



Planning & Zoning Board
Monday, November 3, 2025 at 5:30 PM

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

1. CALL TO ORDER

A. Roll Call

2. APPROVAL OF MINUTES

2.A Consider the Approval of the Planning and Zoning Board October 6, 2025 Regular Meeting Minutes.

3. PUBLIC PARTICIPATION

4. OLD BUSINESS

5. NEW BUSINESS

- 5.A Z-03-25: Review and give a recommendation to the City Commission on the rezoning of commercial property from B-2, Neighborhood Business District to R-3A, Single Family and Two Family (Zero Lot Line) Residential located at 1300 S Atlantic Avenue.
- 5.B CPA-07-25: Review and give recommendation to the City Commission on a proposed Small Scale Comprehensive Plan amendment changing the Future Land Use designation from Commercial to Medium Density Residential on approximately 1.01 acres located at 1300 S. Atlantic Avenue.

5.C [ZT-10-25 Subdivision Plat Process](#)

6. COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

7. REPORTS AND COMMUNICATION BY THE STAFF

7.A [Development Activity](#)

8. ADJOURNMENT

Pursuant to Florida Statutes 286.0105, if an individual decides to appeal any decision made by the board, agency or commission of the City of New Smyrna Beach with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based. Such person must provide a method for recording the proceedings.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's office in person or by mail at 210 Sams Avenue, New Smyrna Beach, Florida 32168, (386) 410-2630, prior to the meeting.

THE CITY OF NEW SMYRNA BEACH - PLANNING DEPARTMENT

**CONSIDER THE APPROVAL OF THE PLANNING AND ZONING BOARD OCTOBER 6, 2025
REGULAR MEETING MINUTES.**

November 3, 2025

Background:

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

Findings:

Staff recommends the Planning and Zoning Board approve the minutes of the regular Planning and Zoning Board meeting held on October 6, 2025 Regular Meeting Minutes.

Fiscal Analysis:

N/A

Strategic Plan Item:

No

Staff Report Created By: Stephanie Ferrara - Development Services Coordinator

Attachments:

[FULL MEETING MINUTES - October 6 2025.pdf](#)



Planning and Zoning Regular Meeting Monday October 6, 2025, at 5:30 PM MINUTES

1. CALL TO ORDER

Having been duly advertised as required by law, the regular meeting of the Planning and Zoning Board of the City of New Smyrna Beach, Florida, was held on Monday, October 6, 2025, at the City Commission Chambers, 214 Sams Avenue, New Smyrna Beach, Florida 32168.

Stephen Yates called the meeting to order at 5:32 PM.

Roll Call

Attendee Name	Title	Status	Arrived
John Causey	Member	Present	5:30 PM
Thomas Bien	Member	Late	6:11 PM
Jon Hall	Member	Present	5:30 PM
Stephen Yates	Vice-Chair	Present	5:30 PM
Larry Wheatcraft	Chair	Absent	
Curtis Hodges	Member	Present	5:30 PM
Kip Hulvershorn	Member	Present	5:30 PM
Jesse Thompson	Non-Voting	Absent	

Also present were Shane Corbin, Director of Development Services, Stephanie Doster, Planning Manager, Jeff Gove, Chief Planner, Jake Baker, Senior Planner, City Assistant Attorney Grant Day, and Board Secretary Stephanie Ferrara.

Vice-Chair Yates asked City Staff if there were any changes to the agenda. Stephanie Doster stated that there were no changes to the agenda.

2. APPROVAL OF MINUTES

2.A Consider the Approval of the minutes of the Planning and Zoning Board regular meeting.

No Action Taken.

3. PUBLIC PARTICIPATION

Kevin Schweitzer, 880 Catfish Ave, presented and discussed a preliminary proposal for a text amendment regarding porte-cocheres.

4. OLD BUSINESS

4.A **V-6-25: 2311 S. Atlantic Avenue, a variance request to allow a second-floor deck to encroach 16.8' into the 20.0' front yard setback**

Jake Baker, Senior Planner, outlined the applicant's variance request to allow a second story balcony, currently 8.2 feet from the front property line to encroach an additional 5 feet into the front yard setback, bringing the balcony 3.2 feet from the front property line, a variance of 16.8 feet.

Vice-Chair Yates asked if the applicant would like to speak.

Sally Leffler, 2401 S. Atlantic Avenue, Applicant and Property Owner, outlined her request for a variance to extend their second-floor balcony by 5 feet, as the current 5-foot depth makes it unusable for everyday activities like dining or crafting with grandchildren. She initially expected the permitting process to be simple but encountered complex zoning regulations. While she understands the zoning staff's concerns about a 16.8-foot encroachment, she argued that zoning rules don't always suit unique property situations like hers.

She explains that alternatives such as relocating the balcony to the front would compromise neighbor privacy and require costly home reconfiguration. In addition, she stated that the proposed extension would not affect public safety, emergency access, or neighbor privacy and would align with the architectural diversity of Hill Street, which features varied setbacks and styles.

Ms. Leffler highlights that neighboring homes are closer to the road, some possibly grandfathered in, and that both adjacent neighbors support the extension. She also questioned the accuracy of setback measurements, citing inconsistencies between survey lines and physical landmarks.

She emphasized that the extension would use cable railing to preserve views and light and would not alter the roofline. Ultimately, she urges the zoning board to interpret the rules flexibly, recognizing Hill Street's unique character and the modest nature of their request.

Member Hodges asked the applicant if she had any objections to signing an agreement stating that she would not enclose the balcony and would keep it open to allow water to drain through.

Ms. Leffler had no objections to that request.

Vice-Chair Yates opened Public Participation.

Pam Ison, 624 N. Riverside Drive, expressed her support for the variance request for Sally and Glenn's property. She believes the proposed balcony extension fits the character of Hill Street, which features varied elevations and modifications made over time, sometimes without permits. Pam trusts Glenn's construction experience and Sally's aesthetic sense to ensure a tasteful addition. She emphasized that the deck is intended for quiet family use, especially for entertaining grandchildren and accommodating Sally's elderly mother, not for parties. Pam urged the board to approve the request, highlighting its alignment with the neighborhood's charm and purpose.

Jennifer Devine, 3205 Hill Street, spoke in support of the variance request. She emphasized the unique character of Hill Street and agreed with the applicant's points. She encouraged the board to take the request seriously and expressed her approval as a neighbor.

Cindy Sniezak, 512 Yupon Avenue, expressed appreciation for the applicant's thorough and well-presented case, acknowledging the many valid points raised. However, she raised a concern about extending a non-compliant structure, referencing prior zoning guidance that such extensions are typically not permitted. She noted that regardless of how the property became non-compliant—whether before or after the current owners it remains a legal issue. Ms. Sniezak emphasized that their hesitation is not personal or aesthetic but based on zoning rules intended to manage development in a growing beach town. She concluded by asking the board to clarify whether extending a non-compliant structure is legally permissible, as it would help inform future decisions.

Glenn Leffler, 2401 S. Atlantic Avenue, the applicant's spouse and a retired licensed contractor, clarified that the house was built with the existing balcony and properly permitted when constructed. He emphasized that the balcony was not added later and that their recent renovations did not alter its original placement. He strongly disagreed with the suggestion that the property is currently in violation, calling it a misrepresentation.

He explained that the setback concerns are misleading, noting that the actual road is farther out than the mapped lines suggest, and the proposed 5-foot extension would still leave the balcony 10–12 feet from any traffic, elevated well above street level. Glenn also pointed out that no objections were received from the 20 property owners they notified, and both adjacent neighbors submitted letters of support.

He expressed frustration with the idea that rebuilding an existing structure could be denied due to encroachment, especially in a neighborhood like Hill Street where such conditions are common. He concluded by affirming that the deck will be rebuilt properly by a hired professional, as he is no longer working as a contractor.

Vice-Chair Yates closed Public Participation.

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

The Board Members acknowledged the applicant's strong presentation and valid points but expressed concern about extending the non-conforming structure. They noted that while the property may not have been built illegally, current zoning regulations require greater setbacks than were in place when the home was originally constructed. This makes the property legally non-conforming, meaning it was compliant when built but no longer meets current standards.

Member Hodges emphasized that the issue is not personal or aesthetic, but a matter of zoning compliance. He also noted that neighboring support and lack of public objections are important factors. He suggested that if the deck remains open and unenclosed, allowing water to drain through, and if that

condition is put in writing, they would be comfortable approving the variance.

Grant Day, City’s Assistant Attorney, clarified that a variance can be granted for a legally non-conforming property, and the concern raised earlier—that variances are not allowed in such cases—is not accurate.

The board was reminded that this is a quasi-judicial hearing, and their decision must be based on competent substantial evidence presented by both staff and the applicant. The key consideration is whether the applicant meets the five criteria required for a variance. The issue of the property being legally non-conforming should not influence the decision; rather, the focus should be on whether the request satisfies the standards outlined in the variance criteria.

Member Hodges requested that a condition be added requiring the balcony to remain open and the deck to be constructed in a way that allows for proper water drainage.

Motion:

Member Hodges moved to approve V-6-25: 2311 S. Atlantic Avenue, with the condition the balcony must remain open, and Deck must allow water drainage and as submitted. Member Hall seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Hodges
SECONDER:	Hall
AYES:	Causey, Hall, Yates, Hodges, Hulvershorn

4.B S-1-25 (Final Plat) Flagler Dunes, an 80-unit townhome subdivision on the south side of 10th Street, across from New Smyrna Beach High School

Jake Baker, Senior Planner, outlined the Applicant’s request to allow an 80-unit townhome subdivision south side of 10th street, across from New Smyrna Beach High School.

Member Hulvershorn asked whether future tidal conditions and sea level rise were considered. Staff responded that while the canal is historic and stormwater

is designed to be managed on-site, they were not qualified to speak on future tidal impacts. The development includes retention ponds on the east side and in a natural area to manage drainage.

Member Hodges asked about the amenities like the pickleball court and clubhouse. Staff confirmed these features are part of the plat.

Mr. Baker stated that the project meets open space requirements, with over 50% of the site designated as open. Although the zoning allowed for more units, the developer chose to reduce density for uniformity, resulting in about 30 fewer units than permitted.

Members discussed parking availability. Each unit includes a garage and driveway space for two vehicles. Roads are wider than required, allowing for street parking. However, there is no formal guest parking requirement since the development is not a Planned Unit Development (PUD).

Member Causey asked why the project wasn't a Planned Unit Development (PUD). Mr. Baker explained that the development meets R-4 zoning regulations, which allow for townhomes, and the developer chose not to pursue a PUD. The homes will be individually sold as fee simple lots.

Member Hodges asked about street width for parking. Mr. Baker stated the streets are approximately 50 feet wide, allowing for street parking in addition to garage and driveway spaces. Mr. Walsh, the traffic engineer, confirmed that guest parking is not required since it's not a PUD, but street parking is available.

Mr. Baker noted that the developer reduced the density from an originally allowed 18 units per acre to 8 units per acre, resulting in 30 fewer units than permitted. This was done to create a more uniform and feasible layout.

Vice-Chair Yates asked if the applicant would like to speak.

Joey Posey 420 S Nova, Attorney representing the Owner, explained that the county dictated the access point for the development, rejecting a proposal to use the nearby traffic light unless the developer paid for a costly mast arm upgrade. As a result, the entrance will be a right-in, right-out configuration. Mr. Walsh added that drivers heading west will need to make a U-turn at the next

intersection with a left-turn lane to return toward the high school or other destinations.

Member Hodges expressed appreciation for the updated layout and amenities like pickleball but voiced concern about the lack of a left-turn option, which could inconvenience residents trying to access major roads like I-95 or local stores.

Vice-Chair Yates opened Public Participation.

Bonnie Davenport, 117 Fran Drive, spoke on behalf of her brother, a resident at 1133 Pearl Street, expressing concerns about traffic impacts related to a proposed development. She explained that the location lacks space for safe U-turns, which would force drivers to turn around in private driveways on Pearl Street or Tatum. Bonnie emphasized that the area already experiences heavy traffic from high school students, Newport Sound residents, and DBCC commuters. She believes requiring residents to make U-turns to access the development would create a traffic hazard.

JD Smith, Tatum, voiced strong opposition to the proposed development of 80 townhouses. He described the area as already overwhelmed by traffic due to nearby schools, including a high school, college, and middle school. He argued that expecting residents to make U-turns near the high school to access stores or return to the development is unrealistic and unsafe. JD emphasized that traffic congestion is severe during school hours, making it nearly impossible to exit Josephine Street. He also criticized the lack of public notice about the development, stating that many neighbors were unaware of the plans. He suggested that if the developers have the funds to build, they should also invest in a traffic light to improve safety. JD concluded by calling the project “insane” and expressing frustration over the lack of transparency and community input.

Pat Scott, 112 Eddie Road, expressed concerns about traffic safety near the college, noting that train delays and congestion make the area difficult to navigate. She emphasized that requiring drivers to turn around in such conditions is dangerous, especially for young people and residents of nearby low-income housing like the Newport apartments. She believes the proposed traffic changes related to the development are not a good idea and would negatively impact an already burdened area.

Vice-Chair Yates closed Public Participation.

Mr. Posey, clarified that much of the traffic design and control surrounding the proposed development falls under county jurisdiction, not the city's. He explained that the current road layout and traffic flow were dictated by county engineering and permitting requirements, and the city has limited influence over those decisions. Joey acknowledged residents' concerns and expressed a willingness to address specific issues where possible. He also noted that the townhome development had previously gone through a rezoning process and was not a surprise to the public. Ultimately, he emphasized that while the city can help facilitate communication, many aspects of the project are outside its control.

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

Member Hodges shared their experience trying to locate the development site, noting they missed it due to a lack of signage and had difficulty navigating the area. Despite this, he expressed strong support for the development's design and overall concept. However, he raised concerns about traffic safety, particularly the need for residents to make U-turns near a busy school zone. Hodges emphasized that the area is heavily trafficked by students and cyclists, and the current traffic flow could pose risks, especially to young people. He suggested that resolving the issue of access to the nearby traffic lights would make the project more viable and safer.

Vice Chair Yates asked whether there is a traffic policy in place that allows for collaboration with the county to install traffic lights when congestion becomes an issue. He suggested that traffic control should evolve organically with street changes.

Planning Manager Stephanie Doster clarified that the road in question is under county jurisdiction, meaning the city has no authority to install traffic signals. She explained that the existing light near the school was initiated by the school district, which coordinated with the county, city, and even Edgewater to address safety concerns. While the city can make recommendations, final decisions and designs are made by county traffic engineers.

Member Hall followed up by asking whether the developer was given the option to install a traffic light. Doster confirmed that the county provided options, but ultimately the decision and responsibility lie between the developer and the county.

Member Hall asked whether the developer was given two options for site access, one being the current layout and the other involving installation of a traffic light. They acknowledged the cost but wanted to confirm if the light was ever a viable option.

Mr. Posey responded that he would defer to the project engineer for specifics, as they had direct discussions with the county. He emphasized that the developer is willing to continue discussions with the county but is ultimately bound by the county's permitting authority. Posey clarified that multiple attempts have been made to address the issue, but the county has not acted on it. He stressed that while the developer is open to collaboration, the final decision rests with the county, and expectations should be tempered accordingly.

Chris Walsh explained the backstory of the traffic access design for the proposed development. Initially, the plan included two driveways, one connecting directly to the existing traffic signal with a left-turn lane. The team even submitted designs to modify the signal, which was a strain pole system (basic poles and wires). However, after multiple submittals, the county changed its requirements, asking the developer to replace the entire signal with a mast arm system, costing approximately \$600,000–\$800,000, compared to the original \$150,000 improvement.

Due to the significant cost increase, the developer proposed alternative left-turn access at a different driveway, which the county initially accepted but later rejected. Ultimately, the county required a right-in, right-out configuration, eliminating the left-turn option.

Mr. Walsh acknowledged community concerns about traffic near the school but emphasized that residents will adapt and find alternate routes using navigation apps. He noted that travel times via alternate roads like US-1 or Park Street are comparable, and residents will learn to avoid peak traffic times. He concluded by expressing frustration over the changing requirements from the county but affirmed the team's willingness to comply with the final

directive.

Member Bien asked whether the city could include language in the approval that would carry weight in encouraging the county to revisit the traffic access issue, particularly regarding egress concerns. Mr. Posey responded that he would be willing to carry forward a recommendation from the board identifying the issue, which could help prompt further engagement from the county.

Member Bien then asked planning and legal staff whether the county has ever reconsidered decisions based on municipal recommendations. Stephanie Doster explained that while the city can make recommendations, the county has full jurisdiction over the road and typically sticks to its original decisions regarding layout and traffic flow. Jake Baker added that he had personally reached out to county engineering about the traffic light issue but had not received a response, noting that the county has shown little flexibility on the matter.

Vice-Chair Yates suggests adding a recommendation for the city to communicate with the county again.

Member Hodges proposes approving the item but allowing 30 days for discussions with the county.

Member Bien believes the item should be tabled until those discussions yield results.

Mr. Posey expresses concern about delaying the process, noting that the proposal meets code requirements and prior good-faith efforts were made without formal backing from the board. He's open to further discussions but wary of ending up in the same situation again.

Member Hulvershorn questioned whether the current dilemma stemmed from the county requiring a costly signal upgrade (\$700–800K), which the developer did not want to pay.

Mr. Posey clarified that the county made a conscious decision not to install a mast arm signal, shifting the connection point due to school board coordination—not because the developer refused to pay.

Mr. Walsh explained the developer was willing to build a left-turn lane and modify the signal using a strain pole, but the county later required a full mast arm upgrade, significantly increasing costs.

Member Hall emphasized that the safer option—modifying the signal properly—was being denied due to cost and permitting constraints, raising safety concerns for future residents, especially with nearby schools and potentially elderly drivers.

Mr. Posey acknowledged the safety concerns but reiterated that the proposal meets county and city code requirements, and the developer is constrained by what the county permits.

The conversation highlighted a conflict between safety, cost, and jurisdictional authority, with the board concerned about traffic safety and the developer limited by regulatory compliance and financial feasibility.

Member Hall asked whether the board could approve the proposal with a condition that a proper traffic light be installed.

Mr. Day clarified that the board can: Approve with a recommendation, Deny, or Let the matter proceed to City Commission, where public hearings will continue.

He emphasized that the board's recommendation can include a request for the city to engage further with the county.

Mr. Posey expressed openness to including the board's concerns in the record.

Member Hall stressed the importance of making sure the City Commission understands the board's safety concerns.

Vice-Chair Yates noted that the board is pushing the item forward, but nothing is final, and the recommendation will be documented in the staff report.

Ms. Doster confirmed that any recommendation or caveat added by the board will be included in the Commission's staff report.

Member Hodges explained that he voted "no" because the U-turn was originally installed as a safety measure to allow vehicles to exit in the event of a train breakdown, and its removal would eliminate that critical function.

Motion:

Member Bien moved to recommend approval to City Commission for S-1-25 (Final Plat) Flagler Dunes, with the condition to engage with the County on Traffic and, as submitted. Member Causey seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [4-2 VOTE]
MOVER:	Bien
SECONDER:	Causey
AYES:	Causey, Bien, Hall, Yates
NAYS:	Hodges, Hulvershorn

4.C SP-17-24 Flagler Dunes, Site Plan review for approval for an 80-unit townhome development on the south side of 10th Street, across from New Smyrna Beach High School

Mr. Posey stated that, since the site plan represents a final step in the process, the motion would be appropriate based on the outcome of the final plat. He emphasized the importance of ensuring that the final plat does not get disregarded or removed unexpectedly.

Member Hodges asked for clarification, noting that the discussion was about the site plan and questioning whether the driveway was part of it. Mr. Posey confirmed that it was and explained that this was why he recommended conditioning the site plan approval on the outcome of the final plat. He added that if this condition is included in the site plan motion, then the final plat's outcome would directly determine the site plan's approval.

Motion:

Member Bien moved to approve SP-17-24 Flagler Dunes, as submitted. Member Hulvershorn seconded the motion, and the motion was denied with a 3-3 vote, with members Causey, Hall and Hodges voting No.

RESULT:	DENIED [3-3 VOTE]
MOVER:	Bien
SECONDER:	Hulvershorn
AYES:	Bien, Yates, Hulvershorn
NAYES:	Causey, Hall Hodges

5. NEW BUSINESS

5.A **ZT-8-25: Review and give a recommendation to the City Commission and a proposed regulation to create a definition and process for reviewing an application for a Certified Recovery Residence as required under Senate Bill 954.**

Jake Baker, Senior Planner, outlined the City's request to amend the Land Development Regulations to create a definition and process for reviewing an application for a Certified Recovery Residence as required under Senate Bill 954. The regulation requires municipalities to adopt ordinances for reviewing and approving Certified Recovery Residences by January 1, 2026.

Applications must comply with the Fair Housing Amendments Act of 1988 and Title II of the ADA. Submitted to the City Planning Department. Timeline: 30 days: Applicant notified if more info is needed. 60 days: Final determination issued (approval, conditional approval, or denial with reasons). If there is no determination within 60 days, the application is deemed approved unless extended in writing. Required application materials will consist of contact info, certification documents, site plans, floor plans, bed count, services provided, and any requested accommodation. The approval and oversight will be Staff-level approval only — no public hearings. Approval may be revoked for violations or failure to maintain certification. Does not override existing condo/co-op/covenant declarations.

Member Hodges asked for clarification of the request. Mr. Baker and Ms. Doster stated that recovery residences are transitional housing for individuals recovering from addiction.

Member Bien raised concerns regarding the Impact on residential zoning and density and potential for large facilities in low-density neighborhoods.

Mr. Baker went over the Site Plan requirements for Class I, II and III.

Grant Day, Assistant City Attorney, stated that the regulation is mandated by state law, limiting local discretion.

Vice-Chair Yates asked if the applicant would like to speak.

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

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

Motion:

Member Hulvershorn, moved to recommend approval to City Commission for ZT-08-25 Certified Recovery Residences, as submitted. Member Causey seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Hulvershorn
SECONDER:	Causey
AYES:	Causey, Hall, Bien, Yates, Hodges, Hulvershorn

5.B A-0006-2025: Review and give a recommendation to the City Commission on an annexation application for 390 Sugar Mill Drive.

Jeff Gove, Chief Planner, outlined the Applicant's request to voluntary annex from Unincorporated Volusia County, RPUD, Residential Planned Unit Development, to City PUD, Planned Unit Development.

Vice-Chair Yates asked if the applicant would like to speak.

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

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

Motion:

Member Hodges moved to recommend approval for A-06-25: Sugar Mill Drive, as submitted. Member Hall seconded the motion, and the motion carried unanimously.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Hodges
SECONDER:	Hall
AYES:	Causey, Hall, Bien, Yates, Hodges, Hulvershorn

5.C CPA-0005-2025: Review and give a recommendation to the City Commission on a proposed Small-Scale Comprehensive Plan amendment changing the Future Land Use to Commercial and limiting the allowable residential density on approximately 7.56 + acres of land located at 390 Sugar Mill Drive.

Jeff Gove, Chief Planner, outlined the Applicant's request to amend the comprehensive plan changing the future land use to commercial.

Vice-Chair Yates asked if the applicant would like to speak.

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

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

Motion:

Member Causey moved to recommend approval for CPA-05-25: Amend the Future Land Use Map to Commercial, as submitted. Member Bien seconded the motion, and the motion failed with members Hall, Bien, Hodges and Hulvershorn voting no.

RESULT:	DENIED [2-4 VOTES]
MOVER:	Causey
SECONDER:	Bien
AYES:	Causey, Yates,
NAYES:	Hall, Bien, Hodges, Hulvershorn

5.D PUD-06-25, Review and give a recommendation to the City Commission on a proposed rezoning application to change the current zoning from County PUD to City PUD on approximately 7.6 acres of land located at 390 Sugar Mill Drive, associated with companion and concurrent applications for Annexation and a revised CPA FLU designation.

Jeff Gove, Chief Planner, outlined the Applicant's request to allow for a Storage Facility for Boats and RV's, in a combination of 147 total spaces within Enclosed Buildings or within an internal paved parking area potentially under Canopy Covers.

Member Hodges asked whether the site includes bathrooms or clean-out stations.

Jeff Gove, Chief Planner, confirmed that the site plan includes a dump station and a tank pump located at the east end of the open canopy storage area.

Member Causey asked about a wash station, but Jeff Gove was unsure and suggested asking the developer directly.

Member Bien questioned whether the commercial future land use designation permits industrial uses like RV and boat storage.

Mr. Gove explained, the use is retail-oriented, not strictly industrial, RV/boat storage doesn't produce off-site impacts, so it fits within commercial zoning and other zoning districts like B-3 also allow this use under commercial land use.

Member Hall raised concerns about traffic flow, especially slow-turning RVs. He asked whether a turn lane or deceleration lane might be required in the future.

Jeff Gove responded that this would be addressed down the road. The road is a County Road, so it's outside city control. He hopes the county won't require U-turns for access.

Vice-Chair Yates asked if the applicant would like to speak.

Joey Posey, 420 S Nova, Attorney representing the applicant, provided a detailed overview of the property's history and zoning context. He explained that the site currently exists in the county and was previously approved in 2005 as an RPUD for 94 townhomes, consistent with the county's medium-density residential future land use designation, which allows 8 units per acre and includes a commercial component. Posey clarified that the county's comp plan permits neighborhood businesses and shopping centers under this designation, which is why a floor area ratio (FAR) of 0.5 is applicable. The original RPUD included 186 parking spaces, 45-foot building height, 20% open space, and two access points, which would have generated significantly more traffic than the current proposal.

He emphasized that the proposed RV and boat storage facility would have minimal traffic impact, as users typically store vehicles long-term and only access them occasionally. The facility is not expected to include a wash station, further reducing its demand on public utilities. Posey concluded that the project is designed to be a low-impact use, especially compared to the previously approved residential development, and aligns with the county's existing land use entitlements.

Harry Newkirk of Newkirk Engineering, explained the stormwater management plan for the proposed development. The site currently has an existing wet pond, which will be expanded and serve as the central feature of the stormwater system. The design will comply with St. Johns River Water Management District rules, which are stricter than New Smyrna Beach's local code. These rules require nutrient filtration, meaning the system must remove nitrogen and phosphorus before water is discharged into the roadside ditches and eventually into the creek. The stormwater system will include dry retention areas and under-parking filtration to pretreat runoff before it reaches the wet pond. The entire system must be engineered to handle up to a 100-year storm event, ensuring that both the rate and volume of discharge are less than current conditions. This approach is intended to reduce flood risk for adjacent properties and improve downstream water management through

increased on-site percolation and storage capacity.

Vice-Chair Yates opened Public Participation.

Robert Fyke, a resident of Coastal Woods, spoke in opposition to a proposed development near his neighborhood. He urged the board to deny the annexation of the property from the county into the city, the rezoning from residential to commercial, and the approval of the Planned Unit Development (PUD). Fyke expressed concerns about the proximity of the development to Coastal Woods and Tatum Trace, highlighting potential flooding issues due to the area's waterlogged conditions and lack of impact studies on water flow. He warned that elevating the development site could cause runoff into neighboring properties, unfairly affecting current residents. Fyke also criticized the plan for including 147 RV and boat storage spaces, predicting increased traffic congestion, especially on Sugar Mill Road, and chaotic conditions on weekends as people from Orlando bring boats to the area.

Nancy Knapp, 2913 Taton Trace, expressed strong concerns about the proposed development near her neighborhood. She challenged the characterization of the area as “relatively isolated,” noting the close proximity between cul-de-sacs in Taton Trace and the adjacent development. Having lived there since 2018, she emphasized that while her property has not experienced flooding during major storms like Hurricanes Ian and Nicole, nearby retention ponds are currently full and local canals have not emptied in a long time. She warned that future storms could overwhelm the area’s drainage system. Nancy also raised traffic safety concerns, pointing out that Sugar Mill Road is only two lanes and already heavily used by multiple subdivisions. She fears that increased traffic from RVs and boats, especially once the Pioneer Trail exit from I-95 is completed, will worsen congestion. She requested transparency about the engineering firm responsible for the stormwater assessment, expressing a desire to hold them accountable if flooding occurs.

Marvel Richards, 1099 Clubhouse Blvd., voiced opposition to the proposed boat and RV storage development near Sugar Mill Road. She emphasized that the roadside ditches along Sugar Mill and State Road 44 are consistently full of water, raising concerns about worsening flooding if the site is paved. Ms. Richards noted that a new hospital is planned at the intersection of Sugar Mill

and 44, with its emergency entrance on Sugar Mill, and a medical park will be built behind it. She warned that increased traffic from trailers and boats could interfere with access to the hospital and exacerbate congestion in an already busy area. Additionally, she pointed out that the development site is located on what she described as the most dangerous curve on Sugar Mill Road. Ms. Richards urged the board to carefully consider the long-term impacts of the project, especially with significant growth expected in the next few years.

Claudia Vanderhorst, 562 Aeolian Drive, voiced strong opposition to the proposed zoning change and boat storage development near her community. She emphasized that the stormwater ditches along Sugar Mill Road are critical to preventing flooding in her neighborhood, which sits at one of the lowest elevations in the area. During Hurricane Ian, water infiltrated her community, and she fears future development will worsen runoff and flooding. Ms. Vanderhorst expressed concern about changing the comprehensive plan from residential to commercial, arguing that residents invested in their homes under the assumption the area would remain residential. She warned that approving commercial zoning in the middle of a large residential and medical corridor constitutes “spot zoning,” which has faced legal challenges in other cases. Additionally, she cited safety concerns related to increased traffic from school buses, emergency vehicles, and future residents, especially with the upcoming I-95 Pioneer Trail interchange. Ms. Vanderhorst urged the board to reject the zoning change and preserve the residential character of the area for the sake of current homeowners.

Robin Marcus, of 2972 Gibraltar Blvd., expressed concerns about the proposed development near Sugar Mill Road. She highlighted the persistent water in roadside ditches due to ongoing construction and warned that additional development would worsen flooding. Ms. Marcus noted that despite signage prohibiting left turns from the Panera area onto Sugar Mill, drivers frequently ignore it, creating traffic hazards. She emphasized that the road’s 45 mph speed limit poses safety risks for slow-moving RVs and boats entering or exiting the site. With the upcoming hospital and increased traffic from surrounding neighborhoods, she believes the area cannot support another facility and urged the board to deny the proposal due to flooding, traffic congestion, and public safety concerns.

John Kaplan, 3009 Trubs Trace, expressed concerns about drainage and flooding related to the proposed development near Sugar Mill Road and State

Road 44. He noted that the drainage canal along 44 has no outlet, which contributes to persistent water issues. Mr. Kaplan also highlighted the consistent 45 mph speed limit on Sugar Mill between Pioneer Trail and 44, raising safety concerns for RVs and boats entering or exiting the site. He questioned the visual impact of proposed 45-foot-tall buildings on nearby homes, suggesting that such height would be intrusive unless buffered by a wall. Mr. Kaplan also mentioned confusion about the ownership and original purpose of a pond on the property, which he believes was not intended for future development. He concluded by requesting that the proposal be denied.

Cindy Sniezak, 512 Yupon Avenue, shared concerns about the proposed development and the broader process surrounding it. She pointed out confusion over whether public comments were being taken collectively for three separate items, even though votes would occur individually. Ms. Sniezak questioned the relevance of past entitlements and height allowances, noting that boat storage typically doesn't require tall structures. Her primary concern was traffic, especially around the Panera, Zaxby's, and gas station area, where a right-turn-only design forces drivers to make illegal left turns or use private property to turn around. She emphasized that trailers and RVs complicate traffic flow and suggested that road improvements are necessary, though not necessarily the applicant's responsibility. Ms. Sniezak urged city officials to use this situation as an opportunity to collaborate with the county to address infrastructure needs and improve traffic safety, especially before approving further development.

Justina Azcarate, 3053 Neverland Drive, voiced concerns about the proposed development adjacent to Taton Trace. While she acknowledged the project appears visually appealing, she emphasized that flooding is already a significant issue in Coastal Woods due to unmet promises by developers. Her community is currently working with St. Johns Water Management to address water issues on the far end of the neighborhood. Ms. Azcarate questioned the effectiveness of the proposed drainage plan, expressing skepticism about whether water will flow as intended, especially given the area's history of flooding, including severe impacts from Hurricane Ian. She noted that water in the area is currently stagnant and fears that additional runoff from the development could worsen conditions. Ms. Azcarate stressed that residents purchased their homes as "forever homes" and urged careful consideration of the long-term impacts.

Janet Kaplan, 3009 Taton Trace, expressed concerns about the proposed development near Sugar Mill Road. She emphasized that the road is mostly two lanes and very curvy, with six subdivisions already feeding traffic into the area, creating congestion and safety issues. Ms. Kaplan noted that many residents were unaware of the proposal due to limited notification and suggested that more time is needed for public awareness and research. She also mentioned a possible 30-year lease agreement involving Geosam, which she believes is relevant to the property. Her primary concerns centered on increased traffic, flood risks, and the environmental impact of additional concrete. Ms. Kaplan urged the board to consider tabling the proposal to allow for further investigation and community input.

Steve Gunter, 140 Temple Street, voiced frustration over the city's frequent amendments to its comprehensive plan to accommodate developers, questioning the purpose of having such a plan if it's constantly changed. He opposed the proposed PUD and commercial development, describing it as elevated concrete and asphalt that would worsen flooding downstream. Living a mile and a half from the site, Mr. Gunter emphasized that local drainage systems are already overwhelmed, with ditches and canals full and unable to handle additional runoff. He shared his personal experience of knee-deep water in his home and criticized the reliance on St. Johns Water Management, suggesting they often favor developers over residents. Citing state law HB503-403.814, he argued the project would cause adverse flooding impacts and lacks sufficient conveyance capacity. Mr. Gunter concluded by warning that residents downstream, including those in Coastal Woods, are already using the area for water storage and will suffer further if the development proceeds.

Pat Scott, 120 Eddy Road, expressed concern about the impact of the proposed development on lower-lying, unincorporated areas like hers. She noted that these areas have been increasingly affected by flooding over time and believes the new project will worsen the situation. Ms. Scott referenced a nearby RV development on Doerr Road that led to increased flooding, citing a personal account from a neighbor who experienced water damage after its construction. She emphasized that her neighborhood is downhill from the proposed site, making it especially vulnerable to runoff and urged the board to reject the project to prevent further harm.

Vice-Chair Yates closed Public Participation.

Mr. Gove provided several clarifications regarding the proposed development. He stated that the building height is set at 25 feet, not the previously mentioned 45 feet, and this is specified in the Master Development Agreement (MDA). He emphasized that the current request is for land use approval, not a finalized engineered site plan. The concept allows for up to 147 storage spaces, and if approved, a detailed site plan will be submitted later for review, including considerations for traffic flow, turn lanes, and stormwater impacts. The proposed building would be over 41,000 square feet, and all engineering details would be addressed during the site plan phase. Mr. Gove also noted that the property was previously approved in the county for 93 multifamily units, but that approval expired after five years. At the time, the property had a future land use designation of Activity Center, which permitted a higher intensity of development.

Member Hodges asked whether the previously approved 93 residential units from the county would still apply if the property were annexed into New Smyrna Beach. Mr. Gove clarified that they would not, as the county's current future land use designation is medium density, which allows a maximum of 8 units per acre. He explained that unless a different designation is requested, the city applies its closest applicable zoning. Mr. Gove also noted that even if the land use changes to commercial, the city would still want to see the current density restrictions carried over. In response to Member Causey's question, Mr. Gove confirmed that there are other nearby parcels already designated as commercial, particularly near the intersection of Pioneer Trail and Sugar Mill Road, including a convenience store and two vacant corners with commercial land use—one with straight zoning and the other part of a PUD.

Vice-Chair Yates asked whether annexation into New Smyrna Beach is required for the proposed development to proceed. Mr. Gove clarified that annexation is indeed the first step in the process, but if the city does not approve it, the property could still be developed under county regulations without annexation. The difference would lie in the regulatory framework—city versus county—under which the development would be reviewed and approved.

Member Bien asked whether the county's current land use regulations would permit the proposed use without rezoning. Mr. Gove responded that while he isn't fully familiar with the county's future land use details, the property is designated as medium-density residential, which does allow for a limited

amount of commercial uses. Therefore, it's possible that the use could be permitted under county regulations, but it would depend on the specifics of those allowances.

Member Hall asked whether the proposed development site is surrounded by residential properties. Mr. Gove confirmed that while the area is largely residential, the land to the west and south is part of the Coastal Woods Planned Unit Development (PUD), specifically designated for commercial use. He explained that this commercial portion was originally approved under Geosam's ownership and later transferred to Advent Health, which used the vested entitlements for traffic analysis and development of their hospital PUD. However, the current parcel under discussion was left out of that hospital PUD. Mr. Gove also noted that a stormwater pond designed for the Advent Health site is intended to drain into the area being considered for development, indicating future plans for excavation and retention on the site.

Member Hodges asked about the nearby development, specifically how many units were built and the size of the land. Mr. Gove responded that the development to the south is part of the Coastal Woods PUD and originally had approval for approximately 271 multifamily units in a three-story building. However, the project underwent a significant reduction in density and now includes 188 units. He explained that the property's Activity Center future land use designation allowed for a higher density of 18 units per acre, which is more intense than surrounding areas.

Stephanie Doster, Planning Manager, asked Mr. Gove to clarify what a PUD (Planned Unit Development) is, noting that surrounding properties are zoned as a PUD. Mr. Gove explained that most of the land west of Sugar Mill Drive is part of the Coastal Woods PUD, while some parcels on the west side, such as The Landings, are not. Doster added that across the street there are two agricultural parcels, including a private residence and a cemetery, as well as a residential area on Sarah and Nicole Drive that is also part of a PUD. Mr. Gove further noted that Serena Lakes PUD, located just south of the proposed site on the east side of Sugar Mill, was approved at a density of 12 units per acre.

Vice-Chair Yates asked whether the recommendation for the proposed development was based on reducing traffic and density. Mr. Gove responded that the city has received frequent inquiries for RV and boat storage, to the point where the former planning director referred to it as "storage fatigue"

due to the lack of suitable locations. He noted that while many residents don't want such facilities nearby, RV and boat storage is generally a benign use with minimal impact. Mr. Gove shared an example of a previously approved RV storage site on US 1 that proved infeasible due to high costs and infrastructure challenges, leading the applicant to consider converting it to mini-warehouse storage. He emphasized that legal and illegal storage sites have been cropping up in infill areas, and the city still lacks adequate RV and boat storage options.

Member Hall asked about the projected percentage of boat rentals at the proposed storage facility. Mr. Gove explained that the plan includes a maximum of 147 storage spaces, with varying dimensions suitable for either boats or RVs, but no specific breakdown between the two. Member Hall expressed concern that if a large portion of the spaces were used for boats, especially 16 to 30-foot river-type boats, it could lead to significant weekend traffic, unlike RVs which are used less frequently. Mr. Gove acknowledged that such traffic is possible but noted that not all boat owners use their boats every weekend. He referenced a similar enclosed boat storage facility on West Canal with around 80 spaces, where he rarely observed boat activity, though he admitted he doesn't frequent the area regularly.

Joey Posey addressed several concerns about the proposed development, clarifying that the distance from the back of the lot to the nearest property line is approximately 160 feet, not including additional buffer zones and the rear-facing building, which he believes provides substantial separation from nearby homes in Coastal Woods. He noted that commercial future land use is already present on three of the four corners at the intersection of Pioneer Trail and Sugar Mill, making the proposed use consistent with the area. Mr. Posey explained that urban medium intensity land use in the county allows for neighborhood commercial shopping centers, and the project's floor area ratio (FAR) is capped at 0.5, matching county standards. He also clarified that the previously mentioned 45-foot building height was from an old PUD and is not part of the current proposal. Regarding a rumored cemetery lease, Mr. Posey stated with certainty that the 30-year agreement does not include the subject property, as he personally drafted the documents. He emphasized that RV and boat storage is a low-impact use, with minimal traffic, typically serving local residents whose HOAs restrict on-site storage. Mr. Posey concluded that the facility would not attract out-of-town users and would primarily serve the surrounding community.

Vice-Chair Yates requested clarification on stormwater responsibilities for the proposed development. Mr. Posey noted that approximately three-quarters of the storage spaces are expected to be used for RVs. Harry Newkirk, of Newkirk Engineering, explained that stormwater management for the site will be subject to oversight by three entities: the State of Florida, Volusia County, and the City of New Smyrna Beach, due to the county right-of-way. He emphasized that under Florida Statutes, the site must be designed so that it does not cause flooding or adverse water impacts to surrounding properties. The engineering process will calculate water volume and flow direction, and the final design must ensure no increase in runoff in any direction. All stormwater discharge will be carefully managed to comply with regulations and protect neighboring areas.

Joey Posey, attorney for the applicant, responded to Member Bien's question about why the development wasn't pursued under existing county regulations. He explained that the decision to approach New Smyrna Beach was largely due to the developer's familiarity with the area, having previously worked on projects like The Isles. Mr. Posey acknowledged that while the property could potentially be developed under county regulations, the original RPUD approval for 94 townhomes had expired, meaning a full rezoning process—including public hearings—would still be required, regardless of jurisdiction. He emphasized that the proposed RV and boat storage facility is a low-impact use with minimal traffic and utility demands, and that the developer is committed to creating a project that complements the area. Mr. Posey expressed concern that the process might simply result in rejection without consideration of the benefits, and reiterated that the facility would serve local residents and be a quiet, unobtrusive neighbor.

Member Hall raised concerns about how the proposed development would manage stormwater during heavy, multi-day rain events, especially given the flat terrain and lack of natural drainage features like lakes or rivers. He questioned how engineers could assure nearby residents that water from the site wouldn't end up flooding their neighborhoods. In response, Harry Newkirk explained that the site will be designed to discharge less water than it currently does in its undeveloped state. Using updated stormwater regulations, the system will include on-site percolation and pretreatment, meaning water will be filtered and absorbed on the property before any discharge occurs. The system is engineered to handle up to a 100-year storm event, and only during extreme conditions—such as hurricanes—would water

overflow into surrounding ditches. Even then, the discharge rate and volume will be lower than existing conditions, which Mr. Newkirk believes will improve the surrounding ditch systems and reduce downstream flooding impacts.

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

Motion:

Member Bien moved to recommend approval for PUD-06-25: Sugar Mill Boat and RV Storage, as submitted. Member Causey seconded the motion, and the motion failed with members Hall, Bien, Hodges and Hulvershorn voting no.

RESULT:	DENIED [2-4 VOTES]
MOVER:	Causey
SECONDER:	Bien
AYES:	Causey, Yates,
NAYES:	Hall, Bien, Hodges, Hulvershorn

6. COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

7. REPORTS AND COMMUNICATIONS BY THE STAFF

7.A Development Activity Report – Listed on the City’s Website

Stephanie Doster, Planning Manager, reminded attendees about the upcoming special election on November 4th, encouraging everyone to educate themselves on the proposed charter amendments. Informational flyers were distributed and are also available in the lobby. She also thanked those who participated in the APA conference board member training, expressing appreciation for their attendance and engagement.

8. ADJOURNMENT

As there was no other business to discuss, Chair Wheatcraft declared the meeting adjourned at 8:46 P.M.

THE CITY OF NEW SMYRNA BEACH - DEVELOPMENTAL SERVICES

Z-03-25: REVIEW AND GIVE A RECOMMENDATION TO THE CITY COMMISSION ON THE REZONING OF COMMERCIAL PROPERTY FROM B-2, NEIGHBORHOOD BUSINESS DISTRICT TO R-3A, SINGLE FAMILY AND TWO FAMILY (ZERO LOT LINE) RESIDENTIAL LOCATED AT 1300 S ATLANTIC AVENUE.

November 3, 2025

Background:

Applicant: Michael J. Woods, Esq, Cobb Cole, 231 N. Woodland Boulevard. DeLand, FL. 32720

Owner: NSB Capital Group, LLC., 103 Commerce Street, Lake Mary, FL. 32746

Request: A positive recommendation to the City Commission on the rezoning of commercial property from B-2, Neighborhood Business District to R-3A, Single Family and Two Family (Zero Lot Line) 1.01 acres located at 1300 S. Atlantic Avenue.

Attachments:

Exhibit A: Aerial Map

Exhibit B: Location Map

Exhibit C: Existing Zoning Map

Exhibit D: Existing Future Land Use Map

Exhibit E: Proposed Zoning Map

Exhibit F: Proposed Future Land Use Map

Findings:

A. The property is located south of 3rd Avenue, west of S. Atlantic Avenue, and north of 4th Avenue. To the west is Walgreens. North of E. 3rd Avenue is a surface parking lot. To the east are two blocks of houses with R-3A zoning, which allows single- and two-family houses, up to 35 feet tall. South of E. 4th Avenue is Boston's Fish House, La Terraza Mexican Restaurant, and Casey's NSB Bar.

B. The purpose of the FLUM amendment and companion application for rezoning are to construct single family homes on what is currently commercial property.

C. The E. 3rd Avenue beach approach is the busiest beach approach in Volusia County, averaging 356 vehicles daily.

D. The Future Land Use for this parcel is Commercial, which has a F.A.R. of 2.0.

E. The stormwater management proposal for the project has not yet been developed but they will have to meet all current standards.

F. Rezoning the property will increase the required setback and landscape buffer on the adjacent Walgreens property making the building nonconforming.

Planning and Zoning should recommend denial to the City Commission.

Fiscal Analysis:

N/A

Strategic Plan Item:

No

Staff Report Created By: Shane Corbin - Developmental Services Director

Attachments:

[Exhibit A: Aerial Map](#)

[Exhibit B: Location Map](#)

[Exhibit C: Existing Zoning Map](#)

[Exhibit D: Existing FLU Map](#)

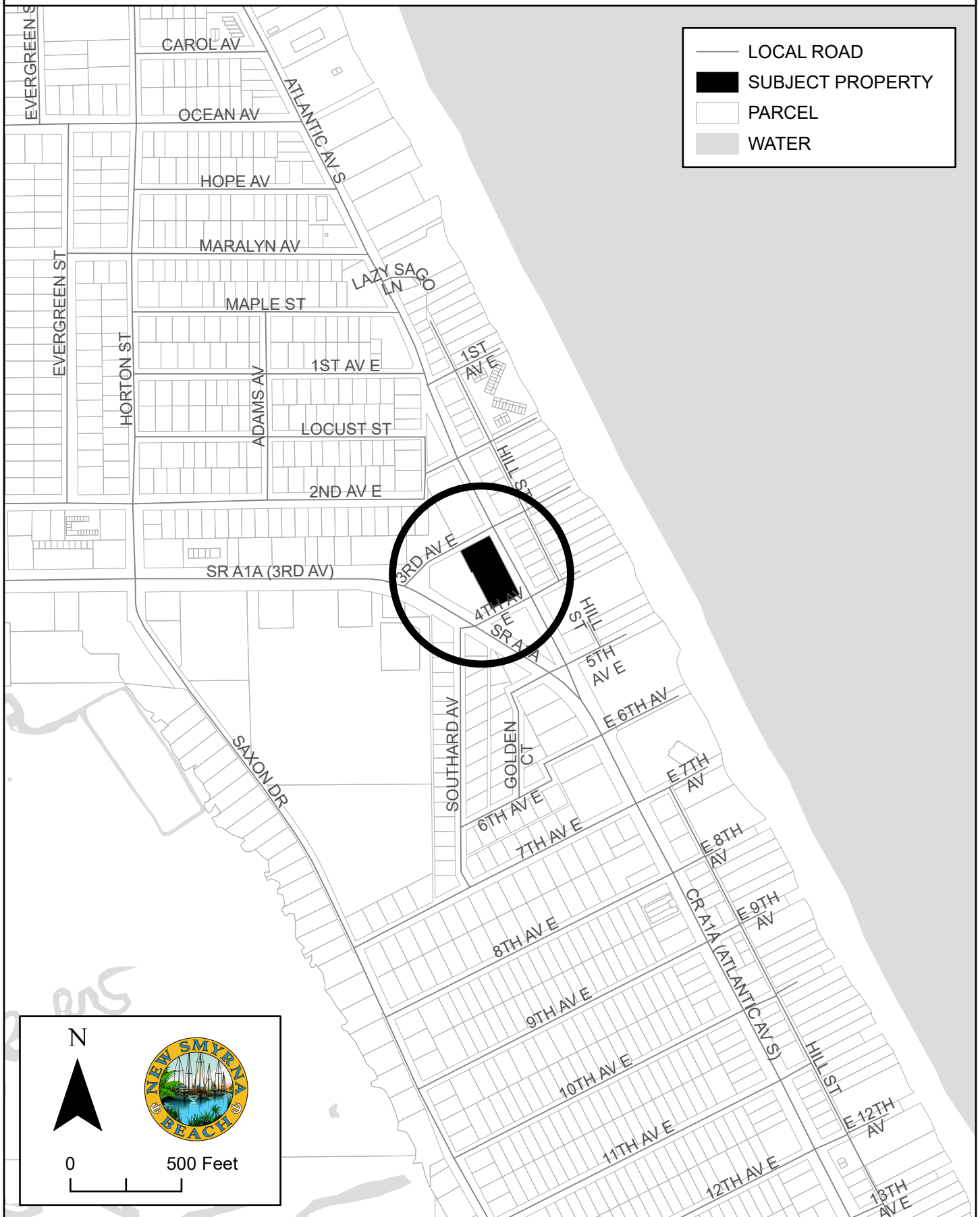
[Exhibit E: Proposed Zoning Map](#)

[Exhibit F: Proposed FLU Map](#)

Z-3-25: 1300 S. ATLANTIC AVENUE
PARCEL: 7422-01-35-0010 AERIAL MAP



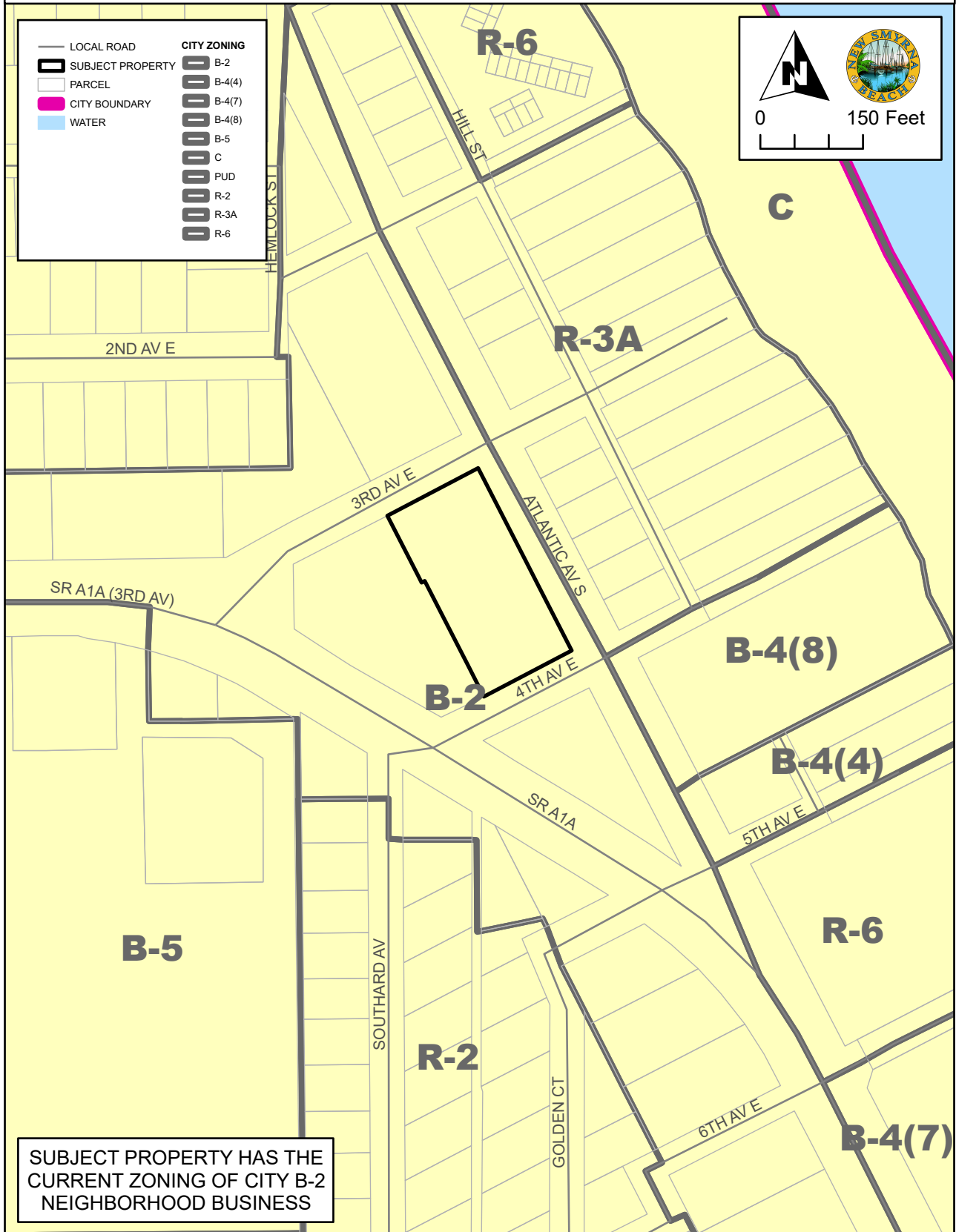
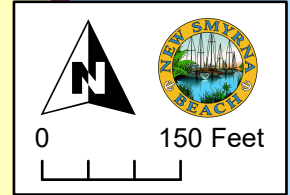
Z-3-25: 1300 S. ATLANTIC AVENUE
PARCEL: 7422-01-35-0010 LOCATION MAP



EXISTING ZONING

Z-3-25

LOCAL ROAD	CITY ZONING
SUBJECT PROPERTY	B-2
PARCEL	B-4(4)
CITY BOUNDARY	B-4(7)
WATER	B-4(8)
	B-5
	C
	PUD
	R-2
	R-3A
	R-6



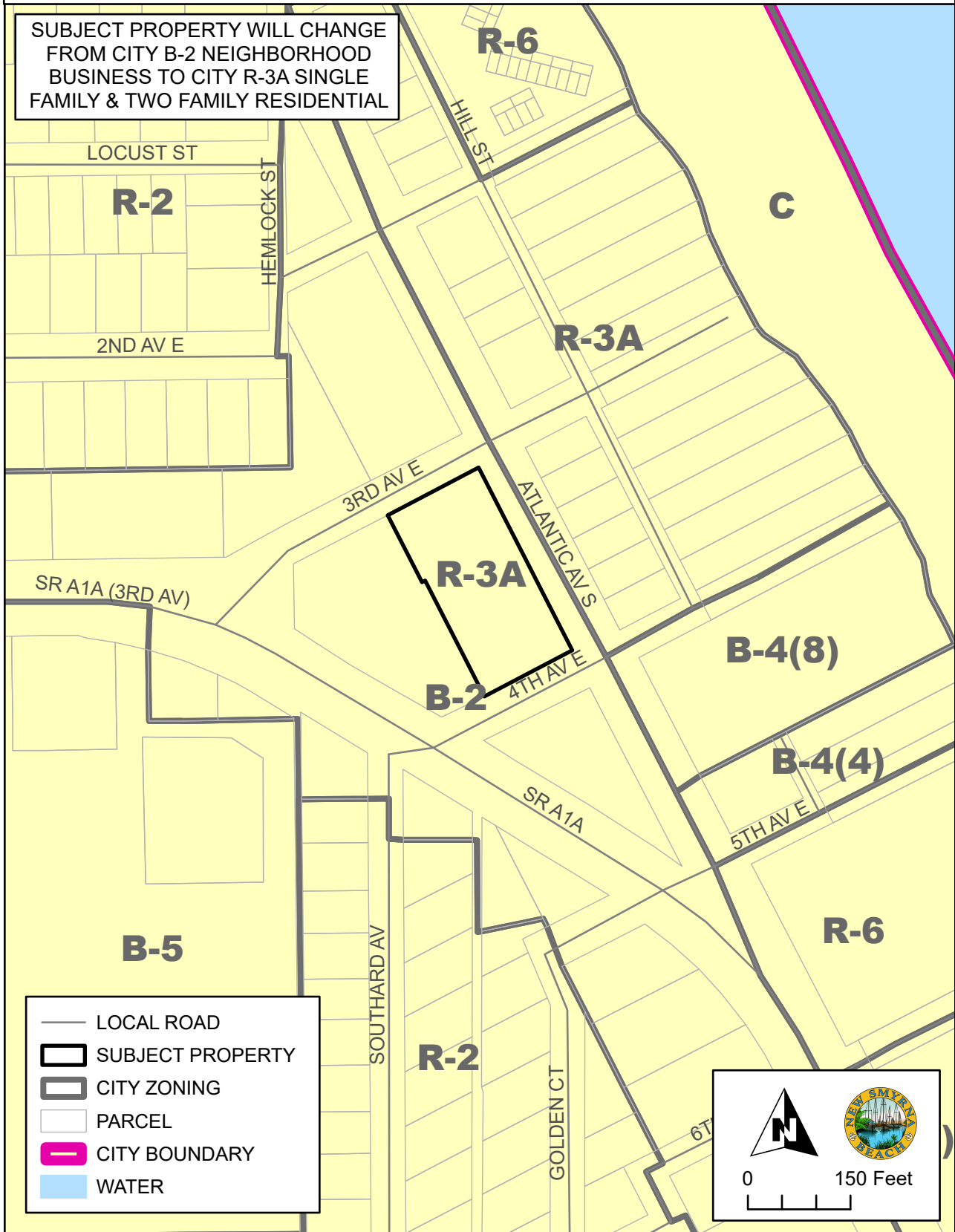
Z-3-25



PROPOSED ZONING

Z-3-25

SUBJECT PROPERTY WILL CHANGE
FROM CITY B-2 NEIGHBORHOOD
BUSINESS TO CITY R-3A SINGLE
FAMILY & TWO FAMILY RESIDENTIAL



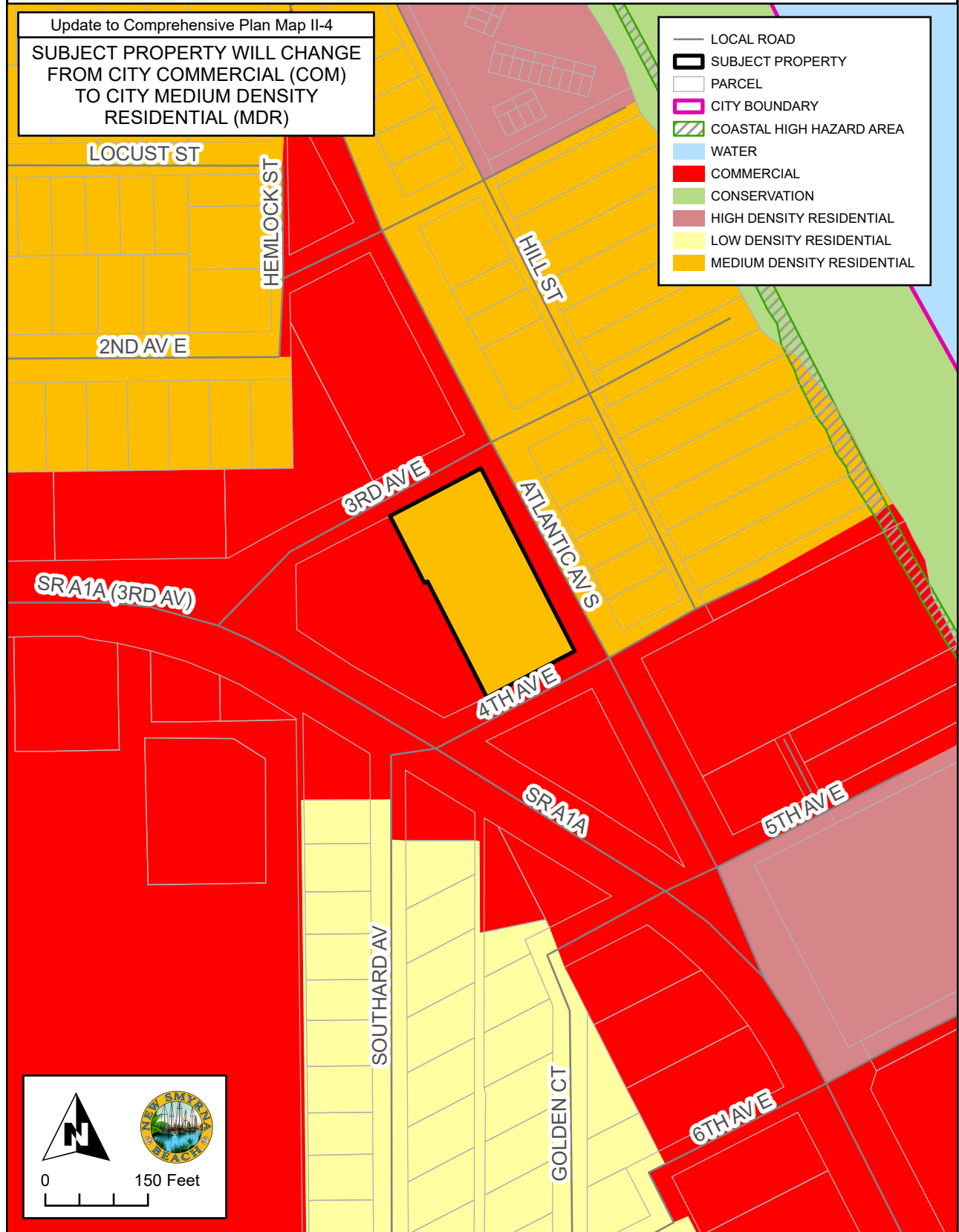
PROPOSED FUTURE LAND USE DESIGNATIONS

Z-3-25

Update to Comprehensive Plan Map II-4

SUBJECT PROPERTY WILL CHANGE
FROM CITY COMMERCIAL (COM)
TO CITY MEDIUM DENSITY
RESIDENTIAL (MDR)

- LOCAL ROAD
- ▬ SUBJECT PROPERTY
- ▬ PARCEL
- ▬ CITY BOUNDARY
- ▨ COASTAL HIGH HAZARD AREA
- WATER
- COMMERCIAL
- CONSERVATION
- HIGH DENSITY RESIDENTIAL
- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL



THE CITY OF NEW SMYRNA BEACH - DEVELOPMENTAL SERVICES

CPA-07-25: REVIEW AND GIVE RECOMMENDATION TO THE CITY COMMISSION ON A PROPOSED SMALL SCALE COMPREHENSIVE PLAN AMENDMENT CHANGING THE FUTURE LAND USE DESIGNATION FROM COMMERCIAL TO MEDIUM DENSITY RESIDENTIAL ON APPROXIMATELY 1.01 ACRES LOCATED AT 1300 S. ATLANTIC AVENUE.

November 3, 2025

Background:

Applicant: Michael J. Woods, Esq. Cobb Cole, 231 N. Woodland Boulevard. DeLand, FL. 32720

Owner: NSB Capital Group, LLC., 103 Commerce Street, Lake Mary, FL. 32746

Request: A positive recommendation to the City Commission to change the Future Land Use designation from Commercial to Medium Density Residential on approximately 1.01 acres located at 1300 S. Atlantic Avenue.

Attachments:

Exhibit A: Aerial Map

Exhibit B: Location Map

Exhibit C: Existing Zoning Map

Exhibit D: Existing Future Land Use Map

Exhibit E: Proposed Zoning Map

Exhibit F: Proposed Future Land Use Map

Findings:

A. The property is located south of 3rd Avenue, west of S. Atlantic Avenue, and north of 4th Avenue. To the west is Walgreens. North of E. 3rd Avenue is a paid parking lot. To the east are two blocks of houses with R-3A zoning, which allows single- and two-family houses, up to 35 feet tall. South of E. 4th Avenue is Boston's Fish House, La Terraza Mexican Restaurant, and Casey's NSB Bar.

B. The purpose of the FLUM amendment and companion application for rezoning are to construct single family homes on what is currently commercial property.

C. The E. 3rd Avenue beach approach is the busiest beach approach in Volusia County,

averaging 356 vehicles daily.

D. The Future Land Use for this parcel is Commercial, which has a F.A.R. of 2.0.

E. The stormwater management proposal for the project has not yet been developed but they will have to meet all current standards.

F. Goal 4 of the City's Comprehensive Plan Future Land Use Element Goal 4 states that "the amount of land already designated for non-residential uses does not decrease."

G. The City Commission has stated it desires to diversify the amount of tax revenue generated from residential land uses to nonresidential uses.

Below are Goals, Objectives and Policies of the City's Comprehensive Plan

Goal 4: Commercial/Industrial Development

Provide for high-quality commercial and industrial development so as to maintain the economic health of the City, and to increase the job opportunities, per capita income and convenience for its residents.

Objective:

1. Maintaining Land for Non-residential Uses: Ensure that the amount of land already designated for non-residential uses does not decrease.

Policies:

- a. Retain designated commercial and industrial development areas for their appropriate uses, unless such uses have been planned to be accommodated elsewhere.
- b. The City will plan for ways to connect and integrate commercial and industrial development when establishing or expanding nearby residential uses.
- c. High intensity development areas will be designated and protected from the encroachment of incompatible low intensity uses.

Planning and Zoning Board should recommend denial to the City Commission.

Fiscal Analysis:

N/A

Strategic Plan Item:

No

Staff Report Created By: Shane Corbin - Developmental Services Director

Attachments:

[Exhibit A: Aerial Map](#)

[Exhibit B: Location Map](#)

[Exhibit C: Existing Zoning Map](#)

[Exhibit D: Existing FLU Map](#)

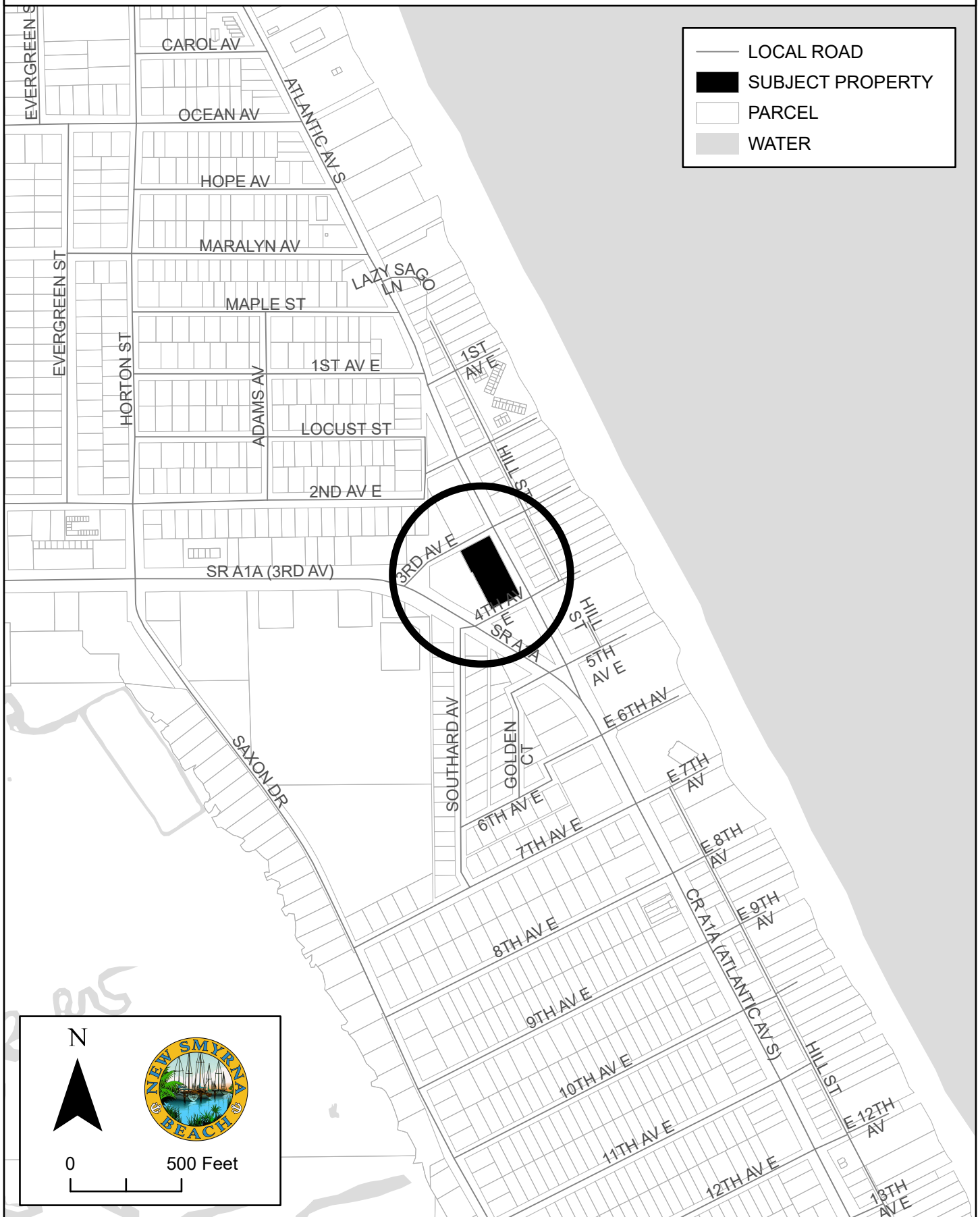
[Exhibit E: Proposed Zoning Map](#)

[Exhibit F: Proposed FLU Map](#)

CPA-7-25: 1300 S. ATLANTIC AVENUE
PARCEL: 7422-01-35-0010 AERIAL MAP



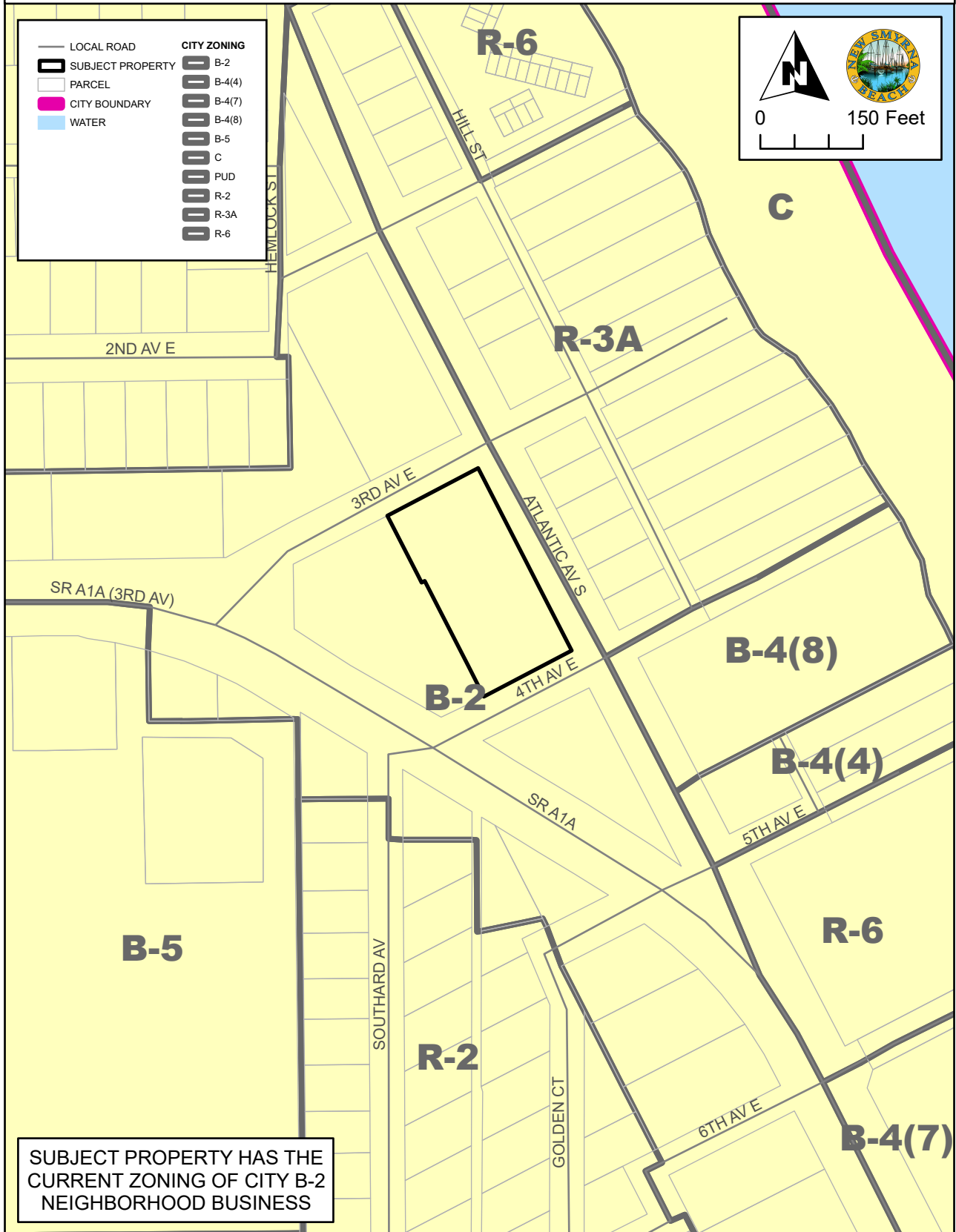
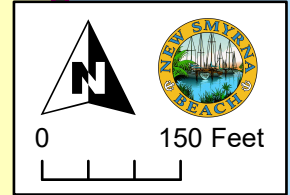
CPA-7-25: 1300 S. ATLANTIC AVENUE
PARCEL: 7422-01-35-0010 LOCATION MAP



EXISTING ZONING

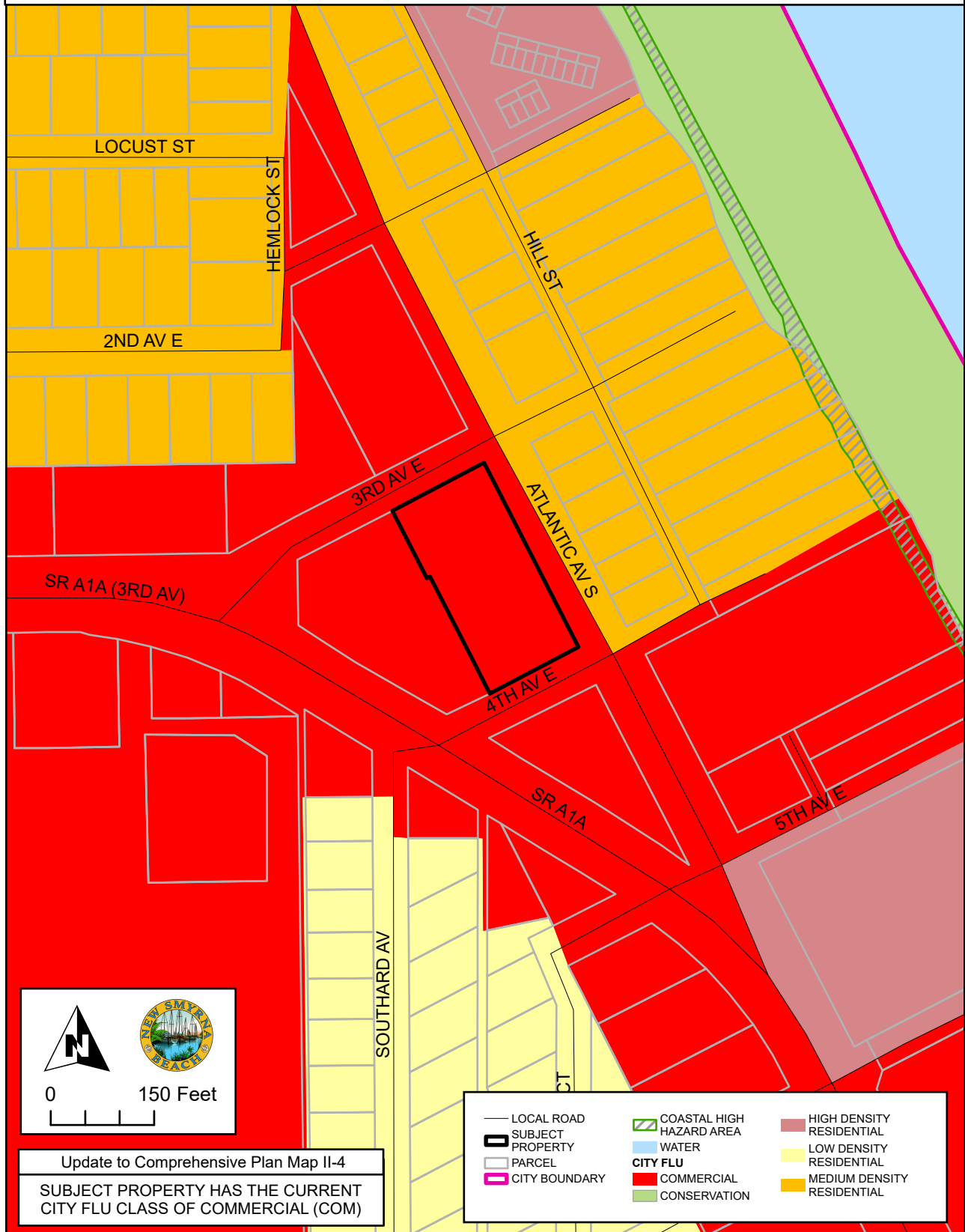
CPA-7-25

LOCAL ROAD	CITY ZONING
SUBJECT PROPERTY	B-2
PARCEL	B-4(4)
CITY BOUNDARY	B-4(7)
WATER	B-4(8)
	B-5
	C
	PUD
	R-2
	R-3A
	R-6



EXISTING FUTURE LAND USE

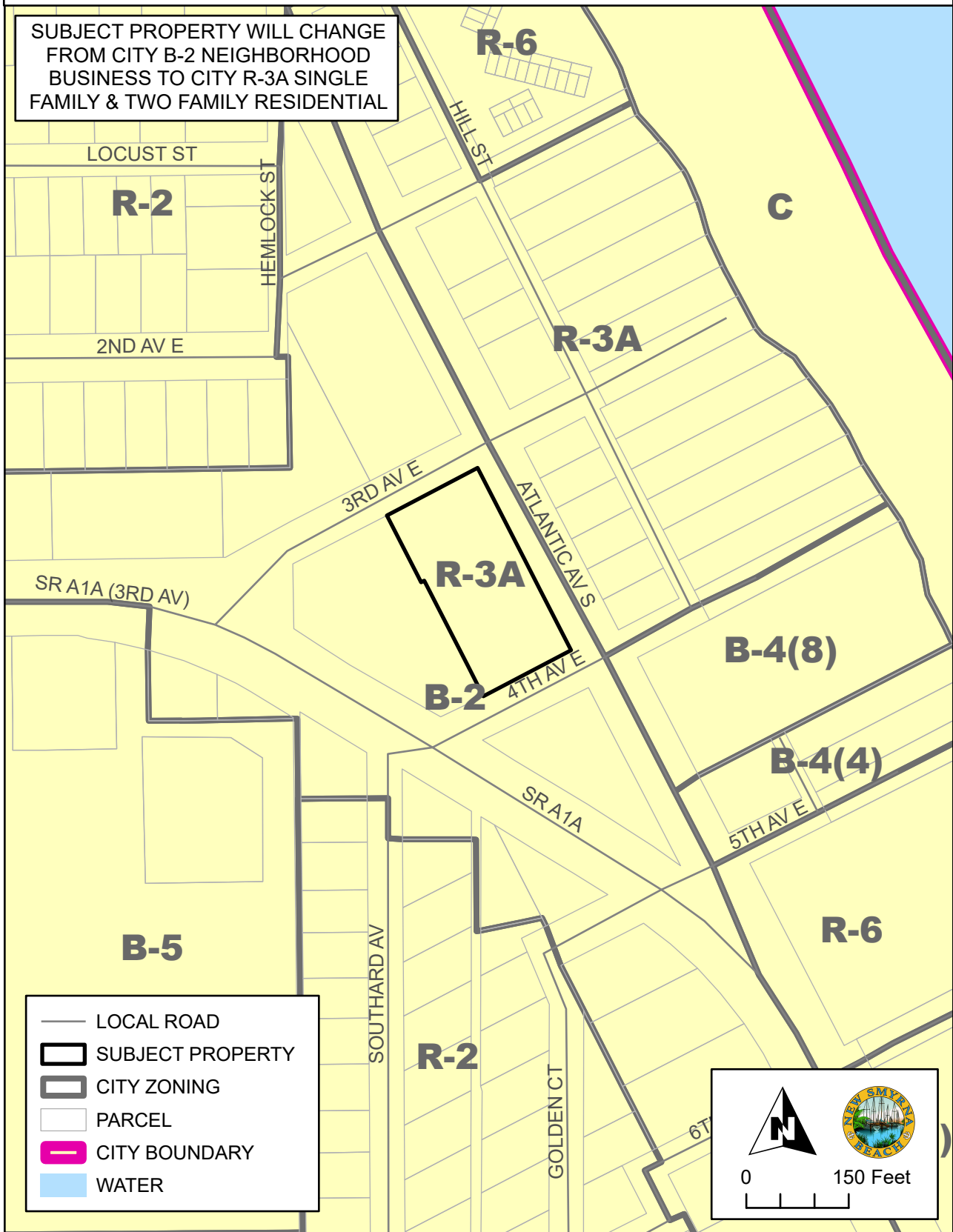
CPA-7-25



PROPOSED ZONING

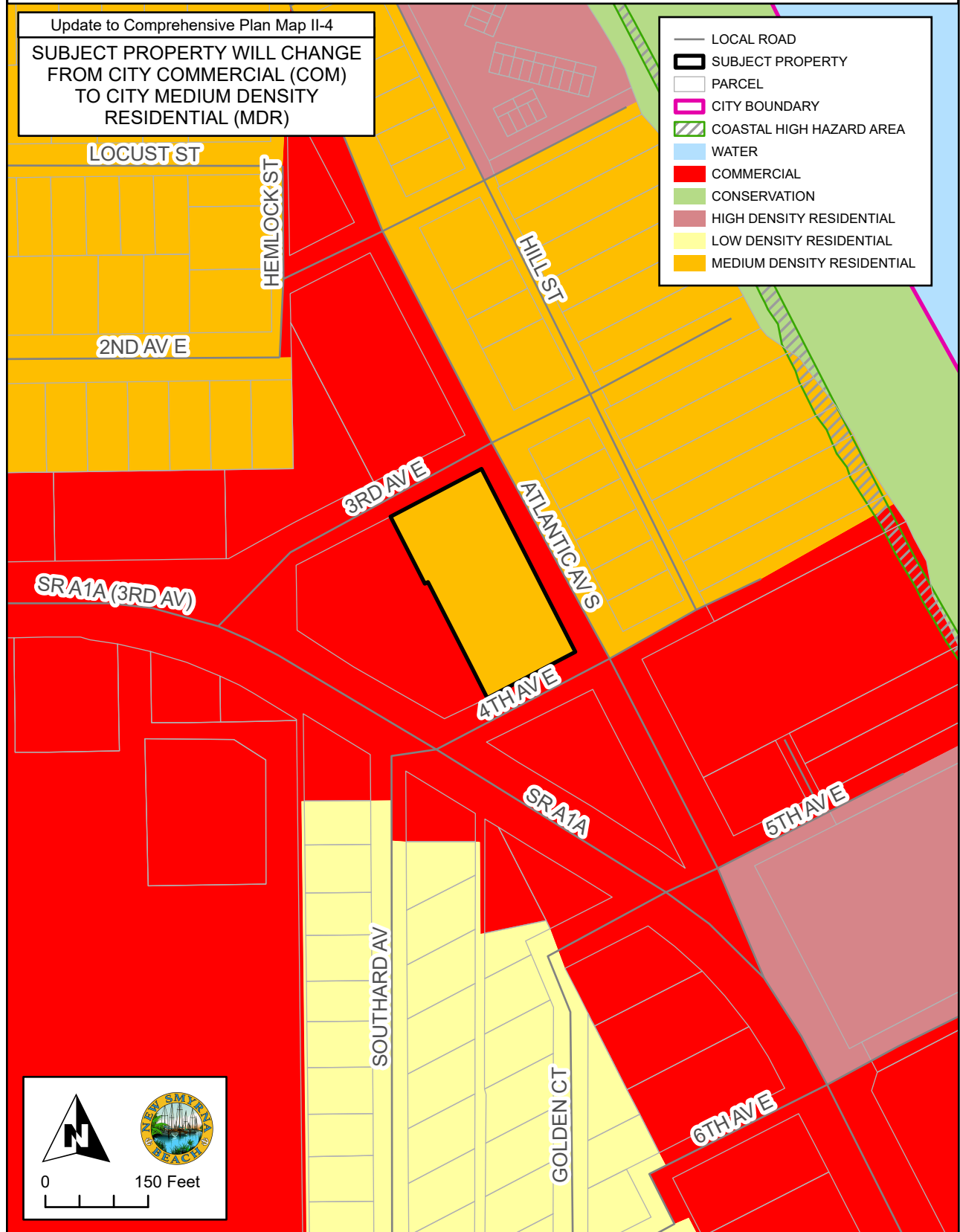
CPA-7-25

SUBJECT PROPERTY WILL CHANGE
FROM CITY B-2 NEIGHBORHOOD
BUSINESS TO CITY R-3A SINGLE
FAMILY & TWO FAMILY RESIDENTIAL



PROPOSED FUTURE LAND USE DESIGNATIONS

CPA-7-25



THE CITY OF NEW SMYRNA BEACH - DEVELOPMENTAL SERVICES

ZT-10-25 SUBDIVISION PLAT PROCESS

November 3, 2025

Background:

Under existing law (prior to SB 784), plats and replats were typically submitted to local governing bodies (city commissions/councils or board of county commissioners) for approval, after technical review by staff and other agencies. In the 2025 Legislative Session the Florida Legislature enacted SB 784 (Chapter No. 2025-164) which became effective July 1, 2025. SB 784 amends § 177.071 and § 177.111 of the Florida Statutes to require that:

A plat or replat that complies with § 177.091 must be administratively approved by a designated administrative authority of the local government, and no further action by the governing body is required.

The governing body must, by ordinance or resolution, designate an administrative authority (department/division or an official/employee) to receive, review and process plats/replats.

Within 7 business days of receipt of a plat/replat submittal, the administrative authority must provide written notice to the applicant acknowledging receipt, identifying any missing documents/information required to process the submittal under § 177.091, and outlining the process and applicable timeframe.

Unless the applicant requests an extension of time, the administrative authority must approve, approve with conditions, or deny the plat or replat within the timeframe identified in that initial written notice. The local government may not require the applicant to request a written extension of time.

If the plat/replat lies wholly within the boundaries of a municipality, that municipality has exclusive jurisdiction to approve.

Commonly, plats become controversial as they make their way through the public hearing process regardless of their compliance with existing code. The state decided this process was too cumbersome by creating unnecessary delays and expenses. SB 784 is

intended to streamline platting procedures, reduce delays, and remove unnecessary governing-body hearings for code-compliant plats. Staff has taken our existing requirements and drafted a hybrid amendment that maintains some cohesion of our current process while complying with the new regulations of SB 784.

The proposed amendment has a new introductory section establishing the new rules of SB 784, designates the City Manager or his/her designee as the administrative authority to approve plats and clarifies the new review/approval process.

The proposed platting process is now broken down into three phases. In summary, the three phases cover the following:

1. **Sketch plat** (previously called a preliminary plat) - This first phase requires the minimum detail required for a property owner and staff to have initial discussions about a project before it gets into the more detailed and expensive design work.
2. **Preliminary plat** (previously called a final plat)- This second phase requires all of the detailed engineering required to record a plat prior to recording. New language regarding plat contracts was added to end of this section. Approval of the preliminary plat and development plans results in the issuance of a development order per state law even though a final plat has not been recorded.
3. **Final plat recording** - This third and final phase remains relatively unchanged from the existing text. During this phase the final documents are collected, a mylar is signed and the final plat is recorded in Volusia County clerk of court.

Findings:

The proposed amendment is administrative in nature and does not alter land use designations, densities, intensities, or development standards. It is consistent with the City's Comprehensive Plan policies that call for efficient and timely review of development applications and transparent procedures. The draft has been reviewed by city staff, NSBU and should be approved to be compliant with state law.

Staff recommends that the Planning & Zoning Board recommends **approval** to the City Commission of the proposed text amendment to update the Land Development Regulations' subdivision/platting section to incorporate the procedural requirements of SB 784 amending the administrative authority designation, review timelines, and approval process for plats and replats.

Fiscal Analysis:

N/A

Strategic Plan Item:

No

Staff Report Created By: Shane Corbin - Developmental Services Director

Attachments:

[1007.00.____Plat_requirements.SC_10.09.25.pdf](#)

1007.00. Administrative Authority for Plat and Replat Approval

A. Purpose and Applicability. This section shall apply to all plats and replats, whether preliminary, final, or otherwise, as required pursuant to Chapter 177, Florida Statutes, or the City's Land Development Regulations.

B. Delegation of Authority

- (1.) The City Manager is hereby designated as the "administrative authority" for purposes of Section 177.071, Florida Statutes, as amended.
- (2.) The City Manager may delegate, in writing, the duties and responsibilities set forth in this section to one or more employees of the City possessing the requisite qualifications, including but not limited to the Director of Development Services or other appropriate staff.
- (3.) Any such designee shall have the same authority and responsibility as the City Manager to review, approve, approve with conditions, or deny plats and replats in accordance with this section.

C. Review Procedure

- (1.) Upon receipt of an application for a plat or replat, the administrative authority shall within seven (7) business days:
 - a. Acknowledge receipt of the application in writing to the applicant;
 - b. Notify the applicant of any missing or incomplete required materials; and
 - c. Provide the applicant with the expected timeframe for review and decision. The review period shall commence only when all materials in the application packet are complete.
- (2.) Within the stated timeframe, the administrative authority shall issue a written decision to approve, approve with conditions (required corrections or modifications), or deny the application.
- (3.) Any denial shall state with specificity the requirements of law, regulation, or technical standard not met by the application.

D. Extensions. The review timeframe may be extended only upon written request by the applicant or by declaration of a natural disaster by the Governor. No extension shall be required by the City as a condition of review.

E. Conformity with Law. All plats and replats shall conform to the requirements of Chapter 177, Florida Statutes, the City's Land Development Regulations, and any other applicable laws.

F. Effect of Approval. Administrative approval of a plat or replat under this section shall constitute final City action for purposes of Chapter 177, Florida Statutes, without the necessity of review or approval by the Planning and Zoning Board or the City Commission, except where otherwise required by law.

1007.0901. Plat requirements.

- A. *Survey accuracy.* The allowable angular and linear error of closure for subdivision surveys shall be as follows:
- (1) Angular error of closure shall not exceed 15 seconds times the square root of the number of angles turned. Total angular error shall be no greater than 40 seconds.
 - (2) Linear error of closure shall not exceed one foot per 10,000 feet (1:10,000 feet).
- B. *Monumentation.* The developer shall cause a professional land surveyor and mapper to install monuments based on the requirements of F.S. ch. 177. The professional land surveyor and mapper shall establish the elevation in feet above ~~National Vertical Geodetic~~North American Vertical Datum of ~~1988 (N.V.G.D.)~~(NAVD 88) for at least two permanent reference monuments in the subdivision and show such information on the plat.
- C. *Lot and block layout.* All lots shall be designed to meet the minimum dimensional requirements of their zoning district or any controlling master development agreement (MDA). The following additional criteria shall be considered in the layout of proposed subdivisions:
- (1) Maximum block length shall be 1,400 feet, unless longer blocks are required due to environmental or topographic limitations.
 - (2) Blocks designed for non-residential uses should provide sufficient length and width to prevent adverse traffic impacts, while allowing adequate service areas and parking without requiring excessive points of entry on abutting streets.
 - (3) Lots within non-residential blocks shall require a common vehicular access easement dedicated to the use, maintenance and benefit of all lots within the block. Alternatively, a lower functional classified side street may be used to provide access to the lot.
 - (4) All lots shall front on a public or private street.
 - (5) Where a residential subdivision abuts or includes an arterial or major collector road, streets and blocks shall be designed so that no lot requires access from the arterial or major collector road.
 - (6) Double frontage lots are to be avoided. However, where double frontage lots are used to meet this requirement, the lot must be 20 percent deeper than the average lot depth of any adjoining lots. All double frontage lots shall contain one of the following:
 - a. A decorative masonry wall; or
 - b. A 15-foot landscaped buffer area. If a buffer area is used, this area must be placed in a conservation easement that is dedicated to the homeowners association or the controlling maintenance entity per the recorded MDA.
 - (7) Access to a double frontage lot shall be from a local or minor collector road only as established by the comprehensive plan.
 - (8) All corner lots shall be 15 percent wider than the minimum width required by ~~this Code~~these land development regulations.
 - (9) Lots fronting on a cul-de-sac shall have a minimum width at the right-of-way line of not less than 30 feet measured at the chord of the arc.
 - (10) Side lot lines shall be perpendicular or radial to street right-of-way lines except where physical lot features make such orientation impractical.

D. *Easements and miscellaneous dedications.* The following minimum number and size of easements and dedications shall be reflected on the plat drawing. Larger easements may be specifically required based on the size, depth, or special maintenance requirements of a facility. All easements or dedications shall be graphically depicted unless otherwise noted.

- (1) *Drainage facilities.* A drainage easement shall be granted to the city where a proposed subdivision is traversed by any existing or proposed watercourse, canal, ditch, storm sewer, or other drainage way. Minimum size shall be as follows:
 - a. Lake or retention areas shall be covered by an easement extending to ~~ten~~twenty feet beyond the top of bank.
 - b. Canals, water courses, drainage ways, channels or streams shall be covered by an easement extending to 20 feet beyond the top of bank on one side, and 20 feet beyond the top of bank on the other side, if needed.
 - c. Swales, or any other facility ~~up to two~~greater than two feet deep and with side slopes no greater than 4:1 shall be covered by an easement extending to the top of bank.
 - d. Storm sewer lines shall be covered by an easement of no less than 20 feet, centered on the centerline of the pipe.
 - e. The city may require the dedication of a drainage right-of-way over major facilities providing area-wide drainage.
- (2) *Utilities.* A utility easement shall be granted to the ~~utilities commission~~New Smyrna Beach Utilities (NSBU) wherever a proposed utility line or other facility is planned or located on or adjacent to any property not otherwise dedicated to or owned by the ~~utilities commission~~NSBU. Such easements shall be 20 feet in width and centered on the centerline of the pipe; with reasonable justification, the ~~utilities commission~~NSBU may reduce the easement to less than 20 feet in width or may request up to an additional five feet in width, if necessary.
 - a. Sewer lift station sites shall be located in minimum 40-foot by 40-foot square areas located adjacent to a dedicated public road.
 - B A 12-foot utility easement shall be located along the fronts of all lots adjacent to any dedicated public road.
- (3) *Vehicular access control easements.* A one-foot wide vehicular access control easement, precluding the construction of any accessway to the property from the adjoining street, shall be granted to the city parallel to the right-of-way line as follows:
 - a. On all double frontage (through) lots adjacent to the arterial or collector road, along the rear or non-local road frontage.
 - b. On all corner lots adjacent to an arterial or collector road, along the non-local road frontage.
 - c. Along any other lot frontage where access must be restricted due to visibility restrictions or other traffic engineering considerations.
- (4) *Conservation easements.* Conservation easements shall be granted to the city or other appropriate governmental agency as follows:
 - a. Over all required tree preservation areas.
 - b. Around all individual specimen trees required to be preserved.
 - c. Over all wetlands, wetland buffers and wetland mitigation areas.

1008.00. Preliminary Sketch plat and plan approval.

A preliminary sketch plat must be reviewed and approved prior to the review and approval of development plans-preliminary plat. The requirement for approval of a preliminary sketch plat may be waived by the administrative official authority when the proposal is determined to be minor in review or consistent with the conceptual plan exhibit of a PUD master development agreement. A preliminary sketch plat approval does not convey any rights of a development order, and does not result in any reservation of capacity for concurrency management purposes.

- A. *Pre-application conference.* Prior to filing for preliminary sketch plat and plan approval, the developer or the developer's representative must meet with city technical review staff in order to discuss potential issues regarding the proposed subdivision. Comments made at the pre-application meeting are advisory and intended to provide guidance and are non-binding on the formal review of the preliminary plat and plans.
- B. *Application.* Application for preliminary sketch plat and plans approval shall be made to the planning and engineering department utilizing the form provided by the department for that purpose, and accompanied by the appropriate review fee as adopted by resolution of the city commission. Initial applications shall be accompanied by the required number of signed and sealed plat and development plans by professional land surveyors, including electronic copies, as determined by the administrative official.
 - (1) ~~*Review of application materials.* Within three working days of the receipt of an application, the department shall determine whether the application is complete. Incomplete applications shall be returned to the applicant with the deficiencies noted in writing. Re-application shall be accompanied by a re-application fee as adopted by resolution of the city commission.~~
 - (2) ~~*Initiation of development review.* When an application is determined to be complete, it shall be scheduled in accordance with the adopted submittal deadline calendar for the corresponding city technical review staff meeting and the applicant shall be so notified. All application packages must be submitted by noon on the deadline date in order to be scheduled for the next available city technical review staff meeting.~~
- C. *Preliminary Sketch plat and plans and exhibits.* The following information shall be shown on or enclosed with the preliminary plat and plans submitted for approval unless specifically waived by the city technical review staff member responsible for review of that item. The preliminary sketch plat itself shall be drawn at a scale of no smaller than 1" = 100'.
 - (1) Subdivision name, date, north arrow, and the property's legal description, boundary dimensions and area in acres.
 - (2) Name and address of owner, surveyor, engineer, and any other professional consultants involved with the generation of the plan information. If the property is owned by a corporation or company, the name and address of its president and secretary, and state of incorporation shall be given.
 - (3) A vicinity map drawn to scale, showing the project boundary, the zoning of the area, and the relationship of the proposed subdivision to surrounding development.
 - (4) Proposed streets, common areas, drainage areas, conservation areas, lot lines, and their dimensions.
 - (5) Proposed street names and lot numbers.

(7) Existing topography using one-foot contours, and delineation of flood insurance rate map flood zones.

(9) All existing buildings, utilities, roads, easements or other improvements on the property, and all roads and lot lines within 150 feet of the property boundary.

~~(10) A soils report including one percolation test per ten acres with one or more eight-foot deep soil boring at each percolation test site.~~

~~(1110)~~ Proposed utilities layout.

~~(12) A tree survey in compliance with Article VI of this code.~~

~~(13) One copy of the computer disk(s) depicting the proposed subdivision layout, including the streets and lots, for projects prepared on an appropriate computer-aided drafting (CAD) system.~~

~~(14) A boundary survey certified to the city.~~

~~(15) An opinion of title issued to the city.~~

~~(1611)~~ If zoned PUD, provide the required number of copies of any/all PUD Master Development Agreement (MDA) and Amendment(s) concerning the proposed development, as determined by the administrative official.

~~D. — Review process.~~

~~(1) — Plan review by city technical review staff.~~

~~a. — All applications shall be reviewed by city technical review staff and written staff comments shall be delivered and discussed at a regularly scheduled city technical review staff meeting.~~

~~b. — Plans must be resubmitted in response to city technical review staff comments no later than 180 days after the original review.~~

~~c. — Following resubmittal, city technical review staff shall have 20 working days to review and approve the revised plat and plans or provide the administrative official with a list of outstanding comments.~~

~~(2) — Failure to provide timely plan resubmission. Failure to meet any of the resubmission deadlines cited above shall require the applicant to pay late fees or file a new application, including the appropriate review fees, whichever is deemed applicable by the administrative official.~~

~~(3) — Extension of resubmittal deadlines. The administrative official may extend the resubmission deadlines cited above when warranted by unforeseeable events. A request for extension must be filed in writing with the planning and engineering department explaining the circumstances justifying the extension and include a resubmittal extension fee as adopted by resolution of the city commission.~~

~~(4) — Expiration. Preliminary plat and plan approval shall expire two years after approval or conditional approval unless an application for final plat approval is submitted.~~

(Ord. No. 35-11, § 6, 6-28-2011; Ord. No. 19-18, § 1, 3-13-2018; Ord. No. 104-20, § 1, 12-8-2020)

1009.0100. ~~Final~~ Preliminary plat and development plan approval.

Approval of the ~~final~~ preliminary plat and development plans results in the issuance of a development order.

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- A. *Pre-application conference.* Prior to filing for development plan approval, the developer or the developer's representative shall meet with the city technical review staff in order to verify the steps necessary for application and review, and discuss potential issues regarding the development proposal. Comments made at the pre-application conference are intended to provide guidance and are nonbinding on the formal review of the development plans.
- B. *Application for development plan approval.* Application for development plan approval shall be made to the planning and engineering department utilizing the form provided by the department for that purpose, and accompanied by the appropriate review fee. Application shall be accompanied by the required number of signed and sealed plat and development plans, including electronic copies, as determined by the administrative official. Plans shall be signed and sealed by a registered engineer, or architect, or landscape architect, where architect where required by this Code. Plans shall be prepared according to the standards of this Code.
- (1) ~~Review of application materials. Within three working days of the receipt of an application, the department shall determine whether the application is complete. Incomplete applications shall be returned to the applicant with the deficiencies noted in writing. Re-application shall be accompanied by a re-application fee as adopted by resolution of the city commission.~~
- ~~(2) Initiation of development review. When an application is determined to be complete it shall be scheduled in accordance with the adopted submittal deadline calendar for the corresponding city technical review staff meeting, and the applicant shall be so notified. All application packages must be submitted by noon on the deadline date in order to be scheduled for the next available meeting.~~
- C. *Subdivision plat and development plan exhibits.* In addition to the information listed in section ~~1008~~1009.00 of this article, the following information and documentation shall be shown on or enclosed with the subdivision plat and development plans submitted for approval. The subdivision plat and development plans shall be drawn at a scale of no smaller than 1"=100'.
- (1) The ~~final preliminary~~ plat drawing(s) drafted in compliance with F.S. ch. 177, and including certificates of approval to be signed by the mayor and attested to by the city clerk.
- (2) An opinion title issued to the city.
- (3) A boundary survey certified to the city.
- (4) Acreage in lots, drainage areas, common areas, streets and other uses; and the minimum lot size, average lot size and total number of lots.
- (5) A soils report including one percolation test per ten acres with one or more eight-foot deep soil boring at each percolation test site and at every proposed stormwater retention pond.
- (6) Environmental assessments showing all wetlands, delineation of wooded areas and vegetative communities, endangered/protected species reports and tree surveys showing all specimen trees, with calculations as required in Article VI of this code.
- ~~(7)~~ Engineering drawings, prepared by an engineer registered in the State of Florida, showing all required improvements, and including:
- a. A composite plan drawing which shows all utility and drainage lines in relationship to each other;
- b. Individual plan and profile sheets for all roads and sanitary sewer lines, showing manholes, inlets, and pipe crossings. Plans and profile sheets shall show sanitary lines and all other buried utilities that cross sewer lines, and any that parallel and are within ten feet of sewer lines. This includes but is not limited to potable water lines, reclaimed water lines, storm

drainage pipes, and storm drainage lines and inlets. Plan views shall be drawn at a scale of 1"=40' horizontal. Profiles shall be drawn at 1"=4' vertical.

- c. Calculations justifying the sizing of utility lines.
 - d. A drainage basin map showing the topography and size of drainage basins and the specific flows therein.
 - e. Drainage calculations demonstrating compliance with this Code, and justifying ~~the size of all facilities~~recovery, conveyance and validating the capacity of the proposed stormwater management improvements.
 - f. The lot grading plan required under section 1004.00 of this article.
- (38) A construction cost estimate detailing the tabulation of quantities and costs of all proposed improvements including landscaping and irrigation signed and sealed by the engineer of record and/or landscape architect as appropriate.
- (49) Any and all proposed deed covenants.
- (510) Copies of letters notifying all franchised utilities of the size, location, and layout of the proposed subdivision.
- (611) Letter of approval for street names from Volusia County 9-1-1 coordinator.
- (712) If zoned PUD, provide the required number of copies of any/all PUD Master Development Agreement (MDA) and Amendment(s) concerning the proposed development, as determined by the administrative official.

~~D. Review process.~~

~~(1) Plan review by the city technical review staff.~~

- ~~a. All applications shall be reviewed by city technical review staff. Written technical review staff comments shall be delivered to the applicant and discussed at a regularly scheduled city technical review staff meeting.~~
- ~~b. Plans must be resubmitted in response to city technical review staff comments no later than 180 days after delivery of the original written technical review staff comments.~~
- ~~c. Following resubmittal, city technical review staff shall have 20 working days to review and approve the revised plat and plans or provide the administrative official with a list of outstanding comments.~~

~~(2) Planning and zoning board review. Only projects with five or fewer outstanding technical and procedural city technical review staff comments shall be submitted by the department to the planning and zoning board for consideration, unless waived by the planning and zoning board.~~

- ~~a. Planning and zoning board action. The planning and zoning board shall consider the final plat and plans at a regularly scheduled meeting and determine if they meet the requirements of this Code. The applicant or authorized agent shall be present at the consideration by the planning and zoning board. Upon consideration of the comments of the city technical review staff and the public, the board shall take one of the following actions:~~

- ~~1. Continue consideration of the project to the next regularly scheduled meeting to allow for the resolution of outstanding issues.~~
- ~~2. Recommend disapproval of the proposed final plat and plans.~~
- ~~3. Recommend approval of the proposed final plat and plans.~~
- ~~4. Recommend approval of the proposed final plat and plans with conditions.~~

~~(3) Final document submittals for city commission review.~~

- ~~a. Following the planning and zoning board meeting, the applicant shall submit any revisions of the final plat and development plans, addressing any outstanding city technical review staff comments, in order to be heard by the city commission.~~
- ~~b. If the plat is to be recorded prior to the completion of improvements, an improvement guarantee must be included for city commission review. All agreements and guarantees shall be on forms acceptable to the city engineer and city attorney. The guarantee shall be in the amount of 115 percent of the construction costs as estimated by the developer and confirmed or adjusted by the city.~~

~~(4) City commission approval. The city commission shall consider the final plat and development plans at a regularly scheduled meeting, and determine if they meet the requirements of this Code. Upon consideration of the comments of the department and public, and the recommendation of the planning and zoning board, the city commission shall take one of the following actions:~~

- ~~a. Table or continue the consideration of the proposed development plan to allow for resolution of outstanding issues.~~
- ~~b. Deny the proposed final plat and development plans.~~
- ~~c. Approve the final plat and development plans.~~
- ~~d. Approve the final plat and development plans with conditions. Revised plans and/or reflecting conditions of city commission approval shall be submitted to the planning and engineering department within 60 days of that approval. Plans and/or documents shall be reviewed by the department within ten working days of resubmittal to determine compliance with those conditions.~~
- ~~e. Refer the proposed development plan back to the planning and zoning board for further review and recommendation based on new or additional information or circumstances.~~

~~ED. Issuance of development order. The planning and engineering department shall issue a development order within five working days of unconditional city commission approval, or verification that city commission conditions for approval have been met.~~

~~F. Failure to provide timely plan resubmission. Failure to meet any of the resubmission deadlines cited above shall require applicant to pay late fees or file a new application, including the appropriate review fees, whichever is deemed applicable by the administrative official.~~

~~G. Extension of resubmittal deadlines. The administrative official may extend the deadlines cited above when warranted by unforeseeable events. A request for extension must be filed in writing with the planning and engineering department accompanied by the appropriate fee explaining the circumstances justifying the extension.~~

~~HE. Expiration. Failure to install all required improvements and record the final plat within two years of the date of city commission approval shall result in the final preliminary plat approval being revoked.~~

F. Subdivision Development Contract (Plat Contract).

(1) Prior to approval and recording of any final plat, the subdivider/developer shall enter into a subdivision development contract ("plat contract") with the City of New Smyrna Beach whenever public or required private improvements are to be constructed.

(2) The plat contract shall, at a minimum:

- a. Have plat approval from all technical review staff;

- b. Be signed by the owner and surveyor of record;
 - c. Reviewed and signed by the City's independent survey consultant;
 - d. Identify all required improvements, including but not limited to roadways, sidewalks; stormwater management facilities, utilities, open space, and landscaping;
 - e. Have a performance bond covering 115% of the cost of the public improvements yet to be constructed has been received and filed with the Finance Department;
 - f. Verify that a letter from the surveyor verifying that all survey monumentation required by code is in place has been received and is in our project file;
 - g. Establish a construction schedule and completion deadlines;
 - h. Provide procedures for inspection, maintenance, and acceptance of improvements by the City; and
 - i. Establish remedies for default, including completion of improvements by the City and recovery of costs.
- (3) The plat contract shall be reviewed by the City Attorney and approved by the City Manager or his/her designee prior to or concurrent with final plat recording.
- (4) No final plat shall be recorded in the public records of Volusia County until the plat contract has been executed and all required securities have been posted with the City.
- (5) The plat contract shall remain in effect until all improvements have been constructed to City standards and formally accepted by the City.

(Ord. No. 35-11, § 6, 6-28-2011; Ord. No. 19-18, § 1, 3-13-2018; Ord. No. 104-20, § 1, 12-8-2020)

1009.~~0201~~. Final plat recording.

- A. The following information must be provided prior to the recording of the final plat:
- (1) A letter from the surveyor verifying that all survey monumentation required by this code is in place;
 - (2) Evidence of a third party review and approval in conformity with Chapter 177 of Florida Statutes shall be placed on the face of the plat;
 - ~~(23)~~ A title opinion or property information report, in a format acceptable to the city attorney, dated not more than 30 days prior to the proposed date for plat recording;
 - ~~(34)~~ A copy of the articles of incorporation for the property owner's association responsible for maintenance of common facilities;
 - ~~(45)~~ One mylar copy of the final plat, executed by the owner(s), surveyor of record, and other entities associated with the developer; and
 - ~~(56)~~ Electronic copies of the final plat and all supporting documents.
- B. *Recorded plat.* Upon receipt of all documents listed above, the mayor, city attorney, and city clerk shall sign the mylar copy of the final plat. The signed mylar will be returned to the developer for recording with the Volusia County clerk of court. Developer shall record the plat within 30 days of receiving the signed mylars

from the city. Recording shall be done at the developer's expense. Developer shall provide the city with an electronic copy of the recorded plat.

(Ord. No. 104-20, § 1, 12-8-2020)

DRAFT

THE CITY OF NEW SMYRNA BEACH - DEVELOPMENTAL SERVICES

DEVELOPMENT ACTIVITY

November 3, 2025

Background:

Please go to the City of New Smyrna Beach website (cityofnsb.com) to view the current Development Activity. Please click on “Maps” and “Development Activity”.

Fiscal Analysis:

N/A

Strategic Plan Item:

No

Staff Report Created By: Stephanie Ferrara - Development Services Coordinator