

DATE: October 8, 2021

TO: Plan Commission

FROM: Joel Strassman, Planning and Zoning Officer

SUBJECT: Winding Creek Planned Development & Subdivision – 37W330 and 2500 McKee Street (north side of McKee Street at Deerpath Road)
Pulte Home Company, LLC, applicant

1. **PUBLIC HEARING:** Annexation Agreement for Winding Creek Planned Development and Subdivision
2. **Ordinance 21-54:** Amendment to the Comprehensive Plan Land Use Map
3. **Ordinance 21-55:** Authorizing the Execution of an Annexation Agreement
4. **Ordinance 21-56:** Annexing and Zoning Territory
R1-M Single Family Medium Density and POS Parks and Open Space
5. **Ordinance 21-57:** Amending the Official Zoning Map for a Planned Development Overlay
6. **Resolution 21-097-R:** Preliminary Plat of Subdivision for the Winding Creek Subdivision

Summary

At its September 15, 2021 meeting, the Plan Commission conducted a public hearing for the Winding Creek Subdivision and Planned Development (PD). Winding Creek would be a 163-lot single-family detached subdivision with a 5-acre Geneva Park District site and additional open space. After the hearing, the Commission conditionally approved Design Review and recommended approvals for entitlements.

The Committee of the Whole (COW) would first conduct the public hearing to allow for hearing attendee testimony on the annexation agreement that is an exhibit to Ordinance 21-55. After concluding the hearing, the COW would consider the Ordinances and Resolution per the meeting agenda.

Background

Pulte Homes has submitted applications for annexation, zoning entitlements, and subdivision for Winding Creek on the approximately 69-acre property at 37W330 and 2500 McKee Street. This property has been considered previously for annexation and development.

In March, 2019, the City Council approved [Ordinance 19-06](#) to enter into an agreement with the property owners and MI Homes for annexation and development of MI Homes' Winding Creek; the agreement was not executed. That development was to contain 113 single-family and 88 townhome residences, and 20 acres of open space including five acres for the Geneva Park District as [recommended by the Plan Commission](#). The City Council approved [Ordinance 19-07](#) to amend the Comprehensive Plan's Land Use Map to accommodate MI's Winding Creek. After it was unsuccessful in acquiring the property, MI Homes requested their annexation and remaining entitlement applications be withdrawn. In July, 2020, the City Council approved [Ordinance 20-40 that rescinded annexation agreement approval](#), leaving the property unincorporated.

Pulte is proposing a street network and park and open spaces similar to what was proposed by MI Homes. The street network provides connection to and extension of all existing City streets abutting the subdivision. A crossing of the McKee Tributary to extend Branson Drive from the northwest corner of the site through the property would be provided. The City is obligated to require this crossing for development per an intergovernmental agreement with Kane County and the City of Geneva that established Fabyan Parkway access points west of Randall Road. Approximately 20 acres of the site would be open space. A 5-acre site would be donated to the Geneva Park District (GPD), and 2.5 acres would be added to the City's Braeburn West property that would provide stormwater management along with some homeowner association

property. For complete background information and a summary and staff analysis of Pulte's proposal, please see the [September 10, 2021 staff memorandum to the Plan Commission](#).

The annexation agreement attached to Ordinance 21-55 includes specifications for annexation and development of the property. Highlights of the agreement include:

- Approval of the annexation agreement and the ordinances/resolution attached to this memo now, but to become effective after Pulte closes on the property and the agreement and annexation is recorded. Pulte informs the City this is expected in Spring 2022.
- Approval of a Planned Development Overlay to include modifications to the Zoning Code to accommodate development.
- Approval of a Preliminary Plat of Subdivision to include two variations to the Subdivision Regulations, first phase final plat submittal within 6 months, and last phase final plat submittal within five years.
- Pulte constructing, and HOA maintaining a bike path within an easement on City Braeburn West property to connect to the McKee Tributary crossing.
- Payment and terms for use of the McKee Tributary for stormwater detention.
- McKee Tributary crossing open the earlier of issuance of the 101st residence building permit or the end of 2023.
- Use of model homes solely for Pulte property in the City of Batavia, and closing of models and removal of trailers, model home parking, and signs within 5 years of final phase plat approval.
- Park land-cash donation per an agreement between Pulte and the Geneva Park District.
- Pulte shall not object to the City establishing a back-up Special Service Area (SSA) to be created before the first lot sale, or for a separate, larger SSA for properties in Batavia west of Randall Road tributary to Braeburn Marsh.

Staff notes Pulte's development proposal omits an area around the existing cell towers and an access strip south to McKee Street. That property would remain unincorporated. An alternate access to the cell tower area would be provided by Pulte through an easement near the southeast corner of the cell tower area to Branson Drive as extended. This easement would also be used to provide utility service to the towers in the event the tower property is annexed and served by City electric.

Plan Commission Review and Action

At the hearing, several neighboring residents participated by speaking or contributing chat comments. Please see the [minutes of the September 15 Plan Commission meeting](#). Concerns included the visibility of the proposed residences from the Heritage Ridge townhomes to the east, increased cut-through traffic on residential neighborhood streets, and location/types of Stop signs to be installed. In response to the visibility issue, the applicant noted several existing trees along the east line of the property would be retained and the deeper lots south of Mill Street would allow for larger rear setbacks. In response to the cut-through traffic concern, the applicant stated that the City is executing good planning by connecting into the existing road network. Staff added that the City is obligated to have development provide the creek crossing and connecting all the streets allows for better distribution of traffic. Consideration of Stop signs would be undertaken with final plat approvals and in the future if warrants for such signage are met.

The Commission was supportive of the Land Use Map amendment, and the Preliminary Plat of Subdivision including its requested variations. The Commission was also supportive of the proposed R1-M District for the residences and for the preliminary landscape plan.

The Commission was generally supportive of the applicant's requested Zoning Code modifications for the Planned Development Overlay. Notwithstanding the staff's recommendation regarding garage location, the Commission was supportive of the applicant's request for garages to extend forward of the residence, 6.5 feet on the smaller (Meadows Series) lots and 8.5 feet on the larger (Estates Series) lots; Commission action on this modification erroneously specified 6 feet (not 6.5 as discussed). The Commission also supported the

applicant's request for porches to cover 35% of the width of the house with the requirement that all houses have a covered front porch. To address the stated concern regarding visibility, the applicant noted the rear setback modification could not include the lots adjacent to Heritage Ridge. The Commission supported the applicant's request for building height be measured from the top of the foundation at the front of the home to the peak of the roof, not to exceed 35 feet, to simplify the measurement and better accommodate the varied topography of the site necessitating walk-out basements.

By a vote of 6-0 (1 vacant), the Commission approved Design Review in general conformance to the approved Planned Development Overlay.

By votes of 6-0, the Commission recommended City Council approvals, as indicated in the attached Ordinances and Resolution, for:

- Amendment to the Comprehensive Plan Land Use Map.
- Amendments to Zoning Map for the R1-M and POS districts.
- Amendment to the Zoning Map for a Planned Development Overlay. Staff notes that the Council-approved modifications specify that garages can extend 6.5 feet forward of the rest of the residence for the Meadows Series lots per the Plan Commission discussion and include the Commission-recommended 8.5 feet for the Estates Series.
- Preliminary Plat of Subdivision.

Alternatives: The Committee of the Whole (COW) can recommend approval or denial of the attached Ordinances and Resolution as presented or consider amendments to any before acting.

Impacts: Approvals would allow for single-family, park, and open space development of the property that has long been contemplated for residential development with park and open space use. The McKee Tributary road crossing would be provided and added residents can support Batavia business and would return per capita head tax. No negative impact to staff or City services is anticipated.

Timeline for Actions: COW action will allow for final City Council action on October 18th.

Recommendation: Staff recommends approval of the attached Ordinances and Resolution as presented.

Attachments

1. Ordinance 21-54
2. Ordinance 21-55
3. Ordinance 21-56
4. Ordinance 21-57
5. Resolution 21-097-R

- c Mayor
 Department Heads
 Applicant
 Media

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 21-54**

**AN ORDINANCE AMENDING THE LAND USE MAP OF THE
COMPREHENSIVE PLAN OF THE CITY OF BATAVIA**

PULTE HOME COMPANY, LLC

37W330 AND 2500 MCKEE STREET

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
THIS 18TH DAY OF OCTOBER, 2021**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This 19th day of October, 2021

Prepared by:

City of Batavia
100 N. Island Ave.
Batavia, IL 60510

**AN ORDINANCE AMENDING THE LAND USE MAP OF THE
COMPREHENSIVE PLAN OF THE CITY OF BATAVIA**

PULTE HOME COMPANY, LLC

37W330 AND 2500 MCKEE STREET

WHEREAS, Pulte Home Company, LLC, contract purchaser of property located at 37W330 and 2500 McKee Street has submitted an application seeking to amend the Comprehensive Plan Land Use Map to change the existing Land Use Classifications for said property from Residential >0.5-2 dwelling units per acre, Residential >3.5-5 dwelling units per acre, and Parks and Open Space to Residential 2-3.5 dwelling units to the acre and Parks and Open Space as shown in Exhibit A attached hereto, and legally described as:

PARCEL 1:

THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID SOUTHEAST QUARTER 175.89 FEET (2.665 CHAINS) FOR THE POINT OF BEGINNING; THENCE NORTHERLY 2648.94 FEET TO A POINT ON THE NORTHERLY LINE OF SAID SOUTHEAST QUARTER WHICH IS 194.37 FEET (2.945 CHAINS) EASTERLY OF THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE EASTERLY ALONG SAID NORTHERLY LINE 1131.99 FEET TO THE EASTERLY LINE OF THE WEST HALF OF SAID SOUTHEAST QUARTER; THENCE SOUTHERLY ALONG SAID EASTERLY LINE 2647.02 FEET TO THE SOUTHERLY LINE OF SAID SOUTHEAST QUARTER; THENCE WESTERLY ALONG SAID SOUTHERLY LINE 1151.51 FEET TO THE POINT OF BEGINNING (EXCEPT THE SOUTHERLY 495.0 FEET OF THE EASTERLY 275.0 FEET OF THE WESTERLY 826.0 FEET THEREOF), IN THE TOWNSHIP OF GENEVA, KANE COUNTY, ILLINOIS.

PARCEL 2:

THE SOUTHERLY 495.0 FEET OF THE EASTERLY 275.0 FEET OF THE WESTERLY 826.0 FEET NORTH OF THAT PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED BY COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID SOUTHEAST QUARTER 175.89 FEET (2.665 CHAINS) FOR THE POINT OF BEGINNING; THENCE NORTHERLY 2648.94 FEET TO A POINT ON THE NORTHERLY LINE OF SAID SOUTHEAST QUARTER WHICH IS 194.37 FEET (2.945 CHAINS) EASTERLY OF THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE EASTERLY ALONG SAID NORTHERLY LINE 1131.99 FEET TO THE EASTERLY LINE OF THE WEST HALF OF SAID SOUTHEAST QUARTER; THENCE SOUTHERLY ALONG SAID EASTERLY LINE 2647.02 FEET TO THE SOUTHERLY LINE OF SAID SOUTHEAST QUARTER; THENCE WESTERLY ALONG

SAID SOUTHERLY LINE 1151.51 FEET TO THE POINT OF BEGINNING (EXCEPT THE SOUTHERLY 495.0 FEET OF THE EASTERLY 275.0 FEET OF THE WESTERLY 826.0 FEET THEREOF), IN THE TOWNSHIP OF GENEVA, KANE COUNTY, ILLINOIS.

The property commonly known as 37W330 and 2500 McKee Street (PINs 12-17-400-006 and 12-17-400-005).

WHEREAS, all required public notification regarding the intention of the City to amend the Land Use Map of the Comprehensive Plan, were executed as required by the Batavia City Code; and

WHEREAS, a public hearing was held pursuant to the Batavia Municipal Code by the Batavia Plan Commission on September 15, 2021; and

WHEREAS, following said hearing, the Plan Commission recommended approval of such Comprehensive Plan Land Use Map amendment; and

WHEREAS, on October 12, 2021, the Committee of the Whole reviewed the application, the record of the public hearing, and the action of the Plan Commission and recommended approval of such Comprehensive Plan Land Use Map amendment in accordance with the Plan Commission recommendation; and

WHEREAS, the City Council of the City has received the recommendation of both the Batavia Plan Commission and Committee of the Whole and has considered same; and

WHEREAS, it is in the best interest of the City of Batavia that the Land Use Map of the Comprehensive Plan be amended.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

SECTION 1: That the Land Use Map of the Comprehensive Plan is hereby amended in conformance with the terms of this Ordinance.

SECTION 2: That the property located at 37W330 and 2500 McKee Street is hereby designated on the Land Use Map of the Comprehensive Plan as Residential 2-3.5 dwelling units to the acre and Parks and Open Space, as shown on Exhibit A, subject to all terms and conditions under the Municipal Code, relating thereto.

SECTION 3: That this Ordinance 21-54 shall be in full force and effect upon its presentation, passage and publication according to the law.

CITY OF BATAVIA, ILLINOIS ORDINANCE 21-54

PRESENTED to the City Council of the City of Batavia, Illinois, this 18th day of October, 2021.

PASSED by the City Council of the City of Batavia, Illinois, this 18th day of October, 2021.

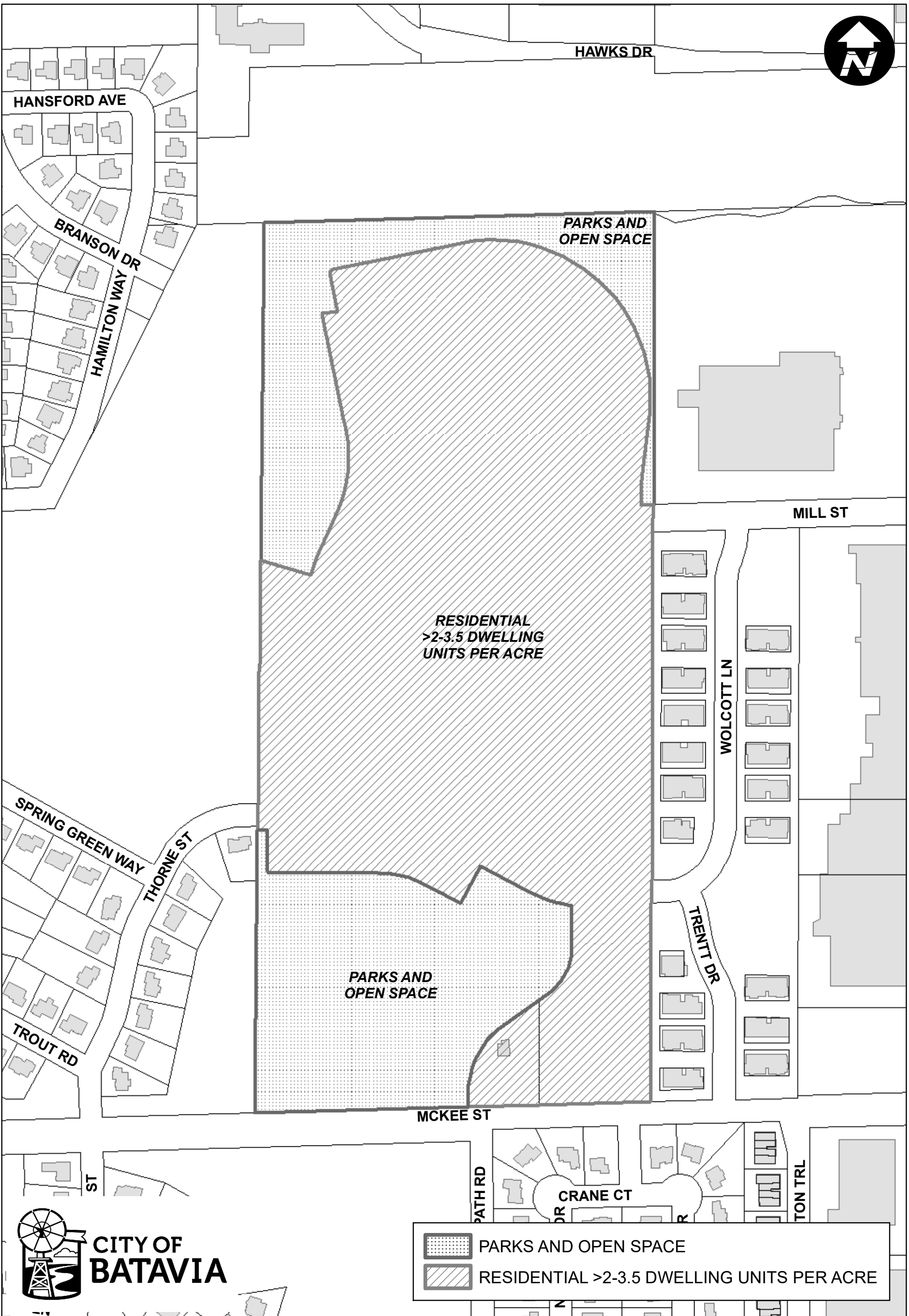
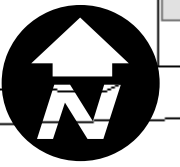
APPROVED by me as Mayor of said City of Batavia, Illinois, this 18th day of October, 2021.

Jeffery D. Schielke, Mayor



Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	Baerren					Solfa				
2	Leman					Wolff				
3	Ajazi					Chanzit				
4	Malay					APPOINTEE				
5	Uher					Beck				
6	Cerone					Russotto				
7	Vogelsinger					Miller				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstentions					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

Kate Garrett, City Clerk



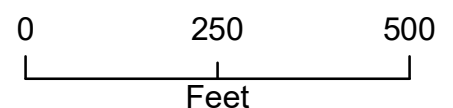
**CITY OF
BATAVIA**

	PARKS AND OPEN SPACE
	RESIDENTIAL >2-3.5 DWELLING UNITS PER ACRE

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SOURCE: BATGIS, KANEGIS

**LAND USE MAP AMENDMENT
EXHIBIT A**



DATE: 10/5/2021