CITY OF TITUSVILLE

BOARD OF ADJUSTMENTS AND APPEALS

AGENDA

Regular Meeting

April 23, 2025 - 6:00 PM

Council Chamber at City Hall

555 South Washington Avenue, Titusville, FL 32796

Any person who decides to appeal any decision of the Board of Adjustments and Appeals, with respect to any matter considered at this meeting, will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The City desires to accommodate persons with disabilities. Accordingly, any physically handicapped person, pursuant to Chapter 286.26 Florida Statutes, should at least 48 hours prior to the meeting, submit a written request to the chairperson of the meeting that the physically handicapped person desires to attend.

Notice

All persons who anticipate speaking on any Public Hearing item must fill out an Oath Card to be heard on that agenda item and sign the oath contained thereon. These cards are located on the table near the entrance to the Council Chamber or may be obtained from the Recording Secretary. This meeting will be conducted in accordance to the procedures adopted in Resolution No. 24-1997.

Those speaking in favor of a request will be heard first, those opposed will be heard second, and those who wish to make a public comment on the item will speak third. The applicant may make a brief rebuttal if necessary. A representative from either side, for or against, may cross-examine a witness.

Anyone who speaks is considered a witness. If you have photographs, sketches, or documents that you desire for the Commission to consider, they must be submitted into evidence and will be retained by the City. Please submit such exhibits to the Recording Secretary.

Applicants for land use and zoning related items are advised that the resumes of staff members who prepare applicable staff reports are on file in the City Clerk's Office.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL AND DETERMINATION OF A QUORUM

4. APPROVAL OF MINUTES

A. **March 26, 2025 Minutes**

5. QUASI-JUDICIAL CONFIRMATION PROCEDURES

A. **Verify all persons wishing to speak before the committee has signed an Oath Card.**

B. **Chairman confirms that all agenda items have been properly advertised.**

C. **Member's statements if they have visited any of the sites or spoken to any members of the public regarding an item to be reviewed today.**

6. CONSENT AGENDA

7. OLD BUSINESS

A. **Appeal No. 1-2024 Apollo Gardens Site Development Permit**

Staff Recommendation: Concur with the administrative interpretation and deny the appeal.

8. NEW BUSINESS

A. **Variance 7-2025 - 702 Lucky Street**

Consider the requested variance to allow less than the required 20-foot side corner yard setback for a primary structure for property located at 702 Lucky Street.

B. **Variance 9-2025 - 1311 Wilderness Lane**

Consider the request variance to allow a fence located in the front yard to exceed the maximum 4-foot height for property located at 1311 Wilderness Lane.

C. **Variance 10-2025 - 3041 Edington Drive**

Consider the requested variance to allow the use of prohibited material in the form of artificial turf for property located at 3041 Edington Drive.

D. **Variance 11-2025 - 3042 Edington Drive**

Consider the requested variance to allow the use of prohibited material in the form of artificial turf, for property located at 3042 Edington Drive.

9. PETITIONS AND REQUESTS FROM THE PUBLIC PRESENT

10. REPORTS

11. ADJOURNMENT

Board of Adjustments and Appeals
Regular Meeting
March 26, 2025

The Board of Adjustments and Appeals (BAA) of the City of Titusville, Florida, met in regular session in Council Chambers, on Wednesday, March 26, 2025.

XXX

Chairman Thomas Taylor called the meeting to order at 6:00 p.m. and asked the assembly to recite the Pledge of Allegiance to the Flag.

XXX

Present were Chairman Thomas Taylor, Vice-Chairwoman Margaret Van Deven, Member Richard Wheelus, Member John Greene and Alternate Member Carshonda Wright. Also, in attendance were Community Development Director Brad Parrish, Planner Tabitha Armstrong, Assistant City Attorney Chelsea Farrell, and Sr. Administrative Assistant Kim Amick. It was determined that a quorum was present.

XXX

Assistant City Attorney Farrell swore in new Alternate Member James Troutman.

XXX

Member Wheelus asked for two corrections on Page 2 and Page 8 of the Minutes.

Member Wheelus made a motion to approve the minutes for February 26, 2025 with the corrections. Member Van Deven seconded. All in attendance voted to approve the minutes.

XXX

Chairman Thomas Taylor confirmed the quasi-judicial procedures verifying that all persons wishing to speak before the board has signed an oath card.

XXX

Tabith Armstrong confirmed that all agenda items had been properly advertised.

XXX

Chairman Thomas Taylor called for members' statements if they had visited any of the sites.

Member Greene stated he had visited the sites.

Chairman Taylor asked if he was alone. Member Greene stated he was alone.

Assistant City Attorney Farrell asked if he had formed any opinions based on his site visits. Member Greene stated no.

Member Wheelus stated he had a phone call from a citizen asking for them to invoke Rule 13 and expressed in the presence of new evidence that is the standard for invoking that rule and the person did not try to persuade him either way. He stated it did not affect his opinion.

Chairman Taylor stated he had a phone call or two also, but as soon as soon as they started requesting information about the cases, he told them he could not talk about the them, they did not ask any questions.

XXX

Consent Agenda Items
None.

XXX

Old Business
None.

XXX

New Business

Variance 2-2025 – 1804 Corvina Way

Tabitha Armstrong reviewed the staff report and explained what the applicant was requesting.

Discussion followed.

Toni Potenza, 1804 Corvina Way, Titusville, Florida, spoke in favor of the item.

Discussion followed.

Chairman Taylor asked if something could be put in about it being screened.

Assistant City Attorney Farrell stated she would recommend the board consider a condition on a motion to consider the fact that the applicant is proposing an entirely screened cage rather than a proposed roof over the extension for the variance request.

Member Wheelus made a motion to approve the variance as requested with the following condition:

1. The roof is to be screened as opposed to a hard roof.

Member Greene seconded.

Roll call was as follows:

Chairman Taylor	Yes
Vice-Chairwoman Van Deven	Yes
Member Greene	Yes
Member Wheelus	Yes
Alternate Member Wright	Yes

Motion passed.

Variance 3-2025 – 2771 Edington Drive

Chairman Taylor asked if the board was allowed to combine the next items together so there would be one discussion but vote individually on each one.

Assistant City Attorney Farrell stated you may talk about the subject matter, but you have to talk about each one before you make a vote on each one and you have to talk about the individual requests for each one. She stated you can have discussion before you go into it but she would recommend that Tabitha at least present the first item and then you can have discussion on the subject matter within that first one and that may help guide your decision for the subsequent ones. She stated she would ask staff to Variance 3-2025.

Tabitha Armstrong reviewed the staff report and explained what the applicant was requesting.

Discussion followed.

Hamid Hafizi, 4092 Tradewinds Trail, Merritt Island, Florida, spoke in favor of the item.

Discussion followed.

Kathleen O'Rourke, 3525 Palmer Drive, Titusville, Florida, spoke against the item.

Toni Shifalo, 715 Tropic Street, Titusville, Florida, spoke against the item.

Elizabeth Baker, 1805 Augustine Drive, Titusville, Florida, spoke against the item.

Thomas Perez, 3025 S. Washington Avenue, Titusville, Florida, spoke against the item.

Michael Myjak, 4420 Alpine Lane, Titusville, Florida, spoke against the item.

Nayra Atiya, 2285 Beachwood Court, Titusville, Florida, spoke against the item.

Vice-Chairman Van Deven asked the Applicant, Hamid Hafizi, to come back up to the podium and she stated the negative effects of artificial turf that she found.

Discussion followed.

Vice-Chairwoman Van Deven made a motion to deny Variance 3-2025 at 2771 Edington Drive, based on it is a self- created hardship.

Member Wheelus seconded.

Roll call was as follows:

Member Greene	Deny
Member Wheelus	Deny
Alternate Member Wright	Deny
Chairman Taylor	Deny
Vice-Chairwoman Van Deven	Deny

Motion passed.

Variance 4-2025 – 2811 Edington Drive

Assistant City Attorney Farrell recommended that the board allow staff to introduce each item and to open the public hearing on each item.

Brad stated he would like to ask the Applicant if he would like to consider withdrawing the remaining variance applications or if he would like to go forward and have a vote on each one.

Chairman Taylor asked the Applicant if he would like to withdraw the remaining applications.

Hamid Hafizi stated he has no problem withdrawing the remaining applications.

Chairman Taylor stated he would be withdrawing Variance 4-2025, Variance 5-2025, Variance 6-2025 and Variance 8-2025. Mr. Hafizi stated yes.

Appeal 1-2024 – Request for Rehearing

Brad Parrish explained what the applicant was requesting.

Chairman Taylor asked council to explain the voting procedures.

Assistant City Attorney Farrell stated the Code, on Page 267, says for this hearing the affirmative vote of four (4) members of the Board shall be necessary to grant or approve a rehearing.

Vickie Conklin, 2920 Royal Oak Drive, Titusville, Florida, spoke in favor of this item. Ms. Conklin stated she feels like there was enough evidence to require the rehearing. She stated it seemed a little confusing last time because she was applying as an applicant living on Royal Oak Drive and she was letting them know that she was the leader of Royal Oak Neighbors but to also let them know that she was speaking on behalf of folks representing the issue. She stated she submitted 35 verifications and authorizations from those who want her to speak on their behalf and they do have a story to tell, and it is brief but they should be allowed that opportunity under the Freedom of Speech to present that story to you so that is her request for rehearing. She hopes this will move forward to the April meeting where she will have a chance to show her power point and show some of the State Statutes of why they believe that the Comprehensive Plan is the king and should be followed and why the City's decision to allow a local residential road to be used for that violates the Comprehensive Plan. She believes that this qualifies as new evidence with the authorization letters and also that the decision was based on an erroneous interpretation or conclusion of the law. She stated today she received an email around noon a letter from Mr. Page and also received a folder when she arrived at the meeting tonight. She objects to the fact that he sent his email, and it was immediately distributed to the Board of Adjustments and Appeals. She also believes his document is prejudicial and it should not be submitted as the record to the BAA, and she believes her new evidence submitted should allow for the rehearing. She stated there is something about a Rule 13, which she does not understand and does not know if that applies or is she just supposed to ask for rehearing.

Assistant City Attorney Farrell stated Rule 13 comes City Code 2-26 entitled Rules of the City Council and commonly people in the City refer to Rule 13 under this process that is more broadly known as a request for reconsideration, so what Rule 13 says and it is different from a request for a rehearing. She does believe it would be appropriate for the Board to consider either or both of those things.

Assistant City Attorney Farrell gave an explanation of Rule 13.

Eric Page, 4301 W. Boy Scout Boulevard, Suite 300, Tampa, Florida, spoke against this item. Mr. Page brought binders for each of the Board members which is identical to the email that was sent to Attorney Farrell. Mr. Page said he requested that his email be forwarded to Ms. Conklin, so everyone got all the material at the same time. He stated included in that binder are material that Ms. Conklin walked into the February 26 meeting and submitted into the record so that was evidence. He stated what he provided in the binder, other than what she submitted into the record, is merely case law and the letter none of which is evidence. He stated there is nothing in the Code that prohibits him from doing that, there is nothing in the Code that said I had to get her anything by a particular time. He stated he does not believe this process was confusing at all on February 26, he brought some motions that allowed him to intervene as an interested party and that was denied as to jurisdiction and the standing issue was brought up and argued and there was public comment, he responded to it and the Board deliberated and made a ruling. He stated he does see how that was complicated in any way. He stated he represents Apollo Gardens who hold the Site Development Permit that Ms. Conklin has challenged, and the Board recognized Apollo Gardens as an interested party. He stated on February 26 the board got it right there was no competent substantial evidence to support Ms. Conklin's standing. He stated Ms. Conklin filed her appeal as an individual and that was the question that was put into context as stated in

the meeting minutes so there is no competent substantial evidence in that regard, she simply claimed she was entitled to standing and candidly no one is entitled to standing, that is not how it works it is not what the laws says. Mr. Page explained standing based on the case law that was included in the binder that was presented to the Board. He also referenced the meeting minutes regarding Ms. Conklin stating she was entitled to standing. He also referenced Resolution 24-1997, Section 66.2d that is part of the controlling law of this case where it is required that all findings of the Board must be supported by competent substantial evidence and must follow the law. Mr. Page referenced case law regarding a rehearing. He stated the two basis for Ms. Conklin's request for rehearing, one is there is newly discovered significant evidence that by due diligence could not have been discovered at the time of the original decision, that is the entirety of Section 34-261 reads, instead of just new evidence it has to have all the other factors to it. He stated as well Ms. Conklin raises issue that the original decision was based on erroneous interpretation for conclusion of law. He stated the allegiant new evidence; the only thing that has been provided is 26 more attempted authorization letters that supposedly grant her agency status. He stated these are not significant because they are no different than the nine (9) letters that were received on February 26, they are no different than the 33 people who are residence of the City who said she could represent them as their agent, there is no difference, so they are not significant. He stated even if those 26 letters could be considered significant there has been no showing they could not have been obtained with due diligence prior February 26 hearing. He stated the nine (9) letters were put into evidence on February 26 and all are dated between January 27 and January 28, 2025, and the 26 letters received as supposed new evidence those are dated between March 3 and March 11, 2025. He stated there has been no showing that the 26 letters could not have been obtained before the February 26 hearing, so it fails in at least two ways to show that there is qualified new evidence to even be considered as a basis for rehearing. He stated in addition to failing the city standard, the alleged new evidence also fails the state law standard. Mr. Page referenced case law regarding a Motion for Rehearing based on newly discovered evidence. He stated in the appeal the statement is made that the Board's original decision was based on erroneous interpretation or conclusion of law. Mr. Page referenced information in the binder regarding the Florida Rule of Appellant Procedure. Mr. Page asked the Board to look at Page 229, Ms. Conklin's one-page request for a rehearing. He stated here is no particularity pointed out in terms of a legal error that the Board made, it is merely a quote from that provision of the Land Development Regulations and there is no further explanation. He stated what has been presented today is no information that can qualify as new evidence under the Code of Florida Law and nothing has been presented to identify any error in law that was made by the Board on February 27.

Christian Moscoso, 3031 Demaret Drive, Titusville, Florida, spoke in favor of this item.

Dwight Severs, 1308 Riverside Drive, Titusville, Florida, spoke in favor of this item. Mr. Severs handed out packets to the Board.

Chairman Taylor had to address the public and allowed another minute for Mr. Severs.

Mr. Severs was granted one (1) more minute.

Elizabeth Parker, 3446 Trevino Circle, Titusville, Florida, spoke in favor of this item.

Member Wheelus made a motion to allow two (2) more minutes.

Vice-Chairwoman Van Deven seconded.

Roll call was as follows:

Vice-Chairwoman Van Deven	Yes
Member Greene	Yes
Member Wheelus	Yes
Alternate Member Wright	Yes
Chairman Taylor	Yes

Motion passed.

Kathleen O'Rourke, 3525 Palmer Drive, Titusville, Florida, spoke in favor of this item.

Michael Mijak, 4420 Alpine Lane, Titusville, Florida, spoke in favor of this item.

Toni Shifalo, 715 Tropic Street, Titusville, Florida, spoke in favor of this item.

Stan Johnston, 860 Poinsettia Avenue, Titusville, Florida, spoke neither for or against this item.

Mr. Johnston asked for another one (1) minute.

Member Wheelus made a motion to allow Mr. Johnston one (1) more minute.

Chairwoman Van Deven seconded.

Roll call was as follows:

Member Greene	Yes
Member Wheelus	Yes
Alternate Member Wright	Yes
Chairman Taylor	Yes
Vice-Chairwoman Van Deven	Yes

Motion passed.

Mr. Johnston spoke for another minute.

Member Wheelus requested a five (5) minute recess.

Chairman Taylor stated they would take a ten (10) minute recess.

Vickie Conklin, 2920 Royal Oak Drive, Titusville, Florida, stated it was an honor to be an agent and represent so many people in the community. She stated they are concerned with the Comprehensive Plan and the issue of the local roads.

Eric Page requested a rebuttal.

Assistant City Attorney Farrell stated at the prior meeting he was accepted as a party to this proceeding and the Board has invited him back to the podium.

Chairman Taylor stated the Board is allowing him.

Assistant City Attorney Farrell asked if the Board would like to make a motion to give Mr. Page three (3) minutes.

Member Wheelus made a motion to allow Mr. Page to rebut for three (3) minutes.

Member Greene seconded.

Roll call was as follows:

Chairman Taylor	Yes
Vice-Chairwoman Van Deven	Yes
Member Greene	Yes
Member Wheelus	Yes
Alternate Member Wright	Yes

Motion passed.

Eric Page stated standing is required to have a case for decision. Mr. Page referenced case law from the binder. He stated there must be standing for there to be case or controversy that gets decided on the merit. He stated standing is not a technicality, standing is not legalese. He stated the merits of the appeal were argued by the public and hopes the Board would understand that that cannot be considered. He stated, even if Ms. Conklin was an agent, there was no competent substantial evidence that any of those principles were affected property owners. The Board cannot ignore the absolute requirements to justify a rehearing and those requirements were not met.

Member Wheelus made a Motion for Reconsideration.

Assistant City Attorney Chelsea, stated the Motion for Reconsideration is something that is provided by Roberts Rules of Order where any member who voted in the winning side of a motion that they would like to bring back before the Board the process would require a member, such as Mr. Wheelus, to raise that point of reconsideration either at the same meeting or the very next meeting where that decision is made so Mr. Wheelus has indicated he would like to revive the Motion to Declare Standing that failed on February 26. She stated he has made a motion any member can second that motion for a vote.

Chairman Taylor stated so this is not the Rule 13.

Assistant City Attorney Farrell stated Rule 13 is a request for a reconsideration, they are the same just with different names.

Vice-Chairwoman Van Deveen second.

Member Wheelus stated his motion is based on evidence presented by Attorney Severs showing an additional light on the definition of standing and how it relates to the Florida Statutes and he believes it needs to be reconsidered.

Member Greene asked if this would pass with 3-2 vote or 4 – 1.

Assistant City Attorney Farrell stated the reconsideration requires three (3) affirmative votes to pass and that would require for the next meeting to have what was on it last month back on the agenda in April and if the vote were to pass then she does not know if it is necessary to have the motion for the request for rehearing because it would be very similar although you could entertain that motion.

Assistant City Attorney Farrell stated the agenda item would be put on the agenda for the next month, it would not be continuing discussion after this motion would be made so a request for reconsideration can only happen at the same or subsequent meeting when a decision is made which would have been the February 26 agenda. She stated she understands what Attorney Page is saying that the Motion for Reconsideration is not on the agenda and I would defer to the Board in the interest of due process to allow additional comments to be made.

Assistant City Attorney Farrell stated there is a Motion for Reconsideration on the table and it would have to be laid down on the table in order to consider having additional comments pursuant to a separate motion. She stated they are discussing whether or not to have another motion after the Motion to Reconsider. She asked if anyone would like to table the Motion to Reconsider to allow a motion to have additional comments.

Roll call was as follows:

Member Wheelus	Yes
Alternate Member Wright	No
Chairman Taylor	No
Vice-Chairwoman Van Deven	Yes
Member Greene	Yes

Motion passed.

Chairman Taylor stated it would be heard again at the next meeting on April 23.

XXX

Petitions and Requests from the Public Present

Stan Johnston, 806 Poinsettia Avenue, Titusville, Florida, spoke about Mockingbird Lane.

Toni Shifalo, 715 Tropic Street, Titusville, Florida, spoke about preserving the environment and the history of northern Brevard County.

Eric Page, 4301 Boy Scout Boulevard, Suite 300, Tampa, Florida, just for clarification on April 23 standing will again be considered by this Board.

Assistant City Attorney stated yes.

Mr. Page stated he would like to put on the record there was no legal approach regarding standing that supported reconsideration, there was no competent substantial evidence of standing to support reconsideration. He stated he quoted to the Board comments in the article from Chris Donovon that entirely support there being a lack of standing in this scenario with no basis in law or fact to support standing and what this Board has done today is cause his client to continue to defend it's permit in a situation where there is no case or controversy for Ms. Conklin's appeal.

Reports

Staff – Tabitha Armstrong stated there are four (4) variances on the agenda for next month's meeting.

Members – None.

City Attorney – None.

Chairman – None.

Adjournment was at 8:37 p.m.

City of Titusville

"Gateway to Nature and Space"

REPORT

To:	Members of the Board of Adjustments and Appeals
From:	Brad Parrish, Community Development Director
Subject:	**Appeal No. 1-2024 Apollo Gardens Site Development Permit**
Department/Office:	Community Development

Recommended Action:
Staff Recommendation: Concur with the administrative interpretation and deny the appeal.

Summary Explanation & Background:
The Apollo Gardens Apartments site plan was approved on September 19, 2023. On November 11, 2024, Site Development Permit No. PSDP24-000205 for Project No. J22-5424, the Apollo Gardens apartments, was issued authorizing on-site construction. On December 5, 2024, Vickie J. Conklin (Appellant) submitted an application to appeal the approval and issuance of the site development permit.

Prior to consideration of the appeal, the Board must determine whether the appellant is an affected property owner as required per Section 34-249 of the Land Development Regulations.

On January 29, 2025, the BAA tabled the appellant's appeal request to the February meeting.
On February 26, 2025, the BAA determined that the appellant did not have standing.
On March 26, 2025, the appellant requested a rehearing on the appeal. The BAA instead adopted a motion to reconsider the original decision.

Alternatives:
Concur with the appeal.

Item Budgeted:

Source/Use of Funds/Budget Book Page:

Strategic Plan:

Strategic Plan Impact:

ATTACHMENTS:

1 Notice of Appeal and Exhibits
.
2 Appeal 1-2024 Staff Report
.
3 HDR vs Collector Arterial - Complete
.
4 HDR vs Collector & Arterial - Complete with Aerials
.
5 Appeal 1-2024 LEGAL MEMO
.
6 Resolution No. 24-1997
.
7 DIVISION_2.___APPEALS_TO_THE_BOARD_OF_ADJUSTMENT__APPEAL_OF_A
. DMINISTRATOR_
8 Standing in Quasi-Judicial & Administrative Proceedings
.

Received

DEC 05 2024

City of Titusville
Planning Department

To be completed by City staff:

Case No. _____
Date: _____
Fee Paid: _____
Signed: _____
City Staff

CITY OF TITUSVILLE, FLORIDA
NOTICE OF APPEAL
(Chapter 31, Article IV, Land Development Regulations)

Notice of Appeal
(Must be filed within thirty (30) days of date decision rendered.)

The Board of Adjustments & Appeals
City of Titusville
Titusville, Florida

The undersigned hereby appeals a decision of an administrative official of the City of Titusville, based on:

___ Code of Ordinance Vol. I
✓ Code of Ordinance Vol. II/Land Development Regulations
✓ Other Comprehensive Plan

___ Building Codes
___ Life Safety Code

Exhibits A-E attached

Order and/or Ruling appealed:
Site Development Permit PSDP24-000205
Apollo Gardens LLLP
Project J22-5424

Date of Ruling: 11-11-2024

Order and/or Ruling appealed: _____

Date of Ruling: _____

Grounds for appeal: Proposed development is not a conventional MF development, and is NOT consistent with Strategy 1.13.11 and Policies 1.14.5 and 1.14.16 of Titusville Comprehensive Plan. See attached letter dated 7-17-2024

Legal description of property: PT of SW ¼ of NW of NE ¼ AS DES in ORB 1526 pg 532 (See attached)

Affected Property Owner:
Apollo Gardens LLLP (Carrfour)
Name (print or type)
1398 SW 1st St FL 12
Street Address
Miami FL 33135
City and State

Appellant:
VICKIE J CONKLIN
Name (print or type)
2920 Royal Oak Drive
Street Address
Titusville FL 32780
City and State
314-614-0999
Telephone Number
Vickie J Conklin
Signature of Appellant

INSTRUCTIONS TO APPLICANT:
1. Use one application for each request.
2. File with City staff (one copy will be returned to appellant along with decision of the board).
3. Filing fee of $475.00 due at time of filing (Should board sustain the appeal, fee will be refunded).

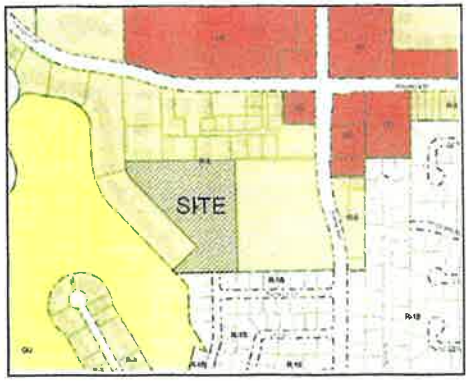
5-31-24

Exhibit A

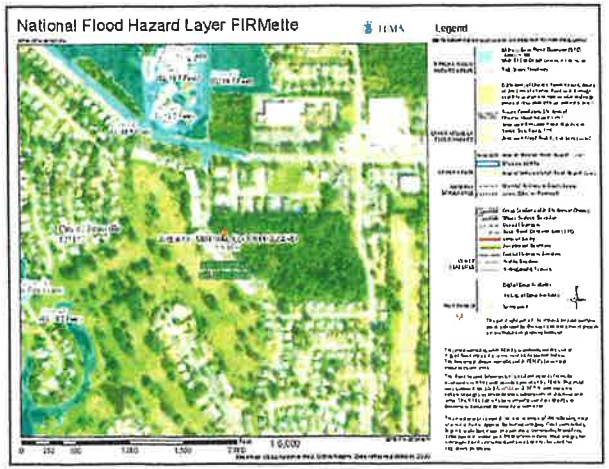
APOLLO GARDENS

2727 DEMARET DRIVE, TITUSVILLE, FL.

SECTION 16, TOWNSHIP 22 SOUTH, RANGE 35 EAST, BREVARD COUNTY



Vicinity Map
N.T.S.



GENERAL STATEMENT:

THE PROJECT IS A PROPOSED 3 STORY 84 UNIT MULTIFAMILY APARTMENT BUILDING. THE PROJECT IS AFFORDABLE HOUSING. EXISTING ONSITE UTILITIES AND ROADWAY WILL BE REMOVED EXCEPT AS NOTED. THERE WILL BE ONE ENTRANCE FROM THE SOUTH AS MOST OF DEMARET DRIVE IS PRIVATE. THERE ARE TWO HERITAGE TREES ONSITE WHICH WILL BE PROTECTED AND SAVED.

DATA:

SITE AREA	6.9 ACRES
CURRENT ZONING	R-3 (MULTIFAMILY)
CURRENT FLU	HIGH DENSITY RESIDENTIAL
NUMBER OF PROPOSED UNITS	84
MAX NUMBER OF UNITS ALLOWED (6.9x15)	103

SETBACKS:

FRONT	25'
REAR	25'
SIDE	20' (10')

PARKING PER CODE

PARKING PROVIDED

REGULAR	98
HANDICAP	8
BICYCLE	6

SEE PARKING SPACES STUDY	
PARKING CODE REQUIREMENT	168

SITE AREA:	6.9 ACRES (300,564 SF)
BUILDING AREA:	28,742 SF (9.6%)
PAVING + SIDEWALK:	68,907 SF (22.9%)
IMPERVIOUS	95,709 SF (31.8%)
PERVIOUS	204,855 SF (68.10%)
MAXIMUM BUILDING HEIGHT:	35.0'

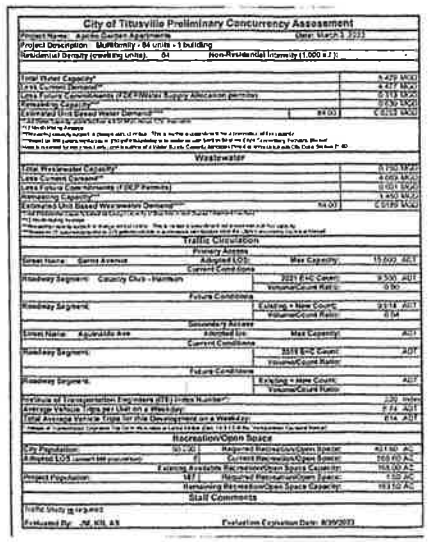
THE FOLLOWING WAIVERS WERE APPROVED AT A CITY OF TITUSVILLE DRC MEETING HELD ON AUGUST 31, 2023

1. TRANSPORTATION MANUAL 9.18.4 – TABLE:
   WAIVER TO ALLOW 1.2 PARKING SPACES PER UNIT
2. TRANSPORTATION MANUAL 9.17.1 – TABLE:
   WAIVER TO ALLOW 9' PARKING SPACE WIDTH FOR 18 PARKING SPACES

SHEET INDEX

C-1 COVER SHEET
C-2 BOUNDARY SURVEY
C-3 TOPOGRAPHY SURVEY
C-4 TREE SURVEY
D-1 SITE DIMENSION PLAN
D-2 PAVING & DRAINAGE PLAN
D-3 UTILITY PLAN
D-4 DEMO PLAN
D-5 GEOTECHNICAL (BORING LOCATIONS)
D-6 EROSION CONTROL PLAN
D-7 DETAILS
E-1.0 PHOTOMETRIC PLAN
POTABLE WATER DETAILS AND SPECIFICATIONS 1
POTABLE WATER DETAILS AND SPECIFICATIONS 2
SANITARY SEWER DETAILS AND SPECIFICATIONS 1
SANITARY SEWER DETAILS AND SPECIFICATIONS 2
UTILITIES COMMON DETAILS 1
COMMON DETAILS AND SPECIFICATIONS 2
EROSION CONTROL DETAILS AND SPECIFICATIONS 1
EROSION CONTROL DETAILS AND SPECIFICATIONS 2
PERVIOUS CONCRETE DETAILS AND SPECIFICATIONS
DETAILS STANDARDS AND SPECIFICATIONS 1
DETAILS STANDARDS AND SPECIFICATIONS 2

L-1 EXISTING VEGETATION PLAN
L-2 EXISTING VEGETATION PLAN
L-3 SITE LANDSCAPE PLAN
L-4 LANDSCAPE DETAILS
L-5 LANDSCAPE SPECIFICATIONS
IR-1 SITE IRRIGATION PLAN
IR-2 IRRIGATION SPECIFICATIONS



City of Titusville Preliminary Concurrency Assessment

Project Name: Apollo Garden Apartments		Date: March 2, 2023
Project Description: Multifamily - 84 units - 1 building		
Residential Density (dwelling units): 84	Non-Residential Intensity (1,000 s.f.):	-
Total Water Capacity*		4.429 MGD
Less Current Demand**		4.417 MGD
Less Future Commitments (FDEP Water Supply Allocation permits)		0.113 MGD
Remaining Capacity**		0.000 MGD
Estimated Unit Based Water Demand***	84.00	0.013 MGD
*Total Water Capacity adjusted for 4.5 MGD Actual City Withdrawal		
**Not including Apollo		
***Based on 168 gallons per day per unit (2 bedroom unit)		
****Based on 168 gallons per day per unit (2 bedroom unit)		
Wastewater		
Total Wastewater Capacity*		6.750 MGD
Less Current Demand**		4.009 MGD
Less Future Commitments (FDEP Permits)		0.001 MGD
Remaining Capacity**		1.740 MGD
Estimated Unit Based Wastewater Demand***	84.00	0.0189 MGD
*Total Wastewater Capacity adjusted for 4.5 MGD Actual City Withdrawal		
**Not including Apollo		
***Based on 225 gallons per day per unit (2 bedroom unit)		
****Based on 225 gallons per day per unit (2 bedroom unit)		
Traffic Circulation		
Primary Access		
Street Name: Game Avenue	Adopted LOS:	Max Capacity: 15,000 ADT
Current Conditions		
Roadway Segment: Country Club - Hamilton	2021 FHC Count:	9,530 ADT
	Volume/Count Ratio:	0.60
Future Conditions		
Roadway Segment:	Existing + New Count:	9,614 ADT
	Volume/Count Ratio:	0.64
Secondary Access		
Street Name: Aquatic Ave	Adopted LOS:	Max Capacity: ADT
Current Conditions		
Roadway Segment:	2019 FHC Count:	ADT
	Volume/Count Ratio:	
Future Conditions		
Roadway Segment:	Existing + New Count:	ADT
	Volume/Count Ratio:	
Institute of Transportation Engineers (ITE) Trip Generation Manual Number*:		220 Index
Average Vehicle Trips per Unit on a Weekday:		7.32 ADT
Total Average Vehicle Trips for this Development on a Weekday:		614 ADT
*Based on Transportation Engineers Trip Gen Manual Land Use Code 220 (11th Edition) Transportation Planning Manual		
Recreation/Open Space		
City Population: 50,000	Required Recreation/Open Space:	42.150 AC
Adopted LOS (acres per 1000 population): 1	Current Recreation/Open Space:	168.00 AC
	Existing Available Recreation/Open Space Capacity:	125.90 AC
Project Population: 147	Required Recreation/Open Space:	1.32 AC
	Remaining Recreation/Open Space Capacity:	124.58 AC
Staff Comments		
Traffic Study required:		
Reviewed By: JE, KH, AS	Evaluation Expiration Date: 8/29/2023	

CONCURRENCY

SOILS MAP
N.T.S.

OWNER: CARSFOUR

ARCHITECT: CMA ARCHITECTS

LANDSCAPE:

MEP: FIE

SUBMITTAL DATE

DATE	JOB NO. 20023	F.B. NO. N/A	SCALE AS SHOWN	DRAWN BTB	APPR. MAH	CITY	CLIENT	SURVEYOR
DATE			REVISIONS				PROJ	PROT
							CLIENT	OTHER
							OTHER	OTHER
							OTHER	OTHER

Rodney M Honeycutt
Digitally signed by Rodney M Honeycutt
Date: 2024.06.13 11:59:57 -04'00'

Honeycutt & Associates, Inc.
ENGINEERS•SURVEYORS•PLANNERS
3700 South Washington Avenue
Titusville, Florida 32780
(321) 267-6233 Fax (321) 269-7847
Certificate of Authorization EB-0007623

COVER SHEET
APOLLO GARDEN
2727 DEMARET DRIVE

CITY OF TITUSVILLE
BREVARD COUNTY
FLORIDA

SHEET NO: C-1
CADD FILE: APOLLO GARDENS
FILE ID: SEC 16 T22S R35E

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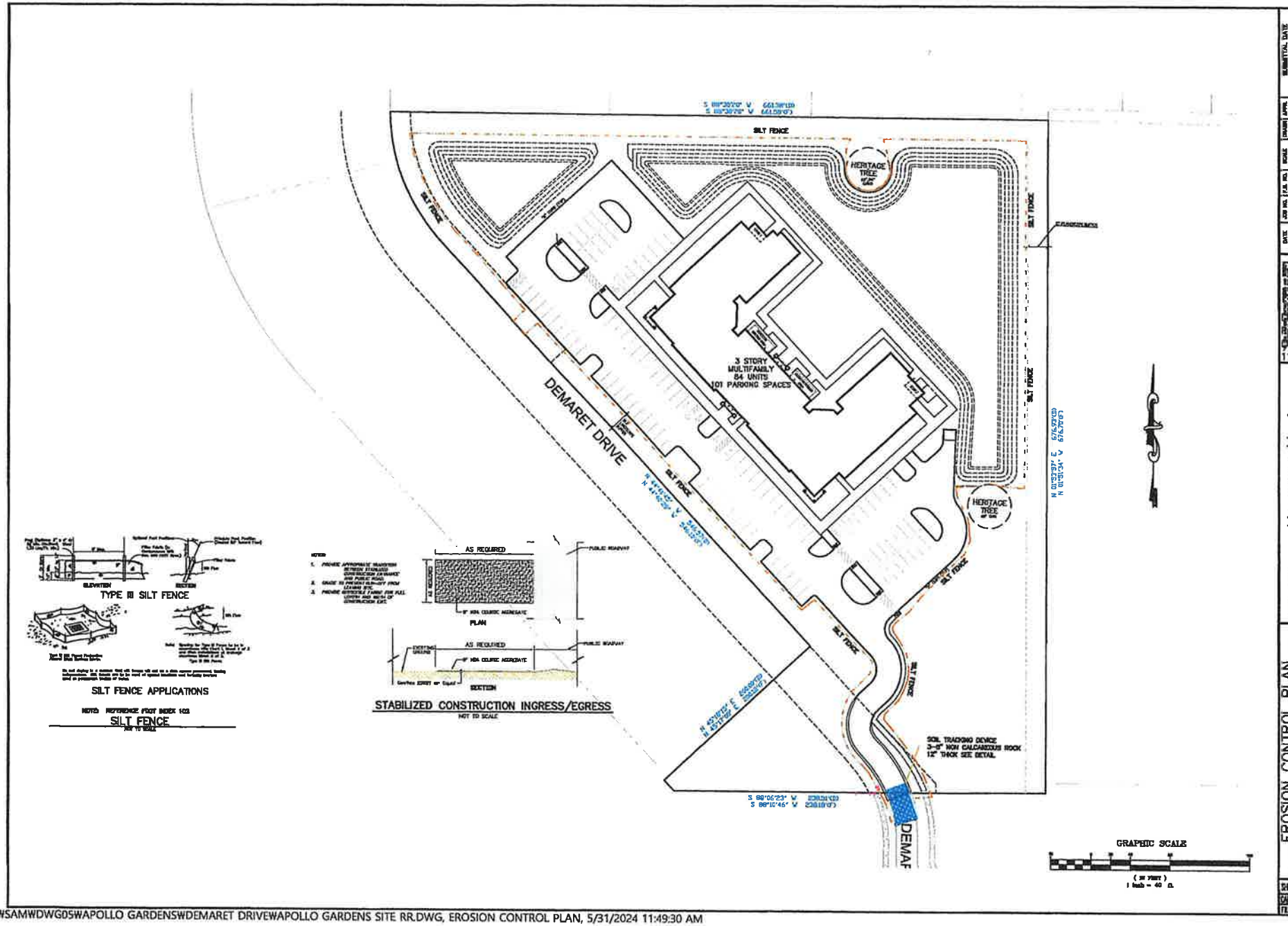

Rodney M Honeycutt
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Date: 2024.06.13 11:55:56 -04'00'

Honeycutt & Associates, Inc.
ENGINEERS-SURVEYORS-PLANNERS
3700 South Washington Avenue
Titusville, Florida 32780
(321) 267-6333 Fax (321) 268-7847
Certificate of Authorization EB-0007823

EROSION CONTROL PLAN
APOLLO GARDENS
2727 DEMARET DRIVE
CITY OF TITUSVILLE
BREVARD COUNTY
FLORIDA

SHEET NO D-6
CAD FILE DEMARET DRIVE
FILE SEC 16 T22S R35E

P:WSAMWDWG05WAPOLLO GARDENSWDEMARET DRIVEWAPOLLO GARDENS SITE RR.DWG, EROSION CONTROL PLAN, 5/31/2024 11:49:30 AM

City of Titusville Preliminary Concurrency Assessment

Project Name: Apollo Garden Apartments **Date:** March 3, 2023

Project Description: Multifamily - 84 units - 1 building

Residential Density (dwelling units): 84 **Non-Residential Intensity (1,000 s.f.):** -

Total Water Capacity*		5.429 MGD
Less Current Demand**		4.477 MGD
Less Future Commitments (FDEP/Water Supply Allocation permits)		0.313 MGD
Remaining Capacity***		0.639 MGD
Estimated Unit Based Water Demand****	84.00	0.0252 MGD

*Total Water Capacity permitted flow is 6.01 MGD minus 10% reservation
**12 Month Rolling Average
***Remaining capacity subject to change without notice - This is neither a commitment nor a reservation of this capacity.
****Based on 100 gallons/capita/day or 250 gallons/unit/day in accordance with Section 10 of the City's Concurrency Technical Manual
Water is reserved for this project only upon issuance of a Water Supply Capacity Allocation Permit in accordance with City Code Section 21-50.

Wastewater

Total Wastewater Capacity*		6.750 MGD
Less Current Demand**		4.689 MGD
Less Future Commitments (FDEP Permits)		0.601 MGD
Remaining Capacity***		1.460 MGD
Estimated Unit Based Wastewater Demand****	84.00	0.0189 MGD

*Total Wastewater Capacity based on Design capacity of Blue Heron and Osprey Treatment Facilities
**12 Month Rolling Average
***Remaining capacity subject to change without notice - This is neither a commitment nor a reservation of this capacity.
****Based on 75 gallons/capita/day or 225 gallons/unit/day in accordance with Section 10 of the City's Concurrency Technical Manual

Traffic Circulation

Primary Access

Street Name: Barna Avenue **Adopted LOS:** **Max Capacity:** 15,600 ADT

Current Conditions

Roadway Segment: Country Club - Harrison **2021 E+C Count:** 9,300 ADT
Volume/Count Ratio: 0.60

Future Conditions

Roadway Segment: **Existing + New Count:** 9,914 ADT
Volume/Count Ratio: 0.64

Secondary Access

Street Name: Aguinaldo Ave **Adopted los:** **Max Capacity:** ADT

Current Conditions

Roadway Segment: **2019 E+C Count:** ADT
Volume/Count Ratio:

Future Conditions

Roadway Segment: **Existing + New Count:** ADT
Volume/Count Ratio:

Institute of Transportation Engineers (ITE) Index Number*:	220 Index
Average Vehicle Trips per Unit on a Weekday:	6.74 ADT
Total Average Vehicle Trips for this Development on a Weekday:	614 ADT

* Institute of Transportation Engineers Trip Generation rates or Latest Edition. [Sec. 10.3.1.2 of the Transportation Technical Manual]

Recreation/Open Space

City Population:	50,200	**Required Recreation/Open Space:**	401.60 AC
Adopted LOS (acres/1,000 population):	8	**Current Recreation/Open Space:**	566.60 AC
		Existing Available Recreation/Open Space Capacity:	165.00 AC
Project Population:	187	**Required Recreation/Open Space:**	1.50 AC
		Remaining Recreation/Open Space Capacity:	163.50 AC

Staff Comments

Traffic Study is required

Evaluated By: JM, KB, AS **Evaluation Expiration Date:** 8/30/2023

CONCURRENCY

)VER, 5/31/2024 11:24:26 AM

POINT OF COMMENCEMENT
EASEMENT FOR DRAINAGE AND UTILITIES
(O.R.B. 2087, PG. 1986)
NORTHWEST CORNER OF THE NORTHEAST 1/4
OF SECTION 16, TOWNSHIP 22 SOUTH, RANGE 35 EAST

S
: Records Search
rd Search
Department Search
; Licensing Search
ling Search
e Payments
Department Payments
ling Payments
ng Department
a Permit
a Planning, Zoning or
ring Process
Department Search
e an Inspection
Contact Information
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ALITIES
Municipality
T
gister?

Permit Details: PSDP24-000205

View Permit | Print P

Property Address: 2727 DEMARET DR, TITUSVILLE, FL 32780 | Parcel: 2207868

Property Owner: APOLLO GARDENS LLLP

Summary Information

> 0 Inspection(s) Found

Jump To: Permit Information | Inspection Information | Violations | Attachments | Contractor Information | Applicant Information | Owner Information | Licensee Information | Construction Details | Miscellaneous Fields

Permit Information

Back To

Number	PSDP24-000205	Category	Non-Subdivision
Type	Site Permit - Class 2	Status	ISSUED
Applied Date	10/31/2024	Expire Date	11/11/2026
Issue Date	11/11/2024	Finaled Date	No Data to Display
Work Description	Site Work Only - Apollo Gardens		
Stipulations	No Data to Display		
Project	J22-5424		

Go to project

Exhibit B

Inspection Information

Inspection Type	Inspector	Status	Scheduled Date	Completed Date	Result
No records to display.					

Violations

Back To

Show All

[Collapse All]

	Title	Violation Type	Date Found	Corrected	Date Corrected	Inspection
No records to display.						

g to use this website you agree to the BS&A Online Terms of Use.

Attachments

Back To

Exhibit C

11:01 48%

NONE

Wrong exemption? Maybe this is why...

Property Use:

9908 - VACANT RESIDENTIAL LAND (MULTI-FAMILY, UNPLATTED)

Total Acres:

7.03

Site Code:

0001 - NO OTHER CODE APPL.

Plat Book/Page:

0000/0000

Subdivision Name:

--

Land Description:

PT OF SW 1/4 OF NW 1/4 OF NE 1/4 AS DES IN ORB 1526 PG 532

Value

Category	2024
Market Value:	$175,75
Agricultural Classified Use Value:	$0
Assessed Value Non-School:	$175,75
Assessed Value School:	$175,75
Homestead Exemption:	$0
Additional Homestead:	$0
Other Exemptions:	$0

Top

Exhibit D

RALF BROOKES, ATTORNEY

Board Certified in City, County and Local Government Law

Richard C. Broome
City Attorney
City of Titusville
555 S Washington Avenue
Titusville, FL 32796

July 17, 2024

SUBJECT: OBJECTIONS TO MULTIFAMILY DEVELOPMENT BY CARRFOUR SUPPORTIVE HOUSING AT 2727 DEMARET DRIVE, TITUSVILLE FLORIDA

Mr. Broome:

On behalf of my client group, Royal Oak Neighbors LLC, Vickie Conklin, Agent, I am writing to you per Florida Bar rules to express my clients' objections and opposition to the Apollo Gardens development at 2727 Demaret Drive adjoining the Royal Oaks golf course.

Attached to this letter is the resume of Max Forgey, AICP, an expert land use planner who has also been retained by the client group and offers the following justifications for denial of the multifamily development by Carrfour Supportive Housing at 2727 DEMARET DRIVE Titusville, Florida.

My clients request denial of the above-referenced Apollo Gardens project based upon the above strategy and policies.

Justifications for denial. Notwithstanding the FLUM designation and zoning on the parcel, this proposed development is not a conventional multifamily development. Ingress/ egress is on Demaret Drive, which is deeded to Spanish Oaks HOA which has not granted access.

The proposed development is NOT consistent with Strategy 1.13.11 and Policies 1.14.5 and 1.14.16 of the Titusville Comprehensive Plan which are stated verbatim below:

> ***Strategy 1.13.1.1***
> *The US 1 Corridor Neighborhoods Land Use District shall protect the interior established single-family areas of the neighborhoods by preventing commercial and multi-family encroachment, unless appropriate areas for commercial and multi-family uses are identified by a Neighborhood Plan.*
>
> ***Policy 1.14.5:***
> *Medium density residential uses (maximum 10 units per acre) shall consider existing and proposed land uses to ensure compatibility. Further, such densities shall be located adjacent to at least a collector street, unless the property is located along the following*

local road, which already has a multi-family development pattern and is capable of supporting higher density: Rock Pit Road (from Tropic Street to South Street).

Policy 1.14.6:
High density residential uses (maximum 15 units per acre) or mobile homes shall consider existing and proposed land uses to ensure compatibility. Further, such densities shall be located adjacent to at least a collector or arterial street unless the property is located along the following local road, which already has a multi-family development pattern and is capable of supporting higher density: Rock Pit Road (from Tropic Street to South Street).

Respectfully yours,

/s/ Ralf Brookes, Attorney
and
/s/ Max Forgey AICP

cc. Vickie Conklin

Max Forgey AICP
d/b/a FORGEY PLANNING LLC
236 SE 45th Street
Cape Coral FL 33904
239.560.5864
max@forgeyplanning.com

Certification

AICP (American Institute of Certified Planners) Certification #051,330 Florida Chapter, APA Member in good standing since 1993. A national professional certification maintained by the American Planning Association. AICPs must first meet educational standards and then pass an examination covering all aspects of professional planning practice, and are expected to maintain their membership through a self-directed program of study that is monitored by the national organization, which includes regular training in law and ethics.

Professional Experience

Forgey Planning Cape Coral, FL

Owner. 2008-present. A solo planning practice concentrating comprehensive planning work for Lee and Sarasota Counties, the City of North Port, and the Captiva Community Panel. Developed a template for auditing the effectiveness of existing local governments comprehensive plans which has been applied in Sarasota County and the City of North Port. An expert witness since 2013, working on more than 30 cases in 25 Florida counties and municipalities, appearing before planning commissions, city councils, county commissions, hearing examiners, administrative law judges, and circuit court. Qualified as an expert witness in Lee County Hearing Examiner proceedings.

Zoning Technologies Cape Coral, FL

President. 2011-2017. A start-up subsection 'S' corporation that specialized in restructuring and updating local government comprehensive plans and developing implementation strategies which employ automation to create linked tools (e.g. application forms, automated worksheets, case reports, and adopting resolutions). The Zoning Technologies expert system prototype products were marketed statewide and were demonstrated at the American Planning Association (APA) national conference in Atlanta in 2014.

Osceola County, Florida Kissimmee, FL

Planning Coordinator. 2005-2008. Authored key elements of the Osceola County Comprehensive Plan and most of the County's 2008 Evaluation and Appraisal Report.

Clay County, Florida Green Cove Springs, FL

Senior Planner. 2003-2005. Authored the county's Interlocal Service Delivery Agreement Report (ISDAR) mandated by the Florida legislature, identifying all service overlaps between and among all local governments within Clay County.

Lake County, Florida Tavares, FL

Planning Director. 2001-2003. Staff liaison to the Environmental Lands Management Advisory Committee, a citizen organization created by the Board of County Commissioners to study the creation of an environmental land program. Recommended policies were ratified in November 2002, when Lake County voters approved a one-third mil assessment for the acquisition of environmental lands.

Southwest Florida Regional Planning Council North Fort Myers, FL

Planner. 1997-1998. Reviewed local government plan amendments throughout the six-county area and authored "The Platted Lands Challenge" report.

Charlotte County, Florida Port Charlotte, FL

Community Development Director 1995-1997; Planning Director 1990-1995. Early in my tenure, Gulf Development Corporation (GDC), the County's largest land subdivider, declared bankruptcy, shifting responsibility for completion of roads, bridges, drainage works, and utilities, to the public sector and forcing a host of development decisions upon the local government and public agencies. I had three memorable achievements during these seven years:

- Managed the research, preparation, and adoption of the County's Evaluation and Appraisal Report (EAR) and Comprehensive Plan. Aggressively negotiated with the Florida Department of Community Affairs (DCA) to remove the Plan's not-in-compliance finding.

- Led the staff team that rewrote the Charlotte County Comprehensive Plan and was the point person in the successful four-year effort to negotiate a stipulated settlement agreement between the Board of County Commissioners and the Florida Department of Community Affairs to find Charlotte County's Comprehensive Plan in compliance with Florida's Growth Management Act.

- Advocated against the rezoning of 42 parks (illustrated as such on GDC sales maps and the County's Future Land Use Maps) to residential uses. The Company's receivers eventually relented on their policy position and donated 41 parcels to the people of Charlotte County.

City of Cape Coral, Florida Cape Coral, FL

Deputy Planning Director. 1985-1990. Authored and supervised preparation of key elements of the 1988 Comprehensive Plan (the City's first plan under the 1985 Growth Management Act) and the City's 1989 Land Development Code.

Education

Indiana University Bloomington, IN

Master of Public Affairs (MPA) from the O'Neil School of Public and Environmental Affairs, 1982. Concentration in Urban and Regional Planning.

Bachelor of Arts (BA), 1976. Undergraduate degree in English Literature and History.

Important Cases, Continuing Education, Writing & Teaching

- Program chair for APA Florida/ FPZA "Warped Tour '22: (Mostly) Land Use Law & Decision-making for Planners" tentatively planned for Southern Lee County October-November 2022.

- Presenting a panel "Incorporation, Annexation, and Disincorporation" with Joseph M. Mazurkiewicz, Jr., Jim Studiale, AICP, and Luke Lirot, Esq. at APA Florida state conference in Orlando September 7, 2022.

- Co-presented a panel "Legislative and Quasi-judicial: What Every Planner Needs to Know" with Attorney Andrew Dickman, AICP, at annual conference of Florida Planning and Zoning Association on Captiva Island June 3, 2022.

- Program Chair for "The Swamp Peddlers", an APA Florida/ Florida Planning & Zoning Association symposium conducted on August 6, 2021 in Punta Gorda. Keynote speaker Jason Vuic and other presenters explored the legacy of land sales scams in Southwest Florida on the twentieth anniversary of the General Development Corporation bankruptcy.

- Designed and co-presented "Land Use 101", a seminar for planning commissioners, elected officials, and new planners, hosted by the City of Cape Coral on June 16 and July 14, 2021 with co-presenters Vince Cautero, AICP, the City's Community Development Director, and Attorney Ralf Brookes.

- Expert witness for client West Villagers for Responsible Government (WV4RG), a citizen organization which challenged the annexation of the 8730-acre non-contiguous West

Villages subdivisions into the City of North Port. The City Commission rejected the Villagers' challenge by a unanimous vote, but following appeal presented by attorney Luke Lirot, the Twelfth District overturned the City's order denying petition for contraction in West Villagers for Responsible Government v. City of North Port.

- Moderated a panel for law credit at the September 9, 2020 Zoom-facilitated American Planning Association's Florida state conference. Co-presenters were attorneys Karen Consalo, Thomas Hawkins, and Andrew Dickman. "The Rules are Very Different Here: How to Reform Florida's Land Use Decision-making Process" surveyed the inconsistencies among local governments' handling of land use decision-making and proposed a new Environmental Land Management Study (ELMS) to improve those processes.

- Attended and participated in American Planning Association Florida chapter's 18th annual Public Policy Workshop at Florida State University, Tallahassee February 2020.

- Drafted update of Town of Fort Myers Beach Sign Ordinance to reflect SCOTUS *Reed v. Gilbert* opinion for Weiler Engineering Fall 2019-Winter 2020.

- Program chair for "*How High is the Water, Ma?: Rising Sea Level on the Florida Gulf Coast and what we can do about it,*" sponsored by Friends of Boca Grande Community Center, March 22, 2019 at the Boca Grande Community Center Auditorium.

- Member, *Faith Presbyterian Affordable Housing Board*, a not-for-profit corporation which aspires to offer quality housing for low- and moderate-income persons in Cape Coral. Appointed 2018; appointment ended December 2020.

- Received 2018 American Planning Association Florida Chapter, Promised Lands section's first-ever *Wayne Daltry Award for Planning Programs* for developing professional education symposia.

- Prepared *policy audit of Town of Fort Myers Beach Comprehensive Plan* for Weiler Engineering, Summer 2018.

- Program chair for American Planning Association symposium "*Warped Tour '18: Land Use Law for Planners*" March 23, 2018 in Punta Gorda.

- Attended and participated in the hurricane-shortened APA Florida chapter annual conference in Daytona Beach September 4-6, 2017. Led panel with Greg Beliveau, AICP and Jane West Esq. entitled "*How to Build a Better Client.*"

- Program chair for Captiva Community Panel/ Florida APA symposium "*Now in* My *Back Yard: Rising Sea Level on Florida's Gulf Coast and what can be done about it*" January 13, 2017 at South Seas Resort on Captiva Island.

- Co-authored article with Karen Consalo, Esq. "*Best Practices for Local Government Land Use Decision-making*" in Summer 2016 edition of *Florida Planning*.

- Speaker at American Planning Association Florida Chapter Annual Conference in Tampa, September 9, 2016. "*A Pre-tirement Guide for Perplexed Planners: Making the Transition to Solo Practitioner*."

- Attended and participated in CLE International's annual *Land Use Law symposium* in Tampa, August 18-19, 2016, and August 6-7, 2015.

- Speaker at University of Central Florida 2016 Public Administration Research Conference April 8, 2016. Topic: "*What's the Big Idea: New Software that Aids Land Use Decisions*."

- Attended and participated in APA Florida chapter annual conference in Hollywood, Florida September 10-13, 2015.

- Coordinator and presenter for daylong FAPA-sponsored symposium "Everything You Ever Wanted to Know about Florida Land Use" in Cape Coral May 16, 2014.

Profile

Max Forgey is an experienced land use planner with more than three decades of professional experience and exceptional success in administration of local government comprehensive planning strategies, land development and regulatory controls, governmental relations, and public policy communications. Primary clients are governmental organizations and private property owners.

His professional knowledge encompasses creating and developing community and small-area plans, urban design and architectural standards, land development entitlements, project management, and expert witness testimony. Max has worked on more than 30 cases across 25 Florida counties and municipalities, appearing before local planning agencies, city and county elected bodies, hearing examiners, administrative law judges, and circuit court proceedings.

Max also actively participates in and leads speaking engagements at professional development conferences and symposia through the Promised Lands section of the American Planning Association Florida chapter, with the American Institute of Certified Planners, with 1000 Friends of Florida and other organizations.

Qualifications

- FORGEY PLANNING. Owner of an urban planning and land-use consulting practice.
- Master of Public Affairs (MPA) in Urban and Regional Planning, Indiana University.
- Member American Institute of Certified Planners (AICP).
- Qualified as an expert witness in Lee County Hearing Examiner proceedings.
- Former Planning and Community Development Director in Charlotte County.
- Former Planning Commissioner (LPA), City of Cape Coral, Florida.

Accomplishments

- Established FORGEY PLANNING, an urban planning and land use consulting practice.
- Developed a template for auditing the effectiveness of existing local governments comprehensive plans and zoning code for internal consistency of plan policy framework.
- Authored "The Platted Lands Challenge" report for the six-county area of Southwest Florida offering policy guidance for platted, scattered-lot properties.
- Development of implementation strategies which employ automation to create linked mixed media tools for restructuring and updating local government planning and zoning regulations.

Jurisdictions Accepting Max Forgey as Expert AICP Planning Witness Opinion

Bonita Springs
Cape Coral (5)
Collier County (2)
Fort Myers Beach (2)
Hendry County (C Court)
Highlands County
Hillsboro Beach
Lee County (8)
Monroe Co (ALJ)
Orange County
Pasco County (2)
Polk County (C court)
St. Johns County (4)
Suwannee County
Bradenton
Charlotte County (2)
DeSoto County
Hardee County
Hernando County
Hillsborough County (3)
Lantana
Miramar
North Port
Ormond Beach
Palm Beach County (ALJ)
Punta Gorda (2)
Sarasota County
Venice

Exhibit E

Addendum to Appeal of Site Development Permit PSDP24-000205

December 5, 2024

This project is not a conventional MultiFamily Development. Carrfour, the applicant, has categorized this project as Supportive Housing.

Normal traffic patterns of multifamily housing cannot be applied. This project consists of 84 units, each 1 bedroom, of residents considered as High Utilizers of Behavioral Health Services experiencing severe and persistent mental illness and/or a concurring Substance Use Disorder. Hertitage Park, a sister facility located in Melbourne has 80 units: they experienced 436 police/EMT calls in a 1 year period (all times of the day and night) for felonies, overdose, theft, and altercations. In addition, more traffic would be generated from social service vans transporting residents to Rockledge for substance abuse therapy. The city of Titusville has documented that Demaret Drive is considered a "Local Road."

Foot traffic will be increased as well, due to some residents not having private transportation. Walking to Winn Dixie via Demaret on local roads is a distance of 1 mile, whereas hopping the gate at Spanish Oaks Condominiums and trespassing on private property is 0.4 miles. Which route do you think the residents will take? How many more police calls will result from trespassing violations?

Please refer to the City of Titusville Preliminary Concurrency Assessment (attached) describing traffic circulation with primary access as Barna Avenue and Aguinaldo Ave, neither of which are contiguous to the property location of 2727 Demaret Drive. The traffic study completed by Carrfour does not reflect the true impact of this project.

Eight four (84) single bedroom single bath apartments with health services does not fit the multifamily format, and is not congruent with the area. Land Development regulations of the city of Titusville state "development shall not adversely impact upon existing uses or change the character of the area in which it is located."

BOARD OF ADJUSTMENTS AND APPEALS

Appeal No. 1-2024

Meeting Date: January 29, 2025

Prepared By: Brad Parrish, Community Development Director

Applicant/Owner: Vickie Conklin, Appellant

BACKGROUND INFORMATION

Location: 2727 Demaret Dr, Titusville, FL. Tax No. 2207868. Parcel I.D. 22-35-16-00-34

Zoning: Multifamily High Density (R-3)

Administrative Interpretation:

The Apollo Gardens site plan was approved on September 19, 2023, consistent with the Land Development Regulations and the Comprehensive Plan. On November 11, 2024, Site Development Permit No. PSDP24-000205 for Project No. J22-5424, the Apollo Gardens apartments, was issued authorizing on-site construction.

Background

On December 5, 2024, the appellant submitted appeal No. 1-2024. Pursuant to Section 34-250, "The notice of appeal shall be filed within thirty (30) days after the decision complained of has been rendered." The completed appeal application was submitted within the required timeframe.

The Apollo Gardens project is a multifamily apartment building with 84 residential units. The property is zoned Multifamily High Density Residential (R-3). The project is permitted in the R-3 zoning district. The property is designated with the Comprehensive Plan High Density Residential Future Land Use District. The property has frontage on Demaret Drive, which is a public right-of-way.

ANALYSIS

According to the appellant, the Apollo Gardens project is not a conventional multifamily development, and is not consistent with Comprehensive Plan Future Land Use Element Strategy 1.13.11, Policy 1.14.5 and Policy 1.14.6 [The appeal incorrectly cites Policy 1.14.16.].

The comprehensive plan and LDRs do not define a conventional multifamily development. The LDRs defines Multifamily dwellings as a building containing two (2) or more dwelling units [Chapter 37]. The LDRs do not distinguish between an owner-occupied condominium type multifamily development and apartments for rent. Multifamily dwellings such as duplex, triplex, quadraplex, etc. are permitted in the R-3 zoning district [Sec 28-54 Use Table]. The R-3 zoning district is consistent with the High Density Residential Future Land Use District [Sec. 27-21 Land Use/Zoning Consistency Matrix].

Strategy 1.13.11 is not applicable to the Apollo Gardens property. The Strategy describes the US 1 Corridor Future Land Use District, which was specifically created to implement the US 1 Corridor Master Plan, adopted in 2007. The property is not located within the boundaries of the US 1 Corridor Master Plan.

Policy 1.14.5 is also not applicable to the Apollo Gardens property. The Policy describes the Medium Density Residential Future Land Use District. The Apollo Gardens property is not designated Medium Density Residential.

The crux of the appeal is whether Policy 1.14.6 is applicable to the Apollo Gardens property. The Policy describes the High Density Residential Future Land Use District. In 1988, the City Council adopted the Comprehensive Plan. The City Council also designated several properties, including the Apollo Gardens property, with the High Density Residential Land Use District consistent with the Comprehensive Plan. The Policy was cited as Objective 10, Policy 1D and stated,

> *"High Density Residential uses (9.1 to 15 units per acre) or mobile homes shall consider existing and proposed land uses to ensure compatibility. Further, such densities shall be located adjacent to at least a minor arterial street."*

The City Council determined consistency with the Comprehensive Plan, including the policy statement related to densities located adjacent to at least a minor arterial street. Harrison Street and Barna Avenue are the only adjacent roads that would have qualified as minor arterial streets.

The appeal is based upon the current policy which was amended in 2007, 19 years after City Council had determined consistency with the comprehensive plan and designation of the property as High Density Residential, to state the following:

> *"High density residential uses (maximum fifteen (15) units per acre) or mobile homes shall consider existing and proposed land uses to ensure compatibility. Further, such densities shall be located adjacent to at least a collector or arterial street unless the property is located along the following local road, which already has a multi-family development pattern and is capable of supporting higher density: Rock Pit Road (from Tropic Street to South Street)."*

Harrison Street and Barna Avenue are collector roads according to the City's LDRs. The property is consistent with the policy statement related to densities located adjacent to a collector.

The permit was issued consistent with the comprehensive plan, including the High Density Residential Future Land Use District Policy.

Enclosed is a map identifying the location of properties with the High Density Residential Future Land Use District.

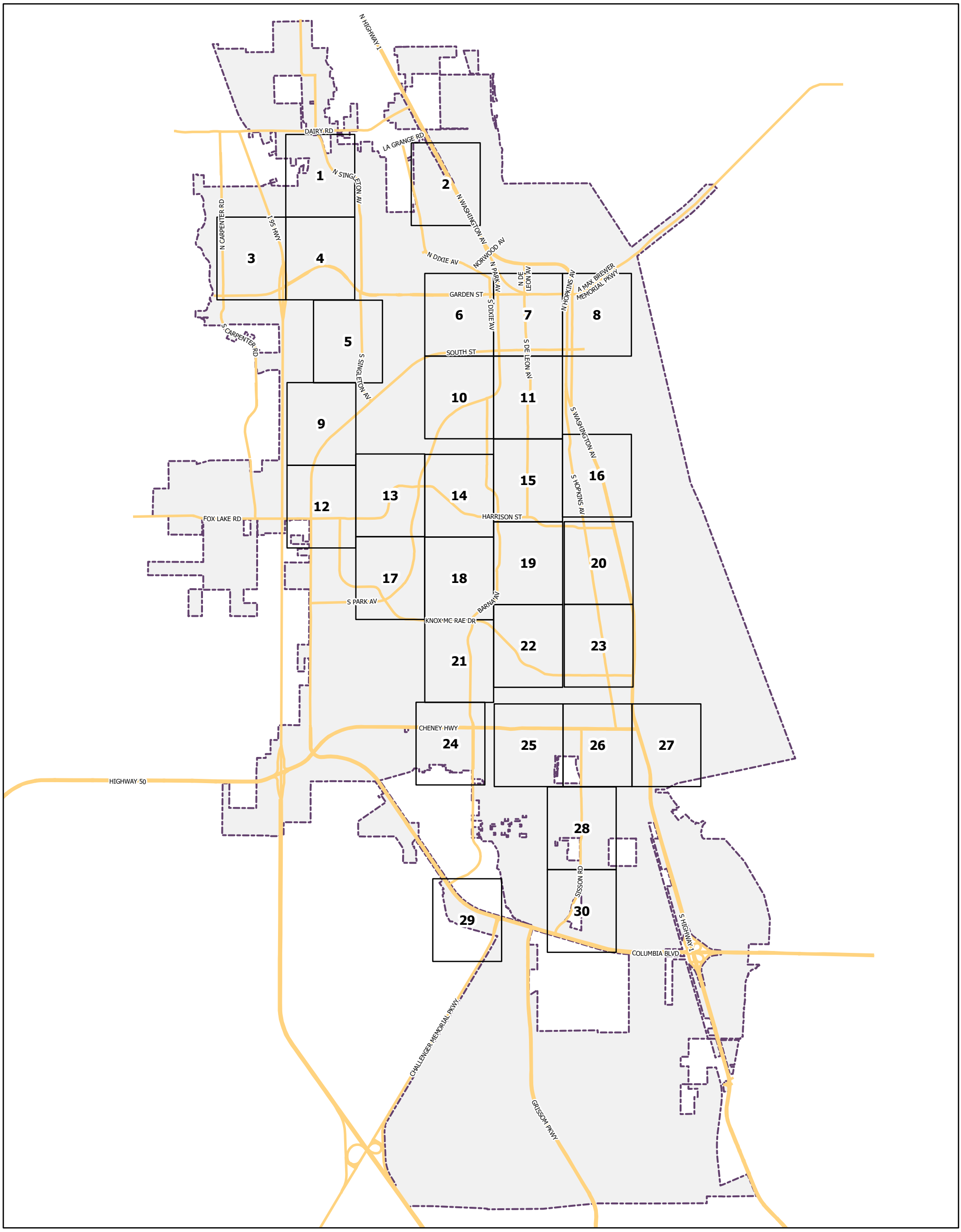
RECOMMENDATION

Concur with the administrative interpretation and deny the appeal.

BOARD OF ADJUSTMENTS & APPEALS ACTION

BAA Action: _____ ☐ Approved ☐ Denied
(date)

HDR - Collector & Arterial Grid Index



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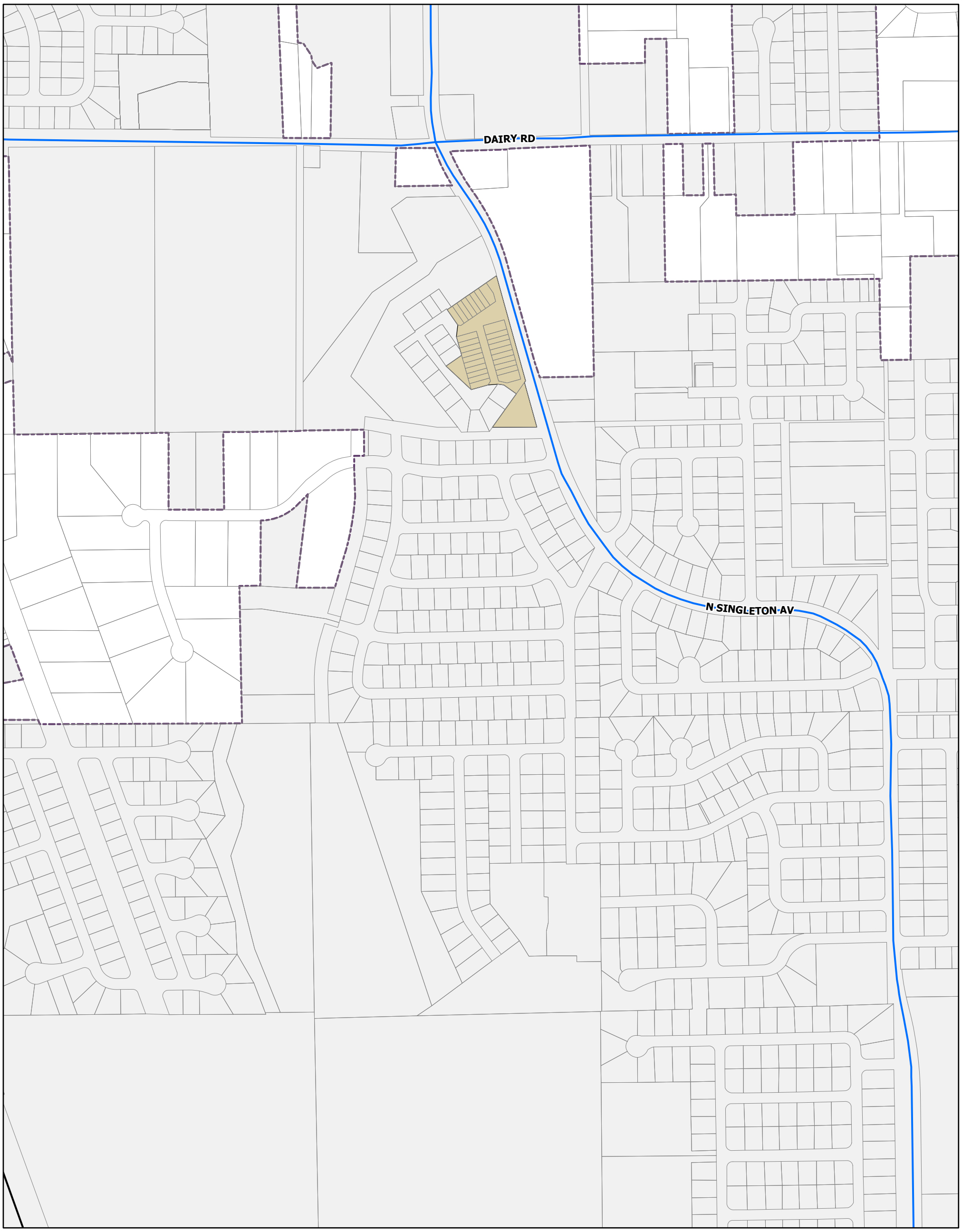
1/21/2025

City Limits

City Limits

GridIndexHDR

HDR vs Collector & Arterial



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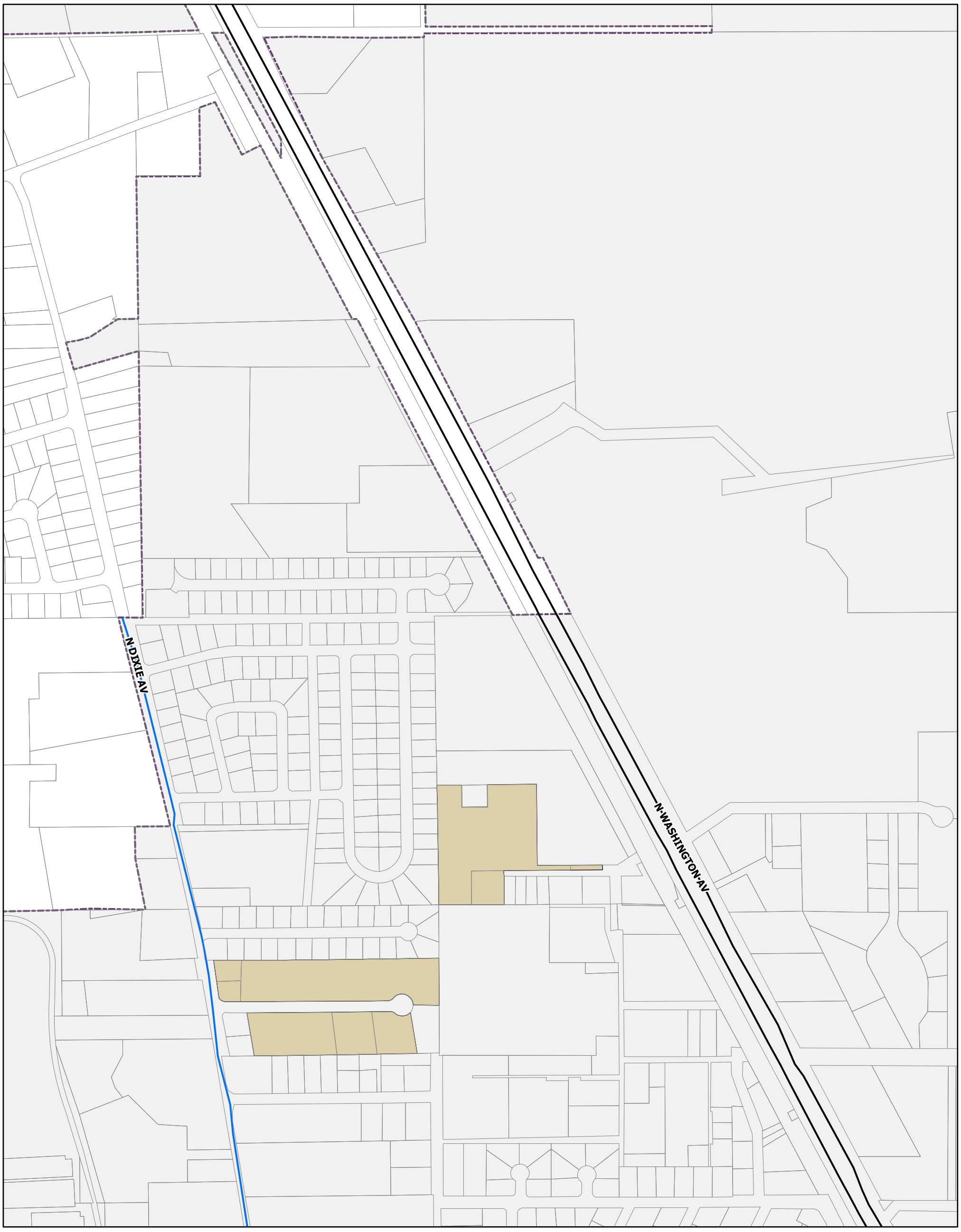
0 250 500 1,000 Feet

1/21/2025

Future Land Use
High Density Residential
Parcels
Parcels

Street Type
Arterial
Collector
City Limits
City Limits

HDR vs Collector & Arterial



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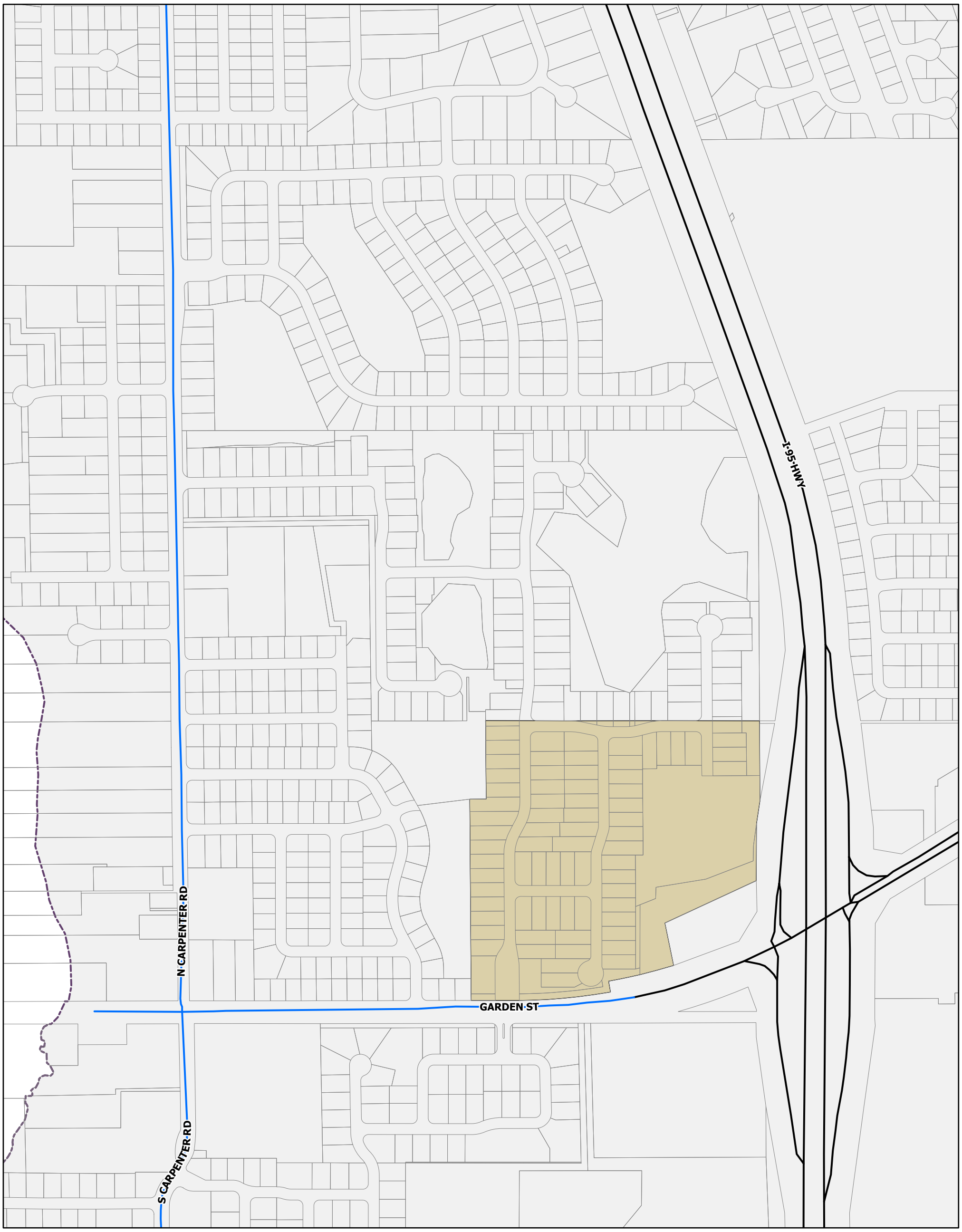
0 250 500 1,000 Feet

1/21/2025

Future Land Use
High Density Residential
Parcels
Parcels

Street Type
Arterial
Collector
City Limits
City Limits

HDR vs Collector & Arterial



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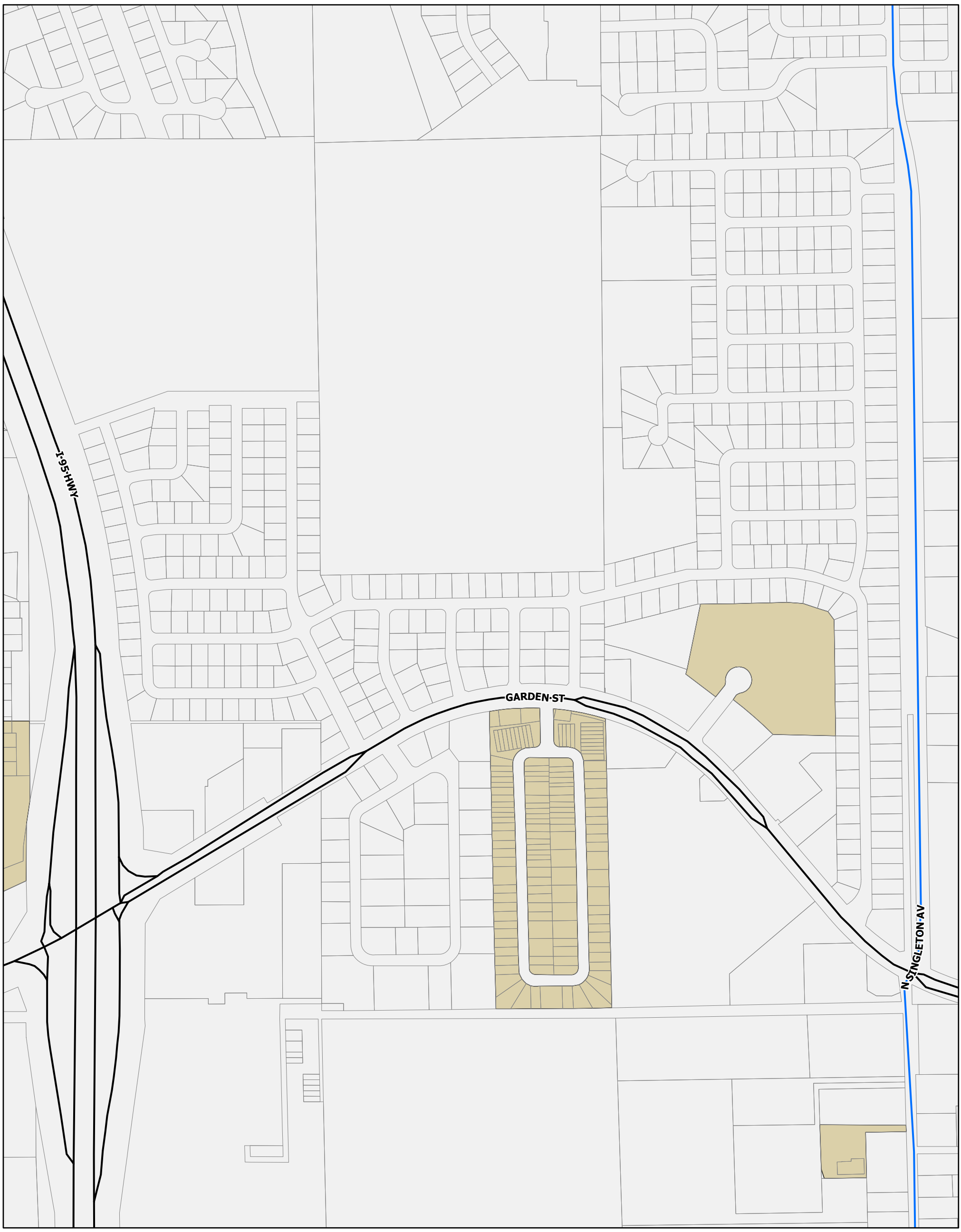
1/21/2025

Future Land Use
High Density Residential
Parcels
Parcels

Street Type
Arterial
Collector
City Limits
City Limits

HDR vs Collector & Arterial



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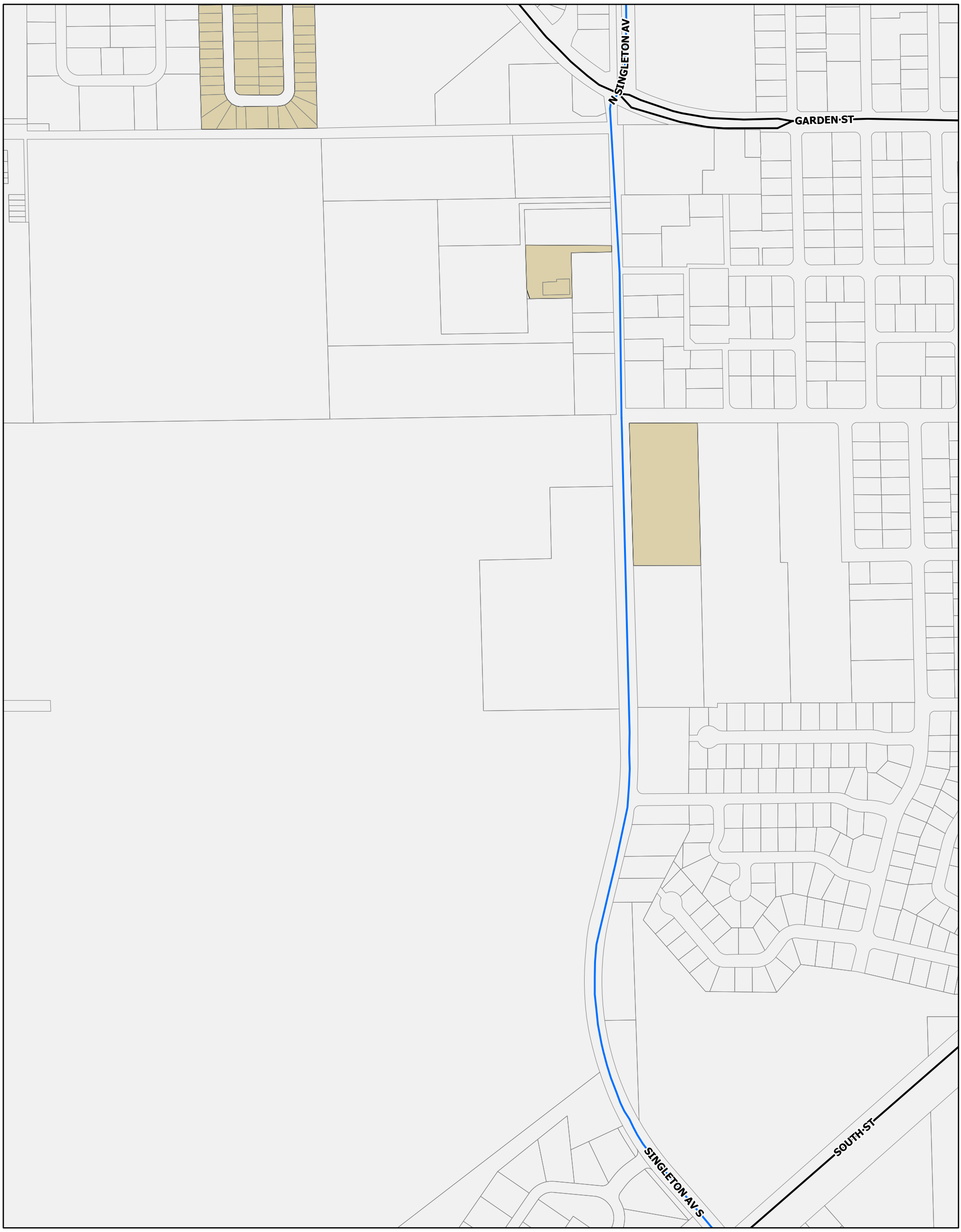
0 250 500 1,000 Feet

1/21/2025

Future Land Use
High Density Residential
Parcels
Parcels

Street Type
Arterial
Collector
City Limits
City Limits

HDR vs Collector & Arterial



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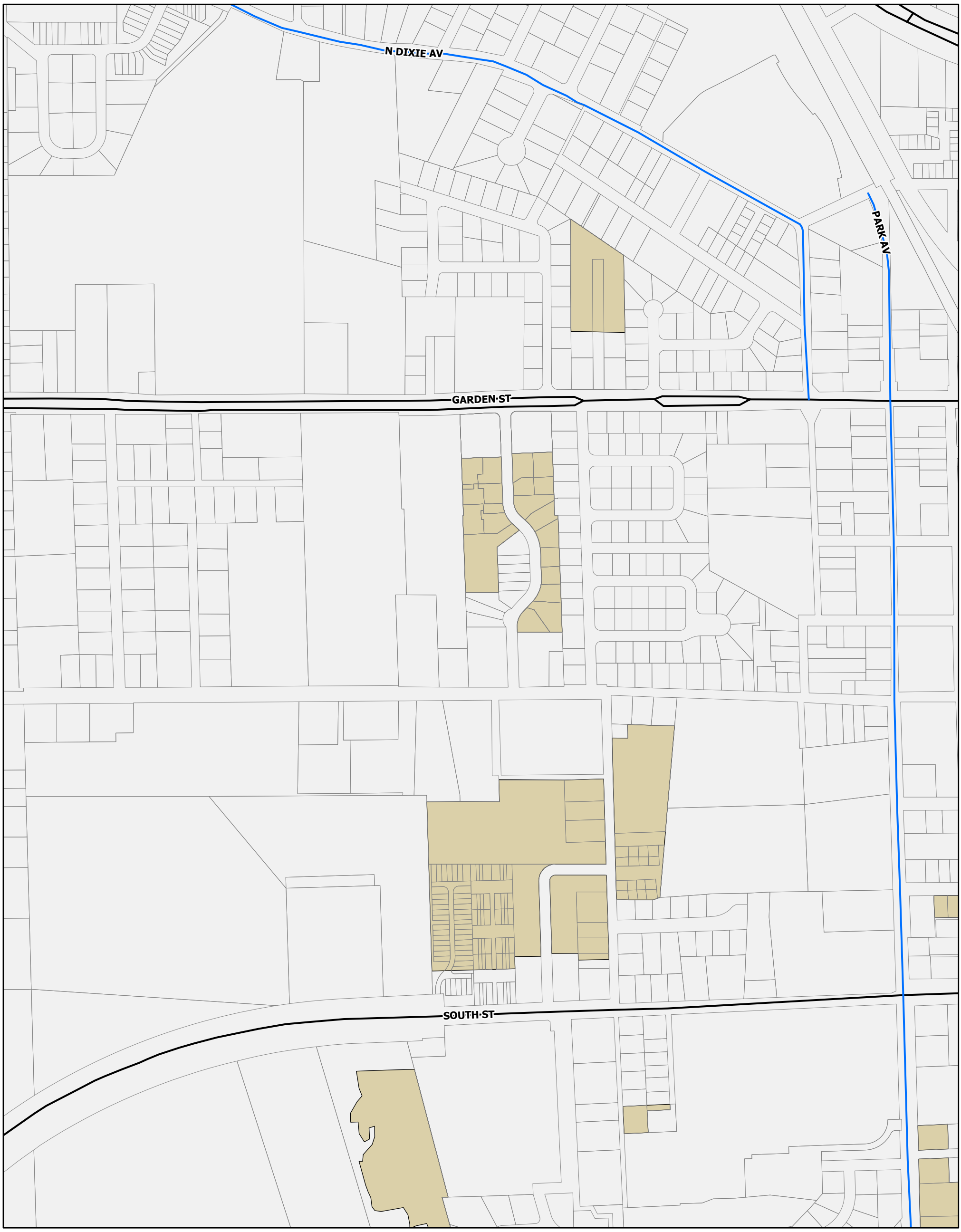
1/21/2025

Future Land Use
High Density Residential
Parcels
Parcels

Street Type
Arterial
Collector
City Limits
City Limits

HDR vs Collector & Arterial



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1/21/2025

Future Land Use
High Density Residential
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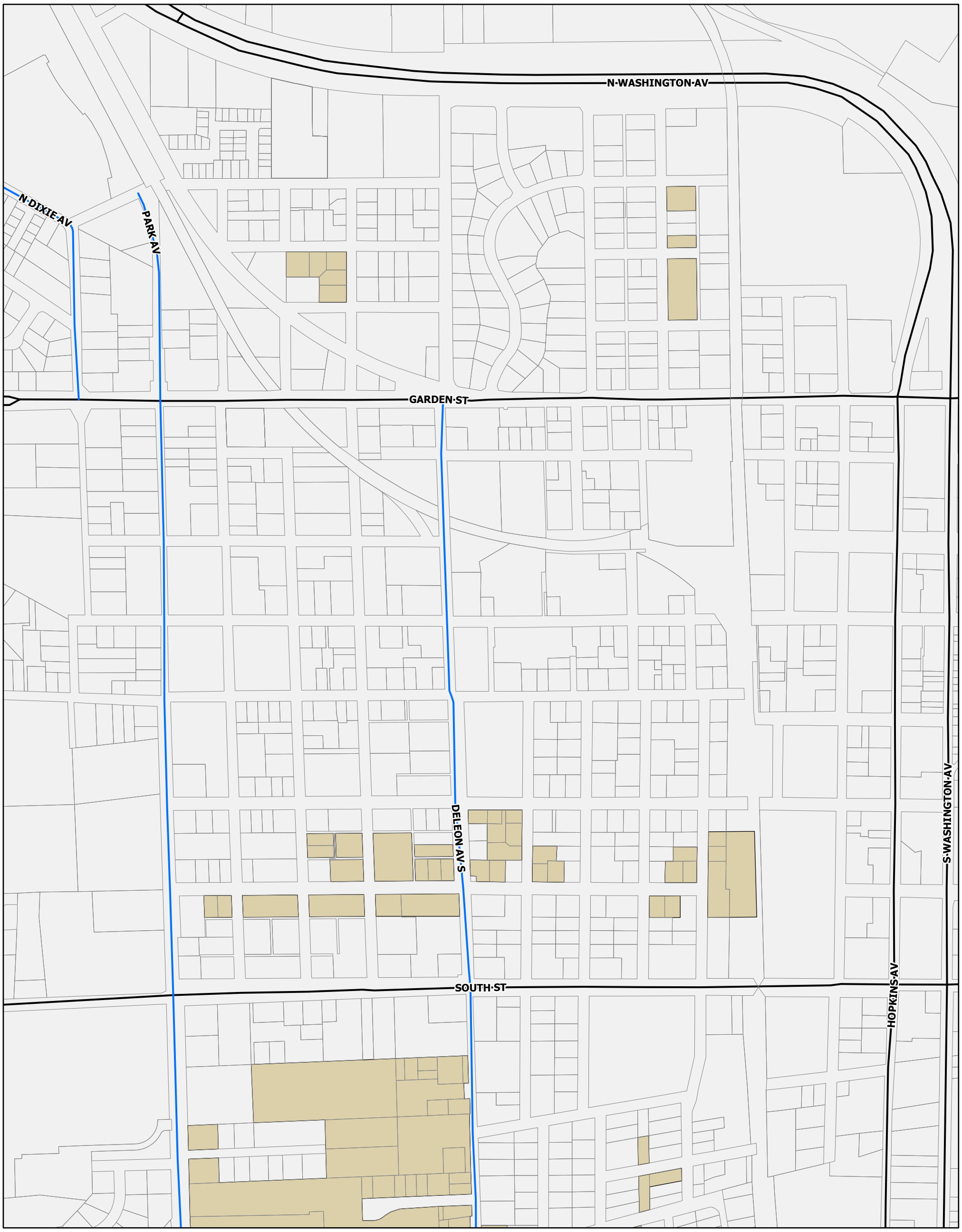
City Limits

HDR vs Collector & Arterial



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1/21/2025

Future Land Use
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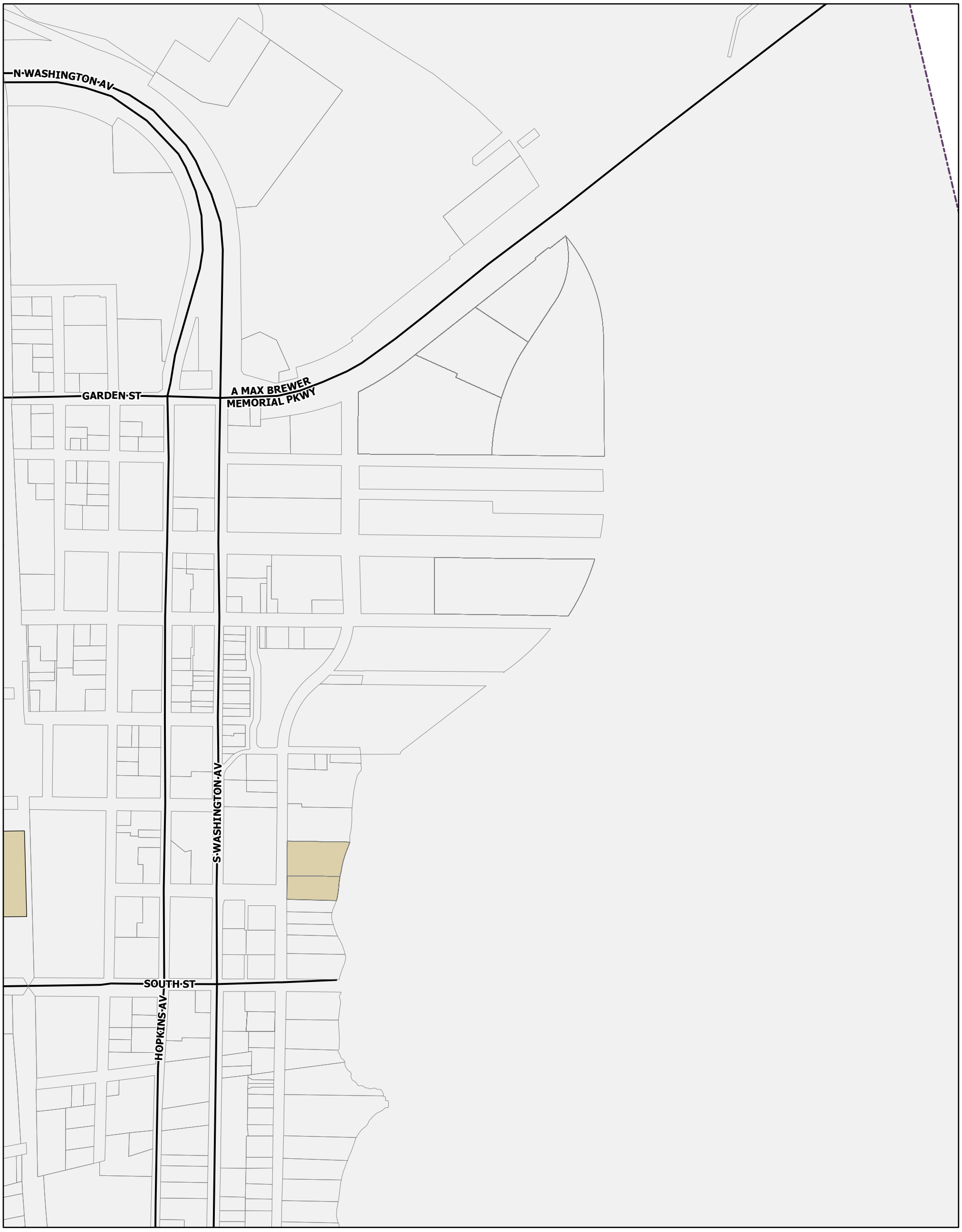

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1/21/2025

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City Limits

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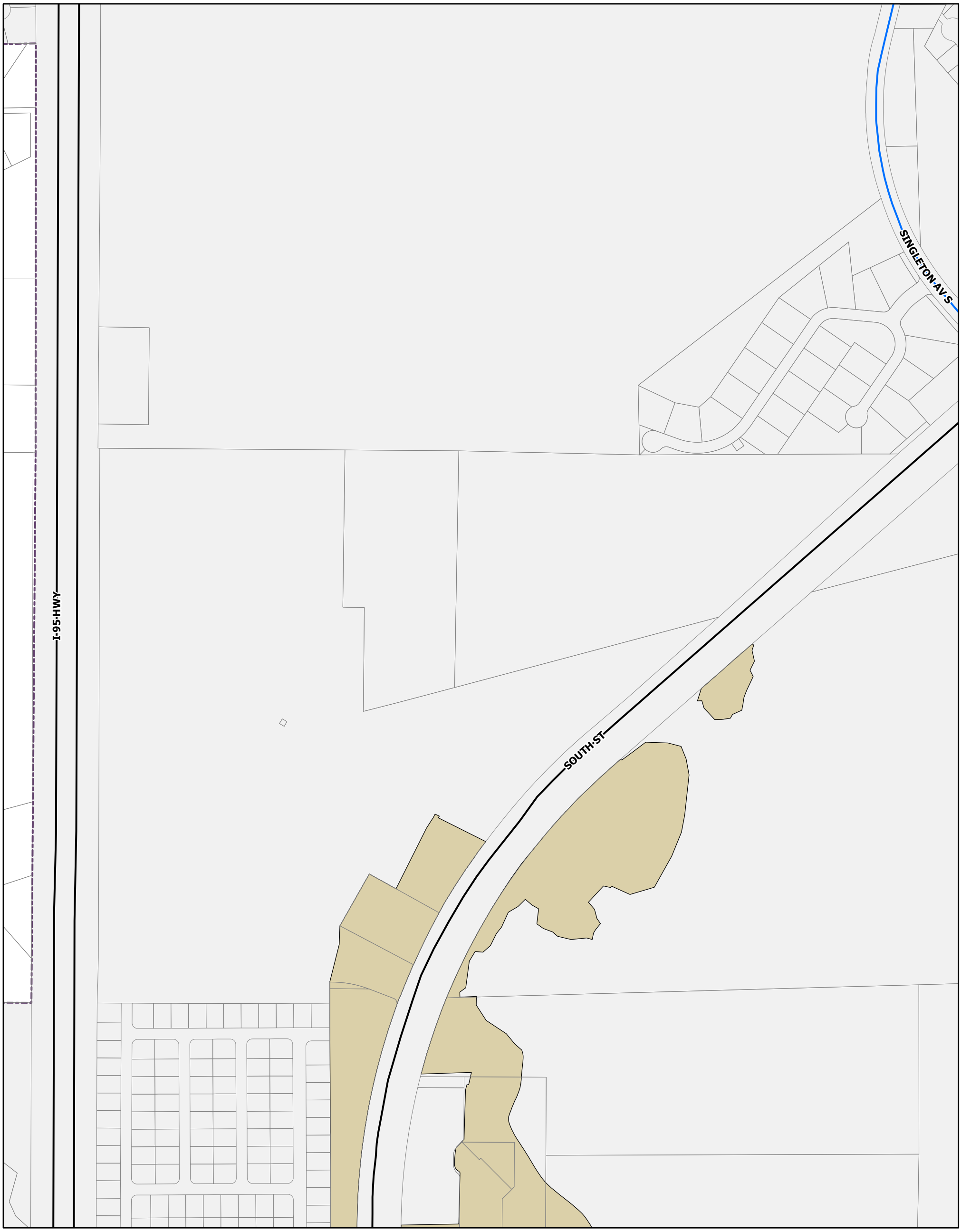

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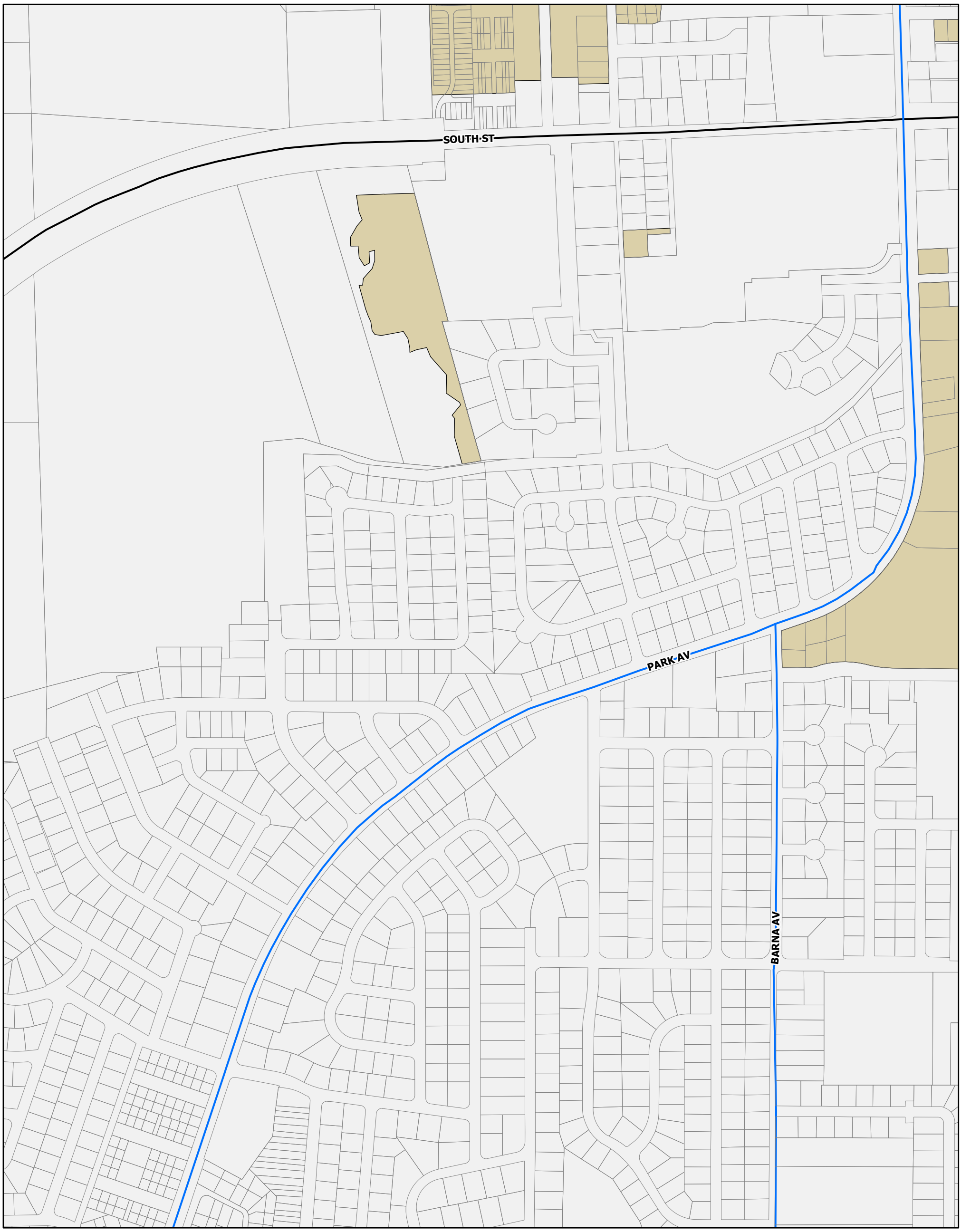

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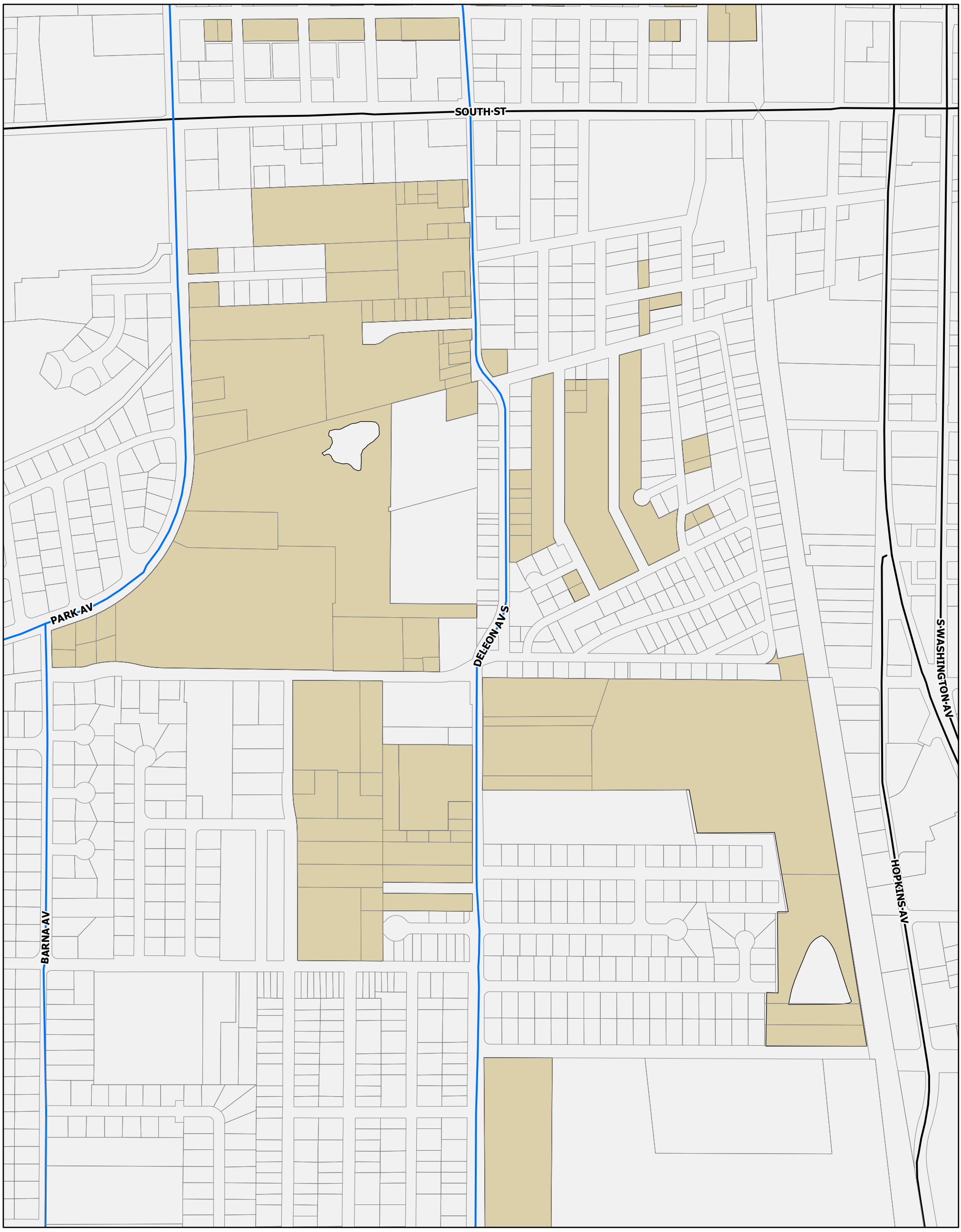

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1/21/2025

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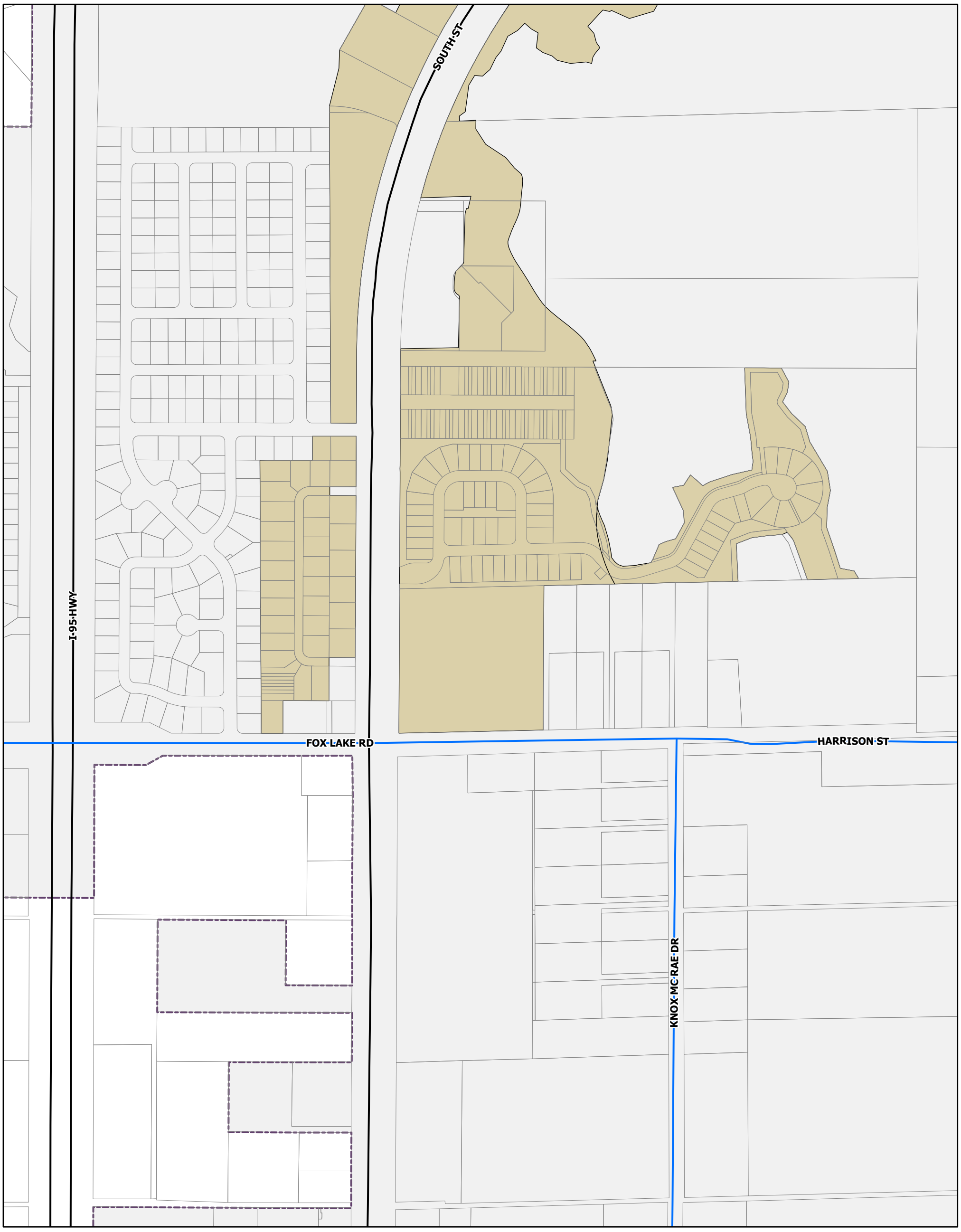
City Limits

HDR vs Collector & Arterial



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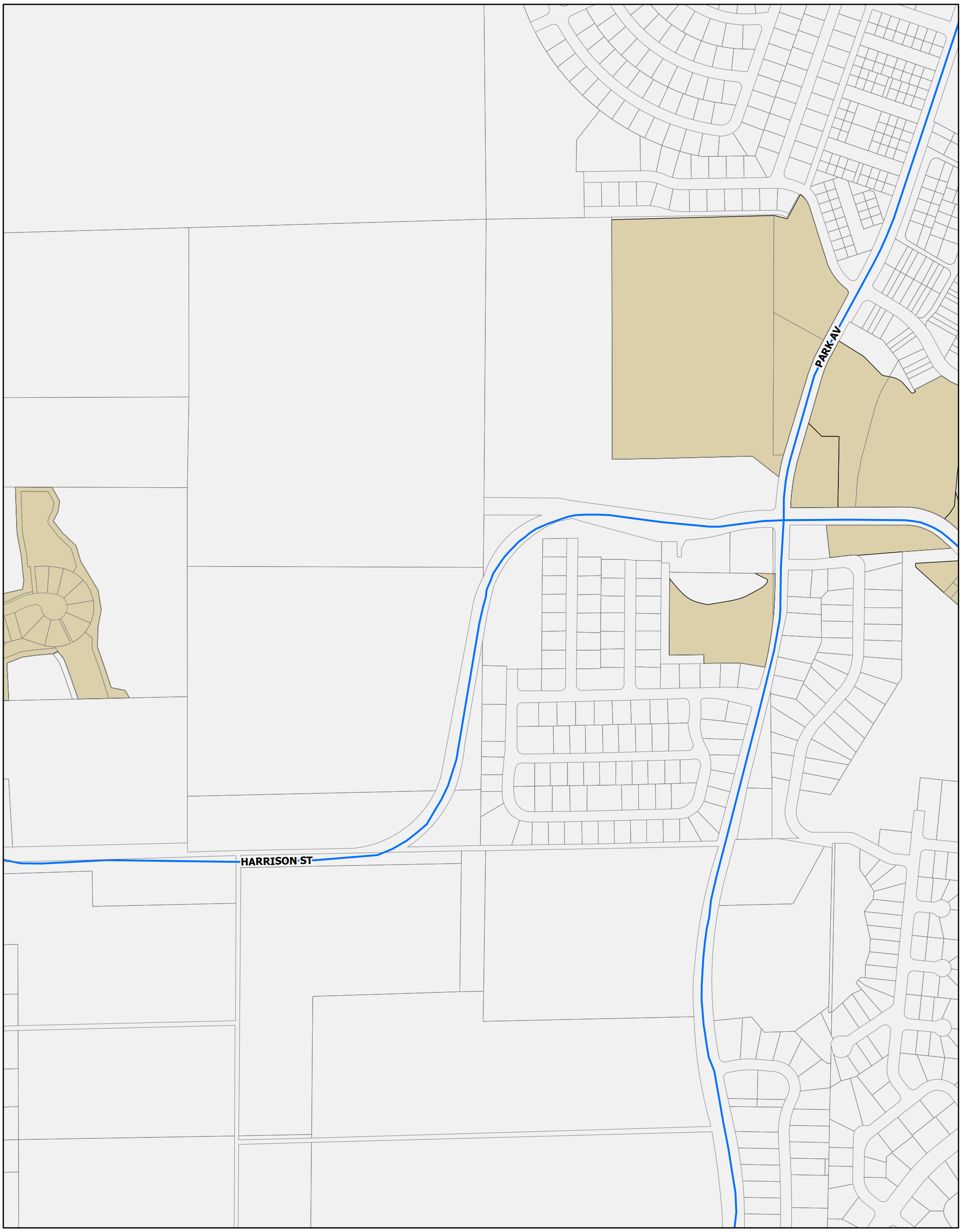

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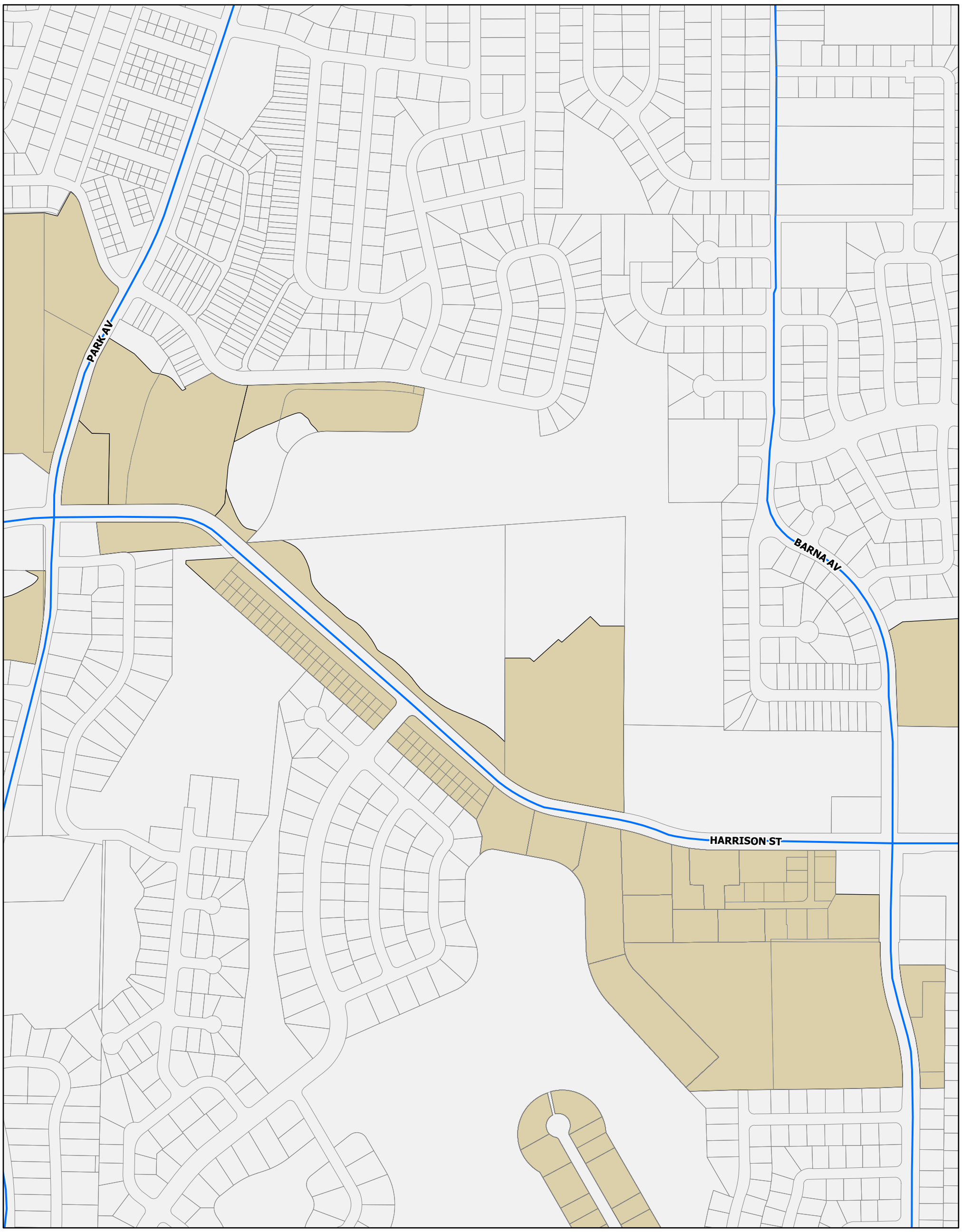

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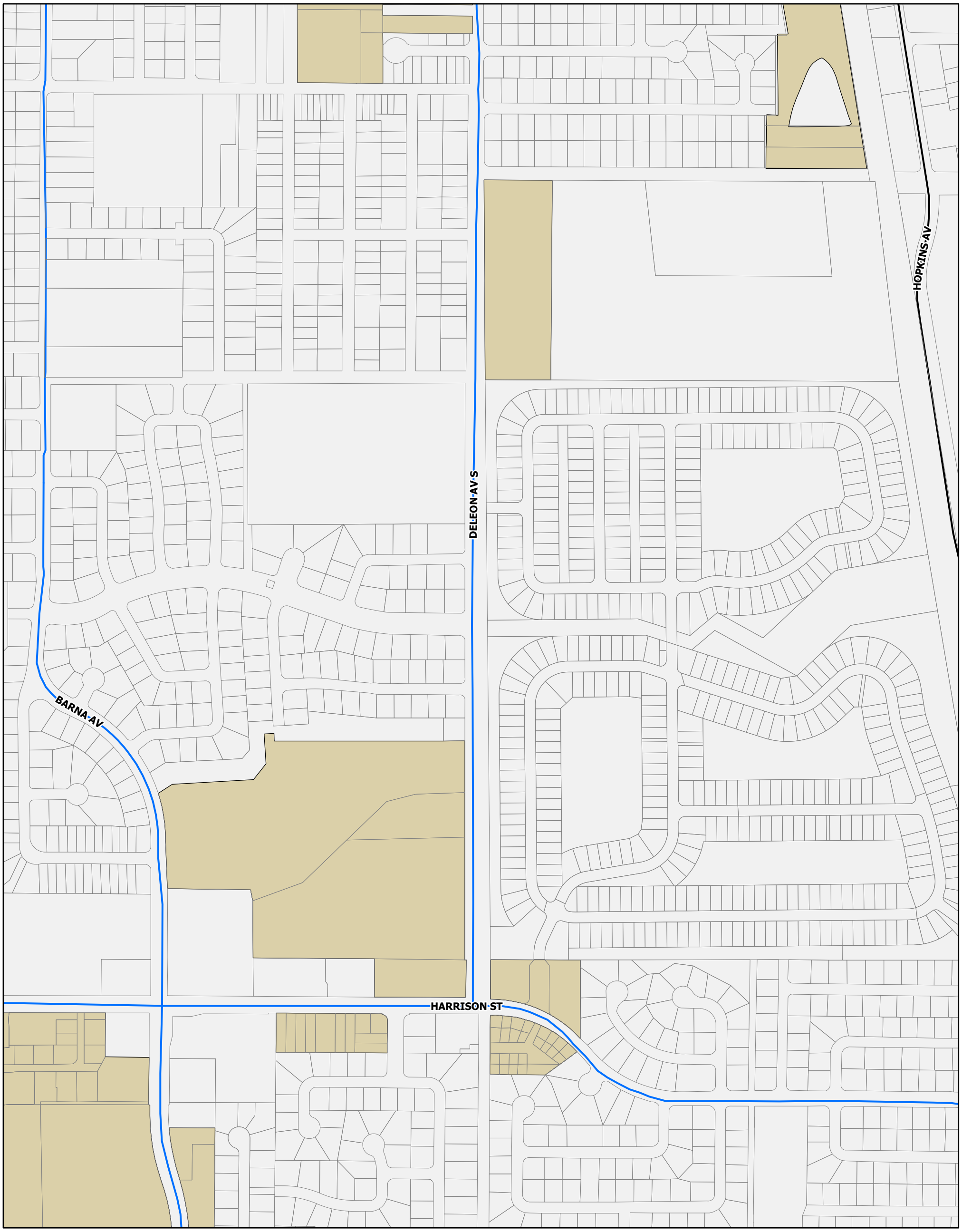

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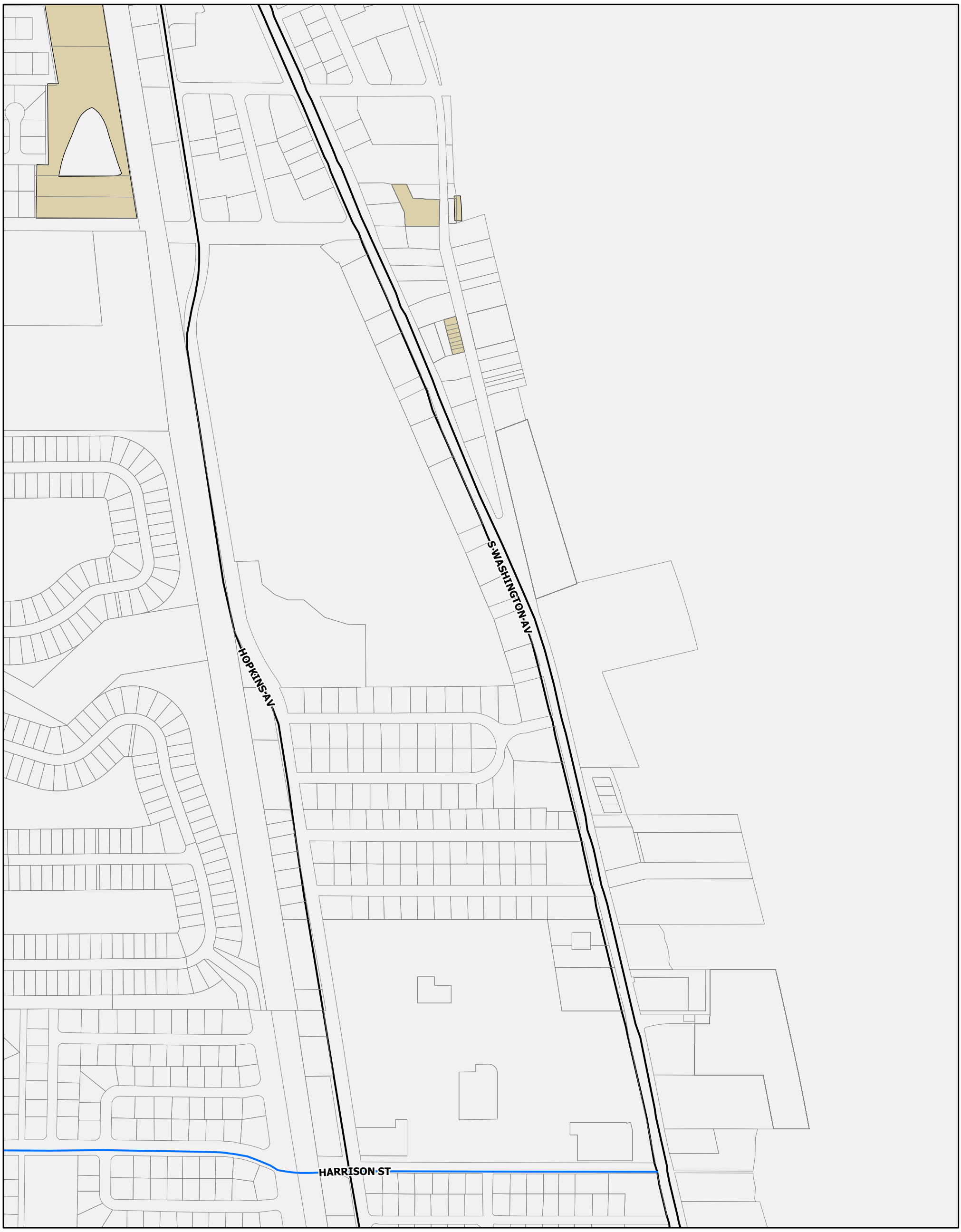

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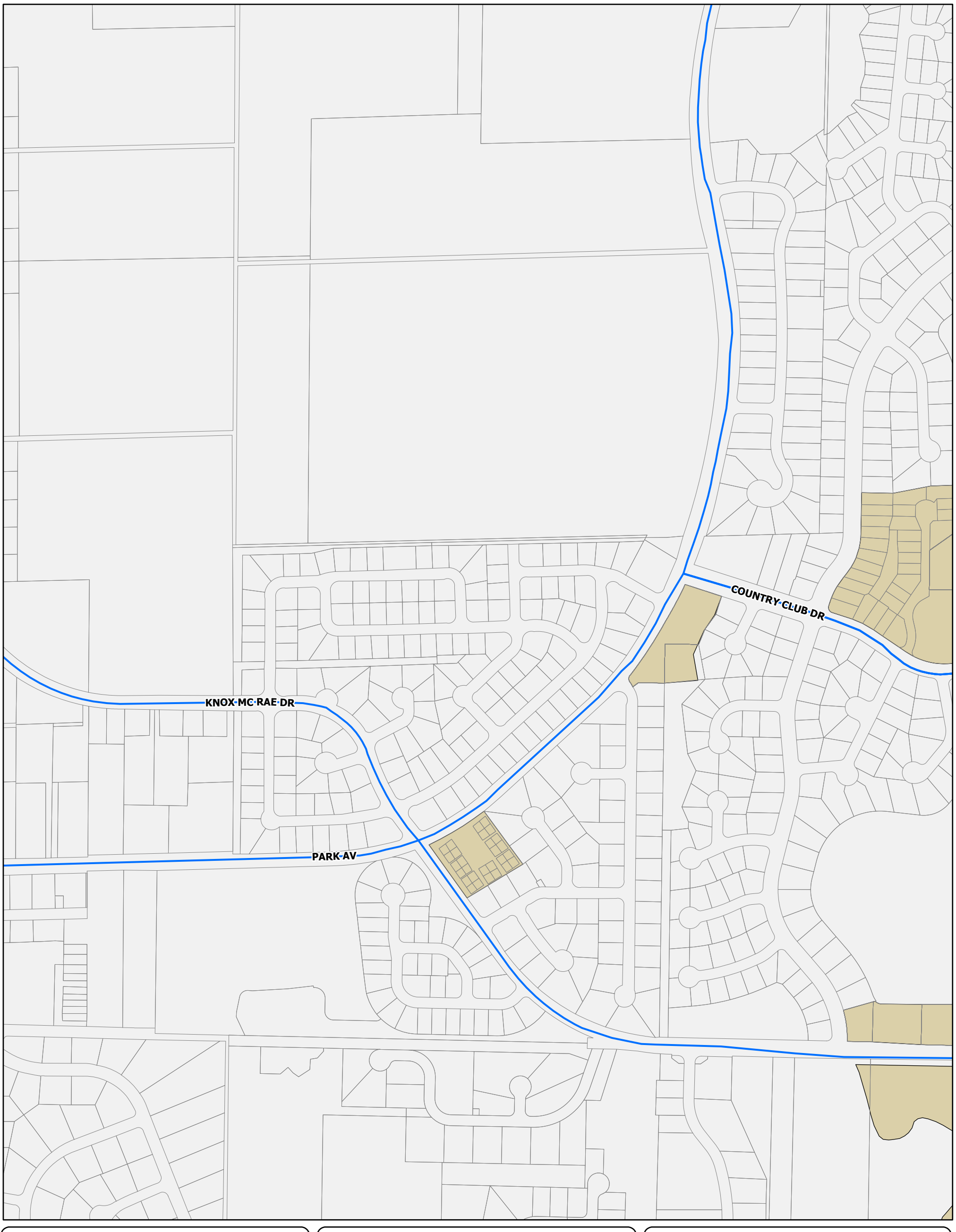

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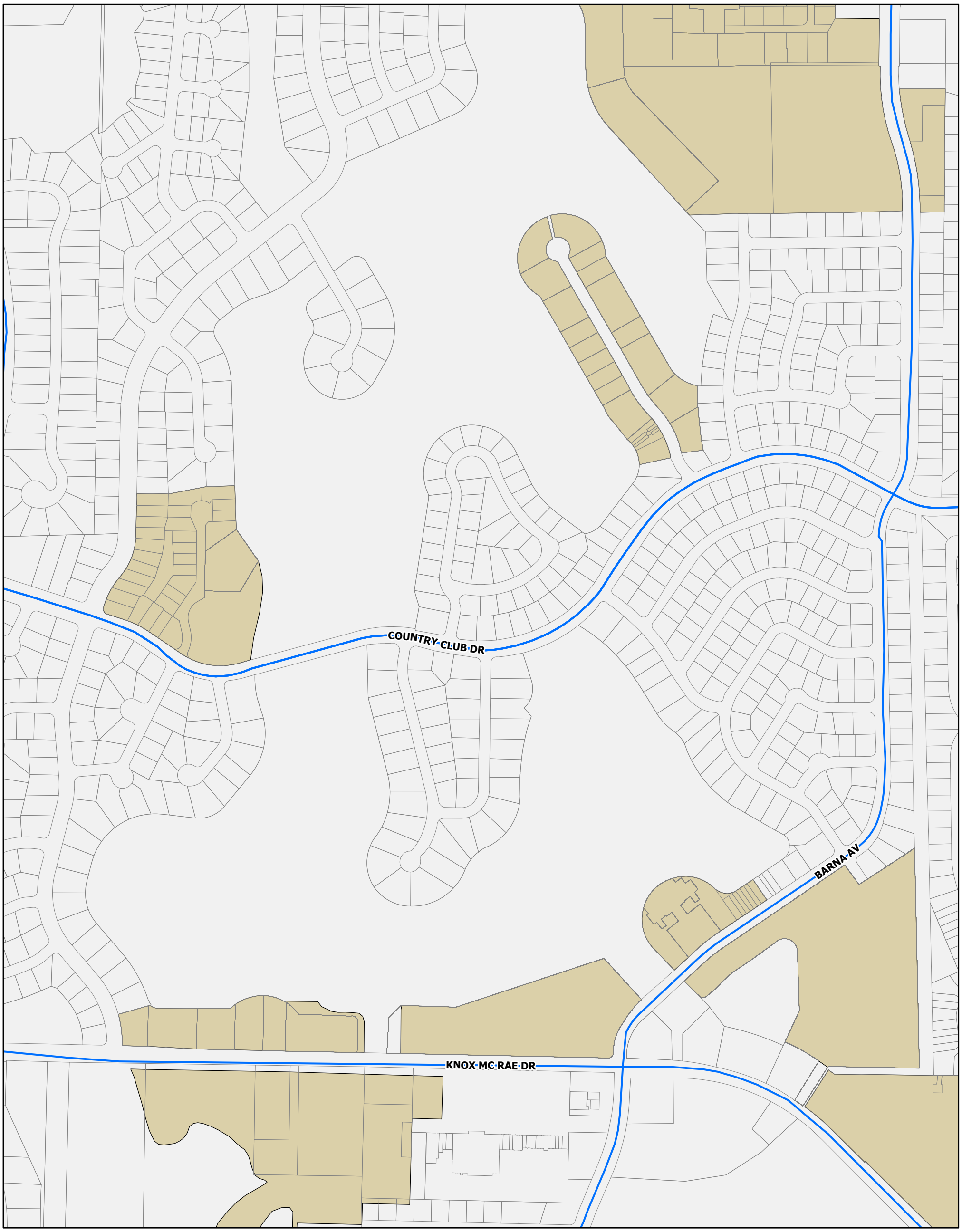

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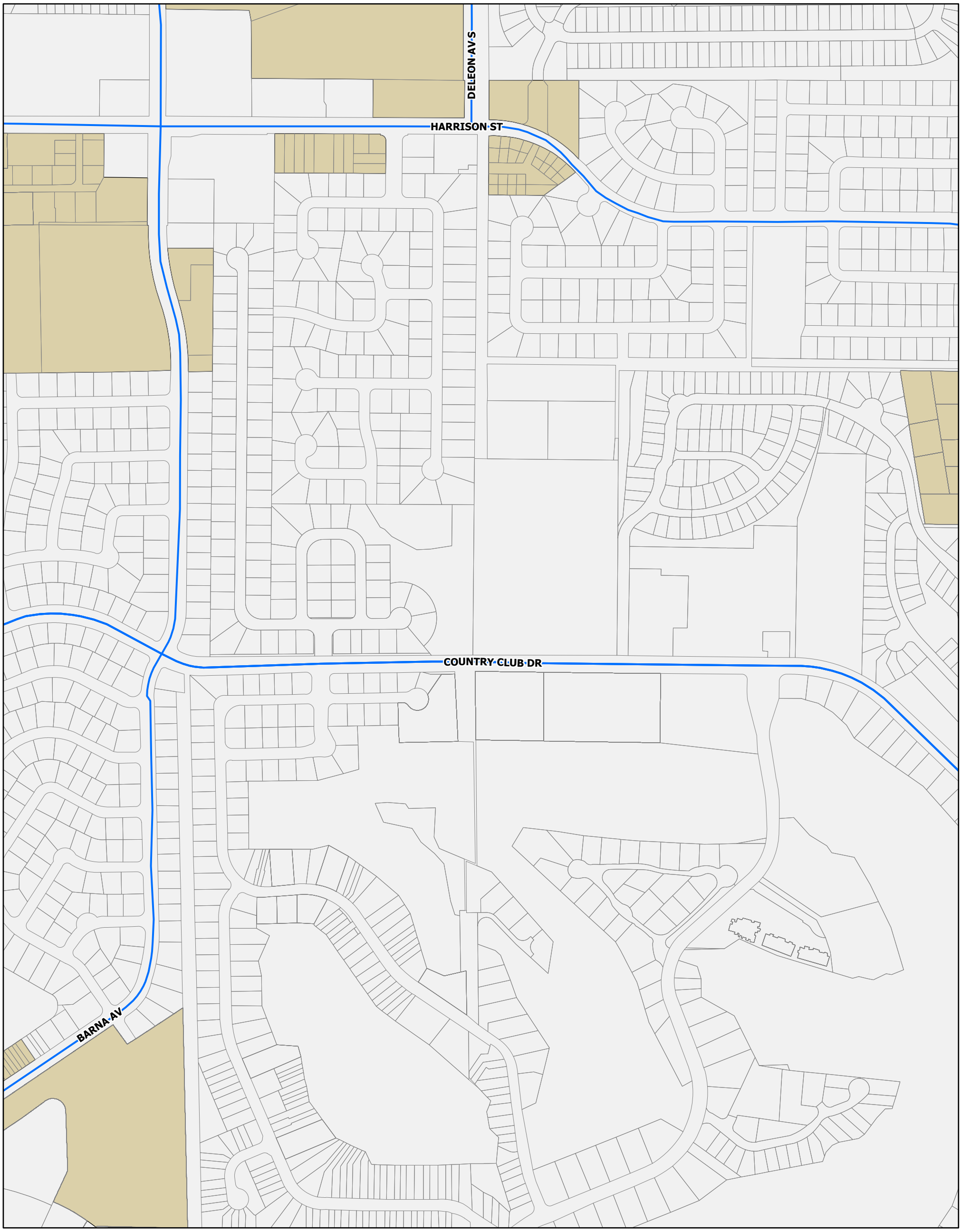

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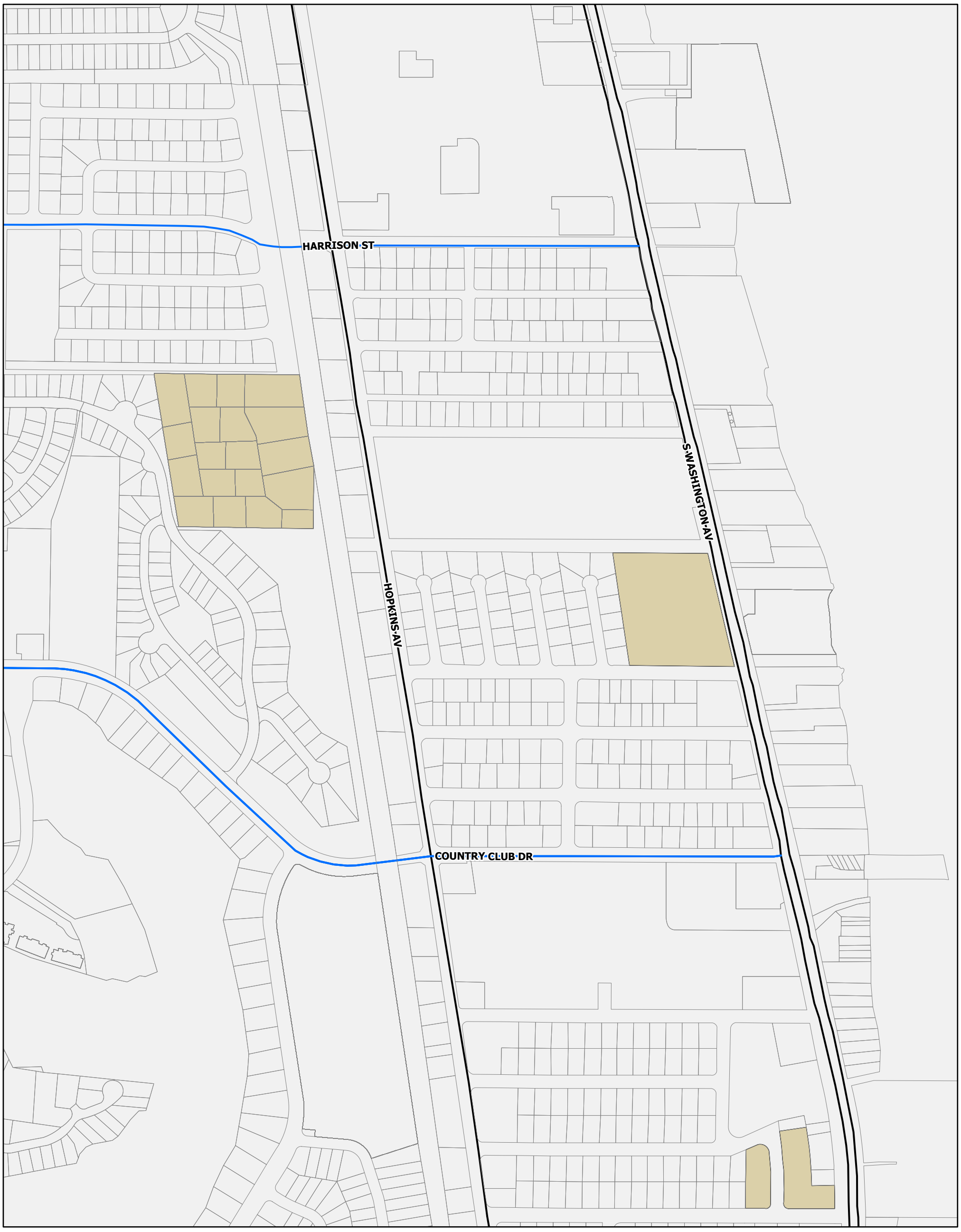

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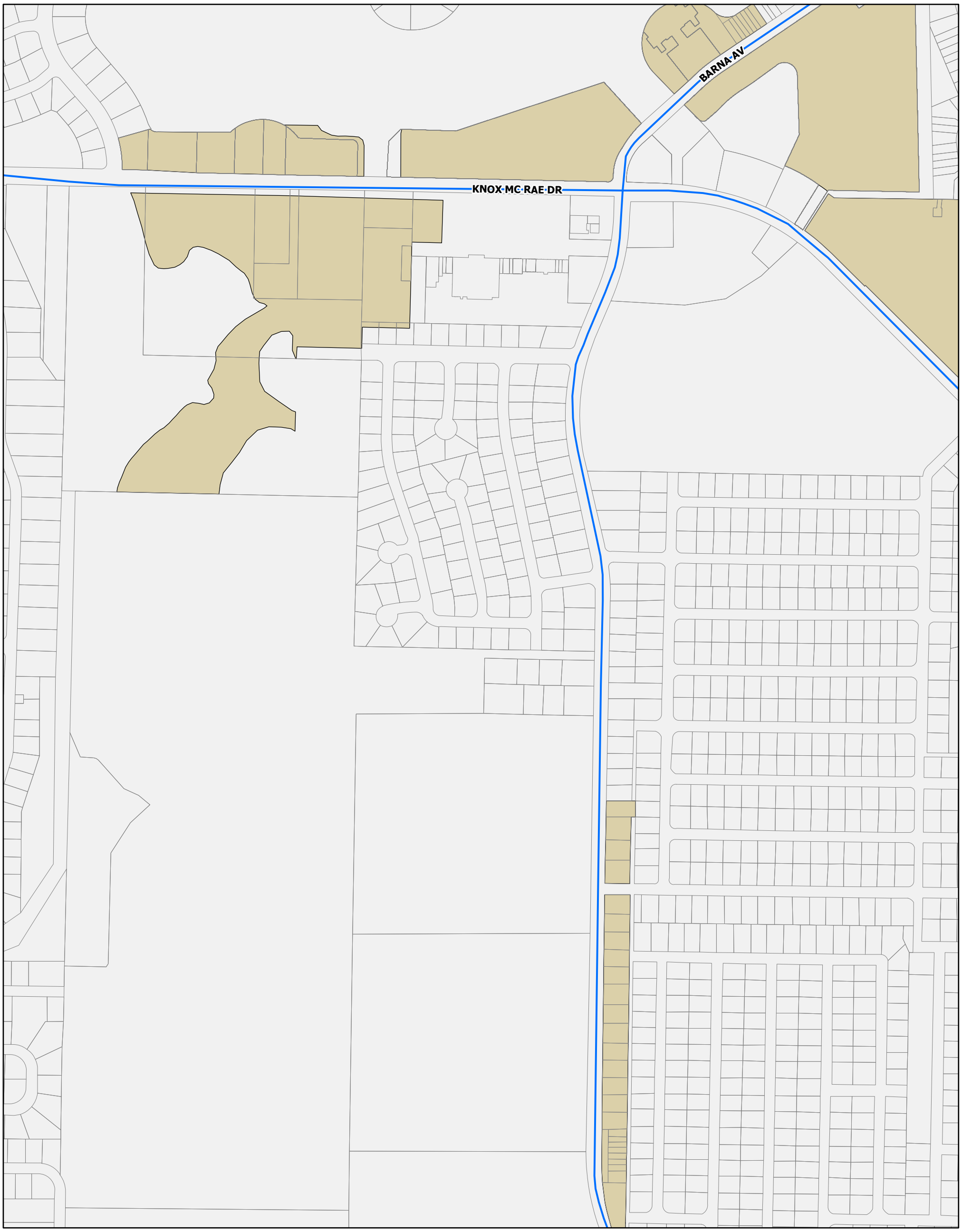

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1/21/2025

Future Land Use
High Density Residential
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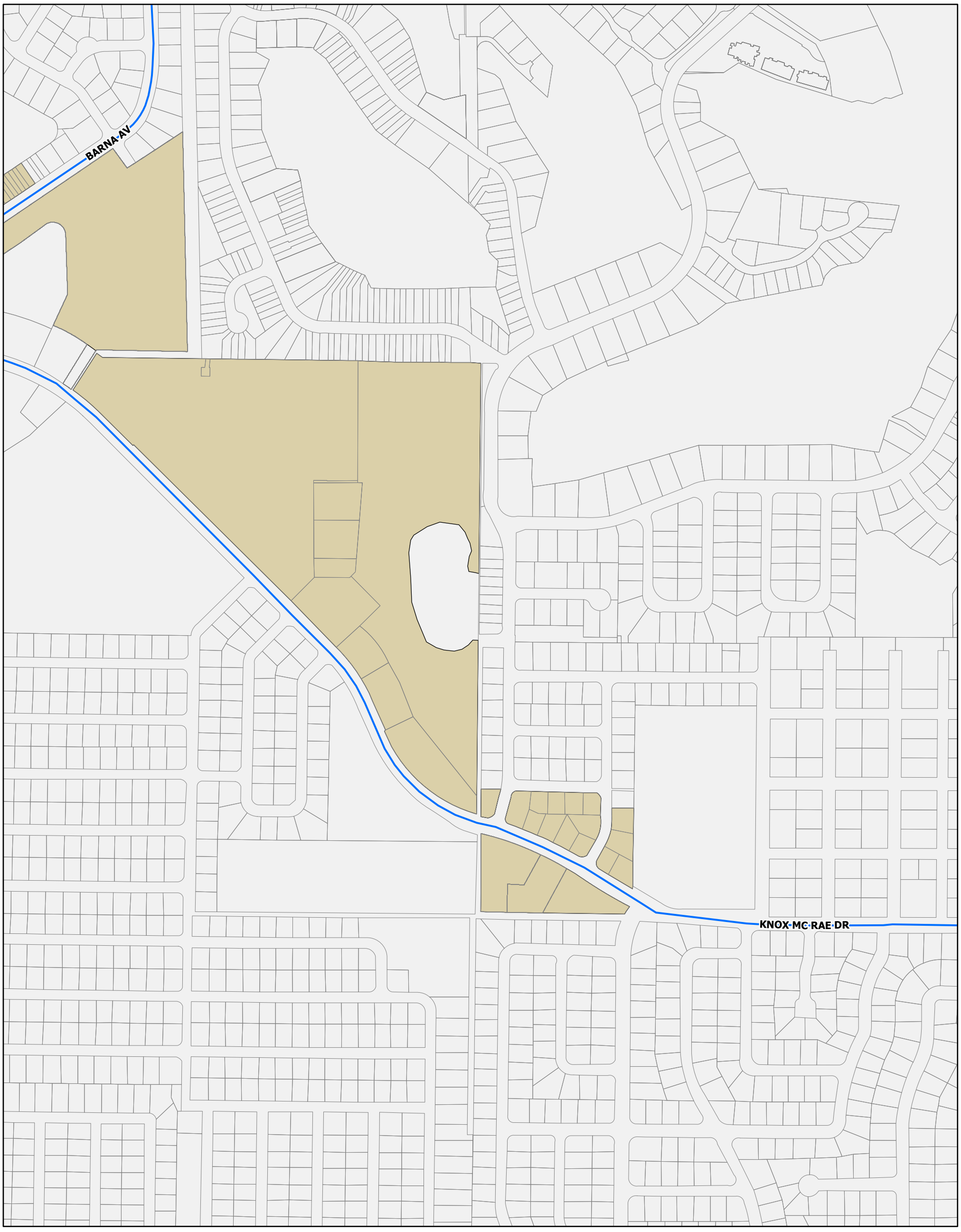
City Limits

HDR vs Collector & Arterial



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1/21/2025

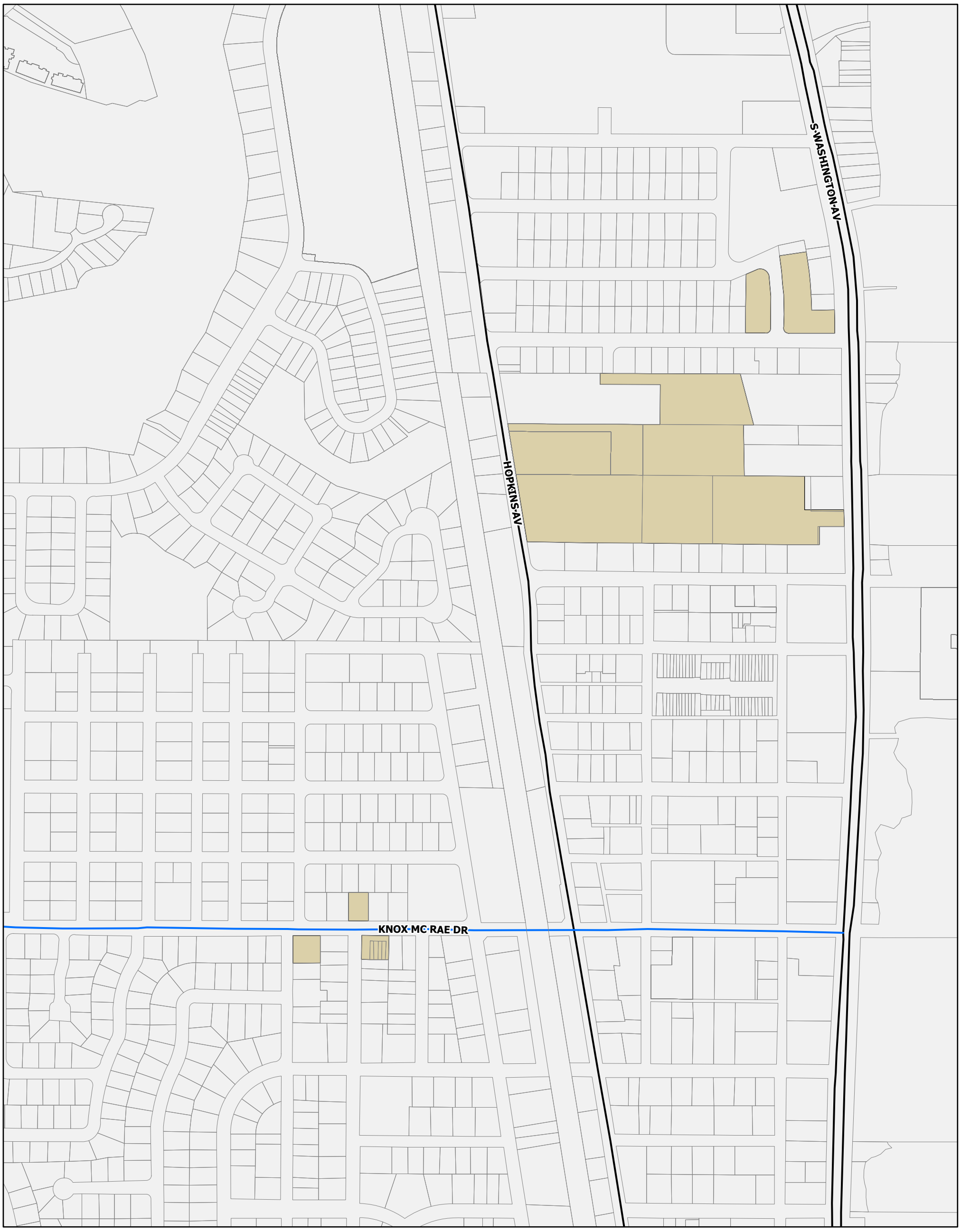
Future Land Use
High Density Residential

Parcels
Parcels

Street Type
Collector

City Limits
City Limits

HDR vs Collector & Arterial



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1/21/2025

Future Land Use
High Density Residential
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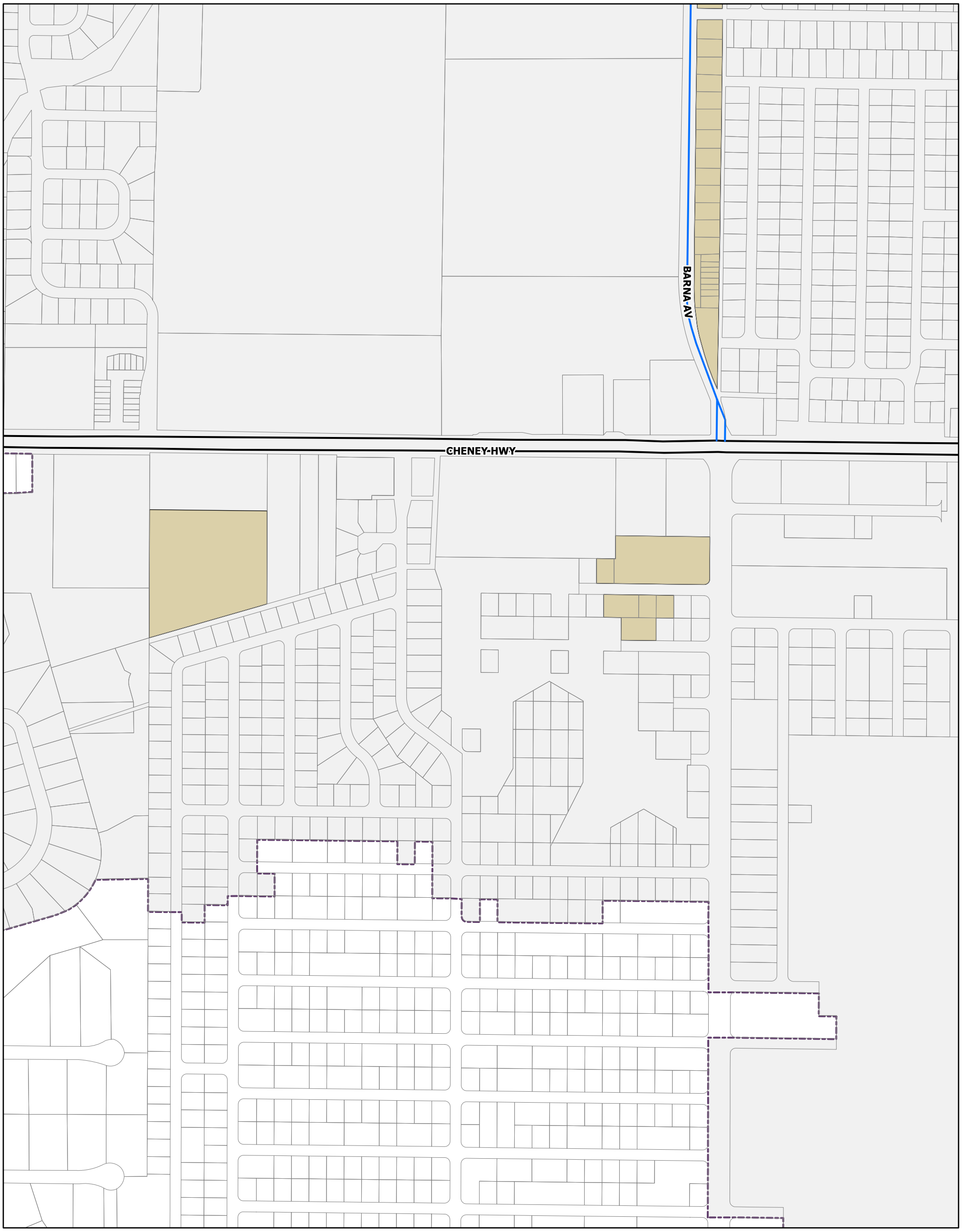
HDR vs Collector & Arterial



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1/21/2025

Future Land Use
High Density Residential
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Street Type
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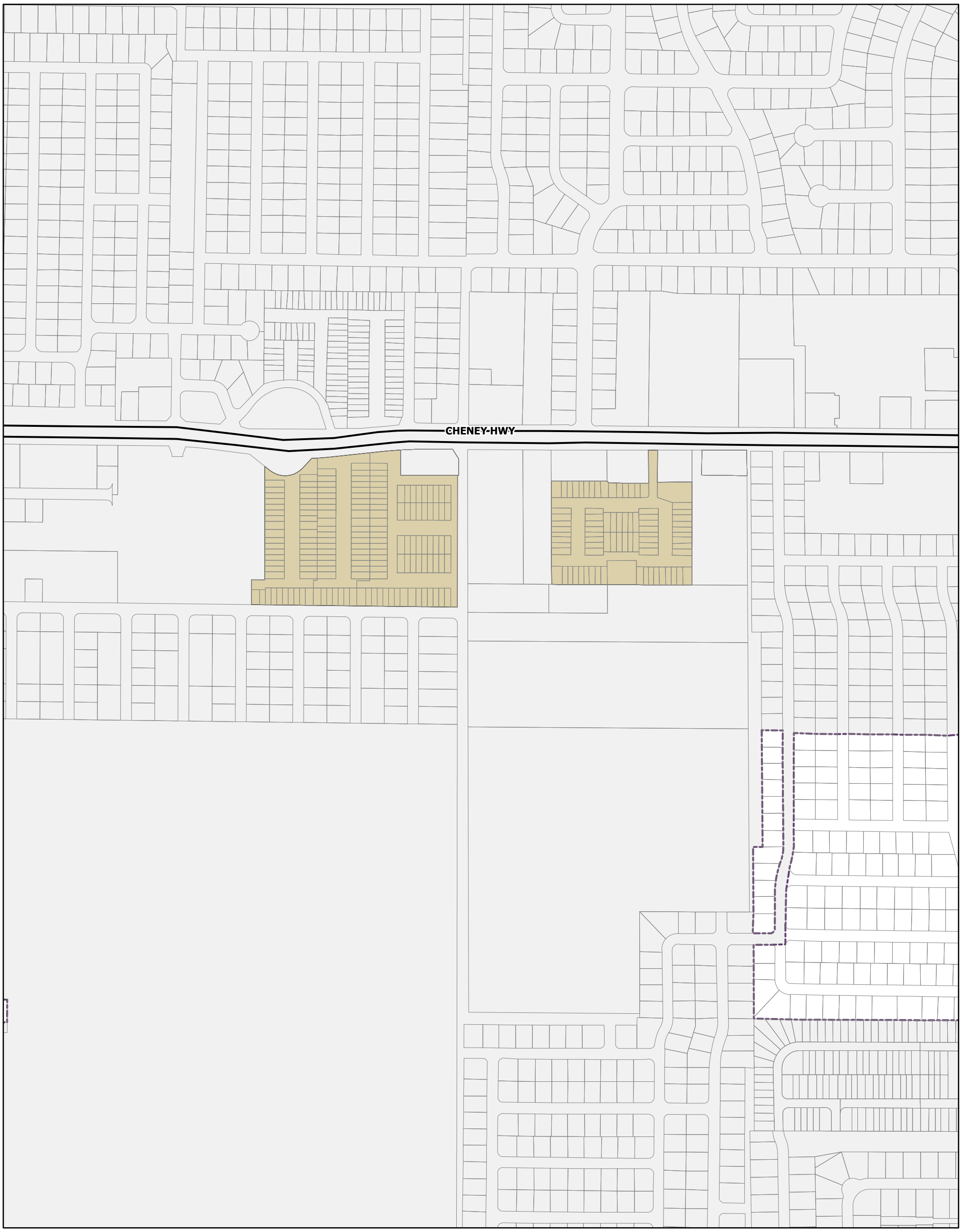
City Limits

HDR vs Collector & Arterial



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1/21/2025

Future Land Use
High Density Residential

Parcels
Parcels

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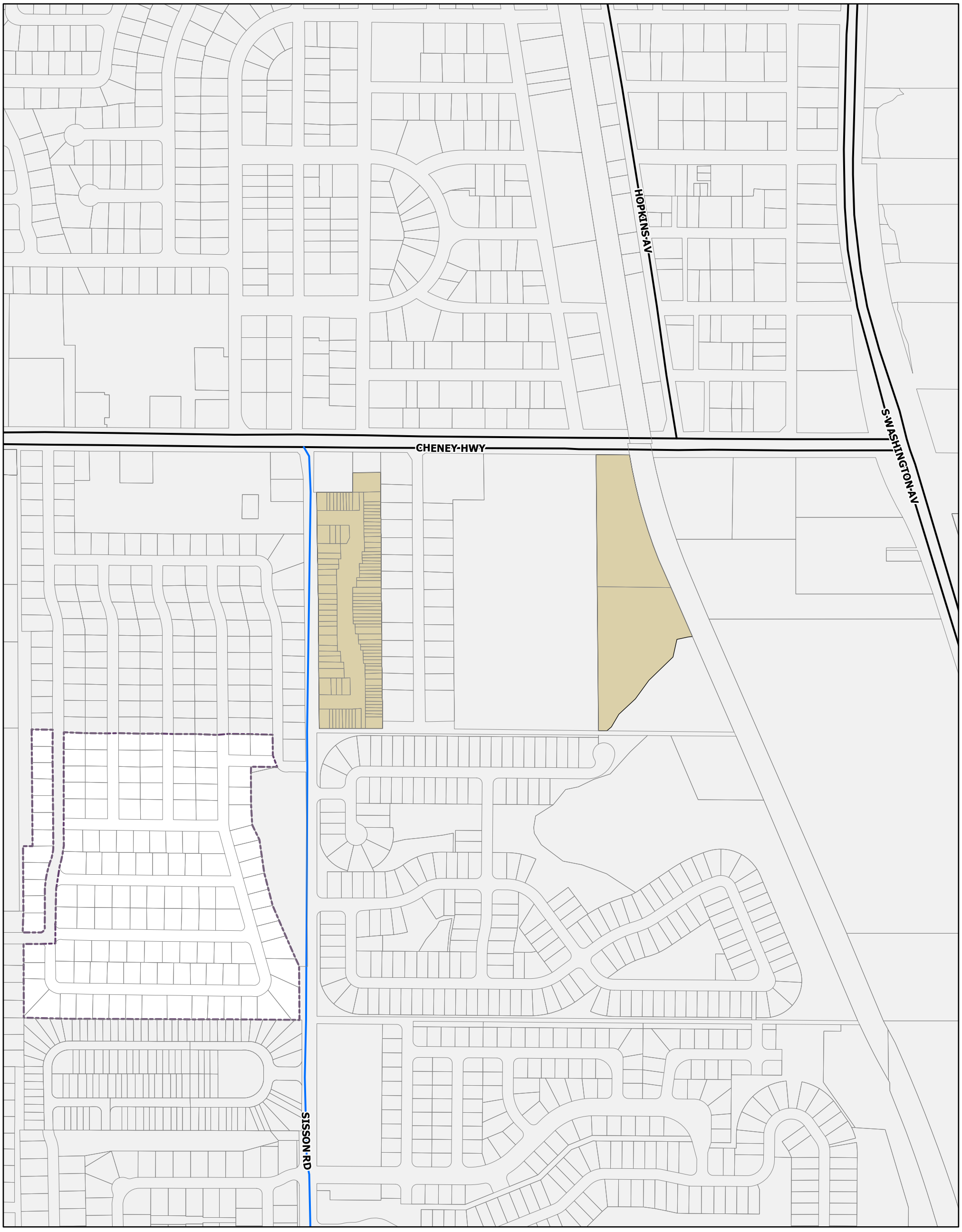
City Limits

HDR vs Collector & Arterial



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1/21/2025

Future Land Use
High Density Residential
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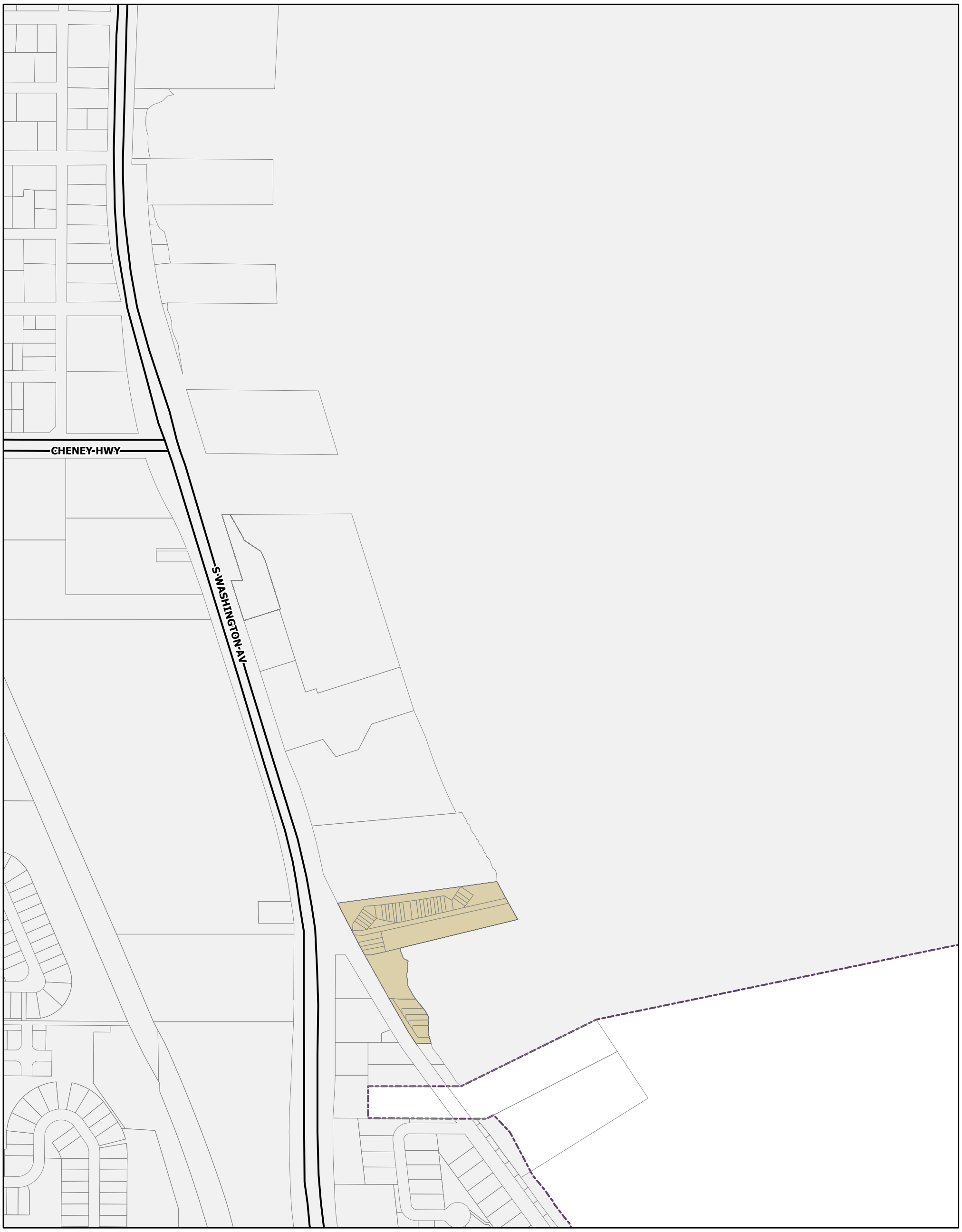

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1/21/2025

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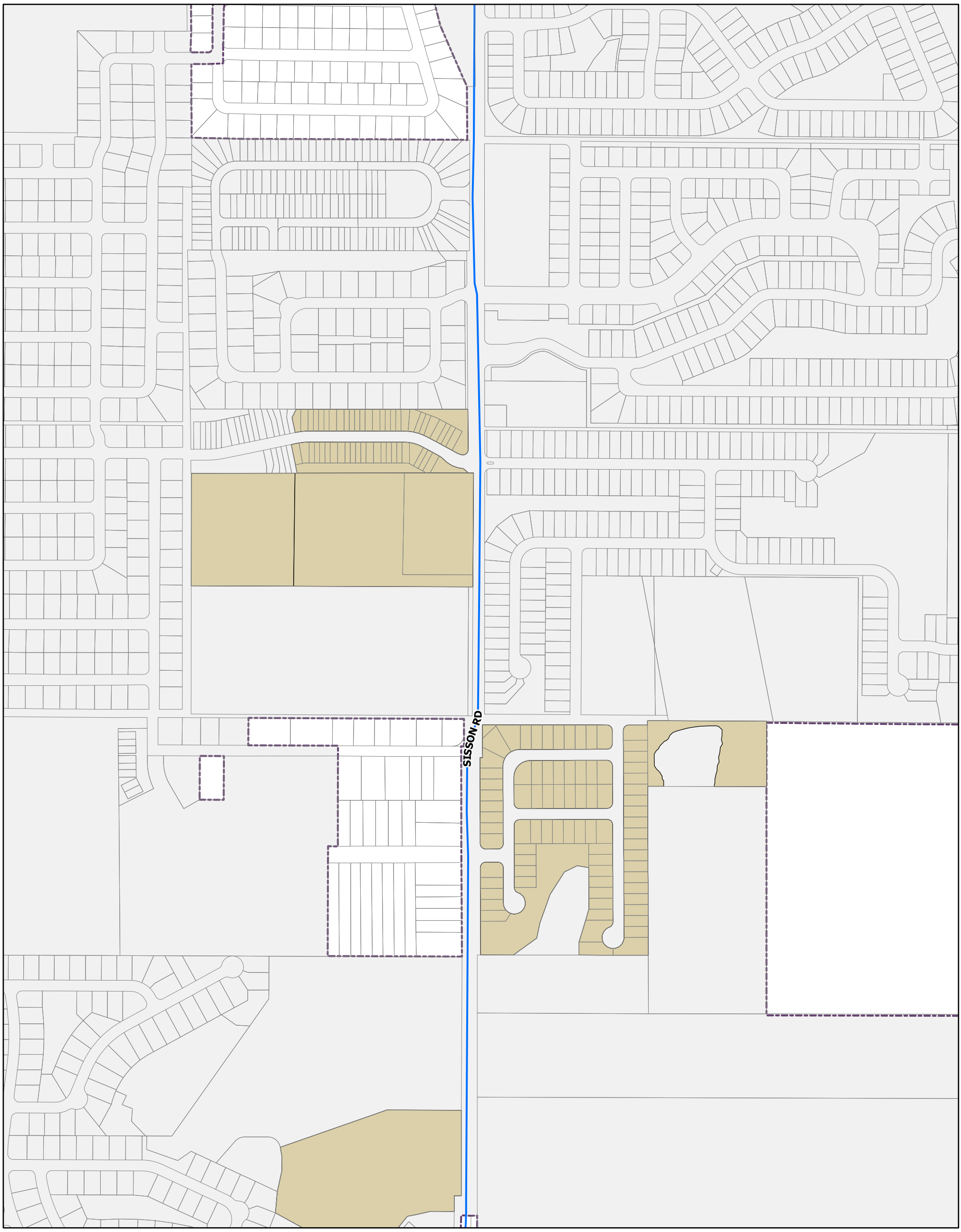

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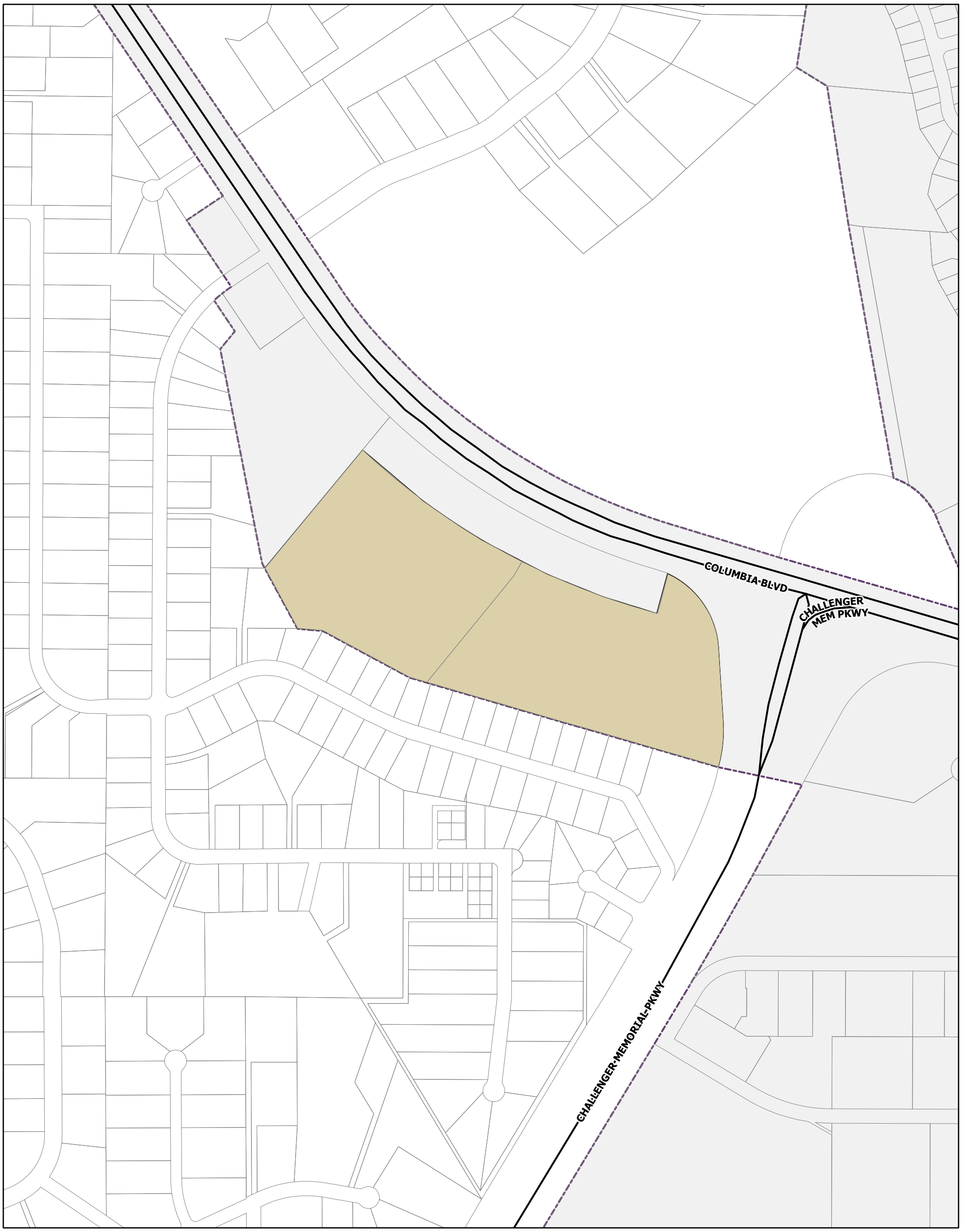

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1/21/2025

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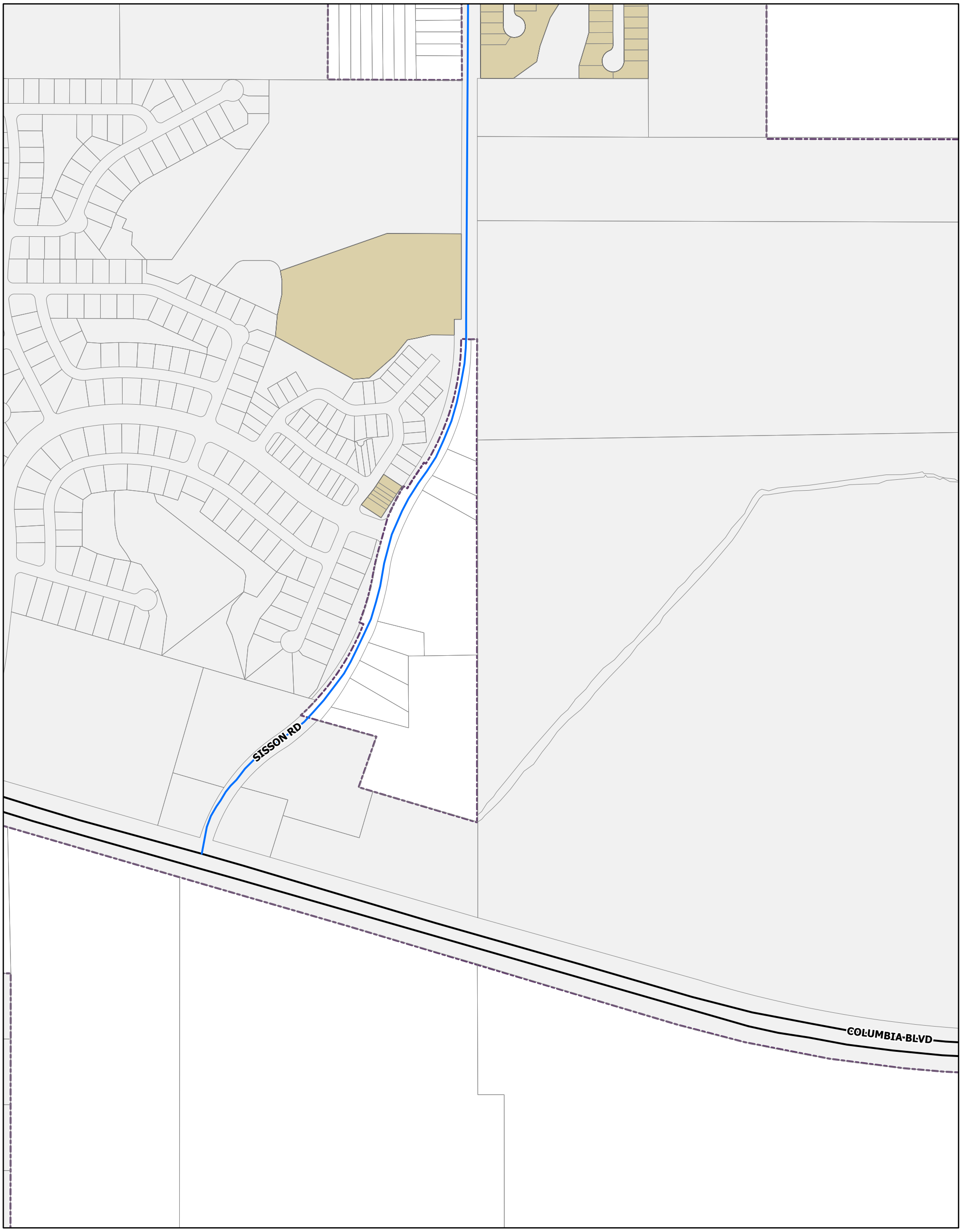

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1/21/2025

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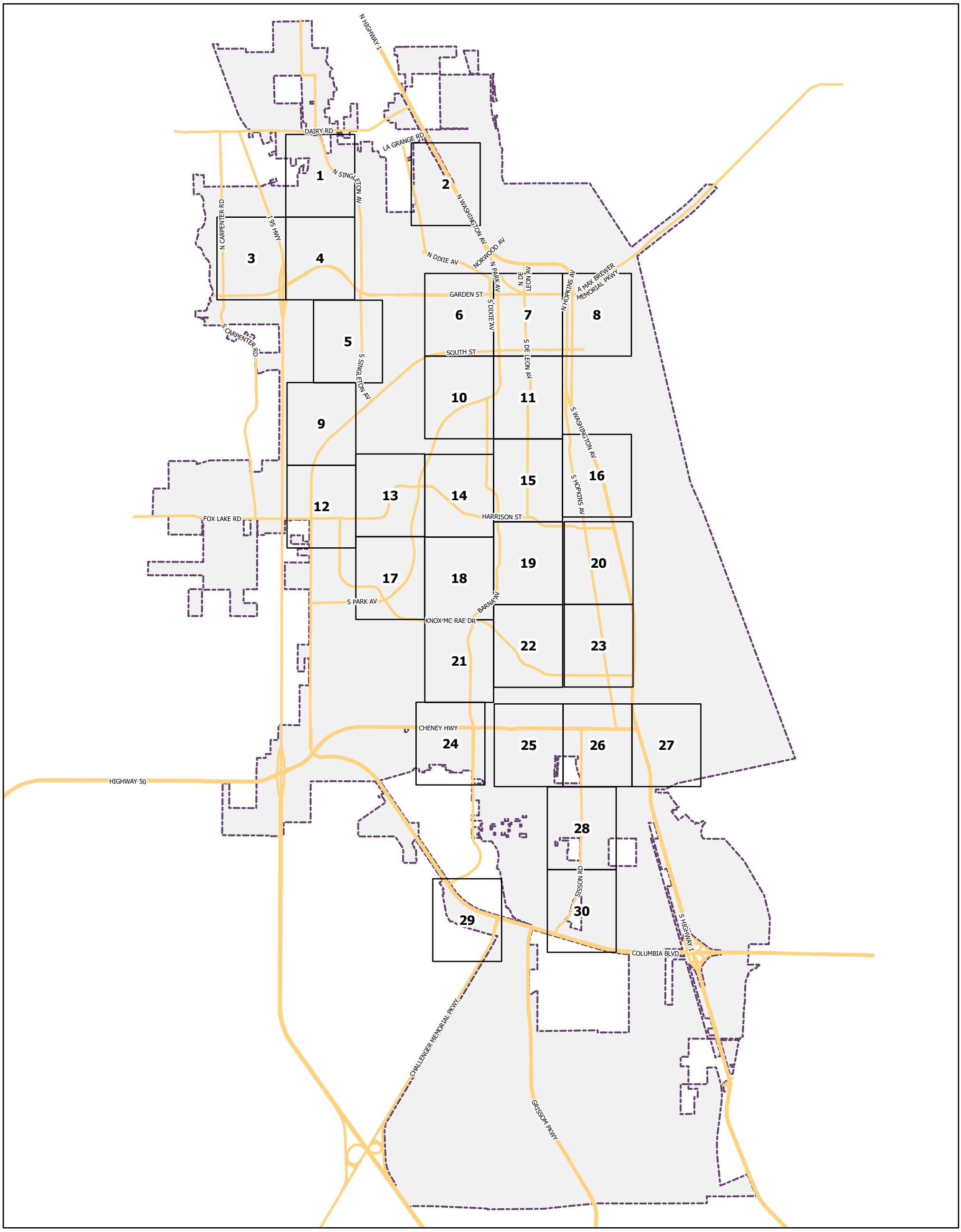
HDR - Collector & Arterial Grid Index



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1/21/2025

City Limits

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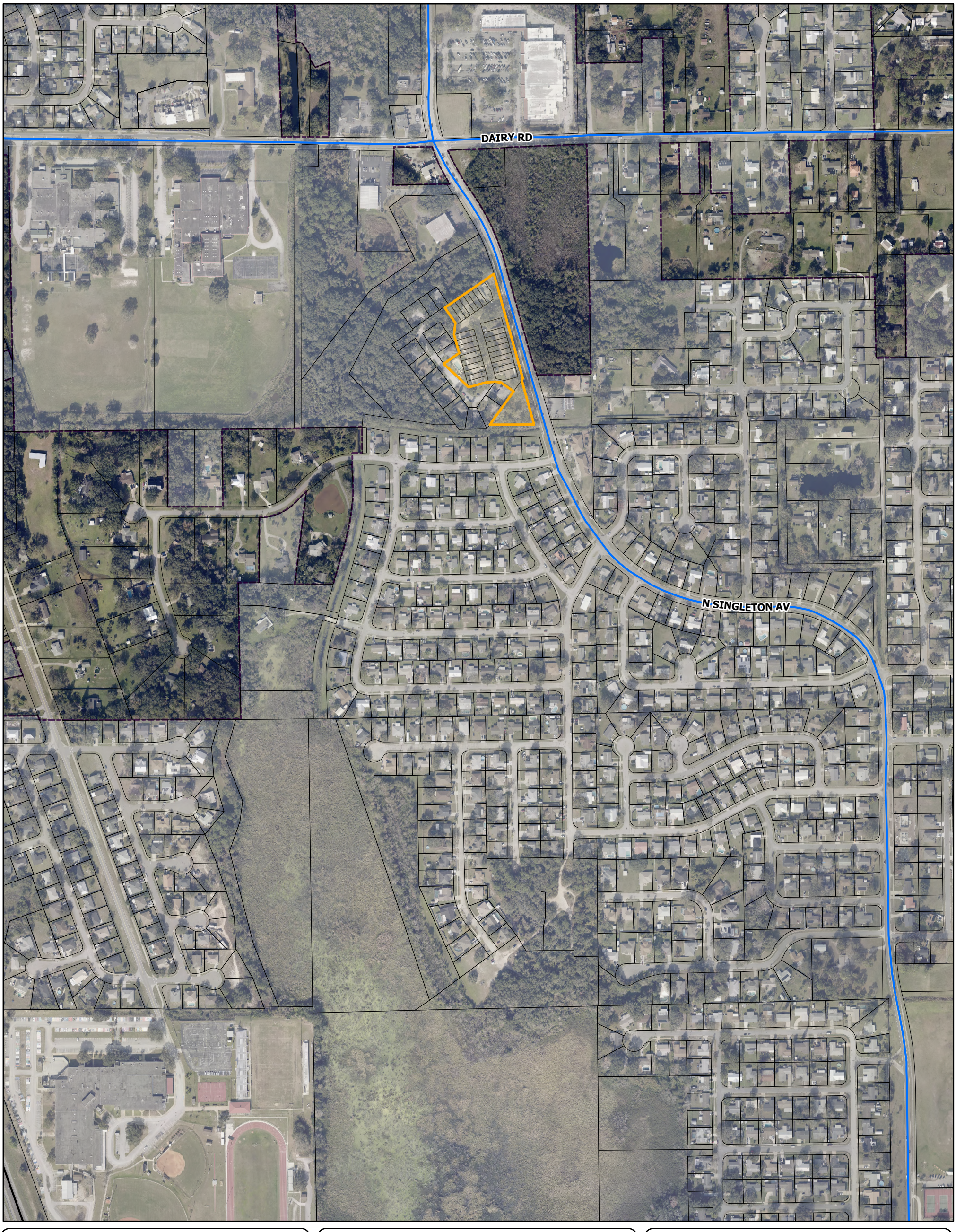
HDR vs Collector & Arterial



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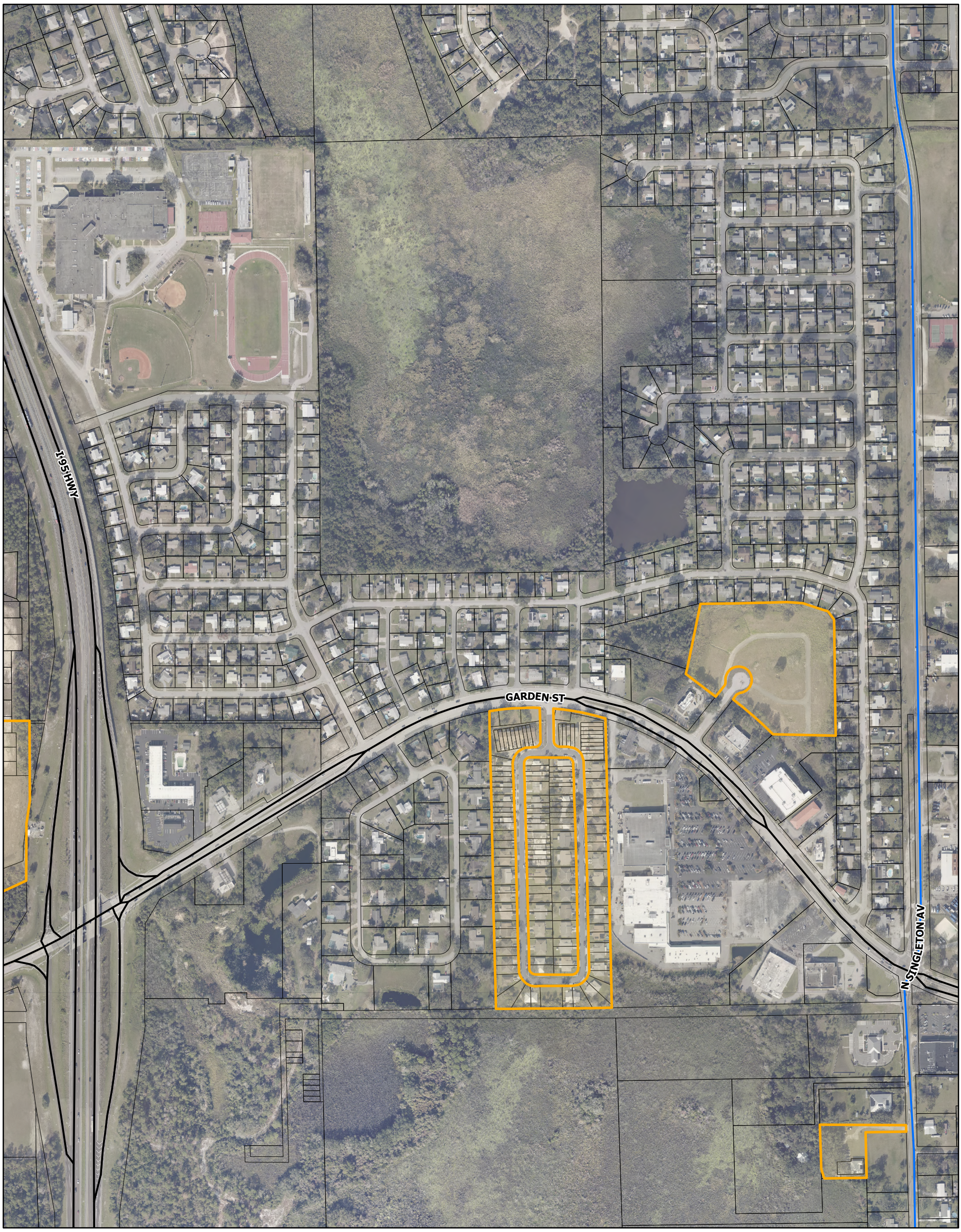

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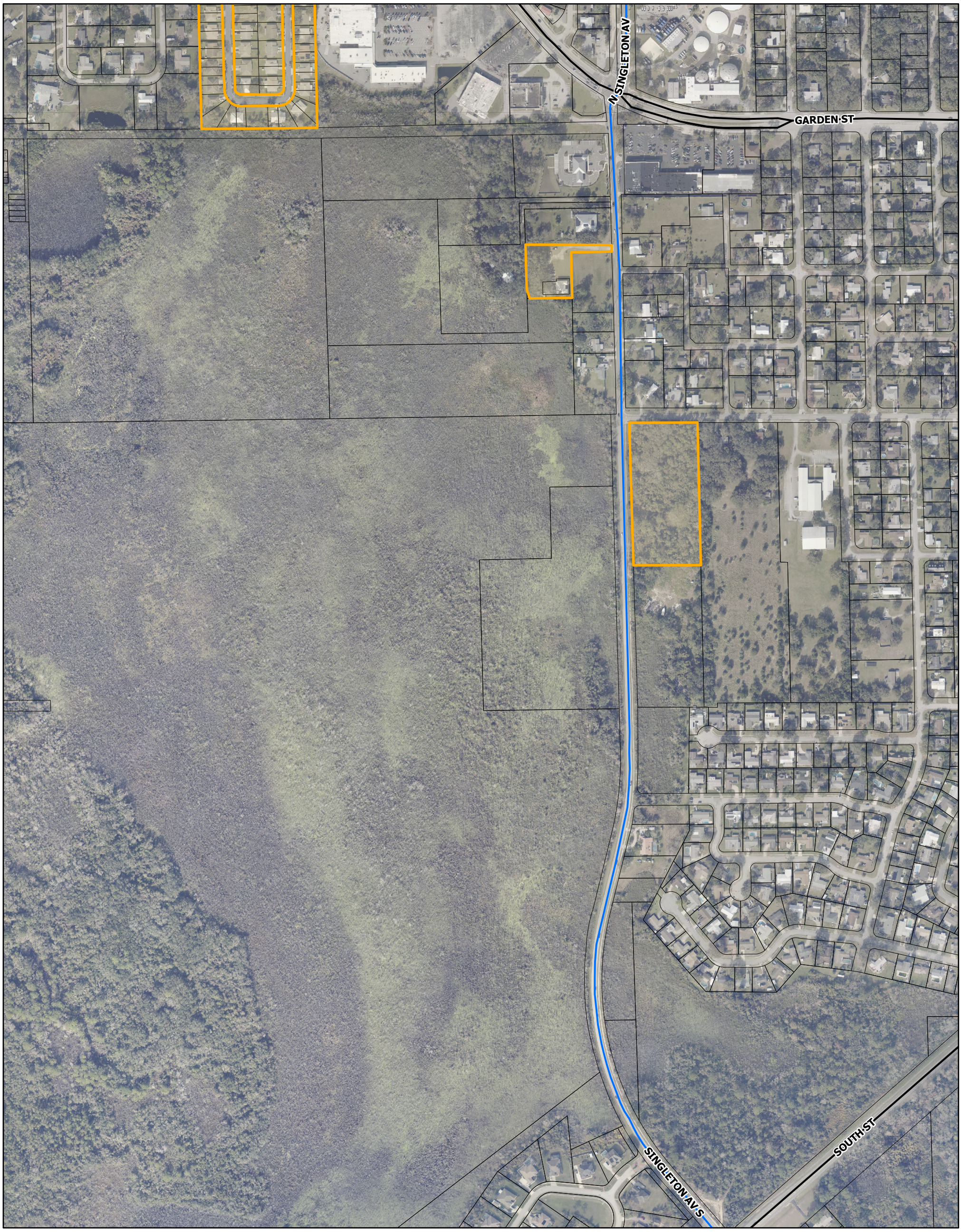

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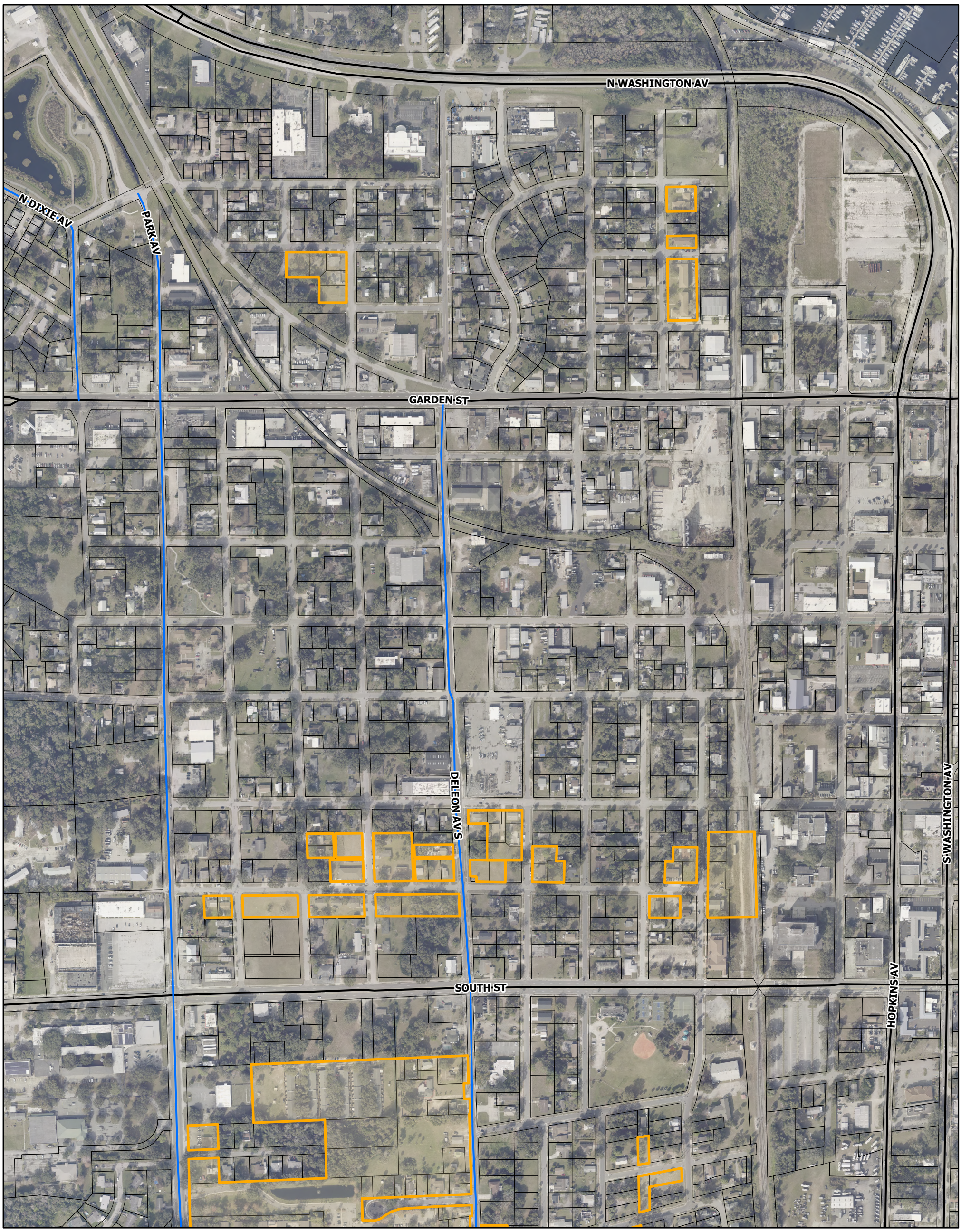

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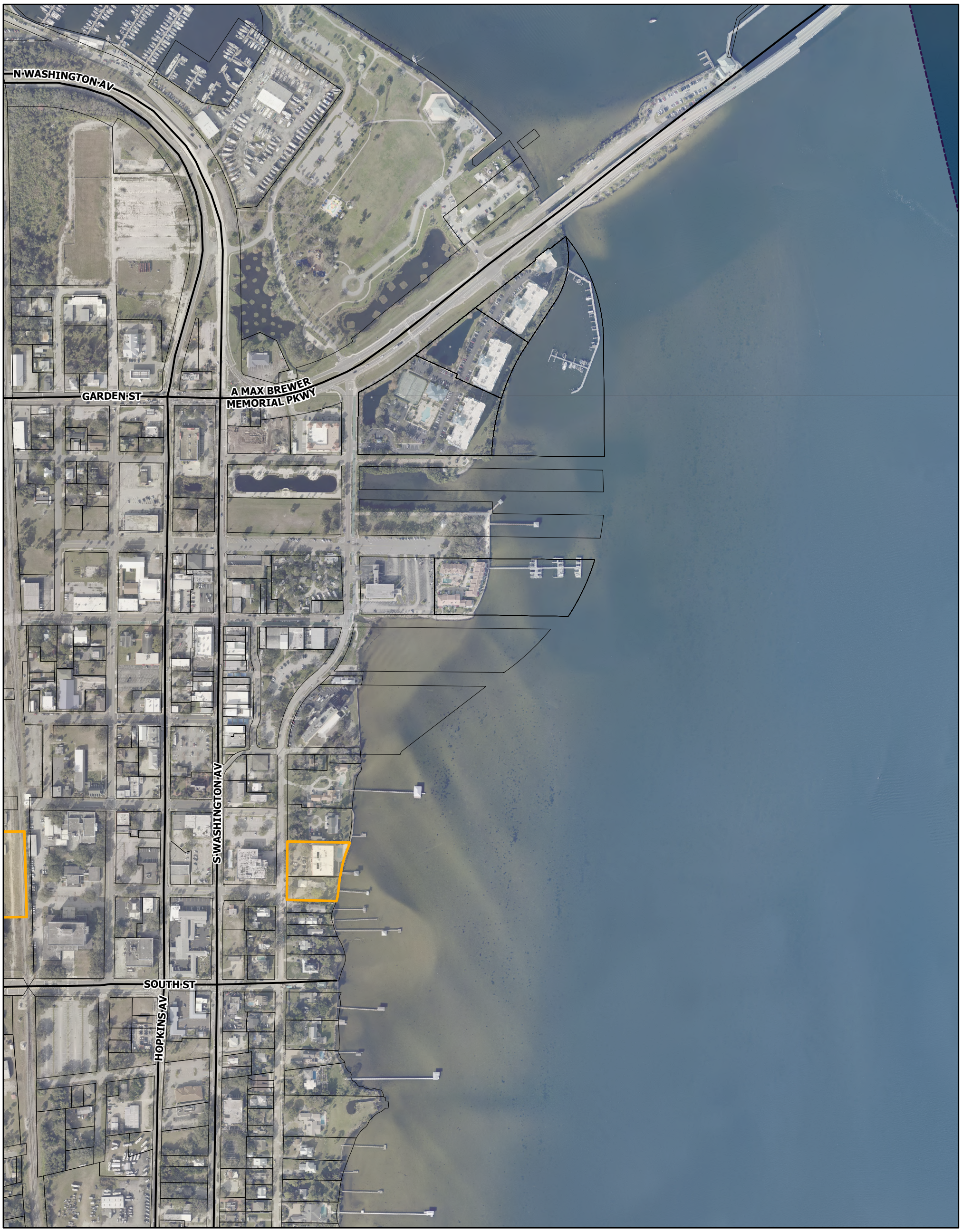

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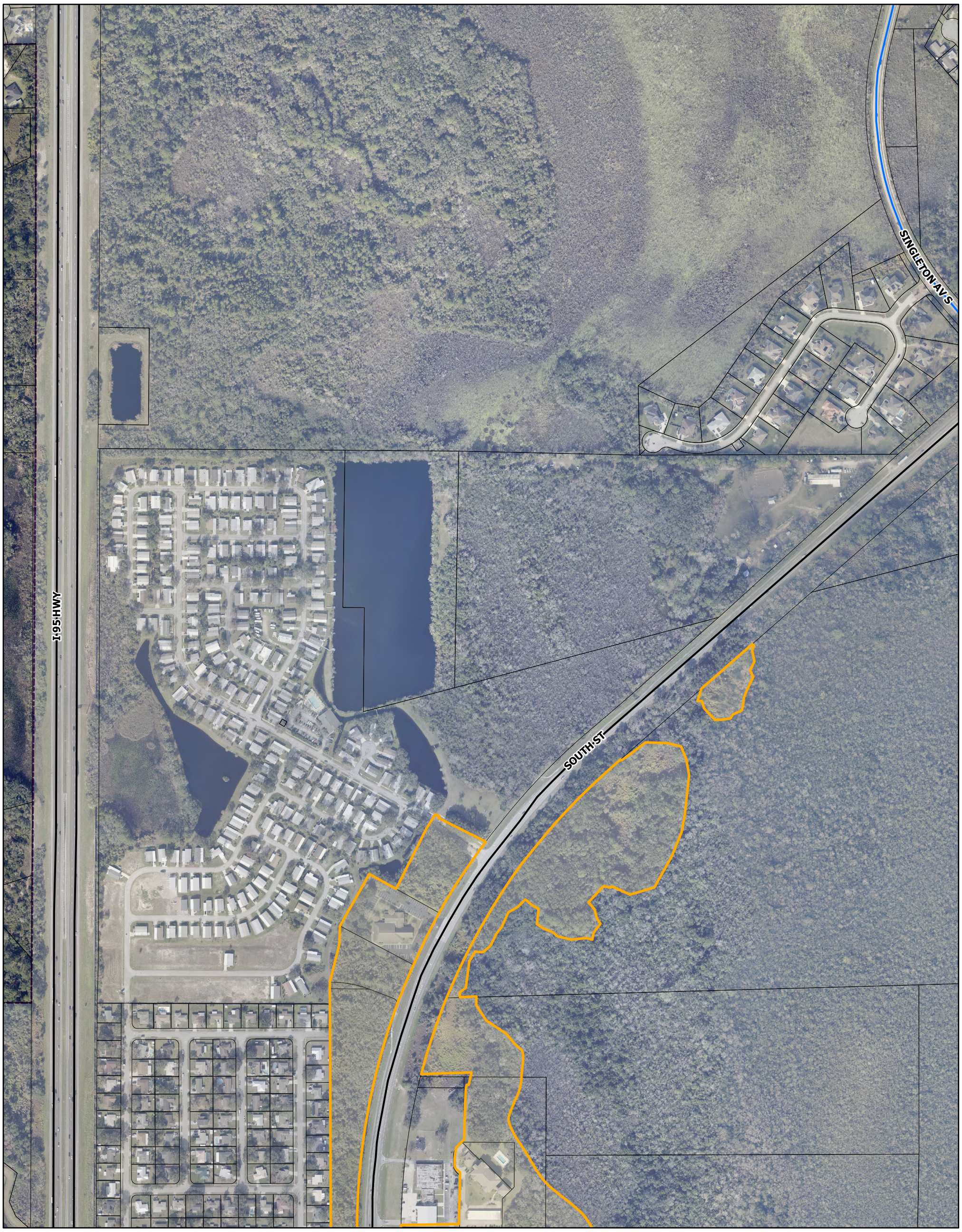

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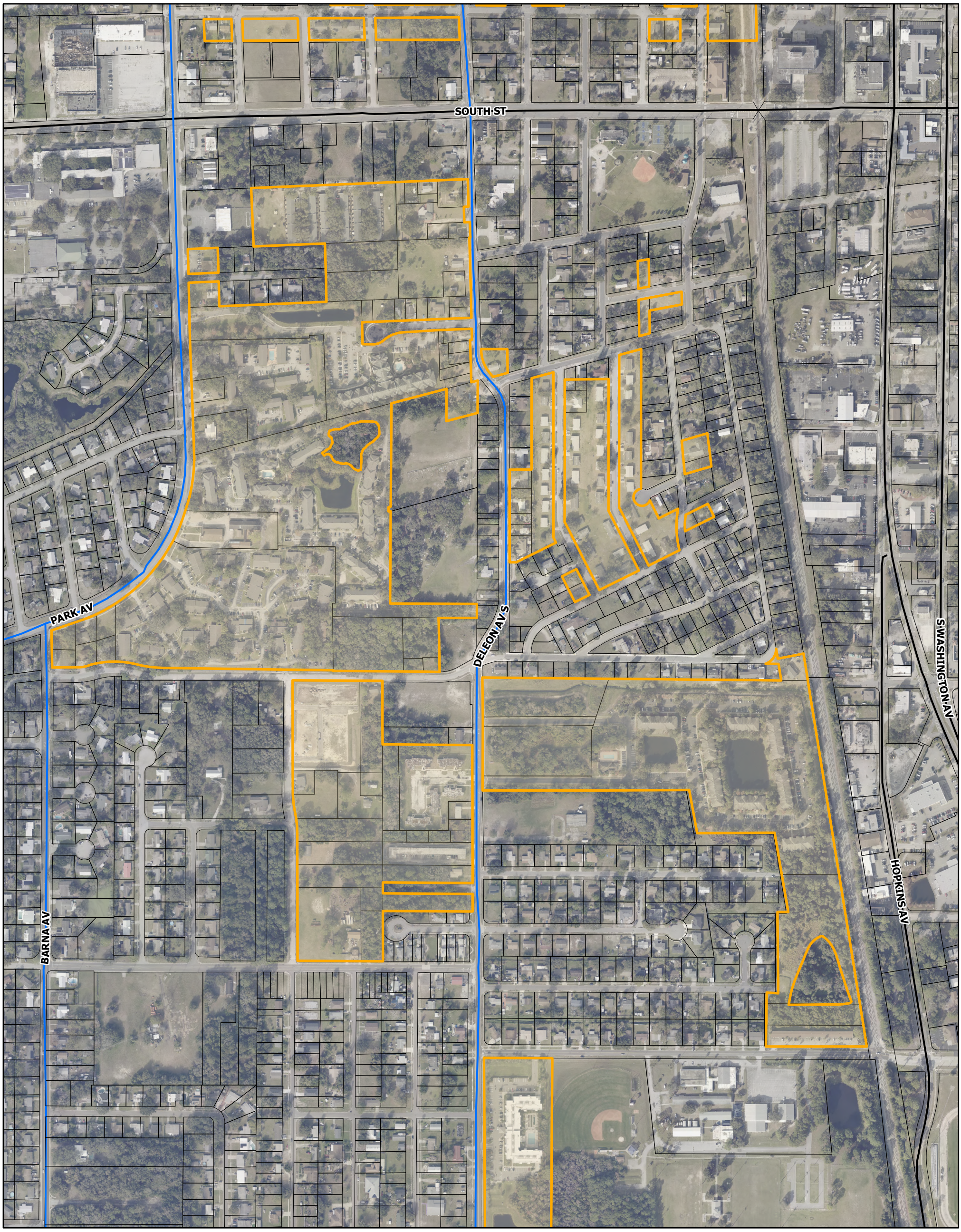

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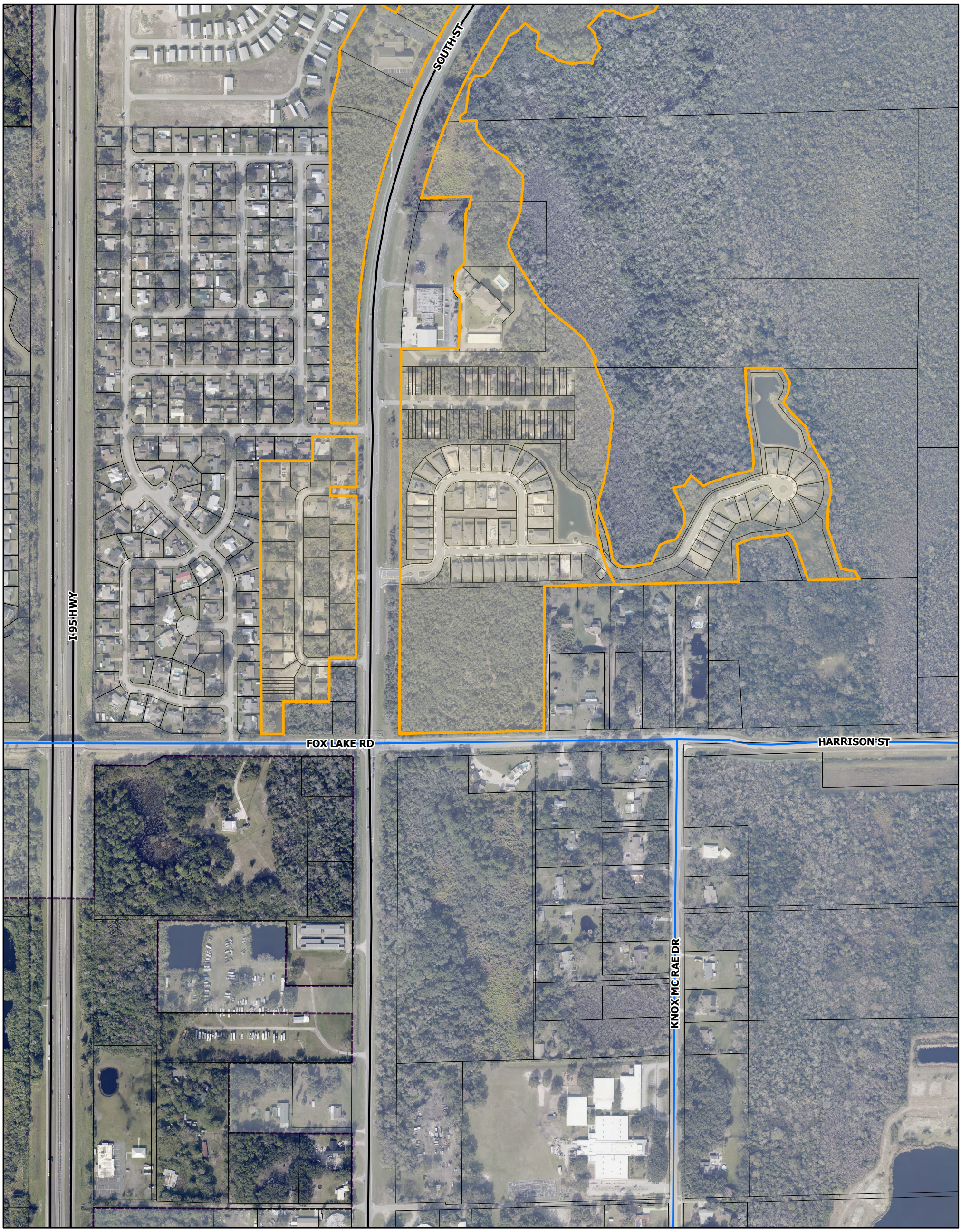

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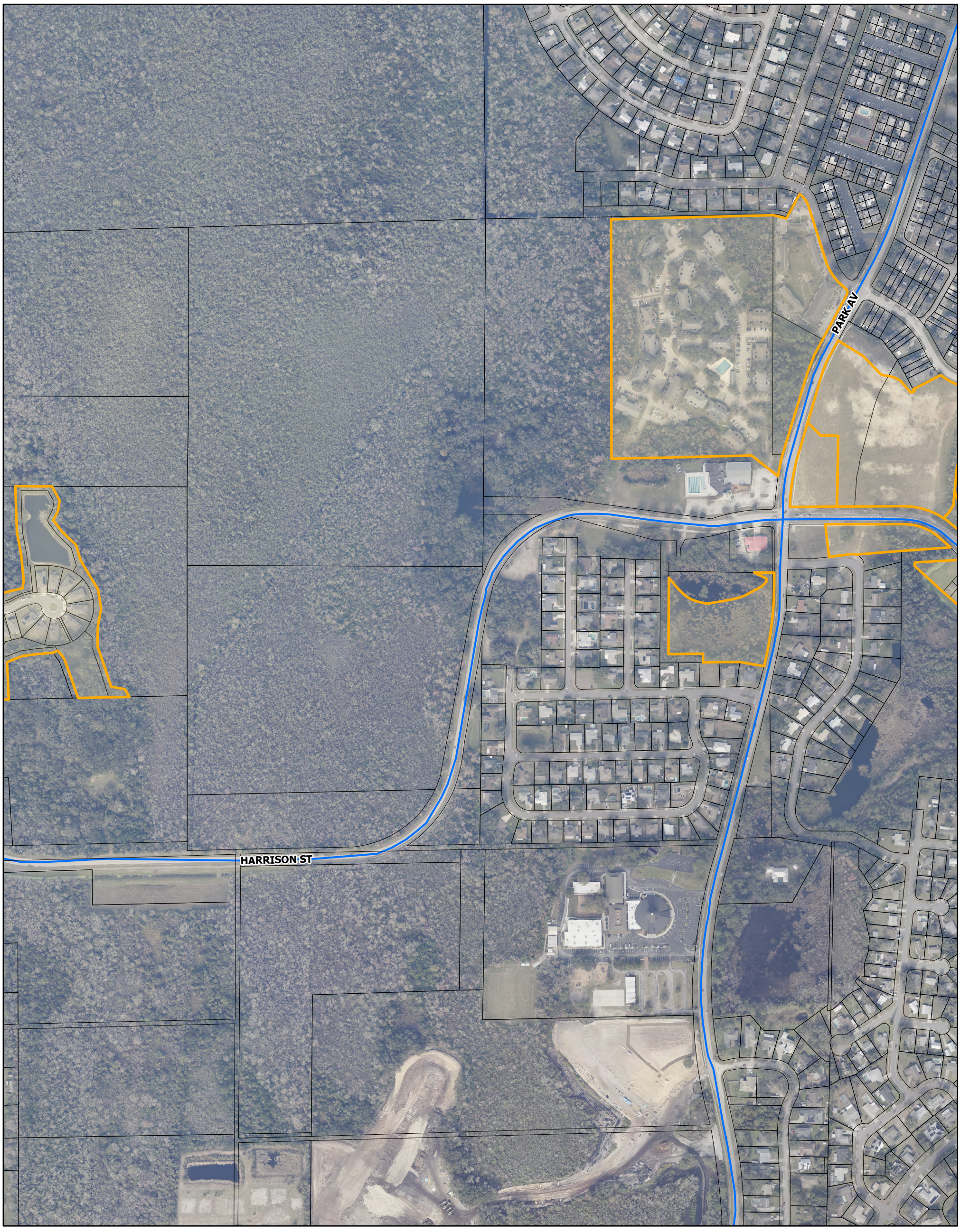

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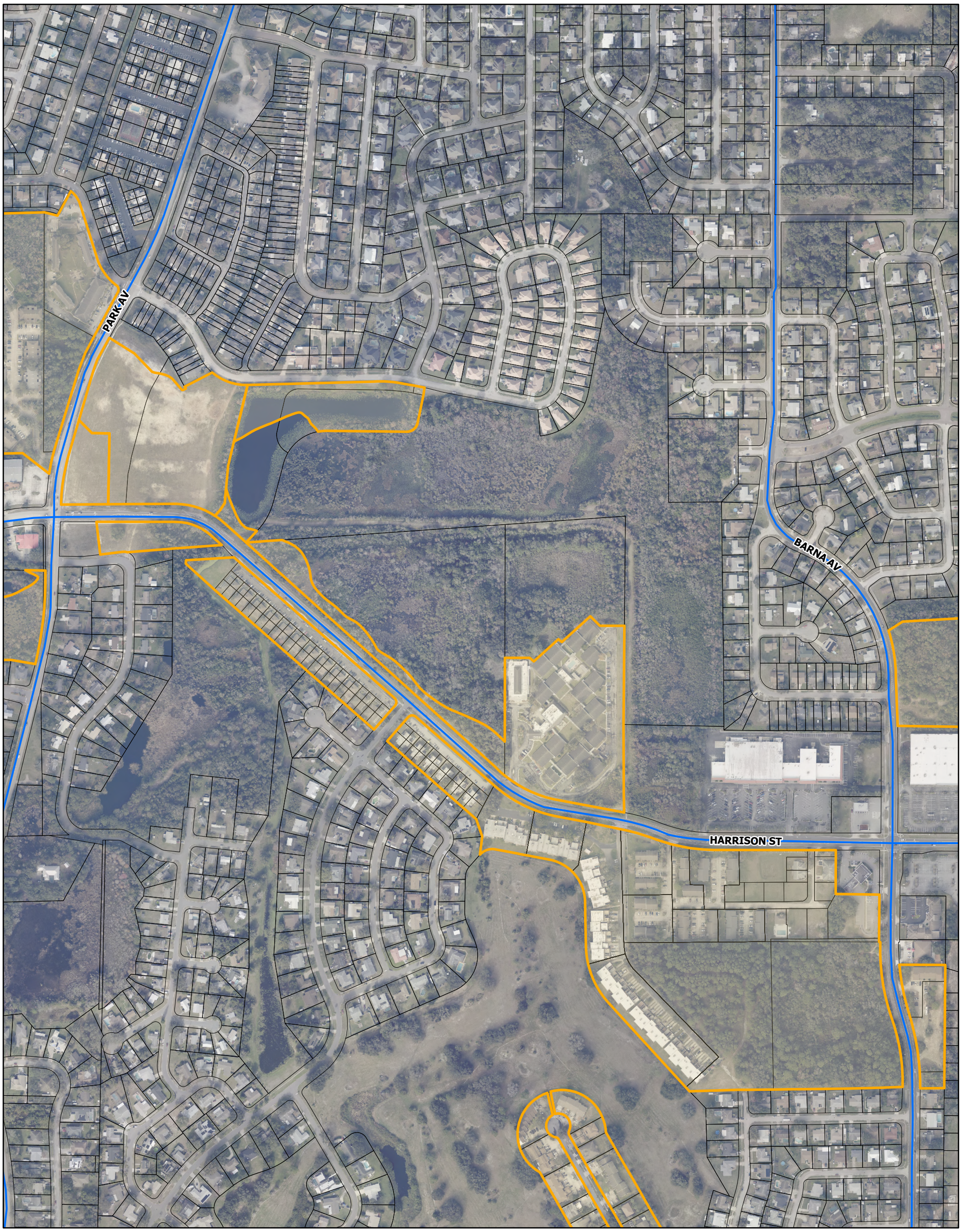

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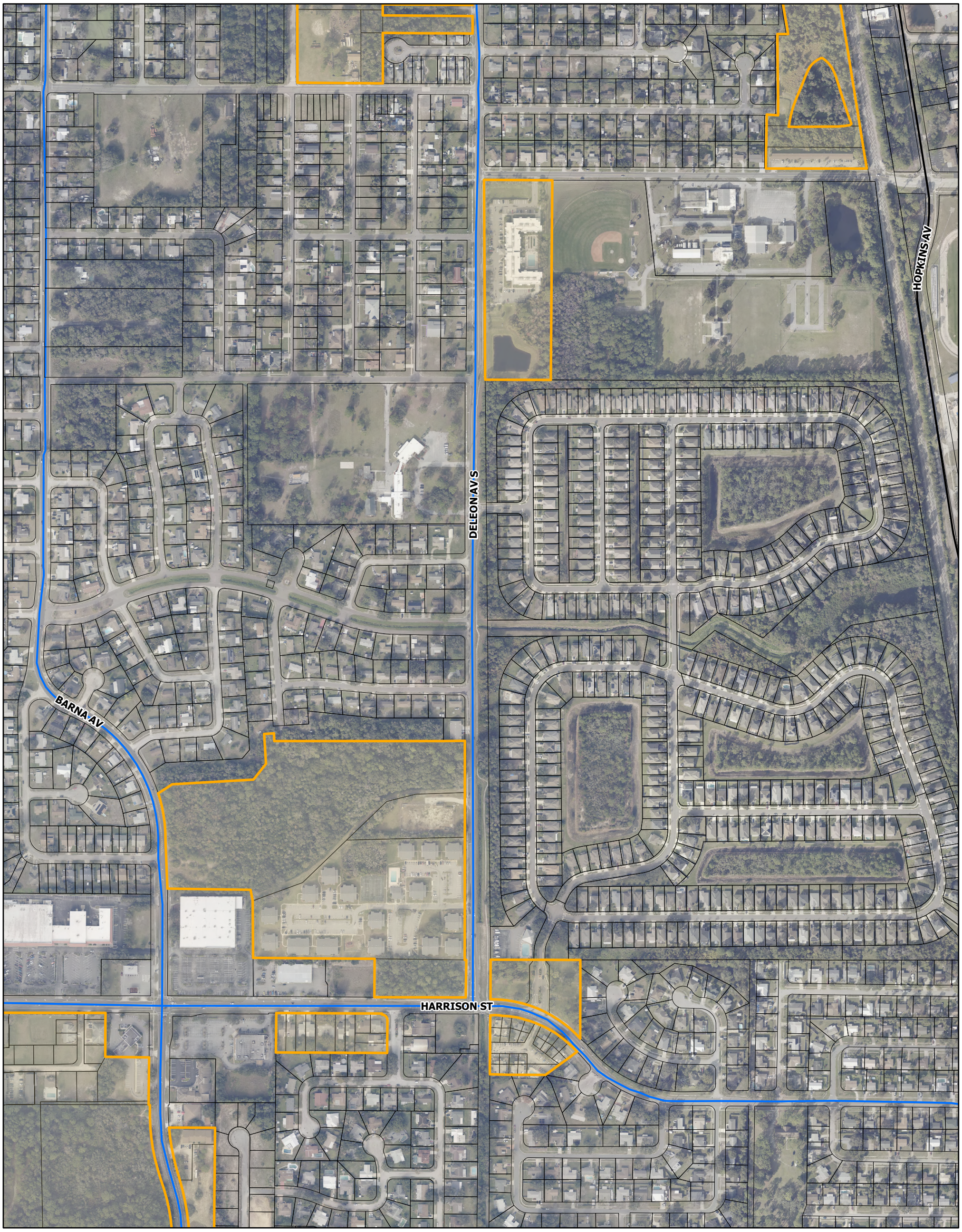

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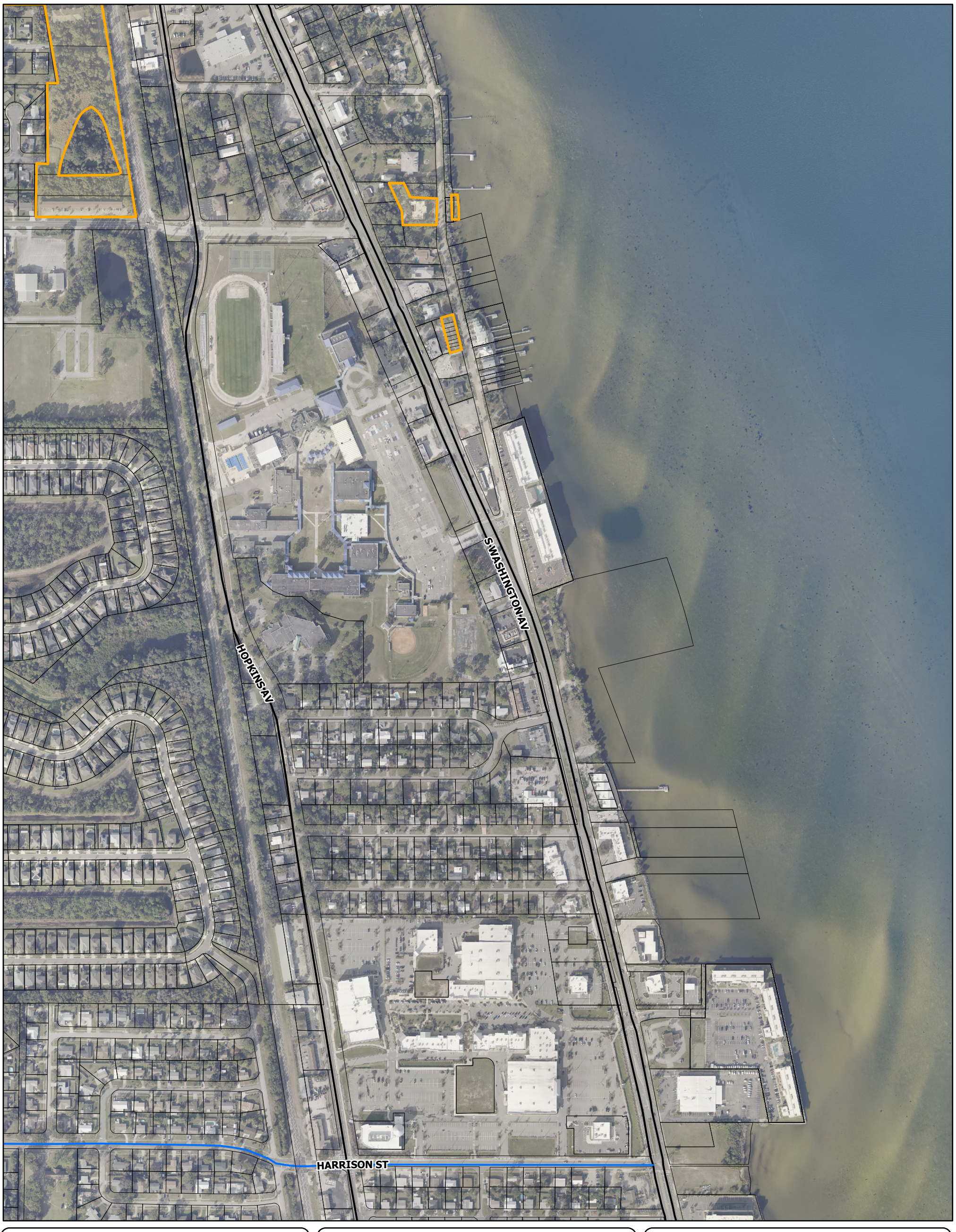

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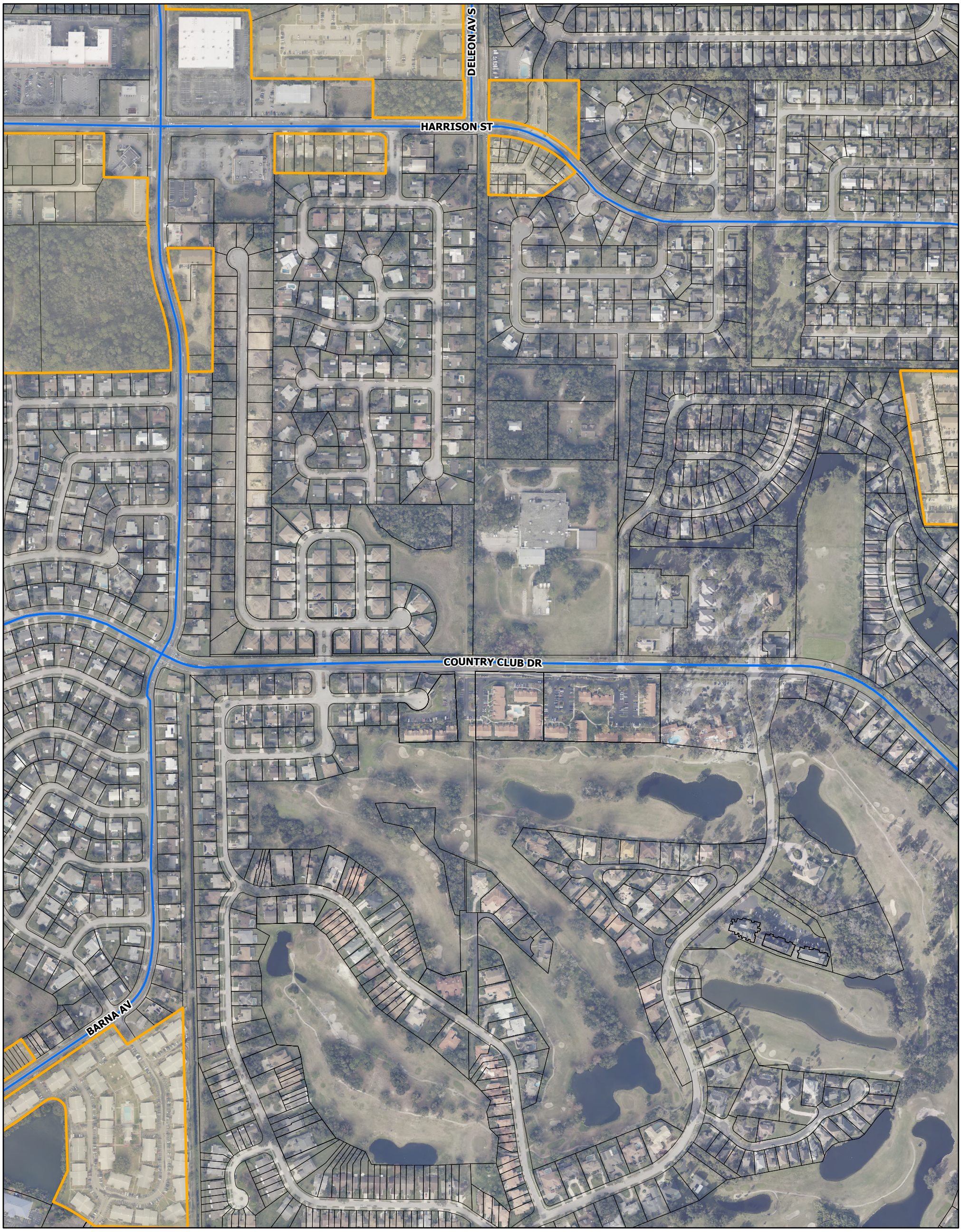

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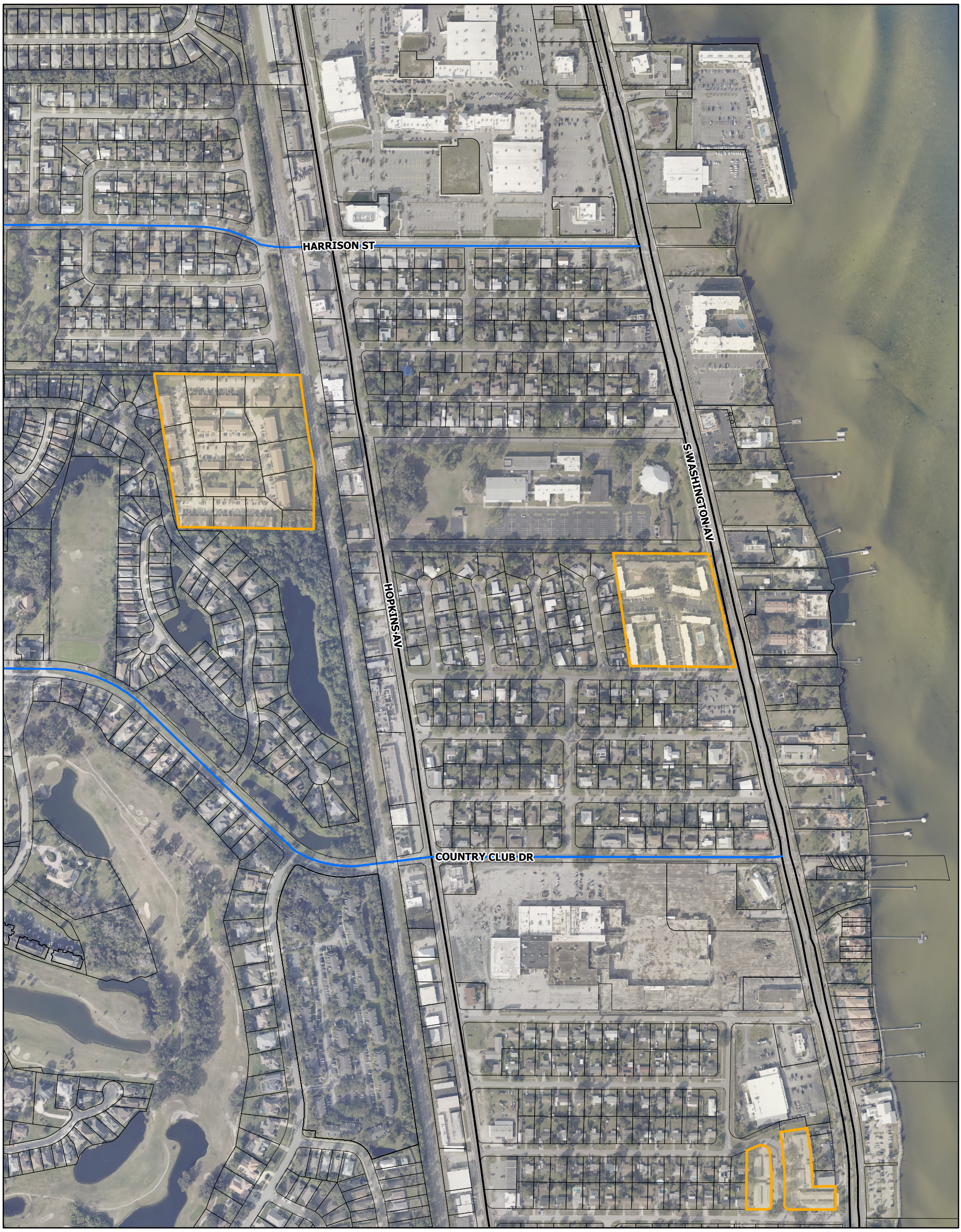

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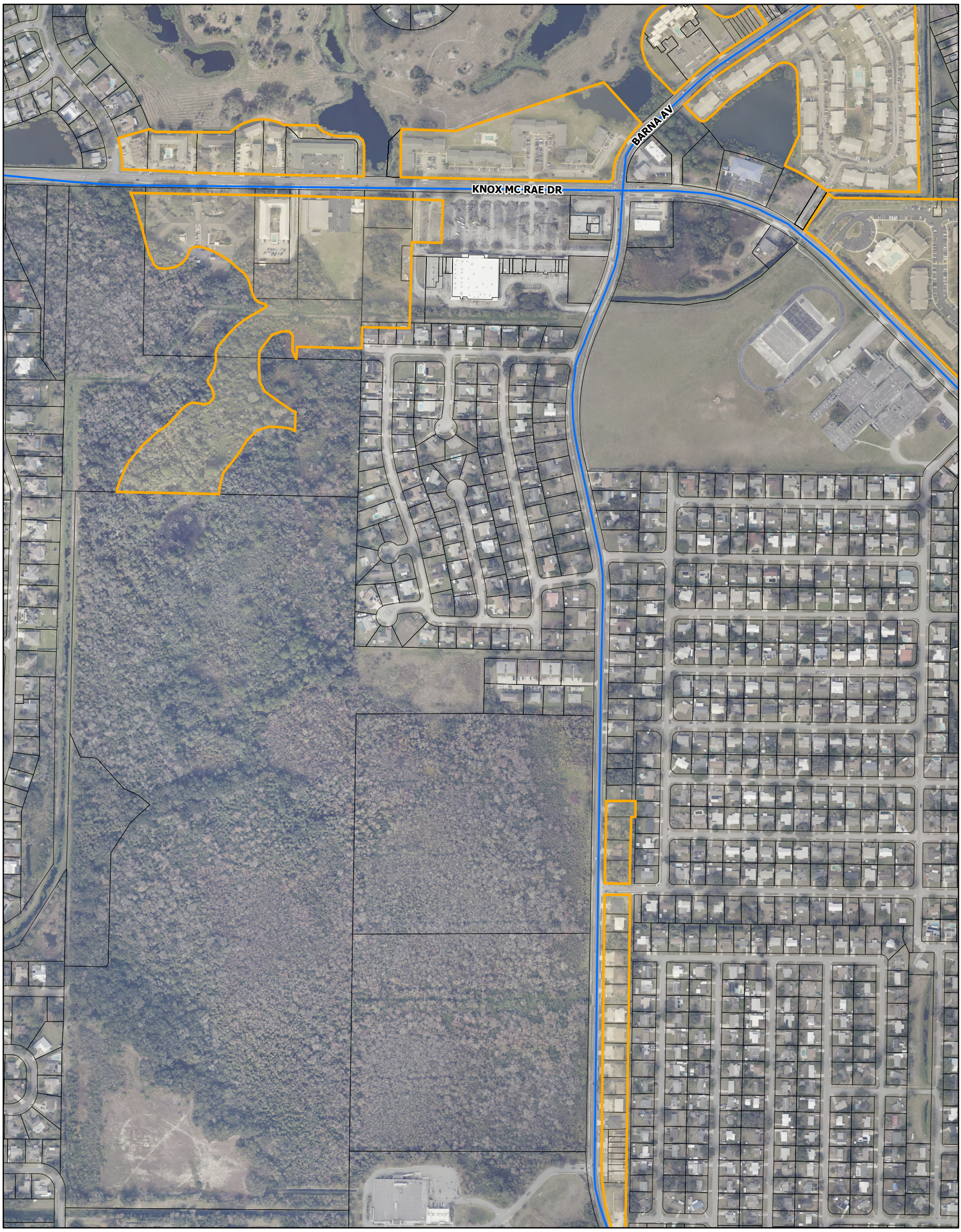

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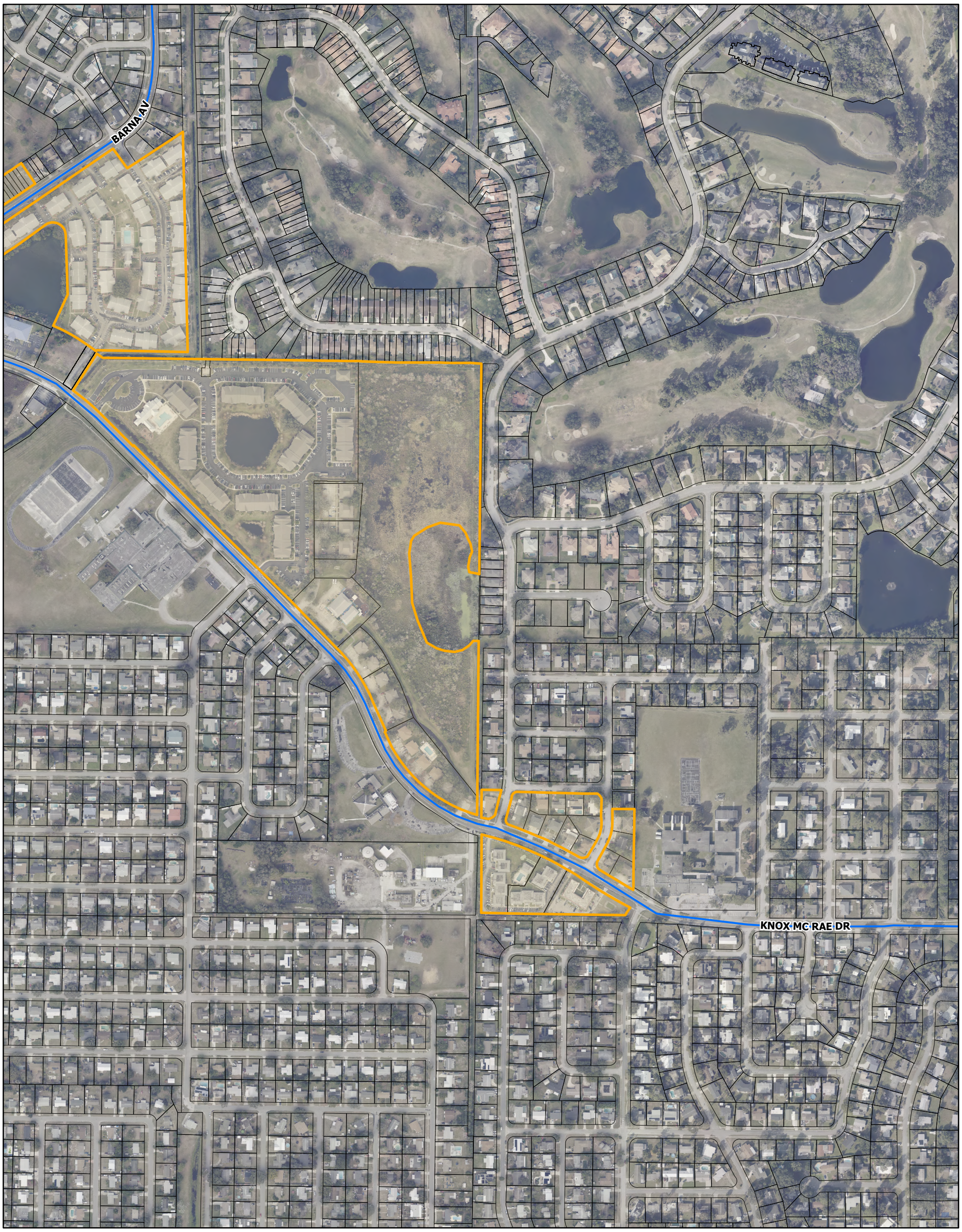

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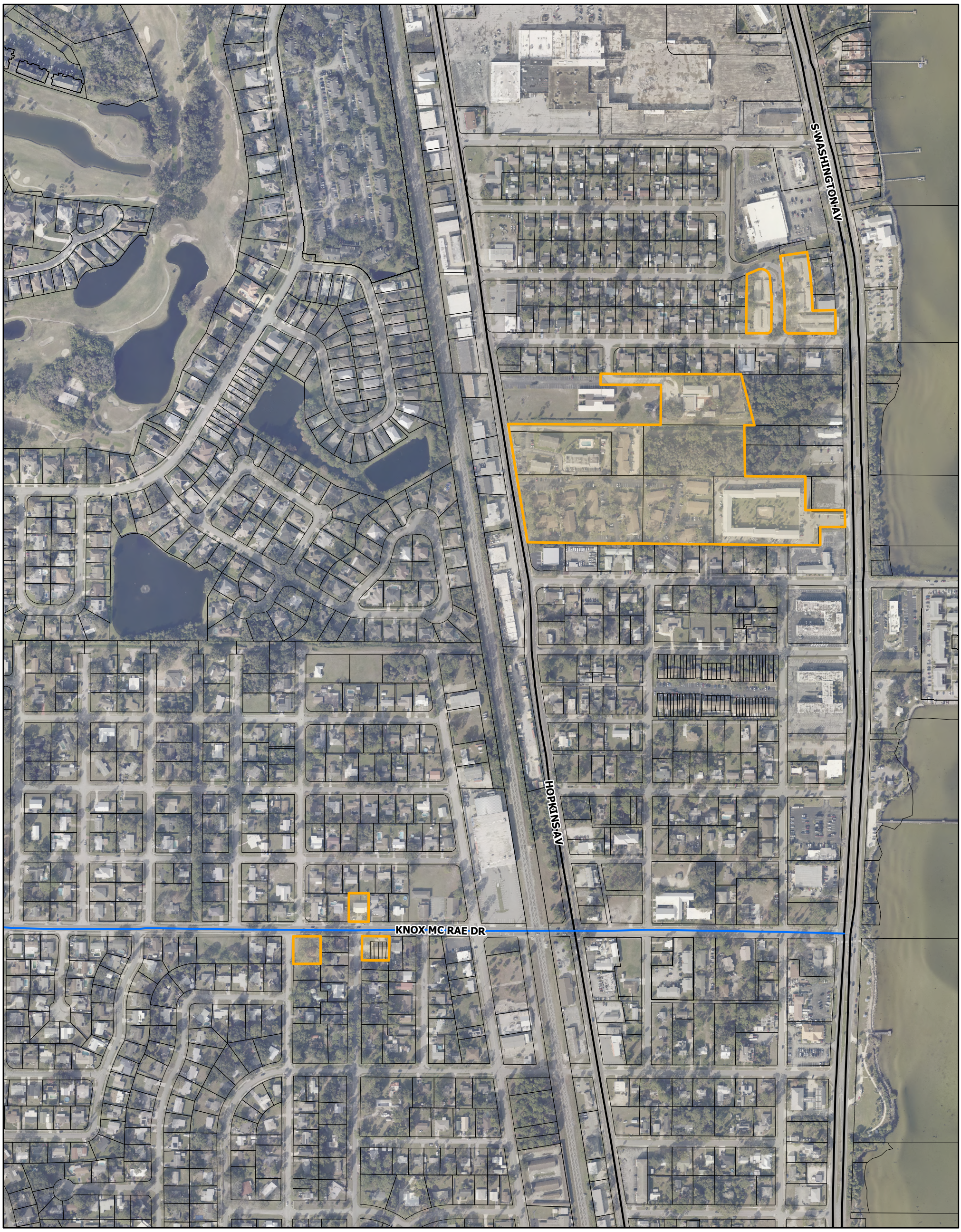

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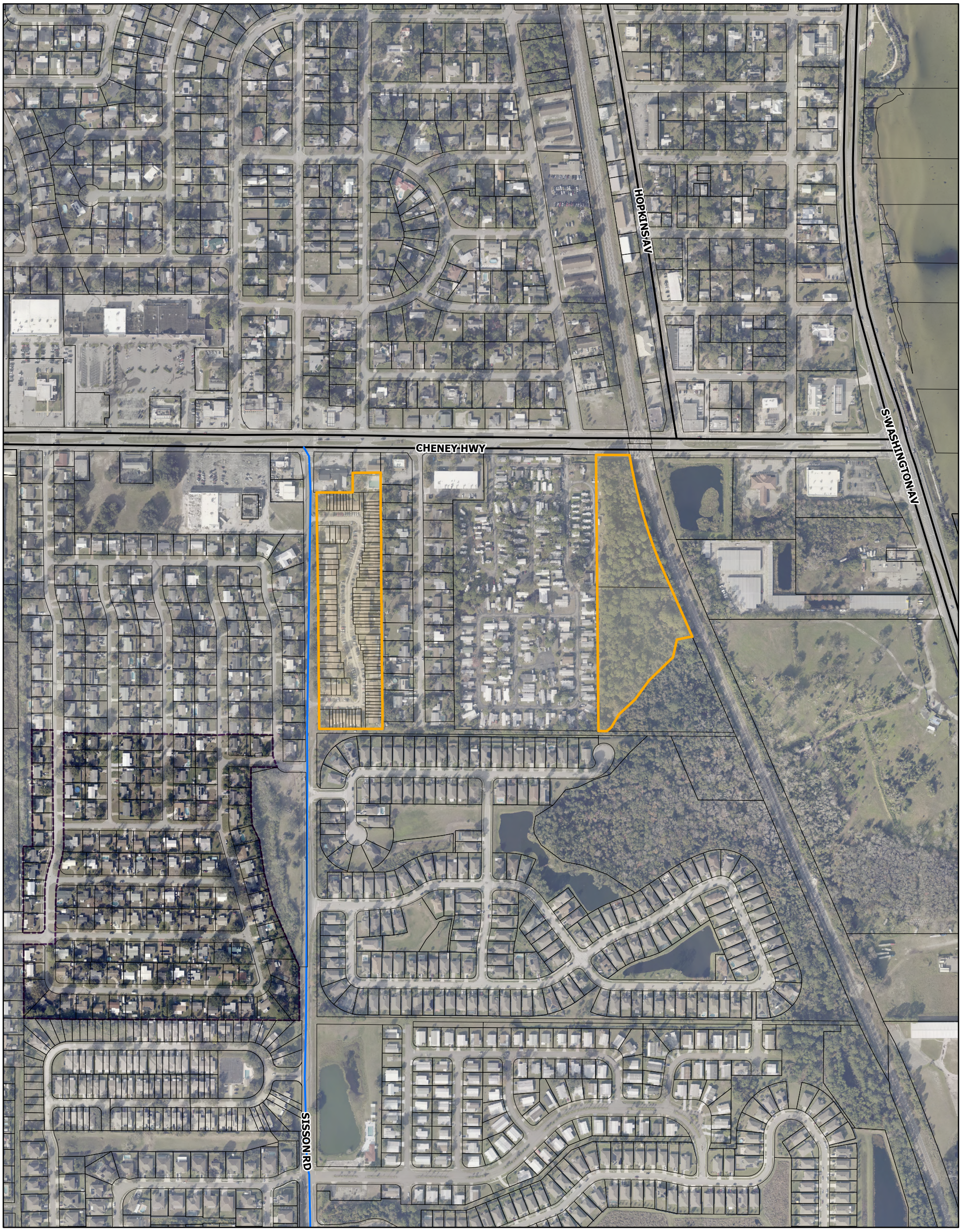

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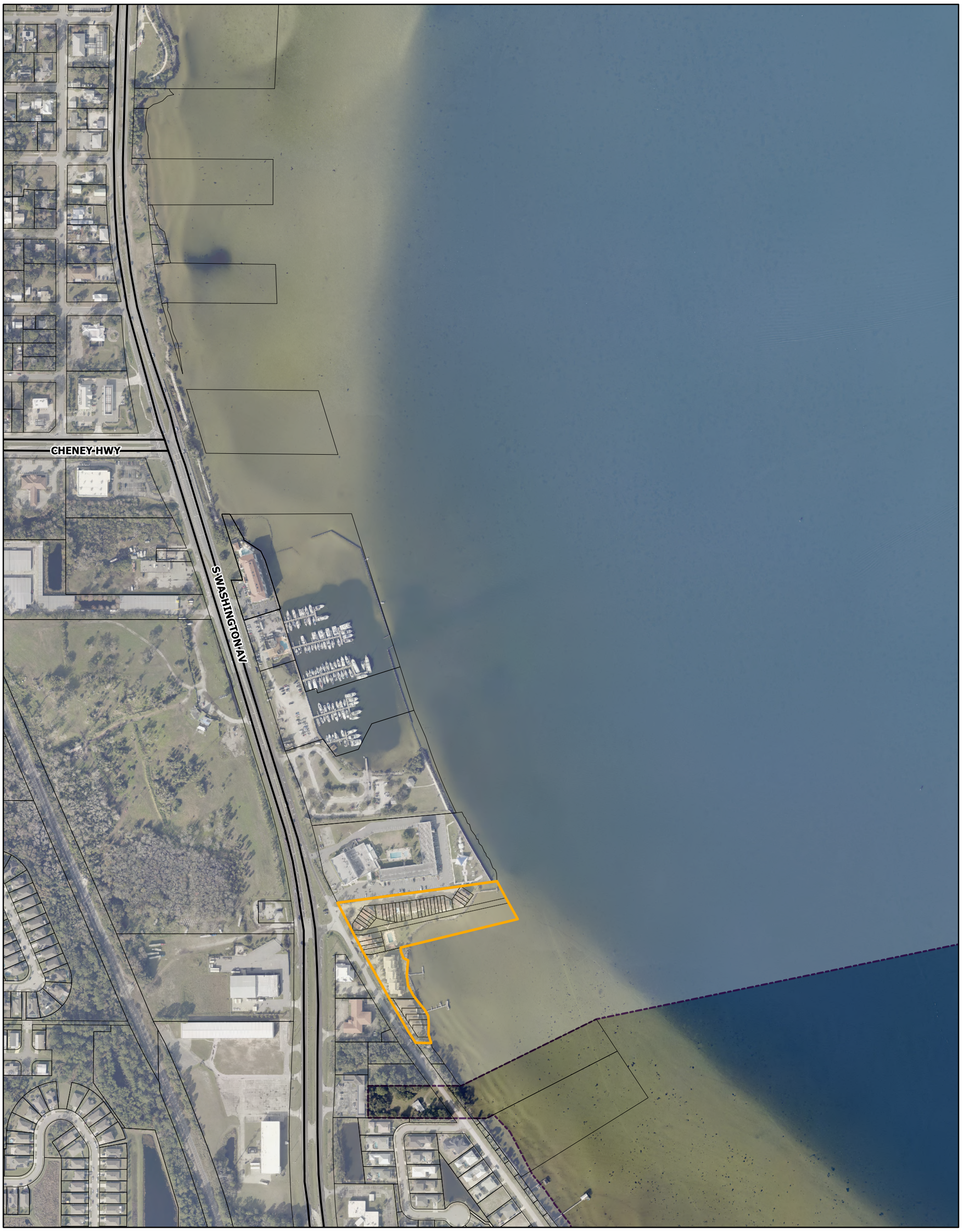

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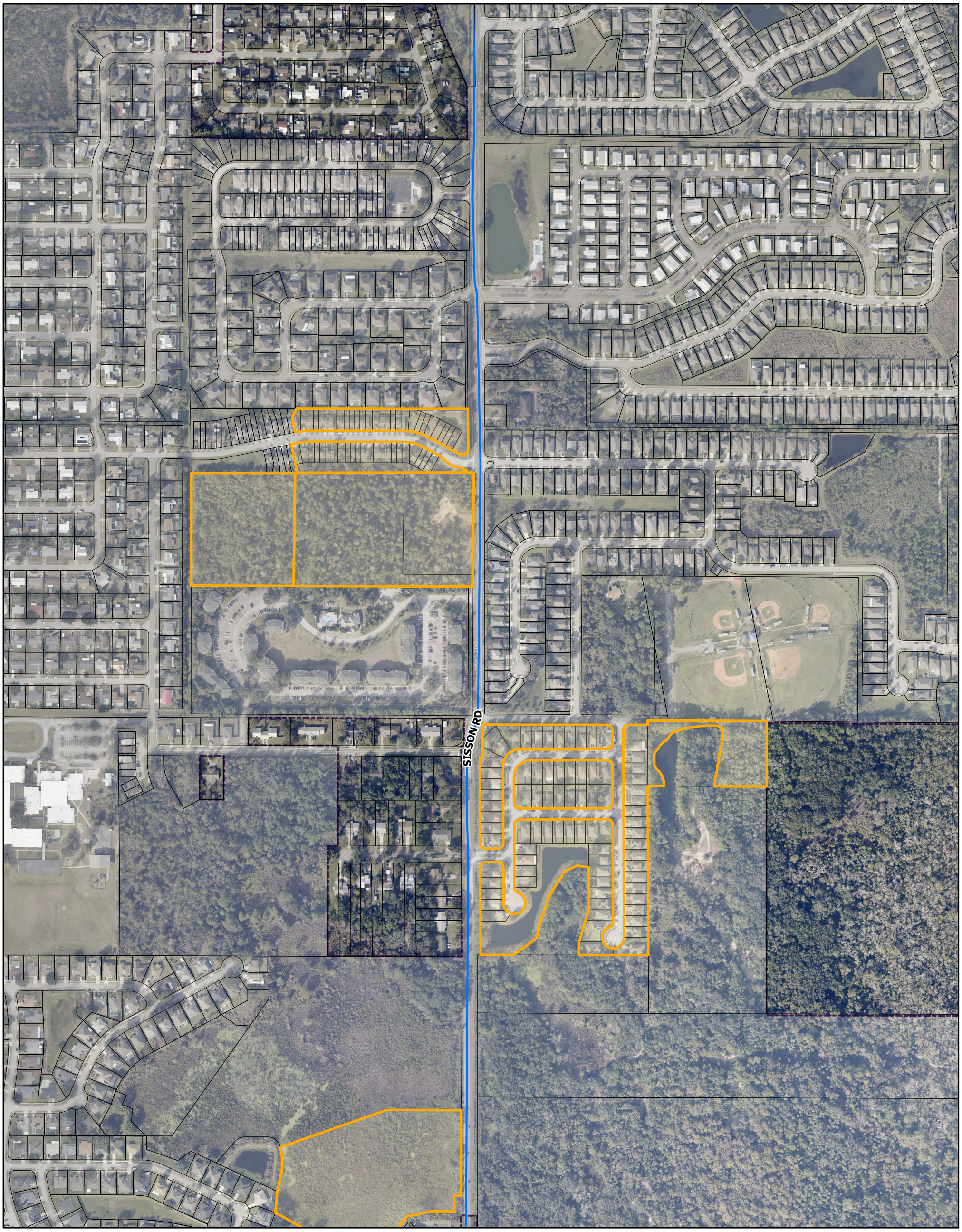

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City of Titusville
City Attorney's Office

BOARD OF ADJUSTMENTS AND APPEALS

Appeal No. 1-2024

Meeting Date: January 29, 2025

Prepared By: Chelsea Farrell, Assistant City Attorney

Applicant: Vickie J. Conklin, Appellant

MEMORANDUM

The City of Titusville received a Notice of Appeal from Vickie J. Conklin, Appellant, on December 5, 2024, appealing the issuance of a Site Development Permit for Apollo Gardens Apartments issued to Apollo Gardens LLLP for the property located at 2727 Demaret Drive, Titusville, Florida 32780. The permit was issued on November 11, 2024.

Pursuant to Titusville Code Section 34-249, "Any **affected property owner** or his agent may file an appeal." Accordingly, the first issue to be addressed by the Board of Adjustments and Appeals will be whether the Appellant is an "affected property owner" with standing to appeal the issuance of the Site Development Permit.

If the Board finds that the Appellant has established standing as an "affected property owner" to present this appeal, the Board will proceed to hear the merits of the appeal and render a decision.

A copy of Resolution No. 24-1997 is enclosed in the agenda packet, providing the quasi-judicial rules of procedure. Titusville Land Development Regulations, Chapter 34, Procedures, Article V, Variances and Appeals, Division 2., *Appeals to the Board of Adjustment (Appeal of Administrator)*, is also provided in the agenda packet.

RESOLUTION NO. 24 - 1997

A RESOLUTION OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING RESOLUTION NO. 25-1995 BY DELETING ANY SITE SPECIFIC COMPREHENSIVE PLAN AMENDMENTS FROM THE QUASI-JUDICIAL PROCEDURE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Titusville has, by motion, previously adopted and from time to time amended rules of procedure to govern the conduct of hearings and other matters coming before the City Council; and,

WHEREAS, as a result of recent developments of case law, the City Council deems it to be in the best interests of the health, safety and welfare of the citizens of the City of Titusville to provide rules of procedure to govern hearings before the City Council and its administrative Boards when meeting in a quasi-judicial capacity in zoning related matters; and,

WHEREAS, the City Council wishes to adopt rules of procedure for quasi-judicial matters; and,

WHEREAS, the City Council realizes that case law is still developing regarding administrative Boards meeting in a quasi-judicial capacity in zoning related matters, as such, the City Council acknowledges that this Resolution will have to be amended from time to time to keep abreast of future developments in case law related to this subject matter; and,

WHEREAS, the Florida Supreme Court in *Brevard County v. Snyder, 620 So.2d 469 (Fla. 1993)* found that certain proceedings conducted by the administrative Boards are quasi-judicial proceedings and that substantial competent evidence must be contained in the record to support a decision of the Board; and,

WHEREAS, the Florida Supreme Court in *Martin County v. Yusem, 22 Fla. L. Weekly S156 (March 27, 1997)* has found that all comprehensive plan amendments are legislative; and,

WHEREAS, the case of *Jennings v. Dade County, 589 So.2d 1337 (Fla. 3d DCA 1991)* prohibits ex-parte communications with Board members in hearings involving quasi-judicial proceedings; and,

WHEREAS, public officials such as the Board members are frequently contacted by citizens desiring to express their opinions in matters coming before the Board; and,

WHEREAS, the City Council of the City of Titusville desires to implement the process and procedure authorized by *Chapter 286.0115, Florida Statutes* that establishes the process and procedure for disclosure of contact by citizens with public officials; and,

WHEREAS, Administrative Board members will endeavor to avoid off-the-record comments from citizens in quasi-judicial proceedings and desires to establish a process or procedure for disclosure of inadvertent contact by citizens with members of the Boards in said proceedings.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TITUSVILLE, FLORIDA, AS FOLLOWS:

Section 1. INTENT AND PURPOSE.

1.1. The City of Titusville recognizes that administrative Boards often serve in a quasi-judicial capacity concerning zoning related matters. As such, all interested parties should be afforded certain minimal due process safeguards in the form of due notice, a fair opportunity to be heard in person and through counsel, the right to present evidence, and the right to cross examine adverse witnesses. Furthermore, the City Council recognizes the requirements of applicable law regarding the evidence and other matters which may be considered when making a quasi-judicial determination in a zoning related matter.

1.2. The rules and procedures set forth in this resolution are applicable only to administrative Boards serving in a quasi-judicial capacity concerning zoning related matters.

Section 2. DEFINITIONS. For purposes of this Resolution only, the following definitions shall apply when applicable (defined terms appear in Capital Letters):

2.1. *Board* means a City administrative body acting in a quasi-judicial capacity concerning zoning related matters, including, but not limited to: Board of Adjustments, Code Enforcement Board, Planning and Zoning Board, Community Redevelopment Agency, City Council or any other administrative body acting in such a capacity.

2.2. *Competent Substantial Evidence* means sufficiently relevant and material evidence a reasonable mind would accept as adequate to support a conclusion.

2.3. *Expert* means a person who is qualified in a subject matter by knowledge, skill, experience, training, or education.

2.4. *Interested Party* means an individual, corporation, business, or land trust, estate, trust, partnership, association, or other legal entity whose interest may be adversely affected by a Board's action.

2.5. *Site-Specific* means a zoning related matter which has an impact on a limited number of persons or property owners and include identifiable parties and interests. Specifically not included is comprehensive rezoning or any comprehensive plan changes.

2.6. *Quasi-Judicial* is determined by the essential nature of the Board's actions.

A. The Board's actions are quasi-judicial providing:

(1) an interested party is provided notice and a hearing;

(2) judgment of the Board is contingent on the consideration of evidence made at a hearing;

(3) the Board adjudicates private rights of a particular person after a hearing; and,

(4) the Board's decision can be viewed as a policy application rather than policy setting.

B. *Quasi-judicial* shall include public hearings where variances, appeals, conditional use permits, site-specific zoning changes, or other site-specific development orders are considered.

C. *Quasi-judicial* does not include comprehensive rezoning or any comprehensive plan changes of any size.

2.7. *Zoning related matter* means a public hearing where a Board considers variances, conditional use permits, appeals, site-specific zoning changes, or development orders.

Section 3. NOTICE AND SCHEDULING OF PUBLIC HEARINGS.

3.1. Notice and scheduling requirements for public hearings held before a Board shall be provided in accordance with applicable state law and City ordinances.

Section 4. EX-PARTE COMMUNICATIONS.

4.1. INTENT.

The City Council of the City of Titusville recognizes that in quasi-judicial proceedings such as zoning related matters that said proceedings have been recognized by the Florida courts to constitute quasi-judicial decisions which must be based upon competent substantial evidence contained in the record in the proceedings.

The City Council recognizes that in accordance with the case of *Jennings v. Dade County, 589 So.2d 1336 (Fla. 3d DCA 1991)*, that in quasi-judicial proceedings that information or evidence is to be presented at a hearing before the Board. In addition, it is recognized that as public officials, citizens demand and expect the right to voice their opinions to local public officials.

In recognition of the nature of quasi-judicial proceedings and the public's expectation of being able to voice their opinions to local public officials, it is the intention of the City Council for its Boards to avoid contacts other than at hearings before the Board and that it is the desire and intent of the City Council to establish a process and procedure for disclosure of inadvertent ex parte communications.

4.2. PROCESS AND PROCEDURE.

A. In the event a member of a Board receives an ex parte communication outside of the hearing or proceeding before the Board, said Board member shall disclose and make a part of the record before final action is taken the identity of the person, group or entity with whom the communication took place and the subject of the communication including all opinions or facts discussed. Said disclosure shall be made before or during the public hearing at which a vote is to be taken on said matter and any persons having opinions contrary to those expressed in the ex parte communication shall be given a reasonable opportunity to refute, rebut or respond to the communication.

B. In the event a member of a Board receives or reads a written communication from any person relating to a quasi-judicial proceeding pending before the Board, said written comments shall be disclosed and made a part of the record before final action is taken by the Board, and any person having an opinion to the contrary to that expressed or disclosed in the written communication or opinion shall be given a reasonable opportunity to refute or rebut and respond to the communication.

C. In the event a member of a Board conducts an investigation or site visit or receives any expert opinions regarding quasi-judicial proceedings pending before the Board, then in that event said investigation or site visit or opinion shall be disclosed and

made a part of the record before final action is taken by the Board, and any person having an opinion to the contrary to that expressed in the investigation or site visit or opinion shall be given a reasonable opportunity to refute or rebut and respond to the communication.

4.3. **PRESUMPTION.**

In the event an ex-parte communication should occur as described herein and disclosure is made in accordance with the process and procedure described above, then in that event any official action taken by the Board in any quasi-judicial proceeding shall remove any presumption of prejudice arising from said ex-parte communication where an ex-parte communication has occurred.

Section 5. HEARING PROCEDURE. The following outline will be followed in conducting hearings:

5.1. At the beginning of a meeting, the Mayor or Chairperson shall review the order of presentation, opportunity for public participation and opportunity for cross examination of witnesses. The Mayor and Chairperson will advise that any written, photographic, or other demonstrative evidence relied upon during the presentation must be submitted into the record and will not be returned.

5.2. The Clerk has available an oath to be signed by all persons who anticipate speaking on any public hearing item. (See Section 7)

5.3. All persons who anticipate they may speak, will be asked to sign up for the public hearing item(s) they wish to address.

5.4. Open public hearing for particular item.

5.5. Ask attorney to read ordinance (if required).

5.6. Ask clerk to confirm the advertising and notice requirements for the public hearing item have been satisfied.

5.7. Remind each witness to state their name, address (firm or company if consultant), and whether they have been sworn.

5.8. **REQUEST STAFF PRESENTATION.**

A. Presentation should include: (1) the nature of the request; (2) the identification and discussion of issues to be determined by the Board; and (3) staff recommendation.

B. Enter into evidence the staff report and all exhibits presented or referred to by staff during its presentation. Also enter into evidence staff's resume.

C. Inquire of applicant if they wish to cross examine the staff presenter.

5.9. **REQUEST APPLICANT PRESENTATION.**

A. Ensure that all documents, photographs, drawings or other evidence referred to by the presenter or witness is entered into the record.

B. Allow cross examination of witness(es) by staff representative.

5.10. **PUBLIC COMMENT.**

A. Open floor to public comment taking speakers in order they signed up and allow cross examination of witness(es) by applicant and staff representative.

B. Ensure that all documents, photographs, drawings or other evidence referred to by the presenter or witness is entered into the record.

C. Open floor to additional speakers who failed to sign up. Ensure they are sworn.

5.11. **APPLICANT'S REBUTTAL.**

A. Applicant may introduce into evidence only on points raised during the public comment phase to rebut new issues.

B. Ensure that all documents, photographs, drawings or other evidence referred to by the presenter or witness is entered into the record.

5.12. Questions from Board members and staff to any presenters (Board members' comments and questions are appropriate throughout the proceeding).

5.13. Close public comment and open discussion among Board members. No additional evidence may be introduced.

5.14. Close public hearing and vote. If public hearing is to be continued, continue to a time and date certain within thirty (30) days. Readvertising and notice will not be

necessary. If continued to an unspecified time and date, readvertising and notice **will be** required.

5.15. **VOTING OF MEMBERS.** Any Board member who was absent from a prior meeting in which a specific case was heard shall review the record of the prior proceeding and such review shall be acknowledged by the Board member on the record prior to taking a vote with respect thereto.

Section 6. EVIDENTIARY REQUIREMENTS.

6.1. **BURDEN OF PROOF.** The burden of proof in quasi-judicial hearings concerning zoning related matters shall be in accordance with all applicable local, state and federal law. The burden of proof shall be as follows:

A. The initial burden is on the landowner to demonstrate that their petition or application for use of privately owned lands (rezoning, conditional use permit, variance, site plan approval, etc.) complies with the reasonable procedural requirements of the zoning ordinance, hardship requirements (if applicable) and that the proposal is consistent with the comprehensive plan.

B. Upon such showing by the landowner, the burden shifts to the Board to demonstrate that maintaining the existing zoning classification with respect to the property accomplishes a legitimate public purpose (not arbitrary, discriminatory, or unreasonable).

C. After such showing by the Board, the landowner's only recourse is to assert and prove that the actions of the Board in denying the petition or application are confiscatory and thereby constitutes a taking.

6.2. **BASIS FOR BOARD DECISION MAKING.** The Board is not required to make findings of fact in a quasi-judicial proceeding involving a zoning related matter. However, the following shall be applicable in the Board's decision making process:

A. All interested parties should be given a full and fair opportunity to express their views.

B. The Board must have before it competent substantial evidence to support its findings and judgment which also must be in accord with essential requirements of local, state and federal law.

C. While the Board should hear the objections of interested parties, the Board's judgment must be based on the facts adduced, and not on the mere polling of interested parties. In order words, the function of a quasi-judicial board is to make a determination on the basis of facts adduced and upon relevant zoning principles as set forth in a zoning ordinance rather than conduct a plebiscite of the neighbors.

D. Standing alone, opinions and objections of interested parties are not factual evidence and not a sound basis for denial of a petition or application for quasi-judicial action on a zoning related matter unless supported by facts, ordinance criteria or comprehensive plan requirements.

6.3. **CONSISTENCY WITH COMPREHENSIVE PLAN**. The City should have the discretion to decide the maximum development density of a particular area provided the Board approves some development that is consistent with the comprehensive plan and the City's decision is supported by competent substantial evidence.

A. A Board should recognize that the City's comprehensive plan establishes a long range maximum limit on the possible intensity of land use. It does not establish a minimum limit on the possible intensity of land use. Thus, a property owner is not necessarily entitled to the zoning change sought by proving consistency with the comprehensive plan when the Board's action is also consistent with the plan.

6.4. **LAYMAN AND EXPERT WITNESSES**. The following rules of evidence shall serve as a Board's guideline when determining how much weight should be afforded the testimony received in a quasi-judicial proceeding.

A. **GENERAL**. The Board shall not consider the testimony of a witness unless:

(1) The witness has personal knowledge of the fact in which the witness will testify to; and,

(2) In the case of testimony consisting of opinions or inferences, the testimony is qualified under paragraph 6.4.B. or C;

(3) Argument or opinions of attorneys is generally not evidence unless based upon personal factual knowledge.

B. **LAYMAN WITNESSES**. Lay witnesses will be encouraged to give information based upon their personal knowledge and may give opinions or expert

testimony only if they are qualified to express an opinion or have special knowledge or training or the opinion expressed does not require special knowledge or training

C. **EXPERT WITNESSES.** Testimony of an expert witness is qualified under this paragraph C. only if the Board determines:

(1) Whether the subject matter is **proper** for expert testimony because scientific, technical, or other specialized skill will help the Board understand the evidence being presented, or help to establish a fact in issue; and,

(2) Whether the witness is adequately **qualified** to express an opinion on the matter.

D. **QUALIFYING A WITNESS AS AN EXPERT**. For purposes of paragraph C. of this section, a witness is qualified as an expert witness only if the Board determines so in accordance with the following procedure:

(1) An interested party has the burden of requesting, and this request shall be made prior to proffering the testimony, the Board to make a determination the witness is an expert;

(2) By majority vote, the Board will determine whether the witness satisfies the criteria in Section 6.4.C. supra;

(3) If the Board determines the witness is qualified to testify as an expert, the witness will testify and be cross examined for the record and the Board may give weight and consideration to the expert's opinion;

(4) If the Board determines that the witness does **not** qualify to testify as an expert, or if an interested party fails to request the Board to determine the qualifications of the expert in accordance with this paragraph, the witness may still testify and be cross examined for the record, however, the Board shall not give any weight or consideration to the opinion of the witness.

6.5. **QUALIFICATIONS OF CITY STAFF**. City staff members testifying before a Board in a quasi-judicial proceeding must:

A. State for the record their qualifications, or

B. Place on record a resume listing their qualifications.

6.6. **RECORD OF THE PROCEEDINGS.** Any facts, copies of evidence, or exhibits (including any maps or photos) relied on by the Board as a basis for their decision must be on record. Failure to include evidence on record could result in the Board's decision being reversed by a reviewing court.

6.7. **EVIDENTIARY STANDARD.** Although quasi-judicial proceedings are not controlled by strict rules of evidence and procedure, the Board should attempt to limit evidence or testimony which is hearsay, irrelevant, repetitive, or unfounded in law or fact.

6.8. **PRESENTATION.** All interested parties must be afforded the opportunity to present evidence, cross examine witnesses, and be informed of all the facts upon which the Board acts.

Section 7. SWEARING IN OF PARTIES.

7.1. Before testifying, each witness shall sign in and declare on the record that they will testify truthfully by taking an oath in the following or similar manner:

> I (state witness' name) swear or affirm to tell the truth, the full truth and nothing but the truth.

Section 8. SEPARABILITY AND REPEAL OF CONFLICT.

8.1. **SEPARABILITY CLAUSE.** If any section, paragraph, subdivision, clause, sentence, or provision of this Resolution shall be adjudged by any court or competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Resolution, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which judgment or decree shall be rendered.

8.2. **CONFLICT WITH OTHER LAWS.**

A. All resolutions or parts thereof in conflict with this Resolution or inconsistent with this Resolution are hereby repealed to the extent of said conflict or inconsistency.

B. These rules shall be construed in a manner which is consistent with applicable local, state and federal law, and to the extent there is a conflict, applicable local, state and federal law shall prevail.

8.3. **CONFLICT WITH OTHER BOARD POLICIES AND PROCEDURES.**

A. It is recognized that each Board may have preestablished policies and procedures to conduct Board business. Thus, to the extent such policies do not conflict with the rules and procedures set forth in this Resolution and applicable local, state and federal law, they shall remain in full force and effect.

B. Preestablished and new Board policies and procedures may be amended or created from time to time so long as no conflict exists with this Resolution and applicable local, state and federal law.

Section 9. **AMENDMENT OF THIS RESOLUTION**. The City Council may amend this Resolution from time to time in order to comply with new developments and modifications in applicable state or federal case law, *Florida Statutes*, or other related law.

Section 10. **EFFECTIVE DATE**. That this Resolution shall take effect May 27, 1997.

PASSED AND ADOPTED this 27th day of May, 1997.

Larry D. Bartley, Mayor

ATTEST:

Maureen V. Phillips, Assistant City Clerk

DWS:jh/C:\WINWORD\RESOL\QUASIJUD.RES

DIVISION 2. APPEALS TO THE BOARD OF ADJUSTMENT (APPEAL OF ADMINISTRATOR)

Sec. 34-241. Basis of decisions.

The Board of Adjustments and Appeals, when so appealed to, may modify or reverse the interpretation of the responsible City official.

Sec. 34-242. Contents.

A decision of the Board of Adjustments and Appeals to vary the application of any city ordinance or to modify an order of the responsible City official shall specify in what manner such variation and modification is made, the conditions upon which it is made and the reason therefor.

Sec. 34-243. Effect; vote; filing

Every decision of the Board of Adjustments and Appeals shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. It shall be in writing, and shall indicate the vote upon the decision. Every decision shall be maintained by the City and shall be open to public inspection, and a certified copy shall be sent by mail or otherwise to the appellant.

Sec. 34-244. Delay.

The Board of Adjustments and Appeals shall in every case reach a decision without unreasonable or unnecessary delay.

Sec. 34-245. Appropriate action by City official.

If a decision of the Board of Adjustments and Appeals reverses or modifies a refusal, order or disallowance of the responsible City official, or varies the application of any provision of any ordinance, the responsible City official shall immediately take appropriate action in accordance with such decision.

Sec. 34-246. Requests to be heard expeditiously.

The Board of Adjustments and Appeals shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 34-228 and obtain the necessary information to make sound decisions.

Sec. 34-247. Burden of proof in appeals and variances.

When an appeal is taken to the Board of Adjustment and Appeals in accordance with this section, the Administrator shall have the initial burden of presenting to the Board sufficient evidence and argument to justify

the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

Sec. 34-248. Appeals of site plan.

(a) *Procedural appeals:* Any applicant that is aggrieved by a procedural decision by the Administrator may file a written appeal within thirty (30) days after the decision in dispute, accompanied by the appropriate fee. Appeals shall be filed with the City Manager and shall state fully the grounds for the appeal and all facts relied upon by the petitioner. The City Manager shall schedule the appeal for the consideration of the Board of Adjustments and Appeals (BAA) within sixty (60) days of receipt of the appeal.

(b) *Technical appeals:* Any applicant that is aggrieved by a technical decision of the Administrator or any other staff member empowered by the code may file a written appeal within thirty (30) days after the decision in dispute, accompanied by the appropriate fee. Appeals shall be filed with the Administrator and shall state fully the grounds for the appeal and all facts relied upon by the petitioner. The Administrator shall schedule the appeal for consideration by the Board of Adjustments and Appeals (BAA) within sixty (60) days of receipt of the appeal.

Sec. 34-249. Forms.

Appeals from a decision of an administrative official shall be filed on forms provided by the City unless otherwise provided for herein. Any affected property owner or his agent may file an appeal.

Sec. 34-250. Notice of appeal.

The notice of appeal shall be filed within thirty (30) days after the decision complained of has been rendered. This requirement is jurisdictional and the appeal period shall not be enlarged. In case an emergency condition exists, which in the opinion of the responsible City official, might be unsafe or endanger the health, safety or welfare of the public, said official may limit the time for such appeal to a shorter period than thirty (30) days.

Sec. 34-251. Filing fee.

See the adopted fee schedule.

Sec. 34-252. Hearing and decision.

The Board of Adjustments and Appeals, after due notice has been given, shall hold a public hearing on said appeal. A copy of the Board's decision shall be mailed within five (5) calendar days to the appellant by the Recording Secretary of the Board.

Sec. 34-253. Index of decisions.

The Recording Secretary shall index all decisions by the Board by the case number and include the name of the appellant and the ordinance and section involved in the appeal.

Secs. 34-254—34-260. Reserved.

ROETZEL

Standing in Quasi-Judicial & Administrative Proceedings

By: Christopher D. Donovan[1]

[This is excerpted, expanded, and updated from Christopher D. Donovan's longer treatise called *Review of Quasi-Judicial Decisions*, which was published in 2020 as Chapter 25 of The Florida Bar's *Florida Appellate Practice* (11th ed. 2020) and can be found on Westlaw and Lexis.]

I. Introduction

Under our tripartite system of government, standing is a threshold matter every court must resolve, if raised, before addressing the dispute's underlying merits. *Solares v. City of Miami*, 166 So. 3d 887, 888 (Fla. 3d DCA 2015). It is the constitutional key unlocking the courthouse door since court's generally cannot give advisory opinions, but rather must ensure that a real controversy exists between parties who have a real interest in the outcome of the court's consideration. *See, e.g.*, *Dep't of Rev. v. Kuhnlein*, 646 So. 2d 717, 720 (Fla. 1994), *as clarified* (Nov. 30, 1994); *Argonaut Ins. Co. v. Commercial Standard Ins. Co.*, 380 So. 2d 1066, 1067 (Fla. 2d DCA 1980).

In its most basic sense, standing is simply having—or representing someone—with "a sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy." *Demircan v. Mikhaylov*, 306 So. 3d 142, 145 (Fla. 3d DCA 2020) (cites & quotes omitted). In other words, does the challenger have "a legally cognizable interest" that will be affected by the litigation's outcome? *Nedeau v. Gallagher*, 851 So. 2d 214, 215 (Fla. 1st DCA 2003).

A blanket rule answering this question does not exist. *Whitburn, LLC v. Wells Fargo Bank, N.A.*, 190 So. 3d 1087, 1091 (Fla. 2d DCA 2015). Rather, each case must examine the asserted interest, its causal connection between the injury to that interest and the action complained about, and whether the requested relief will remedy that injury. *Id.*; *DeSantis v. Florida Educ. Ass'n*, 306 So. 3d 1202, 1213 (Fla. 1st DCA 2020), *reh'g denied* (Nov. 30, 2020). But the allegedly damaged interest must be "concrete, distinct and palpable, and actual or imminent." *DeSantis*, 306 So. 3d at 1213 (cites and quotes omitted). Interest that is speculative, hypothetical, or little more than idle curiosity is insufficient. *Nedeau*, 851 So. 2d at 215; *see, e.g.*, *Liebman v. City of Miami*, 279 So. 3d 747, 751 (Fla. 3d DCA 2019) (finding petitioner's claim that "he would consider submitting a bid if the City issues a new request for proposal" was too speculative to

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support standing). And, importantly, the challenge bears the burden of proving standing's requirements. *Int'l Longshoremen's Ass'n v. Fisher*, 800 So. 2d 339, 340 (Fla. 1st DCA 2001).

In the local-government quasi-judicial and administrative context, the standard for determining whether someone has a "legally recognizable interest" giving standing to challenge that action depends on whether the action is controlled by the common law or Florida statutes. As a result, this article is divided into sections along these two fault lines with the first section covering the common-law standard and the second section covering the few statutory standards applicable to municipalities.

For many city attorneys, this will be more of a review with some updates. For others, it will be a brief introduction to the often nuanced world of standing. For everyone, however, standing is a key arrow in the city attorney's quiver to quickly resolve challenges to quasi-judicial and administrative action.

II. Standing to challenge decisions *not* controlled by statute: The *Renard* test

Most local government quasi-judicial and administrative decisions are not controlled by statute. These are typically actions occurring after a noticed hearing at which some level of due process was afforded before the local government applied the law or enforced it to a specific situation, such as a property owner's request to develop something on his or her property. *Lee County v. Sunbelt Equities, II, Limited Partnership*, 619 So. 2d 996, 1000–02 (Fla. 2d DCA 1993) (describing quasi-judicial proceedings). The most notable of these kinds of quasi-judicial decisions are those arising in the land-use and development context, including decisions granting or denying site-specific rezoning; special zoning exceptions; building permits; site-plan reviews and approvals; plat-approval or plat-vacation; and permits for conditional-use, special-use, unusual-use; and variance requests. *See, e.g.*, *id.*; *Board of Cty. Comm'rs of Brevard Cty. v. Snyder*, 627 So. 2d 469 (Fla. 2d DCA 1993); *Broward Cty. V. G.B.V. Int'l, Ltd.*, 787 So. 2d 838 (Fla. 2001).[2]

Generally, these local government decisions are only reviewable by a first-tier certiorari petition in circuit court. *Id.* And when it is the property owner who applied for the government action (i.e., applied for the development action), then standing is fairly self-evident because the government's denial of an application for development does directly affect the property owner. So, the caselaw is fairly clear that the applicant property owner has standing in certiorari proceedings. *Highwoods DLF EOLA, LLC v. Condo Developer, LLC*, 51 So. 3d 570, 572 (Fla. 5th DCA 2010) (finding applicant landowner has standing to intervene in challenges to quasi-judicial decisions approving its requested development and finding cases holding contrary invalidated by subsequent rule changes); *see also Fla. Inst. of Tech., Inc. v. Martin Cty.*, 641 So. 2d 898, 899 (Fla. 4th DCA 1994) (recognizing that property owners' denied development have common-law right to seek certiorari relief). And, of course, the local government has standing to

[2] For a full discussion of when a decision is quasi-judicial, see Christopher D. Donovan, *Review of Quasi-Judicial Decisions*, in The Florida Bar, *Florida Appellate Practice*, §25.8–25.9 (11th ed. 2020).

defend its decisions and is, in fact, indispensable to those challenges. *Zimmerman v. Civil Serv. of City of Boca Raton*, 366 So. 2d 24, 24 (Fla. 1978).

The trickier question is whether someone who is *not* the applicant landowner has standing to challenge quasi-judicial and administrative decisions. Because these decisions must be reached in public meetings, they are often attended by adjoining neighbors, municipal residents, and other members of the public who often advocate for or against an applicant landowner's development request. § 286.011(1), Fla. Stat.; *see, e.g.*, *Carillon Community Residential v. Seminole Cty.*, 45 So. 3d 7 (Fla. 5th DCA 2010).

The seminal case on standing in this nonapplicant context is *Renard v. Dade County*, 261 So. 2d 832, 837 (Fla. 1972), which identifies two differing standards that depend on the nature of the challenge. *Albright v. Hensley*, 492 So. 2d 852, 855 (Fla. 5th DCA 1986). If the nonapplicant is squarely challenging the substantive decision—such as whether the local government correctly applied the land-development code in granting the landowner's development application—then only those suffering special injuries from the decision that differ in kind, rather than degree, from the rest of the community have a legally recognizable interest to support standing. *Renard*, 261 So. 2d at 836–37. But if the challenge is procedural—i.e., that the local government failed to comply with the procedural requirements in issuing the decision, like giving notice—then the nonapplicant need only be an affected resident, citizen, or property owner in the governmental unit in question. *Id.* at 838; *see also Save Brickell Ave., Inc. v. City of Miami*, 395 So. 2d 246, 247 (Fla. 3d DCA 1981) (explaining that in a procedural challenge, a person may "attack how the resolution was enacted, but not what was enacted").

The *Renard* standards are explored further below. The first subsection elaborates on *Renard*'s historical underpinnings and discusses a recent development in the caselaw. The second subsection provides examples in both the procedural and substantive context. The third subsection offers considerations and insights for defeating nonapplicant challenges in certiorari proceedings.

A. *Renard's* historical underpinning and the Second District's recent take.

Although *Renard* honed the "special injury" standard in the quasi-judicial and administrative context, the Florida Supreme Court first applied that standard to that context in *Boucher v. Novotny*, 102 So. 2d 132, 133 (Fla. 1958).[3] In that case, a litigant

[3] Notably, though, the Supreme Court first applied this "special injury" standard almost 40 years earlier in the legislative context in *Rickman v. Whitehurst*, 74 So. 205, 207 (Fla. 1917). That case concerned a taxpayer's standing to challenge legislation as violating the government's taxing and spending powers. *Id.* at 206–07. After reviewing "text-books [sic] and decisions from other jurisdictions," the Supreme Court had found no case where those taxpayer complaints did not show that the taxpayer would suffer a special injury. As a result, the Supreme Court held that a "private person" could only maintain these types of challenges to legislation when they are "threatened with or suffer[ ] some public or special damage to his [or her] individual interests, distinct from that of every other inhabitant...." *Id.* at 207. The *Boucher* decision does not cite *Rickman*, but it does cite a case that cited and applied *Rickman*. *Boucher*, 102 So. 2d at 135 (citing *Henry L. Doherty & Co. v. Joachim*, 200 So. 238, 239 (Fla. 1941), which relied on *Rickman*).

claimed that a development approval violated the setback requirements in the city's zoning ordinance. *Id.* 133. When his standing was challenged because the litigant had failed to allege a special injury, the litigant first argued that the mere violation of a zoning ordinance should be sufficient to support his challenge. *Id.* at 134. Alternatively, the litigant argued that he suffered from a special injury due to his proximity to the property where development was approved and because the violation was a "legal nuisance which depreciates the value of [his] property in that its continued existence destroys the protection of the zoning ordinance…." on which he and others relied when purchasing their property. *Id.* at 134.

The Supreme Court rejected the contention that the "special injury" standard should not apply to the quasi-judicial and administrative context, stating:

> [O]ne seeking redress, either preventive or corrective, against an alleged violation of a municipal zoning ordinance must allege and prove special damages peculiar to himself differing in kind as distinguished from damages differing in degree suffered by the community as a whole.

Id. at 135. In applying that standard, the Court ruled that mere proximity to the approved development was insufficient because it "left to speculation just what the 'special damage' is." *Id.* at 136. As to the depreciation in property value, the Court also found this lacking—particularly as alleged—because the litigant was essentially admitting that everyone in the community would suffer the same loss in value if the setback law was not enforced. *Id.* As a result, the Court affirmed dismissal for lack of standing because the litigant had failed to present facts showing a legally protectable interest. *Id.* at 137.

Almost 15 years later, the Supreme Court in *Renard* revisited the "special injury" standard in the quasi-judicial and administrative context and, according to some, liberalized it in this context. 261 So. 2d at 832. The case concerned an adjoining owner's challenge to a neighboring owner's rezoning approval from industrial to multiple-family residences. *Id.* at 834. The district court had reversed the circuit's finding that the adjoining owner lacked standing because, in the district court's view, the adjoining owner "suffer[ed] a special damage by virtue of the increased setback restriction different in kind from the community generally…." *Id.* Alternatively, the district court held that even without proving a special damage, the adjoining owner had standing by virtue of being a property owner within the area entitled to actual notice under the local code. *Id.* at 834–35. But the district court certified the question as to what standing was necessary, among other things, to enforce a valid zoning ordinance and to attack an ordinance as void for not complying with the enactment procedures, like giving proper notice. *Id.* at 834.

In answering the certified questions, the Supreme Court drew a distinction between these two challenges. When challenging whether a zoning ordinance is void because it was not properly enacted—i.e., failure to comply with the procedures for enacting ordinances, like giving notice—then "[a]ny affected resident, citizen or property owner of the governmental unit in question has standing to challenge such an ordinance" without needing to meet *Boucher*'s special-injury standard. *Id.* at 838; *see also Albright*, 492 So. 2d at 855 (explaining further).

But when challenging the improper enforcement or application of a zoning ordinance—i.e., the merits of *what* was enacted—then *Renard* re-affirmed *Boucher*'s special-injury standard, explaining:

> An aggrieved or adversely affected person having standing to sue is a person who has a legally recognizable interest which is or will be affected by the action of the zoning authority in question. The interest may be one shared in common with a number of other members of the community as where an entire neighborhood is affected, but not every resident and property owner of a municipality can, as a general rule, claim such an interest. An individual having standing must have a definite interest exceeding the general interest in community good share in common with all citizens.

Renard, 261 So. 2d at 837.

The *Renard* Court though said that merely being entitled to notice under the zoning ordinance may be a factor in analyzing the legal sufficiency of a challenger's interest, but it is not a controlling factor because "the notice requirements of the many zoning laws throughout the state vary greatly." *Id.* The Court then highlighted other factors for evaluating an interest's legal sufficiency, including:

- "[T]he proximity of [one's] property to the property to be zoned or rezoned…"
- "[T]he character of the neighborhood, including the existence of common restrictive covenants and set-back requirements…"
- [A]nd the type of change proposed…."

Id. The Court ultimately affirmed the conclusion that standing existed here due to the significantly increased setbacks after the rezoning. *Id.* at 837.

As illustrated in the next section, courts after *Renard* have attempted to faithfully apply the "differing in kind, rather than degree" standard, but consistent application has proven difficult. Its obvious purpose was to stymie the avalanche of litigation that might arise if everyone in the community could seek review of a single zoning violation, which would not only raise expenses to taxpayers, but stifle and chill development. *See Chapman v. Town of Redington Beach*, 282 So. 3d 979, 984–85 (Fla. 2d DCA 2019).

But the test is much easier to say, than to apply because as explained in a separate, but related context, "kind" means a "fundamental nature or quality: essence," while "in degree" means "the extent, measure, or scope of an action, condition, or relation <different in degree but not in kind>." *Nassau County v. Willis*, 41 So. 3d 270, 277 (Fla. 1st DCA 2010). So, for something to differ in "kind, rather than degree" should mean that the relevant interest affected should be of a completely different nature—rather than mere quality or quantity—than the rest of the community, which would be quite rare. Indeed, as explained in section III(A), this is why the legislature abrogated the *Renard* special-injury standard for comprehensive-plan challenges under section 163.3215, Florida Statutes (2021), because otherwise no one would be able to enforce them and local governments could freely disregard them. *Id.* at 276–77.

Two years ago, the Second District struggled with applying this common-law standard in *Chapman v. Town of Redington Beach*, 282 So. 3d 979, 984–85 (Fla. 2d DCA 2019), and may may have liberalized the standard somewhat. The case concerned an adjacent property owner's suit against his neighbor over certain property improvements as violating local zoning ordinances despite their approval by zoning authorities. *Id.* at 981–82. In response to an attack on the adjacent owner's standing for lack of an injury differing in kind from the community, the adjacent owner alleged that the improvements reduced their property's value and one of them created a dangerous condition. *Id.* at 982. The trial court ultimately agreed that this failed to satisfy the special-injury standard. *Id.*

The Second District reversed and found these assertions legally sufficient under the special-injury standard. *Id.* at 988. The court began by acknowledging the general standard in *Boucher* that special injury is only shown when the challenger suffers injuries that differ in kind, rather than degree, from the community as a whole. *Id.* at 983. The court then acknowledged that this standard gets "tricky" when the government action harms both the challenger and others in the community, which a strict application of *Boucher* would require a finding of no special injury and thus no standing. *Id.*

But according to the Second District, the Supreme Court liberalized the *Boucher* special-injury standard by concluding in the *Renard* opinion:

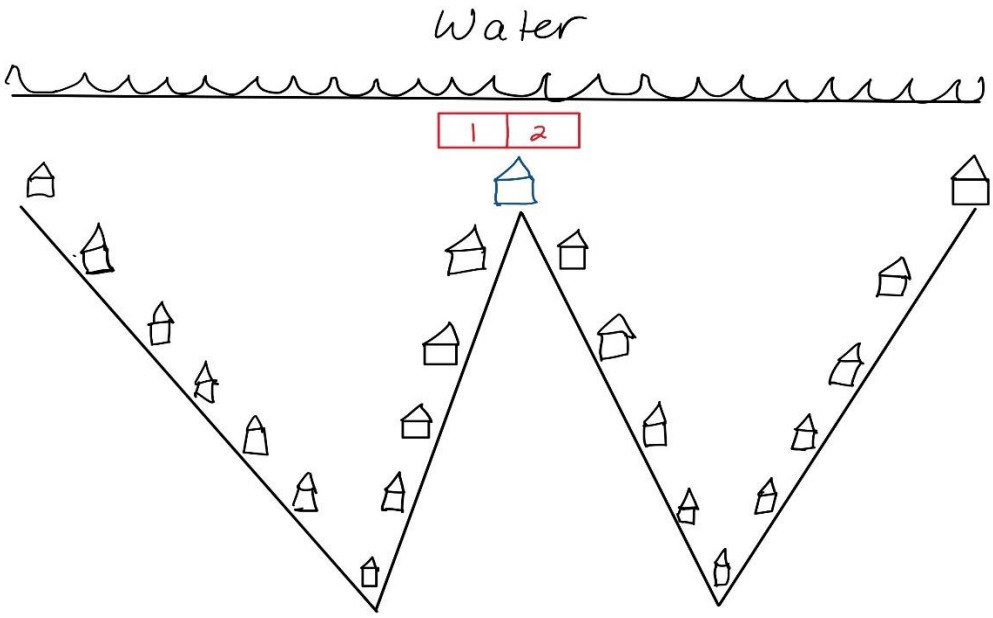
> [I]n the twenty years since the *Boucher* decision, changed conditions, including increased population growth and density, require a more lenient application of that rule. The facts of the *Boucher* case, if presented today, would probably be sufficient to show special damage.

Renard, 261 So. 2d at 837–38; *Chapman*, 282 So. 3d at 983. The Second District read *Renard*'s "lenient application of [the *Boucher*] rule" as suggesting that even if others in the community suffered from the same kind of general harm, this fact would not necessarily preclude standing. *Chapman*, 282 So. 3d at 983. The Second District readily admitted that "neither *Renard* nor the other applicable precedents are clear on how a 'more lenient application' of the special damages rule should resolve any particular case." *Id.*

The Second District then surveyed several cases after *Renard* to ascertain how a "more lenient application" of the special-injury standard would work. *Id.* at 983–986. The court concluded that the rule emerging from these post-*Renard* cases is that:

> [A]n owner of property which is adjacent to or nearby land upon which there is a zoning ordinance violation may, by virtue of proximity, be peculiarly affected by the violation, even if his or her injuries might at some level of generality be described as similar to those of other community members

Id. at 984–85. As an illustration, the court described the following hypothetical community whose houses faced a waterbody in the shape of a "W" like this:



Id. at 985. And in this community, the owners of lots 1 and 2 wish to build a house that is wider and taller than municipal zoning ordinances allow. *Id.* The court explained that while all members of this community will suffer the same injury—i.e., an impairment of their view of the water—the homeowner directly behind the approved construction will, by virtue of the construction's sheer magnitude, have his or her view completely blocked. *Id.* Thus, under *Renard*'s "more lenient application" of the special-injury standard, that homeowner would have standing because even if there is some similarity between his or her injury and the rest of the community's, "only the landowner immediately behind the new house has had his view blocked entirely." *Id.* In other words:

> The difference is so significant as to make any similarity to the injury suffered by other landowners immaterial; it amounts to a difference in kind, and it is directly related to proximity and position with regard to the land on which the zoning violation occurred.

Id.

Suffice to say, *Chapman*'s conclusion sounds less like "differing in kind, rather than degree" and more like simply differing in degree or intensity—which is the statutory standard for comprehensive-plan challenges. *Compare Nassau*, 41 So. 2d at 276–77; *see infra* § III(A). At a minimum, *Chapman* seems to be saying that even if others in the community may also suffer harm to the same legally protected right, there comes a point where the degree or intensity of the harm becomes so great that it essentially becomes different in "kind" from the rest of the community—such as the difference between mere impairment versus absolute destruction. And *Chapman* also seems to be saying that this is more likely to happen for property owners adjacent to the proposed development.

Notably, though, the Second District's not alone in trending towards liberalizing the *Renard* standard and treating it and the statutory standard at section 163.3215(2) similarly. *Alger v. United States*, 300 So. 3d 274, 278 n.5 (Fla. 3d DCA 2019) (saying

that *Renard*'s common-law standard is "[c]onsistent with this standard, under section 163.3215(2), Florida Statutes…" for who can enforce comprehensive plans). So, it will be interesting to see how later cases continue to struggle with *Renard*'s "more lenient application" of the special-injury standard and how they distinguish that standard from the ostensibly more liberalized statutory test for consistency challenges to the comprehensive plan under section 163.3215(2).

B. Examples of when *Renard*'s standards were met and not met.

As explained in the last section, *Renard* has two standards depending on the nature of the challenge to local government action: (1) procedural challenges, in which any "[a]ny affected resident, citizen or property owner of the governmental unit in question has standing to challenge such an ordinance" without needing to show special injury; and (2) substantive challenges, in which only litigants proving a special injury differing in kind, rather than degree, have standing to bring. *Renard*, 261 So. 2d at 838.

Procedural challenges not requiring a showing of special injury include:

- "Failing to give notice…."
- "Making a finding on the basis of no evidence, when required to hold a hearing and consider various factors before taking such action…."
- "An illegal enactment due to a violation of the Sunshine Law…."
- Making a decision by resolution, rather than by ordinance.

Albright, 492 So. 2d at 855; *Save Brickell*, 395 So. 2d at 247; *Upper Keys Citizens Ass'n, Inc. v. Wedel*, 341 So. 2d 1062, 1064 (Fla. 3d DCA 1977); *Miami Beach Homeowners Ass'n, Inc. v. City of Miami Beach*, 579 So. 2d 920 (Fla. 3d DCA 1991); *Bhoola v. City of St. Augustine Beach*, 588 So. 2d 666, 667 (Fla. 5th DCA 1991) (holding that even someone who bought property or became a resident *after* the ordinance's enactment can raise these procedural challenges because these procedural defects render the ordinance void—"as though the ordinance does not exist").

Examples of cases addressing standing to challenge substantive issues under the "special injury" standard in the quasi-judicial and administrative context are:

- Merely being a taxpayer or resident somewhere within the local government's geographic jurisdiction will generally not satisfy the test. *Combs v. City of Naples*, 834 So. 2d 194, 197 (Fla. 2d DCA 2002).
- Alleging only that the proposed development will increase traffic and make parking more difficult are generally insufficient because everyone in the community will suffer from the increased traffic. *Skaggs-Albertson's Props., Inc. v. Michels Belleair Bluffs Pharmacy, Inc.*, 332 So. 2d 113, 116–17 (Fla. 2d DCA 1976).
- A liquor store affected by a zoning decision allowing a competitor to open a nearby liquor store may qualify because of the increased competition. *Rayan Corp. v. Bd. of Cty. Comm'rs of Dade Cty.*, 356 So. 2d 1276, 1277 (Fla. 3d DCA 1978); *ABC Liquors, Inc. v. Skaggs-Albertson's*, 349 So. 2d 657, 660

(Fla. 4th DCA 1977). *But see Michels Belleair*, 332 So. 2d at 116–17 (suggesting loss of business because of increased competition would not support standing).

- Granting a variance to construct and operate a gas station, which would substantially depreciate neighboring property values, may also satisfy the standard. *ABC Liquors*, 349 So. 2d at 660; *Elwyn v. City of Miami*, 113 So. 2d 849 (Fla. 3d DCA 1959); *see also Rinker Materials Corp. v. Metro. Dade Cty.*, 528 So. 2d 904, 906 (Fla. 3d DCA 1987); *Carroll v. City of W. Palm Beach*, 276 So. 2d 491, 493 (Fla. 4th DCA 1973); *Wager v. City of Green Cove Springs*, 261 So. 2d 827, 828 (Fla. 1972).

- Finding neighboring property owners have standing to challenge a variance allowing a laundry matt to be built with seven parking spaces instead of 14 as required by the code (though providing little analysis for this finding). *City of St. Petersburg, Bd. of Adjustment v. Marelli*, 728 So. 2d 1197, 1198 (Fla. 2d DCA 1999); *see also Exchange Inv., Inc. v. Alachua Cty.*, 481 So. 2d 1223 (Fla. 1st DCA 1985) ("[P]roperty owners do have a legal interest in their own off-street parking facilities…." and suggesting that this is particularly true for "affected properties as much as a mile distant").

- Ruling landowner across the street from person who built a two-story cabana in violation of local setback and height restrictions had standing to challenge approval because they shared a private road, thereby causing injuries that differ in kind from the community as a whole. *Kagan v. West*, 677 So. 2d 905, 906, 908 (Fla. 4th DCA 1996).

- Adjacent owner had standing because construction in violation of zoning laws would significantly elevate adjacent land, obstructing his view and increasing the risk of flood. *State ex rel. Gardner v. Sailboat Key, Inc.*, 306 So. 2d 616, 617-18 (Fla. 3d DCA 1974). *But see Messett v. Cohen*, 741 So. 2d 619, 622–23 (Fla. 5th DCA 1999) (finding claim that development would obstruct the challenger's view does not constitute a legally cognizable interest to support standing).

- Property owner had no legally recognizable interest to challenge rezoning by claiming he would be affected by noise, traffic impact, land-value diminution, or any other respects when he lived more than a mile across a bay from the rezoned site under attack. *Pichette v. City of N. Miami*, 642 So. 2d 1165, 1166 (Fla. 3d DCA 1994).

- Although residents live within the City where the rezoning was occurring, they do not have a legally recognizable interest to challenging the rezoning based on noise, traffic impact, land-value diminution, or any other respects because their property is separated by a 57-acre buffer area that spans 3,000 and 2,800 feet respectively. *Id.*

These are just a few examples. In the end, each case must be considered on its own facts as to the interest at stake and the nature of the government action challenged. *Whitburn*, 190 So. 3d at 1091; *DeSantis*, 306 So. 3d at 1213.

C. Defeating nonapplicant challenges early on certiorari.

As noted above, the landowner who applied for development order of some kind and was denied generally has standing to seek review of that denial by certiorari. *Highwoods*, 51 So. 3d at 572 *Fla. Inst.*, 641 So. 2d at 899. The limited exception here is if the applicant loses his interest in the underlying property—such as selling the property—in which case the original applicant-landowner loses standing and the case must be dismissed. *City of Winter Park v. Rich*, 692 So. 2d 986, 986–87 (Fla. 5th DCA 1997). The subsequent owner though would have standing to continue the application and challenge to its denial. *Wollard v. Metro. Dade Cty.*, 234 So. 2d 719, 720 (Fla. 3d DCA 1970). But generally, standing is not worth raising when the applicant seeks review of quasi-judicial and administrative action.

It is worth raising though when the challenge concerns a nonapplicant, such as a resident or adjoining neighbor who is unhappy that the applicant's development request was approved. Indeed, the law has drawn a distinction for purposes of due-process between those who are a "party" to the quasi-judicial proceeding, like the landowner applicant, and those who are only "participants," like the public attendees *Carillon*, 45 So. 3d at 9–10. This important distinction affects the level of due process that local governments must afford. Only parties to quasi-judicial hearings must be given the full panoply of rights—such as the right to cross-examine witnesses—because of a party's direct interest in the proceeding's outcome. *Id.* Participants, on the other hand, have only the general right to speak about the matter subject to the local government's control, which generally limits presentations to only a few minutes for each participant. § 286.0115(2)(b), Fla. Stat.; *see generally Jones v. Heyman*, 888 F.2d 1328 (11th Cir. 1989) (limiting content and allotting only two to three minutes). Participants are also not required to be sworn or qualified as experts, and they do not have the right to cross-examine witnesses. § 286.0115(2)(b), Fla. Stat.; *Carillon*, 45 So. 3d at 10.

The author has not yet found a case discussing the interplay between standing and the differing levels of due process afforded to parties versus participants, but there is, at some level, a connection. After all, as *Carillon* explained, a party is typically entitled to more due process "by virtue of its *direct interest* that will be affected by official action...." 45 So. 3d at 10 (emphasis supplied). This sounds a lot like *Renard*'s "*definite* interest exceeding the general interest [the] community...." required for standing to review official action. 261 So. 2d at 837 (emphasis supplied). So, a participant who can satisfy *Renard*'s special-interest standard should, in theory, be entitled to intervene as a party (if requested) and to receive all the panoply of due-process rights of a party to a quasi-judicial proceeding. Few local governments have a clear process for participants to intervene as a "party" at the quasi-judicial level. Arguably though, if a participant requests it, proves standing, and is denied, then this might at least support a petition for certiorari review based on the denial of procedural due process.

But regardless of whether the nonapplicant attempts to become a party or simply remains a participant during the quasi-judicial proceeding, he or she must still prove their standing to seek certiorari review of that action in circuit courts. *Int'l Longshoremen's*, 800 So. 2d at 340. As a result, local governments should move to dismiss early in the certiorari action because many participants and their attorneys overlook or struggle with proving standing under *Renard* for two reasons.

First, several cases hold that standing must be first proven through evidence at the quasi-judicial hearing before the local government. *See, e.g.*, *City of Ft. Myers v. Splitt*, 988 So.2d 28 (Fla. 2d DCA 2008); *Battaglia Fruit Co. v. City of Maitland*, 530 So.2d 940 (Fla. 5th DCA 1988). Standing cannot be argued for the first time in a certiorari petition, and the circuit court cannot go outside the appellate record to take additional evidence of standing. *Id.* If there is no evidence supporting standing in the record at the quasi-judicial hearing, the petition for first-tier certiorari relief must be dismissed. *Id.*

Second, as a practical matter, it can be difficult for participants to both make the required special-injury showing *and* make their arguments against the proposed development when they are generally given only three minutes to speak. So, as a practical matter, a static record on certiorari often lacks sufficient evidence showing that the participant has suffered a special injury differing in kind from the rest of the community.

On the other hand, a participant *could* make his objections to the development and preserve his basis for standing under *Renard* by not only speaking at the meeting, but also submitting an affidavit or other document for inclusion in the quasi-judicial proceeding's record. If a local government is faced with that request—i.e., a participant asking to submit his or her evidence of standing by written submission—then a local government should accept it and include it in the record. Otherwise, this too may be deemed a denial of due process that would support certiorari review. While there is not yet a specific case on this point, it's highly unlikely a court will say that a participant can be denied both the ability to submit something in writing for the local government's consideration *and* only limit the participant to three minutes—especially if the participant looks like they may have had standing under *Renard*.

But if a nonapplicant attempts to satisfy *Renard*—whether in writing or in his or her oral presentation—then the local government must challenge that showing at the quasi-judicial level or risk waiving the standing issue in a later certiorari proceeding. This appears to have happened recently in the Third District's decision of *Alger v. United States*, 300 So. 3d 274, 276 (Fla. 3d DCA 2019), which concerned the United States's standing to challenge an applicant's request for a vested-rights determination. In a footnote, the court apparently rejected an argument that the issue was not preserved stating:

> Further, despite the United States' active opposition to the Resolution, no challenge to standing was raised in the initial quasi-judicial tribunal. 'When a party seeks certiorari review ... of a decision of an administrative body acting in a quasi-judicial capacity, the trial court is bound by the facts and evidence presented to the administrative body, and the issue of standing is waived if it was not raised before the administrative body.' "

Id. at 277 at n.3.

In short, since standing is a threshold matter, a city attorney should challenge a nonapplicant's standing at the earliest opportunity possible, either at the quasi-judicial level if the applicant attempts to make a showing or at the certiorari-level if the nonapplicant failed to create a sufficient factual basis in the quasi-judicial proceeding's record to support standing.

III. Standing to challenge decisions covered by a Florida Statute.

As noted in the introductions, most local-government quasi-judicial and administrative decisions are not governed by a Florida Statute. But a few are. The two most common are comprehensive-plan challenges (also known as consistency challenges) and annexation challenges. This section briefly covers standing in these two areas.

A. Comprehensive-Plan Challenges

Courts have described municipal comprehensive plans under section 163.3167(1), Florida Statutes (2021), as akin to a "constitution for all future development within the governmental boundary." *Citrus County v. Halls River Dev., Inc.*, 8 So. 3d 413, 420 (Fla. 5th DCA 2009). Thus, all zoning and development action must be consistent with the comprehensive plan or it is unlawful. *Id.*; *Machado v. Musgrove*, 519 So. 2d 629, 632 (Fla. 3d DCA 1987). And citizen enforcement is the primary mechanism for ensuring that local governments abide by their development "constitutions." *Nassau*, 41 So. 3d at 276.

As a result, in 1985, the Florida Legislature abrogated the *Renard* special-injury standard by stating that " 'an aggrieved or adversely affected party' has standing to challenge the consistency of a development order with a comprehensive plan." *Id.* (quoting § 163.3215(1), Florida Statutes (2021)). Section 163.3215(2) then broadly defines "an aggrieved or adversely affected party" as:

> [A]ny person or local government that will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest may be shared in common with other members of the community at large but must exceed in degree the general interest in community good shared by all persons. The term includes the owner, developer, or applicant for a development order.

The caselaw indicates that the clear legislative purpose behind adopting this standard was to "liberalize standing in this context." *Save Homosassa River All., Inc. v. Citrus Cty., Fla.*, 2 So. 3d 329, 336 (Fla. 5th DCA 2008); *Parker v. Leon Cty.*, 627 So. 2d 476, 479 (Fla. 1993). And since it is a remedial statute, the caselaw says that it should be liberally construed in favor of enlarging the class of persons entitled to standing. *Save Homosassa*, 2 So. 3d at 336.

This more liberalized standard is evident in two ways. First, unlike the common-law *Renard* standard, one need not have a "legally protectable right." *Id.* at 340. In other words, one need not "own adjacent property, maintain a special business interest, or have some other quantifiable property status to challenge a land use decision as being inconsistent with a comprehensive plan." *Nassau*, 41 So. 3d at 278. Rather, one need only have a some "interest protected or furthered by the . . . comprehensive plan...." § 163.3215(2), Fla. Stat.; *Parker*, 627 So. 2d at 479.

For example, an organization formed to protect the environment and that has continued connection to the environment (such as using the particular area for recreational and educational purposes) will have standing under this statutory standard if the comprehensive plan has environmental protections (which most do). *Putnam Cty. Envtl. Council, Inc. v. Bd. of Cty. Com'rs of Putnam Cty.*, 757 So. 2d 590, 594 (Fla. 5th DCA 2000). But a person generally owning a business within the city—such as a law practice—will not satisfy the statutory standard because those professional interests are generally not protected by comprehensive plans. *Fla. Rock Props. v. Keyser*, 709 So. 2d 175, 177 (Fla. 5th DCA 1998).

Second, unlike *Renard*, the adverse effect to that person or entity's interest need not differ in kind from the rest of the community. *Nassau*, 41 So. 3d at 277. Indeed, the interest need not be unique or different in its nature from the rest of the community. *Id.*; *Homosasso*, 2 So. 3d at 337. In fact, the interest "may be shared in common with other members of the community at large...." § 163.3215(2), Fla. Stat. Instead, the person or entity's adverse interest need only differ in degree—i.e., exceed or be suffered more intensely—than the rest of the community. *Id.*; *Nassau*, 41 So. 3d at 276–77. In other words, "the statutory test is directed to the quality of the interest of the person seeking standing...." *Homosasso*, 2 So. 3d at 340.

So, taking the environmental example above, an organization formed to protect the environment of a particular area of the city has a more particularized interest than a landowner with a general interest in the environment. *Compare Keyser*, 709 So. 2d at 177 (finding no standing because litigant was simply "a citizen with an interest in the environment and nothing more...."); *with Putnam Cty.*, 757 So. 2d at 593–54 (distinguishing *Keyser* and finding environmental organization had more than a general interest in the environment to support standing).

In applying this more liberalized standard, the caselaw has generally recognized that an adjacent property owner would have no problem satisfying the statutory standard. *Homosasso*, 2 So. 3d at 339 (calling this "self-evident"). It's everyone else who must figure out how to differentiate their interest as "greater in degree" from the rest of the community. *Id.*

Here are a few additional examples applying the statutory test:

- Homeowner within three miles of proposed development near a particular river, who received potable water from the local water district, who frequently fished or boated on the river, and other similar activities had "amply" shown an interest greater than the community's general interest. *Homosasso*, 2 So. 3d at 340.
- Litigants had proven an interest greater than the community at large by showing that they are activist concerning the protected land, that they are members of an organization whose primary purpose is to study and protect the land at issue, and that they use the land for canoeing and kayaking and photographing habitat and wildlife. *Nassau*, 41 So. 3d at 277–78.
- Marine industry organization and boat captain had standing to challenge rezoning of riverfront property because it would increase the difficulty of its

members to conduct business along the river by (1) depleting available land sites for marine industrial uses and (2) drive up speculation and land cost for the limited locations along the river resulting in more industrial land being converted to residential/commercial use. *Payne v. City of Miami*, 927 So. 2d 904, 909 (Fla. 3d DCA 2005).

- An organization designed to protect a historical resource within the city had standing to challenge the approval of a new museum because the organization's historical resource was adjacent to the new museum and specifically protected by the comprehensive plan. *Stranahan House, Inc. v. City of Fort Lauderdale*, 967 So. 2d 427, 433-34 (Fla. 4th DCA 2007).
- Finding homeowners had standing to challenge approval of boat-ramp construction on a lake because their interest were specifically protected by the comprehensive plan and because their property fronted the lake being developed, which thus impacts them greater than general community members not owning lake-front property. *Dunlap v. Orange Cty.*, 971 So. 2d 171, 175 (Fla. 5th DCA 2007).
- Although homeowners were not adjacent to the golf club, they had standing to challenge the club's development agreement with the city because they were within the class of owners entitled to notice of a public hearing before the agreement's approval. *Combs v. City of Naples*, 834 So. 2d 194, 197 (Fla. 2d DCA 2002).

Suffice to say, the statutory standard is lower than the common-law special-injury standard. But, as explained above, the Second District's recent *Chapman* decision may have brought the two standards more in alignment than traditionally considered.

B. Annexation or Contraction Challenges

Standing to challenge a municipality's annexation or contraction of property to its boundaries is controlled by the first sentence of section 171.081(1), Florida Statutes (2021), which states:

> Any party affected who believes that he or she will suffer material injury by reason of the failure of the municipal governing body to comply with the procedures set forth in this chapter for annexation or contraction or to meet the requirements established for annexation or contraction as they apply to his or her property may file a petition in the circuit court for the county in which the municipality or municipalities are located seeking review by certiorari.

This must be read in conjunction with the definition of "parties affected" in section 171.031(5), Florida Statutes (2021), which states:

> (5) "Parties affected" means any persons or firms owning property in, or residing in, either a municipality proposing annexation or contraction or owning property that is proposed for annexation to a municipality or any governmental unit with jurisdiction over such area.

So, reading the two together, any landowner or resident in either the city that is annexing or contracting the property or that owns property within a targeted area may challenge that action if they believe that they will suffer material injury….

It's worth highlighting the quoted phrase in section 171.031(5)—"believes that he or she will suffer material injury…."—because the Second District recently interpreted that statute in *Matlacha Civic Ass'n, Inc. v. City of Cape Coral*, 273 So. 3d 243, 246 (Fla. 2d DCA 2019). In that case, a city's residents challenged the city's purchase and then incorporation of land in an unincorporated community. *Id.* at 245–46. The circuit court granted the city's motion to dismiss, finding that the residents lacked standing because they had not shown "a present material injury directly resulting from the annexation…." *Id.* The Second District said that this violated the statute's plain language, which only required residents to "assert[ ] their *belief* that they will suffer *material injury* from the City's unlawful annexation….", which is what they asserted. *Id.* at 246 (emphasis supplied). Thus, nothing more was required to prove standing under the statute. *Id.*; *City of Sunrise v. Broward Cty.*, 473 So. 2d 1387, 1389 (Fla. 4th DCA 1985) (reaching the same conclusion).

Some additional authorities interpreting standing under sections 171.081(1) and 171.031(5) include:

- Property owner who shares a property line with annexed property and who has riparian rights in a lake within the annexed property is *not* an "affected party" under section 171.031(5)'s definition and thus lacks standing. *City of Tallahassee v. J.R.*, 771 So. 2d 587, 588 (Fla. 1st DCA 2000).
- County qualified as an "affected party" to support standing to challenge a city's annexation of 11,000 acres because (1) the county was a governmental unit with jurisdiction over the area annexed and (2) county owned 106.7 acres included in the annexed area. *City of Tampa v. Hillsborough Cty.*, 504 So. 2d 10, 11 (Fla. 2d DCA 1986).
- Property owner who petitions for voluntary annexation, but denied, is an "affected party" and has standing. Op. Att'y Gen. Fla. 2007-38 (2007), 2007 WL 2777155.

IV. Conclusion

Standing is a threshold issue that could provide a local government with a strong shield against attacks to their quasi-judicial and administrative decisions. To determine whether a challenger has standing, the local government must: (1) identify the nature of the government action being challenged; (2) determine whether that action is controlled by statute or common law; and then (3) determine whether the challenger has presented sufficient evidence either under the statute or under *Renard*'s common-law special-injury standard. Many nonapplicant participants who attempt to challenge quasi-judicial or administrative action often fail to satisfy the third prong by building a sufficient record in the quasi-judicial proceeding. Thus, an early motion to dismiss for lack of record evidence supporting standing could quickly resolve such challenges.

City of Titusville

"Gateway to Nature and Space"

REPORT

To: Members of the Board of Adjustments and Appeals

From: Brad Parrish, Community Development Director

Subject: **Variance 7-2025 - 702 Lucky Street**

Department/Office: Planning

Recommended Action:

Consider the requested variance to allow less than the required 20-foot side corner yard setback for a primary structure for property located at 702 Lucky Street.

Summary Explanation & Background:

The applicant is requesting a variance to the Land Development Regulations, Chapter 28, Section 28-305. Single-Family High Density. Section 28-305(c) – To allow less than the required 20-foot side corner yard setback for a primary structure, for property located in the Single-Family High Density (R-1C) zoning district, located at 702 Lucky St, Titusville, FL, as submitted by Jeremiah Ofori, registered agent for Gold Coast Developers of Florida LLC, owner.

Alternatives:

1. Approve the variance.
2. Approve the variance with conditions.
3. Deny the variance.

Item Budgeted:

N/A

Source/Use of Funds/Budget Book Page:

Strategic Plan:

Strategic Plan Impact:

ATTACHMENTS:

1. Variance 7-2025 Staff Report
2. Application
3. Illustration
4. Survey
5. Read & Allen Subdivision Plat
6. Code
7. All Maps VAR #7-2025

City of Titusville Community Development

BOARD OF ADJUSTMENTS AND APPEALS

Variance (VAR) No. 7-2025, 702 Lucky Street

Meeting Date: April 23, 2025

Prepared By: Tabitha Armstrong, Planner

Applicant: Jeremiah Ofori, registered agent for Gold Coast Developers of Florida LLC, owner

Background

(a) Variance request: *Land Development Regulations, Chapter 28, Section 28-305. Single-Family High Density. Section 28-305(c) – To allow less than the required 20-foot side corner yard setback for a primary structure*, for property located in the Single-Family High Density (R-1C) zoning district, located at 702 Lucky St, Titusville, FL, as submitted by Jeremiah Ofori, registered agent for Gold Coast Developers of Florida LLC, owner.

(b) Location: 702 Lucky St, Titusville, FL. Tax No. 2200926. Parcel I.D. 22-35-03-54-4-18

(c) Land Description: READ & ALLENS SUBD LOT 18 BLK 4

(d) Future Land Use: Medium Density Residential

(e) Zoning: Single-Family High Density (R-1C)

(f) Surrounding Zoning Districts.

1. North: Single-Family High Density (R-1C)
2. South: Single-Family High Density (R-1C)
3. East: Single-Family High Density (R-1C)
4. West: Single-Family High Density (R-1C)

(g) Lot Characteristics: The subject property was platted in 1913 and is approximately 0.11 acres (5,000 sq. ft). It is a corner lot with 50 feet of frontage along Lucky Street and 100 feet of frontage along Second Avenue. These dimensions do not meet the minimum 6,500 sq. ft lot area and 65-foot lot width outlined in Single-Family High Density (R-1C) zoning district standards.

(h) Uses: Vacant residential lot

Powers of the BAA

LDR Section 34-226 states that the Board shall grant a variance request when in the opinion of the Board of Adjustments and Appeals, owing to special conditions, the literal enforcement of such ordinance or regulations would do manifest injustice to, or impose an unnecessary hardship upon the applicant. In order to authorize any variance to the provisions of such ordinance, the Board must consider the following criteria:

(a) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or building in the same zoning.

(b) Special conditions and circumstances do not result from the actions of the applicant.

(c) Granting the variance requested will not confer upon the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same zoning district.

(d) The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance.

(e) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(f) The granting of the variance will preserve the spirit of the ordinance and remain in harmony with its general purpose and intent.

(g) In granting the variance, the public safety and welfare must be assured.

(h) In no case shall the granting of a variance result in a change of use, which would not be permitted in that zone.

Analysis

The applicant is requesting a variance to the Land Development Regulations (LDR) Chapter 28, Section 28-305(c) to allow the construction of a single-family residence with a side corner yard setback of 10 feet instead of the required minimum of 20 feet. The subject property is a nonconforming 5,000 sq. ft corner lot with 50 feet of frontage

along Lucky Street and 100 feet of frontage along Second Avenue. These dimensions do not meet the minimum 6,500 sq. ft lot area and 65-foot lot width outlined in Single-Family High Density (R-1C) zoning district standards. The surrounding area is primarily composed of single-family homes and vacant residential parcels, many of which share similar dimensions and configurations with the subject property. The lot was originally platted as part of the Read & Allen Subdivision in 1913, well before the administrative rezoning in 1993 that established the current dimensional requirements for development on the site. The applicant has indicated that the narrow width of the corner lot creates a constraint in meeting the required 20-foot side corner yard setback.

Although a detailed concept plan has not been provided, if the variance is approved, all remaining setbacks will need to comply with the dimensional standards of the R-1C zoning district in accordance with LDR Sec. 28-305(c). Given the non-conforming width of the lot and its corner location, these conditions may constitute a hardship that supports the request for a reduced side corner setback.

Recommendation

The staff recommends **approval** of the variance request to allow a single-family residence to be constructed with a side corner yard setback of 10 feet instead of the required minimum of 20 feet.

In granting the variance, special conditions and circumstances do not result from the actions of the applicant. The reduced lot width presents a hardship to the applicant. Granting the requested variance will not confer upon the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same zoning district.

Gateway to Nature & Space

APPLICATION FOR VARIANCE

Please submit electronically a completed application and required submittals to the Community Development Department for payment and meeting scheduling. Chapter 34 of the Titusville Land Development Regulations contains the instructions for filing and the required exhibits. INCOMPLETE APPLICATIONS SHALL NOT BE ACCEPTED.

1. Project Location	Property Address/Location Description 702 Lucky Street	
2. Applicant/ Owner	Name of Applicant/Contact GOLD COAST DEVELOPERS OF F	Name of Owner JEREMIAH OFORI
	Street Address 121 DRENNEN RD	Street Address 121 DRENNEN RD
	City State Zip ORLANDO FL 32806	City State Zip ORLANDO FL 32806
	Telephone # (407) 710-8787 Fax #	Telephone # (407) 710-8787 Fax #
	E-Mail Address admin@prorestoreservices.com	E-Mail Address admin@prorestoreservices.com
3. Applicant Status	☑ Owner ☐ Tenant ☐ Agent ☐ Other	
4. Parcel ID	22-35-03-54-4-18	**Tax Acct.** 2200926
5. Site Size	Acres: .11	Square Feet: 43560
6. Property Information	Current Zoning R-1C	Current Use of Property 0010 - VACANT RESIDENTIAL LAND (SI

7. Variance(s) Requested	*Section Number*	*LDR Requirement*	*Variance Requested*
	1) Sec. 28-305. - Singl	1) Minimum side corne	1) Request to reduce tl
	2)	2)	2)
	3)	3)	3)
	4)	4)	4)
	5)	5)	5)

8. Narrative	Please provide a brief description of your request and the proposed project: (Please complete justification questions on page 4 of this application) REQUESTING THE CORNER SIDE SETBACK BE REDUCED TO 10 FT. MAINTAINING SAFETY STANDARDS AND VISIBILITY FOR TRAFFIC PATTERNS IN ACCORDANCE WITH PRECEDENT OF VARIANCE 24-2023

- **All applications shall require Community Development staff review prior to submittal.**
- All applications shall be submitted to the Department electronically and officially logged in by **end of business day**.
- Incomplete applications and applications without appropriate backup information/justification will not be accepted and will not be considered to be officially submitted until the appropriate information and fees are submitted. Meeting dates for incomplete applications will not be set until all required information and fees are submitted.
- Petitions requiring review from other boards or commissions prior to being forwarded to the Board of Adjustments and Appeals (BAA) are not guaranteed placement on the BAA schedule available on the City's website.

ACKNOWLEDGEMENT

I am the owner and/or legal representative of the owner of the property described which is the subject of this application. All answers to the questions in said application and all sketches and data attached to and made a part of this application are honest and true to the best of my knowledge and belief. Should this application be granted, I understand that any condition(s) imposed upon the granting of this request shall be binding to the owner, his heirs and successors in title to possession of the subject property. I understand that I must attend all applicable meetings and have been informed of the meeting date(s) and time(s). I understand that if I fail to appear at an applicable meeting, the appropriate Board or Commission may either table or deny the request.

This matter is subject to quasi-judicial rules of procedure. Interested parties should limit contact with the City Council, Board of Adjustment & Appeals, and Planning & Zoning Commission on this topic to properly noticed public hearings or to written communication to the City Clerk's Office, City of Titusville, P.O. Box 2806, Titusville, FL 32781

/s/_____ 02/24/2025
(Signature*) (Date)

** By entering your name in the "Signature" box above, you are signing this Application electronically. You agree your electronic signature is the legal equivalent of your manual signature on this Application. By entering your name in the "Signature" box above, you consent to be legally bound by this Application's terms and conditions.*

Date received:_____

Accepted by_____

Grounds For Granting A Variance

Section 31-51 of the Land Development Regulations of the City of Titusville empowers the Board of Adjustments and Appeals to grant variances to the requirements of the Land Development Regulations and certain other codes and/or ordinances. The Board may grant a variance if, in their opinion, the strict enforcement of these rules would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. In granting a variance, the Board must consider whether or not the applicant's particular situation meets a certain set of criteria established in Section 34-226 of the Land Development Regulations. These criteria are as follows:

(a) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

(b) Special conditions and circumstances do not result from the actions of the applicant.

(c) Granting the variance requested will not confer upon the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same zoning district.

(d) The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance.

(e) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(f) The granting of the variance will preserve the spirit of the ordinance and remain in harmony with its general purpose and intent.

(g) In granting the variance, the public safety and welfare must be assured.

(h) In no case shall the granting of a variance result in a change of use which would not be permitted in that zoning district.

Variance Justification

In answering the questions below, please be as specific as possible. Your answers will help the Board of Adjustments and Appeals and City staff to properly evaluate your variance request.
(Please attach a separate sheet if necessary)

1. Why are you unable to comply with the requirements? What hardship or injustice are you claiming?

THE PARCEL IS A NON-CONFORMINGY IN-FILL LOT. THE BUILDABLE WIDTH OF THE PROPERTY IS ONLY 20 FEET UNDER EXISTING SETBACK GUIDELINES WHICH SEVERLY RESTRICTS THE DESIGN ABLE TO BE OFFERED FOR A COMFORTABLE SINGLE FAMILY PROPERTY. See ordinance 05-1993, and Section 28-305(c) 20' side corner yd setback to 10'

2. What is special about your property that would justify treating it differently than most other properties? (Examples of important special conditions include: narrow or odd shaped lot; excessive slope of land; soil or drainage limitations; unusual location of existing buildings on the lot; etc.) If the special conditions involve an existing building or structure, when was it built and are you the original owner?

The parcel is a non conforming infill lot. The buildable sq ft is severely limited as a result of the corner lot side setback requirement at 20ft. This is why we are requesting a variance of 10ft for the setback.

3. Is your variance request the **minimum** change from the requirements that you need to overcome your hardship? Explain your answer. (For example, suppose you are requesting a 5 foot variance to the side yard setback requirement in order to build a single car garage 15 feet wide. Your request would **not** be the minimum since a single car garage 11 feet wide would be adequate and would only require a 1 foot variance.)

YES

4. Explain why approval of your variance request would not likely result in harm to your neighbor's properties or to the general public.

WE ARE PROPOSING BUILDING A SINGLE FAMILY STRUCTURE IN KIND WITH EXISTING STRUCTURES IN THE AREA.

Gateway to Nature & Space

SUBMITTAL CHECKLIST

(Development Review Procedures Manual Section 15)

Please fill out the following and submit the documents to the Community Development Department electronically. Payment of fees does not ensure a favorable decision. Additional information may include documents initially waived at the pre-application meeting but subsequently determined necessary by staff.

1.	Complete Application and Fees	☐
2.	Warranty Deed	☐
3.	Notarized Owner Authorization Form (If applicable)	☐
4.	Legal Description (from a certified survey)	☐
5.	Certified Survey (sealed and containing permanent reference points as described by Chapter 177, Florida Statutes, with bearings, distances and closures) in electronic PDF format.	☐
6.	Digital plot or site plan, drawn to scale, illustrating the variance requested.	☐
7.	Names, addresses and address labels for all property owners within 100 feet of the subject property. *Note: This listing is available from either the Brevard County Property Appraiser's Office or the City of Titusville Planning Department. Current charge for this service is $35.00.*	☐
8.	Pre-Application Meeting Date: Staff in Attendance:	☐

Gateway to Nature & Space

OWNER'S AUTHORIZATION FORM

This authorization form is for:

- ☐ Annexation (ANX)
- ☐ Comprehensive Plan Amendment (CPA)
- ☐ Conditional Use Permit (CUP)
- ☐ Development Agreement (DA)
- ☐ Easement Vacation (EAS)
- ☐ Master Plan (MP)
- ☐ Planned Development (PD)
- ☐ Rezoning (REZ)
- ☐ Right-of-Way Vacation (ROW)
- ☐ Small Scale Amendment (SSA)
- ☒ Variance (VAR)

Date: 02/24/2025

To: City of Titusville
Attn: Planning Department
555 S. Washington Avenue
Titusville, FL 32796-3584

PROJECT DESCRIPTION: 702 LUCKY ST

PROJECT ADDRESS: 702 LUCKY ST. TITUSVILLE FL 32780

PARCEL ID# OR TAX ACCT #: 22-35-03-54-4-18

Please accept this documentation as authorization for GOLD COAST DEVELOPERS OF FLORIDA LLC (Name of Applicant) to apply for the above selected request.

Property Owner Signature

GOLD COAST DEVELOPERS OF FLORIDA LLC
Property Owner Name (Please Print)

121 DRENNEN RD
Street Address

ORLANDO, FL 32806
City, State, Zip code

+1 (407) 305-4139
Telephone Number

Please Note: If the property is owned by a corporation, trust, et cetra, documentation must be included with this authorization form to prove the person signing this document has the legal authority to do so. If this documentation is not submitted, the application will not be accepted.

TO BE COMPLETED BY NOTARY

State of Florida

County of ORANGE

Subscribed and sworn to before me on this 24TH day of FEBRUARY, 20____,

By JOSHUA WILSON who is personally known to me or produced

PERSONALLY KNOWN TO ME as identification.

_____ My Commission Expires: 01/24/2026

Notary Public Signature Date

Gateway to Nature & Space

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PERSONALLY KNOWN TO ME as identification.

Notary Public Signature

My Commission Expires: 01/24/2026
Date

JOSHUA WILSON
Notary Public, State Of Florida
Commission No. HH 219665
My Commission Expires: 1/24/2026

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Board of Adjustments & Appeals

2023 Application Deadline and Meeting Schedule

Application Deadline	BAA Meeting
Fri. - December 23, 2022	Wed. - January 25, 2023
Fri. - January 27, 2023	Wed. - March 1, 2023
Fri. - February 24, 2023	Thurs. - March 30, 2023
Fri. - March 31, 2023	Wed. - April 26, 2023
Fri. - April 28, 2023	Wed. - May 24, 2023
Fri. - May 26, 2023	Wed. - June 28, 2023
Fri. - June 30, 2023	Wed. - July 26, 2023
Fri. - July 28, 2023	Wed. - August 23, 2023
Fri. - August 25, 2023	Wed. - September 27, 2023
Fri. - September 29, 2023	Wed. - October 25, 2023
Fri. - October 27, 2023	Wed. - November 29, 2023

Filing Instructions

* All applications shall require Development Services Staff review prior to acceptance.

* All Applications shall be submitted to the Development Services Department and officially logged in by 4:00 p.m. on the deadline dates attached.

* Incomplete applications and applications without appropriate backup information/justification will not be accepted and will not be considered to be officially submitted until the appropriate information is submitted. Meeting dates for incomplete applications will not be set until all required information is submitted.

* Petitions requiring review from other boards or commissions prior to being forwarded to Board of Adjustments and Appeals (BAA) are not guaranteed placement on the BAA sechedule noted above.

FEE SCHEDULE

(Updated December 1, 2021)

Ordinance No. 33-2021

APPEALS

Appeals from decision of administrative official -	$475 plus advertisement fee
****Variances and Appeals Advertisement -*	$150 each advertisement

VARIANCES

Single-family and multi-family zoning districts -	$265 plus advertisement fee
All other zoning districts –	$525 plus advertisement fee
Subsequent items processed at the same time as the first item	$100 per additional request
****Variances and Appeals Advertisement -*	$150 each advertisement

****The applicant will be responsible for all re-advertising fees when an applicant deferral is initiated*

Public Purpose Variances	$525 plus advertisement fee $150 each advertisement

VACATIONS

Vacating rights-of-way, streets and alleys -	$935 plus advertisement fee
****Street Vacations Advertisement -*	$400 total for 2 advertisements
Vacating easement -	$935 plus advertisement fee
**** Easement Vacations Advertisement -*	$400 total for 2 advertisements

ANNEXATIONS, CPA's & SSA's

Comprehensive Plan (Map) Amendment (CPA)	
Annexation and/or Land Use Change -	$1,575 plus $8 per acre plus
(Applications may be combined)	advertisement fee
****Comprehensive Plan Amendment Advertisement (display ad)* [1] -	$1,675 total for 2 advertisements
****Annexation Advertisements (display ad)*	$1,250 total for 2 advertisements
Comprehensive Plan (Text) Amendment -	$735 plus advertisement fee
****Text Change Advertisement (display ad) -*	$1,675 total for 2 advertisements
Small Scale Comprehensive Plan Amendment [1] (SSA)	
Annexation [1] and/or Land Use Change -	$1,575 plus $8 per acre plus
(Applications may be combined)	
(exclusive of those annexations accompanying water service agreements)	advertisement fee
****Small Scale Amendment Advertisement* 1 -	$200 advertisement fee
****Annexation Advertisements (display ad) -*	$1,250 total for 2 advertisements

ZONING/REZONINGS

Zoning/Rezoning (when not accompanied by a CPA/SSA) -	$1,575 plus $8 per acre plus
****Zoning/Rezoning Advertisement* 2 -	$200 advertisement fee

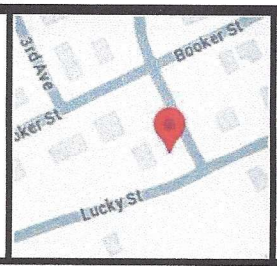
CONDITIONAL USE PERMITS

Conditional Use Permit (CUP)-	$1,575 plus $8 per acre plus
****Conditional Use Permit Advertisement -*	$175 advertisement fee

Note #1: In the event that more than one amendment to the City's Comprehensive Plan is considered in a given submittal, the City reserves the right to adjust the advertising costs to reflect any economy realized by advertising more than one request in a single ad. Such adjustments will be at the discretion of the City Manager and will be accomplished in the form of a refund to the applicant after the advertising costs have been incurred. For those properties currently located outside the city limits lying south of Parrish Road, north of Kings Highway/Ranch Road, west of the Indian River, and east of the St. Johns River, the collection of annexation fee, comprehensive plan amendment fee as related to annexation petitions, and associated legal advertising fees shall be waived for all annexations under ten (10) acres or annexations defined as an improved enclave until September 30, 2014 and automatically reinstated on October 1, 2014. The said waiver of fees shall not apply to fees charges to the City by other agencies of Brevard County of annexation related services.

Robinson Surveying

140 E. Panama Road
Winter Springs, Florida 32708
407.637.5961



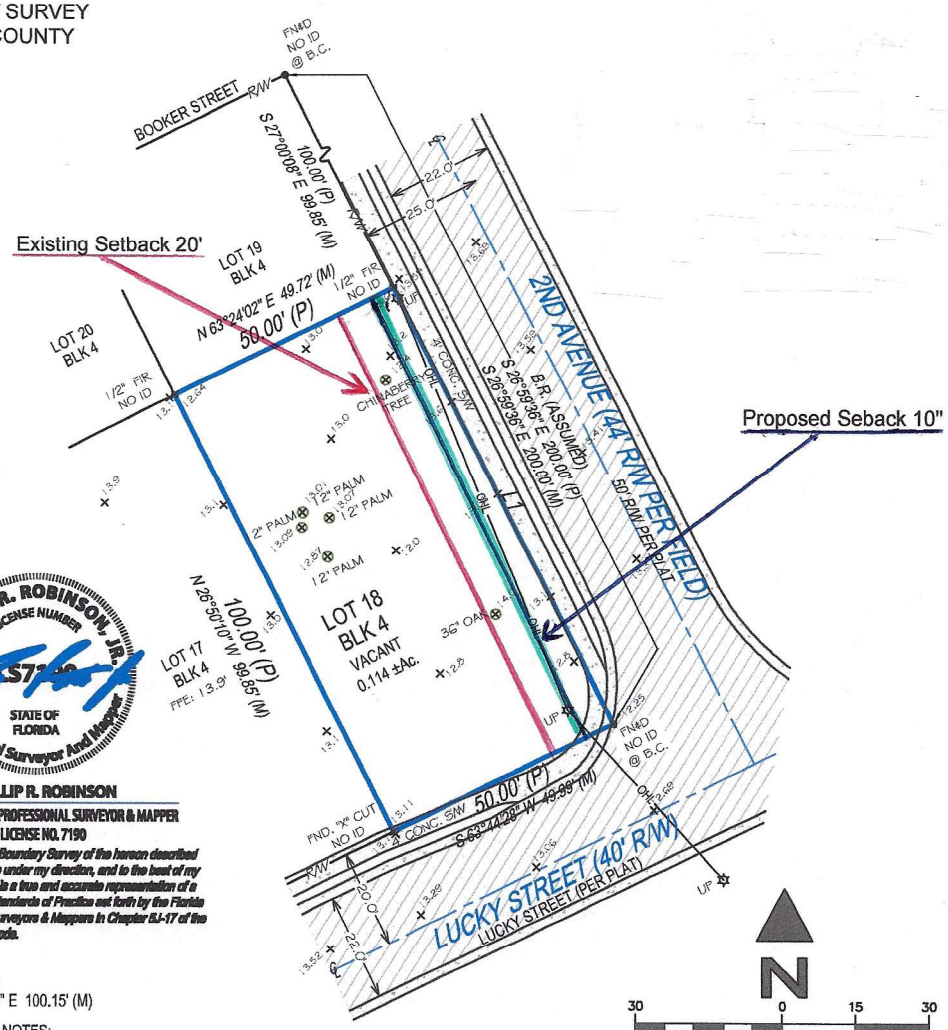
PROPERTY ADDRESS: 702 LUCKY STREET, TITUSVILLE, FLORIDA 32780

JOB NUMBER: 2410.0037

FIELD WORK DATE: 11/12/2024

REVISION HISTORY: (REV.1 11/21/2024)

2410.0037
BOUNDARY SURVEY
BREVARD COUNTY



PHILLIP R. ROBINSON, JR.
LICENSE NUMBER
LS7190
STATE OF FLORIDA
Professional Surveyor And Mapper

PHILLIP R. ROBINSON
STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER
LICENSE NO. 7190

I hereby certify that this Boundary Survey of the hereon described property has been made under my direction, and to the best of my knowledge and belief, it is a true and accurate representation of a survey that meets the Standards of Practice set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17 of the Florida Administrative Code.

LINE TABLE:
L1 100.00' (P)
S 26°59'04" E 100.15' (M)

SURVEYOR'S NOTES:
FENCE OWNERSHIP NOT DETERMINED.

FLOOD INFORMATION:
BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X. THIS PROPERTY WAS FOUND IN CITY OF TITUSVILLE, COMMUNITY NUMBER 125152, DATED 01/29/2021.

CLIENT NUMBER:

DATE: 11/21/24

BUYER: JEREMIAH OFORI

SELLER:

CERTIFIED TO:
JEREMIAH OFORI

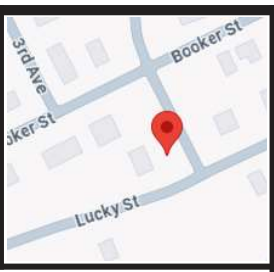
POINTS OF INTEREST:
ALL ELEVATIONS ARE BASED ON BREVARD COUNTY BENCHMARK DESIGNATION DG8746 WITH AN ELEVATION OF 10.80' (NAVD 88 DATUM).

PAGE 1 OF 2.
DOCUMENT IS NOT VALID WITHOUT ALL PAGES.

Robinson Surveying

LB# 8260

140 E. Panama Road
Winter Springs, Florida 32708
407.637.5961



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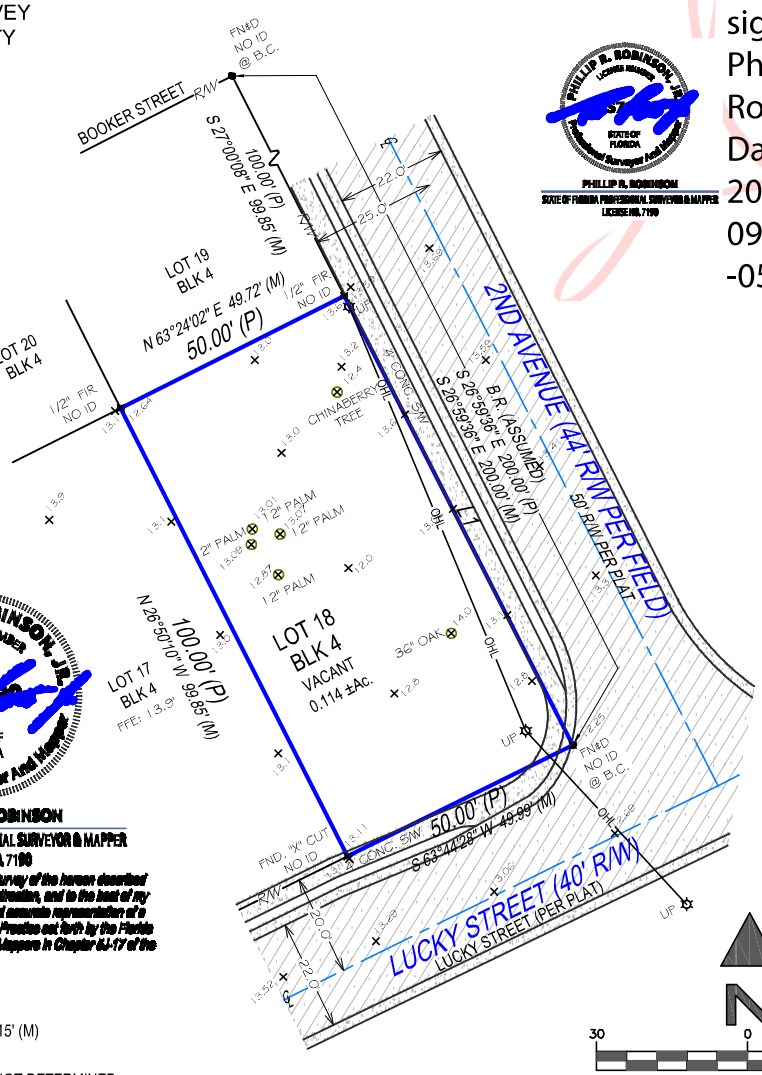
2410.0037
BOUNDARY SURVEY
BREVARD COUNTY

Digitally signed by Phillip Robinson Jr
Date: 2024.11.21 09:49:59 -05'00'



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L1 100.00' (P)
S 26°59'04" E 100.15' (M)

SURVEYOR'S NOTES:
FENCE OWNERSHIP NOT DETERMINED.

N

30 0 15 30

GRAPHIC SCALE (In Feet)
1 inch = 30' ft.

FLOOD INFORMATION:
BY PERFORMING A SEARCH WITH THE LOCAL GOVERNING MUNICIPALITY OR WWW.FEMA.GOV, THE PROPERTY APPEARS TO BE LOCATED IN ZONE X. THIS PROPERTY WAS FOUND IN CITY OF TITUSVILLE, COMMUNITY NUMBER 125152, DATED 01/29/2021.

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PAGE 1 OF 2.
DOCUMENT IS NOT VALID WITHOUT ALL PAGES.

LEGAL DESCRIPTION:

LOT 18, BLOCK 4, PLAT OF READ & ALLEN SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 20, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

JOB SPECIFIC NOTES:

THE ASSUMED BEARING REFERENCE OF SOUTH 26 DEGREES 59 MINUTES 36 SECONDS EAST IS BASED ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF 2ND AVENUE, LOCATED WITHIN READ AND ALLEN SUBDIVISION ACCORDING TO THE PLAT THEREOF, AS RECORDED IN BOOK 2, PAGE 20 OF THE PUBLIC RECORDS OF BREVARD COUNTY COUNTY, FLORIDA.

1. The Legal Description used to perform this survey was supplied by others. This survey does not determine or imply ownership.
2. This survey only shows improvements found above ground. Underground footings, utilities and encroachments are not located on this survey map.
3. If there is a septic tank, or drain field shown on this survey, the location is approximate as the location was either shown to Robinson Surveying by a third party or it was estimated by metal detection, probing rods, and visual above ground inspection only. No excavation was performed in order to determine the exact and accurate location.
4. This survey is exclusively for the use of the parties to whom it is certified.
5. Additions or deletions to this survey map and report by other than the signing party or parties is prohibited without written consent of the signing party or parties.
6. Dimensions are in feet and decimals thereof.
7. Due to varying construction standards, house dimensions are approximate.
8. Any FEMA flood zone data contained on this survey is for informational purposes only. Research to obtain such data was performed at www.fema.gov.
9. All corners marked as set are at a minimum a ½" diameter, 18" iron rebar with a cap stamped LB#8260.
10. If you are reading this survey in an electronic format, the information contained on this document is only valid if this document is electronically signed as specified in Chapter 5J-17.062 (3) of the Florida Administrative Code and Florida Statute 472.025. The Electronic Signature File related to this document is prominently displayed on the invoice for this survey which is sent under separate cover. Manually signed and sealed logs of all survey signatures are kept in the office of the performing surveyor. If this document is in paper format, it is not valid without the signature and original raised seal of a Florida Licensed Surveyor.
11. Unless otherwise noted, an examination of the abstract of title was NOT performed by the signing surveyor to determine which instruments, if any, are affecting this property.
12. The symbols reflected in the legend and on this survey may have been enlarged or reduced for clarity. The symbols have been plotted at the center of the field location, and may not represent the actual shape or size of the feature.
13. Points of Interest (POI's) are selected above–ground improvements which may be in contact with boundary, building setback or easement lines, as defined by the parameters of this survey. There may be additional POI's which are not shown, not called-out as POI's, or which are otherwise unknown to the surveyor. These POI's may not represent all items of interest to the viewer.
14. Utilities shown on the subject property may or may not indicate the existence of recorded or unrecorded utility easements.
15. The information contained on this survey has been performed exclusively, and is the sole responsibility, of Robinson Surveying. Additional logo or references to third parties are for informational purposes only.
16. Pursuant to F.S. 558.0035, an individual employee or agent may not be held individually liable for negligence.
17. House measurements should not be used for new construction or planning. Measurements should be verified prior to such activity

SURVEYOR'S LEGEND

LINETYPES: (UNLESS OTHERWISE NOTED)

BOUNDARY LINE
STRUCTURE
CENTERLINE
CHAIN-LINK or WIRE FENCE
EASEMENT
EDGE OF WATER
IRON FENCE
OVERHEAD LINES
SURVEY TIE LINE
WALL OR PARTY WALL
WOOD FENCE
VINYL FENCE

SURFACE TYPES: (UNLESS OTHERWISE NOTED)

ASPHALT
CONCRETE
WATER
BRICK or TILE
COVERED AREA
WOOD

SYMBOLS: (UNLESS OTHERWISE NOTED)

BENCH MARK
CENTERLINE
CENTRAL ANGLE or DELTA
COMMON OWNERSHIP
CONTROL POINT
CONCRETE MONUMENT
CATCH BASIN
ELEVATION
FIRE HYDRANT
FND OR SET MONUMENT
GUYWIRE OR ANCHOR
MANHOLE
TREE
UTILITY OR LIGHT POLE
WELL

(C)	CALCULATED
(D)	DEED
(F)	FIELD
(M)	MEASURED
(P)	PLAT
(R)	RECORD
(S)	SURVEY
A.S.B.L.	ACCESSORY SETBACK LINE
A/C	AIR CONDITIONING
B.C.	BLOCK CORNER
B.F.P.	BACKFLOW PREVENTOR
B.R.	BEARING REFERENCE
B.R.L.	BUILDING RESTRICTION LINE
B/W	BAY/BOX WINDOW
BLDG.	BUILDING
BLK.	BLOCK
BM	BENCHMARK
BSMT.	BASEMENT
C	CURVE
C.B.	CONCRETE BLOCK
C.L.F.	CHAIN LINK FENCE
C.O.	CLEAN OUT
C.V.G.	CONCRETE VALLEY GUTTER
C/L	CENTER LINE
C/P	COVERED PORCH
C/S	CONCRETE SLAB
CATV	CABLE TV RISER
CH	CHORD BEARING
CHIM.	CHIMNEY
CONC.	CONCRETE
COR.	CORNER
CS/W	CONCRETE SIDEWALK
D.F.	DRAIN FIELD
D.H.	DRILL HOLE
D/W	DRIVEWAY
E.O.W.	EDGE OF WATER
ELEV.	ELEVATION
EM	ELECTRIC METER
ENCL.	ENCLOSURE
ENT.	ENTRANCE
EUB	ELECTRIC UTILITY BOX
F.F.	FINISHED FLOOR
F.O.P.	EDGE OF PAVEMENT
F/DH	FOUND DRILL HOLE
FCM	FND. CONCRETE MONUMENT
FIP	FOUND IRON PIPE
FIPC	FOUND IRON PIPE & CAP
FIR	FOUND IRON ROD
FIRC	FOUND IRON ROD & CAP
FN	FOUND NAIL
FN&D	FOUND NAIL AND DISC
FND.	FOUND
FPKN	FOUND PARKER-KALON NAIL
FPKN&D	FOUND PK NAIL & DISC
FRRSPK	FOUND RAILROAD SPIKE
GAR.	GARAGE
GM	GAS METER
ID.	IDENTIFICATION
ILL.	ILLEGIBLE
INST.	INSTRUMENT
INT.	INTERSECTION
L	LENGTH
LB#	LICENSE # - BUSINESS
LS#	LICENSE # - SURVEYOR
M.B.	MAP BOOK
M.E.S.	MITERED END SECTION
M.F.	METAL FENCE
MES	MITERED END SECTION
MH	MANHOLE
N.R.	NON RADIAL
N.T.S.	NOT TO SCALE
NAVD88	NORTH AMERICAN VERTICAL DATUM OF 1988
NGVD29	NATIONAL GEODETIC VERTICAL DATUM OF 1929
O.C.S.	ON CONCRETE SLAB
O.G.	ON GROUND
O.R.B	OFFICIAL RECORD BOOK
O.R.V.	OFFICIAL RECORD VOLUME
O/A	OVERALL
O/S	OFFSET
OFF	OUTSIDE OF SUBJECT PARCEL
OH.	OVERHANG
OHL	OVERHEAD LINES
ON	INSIDE OF SUBJECT PARCEL
P.B.	PLAT BOOK
P.C.	POINT OF CURVATURE
P.C.C.	POINT OF COMPOUND CURVATURE
P.C.P.	PERMANENT CONTROL POINT
P.I.	POINT OF INTERSECTION
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
P.P.	PINCHED PIPE
P.R.C.	POINT OF REVERSE CURVATURE
P.R.M.	PERMANENT REFERENCE MONUMENT
P.T.	POINT OF TANGENCY
P/E	POOL EQUIPMENT
PG.	PAGE
PLS	PROFESSIONAL LAND SURVEYOR
PLT	PLANTER
PSM	PROFESSIONAL SURVEYOR AND MAPPER
R	RADIUS or RADIAL
R.P.	RADIUS POINT
R/W	RIGHT OF WAY
RES.	RESIDENCE
RGE.	RANGE
S.B.L.	SET BACK LINE
S.C.L.	SURVEY CLOSURE LINE
S.T.L.	SURVEY TIE LINE
S.W.	SEAWALL
S/GD	SET GLUE DISC
S/W	SIDEWALK
SCR.	SCREEN
SEC.	SECTION
SEP.	SEPTIC TANK
SEW.	SEWER
SIRC	SET IRON ROD & CAP
SN&D	SET NAIL & DISC
SQ.FT.	SQUARE FEET
STY.	STORY
SV	SEWER VALVE
T.O.B.	TOP OF BANK
TBM	TEMPORARY BENCHMARK
TEL.	TELEPHONE FACILITIES
TWP.	TOWNSHIP
TX	TRANSFORMER
TYP.	TYPICAL
U.R.	UTILITY RISER
UG	UNDERGROUND
UR	UTILITY RISER
V.F.	VINYL FENCE
W.F.	WOODEN FENCE
W/C	WITNESS CORNER
W/F	WATER FILTER
WM	WATER METER/VALVE BOX
WV	WATER VALVE
A.E.	ACCESS EASEMENT
AN.E.	ANCHOR EASEMENT
C.M.E.	CANAL MAINTENANCE ESMT.
C.U.E.	COUNTY UTILITY ESMT.
D.E.	DRAINAGE EASEMENT
D.U.E.	DRAINAGE AND UTILITY ESMT.
ESMT.	EASEMENT
I.E./E.E.	INGRESS/EGRESS ESMT.
IRR.E.	IRRIGATION EASEMENT
L.A.E.	LIMITED ACCESS ESMT.
L.B.E.	LANDSCAPE BUFFER ESMT.
L.E.	LANDSCAPE ESMT.
L.M.E.	LAKE OR LANDSCAPE MAINTENANCE EASEMENT
M.E.	MAINTENANCE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
R.O.E.	ROOF OVERHANG ESMT.
S.W.E.	SIDEWALK EASEMENT
S.W.M.E.	STORM WATER MANAGEMENT EASEMENT
T.U.E.	TECHNOLOGICAL UTILITY ESMT.
U.E.	UTILITY EASEMENT

Page 20

31 #2 January 20 Plat
14 31 J. J. Mitchell

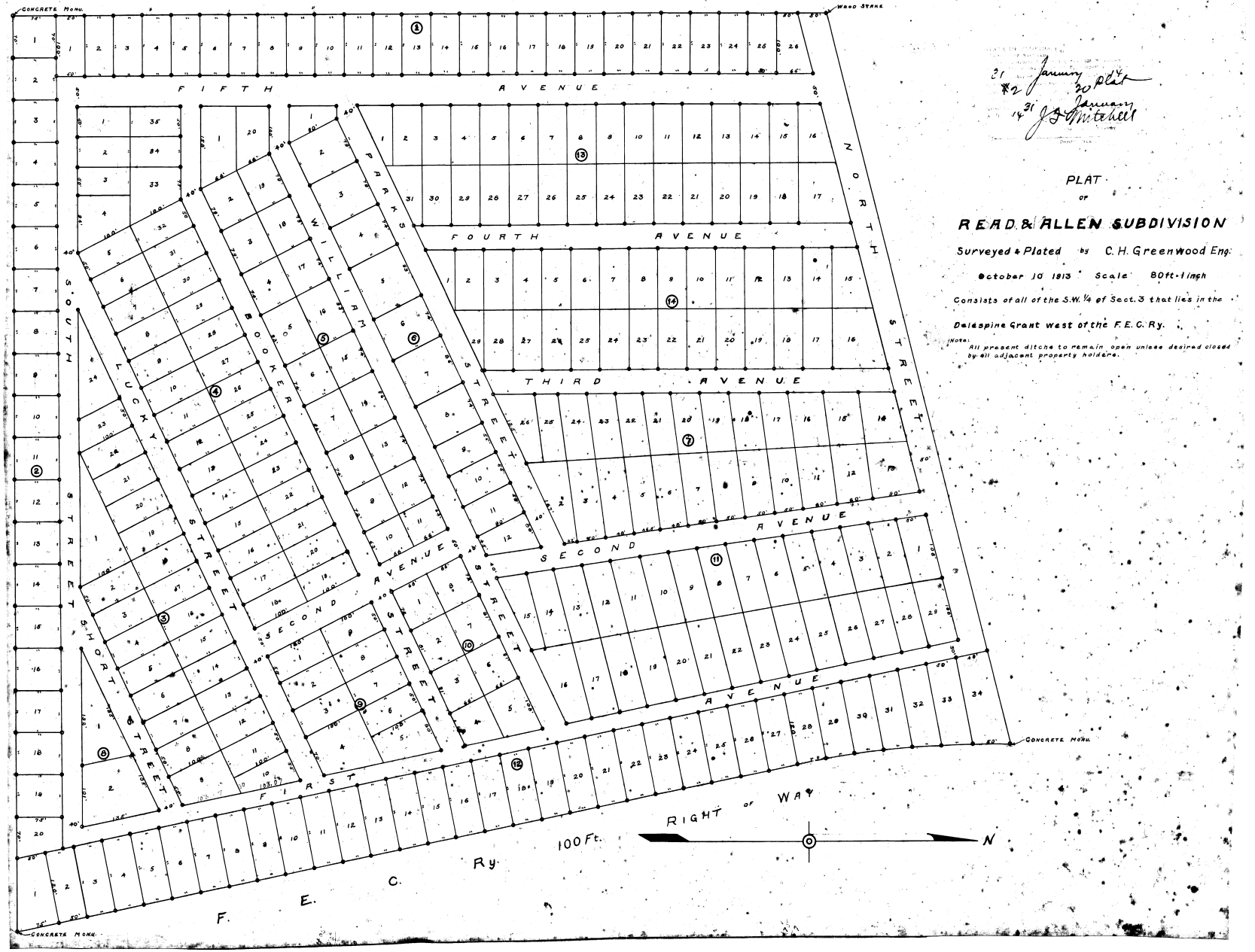
PLAT
OF
READ & ALLEN SUBDIVISION

Surveyed & Plated by C. H. Greenwood Eng.

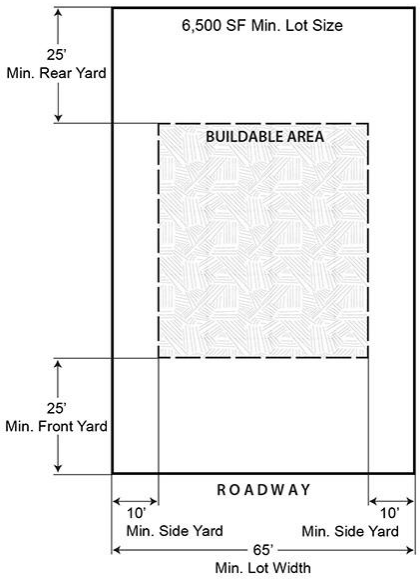
October 10 1913 Scale 80ft-1inch

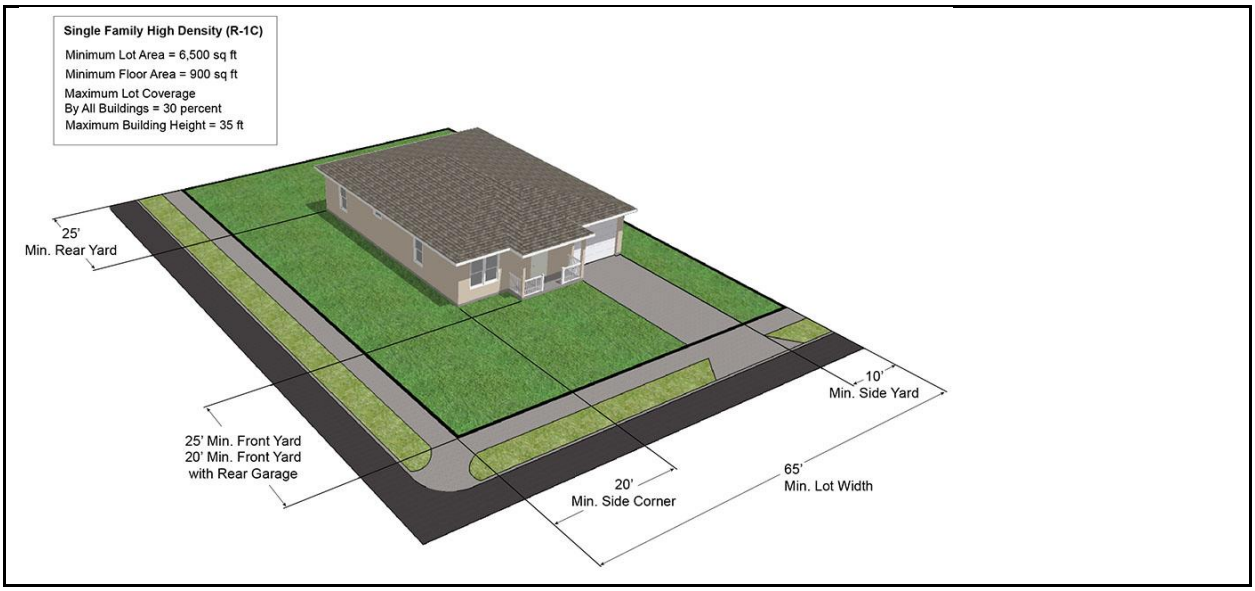
Consists of all of the S.W. 1/4 of Sect. 3 that lies in the Dalaspine Grant West of the F.E.C. Ry.

Note: All present ditche to remain open unless desired closed by all adjacent property holders.



Sec. 28-305. Single-Family High Density (R-1C).

Single-Family High Density (R-1C)	
(a) *Purpose*	
The Single-Family High Density (R-1C) district is established as a designation for the principal use of high-density single-family dwellings. The purpose of this district is to promote stable quality residential development at slightly increased densities together with certain structures and uses that are compatible with property in the district. It is further intended that governmental, religious, recreational and other immediate needs of this district are served while a quality environment is provided for the residents of the designation and City. This district provides the transition between single-family densities and higher density development.	
(b) *Use Standards*	*Typical Lot Pattern*
See Chapter 28 Article IV and Article V	
(c) *Intensity and Dimensional Standards*	
Lot area, minimum (sq. ft.)	6,500
Lot width, minimum (ft.)	65
Density, maximum (du/ac)	6.7
Floor area per dwelling unit, minimum (sq. ft.)	900
Building coverage, maximum (% of lot area)	35
Lot coverage, maximum (% of lot area)	NA
Height, maximum (ft.)	35
Front yard setback, minimum (ft.)	25[1]
Side corner yard setback, minimum (ft.)	20
Interior side yard setback, minimum (ft.)	10
Rear yard setback, minimum (ft.)	25
Accessory Use Development Standards	See Chapter 28 Article VII
NOTES:[1] Front setback with rear garage reduced to 20 feet.	
Typical Development Configuration (For illustrative purposes only)	


Single Family High Density (R-1C)
Minimum Lot Area = 6,500 sq ft
Minimum Floor Area = 900 sq ft
Maximum Lot Coverage
By All Buildings = 30 percent
Maximum Building Height = 35 ft
25'
Min. Rear Yard
10'
Min. Side Yard
25' Min. Front Yard
20' Min. Front Yard
with Rear Garage
20'
Min. Side Corner
65'
Min. Lot Width

Aerial 2024

VAR #7-2025

0 100 200 400 Feet

Community Development Department

Aerial photography provided by the Brevard County Property Appraiser's Office

4/1/2025

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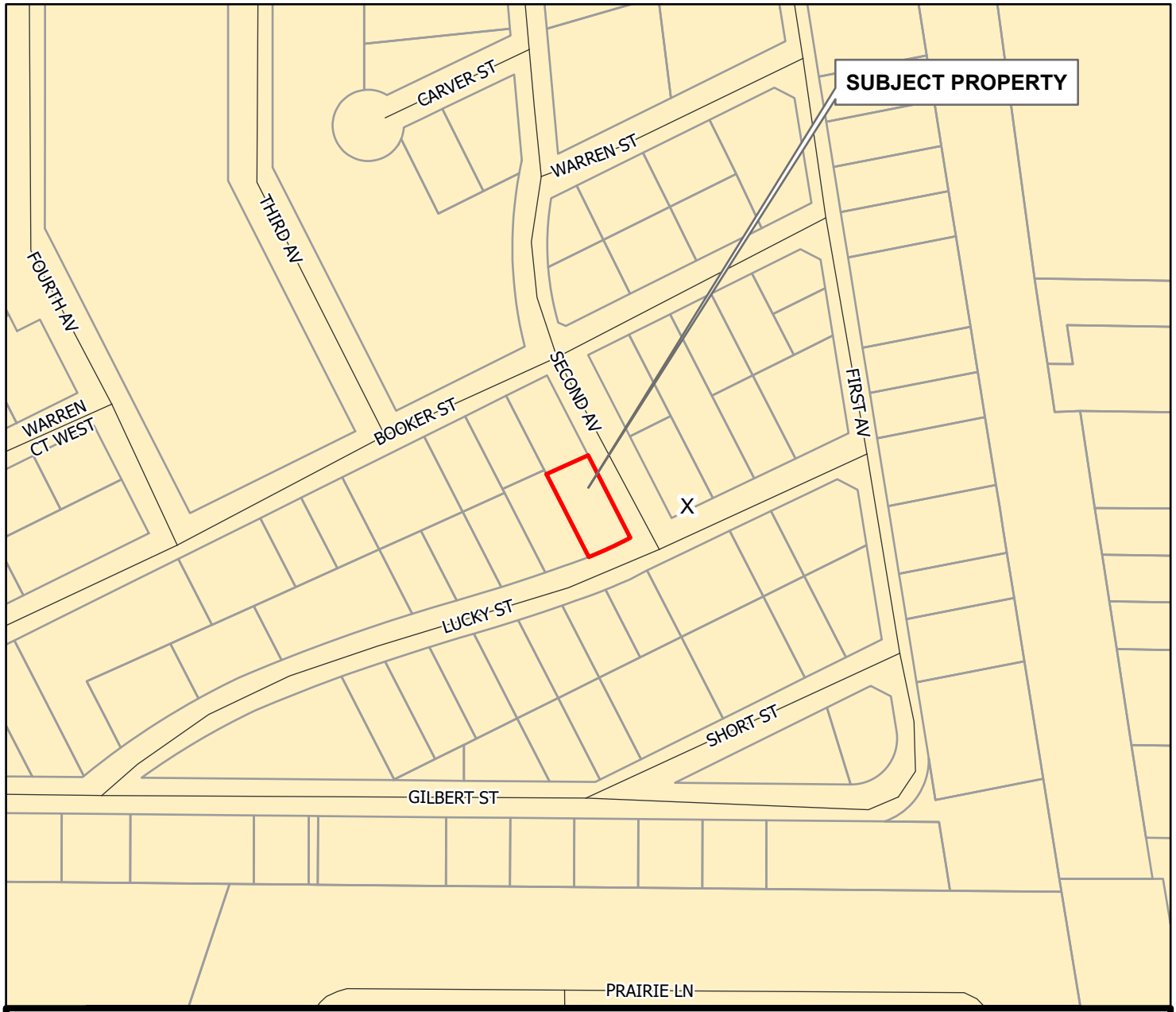

FEMA FLOOD HAZARD AREAS

VAR #7-2025

Special Flood Hazard Area Zones

- A
- A0
- AE
- AO
- VE

Moderate Flood Hazard Area Zone

- X5

Minimal Flood Hazard Zones

- C
- X
- X .2 PCT

Other Flood Zone Areas

- D
- FW

N W E S

0 100 200 400 Feet

Community Development Department

Source: FEMA FHA Update, 01/29/2021

4/1/2025

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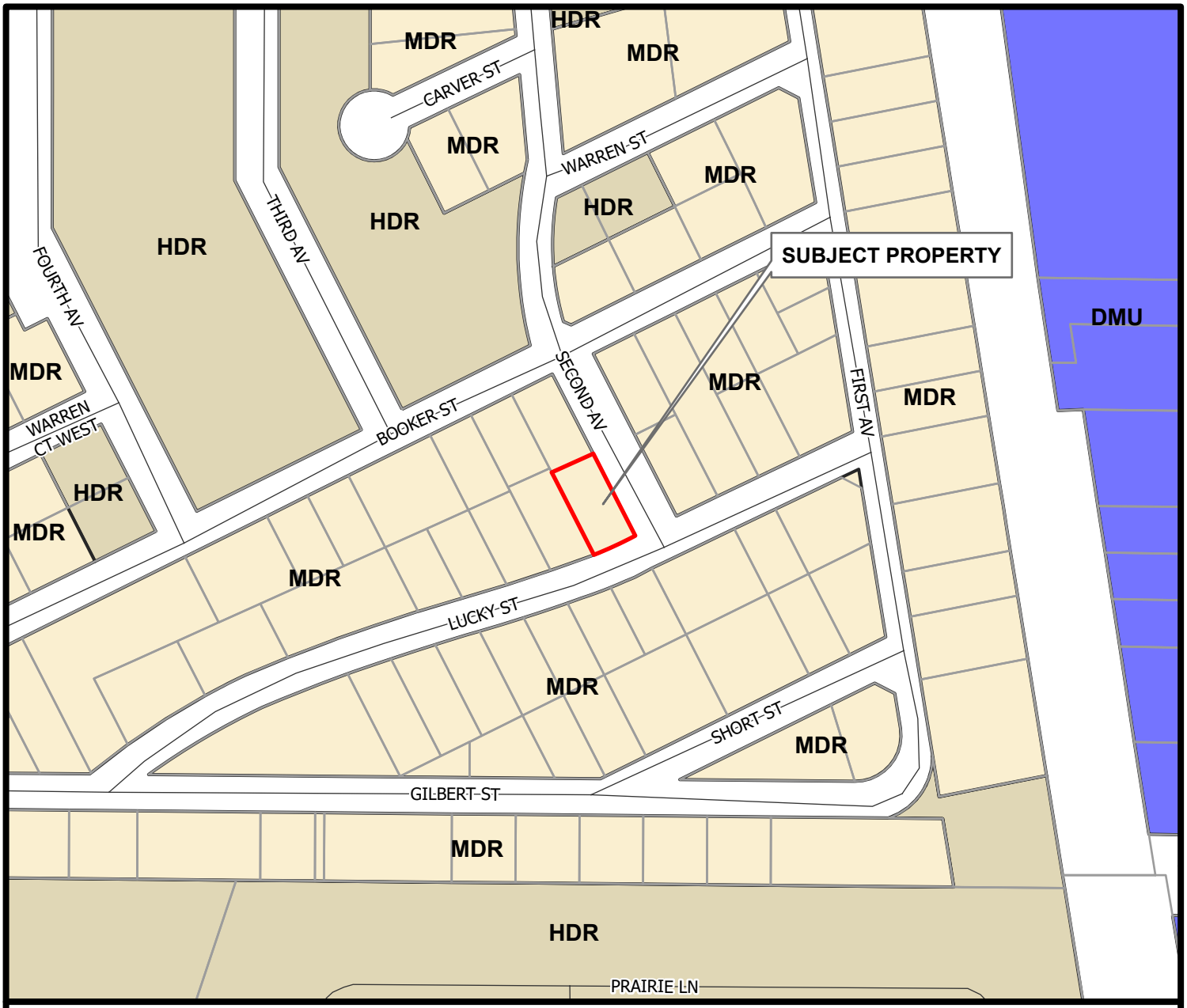

LOCATION OF PROPERTY AND FUTURE LAND USE MAP

CHI	COMMERCIAL HIGH INTENSITY	ED	EDUCATIONAL	PIP	PLANNED INDUSTRIAL PARK	RES-2	RESIDENTIAL-2
CLI	COMMERCIAL LOW INTENSITY	IND	INDUSTRIAL	PSP	PUBLIC/ SEMI-PUBLIC	RMU	REGIONAL MIXED USE
CONS	CONSERVATION	HDR	HIGH-DENSITY RESIDENTIAL	PUD	PLANNED UNIT DEVELOPMENT	SMU	SHORELINE MIXED-USE
DMU	DOWNTOWN MIXED-USE	MDR	MEDIUM-DENSITY RESIDENTIAL	REC	RECREATIONAL	UMU	URBAN MIXED-USE
		LDR	LOW-DENSITY RESIDENTIAL	RES-1	RESIDENTIAL-1	US1	US-1 CORRIDOR

Subject

N W E S

0 100 200 400 Feet

Community Development Department

4/1/2025

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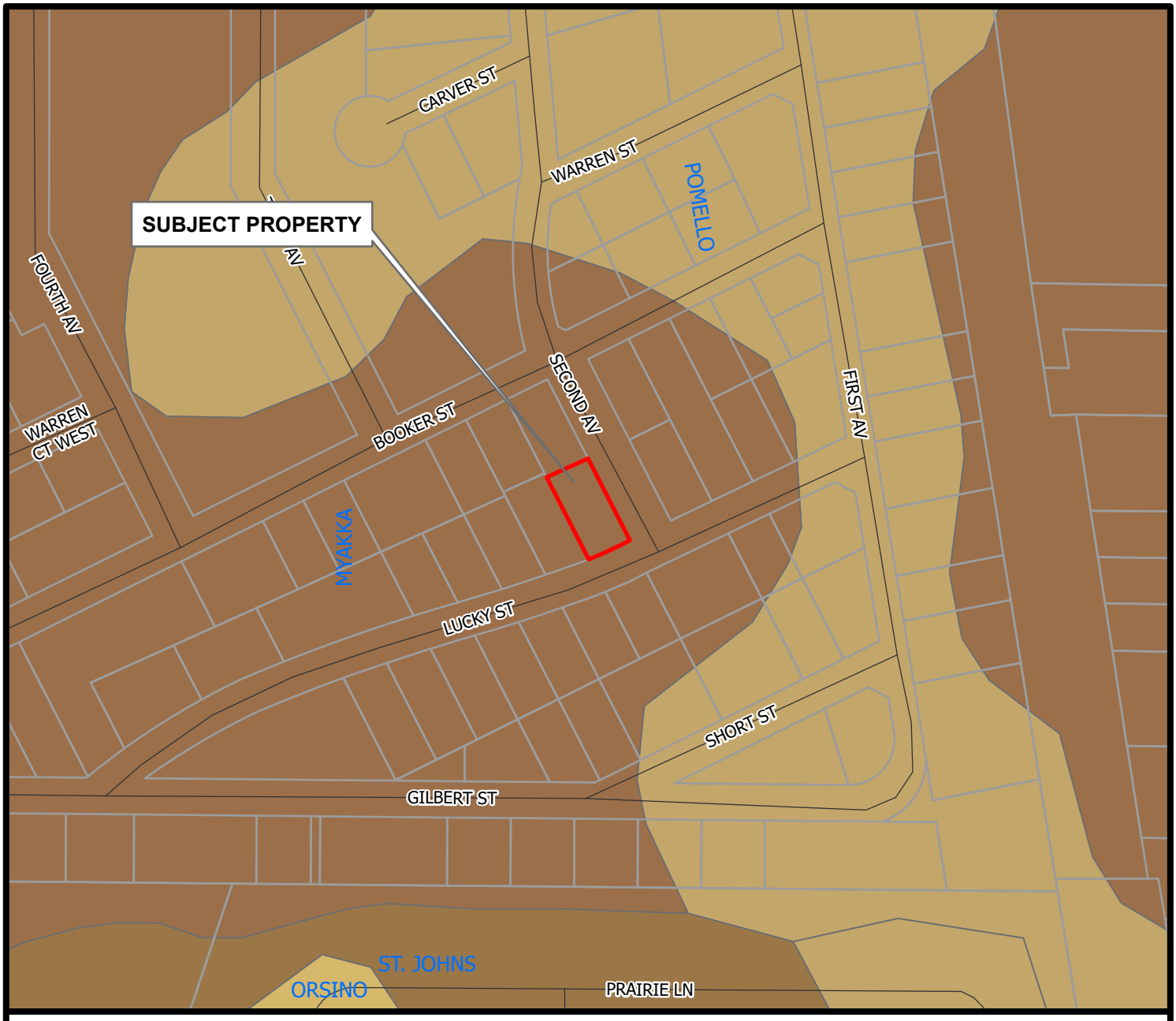


SOILS IN THE VICINITY OF SUBJECT PROPERTY
VAR #7-2025

SoilName

- MYAKKA
- ORSINO
- POMELLO
- ST.JOHN

N W E S

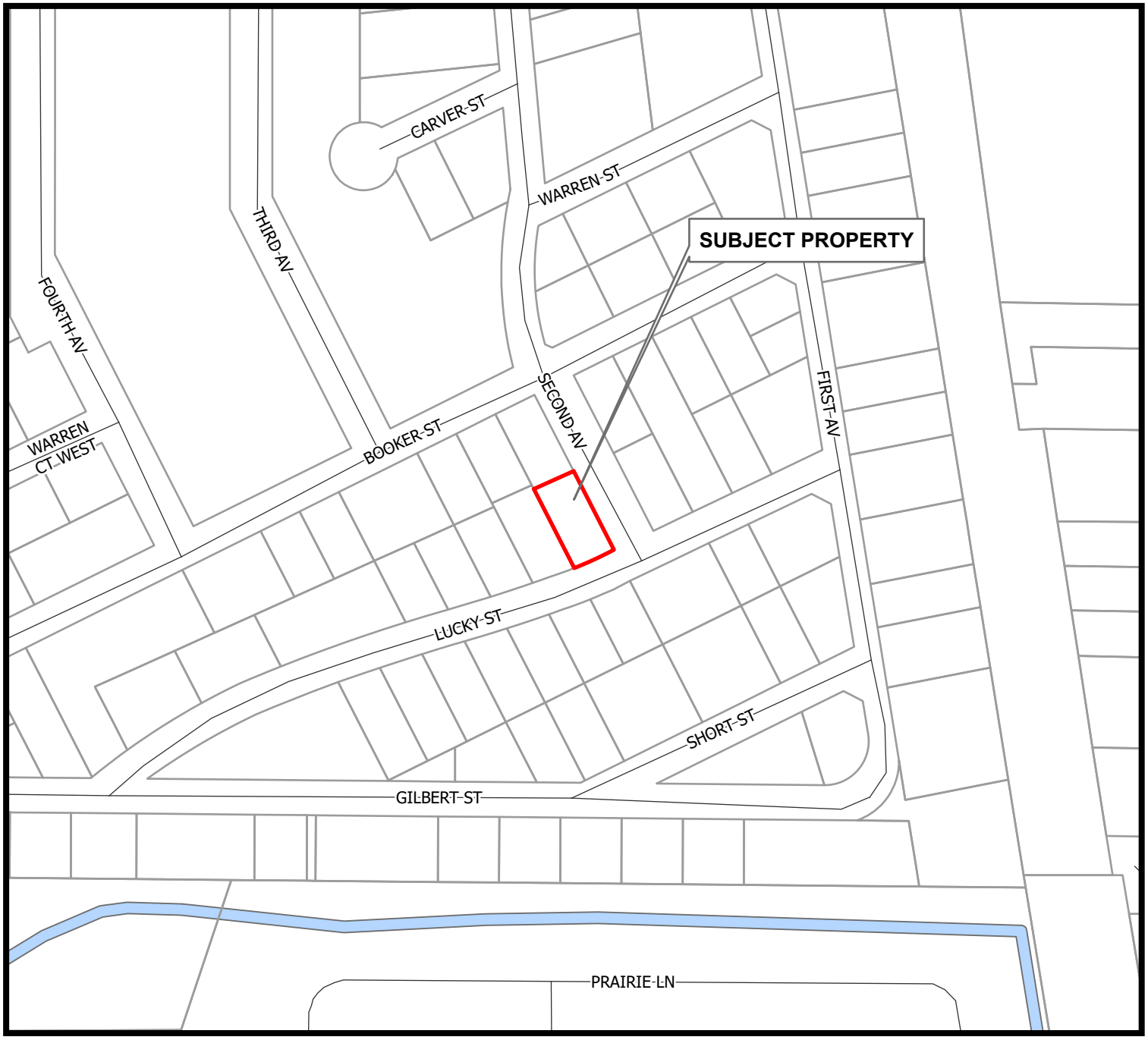
0 100 200 400 Feet

Community Development Department

Soils data source: The U.S. Department of Agriculture, Natural Resources Conservation Service. (2019)

4/1/2025

Document Path: Q:\GIS\Community Development\PLANNING\Planning Templates\ArcPro\PlanningMaps\PlanningMaps.aprx



WETLANDS IN VICINITY OF PROPERTY

VAR #7-2025

N
W
E
S

WETLAND_TY

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine

4/1/2025

Scale:1:2,000

Community Development Department
Source: USFWS NWI (2023)

This data set represents the approximate location and type of wetlands and deepwater habitats. The primary intended use is for regional and watershed data display and analysis, rather than specific project data analysis.

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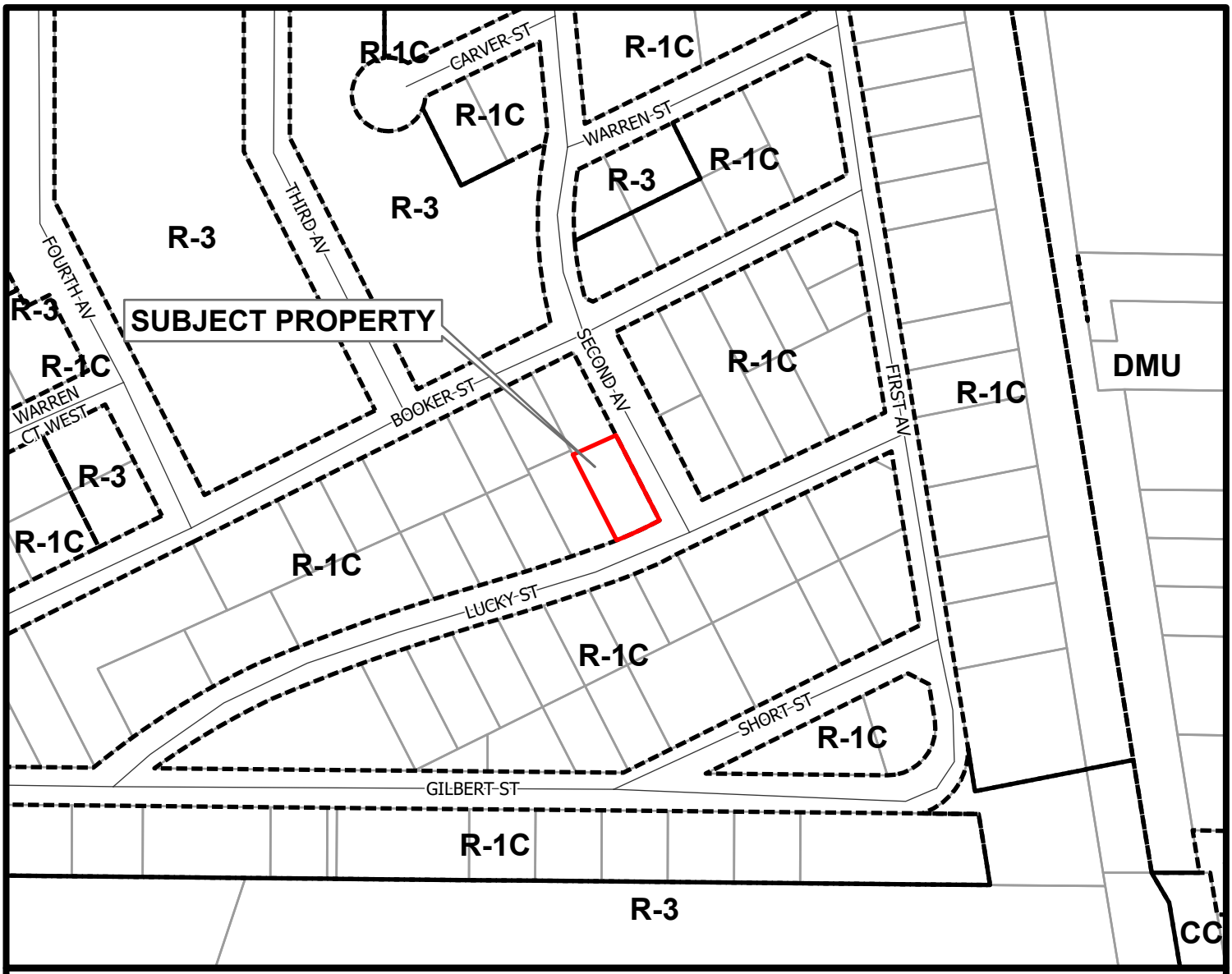


ZONING MAP

RESIDENTIAL DISTRICTS

RE	RESIDENTIAL ESTATES
RR	RURAL RESIDENTIAL
R-1A	SINGLE FAMILY, LOW DENSITY
R-1B	SINGLE FAMILY, MEDIUM DENSITY
R-1C	SINGLE FAMILY, HIGH DENSITY
R-2	MULTIFAMILY, MEDIUM DENSITY
R-3	MULTIFAMILY, HIGH DENSITY
RMH-1	RESIDENTIAL MANUFACTURED HOUSING SUBDIVISION
RMH-2	RESIDENTIAL MANUFACTURED HOUSING PARK

COMMERCIAL DISTRICTS

HM	HOSPITAL MEDICAL
T	TOURIST
NC	NEIGHBORHOOD COMMERCIAL
CC	COMMUNITY COMMERCIAL
RC	REGIONAL COMMERCIAL
OP	OFFICE PROFESSIONAL

INDUSTRIAL DISTRICTS

M-1	LIGHT INDUSTRIAL SERVICES AND WAREHOUSING
M-2	HEAVY INDUSTRIAL
M-3	HIGHWAY INDUSTRIAL INFILL
PID	PLANNED INDUSTRIAL DEVELOPMENT

OVERLAY DISTRICTS

TSA	TITUSVILLE SHORELINE AREA
AIA	AIRPORT IMPACT AREA
WCA	WETLAND AND CONSERVATIONA AREA
ACC	AREA OF CRITICAL CONCERN
HPA	HISTORIC PRESERVATION AREA

SPECIAL DISTRICTS

GU	GENERAL USE
OR	OPEN SPACE AND RECREATION
UMU	URBAN MIXED USE
SMU	SHORELINE MIXED USE
RHP	RESIDENTIAL HISTORIC PRESERVATION
RMU	REGIONAL MIXED USE
PD	PLANNED DEVELOPMENT
P	PUBLIC
UV	URBAN VILLAGE
DMU	DOWNTOWN MIXED USE
IRCN-R	INDIAN RIVER CITY NEIGHBORHOOD RESIDENTIAL
IRCN-C	INDIAN RIVER CITY NEIGHBORHOOD COMMERCIAL

N
W E
S

TITUSVILLE, FLORIDA
FOUNDED 1867

Base Map

City Limits

Zoning

Subject

VAR #7-2025

0 125 250 500 Feet

Community Development Department

4/1/2025

City of Titusville

"Gateway to Nature and Space"

REPORT

To: Members of the Board of Adjustments and Appeals

From: Brad Parrish, Community Development Director

Subject: **Variance 9-2025 - 1311 Wilderness Lane**

Department/Office: Planning

Recommended Action:

Consider the request variance to allow a fence located in the front yard to exceed the maximum 4-foot height for property located at 1311 Wilderness Lane.

Summary Explanation & Background:

The applicant is requesting a variance to the Land Development Regulations, Chapter 30, Section 30-182. Height and location requirements. Section 30-182(a)(1) – To allow a fence located in the front yard to exceed the maximum 4-foot height, for property located in the Multifamily High Density (R-3) zoning district, located at 1311 Wilderness Lane, Titusville, FL, as submitted by Elissa Antilles, owner.

Alternatives:

1. Approve the variance.
2. Approve the variance with conditions.
3. Deny the variance.

Item Budgeted:

N/A

Source/Use of Funds/Budget Book Page:

Strategic Plan:

Strategic Plan Impact:

ATTACHMENTS:

1. Variance 9-2025 Staff Report

2. Variance Application
3. Variance Justification
4. Plot Plan
5. Survey
6. Code
7. All Maps VAR #9-2025

City of Titusville Community Development

BOARD OF ADJUSTMENTS AND APPEALS

Variance (VAR) No. 9-2025, 1311 Wilderness Lane

Meeting Date: April 23, 2025

Prepared By: Tabitha Armstrong, Planner

Applicant: Elissa Antilles, owner

Background

(a) Variance request: *Land Development Regulations, Chapter 30, Section 30-182. Height and location requirements. Section 30-182(a)(1) – To allow a fence located in the front yard to exceed the maximum 4-foot height*, for property located in the Multifamily High Density (R-3) zoning district, located at 1311 Wilderness Lane, Titusville, FL, as submitted by Elissa Antilles, owner.

(b) Location: 1311 Wilderness Lane, Titusville, FL. Tax No. 2106310. Parcel I.D. 21-35-29-55-8-1

(c) Land Description: TITUS WOODS LOT 1 BLK 8

(d) Future Land Use: High Density Residential

(e) Zoning: Multifamily High Density (R-3)

(f) Surrounding Zoning Districts.

1. North: Multifamily High Density (R-3) & Multifamily Medium Density (R-2)
2. South: Multifamily High Density (R-3) & Multifamily Medium Density (R-2)
3. East: Multifamily High Density (R-3)
4. West: Multifamily Medium Density (R-2)

(g) Lot Characteristics: The subject property is a corner lot approximately 0.06 acres (2,722 sq. ft) with 28.66 feet of frontage along Wilderness Lane. These dimensions

meet the minimum 2,000 sq. ft lot area and 20 ft lot width for a townhouse located in the Multifamily High Density (R-3) zoning district.

(h) Uses: Townhouse constructed in 1989.

Powers of the BAA

LDR Section 34-226 states that the Board shall grant a variance request when in the opinion of the Board of Adjustments and Appeals, owing to special conditions, the literal enforcement of such ordinance or regulations would do manifest injustice to, or impose an unnecessary hardship upon the applicant. In order to authorize any variance to the provisions of such ordinance, the Board must consider the following criteria:

(a) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or building in the same zoning.

(b) Special conditions and circumstances do not result from the actions of the applicant.

(c) Granting the variance requested will not confer upon the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same zoning district.

(d) The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance.

(e) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(f) The granting of the variance will preserve the spirit of the ordinance and remain in harmony with its general purpose and intent.

(g) In granting the variance, the public safety and welfare must be assured.

(h) In no case shall the granting of a variance result in a change of use, which would not be permitted in that zone.

Analysis

Land Development Regulations (LDR) Section 30-182 of the LDR states, *the maximum height of a fence or wall in any required front yard setback shall be four (4) feet*. The applicant is requesting a variance to the LDR to allow for the construction of a fence 6 feet in height within the front yard along Wilderness Lane.

The subject property was platted in 1987 as part of the Titus Woods Townhouse Subdivision. The property abuts Tract A, an ingress/egress, drainage & utility

easement operating as a private right of way. LDR Sec 30-181(h) states *"No fence shall encroach into a visibility triangle at an intersection or a driveway, as determined by the City."* The City Engineer has reviewed the proposed fence and confirmed that it does not encroach into the visibility triangle. However, the subject lot does not appear to exhibit any special conditions or circumstances that would necessitate a deviation from the standard 4-foot front yard fence height. The applicant has the ability to provide privacy and screening through the installation of a vegetative buffer along a 4-foot-high fence, thereby achieving their stated goals without requiring a variance.

Recommendation

The staff recommends **denial** of the variance. There are no special conditions or circumstances that exist which are peculiar to the land. The literal interpretation of the code would not deprive the owner of rights commonly enjoyed by others in the same zoning district.

To be Completed by Staff
Application No. _____
Date Received: _____
Received by: _____

APPLICATION FOR VARIANCE

Please submit electronically a completed application and required submittals to the Community Development Department for payment and meeting scheduling. Chapter 34 of the Titusville Land Development Regulations contains the instructions for filing and the required exhibits. INCOMPLETE APPLICATIONS SHALL NOT BE ACCEPTED.

1. Project Location	Property Address/Location Description 1311 Wilderness Ln. Titusville, FL 32796	
2. Applicant/ Owner	Name of Applicant/Contact Elissa Antilles	Name of Owner Elissa Antilles
	Street Address 1311 Wilderness Ln	Street Address 1311 Wilderness Ln
	City State Zip Titusville FL 32796	City State Zip Titusville FL 32796
	Telephone # 786-492-2615 Fax #	Telephone # 786-492-2615 Fax #
	E-Mail Address ELISSALANTILLES@GMAIL.COM	E-Mail Address
3. Applicant Status	☒ Owner ☐ Tenant ☐ Agent ☐ Other	
4. Parcel ID	2106310	**Tax Acct.** 210631
5. Site Size	Acres: 0.06	Square Feet: 1254 / 968 living
6. Property Information	Current Zoning R-2	Current Use of Property residence - single family

7. Variance(s) Requested	*Section Number*	*LDR Requirement*	*Variance Requested*
	1) 30-182(a)	1) 4 feet	1) 6 feet
	2)	2)	2)
	1)	3)	3)
	4)	4)	4)
	5)	5)	5)

8. Narrative

Please provide a brief description of your request and the proposed project:
(Please complete justification questions on page 4 of this application)

To allow for a 6 foot fence as opposed to a 4 foot fence placed within my property lines

All applications shall require Community Development staff review prior to submittal.

- All applications shall be submitted to the Department electronically and officially logged in by 4:00 p.m. on deadline dates.
- Incomplete applications and applications without appropriate backup information/justification will not be accepted and will not be considered to be officially submitted until the appropriate information is submitted. Meeting dates for incomplete applications will not be set until all required information is submitted.
- Petitions requiring review from other boards or commissions prior to being forwarded to the Board of Adjustments and Appeals (BAA) are not guaranteed placement on the BAA schedule available on the City's website.

ACKNOWLEDGEMENT

I am the owner and/or legal representative of the owner of the property described which is the subject of this application. All answers to the questions in said application and all sketches and data attached to and made a part of this application are honest and true to the best of my knowledge and belief. Should this application be granted, I understand that any condition(s) imposed upon the granting of this request shall be binding to the owner, his heirs and successors in title to possession of the subject property. I understand that I must attend all applicable meetings and have been informed of the meeting date(s) and time(s). I understand that if I fail to appear at an applicable meeting, the appropriate Board or Commission may either table or deny the request.

This matter is subject to quasi-judicial rules of procedure. Interested parties should limit contact with the City Council, Board of Adjustment & Appeals, and Planning & Zoning Commission on this topic to properly noticed public hearings or to written communication to the City Clerk's Office, City of Titusville, P.O. Box 2806, Titusville, FL 32781

/s/ (Signature*) 3/6/2025 (Date)

** By entering your name in the "Signature" box above, you are signing this Application electronically. You agree your electronic signature is the legal equivalent of your manual signature on this Application. By entering your name in the "Signature" box above, you consent to be legally bound by this Application's terms and conditions.*

FOR OFFICE USE ONLY
Date Received: _____
Accepted By: _____
Hearing Date: _____
Case Number:

Grounds For Granting A Variance

Section 31-51 of the Land Development Regulations of the City of Titusville empowers the Board of Adjustments and Appeals to grant variances to the requirements of the Land Development Regulations and certain other codes and/or ordinances. The Board may grant a variance if, in their opinion, the strict enforcement of these rules would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. In granting a variance, the Board must consider whether or not the applicant's particular situation meets a certain set of criteria established in Section 34-226 of the Land Development Regulations. These criteria are as follows:

(a) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

(b) Special conditions and circumstances do not result from the actions of the applicant.

(c) Granting the variance requested will not confer upon the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same zoning district.

(d) The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance.

(e) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(f) The granting of the variance will preserve the spirit of the ordinance and remain in harmony with its general purpose and intent.

(g) In granting the variance, the public safety and welfare must be assured.

(h) In no case shall the granting of a variance result in a change of use which would not be permitted in that zoning district.

SUBMITTAL CHECKLIST

Please fill out the following and submit the documents to the Community Development Department electronically. Payment of fees does not ensure a favorable decision. Additional information may include documents initially waived at the pre-application meeting but subsequently determined necessary by staff.

1.	Complete Application and Fees
2.	Warranty Deed
3.	Notarized Owner Authorization Form (If applicable)
4.	Legal Description (from a certified survey)
5.	Certified Survey (sealed and containing permanent reference points as described by Chapter 177, Florida Statutes, with bearings, distances and closures) in electronic PDF format.
6.	Digital plot or site plan, drawn to scale, illustrating the variance requested.
7.	Names, addresses and address labels for all property owners within 100 feet of the subject property. *Note: This listing is available from either the Brevard County Property Appraiser's Office or the City of Titusville Planning Department. Current charge for this service is $35.00.*
8.	Pre-Application Meeting Held – Date: Staff in Attendance:

Applicant Signature** /s/ Alisse Adams

Date 3/10/2025

** *By entering your name in the "Signature" box above, you are signing this Application electronically. You agree your electronic signature is the legal equivalent of your manual signature on this Application. By entering your name in the "Signature" box above, you consent to be legally bound by this Application's terms and conditions.*

Variance Justification

In answering the questions below, please be as specific as possible. Your answers will help the Board of Adjustments and Appeals and City staff to properly evaluate your variance request.
(Please attach a separate sheet if necessary)

1. Why are you unable to comply with the requirements? What hardship or injustice are you claiming?

   See attached 2 pages with exhibits A-K

2. What is special about your property that would justify treating it differently than most other properties? (Examples of important special conditions include: narrow or odd shaped lot; excessive slope of land; soil or drainage limitations; unusual location of existing buildings on the lot; etc.) If the special conditions involve an existing building or structure, when was it built and are you the original owner?

   "

3. Is your variance request the **minimum** change from the requirements that you need to overcome your hardship? Explain your answer. (For example, suppose you are requesting a 5 foot variance to the side yard setback requirement in order to build a single car garage 15 feet wide. Your request would **not** be the minimum since a single car garage 11 feet wide would be adequate and would only require a 1 foot variance.)

   "

4. Explain why approval of your variance request would not likely result in harm to your neighbor's properties or to the general public.

   "

   See attached

Variance Justification

1: Why are you unable to comply with the requirements? What hardship or injustice are you claiming?

I need to put a fence in my front yard to help me protect my disabled child from elopement and risk of harm. I have provided verification of his condition from government, state and his medical doctor- along with a description of the condition. (See exhibit A through E). The rule of the city is 4 foot fence in a front yard which is too short for my sons height. He is age 17. Height 5'10. Therefore, I am requesting 6 feet of HOA approved PVC material- the same fence I have placed in my back yard. (See exhibit F).

2: What is special about your property that would justify treating it differently than most other properties? If the special conditions involve an existing building or structure, when was it built and are you the original owner?

My property is not special. The variance is not something I *want*; it is something I desperately *need*. I propose this to the city council to consider the special needs circumstances of my family and allow a 6 foot fence to be placed rather than 4 feet for my sons safety.

However, my property is unique to the community since it is an end unit townhouse, and unlike the others it has 15 – 20 feet or more easement of grass between my property line and the side road. Therefore, it does not obstruct drivers from seeing each other as they meetup on the corners of Wilderness Ln. I have provided photos. (See exhibit G, H, I). The building was built in 1989, and I am not the original owner. I bought this home in 2023. My son will inherit the home in my will upon survivorship.

3: Is your variance request the <u>minimum</u> change from the requirements that you need to overcome your hardship? Explain your answer.

My request is the minimum change. My hope is to build the fence up to the property line where the walk path from the driveway meets the the front door to safely transfer my son from car to home. This design would allow me to

leave a portion of my front property unfenced. If the oak tree is a problem due to its shape or large roots, I intend to box around it to a minimum to achieve this goal.

Also, the PVC fence material I am using has an opening at the top which reduces the appearance of a large 6 ft fence but allows for the height necessary to ensure for the safety I seek. I have provided a photo of the PVC fence. (See exhibit J) The bottom of the fence to the opening portion measure 4 feet 8 inches.

4: Explain why approval of your variance request would not likely result in harm to your neighbor's properties or to the general public.

My property is an end unit, and a fence would cause no harm to anyone. I have one neighbor adjacent to my property who has provided his opinion of the fence in a letter. (See exhibit K). The other neighbors and the general public are not affected since there is over 15-20 feet of easement along with the road on Wilderness lane that separate us a far distance from across the street.

EXHIBITS

A. Autism- What is Elopement?
B. Social Security Administration Letter of date of permanent disability
C. Florida Department of Motor Vehicles permanent disability registration card
D. Letter of diagnosis from Port St. John Pediatrics – Dr. Mitra
E. Home Health pediatricians' description of care and concerns for providers
F. HOA approved fence description
G. Photo of right turn distance from the corner- red color is planned fence location
H. Photo of left turn distance from the corner – red color is planned fence location
I. Photo of the front view of home- red color is planned fence location.
J. Photo of current fence in the backyard.
K. Letter from adjacent neighbor.

A

Retrieved March 7 2025 from: http://www.crossrivertherapy.com/autism/elopement

Elopement and Autism

Elopement, or wandering, is a common behavior among individuals with autism spectrum disorder (ASD). It's when a child with autism leaves a safe space or caregiver without permission or supervision. Elopement can be a serious safety concern for individuals with ASD and their families. In this article, we will explore the reasons behind elopement, the risks associated with it, and some strategies to prevent it.

Why do individuals with ASD elope?

There are many reasons why individuals with ASD may elope. Some may do it to seek sensory stimulation or to escape from an uncomfortable situation. Others may be motivated by a special interest or curiosity. Elopement can also be a way of communicating a need or desire that is not being met. For example, a child may elope to get to a favorite playground or to see a beloved pet.

What are the risks associated with elopement?

Elopement can pose serious risks to individuals with ASD. They may wander into dangerous areas such as busy streets, bodies of water, or construction sites. They may also become lost or injured.

Elopement can cause significant stress and anxiety for families and caregivers. It can also lead to negative interactions with law enforcement or emergency responders.

How can elopement be prevented?

Preventing elopement requires a multi-faceted approach that addresses the underlying reasons behind the behavior. Here are some strategies that can help:

1. **Create a safe and secure environment:** This can include installing locks, alarms, and fences. It can also involve teaching the individual with ASD to stay in designated areas or rooms.
2. **Provide sensory input:** Individuals with ASD may elope to seek sensory stimulation. Providing appropriate sensory input such as weighted blankets, fidget toys, or calming music can help reduce the urge to elope.
3. **Teach communication skills:** Elopement can be a way of communicating a need or desire. Teaching individuals with ASD to communicate their needs through words, pictures, or sign language can help reduce the need to elope.

B

Social Security Administration
Supplemental Security Income

SOCIAL SECURITY
310 CANAVERAL GROVES
COCOA FL 32926

Date: July 28, 2022
BNC#: 22S2525J79754

ELISSA L ANTILLES
4107 SKYWAY DR
PORT ST JOHN, FL 32927

Time: 10:01 AM ET
Unit: CLV318

Application Summary for Supplemental Security Income

On July 28, 2022, you, ELISSA L ANTILLES, applied on behalf of RIO JOZEF ANTILLES for Supplemental Security Income and any federally administered State supplementation under title XVI of the Social Security Act, for benefits under the other programs administered by the Social Security Administration, and where applicable, for medical assistance under title XIX of the Social Security Act. We have stored your application electronically in our records.

What You Need To Do

- Review this summary to ensure we recorded your statements correctly.
- If you agree with all your statements, you should keep this summary for your records.
- If you disagree with any of your statements, you should contact us within 10 days after receiving this summary to let us know.

Identification

The claimant's name is RIO JOZEF ANTILLES. His Social Security claim number is [redacted]

His date of birth is March 12, 2008.

He has not used any other Social Security claim number(s).

RIO JOZEF ANTILLES is not blind.

He is disabled. His disability began on July 2, 2010.

See Next Page

FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

APPLICATION FOR DISABLED PERSON PARKING PERMIT

C

Please submit this form to your local tax collector office or license plate agency.

http://www.flhsmv.gov/offices/

This form is not valid for more than 12 months from the date of the certifying authority's signature.

Please Print/Type below **APPLICATION BY DISABLED PERSON** *(See warning below.)*

I certify that I am a person with one of the disabilities listed in section 320.0848, Florida Statutes. I further state that my physician or other certifying practitioner has completed the statement of certification below on my behalf, as required in section 320.0848, Florida Statutes.

Name of Disabled Person as printed on their Florida Driver License or Identification Card	Current Disabled Parking Permit Number *(if applicable)*	Signature of Disabled Person or Guardian of the Disabled Person	Date signed
RIO J. Antilles	[redacted]		2/13/23

Date of Birth	Sex	Disabled Person's E-mail Address	Disabled Person's Phone Number
3/12/08	M	ElissaLantilles@gmail.com	786-492-2615

Address	City	State	Zip
2129 Maeve Cir	W. Melbourne	FL	32904

Florida Driver License or Identification Number: *(Required for permanent and temporary parking permits unless exception is noted by physician below)*	If applicable, check one of the following:
[redacted]	☒ I am a frequent traveler. ☐ I am quadriplegic.

PHYSICIAN/CERTIFYING PRACTITIONER'S STATEMENT OF CERTIFICATION *(See warning below.)*

1. ☐ TEMPORARY PERMIT: This is to certify that the applicant named above is a person with a temporary disability (six months or less) that limits or impairs his/her ability to walk or is temporarily sight impaired. Due to the temporary specific disability(ties) checked below (2-8), the disabled person parking permit should be issued from _____ (date) through _____ (date).

* ☑ PERMANENT PERMIT: This is to certify that the applicant named above is legally blind or is a disabled person with a permanent disability(ties) that limits or impairs his/her ability to walk 200 feet without stopping to rest. Specify below (2-8) either legally blind or the specific disability(ties).

Disability type as displayed in issuance system:

☐ 2. Inability to walk without the use of or assistance from a brace, cane, crutch, prosthetic device, or other assistive device, or without assistance of another person. If the assistive device significantly restores the person's ability to walk to the extent that the person can walk without severe limitation, the person is not eligible for the exemption parking permit.

☐ 3. The need to permanently use a wheelchair.

☐ 4. Restriction by lung disease to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than one liter or the person's arterial oxygen is less than 60 mm/hg on room air at rest.

☐ 5. Use of portable oxygen.

☐ 6. Restriction by cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association.

* ☑ 7. Severe limitation in a person's ability to walk due to an arthritic, neurological, or orthopedic condition.

☐ 8. Legally blind.

PSJ Pediatrics
Tarun Jain, MD Shivani Mitra, MD
3765 Kings Hwy. PSJ, FL 32927
Tel: 321 507 4572

Certification or License No. *(Required)* ME101697 of a Physician, Osteopathic or Podiatric Physician, Chiropractor, Optometrist, Advanced Practice Registered Nurse under the protocol of a licensed physician or a Physician Assistant licensed under Chapter 458 or 459			Licensed in State of
Print/Type Name of Certifying Authority Dr. Shivani Mitra	Business Address 3765 Kings Hwy	City Port St. John	State FL	Zip 32927
Certifying Authority Signature	Date Signed 2/13/23	Telephone Number 321-507-4572	

☐ **SPECIAL EXCEPTION:** The severely disabled applicant named above applying for a permanent placard is unable to obtain a Florida driver license or identification card.

- If the Special Exception box is checked, the certifying physician must provide his/her signature and date signed below.
- If the Special Exception box is checked, one of the conditions in boxes 2-8 above must also be checked.

Certifying Authority Signature	Date Signed

Application by an organization *(See warning below.)* This is to certify that _____ provides regular transportation service to disabled persons having disabilities that limit or impair their ability to walk or are certified to be legally blind.

Number of vehicles in fleet for this purpose	Organization's E-mail address	Signature of Organization's Authority	Date Signed

Address	City	State	Zip

TAX COLLECTOR/LICENSE PLATE AGENCY USE ONLY

Agency Personnel Processing Application	County	Agency	Date

WARNING: Any person who knowingly makes a false or misleading statement in an application or certification under section 320.0848, Florida Statutes, commits a misdemeanor of the first degree, punishable as provided in section 775.082 or 775.083, F.S. The penalty is up to one year in jail or a fine of $1,000 or both.

Lisa Cullen, CFC
Brevard County Tax Collector

C

EXPRESS PARKING PERMIT RENEWAL

RIO JOZEF ANTILLES
2129 MAEVE CIR
MELBOURNE FL 32904-7359

IMPORTANT NOTICE:

Registration renewals must be processed online or via mail. Scan the QR code below or visit www.brevardtc.com to renew online. There is no convenience fee when paying with an E-Check!

Parking Permit Number(s):

[redacted]

Individuals with a blue permanent disabled parking permit are required to renew every four years and submit a completed Application for Disabled Person Parking Permit signed by a certifying authority within the last 12 months - Form 83039 on reverse side.

If your blue permanent disabled parking permit is lost or stolen, a replacement will only be issued if you submit the same documentation required for renewals.

There is NO FEE to renew or replace a blue disabled parking permit.

RIO JOZEF ANTILLES 2129 MAEVE CIR MELBOURNE FL 329047359	**Parking Permit Number(s):**	**IMPORTANT NOTICE**
Your Florida Parking Permit(s) expire(s) at midnight on: **03/12/2023**	[redacted]	New medical certification is required. The form 83039 on back must be completed and signed by a certifying authority to renew your permit(s).
Not Renewable Online Thank you **Brevard County Tax Collector**	**Amount Due: $ 0.00**	

02 2034543511

D

PSJ Pediatrics
Shivani Mitra, MD
Tarun Jain, MD
3765 Kings Hwy, PSJ FL 32927
Phone:321-507-4572
Fax: 321-507-4417

03/05/2025

To the whom it may concern

RIO ANTILLES (D.O.B. 03/12/2008) is an established patient under the care of Dr. Shivani Mitra, M.D. His address we have on file is 1311 Wilderness Lane Titusville, FL 32796. He is at risk and has a history of eloping with the following diagnoses: Autism, Mixed Receptive/Expressive Language Disorder, Sensory Integration Disorder, Developmental Disorder of Scholastic Skills, and Developmental Coordination Disorder. Please reach out to our office if there are any questions or concerns.

Sincerely,

PSJ Pediatrics Management

PSJ Pediatrics
Tarun Jain, MD Shivani Mitra, MD
3765 Kings Hwy, PSJ, FL 32927
Tel: 321 507 4572

E

PHYSICIAN VISIT DOCUMENTATION FORM

This form must be completed by the Physician ordering home health services

Date: 10/28/2024

Medicaid Recipient's Name: Rio Antilles

* Physician's Name: Shivani Mitra, MD

Physician's Address: 3765 Kings Hwy
Port St John FL 32927

Physician's Telephone Number: (321) 507-4572

Diagnosis(es): Autism, Sensory Processing Disorder, Expressive Communication disroder, Seizures

Date of the recipient's last examination or consultation in your office: 09/04/2024

Please describe the patient's ongoing need for home health services:

* The patient demonstrates unawareness and requires consistent one to one (1:1) supervision due to his behaviors and medical diagnosis's. The patient medical records include behavioral assessment reports that describe the patients need to assist in areas such as safety, elopement, cross contamination and self harm. Our records indicate the patient to have autism which challenges his sensory processing, requiring him to
* have consistent guidance in acheiving his daily living skills. The mother is his only caregiver.

I hereby certify that I have examined the above named recipient on 09/04/2024 and have ordered home health services to treat the recipient's acute or chronic medical condition as described above.

* Signature of Physician:

National Provider Identifier: 1245224518

Pursuant to 409.905 (4) (c), Florida Statutes: In order for Medicaid to reimburse for home health services, the physician ordering the services must have examined the recipient within the 30 days preceding the initial request for the services and biannually thereafter.

After completion of this form, please send directly to the recipient's home health agency

AHCA Form 5000-3502, Revised February 2013 (Incorporated by reference in Rule 59G-4.130, F.A.C.)

F

BY-LAWS OF TITUSWOODS HOMEOWNERS' ASSOCIATION, INC., A FLORIDA CORPORATION

ARTICLE I
NAME AND LOCATION

Section 1.01 – Name. The name of the association (hereinafter called the Association) is **TITUSWOODS HOMEOWNERS' ASSOCIATION, INC.**

Section 1.02 – Location. The address of the Association is:

1380 Singleton Avenue
Titusville, Florida 32796

ARTICLE II
PURPOSES AND PARTIES

Section 2.01. – Purposes. The purposes for which the Association is formed are detailed in the ARTICLES OF INCORPORATION OF TITUSWOODS HOMEOWNERS' ASSOCIATION, INC. (hereinafter called ARTICLES OF INCORPORATION).

Section 2.02. – Parties. All owners of any lot, or any other person who might use in any manner the facilities of the properties are subject to the provision and regulation set forth in these Bylaws. The mere acquisition, lease or rental of any lot will signify that these Bylaws are accepted, approved, ratified, and will be complied with.

ARTICLE III
DEFINITIONS

Section 3.01. – Definitions. The definitions in the **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TITUSWOODS, A TOWNHOUSE SUBDIVISION** (hereafter called the DECLARATION), are incorporated herein by reference.

1 of 2

F

b) Landlord, at their expense, must provide a criminal background report for all persons listed on a rental agreement within 7 days of lease signing. Tenants must be free of all Misdemeanor and Felony convictions involving theft, violence, or sexual acts.
c) Short-term rentals are not allowed. Sub-leases are not allowed. The minimum rental period is 7 months.
d) Landlords must provide a set of Florida Statute Chapter 83 Landlord and Tenant - Part II, and HOA By-laws to renters before move-in.
e) HOA rules & regulations must be a condition of all rental agreements.
f) Landlords are held accountable for renter infractions.
g) Renters must communicate requests to the HOA through the landlord.
h) Renter must notify the HOA Board of all guests cohabitating more than 10 days.
i) Board may demand termination of a tenant with multiple rule violations and can fine the Landlord $25.00 for each day after notification of such demand.
j) The Board can additional fine any Landlord that fails to follow the HOA's rental rules. Each fine shall not exceed $500.00 nor exceed $2000.00 in total in a 12-month period.
k) All past-due fees and fines must be paid in full prior to a renter's move-in.

Section 16.01 Association Rules. The following rule apply to all owners, renters, and visitors within TitusWoods HOA.

a) All fences at single-family homes must be flat top wood stockade or vinyl fencing and painted white or gray on the exterior.
b) All town homes shall stay with the current color combination. All single-family homes must stay painted the original colors. The Board must approve any deviations.
c) There shall be no parking of campers, boats, utility trailers, unlicensed vehicles, or large commercial vehicles, including box trucks or eighteen-wheelers in public view in TitusWoods.
d) Satellite dishes are allowed in rear of Townhomes and Houses.
e) There shall be no children's swing sets or outdoor apparatus in the front yards of any dwelling in TitusWoods.
f) No unleashed or unlicensed pets shall be allowed outside in TitusWoods.
g) No aggressive dogs shall be allowed in TitusWoods.
h) All pet droppings must be picked up immediately.
i) TitusWoods' lawn service is not responsible for the care of fenced in yards.
j) Exterior repairs and maintenance on all dwellings must be done in a professional and aesthetically satisfactory manner. The Board shall have the final say in such matters.
k) Violations of these rules may result in a warning letter, followed in 30 days by assessment of $200.00 per month fine. All fines may be collected by legal action commenced by the Board, with attorneys' fees and costs paid by the dwelling owner, successor or assigns; such legal action may include foreclosure.
l) There shall be no private yard sales, only an annual association group yard sale is allowed.

2 of 2

Photo 1

Photo 2

Photo 2

1311 Wilderness Ln.
Titusville, FL
32796

Backyard
Fence

White PVC 6ft

HOA approved

Exhibit J

K

March 7, 2025

From: James McInnis

1313 Wilderness Ln.

Titusville, FL 32796

To: The City of Titusville Community Development Department

Re: Variance Request of 1311 Wilderness Ln. Titusville, FL 32796

I am the resident at 1313 Wilderness Lane, and I am the immediate neighbor of the property owner Elissa Antilles of 1311 Wilderness Lane. I am aware of the request for a variance of a fence to be placed in front of the property.

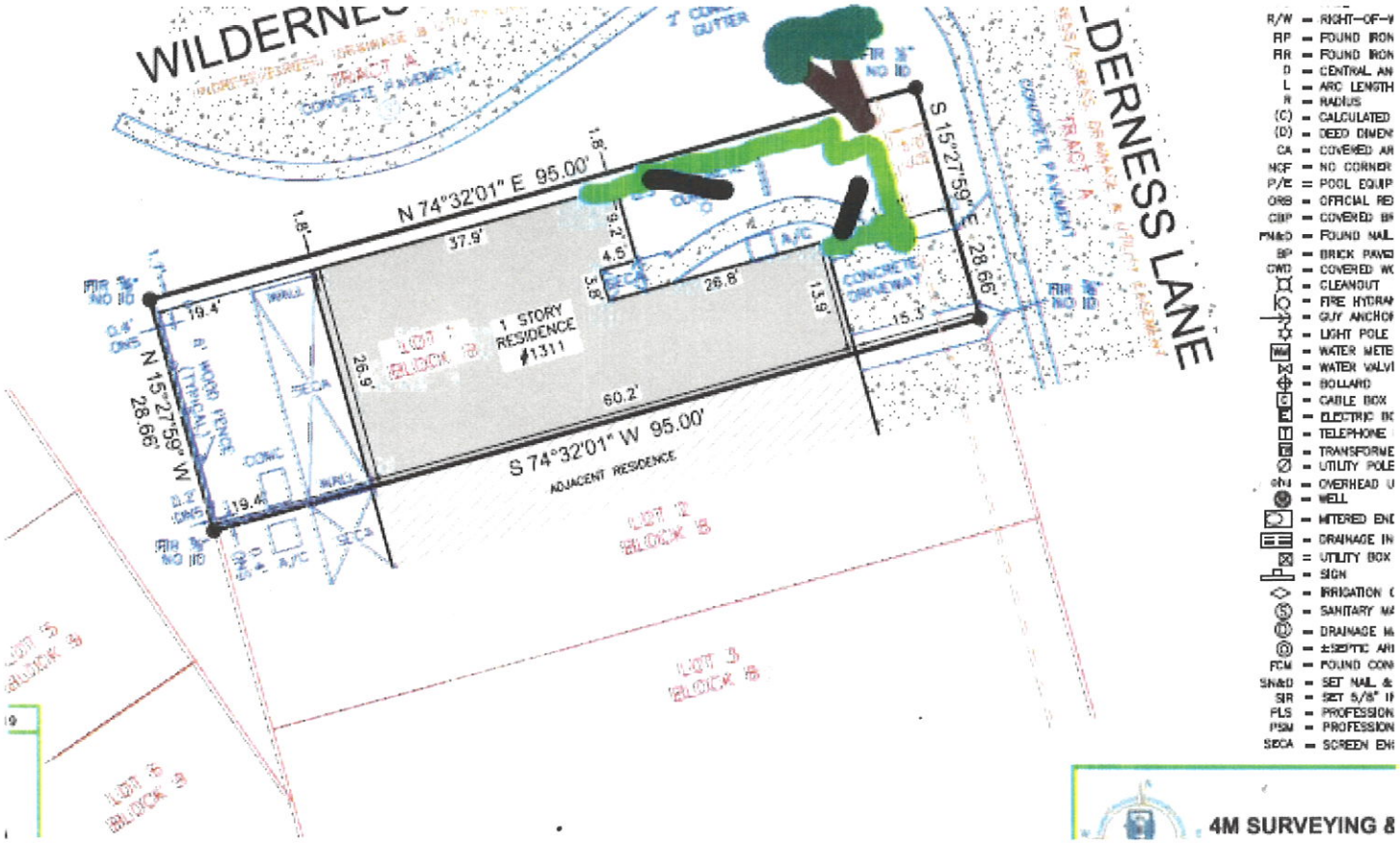
In daily routine, I observe the resident, Elissa, of 1311 to be a single parent and can recognize that her child has special needs. With the observations I have seen with her son, I believe a variance for a fence is necessary for the sake of the safety of the child. Therefore, I have no problem with a six (6 foot) white PVC fence to be installed on her front property in the same material and height of the fence installed in the back (6 foot).

I can be reached at (231) 425-3301 to answer any questions.

Respectfully,

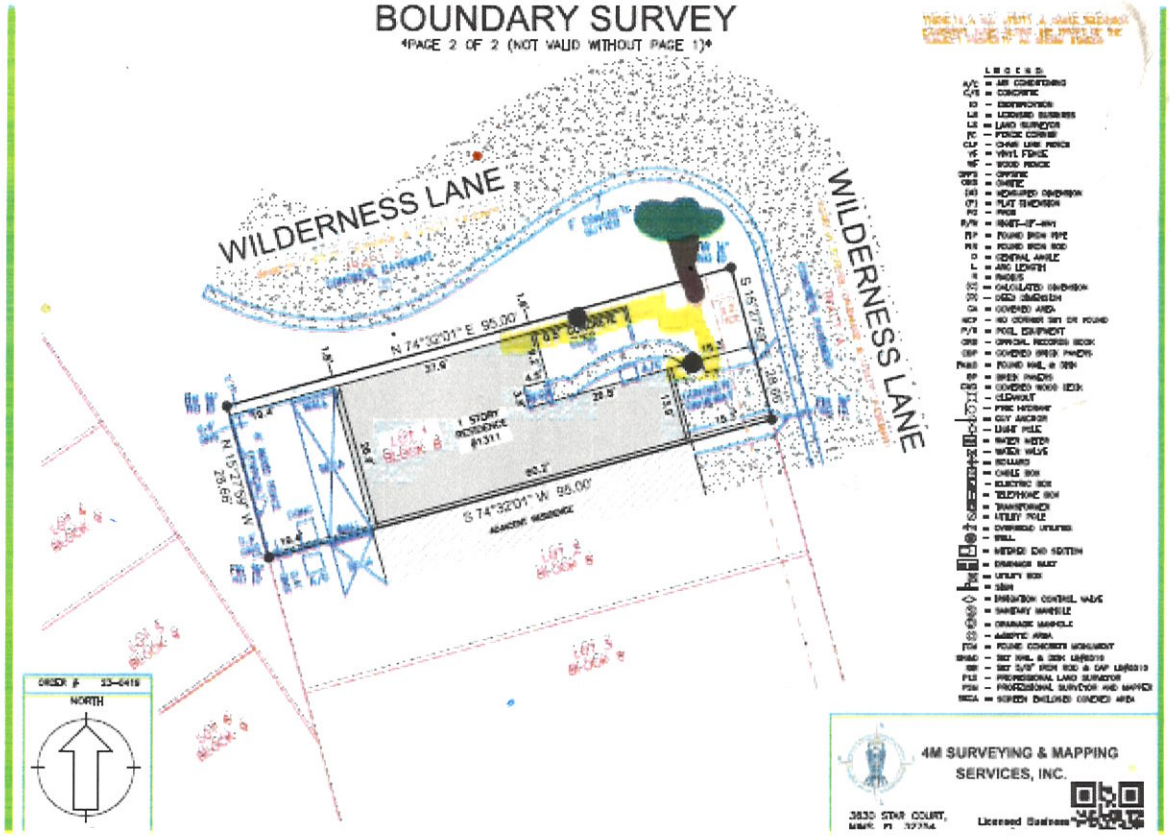
Jim McInnis

James McInnis


WILDERNESS LANE
N 74°32'01" E 95.00'
S 74°32'01" W 95.00'
N 15°27'59" W 28.66'
S 15°27'59" E 28.66'
37.9'
26.8'
13.9'
15.3'
60.2'
26.9'
19.4'
19.4'
1.8'
1.8'
19.2'
4.5
3.8
1 STORY RESIDENCE #1311
LOT 1 BLOCK 8
ADJACENT RESIDENCE
LOT 2 BLOCK 8
LOT 3 BLOCK 8
LOT 5 BLOCK 8
LOT 6 BLOCK 8
CONCRETE DRIVEWAY
CONCRETE PAVEMENT
TRACT A
A/C
SECA
WALL
CONC
FIR NO ID
4M SURVEYING &

BOUNDARY SURVEY

PAGE 2 OF 2 (NOT VALID WITHOUT PAGE 1)



BOUNDARY SURVEY

PAGE 1 OF 2 (NOT VALID WITHOUT PAGE 2)

LEGAL DESCRIPTION (ORB 9776, PG 106):

Lot 1, Block 8, Titus Woods, according to the map or plat thereof, as recorded in Plat Book 34, Page 26, of the Public Records of Brevard County, Florida.

1311 Wilderness Lane
Titusville, FL. 32796

GENERAL NOTES:

1) Unless digitally signed in accordance with Florida statutes this survey is not valid without the original signature and seal of the Surveyor shown hereon and under no circumstances shall be supplanted by any other graphic or digital form.

2) Additions or deletions to this survey by any party other than the signing Surveyor is prohibited without the written consent of the signing Surveyor.

3) The Surveyor has no knowledge nor has seen physical evidence of human cemeteries and/or burial grounds located within the subject property, unless shown or noted otherwise.

4) Only visible above ground improvements have been located hereon. The Surveyor has made no attempt to locate the extents of underground utilities, foundations or other improvements.

5) All distances shown hereon are in feet, tenths and hundredths of a foot unless noted otherwise.

6) This survey only depicts survey related information such as easements and setbacks that are shown on a record plat or have been furnished to the Surveyor. There may be additional restrictions not shown on the survey that may be found in the public records of this county.

7) Building ties and dimensions for improvements should not be used to reconstruct boundary lines.

8) Bearings are based on the North line of the Subject Parcel which has a plat bearing of N 74°32'01" E.

CLIENT REFERENCE #

LIST OF POSSIBLE ENCROACHMENTS:
WALLS & FENCES CROSS PROPERTY LINE.
OWNERSHIP OF WALLS & FENCES NOT DETERMINED.

FIELD DATE:	ORDER #
BOUNDARY SURVEY: 9/18/23	23-0419
REVISION DATE:	DRAFTER CC
	FIELD CREW JW

CERTIFIED TO:

Elissa L. Antilles

FLOOD ZONE:

According to the Federal Emergency Management Agency Flood Insurance Rate Map Panel# 12009C0115H, Dated (1/29/21) the residence does lie within the established 100 year flood plain per flood zone(s) "AE".

4M SURVEYING & MAPPING SERVICES, INC.

3630 STAR COURT,
MIMS, FL. 32754
PH: (321) 210-0446

Licensed Business #8516

SURVEYOR'S CERTIFICATE:

This survey meets and/or exceeds the standards of practice set forth by the State of Florida Department of Agriculture and Consumer Services, Board of Professional Surveyors and Mappers in Chapter 5J-17.051 through 5J-17.053 Florida Administrative Code for the type of survey stated hereon.

Joseph E Williamson

Joseph E Williamson 2023.09.20 05:33:07 -04'00'

SIGN DATE: 9/19/23

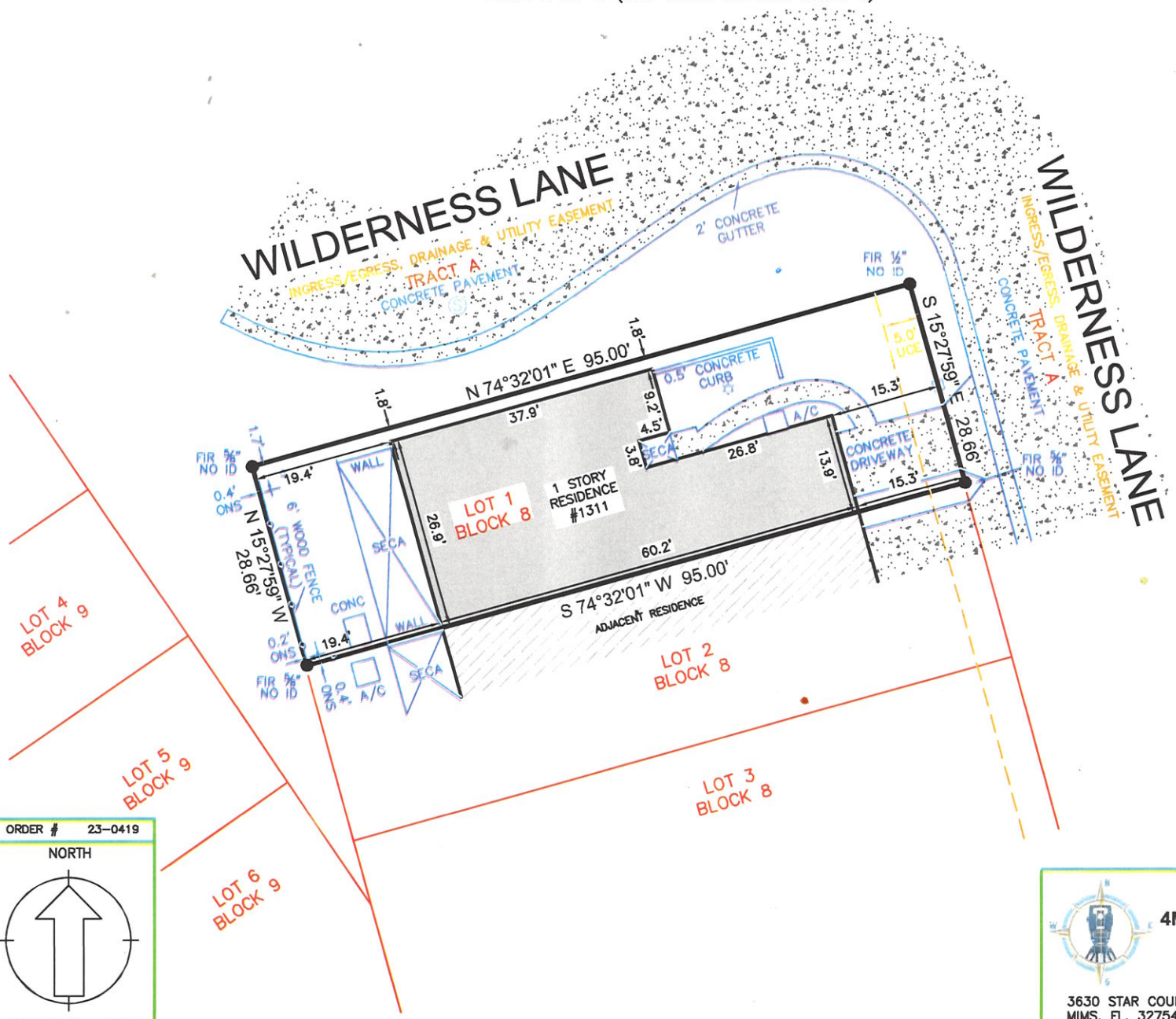
JOSEPH E. WILLIAMSON, PSM 6573

BOUNDARY SURVEY

PAGE 2 OF 2 (NOT VALID WITHOUT PAGE 1)

EASEMENT NOTE:

THERE IS A 5.0' UTILITY & CABLE TELEVISION EASEMENT (UCE) ALONG THE FRONT OF THE SUBJECT PROPERTY, AS SHOWN HEREON.



ORDER # 23-0419

NORTH

SCALE: 1" = 20'

LEGEND:

A/C	= AIR CONDITIONING
C/S	= CONCRETE
ID	= IDENTIFICATION
LB	= LICENSED BUSINESS
LS	= LAND SURVEYOR
FC	= FENCE CORNER
CLF	= CHAIN LINK FENCE
VF	= VINYL FENCE
WF	= WOOD FENCE
OFFS	= OFFSITE
ONS	= ONSITE
(M)	= MEASURED DIMENSION
(P)	= PLAT DIMENSION
PG	= PAGE
R/W	= RIGHT-OF-WAY
FIP	= FOUND IRON PIPE
FIR	= FOUND IRON ROD
D	= CENTRAL ANGLE
L	= ARC LENGTH
R	= RADIUS
(C)	= CALCULATED DIMENSION
(D)	= DEED DIMENSION
CA	= COVERED AREA
NCF	= NO CORNER SET OR FOUND
P/E	= POOL EQUIPMENT
ORB	= OFFICIAL RECORDS BOOK
CBP	= COVERED BRICK PAVERS
FN&D	= FOUND NAIL & DISK
BP	= BRICK PAVERS
CWD	= COVERED WOOD DECK
	= CLEANOUT
	= FIRE HYDRANT
	= GUY ANCHOR
	= LIGHT POLE
WM	= WATER METER
	= WATER VALVE
	= BOLLARD
C	= CABLE BOX
E	= ELECTRIC BOX
T	= TELEPHONE BOX
TR	= TRANSFORMER
	= UTILITY POLE
ohu	= OVERHEAD UTILITIES
W	= WELL
	= MITERED END SECTION
	= DRAINAGE INLET
	= UTILITY BOX
	= SIGN
	= IRRIGATION CONTROL VALVE
S	= SANITARY MANHOLE
D	= DRAINAGE MANHOLE
	= ±SEPTIC AREA
FCM	= FOUND CONCRETE MONUMENT
SN&D	= SET NAIL & DISK LB#8516
SIR	= SET 5/8" IRON ROD & CAP LB#8516
PLS	= PROFESSIONAL LAND SURVEYOR
PSM	= PROFESSIONAL SURVEYOR AND MAPPER
SECA	= SCREEN ENCLOSED COVERED AREA

4M SURVEYING & MAPPING SERVICES, INC.

3630 STAR COURT,
MIMS, FL. 32754
PH: (321) 210-0446

Licensed Business #8516

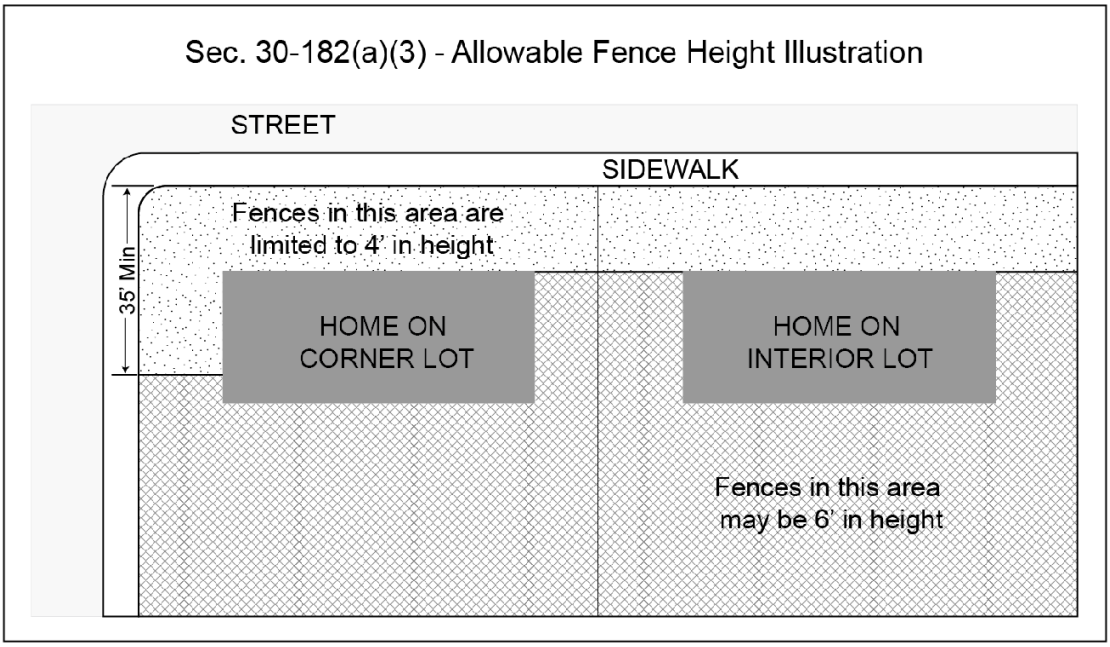
Sec. 30-182. Height and location requirements.

(a) *Single-family residential uses.*

(1) *Front yard:* The maximum height of a fence or wall in any required front yard setback shall be four (4) feet.

(2) *Side or rear yard:* The maximum height of a fence or wall in any required side or rear yard setback shall be six (6) feet.

(3) *Side corner yard:* The maximum height of a fence or wall in any required side corner yard setback shall be six (6) feet. Within the side corner yard of a corner lot, a fence in excess of four (4) feet in height shall be set back a minimum of thirty-five (35) feet from the property line to ensure adequate visibility for pedestrian and vehicle traffic. The graphic below illustrates this regulation. Any side corner yard setback abutting a collector or arterial roadway shall be limited to a maximum of four (4) feet within the minimum side corner yard setback established by the zoning district.



(4) No high security fence or wall may be permitted with a single-family residential use.

(b) *Multifamily residential uses.*

(1) Front yard: The maximum height of a fence or wall in any required front yard setback shall be six (6) feet.

(2) Side or rear yard: The maximum height of a fence or wall in any required side or rear yard setback shall be six (6) feet.

(3) Side corner yard: The maximum height of a fence or wall in any required side corner yard setback shall be six (6) feet.

(4) No high security fence or wall may be permitted with a multi-family residential use.

(c) *Commercial uses.*

(1) Front yard: No fence or wall shall be permitted in any required front yard setback, except as noted in this section.

(2) Side or rear yard: The maximum height of a fence or wall in any required side or rear yard setback shall be six (6) feet.

(3) Side corner yard: No fence or wall shall be permitted in any required side corner yard setback, except as noted in this section.

(4) Where security requirements of a commercial development are determined to exceed the aforementioned provisions of this section, a high security fence or wall may be permitted by the Administrator pursuant to the requirements of Section 30-183 of this article.

(5) The following type of fence or wall shall be exempt from the placement requirements:

a. Fences that are placed a distance greater than ten (10) feet from a property line.

b. Fences that are replacing an existing or part of an existing fence.

c. Fences that are installed interior to an existing fence.

d. Fences installed to meet screening requirements, when abutting the property line of residential zoning would be installed "good side facing the residential zoning." When a screening fence would be highly visible to a major roadway or street, the Building Official may waive the "good side out" requirement, when there would not be any adverse effect to the residential area.

e. Fences facing the Indian River, a lake or pond, or enclosing a retention pond may be installed with the structural supports towards the water.

(d) *Industrial uses (applicable to the M-1, M-2, and M-3 zoning districts).* In the Highway Industrial Infill (M-3) zoning district, the site should be planned to accomplish a smooth transition from adjacent properties that differ in land use and/or design philosophy by the use of site breaks such as screens, berms, fences and walls for aesthetic appearance.

(1) Front yard: The maximum height of a fence or wall in any required front yard setback shall be six (6) feet.

(2) Side or rear yard: The maximum height of a fence or wall in any required side or rear yard setback shall be six (6) feet.

(3) Side corner yard: The maximum height of a fence or wall in any required side corner yard setback shall be six (6) feet.

(4) Where security requirements of industrial development are determined to exceed the provisions of this section, a high security fence may be permitted by the Administrator pursuant to the requirements of Section 30-183 of this article.

(5) The following type of fence or wall shall be exempt from these placement requirements:

a. Fences that are placed a distance greater than ten (10) feet from a property line.

b. Fences that are replacing an existing or part of an existing fence.

c. Fences that are installed interior to an existing fence.

d. Fences installed to meet screening requirements, when abutting the property line of residential zoning would be installed "good side facing the residential zoning." When a screening fence would be highly visible to a major roadway or street, the Building Official may waive the "good side out" requirement, when there would not be any adverse effect to the residential area.

e. Fences facing the Indian River, a lake or pond, or enclosing a retention pond may be installed with the structural supports towards the water.

(e) *Planned Industrial Development (applicable to the PID zoning district).*

(1) Front yard: No fence or wall shall be permitted in any required front yard setback.

(2) Side or rear yard: The maximum height of a fence or wall in any required side or rear yard setback shall be eight (8) feet.

(3) Side corner yard: No fence or wall shall be permitted in any required side corner setback.

(4) Where security requirements of planned industrial developments are determined to exceed the provisions of this section, an interior high security fence may be permitted by the Administrator pursuant to the requirements of Section 30-183 of this article. There shall be a minimum clear zone of fifteen (15) feet between an exterior fence and any interior high security fence. The use of barbed wire, razor wire, or electric wire is permitted on any interior high security fence; however, if electric wire [is] used, an "electrified fence" sign of at least two (2) square feet shall be posted at least every fifty (50) feet within the clear zone. The interior high security fence shall be illuminated during darkness and over low light hours. The interior high security fence shall not exceed twelve (12) feet in height, including any barbed wire, razor wire, or other fencing material.

(5) The following type of fence or wall shall be exempt from these placement requirements:

a. Fences that are placed a distance greater than ten (10) feet from a property line.

b. Fences that a replacing an existing or part of an existing fence.

c. Fences that are installed interior to an existing fence.

d. Fences installed to meet screening requirements, when abutting the property line of residential zoning would be installed "good side facing the residential zoning." When a screening fence would be highly visible to a major roadway or street, the Building Official may waive the "good side out" requirement, when there would be any adverse effect to the residential area.

e. Fences facing the Indian River, a lake or pond, or enclosing a retention pond may be installed with the structural supports towards the water.

(Ord. No. 38-2017, § 2, 11-14-17; Ord. No. 33-2018, § 3, 7-24-18)

Aerial 2024

VAR #9-2025

0 100 200 400 Feet

Community Development Department

Aerial photography provided by the Brevard County Property Appraiser's Office

3/10/2025

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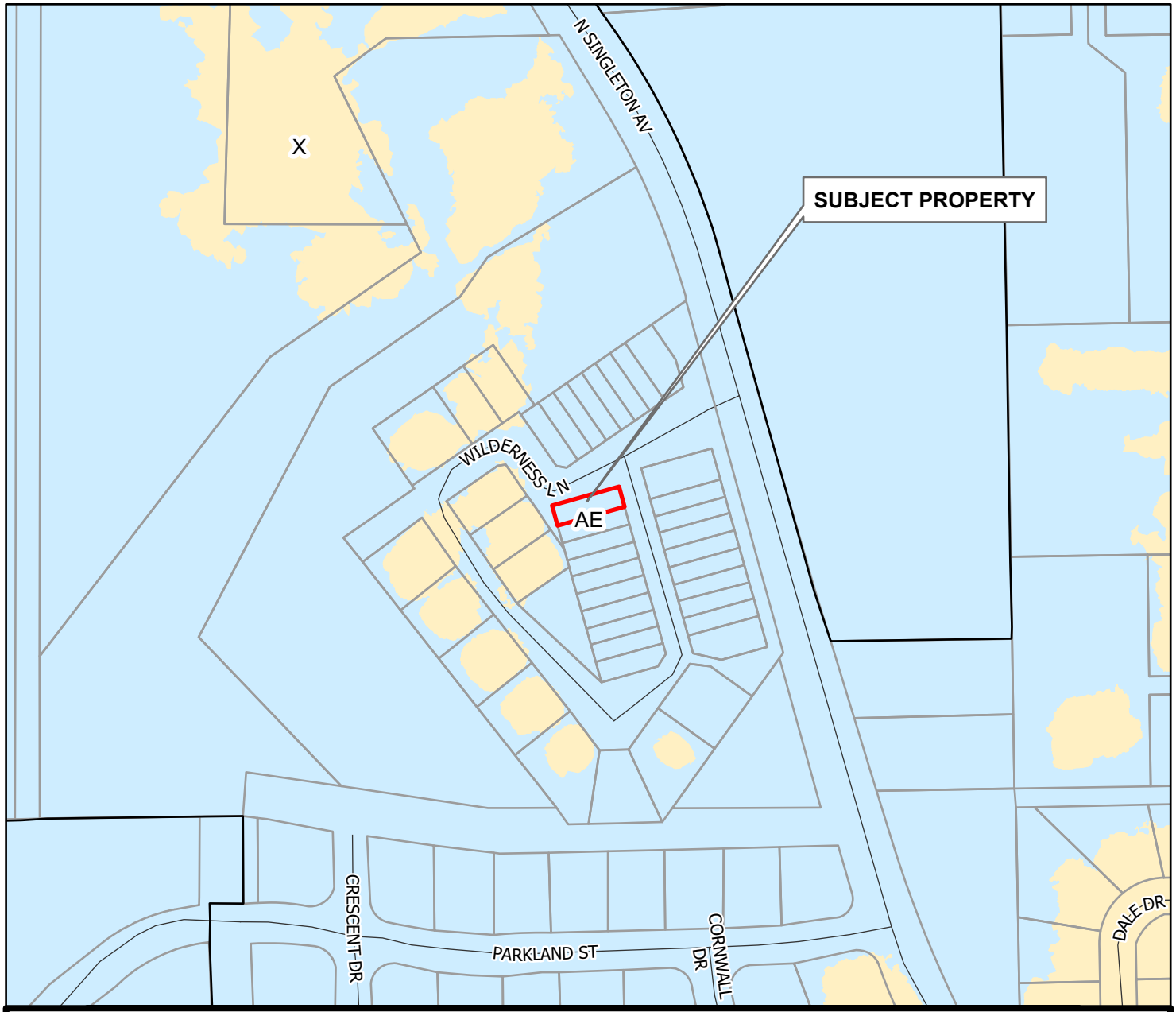

FEMA FLOOD HAZARD AREAS

VAR #9-2025

Special Flood Hazard Area Zones

- A
- A0
- AE
- AO
- VE

Moderate Flood Hazard Area Zone

- X5

Minimal Flood Hazard Zones

- C
- X
- X .2 PCT

Other Flood Zone Areas

- D
- FW

N W E S

0 100 200 400 Feet

Community Development Department

Source: FEMA FHA Update, 01/29/2021

3/10/2025

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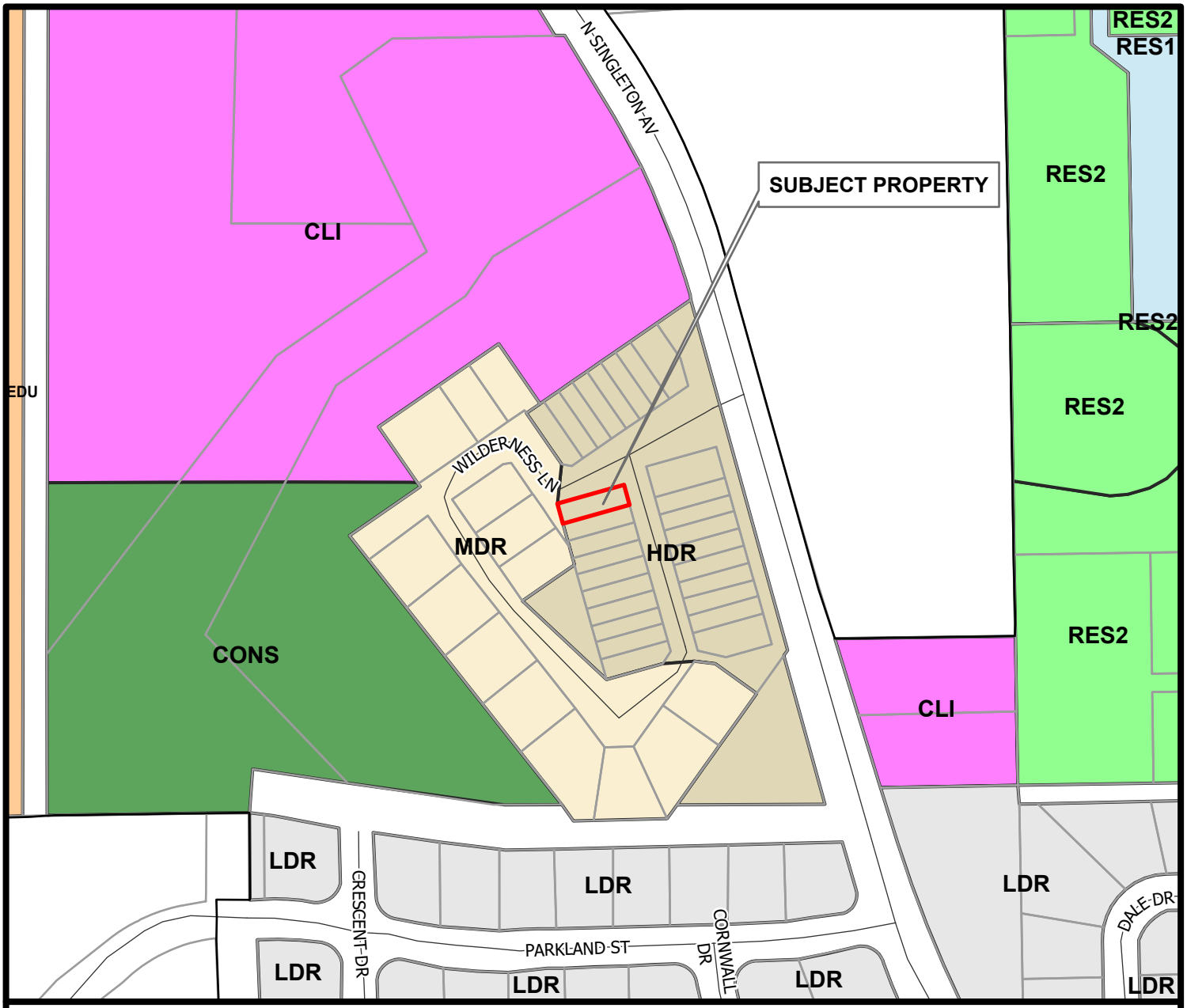

LOCATION OF PROPERTY AND FUTURE LAND USE MAP

CHI	COMMERCIAL HIGH INTENSITY	ED	EDUCATIONAL	PIP	PLANNED INDUSTRIAL PARK	RES-2	RESIDENTIAL-2
CLI	COMMERCIAL LOW INTENSITY	IND	INDUSTRIAL	PSP	PUBLIC/ SEMI-PUBLIC	RMU	REGIONAL MIXED USE
CONS	CONSERVATION	HDR	HIGH-DENSITY RESIDENTIAL	PUD	PLANNED UNIT DEVELOPMENT	SMU	SHORELINE MIXED-USE
DMU	DOWNTOWN MIXED-USE	MDR	MEDIUM-DENSITY RESIDENTIAL	REC	RECREATIONAL	UMU	URBAN MIXED-USE
		LDR	LOW-DENSITY RESIDENTIAL	RES-1	RESIDENTIAL-1	US1	US-1 CORRIDOR

Subject

N W E S

0 100 200 400 Feet

Community Development Department

3/10/2025

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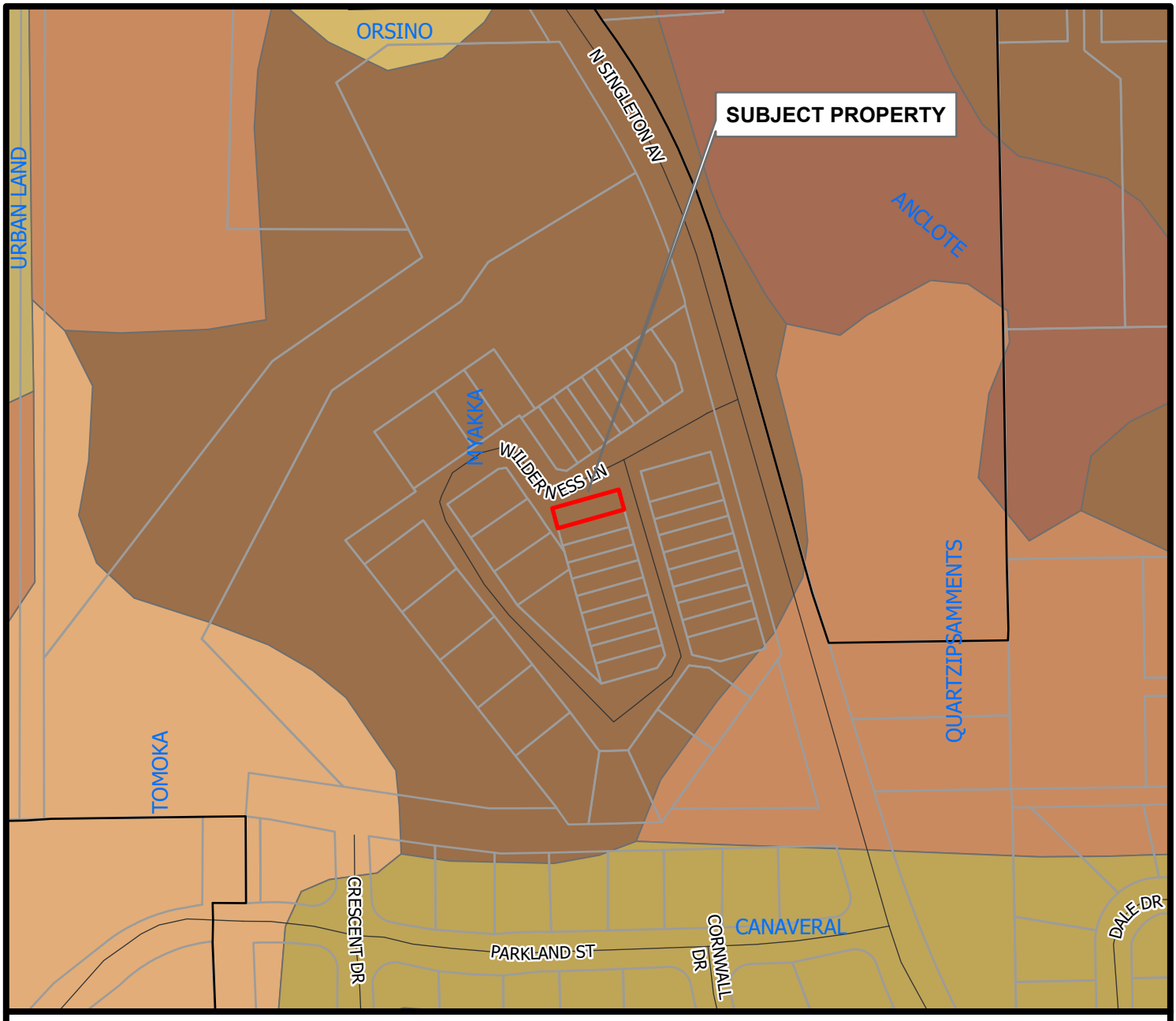


SOILS IN THE VICINITY OF SUBJECT PROPERTY
VAR #9-2025

SoilName

- ANCLOTE
- CANAVERAL
- MYAKKA
- ORSINO
- POMELLO
- QUARTZIPSAMMENTS
- TOMOKA
- URBANLAND

N W E S

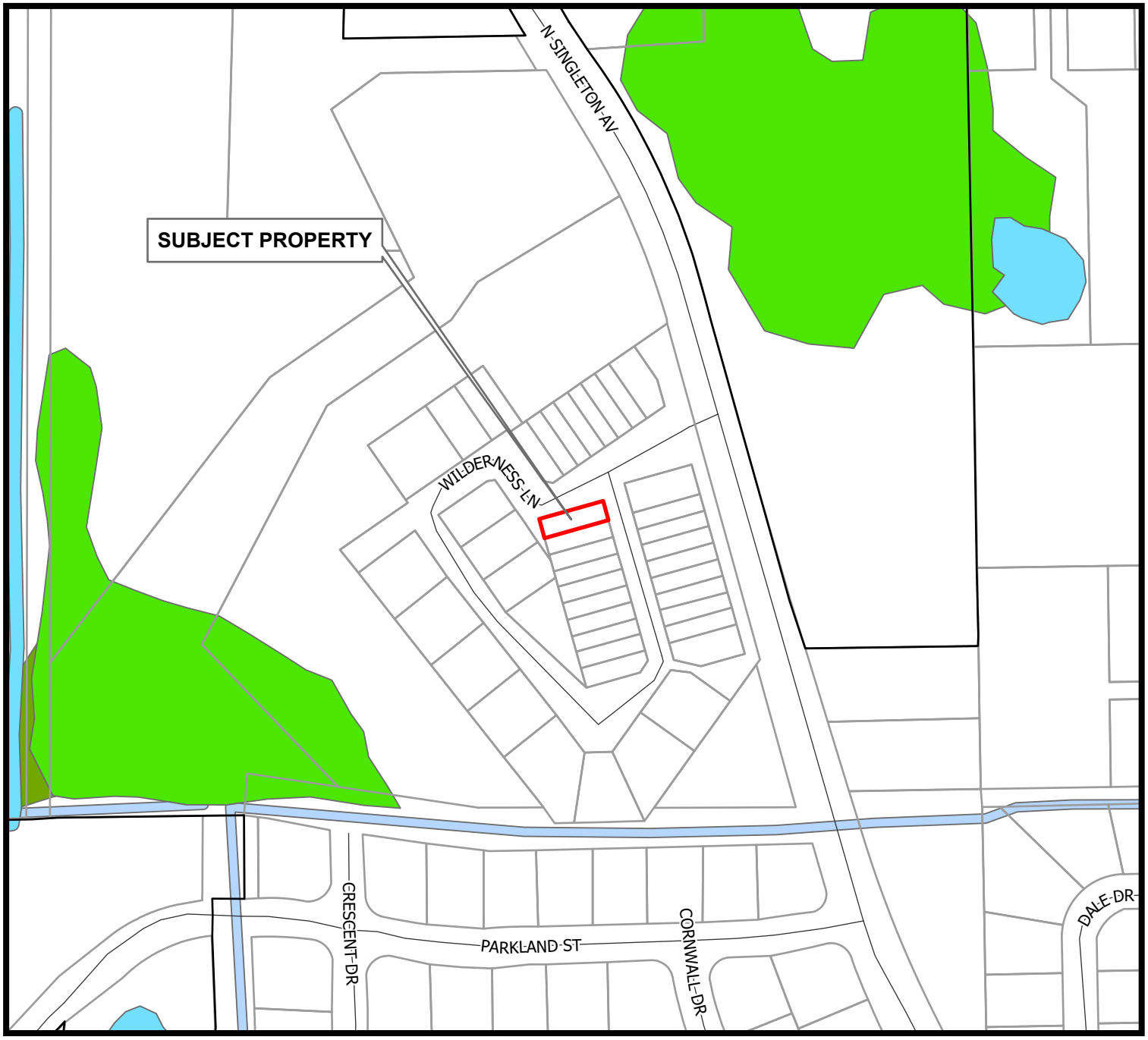
0 100 200 400 Feet

Community Development Department

3/10/2025

Soils data source: The U.S. Department of Agriculture, Natural Resources Conservation Service. (2019)

Document Path: Q:\GIS\Community Development\PLANNING\Planning Templates\ArcPro\PlanningMaps\PlanningMaps.aprx



WETLANDS IN VICINITY OF PROPERTY

VAR #9-2025

N
W
E
S

WETLAND_TY

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine

3/10/2025

Scale:1:2,500

Community Development Department
Source: USFWS NWI (2023)

This data set represents the approximate location and type of wetlands and deepwater habitats. The primary intended use is for regional and watershed data display and analysis, rather than specific project data analysis.

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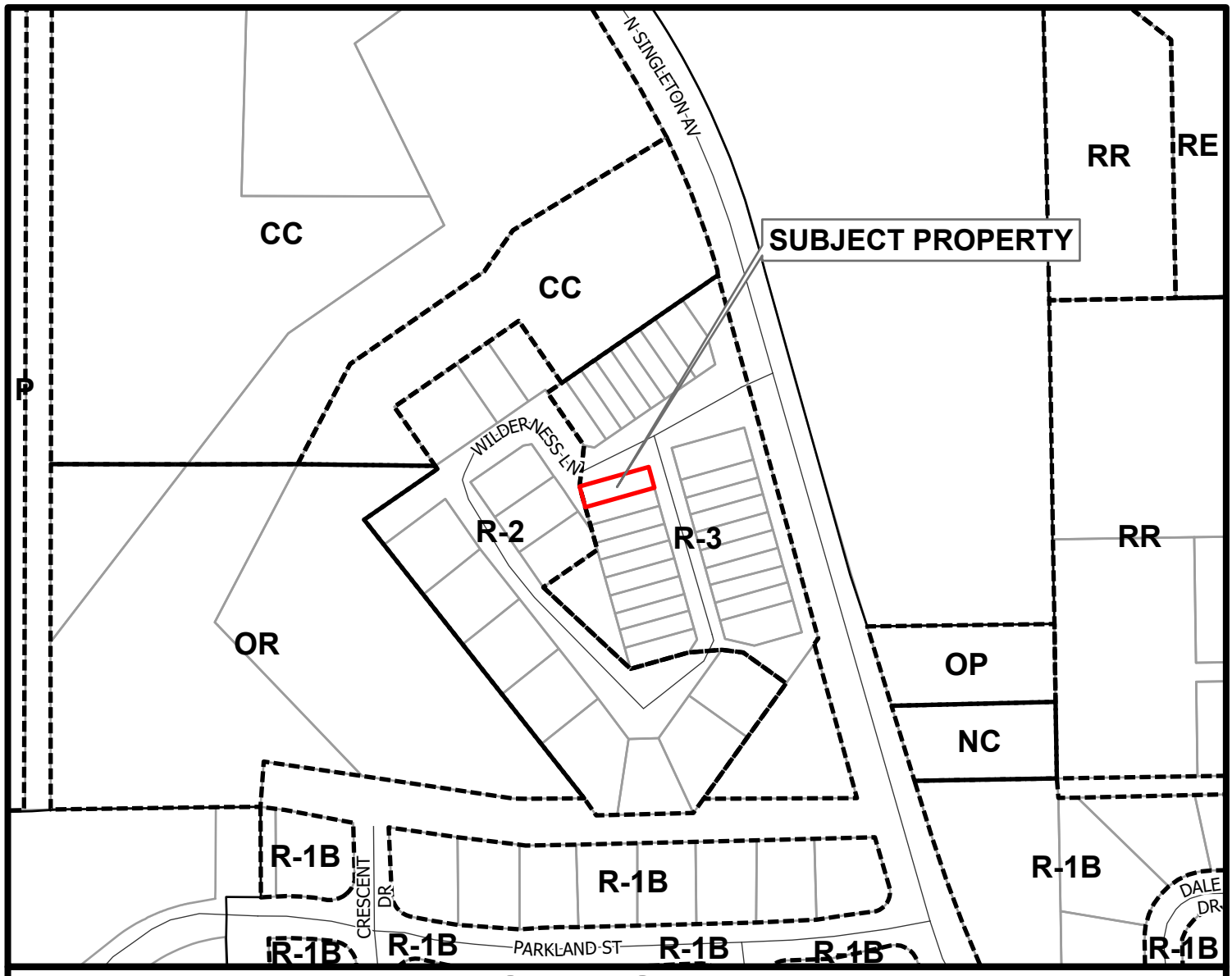


ZONING MAP

RESIDENTIAL DISTRICTS

RE	RESIDENTIAL ESTATES
RR	RURAL RESIDENTIAL
R-1A	SINGLE FAMILY, LOW DENSITY
R-1B	SINGLE FAMILY, MEDIUM DENSITY
R-1C	SINGLE FAMILY, HIGH DENSITY
R-2	MULTIFAMILY, MEDIUM DENSITY
R-3	MULTIFAMILY, HIGH DENSITY
RMH-1	RESIDENTIAL MANUFACTURED HOUSING SUBDIVISION
RMH-2	RESIDENTIAL MANUFACTURED HOUSING PARK

COMMERCIAL DISTRICTS

HM	HOSPITAL MEDICAL
T	TOURIST
NC	NEIGHBORHOOD COMMERCIAL
CC	COMMUNITY COMMERCIAL
RC	REGIONAL COMMERCIAL
OP	OFFICE PROFESSIONAL

INDUSTRIAL DISTRICTS

M-1	LIGHT INDUSTRIAL SERVICES AND WAREHOUSING
M-2	HEAVY INDUSTRIAL
M-3	HIGHWAY INDUSTRIAL INFILL
PID	PLANNED INDUSTRIAL DEVELOPMENT

OVERLAY DISTRICTS

TSA	TITUSVILLE SHORELINE AREA
AIA	AIRPORT IMPACT AREA
WCA	WETLAND AND CONSERVATIONA AREA
ACC	AREA OF CRITICAL CONCERN
HPA	HISTORIC PRESERVATION AREA

SPECIAL DISTRICTS

GU	GENERAL USE
OR	OPEN SPACE AND RECREATION
UMU	URBAN MIXED USE
SMU	SHORELINE MIXED USE
RHP	RESIDENTIAL HISTORIC PRESERVATION
RMU	REGIONAL MIXED USE
PD	PLANNED DEVELOPMENT
P	PUBLIC
UV	URBAN VILLAGE
DMU	DOWNTOWN MIXED USE
IRCN-R	INDIAN RIVER CITY NEIGHBORHOOD RESIDENTIAL
IRCN-C	INDIAN RIVER CITY NEIGHBORHOOD COMMERCIAL

N
W E
S

TITUSVILLE, FLORIDA
FOUNDED 1867

Base Map

City Limits

Zoning

Subject

VAR #9-2025

0 100 200 400 Feet

Community Development Department

3/10/2025

Item: 8.C

City of Titusville

"Gateway to Nature and Space"

REPORT

To: Members of the Board of Adjustments and Appeals

From: Brad Parrish, Community Development Director

Subject: **Variance 10-2025 - 3041 Edington Drive**

Department/Office: Planning

Recommended Action:

Consider the requested variance to allow the use of prohibited material in the form of artificial turf for property located at 3041 Edington Drive.

Summary Explanation & Background:

The applicant is requesting a variance to the Land Development Regulations, Chapter 30, Section 30-321. Plant Materials. Section 30-321(f) - To allow the use of prohibited material in the form of artificial turf, for property located in the Single-Family Medium Density (R-1B) zoning district, at 3041 Edington Drive, Titusville, FL 32780, as submitted by Matthew Boffo & Maggie Boffo, trustees for Matthew S & Maggie R Boffo Trust, owner.

Alternatives:

1. Approve the variance.
2. Approve the variance with conditions.
3. Deny the variance.

Item Budgeted:

N/A

Source/Use of Funds/Budget Book Page:

Strategic Plan:

Strategic Plan Impact:

ATTACHMENTS:

1. Variance 10-2025 Staff Report

2. Application
3. Variance Illustration
4. Survey
5. Pre Install Photos
6. Post Install Photos
7. Turf Specs
8. Code
9. All Maps VAR#10-2025

City of Titusville Community Development

BOARD OF ADJUSTMENTS AND APPEALS

Variance (VAR) No. 10-2025, 3041 Edington Drive

Meeting Date: April 23, 2025

Prepared By: Tabitha Armstrong, Planner

Applicant: Matthew Boffo & Maggie Boffo, trustees for Matthew S & Maggie R Boffo Trust, owner

Background

(a) Variance request: *Land Development Regulations, Chapter 30, Section 30-321. Plant Materials. Section 30-321(f) - To allow the use of prohibited material in the form of artificial turf*, for property located in the Single-Family Medium Density (R-1B) zoning district, at 3041 Edington Drive, Titusville, FL 32780, as submitted by Matthew Boffo & Maggie Boffo, trustees for Matthew S & Maggie R Boffo Trust, owner.

(b) Location: 3041 Edington Drive, Titusville, FL. Tax No. 2225059. Parcel I.D. 22-35-16-09-E-6

(c) Land Description: COUNTRY CLUB ESTATES LOT 6 BLK E

(d) Future Land Use: Low Density Residential

(e) Zoning: Single Family Medium Density (R-1B)

(f) Surrounding Zoning Districts.

1. North: Single Family Medium Density (R-1B)
2. South: Single Family Medium Density (R-1B)
3. East: Single Family Medium Density (R-1B)
4. West: Single Family Medium Density (R-1B)

(g) Lot Characteristics: The subject property is approximately 0.30 acres (13,068 sq. ft) with 52.3 feet of frontage along Edington Dr. These dimensions meet the minimum 7,500 sq. ft lot area and 75-foot lot width for a single-family home within the Single-Family Medium Density (R-1B) zoning district.

(h) Uses: Single Family Residence built in 2021

Powers of the BAA

LDR Section 34-226 states that the Board shall grant a variance request when in the opinion of the Board of Adjustments and Appeals, owing to special conditions, the literal enforcement of such ordinance or regulations would do manifest injustice to, or impose an unnecessary hardship upon the applicant. In order to authorize any variance to the provisions of such ordinance, the Board must consider the following criteria:

(a) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or building in the same zoning.

(b) Special conditions and circumstances do not result from the actions of the applicant.

(c) Granting the variance requested will not confer upon the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same zoning district.

(d) The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance.

(e) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(f) The granting of the variance will preserve the spirit of the ordinance and remain in harmony with its general purpose and intent.

(g) In granting the variance, the public safety and welfare must be assured.

(h) In no case shall the granting of a variance result in a change of use, which would not be permitted in that zone.

Analysis

The applicant is requesting a variance to allow the use of artificial grass in place of natural grass. Section 30-321(f) of the Land Development Regulations states, *Synthetic plants prohibited: Synthetic or artificial material in the form of trees, shrubs, ground covers, vines or artificial turf shall not be used in lieu of the plant requirements in this section*. The Brevard County Property Appraiser website shows

the single-family dwelling was built in 2021 as part of the Country Club Estates subdivision. The lot contains a ten (10) foot Public Utility (P.U.) easement along the front, a five (5) foot Public Utility and Drainage (P.U.& D.) easement on the sides, and a ten (10) foot P.U.& D on the rear. As shown on the submitted site plan, the owner is requesting to place the turf in the front and rear yard. The property is not located within the Area of Critical Concern and does not have a maximum impervious coverage standard. Since there are no code standards for artificial turf, staff cannot evaluate its impact on the subdivision's approved stormwater plan.

The lot does not appear to have had any special conditions or circumstances that are peculiar to the land that would create a hardship that would prevent natural landscaping.

Recommendation

Staff recommend **denial** of the variance. There are no special conditions or circumstances which are peculiar to the land that would make it different from similar lots in the subdivision. The applicant can meet the literal interpretation of the ordinance. Denying the request will not deprive the applicant of rights commonly enjoyed by other properties.

Gateway to Nature & Space

APPLICATION FOR VARIANCE

Please submit electronically a completed application and required submittals to the Community Development Department for payment and meeting scheduling. Chapter 34 of the Titusville Land Development Regulations contains the instructions for filing and the required exhibits. INCOMPLETE APPLICATIONS SHALL NOT BE ACCEPTED.

1. Project Location	Property Address/Location Description 3041 Edington Drive	
2. Applicant/ Owner	Name of Applicant/Contact Maggie & Matt Boffo	Name of Owner Matthew S & Maggie R Boffo Trust
	Street Address 3041 Edington Drive	Street Address 3041 Edington Drive
	City / State / Zip Titusville / FL / 32780	City / State / Zip Titusville / FL / 32780
	Telephone # 321-239-0919 Fax #	Telephone # 321-239-0919 Fax #
	E-Mail Address maggie.boffo@gmail.com ; msboffo@aol.com	E-Mail Address
3. Applicant Status	☑ Owner ☐ Tenant ☐ Agent ☐ Other	
4. Parcel ID	22 3516-09-E-6	**Tax Acct.** 2225059
5. Site Size	Acres: 0.3	Square Feet: 12973.2
6. Property Information	Current Zoning Residential	Current Use of Property Residential

	Section Number	*LDR Requirement*	*Variance Requested*
7. Variance(s) Requested	1) 30-21F	1) Natural Vegetation	1) Artificial Turf
	2)	2)	2)
	3)	3)	3)
	4)	4)	4)
	5)	5)	5)

8. Narrative	Please provide a brief description of your request and the proposed project: (Please complete justification questions on page 4 of this application) Request to allow installed artificial turf on property to remain; justification questions highlight the main reasons we installed at our residence amongst the native landscape - trees, shrubs, pollinating plants,etc.

- **All applications shall require Community Development staff review prior to submittal.**
- All applications shall be submitted to the Department electronically and officially logged in by **end of business day**.
- Incomplete applications and applications without appropriate backup information/justification will not be accepted and will not be considered to be officially submitted until the appropriate information and fees are submitted. Meeting dates for incomplete applications will not be set until all required information and fees are submitted.
- Petitions requiring review from other boards or commissions prior to being forwarded to the Board of Adjustments and Appeals (BAA) are not guaranteed placement on the BAA schedule available on the City's website.

ACKNOWLEDGEMENT

I am the owner and/or legal representative of the owner of the property described which is the subject of this application. All answers to the questions in said application and all sketches and data attached to and made a part of this application are honest and true to the best of my knowledge and belief. Should this application be granted, I understand that any condition(s) imposed upon the granting of this request shall be binding to the owner, his heirs and successors in title to possession of the subject property. I understand that I must attend all applicable meetings and have been informed of the meeting date(s) and time(s). I understand that if I fail to appear at an applicable meeting, the appropriate Board or Commission may either table or deny the request.

This matter is subject to quasi-judicial rules of procedure. Interested parties should limit contact with the City Council, Board of Adjustment & Appeals, and Planning & Zoning Commission on this topic to properly noticed public hearings or to written communication to the City Clerk's Office, City of Titusville, P.O. Box 2806, Titusville, FL 32781

/s/ Maggie R Boffo _____ 2/21/2025 _____
(Signature*) (Date)

* *By entering your name in the "Signature" box above, you are signing this Application electronically. You agree your electronic signature is the legal equivalent of your manual signature on this Application. By entering your name in the "Signature" box above, you consent to be legally bound by this Application's terms and conditions.*

Date received:_____

Accepted by_____

Variance Justification

In answering the questions below, please be as specific as possible. Your answers will help the Board of Adjustments and Appeals and City staff to properly evaluate your variance request. (Please attach a separate sheet if necessary)

1. **Why are you unable to comply with the requirements? What hardship or injustice are you claiming?**

   Our property was initially landscaped by the builder, Damar Homes, with low-quality, planter drip line irrigation and a weak grass mixture dominated by weeds and bare spots. The sandy soil composition and lack of proper irrigation prevented healthy grass growth, requiring excessive watering and chemical treatments just to maintain a level of curb appeal. The drip lines would get clogged, cut up by mowing, break and cause leaks often. All the homeowners in our development have had the same irrigation and lawn issues and have gone through revitalization to remedy the issues as well – full lawn replacements, irrigation systems, etc. In addition, our property also had low-lying areas that retained water, leading to poor drainage, erosion, and standing water after rainstorms. These conditions contributed to persistent issues, including fungus growth, bug infestations, and weed spread. Like all of our neighbors, we opted to remedy the problem with a long-term solution to the irresponsible builder practices. We researched the use of artificial turf for landscaping and the appeal was that modern permeable turf provides substantial environmental and aesthetic benefits. By replacing the struggling grass with a properly installed, permeable artificial turf system, we can ensure long-term sustainability, effective drainage, and improved aesthetics while eliminating the need for excessive irrigation and chemical treatments.

2. **What is special about your property that would justify treating it differently than most other properties? (Examples of important special conditions include: narrow or odd shaped lot; excessive slope of land; soil or drainage limitations; unusual location of existing buildings on the lot; etc.) If the special conditions involve an existing building or structure, when was it built and are you the original owner?**

   Our property is a corner lot with adjoining front and back yard to our neighbor. We had unique environmental challenges, including poor drainage, sandy soil, and uneven terrain that made traditional grass unsustainable. Our yard struggled with standing water in low areas, leading to erosion and poor plant health. We've had to remove and replant trees and shrubs. For the lawn, traditional sod patches have repeatedly failed in these conditions, requiring constant reseeding/planting. Irrigation repairs were costly just to maintain a patchy and inconsistent lawn.

   To address this, we worked with a professional landscaper who was familiar with what Damar Homes had landscaped and irrigated in the community. He was familiar with Titusville water standards, as well as our neighborhood having a poor reclaim irrigation water source that is not dependable. Being on sewer, it is definitely not logical to utilize city water based on costs for thousands of gallons of water a year; we know a few neighbors who pay $600+ a month on water lawn maintenance. The landscaper we hired followed best practices for artificial turf installation, ensuring proper drainage, water permeability, and eco-friendly landscaping.

   The installation process included:

   - **Excavation of the existing soil** to remove weak builder-grade grass and weeds and irrigation.
   - **Installation of a 5–6-inch permeable base layer** using crushed stone and gravel for proper drainage.
   - **Use of a high-quality, permeable artificial turf** designed with a UV rating to withstand the Florida heat, designed to allow rainwater to filter through, preventing runoff and promoting groundwater recharge and suitable to withstand use for play and for high traffic.
   - **Use of eco-friendly materials safe for pets and children-** grass utilizing non-toxic, antimicrobial, impact absorbing and reusable infill. Prevents mold and bacteria, odorless, deters against stains and product deterioration. The grass is cool to the touch and won't degrade with Florida's heat.
   - **Integration of Florida-native plants and pollinator-friendly landscaping** to encourage biodiversity and provide a sanctuary for birds, butterflies, and beneficial insects.
   - **Avoidance of pesticides and fertilizers**, maintaining chemical-free, eco-conscious year round

3. **Is your variance request the minimum change from the requirements that you need to overcome your hardship? Explain your answer. (For example, suppose you are requesting a 5 foot variance to the side yard setback requirement in order to build a single car garage 15 feet wide. Your request would not be the minimum since a single car garage 11 feet wide would be adequate and would only require a 1 foot variance.)**

Yes, this request is the minimum necessary to resolve the specific challenges our property faces. We are not seeking broad exemptions from landscaping codes—only the ability to keep the use of an alternative, eco-friendly solution that effectively addresses drainage, erosion, and costly maintenance concerns. In addition, it helps bring value to the home and the neighborhood.

The artificial turf installed is **not a solid, non-permeable surface** but a professionally designed **water-draining system** that works in harmony with our natural landscaping. Without this solution, we would be forced to revert to an unsustainable approach with removal and then replacement requiring constant irrigation, soil amendments, and chemical treatments to maintain a traditional lawn.

Additionally, the artificial turf seamlessly integrates with the rest of our landscape, complementing the Florida-native plants and greenery we have added with the neighborhood aesthetics. This ensures a natural, attractive, and functional outdoor space that contributes positively to our gated community.

4. **Explain why approval of your variance request would not likely result in harm to your neighbor's properties or to the general public.**

Granting this variance will have **no negative impact** on neighboring properties or the public. Our neighbors from throughout the development have all commented how beautifully maintained our yard and landscaping looks as we have it trimmed and pruned regularly. Our approach balances **aesthetic appeal, environmental responsibility, and practical functionality**, making it a model for sustainable residential landscaping. The careful planning, professional installation, and ecological considerations taken in this project ensure that the artificial turf enhances rather than detracts from the surrounding environment.

It enhances the neighborhood in several ways:

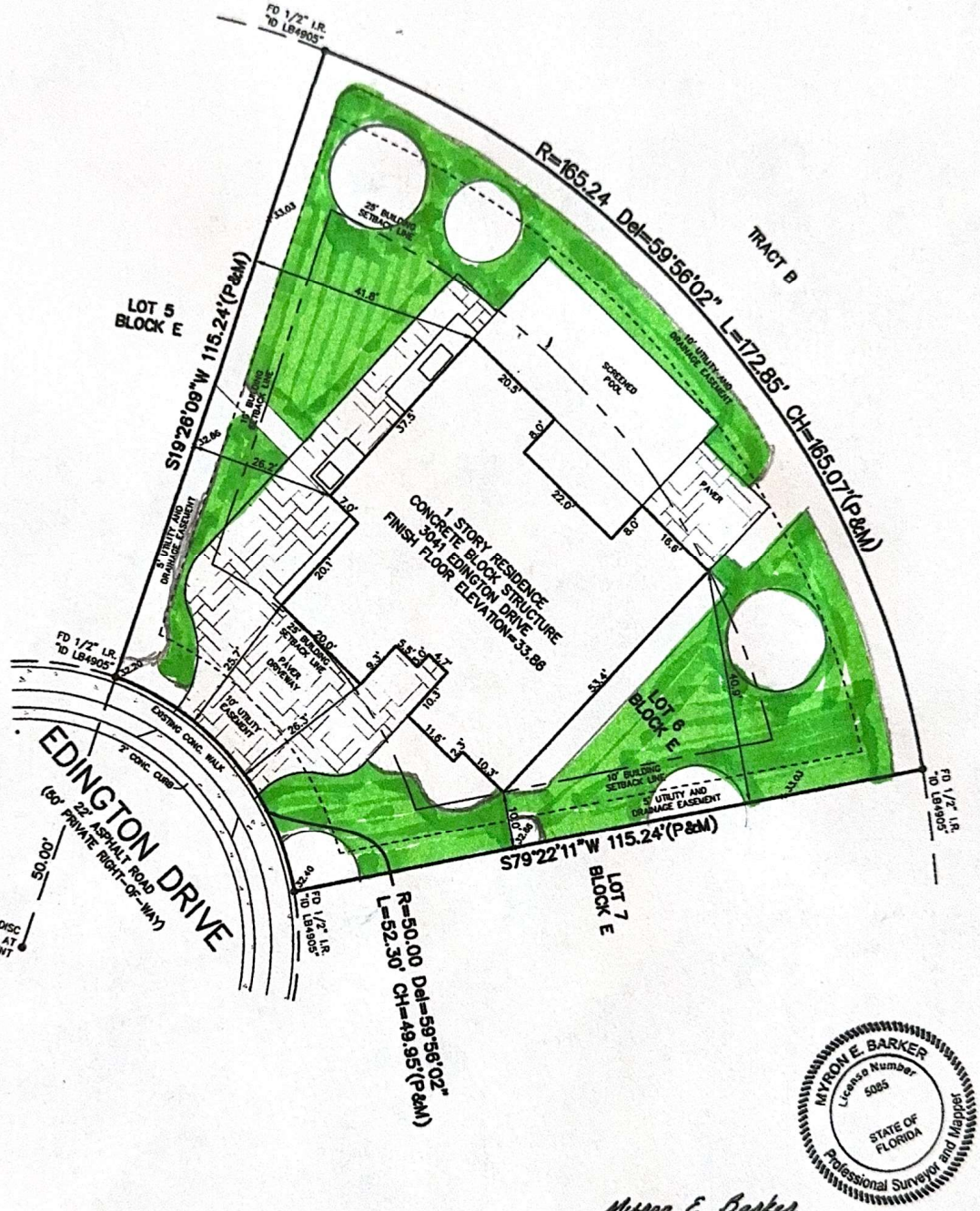
- **Improved drainage and erosion control**: The permeable artificial turf prevents water pooling, reducing runoff onto neighboring properties and minimizing erosion concerns.
- **Beautification and curb appeal**: A consistently green, well-maintained yard adds to the overall attractiveness of the community, increasing property values.
- **Eco-friendly landscaping**: By incorporating native plants and avoiding harmful pesticides and fertilizers, our yard supports local wildlife, promotes pollination, and contributes to a healthier ecosystem.
- **Reduced mosquito breeding grounds**: Eliminating standing water in low-lying areas reduces the risk of mosquito infestations, benefiting the entire neighborhood.

The use of permeable artificial turf aligns with Florida's **"Florida-Friendly Landscaping"** principles, which encourage water conservation, pollution reduction, and minimal chemical use. Cities such as Tampa, Orlando and the Palm Beach area allow for turf as a conscious landscape practice. **State-level environmental goals** support sustainable landscaping solutions like permeable turf, particularly in areas affected by water conservation issues, such as Florida.

Granting this variance, when strict adherence to zoning ordinances results in hardship without significantly affecting the public interest. We stress that allowing artificial turf—especially permeable versions—does not undermine the city's broader environmental goals, but rather enhances them by promoting water conservation, reducing pesticide use, and supporting eco-friendly landscaping

BOUNDARY SURVEY OF:

LOT 6, BLOCK E AS SHOWN ON THE PLAT OF COUNTRY CLUB ESTATES
AS RECORDED IN PLAT BOOK 60, PAGES 25-27 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



Myron E. Barker

PROFESSIONAL SURVEYOR & MAPPER IN RESPONSIBLE CHARGE
MYRON E. BARKER – FLORIDA CERTIFICATE NO. 5085
CERTIFICATE OF AUTHORIZATION LB. 6586

MYRON E. BARKER
License Number 5085
STATE OF FLORIDA
Professional Surveyor and Mapper

LEGEND

(AKA)	=	ALSO KNOWN AS
℄	=	CENTERLINE
C.B.	=	CONCRETE BLOCK
C.B.S.	=	CONCRETE BLOCK STRUCTURE
C.L.F.	=	CHAIN LINK FENCE
CLR.	=	CLEAR
C.M.	=	CONCRETE MONUMENT
CONC.	=	CONCRETE
COR.	=	CORNER
COVD	=	COVERED
D	=	DELTA
FD	=	FOUND
ID	=	IDENTIFICATION
I.P.	=	IRON PIPE
I.R.	=	IRON ROD
L	=	LENGTH
LB	=	LICENSE BUSINESS
LS	=	LICENSE SURVEYOR
(M)	=	MEASURED
N&D	=	NAIL & DISK
(P)	=	PLATTED
PC	=	POINT OF CURVATURE
PT	=	POINT OF TANGENCY
PL	=	PROPERTY LINE
P.S.M.	=	PROFESSIONAL SURVEYOR & MAPPER
PRC	=	POINT OF REVERSE CURVE
P.U.&D.	=	PUBLIC UTILITY & DRAINAGE
R	=	RADIUS
R/W	=	RIGHT-OF-WAY
(TYP.)	=	TYPICAL
W.F	=	WOOD FENCE

SURVEYOR'S NOTES:

1) THE BEARING SYSTEM SHOWN HEREON IS BASED ON A ASSUMED BEARING OF N.19°26'09"E., ALONG THE EAST LINE OF LOT 5, BLOCK E.

2) AS PER FLOOD INSURANCE RATE MAP NO.12009C 0205 G, INDEX DATED 03-17-2014, THE ABOVE DESCRIBED PROPERTY LIES IN ZONE X.

3) THIS SURVEY WAS PREPARED FROM TITLE INFORMATION PROVIDED TO THE SURVEYOR. THERE MAY BE ADDITIONAL RESTRICTIONS OR EASEMENTS THAT AFFECT THE PROPERTY.

4) UNDERGROUND UTILITIES AND FOUNDATIONS HAVE NOT BEEN SHOWN.

5) LANDS SHOWN HERON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY, RESERVATION, AGREEMENT AND/OR EASEMENTS OF RECORD, SUCH INFORMATION IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHER THROUGH APPROPRIATE TITLE VERIFICATION.

6) NOT VALID WITHOUT A SIGNATURE AND THE ORIGINAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

TYPE OF SURVEY: FINAL
PROJECT: 20-2138
SCALE: 1" = 20'
DATE: 11/12/2020
CAD FILE: 19-1555.DWG
F.B. NUMBER:
REVISION: 4/15/21-REMOVED PAVERS IN REAR EASEMENT

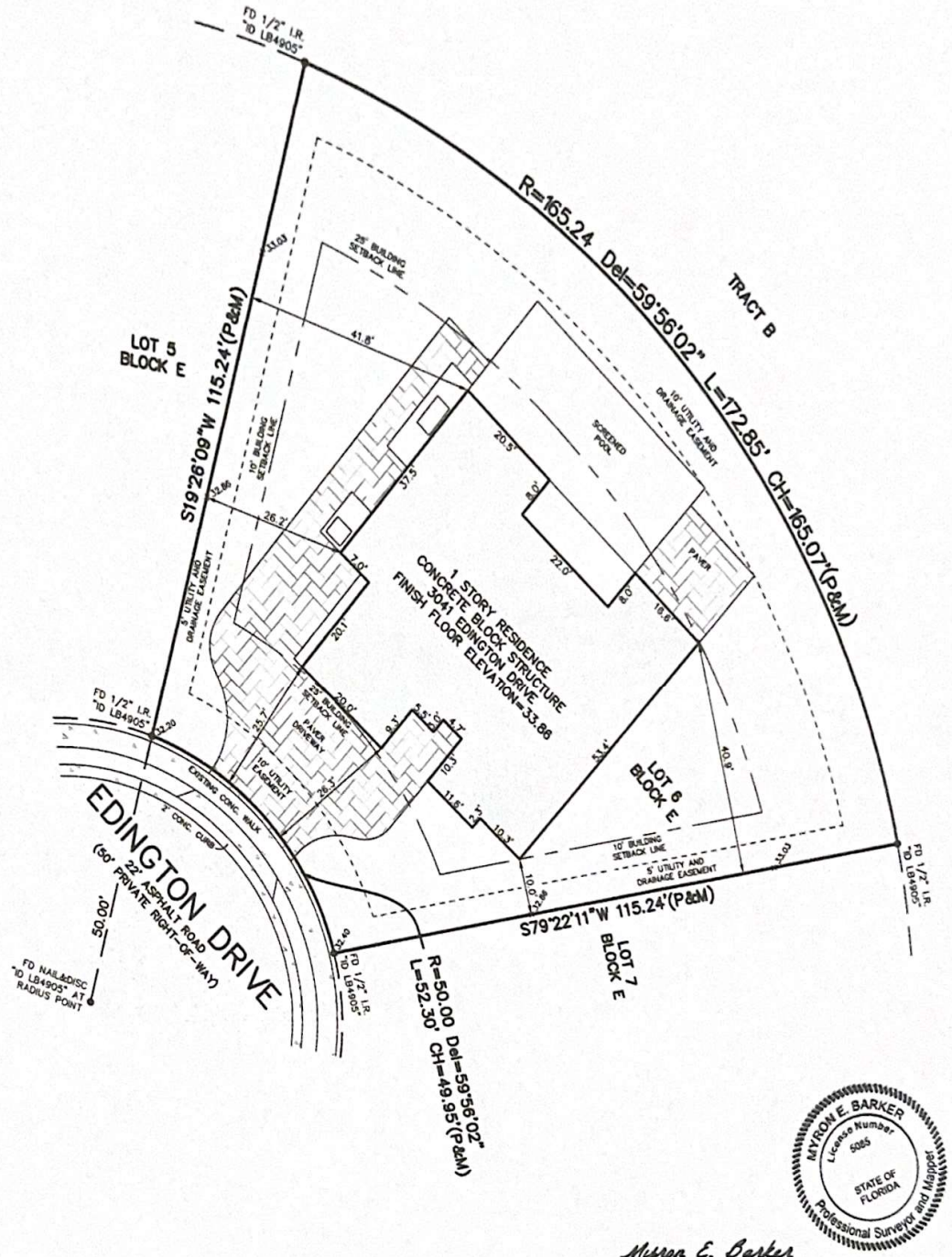
PRECISION
LAND SURVEYING, INC.
2900 LAKE WASHINGTON ROAD, SUITE 1
MELBOURNE, FLORIDA 32935
PHONE: 321-259-4600
EMAIL: PRECISIONSURVEYING1993@GMAIL.COM

CERTIFIED TO:
THE MATTHEW S. AND MAGGIE R. BOFFO TRUST,
MATTHEW & MAGGIE BOFFO AS TRUSTEES,
DAMAR HOMES, INC.
LIBERTY TITLE COMPANY
WESTCOR LAND TITLE INSURANCE COMPANY
BRANCH BANKING & TRUST CO. TRUST BANK

BOUNDARY SURVEY OF:

LOT 6, BLOCK E AS SHOWN ON THE PLAT OF COUNTRY CLUB ESTATES

AS RECORDED IN PLAT BOOK 60, PAGES 25-27 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



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PROFESSIONAL SURVEYOR & MAPPER IN RESPONSIBLE CHARGE
MYRON E. BARKER – FLORIDA CERTIFICATE NO. 5085
CERTIFICATE OF AUTHORIZATION LB. 6586

LEGEND

(AKA)	= ALSO KNOWN AS
℄	= CENTERLINE
C.B.	= CONCRETE BLOCK
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W.F.	= WOOD FENCE

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4) UNDERGROUND UTILITIES AND FOUNDATIONS HAVE NOT BEEN SHOWN.

5) LANDS SHOWN HERON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY, RESERVATION, AGREEMENT AND/OR EASEMENTS OF RECORD, SUCH INFORMATION IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHER THROUGH APPROPRIATE TITLE VERIFICATION.

6) NOT VALID WITHOUT A SIGNATURE AND THE ORIGINAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

TYPE OF SURVEY: FINAL
PROJECT: 20-2138
SCALE: 1" = 20'
DATE: 11/12/2020
CAD FILE: 19-1555.DWG
F.B. NUMBER:
REVISION: 4/15/21-REMOVED PAVERS IN REAR EASEMENT

PRECISION
LAND SURVEYING, INC.
2900 LAKE WASHINGTON ROAD, SUITE 1
MELBOURNE, FLORIDA 32935
PHONE: 321-259-4600
EMAIL: PRECISIONSURVEYING1993@GMAIL.COM

CERTIFIED TO:
THE MATTHEW S. AND MAGGIE R. BOFFO TRUST,
MATTHEW & MAGGIE BOFFO AS TRUSTEES,
DAMAR HOMES, INC.
LIBERTY TITLE COMPANY
WESTCOR LAND TITLE INSURANCE COMPANY
BRANCH BANKING & TRUST CO./TRUIST BANK

November 29, 2022
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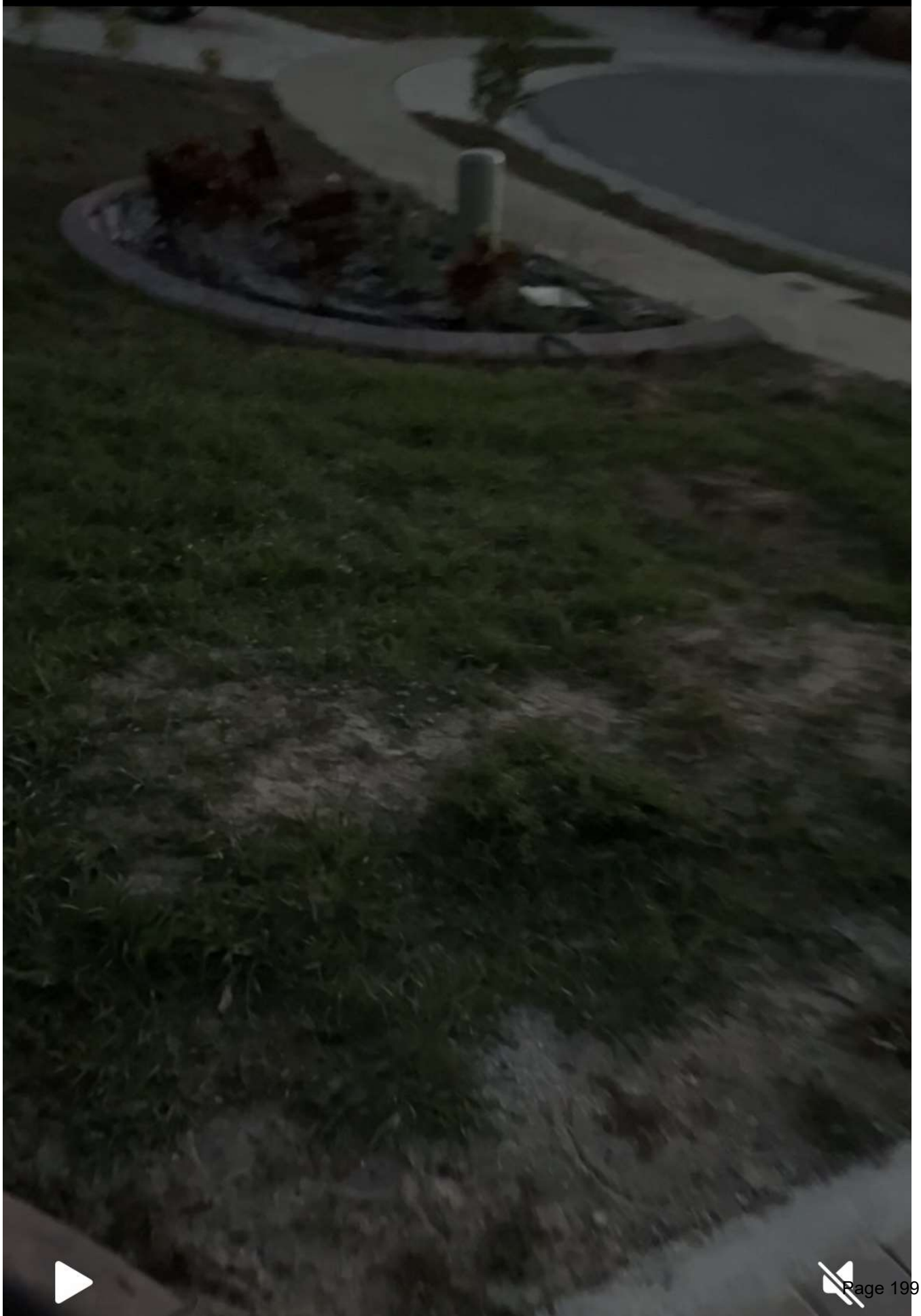

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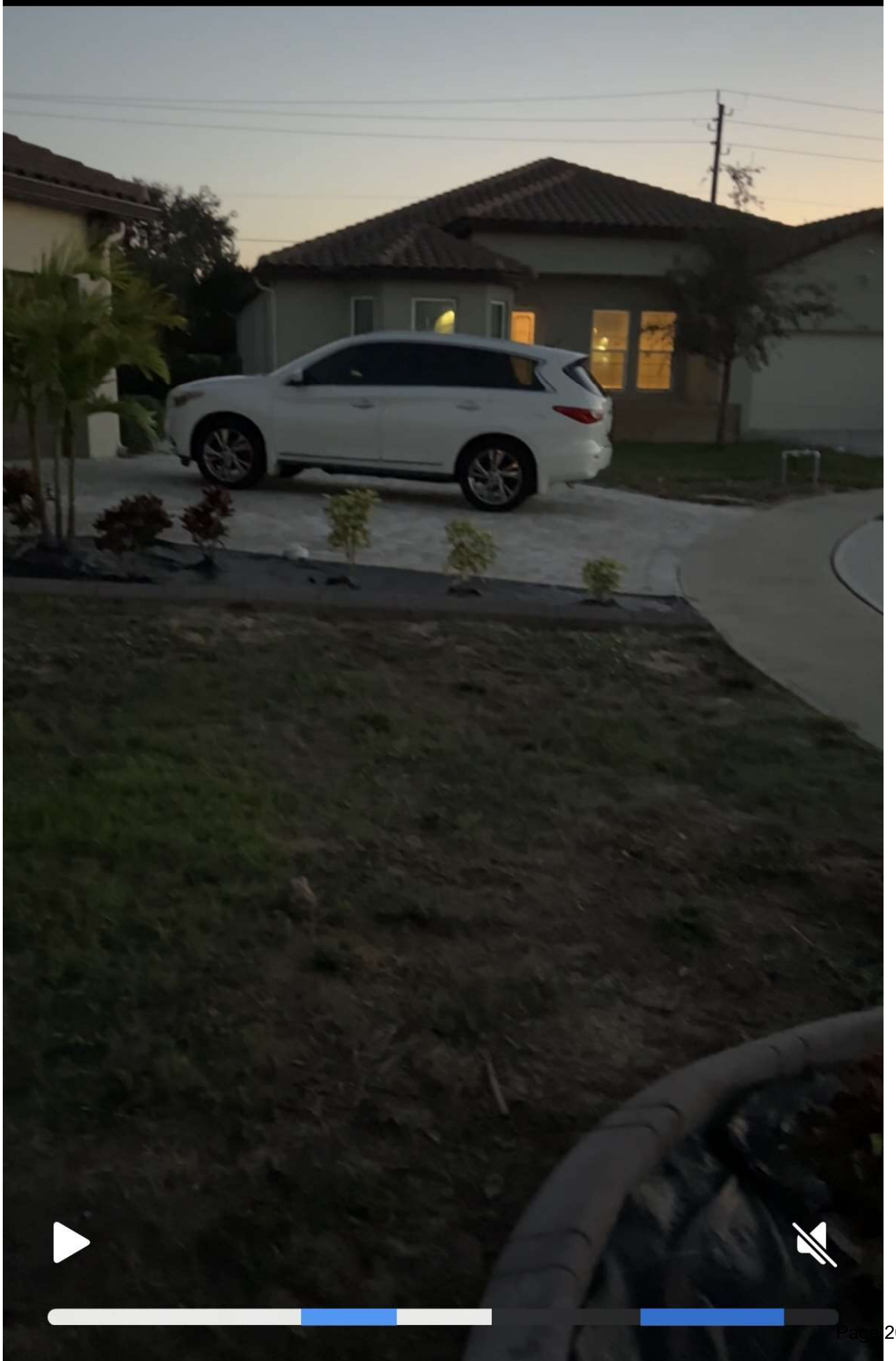

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October 6, 2021
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October 6, 2021
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October 6, 2021
1:15 PM

LABORATORY TEST SUMMARY

Report # 82379-01
Lab Test Number: 3248-5867
Report Date: February 22, 2021

ASTM F1551, DIN 18-035 Part 6; Water Permeability

www.testingservices-usa.com ▪ (706)226-1400
office@testingservices-usa.com

CLIENT:

Company:	Turf Distributors
Address:	42505 Rionedo Road
	Temecula, CA 92590
Requested By:	Dillon Georgian

TEST MATERIAL:

Date Material Received:	February 8, 2021
Material Type:	Synthetic Turf
Material Condition:	Excellent, New
Material ID:	Flow 75
Infill:	16 Grit Sand, to ¾" exposed tuft

TESTING METHODS REQUESTED:

Testing Services Inc. was instructed by the client to test for the following…			
Standard:	ASTM F1551	Test Method:	Standard Test Methods for Comprehensive Characterization of Synthetic Turf Playing Surfaces and Materials: Suffix-DIN 18-035, Part 6: Water Permeability of Synthetic Turf Systems and Permeable Bases

SAMPLING PLAN:

Sampling Date:	2/8/2021

- Specimen sampling is performed in the sampling department at TSI.
- The sampling size of specimens is determined by the test method requirements.
- In the event a specific sampling size is not called for, a determination will be made based on previous testing experience, and approved for use by an authorized manager.
- All samples are subjected to the outside environmental conditions of temperature and relative humidity.
- Sample requiring pre-determined exposure to specified environmental conditions based on a specific test method, take place in the departments in which they are tested

DEVIATION FROM TEST METHOD:

State reason for any Deviation from, Additions to, or Exclusions From Test Method.
None

PROCEDURE: This test method determines the rainfall drainage capacity (permeability) of the playing surface. Test data values represent drainage rates vertically thru the turf with infill listed above, and do not take into account the percolation properties of a pad and/or an underlying sub base. Three specimens, 11.5" diameter, were cut from the 15' turf roll, side-center-side manner. Each turf specimen was securely fastened to the permeability tube using mechanical flanges, ensuring vertical water flow thru the product. Water was pumped into the tube faster than could exit, until the water level reached 6". The water source was shut off, allowing the accumulated 6" water level to recede. The recede was timed via stopwatch until the water level exited the turf. The flow time was recorded in seconds. This procedure was repeated a total of 4 times where, the first pass was for conditioning, with passes 2,3,4 used for averaging. This process was repeated on the remaining specimens.

TEST SUMMARY:

Specimen #	Drainage (Seconds)	gal/min/yd²	Rainfall Capacity (inches/hour)
1	21.5	94.0	288.3
2	17.3	116.8	358.2
3	17.8	113.3	347.5
Average			331.3 inches/hour

Uncertainty:
We undertake all assignments for our clients on a best effort basis. Our findings and judgments are based on the information to us using the latest test methods available.
TSI can only ensure the test results for the specific items tested.
Unless otherwise noted in the deviations sections of this report, all tests are performed in compliance with stated test method.

Test Report Approval:

Erle Miles, III, Lab Director Testing Services (TSI) LLC

TSi Accreditation: Our laboratory is accredited by the US Dept. of Commerce, National Institute of Standards and Technology: ISO/IEC 17025:2005. Our code # is: NVLAP 100108-0.
TSi is an Organizational Member of ASTM (American Society for Testing and Materials). TSi is a certified independent testing laboratory by the STC (Synthetic Turf Council).

NVLAP TESTING 100108-0

Testing Services (TSI) LLC
817 Showalter Avenue
PO Box 1343
Dalton, GA 30721

OUR LETTERS AND REPORTS APPLY ONLY TO THE SAMPLE TESTED AND ARE NOT NECESSARILY INDICATIVE OF THE QUALITIES OF APPARENTLY IDENTICAL OR SIMILAR PRODUCTS. THESE LETTERS AND REPORTS ARE FOR THE USE ONLY OF THE CLIENT TO WHOM THEY ARE ADDRESSED AND THEIR COMMUNICATION TO ANY OTHERS OR THE USE OF THE NAME TESTING SERVICES, INC. MUST RECEIVE OUR PRIOR WRITTEN APPROVAL. OUR REPORTS, LETTERS, NAME, SEALS, OR INSIGNIA ARE NOT UNDER ANY CIRCUMSTANCES TO BE USED IN ADVERTISING TO THE GENERAL PUBLIC.

TURF DISTRIBUTORS

DETAILED SPECIFICATION SHEET

FLOW 75 OLIVE

Yarn Type	UV Polyethylene - W Shape
Denier	10800 / 4400
Approximate Pile Height	1.5 in.
Machine Gauge	3/8 inch
Roll Size	15 x 100 linear feet
Approximate Infill Amount	1.0 lb / psf
Primary Backing	Optimum Flow™
Total Product Weight	83.66 oz/yd²
Pile Yarn Weight	49.20 oz/yd²
Average Tuft Bind Strength	10.8 lbs/force
Total Lead Content	<0.5 mg/Kg
Pill Flammability	8 out of 8 Pass
Water Permeability	331.3 in/hr
QUV Accelerated Weathering	Color: 9 / Texture: 10

Recommended Uses

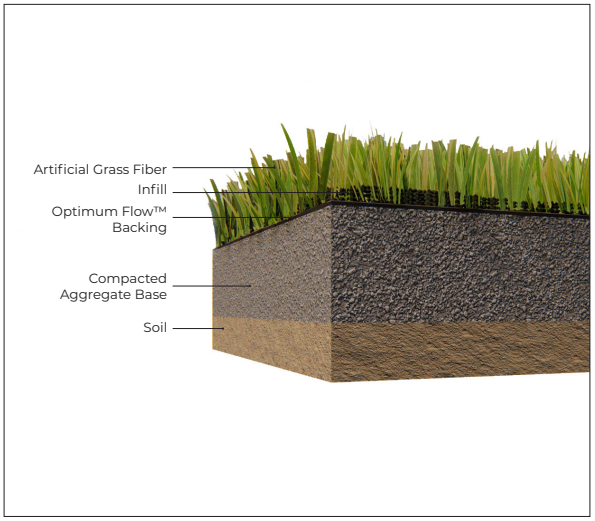
- Landscape
- Commercial
- Play Areas
- Pets

Flow 75 Olive is equipped with Optimum Flow™ technology for exceptional drainage. This is our preferred product for pet applications due to its permeability and slightly stiffer blade structure, which makes cleaning a breeze. Flow 75 Olive is also perfect for landscape, putting fringe, and anywhere else a medium density product is needed.

16 Year Warranty

Optimum Flow™ Technology

Made in the U.S.A.



VistaPet™

16-Year Product Warranty

Yarn Type	DuraBlade™ - Wave Blade
Denier	11,337
Pile Height	~1.125”
Machine Gauge	3/8“
Roll Size	15’ x 100’
Primary Backing	TriFlow Backing™
Product Weight	~90 oz
Pile Yarn Weight	~59oz
Average Tuft Bind Strength	3.0 lbs of force
Total Lead Content	0.66 ppm
Pill Flammability	8 Out of 8 Pass
Water Permeability	88” per Hour

durablade™ PFAS FREE

Recommended Uses

- Pets & Kids
- High Traffic
- Living Spaces

VistaPet™ is engineered to meet the specific needs of pet owners, providing a safe, durable, and easy-to-maintain solution. Our turf stands out due to its innovative features and high-quality construction, making it the ideal choice for any pet-friendly environment

(951) 384-6540 | ssa@turfdistributors.com | www.turfdistributors.com

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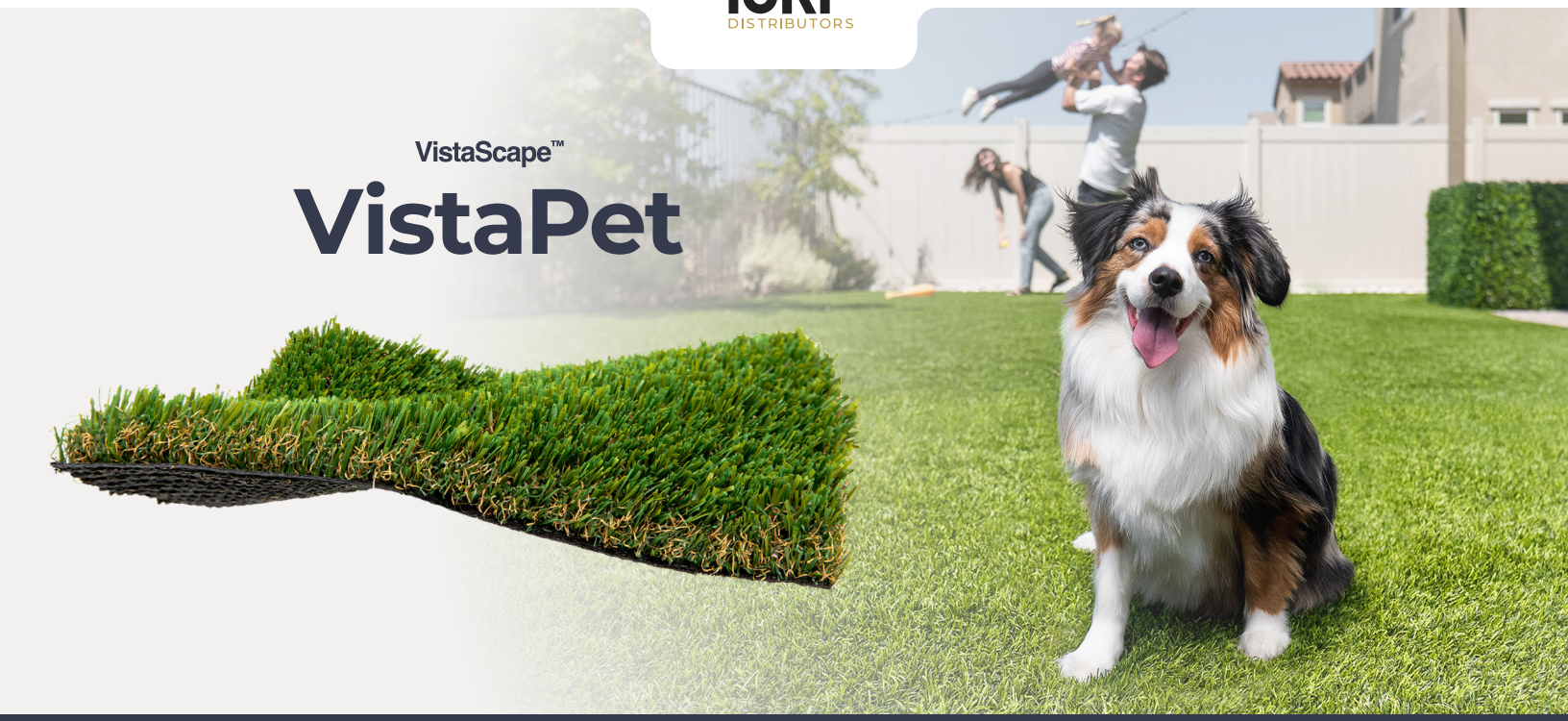
TURF DISTRIBUTORS

VistaScape™

VistaPet



Stock VistaPet and Boost Your Sales!

The Ultimate Paw Perfect Turf

VistaPet is a premium, high-quality turf solution specifically designed for pet-friendly environments. Its unique features, superior durability, and exceptional safety make it a standout product that provides unmatched value for pet owners.

Benefits for Pet Owners

Easy Cleanup

High Flow Rate
The high flow rate helps wash away messes quickly, ensuring the turf remains hygienic and odor-free.

Moisture-Wicking Properties
Keeps the surface dry, preventing odors and maintaining a comfortable environment for pets.

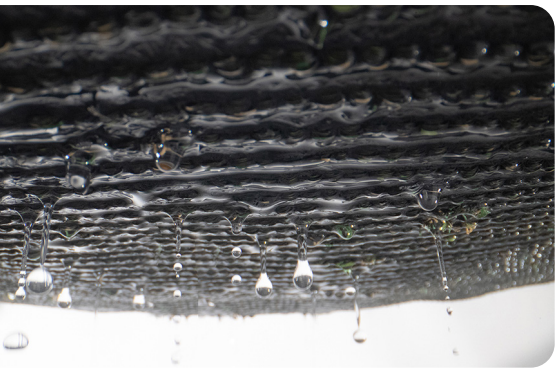
Durability

Withstands Heavy Use
Designed to handle the demands of active pets, providing a reliable and long-lasting solution.

Safety First

PFAS Free & Lead Free
Ensures a safe play area for pets and children, offering peace of mind to pet owners.

Key Features of VistaPet



TriFlow Backing™

Three-Layer Backing System

1. **Strong Woven Polypropylene Base:** The bottom layer is made from durable polypropylene, ensuring your grass stays strong and stable, even under heavy use.
2. **Flexible Non-Woven Polypropylene:** The middle layer enhances the structural strength of your turf while maintaining excellent permeability and flexibility. This ensures robust support without compromising water flow.
3. **Clear, Thin but Robust Coating:** The top layer features a clear coating that helps bind the artificial grass fibers in place, adds to the overall strength of the backing, and still allows water to flow through easily, ensuring your lawn remains dry and safe even after heavy rainfall.

Excellent Drainage
Quickly channels water away to keep the turf dry and ready to use.

Long-Lasting Durability
Built to withstand wear & tear, ensuring it remains beautiful and resilient for years.

Superior Fiber Binding
The clear coating ensures that grass fibers are securely held in place, enhancing overall stability and longevity.

DuraBlade™ Technology

Robust Construction
Ensures the blades remain strong & resilient, providing long-lasting performance.

Aesthetic Appeal
Mimics the look and feel of natural grass, enhancing any outdoor area.

Pet & Child Safe

PFAS Free & Lead Free
Guarantees a safe environment for pets and children.

Safe for Pets & Children
Parents can be confident that their children can play on the turf without exposure to harmful substances.

Total Weight
~91 oz.

Face Weight
~64 oz.

Pile Height
1.125”

Warranty
16-Years

Join Us Today!
Stock VistaPet and Provide Your Customers with the Best in Pet-Friendly Artificial Turf.

(951) 384-6540
info@turfdistributors.com
www.turfdistributors.com

Sec. 30-321. Plant materials.

(a) *Quality:* Plant material used in conformance with the provisions of this article shall be good, healthy and sturdy plants. All plant material shall be Florida #1 grade or better. Plant materials which are known to be intolerant of paving environments or whose physical characteristics may be injurious to the public or which produce a quantity and/or quality of debris so as to present maintenance difficulties shall not be specified for use under this article.

(b) *Native vegetation:* The applicant is encouraged to utilize plant material native to Brevard County in meeting these landscaping requirements. The existing vegetation that is native to Brevard County with the exception of that listed in Section 30-4(d) shall be preserved and utilized except when removal is justified and determined to be acceptable by the enforcement official (see Landscape Technical Manual).

(c) *Ground cover:* Ground covers, other than grass, shall be planted in such a manner so as to present a finished appearance and reasonably complete coverage within six (6) months after planting (see Landscape Technical Manual).

(d) *Lawn grass:* Grass areas shall be planted in species normally grown as permanent lawns in Brevard County. Seeding and sprigging may be used if grass cover is complete within six (6) months, or sodding will be required (see Landscape Technical Manual).

(e) *Hedges:* Hedges, where required, shall be planted in sufficient number and maintained so as to form a continuous, unbroken, solid screen within a maximum of six (6) months after time of planting (see Landscape Technical Manual).

(f) *Synthetic plants prohibited:* Synthetic or artificial material in the form of trees, shrubs, ground covers, vines or artificial turf shall not be used in lieu of the plant requirements in this section.

(g) *[Overstory trees:]* Overstory trees shall be species having an average mature spread of crown of greater than twenty (20) feet and reach a mature height of at least sixty (60) feet, and having a trunk which can be maintained in a clean condition with over five (5) feet of clear wood (no branches). Trees, including palms, having an average mature spread of crown less than twenty (20) feet may be arranged in groupings so as to create the equivalent of twenty-foot crown spread and shall count as one (1) required tree. Invasives shall not be used to fulfill the requirements of this article (see Landscape Technical Manual).

(h) *Caliper:* Plant materials required by this section shall comply with the minimum size requirements of Table 30-5, Minimum landscape planting specifications at the time of installation. Plant height shall be measured from the average grade level of the immediate planting area to the top horizontal plane of the shrub at planting; for single-trunk trees, the measurement shall be taken six (6) inches above grade level; for multitrunk trees, the tree shall be measured from the average grade level of the immediate planting area.

(i) *Planting areas and shrubs:* Planting areas shall consist of permeable surface areas only. The permeable surface areas for shrubs may be included with permeable surface areas required for trees.

(j) *Pavement edges:* Each overstory, coniferous, understory [tree] or shrub shall be planted at least twelve (12) inches from the edge of any paved surface.

(k) *Irrigation:* Irrigation must be indicated on the landscape plan. Any landscape area must be shown by water tolerant usage area.

Aerial 2024

VAR #10-2025

0 125 250 500 Feet

Community Development Department

Aerial photography provided by the Brevard County Property Appraiser's Office

3/13/2025

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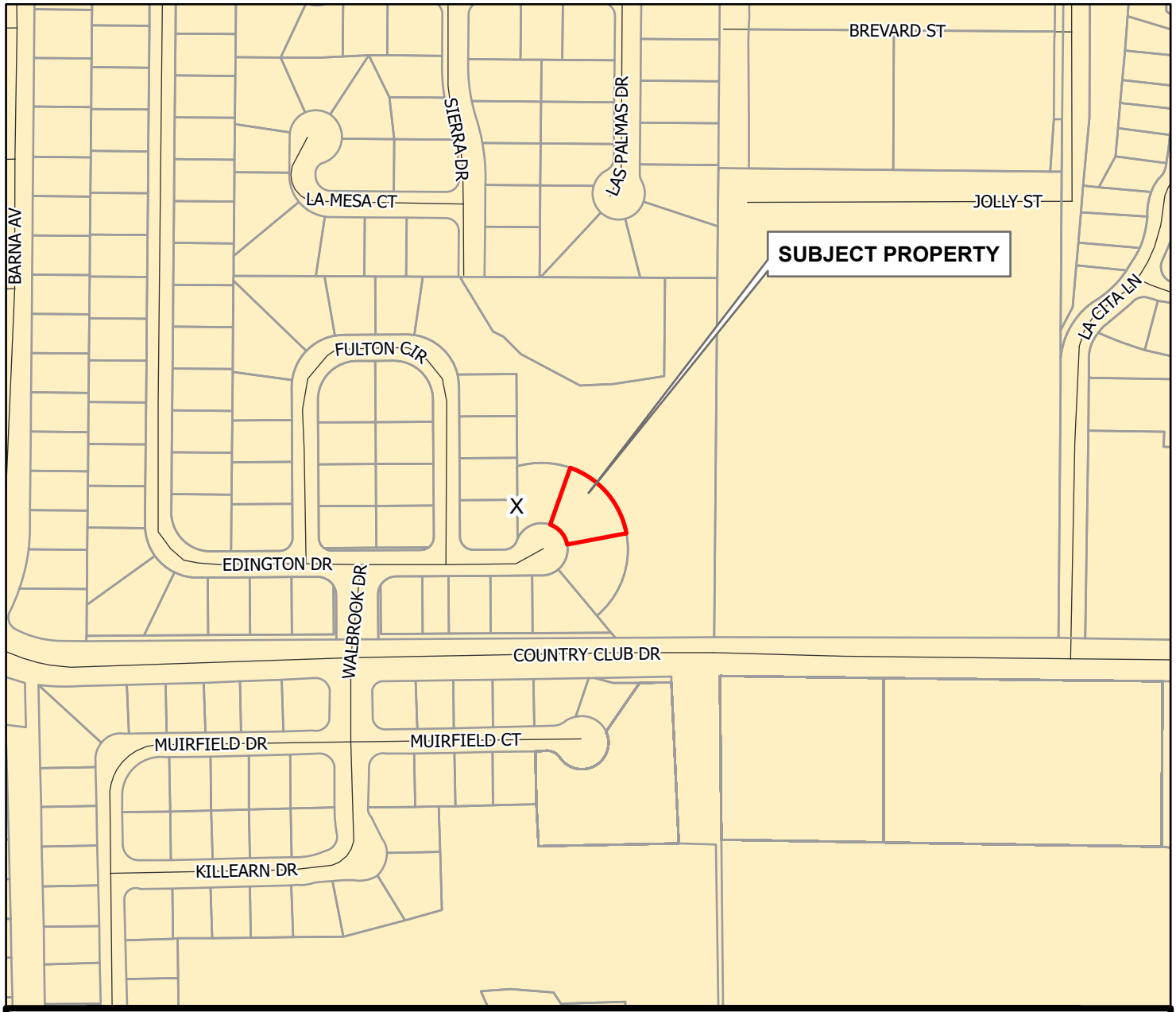

FEMA FLOOD HAZARD AREAS

VAR #10-2025

Special Flood Hazard Area Zones

- A
- A0
- AE
- AO
- VE

Moderate Flood Hazard Area Zone

- X5

Minimal Flood Hazard Zones

- C
- X
- X .2 PCT

Other Flood Zone Areas

- D
- FW

N W E S

0 125 250 500 Feet

Community Development Department

Source: FEMA FHA Update, 01/29/2021

3/13/2025

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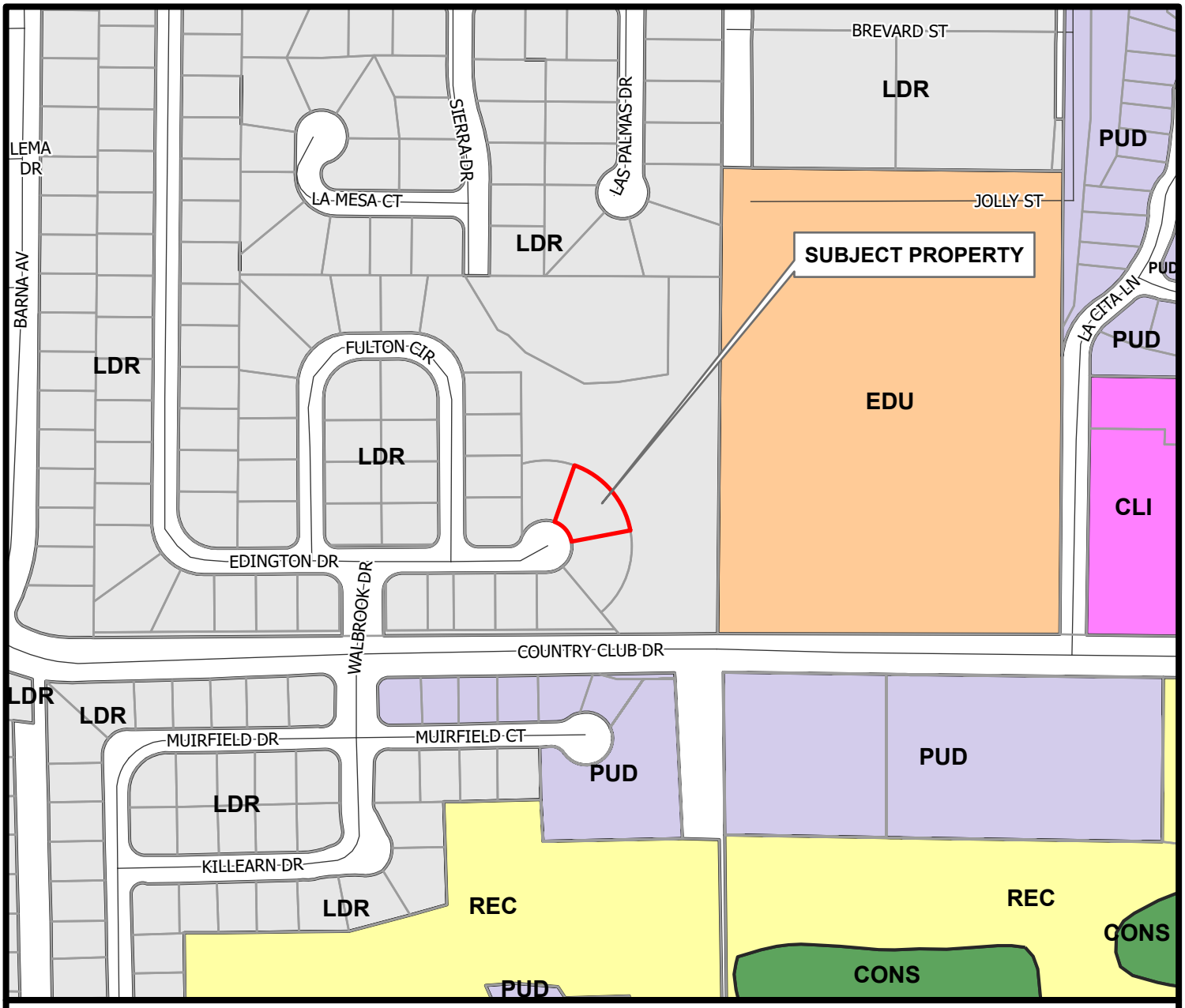

LOCATION OF PROPERTY AND FUTURE LAND USE MAP

CHI	COMMERCIAL HIGH INTENSITY	ED	EDUCATIONAL	PIP	PLANNED INDUSTRIAL PARK	RES-2	RESIDENTIAL-2
CLI	COMMERCIAL LOW INTENSITY	IND	INDUSTRIAL	PSP	PUBLIC/ SEMI-PUBLIC	RMU	REGIONAL MIXED USE
CONS	CONSERVATION	HDR	HIGH-DENSITY RESIDENTIAL	PUD	PLANNED UNIT DEVELOPMENT	SMU	SHORELINE MIXED-USE
DMU	DOWNTOWN MIXED-USE	MDR	MEDIUM-DENSITY RESIDENTIAL	REC	RECREATIONAL	UMU	URBAN MIXED-USE
		LDR	LOW-DENSITY RESIDENTIAL	RES-1	RESIDENTIAL-1	US1	US-1 CORRIDOR

Subject

N W E S

0 125 250 500 Feet

Community Development Department

3/13/2025

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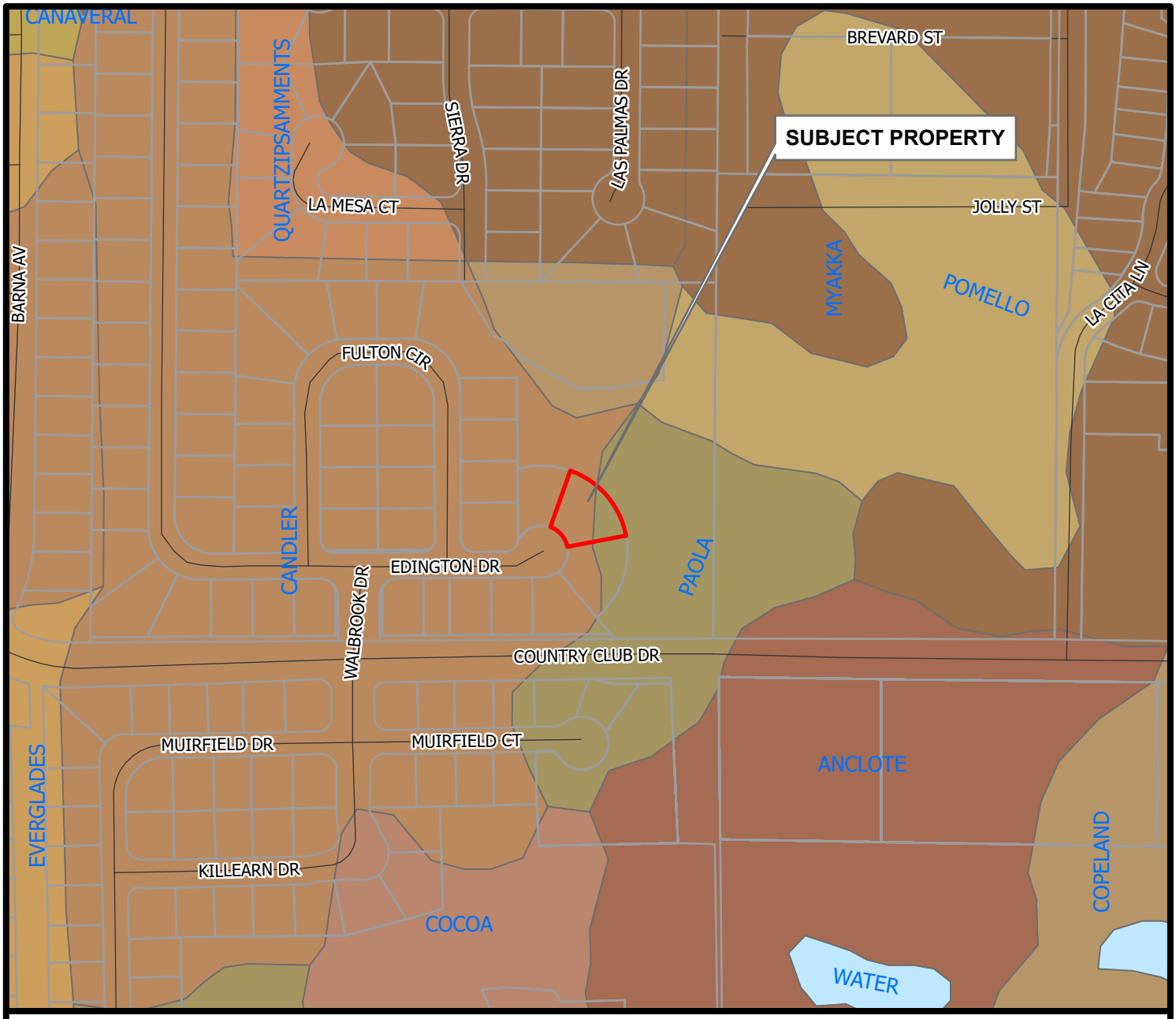

SOILS IN THE VICINITY OF SUBJECT PROPERTY
VAR #10-2025

SoilName

- ANCLOTE
- CANAVERAL
- CANDLER
- COCOA
- COPELAND
- EVERGLADES
- MYAKKA
- PAOLA
- POMELLO
- QUARTZIPSAMMENTS
- WATER

N W E S

0 125 250 500 Feet

Community Development Department

3/13/2025

Soils data source: The U.S. Department of Agriculture, Natural Resources Conservation Service. (2019)

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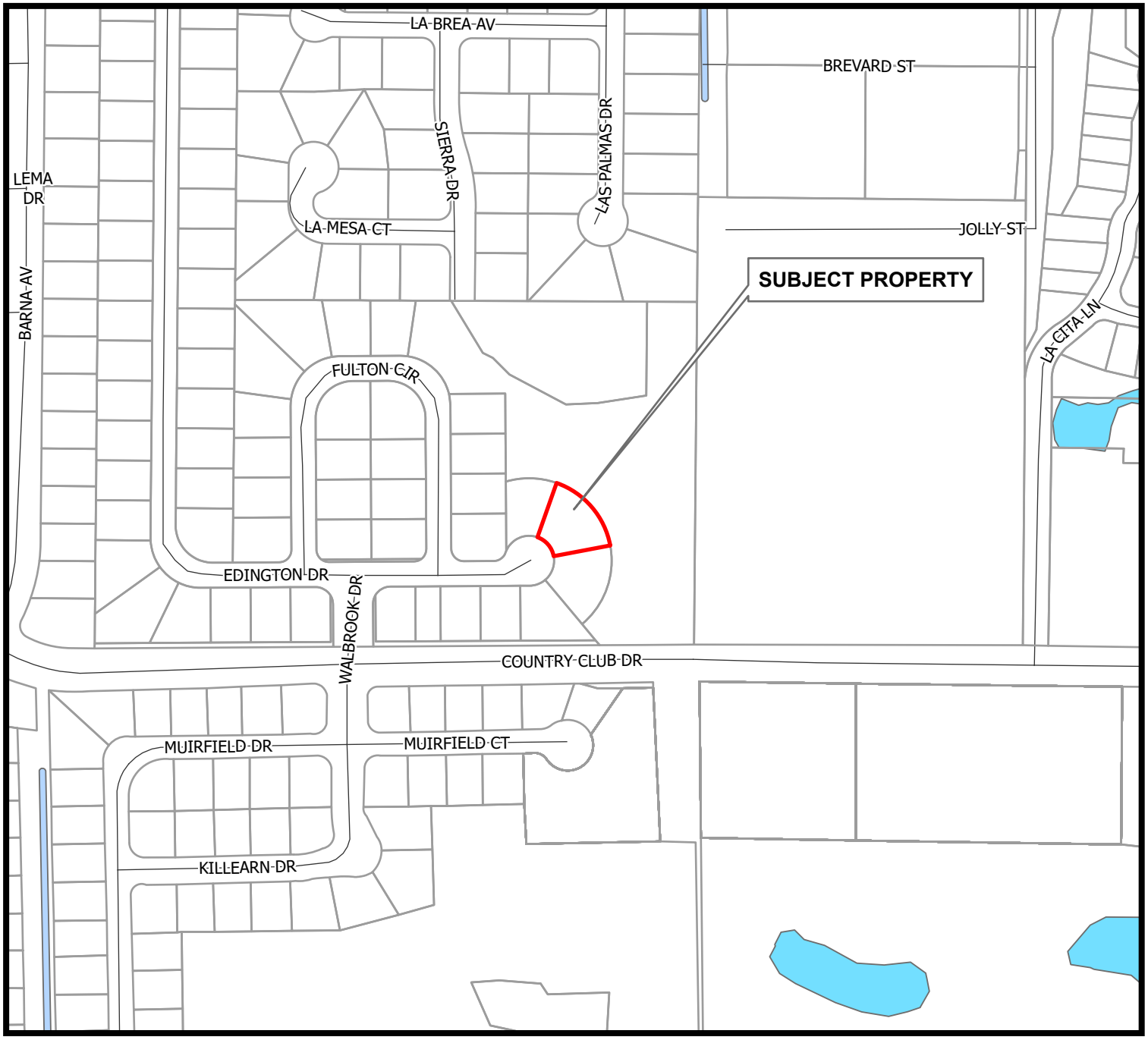

WETLANDS IN VICINITY OF PROPERTY

VAR #10-2025

N
W
E
S

WETLAND_TY

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine

3/13/2025

Scale:1:3,500

Community Development Department
Source: USFWS NWI (2023)

This data set represents the approximate location and type of wetlands and deepwater habitats. The primary intended use is for regional and watershed data display and analysis, rather than specific project data analysis.

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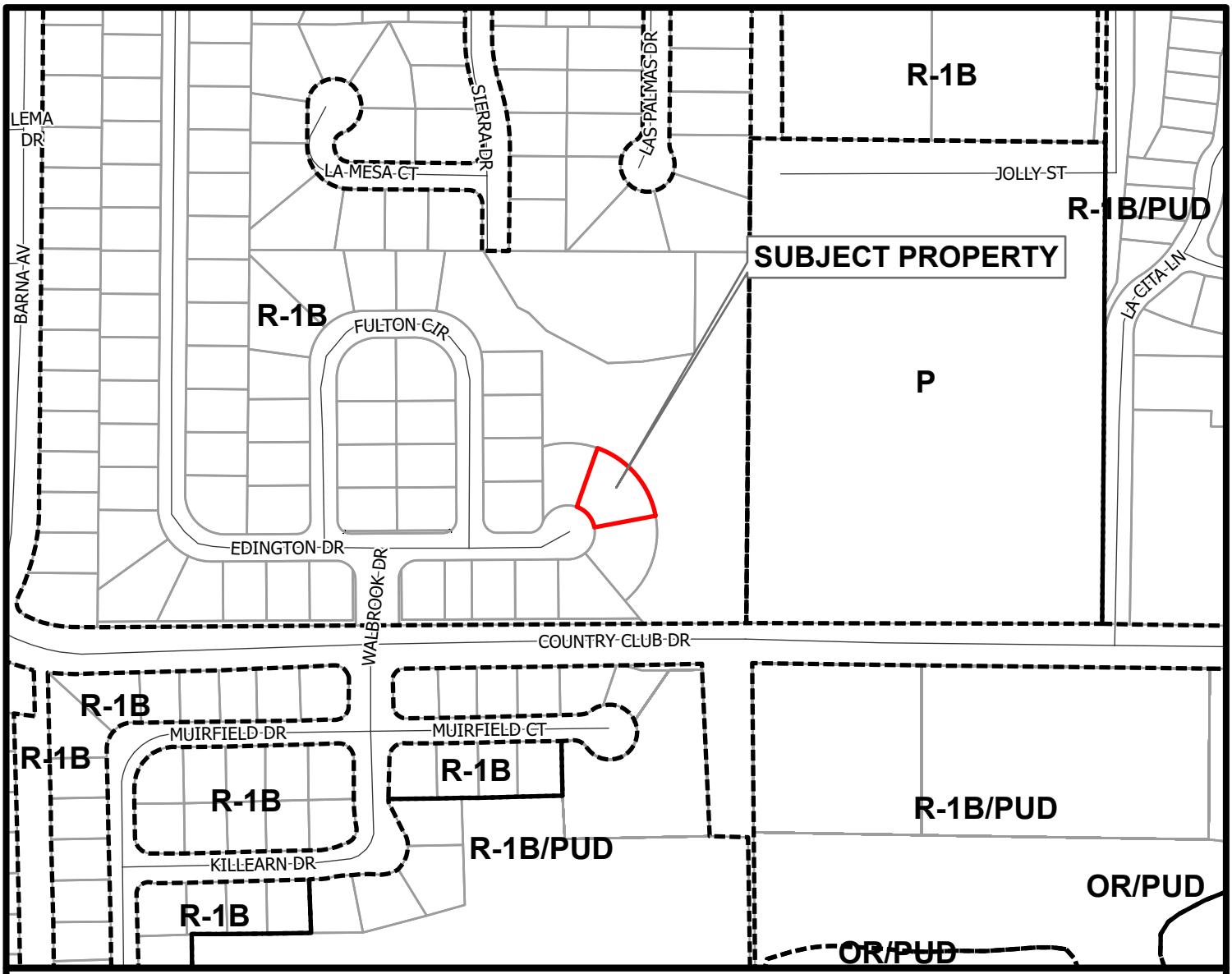


ZONING MAP

RESIDENTIAL DISTRICTS

RE	RESIDENTIAL ESTATES
RR	RURAL RESIDENTIAL
R-1A	SINGLE FAMILY, LOW DENSITY
R-1B	SINGLE FAMILY, MEDIUM DENSITY
R-1C	SINGLE FAMILY, HIGH DENSITY
R-2	MULTIFAMILY, MEDIUM DENSITY
R-3	MULTIFAMILY, HIGH DENSITY
RMH-1	RESIDENTIAL MANUFACTURED HOUSING SUBDIVISION
RMH-2	RESIDENTIAL MANUFACTURED HOUSING PARK

COMMERCIAL DISTRICTS

HM	HOSPITAL MEDICAL
T	TOURIST
NC	NEIGHBORHOOD COMMERCIAL
CC	COMMUNITY COMMERCIAL
RC	REGIONAL COMMERCIAL
OP	OFFICE PROFESSIONAL

INDUSTRIAL DISTRICTS

M-1	LIGHT INDUSTRIAL SERVICES AND WAREHOUSING
M-2	HEAVY INDUSTRIAL
M-3	HIGHWAY INDUSTRIAL INFILL
PID	PLANNED INDUSTRIAL DEVELOPMENT

OVERLAY DISTRICTS

TSA	TITUSVILLE SHORELINE AREA
AIA	AIRPORT IMPACT AREA
WCA	WETLAND AND CONSERVATIONA AREA
ACC	AREA OF CRITICAL CONCERN
HPA	HISTORIC PRESERVATION AREA

SPECIAL DISTRICTS

GU	GENERAL USE
OR	OPEN SPACE AND RECREATION
UMU	URBAN MIXED USE
SMU	SHORELINE MIXED USE
RHP	RESIDENTIAL HISTORIC PRESERVATION
RMU	REGIONAL MIXED USE
PD	PLANNED DEVELOPMENT
P	PUBLIC
UV	URBAN VILLAGE
DMU	DOWNTOWN MIXED USE
IRCN-R	INDIAN RIVER CITY NEIGHBORHOOD RESIDENTIAL
IRCN-C	INDIAN RIVER CITY NEIGHBORHOOD COMMERCIAL

N
W E
S

TITUSVILLE, FLORIDA
FOUNDED 1867

Base Map

City Limits
Zoning
Subject

VAR #10-2025

0 125 250 500 Feet

Community Development Department

3/13/2025

Item: 8.D

City of Titusville

"Gateway to Nature and Space"

REPORT

To: Members of the Board of Adjustments and Appeals

From: Brad Parrish, Community Development Director

Subject: **Variance 11-2025 - 3042 Edington Drive**

Department/Office: Planning

Recommended Action:

Consider the requested variance to allow the use of prohibited material in the form of artificial turf, for property located at 3042 Edington Drive.

Summary Explanation & Background:

The applicant is requesting a variance to the Land Development Regulations, Chapter 30, Section 30-321. Plant Materials. Section 30-321(f) - To allow the use of prohibited material in the form of artificial turf, for property located in the Single-Family Medium Density (R-1B) zoning district, at 3042 Edington Drive, Titusville, FL 32780, as submitted by Michael Boffo, trustee for The Michael A. and Nancy M. Boffo Trust, owner.

Alternatives:

1. Approve the variance.
2. Approve the variance with conditions.
3. Deny the variance.

Item Budgeted:

N/A

Source/Use of Funds/Budget Book Page:

Strategic Plan:

Strategic Plan Impact:

ATTACHMENTS:

1. Variance 11-2025 Staff Report

2. Application
3. Illustration
4. Survey
5. Turf Specs
6. Code
7. All Maps VAR #11-2025

City of Titusville Community Development

BOARD OF ADJUSTMENTS AND APPEALS

Variance (VAR) No. 11-2025, 3042 Edington Drive

Meeting Date: April 23, 2025

Prepared By: Tabitha Armstrong, Planner

Applicant: Michael Boffo, trustee for The Michael A. and Nancy M. Boffo Trust, owner

Background

(a) Variance request: *Land Development Regulations, Chapter 30, Section 30-321. Plant Materials. Section 30-321(f) - To allow the use of prohibited material in the form of artificial turf,* for property located in the Single-Family Medium Density (R-1B) zoning district, at 3042 Edington Drive, Titusville, FL 32780, as submitted by Michael Boffo, trustee for The Michael A. and Nancy M. Boffo Trust, owner.

(b) Location: 3042 Edington Drive, Titusville, FL. Tax No. 2225060. Parcel I.D. 22-35-16-09-E-7

(c) Land Description: COUNTRY CLUB ESTATES LOT 7 BLK E

(d) Future Land Use: Low Density Residential

(e) Zoning: Single Family Medium Density (R-1B)

(f) Surrounding Zoning Districts.

1. North: Single Family Medium Density (R-1B)
2. South: Single Family Medium Density (R-1B)
3. East: Single Family Medium Density (R-1B)
4. West: Single Family Medium Density (R-1B)

(g) Lot Characteristics: The subject property is approximately 0.3 acres (13,068 sq. ft) with 53.01 feet of frontage along Edington Dr. These dimensions meet the

minimum 7,500 sq. ft lot area for a single-family home within the Single-Family Medium Density (R-1B) zoning district.

(h) Uses: Single Family Residence constructed in 2020.

Powers of the BAA

LDR Section 34-226 states that the Board shall grant a variance request when in the opinion of the Board of Adjustments and Appeals, owing to special conditions, the literal enforcement of such ordinance or regulations would do manifest injustice to, or impose an unnecessary hardship upon the applicant. In order to authorize any variance to the provisions of such ordinance, the Board must consider the following criteria:

(a) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or building in the same zoning.

(b) Special conditions and circumstances do not result from the actions of the applicant.

(c) Granting the variance requested will not confer upon the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same zoning district.

(d) The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance.

(e) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(f) The granting of the variance will preserve the spirit of the ordinance and remain in harmony with its general purpose and intent.

(g) In granting the variance, the public safety and welfare must be assured.

(h) In no case shall the granting of a variance result in a change of use, which would not be permitted in that zone.

Analysis

The applicant is requesting a variance to allow the use of artificial grass in place of natural grass. Section 30-321(f) of the Land Development Regulations states, *Synthetic plants prohibited: Synthetic or artificial material in the form of trees, shrubs, ground covers, vines or artificial turf shall not be used in lieu of the plant requirements in this section*. The Brevard County Property Appraiser website shows the single-family dwelling was built in 2020 as part of the Country Club Estates subdivision. The lot contains a ten (10) foot Public Utility (P.U.) easement along the

front, a five (5) foot Public Utility and Drainage (P.U.& D.) easement on the sides, and a ten (10) foot P.U.& D on the rear. As shown on the submitted site plan, the owner is requesting to place the turf in the front and rear yard on only one side of the property. The property is not located within the Area of Critical Concern and does not have a maximum impervious coverage standard. Since there are no code standards for artificial turf, staff cannot evaluate its impact on the subdivision's approved stormwater plan.

The lot does not appear to have had any special conditions or circumstances that are peculiar to the land that would create a hardship that would prevent natural landscaping.

Recommendation

Staff recommend **denial** of the variance. There are no special conditions or circumstances which are peculiar to the land that would make it different from similar lots in the subdivision. The applicant can meet the literal interpretation of the ordinance. Denying the request will not deprive the applicant of rights commonly enjoyed by other properties.

Gateway to Nature & Space

APPLICATION FOR VARIANCE

Please submit electronically a completed application and required submittals to the Community Development Department for payment and meeting scheduling. Chapter 34 of the Titusville Land Development Regulations contains the instructions for filing and the required exhibits. INCOMPLETE APPLICATIONS SHALL NOT BE ACCEPTED.

1. Project Location	Property Address/Location Description 3042 Edington Drive	
2. Applicant/ Owner	Name of Applicant/Contact Michael Boffo	Name of Owner The Michael A. and Nancy M. Boffo Trust
	Street Address 3042 Edington Drive	Street Address 3042 Edington Drive
	City: Titusville State: Florid Zip: 32780	City: Titusville State: Florida Zip: 32780
	Telephone # 321-693-7204 Fax #	Telephone # 321-693-7204 Fax #
	E-Mail Address mike.a.boffo@Gmail.com	E-Mail Address mike.a.boffo@Gmail.com
3. Applicant Status	☑ Owner ☐ Tenant ☐ Agent ☐ Other	
4. Parcel ID	22 3516-09-E-7	**Tax Acct.** 2225060
5. Site Size	Acres: .261	Square Feet: 11377
6. Property Information	Current Zoning single family residence	Current Use of Property single family residence

7. Variance(s) Requested	*Section Number*	*LDR Requirement*	*Variance Requested*
	1) 30-21F	1) natural vegetation	1) artificial turf
	2)	2)	2)
	3)	3)	3)
	4)	4)	4)
	5)	5)	5)

8. Narrative	Please provide a brief description of your request and the proposed project: (Please complete justification questions on page 4 of this application) Acceptance of artificial turf installation

- **All applications shall require Community Development staff review prior to submittal.**
- All applications shall be submitted to the Department electronically and officially logged in by **end of business day**.
- Incomplete applications and applications without appropriate backup information/justification will not be accepted and will not be considered to be officially submitted until the appropriate information and fees are submitted. Meeting dates for incomplete applications will not be set until all required information and fees are submitted.
- Petitions requiring review from other boards or commissions prior to being forwarded to the Board of Adjustments and Appeals (BAA) are not guaranteed placement on the BAA schedule available on the City's website.

ACKNOWLEDGEMENT

I am the owner and/or legal representative of the owner of the property described which is the subject of this application. All answers to the questions in said application and all sketches and data attached to and made a part of this application are honest and true to the best of my knowledge and belief. Should this application be granted, I understand that any condition(s) imposed upon the granting of this request shall be binding to the owner, his heirs and successors in title to possession of the subject property. I understand that I must attend all applicable meetings and have been informed of the meeting date(s) and time(s). I understand that if I fail to appear at an applicable meeting, the appropriate Board or Commission may either table or deny the request.

This matter is subject to quasi-judicial rules of procedure. Interested parties should limit contact with the City Council, Board of Adjustment & Appeals, and Planning & Zoning Commission on this topic to properly noticed public hearings or to written communication to the City Clerk's Office, City of Titusville, P.O. Box 2806, Titusville, FL 32781

/s/ Michael A. Boffo 3/10/2025
(Signature*) (Date)

* *By entering your name in the "Signature" box above, you are signing this Application electronically. You agree your electronic signature is the legal equivalent of your manual signature on this Application. By entering your name in the "Signature" box above, you consent to be legally bound by this Application's terms and conditions.*

Date received:_____

Accepted by_____

Grounds For Granting A Variance

Section 31-51 of the Land Development Regulations of the City of Titusville empowers the Board of Adjustments and Appeals to grant variances to the requirements of the Land Development Regulations and certain other codes and/or ordinances. The Board may grant a variance if, in their opinion, the strict enforcement of these rules would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. In granting a variance, the Board must consider whether or not the applicant's particular situation meets a certain set of criteria established in Section 34-226 of the Land Development Regulations. These criteria are as follows:

(a) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

(b) Special conditions and circumstances do not result from the actions of the applicant.

(c) Granting the variance requested will not confer upon the applicant any special privilege that is denied by the ordinance to other lands, buildings or structures in the same zoning district.

(d) The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance.

(e) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

(f) The granting of the variance will preserve the spirit of the ordinance and remain in harmony with its general purpose and intent.

(g) In granting the variance, the public safety and welfare must be assured.

(h) In no case shall the granting of a variance result in a change of use which would not be permitted in that zoning district.

Variance Justification

In answering the questions below, please be as specific as possible. Your answers will help the Board of Adjustments and Appeals and City staff to properly evaluate your variance request. (Please attach a separate sheet if necessary)

1. **Why are you unable to comply with the requirements? What hardship or injustice are you claiming?**

   Our property was initially landscaped by the builder, Damar Homes, with low-quality, planter drip line irrigation and a weak grass mixture dominated by weeds and bare spots. The sandy soil composition and lack of proper irrigation prevented healthy grass growth, requiring excessive watering and chemical treatments just to maintain a level of curb appeal. The drip lines would get clogged, cut up by mowing, break and cause leaks often. All the homeowners in our development have had the same irrigation and lawn issues and have gone through revitalization to remedy the issues as well – full lawn replacements, irrigation systems, etc. In addition, our property also had low-lying areas that retained water, leading to poor drainage, erosion, and standing water after rainstorms. These conditions contributed to persistent issues, including fungus growth, bug infestations, and weed spread. Like all of our neighbors, we opted to remedy the problem with a long-term solution to the irresponsible builder practices. We researched the use of artificial turf for landscaping and the appeal was that modern permeable turf provides substantial environmental and aesthetic benefits. By replacing the struggling grass with a properly installed, permeable artificial turf system, we can ensure long-term sustainability, effective drainage, and improved aesthetics while eliminating the need for excessive irrigation and chemical treatments.

2. **What is special about your property that would justify treating it differently than most other properties? (Examples of important special conditions include: narrow or odd shaped lot; excessive slope of land; soil or drainage limitations; unusual location of existing buildings on the lot; etc.) If the special conditions involve an existing building or structure, when was it built and are you the original owner?**

   Our property is a corner lot with adjoining front and back yard to our neighbor. We had unique environmental challenges, including poor drainage, sandy soil, and uneven terrain that made traditional grass unsustainable. Our yard struggled with standing water in low areas, leading to erosion and poor plant health. We've had to remove and replant trees and shrubs. For the lawn, traditional sod patches have repeatedly failed in these conditions, requiring constant reseeding/planting. Irrigation repairs were costly just to maintain a patchy and inconsistent lawn.

   To address this, we worked with a professional landscaper who was familiar with what Damar Homes had landscaped and irrigated in the community. He was familiar with Titusville water standards, as well as our neighborhood having a poor reclaim irrigation water source that is not dependable. Being on sewer, it is definitely not logical to utilize city water based on costs for thousands of gallons of water a year; we know a few neighbors who pay $600+ a month on water lawn maintenance. The landscaper we hired followed best practices for artificial turf installation, ensuring proper drainage, water permeability, and eco-friendly landscaping.

   The installation process included:

   - **Excavation of the existing soil** to remove weak builder-grade grass and weeds and irrigation.
   - **Installation of a 5–6-inch permeable base layer** using crushed stone and gravel for proper drainage.
   - **Use of a high-quality, permeable artificial turf** designed with a UV rating to withstand the Florida heat, designed to allow rainwater to filter through, preventing runoff and promoting groundwater recharge and suitable to withstand use for play and for high traffic.
   - **Use of eco-friendly materials safe for pets and children-** grass utilizing non-toxic, antimicrobial, impact absorbing and reusable infill. Prevents mold and bacteria, odorless, deters against stains and product deterioration. The grass is cool to the touch and won't degrade with Florida's heat.
   - **Integration of Florida-native plants and pollinator-friendly landscaping** to encourage biodiversity and provide a sanctuary for birds, butterflies, and beneficial insects.
   - **Avoidance of pesticides and fertilizers**, maintaining chemical-free, eco-conscious year round

3. **Is your variance request the minimum change from the requirements that you need to overcome your hardship? Explain your answer. (For example, suppose you are requesting a 5 foot variance to the side yard setback requirement in order to build a single car garage 15 feet wide. Your request would not be the minimum since a single car garage 11 feet wide would be adequate and would only require a 1 foot variance.)**

Yes, this request is the minimum necessary to resolve the specific challenges our property faces. We are not seeking broad exemptions from landscaping codes—only the ability to keep the use of an alternative, eco-friendly solution that effectively addresses drainage, erosion, and costly maintenance concerns. In addition, it helps bring value to the home and the neighborhood.

The artificial turf installed is **not a solid, non-permeable surface** but a professionally designed **water-draining system** that works in harmony with our natural landscaping. Without this solution, we would be forced to revert to an unsustainable approach with removal and then replacement requiring constant irrigation, soil amendments, and chemical treatments to maintain a traditional lawn.

Additionally, the artificial turf seamlessly integrates with the rest of our landscape, complementing the Florida-native plants and greenery we have added with the neighborhood aesthetics. This ensures a natural, attractive, and functional outdoor space that contributes positively to our gated community.

4. **Explain why approval of your variance request would not likely result in harm to your neighbor's properties or to the general public.**

Granting this variance will have **no negative impact** on neighboring properties or the public. Our neighbors from throughout the development have all commented how beautifully maintained our yard and landscaping looks as we have it trimmed and pruned regularly. Our approach balances **aesthetic appeal, environmental responsibility, and practical functionality**, making it a model for sustainable residential landscaping. The careful planning, professional installation, and ecological considerations taken in this project ensure that the artificial turf enhances rather than detracts from the surrounding environment.

It enhances the neighborhood in several ways:

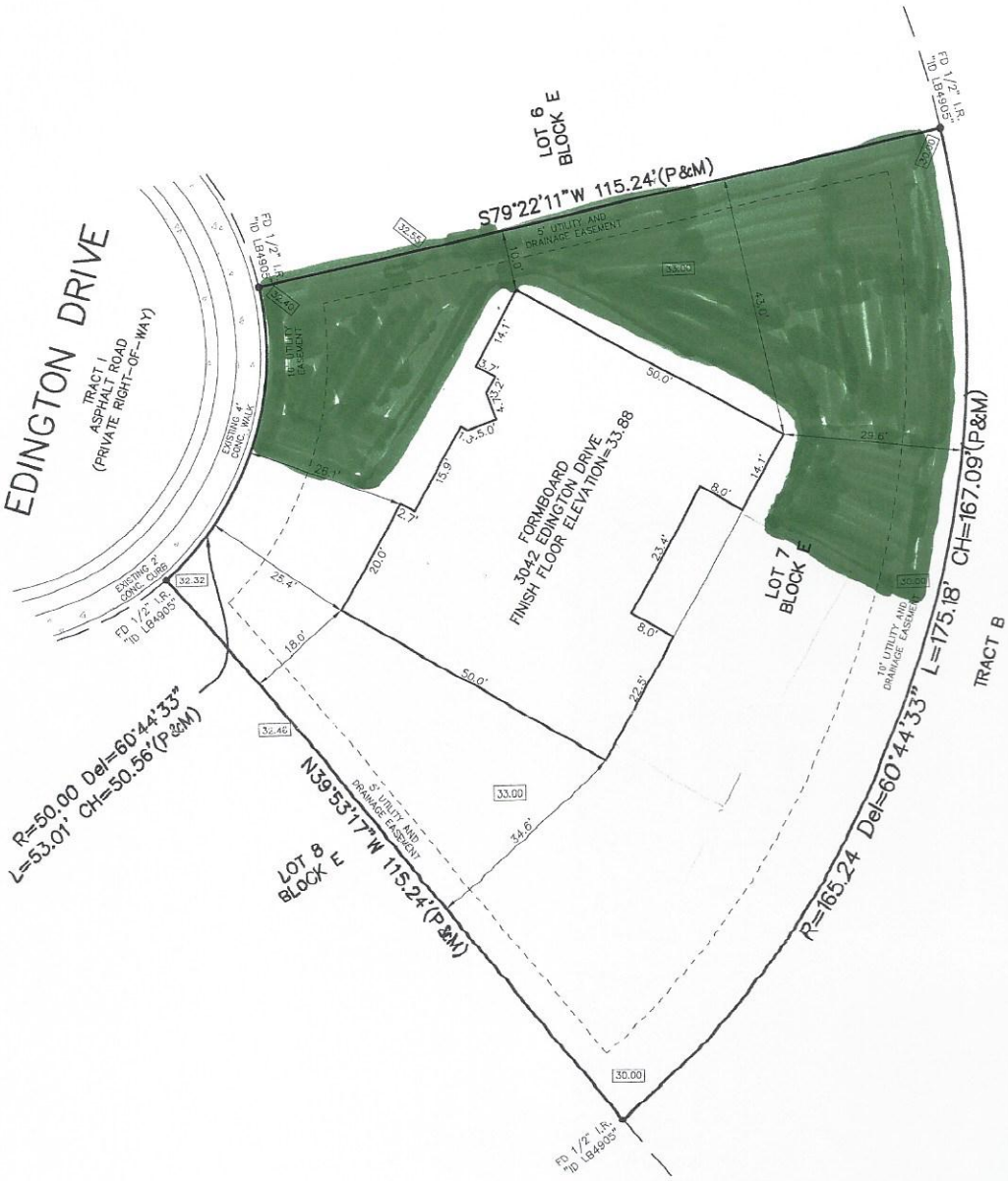
- **Improved drainage and erosion control**: The permeable artificial turf prevents water pooling, reducing runoff onto neighboring properties and minimizing erosion concerns.
- **Beautification and curb appeal**: A consistently green, well-maintained yard adds to the overall attractiveness of the community, increasing property values.
- **Eco-friendly landscaping**: By incorporating native plants and avoiding harmful pesticides and fertilizers, our yard supports local wildlife, promotes pollination, and contributes to a healthier ecosystem.
- **Reduced mosquito breeding grounds**: Eliminating standing water in low-lying areas reduces the risk of mosquito infestations, benefiting the entire neighborhood.

The use of permeable artificial turf aligns with Florida's **"Florida-Friendly Landscaping"** principles, which encourage water conservation, pollution reduction, and minimal chemical use. Cities such as Tampa, Orlando and the Palm Beach area allow for turf as a conscious landscape practice. **State-level environmental goals** support sustainable landscaping solutions like permeable turf, particularly in areas affected by water conservation issues, such as Florida.

Granting this variance, when strict adherence to zoning ordinances results in hardship without significantly affecting the public interest. We stress that allowing artificial turf—especially permeable versions—does not undermine the city's broader environmental goals, but rather enhances them by promoting water conservation, reducing pesticide use, and supporting eco-friendly landscaping

BOUNDARY SURVEY OF:

LOT 7, BLOCK E AS SHOWN ON THE PLAT OF COUNTRY CLUB ESTATES
AS RECORDED IN PLAT BOOK 60, PAGES 25–27 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



NOTE:
XX.XX =PROPOSED ELEVATION

PROFESSIONAL SURVEYOR & MAPPER IN RESPONSIBLE CHARGE
MYRON E. BARKER – FLORIDA CERTIFICATE NO. 5085
CERTIFICATE OF AUTHORIZATION LB. 6586

LEGEND

(AKA)	= ALSO KNOWN AS
℄	= CENTERLINE
C.B.	= CONCRETE BLOCK
C.B.S.	= CONCRETE BLOCK STRUCTURE
C.L.F.	= CHAIN LINK FENCE
CLR.	= CLEAR
C.M.	= CONCRETE MONUMENT
CONC.	= CONCRETE
COR.	= CORNER
COVD	= COVERED
D	= DELTA
FD	= FOUND
ID	= IDENTIFICATION
I.P.	= IRON PIPE
I.R.	= IRON ROD
L	= LENGTH
L.B	= LICENSE BUSINESS
LS	= LICENSE SURVEYOR
(M)	= MEASURED
N&D	= NAIL & DISK
(P)	= PLATTED
PC	= POINT OF CURVATURE
PT	= POINT OF TANGENCY
PL	= PROPERTY LINE
P.S.M.	= PROFESSIONAL SURVEYOR & MAPPER
PRC	= POINT OF REVERSE CURVE
P.U.&D.	= PUBLIC UTILITY & DRAINAGE
R	= RADIUS
R/W	= RIGHT-OF-WAY
(TYP.)	= TYPICAL
W.F	= WOOD FENCE

SURVEYOR'S NOTES:

1) THE BEARING SYSTEM SHOWN HEREON IS BASED ON A ASSUMED BEARING OF N.79°22'11"E., ALONG THE SOUTH LINE OF LOT 6, BLOCK E.

2) AS PER FLOOD INSURANCE RATE MAP NO.12009C 0205 G, INDEX DATED 03-17-2014, THE ABOVE DESCRIBED PROPERTY LIES IN ZONE X.

3) THIS SURVEY WAS PREPARED FROM TITLE INFORMATION PROVIDED TO THE SURVEYOR. THERE MAY BE ADDITIONAL RESTRICTIONS OR EASEMENTS THAT AFFECT THE PROPERTY.

4) UNDERGROUND UTILITIES AND FOUNDATIONS HAVE NOT BEEN SHOWN.

5) LANDS SHOWN HERON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY, RESERVATION, AGREEMENT AND/OR EASEMENTS OF RECORD, SUCH INFORMATION IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHER THROUGH APPROPRIATE TITLE VERIFICATION.

6) NOT VALID WITHOUT SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

TYPE OF SURVEY: FORMBOARD
PROJECT: 19-1556
SCALE: 1" = 20'
DATE: 08/21/2019
CAD FILE: 19-1556.DWG
F.B. NUMBER:
REVISION:

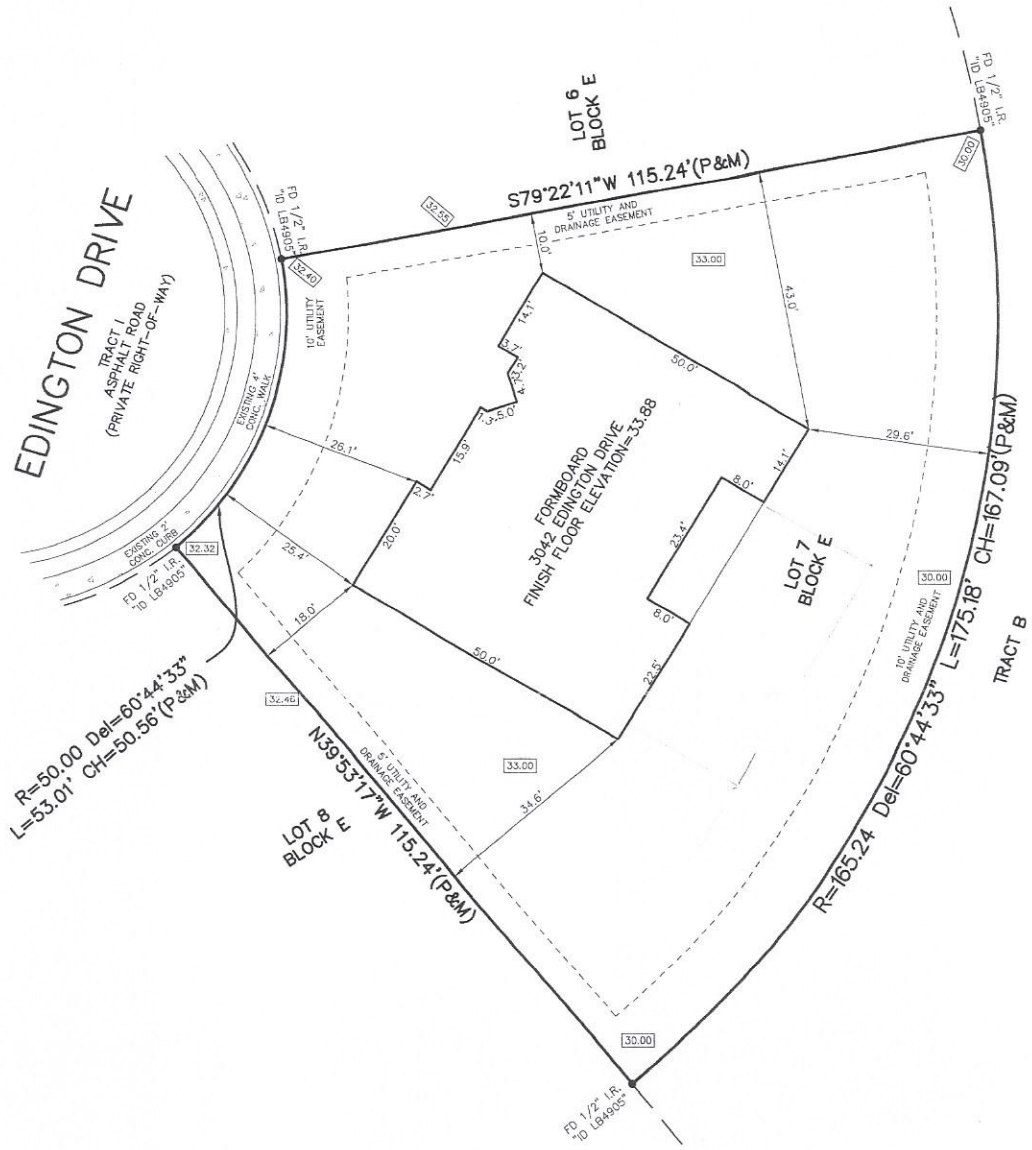
PRECISION
LAND SURVEYING, INC.
2900 LAKE WASHINGTON ROAD, SUITE 1
MELBOURNE, FLORIDA 32935
PHONE: 321-259-4600
EMAIL: PRECISIONSURVEYING1993@GMAIL.COM

CERTIFIED TO:
DAMAR HOMES, INC

PRECISION LAND SURVEYING, INC © 19-1556 August 21, 2019 8:23 PM

BOUNDARY SURVEY OF:

LOT 7, BLOCK E AS SHOWN ON THE PLAT OF COUNTRY CLUB ESTATES
AS RECORDED IN PLAT BOOK 60, PAGES 25–27 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



NOTE:
XX.XX = PROPOSED ELEVATION

PROFESSIONAL SURVEYOR & MAPPER IN RESPONSIBLE CHARGE
MYRON E. BARKER – FLORIDA CERTIFICATE NO. 5085
CERTIFICATE OF AUTHORIZATION LB. 6586

LEGEND

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2) AS PER FLOOD INSURANCE RATE MAP NO.12009C 0205 G, INDEX DATED 03–17–2014, THE ABOVE DESCRIBED PROPERTY LIES IN ZONE X.

3) THIS SURVEY WAS PREPARED FROM TITLE INFORMATION PROVIDED TO THE SURVEYOR. THERE MAY BE ADDITIONAL RESTRICTIONS OR EASEMENTS THAT AFFECT THE PROPERTY.

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PROJECT: 19–1556
SCALE: 1" = 20'
DATE: 08/21/2019
CAD FILE: 19–1556.DWG
F.B. NUMBER:
REVISION:

PRECISION
LAND SURVEYING, INC.
2900 LAKE WASHINGTON ROAD, SUITE 1
MELBOURNE, FLORIDA 32935
PHONE: 321–259–4600
EMAIL: PRECISIONSURVEYING1993@GMAIL.COM

CERTIFIED TO:
DAMAR HOMES, INC

PRECISION LAND SURVEYING INC. 19–1556 August 21, 2019 8:35 PM

LABORATORY TEST SUMMARY

Report # 82379-01
Lab Test Number: 3248-5867
Report Date: February 22, 2021

ASTM F1551, DIN 18-035 Part 6; Water Permeability

www.testingservices-usa.com ▪ (706)226-1400
office@testingservices-usa.com

CLIENT:

Company:	Turf Distributors
Address:	42505 Rionedo Road
	Temecula, CA 92590
Requested By:	Dillon Georgian

TEST MATERIAL:

Date Material Received:	February 8, 2021
Material Type:	Synthetic Turf
Material Condition:	Excellent, New
Material ID:	Flow 75
Infill:	16 Grit Sand, to ¾" exposed tuft

TESTING METHODS REQUESTED:

Testing Services Inc. was instructed by the client to test for the following…			
Standard:	ASTM F1551	Test Method:	Standard Test Methods for Comprehensive Characterization of Synthetic Turf Playing Surfaces and Materials: Suffix-DIN 18-035, Part 6: Water Permeability of Synthetic Turf Systems and Permeable Bases

SAMPLING PLAN:

Sampling Date:	2/8/2021

- Specimen sampling is performed in the sampling department at TSI.
- The sampling size of specimens is determined by the test method requirements.
- In the event a specific sampling size is not called for, a determination will be made based on previous testing experience, and approved for use by an authorized manager.
- All samples are subjected to the outside environmental conditions of temperature and relative humidity.
- Sample requiring pre-determined exposure to specified environmental conditions based on a specific test method, take place in the departments in which they are tested

DEVIATION FROM TEST METHOD:

State reason for any Deviation from, Additions to, or Exclusions From Test Method.
None

PROCEDURE: This test method determines the rainfall drainage capacity (permeability) of the playing surface. Test data values represent drainage rates vertically thru the turf with infill listed above, and do not take into account the percolation properties of a pad and/or an underlying sub base. Three specimens, 11.5" diameter, were cut from the 15' turf roll, side-center-side manner. Each turf specimen was securely fastened to the permeability tube using mechanical flanges, ensuring vertical water flow thru the product. Water was pumped into the tube faster than could exit, until the water level reached 6". The water source was shut off, allowing the accumulated 6" water level to recede. The recede was timed via stopwatch until the water level exited the turf. The flow time was recorded in seconds. This procedure was repeated a total of 4 times where, the first pass was for conditioning, with passes 2,3,4 used for averaging. This process was repeated on the remaining specimens.

TEST SUMMARY:

Specimen #	Drainage (Seconds)	gal/min/yd²	Rainfall Capacity (inches/hour)
1	21.5	94.0	288.3
2	17.3	116.8	358.2
3	17.8	113.3	347.5
Average			331.3 inches/hour

Uncertainty:
We undertake all assignments for our clients on a best effort basis. Our findings and judgments are based on the information to us using the latest test methods available.
TSI can only ensure the test results for the specific items tested.
Unless otherwise noted in the deviations sections of this report, all tests are performed in compliance with stated test method.

Test Report Approval:

Erle Miles, III, Lab Director Testing Services (TSI) LLC

TSi Accreditation: Our laboratory is accredited by the US Dept. of Commerce, National Institute of Standards and Technology: ISO/IEC 17025:2005. Our code # is: NVLAP 100108-0.
TSi is an Organizational Member of ASTM (American Society for Testing and Materials). TSi is a certified independent testing laboratory by the STC (Synthetic Turf Council).

NVLAP TESTING 100108-0

Testing Services (TSI) LLC
817 Showalter Avenue
PO Box 1343
Dalton, GA 30721

OUR LETTERS AND REPORTS APPLY ONLY TO THE SAMPLE TESTED AND ARE NOT NECESSARILY INDICATIVE OF THE QUALITIES OF APPARENTLY IDENTICAL OR SIMILAR PRODUCTS. THESE LETTERS AND REPORTS ARE FOR THE USE ONLY OF THE CLIENT TO WHOM THEY ARE ADDRESSED AND THEIR COMMUNICATION TO ANY OTHERS OR THE USE OF THE NAME TESTING SERVICES, INC. MUST RECEIVE OUR PRIOR WRITTEN APPROVAL. OUR REPORTS, LETTERS, NAME, SEALS, OR INSIGNIA ARE NOT UNDER ANY CIRCUMSTANCES TO BE USED IN ADVERTISING TO THE GENERAL PUBLIC.

TURF DISTRIBUTORS

DETAILED SPECIFICATION SHEET

FLOW 75 OLIVE

Yarn Type	UV Polyethylene - W Shape
Denier	10800 / 4400
Approximate Pile Height	1.5 in.
Machine Gauge	3/8 inch
Roll Size	15 x 100 linear feet
Approximate Infill Amount	1.0 lb / psf
Primary Backing	Optimum Flow™
Total Product Weight	83.66 oz/yd²
Pile Yarn Weight	49.20 oz/yd²
Average Tuft Bind Strength	10.8 lbs/force
Total Lead Content	<0.5 mg/Kg
Pill Flammability	8 out of 8 Pass
Water Permeability	331.3 in/hr
QUV Accelerated Weathering	Color: 9 / Texture: 10

Recommended Uses

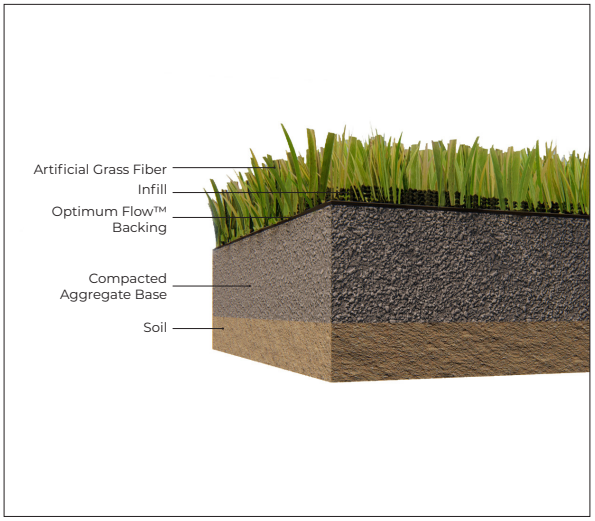
- Landscape
- Commercial
- Play Areas
- Pets

Flow 75 Olive is equipped with Optimum Flow™ technology for exceptional drainage. This is our preferred product for pet applications due to its permeability and slightly stiffer blade structure, which makes cleaning a breeze. Flow 75 Olive is also perfect for landscape, putting fringe, and anywhere else a medium density product is needed.

16 Year Warranty

Optimum Flow™ Technology

Made in the U.S.A.



VistaPet™

16-Year Product Warranty

Yarn Type	DuraBlade™ - Wave Blade
Denier	11,337
Pile Height	~1.125”
Machine Gauge	3/8“
Roll Size	15’ x 100’
Primary Backing	TriFlow Backing™
Product Weight	~90 oz
Pile Yarn Weight	~59oz
Average Tuft Bind Strength	3.0 lbs of force
Total Lead Content	0.66 ppm
Pill Flammability	8 Out of 8 Pass
Water Permeability	88” per Hour

durablade™ PFAS FREE

Recommended Uses

- Pets & Kids
- High Traffic
- Living Spaces

VistaPet™ is engineered to meet the specific needs of pet owners, providing a safe, durable, and easy-to-maintain solution. Our turf stands out due to its innovative features and high-quality construction, making it the ideal choice for any pet-friendly environment

(951) 384-6540 | ssa@turfdistributors.com | www.turfdistributors.com

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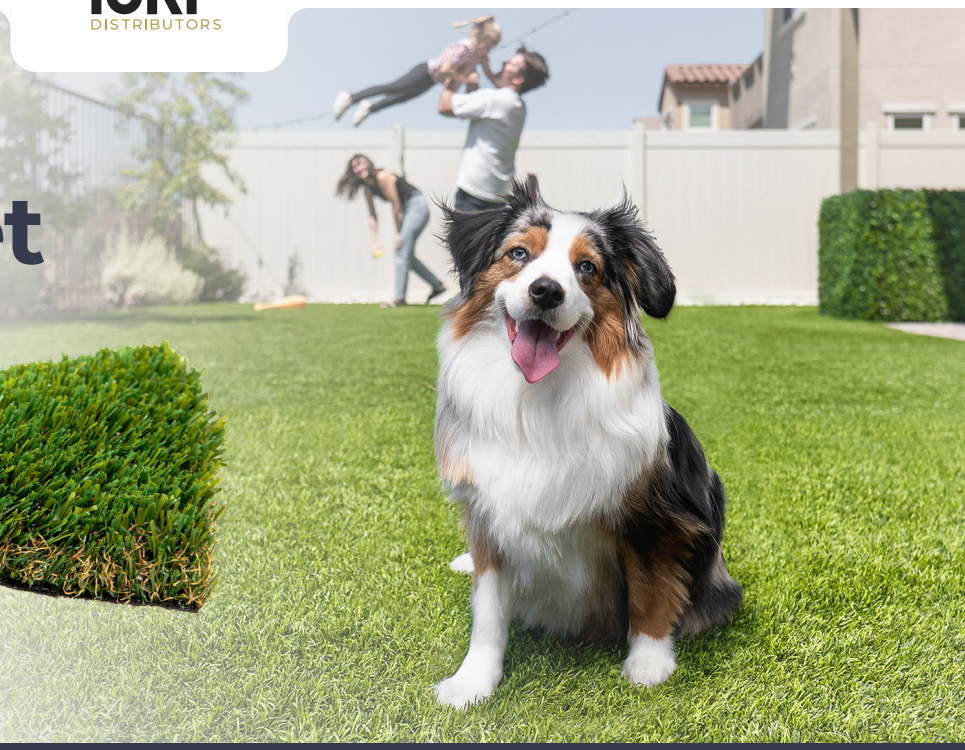
TURF DISTRIBUTORS

VistaScape™

VistaPet



Stock VistaPet and Boost Your Sales!

The Ultimate Paw Perfect Turf

VistaPet is a premium, high-quality turf solution specifically designed for pet-friendly environments. Its unique features, superior durability, and exceptional safety make it a standout product that provides unmatched value for pet owners.

Benefits for Pet Owners

Easy Cleanup

High Flow Rate
The high flow rate helps wash away messes quickly, ensuring the turf remains hygienic and odor-free.

Moisture-Wicking Properties
Keeps the surface dry, preventing odors and maintaining a comfortable environment for pets.

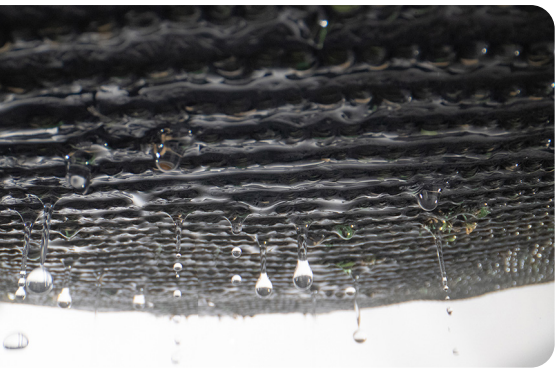
Durability

Withstands Heavy Use
Designed to handle the demands of active pets, providing a reliable and long-lasting solution.

Safety First

PFAS Free & Lead Free
Ensures a safe play area for pets and children, offering peace of mind to pet owners.

Key Features of VistaPet



TriFlow Backing™

Three-Layer Backing System

1. **Strong Woven Polypropylene Base:** The bottom layer is made from durable polypropylene, ensuring your grass stays strong and stable, even under heavy use.
2. **Flexible Non-Woven Polypropylene:** The middle layer enhances the structural strength of your turf while maintaining excellent permeability and flexibility. This ensures robust support without compromising water flow.
3. **Clear, Thin but Robust Coating:** The top layer features a clear coating that helps bind the artificial grass fibers in place, adds to the overall strength of the backing, and still allows water to flow through easily, ensuring your lawn remains dry and safe even after heavy rainfall.

Excellent Drainage

Quickly channels water away to keep the turf dry and ready to use.

Long-Lasting Durability

Built to withstand wear & tear, ensuring it remains beautiful and resilient for years.

Superior Fiber Binding

The clear coating ensures that grass fibers are securely held in place, enhancing overall stability and longevity.

DuraBlade™ Technology

Robust Construction

Ensures the blades remain strong & resilient, providing long-lasting performance.

Aesthetic Appeal

Mimics the look and feel of natural grass, enhancing any outdoor area.

Pet & Child Safe

PFAS Free & Lead Free

Guarantees a safe environment for pets and children.

Safe for Pets & Children

Parents can be confident that their children can play on the turf without exposure to harmful substances.

Total Weight
~91 oz.

Face Weight
~64 oz.

Pile Height
1.125”

Warranty
16-Years

Join Us Today!

Stock VistaPet and Provide Your Customers with the Best in Pet-Friendly Artificial Turf.

(951) 384-6540
info@turfdistributors.com
www.turfdistributors.com

Sec. 30-321. Plant materials.

(a) *Quality:* Plant material used in conformance with the provisions of this article shall be good, healthy and sturdy plants. All plant material shall be Florida #1 grade or better. Plant materials which are known to be intolerant of paving environments or whose physical characteristics may be injurious to the public or which produce a quantity and/or quality of debris so as to present maintenance difficulties shall not be specified for use under this article.

(b) *Native vegetation:* The applicant is encouraged to utilize plant material native to Brevard County in meeting these landscaping requirements. The existing vegetation that is native to Brevard County with the exception of that listed in Section 30-4(d) shall be preserved and utilized except when removal is justified and determined to be acceptable by the enforcement official (see Landscape Technical Manual).

(c) *Ground cover:* Ground covers, other than grass, shall be planted in such a manner so as to present a finished appearance and reasonably complete coverage within six (6) months after planting (see Landscape Technical Manual).

(d) *Lawn grass:* Grass areas shall be planted in species normally grown as permanent lawns in Brevard County. Seeding and sprigging may be used if grass cover is complete within six (6) months, or sodding will be required (see Landscape Technical Manual).

(e) *Hedges:* Hedges, where required, shall be planted in sufficient number and maintained so as to form a continuous, unbroken, solid screen within a maximum of six (6) months after time of planting (see Landscape Technical Manual).

(f) *Synthetic plants prohibited:* Synthetic or artificial material in the form of trees, shrubs, ground covers, vines or artificial turf shall not be used in lieu of the plant requirements in this section.

(g) *[Overstory trees:]* Overstory trees shall be species having an average mature spread of crown of greater than twenty (20) feet and reach a mature height of at least sixty (60) feet, and having a trunk which can be maintained in a clean condition with over five (5) feet of clear wood (no branches). Trees, including palms, having an average mature spread of crown less than twenty (20) feet may be arranged in groupings so as to create the equivalent of twenty-foot crown spread and shall count as one (1) required tree. Invasives shall not be used to fulfill the requirements of this article (see Landscape Technical Manual).

(h) *Caliper:* Plant materials required by this section shall comply with the minimum size requirements of Table 30-5, Minimum landscape planting specifications at the time of installation. Plant height shall be measured from the average grade level of the immediate planting area to the top horizontal plane of the shrub at planting; for single-trunk trees, the measurement shall be taken six (6) inches above grade level; for multitrunk trees, the tree shall be measured from the average grade level of the immediate planting area.

(i) *Planting areas and shrubs:* Planting areas shall consist of permeable surface areas only. The permeable surface areas for shrubs may be included with permeable surface areas required for trees.

(j) *Pavement edges:* Each overstory, coniferous, understory [tree] or shrub shall be planted at least twelve (12) inches from the edge of any paved surface.

(k) *Irrigation:* Irrigation must be indicated on the landscape plan. Any landscape area must be shown by water tolerant usage area.

Aerial 2024

VAR #11-2025

0 150 300 600 Feet

Community Development Department

Aerial photography provided by the Brevard County Property Appraiser's Office

4/2/2025

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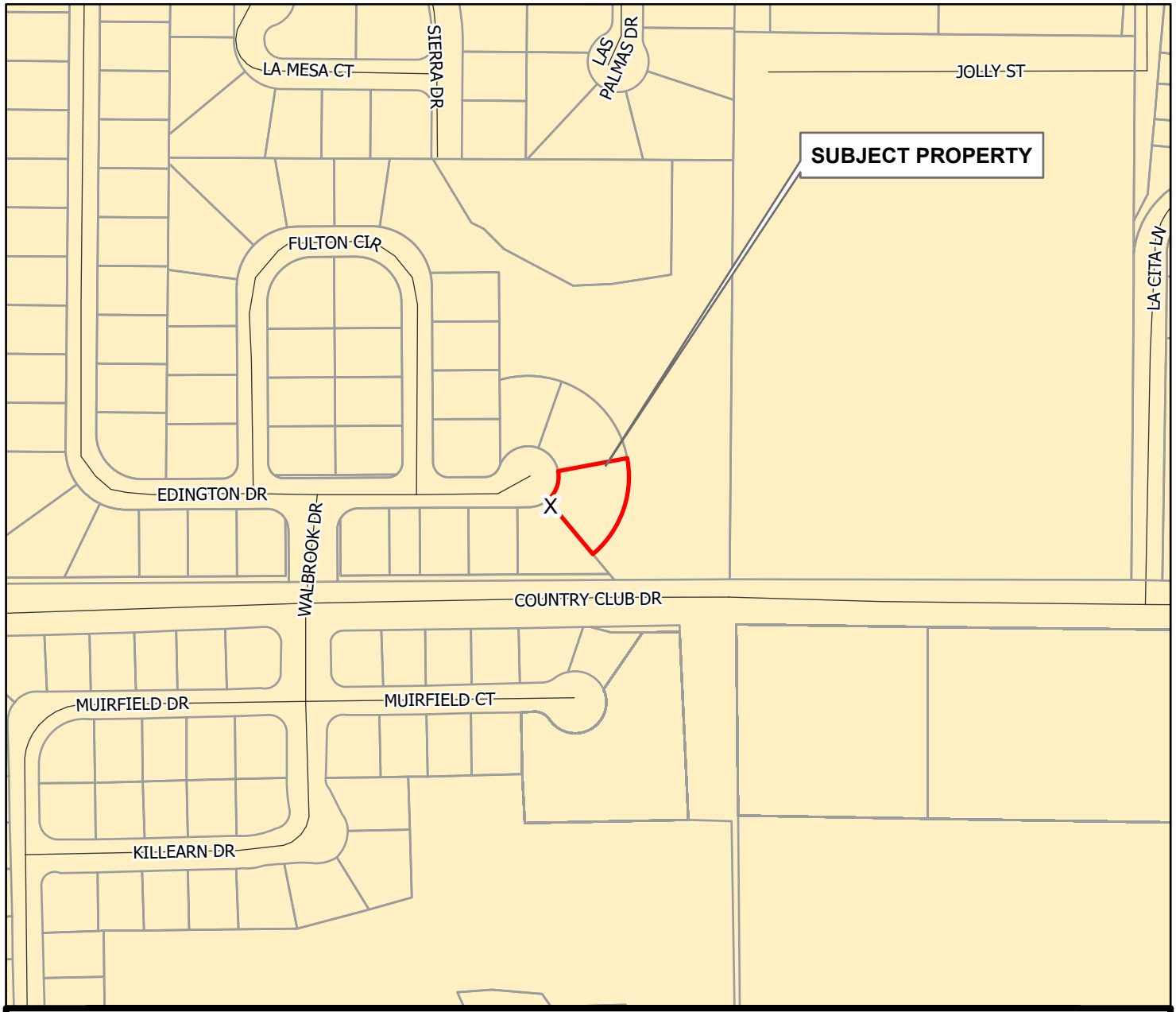

FEMA FLOOD HAZARD AREAS

VAR #11-2025

Special Flood Hazard Area Zones

- A
- A0
- AE
- AO
- VE

Moderate Flood Hazard Area Zone

- X5

Minimal Flood Hazard Zones

- C
- X
- X .2 PCT

Other Flood Zone Areas

- D
- FW

N W E S

0 150 300 600 Feet

Community Development Department

Source: FEMA FHA Update, 01/29/2021

4/2/2025

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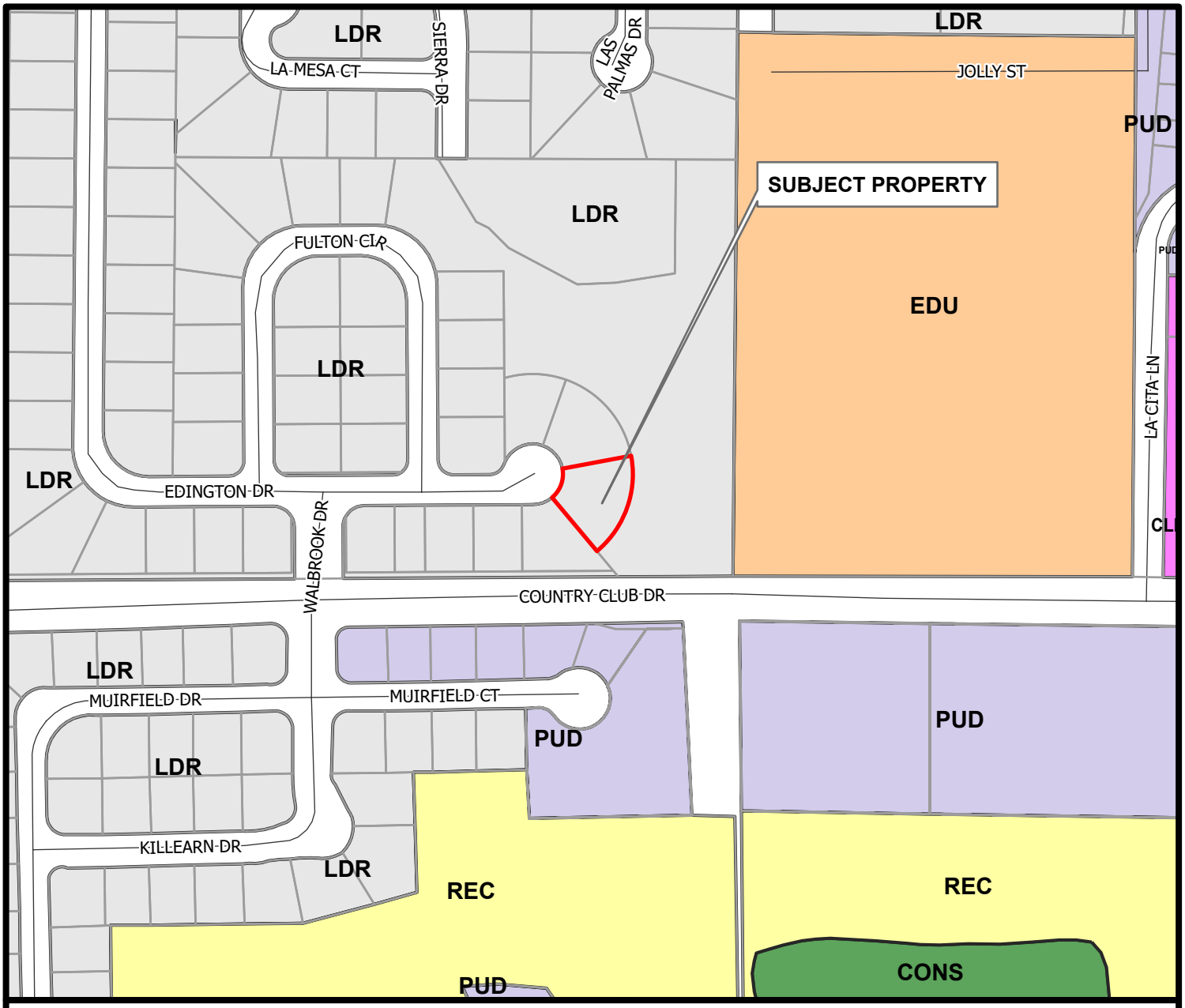

LOCATION OF PROPERTY AND FUTURE LAND USE MAP

CHI	COMMERCIAL HIGH INTENSITY	ED	EDUCATIONAL	PIP	PLANNED INDUSTRIAL PARK	RES-2	RESIDENTIAL-2
CLI	COMMERCIAL LOW INTENSITY	IND	INDUSTRIAL	PSP	PUBLIC/ SEMI-PUBLIC	RMU	REGIONAL MIXED USE
CONS	CONSERVATION	HDR	HIGH-DENSITY RESIDENTIAL	PUD	PLANNED UNIT DEVELOPMENT	SMU	SHORELINE MIXED-USE
DMU	DOWNTOWN MIXED-USE	MDR	MEDIUM-DENSITY RESIDENTIAL	REC	RECREATIONAL	UMU	URBAN MIXED-USE
		LDR	LOW-DENSITY RESIDENTIAL	RES-1	RESIDENTIAL-1	US1	US-1 CORRIDOR

Subject

N W E S

0 150 300 600 Feet

Community Development Department

4/2/2025

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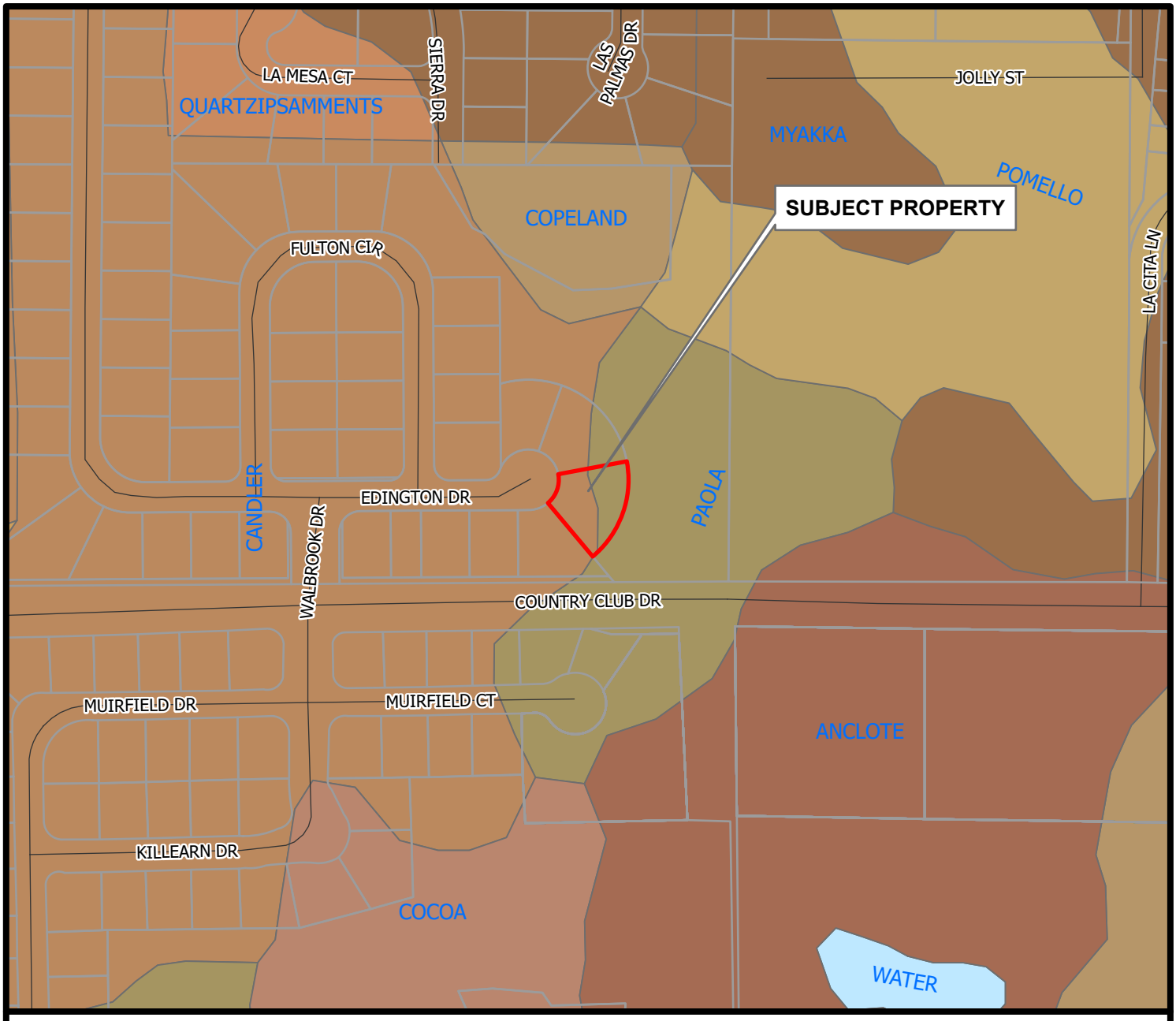


SOILS IN THE VICINITY OF SUBJECT PROPERTY
VAR #11-2025

SoilName

- ANCLOTE
- CANDLER
- COCOA
- COPELAND
- EVERGLADES
- MYAKKA
- PAOLA
- POMELLO
- QUARTZIPSAMMENTS
- WATER

N W E S

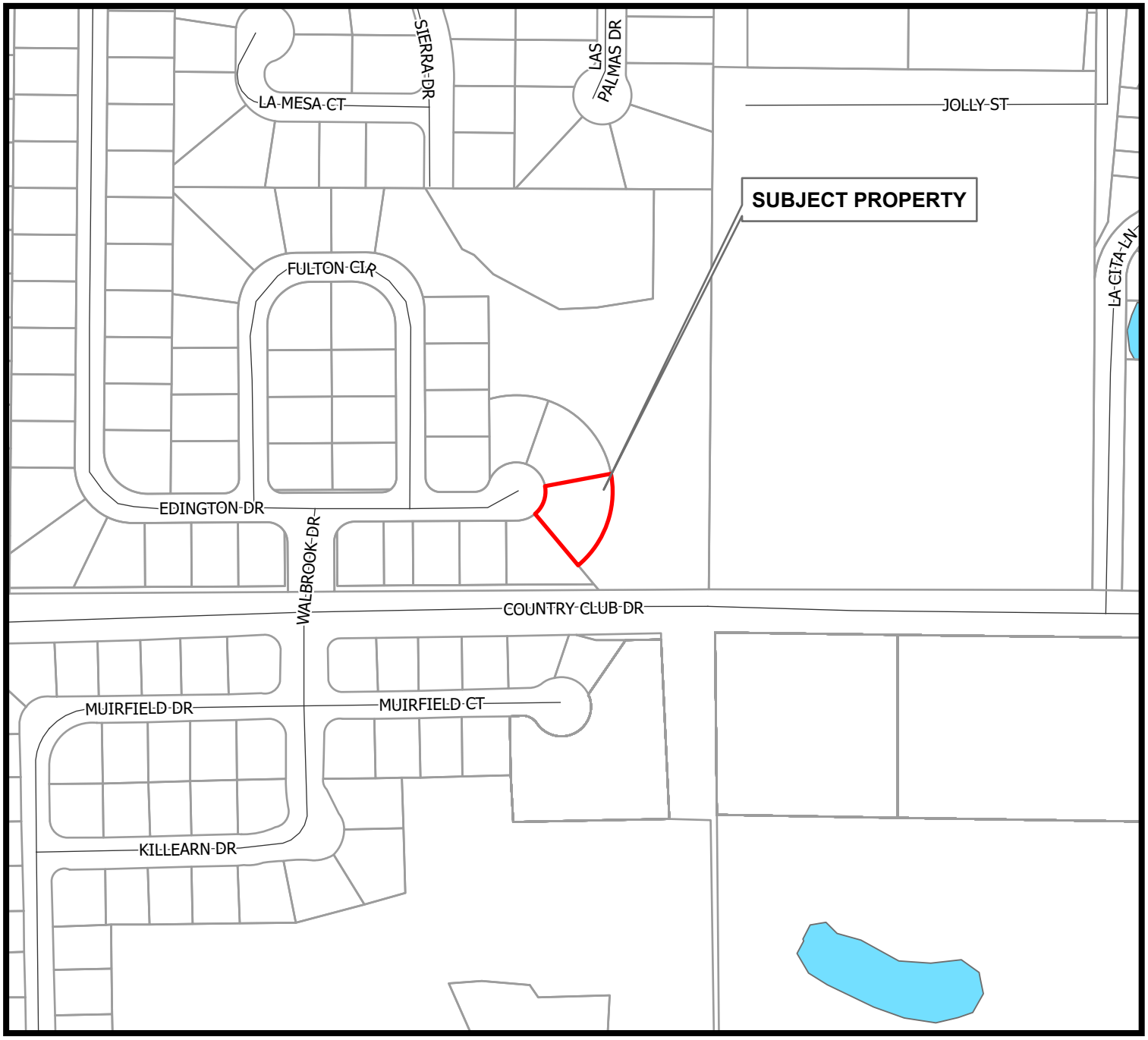
0 150 300 600 Feet

Community Development Department

Soils data source: The U.S. Department of Agriculture, Natural Resources Conservation Service. (2019)

4/2/2025

Document Path: Q:\GIS\Community Development\PLANNING\Planning Templates\ArcPro\PlanningMaps\PlanningMaps.aprx



WETLANDS IN VICINITY OF PROPERTY

VAR

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WETLAND_TY

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Riverine

4/2/2025

Scale:1:3,000

Community Development Department
Source: USFWS NWI (2023)

This data set represents the approximate location and type of wetlands and deepwater habitats. The primary intended use is for regional and watershed data display and analysis, rather than specific project data analysis.

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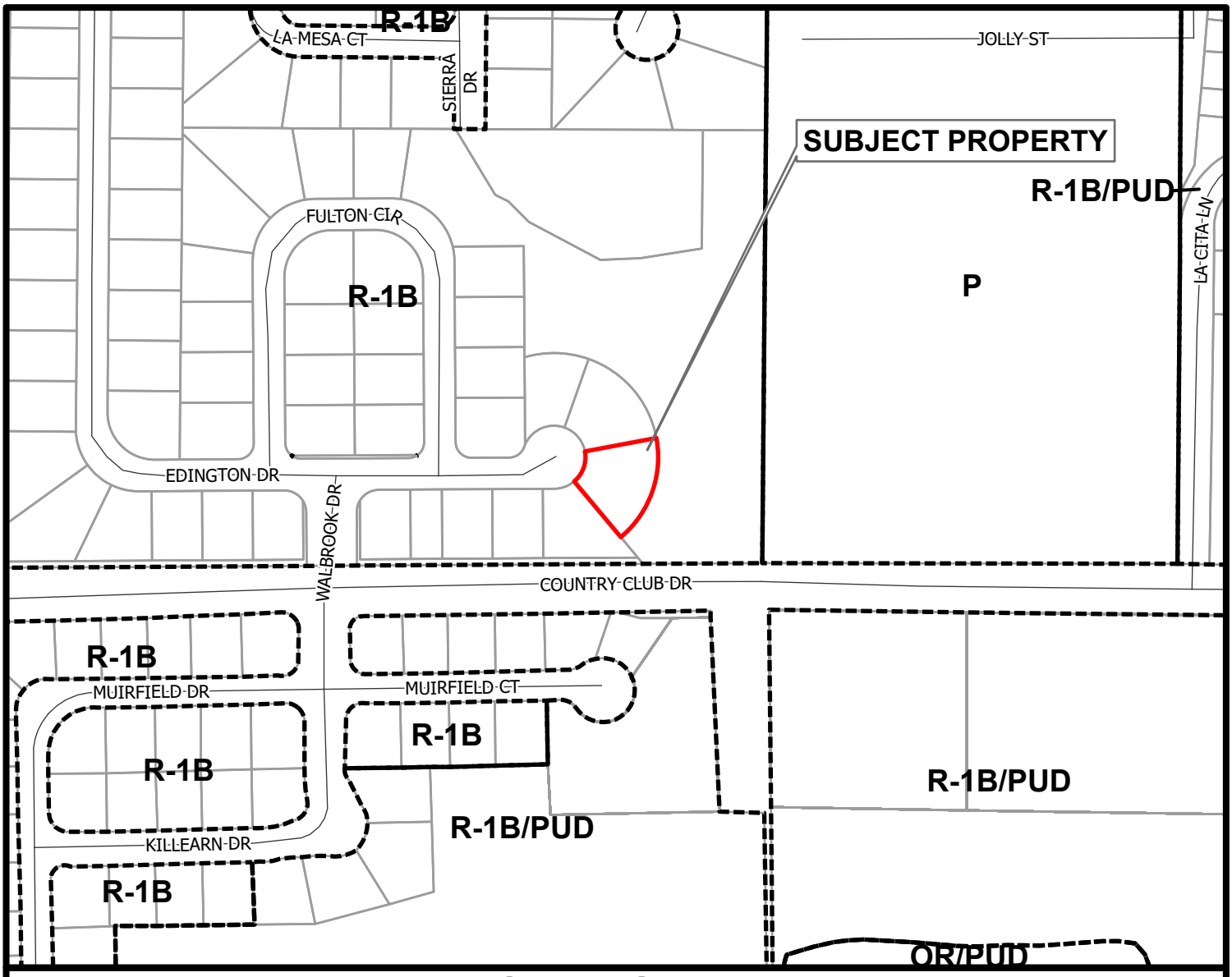

ZONING MAP

RESIDENTIAL DISTRICTS

RE	RESIDENTIAL ESTATES
RR	RURAL RESIDENTIAL
R-1A	SINGLE FAMILY, LOW DENSITY
R-1B	SINGLE FAMILY, MEDIUM DENSITY
R-1C	SINGLE FAMILY, HIGH DENSITY
R-2	MULTIFAMILY, MEDIUM DENSITY
R-3	MULTIFAMILY, HIGH DENSITY
RMH-1	RESIDENTIAL MANUFACTURED HOUSING SUBDIVISION
RMH-2	RESIDENTIAL MANUFACTURED HOUSING PARK

COMMERCIAL DISTRICTS

HM	HOSPITAL MEDICAL
T	TOURIST
NC	NEIGHBORHOOD COMMERCIAL
CC	COMMUNITY COMMERCIAL
RC	REGIONAL COMMERCIAL
OP	OFFICE PROFESSIONAL

INDUSTRIAL DISTRICTS

M-1	LIGHT INDUSTRIAL SERVICES AND WAREHOUSING
M-2	HEAVY INDUSTRIAL
M-3	HIGHWAY INDUSTRIAL INFILL
PID	PLANNED INDUSTRIAL DEVELOPMENT

OVERLAY DISTRICTS

TSA	TITUSVILLE SHORELINE AREA
AIA	AIRPORT IMPACT AREA
WCA	WETLAND AND CONSERVATIONA AREA
ACC	AREA OF CRITICAL CONCERN
HPA	HISTORIC PRESERVATION AREA

SPECIAL DISTRICTS

GU	GENERAL USE
OR	OPEN SPACE AND RECREATION
UMU	URBAN MIXED USE
SMU	SHORELINE MIXED USE
RHP	RESIDENTIAL HISTORIC PRESERVATION
RMU	REGIONAL MIXED USE
PD	PLANNED DEVELOPMENT
P	PUBLIC
UV	URBAN VILLAGE
DMU	DOWNTOWN MIXED USE
IRCN-R	INDIAN RIVER CITY NEIGHBORHOOD RESIDENTIAL
IRCN-C	INDIAN RIVER CITY NEIGHBORHOOD COMMERCIAL

N
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TITUSVILLE, FLORIDA
FOUNDED 1867

Base Map

City Limits

Zoning

Subject

VAR #11-2025

0 150 300 600 Feet

Community Development Department

4/2/2025