CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title
AN ORDINANCE relating to the Multifamily Housing Property Tax Exemption Program; amending Sections 5.73.010, 5.73.020, 5.73.030, 5.73.040, 5.73.050, 5.73.060, 5.73.070, 5.73.080, 5.73.090, 5.73.100, and 5.73.110, adding Section 5.73.105, and repealing Section 5.73.120 of the Seattle Municipal Code to renew and modify the Multifamily Housing Property Tax Exemption program.
..body
WHEREAS, Chapter 5.73 of the Seattle Municipal Code was adopted by Ordinance 121415 and amended by Ordinances 121700, 121915, 122730, 123550, and 123727; and

WHEREAS, Ordinance 121415 requests the Executive to periodically prepare reports on program activity and recommend program modifications if needed; and

WHEREAS, pursuant to Subsection 5.73.120 of the Seattle Municipal Code the Multifamily Housing Property Tax Exemption Program (MFTE) shall expire on December 31, 2015, unless extended by the City Council by ordinance; and

WHEREAS, in 2012 the City Auditor recommended modifications to the program that require City Council action; and

WHEREAS, thousands of families and workers – particularly lower-income people and among communities of color – are unable to afford the cost of living in Seattle; and

WHEREAS, in September 2014 the Council adopted Resolution 31546, in which the Council and Mayor proposed that a Seattle Housing Affordability and Livability Agenda (HALA) Advisory Committee be jointly convened by the Council and Mayor to evaluate potential housing strategies; and

WHEREAS, the HALA Advisory Committee issued final recommendations to the Mayor and City Council on July 13, 2015; and

WHEREAS, the Mayor has submitted an action plan based on the HALA Advisory Committee's recommendations and Council has introduced Resolution 31609 that attempts to meet the goal of building or preserving 20,000 rent- and income-restricted units affordable to households from 0 – 80 percent of area median income (AMI) and 30,000 units of market rate housing affordable to households above 80 percent of AMI over the next 10 years;

WHEREAS, the HALA Advisory Committee's recommendations include MFTE as an important part of meeting the City's housing affordability goals and recommends strengthening and expanding the MFTE program, which requires City Council action;

WHEREAS, for purposes of MFTE, all land zoned for multifamily housing in Seattle is consistent with the definition of "urban center" pursuant to chapter 84.14.010 RCW; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.73.010 of the Seattle Municipal Code, last amended by Ordinance 122730, is amended as follows:

5.73.010 Purpose((~~.~~))

((~~A.~~)) The purpose((~~s~~)) of this ((~~c~~))Chapter 5.73 is to increase the supply of affordable Multifamily Housing opportunities within the City for Low-Income Households and Moderate-Income Households in order to promote fair housing, provide housing choice, and address displacement. ((~~are:~~

~~1. To encourage more Multifamily Housing opportunities within the City;~~

~~2. To stimulate new construction and the rehabilitation of existing vacant and underutilized buildings for Multifamily Housing;~~

~~3. To increase the supply of Multifamily Housing opportunities within the City for low and moderate income households;~~

~~4. To increase the supply of Multifamily Housing opportunities in Urban Centers that are behind in meeting their 20-year residential growth targets, based on Department of Planning and Development (DPD) statistics;~~

~~5. To promote community development, affordable housing, and neighborhood revitalization in Residential Targeted Areas;~~

~~6. To preserve and protect buildings, objects, sites, and neighborhoods with historic, cultural, architectural, engineering or geographic significance located within the City;~~

~~7. To encourage the creation of both rental and homeownership housing for Seattle's workers who have difficulty finding affordable housing within the City;~~

~~8. To encourage the creation of mixed-income housing that is affordable to households with a range of incomes in Residential Targeted Areas; and~~

~~9. To encourage the development of Multifamily Housing along major transit corridors.~~

~~B. Any one or more of these~~)) This purpose((~~s~~)) may be furthered by the designation of a Residential Targeted Area under this ((~~c~~))Chapter 5.73.

Section 2. Section 5.73.020 of the Seattle Municipal Code, last amended by Ordinance 122730, is amended as follows:

5.73.020 Definitions((~~.~~))

((~~A.~~)) "Affordable Rent" means that the ((~~annual~~)) monthly rent plus tenant paid utilities and any mandatory recurring fees required as a condition of tenancy for the unit does not exceed

((~~thirty (30%) of the percentage~~)) 30 percent of the monthly imputed Median Income designated by this ((~~c~~))Chapter 5.73 for qualifying units.

((~~B.~~)) "Affordable Unit" means a unit that is rented at an Affordable Rent to an Income Eligible Occupant ((~~,~~)) or sold to an Income Eligible Occupant for owner-occupied Multifamily Housing.

"Annual Income" means the annual income of a Family as determined, unless otherwise approved in writing by the City, in accordance with 24 C.F.R Section 5.609 or successor provision. The Owner shall follow the requirements in 24 C.F.R Section 5.617 when making subsequent Annual Income determinations of persons with disabilities after their initial occupancy.

((~~C.~~)) "Assessor" means the King County Assessor.

"Bedroom" means a habitable room in a Dwelling Unit that meets the following criteria: (1) gross floor area measures are no less than 70 square feet; (2) wall dimension measures are no less than 7 feet; (3) lighting is provided through an exterior opening in accordance with Section 1205.2.2 of the Seattle Building Code or, in the case of adjoining spaces, in accordance with Section 1205.2.1 of the Seattle Building Code; (4) ventilation is provided through an exterior opening to the outdoors in accordance with Section 1203.5.1 of the Seattle Building Code or, in the case of adjoining spaces, in accordance with Section 1203.5.1.1 of the Seattle Building Code or, in the case of openings below grade, in accordance with Section 1203.5.1.2 of the Seattle Building Code; and (5) walls and exit access doorway(s), consistent with Chapter 2 of the Seattle Building Code, provide a complete separation from the rest of the Dwelling Unit.

"Compliance Period" means the period beginning with the application for Final Certificate of Tax Exemption and ending on December 31 of the twelfth year of tax exemption, during which time Affordable Units must be occupied by Income Eligible Occupants.

"Congregate Residence" means a use in which rooms or lodging, with or without meals, are provided for nine or more non-transient persons not constituting a single household, excluding single-family Dwelling Units for which special or reasonable accommodation has been granted, pursuant to Section 23.84A.006.

((~~D.~~)) "Director" means the Director of the City's Office of Housing ((~~,~~)) or any other City office, department, or agency that shall succeed to its functions with respect to this ((~~c~~))Chapter 5.73, or ((~~his or her~~)) the Director's authorized designee.

"Dwelling Unit" means a room or rooms located within a structure that are configured to meet the standards of Section 23.42.048 and that are occupied or intended to be occupied by not more than one household as living accommodations independent from any other household, pursuant to Section 23.84A.008.

((~~E.~~)) "Economically Distressed Area" means all or a portion of a Housing Investment Area designated in Seattle's Consolidated Plan for Housing and Community Development as updated from time to time.

"Family" has the meaning set forth in 24 C.F.R Section 5.403 or successor provision and includes an individual person.

((~~F. "Household Annual Income" means the aggregate annual income of all persons over eighteen (18) years of age residing within the same household for a period of at least one (1) month.~~))

"HUD" means the United States Department of Housing and Urban Development.

((~~G.~~)) "Income Eligible Occupant" means that the ((~~H~~))household ((~~A~~))annual ((~~I~~))income at initial occupancy of the household that will occupy the unit is no greater than the percentage of Median Income designated in this ((~~c~~))Chapter 5.73. A person shall ((~~not cease to be an Income Eligible Occupant solely because the Household Annual Income exceeds the annual income limit set forth in this chapter after the date of initial occupancy~~)) continue to be an Income Eligible Occupant as long as the person's household income does not exceed the unit income restriction by 150 percent upon recertification.

"Low Income Household" means a household with an annual income equal to or less than 80 percent of the Median Income.

((~~H.~~)) "Median Income" ((~~means annual family median income for the Seattle-Bellevue-Everett Primary Metropolitan Statistical Area, as published from time to time by HUD~~)) means median family income for the Seattle area, as published from time to time by the HUD for the Section 8 program. If in any year HUD shall publish median family income data for more than one area that includes Seattle, then unless otherwise approved in writing by the Director of the Office of Housing, the lowest of such median family income figures shall be used. If, at any time, Median Income for a Family size cannot be determined under the foregoing sentences based on data published by HUD for the Seattle area within the most recent 13 months, then the City may determine Median Income for such Family size based on any data for the Seattle area or an area including Seattle, published or reported by a federal, state, or local agency, as the City shall select in its sole discretion, adjusted for Family size in such manner as the City shall determine in its sole discretion.

"Moderate Income Household" means a household with an annual income equal to or less than 120 percent of the Median Income.

((~~I.~~)) "Multifamily Housing" means a building or buildings, including associated housing improvements, having four ((~~(4)~~)) or more Dwelling Units in each building, or four or more housing units in a Congregate Residence, designed for Permanent Residential Occupancy, either rental or Owner-occupied, resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings.

((~~J.~~)) "Owner" means the property owner of record.

((~~K.~~)) "Permanent Residential Occupancy" means Multifamily Housing that provides either rental or owner occupancy for a period of at least one ((~~(1)~~)) month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

((~~L.~~)) "Project" means the Multifamily Housing or portion of the Multifamily Housing that is to receive the tax exemption.

((~~M.~~)) "Rehabilitation Improvements" means (1) modifications to an existing building, the residential portion of which has been vacant for at least ((~~twelve (~~))12((~~)~~)) months prior to application for exemption under this ((~~c~~))Chapter 5.73, that are made to achieve a condition of Substantial Compliance with the applicable building and construction codes contained or incorporated in ((~~Seattle Municipal Code (SMC) Chapter~~))Title 22; or (2) modifications to an existing occupied residential building or mixed-use building that contains occupied residential units, which add at least four ((~~(4)~~)) new Dwelling Units, or at least four new housing units in a Congregate Residence.

((~~N.~~)) "Residential Targeted Area" means an area within an Urban Center that has been so designated by the City Council pursuant to this ((~~c~~))Chapter 5.73.

((~~O.~~)) "Substantial Compliance" means compliance with the applicable building and construction codes contained or incorporated in ((~~SMC Chapter~~)) Title 22 that is typically required for rehabilitation as opposed to new construction.

"Third Party Verification" means independent verification of income by contacting the individual income source(s) supplied by the family.

((~~P.~~)) "Urban Center" ((~~has the same meaning as "urban center" as defined in RCW 84.14.010~~)) means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

1. Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, and governmental agencies;

2. Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

3. A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use.

Section 3. Section 5.73.030 of the Seattle Municipal Code, last amended by Ordinance 122730, is amended as follows:

5.73.030 Residential Targeted Areas – Criteria – Designation((~~.~~))

A. Following notice and public hearing as prescribed in RCW 84.14.040, the Council may designate one or more Residential Targeted Areas upon a finding by the Council in its sole discretion that the Residential Targeted Area meets the following criteria:

1. The Residential Targeted Area is within an Urban Center;

2. The Residential Targeted Area lacks sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public

who would be likely to live in the Urban Center if desirable, attractive, affordable, and livable residences were available; and

3. Providing additional housing opportunity, including affordable housing, in the Residential Targeted Area will assist in ((~~achieving one or more of the following purposes:~~)) encouraging the creation of affordable Multifamily Housing in new or rehabilitated structures.

((~~a. Encourage increased residential opportunities within the City; or~~

~~b. Stimulate the construction of new affordable multifamily housing; or~~

~~c. Encourage the rehabilitation of existing vacant and underutilized buildings.~~))

B. In designating a Residential Targeted Area, the Council may also consider other factors, including:

1. Whether an increased permanent residential population in the Residential Targeted Area will help to achieve the planning goals mandated by the Growth Management Act under ((~~RCW~~)) chapter 36.70A RCW;

2. Whether the area is an Economically Distressed Area;

3. Whether the City has identified the area or neighborhood by Resolution as one in which the City wants to encourage the development of mixed-income housing, including affordable housing;

4. Whether the area or neighborhood was designated as a Residential Targeted Area in the City's prior Multifamily Tax Exemption program, ((~~RCW~~)) chapter 5.72 RCW, and is one in which the City wants to encourage the development of mixed income housing, including affordable housing.

C. At any time the Council may ((~~,~~)) by ((~~Ordinance~~)) ordinance, in its sole discretion, amend or rescind the designation of a Residential Targeted Area pursuant to the same procedural requirements set forth in RCW 84.14.040 for original designation.

D. All land zoned to allow Multifamily Housing, as per Chapters 23.45, 23.46, 23.47, 23.48, and 23.49, and as shown in Map A for 5.73.030, is designated as a single Residential Targeted Area under this Chapter 5.73. ((~~The following areas, as shown in Attachment A, Maps 1 through 39, are designated as Residential Targeted Areas under this chapter~~:

~~1. 23rd & Union-Jackson~~

~~2. Bitter Lake~~

~~3. Capitol Hill~~

~~4. Chinatown-International District~~

~~5. Columbia City~~

~~6. Denny Triangle~~

~~7. First Hill~~

~~8. MLK @ Holly~~

~~9. North Beacon Hill~~

~~10. North Rainier~~

~~11. Northgate~~

~~12. Pioneer Square~~

~~13. Rainier Beach~~

~~14. South Lake Union~~

~~15. South Park~~

~~16. University District NW~~

~~17. Delridge/Westwood-Highland Park~~

~~18. 12th Avenue~~

~~19. Pike/Pine~~

~~20. Belltown~~

~~21. Ravenna~~

~~22. Ballard~~

~~23. Fremont~~

~~24. Lake City~~

~~25. West Seattle Junction~~

~~26. Admiral~~

~~27. Aurora-Licton Springs~~

~~28. Crown Hill~~

~~29. Eastlake~~

~~30. Green Lake~~

~~31. Greenwood-Phinney Ridge~~

~~32. Madison-Miller~~

~~33. Morgan Junction~~

~~34. Upper Queen Anne~~

~~35. Roosevelt~~

~~36. Wallingford~~

~~37. Dravus~~

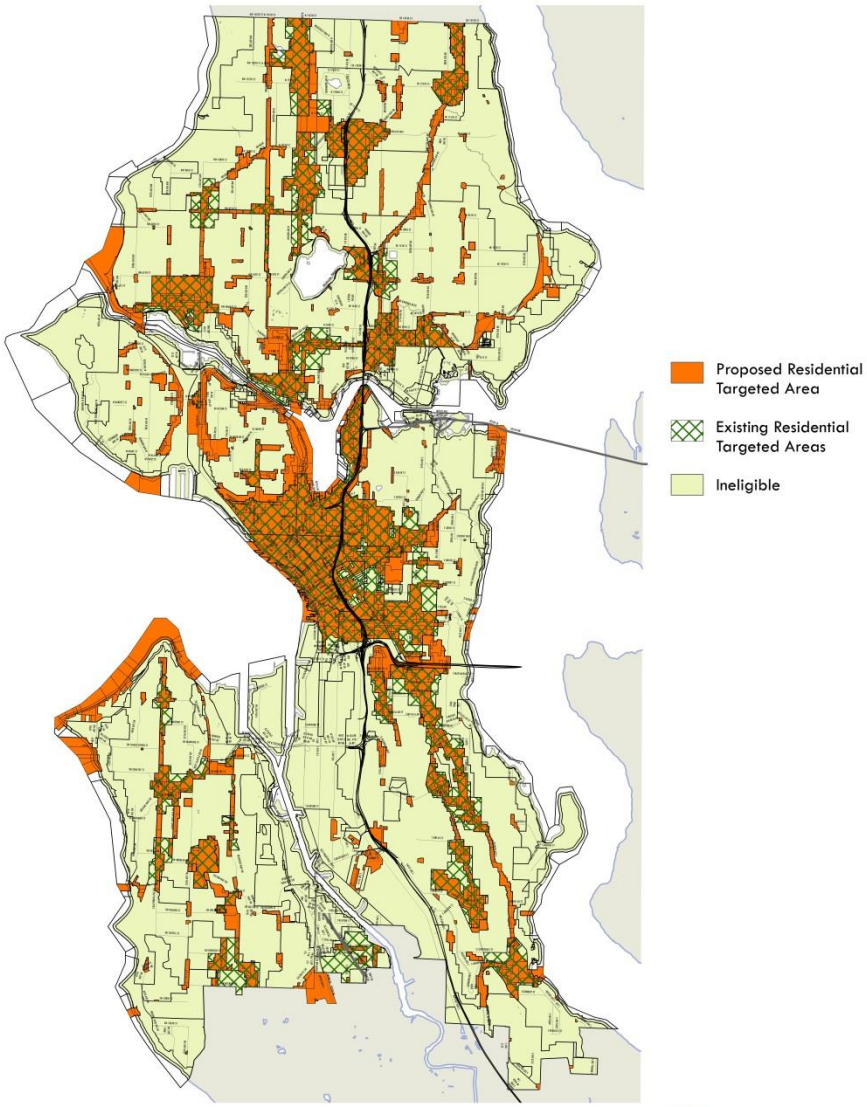
~~38. Uptown~~

~~39. Commercial Core~~))

E. If a part of any legal lot is within ((~~a~~))the Residential Targeted Area as shown in ((~~Maps 1 through 39~~)) Map A for 5.73.030, then the entire lot shall be deemed to lie within such Residential Targeted Area.

F. Any future changes to zoning shall override Map A for 5.73.030 for purposes of determining whether any legal lot is within the Residential Targeted Area.

Map A for 5.73.030
Residential Targeted Area



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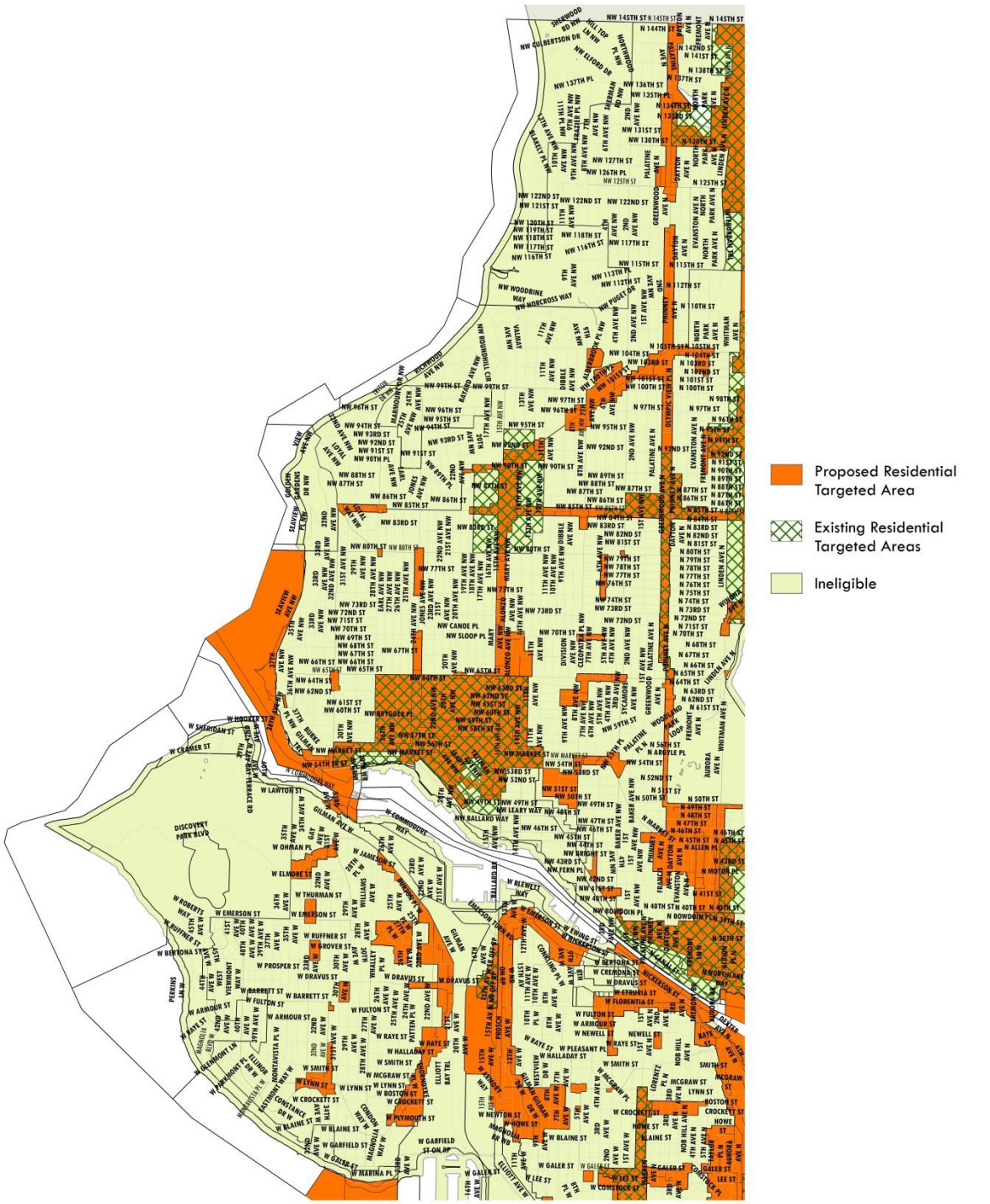

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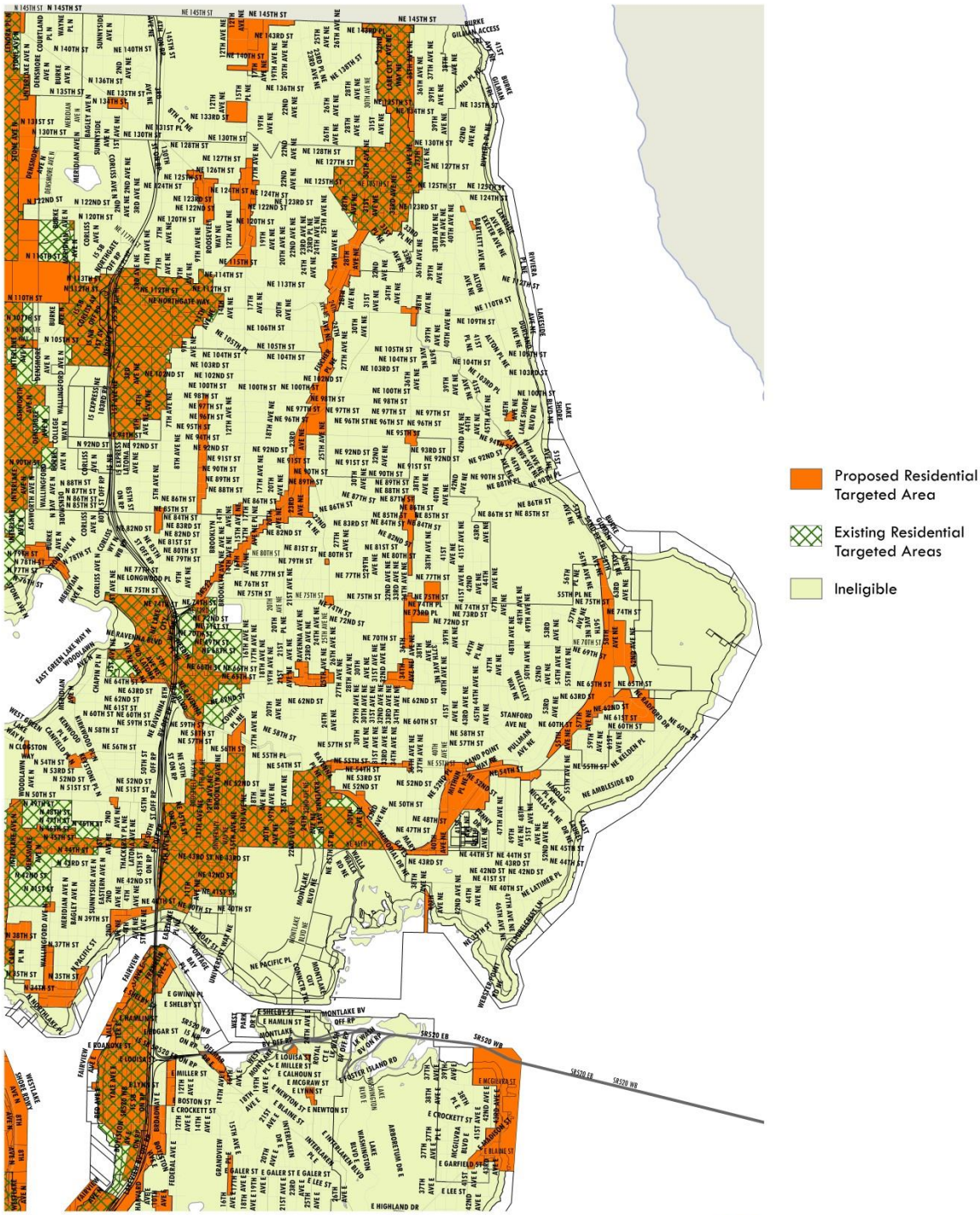

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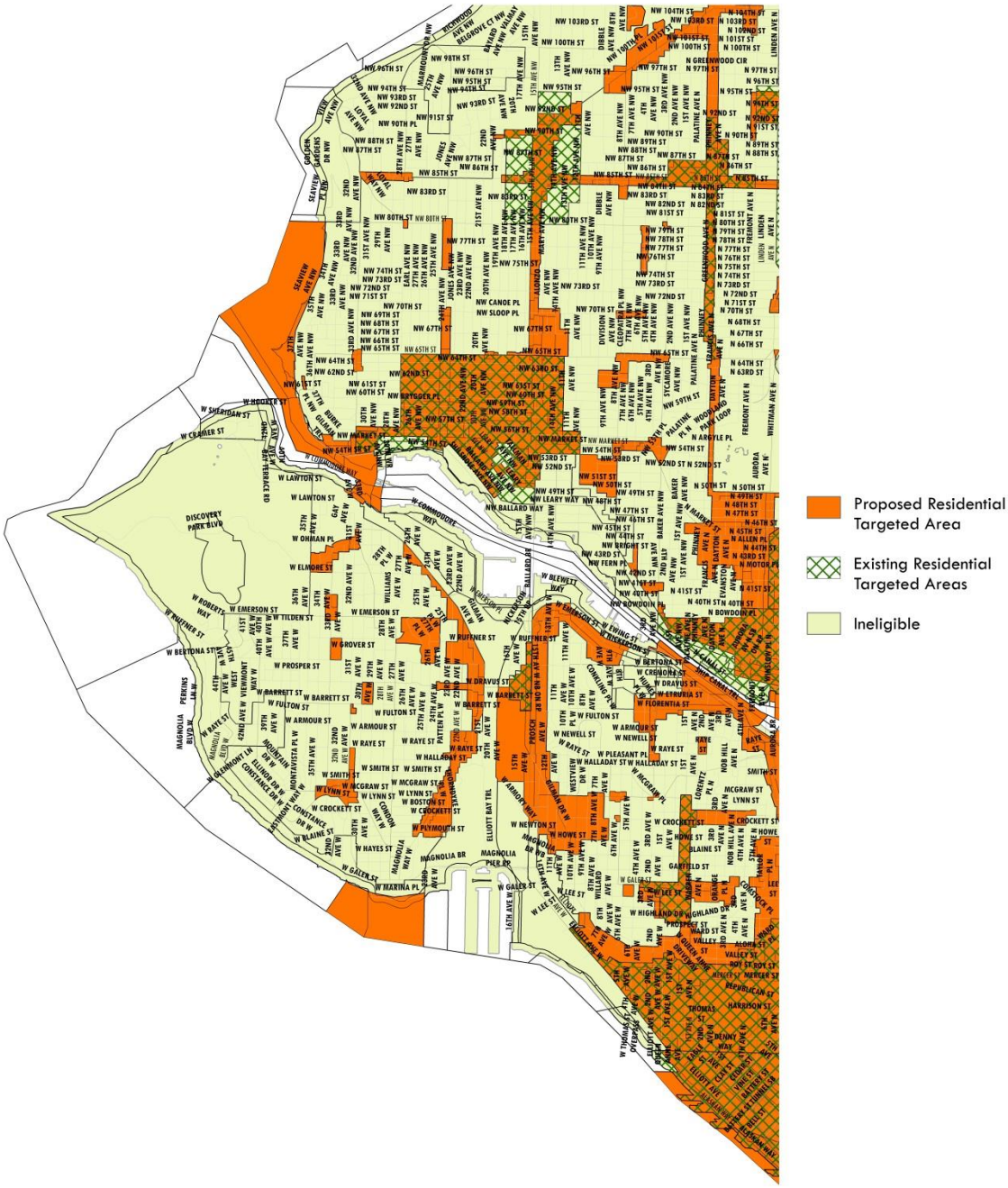

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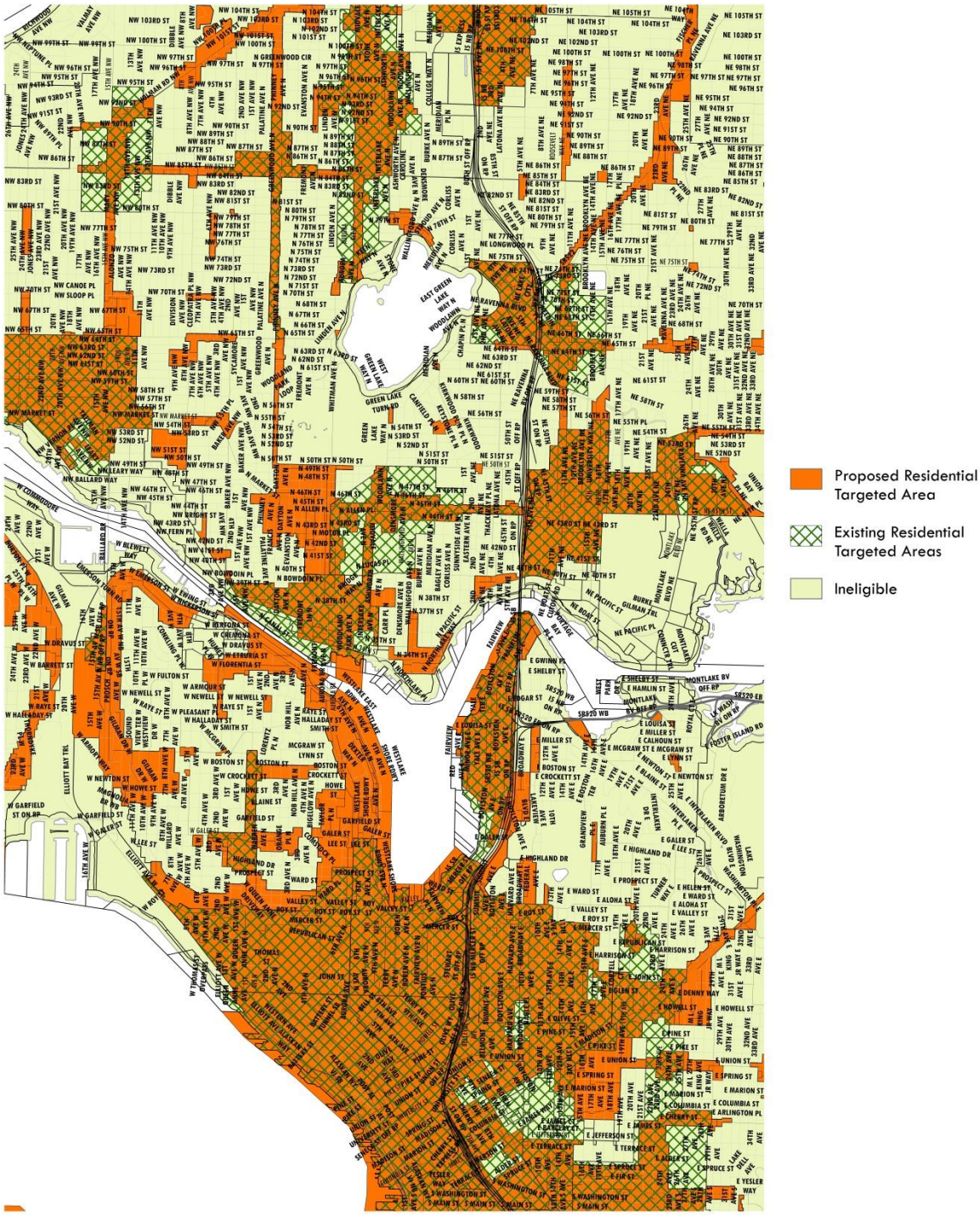

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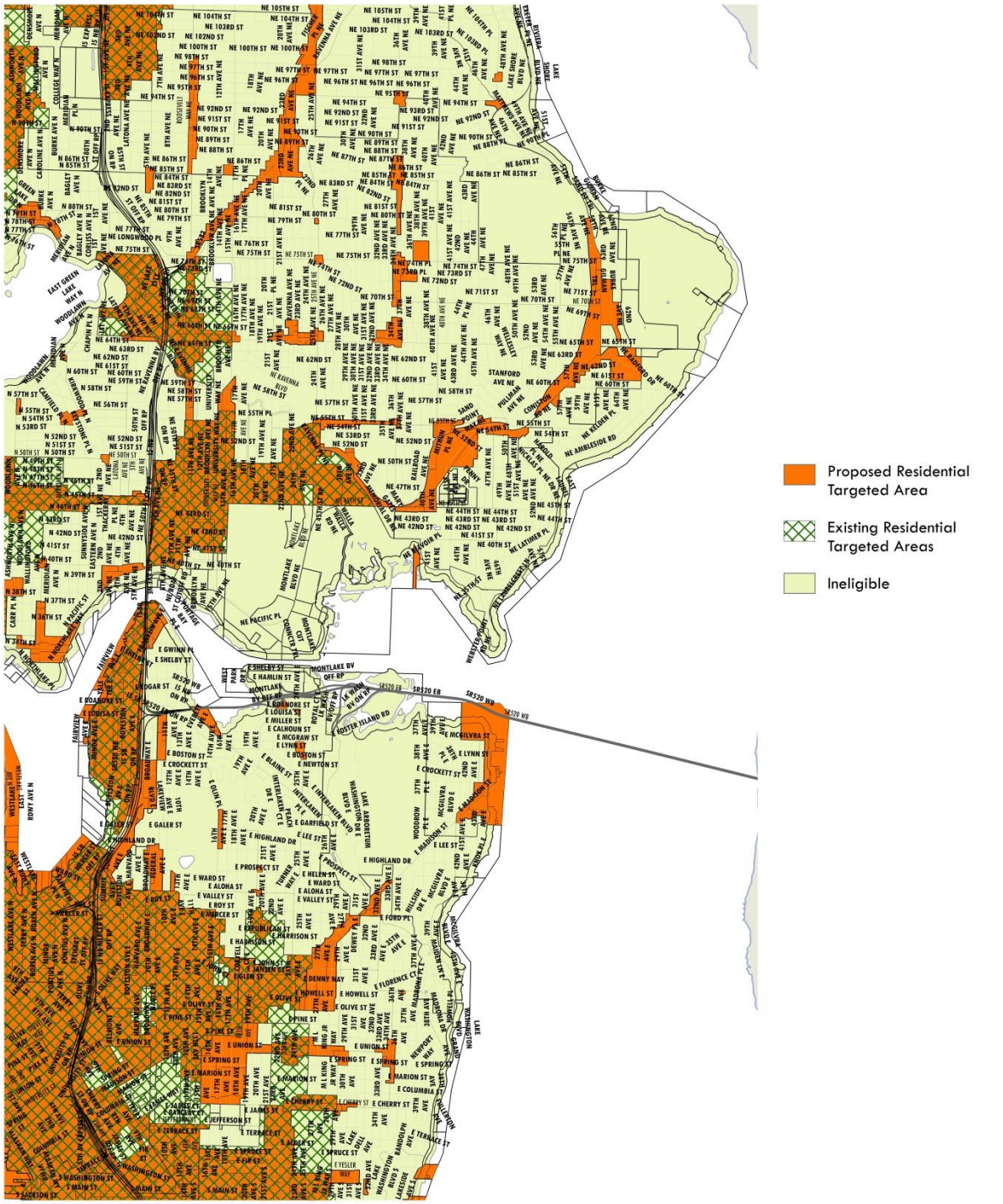

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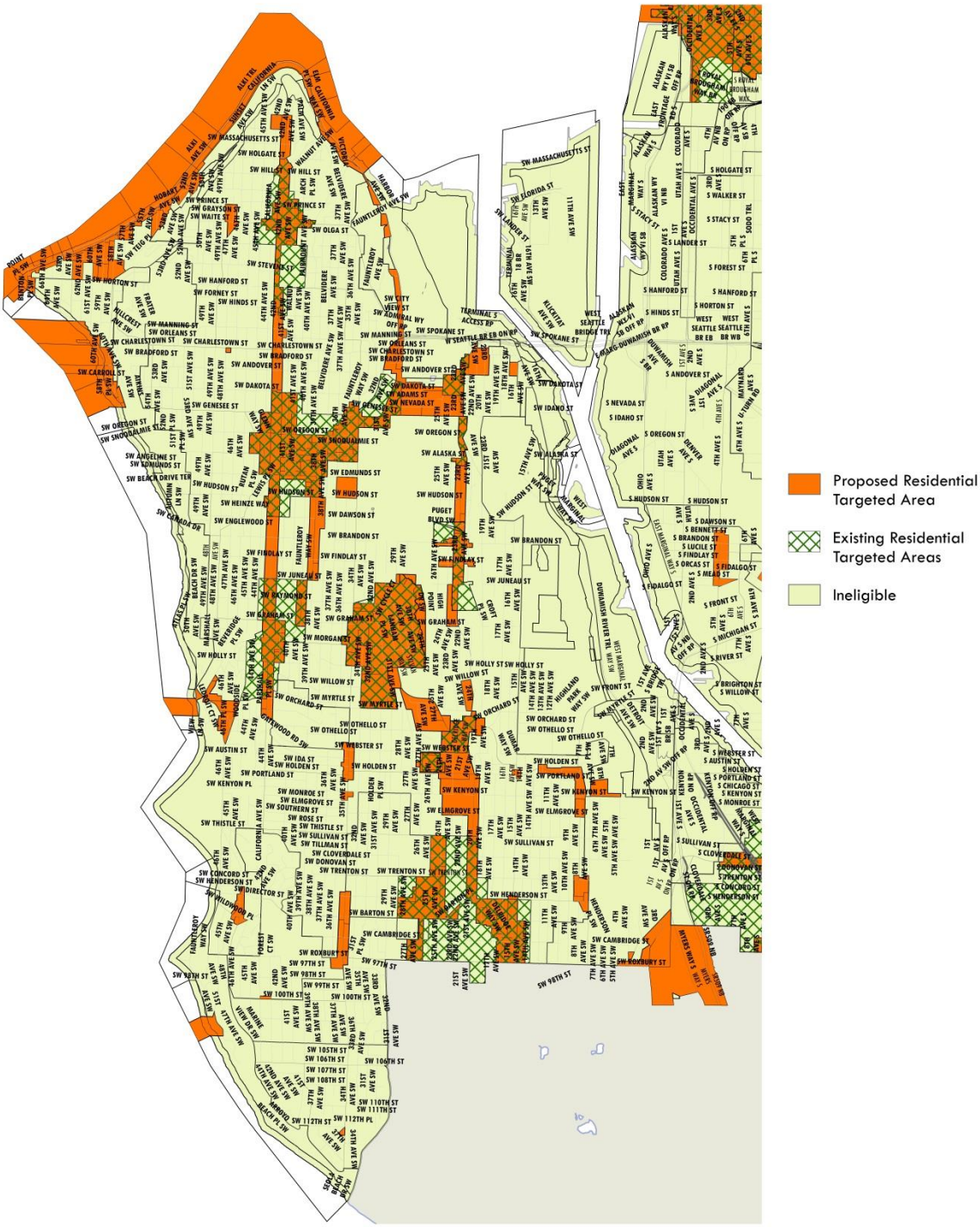

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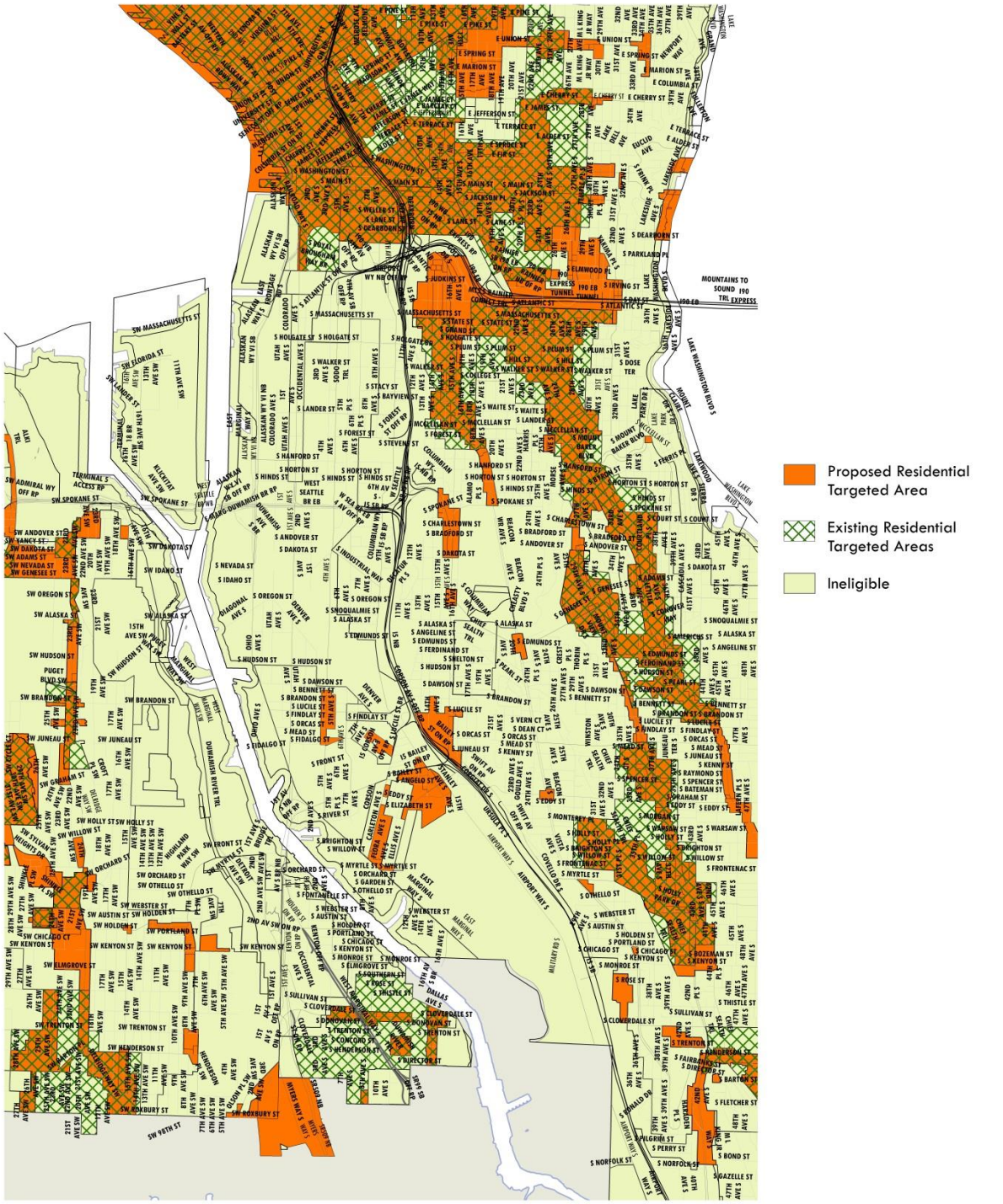

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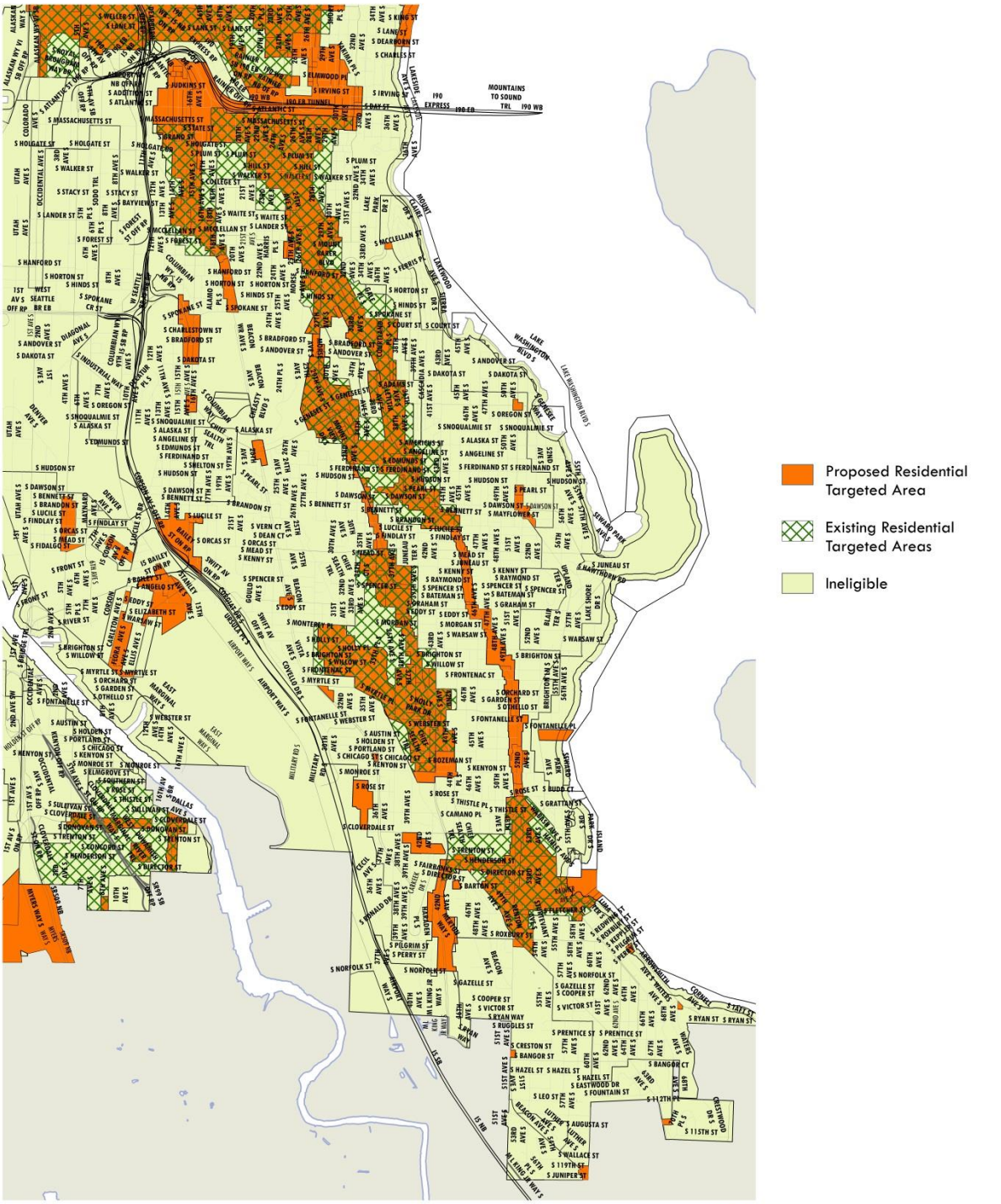

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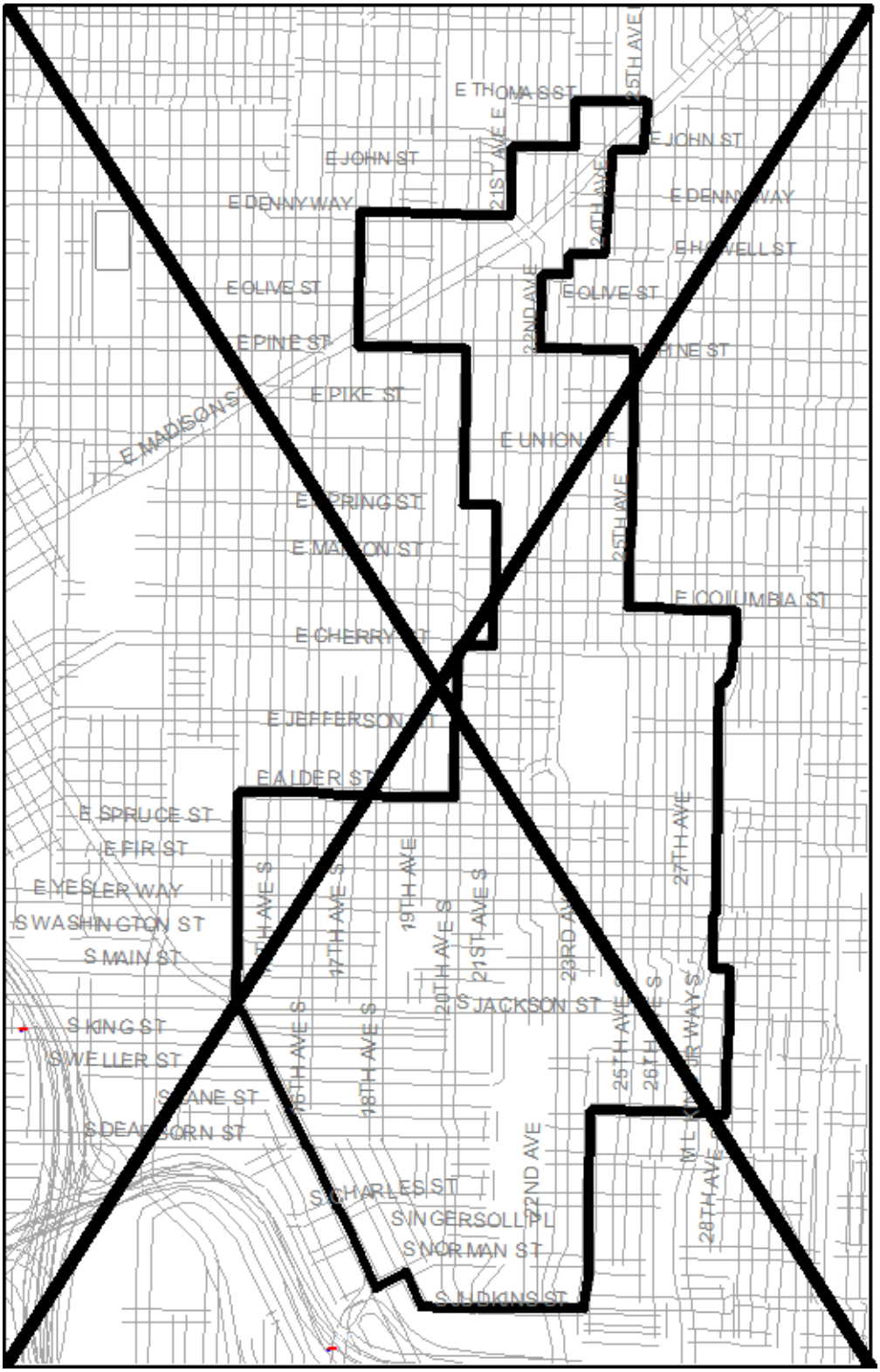
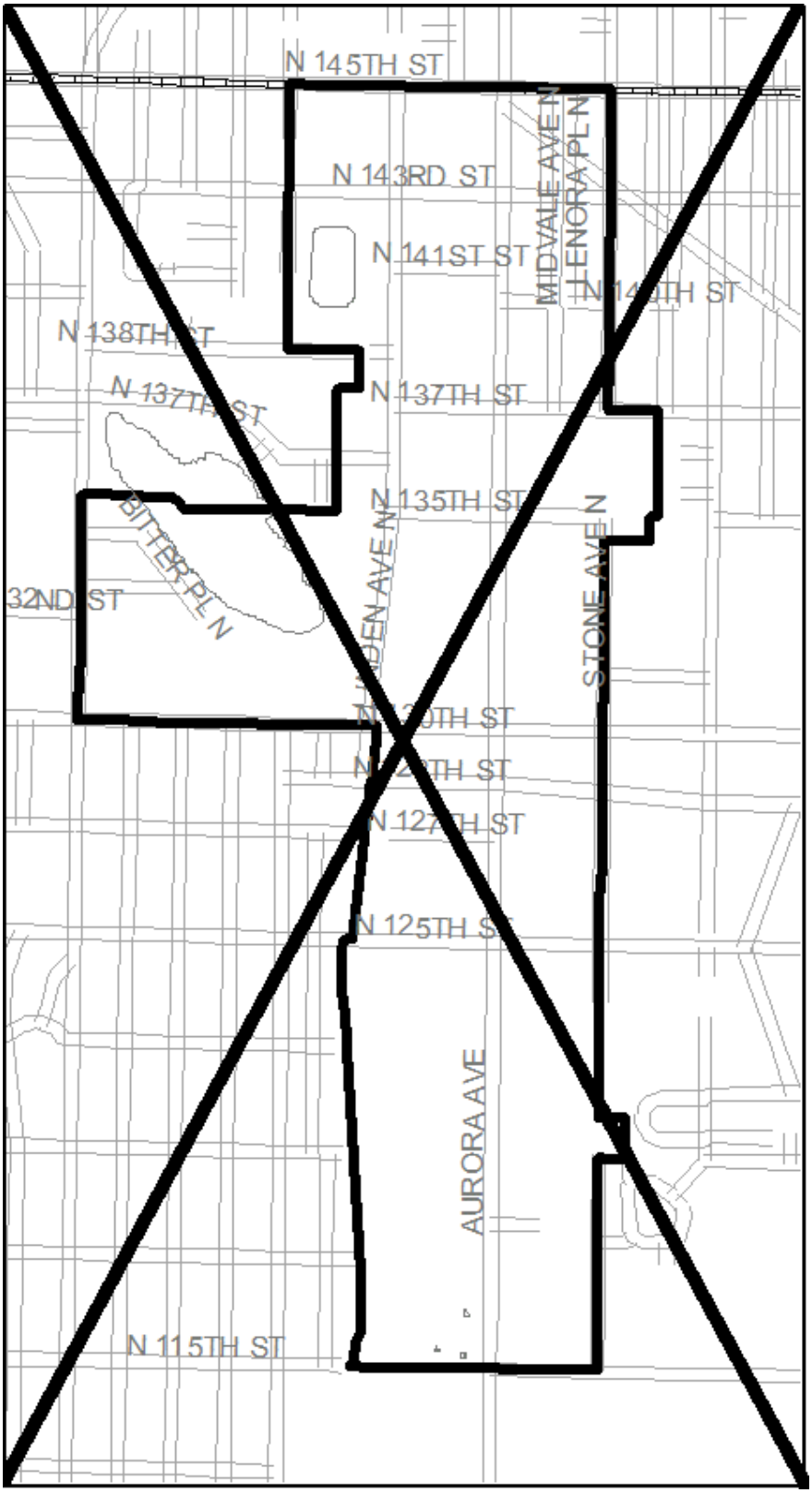
((~~Attachment A: Maps 1-39~~

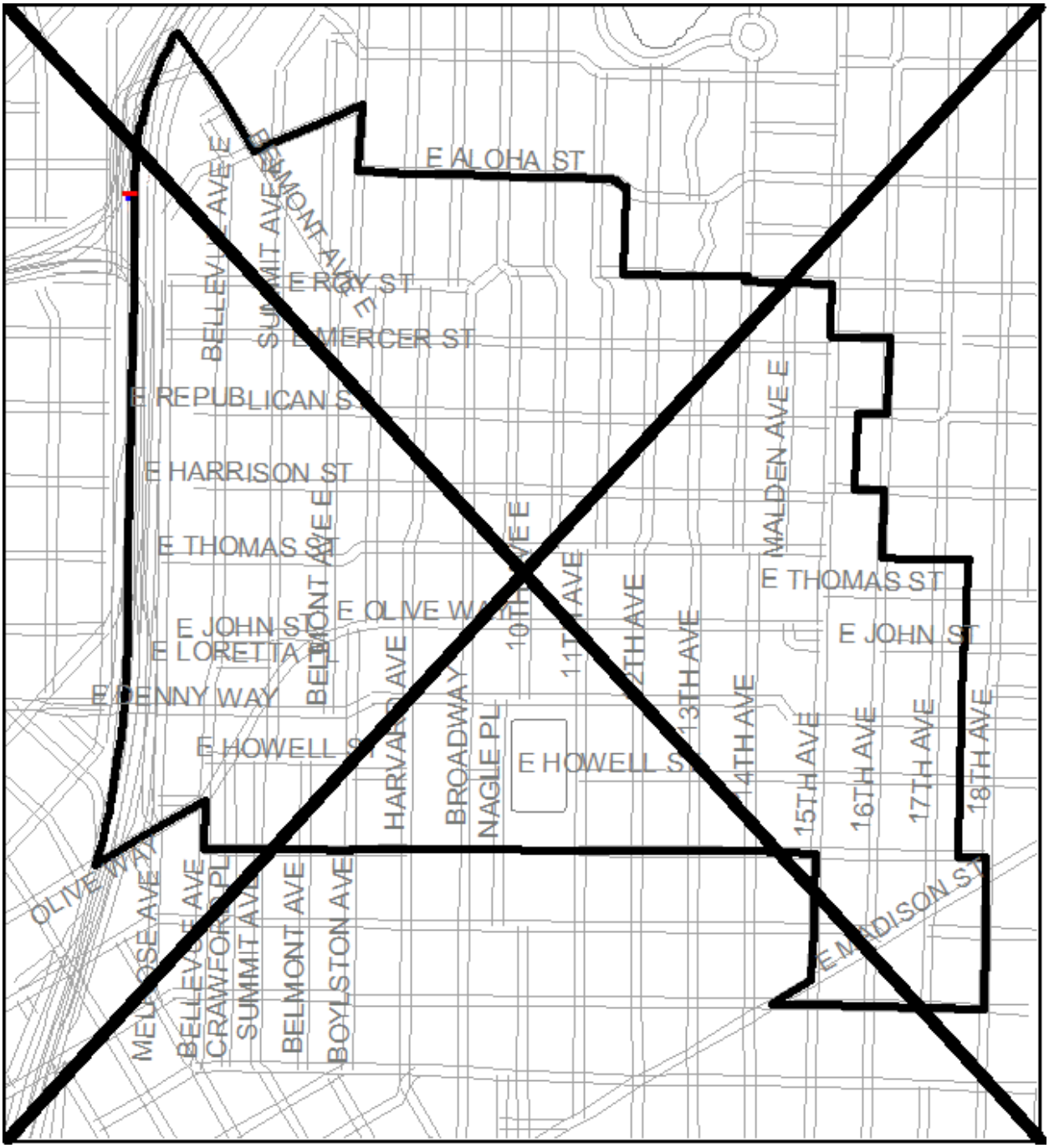
~~Map #1: 23rd & Union-Jackson~~))



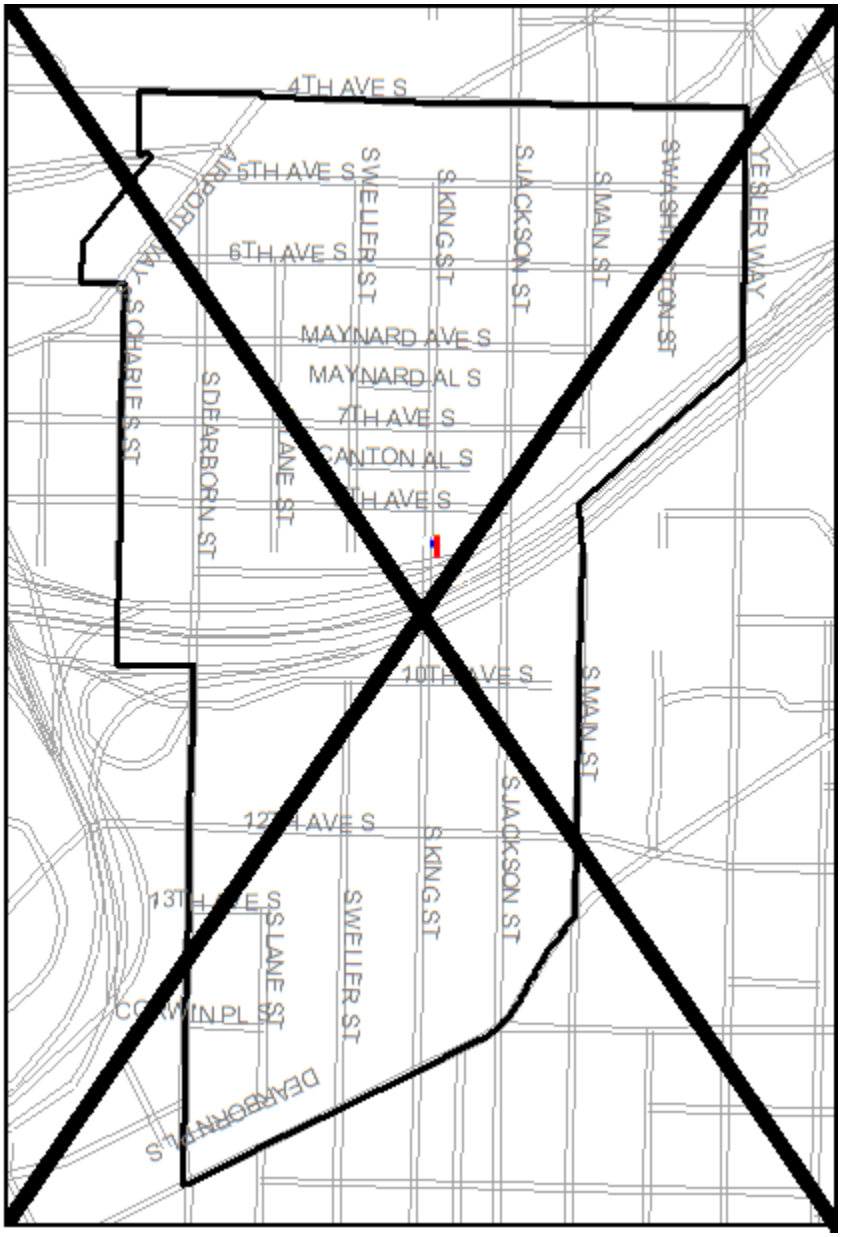
((~~Map #2: Bitter Lake~~))



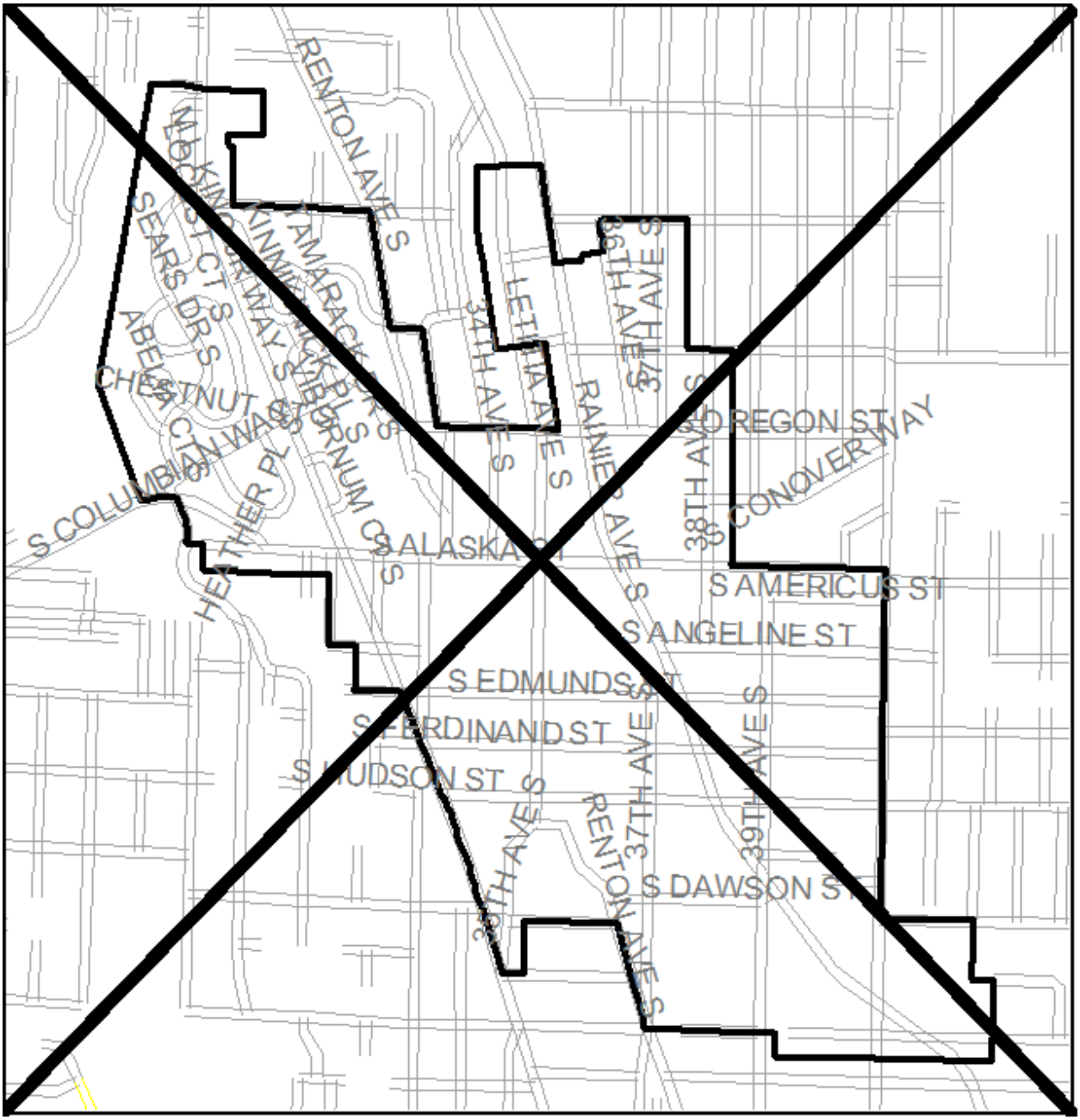
((~~Map #3: Capitol Hill~~))



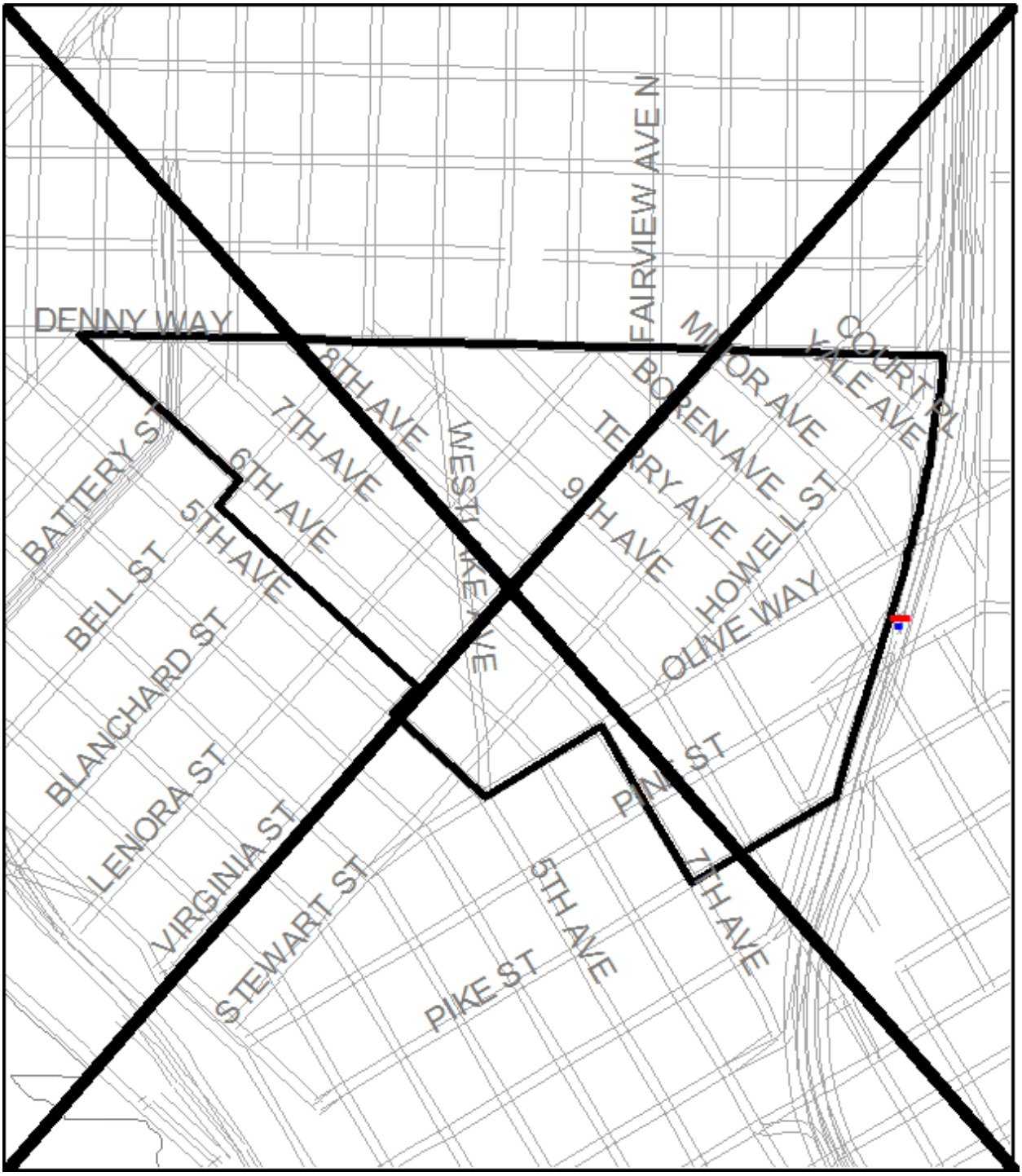
((~~Map #4: Chinatown-International District~~))



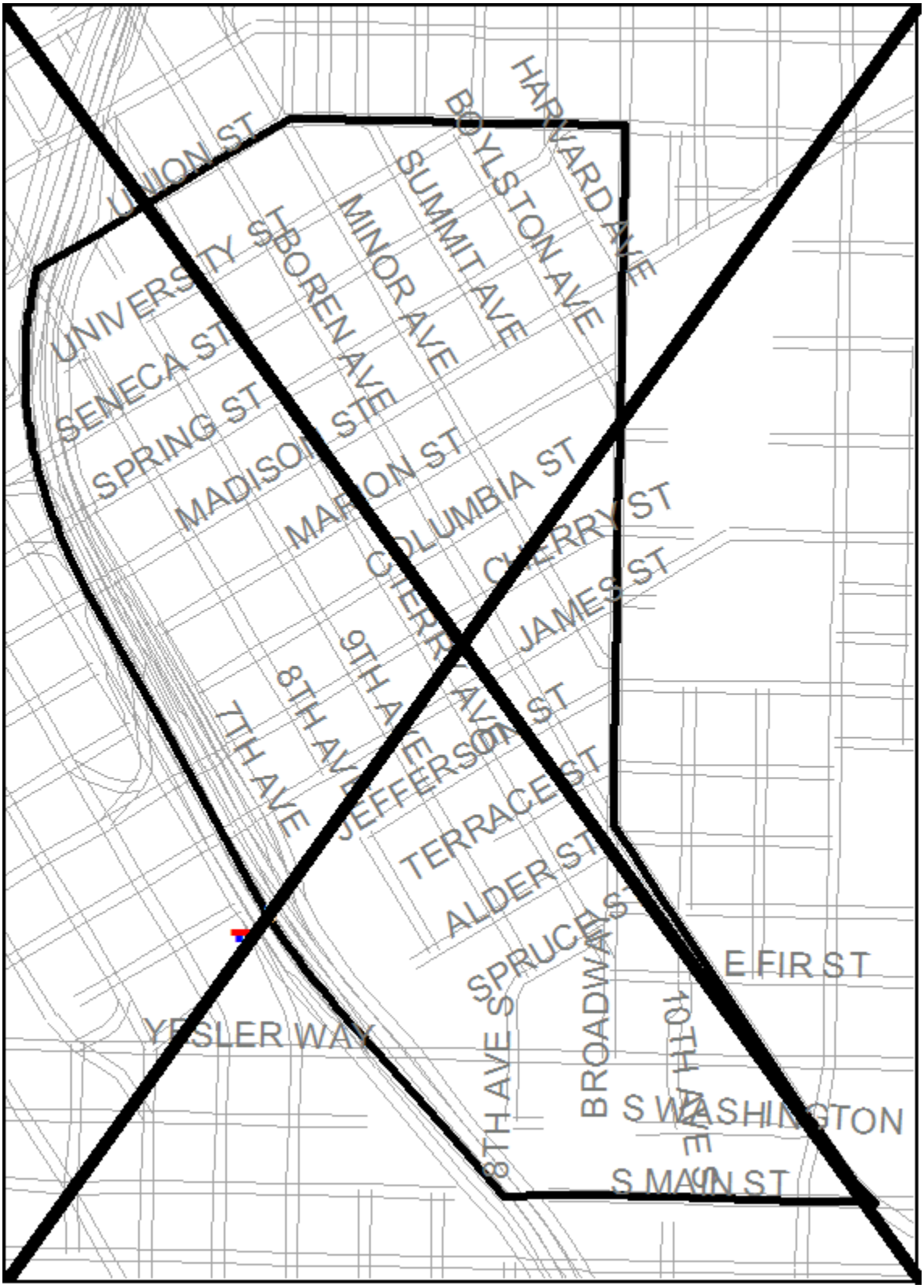
((~~Map #5: Columbia City~~))



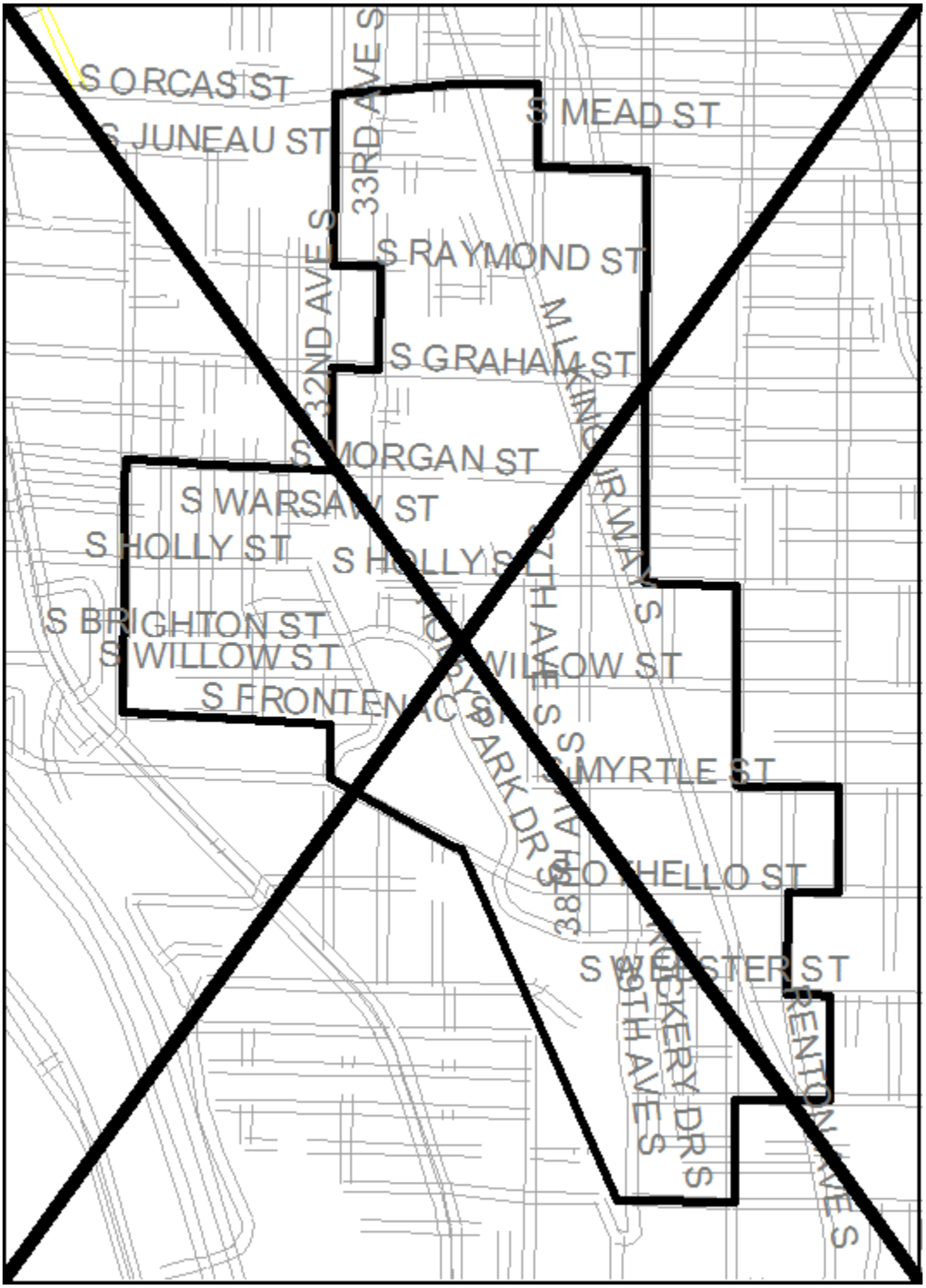
((~~Map #6: Denny Triangle~~))



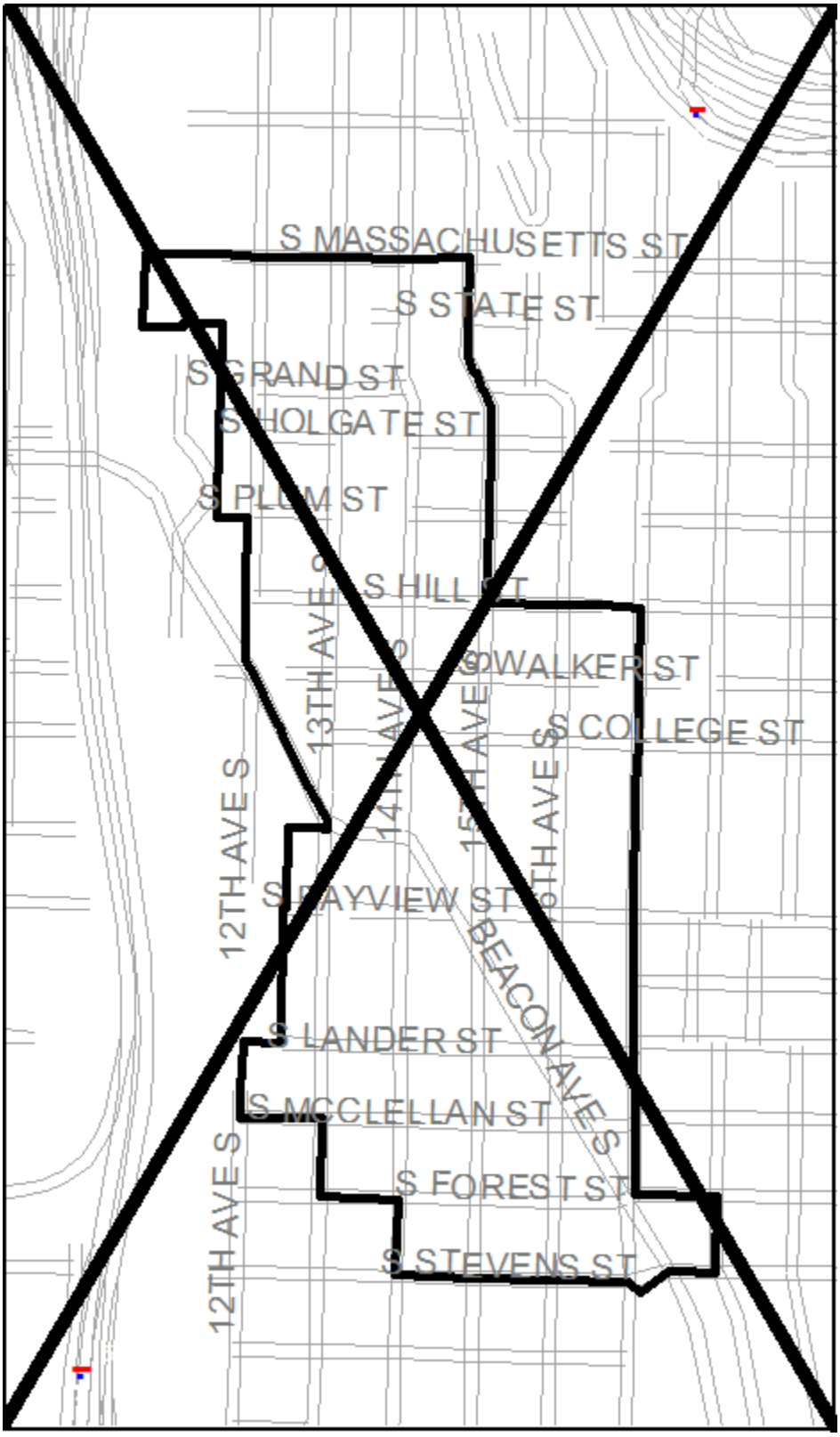
((~~Map #7: First Hill~~))



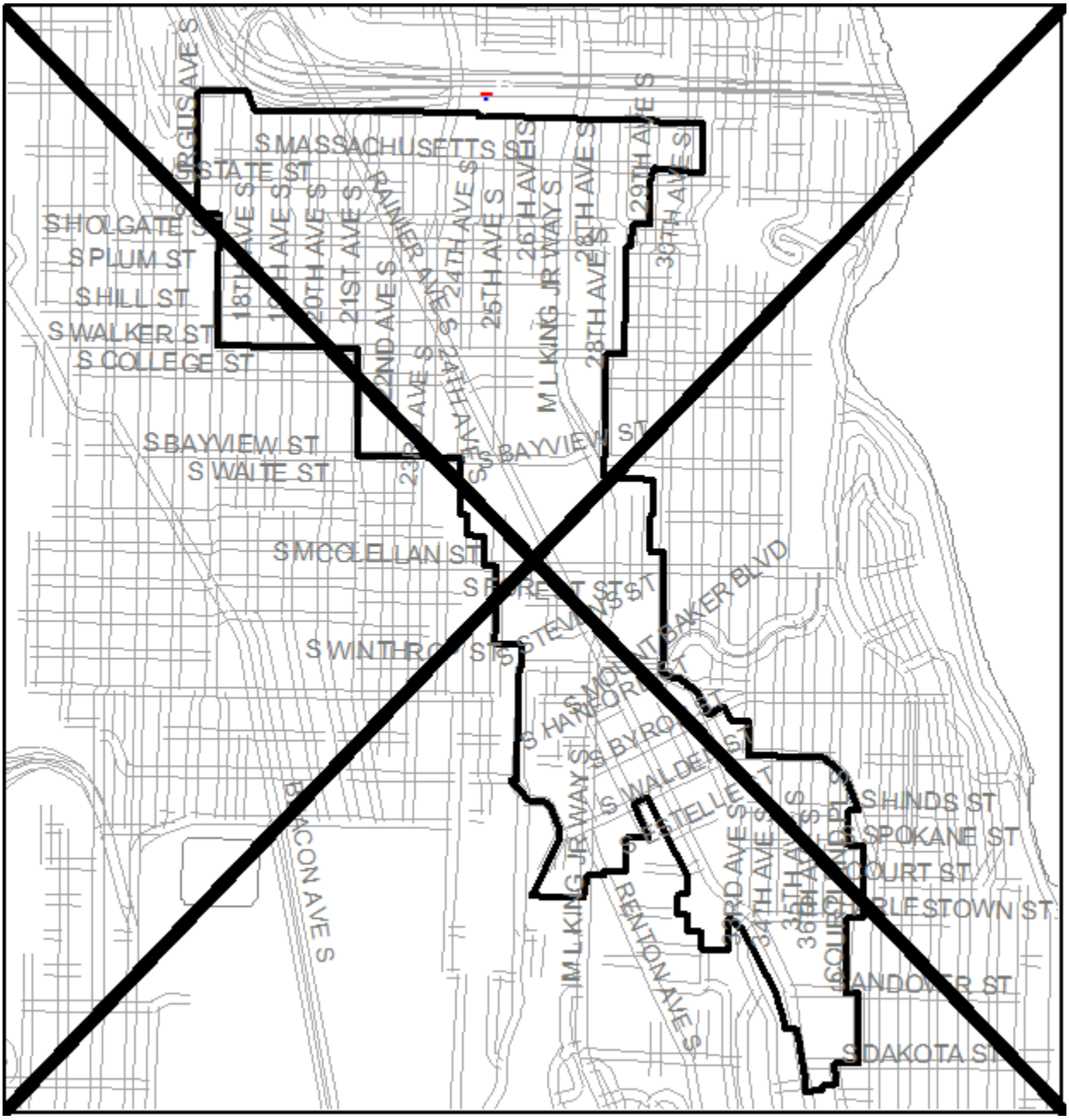
((~~Map #8: MLK @ Holly~~))



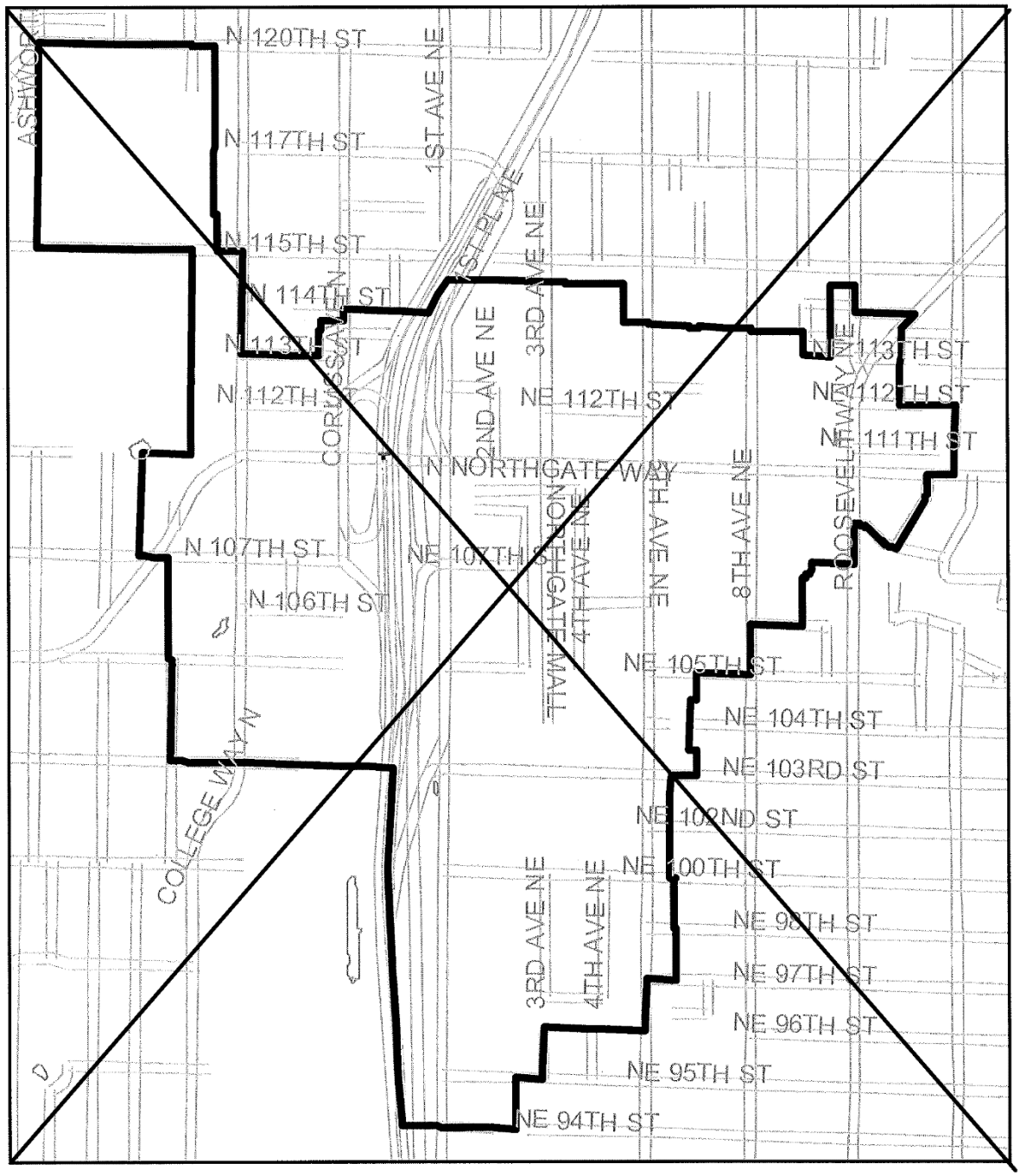
((~~Map #9: North Beacon Hill~~))



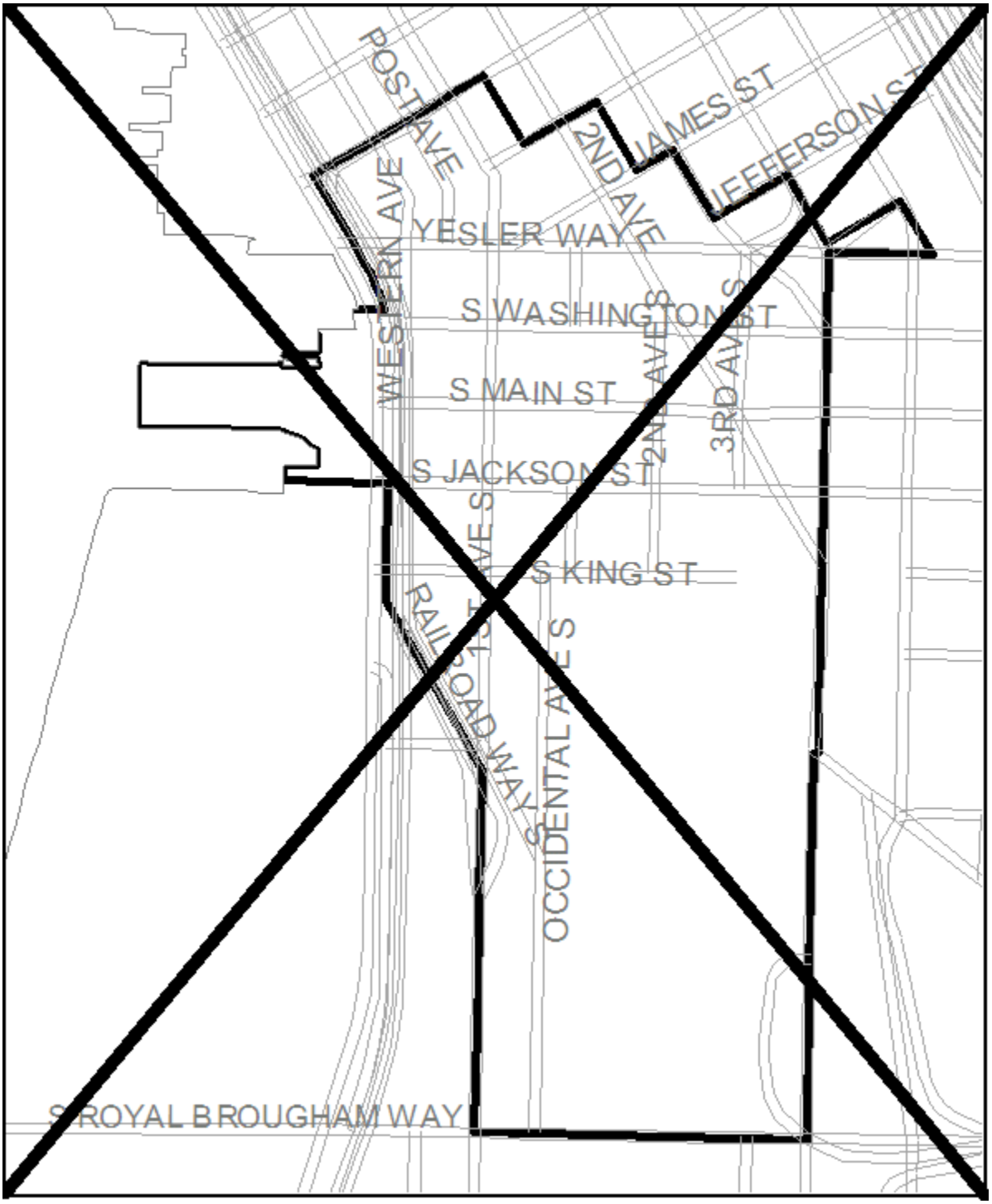
((~~Map #10: North Rainier~~))



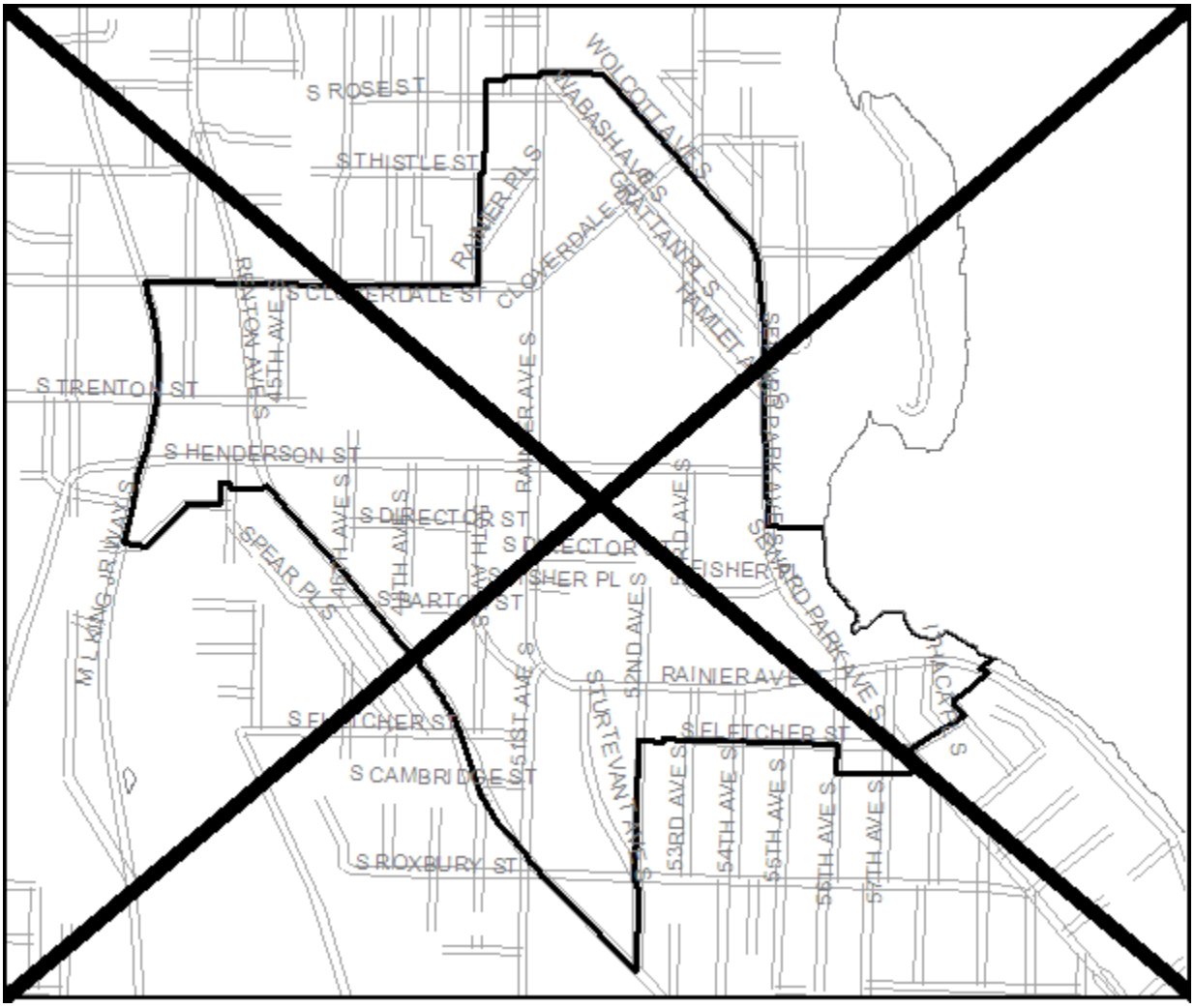
((~~Map #11: Northgate~~))



((~~Map #12: Pioneer Square~~))



((~~Map #13: Rainier Beach~~))



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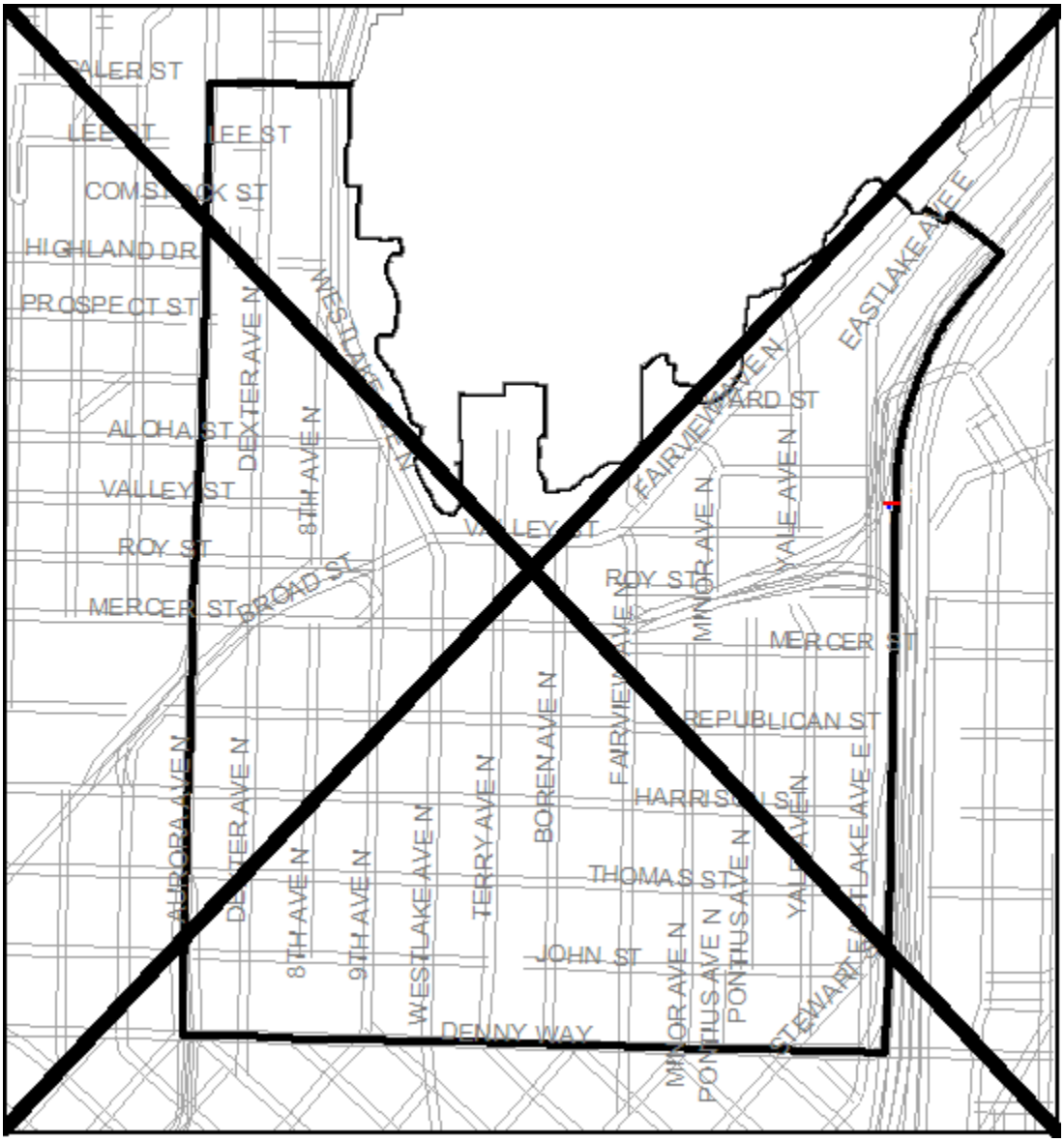
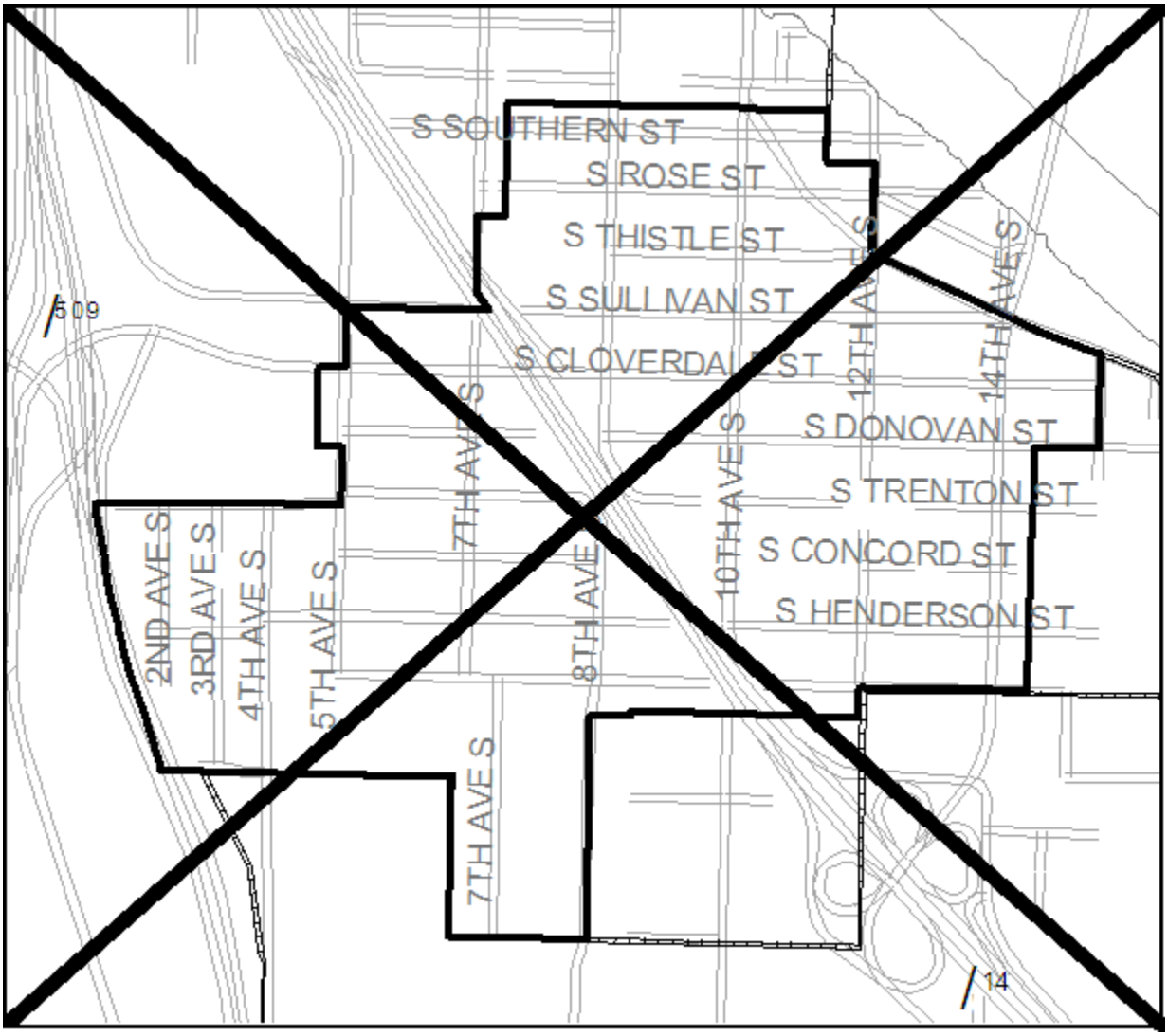
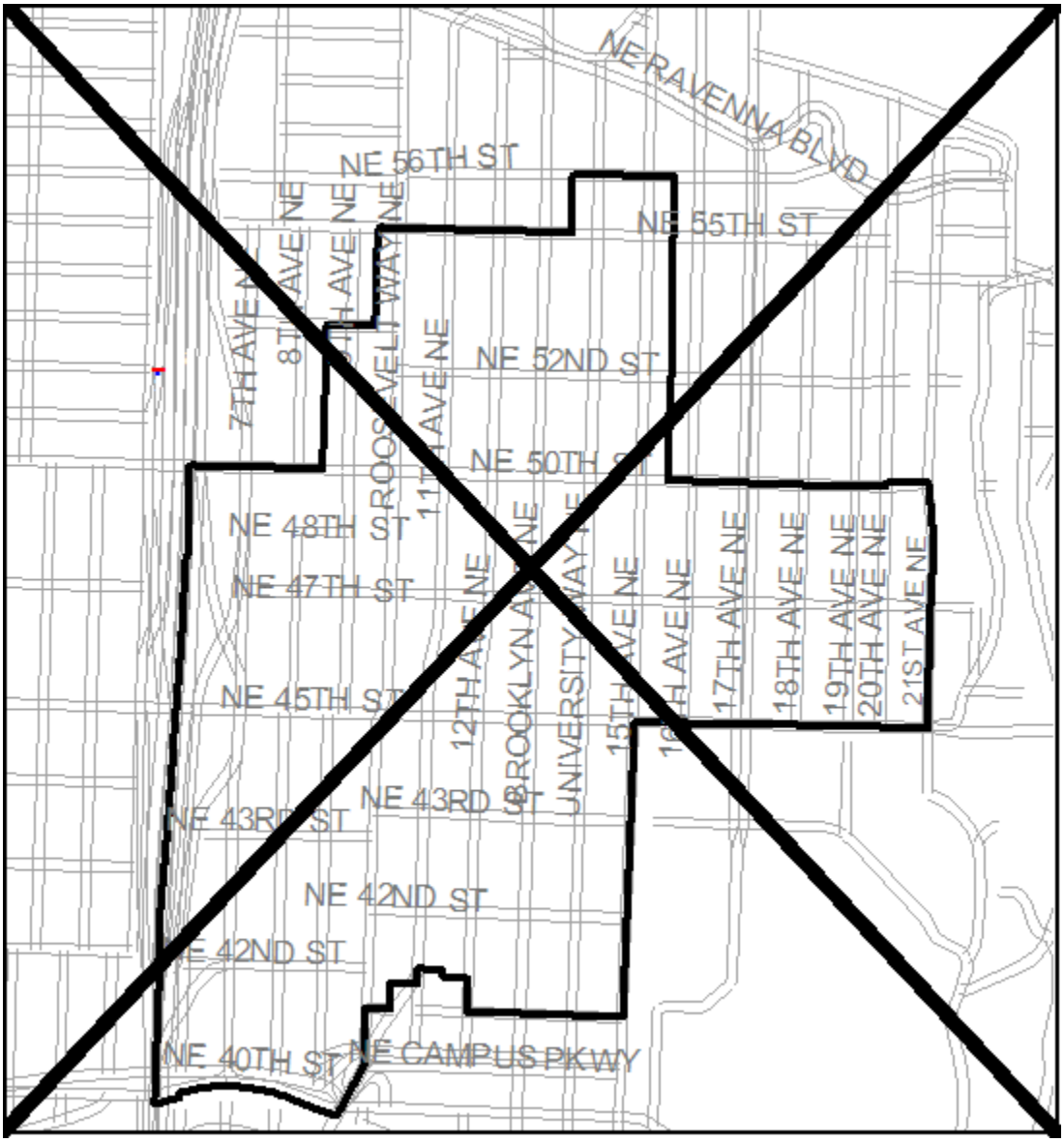


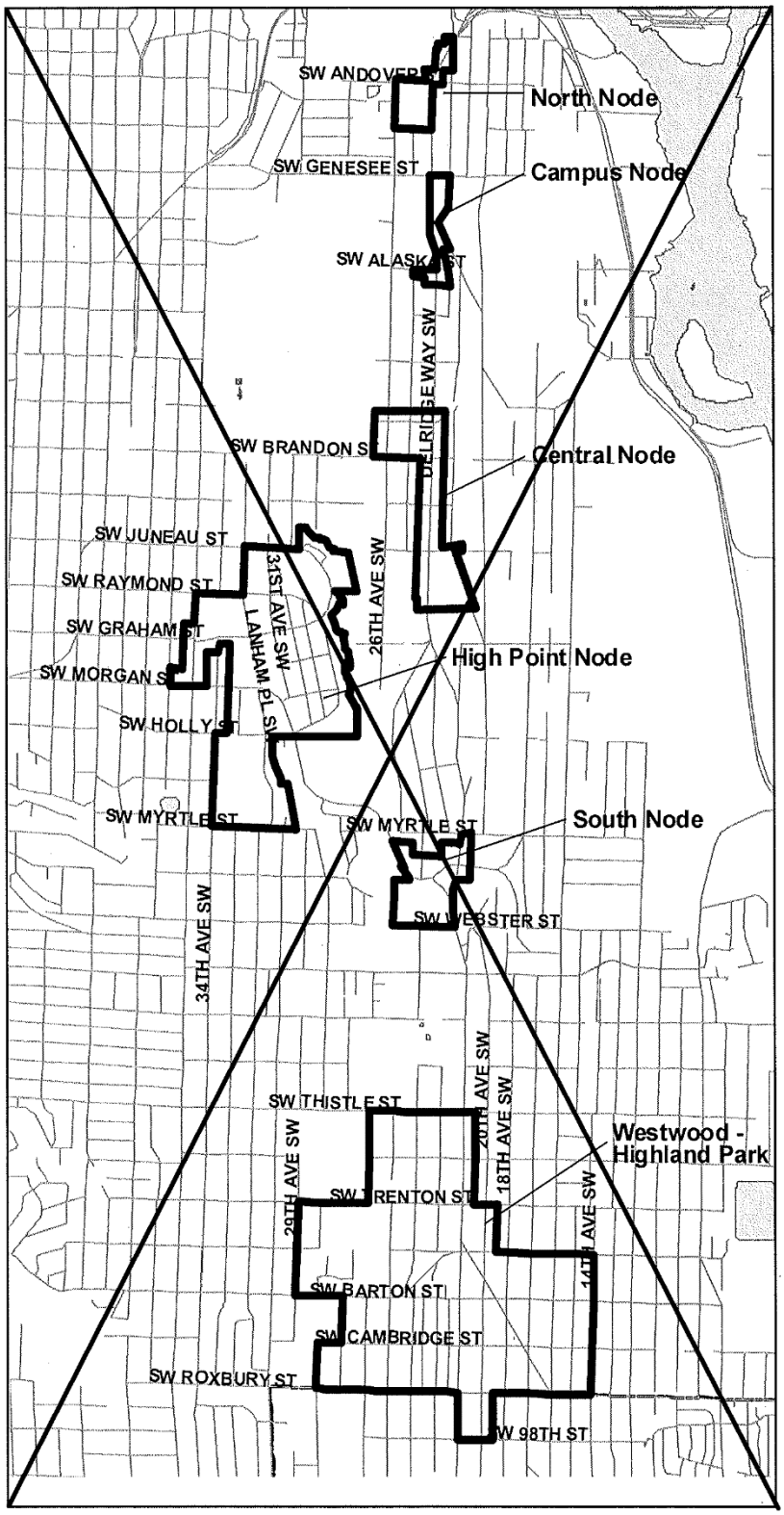
((~~Map #15: South Park~~))



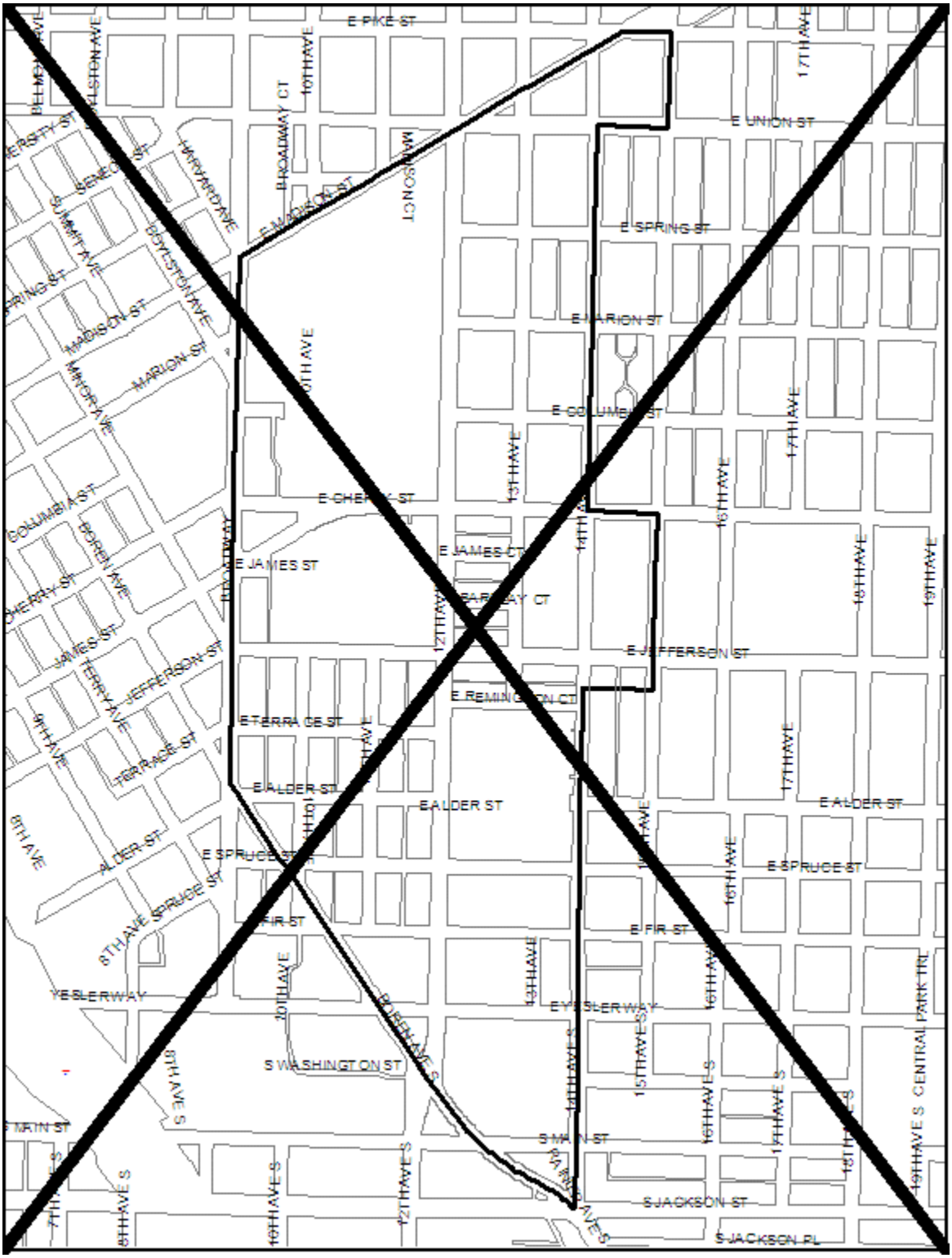
((~~Map #16: University District NW~~))



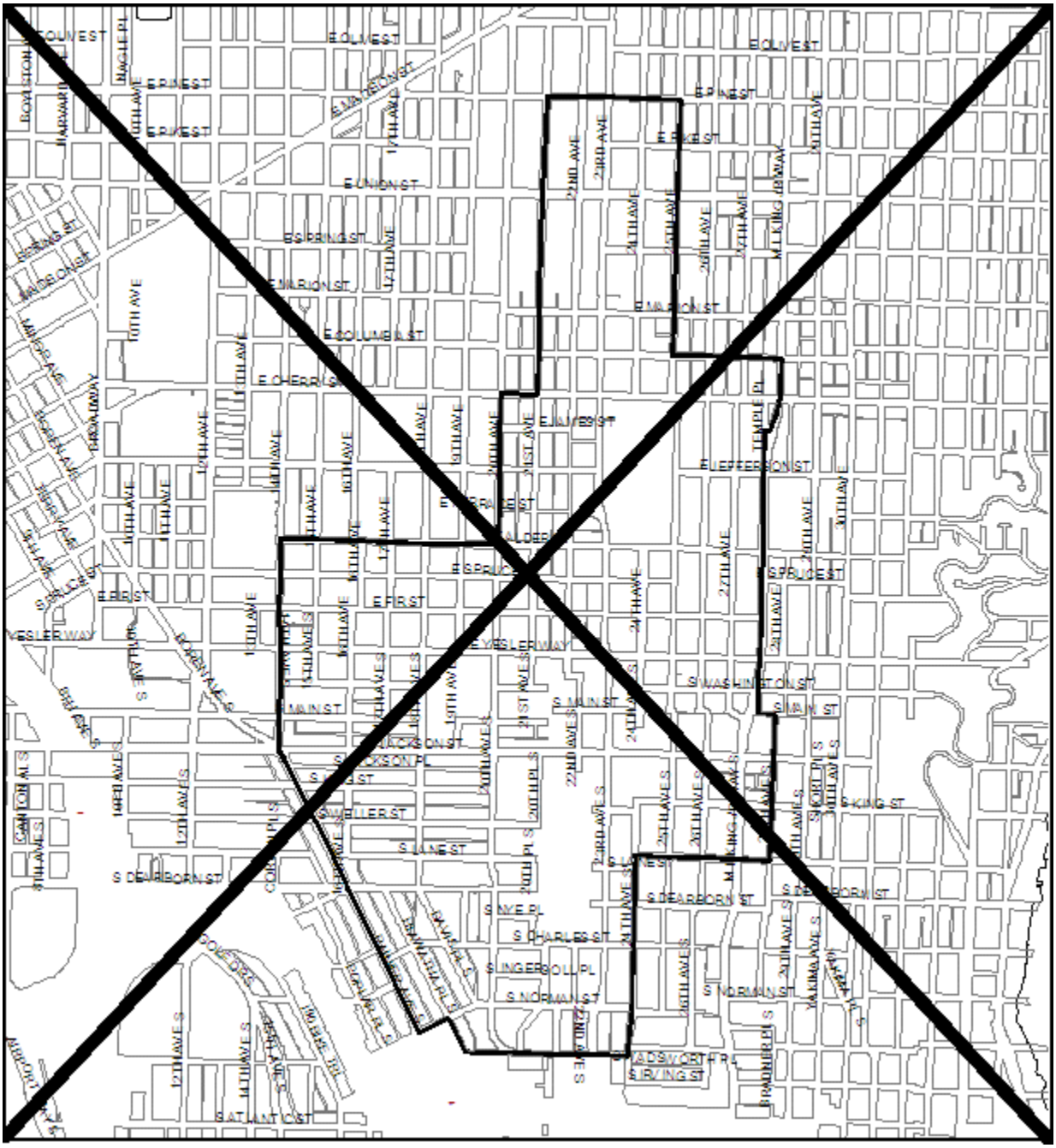
((~~Map #17 Delridge/Westwood-Highland Park~~))



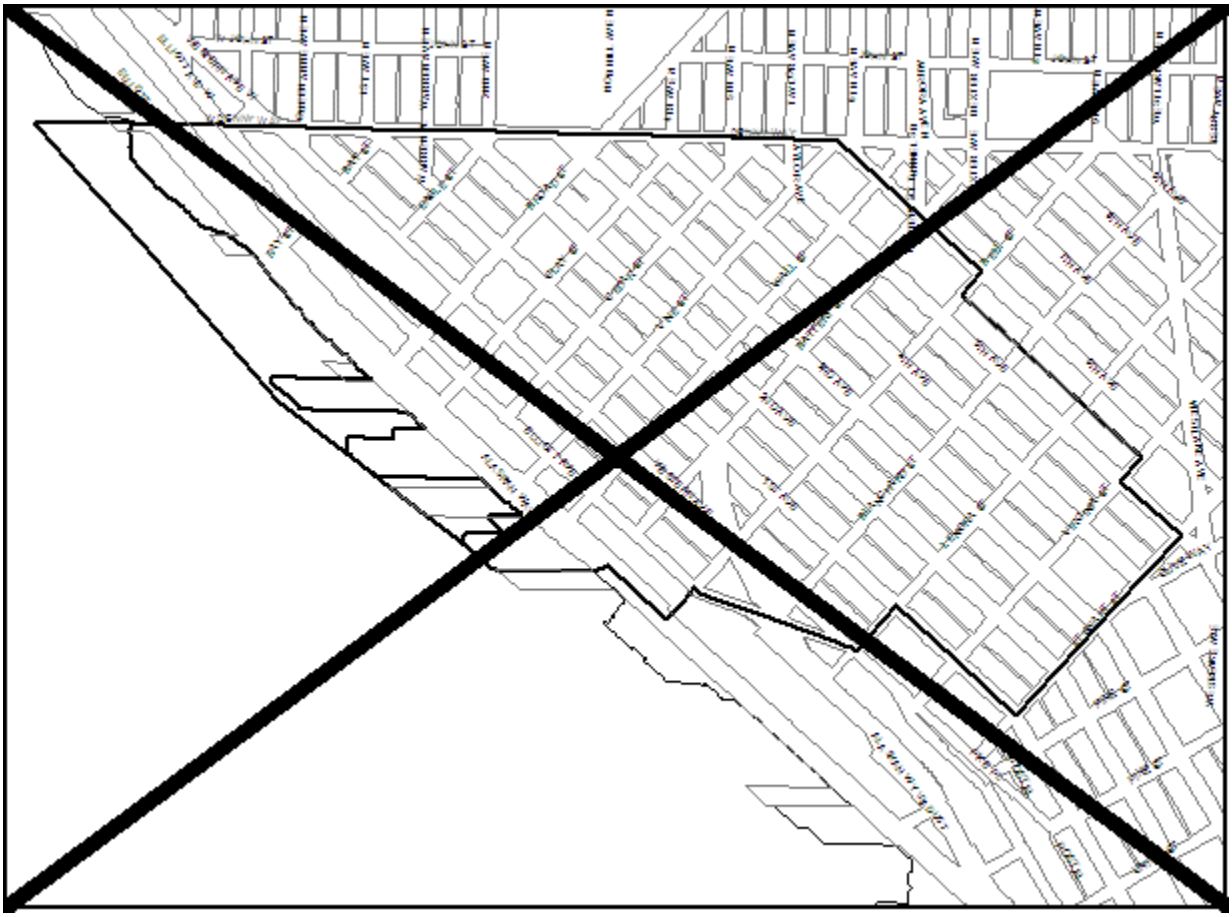
((~~Map #18: 12th Avenue~~))



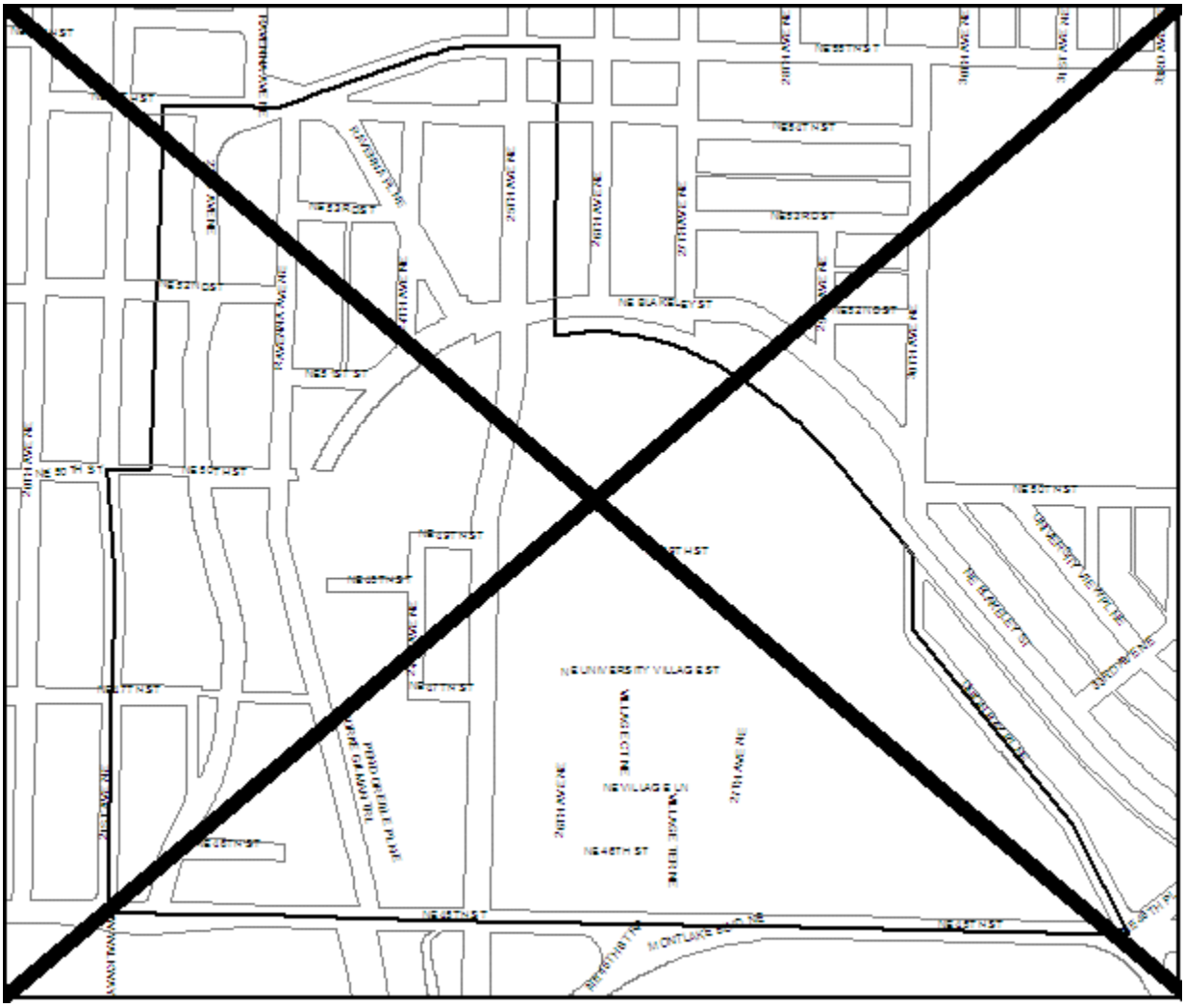
((~~Map #19: Pike/Pine~~))



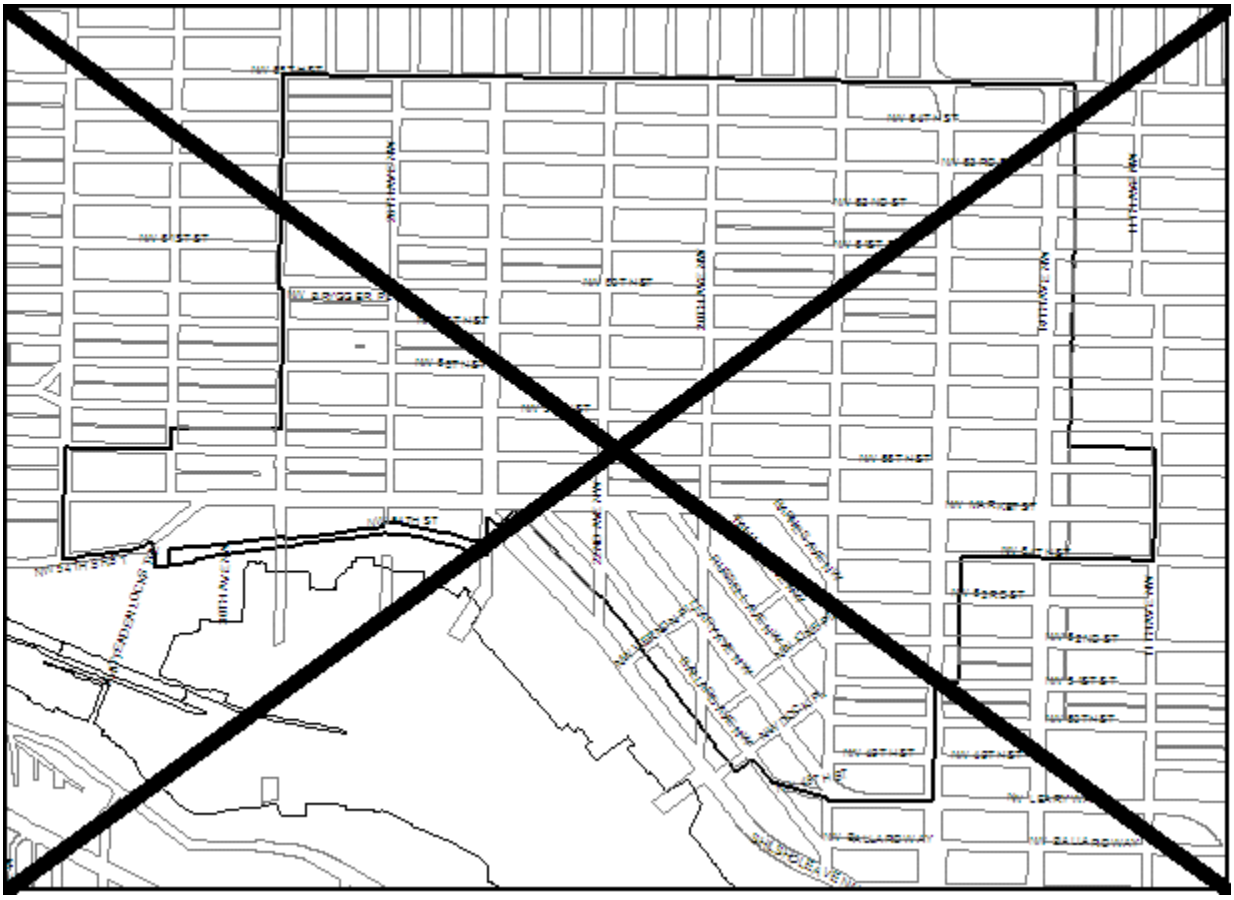
((~~Map #20: Belltown~~))



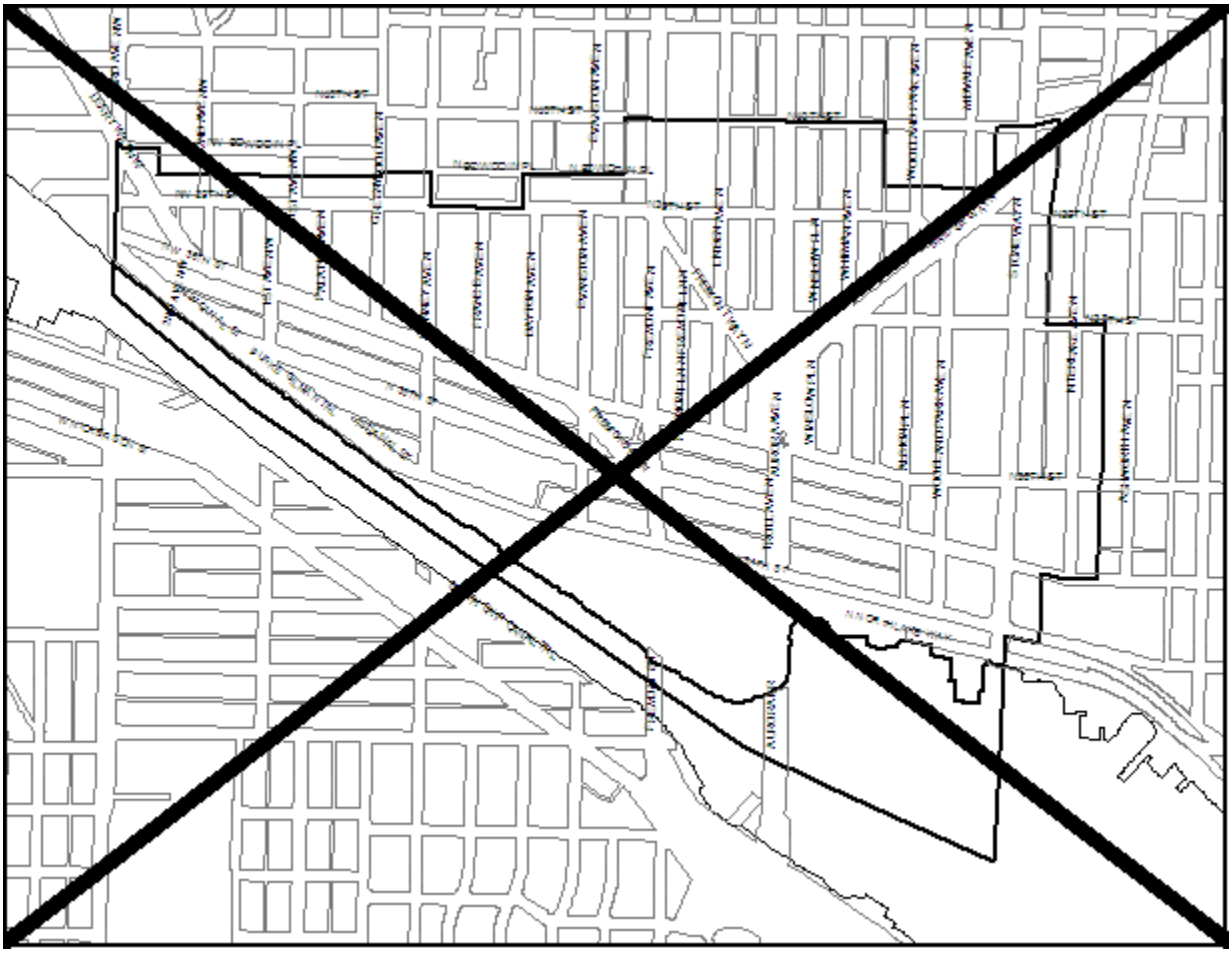
((~~Map #21: Ravenna~~))



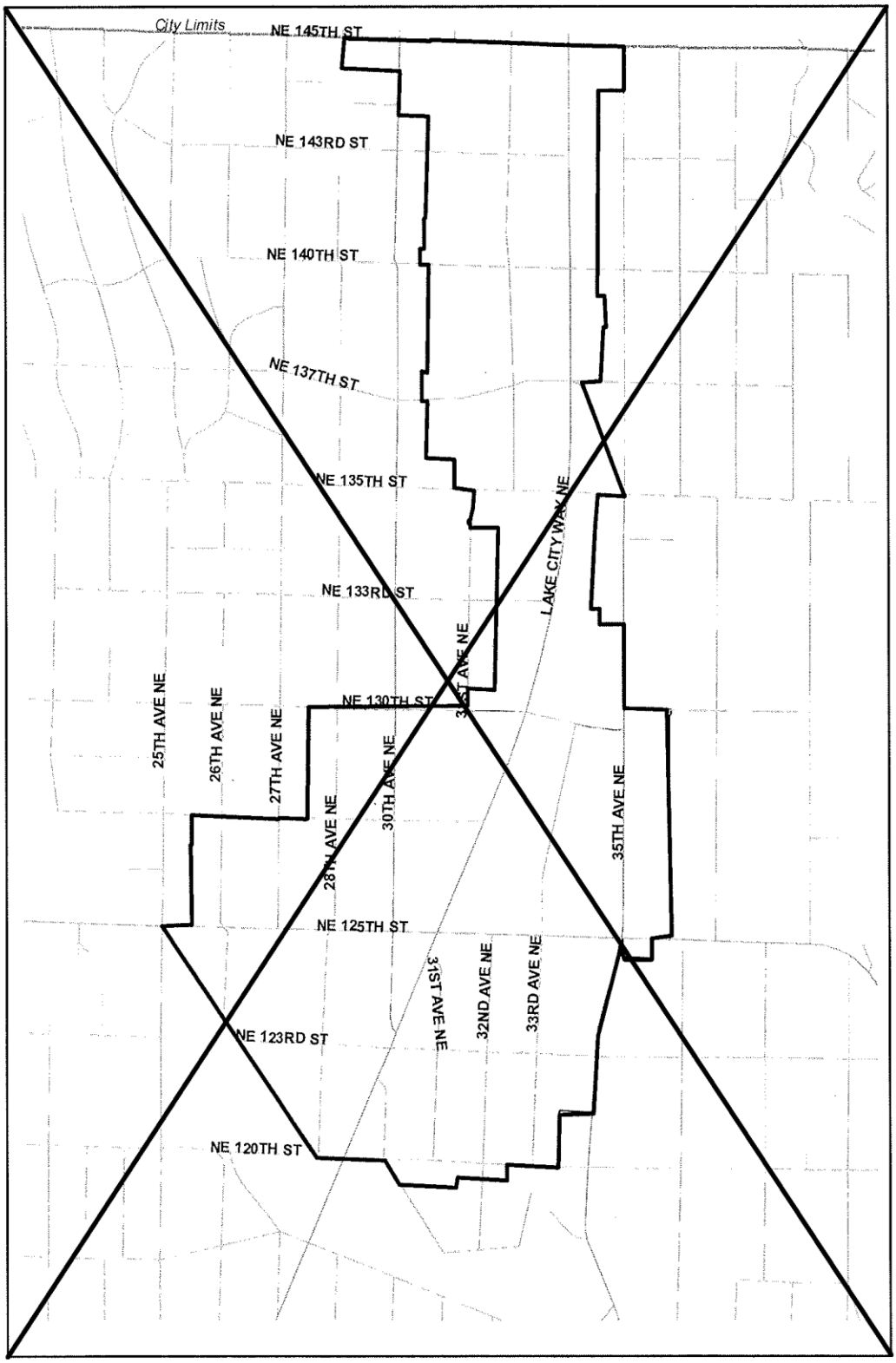
((~~Map #22: Ballard~~))



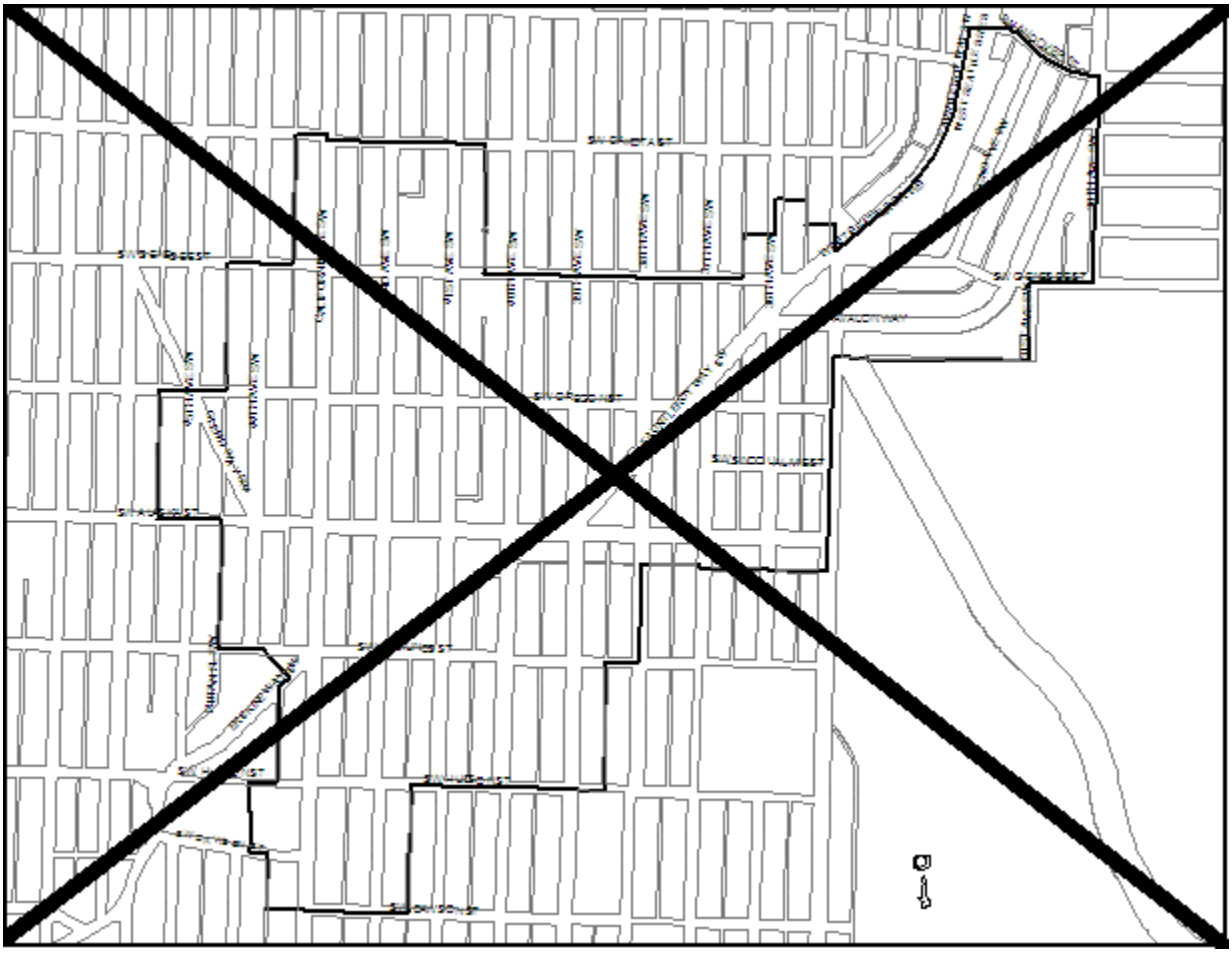
((~~Map #23: Fremont~~))



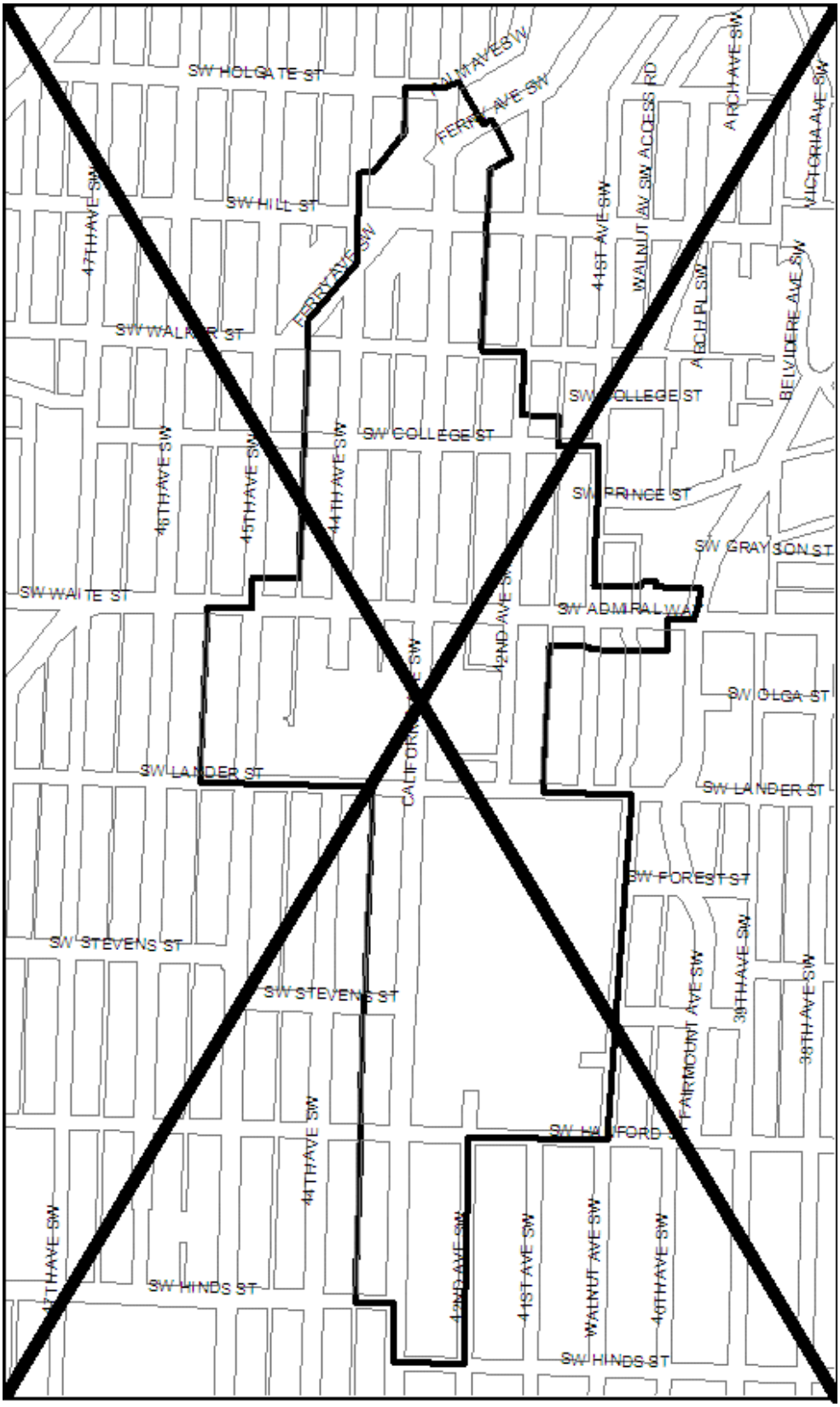
((~~Map #24: Lake City~~))



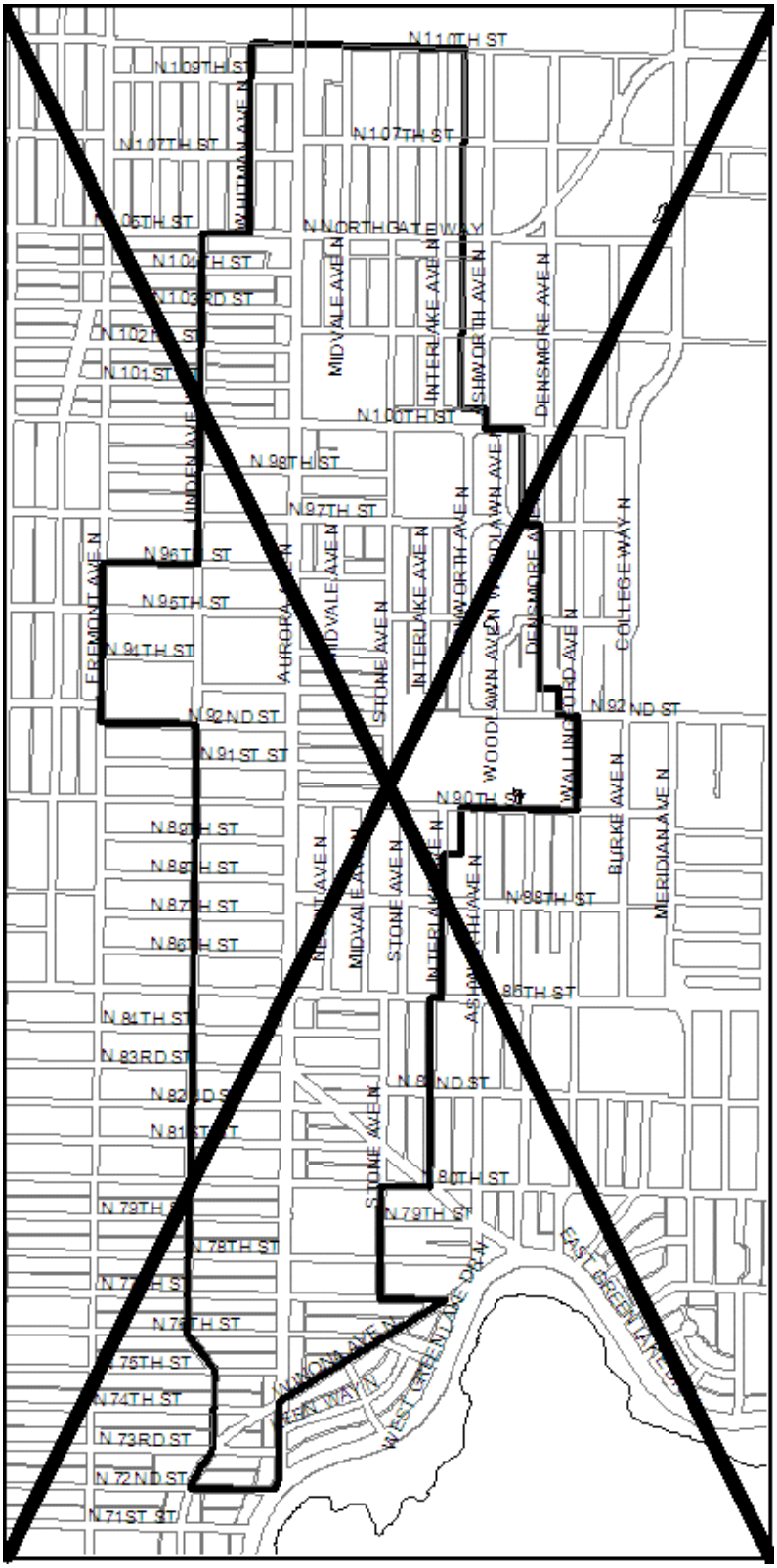
((~~Map #25: West Seattle Junction~~))



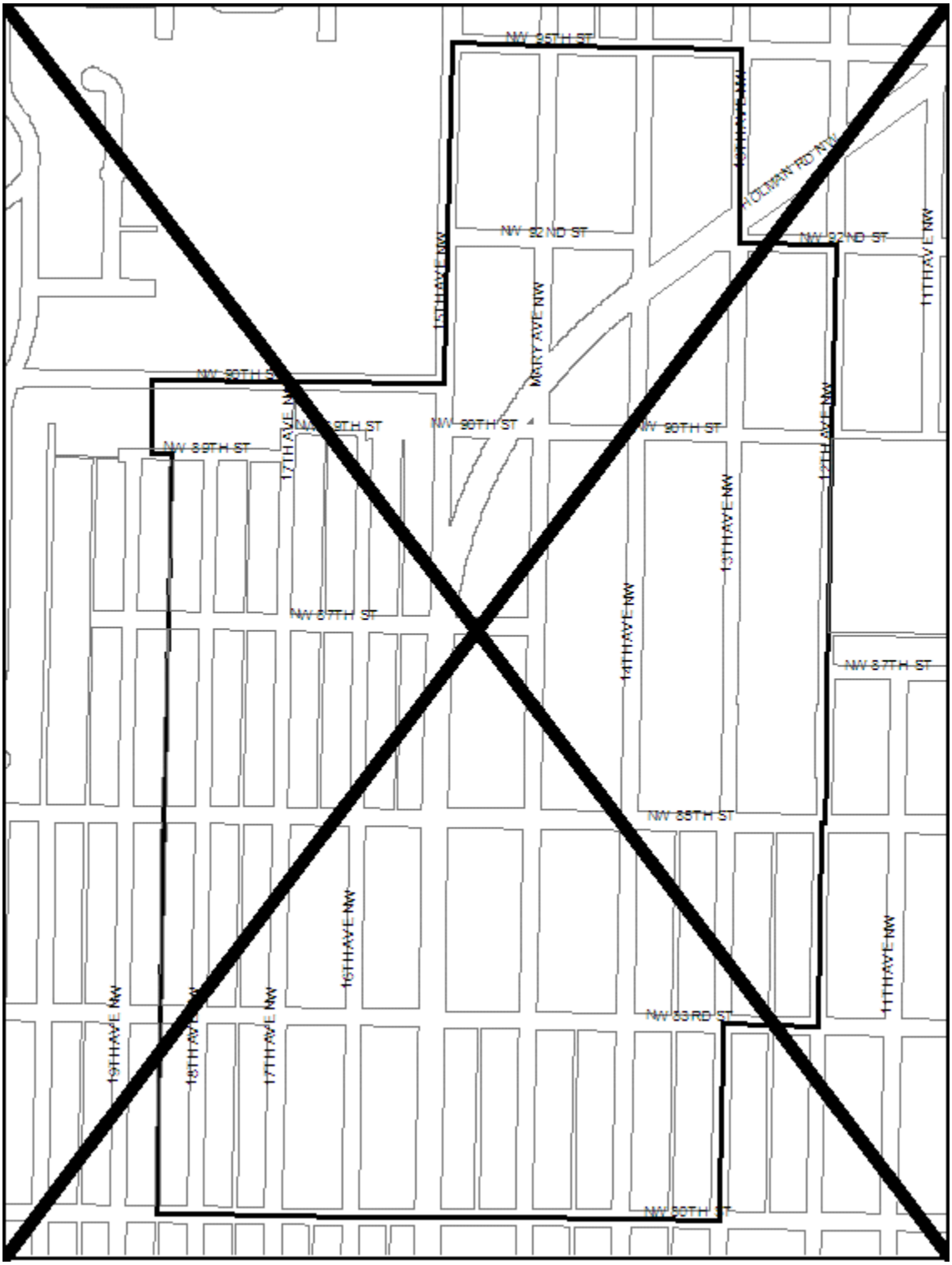
((~~Map #26: Admiral~~))



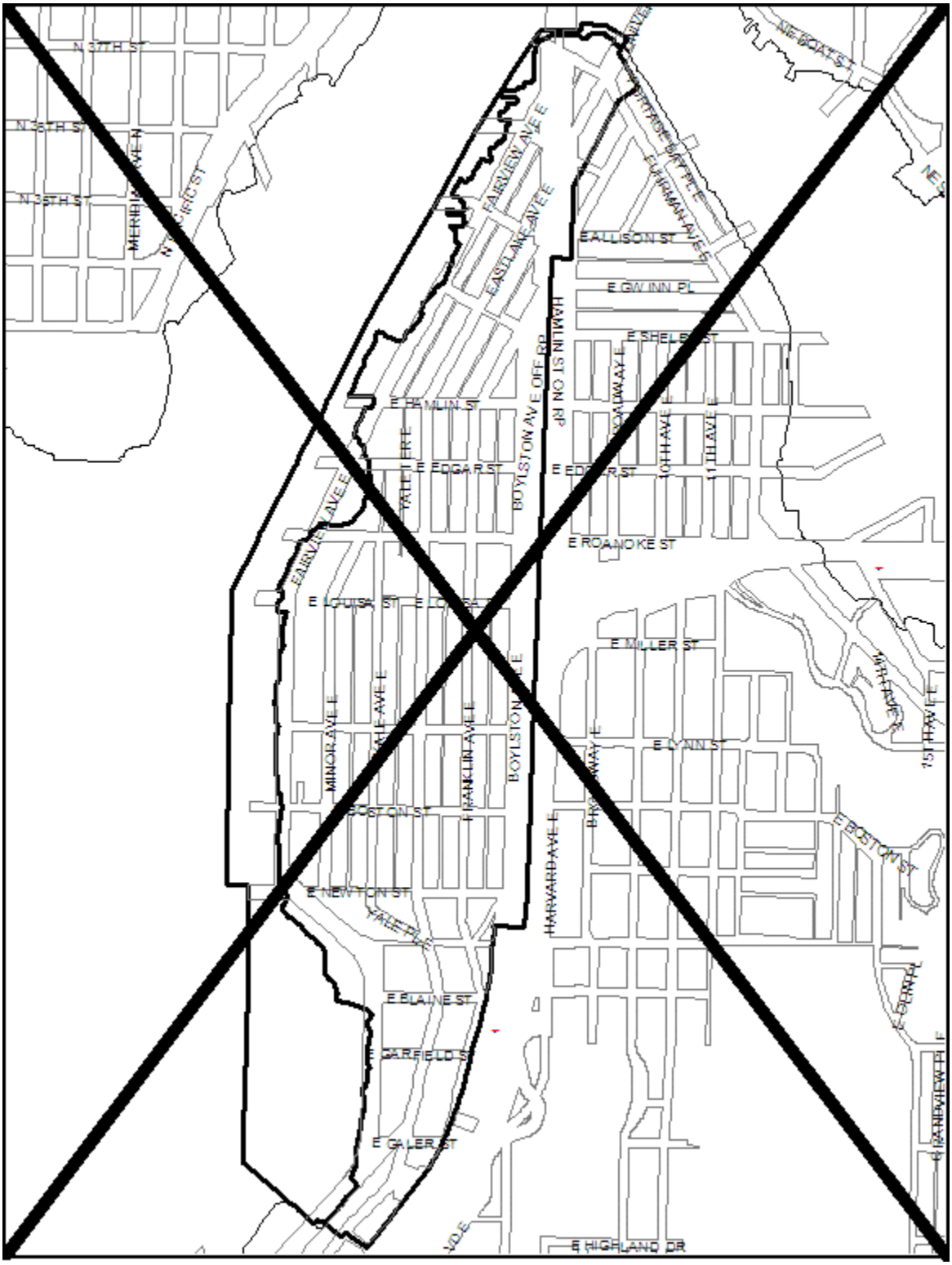
((~~Map #27: Aurora-Licton Springs~~))



((~~Map #28: Crown Hill~~))



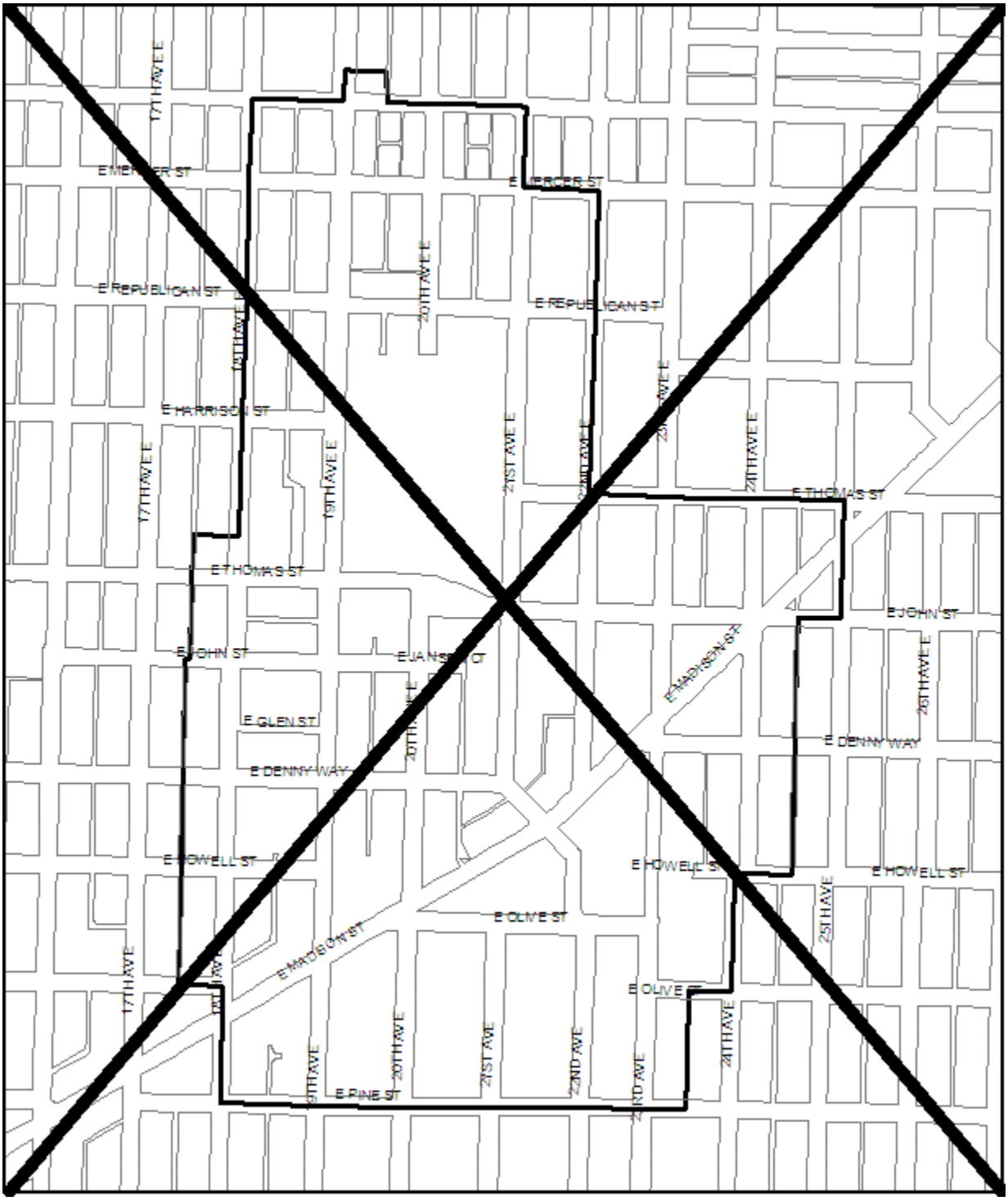
((~~Map #29: Eastlake~~))



((~~Map #30: Green Lake~~))

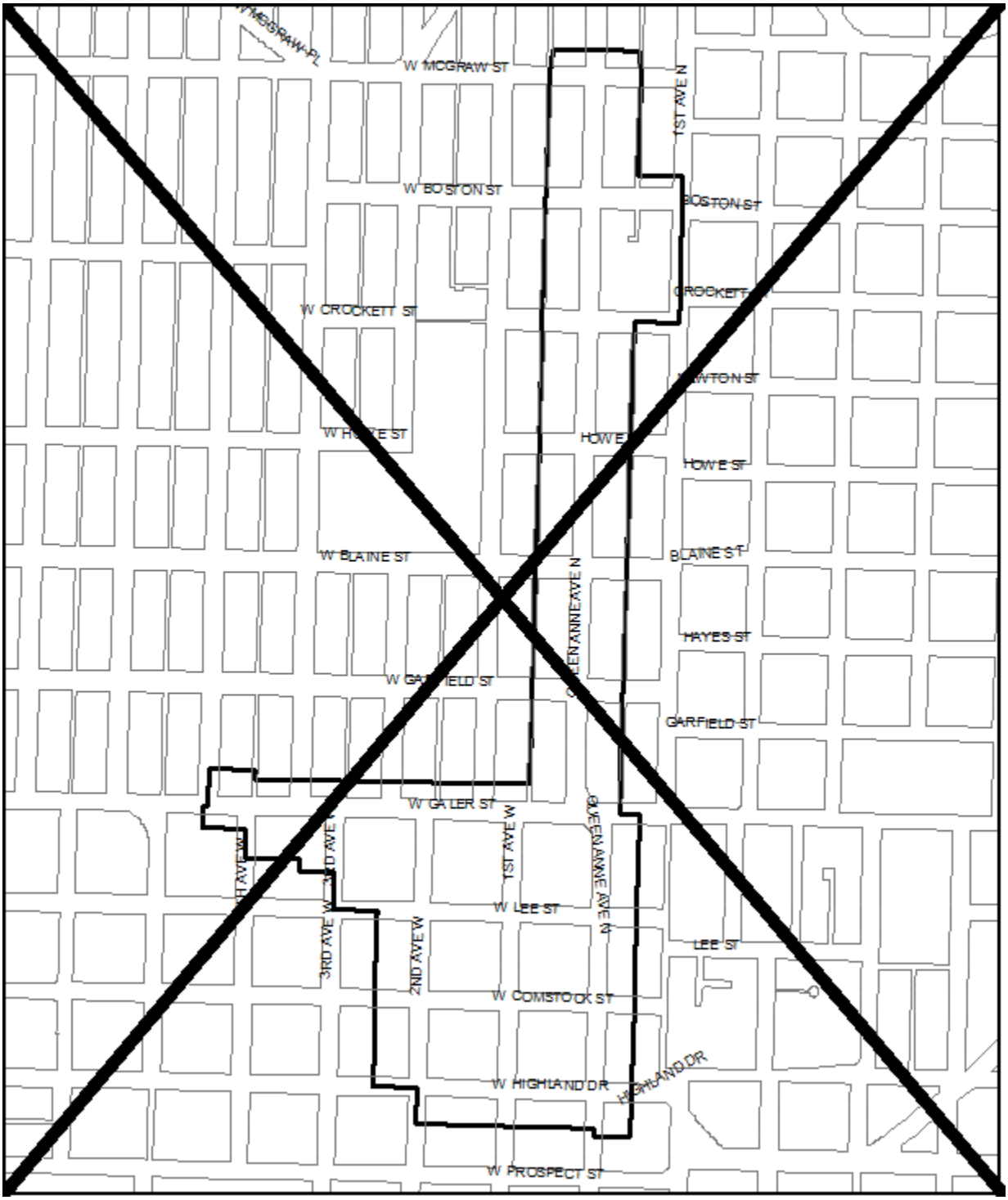
((~~Map #31: Greenwood-Phinney Ridge~~))

((~~Map #32: Madison-Miller~~))

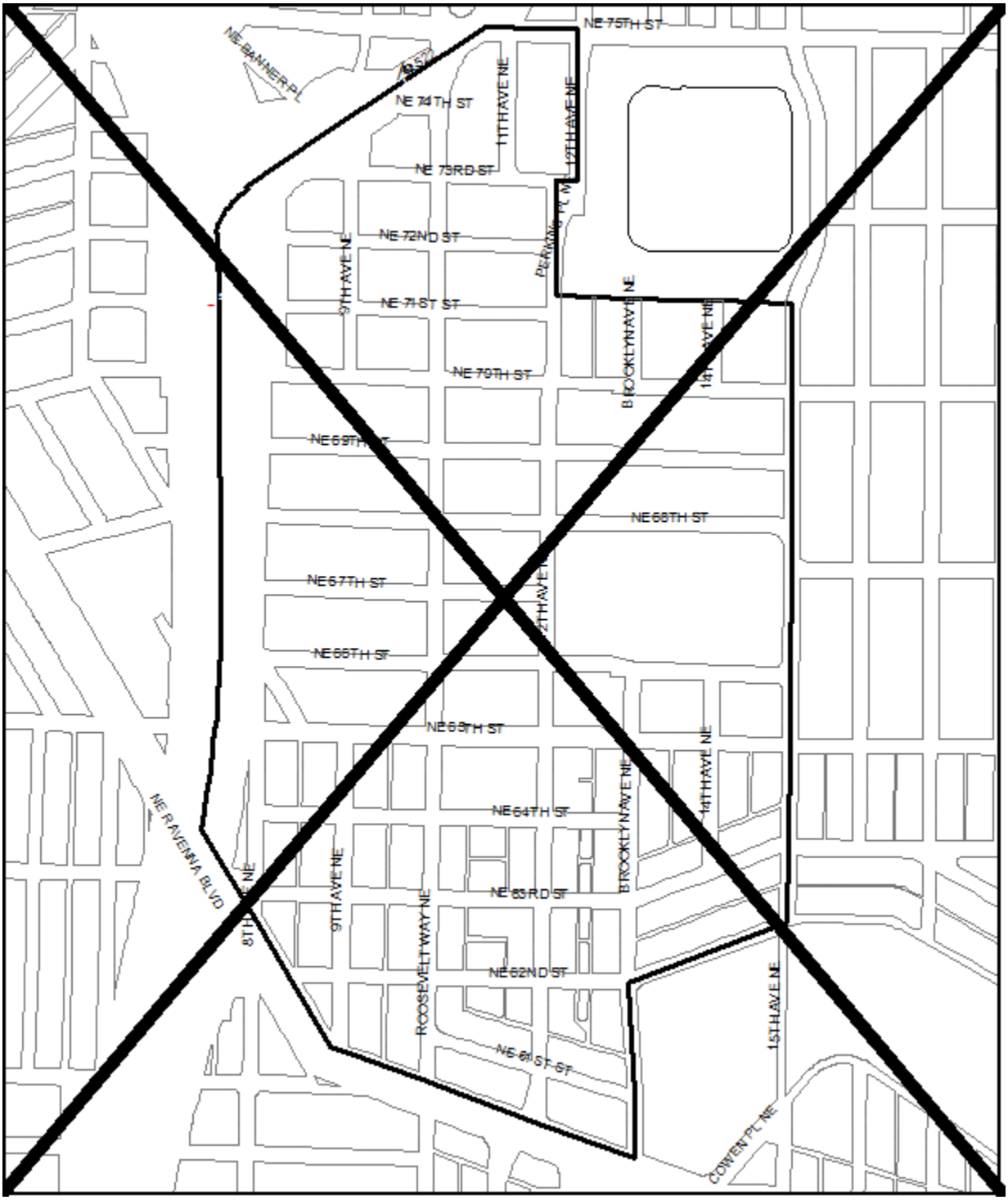


((~~Map #33: Morgan Junction~~))

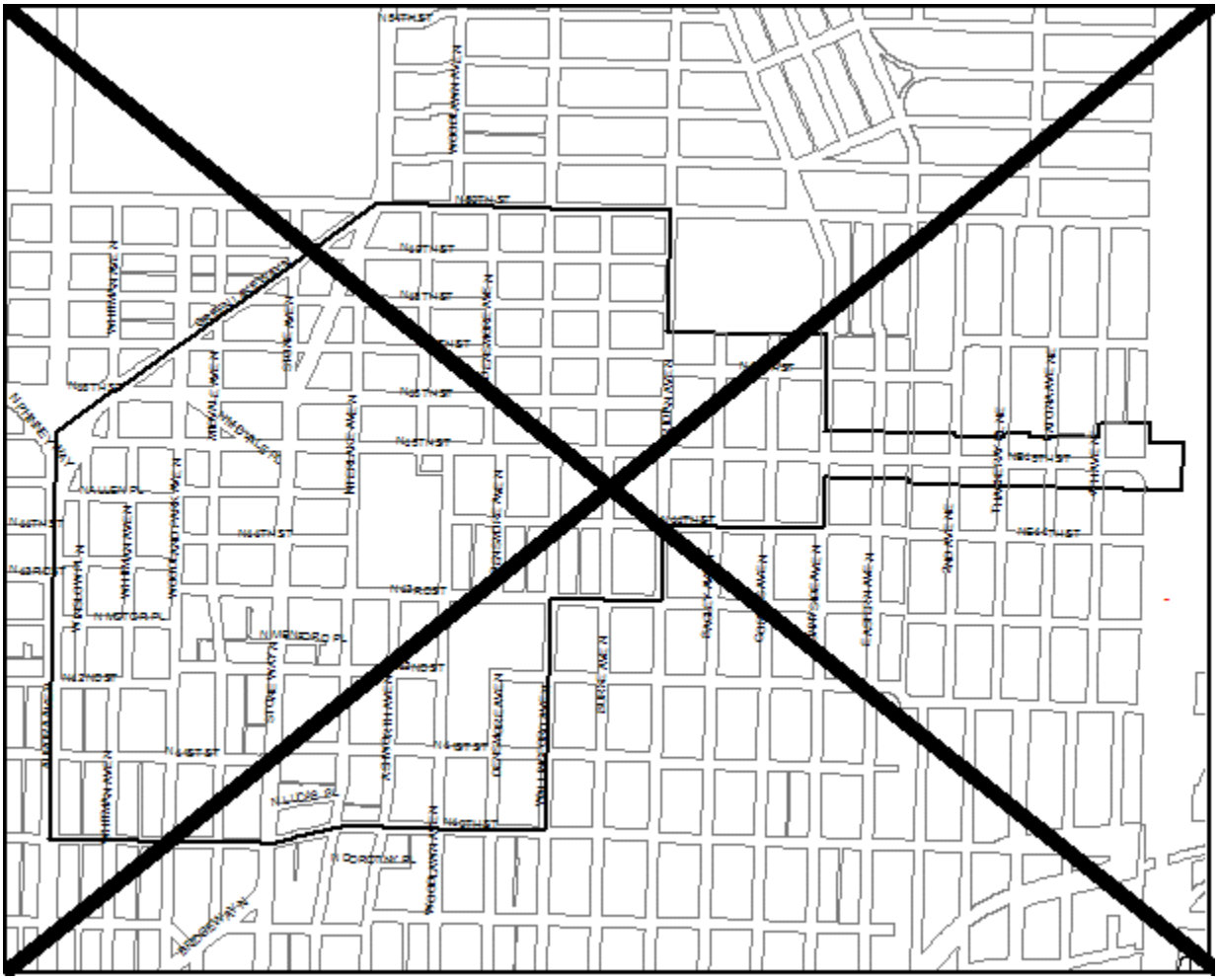
((~~Map #34: Upper Queen Anne~~))



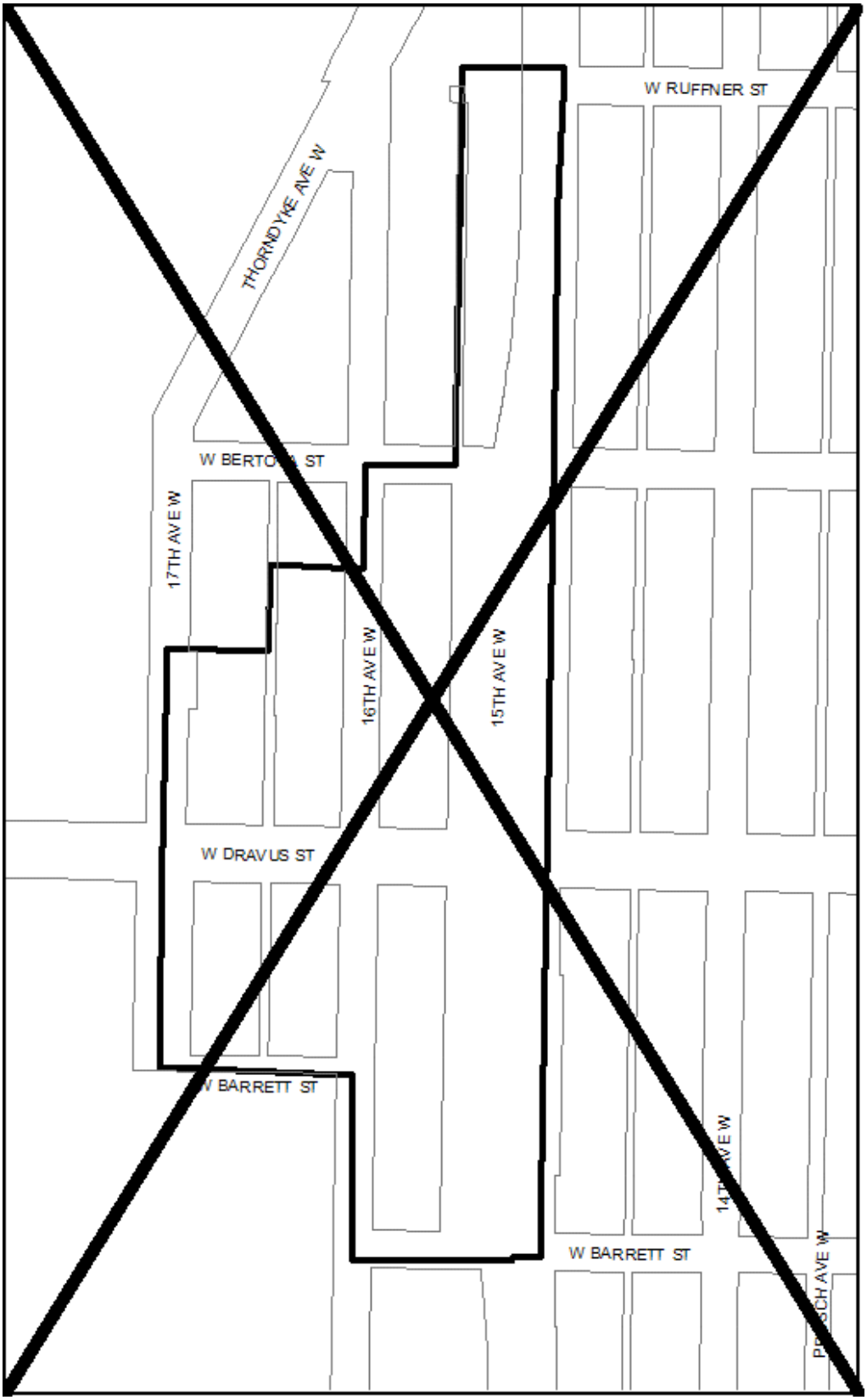
((~~Map #35: Roosevelt~~))



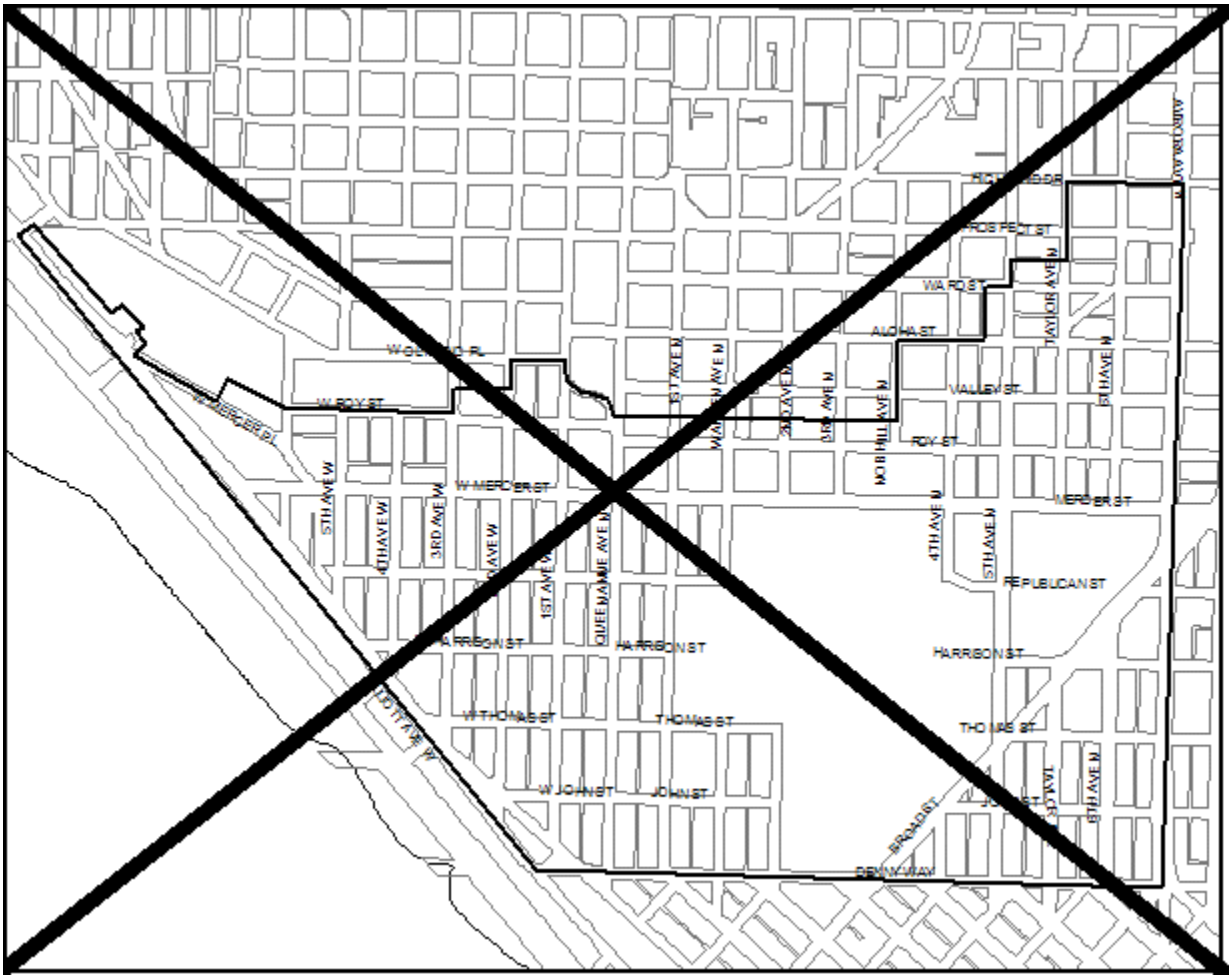
((~~Map #36: Wallingford~~))



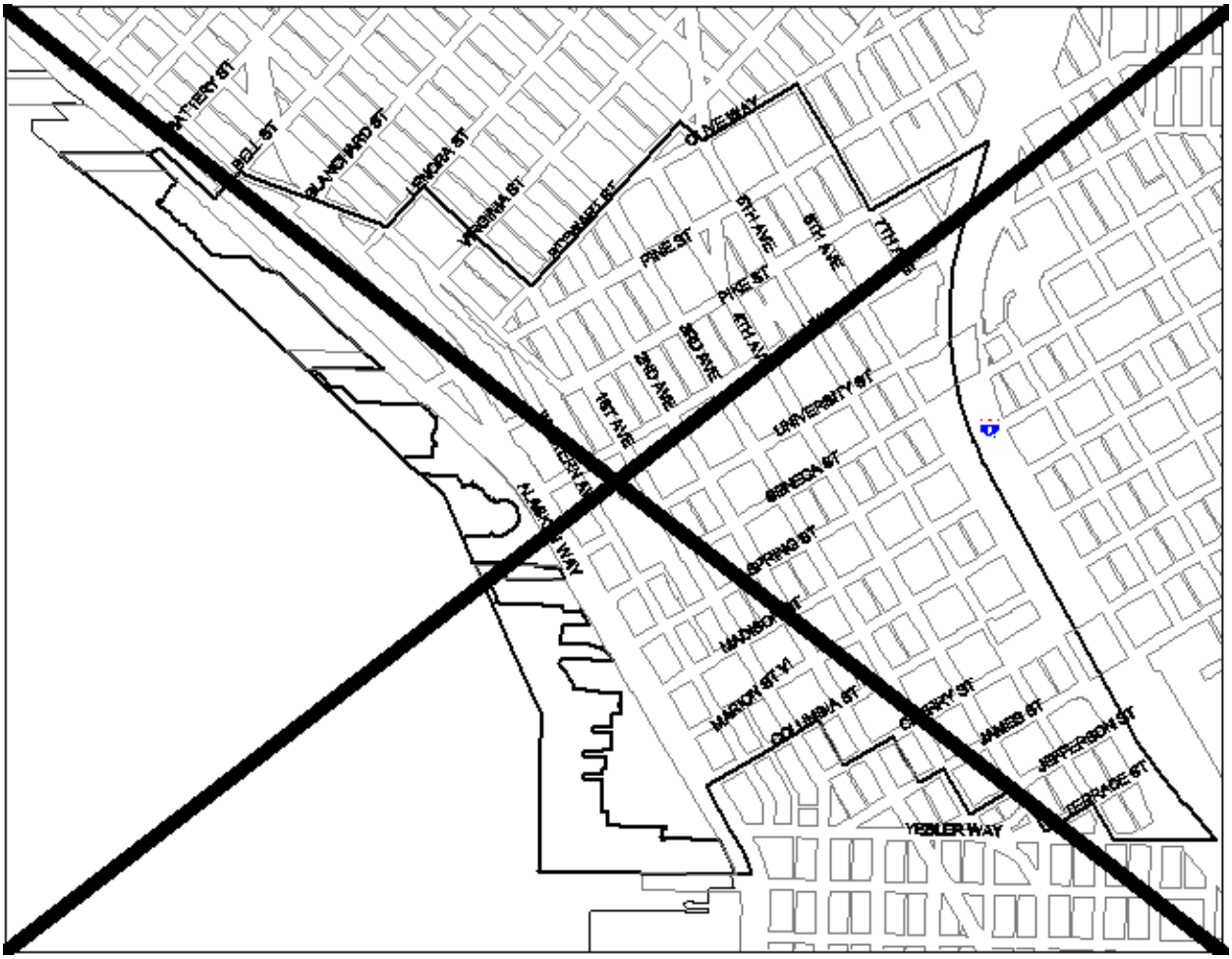
((~~Map #37: Dravus~~))



((~~Map #38: Uptown~~))



((~~Map #39: Commercial Core~~))



Section 4. Section 5.73.040 of the Seattle Municipal Code, last amended by Ordinance 124724, is amended as follows:

5.73.040 Eligibility

A. To be eligible for exemption from property taxation, in addition to other requirements set forth in this Chapter 5.73, the Multifamily Housing, for either rental or homeownership occupancy, must be in compliance with the applicable requirements below for the entire exemption period:

1. The Multifamily Housing must be located in a Residential Targeted Area.

2. The Multifamily Housing must be part of a residential or mixed-use project (combining residential and non-residential).

3. The Multifamily Housing must provide for a minimum of ((~~fifty~~)) 50 percent ((~~(50%)~~)) of the space in each building for Permanent Residential Occupancy.

4. For new construction, a minimum of four ((~~(4)~~)) new Dwelling Units or four housing units in a Congregate Residence must be created; for rehabilitation or conversion of existing occupied structures, a minimum of four ((~~(4)~~)) additional Dwelling Units, or a minimum of four housing units in a Congregate Residence, must be added.

5. For rehabilitation or conversion of existing vacant buildings, the residential portion of the buildings shall have been vacant for at least ((~~twelve (~~))12((~~)~~)) months before application for tax exemption, the buildings must fail to comply with one or more standards of the applicable building and construction code contained or incorporated in ((~~SMC Chapter~~)) Title 22 and upon completion of rehabilitation or conversion the building must achieve a condition of Substantial Compliance.

6. For rehabilitation or conversion of existing occupied buildings, there shall be no "displacement" of existing residential tenants, as such term is defined in ((~~S~~))subsection 22.210.030.E((~~(E)~~));

7. For new construction, if at any time during the 18 months prior to the date of submission of an application for exemption under this ((~~c~~))Chapter 5.73, a building containing four or more Dwelling Units exists on the site and any of such units is occupied by a tenant or tenants receiving or eligible to receive a tenant relocation assistance payment under Chapter 22.210, and such building has been or will be demolished, then the Owner shall agree, on terms and conditions satisfactory to the Director, to replace all units that were occupied by a tenant or tenants receiving or eligible to receive a tenant relocation assistance payment under Chapter 22.210, subject to the following requirements:

a. For the duration of the tax exemption, the replacement units shall be affordable at or below 50 percent of median income as adjusted for household size according to the method used by HUD for income limits in subsidized housing and according to HUD rules for the HOME program for presumed family size based on the number of bedrooms in a unit.

b. Replacement may be accomplished either as part of the new construction for which application for exemption is made under this ((~~c~~))Chapter 5.73, or through the new construction of additional multifamily housing at another location, or through the substantial rehabilitation of vacant multifamily housing, or through the preservation of multifamily housing that is rented at the time of application to tenants with ((~~H~~))household ((~~A~~))annual ((~~I~~))income at or below ((~~fifty~~))50 percent ((~~(50%)~~)) of Median Income as adjusted for household size according to the method used by HUD for income limits in subsidized housing and according to HUD rules for the HOME program for presumed family size based on

the number of bedrooms in a unit, and that the Director determines would otherwise be converted to a use other than rental to tenants with such income.

c. The replacement housing shall be completed, and a temporary or permanent certificate of occupancy shall be issued, within three ((~~(3)~~)) years from the date of approval of the application as described in ((~~Subsection~~)) Section 5.73.060, provided that the Director may extend the time for completion if the Director finds that:

((~~i~~)) 1). The failure to complete the replacement housing is due to circumstances beyond the Owner's control;

((~~ii~~)) 2). The Owner has been acting and may reasonably be expected to continue to act in good faith and with due diligence; and

((~~iii~~)) 3). The replacement housing will be completed within a reasonable time.

d. Where the existing rental housing building was demolished before the effective date of this Chapter 5.73, the requirements of this subsection 5.73.040.A do not apply.

8. The Owner shall obtain a certificate of approval, permit, or other approval under ((~~SMC~~)) Chapter 25.12, Landmarks Preservation Ordinance, ((~~SMC~~)) Chapter 23.66, Special Review Districts, or those provisions of ((~~SMC~~)) Chapter 25.16, ((~~SMC~~)) Chapter 25.20, ((~~SMC~~)) Chapter 25.22, ((~~SMC~~)) Chapter 25.24, or ((~~SMC~~)) Chapter 25.28, relating to Landmark or Historical Districts, if such certificate of approval, permit, or other approval is required under those chapters.

9. The Multifamily Housing must comply with all applicable zoning requirements, land use regulations, and building and housing code requirements contained or incorporated in ((~~SMC Chapters~~)) Titles 22, 23, and 25.

10. For the duration of the exemption granted under this ((~~chapter~~)) Chapter 5.73, the Multifamily Housing and the property on which it is located shall have no violations of applicable zoning requirements, land use regulations, and building and housing code requirements contained or incorporated in ((~~SMC Chapters~~)) Titles 22, 23, and 25 for which DPD has issued a notice of violation that is not resolved by a certificate of compliance, certificate of release, or withdrawal within the time period for compliance provided in such notice of violation and any extension of the time period for compliance granted by the Director of DPD.

11. The Multifamily Housing must be scheduled to be completed within three ((~~(3)~~)) years from the date of approval of the application.

B. In addition to the requirements in subsection 5.73.040.A ((~~above~~)), rental projects must comply with the following affordability requirements from the date of application for the Final Certificate of Tax Exemption ("Final Certificate") for the duration of the exemption period:

1. ((~~A minimum of 25 percent of any small efficiency dwelling units in the project shall be Affordable Units rented to tenants whose Household Annual Income is at or below 40 percent of Median Income. A~~)) In projects containing a minimum of four Dwelling Units with two or more bedrooms, a minimum of 20 percent of all ((~~other~~)) units in the Project shall be Affordable Units rented to tenants whose ((~~Household Annual Income~~)) household annual income is at or below 40 percent of Median Income for housing units in Congregate Residences or small efficiency Dwelling Units, at or below 65 percent of Median Income for studio units, at or below 75 percent of Median Income for ((~~one bedroom~~)) one-bedroom units, ((~~and~~)) at or below 85 percent of Median Income for ((~~two bedroom~~)) two-bedroom units, and at or below 90 percent of Median Income for three-bedroom and larger units.

2. In projects containing fewer than four Dwelling Units with two or more bedrooms, a minimum of 25 percent of all units shall be Affordable Units rented to tenants whose House Annual Income is at or below 40 percent of Median Income for housing units in Congregate Residences or small efficiency dwelling units, at or below 65 percent of Median Income for studio units, at or below 75 percent of Median Income for one-bedroom units, at or below 85 percent of Median Income for two-bedroom units, and at or below 90 percent of Median Income for three-bedroom and larger units.

((~~2~~))3. If, in calculating the total number of Affordable Units, the number contains a fraction, then the number of Affordable Units shall be rounded up to the next whole number.

((~~3~~))4. The mix and configuration of Affordable Units (e.g., housing units in Congregate Residences, small efficiency dwelling units, studios, one-bedrooms, two-bedrooms, three-bedrooms, etc.) shall be substantially proportional to the mix and configuration of the total housing units in the Project; provided that all units ((~~of two~~)) with three or more bedrooms may be combined into a single category for the purpose of compliance with this provision. When the Project contains more than one building, all of the Affordable Units required by this subsection 5.73.040.B may not be located in the same building.

C. In addition to the requirements in ((~~Subsection~~)) subsection 5.73.040.A ((~~above~~)), units eligible for tax exemption in owner-occupied Multifamily Housing must comply with the following:

1. Units must be sold at a sales price as established by the Director and adjusted periodically to buyers with Household Annual Income at the time of purchase at or below ((~~one hundred~~)) 100 percent ((~~(100%)~~)) of Median Income for studio and one-bedroom units, and at or

below ((~~one hundred twenty~~)) 120 percent ((~~(120%)~~)) of Median Income for two-bedroom or larger units.

2. The contract with the City required under Section 5.73.060 of this ((~~c~~))Chapter 5.73 shall identify those units that are designated to meet the affordability requirements of this subsection 5.73.040.C.

D. Upfront tenant fees

1. The Director is authorized to limit fees charged to Income Eligible Occupants upon move-in or transfer in the same building, including, but not limited to, property administrative fees, transfer fees, last month's rent, and security deposits. Any limitations placed on fees shall not include criminal background or credit checks, which may be charged to the Income Eligible Occupant at cost.

2. Owners shall not authorize a fee to be charged to Income Eligible Occupants for income verification or program administration of the Multifamily Tax Exemption Program.

Section 5. Section 5.73.050 of the Seattle Municipal Code, last amended by Ordinance 123550, is amended as follows:

5.73.050 Application procedure – Fee

A. The Owner of Multifamily Housing applying for exemption under this ((~~c~~))Chapter 5.73 shall submit an application to the Director, on a form provided by the Office of Housing. The Owner shall verify the application by oath or affirmation. The application shall contain such information as the Director may deem necessary or useful, and shall include:

1. A brief written description of the units, and ((~~preliminary~~)) schematic site plans, ((~~and~~)) floor plans, and unit layouts of the Multifamily Housing units and the structure(s)

in which they are proposed to be located; every unit layout must include detailed information that adequately demonstrates the number of Bedrooms, consistent with subsection 5.73.020;

2. A statement from the Owner acknowledging the potential tax liability when the Multifamily Housing ceases to be eligible for exemption under this ((~~c~~))Chapter 5.73;

3. Information describing how the Owner will comply with the affordability requirements in subsections 5.73.040.B and 5.73.040.C ((~~of this chapter~~));

4. In the case of rehabilitation or conversion of an existing vacant building, verification from DPD of non-compliance with applicable building and housing codes as required under ((~~S~~))subsection 5.73.040.A.4, and an affidavit from the owner verifying that the residential portion of the building has been vacant for a period of 24 months prior to filing the application;

5. A housing market study that includes comparable rents or sales prices in other nearby housing projects; and

6. A recent title report confirming the legal description and ownership of the property where the Multifamily Housing is or will be located; evidence satisfactory to the Director concerning the type of Owner entity or entities and organizational structure; a sample signature block for the Owner(s); and evidence satisfactory to the Director of authority of the person or persons signing the application.

B. At the time of application under this Section 5.73.050, the Owner shall pay to the City an initial application fee of ((~~$3,000.00~~)) $10,000 if ((~~the project contains only residential uses for which a tax exemption is sought under this chapter~~)) fewer than 75 percent of the total units in a project for which a tax exemption is sought under this Chapter 5.73 are Affordable Units, or ((~~$3,400.00 if the project contains any non-residential use~~)) $4,500 if at least 75 percent of the

total units in a project for which a tax exemption is sought under this Chapter 5.73 are Affordable Units. The Director shall have authority to increase the application fee by up to five percent each calendar year ((~~following adoption of this Ordinance,~~)) unless revised by ((~~Ordinance~~)) ordinance.

C. The Director shall notify the Owner within 28 days of the application being filed if the Director determines that an application is not complete and shall identify what additional information is required before the application will be complete. Within 28 days of receiving additional information, the Director shall notify the Owner in writing if the Director determines that the application is still not complete, and what additional information is necessary. An application shall be deemed to be complete if the Director does not notify the Owner in writing by the deadlines in this ((~~s~~))Section 5.73.050 that the application is incomplete; however, a determination of completeness does not preclude the Director from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this ((~~e~~))Chapter 5.73.

D. The deadline for application shall be any time before, but no later than, the date the first building permit under ((~~Chapter~~)) Title 22 is issued.

Section 6. Section 5.73.060 of the Seattle Municipal Code, last amended by Ordinance 123550, is amended as follows:

5.73.060 Application review – Issuance of conditional certificate – Denial – Appeal – Recording of contract

A. The Director shall approve or deny an application under this ((~~e~~))Chapter 5.73 within 90 days after a complete application is submitted to the Director.

B. If the application is approved, the Owner shall enter into a contract with the City containing the terms and conditions and eligibility for exemption under this ((~~c~~))Chapter 5.73.

C. The Director is authorized to cause to be recorded, or ((~~to~~)) require the Owner to record, in the real property records of the King County ((~~Department of Records and Elections~~)) Recorder's Office, the contract or such other document(s) as will identify such terms and conditions of eligibility for exemption under this ((~~c~~))Chapter 5.73 as the Director deems appropriate for recording, including the affordability requirements under this ((~~c~~))Chapter 5.73.

D. Following execution of the contract by the Owner and the City, the Director shall issue a Conditional Certificate of Acceptance of Tax Exemption ("Conditional Certificate"). The Conditional Certificate shall expire three years from the date of approval unless an extension is granted as provided in this ((~~c~~))Chapter 5.73.

E. If the application is denied, the Director shall state in writing the reasons for the denial and send notice of denial to the Owner's last known address within ten days of the denial.

F. An Owner may appeal the Director's denial of the application by filing an appeal to the City Council with the City Clerk within 30 days of receipt of the denial. The appeal before the City Council will be based on the record before the Director, and the Director's decision will be upheld unless the Owner can show that there is no substantial evidence in the record to support the Director's decision. The City Council's decision on appeal is final.

Section 7. Section 5.73.070 of the Seattle Municipal Code, last amended by Ordinance 122730, is amended as follows:

5.73.070 Extension of Conditional Certificate((~~.~~))

The Conditional Certificate of Tax Exemption may be extended by the Director for a period not to exceed ((~~twenty-four (~~))24((~~)~~)) consecutive months. The Owner shall submit to the Director a

written request stating the grounds for the extension together with a fee of $200((~~.00~~)) for the City's administrative cost to process the request. The Director may grant an extension if the Director determines that:

A. The anticipated failure to complete new construction or Rehabilitation Improvements within the required time period is due to circumstances beyond the control of the Owner; and

B. The Owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and

C. All the conditions of the original contract between the Owner and the City will be satisfied upon completion of the Project.

Section 8. Section 5.73.080 of the Seattle Municipal Code, last amended by Ordinance 123550, is amended as follows:

5.73.080 Final Certificate – Application – Issuance – Denial and appeal

A. Upon completion of the rehabilitation improvements or new construction as provided in the contract between the Owner and the City, and upon issuance of a temporary certificate of occupancy, or a permanent certificate of occupancy if no temporary certificate is issued, the Owner may request a Final Certificate. The Owner shall file with the Director such information as the Director may deem necessary or useful to evaluate eligibility for the Final Certificate, and shall include:

1. A statement of expenditures made with respect to each housing unit and the total expenditures made with respect to the entire multifamily housing project;

2. A description of the completed work and a statement of qualification for the exemption;

3. A brief written description of the units, and schematic site plans, floor plans, and unit layouts of the Multifamily Housing units and the structure(s) in which they are proposed to be located; every unit layout must include detailed information that adequately demonstrates the number of Bedrooms, consistent with the definition included in Section 5.73.020;

((~~3~~))4. A statement that the work was completed within the required three-year period or any approved extension; and

((~~4~~))5. Information on the Owner's compliance with the affordability requirements in subsections 5.73.040.B and 5.73.040.C.

B. At the time of application for Final Certificate under this ((~~s~~))Section 5.73.080, the applicant shall pay ((~~to the City~~)) a fee ((~~of $150.00~~)) as determined by the Assessor to cover the Assessor's administrative costs. If the Director approves the application, the City will forward the fee for the Assessor's administrative costs to the Assessor. If the Director denies the application, the City will refund the fee for the Assessor's administrative costs to the applicant.

C. Within 30 days of receipt of all materials required for a Final Certificate, the Director shall determine whether the completed multifamily housing is consistent with the contract between the City and owner, and whether it satisfies the requirements of and is qualified for exemption under this ((~~c~~))Chapter 5.73.

D. If the Director determines that the multifamily housing has been completed in accordance with the contract between the applicant and the City and the requirements of this ((~~c~~))Chapter 5.73, the City shall file a Final Certificate of Tax Exemption with the Assessor within ((~~10~~)) ten days of the expiration of the ((~~thirty~~))30-day period provided under subsection 5.73.080.C ((~~of this section~~)).

E. The Director shall notify the applicant in writing that the City will not file a Final Certificate if the Director determines that the multifamily housing was not completed within the required three-year period or any approved extension, or was not completed in accordance with the contract between the applicant and the City and the requirements of this ((~~c~~))Chapter 5.73.

F. The applicant may file an appeal of the Director's decision that a Final Certificate will not be issued to the King County Superior Court within ((~~thirty (~~))30((~~)~~)) days of receiving notice of that decision.

G. Within two weeks of lease-up of all Affordable Units and no later than January 31 of the first year of tax exemption, the Owner shall file a compliance certification with the Director substantially similar in format and content to the annual property certification described in subsection 5.73.100.A.

Section 9. Section 5.73.090 of the Seattle Municipal Code, last amended by Ordinance 123550, is amended as follows:

5.73.090 Exemption – Duration – Limits

A. The value of Multifamily Housing qualifying under this ((~~c~~))Chapter 5.73 will be exempt from ad valorem property taxation as provided in RCW 84.14.020(1) as follows:

1. For eligible rental Multifamily Housing as provided in Section 5.73.040, for 12 successive years beginning January 1((~~st~~)) of the year immediately following the calendar year of issuance of the Final Certificate; or

2. For eligible units in owner-occupied Multifamily Housing as provided in Section 5.73.040, for eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the Final Certificate; or if at least 20 percent of all units in the owner-occupied Multifamily Housing are eligible units, for 12 successive years

beginning January 1((~~st~~)) of the year immediately following the calendar year of issuance of the Final Certificate.

B. The exemption does not apply to the value of land or to the value of improvements not qualifying under this ((~~c~~))Chapter 5.73, nor does the exemption apply to increases in assessed valuation of land and non-qualifying improvements, or to increases made by lawful order of the King County Board of Equalization, the Washington State Department of Revenue, State Board of Tax Appeals, or King County, to a class of property throughout the county or a specific area of the county to achieve uniformity of assessment or appraisal as required by law.

Section 10. Section 5.73.100 of the Seattle Municipal Code, last amended by Ordinance 122730, is amended as follows:

5.73.100 Annual property certification((~~.~~))

A. ((~~Within thirty (30) days after the first anniversary of the date the City filed the Final Certificate of Tax Exemption and each year thereafter for the tax exemption period~~)) At such times as may be authorized by the Director, but no less than annually for the duration of the Compliance Period, the Owner shall file a certification with the Director, verified upon oath or affirmation, which shall contain such information as the Director may deem necessary or useful, and shall include the following information:

1. A statement of occupancy and vacancy of the Multifamily Housing units during the previous year;

2. A certification that the Multifamily Housing has not changed use since the date of filing of the Final Certificate of Tax Exemption, and continues to be in compliance with the contract with the City and the requirements of this ((~~c~~))Chapter 5.73;

3. A description of any improvements or changes to the Multifamily Housing made after the filing of the Final Certificate of Tax Exemption or last declaration, as applicable;

4. Information demonstrating compliance with the affordability requirements of ((~~S~~))subsections 5.73.040.B and 5.73.040.C; and

5. The income of each renter household at the time of ((~~initial occupancy~~)) the most recent income verification during the reporting period and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption, if available.

B. Failure to submit the annual declaration may result in cancellation of the tax exemption.

Section 11. A new Section 5.73.105 is added to the Seattle Municipal Code as follows:

5.73.105 Annual income certification

A. For renter-occupied Affordable Units, the Owner shall obtain from each tenant, no less than annually, a certification of Family size and Annual Income in form acceptable to the City. For owner-occupied Affordable Units, the Owner must obtain a certification of Family size and Annual Income at initial purchase. The Owner shall examine the income of each tenant Family in accordance with 24 C.F.R 5.609, with guidance from the HUD Occupancy Handbook, 4350.3 Chapter 5. The Owner also shall examine the income and Family size of any tenant Family at any time when there is evidence that the tenant's written statement was not complete or accurate. If so requested by the City, the Owner shall obtain such certifications and/or examine incomes and Family sizes at any other times upon reasonable advance notice from the City. The Owner shall maintain all certifications and documentation obtained under this subsection 5.73.105.A on

file for at least six years after they are obtained, and shall make them available to the City for inspection and copying promptly upon request.

B. Owners must attempt to obtain Third Party Verification whenever possible to substantiate income at each certification. The verification documents must be supplied directly to the independent source by the Owner and returned directly to the Owner from the independent source. In the event that the independent source does not respond to the Owner's faxed, mailed, or emailed request for information, the Owner may pursue oral third party verification. If written or oral third party documentation are not available, the Owner may accept original documents (pay stubs, W-2, etc.) at the discretion of the Director and must document why third party verification was not available. At the discretion of the Director, the Owner may accept tenant self-certifications from households in Affordable Units after the initial income verification and first annual recertification.

C. For renter-occupied Affordable Units, the Owner shall continue to charge Income Eligible Occupants no more than the maximum affordable rent allowable until the income of the Family in the Affordable Unit is determined upon recertification to be more than 150 percent of the income limit for the class of the Affordable Unit.

D. If, upon recertification of income, the Annual Income of a Family in one of the Affordable Units exceeds 150 percent of the income limit for the class of the Unit, the Family ceases to be an Income Eligible Occupant. The next available unit of comparable size and amenities must be designated as an Affordable Unit and leased to an Income Eligible Occupant. The initial over-income unit may then be charged a market-rate rent.

Section 12. Section 5.73.110 of the Seattle Municipal Code, enacted by Ordinance 121415, is amended as follows:

5.73.110 Cancellation of tax exemption – Appeal((~~.~~))

A. If at any time the Director determines that the multifamily housing no longer complies with the terms of the contract or with the requirements of this ((~~c~~))Chapter 5.73, or for any reason no longer qualifies for the tax exemption, the tax exemption shall be canceled and additional taxes, interest, and penalty imposed pursuant to State law.

B. If the owner intends to convert the multifamily housing to another use, the owner must notify the Director and the King County Assessor within 60 days of the change in use. Upon such change in use, the tax exemption shall be canceled and additional taxes, interest, and penalty imposed pursuant to State law.

C. Upon determining that a tax exemption shall be canceled, the Director shall notify the owner by certified mail, return receipt requested. The owner may appeal the determination by filing a notice of appeal with the Hearing Examiner within 30 days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing pursuant to Section 3.02.090 at which all affected parties may be heard and all competent evidence received. The Hearing Examiner shall affirm, modify, or reverse the decision to cancel the exemption based on the evidence received. The Hearing Examiner shall give substantial weight to the Director's decision and the burden of overcoming that weight shall be upon the appellant. An aggrieved party may appeal the Hearing Examiner's decision to the King County Superior Court as provided in RCW 34.05.510 through 34.05.598.

Section 13. Section 5.73.120 of the Seattle Municipal Code, last amended by Ordinance 123550 and that currently reads as follows, is repealed:

((~~**5.73.120 Expiration of program.**~~

~~The program established by this chapter shall expire on December 31, 2015, unless extended by the City Council by ordinance. Upon expiration, no further applications under Section 5.73.050 shall be accepted. Incomplete applications shall be returned to the Owner. Pending applications for a Conditional Certificate, extension of Conditional Certificate and Final Certificate shall be processed as provided in this chapter.~~))

Section 14. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2015, and signed by me in open session in authentication of its passage this

_____ day of _____, 2015.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2015.

_____

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2015.

_____

Monica Martinez Simmons, City Clerk

(Seal)