

Inter-Office Memorandum

TO: Development Review Committee **DATE:** April 10, 2014

FROM: John G. Thomson, AICP
Land Development Manager

SUBJECT: Request for Modification to Section 72-843(b)(1) Tree Preservation Requirements
DRC Meeting Date: April 15, 2014
2014-S-ODP-0014, RSN 783114
Brown's Landing Phase II (Formally Deen's Creek)

The project's engineer, Mr. Mark Dowst, P.E., of Mark Dowst and Associates, Inc., of the above-referenced overall development plan (ODP), is requesting a modification of the requirement of Section 72-843(b)(1) of Article III *Land Development*, Chapter 72 Code of Ordinances (LDC). A copy of the request, dated March 21, 2014, is attached. The request is to reduce the minimum percentage of specimen trees to be preserved from 65% (80 trees), as required by the LDC, to 45% (55 trees).

Brown's Landing, Phase II, is a 71-lot subdivision on a 52-acre site located on the north side of Taylor Road, approximately three-fourths of a mile east of Tomoka Farms Road, in the Port Orange area.

The Development Review Committee (DRC) approved the ODP on November 19, 2013, subject to several conditions, one of which was to increase the number of specimen trees to be preserved. As noted in the attached memorandum from Tara Boujoulian, dated April 4, 2014, the ODP fell short of the minimum percentage of specimen trees to be preserved as required by Section 72-843(b)(1) of the LDC that states as follows:

Specimen trees shall only be removed or relocated in accordance with a permit issued by the county forester, upon compliance with the following requirements:

Minimum Specimen Tree Protection:

<i>Number of Specimen Trees per Acre</i>	<i>On-site Protection Required</i>
<i>Less than 3 per acre or a portion thereof</i>	<i>80 percent of all specimen trees</i>
<i>3.0 to 5.0 per acre</i>	<i>65 percent of all specimen trees</i>
<i>5.1 to 8.0 per acre</i>	<i>50 percent of all specimen trees</i>
<i>8.0 or more per acre</i>	<i>4 specimen trees per acre</i>

At the request of the applicant, the DRC approved eliminating the existing pasture area, which does not contain trees, from the specimen tree calculations. This effectively increased the density of specimen trees and reduced the percentage of specimen trees required to be retained from 80% to 65%, per the above chart.

Since that time, the applicant has worked with staff, as directed by the DRC, to increase the number of specimen trees to be preserved. However, the applicant is still short by 25, the number of specimen trees necessary to meet the requirement of retaining 65% of the specimen trees. This includes allowing 11 specimen trees to be preserved on lots and protected by tree preservation easements, rather than separate tracts.

To mitigate for the reduction of specimen trees to be preserved, the applicant has proposed to increase the tree preservation area by 4.12 acres over what is required by Section 72-837 of the LDC, and to plant 1.81 acres of the existing pasture with native species. However, it should be pointed out that much of this area already falls within the area required to be placed in a conservation easement by the attached RPUD Development Agreement (Res. 98-123, Section F. 2.). In addition, as noted by Ms. Boujoulian in the attached memorandum, most of the specimen trees are turkey oaks, and Volusia County has few remaining areas that contain a large stand of these trees.

Recommendation:

If DRC does approve a reduction in the amount of specimen trees preserved, staff recommends that the requested modification of specimen tree requirements be subject to the following conditions:

1. The applicant shall plant 1.81 acres of pasture with appropriate native species as proposed on Sheet 3 of the attached ODP, dated last revised February 19, 2014.
2. The applicant shall also plant the wetland and wetland buffer area that is currently pasture, adjacent to the other 1.81 acres of pasture, with appropriate native species.
3. The applicant shall prepare a detailed planting plan to be submitted with the preliminary plat application for review and approval by staff. The applicant is directed to work with environmental management staff to prepare the planting plan prior to submitting the preliminary plat application.
4. The applicant shall provide appropriate tree and/or conservation easements over the new planting area, the proposed tree preservation area, and individual specimen tree dripline areas on lots on the Final Plat.

Please be prepared to discuss and take action on this request at the April 15, 2014, DRC meeting. Feel free to call me if you have any questions. Thank you.

JGT/sl



March 21, 2014

Via Email

Volusia County Florida
Land Development Office
Attn: John Thomson
123 West Indiana Avenue
Deland, FL 32720-4620

RE: Request for Waiver
2014-S-ODP-0014
Brown's Landing North
MDA #613I

Dear Mr. Thomson,

On behalf of ICI Homes, please consider this our formal request for a modification to the specimen tree preservation requirements (Sec. 72-843) of the Land Development Code for Brown's Landing North.

Request:

Provide 45% specimen tree preservation in lieu of 65% specimen tree preservation required.

A request for modification from the DRC is required, since the proposed project does not comply with the specimen tree preservation requirements of the LDC. On Thursday, January 30, 2014, we met with Mrs. Dangleman onsite to discuss and review the condition of the existing specimen trees. Several specimen trees were in a degraded condition. Therefore, the plans were revised and redesigned to better target trees more suitable for preservation. These trees have been provided with drip line easements. Several Stormwater Pond designs and road configurations were analyzed to maximize specimen trees preserved. However, after all revisions, we still fell a little short of the requirement although, as a result of the field visits and analysis, better specimens are preserved. To compensate for the reduced specimen trees preserved (31 % reduction), the required tree preservation area has been increased approximately 75%. In addition, 1.81 Acres of the cleared pasture area illustrated in the ODP will be replanted for additional compensation. The specific planting plan will be submitted with the preliminary plat. The net result is that although the total number of specimens trees preserved onsite will decline, the total number of trees preserved onsite will significantly increase. We respectfully request approval of this modification request.

Thank you for your assistance regarding the above. If you have any questions or require additional information, please do not hesitate to give me a call.



Very truly yours,
MARK DOWST & ASSOCIATES, INC.

A handwritten signature in dark ink, appearing to read "Mark S. Dowst", with a long horizontal flourish extending to the right.

Mark S. Dowst, P.E.
President

MSD/msd

cc: Dick Smith w/encl.
Project File
Correspondence File
Tracer File

***Inter-Office
Memorandum***



TO: John Thomson, Land Development Manager
FROM: Tara Boujoulian, Environmental Permitting Manager
DATE: April 4, 2014
SUBJECT: Specimen tree modification request for Brown's Landing Phase II (formally Deen's Creek), project number 2014-S-ODP-0014

The Overall Development Plan (ODP) for this project went to Development Review Committee (DRC) on November 19, 2013. The ODP did not comply with specimen tree (ST) requirements of Section 72-843(b)(1) of the Land Development Code (LDC), but DRC approved the ODP with a condition requiring the applicant to increase the number of STs retained on site.

The applicant has since worked with County Environmental Permitting (EP) staff to do just that. The applicant has revised the lot, street, and retention area layout, and EP staff has agreed to exclude pasture area from the ST calculations and allow some tree preservation easements (TPEs) on individual building lots, despite the fact that they are difficult to enforce.

Below is a summary of the result of these changes:

Specimen Tree Metric	First Submittal (entire property)	Second Submittal (minus pasture)
Number of STs per acre	2.34	3.36
Percentage of STs required to be retained	80%	65%
Number of STs required to be retained	98	80
Number of STs proposed to be retained	37	55
Percentage of STs proposed to be retained	30%	45%
Number of STs short of code requirement	61	25

Excluding the pasture area effectively increased the number of STs per acre and decreased the amount of STs required to be preserved. Allowing TPEs on individual lots allowed 11 additional STs to be preserved. These were the result of considerations by staff.

Plan changes by the applicant resulted in an additional 7 STs to be preserved, for a total increase of 18 STs to be preserved, but the applicant is still short of meeting code requirements by 25 STs. While the plan could be further revised to preserve additional STs, the applicant has requested DRC approval of a modification of the ST preservation requirements for this project.

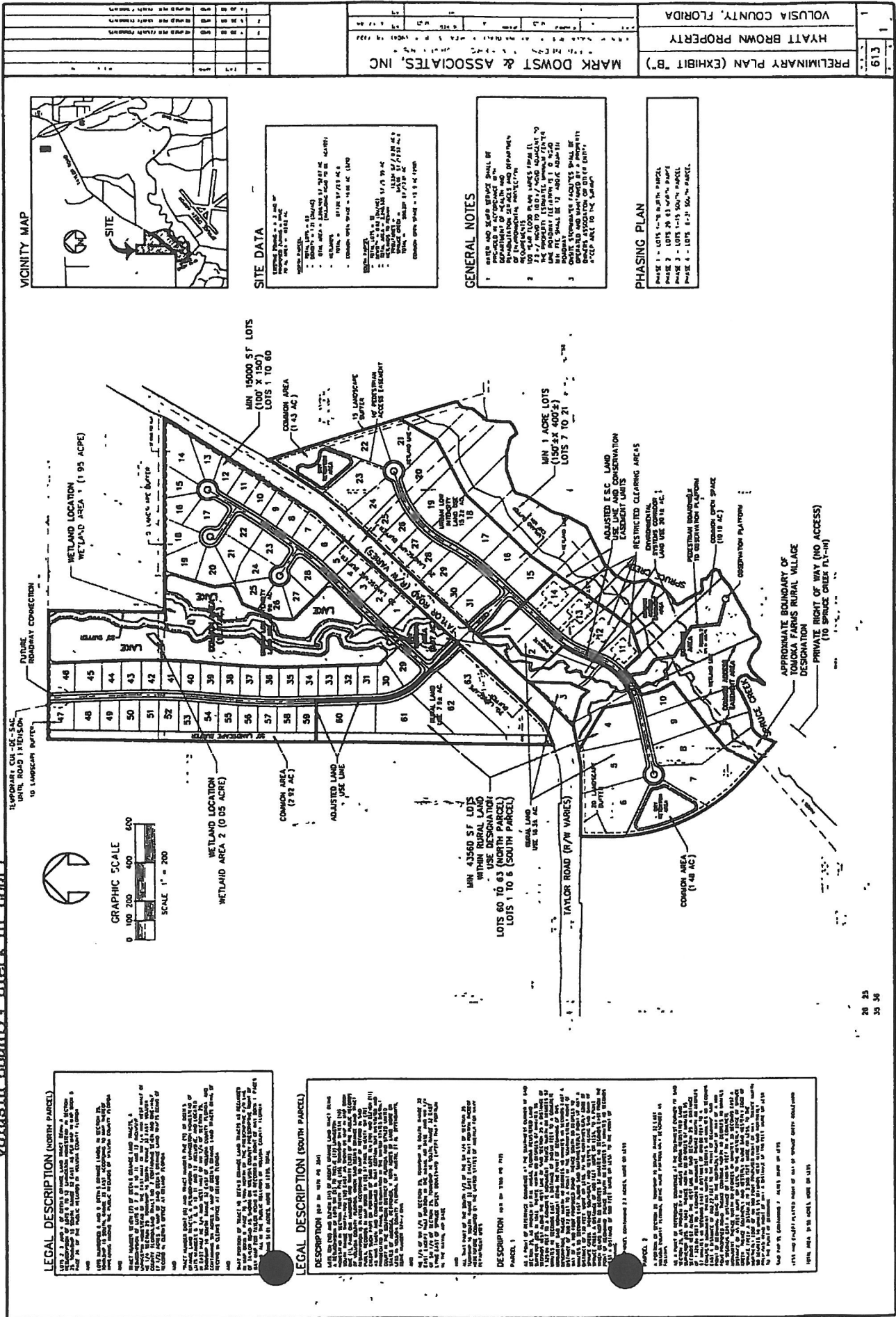
In exchange for a reduction in the number of specimen trees preserved, the applicant has proposed a tree preservation area 4.12 acres larger than what is technically required by Sec. 72-837 of the LDC, and has proposed to plant 1.81 acres of the existing pasture with native species. While this is positive, it should be noted that much of the tree preservation that the applicant has proposed was already required to be preserved by the Development Agreement for the Planned Unit Development for this project (PUD-98-017). The increase in preservation beyond what is already required is unclear.

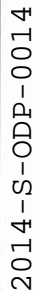
It should also be noted that most of the specimen trees on site are turkey oaks, and there are very few areas in Volusia County that still contain a large stand of turkey oaks. While it would be beneficial to preserve more of these specimen oaks, it appears that elimination of lots would be the only feasible way to save additional turkey oaks. If DRC does not wish to require additional specimen tree preservation, EP would not object to a modification of the specimen tree requirements if the applicant:

1. Plants 1.81 acres of pasture with appropriate native species as proposed;
2. Also plants the relatively small wetland and wetland buffer area that is currently pasture;
3. Submits a detailed planting plan with the Preliminary Plat application, for staff to review and approve with the Preliminary Plat application; and
4. Records tree and/or conservation easements over the new planting area, proposed tree preservation area, and individual specimen tree dripline areas on lots on the Final Plat, although it should be noted that the Development Agreement for the Planned Unit Development already required a conservation easement over the wetlands and buffers.

jurisdiction line as designated and approved by the St. Johns River Water Management District, is depicted on Exhibit "B". The Developer shall record a conservation easement and shall dedicate the Conservation Easement on the subdivision plat in accordance with the Land Development Code, over all wetland areas adjacent to Spruce Creek and the tributaries leading into Spruce Creek, including an upland buffer, as depicted on Exhibit "B". Due to the environmentally sensitive nature of lots 11-14, clearing on those lots shall be further limited to those areas as depicted on Exhibit "B". Only hand clearing (no tree removal) shall be permitted outside of those limited clearing areas. Actual driveway locations and clearing limits for these restricted lots may be adjusted upon approval of the County Forester (or his/her designate) in an effort to minimize impact on specimen trees or accommodate special design considerations. Any adjustment in clearing area limits shall not increase the total cleared area. This limitation on clearing shall be incorporated in the Declaration of Covenants, Easements and Restrictions, and depicted on the recorded plat(s) for the subdivision.

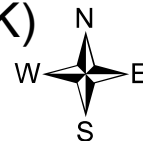
→ 2. Property north of Taylor Road. There is a natural drainage slough located on the northerly 52± acres of the RPUD (the "North Property") which includes jurisdictional wetlands as depicted on Exhibit "B". The natural drainage in this slough shall be maintained in conjunction with the development of the North Property as required by the Land Development Code and the regulations of the St. Johns River Water Management District. The Developer shall provide an upland buffer from all wetlands located on the North Property and shall record a conservation easement over these areas. The Developer shall obtain wetland alteration permits as required by the Land Development Code for the minimal wetland impacts depicted on Exhibit "B".



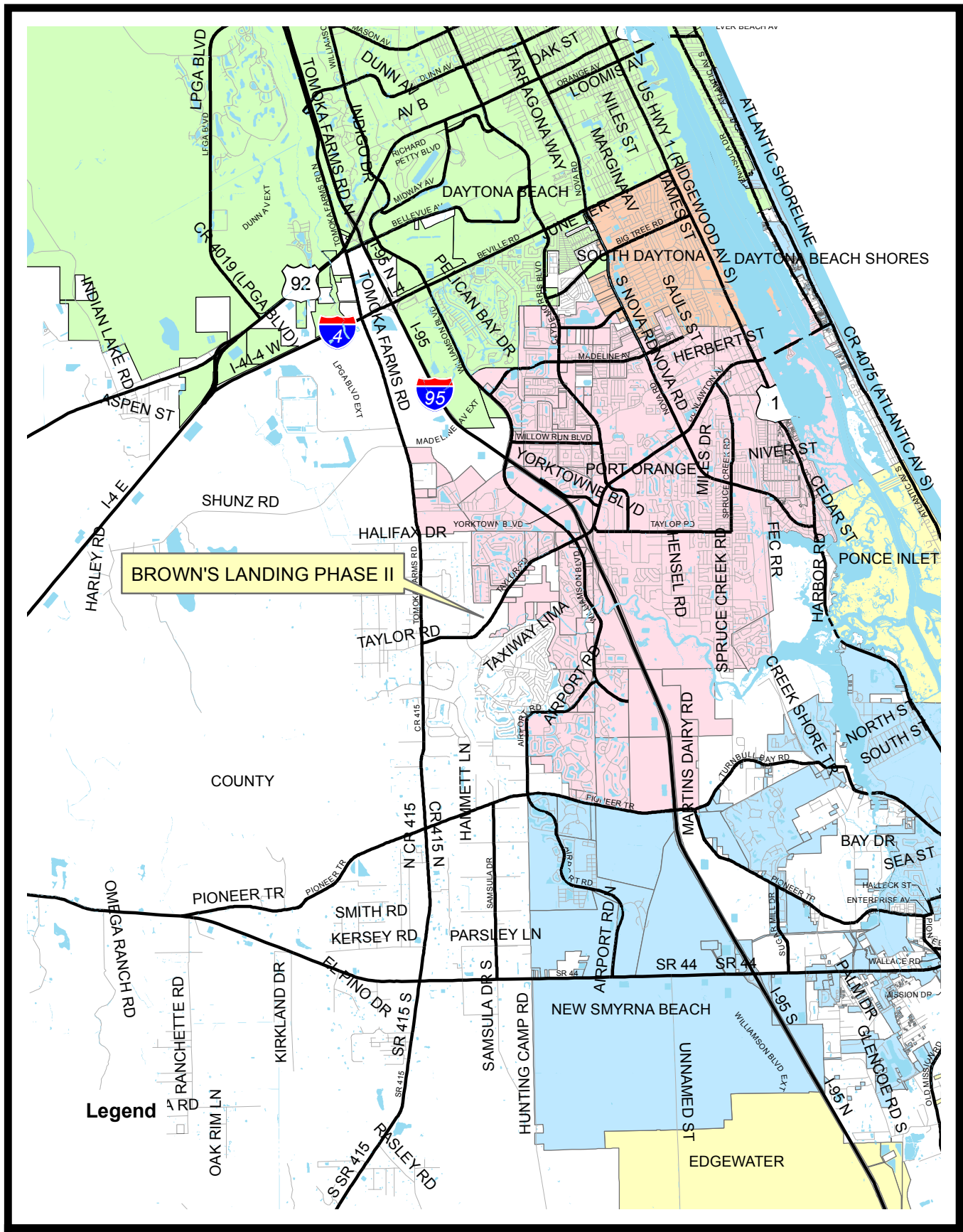




BROWN'S LANDING PHASE II (FORMERLY DEEN'S CREEK)
2014-S-ODP-0014

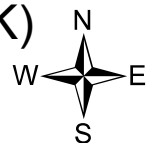


1 inch = 500 feet

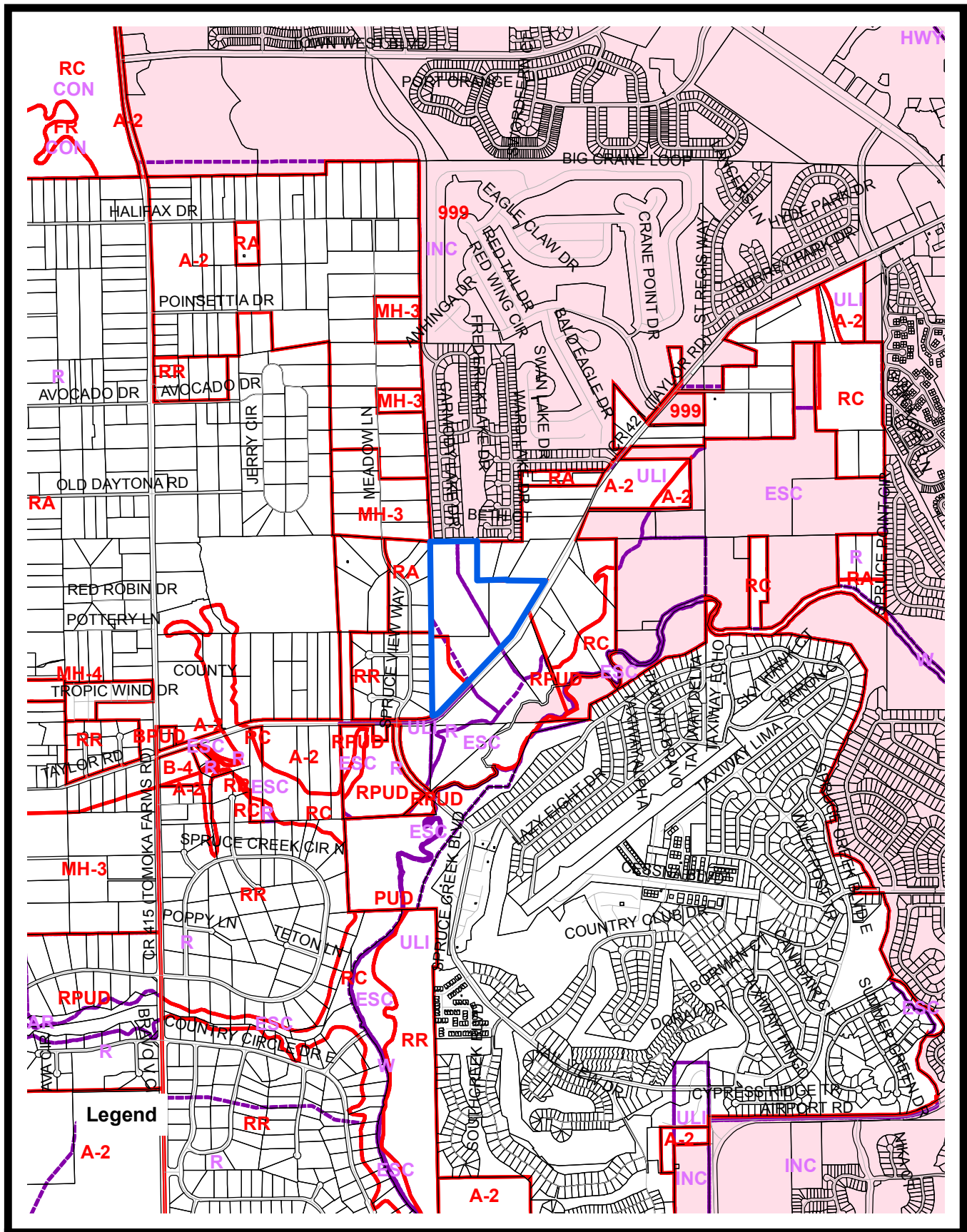


BROWN'S LANDING PHASE II (FORMERLY DEEN'S CREEK)

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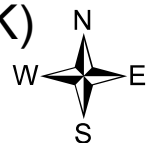


1 inch = 2 miles

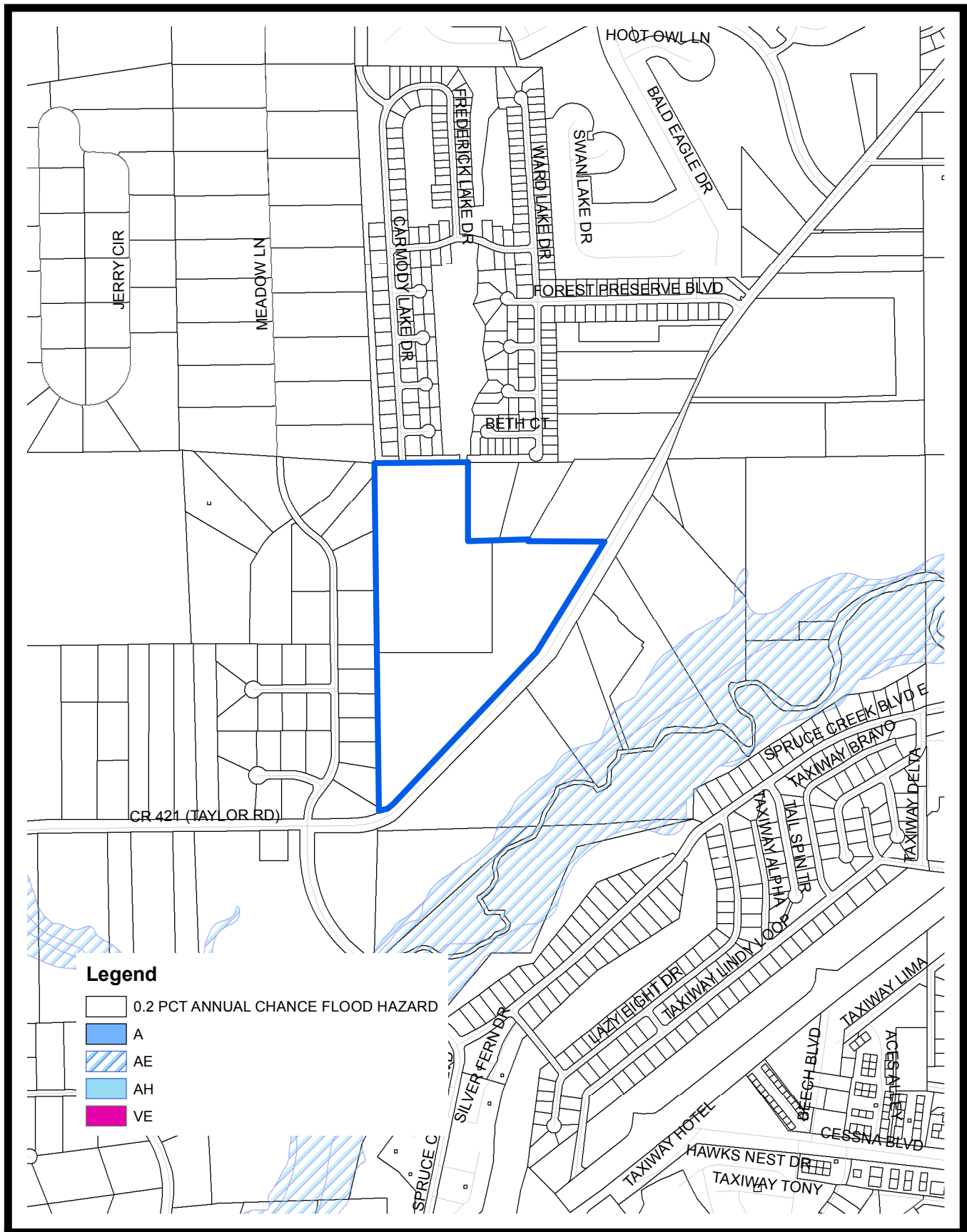


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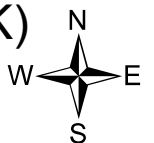


1 inch = 2,000 feet



BROWN'S LANDING PHASE II (FORMERLY DEEN'S CREEK)

2014-S-ODP-0014



1 inch = 1,000 feet