

CITY OF SAN ANTONIO

Zoning Commission Agenda

Cliff Morton Development and Business Services Center
1901 S. Alamo Street
Board Room

Tuesday, November 6, 2012

12:30 PM

ZONING COMMISSIONERS

Mariana Ornelas – District 1

Dan Martinez – District 2

Terry Boyd – District 3

Orlando Salazar – District 4

Vacant – District 5

Christopher Martinez – District 6

Santos Villarreal – District 7

Rick McNealy – District 9

Milton R. McFarland – District 10

Vacant – District Mayor

Billy J. Tiller – District 8

Chairman

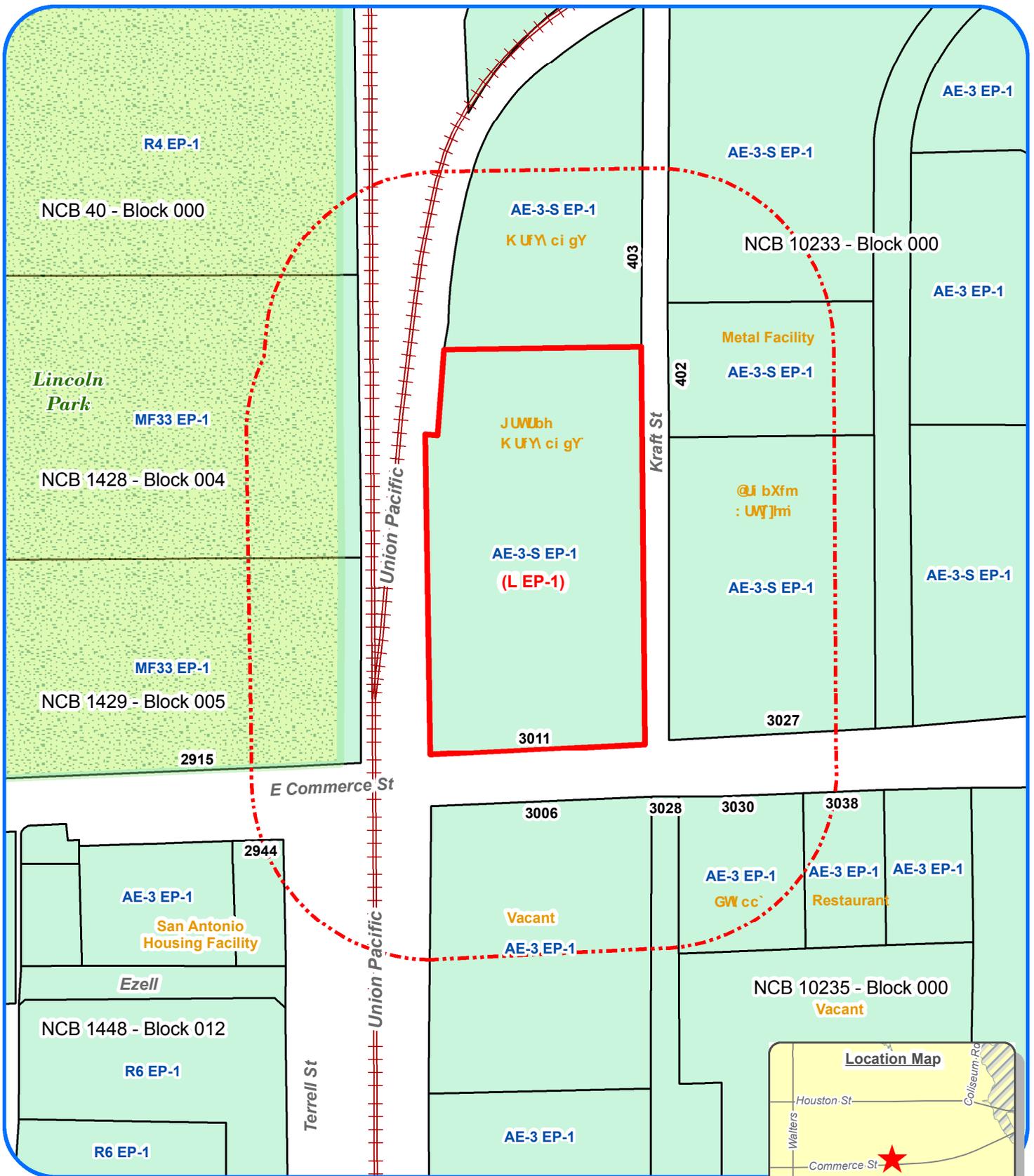
1. **12:30 PM** - Work Session – discussion of policies and administrative procedures, staff briefing on upcoming District 2 comprehensive rezoning case and UDC amendment regarding the Historic District Designation Process, and any items for consideration on the agenda for November 6, 2012.
2. **1:00 P.M.** Board Room– Call to Order.
3. Roll Call.
4. Pledge of Allegiance.
5. Approval of the October 16, 2012 Zoning Commission Minutes.
6. **ZONING CASE NUMBER Z2012158 (Council District 2):** A request for a change in zoning from “AE-3 S EP-1” Arts and Entertainment-3 Facility Parking/Traffic Control Overlay District with a Specific Use Authorization for Motor Vehicle Sales (full service) to “L EP-1” Light Industrial Facility Parking/Traffic Control Overlay District on Tract 2 and Lot 4, NCB 10233, 3011 East Commerce Street.
7. **ZONING CASE NUMBER Z2012159 (Council District 2):** A request for a change in zoning from “AE-4 EP-1” Arts and Entertainment-4 Facility Parking/Traffic Control Overlay District to “L EP-1” Light Industrial Facility Parking/Traffic Control Overlay District on Tract 7A, NCB 10234, 3363 East Commerce Street.
8. **ZONING CASE NUMBER Z2012160 (Council District 2):** A request for a change in zoning from “AE-3 S EP-1” Arts and Entertainment-3 Facility Parking/Traffic Control Overlay District with a Specific Use Authorization for Warehousing to “L EP-1” Light Industrial Facility Parking/Traffic Control Overlay District on 7.558 acres out of Lot 15, NCB 10233, 185 Coca Cola Place.
9. **ZONING CASE NUMBER Z2012198 (Council District 5):** A request for a change in zoning from “I-1 RIO-4 AHOD” General Industrial River Improvement Overlay-4 Airport Hazard Overlay District to “IDZ RIO-4 AHOD” Infill Development Zone River Improvement Overlay-4 Airport Hazard Overlay District with uses permitted in “MF-50” Multi-Family District and “C-1” Light Commercial District on 7.53 acres out of NCB A-14 on portions of the 300 and 400 Block of Blue Star and the 300 Block of Barbe Street.

10. **ZONING CASE NUMBER Z2012209 (Council District 6):** A request for a change in zoning from “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District to “MF-18 AHOD” Limited Density Multi-Family Airport Hazard Overlay District on Lot 1, Block 2, NCB 14355, 5731 McDavitt Road.
11. **ZONING CASE NUMBER Z2012211 (Council District 5):** A request for a change in zoning from “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District to “IDZ AHOD” Infill Development Zone Airport Hazard Overlay District with uses permitted in “R-6” Residential Single-Family District and a Daycare Center on Lot 4, Block A, NCB 2873, 113 Furnish.
12. **ZONING CASE NUMBER Z2012215 CD (Council District 2):** A request for a change in zoning from “R-5” Residential Single-Family District to “C-1 CD” Light Commercial District with a Conditional Use for Tire Repair - Auto and Small Truck (Sale and Installation Only, No Mechanical Service Permitted) on 1.852 acres out of Parcel 112, NCB 10832, 2710 Rigsby Avenue.
13. **ZONING CASE NUMBER Z2012149 ERZD (Council District 10):** A request for a change in zoning from “C-1 PC-1 ERZD” Light Commercial Bulverde Road Preservation Corridor Edwards Recharge Zone District and “C-1 ERZD” Light Commercial Edwards Recharge Zone District to “R-6 PC-1 ERZD” Residential Single-Family Bulverde Road Preservation Corridor Edwards Recharge Zone District and “R-6 ERZD” Residential Single-Family Edwards Recharge Zone District on 12.7 acres out of NCB 34910, NCB 34919 and NCB 34921, and 15.301 acres out of NCB 34919 and NCB 34921 on a portion of the 21000 Block of Bulverde Road.
14. **ZONING CASE NUMBER Z2012167 S ERZD (Council District 9):** A request for a change in zoning from “C-2 CD ERZD MLOD” Commercial Edwards Recharge Zone Military Lighting Overlay District with a Conditional Use for a Theater - Indoor Permitting Over 2 Screens and/or Stages to “C-2 S ERZD MLOD” Commercial Edwards Recharge Zone Military Lighting Overlay District with a Specific Use Authorization for Tire Repair - Auto and Small Truck (Sales and Installation Only, No Mechanical Service Permitted) on 0.242 of an acre out of NCB 18218 on a portion of 2560 Marshall Road.
15. **ZONING CASE NUMBER Z2012207 (Council District 1):** A request for a change in zoning from “C-3NA AHOD” General Commercial Nonalcoholic Sales Airport Hazard Overlay District to “RM-5 AHOD” Residential Mixed Airport Hazard Overlay District on Lot 17, Block 4, NCB 2047, 120 Princeton.
16. **ZONING CASE NUMBER Z2012218 HL (Council District 1):** A request for a change in zoning from “C-2 AHOD” Commercial Airport Hazard Overlay District and “C-3 AHOD” General Commercial Airport Hazard Overlay District to “HL C-2 AHOD” Historic Landmark Commercial Airport Hazard Overlay District and “HL C-3 AHOD” Historic Landmark General Commercial Airport Hazard Overlay District on Lots 20, 21, 22, 23, 24, 25, 26 and the southeast 9 feet of Lot 19, Block 52, NCB 2746, 1900-1926 Fredericksburg Road.
17. **ZONING CASE NUMBER Z2012219 CD (Council District 6):** A request for a change in zoning from “C-3NA MAOZ-1 AHOD” General Commercial Nonalcoholic Sales Military Airport Overlay Zone-1 Airport Hazard Overlay District to “C-2 CD MAOZ-1 AHOD” Commercial Military Airport Overlay Zone-1 Airport Hazard Overlay District with a Conditional Use for Storage - Outside (Under Roof and Screened) on Lots 20 and 21, Block 2, NCB 13953, 1819 Herbert Lane.
18. **ZONING CASE NUMBER Z2012220 (Council District 4):** A request for a change in zoning from “C-3 AHOD” General Commercial Airport Hazard Overlay District to “NP-15 AHOD” Neighborhood Preservation Airport Hazard Overlay District on 0.49 of an acre out of Parcel 1C, NCB 18044 on a portion of 8050 Covell.

19. **ZONING CASE NUMBER Z2012222 (Council District 7):** A request for a change in zoning from “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District and “C-2 AHOD” Commercial Airport Hazard Overlay District to “C-2 AHOD” Commercial Airport Hazard Overlay District on 0.8413 acres out of Lots 21 and 22, Block G, NCB 8394, 1518 Hillcrest Drive.
20. **ZONING CASE NUMBER Z2012224 (Council District 9):** A request for a change in zoning from “MF-33 AHOD” Multi-Family Airport Hazard Overlay District to “C-2 AHOD” Commercial Airport Hazard Overlay District on 1.377 acres out of Lot 1, Block 3, NCB 16161 on a portion of the northwest corner of Wurzbach Parkway and Blanco Road.
21. **ZONING CASE NUMBER Z2013002 (Council District 3):** A request for a change in zoning from “C-2 H RIO-6 AHOD” Commercial Mission Historic River Improvement Overlay-6 Airport Hazard Overlay District and “C-2 H MC-2 RIO-6 AHOD” Commercial Mission Historic South Presa Metropolitan Corridor River Improvement Overlay Airport Hazard Overlay District to “L H RIO-6 AHOD” Light Industrial Mission Historic River Improvement Overlay-6 Airport Hazard Overlay District and “L H MC-2 RIO-6 AHOD” Light Industrial Mission Historic South Presa Metropolitan Corridor River Improvement Overlay-6 Airport Hazard Overlay District on 8.84 acres out of Tract 5B, NCB 10931 on a portion of the 7600 Block of South Presa Street.
22. **ZONING CASE NUMBER Z2013003 (Council District 2):** A request for a change in zoning from “C-2 AHOD” Commercial Airport Hazard Overlay District and “I-1 AHOD” General Industrial Airport Hazard Overlay District to “IDZ AHOD” Infill Development Zone Airport Hazard Overlay District with uses permitted in “C-2” Commercial District, Multi-Family Dwellings not to exceed 76 units per acre, Bar/Tavern without cover charge 3 or more days per week, Nightclub without cover charge 3 or more days per week, Microbrewery, Hotel, and Studio-sound and recording on 0.209 of an acre out of Lots 1 & 2, Block 21, NCB 978; 0.482 of an acre out of Lots 7 and 8, and 0.12 of an acre out of Lot 9, Block 10, NCB 979, 500, 502 and 504 East Grayson Street and 1816, 1822 and 1900 North Alamo Street.
23. **ZONING CASE NUMBER Z2013004 (Council District 5):** A request for a change in zoning from “HS I-2 AHOD” Historic Significant Heavy Industrial Airport Hazard Overlay District to “HS MF-33 IDZ AHOD” Historic Significant Multi-Family Infill Development Zone Airport Hazard Overlay District on Lot A1, Block 102, NCB 274 on a portion of the 1000 Block of South Frio Street.
24. Consideration of proposed amendments to the Unified Development Code related to Sexually Oriented Businesses.
25. Discussion and consideration related to staff briefings on code amendments and comprehensive rezoning cases.
26. **Executive Session:** consultation on attorney-client matters (real estate, litigation, personnel and security matters) as well as any of the above agenda items may be discussed.
27. **ADJOURNMENT.**

Accessibility Statement

This meeting is wheelchair accessible. Accessible entrances are located at the front and side of the building at 1901 South Alamo Street. Accessible parking spaces are located at the front and rear of the building. **Auxiliary Aids and Services are available upon request (Interpreters for the Deaf must be requested forty-eight [48] hours prior to the meeting).** For Assistance, Call (210) 207-7245 Voice/TTY.



Zoning Case Notification Plan

Case Z-2012-158

Council District 2

Scale: 1" approx. = 150 Feet

Subject Property Legal Description(s): NCB 10233 BLK LOT TR-2 & TR-4

Legend

- Subject Properties (2.166 Acres)
- 200' Notification Area
- Current Zoning (TEXT)
- Requested Zoning Change (TEXT)
- 100-Year DFIRM Floodplain
- Single Family Residential (1R)



Development Services Dept
City of San Antonio
(07/02/2012 - R Martinez)



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission

Zoning Case #: Z2012158

Hearing Date: November 6, 2012

Property Owner: Obald U. Ahmadzal

Applicant: Obald U. Ahmadzal

Representative: P.W. Christensen, P.C. (Patrick W. Christensen)

Location: 3011 East Commerce Street

Legal Description: Tract 2 and Lot 4, NCB 10233

Total Acreage: 2.174

City Council District: 2

Case Manager: Timothy Mulry, Planner

Case History: This is the second public hearing for this zoning request. The case was continued from the August 7, 2012 meeting due to a Planning Commission continuance for the related plan amendment request. Subsequently, the applicant postponed the case and amended the rezoning request.

Proposed Zoning Change

Current Zoning: "AE-3 S EP-1" Arts and Entertainment-3 Facility Parking/Traffic Control Overlay District with a Specific Use Authorization for Motor Vehicle Sales (full service)

Requested Zoning: "L EP-1" Light Industrial Facility Parking/Traffic Control Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 13

Neighborhood Associations: Jefferson Heights Association

Planning Team Members: 22 (Arena District/Eastside Community Plan)

Applicable Agencies: None

Property Details

Property History: The subject property was annexed into the city in 1951, and was originally zoned “L” First Manufacturing District (Ordinance 15765). Upon adoption of the Unified Development Code, the previous base zoning district converted to “I-2” Heavy Industrial District. The “EP-1” Facility Parking/Traffic Control District was applied as an overlay district in 2002. In a 2008 City-initiated rezoning case, the subject property was rezoned to "AE-3 S" Arts and Entertainment District-3 with a Specific Use Authorization for Motor Vehicle Sales (full service) (Ordinance 2008-12-04-1128). The property was platted into its current configuration in 1954 (volume 3535, page 131 of the Deed and Plat Records of Bexar County, Texas), and is currently developed as an approximately 23,334 square foot warehouse that was constructed in 1959.

Topography: The subject property is relatively flat and has no physical characteristics that are likely to affect the development or uses.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: “AE-3 S” with a Specific Use Authorization for Warehousing

Current Land Uses: Warehouse

Direction: South

Current Base Zoning: “AE-3”

Current Land Uses: Vacant, school, restaurant

Direction: East

Current Base Zoning: “AE-3 S” with a Specific Use Authorization for Metal Products – Fabrication, and Laundry – Plant

Current Land Uses: Metal facility, laundry facility

Direction: West

Current Base Zoning: “MF-33”, “R-4”

Current Land Uses: Lincoln Park

Overlay and Special District Information: The Facility Parking/Traffic Control District establishes regulations for parking and traffic around large facilities that attract large amounts of vehicle traffic. The overlay district is meant to regulate parking of vehicles in areas not properly zoned for commercial parking; to reduce aesthetic and traffic problems for persons and businesses in these areas; to reduce visual blight, congestion, and wear and tear on city streets; and to increase access for emergency vehicles in these areas.

Transportation

Thoroughfare: East Commerce Street

Existing Character: Primary Arterial "Type B" Street; 2 westbound lanes and 1 eastbound lane with sidewalks

Proposed Changes: None known.

Thoroughfare: Kraft Street

Existing Character: Local Street; 1 lane in each direction with sidewalks

Proposed Changes: None known.

Public Transit: The nearest VIA bus line is the number 25, which operates along East Commerce Street.

Traffic Impact: A Traffic Impact Analysis (TIA) is not required. The traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: The zoning request refers to proposed industrial uses. Parking requirements are determined by the use and, often, size of the development; therefore staff can not calculate future parking requirements for the subject property.

Staff Analysis and Recommendation: Denial

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The subject property is located within the Arena District/Eastside Community Plan and is currently designated as Mixed Use Town Center in the future land use component of the plan. The Mixed Use Town Center designation provides for a concentrated blend of residential, retail, service, office, entertainment, leisure, and other related uses at increased densities to create a pedestrian oriented environment. The requested zoning district is inconsistent with the plan. A Master Plan Amendment has been submitted, requesting to change the future land use designation to Light Industrial. Planning Staff recommends denial of the request. Planning Commission recommends approval of the request.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request.

3. Suitability as Presently Zoned:

The current "AE-3" district is compatible with both the existing structure and the surrounding zoning. The "AE-3" district is appropriate for areas with high lot and building vacancy rates where infill development and redevelopment is desired. This district may be applied where the existing development pattern includes larger lots that are undeveloped or occupied by industrial buildings that are vacant or underutilized. Although several abutting properties are industrial in nature, the base zoning district for these properties is "AE-3".

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare due to this request.

5. Public Policy:

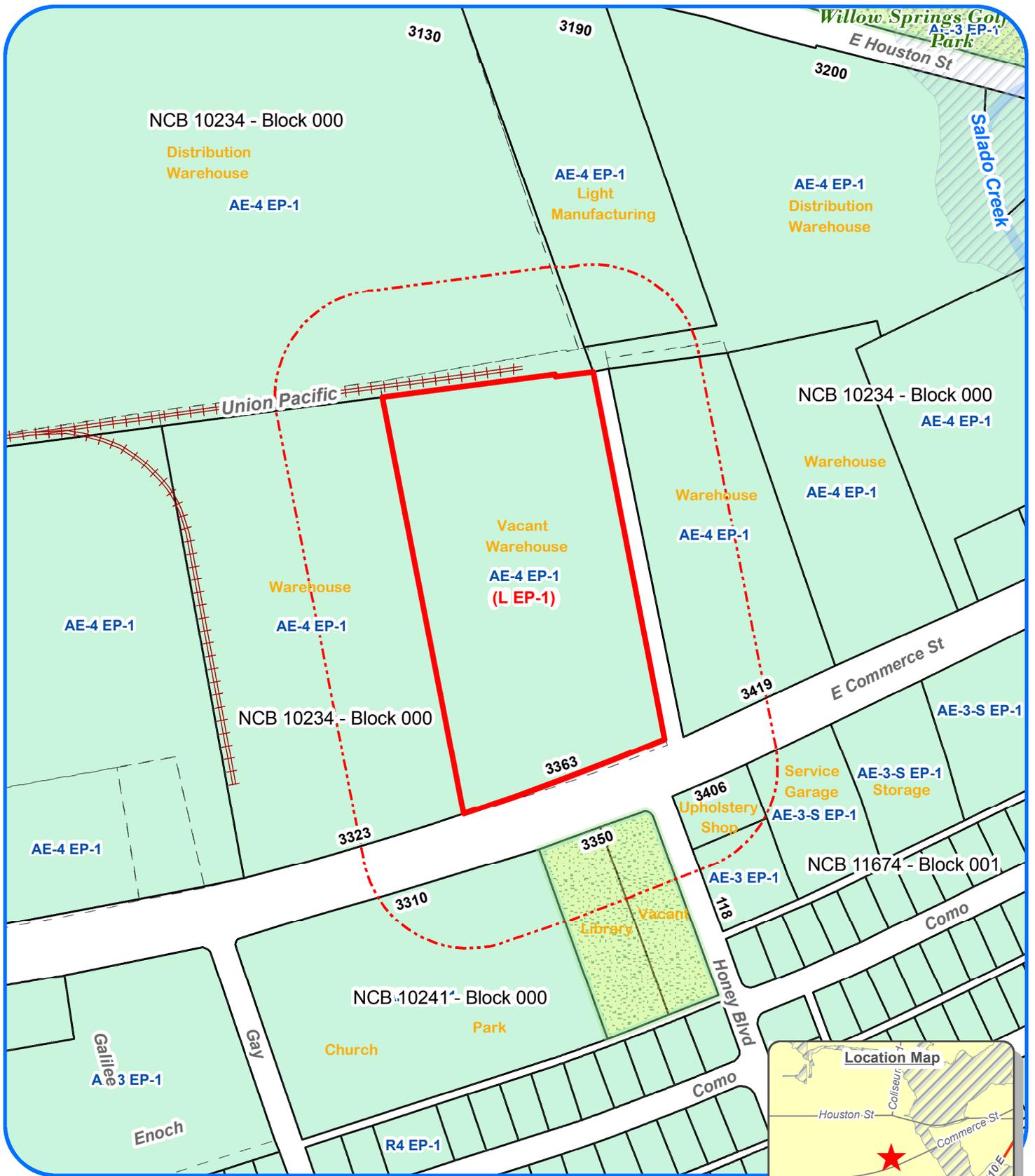
The requested zoning would allow a range of industrial uses that are inconsistent with the goals of the Arena District/Eastside Community Plan. The "AE-3" district allows a limited range of industrial uses by Specific Use Authorization as indicated in Table 358-1 of the Unified Development Code.

6. Size of Tract:

The subject property is of sufficient size (2.174 acres) to accommodate the proposed zoning request.

7. Other Factors:

None.



Zoning Case Notification Plan

Case Z-2012-159

Council District 2

Scale: 1" approx. = 250 Feet

Subject Property Legal Description(s): NCB 10234 BLK LOT TR-7A

Legend

- Subject Properties  (6.807 Acres)
- 200' Notification Area 
- Current Zoning **TEXT**
- Requested Zoning Change **(TEXT)**
- 100-Year DFIRM Floodplain 
- Single Family Residential **1R**



Development Services Dept
City of San Antonio
(07/02/2012 - R Martinez)



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission

Zoning Case #: Z2012159

Hearing Date: November 6, 2012

Property Owner: DMI Properties, Inc.

Applicant: DMI Properties, Inc. (David McGrain, President)

Representative: P.W. Christensen, P.C. (Patrick W. Christensen)

Location: 3363 East Commerce Street

Legal Description: Tract 7A, NCB 10234

Total Acreage: 6.807

City Council District: 2

Case Manager: Timothy Mulry, Planner

Case History: This is the second public hearing for this zoning request. The case was continued from the August 7, 2012 meeting due to a Planning Commission continuance for the related plan amendment request. Subsequently, the applicant postponed the case and amended the rezoning request.

Proposed Zoning Change

Current Zoning: "AE-4 EP-1" Arts and Entertainment-4 Facility Parking/Traffic Control Overlay District

Requested Zoning: "L EP-1" Light Industrial Facility Parking/Traffic Control Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 12

Neighborhood Associations: Jefferson Heights Association

Planning Team Members: 22 (Arena District/Eastside Community Plan)

Applicable Agencies: None

Property Details

Property History: The subject property was annexed into the city in 1951, and was originally zoned "L" First Manufacturing District (Ordinance 15765). Upon adoption of the Unified Development Code, the previous base zoning district converted to "I-2" Heavy Industrial District. The "EP-1" Facility Parking/Traffic Control District was applied as an overlay district in 2002. In a 2008 City-initiated rezoning case, the subject property was rezoned to "AE-4" Arts and Entertainment District-4 (Ordinance 2008-12-04-1128). The property is currently developed as an approximately 50,427 square foot warehouse that was constructed in 1964.

Topography: The subject property is relatively flat and has no physical characteristics that are likely to affect the development or uses.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: "AE-4"

Current Land Uses: Warehousing, light manufacturing

Direction: South

Current Base Zoning: "AE-3", "R-4"

Current Land Uses: Church, park, library, upholstery shop, service garage

Direction: East, West

Current Base Zoning: "AE-4"

Current Land Uses: Warehousing

Overlay and Special District Information: The Facility Parking/Traffic Control District establishes regulations for parking and traffic around large facilities that attract large amounts of vehicle traffic. The overlay district is meant to regulate parking of vehicles in areas not properly zoned for commercial parking; to reduce aesthetic and traffic problems for persons and businesses in these areas; to reduce visual blight, congestion, and wear and tear on city streets; and to increase access for emergency vehicles in these areas.

Transportation

Thoroughfare: East Commerce Street

Existing Character: Primary Arterial "Type B" Street; two lanes in each direction with sidewalks

Proposed Changes: None known.

Public Transit: The nearest VIA bus line is the number 25, which operates along East Commerce Street.

Traffic Impact: A Traffic Impact Analysis (TIA) is not required. The traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: The zoning request refers to proposed industrial uses. Parking requirements are determined by the use and, often, size of the development; therefore staff can not calculate future parking requirements for the subject property.

Staff Analysis and Recommendation: Approval

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The subject property is located within the Arena District/Eastside Community Plan and is currently designated as Light Industrial in the future land use component of the plan. The Light Industrial designation includes a mix of light manufacturing uses, office park, and limited retail and service uses that service the industrial uses. The requested zoning district is consistent with the adopted land use designation.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request.

3. Suitability as Presently Zoned:

The current "AE-4" district is compatible with both the existing structure and the surrounding zoning. The requested "L" district would allow a wider range of industrial uses than the "AE-4" district. Although several abutting properties are industrial in nature, the base zoning district for these properties is "AE-4".

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare due to this request.

5. Public Policy:

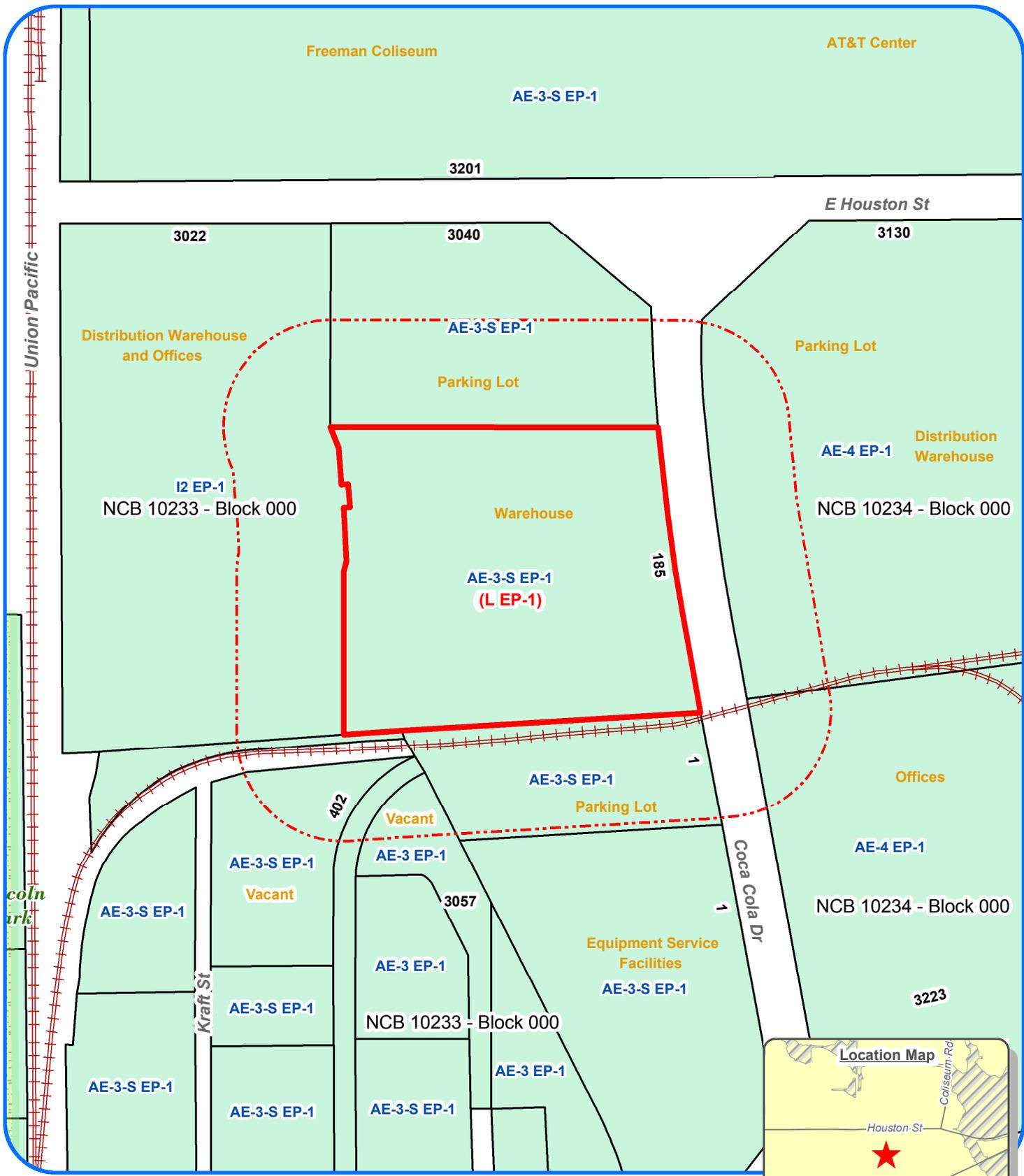
The "AE-4" district allows a limited range of industrial uses by right as indicated in Table 358-1 of the Unified Development Code. Although the requested zoning district is consistent with the future land use component of the Arena District/Eastside Community Plan, the "AE-4" district is appropriate for areas with high building and lot vacancy rates where infill development and redevelopment is desired.

6. Size of Tract:

The subject property is of sufficient size (6.807 acres) to accommodate the proposed zoning request.

7. Other Factors:

None.



Zoning Case Notification Plan

Case Z-2012-160

Council District 2

Scale: 1" approx. = 250 Feet

Subject Property Legal Description(s): NCB 10233 BLK LOT S IRR 548.07 FT OF 15

Legend

- Subject Properties (7.558 Acres)
- 200' Notification Area
- Current Zoning **TEXT**
- Requested Zoning Change **(TEXT)**
- 100-Year DFIRM Floodplain
- Single Family Residential **1R**



Development Services Dept
City of San Antonio
(07/02/2012 - R Martinez)



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission

Zoning Case #: Z2012160

Hearing Date: November 6, 2012

Property Owner: SFPI, LLC

Applicant: SFPI, LLC (Danny Dabby, President, IPMG Inc., Managing Member)

Representative: P.W. Christensen, P.C. (Patrick W. Christensen)

Location: 185 Coca Cola Place

Legal Description: 7.558 acres out of Lot 15, NCB 10233

Total Acreage: 7.558

City Council District: 2

Case Manager: Timothy Mulry, Planner

Case History: This is the second public hearing for this zoning request. The case was continued from the August 7, 2012 meeting due to a Planning Commission continuance for the related plan amendment request. Subsequently, the applicant postponed the case and amended the rezoning request.

Proposed Zoning Change

Current Zoning: "AE-3 S EP-1" Arts and Entertainment-3 Facility Parking/Traffic Control Overlay District with a Specific Use Authorization for Warehousing

Requested Zoning: "L EP-1" Light Industrial Facility Parking/Traffic Control Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 10

Neighborhood Associations: Jefferson Heights Association

Planning Team Members: 22 (Arena District/Eastside Community Plan)

Applicable Agencies: None

Property Details

Property History: The subject property was annexed into the city in 1951, and was originally zoned “L” First Manufacturing District (Ordinance 15765). Upon adoption of the Unified Development Code, the previous base zoning district converted to “I-2” Heavy Industrial District. The “EP-1” Facility Parking/Traffic Control District was applied as an overlay district in 2002. In a 2008, City-initiated rezoning case, the subject property was rezoned to “AE-3 S” Arts and Entertainment District-3 with a Specific Use Authorization for Warehousing (Ordinance 2008-12-04-1128). The property is currently developed as an approximately 105,654 square foot warehouse that was constructed in 1965.

Topography: The subject property is relatively flat and has no physical characteristics that are likely to affect the development or uses.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: “AE-3 S” with a Specific Use Authorization for Warehousing

Current Land Uses: Parking lot

Direction: South

Current Base Zoning: “AE-3”, “AE-3 S” with a Specific Use Authorization for Motor Vehicle Sales (full service)

Current Land Uses: Parking lot, equipment service facility

Direction: East

Current Base Zoning: “AE-4”

Current Land Uses: Parking lot, distribution warehouse, offices

Direction: West

Current Base Zoning: “I-2”

Current Land Uses: Distribution warehouse

Overlay and Special District Information: The Facility Parking/Traffic Control District establishes regulations for parking and traffic around large facilities that attract large amounts of vehicle traffic. The overlay district is meant to regulate parking of vehicles in areas not properly zoned for commercial parking; to reduce aesthetic and traffic problems for persons and businesses in these areas; to reduce visual blight, congestion, and wear and tear on city streets; and to increase access for emergency vehicles in these areas.

Transportation

Thoroughfare: Coca Cola Place

Existing Character: Local Collector Street; two lanes in each direction with sidewalks

Proposed Changes: None known.

Public Transit: The nearest VIA bus lines are the number 24 and 25, which operate along East Houston Street and East Commerce Street.

Traffic Impact: A Traffic Impact Analysis (TIA) is required, but can be deferred to the platting or permitting phase. A traffic engineer must be present at the Zoning Commission hearing.

Parking Information: The zoning request refers to proposed industrial uses. Parking requirements are determined by the use and, often, size of the development; therefore staff can not calculate future parking requirements for the subject property.

Staff Analysis and Recommendation: Denial

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The subject property is located within the Arena District/Eastside Community Plan and is currently designated as Mixed Use Town Center in the future land use component of the plan. The Mixed Use Town Center designation provides for a concentrated blend of residential, retail, service, office, entertainment, leisure, and other related uses at increased densities to create a pedestrian oriented environment. The requested zoning district is inconsistent with the plan. A Master Plan Amendment has been submitted, requesting to change the future land use designation to Light Industrial. Planning Staff recommends denial of the request. Planning Commission recommends approval of the request.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request.

3. Suitability as Presently Zoned:

The current "AE-3" district is compatible with both the existing structure and the surrounding zoning. The "AE-3" district is appropriate for areas with high lot and building vacancy rates where infill development and redevelopment is desired. This district may be applied where the existing development pattern includes larger lots that are undeveloped or occupied by industrial buildings that are vacant or underutilized. Although several abutting properties are industrial in nature, the base zoning districts for these properties are "AE-3" and "AE-4".

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare due to this request.

5. Public Policy:

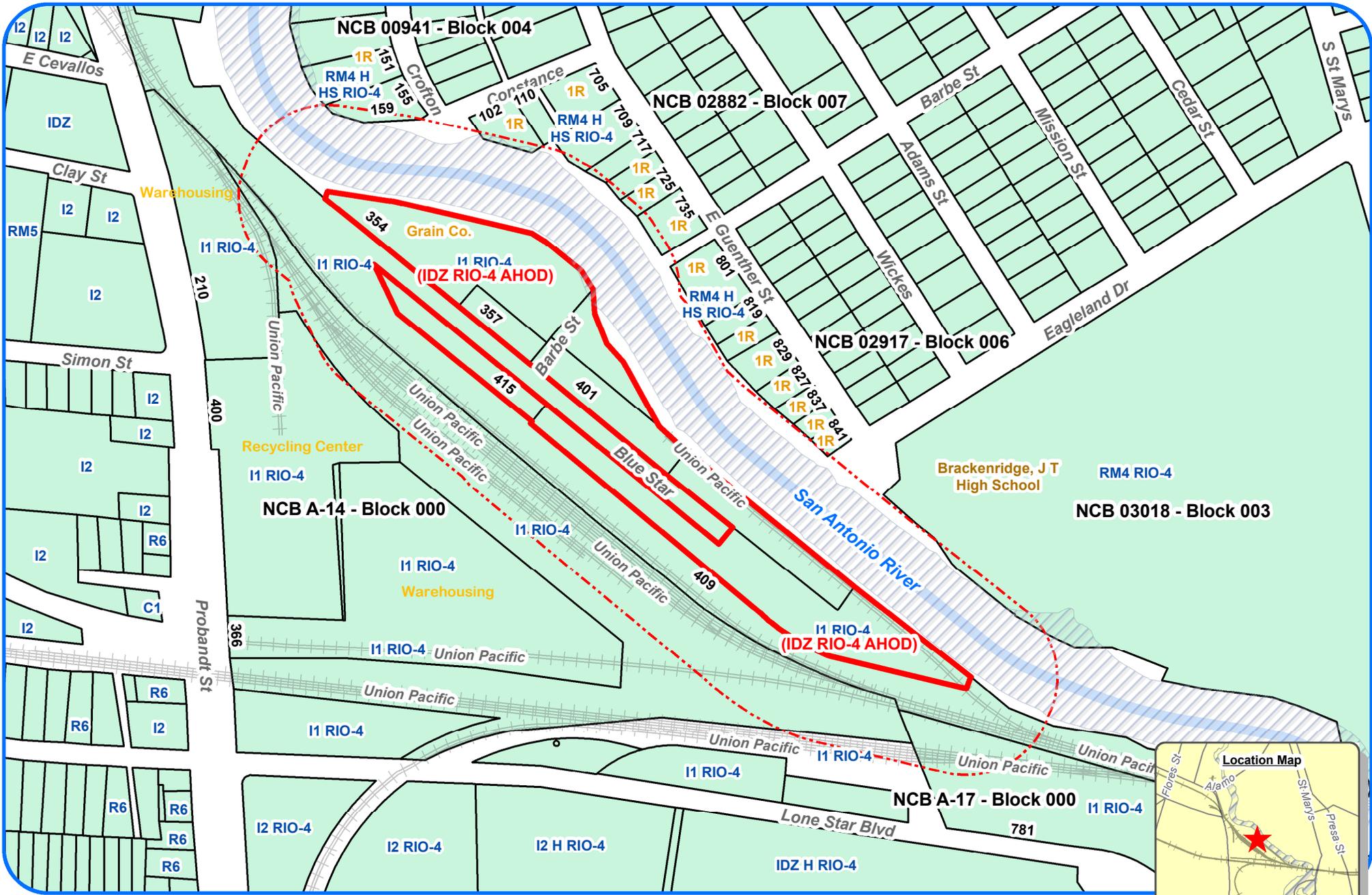
The requested zoning would allow a range of industrial uses that are inconsistent with the goals of the Arena District/Eastside Community Plan. The "AE-3" district allows a limited range of industrial uses by Specific Use Authorization as indicated in Table 358-1 of the Unified Development Code.

6. Size of Tract:

The subject property is of sufficient size (7.558 acres) to accommodate the proposed zoning request.

7. Other Factors:

None.



Zoning Case Notification Plan

Case Z-2012-198

Council District 5

Scale: 1" approx. = 300 Feet

Subject Property Legal Description(s): NCB A-14 BLK LOT VOL-11657, PG-1232, VOL-11657, PG-1236

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).

Legend

- Subject Properties ——— (7.534 Acres)
- 200' Notification Area - - - - -
- Current Zoning **TEXT**
- Requested Zoning Change **(TEXT)**
- 100-Year DFIRM Floodplain ▨▨▨▨
- Single Family Residential **1R**



Development Services Dept
City of San Antonio
(08/30/2012 - R Martinez)



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission

Zoning Case #: Z2012198

Hearing Date: November 6, 2012

Property Owner: Big Tex San Antonio, L.P.

Applicant: Debra Guerrero for the NRP Group, LLC

Representative: Shelton & Valadez, P.C. (Robert J. Perez)

Location: Portions of the 300 and 400 Block of Blue Star and the 300 Block of Barbe Street

Legal Description: 7.53 acres out of NCB A-14

Total Acreage: 7.53

City Council District: 5

Case Manager: Timothy Mulry, Planner

Case History: This is the second public hearing for this zoning case. The case was continued from the October 2nd meeting. Subsequently, the applicant postponed the case and amended the rezoning request.

Proposed Zoning Change

Current Zoning: "I-1 RIO-4 AHOD" General Industrial River Improvement Overlay-4 Airport Hazard Overlay District

Requested Zoning: "IDZ RIO-4 AHOD" Infill Development Zone River Improvement Overlay-4 Airport Hazard Overlay District with uses permitted in "MF-50" Multi-Family District and "C-1" Light Commercial District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 23

Neighborhood Associations: King William Association

Planning Team Members: Downtown Neighborhood Plan (18)

Applicable Agencies: City of San Antonio Office of Historic Preservation

Property Details

Property History: The property is located within the City Limits as they were recognized in 1938 and was originally zoned under the 1938 zoning code. In a 1991 City-initiated large-area case, the property was rezoned to "I-1" Light Industry District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to the current "I-1" General Industrial District. The property has witnessed a variety of development with construction dating as early as 1920 and as recently as 1960. The existing structures on site are currently vacant. The property is not platted.

Topography: A portion of the subject property is located within the floodplain.

Adjacent Zoning and Land Uses

Direction: North, East

Current Base Zoning: "RM-4"

Current Land Uses: Single-family residences

Direction: South, West

Current Base Zoning: "I-1"

Current Land Uses: Warehousing, recycling center, railroad

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

All surrounding properties carry the "RIO" River Overlay District, due to their proximity to the San Antonio River. The purpose of these districts is to establish regulations to protect, preserve and enhance the San Antonio River and its improvements by establishing design standards and guidelines.

A number of surrounding properties carry the "HS" Historic Significant landmark designation, signifying the historic architectural character or cultural significance of the structure or location. Historic Landmark designations do not affect the possible uses of the property, but do regulate the exterior aesthetic of the structure.

Transportation

Thoroughfare: Probandt Street

Existing Character: Secondary Arterial Type B; 2 lanes in each direction with 1 center left turn lane

Proposed Changes: None known

Thoroughfare: Lone Star Boulevard

Existing Character: Collector Street; 1 lane in each direction

Proposed Changes: None known

Public Transit: The nearest VIA bus line is the 46, which operates along Probandt Street, west of the subject property.

Traffic Impact: A Traffic Impact Analysis is not required. Infill Development Zone (IDZ) requests are exempt from the TIA requirement.

Parking Information: The zoning request refers to multi-family and commercial uses. Multi-family dwellings typically require a minimum of 1.5 spaces per unit and a maximum of 2 spaces per unit. For nonresidential uses, parking is determined by the use and often size of the development; therefore staff can not calculate typical parking requirements for the commercial component of the requested zoning. The "IDZ" Infill Development Zone District eliminates off-street vehicle parking requirements.

Staff Analysis and Recommendation: Approval, pending plan amendment

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The subject property is located within the Downtown Neighborhood Plan, and is currently designated as Low Density Residential. The requested zoning is not consistent with the future land use designation. A plan amendment has been submitted, requesting to change the future land use designation to Mixed Use. The proposed Mixed Use classification provides for a variety of residential, low-intensity retail, professional services, and office uses. Staff and the Planning Commission recommend approval of the requested plan amendment.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request.

3. Suitability as Presently Zoned:

Although the current "I-1" district is consistent with zoning in the surrounding area, the area is transitioning from industrial uses to lower-intensity redevelopment including residential/commercial mixed use projects. The requested "IDZ" district allows uses more in character with surrounding development than the existing industrial district. The property's location along the San Antonio River encourages higher intensity mixed use development similar to that experienced with the nearby Blue Star Phase I and Cevallos Lofts, as well as redevelopment plans for the Lone Star Brewery.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety or welfare.

5. Public Policy:

The request does not appear to conflict with any established public policy. The property is located within the Inner City Reinvestment Policy (ICRIP) area. The purpose of the ICRIP is to promote growth and development in the inner city, specifically in areas that are currently served by public infrastructure and transit, but underserved by residential and commercial real estate markets.

6. Size of Tract:

The property is of sufficient size (7.53 acres) to accommodate the proposed development as well as other uses permitted in the "MF-50" and "C-1" district. The "IDZ" zoning district is meant to provide flexible standards for the development and reuse of underutilized parcels.

7. Other Factors:

The subject property additionally lies within an area referred to in the Center City Strategic Framework Plan as a "growth area". The Framework Plan, as adopted in 2012, recommends an additional 7,500 residential dwelling units in the downtown area. The requested zoning could allow up to 376 housing units.



Zoning Case Notification Plan

Case Z-2012-209

Council District 6
 Scale: 1" approx. = 120 Feet
 Subject Property Legal Description(s): NCB 14355 - BLK 002 - LOT 1

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).

Legend

- Subject Properties (1.600 Acres) █
- 200' Notification Area - - - - -
- Current Zoning TEXT
- Requested Zoning Change (TEXT)
- 100-Year DFIRM Floodplain
- Single Family Residential 1R



Development Services Dept
 City of San Antonio
 (09/24/2012 - R Martinez)



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission

Zoning Case #: Z2012209

Hearing Date: November 6, 2012

Property Owner: Ruben's Auto Sales LLC

Applicant: Carlos Vela

Representative: Carlos Vela

Location: 5731 McDavitt Road

Legal Description: Lot 1, Block 2, NCB 14355

Total Acreage: 1.6

City Council District: 6

Case Manager: Timothy Mulry, Planner

Case History: This is the second public hearing for this zoning request. The case was continued from the October 16, 2012 meeting.

Proposed Zoning Change

Current Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

Requested Zoning: "MF-18 AHOD" Limited Density Multi-Family Airport Hazard Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on September 28, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 3, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 43

Neighborhood Associations: None

Planning Team Members: 36 (West/Southwest Sector Planning Team)

Applicable Agencies: Lackland Air Force Base

Property Details

Property History: The property was annexed in 1966 (Ordinance 33954). In a 1993 City-initiated case, the property was rezoned to "R-1" Single-Family Residence District (Ordinance 77475). Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to the current "R-6" Residential Single-Family District. The property was platted into its current configuration in April 2012 (Volume 6100, Page 151 of the Deed and Plat Records, Bexar County, Texas). The property is currently undeveloped.

Topography: The property is relatively flat and does not include any abnormal physical features such as slope or inclusion in a floodplain.

Adjacent Zoning and Land Uses

Direction: North, South, West

Current Base Zoning: "R-6"

Current Land Uses: Single-family residences

Direction: East

Current Base Zoning: "R-6"

Current Land Uses: Single-family residences, chapel, vacant lots

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

Transportation

Thoroughfare: McDavitt Road, Del Sol, Mayo

Existing Character: Local Streets; 1 lane in each direction with sidewalks

Proposed Changes: None known

Public Transit: The nearest VIA bus line is the 76, which operates along Old Highway 90, south of the subject property.

Traffic Impact: A Traffic Impact Analysis (TIA) is not required. The traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: Dwelling, Multi-family – Minimum Vehicle Spaces: 1.5 spaces per unit. Maximum Vehicle Spaces: 2 spaces per unit.

Staff Analysis and Recommendation: Approval

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The subject property is located within the West/Southwest Sector Plan, and is designated Suburban Tier in the future land use component of the plan. The requested zoning is consistent with the adopted land use designation.

2. Adverse Impacts on Neighboring Lands:

Staff finds no likely adverse impacts of the requested “MF-18” zoning district on neighboring properties. The applicant has indicated that the requested zoning will allow the construction of five duplexes on the subject property.

3. Suitability as Presently Zoned:

Both the existing and requested zoning districts are appropriate for the subject property and are consistent with the adopted land use designation. Although many of the surrounding properties are zoned and used for single-family residences, the large lot size and limited street frontage access of the site makes the property suitable for low density multi-family development.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety or welfare.

5. Public Policy:

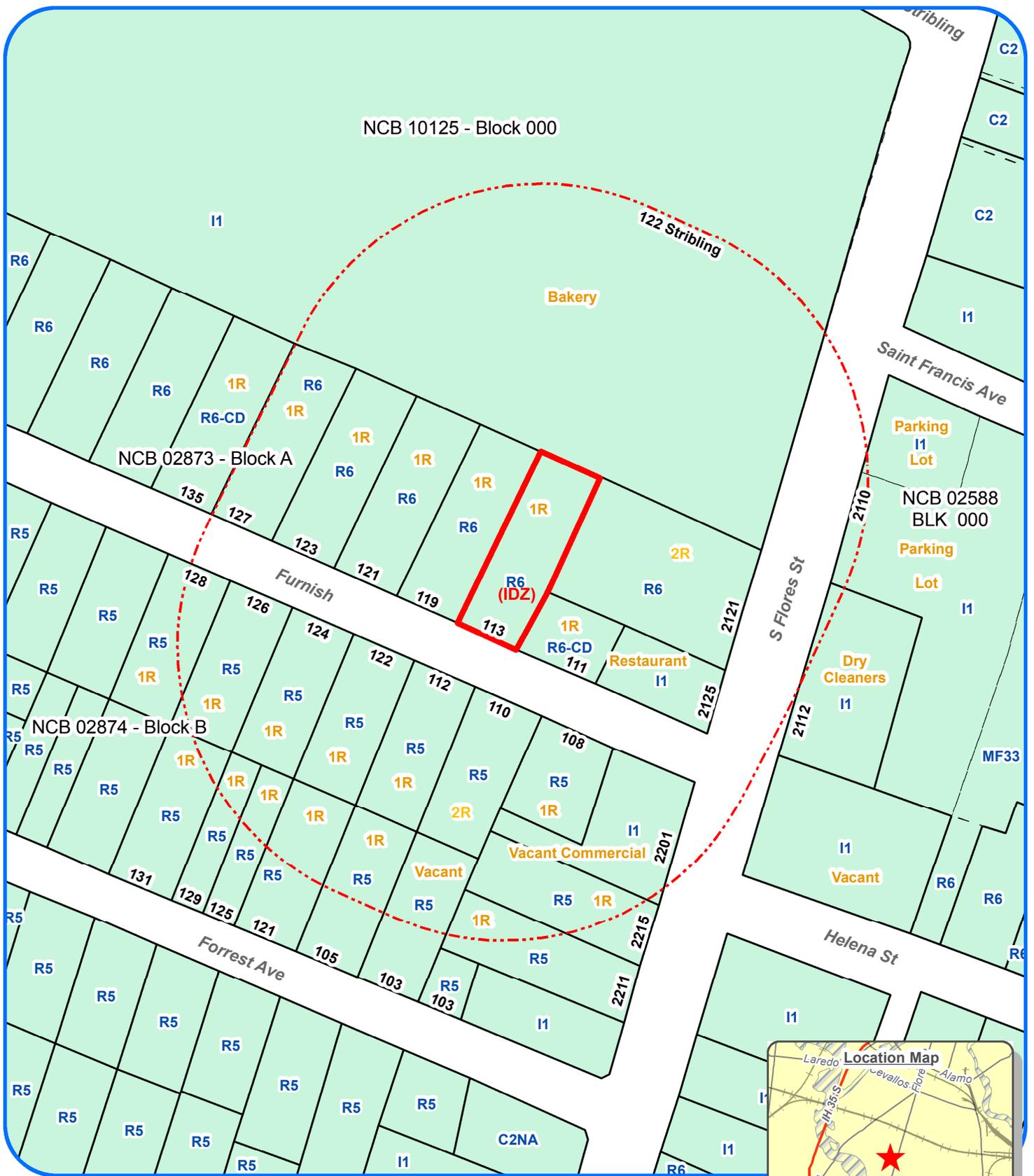
The request does not appear to conflict with any public policy objective, and creates new housing opportunities in a historically bypassed area in need of revitalization.

6. Size of Tract:

The subject property is 1.6 acres, which is of sufficient size to accommodate the uses allowed in the “MF-18” district.

7. Other Factors:

None



Zoning Case Notification Plan

Case Z-2012-211

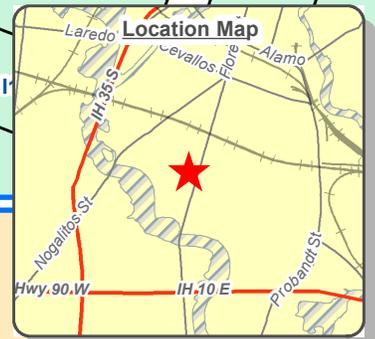
Council District 5

Scale: 1" approx. = 100 Feet

Subject Property Legal Description(s): NCB 02873 BLK A LOT 4

Legend

- Subject Properties (0.159 Acres)
- 200' Notification Area
- Current Zoning **TEXT**
- Requested Zoning Change **(TEXT)**
- 100-Year DFIRM Floodplain
- Single Family Residential **1R**



Development Services Dept
City of San Antonio
(09/28/2012 - R. Martinez)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission

Zoning Case #: Z2012211

Hearing Date: November 6, 2012

Property Owner: Lana Rocco

Applicant: Lana Rocco

Representative: Rene Rocco

Location: 113 Furnish

Legal Description: Lot 4, Block A, NCB 2873

Total Acreage: 0.1596

City Council District: 5

Case Manager: Timothy Mulry, Planner

Case History: This is the second public hearing for this zoning request. The case was continued from the October 16, 2012 meeting.

Proposed Zoning Change

Current Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

Requested Zoning: "IDZ AHOD" Infill Development Zone Airport Hazard Overlay District with uses permitted in "R-6" Residential Single-Family District and a Day Care Center

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on September 28, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 3, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 27

Neighborhood Associations: Lone Star Neighborhood Association is within 200 feet

Planning Team Members: 15 (South Central San Antonio Community Plan)

Applicable Agencies: None

Property Details

Property History: The property is located within the City Limits as they were recognized in 1938, and was originally zoned "C" Apartment District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to "MF-33" Multi-Family District. In a 2006 case, the subject property was rezoned from "MF-33" to "R-6" Residential Single-Family District. The property is currently developed with a residential structure measuring approximately 2,050 square feet that was constructed in 1901.

Topography: The property does not include any abnormal physical features such as significant slope or inclusion in a flood plain.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: "I-1"

Current Land Uses: Bakery

Direction: South

Current Base Zoning: "R-5"

Current Land Uses: Single-family residences, duplex

Direction: East

Current Base Zoning: "R-6", "R-6 CD" with a conditional use for a triplex, and "I-1"

Current Land Uses: Single-family residence, duplex, restaurant, parking lot

Direction: West

Current Base Zoning: "R-6"

Current Land Uses: Single-family residences

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

Transportation

Thoroughfare: Furnish

Existing Character: Local Street; 1 lane in each direction

Proposed Changes: None known

Thoroughfare: South Flores Street

Existing Character: Secondary Arterial Type B; 2 lanes in each direction

Proposed Changes: None known

Public Transit: The nearest VIA buslines are the number 43 line, 44 line and 243 line which operate along South Flores Street.

Traffic Impact: A Traffic Impact Analysis is not required. Infill Development Zone (IDZ) requests are exempt from the TIA requirement.

Parking Information: The "IDZ" Infill Development Zone District eliminates off-street parking requirements.

Although "IDZ" waives minimum parking requirements, the proposed use would normally be required to meet the following parking standard:

Day Care Center - Minimum Parking Requirement: 1 per 375 square feet GFA. Maximum Parking Requirement: 1.5 per 375 square feet GFA.

Staff Analysis and Recommendation: Denial

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The property is located within the South Central San Antonio Community Plan and is currently designated as “Low Density Residential” in the future land use component of the plan. The requested “IDZ” zoning is not consistent with the adopted land use designation. A plan amendment has been initiated to change the land use designation to Mixed Use. Staff and Planning Commission recommend denial of the plan amendment request.

2. Adverse Impacts on Neighboring Lands:

The South Central San Antonio Community Plan states that mixed uses are desired along South Flores Street. Staff is concerned that this rezoning request, if approved, would constitute commercial encroachment into an established residential area. The subject property is located off of South Flores and is separated from the corridor by other residential uses.

3. Suitability as Presently Zoned:

The existing single-family residential zoning is most appropriate for the subject property.

4. Health, Safety and Welfare:

Increased vehicle traffic that would likely accompany the day care use may pose a threat to the public health, safety and welfare of the neighborhood surrounding the subject property.

5. Public Policy:

The “IDZ” zoning request is inconsistent with the adopted community plan, a component of the city’s master plan.

The subject property and the proposed development meet the criteria of the Inner City Reinvestment Infill Policy (ICRIP). This policy provides development fee waivers to applicants and grant funded reimbursement for city departments, in an effort to encourage redevelopment of under-utilized urban properties.

6. Size of Tract:

The subject property measures 0.1596 of an acre and would appear to be of sufficient size to accommodate the proposed use with the flexibility offered by the “IDZ” district.

7. Other Factors:

The Unified Development Code allows small, in-home childcare facilities in residential zoning districts with a Specific Use Authorization. However, the proposed day care use does not meet all of the supplemental use regulations for day care facilities outlined in Section 35-375. In order to operate a child care facility in a residential district with a specific use authorization the property owner must occupy as their primary residence the home providing said day care services. Additionally, the state’s licensing authority limits in-home child care facilities to those caring for 12 or fewer children. The property owner proposes care for more than 12 children, does not intend to live at the site, and would like to utilize the entire dwelling for the day care use.

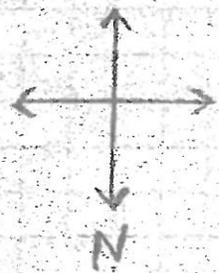
72012211

12' * 16' * 4' * 18'

Furnish Ave.

side walk

side walk



Each square equals 4 Feet

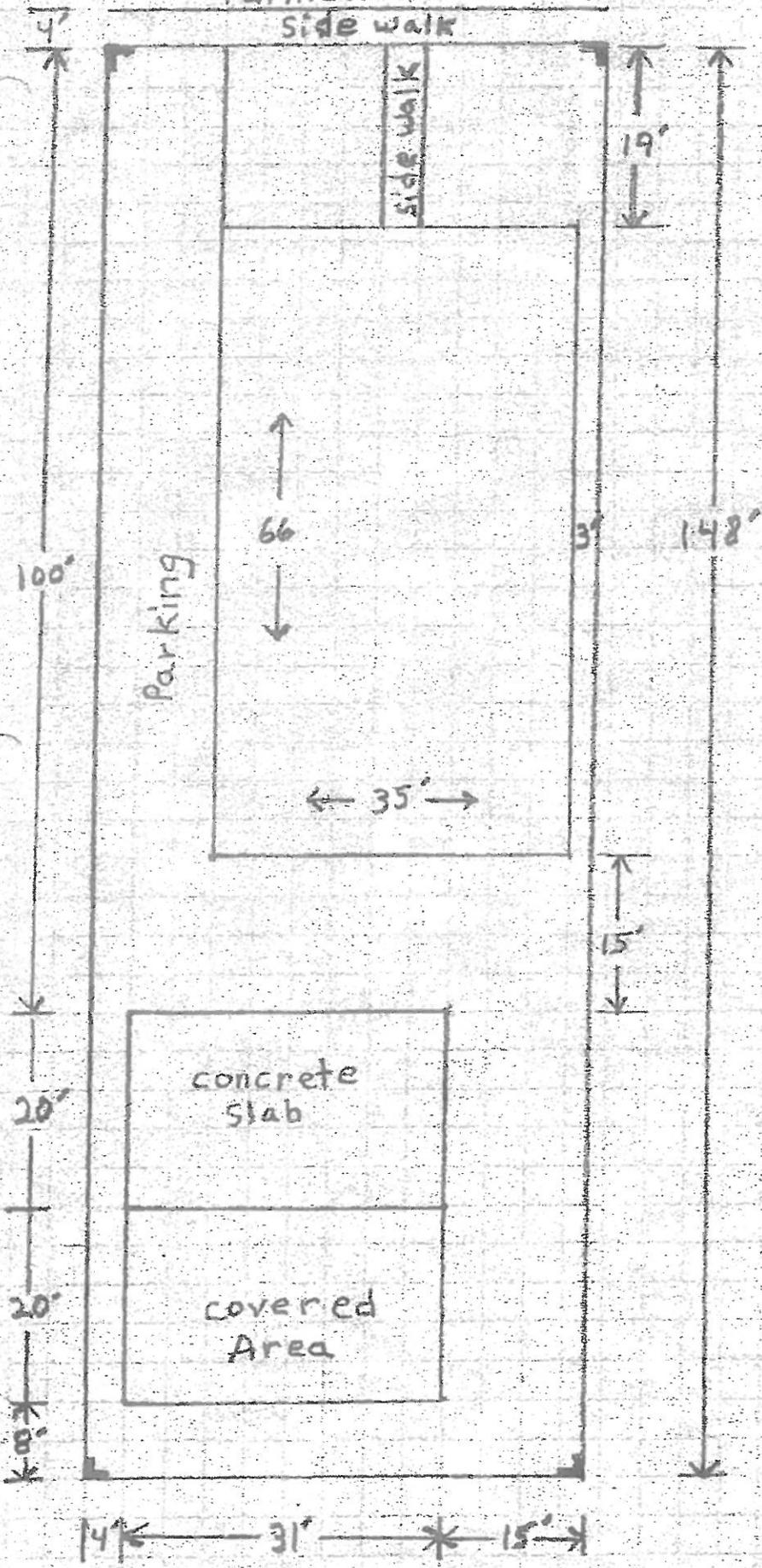


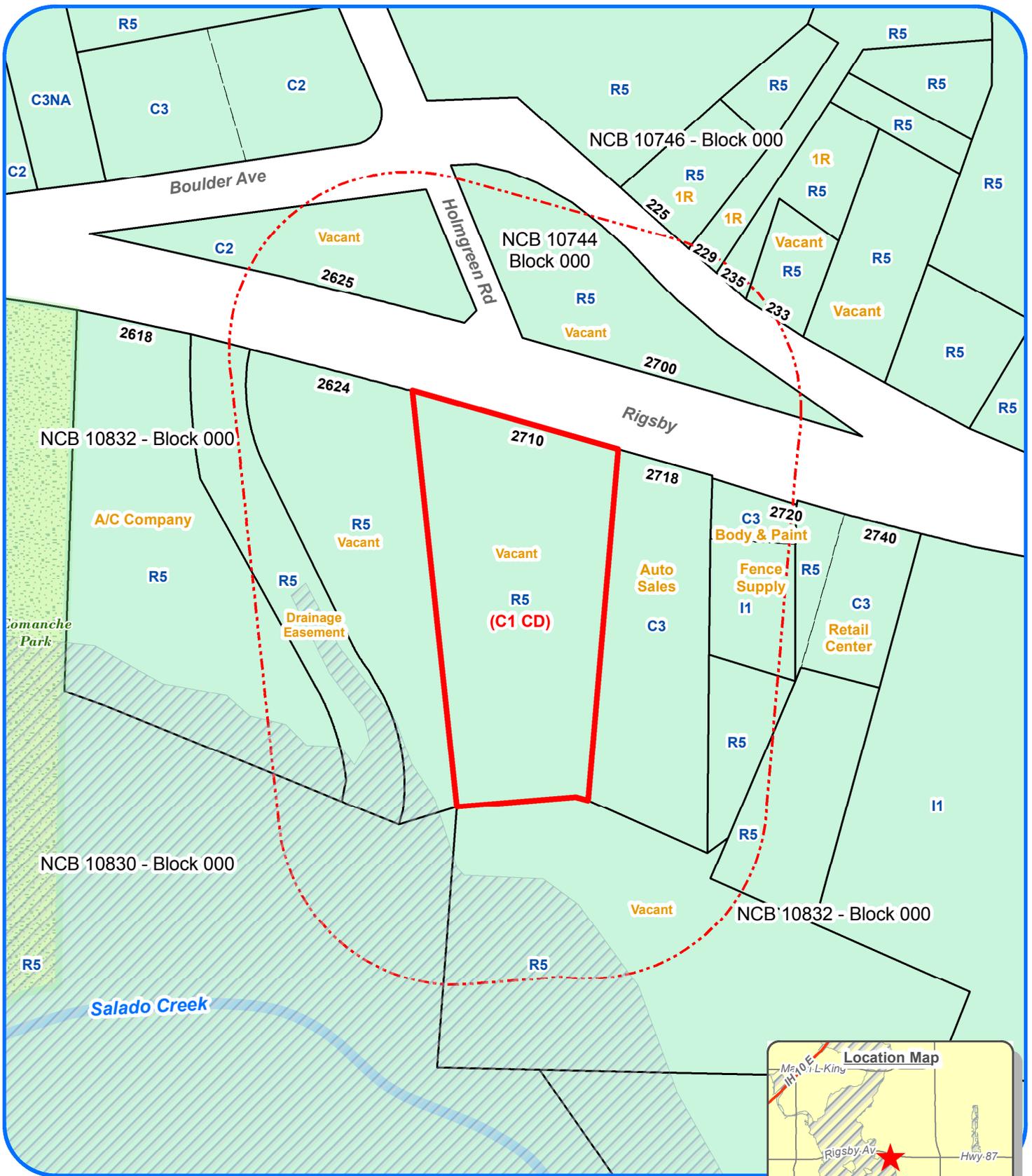
Property Details

Account:
 Property ID: 136393
 Geo. ID: 02873-001-0040
 Type: Real
 Legal Description: NCB 2873 BLKA LOT 4
 Location:
 Address: 113 FURNISH
 Neighborhood: S. DURANGO/PROBANDT
 Mapsco: 616D8
 Jurisdictions: 06, 08, 09, 10, 11, 21, 57, CAD
 Owner:
 Name: ROCCO LANA
 Address: 311 ADA ST
 SAN ANTONIO, TX
 78223-1107

Property
 Appraised Value: NA
 Map Layers
 Radius Search

Request proposed zoning IDZ AH00 with uses permitted for R6 and day care facility for whole property.





Zoning Case Notification Plan

Case Z-2012-215 CD

Council District 2

Scale: 1" approx. = 150 Feet

Subject Property Legal Description(s): NCB 10832 P 112

Legend

- Subject Properties ——— (1.852 Acres)
- 200' Notification Area - - - - -
- Current Zoning TEXT
- Requested Zoning Change TEXT
- 100-Year DFIRM Floodplain ▨▨▨▨
- Single Family Residential 1R



Development Services Dept
 City of San Antonio
 (09/28/2012 - R Martinez)



City of San Antonio Development Services Department Staff Report

To: Zoning Commission
Zoning Case #: Z2012215 CD
Hearing Date: November 6, 2012
Property Owner: Isidro G. & Maria D. Robles
Applicant: San Juana Robles Espitia
Representative: Roger R. Jimenez
Location: 2710 Rigsby Avenue
Legal Description: 1.852 acres out of Parcel 112, NCB 10832
Total Acreage: 1.852
City Council District: 2
Case Manager: Trenton Robertson, Planner
Case History: This is the second public hearing for this zoning change request. This case was continued from the October 16, 2012 Zoning Commission Public Hearing.

Proposed Zoning Change

Current Zoning: "R-5" Residential Single-Family District

Requested Zoning: "C-1 CD" Light Commercial District with a Conditional Use for Tire Repair - Auto and Small Truck (Sale and Installation Only, No Mechanical Service Permitted)

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on September 28, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 3, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on October 12, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 16

Neighborhood Associations: Comanche Community Neighborhood Association

Planning Team Members: 53- Eastern Triangle Community Plan

Applicable Agencies: None

Property Details

Property History: The subject property was annexed in 1952, and was originally zoned “Temp A” Temporary Single-Family Residence District. In a 1957 case, the property was rezoned to “A” Single-Family Residence District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to the current “R-5” Single-Family Residence District. The subject property is not platted. According to the Bexar County Appraisal District the existing commercial structure was built in 1975.

Topography: The adjacent properties located to the south and southwest of the subject property are within the floodplain.

Adjacent Zoning and Land Uses

Direction: North and south

Current Base Zoning: “C-2” and “R-5”

Current Land Uses: Vacant, single-family residences

Direction: East

Current Base Zoning: “R-5”, “C-3” and “I-1”

Current Land Uses: Vacant, auto sales, auto body and paint, fence supply store and retail center

Direction: West

Current Base Zoning: “R-5”

Current Land Uses: Vacant, drainage easement and A/C company

Overlay and Special District Information: None

Transportation

Thoroughfare: Rigsby Avenue

Existing Character: Primary Arterial Type A (120 feet); two lanes in each direction with no sidewalks.

Proposed Changes: None known

Thoroughfare: Boulder Avenue and Holmgreen Road

Existing Character: Local; one lane in each direction no sidewalks.

Proposed Changes: None known

Public Transit: VIA bus lines 30 and 230 operate along Rigsby Avenue, north of the subject property.

Traffic Impact: A Traffic Impact Analysis is not required. The traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: Tire Repair - Auto and Small Truck (Sale and Installation Only, No Mechanical Service Permitted) Minimum requirement: 1 space per 500 square feet of GFA including service bays, wash tunnels and retail areas; Maximum allowance: 1 space per 375 square feet of GFA including service bays, wash tunnels and retail areas

The “C-1” district requires parking areas be located behind the primary structure.

Staff Analysis and Recommendation: Approval

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The property is located within the Eastern Triangle Community Plan, and is currently designated as “Neighborhood Commercial” in the Future Land Use Plan. The requested “C-1” base zoning district is consistent with the Future Land Use designation.

2. Adverse Impacts on Neighboring Lands:

Staff finds that rezoning request to be appropriate for this area. The subject property is surrounded by a variety of different zoning designations, ranging from single-family residential to industrial.

3. Suitability as Presently Zoned:

Staff finds the requested base zoning district and conditional use appropriate for the subject property due to its location along an arterial thoroughfare, surrounded by other commercial uses and undeveloped land. The current “R-5” zoning district does not conform to the adopted land use plan. Residential development is not likely because of the property’s location and adjacent commercial uses.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare.

5. Public Policy:

The request does not appear to conflict with any public policy objective.

6. Size of Tract:

The subject property is 1.852 of an acre in size, which should be able to reasonably accommodate a tire repair shop and required parking as shown on the conditional use site plan. The current adopted Unified Development Code will limit the maximum building size to 5,000 square feet should the requested “C-1” be approved.

7. Other Factors:

The conditional zoning procedure is designed to provide for a land use within an area that is not permitted by the established zoning district but due to individual site considerations or unique development requirements would be compatible with adjacent land uses under given conditions. The granting of conditional zoning shall only be for the conditional use named in the ordinance approving the conditional zoning district.



City of San Antonio Development Services Department Staff Report

To: Zoning Commission
Zoning Case #: Z2012149 ERZD
Hearing Date: November 6, 2012
Property Owner: Valencia Enclave, LLC
Applicant: Valencia Enclave, LLC (Gil Berkovich, Managing Member)
Representative: Andrew C. Guerrero
Location: A portion of the 21000 Block of Bulverde Road; located on the east side of Bulverde Road, south of Menger
Legal Description: 12.7 acres out of NCB 34910, NCB 34919 and NCB 34921, and 15.301 acres out of NCB 34919 and NCB 34921
Total Acreage: 28.001
City Council District: 10
Case Manager: Trenton Robertson, Planner
Case History: This is the first public hearing for this zoning change request.

Proposed Zoning Change

Current Zoning: "C-1 PC-1 ERZD" Light Commercial Bulverde Road Preservation Corridor Edwards Recharge Zone District and "C-1 ERZD" Light Commercial Edwards Recharge Zone District

Requested Zoning: "R-6 PC-1 ERZD" Residential Single-Family Bulverde Road Preservation Corridor Edwards Recharge Zone District and "R-6 ERZD" Residential Single-Family Edwards Recharge Zone District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 20

Neighborhood Associations: Northwood Hills Improvement Club is within 200 feet.

Planning Team Members: 41- North Sector Plan

Applicable Agencies: SAWS, Camp Bullis

Property Details

Property History: The subject property was annexed in 2000, and was originally zoned “B-1” Business District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to the current “C-1” Light Commercial District. The subject property is not platted and is undeveloped.

Topography: The subject property has an abundance of trees and grasses. The property slopes from west to east and includes sensitive features identified in the attached SAWS report.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: “OCL” Outside City Limits

Current Land Uses: Single-family residences

Direction: South

Current Base Zoning: “C-2” and “R-5 PUD”

Current Land Uses: Undeveloped land and a church

Direction: West

Current Base Zoning: “R-6”

Current Land Uses: Undeveloped land

Direction: East

Current Base Zoning: “R-5”

Current Land Uses: Undeveloped land

Overlay and Special District Information: All surrounding properties carry the "ERZD" Edwards Recharge Zone District. The "ERZD" does restrict permitted uses, due to the environmentally sensitive nature of the recharge zone. Per Chapter 34 of the City of San Antonio Code of Ordinances, the San Antonio Water System (SAWS) and City of San Antonio departments share regulatory jurisdiction over development within the “ERZD”.

The “PC-1” Bulverde Road Preservation Corridor provides development standards for properties located within 300 feet of Bulverde Road between Loop 1604 and Evans Road. Preservation Corridors follow roadways having unique historical significance, natural vistas and unique scenic environments, in order to protect these assets from visual blight. The development standards primarily address building placement, landscaping, building materials and signage to promote a coordinated development scheme for the Corridor. A Certificate of Compliance review is performed by the Planning & Community Development Department

Transportation

Thoroughfare: Bulverde Road

Existing Character: Primary Arterial Type A 120'

Proposed Changes: The City of San Antonio is widening Bulverde Road from two lanes to seven lanes between Loop 1604 and Evans Road.

Public Transit: There are no public transit lines in the area.

Traffic Impact: A Traffic Impact Analysis is not required. The traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: Single-family residential uses require at least one parking space per unit; they have no maximum parking allowance.

Staff Analysis and Recommendation: Denial

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

- 1. Consistency:** The property is located within the North Sector Plan, and is currently designated as “Suburban Tier” in the Future Land Use Plan. The requested “R-6” base zoning district is consistent with the Future Land Use designation.
- 2. Adverse Impacts on Neighboring Lands:** The subject property is located over the Edwards Aquifer Recharge Zone. SAWS staff has identified a potential environmental concern associated with this proposed residential development. The concern raised by SAWS staff includes the protection of a geologically sensitive feature, known as Black Cat Cave, which is located on the west boundary of the property. This feature has been preserved at the request of the U.S. Fish and Wildlife Service and the Texas Commission on Environmental Quality (TCEQ) due to endangered species inhabiting the cave. SAWS recommends a restricted-access natural buffer surrounding the cave.
- 3. Suitability as Presently Zoned:** The existing “C-1” zoning district may be appropriate for the subject property due to the property’s location and significant frontage along Bulverde Road, a Primary Arterial Type A thoroughfare. Light commercial uses could provide a suitable transition between the major arterial thoroughfare to the west and likely residential development to the east. The Suburban Tier land use designation accommodates a wide range of residential and commercial uses; therefore, both the current and requested zoning districts are consistent with the adopted land use designation.
- 4. Health, Safety and Welfare:** Other than the issues raised in the “Adverse Impacts” section above, staff has found no likely significant affects on the health, safety and welfare of the surrounding community.
- 5. Public Policy:** The subject property is located over the Edwards Aquifer Recharge Zone. Objective No. 7 of the North Sector Plan encourages compliance with the endangered species act and preventing the reduction of karst invertebrate habitat. The subject property is located within Karst Zone 1. Furthermore, Objective No. 7 states “Any development that threatens to destroy critical habitat in Karst Zone 1 and 2 should not be approved. If such a project is approved, mitigation measures preserving habitat may be required.” Development should only be allowed within Karst Zones 1 and 2 if permitted by the United States Fish and Wildlife Service (USFWS). The applicant will be required to submit the appropriate studies to the USFWS to ensure compliance with the Endangered Species Act.
- 6. Size of Tract:** The “R-6” district allows a maximum density of 7 dwelling units per acre. The gross acreage of the subject property could allow as many 196 single-family homes; however, the applicant proposes approximately 93 dwelling units. The property is of sufficient size to accommodate a new residential subdivision along with adequate buffers for sensitive geologic features.
- 7. Other Factors:** The subject property is located within the Camp Bullis Awareness Zone/ Military Influence Area. Comments from the Military focused primarily on issues related to the Black Cat Cave and endangered species protections. The full comments are attached.

SAWS recommends denial of the zoning request. The property is currently identified as a Category 2 property, which carries impervious cover limits of 30% for single-family residential uses. However, SAWS has not received an official request for a site specific category determination, which could reclassify the property as a Category 1. The applicant proposes 38% impervious cover for the project. Should the zoning case be approved, SAWS recommends a number of conditions that are detailed in the SAWS report, attached.

Staff would support the zoning change from commercial to single-family residential if the environmental concerns mentioned by both SAWS and Camp Bullis are addressed and complied with.

SAN ANTONIO WATER SYSTEM
Interdepartment Correspondence Sheet

DEVELOPMENT SERVICES
RECEIVED

To: Zoning Commission Members

2012 AUG -7 PM 3:41

From: Kirk M. Nixon, Manager, Resource Protection Division, San Antonio Water System

Copies To: Scott R. Halty, Director, Resource Protection & Compliance Department, Patricia M. Garza, Resource Protection Specialist III, Aquifer Protection & Evaluation Section, File

Subject: Zoning Case Z2012149 (Ravello Subdivision)

Date: August 3, 2012

SUMMARY

A request for a change in zoning has been made for an approximate 28.00-acre tract located on the city's northeast side. A change in zoning from C-1, PC-1 ERZD & C-1 ERZD to R-6, PC-1 ERZD & R-6 ERZD is being requested by the applicant, Andrew C. Guerrero. The change in zoning has been requested to allow for the development of a residential subdivision containing approximately 93 single-family homes.

As of the date of this report, an official request for a site specific category determination or an official request for a "substantial alteration" determination has not been received by the Aquifer Protection & Evaluation Division. Based on the information provided, this property is a Category 2 property and shall be developed in accordance with all the provisions stated in Ordinance No. 81491 governing development on the Edwards Aquifer Recharge Zone. However, if the appropriate information is provided to the Aquifer Protection & Evaluation Section, this property may be determined to be a Category 1 property. If the property is determined to be a Category 1 property, staff recommends that the owner/operator use criteria outlined in Section 34-970 "Best Management Practices".

Based on the site evaluation of the property, and the information submitted by the applicant, SAWS staff recommends **disapproval** of the proposed impervious cover and plan as submitted. Should the city council rezone the property, that is the subject of this report, the San Antonio Water System recommends that any development on the property, after the zoning classification has been changed, should be restricted as stated in the environmental recommendations section of this report.

LOCATION

The subject property is located in City Council District 10, at the intersection of Loop 1604 and O'Connor Road. The property lies within the Edwards Aquifer Recharge Zone (Figures 1 and 2).

SITE EVALUATION

1. Development Description:

The proposed change is from C-1, PC-1 ERZD & C-1 ERZD to R-6, PC -1 ERZD & R-6 ERZD and will allow for a residential subdivision. Currently the site is undeveloped and in its natural state.

2. Surrounding Land Uses:

The subject property is bound to the north by Northwood Hills Subdivision. The eastern boundary of the subject property is a bound by a dry creekway known as East Elm Creek. Adjacent to East Elm Creek a NEISD Middle School is under construction. The western boundary of the subject property is Bulverde Road. Adjacent to the subject property, on the western boundary, there is a sensitive feature known as Black Cat Cave (Figure 2 and 3). This feature has been preserved at the request of U.S. Fish & Wildlife Service & the Texas Commission on Environmental Quality (TCEQ) due to endangered species inhabiting the cave. The preservation plans were approved under the Water Pollution Abatement Plan (WPAP) TCEQ Plan No. 2934.00. The plans were approved on Aug. 12, 2010 by TCEQ.

3. Water Pollution Abatement Plan:

As of the date of this report, a WPAP has not been submitted to the Texas Commission on Environmental Quality (TCEQ) for the subject property. A WPAP will be required to be submitted to and approved by TCEQ prior to the commencement of construction.

4. Aquifer Protection Plan:

Ordinance No. 81491 requires that all identified Category 2 and 3 properties over the Edwards Recharge Zone in Bexar County must complete and submit an Aquifer Protection Plan to SAWS prior to development of the site.

5. Geologic Conditions:

The Resource Protection Division of the San Antonio Water System conducted a site evaluation on June 22, 2012, of the referenced property to assess the geologic conditions and evaluate any environmental concerns present at the site. SAWS Environmental Geologist, Joan B. Falkenberg, P.G., was present during the site evaluation.

- A. The subject site was observed as a parcel of undeveloped land in a natural state. Previous clearing activities have occurred and some portions of the site were covered by thick soil, patchy areas of bedrock and bedrock float. Other portions were covered by tall grasses, brush and trees.
- B. The topography of the site slopes generally from west to east. Stormwater from the subject site would drain easterly offsite by way of an unnamed drainage toward Elm Waterhole Creek.
- C. Using U.S. Geological Survey Water-Resources Investigations Report 95-4030 it was determined that the subject site is underlain by the Leached and Collapsed members of the Person Formation and characterized by the presence of bioturbated iron stained beds separated by massive limestone beds. A full section thickness of this member is approximately 70 to 90 feet thick. The geologic assessment noted (4) features consisting of (1) non-karst closed depression, (1) fractured rock outcrop and (2) sensitive geologic features

bordering and adjacent to the project boundary. These features consist of a cave and solution cavity. The cave is a documented cave known as "Black Cat Cave" which goes under Bulverde Road and is being preserved. Black Cat Cave has an East to West length and is approximately 54 meters (177 feet). Entry chamber depth and is approximately 1 meter (3.28 feet). Maximum depth in far western passage is approximately 9.8 meters (32 feet). Estimates based on Express News article from October 9, 2011 quote from Bill Seawell from USFWS and survey found in *The Caves of Bexar County* Second Edition. The footprint of the cave travels westerly and may be hydrogeologically connected to several other known features following the structure of the underlying bedrock. An additional increase in the buffer zones may be warranted around features such as the above mentioned, where cave sensitivity is important, such as this area. The offsite solution cavity was previously described as a small cavity approximately 3 feet or more deep. The cavity was later excavated and is now a large cavity opening and classified as a sinkhole, which, by order of TCEQ, has been sealed. A fault is located adjacent to the north of the project and trends northeast – southwest. Indirect evidence of this fault was observed during the site visit by slight changes in rock and soil development. The direct evidence of geologic connectivity among such features is exhibited by numerous offsite closed depressions, large sinkholes, solution cavities, and caves along this trend. The trend of features can be traced from the leached and collapsed member, all the way to Salado Creek west of Blanco Road and is extremely sensitive.

- D. A creekway borders the eastern portion of the site. No portion of the site lies within a 100 year floodplain area. No sensitive features were found in the creekway bordering the eastern edge of the property. An open space area is being left adjacent to the tributary.

ENVIRONMENTAL CONCERNS

The environmental concerns associated with this development being constructed on the Edwards Aquifer Recharge Zone are:

Site Specific Concerns

1. The sensitive nature of this portion of the Edwards Recharge Zone area, which includes Black Cat Cave and this proposed project warrants that the owner's of this proposed project shall establish a level of protectiveness to ensure that any exposure to any pollutants such as, but not limited, to petroleum, chemicals, debris or trash are not being deposited near the preserved sensitive feature known as Black Cat Cave or its drainage and/or buffer zone area.
2. The proposed 38% impervious cover requested for this sensitive area of the Edwards Recharge Zone is greater than SAWS recommends.
3. Per the approved Storm Water Pollution Prevention Plans for Bulverde Road Loop 1604 to Evans Road Karst Feature Entrance Relocation, it appears that an insufficient buffer zone area surrounding Black Cat Cave is proposed, according to the site plan submitted.

General Concerns

1. The improper use of pesticides, herbicides, or fertilizers needed for landscape maintenance that may be carried off in the first flush of stormwater run-off.
2. The build-up of hydrocarbons and other pollutants on streets, parking lots and other paved areas that are then carried off in the first flush of stormwater run-off.

ENVIRONMENTAL RECOMMENDATIONS

A RECOMMENDATION FOR DENIAL; based upon the sensitive nature of the proposed property containing the drainage area of the sensitive feature known as Black Cat Cave and the proposed 38% impervious cover for the planned development, SAWS staff is recommending denial of this zoning request.

However, should the City Council approve the rezoning of this project as submitted the following recommended Environmental Recommendations shall be adhered to and written into the record for inclusion into the developers proposed project.

The following recommendations address other environmental concerns raised by the construction of this development on the Edwards Aquifer Recharge Zone:

Site Specific Recommendations

1. Post construction, an adequate buffer zone shall be provided for Black Cat Cave. The buffer zone should be left in its natural state and an enclosure provided such that access to the buffer zone and cave area are strictly prohibited by unauthorized persons. A plan must be submitted and approved by SAWS for a buffer zone surrounding Black Cat cave prior to the release of the building permit.
2. Temporary signage shall be installed identifying the cave's location and its buffer zone prior to initial construction of this project. Additionally, all parties involved in the construction of this project shall be made aware of the sensitive nature of this feature and all activities prohibited in and around it as well as the extreme caution that should be under taken during construction surrounding Black Cat Cave. Currently the submitted proposed site plan only depicts a 0.47 acre buffer area, which could be inadequate.
3. According to TCEQ Approval letter dated August 12, 2010 (TCEQ project No. 2934.00) the feature shall have appropriate caution/warning signs explicitly prohibiting dumping near the cave and/or its buffer zone area.
4. A building permit will not be released until appropriate signage for Black Cat Cave is in place.
5. All construction materials on-site shall be kept in an enclosed storage for environmental safety precautions.

6. Owner's of all water pollution abatement structures shall ensure these structures are properly maintained and kept free of trash and debris. A signed water quality maintenance plan must be submitted to the Resource Protection Division of SAWS. If at any time the ownership of the property changes, the seller must disclose to the buyer all the requirements of the water quality maintenance plan. The new owner must submit a signed water quality maintenance plan to the Resource Protection Division of SAWS.
7. In conjunction with the inspection/maintenance schedule of the sedimentation/filtration basins proposed for this project, inspection/maintenance of Black Cat Cave and protective buffer zone enclosure shall take place. At a minimum it shall include, but is not limited to, trash and debris removal at the entrance and within the on-site drainage area to the feature, structural integrity of the cave grate and enclosure, and maintenance of the vegetation height to allow natural flow into the feature.
8. Landscaped areas shall be sensitive to minimizing water needs, i.e., use of native plants. Each purchaser of an individual lot or tenant within this development shall be informed by the seller or lessor in writing about Best Management Practices (BMP) for pesticide and fertilizer application. Preventing Groundwater Pollution, A Practical Guide to Pest Control, available from the Edwards Aquifer Authority (210) 222-2204, or equivalent information produced by the U.S. Natural Resource Conservation Service, Texas Department of Agriculture, U.S. Department of Agriculture, shall be used.
9. The applicant shall notify the Construction Compliance Section of the Resource Compliance Division of SAWS at (210) 233-3564 no later than 48 hours prior to the commencement of construction at the site. If any significant geologic features such as, but not limited to, solution openings, caves, sinkholes, or wells are found during the excavation, construction, or blasting, the developer shall notify the Texas Commission on Environmental Quality at (210) 490-3096 and the Resource Protection Division of the San Antonio Water System at (210) 233-3523.
10. If any sensitive geologic features such as, but not limited to, solution openings, caves, sinkholes, or wells are found during the excavation, construction, or blasting, the developer shall notify the Texas Commission on Environmental Quality at (210) 490-3096 and the Resource Protection Division of the San Antonio Water System at (210) 233-3523.

General Recommendations

1. Prior to the release of any building permits the owner/operator of any Category 2 property shall submit an Aquifer Protection Plan to the Resource Protection Division of the San Antonio Water System.
2. Prior to the release of any building permits, the following shall be submitted to the SAWS Aquifer Protection & Evaluation Section of the Resource Protection Division:
 - A. A copy of the Water Pollution Abatement Plan (WPAP) shall be submitted for each particular development/ use within the area being considered for re-zoning,

- B. A set of site specific plans which must have a signed Engineers Seal from Texas,
 - C. A WPAP approval letter from the Texas Commission on Environmental Quality (TCEQ),
 - D. A copy of the approved Water Pollution Abatement Plan.
3. The storage, handling, use and disposal of all over the counter hazardous materials within this development shall be consistent with the labeling of those materials. Failure to comply with the label warnings may constitute a violation of Federal law.
4. If a water quality basin is constructed on the property, the following is required:
- A. There shall be no construction of hydrodynamic storm water devices and/or below grade basins on site.
 - B. Prior to the start of the basin construction, the owner will notify the Aquifer Protection and Evaluation Section of the San Antonio Water System at (210) 233-3523 to schedule a site inspection.
 - C. After basin construction is complete and prior to the start of business, the owner will notify the SAWS Aquifer Protection and Evaluation Section at (210) 233-3523 to schedule a site inspection. Additionally, we recommend a maintenance plan and schedule be developed and submitted to SAWS Aquifer Protection and Evaluation Section.
 - D. If the basin fails to drain properly, the owner will notify the Construction Section of the Resource Compliance Division at (210) 233-3564 prior to any discharge of water.
 - E. If at any time the ownership of the property changes, the seller must inform the buyer of all requirements for maintenance of the Basin. A signed basin maintenance plan and schedule agreement, from the new owner, must be submitted to the Resource Protection Division.
5. The City of San Antonio shall inspect all future construction of the sewage collection system to include service laterals and sewer mains for proper construction according to State and City Regulations and Code.
6. The Resource Protection Division staff shall have the authority to inspect the site to ensure that the approved recommendations are being strictly adhered to during and after construction of the project.

Zoning Commission Members
Zoning Case Z2012149 (Ravello Subdivision)
Page 7

Based on the site evaluation of the property, the information submitted by the applicant, and the applicant's declaration to a 38% impervious cover for the site, staff recommends **disapproval** of the proposed land use. However, should the City Council approve the zoning then SAWS staff recommends that the applicant, or any future owner, comply with the above recommendations in regards to the development of the subject property.



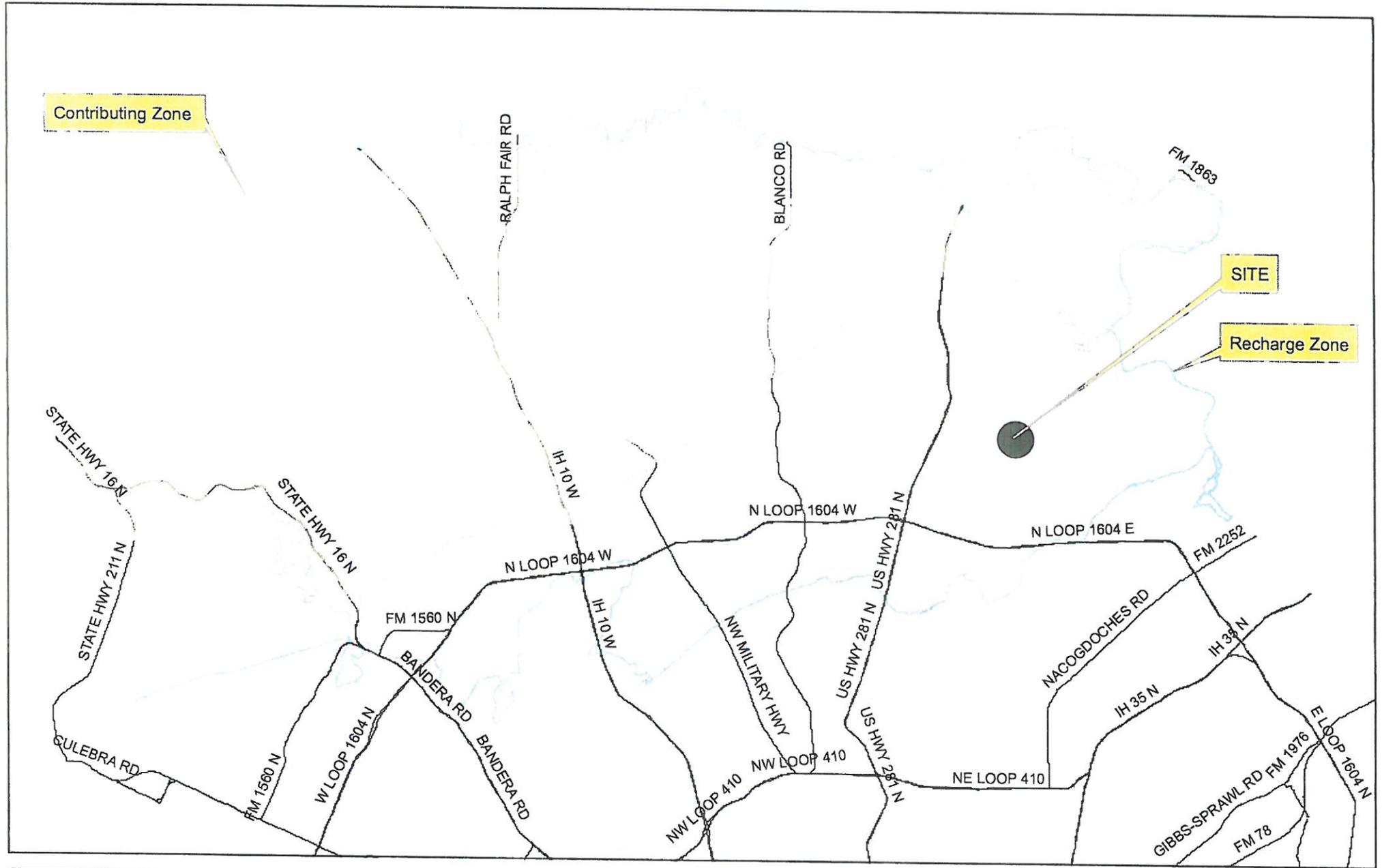
Kirk M. Nixon
Manager
Resource Protection Division

APPROVED:



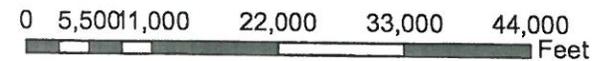
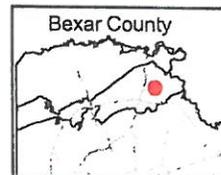
Scott R. Halty
Director,
Resource Protection & Compliance Department

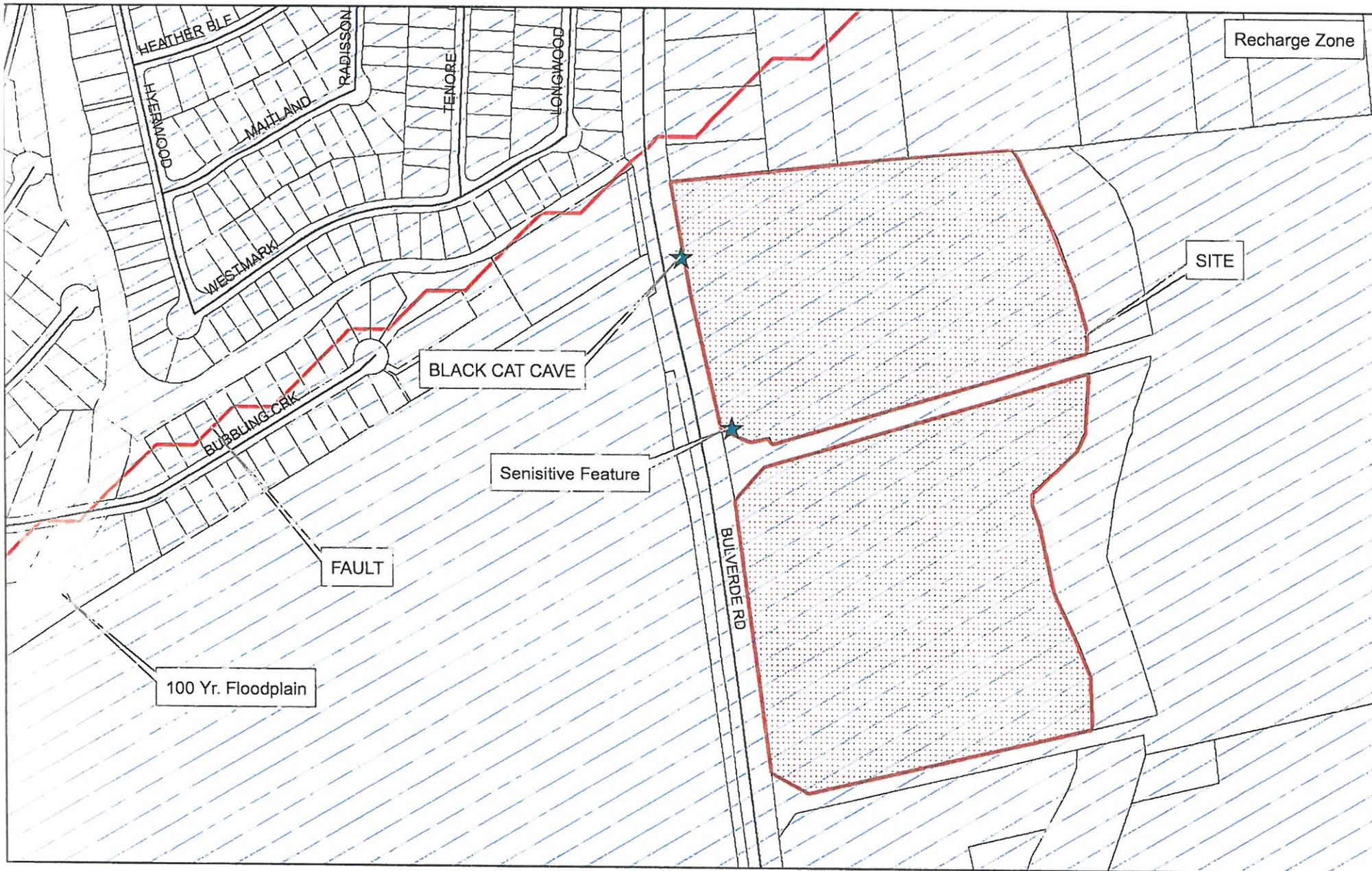
KMN:PMG



Zoning Name: Ravello Subdivision
Zoning Number: Z2012149 (28.00 Acres)
Map Grid: 484 B6

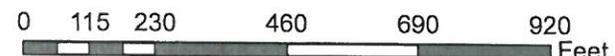
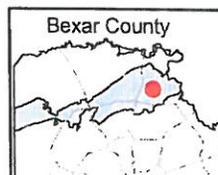
Figure 1





Zoning Name: Ravello Subdivision
Zoning Number: Z2012149 (28.00 Acres)
Map Grid: 484 B6

Figure 2



Black Cat Cave

Bexar County, Texas

Survey: Gary Poole, Draft 2-19-78

George Veni, Sketch

Will Schwartz

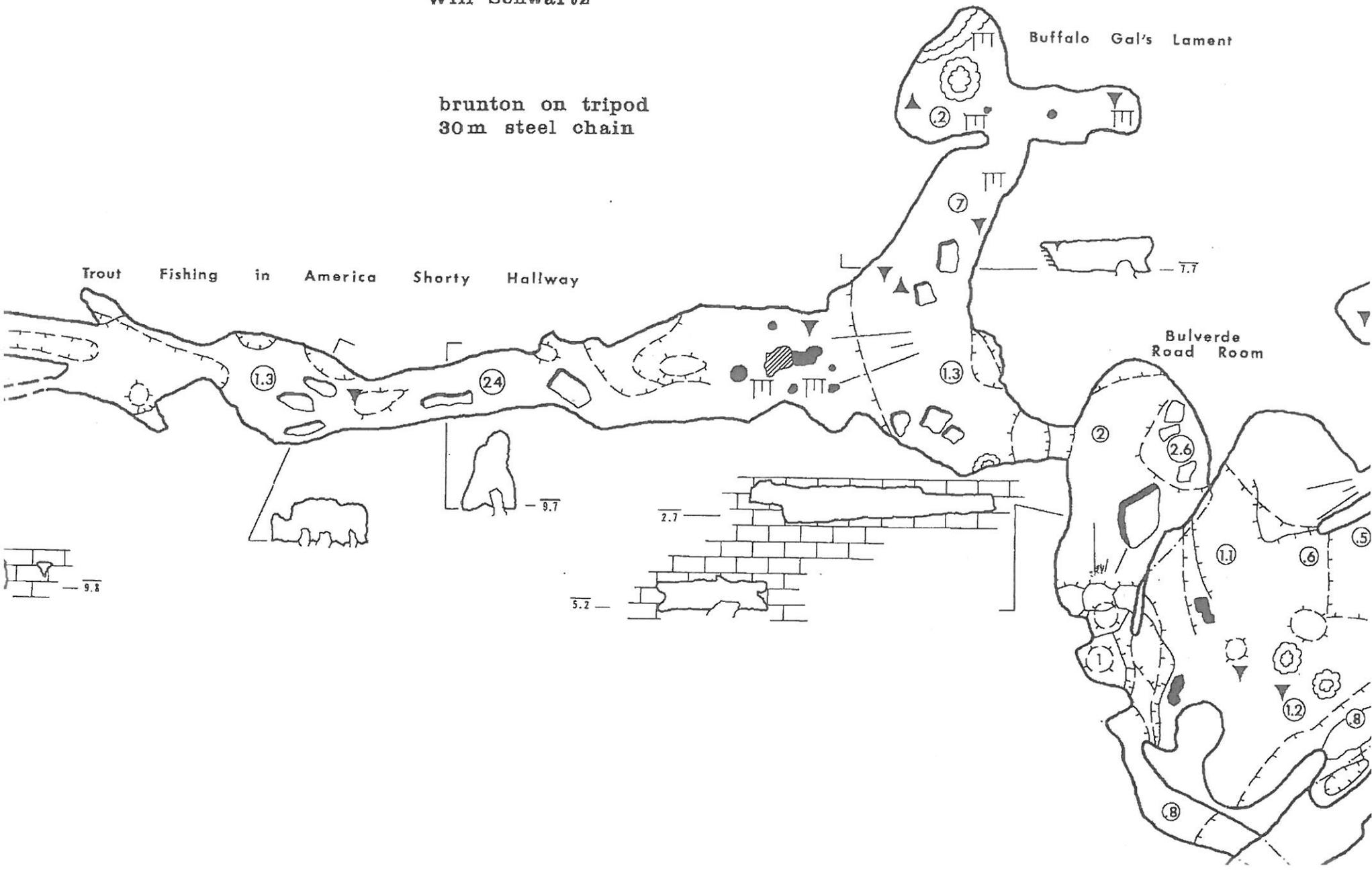


brunton on tripod
30m steel chain

Trout Fishing in America Shorty Hallway

Buffalo Gal's Lament

Bulverde Road Room



Z2012149 ERZD_Camp Bullis Response.txt

From: Cannizzo, James V CIV (US) [james.v.cannizzo.civ@mail.mil]

Sent: Thursday, October 04, 2012 8:20 AM

To: Trenton Robertson

Cc: Andrew Spurgin; Frank Sherman; Arnold, Dean A CIV (US); Jeffrey Bazan; Ruben Lizalde

Subject: Camp Bullis Comment ref 28 Acre Bulverde Rd Rezoning (UNCLASSIFIED)

Signed By: There are problems with the signature. Click the signature button for details.

Follow Up Flag: Follow up

Flag Status: Red

Attachments: Mapquest inserted into word of Bulverde 28 acre rezoning October 2012.docx

Classification: UNCLASSIFIED

Caveats: FOUO

Ref this 28 acre tract proposed for rezoning to R-6 housing about 4 miles east of Camp Bullis along the east side of Bulverde Rd, south of Menger;

This tract contains karst invertebrate zone 1 areas. Per the 2008 USFWS Bexar County karst invertebrate recovery plan, "zone 1 areas are known to contain listed invertebrate karst species." Moreover, this tract contains the majority of Black Cat Cave (in the NW portion of this tract) which has been listed as Critical Habitat by USFWS for Bexar County endangered karst invertebrates. This critical habitat unit around Black Cat Cave is 100 acres and covers this entire 28 acres proposed for rezoning, see atch maps. The cave had at one time been surveyed and detected an endangered karst invertebrate, *Rhadine exilis* (see Express News October 2011 stories below my signature block), and per USFWS's February 2012 critical habitat listing, it currently possesses all the primary constituent elements (PCEs) for the species and is considered occupied by *Rhadine exilis*.

See link and extract to the federal register notice on USFWS's Critical Habitat designation:

<https://www.federalregister.gov/articles/2012/02/14/2012-2195/endangered-and-threatened-wildlife-and-plants-designation-of-critical-habitat-for-nine-bexar-county>

"Unit 13

Unit 13 consists of 100 ac (41 ha) of developed and undeveloped private land located in northeastern Bexar County in the Stone Oak KFR. The unit is located south of the intersection of Menger Road and Bulverde Road. This unit contains one cave named Black Cat Cave. The cave opening is a short distance from Bulverde Road, which crosses its cave footprint and cave cricket foraging area. The northern part of the unit includes a small amount of dense development on the northwest and borders less dense development on the northeast. Bulverde Road, a major two-lane roadway, crosses the middle of the unit from north to south. In preparation for widening the road, the City of San Antonio has modified the cave entrance. The southern part of the unit on both sides of Bulverde road is undeveloped. The cave was occupied by *R. exilis* at the time of listing, and the unit contains both PCEs.

This unit requires special management because of residential development and roadways that border and cross the unit. Threats include the potential for destruction of habitat from vandalism, potential future development, contamination of the subsurface drainage area of the unit, drying of karst from impervious cover and storm water diversion, reduced nutrient input, and infestation of fire ants.

Z2012149 ERZD_Camp Bullis Response.txt

This unit was delineated by drawing a 100-ac (40-ha) circle around the cave. We moved the circle to avoid development in the northern part of the unit. Additional undeveloped land outside the circle, but inside the area proposed, is included in the unit on the eastern and southern edge to include at least 100 ac (40 ha) of surface vegetation, as described in the Criteria Used To Identify Critical Habitat section above. All of Unit 13 is Karst Zone 1. Part of the cave cricket foraging area is not included in the unit because it is either across the road or across other features that restrict cave cricket movement."

Also, the City's North Sector Plan which applies to this area contains the following on development in critical habitat:

"Objective 7: To comply with the Endangered Species Act and prevent the reduction of karst invertebrate habitat. If the karst feature is disturbed by development, direct/indirect contamination, or changes to water flow/water availability, the species may be lost at that location. Additionally, karst invertebrates are an indicator of water quality and quantity .Recommended Development Standards: Strict development limitations should be imposed on areas designated Karst Zone 1 and 2. Any development that threatens to destroy critical habitat in Karst Zone 1 and 2 should not be approved. If such a project is approved, mitigation measures preserving habitat may be required."

Ref karst invertebrates, if much of the areas identified by USFWS in their Recovery Plan for Bexar County are developed, then further restrictions may be placed on Camp Bullis' caves and karst features in order for the region to still meet species recovery goals. Thus karst issues off-post may affect training restrictions on-post. We have 90 acre buffers around our occupied karst features/caves and have a total of over 2,600 acres of restricted land due to karst invertebrate issues.

Thanks for the opportunity to submit comments.

Regards, Jim

James V. Cannizzo *(210) 295-9830 at Fort Sam today
Administrative and Civil Law Advisor
US Army, Camp Stanley (Army Material Command, AMC) and Retained Army
Functions at Fort Sam Houston and Camp Bullis
Camp Stanley Storage Area (AMC), Environmental Department, 25800 Ralph Fair
Road, Boerne TX 78015-4877

Beetle causing headache for NEISD
By Jennifer R. Lloyd
jlloyd@express-news.net

Updated 12:30 a.m., Sunday, October 9, 2011

It's brown, eyeless and lives in a cave.

Though this creature may sound like a fairytale villain, it's actually an endangered ground beetle - *Rhadine exilis* - whose habitat is threatened by Bexar County's urbanization and population growth, according to the U.S. Fish and Wildlife Service.

Black Cat Cave, which lies under Bulverde Road south of Evans Road, is one of the few caves in the world thought to be the home to the tiny invertebrate. It's close to the 81-acre site of a proposed middle school that North East Independent School District plans to build if voters approve a \$399.4 million bond proposition on Nov. 8.

The school district and a real estate development company with property

nearby have asked the government to remove Black Cat Cave from the beetle's critical habitat list, claiming the beetle does not live in the cave and possibly never did.

USFWS officials said they'll consider that information before issuing a ruling in February.

The beetle measures less than half the diameter of a dime and eats cave crickets' eggs or small organisms that live on cave cricket feces. Changes to the vegetation around the cave could impact the crickets' foraging area, and thus reduce the beetles' food supply, according to the USFWS.

The beetles' habitat - limited to about 50 limestone caves in north and northwest Bexar County - faces threats from the filling of caves during development, capping and sealing cave entrances, human contact, and changes to drainage patterns and native plants that live on the surface. Another threat is contamination from runoff, pesticides and sewer leaks.

"(The endangered invertebrates) are part of the state's natural history and they represent a unique ecosystem in the Texas Hill Country," said Adam Zerrenner, an Austin-based USFWS field supervisor.

Proposed expansion

Last winter, the USFWS proposed expanding critical habitat areas for nine Bexar County invertebrates, including this beetle.

The 250-foot-long Black Cat Cave also is part of the Edwards Aquifer recharge zone, said Bill Seawell, a USFWS biologist.

"If that area is a clean, well-functioning ecosystem for these species, then there's a good chance that it's also good for the Edwards," Zerrenner said. "If the water is clean, then it would be good for people."

The proposed expansion would increase the 40-acre critical habitat area around Black Cat Cave to 187 acres, which would overlap part of the district-owned site for the proposed school. The critical habitat designation doesn't require restoration or recovery measures unless the project uses federal dollars or is on federal property.

If voters approve the bond, the school would not be built with federal dollars. The district designed the site plan to use culvert bridges across a creek bed without touching it because the bed is considered federal property and touching it would trigger those additional federal requirements.

"Our construction plan is well thought-out and will have no impact on the Black Cat Cave area or any endangered species in this area," Garrett Sullivan, the district's executive director of construction management and engineering, said in an email.

The \$65 million building, one of 18 projects in the bond proposal, would alleviate overcrowding and likely would be the last middle school the district will construct, according to officials at the area's second-largest district.

Anthony Athens, the district's director of planning, said enrollment at the closest middle school to the bond project, Tejada Middle, has been capped since 2009.

School crowding

Athens said 180 students in Tejada's attendance zone have to attend Bush, Driscoll and Lopez middle schools. By 2020, the district projects another

850 middle school students will live in Tejeda's attendance zone.

"Without this new middle school, we just do not have the capacity north of 1604, and we will be forced to change boundaries," North East Superintendent Brian Gottardy told the school board during a recent meeting.

The nearly 209,000-square-foot school would accommodate 1,250 to 1,500 students and incorporate green building features such as a water reclamation system. It might achieve LEED Silver rating, the second step up on the LEED scale for school construction, Sullivan said.

The district also strives to preserve "natural vegetative zones" at school sites, he said.

Zerrenner said he had not received any information about the possible school and could not comment on whether it would threaten the beetle. He said the district could approach USFWS to discuss whether the district should create a habitat conservation plan.

Richard Heilbrun, a Texas Parks and Wildlife Department biologist, said those building near an endangered species habitat could come to both Texas Parks and Wildlife and the USFWS for guidance on whether modifying the construction plan or mitigating harm by preserving land elsewhere would be necessary.

"People tend to hear endangered species and become alarmed," Heilbrun said. "But there are almost always opportunities to make small changes for the benefit of both the project and the natural resource."

If a property owner harms an endangered species without such an agreement, that person could face civil penalties, such as fines or forced mitigation, said Eric Jumper, a USFWS special agent.

Development planned

Capital Foresight Limited Partnership, a real estate development company based in California, owns about 30 acres of commercial property within the beetle's critical habitat. It petitioned USFWS to remove the critical habitat designation from the company's land.

In April, an attorney for the North East ISD filed a letter of support.

Gil Berkovich, a partnership manager, said the company plans to develop single-family homes in the area.

The petition, submitted by SWCA Environmental Consultants on behalf of the company, states that despite multiple surveys of the cave, no one has seen or collected a specimen since the 1987 initial report of the beetle in Black Cat Cave. The petition suggests that the beetle labeled *Rhadine exilis* was actually a different species.

"If they don't remove the designation, for somebody like me it makes it extremely difficult to obtain financing or sell it," Berkovich said. "You can't understand how much money and delay this has caused us."

The petition also claims road construction on Bulverde has compromised the cave's integrity. The city is widening the road from two to six lanes, which will be done by 2013, said Roland Martinez, spokesman for the city's Capital Improvements Management Services.

The city's consultant surveyed the cave and found no beetles, according to a statement from the department. The city continues to send survey results to USFWS annually.

"If the cave was a real problem, they wouldn't be building a (six)-lane road," Gottardy said.

Allan Cobb, president of the nonprofit Texas Cave Management Association, said the debate over the status of Black Cat Cave emphasizes the importance of protecting the area's biological diversity.

"While this one cave, in the grand scheme of things, may be fairly insignificant, it's part of the overall picture," said Cobb, who has seen some caves destroyed while others were developed around with minimal impact. "Any cave where you have endangered species living, they're competing for our resources. ... People want to build. People want to live there. ... Oftentimes, those two things are at odds."

Staff writer Colin McDonald and News Research Director Michael Knoop contributed to this report.

<http://www.mysanantonio.com/news/education/article/Beetle-causing-headache-for-NEISD-2209744.php>

Proposed school near endangered species habitat Posted on 10/10/2011 by jilloyd On Nov. 8, voters will decide the fate of North East Independent School District's \$399.4 million bond proposal, including a proposed middle school on the city's North Side.

But the U.S. Fish and Wildlife Service has proposed expanding the critical habitat area for an endangered cave beetle in the vicinity of the school site.

The proposed campus, on an 81-acre site near Bulverde Road, south of Evans Road, is the only new campus among the 18 bond projects.

A developer near Black Cat Cave - currently listed as home to the Rhadine exilis beetle - along with the school district have asked USFWS to remove the cave from the beetle's habitat list. USFWS will make a final determination in February.

The designation would not necessarily hinder NEISD's plan because the school would not be built with federal dollars or on federal property. Those who would develop projects using federal dollars or property in a critical habitat area would have to meet additional requirements.

The full story about the beetle ran on Sunday, Oct. 9, but a graphic showing the school site in relation to the cave did not appear in the print edition.

For a visual of the beetle's habitat, see the graphic below.

<http://blog.mysanantonio.com/education/2011/10/proposed-school-near-endangered-species-habitat/>

-----Original Message-----

From: Trenton Robertson [mailto:Trenton.Robertson@sanantonio.gov]

Sent: Tuesday, October 02, 2012 3:23 PM

Subject: Zoning Commission

Dear Planning Team Member,

The City of San Antonio's Development Services Department has received an application proposing the zoning change described in the attached notice. You are invited to attend an important public hearing because you are a member of an applicable planning team. By attending this hearing, you will have the opportunity to express your opinion either in support or opposition

Z2012149 ERZD_Camp Bullis Response.txt

to the proposed zoning change in the attachment. Your participation in this process is encouraged. Thank you.

Trenton Robertson
Planner, Zoning Section
Land Development Division
Development Services Department
City of San Antonio
1901 South Alamo, San Antonio, Texas 78204
210.207.3074
trenton.robertson@sanantonio.gov

Classification: UNCLASSIFIED
Caveats: FOUO



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission
Zoning Case #: Z2012167 S ERZD
Hearing Date: November 6, 2012
Property Owner: M2G Marshall Road, Ltd.
Applicant: M2G Marshall Road, Ltd.
Representative: Brown & Ortiz, P.C. (James Griffin)
Location: At the southeast corner of Marshall Road and US Highway 281
Legal Description: 0.242 of an acre out of NCB 18218
Total Acreage: 0.242
City Council District: 9
Case Manager: Brenda V. Martinez
Case History: This is the first public hearing for this zoning case.

Proposed Zoning Change

Current Zoning: "C-2 CD ERZD MLOD" Commercial Edwards Recharge Zone Military Lighting Overlay District with a Conditional Use for a Theater - Indoor Permitting Over 2 Screens and/or Stages

Requested Zoning: "C-2 S ERZD MLOD" Commercial Edwards Recharge Zone Military Lighting Overlay District with a Specific Use Authorization for Tire Repair - Auto and Small Truck (Sales and Installation Only, No Mechanical Service Permitted)

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 2

Neighborhood Associations: Winchester Hills Association is located within 200 feet of contiguous land owned by the subject property owner.

Planning Team Members: 42 (North Sector Plan)

Applicable Agencies: The San Antonio Water System and The Camp Bullis Military Training Site

Property Details

Property History: The subject property is currently undeveloped. The property was annexed in 1985 and was originally zoned "Temp R-1" Temporary Single-Family Residence District. In a 1999 rezoning case, the property was rezoned to "B-2" Business District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to "C-2" Commercial District. In a 2007 rezoning case, the property was rezoned to "C-2 CD" Commercial District with a Conditional Use for a Theater - Indoor Permitting Over 2 Screens and/or Stages. The applicant is requesting a zoning change in order to allow tire sales and installation over the Edwards Aquifer Recharge Zone.

Topography: The property has an abundance of grasses and shrubs with a significant slope.

Adjacent Zoning and Land Uses

Direction: North, South and West

Current Base Zoning: "C-2"

Current Land Uses: Vacant Land

Direction: East

Current Base Zoning: "C-2" and "R-6"

Current Land Uses: Vacant Land and Single-Family Residences

Overlay and Special District Information: All surrounding properties carry the "ERZD" Edwards Recharge Zone District. The "ERZD" does restrict permitted uses, due to the environmentally sensitive nature of the recharge zone. Per Chapter 34 of the City of San Antonio Code of Ordinances, the San Antonio Water System (SAWS) and City of San Antonio departments share regulatory jurisdiction over development within the "ERZD".

All surrounding properties carry the "MLOD" Military Lighting Overlay District, due to their proximity to Camp Bullis. The "MLOD" regulates outdoor lighting in an effort to minimize night-time light pollution and its effects on operations at the military installation.

Transportation

Thoroughfare: North Highway 281

Existing Character: Freeway; 4 lanes

Proposed Changes: None known

Thoroughfare: Marshall Road

Existing Character: Secondary Arterial Type A; 1 lane in each direction

Proposed Changes: None known

Public Transit: There is no mass transit service currently available to the subject property.

Traffic Impact: A Traffic Impact Analysis is required.

Parking Information: Tire Repair - Auto and Small Truck (Sales and Installation Only, No Mechanical Service Permitted) - Minimum Parking Requirement: 1 per 500 sf GFA including service bays, wash tunnels and retail areas. Maximum Parking Requirement: 1 per 375 sf GFA including service bays, wash tunnels and retail areas.

The tire installation and sales use is part of a larger retail development, which will be located on the subject property. A total of 545 parking spaces are proposed for the entire retail development

Staff Analysis and Recommendation: Approval

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The property is located within the North Sector Plan and is currently designated as “Suburban Tier” which includes a range of use classifications from low density residential to community commercial uses. The base zoning district is consistent with the Future Land Use designation.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on surrounding properties. The majority of properties fronting along North Highway 281 are zoned for commercial uses. Staff finds the requested Specific Use Authorization to be appropriate as the subject property will maintain the current C-2 district that is consistent with the sector plan, and the proposed tire repair use is limited to a small portion of the larger lot.

3. Suitability as Presently Zoned:

The existing “C-2” zoning district is suitable for the subject property. The requested Specific Use Authorization for a car wash is necessitated by the property’s location over the Edwards Aquifer Recharge Zone.

The “C-2” district accommodates commercial and retail uses that are more intensive in character than neighborhood or light commercial, and which generate a greater volume of vehicular or truck traffic. Medium intensity commercial zoning is most appropriate along arterials or major thoroughfares.

4. Health, Safety and Welfare:

The attached SAWS report outlines some potential water quality concerns with the proposed development. Staff has found no evidence of likely adverse impacts on the health, safety, and welfare of the surrounding community, provided the SAWS recommendations are adhered to.

5. Public Policy:

The subject property is located within the boundaries of the Military Lighting Overlay District, which is a five-mile area surrounding Camp Bullis and located only within the City of San Antonio municipal boundaries. Any new development within the five mile area surrounding Camp Bullis must comply with the lighting standards established within this zoning overlay district.

The request does not appear to conflict with any public policy objective. The request is consistent with the North Sector Plan.

6. Size of Tract:

The subject property is 0.242 of an acre in size; however, the entire tract of land measures approximately 22 acres, which should be able to accommodate a commercial development with adequate space for parking.

7. Other Factors:

The subject property is located within the Camp Bullis Awareness Zone/ Military Influence Area. In accordance with the signed Memorandum of Understanding between Fort Sam Houston and the City of San Antonio, the Military did not review this zoning request because the property is less than 10 acres in size and does not directly abut Camp Bullis.

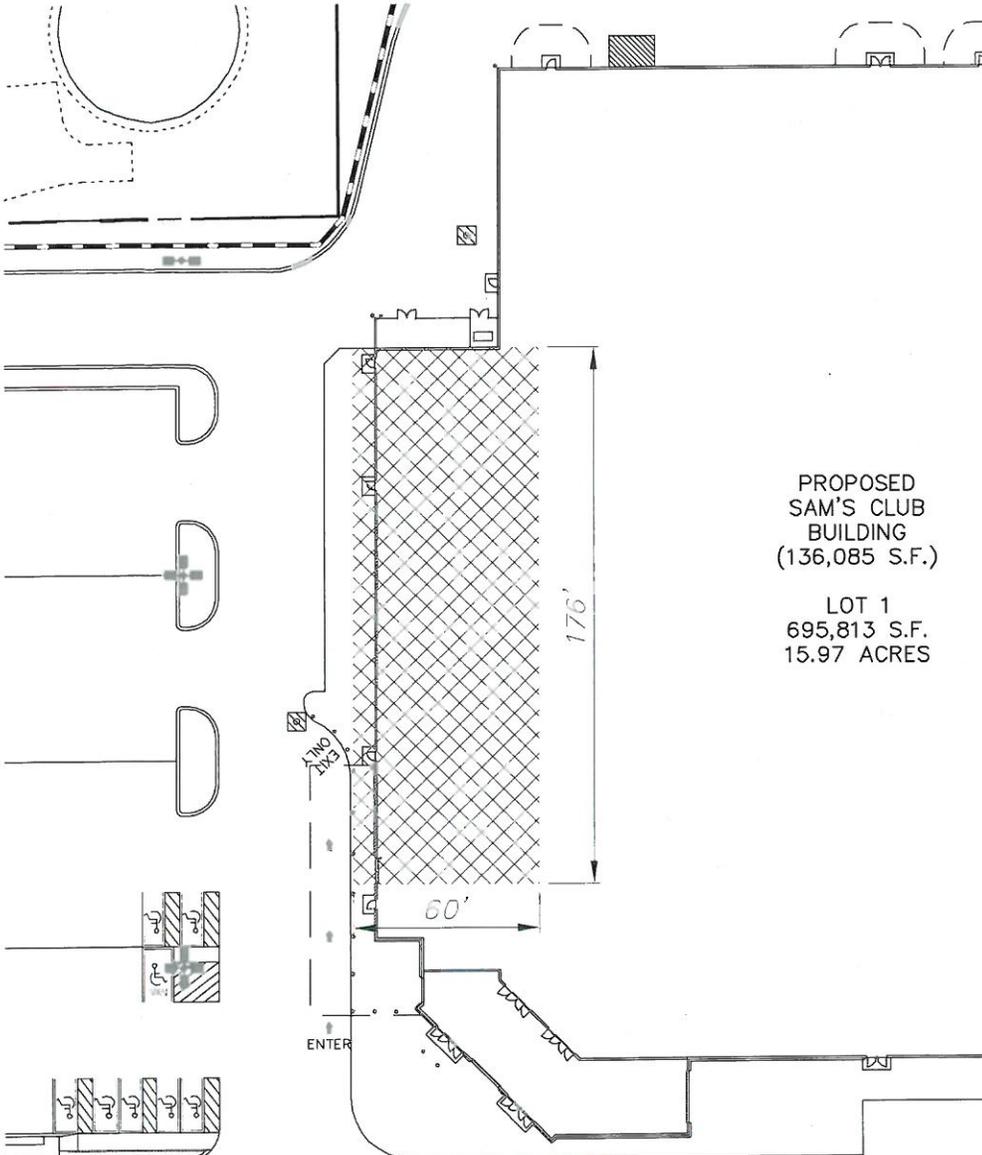
SAWS Summary:

The property is classified as a Category 1 property.

No sensitive geologic features were observed on the site.

The impervious cover shall not exceed 65% for the commercial development.

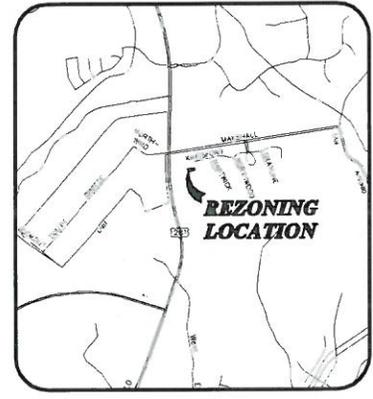
SAWS staff recommends approval.



GRAPHIC SCALE
0 30 60

PROPOSED
SAM'S CLUB
BUILDING
(136,085 S.F.)

LOT 1
695,813 S.F.
15.97 ACRES



SITE LOCATION MAP
M.T.S.

LEGEND

PROPOSED REZONING AREA

NOTES:

- THE SETBACKS, PARKING AND LANDSCAPING WILL BE PROVIDED AS PART OF THE LARGER DEVELOPMENT OF THE TRACT IN ACCORDANCE WITH THE UDC.
- 100% IMPERVIOUS COVER FOR THE PROPERTY BEING REZONED.
- REZONING TO C-2 S (TIRE SALES AND INSTALLATION).

SITE ANALYSIS TABLE

PROPOSED REZONING AREA	±10,560 S.F. (0.24 ACRE)
------------------------	-----------------------------

I, M2G MARSHALL ROAD, LTD., THE PROPERTY OWNER, ACKNOWLEDGE THAT THIS SITE PLAN SUBMITTED FOR THE PURPOSE OF REZONING THIS PROPERTY IS IN ACCORDANCE WITH ALL APPLICABLE PROVISIONS OF THE UNIFIED DEVELOPMENT CODE. ADDITIONALLY, I UNDERSTAND THAT CITY COUNCIL APPROVAL OF A SITE PLAN IN CONJUNCTION WITH A REZONING CASE DOES NOT RELIEVE ME FROM ADHERENCE TO ANY/ALL CITY-ADOPTED CODES AT THE TIME OF PLAN SUBMITTAL FOR BUILDING PERMITS.

**REZONING EXHIBIT
SAM'S CLUB**

SAN ANTONIO (NN), TEXAS



550 Bailey Avenue • Suite 400 • Fort Worth, Texas 76107
Tel: 817.335.1121 • Fax: 817.335.7437
(TX REG. F-1114)

DATE: 10-16-12
SCALE: 1" = 60' (8½" X 11")

DEVELOPMENT SERVICES
RECEIVED
SAN ANTONIO WATER SYSTEM
Interdepartment Correspondence
2012 OCT 30 PM 2:39

To: Zoning Commission Members

From: Scott R. Halty, Director, Resource Protection Department, San Antonio Water System

Copies To: Mike Bart, Environmental Protection Specialist III, Aquifer Protection & Evaluation Section, File

Subject: Zoning Case Z2012167 (Sam's Club North)

Date: October 4, 2012

SUMMARY

A request for a change in zoning has been made for an approximate 0.242-acre tract within a 22.68 acre parent tract located on the city's north side. A change in zoning from **C-2 CD ERZD MLOD-1 AHOD** to **C-2 S ERZD MLOD-1 AHOD** is being requested by the applicant, M2G Marshall Road, Ltd. The change in zoning has been requested to allow for tire sales and installation and for battery sales within a commercial development (Sam's Club). The property is classified as Category 1 property.

Based on the site evaluation of the property, and the information submitted by the applicant, SAWS staff recommends **approval** of the proposed land use. Should the City Council rezone the property that is the subject of this report, the San Antonio Water System recommends that any development on that property after the zoning classification has been changed should be restricted as stated in the environmental recommendations section of this report.

LOCATION

The subject property is located in City Council District 9, at 2560 Marshall Road. The property lies within the Edwards Aquifer Recharge Zone (Figures 1 and 2).

SITE EVALUATION

1. Development Description:

The proposed change is from **C-2 CD ERZD MLOD-1 AHOD** to **C-2 S ERZD MLOD-1 AHOD** and will allow for the construction of tire sales and installation and battery sales shop

within a commercial development (Sam' Club). Currently the site is undeveloped and covered in native vegetation.

2. Surrounding Land Uses:

A SAWS supply tank lies along the eastern edge within the subject tract, with single family residential properties on the adjacent tract to the east. A convenience store with gasoline station and mini-storage facility lies north of the subject tract. Highway 281 and undeveloped property beyond lie west of the tract. Flip City acrobatics studio lies south of the subject tract.

3. Water Pollution Abatement Plan:

The Water Pollution Abatement Plan (WPAP) for The Village at Marshall Road was approved by the Texas Commission on Environmental Quality (TCEQ) on June 23, 2008. No sensitive geologic features were located on the site. A WPAP modification for the proposed commercial development will be required prior to approval of the building permit.

4. Geologic Conditions:

The Resource Protection Division of the San Antonio Water System conducted a site evaluation on July 25, 2012, of the referenced property to assess the geologic conditions and evaluate any environmental concerns present at the site. SAWS Environmental Geologist, Mr. Bruce Keels, P.G., was present during the site evaluation.

- A. The subject site was observed as a single parcel, currently undeveloped and sparsely vegetated, approximately 0.242 acres in area, located within a parent parcel of approximately 15.97 acres in area. A SAWS municipal supply water storage tank was observed located within the eastern edge of the subject site.

Moderate to good exposure of bedrock was observed throughout the property. An access driveway was observed to have been cut into the bedrock at the southwest corner of the parent parcel. The site appears to be undeveloped and sparsely vegetated. The subject site and parent parcel were both observed to have been previously cleared during a mass grading operation.

A number of previously documented solution cavities were observed within the wall of the access driveway roadcut. These solution cavities were determined to have insufficient recharge potential to be classified as sensitive.

The site appeared to slope slightly to the south and southwest. Stormwater occurring on the subject site would drain to the south and southwest towards an unnamed

tributary of West Elm Creek.

Using U.S. Geological Survey Water-Resources Investigations Report 95-4030 it was determined that the subject site is underlain by the Kirschberg Evaporite Member.

The Kirschberg Evaporite Member of the Kainer Formation is characterized by the presence of altered crystalline limestone, chalky or decomposed mudstone, and abundant chert nodules, with fabric and structure related porosity. The full section thickness of this member is approximately 50 to 60 feet thick.

No sensitive geologic features, such as sinkholes, caves, creeks, or faults were observed on the subject site.

An additional site visit was conducted by SAWS personnel on June 14, 2012, at a currently active Sams Club facility, located at DeZavala and IH10, to observe current tire and battery storage practices. Sams Club storage and handling practices for used automotive batteries includes shrink wrapped tiered storage inside the automotive facility, on a plastic spill pallet to prevent the release of any battery fluids in the event of a leak or spill. Storage practices for used tires includes storage in a semi-outdoors covered and secured alcove with locking hurricane fence type doors. These practices effectively prevent runoff of contaminants from stormwater that occurs on the subject site.

ENVIRONMENTAL CONCERNS

The environmental concerns associated with this development being constructed on the Edwards Aquifer Recharge Zone are:

General Concerns

1. The improper use of pesticides, herbicides, or fertilizers needed for landscape maintenance that may be carried off in the first flush of stormwater run-off.
2. The build-up of hydrocarbons and other pollutants on streets, parking lots and other paved areas that are then carried off in the first flush of stormwater run-off.

ENVIRONMENTAL RECOMMENDATIONS

The following recommendations address the environmental concerns raised by the construction of this development on the Edwards Aquifer Recharge Zone:

Site Specific Recommendations

1. The impervious cover shall not exceed 65% on the site.
2. The SAWS recommendation of 65% maximum impervious cover is based on the existing commercial designation of the subject property.
3. Prior to release of building permits, the applicant must submit, and SAWS must approve a self monitoring plan for tire and battery operations, to include specifications of how batteries and tires are to be properly stored, transportation and disposal practices, regular inspections for damage, spills or releases. All used batteries are to be stored and transported in a manner to prevent spills or releases from leaving the shipping container. A spill response plan, emergency response kit, and appropriate employee training are also to be included. A log of all batteries to be disposed of, with disposal manifests are to be maintained. Quarterly self monitoring reports must be submitted to SAWS Resource Protection Department. Additionally, SAWS reserves the right to conduct on-site inspections at any time.
4. In-ground hydraulic lifts shall not be installed at the site.
5. Land uses that require an industrial designation, per the permitted use table shall not be allowed on the project site.
6. Land uses within the zoned areas shall be in conformance with the table of permitted uses at the time the re-zoning is approved. Should a proposed use be listed as requiring City Council approval, the owner/operator shall apply for re-zoning for that particular use at that site. If the land use is listed as special use, a special permit must be obtained for that use. If the land use is listed as prohibited, that land use will not be permitted on that site.
7. The owner of all water pollution abatement structures shall be responsible for properly maintaining the basin and ensure it is kept free of trash and debris. A signed water quality maintenance plan must be submitted to the Resource Protection Division of SAWS. If at any time the ownership of the property changes, the seller must disclose to the buyer all the requirements of the water quality maintenance plan. The new owner must submit a signed water quality maintenance plan to SAWS.
8. Landscaped areas shall be sensitive to minimizing water needs, i.e., use of native plants. Each purchaser of an individual lot or tenant within this development shall be informed by the seller or lessor in writing about Best Management Practices (BMP) for pesticide and fertilizer application. Preventing Groundwater Pollution, A Practical Guide to Pest Control, available from the Edwards Aquifer Authority (210/222-2204), or equivalent information produced by the U.S. Natural Resource Conservation Service, Texas Department of Agriculture, U.S.D.A, shall be used.

9. The applicant shall notify the Construction Compliance Section of the Resource Compliance Division of SAWS at (210) 233-3537 no later than 48 hours prior to the commencement of construction at the site. If any significant geologic features such as, but not limited to, solution openings, caves, sinkholes, or wells are found during the excavation, construction, or blasting, the developer shall notify the Texas Commission on Environmental Quality at (210) 490-3096 and the Resource Protection Division of the SAWS at (210) 233-3537.

10. If any sensitive geologic features such as, but not limited to, solution openings, caves, sinkholes, or wells are found during the excavation, construction, or blasting, the developer shall notify the Texas Commission on Environmental Quality at (210) 490-3096 and the Resource Protection Division of the San Antonio Water System at (210) 233-3537.

General Recommendations

1. Prior to the release of any building permits the owner/operator of any Category 2 property shall submit an Aquifer Protection Plan to the Resource Protection Division of the San Antonio Water System.

2. Prior to the release of any building permits, the following shall be submitted to the SAWS Aquifer Protection & Evaluation Section of the Resource Protection Division:
 - A. A copy of the Water Pollution Abatement Plan (WPAP) shall be submitted for each particular development/use within the area being considered for re-zoning,
 - B. A set of site specific plans which must have a signed Engineers Seal from Texas,
 - C. A WPAP approval letter from the Texas Commission on Environmental Quality,
 - D. A copy of the approved Water Pollution Abatement Plan.

3. The storage, handling, use and disposal of all over the counter hazardous materials within this development shall be consistent with the labeling of those materials. Failure to comply with the label warnings may constitute a violation of Federal law.

4. If a water quality basin is constructed on the property, the following is required:
 - A. Below grade basins shall not be allowed to be constructed on the site.
 - B. Prior to the start of basin construction, the owner will notify San Antonio Water System at (210) 233-3537 to schedule a site inspection.

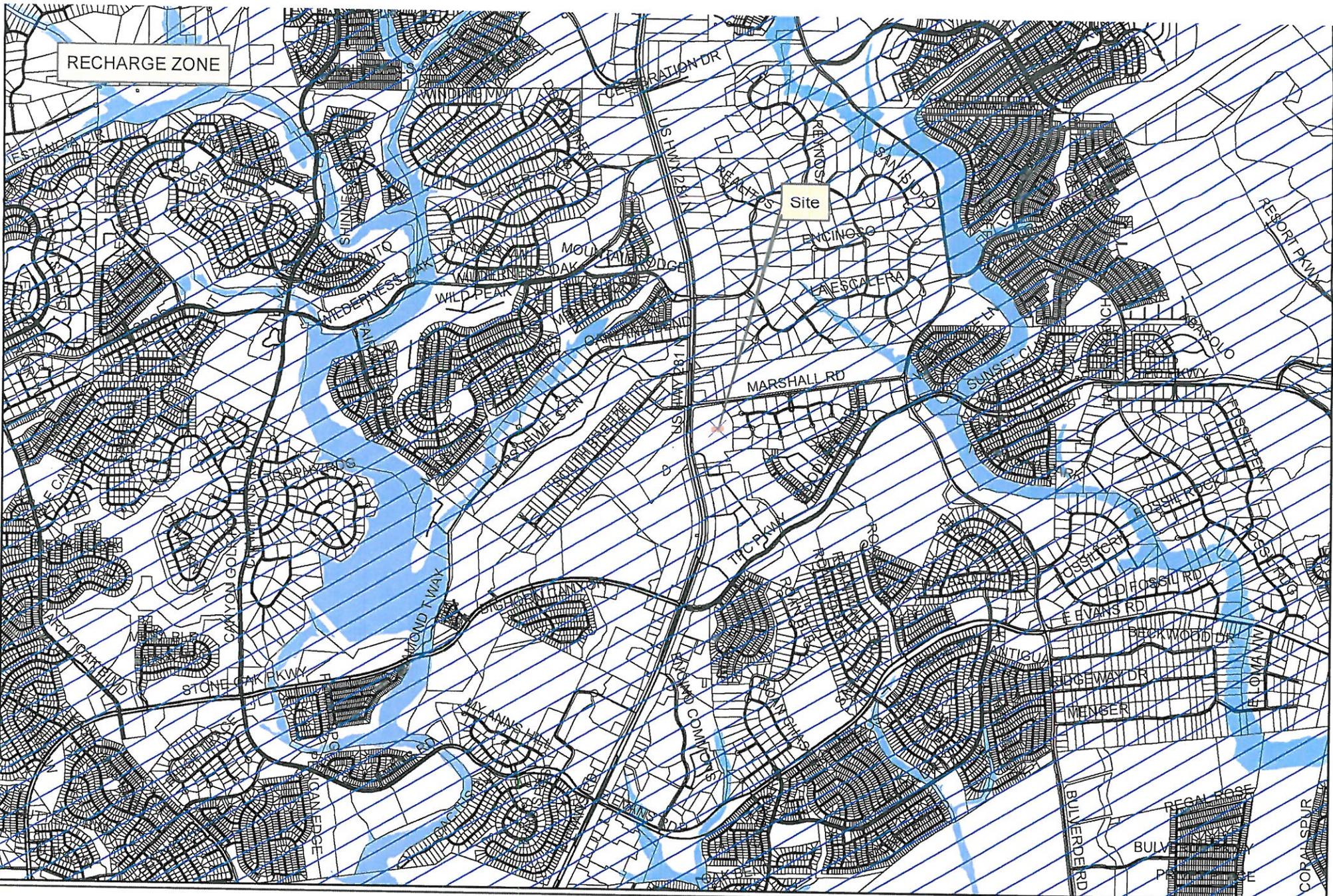
- C. After basin construction is complete and prior to the start of business, the owner will notify the SAWS Aquifer Protection and Evaluation Section at (210) 233-3537 to schedule a site inspection. Additionally, we recommend a maintenance plan and schedule be developed and submitted to San Antonio Water System, Aquifer Protection and Evaluation Section.
 - D. If the basin fails to drain properly, the owner will notify the Construction Section of the Resource Compliance Division at (210) 233-3537 prior to any discharge of water.
 - E. If at any time the ownership of the property changes, the seller must inform the buyer of all requirements for maintenance of the Basin. A signed basin maintenance plan and schedule agreement, from the new owner, must be submitted to the SAWS.
5. The City of San Antonio shall inspect all future construction of the sewage collection system to include service laterals and sewer mains for proper construction according to State and City Regulations and Code.
6. The Resource Protection Division staff shall have the authority to inspect the site to ensure that the approved recommendations are being strictly adhered to during and after construction of the project.

Based on the site evaluation of the property, and the information submitted by the applicant, staff recommends **approval** of the proposed land use. Additionally, SAWS staff recommends that the applicant, or any future owner, comply with the above recommendations in regards to the development of the subject property.

APPROVED:

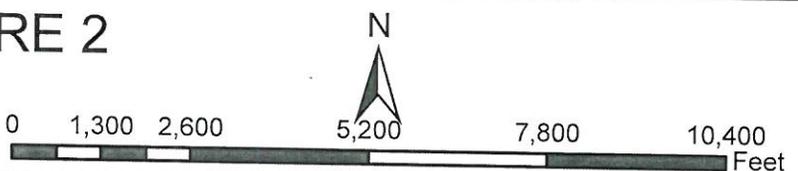


Scott R. Halty
Director,
Resource Protection & Compliance Department



ZONING : SAMS CLUB NORTH SAN ANTONIO **FIGURE 2**
ZONING NUMBER: Z2012167

Map Prepared by Aquifer Protection and Evaluation BVK 7/26/2012





Zoning Case Notification Plan

Case Z-2012-207

Council District 1

Scale: 1" approx. = 100 Feet

Subject Property Legal Description(s): NCB 02047 BLK 004 LOT 17

Legend

- Subject Properties (0.200 Acres)
- 200' Notification Area
- Current Zoning **TEXT**
- Requested Zoning Change **(TEXT)**
- 100-Year DFIRM Floodplain
- Single Family Residential **1R**



Development Services Dept
City of San Antonio
(10/01/2012 - R Martinez)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission
Zoning Case #: Z2012207
Hearing Date: November 6, 2012
Property Owner: Oscar Mendoza
Applicant: Oscar Mendoza
Representative: Oscar Mendoza
Location: 120 Princeton
Legal Description: Lot 17, Block 4, NCB 2047
Total Acreage: 0.2006
City Council District: 1
Case Manager: Osniel Leon, Planner
Case History: This is the first public hearing for this zoning case.

Proposed Zoning Change

Current Zoning: "C-3NA AHOD" General Commercial Nonalcoholic Sales Airport Hazard Overlay District
Requested Zoning: "RM-5 AHOD" Residential Mixed Airport Hazard Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 18, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 32
Neighborhood Associations: Beacon Hill Neighborhood Association
Planning Team Members: 11 – Midtown Neighborhoods Plan
Applicable Agencies: None

Property Details

Property History: The property is located within the City Limits as they were recognized in 1938 and was originally zoned under the 1938 code. In a 1997 City-initiated large area case, the property was rezoned to "B-3NA" Business Nonalcoholic Sales District. Upon adoption of the Unified Development Code, the previous base zoning district converted to the current "C-3NA" General Commercial Nonalcoholic Sales District. The subject property is currently developed with a residential structure. According to the Bexar County Appraisal District, the structure measures 1,008 square feet and was constructed in 1925.

Topography: The property does not include any abnormal physical features such as significant slope or inclusion in a flood plain.

Adjacent Zoning and Land Uses

Direction: North and East

Current Base Zoning: "C-3NA"

Current Land Uses: Auto repair, vacant properties, bar, restaurant, retail center

Direction: South and West

Current Base Zoning: "R-6", "RM-4"

Current Land Uses: Single-family residences

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

Transportation

Thoroughfare: Princeton Avenue

Existing Character: Local Street; 1 lane in each direction with sidewalks

Proposed Changes: None Known

Thoroughfare: West Myrtle Street

Existing Character: Local Street; 1 lane in each direction with no sidewalks

Proposed Changes: None Known

Thoroughfare: Fredericksburg Road

Existing Character: Secondary Arterial Type B; 2 lanes in each direction with sidewalks

Proposed Changes: None Known

Public Transit: VIA bus lines 2, 92, 96, 97, 202, 292 and 296 operate along Fredericksburg Road, east of the subject property.

Traffic Impact: A Traffic Impact Analysis (TIA) is not required. The traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: Three-Family Dwelling - Minimum Parking Requirement: 1.5 vehicle space per unit.
Maximum Parking Requirement: 2 vehicle space per unit.

Staff Analysis and Recommendation: Approval, pending master plan amendment

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The property is located within the Midtown Neighborhoods Plan and is currently designated as Low Density Residential, Mixed Use, and Transit Oriented Development in the Future Land Use Plan. A plan amendment has been initiated to change the land use designation on the subject property to Medium Density Residential. Staff and Planning Commission recommend approval of the plan amendment request.

The proposed Residential Mixed District is appropriate for the area. According to Midtown Neighborhoods Plan, the Medium-Density Residential uses include three-, and four-family dwellings and townhouses. In areas identified as Medium-Density Residential, the neighborhoods support additional density in the larger structures while conserving the existing housing stock and maintaining the buildings' architectural character. Medium-Density Residential uses are found along arterials or streets that carry the majority of the neighborhoods' traffic.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request.

3. Suitability as Presently Zoned:

The existing commercial zoning is not appropriate for the subject property. The "C-3" districts are designed to provide uses that are typically characterized as community and regional power centers such as shopping malls, movie theaters, and hospitals. "C-3" zoning is most suitable when located on large acreage lots at intersections of highways and major arterials.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare in relation to this zoning change request.

5. Public Policy:

The request does not appear to conflict with any public objective

6. Size of Tract:

The subject property is 0.2006 acres and appears to be of sufficient size to accommodate the proposed development. The "RM-5" district requires a minimum lot size of 5,000 square feet. The existing lot will allow a maximum of 3 dwelling units within the "RM-5" district.

7. Other Factors:

The property currently includes a single-family residence. In addition to the current use, the property owner intends to build a new duplex on the backside of the lot with a vehicle entrance from West Myrtle Street.



Zoning Case Notification Plan

Case Z-2012-218 HL

Council District 1
 Scale: 1" approx. = 120 Feet

Subject Property Legal Description(s): NCB 02746 - BLK 052 - LOT 20 THRU 26 & SE 9 FT OF 19

- Legend**
- Subject Properties (0.989 Acres)
 - 200' Notification Area
 - Current Zoning (TEXT)
 - Requested Zoning Change (TEXT)
 - 100-Year DFIRM Floodplain
 - Single Family Residential (1R)



Development Services Dept
 City of San Antonio
 (10/03/2012 - R Martinez)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).



City of San Antonio Development Services Department Staff Report

To: Zoning Commission
Zoning Case #: Z2012218 HL
Hearing Date: November 6, 2012
Property Owner: Wehner Real Estate, LLC (Margaret Wehner, Member)
Applicant: City of San Antonio Office of Historic Preservation
Representative: City of San Antonio Office of Historic Preservation
Location: At the northeast corner of Fredericksburg Road and West Lynwood
Legal Description: Lots 20, 21, 22, 23, 24, 25, 26 and the southeast 9 feet of Lot 19, Block 52, NCB 2746
Total Acreage: 0.989
City Council District: 1
Case Manager: Timothy Mulry, Planner
Case History: This is the first public hearing for this zoning case.

Proposed Zoning Change

Current Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District and "C-3 AHOD" General Commercial Airport Hazard Overlay District

Requested Zoning: "HL C-2 AHOD" Historic Landmark Commercial Airport Hazard Overlay District and "HL C-3 AHOD" Historic Landmark General Commercial Airport Hazard Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 43

Neighborhood Associations: Keystone Neighborhood Association; Monticello Park Neighborhood Association, Jefferson Neighborhood Association and Woodlawn Lake Community Association are located within 200 feet.

Planning Team Members: 19 (Near Northwest Planning Team)

Applicable Agencies: City of San Antonio Office of Historic Preservation

Property Details

Property History: The property is located within the City Limits as they were recognized in 1938, and was originally zoned "F" Local Retail District. In a 1989 case, the property was rezoned to "B-2" Business District and "B-3" Business District (Ordinance 69634). Upon adoption of the 2001 Unified Development Code, the previous base zoning districts converted to the current "C-2" Commercial District and "C-3" General Commercial District, respectively. According to the City of San Antonio Office of Historic Preservation, the structure was built in 1945 and is currently developed as an approximately 51,718 square foot shopping and amusement center.

Topography: The property is relatively flat and does not include any abnormal physical features such as slope or inclusion in a floodplain.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: "R-4", "C-2NA"

Current Land Uses: Single-family residences, ice cream store, parking lot, liquor store, vacant

Direction: East

Current Base Zoning: "R-4"

Current Land Uses: Single-family residences, parking lot

Direction: South, West

Current Base Zoning: "C-2", "C-2NA"

Current Land Uses: Parking lot, retail store, beauty school, auto sales, vacant commercial

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

Transportation

Thoroughfare: Fredericksburg Road

Existing Character: Secondary Arterial Type A; 2 lanes in each direction with sidewalks

Proposed Changes: None known

Thoroughfare: Donaldson Avenue

Existing Character: Minor Street; 2 lanes in each direction with sidewalks

Proposed Changes: None known

Thoroughfare: West Lynwood, North Elmendorf

Existing Character: Local Streets; 1 lane in each direction with sidewalks

Proposed Changes: None known

Public Transit: The nearest VIA bus lines are the number 91, 92, 96, 97, and 520, which operate along Fredericksburg Road with multiple stops immediately adjacent to the subject property.

Traffic Impact: A Traffic Impact Analysis (TIA) is not required. The traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: The subject property is developed with a variety of retail, service, and amusement uses. The zoning change request will not affect the range of allowable uses; therefore there is no change in the parking requirement.

Staff Analysis and Recommendation: Approval

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The property is located within the Near Northwest Neighborhood Plan, and is designated Neighborhood Commercial in the future land use component of the plan. The zoning request does not include a change to the existing base zoning district; therefore, a finding of consistency is not required.

2. Adverse Impacts on Neighboring Lands:

Historic landmark designation will not affect the range of permitted uses on the subject property, because potential uses are determined by the property's base zoning district. However, historic designation will regulate the exterior aesthetic of the structure. If the designation is approved, all construction plans must be submitted to and approved by the Historic and Design Review Commission prior to issuing of building permits. The purpose of the requested zoning change is to protect and preserve the structure and make the property eligible for tax incentives for rehabilitation.

3. Suitability as Presently Zoned:

There is no proposed change to the existing "C-2" and "C-3" base zoning districts. Approval of the "HL" designation will require an additional review process for future exterior rehabilitation.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety or welfare.

5. Public Policy:

The subject property and the proposed development meet the criteria of the Inner City Reinvestment Infill Policy (ICRIP). This policy provides development fee waivers to applicants and grant funded reimbursement for city departments, in an effort to encourage redevelopment of under-utilized urban properties.

6. Size of Tract:

The size of the subject property is not an issue for the consideration of historic landmark designation.

7. Other Factors:

On June 20, 2012, the Historic and Design Review Commission issued a Certificate of Appropriateness identifying the property as historically significant based on criteria listed in Section 35-607 of the Unified Development Code. The eight criteria identified as being applicable to the subject property are specified in the attached Statement of Significance.

The subject property owner supports the Historic Landmark designation.



CITY OF SAN ANTONIO

HISTORIC AND DESIGN REVIEW COMMISSION CERTIFICATE OF APPROPRIATENESS

June 20, 2012

HDRC CASE NO: 2012-173

ADDRESS: 1924 Fredericksburg Rd. (1900-1926 Fredericksburg Rd.)

LEGAL DESCRIPTION: NCB 2746 BLK 52 LOT 20 THRU 26 & SE 9 FT OF 19

APPLICANT: City of San Antonio Office of Historic Preservation 1901 S. Alamo

OWNER: Sherry Wehner, Wehner Real Estate, LLC

TYPE OF WORK: Finding of Historic Significance

REQUEST:

The applicant is requesting a Finding of Historic Significance for the Woodlawn Theater at 1924 Fredericksburg Rd. The Woodlawn Theatre is one of the most significant performance venues in San Antonio. It opened to the public as a movie theater on August 16, 1945. The theater was designed by architect John Eberson, best known for his atmospheric movie palaces. "National Velvet" was shown on opening day and "The Alamo", starring John Wayne, had its world premier here as well. The Woodlawn Theatre was the suburban "sister" to the Majestic theater, located downtown. Though significantly altered, with the exception of the marquis, the Woodlawn Theatre now serves as a live performance venue.

RECOMMENDATION:

Staff recommends approval as submitted.

This recommendation is consistent with the criteria listed in UDC Section 35-607 Designation for Historic Districts and Landmarks:

COMMISSION ACTION:

Approved as submitted.

Shanon Peterson
Historic Preservation Officer

22012218

**Statement of Significance for the Woodlawn Theater
1920 Fredericksburg Road
San Antonio, Texas**

The Woodlawn Theater is one of the most significant performance venues in San Antonio. It opened to the public as a movie theater on August 16, 1945. The theater was designed by architect John Ebersson, best known for his atmospheric movie palaces. Among the cinematic events that took place at the Woodlawn Theater was the screening of "National Velvet," starring Elizabeth Taylor and Mickey Rooney, on opening day, and the world premier of John Wayne's "The Alamo" in 1960.

The Woodlawn Theater was the suburban "sister" to the Majestic Theater, located downtown. The Woodlawn Theater is representative of San Antonio's suburban expansion and the rise of vehicular culture in the United States during the period following World War II.

Anticipation for this new theater was high. Newspaper articles of the time touted the theaters many amenities and emphasized the accommodations for automobiles. A *San Antonio Express News* article from Sunday, August 6, 1945 advertised that "...the theater will have a parking lot directly across the street. The block-square parking lot will be equipped with floodlights; it will be paved, well drained, and there will be attendants in charge to care for cars free of charge." The building itself was praised in another *San Antonio Express* article from August 13, 1945, indicating that the Woodlawn Theater "...will be the city's newest and most de luxe suburban theater. Modern technical equipment and the finest furnishings obtainable as well as the most expert construction, make the theater one of the finest of its kind in the Southwest and a definite asset to the section of the city which it will serve." It is clear from these descriptions that San Antonio, like the rest of the United States, was ready to move on from the years of depression and war to a happy, modern world. The construction of suburban theaters like the Woodlawn in post-war America heralded the focus away from central downtowns to the space and freedom of the suburbs, with access to shopping malls, fast food restaurants, and entertainment venues made possible by the automobile.

The Woodlawn Theater has been significantly altered on the interior and on other portions of the building. The marquis and façade remain intact, however, and are the most prominent visual element of the theater. The façade and vertical sign reading "Woodlawn" are executed in a late Art Deco style, with neon lettering and ornamentation, emphasizing the signature verticality of form of this style.

Over the years, the Woodlawn Theater saw incarnations as a night club and even a place of worship, before being abandoned for a number of years. It was recently restored and now serves as a live performance venue.¹

¹ <http://truesanantoniolife.wordpress.com/2011/11/22/woodlawn-theatre/>

The Woodlawn Theater at 1920 Fredericksburg Road meets the following criteria for local landmark designation:

Its value as a visible or archeological reminder of the cultural heritage of the community, or national event [35-607(b)1]; The Woodlawn Theater was San Antonio's first "suburban" theater and represents suburban expansion and the architecture of vehicular culture following World War II.

Its location as a site of a significant local, county, state, or national event [35-607(b)2]; The Woodlawn Theater was a premier movie house in San Antonio and opened with an exclusive screening of "National Velvet," starring Elizabeth Taylor, in 1945. The Woodlawn Theater also hosted the world premier of "The Alamo" in 1960, starring John Wayne, who attended the premier along with a host of other celebrities of the day.

Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state, or nation [35-607(b)4]; The Woodlawn Theater was designed by renowned theater architect John Eberson, who was known for his "atmospheric" movie palace designs.

Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials [35-607(b)5]; Although somewhat altered, the Woodlawn theater is one of the last remaining "movie palaces" in San Antonio and is designed in the late Art Deco style.

Its unique location or singular physical characteristics that make it an established or familiar visual feature [35-607(b)7]; The Woodlawn Theater anchors the north end of a block-long shopping strip fronting Fredericksburg Rd. The prominent marquis and vertical Art Deco sign are an established visual feature to the neighborhood.

It is distinctive in character, interest or value; strongly exemplifies the cultural, economic, social, ethnic or historical heritage of San Antonio, Texas or the United States [35-607(b)11]; The Woodlawn Theater exemplifies the suburban expansion of San Antonio and the rise of vehicular culture following World War II.

It is an important example of a particular architectural type or specimen [35-607(b)12]; The Woodlawn Theater is one of the last remaining "movie palaces" of the mid 20th century and is a significant example of late Art Deco architecture.

It represents a resource, whether natural or man-made, which greatly contributes to the character or image of a defined neighborhood or community area [35-607(b)15]; The Woodlawn Theater is an important character defining structure for the Deco District on Fredericksburg Rd., and is an established social center for the surrounding community.



Zoning Case Notification Plan

Case Z-2012-219 CD

Council District: 6

Scale: 1" approx. = 100 Feet

Subject Property Legal Description(s): NCB 00964 - BLK 018 - LOTS 6, 7, 8 and 9

Legend

Subject Properties (0.344 Acres)

200' Notification Area

Current Zoning (TEXT)

Requested Zoning Change (TEXT)

100-Year DFIRM Floodplain

Single Family Residential (1R)



Development Services Dept
City of San Antonio
(10/25/2012 - R Martinez)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).



City of San Antonio Development Services Department Staff Report

To: Zoning Commission
Zoning Case #: Z2012219 CD
Hearing Date: November 6, 2012
Property Owner: Julio C. Rodriguez
Applicant: Julio C. Rodriguez
Representative: Julio C. Rodriguez
Location: 1819 Herbert Lane
Legal Description: Lots 20 and 21, Block 2, NCB 13953
Total Acreage: 0.34435
City Council District: 6
Case Manager: Pedro Vega, Planner
Case History: This is the first public hearing for this zoning request.

Proposed Zoning Change

Current Zoning: "C-3NA MAOZ-1 AHOD" General Commercial Nonalcoholic Sales Military Airport Overlay Zone-1 Airport Hazard Overlay District

Requested Zoning: "C-2 CD MAOZ-1 AHOD" Commercial Military Airport Overlay Zone-1 Airport Hazard Overlay District with a Conditional Use for Storage - Outside (Under Roof and Screened)

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 23

Neighborhood Associations: None

Planning Team Members: 35 (West/Southwest Sector Plan)

Applicable Agencies: Lackland AFB, Texas

Property Details

Property History: The subject property was annexed in 1966 and was originally zoned "Temp R-1" Temporary Single-Family Residence District. In a 1986 City-initiated case, the property was rezoned to "B-3NA MAOZ-1" Business District Nonalcoholic Sales Military Airport Overlay Zone-1 (Ordinance 64225). Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to the current "C-3NA MAOZ-1" General Commercial Nonalcoholic Sales Military Airport Overlay Zone-1. The property is platted.

Topography: The property does not include any abnormal physical features such as slope or inclusion in a flood plain.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: "C-3NA" General Commercial Nonalcoholic Sales District

Current Land Uses: Single-Family Dwellings and Bar

Direction: South

Current Base Zoning: "C-3NA" General Commercial Nonalcoholic Sales District

Current Land Uses: Vacant Lots

Direction: West

Current Base Zoning: "C-3NA" General Commercial Nonalcoholic Sales District

Current Land Uses: Single-Family Dwellings

Direction: East across Herbert Lane

Current Base Zoning: "I-1" General Industrial District

Current Land Uses: Food Company and Storage - Outside

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

All surrounding properties carry the "MAOZ-1" Military Airport Overlay Zone, due to their proximity to military airport takeoff and final approach paths. The City of San Antonio has designated the military airport overlay zones in order to promote the public health, safety, peace, comfort, convenience and general welfare of the inhabitants of military airport environs and to prevent the impairment of military airfields and the public investment.

Transportation

Thoroughfare: Herbert Lane

Existing Character: Local Street; 1 lane in each direction

Proposed Changes: None known.

Public Transit: The nearest VIA bus lines are the number 76 and 276, which operate along Old Hwy 90 West, north of the subject property.

Traffic Impact: A Traffic Impact Analysis (TIA) is not required because traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: Storage - Outside (Under Roof and Screened) - Minimum Parking Requirement: 1 per 600 square feet of GFA. Maximum Parking Requirement: 1 per 350 square feet of GFA.

Staff Analysis and Recommendation: Approval

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The subject property is located within the “West/Southwest Sector Plan” and is designated as “Suburban Tier” in the future land use component of the plan. The “Suburban Tier” land use classification includes low to medium density residential uses as well as neighborhood and community commercial uses. The requested base zoning district is consistent with the adopted land use designation.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request. The majority of surrounding properties are zoned for commercial and industrial uses. The application of a Conditional Use provides an opportunity to limit the impact of the proposed use on surrounding properties by limiting the scope of use allowed.

3. Suitability as Presently Zoned:

Both the existing and requested zoning districts are appropriate for the subject property due to the property’s location and surrounding pattern of development. The land areas below military airport take off and final approach paths are exposed to significant danger of aircraft accidents. It is, therefore, necessary to limit the density of development and intensity of uses in such areas.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare due to this request. The requested rezoning is a reduction in intensity from "C-3NA" General Commercial Nonalcoholic Sales District to "C-2 CD" Commercial District with a Conditional Use and would be appropriate at this location. Although many of the surrounding properties are single-family residences and located within Military Airport Overlay Zone-1 are subject to noise and/or aircraft accident potential which may be objectionable.

5. Public Policy:

The proposed commercial zoning is consistent with the adopted land use designation, which is a component of the City’s Master Plan. The MAOZ overlay prohibits certain uses incompatible with military runway operations. Storage - Outside (Under Roof and Screened) is permitted within the MAOZ overlay. The MAOZ area that extends approximately five thousand (5,000) feet in length and three thousand (3,000) feet in width beyond the clear zone. The military airport overlay zones are intended to guide, control, and regulate future growth and development. Prevent the establishment of any land use which would endanger aircraft operations and the continued use of military airports.

6. Size of Tract:

The subject property measures 0.34435 acres and would appear to be of sufficient size to accommodate the proposed use. The applicant has submitted a site plan in order to comply with the Conditional Use requirements.

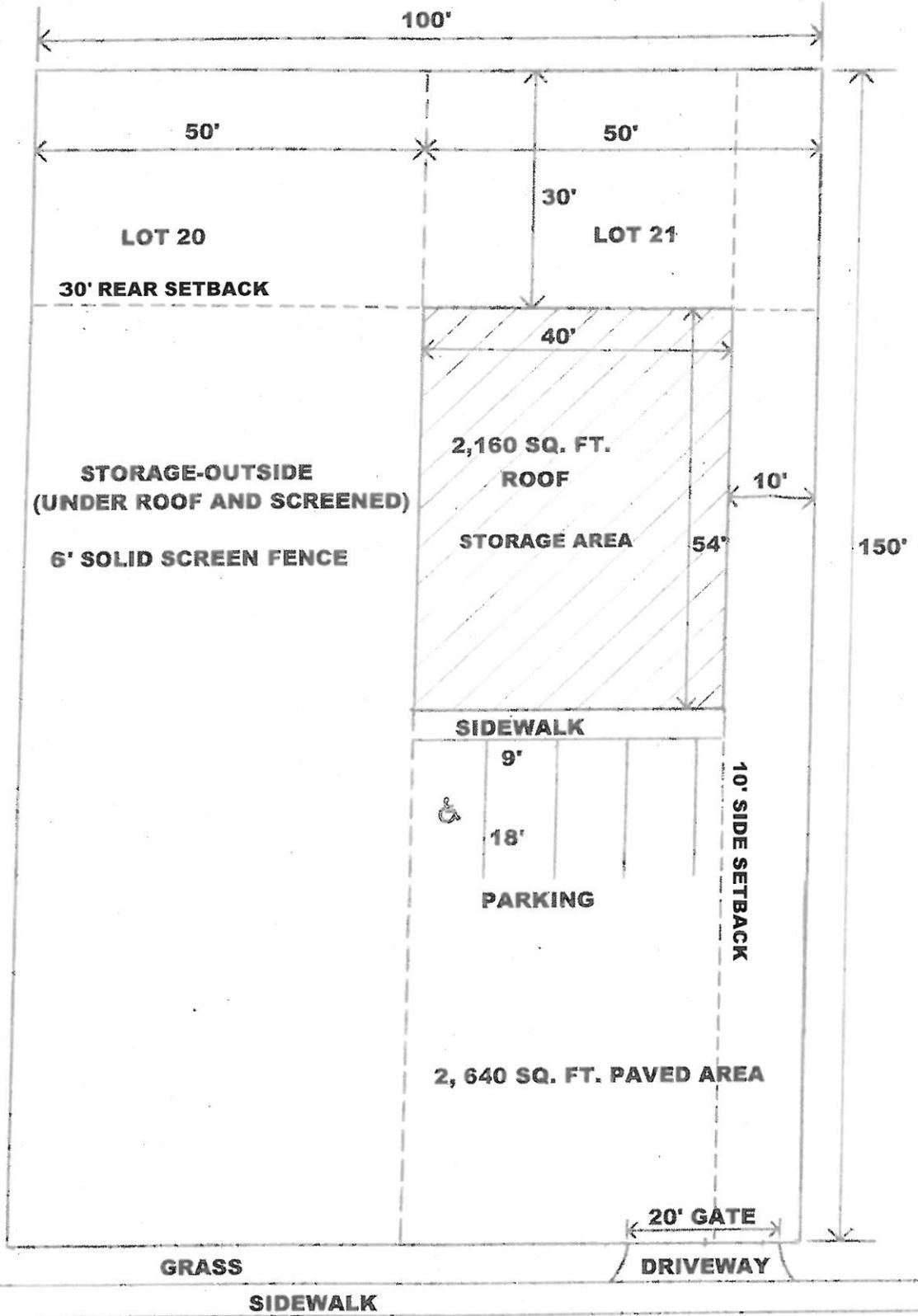
7. Other Factors:

The "C-2" Commercial District permits general commercial activities designed to serve the community and promote a broad range of commercial operations and services necessary for large regions of the city, providing community balance.

The conditional zoning procedure is designed to provide for a land use within an area that is not permitted by the established zoning district but due to individual site considerations or unique development requirements would be compatible with adjacent land uses under given conditions. The granting of conditional zoning shall only be for the conditional use named in the ordinance (Storage - Outside - Under Roof and Screened) approving the conditional zoning district.

"C-2 CDMAOZ-1 AHOD" COMMERCIAL MILITARY AIRPORT OVERLAY ZONE-1 AIRPORT HAZARD OVERLAY DISTRICT WITH A CONDITIONAL USE FOR STORAGE-OUTSIDE (UNDER ROOF AND SCREENED)

ZONING CASE Z2012219 CD



7. The following statement: "I, Julio C. Rodriguez, the property owner, acknowledge that this site plan submitted for the purpose of rezoning this property is in accordance with all applicable provisions of the Unified Development Code. Additionally, I understand that City Council approval of a site plan in conjunction with a rezoning case does not relieve me from adherence to any/all City-adopted Codes at the time of plan submittal for building permits."

HERBERT LANE

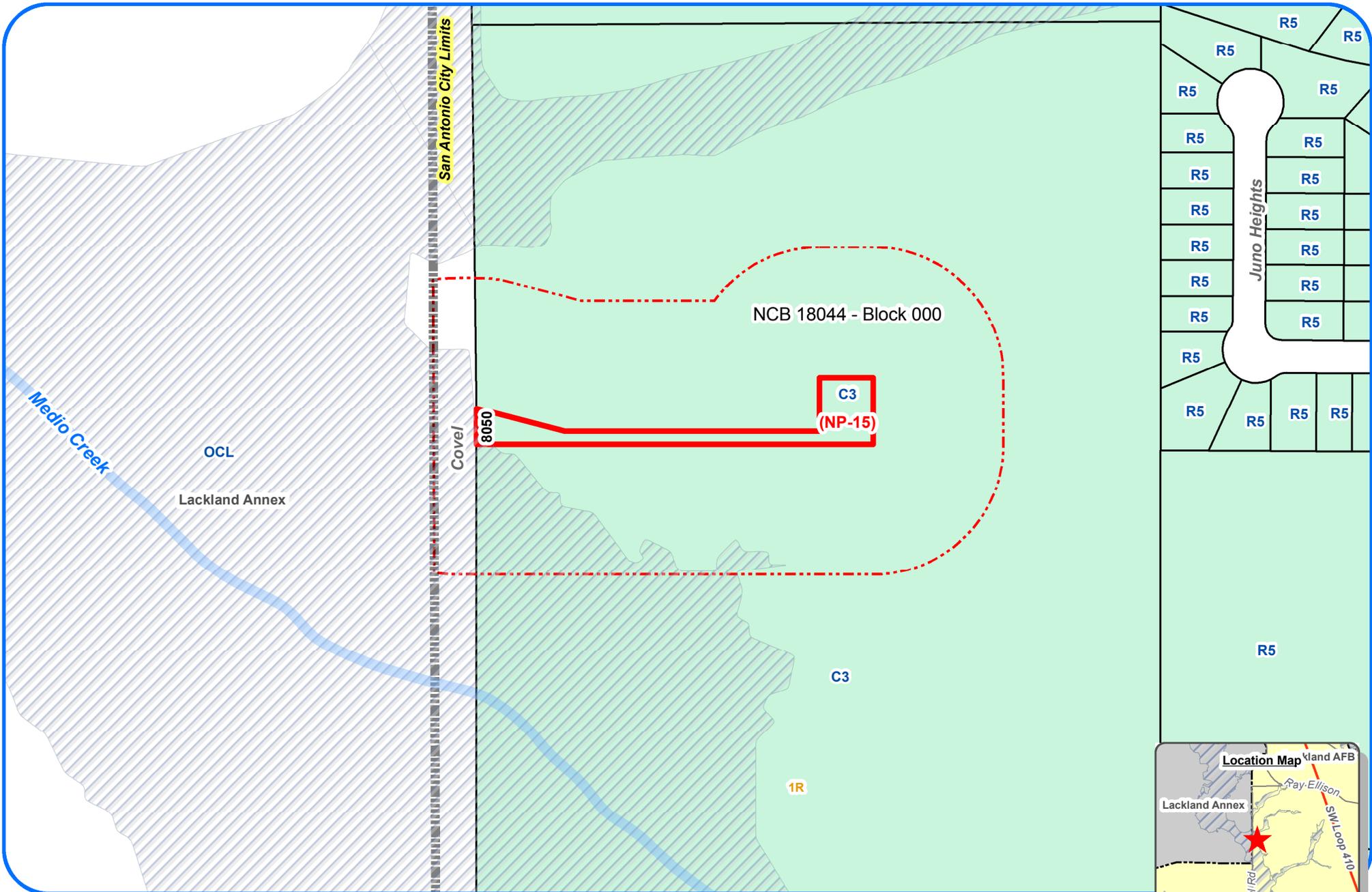
PROPERTY DESCRIPTION: LOT 20 AND LOT 21, BLOCK 2, NCB 13953

SITE PLAN

ACRES: 0.34435

SCALE: 1" = 20'





Zoning Case Notification Plan

Case Z-2012-220

Council District 4
 Scale: 1" approx. = 200 Feet
 Subject Property Legal Description(s): NCB 18044 Block Lot P-1C

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).

Legend

- Subject Properties ——— (0.490 Acres)
- 200' Notification Area - - - - -
- Current Zoning TEXT
- Requested Zoning Change (TEXT)
- 100-Year DFIRM Floodplain ▨▨▨▨
- Single Family Residential 1R



Development Services Dept
 City of San Antonio
 (10/09/2012 - R Martinez)



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission

Zoning Case #: Z2012220

Hearing Date: November 6, 2012

Property Owner: Steven & Tami Griffin

Applicant: Frank Griffin

Representative: Frank Griffin

Location: A portion of 8050 Covell; located on the east side of Covell, between Loop 410 and Old Pearsall Road

Legal Description: 0.49 of an acre out of Parcel 1C, NCB 18044

Total Acreage: 0.49

City Council District: 4

Case Manager: Trenton Robertson, Planner

Case History: This is the first public hearing for this zoning case.

Proposed Zoning Change

Current Zoning: "C-3 AHOD" General Commercial Airport Hazard Overlay District

Requested Zoning: "NP-15 AHOD" Neighborhood Preservation Airport Hazard Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 1

Neighborhood Associations: People Active in Community Effort - P.A.C.E.

Planning Team Members: 29- United Southwest Communities Plan

Applicable Agencies: Lackland Air Force Base

Property Details

Property History: The subject property consists of 0.49 of an acre out of a 35-acre tract. The parent tract was annexed into the city in 1985 and was originally zoned "Temp R-1" Temporary Residence District. In 1989, the property was rezoned to "B-3" Business District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to the current "C-3" Commercial District. The property is not platted. The parent tract includes a single-family residence that was built in 2000. The purpose of the zoning change request is to allow the construction of an additional residence.

Topography: Portions of the parent tract and adjacent properties are included in a flood plain; however, the subject property area is not.

Adjacent Zoning and Land Uses

Direction: North, south, and west

Current Base Zoning: "C-3", "R-5"

Current Land Uses: Single-family residences

Direction: East

Current Base Zoning: "OCL" Outside City Limits

Current Land Uses: Lackland Air Force Base Annex

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

Transportation

Thoroughfare: Covell

Existing Character: Secondary Arterial Type A 86'; one lane in each direction with no sidewalks

Proposed Changes: None known

Public Transit: There are no public transit lines in the subject property area.

Traffic Impact: TIA report is not required. The traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: Single-Family dwelling - Minimum: 1 parking space per unit; Maximum: N/A

Staff Analysis and Recommendation: Approval

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The property is located within the United Southwest Community Plan, and is currently designated as “Low Density Residential” in the future land use component of the plan. The requested “NP-15” Neighborhood Preservation District is consistent with the adopted land use designation.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request.

3. Suitability as Presently Zoned:

The current “C-3” zoning district does not conform to the adopted land use plan, and the existing residence is a legal nonconforming use. Staff finds the requested base zoning district appropriate for the subject property due to its location and size, surrounded by rural residential uses.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare.

5. Public Policy:

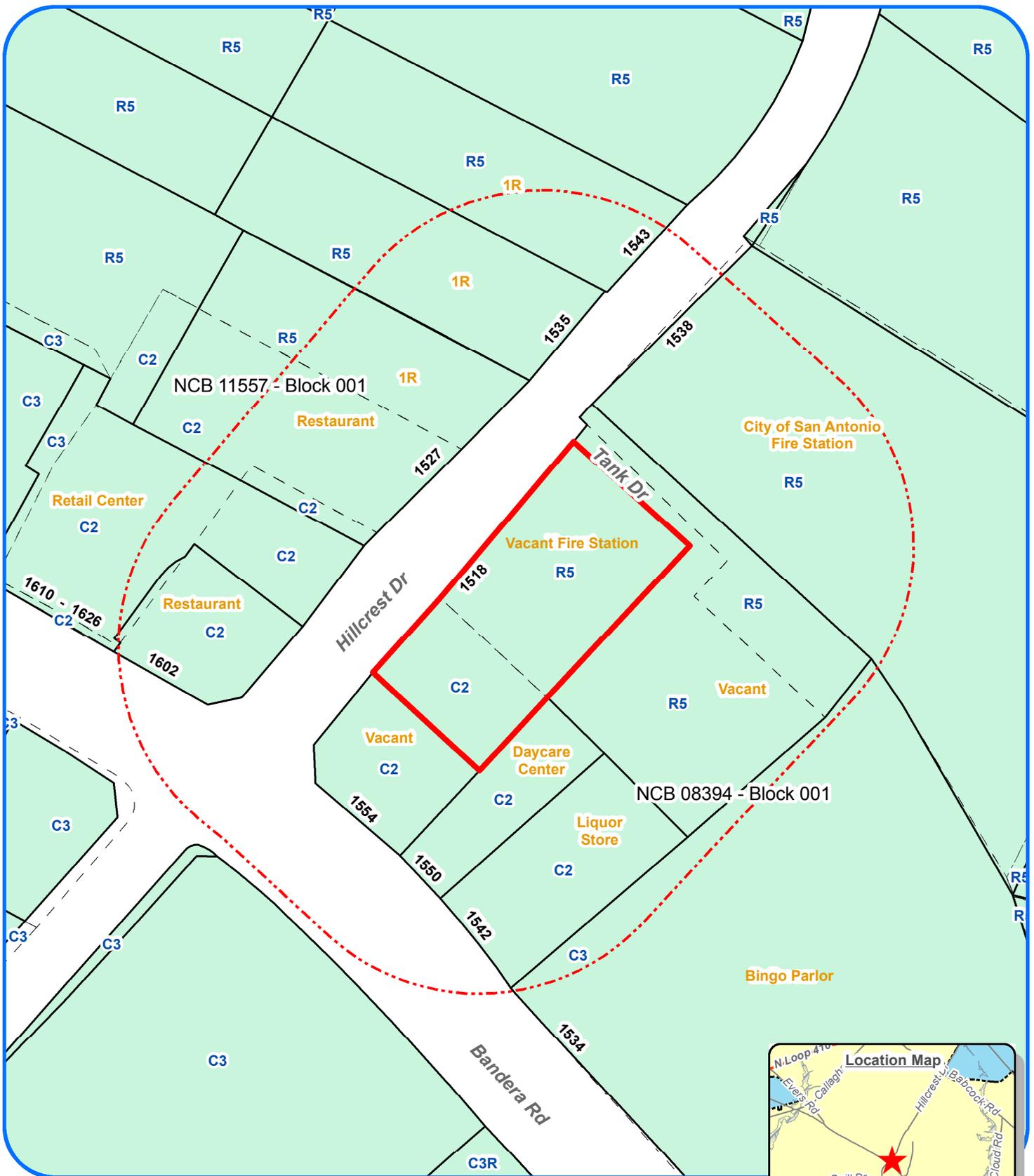
The request does not appear to conflict with any established public policy.

6. Size of Tract:

The subject property is 0.49 of an acre in size, which should be able to reasonably accommodate the proposed single-family dwelling.

7. Other Factors:

None.



Zoning Case Notification Plan

Case Z-2012-222

Council District 7

Scale: 1" approx. = 120 Feet

Subject Property Legal Description(s): 0.8413 out of Lots 21 & 22, Blk G, NCB 8394

Legend

- Subject Properties (0.841 Acres)
- 200' Notification Area
- Current Zoning **TEXT**
- Requested Zoning Change **(TEXT)**
- 100-Year DFIRM Floodplain
- 1R



Development Services Dept
City of San Antonio
(10/03/2012 - R Martinez)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).



City of San Antonio Development Services Department Staff Report

To: Zoning Commission
Zoning Case #: Z2012222
Hearing Date: November 6, 2012
Property Owner: City of San Antonio
Applicant: City of San Antonio, CIMS Department
Representative: Brown & Ortiz, P.C. (James Griffin)
Location: 1518 Hillcrest Drive
Legal Description: 0.828 acres out of Lots 21 and 22, Block G, NCB 8394
Total Acreage: 0.828
City Council District: 7
Case Manager: Brenda V. Martinez, Planner
Case History: This is the first public hearing for this zoning case. The case is being expedited to City Council on November 15, 2012.

Proposed Zoning Change

Current Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District and "C-2 AHOD" Commercial Airport Hazard Overlay District

Requested Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 12

Neighborhood Associations: Donaldson Terrace Neighborhood Association

Planning Team Members: 19 (Near Northwest Community Plan)

Applicable Agencies: None

Property Details

Property History: The subject property was annexed in 1952 and was originally zoned “Temp A” Temporary Single Family Residence District. In a 1955 case, the southwest portion of the subject property was rezoned to “F” Local Retail District. In 1957, the northeast portion of the subject property was rezoned to “A” Single-Family Residence District. Upon adoption of the 2001 Unified Development Code, the previous “A” and “F” base zoning districts converted to the current “R-5” Residential Single-Family District and “C-2” Commercial District, respectively. The subject property consists of portions of two lots located within a plat recorded in 1924 (Volume 642, Page 149 of the Bexar County Plat Records); however, the subject property is not platted in its current configuration.

The subject property is currently owned by the City of San Antonio. The property has been declared as surplus and is being sold for redevelopment as a retail drug store. The existing structure was previously used as a fire station.

Topography: The property does not include any abnormal physical features such as slope or inclusion in a floodplain.

Adjacent Zoning and Land Uses

Direction: Northwest and West

Current Base Zoning: “C-2” and “R-5”

Current Land Uses: Restaurants, Retail Center and Single-Family Residences

Direction: Northeast and East

Current Base Zoning: “R-5”

Current Land Uses: Fire Station and Vacant Land

Direction: South and Southwest

Current Base Zoning: “C-2”

Current Land Uses: Daycare Center, Vacant Land, Bingo Parlor, Liquor Store, and Tire Shop

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

Transportation

Thoroughfare: Bandera Road

Existing Character: Primary Arterial Type A Street; 2 lanes in each direction

Proposed Changes: None known

Thoroughfare: Hillcrest Drive

Existing Character: Secondary Arterial Type B Street; 2 lanes in each direction

Proposed Changes: None known

Public Transit: VIA bus line 88 operates along Bandera Road with multiple stops immediately adjacent to the subject property.

Traffic Impact: A Traffic Impact Analysis is required. The TIA study has been submitted and is being reviewed by the City of San Antonio Department of Public Works.

Parking Information: Off-street vehicle parking requirements for drugstore uses are determined by the size of the building. Minimum Requirement – 1 parking space per 300 square feet of Gross Floor Area (GFA); Maximum Allowance – 1 parking space per 200 square feet of GFA.

Staff Analysis and Recommendation: Approval, pending Plan Amendment.

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The subject property is located within the Near Northwest Community Plan and is designated as Mixed Use in the future land use component of the plan. The requested zoning is not consistent with the adopted land use designation. A plan amendment has been initiated, requesting to change the land use designation to "Community Commercial". Staff and Planning Commission recommend approval of the plan amendment request.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of adverse impacts that may be caused by approval of the requested zoning. The uses permitted in the "C-2" district are appropriate for the subject property's location near the intersection of two arterial thoroughfares. The proposed reuse is ideal for the subject property and the surrounding neighborhood.

3. Suitability as Presently Zoned:

The existing "R-5" zoning is not appropriate for the subject property as it is not likely to be used for a single-family development. The property is currently split-zoned with both residential and commercial zoning districts, creating significant obstacles for redevelopment of the site.

4. Health, Safety and Welfare:

Staff has found no evidence of likely negative effects on the health, safety or welfare of the surrounding community should the zoning request be approved.

5. Public Policy:

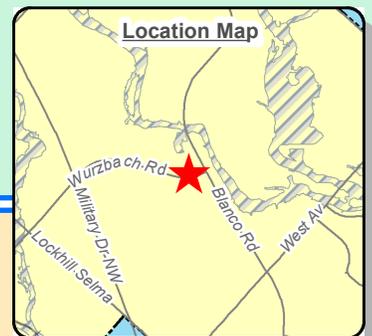
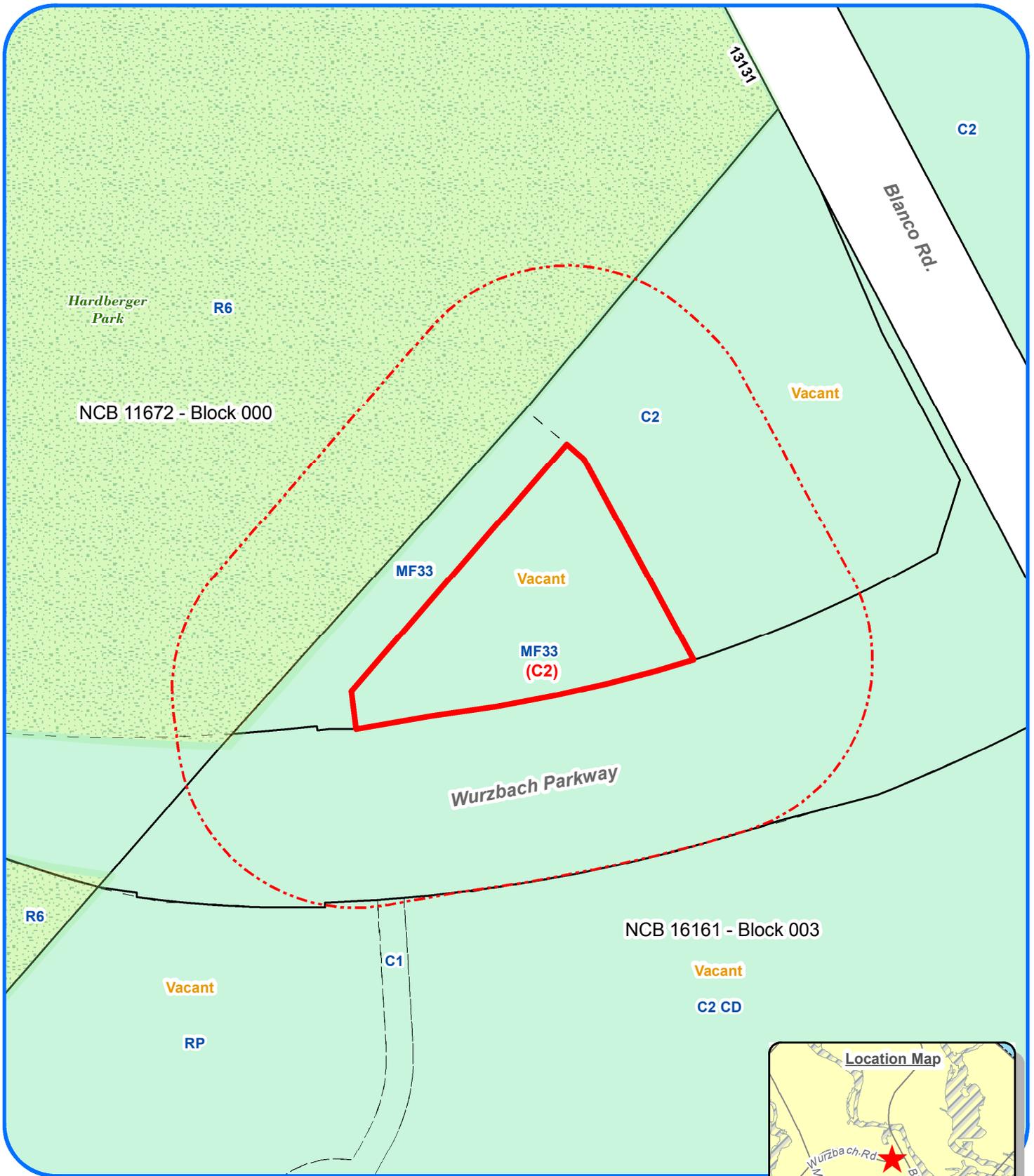
The zoning request does not appear to conflict with any public policy objective. The Near Northwest Community Plan encourages the creation of new business development within existing commercial corridors such as Bandera Road.

6. Size of Tract:

The subject property is of sufficient size to accommodate commercial development and required parking.

7. Other Factors:

On June 21, 2012, the City Council declared the subject property as surplus and authorized the sale of the property (Ordinance 2012-06-21-0479). This zoning case and the related plan amendment were initiated by City Council resolution 2012-09-20-0041R. The cases have been expedited to City Council for consideration at the November 15, 2012 public hearing.



Zoning Case Notification Plan

Case Z-2012-224

Council District: 9

Scale: 1" approx. = 150 Feet

Subject Property Legal Description(s): NCB 16161 BLK 3 LOT N IRR 100.21 FT OF 1 2011-NON ADJ REMAINS

Legend

- Subject Properties (1.377 Acres)
- 200' Notification Area
- Current Zoning **TEXT**
- Requested Zoning Change **(TEXT)**
- 100-Year DFIRM Floodplain
- Single Family Residential **1R**



Development Services Dept
City of San Antonio
(10/18/2012 - R Martinez)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).



City of San Antonio Development Services Department Staff Report

To: Zoning Commission
Zoning Case #: Z2012224
Hearing Date: November 6, 2012
Property Owner: Henrietta Investment Partners
Applicant: Henrietta Investment Partners
Representative: Kaufman & Killen, Inc.
Location: A portion of the northwest corner of Wurzbach Parkway and Blanco Road
Legal Description: 1.377 acres out of Lot 1, Block 3, NCB 16161
Total Acreage: 1.377
City Council District: 9
Case Manager: Trenton Robertson, Planner
Case History: This is the first public hearing for this zoning case.

Proposed Zoning Change

Current Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District

Requested Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 4

Neighborhood Associations: None

Planning Team Members: 41- North Sector Plan

Applicable Agencies: None

Property Details

Property History: The subject property was annexed in 1972, and was originally zoned "R-3" Apartment District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to the current "MF-33" Multi-Family District. The subject property is not platted or developed.

Topography: The property does not include any abnormal physical features such as significant slope or inclusion in a flood plain.

Adjacent Zoning and Land Uses

Direction: North and west

Current Base Zoning: "MF-33" and "R-6"

Current Land Uses: Vacant and park

Direction: South and east

Current Base Zoning: "C-2", "C-2 CD" and "C-1"

Current Land Uses: Vacant

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

Transportation

Thoroughfare: Blanco Road

Existing Character: Secondary Arterial Type A 86'; three travel lanes; two turn lanes and a dedicated bike lane with sidewalks.

Proposed Changes: None

Thoroughfare: Wurzbach Parkway

Existing Character: Super Arterial Type A 200'-250'; two lanes in each direction with a sidewalk.

Proposed Changes: TXDOT is constructing a portion of Wurzbach Parkway just south of the subject property. This will be a limited parkway with no access roads with 2 to 3 lanes in each direction.

Public Transit: VIA bus line 2 operates along Blanco Road, east of the subject property.

Traffic Impact: A Traffic Impact Analysis is required. TIA study will be postponed until platting or permitting.

Parking Information: The subject property is currently vacant and undeveloped. The zoning change request will broaden the range of allowable uses. In accordance with the TIA worksheet submitted by the applicant a bank has been proposed.

Bank, Credit Unions, Savings and Loan

Minimum requirement: 1 per 200 sf GFA for the portion of building used by the financial institution and 1 per 300 sf of GFA of office lease space.

Maximum allowance: 1 per 100 sf GFA for the portion of building used by the financial institution and 1 per 300 sf of GFA of office lease space.

Staff Analysis and Recommendation: Approval, pending Plan Amendment

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The property is located within San Antonio International Airport Vicinity Land Use Plan and is currently designated as neighborhood commercial in the future land use component of the plan. The requested "C-2" base zoning district is not consistent with the Future Land Use designation. The applicant has applied for a plan amendment requesting Planning staff and Commission recommend approval.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring properties. The subject property is located on a Secondary Arterial Type A 86' road which is designed for commercial uses, being able to accommodate the proposed generated traffic.

3. Suitability as Presently Zoned:

Both the current and requested zoning districts are appropriate for the subject property. There are a variety of different base zoning districts adjacent to the subject property, ranging from "RP" to "C-2". The surrounding properties are mostly vacant with the exception of multi-family dwellings to the east and proposed retail supercenter to the south.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare related to the rezoning request.

5. Public Policy:

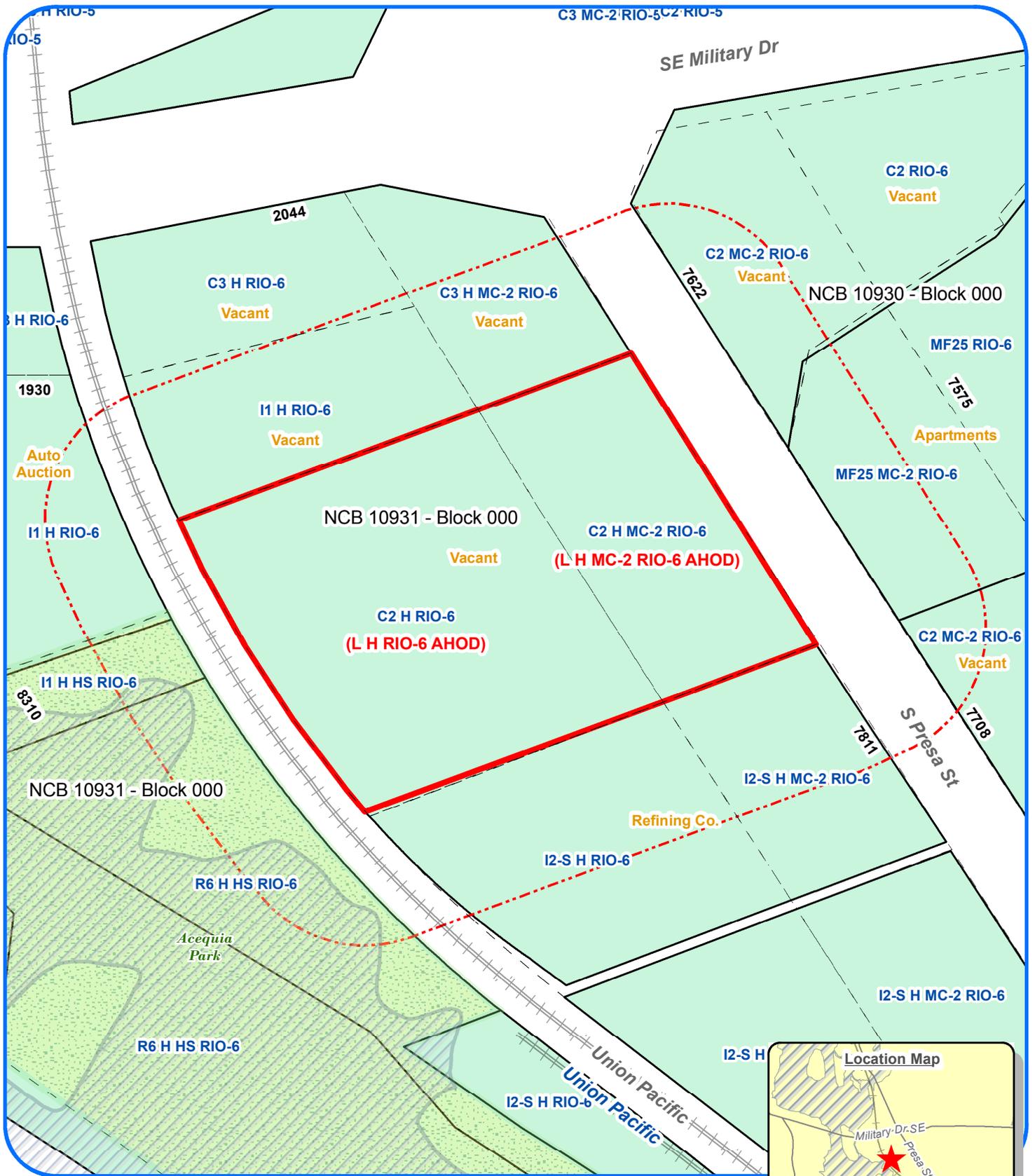
The request does not appear to conflict with any public policy objectives.

6. Size of Tract:

The subject property is 1.377 of an acre in size, which should be able to reasonably accommodate the proposed commercial zoning district.

7. Other Factors:

None



Zoning Case Notification Plan

Case Z-2013-002

Council District: 3

Scale: 1" approx. = 200 Feet

Subject Property Legal Description(s): NCB 10931 BLK 000 LOT TR 5B

Legend

- Subject Properties ——— (8.840 Acres)
- 200' Notification Area - - - - -
- Current Zoning TEXT
- Requested Zoning Change TEXT
- 100-Year DFIRM Floodplain //
- Single Family Residential 1R



Development Services Dept
City of San Antonio
(10/19/2012 - R Martinez)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission
Zoning Case #: Z2013002
Hearing Date: November 6, 2012
Property Owner: NuStar Refining, LLC
Applicant: NuStar Refining, LLC
Representative: Kaufman & Killen, Inc.
Location: A portion of the 7600 Block of South Presa Street
Legal Description: 8.84 acres out of Tract 5B, NCB 10931
Total Acreage: 8.84
City Council District: 3
Case Manager: Osniel Leon, Planner
Case History: This is the first public hearing for this zoning request.

Proposed Zoning Change

Current Zoning: "C-2 H RIO-6 AHOD" Commercial Mission Historic River Improvement Overlay-6 Airport Hazard Overlay District and "C-2 H MC-2 RIO-6 AHOD" Commercial Mission Historic South Presa Metropolitan Corridor River Improvement Overlay Airport Hazard Overlay District

Requested Zoning: "L H RIO-6 AHOD" Light Industrial Mission Historic River Improvement Overlay-6 Airport Hazard Overlay District and "L H MC-2 RIO-6 AHOD" Light Industrial Mission Historic South Presa Metropolitan Corridor River Improvement Overlay-6 Airport Hazard Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 9

Neighborhood Associations: None

Planning Team Members: 11 – Stinson Airport Vicinity Land Use Plan

Applicable Agencies: Office of Historic Preservation, City of San Antonio Aviation Department

Property Details

Property History: The subject property was annexed in 1952 and was originally zoned under the 1938 Zoning Code. In a 1986 City-initiated large area case, the property was split-zoned "B-3" Business District and "I-1" Light Industry District. Upon adoption of the 2001 Unified Development Code, the previous base zoning districts converted to "I-1" General Industrial District and "C-3" General Commercial District. In a 2011 City-initiated large area case, the property was rezoned to the current "C-2" Commercial District. The property is not platted and is undeveloped.

Topography: The property does not include abnormal physical features such as slope or inclusion in a flood plain.

Adjacent Zoning and Land Uses

Direction: North, West

Current Base Zoning: "I-1", "C-3", "R-6"

Current Land Uses: Undeveloped land, railroad tracks

Direction: South

Current Base Zoning: "I-2 S"

Current Land Uses: Petroleum refinery

Direction: East

Current Base Zoning: "C-2", "MF-25"

Current Land Uses: Apartments, undeveloped land

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

The surrounding properties are located in the Mission Historic District, which was adopted in 1977. Historic districts do not regulate use of the property, but do enforce building exterior design standards meant to maintain the architectural character or cultural significance of the designated area. Building plans and permit applications will be subject to review by the Office of Historic Preservation and the Historic and Design Review Commission (HDRC) prior to any permits being issued.

All surrounding properties carry the "RIO" River Overlay District, due to their proximity to the San Antonio River. The purpose of these districts is to establish regulations to protect, preserve and enhance the San Antonio River and its improvements by establishing design standards and guidelines.

The "MC-2" South Presa Metropolitan Corridor provides site and building design standards for properties located along South Presa Street between Interstate Highway 10 and Southeast Loop 410. Metropolitan Corridors follow arterial streets or expressways in developed portions of the city and shall be directed toward reduction of existing visual clutter, improved design features, and preservation of developed areas of the city. A Certificate of Compliance review is performed by the Planning & Community Development Department.

Transportation

Thoroughfare: South Presa Street

Existing Character: Secondary Arterial Type A; one lane in each direction separated by a median for left and right turns with no sidewalks.

Proposed Changes: None Known

Public Transit: The nearest VIA bus line is the 36, which operates north of the subject property along South Presa Street.

Traffic Impact: A Traffic Impact Analysis (TIA) is not required. The traffic generated by the proposed development does not exceed the threshold requirements.

Parking Information: The zoning request generally refers to proposed light industrial uses. Parking requirements are determined by the use and, often, size of the development; therefore staff can not calculate future parking requirements for the subject property.

Staff Analysis and Recommendation: Approval, pending plan amendment

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The subject property is located within the Stinson Airport Vicinity Land Use Plan, and is currently designated as "Community Commercial" in the Future Land Use Plan. The requested "L" base zoning district is not consistent with the Future Land Use designation. A plan amendment has been initiated to change the land use designation to Light Industrial. Staff and Planning Commission recommend approval of the plan amendment.

2. Adverse Impacts on Neighboring Lands:

Staff finds no likely adverse impacts on neighboring properties related to the zoning change request. The property is located in an area that is predominately rural in character. The proposed use of the property is suitable for the location as it will serve as a buffer between the commercially classified properties to the north and the oil refinery to the south.

3. Suitability as Presently Zoned:

The existing commercial zoning may be suitable for the subject property due to the property's location near the intersection of two arterial thoroughfares. However, staff finds the requested zoning appropriate for the property because of the existing abutting heavy industrial use. The zoning change is intended to accommodate truck traffic entering the neighboring refinery facility, relieving congestion from truck traffic currently queuing on South Presa Street.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse affects on the public health, safety, or welfare due to this request.

5. Public Policy:

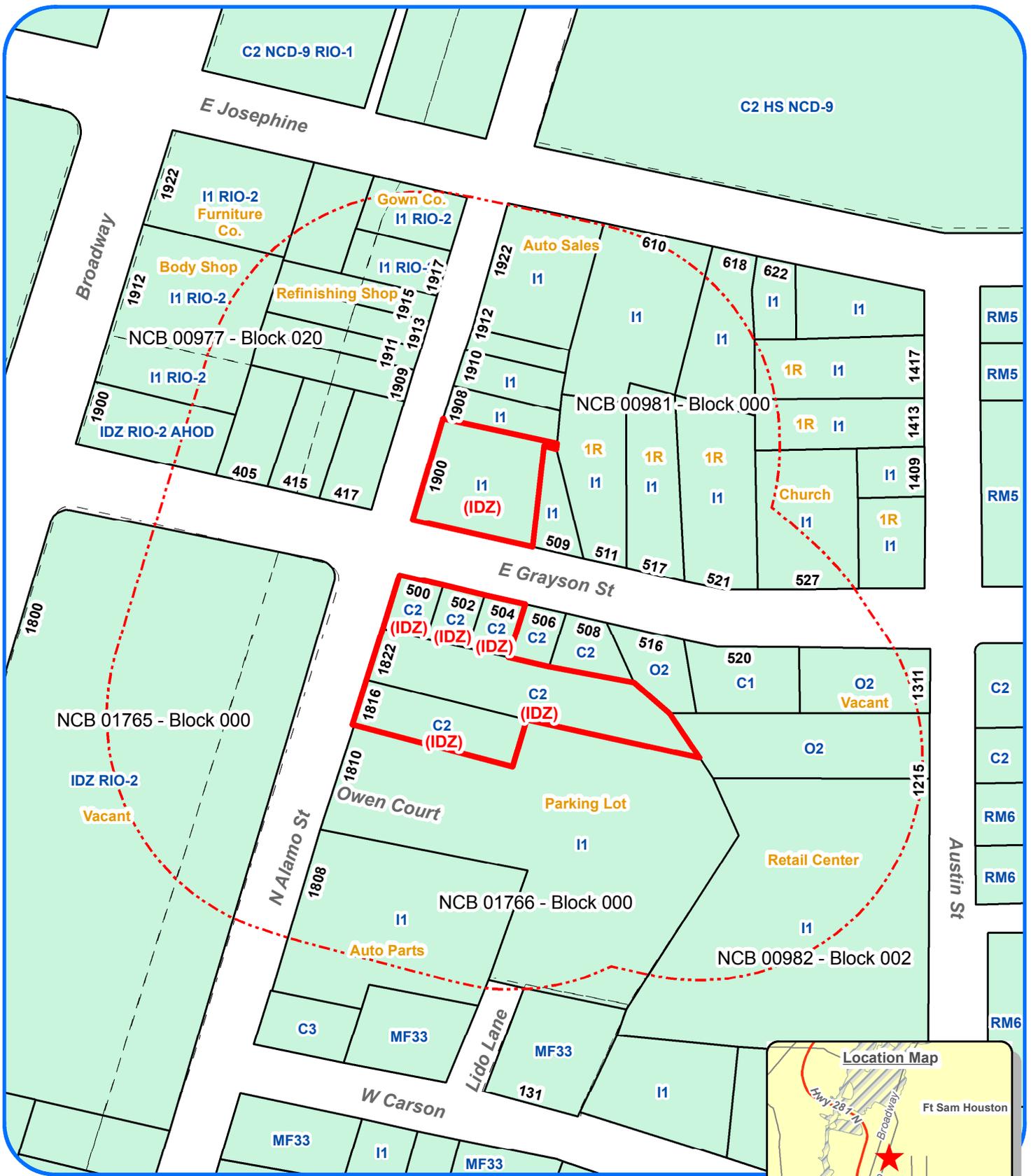
The request does not appear to conflict with any established public policy.

6. Size of Tract:

The subject property is 8.84 acres, which can easily accommodate the proposed use.

7. Other Factors:

The "L" district provides for a mix of light manufacturing uses, office park, flex-space, and limited retail and service uses that services the industrial uses with proper screening and buffering, all compatible with adjoining uses, access to transportation and the availability of public services and facilities. It is the intent of this district to provide an environment for industries that is unencumbered by nearby residential or commercial development. "L" must be located in areas where conflicts with other uses can be minimized to promote orderly transitions and buffers between uses. These districts are located for convenient access for existing and future arterial thoroughfares and railway lines.



Zoning Case Notification Plan

Case Z-2013-003

Council District: 2
 Scale: 1" approx. = 120 Feet

Subject Property Legal Description(s): NCB 00978 BLK 021 Lot W of 1 and NCB 00979 BLK 010 Lot E, w of 9, Lot 8 and Lot W of 7

Legend

- Subject Properties (0.811 Acres) ———
- 200' Notification Area - - - - -
- Current Zoning **TEXT**
- Requested Zoning Change **(TEXT)**
- 100-Year DFIRM Floodplain
- Single Family Residential **1R**



Development Services Dept
 City of San Antonio
 (10/29/2012 - R Martinez)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).



City of San Antonio

Development Services Department

Staff Report

To: Zoning Commission

Zoning Case #: Z2013003

Hearing Date: November 6, 2012

Property Owner: Criterion Broadway, L.P. (by W. Pretlow Riddick, President, CPC GP LLC, General Partner; and by M. Timothy Clark, President, Cypress VII GPREIT LLC, General Partner)

Applicant: Criterion Broadway, L.P. (by W. Pretlow Riddick, President, CPC GP LLC, General Partner; and by M. Timothy Clark, President, Cypress VII GPREIT LLC, General Partner)

Representative: Kaufman & Killen, Inc.

Location: 500, 502 and 504 East Grayson Street and 1816, 1822 and 1900 North Alamo Street

Legal Description: 0.209 of an acre out of Lots 1 & 2, Block 21, NCB 978; 0.482 of an acre out of Lots 7 and 8, and 0.12 of an acre out of Lot 9, Block 10, NCB 979

Total Acreage: 0.811

City Council District: 2

Case Manager: Osniel Leon, Planner

Case History: This is the first public hearing for this zoning request.

Proposed Zoning Change

Current Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District and "I-1 AHOD" General Industrial Airport Hazard Overlay District

Requested Zoning: "IDZ AHOD" Infill Development Zone Airport Hazard Overlay District with uses permitted in "C-2" Commercial District, Multi-Family Dwellings not to exceed 76 units per acre, Bar/Tavern without cover charge 3 or more days per week, Nightclub without cover charge 3 or more days per week, Microbrewery, Hotel, and Studio-sound and recording

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 43

Neighborhood Associations: Government Hill Alliance Neighborhood Association and Downtown Residents Association

Planning Team Members: 10 – Government Hill Neighborhood Plan

Applicable Agencies: None

Property Details

Property History: The subject properties are located within the City Limits as they were recognized in 1938, and were originally zoned "F" Local Retail and "J" Commercial District. Upon adoption of the 2001 Unified Development Code, the previous base zoning districts converted to the current "C-2" Commercial District and "I-1" General Industrial District.

Four of the six subject properties are currently developed with residential structures measuring between 600 and 900 square feet in size that were built between 1920 and 1952. The northern-most property includes a small office area and a number of covered areas; while the remaining property is undeveloped. The properties are not platted in their current configurations.

Topography: The properties do not include any abnormal physical features such as significant slope or inclusion in a flood plain.

Adjacent Zoning and Land Uses

Direction: North and South

Current Base Zoning: "I-1"

Current Land Uses: Single-family residences, undeveloped land, auto sales, refinishing shop, parking lot, auto parts, body shop, furniture store

Direction: West

Current Base Zoning: "IDZ"

Current Land Uses: Apartments (under construction)

Direction: East

Current Base Zoning: "I-1", "O-2", "C-2"

Current Land Uses: Single-family residences, bakery, undeveloped land, retail center, church

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

Some of the surrounding properties carry the "RIO" River Overlay District, due to their proximity to the San Antonio River. The purpose of these districts is to establish regulations to protect, preserve and enhance the San Antonio River and its improvements by establishing design standards and guidelines.

Transportation

Thoroughfare: East Grayson Street and North Alamo Street

Existing Character: Local Streets; 1 lane in each direction with sidewalks

Proposed Changes: None Known

Public Transit: The nearest VIA bus line is the number 20 line, which operates along Austin and Grayson.

Traffic Impact: The traffic impact analysis has been waived because IDZ zoning is exempt from (TIA) requirements.

Parking Information: Dwelling – Multi-Family: Minimum vehicle spaces - 1.5 per unit. Maximum vehicle spaces - 2 per unit.

Bar, lounge, tavern, nightclub, or dance hall: Minimum vehicle spaces – 1 per 100 square feet GSF. Maximum vehicle spaces – 1 per 75 square feet GSF.

Microbrewery: Minimum vehicle spaces – 1 per 2 seats. Maximum vehicle spaces – 1 per 1.5 seats.

Hotel: Minimum vehicle spaces – 0.8 per room plus 1 per 800 square feet of public meeting area and restaurant space. Maximum vehicle spaces – 1 per room plus 1 per 400 square feet of public meeting area and restaurant space.

Studio Sound and Recording: Minimum vehicle spaces: 1 per 300 square feet GFA. Maximum vehicle spaces: 1 per 200 square feet GFA.

The "IDZ" Infill Development Zone District eliminates off-street parking requirements.

Staff Analysis and Recommendation: Approval

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The subject properties are located within the Government Hill Neighborhood Plan area, and are identified as Mixed Use in the Future Land Use component of the Plan. The zoning request is consistent with the adopted land use designation.

According to the Government Hill Neighborhood Plan, Mixed Use allows for a concentrated, well structured and integrated blend of higher density residential, retail, professional services, office, entertainment, and other land uses. Mixed Use is preferred along arterials, preferably in a nodal pattern with proximity to a major transit stop or node.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request. The "IDZ" zoning district is meant to provide flexible standards for the development and reuse of underutilized parcels. Further, the "IDZ" district includes design criteria intended to create infill development that is proportional to surrounding development.

3. Suitability as Presently Zoned:

The existing "I-1" zoning is not appropriate for the subject property or the surrounding neighborhood. The industrial zoning is the result of outdated zoning practices that were once common. Current zoning practices would not place industrial zoning in or near established residential neighborhoods.

The "C-2" district may be appropriate for the larger subject properties because it accommodates commercial and retail uses that are more intensive in character than neighborhood or light commercial, and which generate a greater volume of vehicular or truck traffic. Medium intensity commercial zoning is most appropriate along arterials or major thoroughfares. However, the smaller subject properties are not likely to accommodate parking required in conventional zoning districts.

4. Health, Safety and Welfare:

Staff has found no evidence of likely negative impacts on public health, safety or welfare related to the zoning request. The "IDZ" district is meant to encourage and facilitate development on vacant, bypassed lands, or the redevelopment of underutilized buildings or structures, within existing built-up areas.

5. Public Policy:

The request does not appear to conflict with any established public policy.

6. Size of Tract:

The subject properties are of sufficient size to accommodate the proposed uses with the flexibility offered by the "IDZ" district.

7. Other Factors:

None



"I, Criterion Broadway, L.P., the property owner, acknowledge that this site plan submitted for the purpose of rezoning this property is in accordance with all applicable provisions of the Unified Development Code. Additionally, I understand that City Council approval of a site plan in conjunction with a rezoning case does not relieve me from adherence to any/all City-adopted Codes at the time of plan submittal for building permits.

Parcel to be zoned 'IDZ' with uses permitted in 'C-2', multifamily uses not to exceed 76 units per acre, and the additional uses of Bar/Tavern without cover charge 3 or more days per week, nightclub without cover charge 3 or more days per week, microbrewery, hotel, studio - sound and recording."



Alamo IDZ Zoning Exhibit
San Antonio, Texas



Preliminary Site Plan
Scale 1" = 50'-0"

09.27.2012	2012055.00	kt
Copyright © JHP 2012 Not for Regulatory Approval, Permit or Construction: RONALD E. HARWICK Registered Architect of State of Texas, Registration No. 2496		



Zoning Case Notification Plan

Case Z-2013-004

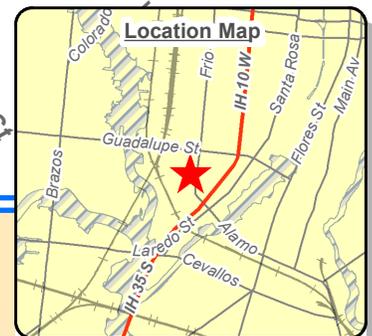
Council District: 5

Scale: 1" approx. = 150 Feet

Subject Property Legal Description(s): NCB 00274 - BLK 102 - LOT A1 at 1000 S. Medina

Legend

- Subject Properties ——— (1.295 Acres)
- 200' Notification Area - - - - -
- Current Zoning **TEXT**
- Requested Zoning Change **(TEXT)**
- 100-Year DFIRM Floodplain
- Single Family Residential **1R**



Development Services Dept
City of San Antonio
(10/29/2012 - R Martinez)

Note: All Current and Requested Zoning includes AHOD (Airport Hazard Overlay District).



City of San Antonio Development Services Department Staff Report

To: Zoning Commission
Zoning Case #: Z2013004
Hearing Date: November 6, 2012
Property Owner: WPS Group LLC (by Michael Angelo Padron)
Applicant: Mark Tolley
Representative: Mark Tolley
Location: A portion of the 1000 Block of South Frio Street
Legal Description: Lot A1, Block 102, NCB 274
Total Acreage: 1.295
City Council District: 5
Case Manager: Osniel Leon, Planner
Case History: This is the first public hearing for this zoning case.

Proposed Zoning Change

Current Zoning: "HS I-2 AHOD" Historic Significant Heavy Industrial Airport Hazard Overlay District

Requested Zoning: "HS MF-33 IDZ AHOD" Historic Significant Multi-Family Infill Development Zone Airport Hazard Overlay District

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 19, 2012. Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 24, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 2, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Notices Mailed

Owners of Property within 200 feet: 21

Neighborhood Associations: None

Planning Team Members: 67 – Downtown Neighborhood Plan

Applicable Agencies: City of San Antonio Office of Historic Preservation

Property Details

Property History: The subject property is located within the City Limits as they were recognized in 1938 and was originally zoned "L" First Manufacturing District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to the current "I-2" Heavy Industrial District. The existing industrial structure is currently vacant; and, according to the Bexar County Appraisal District, measures 17,190 square feet and was built in 1932. The property is not platted in its current configuration.

Topography: The property does not include any abnormal physical features such as slope or inclusion in a flood plain.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: "MF-33 IDZ", "I-2"

Current Land Uses: Undeveloped land, storage warehouse, motel

Direction: East

Current Base Zoning: "R-4", "I-1"

Current Land Uses: Undeveloped land, single-family residences, offices/loft

Direction: West and South

Current Base Zoning: "I-2"

Current Land Uses: Undeveloped land, warehouse, motel

Overlay and Special District Information: All surrounding properties carry the "AHOD" Airport Hazard Overlay District, due to their proximity to an airport or approach path. The "AHOD" does not restrict permitted uses, but can require additional review of construction plans by both the Development Services Department and the Federal Aviation Administration.

The subject property carries the "HS" Historic Significant landmark designation, signifying the historic architectural character or cultural significance of the structure or location. Historic Landmark designations do not affect the possible uses of the property, but do regulate the exterior aesthetic of the structure.

Transportation

Thoroughfare: South Frio

Existing Character: Secondary Arterial Type A; 2 lanes in each direction with sidewalks

Proposed Changes: None Known

Thoroughfare: Colima Street

Existing Character: Local Street; 1 lane in each direction with sidewalks

Proposed Changes: None Known

Public Transit: The nearest VIA bus lines are the number 68 line and 268 line, which operate along South Frio and Guadalupe, north of the subject property.

Traffic Impact: A Traffic Impact Analysis (TIA) has been waived. Infill Development Zone (IDZ) is exempt from TIA requirements.

Parking Information: Parking requirements for multi-family residential uses are determined by the total number of dwelling units. Minimum Parking Requirement: 1.5 spaces per unit. Maximum Parking Requirement: 2 spaces per unit. The "IDZ" Infill Development Zone District eliminates off-street vehicle parking requirements.

Staff Analysis and Recommendation: Approval

Criteria for Review: According to Section 35-421, zoning amendments shall be based on the approval criteria below.

1. Consistency:

The property is located within the Downtown Neighborhood Plan, and is currently designated as Mixed Use in the Future Land Use Plan. The requested "MF-33" zoning district is consistent with the Future Land Use designation.

According to the Downtown Neighborhood Plan, the Mixed Use land use designation allows for a concentrated blend of residential, retail, professional service, office, entertainment, leisure and other related use at increased densities to create a pedestrian oriented environment. The plan encourages expansion of housing into warehouse areas located west of Frio Street.

2. Adverse Impacts on Neighboring Lands:

The proposed multi-family zoning is appropriate for the area. Multi-family zoning is most appropriate at the periphery of single-family neighborhoods, and along arterials or major thoroughfares where supporting infrastructure, such as public transportation and commercial facilities are present. The site is located in an area where there is accessibility to public services and traffic circulation to major thoroughfares. This area is in the process of revitalization and rezoning the project will encourage and promote the revitalization goals in the Future Land Use Plan.

3. Suitability as Presently Zoned:

The existing heavy industrial zoning district is not appropriate or compatible with the surrounding community. The "I-2" district accommodates uses that are highly hazardous, environmentally severe in character and/or generate very high volumes of truck traffic. The "I-2" is meant to provide sites for activities which involve major transportation terminals, and manufacturing facilities that have a greater impact on the surrounding area than industries found in the "L" or "I-1" district. These districts are located for convenient access for existing and future arterial thoroughfares and railway lines. These districts are in many instances separated from residential areas by business or light industry areas or by natural barriers; where they are adjacent to residential areas some type of artificial separation may be required.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare due to this request. Overall, reducing the intensity of zoning along South Frio will reduce the potential for conflicts with the neighborhood, allowing uses that will better serve the surrounding community.

5. Public Policy:

The City's Master Plan encourages the preservation and revitalization of housing and promotes targeted infill housing in neighborhoods, particularly older neighborhoods located inside Loop 410.

The subject property and the proposed development meet the criteria of the Inner City Reinvestment Infill Policy (ICRIP). This policy provides development fee waivers to applicants and grant funded reimbursement for city departments, in an effort to encourage redevelopment of under-utilized urban properties.

6. Size of Tract:

The project site is of sufficient size to accommodate the proposed redevelopment. The applicant requested "IDZ" in order to take advantage of the flexible development standards concerning set backs, parking, and mixed-use opportunities.

7. Other Factors:

The subject property carries the "HS" Historic Significant designation. Historic designations do not affect use, but do work to preserve structures and their exterior architectural character. The proposed multi-family development will utilize the existing structure, and all exterior renovations and rehabilitation must be reviewed by the Historic and Design Review Commission prior to building permits being issued.

AN ORDINANCE

AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, OF THE CITY CODE OF SAN ANTONIO, TEXAS, BY AMENDING PROVISIONS REGARDING SEXUALLY ORIENTED BUSINESSES; AMENDING DEFINITIONS; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION.

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WHEREAS, the San Antonio City Council adopted the revised Unified Development Code (UDC) on September 22, 2005; and

WHEREAS, the Zoning Commission has recommended approval of those amendments pertaining to zoning issues; and

WHEREAS, the Planning Commission has recommended approval of those amendments pertaining to planning issues; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Code of San Antonio, Texas is hereby amended by adding the language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

SECTION 2. Chapter 35 of the City Code of San Antonio, Texas is hereby amended as follows:

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Chapter 35, Article III, Section 35-388 is amended as follows:

Sec. 35-388. - Sexually Oriented Business Regulations.

These regulations are authorized by V.T.C.A. Local Government Code Ch. 243.

- (a) **Applicability.** These regulations shall apply to all sexually oriented businesses operating on or after the effective date of this chapter. Further, any sexually oriented business annexed by the city after the effective date of this chapter shall be subject to all the requirements of this section. Existing sexually oriented businesses shall refer to this section and to nonconforming use regulations (article VII, division 1 of this chapter) to determine their appropriate classification.
- (b) **Property Uses Requiring Separation.** Notwithstanding any provision of this chapter to the contrary, it shall be a violation to use or occupy land or a building for the purpose of operating or maintaining a sexually oriented

business within one thousand (1,000) feet from property (referenced within this section as "protected property," "protected use," or "protected zone") that is described as follows:

- (1) Another sexually oriented business;
 - (2) Any property located within an "RP" or a residential zoning district boundary, whether temporary or permanent, or devoted to a residential use, including any land zoned for one (1) of the aforementioned residential uses which is also described as a planned unit development or traditional neighborhood development, but excluding airports;
 - (3) Any place of regular religious worship, including property used as a devoted to church, synagogue, mosque, or other religious worship facility used primarily for religious worship;
 - (4) Any public or private elementary, secondary or high school; ~~or~~
 - (5) Any public park; or -
 - (6) Any licensed child care facility.
- (c) Method of Measurement and Survey Requirements.
- (1) Sole Tenant. Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest property line of the lot on which the sexually oriented business is located, to the nearest property line of the protected properties described in the above subsection (a), which requires separation. This method of measurement shall apply to a sexually oriented business that which is the sole tenant within one (1) building located on one (1) platted lot.
 - (2) Multiple Tenants. Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest point of the occupied space of the sexually oriented business to the nearest property line of the protected property described in the above subsection (a) which requires separation. This method of measurement shall apply to a sexually oriented business that which is a tenant within a multiple tenant building.
 - (3) Easements Excluded. In calculating the distances described in subsections (b)(1) and (b)(2) above easements (such as right-of-way, drainage and utility easements) that are zoned as, or abut, a protected property classification, shall not be considered as part of the protected property.

- (4) Surveyor. A certified survey prepared by a licensed surveyor or licensed engineer showing distance measurements in accordance with (1) and (2) of this subsection shall be submitted to the director of ~~planning and development services~~ for all sexually oriented businesses as part of the application for the certificate of occupancy for the use. Any certificate of occupancy issued for a building or facility used to conduct a sexually oriented business without submission of the required survey shall be null and void.
- (d) Downtown District Prohibition. In addition to the location restrictions of subsection (a), it shall be a violation to operate, own, manage, or maintain a sexually oriented business within the "D" Downtown zoning district boundary.
- (e) Nonconforming Rights. See section 35-708 of this chapter.
- ~~(f)~~(4) Annexation. Any sexually oriented business annexed by the city after the effective date of this chapter shall be subject to all the requirements of this section.
- ~~(g)~~(f) Certificate of Occupancy. See subsection 35-424(c) for procedures for issuance of a certificate of occupancy for a sexually oriented business use.
- ~~(h)~~(g) Violations Subject to Criminal and Civil Penalties. See section 35-497 of this chapter.

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Chapter 35, Article IV, Section 35-424 is amended as follows:

Sec. 35-424. - Ministerial Permits or Approvals.

STATEMENT OF PURPOSE

The purpose of this section is to prescribe procedures for permits ~~that~~ which do not require quasi-judicial or legislative notice or a public hearing. A public hearing is not required for permits set forth in this section for one (1) or more of the following reasons:

- If required, public hearings have already been conducted relating to the permit application, and the permit application procedure is designed to ensure that the proposed use complies with a previously approved subdivision plat, master development plan, specific plan, comprehensive plan amendment, or conditional rezoning (e.g., building permit, certificate of occupancy).*
- The proposed use is permitted by right in the applicable zoning district (e.g., building permit, certificate of occupancy).*
- The proposed use is subject to expedited review in order to avoid an unconstitutional prior restraint on speech (e.g., sexually oriented businesses, signs) or because of federal law (e.g., telecommunications permits).*

(a) Generally (Development Permits and Building Permits).

- (1) Applicability. No development or development activity may be undertaken within any incorporated territory of the city unless all development permits applicable to the proposed development are issued in accordance with the provisions of this chapter. Permits are required for all development, unless otherwise excepted, to ensure compliance with the various adopted codes, standards and laws and to ensure consistency with the master plan and policies of the city.
- (2) Initiation. The applicant shall file a complete application for a building permit with the director ~~of planning and development services~~ on a form prescribed by the ~~director~~ department of planning and development services. If master development plan review is required in accordance with section 35-412 or 35-413 of this chapter, the approved master development plan shall be submitted with the application for a building permit. An application for a master development plan is available from the department of planning and development services. If the proposed development or development activity is not subject to master development plan review, the building permit application shall include the information required by Appendix "B" to this chapter. The director ~~of planning and development services~~ shall assist the applicant in determining which materials are required for a submittal. Building permit applications are required and available from the department of ~~planning and development services~~.
- (3) Completeness Review. The director ~~of planning and development services~~ shall review an application for completeness within two (2) working days. The appellate agency for purposes of completeness review (see subsection 35-402(c) of this chapter) shall be the board of adjustment.
- (4) Decision. When the required materials are submitted to each respective department, the department of ~~planning and development services~~ shall review its application for conformance with applicable building codes and for conformance with this chapter. Within five (5) working days of receipt of a complete application, the director ~~of planning and development services~~ shall approve, approve with conditions, or deny^{4*} the application for a building permit for purposes of this chapter. Applications which are denied shall have the reasons for denial, in writing, attached to the application. If the director ~~of planning and development services~~ fails to render a decision relating to the building permit application within this time period, the application shall be deemed approved. Such time periods shall not prevent the applicant and the city from agreeing to extend the city's response time contained in this subsection.

⁴Note: This subsection does not apply to review of the building permit application for purposes of compliance with the building code in which case the department of ~~planning and~~ development services shall respond within thirty-five (35) days.

- (5) Approval Criteria. The building permit shall be issued by the director only if the application complies with all applicable provisions of this chapter and any approved specific use authorization, conditional rezoning or master development plan.
 - (6) Subsequent Applications. Not applicable.
 - (7) Amendments. Any revision to an application for a building permit shall be processed in the same manner as the original application.
 - (8) Scope of Approval. The building permit shall be valid for a period of one hundred eighty (180) days in accordance with the International Building Code.
 - (9) Recording Procedures. An application for a building permit shall be maintained in the files of the department of ~~planning and~~ development services provided, however, that the applicant shall have the responsibility to maintain an original signed copy of the approved building permit.
- (b) Certificate of Occupancy. Certificate of occupancy for improvements to the premises shall be issued in accordance with chapter 6 of the City Code and the International Building Code. No certificate of occupancy shall be issued if said development activities do not conform to the applicable zoning district boundary or the approved master development plan, subdivision plat, or other previously issued permit or development order. The director of ~~planning and development services~~ may issue a temporary certificate of occupancy pursuant to the building code. A certificate of occupancy shall not be required for a single-family dwelling unit, a child care facility which does not require a state license, or a home occupation.
- (c) Zoning Determination Certificate of Occupancy for a Sexually Oriented Business use. (See Sexually Oriented Business Regulations)
- (1) Applicability. No sexually oriented business use shall be commenced or established unless and until a zoning determination for the use certificate of occupancy has been issued by the director and a license for the use has been issued by the Chief of Police.
 - (2) Initiation. The applicant shall file a complete application for a zoning determination for the use with the director of ~~planning and development services~~. The application shall be on a form prescribed by the director

and include the information prescribed by Appendix "B", Section 35-B118 35-B117.

- (3) Completeness Review. See subsection 35-424 (a)(3) ~~of this section.~~ An applicant may appeal a determination by the director that an application is incomplete. The director shall schedule the appeal for hearing and decision at the next available regularly scheduled zoning board of adjustment meeting that will allow compliance with the Texas Open Meetings Act. The board of adjustment shall render its decision affirming or denying the decision application of the director within ten (10) days. If the board of adjustment fails to render its decision, the application shall be deemed complete and the director ~~of planning and development services~~ shall process the application as provided in subsection (4), below.
- (4) Decision. The director ~~of planning and development services~~ shall either issue or deny an application for a zoning determination for the use certificate of occupancy or a building permit for a sexually oriented business not more than thirty (30) business days subsequent to the date of the applicant's submission of an application therefore. If granted, the applicant shall be notified of such action by certified mail, return receipt requested. If denied, the applicant shall be notified of such action and the reason(s) therefor by certified mail, return receipt requested. The issuance of a zoning determination certificate of occupancy shall not be withheld if the sexually oriented business is determined to be in compliance with all applicable sections of this chapter. The decision may be appealed pursuant to section 35-488 of this article.
- (5) Approval Criteria. No zoning determination certificate of occupancy for a sexually oriented business use shall be issued or approved, and no sexually oriented business use shall be established, except in conformance with the sexually oriented business regulations (~~section 35-394~~) of this chapter.
- (6) Subsequent Applications. No restriction on the submission of subsequent applications is imposed by this section.
- (7) Amendments. Amendments to an application for a zoning determination certificate of occupancy authorizing a sexually oriented business use shall be processed in the same manner as the original application.
- (8) Scope of Approval. The approval of a zoning determination for a sexually oriented business use certificate of occupancy shall expire and become null and void unless a certificate of occupancy for the premises or improvements to the premises is obtained from the building official within a period of six (6) months following the issuance of the zoning determination thereof.

- (9) Recording Procedures. See subsection 35-424(a)(9) ~~-(a)(9) of this section.~~

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Chapter 35, Article IV, Section 35-488 is amended as follows:

Sec. 35-488. - Appeal Procedures for Sexually Oriented Businesses.

(a) Appeal to City Board.

(1) An applicant may appeal the denial of a certificate of occupancy for a sexually oriented business by the director ~~of planning and development services~~ if the reason for the denial is other than one based upon location of the business. Such appeals shall be made to the appropriate technical board or commission (i.e. plumbing board, electrical board, etc.) and in the manner prescribed in the applicable section of this chapter.

(2) An applicant may appeal the denial of a zoning determination for a sexually oriented business by the director if the reason for the denial is one based upon location of the business. Such appeal may be made ~~In the event that this chapter does not provide a specific avenue for appeal an applicant may appeal to the zoning board of adjustment by letter mailed or delivered to said board and the secretary of the board shall schedule the appeal for hearing and decision at the next available regularly scheduled zoning board of adjustment meeting which will allow compliance with the Texas Open Meetings Act. The board, after a hearing at which all interested parties shall be afforded an opportunity to be heard, shall either affirm or overrule the decision of the director of planning and development services. Provided, however, the request for appeal must be made not more than ten (10) business days subsequent to the receipt of the decision of the director of planning and development services by the applicant.~~

~~(b) Appeal to Court. Notwithstanding the provisions of this subsection, an applicant who is denied the certificate of occupancy requested under the provisions of this chapter, may petition to any lawfully established court having jurisdiction of the subject matter, without first appealing to any board, including the zoning board of adjustment.~~

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Chapter 35, Article IV, Section 35-497 is amended as follows:

Sec. 35-497. - Sexually Oriented Businesses.

(a) A person commits an offense if the person ~~Any natural person or corporate~~

~~entity who~~ violates any provision of the sexually oriented business regulations ~~in this chapter. (section 35-388) shall be guilty of a~~ An offense under this section is a Class A ~~C~~-misdemeanor offense, and upon conviction thereof, shall be punished by:

- (1) a fine not to exceed \$4,000;
- (2) confinement in jail for a term not to exceed one year; or
- (3) both such fine and confinement.

~~a fine not to exceed two thousand dollars (\$2,000.00).~~

- (b) In addition to the criminal sanctions authorized by this section the subsection, the city attorney is authorized to bring a civil action in law or equity against any party who violates any provision of this section. The city attorney may bring a civil action against a party without first seeking criminal sanctions.

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Chapter 35, Article VII, Section 35-708 is amended as follows:

Sec. 35-708. - Sexually Oriented Businesses.

STATEMENT OF PURPOSE

Commentary: Type A nonconforming use rights extend to those establishments granted such rights pursuant to the methodology established by Ordinance No. 82135, passed and approved April 27, 1995, and this chapter and are subject to section 35-706 of this chapter except for amortization at the direction of city council. Type B nonconforming use rights extend to all other establishments that were lawfully in operation either prior to the adoption of the sexually oriented business regulations (~~section 35-391 of this chapter~~) or outside of the city's corporate limits; but, as a result of the adoption of the sexually oriented business regulations (~~section 35-391 of this chapter~~), or annexation after the adoption of the sexually oriented business regulations (~~section 35-391 of this chapter~~), continued operation of the establishment is unlawful. A conforming use is one that is operating in a lawful manner consistent with the provisions of the sexually oriented business regulations (~~section 35-391 of this chapter~~).

- (a) Establishment of Nonconforming Use Rights for Sexually Oriented Businesses.
 - (1) Type A Nonconforming Rights Pre-Dating Protected Use Within One Thousand (1,000) Feet. Any sexually oriented business legally operating on and after April 2, 1995, which is rendered nonconforming by the subsequent location of a protected use or a protected zone within the protected distance, shall have type A nonconforming use rights.

(2) Type B Rights and Conforming Uses.

- A. Each sexually oriented business hereafter subject to the sexually oriented business regulations (section 35-391 of this chapter) through annexation must, within ninety (90) days of such annexation, apply for one (1) of two (2) classes of property use rights hereby established, as part of the application for a new certificate of occupancy:
1. Type B nonconforming use rights of one-year duration from the date of issue of the certificate of occupancy; or
 2. Conforming.
- B. The ninety-day time period prescribed within this subsection for the establishment of use rights may be extended, and an application accepted after the expiration of ninety (90) days, if the director of ~~planning and development services~~ determines that the use existed prior to the date of annexation, the sexually oriented business was operating in compliance with all applicable laws, and the failure to timely file the application for one (1) of two (2) classes of property use was not a result of gross negligence or conscious indifference. The director shall render his decision within thirty (30) business days of receipt of the application and shall transmit said determination to the applicant by certified mail, return receipt requested. The applicant may appeal an adverse determination by filing a written notice of appeal with the city clerk within ten (10) days of the date of the decision of the director. The appeal must be filed by the applicant or an authorized agent of the applicant. The city clerk shall place said appeal on the city council agenda within sixty (60) days from the date notice is received.
- C. Type B nonconforming rights shall not be lost by the subsequent establishment of a protected use or protected zone within one thousand (1,000) feet.
- (b) Certificates of Occupancy Pursuant to Ordinance No. 82135. Any business that holds a certificate of occupancy issued for a sexually oriented business pursuant to the provisions of Ordinance No. 82135 of April 27, 1995 is not required to re-apply, and all such certificates of occupancy are hereby confirmed.
- (c) Measurements. Measurements to determine if a sexually oriented business is conforming to type B nonconforming use shall be in the manner prescribed in the sexually oriented business regulations (~~section 35-391 of this chapter~~).

(d) Amortization of Type B Nonconforming Use Rights Beyond One (1) Year.

- (1) Amortization Hearing Before the Zoning City. The owner of a sexually oriented business that has been granted type B nonconforming use rights by the director of ~~planning and development services~~ may request a hearing before the city for a determination of a reasonable amortization period based upon the owner's investment and other generally accepted amortization factors in accordance with the appropriate provisions of section 35-706 of this chapter.
- (2) Time Limit. The application for the hearing shall be made upon a form provided by the department of ~~planning and development services~~ and must be filed by the owner of the sexually oriented business with the zoning city on or before the date the type B nonconforming use rights would otherwise expire.
- (3) Continuance of Nonconforming Rights. The filing of an amortization request shall continue the type B nonconforming use rights of a sexually oriented business to the date established by the city, who shall hear and determine the request after affording all interested parties an opportunity to be heard. If the city finds a reasonable amortization period is less than one (1) year, the period of nonconforming use rights may nevertheless continue for a minimum period of one (1) year from the date the type B nonconforming use certificate of occupancy is issued.
- (4) Judicial Review. A person aggrieved by the finding of the city may petition the district court for review as provided by Texas law.

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Chapter 35, Appendix A, Definitions and Rules of Interpretation, Section 35-A101 is amended as follows:

Sec. 35-A101. - Definitions and Rules of Interpretation

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(1) *Adult arcade* means any "premises" ~~place~~ to which members of the public or members of any club, group or association are admitted and is permitted or invited, wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing ~~to use one or more arcade devices are designed and maintained to show images to five (5) or fewer persons per machine or device at any one time, and where the images so displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas.~~

(2) *Adult bookstore* means an adult bookstore, adult novelty store, or adult video store where more than thirty (30) ~~twenty (20)~~ percent of its inventory (that is offered for sale, rental or viewing for any form of consideration to on-premises customers) or floor space consists of one (1) or more of the following:

(a) Books, magazines, or sound recordings, or printed, visual or audio material of any kind which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities; or

(b) Non-contraceptive instruments, devices, toys, or paraphernalia designed for use in connection with specified sexual activities, books, magazines, pamphlets, pictures, drawings, photographs, motion picture films, or sound recordings, or printed, visual or audio material of any kind, which, because of the depiction or description of specified sexual activities in the materials offered for sale, is restricted to adults.

(c) Novelty items designed as sight gags, advertised as such and not designed or advertised for sexual activity, are not instruments or devices as defined and regulated herein.

~~*Adult bookstore.* A business enterprise which has a substantial or significant portion of its stock in trade in, or which has as its main purpose the offering for sale of books, magazines, pamphlets, pictures, drawings, photographs, motion picture films or sound recordings, or printed, visual or audio material of any kind, which are characterized by their emphasis on the description or depiction of specified anatomical areas or specified sexual activities; or a business establishment which offers for sale books, magazines, pamphlets, pictures, drawings, photographs, motion picture films, or sound recordings, or printed, visual or audio material of any kind, which entire business establishment, because of the depiction or description of specified anatomical areas or specified sexual activities in the materials offered for sale, is restricted to adults, or is advertised or promoted as being restricted to adults.~~

Adult Cabaret means an establishment that, as one of its primary business purposes, offers to customers live entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas.

~~*Adult entertainment establishment.* A place of business where live entertainment is provided for patrons, or a portion of a business set aside for providing live entertainment to patrons, in which a significant portion of the entertainment is characterized by an emphasis on the exhibition, depiction, or description of specified anatomical areas or specified sexual activities; or a place where entertainment is provided to patrons wherein, because of the exhibition of specified anatomical areas or specified sexual activities, admittance is limited to adults, or admittance is advertised or promoted as being restricted to adults.~~

Adult mini-theater means any premises that is subject to regulation under Chapter 243 of the Local Government Code, as amended, to which members of the public or

members of any club, group or association are admitted and permitted to use one or more 'mini-theatre devices.'

(4) *Adult motel* means a motel, hotel or similar commercial establishment which: (a) offers public accommodations, in any form of consideration, which provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other photography reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and (b) which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets, leaflets, radio, or television.

~~*Adult motion picture theater.* A business place where motion pictures are shown to paying customers when such place is used for presenting material having as its dominant theme, or distinguished or characterized by, an emphasis on the depiction or description of specified anatomical areas or specified sexual activities for observation by patrons, and where admittance to such showings is totally limited to adults.~~

~~*Adverse effect.* A negative change in the quality of the historical, architectural, archaeological, or cultural significance of a resource, or in the characteristics that qualify the resource as historically, architecturally, archaeologically or culturally important.~~

Adverse or Negative secondary effects means any one of the following conditions caused by the existence of or geographic proximity to a sexually oriented business:

(a) The existence of violations of law, including but not limited to: prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale or distribution or display of material harmful to a minor, sexual performance by a child, employment harmful to children, possession or promotion of child pornography, public lewdness, indecent exposure, indecency with a child, sexual assault, aggravated sexual assault, pandering, loitering, trespass, or any violation of Chapter 481 of the Texas Health and Safety Code, criminal attempt to conduct a violation of law, criminal conspiracy to conduct a violation of law, or solicitation to conduct a violation of law.

(b) Diminution of surrounding property value.

(c) Unsanitary health conditions resulting from improper disposition of bodily secretions thereby posing a threat of spreading infection or disease.

(d) Those adverse secondary effects found to exist by the Texas Legislature at Section 243.001(a) of the Texas Local Government Code.

(e) Those adverse secondary effects described by the United States Fifth Circuit Court in *J&B Entm't, Inc. v. City of Jackson, Miss.*, 152 F.3d 362 (5th Cir. 1998) and by the United States Supreme Court in *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000) and by the City of Jackson, Mississippi and the City of Erie, Pennsylvania as described in the legal opinions therein.

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Arcade Device means any coin, currency or slug operated or electronically or mechanically controlled machine or device that dispenses or effectuates the dispensing of "entertainment" that is intended for the viewing of five or fewer persons in exchange for any payment of consideration.

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(7) *Massage parlor* means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentation, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of, or in connection with, such treatment, manipulation, or service related thereto, exposes specified anatomical areas. The definition of a massage parlors shall not include the practice of massage in any licensed hospital, nor by a licensed massage therapist, hospital, licensed physicians, surgeons, chiropractor, osteopath, nurse, technician working under the supervision of a licensed physician, surgeon, chiropractor, or osteopath, nor by trainers of any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

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(9) *Nude modeling studio* means any place where a person who, for money or any form of consideration, appears in a state of nudity or displays specified anatomical areas, to be observed, sketched, drawn, painted, sculptured, photographed, or otherwise depicted by other persons. This definition shall not include nude modeling by an adult that occurs in conjunction with art classes of a university, college, or any art class supervised by an art instructor paid by an arts school.

(13) *Nude or nudity or state of nudity* means:

(a) The appearance of the bare buttock; anus; male genitals; female genitals; or entire female breast; or

(b) A state of dress which fails to completely and opaquely cover the buttock; anus; male genitals; female genitals; or entire female breast.

~~Nudity. Total absence of clothing or covering for the human body.~~

(10) *Nudity attraction establishment* means any place of business where nudity or semi-nudity is regularly or routinely advertised as a characteristic of the business or which regularly attracts patrons with nudity or semi-nudity.

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~~*Partial nudity.* Exposure of the female breast or breasts, or exposure of the male or female pubic area or buttocks.~~

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~~(14) *Semi-nude or semi-nudity or state of semi-nudity* means a state of dress that which fails to completely and fully opaquely cover the crevice of the human buttocks, genitals, pubic region, and the post puberty female breast areola:~~

- ~~(a) Human genitals, pubic region or public hair; or~~
- ~~(b) Crevice of buttocks or anus; or~~
- ~~(c) Any portion of the female breast that is situated below a point immediately above the top of the areola; or~~
- ~~(d) Any combination of (a), (b), or (c).~~

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~~(8) *Sexual encounter establishment* means any business or commercial establishment that, as of its primary business purposes, offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas when one (1) or more of the persons is in a state of nudity or semi nudity. The definition of sexual encounter establishment shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or medical professional, licensed by the state engages in medically approved and recognized therapy or treatment.~~

~~*Sexually oriented business* means an adult arcade, adult bookstore, adult entertainment establishment, adult motel, adult motion picture theater, adult mini-theater, massage parlor, sexual encounter establishment, nude modeling studio, nudity attraction establishment, or any establishment that, as one of its primary business purposes, offers a service, live entertainment or the selling, renting, or exhibiting of devices or any specified anatomical parts intended to provide sexual stimulation or sexual gratification to the customer and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. Said term shall include any business that self-identifies itself as a sexually oriented business. Includes any of the land uses defined as follows:~~

- ~~(3) — *Adult entertainment establishment* means a nightclub, bar, restaurant "bottle club", "men's club", "gentlemen's club", "cabaret" or similar place of business, or portion thereof where live entertainment is provided for patrons, whether or not alcoholic beverages are served which features as a portion of the entertainment the exhibition, depiction, or description of specified anatomical areas or specified sexual activities; or a place where entertainment is provided to patrons wherein, because of the nudity or semi-~~

~~nudity of person(s) employed by or associated with the operation of the business, admittance is limited to adults, or admittance is advertised or promoted as being restricted to adults.~~

- ~~(5) Adult motion picture theater means a business place where one (1) or more films, videos, slides, motion pictures, or similar photographic reproductions are shown that have as a dominant theme, or are distinguished by, an emphasis on the depiction or description of specified sexual activities for observation by patrons or guests, and where admittance to such showings are restricted to adults.~~
- ~~(6) Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features employees, volunteer patrons, or independent contractors, who appear nude or semi-nude and/or engage in specified sexual activity, or live performances which are characterized by exposure of specified anatomical areas or engagement in specified sexual activities.~~

Additional definitions are as follows:

- ~~(15) Negative secondary effects means any one (1) of the following conditions caused by geographic proximity to a sexually oriented business:~~
- ~~(a) Depreciation in surrounding property values; and/or~~
 - ~~(b) Violations of law not limited to but including: indecent exposure, drug use, prostitution, pandering, exposing minors to harmful materials, possession and distribution of obscene materials, possession and distribution of controlled substances, public intoxication, disturbing the peace, and/or~~
 - ~~(c) Adverse impact upon the City of San Antonio's central business district as a family oriented vacation destination.~~

The term 'sexually oriented business' shall not be construed to include:

- (1) Any business operated by or employing licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers performing functions authorized under the licenses held;
 - (2) Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts; or
 - (3) Any retail establishment whose major business is the offering of wearing apparel for sale to customers.
- ~~(11) Specified anatomical areas means failure to completely and opaquely cover: the human genitals, crevice of buttocks, pubic region, anus, and the areola of the post puberty female breast.~~

- (a) Human genitals, pubic region or public hair; or
- (b) Crevice of buttocks or anus; or
- (c) Any portion of the female breast that is situated below a point immediately above the top of the areola; or
- (d) Human male genitals in a discernibly erect state, even if completely and opaquely covered.
- (e) Any combination of the foregoing

~~(12) Specified sexual activity means actual and simulated human genitals in a state of sexual stimulation or arousal, even if completely and opaquely covered, actual or simulated human masturbation, sexual intercourse, sodomy, fellatio, cunnilingus, fondling or other erotic touching of human genitals, pubic region, buttock or female breast, and excretory functions as part of or in connection with the above described activity or any act of bestiality, sadomasochism or physical contact with a person's own or another person's specified anatomical area.~~

~~(13) Nude or nudity or state of nudity means a state of dress which fails to cover the human anus, genitals, pubic region, and the areola of the post puberty female breast.~~

~~(14) Semi nude or semi nudity or state of semi nudity means a state of dress which fails to fully opaquely cover the crevice of the human buttocks, genitals, pubic region, and the post puberty female breast areola.~~

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~~Sexually oriented business regulations. In addition to this chapter, See section 35-391 of this chapter see also Chapter 21 of the City Code of the City of San Antonio, Texas.~~

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~~Specified anatomical areas. Any showing of either the adult or minor human male or female genitals, anus or pubic area with less than a full opaque covering, or the showing of the post puberty female aerola with less than a full opaque covering.~~

* * * * *

~~Specified sexual activities. Acts of masturbation, sexual intercourse, homosexuality or lesbianism, sodomy, fellatio, sadomasochism or physical contact with a person's own or another person's specified anatomical areas.~~

* * * * *

Chapter 35, Appendix B, Application Submittal, Section 35-B118 is amended as follows:

Sec. 35-B118. - Sexually Oriented Business.

If the subject building or portion of the building is intended for future use or is currently used as a "sexually oriented business", then the following shall be submitted

attached to and made part of the application for certificate of occupancy and/or building permit:

- (a) A certified survey map prepared by a state licensed surveyor or state licensed engineer which shows the required minimum distances from properties with protected uses or protected zoning; and
- (b) A sworn affidavit stating the name and mailing address of all owner(s) of the planned, or existing, sexually oriented business; and
- (c) If a corporate owner, the current name and street address of the corporate president and the registered agent for service on file with the Texas Secretary of State.
- (d) It shall be a violation of this ordinance for an owner of a sexually oriented business to fail or refuse to submit the prerequisite certified survey map or to fail or refuse to register the names and addresses of the owner(s). Without both the certified survey map and owner identification, no valid certificate of occupancy and/or building permit can be issued. Upon discovery of the absence of or the incorrectness of either document, the certificate of occupancy and/or building permit shall be declared invalid by the director of ~~planning and development services~~.

(e) Permit/license issued by the Chief of Police

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Chapter 35, Appendix C, Fee Schedule, Section 35-C107 is amended as follows:

Sec. 35-C107. - Sexually Oriented Businesses.

A "sexually oriented business certificate of occupancy fee" of six hundred fifty (\$650) ~~five hundred seventy five dollars (\$575.00)~~ shall be paid to the City of San Antonio with the submission of each application for a certificate of occupancy for a sexually oriented business to pay for the cost of review and verification of accuracy of the application, survey maps, ownership information, and conformance with other certificate requirements.

* * * * *

SECTION 3. All other provisions of Chapter 35 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective

and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. Notice of these changes to the Unified Development Code shall require the publication in an official newspaper of general circulation in accordance with

SECTION 6. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 7. This ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED AND APPROVED this the _____ day of _____, 20__.

M A Y O R
Julián Castro

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Michael D. Bernard, City Attorney