



City of North Port  
NEIGHBORHOOD DEVELOPMENT  
SERVICES DEPARTMENT  
PLANNING DIVISION

Nicole Galehouse, Planner

Office: 941.429.7098

Fax: 941.429.7180

Email: [ngalehouse@cityofnorthport.com](mailto:ngalehouse@cityofnorthport.com)



**MEMORANDUM**

TO: Jonathan Lewis, ICMA-CM, City Manager

THROUGH: Scott Williams, Director, Neighborhood Development Services

FROM: Nicole Galehouse, Planner, Neighborhood Development Services

SUBJECT: Update on Siting and Buffer Requirements of Medical Cannabis Dispensing Facilities

DATE: January 5, 2017

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On November 22, 2016 the City Commission of the City of North Port adopted Ordinance No. 2016-33, which amended the Code of the City of North Port to allow for medical cannabis dispensing facilities to locate within the City of North Port provided they meet the requirements of the ordinance. An amendment was made to the motion, at the adoption hearing, to add an 800-foot buffer between any proposed medical cannabis dispensing facility and a residential property. City Commission directed staff to perform an analysis on the impact of this buffer and to return with an update. Staff was also directed to provide an update regarding the section of the ordinance that discusses lease requirements and with information regarding the regulations in cities which already have a medical cannabis dispensing facility located in their boundaries.

**Buffer Analysis**

Following the adoption of Ordinance No. 2016-33 with an amendment to add an 800-foot buffer from residential uses, staff performed an analysis of the impact of this amendment (see attached maps) as directed.

Using Geographic Information Systems (GIS), residential parcels were selected, including parcels that are currently vacant but slated for residential development. The 800-foot buffer was then applied to the selected parcels. For clarity, the buffer was then limited to Activity Centers. The same limitation to Activity Centers was placed on the buffers that previously existed in the ordinance that pertain to churches, daycares, and schools. Activity Center 6 is excluded from the detail map since it is not eligible for development at this time due to its location outside the urban service boundary.

Staff finds that the 800-foot buffer approved in the amendment severely limits the potential for

placement of these facilities, and it appears that it could be considered exclusionary. Keep in mind when reviewing the maps that according to the language in the approved ordinance, if the buffer crosses through a parcel, the entire parcel is unable to contain the use.

Staff performed an analysis with 6 different scenarios for potential buffers. Prior to performing the analysis, staff reevaluated the reasons behind the original buffer that was proposed for schools, daycares, and churches. The recommendation of 1500 feet stemmed from a highly conservative standpoint, with staff anticipating a stigma against the facilities along with general fear from the community, and was proposed prior to the visit with an open facility. After seeing how the facility operates and hearing from community members, staff feels comfortable with a reduction of this buffer. For this reason, scenarios were created as defined below.

Buffers were evaluated from schools, daycares, and churches with the following measurements: 1500 ft (as existing), 800 ft (as the amendment created for buffer from residential), and 400 ft. Buffers were evaluated from residential as follows: 400 ft (existing buffer cut in half), and 150 ft (same as distance across a typical canal, which serves as a natural buffer). An 800 ft buffer from residential was not included in this analysis because it proves to be exclusionary in almost all cases. The scenarios were then evaluated for how many parcels were available after the buffer requirements for the location of a medical cannabis dispensing facility. This did not take into account current use/occupancy or ownership of a site. The individual scenario maps show detail for available parcels in each activity center. In all scenarios, activity centers 3, 7, and 8 are excluded, however if the parcels are subdivided in the future some of the subdivided parcels may be eligible. The results are as follows:

SCENARIO	SCHOOL/CHURCH BUFFER	RESIDENTIAL BUFFER	PARCELS AVAILABLE WEST OF SUMTER	PARCELS AVAILABLE EAST OF SUMTER	TOTAL AVAILABLE PARCELS
A	1500	400	4	26	30
B	1500	150	13	43	56
C	800	150	33	54	87
D	400	150	39	58	97
E	400	400	21	37	58
F	800	400	13	35	48

**Ordinances in Cities with Existing Medical Cannabis Dispensing Facilities**

The question was raised regarding what ordinance exist in cities which already have a medical cannabis dispensing facility located in their boundaries. The following chart provides detail on this:

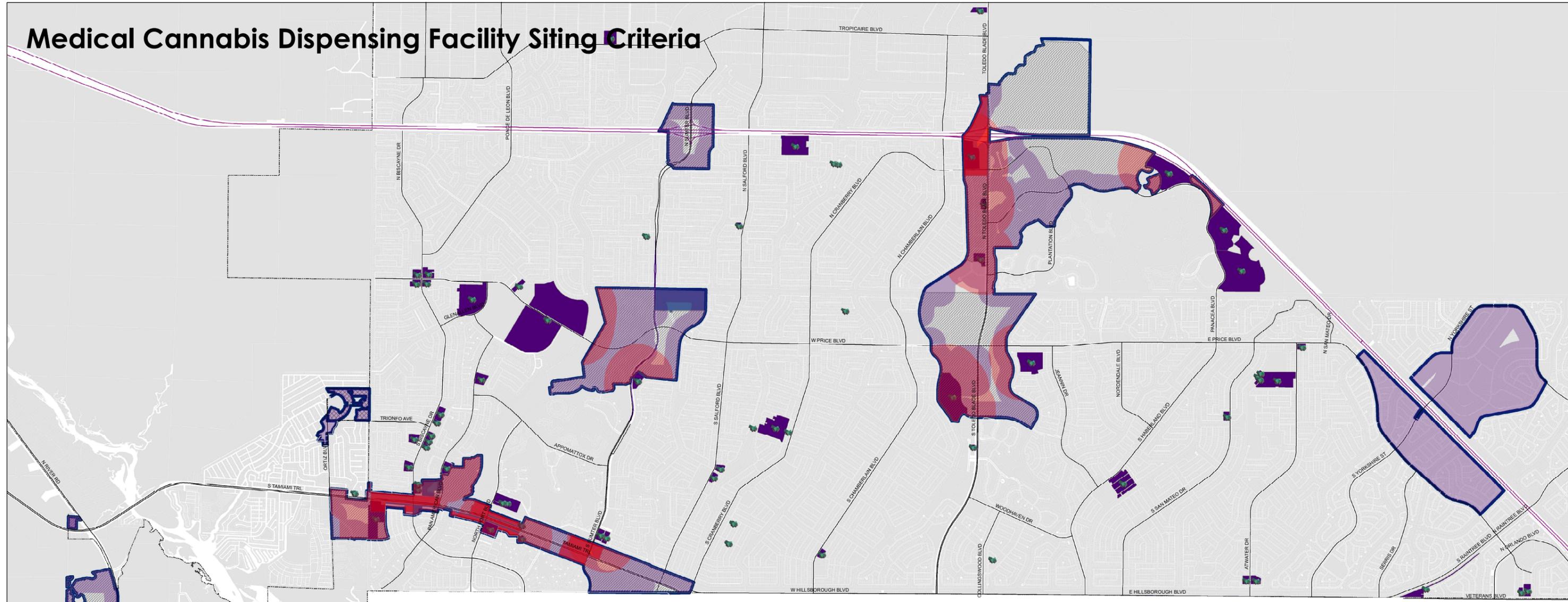
Entity	Dispensary Status	Regulatory Status
City of Clearwater	Operating (Trulieve)	No regulations located
City of Tallahassee	Operating (Trulieve)	No regulations located

City of Tampa	Operating (Surterra)	No regulations in place at time of locating; City adopted a moratorium (180 days) on November 17, 2016
Miami-Dade County	Operating (Modern Health Concepts)	Regulations adopted (ordinance attached)
City of Pensacola	Trulieve has stated an intent to locate	No regulations located
City of Bradenton	Trulieve has stated an intent to locate	Moratorium (180 days) passed first reading on November 16, 2016
City St. Petersburg	Trulieve has stated an intent to locate	No regulations located
City of Orlando	Dispensary rumored to intend to locate	Moratorium in place until December 31, 2016; ordinance to extend moratorium to July 2017 passed first reading November 14, 2016

**Business Lease Inspections**

The final question that was raised on November 22, 2016 was in regards to subsection 53-254.A(1)(g)(vi), which requires a landlord to incorporate language into the lease or rental agreement that failure to comply with the City’s ULDC is a material non-curable breach of the lease and constitutes ground for termination and immediate eviction. It was asked if the City inspects other business leases in Commercial-General areas. Applicants are required to submit leases to prove occupancy for water service and to obtain certain City permits. Otherwise, a search of the City’s Codes revealed no requirement for leases to be inspected.

# Medical Cannabis Dispensing Facility Siting Criteria



- |  |  |
|--|--|
|  Buffer from Churches, Daycares, Schools - 1500ft | <b>Zoning District</b>   |
|  Buffer from Residential - 800ft                  |  AC-7 |
|  Daycares, Schools, Churches                      |  CG   |
|  Daycares, Schools, Churches Properties           |  GU   |
|  ActivityCenters                                  |  PCD  |
|  City Boundary                                    |  |

This map highlights the areas that would be excluded from the use of a 1,500 foot buffer of daycares, preschools, elementary schools, middle schools, high schools, properties owned by the Sarasota County School Board, and churches. The buffer extends out from the property line of each site.

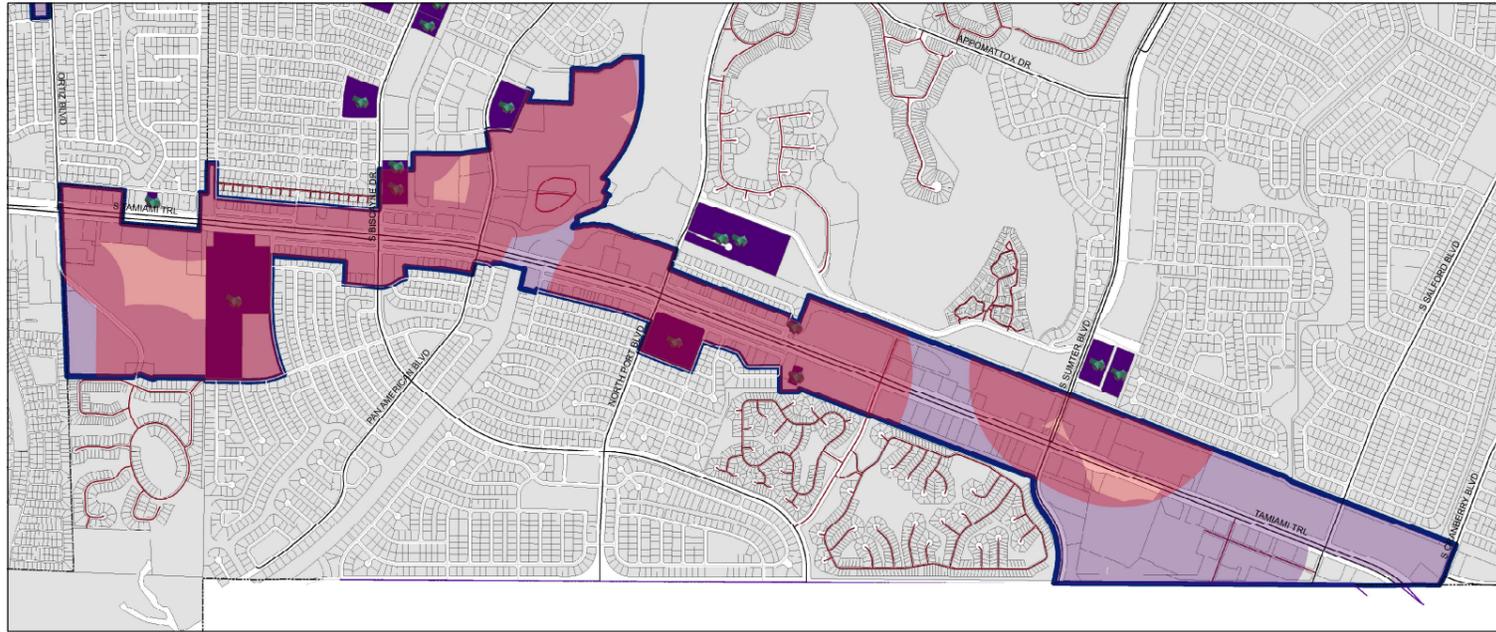
This map further shows other criteria that would apply to the siting of a medical cannabis dispensing facility according to the proposed ordinance. Activity centers are highlighted, and zoning districts within the activity centers are shown.



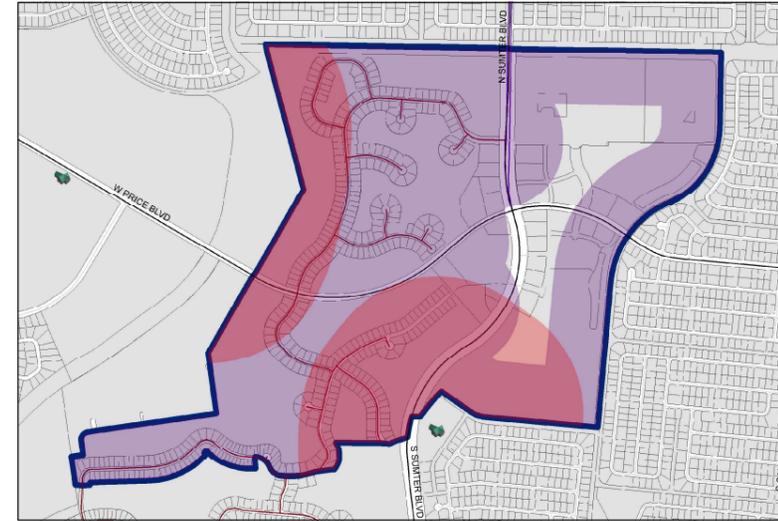
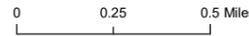
Prepared By:  
NDS Planning Division  
October 2016

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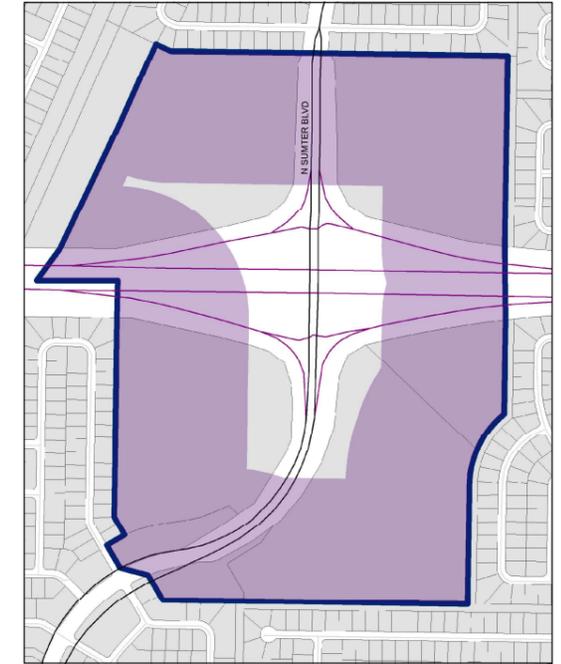
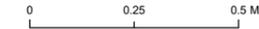
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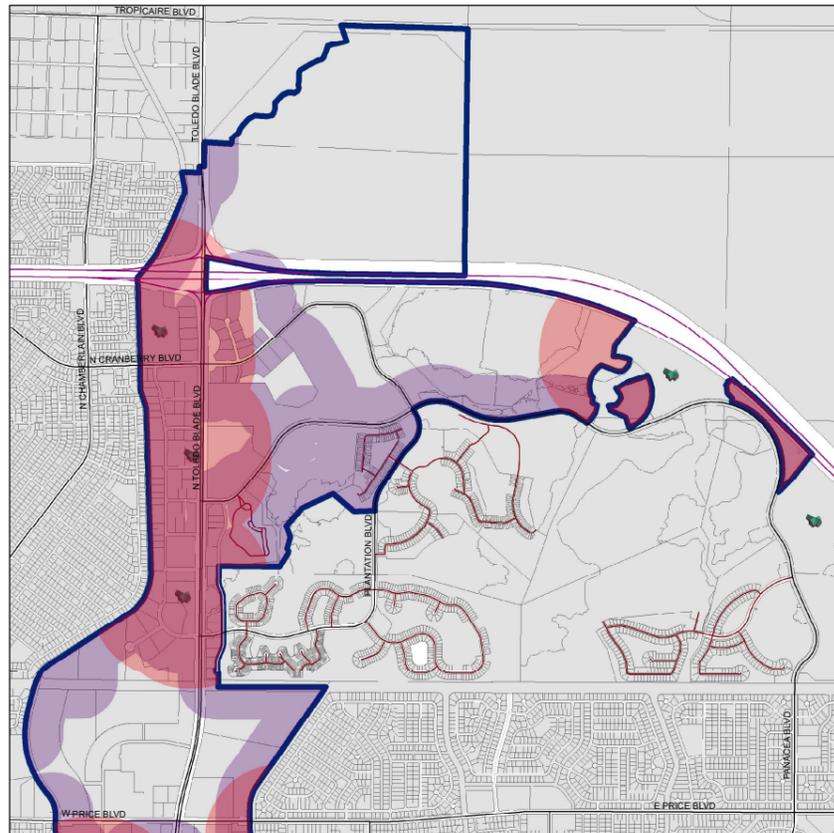
Activity Center 1



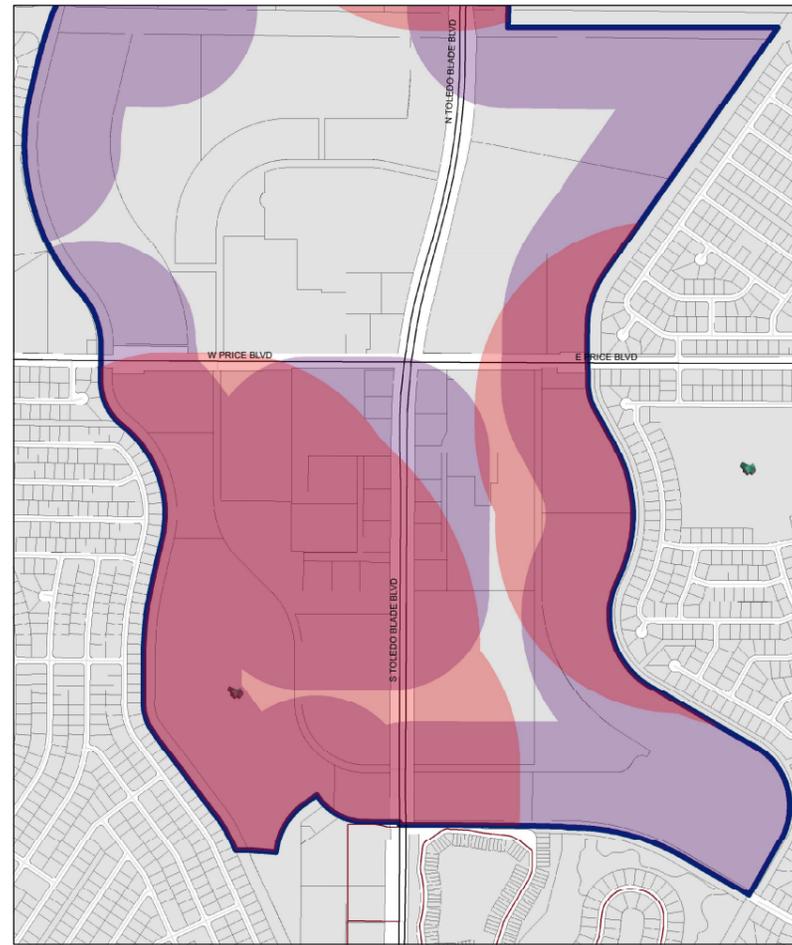
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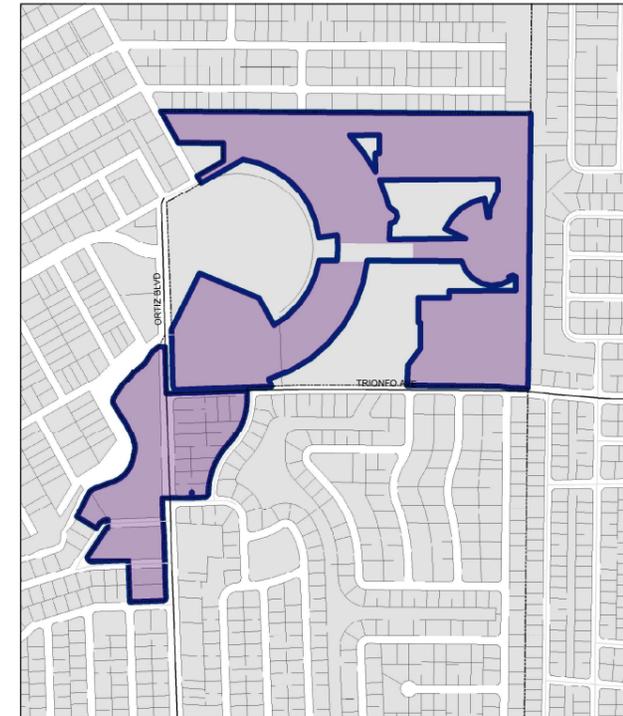
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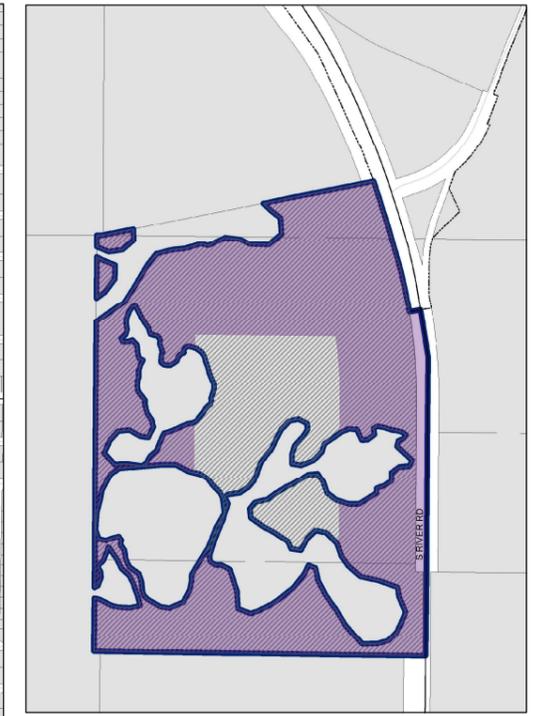
Activity Center 4



Activity Center 5



Activity Center 7



Activity Center 8



- Buffer from Churches, Daycares, Schools - 1500 ft
- Buffer from Residential - 800 ft
- Daycares, Schools, Churches
- Activity Centers
- City Boundary



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NDS Planning Division  
October 2016

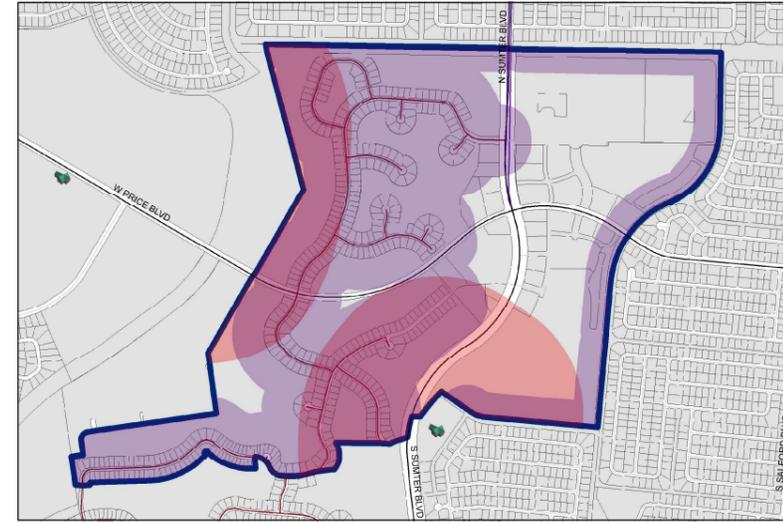
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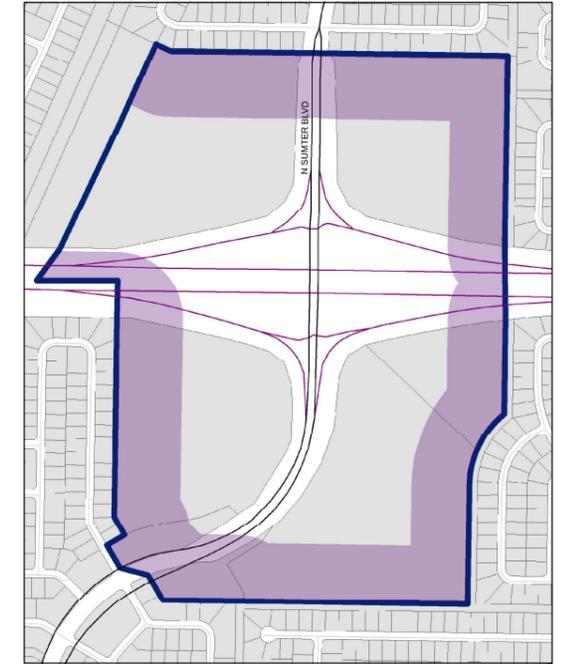
Activity Center 1

0 0.25 0.5 Miles



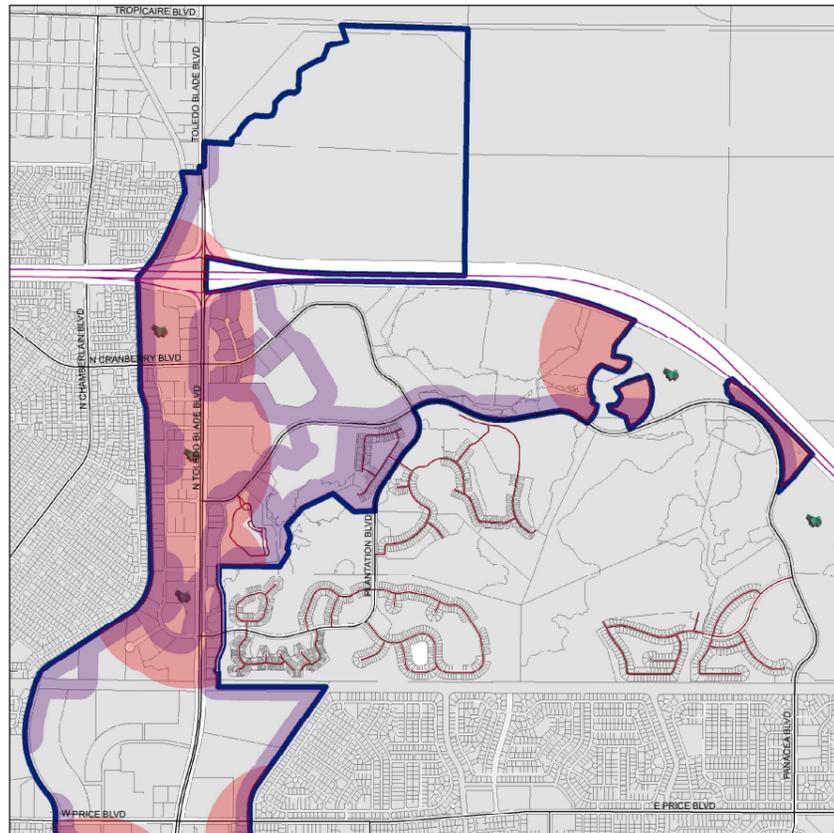
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0 0.25 0.5 Miles



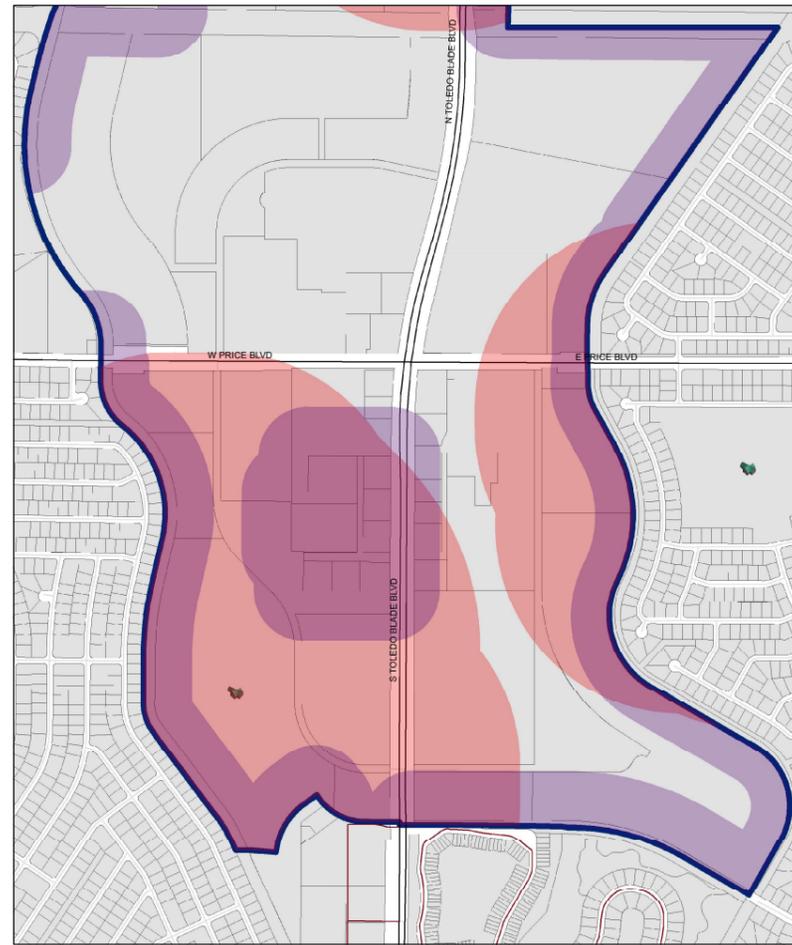
Activity Center 3

0 0.25 0.5 Miles



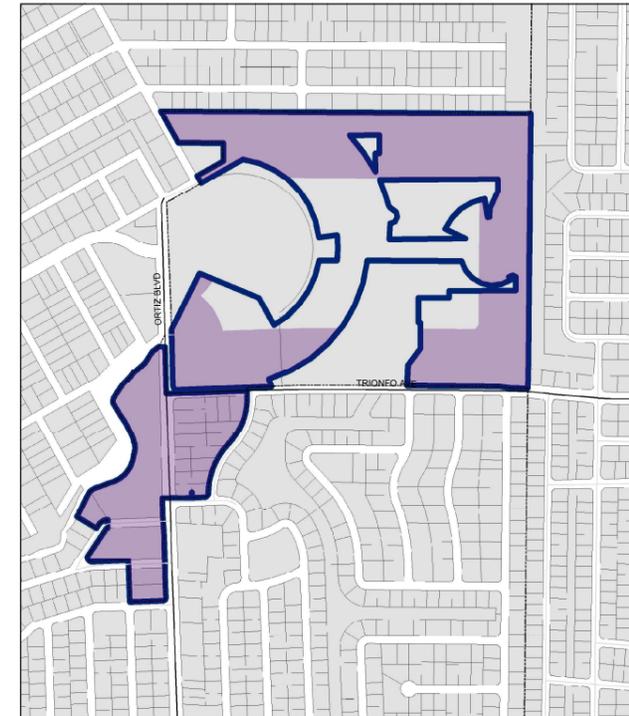
Activity Center 4

0 0.25 0.5 Miles



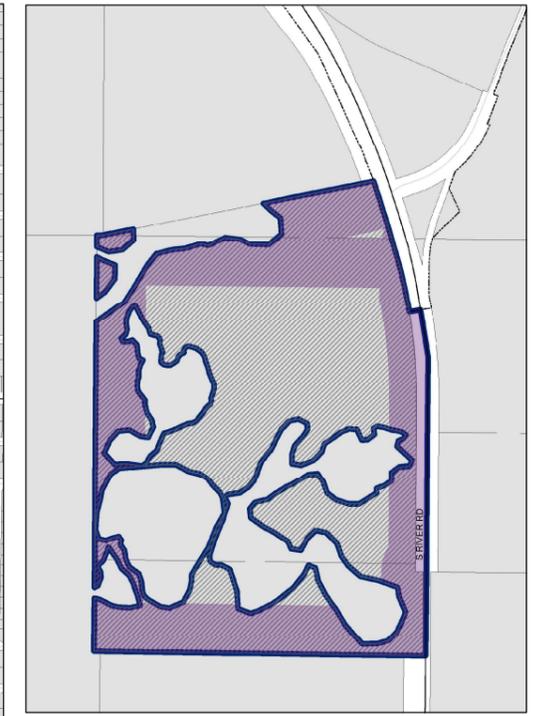
Activity Center 5

0 0.25 0.5 Miles



Activity Center 7

0 0.25 0.5 Miles



Activity Center 8

0 0.25 0.5 Miles

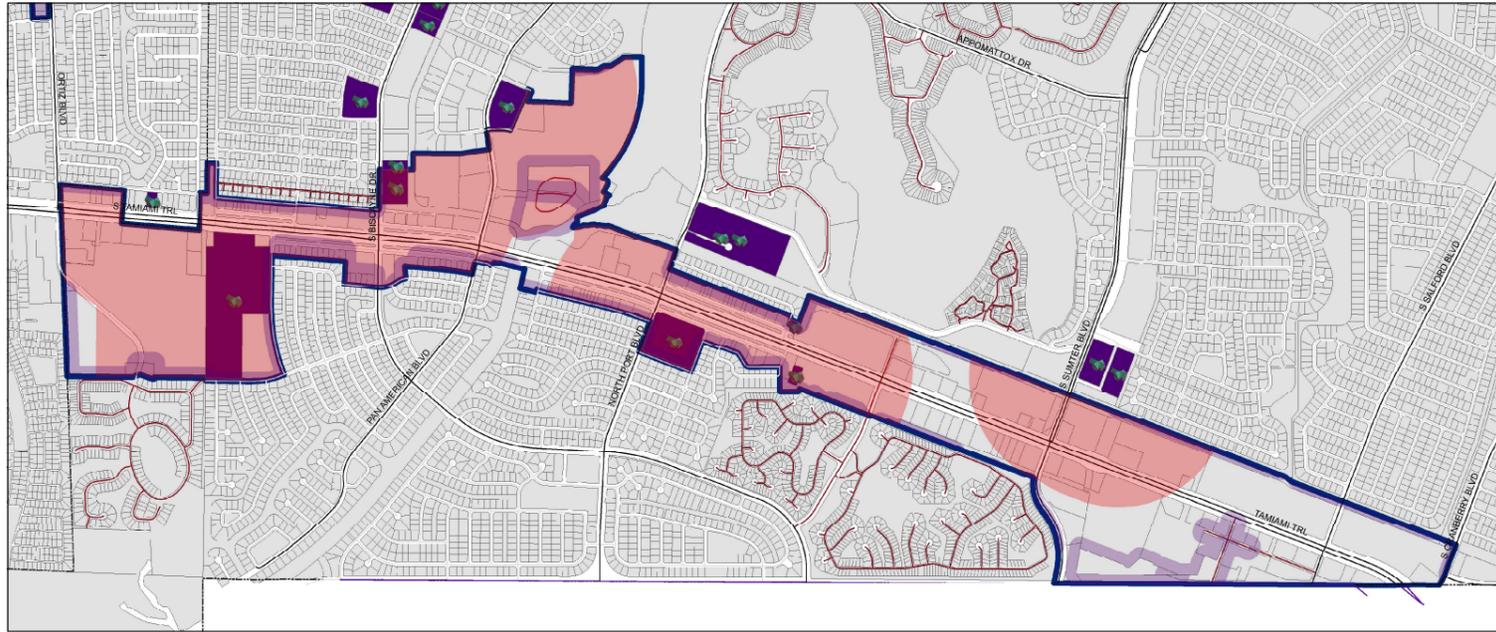
-  Buffer from Residential - 400 ft
-  Buffer from Churches, Daycares, Schools - 1500 ft
-  Daycares, Schools, Churches
-  City Boundary
-  ActivityCenters



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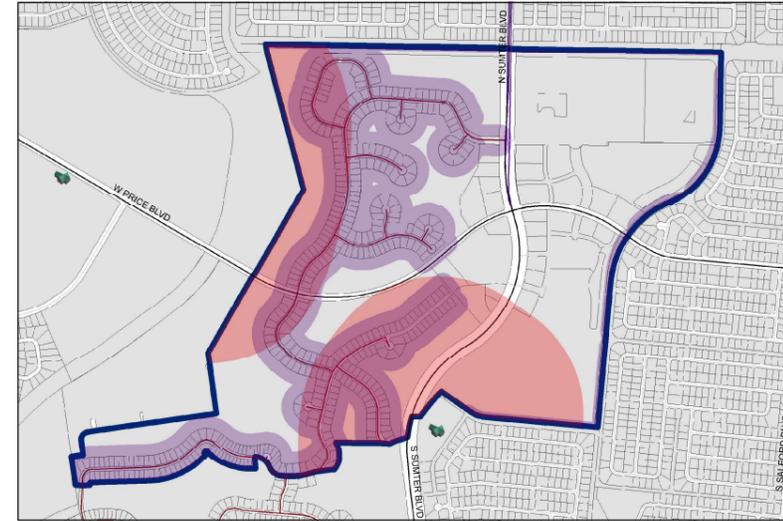
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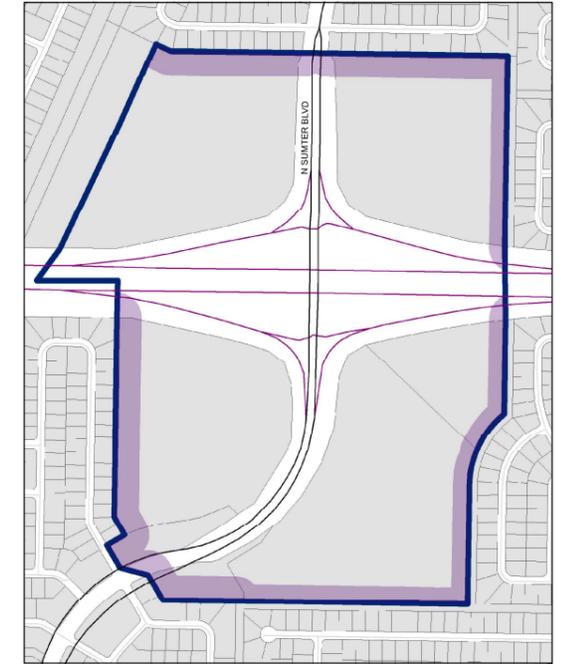
Activity Center 1

0 0.25 0.5 Miles



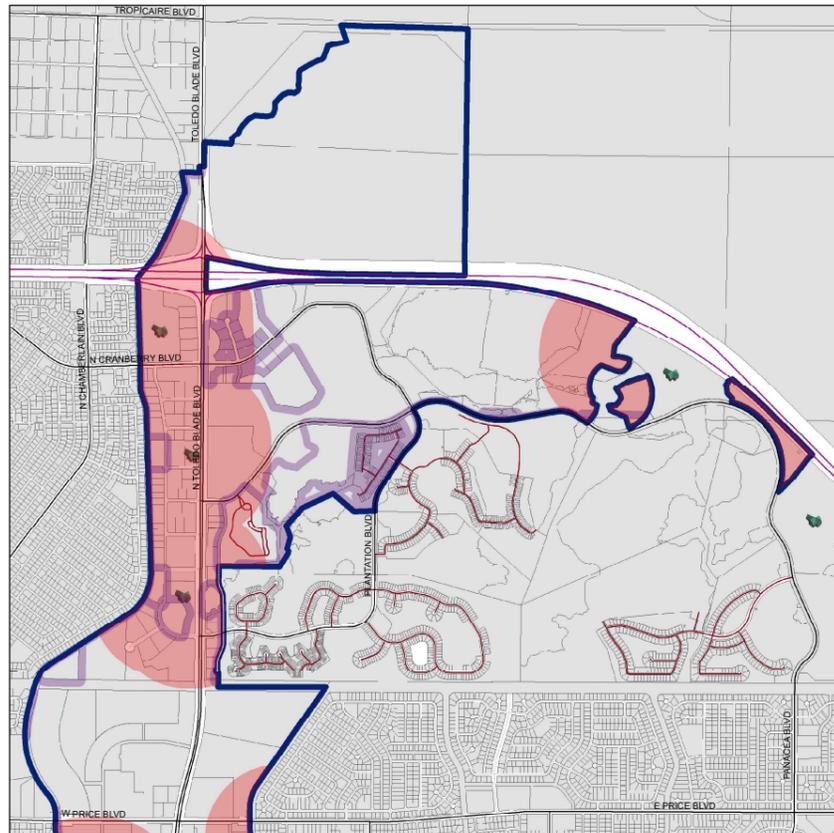
Activity Center 2

0 0.25 0.5 Miles



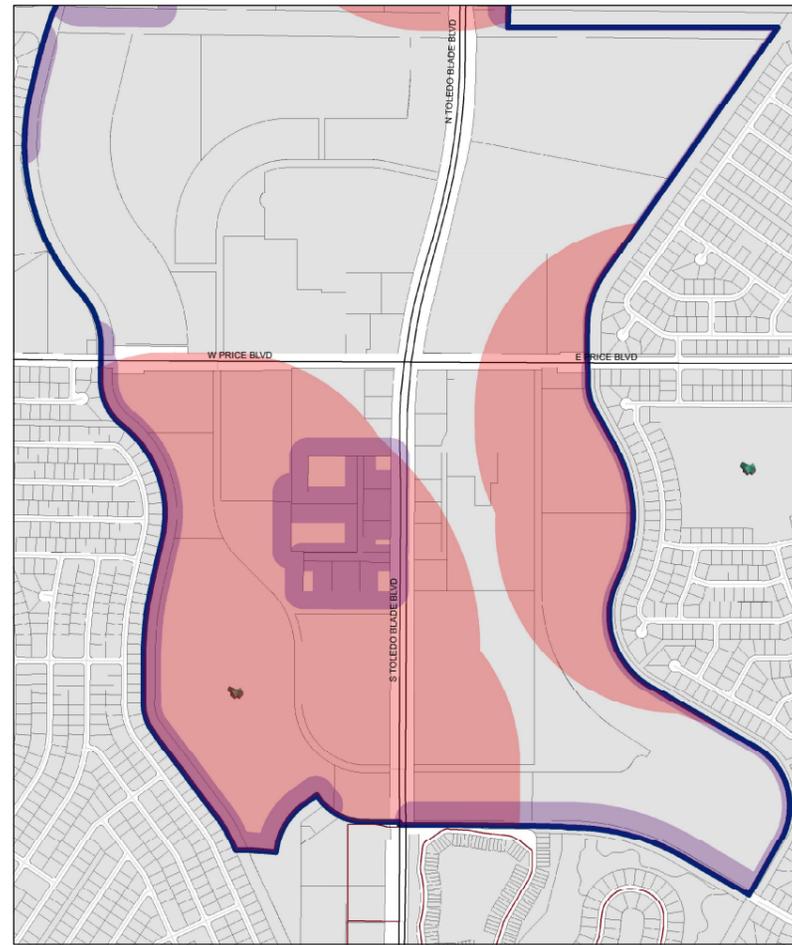
Activity Center 3

0 0.25 0.5 Miles



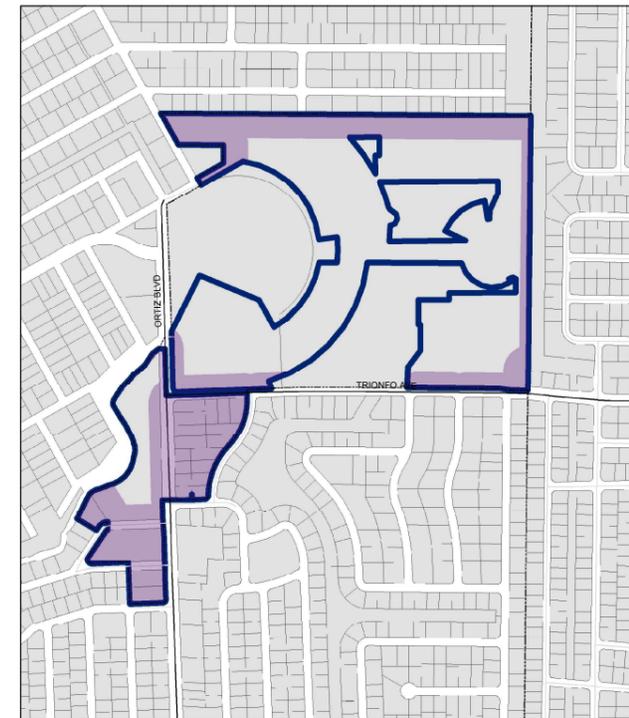
Activity Center 4

0 0.25 0.5 Miles



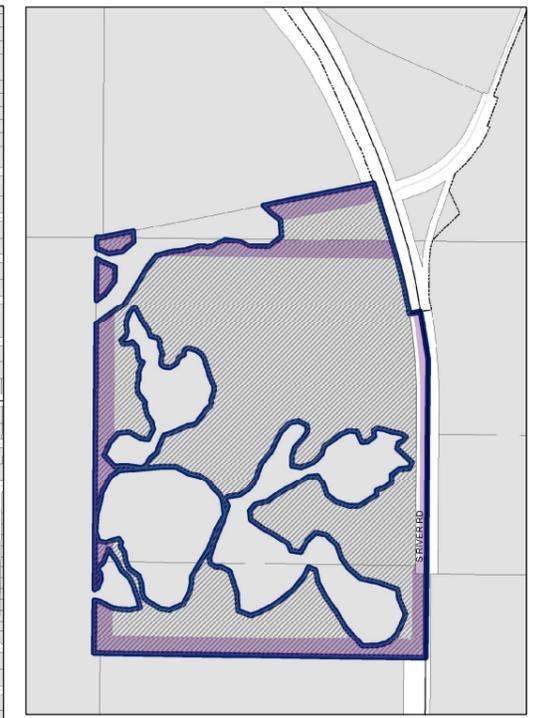
Activity Center 5

0 0.25 0.5 Miles



Activity Center 7

0 0.25 0.5 Miles



Activity Center 8

0 0.25 0.5 Miles

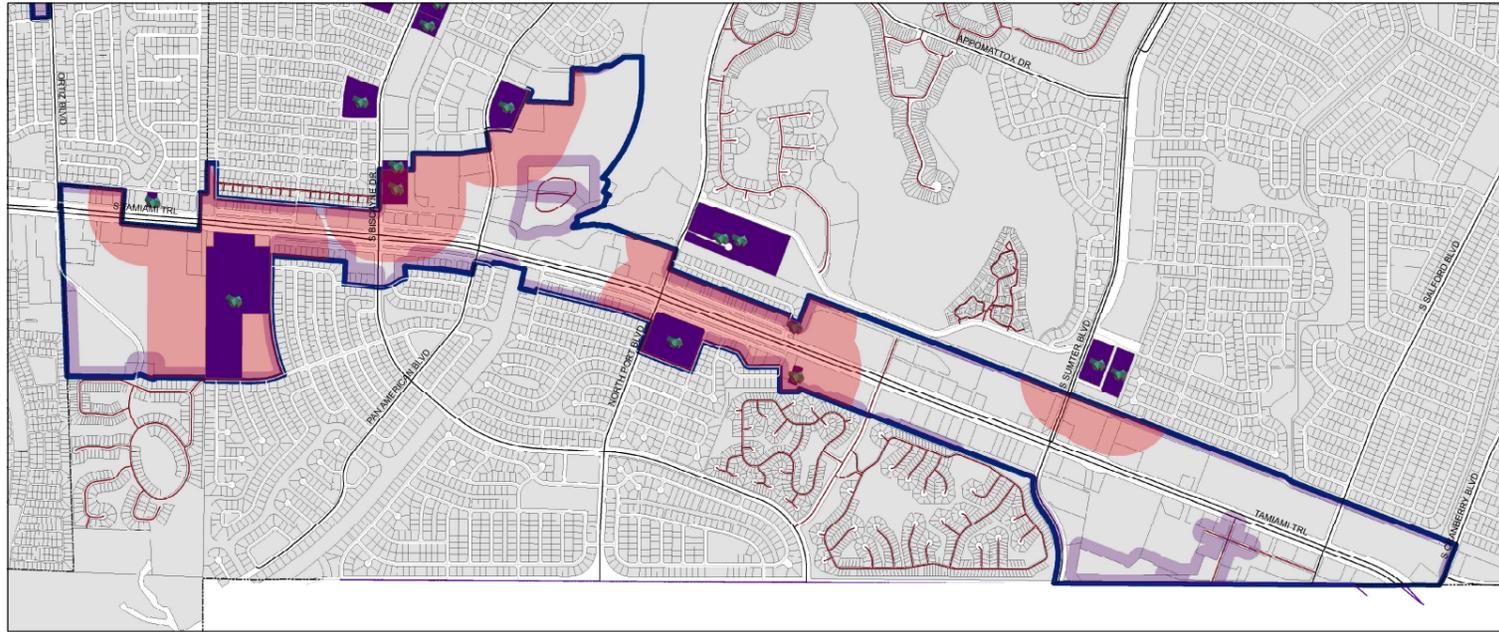
-  Buffer from Residential - 150 ft
-  Buffer from Churches, Daycares, Schools - 1500 ft
-  Daycares, Schools, Churches
-  City Boundary
-  ActivityCenters



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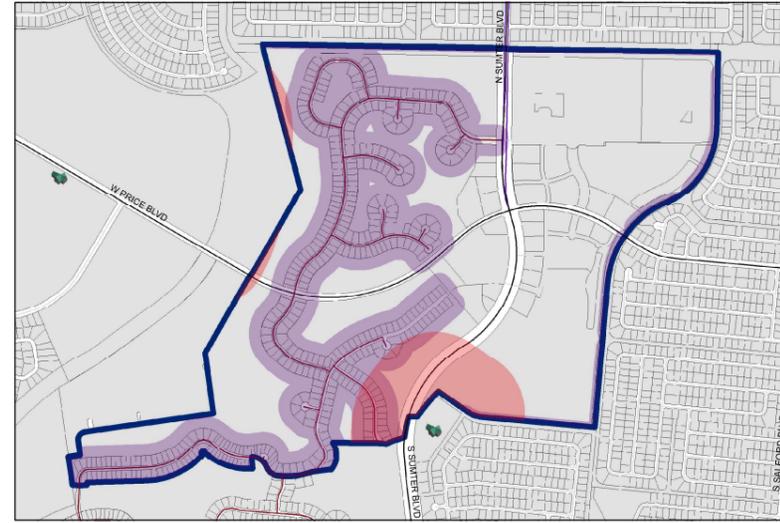
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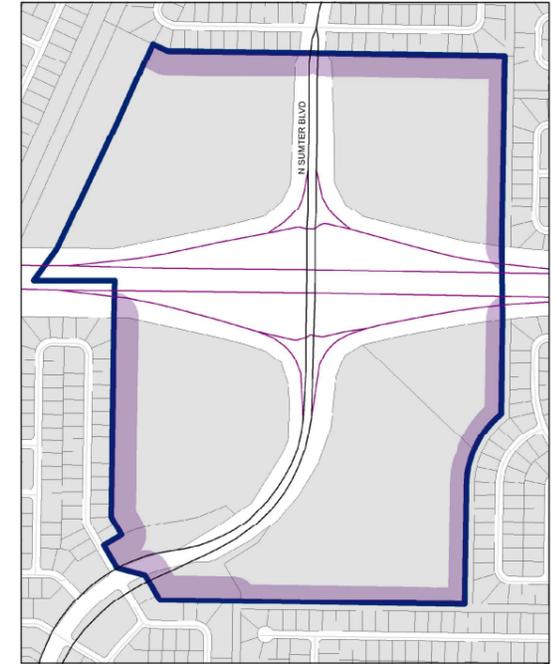
Activity Center 1

0 0.25 0.5 Miles



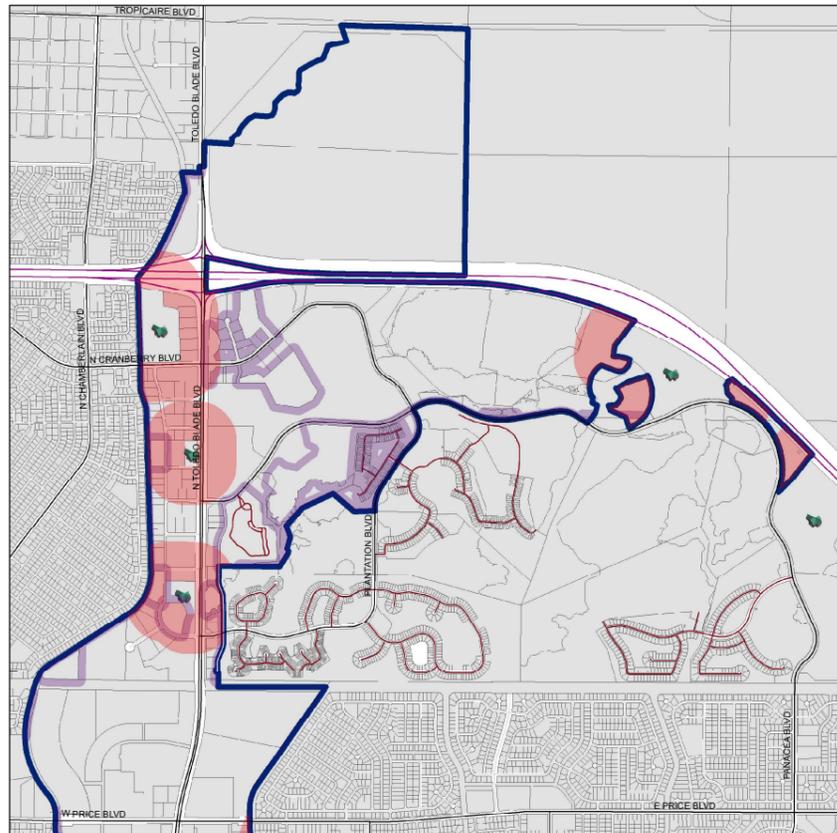
Activity Center 2

0 0.25 0.5 Miles



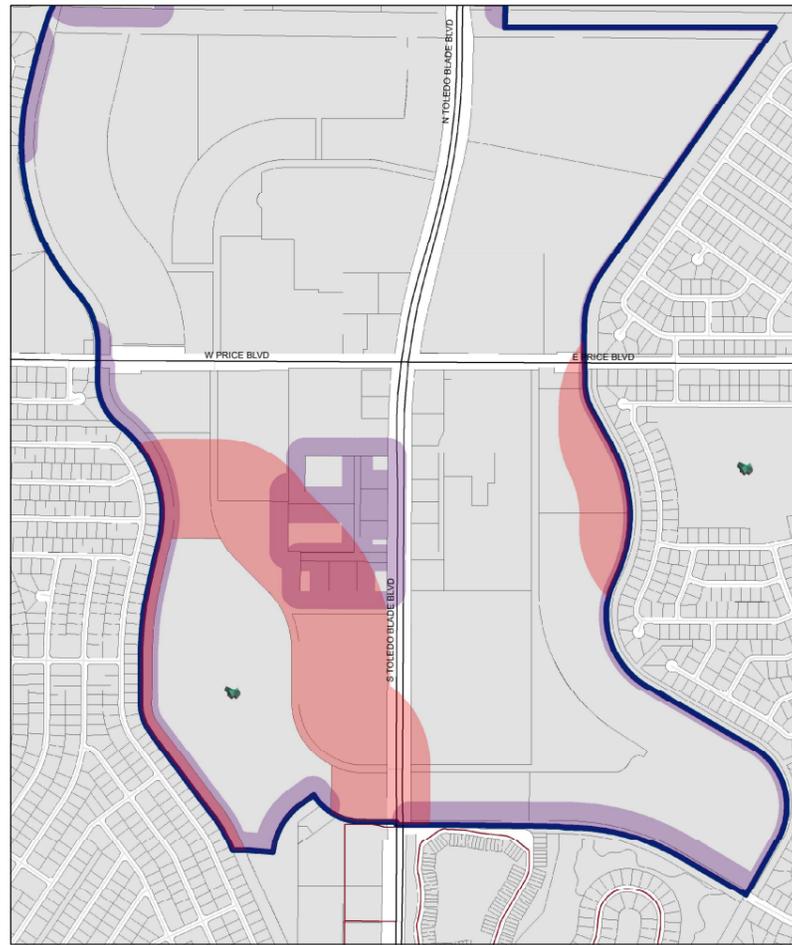
Activity Center 3

0 0.25 0.5 Miles



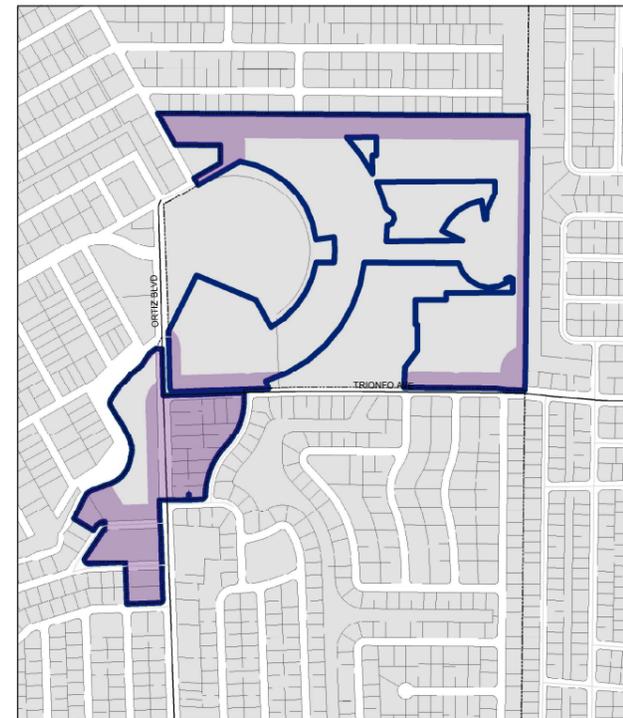
Activity Center 4

0 0.25 0.5 Miles



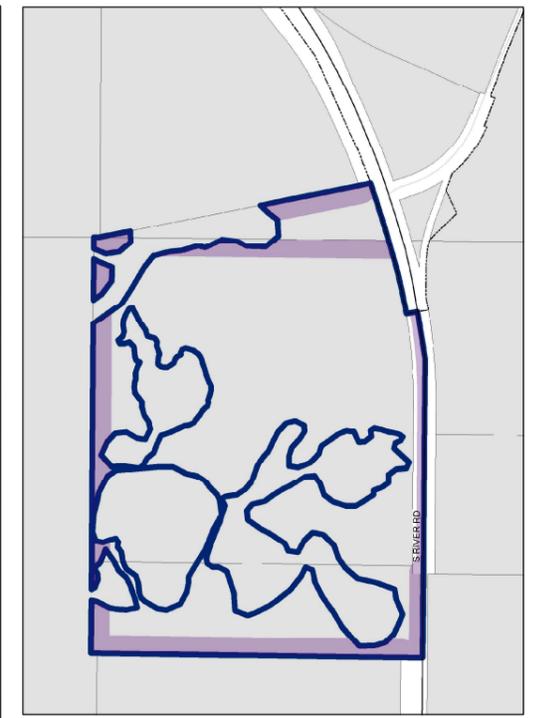
Activity Center 5

0 0.25 0.5 Miles



Activity Center 7

0 0.25 0.5 Miles



Activity Center 8

0 0.25 0.5 Miles

- Buffer from Churches, Daycares, Schools - 800 ft
- Buffer from Residential - 150 ft
- Daycares, Schools, Churches
- City Boundary
- ActivityCenters



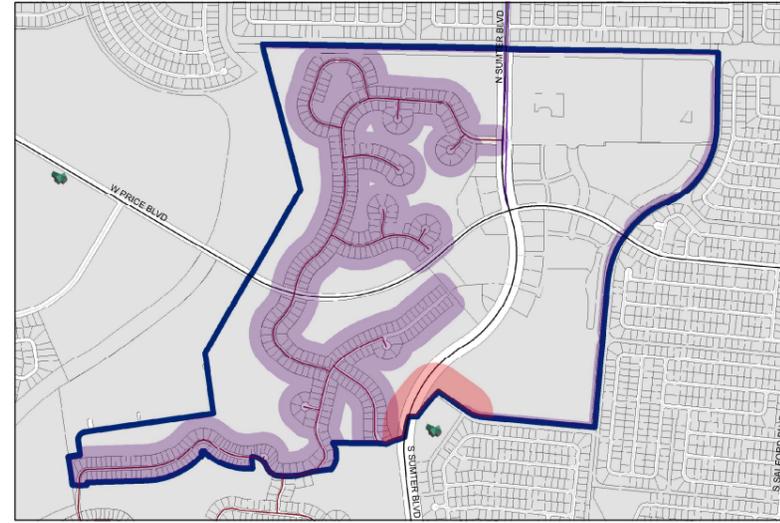
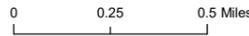
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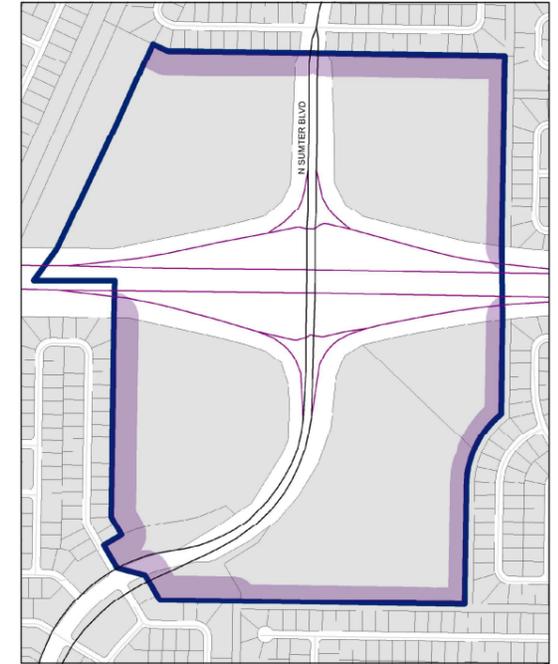
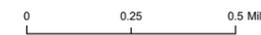
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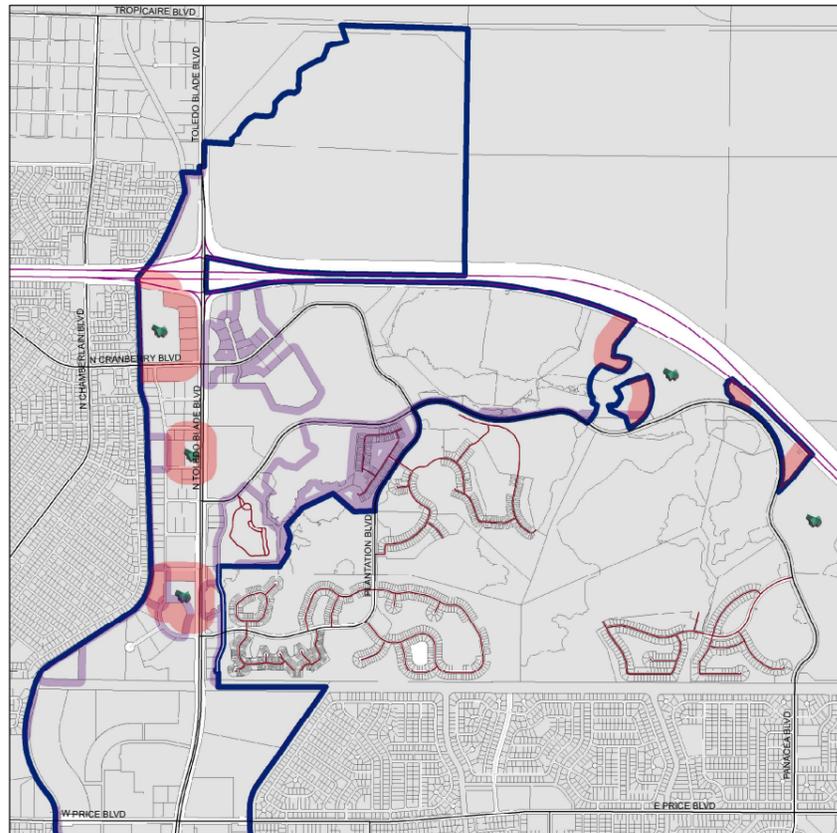
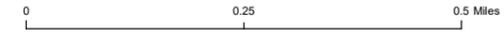
Activity Center 1



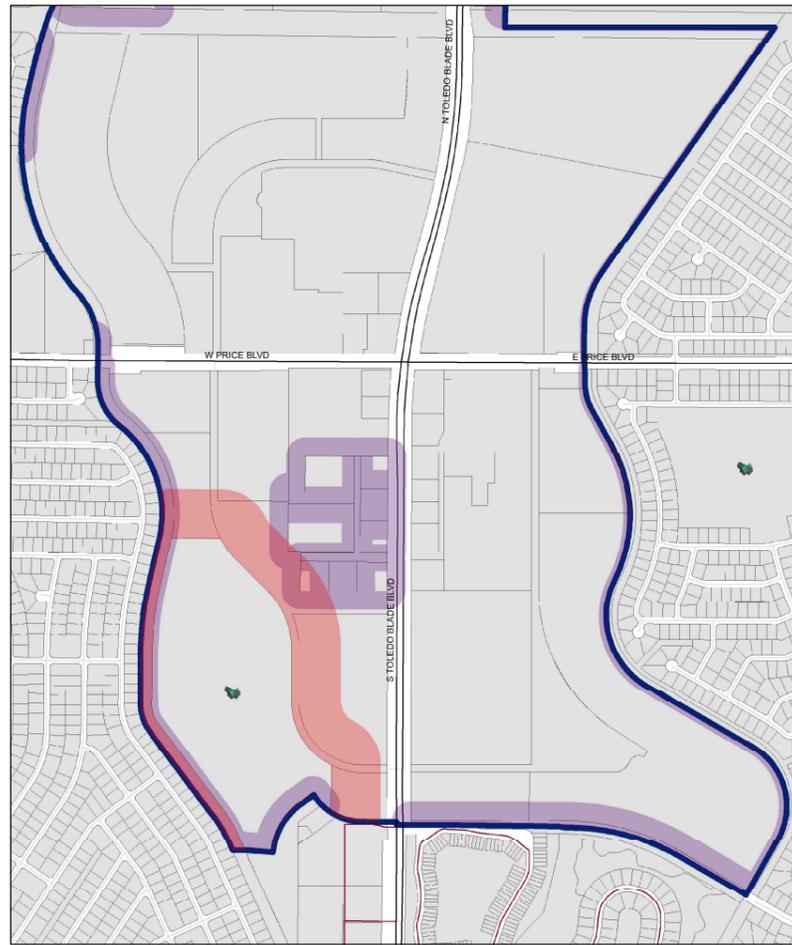
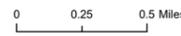
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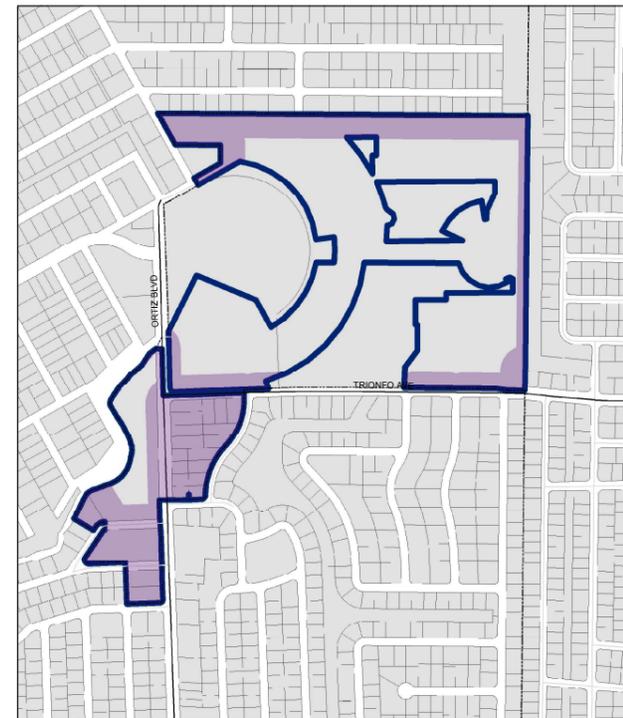
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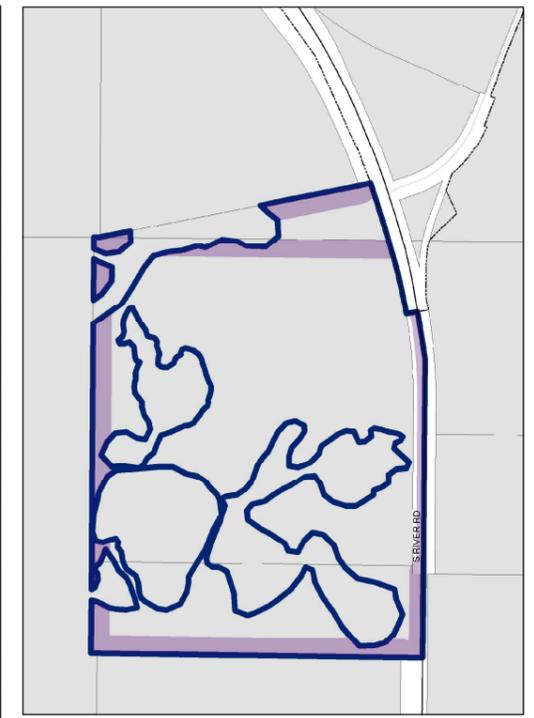
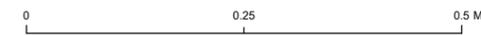
Activity Center 4



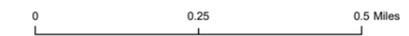
Activity Center 5



Activity Center 7



Activity Center 8



- Buffer from Churches, Daycares, Schools - 400 ft
- Buffer from Residential - 150 ft
- Daycares, Schools, Churches
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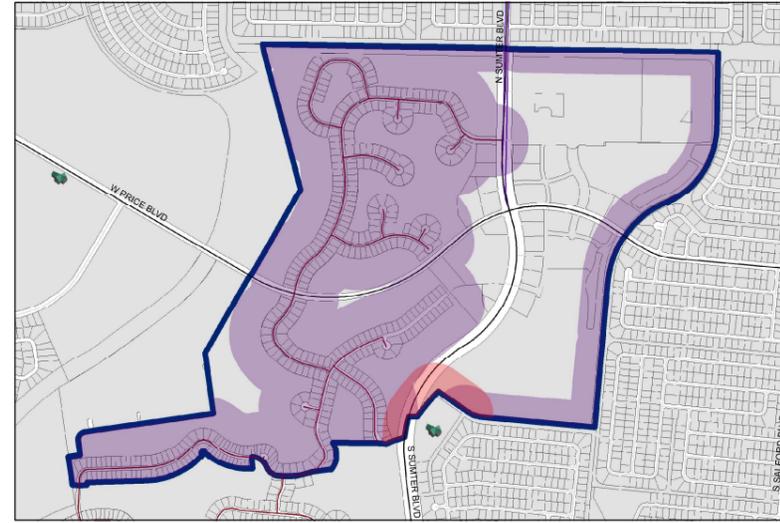
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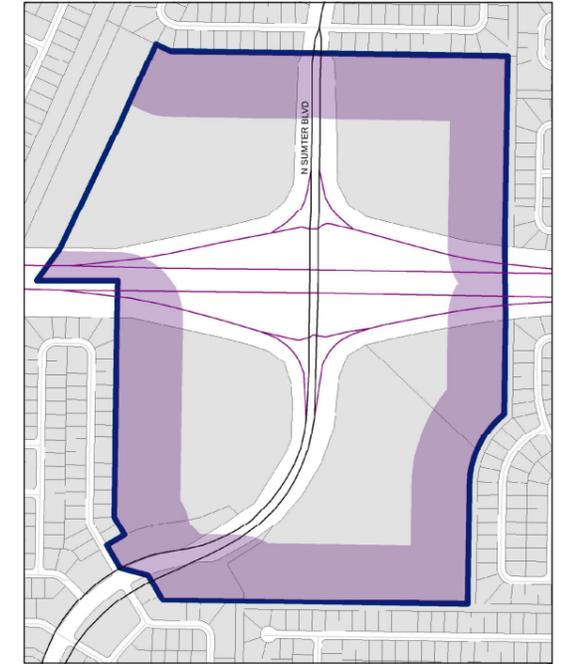
Activity Center 1

0 0.25 0.5 Miles



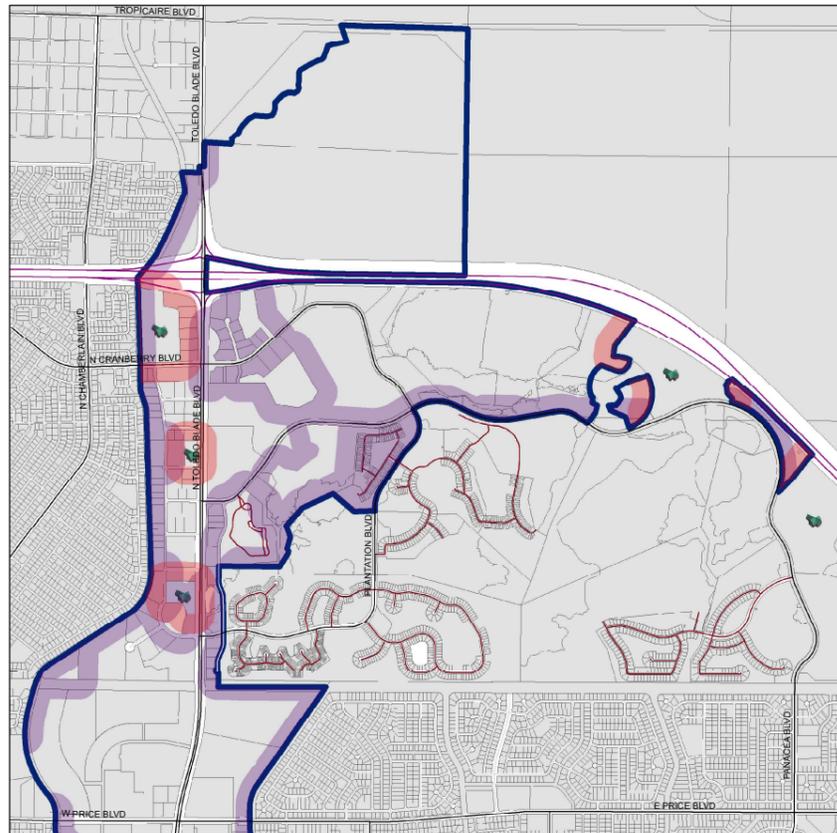
Activity Center 2

0 0.25 0.5 Miles



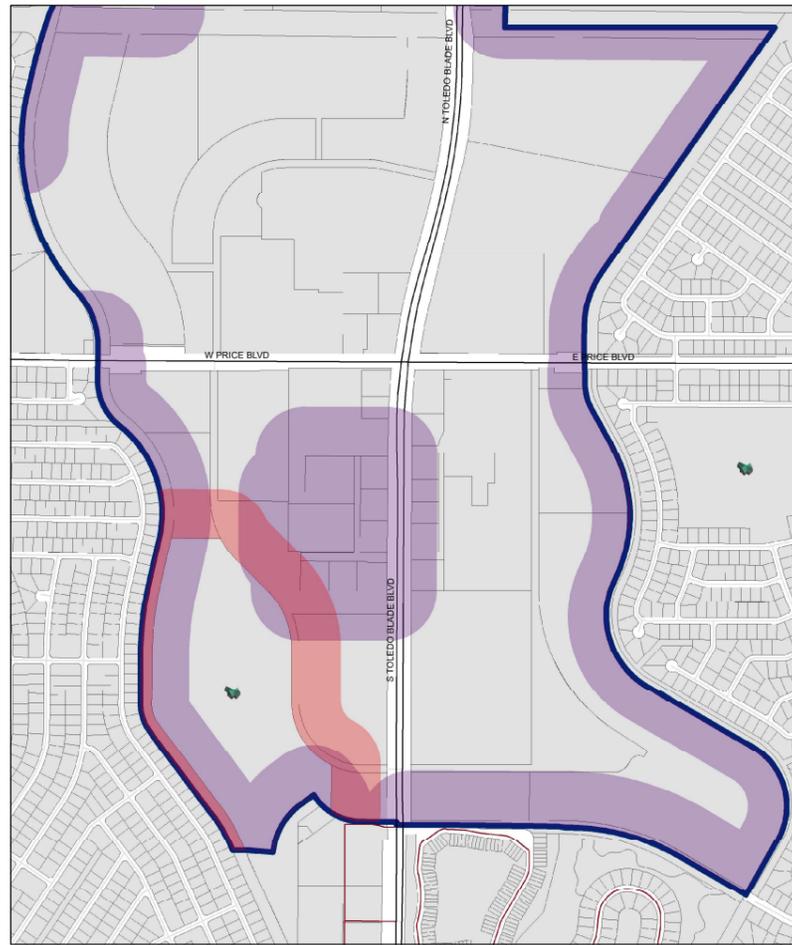
Activity Center 3

0 0.25 0.5 Miles



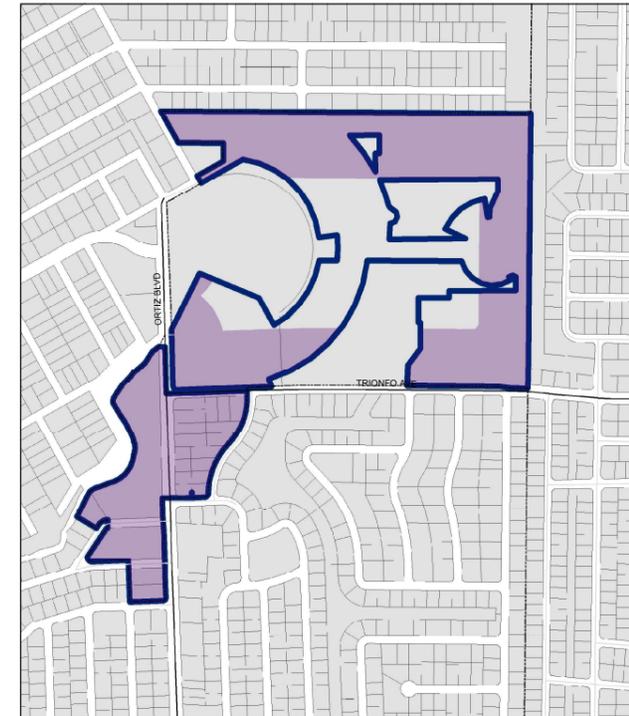
Activity Center 4

0 0.25 0.5 Miles



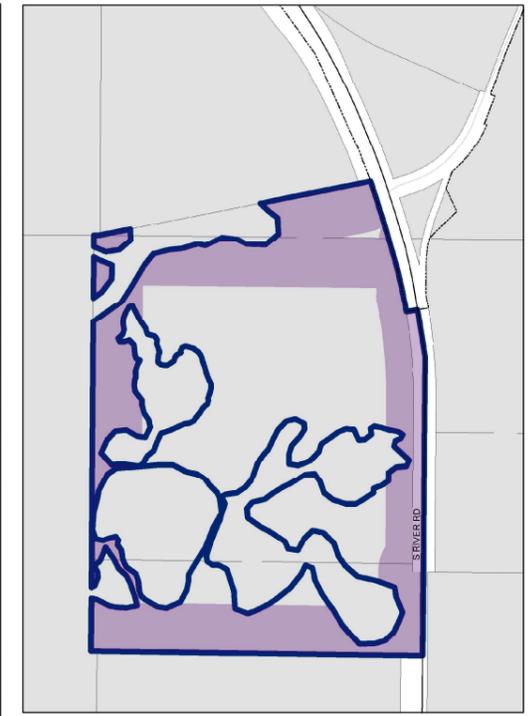
Activity Center 5

0 0.25 0.5 Miles



Activity Center 7

0 0.25 0.5 Miles



Activity Center 8

0 0.25 0.5 Miles

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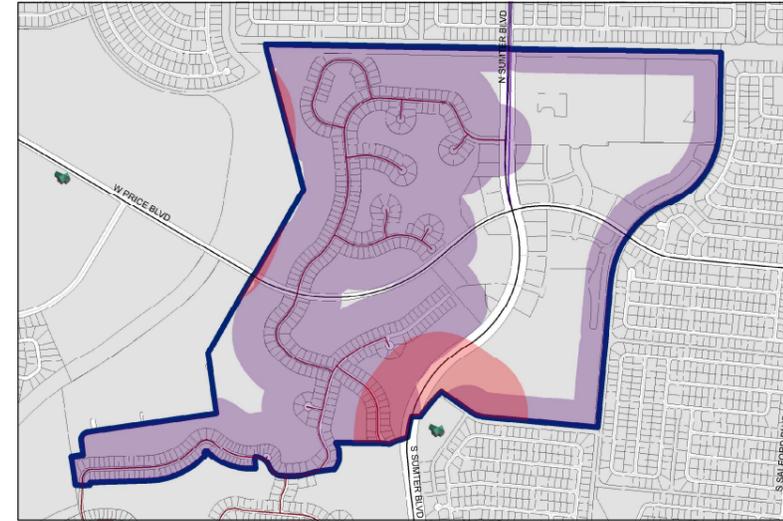
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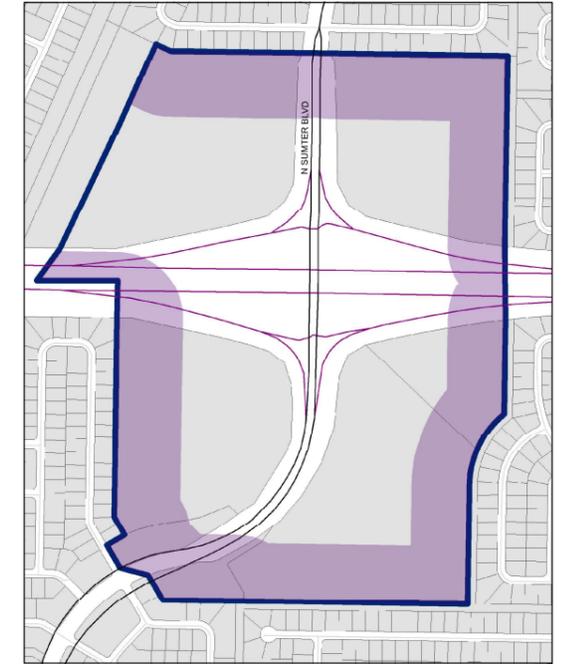
Activity Center 1

0 0.25 0.5 Miles



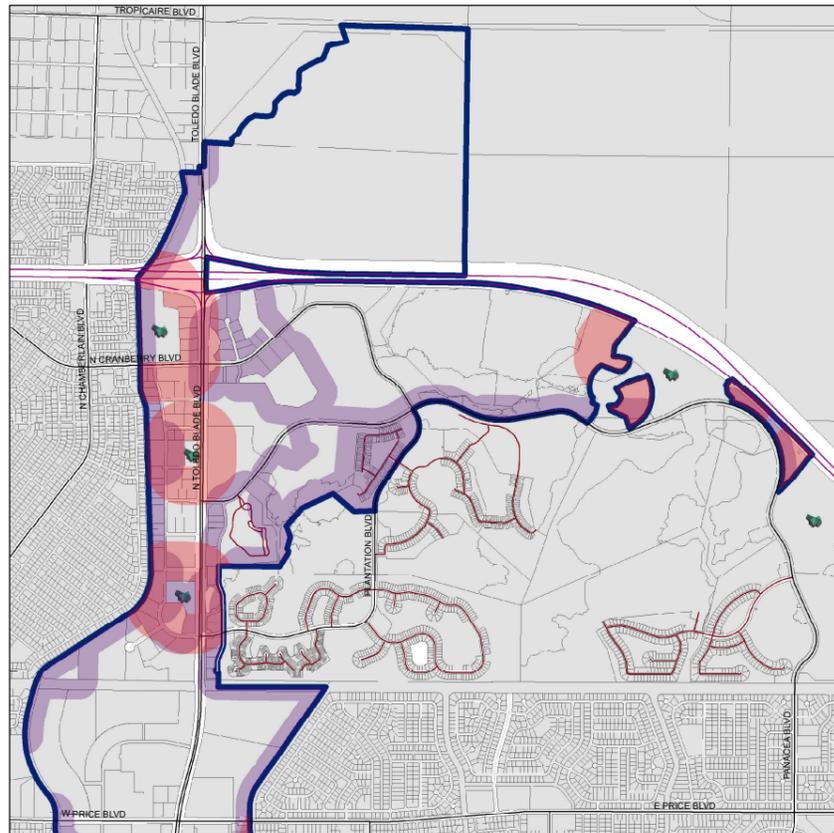
Activity Center 2

0 0.25 0.5 Miles



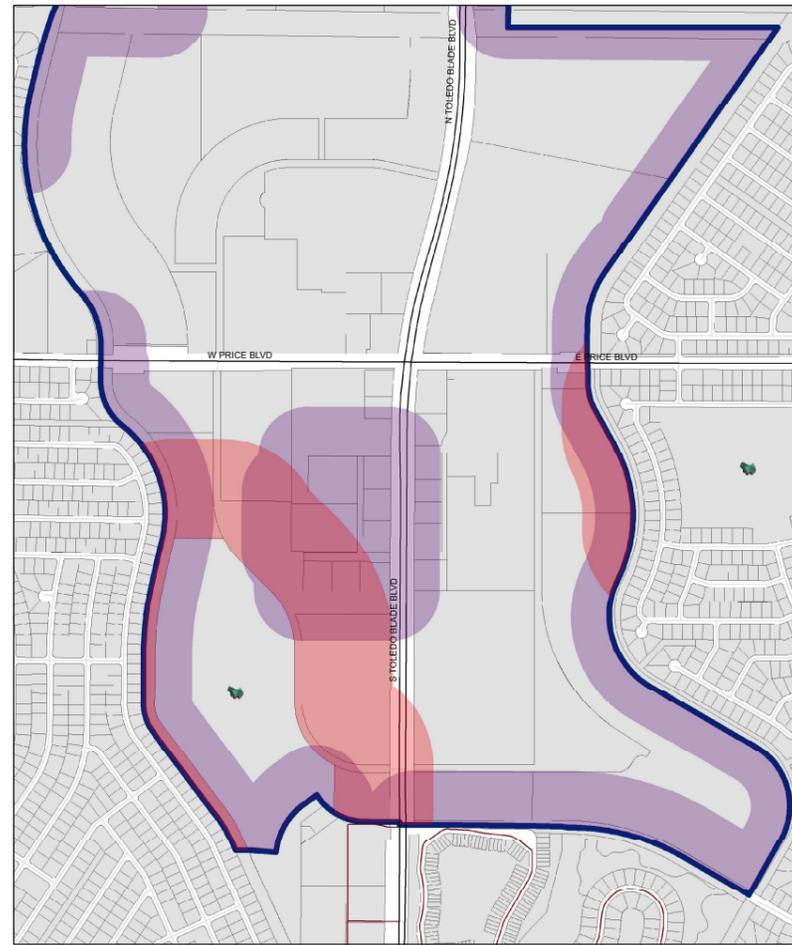
Activity Center 3

0 0.25 0.5 Miles



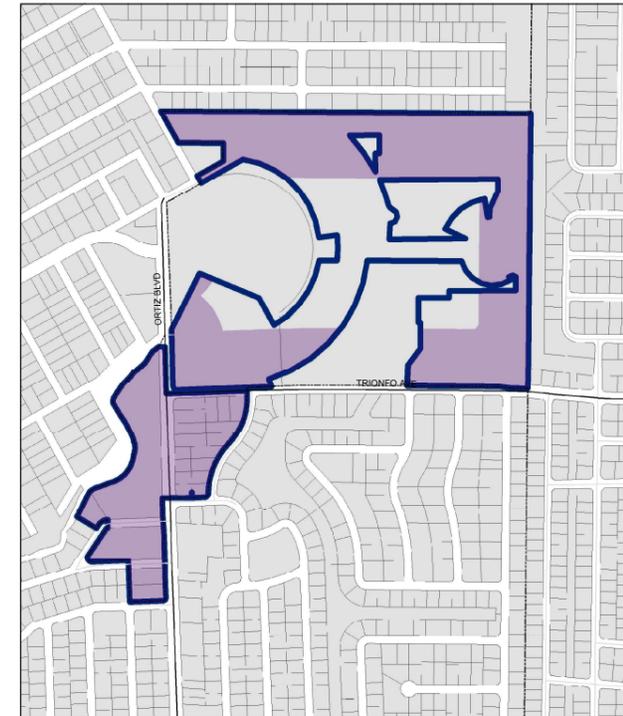
Activity Center 4

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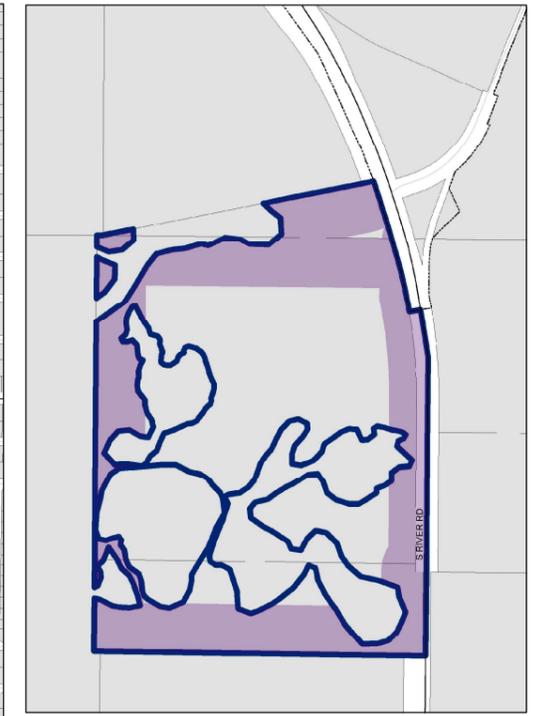
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Activity Center 7

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Activity Center 8

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NDS Planning Division  
October 2016

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**ARTICLE IXA. - LOW-THC CANNABIS AND MEDICAL CANNABIS DISPENSING FACILITIES**

**Sec. 33-149.1. - Intent.**

Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4 authorize a limited number of dispensing organizations throughout the State of Florida to cultivate, process, and dispense low-tetrahydrocannabinol (low-THC) cannabis and medical cannabis for use by qualified patients suffering from cancer, terminal conditions, and certain chronic conditions. The dispensing organizations must be approved by the Florida Department of Health and, once approved, are subject to state regulation and oversight.

The intent of this article is to establish the criteria for the location and permitting of establishments that dispense low-THC cannabis or medical cannabis in accordance with Section 381.986, Florida Statutes, and Florida Administrative Code Chapter 64-4.

(Ord. No. 16-67, § 1, 7-6-16)

**Sec. 33-149.2. - Applicability.**

The provisions of this article shall be applicable in the unincorporated areas of Miami-Dade County. This article shall only be construed to allow the dispensing of low-THC cannabis or medical cannabis by a state-approved dispensing organization for medical use. The sale of cannabis or marijuana is prohibited in Miami-Dade County except in accordance with this article.

(Ord. No. 16-67, § 1, 7-6-16)

**Sec. 33-149.3. - Definitions.**

Except as provided herein, all terms shall be defined in accordance with this chapter and Section 381.986, Florida Statutes, as may be amended from time to time:

- (A) "Dispensing facility" refers to the building or structure where low-THC cannabis or medical cannabis, as well as cannabis delivery devices, are dispensed at retail.
- (B) "Dispensing organization" means an organization approved by the state to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis.
- (C) "Low-tetrahydrocannabinol cannabis" or "low-THC cannabis" means a plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.
- (D) "Medical cannabis" means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds

or resin that is dispensed only from a dispensing organization for medical use by an eligible patient.

- (E) "Medical use" means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:
- (1) Possession, use, or administration of low-THC cannabis or medical cannabis by smoking; or
  - (2) Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative authorized to receive it on the qualified patient's behalf.
  - (3) Use or administration of low-THC cannabis or medical cannabis:
    - i. On any form of public transportation.
    - ii. In any public place.
    - iii. In a qualified patient's place of employment, if restricted by his or her employer.
    - iv. In a correctional institution.
    - v. On the grounds of any child care facility, preschool, or school.
    - vi. On or in any vehicle, aircraft, or motorboat.

(Ord. No. 16-67, § 1, 7-6-16)

**Sec. 33-149.4. - Zoning districts where dispensing allowed.**

Only in accordance with the requirements of this article and the applicable zoning district, dispensing of low-THC or medical cannabis shall be permitted in: the BU-1, BU-1A, BU-2, BU-3, IU-1, IU-2, IU-3, and IU-C Zoning Districts; areas designated MC, MCS, MCI, and ID in an Urban Center or Urban Area District; and the DKUC and PLMUC Urban Center Districts. Where ancillary to cultivation or processing, dispensing of low-THC or medical cannabis shall also be permitted in the AU Zoning District; provided, however, that dispensing shall not be permitted in the area known as Horse Country, as identified in Resolution No. R-429-16.

(Ord. No. 16-67, § 1, 7-6-16)

**Sec. 33-149.5. - Zoning requirements for dispensing facilities.**

Low-THC and medical cannabis dispensing facilities shall comply with the following requirements:

- (A) No low-THC or medical cannabis dispensing facility shall be located within:
- (1) 1 mile from any other low-THC or medical cannabis dispensing facility;
  - (2) 1,000 feet of any child care facility, preschool, kindergarten, elementary school, middle school, junior high school, high school, or religious facility; or
  - (3) 500 feet of any property in an EU or RU Zoning District (except for RU-5A), or any area designated R in an Urban Center or Urban Area District.

- (B) Distances between low-THC or medical cannabis dispensing facilities shall be measured by drawing a straight line between the front doors of the respective dispensing facilities.

The distance from a child care facility, preschool, kindergarten, elementary school, middle school, junior high school, high school, religious facility, or residential property shall be measured by following a straight line from the nearest point of the respective structure to the front door of the proposed dispensing facility.

The applicant shall furnish a certified survey from a registered engineer or surveyor, indicating the distance between the proposed dispensing facility and any existing low-THC or medical cannabis dispensing facility, child care facility, preschool, kindergarten, elementary school, middle school, junior high school, high school, religious facility, or residential property within the applicable radius. In case of dispute, the measurement scaled by the Director shall govern. The Director shall verify in writing receipt of the survey from the applicant, which shall serve as a reservation of said location by a state-approved dispensing organization to dispense low-THC or medical cannabis. Upon reservation, the applicant shall have 180 days to apply for a permit or certificate of use.

- (C) Dispensing of, payment for, and receipt of low-THC or medical cannabis is prohibited anywhere outside of the dispensing facility, including, but not limited to, on sidewalks, in parking areas, or in the rights-of-way surrounding the dispensing facility; provided, however, this provision shall not be construed to prohibit delivery of low-THC or medical cannabis to an eligible patient, as permitted by state law or rule.
- (D) Consumption of low-THC or medical cannabis or alcoholic beverages is prohibited onsite at the dispensing facility, including, but not limited to, in the parking areas, sidewalks, or rights-of-way surrounding the dispensing facility; provided, however, this provision shall not be construed to prohibit consumption associated with a dispensing facility employee, trained by a medical professional such as a doctor, nurse, pharmacist, or medical or physician's assistant, instructing an eligible patient on the mechanism of consumption of low-THC or medical cannabis, as permitted by state law or rule.
- (E) Irrespective of any statutory amendment, facilities dispensing low-THC or medical cannabis shall only be allowed to operate between the hours of 7:00 a.m. and 9:00 p.m. daily, as provided by Section 381.986, Florida Statutes, as of the effective date of Ordinance No. [Insert Ordinance No.].
- (F) A certificate of use shall be obtained for the low-THC or medical cannabis dispensing facility on an annual basis. The application for the certificate of use shall be made on a form prescribed by the Director.
- (1) The low-THC or medical cannabis dispensing facility must be established on the premises by a state-approved dispensing organization within 180 days of the date the certificate of use is issued; after 180 days, unless the time period is extended by the Director for good cause shown, the certificate of use shall be null and void and the applicant must re-apply.
  - (2) The Department shall have the right to periodically inspect the premises of the dispensing facility at any reasonable time to ensure that the facility has a current and valid certificate of use, and to ensure compliance with the terms and conditions under

which it was issued. Violators will be subject to all appropriate penalties, including revocation of the certificate of use.

- (3) Where, pursuant to Chapter 8CC of this Code, a civil violation notice relating to the dispensing of low-THC or medical cannabis has been issued and appealed by the alleged violator, the certificate of use shall not be renewed where the appeal has been pending for 180 days or more and the delay is attributable to the alleged violator. Where, pursuant to Chapter 8CC of this Code, determinations of guilt for three or more violations have been made, or the Nuisance Abatement Board has determined that a nuisance exists at the dispensing facility, the certificate of use shall be revoked immediately, and a new application may not be made within a period of 12 months.
- (G) Any use, created and established under this article in a legal manner, which may thereafter become legally nonconforming, may continue until there is an abandonment of said use. Once a legally nonconforming use is abandoned, it shall not be re-established unless it conforms to the requirements of this article. Abandonment shall consist of: a change of use or suspension of active business with the public for a period of at least 3 months; or a lesser time if a written declaration of abandonment is provided by the owner of the premises or, if the property is subject to a lease, by the owner and tenant thereof.
- (H) No certificate of use, license, or building or other permit shall be issued for a low-THC or medical cannabis dispensing facility where the proposed place of business does not conform to the requirements of this subsection.

(Ord. No. 16-67, § 1, 7-6-16)