



STAFF REPORT

Mobile Food Vendors

Ordinance 2019-04

From: Nicole Galehouse, AICP, Planning Division Manager

Thru: Frank Miles, MPA, Director, Neighborhood
Development Services

Date: June 12, 2019

ORDINANCE NO. 2019-04

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, CREATING A MOBILE FOOD VENDOR PERMIT AND ASSOCIATED FEES FOR THE OPERATION OF MOBILE FOOD VENDORS AND ICE CREAM TRUCKS WITHIN THE CITY BY AMENDING THE CODE OF THE CITY OF NORTH PORT, FLORIDA, CHAPTER 34 – LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS, BY CREATING A NEW ARTICLE III – BUSINESS PERMITS AND APPENDIX A – CITY FEE STRUCTURE; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

PROJECT:	TXT-18-248, Mobile Food Vendors
REQUEST:	Approval of Ordinance 2019-04
APPLICANT:	City of North Port
OWNER:	N/A
LOCATION:	Citywide Ordinance
PROPERTY SIZE:	N/A

I. BACKGROUND

Over the last several years, the mobile food industry has entered what some have called "The Golden Age," with the industry increasing by roughly 8% annually over the last five years, according to a 2017 article in The Economist. Mobile food vendors have created tens of thousands of jobs, brought dining options to communities that may not have been otherwise served by brick and mortar restaurants.

The growth in the mobile food industry, however, has been affected by the numerous local policies that limit where mobile food vendors can operate and how they can exist in a community. This is especially true in North Port, where at present, mobile food vendors are limited to operating only as part of a permitted special event through a third party application. At the same time, numerous mobile food vendors operating in the region live in North Port, where the shortage of affordable commercial space that typically serves start up restaurants has made it difficult for potential local restaurants to open in the City. Ordinance 2019-04 would serve to allow mobile food vendors to operate in the City on a regular basis, providing opportunities for entrepreneurs to start businesses in the City without the high start up costs associated with a brick and mortar restaurant location.

II. REVIEW PROCESS

Staff reviewed this petition for a Text Amendment and found this petition is consistent with the City's Comprehensive Plan. This petition was reviewed by the Department of Parks & Recreation for the impact to City parks and by Risk Services to provide guidelines for insurance requirements. The City Attorney reviewed and approved Ordinance 2019-04 as to form and correctness.

III. DATA & ANALYSIS

The proposed text amendment includes several key elements that permit mobile food vendors within the City of North Port:

- Creation of a Mobile Food Vending Permit;
- Establishment of locations where mobile food vendors may operate; and
- Regulations for the operation of mobile food vendors.

The regulations proposed by staff started with the regulations from Sarasota County and were modified based on input from the City Commission. They have been tailored to fit the needs of the City of North Port. In previous discussion, food trucks were contemplated to be regulated through a Temporary Use Permit (TUP). In cleaning up the draft ordinance language and refining the text amendment, staff felt that the TUP would not be the best avenue for the mobile food vendors to use, as the application is intended for a structure or event that lasts more than two weeks in length. The site design is approved for each TUP, while a mobile food vendor may choose a different location each day of the week. For this reason, the Mobile Food Vendor Permit (MFVP) is proposed through Ordinance 2019-04. The MFVP sets out requirements for the application, which include contact information, proof of proper licensing from the appropriate State agency, and confirmation that they have passed a fire & safety inspection from the City of North Port Fire department.

Mobile food vendors are permitted to operate on City property at one of four locations identified in the Ordinance: Dallas White Park, the Garden of the Five Senses, Highland Ridge Park, and City Center Green. The number of spaces available will vary based on the location and will be determined by the City Manager or designee, with a maximum of four per location.

A mobile food vendor may operate on private property with the written permission of the property owner in non-residential zoning districts. The mobile food vendor must be set back a minimum of 50 feet from any residential zoning district and 150 feet from any residential structure. The impacts of these setbacks are shown in the maps attached as Exhibit A.

A mobile food vendor may operate on residential property if there is active construction, prior to the issuance of the first Certificate of Occupancy, or with a special event permit. A mobile food vendor may not operate on a vacant lot unless that lot is abutting to a lot with a principal structure that is under common ownership. Only an ice cream truck is permitted to operate as a moving vendor.

The proposed text amendment sets out regulations for the operation by mobile food vendors, including hours of operation, limitations on items for sale, noise requirements, and health and safety guidelines. If a mobile food vendor wishes to operate on City property, they must provide proof of insurance requirements. Finally, the draft ordinance outlines methods of enforcement for violations of this Article.

COMPREHENSIVE PLAN

Goal 1, Future Land Use Element

Goal 1 of the Future Land Use Element (FLUE) sets out a target to maximize potential economic benefit while minimizing the threat to the public. The proposed text amendment takes into consideration factors that preserve the health, safety, and welfare of the public, such as required fire safety inspections and the compatibility of operations near residential properties, while allowing for the expansion of new methods of economic growth.

Staff concludes that the proposed text amendment is consistent with Goal 1 of the FLUE of the Comprehensive Plan.

Objective 3, Future Land Use Element

Objective 3 of the FLUE identifies a desire to increase the diversity of the economic base of the City. The proposed text amendment adds a new way for people to do business within the City of North Port, expanding on existing opportunities.

Staff concludes that the proposed text amendment is consistent with Objective 3 of the FLUE of the Comprehensive Plan.

Policy 4.19, Future Land Use Element

Policy 4.19 of the FLUE encourages site design that promotes neighborhood gathering points. Food trucks have the potential to bring people together and encourage gathering over food in areas that may not otherwise have this opportunity.

Staff concludes that the proposed text amendment is consistent with Policy 4.19 of the FLUE of the Comprehensive Plan.

**COMMISSION
DIRECTION**

At the July 5, 2018 Commission Special Meeting, the City Commission heard the topic of food trucks and reviewed a draft ordinance provided by staff. Because of the changes in structure to the ordinance and significant staff and legal review that this ordinance has gone through, a synopsis of how each consensus item was addressed is provided below.

- There was a unanimous consensus to approve the four locations listed in (4)(a).

This has been maintained and is now found in Sec. 34-55.(c)(1)a.

- There was a unanimous consensus that if another event with food vendors is taking place via a special event or a franchise contracted service a temporary permit will not be allowed.

This has been addressed in Sec. 34-55.(c)(1)c.

- There was a unanimous consensus to designate the parking areas per park, with a maximum of four.

A map of approved locations for each park will be provided to a mobile food vendor upon approval of their MFVP showing parking location and orientation at each park. The limit of four vendors per park is provided in Sec. 34-55.(c)(1)b.

- There was a consensus by majority that Staff provide clarification of the policy to revoke or deny a permit.

Sec. 34-55.(h) discusses enforcement of the regulations associated with a MFVP. A permit may only be revoked by the City Manager if their license has been terminated by the state agency having jurisdiction over their operation or by the City's hearing officer after a code enforcement case has progressed through the system.

- There was a consensus by majority that language regarding a Planned Community Development should be clarified, and expressed permission should be replaced with written permission throughout the document.

The discussion centered around allowing mobile food vendors within the Planned Community Development (PCD) zoning district, to not allow at residential properties unless the property owner desires to have the use in a common area. Sec. 34-55.(c)(2)a. permits mobile food vendors in the PCD zoning districts and requires written permission from the property owner. In addition, subsection b. requires a setback from residential structures of 150', again unless the property owner provides permission.

- There was a unanimous consensus to not limit construction sites to one food vendor, and remove the last sentence in (4)(c).

Construction areas are discussed in Sec. 34-55(c)(3). The limit of four mobile food vendors applies to both City-owned and private property.

- There was a unanimous consensus that the City Attorney review food truck and mobile food vendor definitions for clarification.

The definitions in the proposed ordinance have been fully vetted by the City Attorney's office and are consistent with Florida Statutes and state regulations.

- There was a consensus by majority to allow any food vendor pending clarification from the City Attorney.

Any food vendor is permitted to operate under the definition of mobile food vendor.

- There was a unanimous consensus to allow operations seven-days a week, until 10:00 p.m. in the evening, opening hours at 9:00 a.m. or the operating hours of the onsite business, institution or construction.

This is addressed in Sec. 34-55.(d)(1).

- There was a unanimous consensus that item (4)(d)(ix) state "up to four", with the caveat previously stated for designated spaces on City property.

Maximum number of mobile food vendors on private property is identified in Sec. 34-55.(c)(2)c.

- There was a unanimous consensus to change the language in item (4)(d)(x) to allow vendors to place signs and trash receptacles in the right-of-way but not to block a sidewalk.

This language has been clarified in Sec. 34-55.(e).

- There was a unanimous consensus that item (4)(d)(xiii) be changed to 30-feet on public property and no size limit on private property.

No size limit is provided for public or private property. It was determined that since the spaces for the mobile food vendors would be designated at each location, this would be self-limiting. The mobile food vendor would be limited to the space available at each location.

- There was a unanimous consensus to remove language regarding food trucks and mobile food vendors in item (4)(e).

This language has been removed and ice cream trucks are treated the same as any other mobile food vendor, with the exception that per Sec. 34-55.(c)(5) the ice cream truck is allowed to operate as a moving vendor.

- There was a unanimous consensus that the hours of operation will be 9:00 a.m. to 10:00 p.m., and that the word "shall" be replaced with "may" throughout the document.

This is addressed in Sec. 34-55.(d)(1).

- There was a unanimous consensus to delete section (4)(e)(v).

This language has been removed.

- There was a unanimous consensus that criteria be established to revoke a permit as stated in section (4)(e)(vi).

Sec. 34-55.(h) discusses enforcement of the regulations associated with a MFVP. A permit may only be revoked by the City Manager if their license has been terminated by the state agency having jurisdiction over their operation or by the City's hearing officer after a code enforcement case has progressed through the system.

IV. PUBLIC NOTICE & HEARING SCHEDULE

PUBLIC NOTICE

Notice of the public hearing will be advertised in a newspaper of general circulation within the City of North Port on June 29, 2019 pursuant to the provisions of Section 166.041(3)(a), Florida Statutes and Section 7.01(c) of the Charter of the City of North Port.

PUBLIC HEARING SCHEDULE

City Commission 1st Reading Public Hearing	June 25, 2019 6:00 PM or as soon thereafter
City Commission 2nd Reading Public Hearing	July 9, 2019 10:00 AM or as soon thereafter

V. RECOMMENDED ACTION

Staff recommends **APPROVAL** of Ordinance 2019-04, providing regulations for the operation of mobile food vendors within the City of North Port.

Activity Center I

0 0.5 1 2 Miles

MOBILE FOOD VENDOR RESIDENTIAL BUFFER

LEGEND

- Activity Centers
- Building Footprints
- Buffer Zone
- West Villages Boundary

Property Data Source: Sarasota County Property Appraiser

Prepared by NDS/Planning Division
June 3, 2019

NOTE: THIS MAP CANNOT BE CORRECTLY INTERPRETED INDEPENDENTLY OF NORTH PORT COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 97-27, AS SAME MAY BE AMENDED FROM TIME TO TIME.

Disclaimer: This map is for reference purposes only and is not to be construed as a legal document. Any reliance on the information contained herein is at the user's risk. The City of North Port and its agents assume no responsibility for any use of the information contained herein or any loss resulting therefrom.

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LEGEND

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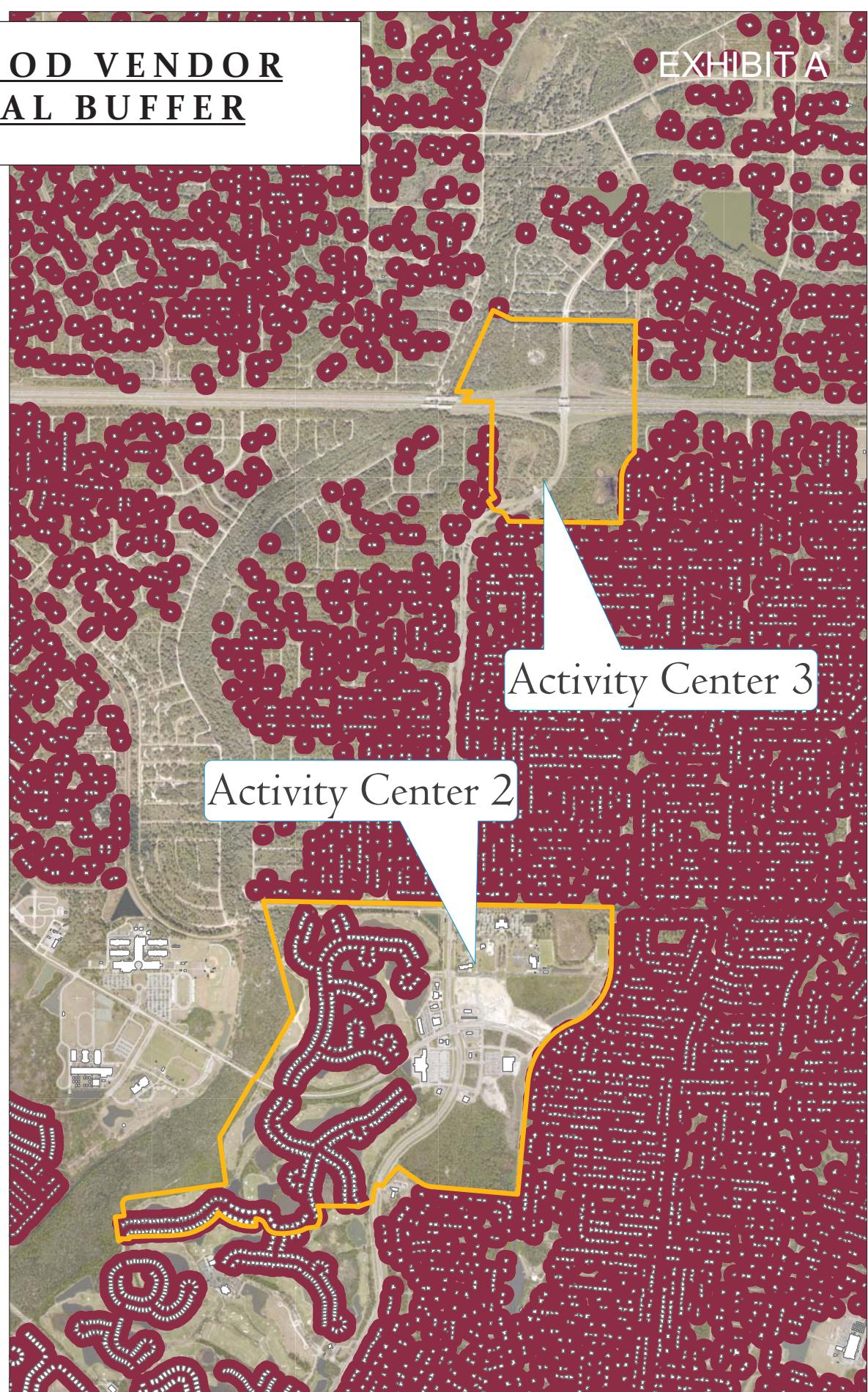


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0 0.5 1 2Miles

MOBILE FOOD VENDOR RESIDENTIAL BUFFER

EXHIBIT A

LEGEND

- Activity Centers
- Building Footprints
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N

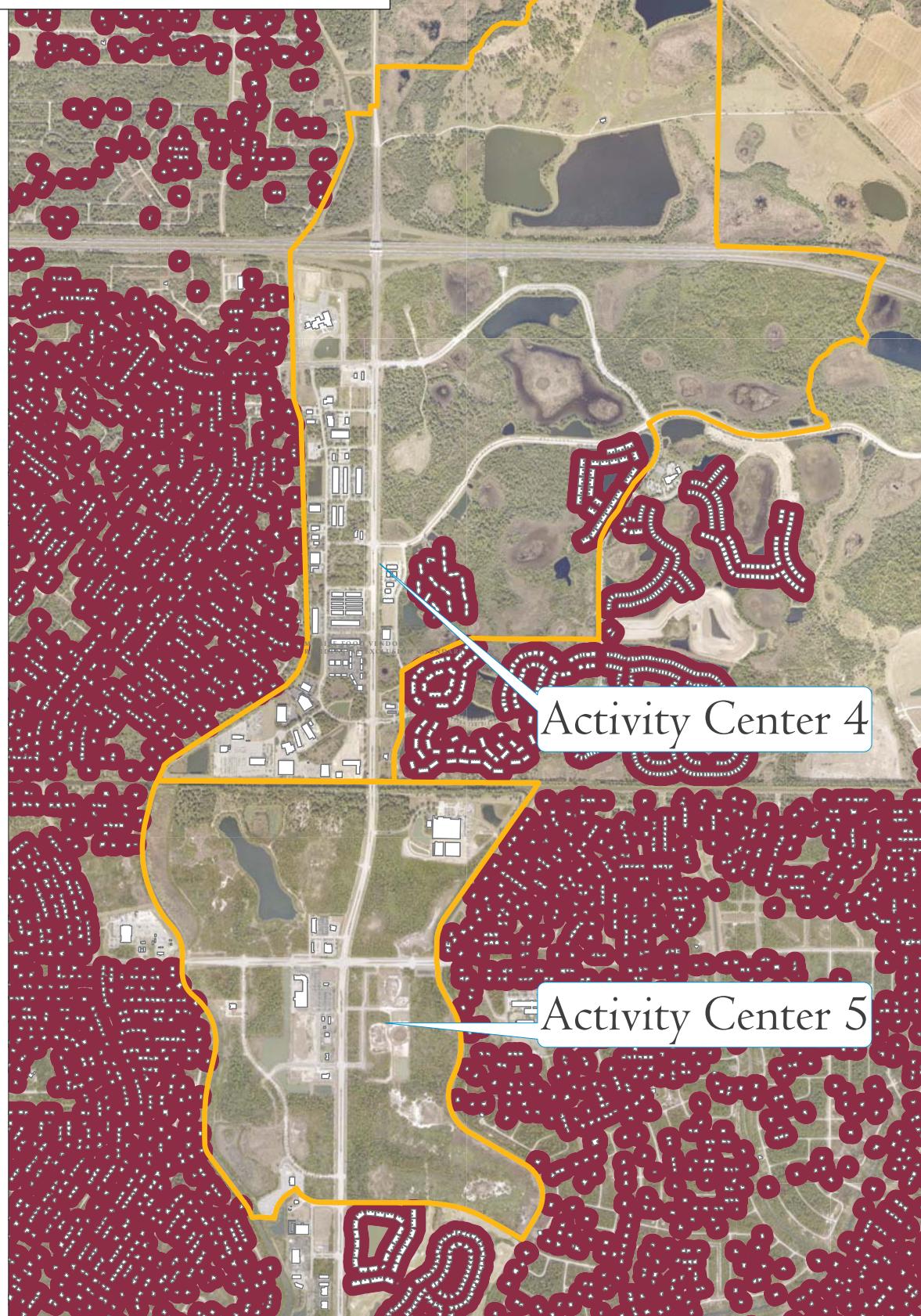


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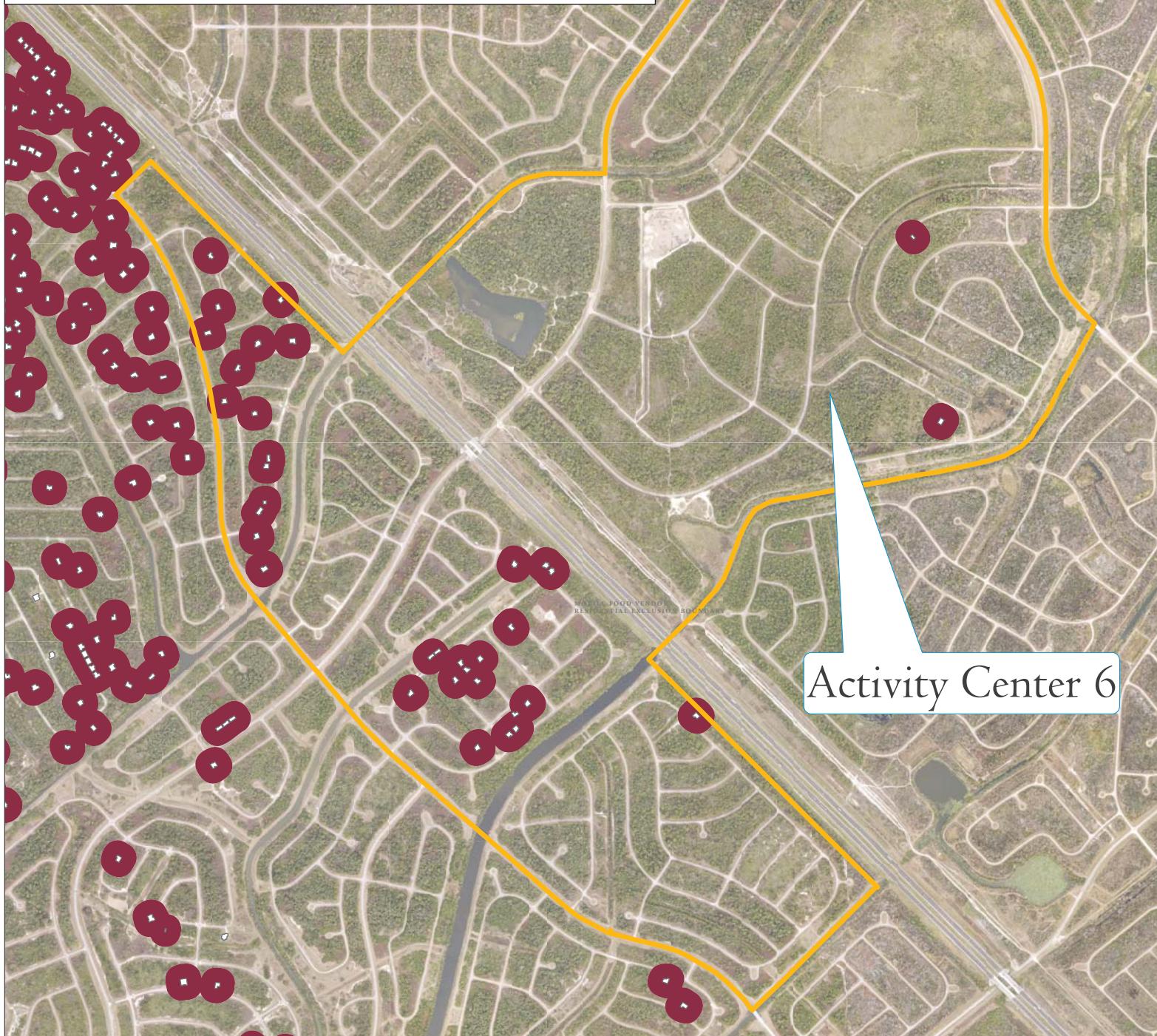
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0 0.5 1 2Miles

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EXHIBIT A



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0 0.38 0.75 1.5 Miles

N



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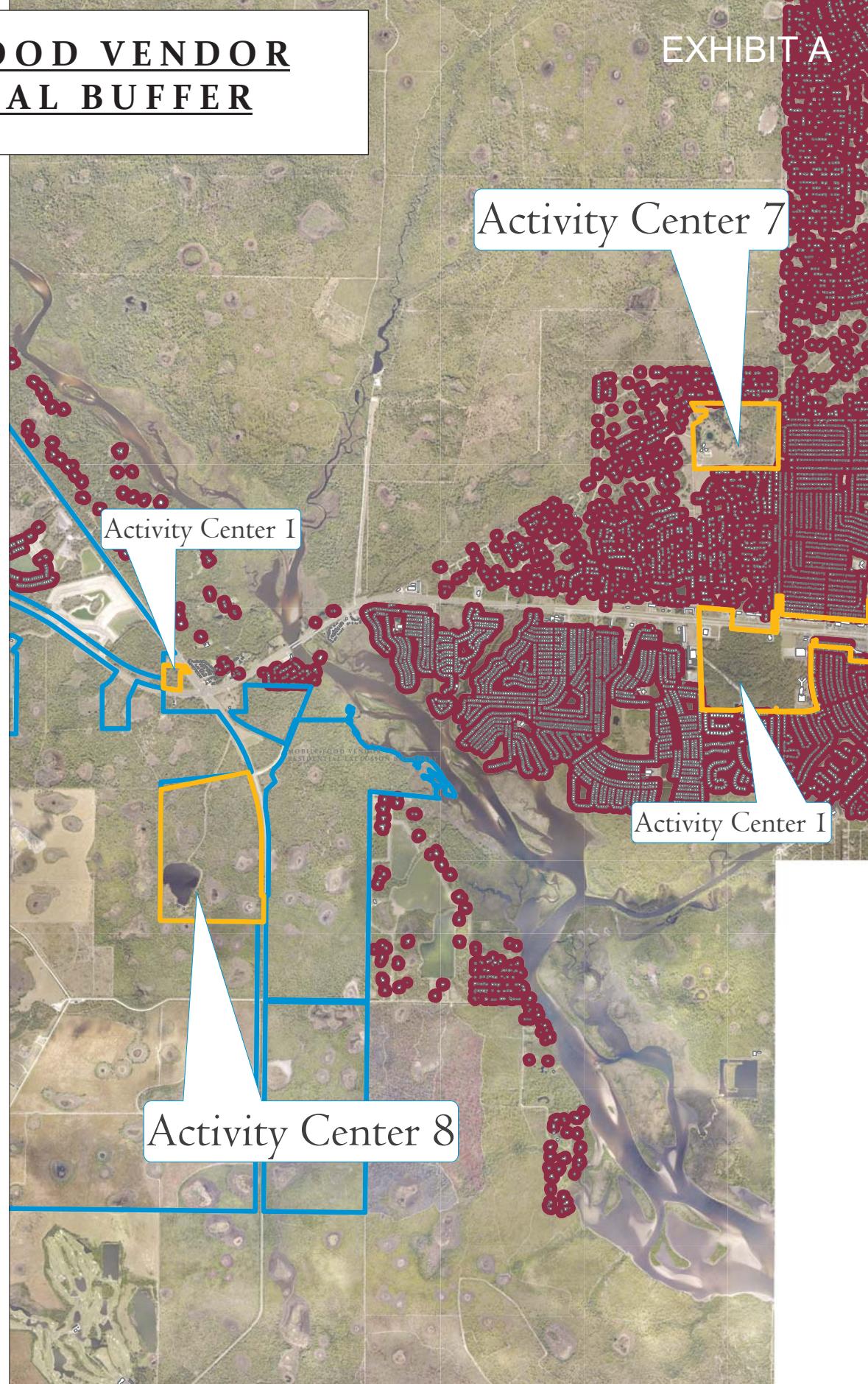


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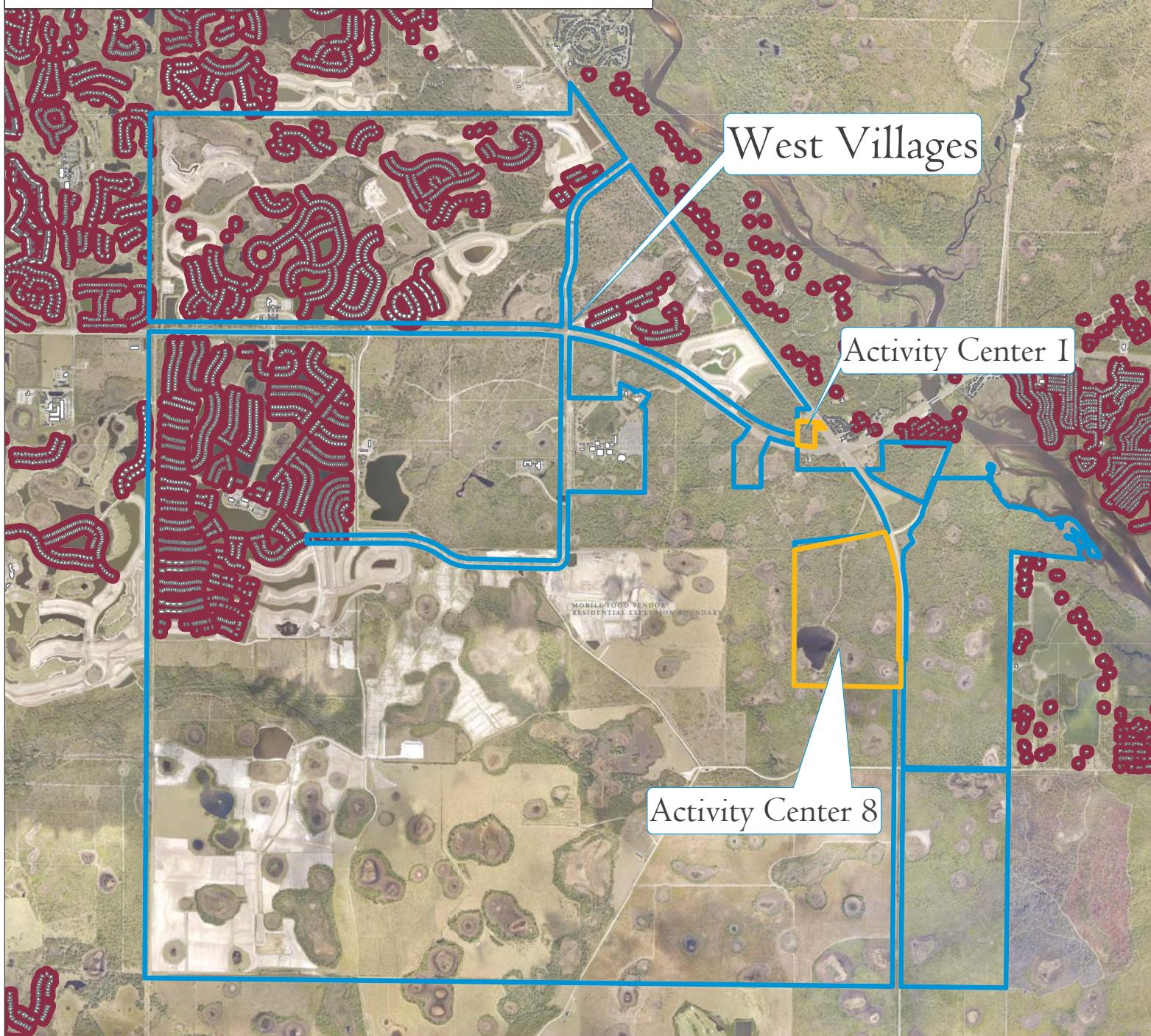
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0 0.75 1.5 3 Miles

MOBILE FOOD VENDOR RESIDENTIAL BUFFER

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0 0.75 1.5 3 Miles

N

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