



**GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION**
123 West Indiana Avenue, DeLand, Florida 32720
(386) 736-5959

PUBLIC HEARING: September 16, 2021 – Planning and Land Development Regulation Commission (PLDRC)

CASE NUMBER: V-21-126

SUBJECT: A variance to the minimum yard requirements on Urban Single-Family Residential (R-4) zoned property

LOCATION: 1120 10th Street, Orange City

APPLICANT: Ed Senez

OWNER(S): Anthony and Cindy Pesare

I. SUMMARY OF REQUEST

It is the applicant's desire to construct a 16-foot wide by 10-foot deep covered screen room in the south rear yard. In order to do so, a variance is being requested to the minimum rear yard setback as follows:

Variance: A variance to reduce the south rear yard from the required 20 feet to 15 feet for a proposed covered screen room.

Staff Recommendation:

Deny the variance, case number V-21-126, as the variance fails to meet four of the five criteria for granting said variance.

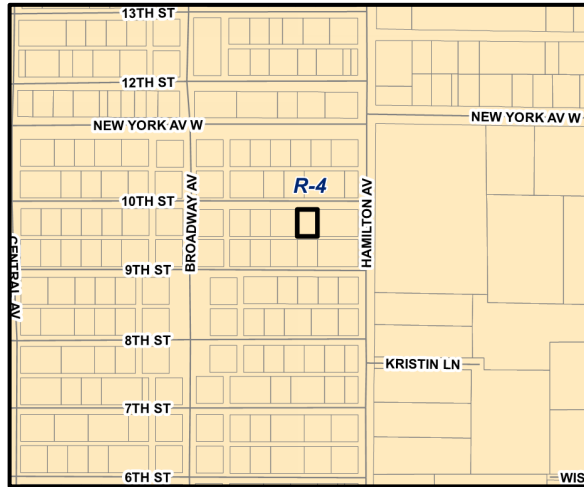
II. SITE INFORMATION

- 1. Location: South side of 10th Street, approximately 200 feet west of its intersection with Hamilton Avenue, in the Orange City area.
- 2. Parcel Number: 8004-01-09-0380
- 3. Property Size: +/- 7,500 square feet
- 4. Council District: 1
- 5. Zoning: Urban Single-Family (R-4)
- 6. Future Land Use: Urban Low Intensity (ULI)
- 7. Overlays: Not Applicable
- 8. Local Plan Area: Not Applicable
- 9. Adjacent Zoning and Land Use:

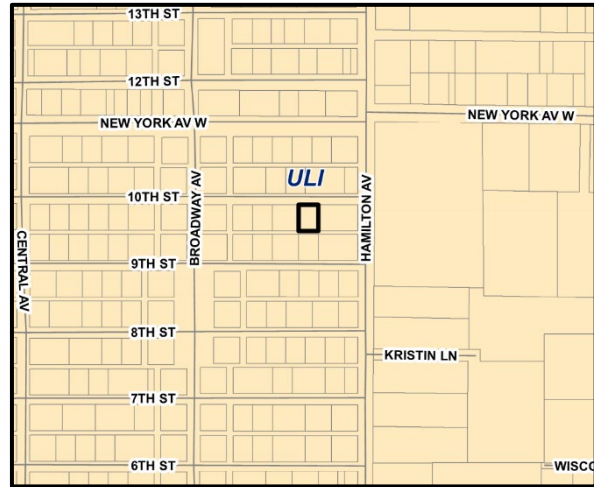
DIRECTION	ZONING	FUTURE LAND USE	EXISTING USE
North:	R-4	Urban Low Intensity	Single-Family Residence
East:	R-4	Urban Low Intensity	Single-Family Residence
South:	R-4	Urban Low Intensity	Single-Family Residence
West:	R-4	Urban Low Intensity	Single-Family Residence

10. Maps:

ZONING MAP



FUTURE LAND USE MAP



III. BACKGROUND AND OVERVIEW

The subject property is located on the south side of 10th Street, approximately 200 feet west of its intersection with Hamilton Avenue, in the Orange City area. It is made up of Lots 38, 39, and 40 of the West Highlands subdivision, platted in 1925. The property is developed with a single-family residence built in 2019 by the previous owner.



The parcel is an interior lot with a 40-foot right-of-way on the north known as 10th Street, and a 15-foot unopened alley way on the south. The property is zoned Urban Single-Family (R-4). The R-4 zoning classification requires a minimum lot size of 7,500 square feet and a minimum lot width of 75 feet. The lot meets both of these requirements. The applicable minimum yard requirements are as follows: Front – 25 feet, Rear – 40 feet, and Side – 20 feet combined, with a minimum of eight feet on any one side.

In June of 2021, the homeowner applied for a building permit for a covered screen room over an existing concrete pad on the rear of the house. They were informed that the minimum setback to the rear property line was 20 feet. Any lesser setback would require approval of a variance. The applicants desire to construct a 16-foot wide by 10-foot deep covered screen room 15 feet from the rear property line. The proposed location of the covered screen room exceeds all other required setbacks with the exception of the requested variance to the south property line.

IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379(1)a.4 of the Zoning Ordinance contains five applicable criteria by which a variance application may be granted. The following staff evaluation is based on these criteria:

i. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.

The subject property is an indoor lot with 10th Street to the north and a 15-foot, unopened alley to the south. The applicant intends to expand the existing concrete pad to place the proposed screen room. However, there are no special conditions associated with the land or structure that would require the covered screen room to be placed in the proposed location.

Staff finds that this criterion is not met.

ii. The special conditions and circumstances do not result from the actions of the applicant.

There are no special conditions or circumstances associated with the land, related to this variance. The proposed location, size and placement of the covered screen room are driven by the desire of the owners and/or applicant.

Staff finds that this criterion is not met.

iii. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification, under the terms of the ordinance, and would work an unnecessary and undue hardship on the applicant.

The applicant argues that the literal interpretation of the ordinance would deny the owners the right to have a covered screen room similar to the majority of their neighbors. However, such an addition that encroaches into the rear yard is not a common right. Therefore, literal interpretation of the code would not deprive the owners of any rights commonly enjoyed by other properties in the same zoning classification.

Staff finds that this criterion is not met.

iv. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.

This is not the minimum variance to make reasonable use of the land. The covered screen room could be redesigned to have a smaller footprint or to have a screen roof, similar to a pool enclosure. The applicant has not demonstrated that there are no other design alternatives.

Staff finds that this criterion is not met.

v. The grant of the variance will be in harmony with the general intent and purpose of this ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, and that such variance will not be injurious to the area involved.

As proposed, the covered screen room is 15 feet from the south property line. The proposed covered screen room is not visible to any of the adjacent properties. It should be noted the applicant could construct a screen enclosure within five feet of the rear property line, given the enclosure is not within any platted easements. It is also noted that similar additions are common in the area. Therefore, the granting of this variance is not likely to be injurious to the area involved.

Staff finds that this criterion is met.

V. STAFF RECOMMENDATION

Deny the variance, case number V-21-126, as the variance fails to meet four of the five criteria for granting said variance.

The PLDRC may take into account additional competent substantial evidence presented at the hearing, or may make an alternate finding to already presented evidence, that there is sufficient evidence such that the request meets all five criteria and should be granted. Should the PLDRC find that the applicant has provided competent substantial evidence to support approval of the variances, the following condition is provided for consideration:

1. The variance is limited to the 16-foot by 10-foot screen room as shown on the variance site plan. No extension or enlargement of this structure shall be allowed without the approval of another variance.

VI. ATTACHMENTS

- Written Petition
- Variance Site Plan
- Survey
- Environmental Comments
- Maps

VII. AUTHORITY AND PROCEDURE

The commission may, except as otherwise provided in Section 72-379 of the Zoning Ordinance, authorize, after due public notice upon application on a form prescribed by the Zoning Enforcement Official, such variance or variances from the terms of this ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provision of this ordinance would result in unnecessary and undue hardship. Said variance application shall be heard only if it is presented by the person owning 51 percent or more of the specific area of land involved or upon an administrative application by the County Council.

Pursuant to Section 72-412, no variance shall be granted, in whole or in part, unless four members concur. A tie vote shall be grounds for continuance to the next scheduled meeting.

Any new information to be presented at the Planning and Land Development Regulation Commission meeting for any application will be grounds to continue an application to the next Planning and Land Development Regulation Commission meeting. Applicants shall inform and provide staff with the new information prior to the Planning and Land Development Regulation Commission meeting.



Written Petition for a Variance

Section 72-379(1)(a)(4) of the Zoning Ordinance of Volusia County, as amended, requires that each applicant for a variance submit a written petition as part of the application. The written petition must clearly describe how the variance request satisfies all of the specific conditions necessary for the granting of the variance.

The following items must be completed in sufficient detail to allow Current Planning to determine if the application complies with the Ordinance. **(Use additional sheets if necessary.)**

1. What special conditions and circumstances exist which are peculiar to your land, structure, building or sign that are not applicable to other lands, structures, buildings or signs in the same zoning classification. Are these special conditions and circumstances the result of actions by you?

No Builder never disclosed to me that I could not put a screen enclosure on existing S/D/B

2. How would literal interpretation of the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning classification? How would this interpretation be an unnecessary and undue hardship on you?

All my surrounding neighbors have screened in porches

3. Explain how the variance you are requesting is the minimum variance that will make possible the reasonable use of your land, building, structure, or sign.

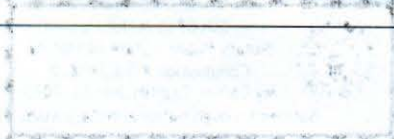
Not expanding any more than what was there on S/D/B size

4. How is your request consistent with the general intent and purpose of the Volusia County Zoning Ordinance and Comprehensive Plan, which are to promote public health, safety, morals, and the general welfare; and to preserve the character, appearance and aesthetic qualities of Volusia County?

5' encroachment to property line but also a 15' ally

5. Explain how your request for a variance will not be injurious to the surrounding area.

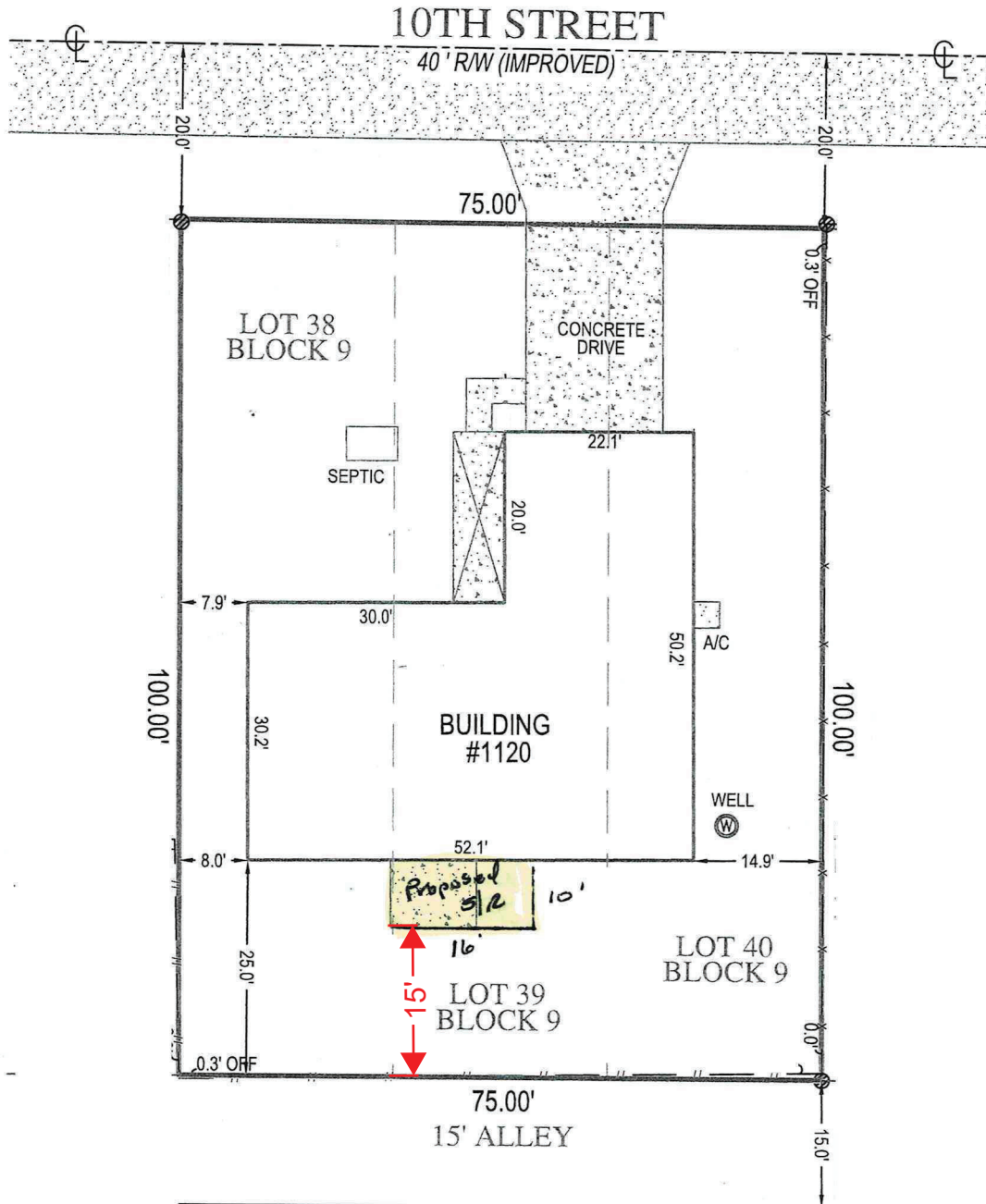
Soils are ASTATULA FINE SAND with a wet season water table greater than 72" below the surface year round. DRAINAGE NOT AN ISSUE HERE.



1120 10th Street

RESARE

V-21-128 Variance Site Plan



SCALE
1"=20'

Variance: A variance to reduce the south rear yard from the required 20 feet to 15 feet for a proposed covered screen room.

**Inter-Office
Memorandum**



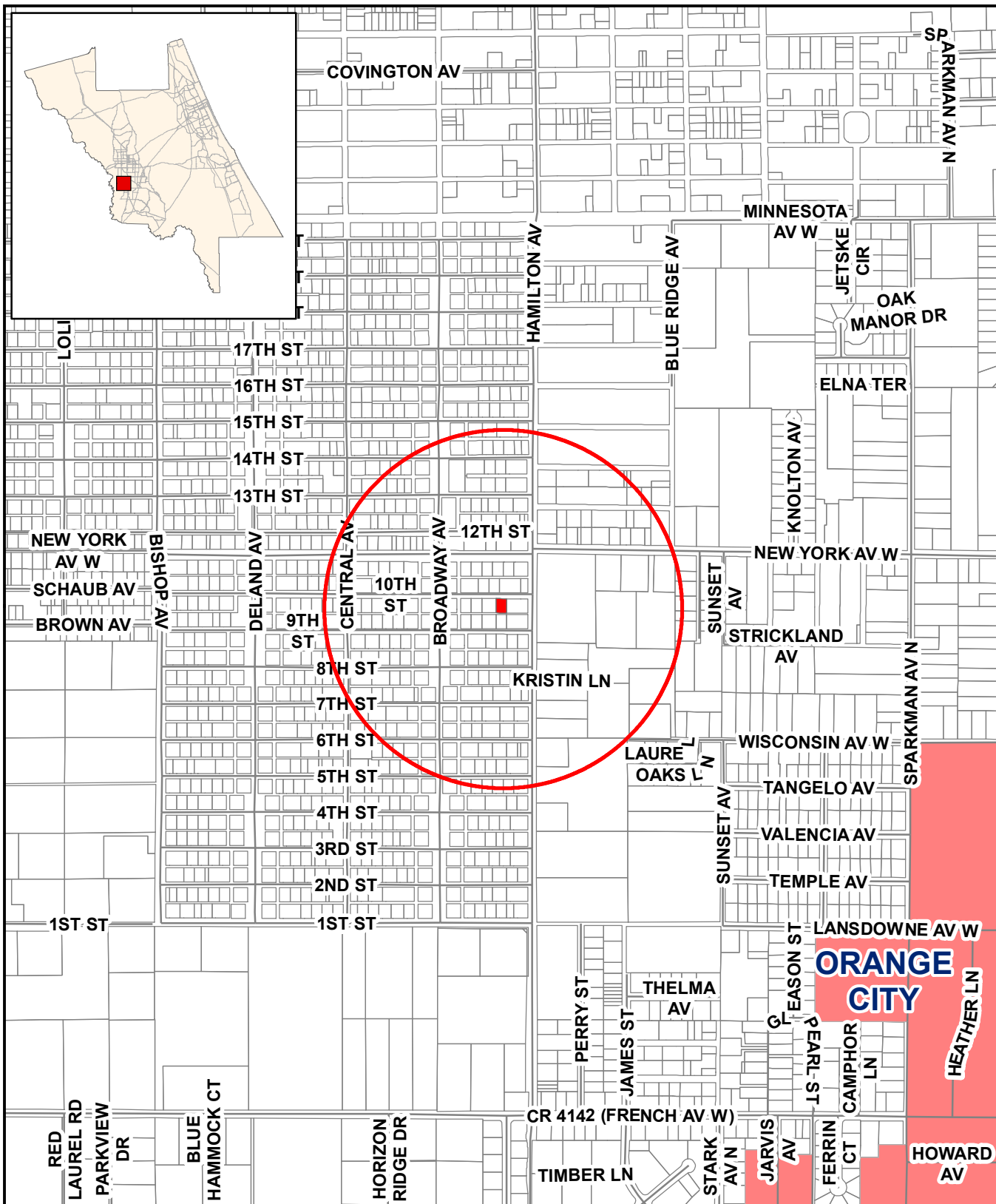
TO: Darren Ebersole, Planner II **DATE:** August 8, 2021
FROM: Samantha J. West, Environmental Specialist III
SUBJECT: Parcel #: 8004-01-09-0380
Case #: V-21-126

Environmental Permitting (EP) has reviewed the application for a variance to minimum yard requirements on Urban Single-Family Residential (R-4) zoned property and provides the following report:

The subject property is located within the DeLand Ridge watershed and has been identified as containing suitable habitat for the gopher tortoise. The gopher tortoise is a Candidate species for federal protection and designated as threatened in the State of Florida. Any future development of the site will require compliance Division 17 *Gopher Tortoise Ordinance*, of the Land Development Code.

EP does not object to the variance request. However, any future development must comply with the applicable requirements of the Land Development Code at the time of building permit application.

PROPERTY LOCATION V-21-126



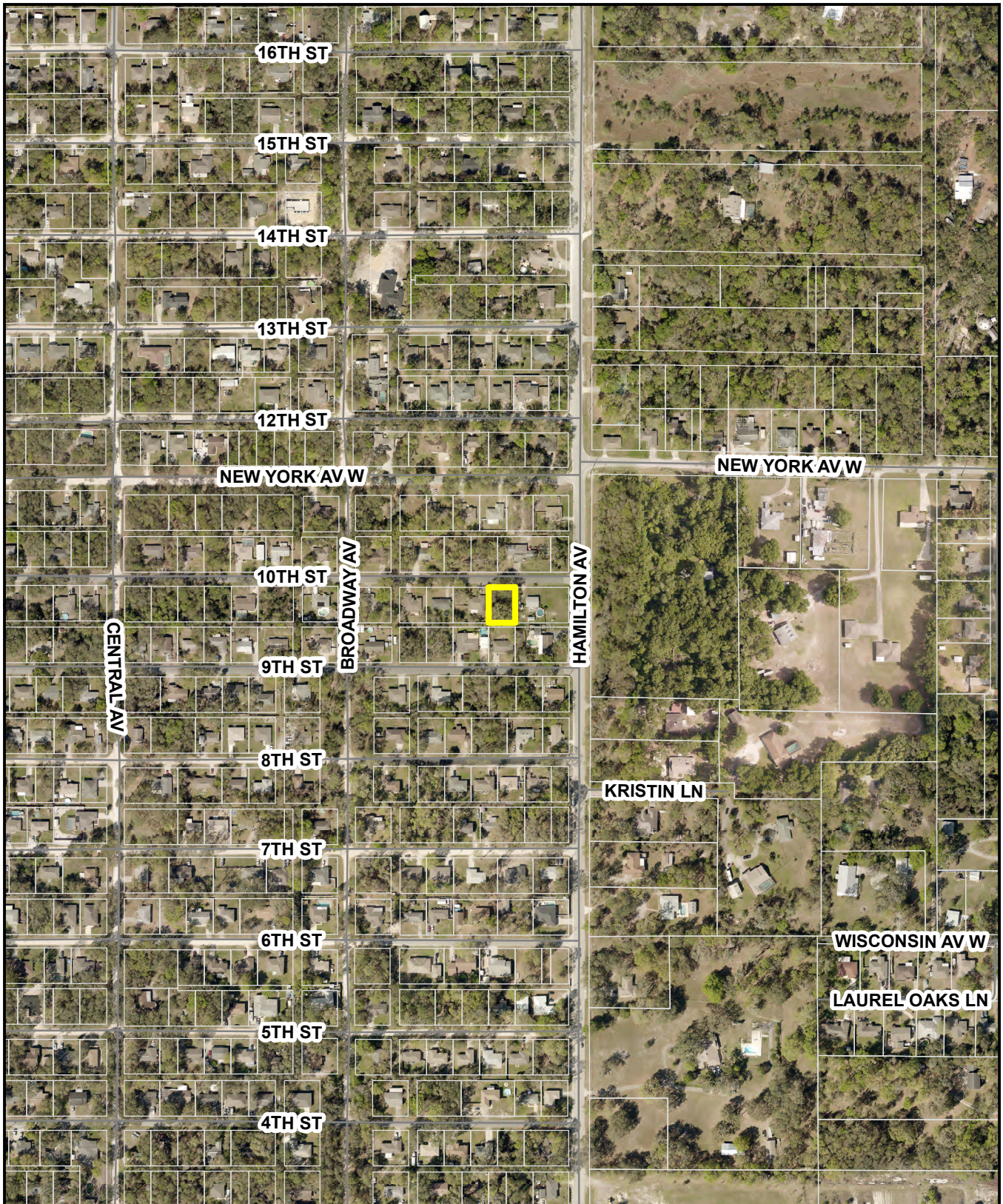
 SUBJECT PROPERTY



1" = 1,000'

8/4/2021

AERIAL V-21-126



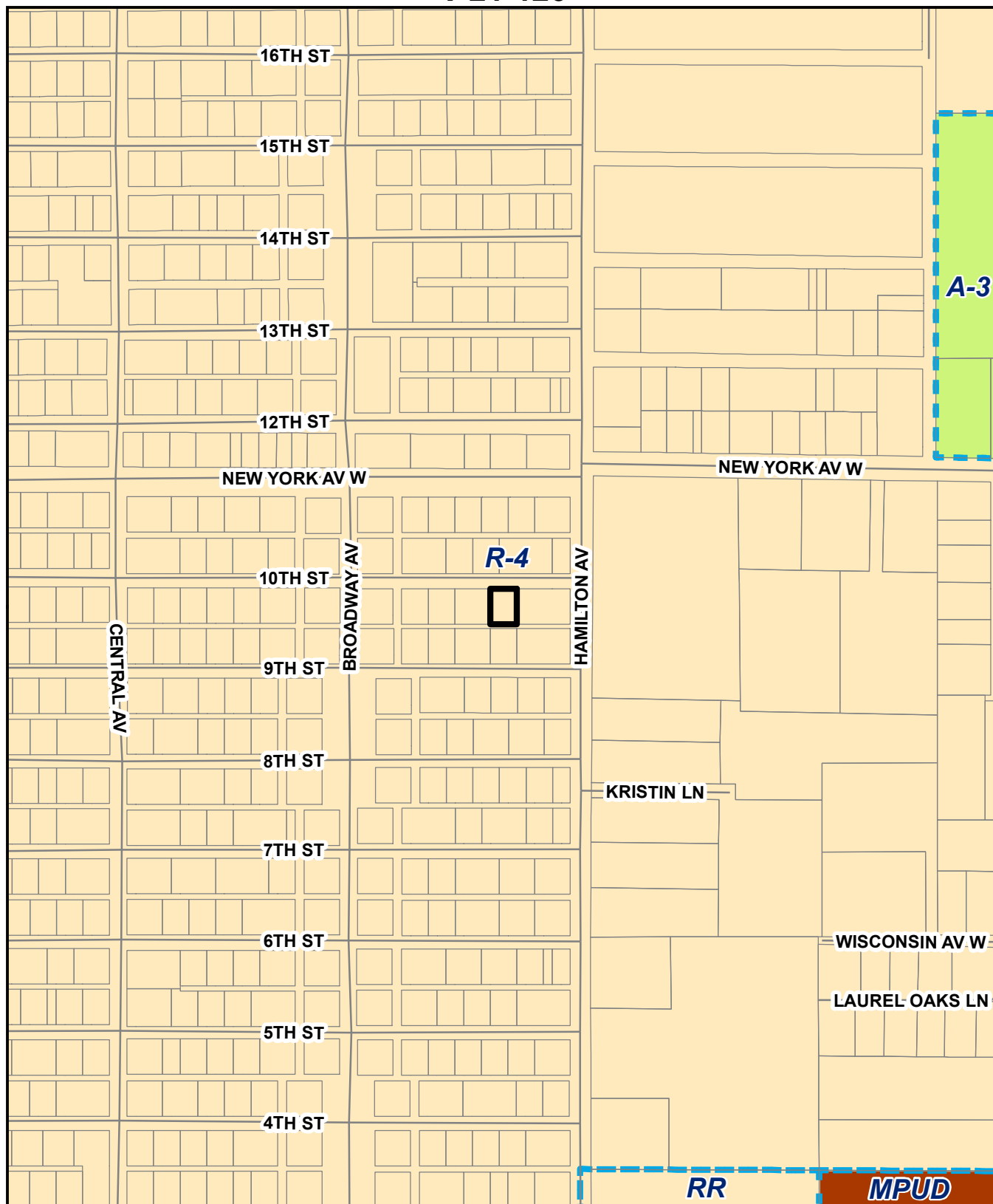
 SUBJECT PROPERTY

IMAGE DATE 2018



1" = 400'
8/4/2021

ZONING CLASSIFICATION V-21-126



 SUBJECT PROPERTY

 ZONING BNDY  AGRICULTURAL

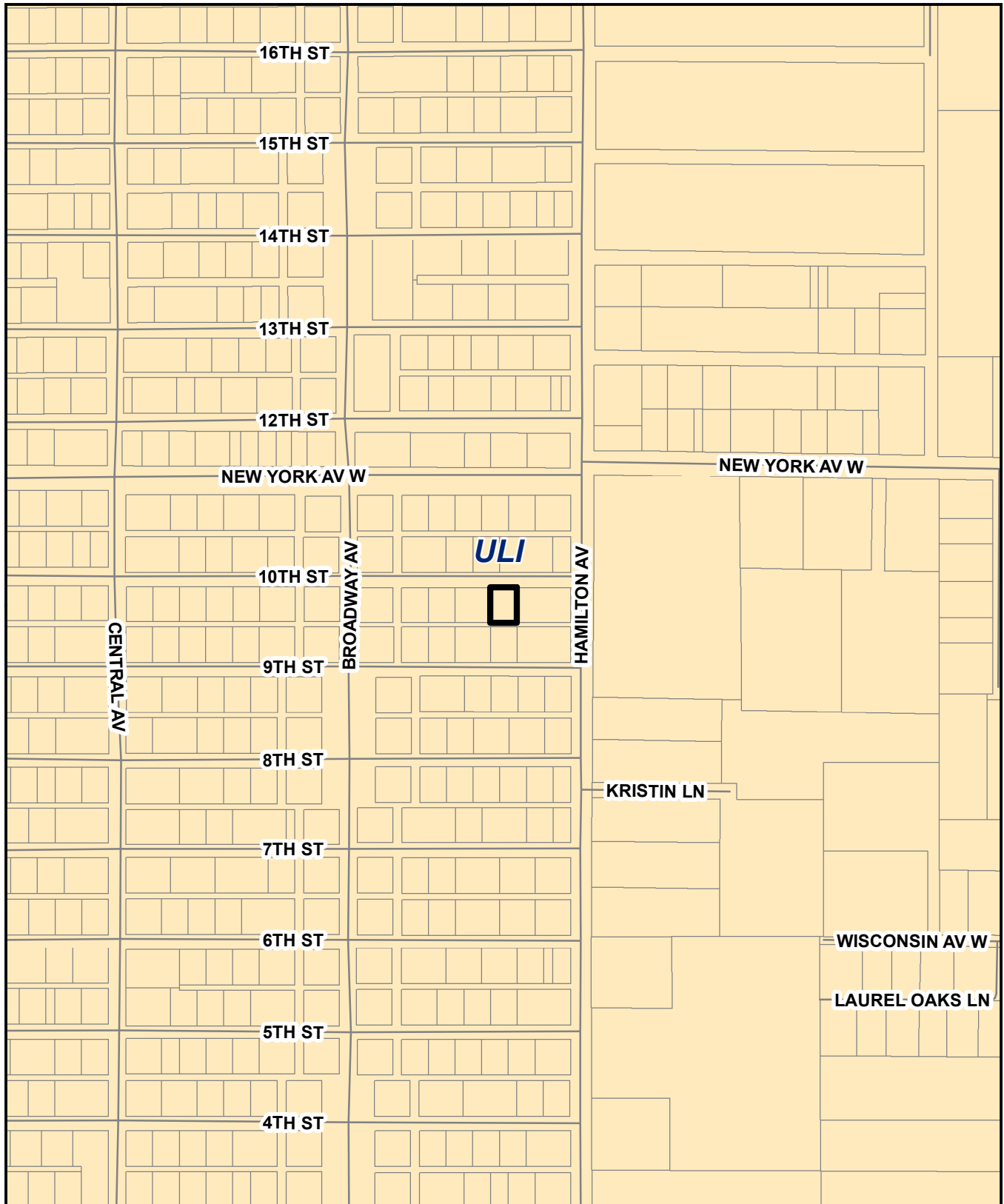
 RESIDENTIAL  MIXED PLANNED UNIT DEV



1" = 400'

8/4/2021

FUTURE LAND USE V-21-126



 SUBJECT PROPERTY

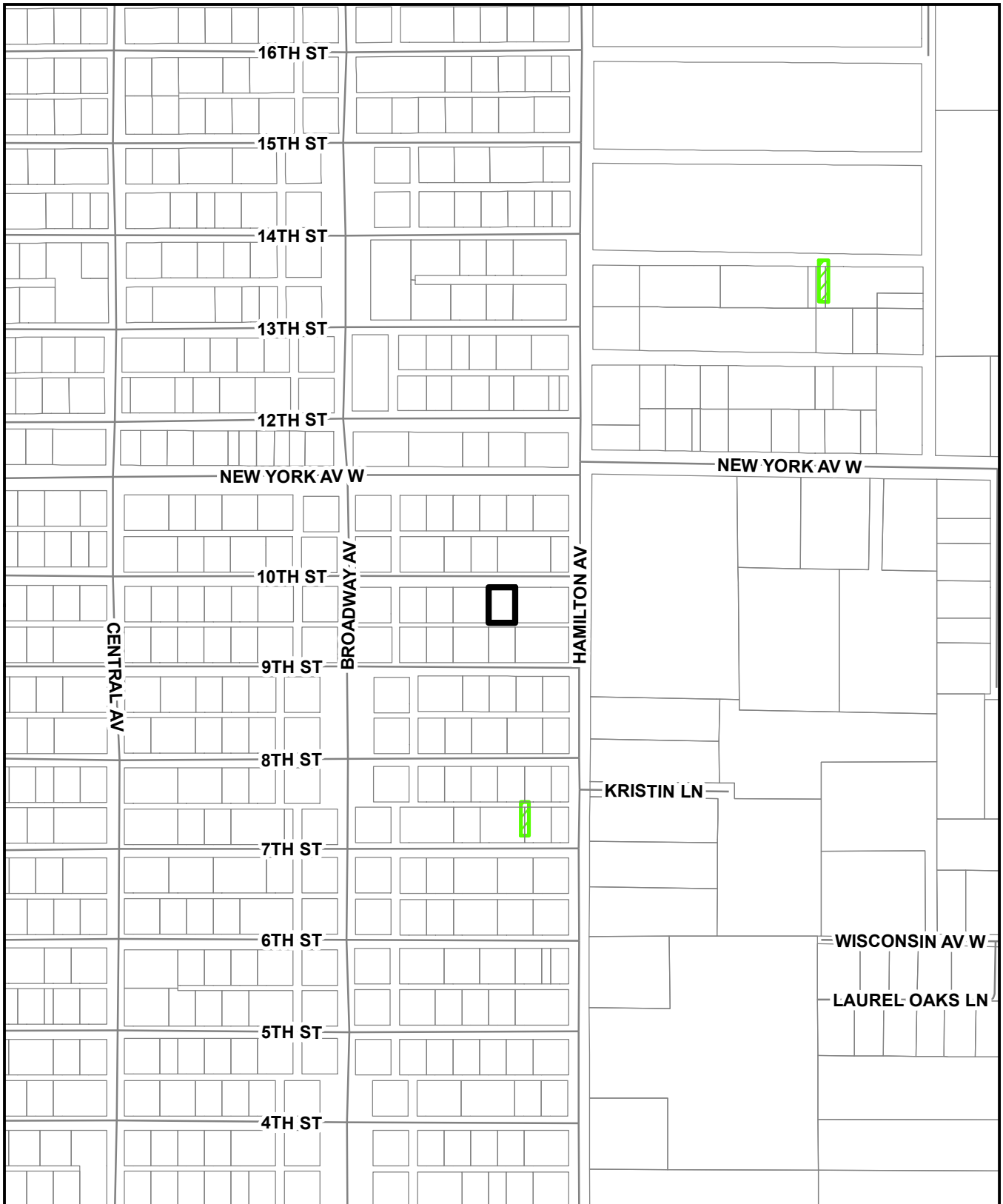
 URBAN LOW INTENSITY






1" = 400'

8/4/2021

ECO/NRMA OVERLAY V-21-126



-  SUBJECT PROPERTY
-  ECO
-  NRMA



1" = 400'

8/4/2021