

ZONING BOARD OF ADJUSTMENT – March 3, 2025
STAFF REPORT

APPLICATION TYPE:	CASE:		
Variance	ZBA25-02: Lots 1-14 & 17-33 The Bluffs Addition, Sec 27, Tract G		
SYNOPSIS:			
<p>A request for approval of a variance from Section 501.A for a lot width of:</p> <p>33.96' on Lot 1, 35' on Lots 2-14 & 17-25 & 29 & 31-33, 34.999' on Lots 26-28 & 30</p> <p>A total of 31 lots in a Zero Lot Line, Twinhome Residential (RS-3) zoning district in lieu of the required 40' width required for Twinhomes located north of S FM 2288 and Stratford Ave.</p>			
LOCATION:		LEGAL DESCRIPTION:	
north of S FM 2288 and Stratford Ave		Acres: 3.293, Subd: BLUFFS, Tract: G, 3.2930 ACRES SECTION 27	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #6 – Larry Miller Neighborhood – Bluffs	Zero Lot Line, Twinhome Residential (RS-3)	Neighborhood	3.293 acre
NOTIFICATIONS:			
<p>12 notifications were mailed within a 200-foot radius on February 14, 2025.</p> <p>Received 0 in support and 2 opposition.</p>			
STAFF RECOMMENDATION:			
<p>Staff recommend DENIAL of a variance from Section 501.A for a lot width to be less than the required 40' to allow Twinhomes instead of Townhouses located north of S FM 2288 and Stratford Ave.</p>			
PROPERTY OWNER/PETITIONER:			
Applicant: Wilde Engineering and Surveying LLC			
STAFF CONTACT:			
<p>Rae Lineberry Senior Planner (325) 657-4210, Extension 1533 rae.lineberry@cosatx.us</p>			

Additional Information:

The owner had originally planned to build Townhouses to which all but 3 lots met the lot size of 25'x75' required. The applicant received administrative approval of a variance in 2022 for the 3 lots that did not meet the length of 75' as it was within the 10%. The owner has started infrastructure and has realized that since Townhouses require 3 in a row, it will not work with these lots. They turned in new plans to build Twinhomes instead but do not meet the lot size required for Twinhomes which is 40'x60'. Most of the lots are 35x85, with a couple being 33' & 34', so do not meet the 40' width. Staff met with the owner and applicant to discuss and recommended a replat but as infrastructure has already been placed, it may not be feasible.

Variances: In addition to the six criteria in the City's Zoning Ordinance, in exercising its authority to grant a variance, per Section 207.F of the Zoning Ordinance, the Zoning Board of Adjustment must affirmatively find that each of the following circumstances applies:

1. **Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.**

The property is unique as it sits surrounded by a road that has a definite curve within it. The lots follow the curve of the road and the applicant claims make it difficult to build townhomes in multiples of 3. Staff finds that most Lots 1-12 and 17-25 seem to be along a straight road, however the curve does effect the other lots but the applicant was previously aware of this.

2. **These special circumstances are not the result of the actions of the applicant.**

The size of the lot was originally platted this way with townhomes as the type of housing.

3. **Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.**

As there are other options (replat to change lot layout or build townhouses), Staff does not believe there is an undue hardship.

4. **Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest and would carry out the spirit of this Zoning Ordinance and substantial justice.**

The applicant states there is more public interest or need for twinhomes than townhouses so granting the variance would be in public interest. Staff believes there are other ways to achieve this other than granting the variance.

5. **Granting the variance will not adversely affect adjacent land in a material way.**

Granting this variance will not adversely affect the area.

6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.**

Granting a variance in this scenario would be contrary to the intent of the Zoning Ordinance as the lot size for twinhomes versus townhouses are different.

Allowed Variances:

In addition to the above criteria, in exercising its authority to grant a variance, per Section 207.D of the Zoning Ordinance, the Zoning Board of Adjustment must affirmatively find that one or more of the following circumstances applies:

1. **SPECIAL CIRCUMSTANCES RESULTING IN UNNECESSARY HARDSHIP.** *Where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are such that strict application of this zoning ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.*
2. **OVERRIDING PUBLIC INTEREST.** *If the variance further an overriding public interest or concern, including, but not limited to: (a) Preserving the natural environment, (b) Promoting maintenance or reuse of older urban or historic buildings, or (c) Helping to eliminate a nonconforming use at another location.*
3. **LITERAL ENFORCEMENT.** *If it is found that the literal enforcement and strict application of this Zoning Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done.*

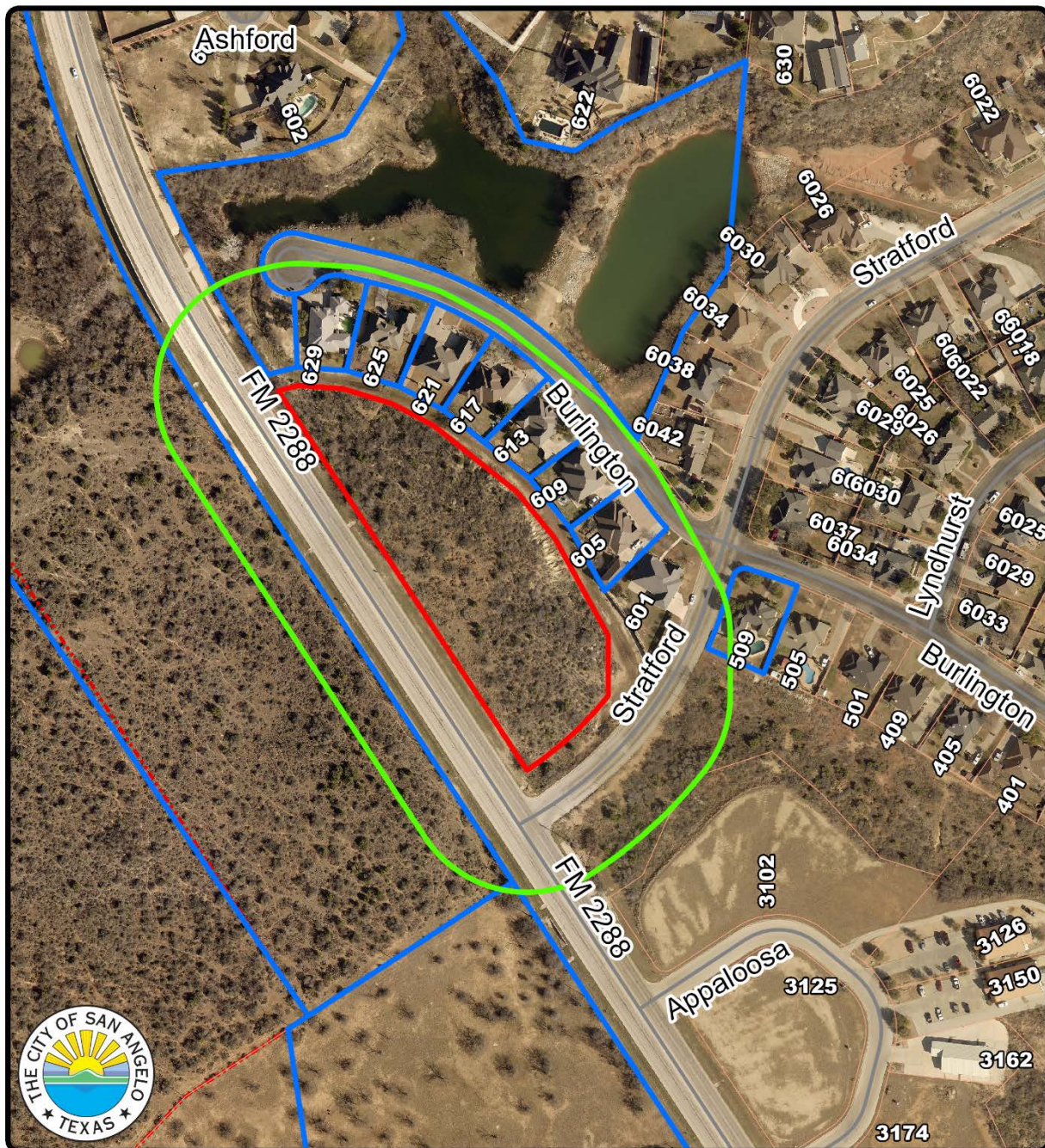
Recommendation:

Staff recommend DENIAL of a variance from Section 501.A for a lot width to be less than the required 40' to allow Twinhomes instead of Townhouses located north of S FM 2288 and Stratford Ave.

Attachments:

Notification Map
Final Plat

Notification Map



200' Notification Map

ZBA25-02: The View at the Bluffs, Lots 1-34

Council District: #6 Larry Miller

Neighborhood: Bluffs

200' Range:

Subject Property: _____

Notified Properties: ██████████

Scale: 0 0.01 0.03 0.05 0.08 0.1 Miles







City of San Angelo, Texas - Building Permits & Inspections
52 West College Avenue



Commercial Building Permit Application

NOTE: Incomplete or illegible applications will not be accepted. All applications must be submitted digitally. All required fields must be filled in adequately. The Authorized Representative (as designated in Section 1) will be notified of any changes in status & contacted with any questions. Use "N/A" where an item is not applicable.

Section 1: Basic Information

Address _____	Business Name _____
Legal Description (can be found on property tax statement or at www.tomgreencad.com) _____	
Point of Contact / Authorized Representative - All communications will be conducted with this individual. Additional individuals will be added as "Applicant Associates" that can view projects but not make any changes.	
Point of Contact: _____	
Name	Phone Number
Email Address	
Tenant: _____	
Name/Company	Phone Number
Email Address	
Property Owner: _____	
Name	Phone Number
Email Address	
Contractor: _____	
Name/Company/Contractor #	Phone Number
Email Address	
Architect/Engineer/Design Professional: _____	
Name	Phone Number
Email Address	

Section 2: Property Characteristics

	ROW Distance (Lin Ft)	Frontage (Lin Ft)	Street Name
Lot Size (Square Feet) _____	Lot Frontage 1: _____	_____	_____
	Lot Frontage 2: _____	_____	_____
Lot Size (Acreage) _____	Lot Frontage 3: _____	_____	_____
	Lot Frontage 4: _____	_____	_____

Is the proposed project any of the following?

- ☐ Construction of a building comprising **at least** 25,000 square feet of gross floor area?
- ☐ Construction of a building comprising **at least** 10,000 square feet of gross floor area **and** which is located on the same lot as an existing building comprising at least 25,000 square feet of gross floor area?
- ☐ **Exterior** alterations to an **existing building** of at least 25,000 square feet of gross floor area or has an existing **Urban Design Review**?
- ☐ Construction of **more than one** principal building for multi-family residential use on a single lot or tract of land?
- ☐ Construction of **more than one** principal building for single-family or two-family residential use on a single lot or tract of land?

Section 3: Utility Information

Water: <input type="checkbox"/> City - requesting new services	Sewer: <input type="checkbox"/> City - requesting new services
<input type="checkbox"/> City - utilizing existing services	<input type="checkbox"/> City - utilizing existing services
<input type="checkbox"/> Other	<input type="checkbox"/> Other
	<input type="checkbox"/> Septic System

(NOTE: Please see Tom Green County Health Department for Septic System Permit 325-658-1024)

Hours of Operation: 8 AM -12 PM & 1PM – 5 PM

No payments or permit issuance can be made after 4 PM due to accounting constraints. 325-657-4210, #1 www.cosatx.us/permits

Section 4: Project Scope

- ☐ Change of occupancy ☐ Construction ☐ Addition ☐ House Moving ☐ Repair Work
☐ Alteration ☐ Demolition ☐ Carport ☐ Accessory Building

Valuation: _____ Description of Work: _____

Section 5: Land Use / Occupancy (section applicable to non-residential or multi-family projects only)

Current Zoning: _____ Is there currently an open application to rezone? ☐ Yes ☐ No

Existing Use or Most Recent Use of Land: _____

Proposed Use of Land: _____

Does the Proposed Use Require a Conditional Use or Special Use? ☐ Yes ☐ No
 (For assistance, please consult the [Use Table](#) or contact the Planning Division at 657-4210, #2)

Existing Use or Most Recent Use of All Building(s) (if they exist): _____

Proposed Use of All Building(s): _____

Does the proposed use / occupancy include storage? ☐ Yes ☐ No

If yes, summarize the types of things which will be stored. _____

If yes, how many employees does the business have? _____

If yes, will storage - either items themselves, or shelving - exceed 12' in height? ☐ Yes ☐ No

If yes, will any items be stored outside building(s) on site? ☐ Yes Explain: _____ ☐ No

Does the proposed use / occupancy include an area for customers? Yes No

Will the service(s) offered by the business take place on-site, off-site, or both? _____

Will there be any full-time living or part-time lodging on-site? If so, explain: _____

Is there a freight movement component to the business? If so, explain: _____

Is there a manufacturing component to the business? If so, explain: _____

Is there a sales component to the business? If so, explain: _____

Is there any existing or proposed storage of fuel or water on-site? If so, explain: _____

If multi-family or lodging, how many units? _____

The undersigned certifies that the above information is correct to the best of my knowledge and that I have read, fully understand and agree to abide by all applicable city ordinances and specifications.



Authorized Representative Signature

Date

Hours of Operation: 8 AM -12 PM & 1PM – 5 PM

No payments or permit issuance can be made after 4 PM due to accounting constraints. 325-657-4210, #1 www.cosatx.us/permits

Business Name: _____ Address: _____

COMMERCIAL CONSTRUCTION - PERMIT CHECKLIST

N/A **General Requirements**

☐ ☒

A completed application. All information must be completely filled out.

☐ ☒

One complete **digital** set of plans with specifications, fully dimensioned. Plans must be drawn to scale and indicating the scale used. These plans must include:

Construction drawings (with Engineer & Architect drawings as required¹)

☐ ☒

- Foundation Detail

☐ ☒

- Wall sections
 - Typical (wall) Framing Detail
 - Elevation Drawings for all 4 sides

☐ ☒

- Roof Detail

Floor plan

☐ ☒

- Proposed building uses.
 - Each space must have the proposed use labeled.

☐ ☒

- Label each room with use and dimensions. Include aisles, offices, restrooms, etc.
 - If storage is included, indicate the height of the storage.

☐ ☒

- Fire extinguisher location(s) and type(s).
 - Include a legend providing symbol guide and information.

☐ ☒

- Emergency & Exit Lighting.
 - Include a legend providing symbol guide and information.

☐ ☒

- Room finish schedule
 - Include for floor, walls, and ceilings.

☐ ☒

- Door / door hardware schedule.²

☐ ☐

- Fixture Layouts
 - N/A if no shelving/cabinets exist or are proposed.

☐ ☐

- Plumbing fixture schedule.
 - N/A only if no plumbing work is involved.

☐ ☐

- Window schedule
 - Required when replacing existing windows or when adding new windows (Mark N/A if none of the above apply.).

☐ ☐

- Seating Diagrams (*for Assembly³ occupancies*)
 - See footnote 3 for more details.

Specifications

☐ ☐

- Structural

☐ ☐

- Mechanical
 - N/A if no mechanical work is proposed

Specifications (Continued)

☐ ☐

- Electrical
 - N/A if no electrical work is proposed

☐ ☐

- Plumbing
 - N/A if no plumbing work is proposed

☐ ☐

- Energy Code Compliance Forms (COMChecks) ⁴.
 - N/A if space is not heated/cooled

☐ ☐

- Kitchen Equipment, if applicable
 - N/A if no kitchen equipment is proposed

Provide Engineer & Architect drawing(s) as required¹.

☐ ☐

- Footnote 1 provides links to the regulating authorities' rules and guidelines.

State of Texas Safety and Compliance

☐ ☐

- TDLR application with the review number, if required⁵.
 - N/A if project cost is under \$50,000.

☐ ☐

- Asbestos survey, if required⁶.
 - Required if altering or connecting to an existing building

☐ ☒

Required Building Address Signage and Fire Department Connections (FDC)

☐ ☐

Required Signage for chemicals, flammable/combustible materials, fuel etc. (N/A if already existing or if not storing materials)

1. Texas Engineering Practice Act Sec. [1001.053](#), [1001.056](#) & [1001.407](#), Texas Board of Architectural Examiners Regulation of the Practice of Architecture ([TBAE Rules and Regulations of the Board Regulating the Practice of Architecture](#))
2. Required for all doors, both existing and proposed.
3. Assembly occupancies include but not limited to the following: those for viewing of performing arts/motion pictures, food/drink consumption, worship, recreation, entertainment, spectator seating, and viewing of outdoor activities. Full descriptions outlined in Section 303 of the 2021 International Building Code.
4. Please find more information on compliance checks (COMchecks) at the following link: <http://www.energycodes.gov/comcheck>
5. [TDLR](#) Review required subject to provisions of [Title 4, Subtitle E, Chapter 469](#) of the Local Government Code, including projects with an estimated construction cost of at least \$50,000. Please visit <https://www.tdlr.texas.gov/> or www.statutes.legis.state.tx.us/Docs/GV/htm/GV.469.htm for additional information. Visit <https://www.tdlr.texas.gov/TABS> to begin registration for you project.
6. Required if project is an existing building with alterations. Please visit <https://www.dshs.texas.gov/laws-and-rules-asbestos-program> for more information of the requirements by the State of Texas. This is not a local requirement and cannot be waived or exempted. If a letter is provided sealed by the original architect of record for the building stating that no asbestos was used in the construction, that is the only other acceptable substitution for an asbestos survey.

Business Name _____ Address _____

I certify that all items above have been provided as required. I understand that not providing all of this information will result in an incomplete application, which will not be reviewed or approved until all minimum requirements have been addressed.



Applicant

Date

Plan Review - Workflow Routing Slip

Report Generated: 02/18/2025 10:17 AM

Review Type: **Planning and Engineering**
Number of Files: **3**
Project Name: **PL24-10800048**
Workflow: **PL24-10800048 - PFlow Planning - 8/21/2024 2:04:20 PM**
Total Review Comments: **7**
Total Review Cycle: **4**

Days Calculated as: **Business Days**
Time Elapsed: **119 days 20 hrs**
Time with Jurisdiction: **5 days 5.5 hrs**
Time with Applicant: **114 days 15 hrs**
Completed Submission (Prescreen):
Completed Plan Review: **Not Completed**

TASK	TASK STATUS	REVIEW STATUS	CYCLE	ASSIGNED	ACCEPTED	COMPLETED	GROUP	USER	SUB TOTAL
Upload and Submit Task	Completed		0	08/21/2024 02:04 PM	09/11/2024 01:32 PM	09/11/2024 01:36 PM	Applicant	Laith Khattab	14 days 23.5 hrs
Prescreen Review Task	Completed		0	09/11/2024 01:36 PM	09/11/2024 01:38 PM	09/11/2024 01:39 PM	Review Coordinator	Michael Bradford	0 days 0 hrs
Payment Verification Task	Completed		0	09/11/2024 01:39 PM	09/11/2024 01:39 PM	09/11/2024 01:39 PM	Review Coordinator	Michael Bradford	0 days 0 hrs
Assign Reviewers Task	Completed		0	09/11/2024 01:39 PM	09/11/2024 01:39 PM	09/11/2024 01:39 PM	Review Coordinator	Michael Bradford	0 days 0 hrs
FIRE MARSHAL Department Review cycle #1	Completed	Corrections Required	1	09/11/2024 01:39 PM	09/11/2024 01:44 PM	09/11/2024 01:48 PM	FIRE MARSHAL	Brenna Matthews	0 days 0 hrs
PLANNING Department Review cycle #1	Completed	Corrections Required	1	09/11/2024 01:39 PM	09/12/2024 01:39 PM	09/12/2024 01:45 PM	PLANNING	Aaron Vannoy	1 day 0 hrs
PLANS EXAMINER Department Review cycle #1	Completed	Corrections Required	1	09/11/2024 01:39 PM	09/12/2024 08:14 AM	09/12/2024 08:23 AM	PLANS EXAMINER	Rachel Gonzales	0 days 18.5 hrs
Review Complete Task	Completed		1	09/12/2024 01:45 PM	09/12/2024 01:46 PM	09/12/2024 01:46 PM	Review Coordinator	Michael Bradford	0 days 0 hrs
Respond and Resubmit Task	Completed		1	09/12/2024 01:46 PM	09/12/2024 01:47 PM	09/16/2024 12:37 PM	Applicant	Laith Khattab	1 day 23 hrs
Response Review Task	Completed		1	09/16/2024 12:37 PM	09/16/2024 01:05 PM	09/16/2024 01:06 PM	Review Coordinator	Michael Bradford	0 days 0.5 hrs



Plan Review - Workflow Routing Slip

Report Generated: **02/18/2025 10:17 AM**

TASK	TASK STATUS	REVIEW STATUS	CYCLE	ASSIGNED	ACCEPTED	COMPLETED	GROUP	USER	SUB TOTAL
FIRE MARSHAL Department Review cycle #2	Completed	Approved	2	09/16/2024 01:06 PM	09/17/2024 10:51 AM	09/17/2024 10:54 AM	FIRE MARSHAL	Brenna Matthews	0 days 22 hrs
PLANNING Department Review cycle #2	Completed	Corrections Required	2	09/16/2024 01:06 PM	09/17/2024 10:37 AM	09/17/2024 10:41 AM	PLANNING	Aaron Vannoy	0 days 21.5 hrs
PLANS EXAMINER Department Review cycle #2	Completed	Approved	2	09/16/2024 01:06 PM	09/16/2024 02:30 PM	09/16/2024 02:35 PM	PLANS EXAMINER	Rachel Gonzales	0 days 1.5 hrs
Review Complete Task	Completed		2	09/17/2024 10:54 AM	09/17/2024 11:17 AM	09/17/2024 11:17 AM	Review Coordinator	Michael Bradford	0 days 0.5 hrs
Respond and Resubmit Task	Completed		2	09/17/2024 11:17 AM	09/17/2024 05:15 PM	09/30/2024 06:30 PM	Applicant	Laith Khattab	9 days 7 hrs
Response Review Task	Completed		2	09/30/2024 06:30 PM	10/01/2024 03:34 PM	10/01/2024 03:34 PM	Review Coordinator	Aaron Vannoy	0 days 21 hrs
PLANNING Department Review cycle #3	Completed	Corrections Required	3	10/01/2024 03:34 PM	10/02/2024 08:06 AM	10/02/2024 08:08 AM	PLANNING	Aaron Vannoy	0 days 16.5 hrs
Review Complete Task	Completed		3	10/02/2024 08:08 AM	10/02/2024 08:11 AM	10/02/2024 08:11 AM	Review Coordinator	Aaron Vannoy	0 days 0 hrs
Respond and Resubmit Task	Completed		3	10/02/2024 08:11 AM	10/02/2024 09:44 AM	10/03/2024 03:44 PM	Applicant	Laith Khattab	1 day 7.5 hrs
Response Review Task	Completed		3	10/03/2024 03:44 PM	10/04/2024 10:27 AM	10/04/2024 10:27 AM	Review Coordinator	Aaron Vannoy	0 days 18.5 hrs
PLANNING Department Review cycle #4	Completed	Corrections Required	4	10/04/2024 10:27 AM	10/04/2024 10:38 AM	10/04/2024 10:40 AM	PLANNING	Aaron Vannoy	0 days 0 hrs
Review Complete Task	Completed		4	10/04/2024 10:40 AM	10/07/2024 08:40 AM	10/07/2024 08:40 AM	Review Coordinator	Aaron Vannoy	0 days 22 hrs
Respond and Resubmit Task	Accepted		4	10/07/2024 08:41 AM	10/31/2024 10:55 PM		Applicant	Laith Khattab	87 days 1.5 hrs



Plan Review - Workflow Routing Slip

Report Generated: 02/18/2025 10:16 AM

Review Type: **Building**
Number of Files: **3**
Project Name: **BP24-00004051**
Workflow: **BP24-00004051 - PFlow Commercial Building - 8/21/2024 2:00:47 PM**
Total Review Comments: **6**
Total Review Cycle: **3**

Days Calculated as: **Business Days**
Time Elapsed: **119 days 20.5 hrs**
Time with Jurisdiction: **9 days 15 hrs**
Time with Applicant: **110 days 5.5 hrs**
Completed Submission (Prescreen): **15 days 24 hrs**
Completed Plan Review: **Not Completed**

TASK	TASK STATUS	REVIEW STATUS	CYCLE	ASSIGNED	ACCEPTED	COMPLETED	GROUP	USER	SUB TOTAL
Upload and Submit Task	Completed		0	08/21/2024 02:00 PM	08/21/2024 02:02 PM	09/04/2024 02:48 PM	Applicant	Laith Khattab	10 days 1 hr
Prescreen Review Task	Completed		0	09/04/2024 02:48 PM	09/05/2024 03:44 PM	09/05/2024 03:45 PM	Review Coordinator	Michael Bradford	1 day 1 hr
Prescreen Corrections Task	Reassigned		0	09/05/2024 03:46 PM	09/05/2024 03:58 PM	09/12/2024 01:55 PM	Applicant	Laith Khattab	4 days 22 hrs
Prescreen Corrections Task (Reassigned from Laith Khattab)	Completed		0	09/12/2024 01:55 PM	09/12/2024 01:55 PM	09/12/2024 01:55 PM	Applicant	Michael Bradford	0 days 0 hrs
Prescreen Review Task	Completed		0	09/12/2024 01:55 PM	09/12/2024 01:55 PM	09/12/2024 01:56 PM	Review Coordinator	Michael Bradford	0 days 0 hrs
Assign Reviewers Task	Completed		0	09/12/2024 01:56 PM	09/12/2024 01:56 PM	09/12/2024 01:56 PM	Review Coordinator	Michael Bradford	0 days 0 hrs
FIRE MARSHAL Department Review cycle #1	Completed	Corrections Required	1	09/12/2024 01:57 PM	09/12/2024 03:13 PM	09/12/2024 03:29 PM	FIRE MARSHAL	Brenna Matthews	0 days 1.5 hrs
HEALTH DEPARTMENT Department Review cycle #1	Completed	Approved	1	09/12/2024 01:57 PM	09/19/2024 07:42 AM	09/19/2024 07:46 AM	HEALTH DEPARTMENT	Robert Diaz	4 days 18 hrs
PLANNING Department Review cycle #1	Completed	Corrections Required	1	09/12/2024 01:57 PM	09/17/2024 08:00 AM	09/17/2024 08:00 AM	PLANNING	Aaron Vannoy	2 days 18 hrs
PLANS EXAMINER Department Review cycle #1	Completed	Corrections Required	1	09/12/2024 01:57 PM	09/12/2024 02:08 PM	09/12/2024 03:20 PM	PLANS EXAMINER	Rachel Gonzales	0 days 1.5 hrs



Plan Review - Workflow Routing Slip

Report Generated: **02/18/2025 10:16 AM**

TASK	TASK STATUS	REVIEW STATUS	CYCLE	ASSIGNED	ACCEPTED	COMPLETED	GROUP	USER	SUB TOTAL
Review Complete Task	Completed		1	09/19/2024 07:46 AM	09/19/2024 08:48 AM	09/19/2024 08:48 AM	Review Coordinator	Michael Bradford	0 days 1 hr
Respond and Resubmit Task	Completed		1	09/19/2024 08:48 AM	09/19/2024 09:07 AM	09/30/2024 06:28 PM	Applicant	Laith Khattab	7 days 9.5 hrs
Response Review Task	Completed		1	09/30/2024 06:28 PM	10/01/2024 08:06 AM	10/01/2024 08:07 AM	Review Coordinator	Karen Putnam	0 days 13.5 hrs
FIRE MARSHAL Department Review cycle #2	Completed	Approved	2	10/01/2024 08:07 AM	10/02/2024 01:37 PM	10/02/2024 01:50 PM	FIRE MARSHAL	Brenna Matthews	1 day 5.5 hrs
PLANNING Department Review cycle #2	Completed	Corrections Required	2	10/01/2024 08:07 AM	10/02/2024 09:51 AM	10/02/2024 09:53 AM	PLANNING	Aaron Vannoy	1 day 2 hrs
PLANS EXAMINER Department Review cycle #2	Completed	Approved	2	10/01/2024 08:07 AM	10/01/2024 08:53 AM	10/01/2024 08:58 AM	PLANS EXAMINER	Rachel Gonzales	0 days 1 hr
Review Complete Task	Reassigned		2	10/02/2024 01:50 PM	10/02/2024 02:31 PM	10/02/2024 02:32 PM	Review Coordinator	Karen Putnam	0 days 0.5 hrs
Review Complete Task (Reassigned from Karen Putnam)	SystemClosed		2	10/02/2024 02:32 PM		10/03/2024 08:18 AM	Review Coordinator		0 days 18 hrs
Assign Reviewers Task	Completed		0	10/03/2024 08:18 AM	10/03/2024 08:18 AM	10/03/2024 08:20 AM	Review Coordinator	Karen Putnam	0 days 0 hrs
PLANNING Department Review cycle #3	Completed	Corrections Required	3	10/03/2024 08:20 AM	10/04/2024 10:41 AM	10/04/2024 10:42 AM	PLANNING	Aaron Vannoy	1 day 2.5 hrs
Review Complete Task	Completed		3	10/04/2024 10:42 AM	10/04/2024 01:36 PM	10/04/2024 01:38 PM	Review Coordinator	Karen Putnam	0 days 3 hrs
Respond and Resubmit Task	Accepted		3	10/04/2024 01:38 PM	10/31/2024 10:54 PM		Applicant	Laith Khattab	87 days 20.5 hrs



Project Name: BP24-00004051

Project Description: CHANGE OF OCCUPANCY - COMMERCIAL - 1806 S College Hills Blvd

Review Comments List Date: 2/18/2025

Ref. # 4, FIRE MARSHAL, Brenna Matthews, 9/12/24 3:16 PM, Cycle 1, Resolved

Markup: General Note: Fire Extinguisher Information, 001 FLOOR PLAN.pdf

General Note: 906.1 Where required. Portable fire extinguishers shall be installed in all of the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

906.9.1 Extinguishers weighing 40 pounds or less. Portable fire extinguishers having a gross weight not exceeding 40 pounds (18 kg) shall be installed so that their tops are not more than 5 feet (1524 mm) above the floor.

906.7 Hangers and brackets. Hand-held portable fire extinguishers, not housed in cabinets, shall be installed on the hangers or brackets supplied. Hangers or brackets shall be securely anchored to the mounting surface in accordance with the manufacturer's installation instructions.

906.5 Conspicuous location. Portable fire extinguishers shall be located in conspicuous locations where they will have ready access and be immediately available for use. These locations shall be along normal paths of travel, unless the fire code official determines that the hazard posed indicates the need for placement away from normal paths of travel.

906.6 Unobstructed and unobscured. Portable fire extinguishers shall not be obstructed or obscured from view. In rooms or areas in which visual obstruction cannot be completely avoided, means shall be provided to indicate the locations of extinguishers.

Responded by: Laith Khattab - 9/30/24 4:53 PM

Acknowledged.

Ref. # 5, FIRE MARSHAL, Brenna Matthews, 9/12/24 3:16 PM, Cycle 1, Info Only

Markup: General Note: Fire Inspection, 001 FLOOR PLAN.pdf

General Note: A fire inspection is required once the plans have been approved by all departments. Please note, the inspector may have additional findings at the time of inspection.

Responded by: Laith Khattab - 9/30/24 4:53 PM

Acknowledged.

Ref. # 7, FIRE MARSHAL, Brenna Matthews, 9/12/24 3:20 PM, Cycle 1, Info Only

Markup: Knox Box, 001 FLOOR PLAN.pdf

A Knox Box is required and shall be installed on the exterior of the building near the main entrance.

A Knox Box, or key box, is a small, wall-mounted safe that holds building keys for the fire department to retrieve in an emergency situation. The San Angelo Fire Department holds master keys to all key boxes in their response area. This allows them to quickly enter a building without having to force entry into a building.

506.1 Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. 2021 International Fire Code

506.2 Key box maintenance. The operator of the building shall immediately notify the fire code official and provide the new key where a lock is changed or rekeyed. The key to such lock shall be secured in the key box.

If you have questions about purchasing, please feel free to reach out to our department. You can purchase these from www.knoxbox.com

Reviewer Response: Brenna Matthews - 10/2/24 1:38 PM

This will be observed at the time of inspection.

Responded by: Laith Khattab - 9/30/24 4:54 PM

Acknowledged. I will purchase and install before final inspection.

Ref. # 8, PLANNING, Aaron Vannoy, 10/4/24 10:41 AM, Cycle 3, Unresolved

Markup: Dev Plan Approval, 002 FLOOR PLAN.pdf

The zoning does not seem to match the proposed use. Please contact Planning at 325-657-4210 to discuss options.

Ref. # 6, PLANS EXAMINER, Rachel Gonzales, 9/12/24 3:17 PM, Cycle 1, Resolved

Markup: This room cannot be a storage room, 001 FLOOR PLAN.pdf

Section 403.3 of the 2021 International Plumbing Code (IPC) states that a public toilet facility is required. Section 403.3.1 further states that the route to the required public toilet facility cannot pass through a storage room or closet.

Please change the use of this room to comply with the IPC and resubmit the floor plan with room relabeled.

Reviewer Response: Rachel Gonzales - 10/1/24 8:58 AM

Corrected floor plan is noted.

Responded by: Laith Khattab - 9/30/24 4:54 PM

Room has been on changed on new plan. Entrance to bathroom will pass through office.

Ref. # 1, Review Coordinator, Michael Bradford, 9/5/24 3:44 PM, Resolved

Comment:

To obtain your occupancy, both a Change of Occupancy and a Development Plan must be completed. This Change of Occupancy permit can't be accepted as complete until the Development Plan has been submitted and accepted for review, including payment of the \$75 Development Plan Review Fee once the files have passed Prescreen. This fee is separate from the Occupancy permit fee charged at the end.

On the Development Plan project, please submit an overhead image or drawing of the parking lot with property lines, pavement type, parking locations, ADA parking location(s) and dimensions on 1 parking spot demonstrating they meet the requirement (minimum of 9'x18').

Responded by: Michael Bradford - 9/12/24 1:55 PM

Done




RE: 1806 S. College Hills Blvd/C of O

From Lineberry, Rae <rae.lineberry@cosatx.us>

Date Fri 11/1/2024 1:59 PM

To John Ostrander <john@bexarcapital.com>

Cc Christopher Carlin <ccarlin@normanoliver.com>; Trey Cooper <trey@bexarcapital.com>; Lou K <laithkhattab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

 2 attachments (543 KB)

Zone Change Fillable (1).pdf; Conditional Use Fillable.pdf;

Mr. Ostrander,

The proposed change of occupancy cannot be approved, as the type of business does not align with the current zoning regulations for the location. There are three options that I have explained below. I also have attached the applications for both a conditional use and a zone change.

1. Conditional Use: This option allows for a specific use to be permitted with conditions to ensure compliance with existing zoning standards. The process involves:
 - a. Application submission
 - b. Payment of a fee (\$464)
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2. Zone Change: This option seeks to change the zoning classification to one that aligns with the intended use. The process involves:
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 - b. Payment of a fee (\$835)
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 - d. Two readings and decision at City Council

****Note:** Staff may not support either a conditional use or zone change as the City's Vision Plan has that area marked as Neighborhood but the decision is made by Planning Commission and/or City Council.

3. Request for Interpretation: Alternatively, you may request a formal interpretation from the Planning Director regarding the Neighborhood Commercial zoning. The relevant section of the Zoning Ordinance (Chapter 12, Exhibit A, Article 2, Sec 206) outlines process as follows:

- **Sec. 206. - Written Interpretations of Text or Official Zoning Map**

A. *Authority.* The Planning Director shall have authority to make all written interpretations concerning the provisions of this Zoning Ordinance and the Official Zoning Map.

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C. *Interpretation by Planning Director.* Within 10 working days after a request for interpretation has been submitted, the Planning Director shall: (1) review and evaluate the request in light of the text of this Zoning Ordinance, the Official Zoning Map, the Comprehensive Plan and any other relevant information; (2) consult with other staff, as necessary; and (3) render an opinion. The interpretation shall be provided to the applicant in writing by mail.

D. *Official Record.* The Planning Director shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. *Appeal*

1. Appeals of written interpretations made by the Planning Director shall be taken to the Zoning Board of Adjustment within 30 days of mailing of the interpretation, in accordance with the procedures in [Sec. 214](#).

2. In considering such an appeal, the Zoning Board of Adjustment shall review the interpretation and public testimony in light of the Comprehensive Plan, this Zoning Ordinance and the Official Zoning Map, and any other land use policies adopted by the Planning Commission or City Council, whichever are applicable.

3. The Zoning Board of Adjustment shall affirm, modify or reverse the decision of the Planning Director in interpreting the provisions of this Zoning Ordinance and the Official Zoning Map. The Zoning Board of Adjustment shall modify or reject the interpretation only if it is not supported by substantial competent evidence or if the interpretation is deemed contrary to the intent and purpose of the Comprehensive Plan, this Zoning Ordinance or the Official Zoning Map.

I will be happy to assist you with any of the above options. Please let me know if you have any questions or need further clarification.

Thank you,
Rae Lineberry
Senior Planner
City of San Angelo
(325) 657-4210 ext 1533
[Customer Service Survey](#)

From: John Ostrander <john@bexarcapital.com>

Sent: Friday, November 1, 2024 12:35 PM

To: *Planning <planning@cosatx.us>; Lineberry, Rae <rae.lineberry@cosatx.us>

Cc: Christopher Carlin <ccarlin@normanoliver.com>; Trey Cooper <trey@bexarcapital.com>; Lou K <laithkhattab874@gmail.com>

Subject: Re: 1806 S. College Hills Blvd/C of O

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

What do we have to do to get a response here? Ive now sent several emails and have left voicemails that have not been returned.

John Ostrander

Bexar Capital, LLC.

6011 Broadway | San Antonio, TX 78209

T: 210-219-9399

john@bexarcapital.com | www.bexarcapital.com

On Wed, Oct 30, 2024 at 9:46 AM John Ostrander <john@bexarcapital.com> wrote:

San Angelo Planning Department,

I've copied our attorney on this email. We hope this does not need to escalate. We have shown that the use is allowed per code and that there is minimal impact on traffic per data provided from existing locations of operator which was the objection the city cited when denying the application for the certificate of occupancy (although the use is allowed per code).

Please respond ASAP.

John Ostrander

Bexar Capital, LLC.

6011 Broadway | San Antonio, TX 78209

T: 210-219-9399

john@bexarcapital.com | www.bexarcapital.com

On Tue, Oct 22, 2024 at 9:20 AM John Ostrander <john@bexarcapital.com> wrote:

Good morning. I am the owner/landlord of 1806 S. College Hills Blvd. Our tenant has informed us that they have been denied their C of O due to their use being a high traffic use. Attached are two recent receipts that he's provided me from another location he operates that shows sales that reflect a low traffic user. We have research uses inside the CN zoning district and we are concerned that that "high traffic" reasoning that the city is providing us as the reason for denial is not fair and uniform as the city has granted to previous uses inside the zoning district.

Our tenant is operating reasonable business hours (not 24 hours a day as Rae at Planning was somehow misinformed on this) and based on his other locations is expecting an average of 25 cars per day. The following uses at the below location likely has CPD in excess of what our tenant is showing on average:

- All tenants located adjacent to HEB including dental, liquor, spa, Cato, Dollar Tree, etc.
- Fresenius medical location at 3471 Sherwood Way
- Taco Bell - Sherwood Way
- Any tenant located between 3534 Sherwood and 4102 Sherwood Way
- Freddy's Frozen Custard located at 2702 Sherwood Way
- Churchs Chicken located at 2303 N Byrant.

Our tenant will have less traffic at his site than any of the uses listed above that has received a C of O from the city. We request that the city issue the C of O since the use is allowed per code inside the district. If not, we request that the city provide clarification as to why our tenant is being denied a C of O although they have less traffic impact than other tenants that have been granted a C of O.

Thank you.

John Ostrander

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Re: 1806 S. College Hills Blvd/C of O

From Garmany, Kimberly <kimberly.garmany@cosatx.us>

Date Wed 11/6/2024 3:41 PM

To Trey Cooper <trey@bexarcapital.com>; Lineberry, Rae <rae.lineberry@cosatx.us>

Cc John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhatab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Gentlemen,

I will supplement the information that Rae provided, copy the information she provided, and then highlight the recommended action.

When a retail space changes from "one major category to another," a change of occupancy is required. When a change of occupancy is required, we must look at the parking plan, which triggers confirming that the zoning matches the intended new use. The current zoning for this property is CN - Neighborhood Commercial, and the intended use (Vape Shop) does not meet the definition of the intent of Neighborhood Commercial zoning. When only referring to the land use chart, it appears that your intended use would be allowed. However, when we refer to the entire definition, it does not. As planners, it is our job to read, interpret, and enforce code and ordinances for the current time. Since you do not agree with our interpretation, there is a path forward.

Recommended action: Follow the processes in place for appealing a decision made by planners.

1. Request a formal interpretation of the code and ordinances surrounding your request. To do this, you will need to **email Aaron Vannoy** (aaron.vannoy@cosatx.us) **directly and request a formal interpretation**. Please use "Formal Interpretation Request" as the subject line. Although Aaron is included on this email, he has not given a formal interpretation of your situation, and you must formally request it as outlined in Rae's solution section that is copied below to move on to the appeal process.
2. If you disagree with Aaron's interpretation, then you will request an appeal with the Zoning Board of Adjustments (ZBA).
3. There is no appeal to ZBA's decision.

This is my recommendation, as it does not have a cost associated with it. However, Rae provided information about Conditional Use permits and Zoning Changes.

https://library.municode.com/tx/san_angelo/codes/code_of_ordinances

Sec. 511. - Off-Street Parking Standards

B3. Change of Occupancy. No Certificate of Occupancy shall be issued to allow a change from one major occupancy category to another as defined by the applicable International Building Code or other published code adopted by City of San Angelo ordinance unless off-street parking in conformity with the minimum standards of this Section has been provided for.

E2. All required off-street parking shall be located within a zoning district that allows the use it is intended to serve.

Sec. 304. - Commercial District Intent Statements

A. CN (Neighborhood Commercial) District. The Neighborhood Commercial District is intended to provide opportunities for development of commercial development that serves and is supported by a relatively small surrounding area - a neighborhood. Allowable commercial uses include a wide variety of office activities, as well as a more limited range of retail trade and services aimed toward meeting the routine needs of residents in that neighborhood. Commercial development should be low intensity with small floor areas and limited traffic generation and trade area. The character of commercial development is compatible with the surrounding residential neighborhood. This District is also intended for commercial establishments whose activity, materials and merchandise are housed entirely inside the building, except as may be allowed by the General Development Standards of this Zoning Ordinance.

Use Category	Short Definition (see also Chap. 8)	*	Residential Districts								Nonresidential Districts						
			R & E	R S 1	R S 2	R S 3	R M 1	R M 2	M H P	M H S	C N	C O	C G	C H	C B D	O W	
A = Allowed		C = Conditional		S = Special Use								* = Specific Use Regulations May Apply. See Article 4.					
Recreation and Entertainment, Outdoor	large commercial uses that provide continuous recreation or entertainment		-	-	-	-	-	-	-	-	-	-	-	S	-	S	-
Rental, Equipment	firms leasing or renting heavy vehicles, equipment and machinery under 3.5 tons to the public, may also provide product repair	*	-	-	-	-	-	-	-	-	-	-	-	C	A	C	C
Retail Sales and Service	firms involved in the sale or [of] new or used products to the public, may provide personal services, entertainment or product repair	*	-	-	-	-	-	-	-	-	-	A	C	A	C	A	-

Rae's solutions from a previous email:

The proposed change of occupancy cannot be approved, as the type of business does not align with the current zoning regulations for the location. There are three options that I have explained below.

1. Conditional Use: This option allows for a specific use to be permitted with conditions to ensure compliance with existing zoning standards. The process involves:

1. Application submission
2. Payment of a fee (\$464)
3. Review and decision made by Planning Commission

2. Zone Change: This option seeks to change the zoning classification to one that aligns with the intended use. The process involves:

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****Note:** Staff may not support either a conditional use or zone change as the City's Vision Plan has that area marked as Neighborhood but the decision is made by Planning Commission and/or City Council.

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Many Thanks,
Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>

Sent: Wednesday, November 6, 2024 10:08 AM

To: Lineberry, Rae <rae.lineberry@cosatx.us>

Cc: John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhatab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: 1806 S. College Hills Blvd/C of O

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

Good Morning - following up on this

Will the city reference code regarding the denial?

We have show via code that retail sales and services is allowed in this zoning district

Trey
(210) 845-6410.

On Fri, Nov 1, 2024 at 2:14 PM Trey Cooper <trey@bexarcapital.com> wrote:

Hi Rae - will you please point to where in the code it does not allow this use?

Retail sales and services is specifically allowed in the zoning district.

I do not see why a hearing or other action items are necessary for a use allowed per code.

The city has not cited code as to why this use is “not allowed” whereas we have provided code (section 313 - Use Table) showing it is Allowed.

“Allowed” is a defined term in the code whereas “align” is not (“aligned” is subjective as the city is using it whereas “allowed” is granted by code as we are using it)

On Fri, Nov 1, 2024 at 2:00 PM Lineberry, Rae <rae.lineberry@cosatx.us> wrote:

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Rae Lineberry
Senior Planner
City of San Angelo
(325) 657-4210 ext 1533
[Customer Service Survey](#)

From: John Ostrander <john@bexarcapital.com>

Sent: Friday, November 1, 2024 12:35 PM

To: *Planning <planning@cosatx.us>; Lineberry, Rae <rae.lineberry@cosatx.us>

Cc: Christopher Carlin <ccarlin@normanoliver.com>; Trey Cooper <trey@bexarcapital.com>; Lou K <laithkhattab874@gmail.com>

Subject: Re: 1806 S. College Hills Blvd/C of O

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Bexar Capital, LLC.
[6011 Broadway | San Antonio, TX 78209](#)
T: 210-219-9399
john@bexarcapital.com | www.bexarcapital.com

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Please respond ASAP.

John Ostrander
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Thank you.

John Ostrander

Bexar Capital, LLC.

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Re: 1806 S. College Hills Blvd/C of O

From John Ostrander <john@bexarcapital.com>

Date Fri 11/22/2024 10:14 AM

To Garmany, Kimberly <kimberly.garmany@cosatx.us>

Cc Trey Cooper <trey@bexarcapital.com>; Christopher Carlin <CCarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

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Absolutely we appeal.

Sent from my iPhone

On Nov 22, 2024, at 10:06 AM, Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:

I have attached the interpretation.

If you disagree with the interpretation, you can request for the Zoning Board of Adjustment to hear your case and make a final decision. To do that, please respond to this email confirming that you would like to appeal this interpretation and I can help you through the next steps with ZBA.

[For reference.](#)

Many Thanks,
Kim Garmany

Planning & Development Services Administrator
325-249-5886

From: John Ostrander <john@bexarcapital.com>

Sent: Friday, November 22, 2024 9:53 AM

To: Garmany, Kimberly <kimberly.garmany@cosatx.us>

Cc: Trey Cooper <trey@bexarcapital.com>; Christopher Carlin <CCarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: 1806 S. College Hills Blvd/C of O

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PO Box 91065
San Antonio, TX 78209

For the sake of time, as Trey has stated the Landlord and Tenant are suffering daily damages, please email the response as well.

Sent from my iPhone

On Nov 22, 2024, at 9:21 AM, Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:

Good morning,
Our ordinance states that we must mail the interpretation. Can you please provide the physical address that this communication should go to?

Many Thanks,
Kim Garmany

Planning & Development Services Administrator
325-249-5886

From: Garmany, Kimberly <kimberly.garmany@cosatx.us>

Sent: Monday, November 18, 2024 12:43 PM

To: Trey Cooper <trey@bexarcapital.com>

Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: 1806 S. College Hills Blvd/C of O

Hello Trey,

I'm not sure if the problem that we're encountering with Aaron's email is widespread throughout the city, but thankfully it's not effecting everyone in the Planning Department. That's how we were able to catch this mistake and bring it to IT's attention. I apologize that this happened.

Aaron will be the next staff person to contact you.

Many Thanks,

Kim Garmany

Planning & Development Administrator

325-249-5886

From: Trey Cooper <trey@bexarcapital.com>

Sent: Monday, November 18, 2024 9:11 AM

To: Garmany, Kimberly <kimberly.garmany@cosatx.us>

Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: 1806 S. College Hills Blvd/C of O

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Thanks - the time stamp on my email to Aaron on the 6th was a few minutes after the one I sent to you (which you responded to about 30 minutes later)

Must have been some short term outage only affecting Aaron's email and not IT issues for the city of San Angelo planning department as a whole?

On Mon, Nov 18, 2024 at 8:31 AM Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:

Good morning, Trey,

As I mentioned in my previous email, we identified a problem with our email server that meant that Aaron did not receive your request. I was able to confirm receipt of the request on November 13, so you can expect the interpretation on Monday, November 25th, as the 10 day deadline falls on a Saturday.

Many Thanks,
Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>

Sent: Monday, November 18, 2024 8:00 AM

To: Garmany, Kimberly <kimberly.garmany@cosatx.us>

Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhatab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: 1806 S. College Hills Blvd/C of O

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

Good Morning - wanted to check-in on my November 6th request for formal interpretation of code.

Thanks,

Trey

(210) 845-6410

On Wed, Nov 13, 2024 at 3:34 PM Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:

Hi Trey,

Thank you for checking in about this. Your request has helped us identify an email problem that our IT department is addressing. For now, would you mind please forwarding me the request you sent to Aaron so I can make sure it gets to him? He will have 10 days to review and respond.

Many Thanks,
Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>

Sent: Tuesday, November 12, 2024 12:00 PM

To: Garmany, Kimberly <kimberly.garmany@cosatx.us>

Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhatab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: [1806 S. College Hills Blvd](#)/C of O

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

Good Morning - I sent an email to Aaron for a formal interpretation of code based on the comments made by him to Tenant regarding intensity (and not the use itself being an issue).

How long does it typically take to receive a response? Ive emailed Aaron a couple times and have not received confirmation that he received my email.

Thanks,

Trey

(210) 845-6410

On Wed, Nov 6, 2024 at 4:32 PM Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:
Thank you for your response.

Many Thanks,
Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>
Sent: Wednesday, November 6, 2024 4:18 PM
To: Garmany, Kimberly <kimberly.garmany@cosatx.us>
Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>
Subject: Re: [1806 S. College Hills Blvd](#)/C of O

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

Thanks for the response

Based on Aaron's comment to Operator:

"Reviewer Response: Aaron Vannoy - 10/4/24 10:40 AM Ok, the Zoning must be changed to General Commercial for a project like this. The neighborhood Commercial is designed for low intensity, we have seen vape and tobaccos shops become high intensity and this location is not zoned for that. Please contact Rae or Austin to discuss a rezoning for this property - 325-657-4210"

We have shown this is a low intensity user based on existing stores of the operator. This use is a lower intensity than the vast majority of uses the city has granted c of o to in the same zoning district and we have

provided factual evidence to support this statement. The city has also allowed the sale of vapes (and related products) inside CN zoning and we would expect to be treated fairly and equally under that point.

I am concerned that based on the email below, that the interpretation is subjective and discriminatory in light of higher intensity users (and other vape products being sold in the zoning district) being approved by CosA. Per the October 4 email from Aaron, vape sales as allowed per code was not the issue, but the subjective assessment that his business was "high intensity." We have shown that this business is not high intensity.

We as landowners have rights to use our property in accordance with code as it is the rules that both the property owner and municipality must follow.

The city has shown that it has granted higher intensity users than this proposed use a c of o as well as other business that currently sell similar products inside the zoning district.

I am concerned that due to the above, this may be construed as an act of taking by the City as the landowner is not allowed to operate its property pursuant to code. Landowner is now being restricted and caused monetary harm due to the "interpretations" of code versus the letter of the code

I will send Aaron an email to request a formal review.

Thanks,

Trey
(210) 845-6410

On Wed, Nov 6, 2024 at 3:41 PM Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:

Gentlemen,

I will supplement the information that Rae provided, copy the information she provided, and then highlight the recommended action.

When a retail space changes from "one major category to another," a change of occupancy is required. When a change of occupancy is required, we must look at the parking plan, which triggers confirming that the zoning matches the intended new use. The current zoning for this property is CN - Neighborhood Commercial, and the intended use (Vape Shop) does not meet the definition of the intent of Neighborhood Commercial zoning. When only referring to the land use chart, it appears that your intended use would be allowed. However, when we refer to the entire definition, it does not. As planners, it is our job to read,

interpret, and enforce code and ordinances for the current time. Since you do not agree with our interpretation, there is a path forward.

Recommended action: Follow the processes in place for appealing a decision made by planners.

1. Request a formal interpretation of the code and ordinances surrounding your request. To do this, you will need to **email Aaron Vannoy** (aaron.vannoy@cosatx.us) **directly and request a formal interpretation**. Please use "Formal Interpretation Request" as the subject line. Although Aaron is included on this email, he has not given a formal interpretation of your situation, and you must formally request it as outlined in Rae's solution section that is copied below to move on to the appeal process.
2. If you disagree with Aaron's interpretation, then you will request an appeal with the Zoning Board of Adjustments (ZBA).
3. There is no appeal to ZBA's decision.

This is my recommendation, as it does not have a cost associated with it. However, Rae provided information about Conditional Use permits and Zoning Changes.

https://library.municode.com/tx/san_angelo/codes/code_of_ordinances

Sec. 511. - Off-Street Parking Standards

B3. Change of Occupancy. No Certificate of Occupancy shall be issued to allow a change from one major occupancy category to another as defined by the applicable International Building Code or other published code adopted by City of San Angelo ordinance unless off-street parking in conformity with the minimum standards of this Section has been provided for.

E2. All required off-street parking shall be located within a zoning district that allows the use it is intended to serve.

Sec. 304. - Commercial District Intent Statements

A. CN (Neighborhood Commercial) District. The Neighborhood Commercial District is intended to provide opportunities for development of commercial development that serves and is supported by a relatively small surrounding area - a neighborhood. Allowable commercial uses include a wide variety of office activities, as well as a more limited range of retail trade and services aimed toward meeting the routine needs of residents in that neighborhood. Commercial development should be low intensity with small floor

areas and limited traffic generation and trade area. The character of commercial development is compatible with the surrounding residential neighborhood. This District is also intended for commercial establishments whose activity, materials and merchandise are housed entirely inside the building, except as may be allowed by the General Development Standards of this Zoning Ordinance.

<image.png>

Rae's solutions from a previous email:

The proposed change of occupancy cannot be approved, as the type of business does not align with the current zoning regulations for the location. There are three options that I have explained below.

1. Conditional Use: This option allows for a specific use to be permitted with conditions to ensure compliance with existing zoning standards. The process involves:
 1. Application submission
 2. Payment of a fee (\$464)
 3. Review and decision made by Planning Commission
2. Zone Change: This option seeks to change the zoning classification to one that aligns with the intended use. The process involves:
 1. Application submission
 2. Payment of a fee (\$835)
 3. Review and recommendation by Planning Commission
 4. Two readings and decision at City Council

****Note:** Staff may not support either a conditional use or zone change as the City's Vision Plan has that area marked as Neighborhood but the decision is made by Planning Commission and/or City Council.

3. Request for Interpretation: Alternatively, you may request a formal interpretation from the Planning Director regarding the Neighborhood Commercial zoning. The relevant section of the Zoning Ordinance (Chapter 12, Exhibit A, Article 2, Sec 206) outlines process as follows:

- **Sec. 206. - Written Interpretations of Text or Official Zoning Map**

A. *Authority.* The Planning Director shall have authority to make all written interpretations concerning the provisions of this Zoning Ordinance and the Official Zoning Map.

B. *Request for Interpretation.* A request for interpretation shall be submitted to the Planning Director in a form established by the Planning Director and made available to the public.

C. *Interpretation by Planning Director.* Within 10 working days after a request for interpretation has been submitted, the Planning Director shall: (1) review and evaluate the request in light of the text of this Zoning Ordinance, the Official Zoning Map, the Comprehensive Plan and any other relevant information; (2) consult with other staff, as necessary; and (3) render an opinion. The interpretation shall be provided to the applicant in writing by mail.

D. *Official Record.* The Planning Director shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. *Appeal*

1. Appeals of written interpretations made by the Planning Director shall be taken to the Zoning Board of Adjustment within 30 days of mailing of the interpretation, in accordance with the procedures in [Sec. 214](#).

2. In considering such an appeal, the Zoning Board of Adjustment shall review the interpretation and public testimony in light of the Comprehensive Plan, this Zoning Ordinance and the Official Zoning Map, and any other land use policies adopted by the Planning Commission or City Council, whichever are applicable.

3. The Zoning Board of Adjustment shall affirm, modify or reverse the decision of the Planning Director in interpreting the provisions of this Zoning Ordinance and the Official Zoning Map. The Zoning Board of Adjustment shall modify or reject the interpretation only if it is not supported by substantial competent evidence or if the interpretation is deemed contrary to the intent and purpose of the Comprehensive Plan, this Zoning Ordinance or the Official Zoning Map.

Many Thanks,
Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>

Sent: Wednesday, November 6, 2024 10:08 AM

To: Lineberry, Rae <rae.lineberry@cosatx.us>

Cc: John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhatab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: [1806 S. College Hills Blvd](#)/C of O

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Good Morning - following up on this

Will the city reference code regarding the denial?

We have show via code that retail sales and services is allowed in this zoning district

Trey
(210) 845-6410.

On Fri, Nov 1, 2024 at 2:14 PM Trey Cooper <trey@bexarcapital.com> wrote:

Hi Rae - will you please point to where in the code it does not allow this use?

Retail sales and services is specifically allowed in the zoning district.

I do not see why a hearing or other action items are necessary for a use allowed per code.

The city has not cited code as to why this use is “not allowed” whereas we have provided code (section 313 - Use Table) showing it is Allowed.

“Allowed” is a defined term in the code whereas “align” is not (“aligned” is subjective as the city is using it whereas “allowed” is granted by code as we are using it)

On Fri, Nov 1, 2024 at 2:00 PM Lineberry, Rae <rae.lineberry@cosatx.us> wrote:

Mr. Ostrander,

The proposed change of occupancy cannot be approved, as the type of business does not align with the current zoning regulations for the location. There are three options that I have explained below. I also have attached the applications for both a conditional use and a zone change.

1. Conditional Use: This option allows for a specific use to be permitted with conditions to ensure compliance with existing zoning standards. The process involves:
 - a. Application submission
 - b. Payment of a fee (\$464)
 - c. Review and decision made by Planning Commission
2. Zone Change: This option seeks to change the zoning classification to one that aligns with the intended use. The process involves:
 - a. Application submission
 - b. Payment of a fee (\$835)
 - c. Review and recommendation by Planning Commission
 - d. Two readings and decision at City Council

****Note:** Staff may not support either a conditional use or zone change as the City's Vision Plan has that area marked as Neighborhood but the decision is made by Planning Commission and/or City Council.

3. Request for Interpretation: Alternatively, you may request a formal interpretation from the Planning Director regarding the Neighborhood Commercial zoning. The relevant section of the Zoning Ordinance (Chapter 12, Exhibit A, Article 2, Sec 206) outlines process as follows:

- **Sec. 206. - Written Interpretations of Text or Official Zoning Map**

A. *Authority.* The Planning Director shall have authority to make all written interpretations concerning the provisions of this Zoning Ordinance and the Official Zoning Map.

B. Request for Interpretation. A request for interpretation shall be submitted to the Planning Director in a form established by the Planning Director and made available to the public.

C. Interpretation by Planning Director. Within 10 working days after a request for interpretation has been submitted, the Planning Director shall: (1) review and evaluate the request in light of the text of this Zoning Ordinance, the Official Zoning Map, the Comprehensive Plan and any other relevant information; (2) consult with other staff, as necessary; and (3) render an opinion. The interpretation shall be provided to the applicant in writing by mail.

D. Official Record. The Planning Director shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. Appeal

1. Appeals of written interpretations made by the Planning Director shall be taken to the Zoning Board of Adjustment within 30 days of mailing of the interpretation, in accordance with the procedures in [Sec. 214](#).

2. In considering such an appeal, the Zoning Board of Adjustment shall review the interpretation and public testimony in light of the Comprehensive Plan, this Zoning Ordinance and the Official Zoning Map, and any other land use policies adopted by the Planning Commission or City Council, whichever are applicable.

3. The Zoning Board of Adjustment shall affirm, modify or reverse the decision of the Planning Director in interpreting the provisions of this Zoning Ordinance and the Official Zoning Map. The Zoning Board of Adjustment shall modify or reject the interpretation only if it is not supported by substantial competent evidence or if the interpretation is deemed contrary to the intent and purpose of the Comprehensive Plan, this Zoning Ordinance or the Official Zoning Map.

I will be happy to assist you with any of the above options. Please let me know if you have any questions or need further clarification.

Thank you,

Rae Lineberry

Senior Planner

City of San Angelo

(325) 657-4210 ext 1533

[Customer Service Survey](#)

From: John Ostrander <john@bexarcapital.com>

Sent: Friday, November 1, 2024 12:35 PM

To: *Planning <planning@cosatx.us>; Lineberry, Rae <rae.lineberry@cosatx.us>

Cc: Christopher Carlin <ccarlin@normanoliver.com>; Trey Cooper <trey@bexarcapital.com>; Lou K
<laithkhatab874@gmail.com>

Subject: Re: [1806 S. College Hills Blvd](#)/C of O

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

What do we have to do to get a response here? Ive now sent several emails and have left voicemails that have not been returned.

John Ostrander

Bexar Capital, LLC.

[6011 Broadway](#) | [San Antonio, TX 78209](#)

T: 210-219-9399

john@bexarcapital.com | www.bexarcapital.com

On Wed, Oct 30, 2024 at 9:46 AM John Ostrander <john@bexarcapital.com> wrote:

San Angelo Planning Department,

I've copied our attorney on this email. We hope this does not need to escalate. We have shown that the use is allowed per code and that there is minimal impact on traffic per data provided from existing locations of operator which was the objection the city cited when denying the application for the certificate of occupancy (although the use is allowed per code).

Please respond ASAP.

John Ostrander

Bexar Capital, LLC.

[6011 Broadway](#) | [San Antonio, TX 78209](#)

T: 210-219-9399

john@bexarcapital.com | www.bexarcapital.com

On Tue, Oct 22, 2024 at 9:20 AM John Ostrander <john@bexarcapital.com> wrote:

Good morning. I am the owner/landlord of [1806 S. College Hills Blvd](#). Our tenant has informed us that they have been denied their C of O due to their use being a high traffic use. Attached are

two recent receipts that he's provided me from another location he operates that shows sales that reflect a low traffic user. We have research uses inside the CN zoning district and we are concerned that that "high traffic" reasoning that the city is providing us as the reason for denial is not fair and uniform as the city has granted to previous uses inside the zoning district.

Our tenant is operating reasonable business hours (not 24 hours a day as Rae at Planning was somehow misinformed on this) and based on his other locations is expecting an average of 25 cars per day. The following uses at the below location likely has CPD in excess of what our tenant is showing on average:

- All tenants located adjacent to HEB including dental, liquor, spa, Cato, Dollar Tree, etc.
- Fresenius medical location at [3471 Sherwood Way](#)
- Taco Bell - Sherwood Way
- Any tenant located between 3534 Sherwood and [4102 Sherwood Way](#)
- Freddy's Frozen Custard located at [2702 Sherwood Way](#)
- Churchs Chicken located at 2303 N Byrant.

Our tenant will have less traffic at his site than any of the uses listed above that has received a C of O from the city. We request that the city issue the C of O since the use is allowed per code inside the district. If not, we request that the city provide clarification as to why our tenant is being denied a C of O although they have less traffic impact than other tenants that have been granted a C of O.

Thank you.

John Ostrander

Bexar Capital, LLC.

[6011 Broadway | San Antonio, TX 78209](#)

T: 210-219-9399

john@bexarcapital.com | www.bexarcapital.com

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<Neighborhood Commercial.pdf>

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Re: 1806 S. College Hills Blvd/C of O

From Garmany, Kimberly <kimberly.garmany@cosatx.us>

Date Wed 11/27/2024 3:17 PM

To John Ostrander <john@bexarcapital.com>

Cc Trey Cooper <trey@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhatab874@gmail.com>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

 1 attachment (177 KB)

App for Written Interpretation of Zoning.docx;

Good afternoon,

I'm attaching an application for you to complete in order to have your appeal heard at Zoning Board of Adjustments' meeting on January 6th.

This was included in the mailed copy also.

Please cite what, specifically, you are appealing and why you believe the current ordinance meets your request. Please return by Friday, December 6th.

Many Thanks,

Kim Garmany

Planning & Development Services Administrator

325-249-5886

From: John Ostrander <john@bexarcapital.com>

Sent: Friday, November 22, 2024 10:14 AM

To: Garmany, Kimberly <kimberly.garmany@cosatx.us>

Cc: Trey Cooper <trey@bexarcapital.com>; Christopher Carlin <CCarlin@normanoliver.com>; Lou K <laithkhatab874@gmail.com>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: 1806 S. College Hills Blvd/C of O

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Absolutely we appeal.

Sent from my iPhone

On Nov 22, 2024, at 10:06 AM, Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:

I have attached the interpretation.

If you disagree with the interpretation, you can request for the Zoning Board of Adjustment to hear your case and make a final decision. To do that, please respond to this email confirming that you would like to appeal this interpretation and I can help you through the next steps with ZBA.

[For reference.](#)

Many Thanks,
Kim Garmany
Planning & Development Services Administrator
325-249-5886

From: John Ostrander <john@bexarcapital.com>

Sent: Friday, November 22, 2024 9:53 AM

To: Garmany, Kimberly <kimberly.garmany@cosatx.us>

Cc: Trey Cooper <trey@bexarcapital.com>; Christopher Carlin <CCarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: 1806 S. College Hills Blvd/C of O

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

PO Box 91065
San Antonio, TX 78209

For the sake of time, as Trey has stated the Landlord and Tenant are suffering daily damages, please email the response as well.

Sent from my iPhone

On Nov 22, 2024, at 9:21 AM, Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:

Good morning,

Our ordinance states that we must mail the interpretation. Can you please provide the physical address that this communication should go to?

Many Thanks,
Kim Garmany
Planning & Development Services Administrator
325-249-5886

From: Garmany, Kimberly <kimberly.garmany@cosatx.us>
Sent: Monday, November 18, 2024 12:43 PM
To: Trey Cooper <trey@bexarcapital.com>
Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhatab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>
Subject: Re: 1806 S. College Hills Blvd/C of O

Hello Trey,

I'm not sure if the problem that we're encountering with Aaron's email is widespread throughout the city, but thankfully it's not effecting everyone in the Planning Department. That's how we were able to catch this mistake and bring it to IT's attention. I apologize that this happened.

Aaron will be the next staff person to contact you.

Many Thanks,

Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>
Sent: Monday, November 18, 2024 9:11 AM
To: Garmany, Kimberly <kimberly.garmany@cosatx.us>
Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>
Subject: Re: 1806 S. College Hills Blvd/C of O

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Thanks - the time stamp on my email to Aaron on the 6th was a few minutes after the one I sent to you (which you responded to about 30 minutes later)

Must have been some short term outage only affecting Aaron's email and not IT issues for the city of San Angelo planning department as a whole?

On Mon, Nov 18, 2024 at 8:31 AM Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:

Good morning, Trey,

As I mentioned in my previous email, we identified a problem with our email server that meant that Aaron did not receive your request. I was able to confirm receipt of the request on November 13, so you can expect the interpretation on Monday, November 25th, as the 10 day deadline falls on a Saturday.

Many Thanks,
Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>
Sent: Monday, November 18, 2024 8:00 AM

To: Garmany, Kimberly <kimberly.garmany@cosatx.us>

Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>
Subject: Re: 1806 S. College Hills Blvd/C of O

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Good Morning - wanted to check-in on my November 6th request for formal interpretation of code.

Thanks,

Trey
(210) 845-6410

On Wed, Nov 13, 2024 at 3:34 PM Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:

Hi Trey,
Thank you for checking in about this. Your request has helped us identify an email problem that our IT department is addressing. For now, would you mind please forwarding me the request you sent to Aaron so I can make sure it gets to him? He will have 10 days to review and respond.

Many Thanks,
Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>
Sent: Tuesday, November 12, 2024 12:00 PM

To: Garmany, Kimberly <kimberly.garmany@cosatx.us>
Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>
Subject: Re: [1806 S. College Hills Blvd](#)/C of O

CAUTION: This email was received from an EXTERNAL source, use caution when clicking links or opening attachments.

Good Morning - I sent an email to Aaron for a formal interpretation of code based on the comments made by him to Tenant regarding intensity (and not the use itself being an issue).

How long does it typically take to receive a response? Ive emailed Aaron a couple times and have not received confirmation that he received my email.

Thanks,

Trey
(210) 845-6410

On Wed, Nov 6, 2024 at 4:32 PM Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:
Thank you for your response.

Many Thanks,
Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>
Sent: Wednesday, November 6, 2024 4:18 PM
To: Garmany, Kimberly <kimberly.garmany@cosatx.us>
Cc: Lineberry, Rae <rae.lineberry@cosatx.us>; John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>
Subject: Re: [1806 S. College Hills Blvd](#)/C of O

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Thanks for the response

Based on Aaron's comment to Operator:

"Reviewer Response: Aaron Vannoy - 10/4/24 10:40 AM Ok, the Zoning must be changed to General Commercial for a project like this. The neighborhood Commercial is designed for low intensity, we have seen vape and tobaccos shops become high intensity and this location is not zoned for that. Please contact Rae or Austin to discuss a rezoning for this property - 325-657-4210"

We have shown this is a low intensity user based on existing stores of the operator. This use is a lower intensity than the vast majority of uses the city has granted c of o to in the same zoning district and we have provided factual evidence to support this statement. The city has also allowed the sale of vapes (and related products) inside CN zoning and we would expect to be treated fairly and equally under that point.

I am concerned that based on the email below, that the interpretation is subjective and discriminatory in light of higher intensity users (and other vape products being sold in the zoning district) being approved by CosA. Per the October 4 email from Aaron, vape sales as allowed per code was not the issue, but the subjective assessment that his business was "high intensity." We have shown that this business is not high intensity.

We as landowners have rights to use our property in accordance with code as it is the rules that both the property owner and municipality must follow.

The city has shown that it has granted higher intensity users than this proposed use a c of o as well as other business that currently sell similar products inside the zoning district.

I am concerned that due to the above, this may be construed as an act of taking by the City as the landowner is not allowed to operate its property pursuant to code. Landowner is now being restricted and caused monetary harm due to the "interpretations" of code versus the letter of the code

I will send Aaron an email to request a formal review.

Thanks,

Trey
(210) 845-6410

On Wed, Nov 6, 2024 at 3:41 PM Garmany, Kimberly <kimberly.garmany@cosatx.us> wrote:
Gentlemen,

I will supplement the information that Rae provided, copy the information she provided, and then highlight the recommended action.

When a retail space changes from "one major category to another," a change of occupancy is required. When a change of occupancy is required, we must look at the parking plan, which triggers confirming that the zoning matches the intended new use. The current zoning for this property is CN - Neighborhood Commercial, and the intended use (Vape Shop) does not meet the definition of the intent of Neighborhood Commercial zoning. When only referring to the land use chart, it appears that your intended use would be allowed. However, when we refer to the entire definition, it does not. As planners, it is our job to read, interpret, and enforce code and ordinances for the current time. Since you do not agree with our interpretation, there is a path forward.

Recommended action: Follow the processes in place for appealing a decision made by planners.

1. Request a formal interpretation of the code and ordinances surrounding your request. To do this, you will need to **email Aaron Vannoy** (aaron.vannoy@cosatx.us) **directly and request a formal interpretation**. Please use "Formal Interpretation Request" as the subject line. Although Aaron is included on this email, he has not given a formal interpretation of your situation, and you must formally request it as outlined in Rae's solution section that is copied below to move on to the appeal process.
2. If you disagree with Aaron's interpretation, then you will request an appeal with the Zoning Board of Adjustments (ZBA).
3. There is no appeal to ZBA's decision.

This is my recommendation, as it does not have a cost associated with it. However, Rae provided information about Conditional Use permits and Zoning Changes.

https://library.municode.com/tx/san_angelo/codes/code_of_ordinances

Sec. 511. - Off-Street Parking Standards

B3. Change of Occupancy. No Certificate of Occupancy shall be issued to allow a change from one major occupancy category to another as defined by the applicable International Building Code or other published code adopted by City of San Angelo ordinance unless off-street parking in conformity with the minimum standards of this Section has been provided for.

E2. All required off-street parking shall be located within a zoning district that allows the use it is intended to serve.

Sec. 304. - Commercial District Intent Statements

A. CN (Neighborhood Commercial) District. The Neighborhood Commercial District is intended to provide opportunities for development of commercial development that serves and is supported by a relatively small surrounding area - a neighborhood. Allowable commercial uses include a wide variety of office activities, as well as a more limited range of retail trade and services aimed toward meeting the routine needs of residents in that neighborhood. Commercial development should be low intensity with small floor areas and limited traffic generation and trade area. The character of commercial development is compatible with the surrounding residential neighborhood. This District is also intended for commercial establishments whose activity, materials and merchandise are housed entirely inside the building, except as may be allowed by the General Development Standards of this Zoning Ordinance.

<image.png>

Rae's solutions from a previous email:

The proposed change of occupancy cannot be approved, as the type of business does not align with the current zoning regulations for the location. There are three options that I have explained below.

1. Conditional Use: This option allows for a specific use to be permitted with conditions to ensure compliance with existing zoning standards. The process involves:
 1. Application submission
 2. Payment of a fee (\$464)
 3. Review and decision made by Planning Commission
2. Zone Change: This option seeks to change the zoning classification to one that aligns with the intended use. The process involves:
 1. Application submission
 2. Payment of a fee (\$835)
 3. Review and recommendation by Planning Commission
 4. Two readings and decision at City Council

****Note:** Staff may not support either a conditional use or zone change as the City's Vision Plan has that area marked as Neighborhood but the decision is made by Planning Commission and/or City Council.

3. Request for Interpretation: Alternatively, you may request a formal interpretation from the Planning Director regarding the Neighborhood Commercial zoning. The relevant section of the Zoning Ordinance (Chapter 12, Exhibit A, Article 2, Sec 206) outlines process as follows:

• **Sec. 206. - Written Interpretations of Text or Official Zoning Map**

A. *Authority.* The Planning Director shall have authority to make all written interpretations concerning the provisions of this Zoning Ordinance and the Official Zoning Map.

B. *Request for Interpretation.* A request for interpretation shall be submitted to the Planning Director in a form established by the Planning Director and made available to the public.

C. *Interpretation by Planning Director.* Within 10 working days after a request for interpretation has been submitted, the Planning Director shall: (1) review and evaluate the request in light of the text of this Zoning Ordinance, the Official Zoning Map, the Comprehensive Plan and any other relevant information; (2) consult with other staff, as necessary; and (3) render an opinion. The interpretation shall be provided to the applicant in writing by mail.

D. *Official Record.* The Planning Director shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. *Appeal*

1. Appeals of written interpretations made by the Planning Director shall be taken to the Zoning Board of Adjustment within 30 days of mailing of the interpretation, in accordance with the procedures in [Sec. 214](#).

2. In considering such an appeal, the Zoning Board of Adjustment shall review the interpretation and public testimony in light of the Comprehensive Plan, this Zoning Ordinance and the Official Zoning Map, and any other land use policies adopted by the Planning Commission or City Council, whichever are applicable.

3. The Zoning Board of Adjustment shall affirm, modify or reverse the decision of the Planning Director in interpreting the provisions of this Zoning Ordinance and the Official Zoning Map. The Zoning Board of Adjustment shall modify or reject the interpretation only if it is not supported by substantial competent evidence or if the interpretation is deemed contrary to the intent and purpose of the Comprehensive Plan, this Zoning Ordinance or the Official Zoning Map.

Many Thanks,

Kim Garmany
Planning & Development Administrator
325-249-5886

From: Trey Cooper <trey@bexarcapital.com>
Sent: Wednesday, November 6, 2024 10:08 AM
To: Lineberry, Rae <rae.lineberry@cosatx.us>
Cc: John Ostrander <john@bexarcapital.com>; Christopher Carlin <ccarlin@normanoliver.com>; Lou K <laithkhattab874@gmail.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>

Subject: Re: [1806 S. College Hills Blvd](#)/C of O

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Good Morning - following up on this

Will the city reference code regarding the denial?

We have show via code that retail sales and services is allowed in this zoning district

Trey
(210) 845-6410.

On Fri, Nov 1, 2024 at 2:14 PM Trey Cooper <trey@bexarcapital.com> wrote:
Hi Rae - will you please point to where in the code it does not allow this use?

Retail sales and services is specifically allowed in the zoning district.

I do not see why a hearing or other action items are necessary for a use allowed per code.

The city has not cited code as to why this use is “not allowed” whereas we have provided code (section 313 - Use Table) showing it is Allowed.

“Allowed” is a defined term in the code whereas “align” is not (“aligned” is subjective as the city is using it whereas “allowed” is granted by code as we are using it)

On Fri, Nov 1, 2024 at 2:00 PM Lineberry, Rae <rae.lineberry@cosatx.us> wrote:

Mr. Ostrander,

The proposed change of occupancy cannot be approved, as the type of business does not align with the current zoning regulations for the location. There are three options that I have explained below. I also have attached the applications for both a conditional use and a zone change.

1. Conditional Use: This option allows for a specific use to be permitted with conditions to ensure compliance with existing zoning standards. The process involves:
 - a. Application submission
 - b. Payment of a fee (\$464)
 - c. Review and decision made by Planning Commission
2. Zone Change: This option seeks to change the zoning classification to one that aligns with the intended use. The process involves:
 - a. Application submission
 - b. Payment of a fee (\$835)
 - c. Review and recommendation by Planning Commission
 - d. Two readings and decision at City Council

****Note:** Staff may not support either a conditional use or zone change as the City's Vision Plan has that area marked as Neighborhood but the decision is made by Planning Commission and/or City Council.

3. Request for Interpretation: Alternatively, you may request a formal interpretation from the Planning Director regarding the Neighborhood Commercial zoning. The relevant section of the Zoning Ordinance (Chapter 12, Exhibit A, Article 2, Sec 206) outlines process as follows:

- **Sec. 206. - Written Interpretations of Text or Official Zoning Map**

A. *Authority.* The Planning Director shall have authority to make all written interpretations concerning the provisions of this Zoning Ordinance and the Official Zoning Map.

B. *Request for Interpretation.* A request for interpretation shall be submitted to the Planning Director in a form established by the Planning Director and made available to the public.

C. *Interpretation by Planning Director.* Within 10 working days after a request for interpretation has been submitted, the Planning Director shall: (1) review and evaluate the request in light of the text of this Zoning Ordinance, the Official Zoning Map, the Comprehensive Plan and any other relevant information; (2) consult with other staff, as necessary; and (3) render an opinion. The interpretation shall be provided to the applicant in writing by mail.

D. *Official Record.* The Planning Director shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. *Appeal*

1. Appeals of written interpretations made by the Planning Director shall be taken to the Zoning Board of Adjustment within 30 days of mailing of the interpretation, in accordance with the procedures in [Sec. 214](#).

2. In considering such an appeal, the Zoning Board of Adjustment shall review the interpretation and public testimony in light of the Comprehensive Plan, this Zoning Ordinance and the Official Zoning Map, and any other land use policies adopted by the Planning Commission or City Council, whichever are applicable.

3. The Zoning Board of Adjustment shall affirm, modify or reverse the decision of the Planning Director in interpreting the provisions of this Zoning Ordinance and the Official Zoning Map. The Zoning Board of Adjustment shall modify or reject the interpretation only if it is not supported by substantial competent evidence or if the interpretation is deemed contrary to the intent and purpose of the Comprehensive Plan, this Zoning Ordinance or the Official Zoning Map.

I will be happy to assist you with any of the above options. Please let me know if you have any questions or need further clarification.

Thank you,
Rae Lineberry
Senior Planner
City of San Angelo
(325) 657-4210 ext 1533
[Customer Service Survey](#)

From: John Ostrander <john@bexarcapital.com>
Sent: Friday, November 1, 2024 12:35 PM
To: *Planning <planning@cosatx.us>; Lineberry, Rae <rae.lineberry@cosatx.us>
Cc: Christopher Carlin <ccarlin@normanoliver.com>; Trey Cooper <trey@bexarcapital.com>; Lou K <laithkhattab874@gmail.com>
Subject: Re: [1806 S. College Hills Blvd](#)/C of O

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What do we have to do to get a response here? Ive now sent several emails and have left voicemails that have not been returned.

John Ostrander
Bexar Capital, LLC.
[6011 Broadway | San Antonio, TX 78209](#)
T: 210-219-9399
john@bexarcapital.com | www.bexarcapital.com

On Wed, Oct 30, 2024 at 9:46 AM John Ostrander <john@bexarcapital.com> wrote:

San Angelo Planning Department,

I've copied our attorney on this email. We hope this does not need to escalate. We have shown that the use is allowed per code and that there is minimal impact on traffic per data provided from existing locations of operator which was the objection the city cited when denying the application for the certificate of occupancy (although the use is allowed per code).

Please respond ASAP.

John Ostrander

Bexar Capital, LLC.

[6011 Broadway](#) | [San Antonio, TX 78209](#)

T: 210-219-9399

john@bexarcapital.com | www.bexarcapital.com

On Tue, Oct 22, 2024 at 9:20 AM John Ostrander <john@bexarcapital.com> wrote:

Good morning. I am the owner/landlord of [1806 S. College Hills Blvd](#). Our tenant has informed us that they have been denied their C of O due to their use being a high traffic use. Attached are two recent receipts that he's provided me from another location he operates that shows sales that reflect a low traffic user. We have research uses inside the CN zoning district and we are concerned that that "high traffic" reasoning that the city is providing us as the reason for denial is not fair and uniform as the city has granted to previous uses inside the zoning district.

Our tenant is operating reasonable business hours (not 24 hours a day as Rae at Planning was somehow misinformed on this) and based on his other locations is expecting an average of 25 cars per day. The following uses at the below location likely has CPD in excess of what our tenant is showing on average:

- All tenants located adjacent to HEB including dental, liquor, spa, Cato, Dollar Tree, etc.
- Fresenius medical location at [3471 Sherwood Way](#)
- Taco Bell - Sherwood Way
- Any tenant located between 3534 Sherwood and [4102 Sherwood Way](#)
- Freddy's Frozen Custard located at [2702 Sherwood Way](#)
- Churchs Chicken located at 2303 N Byrant.

Our tenant will have less traffic at his site than any of the uses listed above that has received a C of O from the city. We request that the city issue the C of O since the use is allowed per code inside the district. If not, we request that the city provide clarification as to why our tenant is being denied a C of O although they have less traffic impact than other tenants that have been granted a C of O.

Thank you.

John Ostrander

Bexar Capital, LLC.

[6011 Broadway | San Antonio, TX 78209](#)

T: 210-219-9399

john@bexarcapital.com | www.bexarcapital.com

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<Neighborhood Commercial.pdf>

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MEMORANDUM

TO: City Staff in Planning and Permits & Inspections, Development related to Fire Prevention and Engineering

FROM: Aaron Vannoy, Director of Planning & Development Services

CC: Charlie Kemp, Assistant Director of Planning & Development Services, and Building Official

DATE: November 20, 2024

SUBJECT: **Neighborhood Commercial District (CN) with Vape/Tobacco Stores as primary use**

The interpretation of allowing Vape and or Tobacco stores as a principal use in the Neighborhood Commercial (CN) zoning District.

Vapes and Tobacco sales are not a need in the community. Neighborhood Commercial (CN) specifically allows enterprises which function at the need level for an adjacent neighborhood. The character we see with Vape and Tobacco only shops is not congruent with the surrounding neighborhood when it comes to signage, advertising, and potential traffic, as the shops are attempting to attract a larger area than their immediate neighborhood.

Looking at the Comprehensive Plan adopted in 2003; Object C under the Land Use chapter clearly states: "Minimize conflicts and nuisances that typically occur wherever people and activities congregate in urban areas. Action 1 – use transitional buffering of land use intensities such as limited-impact, low-intensity commercial office uses between high intensity retail shopping centers and residential areas." Allowing a land use of a Vape and/or Tobacco retail shop is not meeting this section of the Comprehensive Plan as a buffer between the higher intensity to the West of College Hills Blvd and the neighborhood designated land to the west of College Hills Blvd. If the property were to be a small office use as the plan describes, it would be allowed within the Neighborhood Commercial zoning district.

Based on the information within our current zoning ordinance and our Comprehensive Plan, it is my interpretation that this specific use is more intense than allowable and does not meet an unmet neighborhood need and there for is allowed in General Commercial (CG) zoning districts.

Sec. 304. - Commercial District Intent Statements

- A. CN (Neighborhood Commercial) District. The Neighborhood Commercial District is intended to provide opportunities for development of commercial development that serves and is supported by a relatively small surrounding area - a neighborhood.

Allowable commercial uses include a wide variety of office activities, as well as a more limited range of retail trade and services aimed toward meeting the routine needs of residents in that neighborhood. Commercial development should be low intensity with small floor areas and limited traffic generation and trade area. The character of commercial development is compatible with the surrounding residential neighborhood. This District is also intended for commercial establishments whose activity, materials and merchandise are housed entirely inside the building, except as may be allowed by the General Development Standards of this Zoning Ordinance.

Sec. 315. - Use Categories; General

- A. Basis for Classifications. Use categories classify land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. The use categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts
- B. Principal Use Characteristics. Principal uses are assigned to the category that most closely describes the nature of the principal use. The "Characteristics" subsection of each use category describes the common characteristics of each principal use.
 - 1. Considerations Used in Categorizing Principal Uses. The following considerations shall be used to determine what category a use is in and whether the activities are to be considered principal or accessory uses.
 - a. The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.

Sec. 318. - Commercial Use Categories

H. Retail Sales and Service

1.Characteristics. Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment or provide product repair or services for consumer and business goods.

2.Accessory Uses. Accessory uses may include offices, storage of goods and equipment, manufacture or repackaging of goods for on-site sale, and parking.

3.Examples. Examples include uses from the four following groups:

a. Sales Oriented: Stores selling, leasing, or renting consumer, home and business goods generally intended for actual use by the buyer or renter and not for resale, including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden equipment and supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery and videos.

b. Personal Service Oriented: Branch banks, emergency medical care; laundromats, photographic studios; photocopy and blueprint services; print shops and lithographers (where finished goods are sold primarily on-site and to the general public, not to wholesalers); hair, tanning and personal care services; photo developing and clothes cleaning with customer drop-off and pickup; business, martial arts and other trade schools; dance or music classes, taxidermists; funeral homes; and animal grooming.

c. Entertainment Oriented: Restaurants, cafes, delicatessens; indoor continuous entertainment activities such as arcades, bingo, bowling alleys and ice rinks; billiards/pool halls, dance halls; theaters, health clubs, gyms, membership clubs and lodges; hotels and motels.

d. Repair Oriented: Repair of televisions, bicycles, clocks, watches, shoes, guns, small appliances and office equipment; tailoring; locksmith; and upholsterers.

4. Exceptions

a. Repair and service of household consumer motor vehicles, motorcycles and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment and heavy trucks is classified as Industrial Service.

b. Sales, rental, or leasing of heavy trucks and equipment or manufactured housing units are classified as Wholesale Trade.

C. Hotels, restaurants and other services that are part of a truck stop are considered accessory to the truck stop which is classified as Industrial Service. In certain situations, hotels and motels may be classified as a Community Service use, such as short-term housing or mass shelter. See "Community Services."

d. Auto and boat dealers are not classified as Retail Sales and Services. Auto and boat dealers are classified as a separate use category.

e. Sales of farm and ranch supplies and/or equipment are classified as Wholesale Trade.



1806 S. College Hills Blvd CofO

From Hillary Bueker <hillary.bueker@doradoconstructiongroup.com>

Date Fri 1/3/2025 1:37 PM

To *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>; Kemp, Charlie <charlie.kemp@cosatx.us>

Cc Lou K <laithkhattab874@gmail.com>; Trey Cooper <trey@bexarcapital.com>; John Ostrander <john@bexarcapital.com>

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Good morning COSA planning,

I will be representing the owners and prospective tenants of 1806 S. College Hills change of occupancy. We would like to appeal the Directors' decision involving neighborhood Commercial with Vape/Tabacco Stores as a primary use. I was unable to locate the appeal application or ZBA schedule online but after speaking with Rae, I would like this email to service as an application. We would be happy to fill out an application if one is located by staff. I assume the ZBA meeting will be February 3rd at 1:30 pm.



Hillary Bueker
Project Manager
(325) 245-1500
hillary.bueker@doradoconstructiongroup.com

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Re: 1806 S. College Hills Blvd CofO

From John Ostrander <john@bexarcapital.com>

Date Mon 1/6/2025 11:02 AM

To Hillary Bueker <hillary.bueker@doradoconstructiongroup.com>

Cc Garmany, Kimberly <kimberly.garmany@cosatx.us>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>; Kemp, Charlie <charlie.kemp@cosatx.us>; Lou K <laithkhattab874@gmail.com>; Trey Cooper <trey@bexarcapital.com>

 1 attachment (780 KB)

scan0442.pdf;

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Please see the attached affidavit.

John Ostrander
Bexar Capital, LLC.
6011 Broadway | San Antonio, TX 78209
T: 210-219-9399
john@bexarcapital.com | www.bexarcapital.com

On Mon, Jan 6, 2025 at 9:09 AM Hillary Bueker <hillary.bueker@doradoconstructiongroup.com> wrote:

We should have the affidavit today since it had to be notarized.

This is an appeal of the interpretation of the director. I have attached the decision we are appealing, and I will develop the requested information about how the proposed use meets the current ordinance. I am in Kentucky this week so it may be early next week before I can get you information.

Hillary Bueker, Project Manager

Dorado Construction Group

(325) 245-1500

From: Garmany, Kimberly <kimberly.garmany@cosatx.us>

Sent: Friday, January 3, 2025 4:45 PM

To: Hillary Bueker <hillary.bueker@doradoconstructiongroup.com>; *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>; Kemp, Charlie <charlie.kemp@cosatx.us>

Cc: Lou K <laithkhatab874@gmail.com>; Trey Cooper <trey@bexarcapital.com>; John Ostrander <john@bexarcapital.com>

Subject: Re: 1806 S. College Hills Blvd CofO

Hi Hillary,

Thank you for reaching out. In order to speak for the applicant, [we will need a completed affidavit on file](#). We must have this to proceed.

In addition to the affidavit, we need clarification on two items:

1. We are under the impression that the applicant is appealing an interpretation of an ordinance by the Planning Director, not a decision about a change of occupancy. Please confirm.
2. As the applicant is aware, we requested that they specifically cite what about the Planning Director's interpretation they are appealing and how the current ordinance meets their proposed needs. This is the information that constitutes the actual appeal and was requested by email on 11/27/24.

Many Thanks,

Kim Garmany

Planning & Development Services Administrator

325-249-5886

From: Hillary Bueker <hillary.bueker@doradoconstructiongroup.com>
Sent: Friday, January 3, 2025 1:37 PM
To: *Planning <planning@cosatx.us>; Vannoy, Aaron <aaron.vannoy@cosatx.us>; Kemp, Charlie <charlie.kemp@cosatx.us>
Cc: Lou K <laithkhattab874@gmail.com>; Trey Cooper <trey@bexarcapital.com>; John Ostrander <john@bexarcapital.com>
Subject: 1806 S. College Hills Blvd CofO

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Good morning COSA planning,

I will be representing the owners and prospective tenants of 1806 S. College Hills change of occupancy. We would like to appeal the Directors decision involving neighborhood Commercial with Vape/Tabacco Stores as a primary use. I was unable to locate the appeal application or ZBA schedule online but after speaking with Rae, I would like this email to service as an application. We would be happy to fill out an application if one is located by staff. I assume the ZBA meeting will be February 3rd at 1:30 pm.



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Sec. 318. Commercial Use Categories

A. *Alcoholic Beverage Sales for On-Premises Consumption*

1. *Characteristics.* An establishment where liquor, wine, beer or any other alcoholic beverages are sold and consumed by the patrons, on the premises, whether served with or without food or other refreshment. An establishment that does not meet the requirements for the issuance of a Food and Beverage Certification from the Texas Alcoholic Beverage Commission pursuant to Section 25.13 of the Texas Alcoholic Beverage Code.
2. *Accessory Uses.* Food service, dancing and live entertainment shall be allowed on the premises as an accessory use, subject to applicable standards for adult entertainment enterprises and sexually oriented businesses described elsewhere in this Zoning Ordinance.
3. *Examples.* Examples include but are not limited to bars, taverns and nightclubs.
4. *Exceptions.* A restaurant or other private establishment which provides seating arrangement for patrons to consume on-site prepared food and other refreshment, in which alcoholic beverages are provided as a supplemental service, meeting the requirements for issuance of a Food and Beverage Certificate from the Texas Alcoholic Beverage Commission pursuant to Section 25.13 of the Texas Alcoholic Beverage Code.

Editor's note(s)—Subsection A. was added and the remaining subsections renumbered by Ordinance adopted 10-21-03.

B. *Auto and Boat Dealers*

1. *Characteristics.* Auto Sales firms involve the sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, recreational vehicles and boats.
2. *Accessory Uses.* Vehicle Repair and maintenance shall be allowed on the same lot as an Auto or Boat Dealer, so long as such repair and maintenance is clearly subordinate, accessory and incidental to the Auto or Boat Dealer.
3. *Exceptions*
 - a. Sales, rental or leasing of heavy trucks and equipment or manufactured housing units are classified as Wholesale Trade.

C. *Campground/Recreational Vehicle Park*

1. *Characteristics.* Campgrounds and recreational vehicle parks are intended for camping units or recreational vehicles (of the general public) occupied as temporary living quarters for recreational, educational or vacation purposes.
2. *Accessory Uses.* Accessory uses include laundry facilities, convenience groceries, indoor/outdoor games and boat rental.
3. *Exceptions.* Travel trailers, motorized recreational vehicles and other such relocatable housing that does not meet the definition of either a "mobile home" or of "manufactured housing" may be occupied within a manufactured housing park, provided these types of accommodations do not exceed 30 percent of the total units in the park.

D. *Office*

1. *Characteristics.* Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.

-
2. *Accessory Uses.* Accessory uses may include sundry shops, cafeterias, health facilities, parking, or other amenities intended primarily for the use of employees in the firm or building.
 3. *Examples.* Examples include professional services such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; data processing; sales offices; government offices and public utility offices; TV and radio studios; medical and dental clinics (not including veterinary clinics), medical and dental labs; and blood-collection facilities.
 4. *Exceptions*
 - a. Offices that are part of and located with a principal use in another category are considered accessory to the firm's primary activity. Headquarters offices, when located on the same premises as or adjacent to a principal use in another category, are considered part of the other category.
 - b. Offices for construction contractors and others who perform services off-site are included in the Office category if equipment and materials are not stored on the office site and fabrication, services, or similar work is not carried on at the office site.
 - c. Veterinary clinics for small, non-hoofed animals shall be classified as a separate use category. Veterinary clinics for large, hoofed animals shall be classified as Industrial Services.

E. *Parking, Commercial*

1. *Characteristics.* Commercial Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Commercial Parking facility.
2. *Accessory Use.* In a parking structure only, accessory uses may include gasoline sales, car washing and vehicle repair activities if these uses provide service only to vehicles parked in the garage.
3. *Examples.* Examples include short- and long-term fee parking facilities and mixed parking lots (partially accessory to a specific use, partly for rent to others).
4. *Exceptions*
 - a. Parking facilities that are accessory to a use, but for which a fee is charged to the public to park for occasional events nearby, are not considered Commercial Parking facilities.
 - b. Parking facilities that are accessory to a principal use are not considered Commercial Parking uses, even if the operator leases the parking facility to the principal use or charges a fee to the individuals who park in the facility.
 - c. Public transit park-and-ride facilities are classified as Basic Utilities.

F. *Plant Nurseries*

1. *Characteristics.* Plant Nurseries are comprised of land and buildings used for floricultural or horticultural plant production for retail or wholesale trade. This use category includes commercial greenhouses where the roof and sides of such buildings are made largely of transparent/translucent materials and in which temperature and humidity can be regulated for cultivation of delicate or out-of-season plants, for subsequent sale.
2. *Accessory Uses.* Accessory uses include office buildings, barns and sheds for storing materials and equipment, [and] buildings for allowable retail sales. Selling lawn and garden supplies and equipment as well as plant material produced off-premises is ordinarily allowed in conjunction with a plant nursery, except in an R&E District.

-
3. *Exceptions.* In R&E Districts, the only retail sales allowed are of plant material produced on those same premises. In R&E Districts, plant nurseries shall not include sales of lawn and garden supplies and equipment, nor shall the sale of plant material produced off-premises be allowed.

G. *Recreation and Entertainment, Outdoor*

1. *Characteristics.* Outdoor Recreation and Entertainment uses are large, generally commercial uses that provide continuous recreation or entertainment-oriented activities. They primarily take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting.
2. *Accessory Uses.* Accessory uses may include concessions, restaurants, parking, caretaker's quarters and maintenance facilities.
3. *Examples.* Examples include amusement parks, theme parks, miniature golf facilities and zoos.
4. *Exceptions*
 - a. Golf courses and golf driving ranges are classified as a separate, distinct use category.
 - b. Uses that draw large numbers of people to periodic events, rather than on a continuous basis, are classified as Major Entertainment Events.
 - c. An amusement facility housed entirely indoors is classified as Retail Sales and Service.

H. *Retail Sales and Service*

1. *Characteristics.* Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
2. *Accessory Uses.* Accessory uses may include offices, storage of goods and equipment, manufacture or repackaging of goods for on-site sale, and parking.
3. *Examples.* Examples include uses from the four following groups:
 - a. *Sales Oriented:* Stores selling, leasing, or renting consumer, home and business goods generally intended for actual use by the buyer or renter and not for resale, including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden equipment and supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery and videos.
 - b. *Personal Service Oriented:* Branch banks, emergency medical care; laundromats, photographic studios; photocopy and blueprint services; print shops and lithographers (where finished goods are sold primarily on-site and to the general public, not to wholesalers); hair, tanning and personal care services; photo developing and clothes cleaning with customer drop-off and pickup; business, martial arts and other trade schools; dance or music classes, taxidermists; funeral homes; and animal grooming.
 - c. *Entertainment Oriented:* Restaurants, cafes, delicatessens; indoor continuous entertainment activities such as arcades, bingo, bowling alleys and ice rinks; billiards/pool halls, dance halls; theaters, health clubs, gyms, membership clubs and lodges; hotels and motels.
 - d. *Repair Oriented:* Repair of televisions, bicycles, clocks, watches, shoes, guns, small appliances and office equipment; tailoring; locksmith; and upholsterers.
4. *Exceptions*
 - a. Repair and service of household consumer motor vehicles, motorcycles and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment and heavy trucks is classified as Industrial Service.

-
- b. Sales, rental, or leasing of heavy trucks and equipment or manufactured housing units are classified as Wholesale Trade.
 - c. Hotels, restaurants and other services that are part of a truck stop are considered accessory to the truck stop which is classified as Industrial Service. In certain situations, hotels and motels may be classified as a Community Service use, such as short-term housing or mass shelter. See "Community Services."
 - d. Auto and boat dealers are not classified as Retail Sales and Services. Auto and boat dealers are classified as a separate use category.
 - e. Sales of farm and ranch supplies and/or equipment are classified as Wholesale Trade.
- I. *Self-Service Storage*
- 1. *Characteristics.* Self-Service Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.
 - 2. *Accessory Uses.* Accessory uses may include living quarters for a resident manager or security and leasing offices. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Service Storage use. The rental of trucks or equipment is also not considered accessory to a Self-Service Storage use.
 - 3. *Examples.* Examples include facilities that provide individual storage areas for rent. These uses are also called mini-warehouses.
 - 4. *Exceptions.* A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement category.
- J. *Vehicle Repair*
- 1. *Characteristics.* Vehicle Repair firms service passenger vehicles, light and medium trucks and other household consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.
 - 2. *Accessory Uses.* Accessory uses may include offices, sales of parts and vehicle storage.
 - 3. *Examples.* Examples include general automotive repair; specialty shops for transmission, brake, muffler, radiator or alignment repair; auto body shop; auto upholstery shop; auto customizing; and tire sales and mounting.
 - 4. *Exceptions.* Repair and service of industrial vehicles and equipment and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.
- K. *Vehicle Service, Limited*
- 1. *Characteristics.* Limited Vehicle Service uses provide direct services to motor vehicles where the driver or passengers generally wait in the car or nearby while the service is performed.
 - 2. *Accessory Uses.* Accessory uses may include minor auto repair and minor auto parts sales.
 - 3. *Examples.* Examples include full-service, mini-service and self-service fuel stations; and quick lubrication services.
 - 4. *Exceptions.* Refueling facilities for vehicles that belong to a specific use (fleet vehicles) are considered accessory uses if they are located on the site of the principal use.
- L. *Veterinary Clinics, Small Animals*

-
1. *Characteristics.* Diagnosis and treatment of diseases and injuries of animals, especially domestic animals. On-site diagnosis and treatment of large, hoofed animals shall not be allowed at such veterinary clinics. Outside boarding of any animals shall not be allowed.
 2. *Accessory Uses.* Accessory Uses shall include laboratories, parking, and fenced-in areas for exercising (not boarding) animals admitted for treatment or care.
 3. *Exceptions.* Veterinary clinics for on-site diagnosis and treatment of large, hoofed animals shall be classified as Industrial Services.

(Ordinance adopted 1-4-00; Ordinance adopted 10-21-03; Ordinance adopted 6-15-10, §§ 2, 3; Ordinance adopted 4-15-14, § 3; Ordinance 2018-054, § 2, adopted 4-17-18; Ord. No. 2018-119, § 1, 10-2-18; Ord. No. 2019-121, § 2, 9-17-19)

Editor's note(s)—Former Sec. 315, see editor's note at Sec. 312.

Sec. 304. Commercial District Intent Statements

- A. *CN (Neighborhood Commercial) District.* The Neighborhood Commercial District is intended to provide opportunities for development of commercial development that serves and is supported by a relatively small surrounding area - a neighborhood. Allowable commercial uses include a wide variety of office activities, as well as a more limited range of retail trade and services aimed toward meeting the routine needs of residents in that neighborhood. Commercial development should be low intensity with small floor areas and limited traffic generation and trade area. The character of commercial development is compatible with the surrounding residential neighborhood. This District is also intended for commercial establishments whose activity, materials and merchandise are housed entirely inside the building, except as may be allowed by the General Development Standards of this Zoning Ordinance.
- B. *CO (Office Commercial) District.* The Office Commercial District is intended to provide opportunities for development of business, professional and financial offices. A limited range of retail trade and service uses may also be allowed in buildings containing primarily offices, if such use is functionally related to or directly serves the tenants of the offices in the same building.
- C. *CG (General Commercial) District.* The General Commercial District is intended to provide opportunities for development of commercial establishments of higher intensity, with larger trade area, floor area and traffic generation than Neighborhood Commercial uses. Limited outdoor storage, screened from adjacent residential uses, may be appropriate.
- D. *CH (Heavy Commercial) District.* The Heavy Commercial District is intended to provide opportunities for development of wholesale trade, retail sales, warehousing development, repair and service establishments, heavy and bulk equipment supply dealers or other such establishments that typically are characterized by outside storage of materials or merchandise.
- E. *CBD (Central Business District).* The Central Business District is intended to provide opportunities to promote the traditional downtown of San Angelo as a marketplace which serves a variety of needs in a relatively confined area. The central business district is intended to include office, retail sales, repair and service businesses, commercial recreation and entertainment, as well as residential uses. Development should complement neighboring activities in the area and promote a variety marketplace concept.
- F. *CG (General Commercial) / CH (Heavy Commercial) District.* The CG/CH District is intended as a transitional district for areas previously zoned C-2. The CG/CH classification is not available for requests for zone changes to land not zoned CG/CH on the initial effective date of this zoning ordinance. It allows most uses allowed in CG and CH Districts, but not all such uses. (Refer to the Use Table in Sec. 310.) It is intended that areas within CG/CH zoning districts will be changed to other zoning districts, based on comprehensive land use plans adopted by the City Council.

Sec. 206. Written Interpretations of Text or Official Zoning Map

- A. *Authority.* The Planning Director shall have authority to make all written interpretations concerning the provisions of this Zoning Ordinance and the Official Zoning Map.
- B. *Request for Interpretation.* A request for interpretation shall be submitted to the Planning Director in a form established by the Planning Director and made available to the public.
- C. *Interpretation by Planning Director.* Within 10 working days after a request for interpretation has been submitted, the Planning Director shall: (1) review and evaluate the request in light of the text of this Zoning Ordinance, the Official Zoning Map, the Comprehensive Plan and any other relevant information; (2) consult with other staff, as necessary; and (3) render an opinion. The interpretation shall be provided to the applicant in writing by mail.
- D. *Official Record.* The Planning Director shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.
- E. *Appeal*
 - 1. Appeals of written interpretations made by the Planning Director shall be taken to the Zoning Board of Adjustment within 30 days of mailing of the interpretation, in accordance with the procedures in Sec. 214.
 - 2. In considering such an appeal, the Zoning Board of Adjustment shall review the interpretation and public testimony in light of the Comprehensive Plan, this Zoning Ordinance and the Official Zoning Map, and any other land use policies adopted by the Planning Commission or City Council, whichever are applicable.
 - 3. The Zoning Board of Adjustment shall affirm, modify or reverse the decision of the Planning Director in interpreting the provisions of this Zoning Ordinance and the Official Zoning Map. The Zoning Board of Adjustment shall modify or reject the interpretation only if it is not supported by substantial competent evidence or if the interpretation is deemed contrary to the intent and purpose of the Comprehensive Plan, this Zoning Ordinance or the Official Zoning Map.

Sec. 104. Purpose

This Zoning Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of San Angelo. More specifically, this Zoning Ordinance provides for the division of land into different districts that, in combination with regulations pertaining to such districts, are designed in accordance with a comprehensive plan to achieve objectives that include, but are not limited to, the following:

1. Promote the beneficial and appropriate development of all land and the most desirable use of land in accordance with a well-considered plan;
2. Protect the character and the established pattern of desirable development in each area;
3. Prevent or minimize land use incompatibilities and conflicts among different land uses;
4. Maintain property values by stabilizing expectations and ensuring predictability in development; and
5. Establish a process that effectively and fairly applies the regulations and standards of this Zoning Ordinance and respects the rights of property owners and the interests of citizens.

Sec. 107. Compliance with Zoning District Standards

All development and use of land in the City shall comply with the following standards.

1. No building, structure or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, installed or structurally altered, except in conformance with all the regulations specified in this Zoning Ordinance.
2. The lot area, required yards and other open spaces provided in connection with any structure or use, in order to comply with the regulation specified in this Zoning Ordinance, shall be situated on the same lot as the structure or use.
3. No part of a yard, open space or off-street parking and loading area required in connection with this Zoning Ordinance shall be included as part of a yard, open space, off-street parking or loading area similarly required for another building, except as allowed under specific provisions for shared parking facilities (see Sec. 511, Off-Street Parking Standards).
4. No yard or lot existing on the effective date of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Zoning Ordinance shall meet the minimum requirements established herein.

MEMORANDUM

TO: City Staff in Planning and Permits & Inspections, Development related to Fire Prevention and Engineering

FROM: Aaron Vannoy, Director of Planning & Development Services

CC: Charlie Kemp, Assistant Director of Planning & Development Services, and Building Official

DATE: November 20, 2024

SUBJECT: **Neighborhood Commercial District (CN) with Vape/Tobacco Stores as primary use**

The interpretation of allowing Vape and or Tobacco stores as a principal use in the Neighborhood Commercial (CN) zoning District.

Vapes and Tobacco sales are not a need in the community. Neighborhood Commercial (CN) specifically allows enterprises which function at the need level for an adjacent neighborhood. The character we see with Vape and Tobacco only shops is not congruent with the surrounding neighborhood when it comes to signage, advertising, and potential traffic, as the shops are attempting to attract a larger area than their immediate neighborhood.

Looking at the Comprehensive Plan adopted in 2003; Object C under the Land Use chapter clearly states: "Minimize conflicts and nuisances that typically occur wherever people and activities congregate in urban areas. Action 1 – use transitional buffering of land use intensities such as limited-impact, low-intensity commercial office uses between high intensity retail shopping centers and residential areas." Allowing a land use of a Vape and/or Tobacco retail shop is not meeting this section of the Comprehensive Plan as a buffer between the higher intensity to the West of College Hills Blvd and the neighborhood designated land to the west of College Hills Blvd. If the property were to be a small office use as the plan describes, it would be allowed within the Neighborhood Commercial zoning district.

Based on the information within our current zoning ordinance and our Comprehensive Plan, it is my interpretation that this specific use is more intense than allowable and does not meet an unmet neighborhood need and there for is allowed in General Commercial (CG) zoning districts.

Sec. 304. - Commercial District Intent Statements

- A. CN (Neighborhood Commercial) District. The Neighborhood Commercial District is intended to provide opportunities for development of commercial development that serves and is supported by a relatively small surrounding area - a neighborhood.

Allowable commercial uses include a wide variety of office activities, as well as a more limited range of retail trade and services aimed toward meeting the routine needs of residents in that neighborhood. Commercial development should be low intensity with small floor areas and limited traffic generation and trade area. The character of commercial development is compatible with the surrounding residential neighborhood. This District is also intended for commercial establishments whose activity, materials and merchandise are housed entirely inside the building, except as may be allowed by the General Development Standards of this Zoning Ordinance.

Sec. 315. - Use Categories; General

- A. Basis for Classifications. Use categories classify land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. The use categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts
- B. Principal Use Characteristics. Principal uses are assigned to the category that most closely describes the nature of the principal use. The "Characteristics" subsection of each use category describes the common characteristics of each principal use.
 - 1. Considerations Used in Categorizing Principal Uses. The following considerations shall be used to determine what category a use is in and whether the activities are to be considered principal or accessory uses.
 - a. The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.

Sec. 318. - Commercial Use Categories

H. Retail Sales and Service

1.Characteristics. Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment or provide product repair or services for consumer and business goods.

2.Accessory Uses. Accessory uses may include offices, storage of goods and equipment, manufacture or repackaging of goods for on-site sale, and parking.

3.Examples. Examples include uses from the four following groups:

a. Sales Oriented: Stores selling, leasing, or renting consumer, home and business goods generally intended for actual use by the buyer or renter and not for resale, including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden equipment and supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery and videos.

b. Personal Service Oriented: Branch banks, emergency medical care; laundromats, photographic studios; photocopy and blueprint services; print shops and lithographers (where finished goods are sold primarily on-site and to the general public, not to wholesalers); hair, tanning and personal care services; photo developing and clothes cleaning with customer drop-off and pickup; business, martial arts and other trade schools; dance or music classes, taxidermists; funeral homes; and animal grooming.

c. Entertainment Oriented: Restaurants, cafes, delicatessens; indoor continuous entertainment activities such as arcades, bingo, bowling alleys and ice rinks; billiards/pool halls, dance halls; theaters, health clubs, gyms, membership clubs and lodges; hotels and motels.

d. Repair Oriented: Repair of televisions, bicycles, clocks, watches, shoes, guns, small appliances and office equipment; tailoring; locksmith; and upholsterers.

4. Exceptions

a. Repair and service of household consumer motor vehicles, motorcycles and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment and heavy trucks is classified as Industrial Service.

b. Sales, rental, or leasing of heavy trucks and equipment or manufactured housing units are classified as Wholesale Trade.

C. Hotels, restaurants and other services that are part of a truck stop are considered accessory to the truck stop which is classified as Industrial Service. In certain situations, hotels and motels may be classified as a Community Service use, such as short-term housing or mass shelter. See "Community Services."

d. Auto and boat dealers are not classified as Retail Sales and Services. Auto and boat dealers are classified as a separate use category.

e. Sales of farm and ranch supplies and/or equipment are classified as Wholesale Trade.



Zoning Board of Adjustment

February 3, 2025





Zoning Board of Adjustment

February 3, 2025

Interpretation – CN Zoning District

Appeal of the Director's interpretation on vape-and-tobacco-only sales as a land use in the Neighborhood Commercial (CN) zoning district:

Application for Change of Occupancy:

Vape-and-tobacco-only store in Neighborhood Commercial (CN) zoning district

Interpretation:

Vape-and-tobacco-only is not an immediate neighborhood-meeting routine need, and thus the CN zoning district would not be appropriate for the Change of Occupancy.

Appeal of Interpretation – CN Zoning District

Analysis

Sec. 104. – Purpose

This Zoning Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of San Angelo. More specifically, this Zoning Ordinance provides for the division of land into different districts that, in combination with regulations pertaining to such districts, are designed in accordance with a comprehensive plan to achieve objectives that include, but are not limited to, the following:

1. Promote the beneficial and appropriate development of all land and the most desirable use of land in accordance with a well-considered plan;
2. Protect the character and the established pattern of desirable development in each area;
3. Prevent or minimize land use incompatibilities and conflicts among different land uses;
4. Maintain property values by stabilizing expectations and ensuring predictability in development; and
5. Establish a process that effectively and fairly applies the regulations and standards of this Zoning Ordinance and respects the rights of property owners and the interests of citizens.

Appeal of Interpretation – CN Zoning District Analysis

Sec 304 – Commercial District Intent Statements

CN (Neighborhood Commercial) District.

The Neighborhood Commercial District is intended to provide opportunities for development of commercial development that serves and is supported by a relatively small surrounding area - a neighborhood. Allowable commercial uses include a wide variety of office activities, as well as a more limited range of retail trade and services aimed toward meeting the routine needs of residents in that neighborhood. Commercial development should be low intensity with small floor areas and limited traffic generation and trade area. The character of commercial development is compatible with the surrounding residential neighborhood. This District is also intended for commercial establishments whose activity, materials and merchandise are housed entirely inside the building, except as may be allowed by the General Development Standards of this Zoning Ordinance.

Appeal of Interpretation – CN Zoning District Analysis

Sec 304 – Commercial District Intent Statements

CG (General Commercial) District.

The General Commercial District is intended to provide opportunities for development of commercial establishments of higher intensity, with larger trade area, floor area and traffic generation than Neighborhood Commercial uses. Limited outdoor storage, screened from adjacent residential uses, may be appropriate.

Appeal of Interpretation – CN Zoning District Analysis

Sec 315 – Use Categories; General

A. *Basis for Classifications.*

Use categories classify land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. The use categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts.

B. *Principal Use Characteristics.*

Principal uses are assigned to the category that most closely describes the nature of the principal use. The "Characteristics" subsection of each use category describes the common characteristics of each principal use.

1. *Considerations Used in Categorizing Principal Uses.*

The following considerations shall be used to determine what category a use is in and whether the activities are to be considered principal or accessory uses.

- a. The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
- b. The relative amount of site area or floor space and equipment devoted to the activity.
- c. Relative amounts of sales from each activity.
- d. The customer type for each activity.
- e. The relative number of employees in each activity.
- f. Hours of operation.
- g. Building and site arrangement.

Appeal of Interpretation – CN Zoning District Analysis

Sec 315 – Use Categories; General

1. Considerations Used in Categorizing Principal Uses. (continued)

The following considerations shall be used to determine what category a use is in and whether the activities are to be considered principal or accessory uses.

- h.** Vehicles used with the activity.
- i.** The relative number of vehicle trips generated by the use.
- j.** Signs.
- k.** How the use advertises itself.
- l.** Whether the activity is likely to be found independent of the other activities on the site

Appeal of Interpretation – CN Zoning District

Analysis

Sec 318 – Commercial Use Categories

H. *Retail Sales and Service*

1. **Characteristics.** Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the entertainment or. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
2. **Accessory Uses.** Accessory uses may include offices, storage of goods and equipment, manufacture or repackaging of goods for on-site sale, and parking.
3. **Examples.** Examples include uses from the four following groups:
 - a. *Sales Oriented:* Stores selling, leasing, or renting consumer, home and business goods generally intended for actual use by the buyer or renter and not for resale, including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden equipment and supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery and videos.
4. **Exceptions**
 - a. Repair and service of household consumer motor vehicles, motorcycles and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment and heavy trucks is classified as Industrial Service.
 - b. Sales, rental, or leasing of heavy trucks and equipment or manufactured housing units are classified as Wholesale Trade.
 - c. Hotels, restaurants and other services that are part of a truck stop are considered accessory to the truck stop which is classified as Industrial Service. In certain situations, hotels and motels may be classified as a Community Service use, such as short-term housing or mass shelter. See "Community Services."
 - d. Auto and boat dealers are not classified as Retail Sales and Services. Auto and boat dealers are classified as a separate use category.
 - e. Sales of farm and ranch supplies and/or equipment are classified as Wholesale Trade.

Appeal of Interpretation – CN Zoning District

Analysis

Vape-and-tobacco-only retail sales

- Does not meet the intent statement for Neighborhood Commercial (CN) as a need for the neighborhood.
- General Use categories –
 - a. The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category
 - d. The customer type for each activity
 - f. Hours of operation
 - j. Signs
 - k. How the use advertises itself
 - l. Whether the activity is likely to be found independent of the other activities on the site

Each are not congruent with CN but fit within CG zoning districts. CN should mesh with the surrounding neighborhood. History within our community shows that signs, hours of operation, characteristics, customers, and whether the products can be sold independently of other activities can be presented as evidence that this does not meet the Neighborhood Commercial zoning district.

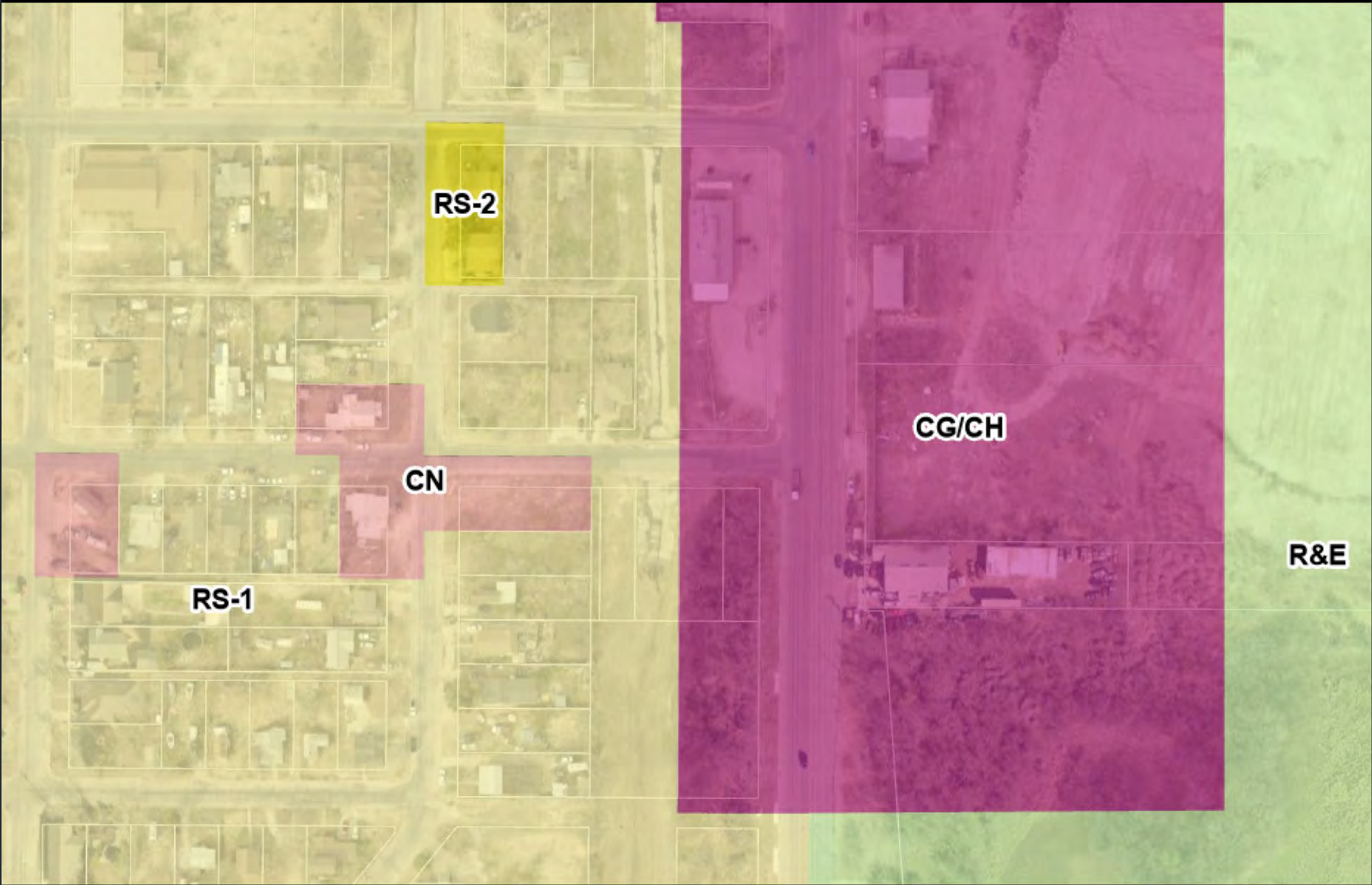
- Commercial Use categories –

This is a retail sales and services business-type. However, the “General Use” categories points to a more intense use which fits the General Commercial zoning district to protect the public health, safety, and general welfare of the citizens of San Angelo.





CN zoning District 1



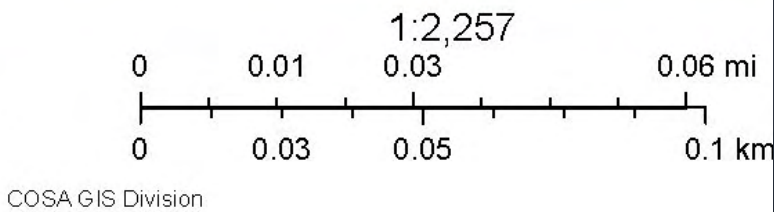
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oning Districts

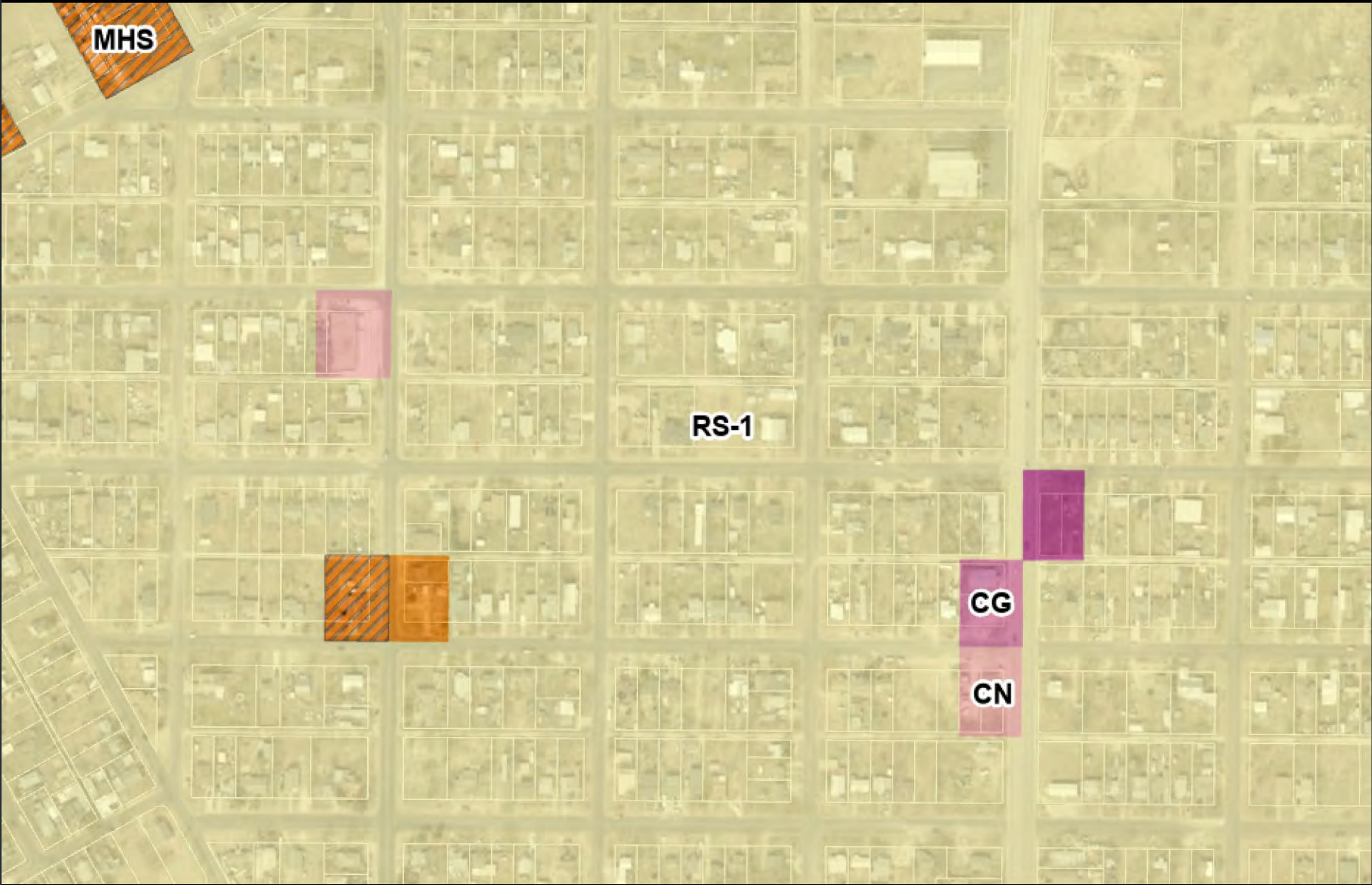
- RS-1 Single-Family Residence
- RS-2 Two-Family Residence

- CN Neighborhood Commercial
- CG/CH
- R&E Ranch and Estate

Parcels



CN zoning District 2



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ning Districts

RS-1 Single-Family Residence

RM-1 Low Rise Multi-Family Residence

CN Neighborhood Commercial

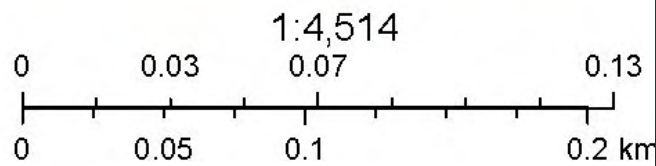
CG General Commercial

CG/CH

MHS Manufactured Housing S/D

Parcels

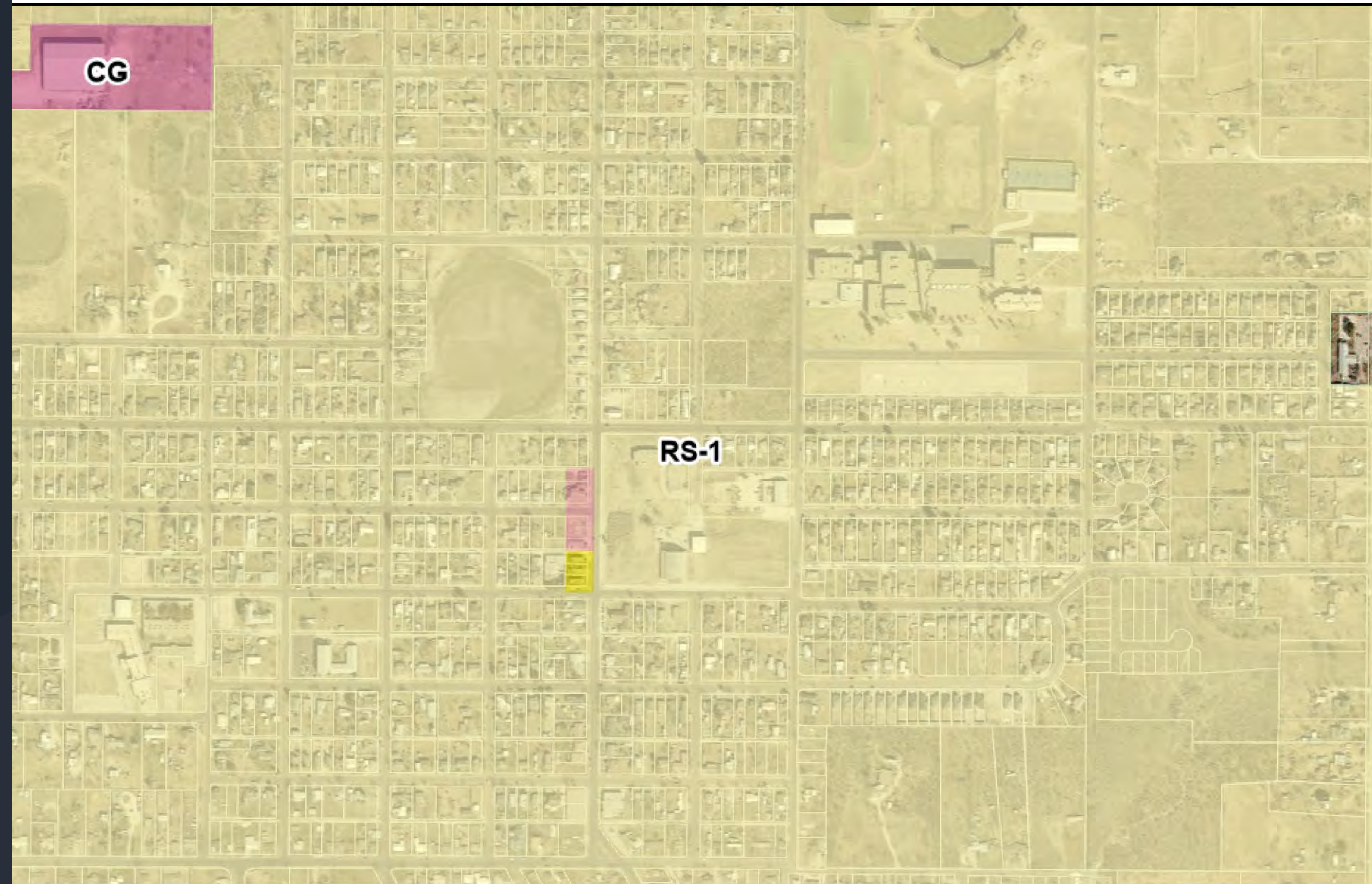
COSA GIS Division



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CN zoning District 3



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oning Districts

RS-1 Single-Family Residence

RS-2 Two-Family Residence

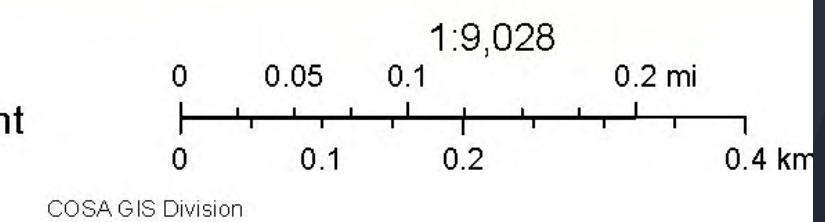
CN Neighborhood Commercial

CG General Commercial

R&E Ranch and Estate

PD Planned Development

Parcels

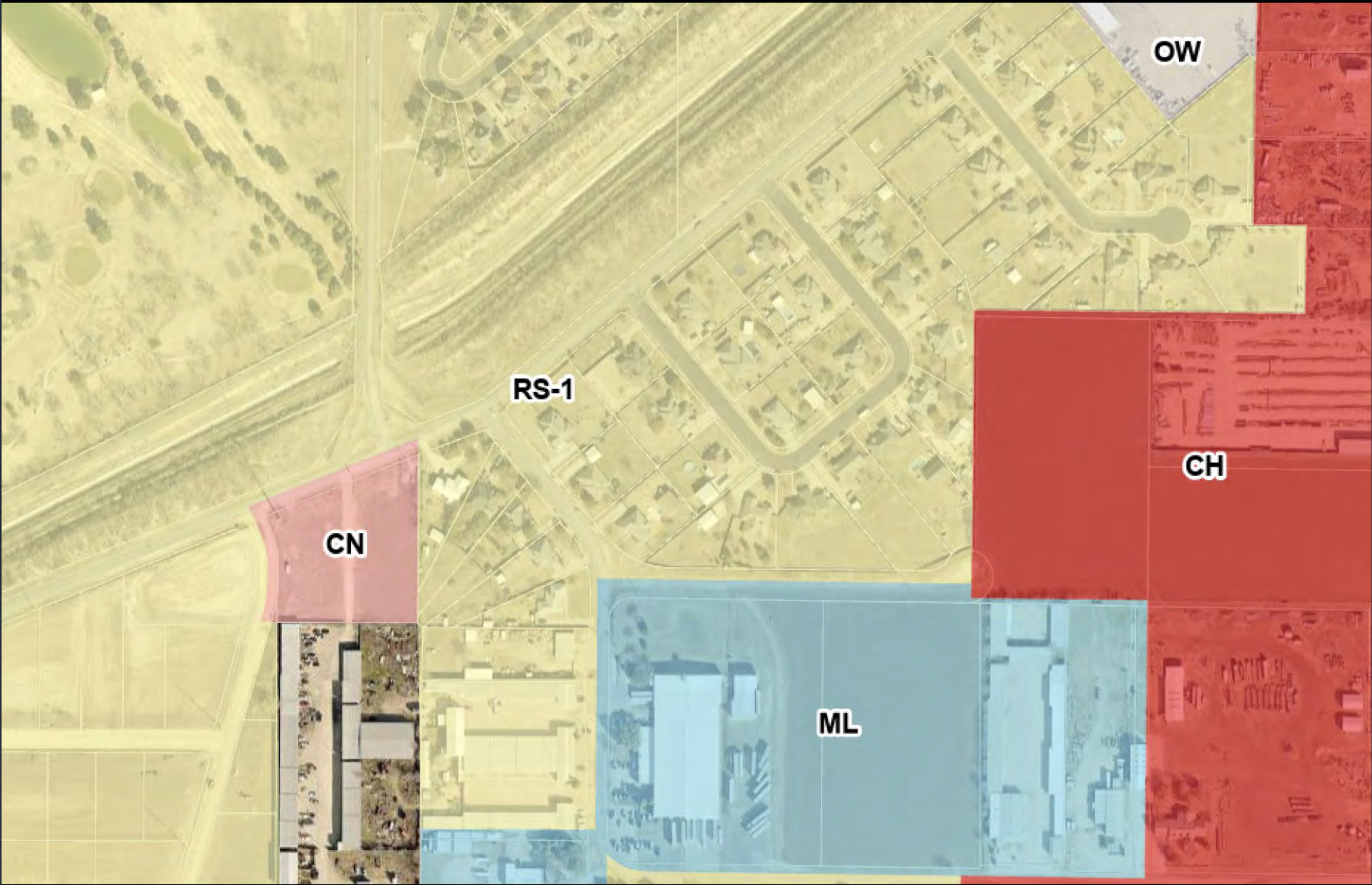


COSA GIS Division

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CN zoning District 4



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oning Districts

RS-1 Single-Family Residence

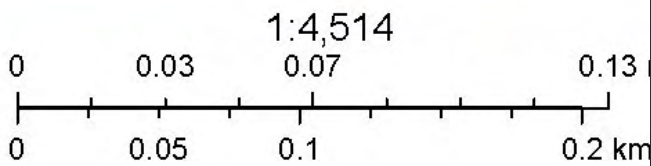
ML Light Manufacturing

CN Neighborhood Commercial

CH Heavy Commercial

OW Office Warehouse

Parcels



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Appeal of Interpretation – CN Zoning District

U.S. Centers for Disease Control and Prevention– Smoking and Tobacco Use:

In 2024, e-cigarettes were the most commonly-used tobacco product among middle and high school students in the United States: (National Youth Tobacco Survey, 2024)

1.63 million (5.9%) students currently use e-cigarettes.

This includes:

- 410,000 (3.5%) middle school students.

- 1.21 million (7.8%) high school students.

Among students who had ever used e-cigarettes, 43.6% reported current use.

Among students who currently used e-cigarettes:

- 87.6% used flavored e-cigarettes.

- 38.4% used an e-cigarette on at least 20 of the last 30 days.

- 26.3% used an e-cigarette every day.

Among students who currently use e-cigarettes:

- 55.6% used disposable e-cigarettes, 15.6% used prefilled or refillable pods or cartridges, and 7.0% used tanks or mod systems.

Appeal of Interpretation – CN Zoning District

U.S. Centers for Disease Control and Prevention– Smoking and Tobacco Use:

Some groups of middle and high school students use e-cigarettes at a higher percentage than others. For example, in 2024: (National Youth Tobacco Survey, 2024)

More females than males reported current e-cigarette use.

Current use of e-cigarettes varied by race and ethnicity.

Non-Hispanic American Indian and Alaska Native students: 11.5%.

Non-Hispanic Black or African American students: 7.0%.

Non-Hispanic multiracial students: 6.6%.

Hispanic or Latino students: 6.1%.

Non-Hispanic White students: 5.9%.

Non-Hispanic Asian students: 2.3%.

E-cigarettes can also be used to deliver other substances, including cannabis. In 2016, nearly one in three (30.6%) of U.S. middle and high school students who had ever used an e-cigarette reported using marijuana in the device.

Appeal of Interpretation – CN Zoning District

Texas Department of Health Services – Website - Vaping

Vaping reached epidemic status among teens in 2018, only about a decade after the devices hit the market. Some teens developed severe lung illness after vaping for a short time, while others have suffered burns, seizures and the effects of nicotine addiction. More than 2,700 people have been hospitalized with lung damage. Despite the dangers, vaping continues to grow in popularity. An estimated 5,700 young people start vaping every day!

Some reasons teens vape is because they believe it is safer than smoking cigarettes. Other reasons are:

- Vaping seems trendy and fashionable.
- They have friends or family members who vape.
- They like the variety of flavors.
- Vaping devices are small and easily concealed.

Millions of teens vape, but research shows most don't know vaping exposes them to addictive and dangerous chemicals. The more you know about vaping, the better you can help teens avoid its dangers.

In Texas, an individual must be at least 21 years old to legally buy or own tobacco products, including e-cigarettes or vape devices.

The Texas Department of State Health Services recommends that youth, young adults, pregnant women and all non-tobacco users avoid vaping because of the potential increased risk for viral infection and other diseases.

Appeal of Interpretation – CN Zoning District

Official Recommendation

Staff recommend denial of the appeal of interpretation to allow vape-and-tobacco only sales as a land use within the Neighborhood Commercial (CN) zoning district.

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info@cosatx.us



1806 S College Hills – Timeline

1. 8/21/2024 -Application for Change of Occupancy
2. 9/12/2024- Applicant uploads project and sent to reviewers
3. 9/12/2024 - Comment made by Aaron Vannoy – issue with Zoning conformance
4. 10/4/2021 - Plan sitting with Applicant for resolution
5. Discussions between staff, tenant, and property owners over October to find resolution
6. 11/1/2024 Rae emailed a comprehensive list of options to the being clear of staff's stance
7. 11/6/2024 Property owner requests formal interpretation from Director
8. 11/6/2024 Kim details steps to begin process of interpretation
9. 11/22/2024 Formal Interpretation is mailed to property owner outlined in ordinance
10. 11/22/2024 Property owner via email requests appeal to ZBA
11. 11/27/2024 Kim emails application to be heard at ZBA requesting what exactly per ordinance is being appealed
12. Doesn't appear to be much correspondence during December
13. 1/3/2024 Email from Hillary Bueker stating she is representing the property owner and tenant in the appeal of the Director's decision.
14. 1/6/2024 Affidavit received by Planning for Hillary Bueker to represent the property owner