

**PLANNING AND ZONING COMMISSION
STAFF REPORT**



February 20, 2014

Conditional Use Permit case no. CU14-02: H. E. Liner

CASE DESCRIPTION: a request for approval of a Conditional Use Permit to allow two new detached single-family residences on property in a Commercial District (C-3)

LOCATION: 4400 and 4402 N. Texas Avenue, adjoining the southwest side of N. Texas Avenue across from its intersection with Woodville Road, being Lots 1A and 2 in Block 1 of Larue Garrett Subdivision

ZONING: Commercial District (C-3)

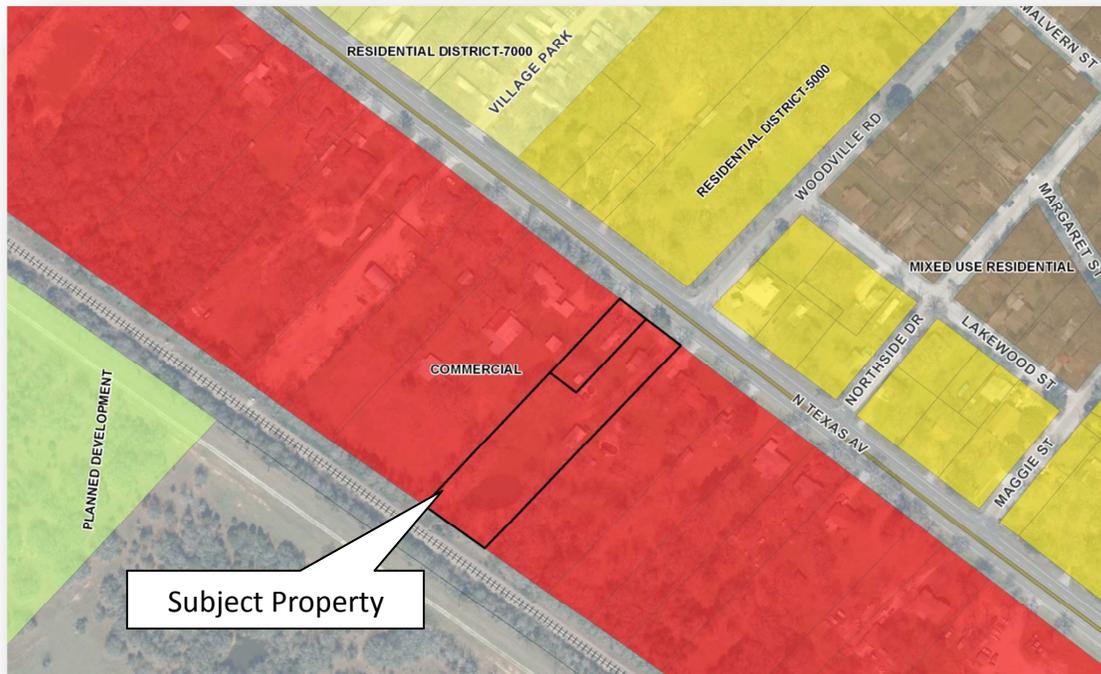
EXISTING LAND USE: single-family residences

APPLICANT: H.E. Liner, property owner

STAFF CONTACT: Matthew Hilgemeier, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** this Conditional Use Permit request.

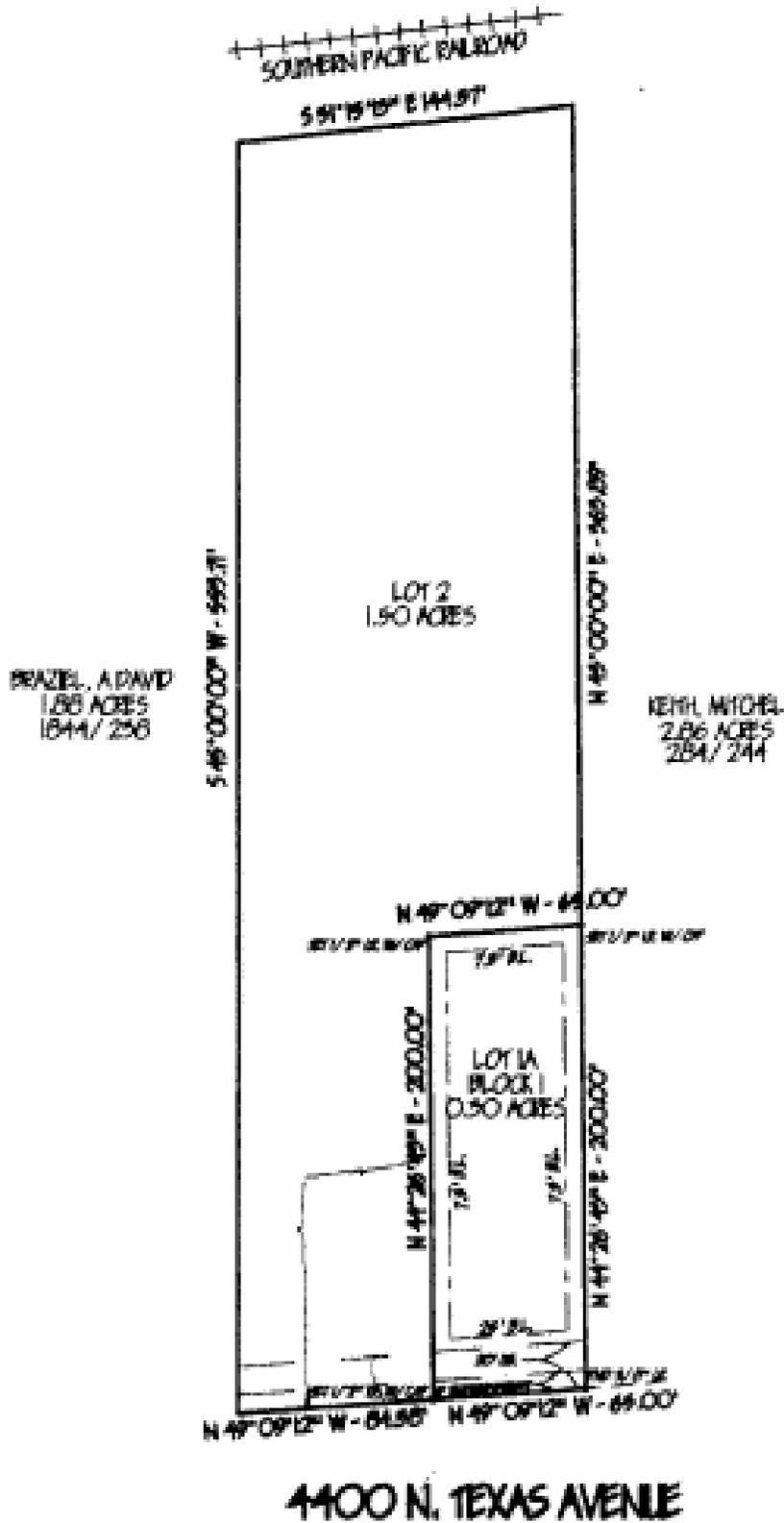
Zoning Map



Aerial View (2013)



Property Survey



BACKGROUND:

The subject property consists of two lots, each currently occupied by a single-family residence, totaling 1.8 acres of land zoned Commercial District (C-3) and located across from the intersection of North Texas Avenue and Woodville Road. The property owner, Mr. H.E. Liner, wishes to remove the existing manufactured home from the 4402 North Texas Avenue property (Lot 1A) and replace it with a new single-family home to allow his sister to live there. Additionally, in the near future, Mr. Liner plans to remove the existing single-family structure from the 4400 North Texas Avenue property (Lot 2), which was built in the 1950's, and then construct a new single-family home for himself to live in upon his upcoming retirement. The subject property has been zoned for commercial use since the City of Bryan adopted zoning in 1989, but has continued to be used for residential purposes since then.

The subject property is located in 70-acre area along the southwest side of N. Texas Avenue which was zoned for commercial use with the adoption of zoning in Bryan in 1989, but which has remained primarily in residential use. About three years ago, the Planning and Zoning Commission considered changing the zoning to a residential classification. After a public hearing on July 7, 2011, Commissioners unanimously agreed to not initiate a rezoning in the area.

C-3 zoning potentially allows single-family developments, but only with prior approval of a Conditional Use Permit from the Planning and Zoning Commission. The purpose of the conditional use permit process is to identify those uses which might be appropriate within a zoning district but, due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them so as to mitigate or eliminate such adverse impacts.

RELATION TO BRYAN'S COMPREHENSIVE PLAN:

Owing to the fact that Bryan developed without zoning for most of its history, clear development patterns are not always distinguishable. Older neighborhoods are occasionally sprinkled with small commercial areas containing scalable storefronts, offices and service uses. This pattern, although prohibited by most modern Euclidian zoning codes was not viewed as altogether undesirable by the Bryans residents who participated in the Comprehensive Plan input process. The Plan specifies that low density residential uses should not be located adjacent to major arterials and freeways without adequate buffering and access management. The subject property has over 150 feet for frontage along North Texas Avenue, an arterial roadway.

ANALYSIS:

Approval of a Conditional Use Permit by the Planning and Zoning Commission shall be based upon the following criteria.

1. Whether the proposed conditional use conforms to applicable regulations and standards established by the Zoning Ordinance.

If approved, residential use on these properties will conform to all applicable regulations and standards established by the Zoning Ordinance. No variations from existing development standards are being requested.

2. Whether the proposed conditional use is compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features.

The subject property is located in an area that consists of a mix of single-family dwelling units and commercial uses. The lots located to the east and west of the subject property are all developed with single-family homes and are located in the same C-3 District as the subject property. Property located to the north of the subject property, across North Texas Avenue, are zoned Residential District – 5000 (RD-5) and are also mostly developed with residences. A small convenience store is located at the south corner of North Texas Avenue and Woodville Road. Staff contends that residential uses will continue to be compatible with existing or permitted uses on abutting sites in this particular environment.

3. Whether and the extent to which the proposed conditional use potentially creates greater unfavorable effect or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use.

Residential use within a C-3 zoning district is the least intense of all land uses possibly permitted within that district. Staff does not believe that residential occupancy of these properties has created or will create any more unfavorable effects or impacts on abutting properties than commercial development allowed by right on this property without Conditional Use Permit approval. If approved, no more than 4 individuals unrelated by blood, marriage or adoption would be allowed to occupy homes at this location.

4. Whether and the extent to which the proposed conditional use affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

Staff contends that the proposed single-family residential use at this location will not have any adverse effects on vehicular and pedestrian traffic in this vicinity.

5. Whether and the extent to which the proposed conditional use would reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

Any new development on this property, including replacement of single-family residences, would be required to meet City regulations concerning erosion, flood, fire and other hazards and impacts.

6. Whether and the extent to which the proposed conditional use adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

Staff contends that single-family residential use of this particular property will not have any adverse effects on traffic control or adjacent properties. As proposed, the development should not adversely affect traffic control nor should it add any inappropriate lighting or signage. A permitted home occupation at these locations would be limited to a 1 square foot sign mounted to the front of the home.

7. Whether and the extent to which the proposed conditional use provides adequate and convenient off-street parking and loading facilities.

The Land and Site Development Ordinance requires off-street parking be provided for each single-family residence. The amount of required off-street parking depends on the number of bedrooms in each home. At the time of new construction, each single-family home will be

required to provide a site plan showing that minimum off-street parking requirements of the Land and Site Ordinance have been met.

8. Whether the proposed conditional use conforms to the objectives and the purpose of the zoning district in which the development is proposed.

The C-3 District is intended for many general commercial uses such as retail and office establishments. However, single-family residences are potentially allowed with approval of a Conditional Use Permit to allow residential development in areas zoned for commercial purposes, but for whatever reason historically, have not developed into commercial areas. In this particular case, while the surrounding area is zoned C-3 District, the pattern of development along this part of North Texas Avenue is characterized by mainly single-family residential uses intermixed with a few commercial uses. Staff contends that, in this particular case, single-family residences on these two lots are more compatible with the character in this general area than most other uses allowed by right within this C-3 zoning district. Properties to either side of the subject property are currently developed with single-family homes. Approval of the requested Conditional Use Permit appears to meet the overall spirit of the Zoning Ordinance and the Comprehensive Plan, which encourages compatible infill development.

9. Whether the proposed conditional use will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

Staff believes that continued single-family residential use of this property will have no ill effects on properties or improvements in the vicinity. As mentioned above, several adjacent properties are also occupied by residential uses. Staff believes that an additional single-family residential structure on the subject property would not be detrimental to other properties in the vicinity.

10. Whether the premises or structures are suitable for the proposed conditional use.

The sizes of each lot of the subject property exceed the minimum standards typically required for property zoned RD-5 District (minimum lot width, minimum lot depth, minimum lot size, etc.). The subject property has been in single-family residential use since before the City of Bryan adopted zoning regulations in 1989. At that time, the east side of North Texas Avenue was classified as C-3 District even though the majority of the properties were single-family uses. Since that time, there has been little redevelopment of residential property to commercial property along this corridor. As such, the current lot configuration is, and has continued to be, suitable for the proposed conditional use. Based on all of the aforementioned considerations, staff contends that the subject property is suitable for a new single-family residential home site.

RECOMMENDATION:

Staff recommends **approving** the requested Conditional Use Permit to allow two new detached single-family dwellings on the subject properties.