Planning & Zoning Board
Monday, April 5, 2021 at 6:30 PM

Brannon Center 105 South Riverside Drive New Smyrna Beach FL 32168

1. CALL TO ORDER

A. Roll Call

2. APPROVAL OF MINUTES

2.A Approval for Planning and Zoning March 1, 2021 Regular Meeting Minutes

3. PUBLIC PARTICIPATION

4. OLD BUSINESS

4.A V-3-21: 118 Faulkner Street NOTE: APPLICANT HAS REQUESTED TO POSTPONE THIS ITEM TO THE MAY 3 PLANNING & ZONING MEETING

5. NEW BUSINESS

5.A SE-1-21: 218 North Dixie Freeway

5.B ZT-4-21: Modification to the list of permitted uses in the I-2, Heavy Industrial Zoning District to permit temporary housing facilities on government owned and/or operated facilities.

5.C ZT-2-21: Revision to the Coastal Construction Setback Line location and associated regulations

6. COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

7. REPORTS AND COMMUNICATION BY THE STAFF

7.A April 2021 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 & ZONING

APPROVAL FOR PLANNING AND ZONING MARCH 1, 2021 REGULAR MEETING MINUTES

April 5, 2021

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

Findings:
Staff recommends the Planning and Zoning Board approves the minutes of the regular Planning and Zoning Board meeting held on March 1, 2021.

Fiscal Analysis:
None

Strategic Plan Item:
No

Staff Report Created By: Stephanie Ferrara - Development Services Coordinator

Attachments:

March 1 2021 meeting mins FINAL.pdf

City of New Smyrna Beach
Planning and Zoning 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, March 1, 2021 at the Brannon Center, 105 S. Riverside Drive, New Smyrna Beach, Florida 32168.

A. Roll call

Attendee Name	Title	Status	Arrived
Stephen Snively	Member	Present	6:30 PM
Sandra Smith	Vice Chair	Present	6:30 PM
Steve Danskine	Chair	Present	6:30 PM
Thomas Wheeler	Member	Present	6:30 PM
Susan Neylon	Member	Present	6:30 PM
Kip Hulvershorn	Member	Present	6:30 PM
John Causey	Member	Present	6:30 PM

Also present were: Assistant City Manager Brian Fields, Chief Planner Jeff Gove, Senior Planner Robert Mathen, City Attorney Carrie Avallone, and Board Secretary Stephanie Ferrara.

Chair Danskine asked Staff if there were any changes to the agenda.

Assistant City Manager, Brian Fields, stated that the applicant for item 5.C V-3-21: 118 Faulkner Street, requested a continuance to the next Planning and Zoning meeting. The Board Members had no objections to the continuance. Member Neylon moved to continue, 5.C V-3-21: 118 Faulkner Street, Member Smith seconded the motion, and the motion carried unanimously.

2. APPROVAL OF MINUTES

2.A Approval for Planning and Zoning January 11, 2021 Regular Meeting Minutes

Chair Danskine asked for approval of the meeting minutes.

Motion:
Member Smith moved to approve the January 11, 2021 meeting minutes, as submitted. Member Hulvershorn seconded the motion, and the motion carried unanimously.

DRAFT

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Smith
SECONDER:	Hulvershorn
AYES:	Snively, Smith, Danskine, Wheeler, Neylon, Hulvershorn, Causey

3. PUBLIC PARTICIPATION

Chair Danskine opened the Public Hearing. As no citizens wished to speak, Chair Danskine closed the Public Hearing.

4. OLD BUSINESS

No Action.

5. NEW BUSINESS

5.A A-21-20: 2100 Swoope Drive

Chair Danskine asked the Board if there were any ex-parte communications.

Robert Mathen, Senior Planner, outlined the Applicant's request to seek approval for a Voluntary annexation, Comprehensive Plan amendment, and rezoning from Volusia County zoning designation of R-4, Urban Single-Family Residential and Resource Corridor with an "A" to designate the parcel is located the Airport Height Notification District to City zoning designation of R-2, Single Family Residential and Conservation with an "A" to designate the parcel is located the Airport Height Notification District.

Member Neylon and Mr. Mathen discussed how many units were allowed if the property were annexed into the City. Mr. Mathen stated one dwelling would be allowed if annexed into the City.

Member Smith wanted confirmation that the Future Land Use and Zoning were being designated as well.

Mr. Mathen confirmed that is was included as part of the annexation.

Chair Danskine opened the Public Hearing. As no citizens wished to speak, Chair Danskine closed the Public Hearing.

Chair Danskine asked the Board if they had any questions or concerns.

Motion:
Member Neylon moved to recommend approval to City Commission for A-21-20: 2100 Swoope Drive, as submitted. Member Wheeler seconded the motion, and the motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Neylon
SECONDER:	Wheeler
AYES:	Snively, Smith, Danskine, Wheeler, Neylon, Hulvershorn, Causey

5.B **A-1-21: Davis Drive**

Chair Danskine asked the Board if there were any ex-parte communications.

Robert Mathen, Senior Planner, outlined the Applicant's request to seek approval for a Voluntary annexation, Comprehensive Plan amendment, and rezoning from Volusia County zoning designation of R-4, Urban Single-Family Residential and Resource Corridor with an "A" to designate the parcel is located the Airport Height Notification District to City zoning designation of R-2, Single Family Residential and Conservation with an "A" to designate the parcel is located the Airport Height Notification District.

Chair Danskine opened the Public Hearing. As no citizens wished to speak, Chair Danskine closed the Public Hearing.

Chair Danskine asked the Board if they had any questions or concerns.

Motion:
Member Neylon moved to recommend approval to City Commission for A-1-21: Davis Drive, as submitted. Member Smith seconded the motion, and the motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Neylon
SECONDER:	Smith
AYES:	Snively, Smith, Danskine, Wheeler, Neylon, Hulvershorn, Causey

5.C **V-3-21: 118 Faulkner Street**

Agenda Item continued to the April 5, 2021 Planning and Zoning Board meeting.

Motion:
Member Neylon moved to continue, V-3-21: 118 Faulkner Street, Member Smith seconded the motion, and the motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Neylon
SECONDER:	Smith
AYES:	Snively, Smith, Danskine, Wheeler, Neylon, Hulvershorn, Causey

5.D **S-5-19: Final Plat and Development Plans for Phase 2, Ocean Gate Commerce Center**

Chair Danskine asked the Board if there were any ex-parte communications.

Jeff Gove, Chief Planner, outlined the Applicant's request to seek approval for the plat and final development plans for a 47 acre proposed Phase 2 area of the existing Ocean Gate PUD, for the development of 10 proposed commercial lots and associated infrastructure of access roads, utilities, stormwater management, landscaping, etc.

Member Smith asked staff the date of approval of the first PUD and current TIA submittal review date.

Mr. Gove stated 2013 is when the first PUD was approved and TIA was conducted within the last 6-8 months.

Member Snively wanted confirmation of HOA within this development.

Mr. Gove confirmed that there is one already in place.

Member Wheeler asked about the preservation of wetlands and trees.

Mr. Gove stated that the wetlands will be preserved as part of the approval process and that the property previously was used for timbering/logging. No specimen and historic trees are located on the property.

Chair Danskine asked if the roadways were to be private or public.

Mr. Gove stated the roadways will be privately maintained.

Stephanie Ferrara, Board Secretary, swore in all witnesses.

Mikal Hale, from Traffic Engineering Data Solutions, provided some background information about the roadways within the development.

Chair Danskine opened the Public Hearing.

Stephanie Ferrara, Board Secretary, swore in all witnesses.

Joe Dlubac, 358 Casalta Circle, spoke about emergency access.

Chair Danskine closed the Public Hearing.

Chair Danskine asked the Board if they had any questions or concerns.

Motion:
Member Smith moved to recommend approval to the City Commission for S-5-19: Final Plat and Development Plans for Phase 2, Ocean Gate Commerce Center. In addition to the staff recommendation, a proportionate fair share agreement is to be included. Member Hulvershorn seconded the motion, and the motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Smith
SECONDER:	Hulvershorn
AYES:	Snively, Smith, Danskine, Wheeler, Neylon, Hulvershorn, Causey

5.E **ZT-1-21: Docks**

Robert Mathen, Senior Planner, outlined the City's request to seek approval for a minor text amendment from section 803.04 of the Land Development Regulations, which would calculate the square footage of a dock, which will remove the walkway from the 1,000 square foot maximum dock size calculations.

Mr. Fields discussed some background regarding a prior City Commission Workshop that established a basis for this text amendment.

Member Causey asked staff the intent to eliminate the walkway from the dock size calculations.

Mr. Mathen explained how the walkway square footage was affecting the calculations of the dock structure.

Mr. Mathen discussed the City's current dock regulations.

Chair Danskine opened the Public Hearing.

Joe Dlubac, 358 Casalta Circle, suggested that there should be a limit on how long the walkway should be.

Chair Danskine closed the Public Hearing.

Chair Danskine asked the Board if they had any questions or concerns.

Motion:
Member Wheeler moved to recommend approval to City Commission for ZT-1-21: Docks, with the added clarification that the 1,000 square foot dock maximum size calculation shall exclude any of the following that are five (5) feet in width or less: walkways, gangways, and access piers. Member Smith seconded the motion, and the motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Wheeler
SECONDER:	Smith
AYES:	Snively, Smith, Danskine, Wheeler, Neylon, Hulvershorn, Causey

5.F **ZT-3-21: Unpaved Public Parking Lots**

Robert Mathen, Senior Planner, outlined the City's request to seek to amend the Land Development Regulations Section 604.09, to allow for unpaved public parking lots under certain zoning districts.

Member Hulvershorn agreed with staff's changes and being environmentally friendly.

Chair Danskine opened the Public Hearing. As no citizens wished to speak, Chair Danskine closed the Public Hearing.

Chair Danskine asked the Board if they had any questions or concerns.

Motion:
Member Wheeler moved to recommend approval to City Commission for ZT-3-21: Unpaved Public Parking Lots, as submitted. Member Neylon seconded the motion, and the motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Wheeler
SECONDER:	Neylon
AYES:	Snively, Smith, Danskine, Wheeler, Neylon, Hulvershorn, Causey

6. COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

Member Wheeler spoke about the City's tree regulations and the need to establish a higher level of tree protection.

Mr. Fields stated that staff will be proposing an update to the tree protection requirements in the City's Landscaping Regulations.

7. REPORTS AND COMMUNICATIONS BY THE STAFF

A. March 2021 Development Activity Report

8. ADJOURNMENT

As there was no other business to discuss, Chair Danskine declared the meeting adjourned at 7:45 PM.

THE CITY OF NEW SMYRNA BEACH - PLANNING & ZONING

V-3-21: 118 FAULKNER STREET
NOTE: APPLICANT HAS REQUESTED TO POSTPONE THIS ITEM TO THE MAY 3 PLANNING & ZONING MEETING

April 5, 2021

Background:

Applicant and Property Owners: Karen Lersner and James Warner, 118 Faulkner Street, New Smyrna Beach, Florida 32168.

Request: The following variances from Section 604.09.B.(4): "Setbacks: 3 feet, unless the driveway is shared between adjacent properties."

Site: The subject property consists of approximately 0.149 acres, and is zoned Mixed Use. This parcel is located on the west side of Faulkner Street, north of Canal Street.

Parcel Number: 7441-37-01-0020

Findings:

Exhibits used in this report:

Exhibit A: Location Map
Exhibit B: Aerial Map
Exhibit C: Applicants Request
Exhibit D: Survey/Site Plan
Exhibit E: Sanborn Fire Map
Exhibit F: Site Photos

The property owners wish to construct a paver driveway in a location that currently does not have an improved driveway. Currently the property has a shell driveway that leads to the rear of the house. This request would stabilize and create a more permanent driveway. Also there is an on-street parking space located in front of the property on Faulkner Street.

The required parking space in the Land Development Regulation under Section 607.09.C.a. is 10 feet wide by 20 feet deep. This size of a parking space allows for proper access and egress from a vehicle while limiting possible damage to another vehicle. The property owner has designed a double parking driveway that will be 20 feet 6 inches

wide by 24 feet deep. The normal width of a double car driveway for new construction is 20 feet wide.

The reason for this request is due to a historic oak tree that is located in the front yard. Due to the location of the historic tree, imposing the three (3) foot driveway side setback would only allow for a driveway width of 17 feet thus limiting the use of the proposed driveway.

The property is located close to Canal Street, an area that has been deemed to have limited parking for businesses and residential uses. The request would allow for additional onsite stabilized parking at this property for the property owners and any guests, thus allowing the on-street parking space to be used more for the general public.

The Land Development Regulations require variance requests to meet all of the following criteria. **Staff's responses are in bold.**

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.

The mixed use zoning district requires the minimum width of a parcel to be 50 feet. This parcel is only 40 feet in width. The current house and parcel is not shown on the 1901 Sanborn Fire Map, but both first appear on the 1906 Sanborn Fire Map, thus confirming that this parcel and house was created between 1901 and 1906. Other parcels on this side of the street are at least 50 feet in width The presence of an historic tree in the front yard of this parcel is also a special circumstance on this narrow lot.

This criterion has been met.

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

This parcel has a large historic oak tree located in the front yard close to the center of the width of the property. The property owners adore this historic oak tree and wish to work around the tree. Saving the tree provides a benefit to the community. The granting of the variance allows the property owner to have a driveway at a normal width while preserving the historic tree.

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 created, to any degree, the hardship that is the subject of the variance request.

The special circumstances and conditions that exist did not result from the direct or indirect actions of the present property owner(s). The parcel and house are 115 to 120 years old. When the prior property owner in 1906 created this parcel, no zoning district or regulation existed, and cars were not as widely used as they are today. Also, the age of the historic tree is unknown and the date of installation of the tree is unknown. Thus staff does not know if a past property owner planted the tree or if the tree was naturally rooted.

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.

Granting the variance would not cause detriment to the public welfare. The City Engineer will require any stormwater runoff be diverted to the north of the property away from the neighboring house to the south. The intent of the Land Development Regulation 604.09.B.(4), which was added in 2015, was to help with stormwater runoff design. By removing the historic tree to allow for a driveway that would meet the Land Development Regulation would be a detriment to the public. The City has the "Tree

City USA" designation, and allowing this variance for the driveway is a better option than to potentially remove the historic oak tree.

This criterion has been met.

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

Granting this variance will not constitute a grant of special privilege, as the overall goal is to save the historic oak tree and allow the property owner to have a driveway that would otherwise be allowed on other parcels in this zoning district. Staff believes the request for the three (3) foot side yard driveway variance request is a small request and would possibly save the root system of the historic oak tree.

This criterion has been met.

At its regular scheduled meeting on March 1, 2021 the Planning and Zoning Board voted, 7-0, to continue this variance request application to the April 5, 2021 Planning and Zoning Board agenda.

This is the applicants first request for a continuance.

Recommendation

Based on the findings of this report, and saving the root system of an historic oak tree, all five criteria have been met. Staff recommends the Planning and Zoning Board **approve** the requested variance.

Fiscal Analysis:
N/A

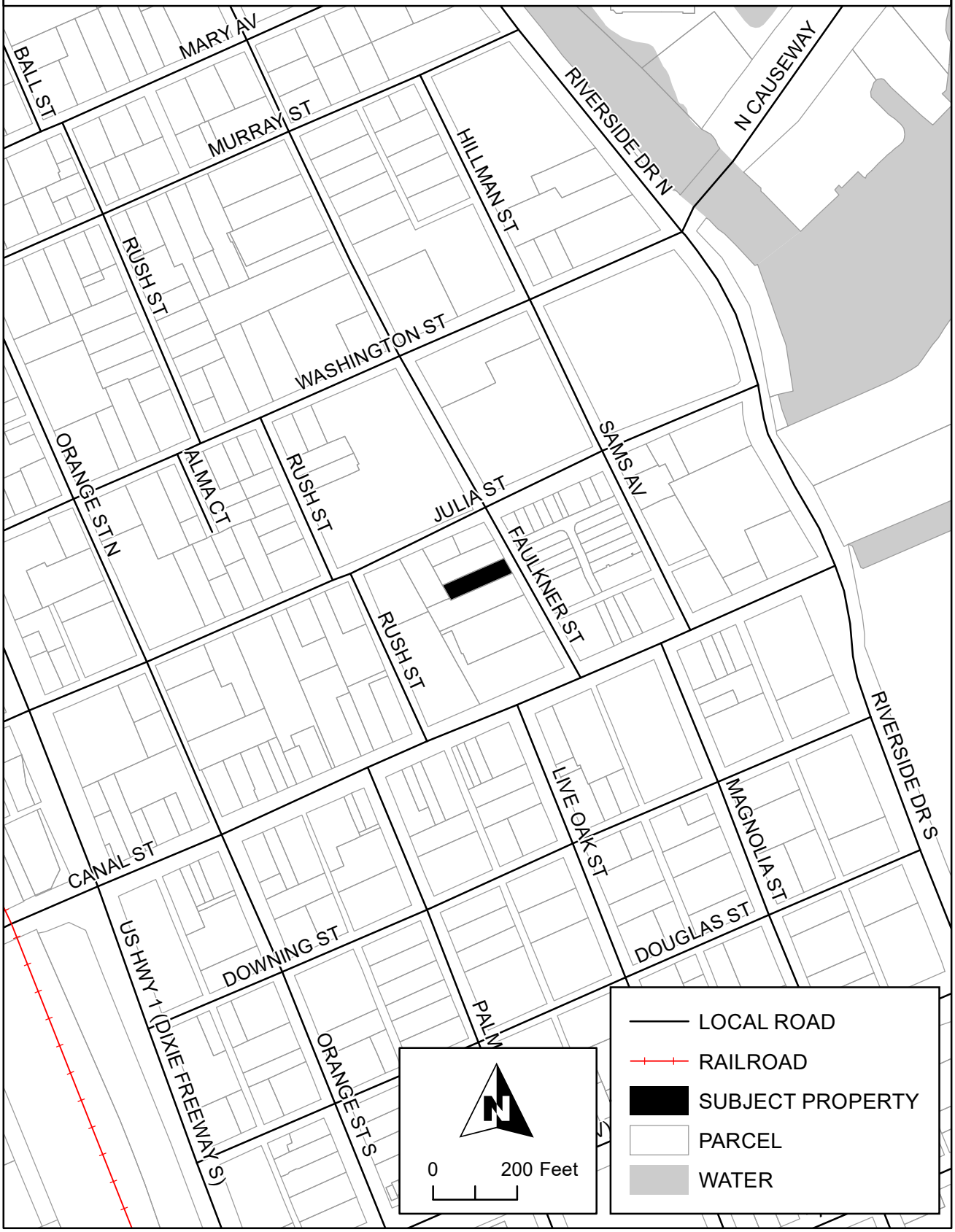
Strategic Plan Item:
No

Staff Report Created By: Robert Mathen - Planner II

Attachments:

Exhibit A Location Map.pdf
Exhibit B Aerial Map.pdf
Exhibit C Applicants Request.pdf
Exhibit D Site Plan.pdf
Exhibit E 1906 Sanborn Fire Map.pdf
Exhibit F Site Photos.pdf

V-3-21: 118 FAULKNER STREET
PARCEL: 7441-37-01-0020 LOCATION MAP



V-3-21: 118 FAULKNER STREET
PARCEL: 7441-37-01-0020 AERIAL MAP



LETTER OF RESPONSE FROM THE APPLICANT:

The property located at 118 Faulkner is, by today's standards a non-conforming lot. The house was built sometime in the early 20th Century (possibly around 1903-1906). The existing driveway is about 4 inches from the property line. We are currently working on some "home improvements". We recently painted the house and installed a new roof. We would like to install brick pavers from the property line north to include the front walk. West to the front porch steps and south, across the front of the house to meet the property line.

The current dirt drive has been used since the 1970's. There is an apron and yellow curbing that has been there for at least 40 years and recently repainted. When the street was re-paved and the sidewalks redone in the 1980's the apron was removed. When we proved (by photo) that the driveway existed before that, the apron was replaced. In 2009 we applied for and received a CRA grant to paint the house. One of the stipulations of the grant was to have off street parking. In May of 2012 we obtained an easement for the property between our house and 116 Faulkner to continue a driveway to the newly build garage behind the house. Without this driveway we would be taking up at least 2 street parking spaces.

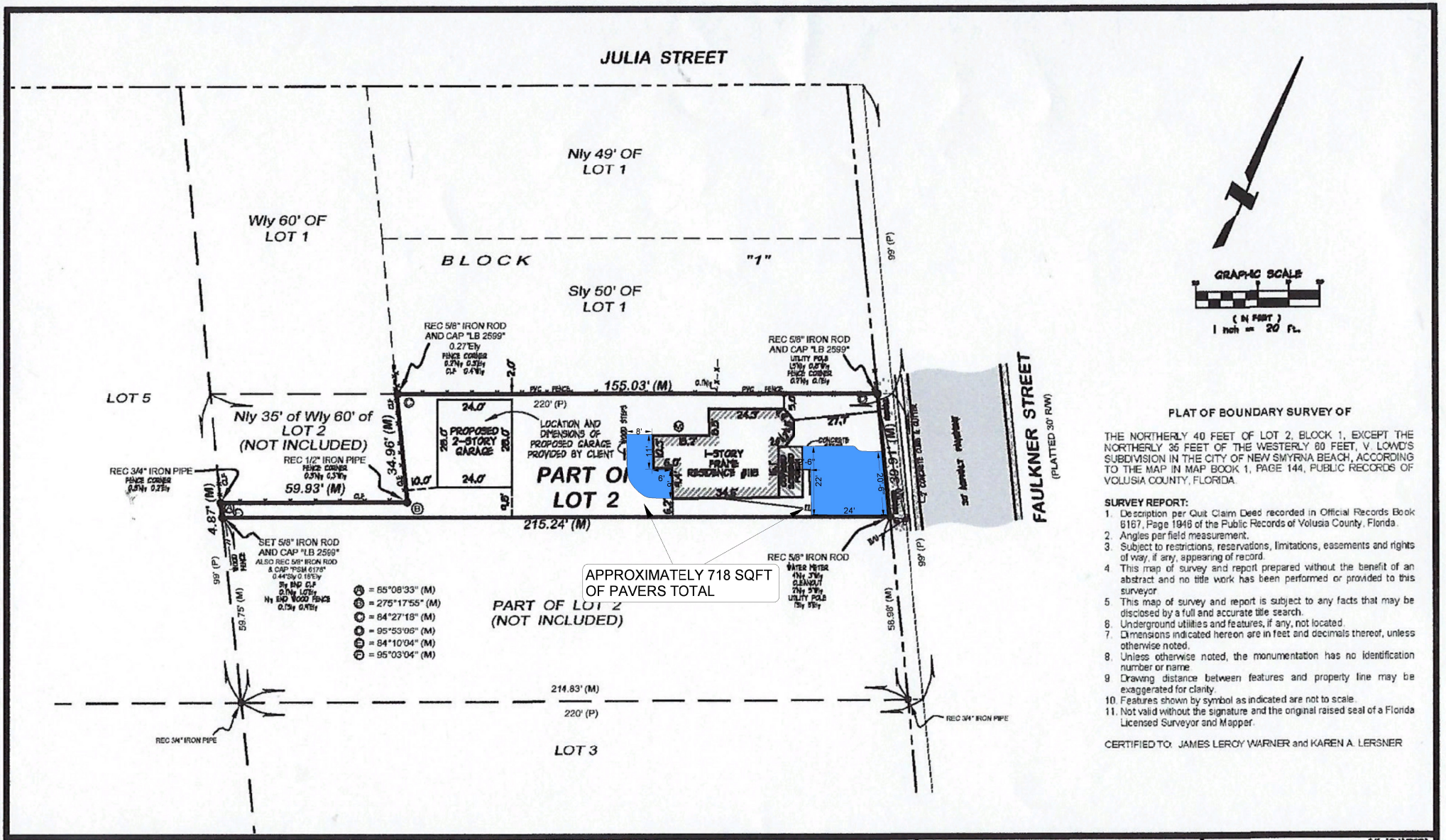
The brick pavers will improve the property. Additionally, when it rains that portion of our front yard is a huge puddle. The house at 116 does not have gutters and all the water from their roof flows into our yard. By installing the pavers, it will raise the grade and allow the water to run off instead of pool.

Thank you,



Karen Lersner

LEGAL DESCRIPTION:	N 40 FT OF LOT 2 EXC W 60 FT BLK 1 V LOWDS NEW SMYRNA MB 1 PG 144 OR MB 14 PG 62 PER OR 5003 PG 2265 PER OR 6155 PG 2630 PER OR 6167 PGS 1946-1948
Tax ID of Subject Property:	041-50-9725



PLAT OF BOUNDARY SURVEY OF

THE NORTHERLY 40 FEET OF LOT 2, BLOCK 1, EXCEPT THE NORTHERLY 35 FEET OF THE WESTERLY 60 FEET, V. LOWD'S SUBDIVISION IN THE CITY OF NEW SMYRNA BEACH, ACCORDING TO THE MAP IN MAP BOOK 1, PAGE 144, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

SURVEY REPORT:

1. Description per Quit Claim Deed recorded in Official Records Book 6167, Page 1946 of the Public Records of Volusia County, Florida.
2. Angles per field measurement.
3. Subject to restrictions, reservations, limitations, easements and rights of way, if any, appearing of record.
4. This map of survey and report prepared without the benefit of an abstract and no title work has been performed or provided to this surveyor.
5. This map of survey and report is subject to any facts that may be disclosed by a full and accurate title search.
6. Underground utilities and features, if any, not located.
7. Dimensions indicated hereon are in feet and decimals thereof, unless otherwise noted.
8. Unless otherwise noted, the monumentation has no identification number or name.
9. Drawing distance between features and property line may be exaggerated for clarity.
10. Features shown by symbol as indicated are not to scale.
11. Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

CERTIFIED TO: JAMES LEROY WARNER and KAREN A. LERSNER

TYPE	SURVEY DATE	WORK ORDER #	P.C.	CALC.	DRAFT	CHECKED
BOUNDARY SURVEY	05/13/2010	10-04-015	M.T.D.	J.W.C.	B.T.C.	
FOUNDATION LOCATION						
FINAL SURVEY						
RECERTIFICATION SURVEY						
TOPOGRAPHIC SURVEY						
SPECIFIC PURPOSE SURVEY						

TYPE	DATE	WORK ORDER #	—	CALC.	DRAFT	CHECKED
SKETCH OF DESCRIPTION						

CAD FILE: 1004015

LEGEND & ABBREVIATIONS

- ● = DENOTES 5/8" IRON ROD W/ CAP "LB 6735" UNLESS OTHERWISE NOTED
- ○ = DENOTES IRON PIPE UNLESS OTHERWISE NOTED
- □ = DENOTES CONCRETE MONUMENT UNLESS OTHERWISE NOTED
- EMT = ELECTRICAL METAL TUBING
- FND = FOUND
- REC = RECOVERED
- N(Y) = NORTHING COORDINATE VALUE
- E(X) = EASTING COORDINATE VALUE
- LB = LICENSED BUSINESS
- P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER
- F.I.R.M. = FLOOD INSURANCE RATE MAP
- N.A.V.D. = NORTH AMERICAN VERTICAL DATUM
- N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM
- C.C.C.L. = COASTAL CONSTRUCTION CONTROL LINE
- U.S.C.&G.S. = UNITED STATES COAST & GEODETIC SURVEY
- Δ = DELTA
- R = RADIUS OR RANGE
- L = ARC LENGTH
- C = CHORD
- CB = CHORD BEARING
- T = TANGENT OR TOWNSHIP
- (R) = RADIAL
- (N/R) = NON-RADIAL
- (NT) = NON-TANGENT
- PC = POINT OF CURVATURE OR PARITY CHIEF
- PT = POINT OF TANGENCY
- (P) = PLAT
- (D) = DESCRIPTION
- (M) = MEASURED
- (C) = CALCULATED (CALC)
- (PR) = PRORATED
- (G) = GRID
- O.R. = OFFICIAL RECORD BOOK
- M.B. = MAP BOOK
- P.O.B. = POINT OF BEGINNING
- P.O.C. = POINT OF COMMENCEMENT
- WM = WATER METER
- TR = TELECOMMUNICATIONS (TELE) RISER
- F.F. = FINISHED FLOOR ELEVATION
- RCP = REINFORCED CONCRETE PIPE
- CMP = CORRUGATED METAL PIPE
- CPP = CORRUGATED PLASTIC PIPE
- +0.0 = EXISTING ELEVATION (ELEV)
- P.R.M. = PERMANENT REFERENCE MONUMENT
- P.C.P. = PERMANENT CONTROL POINT
- PP = POWER POLE
- GW = GUY WIRE
- OHU = OVERHEAD UTILITIES
- A/C = AIR CONDITIONER
- CLF = CHAIN LINK FENCE
- BWF = BARBED WIRE FENCE
- AC. = ACRES
- R/W = RIGHT-OF-WAY
- ℄ = CENTERLINE
- = CONCRETE (CONC)
- CS = CONCRETE STOOP

CERTIFICATE OF AUTHORIZATION NUMBER LB 2599

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

DANIEL W. CORY P.S.M. NO. 2027
JEFFREY W. CORY P.S.M. NO. 4139

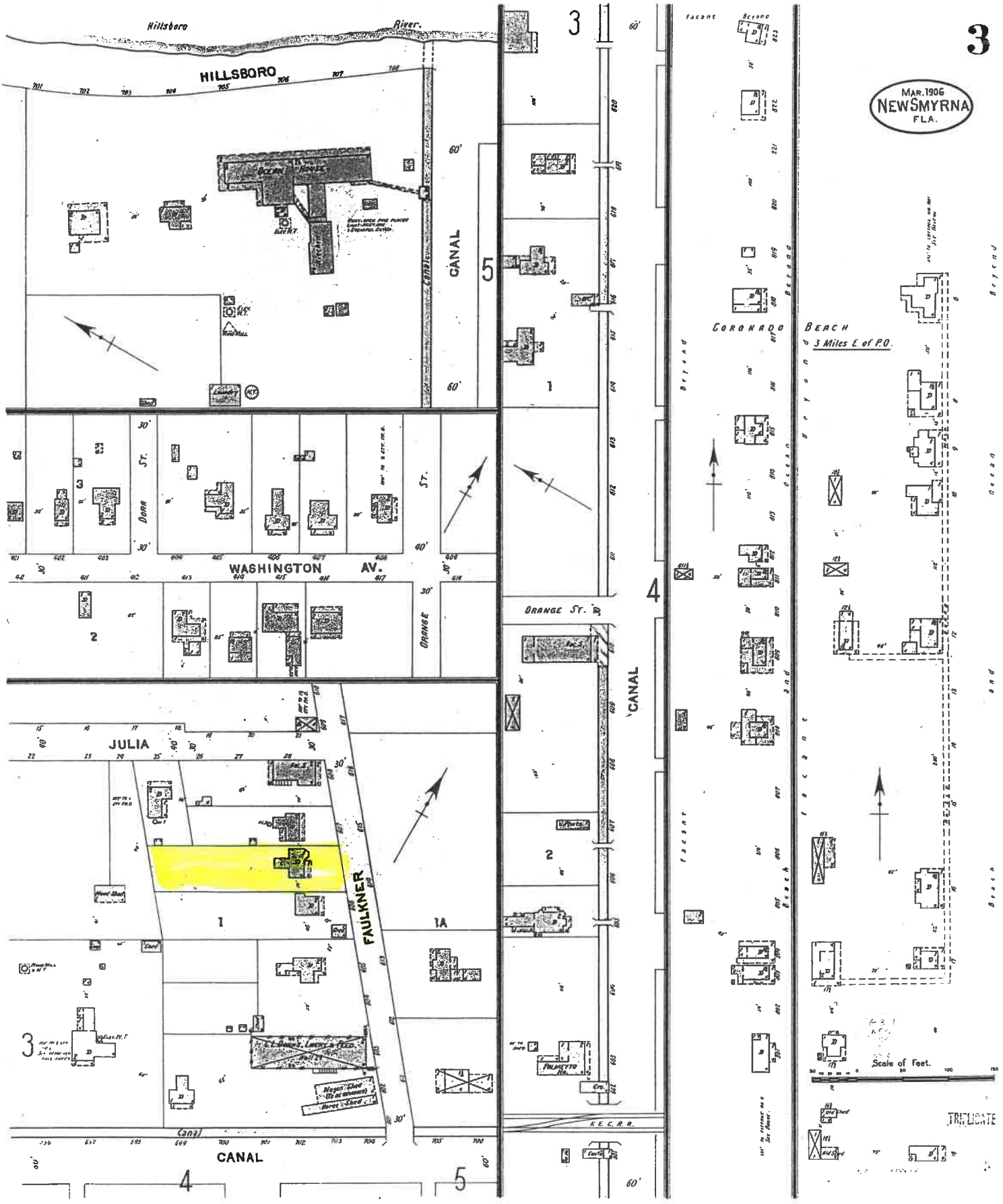
THIS PROPERTY IS LOCATED IN F.I.R.M. ZONE(S) "X" (SHADED)
THIS LOCATION IS DETERMINED BY SCALING FROM F.I.R.M.
COMMUNITY PANEL 125132 0543 G
MAP REVISED 04/15/02 APPROXIMATE SCALE 1"= 500'

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

PREPARED FOR: JAMES WARNER & KAREN LERSNER

SCALE 1" = 20' | FILE # 1002

PART OF LOT 2, BLOCK "1"


3
MAR. 1906
NEW SMYRNA
FLA.
Hillsboro River.
HILLSBORO
CANAL
WASHINGTON AV.
ORANGE ST.
JULIA
FAULKNER
CANAL
CORONADO BEACH
3 Miles E. of P.O.
Scale of Feet.
TRIPLICATE





THE CITY OF NEW SMYRNA BEACH - PLANNING & ZONING

SE-1-21: 218 NORTH DIXIE FREEWAY

April 5, 2021

Background:

Applicant: Anne Loft, 1722 Hibiscus Drive, Edgewater, Florida 32132

Property Owner: The Right Stop & Lloyd's Auto Detailing NSB Seaside LLC, P. O. Box 248, Daytona Beach, Florida 32115

Request: Special exception approval to allow retail sales of custom motorcycles.

Subject Area: The subject property consists of approximately 0.42 acres; is zoned Mixed Use; and is generally located on southwest corner of Washington Street and North Dixie Freeway.

Tax ID #: 7441-12-02-0080

Findings:

Exhibits used in this report:

- Exhibit A: Location Map
- Exhibit B: Aerial Map
- Exhibit C: Survey
- Exhibit D: Proposed Sketch

According to information from the Volusia County Property Appraiser's website, the subject property is developed with a single commercial building. The applicant is proposing to replace the building and fuel islands with a new commercial building including property upgrades of landscaping and parking.

The applicant plans on operating an electric bicycle shop and custom motorcycle sales. The custom motorcycles will be constructed inside the proposed building and the expected number of motorcycles built will be 12 to 15 units per year.

The surrounding future land use designations are commercial and the surrounding zoning classifications are Mixed Use to the south, east, and and west, B-3 to the north.

The City's *Land Development Regulations* specify a parking requirement for retail bicycle shop at one (1) parking space for every 300 square feet of the building and one (1) bicycle rack. The motorcycle dealership will require one (1) customer parking space for every 20 vehicles for sale with a minimum of two (2) parking spaces. With the size of the parcel and redevelopment of this site, the applicant will be able to meet the minimum parking requirements, and this will be verified on a future site plan that will be reviewed by the City's Technical Review Staff.

Section 305.04(D) of the City's *Land Development Regulations*, states that special exception approval will expire after one year if the special exception "has not been exercised." In this particular case, the site plan application and building permits must be submitted within one (1) year, or the special exception approval will expire. The City's *Land Development Regulations* also allow the applicant to request a one-year extension. Alternatively, the City Commission may approve the special exception for a period longer than one year.

Per Section 305.04(C)(3) of the City's *Land Development Regulations* (LDR), all special exception uses must meet a general set of criteria that examines whether the proposed use would negatively impact surrounding properties and verifies that adequate infrastructure would be available to serve the site. These criteria are discussed in further detail below (staff's response follows in **bold**):

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

Automobile Sales, Recreation Vehicles Sales, and Trailer Sales New and Used including all vehicles with two or more wheels are listed as a permitted special exception use in the Mixed Use zoning district.

This criterion has been met.

2. The requested use will not impair the character of the surrounding or adjoining districts, nor be detrimental to the public health, morals, or welfare;

The requested use will not be detrimental to the public health, morals, or welfare. Currently the East Coast Railway is to the west, the Muffler Man automotive repair is to the north, Stuarts Car Care is to the east, and Pinch A Penny pool supply is located to the south. The proposal is to create custom motorcycles and to sell and service those motorcycles.

With regard to the character of the surrounding or adjoining districts, all of the surrounding properties are designated for commercial uses and are currently providing automotive services and or fuel sales. The proposed custom motorcycle business is consistent with the character of the surrounding area.

This criterion has been met.

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

The subject property is currently receives electric, water and sanitary sewer service from the Utilities Commission. Adequate capacity is available to serve the proposed use. Access roads are sufficient at this corner property, and the site has adequate space to provide drainage facilities.

This criterion has been met.

Per Section 504.02, the Mixed Use District of the City's *Land Development Regulations*

(LDR), Automobile Sales, Recreation Vehicles Sales, and Trailer Sales New and Used including all vehicles with two or more wheels are subject to the following conditions. These conditions are discussed in further detail below (staff's response follows in **bold**):

a. Windows shall maintain a minimum transparent area of 65%.

Applicant has been told of this condition and accepts this condition.

b. Sales display area is required to provide a lighting plan that meets Section 604.13.

Applicant has been told of this condition and accepts this condition.

c. If temporary shell parking lot is proposed, City Commission approval is required by separate application.

Applicant has not proposed a shell parking lot.

d. Site Plan shall be submitted as per Article XI of the City Land Development Regulation to City Planning Director for review.

Applicant has been told of this condition and accepts this condition.

e. Must meet all other City Land Development Regulations.

Applicant has been told of this condition and accepts this condition. A site plan will be submitted after Special Exception Use is approved.

The Planning and Zoning Board and the City Commission must also review the request to determine whether it is consistent with the Comprehensive Plan and LDR. The *Comprehensive Plan* provides objectives and policies related to future development within the City. The following is a list of objectives in the *Comprehensive Plan* that support this proposal. Following each objective is a response from staff in **bold**.

Future Land Use Element Goal 2, Objective 3: To ensure that future development will be consistent with adjacent uses, natural limitations such as topography and soil conditions, the needs of the citizens of New Smyrna Beach, the Future Land Use Map, the availability of facilities and services, and the goals, objectives and policies contained within this *Comprehensive Plan*.

The subject property, as well as all surrounding properties, is designated for commercial uses. With existing fuel station, railroad tracks, and automotive service businesses, the proposed use would fit at this location.

With regard to the needs of the citizens of New Smyrna Beach, the City does not currently have many custom motorcycle dealerships or electric bicycle shops. By allowing this use as a Special Exception, it does not seem to saturate the area with this type of business.

Future Land Use Element Goal 5, Objective 3: To protect existing desirable neighborhoods from encroaching new development which is incompatible and inconsistent with established character of the neighborhood.

The proposed use is compatible and consistent with the surrounding future land use and zoning designations and with existing uses in the immediate area.

Recommendation:

The request is consistent with the City's *Comprehensive Plan* and the request meets the criteria outlined in Section 305.04 of the City's *Land Development Regulations.* Staff therefore recommends that the Planning and Zoning give a positive recommendation to the City Commission to **approve** the request to allow a motorcycle dealership as a special exception use in the Mixed Use zoning district for property located at 214 North Dixie Freeway.

Fiscal Analysis:
N/A

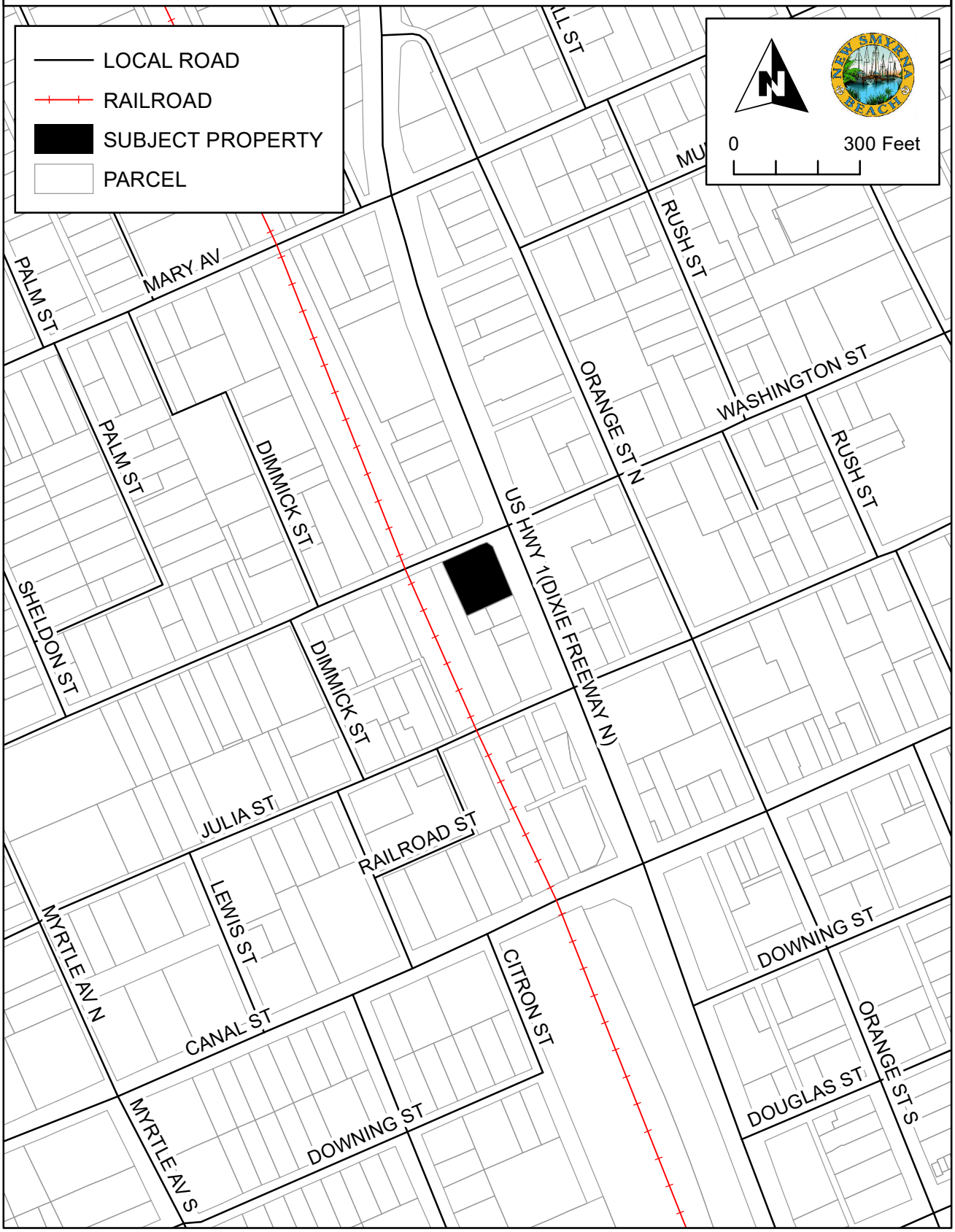
Strategic Plan Item:
No

Staff Report Created By: Robert Mathen - Planner II

Attachments:

Exhibit A SE-1-21 Location Map.pdf
Exhibit B SE-1-21 Aerial Map.pdf
Exhibit C SURVEY.pdf
Exhibit D Proposed Sketch.pdf

SE-1-21: 218 N. DIXIE FREEWAY
PARCEL: 7441-12-02-0080 LOCATION MAP

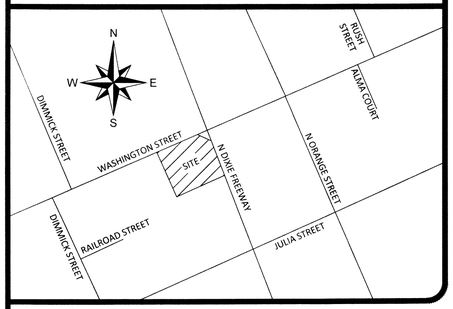


SE-1-21: 218 N. DIXIE FREEWAY
PARCEL: 7441-12-02-0080 AERIAL MAP



ALTA/NSPS LAND TITLE SURVEY

VICINITY MAP (NOT TO SCALE)



DESCRIPTION

TRACT II: ALL OF LOT 9, EXCEPT THE SOUTH 50 FEET THEREOF, OF BLOCK 2, ZELIA SAMS SUBDIVISION IN THE CITY OF NEW SMYRNA, FLORIDA, AS SHOWN ON THE MAP OF SAID SUBDIVISION MADE BY J. W. DOUGLAS, C. E. AND RECORDED IT MAP BOOK 1, PAGE 73, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TRACT III: THE NORTH 150 FEET OF LOT 8 AND THE NORTH 150 FEET OF THE WEST 35.8 FEET ON THE NORTH LINE AND THE WEST 39.95 FEET ON THE SOUTH LINE OF LOT 7 ALL IN BLOCK 2 IN ZELIA SAMS SUBDIVISION OF NEW SMYRNA BEACH FLORIDA, AS PER MAP BOOK 1, PAGE 73, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

TRACT IV: THAT PART OF A 25 FOOT PUBLIC ALLEY (KNOWN AS DORA STREET IN ZELIA SAMS SUBDIVISION AS RECORDED IN MAP BOOK 3, PAGE 129, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. (SAID ALLEY WAS FORMERLY PART OF LOTS 6 AND 7, BLOCK 2 OF SAID ZELIA SAMS SUBDIVISION), SAID PART OF ALLEY LYING WEST OF THE RIGHT-OF-WAY LINE OF PROPOSED U.S. NO. 1 HIGHWAY AND DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF LOT 7, BLOCK 2, SAID ZELIA SAMS SUBDIVISION, THENCE N 66°43'19" E 35.8 FEET TO THE WEST LINE OF SAID ALLEY; THENCE ALONG WEST LINE OF SAID ALLEY S 25°26'24" E 9 .15 FEET FOR THE POINT OF BEGINNING; THENCE S 67°01'11" E 8. 09 FEET TO THE PROPOSED WEST RIGHT-OF-WAY OF U.S. NO. I HIGHWAY; THENCE S 20°45'41" E ALONG SAID WEST RIGHT-OF-WAY 65.86 FEET TO AN INTERSECTION WITH THE WEST RIGHT-OF-WAY OF 25 FOOT ALLEY; THENCE N 25°26'24" W ALONG SAID WEST RIGHT-OF-WAY OF 25 FOOT ALLEY 71.69 FEET THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED TRACTS OR PARCELS OF LAND:
TRACT I: COMMENCE AT A POINT ON THE SOUTH LINE OF LOT 6, BLOCK 2, ZELIA SAMS SUBDIVISION AS SHOWN IN MAP BOOK 3, PAGE 129, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID POINT BEING THE NORTHWEST CORNER OF LOT "V", L.B. BOUCHELLE'S RESUBDIVISION AS SHOWN IN MAP BOOK 6, PAGE 55; THENCE S 66°43'19" W ALONG THE SOUTH LINE OF LOTS 6 AND 7, BLOCK 2, ZELIA SAMS SUBDIVISION, 20.32 FEET; THENCE N 20°45'41" 44.88 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 20°45'41" W 69.14 FEET; THENCE
S 25°26'24" E 69.16 FEET; THENCE S 66°43'19" W 5.68 FEET TO THE POINT OF BEGINNING.

TRACT II: COMMENCE AT A POINT ON THE SOUTH LINE OF LOT 5, PITZER & NELSON SUBDIVISION AS SHOWN IN MAP BOOK 1, PAGE 96, SAID POINT BEING 1.64 FEET EASTERLY OF THE SOUTHWEST CORNER OF SAID LOT 5, BLOCK 2; THENCE S 21°31'41" E 15.25 FEET; THENCE S 20°45'41" E 15.12 FEET TO THE NORTH LINE OF BLOCK 2, ZELIA SAMS SUBDIVISION; THENCE S 66°43'19" W ALONG SAID NORTH LINE 56.65 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S 66°43'19" W 8.4 FEET; THENCE S 67°01'11" E 12.66 FEET; THENCE N 25°26'24" W 9.15 FEET TO THE POINT OF
BEGINNING.

LESS AND EXCEPT ANY OF PORTION OF THE ABOVE DESCRIBED PROPERTY THAT MAY LIE WITHIN U.S. HIGHWAY NO. 1 AS NOW ESTABLISHED AND USED.

NOTES

1. BEARING STRUCTURE IS ASSUMED AND BASED ON THE SOUTH RIGHT-OF-WAY LINE OF WASHINGTON STREET BEING N66°18'24"E.

2. THIS SURVEY REFLECTS ONLY MATTERS OF RECORD AS PROVIDED BY THE CLIENT OR CLIENTS REPRESENTATIVE.

3. THIS SURVEY WAS MADE ON THE GROUND. THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

4. THIS BUILDING/LOT LIES IN ZONES "X-SHADED", BASED ON FLOOD INSURANCE RATE MAP NO. 12127C0543J, COMMUNITY NO. 125132, CITY OF NEW SMYRNA BEACH, VOLUSIA COUNTY, FLORIDA, EFFECTIVE SEPTEMBER 25, 2009.

5. ACCORDING TO FLORIDA STATUTES, CHAPTER 472.025, A LAND SURVEYOR SHALL NOT AFFIX HIS SEAL OR NAME TO ANY PLAN OR DRAWING WHICH DEPICTS WORK WHICH HE IS NOT LICENSED TO PERFORM OR WHICH IS BEYOND HIS PROFESSION OR SPECIALTY THEREIN. THEREFORE, WE ARE UNABLE TO CERTIFY AS TO MUNICIPAL ZONING COMPLIANCE, INTERPRETATION OF ZONING CODES OR THE DETERMINATION OF VIOLATIONS THEREOF.

6. THIS SURVEY WAS MADE WITH BENEFIT OF OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY'S COMMITMENT NO. 776737, EFFECTIVE: AUGUST 23, 2019 AT 11:00 PM.

7. THIS SURVEY IS VALID ONLY FOR THE PARTIES TO WHOM IT IS CERTIFIED.

8. THIS SURVEY EXCEEDS THE ACCURACY REQUIREMENTS SET FORTH IN FLORIDA STATUTES.

9. NO ZONING INFORMATION PROVIDED TO SURVEYOR.

10. NO EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR ADDITIONS WAS OBSERVED.

11. SURVEYOR IS NOT AWARE OF ANY PROPOSED CHANGES IN STREET RIGHT-OF-WAY LINES AND DID NOT OBSERVE ANY EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.

12. NO DELINEATED WETLANDS WERE OBSERVED.

SCHEDULE B-2 - EXCEPTIONS

6. ALL MATTERS CONTAINED ON THE PLAT OF ZELIA SAMS SUBDIVISION, AS RECORDED IN PLAT BOOK I, PAGE 73, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.
(NO EASEMENTS TO DEPICT.)

7. ALL MATTERS CONTAINED ON THE PLAT OF ASSESSORS PLAT OF ZELIA SAMS ADDITION TO NEW SMYRNA, AS RECORDED IN PLAT BOOK 3. PAGE 129, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. (NO EASEMENTS TO DEPICT.)

8. COVENANTS, CONDITIONS, AND RESTRICTIONS RECORDED IN DEED BOOK 282, PAGE 317, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. (NO EASEMENTS TO DEPICT.)

9. ORDINANCE VACATING ALLEY, RECORDED IN O.R. BOOK 2157, PAGE 1018, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. (AFFECTS SUBJECT PROPERTY AS SHOWN HEREON.)

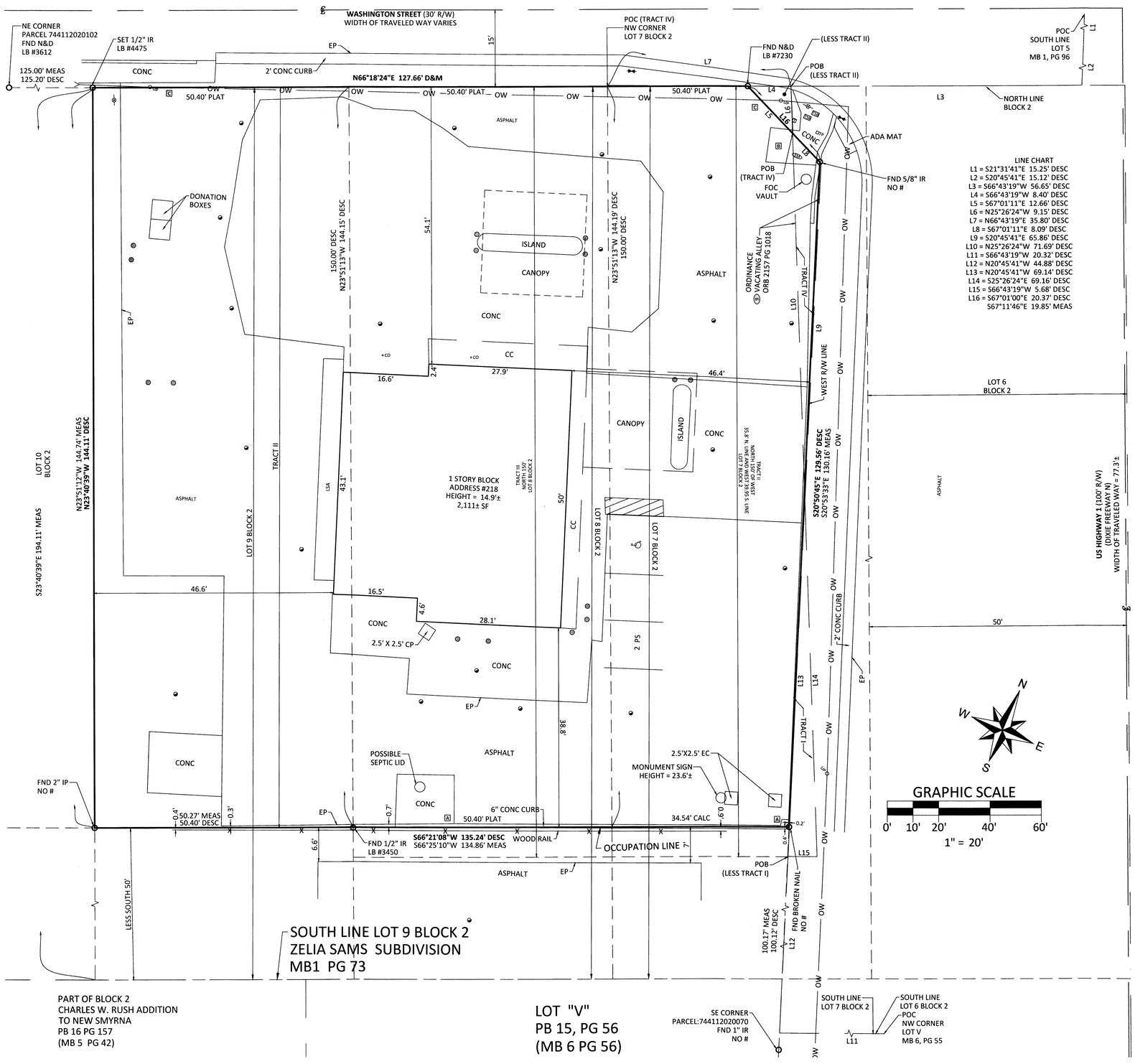
POSSIBLE ENCROACHMENTS

WITHOUT EXPRESSING A LEGAL OPINION AS TO OWNERSHIP OR NATURE, THE FOLLOWING POSSIBLE ENCROACHMENTS ARE NOTED. ADDITIONAL ITEMS MAY BE DEPICTED HEREON THAT HAVE NOT BEEN INCLUDED IN THIS LIST.

[A] - 6" CONCRETE CURB LIES ON SOUTH BOUNDARY LINE

[B] - CONCRETE CROSSES NORTHEAST BOUNDARY LINE

[C] - OVERHEAD WIRE CROSSES NORTH AND NORTHEAST BOUNDARY LINE



ACCURIGHT

ACCURIGHT SURVEYS OF ORLANDO INC., LB 4475
2012 E. Robinson Street, Orlando, Florida 32803
www.AccurightSurveys.net
ACCU@AccurightSurveys.net
PHONE: (407) 894-6314

SCALE: 1" = 20'	JOB #52104	SHEET 1 OF 1
ORIGINAL DATE: 12-19-19	DRAWN BY: SNH	

PREPARED FOR:
SOUTHERN STAR RESTAURANT MANAGEMENT INC

SUBDIVISION NAME: ZELIA SAMS SUBDIVISION

LOCATION:
218 N DIXIE FREEWAY
NEW SMYRNA BEACH, FL, 32168

LEGEND

BB	- BOTTOM OF BANK	MEAS	- MEASURED
BC	- BACK OF CURB	MF	- METAL FENCE
BFP	- BACK FLOW PREVENTER	ML	- METAL LID
BM	- BENCHMARK	MS	- METAL SHED
BOL	- BOLLARD	MES	- MITERED END SECTION
-E-	- BURIED ELECTRIC	MW	- MONITORING WELL
BWF	- BARBED WIRE FENCE	N&D	- NAIL & DISK
CATV	- CABLE TV RISER	NAVD	- NORTH AMERICAN VERTICAL DATUM
-C-	- BURIED CABLE TV	NGVD	- NATIONAL GEODETIC VERTICAL DATUM
CALC	- CALCULATED	NT	- NON-TANGENT
C&M	- CALCULATED & MEASURED	NTS	- NOT TO SCALE
Δ	- CENTRAL ANGLE	OHE	- OVERHEAD ELECTRIC
CBW	- CONCRETE BLOCK WALL	ORB	- OFFICIAL RECORDS BOOK
CC	- COVERED CONCRETE	-OW-	- OVERHEAD WIRE
CF	- CONCRETE FLUME	PB	- PLAT BOOK
CHW	- CONCRETE HEAD WALL	PC	- POINT OF CURVATURE
CLF	- CHAIN LINK FENCE	PEP	- PER ENGINEERING PLANS AND MAPPER
CM	- CONCRETE MONUMENT	PF	- PLASTIC FENCE
CMP	- CORRUGATED METAL PIPE	PG	- PAGE
+CO	- CLEAN OUT	PI	- POINT OF INTERSECTION
CONC	- CONCRETE	P&M	- PLAT & MEASURED
COVD	- COVERED	POB	- POINT OF BEGINNING
CP	- CONCRETE PAD	POC	- POINT OF COMMENCEMENT
CW	- CONCRETE WALKWAY	PRC	- POINT OF REVERSE CURVATURE
D&M	- DEED/DESC & MEASURED	# PS	- PARKING SPACES
DE	- DRAINAGE EASEMENT	PSM	- PROFESSIONAL SURVEYOR AND MAPPER
DESC	- DESCRIPTION	PT	- POINT OF TANGENCY
DI	- DOT INLET	PVC	- PLASTIC PIPE
DOC #	- DOCUMENT #	R	- CURVE RADIUS
DP	- DUMPSTER PAD	RCP	- REINFORCED CONCRETE PIPE
DW	- DRIVEWAY	R/W	- RIGHT OF WAY
EM	- EASEMENT NUMBER	SMH	- SANITARY MANHOLE
EMH	- ELECTRIC METER	-S-	- SANITARY LINE
EB	- ELECTRICAL BOX	SDO	- SHOWN FOR DIRECTION ONLY
EL	- ELEVATION	SF	- SQUARE FEET
ESMT	- EASEMENT	SWF	- STOCK WIRE FENCE
EP	- EDGE OF PAVEMENT	x00.00	- SPOT ELEVATION
FDC	- FIRE DEPARTMENT CONNECTION	-D-	- STORM/DRAIN LINE
FIRM	- FLOOD INSURANCE RATE MAP	SVA	- SEWER VALVE
FFE	- FINISHED FLOOR ELEVATION	SM	- STORM MANHOLE
FH	- FIRE HYDRANT	-T-	- UNDERGROUND TELEPHONE
-FM-	- FORCE MAIN	SI	- STORM INLET
FND	- FOUND	TB	- TOP OF BANK
-FO-	- FIBER OPTIC LINE	TP	- TRAFFIC POLE
-G-	- GAS LINE	-T-	- TRAFFIC SIGN
GM	- GAS METER	TF	- TRANSFORMER/JUNCTION BOX
GA	- GUY WIRE ANCHOR	TR	- TELEPHONE RISER
HP	- HANDICAP PARKING	TSB	- TRAFFIC SIGNAL BOX
HDPE	- HIGH DENSITY POLYETHYLENE	TYP	- TYPICAL
INV	- INVERT ELEVATION	UE	- UTILITY EASEMENT
IP	- IRON PIPE	UP	- UTILITY POLE
IR	- IRON ROD	-W-	- WATER LINE
IRV	- IRRIGATION VALVE	WF	- WOOD FENCE
L	- ARC LENGTH	WS	- WOOD SHED
LB	- LICENSED BUSINESS	WV	- WATER VALVE
LP	- LIGHT POLE	WM	- WATER METER
LSA	- LANDSCAPE AREA	YD	- YARD DRAIN
LS	- LICENSE SURVEYOR		

BOUNDARY SURVEY DATE: 12/19/19

per 5J-17.051(3)(b)3 Florida Administrative Code

DATE:	JOB #	REVISION	BY:
2/4/20	52104	REVISED PER CLIENT COMMENTS	SNH
2/7/20	52104	REVISED PER CLIENT COMMENTS	SNH

BOUNDARY AND LOCATION SURVEY

TO: OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY; SOUTHERN STAR RESTAURANT MANAGEMENT, INC., A FLORIDA CORPORATION; NBS SEASIDE, LLC, A FLORIDA LIMITED LIABILITY COMPANY; STEVEN R. KUTNER, ESQUIRE; STEVEN R. KUTNER, P.A.

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(A), 7(A), 8, 9, 11, 13, 16, 17 AND 18 OF TABLE A THEREOF.

Ronald K. Smith 2/07/20

RONALD K. SMITH, PSM 5797

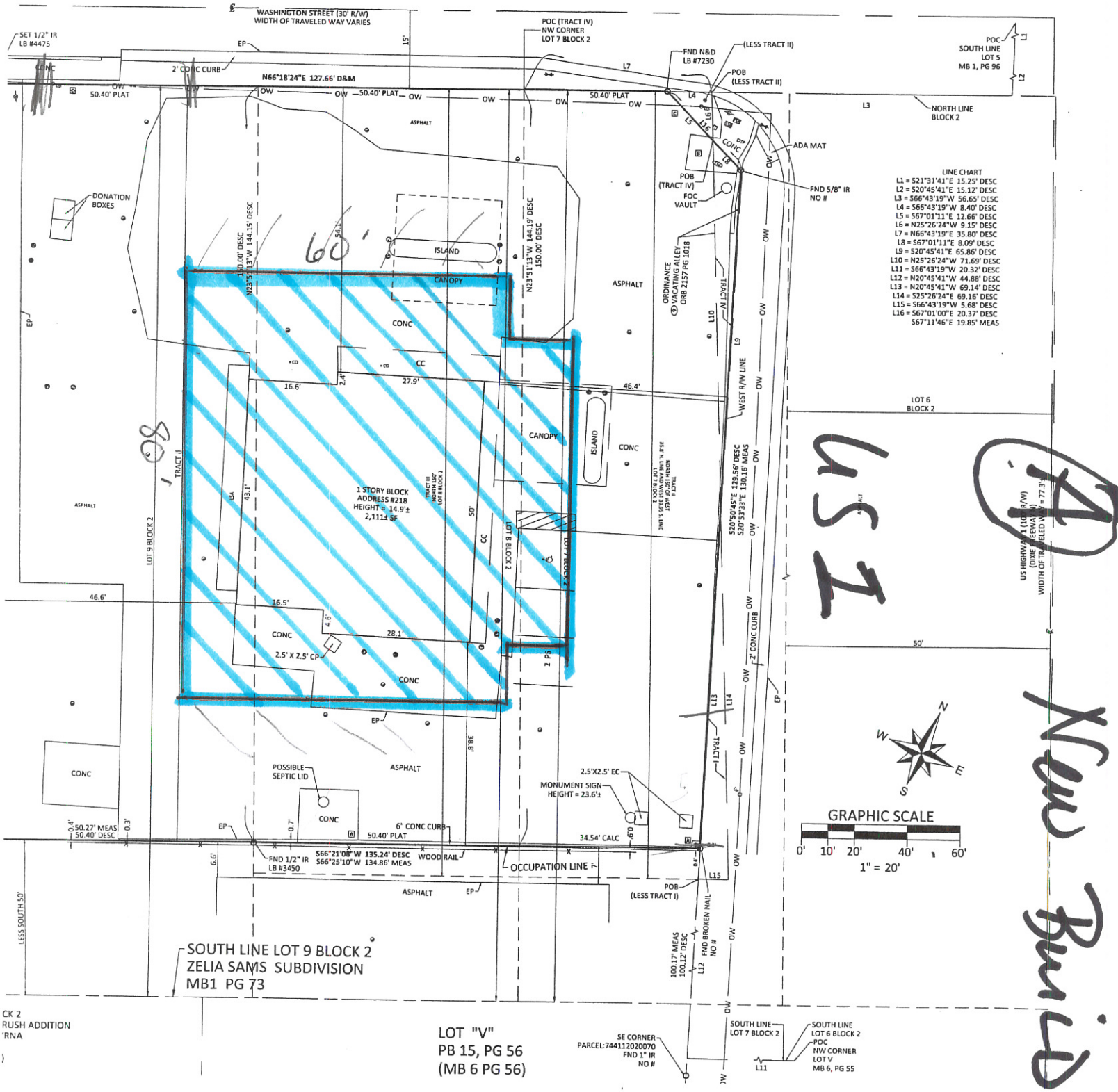
"THE DATE OF SIGNATURE DOES NOT REVISE OR SUPERSEDE THE BOUNDARY SURVEY DATE OR REVISION DATE."

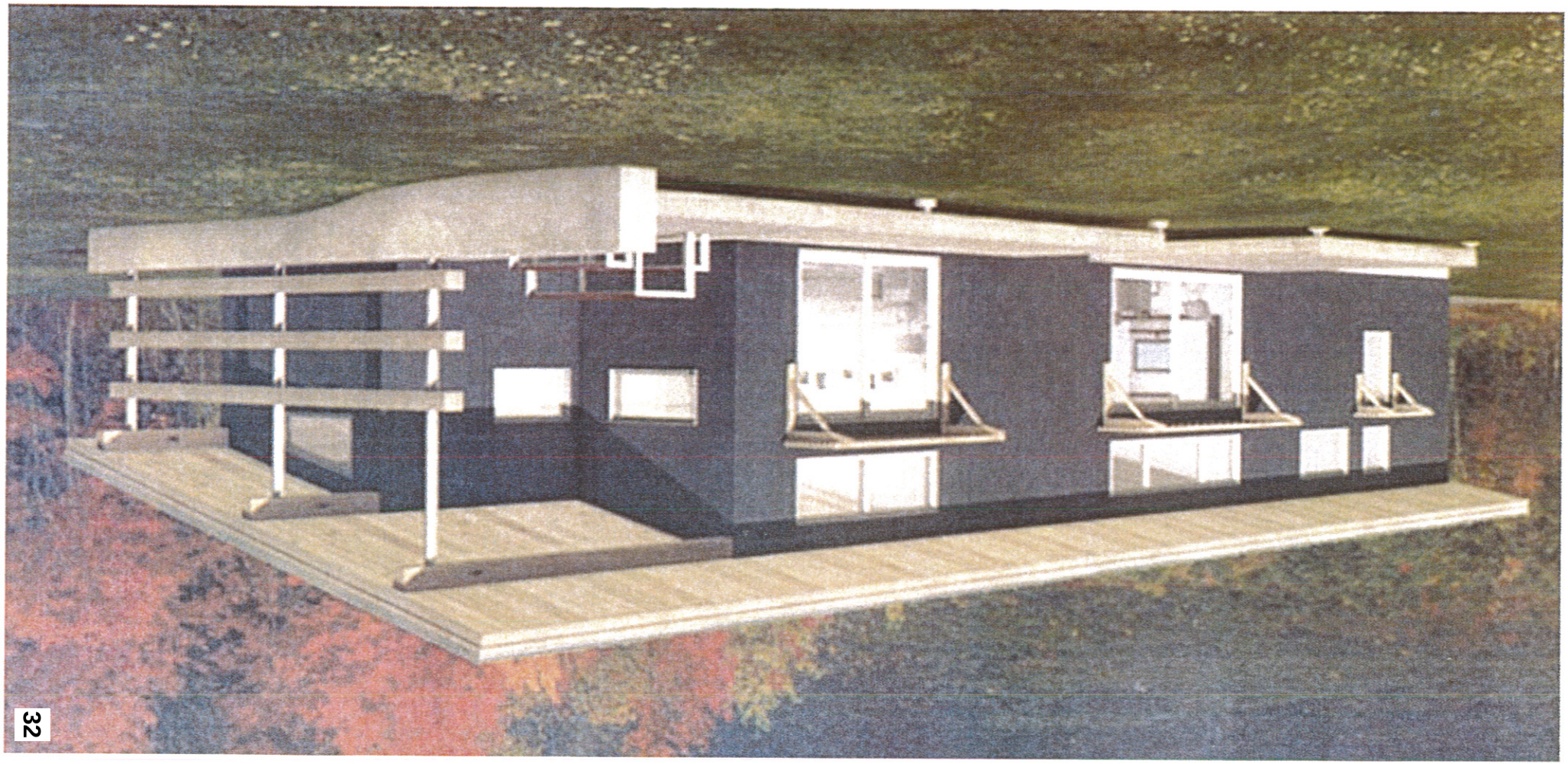
THIS SURVEY MEETS THE "STANDARDS OF PRACTICE" AS REQUIRED BY CHAPTER 5J-17 FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES.

"NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF THIS FLORIDA LICENSED SURVEYOR AND MAPPER." -OR-
THE DIGITAL SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY RONALD K. SMITH, PSM 5797.

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ALTA/NSPS LAND TITLE SURVEY





THE CITY OF NEW SMYRNA BEACH - PLANNING & ZONING

ZT-4-21: MODIFICATION TO THE LIST OF PERMITTED USES IN THE I-2, HEAVY INDUSTRIAL ZONING DISTRICT TO PERMIT TEMPORARY HOUSING FACILITIES ON GOVERNMENT OWNED AND/OR OPERATED FACILITIES.

April 5, 2021

Background:

The City of New Smyrna Beach is requesting a modification to list of permitted uses in the I-2, Heavy Industrial zoning district. This would amend the currently permitted use of "Facilities owned and/or operated by federal, state, county, or municipal governments, except country clubs and golf courses" to include "temporary housing facilities."

Findings:

Exhibits used in this report:

- Exhibit A: Proposed amendment
- Exhibit B: Clean amendment
- Exhibit C: City owned I-2 zoned properties

The City is preparing a program to provide temporary transitional housing facilities for individuals and families in New Smyrna Beach that have been displaced from their homes and are in need of shelter. This program, if approved, would use temporary mobile type housing for residents.

This proposed amendment would also allow for any future temporary housing for residents due to a national disaster.

Staff recommends the Planning and Zoning Board provide a recommendation that the City Commission approve the requested text amendment.

Fiscal Analysis:

N/A

Strategic Plan Item:

Yes

Staff Report Created By: Robert Mathen - Planner II

Attachments:

Exhibit A Proposed Regulation2.pdf
Exhibit B Clean Regulation2.pdf

Exhibit C I-2 Zoning.pdf

504.00. District regulations and requirements.

504.02. *Specific regulations by district.* The regulations for each zoning district are set forth in the following schedule. No lot shall be developed except to conform to the respective district requirements unless a variance has been granted in conformance with this LDR.

I-2, HEAVY INDUSTRIAL DISTRICT

Intent. This district is intended for heavy manufacturing, assembly, processing raw materials, repairing, research, storage, wholesaling, distribution, retail associated with a principal manufacturing use, and closely related heavy industrial uses, in which all operations other than transportation may be performed within enclosed buildings or in open storage areas subject to performance standards imposed by all applicable governmental agencies. Heavy manufacturing and heavy industrial uses are compatible and open storage areas are screened to minimize adverse visual impact to surrounding community development.

Permitted uses.

All uses permitted in the I-1 District

Automobile wrecking

Construction-heavy equipment and supplies

Facilities owned and/or operated by federal, state, county, or municipal governments, including temporary housing facilities, except country clubs, and golf courses

504.00. District regulations and requirements.

504.02. *Specific regulations by district.* The regulations for each zoning district are set forth in the following schedule. No lot shall be developed except to conform to the respective district requirements unless a variance has been granted in conformance with this LDR.

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Intent. This district is intended for heavy manufacturing, assembly, processing raw materials, repairing, research, storage, wholesaling, distribution, retail associated with a principal manufacturing use, and closely related heavy industrial uses, in which all operations other than transportation may be performed within enclosed buildings or in open storage areas subject to performance standards imposed by all applicable governmental agencies. Heavy manufacturing and heavy industrial uses are compatible and open storage areas are screened to minimize adverse visual impact to surrounding community development.

Permitted uses.

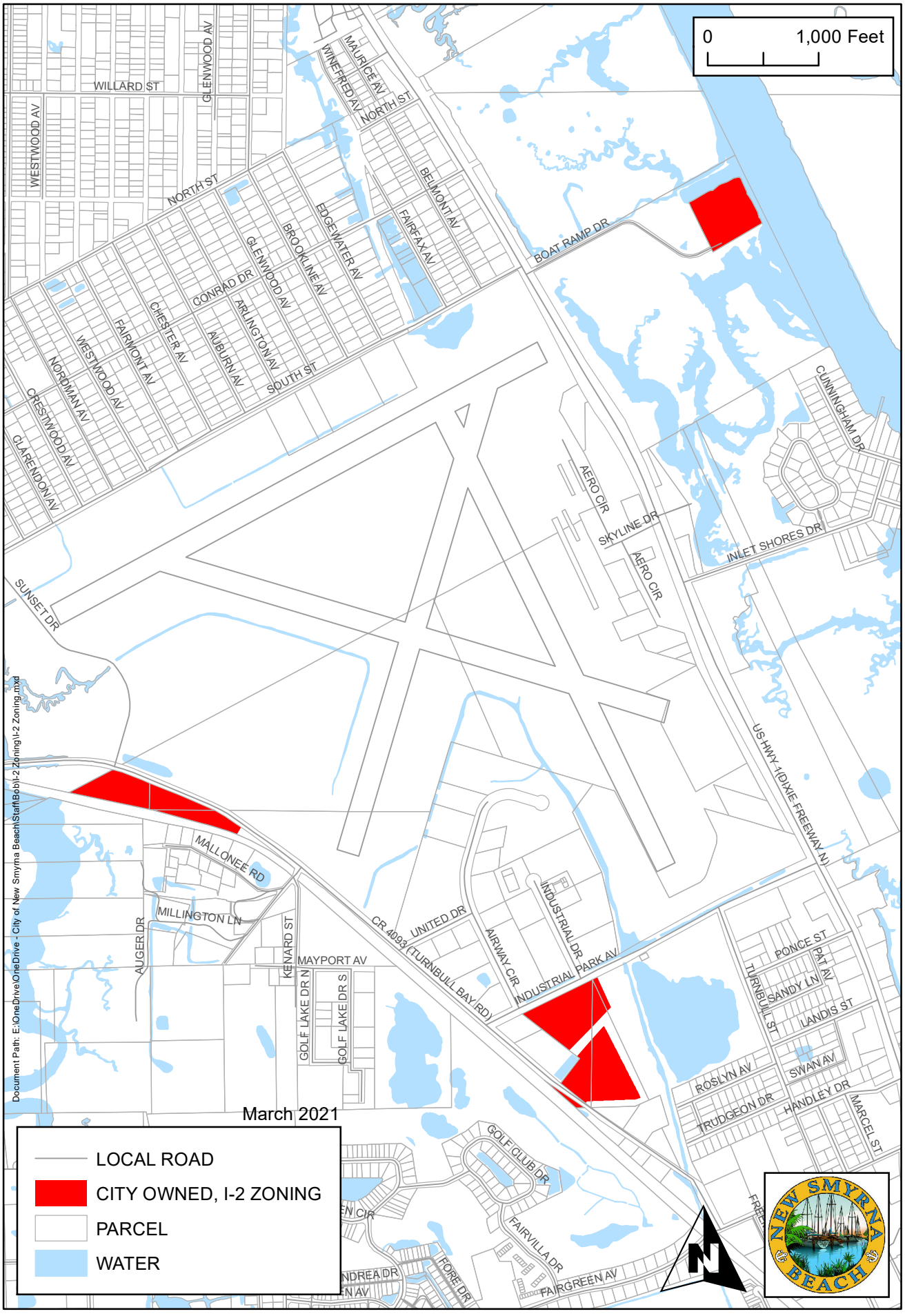
All uses permitted in the I-1 District

Automobile wrecking

Construction-heavy equipment and supplies

Facilities owned and/or operated by federal, state, county, or municipal governments, including temporary housing facilities, except country clubs, and golf courses

CITY OWNED PROPERTIES WITHIN I-2 ZONING



THE CITY OF NEW SMYRNA BEACH - PLANNING & ZONING

ZT-2-21: REVISION TO THE COASTAL CONSTRUCTION SETBACK LINE LOCATION AND ASSOCIATED REGULATIONS

April 5, 2021

Background:

1. Applicant: City of New Smyrna Beach, 210 Sams Avenue, New Smyrna Beach, Florida 32168

2. Request: Approval to amend the City's Land Development Regulations (LDR) to relocate the City's Coastal Construction Setback Line (CCSL), to revise the regulations for structures permitted seaward of the CCSL, to create a CCSL Variance, and to update the related wording in the LDR regarding the CCSL approval process.

Findings:

Exhibits included in this report:

- **Exhibit A:** Map of the Florida Department of Environmental Protection (DEP) Coastal Construction Control Line (CCCL) and the City's current Coastal Construction Setback Line (CCSL)
- **Exhibit B:** Section 703.02 of the LDR, including the proposed deleted and added language shown as markups
- **Exhibit C:** Section 703.02 of the LDR as proposed (clean version)
- **Exhibit D:** New Definition added to Section 201.00 of the LDR
- **Exhibit E:** Changes to Article IX of the LDR

At the December 9, 2020 City Commission workshop, the Commission directed Staff to revise the City's LDR to adopt the Florida Department of Environment's Coastal Construction Control Line (CCCL) as the City's new Coastal Construction Setback Line (CCSL). The City would still maintain its own rules for activities permitted east of the line,

but using the FDEP line would eliminate the confusion of having two lines, plus it would utilize the line (FDEP's CCCL) which has been located based on scientific analysis.

The current City CCSL and the FDEP CCCL lines are depicted in **Exhibit A**. By adopting the FDEP line, in some instances this will provide property owners with more available space to develop their properties. This is primarily north of Sapphire Road. To the south of Sapphire Road, the CCSL line will in most cases shift further inland, and thus become more restrictive. This occurs largely south of Sapphire Road, in the area determined by the FDEP as "critically eroded" in 2004, after a series of hurricanes impacted the coastline.

In 1986, the FDEP was charged with the responsibility to identify those beaches of the state which are critically eroding and to develop and maintain a comprehensive long-term management plan for their restoration. The long-term management plan has several components that the FDEP implements including the *Critically Eroded Beaches Report* and the *Strategic Beach Management Plan*. The critically eroded designation is a level of erosion that threatens development, recreational, cultural, and environmental interests. While some of this erosion is due to natural forces and imprudent coastal development, a significant amount of coastal erosion in Florida is directly attributable to the construction and maintenance of navigation inlets, which New Smyrna Beach has at its northern corporate limits. Per the report:

The FDEP, pursuant to rule 62B-36.002(5), Florida Administrative Code (F.A.C.), defines "critically eroded shoreline" as, "*a segment of the shoreline where natural processes or human activity have caused or contributed to erosion and recession of the beach or dune system to such a degree that upland development, recreational interests, wildlife habitat, or important cultural resources are threatened or lost. Critically eroded shorelines may also include peripheral segments or gaps between identified critically eroded areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects.*"

It is this area critically eroded area that will have a more restrictive CCSL, as it is this area that is experiencing significant erosion issues.

The CCSL historically regulated development along the oceanfront in that no structure was allowed to be constructed east of it. The CCSL was originally established in 1975 with Ordinance 31-75, and at that time applied to the area between Crawford Street and Flagler Avenue. The Ordinance prevented beach or dune material, including vegetation, to be removed or disturbed in any manner except as is necessary and incidental to construction of approved structures for which a variance or exception has been obtained shall be permitted. No construction or construction activities were permitted east of the CCSL. In addition, the only construction permitted was a seawall or bulkhead on private property, east of the CCSL.

Ordinance 65-75 established a bulkhead line from the centerline of Crawford Road to the north corporate limit of the City, and a CCSL, which repealed all conflicting ordinances or portions thereof. In addition, a CCSL line was established fifty (50) feet west of the afore-described bulkhead line. Where no seawall was constructed, no construction whatsoever was allowed to be constructed east of the CCSL, no excavation made nor any beach material disturbed or removed. Where a seawall was constructed, no living units were to be built east of the setback line. Structures such as shuffleboard courts, patios and swimming pools could be built no closer than 15 feet to the seawall and the area up to the seawall could be landscaped, all as approved by the Planning Board and the City Manager.

In 1985, the City Commission amended the CCSL regulations, establishing a consistent construction setback line from the north corporate limit to the south corporate limit along the Atlantic Ocean Beach. From the Ponce de Leon Inlet to the centerline of Crawford Street, the CCSL was established 50 feet west of the DNR line. From Crawford Street to the centerline of Flagler Avenue, the CCSL was the same as the DNR line, and from the Flagler Avenue to the south corporate limit, the CCSL was again 50 feet west of the bulkhead line. The approval process required the Planning Board to approve the location of seawalls and bulkheads on private property, with the construction details to be approved by the DNR (now the FDEP). Seawalls, bulkheads, and other types of coastal armoring structures on public property had to be approved by the City Commission.

In 1991, the DNR line, which was established in 1973, was replaced by the CCCL. The establishment of the CCCL was based on mathematical models generated by the University of Florida. These models created predictability of shoreline erosional trends, shoreline fluctuations (seasonal and storm induced), and storm surges and its associated

waves impacts. They were then cross-checked with past data to verify for accuracy and calibrated, if needed. The FDEP notes that the method for determining erosion trends is constantly changing. However, 1991 was the last time the CCCL line has been updated, almost 30 years ago. Further, in 2004, after a series of hurricanes inflicted significant damage to the New Smyrna Beach coastline, the area south of Sapphire Road was determined to be critically eroded. Per the FDEP, studies are underway to potentially change the location of the CCCL again. If the new CCCL line deviates from the current CCCL line, staff recommends the future CCSL follow the new CCCL as well. If the proposed change is adopted, no action by the City would be needed if FDEP moved the CCCL line, as the City's CCSL line would be recognized at the same location as the CCCL, after any changes to the CCCL.

Section 703.02 of the City's LDR includes the requirements for development in the coastal area. The changes to the Section are included as **Exhibit B**, with strikethroughs indicating deleted sections, and underlined words indicating added language. Under the new regulations, improvements meeting LDR requirements on existing developed lots would be permitted seaward of the CCSL, but only if these improvements are at or behind the facade of an existing principal structure. An additional proposed change is that construction of proposed structures seaward of the CCSL that meet all applicable criteria would require a building permit, instead of the current requirement that all structures obtain City Commission approval at a public hearing. A "clean" version of Section 703.02 is included as **Exhibit C**.

Criteria to allow a CCSL Variance is included in **Exhibit C** as well. The CCSL Variance process includes a series of variance criteria that must be met to allow construction east of the CCSL. CCSL Variances will be heard by the Planning and Zoning Board. The criteria are a combination of the standard variance criteria, and new criteria specific to construction along the oceanfront.

The proposed changes affect several definitions to Section 201.00 in the City's LDR. These changes are included as **Exhibit D**.

Section 703.02 of the LDR referenced Article X, SEAWALLS AND OTHER COASTAL ARMORING STRUCTURES. Article X was previously moved to Article IX of the City's Code of Ordinances. The proposed revisions to the LDR affect the Article in that the party

proposed to approve structures such as seawalls is to be the Development Services Director, instead of the City Commission, as is currently the case in the Article. The proposed changes are included as **Exhibit E.**

Recommendation

Staff recommends the Planning & Zoning Board review the proposed text amendments, discuss and provide any suggested revisions, and forward a recommendation that the City Commission approve the proposed changes to the LDR.

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Jake Baker - Planner I

Attachments:

Exhibit A CCCL - CCSL Map North.pdf
Exhibit B Additions and Deletions.pdf
Exhibit C 703.00 CLEAN.pdf
Exhibit D Section 201. General Definitions Changes.pdf
Exhibit E ARTICLE IX.pdf

COASTAL CONSTRUCTION CONTROL LINE MAP
(NEW SMYRNA BEACH - NORTHERN SECTION)

- NEW SMYRNA BEACH COASTAL CONSTRUCTION SETBACK LINE
- DEPARTMENT OF ENVIRONMENTAL PROTECTION COASTAL CONSTRUCTION CONTROL LINE (1991)
- LOCAL ROAD
- 2107 ADDRESS
- BUILDING FOOTPRINT
- PARCEL
- CITY BOUNDARY
- WATER

February 2021

0 500 1,000 1,500 2,000 Feet

**This map is for illustrative purposes only. The data represented is provided as a public service for general information and should not be used for legal, engineering, or surveying purposes. The City makes no claims, representations, or warranties, expressed or implied, concerning the validity (expressed or implied), the reliability, or accuracy of the GIS data and GIS map products furnished by the City. The user is welcomed to verify all official records with city personnel, concerning the timeliness and accuracy of the data presented.

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703.00. Development in the coastal area.

703.01. *Construction standards.* All development or redevelopment proposed on land within the coastal area shall be in accordance with article IX, Coastal Construction, Code sections 10-320 through 10-324 as amended, City Code of Ordinances.

703.02. *Development east of the ~~city~~ Coastal C~~c~~onstruction S~~s~~etback L~~l~~ine.*

A. *Location of CCSL ~~city's Coastal Construction Setback Line~~.*

(1) The CCSL shall be the same location as the Florida Department of Environmental Protection's (DEP) Coastal Construction Control Line (CCCL), as amended.

~~Between the north corporate limit and the centerline of Crawford Road, the city's Coastal Construction Setback Line (CCSL), unless a structure qualifies for an exemption listed in Section 703.02.C, or a CCSL Variance is obtained. shall be 50 feet west of the Department of Environmental Protection (DEP) Coastal Construction Control Line (CCCL) as it existed prior to January 24, 1991, except as follows:~~

~~i. The city's Coastal Construction Setback Line (CCSL) shall move eastward of Department of Environmental Protection Coastal Construction Control Line (CCCL) from the Point of Beginning and Point of Termination in the following manner: from a Point of Beginning, commence at the intersection of the southwesterly prolongation of the northwesterly line of Lot 4, Block 5, Boardwalk Subdivision, Coronado Beach, according to the map or plat thereof as recorded in Plat Book 8, Page 114, Public Records of Volusia County, Florida and the Department of Natural Resources Coastal Construction Setback Line as recorded in Map Book 30, Page 19, Public Records of Volusia County, Florida; thence northeasterly along said prolongation of said northwesterly line, a distance of 61.61 feet; thence southerly, a distance of 50.26 feet to a point on the southeasterly line of said Lot 4, said point being 46.74 feet from the monumented southwesterly corner of said Lot 4 as measured along the southeasterly line of said Lot 4; thence southwesterly, a distance of 57.20 feet and along said southeasterly line of Lot 4 to said~~

~~Department of Natural Resources Coastal Construction Setback Line for the Point of Termination.~~

ii. ~~The city's Coastal Construction Setback Line (CCSL) shall move eastward of the Department of Environmental Protection Coastal Construction Control Line (CCCL) from the Point of Beginning and Point of Termination in the following manner: From the Point of Beginning, commence at the intersection of the westerly prolongation of the northerly line of Lot 10, Block 5, Map of "The Boardwalk" Subdivision, according to the map or plat thereof, as recorded in Map Book 8, Page 114, of the Public Records of Volusia County, Florida and the City of New Smyrna Beach Coastal Construction Setback Line per City of New Smyrna Beach Ordinance No. 12-01, dated 04/02/01, said City of New Smyrna Beach Coastal Construction Setback Line lies 50 feet westerly of the Department of Natural Resources Coastal Construction Setback Line as recorded in Map Book 30, Page 19, Public Records of Volusia county, Florida; thence North 63° 27' 59" East, along said westerly prolongation of the northerly line of Lot 10 and along said northerly line of Lot 10, a distance of 148.07 feet; thence South 26° 18' 57" East, a distance of 50.00 feet to the southerly line of said Lot 10; thence South 63° 27' 59" West, along said southerly line of Lot 10 and its westerly prolongation, a distance of 147.04 feet to said New Smyrna Beach Coastal Construction Setback Line for the Point of Termination.~~

iii. ~~For a Point of Beginning, commence at the intersection of the City of New Smyrna Beach Coastal Construction Setback Line per Ordinance No. 12-01 and the westerly prolongation of the southerly line of Lot 3, Block 5, Map of Resubdivision of "The Boardwalk" Subdivision, according to the plat thereof as recorded in Map Book 8, Page 114 of the Public Records of Volusia County, Florida; thence North 63° 27' 59" East, along said westerly prolongation and along said southerly line of Lot 3, a distance of 101.37 feet; thence North 22° 29' 04" West, a distance of 50.04 feet to the northerly line of said Lot 3; thence South 63° 27' 59" West, along said northerly line of Lot 3 and along the westerly prolongation of said northerly line of Lot 3, a~~

distance of 105.75 feet to said City of New Smyrna Beach Coastal Construction Setback Line and for the Point of Termination.

iv. Commence at the Northwest corner of Lot 5, Block 2, Colin Park, according to the plat thereof, as recorded in Map Book 1, Page 83, of the Public Records of Volusia County, Florida; thence N 68°21'16" E along the Northerly line of said Lot 5, a distance of 148.68 feet to the intersection of the City of New Smyrna Beach Coastal Construction Setback Line per Ordinance No. 12-01 and for the Point of Beginning; thence continue N 68°21'16" E along the Northerly line of said Lot 5, a distance of 51.84 feet to the Easterly line of said Lot 5; thence S 21°48'41" E along the easterly line of said Lot 5, a distance of 49.95 feet to the Southerly line of said Lot 5; thence S 68°21'16" W along the Southerly line of said Lot 5, a distance of 51.06 feet to the intersection of the City of New Smyrna Beach Coastal Construction Setback Line per Ordinance No. 12-01 and for the Point of Termination.

v. Commence at the intersection of the westerly prolongation of the northerly line of Lot 2, Block 5, Map of "The Boardwalk" Subdivision, according to the map or plat thereof, as recorded in Map Book 8, Page 114 of the Public Records of Volusia County, Florida and the City of New Smyrna Beach Coastal Construction Setback Line per City of New Smyrna Beach Ordinance No. 12-01, dated 04/02/01, said City of New Smyrna Beach Coastal Construction Setback Line lies 50 feet westerly of the Department of Natural Resources Coastal Construction Setback Line as recorded in Map Book 30, Page 19, Public Records of Volusia County, Florida; thence North 63°27'59" East, along said westerly prolongation of the northerly line of Lot 2 and along said northerly line of Lot 2, a distance of 101.37 feet to a point on the City of New Smyrna Beach Coastal Construction Setback Line per City of New Smyrna Beach Ordinance No. 20-11, dated 03/29/2011, and for the Point of Beginning; thence continue North 63°27'59" East, along said northerly line of Lot 2, a distance of 16.83 feet; thence South 26°07'22" East, a distance of 100.74 feet to the southerly line of Lot 1, Block 5, said Map of "The Boardwalk" subdivision; thence South 88°59'59" West, along said southerly line of Lot 1, a distance of 75.74 feet to the

~~southwesterly corner of said Lot 1, thence South 62°29'59" West, to said New Smyrna Beach Coastal Construction Setback Line per City of New Smyrna Beach Ordinance No. 12-01 for the Point of Termination.~~

~~(2) Between the centerline of Crawford Road and the centerline of Flagler Avenue, the city's Coastal Construction Setback Line (CCSL) shall be the same as the Department of Environmental Protection Coastal Construction Control Line (CCCL) as it existed prior to January 24, 1991, except as follows:~~

~~i. For a Point of Beginning, commence at the intersection of the City of New Smyrna Beach Coastal Construction Setback Line per Ordinance No. 12-01 and the north line of Lot 89, ASSESSOR'S SUBDIVISION OF THE ROBERT WALKER GRANT, Section 55, Township 17 South, Range 34 East, according to the map or plat thereof, recorded in Map Book 3, Page 150, of the Public Records of Volusia County, Florida; thence North 89°43'13" East, along said north line of Lot 89, a distance of 56.33 feet; thence South 00°00'00" East, a distance of 39.59 feet; thence North 90°00'00" East, a distance of 8.58 feet, thence South 49°46'53" East, a distance of 38.78 feet; thence South 18°03'13" East, a distance of 33.19 feet; thence South 00°00'00" East, a distance of 53.57 feet to the south line of Lot 76, said Assessor's Subdivision of the Robert Walker Grant; thence South 89°43'13" West, along said south line of Lot 76, a distance of 27.53 feet to said City of New Smyrna Beach Coastal Construction Setback Line and for the Point of Termination.~~

~~(3) Between the centerline of Flagler Avenue and the south corporate limit, the City Construction Setback Line (CCSL) shall be 50 feet west of the Department of Environmental Protection (DEP) Coastal Construction Control Line (CCCL) as it existed prior to January 24, 1991, except as follows:~~

~~i. For a Point of Beginning, Commence at the northwesterly corner of Lot 1, Block 1, Armstrong & Johnson Subdivision, according to the map or plat thereof, recorded in Map Book 8, Page 92 of the Public Records of Volusia County, Florida; thence North 63°23'37" East, along the northerly line of said Lot 1, a distance~~

~~of 72.13 feet to the intersection of the City of New Smyrna Beach Coastal Construction Setback Line per Ordinance No. 12-01 and for the Point of Beginning; thence continue North 63°23'37" East, along said northerly line of Lot 1 and the easterly prolongation thereof, a distance of 92.32 feet; thence South 27°19'47" East, a distance of 49.94 feet to the easterly prolongation of the southerly line of said Lot 1; thence South 63°21'32" West, along said easterly prolongation of the southerly line of Lot 1 and along the southerly line of said Lot 1, a distance of 92.18 feet to the intersection of said City of New Smyrna Beach Coastal Construction Setback Line and for the Point of Termination.~~

B. *Structures prohibited* *seaward of the CCSL* ~~*with new development*~~*.* The following structures shall be prohibited seaward of the ~~city's Coastal Construction Setback Line (~~CCSL~~)~~, unless a structure qualifies for an exemption listed in Section 703.02.C, or a CCSL Variance is obtained. ~~on properties proposed for new development~~. The word seaward shall mean that area of land between the CCSL ~~city's Coastal Construction Setback Line~~ and the Atlantic Ocean.

(1) Any portion of a principal building, whether habitable or non-habitable, including but not limited to porches, balconies, roof overhangs and other projections from the building; ~~.~~

(2) Accessory structures, including but not limited to pools, decks, patios, garages, sheds, and gazebos; and ~~Any accessory structure, except dune walkovers, fences and seawalls.~~

(3) Any hardscape features including, but not limited to pavers, planters and playground equipment. ~~Dune enhancement projects and soft erosion control techniques shall be exempt from the prohibition.~~

~~Dune walkovers shall be allowed subject to the conditions of section 703.02C. Seawalls shall be allowed subject to the conditions of section 703.02D.~~

~~As an exception public facilities, including but not limited to public restrooms and pavilions, life guard towers and beach related office facilities, park facilities, beach related appurtenances, beach ramps and other public uses are allowed.~~

~~Fences not required by the Florida Building Code to address life safety concerns shall be limited to a maximum height of three feet. If no more than 25 percent of the fence area is opaque, the maximum fence height may be increased to four feet. In no case shall fence height be allowed to exceed four feet in height. The maximum height restrictions permitted herein shall include columns, column caps and other decorative features.~~

C. *Exemptions*. The following structures are permitted seaward of the CCSL, subject to obtaining a building permit and any other required approval(s) from other agencies having jurisdiction.

(1) Dune walkovers, subject to the following conditions:

a. Walkovers shall be constructed in a manner that minimizes short-term disturbances to the dune system and existing vegetation. The walkover shall be posted with signs containing information including the laws concerning the prohibition of disturbing sea turtle nests, dates indicating sea turtle nesting season and prohibitions against disturbing state protected vegetation and dunes.

b. Replacement of any vegetation destroyed during construction of the walkover with similar plants suitable for beach/dune stabilization is required. Replanting must be accomplished with native coastal vegetation suitable for beach and dune stabilization in accordance with the list of acceptable plants approved by Volusia County, and must be watered continuously for a minimum of 45 days. A dune restoration plan must be included with a dune walkover permit application. All dune plantings must be completed within 60 days after construction of the dune walkover is completed.

c. Walkovers constructed across vegetated dunes or over vegetated beach berms shall be pile-supported and elevated above the vegetation and dune system.

d. All walkovers shall be designed to protect the Volusia County conservation zone, natural areas, and beach habitat from construction impacts and long-term pedestrian impacts.

e. All new or replaced walkovers shall be constructed in accordance with the FDEP regulations, which mandate the preservation and restoration of the associated dune system.

(2) Seawalls, subject to the following conditions:

a. The proposed seawall will fill in an existing gap of less than 200 feet between existing seawalls or is an emergency event required to protect public health and safety.

b. The height of the proposed seawall shall not exceed the greater of the following:

1. The highest point of the existing grade within 25 feet of the proposed seawall location; or
2. The average height of the two nearest seawalls to the proposed seawall location.

(3) Fences, limited to a maximum height of four feet, including columns, column caps and other decorative features.

(4) Public facilities, including but not limited to: public restrooms and pavilions, life guard towers, and beach related office facilities, park facilities, beach related appurtenances, beach ramps, and other public uses.

(5) Dune enhancement projects and soft erosion control techniques, such as erection of sand fences, planting of sea oats, and the placement of compatible sand fill, provided the following regulations are met:

a. The erosion control is not greater than 20 feet from the toe of an existing dune, except a sand fence can be no greater than one foot from the toe of the dune;

b. The erosion control will not disrupt traffic flow on the beach;

c. No persons are allowed within the erosion control area (except a person preparing or maintaining the erosion control area);

d. A certificate of zoning and a city permit are issued prior to proceeding with erosion control; and

e. A DEP permit is provided if the activity is seaward of the Coastal Construction Control Line.

(6) Properties developed as of the date of this amendment shall be allowed to install principal and accessory structures seaward of the CCSL, subject to:

a. Any new structure must be located at or landward of the easternmost façade of an existing principal structure;

b. Any new structure may not be any higher than any part of the existing principal structure; and

c. Meeting all other applicable LDR requirements.

(7) Properties developed as of the date of this amendment shall be allowed to rebuild principal and accessory structures according to the policies outlined in subsection I. below.

(8) Properties undeveloped as of the date of this amendment may apply for a variance.

~~*Currently developed properties.* Properties developed as of the date of this amendment shall be allowed to rebuild principal and accessory structures according to the policies outlined in subsection I. below. Property owners will be required to obtain City Commission approval prior to rebuilding.~~

D. ~~*Requirements for construction approval.* All allowed development seaward of the City's Coastal Construction Setback Line shall require approval by the city commission and the written approval of construction specifications by the city engineer. If the development is seaward of the Department of Environmental Protection Coastal Construction Setback~~

~~Line, then a Department of Environmental Protection permit and Department of Environmental Protection written approval of the construction specifications are also required prior to construction.~~

~~Fences four feet in height or less shall be allowed to encompass the area surrounding the perimeter of the pool and decking when required by the Florida Building Code to address life safety concerns. City commission approval shall not be required provided the fence does not exceed the height or setback requirements for fences on atypical lots.~~

~~Fences not required by the Florida Building Code to address life safety concerns shall be limited to a maximum height of three feet. If no more than 25 percent of the fence area is opaque, the maximum fence height may be increased to four feet. In no case shall fence height be allowed to exceed four feet in height. The maximum height restrictions permitted herein shall include columns, column caps and other decorative features.~~

~~(1) Criteria for city commission approval. The city commission may approve a request for construction, erection, installation, or placement of allowed construction upon determining the request meets all of the following criteria:~~

~~(a) The request is both the minimum required distance seaward of the city's Coastal Construction Setback Line and the minimum required height that is reasonably and customarily necessary to accommodate the proposed construction.~~

~~(b) Adequate land does not exist landward of the city's Coastal Construction Setback Line to allow the reasonable, normal and customary use and accessory uses of the property (as compared to other properties in the neighborhood) without building seaward of the line.~~

~~(c) The proposed construction does not cause a substantial adverse effect on functionality of the existing dune system either as a habitat for native species of animals and plants; or, as a tidal barrier.~~

~~(d) The proposed construction is located behind any existing seawall or tidal armoring (excluding dune walkovers, new sea walls, either tidal armoring and similar structures that by function must be constructed in front of existing seawalls and tidal armoring.~~

(e) Walkovers shall be constructed in a manner that minimizes short-term disturbances to the dune system and existing vegetation. The walkover shall be posted with signs containing information including the laws concerning the prohibition of disturbing sea turtle nests, dates indicating sea turtle nesting season and prohibitions against disturbing state protected vegetation and dunes.

(f) Replacement of any vegetation destroyed during construction of the walkover with similar plants suitable for beach/dune stabilization is required. Replanting must be accomplished with native coastal vegetation suitable for beach and dune stabilization in accordance with the list of acceptable plants approved by the County of Volusia, and included as Table 1, below and must be watered continuously for a minimum of 45 days. A dune restoration plan must be included with the request for city commission approval to construct the walkover. A copy of the dune restoration plan approved by the city commission must also be included with the building permit application. All dune plantings must be completed within 60 days after construction of the dune walkover is completed.

(g) Walkovers constructed across vegetated dunes or over vegetated beach berms shall be pile-supported and elevated above the vegetation and dune system.

(h) All walkovers shall be designed to protect the Volusia County conservation zone, natural areas, and beach habitat from construction impacts and long-term pedestrian impacts.

(i) All new or replaced walkovers shall be constructed in accordance with the FDEP regulations, which mandate the preservation and restoration of the associated dune system.

TABLE 1: NATIVE COASTAL VEGETATION FOR DUNE REPLANTINGS

Shrubs			
Chrysobalanus icaco	Green cocoplum	Myrcianthes frangrans	Simpson stopper
Croton punctatus	Beach croton	Serenoa repens	Saw palmetto

~~Dodonaea viscosa~~	~~Varnish leaf~~	~~Sophora tomentosa~~	~~Necklace pod~~
~~Erythrina herbacea~~	~~Coral bean~~	~~Suriana maritima~~	~~Bay cedar~~
~~Forestiera seqregata~~	~~Florida privet~~	~~Yucca aloifolia~~	~~Spanish bayonet~~
~~*Groundcovers*~~			
~~Alternanthera flayescens~~	~~Yellow joyweed~~	~~Licania michauxli~~	~~Gopher apple~~
~~Alternanthers maritima~~	~~Beach chaff-flower~~	~~Muhlenberqia capillaris~~	~~Muhly grass~~
~~Ambrosia hispida~~	~~Coastal ragweed~~	~~Opuntie humifusa~~	~~Prickly-pear cactus~~
~~Blutaparon vermiculare~~	~~Samphfire~~	~~Opuntia stricta~~	~~Prickly-pear cactus~~
~~Chamaesyce spp.~~	~~Dune spurge~~	~~Panicum amarum~~	~~Bitter panic grass~~
~~Distichlis spicata~~	~~Saltgrass~~	~~Paspalum vaqinatum~~	~~Seashore paspalum~~
~~Ernodia littoralis~~	~~Golden creeper~~	~~Calicornia spp.~~	~~Glasswort~~
~~Hymenocallis latifolia~~	~~Spider lily~~	~~Sesuvium portulacastrum~~	~~Sea purslane~~
~~Ipomoea imperati~~	~~Beach morning glory~~	~~Spartina patens~~	~~Saltmeadow cordgrass~~
~~Ipomoea pascaprae~~	~~Railroad vine~~	~~Sporobolus virginicus~~	~~Seashore dropsees~~
~~Iva imbricata~~	~~Beach elder~~	~~Uniola paniculata~~	~~Sea oats~~
~~*Vines*~~			
~~Canavalia rosea~~	~~Beach bean~~	~~Passiflora incarnata~~	~~Purple passionflower~~
~~Ecbites umbellata~~	~~Devil's potato~~	~~Passiflora suberosa~~	~~Corkystem~~
~~Ipomoea spp.~~	~~Morning glory~~	~~Pentalinon luteum~~	~~Wild allamanda~~
~~*Wildflowers*~~			
~~Borrichia spp.~~	~~Sea oxeye daisy~~	~~Heliauthus debilis~~	~~Dune sunflower~~
~~Chamaecrista spp.~~	~~Partridge pea~~	~~Ipomopsis rubra~~	~~Standing cypress~~

~~Eustoma exaltatum~~	~~Seaside gentian~~	~~Monarda punctate~~	~~Dotted horsemint~~
~~Gaillaxdia pulchella~~	~~Blanket flower~~	~~Oenothera humifusa~~	~~Seaside evening primrose~~
~~Glandularia maritima~~	~~Beach verbena~~	~~Salvia coccinea~~	~~Tropical sage~~

~~The city commission shall deny the request if one or more of the aforementioned criteria is not met.~~

E. *Excavation of the dunes, removal of dune vegetation or any disruption of the natural environment.*

(1) No excavation of the dunes, removal of dune vegetation or any disruption of the natural environment is allowed seaward of the CCSL except as indicated herein.

(2) Any person engaging in construction or development activity landward of the CCSL that is likely to impact, or has impacted upon, the natural dune environment seaward of the CCSL shall be required to mitigate, fix, repair and restore, as the need may be, to prevent and correct any damage to the functionality of natural dune system either as a habitat for native species of animals and plants; or, as a tidal barrier.

(3) Prior to commencing any construction activity near a dune system, a dune restoration plan, which must be prepared by a qualified professional, must be submitted and approved by the city.

(4) Following construction, any damage to the natural dune environment must be repaired according to the approved restoration plan.

~~*Construction of seawalls.* The construction of seawalls seaward of the city's Coastal Construction Setback Line may be permitted by the city commission provided the following conditions are met:~~

(1) The proposed seawall will fill in an existing gap of less than 200 feet between existing seawalls or is an emergency event required to protect public health and safety.

(2) The height of the proposed seawall shall not exceed the greater of the following:

(a) The highest point of the existing grade within 25 feet of the proposed seawall location; or

(b) The average height of the two nearest seawalls to the proposed seawall location.

F. *Soft erosion control techniques (dune enhancement).* Soft erosion control techniques (dune enhancement) such as erection of sand fences, planting of sea oats, and the placement of compatible sand fill may be allowed seaward of the city's Coastal Construction Setback Line (CCSL) without city commission approval, provided the following regulations are met:

(1) The erosion control is not greater than 20 feet from the toe of an existing dune, except a sand fence can be no greater than one foot from the toe of the dune;

(2) The erosion control will not disrupt traffic flow on the beach;

(3) No persons are allowed within the erosion control area (except a person preparing or maintaining the erosion control area);

(4) A certificate of zoning and a city permit are issued prior to proceeding with erosion control; and

(5) A Department of Environmental Protection permit is provided if the activity is seaward of the Coastal Construction Control Line.

G. *Excavation of the dunes, removal of dune vegetation or any disruption of the natural environment.*

(1) No excavation of the dunes, removal of dune vegetation or any disruption of the natural environment is be allowed seaward of the city's Coastal Construction Setback Line (CCSL) except as indicated herein.

(2) Any person engaging in construction or development activity landward of the city's Coastal Construction Setback Line that is likely to impact, or has impacted upon, the natural dune environment

~~seaward of the city's Coastal Construction Setback Line shall be required to mitigate, fix, repair and restore, as the need may be, to prevent and correct any damage to the functionality of natural dune system either as a habitat for native species of animals and plants; or, as a tidal barrier.~~

~~(3) Prior to commencing any construction activity near a dune system, a dune restoration plan, which must be prepared by a qualified professional, must be submitted and approved by the city.~~

~~(4) Following construction, any damage to the natural dune environment must be repaired according to the approved restoration plan.~~

~~H. *Public hearing requirement to approve construction seaward of the city's Coastal Construction Setback Line.* The city commission shall conduct a quasi-judicial hearing on any request to build seaward of the city's Coastal Construction Setback Line (CCSL) in accordance with *Bd. of Cty. Com'rs of Brevard v. Snyder,* 627 So.2d 469 (Fla. 1993). Said quasi-judicial public hearing shall be conducted in a manner to insure that all parties are provided notice of the proceedings, an opportunity to be heard, an opportunity to present evidence, an opportunity to cross-examine witnesses, and to be informed of all the facts upon which the commission's decision is based. Ex parte communications between the parties and members of the city commission must be disclosed in accordance with the city's ex parte communication Ordinance No. 75-95. The city clerk shall notify the neighboring property owners by mailing a copy of the notice of the time and place of the public hearing on the request to build seaward of the city's Coastal Construction Setback Line (CCSL) at his or her last-known address. The names and addresses of such property owners shall be obtained by the applicant from the records of the property appraiser. The 150-foot radius shall be measured from the corners where the property fronts on a public street. Notice shall only be given to entities or public agencies having a title interest in property. Proof of such mailing shall be made by affidavit of the city clerk.~~

F~~I~~. *Coastal construction rebuild policy after a hurricane, tornado, flood or fire.*

(1) Notwithstanding contrary provisions contained in the LDR ~~Land Development Regulations~~ and other building ordinances, a primary or accessory structure damaged by a hurricane, northeastern storm,

tornado, flood, fire or other disaster that as the result of such an event sustains total damage less than fifty percent (50%) of the primary or accessory structure's replacement cost at the time of damage may be rebuilt to its original condition, subject only to current building regulations and life-safety codes.

(2) Notwithstanding any contrary provisions contained in the LDR ~~Land Development Regulations~~ and other building ordinances, a primary structure damaged by a hurricane, tornado, flood or fire that as the result of such an event sustains total damage more than fifty percent (50%) of the primary structure's replacement cost at the time of damage may be rebuilt to the same square footage and density it had immediately prior to the event, provided that said rebuild otherwise complies with all applicable:

- Federal requirements for elevation above the 100-year flood level;
- Building code requirements for flood-proofing;
- Current building and life-safety codes;
- State Coastal Construction Control Lines;
- All required city zoning or other development regulations (other than density or intensity); and
- Any and all other county, state and federal laws and regulations to which the structure is subject.

(3) Actual uses, densities, intensities and compliance with regulations in effect at the time of construction may be documented through such means as photographs, diagrams, plans, affidavits, permits, appraisals and tax records. The property owner shall have the burden of proof as required in civil actions in Florida courts to establish that he or she is entitled to rebuild in accordance with (1) and (2) above.

(4) In the event that deterioration through time or a disaster destroys any accessory structure east of the ~~Coastal Construction Setback Line (~~CCSL~~)~~ which received a certificate of occupancy prior to (the effective date of this ordinance) by more than fifty percent (50%) of the structure's replacement cost, the property owner may reconstruct a similar structure if the following conditions are met:

a. The structure must be no larger in area or volume or further east of the CCSL than the structure it replaces.

b. The structure is placed as westerly as practicable and provide for protecting the beach and dunes from storm water runoff and restoring the remaining natural dune system with sand and dune vegetation.

c. The structure is located on property clearly owned by the upland entity seeking approval for the structure, as evidenced by an attorney's opinion of title, or a license agreement to use the land is approved by the city.

d. All local and non-local permits are obtained to reconstruct the structure.

e. All non-CCSL setbacks existing at the time the structure is replaced must be met.

f. Any other regulations within the respective zoning district and LDR must be met.

703.03. *Outdoor lighting.* All developments along the beach shall conform to [sub]section 604.13~~5B~~. of this LDR.

(Ord. No. 12-01, § 1, 3-29-2001; Ord. No. 19-03, § 1, 10-14-2003; Ord. No. 25-04, § 1, 9-14-2004; Ord. No. 41-08, § 1, 6-10-2008; Ord. No. 18-10, § 1, 4-27-2010; Ord. No. 55-10, § 1, 11-9-2010; Ord. No. 20-11, § 1, 4-12-2011; Ord. No. 31-13, § 1, 4-23-2013; Ord. No. 40-13, § 1, 6-25-2013; Ord. No. 48-14, § 1, 8-12-2014; Ord. No. 02-15, § 1, 8-25-2015; Ord. No. 67-15, § 1, 8-25-2015)

703.00. - Development in the coastal area.

703.01. *Construction standards.* The construction of seawalls and other coastal armoring structures shall be in accordance with article IX, Coastal Construction, Code section 26-771 amended, City Code of Ordinances.

703.02. *Development east of the Coastal Construction Setback Line (CCSL).*

A. *Location of CCSL.*

(1) The CCSL shall be the same location as the Florida Department of Environmental Protection's (DEP) Coastal Construction Control Line (CCCL), as amended.

B. *Structures prohibited seaward of the CCSL.* The following structures shall be prohibited seaward of the CCSL, unless a structure qualifies for an exemption listed in Section 703.02.C, or a variance is obtained. The word seaward shall mean that area of land between the CCSL and the Atlantic Ocean.

(1) Any portion of a principal building, whether habitable or non-habitable, including but not limited to porches, balconies, roof overhangs and other projections from the building.

(2) Accessory structures, including but not limited to pools, decks, patios, garages, sheds, and gazebos;

(3) Any hardscape features including, but not limited to pavers, planters and playground equipment.

C. *Exemptions*. The following structures are permitted seaward of the CCSL, subject to obtaining a building permit and any other required approval(s) from other agencies having jurisdiction.

(1) Dune walkovers, subject to the following conditions:

a. Walkovers shall be constructed in a manner that minimizes short-term disturbances to the dune system and existing vegetation. The walkover

shall be posted with signs containing information including the laws concerning the prohibition of disturbing sea turtle nests, dates indicating sea turtle nesting season and prohibitions against disturbing state protected vegetation and dunes.

b. Replacement of any vegetation destroyed during construction of the walkover with similar plants suitable for beach/dune stabilization is required. Replanting must be accomplished with native coastal vegetation suitable for beach and dune stabilization in accordance with the list of acceptable plants approved by Volusia County, and must be watered continuously for a minimum of 45 days. A dune restoration plan must be included with a dune walkover permit application. All dune plantings must be completed within 60 days after construction of the dune walkover is completed.

c. Walkovers constructed across vegetated dunes or over vegetated beach berms shall be pile-supported and elevated above the vegetation and dune system.

d. All walkovers shall be designed to protect the Volusia County conservation zone, natural areas, and beach habitat from construction impacts and long-term pedestrian impacts.

e. All new or replaced walkovers shall be constructed in accordance with the FDEP regulations, which mandate the preservation and restoration of the associated dune system.

(2) Seawalls, subject to the following conditions:

a. The proposed seawall will fill in an existing gap of less than 200 feet between existing seawalls or is an emergency event required to protect public health and safety.

b. The height of the proposed seawall shall not exceed the greater of the following:

1. The highest point of the existing grade within 25 feet of the proposed seawall location; or
2. The average height of the two nearest seawalls to the proposed seawall location.

(3) Fences, limited to a maximum height of four feet, including columns, column caps and other decorative features.

(4) Public facilities, including but not limited to: public restrooms and pavilions, life guard towers, and beach related office facilities, park facilities, beach related appurtenances, beach ramps, and other public uses.

(5) Dune enhancement projects and soft erosion control techniques, such as erection of sand fences, planting of sea oats, and the placement of compatible sand fill, provided the following regulations are met:

a. The erosion control is not greater than 20 feet from the toe of an existing dune, except a sand fence can be no greater than one foot from the toe of the dune;

b. The erosion control will not disrupt traffic flow on the beach;

c. No persons are allowed within the erosion control area (except a person preparing or maintaining the erosion control area);

d. A certificate of zoning and a city permit are issued prior to proceeding with erosion control; and

e. A Department of Environmental Protection permit is provided if the activity is seaward of the Coastal Construction Control Line.

(6) Properties developed as of the date of this amendment shall be allowed to install principal and accessory structures seaward of the CCSL, subject to:

a. Any new structure must be located at or landward of the easternmost façade of an existing principal structure;

b. Any new structure may not be any higher than any part of the existing principal structure; and

c. Meeting all other applicable LDR requirements.

(7) Properties developed as of the date of this amendment shall be allowed to rebuild principal and accessory structures according to the policies outlined in subsection I. below.

(8) Properties undeveloped as of the date of this amendment may apply for a variance.

D. *Variances*. Variances to the requirements of this Section shall be submitted for approval by the Planning & Zoning Board in accordance with Section 305.05. The Planning & Zoning Board may approve a variance upon determining the request meets all of the following criteria:

(a) The request is both the minimum required distance seaward of the CCSL and the minimum required height that is reasonably and customarily necessary to accommodate the proposed construction.

(b) Adequate land does not exist landward of the CCSL to allow the reasonable, normal and customary use and accessory uses of the property (as compared to other properties in the neighborhood) without building seaward of the line.

(c) The proposed construction does not cause a substantial adverse effect on functionality of the existing dune system either as a habitat for native species of animals and plants; or, as a tidal barrier.

(d) The proposed construction is located behind any existing seawall or tidal armoring (excluding dune walkovers, new sea walls, and either tidal armoring or similar structures that by function must be constructed in front of existing seawalls and tidal armoring).

(e) The Planning and Zoning Board shall deny the request if one or more of the aforementioned criteria is not met.

E. *Excavation of the dunes, removal of dune vegetation or any disruption of the natural environment.*

(1) No excavation of the dunes, removal of dune vegetation or any disruption of the natural environment is allowed seaward of the CCSL except as indicated herein.

(2) Any person engaging in construction or development activity landward of the CCSL that is likely to impact, or has impacted upon, the natural dune environment seaward of the CCSL shall be required to mitigate, fix, repair and restore, as the need may be, to prevent and correct any damage to the functionality of natural dune system either as a habitat for native species of animals and plants; or, as a tidal barrier.

(3) Prior to commencing any construction activity near a dune system, a dune restoration plan, which must be prepared by a qualified professional, must be submitted and approved by the city.

(4) Following construction, any damage to the natural dune environment must be repaired according to the approved restoration plan.

F. *Coastal construction rebuild policy after a hurricane, tornado, flood or fire.*

(1) Notwithstanding contrary provisions contained in the LDR and other building ordinances, a primary or accessory structure damaged by a hurricane, northeastern storm, tornado, flood, fire or other disaster that as the result of such an event sustains total damage less than fifty percent (50%) of the primary or accessory structure's replacement cost at the time of damage, may be rebuilt to its original condition, subject only to current building regulations and life-safety codes.

(2) Notwithstanding any contrary provisions contained in the LDR and other building ordinances, a primary structure damaged by a hurricane, tornado, flood or fire that as the result of such an event sustains total damage more than fifty percent (50%) of the primary structure's replacement cost at the time of damage may be rebuilt to the same total building square footage, building height, and substantially the same

building footprint that it had immediately prior to the event, provided that said rebuild otherwise complies with all applicable:

a. City and Federal requirements for elevation above the 100-year flood level;
b. Building code requirements for flood-proofing;
c. Current building and life-safety codes;
d. State Coastal Construction Control Lines;
e. All required city zoning or other development regulations (other than density or intensity); and
f. Any and all other county, state and federal laws and regulations to which the structure is subject.

(3) Actual uses, densities, intensities and compliance with regulations in effect at the time of construction may be documented through such means as photographs, diagrams, plans, affidavits, permits, appraisals and tax records. The property owner shall have the burden of proof as required in civil actions in Florida courts to establish that he or she is entitled to rebuild in accordance with (1) and (2) above.

(4) In the event that deterioration through time or a disaster destroys any accessory structure east of the CCSL by more than fifty percent (50%) of the structure's replacement cost, the property owner may reconstruct a similar structure if the following conditions are met:

a. The structure must be no larger in area or further east of the CCSL than the structure it replaces.
b. The structure is placed as westerly as practicable and provide for protecting the beach and dunes from storm water runoff and restoring the remaining natural dune system with sand and dune vegetation.
c. The structure is located on property clearly owned by the upland entity seeking approval for the structure, as evidenced by an attorney's opinion of title, or a license agreement to use the land is approved by the city.
d. All local and non-local permits are obtained to reconstruct the structure.

e. All non-CCSL setbacks existing at the time the structure is replaced must be met.
f. Any other regulations within the respective zoning district and LDR must be met.

703.03. *Outdoor lighting.* All developments along the beach shall conform to Volusia County lighting standards for coastal development, as amended, and [sub]section 604.13 of this LDR.

Exhibit C

Additions are underlined and deletions are ~~struck through~~

201.00. - General definitions.

The following definitions shall apply to these regulations in general unless superseded by a definition pertaining to a specific article as indicated in sections 202.00 through 207.00 of these regulations:

Club, sports or health. Facilities offering numerous types of fitness activities, including weight training, aerobics, jazzercise, saunas, running, and body building.

Coastal Construction Setback Line Variance. A variance to allow construction east of the City's Coastal Construction Setback Line, provided the variance criteria listed in Section 305.06 of the City's Land Development are met.

College level and adult educational facility. A state-supported institution of higher education which offers work above the public school level, authorized and established by law together with all activities and services authorized by law to be administered by or through said institution.

Setback*, waterfront.* Setbacks on waterfront property shall be as follows:

(1) *Bulkheaded and seawalled lots not on the oceanfront.* Setbacks or property lines shall be measured from the bulkhead or seawall regardless if the fee simple property line extends into the water or is upland from the bulkhead or seawall.

(2) *Bulkheaded and seawalled lots on the oceanfront.* Setbacks shall be at the ~~City~~ Coastal Construction Setback Line (see [sub]section 703.02 in this LDR) if the fee simple ownership extends to the east of the ~~City~~ Coastal Construction Setback Line. If ownership does not extend east of the ~~City~~ Coastal Construction Setback Line, the setback shall be as required in the upland zoning district from the property line.

(3) *Non-bulkheaded and non-seawalled lots on the oceanfront.* Setbacks shall be at the ~~City~~ Coastal Construction Setback Line (see [sub]section 703.02 in this LDR) if the fee simple ownership extends east of the

~~City~~ Coastal Construction Setback Line or to the ~~City~~ Coastal Construction Setback Line. If ownership does not extend east of the ~~City~~ Coastal Construction Setback Line, the setback shall be at the east property line.

(4) *Non-bulkheaded and non-seawalled lots not on the ocean and not adjacent to jurisdictional wetlands.* The setback or property line shall be measured from the mean high water line.

(5) *Property adjacent to jurisdictional wetlands.* Setbacks shall be measured from the jurisdictional wetland line. Structures may be placed at the setback line or wetland buffer line, whichever is greater.

Bulkhead line. An imaginary line established in, or along, the Atlantic Ocean, a river, watercourse, or other body of water, in order to fix and establish the maximum distance from the shoreline within which filling may be permitted.

Exhibit E

ARTICLE IX. - SEAWALLS AND OTHER COASTAL ARMORING STRUCTURES

Sec. 26-771. - Construction.

(a) *Generally.* The construction of seawalls, bulkheads or other types of coastal armoring structures on private property on or west of the line referred to in subsection (d) of this section may be permitted, provided:

(1) The location of the seawall, bulkhead or other type of coastal armoring structure is approved by the Development Services Director ~~city commission~~; and

(2) The construction details are approved by the city and all other agencies having jurisdiction. ~~the chief of the bureau of beaches and shores of the state department of natural resources.~~

Construction of seawalls, bulkheads or other types of coastal armoring structures on public property shall be only as approved by the Development Services Director ~~city commission~~.

(b) *Excavations.* No excavation shall be made and no beach or dune material, including vegetation, east of the line described in subsection (d) of this section, shall be removed or disturbed in any manner except as is necessary and incidental to construction of approved structures; and no construction or construction activity shall be permitted from the seaward side of the line.

(c) *Variances ~~and exceptions~~.* Variances ~~or exceptions~~ to the regulations contained in this section as to the location and/or type of structure must be ~~specifically~~ approved by the Planning and Zoning Board ~~city commission except as provided in subsection (a) of this section.~~

(d)Coastal ~~c~~*Construction S~~s~~etback L~~l~~ine (CCSL).* The CCSL shall be the same location as the Florida Department of Environmental Protection's Coastal Construction Control Line, as amended. ~~There is established a city construction setback line, between Ponce de Leon Inlet (north corporate limits) and the centerline of Crawford Road. This setback line shall be 50 feet west of the department of natural resources control line as recorded in map book 30, page 19 of the Public Records of Volusia County, Florida; between the centerline of Crawford Road to the centerline of Flagler Avenue, the setback line shall be the same as the department of natural resources control line as recorded in map book 30, page 19 of the Public Records of Volusia County, Florida; and between the centerline of Flagler Avenue to the southern corporate limits of the City of New Smyrna Beach, the setback line shall be 50 feet west of the department of natural resources control line as recorded in map book 30, page 21 of the Public Records of Volusia County, Florida. Where no seawall is constructed, no structure whatsoever shall be constructed east of this construction setback line, no excavation made nor any beach material disturbed or removed. Where a seawall is constructed, no living units may be built east of the setback line. Structures such as shuffleboard courts, patios and swimming pools may be built no closer than 15 feet to the seawall, and the area up to the seawall may be appropriately landscaped, all as approved by the planning and zoning board and the city manager.~~

~~(Code 1975, § 8-17)~~

THE CITY OF NEW SMYRNA BEACH - PLANNING & ZONING

APRIL 2021 DEVELOPMENT ACTIVITY REPORT

April 5, 2021

Background:
April 2021 Development Activity Report with Maps.

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Robert Mathen - Planner II

Attachments:

April_2021_Development_Activity_Report_with_Maps.pdf

April 2021 Development Activity Report

Map ID#	Project Name	Project Number	Location	Description	Current Status	Next Step
1	Hidden Lakes Village	PUD-4-18	Turnbull Bay Road/Whispering Pines Drive	New PUD	City Commission Approved 1-26-2021	Submit Development Plans
2	Advent Health	PUD-2-20	NE Corner of SR 44 & I-95	New Medical Center	Staff Comments Issued	Applicant to Resubmit
3	Reserve at Lake Waterford	S-1-18	Eslinger Road	45 Lot Residential Subdivision	Staff Comments Issued	Applicant to Resubmit
4	Rolling Hills Subdivision S-10-18	S-10-18	Sugar Mill Drive	194 Lot Subdivision	Staff Comments Issued	Applicant to Resubmit
5	Old Mission Cove Subdivision	S-11-18	600 Ingham Road	37 Lot Single Family Subdivision	Staff Comments Issued	Applicant to Resubmit
6	Shell Pointe Final Plat Phase 1	S-2-20	3350 Pioneer Trail	312 Lot Single Family Subdivision	Phase 1 Staff Comments Issued	Applicant to Resubmit
7	Ocean Gate Subdivision Plans	S-5-19	SW Corner of SR 44 & I-95	Commercial Subdivision	P&Z Approved 3-1-2021	City Commission TBD
8	Gold Rock RV	SP-19-18	Old Mission Road	Add New Camping Spaces	Staff Comments Issued	Applicant to Resubmit
9	Douglas Street Townhomes	SP-22-18	118 Douglas Street	Three Unit Townhome	Staff Comments Issued	Applicant to Resubmit

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

April 2021 Development Activity Report

Map ID#	Project Name	Project Number	Location	Description	Current Status	Next Step
10	Hyatt Place Hotel	SP-30-18	3rd Avenue	114 Room Hotel	Staff Comments Issued	Applicant to Resubmit
11	Utilities Commission	SP-1-19	SR 44	Pond Expansion	Staff Comments Issued	Applicant to Resubmit
12	Village Street Condo	SP-16-19	Corner of Canal St and Village St	23 Residential Condo Units	Staff Issued Comments	Applicant to Resubmit
13	Holiday Inn Express	SP-6-20	SR 44 & I-95	New Hotel	Resubmitted 3-5-2021	Under Staff Review
14	Firestone Auto Care	SP-13-20	SR 44 & South Glencoe Road	Tire Store	Resubmitted 3-3-2021	Under Staff Review
15	Gulfstream Villas	SP-15-20	3403 S. Atlantic Ave	8 Unit Townhomes	Staff Issued Comments	Applicant to Resubmit
16	Shell Gas Station	SP16-20	765 E 3rd Ave	Remodel Gas Station	Staff Comments Issued	Applicant to Resubmit
17	FPL Phase 2	SP-18-20	3210 Pioneer Trail	FPL Pirolo Phase 2 Substation	Resubmitted 3-12-2021	Under Staff Review

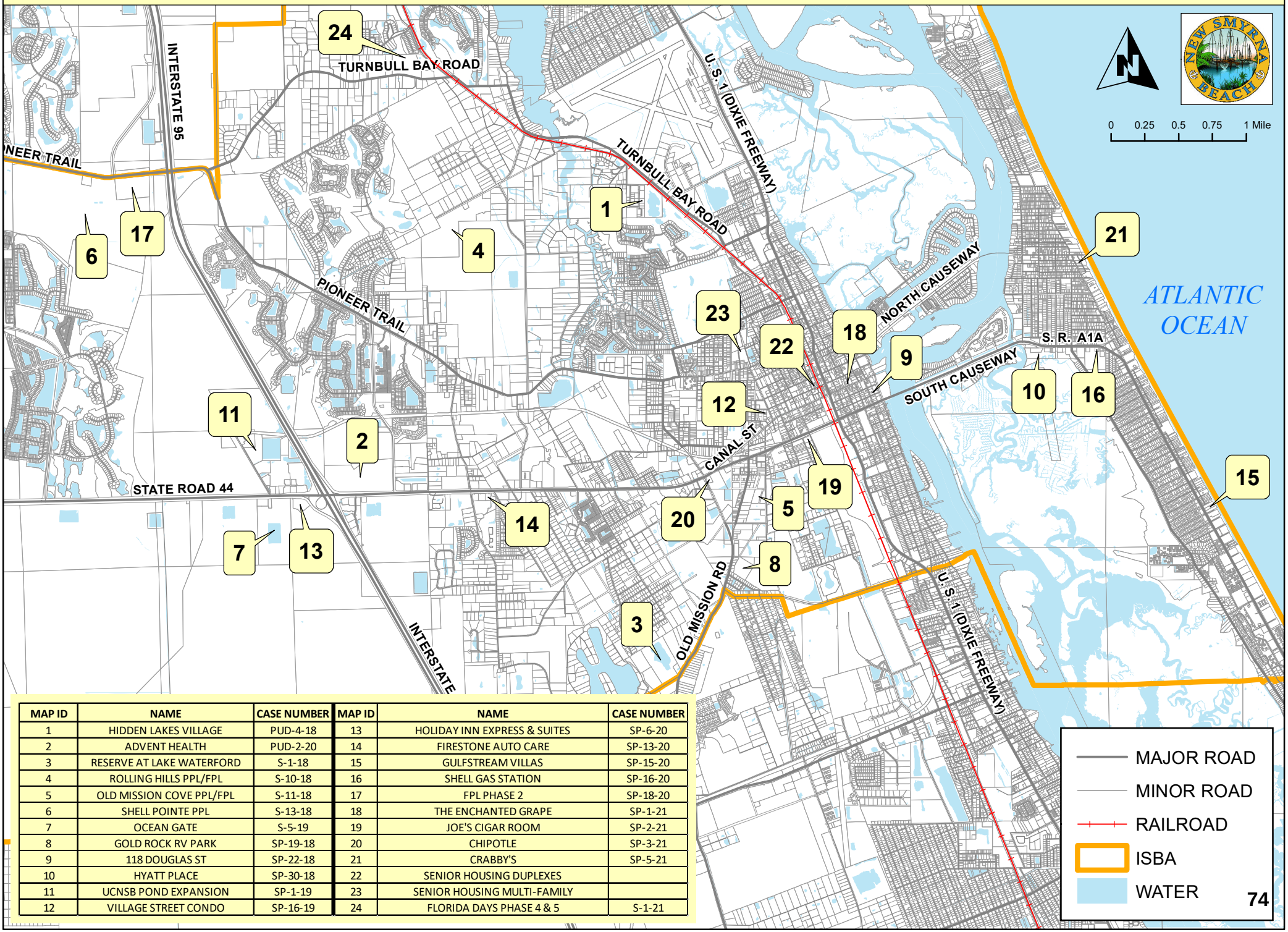
SP - Site Plan, S - Subdivision,
PUD - Planned Unit Development

April 2021 Development Activity Report

Map ID#	Project Name	Project Number	Location	Description	Current Status	Next Step
18	The Enchanted Grape	SP-1-21	323 Canal Street	Retail Store/Wine Bar	Staff Comments Issued	Applicant to Resubmit
19	Joes Cigar Room	SP-2-21	400 S. Myrtle Ave	Retail Cigar Store	Staff Comments Issued	Applicant to Resubmit
20	Chipotle	SP-3-21	1798 SR 44	New Restaurant	Resubmitted 3-17-2021	Under Staff Review
21	Crabby's	SP-5-21	203 South Atlantic Ave	New Restaurant	Resubmitted 3-10-2021	Under Staff Review
22	Senior Housing Duplexes		Dimmick Street	Senior Duplexes	Permitted by the Building Dept.	Construction
23	Senior Housing Multi-Family		Greenlawn Street	80 Unit Multi-Family Building	Pre Application Meeting 2-3-2021	Applicant to Submit Development Plans
24	Florida Days Phase 4 & 5	S-1-21	Cattail Circle	37 Lot Single Family Subdivision	Staff Comments Issued	Applicant to Resubmit
25						
26						

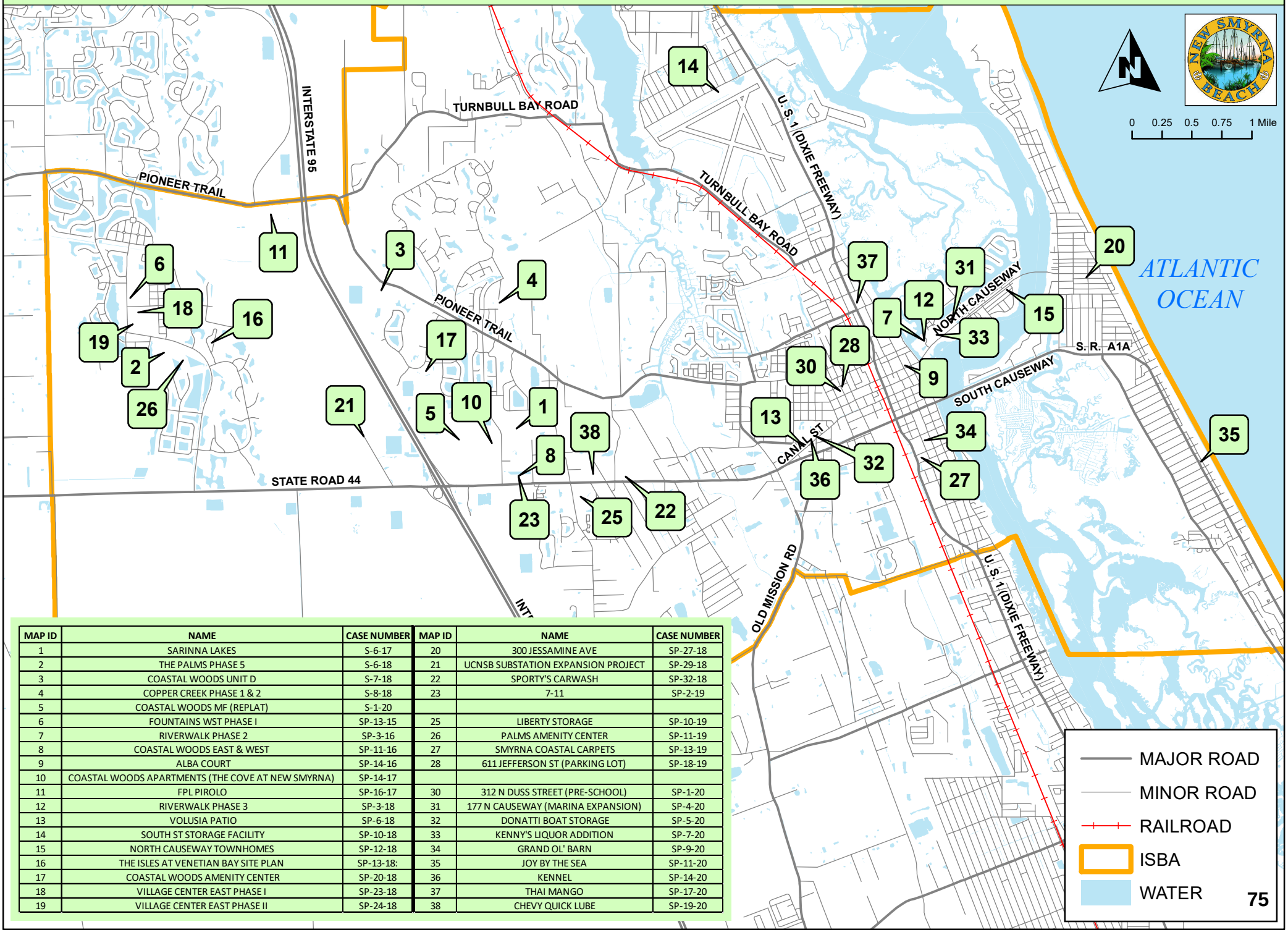
SP - Site Plan, S - Subdivision,
PUD - Planned Unit Development

APRIL 2021 DEVELOPMENT ACTIVITY REPORT MAP



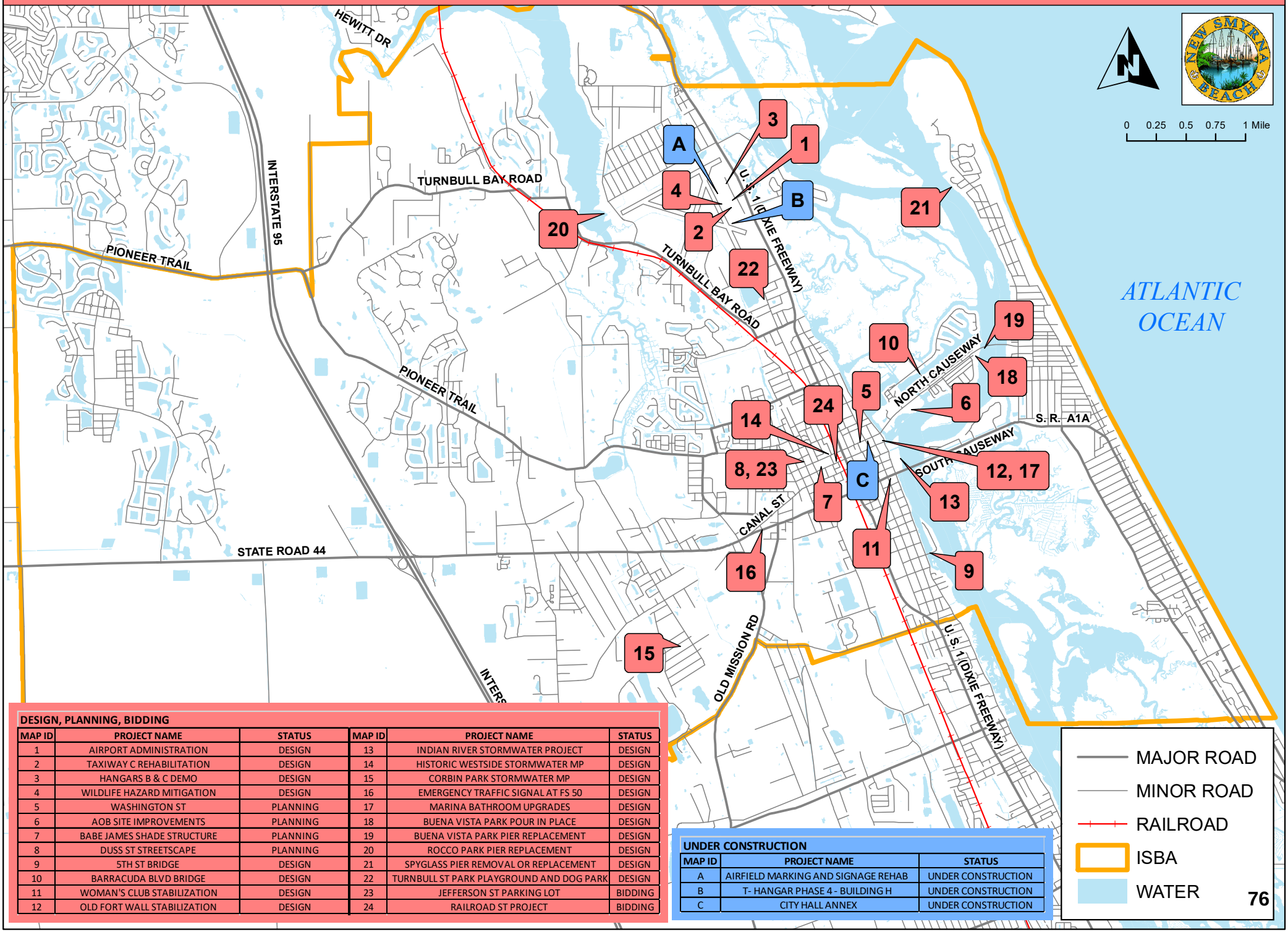
MAP ID	NAME	CASE NUMBER	MAP ID	NAME	CASE NUMBER
1	HIDDEN LAKES VILLAGE	PUD-4-18	13	HOLIDAY INN EXPRESS & SUITES	SP-6-20
2	ADVENT HEALTH	PUD-2-20	14	FIRESTONE AUTO CARE	SP-13-20
3	RESERVE AT LAKE WATERFORD	S-1-18	15	GULFSTREAM VILLAS	SP-15-20
4	ROLLING HILLS PPL/FPL	S-10-18	16	SHELL GAS STATION	SP-16-20
5	OLD MISSION COVE PPL/FPL	S-11-18	17	FPL PHASE 2	SP-18-20
6	SHELL POINTE PPL	S-13-18	18	THE ENCHANTED GRAPE	SP-1-21
7	OCEAN GATE	S-5-19	19	JOE'S CIGAR ROOM	SP-2-21
8	GOLD ROCK RV PARK	SP-19-18	20	CHIPOTLE	SP-3-21
9	118 DOUGLAS ST	SP-22-18	21	CRABBY'S	SP-5-21
10	HYATT PLACE	SP-30-18	22	SENIOR HOUSING DUPLEXES	
11	UCNSB POND EXPANSION	SP-1-19	23	SENIOR HOUSING MULTI-FAMILY	
12	VILLAGE STREET CONDO	SP-16-19	24	FLORIDA DAYS PHASE 4 & 5	S-1-21

APRIL 2021 PROJECTS APPROVED AND/OR UNDER CONSTRUCTION MAP



MAP ID	NAME	CASE NUMBER	MAP ID	NAME	CASE NUMBER
1	SARINNA LAKES	S-6-17	20	300 JESSAMINE AVE	SP-27-18
2	THE PALMS PHASE 5	S-6-18	21	UCNSB SUBSTATION EXPANSION PROJECT	SP-29-18
3	COASTAL WOODS UNIT D	S-7-18	22	SPORTY'S CARWASH	SP-32-18
4	COPPER CREEK PHASE 1 & 2	S-8-18	23	7-11	SP-2-19
5	COASTAL WOODS MF (REPLAT)	S-1-20			
6	FOUNTAINS WST PHASE I	SP-13-15	25	LIBERTY STORAGE	SP-10-19
7	RIVERWALK PHASE 2	SP-3-16	26	PALMS AMENITY CENTER	SP-11-19
8	COASTAL WOODS EAST & WEST	SP-11-16	27	SMYRNA COASTAL CARPETS	SP-13-19
9	ALBA COURT	SP-14-16	28	611 JEFFERSON ST (PARKING LOT)	SP-18-19
10	COASTAL WOODS APARTMENTS (THE COVE AT NEW SMYRNA)	SP-14-17			
11	FPL PIROLO	SP-16-17	30	312 N DUSS STREET (PRE-SCHOOL)	SP-1-20
12	RIVERWALK PHASE 3	SP-3-18	31	177 N CAUSEWAY (MARINA EXPANSION)	SP-4-20
13	VOLUSIA PATIO	SP-6-18	32	DONATTI BOAT STORAGE	SP-5-20
14	SOUTH ST STORAGE FACILITY	SP-10-18	33	KENNY'S LIQUOR ADDITION	SP-7-20
15	NORTH CAUSEWAY TOWNHOMES	SP-12-18	34	GRAND OL' BARN	SP-9-20
16	THE ISLES AT VENETIAN BAY SITE PLAN	SP-13-18:	35	JOY BY THE SEA	SP-11-20
17	COASTAL WOODS AMENITY CENTER	SP-20-18	36	KENNEL	SP-14-20
18	VILLAGE CENTER EAST PHASE I	SP-23-18	37	THAI MANGO	SP-17-20
19	VILLAGE CENTER EAST PHASE II	SP-24-18	38	CHEVY QUICK LUBE	SP-19-20

APRIL 2021 CITY CAPITAL IMPROVEMENT PROJECTS MAP



DESIGN, PLANNING, BIDDING

MAP ID	PROJECT NAME	STATUS	MAP ID	PROJECT NAME	STATUS
1	AIRPORT ADMINISTRATION	DESIGN	13	INDIAN RIVER STORMWATER PROJECT	DESIGN
2	TAXIWAY C REHABILITATION	DESIGN	14	HISTORIC WESTSIDE STORMWATER MP	DESIGN
3	HANGARS B & C DEMO	DESIGN	15	CORBIN PARK STORMWATER MP	DESIGN
4	WILDLIFE HAZARD MITIGATION	DESIGN	16	EMERGENCY TRAFFIC SIGNAL AT FS 50	DESIGN
5	WASHINGTON ST	PLANNING	17	MARINA BATHROOM UPGRADES	DESIGN
6	AOB SITE IMPROVEMENTS	PLANNING	18	BUENA VISTA PARK POUR IN PLACE	DESIGN
7	BABE JAMES SHADE STRUCTURE	PLANNING	19	BUENA VISTA PARK PIER REPLACEMENT	DESIGN
8	DUSS ST STREETSCAPE	PLANNING	20	ROCCO PARK PIER REPLACEMENT	DESIGN
9	5TH ST BRIDGE	DESIGN	21	SPYGLASS PIER REMOVAL OR REPLACEMENT	DESIGN
10	BARRACUDA BLVD BRIDGE	DESIGN	22	TURNBULL ST PARK PLAYGROUND AND DOG PARK	DESIGN
11	WOMAN'S CLUB STABILIZATION	DESIGN	23	JEFFERSON ST PARKING LOT	BIDDING
12	OLD FORT WALL STABILIZATION	DESIGN	24	RAILROAD ST PROJECT	BIDDING

UNDER CONSTRUCTION

MAP ID	PROJECT NAME	STATUS
A	AIRFIELD MARKING AND SIGNAGE REHAB	UNDER CONSTRUCTION
B	T- HANGAR PHASE 4 - BUILDING H	UNDER CONSTRUCTION
C	CITY HALL ANNEX	UNDER CONSTRUCTION