

ORDINANCE NO. 2023-277

An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas by rezoning approximately 7.11 acres of property generally located at 3715 NW 12<sup>th</sup> Avenue, as more specifically described in this ordinance, from Conservation (CON) to Planned Development (PD); providing land development regulations; providing directions to the City Manager; providing a severability clause; providing a repealing clause; and providing an effective date.

**WHEREAS**, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, secures for municipalities the broad exercise of home rule powers granted by Article VIII, Section 2 of the Florida Constitution, including the exercise of any power for municipal purposes not expressly prohibited by law; and

**WHEREAS**, Section 163.3167, Florida Statutes, requires the City of Gainesville to maintain a Comprehensive Plan to guide the future development and growth of the city; and

**WHEREAS**, Section 163.3177(6), Florida Statutes, requires the City of Gainesville Comprehensive Plan to include a Future Land Use Element with a Future Land Use Map that designates the future general distribution, location, and extent of the uses of land for residential, commercial, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land, with the goals of protecting natural and historic resources, providing for the compatibility of adjacent land uses, and discouraging the proliferation of urban sprawl; and

**WHEREAS**, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or amend and enforce land development regulations that are consistent with and implement the Comprehensive Plan and that are combined and compiled into a single land development code for the city; and

29 **WHEREAS**, the City of Gainesville Land Development Code (Chapter 30 of the City of Gainesville  
30 Code of Ordinances) establishes zoning districts to implement the Comprehensive Plan and  
31 land development regulations on specific classifications of land within the city; and

32 **WHEREAS**, this ordinance, which was noticed as required by law, will amend the Zoning Map  
33 Atlas by rezoning the property that is the subject of this ordinance to Planned Development  
34 (PD) district; and

35 **WHEREAS**, PD district zoning is a zoning category that allows landowners or developers to  
36 submit unique proposals that are not addressed or otherwise provided for in the zoning  
37 districts and land development regulations established by the City of Gainesville Land  
38 Development Code; and

39 **WHEREAS**, the PD zoning district, including all of its unique and specific land development  
40 regulations, is freely negotiated and voluntarily agreed to by the owner/developer of the  
41 subject property, thereby precluding any claims or actions under Florida law regarding  
42 regulatory takings, the Bert J. Harris, Jr., Private Property Rights Protection Act, development  
43 exactions under common law or Section 70.45, Florida Statutes, or the affordable housing  
44 provisions in Section 125.01055, Florida Statutes; and

45 **WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of  
46 the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency  
47 pursuant to Section 163.3174, Florida Statutes, held a public hearing on March 23, 2023, and  
48 voted to recommend that the City Commission approve this rezoning; and

49 **WHEREAS**, an advertisement no less than two columns wide by ten inches long was placed in a  
50 newspaper of general circulation and provided the public with at least seven days' advance  
51 notice of this ordinance's first public hearing to be held by the City Commission; and

52 **WHEREAS**, a second advertisement no less than two columns wide by ten inches long was  
53 placed in the aforesaid newspaper and provided the public with at least five days' advance  
54 notice of this ordinance's second public hearing to be held by the City Commission; and

55 **WHEREAS**, the public hearings were held pursuant to the notice described above at which  
56 hearings the parties in interest and all others had an opportunity to be and were, in fact,  
57 heard; and

58 **WHEREAS**, the City Commission finds that the rezoning of the subject property will be  
59 consistent with the City of Gainesville Comprehensive Plan when the amendment to the  
60 Comprehensive Plan adopted by Ordinance No. 2023-276 becomes effective as provided  
61 therein.

62 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**  
63 **FLORIDA:**

64 **SECTION 1.** The Zoning Map Atlas of the City of Gainesville is amended by rezoning the  
65 following property from Conservation (CON) to Planned Development (PD):

66 See legal description attached as **Exhibit A** and made a part hereof as if set forth  
67 in full. The location of the property is shown on **Exhibit B** for visual reference.  
68 In the event of conflict or inconsistency, **Exhibit A** shall prevail over **Exhibit B**.  
69

70 **SECTION 2.** The use and development of the property described in Section 1 of this  
71 ordinance must be consistent with the PD layout plan attached as **Exhibit C** and made a part  
72 hereof as if set forth in full, as well as the regulations listed below. Except as expressly provided  
73 in **Exhibit C** and the conditions below, the use, regulation, and development of the property  
74 will be governed as if it were zoned Conservation (CON) and all development must be in  
75 conformance with and regulated by the Land Development Code in effect at the time of  
76 development approvals.

1. Uses allowed by right: outdoor recreation and accessory uses.
2. The following building placement standards apply to this PD, based on the setbacks in the RSF-1 zoning district:
  - Front: 20ft from property line
  - Side (Street): 10ft from property line
  - Side (Interior): 7.5ft from property line
  - Rear: 20ft
  - Rear, accessory: 7.5ft
3. The maximum building height is 3 stories, consistent with the building height in the RSF-1 zoning district.
4. The maximum area of impervious surfaces is 3 acres.
5. The maximum number of site access points is 2.

**SECTION 3.** The conditions and requirements in this ordinance will remain effective until such time as, upon either the City or the property owner(s) filling an application for rezoning, the City adopts an ordinance rezoning the subject property to another zoning district consistent with the Comprehensive Plan and Land Development Code.

**SECTION 4.** The City Manager or designee is authorized and directed to make the necessary changes to the Zoning Map Atlas to comply with this ordinance.

**SECTION 5.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding will not affect the other provisions or applications of this ordinance that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

**SECTION 6.** All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

**SECTION 7.** This ordinance will become effective immediately upon adoption; however, the

104 rezoning will not become effective until the amendment to the City of Gainesville  
105 Comprehensive Plan adopted by Ordinance No. 2023-276 becomes effective as provided  
106 therein.

107 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

108

109

110

111 \_\_\_\_\_  
HARVEY L. WARD

112 MAYOR

113

114 Attest: Approved as to form and legality:

115

116

117

118 \_\_\_\_\_  
OMICHELE D. NATTIEL-WILLIAMS

119 CITY CLERK

120

121

122

123 This ordinance passed on first reading the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

124

125 This ordinance passed on adoption reading the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

## Exhibit A to Ordinance 2023-277

May 24, 2023

### Legal Description

A portion of the Southeast 1/4 of Section 35, Township 9 South, Range 19 East, City of Gainesville, Alachua County, Florida; being more particularly described as follows:

The West 700 feet of the North 505 feet of the South 1515 feet of the Southeast 1/4 of Section 35, Township 9 South, Range 19 East, Alachua County, Florida.

LESS:

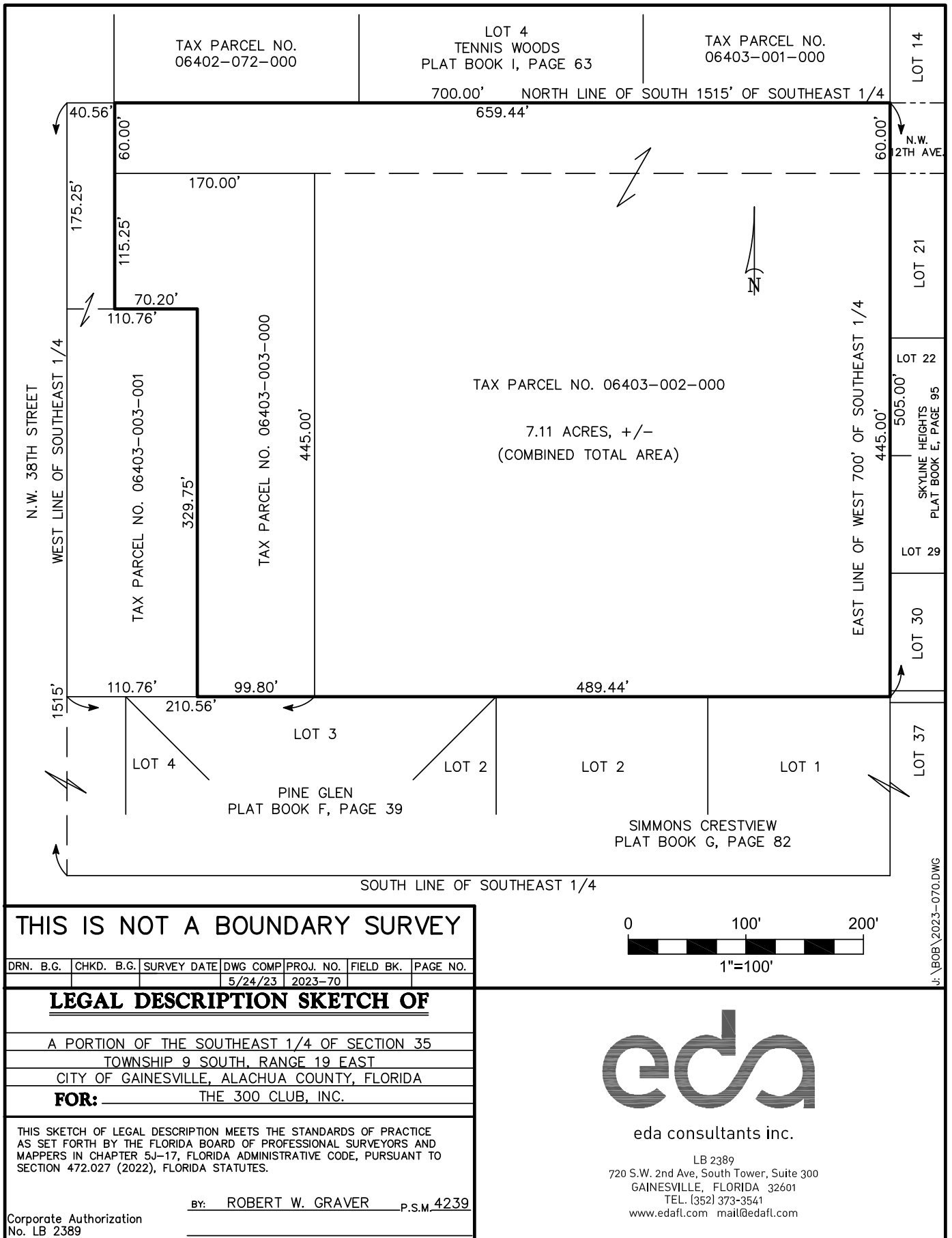
The West 110.76 feet of the South 329.75 feet of the North 505 feet of the South 1515 feet of the Southeast 1/4 of Section 35, Township 9 South, Range 19 East, Alachua County, Florida.

AND LESS:

The West 40.56 feet of the North 175.25 feet of the South 1515 feet of the Southeast 1/4 of Section 35, Township 9 South, Range 19 East, Alachua County, Florida.

Containing 7.11 Acres, more or less.

## Exhibit A to Ordinance 2023-277

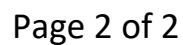


Parcels: 06403-002-000 & 06403-003-000





Parcels: 06403-002-000 & 06403-003-000



# Exhibit C to Ordinance 2023-277

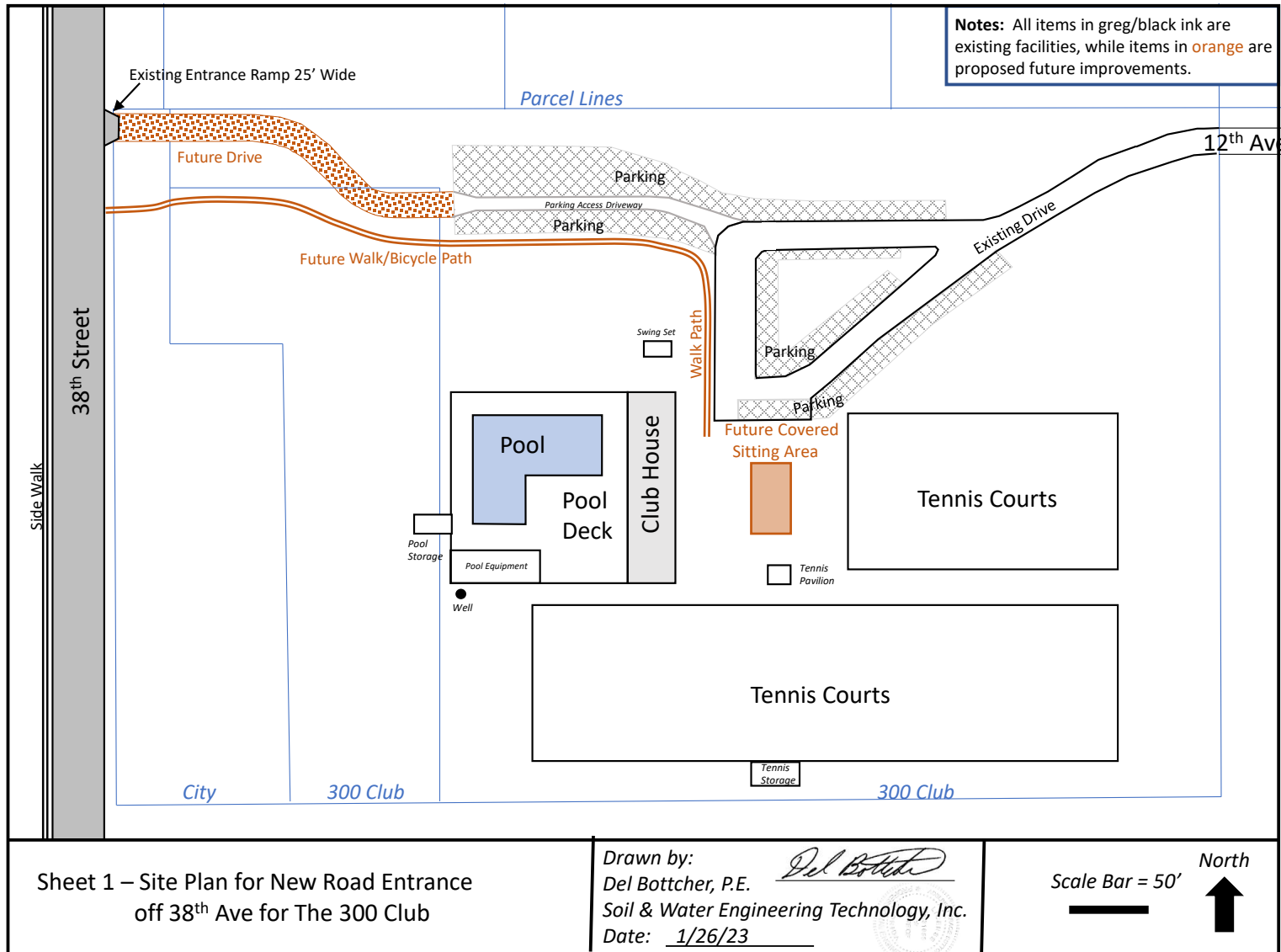


Exhibit C to Ordinance 2023-277

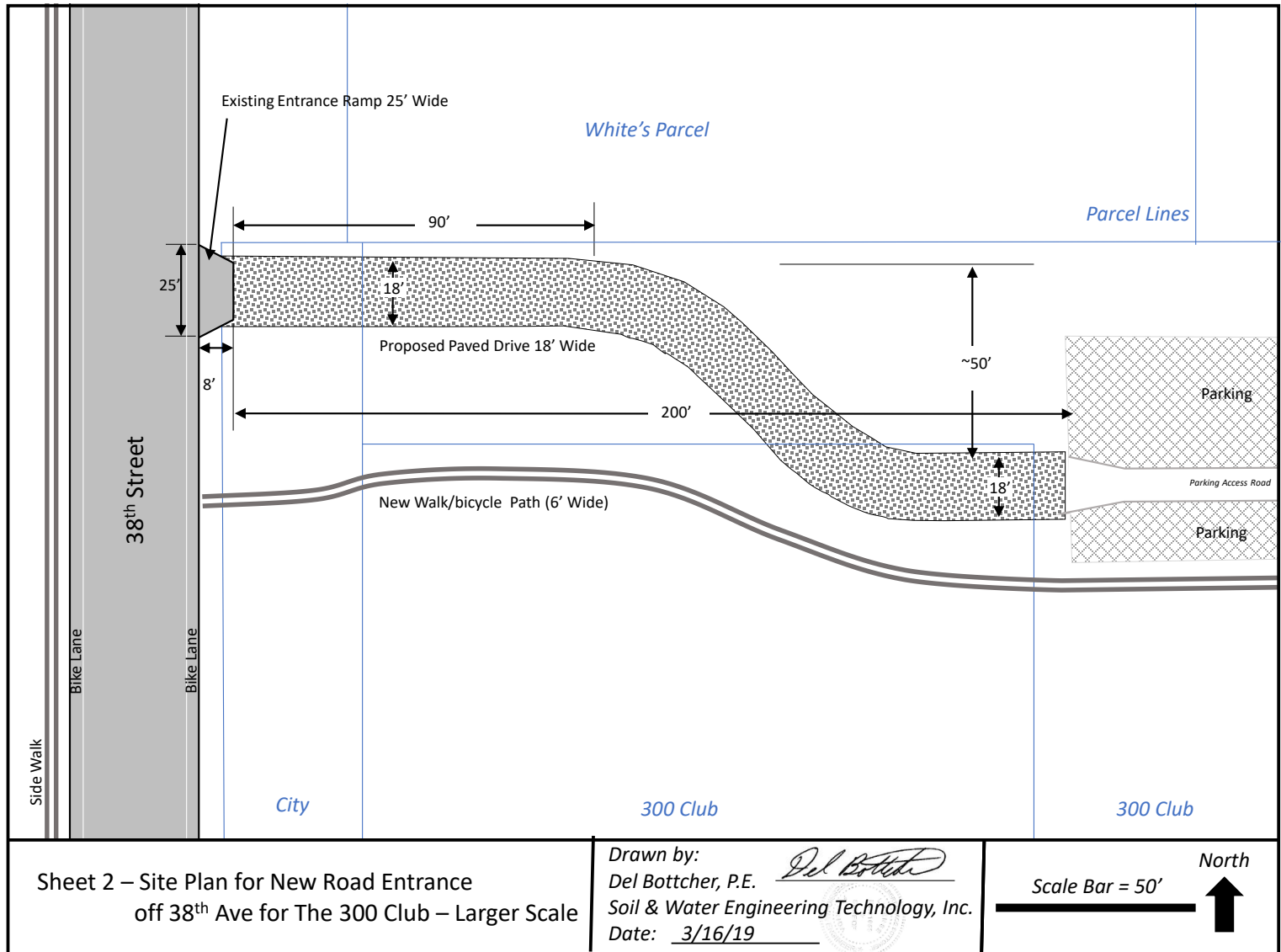


Exhibit C to Ordinance 2023-277

