Sumter City-County Zoning Board of Appeals

October 9, 2024

BOA-24-35, 765 Breezybay Ln. (City)

The applicant (Elizabeth H. Brown) is requesting a variance to the lot width requirements applicable to the property under a specific Planned Development zoning district (*Timberline Meadows – Case# PD-98-07*) in order to adjust a side property line as approved via Court Order (No: 2018-CP-43-1399). The proposed property line adjustment will result in a lot width (measured at the front building line) that is slightly below the required 100 ft. The Property is located at 765 Breezybay Ln., is zoned Planned Development (PD), and is represented by TMS# 184-11-02-021.

Sumter
SOUTH CAROLINA

Appeals - Variance - Special Exception

Sumter City-County
Zoning Board of Appeals

October 9, 2024

BOA-24-35, 765 Breezybay Ln. (City)

I. THE REQUEST

Applicant: Elizabeth H. Brown

Status of the Applicant: Property Owner

Request: Variance to the lot width requirements applicable to the property under the specific Planned Development zoning district (PD-98-07, Timberline Meadows), in order to adjust a side property line as approved via Court Order (No: 2018-CP-43-1399). The proposed property line adjustment will result in a lot width (measured at the front building line) that is slightly below the required 100 ft.

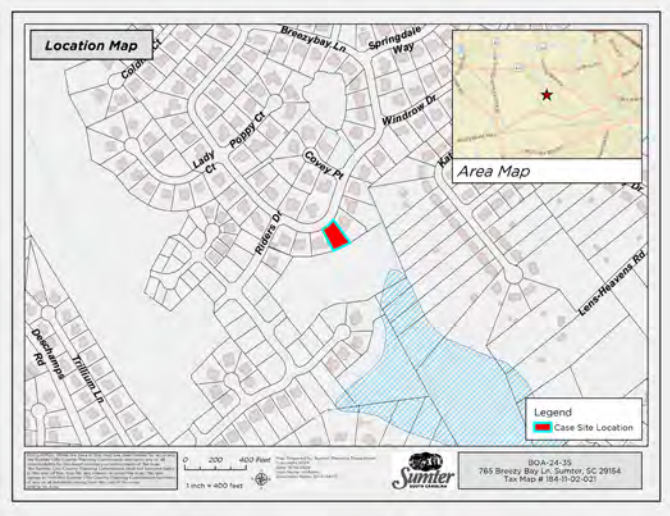
City Council Ward: Ward 5

Location: 765 Breezybay Ln.

Present Use/Zoning: Residential / Planned Development (PD)

Tax Map Reference: 184-11-02-021

II. BACKGROUND



The applicant is requesting a variance from the lot width requirements outlined in the specific Planned Development Ordinance (PD-98-07, Timberline Meadows) in order to adjust a side property line as approved via a Court Order (No: 2018-CP-43-1399).

The proposed property line adjustment will result in a lot width (measured at the front building setback line) that is slightly below the 100 ft. that is required by the Planned Development, which references R-15

development requirements as the underlying standards to be used for the subdivision.

The parcel in question, TMS #139-09-01-039, was created in 2001 via survey recorded in Plat Book 01, Page 434. The parcel was acquired by the applicant via sale by deed in 2006.

In 2022, a bench trial was conducted for a claim made by the owner of 765 Breezybay Ln. (Elizabeth Hornsby, now Brown) against the builder of the house, detached garage, brick fence frontage, and driveway on the neighboring 755 Breezybay Ln. This construction work was completed in 2007, and subsequently sold in July 2007 to John and Katrina Breeden. No survey was completed at that time to determine boundary lines when the property was sold to the Breedens. After that sale, the Breedens finished the fence using property line markers erroneously set by an agent/subcontractor of the builder. In May of 2012, the Breedens sold 755 Breezybay Ln to its current owners, the Lauzons. At closing, the Lauzons were provided with a General Warranty Deed as well as an Owner's Affidavit "as to Matters of Survey on Prior Closing Survey".[1]

In 2017, Hornsby listed the lot at 765 Breezybay Ln. for sale. In preparation for sale, she hired a surveyor to "mark the corners" of the lot, and was at that time alerted to the encroachment from the structures at 755 Breezybay Ln. A full survey was later completed in 2018. The encroachment occupied 2,935 sq. ft. of the lot. At the conclusion of the matter, Hornsby was awarded damages and the Court incorporated the 2018 survey into the Order, which reduced the total size and width of 765 Breezybay Ln.[2]

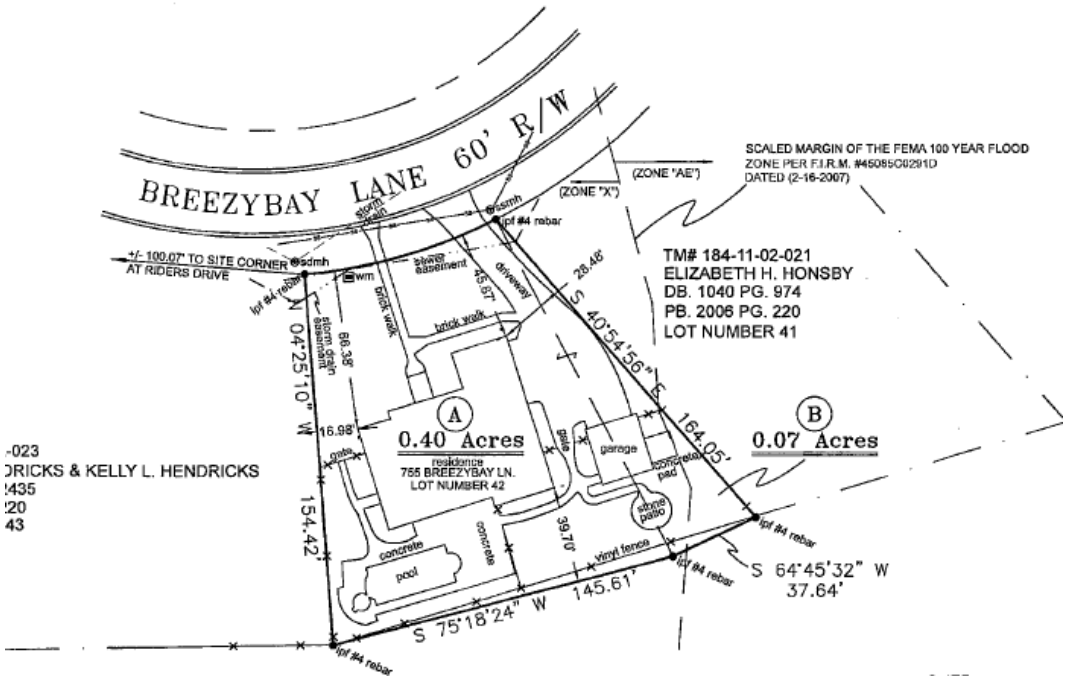


Figure 1 – 2018 "Lindler Survey" referenced in Court Order 2018-CP-43-1399

[1] From "Findings of Fact" contained in Civil Action No: 2018-CP-43-1399
[2] From "Findings of Fact" contained in Civil Action No: 2018-CP-43-1399

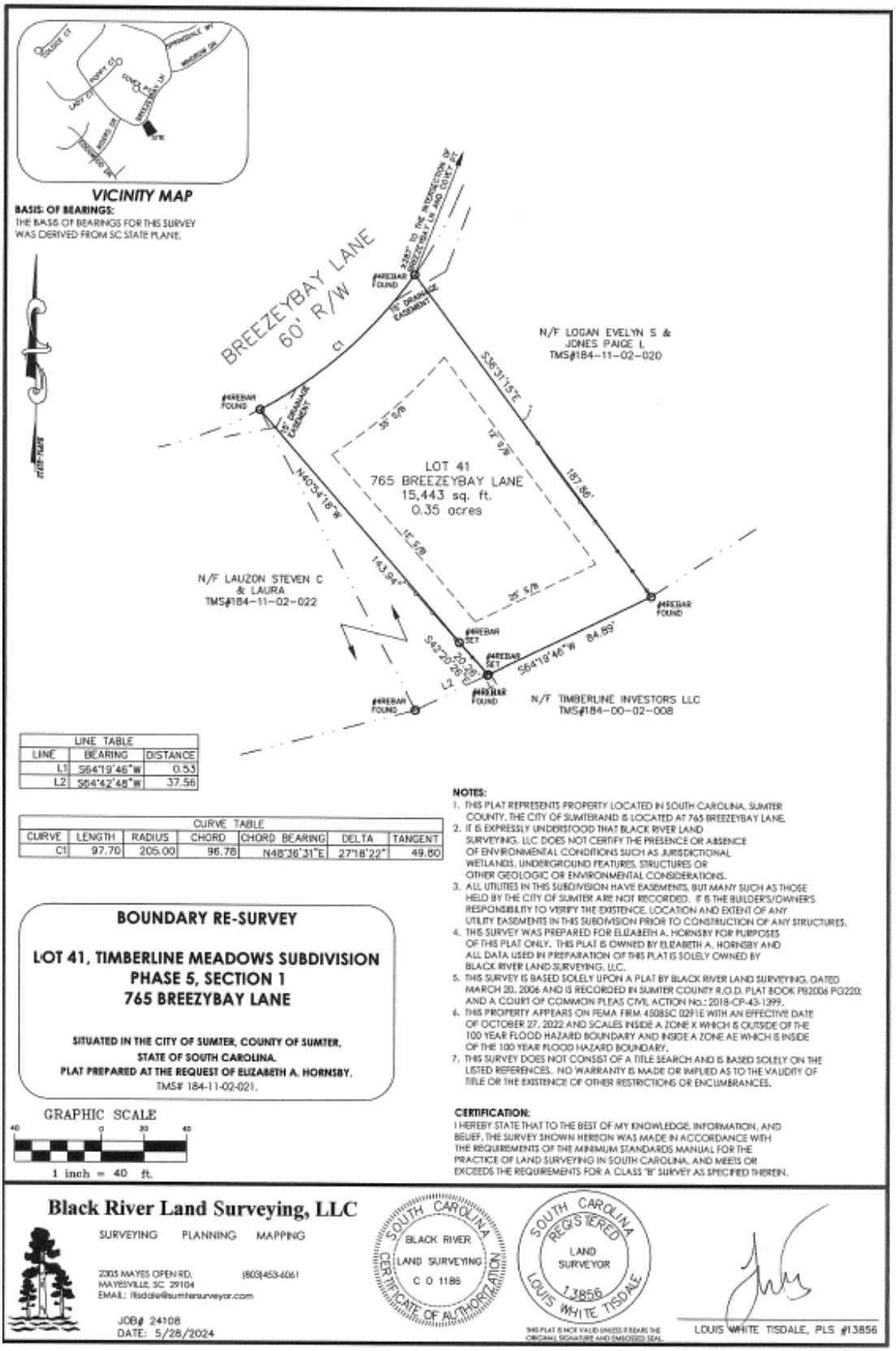


Figure 2 – 2024 Boundary Re-Survey

Ordinance Requirements:

Article 3, Exhibit 3-1(A)

EXHIBIT 3-1(A)
DEVELOPMENT STANDARDS FOR USES IN R-15 DISTRICT

	Non-Residential Uses	Single Family Detached Dwellings
Minimum Lot Area Per Individual Unit[1]	N/A	15,000 sq. ft. *(per structure)*
Minimum Lot Width	100 ft.	100 ft.
Minimum Lot Depth [2]	120 ft.	120 ft.
Minimum Yards, Per Structure:		
Front [3]	35 ft. *(local/collector)* 45 ft. *(arterial)*	35 ft. *(local/collector)* 45 ft. *(arterial)*
Side	50 ft.	12 ft.
Rear	50 ft.	25 ft.
Maximum Impervious Surface Percentage	40%	40%
Maximum Density (units per gross acre)	N/A	2.9
Maximum Height of Buildings	45 ft.	35 ft.

The Request:

The applicant is requesting a variance to the subdivision development standards outlined in *Article* 3, *Exhibit 3-1(A)* of the *City of Sumter Zoning and Development Standards Ordinance*, as referenced in Planned Development Ordinance *PD-98-07* in order to adjust the property line between 765 and 755 Breezybay Ln. such that the lot at 765 Breezybay Ln. is narrower than 100 ft. in width at the front building setback line. The Ordinance requires that lots in the Timberline Meadows Subdivision be 100 ft. in width, unless otherwise noted on the original Subdivision Plan.

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 nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact 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, as revised by the court order, is 0.35 acres in size. There are numerous similarly shaped parcels of record in the area of this site. However, the encroachment of development by the neighboring parcel (755 Breezybay Ln.) is an exceptional condition with regard to affecting the applicant's property and ability to adjust their lot to resolve the encroachment while also complying with all applicable development standards.

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

   The Timberline Meadows Subdivision was originally planned in 1998, and, as a Planned Unit Development, all lots were designed to meet R-15 development standards, with a specific exception for a portion of the subdivision called "Timberline Courtyard". Encroachment of buildings and/or fences onto adjoining lots has not been assessed subdivision-wide, but there are no recorded instances of similar encroachments to those experienced by 755 and 765 Breezybay Ln.

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 application of the ordinance to the particular property restricts the ability of the applicant to adjust their existing lot in order to comply with the civil judgement found in 2018-CP-43-1399.

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.***

   Approval of this request is not anticipated to result in substantial detriment to adjacent property or the public good, nor harm the character of the district. While the proposed width of the lot would fall below the R-15 standard, the lot's overall size and dimension would still allow development of the property consistent with the subdivision's character as a whole.

IV. STAFF RECOMMENDATION

Staff recommends no additional approval conditions *if* the Zoning Board of Appeals makes all the findings necessary to approve this request.

V. DRAFT MOTIONS FOR BOA-24-35

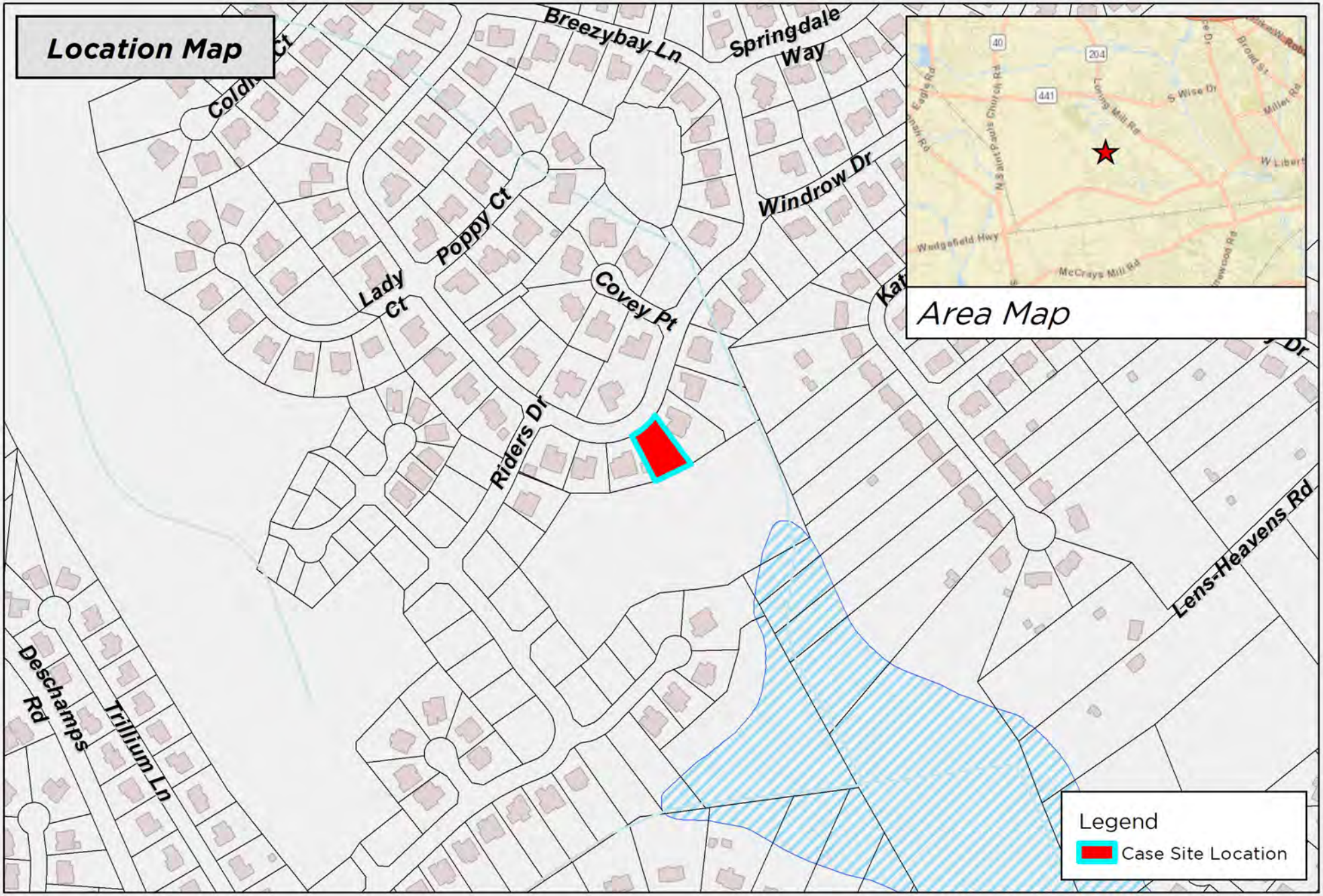
1. I move the Zoning Board of Appeals **approve** BOA-24-35, subject to the following findings of fact and conclusions:

2. I move the Zoning Board of Appeals **deny** BOA-24-35, subject to the findings of fact and conclusions developed by the BZA and so stated:

3. I move the Zoning Board of Appeals enter an alternative motion for BOA-24-35.

VI. BOARD OF APPEALS – OCTOBER 9, 2024

Location Map



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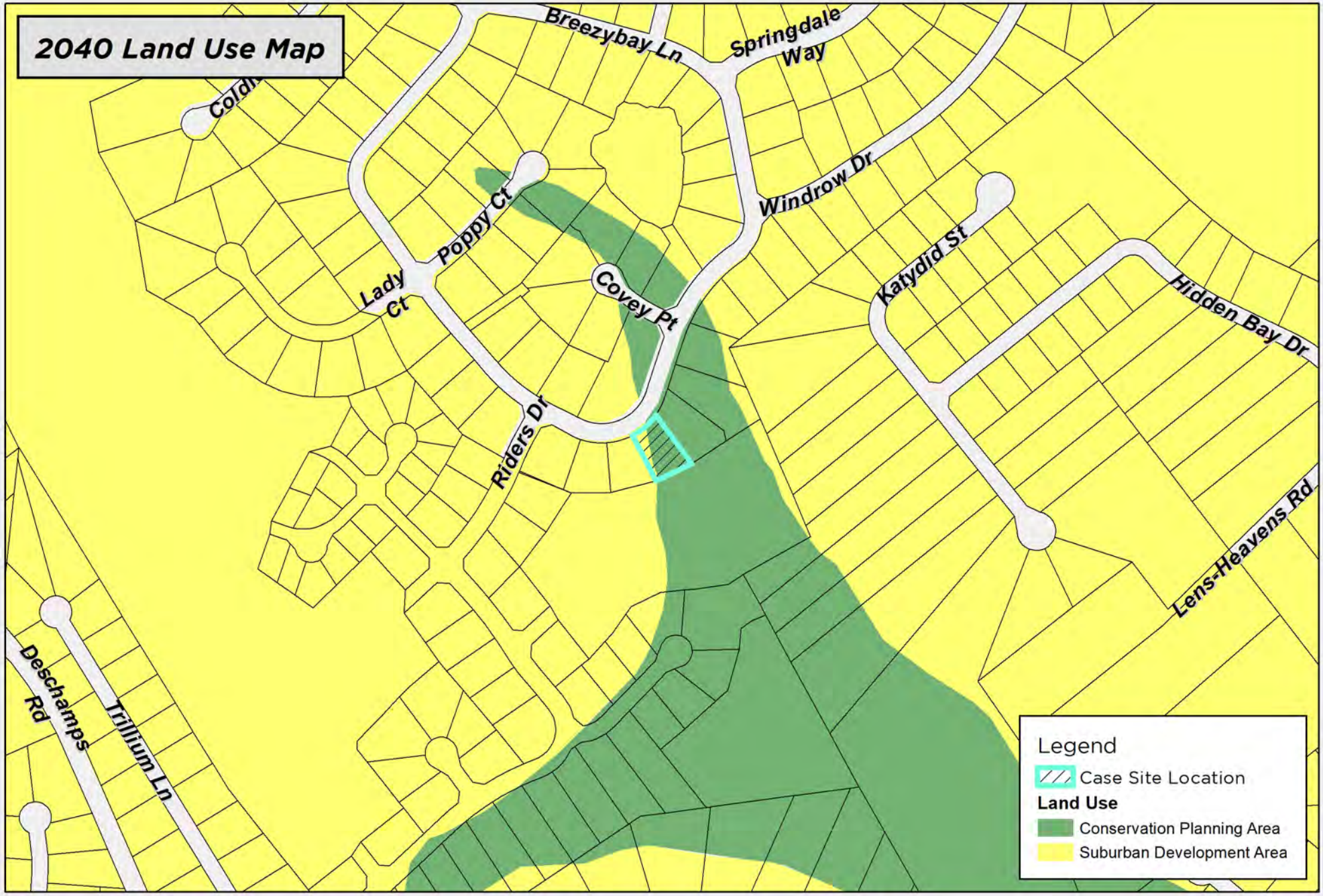
User Name: crobbins
Document Name: BOA-24-35

Sumter SOUTH CAROLINA

BOA-24-35
765 Breezy Bay Ln, Sumter, SC 29154
Tax Map # 184-11-02-021



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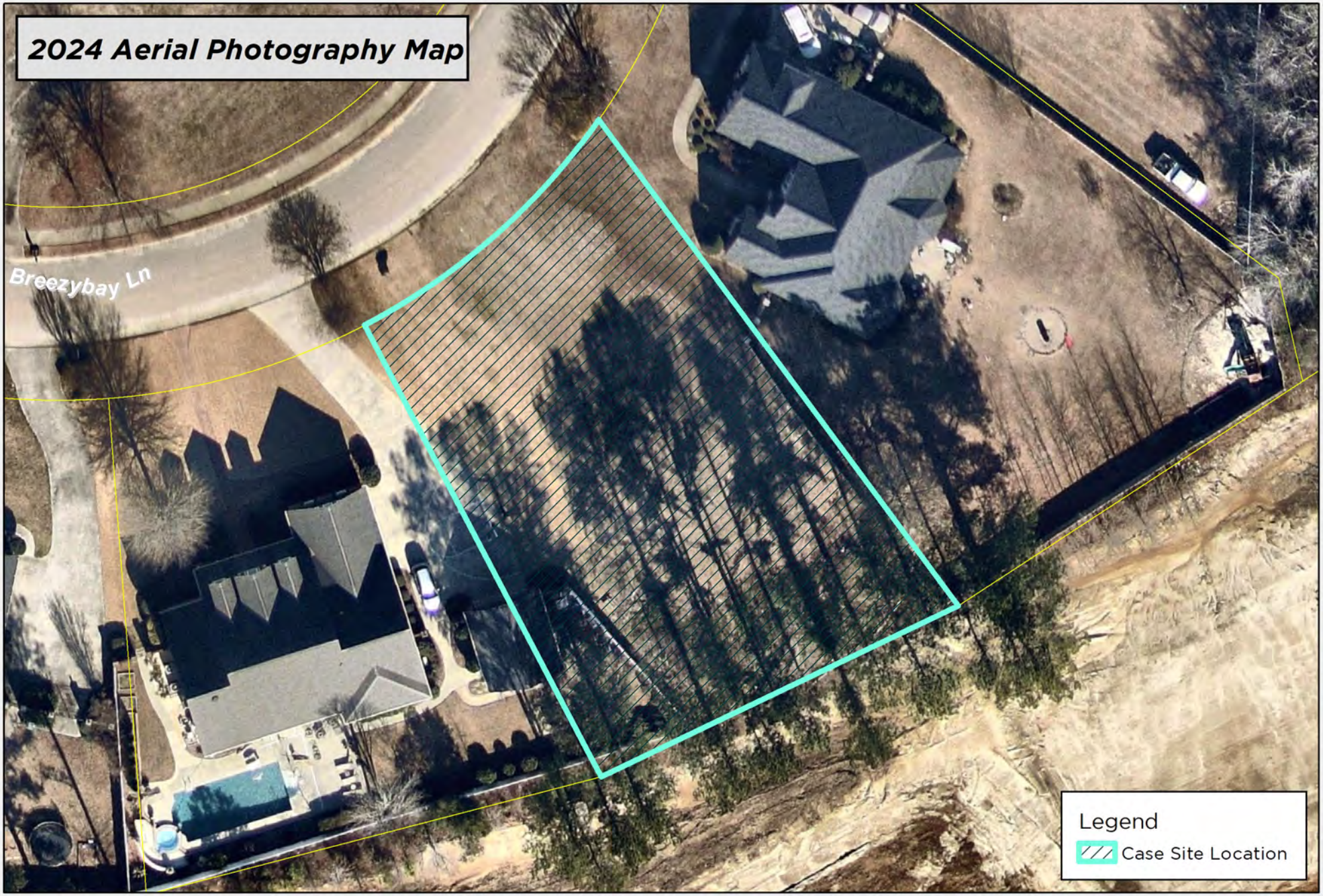
2024 Aerial Photography Map



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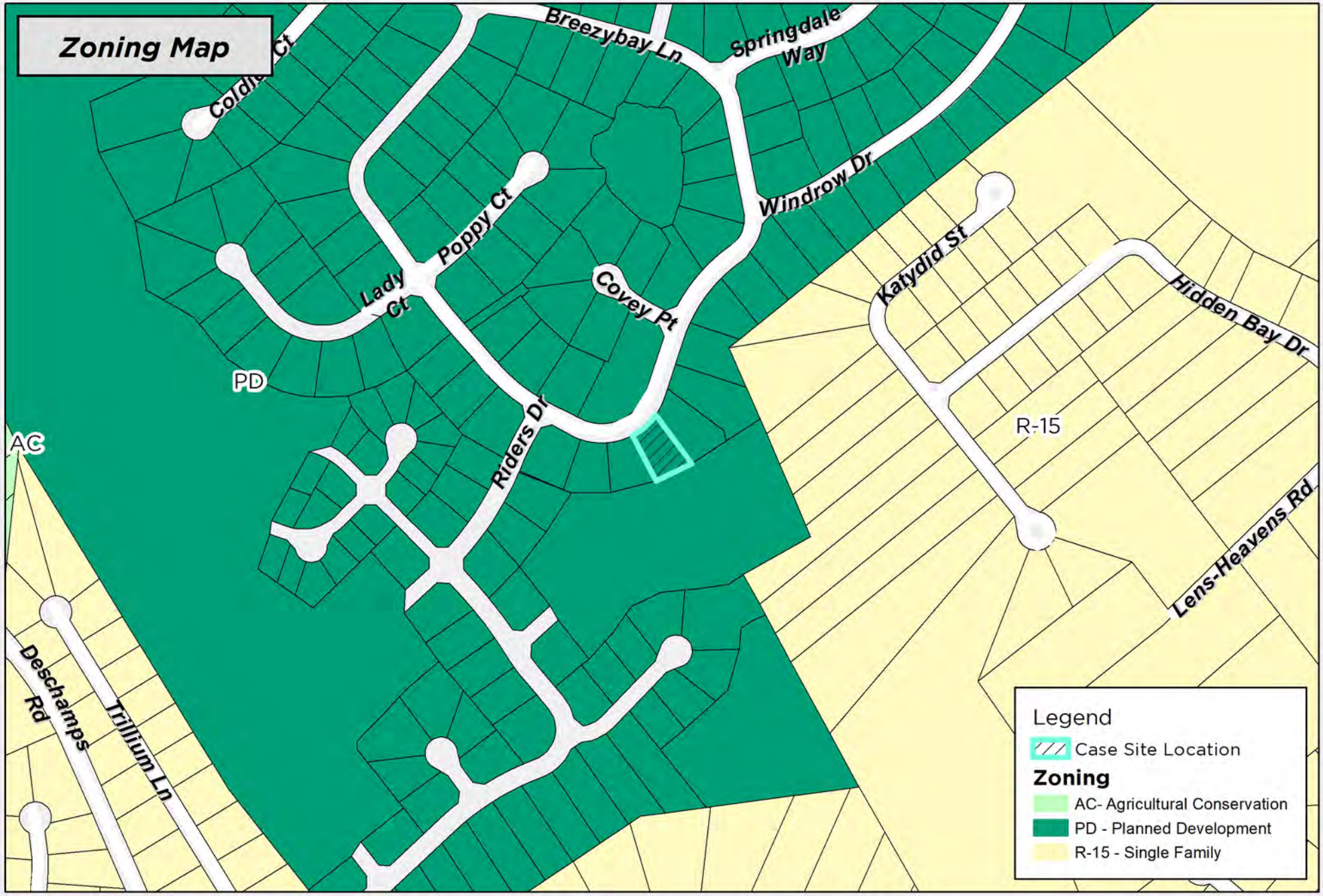

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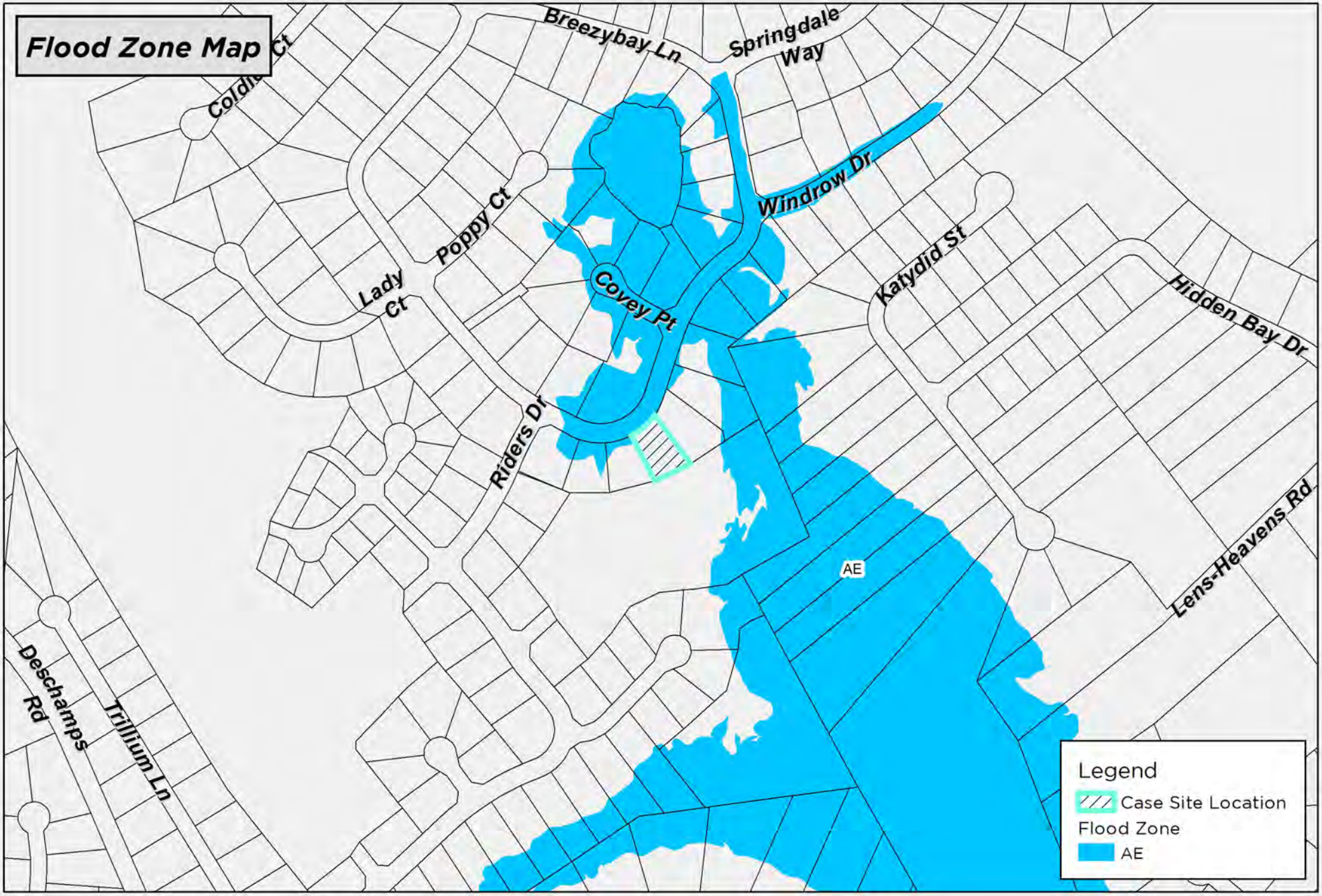
Flood Zone Map



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