

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 12th 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

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

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

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

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

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

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

WHEREAS, a second advertisement no less than two columns wide by ten inches long was placed

in the aforesaid newspaper and provided the public with at least five days' advance notice of this ordinance's second public hearing to be held by the City Commission; and

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

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

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

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

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

SECTION 2. The use and development of the property described in Section 1 of this ordinance must be consistent with the PD layout plan attached as **Exhibit C** and made a part hereof as if set forth in full, as well as the regulations listed below. Except as expressly provided in **Exhibit C** and the conditions below, the use, regulation, and development of the property will be governed as if it were zoned Conservation (CON) and all development must be in conformance with and regulated by the Land Development Code in effect at the time of 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.
 6. The property owner/developer shall maintain along the northern property boundary a Type C compatibility buffer with a minimum width of 15 feet pursuant to Section 30-8.5 of the Land Development Code. The compatibility buffer may include driveways as needed for the property. Removal of any regulated trees as a result of driveway improvements will require mitigation plantings in accordance with the Land Development Code. Vegetation existing within the compatibility buffer as of the effective date of this ordinance must be retained to the greatest extent practicable, and will satisfy any applicable Land Development Code requirement for plantings. The owner/developer shall regularly manage and maintain the compatibility buffer, including the regular replanting of any damaged or destroyed vegetation.
 7. The installation of the western entrance must be designed to accommodate trees that are existing as of the effective date of this ordinance to the greatest extent practicable.

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

PASSED AND ADOPTED this _____ day of _____, 2023.

HARVEY L. WARD
MAYOR

Attest:

Approved as to form and legality:

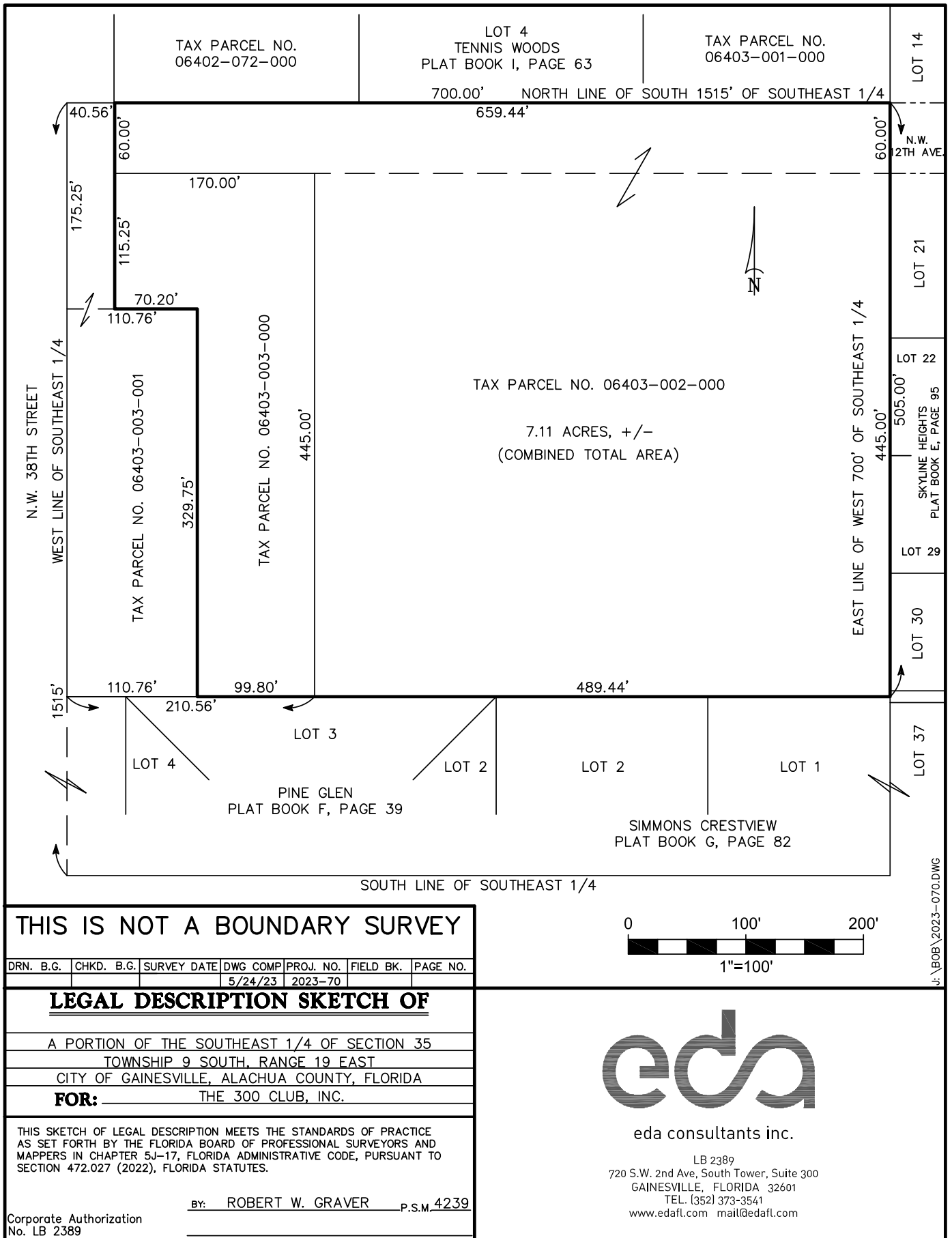
OMICHELE D. NATTIEL-WILLIAMS
CITY CLERK

DANIEL M. NEE
CITY ATTORNEY

This ordinance passed on first reading the _____ day of _____, 2023.

This ordinance passed on adoption reading the _____ day of _____, 2023.

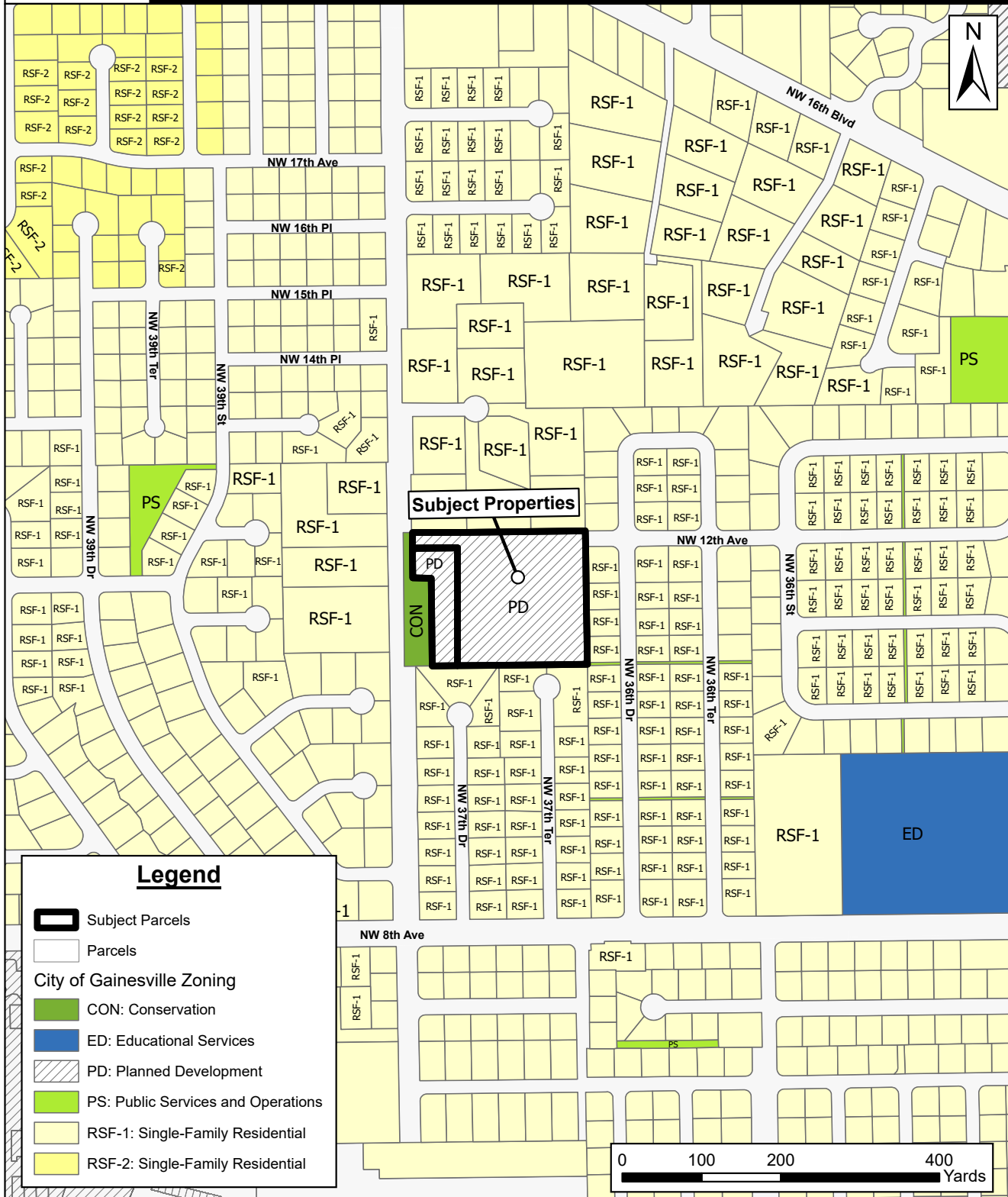
Exhibit A to Ordinance 2023-277

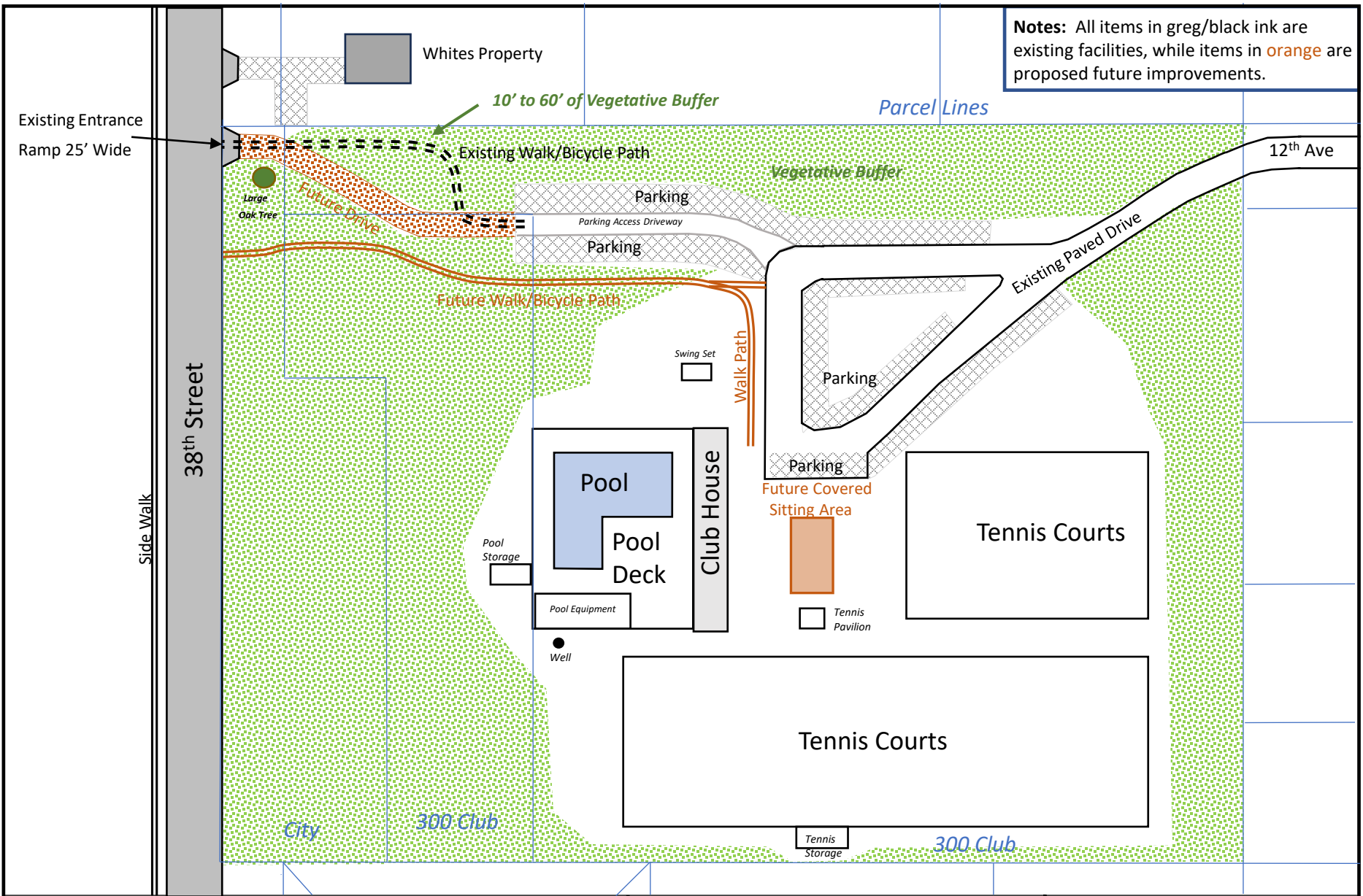


Parcels: 06403-002-000 & 06403-003-000



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Sheet 1 – Site Plan for New Driveway Entrance
off 38th Ave for The 300 Club

Drawn by:
Del Bottcher, P.E.
Soil & Water Engineering Technology, Inc.
Date: 7/18/23

Scale Bar = 100'

