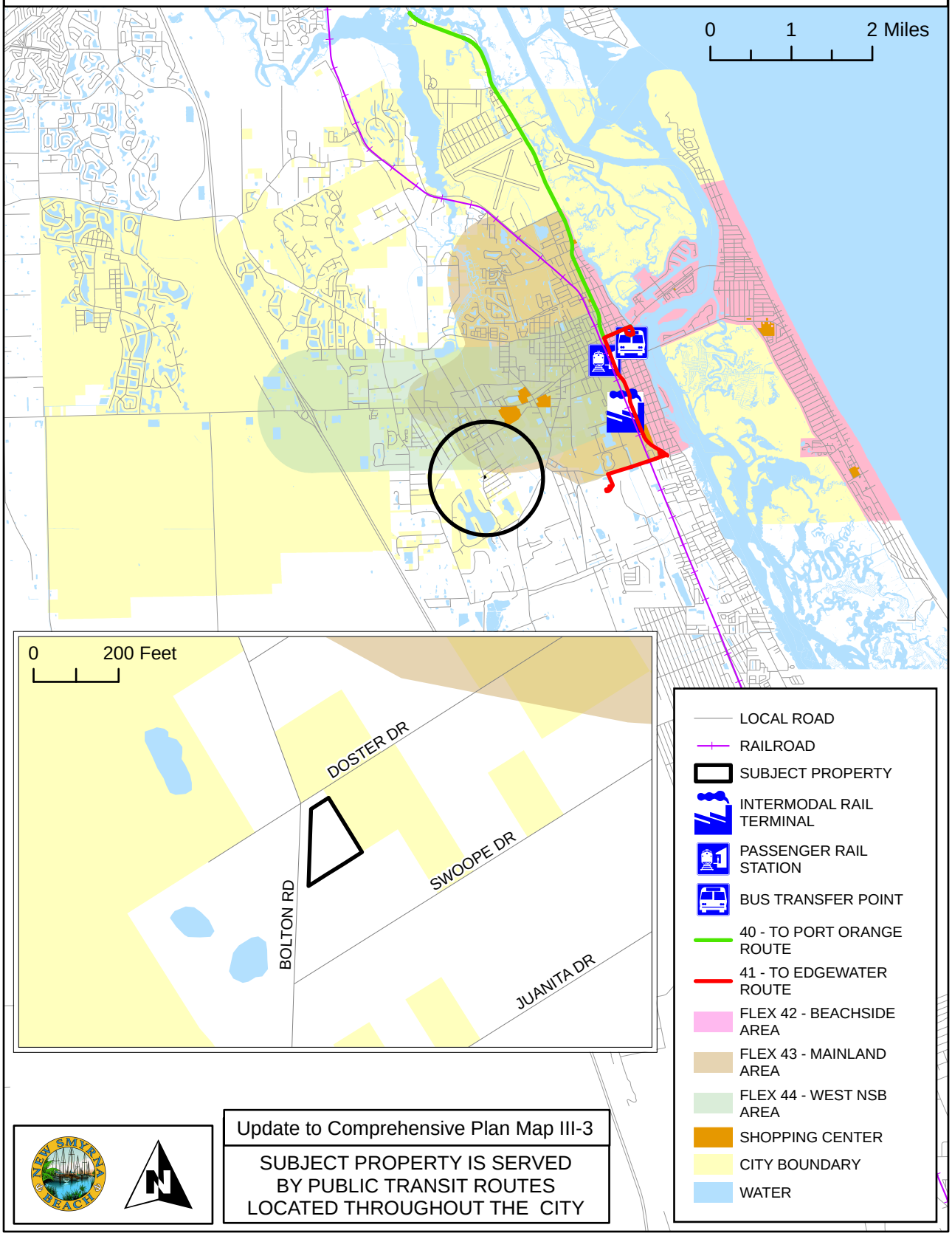


Update to Comprehensive Map II-1

SUBJECT PROPERTY IS LOCATED WITHIN THE LAKE WATERFORD ESTATES NEIGHBORHOOD

PUBLIC TRANSIT ROUTES

A-1-26

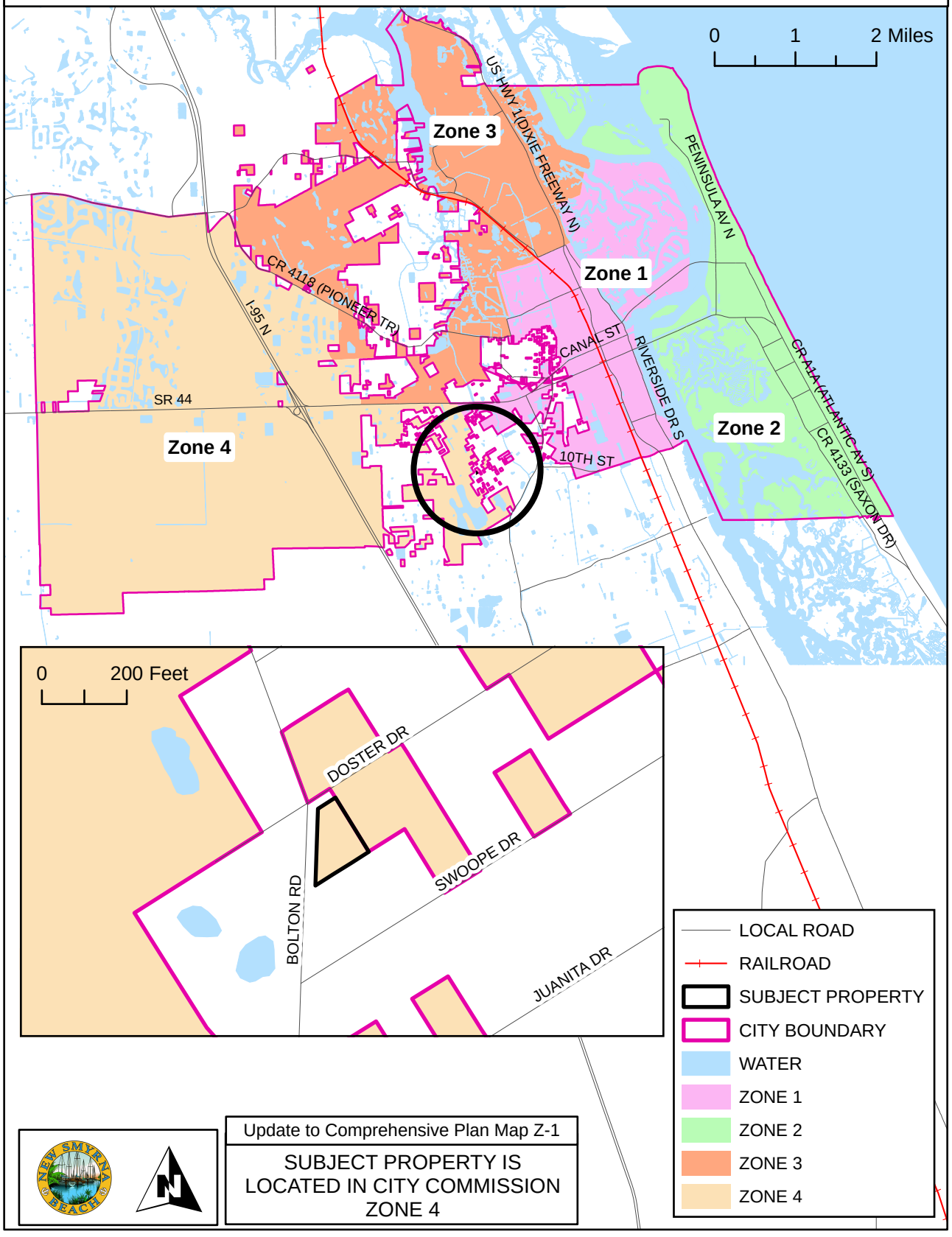


Update to Comprehensive Plan Map III-3

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

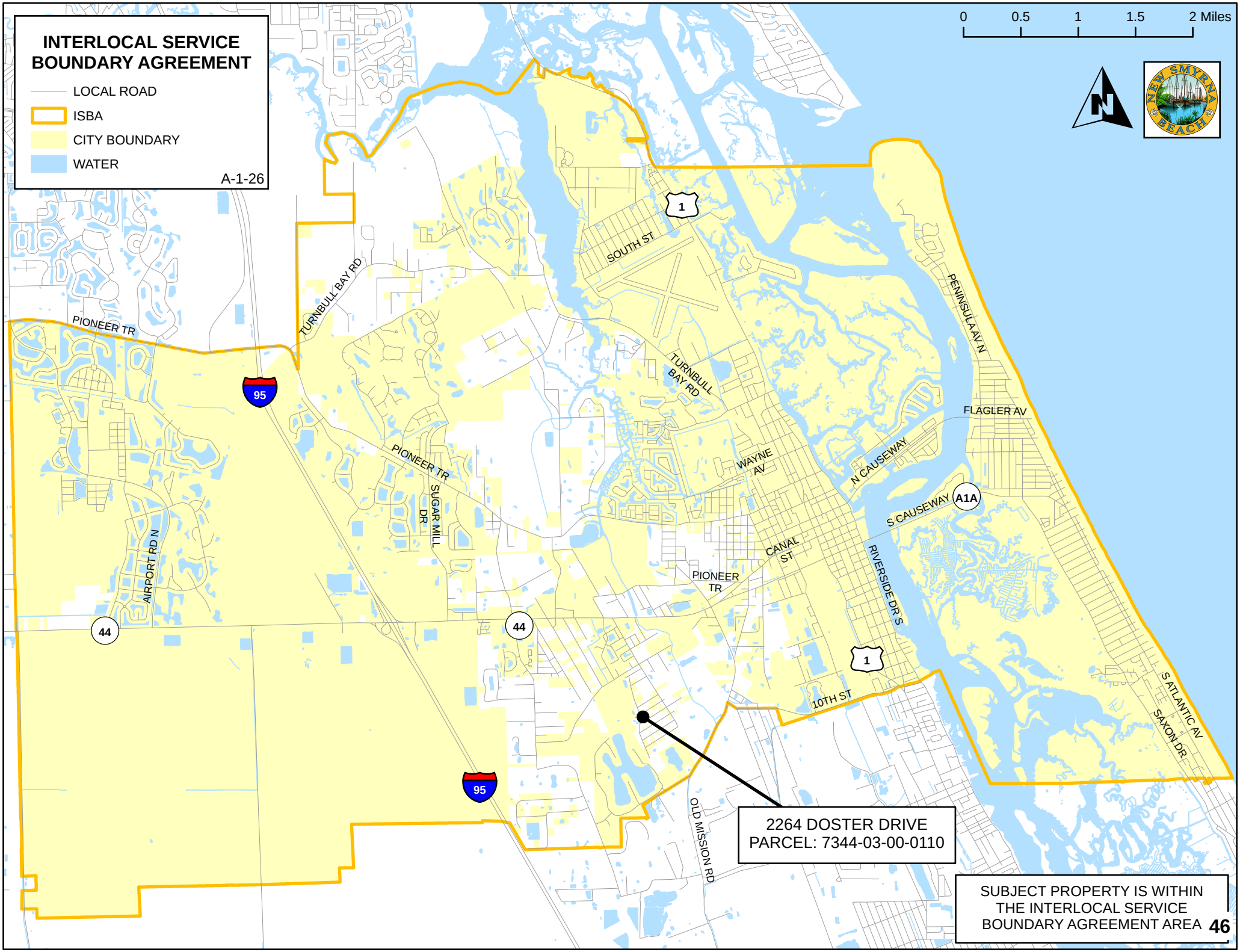
COMMISSION ZONES

A-1-26



Update to Comprehensive Plan Map Z-1

SUBJECT PROPERTY IS LOCATED IN CITY COMMISSION ZONE 4


INTERLOCAL SERVICE BOUNDARY AGREEMENT
LOCAL ROAD
ISBA
CITY BOUNDARY
WATER
A-1-26
0
0.5
1
1.5
2 Miles
NEW SMYRNA BEACH
PIONEER TR
TURNBULL BAY RD
SOUTH ST
PENINSULA AV N
FLAGLER AV
N CAUSEWAY
WAYNE AV
S CAUSEWAY
A1A
CANAL ST
RIVERSIDE DR S
10TH ST
S ATLANTIC AV
SAXON DR
SUGAR MILL DR
AIRPORT RD N
OLD MISSION RD
95
44
1
2264 DOSTER DRIVE
PARCEL: 7344-03-00-0110
SUBJECT PROPERTY IS WITHIN THE INTERLOCAL SERVICE BOUNDARY AGREEMENT AREA

LEGAL DESCRIPTION

Address:
2264 Doster Drive, New Smyrna Beach, Florida 32168

Parcel Number
7344-03-00-0110

AltKey Number:
3734513

Metes and Bounds by Kenneth Bohannon, Esq.

LOTS 11 AND 12 CORBIN PARK SUBDIVISION NUMBER 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 23, PAGE 146, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

Prepared By: Teresa A. Prompovitch
Professional Title Agency, Inc.
400 Canal Street
New Smyrna Beach FL 32168
incidental to the issuance of a title insurance policy.
File Number: n4984
Parcel ID# 7344-03-00-0110

Doc stamps 168.00
(Transfer Amt $ 24000)
Instrument# 2003-189616
Book: 5131
Page: 3810
Diane M. Matousek
Volusia County, Clerk of Court

WARRANTY DEED
(INDIVIDUAL)

This *WARRANTY DEED*, dated **07/29/2003** by
BILL B. FARMER and JEAN D. FARMER, husband and wife
whose post office address is:
1206 Live Oak Street, New Smyrna Beach FL 32168
hereinafter called the GRANTOR, to
BRIAN P. HEATH and RAQUEL HEATH, husband and wife
whose post office address is:
2813 Unity Tree Drive, Edgewater, FL 32141
hereinafter called the GRANTEE:
(Wherever used herein the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the GRANTOR, for and in consideration of the sum of $10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the GRANTEE, all that certain land situate in **Volusia** County, Florida, viz:

Lots 11 and 12, CORBIN PARK SUB NO. 3, according to the plat thereof, recorded in Map Book 23, Page 146 of the Public Records of Volusia County, Florida.

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and assessments for the year **2003** and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any,

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND THE GRANTOR hereby covenants with said GRANTEE that except as above noted, the GRANTOR is lawfully seized of said land in fee simple; that the GRANTOR has good right and lawful authority to sell and convey said land; that the GRANTOR hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, GRANTOR has signed and sealed these presents the date set forth above.

SIGNED IN THE PRESENCE OF THE FOLLOWING WITNESSES:

Witness #1 Signature: _____
Witness #1 Print Name: Teresa A. Prompovitch

Witness #2 Signature: _____
Witness #2 Print Name: CHERYL J. SECKI

Bill B. Farmer
BILL B. FARMER

Jean D. Farmer
JEAN D. FARMER

State of **Florida**
County of **Volusia**

I am a notary public of the state of **Florida** and my commission expires: **March 12, 2006**
THE FOREGOING INSTRUMENT was acknowledged before me on **07/29/2003** by:
BILL B. FARMER and JEAN D. FARMER, husband and wife
who is personally known to me or who has produced drivers license as identification.

Notary Seal

Signature: _____
Teresa A. Prompovitch Notary Public

TERESA A. PROMPOVITCH
MY COMMISSION # DD [illegible]
EXPIRES March 12, 2006

THE CITY OF NEW SMYRNA BEACH - PLANNING DEPARTMENT

V-0006-2026: CONDUCT A REVIEW OF A VARIANCE TO ALLOW A THREE (3) FOOT TALL FENCE TO BE LOCATED ON TOP OF A RETAINING WALL.

June 1, 2026

Background:

Applicant: Richy Schrader, New Smyrna Beach Construction Company, 6381 Engram Road, New Smyrna Beach, Florida 32169.

Property Owner: Beach Partnership 3 LLC, 103 Commerce Street, Suite 160, Lake Mary, Florida 32746.

Request: A variance from Section 803.03 Fences, walls and hedges to allow for a 3-foot-tall picket style of fence to be placed on top of a proposed retaining wall.

Site Information: The subject property is zoned R-4, Multi-Family Residential and contains approximately 0.52 ± acres of land and is located on the west side of South Atlantic Avenue, between Maralyn Avenue and Maple Street. See **Exhibit A** for location map and **Exhibit B** for site aerial map.

Tax I.D. Number: 6336-01-00-9370.

Exhibits used in this Report:

Exhibit A: Location Map
Exhibit B: Aerial Map
Exhibit C: Applicants response to criteria
Exhibit D: City regulations
Exhibit E: Survey
Exhibit F: Site Plan

Findings:

Originally the site contained six (6) different shaped lots that can be seen on **Exhibit E**. In March of 2024, the property owners submitted a Pre Plat application. During that review it was revealed that based on the elevations on this land, it would be challenging but not impossible to design a residential product. A year later in March of 2025, the property owners submitted a final plat application. During the review of the applicants

engineering design, the applicants engineering team had designed a storm water plan to keep the storm water from discharging directly to the neighboring properties.

Part of the storm water design, a retaining wall would be used to elevate the structures to the required elevation. This engineered retaining wall would allow the designed storm water to remain on the property and not discharge or flood the neighboring properties. Because part the retaining wall would have elevations from 3 feet up to 6 feet, a fence would need to be used on top of the retaining wall to create a safe barrier. See **Exhibit F**.

The City's Land Development Code allows a maximum fence or wall height to be 6 feet above the neighboring property grade. See **Exhibit D** of city regulations. There is a section of the retaining wall that will have an elevation between 2 1/2 feet and 6 feet, see **Exhibit F,** because the current city regulation for fences and walls would not allow a fence or wall to be taller than 6-feet, a fence above this section of the retaining wall, would require a variance to that regulation.

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.

1. 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.

   - *Special circumstances exist. Atlantic Avenue was raised (1999 reconstruction) with the addition of an exfiltration trench along*
     Atlantic, creating a grade difference with the parcel. The 2024 stormwater code update requires an upgraded stormwater system, which necessitates filling the site to match roadway elevation. This results in a drop exceeding 30 inches, requiring fall protection under the Florida Building Code. This is a site-specific condition driven by the adjacent roadway elevation and regulatory requirements.

   - **Unusual slopes on these lots and the required storm water design necessitated the retaining wall. The vertical drop created by the wall is a unique and peculiar condition that requires a safety barrier. This criterion has been met.**

2. 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 deprives reasonable use. Limiting total height of wall and fall*

protection to 6' total prevents construction of a functional retaining wall needed to support required fill and stormwater infrastructure. The alternative—tiered 30" walls: Is not visually appealing, reduces usable yard area, increases maintenance requirements, not as structurally sound as a solid retaining wall and creates multiple unprotected edges.
Strict application results in a less safe and less functional design.

- **Without the fence, the retaining wall becomes a life-safety hazard. Preventing a standard safety rail or fence would deprive the property owner the right to a safe, usable yard. A right commonly held by property owners with flat terrain. This criterion has been met.**

3. 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 hardship is not self-created. The condition is caused by public roadway elevation (Atlantic Avenue), 2024 stormwater regulations requiring upgraded stormwater systems, and the owner did not create these conditions. The hardship is externally imposed.*

- **The need for the wall and fence is driven by the natural grade of the land and required building elevation and stormwater management. This criterion has been met.**

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

- *No detriment to public welfare / intent of ordinance. Provides required fall protection, improving safety, uses a single wall with open guardrail, reducing visual impact compared to tiered walls. Maintains proper grading and drainage. This approach is safer and consistent with the intent of the code.*

- **A three-foot picket style of fence would provide safety without blocking sight lines for neighbors. The fence *serves* public welfare by preventing accidental falls. This criterion has been met.**

5. That granting of the variance will not constitute a grant of special privilege that is denied by the Land Development Regulations.

- *Not a special privilege. The request is limited to what is necessary to: retain required fill and provide a safer wall with fall protection. Any similarly situated property would require the same solution. This is a minimum, code-driven request—not an enhancement. The variance allows a single, properly engineered retaining wall with required fall protection in place of multiple tiered walls that create greater safety, less maintenance, and less visual impact. This request resolves a conflict between zoning height limits and current stormwater and building code requirements.*

- **Other properties with similar elevation changes or retaining walls may also require safety railings under the Florida Building Code. This makes the request a standard safety accommodation rather than a "special privilege". This criterion has been met.**

Recommendation:

After evaluating the application based on the required criteria, the request is based on current land elevation, required future structure elevation, required stormwater retention, neighborhood visibility, and public safety. The retaining wall design was approved by the city engineering department and based on a stormwater requirement that exceeds the requirement in the Land Development Code. The required elevation of the future structures, including single-family houses, swimming pools, or garages would require an increased elevation which required an extreme stormwater plan design. A 3-foot-tall picket style of fence design would allow for visibility and safety at the same time. Based on the current site conditions, storm water retention design, and safety of the future residents of these properties, the Planning Department recommends the Planning and Zoning Board to approve the requested variance to allow for a three (3) foot tall picket style of fence to be located on top of a retaining wall.

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Robert Mathen - Senior Planner

Attachments:

Exhibit A Location Map.pdf
Exhibit B Aerial Map.pdf
Exhibit C Variance Criteria Letter - 05-06-26.pdf
Exhibit D City Regulations.pdf
Exhibit E Survey.pdf

Exhibit F Site Plan.pdf

Exhibit A

V-06-26: SMYRNA SHORES
PARCEL: 7416-08-00-0200 LOCATION MAP

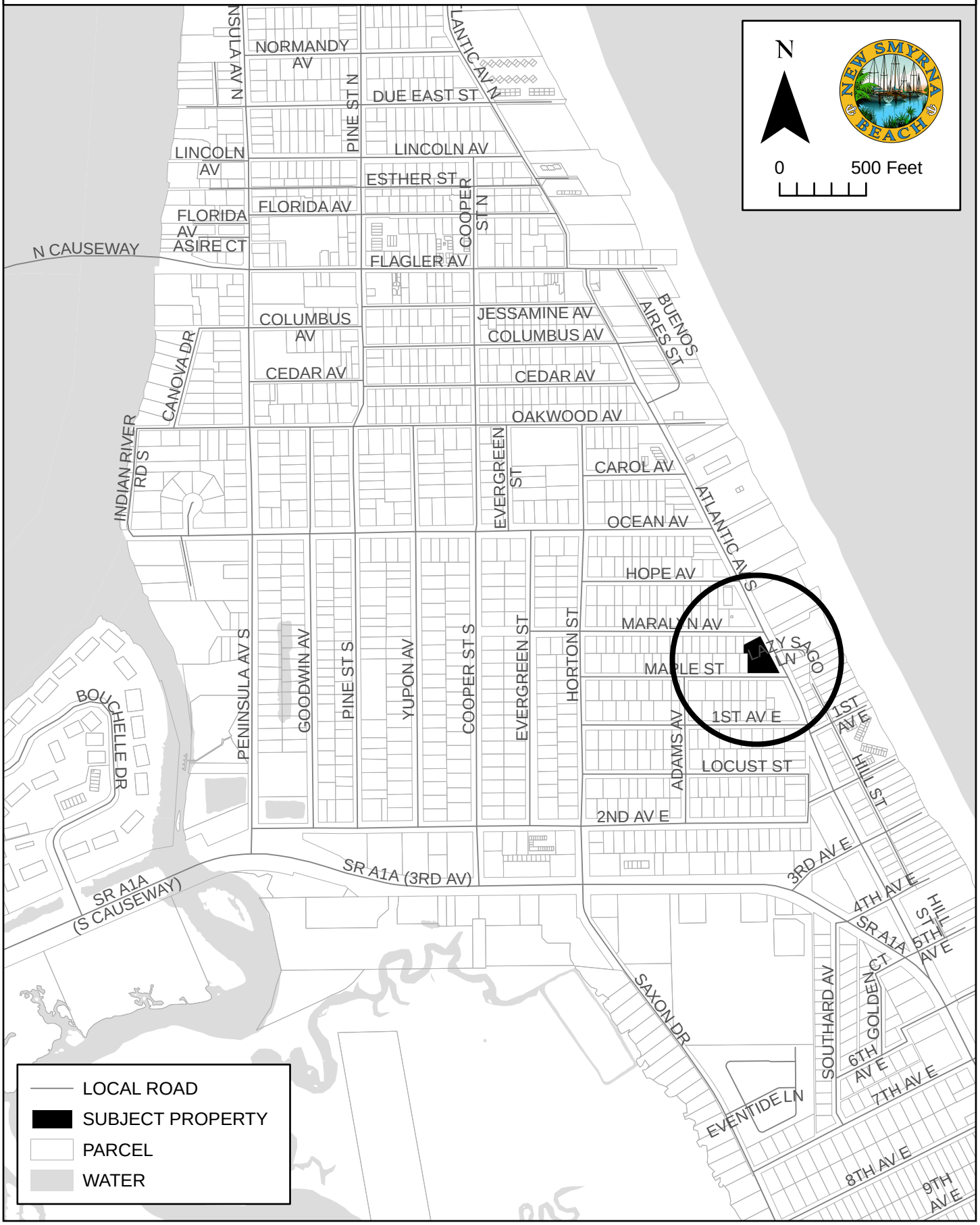


Exhibit B

V-06-26: SMYRNA SHORES
PARCEL: 7416-08-00-0200 AERIAL MAP

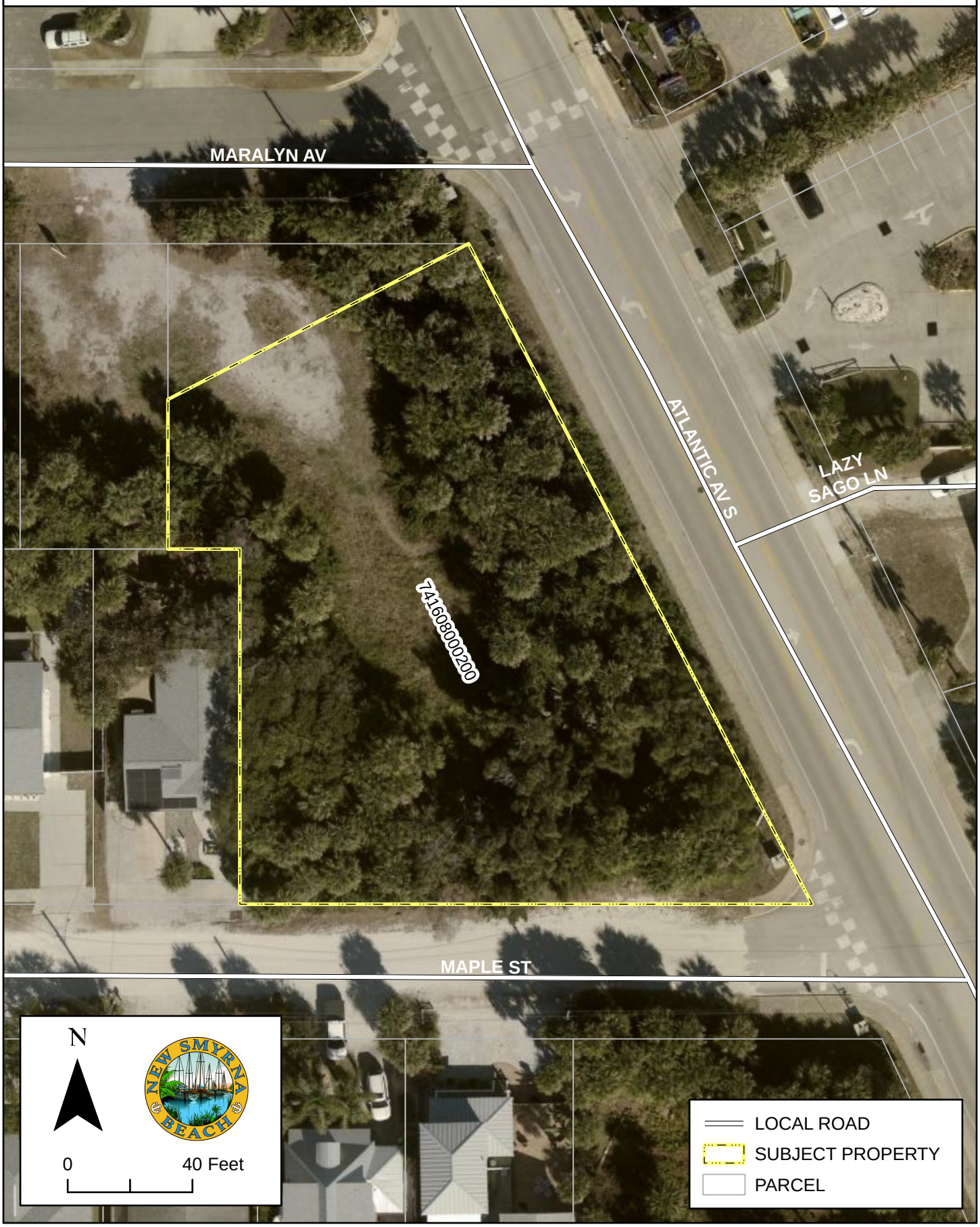


Exhibit C

VARIANCE – PLAN NUMBER: 0006-2026 – IRV: 41287

VARIANCE JUSTIFICATION
Section 803.03 – Fences, Walls, and Hedges
Request: 6’ retaining wall with 36” fall protection

1. Special circumstances exist
   - Atlantic Avenue was raised (1999 reconstruction) with the addition of an exfiltration trench along Atlantic, creating a grade difference with the parcel.
   - The 2024 stormwater code update requires an upgraded stormwater system, which necessitates filling the site to match roadway elevation.
   - This results in a drop exceeding 30 inches, requiring fall protection under the Florida Building Code

This is a site-specific condition driven by the adjacent roadway elevation and regulatory requirements.

2. Strict application deprives reasonable use
   - Limiting total height of wall and fall protection to 6’ total prevents construction of a functional retaining wall needed to support required fill and stormwater infrastructure.
   - The alternative—tiered 30” walls:
     - Is not visually appealing.
     - Reduces usable yard area.
     - Increases maintenance requirements.
     - Not as structurally sound as a solid retaining wall.
     - Creates multiple unprotected edges.

Strict application results in a less safe and less functional design.

3. Hardship not self-created
   - The condition is caused by:
     - Public roadway elevation (Atlantic Avenue).
     - 2024 stormwater regulations requiring upgraded stormwater systems.
   - The owner did not create these conditions.

The hardship is externally imposed.

4. No detriment to public welfare / intent of ordinance
   - Provides required fall protection, improving safety.
   - Uses a single wall with open guardrail, reducing visual impact compared to tiered walls.
   - Maintains proper grading and drainage.

This approach is safer and consistent with the intent of the code.

5. Not a special privilege
   - The request is limited to what is necessary to:
     - Retain required fill.
     - Provide a safer wall with fall protection.
   - Any similarly situated property would require the same solution.

This is a minimum, code-driven request—not an enhancement.

The variance allows a single, properly engineered retaining wall with required fall protection in place of multiple tiered walls that create greater safety, less maintenance, and less visual impact. This request resolves a conflict between zoning height limits and current stormwater and building code requirements.

201.00 General Definitions

Fence/wall height. The vertical distance measured from the finished grade of the property located immediately outside of the fence. In case a fence is located in a yard setback or on a property line, the height will be measured from the existing (unaltered) finished grade of the neighboring parcel or lot. Property with elevations varying greater than 1 foot vertical, measured height is relative to finish grade in immediate area.

803.03 Regulations Pertaining to Fences, Walls, and Hedges:

A. *Typical Lots*

Properties zoned residential.

Maximum height:

- Within required front yard setback: Four feet. See illustration 803.03A.
- Outside required front yard setback: Six feet. See illustration 803.03A.

Exhibit D

ILLUSTRATION 803.03A

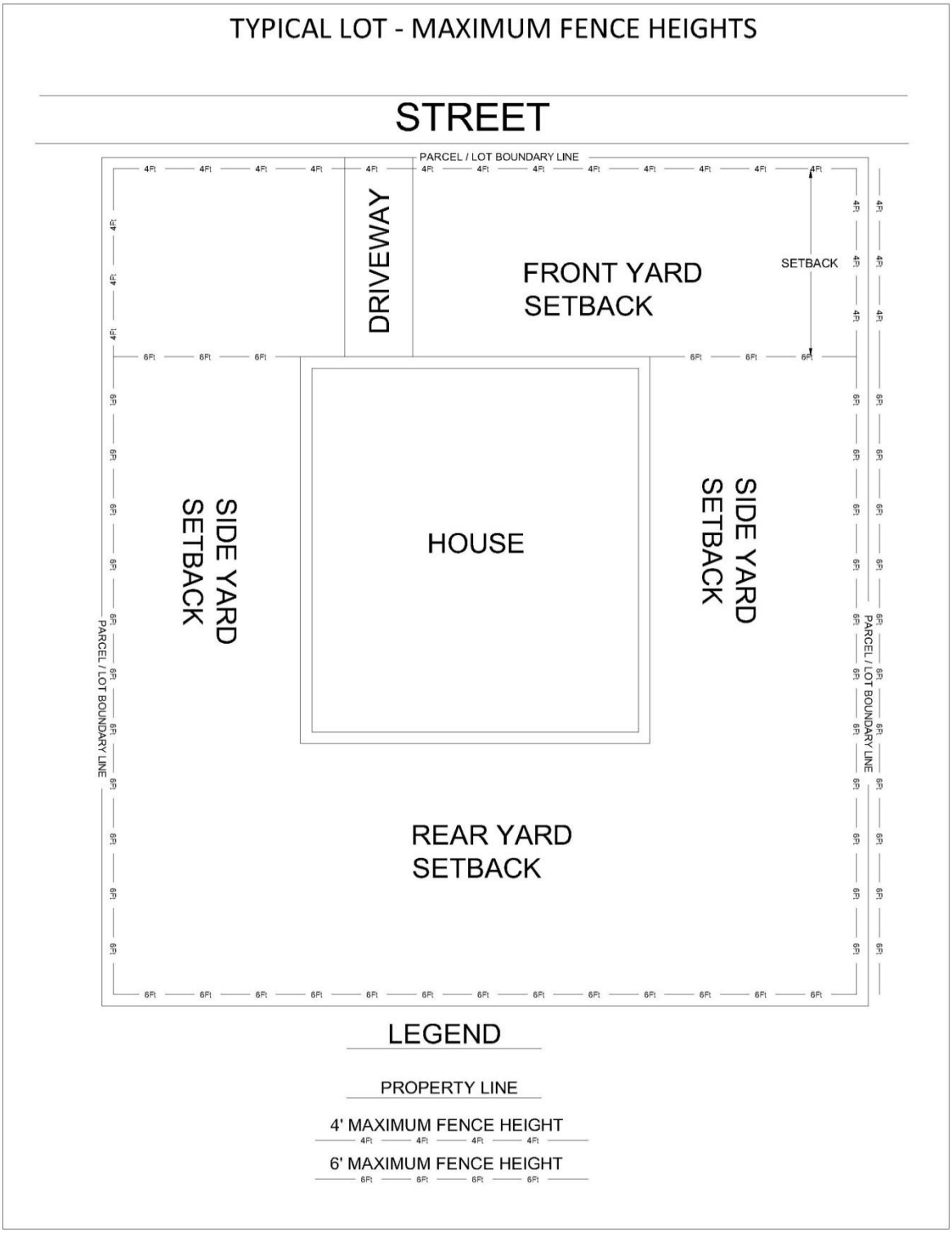


Exhibit E

SITE BENCHMARK #1
BENCHMARK N&D
ELEVATION = 10.87'
DATUM = NAVD 88

SITE BENCHMARK #2
BENCHMARK N&D
ELEVATION = 14.20'
DATUM = NAVD 88

MARALYN AVENUE (60' R/W)

HOWARD STREET
(24' PRIVATE R/W)

SOUTH ATLANTIC AVENUE
(R/W VARIES)

MAPLE STREET (50' R/W)

VACANT (NO BUILDINGS OBSERVED)
OWNER: BEACH PARTNERSHIP 3 LLC
PARCEL# 741601050170
ORB 8449, PG 225

OWNER: RYAN MARK
PARCEL# 741601050150
ORB 7603, PG 1254

OWNER: CLARK SHARON ANN
PARCEL# 741601050160
ORB 6195, PG 1575

OWNER: MISHLER NICHOLAS
PARCEL# 741608000160
ORB 8392, PG 2415

OWNER: NISLEY PROPERTIES LLC
PARCEL# 741608000180
ORB 7101, PG 3192

OWNER: RYAN NANCY
PARCEL# 741608000190
ORB 8438, PG 1542

VACANT (NO BUILDINGS OBSERVED)
OWNER: BEACH PARTNERSHIP 3 LLC
PARCEL# 741608000200
ORB 8449, PG 225

ROBERT THOBURN
MB 6, PG 127

TAKING, PARCEL 6
ORB 5336, PG 1385
LESS AND EXCEPT
ORB 5336, PG 1400
ORB 4650, PG 2786
ORB 4617, PG 1579

TAKING, PARCEL 5
ORB 5336, PG 1400
(APPROXIMATE LOCATION)

LESS AND EXCEPT
VACATED STREET
N, E 1/2, LOT 19

N BOUNDARY LINE, LOT 19
S RW LINE, MARALYN AVENUE

S BOUNDARY LINE, LOT 19

W BOUNDARY LINE, LOT 19

W BOUNDARY LINE, LOT 20

S BOUNDARY LINE, LOTS 20 AND 22
N RW LINE, MAPLE STREET

ORIGINAL LOT LINE (TYP)

HORTON SHORES SUBDIVSION
MB 10, PG 42

HOWARD STREET
PB 4, PG 151
VACATED
ORB 708, PG 428

BLOCK 12
PB 4, PG 151

LOT 15 BLK E
LOT 16 BLK E
LOT 17 BLK E
LOT 18 BLK E
LOT 19 BLK E
LOT 20
LOT 21
LOT 22
LOT 36
LOT 37
LOT 38
LOT 39
LOT 40
LOT 41
LOT 42
LOT 43

N 61°52'47" E 108.63'
N 61°52'47" E 117.34'
S 89°22'30" W 14.18'
10.82'
N 89°23'44" E 119.40'
69.40'
N 00°35'30" W 49.00'
N 00°39'08" W 115.00'
N 89°23'44" E 95.59'
115'+/-
96.5'
108.83'
115.00±

50.00'
99.00'
115.00'
60.00'
55.00'

P1
P2
B1
B2
B3
B4
B5
B6

ASPHALT
CONC APRON
EP
CROSSWALK
STOP BAR
COLUMN
CW
HR
FOC
6' VF
6' WF
6' WF END
3' VF
GATE
CBW
EDGE DIRT ROAD
2' CURB & GUTTER (TYP)
CONC

NORTH
20' 0 20' 40'
GRAPHIC SCALE

Z DEVELOPMENT SERVICES
CIVIL ENGINEERING CONSULTANTS
CA 29354
1201 E. ROBINSON STREET
ORLANDO, FL 32801
PH: (407) 271-8910

REVISION	DATE

CHRISTOPHER THOMPSON, P.E.
FL REG. # 83165

This item has been digitally signed and sealed by CHRISTOPHER THOMPSON on the date adjacent to the seal.

Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

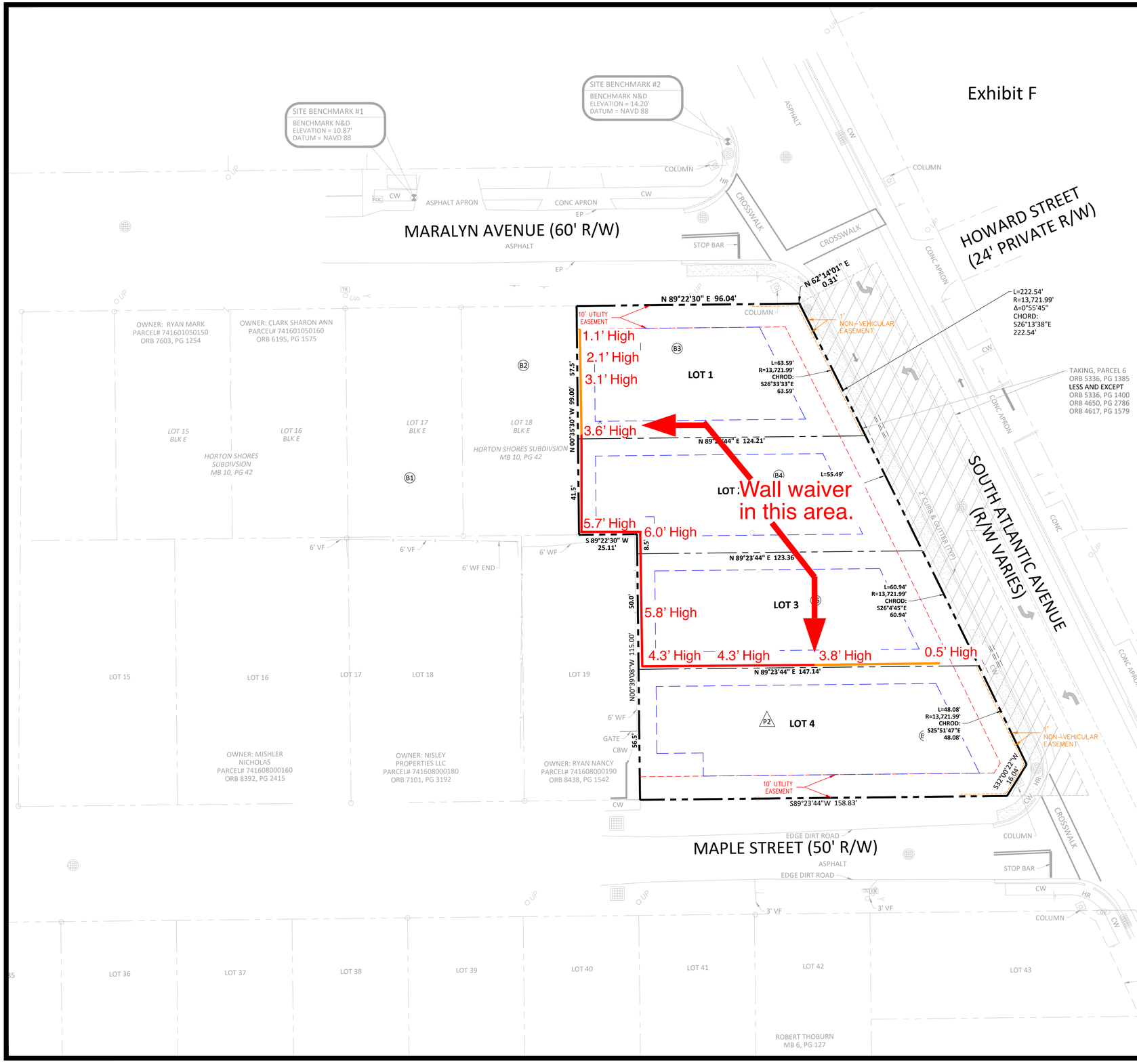
SMYRNA SHORES SUBDIVISION
833 MARALYN AVENUE
NEW SMYRNA BEACH, FLORIDA

DATE: 10/30/2023
DRAWN: DH
CHECKED: CK

C0.1
EXISTING PLAT

PROJECT NO.: 2023.163

Exhibit F



SITE DATA

ACREAGE

TOTAL PARCEL:	28,686	0.659 AC
LOT 1	6,357	0.146 AC
LOT 2	6,606	0.152 AC
LOT 3	6,764	0.155 AC
LOT 4	8,959	0.206 AC

SECTION TOWN SHIP & RANGE

SECTION 15 TOWNSHIP 17S RANGE 34E

VARIANCES

LOT 1:

1. 10' REDUCTION IN BUILDING SETBACK (TO 10' FROM 20') ALONG PORTION OF PROPERTY BORDERING MARALYN AVENUE RIGHT-OF-WAY.

LOT 2:

2. 8.5' VARIANCE IN LOT WIDTH (50' WIDTH REQUIRED & 41.5' WIDTH PROPOSED) FOR REAR PROPERTY LINE.

LOT 4:

3. 10' REDUCTION IN BUILDING SETBACK (TO 10' FROM 20') ALONG PORTIONS OF PROPERTY BORDERING MAPLE STREET RIGHT-OF-WAY.
4. 1.0' VARIANCE IN LOT WIDTH (57.5' WIDTH REQUIRED & 56.5' WIDTH PROPOSED).

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SMYRNA SHORES SUBDIVISION
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NEW SMYRNA BEACH, FLORIDA

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C0.2
PROPOSED PLAT

PROJECT NO.: 2023.163