



Zoning Staff Report

Date: December 12, 2023

Case Number: ZC-23-150

Council District: 8

Conditional Use Permit

Case Manager: [Beth Knight](#)

Owner / Applicant: Shanetta D. Caldwell

Site Location: 3105 Mitchell Boulevard

Acreage: 0.16 acres

Request

Proposed Use: Commercial Daycare Facility

Request: From: “A-5” One-Family Residential

To: Add Conditional Use Permit (CUP) to allow a daycare in “A-5” One-Family Residential for a maximum of five (5) years with development standards for supplemental setbacks, number of parking spaces behind the front building wall, front yard parking, front yard paving, and reduction of supplemental setbacks from 20 feet to 10 feet on the north and south portion of the property; site plan included

Recommendation

Land Use Compatibility:	Requested change is compatible
Comprehensive Plan Consistency:	Requested change is consistent
Staff Recommendation:	Approval for a daycare for 16 children
Zoning Commission Recommendation:	Approval by a vote of 8-0

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Project Description and Background

The proposed site is in a mid-block location, approximately ¼ mile south of US 287 and 500 feet north of East Berry Street, in a residential neighborhood. The rezoning area is a single lot that contains a residential building that appears to have been vacant since 2005. The site was previously approved for a daycare, beginning in 1991, with variances for front yard parking and bufferyards. The proposed use is to add a Conditional Use Permit to use the building as a commercial daycare; site plan included with development waivers.

Daycare in a residential building is only permitted within residential zoning districts through the CUP process. The applicant has applied for the (CUP) Conditional Use Permit to allow this use within the “A-5” district. Conditional uses are those uses which are generally compatible with the permitted land uses in a given zoning district, but which require individual review of their proposed location, design and configuration, and the imposition of conditions in order to ensure the appropriateness of the use at a particular location. The zoning ordinance allows a daycare CUP to be approved for maximum of 5 years.

The subject site and the general area are part of a larger multi-block residential neighborhood bounded by US Highway 287, E. Berry Street, and Cobb Park. The neighborhood is dotted with a few institutional uses, and some commercial uses where Mitchell Boulevard and Berry Street intersect with US Highway 287. While a commercial daycare is not permitted in the “A-5” zoning district by right, allowing one by CUP with a site plan may help mitigate any neighborhood concerns, as well as give options for the CUP to be revoked in the event of code violation convictions.

The applicant notes caring for up to 25 children, and the site plan shows a backyard meeting the ordinance requirements for a playground only if the landscaped bufferyards are included. However, formal landscaping that includes shrubs or small ornamental trees is not compatible to be counted for a children’s playground area. The open playground area is sufficient for 16 children instead and contains a fence enclosing the backyard on all sides. The conversion of a building initially constructed as a residence into a commercial daycare causes the existing building to encroach into the required 20-foot supplemental setbacks on the north and south.

The requested 25 children in the daycare corresponds to four required parking spaces; however, only one space can be accommodated in the existing driveway. Therefore, the applicant is proposing to convert 65% of the required front yard to parking for the daycare and exceeding the 50% of front yard paving allowed in a residential district. Reducing the number of children in the daycare to 16 would also reduce the number of front yard parking spaces down to 3. The 5 parking spaces shown exceeds the 4 parking spaces necessary for 25 children, and first parking space’s location causes any opened car door to go across the property line and block the sidewalk.

No walkway is shown in front of the parking, causing people to walk behind the cars or across the front yard. The back-up area for the front yard parking is shown extending to the northern property line and excluding the required bufferyard in this area. Having the full back-up aisle on the daycare lot is preferable to backing out onto Mitchell Boulevard that is classified as an arterial.

Through Ordinance 23609 effective March 29, 2019, the Conditional Use Permit allows for an unlimited time period for the operation of a use unless otherwise approved by the City Council. If a time limit is established for a Conditional Use Permit, the renewal of the CUP shall be considered through the public hearing process and approved by the City Council. A CUP shall expire if no permitting action is taken within six months of approval or cease of the use for six months. A CUP may be revoked through the public hearing process if necessary after convictions of one or more code violations.

Per Section 4.407 (a), the following general rules apply to all conditional uses:

- a) Conditional use permits in residential districts shall be limited to those uses designated “CUP” in the Residential District Use Table in Chapter 4, Article 6, Section 4.603.
- b) Approval of a conditional use permit shall authorize only the particular use or category of related uses for which the conditional use permit is issued.
- c) A conditional use shall not be enlarged, extended or otherwise modified unless approved by the City Council or approved administratively as applicable.
- d) The use of property for the purposes described in a conditional use permit shall not commence until a certificate of occupancy has been issued. A certificate of occupancy shall not be issued until all or approvals which may be required by the Codes and Ordinances of the City, including, but not limited to, a Building Permit, a Certificate of Occupancy and subdivision approval have been satisfied.

Section (d) provides the following Conditional Use Permit factors in consideration of appropriateness of a request:

- a) The proposed use is consistent with the Comprehensive Plan;
- b) The proposed use is compatible with the existing and adjacent uses.
- c) The proposed use meets all supplemental use standards specifically applicable to the use as set forth in Chapter 5;
- d) The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods;
- e) The proposed use is not materially detrimental to the public health, safety, and welfare, or results in material damage or prejudice to other property in the vicinity.

The land uses proposed are a daycare surrounded single family zoning. Below is a chart that illustrates the differences between the “A-5” One Family residential district and the proposed CUP:

Requirement	Development Standard	Proposed CUP
Supplemental setback	20-foot setback along all sides adjacent to residential districts	14-foot setback on north and 10-foot setback on south (<i>This item is requesting a Development Waiver</i>)
Parking space location	2 parking spaces are required behind the front building wall in residential districts	1 parking space is shown behind the front building wall (<i>This item is requesting a Development Waiver</i>)
Front yard parking	Parking not allowed in residential front yards	Converting most of the front yard to parking spaces (<i>This item is requesting a Development Waiver</i>)
Front yard paving	Maximum 50% front yard paving	65% front yard paving (<i>This item is requesting a Development Waiver</i>)
Landscaped Bufferyard	Required along all sides adjacent to residential districts	No bufferyard on the northwest portion where used for back-up aisle (<i>This item is requesting a Development Waiver</i>)
Parking	1 space for each 10 children, plus 1 space for the facility	1 space for each 8 children at 25 children, and 1 space for each 4 children at 16 children, (This item requires additional tree planting)

Surrounding Zoning and Land Uses

North “A-5” One-Family / Single family uses

East “A-5” One-Family / Single family uses
South “A-5” One-Family / Single family uses
West “A-5” One-Family / Single family uses

Recent Zoning History

ZC-14-151, southwest of subject site, from B, E to FR, denied without prejudice 3/19/2015.
ZC-17-073, southwest of subject site, from B, E to PD/E plus auto parts store, denied without prejudice 8/2/2017.
ZC-18-034, southwest of subject site, from B, E to PD for uses in E excluding certain uses, denied 4/6/2018.
ZC-19-158, southwest of subject site, from B, E to E, denied 1/20/2020.
ZC-21-133, southwest of subject site, from B, E to E plus Conditional Use Permit for auto parts sales, approved 12/14/2021.

Public Notification

300-foot Legal Notifications were mailed on September 29, 2023.
The following organizations were notified: (emailed September 29, 2023)

Organizations Notified	
The New Mitchell Boulevard NA*	Fort Worth ISD
East Fort Worth, Inc.	Polytechnic Heights South NA
Southeast Fort Worth Inc	United Communities Assoc. of S. Fort Worth
Streams and Valleys Inc	Trinity Habitat for Humanity

**Located within this registered Neighborhood Association*

Development Impact Analysis

Land Use Compatibility

The applicant is proposing to add a CUP to allow a commercial daycare on a site with a residence in the “A-5” zoning district for a maximum of 5 years. Surrounding land uses consist entirely of other residential uses in residential zoning. Having daycares integrated into neighborhoods allows for child care near the child’s home. The site has been approved for a Special Exception for a daycare three times previously, with variances for front yard parking and bufferyards. Although approved, the site appears not to have been used for a daycare since approximately 2005, and the approvals have lapsed.

The number of children initially proposed for this site exceeded the amount that can be accommodated in the playground. Excluding the landscaped buffer that typically contains shrubs and ornamental trees, the rear yard has a playground suitable for 16 children. The majority of the front yard is shown converted to parking that exceeds the amount of paving in a residential district. The proposed zoning request **is compatible for 16 children** as Conditional Use Permit requests are to meet Chapter 5’s supplemental standards for the playground area.

Comprehensive Plan Consistency– Southeast Sector

The 2023 Comprehensive Plan currently designates the subject property as “Single Family” on the Future Land Use Map, where community facilities that support residential uses are encouraged. The proposed zoning is consistent with the land use designations for this area, and with the following policies of the Comprehensive Plan:

- Encourage new development adjacent and connected to previously developed or platted areas in order to utilize existing utility and road infrastructure and services, thereby optimizing public and private investments and discouraging sprawl development.
- Promote appropriate infill development of vacant lots, old commercial centers (greyfields), and contaminated sites (brownfields) within developed areas, particularly in the central city.
- Locate large commercial and institutional uses adjacent to arterial streets, preferably at the intersections of other arterials and highways.
- Separate incompatible land uses with buffers or transitional uses. Some land uses have attributes such as height, proportion, scale, operational characteristics, traffic generated, or appearance that may not be compatible with the attributes of other uses.

However, the excessive parking that reduces the front yard in a residential district is not consistent with the following land use policy:

- Maximize area of permeable surfaces in developments to reduce stormwater run-off.

Based on conformance with the future land use map and with most of the policies stated above, the proposed zoning **is consistent** with the Comprehensive Plan.


Site Plan Comments

Zoning and Land Use

The site plan as submitted is not in general compliance with the Zoning Ordinance regulations.

1. Note the exterior building materials for the daycare.
2. Fences in the rear yard utility easement require easement encroachment agreements.
3. The landscaped bufferyard cannot contribute to the 100 square feet of playground area, as shrubs and ornamental trees are not available playground space. The number of children this playground can accommodate is 16. CUPs are required to meet the supplemental standards in Chapter 5.
4. Expanding the parking triggers the 20-foot supplemental setback requirements. **Waiver request noted in bold.**
5. Two parking spaces are required behind the front building wall, where one space is shown. **Waiver request noted in bold.**
6. Parking is not allowed in residential front yards. **Waiver request noted in bold.**
7. The number of parking spaces is technically excessive for 16 children.
8. Paving in residential front yards is based on the “A-5” One-Family zoning, instead of the commercial use, and is not allowed to exceed 50%. Please recalculate the amount of front yard paving for the parking spaces in the front yard. If the front yard paving still exceeds 50%, **note the waiver request in bold.**
9. The landscaping does not comply fully with Section 6.301, as a waiver to the bufferyard is requested for the back-up aisle. **Waiver request noted in bold.**
10. Update the General Note #1 for landscaping in the specific zoning district of Sec. 4.705 “One-Family”.

(Comments made by Platting (Subdivision Ordinance), Transportation/Public Works, Fire, Park & Recreation, and Water Department staff cannot be waived through the Zoning Commission and City Council. Approval of the zoning site plan does not constitute the acceptance of conditions.)

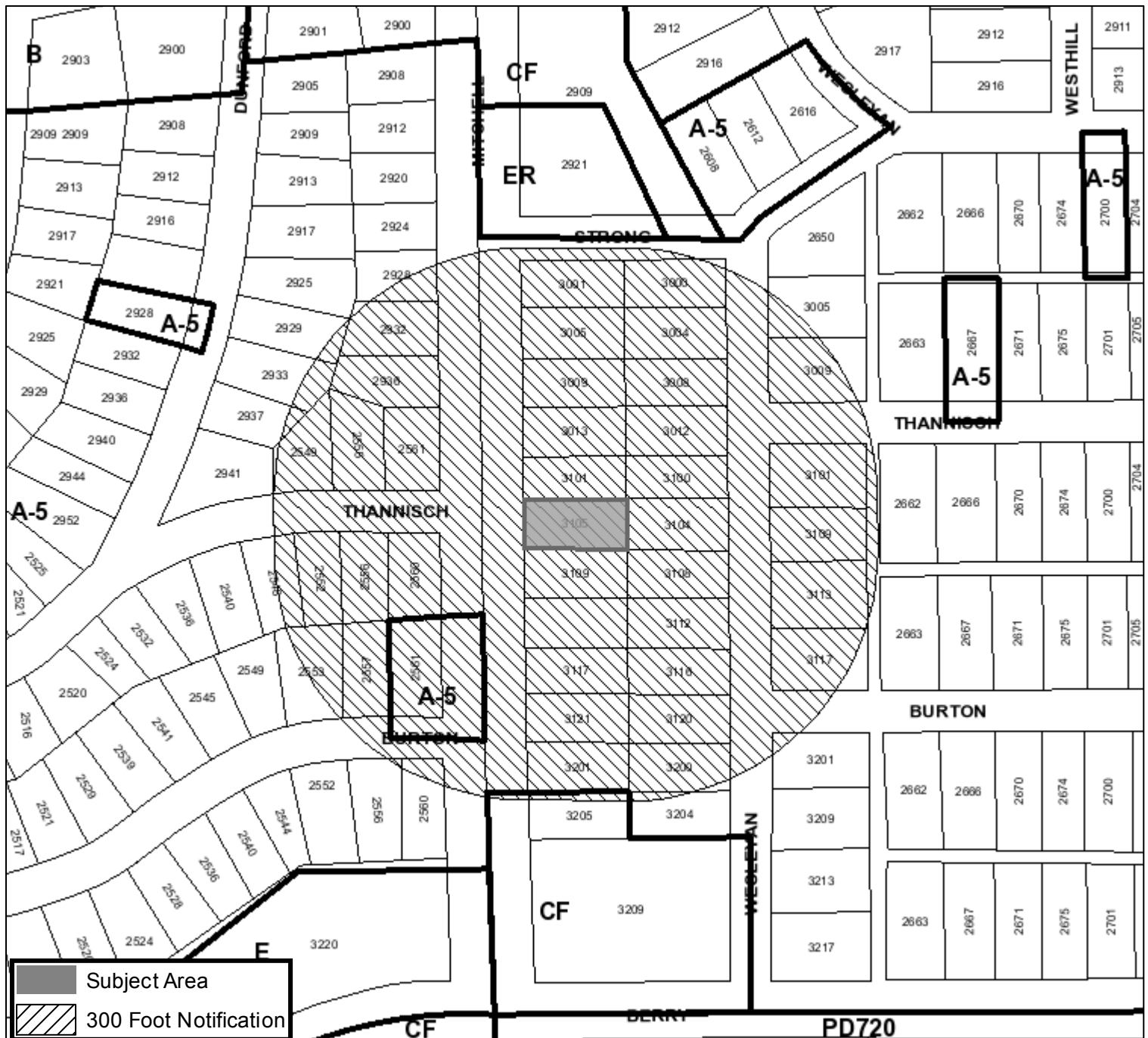




ZC-23-150

Area Zoning Map

Applicant: Shanetta D. Caldwell
Address: 3105 Mitchell Boulevard
Zoning From: A-5
Zoning To: Add a Conditional Use Permit for a daycare with development waivers
Acres: 0.16962491
Mapsc0: Text
Sector/District: Southeast
Commission Date: 10/11/2023
Contact: 817-392-8190



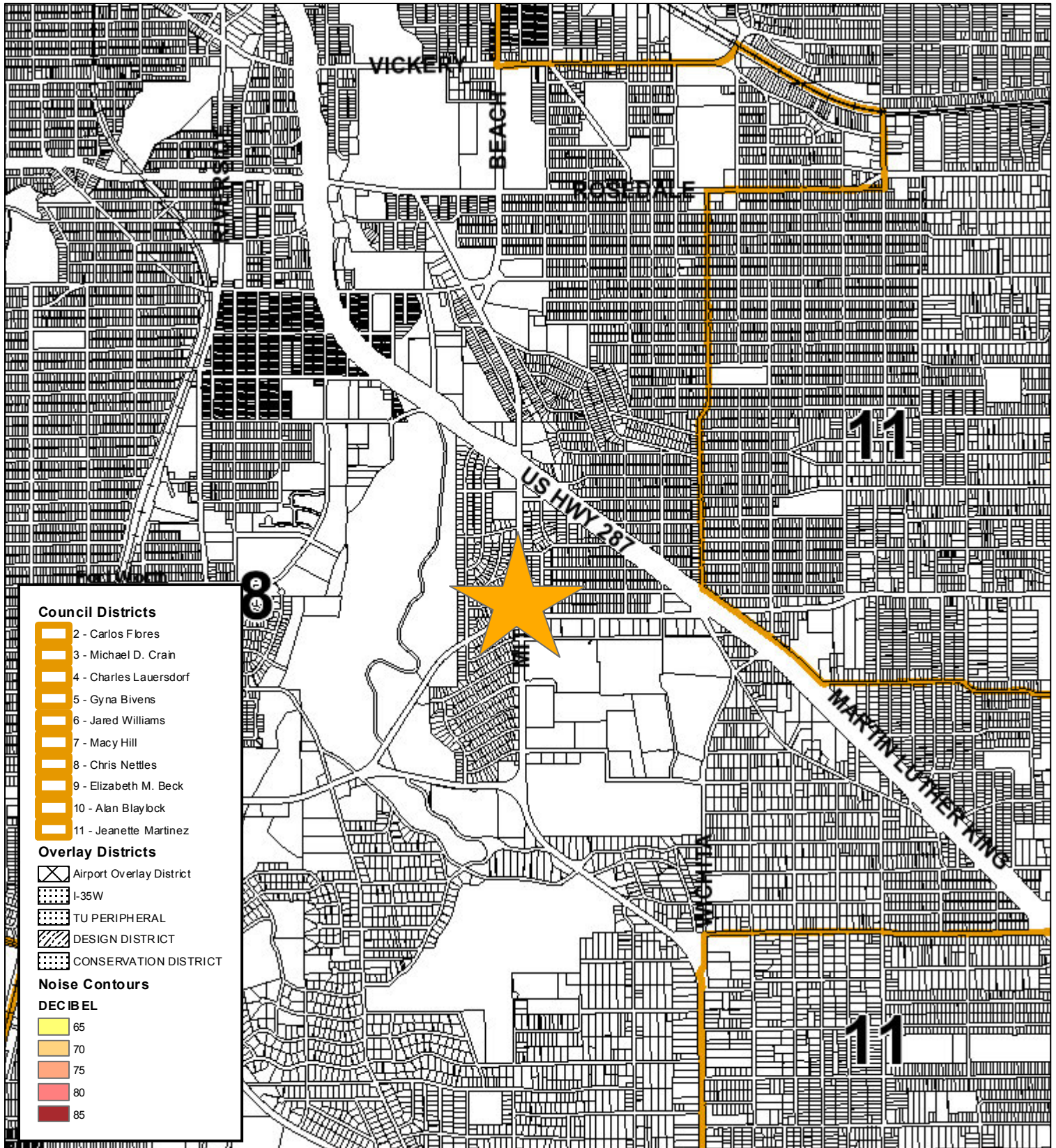
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Area Map

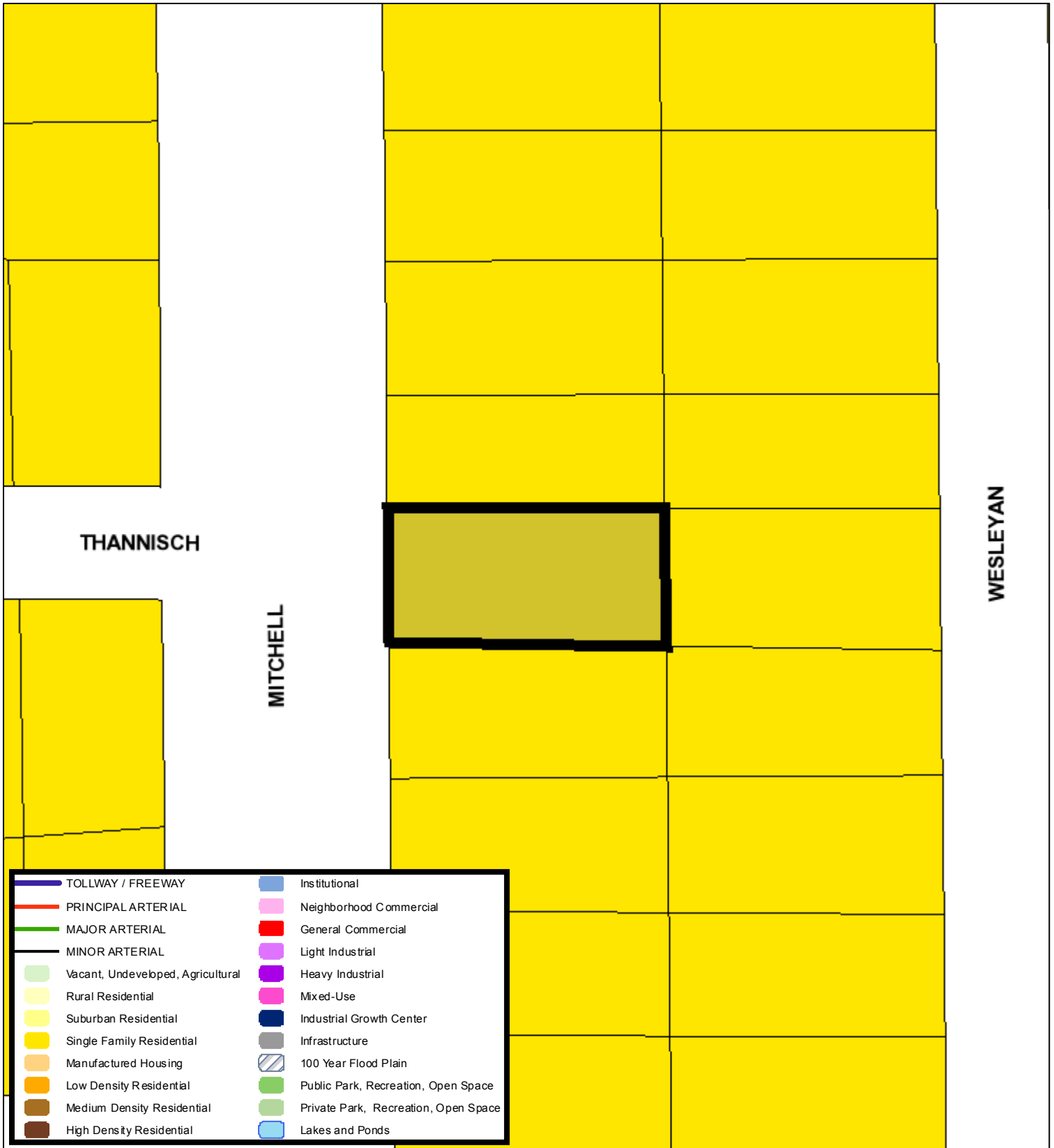


0 1,000 2,000 4,000 Feet



ZC-23-150

Future Land Use



60 30 0 60 Feet

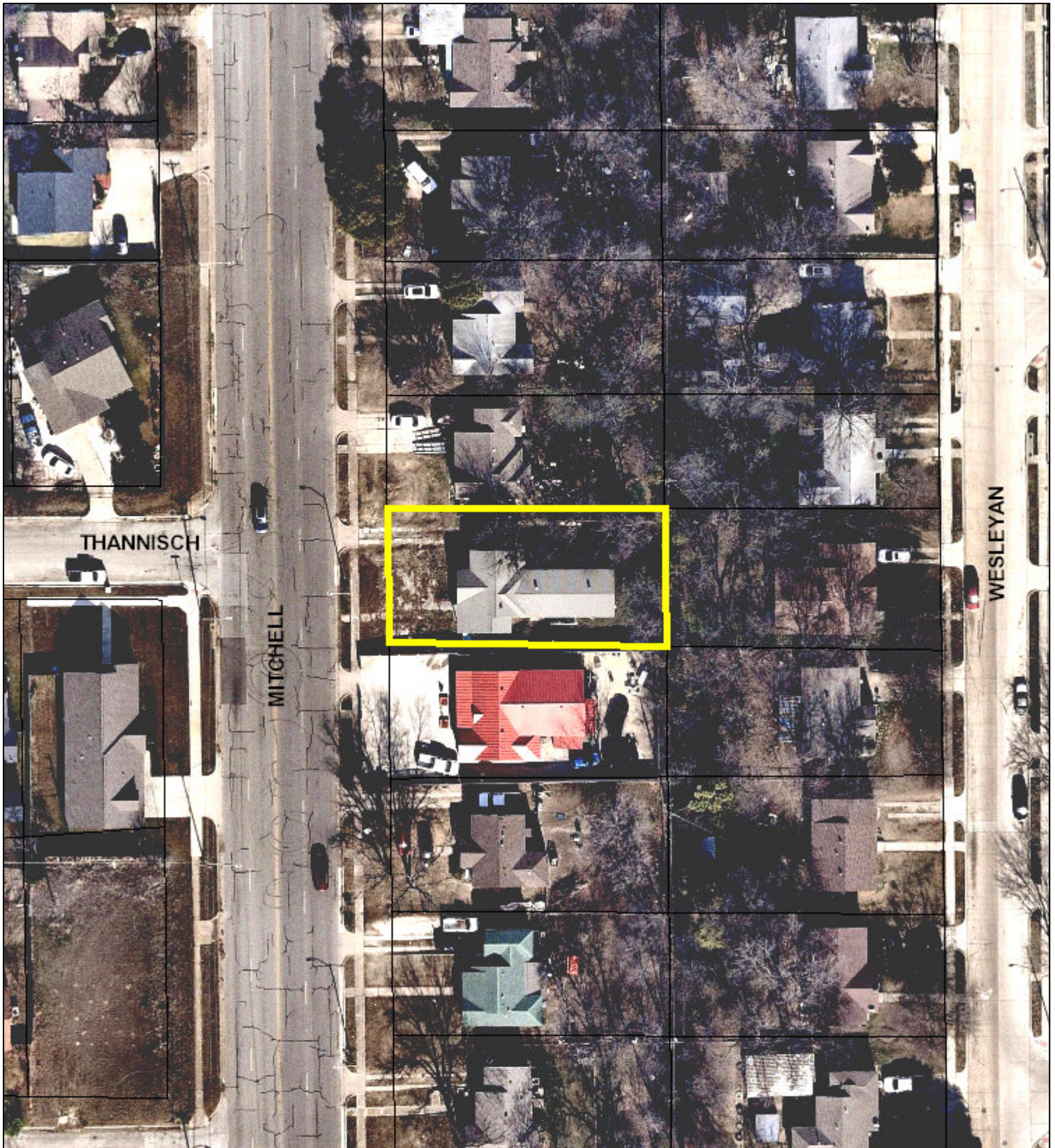
A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. (Texas Local Government Code, Section 213.005.) Land use designations were approved by City Council on March 6, 2018.





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Aerial Photo Map



0 37.5 75 150 Feet

