Sumter City-County Zoning Board of Appeals

May 8, 2024

BOA-24-08, 941 Clay St. (County)

The applicant is requesting a variance from the residential accessory structure maximum size requirements outlined in *Article 4.g.2.b.6: Maximum Size* and *Article 4, Exhibit 8A: Maximum Square Footage of Residential Accessory Structures Based on Gross Acreage* of the *Sumter County Zoning & Development Standards Ordinance* (the "Ordinance") and any other Ordinance requirements as may be applicable in order to establish a +/- 1,200 sq. ft. residential accessory structure where the maximum total area of residential accessory structures permitted based on the size of the property is 1,150 sq. ft. The property is located at 941 Clay St., is zoned Residential-15 (R-15), and is represented by TMS# 207-10-02-009

Sumter
SOUTH CAROLINA

Appeals - Variance - Special Exception

Sumter City-County
Zoning Board of Appeals

May 8, 2024

BOA-24-08, 941 Clay St. (County)

I. THE REQUEST

Applicant: Richard W. Irick, II

Status of the Applicant: Property Owner

Request: Variance from the residential accessory structure maximum size requirements and any other Ordinance requirements as may be applicable in order to establish a +/- 1,200 sq. ft. residential accessory structure where the maximum total area of residential accessory structures permitted based on the size of the property is 1,150 sq. ft.

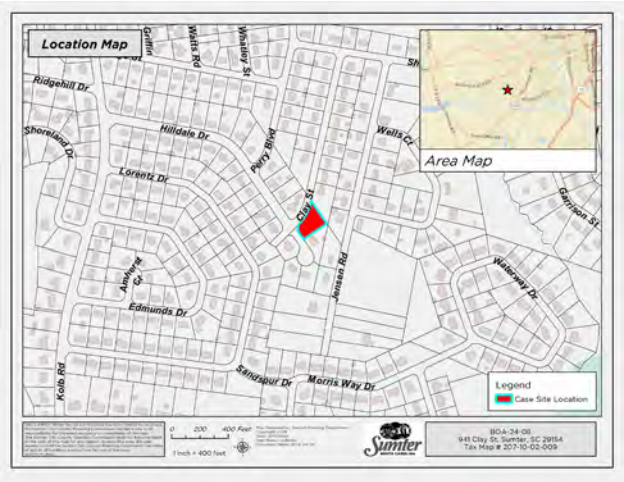
County Council District: District 4

Location: 941 Clay St.

Present Use/Zoning: Single Family Residence / Residential-15 (R-15)

Tax Map Reference: 207-10-02-009

II. BACKGROUND



The applicant is requesting variance approval to permit the construction of a 1,200 sq. ft. residential accessory structure on the property, combined with an existing +/- 400 sq. ft. accessory structure, for a total of +/- 1,600 sq. ft. Based on the lot size (0.61 acres), the maximum amount of residential accessory structure area permitted is 1,150 sq. ft.

The property is located in the Hilldale Subdivision along Clay St. and is shown in red on the location to the right. A 1,200 sq. ft.

accessory structure was erected sometime between January and March 2024 without required building permits. Variance approval is being sought in order to legally permit the building. There is an existing +/- 400 sq. ft. carport structure located adjacent to the residence.

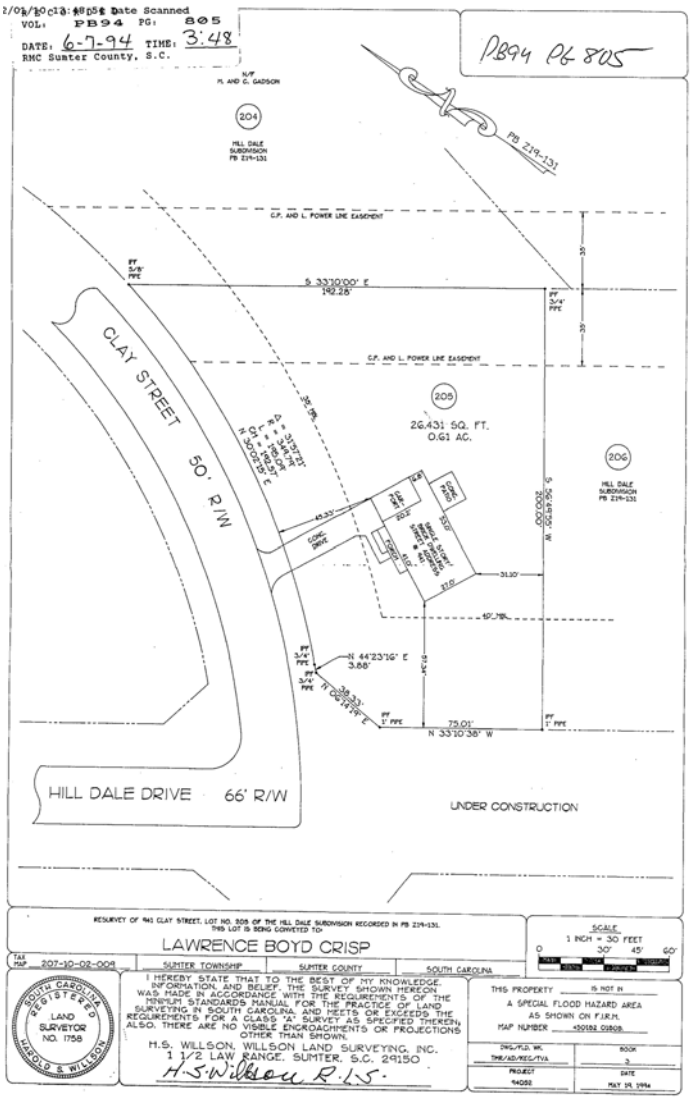
Sumter County Assessor's property records indicate that there are two accessory structures associated with the property, one being a carport and the other being a utility/storage shed. Aerial imagery from 2023 indicates 3 total accessory structures, 1 being the existing carport in the property's side yard, and 2 located in the rear yard. The 2 rear yard accessory structures were removed between August 2023 and March 2024. However, because no demolition permits were filed, those structures remain associated with the tax records. Based on rough measurements, the two structures removed between 2023 and 2024 were 500 sq. ft. (utility/storage building) and 600 sq. ft. (carport).

Furthermore, the 2 rear yard accessory structures (that have been removed) appear to have been nonconforming with regard to total accessory structures (maximum 2) building setbacks (minimum 5 ft. from property lines) and combined structure size (1,500 sq. ft. total size of all 3 structures, compared with 1,150 sq. ft. maximum for the lot.

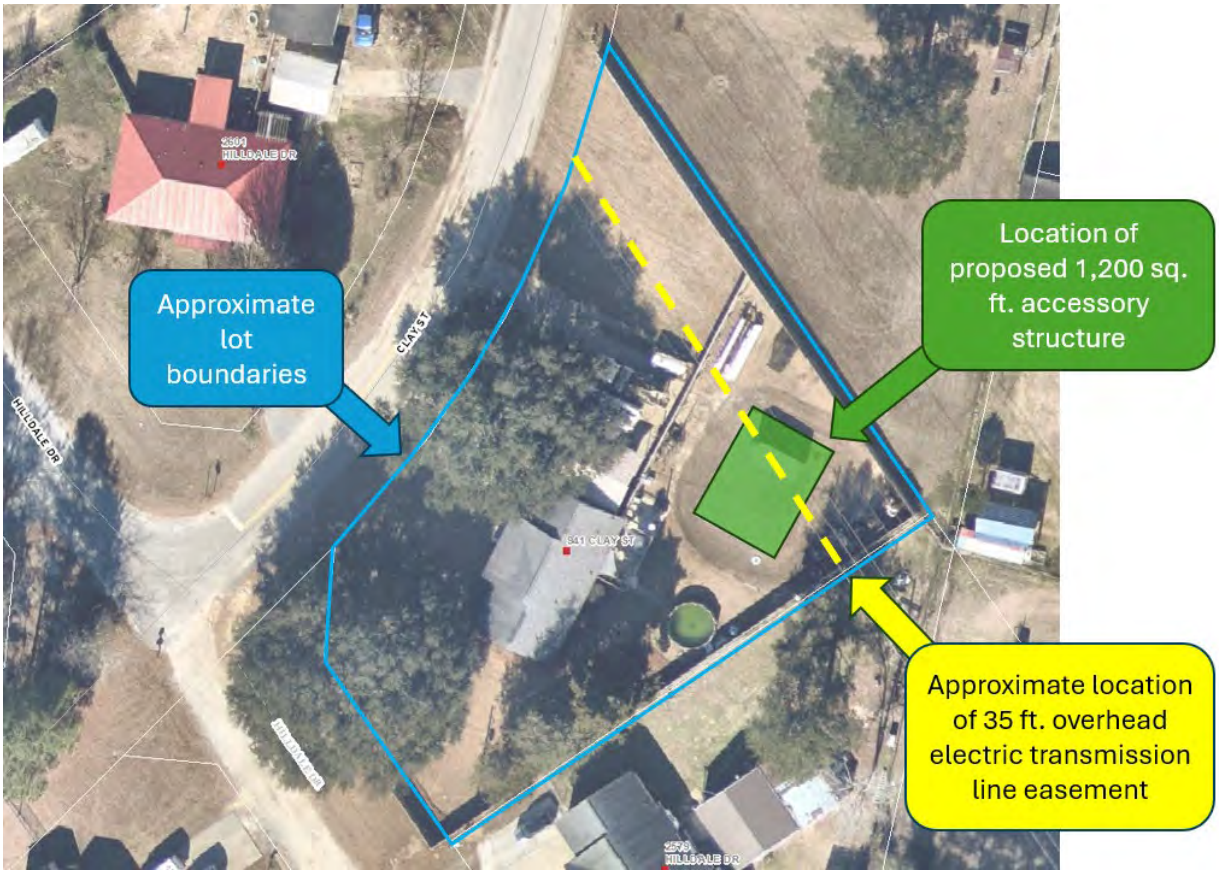
Above (left): 2023 Aerial imagery depicting previous accesory structures; **Above (right)**: Image depicting previous accesory structures in rear yard (imagery dated August 2023, captured via Google Streetview)

A further factor of relevance to this case is the presence of an overhead electrical transmission line easement along the property's northeast (side) property line.

The easement, which is identified on the plat prepared by H.S. Willston and recorded in 1994 (PB 94, Pg 805), is shown as being 70 ft. in width (35 ft. on the property at 945 Clay St.), and held by Carolina Power & Light, now Duke Energy Progress.



Staff has attempted to contact Duke Energy Progress to obtain details on the company's easement status and legal requirements, but as of the time of this report, no response has been received.



Above: Site Diagram showing location of proposed accessory structure and existing overhead utility easement

Above: Image depicting unpermitted 1,200 sq. ft. accessory structure in rear yard at time of variance application (image dated March 22, 2024)

Ordinance Requirements:

Article 4.g.2.b.6.

6. **Maximum Size –** The maximum size of residential accessory structures shall be governed by *Exhibit 8A* and shall be based on the gross acreage of the parcel of land on which it is located.

Exhibit 8A
Maximum square footage of residential accessory structures based on gross acreage

Acreage	0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
**<0.5	See note 1									
0.5	1100	1150	1250	1350	1450	-	-	-	-	-
1.0	1500	1525	1550	1575	1600	1625	1650	1675	1700	1725
2.0	1750	1775	1800	1825	1850	1875	1900	1925	1950	1975
3.0	2000	2025	2050	2075	2100	2125	2150	2175	2200	2225
4.0	2250	2275	2300	2325	2350	2375	2400	2425	2450	2475
≥ 5.0	Exempt, see note 2 & 3									

The Request:

The applicant is requesting a variance from the requirements outlined in *Article 4.g.2.b.6: Maximum Size (Residential Accessory Structures)* and *Article 4, Exhibit 8A: Maximum Square Footage of Residential Accessory Structures Based on Gross Acreage* of the *Sumter County Zoning & Development Standards Ordinance* in order to establish a +/- 1,200 sq. ft. residential accessory building on the property, combined with an existing +/- 400 sq. ft. accessory structure, for a total of +/- 1,600 sq. ft. The gross acreage of the property is 0.61 acres and the maximum total area allowed for residential accessory structures based on this land area is 1,150 sq. ft.

III. FOUR PART TEST

In order to grant the requested variance, the request must meet all parts of a State-mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district.
- Extend physically a non-conforming use of land.
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request. In granting a variance, the Board may attach to it such conditions regarding location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to promote the public health, safety, or general welfare.

Staff Review:

1) ***There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

   The subject property is 0.61 acres in size and is located within the Hilldale Subdivision in unincorporated Sumter County. The property is in the R-15 zoning district, which allows for a minimum lot size of 15,000 sq. ft. (0.34 acres). Most lots in the subdivision are between 0.34 and 0.40 acres in size. However, the lots which abut the existing overhead utility transmission line and associated easement are significantly larger than the average lots in the subdivision, at between 0.46 and 0.76 acres.

   Additionally, while the lot is not technically a corner lot, it functions as a corner parcel, as there is a private portion of Hilldale Dr. located adjacent to the property which provides unpaved driveway access to 3 lots.

   Furthermore, while the presence of the overhead electric utility line easement is an extraordinary condition that affects a relatively small number of lots within the overall subdivision, the lot sizes for these lots appear to have been established with this factor in mind to offset the impact of the easement's effect.

2) ***These conditions do not generally apply to other property in the vicinity.***

   The subject parcel's location within the subdivision and impact caused by the utility easement applies to a relatively small number of lots in the overall subdivision. However, the accessory building standards found in *Article 4.g.* of the Ordinance apply countywide, and the specific dimensional constraints to which this request is seeking a variance are intended to account for differently sized parcels of land.

   The maximum accessory structure size thresholds in *Exhibit 8A* were established based on a standard increment, with each 0.10-acre increase in lot size corresponding to additional accessory structure size allowance between 25 and 100 sq. ft. This methodology does not account for standard dimensioning in the building construction industry, which can make constructing an 1,150 sq. ft. building significantly more difficult than a 1,200 sq. ft. building. This is particularly acutely felt with modular construction, and metal buildings, in which the materials used may be prefabricated at specific dimensions.

3) ***Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

   The applicant can construct up to 2 accessory buildings with a combined size of 1,150 sq. ft. without a variance. The applicant has an existing +/- 400 sq. ft. accessory structure (carport) and could build an additional +/- 750 sq. ft. structure without a variance. The ordinance prevents the applicant from exceeding this limit.

The existing +/- 400 sq. ft. carport located to the side of the residence is located close enough to the dwelling that it could be connected to the dwelling such that it would be treated as a part of the principal structure and not as an accessory structure. In this scenario, the applicant's need for a variance would be reduced from 450 sq. ft. to 50 sq. ft.

4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

The purpose of regulating the size of residential accessory buildings is to ensure compatibility, preserve the primary residence as the focal point of the property, and avoid negatively impacting surrounding properties.

The authorization of this specific variance is not likely to result in substantial detriment to adjacent property and the public good, as it represents only a small increase in residential accessory structure above the maximum requirement. However, on a broader scale, exceeding the established maximum accessory structure size limits without demonstrating a true hardship could impact district character over time as it hinders the effectiveness of the Ordinance requirements and undermines the expressed intent of the ordinance countywide.

IV. STAFF RECOMMENDATION

Should the Board make the necessary findings to approve this request, staff recommends the following conditions of approval be attached:

1. The applicant must obtain written consent or other legal documentation that verifies that construction of an accessory structure is permitted under the terms of the easement currently held on the property by Duke Energy Progress prior to building permit approval.

Additional conditions may need to be considered regarding the 400 ft. prefabricated car port in the side yard should the Board elect to not include this structure in any approval provided.

V. DRAFT MOTIONS FOR BOA-24-08

1. I move the Zoning Board of Appeals **approve** BOA-24-08, subject to the findings of fact and conclusions developed by the BZA and so stated:

2. I move the Zoning Board of Appeals **deny** BOA-24-08, subject to the following findings of fact and conclusions:

3. I move the Zoning Board of Appeals enter an alternative motion for BOA-24-08.

VI. BOARD OF APPEALS – APRIL 10, 2024

The Sumter City-County Board of Appeals at its meeting on Wednesday, April 10, 2024, deferred action on this request until the next Board of Appeals meeting on Wednesday, May 8, 2024. The Board has asked that the applicant obtain written consent or other legal documentation that verifies that construction of an accessory structure is permitted under the terms of the easement currently held on the property by Duke Energy Progress. The meeting will begin at 3:00 p.m. and will be held in City Council Chambers located on the Fourth Floor of the Sumter Opera House (21 North Main Street, Sumter, South Carolina).

VII. BOARD OF APPEALS – MAY 8, 2024

Location Map

Area Map

Griffin
Watts Rd
Whatley St
Ridgehill Dr
Shoreland Dr
Hilldale Dr
Perry Blvd
Wells Ct
Lorentz Dr
Clay St
Garrison St
Jensen Rd
Waterway Dr
Amherst Ct
Edmunds Dr
Kolb Rd
Sandspur Dr
Morris Way Dr

Legend
Case Site Location

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0 200 400 Feet

1 inch = 400 feet

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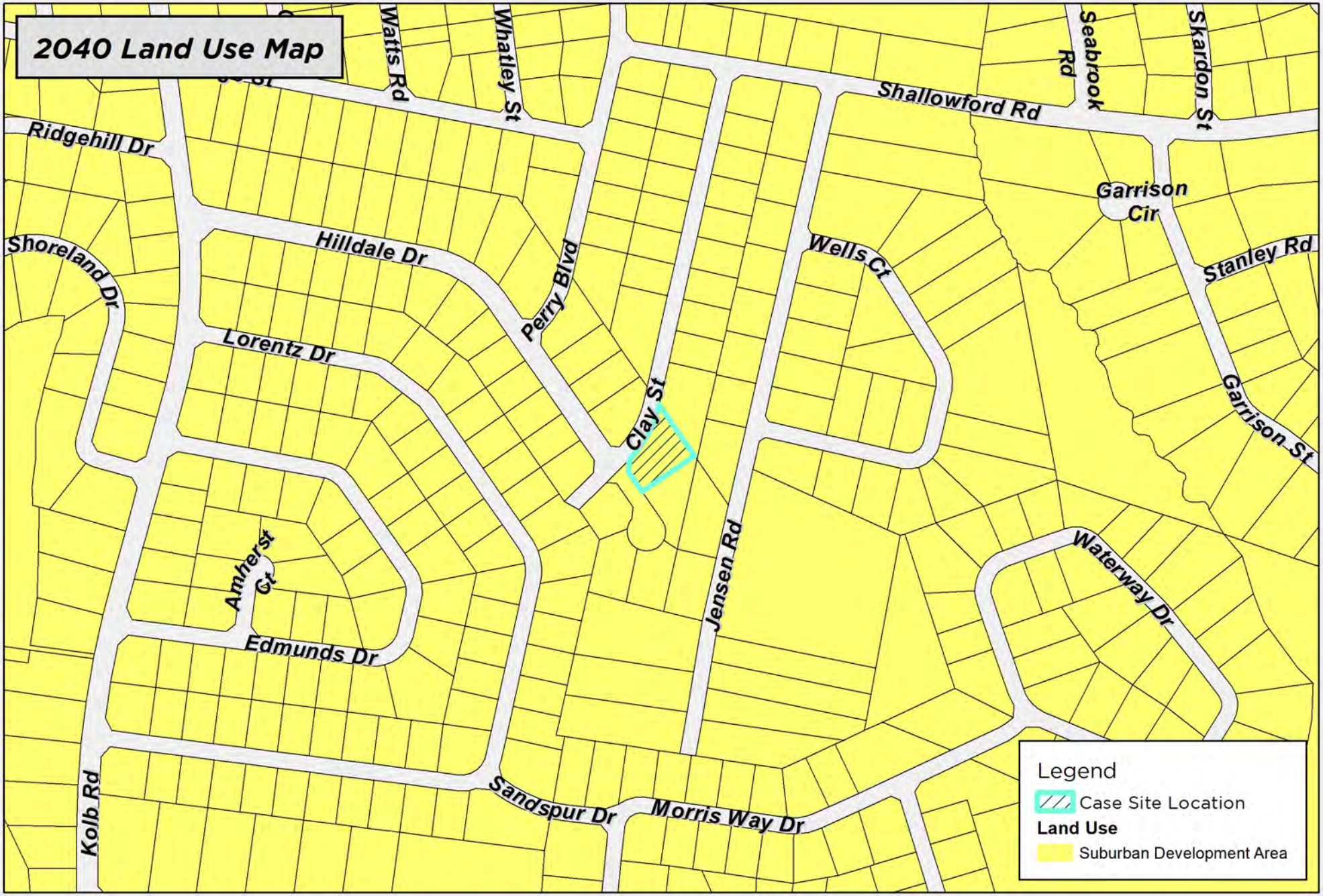
Date: 3/19/2024
User Name: crobbins
Document Name: BOA-24-08

Sumter SOUTH CAROLINA

BOA-24-08
941 Clay St, Sumter, SC 29154
Tax Map # 207-10-02-009



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BOA-24-08
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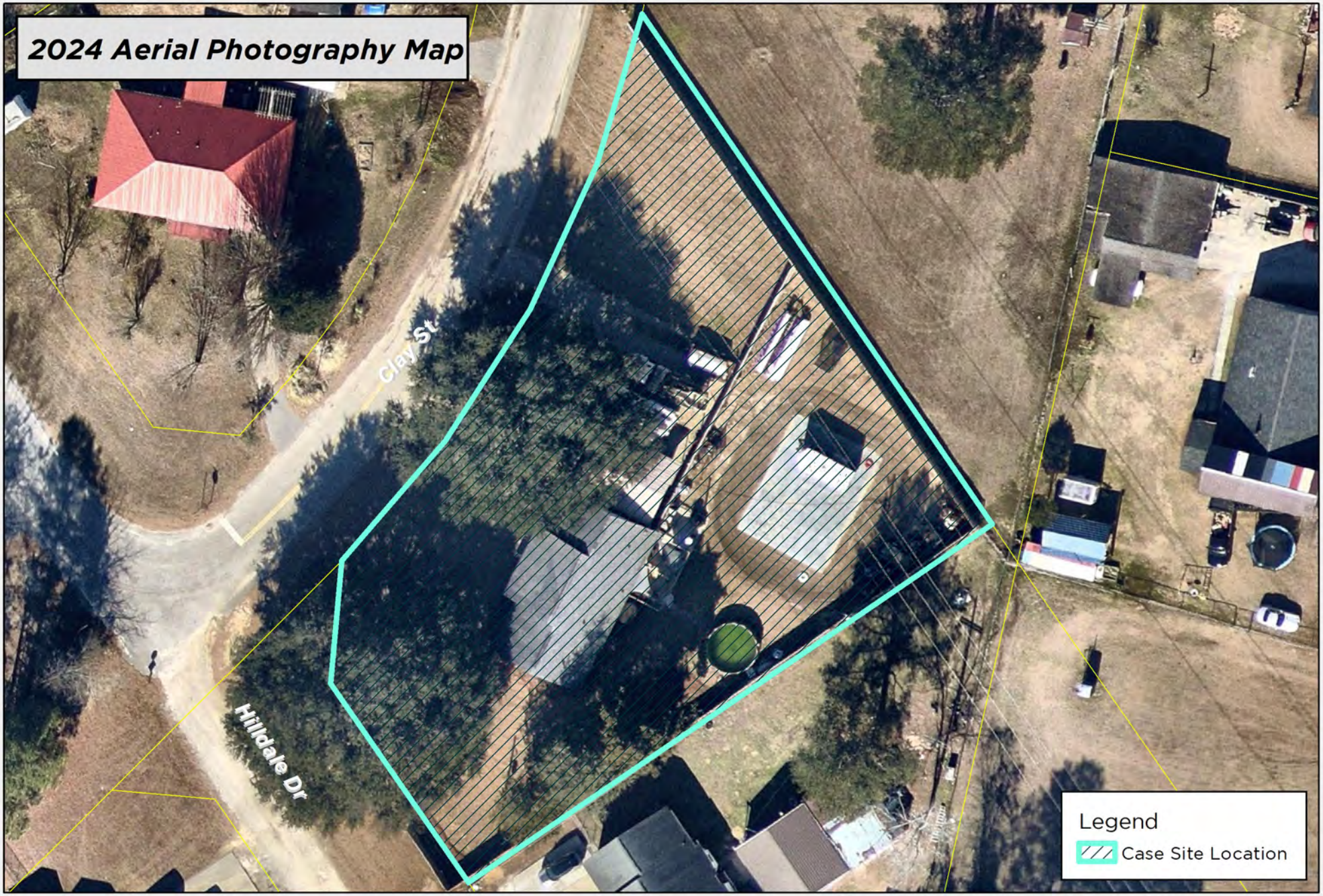
2024 Aerial Photography Map



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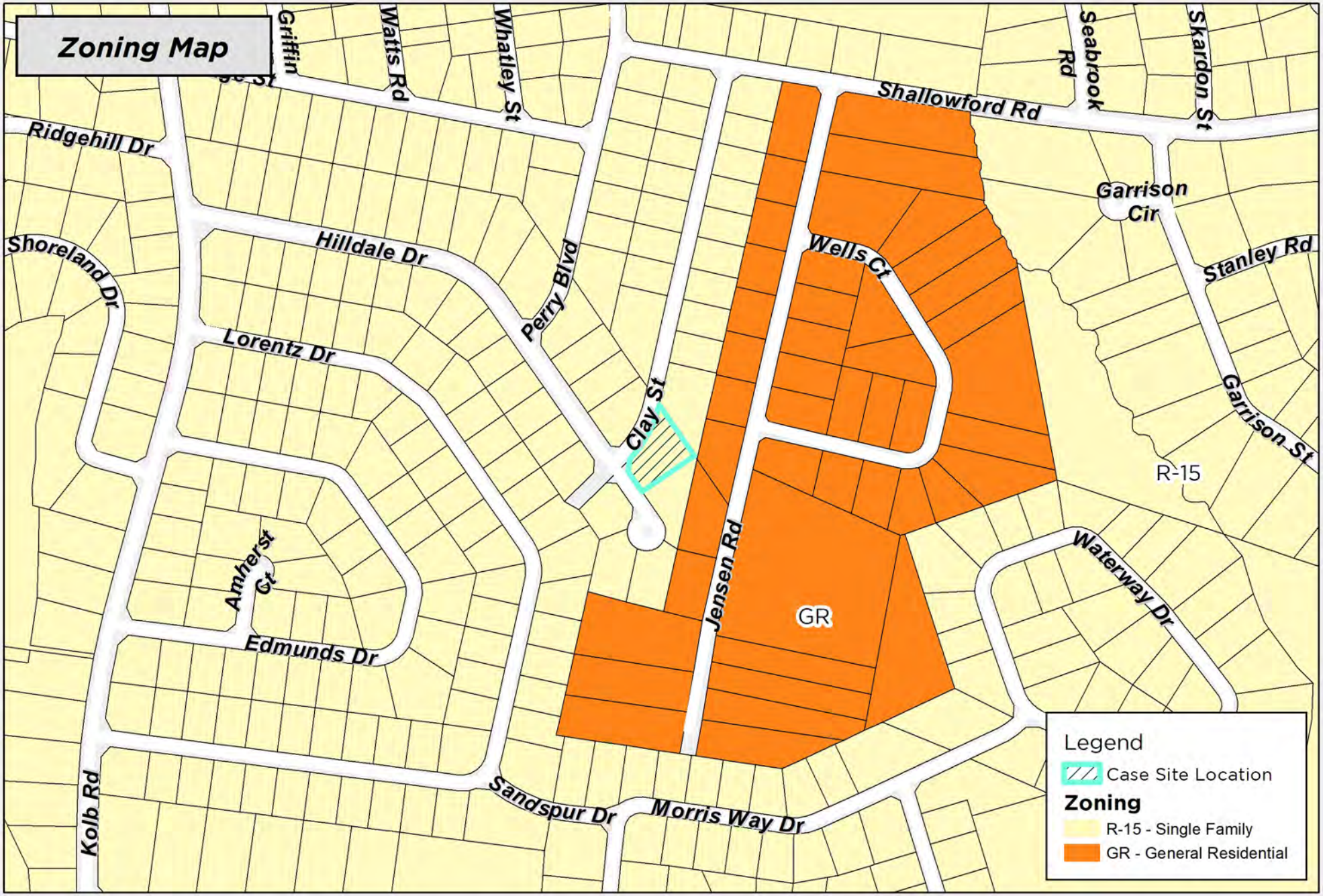

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