



SAINT PETERSBURG CITY COUNCIL

Meeting of September 3, 2009

- TO:** The Honorable Jeff Danner, Chair, and Members of City Council
- SUBJECT:** Ordinance approving a vacation of multiple rights-of-way between 26th and 30th Avenues South and 38th and 40th Streets South, to permit the expansion of the Clam Bayou Habitat Restoration and Stormwater Improvements project (City File No.: 09-33000005).
- RECOMMENDATION:** The Administration and the Development Review Commission recommend **APPROVAL**.

Background: On October 1, 2005, the City Council entered into an agreement with the Southwest Florida Water Management District (SWFWMD) for the Clam Bayou Habitat Restoration and Stormwater Improvements project. Clam Bayou is an estuarine area along the southeast edge of Boca Ciega Bay and represents one of the last areas in the County with significant potential for protection and enhancement of marine resources and water quality, while also allowing opportunities for public education and passive recreation. The project involves acquisition and consolidation of land to create a public park and stormwater management improvements. Some of the land acquired as part of the project contains public right-of-way and utility easements dedicated by the original plats. Now that the land is being consolidated for the proposed park and stormwater improvements, the rights-of-way and easements are no longer necessary. The request is to vacate the unnecessary rights-of-way and easements to allow consolidation of the land for the project. The boundaries of the project will be memorialized through the replatting process, which would be a requirement of this vacation, if approved. A similar request for vacation of other streets in the southern portion of the project was approved by the Environmental Development Commission (EDC) on November 3, 2004 (Case No. 04-33000028) and the City Council on December 9, 2004 (City Ordinance No. 928-V).

Request: The request is to vacate certain portions of 26th Avenue South, 27th Avenue South, Abington Avenue South, 28th Avenue South, 29th Avenue South, 30th Avenue South, 38th Street South and 40th Street South as generally depicted on the attached maps (Attachments "A" and "B") and more specifically described by the applicant's legal description (Attachment "C") and survey (Attachment "D").

Discussion: Staff finds the request is consistent with the:

- ◆ Criteria in the City Code;
- ◆ The Comprehensive Plan; and
- ◆ The 2005 agreement between the City and SWFWMD for the Clam Bayou project.

None of the proposed vacations appear to impair or deny access to land outside the boundaries of the Clam Bayou project. The majority of the rights-of-way proposed for vacation are unimproved and appear to be unused by the general public. The City's legal interest in the right-of-way is for the purpose of allowing public access to individually-owned lots within a block, as well as for conveyance of utilities. The areas proposed for vacation abut land that has been acquired by the City for a public project which will be replatted as a single lot. The land will be used to create a publicly accessible park and stormwater management project. As such, the originally platted rights-of way are no longer necessary.

Approval of the requested vacations is necessary in order to proceed with the project, which is specifically intended to protect existing environmental resources and create additional opportunities for public education and recreation. The applicant will be responsible for any necessary relocation or abandonment of any affected utilities. As a condition of approval, the vacated right-of-way must be replatted along with the surrounding City-owned land. The replat will dedicate any necessary easements requested by any City departments or franchised utilities.

The City's Comprehensive Plan contains policy language regarding the vacation of public right-of-way adjacent to the waterfront. Coastal Management Element Policy 7.5 states, "*The City shall require the retention of public right-of-way adjacent to the waterfront in the platting and replatting of land unless comparable waterfront access is provided.*" With the exception of the western end of 30th Avenue South, none of the right-of-way proposed for vacation appears to be adjacent to existing waterfront. However, with the approval of the requested vacations, the proposed project will actually result in significantly greater public access throughout Clam Bayou in the form of waterfront pedestrian and bike paths, as well as canoe and kayak trails as depicted on the attached Project Map (Attachment "E"). Approval of this application will allow Staff to proceed implementing the project identified in the 2005 agreement between the City Council and SWFWMD.

Agency Review: The City's Engineering and Water Resources Departments have requested easements over various water, sewer and reclaimed water mains through the rights-of-way proposed for vacation. In addition, TECO Peoples Gas has also requested an easement for an existing gas line. The applicant will be required to dedicate any necessary easements at the time of the required replat. Any necessary relocation and/or abandonment of existing facilities shall be the sole responsibility of the applicant.

DRC Action/Public Comments: On July 1, 2009, the Development Review Commission (DRC) held a public hearing on the subject application. While no persons contacted staff in advance of the hearing, one neighbor attended the DRC hearing to express concern regarding the construction of any cul-de-sacs at the terminal ends of the remaining rights-of-way. The neighbor, Mr. Bill Jansen of 3834 29th Avenue South, stated that any proposed cul-de-sacs would

provide areas for people from outside the neighborhood to congregate and that the neighborhood already experiences illegal activity by people who do not live in the immediate area. Mr. Jansen also expressed concern regarding the potential removal of any trees that he has planted in the public rights-of-way adjacent to or near his property. During the DRC hearing, Staff offered to work with Mr. Jansen and any other interested neighbors during the replatting process to identify acceptable alternatives for work within the right-of-way and also retaining as many of the existing trees as possible. After the public hearing, the DRC voted 7 to 0 to recommend approval of the proposed vacation. In advance of this report to Council, no additional comments or concerns were expressed to the author.

RECOMMENDATION:

The Administration recommends **APPROVAL** of the street and easement vacations, subject to the following conditions:

1. Prior to recording the vacation ordinance, the applicant shall replat the rights-of-way to be vacated along with the abutting City-owned land.
2. The applicant shall be responsible for the relocation and/or abandonment of all affected utilities and infrastructure or the provision of easements, where necessary, for affected utilities which are to remain.

ORDINANCE NO. _____

AN ORDINANCE APPROVING THE VACATION OF MULTIPLE RIGHTS-OF-WAY AND EASEMENTS BETWEEN 26TH AND 30TH AVENUES SOUTH AND 38TH AND 40TH STREETS SOUTH; SETTING FORTH CONDITIONS FOR THE VACATION TO BECOME EFFECTIVE; AND PROVIDING FOR AN EFFECTIVE DATE.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

SECTION 1. The following rights-of-way and easements are hereby vacated as recommended by the Administration and the Development Review Commission:

38th Street South between the northern boundary of 26th Avenue South and the southern boundary (extended) of Lot 12, Block 1, and the southern boundary (extended) of Lot 1, Block 2, Roy Scott's Bayview Terrace Subdivision;

40th Street South between the northern boundary of 26th Avenue South and the southern boundary of 30th Avenue South;

26th Avenue South between the western boundary of 38th Street South and the western boundary of 40th Street South;

27th Avenue South between the western boundary of 38th Street South and the western boundary of 40th Street South;

Abington Avenue South between the western boundary of 38th Street South and the western boundary of 40th Street South;

28th Avenue South between the eastern boundary (extended) of Lot 17, Block 5, and the eastern boundary (extended) of Lot 8, Block 7, Roy Scott's Bayview Terrace Subdivision, and the western boundary of 40th Street South;

29th Avenue South between the eastern boundary (extended) of Lot 22, Block 7, and the eastern boundary (extended) of Lot 3, Block 9, Roy Scott's Bayview Terrace Subdivision, and the western boundary of 40th Street South;

30th Avenue South between the eastern boundary (extended) of Lot 22, Block 9, Roy Scott's Bayview Terrace Subdivision, and the eastern boundary (extended) of Lot 1, Block B, West Shore Village Section Two, Subdivision, and the western boundary of 40th Street South;

All of the Easements in Blocks 1, 3 and 5; the Easements within the South 3 feet of Lots 1 to 8 and the North 3 feet of Lots 22 to 24, Block 7, and the Easements between Lots 1

to 3 and Lots 22 to 24, Block 9, all in Roy Scott's Bayview Terrace Subdivision, according to the map or plat thereof as recorded in Plat Book 8, Page 11, Public Records of Pinellas County, Florida.

SECTION 2. The above-mentioned right-of-way is not needed for public use or travel.

SECTION 3. The vacation is subject to and conditional upon the following:


1. Prior to recording the vacation ordinance, the applicant shall replat the rights-of-way to be vacated along with the abutting City-owned land.
2. The applicant shall be responsible for the relocation and/or abandonment of all affected utilities and infrastructure or the provision of easements, where necessary, for affected utilities which are to remain.

SECTION 4. In the event this ordinance is not vetoed by the Mayor in accordance with the City Charter, it shall become effective upon the expiration of the fifth business day after adoption unless the Mayor notifies the City Council through written notice filed with the City Clerk that the Mayor will not veto the ordinance, in which case the ordinance shall become effective immediately upon filing such written notice with the City Clerk. In the event this ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become effective unless and until the City Council overrides the veto in accordance with the City Charter, in which case it shall become effective immediately upon a successful vote to override the veto.

APPROVED AS TO FORM AND SUBSTANCE:

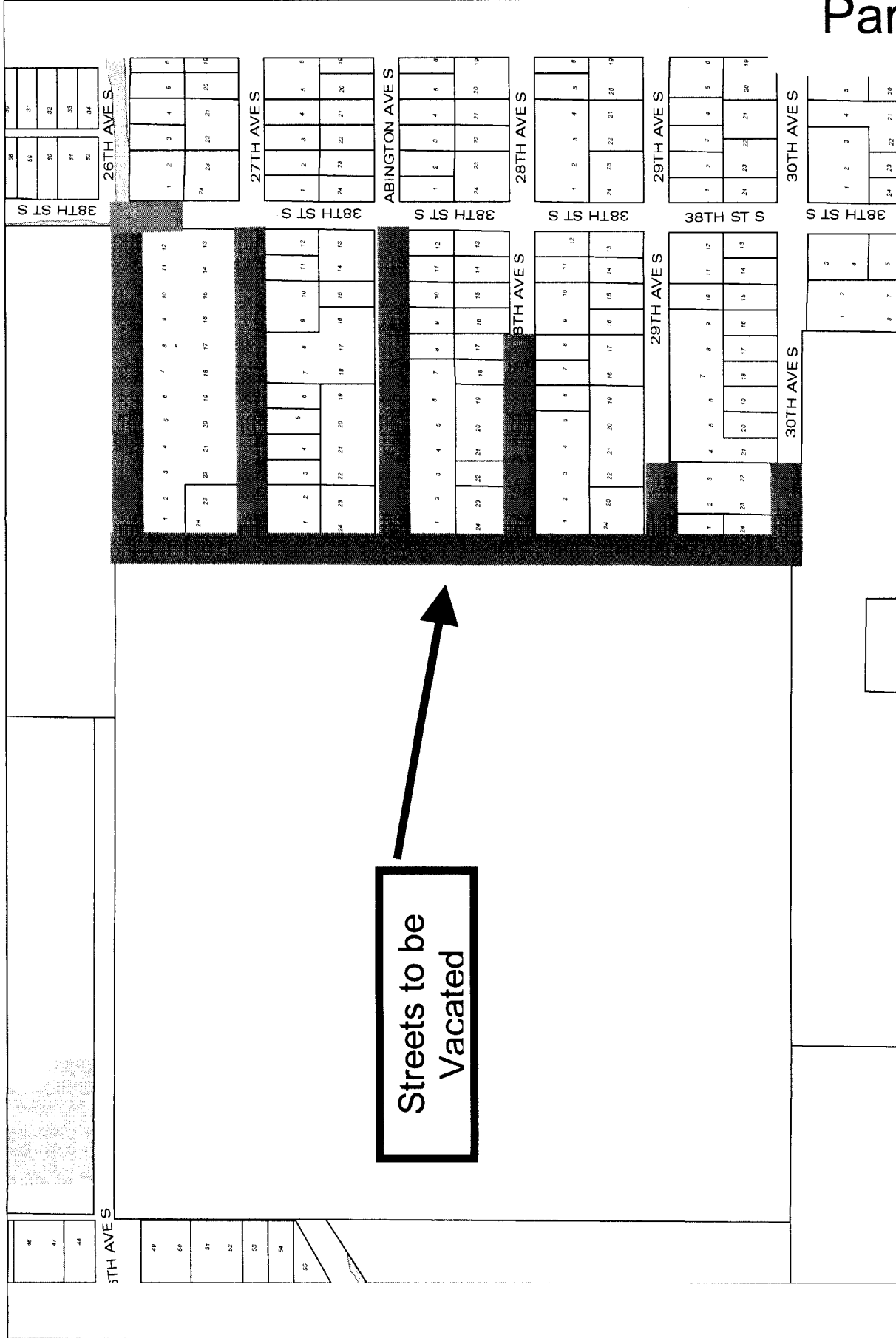


Development Services 7-29-09
Date



City Attorney (Designee) 7-28-09
Date

Attachment "A" Parcel Map

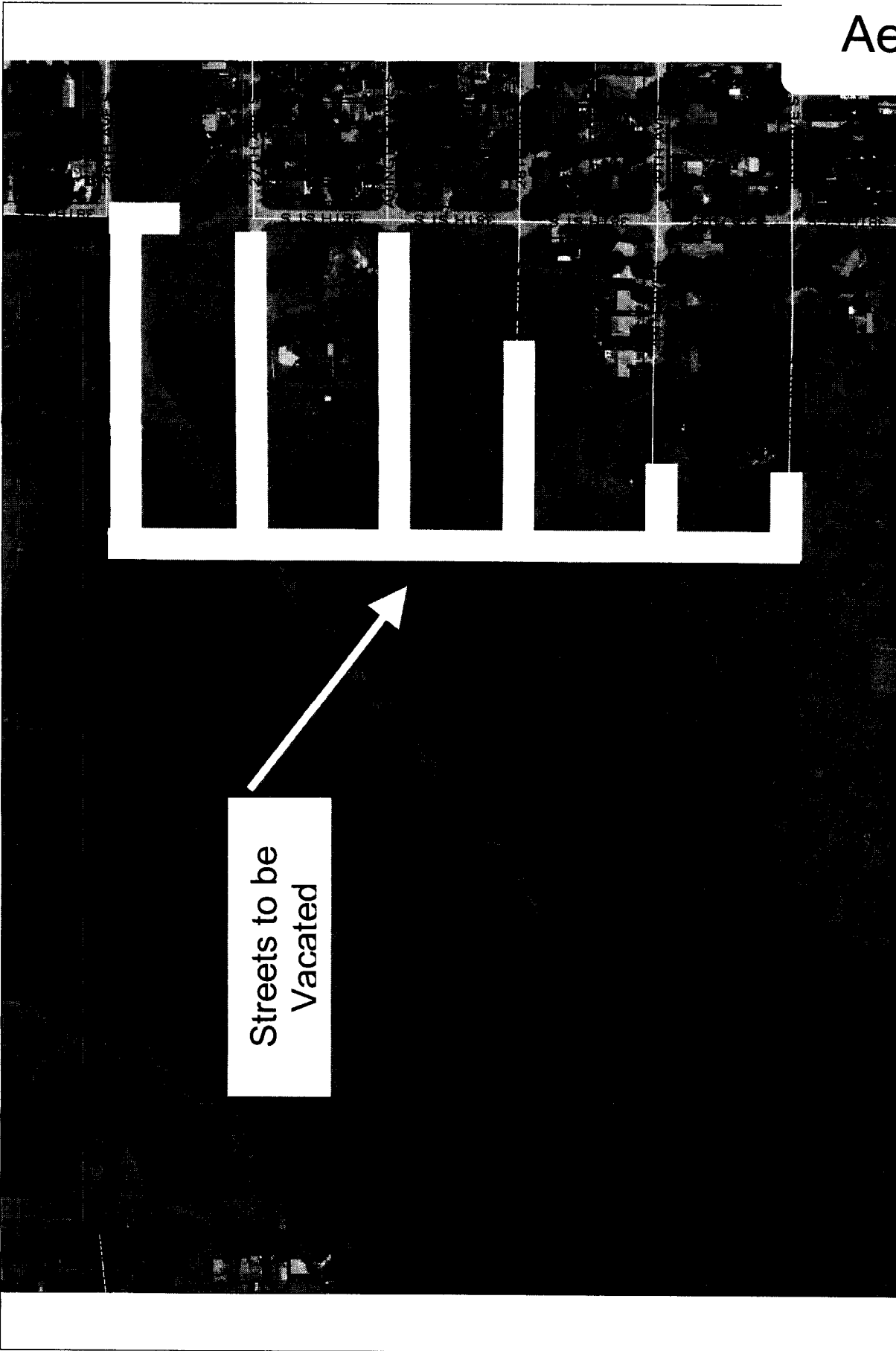


Development Services Department
Case No.: 09-3300005
Clam Bayou Restoration Project Vacations



Attachment "B"

Aerial Map



Streets to be
Vacated



Development Services Department
Case No.: 09-3300005
Clam Bayou Restoration Project Vacations



Attachment "C"

Legal Description

Legal Description & Parcel Numbers Clam Bayou Park Expansion Phase II

Legal Description

Vacation of 40th Street South between 26th and 30th Avenues South; 26th Avenue South between 38th and 40th Streets South; 27th Avenue South between 38th and 40th Streets South; Abington Avenue South between 38th & 40th Streets South; 28th Avenue South between Lots 17 to 24, Block 5 and Lots 1 to 8, Block 7; 29th Avenue South between Lots 22 to 24, Block 7 and Lots 1 to 3, Block 9; 30th Avenue South between Lots 22 to 24, Block 9 Roy Scott's Bayview Terrace and Lot 1, Block B, West Shore Village Section Two, 38th Street South adjacent to Lot 12, Block 1 and Lot 1, Block 2; all of the Easements in Blocks 1, 3 & 5; Easements within the South 3 feet of Lots 1 to 8 and the North 3 feet of Lots 22 to 24, Block 7 and the Easements between Lots 1 to 3 and Lots 22 to 24, Block 9, all IN ROY SCOTT'S BAYVIEW TERRACE, according to the map or plat thereof as recorded in Plat Book 8, Page 11, Public Records of Pinellas County, Florida.

Parcel I.D. Numbers

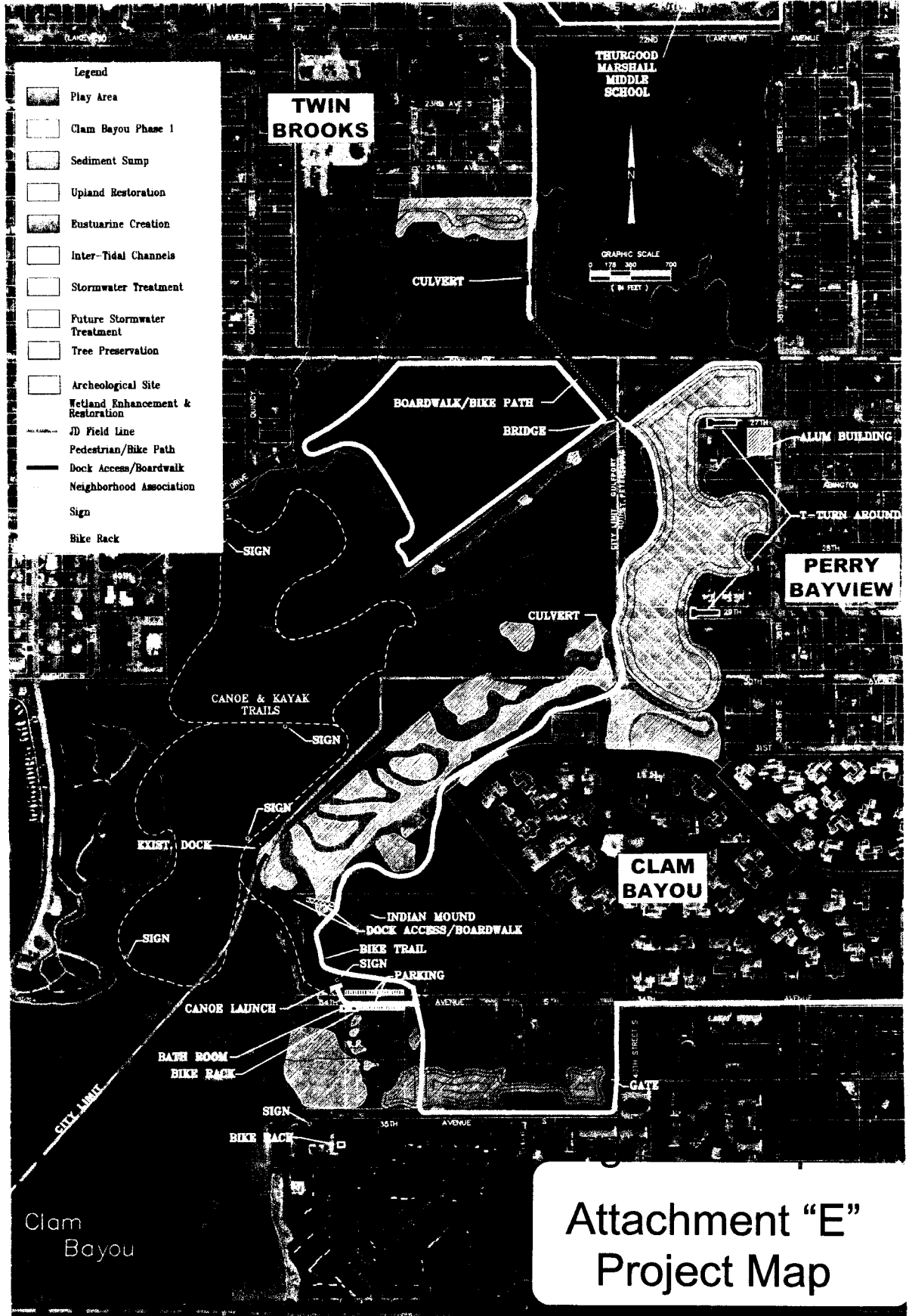
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34/31/16/05526/009/0240 & 34/31/16/96724/002/0012



CLAM BAYOU RESTORATION PROJECT



City of St. Petersburg



Attachment "E"
Project Map