DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Wednesday, June 8, 2016
4:00 p.m.

1.	Agenda review	
2.	Approve May 11, 2016 minutes	action
3.	Typical Property Acquisition Process	information
4.	Property Acquisition Schedule	information
5.	Property Acquisitions	action
6.	Property Atlas	information
7.	CCJWRD Land Management Report	information
8.	Other business	
9.	Next meeting July 13, 2016	

DIVERSION AUTHORITY
Land Management Committee
City Commission Room
Fargo City Hall
Wednesday, May 11, 2016
4:00 p.m.

Present: Cass County Commission Representative Mary Scherling; Clay County Commission Representative Jenny Mongeau; Cass County Joint Water Resource District Representative Mark Brodshaug (alternate for Rodger Olson); Buffalo-Red River Watershed District Representative Gerald Van Amburg; Fargo City Commission Representative Dave Piepkorn; Cass County Administrator Keith Berndt; Clay County Administrator Brian Berg; Fargo Director of Engineering Mark Bittner; Moorhead City Engineer Bob Zimmerman.

Others present: Eric Dodds - AE2S; Rocky Schneider - AE2S; US Army Corps of Engineers Project Manager Terry Williams; Fargo City Engineer April Walker.

The meeting was called to order by Mary Scherling.

Agenda Review
Jenny Mongeau moved to approve the order of the agenda. Bob Zimmerman seconded the motion. All the members voted aye and the motion was declared carried.

Approve April 13, 2016 Minutes
Keith Berndt moved the minutes from the April 13, 2106 meeting be approved. Bob Zimmerman seconded the motion. All the members voted aye and the motion was declared carried.

Property Acquisitions
Case Plaza, One North Second Street, Fargo
Eric Dodds said there is an impact from the Second Street floodwall project that affects the Case Plaza parking lot and requires that a small portion of the parking lot be purchased. The Finance Committee agreed with the recommendation, he said, and that construction work is expected to start next week. If property is secured from a neighboring property owner, and after a few other steps that would need to happen, he said, it would be proposed to sell a remnant piece of parking lot attached to their property back to Case at the same square footage rate used to acquire this property.

> Keith Berndt moved to recommend the CCJWRD execute a "Entry and Construction Agreement" to allow for immediate access to the Case Plaza property for construction of the floodwall project; recommend the CCJWRD execute a Purchase Agreement in the amount of $240,000.00 as just compensation to Case Plaza for acquisition of land and severance damages; and recommend the CCJWRD execute of an Option Agreement to allow Case Plaza the option to purchase the remnant triangular parking lot after relocation of Mid-America Steel from downtown Fargo. Mark Bittner seconded the motion. On call

of the roll Berndt, Bittner, Berg, Zimmerman, Mongeau, Van Amburg Brodshaug, Piepkorn and Scherling voted aye. The motion was declared carried.

Terrie Romine, 4989 Kitzke Drive, Pleasant Township, ND
Eric Dodds said acquisition of this property is required as part of the future project staging area. He said the property owner has applied for and been granted approval from the Hardship Committee of purchase in advance of the project timeline to accommodate medical hardship and the need to sell the property. He said the property is along the river, north of Oxbow. Similar to a previous hardship buyout, he said, caution is being used as to not upset the process that the Minnesota DNR is working through. He said there is clearance to proceed with acquisitions for in-town properties and those in Oxbow; however, other properties are not to be closed on until the DNR completes its EIS, which is scheduled to be out soon. In the event the EIS is not completed before closing, there would be the opportunity to give the Romines a down payment, make them eligible for relocation benefits then follow up with the final closing after the EIS is completed.

Mary Scherling said looking at the comparative analysis, she can see that the first of the three properties may be the most comparable; however, she does not feel the other two properties listed compare at all. She said the listing price is rarely the sales price and seems to almost make more sense to do an appraisal. She said she does not feel the amount is based on anything in front of the committee.

Eric Dodds said the process is pretty consistent with that used in other acquisitions and how relocation specialists have done it elsewhere. He said as part of the Uniform Relocation Act (URA) acquisition of the property is required, as well as placing the displaced person into something comparable. He said the process is that relocation specialists identify properties actively on the market with similarities and select some that are the most comparable. In this case, he said, the difference between that property actively on the market and the cost of the subject property is determined as replacement housing differential payment. The replacement housing allowance is just that, he said, it is an allowance and if replacement property is less those funds would not get spent.

Brian Berg moved to recommend the CCJWRD enter into a purchase agreement with Terrie Romine in the amount of $246,700.00; and provide the RHDP allowance of $89,642.44 and eligibility for applicable relocation benefits with the Uniform Relocation Act. Keith Berndt seconded the motion. On call of the roll Berg, Berndt, Zimmerman, Mongeau, Van Amburg, Bittner, Brodshaug, Piepkorn and Scherling voted aye. The motion was declared carried.

<u>CCJWRD Land Management Summary</u>
Mark Brodshaug reviewed the monthly Land Management Summary report. He said the CCJWRD will be acting on the right to construct for Case Plaza which was just approved. The negotiations for the Mid-America Steel property continue, he said; and it appears an agreement may be close. He said access to the property is needed soon. Sixteen homes are currently under construction in Oxbow, he said, nine have been completed. Property acquisitions are underway for the diversion inlet area land, he

said, with survey and appraisal work gearing up to start in the northern channel area. He said that is the first part of the P3 project after the inlet acquisitions.

Flowage Easements

Eric Dodds said there is interest in defining flowage easements, values and how it would work and those details are being figured out. Flowage easements provide a legal right to temporarily store floodwater, he said, and the North Dakota State Water Commission has indicated the property rights for all areas below the elevation of the spillway, approximately 50,000 acres, will need to be obtained. The Corps of Engineers has defined an operating pool needed to use for mitigation of downstream impacts about 32,000 acres, he said, and the Corps policy defines a flowage easement as a one-time payment made to the property owner at the time the easement is acquired. He said it is intended to compensate for all of the impacts caused by the project and the value is expected to be determined through appraisal. The general expectation is that there will be a before and after appraisal to identify the value of a piece of land today, he said, and a document will define restrictions and impacts on that land. An appraiser will define the value with the easement attached, with the difference of those two numbers being used to establish the value, he said. The depth and frequency of flooding, development rights loss and things like debris and other impacts will all be considered, he said. Property far from the dam would flood infrequently, the water would arrive last and leave first; he said, whereas, property near the dam would have water arrive first, be the deepest, and leave last. Areas within the retention area may have limited flood impacts, he said, so development could still occur, if in accordance with FEMA floodplain development rules. He said development in other portions designated as the floodway would not be allowed. Access rights, he said, would be granted to the Diversion Authority or its entities for surveys and monitoring things like erosion, water quality, habitat or environmental, and there will be compensation for crop damages caused by access. He said structures in the floodway would need to be removed and there would be provisions in the flowage easement document to define uses. He said flowage easements would not prohibit landowners from mortgaging their property. The easements will need to be obtained prior to the operation of the project, likely by 2024, and with such a large number needed, it will take several years to acquire them all. Currently the Diversion Authority has assigned land acquisition for North Dakota to the Cass County Joint Water Resource District, he said; however, the entity for Minnesota has not yet been defined.

In response to a question from Jenny Mongeau about easements being a one-time thing, Mark Brodshaug said flowage easements would be a one-time payment calculated to compensate for all damages, although there has been discussion about providing crop insurance or something else on top of that.

Mr. Dodds said the floodway will be the operating pool the Corps needs for offsetting the downstream impacts. He said the hydraulic modeling that has been done will be shared with FEMA and collectively they will define the flood plain and floodway

Keith Berndt said several policy questions are yet to be decided. He said flowage easements could be bought to cover everything with no insurance coverage for spring or summer events. Or, he said, there could be an easement that covers everything

except crop damage during a summer event, or another option would be to buy an easement that only takes care of the lost development rights, then buy some sort of insurance for spring events, which would be difficult to administer. It would be difficult to determine, for example, what happens when a farmer says he got in the field three days late. He said there has not been an event in history where this project would have operated during the summer, so the odds are low that the Diversion Authority would have to pay for damage to planted crops.

Local Cemetery Mitigation Team

Rocky Schneider said the first organizational meeting of the local Cemetery Mitigation Team is scheduled for Thursday, May 12, 2016 at 10:00 a.m. There is good representation from all six entities, he said, and discussion at the first meeting will include goals and meeting structure.

Other Business

The next meeting will be Wednesday, June 8, 2016 at 4:00 p.m.

Brian Berg moved the meeting be adjourned. Mark Bittner seconded the motion. All the members voted aye and the motion was declared carried.

The meeting adjourned at 4:32 p.m.

Property Acquisition Schedule[1]

Major Project Element	Work Package[2]	State	65 Percent Design & Work Limits Defined	Initial Notification Sent to Property Owners[3]	Start Property Acquisition[4]	Complete Property Acquisition	Number of Parcels Impacted	Land Firm
Features Constructed by Diversion Authority using Public-Private-Partnership (P3)								
Diversion Channel Phase 1[5]	LAP1A	ND	June 2016	July 2016	June 2016	Nov 2017	41	HMG
	LAP1B	ND	June 2016	July 2016	June 2016	Nov 2017	49	Ulteig
Diversion Channel Phase 2	LAP2	ND	June 2017	July 2017	June 2017	Nov 2018	80	TBD
Diversion Channel Phase 3	LAP3	ND	June 2017	August 2017	August 2017	Nov 2019	210	TBD
Features Constructed by Diversion Authority								
CR16/17 Bridge & Road	WP28	ND	Feb 2016	-	Feb 2016	Sept 2016	13	HMG
Features Constructed by USACE								
Diversion Inlet Control Structure	WP26	ND	Feb 2016	-	Feb 2016	June 2016	3	HMG
Wild Rice Control Structure	WP30	ND	Feb 2017	May 2017	Feb 2017	June 2018	9	
I-29 Road Raise	WP31	ND	Feb 2017	May 2017	Feb 2017	June 2018	-[6]	
Red River Control Structure	WP35	MN	Feb 2018	May 2018	Feb 2018	June 2019	8	
CR 81 Road Raise	WP33	ND	Feb 2018	May 2018	Feb 2018	June 2019	4	
BNSF Moorhead Line Raise	WP29	MN	Feb 2019	June 2019	Feb 2018	June 2019	-	
HWY 75 Bridge/Raise	WP29	MN	Feb 2019	June 2019	Feb 2018	June 2019	-	
Southern Embankment (MN)[7]	WP29	MN	Feb 2018	June 2019	Feb 2019	June 2020	29[8]	
Southern Embankment (ND)[9]	WP27	ND	Feb 2018	May 2018	Feb 2020	June 2021	20	
Limited Service Spillway	WP39	ND	Feb 2020	June 2020	Feb 2020	June 2021	17	
Comstock Ring Levee	WP52	MN	Feb 2020	March 2020	Feb 2020	June 2021	18	
Staging Area	WP38	ND/MN	Feb 2018	TBD	Feb 2018	June 2022	950[10]	

[1] *Based on proposed P3 and USACE schedules from February 2016.*
[2] *See associated maps for location of work packages and impacted parcels.*
[3] Initial notification shall be a letter from the acquiring entity, introducing the Land Agent, who will follow-up with separate correspondence indicating an intent to acquire, the process for acquisition, and an offer to meet.
[4] *The work limits defining property acquisition needs are generally expected at the 65 percent design level.*
[5] *Diversion Channel Phase 1 includes Maple River & Sheyenne River Aqueduct Structures.*
[6] *Parcels for the I-29 Road Raise are the same as those for the Wild Rice Control Structure.*
[7] *The southern embankment in MN will likely be designed and constructed in two (2) phases.*
[8] *Parcels for the southern embankment in MN include the properties needed for the BNSF and HWY 75 projects.*
[9] *The southern embankment in ND will likely be designed and constructed in three (3) phases.*
[10] *Upstream retention area property rights for a 925 foot pool elevation will affect approximately 950 parcels in ND and MN.*

FM Area Diversion Project
Property Acquisition Summary

June 8, 2016

Owner	Mid-America Steel
Address	92 & 93 Northern Pacific Avenue N, Fargo ND
Property Type	Commercial/Industrial
Identification Number	9218, 9217, 9216, 9215, 9783

Mid-America Steel Acquisition & Relocation Summary

Property Need

The Mid-America parking lot north of NP Avenue is required to accommodate construction of the In-Town Levee and Floodwall project, Work Package WP42.F1.S.

It has been determined that the impacts to the parking lot have a potential to result in severance damages to the entire manufacturing facility. Mid-America has claimed the severance damages would result in a nearly complete diminution in value of the remainder property, and there is a risk a jury would agree with Mid-America because of the loss of parking. Based on this determination, and because of the mutual understanding of the benefit of relocating the industrial/manufacturing facility out of downtown Fargo, it is proposed to acquire the entire facility and enter into a purchase agreement that will enable Mid-America to construct a new facility in a north Fargo industrial park.

Background Summary:

- Original 35% levee/floodwall design developed 07/2013. This served as a basis for original appraisal of taking.
- Two separate appraisals were completed to value the impacts to the smaller parcel North of NP Avenue where the property impact will occur, and to value the entire Mid-America property as a whole.
- Original appraisal was completed 11/17/2014 and concluded that the value of the originally designed parking lot impact was $434,000. This conclusion was based on a "before and after" appraisal of the property located North of NP Avenue, and the permanent taking of the entire parking lot north of NP.
- The second appraisal examined all of Mid America's property and was completed on 05/07/2015. This appraisal valued the Project impact as it related to the diminution in value using a before and after method. The value conclusion of the taking in the second appraisal was $430,000. This appraisal concluded that the total land value of the Mid-America's property south of NP is $2,500,000.

- The original appraisals were not approved due to issues that arose with the necessity to close the west access point of the Mid America parking lot and USACE preferring that the two appraisals be combined to have one consistent approach. .
- An offer of $430,000, based on the second appraisal, was submitted to Mid-America Steel by KLJ on 09/03/2015. The offer was rejected and Mid-America requested design changes to minimize the parking loss.
- The 2nd Street/Downtown Component of In Town Levees Project (Work Package WP42.F1.S) was bid based on the assumption that we would be able to acquire the property necessary for construction. A change order deduct condition was negotiated with the low bidder prior to award of the contract. The change order deduct condition indicates that the Diversion Authority will give notice to the contractor by April 1, 2016 if access to the Case Plaza and Mid-America Steel properties can be provided, or the change order will be implemented, which removes that portion of the levee/floodwall from the contract and a pre-determined price. If the change order deduct is implemented, the Diversion Authority will need to re-bid this portion of the levee/floodwall project and re-award the contract. Our understanding is that this will cost an additional $1M (approx.).
- The design team evaluated several design alternatives including a conceptual layout allowing parking on the wet-side of the levee by moving the floodwall to the property line and another layout with a combined parking lot serviced through Case Plaza.
- Eventually, the design team, in coordination with the Fargo Engineering Department arrived at the current design solution, which takes the parking from 100 spaces to 28 spaces. The current design also accommodates one of the access points from the parking lot to NP Avenue.
- A third appraisal was conducted based on the current design. The appraisal was submitted to USACE for review and approved by USACE on 01/31/2016. The appraisal concluded that the value of the parking take is $367,900. The third appraisal does not value the property south of NP, nor does it determine any severance damages for the property south of NP.
- As part of the appraisal process a trade fixtures appraisal report was completed on May 29, 2014. This report concluded the Fair Market Value –Installed to be $1,927,000. The Furniture Fixtures and Equipment is not included as part of the land value in the appraisals.

Summary of Acquisition Terms

What does Mid-America Steel "get"/"give"?

- "Get"
    - Assistance toward acquisition of land in northwest Fargo industrial park for construction of new operations center. The land shall be acquired by Mid-America.
    - New manufacturing facility constructed in north Fargo industrial park. The estimated total cost of the new facility building is approximately $40M.
    - Continued operation of existing facility until new facility is operational.
    - Opportunity to improve operational efficiencies and expand business.
- "Give"
    - Existing manufacturing facility located in downtown Fargo (deed to City of Fargo).

- Existing parking lot located north of NP Avenue in downtown Fargo (right to enter and construct followed by a deed of the property in fee to CCJWRD).
- Approximately $18M for new manufacturing facility "betterments".

What does the City of Fargo "get"/"give"?

- "Get"
  - Flood protection for downtown Fargo.
  - Existing site of Mid-America Steel manufacturing facility in downtown Fargo.
- "Give"
  - Approximately $16M for relocation of Mid-America Steel manufacturing facility out of downtown.

What does the Diversion Authority and CCJWRD "get"/"give"?

- "Get"
  - Immediate access to Mid-America parking lot for construction of 2nd Street floodwall, an integral component of the Diversion Project.
  - Fee title to parking lot on north side of NP for construction of flood control levee across existing Mid-America site.
  - Land necessary to provide parking for Case Plaza, through an Option Agreement.
  - Avoid litigation associated with severance damages resulting from taking the parking lot.
  - Avoidance of construction contract change order and re-bidding (estimated net cost of approximately $1.0M)
- "Give"
  - $5.8M for just compensation purchase of existing Mid-America Steel manufacturing facility and parking lot. This value is based on the following:
    - $367,900 for parking lot north of NP Avenue, based on appraisal.
    - $2,500,000 for site south of NP Avenue, based on appraisal.
    - $1,927,000 for trade fixtures within buildings, based on appraisal.
    - $1,005,100 for construction cost avoidance and administrative settlement.

Payment Breakdown

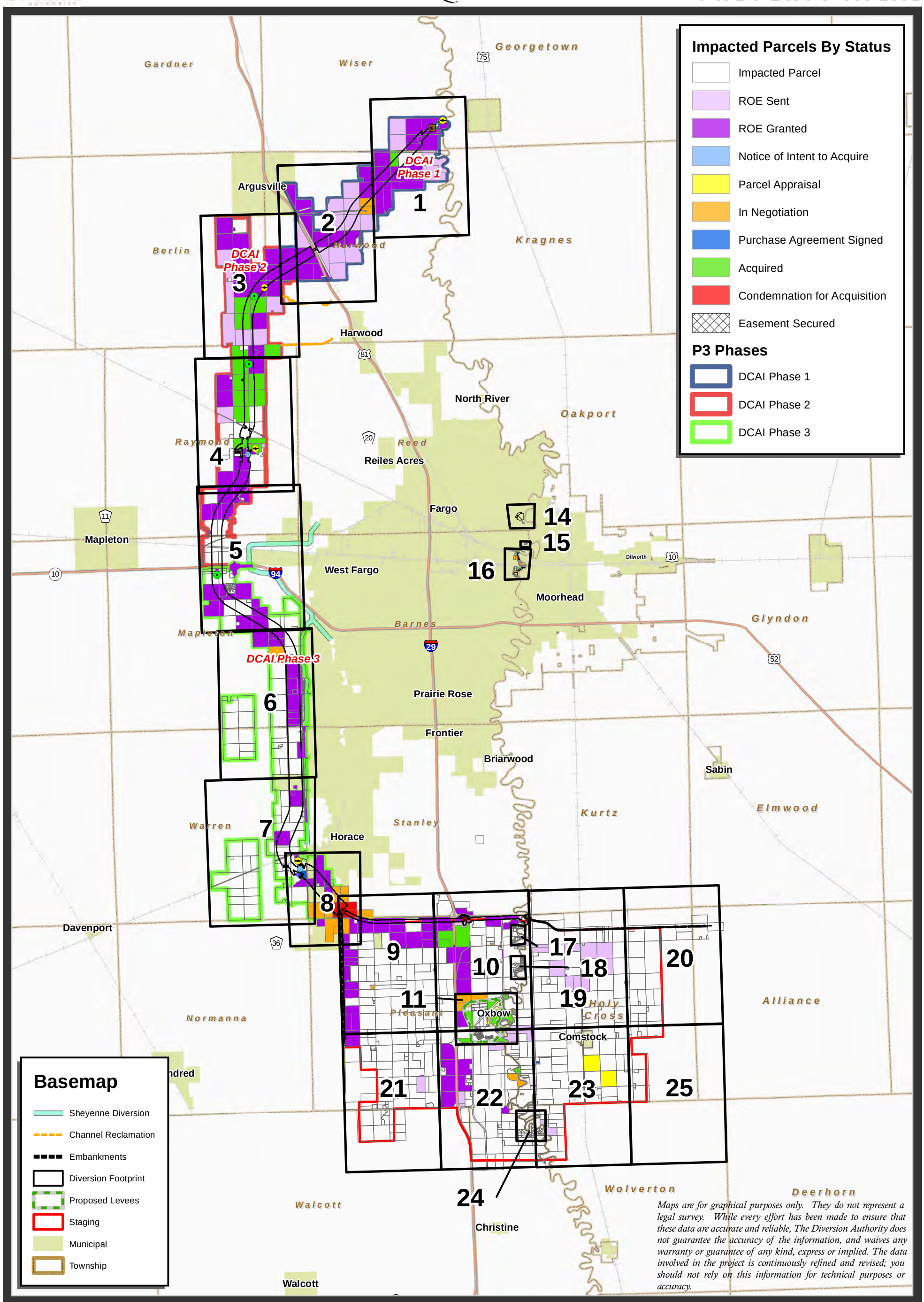
New Mid-America Manufacturing Facility	=	$40,156,740
Less CCJWRD Acquisition of North Parking Lot	-	$367,900
Less CCJWRD Acquisition of Existing Facility	-	$2,500,000
Less CCJWRD Acquisition of Existing Site	-	$1,927,000
Less CCJWRD Construction Cost Avoidance	-	$1,005,100
Remaining Cost for New Facility	=	$34,356,740
City of Fargo Investment	=	$16,178,370
Mid-America Investment	=	$18,178,370

Requested Action/Recommendation

1. Recommend to CCJWRD, execution of an 'Entry and Construction Agreement' to allow for immediate access to the Mid-America property for construction of the floodwall project
2. Recommend to CCJWRD, execution of a Purchase Agreement in the amount of $5,800,000 as administrative settlement for the Mid-America parking lot.

FM AREA DIVERSION LAND ACQUISITION

PROPERTY ATLAS



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OVERALL PROJECT AREA ATLAS

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JUNE, 2016

Last Updated: 6/7/2016

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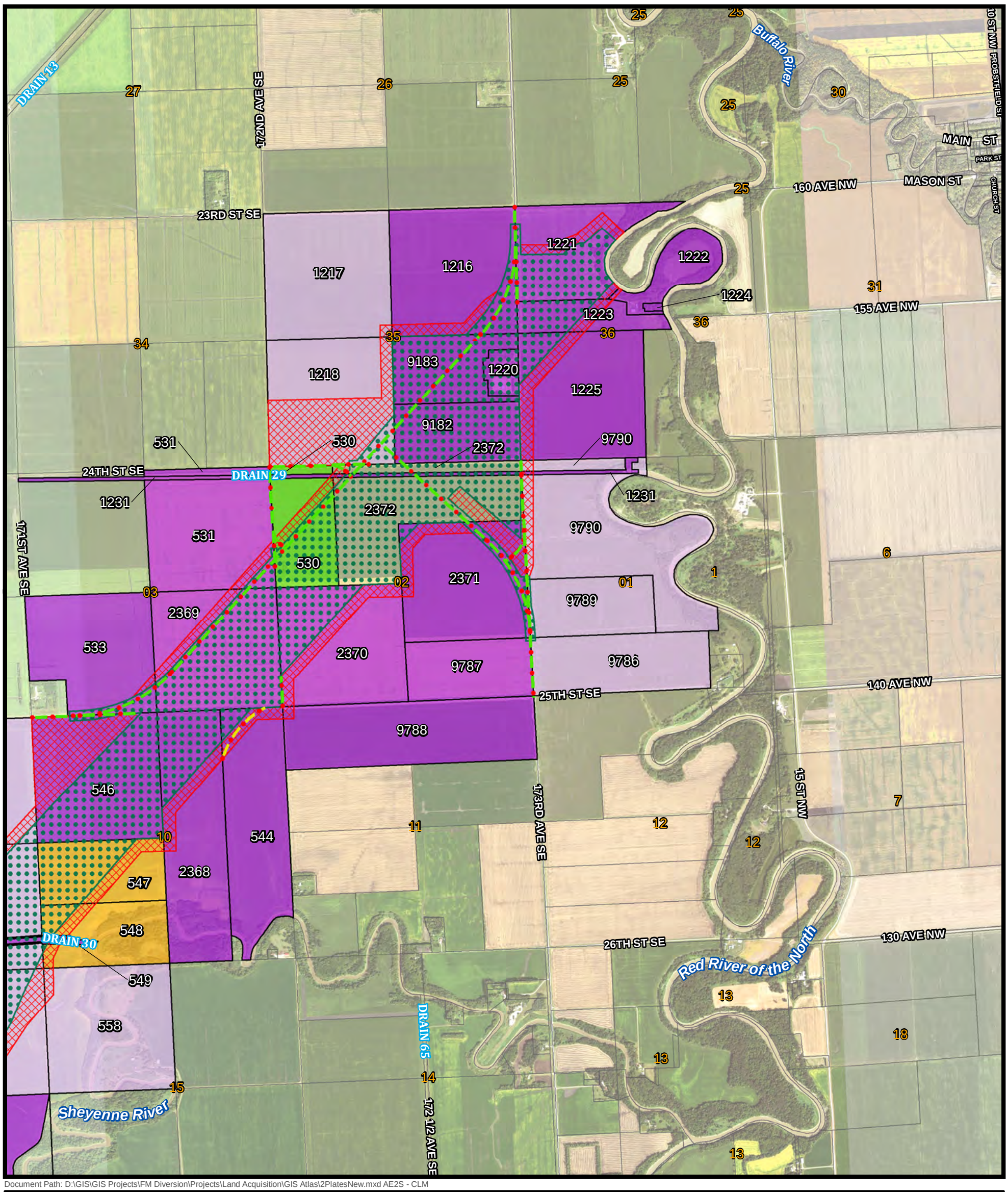
FLOOD DIVERSION AUTHORITY

METRO DIVERSION - LAND ACQUISITION

PROPERTY ATLAS



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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 1

- Impacted Parcel
- Notice of Intent To Acquire
- Purchase Agreement Signed
- ROE Sent
- Parcel Appraisal
- Acquired
- Easement Secured
- ROE Granted
- In Negotiation
- Condemnation For Acquisition

- Embankments
- Drain
- Sheyenne Diversion
- 33 Section
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- Township
- Diversion Footprint
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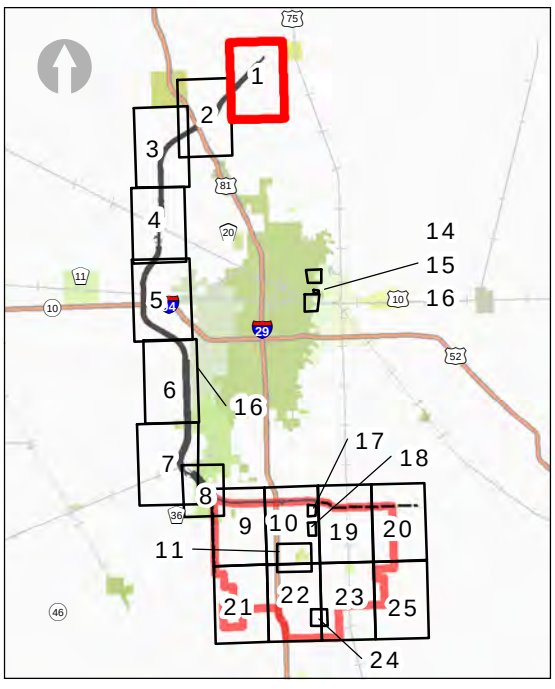

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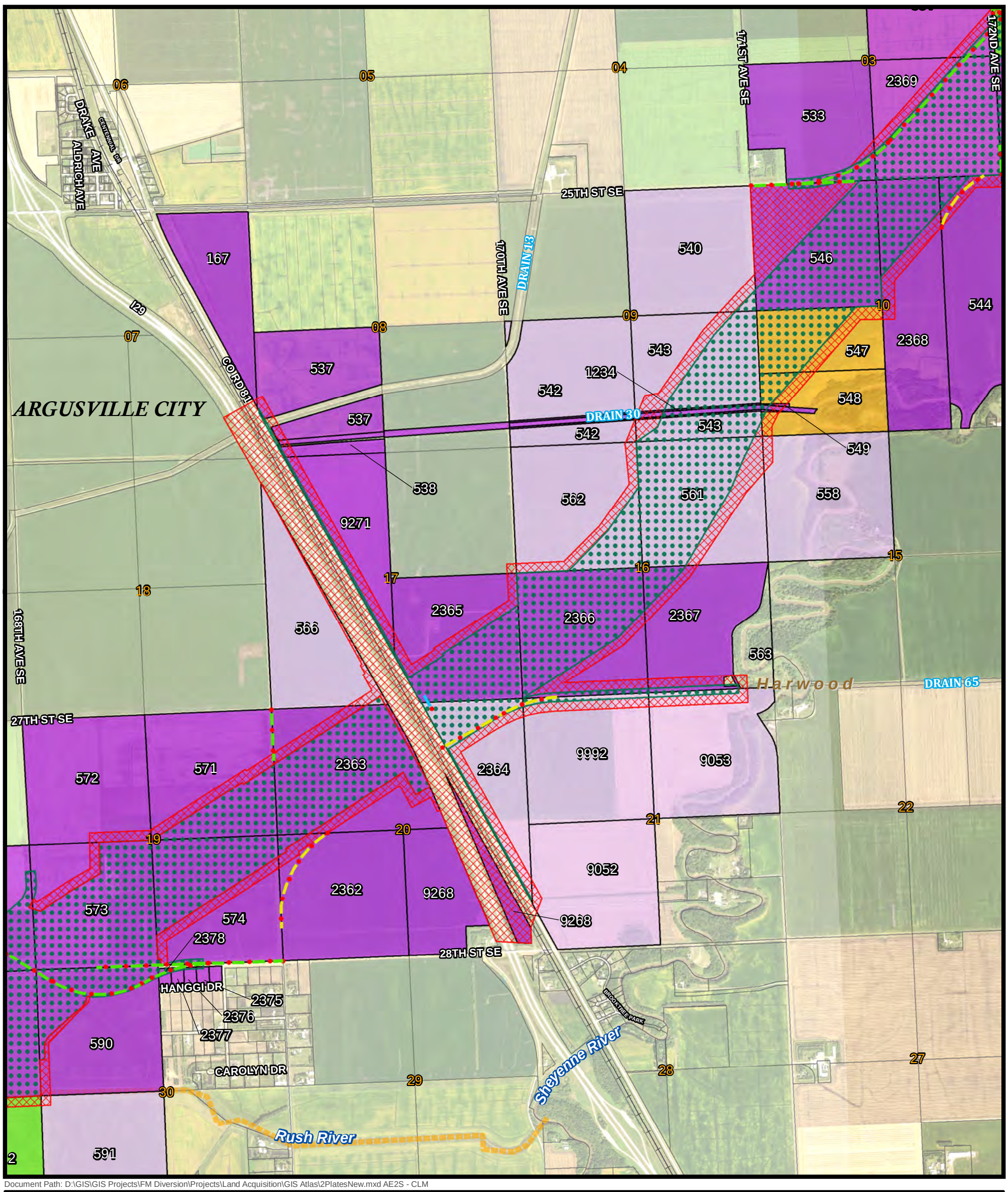
FLOOD DIVERSION AUTHORITY

METRO DIVERSION - LAND ACQUISITION

PROPERTY ATLAS



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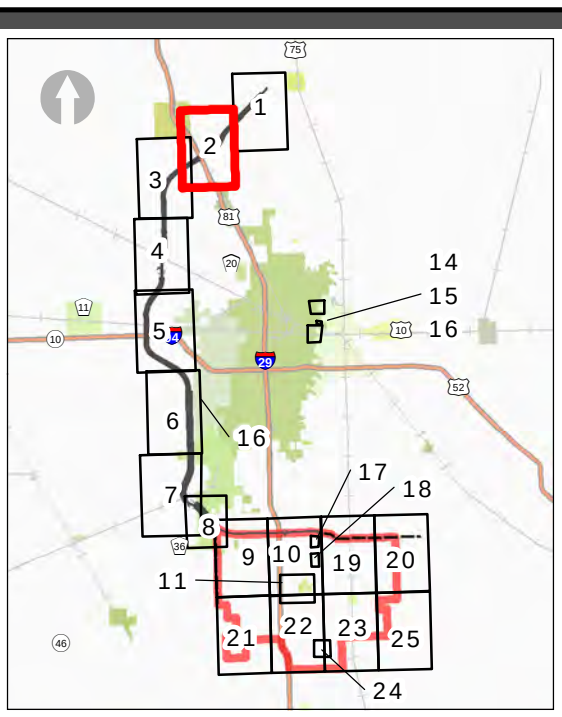

ARGUSVILLE CITY

DRAIN 30
DRAIN 13
26TH ST SE
167TH AVE SE
168TH AVE SE
166TH AVE SE
27TH ST SE
28TH ST SE
29TH ST SE
30TH ST SE
76TH AVE N
HANGGI DR
CAROLYN DR
CO RD 81
Rush River
Lower Branch Rush River
DRAIN 67
105TH ST N
93RD ST N
81ST ST N
169TH AVE SE

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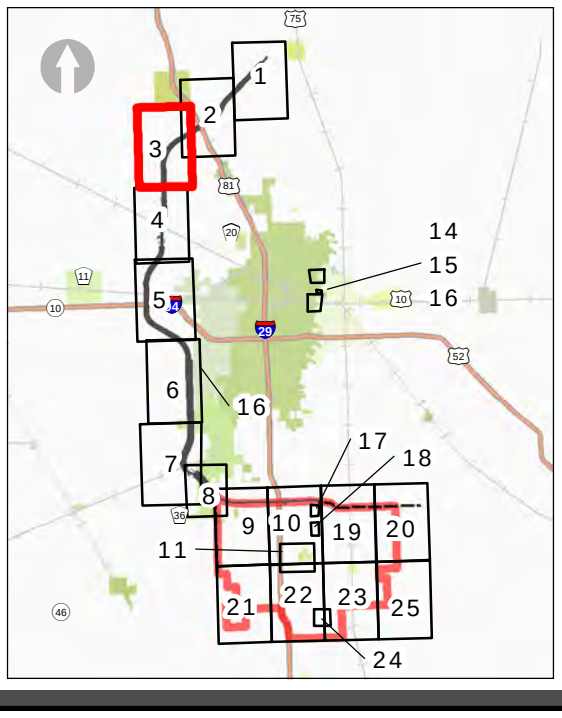

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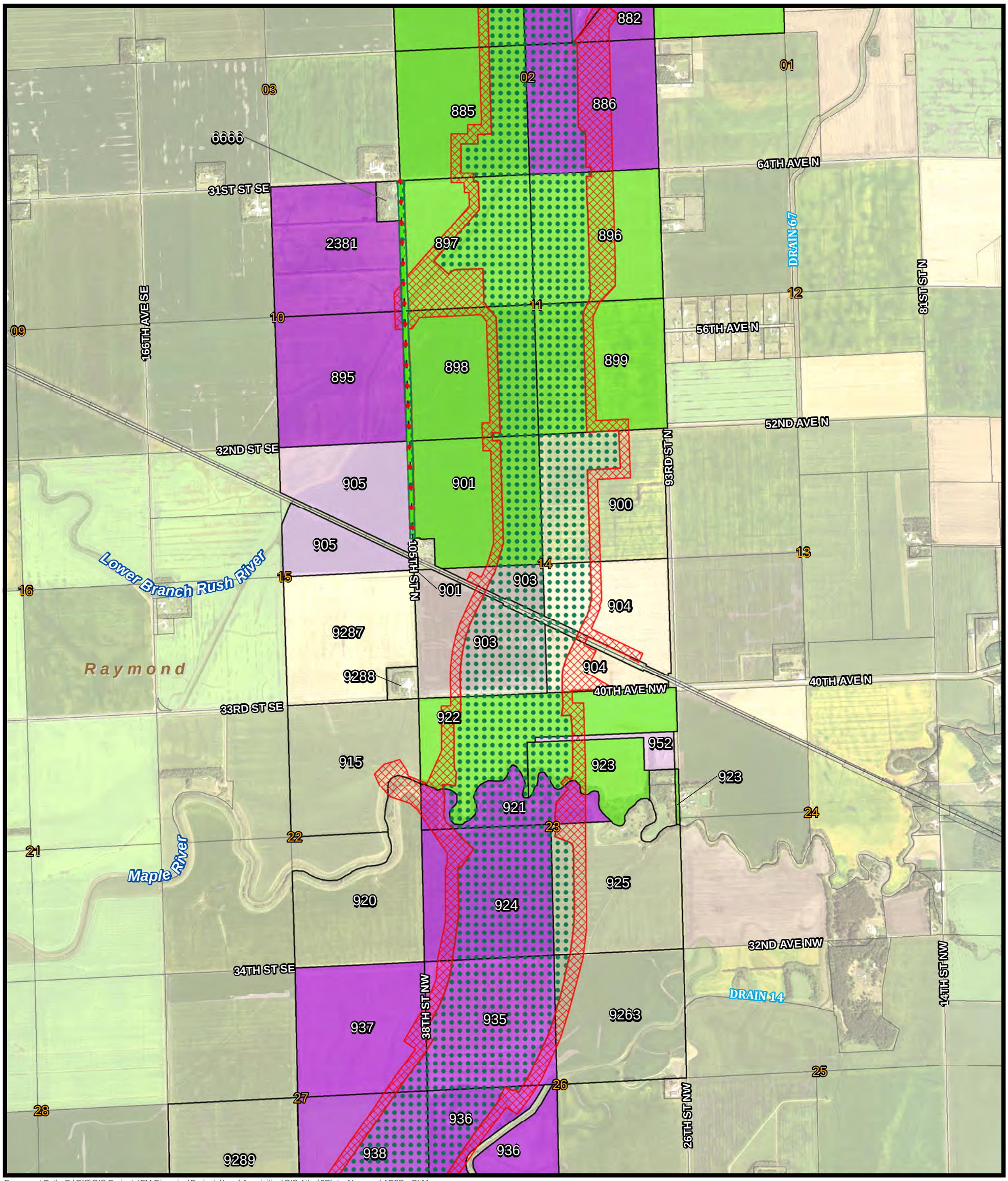

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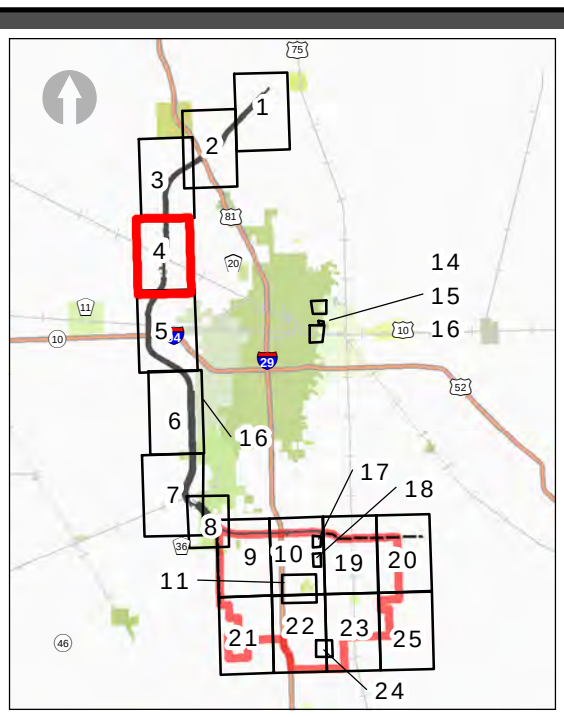

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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 5

- Impacted Parcel
- Notice of Intent To Acquire
- Purchase Agreement Signed
- ROE Sent
- Parcel Appraisal
- Acquired
- Easement Secured
- ROE Granted
- In Negotiation
- Condemnation For Acquisition

- Embankments
- Drain
- Sheyenne Diversion
- 33 Section
- 999 Original ID Number (OIN)
- XX PSN
- Municipality
- Township
- Diversion Footprint
- Staging Area
- Proposed Levee

Land Acquisition
- Fee Title
- Temp. Cons. Easemt.
- Lift Station
- Site Improvements

Transportation Improvements
- Accessibility Improvement
- Connect to Severed Parcels
- Construction Detour
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- Mobility Improvement

0 0.4 0.8 Mi

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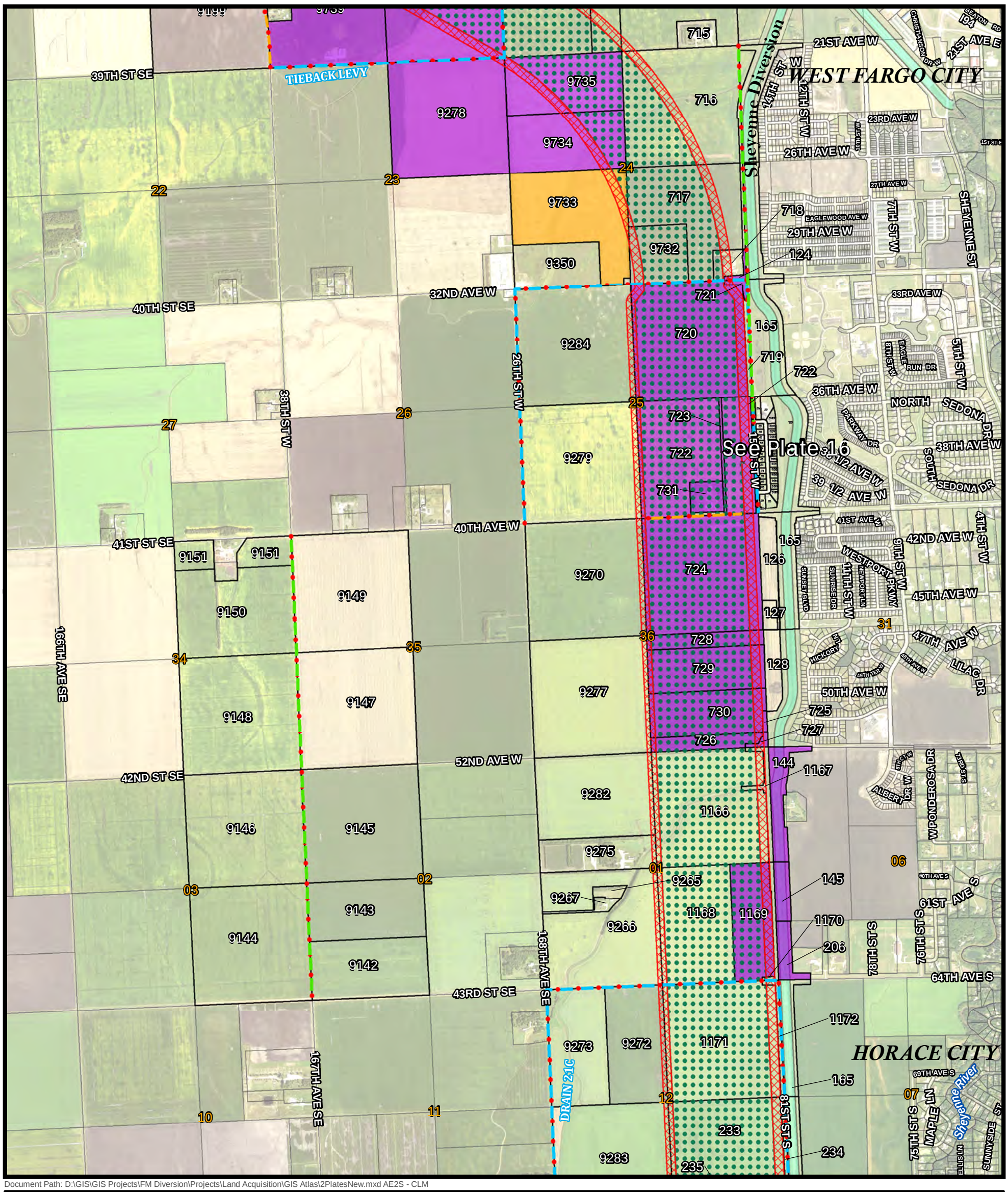
METRO DIVERSION - LAND ACQUISITION

PROPERTY ATLAS



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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 6

- Impacted Parcel
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0 0.4 0.8 Mi

AE2S

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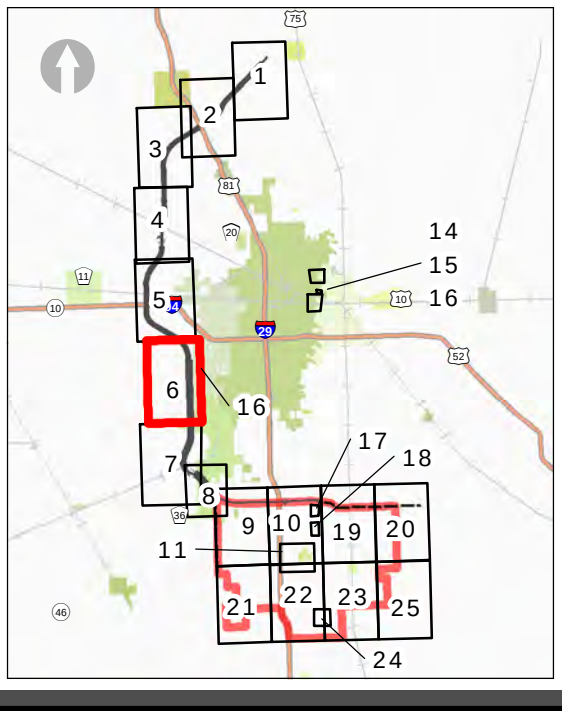
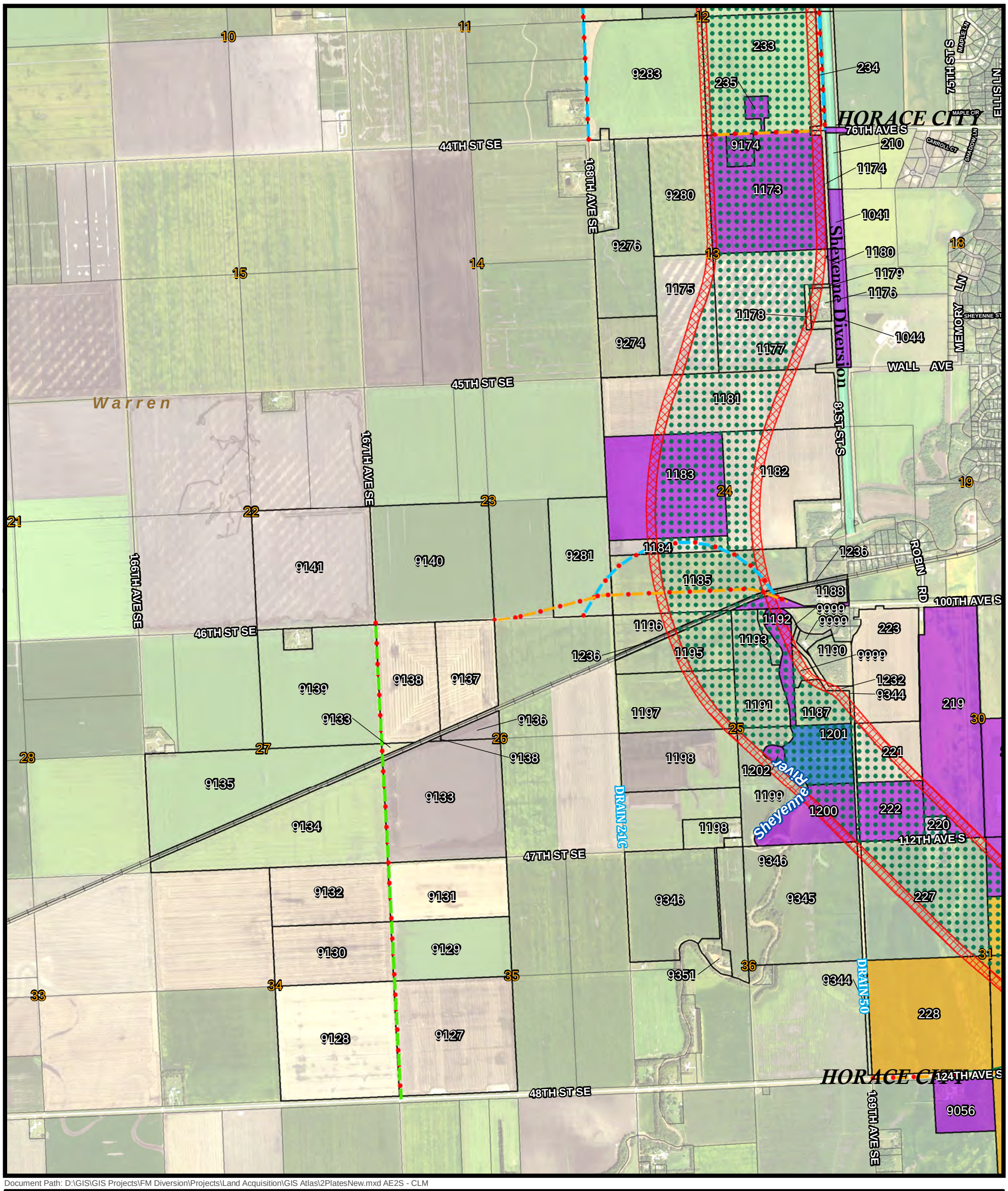


METRO DIVERSION - LAND ACQUISITION

PROPERTY ATLAS



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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 7

- Impacted Parcel
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Transportation Improvements
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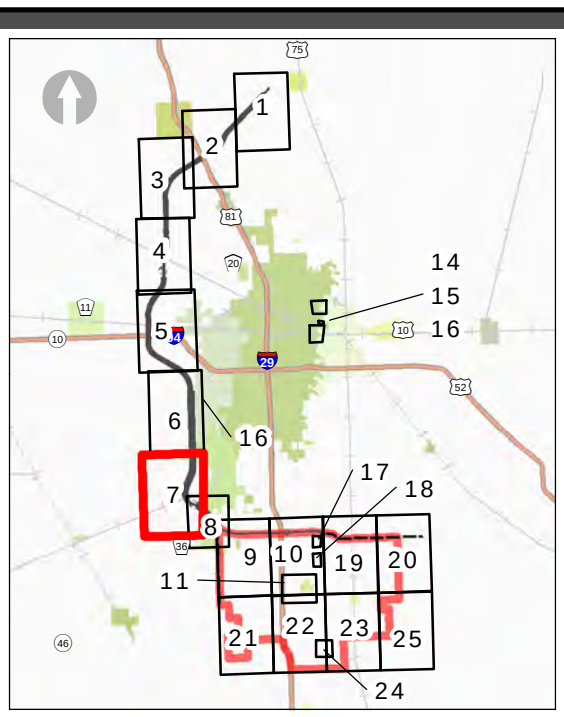

0 0.4 0.8 Mi

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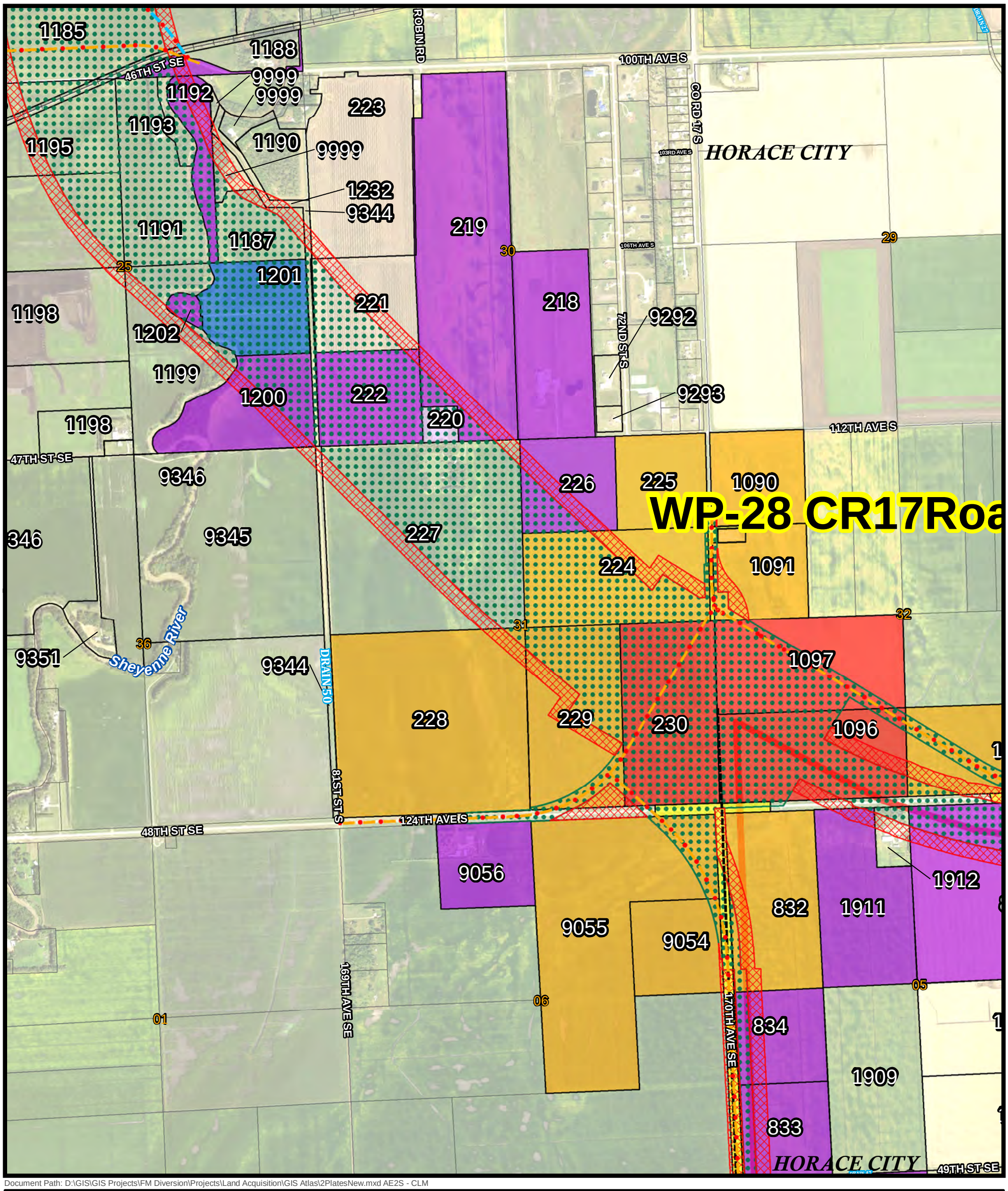

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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 8

- Impacted Parcel
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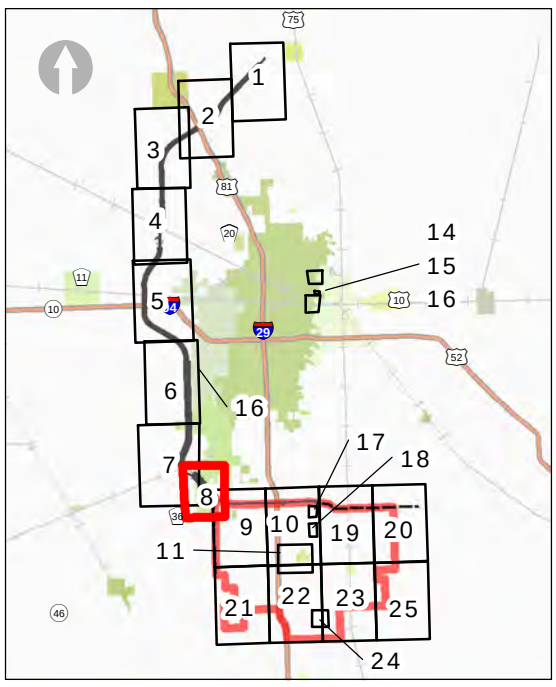

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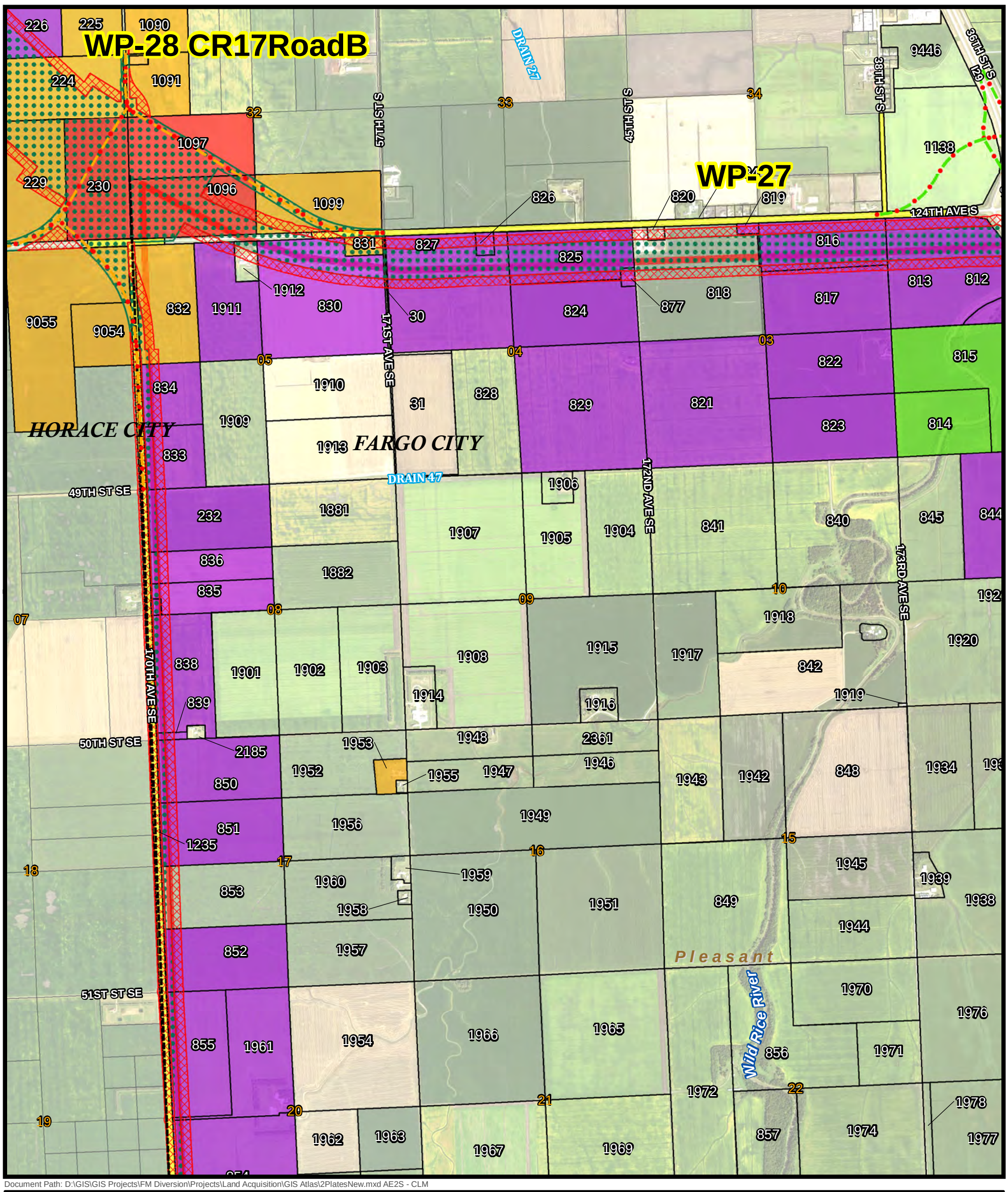

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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 9

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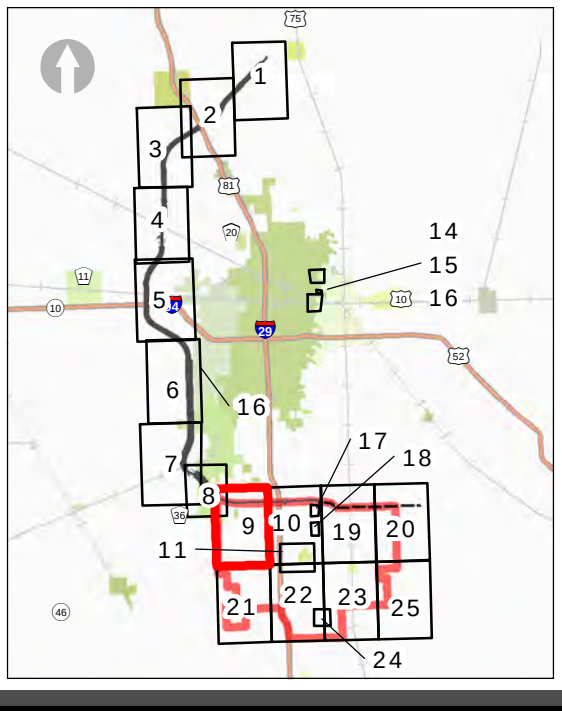

0 0.35 0.7 Mi

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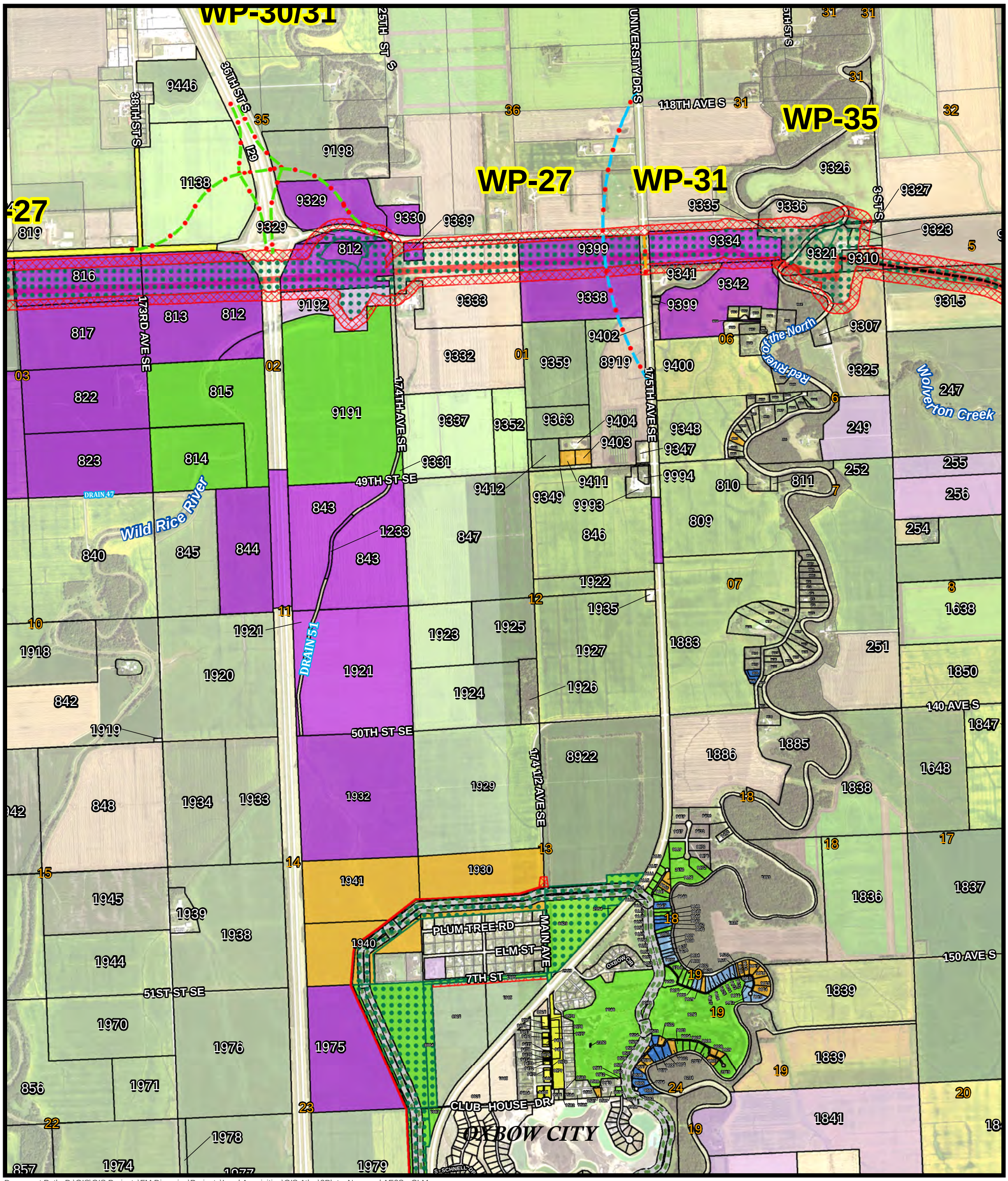

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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 10

- Impacted Parcel
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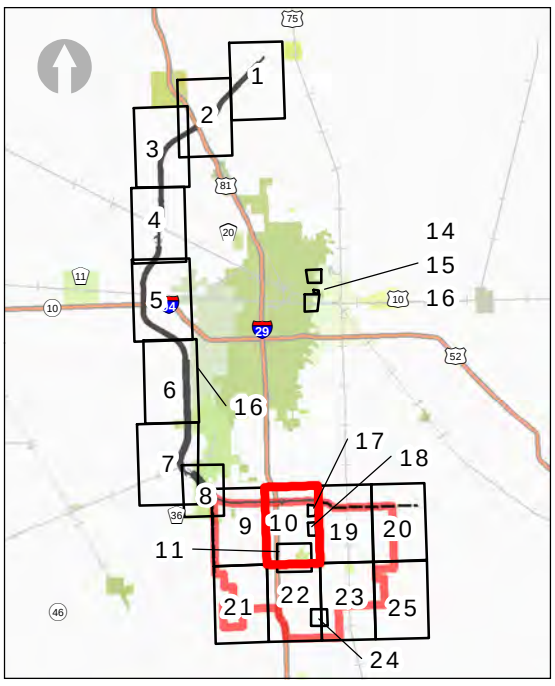

0 0.35 0.7 Mi

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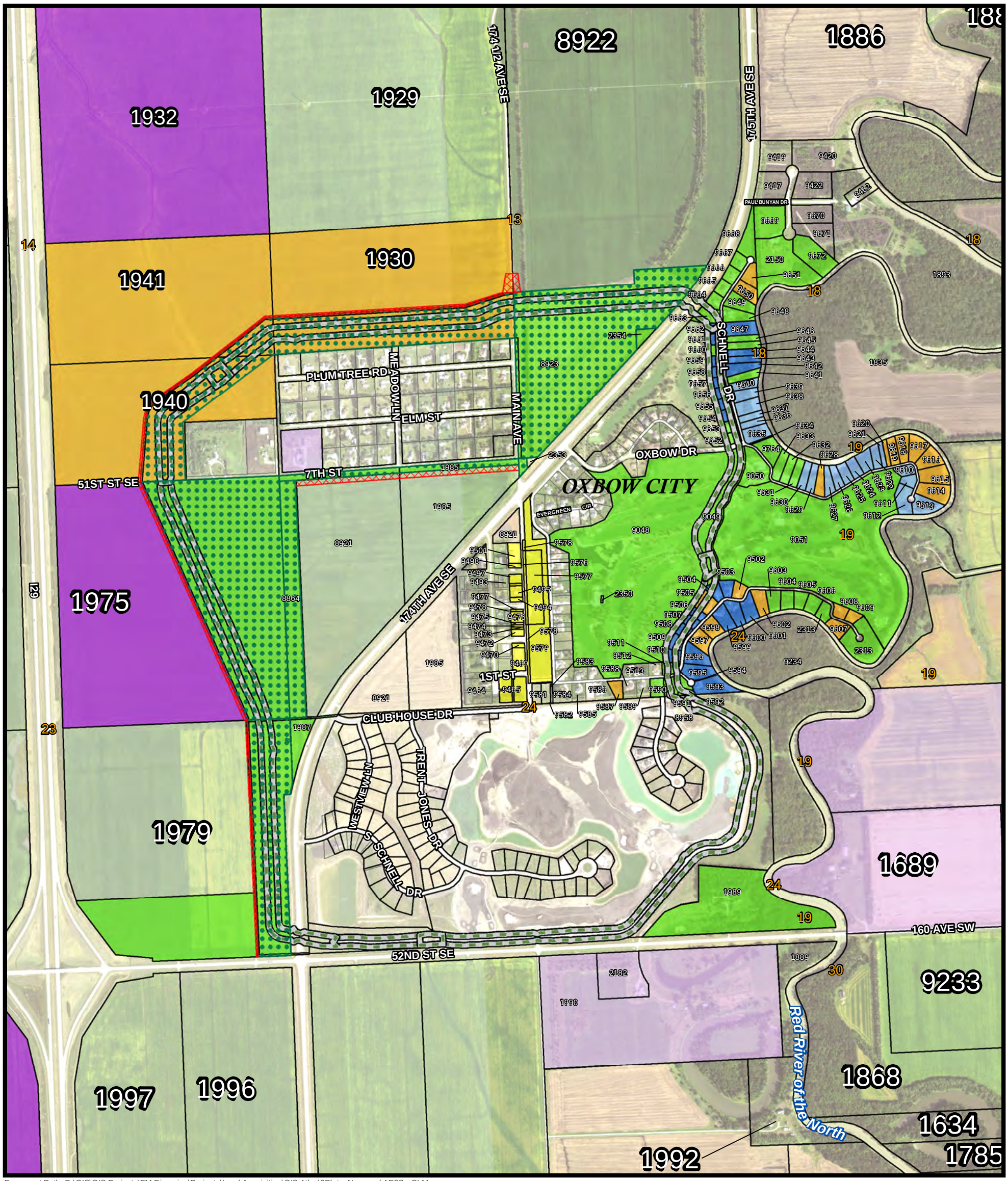

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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 11

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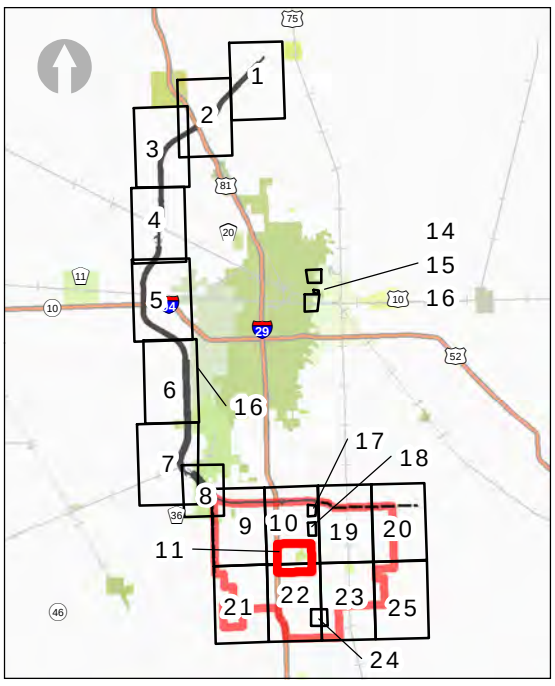
- Mobility Improvement



0 0.15 0.3 Mi

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18 AVE N
17 AVE N
16 AVE N
15 AVE N
14 AVE N
13 AVE N
12 AVE N
12 AVE NE
17 1/2 AVE N
16 1/2 AVE N
WOODLAND DR N
PLUMTREE RD N
MILLER DR N
RIVER DR N
CADDY AVE
ELM CIR N
BROADWAY N
4 ST N
3 ST N
5 ST N
2 ST N
1 ST N
OAK ST N
ELM ST N
6 ST N
FARGO CITY
Red River of the North
31
32
5
WP-42H1
WP-42H2
9207
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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 14

- Impacted Parcel
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0 0.085 0.17 Mi

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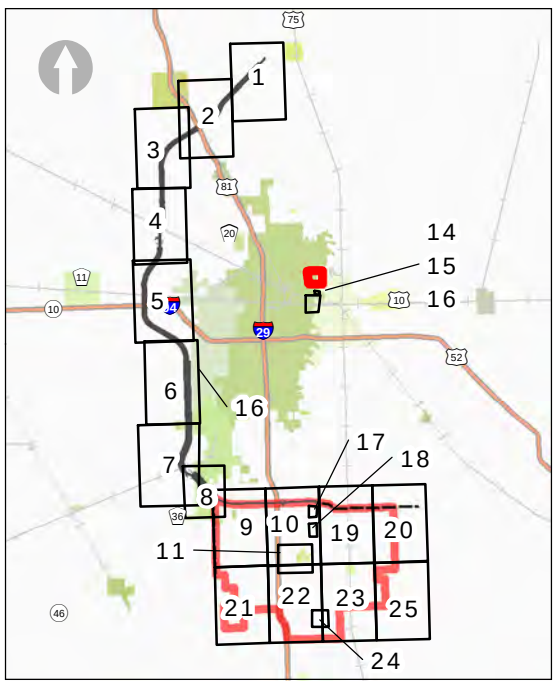

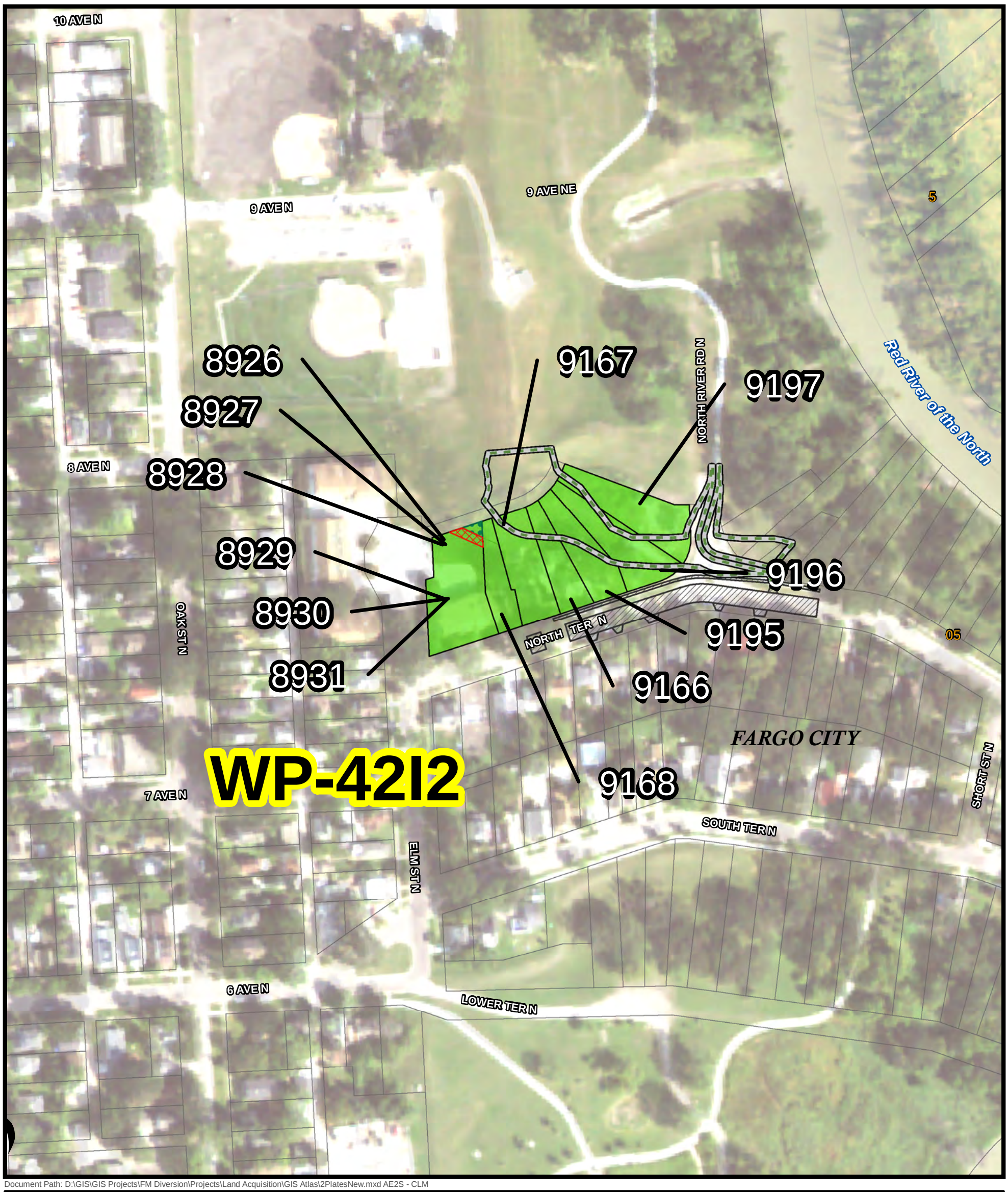

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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 15

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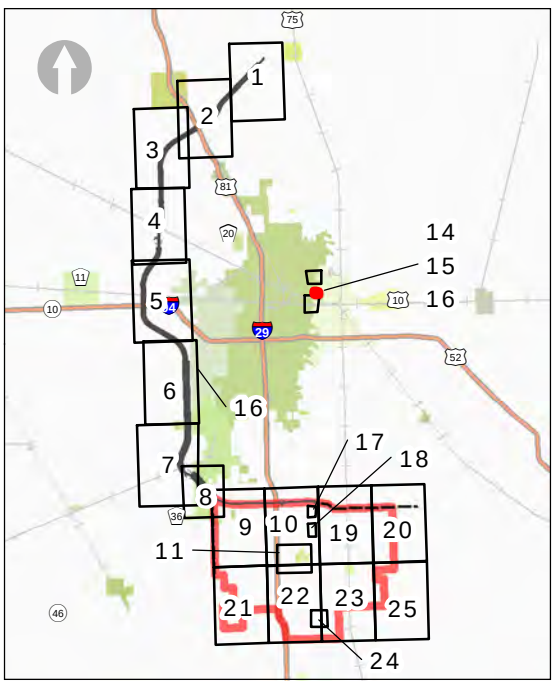

0 0.03 0.06 Mi

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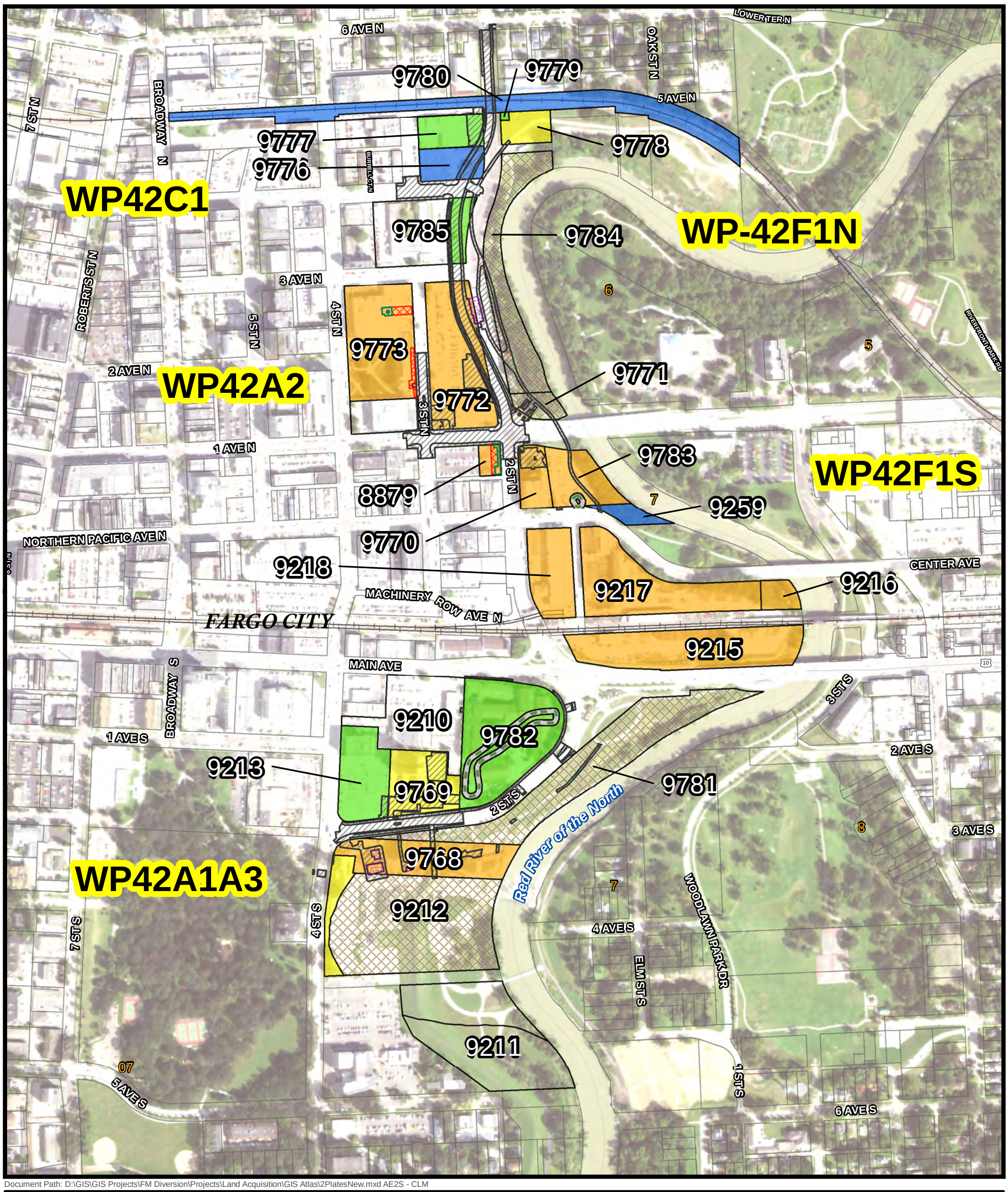

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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 16

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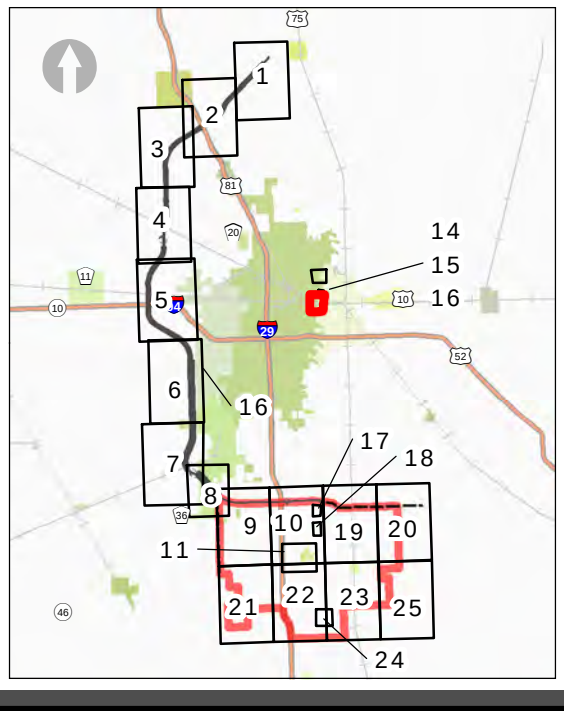

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06
9358
Wolverton Creek
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9388
9410
PFIFFER DR
9397
Red River of the North
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9401
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49TH ST SE
7

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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 17

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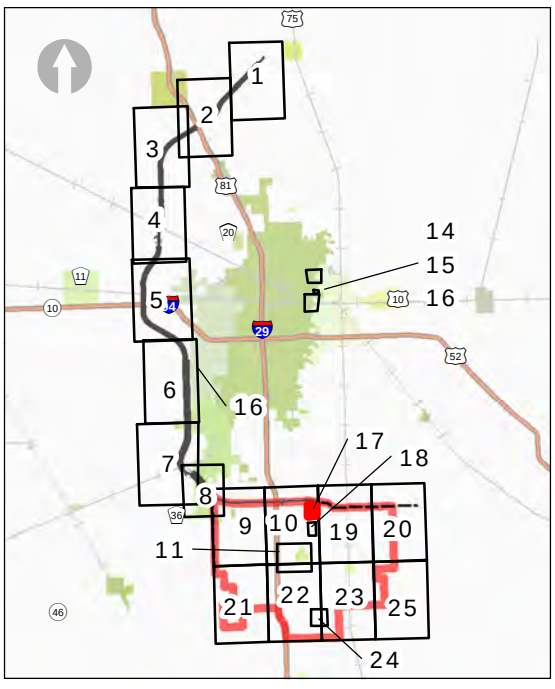

0 0.05 0.1 Mi

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PARCEL STATUS AS OF: 6/7/2016

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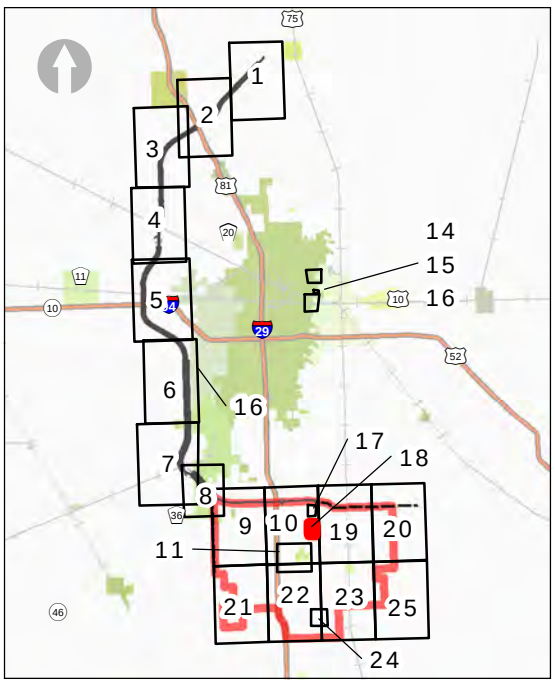

0 0.06 0.12 Mi

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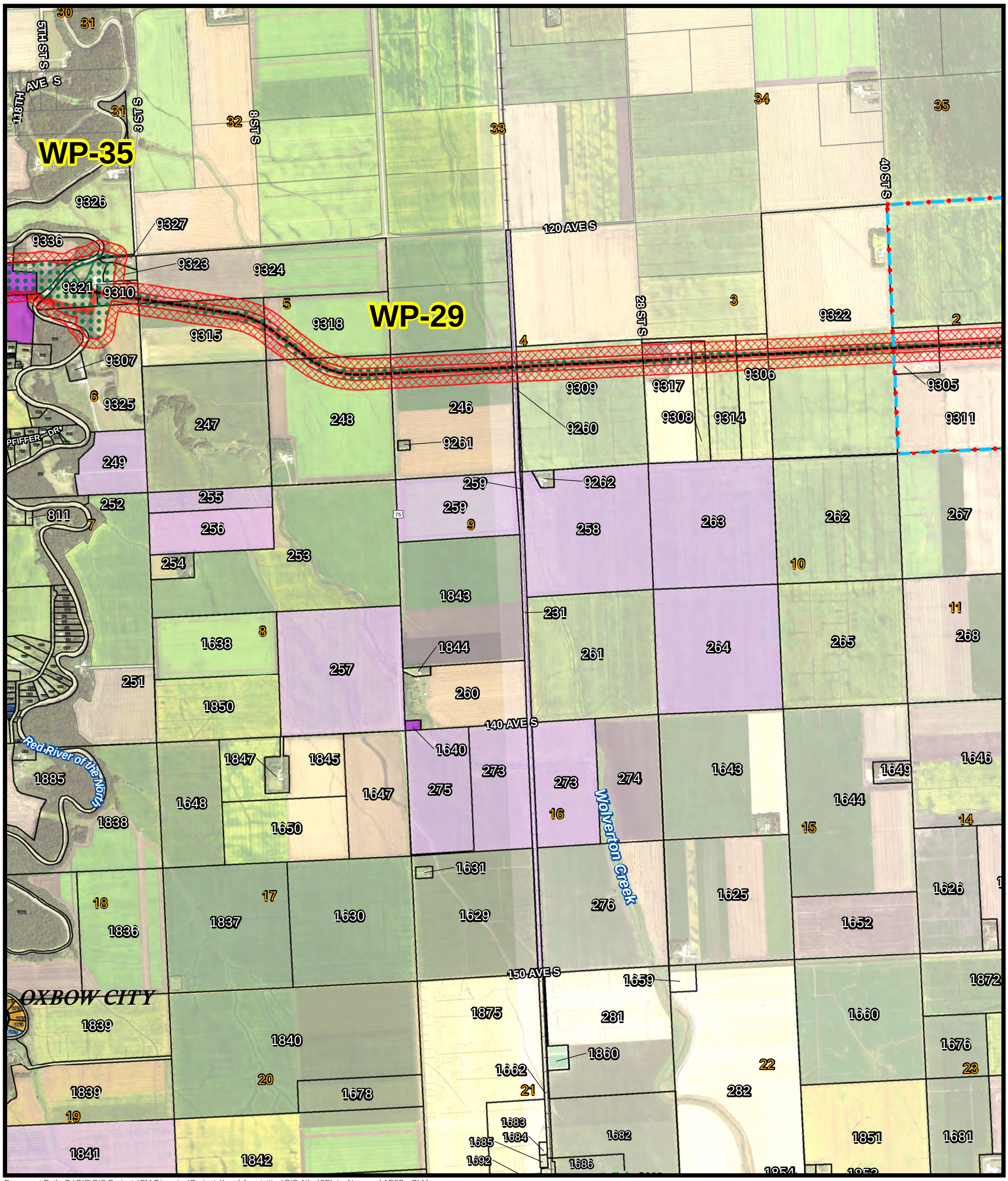

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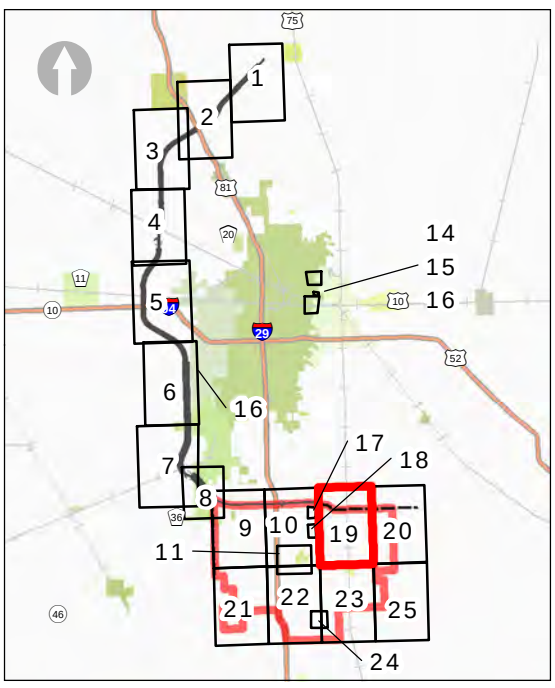
Transportation Improvements
- Accessibility Improvement
- Connect to Severed Parcels
- Construction Detour
- Diversion Crossing
- Mobility Improvement



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AE2S

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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 20

- Impacted Parcel
- Notice of Intent To Acquire
- Purchase Agreement Signed
- ROE Sent
- Parcel Appraisal
- Acquired
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- ROE Granted
- In Negotiation
- Condemnation For Acquisition

- Embankments
- Drain
- Sheyenne Diversion
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- Proposed Levee

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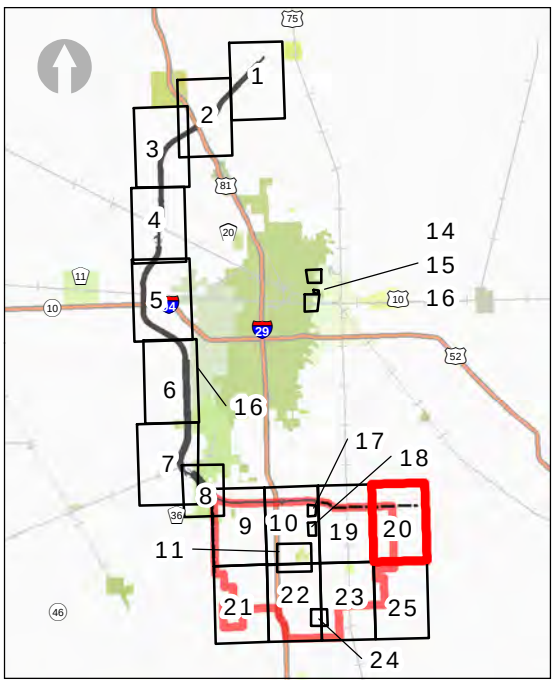
- Lift Station
- Site Improvements

Transportation Improvements
- Accessibility Improvement
- Connect to Severed Parcels
- Construction Detour
- Diversion Crossing
- Mobility Improvement



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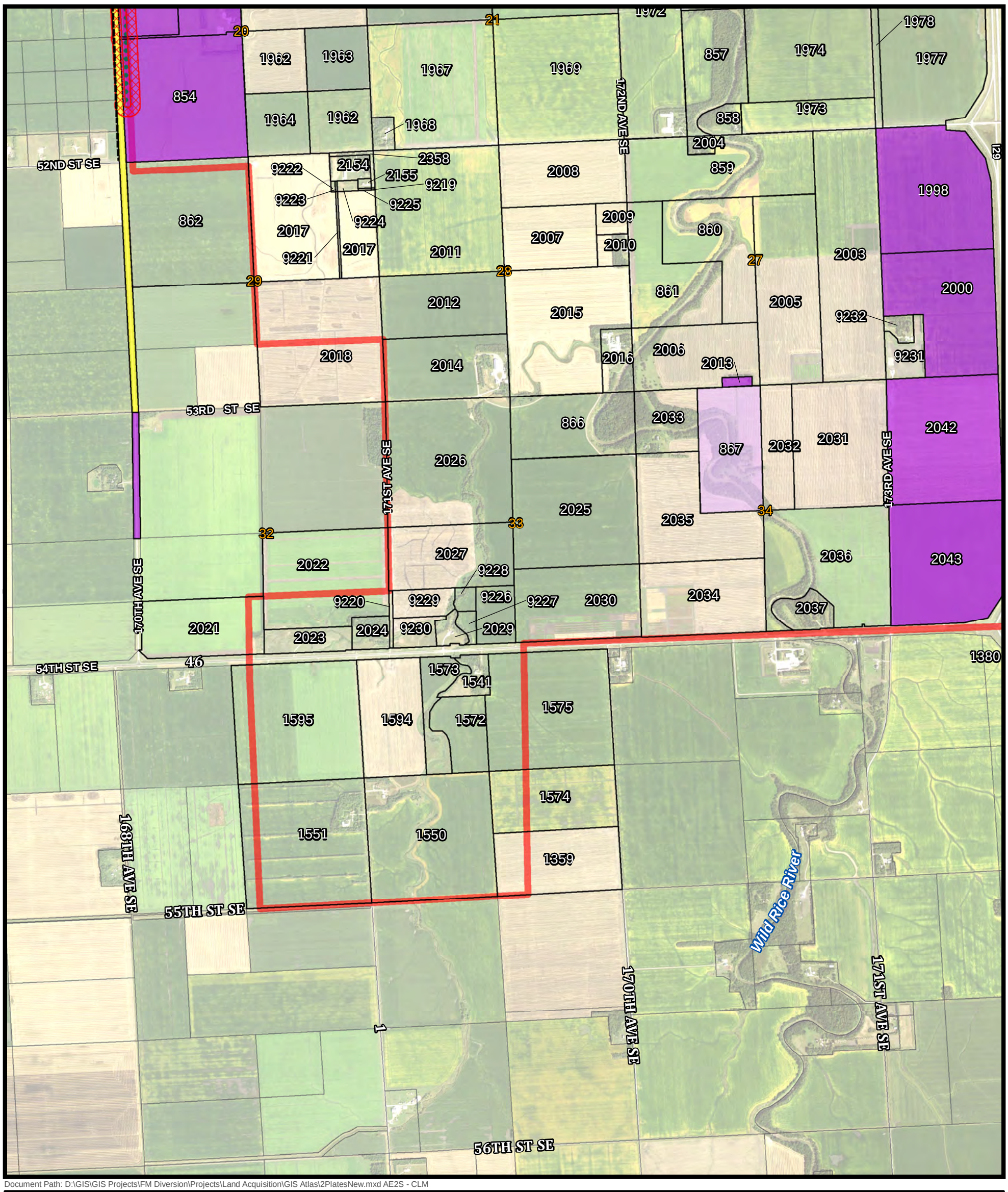
METRO DIVERSION - LAND ACQUISITION

PROPERTY ATLAS



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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 21

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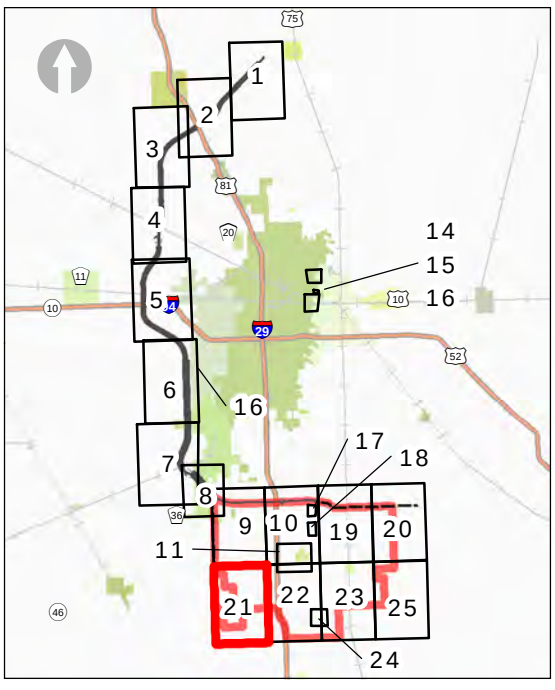

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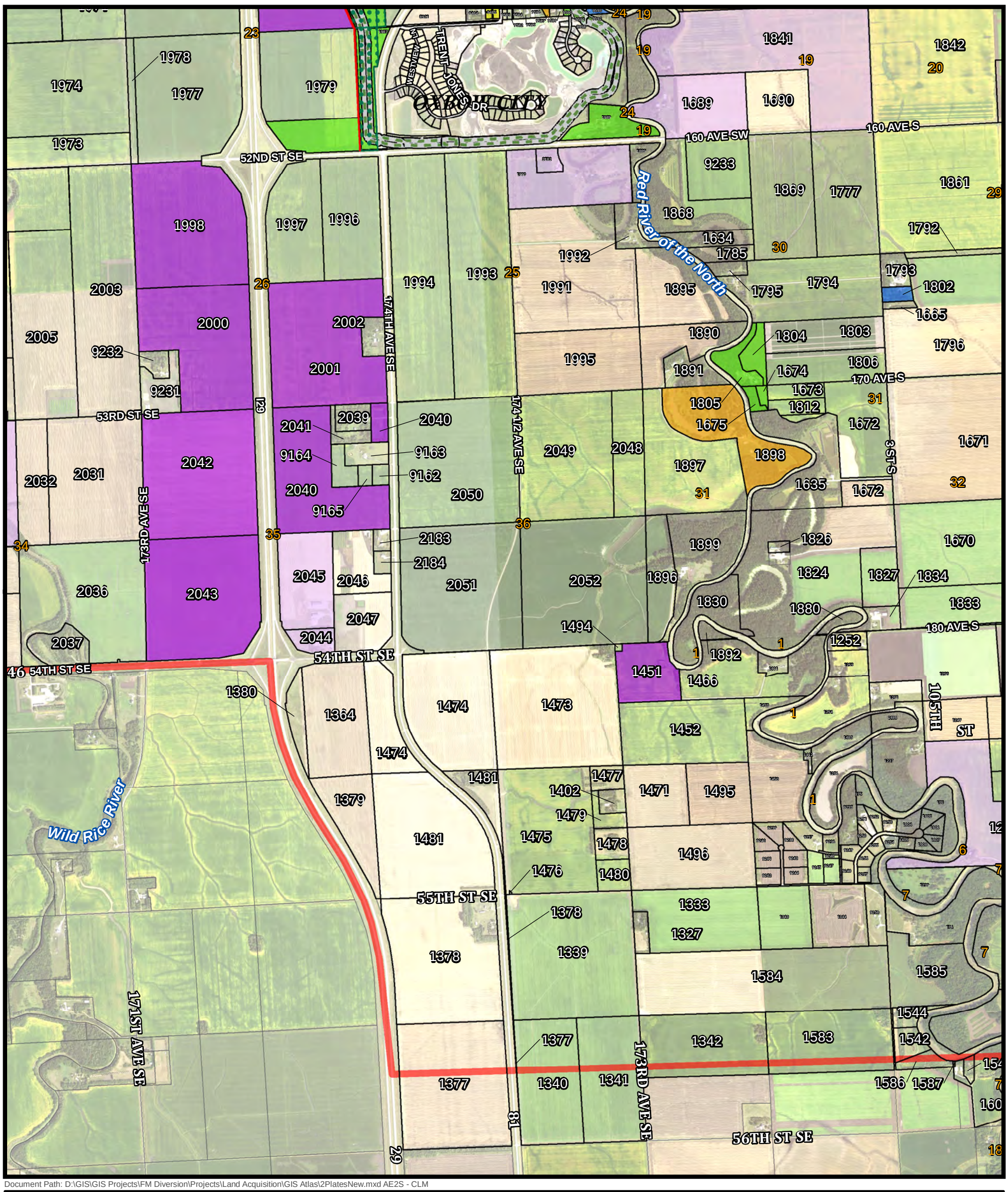
FLOOD DIVERSION AUTHORITY

METRO DIVERSION - LAND ACQUISITION

PROPERTY ATLAS



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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 22

- Impacted Parcel
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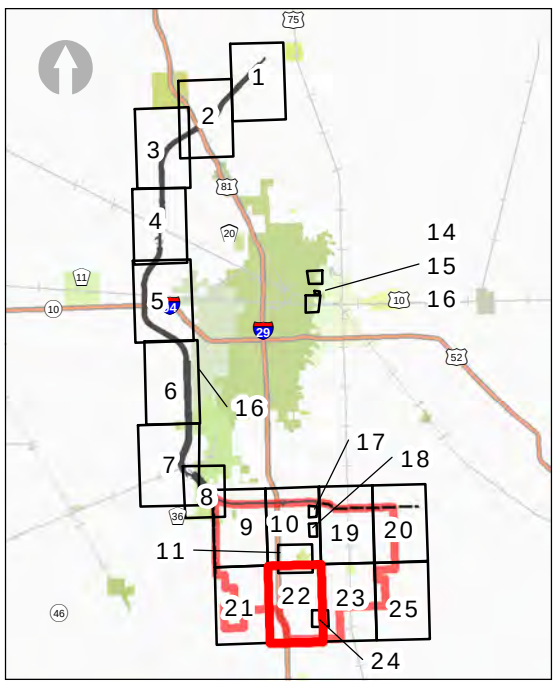

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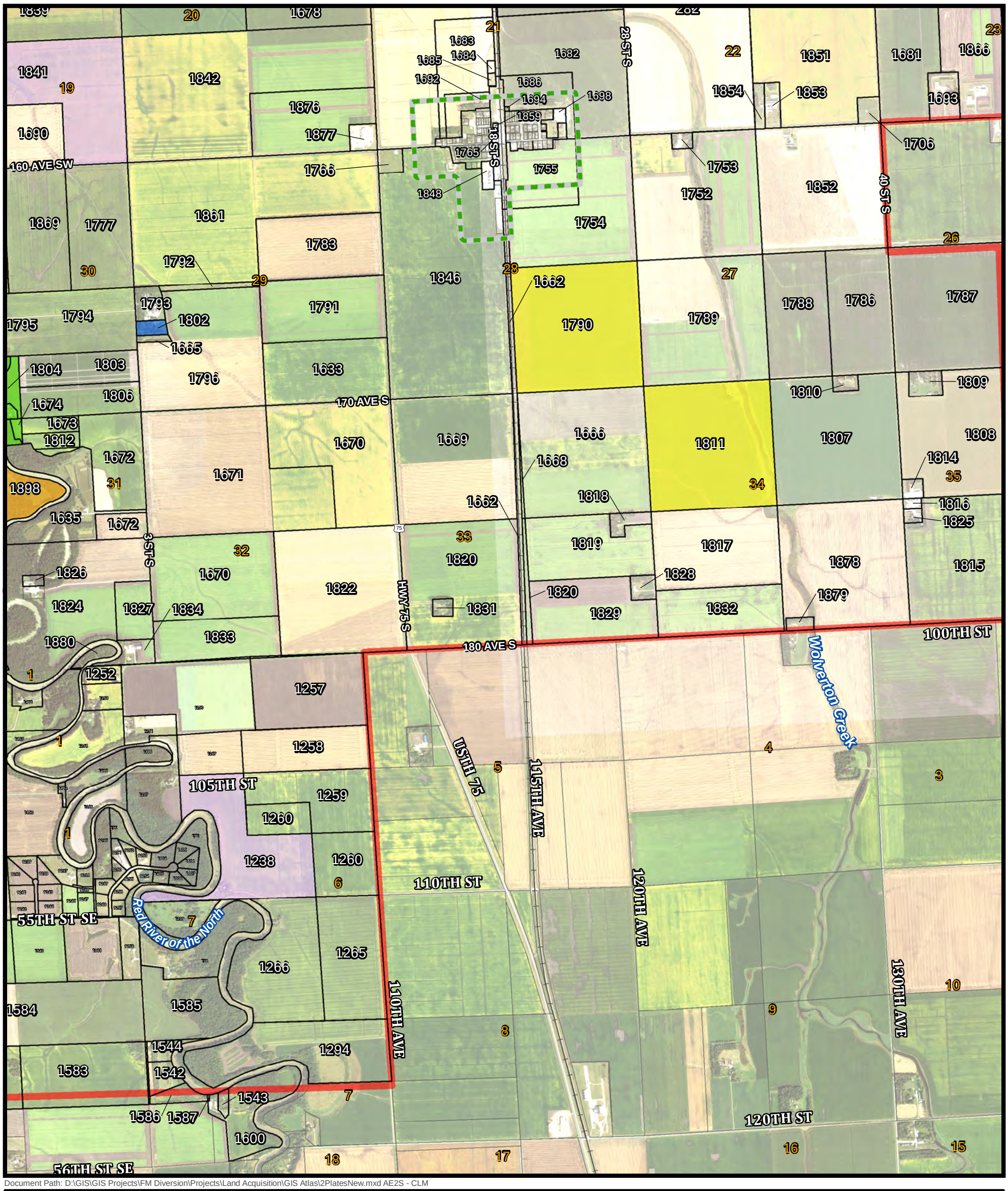
METRO DIVERSION - LAND ACQUISITION

PROPERTY ATLAS



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PARCEL STATUS AS OF: 6/7/2016

Plate Index: 23

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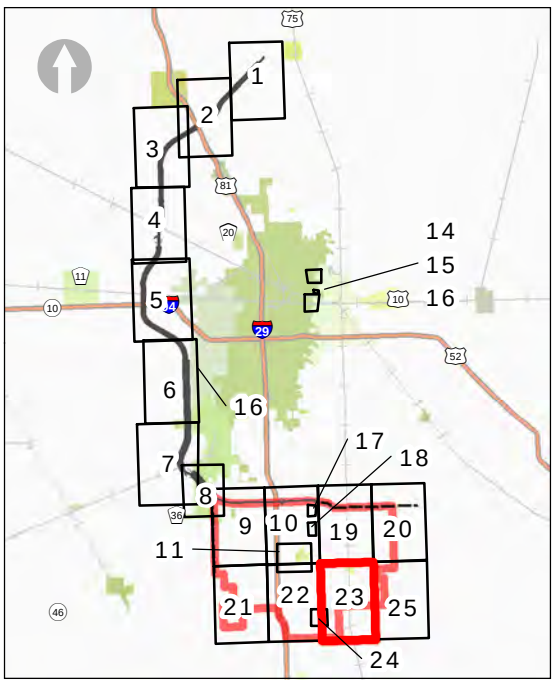

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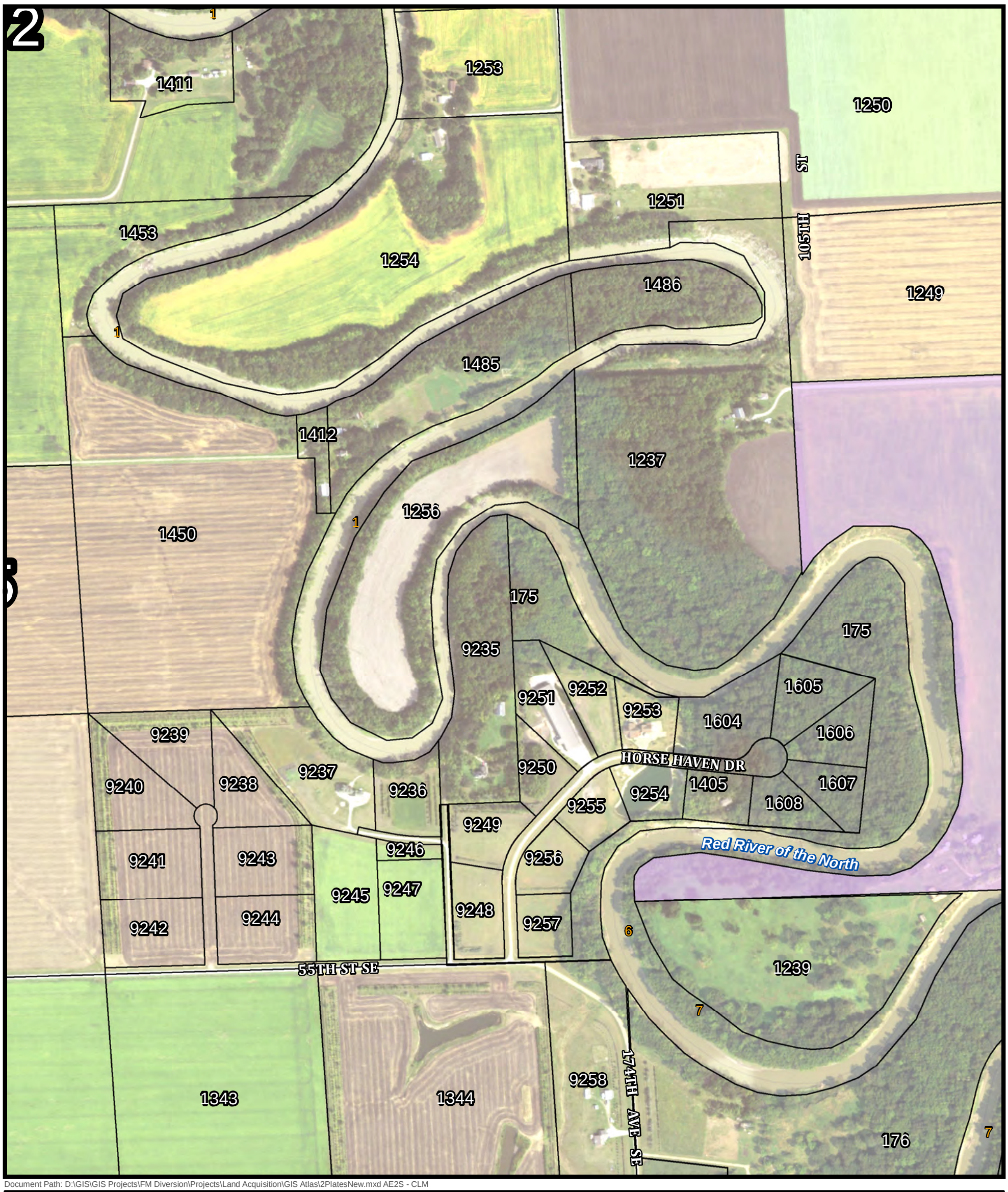

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PARCEL STATUS AS OF: 6/7/2016

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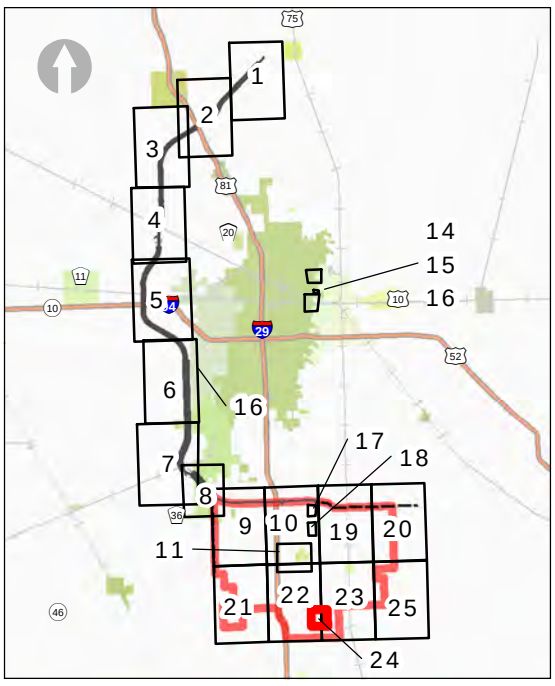

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METRO DIVERSION - LAND ACQUISITION

PROPERTY ATLAS

22
1851
1853
1681
1866
23
1677
1729
1693
24
19
20
160 AVE S
40 ST S
1706
1852
27
26
25
30
29
50 ST S
60 ST S
70 ST S
1788
1786
1787
170 AVE S
1810
1809
1807
1808
1814
34
35
36
31
32
1816
1825
1878
1815
1879
100TH ST
180 AVE S
CR-192
Wolverton Creek
4
3
2
1
6
165TH AVE
110TH ST
130TH AVE
140TH AVE
150TH AVE
160TH AVE
9
10
11
12
7
120TH ST
16
15
14
13
18

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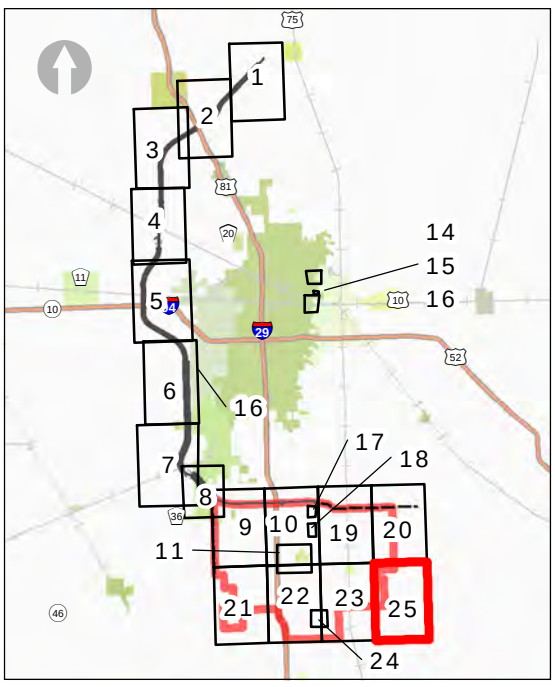

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