

ORDINANCE NO. 2025-O-08

**AN ORDINANCE OF THE CITY OF EDGEWATER
REPEALING ORDINANCE NO. 2024-O-62, ORDINANCE
NO. 2024-O-63, AND ORDINANCE NO. 2025-O-06,
RESCINDING TEMPORARY MORATORIA ON
ANNEXATIONS, REZONINGS, COMPREHENSIVE PLAN
AMENDMENTS, SITE PLANS, PRELIMINARY PLATS,
FINAL PLATS, AND CERTAIN BUILDING PERMITS;
PROVIDING FOR CONFLICTING ORDINANCES;
PROVIDING FOR SEVERABILITY, and PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, the entire state of Florida was included in a federal disaster declaration related to Hurricane Milton on October 11, 2024; and

WHEREAS, SB180 was signed by the governor on ___, 2025; and

WHEREAS, pursuant to SB180, for one year after a hurricane makes landfall, an impacted local government may not propose or adopt a moratorium on construction, reconstruction, or redevelopment of any property; and

WHEREAS, pursuant to SB 180, “each county listed in the Federal Disaster Declaration for Hurricane Debby (DR-4806), Hurricane Helene (DR1323 4828), or Hurricane Milton (DR-4834), and each municipality within one of those counties, may not propose or adopt any moratorium on construction, reconstruction, or redevelopment of any property damaged by such hurricanes; propose or adopt more restrictive or burdensome amendments to its comprehensive plan or land development regulations; or propose or adopt more restrictive or burdensome procedures concerning review, approval, or issuance of a site plan, development permit, or development order, to the extent that those terms are defined by s. 163.3164, Florida Statutes, before October 1, 2027, and any such moratorium or restrictive or burdensome comprehensive plan amendment, land development regulation, or procedure shall be null and void ab initio. This subsection applies retroactively to August 1, 2024;” and

WHEREAS, the City of Edgewater adopted a temporary moratorium on annexations, zoning map amendments, comprehensive plan amendments, site plans, preliminary plats, final plats and certain building permits for the entire City of Edgewater in Ordinance No. 2024-O-62 on January 6, 2025; and

WHEREAS, the City of Edgewater adopted a temporary moratorium on certain building permits for property located within the Florida Shores Drainage Basin in Ordinance No.2024-O-63 on January 6, 2025; and

WHEREAS, the City of Edgewater adopted Ordinance No. 2025-O-06 on April 21, 2025, limiting the scope of the temporary moratorium on certain building permits for property located within the Florida Shores Drainage Basin; and

WHEREAS, SB 180, now Florida State law, mandates the City repeal the temporary moratoria to comply with the law; and

WHEREAS, rescinding the temporary moratoria was considered by the Planning and Zoning Board on July 9, 2025, and the Board recommended in favor by a vote of 6 to 0.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF EDGEWATER, FLORIDA:

SECTION 1: Recitals Adopted. Each of the above state recitals is hereby adopted and confirmed as being true, and the same are hereby made a specific part of the Ordinance.

SECTION 2: Moratoria Rescinded. The moratoria are hereby rescinded and Ordinance Nos. 2024-O-62, 2024-O-63, and 2025-O-06, included herein as “EXHIBIT A”, are hereby repealed.

SECTION 3: Conflicts. In the event that the provisions of this Ordinance are in conflict with any other ordinance, then the provisions of this Ordinance shall prevail.

SECTION 4: Severability. If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

SECTION 5: Effective Date. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this ____ day of _____, 2025.

Diezel DePew, Mayor

ATTEST:

Bonnie Zlotnik, CMC, City Clerk

Passed on first reading on the ____ day of _____, 2025

APPROVED AS TO FORM AND CORRECTNESS:

AARON WOLFE
City Attorney

DATE: _____

EXHIBIT "A"

ORDINANCE NO. 2025-O-06

AN ORDINANCE OF THE CITY OF EDGEWATER AMENDING ORDINANCE 2024-O-63 TO LIMIT THE TEMPORARY MORATORIUM TO BUILDING PERMITS THAT INCREASE THE AMOUNT OF FILL DIRT ON PARCELS WITHIN THE FLORIDA SHORES DRAINAGE BASIN FOR A PERIOD ENDING NO LATER THAN JANUARY 5, 2026, UNLESS RESCINDED OR EXTENDED BY A SUBSEQUENT ORDINANCE, PROVIDING PROCEDURES FOR VESTED RIGHTS REVIEW FOR THE SPECIFIC MATTERS ADDRESSED HEREIN; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on January 6, 2025, the City Council adopted Ordinance 2024-O-63 providing for a temporary moratorium on the consideration of building permits that would increase impervious surface area within the Florida Shores Drainage Basin; and

WHEREAS, since adoption of Ordinance 2024-O-63, the City has become aware that a moratorium relating to any increase in impervious surface area is too broad and it is therefore necessary and appropriate that the moratorium be revised to govern only building permits relating to the use of fill dirt to alter the grade or elevation of parcels within the Florida Shores Drainage Basin; and

WHEREAS, Hurricane Ian made landfall on the west coast of Florida as a category 4 storm on September 28, 2022 and made its way across the state of Florida and traveled up the east coast causing wide-spread flooding along its route; and

WHEREAS, The City of Edgewater experienced 21 inches of rainfall in less than 24 hours; and

WHEREAS, approximately 1,200 homes flooded in the City of Edgewater resulting in substantial damage to real property, and

WHEREAS, On September 14, 2024 the City of Edgewater experienced 7 inches of rainfall in less than 2 hours; and

WHEREAS, approximately 12 miles of roads in Florida Shores experienced substantial flooding making roads impassable; and

WHEREAS, the City of Edgewater has hired Jones Edmunds and Associates, Inc. to perform a stormwater master plan; and

WHEREAS, while Jones Edmunds and Associates, Inc. is preparing the stormwater master plan, the City Council seeks to declare a temporary building moratorium on building permits that would increase the amount of “fill” dirt in the Florida Shores Drainage Basin until the City has performed the necessary maintenance and potential improvements for stormwater systems including, but not limited to, ditches and canals in the Florida Shores Drainage Basin in order to prevent further wide-spread damage and destruction in the future due to flooding; and

WHEREAS, based upon Jones Edmund’s timeline, the stormwater master plan should be completed within the next 15 months, with a draft expected within the next 12 months, the City Council has determined that this temporary moratorium should be in place until January 5, 2026, or until rescinded or extended by a subsequent ordinance; and

WHEREAS, Exhibit A identifies the properties within the boundary of the Florida Shores Drainage Basin to be affected by the temporary moratorium; and

WHEREAS, the temporary moratorium was considered by the Planning and Zoning Board on February 12, 2025, and the Board recommended approval by a vote of seven to zero; and

WHEREAS, the City Council feels it is in the best interest of the public health, safety, and welfare of the citizens of the City of Edgewater to adopt the temporary moratorium as more particularly set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Edgewater, Florida:

SECTION 1: Recitals Adopted. Each of the above state recitals is hereby adopted and confirmed as being true, and the same are hereby made a specific part of the Ordinance.

SECTION 2: Moratorium Imposed. A temporary moratorium, until no later than January 5, 2026, is hereby imposed on the consideration of building permits that require the use of fill dirt on any parcel within the Florida Shores Drainage Basin described in Exhibit A to provide time for the City to review the impacts of Hurricane Ian and the storm event on September 14, 2024. “Fill dirt” shall be defined as an earthy material which is used to fill in a depression or hole in the ground or create mounds or otherwise artificially change the grade or elevation of real property. The definition of “fill dirt” shall be strictly applied to prohibit the importation of fill dirt. Building permits that utilize the existing dirt onsite by making a cut in the grade of the land shall be allowed to place said fill dirt to change the grade elsewhere on the property. The City of Edgewater shall require a stormwater report that demonstrates a no net rise in flood stage and no adverse impacts to adjacent properties. While the temporary moratorium is in effect, the City shall not accept, process, or approve any building permit which would allow for an increase in “fill dirt” except for the exception denoted above and those that have already been submitted prior to the effective date of this Ordinance.

SECTION 3: Determination of Vested Rights or Denial of All Economic Use.

a. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development of a parcel where the property owner can demonstrate by substantial competent evidence each of the following:

1. A governmental act of development approval was obtained prior to the effective date of this Ordinance; and
2. Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
3. That it would be highly inequitable to deny the property owner the right to complete the development.

b. Any property owner claiming vested rights under this Section 3 must file an application with the Development Services Director for a determination within 30 days after the effective date of this Ordinance. The application shall contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentary evidence supporting the claim. The Development Services Director shall review the evidence submitted and make a determination as to whether the property owner has established vested rights for the parcel based upon competent substantial evidence. The property owner may appeal the Development Services Director's determination pursuant to the appeal procedure set forth in Article I, Sec.21-07.06(c), LDR.

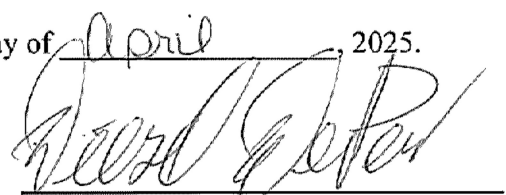
SECTION 4: Exhaustion of Administrative Remedies. No property owner claiming that this Ordinance, as applied, constitutes or would constitute an abrogation of vested rights may pursue such a claim in court, unless he or she has first exhausted the applicable administrative remedies provided in Section 3 of this Ordinance.

SECTION 5: Conflicts. In the event that the provisions of this Ordinance are in conflict with any other ordinance, then the provisions of this Ordinance shall prevail.

SECTION 6: Severability. If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.


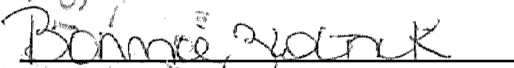
SECTION 7: Effective Date. This Ordinance shall become effective immediately upon its adoption. The temporary moratorium enacted by this Ordinance shall terminate no later than January 5, 2026, unless rescinded or extended by subsequent ordinance.

PASSED AND DULY ADOPTED this 21st day of April, 2025.



Diezel DePew, Mayor

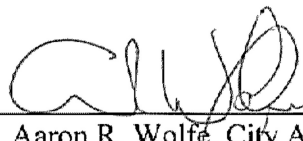
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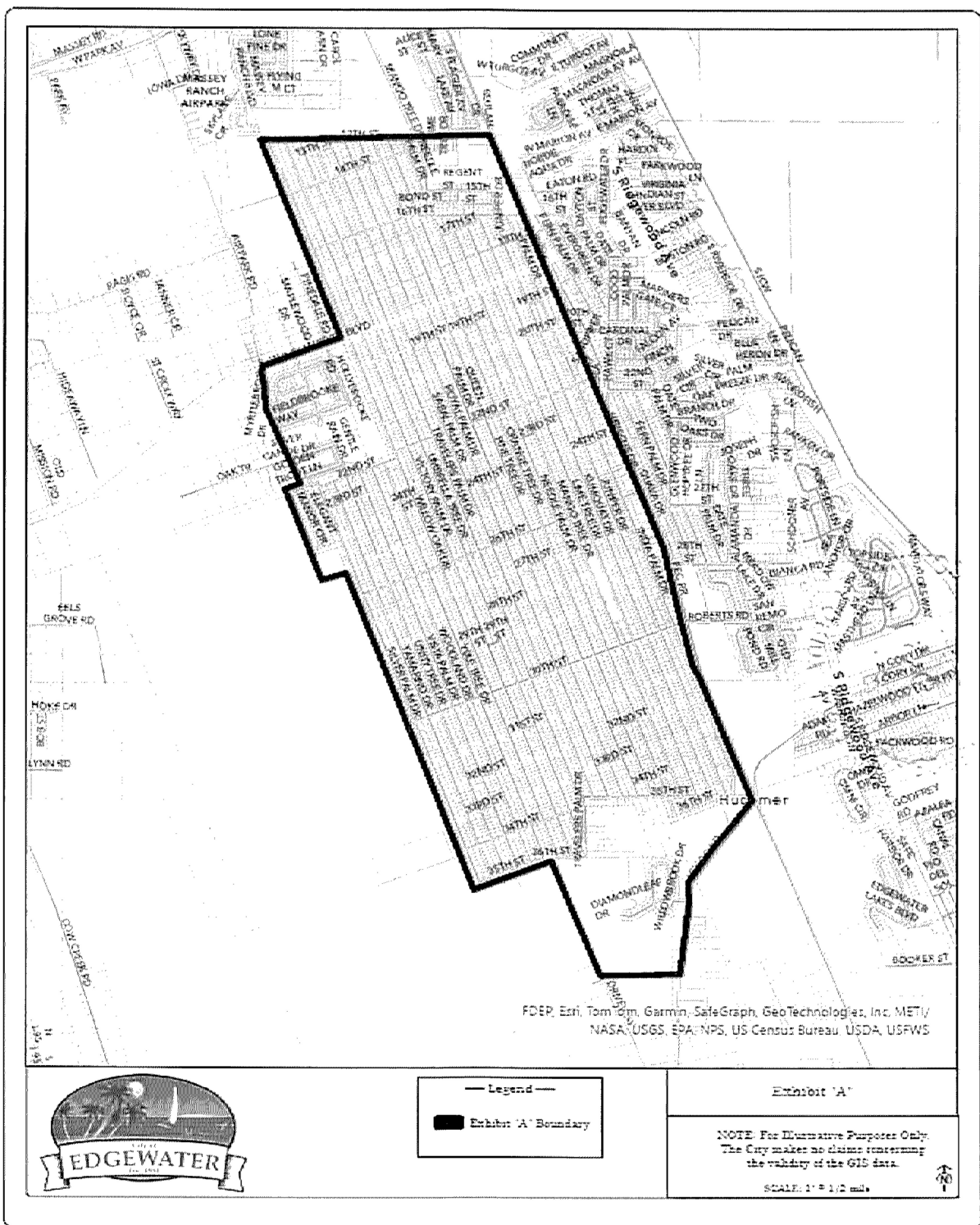
Bonnie Zlotnik, CMC, City Clerk

Passed on first reading on the 24th day of February, 2025

REVIEWED AND APPROVED:



Aaron R. Wolfe, City Attorney



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ORDINANCE NO. 2024-O-62

AN ORDINANCE OF THE CITY OF EDGEWATER ADOPTING A TEMPORARY MORATORIUM ON ANNEXATIONS, REZONINGS, COMPREHENSIVE PLAN AMENDMENTS, SITE PLANS, PRELIMINARY PLATS, AND FINAL PLATS FOR THE ENTIRE CITY OF EDGEWATER FOR A PERIOD ENDING NO LATER THAN JANUARY 5, 2026, UNLESS RESCINDED OR EXTENDED BY A SUBSEQUENT ORDINANCE, PROVIDING PROCEDURES FOR VESTED RIGHTS REVIEW FOR THE SPECIFIC MATTERS ADDRESSED HEREIN; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY, And PROVIDING AN EFFECTIVE DATE.

WHEREAS, Hurricane Milton made landfall in Florida on October 9, 2024; and

WHEREAS, Hurricane Milton resulted in 200 homes being flooded in the City of Edgewater located not in a Special Flood Hazard Area; and

WHEREAS, the City of Edgewater has not performed an entire comprehensive plan update since 2019; and

WHEREAS, the City of Edgewater has approximately 11,400 residential units entitled with an average of 400 homes being constructed per year; and

WHEREAS, the City of Edgewater with its current entitlements is expected to have roughly the same population as Port Orange based upon population per household statistics from the Bureau of Economic and Business Research; and

WHEREAS, Park Avenue and US1 Corridor have not experienced flooding, and the City seeks to allow for the exemption of commercial and industrial zoned property from the moratorium; and

WHEREAS, the City of Edgewater has not assigned all unincorporated properties within the Interlocal Service Boundary Agreement with a future land use designation; and

WHEREAS, the City of Edgewater needs to amend the Municipal Service Agreement with Volusia County based upon anticipated growth; and

WHEREAS, the City of Edgewater needs to update the Potable Water Supply Plan with Saint Johns River Water Management District; and

WHEREAS, the City of Edgewater seeks to guide future growth in a collaborative manner with the public through a new comprehensive plan and land development code; and

WHEREAS, the temporary moratorium was considered by the Planning and Zoning Board on November 11, 2024, and the Board recommended approval by a vote of seven to zero; and

WHEREAS, the City Council feels it is in the best interest of the public health, safety, and welfare of the citizens of the City of Edgewater to adopt the temporary moratorium as more particularly set forth hereinafter.

NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Edgewater, Florida:

SECTION 1: Recitals Adopted. Each of the above state recitals is hereby adopted and confirmed as being true, and the same are hereby made a specific part of the Ordinance.

SECTION 2: Moratorium Imposed. A temporary moratorium, until no later than January 5, 2026, is hereby imposed on the consideration of annexations, rezoning's, zoning PUD amendments, comprehensive plan amendments, site plans, preliminary plats, final plats and for any complete development application that has been accepted for review prior to the effective date of this Ordinance. Commercial and Industrial zoned parcels within the Ridgewood Corridor and Park Avenue Corridor are excluded from the City-Wide Moratorium. The Park Avenue

Corridor boundaries are defined in Exhibit A. The US1 Corridor has been illustrated in Exhibit B and C.

Applications submitted prior to the effective date of this Ordinance shall be allowed to complete the development process as follows:

- If an applicant has received approval for an annexation, rezoning, and/or comprehensive plan amendment within the last six months prior to the effective date of this Ordinance, said applicant shall have the right to submit a site plan and / or a preliminary plat and subsequently a final plat.
- If an applicant has submitted for a preliminary plat prior to the effective date of this Ordinance, said applicant shall be allowed during the moratorium to submit for final plat.

While the temporary moratorium is in effect, the City shall not accept, process, or approve any new applications beyond the exceptions denoted above for annexations, rezoning's, comprehensive plan amendments, site plans, preliminary plats, or final plats. The following are examples that would not be accepted, processed, or approved during the moratorium:

- An applicant who received entitlements more than six months prior to the effective date of the moratorium who does not have an application submitted for a site plan, preliminary plat, and/or final plat prior and to the effective date of the Moratorium shall not be allowed to submit for site plan, preliminary plat, and/or final plat and complete the process as described above during the term during the temporary moratorium.

SECTION 3: Determination of Vested Rights or Denial of All Economic Use.

A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development of a parcel where the property owner can demonstrate by substantial competent evidence each of the following:

1. A governmental act of development approval was obtained prior to the effective date of this Ordinance; and
2. Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
3. That it would be highly inequitable to deny the property owner the right to complete the development.

B. Any property owner claiming vested rights under this Section 3 must file an application with the Development Services Director for a determination within 30 days after the effective date of this Ordinance. The application shall contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentary evidence supporting the claim. The Development Services Director shall review the evidence submitted and make a determination as to whether the property owner has established vested rights for the parcel based upon competent substantial evidence. The property owner may appeal the Development Services Director's determination pursuant to the appeal procedure set forth in Article I, Sec.21-07.06(c), LDR.

SECTION 4: Exhaustion of Administrative Remedies. No property owner claiming that this Ordinance, as applied, constitutes or would constitute an abrogation of vested rights may

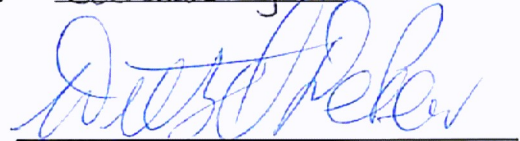
pursue such a claim in court, unless he or she has first exhausted the applicable administrative remedies provided in Section 3 of this Ordinance.

SECTION 5: Conflicts. In the event that the provisions of this Ordinance are in conflict with any other ordinance, then the provisions of this Ordinance shall prevail.

SECTION 6: Severability. If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

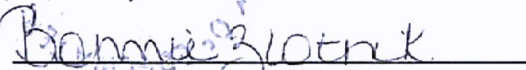
SECTION 7: Effective Date. This Ordinance shall become effective immediately upon its adoption. The temporary moratorium enacted by this Ordinance shall terminate no later than January 5, 2026, unless rescinded or extended by subsequent ordinance.

PASSED AND DULY ADOPTED this 6th day of January, 2025.



Diezel DePew, Mayor

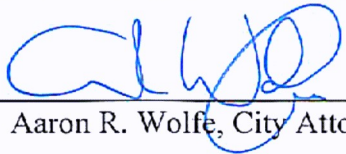
ATTEST:



Bonnie Zlotnik, CMC, City Clerk

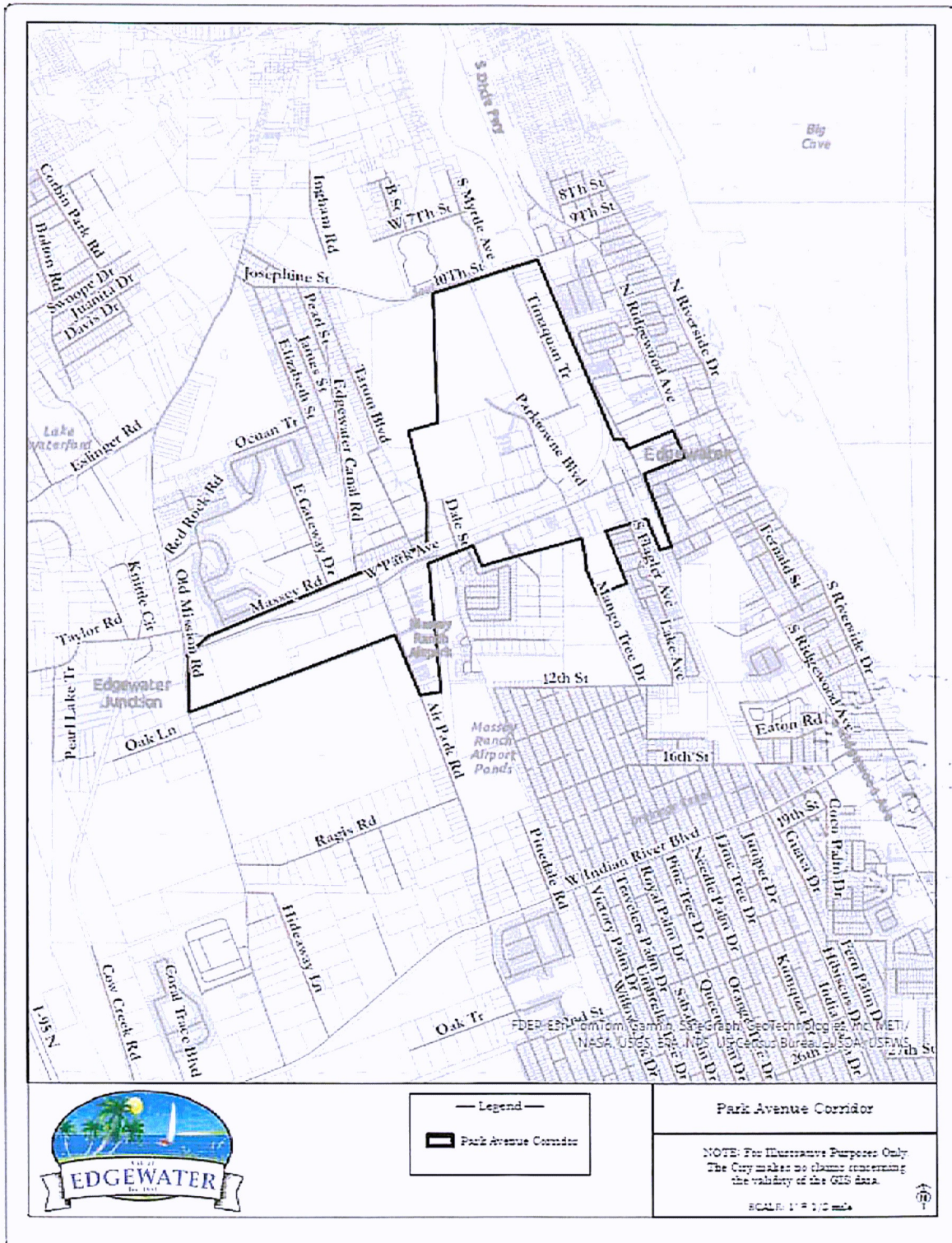
Passed on first reading on the 2nd day of December, 2024

REVIEWED AND APPROVED:



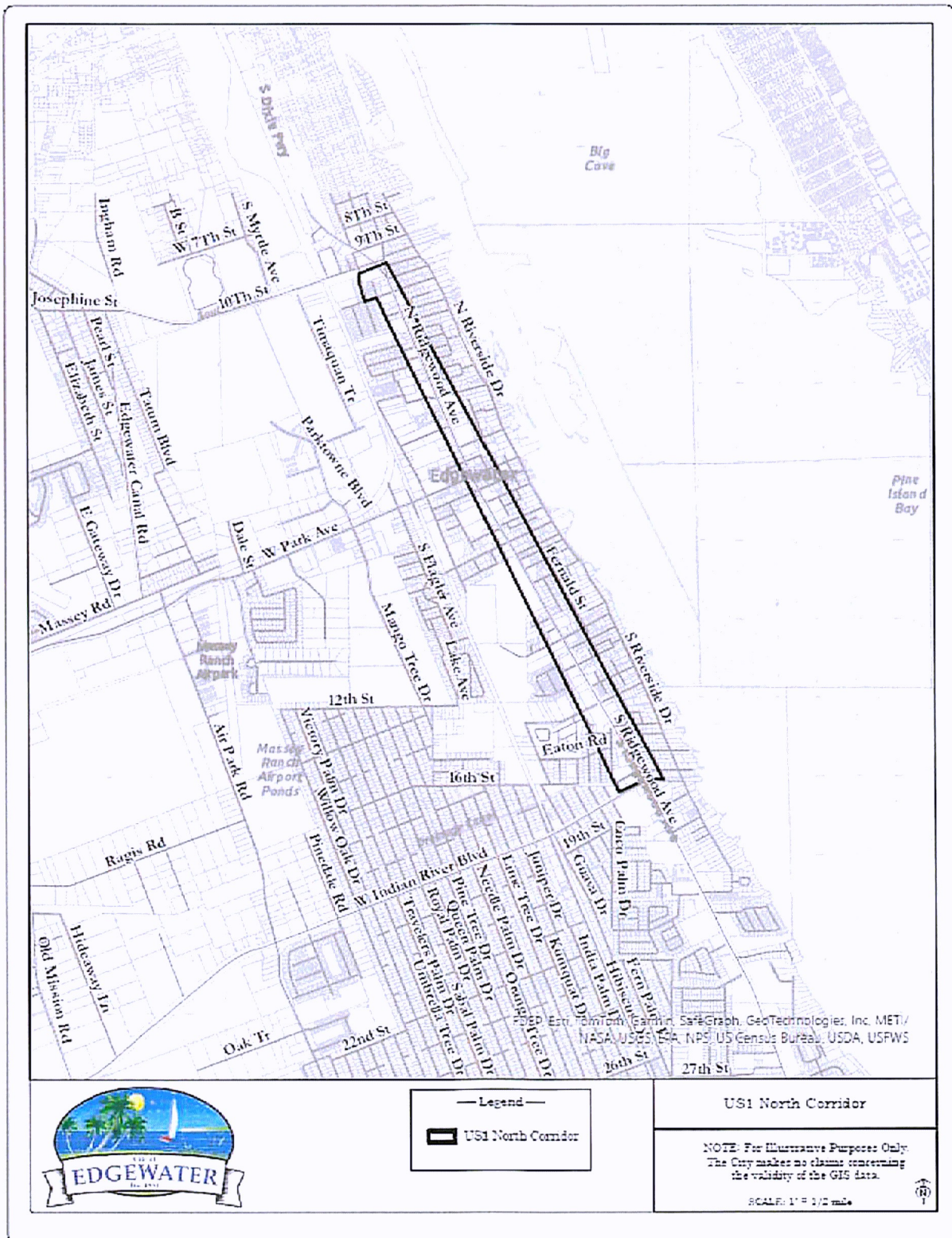
Aaron R. Wolfe, City Attorney

EXHIBIT A



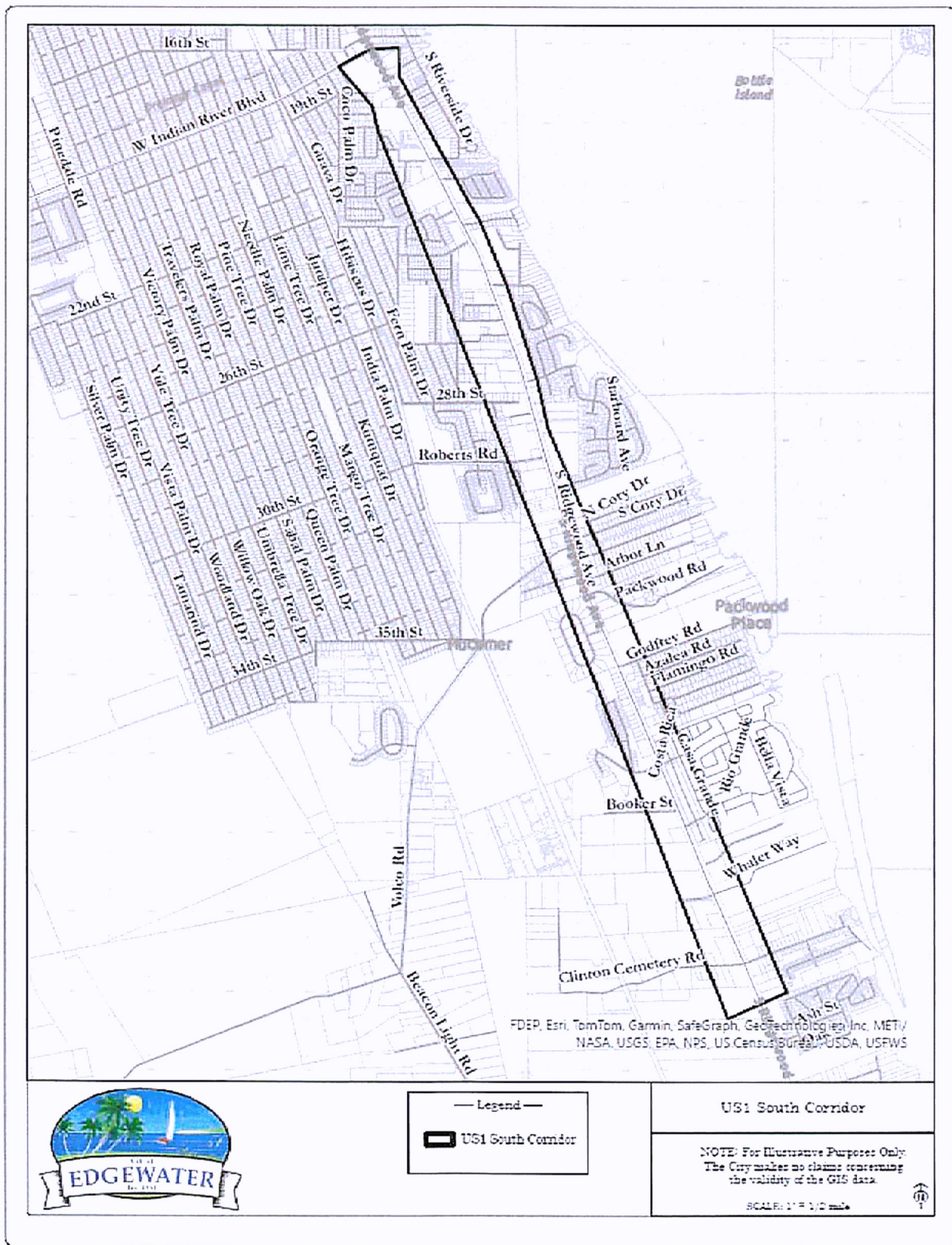
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EXHIBIT B



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EXHIBIT C



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