



Zoning Staff Report

Date: October 17, 2023

Case Number: ZC-22-186

Council District: 2

Conditional Use Permit

Case Manager: [Beth Knight](#)

Owner / Applicant: Victor Lopez/ Ana Vasquez

Site Location: 3602 N. Grove Avenue

Acreage: 0.29 acres

Request

Proposed Use: Outdoor storage of materials and equipment for building wooden pallets

Request: From: “K” Heavy Industrial

To: Add Conditional Use Permit (CUP) to allow storage of materials and equipment for building wooden pallets in “K” Heavy Industrial for a maximum of 5 years; development standard waivers requested for screening fence materials, bufferyard /setback /supplemental screening adjacent to a residential district, bicycle rack, parking spaces, vehicle maneuvering, and landscaping, site plan included.

Recommendation

Land Use Compatibility: Requested change **is not compatible**
Comprehensive Plan Consistency: Requested change **is not consistent**
Staff Recommendation: **Denial**
Zoning Commission Recommendation: **Denial by a vote of 7-0**

Table of Contents

- [1. Project Description and Background](#)
- [2. Surrounding Zoning and Land Uses](#)
- [3. Recent Zoning History](#)
- [4. Public Notification](#)
- [5. Development Impact Analysis](#)
 - [a. Land Use Compatibility](#)
 - [b. Comprehensive Plan Consistency](#)
 - [c. Site Plan Comments](#)
6. Zoning Map with 300 ft. Notification Area
7. Site Plan
8. Area Map
9. Future Land Use Map
10. Aerial Photograph

Project Description and Background

The proposed site is at the northeast corner of N. Gove Avenue and NE 35th Street, approximately ¼ mile north of NE 28th Street, the closest arterial street. The rezoning area is a lot without formal buildings on a block facing functioning as a transitional area between the industrial uses adjacent to the rail lines on the west and single family uses to the east. The applicant is requesting to add a Conditional Use Permit to allow outdoor storage of materials and equipment associated with building wooden pallets; site plan included.

Outdoor storage of items without a building is only permitted within industrial zoning districts through the CUP process. The applicant has applied for the (CUP) Conditional Use Permit to allow this use within the “K” district for outdoor storage of materials and equipment associated with building wooden pallets. 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 an outdoor storage CUP to be approved for maximum of 5 years.

The subject site and the general area to the south and west are designated as Light Industrial. The remainder of the block to the east appears to be mis-classified as Light Industrial, because the eastern block face is zoned for one- or two-family uses, and developed as single family uses as recently as 2020. The bulk of the Diamond Hill-Jarvis neighborhood continues to the east. While outdoor storage is not permitted in the “K” 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 site does not have a building, but has maintained outdoor storage without any formal approvals since purchased by the current owner in 2006. The owner opened a glass recycling facility by 2008, but did not get a Certificate of Occupancy. A Board of Adjustment case for the facility was submitted in 2011 but withdrawn. The outdoor storage has drawn Code Compliance complaints since 2008.

The site plan shows a storage yard behind a 4-foot metal panel fence above a 2-foot concrete wall on 3 sides of the lot. The fencing is not solid on the north side, adjacent to another business. The fencing along N. Grove Street was 10 feet from the property line, but was placed on the property lines in 2020 so the entire site can be used for storage. No formal landscaping is shown on the site plan, and so does not meet the required 4% landscaping requirement for industrial areas. N. Grove Street, along the western property line, is designated as a collector street, while NE 35th is a residential street. The materials and spacing of pallet slats creates a significant fire danger. The rezoning site immediately adjoins a residential neighborhood to the east.

Despite the residential adjacency, no space on the lot has been provided for landscaping adjacent to a residential district, nor has space been provided for the supplemental residential setback. The amount of loose items stored on the lot, combined with the 3 trailers used for storage containers, does not leave enough room for the vehicles to turn around inside the property lines. Vehicles are using the public street for maneuvering spaces. The small tree grouping on the southwestern side has vehicles parked and items stored under their tree canopy, so the trees are not being preserved. The existing site conditions that are not mitigated on the site plan generate a number of development waivers.

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.

Below is a chart that illustrates the differences between the base regulations and the proposed CUP:

Requirement	K Standards	Proposed CUP
Screening fence materials	Wood, brick, stone or reinforced concrete products	Metal panels and chain link fencing (<i>requires Development Regulation Waiver</i>)
Bufferyards adjacent to residential districts	5-foot landscaped bufferyard on eastern side	No landscaping on eastern side (<i>requires Development Regulation Waiver</i>)
Setback adjacent to residential districts	50-foot supplemental setback on eastern side without storage areas	Storage on eastern side (<i>requires Development Regulation Waiver</i>)
Supplement screening for outdoor storage	Outdoor storage screened by 8-foot masonry wall for site visible from residential district	4-foot metal panel on top of 2-foot concrete wall (<i>requires Development Regulation Waiver</i>)
Bicycle parking	1 bicycle rack	No bicycle rack (<i>requires Development Regulation Waiver</i>)
Parking spaces	Parking required for all vehicles on lots less than 250 feet from one- or two-family zoning	No parking spaces (<i>requires Development Regulation Waiver</i>)
Vehicle maneuvering	Vehicles must turn around on their own lot.	Public street used for maneuvering (<i>requires Development Regulation Waiver</i>)
Landscaping required	4% of site to be landscaped	No landscaping shown (<i>requires Development Regulation Waiver</i>)

Surrounding Zoning and Land Uses

North “I” Light Industrial / Industrial uses
East “B” Two-Family / Single family uses with scattered vacant lots
South “I” Light Industrial / Industrial uses
West “K” Heavy Industrial / Semi truck parking

Recent Zoning History

ZC-19-152: north of site, add CUP for semi-truck parking with waivers, withdrawn 2021.
ZC-22-138: north of site, add CUP for semi-truck parking with waivers and community garden, approved 10/11/2022.

Public Notification

300-foot Legal Notifications were mailed on April 21, 2023.
The following organizations were notified: (emailed April 24, 2023)

Organizations Notified	
Inter-District 2 Alliance	Diamond Hill Jarvis NAC
Streams and Valleys Inc	Trinity Habitat for Humanity
Far Greater Northside Historical NA	Fort Worth ISD

**Located within this registered Neighborhood Association*

Development Impact Analysis

Land Use Compatibility

The applicant is proposing to add a CUP to allow outdoor storage of materials and equipment associated with wooden pallet construction in the “K” zoning district for a maximum of 5 years. Surrounding land uses consist of other industrial uses in industrial zoning on most sides, but is immediately adjacent to a residential neighborhood on the east. The applicant’s business activities have gained consistent complaints, including a failure to get a Certificate of Occupancy for 17 years. The applicant is requesting to build highly flammable wooden pallets on the site with no landscaping or buffering to the adjacent residential uses. Additionally, 6 other development waivers are requested to waive all landscaping and parking requirements.

The case was submitted in October 2022 and placed on hold for 6 months to receive an appropriate site plan. To keep the case from expiring and having the applicant forfeit their fees, the case was placed on the May 10, 2023 agenda. The case was continued from both the May and July Zoning Commission meetings to allow the applicant time to revise the site plan. To date, no revisions have been received for the original October 2022 site plan, and the case is approaching the 11-month mark. Additionally, the applicant has failed to pay their continuance fees.

The proposed zoning request **is not compatible** with surrounding land uses due the flammability of the wooden pallets, the adjacent residential uses, and the number of requested development waivers. The proposed use does not meet the standards for approval of a CUP because it is not compatible with the existing adjacent uses; does not meet any supplement use standards; does not preserve the character and integrity of adjacent development and neighborhoods; and is materially detrimental to the public health, safety, and welfare to other property in the vicinity.

Comprehensive Plan Consistency– Northeast Sector

The 2023 Comprehensive Plan currently designates the subject property as “Light Industrial” on the Future Land Use Map, where less intensive industrial uses are encouraged. The proposed zoning is not consistent with the land use designations for this area, and conflicts the following policies of the Comprehensive Plan:

- Coordinate future land uses and development types and intensity with the Complete Streets policy, Master Thoroughfare Plan, Active Transportation Plan, and Transit-Oriented Development (TOD) Plans.
- 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 industrial uses along freight rail lines, highways, or airports within industrial growth centers and other appropriate locations.

Based on a lack of conformance with the future land use map and with the policies stated above, the proposed zoning is **not 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. Add the Title of project or development (in bold letters) in the lower righthand corner of the plan.
2. Add the Date of preparation or revision, as applicable.
3. Add the Name, address, and telephone number of person drawing the plans, and developer/owner.
4. Add a vicinity map.
5. Label the zoning case number of ZC-22-186 in the lower righthand corner of the plan, below the title.
6. Provide a signature line labeled: “Director of Development Services” with a “Date” line above the project title.
7. Label the roofed structure between the trailers.
8. The setbacks for the northern trailer are inaccurate. The trailer is actually sitting at 0 feet on the northern property line and approximately 15 feet from the western property line.
9. Note the specific category of land/occupancy use(s) to be on the site.
10. The gate is actually larger than the driveway. Show the full gate width.
11. Parking spaces are required, but none are shown. Please provide the calculations for how many parking spaces are needed.
12. Add the surfacing (i.e. grass turf, gravel, walks, etc.) elsewhere existing or proposed on the site that is not proposed for vehicular paving and circulation.
13. Label the height of the chain link fence on the north.
14. Show all easements on the lot.

15. Label the land use and zoning classifications of both the site area and the immediately adjacent properties abutting the site.
16. Show the areas where outdoor storage is being done and label the items being stored.
17. Since the site is adjacent to a residential district, label the height of the storage trailers.
18. Add the landscaping, urban forestry, signs, and lighting notes from the General Notes section on page 7 of the application form.
19. All vehicles on the site must be working. Ensure all vehicles are in good working order or remove them from the lot.
20. The Fire Department notes that Outside storage of combustible materials shall not be located within 10' of a lot line. The separation distance is allowed to be 3' if the materials do not exceed 6' or if the Fire Marshal/Inspector determines that the hazard to adjoining property does not exist.
21. Parking spaces for each vehicle and mobile trailer, and a handicap space are required. Either add the parking spaces or **note in bold that a waiver to the parking spaces is being requested.**
22. The aerial photographs show the vehicles do not have room to turn around on the site and are using the city street instead. Either remove some outdoor storage area and add maneuvering room or **note in bold that a waiver to the maneuvering room is being requested.**
23. Bicycle parking is required. Either add the bicycle parking or **note in bold that a waiver to the bicycle parking is being requested.**
24. Screening fencing cannot be metal panels or chain link. Either change the screening material or **note in bold that a waiver to the screening fence material is being requested.**
25. The site is immediately adjacent to a residential district where a 5-foot landscaping buffer is required on the eastern side. Either add the 5-foot landscaping buffer or **note in bold that a waiver to the residential landscaping buffer is being requested.**
26. The site is immediately adjacent to a residential district where a 50-foot supplemental setback is required on the eastern side where no storage is allowed. Either add the 50-foot supplemental setback or **note in bold that a waiver to the residential supplemental setback is being requested.**
27. The site is required to have 4% of the site's area landscaped along the street frontages. Either add 500 square feet of landscaping between the screening fences and the property lines (not the street paving) or **note in bold that a waiver to the landscaping requirement is being requested.**
28. The trees on the lot not being protected from having items stored under them nor are being protected from vehicles. Either add tree protection areas or **note in bold that a waiver to the Urban Forestry requirement is being requested.**

Stormwater

Site is located in a City Flood Risk Area per City Study, SWS-037, Tony's Creek Neighborhood. Potential High Water on site may get up to 5 ft deep. There is existing infrastructure located at the intersection of N Grove St & NE 35th St per plan sets K-0919 & S-0525.

Fire

1. Pallet piles shall cover an area not greater than 400 sq/ft.
2. Pallet types shall comply with 315.7.5.
3. Shall comply with separation distances in 315.7.6.1 for buildings and 315.7.6.2 from other combustibles and pallet piles. Separations depend on pallet type (wood or plastic) and building wall construction type (masonry, wood, etc).
4. Section 2810 Pallet Storage Recycling (repairing) or Manufacturing requires:
2810.0 Detailed site plan (the included site plan DOES NOT show location of pallet storage, designated

smoking areas, fire access roads, dust collection systems, utilities)


2810.3 Fire Prevention Plan (see code for details)

2810.4 Fire Safety and Evacuation Plan

2810.5 Security Management Plan.

5. Section 2810 Pallet Storage Recycling (repairing) or Manufacturing: Pallet stacks
 - shall not be stored within .75 times the stack height or 8' of the property line, whichever is greater.
 - shall not be stored within .75 times the stack height of any important building on site.
 - shall not exceed 20' in height.(alternative approaches may be viewed in 2810.11 but would require approval by Fire Marshal).
6. Storage of hazardous materials depends on the material and quantity. Specific control areas are defined in Chapter 50. If hazardous materials are to be stored on site, they need to be identified by type, quantity and method of storage, including control areas. Storage of empty combustible barrels is considered Outside Storage; Section 315.4.
7. A site plan, details on the number of pallets intended to be stored and the purpose of the storage, and details on any hazardous materials storage are needed for further review.
8. One point of access is required for commercial uses. Access may be considered from public streets as long as there are no obstructions.
9. One point of access is required for commercial uses. Access may be considered from public streets as long as there are no obstructions.
10. Failure to recognize violations of the fire code by the fire code official does not waive the requirement of meeting minimum requirements of the fire code in the future.
11. The City of Fort Worth has adopted the 2021 International Fire Code as its current fire code at the time of this review. The City of Fort Worth has also adopted Amendments #25388-03-2022.
<https://www.fortworthtexas.gov/departments/fire/services/bureau>

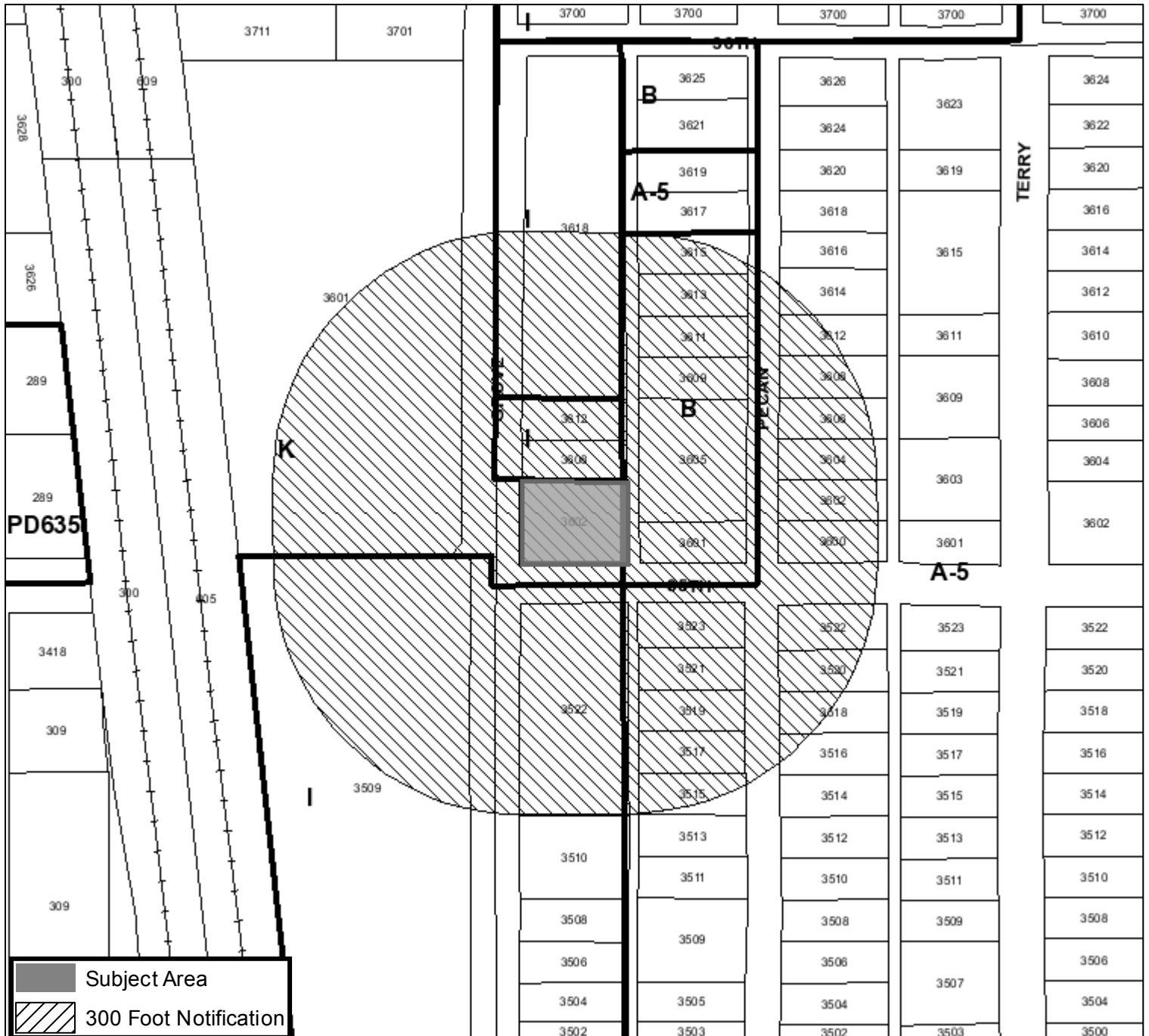
(Comments made by Platting (Subdivision Ordinance), Transportation/Public Works, Fire, Park & Recreation, and Water Department staff cannot be waived through the Zoning Commission and City Council. Approval of the zoning site plan does not constitute the acceptance of conditions.)



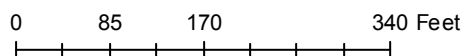


Area Zoning Map

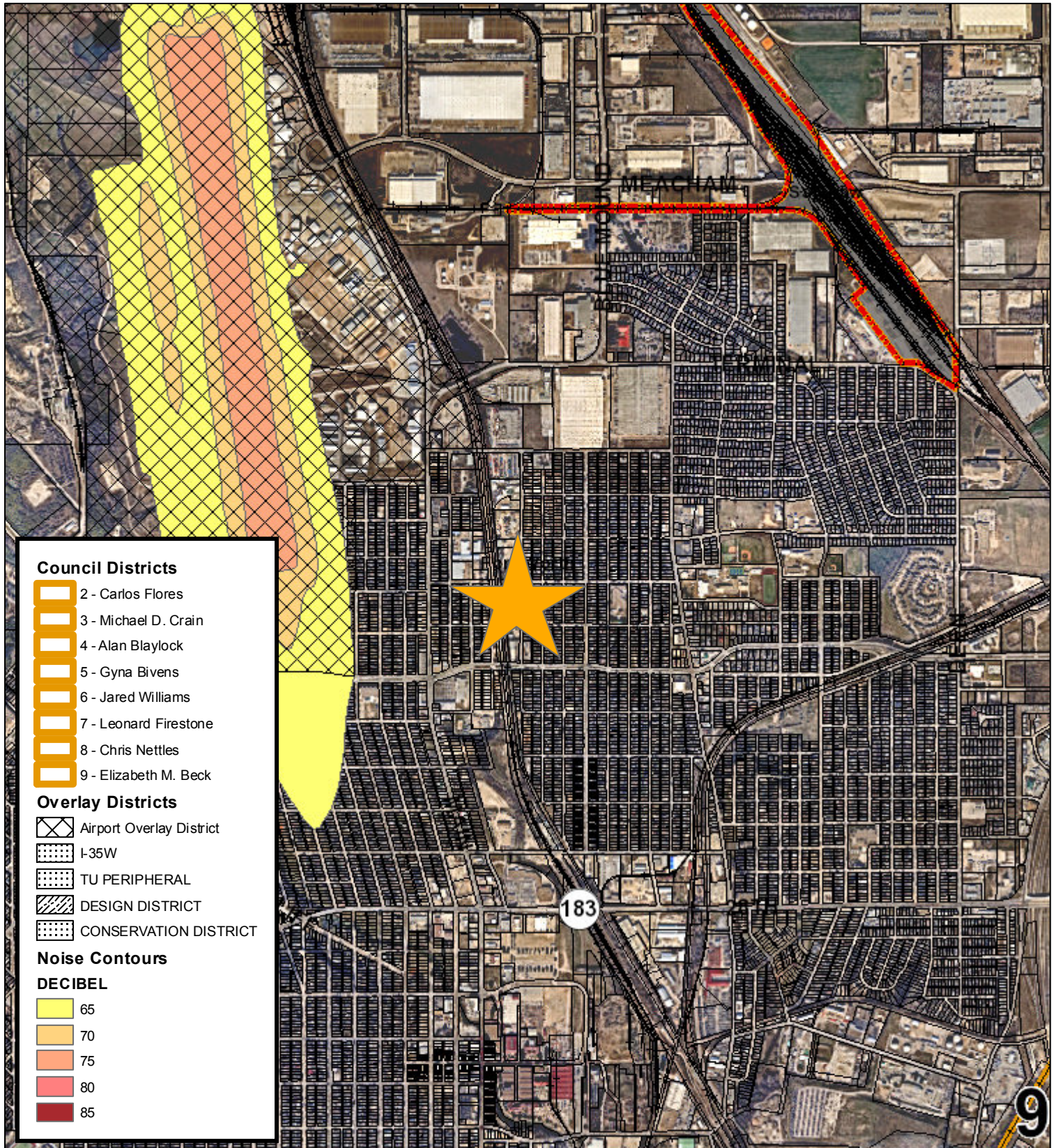
Applicant: Victor Lopez
 Address: 3602 N. Grove Avenue
 Zoning From: K
 Zoning To: Add Conditional Use Permit for truck parking and storage containers
 Acres: 0.28917274
 Mapsco: Text
 Sector/District: Northeast
 Commission Date: 5/10/2023
 Contact: 817-392-8190



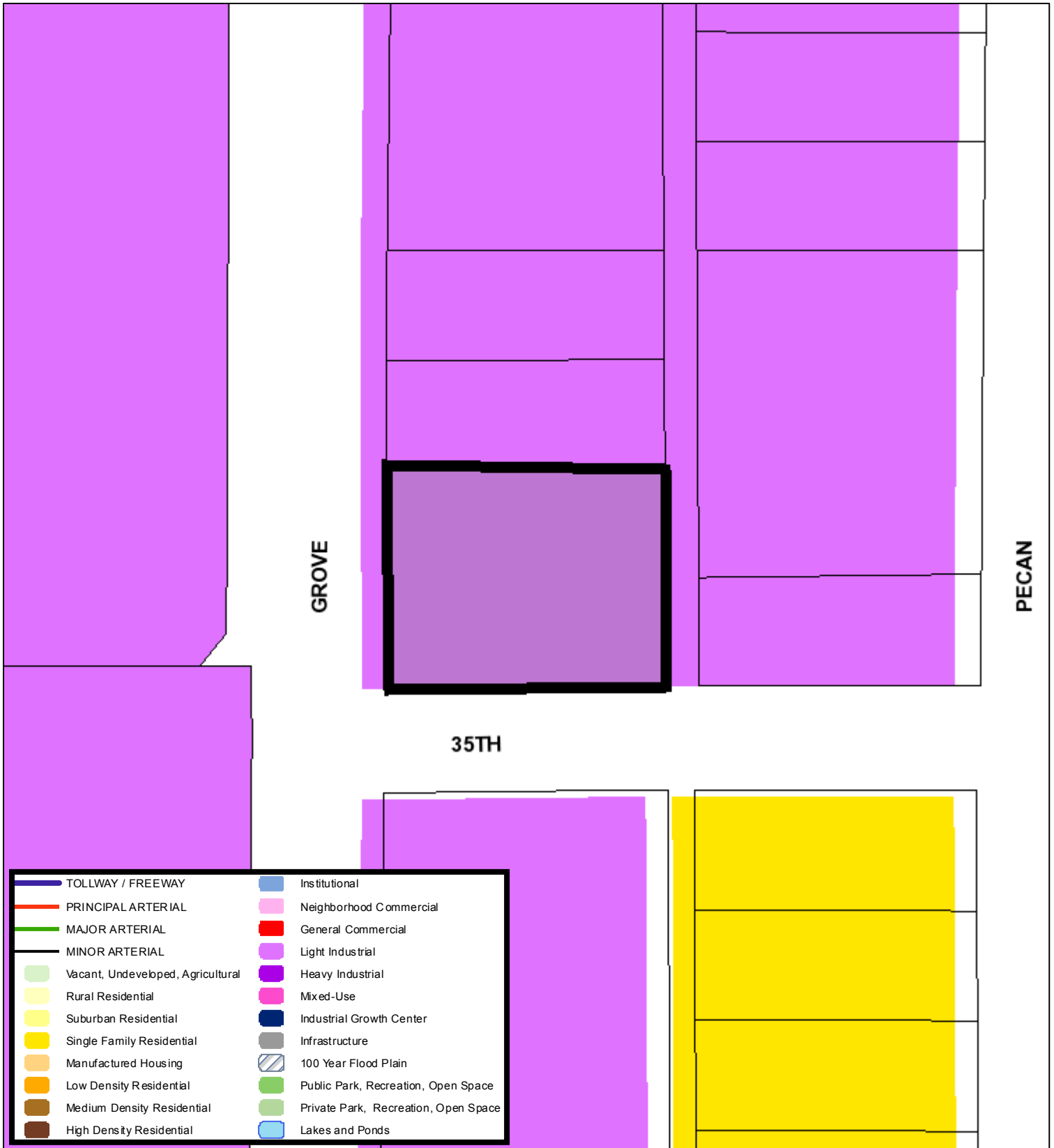
Subject Area
 300 Foot Notification



Area Map



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.



Aerial Photo Map



0 37.5 75 150 Feet

